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United States
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Congressional Record

PROCEEDINGS AND DEBATES OF THE 98th CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Tuesday, April 26, 1983*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious God, we hear Your words of assurance and peace, and yet we know the violence of our world and the discord of the nations. Help us, O God, by Your grace, to form a bridge between those in conflict that people may be reconciled one with another and all will know the benefits of understanding and good will. Though the road to concord is difficult, yet may all persevere for blessed are the peacemakers for they shall be called Your own people. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested.

S. 144. An act to ensure the continued expansion of international market opportunities in trade, trade in services, and investment for the United States, and for other purposes.

CAN THE PRESIDENT FORCE A CONSENSUS ON CENTRAL AMERICA?

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, the stakes in Central America are very high. Up to now, however, the Reagan administration has not succeeded in persuading Congress and the American people that its policy in Central America is sound. Its policy is confused and incapable of producing any sort of national consensus. However, while some of us are by reflex against the use of American power anywhere, most of us will vigorously oppose a Communist takeover in El Salvador, Nicaragua, Honduras, or anywhere else in Central America.

So, therefore, when the President addresses us Wednesday, I hope he will give us the real scoop in three areas.

First, what is the true nature of U.S. action to date in that region—either directly or indirectly?

Second, I hope he can paint an accurate picture of Soviet bloc aid to the El Salvador rebels through Nicaragua and Cuba and the nature of Nicaraguan cooperation with the Soviet Union.

Third, I hope he can describe a policy which encourages Nicaragua to stop the seeming destabilization of their neighbors by entering negotiations.

This is not Vietnam. But in order to win the support he wants, the President must explain clearly and forthrightly what our policy is. Only then can we use our power in a responsible fashion.

COMPUTATION OF BENEFITS FOR NONCOVERED EMPLOYMENT

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, I am introducing a bill today which will repeal the recently enacted provisions of title II of the Social Security Act; section 113 of H.R. 1900. This section relates to the computation of social security benefits of individuals receiving pensions from noncovered employment.

During the consideration of H.R. 1900 by the House last month, the Members relied upon the House leadership and the Ways and Means Committee to devise a bill in conference which would address the financial problems facing the social security system effectively and fairly. Unfortunately, in our haste to pass this consensus reform package, we approved a provision in that bill which drastically and unfairly changes the benefit computation formula for workers who are eligible for both social security benefits and a pension from noncovered employment.

Under the current formula, benefits are 90 percent of the first $254 of average lifetime monthly earnings—indexed for inflation, 32 percent of earnings from $254 to $1,538, and 15 percent of earnings above $1,538. The new law, as contained in H.R. 1900, substitutes 40 percent for 90 percent in the first category of this formula; a 50-percent cut in social security benefits for persons who also receive a pension from noncovered employment. This translates into an incredible reduction of $127 per month or $1,524 per year for those fully affected in the first category by this change in the benefit computation formula.

The pretext for including this new benefit computation formula in H.R. 1900 was to address the issue of so-called windfall benefits received by workers who have spent most of their careers in noncovered employment but who later have worked in covered employment long enough to qualify for social security benefits. The term "windfall benefits" may conjure up images of retirees who have amassed small fortunes in social security benefits. The truth, however, is that most of these so-called windfall beneficiaries are receiving relatively small average monthly benefits.

The report of the Ways and Means Committee on H.R. 1900, section 113, notes that "these so-called windfalls are not the result of deliberate actions on the part of workers in noncovered employment, but rather are the necessary result of the operation of the Social Security benefit formula." Unfortunately, however, it is these workers—Federal and State public employees; from teachers to local police and fire personnel—that will bear the burden of this new harsh benefit for-

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

mula. These individuals are, in reality, double workers, who have paid for the benefits of a private pension and who have paid the full social security payroll tax in good faith but who now are being told that they are only entitled to one-half of their social security benefits.

I strongly urge the Members to join me in repealing section 113 of H.R. 1900.

NEW DEPARTMENT OF TRADE

(Mr. BONKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONKER. Mr. Speaker, I take this opportunity to commend the administration on its proposal for a new Department of Trade. It is always a bold and even difficult step for any administration to propose reorganization of Federal programs and agencies.

In the other body, Senator ROTH has introduced a trade reorganization bill which is the subject of hearings this week. I have also introduced H.R. 2632, a companion bill, and have been joined in cosponsorship by our colleague from Wisconsin (Mr. ROTH), so I think we could rightfully call this the Roth-Bonker-Roth bill.

Yesterday the press reported on the President's proposal and noted that it excludes the Department of Commerce. I think this is rather ironic in that yesterday there was a ceremony at the Department of Commerce renaming the building the Herbert Hoover, who was the founder of the Department of Commerce.

I hope that the press has not accurately reported that the administration intends to eliminate the Department of Commerce, because I think it has an important function in our Government. In any case, it is important that we develop a comprehensive trade policy, and I think that we can best accomplish that end by bringing together the various programs and agencies to help develop a cohesive trade policy for the 1980's.

Only the broad outlines of the President's proposal are clear at this point; namely, combining the Commerce Department's International Trade Administration and the Office of the U.S. Trade Representative into a Department of Trade. What happens to the rest of the Commerce Department under this plan, and other important details, remain to be settled within the administration. Undoubtedly, the Congress will want to review those details carefully.

But the thrust of the President's decision deserves the strong support of the Congress, and I personally plan to lend my own support to make this the bipartisan effort it deserves to be. I urge my colleagues in the House—and particularly those members of the Committee on Government Operations who will have the responsibility of acting on the President's plan—to reserve any doubts they may have about it and give it a sympathetic review. The crisis we face as a nation in our ability to compete in international markets is real. To meet that challenge we need the strongest possible voice on behalf of trade in the councils of our own Government. A Department of Trade will be far more able than fragmented trade agencies to prevail in decisions that affect our viability as a nation. The fact is that we need international trade and can no longer enjoy the benefits of full employment without a major share of foreign markets.

TIME IS RUNNING OUT FOR REPEAL OF WITHHOLDING ON INTEREST AND DIVIDENDS

(Mr. D'AMOURS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. D'AMOURS. Mr. Speaker, those of us who support the repeal of the unwarranted, unnecessary, and burdensome new scheme to withhold taxes on interest and dividends were pleased with last week's action by a 91-to-5 vote in the Senate on this issue. However, victory celebrations are very premature and may be counterproductive.

The stark reality is that the trade reciprocity bill to which the Kasten amendment is attached will not be taken up in the House of Representatives. It is also a reality that the committee of jurisdiction, Ways and Means, is opposed to the repeal effort. There appears to be no consensus on that committee for any specific action. Some members want straight repeal. Some members want repeal with new taxes on banks. And some members want to pass the Senate compromise language.

The fact remains that we are running out of time. The new scheme goes into effect July 1. The discharge petition which I have filed is by far our best hope to insure timely action on the issue, and I urge all of those who truly want to stop this unwarranted, unnecessary, and burdensome new scheme to answer the voices of grassroots America by signing Discharge Petition No. 1 which is currently pending at the desk. Now is the time to back your rhetoric with action. Please sign Discharge Petition No. 1.

DISCRIMINATION AGAINST WOMEN IN SOCIAL SECURITY SYSTEM

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, today I am introducing eight bills that address the very central question related to social security, and that is the manner in which the social security insurance program deals with women. It is very, very inequitable, and while the reform package addressed the solvency issue, it did not comprehensively address the inequities in the social security system toward women.

The poorest person in the United States today is a woman who is over 65 years old, and one of the reasons for that is that she lives on that social security check, and the social security system is inequitable and treats her unjustly.

This affects all women, by the way, in different ways. For example, the working spouse who pays into the system is bound to get less than she would if she never worked at all. The homemaker who goes in and out of the household to have children or take care of a sick parent, who has been working prior to 5 years, cannot collect disability. The widow is discriminated against. The divorcee is discriminated against.

My legislation, in the form of these eight bills, I am pleased to say, has already 31 cosponsors. I urge my colleagues who are interested in addressing the needs of more than 50 percent of the population, particularly older women, to get on board and let us really address the social security issue in a very comprehensive fashion.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken today after debate has been concluded on all motions to suspend the rules.

BUREAU OF THE MINT AUTHORIZATION FOR FISCAL YEAR 1984

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2628) to amend title 31, United States Code, to authorize appropriations for the Bureau of the Mint for fiscal year 1984, and for other purposes.

The Clerk read as follows:

H.R. 2628

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5132(a) of title 31, United States Code, is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Not more than $49,558,000 may be appropriated to the Secretary for the fiscal year ending September 30, 1984, to pay costs of the mints and assay offices.

"(3) For the fiscal year ending September 30, 1984, and for each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury for salaries of employees of the Bureau of the Mint such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law and for other nondiscretionary costs."; and

(2) in paragraph (1), by inserting after the second sentence thereof the following: "The Secretary shall annually sell to the public, directly and by mail, sets of uncirculated and proof coins, and shall solicit such sales through the use of the customer list of the Bureau of the Mint.".

The **SPEAKER**. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois (Mr. ANNUNZIO) will be recognized for 20 minutes, and the gentleman from Tennessee (Mr. SUNDQUIST) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinios (Mr. ANNUNZIO).

Mr. **ANNUNZIO**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2628 authorizes the appropriation of $49.6 million for the operation of the Bureau of the Mint. The mint is responsible for assuring the Nation has adequate supplies of coins for the needs of commerce. The mint also is the custodian of the Nation's supply of gold.

I bring this legislation to the floor with emotions. We must assure that there is no disruption in the flow of the coin supply. At the same time, the administration has continued its systematic attempt to turn the Federal Government's constitution mandated power to control the coinage of our Nation over to private industry.

Last year, this House overwhelmingly rejected efforts to turn the U.S. mint over to private marketers of Olympic coins. These marketers would have been given a monopoly to purchase and distribute all U.S. Olympic coins. This House wisely rejected that approach and adopted legislation that gives all Americans access to their mint.

The administration has now granted J. Aron & Co. the exclusive right to purchase the mint's entire output of gold medallions. This company will completely control the sales of the medallions. No one else will be able to purchase as much as a single medallion from the mint.

If the grant of this monopoly was not disturbing enough, J. Aron is the world's largest distributor of the South African Krugerrand, and a primary distributor of Canada's Maple Leaf and Mexico's gold coin. The contract with the mint may well give them an opportunity to manipulate the market to the detriment of the U.S. Government and the American taxpayer. At the least, it creates a seeming conflict of interest, since the Krugerrand and the gold medallions will be in direct competition with one another.

I am disturbed by the revelation that the U.S. Government has awarded this exclusive contract to the company that developed the marketing campaign for the apartheid South African Government's Krugerrand. The sale of Krugerrands is a significant source of South Africa's foreign earnings—earnings that go to finance a government whose racial policies are repugnant throughout the world.

The Director of the Mint is a public official, paid by the taxpayers of this Nation to serve them, and them alone. Yet on April 4, the Director wrote to all past gold medallion customers of the mint and urged them to purchase more gold medallions, not from the mint, but from Dreyfus Gold Deposits, a private firm appointed by J. Aron to accept orders. Order blanks from Dreyfus were enclosed with the letter. Furthermore, the mailing was sent out under the Federal mailing permit of the mint in the mint's "Official Business" envelopes. Customers who ordered gold medallions paid significantly more than if they had been able to purchase directly from the mint.

This gold sale so concerns me that I have asked the General Accounting Office to investigate. There is something wrong when the Federal Government surrenders its constitutional powers to private industry for private gain. The mint is the U.S. mint, not the J. Aron mint or the Dreyfus mint.

The amount of the authorization is the same amount requested by the administration. In addition, the legislation provides a permanent authorization for any increases in the mint's personnel costs as a result of any cost-of-living adjustments mandated by law. The purpose of this narrow permanent authorization is to avoid the need for the mint annually to request an authorization for any supplemental appropriation request arising from the annual cost-of-living adjustments. It assures that mint employees receive the pay adjustments that they are entitled to.

The legislation also mandates that the mint resume offering both proof and uncirculated coin sets in 1983. These sets are extremely popular with coin collectors. In 1981, for example, the mint sold a combined total of nearly 7 million of these sets.

These sets are not only popular with the public but are profitable to the Government. The price of these sets more than covers their cost. The sets are priced to recover their entire cost. The Government also profits from the seigniorage on the coins included in the sets. Seigniorage is the difference between the face value of the coins and the cost to manufacture them. The combined profit annually runs in excess of $20 million.

Last year, the administration ordered personnel cuts at the mint that resulted in termination of the uncirculated coin program. This termination not only cost jobs at the time of double digit unemployment but also cost the Government dearly needed revenues at a time of record budget deficits. The resumption of sales of the uncirculated sets this year will put productive Americans back to work and reduce the staggering deficits.

While I have serious misgivings about the operation of the mint, it would be unfair to the mint's employees and the public to shut it down because of mismanagement on the part of the administration. Should there be no improvement, I will return to this House with legislation to correct the problems, including ending funding of certain programs. In the meantime, let us continue to permit the mint to operate for the American public, not for private interests.

□ 1215

Mr. **SUNDQUIST**. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. WYLIE).

Mr. **WYLIE**. Mr. Speaker, H.R. 2628 for the fiscal year 1984 authorization for the Bureau of the Mint is before the House today without significant controversy or disagreement among those members of the Subcommittee on Consumer Affairs and Coinage who heard the testimony of the Honorable Donna Pope Director of the Mint.

The amount of money to be authorized in this bill is the same amount that the administration has requested, $49,558,000. The increase in funding from the current fiscal year is $2 million and represents approximately the 4-percent cost-of-living increase that is required for normal operations.

In response to a number of letters and inquiries by people who collect coins, we added an amendment to the mint authorization that will require the Director to resume selling uncirculated coins by mail. The sale of these uncirculated coin sets is a program that covers its own costs, since the premium charged for the coins in little plastic packages includes the costs of preparing them and mailing them to buyers. The mint has sold proof sets and uncirculated sets of coins since the mid-1930's, and still does so today—except the uncirculated sets are not available by mail order. Our amendment, which was adopted without dissent in subcommittee, would require the resumption of mail order sales.

We understand that the sales by mail were discontinued because the Director of the Mint did not want to add temporary employees to the payroll to carry out this program, although it is a program that pays for itself. The minority members of the Subcommittee on Consumer Affairs and Coinage are certainly sympathetic to the desires of the administration to keep Government employment down and save money, but in this case there is no money to be saved—since the coin collectors who buy coins by mail order pay the extra costs of the service.

Among the budgeted items in this fiscal year 1984 authorization is the sum of $300,000 for physical improvements at the Fort Knox Bullion Depository. It seems that the roof is leaking, the roadway has potholes, and the paint is peeling off. The Bullion Depository has not been repaired since 1971, and the subcommittee agrees that something as important to the Nation as its inventory of gold bullion should be housed in better circumstances.

One issue that the Subcommittee on Consumer Affairs and Coinage took particular interest in was the award of a contract to the J. Aron Co. in New York, a subsidiary of the Goldman Sachs group, and one of the primary distributors of gold coins in the world. This company sells Krugerrand coins from South Africa, and was the company that developed the market for gold Maple Leaf coins for the Canadian Government in the United States a few years ago. The mint has given this company an exclusive contract to sell the American Arts gold medallions, minted under authority of Public Law 95-630.

The chairman of our subcommittee, the gentleman from Illinois (Mr. ANNUNZIO) has sent a letter to the Comptroller General to investigate the terms of this contract and assure this House, and the people of the United States, that it is in the best interests of the Nation. I join my colleague in requesting the General Accounting Office to take a look at this contract and the entire marketing program for the gold medallions.

The American Arts medallions have become famous throughout the world as the only gold coin program in the past 10 years to fail miserably—sort of a bitter joke about the ability of the United States to fail at something that South Africa, Canada, and Mexico have made a rousing success. This failure is particularly embarrassing because the major market for gold bullion coins is in the United States, with an average of about 3 million troy ounces of gold being imported every year.

As we understand from the testimony of Director Pope, the major feature of the contract—and the element in such a gold bullion coin program that was missing from the U.S. effort, and which the gold coin campaigns of other governments have—is the creation of a secondary market, a very liquid two-way system of dealers who will not only sell the coins in hundreds of places, but will stand ready to buy them back. The mint is not in a position to buy back the coins it produces, since this is the function of the banking system. These gold coins are not legal tender, so a special marketing effort has had to be developed—and this is what the contract with the J. Aron Co. does, as we understand it.

This entire activity of making the sales of gold coins easier and more successful was the first recommendation of the Gold Commission that was chaired by the Secretary of the Treasury last year, and of which I was a member. The American Arts medallions program is a 5-year program that is now in its third year. Some Members may already have seen the full-page ads in the Wall Street Journal and later this year you will see prime-time television advertising.

Mr. Speaker, I yield back the balance of my time.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2628, the bill presently under consideration.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests of time.

Mr. SUNDQUIST. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ANNUNZIO) that the House suspend the rules and pass the bill, H.R. 2628.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON ADMINISTRATIVE LAW AND GOVERNMENTAL RELATIONS OF COMMITTEE ON THE JUDICIARY TO SIT ON TOMORROW DURING THE 5-MINUTE RULE

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary be permitted to sit on Wednesday, April 27, 1983, while the House is considering amendments under the 5-minute rule.

The purpose of the subcommittee meeting is for a hearing on H.R. 595, the amendments to the Federal Tort Claims Act. The minority has been consulted on this matter this morning.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DEDICATING THE GOLDEN GATE NATIONAL RECREATION AREA TO PHILLIP BURTON

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2600) to dedicate the Golden Gate National Recreation Area to Phillip Burton, as amended.

The Clerk read as follows:

H.R. 2600

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Golden Gate National Recreation Area, California, is hereby dedicated to Congressman Phillip Burton in recognition of his leadership in establishing the Golden Gate National Recreation Area, his outstanding contributions to the National Park System, the Wilderness Preservation System, and to the protection and preservation of our great natural and cultural resources for the benefit of the people of the United States for all time.

SEC. 2. In order to carry out the provisions of this Act, the Secretary of the Interior is authorized and directed to provide such identification by signs, including, but not limited to changes in existing signs, materials, maps, markers, interpretive programs or other means as will adequately inform the public of the contributions of Phillip Burton.

SEC. 3. The Secretary of the Interior is further authorized and directed to cause to be erected and maintained, within the boundaries of the Fort Mason unit the Golden Gate National Recreation Area, an appropriate memorial to Phillip Burton. Such memorial shall include but not be limited to an appropriate permanent marker describing the contributions of Phillip Burton to the Nation.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as offered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) will be recognized for 20 minutes, and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering H.R. 2600, a bill which will dedicate the Golden Gate National Recreation Area in California to our late good friend and colleague, Phillip Burton.

During Phil's chairmanship of the Subcommittee on National Parks and Insular Affairs, the Congress enacted legislation that: established 30 new national park units, expanded the boundaries of 66 existing national park units and 2 national forest system units, designated 8 new wild and scenic rivers and authorized studies of 19 rivers for possible future designation by the Congress, established 11 new national trails and authorized studies of 7 trail routes and designated 8 national parks and 2 forest service wilderness areas totaling 2,930,00 acres.

But above all Phil was most proud of the creation of the Golden Gate National Recreation Area in his city, San Francisco. Phil loved the Golden Gate National Recreation Area. He introduced and shepherded the legislation which was successful in establishing Golden Gate on October 27, 1972, and personally worked out the refinements over the years that improved and enhanced this magnificent park.

On April 19, George Miller of California, who served on this committee with Phil, introduced H.R. 2600, and more than 170 of our colleagues have joined us in supporting this legislation which will dedicate the Golden Gate Recreation Area to Phillip Burton and cause a permanent memorial to Phil to be erected within the Fort Mason unit.

Mr. Speaker, I urge the adoption of this legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the bill now before us, H.R. 2600, which dedicates the Golden Gate National Recreation Area in the State of California to our late friend and colleague, Congressman Phillip Burton.

Phil and I served together on the Interior Committee of the House for all the years that I have been in Congress. While in many instances our views took us to the opposite sides of issues, I can say without hesitation that Phil was an exceptionally able and effective legislator. His monumental legacy of accomplishments in the form of conservation law are a tribute to that effectiveness.

For 4 years, Phil served as the chairman of the Subcommittee on National Parks and Insular Affairs of the House Interior Committee. It was during that period that he successfully guided through to enactment so much legislation, particularly related to the expansion and protection of our national park system.

One of Phil's own very favorite accomplishments, however, was the creation of the Golden Gate National Recreation Area in and around his home area of San Francisco. Phil always exhibited a particular pride in this area, and continually watched over its welfare.

It is most fitting that the Congress recognize the very significant contributions of our late colleague through the enactment of the legislation now under consideration. This bill provides that the Golden Gate National Recreation Area be dedicated to Congressman Phil Burton, and that other appropriate recognition of his conservation legacy be accorded through various commemorative actions to be taken within the recreation area.

Mr. Speaker, the enactment of this legislation is an appropriate action for this body to take, and I urge the adoption of this bill by the House.

☐ 1230

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I am glad to yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Speaker, I want to join the gentleman in his remarks. I think it is most proper and fitting that we should dedicate this recreation area to Phil. He is a person that will not easily be forgotten as a Member of this Congress and certainly as a member of this committee; so I join with my colleagues in urging the adoption of this legislation.

Mr. UDALL. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. Seiberling).

Mr. SEIBERLING. Mr. Speaker, the famous Roman statesman, Cato, is reported at one time to have been showing some visitors the glories of ancient Rome. One of them asked him, "where is the monument to Cato?"

And his response was, "Look around you."

This legislation is recognition, which really is not needed in the sense of having to create a memorial to Phillip Burton, because we can truthfully say, no matter what part of the country we are in, that if we need a memorial to Phillip Burton, we need only to look around. That is especially true of our national park system, which was enlarged and improved during his period as chairman of the National Parks Subcommittee of the House Interior and Insular Affairs Committee; but it is true of a lot of other things, too.

There is much social legislation which is also a memorial to our late beloved colleague. There is a group of people who are not even American citizens who are small in number and who owe much of their well-being at present to the intercession of Phillip Burton. I refer to the people of the Trust Territories of Micronesia. Yesterday I received a letter from Mr. Elon, who is the representative in Washington of the Federated States of Micronesia, expressing his sorrow at the untimely death of our colleague and enclosing a news release issued by the President of the Federated States of Micronesia, Mr. Tosiwo Nakayama.

Mr. Speaker, I ask unanimous consent that this news release be included in the Record at this point.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Ponape, Federated States of Micronesia, April 13, 1983.—Tosiwo Nakayama, President of the Federated States of Micronesia, today issued the following statement marking the recent death of Representatives Phillip Burton, the former Chairman of the National Parks and Insular Affairs Subcommittee of the House Interior Committee.

"The People of the Federated States of Micronesia have lost a loyal friend and supporter with the untimely death of Congressman Phillip Burton. Phil Burton labored in our behalf for many years, at times almost single-handedly with a goal of affording our citizens maximum access to the vast array of programs of the U.S. Government in essential fields such as health and education. He always had uppermost in his mind the application of U.S. Government resources in a way that would benefit the people directly, improving their basic living conditions.

"Congressman Burton also played a major role in the formation of the new Micronesian governments. His constructive influence was ever present in the negotiations with the United States on our Compact of Free Association. We shall always be indebted to him for his wise counsel and encouragement in the development of that document. We are especially saddened that his death has come only a matter of weeks before the FSM's plebiscite on the Compact, and that we have lost his leadership within the United States Congress at a time when that body will soon be called upon to react to the decision on future political status made by the people of the Federated States of Micronesia. It is hoped that Phil Burton's passing will serve to remind all of us of the unfinished nature of the tasks to which he dedicated his life and inspire a firm resolve to keep faith with his principles as the United States and Micronesian people complete the formation of new relationships."

Mr. SEIBERLING. Mr. Speaker, I will not take much further time, except to say that in my memory, I have never seen a bill before in which the list of cosponsors was as large as the bill itself, but that is the case with the bill before us. That is some small measure of the esteem which his colleagues feel for our departed friend.

Phillip Burton opposed the naming of national park units for individuals, and I agree with him. However, this bill does not rename the Golden Gate National Recreation Area. It simply extends to him the kind of appropriate recognition's which he supported for other people, and that is the dedication of a unit of the park system to the person who, in a prominent way, was connected with its creation. I think this is a most fitting and appropriate piece of legislation and I urge its adoption.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Mrs. BOXER).

Mrs. BOXER. Mr. Speaker, few would argue that our late colleague, Phillip Burton, has been the most prolific producer of land for national parks, trails, and wilderness areas in recent memory, and perhaps in the history of this body. His Omnibus Parks Act of 1978 alone tripled the size of the National Trails System, nearly doubled the size of the Wild and Scenic Rivers System, and more than doubled the wilderness acreage of the National Park System.

This body only 2 weeks ago approved his most recent mammoth undertaking, the addition of some 2.3 million acres of national forest land in California to the National Wilderness Preservation System. Other preservation and protection accomplishments in the State of California include areas in the Redwood National Park, Channel Islands, Santa Monica Mountains, Mineral King, protection of Lake Tahoe, and closer to his home, protection of the Farallon Islands and extension of the Point Reyes National Seashore.

Mr. Speaker, all of his accomplishments, which stretch across the length and breadth of this great Nation, would make a much longer list; but in Phil's district, the single park accomplishment for which he will best be remembered is the creation in 1972 of the Golden Gate National Recreation Area. I have had the great honor for these past few short months of sharing representation of San Francisco and the GGNRA with Phillip. I know he loved them both dearly. GGNRA is no ordinary park. It stretches from the streets, forts and harbors of urban San Francisco to the undeveloped windswept headlands of Marin County. It is the most visited unit of our National Park System, with over 20 million visitors per year. I can think of no more fitting memorial to Phil than to dedicate this much-enjoyed unique part of our national parks, which he fought for and created, to the memory of this giant of a legislative leader. This memorial will stand as a visible reminder to future generations of the debt which they, and we, owe to Phillip Burton.

The following are remarks made at Congressman Burton's funeral, which are very appropriate to the discussion today:

Speaker: Frank Kieliger, Congressman Burton's Staff

"When a good man dies, his goodness does not perish but lives on though they are gone." Phil Burton was a good man. We have mourned him and we will miss him but today, let us celebrate his life. Let us celebrate that goodness which lives on and which has and will continue to touch each of us.

I speak today for all who during his public life have worked with and for him as his staff. In Phil's mind we were part of his family. Each of us knows that we have been privileged in a special way in that our lives have been touched by both his greatness and his goodness.

I looked for words that would express what we felt and I found them in the words of the 19th century churchman, John Cardinal Newman:

"We, too, through God's mercy, whether we be young or old, whether we have many friends or few, shall along our pilgrimage of life find those in whom we may live, who will love us and whom we may love, who will aid us and help us forward and comfort us; for love is a secret gift, which, unseen by the world, binds together those in whom it lives and makes them live and sympathize in one another."

Phil Burton loved us. Phil Burton aided us. Phil helped all of us forward and when we needed him, he comforted us and most importantly he bound us together in his love.

History will remember him among the great . . . a unique and powerful political figure . . . let us remember him as a man who loved and in that love sought peace and justice for all people.

In this City of St. Francis let us honor his memory by being true instruments of peace. In this many faceted gem called San Francisco, which Phil Burton loved and served, let each of us: man or woman, Black, White, Hispanic, Asian, gay or straight, labor or business, rich or poor, young or old, native San Franciscan or our newest refugee . . . let each of us dedicate ourselves to the task of building Phil Burton's greatest monument in our own hearts . . . let us return his love . . . let us love one another.

Sister Margaret Cafferty's Remarks at Congressman Burton's Memorial Service, April 14, 1983

Yesterday, as I mourned my own loss and the loss of San Francisco in the death of Congressman Phillip Burton, I received a letter from one of our sisters stationed in Nicaragua. Sister lives in the path of an army, trained by the United States and invading from Honduras. She talked of the possibility of her own death, of her wish to die bravely. She asked simply, "if anything should happen to me, just promise me you'll raise a big stink for Nicaragua. My life is too precious for me to give it away lightly, and I don't."

Phil Burton didn't take sister's life lightly and spent his own unselfishly and courageously that her plea for justice and the pleas of millions of others would be heard. Phil's constituency was not limited by an accident of geography that might have placed people in the Fifth Congressional District. Rather, it skirted the enclaves of the powerful and gerrymandered into its boundaries the coal miners of Appalachia, the longshoremen of San Francisco, the tortured of Central America, the aged urban poor of the nation. In many ways, Phil was the Lord's blessing on the City of St. Francis and San Francisco's gift to the nation and the world.

Redwoods will soar, women and men will have jobs, the disabled will be enabled, some swords will be beaten into ploughshares because Phillip Burton lived. Whatever other monuments are constructed, these living monuments, crafted in the splendor of nature, the marrow of life, the blessings of peace are the real monuments to Phil Burton.

Congressman Burton was a little larger than life. He had an insatiable hunger and thirst for justice. He spent his life bringing good news to the poor, healing the broken, announcing that the downtrodden should be free from their oppressors. My simple Irish faith tells me that as the Lord greeted him, he might well have said, "Welcome, Phil. I owe you a few."

Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I think that there are two things, as has already been pointed out, that Phil Burton will be long remembered for, the items that are spelled out in this resolution itself, the natural areas in the country, the national parks, the rivers, the wilderness areas, and particularly the Golden Gate National Recreation Area.

The gentleman from Ohio (Mr. SEIBERLING) mentioned another, and that is his contribution to the progress of the offshore areas, the territories and islands that are under our jurisdiction and care. There was no one in this Congress and perhaps never will be again who took as much interest in these areas and has as much to do with their development. Some of us were privileged to work with him in that regard.

I think probably the best thing we can do in memory of Phil Burton, at least with regard to this area, is to continue to work together.

There was one area, maybe it was the only area, but one area where Phil Burton truly did carry a bipartisan cooperation program was in this.

I cannot remember very many of the programs or projects involving the offshore areas that were not pretty much done by consensus, in most cases virtually unanimously.

So, I would hope that we can continue to do that and when we are dealing with those issues to keep in mind how Phil handled them. I think that would be one of the best things that we could do in his memory.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from the Virgin Islands (Mr. DE LUGO).

Mr. DE LUGO. Mr. Speaker, I thank the chairman of the full committee for yielding me this time.

I rise in support of this resolution. I want to thank the other Members for all that they have said about Phil today and particularly what has been said by the gentleman from Ohio and the gentleman from California regarding Phil's love and his deep concern for the offshore areas, whether they were in the Pacific or in the Caribbean, whether they were trust territories or whether they were U.S. territories, and the responsibility of this body and this Government.

I think that the naming of this memorial to Phil is wonderful because I do not think we will ever see his like again. I do not expect to.

It has been said many times that Phil Burton, in the 4 years that he was chairman of the Subcommittee on National Parks, did more for the national parks system then any other Member. He doubled the size of the national parks system in that short period of time and it has been said many times that Phil never went to the national parks. The only time he went outside was to take a cigarette; but all of us who know Phil knew that he cared very deeply about the parks. He really did, and he believed that these parks, these areas were important to our country and to our people and he loved in particular the Golden Gate National Recreation Area. He was always talking about it.

It was quite a thing for me when I flew out to Phil's funeral the other day to visit this area, because I had been there when I was in the Army. I used to ship out from Fort Mason some time ago.

Phil was the friend, the sincere friend, of the underrepresented and the unrepresented. We are going to need a lot of help from a lot of us in carrying on that representation in the years ahead, and I am counting in particular on four of the gentlemen who preceded me on this floor today: the gentleman from California, the gentleman from New Mexico on the minority side, the gentleman from Ohio, and the gentleman from Arizona, the distinguished chairman of our committee.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the dean of the California delegation, the gentleman from California (Mr. Edwards).

Mr. EDWARDS of California. Mr. Speaker, I rise today in support of H.R. 2600, a bill to dedicate the Golden Gate Recreational Area to the memory of the late Phillip Burton.

Phillip Burton was not a hiker or a rafter. He was a city man who seldom ventured out into the wilderness. But still, he understood the need for natural open space which would provide beauty and solitude for those who sought refuge from our crowded, hectic, urban life. He cared about the future and the need to protect the environment.

His special caring and understanding inspired him to introduce legislation establishing the Golden Gate National Recreation Area, located in San Francisco, Marin, and San Mateo Counties in California. Thanks to his determination, the Golden Gate National Recreation Area has become the most popular national park, visited last year by 22 million people. It runs from the tip of Point Reyes to the southern border of San Francisco and includes 75 miles of coastline.

This was just one of Phillip Burton's many environmental triumphs. His skill and diligence in helping to enact legislation that greatly expanded the national park system, established new national trails, designated new wild and scenic rivers, and established additional national park and forest service wilderness areas, will always be appreciated.

So, please, join with us today in showing our unanimous gratitude by dedicating the Golden Gate Recreational Area as a living testimony to Phillip Burton, a man who enhanced the quality of our lives.

We are indebted to the gentlewoman from California, Mrs. Boxer, and the gentleman from California, Mr. Miller, for their leadership in sponsoring this worthy legislation.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the author of the bill, the gentleman from California (Mr. Miller).

Mr. MILLER of California. Mr. Speaker, I want to thank my colleagues from the Interior Committee for the swift action they have taken on this memorial to Congressman Phillip Burton, and to Congressman Seiberling, and Congressman Udall in particular for allowing this to happen.

I think for those of you who have been to the Golden Gate National Recreation Area, this is in fact a beautiful memorial to Phil Burton, to his ideals and to his principles.

It is not only a park which people can use on a day outing in the center of San Francisco, but it is a park that expresses the best of all aspirations about urban parks, because it is a park that is accessible by urban transportation from the city and the district which Phil Burton represented.

As has been stated by Congressman Edwards, it has the highest utilization of any facility in the United States and that is because of its proximity to the urban population.

It was Phil Burton who gave to this Congress the idea of urban parks and what we have in the Golden Gate National Recreation Area is the best of those ideas, incorporating both the wilderness experience, the seashore experience, the overnight experience, the ability of low-income individuals, of the elderly, to move to that park, to see it, to enjoy it, with all of the rest of our population.

I would hope that the Congress would understand that this is the kind of tribute that Phil Burton would have expected out of all of us, to take the grandest symbol of the urban parks, to take the grandest symbol of the recreation areas, and name it after him. He would have expected no less and I also expect that someday he will expect us to expand the boundaries of this park to take in even greater jurisdictions and I hope someday we can and that the Sweeney Ridge Area and others will be included in this park that he fought so hard for.

● Mr. DELLUMS. Mr. Speaker, as a cosponsor of H.R. 2600, I fully support the legislative effort to dedicate the Golden Gate National Recreation Area to the memory of my deceased, but cherished colleague, Phil Burton.

Renaming this recreation area in honor of Phil Burton is a small but most deserved tribute to the memory of a true giant on the legislative landscape of our times. In a very real sense, Phil Burton was "Mr. National Parks" in the Congress. Millions of Americans can enjoy the majestic natural wonders of this country because of his untiring efforts on behalf of preserving them against the ravages of the dedicated despoilers, in and out of Government.

Phil Burton was a national treasure—and may the memory of his accomplishments be our challenge to preserve the Nation's environment in the years ahead.●

● Mr. WAXMAN. Mr. Speaker, nothing could be more appropriate, nor more deserved, than to dedicate the Golden Gate National Recreation Area to Phil Burton.

When we travel around America, we see, in State after State, memorials to those who cared deeply about the preservation of our natural resources and had the foresight to look past immediate uses and pressures and set aside special lands for future generations. Henry David Thoreau, John Muir, Gifford Pinchot, Theodore Roosevelt. And to that list, we should add the name of Phil Burton.

Phil Burton shared their understanding of the need to save our natural treasures. His devotion to the National Parks and Recreation Act was a classic example of legislative determination and genius. With time running out in the 95th Congress and with it a possibility that the Senate would not pass the House-approved parks bill, Phil set up camp on the Senate floor and tried to move mountains. He succeeded. In a tour de force for which future generations will long be grateful, Phil's bill expanded the size of dozens of existing parks, and established many new wilderness areas, parks, seashores, trails, and wild and scenic rivers.

He never stopped his efforts on behalf of our natural heritage; just 2 weeks ago, we passed his California wilderness bill. Millions of Americans will find happiness in the over 2 million acres of land that will be added to our wilderness system.

It is entirely appropriate and fitting that we dedicate to Phil Burton's memory a park that he really cared most about. The Golden Gate National Recreation Area is in the city of San Francisco, where urban dwellers have easy access. It is a place where families can picnic for a day, and where children can play without looking for cars.

I am pleased to join in support of this effort to dedicate Golden Gate National Recreation Area to Phil Burton.●

● Mr. MATSUI. Mr. Speaker, I rise today with both sadness and great purpose to urge my colleagues to dedicate the Golden Gate National Recreation Area in northern California to the memory of Phillip Burton. At a time when our national priorities seem to be shifting away from environmental values, it is important that the Congress reaffirm its commitment to Phil's vision and acknowledge his great contribution by approving the measure before us today.

Phil Burton committed his career to issues which enhanced the quality of life of the underrepresented in our society. In the environmental arena, Phil recongnized the importance of preserving the dwindling wild nooks and crannies, while affording all people with access to places of retreat and solitude. Because of his leadership, the Congress has created 30 new national parks, expanded substantially 66 others, designated 8 wild and scenic rivers, and established many new acres of national forests and trails. I believe that Phil's foresight has provided the American people with a precious gift, one whose value will become better known over time.

It is our obligation—for this and future Congresses—to build upon Phil's enormous achievements and strive for the continued protection of our environment. We owe this effort to ourselves, our Nation, and particularly to Phil's insistent and at times overbearing concern that the public's right to enjoy its natural heritage be observed. We should begin this process today by dedicating the Golden Gate National Recreation Area to Phil and by remembering his compassion, constancy, and unwavering commitment.●

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. Udall) that the House suspend the rules and pass the bill, H.R. 2600, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to dedicate the Golden Gate National Recreation Area to Congressman Phillip Burton."

A motion to reconsider was laid on the table.

FEDERAL ELECTION COMMISSION AUTHORIZATION, FISCAL YEAR 1984

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2621) to authorize appropriations for the Federal Election Commission for fiscal year 1984, as amended.

The Clerk read as follows:

H.R. 2621

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of section 314 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended by striking out "and" after "1978," and by inserting after "1981" the following: ", and $10,849,139 for the fiscal year ending September 30, 1984".

Sec. 2. Section 314 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended—

(1) by inserting after "Sec. 314." the following: "(a)"; and

(2) by adding at the end the following new subsection:

"(b) In addition to the amount authorized to be appropriated by subsection (a) for the fiscal year ending September 30, 1984, there are authorized to be appropriated for such year such amounts as may be necessary for expenses of official travel and subsistence of members and employees of the Commission in connection with meetings sponsored by non-Federal entities and individuals. Notwithstanding any other provision of law, a member or employee of the Commission may, with approval of the Commission, accept payment in cash or in kind from a sponsoring entity or individual with respect to such travel or subsistence for retention by such member or employee to cover the expense involved or for deposit to the credit of the appropriation from which such expense is paid.".

□ 1245

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Washington (Mr. Swift) will be recognized for 20 minutes, and the gentleman from California (Mr. Thomas) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington (Mr. Swift).

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2621 is the authorization for the Federal Election Commission for fiscal year 1984.

As reported from the House Administration Committee, by a unanimous vote, the bill authorizes a total of $10,849,139 for the upcoming year. This is the proposed budget for 1984 which, as we all know, is not only an election year, but a Presidential election year as well. And Presidential elections bring many additional duties to the Commission over and above their considerable duties in non-Presidential years.

With that in mind, I would like to point out that the FEC has done a commendable job over the last several years of making economies in its spending in every way possible. The Commission has done so well that their budget is now, in real terms, substantially below what it was in the last Presidential election year, 1980.

If the Commission had requested for 1984 what they had in 1980, Mr. Speaker, they would have requested $12.1 million. Instead, they came to us with a request for $10.3 million—a substantial reduction by any measure.

Of this total request, since the Commission's work is personnel intensive, most of the funds—about 70 percent—are for personnel costs. Here, as in other areas, the Commission has been making every effort to economize, and they have actually reduced the size of the Commission staff.

Their request for $7.35 million for personnel provides for only 245 staff positions, compared with the 271 they had in 1980. And that reduction in staff has been accomplished while the workload at the Commission has been increasing. For example, despite changes in the law intended to reduce the number of campaign reports that have to be filed, the pages of campaign finance materials made available to the public by the Commission have increased anywhere from 15 to 40 percent in the last few election cycles.

However, despite the Commission's best efforts, it became clear during the hearings on the Commission's budget that were held by our committee's task force on elections, that some additional personnel costs are going to be unavoidable during the coming year. These costs are due to personnel provisions we in Congress passed in other legislation, after the FEC's budget request was submitted, that had a direct impact on their budget. Added costs for social security, medicare, and executive pay raises imposed the need for an additional $216,000 on the Commission.

During our hearing, members of the Commission testified that they would have to request a supplemental later in the year to cover these personnel costs. Knowing that the additional money would have to be provided later anyway, the committee felt it was advisable simply to include the necessary authorization here.

The remaining 30 percent of the funds in this authorization, Mr. Speaker, is to cover all the other needs of the Commission, including everything from postage to printing, and from office rental to equipment maintenance and replacement.

With respect to the Commission's equipment needs, Mr. Speaker, our hearing also disclosed that, over the last several years, the Commission has delayed replacement and upgrade of much of its equipment. It is now to the point that equipment improvement cannot be put off much longer—at least not without seriously impairing the Commission's ability to fulfill its duties with regard to public disclosure of campaign information.

For example, the microfilm reader-printers in the Public Disclosure Office are so old that the vendor has notified the Commission that service contracts will no longer be available after October of this year due to a lack of spare parts. And these reader-printers, Mr. Speaker, currently require service at least several times a week.

Faced with this and other evidence about the Commission's equipment needs, the committee has recommended a relatively small increase—$290,000—in the Commission's equipment budget. This is expected to be used particularly for enhanced data processing and computer capability, to enable the Commission to adequately maintain and disclose the large amounts of information it is required to gather.

At this point, Mr. Speaker, I should mention that there is one area of funding for the Commission—refurbishing—that was specifically not authorized.

It has come to the committee's attention that the basic working environment in the FEC offices downtown is poor. Much of the carpet is rumpled and worn to the point that it is a safety hazard. Also, there is water damage to office facilities and to the phone system, especially on the upper floors, due to a break in a rooftop water tower. Overall, there is a serious need for refurbishing and renovation in virtually all the Commission's offices.

However, it is the Commission's first choice, by far, simply to move from the offices they currently occupy into other, better offices in the city that will be easily accessible to the public. Since the Commission is actively pursuing that alternative at the moment, the committee felt it was not appropriate to provide money for refurbishing. So, any refurbishing money was specifically not authorized.

The one other action that was taken during committee consideration of H.R. 2621, Mr. Speaker, was adoption of an amendment with respect to Commission travel.

The amendment establishes an experimental, cost-saving program for 1 year. It authorizes members or employees of the Commission to accept reimbursement for official travel and subsistence costs incurred in connection with meetings sponsored by non-Federal entities. Such travel is subject to Commission approval, and the committee expects that the Commission will generally regulate travel activities in a manner that will not run the risk of impairing the operations of the Commission.

Finally, Mr. Speaker, let me sum up by saying this is a moderate, reasonable authorization for an agency that is very important—especially in a Presidential election year, when the FEC oversees the spending of literally hundreds of millions of campaign dollars.

I urge all my colleagues to support this authorization, so we can insure that the FEC will have the funds necessary to meet all its important obligations in the most timely and efficient manner.

Mr. Speaker, I reserve the balance of my time.

Mr. SAM B. HALL, JR. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I am happy to yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. The gentleman mentioned that the bill authorizes members or employees of the Commission to accept reimbursements for official travel and subsistence costs incurred in connection with meetings sponsored by non-Federal entities and individuals.

My question is: Is this something new?

Mr. SWIFT. This is new as far as the FEC is concerned. There are other administrative agencies of the Federal Government which are permitted this essential approach.

Mr. SAM B. HALL, JR. If the gentleman will further yield, could he give me an illustration of what this would entail?

Mr. SWIFT. Yes; I can give the gentleman an example.

First of all, let me tell the gentleman what the problem is. The problem is that travel funds for the FEC are so limited that they simply cannot accept many invitations from private organizations that would like to have them come and explain what the rules are, how it would relate to their particular political activities, and so forth.

Let us say that a private agency, it could be a labor union, it could be a business PAC, wished to invite a member of the FEC to come to their annual convention to explain to them FEC rules and regulations and how it would involve and relate to that particular organization.

Currently if the FEC does not have the travel funds they simply have to turn it down. Under this experiment for 1 year, a commissioner or a top administrative staff member of the FEC could get Commission approval to accept reimbursement for actual costs of travel and sustenance while attending that particular meeting.

Mr. SAM B. HALL, JR. I thank the gentleman for yielding.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I would suggest to the gentleman from Texas that the House has passed this once before. Our authorizations are never picked up by the other body, or at least they have not been in the last 5 or 6 years, but the House has passed this before without controversial discussion.

I thank the gentleman for yielding.

Mr. SWIFT. I might add that it is the intention of the committee, if this authorization were to go all the way through the other body, to watch this very carefully during this year and see how it works. If, in fact, we find there is too likely an opportunity for abuse of it, it would not be extended.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in favor of H.R. 2621, as amended, the Federal Election Commission authorization for fiscal year 1984.

The Federal Election Commission's request was for $10,343,139 and 245 employees for fiscal year 1984. The Office of Management and Budget recommended $10,000,000 and 236 positions. The House Administration Committee approved an amended $10,849,139.

During the authorization hearing on April 13, the task force on elections requested the Commission to itemize their needs if they were to include the additional mandated personnel costs; that is, medicare, executive pay raise, et cetera, upgrading or replacing obsolete equipment, and moneys to renovate the existing work space.

After reviewing the supplemental information, the committee agreed to increase the authorization to include the personnel costs and the upgraded computer capability. We believe this amount was justified for two reasons.

First, since fiscal year 1978, the FEC has sought and received salary supplementals. By including the projected amount in this authorization, there will be no need for such a request for fiscal year 1984.

Additionally, the minority on House administration has always believed that the disclosure and information functions are central to the purpose of the Commission and the Federal election law. Therefore, we support the additional moneys in the amount of $290,000 to upgrade and replace the microfilm and computer equipment.

At this authorization level, the amount represents a 10-percent increase over fiscal year 1983 authorization and supplemental request.

Mr. Speaker, I know of no objections to this authorization and would urge its adoption.

Mr. THOMAS of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. Swift) that the House suspend the rules and pass the bill H.R. 2621, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

A WEEK OF REMEMBRANCE FOR THE 40TH ANNIVERSARY OF THE WARSAW GHETTO UPRISING

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 49) to authorize and request the President to proclaim the week of April 10-16, 1983, as "A Week of Remembrance for the 40th Anniversary of the Warsaw Ghetto Uprising," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. COURTER. Mr. Speaker, reserving the right to object, and I will not object, I reserve the right to object to indicate that the minority side has looked at the Senate joint resolution and we are very much in favor of the resolution declaring a proclamation to commemorate the 40th anniversary of the Warsaw Ghetto Uprising.

Mr. Speaker, I rise in support of Senate Joint Resolution 49, to authorize and request the President to issue a proclamation in commemoration of the 40th anniversary of the Warsaw Ghetto Uprising.

The history of World War II is filled with stories of courage. However, that of the Polish Jews who courageously rebelled against their Nazi oppressors in my mind stands out as one story of a people's fight for not only their honor but for their freedom and dignity.

The struggle of these valiant Jewish fighters, perhaps one of the most moving stories to come out of World War II, should remain an inspiration to us all. The right to freely practice one's religion and the right to freely emigrate are granted to all Americans but denied to so many, including Soviet Jews. So in commemorating the Warsaw Ghetto Uprising, we remember that we Americans must continue to work on behalf of all who are oppressed or imprisoned. By their strength and faith, the Jews of the Warsaw ghetto have become, in my opinion, legends of their time and symbols for ours.

Therefore, I urge my colleagues today, 40 years after the Warsaw Ghetto Uprising, that we prove we are truly willing to dedicate ourselves to the prevention of another holocaust by passing this joint resolution.

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

Ms. MIKULSKI. Mr. Speaker, this month we mark the 40th anniversary of the Warsaw Ghetto Uprising. We commemorate the gallant efforts of a handful of freedom fighters who valiantly resisted the onslaught of the German SS that brought violence and death to the Jewish community of Warsaw during the Second World War. For nearly a month, the resistance withstood the German forces, succumbing only after the SS had burned the entire ghetto. In a measure of their desperation, many of the freedom fighters chose to die in the flames rather than be taken by the Germans.

No one could ever have doubted the eventual outcome of the uprising. The action taken by the resistance was an action that had a moral message. It told the world that tyranny must be opposed regardless of the odds. Their actions did not go unnoticed. Within the next several months similar uprisings took place in Vilna, Cracow, and Lodz.

The spirit of the resistance fighters did not die in the fires of the Warsaw ghetto. I saw the spirit very much alive in modern Israel. On my recent trip to Israel, one aspect of Israel life that most impressed me was the courage and determination of the Israel citizens. And that courage and determination comes from the will to survive. Terrorist attacks and full-scale military offensives have been repelled throughout Israel's brief history. The same dedication, resourcefulness, and fighting spirit we witnessed 40 years ago now serves the Israelis in their fight to stay alive. Those characteristics in Israel today make it a living memorial to those who fought and died 40 years ago.

Mr. GARCIA. Mr. Speaker, Senate Joint Resolution 49 authorizes the President to proclaim a week of remembrance for the 40th anniversary of the Warsaw Ghetto Uprising. Of the more than 400,000 Jews whom the Nazis had imprisoned in the Warsaw Ghetto, only 70,000 remained in April 1943. The surviving Jews of Warsaw had no hopes of waging successful battle against their tyrannical foes. The valiant Jewish freedom fighters of Warsaw Ghetto, despite insurmountable odds, fought the Nazis and held their ground for nearly a month. Remembering those who fought and died so valiantly serves to honor their memory and to renew the determination of the peoples of the free world to oppose tyranny and oppresssion wherever it occurs.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. Res. 49

Whereas of the more than four hundred thousand Jews whom the Nazis had imprisoned in the Warsaw Ghetto, only seventy thousand remained in April 1943;

Whereas most of the others had been sent to their deaths in extermination camps by the Nazis;

Whereas the surviving Jews of Warsaw had no hopes of waging successful battle against their tyrannical foes;

Whereas the valiant Jewish freedom fighters of the Warsaw Ghetto, despite the insurmountable odds, fought the Nazis and held their ground for nearly a month;

Whereas by their dramatic and heroic courage, they provided inspiration to all people who revere liberty and a warning to all oppressors;

Whereas remembering those who fought and died so valiantly serves to honor their memory and to renew the determination of the peoples of the free world to oppose tyranny and oppression wherever it occurs; and

Whereas in April of 1983, the American Gathering of Jewish Holocaust Survivors will sponsor commemorations of Jewish resistance to Nazism and will organize programs to reinforce the need for the continuous struggle against anti-Semitism: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the week of April 10-16, 1983, is hereby marked in commemoration of the fortieth anniversary of the uprising against the Nazi occupation forces by the besieged and outnumbered Jews of the Warsaw Ghetto who, by their courage and heroism, showed the world for all time that the forces of freedom and liberty cannot long be suppressed by the forces of tyranny, and, by their valor and their faith, gave urgency to the creation of the free State of Israel.

(b) The President is authorized and requested to issue a proclamation designating the week of April 10-16, 1983, as "A Week of Remembrance for the Fortieth Anniversary of the Warsaw Ghetto Uprising", and calling upon the people of the United States to observe the week of remembrance with appropriate ceremonies and activities.

AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Garcia: Page 2, strike out line 3 and all that follows thereafter through page 3, line 2, and insert in lieu thereof the following:

That the President is authorized and requested to issue a proclamation in commemoration of the fortieth anniversary of the uprising against the Nazi occupation forces by the besieged and outnumbered Jews of the Warsaw Ghetto who, by their courage and heroism, showed the world for all time that the forces of freedom and liberty cannot long be suppressed by the forces of tyranny, and, by their valor and their faith, gave urgency to the creation of the free State of Israel.

The **SPEAKER** pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. GARCIA).

The amendment was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. GARCIA: Amend the title of Senate Joint Resolution 49 to read as follows: "Joint resolution to authorize and request the President to issue a proclamation in commemoration of the fortieth anniversary of the Warsaw Ghetto Uprising.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

NATIONAL PARKINSON'S DISEASE WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 62) to provide for the designation of the week beginning on May 15, 1983, as "National Parkinson's Disease Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

Mr. COURTER. Mr. Speaker, reserving the right to object, and I will not object, I just rise to indicate the minority is in full support of the resolution.

Mr. Speaker, I withdraw my reservation of objection.

● Mr. BIAGGI. Mr. Speaker, I am pleased by the House's action in considering Senate Joint Resolution 62 designating the week beginning May 15 as "National Parkinson's Disease Week" in these United States.

It is also significant to note that the founder of the Parkinson's Group of Co-Op City, Mrs. Anna Weintraub from the Bronx, is able to watch the House action. The Parkinson's Group of Co-Op City is one of the most energetic and effective of the many local groups in this Nation formed to focus public attention on the problem associated with Parkinson's disease as well as advocate for more research funds.

Parkinson's disease is one of the most devastating illnesses threatening the citizens of these United States. It is one of the most severely crippling disorders of the nervous system. As an original member of the House Select Committee on Aging, I am concerned that it afflicts 1 out of every 100 persons over the age of 60.

As we prepare for National Parkinson's Disease Week, let us rededicate ourselves to the support of continued research into the causes and cures for Parkinson's disease while also providing sufficient resources to aid their victims and insure their successful rehabilitation.

Senate Joint Resolution 62 calls upon the President to issue a proclamation calling upon the people of the United States to observe National Parkinson's Disease Week with appropriate activities and programs. I have written to the President on behalf of the Parkinson's Group of Co-Op City to urge that this important proclamation be issued.●

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 62

Whereas Parkinson's disease is one of the most devastating illnesses threatening the citizens of the United States;

Whereas Parkinson's disease afflicts one out of every one hundred persons over the age of sixty;

Whereas Parkinson's disease is one of the most severely crippling disorders of the nervous system;

Whereas the American Parkinson Disease Association, the National Parkinson Foundation, the Parkinson's Disease Foundation, and the United Parkinson Foundation are major contributors to research on Parkinson's disease and to treatment and rehabilitation programs for the victims of such disease;

Whereas the Parkinson Education Program/USA and the all-volunteer Parkinson Support Groups of America are devoted to helping Parkinson patients and their families cope with their ailment; and

Whereas research on the causes of and the search for a cure for Parkinson's disease are continuing to be conducted and patient support groups continue to grow and bring new hope to those who bear the burden of this affliction: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 15, 1983, through May 21, 1983, is designated as "National Parkinson's Disease Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities and programs.

Mr. GARCIA. Mr. Speaker, Senate Joint Resolution 62 designates May 15, 1983, as "National Parkinson's Disease Week." Parkinson's disease is one of the most devastating illnesses threatening the citizens of the United States. Parkinson's disease is one of the most severely crippling disorders of the nervous system and afflicts 1 out of every 100 persons over the age of 60. Research on the causes of and the search for a cure for Parkinson's disease are continuing to be conducted and patient support groups continue to grow and bring new hope to those who bear the burden of this affliction.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BROOKLYN BRIDGE DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the House joint resolution (H.J. Res. 244) designating May 24, 1983, as "Brooklyn Bridge Day," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

□ 1300

Mr. COURTER. Mr. Speaker, reserving the right to object, I would like to propound to the gentleman from New York one inquiry.

This is Brooklyn Bridge Day?

Mr. GARCIA. Mr. Speaker, will the gentleman yield?

Mr. COURTER. I yield to the gentleman.

Mr. GARCIA. I thank the gentleman.

It is Brooklyn Bridge Day, and as a native New Yorker, born and raised in New York, the Brooklyn Bridge is probably one of the few structures that we have that I know at least 1,000 people who have purchased it over the last 100 years.

Mr. COURTER. Is this for their purpose?

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. COURTER. I yield to the gentleman.

Mr. VOLKMER. Mr. Speaker, I thank the gentleman.

I would like to ask the gentleman from New York if the Brooklyn Bridge is still for sale.

Mr. GARCIA. You will have to ask the last person who purchased it. I do not know if he or she wants to sell it. Will the gentleman continue to yield?

Mr. COURTER. I would be happy to yield.

Mr. GARCIA. I would like to say to everybody that it is interesting that 100 years ago when the bridge was officially opened, a President of the United States was the one who cut the ribbon and walked across the bridge. I think it is appropriate because it really is a symbol of what New York is all about.

It is a great bridge, it still services the communities of Brooklyn and the island of Manhattan and I am hopeful that 100 years from now it will have its 200th birthday right here.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. COURTER. I yield to the gentleman.

Mr. LEVITAS. I thank the gentleman.

I would like to join in commending the gentleman for bringing this resolution to the floor, because the Brooklyn Bridge really is more than just a symbol of New York; I think it is one of the great achievements of this country. It was the first steel suspension bridge built in the United States. At the time it was built the towers, the structures that hold the suspension, were the tallest structures in New York City and people from all around the world came to watch it being built.

The Roebling family, who were the engineers, that designed this great engineering feat, at that time made a major contribution to the entire engineering profession and the Brooklyn Bridge has not only served as a functional structure, linking Brooklyn and Manhattan and serving many people for over 100 years, but it is one of the most beautiful of architectural renderings. It shows that art and function can be united. The massive stone towers with the dramatically shaped arches, linked with the delicate webs of steel cable present a powerful yet gossamer vista to the eye.

I have had the privilege on several occasions of walking across the Brooklyn Bridge, taking one of my children recently on that walk, because it is such an impressive experience.

It says something good and important about this Nation 100 years ago to conceive of and construct the Brooklyn Bridge, that marvelous structure, and 100 years later it is appropriate for us to pause and remember the significance of what was accomplished by American ingenuity, effort, and technology in those days and to revere that achievement.

Mr. COURTER. Further reserving the right to object, I would like to ask the gentleman from Georgia, how come it is that a gentleman from Georgia knows so much about the Brooklyn Bridge?

Mr. LEVITAS. If the gentleman will yield further, I can inform him that I became interested in the Brooklyn Bridge as a result of my work on the Public Works and Transportation Committee and through a book that I read several years ago, called "The Great Bridge"—I believe was the name of it. I am not an engineer and I am not a builder, but I came across this book about a public works project—a subject I never thought I would become interested in. But it is a fascinating story telling so much about this country, both good and bad. The political corruption that sometimes swirled around the building of the bridge, and the various political deals that were cut, both in New York and Brooklyn and eventually in Albany; they tell one part of the story. But the perseverance, commitment and dedication of the Roebling family, both father and son, who ultimately directly and indirectly gave their lives in the building of this bridge is a real testament to what can be done when people devote themselves to something. The sweat and blood of the brave workmen who built this bridge—many of them newly arrived immigrants to America—are worthy of remembrance. Some of them gave their lives to accidents and something we now call the bends. The Brooklyn Bridge, in many ways is symbolic of the finest achievements of technology in this country.

I am not trying to promote anybody's book but if people have not read that book, "The Great Bridge," and there is in this current issue of Smithsonian magazine a story about the Brooklyn Bridge which brings out some of these facts, it really is something that I have found to be most interesting and I would just like to thank the two gentleman for taking this time.

Mr. GARCIA. Mr. Speaker, will my colleague yield?

Mr. COURTER. I yield to the gentleman from New York.

Mr. GARCIA. I thank the gentleman for yielding.

Mr. Speaker, there are two major structures that we have in this country that I know, to me personally, mean a great deal as it pertains to our involvement in wars. In World War II and in the past Korean war and the World War II Pacific operations, there is no view that was more striking or more beautiful, and I speak now of the Golden Gate Bridge, when I came back from Korea in 1953 and came under that bridge. But I know that same feeling was shared by so many naval people when they come under the Brooklyn Bridge, pulling into the Brooklyn Navy Yard. I just think that the Brooklyn Bridge is by itself without a doubt a symbol that means so very much.

Mr. COURTER. Further reserving the right to object, Mr. Speaker, I would like to ask the gentleman from New York whether the Brooklyn Bridge as it stands today is a toll road, or is it free of charge?

Mr. GARCIA. If the gentleman will continue to yield, it is free of charge.

Mr. COURTER. Mr. Speaker, I think that is a very good reason to commend the bridge in this resolution.

● Mr. SOLARZ. Mr. Speaker, I would like to thank my colleague, Congressman GARCIA, for calling up this resolution today.

On May 24, 1983, the people of the city of New York will celebrate the centennial of the Brooklyn Bridge. On April 20, 1983, I introduced this resolution (H.J. Res. 244) with 30 members of the New York State delegation, which will enable the Nation to celebrate along with us.

The resolution calls upon the President to designate May 24 as "Brooklyn Bridge Day," asks the Speaker and President pro tempore of the Senate to appoint a congressional delegation to attend the ceremonies, and requests that enrolled copies of the resolution be transmitted to Governor Cuomo, Mayor Koch, and Brooklyn Borough President Howard Golden.

The Brooklyn Bridge has been memorialized in poems, books, and plays; it has been featured in recent movies such as "Annie Hall" and "Sophie's Choice," and, in essence, really occupies a special place in our Nation's cultural history.

Architecturally, the bridge represented, for its time, a rare and important technological feat. Construction workers placed their lives in jeopardy, working in wooden boxes called caissons beneath the East River, to etch the pilings on which the bridge rests into the riverbed and the rocks beneath the water's surface. In fact, the project claimed the lives of at least 20 construction workers.

Washington Roebling, the chief engineer of the project, was disabled after getting a case of the bends from working in a caisson. His wife Emily is credited as having taken charge of the project after Mr. Roebling was stricken. The Brooklyn Bridge Centennial Commission stated recently:

> Emily Roebling assumed an unparalleled position for a late 19th Century woman, becoming the link between her husband and the outside world.

With the date of the centennial nearly upon us, it is altogether fitting for Congress to pause and recognize what a unique national treasure the Brooklyn Bridge has become. Various governmental, civic and business groups are planning celebrations for the event. Passage of this resolution will serve as a fitting complement to these efforts.

Printed below are some interesting details about the bridge which I would like to share with my colleagues:

THE BRIDGE FROM START TO FINISH

1800—Bridge first seriously considered between Manhattan and Brooklyn.

1852—East River uncommonly bound with ice and ferry service more than usually chancy, a situation adding impetus to the long-standing desire to bridge the two boroughs.

1857—John Roebling submits plans for bridge, published in Horace Greeley's New York Tribune.

1867—Legislature at Albany authorized the building of a bridge over the East River by a private company.

1869—Surveys begun.

1870—(Jan. 3) Groundbreaking for Brooklyn tower foundation.

1870—(June 15) First stone laid in Brooklyn foundation.

1872—(March 11) Brooklyn tower foundation finished.

1872—(July 12) Manhattan tower foundation finished.

1876—(July) Final anchorage completed, to hold the cables suspended from towers.

1876—(Aug. 14) First wire stretched between the two towers.

1878—(Oct. 5) Completion of the spinning of cables suspended by the towers.

1881—(December) Supports completed for bridge floor.

1883—(April) Passenger walkway of bridge finished.

1883—(May 24) Bridge dedicated with endless speeches and opened to public.

Facts and Figures

Span over East River—1,595.5 feet.

Spans from towers to anchorages in Manhattan and Brooklyn—930 feet each.

Elevated approach on New York side—1,562.5 feet.

Total length of bridge—5,989 feet.

Width of floor—85 feet.

Diameter of cables—15.75 inches.

Length of wire in the four cables—14,060 miles.

Number of suspenders (steel ropes from cables to bridge floor—1,518, each one able to support 70 tons.

Size of tower bases, at high-water level—140 by 59 feet.

Height of the two towers above high water—276.5 feet.

Height of road above water (measured at the towers)—119 feet.

Width of the four arches through which roads run—33.75 feet.

Anchorages at base—129 by 119 feet.

Weight of bridge (not counting masonry of towers and anchorages)—14,680 tons.●

● **Mr. BIAGGI.** Mr. Speaker, as one who has lived in the city of New York all of my life, I rise today in full support of House Joint Resolution 244 which will designate May 24, 1983, as "Brooklyn Bridge Day" on the occasion of its 100th birthday.

The Brooklyn Bridge is a symbol of New York City—but is also a national landmark in its own right. At the time the bridge was constructed a century ago—the towers and structures which held up the suspension were the tallest structures in all of New York City—and people marveled at this new sight.

For those of us who have had the pleasure of traveling the 5,989 feet which comprises the length of the bridge we realize not only the enduring architectural beauty of the Brooklyn Bridge but we must also focus on the tremendous functional importance of the span. It was clearly worth the $15 million which was spent in 1883 to make the bridge a reality.

The bridge has been featured in movies as "Annie Hall" and most recently "Sophie's Choice." It is part of the daily lives of millions of commuters in the city of New York. Yet when May 24 arrives, it would be appropriate for all who have the chance to simply admire this marvelous bridge and wish it another century of beauty and activity as a landmark in our Nation's greatest city.●

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 244

Whereas the Brooklyn Bridge opened in 1883 after thirteen years of construction and at a cost of $15,000,000 and was at the time the longest suspension bridge in the world;

Whereas the construction of the Brooklyn Bridge, using granite as a primary building material, was an unusual and extraordinary engineering feat which required, for its time, technological advancements;

Whereas construction workers on the project were placed at great risk, and the lives of at least twenty men were lost;

Whereas the roadway and the promenade invite use by both automobiles and pedestrian making the Brooklyn or "Great Bridge" truly a "People's Bridge";

Whereas its majesty and grandeur have inspired poets, playwrights, authors, and cinematographers, giving the bridge a special place in the literary and cultural history of our Nation;

Whereas the Brooklyn Bridge unites the city of New York with the Borough of Brooklyn, its people, businesses, and cultural assets; and

Whereas May 24, 1983, is the one hundredth anniversary of the opening of the bridge, Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 24, 1983, is designated "Brooklyn Bridge Day". The President is requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

Sec. 2. (a) The President shall transmit copies of the enrolled resolution to the governor of the State of New York, the mayor of the city of New York, and the president of the Borough of Brooklyn of New York City.

(b) The Speaker of the House of Representatives and the President pro tempore of the Senate are authorized to appoint a delegation to attend the celebrations of the one hundredth anniversary of the opening of the Brooklyn Bridge to be held in New York City.

Mr. GARCIA. Mr. Speaker, House Joint Resolution 244 designates May 24, 1983, as "Brooklyn Bridge Day." The construction of the Brooklyn Bridge using granite as a primary building material, was an unusual and extraordinary engineering feat which required, for its time, technological advancements. Its majesty and grandeur have inspired poets, playwrights, authors, and cinematographers, giving the bridge a special place in the literary and cultural history of our Nation. It is considered truly a "people's bridge."

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING APPROPRIATIONS TO THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION FOR FISCAL YEAR 1984

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 164 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 164

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2065) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, the bill shall be considered as having been read for amendment under the five-minute rule. It shall be in order to consider en bloc the amendments recommended by the Committee on Science an Technology now printed in the bill, and said amendments shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The **SPEAKER** pro tempore. The gentleman from Texas (Mr. Frost) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee (Mr. Quillen), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 164 is a simple open rule providing for the consideration of H.R. 2065 which authorizes appropriations to the National Aeronautics and Space Administration for fiscal year 1984. The rule provides 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology.

Because of the number of amendments to the bill recommended by the Committee on Science and Technology, the rule provides that it shall be in order to consider those amendments en bloc and that those amendments shall be considered as having been read.

Members should be aware that if the committee amendments are considered en bloc, amendments to the same provisions of the bill would only be in order if offered as amendments to the committee amendments.

The resolution also provides that at the conclusion of the consideration of the bill for amendment, the committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered without intervening motion except one motion to recommit.

Mr. Speaker, H.R. 2065 authorizes $7,268,220,000 for NASA activities in fiscal year 1984. While this amount represents a net increase of $161,720,000 over the amount requested by NASA, it still falls within the budget established for NASA space activities in the budget resolution passed by the House.

H.R. 2065 also authorizes $29,336,000, the amount requested by the administration, for the Department of Commerce to operate a civil land remote sensing system. The committee has also adopted provisions that would prohibit the transfer of weather and land satellites to the private sector until the Secretary of Commerce submits to the Congress a comprehensive statement of recommended policies, procedures, conditions, and limitations to which any transfer should be subject and such transfer is specifically approved by the Congress by statute.

Mr. Speaker, I know of no controversy on this rule and recommend that it be approved by my colleagues so that we may proceed to the consideration of this most important authorization.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

The rule has been ably explained. It is important that we pass the NASA authorization for 1984. We have a good space program. Just today, we find that a Pioneer 10 spacecraft is passing through the outer reaches of our solar system, sending back information that we may use for centuries to come. But beyond that, we have many other programs in NASA that have proved very beneficial. I urge the adoption of the rule and the bill when it comes to the floor of the House.

I have no requests for time. I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Science and Technology, the gentleman from Florida (Mr. Fuqua).

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the bill, H.R. 2065 soon to be considered in the Committee of the Whole.

The **SPEAKER** pro tempore. Is their objection to the request of the gentleman from Florida?

There was no objection.

Mr. FROST. Mr. Speaker, I have no further requests for time and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The **SPEAKER** pro tempore. Pursuant to House Resolution 164 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2065.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2065), to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, with Mr. Swift in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN.** Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Florida (Mr. Fuqua) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. Winn) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida, Mr. Fuqua.

Mr. FUQUA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 2065, which would authorize fiscal year 1984 funds for the National Aeronautics and Space Administration Act and for NOAA Landsat activities.

I want to congratulate Mr. Volkmer, chairman of the Subcommittee on Space Science and Applications and Mr. Glickman, chairman of the Subcommittee on Transportation, Aviation and Materials for their leadership in bringing this legislation to the floor. They have done an outstanding job in perfecting this legislation. I also want to acknowledge the efforts of Mr. Winn, Mr. Lujan, and Mr. Carney on the other side of the aisle.

We have recently witnessed another near-perfect flight of the Space Shuttle which continues to renew our Nation's confidence in our own greatness and to demonstrate to the world that we are again first in space. But we cannot rest on our laurels because the competition in international space activities is increasing at a rapid rate. Our space program plays a positive role in exerting world leadership in political, economic, as well as military arenas which we must exploit to advantage.

NASA's activities are designed to maintain U.S. leadership in aeronautical and space research and technology and its utilization. More specifically, the objectives of NASA activities are to:

Extend our knowledge of the Earth, its environment, the solar system, and the universe;

Expand the practical applications of space technology;

Develop, operate, and improve manned and unmanned space vehicles;

Improve the civil and military usefulness of aeronautical vehicles;

Disseminate pertinent findings to potential users; and

Promote international cooperation in peaceful activities in space.

The NASA fiscal year 1984 budget authorization provides for progress toward achievement of these objectives at a pace consistent with the constrained Federal fiscal environment. I am including in the Record a comparison of the NASA fiscal year 1983 operating plan, the NASA fiscal year 1984 budget request and the committee action on the fiscal year 1984 budget.

There were also a number of errors which occurred during the printing of the legislative report. I am also including in the Record a list of these errors, particularly those errors involving funding amounts.

Mr. Chairman, I would like to discuss the recommendations our committee has made with respect to the NASA budget request. We authorized $7,268.22 million for the agency, compared to the request of $7,106.5 million, a net increase of $161.72 million. Additions for space shuttle spares and the space telescope program comprise the major share of this increase.

NASA requested four new initiatives including the tethered satellite, the Venus radar mapping mission, the extreme ultraviolet explorer, and the numerical aerodynamic simulator. The Science and Technology Committee supports all of these new initiatives and is, indeed, gratified to see a new planetary program initiative in this budget.

The shuttle program continues to be somewhat hampered by inadequate spares for various elements including orbiter spares and engine spares. Our committee has repeatedly urged a commitment to fund a fifth orbiter vehicle. We remain convinced that payload traffic in the late eighties will require an additional orbiter vehicle to assure adequate capability to satisfy civil government and commercial demands.

We are very concerned that the launch priority afforded defense and national security payloads will preempt civil government and commercial payloads. The uncertainty which is created by inadequate orbiter capacity in concert with national security priority strengthens the competitive posture of foreign launch vehicle systems. Therefore, our committee has added $70 million for orbiter and engine spares. Most of these funds are earmarked for orbiter structural spares to maintain production readiness for a fifth orbiter vehicle.

With regard to the space telescope program, the Subcommittee on Space Science and Applications held oversight hearings on this program last May and were told that although there had been some problems, nothing seemed insurmountable, and that the program was progressing in an acceptable manner. Therefore, we were certainly troubled and concerned earlier this year when we learned that indeed there were very serious cost, schedule, and technical problems.

NASA has recently informed us that an additional $75 million is needed in 1984. Although we are not completely comfortable with the perception of rewarding the agency for poor management by giving it additional funds, we did believe it was necessary to add some funds to avoid unacceptable damage to science and applications activities. For this reason we increased funding for the space telescope program by $45 million. We certainly hope that the management and programmatic changes being made both at NASA headquarters, at the NASA field centers, and at the contractors will result in better performance for the future.

Another concern which I want to bring to your attention is the space applications area. With adequate funding for sensor technology and for technology demonstration activities, we can fully expect a whole new information systems industry to evolve which will utilize the remote sensing systems which are being developed by NASA for land, ocean, and atmospheric observations. While the funding for sensor and spacecraft development is probably adequate, there are serious deficiencies in funds available to assist and expand the user community through technology demonstration and transfer activities. Therefore, the committee added $17 million in the "Space applications" line item for these and other activities.

The committee also added $10 million to the "Advanced programs" line item. The committee added $6 million to continue industry involvement in the space station mission analysis and architecture studies, $2 million to fund studies of alternatives to a fully functional space station, and $2 million for studies to specifically look at the alternative of space platforms serviced by orbiters with an extended on-orbit capability. I believe that now is the time to carefully consider all alternatives and the justification for each so that if we do decide to embark on a space station or space platform initiative we can proceed without the start-stop-start approach of many large development activities.

The committee also made important additions to planetary, materials processing, technology utilization, as well as aeronautical and space research and technology. These will be further discussed by the subcommittee chairmen.

I urge the support of my colleagues for H.R. 2065.

Space program elements in the budget provide for progress in development of the operational capability and use of the space shuttle and related systems; in technology development for application of space capabilities to remote sensing of the surface and atmospheric conditions of the Earth and other planets, to materials processing, and to communications; in exploration of the solar system and expansion of our knowledge of the universe; and in advancing the technology necessary for U.S. leadership in space. Major areas of emphasis include:

The operational phase of the space shuttle system, which was initiated with the first operational flight in November 1982. In addition to the conduct of operational missions, this phase includes the continued development of the operational capabilities and effectiveness of the shuttle, the spacelab, upper stages, and payload-related activities. The fiscal year 1984 program will provide for the procurement of the hardware, mission integration and training, ground processing and flight operations of the space shuttle in support of the NASA, Department of Defense, domestic commercial, and international users of the space transportation system. The present fleet of two orbiters will be expanded by the addition of a third in 1983, and production activities will continue on the fourth orbiter, to be delivered in late 1984 as well as to maintain production readiness for a fifth orbiter vehicle. The initial flight of the spacelab will occur in 1983, and additional elements of the spacelab hardware will be delivered. Development of versions of the Centaur upper stage for use by the Department of Defense and NASA will continue toward the initial flights in 1986 of two NASA planetary missions—Galileo and the international solar polar mission and in 1988 of the Venus radar mapper. The fiscal year 1984 program will also feature preparations for the introduction of improved shuttle performance capabilities for high performance launch requirements using the lighter weight filament wound case solid rocket boosters. In 1984, the space shuttle's capability to rendezvous with and repair spacecraft in orbit will be demonstrated with the solar maximum mission spacecraft.

Space science and applications flight missions, research and analysis, and ground-based activities are conducted to expand human knowledge of the Earth's environment, the solar system and the universe; and to develop the technology to use space capabilities to meet needs on Earth. Specifically, work will continue on the Galileo orbiter and probe mission to Jupiter as the next step after voyager in exploration of the outer planets; on the space telescope to provide a quantum jump in our ability to observe the universe; on the gamma ray observatory to study extremely high energy phenomena; and on the refurbishment of the solar maximum mission spacecraft and instruments to return this system to full operational status with the aid of the shuttle. Design and development activities will be initiated on the Venus radar mapper mission which will obtain global imagery of Venus. Landsat-4 was successfully launched in 1982 and work is continuing on the data processing ground system and on the engineering analysis of thematic mapper data which will improve the usefulness of solid Earth observations from space. In addition, effort will be continued on the Earth radiation budget satellite to measure the exchange of energy between the Earth and space; on the search and rescue locator system to be flown on weather satellites, and on the upper atmospheric research satellite experiments to monitor the upper atmosphere. Preparation for materials processing experiments to take advantage of the space environment, and initiation of design and development activities on the advanced communications technology satellite (ACTS), a joint effort with industry wherein industry would contribute toward the cost of developing ACTS, are also part of the space science and applications program.

Space research and technology activities emphasize the longer range aspects of generic research and technology development in transportation, spacecraft and space station systems which are crucial to future U.S. leadership in space.

Aeronautical research and technology activities in the budget are necessary to advance the aeronautical technology base for safer, more economical, efficient, and environmentally acceptable air transportation systems which are responsible to current and projected national needs; to maintain the long-term competitive position of the United States in the international aviation marketplace; and to support the military in maintaining the superiority of the Nation's military aircraft. The fiscal year 1984 program continues emphasis on the fundamental research and technology base in all disciplines and speeds regimes vital to aeronautics. Specific technology efforts will continue to be directed toward major improvements in high-performance aircraft and rotorcraft. New initiatives will be undertaken in developing a preeminent numerical aerodynamic simulation capability, an advanced composite structures technology, and technology for the next generation of rotorcraft.

Mr. Chairman, I want to further discuss the significance of the Space Shuttle program. There are many reasons why the space shuttle is an important and logical step in manned space flight and the U.S. space program:

First, the shuttle is our only manned space activity.

Man has worked hard to achieve—and has indeed achieved—the freedom of mobility on land, the freedom of sailing on his oceans, and the freedom of flying in the atmosphere. And he has discovered that he can also have the freedom of space. Man has learned to fly in space, and man will continue to fly in space.

Given this fact, the United States cannot forgo its responsibility—to itself and to the free world—to have a part in manned space flight. And the space shuttle is clearly the most meaningful and useful manned space program for the coming decade.

Second, the space shuttle is needed to make space operations less complex and less costly.

Today we have to mount an enormous effort every time we launch an expendable space vehicle. The reusable space shuttle gives us a way to avoid this. This airplane-like spacecraft makes a launch into orbit an almost routine event at a cost much less than the expendable launch vehicles. This is possible by not throwing everything away after we have used it just once—just as we do not throw away an airplane after its first trip from Washington to Los Angeles.

The shuttle also allows for less cost to payload development. A satellite that will be launched in the shuttle will no longer have the environmental, structural, weight, and other associated constraints as those launched on an ELV. If an anomaly should occur to the satellite, the shuttle makes it possible to retrieve or repair, eliminating the need to throw away a costly satellite.

Fourth, the shuttle will encourage far greater international participation in space flight.

Since the initiation of the development of the shuttle progam many European nations have been participating in a joint program to develop spacelab. The spacelab program is a cooperative effort between NASA and the European Space Agency (ESA). ESA is designing and developing the flight hardware. The spacelab will initiate a new era for space experimentation. Considerable international utilization of the shuttle/spacelab capability is now underway and future activity is being planned. In their long-range planning, other nations see the transition from the demonstration phase to the operational and commercial application aspects of space exploitation. Within this framework, the trend is toward greater flexibility, larger instruments and instrument groupings, and longer mission durations. The capabilities of the shuttle/spacelab offer new opportunities in the exploration and use of space.

The globally televised launch and return of the first five flights of *Columbia* and the first flight of *Challenger* calls to mind the proven significance of the space program in the arena of international relations and understanding and, thus, in the preservation of world peace. Because of the magnitude and ambitious character of NASA's space program, the United States can look back on a long and fruitful history of collaboration with European and other nations. Future opportunities for international cooperation will greatly exceed past joint activities because of the space shuttle program.

The initiation of routine space transportation operations in late 1982 marked the culmination of about 20 years of planning, designing, and development of a reliable, readily accessible and economically superior method to operate in space, for the purpose of expanding Earth-bound man's control over his destiny as an inhabitant of the only known life-supporting body in the solar system.

The space shuttle and NASA's future planning toward human permanence in space is the main element of NASA's conformance to the Space Act of 1958. As we move into the eighties and prepare to respond to new challenges that will face us, we should review these policies and plan for the future, particularly with a view toward technology-driver projects that will help to provide the United States with the leadership in technology and its applications that is mandated by the Space Act.

One of these new challenges that appears as an important issue when considering the international aspects of the space shuttle is the challenge of international competition in space.

After overcoming the Soviet Union's initial lead in space in the early sixty's, the United States has generally maintained overall leadership in exploiting the various advantages that space offers. More recently, however, the United States has begun to lag the U.S.S.R. in some areas, such as long-duration manned orbital flight with its opportunities for extensive experimental and empirical data in such areas as life science, materials processing, assembly and repair, manned observations, and command and control. Other countries are becoming increasingly competitive. In particular, the current vigor of Soviet manned space program activity indicates continued expansion of capabilities and an increase in military space operations. During calendar years 1981 and 1982 the U.S.S.R. launched six manned flights including a 211-day space station mission completed on December 10, 1982, the longest in history and more than double the length of the longest U.S. mission to date (Skylab-3, 84 days). On April 20, 1983, the Soviets launched a new mission involving a three manned crew to the Salyut-7/Cosmos 1443 orbiting craft for another long duration mission.

Increasing competition to U.S. operations in space can also be expected from the European Economic Community which, through the European Space Agency (ESA), is developing its own space transportation system, the expendable Ariane. Ariane, designed to compete with the U.S. shuttle and already drawing customers from it, will be able to launch Atlas-class payloads to geosynchronous transfer orbit (1,700 kg) while follow-on versions in development or planning have capabilities beyond that (up to 2,420 kg). Even a fully reusable crew and supply transport vehicle, the Hermes, is being studied for a two-stage version of Ariane V. In Japan, orbital capability will be provided by the Japanese-developed "N" launch vehicle, also to compete with the United States in the provision of launch services to geosynchronous orbit.

On the other hand, the emerging user community for the space shuttle includes numerous foreign countries whose initial response to the shuttle program's offer of launch services has been excellent. Among the dozens of spacecraft sponsors that have already reserved space for their payloads are such international missions as Insat, Arabsat, Telesat, Palapa, spacelab, MEA/MAUS, and solar polar.

International involvement has been an important feature of the space shuttle program since its inception. Nine member countries of ESA (Belgium, Denmark, France, Germany, Italy, the Netherlands, Spain, Switzerland, and the United Kingdom) entered into an agreement in September 1973 with the United States to undertake, as an ESA special project funded entirely in Europe—possibly in excess of $800 million—to design, develop, manufacture, and deliver to NASA a space laboratory, called spacelab, for use with the shuttle. Austria, an ESA observer, is also contributing to the spacelab development. ESA delivered the first spacelab flight unit earlier this year.

Also, the National Research Council of Canada (NRCC) undertook in June 1975 to design, develop, and manufacture a space shuttle-attached remote manipulator system (RMS) at Canadian expense. The RMS will deploy payloads from the shuttle cargo bay, retrieve them, and perform certain payload servicing operations in space, all under remote control from the orbiter flight deck.

In summary, while previous international undertakings in space have amply demonstrated that the life styles and general well-being of mankind can be enhanced by reaching out beyond the Earth's atmosphere to exploit the unique properties of space, the space shuttle is the first significant quantum leap with the potential to make those operations a routine international activity. With its introduction, the United States, thus, is offering the services of a new, unique and highly useful transportation system to the world, comparable in its significance to the railroad some 100 years ago and the DC-3 aircraft 46 years ago.

Again, I urge the support of my colleagues for H.R. 2065.

SUMMARY OF COMMITTEE ACTIONS ON THE NASA FISCAL YEAR 1984 AUTHORIZATION

The following table 1 summarizes the budget action taken by the Committee on Science and Technology on the fiscal year 1984 NASA budget request at the full committee markup on April 12, 1983.

□ 1300

TABLE 1.—FISCAL YEAR 1984 NASA AUTHORIZATIONS COMMITTEE RECOMMENDATIONS

[In thousands of dollars]

Line item	Fiscal year—		Committee action
	1983 operating plan	1984 budget request	
(a)(1) Space transportation development	2,144,100	1,927,400	1,999,400
(a)(2) Space transportation operations	1,453,700	1,570,600	1,570,600
(a)(3) Physics and astronomy	441,000	514,600	566,600
(a)(4) Planetary exploration	186,400	205,400	220,400
(a)(5) Life sciences	55,700	59,000	59,000
(a)(6) Space applications	351,000	289,000	306,000
(a)(7) Technology utilization	9,000	4,000	10,000
(a)(8) Aeronautical research and technology	280,000	300,300	311,600
(a)(9) Space research and technology	123,000	138,000	143,000
(a)(10) Tracking and data systems	498,900	700,200	700,200
Subtotal research and development	5,542,800	5,708,500	5,886,800
Construction of facilities	97,500	150,500	138,920
Research and program management	1,199,050	1,247,500	1,242,500
Total	6,839,350	7,106,500	7,268,220

CORRECTIONS TO HOUSE REPORT 98–65

Page and paragraph/sentence	Reads	Should read
2, middle	Page 10, line 14 strike out in lieu thereof "fleet" and insert.	Page 10, line 14 strike out "fleet" and insert in lieu thereof.
8, paragraph 4, line 6.	$521,600,000	$566,600,000.
9, paragraph 5, line 1.	$284,000,000	$289,000,000.
25, bottom, table	Advanced Programs. . . $15,000,000.	Advanced Programs. . . 25,000,000.
42, bottom, table	$30,600 plus $22,600, total $53,200.	$30,600,000 plus $22,600,000, total $53,200,000.
51, top, title	$514,600,000	$566,600,000.
174, middle, title	$41,300,000	$43,120,000.
175, middle, title	$129,120,000	$29,120,000.
177, middle, title	$211,700,000	$11,700,000.
191, second line	off budget	off budget.
199, paragraph 3, line 3.	$225,000	$250,000
203, paragraph 8, line 2.	$7,205,100,000	$7,268,000,000

□ 1315

Mr. WINN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of a NASA authorization for fiscal year 1984. H.R. 2065 provides the needed authorization for NASA's programs for the coming fiscal year. I would be less than truthful if I did not mention that the authorization level contained in this bill does give me some problems. However, in light of the substantial difficulties that NASA has encountered in some of their programs of late, I think the increases provided by the committee, can, for the most part, be justified.

The gentleman from Florida, the distinguished chairman of our committee, has already provided a detailed explanation of just what is contained in this bill. I would like to take just a few minutes to talk about some of my concerns about this bill, and also to mention some of the programs and issues which I feel are worth particular highlighting.

Mr. Chairman, my greatest concern about this bill is the amount of authorization contained in it. The total dollar figure is roughly $7.3 billion. This is approximately $162 million above the administration's request for these programs. We should keep in mind that the administration already included what I consider to be an adequate 4-percent increase over fiscal year 1983. Nevertheless, I am reluctantly going along with this increase and will not offer an amendment to reduce it, because I feel that there have been some unforeseen circumstances that have occurred since NASA submitted this budget several months ago.

The most dramatic of these occurrences has been the substantial problems with the space shuttle engines. I think all the Members who have followed the magnificent progress of the space shuttle know that on this first flight of the shuttle orbiter *Challenger*, there were various unforeseen problems with the new and more powerful engines. This has put significant pressure on the NASA budget. Although these problems now appear to have been solved, they were not solved without considerable additional and unexpected expense.

In addition, problems have continued to plague the development of the space telescope. This necessitated an additional $45 million in the fiscal year 1984 budget. It is hoped that this additional funding for spares, components, and equipment for testing purposes will enable the space telescope to be launched within schedule. The overruns on this particular program have been of great concern to me. I know that our distinguished chairman shares this concern and that as a result our committee will hold some detailed oversight hearings into these problems in the near future. If NASA had to resubmit its budget at this time, I believe many of these additions for space shuttle spares and the space telescope would have most likely been included by the administration.

Mr. Chairman, having raised my concerns about NASA's budget, I do not want to leave a negative picture about the fine work that the civilian aerospace agency is doing. I think all Americans are justifiably proud of the tremendous accomplishments in the space shuttle program. These incredibly complex machines have flown so smoothly that it is very easy to take them for granted and to forget that it has been only 2 years since the first successful launch. I want to assure my colleagues that some equally spectacular successes are soon to come from this program. Two more space orbiters are now in production and will soon join the *Columbia* and *Challenger* in the fleet. The *Discovery* is planned for delivery in September of this year, and in December 1984, we will have the fourth orbiter, the *Atlantis*. The next flight of the *Challenger*, scheduled for June, will be the first shuttle mission which will return and land at the Kennedy Space Center rather than at Edwards Air Force Base in California. Also coming up will be a spectacular nighttime launch of the shuttle, as well as many other firsts. As the shuttle evolves into a fully operational space transportation system, I think we can look forward to more and more achievements in this continuing success story.

Mr. Chairman, I have earlier been somewhat critical of the development of the space telescope program at NASA. I do not want to leave the impression that this is not a worthwhile program. On the contrary, I think that this program has the potential for making a major contribution to man's understanding of our galaxy and our universe. The launch of the space telescope is scheduled for 1985, but will likely slip to 1986 or 1987. It will operate in space above the Earth's atmosphere, which normally distorts and obscures ground-based telescopes. From its vantage point in space, this space telescope will be able to see hundreds of times further into the universe than current ground-based capabilities allow. The space telescope design will permit in-orbit maintenance and repair and retrieval by the space shuttle for return to Earth for required refurbishment and relaunch by the shuttle. All in all, it will be an amazing observatory, and I wholeheartedly support the program. However, I do want to reiterate my concern that the development of this telescope is not going smoothly and I do think it needs to be looked at very closely to insure that taxpayer dollars are not being wasted in the course of its development.

Finally, Mr. Chairman, I want to comment on the Landsat authorization contained in this bill. H.R. 2065 authorizes over $29 million for operating Landsat 4 and storing Landsat D's. As many of the Members may know, the administration is in the process of studying the idea of transferring the ownership of our civil remote sensing satellites to the private sector. I want to emphasize that this whole effort is only at the study stage. A great deal of misinformation has been appearing in the media that would give the impression that a decision has already been made. This is in fact not the case. As an additional restriction, section 202 of this bill prohibits the Secretary of Commerce from transferring the ownership or operation of any civil remote sensing satellites—land, weather, or ocean—to the private sector unless he submits a comprehensive statement of recommended policies and the Congress thereafter enacts into law such policies as it deems appropriate for such transfer. This restriction simply reinforces the fact that Congress has the right to approve any such transfer. The Secretary of Commerce has assured our committee that the administration is not, nor has it been, contemplating the transfer of any satellites without the approval of Congress. However this should allay the fears expressed by a number of our colleagues, primarily due to the misinformation that has been circulating.

Mr. Chairman, H.R. 2065 is a good and vital piece of legislation. I urge all my colleagues to join me in supporting its passage.

Mr. FUQUA. Mr. Chairman, I yield 5 minutes to the distinguished chairman of the Subcommittee on Space Science and Applications, the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Chairman, I rise in strong support for the bill H.R. 2065 which would authorize appropriations for the National Aeronautics and Space Administration and NOAA Landsat activities in fiscal year 1984. The bill contains two titles—title I which authorizes appropriations for NASA and title II which authorizes appropriations for NOAA Landsat activities.

This bill was reported by the Committee on Science and Technology on April 12, 1983, by voice vote.

For the benefit of the committee, I will summarize the bill and the actions taken.

The NASA fiscal year 1984 budget request was $7,106,500,000. The actions recommended by the Committee on Science and Technology result in a budget authorization of $7,268,220,000 which is $161.71 million more than the request.

The differences between the committee action and the administration's request for space activities are summarized as follows:

A. SPACE TRANSPORTATION CAPABILITY DEVELOPMENT

$70.0 million increase in Shuttle Production for orbiter and engine spares and to maintain production readiness for a fifth orbiter vehicle.

$8.0 million reduction in Engineering and Technical base activities.

$10.0 million increase in Advanced Programs for space station and space platform studies.

B. PHYSICS AND ASTRONOMY

$45.0 million increase in the Space Telescope for additional spares and additional fixtures, components and equipment for testing purposes.

$1.0 million increase in Mission Operations and Data Analysis for High Energy Astronomical Observatory (HEAO) data analysis.

$6.0 million increase in Research and Analysis including $2 million for university instrumentation.

C. PLANETARY EXPLORATION

$15.0 million increase in Research and Analysis to augment university research activities.

D. SPACE APPLICATIONS

$9.0 million increase in Solid Earth Observations for user development and technology transfer activities, global resource information system studies, and application system verification tests.

$3.0 million increase in Environmental Observations for space physics and advanced technical development.

$5.0 million increase in Materials Processing in Space for increased university research and industrial applications.

E. TECHNOLOGY UTILIZATION

$6.0 million increase for Industrial Application Centers, State Technology Application Centers, and Application Teams.

F. SPACE RESEARCH AND TECHNOLOGY

$5.0 million increase in the Research and Technology Base for university instrumentation and equipment and advanced chemical propulsion technology.

G. CONSTRUCTION OF FACILITIES

$8.4 million deletion of funds to reimburse GSA for transfer of facilities at Ellington Air Force Base to NASA (property transfer was authorized).

$1.82 million increase for preservation of the launch umbilical tower.

$5.0 million general reduction.

H. RESEARCH AND PROGRAM MANAGEMENT

$5.0 million general reduction.

The committee also adopted a number of language changes as follows:

A. The Committee amended a new Section 106 which was proposed by NASA to clearly show the Committee's intent that NASA maintain production readiness for a fifth orbiter vehicle. (This amendment was erroneously omitted when the clean bill was printed.)

B. The Committee amended at the request of the Judiciary Committee a new Section 107 which was proposed by NASA to amend Title III of the National Aeronautics and Space Act of 1958, as amended, by adding at the end thereof a section regarding "Misuse of Agency Name and Initials".

C. The Committee adopted a new Section 108 which would amend Section 103(1) of the National Aeronautics and Space Act of 1958, as amended, to include "operation of the space transportation system" within the definition of the term "aeronautical and space activities".

With regard to title II, the NOAA Landsat authorization, the committee adopted the administration request of $29,336,000 while including language that would prohibit the transfer of weather and land satellites to the private sector until such transfer is approved by law and would require the Secretary of Commerce to submit to the Congress a comprehensive statement of recommended policies, procedures, conditions, and limitations to which any transfer should be subject.

In considering the NASA fiscal year 1984 budget request and the NOAA fiscal year budget request for Landsat activities, the Subcommittee on Space Science and Applications held 12 days of hearings in February and March 1983 to review the status of NASA space and NOAA Landsat activities. Testimony was taken from representatives of NASA, the U.S. Air Force, the Aerospace Safety Advisory Panel, and the industrial and scientific community. The aeronautics activities of NASA were considered separately by the Subcommittee on Transportation, Aviation and Materials and will be discussed in detail by the gentleman from Kansas (Mr. GLICKMAN).

The NASA budget for fiscal year 1984 before you:

Preserves the space shuttle production schedules leading to an operational fleet of four orbiters supporting civil and military needs from launch sites on both coasts;

Provides funding for orbiter spares to maintain production readiness for a fifth orbiter vehicle;

Supports continued development of the space telescope including additional funds which are needed as a result of significant cost and schedule problems which have occurred;

Schedules the Galileo mission to Jupiter for a 1986 shuttle launch using the shuttle/Centaur upper stage;

Continues support for flight missions such as Voyager and Pioneer that have been launched and are returning valuable scientific data;

Provides for continued development of Landsat D's for launch at the end of Landsat D's useful life;

Supports preparation for the early years of shuttle operations leading to an initial flight rate capability of 24 flights per year;

Authorizes continuation of U.S. support to the International Solar Polar Mission with only the European spacecraft;

Includes funds for initiation of the Venus radar mapping mission;

Launch and initial operation of the tracking and data relay satellite system; and

Supports NASA civil service employment levels at the previously planned level of 21,652.

NASA is one of the few Federal agencies whose spending power has decreased over 15 years. The spending power in the NASA budget is less than one-third of that 15 years ago. While NASA spending represented 4.4 percent of Federal budget outlays in fiscal year 1966, NASA spending represents less than 0.78 percent of Federal budget outlays in fiscal 1983. These NASA budget trends do not recognize the positive contributions which the NASA programs can make to national defense, the Nation's economy, monitoring of our natural resources, energy and mineral exploration, and the expansion of scientific knowledge.

In developing the bill before us today, I want to thank the gentleman from New Mexico (Mr. LUJAN) for his efforts. I want to recognize the dedicated efforts of the members of the Committee on Science and Technology and in particular my colleagues on the Subcommittee on Space Science and Applications. Each member of the subcommittee on both sides of the aisle has made a significant contribution.

As always, we can depend on the gentleman from Florida (Mr. FUQUA), the chairman of the full committee, and the gentleman from Kansas (Mr. WINN), the ranking minority member of the committee, for their knowledge and personal insight into these complex programs. Their diligent effort continues to be of immeasurable help in establishing a sound bill and strong NASA programs.

SPACE TRANSPORTATION SYSTEM

The space transportation system is at a critical phase at this time regarding the continuation of the capability to produce additional space shuttle orbiters. We have invested several billion dollars to develop this capability, a capability that puts this country in the forefront of an increasingly worldwide competitive space industry.

Yet, as we are just now on the verge of fully recognizing and exploring its uses and benefits, we are at the same time on the verge of losing the capability to build additional orbiters—the heart of the space transportation system. The space transportation system is a national system to be used as a national resource for civil and defense purposes.

The committee has recognized this problem by authorizing funds in the fiscal year 1984 NASA budget to procure orbiter structural spares and to maintain production readiness for the fifth orbiter vehicle.

This funding will keep the nationwide network of major orbiter structural subcontractors from further closing down their manufacturing capability, while the need for additional orbiters receives more study. These structural components will be used as spares to the current orbiter fleet in the event of major structural damage. Such major damage could have a significant impact on the ability of NASA to meet its launch commitments. By having the structural spares available, this impact can be lessened. Should a decision be made at a later time that an additional orbiter is required, these structural components will be used to build that orbiter. By having these components such as wings, vertical stabilizer, crew compartment available, the manufacturing effort to build an orbiter will be reduced.

I urge your support of this logical approach to an issue of vital national interest. It is an approach that allows us to continue to study this problem as we gain additional flight experience and evaluate the results of the new marketing initiatives that are being undertaken along with the resultant mission demands. The four orbiter fleet now authorized can meet mission demands for the next 4 or so years. But we know that these demands are almost certain to grow; the exact timing of this growth is difficult to predict. However, the long lead times involved in building an orbiter make it mandatory that we not close off our manufacturing capability at this time.

PLANETARY RESEARCH AND ANALYSIS

The programs carried out under this budget line item provide the framework and basis for the Nation's program of planetary exploration. Most of the research and analysis programs are carried out at universities through the country. It is in this area where the invaluable contribution of the academic community to planetary exploration is strongly felt. Activities under the program include the analysis and synthesis of data—including lunar rock samples—from the past missions, the acquisition of new information from planetary astronomy and meteorite studies, a variety of supporting laboratory research efforts, and the planning for future planetary exploration.

The fiscal year 1984 budget request would again reduce support to the planetary university community at a time when the planetary research and analysis activity was already constrained. The addition of $10,000,000 will be an important first step to bringing the program back to the purchasing power of fiscal year 1981 and will prevent the further erosion of this valuable technological resource.

MATERIALS PROCESSING IN SPACE

The materials processing in the space program is establishing a research base on the role of gravitational influences in the processing of materials, particularly those of high technological interest. There is a growing awareness, now that phenomena such as convection, sedimentation, and bouyancy during fluid phase processing can limit the perfection and performance of an extremely wide range of materials and processes from semiconductor crystals to biological separation techniques. The key to obtaining this knowledge lies in sound research and in the ability to eliminate gravity for times long enough for measurement and experimentation.

The materials processing in the space program has a strong commitment to the former; and, the shuttle now provides the unique and complementary opportunity for the latter. The benefits to both terrestrial as well as space processing can well be substantive—a view clearly shared by Russia, Europe, and Japan, who all now have active MPS programs as well. The NASA MPS program also assists in the commercialization of space processing by establishing unique arrangements for industry/Government risk sharing in proof-of-concept joint endeavors. These no exchange of funds programs produce benefits, not only to American industry, but to the research bases NASA MPS program as well.

TECHNOLOGY TRANSFER

During the last 5 years, NASA has supported a technology transfer program which has been critical in providing the opportunity to diverse use groups to test and evaluate new, emerging satellite remote sensing technology and adapt it for every day use in solution of their natural resources management problems. The success of this program has been unquestioned; it has been applauded by numerous public and private user groups, and has served as prime model for foreign governments which are planning to enter the satellite remote sensing arena. Now, as we enter into a new era of satellite remote sensing with Landsat-D and emerging microwave sensors, it is more critical than ever, that we continue a technology transfer program. I put forth the following rationale to support my recommendation:

First, since we have spent approximately a billion dollars on developing excellent Landsat hardware, it seems very shortsighted not to appropriate modest funding for the testing, evaluation, and transfer of the technology to people who need to use it.

Second, users will be faced with the integration of a new technology in the Landsat-D thematic mapper in the near future with improved geometric, radiometric, and spectral characteristics. The adaptation of this technology will require a critical bridging process for the user community. If this bridging is not completed, much of which has been previously accomplished can be lost.

Third, termination of technology transfer will result in serious damage to the users' perception of program credibility at a time when an adequate user base is critical to the success of the U.S. civil operational land remote sensing satellite system. In addition, foreign satellite remote sensing systems will soon be operational and will be supported by aggressive market development and technology transfer efforts.

Fourth, remote sensing is still in an early phase of development, although the benefits are potentially large, the user community as well as the private remote sensing industry is still small, and perceives a high risk which impedes significant investment in the near future without some Government bridging.

Finally, NASA is mandated by the Space Act of 1958 as well as the Stevenson-Wydler Technology Act of 1980 to maintain technology transfer and dissemination activities, particularly aimed at State and local governments and private industries. It is crucial to the success of the U.S. civil operational land remote sensing satellite system that this mandate continue to be carried out.

ADVANCED SPACE PROPULSION

To maintain the U.S. leadership in the development and effective utilization of liquid rocket propulsion systems, it is necessary to maintain the research and technology program being conducted by NASA.

The program involves research and technology for advanced Earth-to-orbit propulsion, orbital transfer propulsion, and on-board auxiliary propulsion systems.

The objective of the NASA program is to develop technology for continued improvements in performance, flexibility, and reusability of liquid rocket propulsion systems for future space transportation vehicles. The program involves technology for reusable propulsion systems for lower cost operations: high performance, variable thrust for more versatile orbital transfer operations; high reliability, efficient, and long-life position control and station-keeping propulsion for large space systems.

Specifically, work on advance high-pressure oxygen-hydrogen propulsion emphasizes technology advancement that will allow the future upgrading of life and performance of large, high performance engines. This technology effort builds upon the knowledge established to date by the space shuttle main engine. Advances are applicable to the current engine as well as future higher performance configurations.

In orbit transfer vehicle propulsion, the program focuses on technology to enable a versatile, long-life and reusable propulsion system capable of satisfying requirements for manned geosynchronous missions in the mid-to-late 1990's. In addition to reusability, this effort is focusing on facilitating maintenance and repair of a space-based vehicle, and on providing low-thrust operational capability for missions involving the orbital transfer of large flexible structures.

Research and development of on-board auxiliary propulsion systems for large space platforms or stations is focusing on new propellant combinations to reduce resupply costs while providing long service life.

In addition to putting the Nation in a position to embark on aggressive space initiatives, the strengthening of the NASA space propulsion research and technology base through this program will contribute a partial means of offsetting a decline in the industrial base in the chemical propulsion field.

Mr. Chairman, in conclusion I want to address NASA's advanced program plans and the need for long range goals. This committee has continually urged increased emphasis by NASA on advanced program planning. I remain deeply concerned about the need for revitalization of this budget area to insure our technological leadership and our potential for providing mature, well understood definition of future systems.

There is the continuing need to insure U.S. preeminence in space for reasons of national morale, political prestige, advancement of U.S. science and technology, and educational motivation and stimulation. The development of new space systems goals and advanced programs beyond the basic space shuttle is a necessary consequence of this need for continued vitality in space, particularly in the light of a—to all appearances healthy and dynamic—Soviet space station program.

Studies have indicated that users of space transportation will need—in the early 1980's—more on orbit time and more on-board power than the shuttle can provide. This applies particularly to such areas as space processing, space technology, and life sciences, as well as free-flyer capability. As a consequence, economies of scale will force a growing number of individual satellite functions to aggregate on common space platforms, with payload size and mass tending to increase during the next two decades. This requires increased emphasis on the construction of large structures in orbit, powered by new orbital power augmentation systems. It also puts a premium on the ability to service these systems adequately in orbit. The committee is keenly aware that the capability for continuous manned orbital operations is not yet at hand in this country, and neither are the vehicles and techniques for space construction, operation, and servicing in either low Earth or geostationary orbit. This need calls for an extension of the shuttle capabilities, for the development of permanent manned facilities in orbit, and for a manned geosynchronous mission capability.

In the context of the clear needs which are presently foreseen, proper planning for the future will result in a balanced civilian space program which will make major contributions to our economy and national prestige.

I urge my colleagues to support H.R. 2065.

Mr. WINN. Mr. Chairman, I yield 5 minutes to the gentleman from New Mexico (Mr. LUJAN), the ranking minority member of the Subcommittee on Space Science and Applications.

Mr. McGRATH. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from New York.

Mr. McGRATH. Mr. Chairman, I rise in support of the fiscal year 1984 NASA authorization bill as it was reported from the Science and Technology Committee.

H.R. 2065 provides authorization for a number of important programs within the National Aeronautics and Space Administration. I am especially pleased because included in the bill is funding for a new start in the field of planetary exploration. This is the Venus radar mapper (VRM) mission. The mission has the objective of globally mapping the cloud shrouded surface of Venus by means of an imaging radar technique which has been successfully employed in the Earth-orbiting missions of Seasat and shuttle imaging radar B (SIR-B).

This will be the first new planetary mission to be started since Galileo in fiscal year 1978. Our successful planetary missions have given us world leadership in this filed and done much to inspire confidence in our technology. Without a new mission, the United States would be in danger of losing its experienced personnel and technical facilities which make these space achievements possible.

The bill provides $170 million for orbiter and engine spares which allows NASA to keep the shuttle production lines open. While I am pleased that the lines will remain open, I believe a policy decision on the funding of a fifth orbiter is overdue. I think it is the consensus of the members of the committee that there is a need for a fifth orbiter, and I am disappointed that we have not addressed this issue in the authorization bill.

Nevertheless, I want to emphasize that I support this bill, and I remain an enthusiastic supporter of NASA and the space program.

Mr. LUJAN. Mr. Chairman, although I rise in support of H.R. 2065, I must state I am concerned that this bill represents an increase of $162 million over the level of NASA's request. It is also my understanding that the Senate has added another $10 million over the level in the House bill. Since we have heard these concerns from both sides of the aisle about the size of the Federal deficit, I am surprised that we continue to add moneys above the requested levels in these various authorization bills.

I agree with my fellow members of the Science and Technology Committee that there are good reasons to support the NASA programs. I am personally enthusiastic about the NASA planning activities for a space station. I agree with the NASA Administrator that a manned space station is the next logical step in space. But NASA is not asking the Congress to accept this as a foregone conclusion. There are no funds in this bill to begin development of a space station. Rather NASA has underway an in-depth, orderly planning exercise to first define all the potential requirements for a space station and then to define how a space station program might best meet these requirements.

Recent management studies have shown that perhaps the single greatest contribution to both cost and schedule growth in major space initiatives is the failure to adequately define the program before it is begun. I am pleased that NASA is defining the space station program carefully.

The space station offers a broad range of potential applications. I am confident that we will realize these possibilities, just as we have already realized substantial payoffs from the present space transportation system. We have all become accustomed to the most reliable weather prediction system man has ever known, a very effective worldwide communications network, a means of fighting crop disease and environmental contamination, a method of locating valuable resources in the Earth, and a greatly expanded knowledge of the atmosphere, the oceans, the solar system, and the universe.

The future potential of the space shuttle promises tremendous social and economic benefits to mankind. Space shuttle missions give us access to the special properties of space such as zero gravity, hard vacuum, low vibration, and isolation from Earth's biosphere. The space shuttle offers superb potential for applications. We should continue to look for new opportunities as we move toward development of commercial applications using the unique environment of space.

I also should mention that our national security has been considerably enhanced by making surprise attacks increasingly difficult and affording the best means yet of monitoring so arms limitation agreements could be practicable. U.S. activities in space related to national security have focused on defensive and monitoring capabilities in addition to the wide range of strictly civilian programs. In contrast, the majority of Soviet space programs are military in nature. The majority of Soviet military space programs have been specifically designed to support terrestrial military operations. The development of an antisatellite system has extended Soviet military use of space to a capability for direct space warfare operations.

It is important to emphasize the size of the Soviet program, demonstrated by a launch rate that is 5 times that of the United States, and the size of the annual payload weight placed into orbit is 10 times that of the United States. While those numbers do not take into account the technological lead we have which allows us to launch fewer satellites to accomplish the same purposes, they do clearly demonstrate the strong commitment of the Soviet Union to explore space to the maximum extent possible, especially for military purposes.

In this country, national defense responsibility belongs to the Department of Defense. However, for the reasons I just stated, NASA should support DOD to the extent that DOD funds NASA. NASA has a defined responsibility to national security and should not be constricted in their activities on national defense.

Thank you, Mr. Chairman, for allowing me to make these comments in support of the 1984 authorization for NASA.

□ 1330

Mr. FUQUA. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Kansas (Mr. GLICKMAN), chairman of the Subcommittee on Transportation, Aviation, and Materials.

Mr. GLICKMAN. Mr. Chairman, members of the subcommittee worked long and hard in carefully reviewing the NASA aeronautical program and the 1984 budget request. We found that although the dollar amount for aeronautical R&D is small—$311.6 million recommended by the committee this year—the payoff is very large. This is true because NASA emphasizes the high-risk, long-term research and technology that industry is financially unable or unwilling to undertake. Such efforts provide the foundation for future aircraft and engines which return many times their initial cost to our economy. In this sense, NASA's aeronautical R&D is an investment in the truest meaning of the term.

For example, in 1981, export sales of aerospace products, the bulk of which were civil aircraft, exceeded $15 billion. Imports were estimated to be $4 billion. The resulting $11 billion net positive contribution to our balance of trade was the largest of any U.S. manufacturing industry.

U.S. suppliers have built nearly 90 percent of the free world's civil air fleet by dollar value. Our airlines are our best ambassadors, offering superior quality, safety, comfort, and reliability, at economical costs. They speak well of America, to operator and user alike.

Of course, these results did not just happen. They came because we have consistently had the best products. And one of the big reasons for that has been the longstanding partnership between Government and industry in developing new aeronautical technology.

It might interest my colleagues to know that this partnership has been one of the alltime great bargains.

In fact, the total sum expended on aeronautical research, facilities, and personnel by NASA and NACA over the entire 65 years of their combined existence is less than half the dollar value of U.S. aeronautical exports in 1981 alone.

Because of this, the Committee on Science and Technology has repeatedly urged the administration and the Congress to increase the resources devoted to aeronautical R&D. We have pointed to the many long-term benefits of such investment, which are reflected in billions of dollars in sales of U.S. aircraft both here and abroad, and in millions of jobs for Americans.

Yet, in spite of its proven cost benefits, the NASA aeronautics program has been on a downward path in recent years. For example, when inflation is taken into account, the congressionally restored program of last year and the request for fiscal year 1984 are the lowest since 1971. There are not very many Government programs that can make that dubious claim.

Furthermore, anyone familiar with the dramatic increases in both the cost and complexity of new technology in the last 12 years knows that a level budget would not produce the same results as it once did. It simply costs more today to achieve each increment of improvement in fuel efficiency or safety or performance.

Of course, none of this would cause alarm if the Europeans and Japanese had not begun to pose a serious competitive threat. But they have.

Over the past 10 years, the European Airbus has increased its share of the total world market for commercial aircraft to 20 percent. And that equates to over 40 percent of the widebody market, the only one they have entered so far.

In the future, both Airbus and the Japanese plan to develop smaller transports. Many analysts believe this could lead to our losing 50 percent of the world market in the next decade.

Because of this, I believe, the committee's recommendation is at the low end of what is actually needed. In my view, international conditions call for expanding NASA's aeronautical program, not curtailing it.

Fortunately, the administration has begun to move belatedly and begrudgingly in this deirection. Last year, of course, it went all out to change NASA's basic method of doing business. It sought to break up the longstanding partnership between the government and industry that was largely responsible for our preeminence in aeronautics.

Since then, of course, the Congress has spoken clearly to reject this misguided idea. Also, the Office of Science and Technology policy was "born again" and, in a very comprehensive study, reaffirmed the importance of NASA's work to both national security and economic well-being.

So, this is a different year. No longer are we faced with what I feel was dangerous tinkering by OMB. No longer is OMB trying overtly to withdraw from Federal support of aeronautical research and technology. In fact, the fiscal year 1984 request for aeronautics actually shows a modest increase over the congressionally restored budget for 1983.

Yet some problems do remain. Apparently not everyone at OMB was converted. Missing are several proof-of-concept projects which have very promising civil applications and which have been supported strongly by industry and the Congress. I will mention just one—the so-called prop-fan.

Mr. Chairman, I know most Members are familiar with this program. So I would not repeat the many advantages it could offer the airlines, the aircraft industry, and the traveling public.

Let me just point out that the program has gone about as far as it can with testing on the ground. What is needed now—to convince industry to take on the full burden and risk of commercial development—is a full-scale flight test. Of course, such a test will be expensive—somewhere around $175 million over several years.

For this reason OMB is dragging its feet on giving approval for a flight test. Of course, NASA people are optimistic that they can win "new start" approval from OMB next year. But, given that next year is an election year, I doubt that OMB is likely to swallow the $50 million first year cost. Certainly its action in zeroing the prop-fan in 1984 is not encouraging. No, I believe the only way to get the final phase of this project underway is for Congress to indicate its intent to do so and to provide some funding this year so that the need in 1985 will not be so great.

With this in mind, the Science Committee is recommending that $8.7 million be reallocated from the R&T base and that an additional $11.3 million be authorized over the administration's request to provide a total of $20 million for design and long-lead procurement activities. By so doing, we hope to keep the program moving ahead in 1984 and to ultimately achieve a flight test in 1987.

The committee also recommended the reallocation of another $14 million from the R&T base to restore four other high priority civil systems technology projects. These are:

Advanced transport operating systems (TCV);

Small (G/A) engine component technology;

Advanced turbofan research; and

Laminar flow control.

Finally, the committee also strongly endorsed NASA's request for $20 million to begin design and acquisition of a superfast computer, known as the numeric aerodynamic simulator.

Mr. Chairman, I would like to commend the chairman of my committee, the gentleman from Florida (Mr. FUQUA), for the extraordinary role he has taken in the whole area of high technology. We have talked about this issue many times. We hear the words "high tech, Atari Democrats," and all other sorts of people who are interested in pushing high tech issues.

We have here in the aviation industry a great high tech industry, a successful one, one in which the American people and the American workers lead the world. We can continue to do that, but we face immense competition from our foreign competitors. NASA's role with the aviation industry is the classic example for technology transfer programs in America, bringing the private sector and the public sector together, and it is a role that ought to be utilized and developed, and all of the other models, whether it is computers or a new generation of materials, the whole array of things that are going to move America into the future. The relationship between NASA and the aviation industry has been largely responsible for the greatness of American aircraft production in America.

I am hopeful that maybe in the future NASA's role may be expanded to help accelerate technological developments in other areas, as well. But I can tell the Members right now that we get one heck of a bargain out of NASA in terms of the production of aircraft in this country. It is largely responsible why we build both militarily and in the commercial sector the best airplanes in the world.

For that reason, I would urge my colleagues to support this bill, not only for the space component of it but for the aeronautics component of it, as well.

Mr. WINN. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. LEWIS).

Mr. LEWIS of Florida. I thank the ranking minority member on the Science and Technology Committee for yielding.

Mr. Chairman, I just want to mention a few of the spinoffs that we recognize from the NASA program, which I support very strongly, both in agriculture, defense and communications, such things as:

Weather prediction systems; worldwide communications network—about a dozen nations have their own capabilities in receiving and processing directly from satellites; more than 100 nations are using Landsat imaging for agricultural inventories, oil and mineral exploration, water management, land use planning, forestry operations, map making, fighting crop disease, fighting environmental contamination, and many other applications; a greatly expanded knowledge of our solar system and universe; greater national security through making surprise attacks increasingly difficult; means of making arms limitation agreements practicable by satisfactory monitoring, and satellite-based research and rescue systems for ships and planes.

But down to the human element, medical aids: Programable implantable medication systems for continuous computer-directed delivery of medication, such as insulin, within a patient's body; drugless therapy for treatment of such disorders as rheumatoid arthritis and lupus, using a plasma filtration system which removes from the blood certain substances believed to contribute to the progression of these diseases; devices to aid surgeons in orthoscopic procedures and other surgeries without long recovery times; portable medical systems to provide information for diagnosis from a patient remote from a physician and allow for long-distance instructors or treatment.

Because of this, Mr. Chairman, many lives are saved today by our paramedics on the various streets of our cities and our counties.

In other areas, technology for producing and handling liquid hydrogen was developed by NASA for propulsion but has resulted in development of a broad variety of practicable applications. Liquid hydrogen is now used by petroleum refineries in sulfur removal processes and in gasoline production; by chemical and pharmaceutical firms which manufacture fertilizers and drugs; by food processors who use it to make margarine and to keep oils fresh; by metals industries for heat-treating operations which harden and strengthen metal alloys; by electronics companies in growing crystals for electronic systems; by electric utilities for cooling large generators, motors, and frequency changers; systems for measuring and monitoring liquefied natural gas and also liquefied petroleum gas; application of jet engine ignition know-how to conservation of fuel in industrial boilers; safety systems for electrical powerplants; lightweight cooling garments designed to eliminate the harmful effects of heat stress for increased productivity in industrial environment requiring protection against high temperatures and caustic metals and chemicals; simpler, smaller, lighter, cheaper, and more reliable devices for changing electric power from one form to another, such as from direct current to alternating current; automatic welding systems for using computer-controlled equipment; fire-resistant material; environmental monitoring and atmospheric analysis systems; lighweight fabrics for the various clothes and type of sweaters and things we wear today.

□ 1340

These are some of the things, my colleagues, that are the various spinoffs of our fine NASA and space program and I firmly support this program and support H.R. 2065.

Mr. FUQUA. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. MacKay).

Mr. MacKAY. Mr. Chairman, at this time, I would like to take a few minutes to explain my reasons for supporting H.R. 2065, the 1984 NASA authorization bill.

In planetary exploration, the Venus Radar Mapper Mission, which will be a new start in fiscal year 1984, is particularly gratifying because it will restore some of the confidence in our stated objective to extend our knowledge of the solar system. It is also pleasing that the committee saw fit to augment funding for university research and analysis in support of planetary exploration. This will help to fortify the Nation's scientific base.

In regard to our scientific base, I am also pleased to see the growing awareness of the crisis that exists in university instrumentation for research. The replacement and modernization of our research tools have been sorely neglected over the past several years, but by earmarking $5 million for university instrumentation and equipment within the Space Research and Technology line item, the bill makes a tangible effort to correct this problem.

I cannot emphasize too much my contention that a strong scientific base is absolutely essential if this Nation is to maintain a position of world leadership. Our past investments in research and development are some of the main reasons that the United States has been in the forefront of every scientific and technological discipline since World War II. We must guard against any erosion of our leadership role.

In addition to maintaining a powerful scientific and technological base, we must insure that the fruits of our research are not left to rot on the vine. Ideas and inventions must be translated into all areas of the economy. This is why the technology utilization program at NASA needs all the support the Congress can provide. This bill attempts to provide that support.

Mr. Chairman, in closing, let me assure the Members that this budget is a good one. It provides support for our space program in areas that are vital to the Nation's economy without ignoring the very real concerns for fiscal restraint.

I urge my colleagues to vote for this bill.

Mr. WINN. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. Carney).

Mr. CARNEY. Mr. Chairman, I rise in support of H.R. 2065 authorizing appropriations for the National Aeronautics and Space Administration for fiscal year 1984.

Americans have come to expect to be No. 1 in everything they do—and in aviation, the United States always has been the leader. Unfortunately, this position of leadership is being seriously challenged today.

It often takes many years to reap the benefits of research and, conversely, it often takes years to fully appreciate the effects of neglect. In a recent aeronautics hearing, Neil Armstrong described this as "eating our seed corn"; and without adequate investment in basic research and technology, that is exactly what we are doing. Today we find ourselves vulnerable to losing our position of leadership in aviation.

This administration has established an aeronautics R&D policy which recognizes the importance of aeronautics to both the defense and the economy of our country. It especially recognizes the importance of basic research to the long-term health of our aviation industry. This year's aeronautics program reflects that policy which I support.

I enthusiastically support NASA's planned numerical aerodynamic simulation program. This new capability will enable us to analyze new aerodynamic concepts and assess their potential before costly wind tunnel testing. This should significantly reduce the amount of experimental testing required, saving both time and money. The NAS system is being designed in such a way that as improvements in computer hardware and software technologies are made they can be easily incorporated into the system, thereby avoiding the common situation where large expensive computer systems become obsolete soon after they become operational.

Several shorter term systems technologies programs will also be continued as a result of some shifting in fund levels. I support these. These are programs that offer great promise, particularly for civil aviation, and should not be terminated at this time. While I believe that the long-term basic research should remain NASA's first priority, I recognize the severe economic problems facing our civil aviation industry and believe this redirection of funds is appropriate at this time. One of these programs, the advanced turboprop program, has the potential of improving fuel economy by 15 to 30 percent and lowering direct operating costs by up to 8 percent. If successful, this could give our aircraft industry the boost needed to compete against the consortiums of government-financed European manufacturers.

However, I remain unconvinced of the need to add $11.3 million for this program in fiscal year 1984. I believe a more prudent approach would be to fund this program in the amount requested by NASA in their 1984 budget and deal later with future funding requirements.

What concerns me most about this unrequested increase is the potential for this program to become another Rockwell shuttle experience—where Congress keeps pushing more and more money at NASA—insisting that they find ways to spend it. It becomes a blank check for the contractors—and they can always find ways to spend it. I am practical enough to know when to back off on something. Furthermore, I believe the $11.3 million will ultimately be put to good use. However, I think it is essential that we keep a close watch over this program and not let it become another sacred cow.

I feel the same way about many of the expenditures on the space side. We have become too complacent and not nearly critical enough over some of these items. I have always strongly supported the space program. However, I have some serious misgivings over the ease with which we continually increase the funding for space without having—I believe—a clear understanding of the funding needs, and where these dollars go. At a time of record deficits, the administration's budget request for these activities was not only adequate, it was extremely generous.

Although the programs authorized by this bill have grown more than I would wish, I remain a vigorous supporter of NASA. I am confident that these funds represent an investment in our future, and I ask my colleagues to join with me in supporting this legislation, and at the same time, I strongly urge my colleagues to carry out our oversight responsibility.

I know how to count heads in committees and I know how most Members of Congress feel about these programs, but I think it is important that we deliver a message to say that we have to be a little bit more cautious about our oversight responsibilities for all the programs, even the programs that enjoy the entire support of this body. I know that the bill will pass overwhelmingly; in fact, I doubt that anyone will vote against it, but I ask that our oversight responsibilities should not be put aside. I think this is very, very important. The space program is vitally important to our Nation for defense, for our economy, and perhaps for something that we do not recognize. It is vitally important to us because we, as Americans, are very proud of our role in the space program. I would hate to see that very same program that is so very vital to us become a program that Congress will find ways to distrust.

So I am saying, support this legislation. But I am also asking that we, as Members of Congress, be very careful with our responsibilities to insure the American public that we are getting a dollar back for every dollar we invest.

Mr. FUQUA. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL. It is very generous and kind of you, Mr. Chairman, to yield me some time. I sought time to try to get an answer to some questions that I have.

Mr. Chairman, I think I have heard in this House from time to time Members on both sides of the aisle deplore and condemn the racist practices that are followed in South Africa.

□ 1350

My questions are concerning the relationship between NASA and South Africa, with its racist, repressive policies. As I understand it, NASA operates a satellite that takes pictures of the geographical surface of the Earth and these pictures are referred to various receiving stations known as Landsat receiving stations. One of these is located in Botswana, and we have information that causes us to believe that the information received from NASA is used to reinforce the apartheid policies of South Africa; and it is certainly used to repress the active resistance movement on the part of the blacks in South Africa.

If that is true—and I have no reason to doubt it—I would be hesitant, of course, to support this legislation. Can the distinguished chairman of the committee enlighten me on this in any way?

Mr. FUQUA. Mr. Chairman, if the gentleman will yield, first of all, I appreciate the gentleman's bringing that matter to the attention of the committee.

I am not aware that any of the ground equipment or receiving equipment has been paid for, by, or belongs to the National Aeronautics and Space Administration. It is my understanding—and I will check on this and get a more definitive answer for the gentleman—that these are owned and operated by the Government, and NASA, as a policy, would through our State Department make Landsat information available to countries around the world.

As for the specific question the gentleman asked, I will certainly check into that and respond to the gentleman in an appropriate fashion.

Mr. MITCHELL. Mr. Chairman, I would appreciate it because it is in operation, and we have received some word from NASA that they were thinking about a cessation of their operations with South Africa. I would hope that they would.

Certainly South Africa owns the receiving stations, but if we are giving them information that represses the lives of many of the people in that country, it is just morally indefensible to do that.

Mr. Chairman, I have a second question regarding the Discus satellites. As I understand it, NASA gave some assistance to General Electric in launching the Discus satellites used by South Africa.

The real purpose of the Discus satellite is to facilitate military communications. Consequently, the technology is being used by South Africa to reinforce apartheid and to repress not only the black population in South Africa but in those countries contiguous and adjacent to South Africa. Does the chairman of the committee know anything about NASA's involvement with General Electric on the Discus satellites?

Mr. FUQUA. Mr. Chairman, I am not aware of NASA's involvement. That may be a Department of Defense program, and here again, I will get that information to the gentleman just as soon as we possibly can.

Mr. MITCHELL. Mr. Chairman, I thank the committee chairman. I know him and respect him, and I know that he would not do anything at all that would facilitate the continuing repression of the black population in South Africa.

Mr. FUQUA. The gentleman is correct.

Mr. MITCHELL. Mr. Chairman, if the gentleman will let me know as soon as possible, I would appreciate it.

Mr. FUQUA. I certainly will.

Mr. MITCHELL. Mr. Chairman, I thank the gentleman.

Mr. FUQUA. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. LEVINE).

Mr. LEVINE of California. Mr. Chairman, no time could be more appropriate to renew our Nation's commitment to a position of leadership in manned and unmanned space exploration than in the year 1983, the year of NASA's 25th anniversary.

I rise in support of the authorization and to commend the distinguished chairman of the committee for reporting out such a solid bill with regard to this authorization.

Mr. Chairman, today the House considers the fiscal year 1984 appropriation for the National Aeronautics and Space Administration. This legislation would authorize $7.3 billion for the coming fiscal year—$161.7 million more than requested by the administration.

House approval of the full amount recommended by the committee is very important to the future of both our manned and unmanned space programs. The 2-percent increase in spending approved by the Appropriations Committee is, in fact, less than the inflation rate for the past year and is vital to avoid damaging cuts to an already spartan space program.

Among the most important items is $1.6 billion for continued development of the space shuttle fleet. As originally envisioned, the fleet was to have consisted of five shuttles. To date, construction has been authorized on only four. This bill would retain the option of building the fifth orbiter.

The success of the first flight of the *Challenger* is only the latest in a remarkable string of successful shuttle missions. The shuttle has proven its ability to launch satellites, serve as a laboratory which can produce large quantities of advanced pharmaceuticals, functions as an orbiting satellite repair station, and has given scientists a new, more detailed view of our planet.

Future missions of the shuttle will include the first American woman in space, the first black astronaut, and the deployment of the space telescope which will provide scientists with the clearest and most detailed view of our solar system ever. Thanks to the shuttle program, America stands today on the verge of a new era in space exploration and exploitation.

The space program is one of the best bargains in which the Government has ever invested. I urge my colleagues to reject administration efforts to reduce funding and approve the full amount authorized by the Appropriations Committee.

This bill would also prohibit the sale of weather or land remote satellites to private companies without congressional approval. This provision is very important in light of recent disclosures regarding possible irregularities in the Government's feasibility study on the proposed sale.

Until the allegations regarding possible collusion between the Commerce Department and Communications Satellite Corp. have been thoroughly investigated by the Congress, it is extremely important that no sales proceed without congressional approval.

Mr. Chairman, I am very pleased to rise in support of this legislation. I believe it is very important to the future of this Nation.

Mr. WINN. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. McCandless).

Mr. McCANDLESS. Mr. Chairman, I rise in support of H.R. 2065, authorizing appropriations for the National Aeronautics and Space Administration for fiscal year 1984.

The NASA program in numerical aerodynamic simulation (NAS) offers a rare opportunity to make a dramatic advance in computational capability for the country. Through advanced computational methods and a new generation of supercomputers, NAS will provide the means to improve future aircraft and engine designs and to better understand the complex flowfields associated with turbulent and separated flows.

The NAS computational system will be located at the Ames Research Center in Sunnyvale, Calif., and linked to remote users through a high data rate satellite and telecommunications network that will enable a large number of users from NASA, DOD, academia, and industry to simultaneously solve heretofore intractable problems in aerodynamic research associated with complex aircraft configurations. The research, which underpins the development of modern aircraft, depends increasingly on computational capability; that capability, together with wind tunnel and flight testing, provides the basic tools for aircraft design and demands the latest in high-speed supercomputers.

Another major objective of the NAS program is to act as the pathfinder in exploring advanced, large-scale supercomputer system concepts through systematic incorporation of the latest improvements in computer hardware and software technologies. By providing this testbed for the latest scientific supercomputers, the NAS computational system will help the U.S. supercomputer industry meet the foreign challenge, while advancing our ability to design the most advanced aircraft in the world.

Mr. FUQUA. Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. Dyson).

Mr. DYSON. Mr. Chairman, I thank the chairman of the committee for yielding me this time, and I would also like to thank him and the two subcommittee chairmen who had under discussion title II for the language they have inserted in the authorization bill which would prohibit the transfer of the NOAA land and weather satellite systems. I am glad to see the continuing language they have placed in the legislation, and I thank the gentleman from Missouri (Mr. Volkmer) and the gentleman from New York (Mr. Scheuer).

I think this is a very important issue. It is something that I think is very ill-conceived on the part of the administration, to attempt to transfer the satellites to the private sector. I again applaud the gentlemen and thank the committee chairman for giving me this time today.

Mr. Chairman, I am pleased that the fiscal year 1984 NASA authorization bill before us today contains the language of H.R. 1958, a bill I introduced into the House on March 8, 1983, prohibiting the Reagan administration from concluding a sale of the meteorological satellite (Metsat) system without the express consent of Congress.

My district depends on the safety and success of agriculture and maritime related activities. For my constituents, in short, it is absolutely necessary that there exist a constant source of reliable information about weather, winds, storms, and tides. Certainly no one suspects that weather forecasting is such an exact science that it cannot be improved. And I am as interested as anyone in improving our knowledge of climatic conditions; both the quantity of our data and the quality of our methods for interpreting and forecasting trends. I am very receptive to any serious proposal. But one proposal now before us confuses perfect knowledge of the winds with the windfall profits of a high-tech entrepreneur.

The American people have spent $1.6 billion to launch four weather and one "land resource" satellite system. This includes the extensive network of computer-controlled, monitoring devices, such as an 85-foot diameter antenna. We have a good system. It works so well, in fact, that Communications Satellite, Inc., wants to buy it for $300 million. Comsat would then possess a national monopoly on all meterological data, and sell it back to the U.S. Government at a substantial profit. But they are not content to acquire our entire system for this paltry sum. They want a 15-year "no recourse" contract as well. This would guarantee that regardless of the quality of "their" product, they would receive their full fee. And to protect against the possibility that the American people may at some future time come to their senses and discontinue the sale, Comsat wants the full value of their 15-year contract up front.

Comsat claims their offer is generous, and that they will be able to produce more accurate information about weather conditions and land resources than is currently available and at lower costs than are paid by the Government. But Comsat's long-range plan aims at developing a commercial market for the land resource surveying Landsat system. This branch of our satellite system cannot be commercially viable for at least 10 years. So all Comsat really intends is to exploit their profitable monopoly of our weather satellites to cover the costs of developing a new market in the distant future for Landsat data. If any cost savings are ever realized they will be in the distant future and result from combining the "sensory" equipment of Metsat and Landsat systems onto a single satellite. This itself is criticized by some as a foolish attempt to combine incompatible functions, since the sensory requirements of the two activities differ widely. But even if savings could be effected, passing these onto consumers does not seem to be a first priority of Comsat.

Mr. Scheuer and Mr. Volkmer, chairmen of two subcommittees of the Committee on Science and Technology, recognized the potential for disaster that lurks within the Comsat proposal. They have exercised the prudence and caution of responsible legislators, and adopted language which prevents the administration from executing any sale of our satellites without first gaining congressional approval. Had the administration exercised similar caution in its consideration of the proposed sale, we would have been saved much work. As it has turned out, we can be certain that whatever occurs will have resulted from clear minded deliberation, and I am proud to have contributed the language which they have incorporated into their bill.

Mr. FUQUA. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma (Mr. Watkins).

Mr. WATKINS. Mr. Chairman, the technologies developed by NASA are having an impact on this Nation's economy. Many direct advances in communications satellites, improved aircraft—including the energy efficient turbo-prop engine—remote sensing satellites, and other innovations have improved the productive capacity of this Nation. The fact is much more can be done if our country would concentrate on technology transfer, and technology development.

Indirectly, through the development and dissemination of advanced technologies to U.S. firms, the spinoffs from space have been applied to virtually every aspect of human life: From cancer research to crop dusting, from industrial materials to helping children walk, from waste management to high technology electronics.

Through application centers such as the Kerr Industrial Applications Center of Durant, Okla., and through prompt reporting and dissemination of innovations, NASA has not only helped large industries but has taken specific high technology applications to grassroots America. Traditionally, more than half of NASA's industrial applications centers clients have been small business firms—firms that do not have the resources to develop their own R&D program but are nonetheless willing to pay NASA to draw from its pool of expertise.

A prime example of how NASA developed technology has benefited grassroots America just in this past year alone is the development of a Bolus gun for medical treatment in the livestock industry by a cattleman working with the Rural Enterprise Development Corp. By using this spring-loaded apparatus veterinarians can reduce the cost and more importantly the inconvenience of administering oral medications to livestock, and thereby hold down the cost of dairy products and meats to the American consumer. There are many other new products and processes being developed such as new technology in making industrial inspectors gloves to compete with Japan.

Mr. Chairman, I have only scratched the surface of all that NASA developed technology has done for America and yet the administration has again tried to reduce this important program's budget. I wish to commend the Committee on Science and Technology for funding NASA's technology utilization program at an appropriate level and for reinstating the technology transfer portion of the budget.

We owe it to the taxpayers to support NASA activities which not only build national pride and hope for the future but contribute to a better quality of life because from new technology came new products and processes which brings new business and industries developing new jobs for the American families.

Mr. Chairman, I rise in support of H.R. 2065 and urge my distinguished colleagues to do likewise.

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Mr. WINN. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. Tauke).

Mr. TAUKE. Mr. Chairman, I support H.R. 2065, the NASA authorization for fiscal year 1984.

I am particularly pleased that the Committee on Science and Technology had the foresight to include a provision in this measure which prohibits the National Oceanic and Atmospheric Administration (NOAA) from administratively transferring ownership or management of any of the Government's satellite systems to a private firm.

Since the administration announced last month that it is considering the sale of our Nation's valuable weather satellite system, I have voiced my strong reservations regarding the prudence of this action.

Although I tend to support the philosophical goals advanced by the administration in its quest for reducing the role of the Federal Government, I am concerned that the administration, in encouraging the commercialization of our weather satellites, has failed to develop comprehensive principles and guidelines or the institutional framework necessary for a smooth transition of these services from the Government to industry.

It occurs to me that without proper congressional oversight and approval, the sale of our weather system could jeopardize the safety of Americans by interrupting the timely flow of accurate weather information and data.

In my home State of Iowa, and throughout the Midwest, weather information is of the utmost importance to farmers and is essential in their daily decisionmaking process regarding crop production, pesticide usage and irrigation control.

In addition, millions of Americans are dependent on the efficient and up-to-date emergency weather broadcasting system which is an integral part of our Nation's total commitment to supplying weather information and data to the public. Clearly, the sale of these satellites may result only in a great disservice to the taxpayers who have already paid $1.5 billion to develop this complex system of data-gathering weather satellites.

Further, I am not convinced that the transfer of our weather satellites to the private sector, at this time, would result in free competition.

It is my understanding that when the Government placed a general request asking interested companies to express their interest in buying the weather satellite system only one company offered to buy both the combined network of land and weather satellites. Eleven other firms either opposed the idea or expressed no interest in it.

Many of the companies which expressed doubt about purchasing these satellites argued that the sale would not result in free competition. They noted that the Federal Government guaranteed a profit to the company operating the satellites. They also contended that once one company purchased these satellites, and signed a contract to provide weather information to the major consumer—that is, the U.S. Government—other firms would have little, if any, incentive to compete.

There is also the question as to whether or not the firm purchasing the system of weather satellites would be free of Government restraint due to Government obligations to provide weather information and data to other nations.

While an eventual transfer of our weather satellite network may have some merit, I am convinced that these and other serious questions which have surfaced must first be addressed by the Congress. It is imperative that we move to prohibit the administration from selling our network of land and weather satellites without first obtaining congressional review and consent.

Again, Mr. Chairman, I commend the Committee on Science and Technology for including in this measure the provision preventing NOAA from transferring ownership or management of any land, meteorological, or ocean satellite system to the private sector unless it reports its recommendations to the appropriate congressional committees and Congress enacts a law approving the transfer.

Mr. FUQUA. Mr. Chairman, I yield 1 minute to the gentleman from Hawaii (Mr. Akaka).

Mr. AKAKA. Mr. Chairman, I rise today in support of the recent action of the Science and Technology Committee in bringing the fiscal year 1984 authorization bill for the National Aeronautics and Space Administration to the floor. I give my support willingly, and with the feeling that it's about time that funding for NASA achieved a reasonable mark of stability. I offer my congratulations to the chairman and members of the Science and Technology Committee. Our space program has not always been so lucky.

In recent years, NASA has borne the brunt of shortsighted and parsimonious fiscal policies. Indeed, many of the research and development activities of the Federal Government have felt the impact of these policies. These actions are not only foolish, they are dangerous. R&D is the bedrock for future growth of our Nation's economy. It is recognized by most people both in and outside of Government that the relationship between R&D and future economic health is not illusory. The connection is quite real. The processes and materials which are discovered, developed and improved with today's R&D dollars make the industrial products of the future. Nowhere is this more true than with the investments made in NASA and our space program.

I use the word "investment" quite intentionally. The developments that have come from Federal expenditures in NASA are too numerous to catalog. There is no question in my mind that the Nation has received a very substantial return on its investment in NASA and in our space program. Unfortunately, this fact has not been completely understood by all of our colleagues and the current administration. More often than not, NASA's budget mistakenly has been used as one means for controlling Federal expenditures. Not only are such actions ineffective—just witness the incredible deficits we face today—but, by taking these actions, we are essentially eating our seed corn.

The exploration and use of space is a requisite for the future health of our Nation. We must expand beyond the boundaries which we face today. Therefore, it is incumbent upon us to utilize whatever means we may employ to effect such exploration and use. There is no finer space agency in the world than our own NASA. Indeed, there may be no more successful Government agency than NASA. Yet, even though this fact is known, the last several NASA budgets have been so severely constrained that irremedial harm may have occurred had this trend not been reversed. The committee's actions are a first step toward this needed change of attitude. But, and I caution my colleagues, such a reversal is only a first step.

I support the committee's actions because I believe that they represent this first step back to intelligent and sound fiscal policy for the use and exploration of space. Were I to believe that the committee feels that the recent increase in the NASA budget is in and of itself sufficient for the future, I would be opposed to the committee's actions. This authorization bill can only be viewed as a transition budget between the foolishly lean years of the past, and the present and future years of sound investment in needed R&D. After all, the NASA budget truly represents a long-term commitment to investment in R&D. Authorizations in the NASA budget are to be used for exploration of space, for research into the mechanisms for the beneficial use of space, and for the development of the materials and techniques by which space can be effectively used. Such purposes are the essence of R&D, and are a fitting expenditure for the Federal Government to make at constant, continued and meaningful levels.

An investment in space is critical to the future of this Nation. If we in the United States are to end up with anything more than a service economy, we must remain on the forefront of technology. This forefront is moving increasingly toward those industries which were not even in existence less than 30 years ago. Where did such industries come from? From the race into space, and from the technologies needed for that race. Private industry is increasingly looking toward space as a marketplace. Industry should be encouraged in this direction, and investments in NASA are the prime motivational tools by which the Government can encourage such investment. The Federal Government cannot abandon space. This has finally been recognized.

In this light, I lend my full support to the actions of the committee, and look forward to voting "yea" when the fiscal year 1984 NASA authorization bill comes up for vote. And it is my sincere hope that the fiscal year 1985 NASA budget will bear full witness to this farsighted and meaningful trend toward an increased and more stable NASA budget.

Mr. FUQUA. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. Andrews), a member of the committee.

Mr. ANDREWS of Texas. Mr. Chairman, I rise today in strong support of this NASA bill and would urge members of my freshman class to support it.

This bill will make possible continuation of the space shuttle program, the study of future space stations, and many other valuable and exciting programs that affect our national security, our weather forecasting and our communications.

Mr. Chairman, the Johnson Space Center is located in the area of my district and many of my constituents work at the Space Center. I want to mention the space shuttle program, which is an important part of that center. The most successful flight of the shuttle 6 took place just a few weeks ago. The shuttle program has already brought this country great scientific and economic benefits. With my colleagues' support of this bill, we can look forward to many more important successes, which will include the construction of permanent facilities in space, possibly including manned space stations, and a continuing revolution in communications through satellite technologies.

Mr. WINN. Mr. Chairman, I have no further requests for time at this time. I reserve the balance of my time.

Mr. FUQUA. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. Nelson), a member of the committee.

Mr. NELSON of Florida. Mr. Chairman, I support this NASA authorization bill. This legislation is essential for America to prepare for the challenges of the next quarter century.

This morning I discussed these challenges at the 20th Annual Space Congress held in Florida. My remarks there are relevant to this debate and I would like to share them with you:

Remarks by Congressman Bill Nelson to 20th Space Congress, Cocoa Beach, April 26, 1983

The allocation of dollars is the way the Federal government sets priorities among its many programs. A look at the 1984 Budget of the United States proposed by the Reagan Administration will give us a clue to Washington's thinking about America's space program.

The Administration has proposed an overall 3.9% increase in NASA's budget. Given the fact that inflation is anticipated to be 5.2%, the Administration's proposed budget for NASA will reduce real spending by a minus 1.3%. That is important to understand in comparison to the fiscal year 1983 NASA budget proposal which was a plus 5.3% real growth for 1983. The Congress raised the Administration's recommendation by $300 million. For 1984, the Science and Technology Committee added $170 million more than the President requested.

The proposed 1984 civilian space budget is $7.1 billion. That is still less than 1% of the federal budget—0.84% to be exact. Put another way, the interest we pay on the national debt is 14.3 times the NASA budget. Another way to look at it is that the civilian space program costs each taxpayer $66 per year. That is, the NASA budget is equal to the average spent by a citizen each year on a radio, a television or a stereo—all new equipment which would not be available without the benefit of spin-offs from space technology.

I believe that spending on the civilian space program is essential for the economic revitalization of the nation because it produces jobs, economic benefits, and boosts national morale and prestige. It should be self evident that the advancement and full utilization of America's space potential is inextricably entwined with America's best interest.

But, it is time for America to further act. It is time for America's government to commit the funds for a continued visionary exploration and use of space. In short, it is time to get this country moving again.

In 1969 we achieved the height of technology development with the landing of the Eagle. In 1981 we introduced new technology to the world with the successful flight of our fantastic flying machine.

Now we must fully utilize the shuttle and expand our frontiers.

It is time for the President to commit this nation to the development and building of a space station. It should be a multi-purpose facility in low earth orbit. Such an orbital capability would use and complement the space shuttle's ability for human operations in space. Eventual long term habitation is a goal the United States should pursue.

Unfortunately, the Administration's policy commitment to "permanent space facilities" is ambiguous. Pronouncements by NASA and this year's budget request suggest uncertainty as to what the current course is.

This has not been the case in the past. Both Administrator Jim Beggs and Deputy Administrator Hans Mark called for the building of a space station during their U.S. Senate confirmation hearings in 1981. Even the President's space declaration announced July 4, 1982, after the landing of STS 4, supports a continuing positive space exploration program. The President said, "Beginning with the next flight, the Columbia and her sister ships will be fully operational and ready to provide economical and routine access to space for scientific exploration, commercial ventures, and for tasks related to the national security. Simultaneously, the President declared, "we must look aggressively to the future by demonstrating the potential of the shuttle and establishing a more permanent presence in space."

But the President did not commit us to the building of a space station.

I believe that there is a strong majority sentiment in the U.S. Congress for a space station in low earth orbit by the end of the decade. Furthermore I believe there is almost one hundred percent support within NASA itself for this project.

But only the President of the United States can make such a commitment. I enthusiastically urge him to do so.

Second, an announcement of the nation's goals should include a commitment to a specific national space program plan, complete with scheduled milestones. There needs to be long term commitment to add needed stability because stability itself, will go far toward insuring the vitality of U.S. accomplishments in space.

Third, the nation's space effort must be insured by a commitment to produce a fifth orbiter. Whether firm user commitments can justify a fifth vehicle at this time or not, there are far more important considerations. National security considerations are paramount. In addition, utilization of this new Space Transportation System for industrialization will require not only a fifth, but other orbiters as well.

I compliment the NASA leadership for its wisdom to include a budgetary request of $100 million for orbiter spare parts. Many members of Congress feel that this was an innovative way for the NASA Administrator to keep alive the production line for a fifth orbiter—since David Stockman's OMB nixed a fifth orbiter.

But the $100 million spare parts slush fund is not enough. It is understandable then, recently the House Science and Technology Committee, contrary to the President's Office of Management and Budget, has authorized an additional $50 million to keep the production line open for the fifth orbiter.

I appreciate the delicacy of the situation for Jim Beggs and Hans Mark. I think that they are true professionals and are doing their best in dealing with the OMB shop. It is true that David Stockman has an enormous task—to cut federal spending. But he has not been wisely advised on space policy. For example, in a letter dated June 14, 1982, to Beggs from Stockman, he directed NASA to use the shuttle just for government. The letter states ". . . it should not be assumed that the U.S. government should have the responsibility to fund an operational system with sufficient capability to meet non-U.S. government needs. . . ."

If that letter were to become NASA policy, the very philosophy of the space shuttle would be reversed.

Since the late 60's it was NASA's intention to develop the shuttle as an economical way to access space—for both government and non-government users. As a reusable system, the cost per flight is reduced and it becomes competitive with other launchers. If the Stockman philosophy were to become law, non-government users would disappear. The flight frequency of the shuttle would diminish. The cost per flight would dramatically rise. And the reusable characteristics would not be fully utilized.

Basically I believe that NASA has wisely ignored the Stockman letter.

There is a brilliant future for non-government use of the shuttle. For example, one of the most exciting project is called electrophoresis. It involves obtaining certain porteins and cells by separating them from other biological materials in the weightlessness of space. This particle separation in space could produce the quantity and purity to treat such diseases as diabetes, emphysema, dwarfism, thrombosis, and viral infection. But for private enterprise to commit the upfront investment money needed for a new space processing program, it must have a firm commitment that there will be future space available on the shuttle. Note that communication satellite businesses do have the alternative of Ariane. But space processing requires retrieval and is only able to use the shuttle.

The reserved space must be guaranteed and an adequate orbiter fleet must be provided. America's commitment to pharmaceutical manufacturing and industrialization must be firm.

Now for a more terrestrial matter. Public Law 96-344 mandates NASA to preserve its historically important sites. Congress should provide NASA with the funds to accomplish this task. There are a few sites of pre-eminent importance and most of them are right here in the shadow of the Cape. We are living in watershed time in history. The pad and launch tower from which the first American astronaut soared into space is in present danger of near collapse. Congress cannot expect NASA nor the Air Force in their already constrained budgets to make this expenditure.

Such is the recent drama with the proposed demolition of the Saturn V Launch Umbilical Tower from which Americans first flew to the moon and from which America launched to rendezvous with the Soviets. Happily, the Science and Technology Committee, along with a commitment from the Appropriations Subcommittee, have provided $1.8 million so that NASA can dismantle the tower in a way that it can be reassembled at an appropriate site. We should preserve this last remaining historic launch tower from being cut up for scrap iron. I report to you that I am confident that NASA will insure this preservation option for the benefit of future generations of Americans.

Now for one final terrestrial matter—that almost sent me into orbit. Most major disputes in the world involve a matter of turf. Nations war against nations over turf. Congressional Committee Chairmen rule over their turf very protectively. Indeed, there are even turf squabbles within a futuristic agency such as NASA.

Such was recently the case in an attempt to transfer 700 USBI employees from Kennedy Space Center to the Marshall Space Flight Center in Alabama. NASA evaluated and finally decided that "there was no sound basis for such a location change of the Solid Rocket Booster refurbishment operation." Needless to say I support that intelligent decision.

This recent turf war and resulting armistice masks a future of increased activity for most NASA Centers.

I see a future for the Kennedy Center as one of total shuttle operations including complete hardware refurbishment.

I expect the Johnson Space Center to continue as the "lead center" with overall space management, including life support and support systems as well as operational control of the space station.

I envision a brilliant future for the Marshall Space Flight Center in the development and maintenance of the space station through power systems, orbital transfer vehicles, and guidance and control.

Healthy competition and not war over turf should be the order of the day.

Next fall we will begin a year-long celebration NASA's silver anniversary—25 years devoted to opening the space frontier. In the next quarter century we should build on the technology base of NASA's first quarter century.

The future of space can be as glorious as the first 25 years. We can expand man's knowledge, extend man's reach to the limits of our solar system, and make space the habitat of an exciting future in communications, materials processing, energy harnessing, and exploration for the sake of knowing who we are.

I find this enormously exciting and I know you do too—for we will continue to be privileged to share in this great adventure for all mankind.

Mr. Chairman, I rise enthusiastically to support my chairman and my committee for this product on the NASA authorization bill.

I think it is important to realize that in the request that was made from the administration to the Congress for NASA authorizations, it was a request of a 3.9-percent increase for fiscal year 1984; but at the same time in the request, the budget proposed by the President assumed that inflation in fiscal year 1984 would be 5.2 percent; so if you factor out the inflation from the request, you have a proposal for a negative growth in the NASA budget for fiscal year 1984 over 1983 of a minus 1.3 percent.

I make this statement preparatory to explaining why in my judgment NASA being raised $170 million over the President's request is a reasonable and understandable and judicial allocation of the moneys to a very futuristic government agency, as we are dealing in a high-technology age and society.

I am happy to come to the floor and lend my support to this legislation.

Mr. FUQUA. Mr. Chairman, I yield myself such time as I may consume in order to enter into a colloquy with the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I am happy to yield.

Mr. GLICKMAN. Mr. Chairman, I would like to inquire about the committee's position with regard to NASA's withdrawing from the energy programs and particularly their withdrawal from the Department of Energy's wind program.

Mr. FUQUA. Well, there are no provisions in this authorization bill which provide for withdrawal or transfer of those activities from NASA. Previous authorizations have also stated Congress intent to maintain these activities and specifically the wind activity at the NASA Lewis Research Center. Our intent was to maintain that long-term activity commensurate with the Government's involvement in wind energy research.

Mr. GLICKMAN. I understand NASA has been negotiating a withdrawal from the wind program with the Department of Energy; is that correct?

Mr. FUQUA. Well, I understand that some NASA staff have pursued this course. It is not in the best interests of this country to transfer this activity to another organization for two basic reasons. First, a large investment to develop this technology is already in place at NASA Lewis; and second, it would be more expensive to redevelop this capability at another institution. Wind technology has been an adaptation of previous NASA structural and aerodynamic knowledge and is still very closely supported by continuing NASA developments in these areas. There are no technically or economically valid reasons for transferring the wind activity from the Lewis Center.

Mr. GLICKMAN. I thank the gentleman.

Mr. HOYER. Mr. Chairman, I rise in support of H.R. 2065, and I commend the Committee on Science and Technology for its fine work on the NASA budget, particularly under the current fiscal constraints facing the Nation. H.R. 2065 authorizes NASA to spend $7.26 billion in fiscal year 1984, a 6-percent increase over this year's level, and an increase of $161.7 million over the administration's proposal. Such increases reflect a conscious effort on the part of the House of Representatives to maintain and support the exemplary dynamism that characterizes our space program today.

One program, in particular, offers an exciting new vista of opportunity—that of the development of the Venus radar mapper mission. The VRM represents the first new start in planetary exploration in the last 6 years. Planned for a 1988 launch, the VRM will be the only U.S. planetary mission besides Galileo to be launched in the 1980's.

In addition, $45 million over the administration's budget request is included for a space telescope. This is just one of the instruments scientists are hoping to have available to study Halley's comet when it returns to the Earth's vicinity in 1985-86.

These programs are designed to uncover the exquisite secrets of the cosmos. Some say that our current economic climate calls for a postponement in space research and development. I disagree. The exciting and innovative programs being worked out by the talented men and women of NASA have the potential to aid us in solving some of our current economic problems. We know that research and development completed in past missions have been translated and used to make vital new processes for many industries in the private sector. The built-in exponential function of power and talent at NASA will undoubtedly yield further technological advances.

The Fifth Congressional District of Maryland, which I represent, is fortunate to have the Goddard Space Flight Center within its boundaries. Goddard employs 3,623 men and women who expend 100 percent of their efforts on research and development. I am pleased to see that 80 percent of this authorization is slated for research and development. In fact, Goddard will be playing one of the key roles in the scientific development of the space telescope.

As an integral part of the National Aeronautics and Space Administration, Goddard contributes to our effort to maintain a strong technological base, critical to future development. It strengthens our national security and Goddard plays a key role in maintaining our leadership in space and aeronautical technology.

Mr. Chairman, I strongly support the committee's authorization for NASA. Not only does it reaffirm this country's commitment to the development of a powerful national space and aeronautics program, but it fosters and encourages at NASA the continued vitality and creativity which has characterized our space policy for the past 25 years.

● Mr. TORRICELLI. Mr. Chairman, recent materials processing experiments on board space shuttles *Columbia* and *Challenger* exemplify the real potential for medical and commercial uses of space. Industry, NASA and university researchers in studies of a process known as electrophesis, may have discovered something as revolutionary as penicillin. Unlike penicillin, however, the discovery of this process, which when used in space may produce pharmaceuticals in much greater quantity and with higher purity than economically achievable on Earth, is no accident. Years of basic research, analysis, concept testing, and technology development have gone before and will need to be continued if the full potential of this program is to be realized. Industry—such as Johnson & Johnson in New Jersey—shows a willingness to invest in materials processing if provided with the assurance of continued access to the shuttle transportation system.

The healthy growth of this budding industry and the resulting boost it will give medical science and the United States economy, depends upon our continued support of materials processing research and the civil space shuttle program.

This bill in providing for the production readiness for a fifth orbiter and a new university center for basic research assures the continued advancement of this important area of study and has my full support.

Since the beginning of NASA's research in materials processing significant discoveries have been made in our understanding of the effects of the unique low-gravity space environment on the processing of biochemical, crystalline, and metallic materials. Of notable significance is the work recently done in a NASA-industry joint venture on the separation of organic materials in space by a process called electrophoresis. This process, used in space, can produce pharmaceutical substances 400 to 800 times faster and with a purity 5 times greater than is achievable on Earth. The significance of this accomplishment, in the words of one industry spokesman, "could lead to dramatic breakthroughs in the treatment of * * * diabetes, emphysema, dwarfism, thrombosis, and viral infection." I believe electrophoresis, having been successfully tested during the fourth and sixth shuttle flights, has the potential to expand into a viable new industry based on NASA space shuttle technology. This will translate into economic growth and new jobs for Americans.

No other country nor any private firm, however, has the operational capability to transport payloads to and from space. The space materials processing industry must therefore depend on the NASA space transportation system. We must in turn take measures to insure the space transportation system's reliability and availability to commercial users. I believe the provisions of this bill, coupled with careful NASA management, will provide for such a system.

It should be mentioned at this point that while fiscal restraint is necessary and applied research is important, we cannot allow NASA's funding to universities for basic research to continue to erode. NASA's success in the applied sciences can hardly continue in the absence of significant supporting basic research. The NASA materials processing in space program is continuing to build its research capability in electrophoresis and other areas. However, to fully exploit the proven potential for space-borne separation and purification of organics this bill funds a new university center for basic research that will work with NASA and commercial firms to further explore this important area of study.

Again, Mr. Chairman I reiterate my full support of this bill and urge my colleagues to vote for it.●

● Mr. BATEMAN. Mr. Chairman, commercialization of Earth remote sensing systems, especially with regard to weather satellites, raises serious public policy questions involving national security, continuity of data, and cost to the Federal Government that appropriately should be resolved by Congress.

Section 202 of title II of the NASA Authorization Act, 1984, provides as amended by the Committee on Science and Technology, that the Secretary of Commerce may not transfer any remote sensing satellites or associated ground facilities unless Congress first enacts a law containing the policies, procedures, limitations, and conditions that will apply to any such transfer.

To assist in the formulation of such a law, section 202 requires the Secretary to submit to the appropriate committees of both Houses a comprehensive statement of his recommended policies, procedures, conditions, and limitations, which he feels should govern such a transfer.

My amendment, as adopted by the committee, was intended to provide that the policies established by Congress govern the formulation of a commercialization proposal. Thus it is my hope that the Secretary will act quickly, perhaps within 60 days, to submit his recommendations, so that Congress may have the benefit of these in enacting appropriate legislation in this area in a timely fashion. The Secretary and any potential bidders should be assured that in formulating and responding to a request for proposal, that they are acting under guidelines that reflect the intent of Congress.●

● Mr. BOEHLERT. Mr. Chairman, I rise in support of H.R. 2065, authorizing appropriations for the National Aeronautics and Space Administration for fiscal year 1984.

In order to insure that there is no misunderstanding between NASA and FAA or among others who may have an interest for budget or executive direction purposes, the respective complementary roles of the two agencies were defined in a recent exchange of views between the Administrator of NASA and the Administrator of FAA. In summary, it was agreed that although both NASA and FAA have broad charters in aeronautics, the implementation is mutually supportive. FAA has been given the responsibility for R&D in the air traffic and airway facilities area which is being aggressively carried out in the development of a revitalized system as described in the FAA's national air-space system plan. On the other hand, FAA has relied almost entirely on NASA for carrying out the Federal responsibility in the aeronautical R&T FAA does not see itself as having a role in conducting long-term aeronautical R&D and relies completely on NASA for long-term or developmental efforts. FAA does, however, supply safety regulations perspective and technical input as guidance to NASA.

The FAA has requested that NASA strengthen its civil aeronautical R&T particularly in safety related aeronautical R&T. Discussions between NASA and FAA personnel have identified a number of aeronautical R&D areas in which NASA's expertise and facilities would be especially valuable to FAA and important to aviation.

Examples include: Fireworthy materials, crashworthiness design methods, wake vortex alleviation and detection, aircraft runway interactions, uncontrolled spins, integrated flow management, threat alert and collision avoidance system (TCAS), mode S data link, human factors, advanced navigation systems, vertical separation standards, helicopters, and microwave landing system (MLS). Many of these activities are being conducted jointly now with the FAA. Also, negotiations are underway to expand NASA support into new areas such as satellite technology and applications in the national airspace system and the advanced simulator program.●

● Mr. FRENZEL. Mr. Chairman, H.R. 2065, the fiscal year 1984 authorization for NASA, is not a bad bill. The Science and Technology Committee reported a responsible and comprehensive bill, and I compliment them.

Nevertheless, because of budgetary reasons, I shall not support H.R. 2065. Although this bill does not appropriate budgetary authority, and some would argue that it is not even scorable against budget resolution targets or the President's budget request, I maintain that it is over the President's request by $162 million, and therefore should not be passed.

Congress should begin to exercise budget control now. We going to be under budget limits instead of exceeding them. The $162 million overage in the NASA authorization is not a huge sum in relation to our total budget, but it could be symbolic as a starting point for budgetary restraint.

We cannot expect to lower the skyrocketing deficits without reducing spending. Therefore I will vote against this authorization.●

● Mr. BROWN of California. Mr. Chairman, I rise to indicate my support for this bill and to urge my colleagues to vote for it.

I would like to congratulate the gentleman from Florida (Mr. FUQUA), the chairman of the Committee on Science and Technology, for bringing the bill to the floor. I would also like to recognize the leadership of the two subcommittee chairmen involved, Mr. GLICKMAN and Mr. VOLKMER.

And as usual we have worked closely with our distinguished colleagues on the other side in bringing out the bill. I want to acknowledge the hard work and cooperation of the gentleman from Kansas (Mr. WINN) our ranking member, and also of the ranking members of the two subcommittees, Mr. LUJAN and Mr. CARNEY.

Mr. Chairman I support the bill for several reasons, but in my remarks I will emphasize only three. First, the bill begins to restore a vigorous program of planetary exploration. Second, it begins to deal with the issue of commercialization of space technologies, particularly the commercialization of our remote-sensing satellites.

In adopting an amendment offered by the gentleman from Virginia (Mr. BATEMAN) the committee made the specific point that the Congress should be involved early in establishing the policies, procedures, conditions, and limitations under which a transfer to the private sector could occur.

And finally, the bill implicitly recognizes the importance of a strong civilian space program, an importance that is made explicit on page 15 of the accompanying report.

Mr. Chairman, let me now expand on the points I have alluded to. First I want to discuss the value of a program of planetary exploration.

At a hearing before the Space Science and Applications Subcommittee, President Marvin Goldberger of Cal Tech made a statement which I think is worth repeating. He said of planetary exploration that it may not contribute to defense, but it certainly makes the country worth defending. I think that is a great value, but I also believe that by generally expanding our technical capabilities the planetary program does contribute to our national strength.

One technology area in which the planetary program contributes is automation. Because many planets are far away, spacecraft in orbit around them or landed on them cannot be controlled directly from Earth. The transmission of radio signals just takes too long. So such spacecraft must be designed and built to run themseves with a minimum of instruction from controllers on Earth.

A good example of this automony is the Viking mission to Mars. Two spacecraft went to Mars in 1975 and each separated into an orbiter and a lander. These were designed for 90 days of intense observation, but they lasted years after that. The reason was that they were designed with high reliability and with a great deal of autonomy so that a very small ground crew could keep them running. Orbiter 2 operated until 1978, Lander 2 and Orbiter 1 until 1980, and Lander 1 was still acquiring data in an automatic mode until recently. This performance makes a convincing argument that the planetary program contributes to our technological strength and to the intellectual capital our society possesses.

But, of course, the main contribution the program makes is in widening the scope of our knowledge. By learning about the atmosphere and geology of other planets we can learn more about our own. We can better understand our weather and climate, and better understand the geophysical processes that form valuable mineral deposits. The potential value of such understanding is evident.

However, recent NASA budget requests have not clearly reflected this value. There has been only one new mission in the budget—the Galileo mission to Jupiter—and the research and operating budgets have been cut back. Indeed the budget for fiscal 1983 was accurately characterized as a "going-out-of-business budget." The research community was being starved, so there would have been virtually no one to analyse the data that Galileo would eventually return. The funding levels were such that existing, healthy spacecraft—for example, Pioneers 6 through 11—would have to be turned off.

It was around this time that the President's Science Adviser answered a question on what kind of planetary program he would support by saying "a good one." Clearly he did not feel the existing NASA program merited support. In an interview published in the Planetary Report, the Deputy Administrator of NASA stated NASA's goals in space as follows:

> We do missions related to the national security, we do commercial missions and we do scientific missions, in that order of priority.

When asked whether he thought there was a crisis in our exploration of the solar system he answered:

> I don't agree that there is a crisis. We've got things on the books, like the space telescope, that are exceedingly interesting.

He went on to say that further planetary exploration would probably have to wait for better launch vehicles.

I mention these remarks of the Science Adviser and the NASA official to indicate that it was not simply budgetary pressure that was hurting the NASA planetary program. There was a conscious downgrading—for the NASA leadership knows very well that space telescope is not a planetary program. It is no wonder that the planetary budget suffered.

Fortunately the Congress was able to restore some of the cuts in the planetary research budget, especially last year when $23 million were added, and the university research community has been able to survive. At the same time an ad hoc committee of the NASA Advisory Council was working on a new approach to planetary exploration.

The Solar System Exploration Committee was appointed by the Administrator of NASA to "translate the scientific strategy developed by the NASA Space Science Board into a realistic, technically sound sequence of missions consistent with that strategy and with resources expected to be available for solar system exploration." The committee was to focus its efforts on those missions planned for initiation in 1984 and 1985 and then "extend its considerations as far into the future as possible, certainly as far as 1995 * * *."

The first chairman of the SSEC was John Naugle in 1980 and 1981. The report that they have just issued took shape under its second chairman, Noel Hinners, 1981-82. The SSEC continues under the chairmanship of David Morrison.

Let me quote briefly what the SSEC report says about recommended goals of the planetary program:

> The SSEC identified four goals for solar system exploration. The primary goal continues to be the determination of the origin, evolution and present state of the solar system. Although great progress has been made in the last two decades in addressing this goal, there remain a number of questions of high scientific priority. Two additional goals include understanding the Earth through comparative planetary studies and understanding the relationship between the chemical and physical evolution of the solar system and the appearance of life, both of which require intensive study of other solar system bodies. Finally, the survey of resources available in near-Earth space is a new goal identified by the SSEC; it is essential that the relevant research be done before actual use of such resources can be contemplated.

To address these goals the SSEC developed a core program which provides a balanced approach to solar system exploration and establishes a critical level of flight activity that is necessary for a healthy scientific program. Very importantly, the core program is designed for implementation through a realistic, sustainable budget.

The committee made a major contribution by recommending several new approaches to reducing the costs of individual missions so that the core program can be accomplished within available budget resources. These approaches include; first, the specification of focussed science objectives; second, selection of missions that can be accomplished with existing technology; third, increased hardware inheritance between missions, including use of modules from Earth-orbiting spacecraft; and fourth, increased automation of mission operations.

The first four missions recommended are:

Venus radar mapper;

Mars geoscience/climatology orbiter;

Comet rendezvous/asteroid flyby; and

Titan probe/radar mapper.

They also recommended, first, a balanced set of subsequent missions to the terrestrial planets, the small bodies, and the outer planets; second, a planetary observer program analogous to the Explorer program; third, development of a relatively simple, modular "Mariner Mark II" spacecraft series for missions to the outer planets and asteroids; fourth, development of a common mission operations system to be shared by all missions; fifth, stengthening of NASA's research and analysis budget; and sixth, efforts to seek substantial international cooperation. Finally, they recommended that the core program be augmented by technologically challenging missions as soon as resources are available for expansion of the planetary budget.

Mr. Chairman, I am happy to say that the bill before us begins to implement the SSEC recommendations. The Venus radar mapper is funded as a new start. There is money in the budget to begin to define the other three specific missions recommended. The planetary research and analysis budget is increased. There is much more to be done in this area, but we have made a start toward revitalizing our planetary program, and for that reason alone the bill should be supported.

The commercialization of the land remote sensing system, Landsat, has been the subject of a great deal of discussion over the last few years. The intention of the previous administration, and of the present administration as well, has been to transfer the Landsat system to the private sector. While I am not opposed to this in principle, I have been concerned with the proposals I have seen so far that would require significant Government subsidies, if not guarantees, to private companies to operate the Landsat system.

I am not sure why we should prematurely transfer a system that may not be ready for commercialization, and ask the Government to pay more for what it is now getting by operating the system itself. The bill explicitly states the desire of the committee to be involved in any plans and negotiations involving the transfer of the Landsat system.

I endorse this desire strongly and can only say that if Congress is not included in early on in the plans, the commercialization of Landsat will have some rough going. We need to insure that competition of the system is nurtured, not stifled, by subsidies, in any transfer. We also need to insure continuity of service—this is particularly important for our international commitments.

Finally, Mr. Chairman, with all the talk recently about weapons systems in space I think it is important to point out the importance of keeping the National Aeronautics and Space Administration a civilian agency. Although I am strongly opposed to the weaponization of space I do not feel this is the forum for that debate. However, NASA's budget has increasingly felt the pressure of military-related projects. The shuttle program is a good example of this. Our good friend, the Senator from New Mexico, Mr. SCHMITT, worked long and hard to get the Department of Defense to pay more of its fair share for the shuttle program. He certainly was an advocate of the use of space for military purposes, but he felt strongly, as I do, that the civilian space agency should stay that way and should be exploited for its benefit to the civilian sector.

As I said this is not the place to debate the military uses of space, but the point I am trying to make is that no matter what side of that debate you are on, it is consistent with defending NASA as a civilian agency. And frankly, I think that the space program gets much of its support from the space science and exciting planetary work that NASA does. I find it shocking, for example, that NASA's planetary program only comprises 3 percent of NASA's entire budget. The mileage in terms of public acceptance that is gained from these spectacular planetary missions is impressive. Let us not forget that as we consider the long-term life of the agency.

Thank you Mr. Chairman, I ask my colleagues to support this bill.●

Mr. WINN. Mr. Chairman, I yield back the balance of my time.

Mr. FUQUA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule.

The text of H.R. 2065 reads as follows:

H.R. 2065

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1983:

(a) For "Research and development," for the following programs:

(1) Space transportation capability development, $1,979,400,000;

(2) Space transportation operations, $1,570,600,000;

(3) Physics and astronomy, $521,600,000;

(4) Planetary exploration, $215,400,000;

(5) Life sciences, $59,000,000;

(6) Space applications, $311,000,000;

(7) Technology utilization, $10,000,000;

(8) Aeronautical research and technology, $300,300,000 of which $20,000,000 is authorized only for activities in the Advanced Turboprop program which are designed to lead to a flight test no later than 1987.

(9) Space research and technology, $148,000,000; and

(10) Tracking and data systems, $700,200,000; and

(b) For "Construction of facilities," including land acquisition, as follows:

(1) Space Shuttle facilities at various locations as follows:

(A) Modifications for additional chillers for mission control center, Lyndon B. Johnson Space Center, $2,300,000;

(B) Modification to mobile launch platform, John F. Kennedy Space Center, $27,300,000; and

(C) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility, $11,700,000;

(2) Space Shuttle payload facilities at various locations as follows:

(A) Construction of cargo hazardous servicing facility, John F. Kennedy Space Center, $9,000,000; and

(B) Modifications to spacecraft assembly and encapsulation facility for cargo processing, John F. Kennedy Space Center, $3,000,000;

(3) Construction of frequency standards laboratory, Jet Propulsion Laboratory, $2,700,000;

(4) Modifications to space flight operations facility, Jet Propulsion Laboratory, $1,600,000;

(5) Construction of fluid mechanics laboratory, Ames Research Center, $3,900,000;

(6) Construction of aeronautical tracking facility, Hugh L. Dryden Flight Research Facility, $800,000;

(7) Modifications and addition for composite materials laboratory, Langley Research Center, $5,100,000;

(8) Modifications to 30- by 60-foot wind tunnel, Langley Research Center, $4,400,000;

(9) Modifications for small engine component testing facility, Lewis Research Center, $7,000,000;

(10) Modifications to icing research tunnel, Lewis Research Center, $3,600,000;

(11) Relocation of 26-meter STDN antenna, Spain, $1,700,000;

(12) Repair of facilities at various locations, not in excess of $500,000 per project, $19,500,000;

(13) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $24,500,000;

(14) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $250,000 per project, $4,800,000; and

(15) Facility planning and design not otherwise provided for, $9,200,000.

(c) For "Research and program management," $1,247,500,000, and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

(d) Notwithstanding the provisions of subsection 101(g), appropriations hereby authorized for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase of construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

(f) Appropriations made pursuant to subsection 101(c) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections 101(a) and 101(c), not in excess of $75,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided*, That, of the funds appropriated pursuant to subsection 101(a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 102. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (14), inclusive, of subsection 101(b)—

(1) in the discretion of the Administrator or his designee, may be varied upward 10 per centum, or

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 per centum,

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 103. Not to exceed one-half of 1 per centum of the funds appropriated pursuant to subsection 101(a) hereof may be transferred to and merged with the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 101(b) hereof (other than funds appropriated pursuant to paragraph (15) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 101(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments and (2) he determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of thirty days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (i) the nature of such construction, expansion, or modification, (ii) the cost thereof including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Sec. 104. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation,

(2) no account appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by subsections 101(a) and 101(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Sec. 105. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

Sec. 106. The authorization for space transportation capability development includes provision for the production activities necessary to provide for a fleet of four Space Shuttle orbiters, including the production of structural and component spares, necessary to ensure confident and cost-effective operation of the four-orbiter fleet.

Sec. 107. Title III of the National Aeronautics and Space Act of 1958, as amended, is amended by adding at the end thereof the following new section:

"MISUSE OF AGENCY NAME AND INITIALS

"Sec. 310. (a) No person (as defined by section 305) may (1) knowingly use the words 'National Aeronautics and Space Administration' or the letters 'NASA', or any combination, variation, or colorable imitation of those words or letters either alone or in combination with other words or letters, as a firm or business name in a manner reasonably calculated to convey the impression that such firm or business has some connection with, endorsement of, or authorization from, the National Aeronautics and Space Administration which does not, in fact, exist; or (2) knowingly use those words or letters or any combination, variation, or colorable imitation thereof either alone or in combination with other words or letters in connection with any product or service being offered or made available to the public in a manner reasonably calculated to convey the impression that such product or service has the authorization, support, sponsorship, or endorsement of, or the development, use, or manufacture by or on behalf of the National Aeronautics and Space Administration which does not, in fact, exist.

"(b) Whenever it appears to the Attorney General that any person is engaged in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.".

Sec. 108. Section 103(1) of the National Aeronautics and Space Act of 1958, as amended, is amended, by striking out " and (C)" and inserting in lieu thereof "(C) the operation of a space transportation system including the Space Shuttle, upper stages, space platforms, and related equipment, and (D)".

Sec. 109. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1984".

Sec. 201. There is authorized to be appropriated $29,336,000 for the fiscal year 1984 for the purpose of operating the land remote sensing satellite system, including provision for storage of a backup satellite.

Sec. 202. Notwithstanding title II of the National Aeronautics and Space Administration Authorization Act, 1983, the Secretary of Commerce shall not transfer the ownership or management of any civil land, meteorological, or ocean remote sensing space satellite system and associated ground system equipment unless, in addition to any other requirement of law—

(1) the Secretary of Commerce or his designee has presented, in writing, to the Speaker of the House of Representatives and the President of the Senate, and to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a comprehensive plan for the proposed transfer; and

(2) the Congress thereafter approves such transfer by law.

COMMITTEE AMENDMENTS

The CHAIRMAN. The amendments recommended by the Committee on Science and Technology printed in the reported bill shall be considered en bloc and shall be considered as having been read.

The Clerk will designate the committee amendments.

The committee amendments are as follows:

Committee amendments:

Page 2, line 10, strike out "$1,979,400,000" and insert "$1,999,400,000" in lieu thereof.

Page 2, line 13, strike out "$521,600,000" and insert "$566,600,000" in lieu thereof.

Page 2, line 15, strike out "$215,400,000" and insert "$220,400,000" in lieu thereof.

Page 2, line 18, strike out "$311,000,000" and insert "$306,000,000" in lieu thereof.

Page 2, line 22, strike out "$300,300,000" and insert "$311,600,000" of which $20,000,000 is authorised only for activities in the Advanced Turboprop program which are designed to lead to a flight test no later than 1987".

Page 3, line 1, strike out "$148,000,000" and insert "$143,000,000" in lieu thereof.

Page 3, strike out lines 12, 13, and 14, and insert in lieu thereof the following:

(B) Modifications to mobile launch platform, John F. Kennedy Space Center, including exercise of contract option to preserve launch umbilical tower (LUT), $29,120,000; and

Page 5, in line 10, strike out the period and insert in lieu thereof a colon, and after and below line 10 insert the following:

Provided, That the total amount authorized to be appropriated by this subsection shall be $5,000,000 less than the sum of the amounts contained in paragraphs (1) through (15) for individual projects.

Page 5, line 16, strike out "$1,247,500,000" and insert "$1,242,500,000" in lieu thereof.

Page 11, line 8, strike out in lieu thereof "fleet" and insert "fleet, as well as provisions for maintaining production readiness for a fifth orbiter vehicle."

Page 12, strike out lines 14 through 18.

Page 12, line 19, strike out "103(l)" and insert in lieu thereof "103(1)".

Page 12, after line 24, add a new Section 109 as follows:

Sec. 109. Notwithstanding any other provision of law, there shall be transferred to NASA three government-owned tracts of NASA-used land and improvements thereon (totalling approximately 33.5 acres) at Ellington Air Force Base, Texas, without any transfer of funds therefor.

and renumber the succeeding section.

Page 13, after line 8, insert "TITLE II".

Page 14, strike out lines 2, 3, and 4 and insert in lieu thereof the following:

a comprehensive statement of recommended policies, procedures, conditions, and limitations to which any transfer should be subject; and

(2) the Congress thereafter enacts a law which contains such policies, procedures, conditions, or limitations (or a combination thereof) as it deems appropriate for any such transfer.

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Mr. FUQUA. Mr. Chairman, I might point out that these are, as I mentioned in my opening remarks, some technical amendments that correct printing errors that occurred in the printing of the bill and the report. They reflect the position the committee took in action on certain amendments that were approved by the Committee on Science and Technology.

I might point out to the Members that if anybody has an amendment, they should offer it at this time because, under the rule, they would be precluded once this amendment is adopted. So I would put the Members on notice if they have any type of amendment to the bill changing funding priorities that now would be the time. Otherwise, the amendment reflects printing errors and also reflects actions of the Committee on Science and Technology when it took final action and reported this bill out of committee.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

Are there any further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Pickle) having assumed the chair, Mr. Swift, Chairman of the Committee of the Whole House on the State of the

Union, reported that that Committee, having had under consideration the bill (H.R. 2065) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, pursuant to House Resolution 164, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The **SPEAKER** pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LATIN AMERICAN POVERTY IS MAJOR CAUSE OF HEMISPHERE SOCIAL UNREST

(Mr. **ALEXANDER** asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. **ALEXANDER.** Mr. Speaker, this town is blessed with hundreds of first-rate of analysts the news, but none better than the Washington Post's Mary McGrory, by whom Washington and the Nation are both enhanced and graced.

Once again this morning, Mary is right on target. At a time when too many commentators and politicians are drifting, either apathetically or belligerently toward cold and hot war in Central America, Ms. McGrory reminds us of the bipartisan Linowitz Commission, which found that "the persistent poverty of two-thirds of the people of Latin America is the major cause of the hemisphere's social unrest * * *."

The Commission advised that we should negotiate with all parties in the region—including, if need be, Cuba and the Soviet Union. If these latter two countries are able to exploit suffering in Central America, then the failure to deal with this root cause is at least part of the reason.

I include Ms. McGrory's article at this point:

[From the Washington Post, Apr. 26, 1983]

In Central America, Reagan Would Rather Fight Than Listen

(By Mary McGrory)

Former secretary of state Edmund S. Muskie wondered about it. Gen. David C. Jones, former chairman of the Joint Chiefs of Staff, was "uncomfortable" with it.

Nonetheless, they, and David Rockefeller, too, signed the report of the so-called Linowitz Commission, which says in black and white that the United States should sit down and negotiate with all parties, including Nicaragua, Cuba and the Soviet Union, to bring an end to the bloody chaos in Central America.

Negotiation is a bad word at the White House—unless it's about long-term grain sales to the Soviets. It is "not bloody likely," as Eliza Doolittle would say, that anyone in the White House will pay the slightest heed to the recommendations of a distinguished group of U.S. and Latin-American citizens who spent six months studying the economic and human misery in Central America.

From administration noises on the eve of his dramatic speech to a joint session of Congress, it appears that the president would rather fight than switch.

U.N. Ambassador Jeane J. Kirkpatrick, the "La Pasionara" of our Latin American policy, said on the David Brinkley show that the Soveits and their friends are providing far more aid to their side than we are to ours.

House Minority Leader Robert H. Michel (R.Ill.) triumphantly heralded the Brazilian interception of a Libyan plane loaded with arms for Nicaragua as "a gift from God," which means, apparently, that Americans are about to be convinced that if they fail to support President Reagan they can expect a Red invasion of Texas.

Reagan has been hinting that he will not take the rap for "losing" El Salvador. If it goes down, he will lay it on Congress, which is resisting his demands for $110 million in emergency aid to the country and quibbling over his secret, although televised, CIA operation in Nicaragua.

He knows it is child's play to bully Congress. He has effortlessly shifted the discussion on Nicaragua from whether his course is right to whether it is legal.

Supposedly, the congressmen who are traveling to the area in history's first instance of a guided tour of a covert operation are going to question the ex-Somoza guardsmen who are leading the expedition as to whether they intend to overthrow the government. If they say yes, it will still be okay, because Reagan insists it is nothing more than a violent civics lesson—he just wants to harass the Sandinistas into "a more democratic form of government."

From the Reagan point of view, the real flaw with the Linowitz Commission, which was co-chaired by Sol Linowitz, negotiator of the Panama Canal treaties, and former Ecuadorean president Galo Plaza, is its premise: "The persistent poverty of two-thirds of the people of Latin America is the major cause of the Hemisphere's social unrest. . . . Poverty, inequality and injustice lead to politial protest and polarization."

According to Reagan theology, the source of hemispheric unrest is the Soviet Union. If the Kremlin and its Cuban cat's-paw stopped their arms shipments, the forces of good people—like Roberto D'Aubuisson, the little Salvadoran killer, and President Rios Montt of Guatemala, the born-again peasant-slayer, would bring peace and order to their people.

Elliot L. Richardson, former secretary of defense, chaired the panel on security and lobbied hard for the "many-sided dialogue"—between the governments and opposition movements in El Salvador, Nicaragua and Guatemala; between each of its neighbors; between Cuba and all the countries of Central America; "and between the U.S. and Cuba and the U.S. and Nicaragua respectively; as well as between the U.S. and the Soviet Union."

Muskie told Linowitz that he thought the Soviets would never come to such a parley because they deny activity in the region.

But the answer of Linowitz and Richardson is that even if they didn't show the other exchanges would produce a hemisphere-wide condemnation of foreign mischief. The United States, of course, would have to take a non-intervention pledge.

"If reciprocal and mutual security is to be fashioned in a region that has often experienced overt and covert U.S. intervention, it would be useful to provide unmistakable assurances that the U.S. will refrain from reverting to these practices," the report said.

The real reason, said Linowitz, for considering the commission's sensible solution is that the present policy is just not working.

"You have to focus on an alternative," he said.

But Reagan has turned a deaf ear to all previous suggestions for negotiations. He would rather stay the course, even, apparently, if it means sending in the Marines to teach Latin America about democracy.●

A PLAN FOR RECOVERY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. St Germain) is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, for the past 2 years we have heard that all our economic problems can be solved with lower budget deficits. Well, the House of Representatives has produced a budget plan that corrects the unfair and wasteful tax cuts and budget slashes of previous Reagan budgets. By moving forward to fairer taxes and a defense buildup we can afford, the House budget brings deficits down dramatically.

But those who feel that lower deficits are the only thing needed for a strong recovery have not been paying attention to our Nation's deteriorating industrial base. Our Nation needs a strong dose of affordable credit, productive investment, and simple human compassion if we are to recover from the Reagan recession.

I have spent my first 2 years as chairman of the House Banking Committee studying the varied needs of our economy, and looking for ways the Federal Government can help increase investment and promote economic growth, while assuring the basic fairness our society demands. In consultation with my subcommittee chairmen and many of my colleagues on the Banking Committee, I have developed a program that will help assure a strong, fair, and sustainable economic recovery.

My program has four facets: First, monetarism, the albatross around our Nation's neck since 1979, it must be lifted before we can fully recover our economic strength; second, housing and urban development—we have neglected the needs of our elderly, our poor, and our inner cities for too long; we must act to restore compassion to our national housing policies; third, trade and industrial policy—our productive capacity is aging into obsolescence before our eyes and we are being outmaneuvered by foreign competitors around the world; this cannot be tolerated; and fourth, the international debt crisis—this crisis now threatens the world trading and monetary system and we must take effective steps to reduce the chances of international bankruptcy that could drag us all down.

I would like to lay down the specifics of my proposal before this House, and I invite my colleagues' suggestions about these proposals. Many of these ideas are only in the formative stages, but I believe they must all be developed to assure our recovery.

MONETARY POLICY

Interest rates are still far above the rate of inflation, and the Federal Reserve must be convinced that tight money is not in our national interest. I believe monetary policy is crucial to recovery, and we must take the following steps:

LONG TERM

Macroeconomic monetary policy. I will work to assure that the congressional oversight function under Humphrey-Hawkins is used to keep interest rates down as the recovery progresses. The July 1983 Banking Committee hearings will review this Nation's experiment with monetarism and suggest amendments to the Federal Reserve Act, if necessary, to make monetary policy a stabilizing force, rather than a stagnating barrier.

Redefinition of monetary targets. In addition to the money supply targets and credit targets now provided, the Federal Reserve should supply explicit objectives for real GNP growth, unemployment, and inflation. The administration and Congress both provide the Nation with economic forecasts and objectives and must take responsibility for them. The Federal Reserve should also set targets, in the interest of full disclosure.

Credit controls. The American people have suffered 3 years of high interest rates, while corporate giants merged with one another and banks increased their profit margins. The House Banking Committee will consider legislation to extend and strengthen the 1969 Credit Control Act, which gave the President standby power to institute credit controls "to reduce high levels of unemployment in any sector of the economy or to prevent or control inflation or recession."

HOUSING AND URBAN DEVELOPMENT

Across the Nation, millions of Americans are without homes or are living in substandard housing. Thousands more are threatened with the loss of their homes as foreclosure rates reach a 30-year high. Single-family home construction has been at its lowest level since the 1930's, while multifamily construction is at a standstill. The progress made to improve our inner cities during the late 1970's has been undermined by the Reagan administration's economic and budget policies.

We must remember that the housing sector has led our economic recoveries throughout the postwar period and recognize that current community development programs continue to offer the most direct and efficient assistance to distressed communities. Therefore, I believe we must consider the following measures:

SHORT TERM

Emergency mortgage relief. The current recession has devastated the Nation's work force and forced many households into default on home mortgage payments. A family's largest lifetime investment and greatest source of security should not be stripped away because of deliberate unemployment policies followed by the Reagan administration. Our committee adopted legislation to extend temporary mortgage assistance to households facing foreclosure because of economic circumstances beyond their control. Adoption of such legislation must be a top priority of the Congress.

Emergency shelter assistance. An increasing number of Americans are without shelter and are turning to public facilities for assistance. Hundreds of homeless people continue to die each year from disease and exposure. I fully support Congress action earlier this year for an emergency shelter assistance program, as part of the current community development block grant (CDBG) program, to assist local communities in establishing and maintaining emergency shelters for the homeless.

New housing construction. While acknowledging that past and current programs to construct decent and affordable housing for the poor have been extremely costly, we must recognize the continued housing needs of our Nation's poor, as well as the severe shortages of decent, affordable rental housing that exists for middle-income families in many communities. We must maintain adequate levels of assistance for new construction of public housing, Indian housing, and housing for the elderly and handicapped. We must also develop more affordable alternatives to financing new housing construction for the poor and middle-income families.

Housing rehabilitation. A large segment of the Nation's public and private housing stock is deteriorating due to neglected repair and rehabilitation. Hundreds of needed housing units are lost each year because they are no longer safe for habitation. Rehabilitation offers an economical means of restoring and preserving existing housing for use and helps reduce the pressing need for new construction. At the same time, rehabilitation projects offer employment and training opportunities for construction workers. Increased funding is needed for the rehabilitation and public housing modernization programs of the Department of Housing and Urban Development and for housing rehabilitation under programs administered by the Farmers Home Administration.

Mortgage financing assistance. Sales of new and existing homes are now recovering from the disastrous levels of 1982. A large portion of recent home sales has been accommodated by reduced-cost financing provided through the FHA mortgage insurance program and, in rural communities, the subsidized home loan programs of the Farmers Home Administration. We must reject administration proposals that impose restrictive limits on FHA mortgage activity and virtually eliminate FmHA's rural home loan programs.

Community development block grants and urban development action grants. These programs constitute the core of our fight to restore the economic well-being of our Nation's inner cities and hard-pressed rural communities. Both programs target assistance to communities most in need, emphasize job creation, and provide the highest return per dollar of Federal investment. Full funding must be obtained for these programs in fiscal year 1984; indeed, additional funds should be channeled through both programs as part of any short-term economic revitalization proposal. State housing authorities and mortgage revenue bonds have also been used successfully to aid inner-city revitalization and should be continued.

TRADE AND INDUSTRIAL POLICY

The U.S. trade and industrial policies are a collection of grants, loans, and tax breaks that do not add up to a coherent or even consistent policy. Recovery will only set the stage for the massive structural adjustments necessary in the next decade. A trade and industrial policy aimed at easing the transition and promoting exports is crucial to our long-term economic health. We cannot abandon our basic industries, nor can we ignore the rising sectors. The following proposals should be part of any new industrial strategy:

SHORT TERM

Export-Import Bank. The Export-Import Bank has been one of our Nation's most successful trade programs, and is now more important than ever as our country's exporters fight against increased foreign competition and an overvalued dollar to maintain their market shares abroad. The Eximbank comes up for charter renewal this year, and a broad range of changes is being proposed in its lending and trade powers to make it a more aggressive and powerful advocate of U.S. exporters. The Eximbank must begin to serve small- and medium-sized exporters as well as the corporate giants. In particular, our Nation's hard-pressed textile manufacturers must obtain some aid from Eximbank. Since 35 percent of our GNP decline in the 1981-82 recession was due to a drop in exports, the Eximbank becomes a linchpin in our hopes for a sustained recovery.

Defense Production Act. Expeditious enactment of industrial base revitalization amendments to the Defense Production Act would be a large step toward assuring that our incipient recovery stays underway. The defense-industrial complex will have increasing problems filling its need for skilled workers, raw materials, and adequate financing. The Defense Production Act can be used to help match unemployed workers with training programs or employers who will prepare them to meet these needs. Material provision and financing arrangements can help ease bottlenecks and prevent increased defense spending from having a significant inflationary effect.

LONG TERM

National Cooperation Council. This council is envisioned as a way to provide representatives of industry, labor, and government with accurate and useful information on important matters of public concern. It is hoped that such a council would prevent a new wage/price spiral from developing through cooperation, and that new recession could be avoided through the same cooperative mechanism.

National Development Bank. Some form of development bank has been a major part of Democratic planning for industrial recovery. The bank would be established to offer affordable loans to basic industries attempting to modernize their plants as well as to rising industries in the service or high tech sectors that provide new jobs and new productive investment. This bank could also be authorized to lend to State and local governments that cannot afford to raise money on their own to invest in capital improvements. Chairman **Minish** of our General Oversight Subcommittee has already begun hearings on the bank proposals, and Chairman **LaFalce** of our Economic Stabilization Subcommittee has begun further hearings on the matter.

Exchange rates. Our Nation's dollar has been severely overvalued in the last year, which led to higher prices abroad for our exporters and a more rapid decline in trade than we would otherwise have experienced. A large part of that overvaluation was due to our high interest rates, but increasingly the overvaluation is due to the perceived safety of investments in the United States. Since the 1972 breakdown of Bretton Woods, exchange rates have fluctuated wildly, causing terrible inefficiencies in investment and job losses throughout the United States. In fact, a falling dollar exchange rate was used as the excuse for Federal Reserve Board conversion to monetarism in 1979. Now, proposals are surfacing on these and other matters that could bring balance back to our exchange rates.

Stretchouts of developing country debt. Much of the debt owed by developing nations is in short-term loans of 1 to 4 years in maturity. In many instances the loans finance projects such as hydroelectric plants which will take many, many years to become self-financing. Requiring developing nations to repay large debts in only a few years puts tremendous pressures on them and prevents them from completing their economic development programs. While it is true that many of the banks are arranging debt stretchouts, these efforts are conducted competitively—some banks are winners, some are losers, and the international financial system, at a time of great sensitivity, is subjected to all the risks that bank competition entails. If the governments of all the advanced nations would agree to work together and arrange debt stretchouts multilaterally, including provision for affordable interest rates on these stretchouts, the benefits to developed and developing nations alike could be obtained without increasing international risks.

LONG TERM

International supervision and regulation. The legal, regulatory, and supervisory framework governing international banking has evolved in each nation along lines intended mainly to meet national, rather than international, safety and soundness concerns. There are great differences and many loopholes in this framework which may have contributed directly to our present situation. We can and should take near-term steps to correct the domestic deficiences in how we oversee U.S. bank international activities. The more important international changes needed will require a multilateral commitment over many years by the advanced nations to structure a safer international banking system. Such a commitment and implementing actions are essential if we are to have a banking system capable of financing a worldwide recovery. My Subcommittee on Financial Institutions held hearings on this and other related matters on April 20 and 21.

Mr. Speaker, I know this is a long list of legislation and investigations, but I believe it addresses the long list of problems that this administration's neglect has left us facing. The time for partisan reaction is past. We must begin to propose constructive solutions to our economic dilemma, and I believe this list will help in the search for strong and sustainable economic growth.●

ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. **Rangel**) is recognized for 5 minutes.

● Mr. RANGEL. Mr. Speaker, I would like to take this opportunity to express my support of this effort to focus national attention on acquired immune deficiency syndrome (AIDS), a deadly and unrelenting disease which destroys the body's immune system.

A growing number of AIDS cases began surfacing in 1981. Since that time, the disease has struck 1,300 Americans, 486 of whom have died.

This disorder is one which has baffled the medical profession—and for just reason. To date, the disease's place of origin has not been determined, its cause is unknown, and its cure has yet to be found. To further complicate matters, doctors are not experiencing much success in treating victims with the disease. As a result, a victim's immunity system becomes increasingly weak, thus leaving him or her vulnerable to a host of other diseases.

Early records show that the disease primarily claimed homosexuals as its victims. However, more recent records show that the disease has spread among other groups as well, namely intravenous drug users, Haitians, hemophiliacs, and children. And, as time goes on, it appears that more and more heterosexuals are contracting AIDS. It is anticipated that by year's end, there will be 2,000 cases in the United States.

Mr. Speaker, while experts have begun studying this lethal disease, and its victims, more research and greater public awareness is obviously needed. It is my hope that this special order will help galvanize support toward this end.●

POLISH CONSTITUTION DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. **Panetta**) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I rise today to introduce legislation to designate May 3, 1983, Polish Constitution Day in commemoration of the 192d anniversary of the adoption of the Third of May Constitution and commitment to liberty and freedom it embodied. As my colleagues are aware, May 3 has traditionally been celebrated by the people of Poland and Americans of Polish ancestry as an important milestone in the advancement of democracy. It is only fitting that we take this occasion to pay tribute, as a nation, to the people of Poland and to all peoples who have struggled to further the cause of freedom.

The adoption of the first Polish Constitution on May 3, 1791, marked the beginning of a peaceful transformation in Poland that was to replace the repressive rule of a select few with a representative government under which equality of all citizens under law, majority rule through secret ballot, and religious tolerance were guaranteed for the first time. While Poland's experiment in liberty was fated to be but brief, falling victim to repeated occupation and annexation, it was through this historic document that the people of Poland were able to give lasting expression to their love of freedom and democracy.

The framers of the Third of May Constitution were moved by the same spirit and faith in humanity that inspired the American Revolution. In fact the United States owes a special debt of gratitude to two famous Polish patriots, Gen. Thaddeus Kosciuszko and Count Casimir Pulaski, who rallied to the call of our nascent nation, and in the case of Count Pulaski, gave his life for the cause of American freedom.

That darkness has befallen the proud Polish people does not speak of their shining contributions to the cause of freedom nor their courageous dedication to the principles of justice and liberty. Even today, despite the forcible suppression of individual and civil liberties, the indomitable spirit of the Polish people survives.

The enduring vitality of the Polish Constitution and its special relevance today is not merely the democratic state sought to be laid on its foundation, but the promise it embodies of a better future built upon the timeless principles of liberty, equality, and justice. To quote from the Constitution of 1791:

> In human society all authority originates from the will of the people.

I urge all my colleagues to join me in commemorating that proud triumph in 1791 when Poland immortalized her people's love of freedom in a democratic constitution. Let us hope and pray that one day we will again see a free Poland, fulfilling its heritage and its destiny.

The text of the resolution follows:

H.J. Res. 251

Joint resolution designating May 3 as "Polish Constitution day"

Whereas on May 3, 1791, the people of Poland adopted the first democratic constitution in Continental Europe, marking an important milestone in the struggle for democracy; and

Whereas the expressions of religious tolerance and declared equality of all citizens under law set forth in the extraordinary document echo many of our own country's most cherished values; and

Whereas Polish heroes Thaddeus Kosciuszko and Count Casimir Pulaski assisted George Washington and the Continental Army in America's struggle for independence; and

Whereas for over one hundred and ninety years the people of Polish descent throughout the world have observed the anniversary of the adoption of the first Polish Constitution and have paid tribute to the principles of freedom and equality it embodied; and

Whereas the cultural and intellectual tradition of the Western world is deeply imbued with the heritage of the Polish people including well known contributions in the fields of science, art, music and literature; and

Whereas the courageous commitment of the Polish people to human dignity and individual freedom has endured through the centuries despite conditions of tyranny imposed upon the nation: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the day May 3, 1983, is hereby designated "Polish Constitution Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Bilirakis (at the request of Mr. Michel), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Torricelli) to revise and extend their remarks and include extraneous material:)

Mr. St Germain, for 5 minutes, today.

Mr. Rangel, for 5 minutes, today.

Mr. Gonzalez, for 30 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Kennelly, for 5 minutes, today.

Mr. Panetta, for 5 minutes, today.

Mr. Rodino, for 10 minutes, today.

Mr. Alexander, for 60 minutes, April 27.

Mr. Murphy, for 60 minutes, April 28.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Sundquist) and to include extraneous matter:)

Mr. Moorhead in two instances.
Mr. Lent in two instances.
Mr. O'Brien.
Mr. Coughlin.
Mr. Gilman.
Mr. Bliley.
Mr. Erlenborn.
Mr. Thomas of California.
Mr. Fish.
Mr. Sawyer.
Mr. Hansen of Utah.
Mr. Kemp.
Mr. Porter in three instances.

(The following Members (at the request of Mr. Torricelli) and to include extraneous matter:)

Mr. Rodino.
Mr. Hertel of Michigan.
Mr. Mazzoli.
Mr. Rangel.
Mr. Frost.
Mr. Sikorski.
Mr. McDonald in five instances.
Mr. Lehman of Florida.
Mr. Ottinger.
Mr. Panetta in three instances.
Mr. Matsui.
Mr. Borski.
Mrs. Kennelly.
Ms. Mikulski.
Mr. Ackerman.

Mr. Hoyer, to revise and extend his remarks in support of the NASA authorization bill, H.R. 2065, during general debate.

ENROLLED JOINT RESOLUTION SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 245. Joint resolution to correct Public Law 98-8 due to errors in the enrollment of H.R. 1718.

ADJOURNMENT

Mr. TORRICELLI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 19 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, April 27, 1983, at 12 noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the first quarter of calendar year 1983 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1983

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
John McCain, MC	2/10	2/14	Germany		[3] 976.00						976.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Mr. McCain reimbursed the U.S. Treasury $976, the entire amount received from the U.S. Embassy in Germany.

MORRIS K. UDALL, Chairman, Apr. 7, 1983.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RULES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1983

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
David E. Bonior, MC	1/8	1/11	Peru		315.50						315.50
	1/11	1/17	Brazil		723.58		242.32		100.56		1,066.46
	1/17	1/21	Chile		657.07				76.36		733.43
	1/21	1/24	Argentina		278.20		4,086.00				4,364.20
Anthony C. Beilenson, MC	2/12	2/13	Italy		89.00		1,630.68				1,719.68
	2/13	2/16	Israel		300.00		579.96				879.96
	2/16	2/18	Egypt		282.00		406.73				688.73
	2/18	2/19	Cyprus				361.54				361.54
	2/19	2/19	Lebanon				144.15				144.15
	2/19	2/21	Saudi Arabia		492.00		941.50				1,433.50
	2/21	2/23	Tunisia		150.00		941.50				1,091.50
	2/23		United States				1,883.00				1,883.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CLAUDE PEPPER, Chairman, Apr. 21, 1983.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1983

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Benjamin A. Gilman, MC	2/14	2/14	Frankfort, Germany				[3] 1,499.00				1,499.00
	2/14	2/15	Vienna, Austria	2,153.30	127.00						127.00
	2/15	2/15	London, England								
	2/15		New York, N.Y.								
Committee total					127.00		1,499.00				1,626.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Air transportation.

CHARLES B. RANGEL, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JANUARY AND MARCH 1983

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Oliver, R. Spencer	1/7	1/8	Finland		190.00		[3] 2,289.73				
	1/9	1/12	U.S.S.R		534.00						
	1/13		Austria		86.00		[4] 939.67				
	1/14		Luxembourg		75.00		[3] 19.28				
	1/15	1/16	Belgium		100.00						
	1/17		Germany to United States		90.00						

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JANUARY AND MARCH 1983

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
D'Amato, Alfonse	2/4	2/7	Italy to United States		[6] 500.00		1,357.00				
Finerty, John J.	2/6	2/18	Madrid, Spain to United States	125,955	1,050.00		1,705.00				
Richmond, Yale	2/6	2/26	Madrid, Spain to United States	193,020	1,500.00		1,705.00				
Sletzinger, Martin	2/6	3/1	Madrid, Spain to United States	231,779	1,800.00		1,446.00				
Committee total					5,985.00		9,461.68				
Edwards, Barbara	2/6	3/4	Madrid, Spain to United States	260,932	2,025.00		737.00				
Deychakiwsky, Orest	2/6	3/26	Madrid, Spain to United States	477,224	3,675.00		737.00				
Davidson, Lynne	2/6	3/26	Madrid, Spain to United States	477,224	3,675.00		1,185.00				
Oliver, R. Spencer	2/10	2/13	Germany	614.55	255.00		(7)				
	2/14	2/17	Madrid, Spain to United States		225.00		534.00				
Wise, Samuel G.	2/20	3/6	Madrid, Spain to United States	135,134	1,050.00		1,185.00				
Sneddon, John	2/27	3/26	Madrid, Spain to United States	274,628	2,100.00		1,705.00				
Oliver, R. Spencer	3/4	3/23	Madrid, Spain to United States	196,605	1,500.00		3,305.00				
Committee total					14,505.00		9,388.00				
Donovan, Margaret A.	2/28	3/14	Madrid, Spain	146,602	1,125.00		2,961.00				
	3/15	3/18	Israel		300.00						
	3/19	3/26	Madrid, Spain to United States	88,710	675.00						
Local travel costs in Madrid	2/6	3/26	Madrid, Spain				363.41				
Commission rental car	2/6	3/26	Madrid, Spain				847.53				
Committee total					2,100.00		4,171.94				

[1] Per diem constitutes lodging and meals. [2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended. [3] Codel Lantos. [4] Commercial aircraft. [5] Train to Brussels. [6] Estimate. [7] Codel Tower.

DANTE B. FASCELL, Chairman, Mar. 31, 1983.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

997. A letter from the Acting General Counsel, U.S. General Accounting Office, transmitting a report on the status of budget authority that was proposed for rescission, but for which Congress failed to pass a rescission bill, pursuant to section 1011 of the Impoundment Control Act; to the Committee on Appropriations.

998. A letter from the Secretary of Housing and Urban Development, transmitting the annual report for 1982 on Indian and Alaska Native housing and community development programs, pursuant to section 4(d) of the Department of Housing and Urban Development Act, as amended; to the Committee on Banking, Finance and Urban Affairs.

999. A letter from the Deputy Secretary of the Treasury, transmitting a draft of proposed legislation to authorize the appropriation of funds for the improvement of mint facilities; to the Committee on Banking, Finance and Urban Affairs.

1000. A letter from the Secretary of Labor, transmitting the annual report for calendar year 1981 on the administration of the Fair Labor Standards Act of 1980, as amended, pursuant to section 4(d)(1) of the act; to the Committee on Education and Labor.

1001. A letter from the Acting Administrator of the Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend the Toxic Substances Control Act, as amended, for 2 years; to the Committee on Energy and Commerce.

1002. A letter from the Under Secretary of State for Management, transmitting notice of proposed amendments to two Privacy Act record systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1003. A letter from the Acting Director of the U.S. Information Agency, transmitting notice of proposed new Privacy Act record systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1004. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use and distribution of the judgment funds awarded to the Ute Tribe in Docket 342-70, 343-70, 523-71 and 524-71 before the U.S. Court of Claims, pursuant to section 2(a) and 4 of Public Law 93-134; to the Committee on Interior and Insular Affairs.

1005. A letter from the Chief Justice of the United States, transmitting rules governing practice and procedure in bankruptcy cases under title 11, United States Code, adopted by the Supreme Court (H. Doc. No. 98-52); to the Committee on the Judiciary and ordered to be printed.

1006. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on Baldwin Hills, Calif., together with other pertinent reports, pursuant to a resolution adopted by the Committee on Public Works, U.S. House of Representatives, July 26, 1979, and a resolution adopted by the Committee on Public Works, U.S. Senate, June 25, 1969; to the Committee on Public Works and Transportation.

1007. A letter from the Secretary of Agriculture, transmitting a report on the elderly feeding pilot projects (EFPP); jointly, to the Committees on Agriculture and Appropriations.

1008. A letter from the Secretary of the Department of Agriculture, transmitting a draft of proposed legislation to amend the act of May 27, 1955 (69; 42 U.S.C. 1856-1856d), to permit the use of firefighting forces of foreign nations and the reimbursement of such forces for costs incurred in fighting wildfires throughout the United States, and for other purposes; jointly, to the Committees on Government Operations and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FUQUA: Committee on Science and Technology. H.R. 2066. A bill to authorize appropriations to the National Science Foundation for fiscal years 1984 and 1985; with amendments (Rept. No. 98-73). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. LOTT (for himself, Mr. KEMP, Mr. DANNEMEYER, and Mr. HYDE):

H.R. 2732. A bill to provide equal access and opportunity to students in public schools and public colleges and universities who wish to meet voluntarily for religious purposes; to the Committee on Education and Labor.

By Mr. BROWN of California:

H.R. 2733. A bill to extend and improve the existing program of research, development, and demonstration in the production and manufacture of guayule rubber, and to broaden such program to include other critical agricultural materials; jointly, to the Committees on Agriculture and Science and Technology.

By Mr. ERLENBORN:

H.R. 2734. A bill to repeal the Davis-Bacon Act, and for other purposes; to the Committee on Education and Labor.

By Mr. SAM B. HALL, JR. (by request):

H.R. 2735. A bill to amend title 38, United States Code, to provide for the payment of a service pension to veterans of World War I and the Mexican border period and to surviving spouses of such veterans; to the Committee on Veterans' Affairs.

By Mr. LOWERY of California (for himself, Mr. Packard, Mr. Bates, Mr. Badham, and Mr. Hunter):

H.R. 2736. A bill to impose a moratorium on offshore oil and gas leasing, certain licensing and permitting, and approval of certain plans, with respect to geographical areas located in the Pacific Ocean off the coastline of the State of California; to the Committee on Interior and Insular Affairs.

By Mr. MADIGAN:

H.R. 2737. A bill to amend the Internal Revenue Code of 1954 to add a method of valuing farms used for farming purposes owned by private foundations for purposes of determining minimum investment return; to the Committee on Ways and Means.

By Ms. OAKAR (for herself, Mr. Roybal, Mr. Yates, Mr. Oberstar, Mr. Lantos, Mr. Lehman of Florida, Mr. Frank, Mr. Weiss, Mr. Kastenmeier, Mr. Long of Maryland, Mr. Reid, Mr. Leland, Mr. Lowry of Washington, Mrs. Boxer, Mr. Vento, Mr. Ackerman, Mr. St Germain, Mr. Edgar, Mr. Biaggi, Mr. Stokes, Mr. Rodino, Mr. Fauntroy, Mrs. Schroeder, Ms. Ferraro, Ms. Kaptur, Mr. Foglietta, Mr. Feighan, Mr. Fazio, Mr. Towns, Mr. Roe, and Mr. Berman):

H.R. 2738. A bill to amend title II of the Social Security Act to restore minimum benefits for future beneficiaries; to the Committee on Ways and Means.

H.R. 2739. A bill to amend title II of the Social Security Act to provide that the combined earnings of a husband and wife during the period of their marriage shall be divided equally and shared between them for benefit purposes if they become divorced and either of them so elects; to the Committee on Ways and Means.

By Ms. OAKAR (for herself, Mr. Roybal, Mr. Yates, Mr. Oberstar, Mr. Lantos, Mr. Lehman of Florida, Mr. Frank, Mr. Weiss, Mr. Kastenmeier, Mr. Long of Maryland, Mr. Kindness, Mr. Reid, Mr. Leland, Mr. Lowry of Washington, Mrs. Boxer, Mr. Vento, Mr. Ackerman, Mr. St Germain, Mr. Edgar, Mr. Biaggi, Mr. Stokes, Mr. Rodino, Mr. Fauntroy, Mrs. Schroeder, Ms. Ferraro, Ms. Kaptur, Mr. Foglietta, Mr. Feighan, Mr. Frost, Mr. Fazio, Mr. Towns, Mr. Roe, Mr. Berman, and Mr. Markey):

H.R. 2740. A bill to amend title II of the Social Security Act to eliminate the reductions in social security benefits which are presently required in the case of spouses and surviving spouses who are also receiving certain Government pensions; to the Committee on Ways and Means.

By Ms. OAKAR (for herself, Mr. Roybal, Mr. Yates, Mr. Oberstar, Mr. Lantos, Mr. Lehman of Florida, Mr. Frank, Mr. Weiss, Mr. Kastenmeier, Mr. Long of Maryland, Mr. Reid, Mr. Leland, Mr. Lowry of Washington, Mrs. Boxer, Mr. Vento, Mr. Ackerman, Mr. St Germain, Mr. Edgar, Mr. Biaggi, Mr. Stokes, Mr. Rodino, Mr. Fauntroy, Mrs. Schroeder, Ms. Ferraro, Ms. Kaptur, Mr. Foglietta, Mr. Feighan, Mr. Frost, Mr. Fazio, Mr. Towns, Mr. Roe, Mr. Berman, and Mr. Markey):

H.R. 2741. A bill to amend title II of the Social Security Act to provide that an individual's "years of coverage" for purposes of computing the special minimum benefit may include up to 10 additional years (not otherwise includible for that purpose) in which such individual had a child age 6 or under in his or her care; to the Committee on Ways and Means.

By Ms. OAKAR (for herself, Mr. Roybal, Mr. Yates, Mr. Oberstar, Mr. Lantos, Mr. Lehman of Florida, Mr. Frank, Mr. Weiss, Mr. Kastenmeier, Mr. Long of Maryland, Mr. Reid, Mr. Leland, Mr. Lowry of Washington, Mrs. Boxer, Mr. Vento, Mr. Ackerman, Mr. St Germain, Mr. Edgar, Mr. Biaggi, Mr. Stokes, Mr. Rodino, Mr. Fauntroy, Mrs. Schroeder, Ms. Ferraro, Ms. Kaptur, Mr. Foglietta, Mr. Feighan, Mr. Frost, Mr. Fazio, Mr. Towns, Mr. Roe, and Mr. Berman):

H.R. 2742. A bill to amend title II of the Social Security Act to provide that the combined earnings of a husband and wife during the period of their marriage shall be divided equally and shared between them for benefit purposes, so as to recognize the economic contribution of each spouse to the marriage and assure that each spouse will have social security protection in his or her own right; to the Committee on Ways and Means.

H.R. 2743. A bill to amend title II of the Social Security Act to provide full benefits for disabled widows and widowers without regard to age (and without regard to any previous reduction in their benefits); to the Committee on Ways and Means.

H.R. 2744. A bill to amend title II of the Social Security Act to provide that upon the death of one member of a married couple the surviving spouse or surviving divorced spouse shall automatically inherit the deceased spouse's earnings credits to the extent that such credits were earned during the period of their marriage; to the Committee on Ways and Means.

By Ms. OAKAR (for herself, Mr. Roybal, Mr. Yates, Mr. Oberstar, Mr. Lantos, Mr. Lehman of Florida, Mr. Frank, Mr. Weiss, Mr. Kastenmeier, Mr. Long of Maryland, Mr. Reid, Mr. Leland, Mr. Lowry of Washington, Mrs. Boxer, Mr. Vento, Mr. Ackerman, Mr. St Germain, Mr. Edgar, Mr. Biaggi, Mr. Stokes, Mr. Rodino, Mr. Fauntroy, Mrs. Schroeder, Ms. Ferraro, Ms. Kaptur, Mr. Foglietta, Mr. Feighan, Mr. Fazio, Mr. Towns, Mr. Roe, and Mr. Berman):

H.R. 2745. A bill to amend title II of the Social Security Act to provide for the payment of a transition benefit to the spouse of an insured individual upon such individual's death if such spouse has attained age 50 and is not otherwise immediately eligible for benefits; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 2746. A bill to provide for inclusion of voter registration applications in documents required to be submitted to Federal agencies; jointly, to the Committees on Government Operations and House Administration.

By Mr. SAWYER (for himself and Mr. Porter):

H.R. 2747. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide financial assistance for the construction of correctional facilities by the States and local governments and for other purposes; jointly, to the Committees on the Judiciary and Government Operations.

By Mr. SCHUMER (for himself and Mr. Rangel):

H.R. 2748. A bill to establish a limitation on duplicative public housing tenant reporting requirements, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RANGEL (for himself and Mr. Schumer):

H.R. 2749. A bill to establish a limitation on duplicative public housing tenant reporting requirements, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SHANNON:

H.R. 2750. A bill to amend the Internal Revenue Code of 1954 to allow a charitable deduction for certain contributions of standards service contracts, and for other purposes; to the Committee on Ways and Means.

By Mr. SIMON:

H.R. 2751. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes; to the Committee on Education and Labor.

By Mr. THOMAS of California:

H.R. 2752. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1954 to provide for mandatory coverage of ministers and members of religious orders as employees under such title II; to the Committee on Ways and Means.

By Mr. VENTO:

H.R. 2753. A bill to repeal the recently enacted provisions of title II of the Social Security Act relating to computation of benefits of individuals receiving pensions from noncovered employment; to the Committee on Ways and Means.

By Mr. WIRTH:

H.R. 2754. A bill to amend the Foreign Corrupt Practices Act of 1977; to the Committee on Energy and Commerce.

By Mr. WIRTH (for himself and Mr. Dingell):

H.R. 2755. A bill to authorize appropriations for the Federal Communications Commission for fiscal years 1984 and 1985, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PANETTA:

H.J. Res. 251. Joint resolution designating May 3, 1983, as "Polish Constitution Day"; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

95. By the SPEAKER: Memorial of the House of Representatives of the State of Washington, relative to the awarding posthumously of the Congressional Medal of Honor; to the Committee on Armed Services.

96. Also, memorial of the Legislative of the State of Mississippi, relative to the Railroad Retirement Solvency Act of 1983 (H.R. 1646); jointly, to the Committees on Ways and Means and Energy and Commerce.

97. Also, memorial of the Legislative of the State of North Dakota, relative to the Railroad Retirement Solvency Act of 1983 (H.R. 1646); jointly, to the Committees on Ways and Means and Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 31: Mr. Wolpe, Mr. Solomon, Mr. Boner of Tennessee, Mr. Young of Alaska, Mr. DeWine, Mr. Whittaker, Mr. Neal, Mr. Carr, and, Mr. Evans of Illinois.

H.R. 136: Mr. Stump, Mrs. Boxer, Mr. Sunia, Mr. Frost, Mr. Won Pat, Mr. Barnard, Mr. Hartnett, Mr. Tauke, Mr. Shelby, and Mr. Vandergriff.

H.R. 137: Mr. Stump, Mr. Rudd, Mr. Sensenbrenner, Mr. McDonald, Mr. Corcoran, and Mr. Hansen of Utah.

H.R. 178: Mr. Goodling.

H.R. 500: Mr. Pashayan.

H.R. 599: Mr. Stump, Mr. Patman, Mr. Edwards of Oklahoma, Mr. Barnard, Mr. Forsythe, Mr. Loeffler, Mr. Watkins, and Mr. Stenholm.

H.R. 677: Mr. Lantos and Mr. Volkmer.

H.R. 907: Mr. Conable, Mr. Duncan, Mr. Heftel of Hawaii, Mr. Jenkins, and Mr. Jones of Oklahoma.

H.R. 964: Mr. McCloskey.

H.R. 1031: Mr. McCloskey.

H.R. 1044: Mr. Mitchell, Mrs. Hall of Indiana, Mr. Ratchford, Mr. Foglietta, Mr. Leland, Mr. Bevill, Mr. Harkin, Ms. Mikulski, Mr. Vento, Mr. Luken, Mr. McGrath, Mr. Washington, and Mr. Goodling.

H.R. 1045: Mr. Mitchell, Mrs. Hall of Indiana, Mr. Ratchford, Mr. Bevill, Mr. Harkin, Ms. Mikulski, Mr. Vento, Mr. Luken, Mr. McGrath, Mr. Dwyer of New Jersey, Mr. Washington, and Mr. Goodling.

H.R. 1052: Mr. Shelby, Mr. McDade, Mr. Bonker, Mr. Gore, and Mr. Studds.

H.R. 1146: Mr. Corcoran and Mr. Marriott.

H.R. 1180: Ms. Ferraro.

H.R. 1184: Mr. Stump.

H.R. 1320: Mr. Slattery.

H.R. 1444: Mr. Nowak and Mr. Kramer.

H.R. 1494: Mr. Sisisky, Mr. Shaw, and Mr. Ireland.

H.R. 1531: Mr. Gray, Mr. Waxman, and Mr. Won Pat.

H.R. 1570: Mr. Stump, Mr. Patman, Mr. Fields, Mr. Owens, Mr. Sunia, Mr. Stenholm, Mr. Montgomery, Mr. Kindness, Mr. Shelby, Mr. Cheney, and Mr. Bethune.

H.R. 1584: Mr. Ackerman, Mr. Bilirakis, Mr. Dellums, Ms. Fiedler, Mr. Frost, Mr. Lagomarsino, Mr. Lowry of Washington, Mr. Martinez, Mr. Miller of California, Mr. Roe, Mr. Towns, and Mr. Won Pat.

H.R. 1604: Mr. Nielsen of Utah.

H.R. 1870: Mr. Ackerman, Mr. Bates, Mr. Berman, Mr. Borski, Mrs. Boxer, Mr. Carper, Mr. D'Amours, Mr. Daniel, Mr. Daschle, Mr. de la Garza, Mr. Dwyer of New Jersey, Mr. Evans of Illinois, Mr. Fauntroy, Mr. Fazio, Mr. Feighan, Mr. Frank, Mr. Frenzel, Mr. Gilman, Mr. Hertel of Michigan, Mr. Horton, Ms. Kaptur, Mr. Kasich, Mr. Kindness, Mr. Kramer, Mr. Lagomarsino, Mr. Lantos, Mr. Lipinski, Mr. Lujan, Mr. McNulty, Mrs. Martin of Illinois, Mr. Matsui, Mr. Miller of Ohio, Mr. Minish, Mr. Mitchell, Mr. Morrison of Connecticut, Ms. Oakar, Mr. Ortiz, Mr. Ottinger, Mr. Rahall, Mr. Ratchford, Mr. Roe, Mr. Scheuer, Mrs. Schneider, Mr. Shelby, Mr. Simon, Mr. Smith of New Jersey, Mr. Smith of Florida, Mr. Sunia, Mr. Tauzin, Mr. Traxler, Mr. Vandergriff, Mr. Vander Jagt, Mr. Vento, Mr. Washington, Mr. Wilson, Mr. Winn, Mr. Won Pat, Mr. Wortley, Mr. Wylie, and Mr. Yatron.

H.R. 1883: Mr. Corrada, Mr. Wolpe, Mr. Dellums, Mr. Whitehurst, Mr. Leach of Iowa, Mr. Gore, and Mr. Oberstar.

H.R. 1910: Mr. St Germain.

H.R. 1918: Mr. Jones of Tennessee.

H.R. 2053: Mr. Fauntroy, Mrs. Schroeder, Mr. Towns, Mr. Martinez, Mr. Stangeland, and Mr. Hunter.

H.R. 2095: Mr. Stump.

H.R. 2144: Mr. Williams of Montana, Mr. Derrick, Mr. Evans of Illinois, Mr. Andrews of North Carolina, Mr. Smith of Florida, Mr. Ralph M. Hall, Mr. Sikorski, Mr. Fazio, Mr. Rose, Mr. Hefner, Mr. Sisisky, Mr. Sam B. Hall, Jr., Mr. Lehman of Florida, Mr. Flippo, Mr. Shelby, and Mr. Nichols.

H.R. 2145: Mr. Conyers, Mr. Feighan, Mrs. Collins, and Mr. Berman.

H.R. 2174: Mr. de Lugo, Mr. Hutto, Mr. Gramm, Mrs. Martin of Illinois, Mr. Hansen of Utah, Mr. Bennett, Mr. Akaka, Mr. McGrath, Mr. Winn, Mr. Weber, Mr. Guarini, Mr. Torricelli, Mr. Kindness, Mr. Vander Jagt, Mr. Corcoran, Mr. Brown of California, Mr. Forsythe, Mr. Hertel of Michigan, Mr. McCollum, Mr. Sunia, Mr. Boner of Tennessee, Mr. Mazzoli, Mr. Vandergriff, Mr. Marriott, Mr. Brooks, Mr. Frenzel, and Mr. Dyson.

H.R. 2183: Mr. Markey, Mr. Roe, Mr. Oberstar, Mr. Lagomarsino, Mr. Frank, Mr. Smith of Florida, Mr. Boland, Mr. Ratchford, Mr. Regula, Mr. Frenzel, Mr. Green, Mr. Edgar, and Mr. Jeffords.

H.R. 2193: Ms. Ferraro, Mr. Borski, Mr. Mrazek, Mr. Martinez, and Mr. Thomas of California.

H.R. 2235: Mr. Beilenson, Mr. Porter, Mr. Ratchford, Mr. Smith of Florida, Mr. Sunia, Mr. Lundine, Mr. Evans of Iowa, Mr. Ackerman, Mr. Hughes, Mrs. Schneider, Mr. Leland, Mr. Solarz, Mr. Washington, and Mr. McGrath.

H.R. 2262: Mr. Archer, Mr. Biaggi, Mr. Dickinson, Mr. Emerson, Mr. Hubbard, Mr. Loeffler, Mrs. Martin of Illinois, Mr. Matsui, Mr. Nowak, Mr. Patman, and Mr. Taylor.

H.R. 2276: Mr. Chappie, Mr. Fazio, and Mr. Lantos.

H.R. 2299: Mr. Williams of Ohio.

H.R. 2351: Mr. McCandless and Mr. Thomas of California.

H.R. 2432: Mr. Jenkins, Mr. Sundquist, Mr. Coats, Mr. Mrazek, Mr. McCollum, Ms. Snowe, Mr. Chappell, Mr. Nichols, Mr. Leath of Texas, Mr. Lagomarsino, Mr. Vento, Mr. Broyhill, Mr. Jones of North Carolina, Mr. Leland, Mr. MacKay, and Mr. O'Brien.

H.R. 2448: Mr. Kindness.

H.R. 2520: Mr. Kindness.

H.R. 2640: Mr. Rinaldo.

H.J. Res. 153: Mr. McHugh.

H.J. Res. 219: Mr. McCollum.

H.J. Res. 220: Mr. Sikorski, Mr. Bonior of Michigan, Mrs. Kennelly, Mr. Bosco, Mr. Edgar, Mr. Durbin, Mr. Nowak, Mr. Clay, Mr. Gephardt, Mr. Martin of New York, Mr. Carper, Mr. Forsythe, Mr. Lantos, Mr. Lipinski, Mr. Addabbo, Mr. Leland, Mrs. Boggs, Mr. Dyson, Mr. Washington, Mr. Tauke, and Mr. Martinez.

H.J. Res. 242: Mr. Lewis of Florida and Mr. Hartnett.

H. Con. Res. 75: Mr. McDade, Mr. Berman, Mr. McKinney, Mr. Simon, and Mr. Huckaby.

H. Con. Res. 115: Mr. Badham, Mr. Brown of Colorado, Mr. Conable, Mr. Coats, Mr. Dickinson, Mr. Fields, Mr. Hunter, Mr. Kasich, Mr. Kindness, Mr. Lagomarsino, Mr. Mack, Mr. Marriott, Mrs. Martin of Illinois, Mr. Miller of Ohio, Mr. Roberts, Mr. Skeen, Mr. Robert F. Smith, Mr. Stump, and Mr. Young of Alaska.

H. Con. Res. 116: Mr. Hyde, Mr. Lagomarsino, and Mr. Vander Jagt.

H. Res. 54: Mr. Ford of Michigan, Mr. Howard, Mr. Kogovsek, Mr. Ratchford, Mr. Walgren, Mr. Savage, Mr. Edwards of California, Mr. Markey, Mr. Roe, Mr. Frank, Mr. Sunia, Mr. Crockett, Mr. Hoyer, Mr. Edgar, Mr. Mitchell, Mr. Hertel of Michigan, Mr. Morrison of Connecticut, Mrs. Hall of Indiana, Mr. Washington, Mr. Siljander, Mrs. Boxer, Mr. Feighan, Mrs. Collins, Mr. Leland, Mr. Harkin, Mr. Bonior of Michigan, and Mr. Owens.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

78. By the SPEAKER: Petition of the Association of the Bar of the City of New York, Committee on Federal Courts, relative to the Supreme Court decision in *Northern Pipeline Construction Co.* v. *Marathon Pipe Line Co.;* to the Committee on the Judiciary.

79. Also, petition of Council of the County of Hawaii, Hawaii, relative to funding for alternative energy projects; to the Committee on Science and Technology.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1190

By Mr. MADIGAN:

—Page 9, after line 3, insert the following new section (and redesignate succeeding sections and references accordingly):

TERMINATION OF AUTHORITY RELATING TO JOINT LOANS OR GRANTS FOR PRIVATE BUSINESS ENTERPRISES

Sec. 5. Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by striking out subsection (d).

—Page 12, strike out line 21 and all that follows through line 22 on page 16 (section 10), and redesignate the following sections accordingly.

—Page 29, after line 23, insert the following new section (and redesignate succeeding sections and references accordingly):

INTERNAL REVIEW STAFF

Sec. 19. The Secretary of Agriculture shall designate, from among the employees of the Department of Agriculture, an adequate number of employees who shall have responsibility, on a full-time basis, to evaluate, and to bring about the correction of, problems revealed in the periodic reviews and audits of the Farmers Home Administration, prepared by the Inspector General of the Department of Agriculture and by the Comptroller General of the United States.

SENATE—*Tuesday, April 26, 1983*

The Senate met at 2 p.m., and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

For promotion cometh neither from the east, nor from the west, nor from the south. But God is the judge: He putteth down one, and setteth up another.—Psalm 75: 6, 7

If God be for us, who can be against us.—Romans 8: 31

Eternal God, sovereign Lord of history, may men and women in leadership never forget that they enjoy their authority by virtue of Thy good pleasure—that behind their election by the people lies divine appointment. Grant therefore in Thy grace that they may recognize that their accountability to Thee transcends that to the people. May they seek Thy favor in humility and do their work to the honor and glory of Thy name.

Awaken us to the reality that to govern without God is to be a godless government and a godless government soon loses its concern for human rights, minorities and all people. Help us not ever to forget, dear God, that these convictions dominated the thinking of our forebears and are the explanation for our greatness as a nation. Through Jesus Christ the Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, there is a time for the transaction of routine morning business which has been ordered which would occur ordinarily after the expiration of the time for the recognition of the two leaders under the standing order. It is anticipated that there will be a request for a closed session of the Senate to begin at 2:30 p.m. or thereabouts.

ORDER CHANGING TIME FOR ROUTINE MORNING BUSINESS

Mr. President, I ask unanimous consent that the time for the transaction of the routine morning business as previously ordered be changed to begin immediately after the ending of the closed session.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I am attempting to clear with the minority leader that he is agreeable to waiving his standing order time. He is not here and not available at the moment. I shall put that request to him in a few moments.

Mr. President, it is essential that the security people have between now and 2:30 p.m., or thereabouts, in order to complete the work necessary to secure this Chamber for the business at hand.

Mr. President, if no other Senator is now seeking recognition, and I hope they are not, in just a moment I shall ask the Senate to stand in recess until 2:30 p.m.

AUTHORITY FOR STATEMENTS AND MEASURES DURING RECESS

Mr. President, before I do that, I also ask unanimous consent that in the time between now and 2:30 p.m., notwithstanding the Senate is in recess, Senators may file statements, introduce bills, resolutions, petitions, memorials, or send amendments to the desk for printing.

The PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL CATHEDRAL SERVICES

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. BAKER. I yield.

Mr. GOLDWATER. Mr. President, I wish to ask my leader a question relative to the services held at noon today at the National Cathedral.

I am told that the House of Representatives were invited to this affair and had a bus to take them out.

The Senate, as far as I know, was not invited and no transportation was provided because we were not invited. I wish to find out why the Senate, and we are particularly interested, Senator MOYNIHAN and I, because of the position we hold on the Intelligence Committee, was ignored in that invitation.

Mr. BAKER. Mr. President, I cannot answer the Senator's question. I can assure him no invitation was received by me and I can assure him as well I will inquire into that matter and have an answer for him as soon as possible to do so.

Mr. GOLDWATER. I thank the Senator.

Mr. MOYNIHAN. Mr. President, will the majority leader allow me to make a statement?

Mr. BAKER. Yes.

Mr. MOYNIHAN. Mr. President, I wish to be clear that the Members of the House of Representatives were present and they had a bus. Whether they were invited or not is not a matter that I have any knowledge of, but I am very much under the impression that no Senator was invited, and I wish to say to the majority leader I think we were missed and I hope he would do the kindness which he has suggested he will do.

I thank the Senator.

Mr. BAKER. I thank the Senator.

ORDER VITIATING STANDING ORDER TIME

Mr. BAKER. Mr. President, I understand that the minority leader is agreeable to vitiating time under the standing order.

Mr. President, I ask unanimous consent, after consulting with the minority leader, that the time allocated to the two leaders under the standing order be vitiated for today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 2:30 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:30 p.m. today.

There being no objection, the Senate, at 2:06 p.m., recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Vice President.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, it is my understanding at this point that the distinguished Senator from Connecticut wishes to make a motion.

Mr. DODD. Mr. President, as my colleagues are aware, I plan momentarily to make a motion for a closed session of the Senate so that Members can be informed as to matters in Nicaragua with reference to the Boland amendment, the growing controversy and divisiveness surrounding reports of U.S. covert activities.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. BAKER. Mr. President, does the Senator plan to put us into closed session?

Mr. DODD. Mr. President, I was laying the foundation, briefly.

Mr. KENNEDY. Mr. President, usually, at other times, those Members making presentations have done so from the well of the Senate. We do not have a sound system. This is an extremely important matter.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. BAKER. Mr. President, the sound system has already been secured.

Mr. President, I ask that during the closed session Senators addressing the Senate do so from the well.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. DODD. Mr. President, if I may continue.

Second, it is clear that this year the Senate will face a number of critical legislative decisions concerning U.S. policy toward Central America.

Additionally, Mr. President, it seems to me that such a session would be particularly beneficial in view of the President's request for a joint session of Congress tomorrow evening for the purpose of addressing a number of Central American issues.

CLOSED SESSION

Mr. DODD. Mr. President, in view of the foregoing, and as provided under rule XXI, I move that the Senate go into closed session.

Mr. MOYNIHAN. Mr. President, I second the motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion having been made and seconded that the Senate go into closed session, the Chair, pursuant to rule XXI, now directs the Sergeant at Arms to clear the galleries, close the doors of the Chamber, and exclude all officials of the Senate not sworn to secrecy.

(At 2:35 p.m., the doors of the Chamber were closed.)

LEGISLATIVE SESSION

At 4:14 p.m., the doors of the Chamber were opened, and the open session of the Senate was resumed.

RECESS UNTIL 4:30 P.M.

Mr. BAKER. Mr. President, I move that the Senate stand in recess until the hour of 4:30 p.m.

The motion was agreed to; and the Senate, at 4:16 p.m., recessed until 4:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Andrews).

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d-276g, as amended, appoints the following Senators as members of the Senate Delegation to the Canada-United States Interparliamentary Group during the 1st session of the 98th Congress, to be held in Kenora, Canada, on June 16-20, 1983: the Senator from Idaho (Mr. McClure); the Senator from Alaska (Mr. Murkowski); the Senator from Georgia (Mr. Mattingly); the Senator from Iowa (Mr. Grassley); the Senator from Pennsylvania (Mr. Specter); the Senator from West Virginia (Mr. Randolph); the Senator from Vermont (Mr. Leahy); the Senator from Maryland (Mr. Sarbanes), and the Senator from Montana (Mr. Baucus).

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business.

AFGHANISTAN—A ROAD OF TREACHERY

Mr. BYRD. Mr. President, April 27 will mark the fifth anniversary of the so-called Haur Revolution. It was 5 years ago that a bloody coup d'etat overthrew the independent Afghanistan government of President Daoud. A gang of Soviet-backed Communists murdered the President and started that country down the road of Soviet occupation.

To the freedom loving peoples of the world, April 27 is a day of infamy. However, the Soviets are expending a great deal of money and effort to celebrate this anniversary of what they term the Afghan Revolution. Moscow intends to bring leaders from other Soviet satellite countries to the Afghan capital to join in this celebration.

This is Moscow's latest attempt to bestow a semblance of legitimacy on the puppet regime which the Soviets installed in Kabul. But more importantly, it is a measure of Moscows' failure that Soviet troops will have to be brought in from the countryside in order to protect themselves and their guests against attack by the Afghan people. And it is this reality alone which demonstrates to the world that the people of Afghanistan do not have anything to celebrate. The anniversary of this bloody treachery is as hateful to them as is the presence of their Soviet aggressors.

I think it is important for all in the United States who enjoy the blessings of liberty to reflect on the past 5 years in Afghanistan. We should look at that country today and remind the world what 5 years of Communist domination has wrought for the innocent people of Afghanistan. What we see is people of remarkable courage and endurance, courageously resisting oppression. Nearly 8 percent of the country is controlled by the freedom forces despite the presence of more than 100,000 Soviet troops. In some cases, the Afghan freedom fighters have actually conducted raids across the Soviet border. Despite heavy losses, the Afghans have continued their struggle. And today, they are better organized, better equipped, and more effective in their ability to inflict growing casualties on the Soviet occupiers.

These developments are traced in detail in a recent State Department report. The report points out the principal challenges which face the Soviets in Afghanistan. If they are to be successful, the Soviets have to establish a reliable, effective national government, and an Afghan army capable and willing to carry out Soviet policies. However, the lessons of the past years are clear. These goals are unattainable. They are unattainable because of the tenacious desire of the Afghan people to regain their freedom and independence.

The Afghan people have demonstrated to the world that they will never succumb to Soviet occupation of their country. Let us all make it clear that the people of the United States will never waver in our support of this most noble of all goals—to be free from the domination of a foreign power.

I would hope that Islamic countries would speak out, and speak out loudly on tomorrow and in the days to come, against the Soviet occupation of Afghanistan.

Mr. President, I ask unanimous consent to insert into the Record at this point a copy of the report to which I have alluded in my statement.

There being no objection, the report was ordered to be printed in the Record, as follows:

Afghanistan: 3 Years of Occupation

OVERVIEW

Early in 1982, the Babrak Karmal regime and its Soviet sponsors redoubled their assault on the Afghan resistance movement hoping to achieve a turning point in the 3-year battle. In March, Babrak declared that the time had come to "take the revolutionary struggle to the provinces, districts, and villages." At the end of the year, however, there is little to show for their pains. Military, political, and economic gains continue to elude those who would impose a dictatorial Communist regime on the people of Afghanistan.

The Soviets increased their troop strength to about 105,000 and greatly intensified their military operations in 1982 but generally failed to discourage the resistance forces (the mujahidin) or to drive them from their strongholds. Indeed, mujahidin activity has increased dramatically inside Kabul itself in recent months in spite of intense Soviet military activity on all sides of the capital. Soviet inability to rebuild the Afghan Army into a loyal and effective force against the resistance continues to be a prime cause of military weakness.

Over the past year, the ruling People's Democratic Party of Afghanistan (PDPA) had hoped to cure itself of internecine fighting between its Khalq and Parcham factions and become the preeminent guiding force in Afghanistan. Instead, in the wake of a party conference in March (the first since the PDPA came to power in April 1978), the political infighting became even more bitter. Many influential Khalqis are under suspicion of either sympathizing with or collaborating with the resistance. Rejection of the party by the populace remains almost universal.

At the end of 1981, the PDPA's seventh plenum called for a nationality and tribal policy to appeal to local tribal and ethnic aspirations and win support for the regime. Despite occasional gains, a year later it has become clear that tribes that once appeared susceptible to various regime blandishments are once more participating in the jihad—the holy war against Babrak Karmal.

The government had pinned its hopes on a modified land and water reform program as the catalyst for increasing agricultural production in 1982 and winning support from the peasants. Enterprises disabled by the mujahidin were to be reactivated. And Prime Minister Keshtmand claimed 63 new projects were to go into operation with Soviet aid. But the continuing strength of the resistance movement, which dominates 75%-80% of the country, has foiled the economic planners.

At the end of 1982, the resistance movement in many areas appears to be militarily stronger and better organized than at the beginning of the year. Coordination and cooperation between fighting groups inside the country have generally improved, while Afghan exiles have stepped up efforts to foster greater unity in the resistance as a whole.

Nevertheless, the political weakness of the resistance movement remains. Disruptive fighting between some bands inside Afghanistan continues. Exile leaders based in Peshawar, Pakistan, are split into two competitive alliances. Furthermore, there is a large gulf between formerly prominent leaders now in exile and some of the Peshawar based organizations on the one hand, and some of the mujahidin fighting in Afghanistan, on the other.

The U.N. mission to promote a political solution to the Afghan crisis has made progress on procedural issues. The U.N.-sponsored indirect talks in Geneva in June began to deal with substance, but the critical phase of the negotiations lies ahead. U.N. representative Diego Cordovez will soon resume his efforts to widen what he perceives to be the area of agreement between the parties. The success or failure of the U.N. negotiations ultimately will depend on Soviet agreement to withdraw troops from Afghanistan. The United States supports the efforts of the U.N. mission to negotiate a political solution consistent with the principles expressed in the U.N. resolution on Afghanistan.

If the new Soviet leadership chooses to pursue the present course of military activity, which is designed to wear down the Afghan people, it will continue to confront almost universal opposition. The November 1982 U.N. vote of 114-21 was another impressive demonstration of strong international feeling on this subject.

The plight of more than 2.7 million Afghan refugees in Pakistan continues to focus international attention on the Afghan tragedy. Moreover, increasing media coverage is making the world community more knowledgeable about Soviet conduct in Afghanistan. Recent new evidence about the Soviet use of chemical warfare in Afghanistan has received worldwide publicity. The second session of the Bertrand Russell People's Tribunal on Afghanistan met in Paris December 16-20 and heard testimony concerning the increasing number of atrocities committed by Soviet soldiers against Afghan villagers. Thus there has been no diminution of profound international concern over the individual and collective suffering now being endured by the Afghan people.

SOVIET MILITARY OFFENSIVE INTENSIFIED

At the end of 1981, the Soviets significantly stepped up their military operations and increased their troop strength. Both developments appeared to follow from the protracted visit to Afghanistan in late 1981 of a high level Soviet military delegation led by First Deputy Defense Minister Marshal Sokolov.

The initial increment of 5,000 troops in December was followed by several thousand more in January. The total number of Soviet troops in Afghanistan is now estimated at 105,000. In addition, about 30,000 men on the Soviet side of the border serve in a rear-guard capacity; some of these are periodically involved directly in operations in the northern areas. The U.S.S.R. thus has a force of about 135,000 committed to the Afghan war.

Soviet military operations throughout 1982 have been more massive and more elaborate than in 1981; they appear designed not only to eradicate mujahidin strongholds but also to intimidate civilian supporters of the freedom fighters. The previous political strategy of wooing the population to support the regime's National Fatherland Front had been unsuccessful; by the end of last year the mujahidin were clearly expanding the territory under their influence. In 1982, Soviet firepower has been used much more indiscriminately as the Soviet and Afghan Armed Forces have sought to reestablish the regime's authority in key areas.

The big winter offensive against Qandahar in the south and in Parvan Province north of Kabul revealed Moscow's revised military strategy. These drives, which were followed by similarly harsh operations against many villages and towns throughout the country, inflicted heavy casualties on civilians and occasionally on the mujahidin. More often, however, the freedom fighters have managed to withdraw with their force relatively intact and to return to the area as soon as the Soviets have left.

Civilians populations near strategic targets have suffered the most. For example, the towns in the Shomali area immediately north of Kabul have been bombed heavily throughout the year. Mujahidin in this area are a threat to Kabul itself and to the important Bagram airbase as well as to traffic moving along the main supply route from Kabul to the Soviet border. Many other strategically important areas in both eastern and western Afghanistan have been subjected to repeated aerial attack, but none has been hit with the same frequency and intensity as those near the capital.

Moscow probably will try to refrain from large-scale counterattacks on the mujahidin inside Kabul. Although they have on occasion bombarded resistance-controlled quarters of two other cities, Qandahar and Herat, the presence of a large community of foreign observers may inhibit them in Kabul. But the State Information Service (KHAD—the secret police), which is run by the Soviet KGB, appears to have increased its activities in Kabul in recent months in response to mujahidin activity in the city. Recent emigrants have described a growing police state atmosphere in the capital.

The Soviets also appear to be concentrating their military efforts in areas which are economically important and which are essentially under mujahidin control. These include fertile agricultural regions and the sites of industrial enterprises that have been disabled by the guerrillas in districts surrounding the major cities—Kabul, Qandahar, Herat, Jalalabad, and Mazar-e-Sharif.

Other Soviet military activity during the past year apparently has been intended to discourage movement across the Pakistani and Iranian borders; it does not appear to have succeeded. Soviet forces also have been engaged in equally unfruitful efforts to suppress the resistance in the northern provinces along the Soviet border.

PANJSHER AND PAGHMAN OPERATIONS

The most important Soviet military objective in 1982 was to reestablish the regime's authority in the Panjsher Valley, 60 miles north of Kabul, and to destroy Ahmad Shah Mahsud's mujahidin organization in this area. Another important priority was to drive the mujahidin out of Paghman, a mountain retreat only 12 miles from the capital. Both the Panjsher Valley and Paghman have become strategically important mujahidin strongholds as well as symbols of mujahidin success.

During the summer, the Soviets launched two major attacks on the Panjsher. The campaigns have been referred to as Panjsher V and Panjsher VI, highlighting the growing number of Soviet efforts to take the valley.

Panjsher V, which began in mid-May and lasted about 6 weeks, stands out as the biggest Soviet military operation of the war to date. Although an unusually large combined force—about 12,000-15,000 men—established base camps about one-fourth of the way up the 75-mile valley, the offensive failed to inflict noticeable damage on the 5,000-man mujahidin force under Mahsud's command. The operation, however, was very costly for the Soviet and Afghan troops in terms of casualties and lost materiel. Mahsud's men were particularly effective against heliborne troops, who had landed on numerous hilltops.

Claims by the regime in late June that the Panjsher had been "liberated" were premature. By late August, mujahidin pressure on the newly established garrisons forced the Soviets to mount another major offensive into the valley. This time they conducted extensive operations against villages in the Panjsher River's many lateral valleys. Once again the invaders suffered heavy casualties, lost large quantities of materiel, failed to establish a presence beyond the already garrisoned town of Rokha, and did not significantly hurt the mujahidin. Following the retreat of this second invading force in mid September, the mujahidin resumed their harassment of the remaining garrisons. Defections from the Afghan forces climbed again, as they had earlier in the summer. As of late fall, Soviet planes continued to bomb the valley, and a new Soviet operation before the end of the year was likely.

The Soviets seem determined to eliminate the Panjsher as a symbol of the resistance; thus they may try to keep a garrison in the lower valley throughout the winter. This would be a difficult operation; the post at Rokha already is partially dependent on resupply by air. The mujahidin in the Panjsher downed several helicopters during the summer operations; garrisons isolated by winter snows are even more vulnerable. On the other hand, the mujahidin themselves are more vulnerable during the winter because they cannot retreat to their mountain hideouts.

During the Panjsher operations this year, the Soviets tried to cut off the valley by blocking entrance points, but these efforts failed. There were numerous reports, for instance, that during the protracted offensive in May and June, Mahsud received assistance from other resistance commanders.

Soviet offensives in the Panjsher have inflicted great suffering on the civilian population as Moscow has sought to erode popular support for the mujahidin. Many homes, and indeed entire villages, have been destroyed by the constant bombardments. In October, for the first time. Panjsher refugees began to arrive in northern Pakistan.

Severe food shortages in the Panjsher can be expected this winter. The fighting in early summer destroyed most of the wheat crop by depriving it of irrigation during a critical period. Some crops, however, have been harvested in the upper reaches of the valley, and some food can be purchased from neighboring districts. Mahsud has issued an appeal for international assistance to avert a major disaster.

The situation in Paghman, only 12 miles from Kabul, is similar. The Paghman district is a less tightly knit economic and social unit and has no charismatic leader, but the several mujahidin groups active in the area cooperate with each other. The ability of the mujahidin to control the town of Paghman most of the time has made it an important symbol of the resistance. Furthermore, mujahidin who congregate in the Paghman hills have operated effectively in Kabul itself.

After several efforts during the spring to open the road to Paghman, the Soviets mounted an extensive two-pronged operation against the area. The mujahidin were forced to retreat to the surrounding mountains. In late July, Babrak announced that this mountain recreation spot was once more open to the public.

But the regime's claims to have pacified Paghman were hollow. The mujahidin were soon overrunning army outposts, and heavy bombardments of the Paghman area, including the town's central bazaar in the summer, failed to halt resistance activity. Soviet and regime forces attacked Paghman again in October and November, but the army garrison there remains in jeopardy.

SOVIET CASUALTIES AND MORALE

Because of the shift to larger scale operations in 1982, Soviet casualties began to rise. To keep casualties low, the Soviets made heavy use of air bombardments and forced Afghan military units to spearhead the ground attacks.

The new spate of casualties may be causing morale problems for the Soviets. In November, Krasnaya Zvezda carried an unusual, only slightly veiled, reference to Soviet casualties, indicating a need to acknowledge the sacrifices made by Soviet troops in Afghanistan. In an interview with a Krasnaya Zvezda correspondent, a member of Afghanistan's Politburo claimed that Soviet soldiers had now won the trust of the Afghan people, but he added that it had been won "at a great price." He went on to thank "the Soviet servicemen for their courage, selflessness and genuine internationalism." This admission went beyond the candid statement in Krasnaya Zvezda last February that life for the Soviet troops in Afghanistan "is hard . . . sometimes very, very hard." The November statement may have been spurred by the large death toll of Soviet soldiers from asphyxiation following an accident in the Salang tunnel on November 3.

Accounts of indiscipline, drug usage, and black marketeering including the sale of weapons and ammunition—are numerous. Throughout the Soviet occupation, there have been periodic reports of defections to the mujahidin by Soviet minority troops, particularly the Tadzhiks who have important cultural and ethnic links with Afghan Tadzhiks. These defections seem to have increased during 1982.

Soviet commanders in Afghanistan are under heavy pressure from Moscow to produce results against an enemy that frequently outfights and outwits them and that enjoys the support of the vast majority of Afghans. Thus when the Soviets fail to track down the mujahidin, they turn on civilians in frustration and rage. The Swedish journalist Borje Almquist has described in detail crimes perpetrated by Soviet soldiers against Afghan citizens in Lowgar Province, which he visited during the summer. The Bertrand Russel Tribunal has publicized similar evidence of Soviet brutality.

CHEMICAL WARFARE

The Soviets have continued to employ lethal chemical weapons against the mujahidin in 1982. These weapons have been used selectively—generally against guerrillas in relatively inaccessible locations. For example, chemical agents have been used against mujahidin positions in caves and mujahidin hiding in underground waterways. Analysis of two Soviet gas masks recently acquired from Afghanistan confirms earlier suspicions that the Soviets are using the deadly trichothecene mycotoxins ("yellow rain") in Afghanistan. In November, the Department of State issued an updated report on chemical and biological weapons enployed by the Soviet Union in Afghanistan, Laos, and Kampuchea (BULLETIN of December 1982). This document details the new evidence compiled on this subject during 1982.

SOVIET POW'S

In the spring of 1982, after lengthy negotiations, Moscow agreed to let the International Committee of the Red Cross (ICRC) take charge of Soviet prisoners of war captured by the mujahidin. The first three prisoners to change hands under this arrangement arrived in Switzerland in June. Four more have followed, the latest transfer having taken place in November. As part of the agreement, an ICRC team was allowed to go to Kabul in late August to visit prisoners and "carry out humanitarian assistance." on their behalf. The team, however, was unexpectedly obliged to leave Kabul in October, and the scope of the ICRC's role inside Afghanistan is still being negotiated.

Moscow was slow to conclude this arrangement, presumably because it involved recognizing the mujahidin as a negotiating entity and also because it was a formal admission that Soviet soldiers were actually fighting in Afghanistan. The present agreement was reached after the mujahidin revealed that they had executed a prominent Soviet advisor, E. M. Okrimyuk. The freedom fighters held Okrimyuk prisoner for several months, hoping to exchange him for mujahidin prisoners held by the Kabul regime.

THE AFGHAN ARMY

A major obstacle to Soviet military success against the mujahidin is Moscow's continuing inability to rebuild the Afghan Army. Not only is there a persistent shortage of recruits, but the loyalty of the officer corps remains in serious doubt.

Within the officer corps, Parchami loyaltists are in a minority. They are out numbered by disillusioned and alienated nonparty careerists and by Khalqis who bear a grudge against the dominant Parchamis. The elections preceeding the national party conference in March confirmed the numerical edge which the Khalqis hold over the Parchamis among the officers.

Moscow hopes that increasing numbers of officers who have been trained recently in the Soviet Union will help create a more loyal force. The Soviets also may expect that the sons of party members now being rushed through officer training courses in Kabul will be more reliable. But the long list of Afghan officers who have defected includes many who received training in the Soviet Union.

Moscow also counted on General Abdul Qader, who was acting Minister of Defense during most of 1982 and officially appointed as minister in September, to narrow the division in the military establishment between Khalqis and Parchamis. Qader has ties with both factions and has been described as more of a "nationalist" than a party man. Yet his appointment in place of General Rafi, who was an ardent Parchami, has not generated much support from nonparty and Khalqi officers.

On the contrary, there are many signs that officers in the Afghan Army continue to collaborate with the mujahidin. Large numbers of Khalqi officers were arrested in Jalalabad in March and in Ghazni Province in April, suggesting extensive plotting against the regime. Following the Panjsher campaign in early summer, reports circulated that several high-ranking officers had been arrested for collaborating with Mahsud. And in late September, General Wodud, commander of the Central Corps, was found shot to death in his office. He may have been killed either by the Parchamis or by enraged Soviets on suspicion of collusion with the mujahidin. Through out the year, Afghan commanders have had their assignments shifted frequently—as if their Soviet overseers were trying to forestall the development of sympathetic ties between commanders and local mujahidin.

In a speech to the armed forces guidance and administration leadership cadre on August 12, Babrak Karmal was highly critical of the army's performance. He singled out irresponsibility with weapons (perhaps prompted by the large loss of materiel to the mujahidin in the Panjsher), the ineffectiveness of some combat units, the failure of officers to lead and inspire their men, and the lack of cooperation between the army and other security organizations. Babrak ascribed these problems to inadequate political indoctrination in the army and, by implication, to party factionalism. He stated that "unity . . . and the solidarity of party ranks in the army was of vital and national importance."

The shortage of Afghan troops may be even more significant for Kabul than the shortage of reliable officers. The regime has been unable to build an army of more than 30,000—40,000 men; it loses about 10,000 men annually through desertions and 5,000 through casualities. The year 1982 began with an urgent need to replace some 20,000 men who were released from service in December 1981 after completion of their extended tours. Extensive sweep operations were held throughout the country to obtain replacements. Those caught in the dragnet included many persons with valid claims to exemption. Similar sweeps were conducted in the spring and early summer but with little success.

In late July, the regime again revised the draft law. The tour of duty for regular recruits was extended by 6 months to 3 years. Reservists who has been inducted following the September 1981 mobilization had their present tours extended from 1 to 2 years, and another large class of reservists became eliebible for active duty when the age ceiling was raised from 35 to 39.

The reaction in the armed forces was predicable: a perceptible increase in desertions. Indeed, the draft law changes appeared to have the immediate effect of causing a net loss of army personnel despite the sweep operations. To counter this hemorrhaging, the regime announced higher pay for soldiers and noncommissioned officers during their third year of duty.

In October, in a further indication of the troop shortage, the regime decided to violate traditional custom by drafting men from the Shinwari, Mohamand, and Jaji tribes who inhabit areas adjacent to Pakistan. The decision also may have reflected the regime's awareness that these tribes were not preventing crossborder traffic in their area—the quid pro quo for the draft exemption. But when the tribesmen staged a large demonstration in Kabul in early November in protest to the draft, the government reversed its decision.

Rumors of a government plan to create a civil defense corps of boys (ages 16-18) and older men (ages 40-45) to perform guard duty have greatly alarmed the populace. Younger boys (ages 10-15) are to receive military training at school to prepare them for such responsibilities. As much of the police force is tied down with guard duty, the civil defense plan would free police for combat. Many of the 16-18-year-olds already have been conscripted even though they are under the legal draft age of 19. The plan allegally is to go into effect in March 1983.

CONSOLIDATION OF ALL SECURITY ORGANIZATIONS

Morale and disciplinary problems have afflicted other security organs—the Defense of the Revolution (DOR) militia, the police, and the secret police. The DOR militia is supposed to be a force of selected party loyalists, but its members are often young, opportunistic, and easily demoralized; they have a poor record of performance under stress. There is also much bickering among the different services, including fighting between the police and hte KHAD in Kabul.

The Soviets and the regime recognize the advantage of imposing more centralized control on the security apparatus. The "action program," adopted at the party conference in March, called for establishing a "unified single defense system of . . . armed forces, frontier forces, security organs, groups of defenders of revolution and volunteer groups of tribes." It also called for "tight party control over the . . . activities of this system as a whole."

The plan to consolidate all security forces under centralized party direction has run into political and bureaucratic resistance. In speeches to KHAD personnel in May, to army cadres in August, and to the police in October. Babrak Karmal criticized all the services for their lack of cooperation. His complaints, however, are unlikely to have much effect. For example the top Khalqi leader, Gulabzoi, who as Minister of the Interior controls the police, probably sees the consolidation as a Parcham move to undermine his position; indeed, there are signs that Gulabzoi is continuing to try to build the police into a parallel "army" under his control.

PROBLEMS IN THE PARTY

The first national conference of the People's Democratic Party of Afghanistan (PDPA) took place in mid-March 1982. In addition, three Central Committee plenums were held—the eighth in March to prepare for the national conference, the ninth in July, and the tenth in December. The first three meetings revealed that the fundamental conflicts between the Khalq and Parcham factions of the party are as serious as ever.

The conference sponsors probably hoped that the conference would establish the dominance of the Parcham wing and thus would further legitimize Babrak's leadership. The two main items on the agenda—changes in the party constitution and an action program to give the party a sense of direction—both seem to have been designed to reduce Khalq influence.

The Khalq leadership, however, turned the two-stage process of electing delegates to the conference into a contest punctuated by fistfights and shootouts, instead of accepting elections rigged in favor of Parcham candidates. The results confirmed that in spite of repeated purges of lower and middle-level Khalqis, the latter still outnumber their rivals—at least among full-fledged members eligible to participate in the election process.

The effect of the preconference elections was to exacerbate Khalq-Parcham feuding. Babrak's speech to the conference referred repeatedly to the "factionalism" problem, highlighting his concern about what he referred to as "this old disease." Babrak stated that "when unity is weakened, the party faces weakness and defeat, even its existence faces danger." He denounced anarchism, lack of discipline, alien ideology, hostility toward new party members, and the related sins of nepotism, localism, tribalism, and ethnicity in forming party cadres.

During much of 1981 and particularly in early 1982, in the weeks immediately preceding the conference, the Parcham leadership engaged in an intensive drive to recruit new members. The purpose was twofold: to legitimize the party's claim to governing Afghanistan by giving it a larger membership and to neutralize the influence of the Khalqis.

By the time of the conference, a combination of coercion and enticements had netted the party enough new recruits to enable it for the first time to announce a membership figure: 62,000. At the ninth plenum in July, Babrak claimed that the number had increased to 70,000. Many observers estimate the membership at about 35,000 to 40,000.

About half of the members are in the armed forces. In August, Babrak said that there were 20,000 members in the army and that "the army party organization forms the greatest part of the PDPA." This figure would include members in the officer corps, which is predominantly Khalqi, and new members among conscripts—a captive group that has provided the Parchamis with a large portion of their new recruits. Many of these persons defect from the party at the same time they defect from the army. (Even if the party's figure of about 62,000 members is correct, they would constitute only 4% of Afghanistan's population, estimated at about 15 million before the Soviet invasion.)

In what appears to be a thinly veiled effort to isolate the Khalqis in the expanded party, the Parcham leadership announced at the conference a change of rules to authorize a more rapid influx into the party of workers and peasants by shortening the probationary period. Rules also have been changed to relax sponsorship requirements.

Relaxing the rules is likely to cause problems for the party leadership. Babrak and others have indicated that new members have not carried out their party duties satisfactorily. At the conference in March, one leader noted that nearly half the party was composed of young people (18 is the age of eligibility), and he complained of their lack of "political maturity."

The other main item on the conference agenda was to adopt a comprehensive "action plan" to galvanize members to promote party objectives. Babrak Karmal's speech implied that the right to be carried on the membership rolls would depend on a member's active participation in the defense of the revolution—in combat and in the high priority area of revitalizing the economy.

The Parchamis may have viewed the more strict criteria for membership as a way to purge the Khalqis. But Soviet advisers, who probably drafted the document, evidently saw it as a means of coercing the Khalqis to cooperate. Moscow has always been concerned about antagonizing the Khalqis because of their strength in the military; for that reason, a major purge is unlikely.

The ninth central committee plenum of the party was convened in July without advance notice. At the time of the meeting, rumors of coup plots and of connivance between the Khalqis and the resistance were rife. Though the plenum ostensibly dealt with the need for party workers to get out among the people to sell the revolution, the gathering apparently focused on security problems and the continuing struggle between the Khalqis and the Parchamis. The crisis probably was ignited by the unsatisfactory outcome of the fifth Panjsher campaign and perhaps of other military offenses. High-level personnel changes were anticipated, including the removal of Khalq leader Gulabzoi from his position as Minister of Interior, but the most significant dismissal was that of General Gul Aqa, the Parcham political commissar in the Ministry of Defense who was held responsible for dispatching hundreds of volunteer party workers to their deaths in the Panjsher. Apparently a large proportion of the "volunteers" were Khalqis anxious to remain in the good graces of the Soviets by taking an active part in the war effort.

Divisions within Babrak's own Parcham faction remain. Relations between Babrak and Prime Minister Sultan Ali Keshtmand are cool. Keshtmand is ambitious and would like to step into Babrak's shoes as Moscow's favorite. As a former Minister of Planning who retains special responsibilities for the economy, Keshtmand is pushing hard for improvements in economic conditions to impress his Soviet mentors.

The ninth party plenum's directive to party members to work among the "masses" is the latest in a series of efforts to broaden the party's base. During 1981, the regime pursued this goal through the creation in June of an umbrella organization—the National Patherland Front (NFF). Subsequent publicity has created the impression of a steadily growing organization that is opening up new provincial and district councils throughout the country. The anniversary of the front's founding was marked by a second plenum in Kabul in June 1982. The regime invokes the NFF when it wants to imply national support for such issues as a recent NFF sponsored peace campaign. But the front is generally considered a facade; it has failed to achieve its purpose of mobilizing popular support for the regime.

PROBLEMS IN THE ECONOMY

Both Kabul and Moscow publicly claim that Afghanistan has made considerable economic and social progress in spite of "interference" by the forces of "imperialism." In their own speeches, however, Afghan officials have expressed great concern over the continuing economic deterioration. For example Babrak emphasized to the PDPA conference in March and again to the party plenum in July that "the economic front bears no less importance than the battlefront." Babrak continually stresses that the breakdown of the Afghan economy is a political problem that party members should solve. The regime is hoping to use improved economic conditions to generate popular support for the government, but the economy cannot be revived while so much of the countryside is under mujahidin control.

Afghanistan's economy rests primarily on agricutlure. Over four-fifths of the population lives in rural areas. Reasonably good weather over the last few years has left the farmers in some areas not much worse off than they were before the Soviet invasion. Agricultural production, however, has fallen sharply. About 3 million Afghans (one-fifth of the population) have fled the country, most coming from rural areas and taking about 3 million animals with them. In areas of heavy fighting, including many of Afghanistan's most fertile valleys, crops have been destroyed or lost through lack of irrigation and cultivation. In the areas controlled by the mujahidin, what is produced is not shipped to urban markets, although this year military forces have appropriated harvested crops for the regime. As a result of the decline in agricultural production and problems of distribution, the Soviet Union has had to supply food and other commodities to meet the basic needs of the cities, notably Kabul.

Kabul's food problem this year has been greatly exacerbated by a large influx of refugees fleeing from nearby towns and villages that have been heavily bombarded by the Soviets. The population of Kabul has more than doubled since before the war to about 1.8 million. Although the authorities have tried to introduce price controls, recent emigrants report that basic commodities are in very short supply and that prices have skyrocketed.

In his campaign to win the support of the peasants, Babrak has outlined a program of land reform. The main innovation in this plan—as compared to the program applied by the Taraki regime in 1979 that stimulated the early growth of the resistance movement—is to accompany redistribution of land with the water rights needed to irrigate it. In conjunction with this program, Afghan and Soviet planners are seeking to restore damaged irrigation systems in 11 provinces.

The mujahidin have resisted these efforts. Preliminary phases of a pilot project in Deh Sabz district (adjacent to Kabul) have provoked strong opposition. There is little likelihood, therefore, that this project will be carried out, despite predictions of Babrak and his prime minister that agricultural production would rise as much as 3.1% for the Afghan calendar year (March 1982-March 1983).

The situation is no better in Afghanistan's small industrial sector. Emigration has seriously reduced the work force (both skilled and nonskilled), the transportation network is in disarray, and the mujahidin have shut down many factories and virtually all development projects. At the party conference in March, Babrak listed government enterprises that have been disabled by the resistance, including "the cement factory in Herat, the textile mills in Herat and Qandahar, sugar factories and irrigation establishments." He stressed the importance of putting these plants back in operation, but there is no indication as of late fall that this has happened.

At the same conference, Prime Minister Keshtmand outlined an ambitious program of economic growth. He predicted a general increase in production of 6.3 percent with industiral growth of 10.3 percent, during the period from March 1982 to March 1983. These projections were predicated on 63 new projects to be carried out mostly with Soviet aid. The plan was based on the assumption that the more aggressive military strategy for 1982 would neutralize the mujahidin and reestablish the regime's authority in the provinces.

It was clear by late August that the military strategy was not working and that economic objectives were not being achieved. Keshtmand admitted to the Council of Ministers that performance during the first quarter of the year (March 21 June 21) was unsatisfactory. He indicated particular concern about shortcomings in the development of fuel resource electricity and minerals and raw materials. In particular, he mentioned the importance of increasing coal production as well as expanding oil and gas works, of getting started on the Aynak cooper mine project in Lowgar Province, and of assuring adequate electricty for Kabul. Babrak's mid-year report to the Council of Ministers on October 3 indicated similar concern over these particular areas of the economy.

The stress on improving key sectors of the economy has been accompanied by high-level personnel shifts. Last spring, Prime Minister Keshtmand relinquished the planning portfolio to Dr. Khalil Ahmad Abawi, a professional planner. Keshtmand, however, retains special responsibilities in the economic sphere. The Ministry of Power and Irrigation was split in May into two entities, presumably a reflection of the importance attached to these areas. The former Deputy Minister of Agriculture and Land Reform, Abdul Ghafer Lakanwal was elevated to the post of minister.

Afghanistan's natural gas industry is the only sector of the economy that functions more or less normally. Almost all of the gas produced from fields located near the Soviet border and developed by the U.S.S.R. in the early 1960's is exported to the U.S.S.R. The nominal price increases negotiated since the occupation are all that keeps Afghanistan's economic statistics from being worse than they are. Part of the earnings from sales of natural gas is applied to repayments on the outstanding debt to the Soviet Union; the remainder is registered as credits in the barter accounting system for trade between the two countries. In this way, Afghanistan derives no hard currency benefit from its major export.

The Afghan economy continues to be tied tightly to that of the Soviet Union. An agreement signed in April 1981 called for trebling trade between the two countries during 1981-1985, as compared to the previous 5 years. Afghanistan's development plans are worked out by Soviet advisers; the emphasis on the development of fuel and mineral resources appears to have been dictated by Soviet requirements.

In mid-November, Babrak, speaking to a World Peace Council conference in Kabul on socioeconomic development, reviewed development achievements in Afghanistan. Most of the projects he listed are far behind schedule or at a standstill. The two that have been completed are conspicuous for their importance to Moscow: a new bridge linking the two countries over the Amu Darya River that was rushed to completion in May, a year ahead of schedule; and a satellite communication and television receiving system, inaugurated in late February. This system gives Moscow an important communications link and the opportunity to project its political propaganda into Afghanistan.

NATIONALITY AND TRIBAL POLICY

Both Kabul and Moscow attach particular importance to the regime's nationality and tribal policy. This policy, implemented by Minister of Nationalities and Tribal Affairs Sulaiman Laeq, tries to exploit ethnic and tribal self-interest to win support from Afghanistan's diverse peoples. The seventh party plenum in December 1981 issued a special message to the tribes, and during the past year the regime has continued to try to exploit tribal sensibilities.

An important element in the regime's strategy is the effort to win over the tribes through cash, weapons, and privileges. These tactics appeared to be having some success at various times in 1982. Certain tribes seemed to lose their enthusiasm for the resistance and were said to have agreed to arrangements by which they would be exempted from the draft in return for guarding the border.

In most cases, however, tribal acceptance of regime blandishments has proved to be temporary and tactical. Tribes in Paktia Province near the Pakistani border rebelled twice during the year to turn back Soviet and Afghan forces that were trying to close off access to Pakistan. Likewise, tribes in Konar Province, adjoining Pakistan, resumed armed resistance after allegedly having been neutralized by the regime. More recently, the regime provoked demonstrations when it tried to draft men who belonged to the border tribes in Paktia and Nangarbar Provinces.

THE RESISTANCE MOVEMENT

Resistance forces in Afghanistan demonstrated in 1982 that they could absorb hard blows by the Soviets and intensify their own operations. Most resistance organizations have survived this year's tough battles despite losses. For example, a respected commander was killed in the Paghman area in the spring. More recently, a young leader from the southern outskirts of Kabul was killed while leading an attack on a military garrison inside Kabul. In Lowgar Province, Soviet forces inflicted a heavy blow during the summer on resistance forces already weakened by friction among the mujahidin. In spite of some setbacks, observers have concluded that the resistance is stronger at the end of the year than it was at the beginning.

Early 1982 was a difficult period that revealed the vulnerability of the resistance during winter months when the mujahidin have less mobility. Access to mountain trails for escape routes and to mountain redoubts for sanctuary is cut off by heavy winter snows. The mujahidin, for instance, suffered serious setbacks in Qandahar in the south in January and in Parvan Province, north of Kabul, where Soviet and regime forces trapped many freedom fighters and their supporters in an encircling operation in February. Nevertheless, the guerrillas continued harassing operations throughout the country during the winter. In January, a mujahidin gunner in Paktia Province downed a Soviet helicopter in which Lt. Gen. Shkidchenko was a passenger. Shkidchenko's death was reported in the Soviet press without reference to the circumstances.

Resistance activities picked up in the spring. Mujahidin renewed their harassment of the highways. They regularly attacked convoys on all major routes to procure weapons, ammunition, food, and other supplies. The freedom fighters also have kept up their attacks on other targets such as government and party offices and installations in urban and district centers, including police posts and military garrisons.

The mujahidin have shown improved capabilities this year against Soviet combat aircraft, including Mi-24 helicopter gunships, and airbases, and against targets inside Kabul. The Soviet military headquarters, the Soviet Embassy, and the Kabul airport have all been hit by heavy mujahidin fire. Recently the guerrillas have exploded bombs in party offices and hangouts of the secret police in the center of Kabul.

Resistance operations in the Panjsher Valley, Paghman, and Kabul have received the most publicity, but freedom fighters also continue to engage Soviet and Afghan forces throughout the country. In Quandahar and Herat, for example, the resistance continues to be effective in spite of repeated Soviet military campaigns. Indeed, mujahidin are once again operating inside Quandhar city from which the Soviets had forced them out last January.

The mujahidin are active in the northern provinces adjoining the U.S.S.R., despite the deployment of additional Soviet forces in this area. Indeed, mujahidin periodically cross into the Soviet Union on raiding parties and also receive assistance (and sometimes recruits) from their ethnic cousins across the river. When Babrak went to the Soviet Union in mid-May for the opening of the new bridge linking Termez, on the Soviet side, with Hairatan, there was no large public ceremony on the Afghan side; security conditions precluded such festivities.

The effectiveness of the parallel government run by the resistance varies from region to region. In the Panjsher Valley, Ahmad Shah Mahsud has mobilized virtually the entire population of 100,000 for the resistance struggle. In some ethnically homogenerous areas—notably the Hazarajat and Nuristan—automonmous governments have been formed, although these governments have been weakened by internal dissension.

The resistance remains a collection of numerous separate movements. But cooperation between various elements has increased considerably in 1982. In the areas around major towns and cities, operations frequently are combined ventures involving several groups. Furthermore, such groups now cooperate in operational planning; and in the procurement and sharing of weapons.

In Peshawar, the six major exile organizations have formed two alliances. In the field, cooperation cuts across alliance lines. In some places, local leaders have abandoned their Peshawar affiliations and have united under a local commander.

Nevertheless, in spite of improved unity, clashes occur periodically between rival bands. These battles occasionally have caused fairly heavy casualties and have led to disillusionment among the population of the localities where they occur. Friction among mujahidin groups, for example, has seriously weakened the resistance effort in Lowgar Province. The fighting stems from competition between groups to establish their authority over a given area, but there are increasing signs that the battles sometimes have been provoked by Soviet or regime agents.

In this situation, progress toward consolidating the resistance movement has been uneven. But the judgment of observers who have visited mujahidin groups in Afghanistan during the past year is that many are becoming better organized and are cooperating more effectively with one another.

Prominent Afghans in exile have stepped up their search for ways to overcome political divisions in the resistance movement and to bridge the gulf between themselves and the mujahidin. Former Prime Minister Youssuf has been active in this effort as has Abdul Rahman Pazhwak, a former Afghan diplomat who once served as President of the U.N. General Assembly. Pazhwak arrived in New Delhi from Kabul in late March and announced his intention to try to promote a government-in-exile. Before such a government can be established, however, serious conflicts within the resistance must be resolved and difficult questions of leadership—including whether former King Zaher will have a role—must be answered.

THE AFGHAN REFUGEES

In the period since the April 1978 Marxist coup in Kabul triggered the flow of refugees from Afghanistan to Pakistan, more than 2.7 million people have registered with the Pakistani authorities. This figure emerges from the reenumeration of the refugee population conducted by the Paskitan Government in 1982.

Refugees continue to enter Pakistan at a steady pace. The numbers have declined, probably reflecting the fact that many villagers close to Pakistan became refugees in the early stages of the war, while resistance leaders farther away from the border have urged the local population to stay in their villages. Also, victims of the war in the interior have moved to Kabul and other cities. In October, however, authorities in Pakistan noted a rise in refugees arriving in Pakistan, including people coming for the first time from the Panjsher Valley.

The international refugee relief program, sponsored by the U.N. High Commissioner for Refugees (UNHCR) and implemented by the Government of Pakistan, has been remarkably successful. Islamic communality and crossborder kinship in the tribal areas of Pakistan where most of the refugees are located have contributed to the welcome that Pakistan has extended to its Afghan guests.

In fiscal year 1982, the United States contributed over $105 million in support of Afghan refugees in Pakistan. This figure includes about $70 million worth of food aid given through the World Food Program (WFP), a U.N. agency, and about $27 million donated through the UNHCR. The U.S. donation constitutes one-third of the total UNHCR budget and about 60% of the international food contribution. The balance of the U.S. contribution goes to several voluntary agencies.

In spite of the large international contribution, the Government of Pakistan bears the brunt of the relief effort. It pays a cash allowance to refugees and pays the costs of administering the relief program and providing transport for relief supplies. Furthermore, Pakistan has suffered environmental damage owing to the refugees' need for firewood and for grazing for the 3 million animals.

Despite some incidents, relations between the refugees and the local Pakistani population have been generally smooth. Nevertheless, the larger the refugee population becomes and the longer it remains, the greater the likelihood of friction. Although this prospect puts pressure on Pakistan to negotiate a political solution, President Zia has indicated that Pakistan would accommodate many more refugees if necessary.

The refugee population in Iran is estimated at between 500,000 and 1 million. Over 4,000 refugees of Turkie origin were resettled from Pakistan to Turkey in 1982, including a tribe of Kirghiz nomads from the Wakhan corridor. About 4,000 Afghan refugees were admitted to the United States during fiscal year 1982.

LONG-TERM SOVIET PROSPECTS

The most urgent Soviet priority in Afghanistan during 1982 has been the pursuit of its military objectives: eliminating the mujahidin forces and keeping the Afghan people from supporting the resistance. But Moscow also pursues a long-range policy of stimulating a more favorable political climate for itself and its proteges. A key element of this policy is the development of loyal cadres of young people through Sovietization of the Afghan educational system and extensive educational and training programs for Afghans in the Soviet Union.

Estimates of the number of Afghans currently studying in the U.S.S.R. vary from 6,000 to 10,000. This program, however, does not always achieve its purposes. Afghan students have encountered hostility from Soviet citizens angered by the loss of Soviet lives in Afghanistan. Some students have clashed with Soviet police.

Last summer, as in the two preceeding years, a large number of Afghan children (1,200 in 1982) went to summer camp in the Soviet Union. Parents have complained about political indoctrination courses at these camps and also about Soviet and regime efforts to use children as informers.

Moscow is creating an infrastructure of Soviet-style institutions in Afghanistan on which it counts to mold the people in the Soviet image. The Soviets hope that key organizations, such as the National Fatherland Front, gradually will take root.

The regime's nationality and tribal policy also is part of Moscow's long-term strategy. And Babrak's major effort to coopt religious leaders undoubtedly reflects Soviet direction.

The Afghan people have seen through these strategies and have largely resisted Soviet efforts to win their support through gifts of food and consumer goods. Over the longer term, however, growing hardship and suffering in Afghanistan could make the population more susceptible to Soviet blandishments, pressure, and propaganda.

Moscow continues to pursue its long-term objective of wearing down international resistance to the Babrak regime. A central element in this effort is to build up Babrak's international image and to strengthen ties between his regime and other receptive governments, primarily countries of Eastern

Europe. In late May 1982, Babrak visited East Berlin and signed a Treaty of Friendship and cooperation with the German Democratic Republic. In early October, he went to Hungary and signed a similar treaty. These visits followed trips to Bulgaria (December 1981), Czechoslovakia (June 1981), and Moscow (October 1980). The Soviets clearly hope that by keeping Babrak on the world stage, they can eventually persuade the international community to accept him as a legitimate head of government.

Regime officials, with Soviet assistance have made great efforts to develop relations with the nonaligned world. Foreign Minister Dost has been actively seeking friends in the Middle East and south asia but without signal success. In India, whose criticism of the Soviet invasion has been restrained, his approaches have produced mixed results. India agreed to revive a joint India-Afghan commission on economic, technical, and commercial relations, and in May signed a protocol envisaging a modest program of trade and technical assistance. Subsequently Mrs. Gandhi became more outspoken about the need for a withdrawal of Soviet troops from Afghanistan and made a statement to this effect at her press conference in Moscow in September.

The international community, how ever, through a fourth overwhelming vote in the United Nations (114-21), has demonstrated once again that it rejects the Babrak government's claim to legitimacy. The U.N. resolution calls for the immediate withdrawal of foreign troops from Afghanistan and a peaceful solution based on the principles of sovereignty, nonalignment, and self-determination, as well as for the creation of conditions in Afghanistan that would enable the refugees to return with safety and honor. The resolution also requests the Secretary General to continue his efforts to promote a political solution in accordance with the resolution and to explore the possibility of securing appropriate guarantees of noninterference in neighboring states. The size of the vote in favor of this resolution is impressive evidence of continuing international concern.

Indeed, the spotlight on Afghanistan grows brighter each year. The number of journalists and photographers who have traveled inside Afghanistan with the mujahidin has increased, as has coverage in the international press and on television. Such events as the Florence Colloquium on Afghanistan and international observances of Afghanistan Day, both in March 1982, and the Bertrand Russell Tribunal meeting in Paris in December 1982 all serve to emphasize the importance of the issue. Nevertheless, the international publicity is periodic, while the suffering of the Afghan people is constant. The discrepancy between the magnitude of the tragedy and the international attention it receives works very much to Moscow's advantage.

PROSPECTS FOR A POLITICAL SOLUTION

Indirect talks on Afghanistan in Geneva in June 1982 drew international attention to the U.N. effort to seek a negotiated solution. The U.N. mission was originally mandated in November 1980 by the General Assembly and was launched in 1981 under the aegis of Secretary General Waldheim and his "personal representative" for Afghanistan, Perez de Cuellar.

In early August 1981, during his second trip to South Asia to deal with this problem, Perez de Cuellar won two concessions from the Soviets and the Babrak regime: The United Nations would play an active role in negotiations concerning Afghanistan; and Kabul would engage in negotiations with Pakistan and Iran together, rather than insisting on dealing bilaterally with each one. The latter point is important to Pakistan because, by pursuing a political solution in tandem with Iran, Pakistan will be in conformity with the resolution of the Islamic Conference in May 1980.

Kabul's concessions, which were procedural only, were embodied in the Afghan proposals of August 1981; these, in other respects, were a repetition of its original proposals of May 14, 1980. The May 14 proposals in essence stated that Babrak's regime must be recognized as a legitimate government and than the Soviet troops will leave Afghanistan when what Kabul calls "outside interference" (the resistance) stops. The May 14 proposals also call for international guarantees for such a settlement.

The U.N. mission was temporarily interrupted when Waldheim was replaced by Perez de Cuellar in late 1981 In February 1982, Perez de Cuellar, following a formula devised by Waldheim, appointed Diego Cordovez, U.N. Undersecretary for Special Political Affairs, as his "personal representative" for Afghanistan.

By mid-April 1982, Cordovez was shuttling between Kabul and Islamabad, visiting each twice, prior to a stop in Tehran. Shortly after his return to New York, the United Nations announced on April 21 that both the Pakistanis and the Babrak regime had agreed to hold indirect talks in Geneva in June. Iran would not participate directly, but agreed to be kept informed and thus to be associated with the talks. The announcement also stated that the involved parties had agreed to discuss the following issuances: "the withdrawal of foreign troops, non-interference in the internal affairs of states, international guarantees of non-interference and the voluntary return of the refugees to their homes."

The Geneva talks lasted from June 15 to June 24. The Iranians made it clear that they were not participating because the "real representatives of Afghanistan," i.e., the mujahidin, were not represented. Spokesmen for the Afghan resistance movement protested the talks for the same reason. The Soviets did not participate but sent high level experts in Afghan affairs to Geneva.

Following the conclusion of the Geneva discussions, the United Nations, Pakistan, and Afghanistan all issued positive statements and indicated that there was a measure of flexibility in the negotiating positions of both sides. At a press conference on June 25, Diego Cordovez referred to "certain important political concessions."

He disclosed that he had kept a written record of the "understandings" that he believed had been reached and that he would be working from these "texts" in subsequent discussions with the involved parties. Cordovez emphasized that the talks had moved beyond procedural questions to specific discussions on the basic substantive matters and stated that "we concluded a kind of package of understanding."

Although he did not discuss specifics, he said in response to questions that a beginning had been made to work out arrangements to hold discussions with Afghan refugees concerning the terms for their return and that the question of self-determination had been "touched on." These could be important developments because they relate ultimately to the difficult problem of constituting a government acceptable to both Moscow and the mujahidin.

The central issue of the negotiations, however, is whether the U.S.S.R. is seriously interested at this stage in negotiating a withdrawal of its troops from Afghanistan. The "flexibility" reportedly demonstrated by the Kabul/Moscow side at Geneva has yet to be put to the test. But it should become apparent rather soon whether Moscow's support of the U.N. process is genuine or tactical. Cordovez will resume his negotiating mission in January 1983 with another trip to South Asia, and he will attempt to pin down the specific details of the comprehensive settlement be envisages.

The United States seeks the total withdrawal of Soviet troops from Afghanistan through a negotiated settlement which will also provide for other essential requirements spelled out in four U.N. resolutions on Afghanistan: the self-determination of the Afghan people, the independent and nonaligned status of Afghanistan, and the return of the refugees with safety and honor. The United States supports U.N. efforts to achieve these goals.

AFGHANISTAN

(By Lawrence S. Eagleburger)

Three years after the Soviet invasion, the struggle for freedom in Afghanstian continues. The military situation can best be described as a stalemate. The augmentation of Soviet forces to 105,000 and a greatly intensified Soviet offensive during the past spring and summer have produced only very limited gains, if any. After 3 years of increasingly harsh and destructive occupation—and even with the use of chemical warfare—the Soviet Union has not been able to accomplish what it set out to do—strengthen the Marxist/Communist government in Kabul and eliminate the resistance.

This is due to the incredible spirit, courage, and tenacity of the Afghan people; they deserve the admiration and support of free people everywhere. I don't know of another example in the world today where a small and ill-equipped people has stood up to the might of a tremendous military power with such effectiveness.

As you know, this Administration views the Soviet invasion and continuing occupation of Afghanistan in a broad strategic context. It is an example of Soviet willingness to use its growing military might beyond its borders and in ways that threaten American interests, the interests of the West in an area of great strategic importance, the interests of the Islamic world, and the interests of the subcontinent.

For these reasons we believe it is absolutely essential that Soviet aggression in Afghanistan be checked. The world must not forget Afghanistan. In the U.N. General Assembly, under Pakistan's leadership, another resolution on the Afghanistan situation was passed by an overwhelming majority at the end of November. In other meetings, such as the Islamic Conference, resolutions calling for Soviet withdrawal remain agenda items of the greatest importance. In Moscow, Afghanistan was a major item of discussion with the new Soviet leadership following President Brezhnev's funeral. In Washington, a few days ago, President Reagan and President Zia of Pakistan had a searching discussion on Afghanistan. I might add that U.S. and Pakistan policies remain close and compatible. In brief, the Soviet invasion of Afghanistan remains an issue of primary world importance, just as it should be.

The position of the U.S. Government in regard to Afghanistan is clear. We seek the total withdrawal of Soviet troops from Afghanistan in the context of a negotiated settlement, which will also provide for the self-determination of the Afghan people, the independent and nonaligned status of Afghanistan, and the return of the refugees with safety and honor. These elements of a settlement have been spelled out in four U.N. General Assembly resolutions.

In order to achieve a negotiated settlement, we, like Pakistan, feel every reasonable avenue must be explored. Thus we support the efforts of the U.N. Secretary General's personal representative, Diego Cordovez, as he prepares to continue his indirect talks in the region in January. We understand Mr. Cordovez will carry with him a draft or outline of a possible framework for a settlement. We have not seen it, and, therefore, I cannot comment on what he will be suggesting as the basis for discussion. We have said we will support the U.N. process as long as it is consistent with the U.N. General Assembly resolutions on Afghanistan and does not tend to legitimize the Babrak Karmal regime.

Since the leadership change in Moscow, there has been a great deal of press speculation and comment on the possibility of Soviet flexibility toward a negotiated solution in Afghanistan. Thus far we have had no meaningful indications of Soviet intentions. We would welcome signs of Soviet willingness to work seriously for a negotiated settlement that will return Afghanistan to the Afghans.●

HAROLD S. GENEEN

Mr. LONG. Mr. President, one of the most remarkable chapters in the history of private enterprise in the United States will come to an end in May of this year when Harold S. Geneen retires from the board of directors of the International Telephone & Telegraph Corp. The announcement of Mr. Geneen's upcoming retirement—along with that of longtime fellow board member and colleague J. Patrick Lannan—was made by ITT on March 8.

Mr. Geneen's decision not to seek reelection to ITT's board will end a 24-year relationship with the company. For the first 18 of those years, Harold Sydney Geneen not only ran ITT, but he fashioned it into the vast international conglomerate that it is today. The new era of management that he represented and the company's spectacular growth—from $765 million in sales in 1959 to $22 billion today—made both the man and the company legends in American business.

So I would like to take a moment today, Mr. President, to pay tribute to Mr. Geneen as he ends his association with ITT. He joined the company in 1959 as president, chief executive, and board member; 5 years later he was named chairman of the board. He turned over the presidency in 1973, the post of chief executive in 1978, and the chairmanship on January 1, 1980, when he became chairman emeritus.

But behind this recital of dates and titles, Mr. President, lies one of the best examples of the American folk hero who bootstraps his way from obscurity to the heights of success.

Born in the English Channel town of Bournemouth, England, in 1910, Harold Geneen was brought to the United States as an infant and became a citizen in 1918.

At age 16 he took a daytime job as a page boy at the New York Stock Exchange, spending his nights working toward a degree in accounting and finance which he received 8 years later at New York University. He also worked at the New York World Telegram as an office boy and later as an advertising salesman.

Degree in hand, he joined Mayflower Investment Trust and later became a senior accountant at Lybrand, Ross Bros. & Montgomery. In 1942 he was named chief accountant for an American Can Co. subsidiary in Forest Park, Ill. In 1946, he became controller of the Bell & Howell Co. in Chicago, and in 1950 was named controller of Jones & Laughlin Steel Corp. in Pittsburgh.

But it was not until 1956 that Mr. Geneen's true management prowess came to the attention of the larger investing community. As executive vice president and director of Raytheon Manufacturing Co. in Waltham, Mass., he established a new structure that enabled the company to boost earnings fourfold during his 3-year tenure.

When, at the age of 49, Mr. Geneen joined ITT in 1959 as chief executive and president, the company was vastly different than it is today. Then it was little more than a holding company with interests mostly in telecommunications subsidiaries in Europe and telephone utilities in Latin America. And its earings were lagging.

"Management must manage," he declared in his first address as ITT chief executive on March 14, 1960, to the New York Society of Security Analysts.

The full meaning of that theme was spelled out clearly in the annual report to stockholders issued that same month. In it, Mr. Geneen stressed the need to establish an entirely new organization to manage the company more effectively.

He established a European headquarters in Brussels and regional offices elsewhere, and created a central core management to provide the autonomous units with top staff-level guidance and planning. In contrast to the looser organizations of many multiproduct companies, ITT's structure soon became one of the most tightly run communications and control mechanisms ever developed.

One of Mr. Geneen's major contributions during his time at ITT was the tremendous growth in jobs that the company experienced under his leadership. When he took over as president in 1959, the company employed 23,000 persons in the United States and another 113,000 abroad. But now, Mr. President, ITT employs some 120,000 persons in the United States, and another 200,000 overseas. We often lose sight of the fact that business expansion means the opportunity for a better life for workers and their families. These kind of human benefits produced by ITT—under Mr. Geneen's leadership—are the real success story behind that company's growth.

I would also like to draw attention, Mr. President, to Harold Geneen's many contributions in the area of social responsibility.

He was an early voice in the fight for civil rights, and in 1962 led an industry drive to establish a free school system for 1,700 black children in Prince Edward County, Va., which had closed its public schools to protest desegregation.

Mr. Geneen also worked to alleviate unemployment and expand equal employment opportunity programs. He served as chairman of the National Alliance of Businessmen's Region II, which from 1969 to 1973 led the country in training and providing jobs for 144,000 disadvantaged youngsters. This was four times the national average for those years. ITT itself hired 3,000 Vietnam veterans in 1 year alone, and 2,300 youths in 5 years for its summer youth program.

Under Mr. Geneen's leadership, ITT would write new chapters in business history on the acquisition and successful management of a diversity of businesses—Continental Baking with its familiar "Wonder" bread and Hostess cakes; Sheraton hotels and inns worldwide; various financial services and insurance companies, led by Hartford Fire Insurance; Rayonier, a major producer of chemical cellulose and other wood products; O. M. Scott & Sons, well known for their lawn and garden care products; and, in the energy field, Carbon Industries and Eason Oil Co.

ITT also acquired a host of technical and industrial products, such as piping and valves for nuclear power stations, automotive brake assemblies, heating and air-conditioning systems, pumps and environmental equipment, and semiconductors for everything from home appliances to digital watches.

The decade of the 1970's proved a testing ground on several fronts. Economically, ITT weathered the 1970-71 recession with uninterrupted gains in sales and earnings. In challenges to certain acquisitions, the company was successful in two major court decisions, but agreed to enter into consent decrees with the Department of Justice by which it would divest itself of five acquired companies and part of a sixth—representing collectively $1 billion in sales and earnings.

Yet Mr. Geneen put this seemingly negative event to good use by replacing divested earnings with earnings in other growth fields, and reinvesting in new plants and facilities.

Since giving up the post of ITT chief executive on January 1, 1978, Mr. Geneen has remained active in the business world by heading his own investment company. In recent years he has had a little bit more time—but not that much—for his oldest hobby, playing the banjo.

THE REMARKABLE ABE PLOUGH

Mr. SASSER. Mr. President, Abe Plough, a remarkable man, a remarkable Tennessean, and a remarkable American, is receiving this week yet another distinguished award which underscores a singular commitment to improving the quality of life for everyone, a commitment which makes Abe Plough, at 91 years of age, a model for people of any age.

The Consumer Product Safety Commission this Thursday awards Mr. Plough—founder of Plough, Inc., and former chairman of Schering-Plough Corp.—with the first award the agency has ever given to an individual. The award recognizes his contribution to the development of child-resistant packaging.

Specifically, the Consumer Product Safety Commission is citing Abe Plough for bringing to market the first safety cap for children's products. He did this 25 years ago, a full dozen years before it was required by legislation, for his company's St. Joseph Aspirin for Children.

It is difficult to overstate the significance of what this marketing act meant and still means. "The safety cap has saved many young lives," says Dr. Jay Arena of Duke University and past president of the American Academy of Pediatrics. "And to do that, Abe Plough put his company on the line."

According to Dr. Arena, other companies showed little interest in introducing similar devices at the time of the cap's development and introduction.

More than 10 years before the introduction of the child-resistant cap, it was Abe Plough who was responsible for producing the first aspirin for children in tablets that were exactly one-quarter the standard adult doses. This development eliminated the need for hand-quartering the tablets and made it possible for physicians to prescribe accurately for children. Plough also made the tablets orange-flavored and chewable, greatly increasing their appeal to the young.

Who knows just how many lives were saved, how many children were made healthier, and how many illnesses were eased as a result of Abe Plough's decision to go ahead with his ventures, despite the risks?

I believe that the answer to these calculations has something to do with Abe Plough's commitment to, and reverence for life itself.

He always seems to have known what Albert Schweitzer spoke of when that great humanitarian and healer accepted the Nobel Peace Prize a generation ago: "Affirmation of life is the spiritual act by which man ceases to live unreflectively and begins to devote himself to life with reverence in order to raise it to its true value. To affirm life is . . . to exalt the will to live," said Schweitzer, who added that "you don't all live in a world alone. Your brothers are here too."

Abe Plough has always demonstrated that he knew he did not live alone in the world. Businessman, philanthropist, civic leader, he has given of himself indefatigably in his work for institutions of higher education, in projects for both the young and the elderly, and in promoting the community of Memphis.

I want to join those who take part in the occasion of this, the latest deserved honor bestowed on Abe Plough, by sending along my own expression of gratitude and appreciation for that he has done and continues to do—for all of us.

I ask unanimous consent that a short biographical sketch of the remarkable Abe Plough be printed in the RECORD.

There being no objection, the biographical sketch was ordered to be printed in the RECORD, as follows:

BIOGRAPHICAL SKETCH OF ABE PLOUGH

Abe Plough was born in Tupelo, Mississippi, and his family moved to Memphis when he was eleven months old.

In 1908, at the age of sixteen, Mr. Plough founded the company now known as Plough, Inc. with $125 borrowed from his father. When Plough, Inc. was consolidated in January 1971 with The Schering Corporation of Bloomfield, New Jersey, he became Chairman of the Board and Directors of Schering-Plough Corporation, and on his retirement September 1, 1976, was named Honorary Chairman.

Mr. Plough is the Managing Trustee of Plough Foundation, a member of the Board of Trustees of the Toledo Museum of Art and Memphis Boys' Town; Honorary Chairman of the Board of Life of United Way of Greater Memphis; a member and Honorary President of Temple Israel, a Shriner and a 33d degree Mason.

On March 17, 1983, Mr. Plough was inducted into the National Business Hall of Fame at Dallas, having been elected by Fortune Magazine as one of six national laureates to receive this honor from Junior Achievement, Inc.

In May 1982, the University of South Carolina conferred upon him an honorary degree of Doctor of Science "for his astute leadership in business and in the profession of pharmacy, for his devotion and service to humanitarian causes, and for his philanthropy in the cause of higher education."

In October 1981, he was the recipient of the Dean's Award of the University of Tennessee's College of Pharmacy in recognition of his "extraordinary contributions to the profession of pharmacy and the U. T. College of Pharmacy."

In 1976 and again in 1979, Mr. Plough was recognized by the Tennessee House of Representatives for his outstanding contributions and service in the best interests of the State of Tennessee; and in June 1980, the Memphis City Council adopted a resolution praising him for his tremendous generosity and loyal service to the City and elected him an honorary member of the Council.

The American Foundation for Pharmaceutical Education established "The Abe Plough Citation Fellowship" in December 1974, to be awared annually to an outstanding graduate scholar in pharmacy.

In March 1980, the Memphis Jewish Housing Development Corporation named its apartment complex for the elderly "Plough Towers"; the name of the Airport Connector Road was changed in April 1980 to "Plough Boulevard"; and in August 1980, Christian Brothers College named its new library in his honor.

He has given much of his time and means to civic and charitable causes and has received numerous other honors, including:

The "Human Relations Award" from the Memphis Round Table of National Conference of Christians and Jews;

Memphis Sales Executives Club's first "Community Salesman Award";

"Liberty Bell Award" on Law Day 1978 from the Memphis and Shelby County Bar Association, "in recognition of community service which strengthens the effectiveness of the American system of freedom under law";

Memphis Newspaper Guild's "Citizenship Award."

At the age of ninety-one, Mr. Plough still remains extremely active in community affairs and philanthropic endeavors.

DEATH OF ANN COOPER

Mr. KENNEDY. Mr. President, all of us were saddened to learn of the death of Ann Cooper last Friday after a brief illness. For more than three decades—beginning long before almost any of us came to the Senate—Ann's Newsstand was a familiar and well-loved part of the daily life of the Senate.

President Kennedy told me when I first came to the Senate that one of the most important challenges was to learn the Senate rules—and that one of the most important rules was to get your newspapers from Ann's Newsstand.

Often, over those decades, Ann was the first place we stopped on the way to work to pick up the morning Post, and the last place we stopped on the way home to pick up the Evening Star.

For all those years, she was the closest thing we had to a village store, and she presided with a warmth and common touch and generous heart that endeared her to generations of Senators and their staffs.

In recent years, we also came to admire her remarkable spirit and courage in the face of failing health, and her refusal to permit any adversity to keep her from her newsstand or her service to the Senate.

We shall miss her smile and friendship. But we shall always retain fond memories of the remarkable woman who meant so much to so many Members of the Senate.

Mr. President, I ask unanimous consent that the obituary on Ann Cooper, which appeared in yesterday's Washington Post, may be printed in the Record, together with an article about her that appeared in the Post in 1981.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, Apr. 25, 1983]

Ann Cooper Dies, Owned Capitol Hill Newsstand

Ann Cooper, 78, who owned and operated a newsstand on Capitol Hill for over 30 years until retiring for reasons of health this year, died April 22 in George Washington University Hospital after a stroke. She lived in Washington.

Mrs. Cooper was a native of Warren, Ohio, and moved here in 1948 to study hotel management. She operated a canteen at Sibley Memorial Hospital before taking over the newsstand at the Carroll Arms Hotel on Capitol Hill about 1950. After the hotel was sold in 1965, she operated Ann's Newsstand from a trailer, on land rented from the Senate, in the 300 block of First Street NE.

She became a fixture over the years. Her stand was a one-woman operation, open seven days a week (from 5 a.m. to 6 p.m. weekdays) and closed only for Christmas.

Mrs. Cooper was known for her generosity and her penchant for extending credit and loans to Hill employes. Their thanks to her was returned when she was hospitalized in the late 1970s. Over an 18-month period, she was mugged, underwent heart surgery, and fell and broke her hip. But her newsstand did not close. In a 1981 story, The Post told how Hill veterans volunteered their time to run the stand. The volunteers included a Hill policeman who used a month of his vacation time to operate her stand.

Her Marriage to Russell H. Cooper ended in divorce.

Survivors include a brother, Robert Abrams of Courtland, Ohio, and two sisters, Sally Brainard of Youngstown, Ohio, and Catherine King of Niles, Ohio.

[From the Washington Post, Mar. 2, 1981]

Capitol Hill's Newsstand Annie; Newspaper Store for the Stars

(By Thomas Goldwasser)

Nine months before Harry Truman won his unexpected presidential election in 1948, Ann Cooper came to Washington. A few months later, after completing a course on hotel management and running the canteen at Sibley Hospital, the young woman in her 20s from Warren, Ohio, started a newsstand on Capitol Hill. She has been a fixture there ever since.

Today, one block north of the Dirksen Senate Office Building at 301 1st St. NE., in a trailer, is Ann's Newsstand, which Annie (everybody calls her Annie) Cooper has operated since 1965. Before that, beginning in the summer of 1948, she owned and operated her news business downstairs in the Carroll Arms, Hotel. "I answered an ad," volunteers the businesswoman. The man who ran the stand had a heart attack, and his son was selling it for $1,000.

So, Cooper began hobnobbing with famous senators and their staffs. And, even though she has come upon some hard times since then, household names still talk and joke with her and, most important, consider her a friend.

"When I was at the Carroll Arms," begins Cooper, "Sen. John F. Kennedy used to eat in the dining room and he'd come down to read the magazines. He never bought them, just looked. He was shabbily dressed and always looked like he needed a haircut. You know, with his hair always hanging along side of his face." Then, Cooper pauses a few seconds and continues: "He was very nice and friendly. Those were the good old days. People just are not like that now."

In addition to Kennedy, other senators, later to become household words, were newsstand patrons, Lyndon Johnson, Richard Nixon, Hubert Humphrey and Henry Jackson were, at times, regulars. "When Senator Jackson first got elected, he'd come in here every night to pick up his paper. And Senator Humphrey was a friendly soul. Everybody liked him. I have some thank you cards from him which I will always treasure. Not long before he died, I sent a card for his birthday." Today, the senate majority and minority leaders, Howard Baker and Robert Byrd, respectively, order their daily papers from Ann's Newsstand.

Cooper toiled in her Carroll Arms stand until 1965, when the hotel was sold. "When I first moved to the trailer," she explains, "I thought it would be temporary. But I got used to it and didn't want to move back when the hotel reopened." Since reopening the Carroll Arms, where comedian Mark Russell began his career and powerful Hill types made deals around the bar, has come upon hard times. In recent years, the building has been converted into office space for the surfeit of senate staff members.

Cooper, too, has had a string of bad luck the past few years. Over an 18-month period, beginning in November, 1977, she had a pacemaker implanted, was mugged and fell, breaking her hip. However, her shop never closed. Her friends on Capitol Hill came to her rescue. Hill policemen especially were helpful. Many men and women volunteered their lunch hours to take over her duties.

And Donnie Burch, who now serves as a Hill policeman on the House side, used a month's vacation to run the newsstand. According to Terry Flaherty, who heads the Senate parking unit, there really was no alternative. "If Annie had not gotten help from her friends like she did, she probably would have had to close up." Flaherty, who has known her since she arrived on the Hill, and is a close friend, continues: "The stand couldn't afford to take on any full-time help, and even with the way people helped out, Annie did, and still has a rough time making it. Remember in her business, the profit margin is very small even in the best run stands."

And the consensus is that, Ann's Newsstand has not been masterfully run. "Annie's been too nice for her own good," concludes Allen Neece, Jr., who, until last November, served as legislative counsel to the Senate Small Business Committee. Neece, who now directs his own Washington consulting firm, elaborates: "In the old days, Annie used to be a bank to some of the Hill staffers. If they were strapped, they'd come to her for a loan. Large amounts of money, too, and many times she was never paid back."

Cooper's small-town habit of trusting people, without getting a word on paper, proved nearly fatal to her business. Her debts kept piling up. Finally, early in 1980, with the help of Neece and Janet Downs, staff members of the Senate Small Business Committee, Cooper received a $20,000 Small Business Administration loan under the new minibusinesswomen's direct loan program. However, even with this aid, coupled with advice on sound business management from the SBA's Service Corps of Retired Executives (SCORE), the wolves were still at Annie Cooper's door.

Last March, her largest creditor threatened to cut off deliveries within a week if she did not pay up.

Once again, Cooper's friends showed her how much they cared. With hardly any notice, comedian Mark Russell, Cooper's friend since early Carroll Arms days, Flaherty, and Roll Call editor Sid Yudain organized a fund raiser. And last March, more than 350 Annie Cooper friends, at a minimum of $10 a head, raised $6,500. At the shindig in a Senate committee room, the Capitol Hill pecking order was ignored, as lowly staffers, mingled freely with senators.

Today, Annie Cooper remains right where she belongs, a block from the Capitol, running her business. Five days a week, from 5 am until 6 pm, she's there. On Saturdays and Sundays, she knocks off early at 3:30 or 4:00. She closes only on Christmas day. And she has enlisted the support of a bookkeeper who picks up the books one day a week.

She'll probably carry on essentially just the way she always has, running a business where, as Mark Russell observed. "The six words heard most often in her career have been, 'Can you trust me till payday?' "

RALPH NEAS—TRIUMPH OF COURAGE AND ACHIEVEMENT

Mr. KENNEDY. Mr. President, the April issue of the Hill Rag contains an eloquent article on the remarkable career of a young man who has served Congress, the country, and the cause of civil rights with extraordinary skill and dedication, the executive director of the Leadership Conference on Civil Rights, Ralph Neas.

I first came to know Ralph well in the 1970's during his years as a Senate staff member, where he earned a reputation as one of the ablest legislative aides in the Senate, first with my former colleague from Massachusetts, Senator Edward Brooke, and later with our colleague from Minnesota, Senator David Durenberger.

All of us who know Ralph suffered with him and prayed for him in his excruciating, courageous, and finally successful struggle 4 years ago against the near-fatal and near-crippling Guillian-Barre disease.

Today, fully recovered and more active than ever, he is back in the forefront of the battle for economic progress and social justice. As executive director of the Leadership Conference on Civil Rights, he has been a brilliant leader and advocate on a broad range of issues, including the successful and immensely important drive in the past Congress to extend the Voting Rights Act.

All of us who know Ralph value his friendship and admire his ability and leadership, and I ask unanimous consent that the article to which I have referred may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Hill Rag, April 1983]

RALPH NEAS

(By Jean-Keith Fagon)

When I was a child, I often wondered at the very natural order of life as I saw and felt it. What made the sun rise to guide each new day and then set to end that same day for each certain night? Why did the breeze blow when it did and what made the rain fall, why were the seasons what they are, how did the stars appear in the sky, why the animals, trees, streams, rivers, seas? The wonderful surprise and gift of childhood was that it all made sense to me without my really understanding it.

As I grew older this miracle was slowly unveiled and I began to see how each thing was related and dependent on the other. I learned of the great circle of life, how it begins with sun and water and air and earth and returns to these at its end. I discovered that everything around me was important and necessary. This planet with its billions and trillions of objects and life forms was ordered by what we call Nature, a sometimes inexplicable confluence of patterns and realities.

Thus it seemed a cruel irony that my own life and the lives of others I knew were seemingly so affected and determined by unforeseen events and societal norms. I was struck by that eternal question of burgeoning adulthood—Why do I exist? Did I have a true purpose or was my life one of mere coincidence, ineptly guided by some casual discretion? Was I ever to be the master of my fate or would I be guided solely by society's demands?

In recent years, as I have reflected on my life's path, I have become aware that what has happened to me and the choices I have made are the result of a balance between two destinies. One is a destiny charted by the values I have been taught, my experiences, how I have been molded. The other destiny is one which began prior to my awareness, because of the person I was at birth, a unique configuration of nature. When I speak of who I am, I mean that internal core, that original spirit within me which no amount of societal veneer can eradicate. The outward manifestations of this core are the subtle propensities of my mind that reveal themselves at choice points in my life. And if this is true for me it must also be true for the millions of other people on this earth.

But while I now believe that each of us must create his own life path through a balance of these two forces (however close that life comes to its potential) it is evident that we hold the paths of some in higher esteem than others, and use them to guide our own lives. These are people whose lives and decisions have been given society's blessings. What we fail to realize when we seek to emulate them is that while their lives embody our highest values, they may not be following the destiny of society but that destiny given to them by their internal core. What we see as sacrifice of self may be instead self-fulfillment.

These people may be relatives or friends, more often people whose lives have affected many, who have lived for all consuming purposes, who we read about and whose lives we enviously watch reenacted in plays and movies. These are people whose lives affect a significant portion of the history of mankind, a history that roots our lives in time and gives us purpose, courage to continue, strength—sometimes the raison d'etre of our survival. History can be a kaleidoscope through which we peer to touch our past and attempt to perceive what lies ahead of us in the future. History gives us faith and hope for mankind and the individual histories of what we term "exceptional" people give us hope for our lives.

While our history books recount the words and thoughts and deeds of Lincolns and Roosevelts, Churchills and Gandhis, Mother Theresas and Martin Luther Kings, in my own life I have been occasionally graced by knowing people who shine brightly in their fairness and kindness towards others. People who, for no clearly apparent reason, have dedicated themselves to help, serve and protect the less fortunate. Egotistically locked into our own success and glorification we look at these people and ask, "Why do they devote themselves thus? What motivates them to help others? Why aren't our lives like theirs?" The answers lie in our own histories and in theirs.

One of these special people is my friend Ralph Neas, whose life, at the age of 36, has already touched many. Today Ralph is at the very center of a brilliant career in the field of civil rights, a career that came close to an abrupt end in 1979 when Guillian-Barre Syndrome, a disease that progressively paralyzes the nerves that control the muscles, brought death dancing with him for almost three months. Lying in an intensive care unit room at St. Mary's Hospital in Minneapolis, he lived with excruciating pain. Ralph has told me, "All I could think of was survival. From February 14 through April 15, 1979, I lost something every day. Most of my body drooped, grotesquely paralyzed. And though I was paralyzed I could feel intense pain. Everytime I was touched I wanted to scream, but of course I couldn't—my vocal cords were also paralyzed. By March 10 I was being fed by a nasal tube inserted down into my stomach.

"I lost 25 pounds between February 14 and March 5; my digestive system started to quit. I could urinate, but I couldn't get rid of solid waste. Then I got pneumonia. Liquids were building up in my respiratory system and I felt as if I was drowning. I couldn't breathe on my own, so, after undergoing a tracheotomy, I was attached to an artificial respirator."

By March 20, Ralph was totally paralyzed. he could barely shake his head and a nurse had to lift his finger so that he could point to letters in the alphabet to communicate. Next came a case of double vision and he thought he was going blind. He developed clots in his lungs and it took the doctors hours to suction them out. "At this point I was ready to make my peace with God," he told me. "I reconciled myself to the distinct possibility that I might die.

"I once believed that if I had enough time I could do just about anything I wanted to do professionally. But I didn't take into account acts of God. This made me aware of my vulnerability as well as my dependence on other people." Ralph watched and listened, his mind unimpaired, as a priest administered general absolution at his bedside.

"Never before entering this hospital had I seriously contemplated my own mortality. Now I was doing so. Greater than my fear of death was the overwheming sadness I felt at the possible loss of life. I thought of all my dreams and ambitions as yet unfulfilled. I thought of the civil rights issues still to be resolved. I mourned the loss of my political career. All those years preparing for it . . . I grieved over the loss of the love of my family and the warmth and companionship of my friends. I had dreamed of being happily married, of having children and even of adopting children from unfortunate circumstances. Never to know these pleasures was crushing. Finally I drifted into a morass of self-sorrow."

But Ralph did not die. On July 6, with the help of crutches, he walked out of St. Mary's and in mid-September he returned to Washington. Somehow, he has confided to me, he had to survive. He recalled a quote from Camus that a friend had sent him. "In the midst of my nightmarish winter, I know I have within me an invincible summer."

Four years have passed since that "nightmarish winter." I met with Ralph one early evening in February in my office to talk about his life—the themes and patterns of his 36 years. I poured us two glasses of water, then sat across from him and watched as he put away his notes and overcoat before sitting down. This man is of medium height and build, with brown hair set against a strong, cautious, compassionate face. He carries himself erect and bears the manner of someone who is not only in control of his life but is forever examining every detail of it. When I look very closely at him his eyes, almost too small for his face, shine like two brilliant stars. When he laughs his whole face seems to burst into flames, making it appear as if he is sitting around a bonfire. I can feel the heat. But then something happens. In the midst of that flashing brightness the light in his eyes goes dim, cold, reflecting a person who has experienced suffering. And from the suffering comes the inevitable acceptance of one's responsibilities, one's fate. Ralph's eyes are the all-knowing guardians of his soul.

Always willing to talk to anyone, always willing to listen to anyone. Ralph has an extraordinary talent for friendship. He is a gentleman, too. He is always well-dressed, courteous, attentive, extremely pleasant—a man happy with himself. He remains one of my best friends in the city. I have known him for over ten years.

When he talks to me it is as if he is talking to himself. His words are spoken with crystalline delicacy and deep tenderness, surrounding me with a strong feeling of confidentiality. I am about to enter his world, his memories, his feelings, his desires, his secrets. I instinctively know I am about to become a witness to this man's life story. I've sensed, correctly, that he is a man set apart, who belongs to the small elite of those who live their lives beyond the limit and never die in our hearts. He describes to me in minute detail the chronological evolution of his life, fascinated by what he sees, by the enigma he presents.

"Ralph," I began, "I've always admired you because of your commitment to something beyond yourself. You seem to genuinely love people. I am reminded of the phrase 'Love thy neighbor as thyself.' I sense in you a kinship with life. You know, I've always been struck by the notion that we are given life and asked for nothing in return. So it seems to me there is no more unselfish act than the gift of life to others. The enhancement of other's lives is an act of love and after your bout with Guillian-Barre Syndrome I find you more committed, more determined to continue helping those people who have been left out by fate.

"The world would be a better place if we all were as willing to help each other as you are. I don't have any answers for why that's not the case, but I do believe that understanding people like yourself is one way of finding the answer. Let's start with your childhood, your parents, your early years."

Ralph looked up at me and laughed. "Jean-Keith, no one, including me, deserves such accolades. But with respect to understanding anyone, I think you are right to begin with that person's background, family, and friends.

"My childhood was very far removed, at least on the surface, from many of the concerns that I'm involved in today, though the fact that I was born on what was to become the anniversary of the *Brown vs. Board of Education* decision may have been fate's early indication of what lay ahead for me." He leaned forward in his chair, rested his chin on his left hand, and gestured with his right hand as he spoke, a pose which I have come to realize is typical of him.

"I grew up in St. Charles, Illinois, which is about 40 miles west of Chicago. I've been lucky to have an extremely good family life. I am very close to my younger brother and sister and extraordinarily close to my parents. I grew up in essentially an all-white middle and upper income area. During the years I was in grade school and high school we had one black family in a population of 15,000. I don't think I knew anyone who was Jewish until I was in high school. I guess my childhood was very typical of how many people in America grew up, very much sheltered in the sense of exposure to different cultures, ideas and people. And I think the way I compensated for this, though not consciously, was through reading. My parents encouraged me to read, in fact more than encouraged—they demanded it. This past Christmas I was looking over my first grade reading list, which included biographies of Lincoln and Washington. So at an early age, the issues of invidious discrimination and some of the history surrounding it, which was not present in my everyday life and which I wouldn't explore for another 15 years, was brought into my life. In the 60's, of course, there were many visual demonstrations of some of the things which I subsequently got interested in. You had the brutality and intolerance towards blacks on nightly TV news. Roy Wilkins and Martin Luther King were household words. In the 60's my consciousness was raised along with everyone else's. I can remember an essay I wrote in high school on segregation in the army. It wasn't until the late 1940's that President Truman integrated the army, air force, and navy. I think that choosing this subject was an early indication of my growing awareness, more than an intellectual awareness of injustice and denial of equal opportunity.

"My early years were dominated by my family, my friends and the game of baseball. For many years my ambition in life was to play third base for the Boston Red Sox.

"What was there about the sport that so attracted you?"

"First, it was fun. Second, I was fascinated by the challenge of trying to be a player of major league caliber. But there were benefits that I didn't realize at the time. For example, baseball is a nine-person game. Its success depends on team work, and learning to get along with the people playing with you. Although there are individual glories, if you're a good ball player, there are great satisfactions in winning as a team, a valuable lesson to learn so early in life. And I developed discipline. I very methodically went about improving every aspect of my game. So you see, baseball was a very important part of my growing up. It was my self-identification from age 8 to 14. Which made it all the more painful when I finally realized that—after all the hard work and dedication—I wasn't going to be good enough to play pro ball. It was the first real turning point in my life."

"Ralph, it has always seemed to me that human nature is such that without courage and discipline we seem to find endless excuses not to do something new. People instinctively shy away from change; they fear it and cling to the status quo, even to the point of living out their lives in quiet desperation. The pursuit of wisdom, the expansion of our capacities seems to me the only worthwhile use of time. Life was meant as a lesson for all of us. We must learn to accept life as our teacher, to see this relationship as our freedom instead of fearing what it brings. Elizabeth Barrett Browning once wrote 'Knowledge entereth through suffering, and Life is perfected by Death.' I really believe that we can and should learn from everything that happens to us, that we should embrace pain as we do happiness.

"You seem to have been willing to spend time and energy seeking knowledge from every opportunity throughout your lifetime. That takes courage and it marks you as one of that rare breed, a lifelong learner.

"For instance, the realization that you weren't good enough to play pro ball was a loss but it was also an opportunity and you were able to see it like that. I think this is where the destiny that is shaped by your internal core can be seen. There is something inherent in the way you seem to rally after a loss or defeat."

Turning in his chair, Ralph reached across the table, took his glass of water, and slowly drank from it. Still holding his glass, he smiled and responded, "You're right. I lost my dream of baseball, but that became a factor in my decision to quit public school and enter Marmion Military Academy, a Catholic, Benedictine military school. There I became a straight-A student, which allowed me to enter the University of Notre Dame and later the University of Chicago Law School.

"I surprised my parents and friends by one day announcing that I was going to Marmion. It was a very regimented life. I had to wear a uniform every day. I managed a B-plus average the first year, but then blossomed into a very good student. I developed faster in a short period than I ever had or have since. As important as Notre Dame and the University of Chicago Law School would become, the basis of my education was in these three years. I was also beginning to learn about the outside world as well as my personal self. It was a time of discipline, tenacity and commitment. In my local public school, what was important was being a good athlete and being popular with the girls. At Marmion I was thrown into an environment where it was valued to be a scholar-athlete, to be good at both. And I enjoyed it tremendously. I developed study habits and learned how to relate to others. It was really the first experience where I learned social skills that would be of enormous help as I grew older.

"I chose to go to Marmion for some good reasons but I couldn't possibly have foreseen the many lessons I would learn there. The religious military environment gave me the discipline of having to do things I didn't like to do, the responsibility of leadership, of being a company commander, of being responsible for the training and performance of 100 younger kids."

At Marmion, the groundwork for Ralph's adult life was set in place. He was given the opportunity to grow, to define himself, to set and accomplish goals, to nurture and enrich his life, but the discipline, the courage, the commitment and the faith in his ability had to be his own. He had, in Tillich's terminology, "the courage to be."

"The spirit of Notre Dame," he told me, again gesturing with his right hand to emphasize his point, "is something that is central to my life. There's our fight song, the essence of which is 'you never give up no matter what the odds are.' That is something that has characterized my sports life, my professional life, my 150 days at St. Mary's Hospital when I was written off as someone who might not survive. Even before Notre Dame, before high school, I had an identification with the struggle of the underdog, those people denied their rights and opportunities, those left out by fate.

"My next stop was the University of Chicago Law School. I got a fine legal education there, but I didn't enjoy it. I found law school boring, unreal, far removed from what I imagined for myself in terms of a profession. The profound learning experience at Chicago was my exposure to types of people that I hadn't had the opportunity to meet. Hyde Park was the first area I had lived in where substantial numbers of blacks and other minorities lived. I was fascinated by people's different perspectives, and this aided me immeasurably in developing an understanding of people. I realized how much I would have to learn if I was going to do all the things I wanted to do later in life. I learned that to understand people requires accepting them through their own experiences and hopefully incorporating this into your own life. It was an important step for me, one requiring constant discipline, even more so today."

Ralph's years in law school were also the birth of his strong ambition to work in a public service environment. "In the summer of 1970 I spent 3 months in Washington, D.C. as a law clerk with a firm located at 1700 Pennsylvania Avenue, next door to the White House. The firm allowed its clerks to go to the Hill, to hearings, to the Supreme Court, to participate in the political and legal life of Washington. I had always felt intuitively that I would love politics and my experiences in D.C. graphically corroborated this feeling. I made a decision then that I would be back."

In 1971 Ralph returned to Washington and got his first job at the Library of Congress in the American Law Division of the Congressional Research Service.

"Once again fate intervened in that my first job was in civil rights work. I had the opportunity to improve my writing skills, particularly my legal analysis. I met my first wave of Washington friends, many of them working on the Hill, in congressional offices. It became my goal to work in a Congressional office."

A year later in 1972 he hit the jackpot when Senator Edward Brooke of Massachusetts, the only elected black Senator in our history, hired him as legislative assistant. "The job was not supposed to focus solely on civil rights, but through a series of events I started working with the Senator on the major civil rights issues of the time.

About a year and a half into my job my predecessor became ill, and when I was only 28 the Senator asked me to become his chief legislative assistant. This was in June 1974 and I stayed in that position through 1978."

In Ralph's own words this was the most important point in his career development. "If I were to point to a period of time that was the most influential to my professional development, it was in the U.S. Senate serving as Brooke's chief legislative assistant. Frankly, I don't think in my wildest dreams I ever imagined such a scenario. I had to work on a number of complex legal and political issues, including Watergate. In fact the first major speech I ever wrote was a speech suggesting that President Nixon resign." That was in November of 1973. Ed Brooke was the first major national figure to suggest that Nixon resign. This was right after the Saturday Night Massacre, when Archibald Cox was fired and Elliott Richardson and William Ruckelshaus resigned.

I asked Ralph what he felt was so special about Ed Brooke.

"Senator Ed Brooke was probably the most effective civil rights champion on Capitol Hill, particularly on many controversial issues where many members of Congress were reluctant to take a high public profile. I have never met a more intelligent, a more articulate, a more seasoned political pro than Ed Brooke. Ed Brooke is primarily responsible for any skill I have developed as a consensus builder, a conciliator, a negotiator. When we talk about people who have played a key role in my life, obviously we have my parents, but Ed Brooke has to be the dominant figure in my political and professional life. He gave me as good an introduction to politics as one can get. I was able to learn from someone who was a master of the political processes, an eloquent and effective advocate on many of the issues that I was concerned about, an individual who could get things done. Not just because he had the substantive knowledge or knowledge of the procedural processes, but because he knew how to work with people. He understood people, not only from his perspective, but from their own perspectives.

"Again, if we are looking for patterns and themes in my life, I would have to say that I would never have been able to become the Executive Director of the Leadership Conference for Civil Rights if I had not gained the substantive procedural and political experience with Ed Brooke. Through him I was exposed to all the groups and individuals who work in these areas. By the time the opportunity came up with LCCR I was known by the groups that comprise LCCR—the Black organizations, the Hispanic organizations, women's groups, churches, unions, disabled, senior citizens—all these were the heart of Ed Brooke's constituency. These were the allies with whom Ed Brooke and I fought many battles over a very long period of time."

In November of 1978 Senator Edward Brooke was defeated for reelection to the U.S. Senate. In January 1979, Ralph went to work for Senator Dave Durenberger, an incoming freshman from Minnesota. In February 1979 while Ralph was in Minnesota on assignment for Durenberger, he was admitted to St. Mary's Hospital, paralyzed with Guillian-Barre Syndrome. The stage was set for his confrontation with death.

As I listened to him speak I was struck by what seemed a strange twist of cruel fate in that both Ed Brooke and Ralph Neas, two men who worked so closely together for the benefit of others, should be struck down in such totally unforeseeable ways. Ed Brooke was defeated mainly because of an irresponsible and widely publicized news campaign concerning his bitter divorce. I asked Ralph how badly he was hurt by the loss of such a great friend and teacher. He laughed bitterly and became suddenly still. Finally he spoke in a strained, hushed voice. "To this day it's still one of the greatest tragedies I've ever been personally close to in that someone who was such a champion for so many millions of people lost because of a deeply personal family situation in his own life. It had all the makings of a Greek tragedy."

"What do you think you learned from Ed Brooke's tragedy, from this terrible injustice?

"You know, Jean-Keith. I was prepared to answer that with respect to my illness. But I never thought of Senator Brooke's experience as analogous to my own, yet there is in my reaction to that experience something that is very consistent with one of my reactions to my own illness. And that is that we are all vulnerable. Nothing is fully in our control no matter how good we are, no matter how committed we are, no matter how hard we work. And once we realize that, really know it, not just intellectually, but emotionally, it changes us forever.

"I remember talking with Sister Margaret Francis Schilling, the person most responsible for me surviving, physically, mentally, and spiritually at St. Mary's. It was the first week that I knew I would live, that my muscles were coming back, that I could talk. I said to Sister Margaret that the first thing that my mother was going to say when she came to visit was, 'Don't go back to Washington. Start practicing law, have a family. I've been praying and trying to tell you this for years. Maybe this experience will make you understand.' I said to Sister Margaret, 'You know me as well as anybody can possibly know me after sitting at my bedside for four and a half months. You know where I hope to be going. I want you to stay beside me and back me up, because I'm going to tell my mother that now I'm even more committed to what I want to do than I was before the illness. This illness has just underscored what I consider to be the important values in my life and what I want to do with my life."

Listening to Ralph speak of the fall of Ed Brooke, his illness and subsequent response to both events, I was reminded of the poignant words of Wordsworth.

"Though nothing can bring back the hour
of splendour in the grass,
of glory in the flower,
we will grieve not rather find
strength in what remains behind."

Again it seemed to me that there is something in Ralph's essential spirit that enables him to return stronger after defeat.

I also began to think about the many decisions that we make in our lives every day, decisions that we make without deep reflection, perhaps thinking that the consequences don't matter that much. It is often only years later that we learn the implications of those decisions—who to marry, where to go on vacation, whether to leave a job, whether to go to a certain party or not.

The decision may have been very costly to our lives or we may have prospered because of it. The point is that we hold in our hand the power to direct our lives and this power must never be taken lightly.

But we cannot see the future. Nor can we avoid making decisions. We must make them whether we want to or not. And we can learn something by looking at the lives of people who seem to have made decisions that have strengthened their lives, people like Ralph Neas. At the point he realized he would not play pro ball, at the point of Senator Brooke's defeat, and at his own point of facing death, Ralph had the confidence and the commitment to make the right decision for himself regardless of what others felt was right for him.

It thus seems that the best preparation for making life-affecting decisions comes from knowing ourselves. By seeking our own unique balance between what we want and what society wants we can answer the challenge of our lives. But even though we can be influenced and pattern our actions after what has worked for others, the courage to live out those decisions, to be committed to them, must be our own.

On March 31, 1981, Ralph accepted the job as Executive Director of the Leadership Conference for Civil Rights, the largest and oldest coalition in the country, made up of 165 national groups. "The job was a once-in-a-lifetime opportunity, one that my illness had prepared me for psychologically and which my previous career had prepared me for professionally. It was almost as if I had to do it. I think I have certain gifts and insights gained through some rather extraordinary experiences, and I feel I have a responsibility to put them to use.

"The LCCR job offered me an opportunity to graduate to my next level of professional development while at the same time furthering my commitment to civil rights issues. I knew the extension of the Voting Rights Act was coming up and I knew there would a lot of battles because a new administration was coming in, the radical right was in ascendency and everything that had been enacted over the previous 25 years seemed to be in jeopardy. It could not have been a more challenging time."

I asked Ralph about the history of the LCCR and what he considers its main goal. He said that he believes very strongly that nothing characterizes the history of America more than the dream of providing equality of opportunity for all Americans. And trying to provide that opportunity and protect it has been the principal purpose of the LCCR for the last 33 years.

"I think President Jimmy Carter was more right than not, that life is unfair, whether because of fate or because of people or governmental institutions making it unfair. But I think what we have been able to do, or at least have tried to do, is to make life fairer for the ones who have not been given an opportunity. And I think that the history of the last 25 years has, in great measure, focused on that issue. And that's what I think the Leadership Conference on Civil Rights is all about."

Ralph argues that civil rights issues in the broadest context, equality of opportunity issues, are among the most important problems confronting our society today. If we don't resolve them we put in jeopardy our whole way of life.

"Among many people, there was a feeling after the 1980 election that we were attempting to do too much for the minorities, that the problems of the '50's and '60's had been solved. Equality of opportunity was there for everybody who wanted it, and that we had moved beyond the civil rights issues to other areas. But what these individuals did not understand is that there are still millions of Americans who, by a combination of fate and governmental actions, do not have access to the political processes, do not have access to economic, educational and housing opportunities. I see the LCCR as a vehicle through which we can share information with Congress, with the Administration and with the public." Ralph drained the water from his glass. "There are pervasive problems of discrimination in our society and we have to do something about them."

"What do you see ahead of you in the next five years?"

"Several of those years, at least, I want to stay at the Leadership Conference. Not only to pursue legislative goals, but also to give the Conference a more solid foundation with respect to our finances and our organizational capabilities. Eventually, and I'm not sure when, I would like an opportunity to participate more personally in the electoral process and maybe an opportunity to run for office. I think I would relish the chance to serve in Congress.

"There are so many important issues facing the nation today. Not only civil rights issues, which are crucial, but the issue of nuclear disarmament, which I think is overriding. For if we don't resolve it we may not have the opportunity to resolve any of the other issues. And, of course, there is the economy. People have to be able to work. And there is so much to work on."

"One last question. What do you like best about Ralph Neas?"

"I think he tries to be fair and, hopefully, most of the time he succeeds."

My heart leaps up when I behold
A rainbow in the sky:
So it was when my life began;
So it is now I am a man;
So be it when I shall grow old,
Or let me die!
The child is father of the Man . . .

—WILLIAM WORDSWORTH.

Silver spoons to some mouths,
Golden spoons to others,
Dare a man to change the given order.
Though they smile and tell us,
All of us are brothers,
Never was it true this side of Jordan.
Take off your old coat and roll up your sleeves,
Life is a hard road to travel, I believe.

—Folk Song, Author Unknown,
Peter, Paul & Mary, 1962.

"The Leadership Conference has . . . spearheaded the drive to achieve true equality in America."

—Senator CHARLES McC MATHIAS, Jr.

"The Leadership Conference is far more than a uniquely effective lobby. It is, in truth, the voice of conscience in the Nation's Capital."

—Senator PHILIP S. HART.

Chronology

May, 1946: Born in Brookline, Massachusetts.

Jan., 1955: Moved with parents to Chicago, Illinois suburb.

June, 1964: Graduated from Marmion Military Academy.

June, 1968: Graduated from the University of Notre Dame.

School years of 1969–1971: Law clerk, firm of Kirkland, Ellis, Chicago. Illinois.

Summer, 1970: Law clerk, Law firm of Gadsby and Hannah, Washington, D.C.

June, 1971: Graduated from the University of Chicago Law School.

Summer, 1971: Passed the Illinois Bar examination.

Fall, 1971: Moved to Washington, D.C.

Nov., 1971: Started working as a legislative attorney in the Congressional Research Services American Law Division at the Library of Congress.

Spring, 1972: Served as First Lieutenant in the Adjutant General Corps, Fort Benjaman Harrison, Indianapolis, Indiana.

Jan., 1973: Began working as a legislative assistant to Senator Edward W. Brooke of Massachusetts.

June, 1974: Became Senator Brooke's chief legislative assistant.

1974–1978: In addition to administrative responsibilities, I had the opportunity to assist Senator Brooke on the major civil rights issues before the Congress, including the 1975 extensions of the Voting Rights Act, the 1978 extension of the Equal Rights Amendment, the Voting Rights Constitutional Amendment for the District of Columbia, and all the rear-guard actions to protect the landmark civil rights laws enacted during the 1960's.

Summer, 1976: Awarded the National Bicentennial Medal by the American Revolution Bicentennial Administration for contributions to the nation's Bicentennial.

Nov., 1978: After experiencing a year of tragic and very public divorce proceedings, Senator Brooke was defeated in reelection attempt.

Jan., 1979: Became chief legislative assistant to Senator Dave Durenberger of Minnesota.

Feb., 1979: Contracted Guillain-Barre Syndrome (A.K.A. French Polio) while visiting Minnesota and admitted to the intensive care unit in St. Mary's Hospital, Minneapolis.

Feb.–May, 1979: Remained on the critical list, in a state of near total paralysis.

June, 1979: Intensive physical and occupational therapy commenced.

Aug., 1979: Designated an Honorary Citizen of the City of Minneapolis, Minn.

Oct., 1979: Returned to Washington to work again with Senator Durenberger.

Mar., 1980: Chaired a fundraising ball for 800 people at the O.A.S. Building in Washington to launch the G.B.S. Foundation.

Summer, 1980: The birth of the Economic Equity Act, an omnibus bill to eliminate sex discrimination in key economic areas.

Fall, 1980: Began six month sabbatical. Travelled in Europe. Worked on book regarding G.B.S.

Feb., 1980: Became a member of the Board of Directors of the Minority Legislative Education Program.

Mar., 1981: Started working as the Executive Director of the Leadership Conference on Civil Rights, a coalition of 165 national organizations.

June, 1982: Enactment of the extension of the Voting Rights Act; ended 18 month lobbying campaign coordinated by the Leadership Conference.

Fall, 1982: Defeat of the Radical Rights attempts to limit the jurisdiction of Federal courts over constitutional issues.

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Leadership Conference on Civil Rights

ORIGIN AND SCOPE

The Leadership Conference was founded in 1950 by A. Phillip Randolph, Roy Wilkins and Arnold Aronson to implement the historic report of President Truman's Committee on Civil Rights, "To Secure Those Rights."

Beginning with 30 organizations, the Leadership Conference has grown in numbers, scope and effectiveness. Today, it consists of approximately 165 national organizations representing Blacks, Hispanic and Asian Americans, labor, the major religious groups, women, the handicapped, the aged, minority businesses and professions.

These organizations speak for a substantial majority of our population and, together, comprise the most broadly based coalition in the nation. The members differ in size, structure and broad objective, but are united in a common commitment to the principles set forth in the Leadership Conference Statement of Purpose:

"We are committed to an integrated, democratic, plural society in which every individual is accorded equal rights, equal opportunities and equal justice without regard to race, sex, religion, ethnic origin, handicap or age; and in which every group is accorded an equal opportunity to enter fully into the general life of the society with mutual acceptance and regard for difference."

When the Leadership Conference on Civil Rights was organized, segregation in many states was sanctioned in law as well as in practice. Discrimination was widespread in government and in society as a whole. No Federal civil rights law had been enacted since Reconstruction.

Beginning with the Civil Rights Act of 1957, the Leadership Conference coordinated the campaigns that resulted in passage of all the civil rights laws of this century including the landmark Civil Rights Act of 1960 and 1964; the Voting Rights Act of 1965; and the Fair Housing Act of 1968. Together these laws prohibit discrimination in education, employment, housing, voting, public accommodations and access to all Federal programs and guarantee full political rights to every American.

These rights alone, however, are not sufficient to assure equality. Accordingly, the Leadership Conference expanded its definition of civil rights to mean "not only the establishment and enforcement of civil rights in law, but also the realization of social and economic conditions in which alone the fulfillment of these rights is possible."

To this end, the Leadership Conference has committed itself to establishing as a matter of right—a useful job at a decent wage for all who are employable or who can be made so by training or retraining; an income sufficient to provide all others with the essentials for living in dignity and self-respect; decent housing in a decent environment for all; medical care for all in health, sickness and disability; and education to the limit of each person's capacity to benefit from it.

RECENT ACCOMPLISHMENTS

The 97th Congress was an extraordinarily active and successful two years for the Leadership Conference and its 165 member organizations. Among its many initiatives, the Conference led the coalition efforts on behalf of a strengthened Voting Rights Act Extension and against the attempts of the Radical Right to "strip" the federal courts of jurisdiction over controversial constitutional issues, to dismantle the government's civil rights enforcement apparatus, and to grant tax exempt status to racially discriminatory schools.

98TH CONGRESS AGENDA

The 98th Congress promises to be an equally challenging and active period for the Leadership Conference. Without question the Conference will have to continue its rear guard actions against the efforts of the Radical Right, both on Capitol Hill and in the Executive Branch, to repeal or weaken the legislative enactments of the past two decades. But, in addition, the Conference wants to get on with the far from completed task of providing equality of opportunity for every citizen, particularly economic opportunity. High on the list of priorities will be legislation to create jobs, to eliminate sex discrimination in key economic areas, to provide decent and affordable housing for low and middle income Americans, and to strengthen the enforcement provisions of the 1968 Fair Housing Act. The Leadership Conference will also work on measures to extend an independent and effective Civil Rights Commission and to protect voting rights for the disabled and elderly.

MAJOR ACTIVITIES

Legislative Action: Legislative activity is coordinated by the Legislative Committee, composed of Washington representatives of participating organizations. The ongoing day to day lobbying efforts of the Leadership Conference are carried forward by these representatives, many of whom are full time lobbyists. The Committee plans strategy, analyzes bills and issues and undertakes assignments. The efforts are supplemented by testimony before Congressional Committees and by grassroots support from local affiliates of member groups.

Enforcement: Laws enacted must be effectively enforced. To insure that, the Leadership Conference's Committee on Compliance and Enforcement monitors civil rights programs in Federal agencies. The Committee is organized into Task Forces on education, employment, health, housing, veterans' affairs, women's rights, Federal regulatory agencies and Federal programs. These Task Forces maintain constant surveillance and review the government activities, present testimony, submit suggestions for rules and regulations and meet with Cabinet officials and agency administrators.

POLICY, FINANCE AND MEMBERSHIP

The highest governing body and policy-making authority of the Leadership Conference is the National Board composed of one representative from each participating organization. The Board meets once a year between January 1 and March 31. Between the annual meetings, policy is set by the Executive Committee, a portion of which is rotated annually. The Executive Committee meets every two months. Policies are established by consensus.

The Leadership Conference is financed almost entirely by membership dues from its constituent groups. The Civil Rights Leadership Conference Fund is the tax-exempt arm of the Leadership Conference. Its activities are educational in scope and are eligible for foundation grants and tax-deductible contributions.

To be eligible for membership, organizations must subscribe to the principles and purposes of the Leadership Conference, be national in scope and conduct an ongoing civil rights program.

THE LAST ALASKAN DOGSLED MAIL CARRIER

Mr. STEVENS. Mr. President, one of Alaska's outstanding journalists, Albro Gregory, recently wrote about the retirement of the last of the Alaskan dogsled mail carriers, John Waghiyi. John is currently postmaster of Nenana and is retiring after 32 years with the Postal Service.

John's efforts to serve his fellow Alaskans by seeing to it that mail was delivered through "sleet and snow" is a tribute to him and his dedication. We Alaskans are deeply proud and appreciate his effort to provide Alaskans with the vital means of communication and commerce that the U.S. Postal Service represents.

John's long service in Savoonga, Nome, and Nenana is even more impressive when one understands the inhospitable climate that can engulf these communities. I know Senator FRANK MURKOWSKI and Congressman DON YOUNG join me in wishing him and his wife, Della, happiness in their retirement.

I ask unanimous consent to have printed at the end of my remarks the complete article by Albro Gregory.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NENANA POSTMAN LEAVES HIS STAMP

(By Albro Gregory)

NENANA.—The man who accepted the last of the dogsled-carried mail under the American flag is about to retire.

He is John Waghiyi, who has been postmaster at this Tanana River village since 1979. He started his postal service career about 32 years ago in the St. Lawrence Island village of Savoonga, long before the town had an airstrip. At that time and until 1960, all mail was sent to the village from Gambell by dogteam, a six- to nine-hour trip, or in summer by skin boat.

Chester Noongwook was the last of the dogteam mail drivers and now that the village has an airstrip he carries the mail from there into the village.

Waghiyi was the postmaster at Savoonga for 16 years when he transferred to the Nome post office, 160 miles across the Bering Sea from his place of birth, Savoonga.

When the postmaster's job opened in a trailer in Nenana, Waghiyi and his wife moved from Nome and settled into a new life. They immediately fitted into the life of the river town and Della, John's smiling wife, has made her own career that of a Community college teacher of skin sewing. They have six grown children.

John recalled that when his late father, Peter, carried the mail by dogteam between the two villages his salary was $25 per month.

Although he has been gone from his native village, John Waghiyi keeps close contact with relatives and friends on the island. Through them he gets native made products for sale in Nenana. During last weekend's Tripod Days, John, seated at a table in the Nenana Community Center, offered items such as beleen, a walrus skull with tusks, and carved ivory. The walrus tusks, hand-etched by John, could be purchased for $1,500. He sold one last year for nearly as much, John said, with almost a hint of a smile on his finely chisled face.

John Waghiyi spent four years during World War II as a member of the Territorial Scouts. Then he went on with the Alaska National Guard for 20 years.

On his retirement on Aug. 5 of this year, John and Della will say goodbye to Nenana and head back to Savoonga where they will spend the winter. In the spring he will join in the whale hunt and otherwise occupy himself. The couple has long owned its own home on the island in the middle of what is now the ice choked Bering Sea. After the winter on the island, John said, they will again live in Nome with no other definite plans at this time.

HOW TO THINK ABOUT NUCLEAR ARMS CONTROL

Mr. PROXMIRE. Mr. President, this Senator cannot conceive of a more important mission for this Government than to achieve both a mutual, verifiable arms control agreement with the Soviet Union that will stop the arms race, and to find a way to stop the nuclear proliferation that brings more and more nations into the nuclear club and makes a nuclear war increasingly likely.

The responsibility to act to secure peace certainly lies with this Federal Government. On the other hand, in this democracy every citizen has a responsibility to think about how we avoid catastrophe and what policies the Government should advance to achieve peace. For this reason, we should try to organize the debate on arms control so that we can make it as clear and simple as possible. Randolph Ryan, the Boston Globe editorial writer who contributed to the Globe's Pulitzer Prize winning series on the nuclear arms race, has made a concise suggestion on how all of us can organize our thinking about arms control so we can both understand it more clearly, and act on that understanding.

Mr. Ryan suggests we fit the various suggestions and schemes relating to arms control into one of three categories:

First, numerical or technical arms control;

Second, preventive arms control; and

Third, confidence building measures.

Ryan puts SALT I, SALT II and the START talks in the first category. These talks would limit or reduce the number of particular nuclear weapons on both sides. The trouble with this numbers-of-specific-weapons approach is that it takes a long time and meanwhile the technology moves ahead of the talks and the weapons that are limited have become obsolete by the time the agreement is reached. Other weapons that were not contemplated when the arms talks began and therefore were never on the table have meanwhile become the basis for the new nuclear power on one or both sides.

The second category, "preventive" arms control, grows out of frustration with the first and has its clearest manifiestation in the nuclear freeze. As Ryan, says, the freeze aims at slowing down the arms race to a crawl by stopping testing, production, and deployment of new nuclear weapons.

The third broad category that Ryan calls "confidence building" tries to reduce uncertainties and fears. Ryan's example—the "hotline" that in 1963 established a way the President of the United States and his opposite number in Russia could immediately consult in the event of an accident or an emergency.

Mr. President, this suggested framework for analysis by Mr. Ryan offers a useful way to understand various arms control initiatives and also reveals their interdependence. In this Senator's judgment no arms control system will work that fails to embrace all three of these approaches. They are interdependent and complimentary. All of them are vital. A freeze will not work unless we also pursue the technical approach of reducing the numbers of weapons on both sides. And a SALT II or START will not work if we fail to stop—or freeze—the newest nuclear weapons that make whatever agreements are reached obsolete. Finally, neither will work if we fail to maintain and improve the communications between the two super nuclear powers so that they can act to stop a nuclear war if an accident or emergency might otherwise provoke it.

Mr. President, I ask unanimous consent that the article to which I have referred, by Randolph Ryan, be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Boston Globe, 1982 Supplement]

Roads To Arms Control

(By Randolph Ryan)

The process is slow; weapons development is fast.

The dizzying series of recent arms control proposals is less confusing if the various schemes are fitted into three logical categories: "numerical" or "technical" arms control, "preventive" arms control and "confidence-building" measures.

The SALT I and SALT II treaties and the current START talks in Geneva belong in the first category. Such negotiations usually focus on the numbers of various weapons that each side will be allowed to keep. Because of different geographical realities and differing weapons-building habits developing over time, no two countries have "symmetrical" armaments. For example, the United States has a solid "triad" of bombers, ICBMs and submarine-based missiles in its strategic arsenal, while the Soviets depend mainly on ICBMs. Each side also has geographical advantages or disadvantages that affect its posture, and historical traditions that affect its attitudes. That means that before numerical trade-offs can begin, an exchange rate for trading "apples for pears" must be worked out.

Some analysts are convinced that technical arms talks always move at a slower pace than the advancing weapons technology they seek to control. For example, SALT I limited "launchers" but not warheads, leaving the door open for MIRVed missiles.

Frustration at seeing seemingly needless negotiations proceeding side by side with an arms buildup has led to demands for "preventive" arms control measures: simpler approaches that could short-circuit the haggling over numbers. The best known of these at the moment is the "freeze" proposal, aimed at blunting the cutting edge of technological change. The freeze concept aims to slow the arms race to a crawl by stopping testing, production and deployment of new nuclear weapons. Haggling over reductions in current arsenals would proceed from there.

The freeze is not the first such preventive arms control proposal. A number of less-sweeping halts have been called in specific areas. The 1963 Partial Test Ban Treaty blocked nuclear weapons tests in the atmosphere, outer space and under water. The 1967 Outer Space Treaty declared space off-limits to all weapons and military maneuvers. The 1972 Biological Weapons Convention blocked development of germ-warfare agents. And one section of the 1972 SALT I agreement halted deployment of anti-ballistic missile defenses, known as ABMs. The freeze differs from these mainly in its broad scope and its origin at the political grass roots. Some critics say it is too sweeping, not allowing for necessary modernization.

The final broad category of arms control agreements is "confidence-building," aimed at reducing uncertainties and fears, which are both the cause and effect of "destabilization." The best known confidence-building agreement is the US-Soviet "hotline" of 1963, which established an emergency communications link between the Kremlin and the White House. Another quietly successful institution has been the "standing consultative commission" established under SALT I to trade data and discuss mutual concerns on a continuing basis.

Many approaches to arms control are complementary rather than conflicting. Some, of course, are more attuned than others to the new technological problems that keep arising.

GENOCIDE CONVENTION: AMERICAN GATHERING OF HOLOCAUST SURVIVORS

Mr. PROXMIRE. Mr. President, Boston Globe reporter Adam Pertman joined his parents in Washington last week for a gathering of Holocaust survivors. As a result of the 3-day conference. Mr. Pertman, son of Polish survivors of the Holocaust, feels that he began to understand the starvation, brutality, and senseless slaughtering that his parents had witnessed during this era. Previously, these realities had been almost incomprehensible to him.

Through heart-wrenching stories that were read and the reminders of speaker after speaker, the abstract messages that he had heard so many times in his life began to take meaning. These messages made their way from his mind to his heart, telling him that he must never forget what happened to his parents and millions of other Holocaust victims.

Mr. Pertman's father, Chaim, lost his parents, his brothers, and virtually all of his other relatives during that period. Adam's mother, Frieda, pieced together what happened to most of her family through conversations with residents of her hometown of Wohym, Poland, along with chance meetings with other survivors. Of her five sisters, the oldest two were taken to a labor camp nearby where they were shot by Nazis. Her mother and the younger children were all taken to Treblinka. The only daughter to be spared the death camps was her sister Eta, who, because of her beauty, was separated from the other women and forced to work as a courier for the Nazis. For 26 years, Mrs. Pertman clung to the thin hope that Eta might still be alive. Word of the first American Gathering of Holocaust Survivors brought new hopes to Frieda Pertman of being reunited with her sister. Although she had to bury these hopes once and for all when she heard nothing about Eta at the gathering, Mrs. Pertman was not sorry she had attended. For she and her husband, the Holocaust conference was their chance to talk to others, to remember the people they had suffered with, and to remind the world of what had happened.

Adam Pertman, reflecting on the experiences of his parents and other participants of the Holocaust Gathering, made the following observation in a recent Boston Globe article:

> Every one of the survivors who came to Washington last week came to remind the world of what it had let happen, to remind everyone who read a newspaper or watched a television show that millions of Jews had died as an indifferent world did nothing, then did too little, before finally stopping the slaughter.
>
> It was not an accusation they were trying to make, but a lesson they were trying to teach: that human beings are capable of profound evil, and that if they forget this, they could let it happen-or do it-again.

Mr. President, have we here in the Senate really learned this lesson? Can we truthfully declare that we have taken every step possible in the prevention of future genocidal acts? I think not, because we have failed to give our approval to the Genocide Convention which has been pending before the Senate since its approval by the U.N. General Assembly in 1948. This treaty declares the systematic destruction of any racial, ethnic, national, or religious group a crime under international law. Despite its initial support and the overwhelming support of 85 other nations who have already ratified it, the United States has not yet become a party to this treaty.

In this month of remembrance of Holocaust atrocities, let us prove that we not only remember the past, but also are willing to prevent its repetition by ratifying the Genocide Convention.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-910. A communication from the Comptroller General of the United States transmitting, pursuant to law, a communication entitled "Examination of the Financial Statements of the Federal Prison Industries, Inc., for the Year Ended September 30, 1982"; to the Committee on Governmental Affairs.

EC-911. A communication from the Director of Administration, Department of Energy, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-912. A communication from the Assistant Secretary of the Interior for Indian Affairs transmitting, pursuant to law, a plan for the use and distribution of judgment funds awarded the Shoshone-Bannock Tribes of Fort Hall Reservation; to the Select Committee on Indian Affairs.

EC-913. A communication from the Assistant Secretary of the Interior for Indian Affairs transmitting, pursuant to law, a report on donations and allocations from funds contributed for the advancement of the Indian race; to the Select Committee on Indian Affairs.

EC-914. A communication from the Comptroller of the Boys Clubs of America transmitting, pursuant to law, the organization's audited financial report for 1982; to the Committee on the Judiciary.

EC-915. A communication from the Chief Executive Officer of the National Commission on Student Financial Assistance transmitting, pursuant to law, reports on the special allowance formula program of the Guaranteed Student Loan and on satisfactory academic progress standards for Federal student aid recipients; to the Committee on Labor and Human Resources.

EC-916. A communication from the Secretary of Education transmitting, pursuant to law, a report on the application notice for transmittal of applications for fiscal year 1983; establishment of a funding priority and regional competitions; to the Committee on Labor and Human Resources.

EC-917. A communication from the Administrator of the Small Business Administration transmitting a draft of proposed legislation to totally remove agricultural enterprises from eligibility for assistance under the SBA's disaster and business loan programs; to the Committee on Small Business.

EC-918. A communication from the Administrator of the Veterans Administration transmitting a draft of proposed legislation to provide more flexibility in the making of certain appointments in the VA's Department of Medicine and Surgery; to the Committee on Veterans Affairs.

EC-919. A communication from the Administrator of the Veterans Administration transmitting a draft of proposed legislation to permit Federal fiduciaries to deduct from beneficiaries' estates modest commissions for services rendered; to the Committee on Veterans Affairs.

EC-920. A communication from the Administrator of the Veterans Administration transmitting a draft of proposed legislation to increase rates of compensation for service-disabled veterans and rates of dependency and indemnity compensation payable to certain veterans' survivors; to the Committee on Veterans Affairs.

EC-921. A communication from the Secretary of Agriculture transmitting, pursuant to law, a report on the Department's activities related to minority recruitment in the Foreign Service for the period ended September 30, 1982; to the Committee on Agriculture, Nutrition, and Forestry.

EC-922. A communication from the Secretary of the Army and the Secretary of Agriculture transmitting, pursuant to law, notice in duplicate of the intention of the two departments to interchange jurisdiction of civil works and Forest Service acquired lands; to the Committee on Agriculture, Nutrition, and Forestry.

REPORT OF COMMITTEE SUBMITTED DURING RECESS

Under authority of section 310(a) of the Congressional Budget Act, the following report of committee was submitted on April 24, 1983:

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Con Res. 27. An original concurrent resolution revising and replacing the congressional budget for the United States Government for the fiscal year 1983, and setting forth the congressional budget for the United States Government for the fiscal years 1984, 1985, and 1986 (together with additional and minority views) (Rept. No. 98-63).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ANDREWS, from the Select Committee on Indian Affairs, without amendment:

S. 726. A bill to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes (Rept. No. 98-64).

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 108. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 24.

By Mr. THURMOND, from the Committee on the Judiciary, with amendments:

S. 445. A bill to amend title 11, United States Code, and for other purposes (together with additional views) (Rept. No. 98-65).

By Mr. PERCY, from the Committee on Foreign Relations, with amendments and an amendment to the title, with a preamble and an amendment to the preamble:

S. Res. 116. A resolution deploring the bombing of the United States Embassy in Beirut, Lebanon, and expressing the sorrow and condolences of the Senate on the death and wounding of Americans caught in the bombing and for other purposes.

By Mr. ROTH, from the Committee on Governmental Affairs, with an amendment:

S. 35. A bill to establish a Commission on More Effective Government, with the declared objective of improving the quality of government in the United States and of restoring public confidence in government at all levels. (Rept. No. 98-66)

MEASURE PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

S. 1080. A bill to amend the Administrative Procedure Act to require Federal agencies to analyze the effects of rules to improve their effectivness and to decrease their compliance costs, to provide for a periodic review of regulations, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. DOLE, from the Committee on Finance:

Alfred Hugh Kingon, of New York, to be an Assistant Secretary of Commerce.

By Mr. ROTH, from the Committee on Governmental Affairs;

Joseph H. Sherick, of Virginia, to be Inspector General, Department of Defense.

By Mr. PERCY, from the Committee on Foreign Relations:

Jay P. Moffat, of New Hampshire, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chad.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomiation.

Nominee: Jay P. Moffat.

Post: N'Djamena, Chad.

Contributions and amount

1. Self, none.
2. Spouse, none.
3. Children and spouses: Sarah Moffat Srebro and Emanuel N. Srebro—None; Matthew Jay Moffat—None.
4. Parents: Father deceased; Mrs. Albert Levitt—$25, June 7, 1982, Republican National Committee.
5. Grandparents: Deceased.
6. Brothers and spouses: No brothers.
7. Sisters and spouses: Mrs. Edith Spenser (divorced)—None.

James D. Rosenthal, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Revolutionary Republic of Guinea.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: James D. Rosenthal.

Post: Ambassador to Guinea.

Contributions and amount

1. Self, none.
2. Spouse, none.
3. Children and spouses: Carolyn, Stephen, and Suzanne Rosenthal, none.
4. Parents: William E. and Sylvia Rosenthal, none.
5. Grandparents: deceased, none.
6. Brothers and spouses: not supplied, none.
7. Sisters and spouses: Carole and Melvin Himelstein, none.

Alvin P. Adams, Jr., of Virginia, A Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Djibouti.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Alvin P. Adams, Jr.

Post: Ambassador to Djibouti.

Contributions, amount, date and donee

1. Self, none.
2. Spouse, none.
3. Children and spouses: Tung T. Adams, Lex N. Adams, none.
4. Parents: Alvin P. Adams, $50 in 1982 by Len Lehrman; $50 in 1982 by Cissy Baker.
5. Grandparents: deceased, none.
6. Brothers and spouses: Nathen M. Adams and Anna-Lisa P. Adams, none.
7. Sisters and spouses: Edith A. Kiggen and Helen A. Volmer, none.

John Giffen Weinmann, of Louisiana, to be Commissioner General of the United States Government for the 1984 Louisiana World Exposition.

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominees' commitment to respond to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PERCY (by request):

S. 1136. A bill to amend the Foreign Service Act of 1980, and for other purposes; to the Committee on Foreign Relations.

By Mr. GRASSLEY:

S. 1137. A bill to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition; to the Committee on Finance.

By Mr. PRESSLER:

S. 1138. A bill to establish a shelterbelt improvement program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. STEVENS:

S. 1139. A bill for the relief of Rabi Satyal and Kamala Satyal, husband and wife; to the Committee on the Judiciary.

By Mr. BAKER:

S. 1140. A bill for the relief of Patrick P. W. Tso, Ph. D; to the Committee on the Judiciary.

By Mr. BOREN:

S. 1141. A bill to continue until the close of June 30, 1986, the existing suspension of duties on certain unwrought alloys of cobalt; to the Committee on Finance.

By Mr. DIXON:

S. 1142. A bill to impose a moratorium on coal leasing by the Department of the Interior pending congressional review; to the Committee on Energy and Natural Resources.

By Mrs. HAWKINS:

S. 1143. A bill to condition U.S. assistance to any country which is a major producer of opium, coca, or marijuana on reductions by that country in the levels of such production, and for other purposes; to the Committee on Foreign Relations.

By Mr. HEINZ (for himself, Mr. Cohen, Mr. Pryor, Mr. Levin, Mr. Percy, Mr. Boren, Mr. Moynihan, Mr. Matsunaga, Mr. Andrews, Mr. Sarbanes, Mr. Specter, Mr. Randolph, Mr. Pressler, Mr. Melcher, Mr. Stafford, Mr. Inouye, Mrs. Hawkins, Mr. Burdick, Mr. Sasser, Mr. Cranston, Mr. Kennedy, Mr. Riegle, and Mr. Baucus):

S. 1144. A bill to suspend periodic reviews of disability beneficiaries having mental impairments pending regulatory reform of the disability determination process; to the Committee on Finance.

By Mr. DENTON (for himself, Mr. DeConcini, Mr. Garn, Mr. Grassley, Mr. Heflin, Mr. Hollings, Mr. Humphrey, Mr. Inouye, Mr. Moynihan, and Mr. Nickles):

S. 1145. A bill to recognize the organization known as the Catholic War Veterans of the United States of America, Incorporated; to the Committee on the Judiciary.

By Mr. BENTSEN (for himself, Mr. DeConcini, and Mr. Domenici):

S. 1146. A bill to amend the Federal Aviation Act of 1958 to provide for the revocation of the airman certificates and for additional penalties for the transportation by aircraft of controlled substances, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DANFORTH (for himself and Mr. Tsongas):

S. 1147. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the discharge of mortgage debt on a principal residence; to the Committee on Finance.

By Mr. MELCHER:

S. 1148. A bill to provide for the use and distribution of funds awarded the Assiniboine Tribe of the Fort Belknap Indian Community, Mont., and the Assiniboine Tribe of the Fort Peck Indian Community, Mont., in docket numbered 10-81L by the U.S. Court of Claims, and for other purposes; to the Select Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MOYNIHAN:

S. Res. 122. Resolution expressing the sense of the Senate that the President should reduce imports of apparel so that imported apparel comprises no more than 25 percent of the American apparel market; to the Committee on Finance.

By Mr. DIXON:

S. Res. 123. Resolution providing for an investigation and report by a standing or select Senate committee regarding Department of the Interior coal leasing activities; to the Committee on Rules and Administration.

By Mr. GOLDWATER (for himself, Mr. Moynihan, Mr. Garn, Mr. Chafee, Mr. Lugar, Mr. Wallop, Mr. Durenberger, Mr. Roth, Mr. Cohen, Mr. Huddleston, Mr. Biden, Mr. Inouye, Mr. Jackson, Mr. Leahy, and Mr. Bentsen):

S. Con. Res. 28. Concurrent resolution to support the establishment of a National Historical Intelligence Museum; to the Select Committee on Intelligence.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY (by request):

S. 1136. A bill to amend the Foreign Service Act of 1980, and for other purposes; to the Committee on Foreign Relations.

FOREIGN SERVICE ACT AMENDMENTS OF 1983

● Mr. PERCY. Mr. President, by request, I introduce for appropriate reference a bill to amend the Foreign Service Act of 1980.

This legislation has been requested by the Department of State, and I am introducing the proposed legislation in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the Record at this point, together with a section-by-section analysis of the bill and the letter from the Assistant Secretary of State for Congressional Relations to the

President of the Senate dated April 15, 1983.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Service Act Amendments of 1983".

MANAGEMENT OF THE SERVICE

SEC. 2. Chapter 2 of title I of the Foreign Service Act of 1980 is amended as follows:

Section 209(a), relating to the Inspector General, is amended by adding at the end thereof the following new paragraph:

"(3) For the purposes of section 7324 of title 5, United States Code, the Inspector General shall not be considered to be an employee who determines policies to be pursued by the United States in relations with foreign powers or in the nationwide administration of Federal laws.".

APPOINTMENTS

SEC. 3. Chapter 3 of title I of the Foreign Service Act of 1980 is amended as follows:

(1) Section 305(b), relating to appointment to the Senior Foreign Service, is amended to read as follows:

"(b) An individual may not be given a limited appointment in the Senior Foreign Service if that appointment would cause the number of members of the Senior Foreign Service serving under limited appointments to exceed 5 percent of the total number of members of the Senior Foreign Service, except that—

"(1) members of the Senior Foreign Service assigned to the Peace Corps shall be excluded in the calculation and application of this limitation,

"(2) members of the Senior Foreign Service serving under limited appointments who have reemployment rights under section 310, as career appointees in the Senior Executive Service or as career senior appointees in any other Federal personnel system, shall be considered to be career members of the Senior Foreign Service for purposes of this subsection, and

"(3) not to exceed 10 members at any one time appointed by the Secretary of Commerce (excluding from this limit of 10, any career appointees described in paragraph (2) above) shall be excluded in the calculation and application of this limitation.".

(2) Section 309, relating to limited appointments, is amended to read as follows:

"SEC. 309. LIMITED APPOINTMENTS.—(a) Except as provided in subsection (b), a limited appointment in the Service may not exceed 5 years in duration and may not be extended or renewed. An appointment in the Service which is limited by its terms to a period of one year or less is a temporary appointment.

"(b) A limited appointment may be extended: (1) in order to permit the completion in extraordinary circumstances of a current assignment, or (2) for continued service as—

"(1) a consular agent;

"(2) a family member employed under section 311; or

"(3) a career candidate, if continued service is determined appropriate to remedy a grievance cognizable under chapter 11.".

COMPENSATION

SEC. 4. Chapter 4 of title I of the Foreign Service Act of 1980 is amended as follows:

"(1) Section 401(a), relating to salaries of chiefs of mission, is amended by inserting, immediately after "mission", the words "appointed under section 302(a)(1)".

(2) Section 406, relating to within-class salary increases, is amended as follows:

"(A) In subsection (a), delete all between the comma after "13" and the period.

"(B) In subsection (b), substitute the following text in its entirety—

"(b) The Secretarty may grant, on the basis of especially meritorious service, to any member of the Service receiving a salary under the Foreign Service Schedule, an additional salary increase to any higher step in the salary class in which the member is serving. Such increases may be granted at the same time as the increases provided under Subsection (a) or at any other time established by regulation."

"(C) Add the following new subsection (c)—

"(c) Notwithstanding subsection (a) the Secretary shall prescribe regulations under which a periodic within-class salary increase may be withheld or deferred for a member of the Service who is on leave without pay, or in part-time employment status, and shall be withheld or deferred for a member whose performance is found in a review by a selection board to fall below the standards of performance for the member's salary class."

(3) Section 408(a)(1), relating to local compensation plans, is amended by revising the third sentence thereof to read as follows: "Any compensation plan established under this section may include provision for:

"(A) leaves of absence with pay for foreign national employees in accordance with prevailing law and employment practices in the locality of employment without regard to any limitations contained in section 6310 of title 5, United States Code; and

"(B) payments by the Government and foreign national employees to a trust or other fund in a financial institution in order to finance future benefits for foreign national employees, including provision for retention in the fund of accumulated interest for the benefit of covered foreign national employees.".

PROMOTION AND RETENTION

SEC. 5. Chapter 6 of title I of the Foreign Service Act of 1980 is amended as follows:

(1) Section 601(b), relating to promotions, is amended by adding at the end thereof the following new sentence: "The Secretary shall exclude members of the Service from eligibility for promotion when they remain in the Serivce after expiration of time-in-class and any limited career extensions under section 607.".

(2) Section 607, relating to retirement for expiration of time in class, is amended as follows:

(A) In subsection (b)(1), immediately after "class", insert "(including a class from which no effective promotional opportunities exist)";

(B) In subsection (d)(2), immediately after "case", insert "except when necessary to attain eligibility for an immediate annuity under chapter 8".

(3) Section 609, relating to retirement benefits, is amended as follows:

(A) Subsection (a) is amended to read as follows:

"(a) A member of the Service who is retired under section 607(c) or 608(b)—

"(1) after becoming eligible for voluntary retirement under section 811, or

"(2) from the Senior Foreign Service or class 1 in the Foreign Service Schedule, shall receive retirement benefits in accordance with section 806.";

(B) Subsection (b) is amended by striking out "607(c)(1)" and inserting in lieu thereof "607(c)".

(4) Section 610, relating to separation for cause, is amended in subsection (a)(2), by adding at the end thereof the following new sentence: "Section 1110 shall also apply to proceedings under this paragraph.".

FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

SEC. 6. (a) Chapter 8 of title I of the Foreign Service Act of 1980 is amended as follows:

(1) Section 804(6), relating to definitions, is amended by inserting immediately after "10 years", the phrase "(including at least 5 years while the participant was making contributions for current service to the Fund)".

(2) Section 805(d)(1), relating to contributions to the Fund, is amended as follows:

(i) strike out "equal to" and insert in lieu thereof a period and "Special contributions for purposes of subparagraph (A) shall equal", and

(ii) at the end thereof add the following new sentence: "Special contributions for prior refunds under subparagraph (B) shall equal the amount of the prior refund received by the participant.";

(3) Section 806, relating to computation and election of annuities and surviver annuities is amended as follows:

(A) Subsection (b)(1)(C) is amended as follows:

(i) insert, immediately after "waive", the words "or reduce";

(ii) strike out "(i)"; and

(iii) strike out all after "final" and insert in lieu thereof a period;

(B) Subsection (b)(1)(D) is repealed.

(4) Section 808, relating to retirement for disability or incapacity, is amended as follows:

(A) Subsections (a) and (b) are each amended by striking out "65" each time it appears and inserting in lieu thereof "60".

(B) Subsection (a) is further amended by adding at the end thereof the following: "However, if a participant retiring under this section is receiving retired pay or retainer pay for military service (except that specified in section 8332(c) (1) or (2) of title 5 of the United States Code) or Veterans Administration pension or compensation in lieu of such retired or retainer pay, the annuity of that participant shall be computed under this chapter excluding extra credit authorized by this subsection and excluding credit for military service from that computation. If the amount of the annuity so computed, plus the retired or retainer pay which is received, or which would be received but for the application of the limitation in section 5532 of title 5 of the United States Code, or the Veterans' Administration pension or compensation in lieu of such retired pay or retainer pay, is less than the annuity that would be payable under this chapter in the absence of the previous sentence, an amount equal to the difference shall be added to the annuity computed under this chapter.".

(5) Subsection (e) is amended by striking out "65" and inserting in lieu thereof "60"; and

(6) Subsection (h) is amended by striking out "(b)(4)" and inserting in lieu thereof "(b)(3)(C)". (6) Section 811, relating to voluntary retirement, is amended by adding the following at the end thereof: "The Secretary shall withhold consent for retirement

under this section by any participant who has not been a member of the Service for 5 years. However, any participant who voluntarily separates from the Service before completing 5 years in the system and who, on the date of separation, would be eligible for an annuity, based on a voluntary separation, under section 8336 or 8338 of title 5, United States Code, if the participant then had an appointment under the Civil Service Retirement System, counting the participant's total federal service, may receive an annuity under section 8336 or 8338, notwithstanding section 8333(b) of title 5 United States Code, provided that all contributions transferred to the Fund under section 805(c)(1) of this Act, as well as all contributions withheld from the participant's pay and deposited into the Fund during the period he/she was subject to this chapter, including interest on these amounts, are transferred to the Civil Service Retirement and Disability Fund effective on the date the participant separates from the Service."

(7) Section 814(a), relating to former spouses, is amended as follows:

(A) In paragraph (3), strike out "on the first day of the month" and insert in lieu thereof "or the first day of the month following the month";

(B) In paragraph (4), immediately after "final", insert ", unless it is issued in recognition of a substantial change in the economic circumstances of either party".

(8) Section 815, relating to lump-sum payments, is amended as follows:

(A) Subsection (a) is amended to read as follows:

"(a)(1) A participant is entitled to be paid the lump-sum credit if he or she—

"(A) is separated from the Service for at least thirty-one consecutive days, or is transferred to a position in which he is not subject to this chapter and remains in such a position for at least thrity-one consecutive days;

"(B) files an application with the Secretary for payment of the lump-sum credit;

"(C) is not reemployed in a position in which he or she is subject to this chapter at the time he or she files the application; and

"(D) will not become eligible to receive an annuity within thirty-one days after filing the application.

Payment of the lump-sum credit voids all annuity rights under this chapter based on the service on which the lump-sum credit is based, until the participant is reemployed in the Service subject to this chapter.

"(2) Whenever a participant becomes entitled to be paid under subsection (a)(1), the lump-sum credit shall be paid to the participant and to any former spouse (who has not remarried prior to age 60) of the participant in accordance with subsection (i) and to any spouse to whom the participant was married on the date of the separation from the Service, which separation forms the basis for the payment, in accordance with subsection (j).";

(B) At the end thereof, add a new subsection (j) to read as follows:

"(j)(1) If a written request by either the participant (or former participant) or the spouse is received by the Secretary of State no later than 15 days after the later of—

"(A) the effective date of the separation; or

"(B) the receipt of the refund application by the Secretary of State,

then, unless otherwise expressly provided by a any spousal agreement or court order under section 820(b), the amount of a participant's or former participant's lump-sum credit payable to a spouse of that participant shall be—

"(i) if the spouse was married to the participant throughout the period of creditable service of the participant, 50 percent of the lump-sum credit to which such participant would be entitled in the absence of this subsection, or

"(ii) if such spouse was not married to the participant throughout such creditable service, an amount equal to a pro rata share (calculated under section 804(10) as if the spouse were a former spouse) of 50 percent of such lump-sum credit.

"(2) The lump-sum credit of the participant shall be reduced by the amount of the lump-sum credit payable to the spouse.".

(9) Section 816(i)(2), relating to creditable service, is amended to read as follows:

"(2) A former spouse shall not be considered as married to a participant for periods assumed to be creditable service under section 808(a) or section 809(e).";

(10) Section 817, relating to extra credit for service at unhealthful posts, is amended by adding, at the end thereof, the following new sentence: "Such extra credit shall not be used to determine the eligibility of a person to qualify as a former spouse under section 804(6), or to compute the pro rata share under section 804(10).".

(11) Section 826(c)(1), relating to cost of living adjustments in annuities, is amended to read as follows:

"(c)(1) The first increase (if any) made under this section to an annuity which is payable from the Fund to a participant or to the surviving spouse or former spouse of a deceased participant who dies in service or a deceased annuitant whose annuity has not been increased under this section, shall be equal to the product (adjusted to the nearest one-tenth of 1 percent) of—

"(A) one-twelfth of the applicable percent change computed under subsection (b) of this section multiplied by

"(B) the number of months (counting any portion of a month as a month)—

"(i) for which the annuity was payable from the Fund before the effective date of the increase, or

"(ii) in the case of a surviving spouse or former spouse of a deceased annuitant whose annuity has not been so increased, since the annuity was first payable to the deceased annuitant.";

(12) Immediately after section 827, insert a new section 828 to read as follows:

"Sec. 828. Missing Spouses and Former Spouses.—The Secretary of State may prescribe regulations under which a participant or former participant may make an election to waive or reduce a survivor annuity to a spouse or former spouse under section 806(b), and to waive or reduce a lump sum payment to a spouse or former spouse under section 815 without agreement of the participant's spouse or former spouse if the participant establishes to the satisfaction of the Secretary of State, after having taken all reasonable steps to determine the whereabouts of the spouse or former spouse, that the participant does not know the whereabouts. When the Secretary of State determines that a spouse or former spouse is missing during the time an annuity is payable to such missing spouse or former spouse under sections 806 or 814, the Secretary of State may by regulation provide for payment of such annuity to the former participant, if alive, or to a surviving spouse or surviving former spouse who is not missing.".

(b)(1) The amendment made by section 6(a)(6) of this Act to section 811 of the Foreign Service Act of 1980, relating to voluntary retirement, shall not apply to individuals who are participants in the System on the date of enactment of this Act.

(2) The amendments made by section 6(a)(11) of this Act to section 826(c) of the Foreign Service Act of 1980, relating to cost-of-living adjustments of annuities, shall be made retroactively effective to August 13, 1981, and shall apply to annuities which commence before, on, or after such date.

LABOR-MANAGEMENT RELATIONS

Sec. 7. Chapter 10 of title I of the Foreign Service Act of 1980 is amended as follows:

(1) Section 1002(12)(E), relating to definitions, is amended by inserting, immediately after "209", a comma and "or comparable investigation, inspection, or audit activities in the other agencies to which this chapter is applicable under section 1003".

(2) Section 1014(a)(3), relating to resolution of implementation disputes, is amended by inserting, immediately after "appeal", a comma and "including cost-sharing arrangements,".

TRANSITION

Sec. 8. Chapter 1 of title II of the Foreign Service Act of 1980 is amended as follows:

(1) Section 2104, relating to conversion from the Foreign Service, is amended by adding at the end thereof the following new subsection:

"(c) The 3-year period referred to in subsection (a) shall be extended for an additional 3 years after the date of enactment of this subsection in the case of members of the Service who were initially ineligible for conversion under that subsection because they were available for worldwide assignment and there was a need for their services in the Foreign Service, but as to whom subsequent events require the services of these members, and of those later employed who are similarly situated, only or primarily for domestic functions.".

(2) Section 2106(e)(2), relating to preservation of status and benefits, is amended to read as follows:

"(2) who, immediately before the effective date of this Act, was not subject to section 633(a)(2) of the Foreign Service Act of 1946 or section 625(a)(2) of the Foreign Assistance Act of 1961.".

EFFECTIVE DATE OF 1980 ACT

Sec. 9. Section 2403, pertaining to effective dates, is amended by deleting subsection (c) and redesignating the following subsections accordingly.

AMENDMENTS TO BASIC AUTHORITIES ACT

Sec. 10. Title I of the State Department Basic Authorities Act is amended as follows:

(1) Section 2 is amended as follows:

(A) The introductory clause is amended to read "The Secretary of State may—";

(B) Strike out "and" at the end of subsection (e), strike out the period at the end of subsection (f) and insert in lieu thereof a semicolon, and add at the end thereof the following new subsection:

"(g) Obtain services as authorized by section 3109 of title 5, United States Code, at a rate not to exceed the maximum prescribed for GS-18 under section 5332 of title 5, United States Code.".

(2) Section 11 is amended to read as follows:

"Sec. 11. Funds appropriated to the Department of State shall be available for expenses of international arbitrations and other proceedings for the peaceful resolution of international disputes under treaties or other international agreements, and arbitrations arising under contracts authorized by law for the performance of services or acquisition of property abroad.".

(3) Section 32 is amended by adding at the end thereof the following new sentence: "The authorities available to the Secretary of State under this section with respect to the Department of State shall be available to the Director of the United States Information Agency and the Director of the United States International Development Cooperation Agency with respect to their respective agencies.".

AMENDMENTS TO TITLE 5, UNITED STATES CODE

SEC. 11. Title 5 of the United States Code is amended as follows:

(1) Section 5551(a), relating to lump-sum payment for accumulated and accrued leave on separation, is amended by striking out "pay" in the second sentence and inserting in lieu thereof "basic pay".

(2) Section 5724a(a)(3), relating to travel and transportation expenses of employees, is amended by striking out the period at the end of the second sentence and inserting in lieu thereof a semicolon and "or, in the case of an employee moving from a post in a foreign area, the period of residence in temporary quarters may be extended for an additional period of 30 days less such period as the employee has been compensated for by temporary lodging allowance under section 5923(1)(B) of title 5, United States Code, in connection with the same move.".

(3) Section 5924(4), relating to education allowances, is amended as follows:

(A) In the introduction, immediately after "foreign areas", insert a comma and "or official assignment to serve in such area or areas,".

(B) In paragraph (A), strike out "kindergarten" and insert in lieu thereof "pre-kindergarten for handicapped children, kindergarten".

(C) In paragraph (B), strike out "undergraduate college" each time it appears and insert in lieu thereof "post-secondary educational institution".

(4) Section 5944, relating to burial and last illness expenses of native employees in foreign countries, is repealed.

FOREIGN SERVICE ACT AMENDMENTS OF 1983: SECTIONAL ANALYSIS

SECTION 2: "HATCHING" THE INSPECTOR GENERAL (F.S. ACT SEC. 209(a))

This amendment would make clear that the Inspector General of the Foreign Service and the Department of State is under provisions of the Hatch Act, thus prohibiting participation in certain partisan political activities.

Section 3(c) of the Inspector General Act of 1978 states that no Inspector General shall be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws. The purpose of this provision is to make clear that the Inspectors General are subject to the limitations of the Hatch Act on participation in political campaigns. There is no comparable provision in the law establishing the Inspector General of the Department of State and the Foreign Service. This amendment would eliminate any question that the holder of that position, who is appointed by the President with the advice and consent of the Senate, is not subject to the Hatch Act. Accordingly, it seems appropriate to emphasize the nonpolitical nature of the incumbents' responsibilities. The enactment of this section is in no way intended to be used as a precedent in determining whether any other officer of the Government is or is not subject to the Hatch Act.

SECTION 3(1): FIVE PERCENT LIMITATION ON NON-CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE (F.S. ACT SEC. 305 (b))

Section 305 of the Act now provides that career government employees who are members of the Senior Executive Service are not to be counted against the 5% limit on non-career membership in the Senior Foreign Service. Most senior career government officials appointed to limited appointments in the SFS, with reemployment rights to their career status, will in fact come from the SES. In rare cases, however, it will be desirable to appoint a non-SES career employee to an SFS limited appointment (for example, a scientific supergrade appointed under P.L.-313, or a member of one of the parallel services to the SES. This amendment would exempt career government officials from their other career services from being counted against the non-career ceiling. This is consistent with the original purpose of the 1980 Act.

Section 305 is also being revised to make permanent the temporary provision in section 2403(c) of the 1980 Act that excludes appointments made by the Secretary of Commerce to the Senior Foreign Service from the calculation and application of the limitation of this section on limited appointments. The amendment makes permanent the limit of 10 on the number of members serving in the Senior Foreign Service at any one time under limited appointment by the Secretary of Commerce.

This change is being sought by the Department of Commerce because the October 1, 1985 expiration date in section 2403(c) of the Foreign Service Act of 1980 does not allow for "phased hiring" during the period of transition from State detailees to FCS personnel. Moreover, the Department needs flexibility indefinitely to competitively fill numerous SFS positions with available highly qualified private sector executives.

Typically, the individuals would serve one 3-4 year tour and apply their expertise to penetrating difficult export markets and building extensive Embassy contacts in host countries and regional markets.

Section 2403(c) of the 1980 Act is being repealed by section 10 of the bill.

Section 305(b) of the 1980 Act is being completely restated for editorial reasons. The only substantive changes are those described above.

SECTION 3(2): EXCLUSIONS FROM 5-YEAR LIMIT ON LIMITED APPOINTMENTS (F.S. ACT SEC. 309)

This amendment would correct inadvertent omissions in the original text of section 309 and would consolidate in a single section all exceptions to the 5 year limitation on the duration of limited appointments. Exceptions are provided in order to avoid interruption of a current assignment, for service as a consular agent, for employment as a family member, and for continued service as a career candidate when a grievance is pending. Consular agents perform consular and related services in locations where there are no Foreign Service posts, and it is highly desirable to retain their services for an indefinite period of time, if their performance is satisfactory. They cannot be career members of the Foreign Service, either because they are foreign nationals, or because they are available for service only in one locality. Career candidates serving on limited appointments sometimes contest decisions not to grant them career status before the expiration of the maximum 5 year period for such appointments. The amendment would clarify the Department's authority to extend the candidate's appointment in such a case, if ordered by the Foreign Service Grievance Board, or if deemed necessary administratively to provide an equitable chance for career consideration. The exception for family members is already provided by existing law, but is consolidated here with other exceptions for convenient reference. The exception to permit completion of a current assignment is intended to promote greater efficiency in the assignment of individuals serving under limited appointments. It is expected that the need to use this authority will arise rarely.

SECTION 4(1): SALARIES FOR CHIEFS OF MISSION (F.S. ACT SEC. 401 (a))

This amendment would make clear that only those individuals appointed by the President and confirmed by the Senate are to receive the salary of a Chief of Mission. Members of the Service assigned to perform the functions of a Chief of Mission, for example, as the head of a U.S. Interests Section or as a charge d'affaires, would remain eligible for a salary differential under section 411 of the Act, but would not receive the statutory salary of an Ambassador.

SECTION 4(2): ELIGIBILITY FOR WITHIN GRADE SALARY INCREASES (F.S. ACT SEC. 406(a))

Section 406 presently addresses three points. First, it provides in subsection (a) a schedule for regular within-class salary increases for members of the Service. Second, in the same subsection it provides for withholding such increases on the basis of selection board determination that performance, while satisfactory, is at a level below that of most members of the class. Finally, subsection (b) provides for additional increases for meritorious service. Because of the difference between the Foreign Service performance evaluation cycle and the anniversary dates of promoter into a class, it has been difficult under the present language to reconcile the regularly scheduled increases with meritorious increases, on the one hand, and, on the other, withholding of regular increases on performance grounds. The amendments would make each point the subject of a separate subsection, so that, by regulation, the actions may be keyed to one another or independent as appropriate. Implementing regulations would be consistent with government-wide practice for the Civil Service system. In addition, new subsection (c) would make clear that either deferral or withholding may be offered in case of members on leave without pay or in part-time employment and must be ordered in cases where selection boards determine performance is not up to the standard of the class.

SECTION 4(3): PROVIDENT FUNDS FOR FOREIGN NATIONAL EMPLOYEES (F.S. ACT SEC. 408)

This amendment would clarify the Secretary's authority to utilize provident funds in countries where this is in accordance with local practice. A provident fund is used in lieu of a life-certain annuity as a retirement benefit in many countries. Basically, a provident fund is made up of the deposits of a specified percentage of an employee's salary by the employer and the employee. Upon termination of employment for retirement or other reasons, an employee receives the cumulative deposits plus interest as a lump-sum, rather than being paid a periodic annuity for life.

The existing statute clearly gives the Secretary authority to establish provident funds consistent with local pay practices for the benefit of Foreign Service National employees. This amendment is necessary to permit the interest that accumulates in such trust funds to be paid out in subsequent years to the beneficiaries. The amendment restates the third sentence of section 408(e) of the Act. Clause (B) is new material, clause (A) is a restatement of existing language.

SECTION 5(1): INELIGIBILITY FOR PROMOTION AFTER EXPIRATION OF TIME-IN-CLASS (F.S. ACT SEC. 601(b))

In certain cases, members of the Foreign Service are allowed to remain beyond expiration of their time-in-class, normally for humanitarian reasons to allow them to qualify for an immediate annuity. (Individuals at the FS-1 level and higher are eligible for such an annuity at expiration of time-in-class under section 609, but those at FS-2 and lower are not.) This amendment would insure that individuals retained for this purpose are not eligible for promotion. If they were allowed to compete for promotion, then time-in-class rules would become meaningless.

SECTION 5(2): LIMITED CAREER EXTENSIONS BELOW THE HIGHEST CLASS IN AN OCCUPATION/RETENTION AFTER EXPIRATION OF TIC TO GAIN ELIGIBILITY FOR AN IMMEDIATE ANNUITY (F.S. ACT SEC. 607(b)(1) AND 607(d)(2))

The current law permits Limited Career Extensions (LCEs) when individuals have attained the highest salary class for their occupation categories except in the Senior Foreign Service, in which case ICEs are available at each class level. It is now clear that such a restriction below the SFS level could lead to undesirable separations through expirations of time-in-class in categories where there are a very few positions at the highest possible class, so that most individuals could never expect to be promoted. This amendment would permit the Secretary to determine when this circumstance exists, and to authorize by regulation use of LCEs in classes below the most senior. The second part of the amendment would provide new authority to the Secretary to retain individuals below the FS-1 level for more than one year after their TIC has expired, in order to allow them to qualify for an immediate annuity.

SECTION 5(3) (A) AND (B): RETIREMENT BENEFITS/SEVERANCE PAY FOR INDIVIDUALS SEPARATED FROM THE SERVICE AFTER EXPIRATION OF TIC OR FAILURE TO HAVE A LIMITED CAREER EXTENSION RENEWED (F.S. ACT SEC. 609 (a) AND (b))

These amendments modify the existing language of section 609 to avoid an anomaly which would otherwise be created by the adoption of Section 5(2) above. Without these amendments, an individual leaving the service from FS-2 or below for expiration of time-in-class would receive severance pay, while one at the same levels leaving for expiration of a limited career extension without renewal would be entitled to an immediate annuity. The two situations should be treated the same. The amendments would conform the two cases, and follow the existing practice, first legislated in 1946, that those separated involuntarily from class FS-1 or higher receive an immediate annuity, while those separated involuntarily from classes FS-2 and lower receive severance pay.

SECTION 5(4): JUDICIAL REVIEW IN SEPARATION FOR CAUSE CASES (F.S. ACT SEC. 610(a)(2))

Section 1110 of the Act authorizes an aggrieved party in a grievance case to obtain judicial review of a final action of the Secretary or the Board. Section 610, which provides for separation for cause, specifically applies only the hearing procedures of section 1106 to separation cases before the Board. Other provisions of Chapter 11 applicable to grievances may in general be applied to the extent appropriate to separations by rule of the Board itself, but it takes a provision of law to have judicial review. This amendment would apply the judicial review provisions, now applicable to grievances, to separation for cause cases as well.

SECTION 6(a)(1): DEFINITION OF FORMER SPOUSE (F.S. ACT SEC. 804(6))

The Act now requires only 10 years of marriage during any period of Federal Government service. Thus an employee who has a former spouse at time of transfer from Civil Service to Foreign Service could be affected, even where the 10 years of marriage do not include any period of time while the participant was in the Foreign Service. This amendment would require that there be at least five years of marriage while one of the partners was a participant in the Foreign Service retirement system in order to qualify for benefits as a former spouse under that System.

When a family separation occurs and a divorce is initiated while an employee is under the Civil Service and the divorce is finalized months or years later after the employee has transferred to the Foreign Service, there is no reason the former spouse should benefit by the special Foreign Service provisions.

The special provisions in the Foreign Service retirement system for spouses and former spouses are in recognition of difficulty spouses of Foreign Service employees have in building an independent economic base caused by frequent moves and the prohibitions of spousal employment abroad. The proposed requirement that at least 5 years of the 10-year marriage requirement must have occurred while the employee was in the Foreign Service is a minimum requirement. This change is consistent with the proposed change of section 811 of the Act to add to the requirements that a member must meet to apply for voluntary retirement, a requirement that the member have completed at least 5 years in the Foreign Service.

SECTION 6(a)(2): REPAYMENT OF REFUNDS (F.S. ACT SEC. 805(d)(1))

This amendment simplifies the calculation of the amount owing by a member for a previous refund of contributions from the Foreign Service Retirement and Disability System (FSRDS) or from any other retirement system for Government employees. Such refunds must be repaid by a member in order to obtain any credit for the prior service. At present, amounts owing for such refunds are determined by taking into account the differing contribution rates previously in effect under the FSRDS during the period covered by the refund. This rate at different times has been both higher and lower than the corresponding rate in the Civil Service Retirement and Disability System (CSRDS). The proposed change would adopt the current CSRDS formula expressed in 5 U.S.C. 8334(d) under which the amount owing is simply the amount of the previous refund plus interest.

SECTION 6(a)(3)(A): ELECTION OF SURVIVOR ANNUITY (F.S. ACT SEC. 806(b)(1)(C))

This change would permit a member and former spouse to elect by spousal agreement a reduced survivor annuity. At present they must elect either the maximum survivor annuity or none. This change would also permit such an agreement to be entered into within 12 months after a divorce in the event a divorce occurs after the member's retirement. At present, such elections cannot be made after retirement despite the changed circumstances and desires of the parties.

SECTION 6(a)(3)(B): MISSING PERSONS (F.S. ACT SEC. 806(b)(1)(D))

This amendment deletes section 806(b)(1)(D) of the Act because it is encompassed by the broader treatment of the subject of missing spouses and former spouses in new section 828 of the Act that would be added by section 6(a)(12).

SECTIONS 6(a)(4)(A) AND (6)(a)(5)(A): AGE REQUIREMENT FOR MINIMUM ANNUITY AND DISABILITY EXAMINATION (F.S. ACT SECS. 808 (a) AND (b), 809(e))

Sections 808(a) and 809(e) of the Act fix the minimum disability and survivor annuity, respectively, for members who become disabled or who die in service. The minimums are currently based on assumed service to 65, or to a total of 20 years whichever is less.

These amendments would change the specified age to 60 instead of 65 to conform with 5 U.S.C. 8339(g) and 8341(d).

Section 808(b) of the Act requires a disability annuitant whose disability has not been declared permanent by the Office of Medical Services to undergo an annual physical examination up to the age of 65. This change would reduce the age to 60 and consequently reduce the number of such examinations. This amendment would conform with 5 U.S.C. 8337(c).

SECTION 6(a)(4)(B): MINIMUM DISABILITY ANNUITY (F.S. ACT SEC. 808(a))

This amendment picks up an amendment made by Executive order 12289 of February 14, 1981 and inserts it at the appropriate place in the statute. The provision, which was made applicable to the Civil Service retirement system by section 404 of the Omnibus Reconciliation Act of 1980, section 404 excludes individuals who are receiving military retired pay or veterans' compensation from the guaranteed minimum disability annuity provision which will continue to apply to individuals who receive military retired pay on account of service-connected disabilities received in combat or caused by an instrumentality of war.

SECTION 6(a)(5)(B): CORRECTION OF REFERENCE (F.S. ACT SEC. 809(h))

This amendment would correct a reference in section 809(h) of the Act.

SECTION 6(a)(6): VOLUNTARY RETIREMENT (F.S. ACT SEC. 811)

This amendment would require members to complete 5 years under the FSRDS before becoming eligible for voluntary retirement at age 50 after 20 years creditable service. In the 1980 Act, a requirement was imposed that a member have at least 5 years of civilian service credit in order to retire voluntarily in order to prevent those with extensive military service from entering the Service and retiring in less than 5 years. This amendment will impose a comparable requirement for those with extensive service under CSRS. The change will be made applicable only to those who enter the Service after enactment of the Act (see effective date section 6(b)(1)). The amendment will permit a member who wishes to retire before completing 5 years in the Foreign

Service Retirement and Disability System, whose total Federal Service would entitle him/her to do so under the Civil Service retirement system, to revert to the latter system and receive an annuity thereunder.

SECTION 6(A)(7)(A): EFFECTIVE DATE OF PENSION TO FORMER SPOUSE (F.S. ACT SEC. 814(A)(3))

The first change—insertion of the word "or"—is purely technical to clarify the original intent. The change of effective date of pension payments to a former spouse to first of month following divorce from first of month in which divorce occurs would reduce potential for overpayments and provide consistency with the effective date for changes in survivorship reductions stated in sections 806(i) and 814(b)(5)(A) of the Act. It would eliminate the need to make two successive annuity recomputations when a divorce occurs after retirement—one adjustment to provide a pension to the former spouse and another adjustment the next month to adjust the survivorship reduction.

SECTION 6(A)(7)(B): COURT-ORDERED CHANGES (F.S. ACT SEC. 814(A)(4))

This amendment would permit a court, irrespective of the date of divorce, to order a change in the percentage of a member's annuity which is payable to a former spouse provided the court finds that a substantial change in the economic circumstances of a least one party has occurred. At present, court orders affecting annuity payments issued more than 12 months following a divorce are not valid. The proposed change is consistent with the philosophy of the Act which allows a court to set aside the "pro rata" division stated in section 814 of the Act when individual circumstances so dictate.

SECTION 6(A)(8)(A): REFUNDS OF CONTRIBUTIONS (F.S. ACT SEC. 815(A))

This amendment divides section 815(a) of the Act into two paragraphs. New paragraph (1) requires that members be separated from the Service for at least 31 consecutive days and meet related requirements to be eligible for a refund of their contributions to the Fund. It conforms the FSRDS with the change made in CSRS by section 303(c) of the Omnibus Budget Reconciliation Act of 1982 as amended by section 3(f) of P.L. 97-346.

New paragraph (2) of section 815(a) would correct an apparent oversight in the 1980 Act by eliminating the right of a former spouse who remarries prior to age 60 to a share of the lump-sum payment, just as rights to an annuity are cut off in such circumstances. Also, this paragraph, coupled with new section 815(j) of the Act to be added by section 6(a)(8)(B), would provide a spouse who so requests a pro rata share of any refund of retirement contributions on resignation, unless waived by a spousal agreement, or a court ordered otherwise. It would provide a spouse the same right to share in the refunds on resignation of a Member as section 806(b) now provides with respect to a survivor annuity upon retirement of a Member. It would protect a spouse in the event a member leaves the Service prior to divorce in order to avoid payments to a former spouse required by the Foreign Service Act. In the event a member has both a spouse and former spouse when a refund becomes payable, each would receive a pro rata share of 50% of the refund, and the member would receive the other 50 percent plus any balance of the first 50 percent not included in a "pro rata share."

SECTION 6(A)(8)(B): DIVISION OF REFUNDS WITH SPOUSES ON REQUEST (F.S. ACT SEC. 815(J))

This amendment is explained under section 6(a)(8)(A).

SECTION 6(A)(9): UNHEALTHFUL POST CREDIT—APPLICATION TO FORMER SPOUSES—I (F.S. ACT SEC. 816(I)(2))

This amendment deletes current subparagraph (B) of section 816(i)(2) of the Act which relates to unhealthful post credit. The amendment is explained under section 6(a)(10).

SECTION 6(A)(10): UNHEALTHFUL POST CREDIT—APPLICATION TO FORMER SPOUSES—II (F.S. ACT SEC. 817)

This amendment would eliminate extra service credit for assignments at unhealthful posts granted to members not receiving post differential or danger pay from computations of the 10 years of creditable service during which a marriage must have endured and from computations of the pro rata share benefit. This would mean that a marriage must have endured during ten years of actual service to qualify a former spouse for benefits and that benefits would be based on actual Government service.

Currently, subparagraph (B) of section 816(i)(2), which would be repealed by section 6(a)(9), makes it necessary for the Department to determine whether a spouse resided with a member at an unhealthful post, both before or after passage of the Act. This is almost impossible to determine for periods prior to institution of the special reports now required. The change would simplify administration of the Act without significantly affecting benefits.

SECTION 6(A)(11): COST OF LIVING ADJUSTMENTS OF ANNUITIES (F.S. ACT SEC. 826(C)(1))

This amendment would conform cost-of-living adjustments in Foreign Service annuities with comparable adjustments in Civil Service annuities under 5 U.S.C. 8340 as amended by the Budget Acts of December 5, 1980 and August 13, 1981 (P.L. 96489 and P.L. 97-35, respectively). The former Act ended the "look-back" computation and provided for proration of the first adjustment. These changes were extended to the Foreign Service by Executive orders 12272 and 12289 of January 16, 1981 and February 14, 1981, respectively, except it was not possible to make the change applicable to former spouses by Executive order. This amendment is necessary to accomplish the latter. This amendment also changes the proration formula to conform with the change made by P.L. 97-35 effective August 13, 1981 and is made effective on the same date by section 6(b)(2).

SECTION 6(A)(12): MISSING PERSONS (F.S. ACT SEC. 828)

This amendment would add a new section 828 to the Act. It would expand current section 806(b)(1)(D) to cover additional types of elections when it is established that a spouse or former spouse is missing. It would also authorize payment of benefits otherwise due to the missing person to the participant, if alive, or to a spouse or other former spouse. Section 806(b)(1)(D) of the Act would be repealed by section 6(a)(3)(B).

SECTION 6(B): EFFECTIVE DATES

Section 6(b)(1) exempts current members from the application of the change in voluntary retirement made by section 6(a)(6) as is explained under that section.

Section 6(b)(2) makes the changes in section 826(c) of the Act, which provides for prorating initial annuity adjustments, retroactive to the date the formula was made applicable to CSRS.

SECTION 7(1): DESIGNATION OF INVESTIGATORS AND AUDITORS AS MANAGEMENT OFFICIALS FOR LABOR-MANAGEMENT PURPOSES (F.S. ACT SEC. 1002(12))

The current section designates as management officials employees assigned to carry out the functions of the Inspector General of the Foreign Service and the Department of State as management officials. Through inadvertence, officials performing similar audit and investigatory functions in the other foreign affairs agencies were not included. Government-wide practice is to exclude such officials from the bargaining unit, on grounds they have a special relationship and responsibility to management.

SECTION 7(2): COST SHARING FOR INSTITUTIONAL GRIEVANCES (F.S. ACT SEC. 1014(A)(3))

Under section 1105(e) all expenses of the Foreign Service Grievance Board are now paid out of funds appropriated to the Department of State; this includes expenses of institutional grievances where a union participates in bringing the grievance under chapter 10 of the Act. This amendment would require cost-sharing for these institutional (but not individual) grievances to be included in procedures negotiated by agency management and the exclusive representatives for resolution of implementation disputes relating to collective bargaining agreements. Our estimate, assuming a presiding officer's fee of $300 per day plus travel and per diem, is that the average institutional grievance would have a cost of from $1500 to $3000.

SECTION 8(1): PROTECTION OF RIGHTS FOLLOWING MANDATORY CONVERSION FROM FOREIGN SERVICE TO CIVIL SERVICE (F.S. ACT SEC. 2104)

As enacted, the conversion provisions of the Foreign Service Act expire on February 14, 1984 (July 1, 1984 for USIA). In a few limited cases, it is now apparent that this will not be sufficient time to realign the personnel organization of the several agencies, especially for groups of employees who were originally considered to be worldwide available and therefore appropriately remaining in the Foreign Service, but who subsequently have been determined to be needed only for employment at home.

Consistent with the intent of the Act that domestic functions be carried out by members of the Civil Service, this change would allow completion of realignment of our two personnel systems without loss of pay, status, or benefits by employees. The three year period would expire 3 years after the date of enactment of this subsection, and would be consistent with the conversion period allowed other convertees under the Act. The amendment would apply only to individuals not previously eligible for conversion from the Foreign Service, since they were originally in the worldwide category after the effective date of the Act but prior to a decision that a particular occupation should be in the domestic group. Thus, it would not extend the original 3 year period allowed for conversion for those originally designated as domestic, particularly in the Department of State or USIA. The current plan is to apply the new authority only to certain security officers in the Department of State.

SECTION 8(2): SELECTION-OUT AUTHORITY FOR AID (F.S. ACT SEC. 2106(E)(2))

This is a technical amendment. Prior to the effective date of the Foreign Service Act of 1980 the Department of State had a selection-out procedure for Foreign Service officers who failed to meet standards of performance prescribed by regulation. Selection-out was not applicable to State's Foreign Service Staff (FSS) employees. State's authority for selection-out was based on section 633 of the Foreign Service Act of 1946. Concurrently A.I.D. had a selection-out procedure applicable, with certain exceptions, to all A.I.D. FSS and Foreign Service Reserve (FSR) employees; however, A.I.D.'s selection-out authority was based on section 625(e) of the Foreign Assistance Act of 1961, as amended.

Section 608 of the 1980 Act, which replaces both former selection-out authorities, is applicable to the United States citizen Foreign Service career members of all the foreign affairs agencies.

The intent was to limit adverse impact on individuals who were in a career Foreign Service *Staff* status prior to the enactment of the Foreign Service Act of 1980 (October 17, 1980) and thus were not subject to selection-out, but who were involuntarily made "members of the (Foreign) Service" under the 1980 Act. To achieve this result the 1980 Act, in section 2106(e), exempted career appointees who had not been subject to section 633(a)(2) of the 1946 Act immediately prior to February 15, 1981 from selection-out for ten years. Unfortunately, a literal interpretation of the language of section 2106(e) could also exempt A.I.D. Foreign Service employees who were not subject to section 633(a)(2), but instead were subject to the FAA counterpart, section 625(e).

This amendment corrects a technical defect in the statute by making clear that A.I.D. Foreign Service employees, who were subject to selection-out under section 625(e) of the FAA, remain subject to the selection-out provisions of section 608 of the 1980 Act.

SECTION 9: FOREIGN COMMERCIAL SERVICE LIMIT ON NON-CAREER SFS APPOINTMENTS (F.S. ACT SEC. 2403(C))

Section 2403(c), a temporary provision of the 1980 Act is being repealed. The limitation contained therein is being made a permanent provision and is being included in section 305 of the act by section 3(1) of the bill.

SECTION 10: AMENDMENTS OF DEPARTMENT OF STATE BASIC AUTHORITIES ACT

This section of the bill amends various sections of the Basic Authorities Act (B.A. Act) as explained below.

SECTION 10(1)(A): AUTHORIZATION TO EXPEND FUNDS (B.A. ACT SEC. 2: 22 U.S.C. 2669)

As presently drafted, section 2 of the B.A. Act requires that each appropriation act contain language permitting use of appropriated funds for the purposes specified in section 2 such as provision for printing and binding, payment of tort claims under specified limitations, etc. This amendment removes that requirement in order to avoid the possibility of inadvertent loss of necessary authorities by dropping a few words during the appropriation process.

SECTION 10(1)(B): EXPERTS AND CONSULTANTS (B.A. ACT SEC. 2(g) 22 U.S.C. 2269(g))

As required by 5 U.S.C. 3109, an agency must have special statutory authority to hire experts and consultants. At present the Department does this by language in each annual appropriation act. In order to avoid loss of necessary authority by inadvertent dropping of the necessary words in the appropriation process, this amendment to 22 U.S.C. 2669(g) would make the authority a permanent provision of law. In accordance with Government-wide practice, the amendment would also authorize compensation up to the top of GS-18, rather than GS-15, the current maximum for this Department.

SECTION 10(2): USE OF GOVERNMENT VEHICLES/EXPENSES OF ARBITRATION (B.A. ACT SEC. 11: 22 U.S.C. 2678)

Both section 11 (22 U.S.C 2678) and 28 (22 U.S.C. 2700) of the B.A. Act provide essentially the same authority for a Chief of Mission to authorize use of Government-owned vehicles for transporting employees and their families for reasons of safety or other advantage to the Government. Section 28 was enacted in 1980, making the older section 11 duplicative. This amendment replaces old section 11 with new material on international arbitrations.

At present, the Department's authority to use appropriated funds for the expenses of arbitration and other dispute resolution proceedings under international agreements and contracts requires inclusion of language in each annual appropriation act. This amendment makes such authority a permanent provision of law to avoid the possibility of inadvertent loss of necessary authority through dropping a few words in the appropriations process.

SECTION 10(3): ADDITIONAL PER DIEM FOR AID AND USIA EMPLOYEES (B.A. ACT SEC. 32, 22 U.S.C. 2704)

Section 32 of the Department's Basic Authorities Act now provides for additional per diem for 1) security officers required to accompany principals of the Department and Foreign dignitaries and 2) other employees who are required to spend extraordinary amounts of time in travel status, and who thereby incur additional expenses. The proposed amendment would extend this authority to officers of AID and USIA in like circumstances.

SECTION 11(1): CALCULATION OF LUMP SUM LEAVE PAYMENT UPON SEPARATION (5 U.S.C. 5551)

This amendment would prohibit inclusion of any post differentials or territorial allowances for hardship in lump sum leave payments for employees who retire from a post abroad rather than in the United States. The existing statute provides the possibility of a windfall payment, which the Inter-Agency Committee on Allowances has recommended be eliminated. This amendment would produce Government-wide savings. The term "basic pay" is defined in 5 U.S.C. 8331(3))

SECTION 11(2): HOME SERVICE TRANSFER ALLOWANCE (5 U.S.C. 5724a(a)(3))

This amendment would permit flexibility with payment of lodging/subsistence upon an employee's transfer from a foreign post to the U.S. At present, up to 30 days is authorized at the foreign post prior to departure and up to 30 days is authorized in the U.S. after arrival here. The amendment would permit flexibility for the employee to use up to a total of 60 days in any combination at the post and in the U.S., according to personal circumstances.

SECTION 11(3): EDUCATION ALLOWANCES AT TIME OF TRANSFER, FOR HANDICAPPED CHILDREN AND AT POST SECONDARY EDUCATIONAL INSTITUTIONS (5 U.S.C. 5924(4))

Together, these changes update and improve the education allowance system to bring it into line with current circumstances and problems.

The first change permits payment of educational allowances for children of employees being transferred or newly assigned to a Foreign Service post with inadequate schooling for the entire school year, even if the member of the Service does not depart the United States until after the beginning of the school year. (Generally, the reverse situation, transfer back to the United States during the school year, can be managed, if the member of the Service wishes his or her children to remain in their current schools during the remainder of the semester.)

The second amendment would permit educational services to be provided for handicapped children, beginning at age 3. P.L. 94-142, the "Education for All Handicapped Children Act of 1975," generally requires states to offer public educational facilities for handicapped children from age three. It seems desirable to amend 5 U.S.C. so that overseas education allowance policy may be consistent with U.S. public school education practice for handicapped children. Under present law no allowance can be granted for a handicapped or normal child under age 4 and who is not at least in a kindergarten program.

The third amendment would permit post-secondary educational travel for dependents not only for undergraduate college education, but also at other institutions such as nursing, technical, vocational, music and performing arts schools which are not considered colleges. This amendment is necessary in order to provide the appropriate kinds of post-secondary education for a wider variety of chosen career fields for dependent children. The term "educational institution" in the text of the amendment is drawn from 38 U.S.C. 1701(a)(6) (Veterans Benefits). It is not planned to extend the benefit during post-graduate education, as is possible for Veterans. Accredited educational institutions at which these benefits can be used will be determined by reference to an established list, such as that developed by the Veterans Administration of the Department of Education. The list or lists to be used will be specified by regulations issued by the Secretary.

SECTION 12(4): BURIAL EXPENSES FOR FOREIGN SERVICE NATIONAL EMPLOYEES (5 U.S.C. 5944)

The existing provision provides for a $100 payment of burial expenses for FSN employees. At times, this is in conflict with local practice and can give the appearance that the United States Government does not properly appreciate or value the contributions of its foreign national employees. If this section is repealed, the intention would be to rely upon the authority contained in section 408 of the Foreign Service Act of 1980, Local Compensation Plans, to develop appropriate provisions for payment of burial and last illness expenses where such payment is in accordance with local practice in specific countries.

U.S. DEPARTMENT OF STATE,
Washington, D.C., April 15, 1983.

Hon. GEORGE BUSH,
President of the Senate.

DEAR MR. PRESIDENT: Enclosed for consideration by the Congress is a draft bill to amend the Foreign Service Act of 1980 and other statutes affecting the Department, together with a section-by-section analysis and a list of amendments.

The proposed amendments have been developed by the Department in cooperation with other foreign affairs agencies. Many of these proposed amendments reflect technical changes designed to clarify the 1980 statute and to improve its administration, while a few are designed to correct inequities among various groups of employees affected by the 1980 Act.

We estimate the overall cost of the draft bill to the Department at $500,000 annually, primarily for modifications in the home service transfer allowance, in Section 11(2), and changes in educational allowances, in Section 11(3).

We would appreciate the early consideration of these amendments by the Congress. A similar letter is being sent to the Speaker of the House.

We have been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of the enclosed draft bill for the consideration of the Congress.

With cordial regards,

Sincerely,

Powell A. Moore,
Assistant Secretary for Congressional Relations.●

By Mr. GRASSLEY:

S. 1137. A bill to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition; to the Committee on Finance.

EDUCATIONAL OPPORTUNITY AND EQUITY ACT OF 1983

● Mr. GRASSLEY. Mr. President, today, I introduce a measure to provide tuition tax credits for parents of elementary and secondary students. My bill parallels the administration proposal, S. 528, in every respect except it limits the credit to parents earning less than $50,000 annually.

Tuition tax credits are important because they increase educational choices vital to the perpetuation of a pluralistic society. Tuition tax credits foster innovation and flexibility in education, assisting individuals to choose a curriculum enabling them to meet their vocational and educational goals.

For some American families, the purpose of education goes far beyond intellectual development and maximum economic opportunities. These families consider the classroom an extension of parental responsibility to shape the character and values of the next generation, and often make immense sacrifices to provide a particular learning environment for their children.

Despite the common presumption that children in private schools come from wealthy families, the typical parents sending their young to private schools have a moderate income of less than $25,000 annually. Like other taxpayers, they contribute tax dollars for public education: Unlike other taxpayers, they bypass the public education system and sustain the additional cost of alternative training for their children.

Private education plays an important part in our Nation's educational history. America's earliest schools were private, and were often an extension of Catholic or Protestant church ministries. Private institutions were more prevalent than State-supported, State-founded, or State-initiated schools until the late 19th century.

America's pluralistic society should sustain broad-based, innovative, flexible educational options for all its people irrespective of their personal wealth. Competition in the marketplace of ideas has enabled America to achieve greatness. Offering all citizens the right to enhance their own intellectual development through a learning environment which reflects personal and family values is an important public policy goal.

The tuition tax credit legislation developed by President Reagan is an effective way to sustain a wide variety of educational choices. While preserving our fine public education system, it would provide modest tax credits targeted to families with children in nondiscriminatory elementary and secondary schools. This measure would provide equal educational options for all citizens.

I am introducing a bill limiting the qualifying family income for these tax credits to $50,000, beginning to phase out at $40,000. Under President Reagan's proposal, families with incomes over $60,000 are ineligible for the credit. I am lowering the income limits to $50,000 because I feel it is vitally important to limit this proposal to families whose economic circumstances make it the most difficult to support a dual educational system. Moderate income families should be the focus of our effort, since upper income families are more able to absorb the cost of private education for their children.

Another reason to lower the income limit on the tuition tax credit is to limit Federal revenue expenditure to those in greatest need. In this era of budget restraint, it is important to minimize any new drain on Federal revenue.

By assuring lower income families the same multiple educational programs tapped by wealthier Americans, we should also stimulate cost-effective management of both public and private systems. Monopolies tend to lose their commitment to quality and cost effectivity. By sustaining competition in the marketplace of ideas through diverse educational systems, we encourage both cost and quality control in public and private school systems.●

By Mr. PRESSLER:

S. 1138. A bill to establish a shelterbelt improvement program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SHELTERBELT IMPROVEMENT ACT OF 1983

● Mr. PRESSLER. Mr. President, today, I am introducing the Shelterbelt Act of 1983. The legislation is similar to a measure I originally proposed in the House of Representatives and as an amendment to the 1981 farm bill. The amendment was included in the Senate version of the farm bill, but unfortunately, the provision was deleted in the conference committee. The only change is to allow the Secretary of Agriculture to use surplus commodities to compensate farmers, rather than using cash.

The Shelterbelt Act would promote the preservation, restoration, improvement, and establishment of shelterbelts to reduce wind erosion and provide numerous additional benefits. The measure will also help to reduce the current farm commodity surpluses. Land planted to tree shelterbelts will permanently take the land out of production and help control grain surpluses. Yet the shelterbelts will help to maintain the productivity of adjacent farmland.

Shelterbelts provide numerous benefits, including protection for livestock, crops, and wildlife, as well as conserve energy. Many of our Nation's current shelterbelts were established under the planting programs of the 1930's and need to be restored or replaced. For example, in South Dakota, three-fourths of our shelterbelts established during this period have been destroyed or are in desperate need of rehabilitation. It is important that current shelterbelts be maintained and new ones established.

The Shelterbelt Act of 1983 would provide farmers with assistance to establish and maintain shelterbelts, either with a payment in kind or with a cash payment. The establishment of shelterbelts is essential to preserving our Nation's agricultural productivity. Topsoil losses due to wind erosion in recent years have dramatically increased. If this trend is permitted to continue, the productivity of American farmland will decrease. A recent USDA study on soil erosion estimated that if current erosion rates continue, corn and soybean yields could be reduced by as much as 30 percent in the next 50 years as soil fertility declines. A loss of productive topsoil will reduce yields, increase consumer food prices and reduce the available grain for export.

With the current depressed farm economy, farmers cannot afford to take land out of production and invest to establish shelterbelts without some assistance. Farm income has declined for 3 consecutive years and is at the lowest level since the 1930's. Shelterbelts are a long-term investment—it takes many years for the trees to reach maturity and provide protection for the topsoil. The shelterbelts must also be replaced and maintained if wind erosion is to be controlled. If farmers are to control wind erosion, they must be given some assistance to establish shelterbelts. This legislation would aid farmers in establishing shelterbelts and reduce current grain surpluses.

This legislation would authorize the Secretary of Agriculture to enter into agreements with landowners and operators to establish and maintain shelterbelts in cooperation with soil and water conservation districts under the regulations prescribed by the Secretary. In return for establishing a shelterbelt and maintaining it within the prescribed regulations, the Secretary of Agriculture shall make an annual payment to the landowner or operator, either with surplus commodities or cash, and bear such costs of establishing and maintaining shelterbelts as the Secretary determines appropriate.

Mr. President, I urge my colleagues to join me in supporting the Shelterbelt Act.●

By Mr. STEVENS:

S. 1139. A bill for the relief of Rabi Satyal and Kamala Satyal, husband and wife; to the Committee on the Judiciary.

RABI AND KAMALA SATYAL

Mr. STEVENS. Mr. President, I am today introducing a private bill for the relief of Rabi Raj and Kamala Satyal.

Rabi and Kamala have two children who are natural U.S. citizens. Having initially entered the United States in 1969, they have now resided in the United States for some 13 years. If they are required to depart from the United States and return to Nepal, they would no doubt suffer economic disadvantages along with cultural shock to the children.

In view of the Satyals' situation, I feel that they should be granted permanent residence.

I ask unanimous consent that the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 212(a)(14) of the Immigration and Nationality Act, for purposes of such Act, Rabi Satyal and Kamala Satyal, husband and wife, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to these aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas which are made available to natives of the country of the aliens' birth under section 202(e) of such Act.

By Mr. DIXON:

S. 1142. A bill to impose a moratorium on coal leasing by the Department of the Interior pending congressional review; to the Committee on Energy and Natural Resources.

(Related legislation, Senate Resolution 123, appears elsewhere in today's RECORD.)

COAL LEASING BY THE DEPARTMENT OF THE INTERIOR

Mr. DIXON. Mr. President, I am appalled, as should we all be, by the reports that the Department of the Interior, under the leadership of Secretary James Watt, is now giving away Government coal reserves at bargain basement prices.

This is not the first time, Mr. President, I have expressed concern about this problem. Last December 14, I joined my distinguished colleague from Arkansas, Senator DALE BUMPERS, in voting for an amendment to cut the appropriation for the Department of the Interior funds for leasing programs within the Department.

Hindsight indicates we were on the right track, Mr. President. Our effort failed by only one vote. Had we gotten that one vote, we might have saved millions of dollars for our citizens—dollars that are now generously being given away to industry.

Published reports indicate industry received a $60 million windfall through coal rights granted by the Department in the Powder River Basin alone. This is no less than a massive rip-off of our American taxpayers, who own this land and own this coal. These public lands and these mineral resources belong not to the Department of the Interior and not to industry or business. They belong to all of us.

I feel strongly we should try again to take a good look at this problem, especially since it appears the Department of the Interior is on a course of action that is neither wise policy nor good business.

I rise today, Mr. President, for two reasons.

First, I am introducing legislation calling for a moratorium of 1 year on any further auctions or leases by the Department of the Interior of Government coal reserves.

This moratorium will give the General Accounting Office time to conduct a complete investigation of this entire undertaking.

Second, I am introducing a resolution calling for the creation of a select committee of this body to review all mineral leasing practices by the Department of the Interior.

Why am I suggesting what some may consider drastic steps? Because, Mr. President, if bargain basement prices are prevailing in coal leasing, something is drastically wrong. If bargain basement prices are prevailing in other leasing, something is radically wrong. As I said earlier, this is bad policy. It is bad business. Who can justify it?

We have already had our Teapot Dome Scandal in this country. Let us not allow the Senate to stand idly by while another scandal slowly engulfs us. Let us act now.

Why do we need to act quickly? Because, Mr. President, the Department of the Interior is planning more auctions and more leases that are a rip-off of all of our citizens. The Department reportedly has plans for additional coal lease sales in three regions, involving 6 billion tons. These 6 billion tons, Mr. President, are equivalent to 100 times our entire annual coal production in Illinois.

We have a sluggish market in coal. We have an oversupply and an overcapacity in coal. How can we justify pulling billions of tons of coal out of Federal reserves and throwing them on the market at below-market prices? This program just does not make any sense.

Our Government has no business, Mr. President, in flooding our markets with coal, thereby depressing the market price, or by giving unfair advantage to bidders through questionable appraisals. We simply cannot allow these practices.

To summarize, let me note my principal points of concern in this vitally important matter.

First, the Department of the Interior must stop this program of extended and extensive leasing of coal reserves.

Second, the Department of the Interior must be directed to halt its faulty appraisal system which leads inevitably to bargain basement prices and favoritism.

Third, any leasing program Congress approves must assure that prices we get for our leases protect our citizens from rip-offs and return to the Treasury a full dollar for every unit of product leased to industry.

Fourth, the Department of the Interior must be told that the Senate of the United States does not intend to stand idly by while federally owned coal floods and depresses our coal markets nationally.

I make these points as a Senator from a coal State, Mr. President. I would be remiss were I not to object to what the Department of the Interior is doing and, worse yet, plans to do.

I would be remiss because we have 5,600 unemployed coal miners in Illinois. I would be remiss because our coal production is down in Illinois by 3½ million tons. I cannot in good conscience, Mr. President, condone policies and practices which do grievous harm to my State. I am sure that my colleagues from other coal-producing States share my concerns.

We must, all of us, keep in mind that most of the Western coal in this country is on public lands. Most of the eastern coal in our Nation is on privately owned land. How we handle and balance these two situations is a matter of vital national concern. A Government monopoly is no less a danger to our economic well-being throughout our 50 States than a business monopoly.

I would remind my colleagues, Mr. President, that the House of Representatives is already well into reviewing this entire problem. My distinguished colleague in the Illinois congressional delegation, Representative SIDNEY YATES, chairman of the Interior Subcommittee of the House Appropriations Committee, and his colleagues will soon be releasing a report on coal leasing by the Department of the Interior. I commend Congressman YATES and his subcommittee members for their efforts.

But we need immediate action to forestall the continuation of what is obviously a bad program. Nothing less will do.

For the reasons outlined in this statement, I ask my colleagues to review and support my resolution and my bill being offered today and I ask unanimous consent that the bill be printed at this point in the RECORD.

(The resolution submitted by Mr. DIXON, Senate Resolution 123, appears elsewhere in today's RECORD.)

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provision of law, the Secretary of the Interior may not issue any coal lease on Federal lands for a period of one year after the date of enactment of this Act.

(b) During the one-year moratorium on coal leasing imposed by subsection (a), the General Accounting Office shall investigate and report to the Congress on—

(1) any mismanagement of the leasing of Federal coal resources by the Department of the Interior;

(2) possible alternatives to the current coal lease bidding process that would avoid single bids at below market prices;

(3) changes in Federal law that would assure that the United States receives fair market value for coal leases; and

(4) the near term and future needs of the United States for coal and the impact of releasing large quantities of coal from Federal lands into the marketplace.

By Mrs. HAWKINS:

S. 1143. A bill to condition U.S. assistance to any country which is a major producer of opium, coca, or marihuana on reductions by that country in the levels of such production, and for other purposes; to the Committee on Foreign Relations.

THE DIPLOMACY AGAINST DRUGS ACT

● Mrs. HAWKINS. Mr. President, today, I am introducing the Diplomacy Against Drugs Act, a bill designed to combat the corruption, violent crime, addiction, and health hazards victimizing Florida and the rest of this country as a result of the flow of illegal drugs from abroad.

The American people have had enough. Something must be done to stop this degradation of our country and its citizens. Consider these outrageous statistics on the size of the narcotics industry, its cause and effect relationship with other types of crime, and our economy.

The Drug Enforcement Administration estimates that illicit drug trafficking revenues now exceed $80 billion per year, an amount equal to over $350 per capita. That is an increase of almost 50 percent from 1977. Researchers at the National Institute of Drug Abuse found that 243 addicts in one city had committed a total of 500,000 crimes over an 11-year period. A December 1982 special report in the Harvard Business Review revealed that in 1981 drug use by civilian workers cost employers $16.4 billion in lost productivity and crime.

However, the most tragic impact of illegal drugs in this country is the damage done to our young people: According to a 1981 survey by the National Institute on Drug Abuse, 1 out of every 14 high school seniors uses marihuana daily. Along with less frequent users, that means over one-third of America's young adults currently use illegal drugs. And over 3 million people between the ages of 18 and 25 use cocaine on a regular basis. Escalating drug abuse by the young has led to a terrifying result. During the past 20 years, the health of all Americans has been improving, with one exception. The death rate of young Americans between the ages of 15 and 24 is higher than it was 20 years ago. Medical experts agree that drug abuse has been the major factor in this terrible trend.

Marihuana, in particular poses severe health hazards. The most commonly used illicit drug in the United States, it is not only carcinogenic but also impairs the functioning of the heart, brain, and reproductive system. Since it is often used in combination with alcohol, marihuana compounds the devastating problem of drunk driving.

Cocaine use can be even more dangerous; it can create compulsive drug-taking behavior that disrupts the normal life of users. Unfortunately, since 1976, cocaine use has become both more prevalent and more intense. Indeed, increased smoking and injection, as methods of cocaine abuse pose even greater health risks than inhalation. As a result, there has been an escalation of injuries and deaths related to cocaine, and the number of individuals undergoing treatment for cocaine abuse has doubled since 1978.

The heroin problem is also getting worse. During 1981, heroin-related deaths rose 25 percent, surpassing the 800-per-year level for the first time since 1976. There are now nearly 500,000 heroin users in the United States.

Because of escalating use of marihuana, cocaine, heroin, and other dangerous narcotics, millions of young Americans have been left emotionally, psychologically, and physically crippled by drug use. Yet, the best way to end the carnage is known.

Time and again, experts who have examined this desperate problem have identified eradication of drug crops in the fields as the best strategy for attack. Since plants cannot hide or move and can be easily destroyed, this strategy has clear advantages; it is simple and it is inexpensive. In two recent instances—in Mexico and Turkey—crop eradication proved successful in dramatically reducing drug exports to the United States. Similarly, during World War II when the supply lines of opium and heroin to the U.S. market were cut off, our heroin problem fell quickly to insignificant proportions.

My bill, the Diplomacy Against Drugs Act, engages this principle in the effort to save American lives. It directly links drug eradication efforts by foreign governments with bilateral U.S. assistance and U.S. votes on grant or loan requests at multilateral development banks. Because American taxpayers are the major donors to the Inter-American Development Bank and to the World Bank, successful drug control efforts would become priorities internationally or U.S. aid would stop. In effect, my legislation informs drug producing countries that if they want military or economic aid, they must demonstrate to us and to other victim nations a willingness to help solve international drug abuse problems they help create.

To demonstrate the financial assistance we now provide major drug producing countries, I ask unanimous consent to enter into the RECORD the following summary.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

Major producing country	Illegal drug	Assistance 1980-82	
		U.S. dollars—in millions	Multilateral
Afghanistan	Opium (200 metric tons)	0	4.1
Bolivia	Cocaine (35,000 hectares)	35.3	195.5
Burma	Opium (150-170 metric tons)	28.2	365.7
Colombia	Marihuana (7,450-10,000 metric tons)	42.8	2,085.1
Iran	Opium (400-600 metric tons)	0	0
Jamaica	Marihuana (740-1,000 metric tons)	230.4	311.2
Laos	Opium (40 metric tons)	0	43.0

Major producing country	Illegal drug	Assistance 1980–82	
		U.S. dollars—in millions	Multilateral
Pakistan	Opium (300–400 metric tons).	336.4	997.9
Peru	Cocaine (40,000–60,000 hectares).	201.4	1,268.4
Thailand	Opium (10–15 metric tons).	269.0	1,948.3

Source: The National Narcotics Intelligence Consumers Committee—"The Supply of Drugs to the U.S. Illicit Market from Foreign and Domestic Sources in 1980 With Projections Through 1984." Country Reports on Human Rights Practices for 1982—Report Submitted to the Committee on Foreign Relations U.S. Senate and Committee on Foreign Affairs U.S. House of Representatives by the Department of State.

Mr. President, if foreign governments prove unwilling to cooperate, then we must act to protect our own vital interests. It is in our power to oppose loans and grants to major drug producers from the Multilateral Development Banks until they take real and verifiable action against illicit drug production and trafficking.

The Diplomacy Against Drugs Act would do exactly that—by requiring U.S. opposition to loans and assistance by multilateral development banks to major drug producing countries unless the President determines and certifies that they cooperate with U.S. drug control efforts, and agree to eradicate at least 20 percent of the marihuana and coca fields annually. This would reduce the supply to an insignificant level after 5 years.

I believe direct linkage of drug eradication with U.S. votes at the multilateral banks is the most effective means of establishing drug control as a priority in our foreign policy. It is vital that U.S. foreign assistance be used as a preventative tool for stopping drugs at their source. While our foreign policy interests with other countries are broad, none should supercede our desire for Americans at home to live free of violent crime and drug abuse. We should consider no nation our friend who contributes to some of the most serious domestic problems facing our Nation. We should not use taxpayers' dollars to help a country that makes victims of us.

Adoption of the diplomacy against drugs bill will establish illegal drug control as a foreign policy priority. I urge my colleagues to join me in this effort to destroy drugs at the source. We must consider foreign assistance in a broader context than we have in the past. As long as illegal drugs destroy American lives we must not let business as usual govern our major drug-producing countries.

Mr. President, I ask unanimous consent that a copy of this bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Diplomacy Against Drugs Act".

SEC. 2. (a) For any fiscal year, United States assistance may be provided for a country which is a major producer of opium, coca, or marijuana only if the amount of opium, coca, or marijuana (as the case may be) that was produced in that country during the preceding fiscal year is at least 20 percent less than the amount produced in that country during the fiscal year which preceded such preceding fiscal year.

(b) To the extent that the amount of opium, coca, or marijuana (as the case may be) that is produced in a major opium, coca, or marijuana producing country is reduced by more than 20 percent from one fiscal year to the next, the United States Government shall give serious consideration to increasing the level of United States assistance for that country during the fiscal year following such reduction. In addition, in determining for the next fiscal year thereafter whether that country has met the requirement of subsection (a), the amount of any such additional reduction shall be carried over and counted as if it had occurred in the fiscal year following the year in which it actually occurred.

SEC. 3. The Secretary of the Treasury shall instruct each United States Executive Director of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, and the Inter-American Development Bank to oppose actively the extension of any loan or the furnishing of any financial assistance or technical assistance during a fiscal year by the respective international financial institution to a country which is a major producer of opium, coca, or marijuana, unless the amount of opium, coca, or marijuana (as the case may be) that was produced in that country during the preceding fiscal year is at least 20 percent less than the amount produced in that country during the fiscal year which preceded such fiscal year.

SEC. 4. Not later than March 15 of each year, the Director of Central Intelligence shall prepare and transmit to the Congress and to the Secretary of the Treasury a report on opium, coca, or marijuana production in major producing countries. Each such report shall set forth the actual amount of opium, coca, or marijuana (as the case may be) which was produced in each major opium, coca, or marijuana producing country during the preceding fiscal year and the estimated amount of such production for the then current fiscal year. Each such report shall also set forth the amounts of opium or coca produced solely for pharmaceutical purposes in each such country during each such year.

SEC. 5. (a) For purposes of this Act, a country is a major producer of opium if it produced 20 metric tons or more of opium during a fiscal year.

(b) For purposes of this Act, a country is a major producer of coca or marijuana if it produced 15,000 hectares or more of coca or marijuana (as the case may be) during a fiscal year.

(c) In carrying out this Act, opium or coca produced solely for pharmaceutical purposes shall not be counted in determining amounts of production.

(d) As used in this Act, the term "United States assistance" includes any assistance of any kind (other than assistance involving only the provision of food or medicine) which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government to or for the benefit of any foreign country, including—

(1) assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I, relating to the Overseas Private Investment Corporation, but excluding programs under chapter 8 of part I, relating to international narcotic control assistance);

(2) sales, credits, and guaranties under the Arms Export Control Act;

(3) sales under title I (including title III) and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

(4) financing programs of the Commodity Credit Corporation for export sales of nonfood commodities;

(5) financing under the Export-Import Bank Act of 1945;

(6) assistance under the Migration and Refugee Assistance Act of 1962;

(7) programs under the Peace Corps Act;

(8) assistance under the Inter-American Foundation Act;

(9) assistance under the African Development Foundation Act;

(10) financial assistance for foreign persons or groups under the Mutual Educational and Cultural Exchange Act of 1961; and

(11) assistance of any kind under any other Act.●

By Mr. HEINZ (for himself, Mr. COHEN, Mr. PRYOR, Mr. LEVIN, Mr. PERCY, Mr. BOREN, Mr. MOYNIHAN, Mr. MATSUNAGA, Mr. ANDREWS, Mr. SARBANES, Mr. SPECTER, Mr. RANDOLPH, Mr. PRESSLER, Mr. MELCHER, Mr. STAFFORD, Mr. INOUYE, Mrs. HAWKINS, Mr. BURDICK, Mr. SASSER, Mr. CRANSTON, Mr. KENNEDY, Mr. RIEGLE, and Mr. BAUCUS):

S. 1144. A bill to suspend periodic reviews of disability beneficiaries having mental impairments pending regulatory reform of the disability determination process; to the Committee on Finance.

CONTINUING DISABILITY REVIEWS OF MENTALLY DISABLED

Mr. HEINZ. Mr. President, I am today introducing legislation that would halt the continuing disability reviews of social security and SSI beneficiaries suffering from severe mental disabilities, until such time as the Social Security Administration has completed a reform of the criteria and the procedures it uses to evaluate such disabilities. And I am pleased to announce that a total of 22 Members of the Senate have already joined in sponsoring this important measure, and I am particularly grateful for the encouragement and support of Senators COHEN, LEVIN, and PRYOR, who have taken so active an interest in the problems associated with the continuing disability review process.

The bill is particularly urgent. Two days of hearings before the Senate Special Committee on Aging on April 7 and 8 presented truly overwhelming testimony, from a variety of sources, that social security disability reviews have systematically terminated benefits for mentally disabled individuals who cannot possibly work, and who therefore meet the legal definition of disability.

These beneficiaries constitute only a small minority of disabled workers—about 11 percent—who are particularly vulnerable and defenseless because of the very disabilities that are under review.

The hearings revealed that people have been terminated because they can feed their pet, watch television, or visit relatives, or because they can sit down and bang a few keys on the piano. People have been terminated and told they can return to work, even while they remain committed to a State mental institution—against their will—because of the danger they pose to themselves and to society.

In the area of mental disabilities, such decisions are not the exception—they are the rule. The General Accounting Office has completed an investigation of this subject at my request. The GAO looked at a sample of 40 termination cases in depth, concluding that the terminations were wrongly decided in 27 of the cases, and that in each of the remaining 13 cases there was insufficient evidence upon which to base a valid decision. In short, GAO found deficiencies in all of the 40 cases in its sample. Dr. Beatrice Braun, who runs a clinic at St. Vincent's Hospital in Harrison, N.Y., reported to the Aging Committee that virtually all of the reviews conducted of her patients resulted in terminations, although all of the terminations were reversed—a 100-percent reversal rate—by the administrative law judges. And an internal SSA study which the Maryland attorney general obtained under a Freedom of Information Act request indicated that SSA had itself found an error rate of 22 percent in a sample of Maryland cases, and that three of the seven CDI terminations SSA looked at were incorrect.

Mr. President, these CDI reviews are supposed to yield valid conclusions as to whether someone can work. But the evidence is overwhelming that the process used in reviewing the mentally disabled is deeply flawed—so deeply flawed that the results are undependable and usually inaccurate.

We learned from the GAO and from other expert testimony why the wrong decisions are being made. First, they are based on the wrong criteria, antiquated so-called medical listings which are used to evaluate the severity of a mental disability. These medical criteria are so deficient that the American Psychiatric Association, in its testimony before the Aging Committee, went so far as to say that the CDI reviews are being conducted in a manner that is—and I quote—"contrary to sound medical practice," contrary to "sound professional clinical practice."

Second, the decisions are being made by the wrong people. They are being made by disability examiners with very little—if any—training in psychiatry or psychology. And these decisions are then ratified by physicians in the State agency who are often unfamiliar with mental disabilities and feel very uncomfortable about their ability to evaluate such disabilities. So these physicians rely on what is given them by the disability examiners.

Third, an extremely negative climate has reigned within the Social Security Administration toward the evaluation of mental disabilities. Evidence presented to the Aging Committee traces the origins of an attitude, which runs back to 1979 and 1980, in which disability examiners got the message to "deny, deny, deny" people with mental disabilities. That message was enforced by quality assurance units within SSA, which have systematically found fault with the allowances of mental disabilities made by the State agencies. State disability examiners have told the GAO that they have become—and I quote—"gun shy" about allowing mental disability cases, because of these case returns from the quality assurance units.

These erroneous denials are ruining—and perhaps ending—lives. Former mental patients, who have achieved a delicate equilibrium in the community with substantial support from mental health professionals and others, are finding that equilibrium overturned in the course of the review process. While we may never really know why someone decides to take his life, the testimony at the hearing from beneficiaries and specialists who work with beneficiaries was unequivocal: the CDI reviews of the mentally disabled are literally pushing people to the brink of death, through despair and suicide. These are not people who suffer from mild mental problems. They are chronically mentally ill people who would be in public mental institutions if the times were different.

Speaking of public institutions, witnesses representing the State of New York and Maryland, the city of New York, and the National Association of Counties, all agreed that the net effect of these CDI reviews is to shift social costs from the Federal Government to State, county, and city governments.

Mr. President, the evidence is overwhelming that the results of the CDI reviews of the mentally disabled are simply not valid indications of whether someone can work. Further, we know that people with mental disabilities have been singled out for a disproportionate share of CDI reviews and terminations; that is, they are two to three times as likely to be reviewed and terminated. It is time that we correct this unfair treatment by stopping the CDI reviews of beneficiaries with mental disabilities—at least temporarily—until a thorough reform is completed.

Even the Social Security Administration admits that the problems in the adjudication of mental disabilities are severe. The GAO report listed four major deficiencies in SSA reviews, and the Social Security Administration Deputy Commissioner, Mr. Paul Simmons, told the Aging Committee that his agency agreed with at least three of the four deficiencies spelled out by the GAO—and that SSA staff is evaluating the fourth deficiency along with the medical community.

The Congress simply cannot subject people to a review process that is likely to result in the wrong decision, a decision that will cause personal harm, perhaps even irreparable harm, while social security attempts to correct all these deficiencies.

What the bill we introduce today does is mandate that the Social Security Administration revise its regulations governing the medical listings and the residual functional capacity assessment in mental impairment cases, after receiving the recommendations of a panel of experts appointed by the Secretary.

Until the revisions are made, no new continuing disability reviews would be conducted for individuals who were previously awarded benefits on the basis of a mental disability. Two significant exceptions would be if the Secretary finds fraud or that the individual is engaging in substantial gainful activity.

New applications and decisions on previous terminations would continue to be judged under the present criteria, except that the Social Security Administration is charged with redetermining such cases after the new criteria are in place. The bill also requires that a qualified psychiatrist or psychologist complete the medical assessments required by the Social Security Administration in evaluating the severity of mental disabilities. This will insure that decisions more closely reflect sound medical practice in the field. The temporary moratorium of these CDI's will also allow the State agencies to focus their limited psychiatric resources on new applications and appeals. And the GAO has made some recommendations about ways that the Social Security Administration can tap additional psychiatric and psychological expertise in making disability determinations.

Mr. President, I would like to close my statement by quoting the testimony of Dr. Beatrice Braun of St. Vincent's Hospital in Harrison, N.Y., regarding the chronically mentally ill. "These people are not defrauding the system," she said. "They want to work as much as the blind want to see and the lame to walk."

Mr. President, Congress has the responsibility to see that the Federal Government stops inflicting damage on defenseless people; and Congress has the responsibility to mend whatever damage that it can. The concept of a periodic disability review is both constructive and necessary. But these reviews of the mentally disabled have been badly mismanaged. And Congress must put a stop to this mismanagement. We can eliminate fraud and improper payments in the social security disability program, without abandoning basic human decency in the process. I urge my colleagues to join us in this first step of stopping the most egregious damage, and then to join with Senators LEVIN, COHEN, and myself and others, in achieving a comprehensive reform of the disability program in this session of the Congress.

Mr. President, at this point I ask that the text of the bill and the GAO testimony at our Aging Committee hearing be made part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

REVISION OF REGULATORY CRITERIA RELATING TO MENTAL IMPAIRMENTS

SECTION 1. (a) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall revise the criteria embodied under the category "Mental Disorders" in the "Listing of Impairments" in effect on the date of the enactment of this Act under appendix 1 to subpart P of part 404 of title 20 of the Code of Federal Regulations. The Secretary shall also revise the methods and procedures for assessing the residual functional capacity of individuals having mental impairments. The revised listings and residual functional capacity assessments shall individually and together be designed to realistically evaluate the ability of a mentally impaired individual to engage in substantial gainful activity in a competitive workplace environment.

(b)(1) The Secretary shall appoint a panel of outside experts to make recommendations with respect to the revisions to be made in accordance with subsection (a), consistent with the requirements of titles II and XVI of the Social Security Act for individualized determinations of disability.

(2) The panel shall consist of individuals who are experts in the field of mental health, and shall include at least one psychiatrist, one rehabilitation psychologist, one medical social worker, and one vocational expert.

(3) Members of the panel shall be appointed without regard to the requirements of title 5, United States Code, and each member of the panel not otherwise in the employ of the United States Government shall receive the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which such member is actually engaged in the performance of the duties of the panel. Each member of the panel shall be allowed travel expenses in the same manner as an individual employed intermittently by the Federal Government under section 5703 of title 5, United States Code.

(c)(1) Until such time as revised criteria have been established by final regulation in accordance with subsection (a), no continuing eligibility reviews shall be carried out under section 221(i) of the Social Security Act (or under any similar requirement established administratively under title XVI of such Act) with respect to any individual previously determined to be under a disability by reason of a mental impairment.

(2) Paragraph (1) shall not apply in any case where the Secretary determines that fraud was involved in the prior determination, or where an individual is engaged in substantial gainful activity.

(d)(1) Any disability determination or reconsideration or appeal of such determination, and any reconsideration or appeal of a continuing eligibility review, made under title II or title XVI of the Social Security Act after the date of the enactment of this Act and prior to the date on which revised criteria are established by final regulation in accordance with subsection (a), shall be redetermined by the Secretary as soon as feasible after the date on which such criteria are so established, applying such revised criteria.

(2) In the case of a redetermination under paragraph (1) of a prior action which found that an individual was not under a disability, if such individual is found on redetermination to be under a disability, such redetermination shall be applied as though it had been made at the time of such prior action.

(3) Any mentally impaired individual who was found to be not disabled pursuant to an initial disability determination or continuing eligibility review between March 1, 1981 and the date of the enactment of this Act, and who reapplies for benefits under title II of the Social Security Act, shall, only for purposes of determining whether the special insured status for disability is met, be deemed to have reapplied as of the time of the prior determination or continuing eligibility review. Reapplications under this paragraph must be submitted within one year after the date of the enactment of this Act.

REQUIREMENT FOR EVALUATION BY PSYCHIATRIST OR PSYCHOLOGIST

SEC. 2. (a) Section 223(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(7) In any case in which an individual alleges to be under a disability by reason of a severe mental impairment (as defined by the Secretary), the determination of whether such individual is under a disability shall be made only after the Secretary has demonstrated that a qualified psychiatrist or psychologist has completed the medical portion of the sequential evaluation and residual functional capacity assessment.".

(b) Section 1614(a)(3) of such Act is amended by adding at the end thereof the following new paragraph:

"(G) In any case in which an individual alleges to be under a disability by reason of a severe mental impairment (as defined by the Secretary), the determination of whether such individual is under a disability shall be made only after the Secretary has demonstrated that a qualified psychiatrist or psychologist has completed the medical portion of the sequential evaluation and residual functional capacity assessment.".

(c) The amendments made by this section shall apply with respect to applications filed for benefits under title II or XVI of the Social Security Act on or after the date of the enactment of this Act.

STATEMENT OF PETER J. MCGOUGH

Mr. Chairman and members of the Committee, we are pleased to be here today to discuss the Social Security Administration's (SSA's) current process for determining whether persons with mental impairments qualify for disability under SSA's two disability programs.[1] As you know, the actual adjudicative process is carried out by the various State Disability Determination Services (DDSs) following SSA guidelines and instructions.

In an August 18, 1982, letter to us, you requested that we thoroughly examine SSA's decision-making process. You expressed concerns that individuals, who were not found to qualify by meeting specific medical criteria, were not being afforded a realistic evaluation of their capacity for work. You also stated the concerns of mental health organizations that (1) SSA's medical criteria do not reflect current professional standards and nomenclature, (2) the methods for evaluating an individual's capacity to work fail to reflect good professional practices, and (3) many decisions are based on insufficient medical documentation, often on one brief consultative examination.

We began our work in September 1982 by thoroughly reviewing the Social Security Act, the corresponding regulations, and the decision-making process and criteria used by SSA to adjudicate mental disability claims.

We conducted our work at five DDSs in Illinois, Indiana, Ohio, and Pennsylvania; at SSA headquarters in Baltimore; and at a regional office in Chicago. We visited Pennsylvania because your staff expressed interest in activities in that State. The other States were selected because of their proximity to our Cincinnati Regional Office, where we have staff experienced in auditing disability matters.

At each DDS we met with the Director, the Chief Medical Consultant, and the Medical Administrator. Overall, at the five DDSs, we interviewed 38 claims examiners individually, and more than 200 examiners in group discussions, 18 supervisors, 8 quality assurance chiefs, and 7 medical coordinators.

Our work at SSA included reviewing disability cases previously selected for review by SSA's quality assurance staffs. We also discussed adjudicative policies and procedures with disability program officials and several SSA physicians, including the Chief Medical Officer and the Chief Consultant for Psychiatry and Neurology.

In addition, we reviewed a total of 159 mental disability cases that had been recently adjudicated by SSA—130 of the cases were denials and terminations and 29 were allowances and continuances of benefits. We selected the cases from those available during our visits to the various locations and, as such, the results of our case reviews are not statistically representative of all cases adjudicated at the locations and are not projectable to the universe of SSA mental disability decisions. Of the cases selected, 40 denials or terminations were examined in detail by GAO's full-time clinical psychologist and mental health advisor.

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[1] SSA administers two disability programs—the Social Security Disability Insurance program and the Supplemental Security Income program.

Although our detailed case review is not projectable to the universe of all mental disability cases adjudicated, our findings have national implications. Our additional work and evidence gathered at SSA headquarters strongly indicate that what we found is happening across the nation.

To provide a proper context for discussing the results of our review, I would like to explain briefly the evolution of events that preceded our review.

BACKGROUND—EVOLUTION OF EVENTS

In March 1981,[2] GAO reported to the Congress that SSA had not adequately followed up to verify that disability insurance beneficiaries remained disabled. The report said that, based on a nationwide sample case review conducted in 1979 by SSA, as many as 20 percent of the persons on the disability rolls were not disabled. SSA conducted a follow-up study in 1980 and 1981 and found that 26 percent of the beneficiaries on the rolls during July/September 1980 were not disabled.

Although we did not attempt to independently validate SSA's disability decisions in its initial study, our own study results showed that because of inadequate investigations and lack of follow-up on persons who were expected to medically improve, SSA had allowed many non-disabled persons to remain on the disability rolls. SSA's initial study, performed by experienced examiners and physicians, provided the only available estimate of the problem's magnitude.

Congressional concern over SSA's medical reexaminations and other inadequate review procedures led to the enactment of Section 311 of Public Law 96-265, known as the Social Security Disability Amendments of 1980. This section required that beginning January 1, 1982, SSA review, at least once every 3 years, the status of disabled beneficiaries whose disabilities have not been determined to be permanent. SSA began the reviews in April 1981. We said in our March 1981 report that resources were currently being used to review the continuing eligibility of Supplemental Security Income (SSI) recipients, and suggested they be shifted to reviewing the Disability Insurance (DI) rolls because of the higher benefit levels.

In previous testimonies regarding SSA's disability reexamination efforts,[3] we discussed the high termination rate, which was in excess of 40 percent through 1981 and 1982 (currently the termination rate is about 44 percent). Part of this high termination rate included people who had recovered and others who perhaps should never have received disability benefits. We pointed out, however, that many individuals losing their benefits had been on the rolls several years, still had severe impairments, and had experienced little or no medical improvement. We concluded that many of the terminations were caused because of a changed adjudicative process and climate, and poor State agency medical development practices.

CURRENT CONDITIONS

Data from SSA's files[4] indicate that, as of August 1982, SSA had reexamined in its periodic review process about 305,400 individuals and terminated benefits in about 134,500 (or 44 percent) of the cases. About 74,800 cases reviewed involved persons with mental impairments and 31,700 (or 42 percent) of them were terminated. Of the 31,700 terminations, about 13,400 (or 42 percent) requested a reconsideration. Between June 1981 and August 1982, only 1,400 of the mental disability reexamination cases had their decisions reviewed by administrative law judges (ALJs). At the reconsideration level the DDSs sustained the termination decision in 76 percent of the cases. At the ALJ level 91 percent of the decisions were reversed and the claimants' benefits were reinstated.

Our current review reveals many of the same conditions we reported earlier and generally confirmed the concerns you raised in your August letter to us. Although the scope of our review was limited, we found many individuals who had their benefits terminated despite having severe impairments, and in our opinion, having little or no capability to function in a competitive work environment. We had 40 of the denial and termination cases reviewed by our clinical psycologist and she concluded that in 27 of the cases the individuals could not function in their daily living without support and could not work in a competitive or stressful environment. In an additional 13 cases she concluded that more medical or psychosocial information or trial work experiences were needed to make an informed decision. Several cases illustrating the reasons for our concerns about the appropriateness of the decisions to terminate benefits are summarized in an attachment to this testimony.

Our review revealed several weaknesses in SSA's and the DDS's adjudicative policies and practices. Specific weaknesses we identified were:

(1) an overly restrictive interpretation of the criteria to meet SSA's medical listings, resulting principally from narrow assessments of individuals' daily activities;

(2) inadequate development and consideration of a person's residual functional capacity and vocational characteristics;

(3) inadequate development and use of existing medical evidence, resulting in an overreliance and misuse of consultative examinations; and

(4) insufficient psychiatric resources in most State DDSs.

These problems are discussed in more detail below.

OVERLY RESTRICTIVE INTERPRETATION OF SSA'S MEDICAL CRITERIA

SSA's regulations contain a set of medical evaluation criteria—referred to as the medical listings—describing impairments that are presumed to be severe enough to prevent an individual from working. If a person meets the criteria, he or she is awarded disability.

Mental impairments in the listings are categorized as: (1) chronic brain syndromes, (2) functional psychotic disorders, (3) functional nonpsychotic disorders, and (4) mental retardation. With the exception of mental retardation, the listings for mental impairments include an "A" and a "B" part. For example, the listings for schizophrenic (functional psychotic) disorder include part A—"manifested persistence of one or more of the following clinical signs: depression (or elation), agitation, psychomotor disturbances, hallucinations, or delusions . . .", and part B—"resulting persistence of marked restriction of daily activities and construction of interest and seriously impaired ability to relate to other people". To be eligible for disability benefits, both part "A" and all of part "B" must be met.

Although the criteria for meeting the medical listings for mental impairments have not changed substantially since 1968,[5] it has become increasingly difficult for mentally-impaired individuals to meet the medical listings. As a result of our case reviews and discussions with examiners in 5 DDSs, the problem focuses principally on part B of the listings. Examiners were concluding that individuals did not meet part B based on very brief descriptions of the individuals' performing only rudimentary daily activities—such as watching television, visiting relatives, fixing basic meals, and doing basic shopping activities. Often little else positive was contained in the medical evidence.

Hard line taken by SSA

We asked examiners why they were accepting a few positive signs as support that the individuals did not have a "marked restriction of daily activities and constriction of interests and seriously impaired ability to relate to other people" (as part B requires).

The examiners we interviewed told us it is difficult for them to determine when restriction of daily activities, constriction of interests, and inability to relate to other people are severe enough to meet the listings. The examiners also said SSA is taking a hard line in interpreting the criteria.

How the criteria are applied by SSA is of fundamental importance because cases are evaluated by SSA's quality assurance system, and State agencies look to case returns from SSA's Regional Office Disability Assessment Branches (DABs) as the clearest indicator of SSA's intent. State officials and examiners we spoke with unanimously perceive DAB returns over the past several years as intending to make it extremely difficult to meet the listings, and they have responded accordingly in their decisions. Several examiners told us that it only takes a few returns before you change the way you evaluate evidence.

We found that SSA's quality assurance case returns to the DDSs focused extensively on daily activities and current behavior. We reviewed some of these case returns where the DDS had determined the individuals were very severely mentally impaired and were disabled, but the DAB returned the cases because the individuals had some daily activities, albeit extremely minimal ones. The following cases that we reviewed are illustrations of minimal activities which were judged as precluding the individuals from meeting the listings:

"A 34-year-old man was diagnosed as having mild mental retardation (I.Q. 61)—chronic brain syndrome associated with convulsive disorder, and slight speech impediment. He had a 6th grade education plus 2 years special education. The only work he had done was as a bathhouse attendant and lost the job because he could not handle it. He was allowed disability in 1969. In 1982 he was reexamined and the DDS decided on a continuance, apparently for meeting the listings.

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[2] "More Diligent Followup Needed to Weed Out Ineligible SSA Disability Beneficiaries," HRD-81-48, March 3, 1981.

[3] We provided testimony on May 25, 1982, to the Subcommittee on Oversight of Government Management, Senate Committee on Governmental Affairs. We also testified on August 18, 1982, before the Senate Finance Committee.

[4] In December 1982 we obtained SSA's computer file (based on completed SSA Form 833's—"Cessation or Continuance of Disability or Blindness Determination and Transmittal") of CDI actions for Disability Insurance recipients. The most recent data in the file were through August 1982.

[5] The I.Q. levels for mental retardation were changed in 1979 to "59 or less," instead of "49 or less".

"SSA's quality assurance staff reversed the decision on November 8, 1982, as a termination, because he did not meet the listings. They said he has no significant restrictions in his interest or daily activities, although he showed overt signs of psychotic behavior. The CE report dated September 9, 1982, said he spent his day, "reading, watching televison, and taking brisk walks. He does some housekeeping and cooking." The CE report also pointed out that personality tests substantiated organic brain syndrome characterized by perceptualmotor impairment and gaps in thinking. Bender [test] figures were disproportionate and poorly done. He was hysterical in his personality orientation and had poor socialization. He could not trust his own performance and was easily stressed. He could follow simple instructions if there was no stress involved. He lacked intellectual dependability and emotional stability for regular employment."

In our judgement, he met the listings.

"A 50-year-old woman was allowed disability in June 1975, with a diagnosis of depressive reaction. She was reexamined (medical diary) in early 1977 and benefits were terminated in April 1977. She reapplied for benefits and was allowed in September 1978 with a diagnosis of schizophrenic reaction-chronic-undifferentiated type. She was reexamined in December 1979 and the DDS continued benefits. SSA's quality assurance review returned the case as a termination in January 1980 on the basis of a CE report that she got along with family and had a few friends with whom she visited and drank coffee. SSA concluded that she did not meet or equal the listings and had the residual functional capacity to do unskilled work. The same CE report, however, said she had suicide attempts, inappropriate behavior, was with-drawn, was unable to relate to others, could not do simple repetitive tasks for competitive fees, could not understand written or oral instructions, could not socialize with supervisors or co-workers, and could not tolerate work pressures for unskilled work.

"We concluded that the CE report supported a decision for meeting the listings based on her impairment and adverse daily activities."

The following comment in a December 1981 letter to SSA's Chicago Regional Office from the DDS Director in Wisconsin addresses the impact of the DAB reviews in setting the adjudicative climate:

"The current adjudicative climate involving mental impairments seems to be one of deny, deny, deny. The rationales for these denials as promulgated by DAB reviewers, seems to be based on the most minimal possible understanding of mental impairments in terms of their effect on individuals, on the fluctuations involved in the behavior of those with such impairments, and in trying to relate minimal ability to function in activities literally necessary to continued life, with the capability of going out in the competitive world and obtaining and holding a job with the normal stresses, under supervision and with the necessity to be able to perform consistently."

We spoke to SSA's chief psychiatrist and two other SSA psychiatrists about our findings and about the difficulties in making medical assessments of an individual's daily activities (part B). They said to make a severity determination of a person's daily activities it is necessary to evaluate comprehensively the quality of the activity, how often it is done, whether independently or under supervision, with what degree of comprehension, and how appropriate the activity is. Other considerations should include whether the claimant is living independently or in a supervised/structured environment; or is on medication and the effects of it; and whether the claimant is in remission and the time spans between relapses.

Concerns raised that the criteria to meet the listings are overly restrictive

The American Psychiatric Association (APA), in a letter dated June 29, 1982, to the SSA Commissioner, recommended a change in parts A and B of the listings for all mental disorders other than mental retardation. They recommended a change to part A to eliminate the current requirements that the claimant must manifest active symptoms upon examinations, and require, instead, that examinations recognize and evaluate the nature and severity of the illness even if the signs are not continuously present. The APA also suggested that, where a person evidences one or more of the clinical signs ("A") and demonstrates any two (for functional psychotic disorders) or three (for non-functional disorders) of the "B" criteria, that should be sufficient to establish disability. They also recommended that any evaluation of an individual's daily activities as stated in part B should consider such issues as ". . . . frequency, appropriateness, autonomy and comprehension."

In 1982, the Chicago Regional Medical Consultant for SSA wrote that it is:

"Practically impossible to meet the Listings . . . for any individual whose thought processes are not completely disorganized, is not blatantly psychotic, or is not having a psychiatric emergency requiring immediate hospitalization . . . In fact an individual may be committable due to mental illness according to the State's Mental Health Codes and yet found capable of 'unskilled work' utilizing our disability standards . . ."

Virtually every examiner that we talked with echoed these observations. We were told that to meet the listings an individual had to be actively and continually manifesting clinical signs. Even claimants severely impaired, and currently or recently hospitalized, were found not disabled.

Our group discussions with examiners produced comments to the effect that unless a claimant was "flat on his back in an institution," "comatose," or "in a catatonic state," he or she would not meet the listings. While these statements may be exaggerated, they are indicative of the examiners' perceptions.

RESIDUAL FUNCTIONAL CAPACITY AND VOCATIONAL CHARACTERISTICS ARE NOT APPROPRIATELY CONSIDERED

When an individual fails to meet the listings but the impairment still limits his or her ability to perform basic work functions, SSA's process to determine disability requires that an assessment be made of the individual's residual functional capacity (RFC). In mental impairments an RFC should consider such factors as, "capacity to understand, to carry out and remember instructions, and to respond appropriately to supervision, coworkers, and customary work pressures in a routine work setting." If the RFC assessment finds the individual incapable of doing his or her previous work, an assessment must then be made of the individual's RFC and such vocational characteristics as age, education, and work skills to see if he or she can do other work in the national economy.

As difficult as it is to meet the criteria in the medical listings, the chances of a younger individual getting or sustaining benefits based on RFC and vocational factors is extremely slim. As we found in many of the cases we reviewed, when as individual does not meet the listings, SSA's guidance to the States resulted in a virtual presumption that he or she has the RFC to do basic work activities or unskilled work.

We traced the evolution of this policy guidance back to April 1979 with SSA's publication of Informational Digest 79-32. The digest stated in part that "the capacity for unskilled work . . . in and of itself represents substantial work capability and would generally be sufficient to project a favorable vocational adjustment for claimants with solely mental impairments."

SSA's chief psychiatrist elaborated on this issue in a May 1980 memorandum to SSA's New York Regional Office, when he said that a psychiatric impairment rating below meeting the listings signifies the ability to engage in substantial gainful activity at a level of unskilled work or higher. He also said that making an RFC assessment would be "redundant."

This policy was reiterated by SSA's Chief Medical Officer in a November 1980 letter to the Chicago Regional Office by stating:

"Where the overall psychiatric rating is less than meets or equals [the listings] the individual retains a mental RFC for at least some type of unskilled work activity."

This policy guidance was not confined to one or two regions but had national dissemination. At least six other SSA regional offices requested clarification of this policy. SSA's Associate Commissioner for Operational Policy and Procedures responded similarly to the other regions, as indicated in a December 1980 response to the Kansas City regional Office by stating:

"In reference to . . . question concerning adjudication of psychiatric cases short of listing severity, with a finding that a mental impairment does not (or does no longer) meet or equal the Listing, it will generally follow that the individual has the capacity for at least unskilled work.

"Accordingly, where it has been concluded that the listing is neither met nor equalled and the inability to perform unskilled work is found, a second look at the medical findings is warranted. If the reassessment of the medical does not support a finding of 'meets' (or 'equals') then the restrictions indicated by the functional assessment are overstated and a reassessment of the actual residual functional capacity would be in order."

On March 3, 1981, the Regional Commissioner, Kansas City, wrote to SSA: "Following the logic described in . . . your memorandum, the likelihood of a vocational allowance for a mental impairment would appear to be extremely remote."

We discussed with SSA's Chief Medical Officer, the chief psychiatrist, and two other SSA psychiatrists their rationale for saying that an individual with a severe impairment, who does not meet the listings, still maintains the mental RFC for unskilled work. First, they defined unskilled work (they refer to it now as basic work activity) as work that is tantamount to doing competitive work. They said that a person who does not meet the listings has the cognitive power to do "bottom of the barrel," simple, or unskilled type jobs. If an individual could not perform even unskilled work, he or she should be rated a "5" (meets the listings) on a psychiatric review form and presumed disabled. Less than a "5" means the ability to do simple work. They emphasized that they are not saying the person can, in fact, work. The physician's job, they pointed out, is to make the medical assessment. They told us that the decision to determine a person disabled or not is a vocational decision made by the examiners.

We asked the psychiatrists: "If the examiners are told a person had the mental ability to understand and do unskilled work, could not one logically conclude that a person can, in fact, work, if an unskilled job were available in the national economy?" One of SSA's psychiatrists told us that he can understand how the examiners would reach such a conclusion and that is probably the message that is being sent out to them through SSA's DAB case reviews. He said that he sees cases where individuals get a "3" or "4" rating (severe, but not severe enough to meet the listings) and are determined not disabled, when he knows the individuals are precluded from competitive work. For example, he said that he was currently reviewing a case involving a mentally retarded woman with an I.Q. in the low 60s. He assigned, according to present procedures, a "4" rating. He said the decision will result in a denial even though he knows that there is no way the individual could possibly work competitively.

Several examiners told us that DAB and other quality assurance returns have given them a clear message to terminate benefits for younger workers who do not meet the medical listings.

Minnesota class action suit

In May 1982 the Mental Health Association of Minnesota filed a class action suit against SSA's policies regarding mental impairments in the Fourth Division Minnesota District Courts. The court concluded that,

". . . A new policy was developed by SSA beginning in early 1980 concerning eligibility for mentally impaired claimants. In accordance with that policy, SSA determined that persons whose mental impairment does not meet or equal the Listing of Impairments retain sufficient residual functional capacity to do at least unskilled work."

The court ruled in favor of the Association and said, in part, of SSA's policy that:

"The policy . . . is arbitrary, capricious, irrational, and an abuse of discretion.

"By use of this policy, the defendant has terminated the benefits of the denied new benefits to class members without proper assessment of the individuals' capacity to engage in substantial gainful activity."

As required by the court, the Commissioner, SSA, sent a memorandum to all Regional Commissioners on January 3, 1983, stating in effect that to presume a person who does not meet or equal the listings maintains the RFC to perform unskilled work is contrary to federal regulations. The memorandum reiterated SSA's policy that ". . . the sequential evaluation process must continue in the claim with consideration of vocational factors in light of the claimants' residual functional capacity (RFC)."

In addition, in March 1983, SSA issued instructions to the DDSs dealing with mental impairments and their effects on individual work abilities. The instructions say:

"Where a person's only impairment is mental, is not a listing severity, but does prevent the person from meeting the mental demands of past relevant work, it may also prevent the transferability of acquired work skills. The final consideration is whether the person can be expected to perform unskilled work. The basic mental demands of competitive, remunerative, unskilled work include the abilities (on a sustained basis) to understand, carry out, and remember simple instructions; to respond appropriately to supervision, coworkers, and usual work situations; and to deal with changes in a routine work setting. A substantial loss of ability to meet any of these basic work-related activities would severely limit the potential occupational base.

"Where there is no exertional impairment, unskilled jobs at all levels of exertion constitute the potential occupational base for persons who can meet the mental demands of unskilled work. These jobs ordinarily involve dealing primarily with objects, rather than with data or people, and they generally provide substantial vocational opportunity for persons with solely mental impairments. In a relatively few instances, persons with this large job base will be found disabled because of adversities in age, education, and work experience."

The instructions provided greater flexibility for determining the ability of a mentally disabled person to do work and may result in more accurate disability decisions. However, the instructions also provide guidance which can be interpreted very restrictively and, if so interpreted, "not disabled" decisions will continue for cases where severe mental impairments exist.

Also, earlier this week, SSA issued additional instructions to clarify the RFC criteria for adjudicating mental disabilities. We did not have an opportunity to review these new instructions at the time we were preparing this testimony.

INADEQUATE DEVELOPMENT AND USE OF EXISTING MEDICAL EVIDENCE

The Social Security Act requires that mental impairments causing disability be demonstrated by medically acceptable clinical techniques. When possible, all medical evidence should be obtained from existing sources, including treating physicians and institutions.

Often, treating sources cannot, or do not, provide enough information for the examiners to make a disability decision. The DDS must then purchase the medical evidence in the form of a medical examination, generally referred to as a consultative examination (CE). CEs are needed to clarify medical evidence; obtain necessary data not otherwise available; or resolve conflicts or inconsistencies in the evidence obtained.

In many of the cases we reviewed, the existing medical evidence of record, including evidence already in the case file, had not, in our judgment, been appropriately considered. Rather, undue reliance was often given to the CE reports, using them as the primary evidence on which decisions were based.

Examiners we spoke to at the five DDSs visited confirmed this. In our group discussions with examiners, they told us they order CEs automatically when they receive the case folders. They pointed out that it is almost a waste of time developing thorough longitudinal histories on a person who has some positive characteristics, which they interpret as not meeting the listings. They pointed out to us that if a medical/vocational allowance is warranted they would have to develop the claimant's negative characteristics fully, which is time-consuming, and in the end they feel the case would probably be returned from the DAB because the person would be viewed as being able to do unskilled work. The examiners say they are then penalized on two counts—their backlogs increase and an error is charged against them.

Examiners also said that, because of production and processing time goals to adjudicate cases, they are reluctant to wait for or obtain all the historical data. They said it is much easier and faster to develop and justify a medical/vocational termination with a positive CE report.

Further, examiners said it takes much longer to obtain historical medical evidence for mental impairments than for other body system cases because (1) treating psychiatrists are more reluctant to turn over patients' files; and (2) hospitals and mental health institutions are not timely in providing patient reports, and in both instances time consuming followups are necessary to get the data.

The problems with over-relying on a CE report is that the CE physician rarely has the complete medical history to assess the patient, which can result in the physician relying on the individual's condition at that particular point in time and on the individual's description of his or her history and daily activities. The illness itself may prevent the claimant from accurately portraying such information. Also, if claimants want to appear normal, they may exaggerate their conditions or activities.

For example, we investigated a claim involving a beneficiary with schizophrenia and mental retardation whose benefits were terminated based on a consultative exam. Two previous CE exams conducted a year and one-half earlier gave the beneficiary a prognosis of "poor" and "nil." The new exam found him to be functioning well. When we visited the beneficiary he was living in a restricted residential facility and participating in a sheltered workshop. He had misrepresented many facts concerning his living arrangements, daily activities, and work capabilities to the current CE physician. The facility administrator, the floor nurse, the workshop plant manager, and a work evaluation specialist all felt he was incapable of independent living, and of obtaining and keeping competitive employment at any skill level.

Examiners told us that SSA's policy of focusing on daily activities often leads to an over-reliance on CE examinations, which always describe claimants' daily activities. As we said earlier, because of SSA's restrictive interpretations of the medical listings, any positive daily activities that the claimant does are likely to result in a disability denial.

CE reports usually describe the daily activities as he or she "watches television," "visits relatives," "shops," "cooks own meals," etc. Examiners, however, cannot assess the quality of a person's daily functioning and behavior from a simple description of activities.

For example, we investigated a periodic review case involving a schizophrenic who did not meet the listings and was terminated. A CE report based largely on the claimant's statements said he visited friends, played the piano, participated in family activities, and that his schizophrenia was controlled by medication. We talked to the claimant's treating psychiatrists and found (1) medication was an extraordinarily steep dose (100 mg. prolixin decanoate every 2 weeks)—by itself indicating a severe illness—and he still has frequent relapses and (2) daily activities were overstated—friends turned out to be psychiatric social workers and piano playing consisted of aimless doodling.

Scheduling and performing CEs before the historical medical evidence is obtained can also result in unnecessary costs and detract from the CE physician's ability to accurately assess the severity of the impairment and the quality of the claimant's ability to perform daily functional activities. We believe this is important because, as we will explain next, SSA and State psychiatric resources are severely limited, and yet SSA and the States are not using purchased psychiatric resources to fill this void.

In a discussion with the SSA psychiatrists, they confirmed that it is unlikely that a thorough psychiatric evaluation can be performed on an individual in a CE session without the individual's medical history, prior work history, workshop evaluations, and history of daily activities. These necessary elements are often lacking in CE reports, and do not appear to be developed by the State examiners.

STATE PSYCHIATRIC RESOURCES ARE SEVERELY LIMITED

In the five DDSs visited, three did not have any psychiatrists reviewing cases and two were significantly understaffed relative to SSA's psychiatric requirements. Also, examiners received only limited psychiatric training. Because the process encompasses a medical (psychiatric) evaluation that is highly complex, we asked SSA's psychiatrists whether a lay person or a non-psychiatric physician has the expertise to make such an assessment. They said examiners would not be technically qualified nor would most physicians of other medical specialties.

The chief medical consultant at one DDS said neither he nor the other staff doctors feel qualified to make a severity or psychiatric review form assessment. At another DDS, the chief medical consultant said the same thing, except he added that a physician specializing in internal medicine might be qualified. They physicians on his staff, however, were not specialists in internal medicine.

Overall, we found that there is a shortage of in-house psychiatric medical staff available for advice within the SSA/State adjudicative system. An SSA study found all six States in the Chicago region were lacking sufficient psychiatric resources. The States combined had only 50 percent of the minimum number of psychiatric-hours needed for proper case review. Nationally, as of December 1982, four States and the District of Columbia had no in-house psychiatrists, and 36 others had, by SSA standards, a deficiency in the minimum psychiatric-hours required.

SSA and State officials said the limited fee rates established by the States are significantly less than a competitive rate and thus, they cannot hire or contract with more psychiatrists.

Mr. Chairman, that concludes my statement, and we will be happy to answer any questions you or the Committee members may have.

EXAMPLES OF CASES WHERE GAO'S PSYCHOLOGIST QUESTIONED SSA'S DECISION THAT CLAIMANTS COULD WORK

A 32-year-old paranoid schizophrenic man with an I.Q. of 88 was on the disability rolls since 1976. The claimant takes psychotropic medication and lives at home with his family, who supervise his daily activities. He has no friends, is isolated, exhibits poor emotional control, and has phobias. He has difficulty comprehending and is incapable of managing his own funds. He works 5 hours one day a week as a janitor's assistant in a church, a charity job. He must be heavily supervised. He attends day treatment three days a week. He previously failed work rehabilitation. His prognosis is listed as poor.

This claimant's benefits were terminated in January 1983, when the DDS concluded that he retained the capacity for simple, repetitive tasks.

A 31-year-old man with an I.Q. of 68 was on the disability rolls since 1976. The claimant has a history of epilepsy and paranoid and catatonic episodes and was hospitalized in 1960, 1961, and 1980. The claimant lives with his mother and a brother (the mother is the claimant's representative payee) and is in treatment at a mental health clinic. Between 1973 and 1976 the claimant worked intermittently as a dishwasher in a sheltered workshop and hospital, terminating this work because it was too stressful. A psychological exam reported that the claimant exhibited high anxiety, confusion, poor auditory and visual memory, motor area deficits, and decompensated under stress. The mother and brother reported evidence of deterioration, seclusiveness, and inappropriate responses. CE psychiatrists reported the claimant does not appear capable of coping with even minimal stress. Claimant's judgment is evaluated as poor.

This claimant's benefits were terminated in October 1982 because the DDS concluded that the claimant had the RFC to understand, carry out, and remember instructions; to respond appropriately to supervision, co-workers, and customary work pressures in a routine work setting; and to do unskilled work.

A 30-year-old acute schizophrenic man with borderline mental retardation held several jobs as a gas station attendant prior to 1976, when he was adjudged incompetent to manage himself or his money and began receiving disability benefits. Institutionalized in 1978 and 1982, he has been in treatment since August 1982 at a mental health center. Treating psychiatrists have evaluated the claimant as restless, depressed, self-preoccupied, distractible, quarrelsome, ruminative, and disruptive. A psychological exam showed that the claimant was suspicious, paranoid, depressed, and unable to function under pressure. A CE report said the claimant "may not be able to do repetitive tasks. May not be able to understand stress and pressures associated with day-to-day activity. Probably not able to manage own funds."

This claimant's benefits were terminated in October 1982 because the DDS concluded that the claimant had the RFC to understand, carry out, and remember instructions; to respond appropriately to supervision, co-workers, and customary work pressures in a routine work setting; and to perform unskilled work.

A 33-year-old chronic paranoid schizophrenic man, who in the past worked intermittently at unskilled jobs. The claimant was hospitalized in 1973, 1974, 1978, 1979, 1980, 1981, and in April 1982. His disability payments began in June 1978 and he has a representative payee. Reexamined in June 1981, he met the listings and his benefits were continued. The claimant was again reexamined in July and August 1982. An August 1982 psychiatrist's report says of the claimant: "Client's paranoid and persecutory thinking would probably make it very difficult for him to tolerate the pressures associated with achieving production requirements. His ability to retain concentration long enough to perform tasks is also questionable. Hostility towards authority figures would probably cause him to have great difficulty carrying out instructions given by the supervisor.

Medication, primarily phenothizines and anti-psychotics, appears to help the claimant in controlling aggressive impulses and staying in touch with reality. Long-term chemotherapy, supportive psychotherapy, and hospitalization during crisis will be needed to maintain the client in the community."

This claimant's benefits were terminated in September 1982 because the DDS concluded that the claimant was able to care for himself, relate adequately to others, and understand and carry out instructions. He was determined to be able to do unskilled work.

A 53-year-old mildly retarded schizophrenic man whose benefits began in September 1975, had them continued after reexaminations in 1977 and 1978. The claimant was hospitalized in 1975, 1976, and twice in 1977. The claimant has advanced Tardive Dyskinesia, cannot sleep at night, and lives in a supervised nursing home. The attending physician stated the claimant is unable to read or write, has anorexia, poor judgment, no insight, and limited comprehension. He fears that people plot against him and has no contacts outside of the nursing home. The claimant needs help in managing money. The CE report considered the claimant to be oriented to time and place and found that he spoke relevantly and coherently.

This claimant's benefits were terminated in November 1982 because the DDS concluded that the claimant was well oriented to time, place, and person; was able to understand, remember, and carry out simple one- or two-step job instructions; and could do unskilled work.

A 30-year-old paranoid schizophrenic man was in a partial hospitalization program and functioning at a basic level on medication, according to two psychiatric evaluations. The claimant, who has been on the rolls since January 1975, has a diminished effect, cannot manage his own funds (his mother is his representative payee), is withdrawn, has no interests, and exhibits poor thought process, insight, and judgment. He decompensates under stress.

This claimant's benefits were terminated in June 1982 because the DDS concluded that he could do relevant past work.

A 56-year-old registered nurse was diagnosed as depressed with paranoid features, complicated by alcoholism and possibly early Alzheimer's disease. She was institutionalized in 1967, 1970, 1979, and July 1982. The claimant worked as a registered nurse for 29 years until 1977. She was allowed disability in April 1978. A CE physician in 1978 felt the disability was sufficient not to establish a medical diary date. In 1980 the claimant was placed in Goodwill Industries as a nurse's aide. She had a breakdown in October 1981 and has been living in a nursing home. Though active and social and offering a normal appearance, the claimant functions under supervision with constant reminders. The nursing home is her representative payee. The claimant needs help dressing and taking medicine. She needs to be reminded to eat. She has a hobby and goes to yard sales with encouragement. Her treating physician and nursing home personnel say she is deteriorating and cannot function except in a structured supervised environment. When the claimant lived alone, she neglected her home, because depressed, and did not eat and did not keep herself clean.

Disability benefits were terminated in October 1982 on the basis that she is oriented in 3 spheres, has a satisfactory memory, has good contact with reality, is neat and clean in appearance, and functions adequately in daily activities.

Mr. COHEN. Mr. President, I am pleased to be a cosponsor of this legislation which would impose a temporary moratorium on further reviews of mentally impaired individuals receiving social security disability benefits.

In my judgment, suspension of the Social Security Administration's reviews of the mentally disabled is warranted because of the overwhelming evidence indicating that benefits have been wrongly terminated for thousands of severely disabled people. Hearings held by the Aging Committee revealed that the criteria for evaluating the mentally disabled are woefully inadequate and that, in many cases, the decision to terminate benefits is made by personnel with little or no training in psychiatry or psychology. In light of these fundamental deficiencies, I believe that suspending the case reviews is appropriate until the regulations governing the disability determinations—known as the medical listings—are revised to permit an accurate assessment of the individual's ability to work.

Although I strongly support the legislation being introduced today, I want to emphasize my belief that comprehensive legislation reforming the entire social security disability review process is still urgently needed. Much more remains to be done to insure that the reviews are fair to disabled workers, whether they suffer from mental impairments or grave physical ailments.

In this regard, I am pleased to note that Senator HEINZ has cosponsored the comprehensive bill that Senator LEVIN and I introduced in February. It is my hope that the Congress will act quickly, not only on the moratorium legislation but also on the long-term bill, so that hardships and injustice inflicted on the severely disabled will finally be eliminated. I commend the Senator from Pennsylvania for his initiative and his contributions to this goal.

Mr. PRYOR. Mr. President, I rise in strong support of the legislation introduced today by my distinguished colleague from Pennsylvania, the chairman of the Special Committee on Aging, which would insure that individuals receiving social security and supplemental security income by reason of mental disability would receive equitable treatment from the Social Security Administration.

Since implementation of the 1980 amendments to the Social Security Act, which required triannual reviews of the nonpermanently disabled individuals, the disability program has been fraught with controversy. There is not one Member of Congress whose office has not been inundated with calls and letters from constituents who have been terminated from the disability program. Despite GAO estimates that approximately 20 percent of those on the disability rolls were improperly receiving benefits—estimates which precipitated enactment of the triannual reviews—almost half of the disability beneficiaries are being moved. Since the Social Security Administration began these reviews, over 300,000 beneficiaries have been cut off from their benefits.

Mr. President, there is not a Member of Congress who condones the receipt of benefits by those who are undeserving. But in case after documented case it has been discovered that many, many deserving individuals are being terminated only to gain reinstatement after a lengthy and painful appeals process. In some of the more extreme—and not so rare—cases, beneficiaries who have appealed are reinstated only after they have died from the disability which the Social Security Administration deemed not serious enough for the continuation of benefits.

As alarming as some of these reports are a combined investigation of the GAO and the staff of the Special Committee on Aging has revealed far more appalling facts about reviews of the mentally impaired disabled.

During recent hearings before the committee, we learned that, although about 11 percent of those on the disability rolls have mental impairments, between 24 and 28 percent of the reviews and terminations are of the mentally impaired. And out of 1,400 appeals in such cases, 9 out of 10 terminations were overturned by administrative law judges. In a GAO survey of 40 denial and termination cases reviewed by a staff clinical psychologist, 27 individuals were judged incapable of daily functioning without support and could not work in stressful environments. In 13 other cases she judged that additional medical information was needed. The following are the major weaknesses GAO documented for the Special Committee on Aging regarding disability reviews of the mentally impaired:

One. An overly restrictive interpretation of the criteria to meet SSA's medical listings, resulting principally from narrow assessments of individuals' daily activities;

Two. Inadequate development and consideration of a person's residual functional capacity and vocational characteristics;

Three. Inadequate development and use of existing medical evidence, resulting in an over-reliance and misuse of consultative examinations; and

Four. Insufficient psychiatric resources in most state DDS's (Disability Determination Services).

While there have been successful lawsuits filed against the Social Security Administration regarding the mentally impaired, and more are pending, the wheels of justice are grinding far too slowly for the many mentally disabled who are being unfairly stripped of their benefits. It is time for the Congress to act to counter these grave injustices.

For these reasons, I am proud to join in sponsoring this legislation. Specifically, it would require SSA to revise the applicable criteria for mental disability classification after consultation with an appointed, outside advisory council, the members of which will be chosen by the Secretary and shall have expertise in the field of mental impairments. Until these criteria are drawn up, SSA would be prohibited from initiating any new mental disability reviews. In addition, SSA would be required to process all new applications and appeals of prior decisions, with the stipulation that these cases be earmarked for redetermination after new regulations are in place. SSA would also be responsible for assuring that the medical portion of the evaluation for mental impairment be conducted by a qualified psychiatrist or psychologist.

In view of SSA's deplorable track record in the disability field, I believe these reforms absolutely necessary if we are to begin the vitally important job of reforming the social security disability insurance program. I do, however, believe that one additional safeguard is absolutely essential: I would like to see this legislation include a provision which specifies that the moratorium be lifted only with the approval of Congress.

Mr. President, at times the Congress has stood by helplessly and watched the implementation of regulations which fail to adequately address the problems within a program. This step would give Congress the power it needs to insure that the Social Security Administration be responsive to the well-documented need for reform in the disability program in general, and particularly as program policy relates to the mentally disabled.

I want to commend Senator HEINZ for his dedication and interest in reform of the disability program, as well as the able work of the staff on the Special Committee on Aging. It is my hope that enactment of this legislation will be the first step in addressing the very real need for broad and comprehensive disability reform.

Mr. President, at this point in the RECORD I would like to insert a New York Times editorial which summarizes some to the problems the GAO uncovered, as well as an article in Newsday by Patrick Owens and Bob Wyrick on March 21, 1983, which was part of a series of articles on social security reviews.

The articles follow:

WHY DRIVE TROUBLED PEOPLE CRAZY?

"This 35-year-old female had an alcoholic father who put a shotgun in her mouth and threatened to blow her head off when she was a child," begins the psychiatrist's report. It goes on to detail the life of a barely functional person who gets along on medication, psychotherapy and a monthy disability check from Social Security.

"In 1980 her Social Security benefits were reviewed and she was terminated after a 15-minute examination by a psychiatrist paid by the Social Security Administration," the doctor continues. "Needless to say, she . . . accepted this action as proof that everyone was out to get her. . . ." The denial was reversed on appeal, but now she is up for review again. "She cries uncontrollable and cannot be rational. . . ."

For more than a year, the Social Security Administration has been using a Congressional order to purge malingerers from the disability program as a license for bureaucratic mayhem. The agency routinely cuts off benefits by declaring the recipients able to work leaving it to an appeals process to smoke out the real fraud.

For most disabled people, this callous process ends up only frustrating. They ultimately win their appeals; their payments continue, by Congressional order, until the appeals are completed.

For the 11 percent who are mentally handicapped, however, the new process can be cruel and severely damaging. Senator John Heinz, the Pennsylvania Republican, sensibly proposes a moratorium on cutting off benefits for them until Social Security adopts more humane procedures.

Possibly 20 percent of those on the disability rolls may not be honestly disabled. That amount of cheating would cost the Government $2 billion a year; Congress in 1980 called for more thorough case reviews. The Reagan Administration accelerated them—and also quietly made clear to state and local offices that more claims were to be denied.

With the mentally disabled, denials are easy. The client must exhibit clinical signs of mental illness and a limited ability to function socially; otherwise, examiners have broad discretion. Often they are free to exercise it: A severely ill patient may not exhibit clinical signs continuously, and social functioning standards are vaguely defined. The stress of this uncertain process leads some patients to attacks of anxiety and depression, reversing progress in treatment. In fact, a patient dare not reveal too much evidence of progress lest the examiners seize upon it as grounds for denial of benefits.

Though a new G.A.O. study and other evidence suggest otherwise, Social Security insists that the abuses result only from incompetence or communications problems at the local level. The agency also promises adjustments of procedures and criteria. Senator Heinz's bill is more reassuring.

It would require new criteria for cutting off benefits, devised in consultation with a panel of mental health professionals. Psychiatrists or psychologists would make final medical judgments about mental disabilities; now such assessments are basically made by bureaucrats with only the cursory involvement of doctors. Most important, the bill would stop fund cutoffs for the mentally disabled until these reforms are in place.

In concept, disability review is constructive and necessary; in practice it is badly mismanaged, painfully so for the mentally disabled. Senator Heinz's bill would make clear that the pursuit of fraud need not require an abandonment of decency.

THE TOLL ON THE MENTALLY ILL

(By Patrick Owens and Bob Wyrick)

As community support coordinator for Crawford County, Wis., Alice Krahn helps people who are mentally ill live outside hospitals. She remembers vividly the day in November, 1981, when Percy Werthwein showed up at her office.

"He told me his checks had stopped," she said. "He didn't want to go to the hospital, but he knew he needed me. He was incoherent. He said, 'I have no money. I'm hungry. I definitely need a loaf of bread.' He just kept going on and on about the loaf of bread."

Werthwein is a 30-year-old farmer who paid into Social Security until he was hospitalized eight years ago after reporting his cows were blind and locking himself in the barn because "he imagined that airplanes were coming after him," in the words of his mother, Virginia

After his initial breakdown, Werthwein—like thousands of other mental patients who have been released from hospitals since "deinstitutionalization" became popular in the late 1960s—could, with the help of mood-stabilizing drugs, maintain himself outside much of the time. But he couldn't handle stress enough to work at a regular job. He qualified for disability in 1979, and his monthly check was $408 when he was cut from the rolls. Then he could no longer afford his medication.

Werthwein had been off drugs for weeks when he showed up at Krahn's office, but he was convinced he had a new lease on life. His disability cutoff notice said he could work as a packer in a shoe factory. "I just laughed at first," Krahn recalled. "I don't know of a shoe factory within hundreds of miles of here. But he believed that they had a job for him because Social Security told him he could pack shoes. He wanted the address."

Instead, Werthwein was hospitalized again for his acute psychotic disturbance.

The accelerated review of disability rolls has hit the mentally disabled with special force. Although mental cases represent only 11 percent of those on disability rolls, they account for about 28 percent of the quarter-million people who have lost their benefits in the review.

In some instances, said Dr. John Talbott, chairman of the American Psychiatric Association's Committee on the Chronically Mentally Ill, the complicated notices mailed by Social Security were simply too much to handle. "Many of the mentally ill didn't fill out the forms right," he said. "Often, just getting the letter telling them they were being reviewed freaked them out."

There was another factor. By the time Congress mandated a review of pensioners who were not permanently disabled, Social Security's quality assessment experts had already begun to take a tougher view of mental disability claims. The frequency with which they overturned pensions granted by state examiners caused officials in the Atlanta region to write a letter on June 26, 1980, expressing concern that the central office's stricter approach on mental claims "may be contrary to the law and regulations."

To be declared disabled by reason of mental disease a claimant must theoretically meet listings for specific afflictions that were approved by the Council on Medical Service of the American Medical Association in 1979. The law provides, however, that a person whose condition is less severe may still be declared disabled if he does not retain enough "residual functional capacity to work." To determine this, examiners must consider such factors as whether the claimant has "the ability to understand, to carry out and remember instructions, and to respond appropriately to supervision, coworkers and customary pressures in a routine work setting."

State examiners had often used this provision to approve claims for mentally ill people. Social Security's about-face, rejecting many state approvals in such cases, caused widespread confusion.

In an attempt to clarify the issue in October, 1980, a Medical Issues Conference was called in Chicago to explain Social Security's position. Dr. Herbert L. Blumenfeld, chief medical officer for the disability program, wrote in a conference addendum that unless claimants with mental problems met specific listings, they must be considered capable of "at least some type of unskilled work."

The upshot was described by Candace Scott Appleton, director of the Mental Health Law Project in Bay Shore: "The jobs proposed for our clients found 'employable' have included such absurdities as one-armed ticket taker, tissue inserter, puller-through, boot scraper and button-sorter. Look though I may, I have yet to find any such job listed in Newsday."

Social Security Commissioner John Svahn told Newsday in December that state agencies had misunderstood the agency's position, and on Jan. 3 he issued an agency-wide memo affirming that residual capacity had to be evaluated even if a claimant did not meet the listings.

But Svahn acted only after a federal court in Minnesota ruled in a class-action lawsuit that the agency had illegally cut off mental patients by refusing to measure their residual functional capacity.

In a decision Social Security is appealing, the court ordered benefits restored to about 20,000 mentally ill people.

And many workers in the field say there was no misunderstanding of Social Security's intent, and Svahn and his aides at Social Security were well informed of the consternation on the issue.

In January, 1982, the Chicago regional office's medical adviser, Dr. Sandor Berendi, wrote: "An individual may be committable due to the State's Mental Health Codes and yet be found capable of 'unskilled work' utilizing our disability standards."

The same month, Bob Cohen, bureau director of the Wisconsin disability determination office, complained in a letter to the regional office and sent along examining supervisors' comments. One supervisor said: "We've been denying everyone that can still breathe and eat by themselves."

Another observed: "The adjudicators are allowing VERY few psychiatric cases. Quite frankly, a claimant has to be in a catatonic stupor or be a totally raving psychotic to be allowed."

Back in the hospital and back on his medication, Percy Werthwein improved, but Krahn, who was working to get his pension reinstated, says: "We had to keep him hospitalized. He had no income."

Last June, after Werthwein had spent eight months in the hospital, Krahn won a partial victory. "They notified him that he had been reinstated from November, 1981, to June 30, 1982," she said.

> "But as of that date, they still said, 'You are able to work.' So they cut him off again."
>
> The check for back benefits came to about $4,000. "With that money, we got Percy back in the community," Krahn said. "We bought him a little second-hand trailer and found a family who would let him park it on their property and give him board for a couple of hours' work a day in their barn. We paid off some of the bad debts he had . . .
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> "The rest of the money, we put in the bank," Krahn said. "We dole it out for pop and cigarettes. Soda pop is real important. With the medication he takes, you get a real dry mouth."
>
> Krahn succeeded two weeks ago in getting Werthwein's benefits restored until his appeal can be decided by an administrative law judge. By that time, the balance in Werthwein's bank account was $100.

Mr. PERCY. Mr. President, I am pleased to join Senator Heinz in introducing legislation to temporarily suspend Social Security Administration continuing disability investigation reviews of those individuals with severe mental disabilities until comprehensive reforms have been implemented.

Two days of hearings before the Senate Special Committee on Aging, of which I am a member, showed a pattern of unfair denials of disability benefits to individuals suffering from severe psychiatric problems.

At our hearing, the American Psychiatric Association testified that the criteria used by the Social Security Administration are not valid predictors of a mentally disabled person's ability to work, and that SSA reviews are being conducted in a manner "contrary to sound medical practice." The General Accounting Office looked at 40 termination cases in depth, including some in my own State of Illinois, and concluded that the terminations were wrongly decided in 27 cases or 67 percent. In each of the remaining 13 cases, GAO found insufficient evidence upon which to base a valid decision. Although the results of this study cannot be projected to all disability cases, these findings have national implications.

The bill we are introducing today will require SSA to revise the regulatory criteria relating to mental impairments, after consultation with a panel of physicians and other professionals trained in mental health. Until that process is completed, no new continuing disability reviews would be performed on the mentally disabled, unless the Secretary found evidence of fraud or that the individual is engaging in substantial gainful activity.

New applications and appeals of prior decisions would continue to be judged as quickly as possible—except that SSA will be required to identify these decisions so they can be redetermined after the regulatory reform has been completed. The bill also requires that the medical portion of the evaluation of mental disabilities be performed by a qualified psychiatrist or psychologist.

This bill, which will require SSA to revise its review procedures, is essential to fair treatment for a small portion of disabled workers who are particularly vulnerable. I urge its expeditious consideration and passage.

By Mr. DENTON (for himself, Mr. DeConcini, Mr. Garn, Mr. Grassley, Mr. Heflin, Mr. Hollings, Mr. Humphrey, Mr. Inouye, Mr. Moynihan, and Mr. Nickles):

S. 1145. A bill to recognize the organization known as the Catholic War Veterans of the United States of America, Inc.; to the Committee on the Judiciary.

CATHOLIC WAR VETERANS

Mr. DENTON. Mr. President, today I introduce a bill to grant a Federal charter to the Catholic War Veterans of the United States of America, Inc. Similar legislation, introduced by Senator Everett Dirksen, passed the Senate during the 90th Congress, but did not receive approval from the House.

The purpose of the Catholic War Veterans is to safeguard the rights and privileges of veterans, protect their freedom, defend their faith, help those who are sick and disabled, and care for their widows and orphans.

For almost 50 years, the Catholic War Veterans has consistently served God and country and community as a nationally recognized veterans organization. The hallmark of the organization has been its unselfish dedication to each and every hospitalized veteran in our Nation. It has been recognized, by the Veterans' Administration, for outstanding services rendered to hospitals everywhere.

Thousands of Catholic War Veterans and ladies auxiliary hospital volunteers have given millions of hours of service to the Nation's hospitalized veterans. They have tirelessly followed our basic American principle of service to God, to the hospitalized veteran, to the youth of America, and to the community.

The Catholic War Veterans requested its first charter immediately after the end of World War II. The first bill that can be located is S. 1557, introduced in the 80th Congress—1st session. It was favorably reported out of committee and passed the Senate on July 22, 1947. The last bill to pass the Senate, S. 519, in 1967, was introduced by Senator Everett Dirksen. The House Committee on Judiciary has repeatedly kept the charter legislation from reaching the floor.

As an illustration of the volunteer activities performed by the Catholic War Veterans, I cite the following data for fiscal year 1982. Under the Veterans' Administration voluntary service program, Catholic War Veterans volunteers served approximately 65 Veterans' Administration medical centers across the country with 1894 volunteers, 60,615 volunteer hours, and $111,790 in donations. Under the National Welfare Officer's program, members of the CWV donated, to private nursing homes, old age homes, State veterans homes, and soldier's and sailor's homes, 26,000 hours by 20,000 volunteers to help 32,000 veterans, while donating $148,000.

The Catholic War Veterans exemplify the ideal of voluntarism, an ideal that President Reagan has clearly and persuasively brought to the attention of all Americans.

> Let us continue asking ourselves, "What did I do today that will help a fellow American in need?" If the answer is nothing, then the next question is, "What am I going to do about that tomorrow?" The Bible talks of faith, hope, and charity, and the greatest of these is charity. The real meaning of the parable of the Good Samaritan has always been not so much the benefit that was done to the pilgrim who had been beaten, but the good that accrued to the Samaritan for going to his aid, who crossed to the other side of the road where the beaten pilgrim lay, bound up his wounds, and carried him to the nearest town. He didn't hurry on by and then when he got to town tell a caseworker that there was someone out there back a ways that needed help.
>
> Well, this is our moment, yours and mine. Our time to justify the brief time we spend here, to be able to look our children and our children's children in the face and tell them that in our time here we did all that could be done.

It is appropriate to include words from the constitution of the Catholic War Veterans which describe the organization's goals:

> To promote zeal and devotion for God, for country and for home: (a) For God: to promote a greater love, honor and service to Him; (b) for Country: through a more vivid understanding of the Constitution of the United States of America and through the active participation in the promotion of its ideals of life, liberty and the pursuit of happiness to develop a more zealous citizenship, encourage morality in Government, labor, management, economic, social, fraternal, and all other phases of American life; to combat aggressively the forces which tend to impair the efficiency and permanency of our free institutions; (c) for home: to promote the realization that the family is the basic unit of society; to aid in the development of an enlightened, patriotic American youth, to assist all veterans and widows and dependents of deceased veterans; (d) These objectives are encouraged without regard to race, creed, or color.

It is remarkable that those words were written in 1935. The Catholic War Veterans words and deeds justify congressional action to provide the organization with a national charter.

By Mr. BENTSEN (for himself, Mr. DeConcini, and Mr. Domenici):

S. 1146. A bill to amend the Federal Aviation Act of 1958 to provide for the revocation of the airman certificates and for additional penalties for the transportation by aircraft of controlled substances, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AVIATION DRUG-TRAFFICKING CONTROL ACT

● **Mr. BENTSEN.** Mr. President, today, I am introducing the Aviation Drug-Trafficking Act to combat the use of aircraft in illegal drug trafficking.

As we all know, the United States is facing an epidemic of illegal drugs. Most are smuggled into the country, the majority by air. According to Drug Enforcement Agency estimates, in 1981, 50 percent of the cocaine, 35 percent of the marihuana, 75 percent of Southwest Asian heroin, 55 percent of Southeast Asian heroin, and 80 percent of the dangerous drugs entering the United States are smuggled in by air. Athough some of those drugs are carried aboard commercial airlines, most are transported on private aircraft. It is unfortunately not difficult to fly a small plane carrying illegal drugs across our border, land it in an unmarked airfield, and make a lot of money doing so. Not surprisingly, given the conditions under which they are flown, many drug carriers crash for lack of fuel, because they were overloaded, or because their pilots took off from or attempted to land on unmarked, deserted airfields. The Federal Aviation Administration reports that there were 211 such crashes in 1980 alone.

The FAA, however, has not been empowered to combat the problem. Current law only allows the FAA to suspend a pilot's certificate for one year and impose a $1,000 civil penalty upon persons convicted for illegal drug trafficking. The FAA informs me that that has happened only 17 times last year.

In addition, the FAA does not believe that it has the authority to take any action against a pilot unless that pilot has first been convicted for a drug-related offense. In an exchange with Congressman Adam Benjamin, who, as chairman of the Appropriations Subcommittee on Transportation, took a keen interest in this matter before his tragic death last year, the FAA's Administrator, J. Lynn Helms explained:

> Even if there were proof that the owner-pilot was to use the aircraft on a drug run, the FAA would have no authority under existing statutes to prevent the owner from being able to continue enjoying U.S. registry for that aircraft.

Mr. President, given the problem we face with drugs pouring across our borders, and given, too, the ever-present danger we face from the unsafe use of aircraft to smuggle drugs, I believe we must change that. Along with Congressman MINETTA, who has introduced a companion bill in the House, I am therefore submitting legislation to give the FAA the authority it needs to combat the use of aircraft in illegal drug trafficking. In addition, the bill will prescribe penalties which better fit the crime than those in law today.

If enacted, this bill would require revocation of an airman's certificate if the holder is convicted of violating any law relating to controlled substances—other than a law prohibiting simple possession—and the FAA Administrator determines that the certificate holder knowingly served as an airman in connection with the violation.

The bill would also empower the Administrator to revoke an airman's certificate for up to 5 years but not less than 1 if he determines that the holder knowingly served as an airman in connection with transportation of a controlled substance, even if the holder was not previously convicted for a drug-related offense. Before an airman's certificate could be revoked, however, the holder must be given notice and an opportunity to answer the charges and explain why the certificate should not be revoked. The right of appeal to the U.S. Court of Appeals would be guaranteed. This provision is fully in keeping with our due process requirement and is consistent with numerous judicial decisions which have held that a license is a privilege, not a right and may therefore be revoked when it has been abused and when it is in the public's interest to do so. I might add, Mr. President, that current law gives the Administrator authority to suspend or revoke a license for safety violations, and as demonstrated by the numerous drug-related crashes, smuggling illegal drugs by air is clearly dangerous.

The bill also empowers the Administrator to revoke a certificate of registration for up to 5 years but not less than 1 if he determines that the owner has knowingly permitted the aircraft to be used to transport a controlled substance. The same procedural due process safeguards—notice, a hearing, and the right to appeal—that apply to revocation of an airman's certificate will also apply before a registration certificate may be revoked.

If an airman's certificate is revoked for drug trafficking, it is important in addition to deter the airman from continuing to fly without a license. Under current law the sanctions are not sufficient; an airman who flies without a certificate is subject only to a $1,000 civil penalty. My bill would create penalties of a fine of up to $25,000 and imprisonment of up to 5 years for persons who knowingly fly without a certificate in order to transport illegal drugs.

Finally, the bill would increase the penalties for using or attempting to use, a false certificate in connection with the transport of illegal drugs. Under current law, use of fraudulent certificates and fraudulent registration numbers is punishable by a fine of up to $1,000 and imprisonment of up to 3 years. My bill provides that when a fraudulent certificate or registration violation is used in transporting illegal drugs, the penalty shall be a fine of up to $25,000 and imprisonment of up to 5 years.

In short, Mr. President, my bill will require aircraft owners and operators, at the risk of their licenses and registrations, to avoid allowing their planes to be used for smuggling illicit drugs. While providing the administrative safeguards described above, we should do no less.

Mr. President, I ask unanimous consent that the text of the bill be printed at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Aviation Drug-Trafficking Control Act".

SEC. 2. (a) Section 609 of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new subsection:

"TRANSPORTATION OF CONTROLLED SUBSTANCES

"(c)(1) The Administrator shall issue an order revoking the airman certificate of any person upon conviction of such person in any court, and exhaustion of all direct judicial review of such conviction, for violation of any State or Federal law relating to controlled substances (other than any law relating to simple possession of a controlled substance) where the Administrator determines that such person has knowingly served in any capacity as an airman in connection with such violation. Prior to revoking an airman certificate under this subsection, the Administrator shall notify the holder of the certificate of the proposed revocation and shall provide the holder of such certificate an opportunity to answer any charges and be heard as to why such certificate should not be revoked. The person whose certificate is revoked by the Administrator's order may obtain judicial review of such order under the provisions of section 1006.

"(2) The Administrator shall issue an order revoking the airman certificate of any person if the Administrator determines that such person has knowingly served in any capacity as an airman in connection with the transportation by aircraft of any controlled substance, where such transportation is prohibited by any State or Federal law or is provided in connection with any act prohibited by any State or Federal law relating to controlled substances (other than any law relating to simple possession of a controlled substance). Before revoking any such certificate the Administrator shall advise the holder thereof as to any charges or other reasons relied upon by the Administrator for his proposed action and shall provide the holder of such certificate an opportunity to answer any charges and be heard as to why such certificate should not be revoked. The person whose certificate is revoked by the Administrator's order may obtain judicial review of such order under the provisions of section 1006.

"(3) For purposes of this subsection, the term 'controlled substance' has the meaning given such term by section 102(6) of the Controlled Substances Act.".

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 609. Amendment, suspension, and revocation of certificates."

is amended by adding at the end thereof

"(c) Transportation of controlled substances.".

Sec. 3. Section 602(b) of the Federal Aviation Act of 1958 is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph:

"(2)(A) Except as provided in subparagraph (B), the Administrator shall not issue an airman certificate to any person whose airman certificate has been revoked pursuant to subsection (c) of section 609 of this title during the five-year period beginning on the date of such revocation.

"(B) The Administrator may issue an airman certificate to any such person before the end of such five-year period (but not before the end of the one-year period beginning on the date of such revocation) if, in addition to the findings required by paragraph (1), the Administrator determines (i) that revocation of the certificate for such five-year period would be excessive considering the nature of the offense or the act committed and the burden which revocation places on such person, or (ii) that revocation of the certificate for such five-year period would not be in the public interest. The determinations under clauses (i) and (ii) of the preceding sentence shall be within the discretion of the Administrator and any such determination or failure to make such a determination shall not be subject to administrative or judicial review.".

Sec. 4. Section 501(e) of the Federal Aviation Act of 1958 is amended by inserting "(1)" after "(e)" and by adding at the end thereof the following new paragraph:

"(2)(A) The Administrator shall issue an order revoking the certificate of registration issued to an owner under this section for an aircraft and each other certificate of registration held by such owner under this section, if the Administrator determines that—

"(i) such aircraft has been used to transport a controlled substance, where such transportation is prohibited by any State or Federal law or is provided in connection with any act prohibited by any State or Federal law relating to controlled substances (other than any law relating to simple possession of a controlled substance); and

"(ii) the use of the aircraft was permitted by such owner with the knowledge that the aircraft was intended to be used for transportation described in clause (i) of this subparagraph.

For purposes of this paragraph, an owner of an aircraft who is not an individual shall be considered to have knowledge of an intended use of an aircraft only if a majority of the individuals who control such owner or who are involved in forming the major policy of such owner have knowledge of such intended use. Prior to revoking any certificate under this paragraph, the Administrator shall advise the holder thereof as to any charges or other reasons relied upon by the Administrator for the proposed revocation and shall provide the holder of such certificate an opportunity to answer any charges and be heard as to why such certificate should not be revoked. Any person whose certificate is revoked under this paragraph may obtain judicial review of such order under the provisions of section 1006. For purposes of this paragraph the term 'controlled substance' has the meaning given such term by section 102(6) of the Controlled Substances Act.

"(B) except as provided in subparagraph (C), the Administrator shall not issue a certificate of registration to any person who has had a certificate of registration to any person who has had a certificate revoked pursuant to subparagraph (A) of this paragraph during the five-year period beginning on the date of such revocation.

"(C) The Administrator may issue a certificate of registration for an aircraft to any such person before the end of such five-year period (but not before the end of the one-year period beginning on the date of such revocation) if the Administrator determines that such aircraft is otherwise eligible for registration under this section and (i) that revocation of the certificate for such five-year period would be excessive considering the nature of the offense or the act committed and the burden which revocation places on such person, or (ii) that revocation of the certificate for such five-year period would not be in the public interest. The determinations under clauses (i) and (ii) of the preceding sentence shall be within the discretion of the Administrator and any such determination or failure to make such a determination shall not be subject to administrative or judicial review.".

Sec. 5. (a) Section 902 of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new subsection:

"TRANSPORTING CONTROLLED SUBSTANCES WITHOUT AIRMAN CERTIFICATE

"(q) Any person who knowingly and willfully violates section 610(a)(2) in connection with the transportation by aircraft of any controlled substance, where (1) such transportation is prohibited by any State or Federal law or is provided in connection with any act prohibited by any State or Federal law relating to controlled substances (other than any law relating to simple possession of a controlled substance), and (2) such person has knowledge of such transportation, shall be subject to a fine not exceeding $25,000 or to imprisonment not exceeding five years, or to both such fine and imprisonment. For purposes of this subsection, the term 'controlled substance' has the meaning given such term by section 102(6) of the Controlled Substances Act.".

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 902. Criminal penalties."

is amended by adding at the end thereof

"(q) Transporting controlled substances without airman certificate.".

Sec. 6. Section 902(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(b)) is amended—

(1) by striking out "(b) Any person who" and inserting in lieu thereof "(b)(1) Except as provided in paragraph (2), any person who";

(2) by striking out "uses or attempts to use" and inserting in lieu thereof "sells, uses, attempts to use, or possesses with the intent to use"; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) Any person who violates paragraph (1) of this subsection (other than by selling a fraudulent certificate) with the intent to commit any act prohibited by any State or Federal law relating to controlled substances (other than any law relating to simple possession of a controlled substance) shall be subject to a fine not exceeding $25,000 or to imprisonment not exceeding five years, or both.

"(B) Any person who violates paragraph (1) of this subsection by selling a fraudulent certificate with the knowledge that the purchaser intends to use such certificate in connection with any act prohibited by any State or Federal law relating to controlled substances (other than any law relating to simple possession of a controlled substance) shall be subject to a fine not exceeding $25,000 or to imprisonment not exceeding five years, or both.

"(C) For purposes of this paragraph, the term 'controlled substance' has the meaning given such term by section 102(6) of the Controlled Substances Act.".

Sec. 7. This Act and the amendments made by this Act shall apply with respect to acts and violations occurring after the date of enactment of this Act.●

By Mr. DANFORTH (for himself and Mr. Tsongas):

S. 1147. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the discharge of mortgage debt on a principal residence; to the Committee on Finance.

MORTGAGE DEBT FORGIVENESS TAX ACT OF 1983

● Mr. DANFORTH. Mr. President, it would be a gross understatement to say that one of the most difficult problems faced by Americans in recent years has been in finding affordable financing for home mortgages. As a result, people have been unable to buy homes, builders have been unable to sell homes, and lending institutions, particularly thrift institutions, have been unable to operate profitably—in fact, we have had a frightening number of failures of such institutions over the last year and a half.

With interest rates on mortgages as high as 17 or 18 percent a year ago—and even now a relatively high 12 to 13 percent—buying a home has become virtually impossible for most Americans. Yet, even at these rates, traditional mortgage financing sources have been losing money hand over fist. This is partly because of the rates they must pay for money they borrow, and partly because of the low-rate, long-term mortgages they have on their books. As recently as 1976, a 30-year, fixed-rate mortgage could be obtained at around 7 or 8 percent. With a large share of mortgage lenders' assets earning such low yields, it is easy to see why they lose money when they have to pay 12 or 13 percent to their account holders.

In order to help alleviate this situation, many mortgage lenders have encouraged borrowers with low-rate loans to pay off their loans early. The encouragement has been in the form of a discount. For example, assume an individual owes $25,000 on his 7-percent mortgage. In order to remove this low-yielding asset from its books, the lender might offer to allow the individual to satisfy the debt with an immediate cash payment of $20,000, forgiving any obligation to repay the other $5,000.

Late in 1982, the Internal Revenue Service published Revenue Ruling 82-202 which describes the income tax consequences of such a transaction. The ruling holds that, in the situation involved in this example, the individual would be treated as having $5,000 of income at the time the transaction takes place.

Section 61(a)(12) of the Internal Revenue Code states that the gross income of a taxpayer includes income from the discharge of indebtedness. Section 108 of the code provides exceptions to this rule, under which, in certain circumstances, the amount of the discharged debt is not included in the taxpayer's gross income. However, except in the case where the homeowner is insolvent or bankrupt, these exceptions do not apply to the discharge of debt on a personal mortgage. Therefore, I believe the IRS has reached the correct conclusion under the current law, and I would not propose to prevent the IRS from implementing their ruling.

Instead, I am today introducing a bill which will provide an additional exception to the general rule of section 61(a)(12). My bill would apply an approach to the discharge of residential mortgage debt which is similar to provisions in current law under section 108 of the code, regarding business debt and the discharge of purchase-money debt. That is, if an individual taxpayer has discharged all or part of his obligation under the mortgage on his principal residence, as in my example, the amount of the debt discharged would not be included in the taxpayer's income. Rather, the taxpayer would reduce the cost basis of his residence by the amount excluded from income. Thus, the taxpayer would not be forced to recognize income and pay tax in the year of the debt discharge, but would recognize the income at some later date, if and when the residence was sold at a gain and not replaced in a manner qualifying for deferral of gain under section 1034.

When the income is eventually recognized, it would retain the character it would have under current law; that is, it would be ordinary income, rather than capital gain, although, of course, any additional gain the taxpayer recognized would be capital gain. This reflects the general rule contained in section 108. When we amended that section as part of the Bankruptcy Tax Act of 1980, it was the Congress view that the law should allow deferral of income recognition, but not the conversion of ordinary income to capital gain.

Mr. President, I believe this is an appropriate approach to this situation. It does not relieve the homeowner of tax liability on income of this type. It simply defers recognition of the income until such time as the taxpayer receives the cash; that is, when the residence is sold. In this sense, my proposal is very much like other provisions in the code which allow income recognition to be deferred until the taxpayer actually has the funds with which to pay the tax. For example, the installment sales provisions allow gain on the sale of property to be recognized over a period of time, as the taxpayer receives payments relating to the sale, rather than at the time of the sale.

This legislation, as drafted, would be retroactive, so that taxpayers who have entered into these transactions in the past—the majority of which occurred in 1982—without the knowledge that there would be dire tax consequences, may have the benefits of this change in the law. Again, for those taxpayers, this does not represent a forgiveness of the tax on that income, but a deferral. I believe this is fair, and I believe it is good tax policy.

In addition, I believe it is good economic policy. The early payment of older mortgages should be encouraged, not discouraged. First, these transactions make more funds available for new mortgage loans; in addition, they help put our savings and loans and other mortgage lenders in better shape from a liquidity and earnings point of view. This in turn has the obvious benefit of helping deter additional failures of these institutions.

Mr. President, this legislation is supported by the U.S. League of Savings Institutions, the Mortgage Bankers Association of America, and the National Association of Mutual Savings Banks. It is my hope that after they have had a chance to consider the bill, the National Association of Homebuilders and the National Association of Realtors will endorse it as well.

Mr. President, I ask unanimous consent that the text of the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1147

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Mortgage Debt Forgiveness Tax Act of 1981".

SEC. 2. TAX TREATMENT OF INCOME FROM THE DISCHARGE OF MORTGAGE DEBT.

(a) EXCLUSION FROM GROSS INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 108(a) of the Internal Revenue Code of 1954 (relating to income from discharge of indebtedness) is amended—

(A) by striking out "or" at the end of subparagraph (B),

(B) by striking the period at the end of subparagraph (C) and inserting in lieu thereof ", or", and

(C) by adding at the end thereof the following new subparagraph:

"(D) the indebtedness discharged is qualified mortgage indebtedness.".

(2) QUALIFIED MORTGAGE INDEBTEDNESS DEFINED.—Paragraph (9) of section 108(d) of such Code (relating to definitions and special rules) is amended to read as follows:

"(9) QUALIFIED MORTGAGE INDEBTEDNESS DEFINED.—For purposes of this section, the term 'qualified mortgage indebtedness' means indebtedness incurred by an individual in—

"(A) acquiring the principal residence of such individual (within the meaning of section 1034), or

"(B) making improvements to such principal residence (but only if the costs of such improvements are taken into account in determining the basis of the taxpayer in such principal residence).".

(3) LIMITATION ON EXCLUSION.—Subsection (a) of section 108 of such Code is amended by adding at the end thereof the following new paragraph:

"(4) LIMITATION ON EXCLUSION OF QUALIFIED MORTGAGE INDEBTEDNESS.—The amount excludible under subsection (a)(1)(D) shall not exceed the adjusted basis of the taxpayer (as of the close of the taxable year) in the principal residence with respect to which the qualified mortgage indebtedness was incurred.".

(b) REDUCTION IN BASIS OF PRINCIPAL RESIDENCE.—

(1) IN GENERAL.—Subsection (a) of section 1017 of such Code (relating to discharge of indebtedness) is amended to read as follows:

"(a) REDUCTION IN BASES.—

"(1) IN GENERAL.—If—

"(A) an amount is excluded from gross income under subsection (a) of section 108 (relating to discharge of indebtedness), and

"(E) under subsection (b)(2)(D), (b)(5), or (c)(1)(A) of section 108, any portion of such amount is to be applied to reduce basis,

then such portion shall be applied in reduction of the basis of any property held by the taxpayer at the beginning of the taxable year following the taxable year in which the discharge occurs.

"(2) QUALIFIED MORTGAGE INDEBTEDNESS.—The basis of the taxpayer in his principal residence shall be reduced (but not below zero) by the amount of any discharge of qualified mortgage indebtedness incurred with respect to such residence which is excluded from gross income by reason of section 108(a)(1)(D).".

(2) DEFINITIONS.—Section 1017 of such Code is amended by adding at the end thereof the following new subsection:

"(e) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED MORTGAGE INDEBTEDNESS.—The term 'qualified mortgage indebtedness' has the meaning given to such term by section 108(d)(9).

"(2) PRINCIPAL RESIDENCE.—The term 'principal residence' has the meaning given to such term by section 1034.".

(c) CONFORMING AMENDMENT.—

(1) Section 108 of such Code is amended by adding at the end thereof the following new subsection:

"(f) CROSS REFERENCES.—

"(1) For provision reducing the basis in principal residence of taxpayer by amount excluded under subsection (a)(1)(D), see section 1017(a)(2).

"(2) For provision prohibiting reduction of the basis of an individual debtor in exempt property, see section 1017(c)(1).".

(2) Subsection (b) of section 1017 of such Code is amended by striking out "subsection (a)" each place it appears and inserting in lieu thereof "subsection (a)(1)".

(3) Paragraph (2) of section 108(a) of such Code (relating to coordination of exclusions) is amended—

(A) by striking out "and (C)" in subparagraph (A) and inserting in lieu thereof ", (C), and (D)", and

(B) by striking out "Subparagraph (C)" in subparagraph (B) and inserting in lieu thereof "Subparagraphs (C) and (D)".

SEC. 3. EFFECTIVE DATE; WAIVER OF LIMITATION ON CERTAIN CLAIMS.

(a) Effective Date.—The amendments made by this Act shall apply to taxable years beginning after December 31, 1953.

(b) Waiver of Limitations.—Notwithstanding section 6511(a) or any other period of limitation or lapse of time, any claim for credit or refund of overpayment of the tax imposed under chapter 1 of the Internal Revenue Code of 1954 which arises by reason of the amendments made by this Act may be filed by any person within the 1-year period beginning on the date of enactment of this Act. Section 6511(b) and 6514 of the Internal Revenue Code of 1954 shall not apply to any claim for credit or refund filed under this subsection within such 1-year period.●

By Mr. MELCHER:

S. 1148. A bill to provide for the use and distribution of funds awarded the Assiniboine Tribe of the Fort Belknap Indian Community, Mont., and the Assiniboine Tribe of the Fort Peck Indian Community, Mont., in docket numbered 10-81L by the U.S. Court of Claims, and for other purposes; to the Committee on Indian Affairs.

ASSINIBOINE DISTRIBUTION BILL

● Mr. MELCHER. Mr. President, today I am introducing a bill to provide for the use and distribution of funds awarded the Assiniboine Tribe of the Fort Belknap Indian Community, Montana, and the Assiniboine Tribe of the Fort Peck Indian Community, Montana, in docket numbered 10-81L by the U.S. Court of Claims.

On September 30, 1981, $16,394,625 was appropriated in satisfaction of the award by the U.S. Court of Claims in docket 10-81L.

The bill I am introducing would divide the funds with 42.5 percent to be awarded the Fort Belknap Assiniboine Tribe and 57.5 percent awarded to the Fort Peck Assiniboine Tribe. This division is pursuant to an agreement entered into by both the Fort Peck Assiniboine Treaty Committee and the Fort Belknap Assiniboine Treaty Committee, in Billings, Mont. on March 31, 1983. The bill further provides that in the case of the Fort Belknap Assiniboine Tribe, 80 percent of the funds will be distributed per capita and 20 percent will be invested for the benefit of the tribe. In the case of the Fort Peck Assiniboine Tribe, 70 percent of the funds will be distributed per capita and 30 percent will be invested for the benefit of the tribe.

I am urging early enactment of this legislation so that the tribes and their members can have the benefit and use of the funds that were set aside for them over 18 months ago.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the funds appropriated on September 30, 1981, in accordance with section 1302 of the Supplemental Appropriation Act (31 U.S.C. 724a), in satisfaction of an award in United States Court of Claims Docket 10-81L, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be divided on the basis of 42.5 percent of the award funds to the Assiniboine Tribe of the Fort Belknap Indian Community and 57.5 percent of the award funds to the Assiniboine Tribe of the Fort Peck Indian Community and utilized for the purposes herein provided.

Sec. 2. The funds apportioned to the Assiniboine Tribe of the Fort Belknap Indian Community, Montana, less the costs incurred by the Fort Belknap Assiniboine Treaty Committee in connection with the use and distribution of such funds, including costs in connection with this legislation, and related attorney fees and expenses, shall be used and distributed as follows: *Provided,* That no person shall be eligible to share in more than one award in his own right:

(a) The Assiniboine membership roll of the Fort Belknap Indian Community shall be brought current to include all eligible members born on or prior to and living on the date of enactment of this Act. Subsequent to the preparation and approval by the Secretary of the Interior (hereinafter "Secretary") of this roll, the Secretary shall make a per capita distribution of eighty (80) percent of the funds (in a sum as equal as possible), to each enrollee. The Secretary's determination concerning eligibility to share in the per capita payment shall be final.

(b) Twenty (20) percent of these funds, and any amounts remaining after the per capita payment, shall be held in trust and invested by the Secretary for the benefit of the members of the Assiniboine Tribe of the Fort Belknap Indian Community. The Treaty Committee of such Tribe, with the approval of the Secretary, shall distribute an annual family interest payment to all enrolled members of the Fort Belknap Assiniboine Tribe. All members on the Assiniboine tribal membership roll living on November 15 of each year shall be eligible for the annual interest payment. Members born after that date and living on the following November 15 shall be eligible for the next annual payment.

Sec. 3. The funds apportioned to the Assiniboine Tribe of the Fort Peck Indian Community, Montana, less the costs incurred by the Fort Peck Assiniboine Treaty Committee in connection with the use and distribution of such funds, including costs in connection with this legislation, and related attorney fees and expenses, shall be used and distributed as follows: *Provided,* That no person shall be eligible to share in more than one award in his own right:

(a) The Assiniboine membership roll of the Fort Peck Indian Community, Montana, shall be brought current to include all eligible members born on or prior to and living on the date of enactment of this Act. Subsequent to the preparation and approval by the Secretary of this roll, the Secretary shall make a per capita distribution of seventy (70) percent of the funds (in sums as equal as possible), to each enrollee who is at least one-fourth degree Indian blood, but not less than one-eighth degree Fort Peck Assiniboine blood. The Secretary's determination concerning eligibility to share in the per capita payment shall be final.

(b) Thirty (30) percent of these funds, and any amounts remaining after the per capita payment, shall be invested by the Secretary and administered by the Fort Peck Assiniboine Council for the Fort Peck Assiniboine people through the Executive Board of the Fort Peck Tribes, for social and economic development, on an annual budgetary basis subject to the approval of the Secretary.

Sec. 4. The per capita shares of living competent adults shall be paid directly to them. Shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, Part 4, Subpart D. Shares of legal incompetents shall be handled in accordance with 25 CFR 115.5. Shares of minors shall be handled in accordance with 25 CFR 87.10(a) and (b)(1) and 115.4.

Sec. 5. None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act or any Federal or Federally assisted programs.

Sec. 6. The Secretary is authorized to prescribe rules and regulations to carry out the provisions of this Act, including the establishment of deadlines for filing applications for enrollment.●

ADDITIONAL COSPONSORS

S. 16

At the request of Mr. Dole, the name of the Senator from Virginia (Mr. Warner) was added as a cosponsor of S. 16, a bill to amend the Internal Revenue Code of 1954 to provide for the establishment of, and the deduction of contributions to, education savings accounts.

S. 24

At the request of Mr. Huddleston, the name of the Senator from South Carolina (Mr. Hollings) was added as a cosponsor of S. 24, a bill to provide emergency credit assistance to farmers, and for other purposes.

S. 57

At the request of Mr. Specter, the names of the Senator from Virginia (Mr. Trible) and the Senator from Kansas (Mr. Dole) were added as cosponsors of S. 57, a bill to amend title 18 of the United States Code relating to the sexual exploitation of children.

S. 137

At the request of Mr. ROTH, the names of the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Utah (Mr. GARN), the Senator from West Virginia (Mr. BYRD), and the Senator from California (Mr. WILSON) were added as cosponsors of S. 137, a bill to amend the Internal Revenue Code of 1954 to continue to allow mortgage bonds to be issued.

S. 212

At the request of Mr. PRESSLER, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of S. 212, a bill to authorize funds for the U.S. Travel and Tourism Administration.

S. 237

At the request of Mr. WALLOP, the names of the Senator from Kentucky (Mr. FORD) and the Senator from Utah (Mr. GARN) were added as cosponsors of S. 237, a bill to amend the Internal Revenue Code of 1954 to provide for the establishment of reserves for mining land reclamation and for the deduction of amounts added to such reserves.

S. 292

At the request of Mr. DANFORTH, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 292, a bill to increase the funding authorization for low income home energy assistance.

S. 511

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 511, a bill to amend chapter 44 of title 18 of the United States Code to control handgun crime.

S. 532

At the request of Mr. DOMENICI, the names of the Senator from Illinois (Mr. DIXON) and the Senator from Massachusetts (Mr. TSONGAS) were added as cosponsors of S. 532, a bill to provide public works and infrastructure investment financing.

S. 555

At the request of Mr. MOYNIHAN, the name of the Senator from California (Mr. WILSON) was added as a cosponsor of S. 555, a bill to stop the proliferation of "cop-killer" bullets.

S. 563

At the request of Mr. CHILES, the name of the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 563, a bill to reform the laws relating to former Presidents.

S. 588

At the request of Mr. CHILES, the name of the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 588, a bill to amend the Immigration and Nationality Act to prevent the unauthorized entry into, and the transportation to and within, the United States of illegal aliens.

S. 592

At the request of Mr. CHILES, the name of the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 592, a bill to amend the Immigration and Nationality Act to provide special authorities and procedures for the control of immigration emergencies.

S. 593

At the request of Mr. INOUYE, the name of the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 593, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to permit distribution of certain State-inspected meat and poultry products, and for other purposes.

S. 617

At the request of Mr. STENNIS, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of S. 617, a bill to promote the use of energy-conserving equipment and biofuels by the Department of Defense, and for other purposes.

S. 657

At the request of Mr. DOLE, the name of the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 657, a bill to amend the Animal Welfare Act to insure the proper treatment of laboratory animals.

S. 663

At the request of Mr. ARMSTRONG, the name of the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 663, a bill to prohibit the payment of certain agriculture incentives to persons who produce certain agricultural commodities on highly erodible land.

S. 680

At the request of Mr. SARBANES, the name of the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 680, a bill entitled the "Gladys Noon Spellman Parkway."

S. 719

At the request of Mr. THURMOND, the name of the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 719, a bill to amend subchapter II of chapter 73 of title 10, United States Code, to eliminate the social security offset against annuities provided for under such subchapter to the extent that the social security benefits of the annuitant are based on the annuitant's own employment.

S. 738

At the request of Mr. DANFORTH, the name of the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of S. 738, a bill to amend the Economic Recovery Tax Act of 1981 to make the credit for increasing research activities permanent.

S. 752

At the request of Mr. ARMSTRONG, the names of the Senator from Wyoming (Mr. SIMPSON), the Senator from Nevada (Mr. LAXALT), and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 752, a bill to authorize certain additional measures to assure accomplishment of the objectives of title II of the Colorado River Basin Salinity Control Act, and for other purposes.

S. 780

At the request of Mr. SARBANES, the names of the Senator from West Virginia (Mr. RANDOLPH), the Senator from Arkansas (Mr. BUMPERS), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 780, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to require the Administrator of the Environmental Protection Agency to maintain a facility for the biological testing of pesticides under such act.

S. 786

At the request of Mr. PRESSLER, the names of the Senator from Iowa (Mr. JEPSEN), and the Senator from New Jersey (Mr. BRADLEY) were added as cosponsors of S. 786, a bill to amend title 38, United States Code, to establish a service-connection presumption for certain diseases caused by exposure to herbicides or other environmental hazards or conditions in veterans who served in Southeast Asia during the Vietnam era.

S. 873

At the request of Mr. LUGAR, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 873, a bill to help insure the Nation's independent factual knowledge of the Soviet Union and Eastern European countries, to help maintain the national capability for advanced research and training on which that knowledge depends, and to provide partial financial support for national programs to serve both purposes.

S. 891

At the request of Mr. BUMPERS, the names of the Senator from Nebraska (Mr. EXON), the Senator from Maryland (Mr. SARBANES), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Vermont (Mr. STAFFORD), the Senator from Arkansas (Mr. PRYOR), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Maine (Mr. COHEN), and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 891, a bill to develop additional procedures for Federal land sales.

S. 911

At the request of Mr. CHILES, the name of the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 911, a bill to establish a Commission to make recommendations for changes in the role of nonparty multicandidate political action committees in the financing of campaigns of candidates for Federal office.

S. 914

At the request of Mr. McClure, the names of the Senator from Nevada (Mr. Laxalt) and the Senator from Wisconsin (Mr. Kasten) were added as cosponsors of S. 914, a bill to protect firearms owners' constitutional rights, civil liberties, and rights to privacy.

S. 966

At the request of Mr. McClure, the name of the Senator from Wyoming (Mr. Simpson) was added as a cosponsor of S. 966, a bill to amend the act of October 20, 1976 (90 Stat. 2662), as amended.

S. 986

At the request of Mr. Pressler, the name of the Senator from Michigan (Mr. Levin) was added as a cosponsor of S. 986, a bill to repeal employer reporting requirements with respect to tips.

S. 1045

At the request of Mr. Boschwitz, the name of the Senator from Michigan (Mr. Levin) was added as a cosponsor of S. 1045, a bill to assure the production of an adequate supply of pure and wholesome milk to meet the needs of markets in the United States, to assure a reasonable level of return to dairy farmers and stable prices for dairy products for consumers, to stabilize a temporary imbalance in the supply and demand for dairy products, to enable milk producers to establish, finance, and carry out a coordinated program of dairy product promotion to improve, maintain, and develop markets for dairy products, and for other purposes.

S. 1090

At the request of Mr. Wallop, the names of the Senator from Wyoming (Mr. Simpson), the Senator from South Carolina (Mr. Hollings), and the Senator from Vermont (Mr. Leahy) were added as cosponsors of S. 1090, a bill to establish a National Outdoor Recreation Resources Review Commission to study and recommend appropriate policies and activities for Government agencies at the Federal, State, and local levels and for the private sector, to assure the continued availability of quality outdoor recreation experiences in America to the year 2000, and for other purposes.

S. 1128

At the request of Mr. Leahy, the names of the Senator from Massachusetts (Mr. Kennedy), the Senator from Maryland (Mr. Sarbanes), and the Senator from New York (Mr. Moynihan) were added as cosponsors of S. 1128, a bill entitled the "Agricultural Productivity Act of 1983."

SENATE JOINT RESOLUTION 42

At the request of Mr. Murkowski, the names of the Senator from New Jersey (Mr. Bradley), the Senator from Connecticut (Mr. Dodd), the Senator from Hawaii (Mr. Inouye), the Senator from West Virginia (Mr. Randolph), the Senator from Louisiana (Mr. Long), and the Senator from Ohio (Mr. Metzenbaum) were added as cosponsors of Senate Joint Resolution 42, a joint resolution designating Alaska Statehood Day, January 3, 1984.

SENATE JOINT RESOLUTION 66

At the request of Mr. Inouye, the name of the Senator from Mississippi (Mr. Stennis) was added as a cosponsor of Senate Joint Resolution 66, a joint resolution to authorize and request the President to designate May 6, 1983, as "National Nurse Recognition Day."

SENATE JOINT RESOLUTION 68

At the request of Mr. Specter, the names of the Senator from North Carolina (Mr. Helms) and the Senator from Virginia (Mr. Trible) were added as cosponsors of Senate Joint Resolution 68, a joint resolution to authorize and request the President to designate July 16, 1983, as "National Atomic Veterans' Day."

SENATE JOINT RESOLUTION 88

At the request of Mr. Denton, the name of the Senator from Minnesota (Mr. Durenberger) was added as a cosponsor of Senate Joint Resolution 88, a joint resolution to authorize and request the President to proclaim 1984 as the "National Year of Voluntarism."

SENATE CONCURRENT RESOLUTION 24

At the request of Mrs. Hawkins, the names of the Senator from Georgia (Mr. Mattingly), the Senator from Mississippi (Mr. Stennis), the Senator from Hawaii (Mr. Matsunaga), the Senator from Indiana (Mr. Lugar), the Senator from Michigan (Mr. Levin), the Senator from New York (Mr. Moynihan), the Senator from Arkansas (Mr. Pryor), the Senator from North Carolina (Mr. Helms), the Senator from New Mexico (Mr. Domenici), the Senator from South Carolina (Mr. Hollings), the Senator from Texas (Mr. Bentsen), the Senator from Oklahoma (Mr. Boren), the Senator from Arizona (Mr. DeConcini), the Senator from Montana (Mr. Melcher), the Senator from Ohio (Mr. Glenn), the Senator from Alabama (Mr. Heflin), the Senator from Arkansas (Mr. Bumpers), and the Senator from North Dakota (Mr. Andrews) were added as cosponsors of Senate Concurrent Resolution 24, a concurrent resolution expressing the sense of the Congress that the people of the United States should observe the month of May 1983 as Older Americans Month.

SENATE RESOLUTION 52

At the request of Mr. Chafee, the name of the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of Senate Resolution 52, a resolution expressing the Senate's opposition to an imposition of a fee on domestic and imported crude oil and refined products.

SENATE RESOLUTION 100

At the request of Mr. Wallop, the name of the Senator from Georgia (Mr. Mattingly) was added as a cosponsor of Senate Resolution 100, a resolution relating to the building of weapons for deployment in space.

SENATE RESOLUTION 116

At the request of Mr. Percy, the names of the Senator from South Dakota (Mr. Abdnor), the Senator from Vermont (Mr. Leahy), the Senator from Illinois (Mr. Dixon), the Senator from Texas (Mr. Bentsen), the Senator from North Dakota (Mr. Andrews), the Senator from New Mexico (Mr. Bingaman), the Senator from Rhode Island (Mr. Pell), the Senator from Kentucky (Mr. Ford), the Senator from South Carolina (Mr. Hollings), the Senator from Mississippi (Mr. Stennis), the Senator from Hawaii (Mr. Inouye), the Senator from Arkansas (Mr. Pryor), the Senator from Maine (Mr. Cohen), the Senator from Georgia (Mr. Nunn), the Senator from Indiana (Mr. Quayle), the Senator from Mississippi (Mr. Cochran), the Senator from Pennsylvania (Mr. Heinz), the Senator from New Jersey (Mr. Bradley), the Senator from Minnesota (Mr. Boschwitz), and the Senator from Massachusetts (Mr. Kennedy) were added as cosponsors of Senate Resolution 116, a resolution deploring the bombing of the U.S. Embassy in Beirut, Lebanon, and expressing the sorrow and condolences of the Senate on the death and wounding of Americans caught in the bombing, and for other purposes.

SENATE RESOLUTION 119

At the request of Mr. Johnston, his name was added as a cosponsor of Senate Resolution 119, a resolution expressing the sense of the Senate that the United States should proceed with the sale and delivery of F-16 aircraft to Israel.

SENATE CONCURRENT RESOLUTION 28—SUPPORTING THE ESTABLISHMENT OF A NATIONAL HISTORICAL INTELLIGENCE MUSEUM

Mr. GOLDWATER (for himself, Mr. Moynihan, Mr. Garn, Mr. Chafee, Mr. Lugar, Mr. Wallop, Mr. Durenberger, Mr. Roth, Mr. Cohen, Mr. Huddleston, Mr. Biden, Mr. Inouye, Mr. Jackson, Mr. Leahy, and Mr. Bentsen) submitted the following concurrent resolution, which was referred to the Select Committee on Intelligence:

S. Con. Res. 28

Resolved by the Senate (the House of Representatives concurring), That the Congress supports the establishment of a National Historical Intelligence Museum and, in furtherance of such support, recognizes the following:

(1) That intelligence has played a crucial role in the history of the United States;

(2) That intelligence activities were employed by George Washington at the outset of the American Revolution;

(3) That it is important the citizens of the United States understand the role of intelligence in not only military achievement in wartime, but also in maintaining stability in peacetime;

(4) That the sacrifices and contributions to intelligence by thousands of men and women should be commemorated; and

(5) That the understanding of the importance which intelligence activities have played in the history of the United States and the acknowledgement of the people who have contributed to such activities can best be achieved by the collection, preservation, and exhibition of intelligence objects of historical significance.

● **Mr. GOLDWATER.** Mr. President, I am pleased to submit a Senate concurrent resolution. The purpose of this resolution is to support the establishment of a National Historical Intelligence Museum.

I am happy to say that this resolution already has the support of all the members of the Senate Select Committee on Intelligence, to include our distinguished vice chairman, the senior Senator from New York, DANIEL PATRICK MOYNIHAN.

THE ROLE OF INTELLIGENCE IN HISTORY

Mr. President, intelligence has long played an important role in the history of nations. In fact, many people have referred to intelligence activities as the world's "second oldest profession." Four centuries before the birth of Christ, Sun Su, a Chinese military theorist, counseled that:

> The reason the enlightened prince or the wise general conquers the enemy whenever they move, and their achievements surpass those of ordinary men, is foreknowledge. * * * What is called "foreknowledge" cannot be elicited from spirits, nor from the gods, nor by analogy with past events, nor from calculations. It must be obtained from men who know the enemy situation."

This observation contains the essence of what modern civilization refers to as "intelligence." As defined by the Commission on the Organization of the Executive Branch, chaired by former President Herbert C. Hoover, "Intelligence deals with all the things which should be known in advance of initiating a course of action."

Intelligence activities were a developed art among the ancients. Practice, experience, and technology contributed to the sophistication of this pursuit. Today, it may be assumed that every nation, regardless of their form of government or guiding political philosophy, engages in some type of intelligence activity. At the very least, the intelligence function contributes to the preservation and security of the state. Without it, the state, the military forces and other departments or agencies of government cannot function wisely.

In a book titled "3,000 Years of Espionage" by Kurt Singer, there is a chapter which relates to the 12 spies of Moses. In part, this chapter states:

> "One of the most stirring of spy stories in history is drawn from the Old Testament, which contains at least nine spy cases. We refer to the story of Moses and the twelve spies he dispatched into the Promised Land of Canaan around 1480 B.C. Moses selected one man from every tribe of the Children of Israel, which made a band of twelve who were ordered to do reconnaissance work in Canaan. They were led by Osee Ben Nun, who is also known by the name of Joshua. Their mission occupied forty days. When they returned, they reported what they had seen in the "land of milk and honey."

THE HISTORY OF AMERICAN INTELLIGENCE

Just as intelligence played a crucial role in the history of nations since ancient times, it has also been a vital force in the history of the United States. Gen. George Washington relied very heavily on good intelligence in fighting our Revolutionary War, and intelligence has played an important role in every war which we have fought, including the Civil War. To the extent these wars were fought to keep us free, intelligence has played a vital role in our freedom.

Mr. President, I mentioned that intelligence has long played a significant role in the history of the United States. I am sure my colleagues will recall that Nathan Hale, who was one of the first great heroes of the Revolutionary War, was hung by the British as a spy. His famous last words—"I only regret that I have but one life to lose for my country"—have been an inspiration to Americans ever since, and have earned him a permanent place in our Nation's history.

Hale's untimely death in 1776 led General Washington to organize a more professional secret intelligence bureau. He chose as its chief Maj. Benjamin Tallmadge, who had been a classmate of Hale's at Yale. Washington's financial accountings show that he spent about $17,000 on secret intelligence during the years of the Revolutionary War, a good deal of money in those days.

When Benjamin Franklin was dispatched to Paris as this fledgling Nation's Ambassador to France, espionage played a major role in his success as an envoy. In fact, one of the first great counterintelligence cases involved Benjamin Franklin's private secretary who, at the time, was passing secret messages on Franklin's activities to the British by means of a bottle hidden in the hollow root of a tree in the Tuileries Gardens in Paris. Historians today still debate whether Franklin was fully aware of the complicity of his private secretary, whose name was Dr. Edward Bancroft.

During the Civil War, President Lincoln relied heavily on secret agents located in the South who reported on a variety of topics relating to the strength, organization, and disposition of Confederate forces. Among the more famous private detectives in this period was Allan Pinkerton, who served as an intelligence organizer and coordinator from April 1861, until the fall of the following year. Pinkerton's field operations were conducted in the service of Gen. George B. McClellan during his command of the Ohio forces in the Army of the Potomac. They played an important role in the success of the Union forces. Ironically, Pinkerton's ability as an intelligence analyst, as opposed to a collector of intelligence, led to one of our first "intelligence failures" which contributed to his downfall as head of the Washington Spy Corps in 1862.

I am sure my colleagues are more familiar with some of the successes of American intelligence during the First and Second World Wars. By this time, the ability of American intelligence to read foreign codes played a major role in determining what German and Japanese forces planned to do in these conflicts. This information resulted in saving hundreds of thousands of American lives. Of course, with the establishment of the Central Intelligence Agency in 1947, American intelligence moved into its modern phase.

Mr. President, my purpose in reviewing these facts is to give my colleagues a feel for the long and distinguished history of American intelligence. As well, these facts should give my colleagues a picture of the sort of historical events that the National Historical Intelligence Museum could display for the American people.

NATIONAL HISTORICAL INTELLIGENCE MUSEUM ASSOCIATION

Mr. President, the National Historical Intelligence Museum is a project of the National Historical Intelligence Museum Association. This is a nonprofit organization which was established in close cooperation with the Donovan Memorial Foundation, which itself is organized as a public foundation to honor the name and memory of General Donovan.

General Donovan was an unusually brave and courageous man who holds the unique honor of having been awarded the Medal of Honor, Distinguished Service Cross, and the Distinguished Service Medal for his activities as a soldier during World War I and as head of the Office of Strategic Services during World War II. The foundation was established in his name and awards medals to outstanding men and women of the free world in recognition of their service to their countries and to the cause of freedom.

The directors of the Donovan Memorial Foundation wish to establish the National Historical Intelligence Museum in order to provide a visual presentation of the history of American intelligence. The Museum would contain a variety of artifacts, which would give the American people a better feeling for the role, the nature and the importance of intelligence to our Nation's history. Obviously, none of these artifacts or displays would reveal current sensitive sources or methods of the intelligence business. The purpose is to show an historical perspective.

I believe that this museum could be an interesting place for the public to visit. It should give them a better understanding of what intelligence is all about and why it is needed. There are all kinds of interesting things that could go in it without ever compromising sources and methods of today's intelligence activities. After all, the use of intelligence goes back thousands of years prior to the birth of Christ.

THE FUNDING OF THE MUSEUM

Mr. President, I think it is important for my colleagues to understand that this resolution does not provide any funds for this museum. What we are trying to do here is to provide some congressional support for the establishment of the museum. We want to encourage private donors to assist in its construction and its displays. In other words, passage of this resolution will not cost the U.S. Government any money.

In closing, Mr. President, I ask unanimous consent that a list of officers and Board of the National Historical Intelligence Museum be printed in the Record following my statement.

Finally, I urge my colleagues to cosponsor and support this resolution.

There being no objection, the list was ordered to be printed in the Record, as follows:

NATIONAL HISTORICAL INTELLIGENCE MUSEUM

OFFICERS

Martin G. Cramer, President.

J. Milnor Roberts, Maj. Gen. AUS (Ret.), Vice President.

Charles T. Lloyd, Secretary.

Walter E. Beach, Treasurer.

INITIAL ADVISORY BOARD

Richard K. Betts, Hon. William E. Colby, James Lawton Collins, Jr., Brig. Gen. USA (Ret.), Hon. Michael Collins, Frank L. Dennis, Richard Dunlop, Lawrence Houston, and David Kahn.

Lyman B. Kirkpatrick, Maurice Matloff, Hon. John F. Maury, Kenneth Y. Millian, W. T. Packard, Capt. USN (Ret.), Joseph E. Persico, William W. Quinn, Lt. Gen. USA (Ret.), Eugene F. Tighe, Jr., Lt. Gen. USAF (Ret.), Russell F. Weigley.

BOARD

Roger S. Abbott, Walter E. Beach, Martin G. Cramer, Jules Davids, Nancy Fogarty, Cynthia Grabo, Samuel Halpern, Charles T. Lloyd, Lawrence McWilliams, Roger Pineau, Capt. USNR (Ret.), J. Milnor Roberts, Maj. Gen. AUS (Ret.), Arden Ruttenberg, Thaxter Swan, Edward O. Welles.●

SENATE RESOLUTION 122—RELATING TO APPAREL IMPORTS

Mr. MOYNIHAN submitted the following resolution, which was referred to the Committee on Finance:

S. Res. 122

Whereas the textile and apparel industries, America's largest factory employers, face extinction from ever-increasing imports which have already eliminated hundreds of thousands of jobs; and

Whereas, during the last 25 years, 660,000 job opportunities have been lost in the apparel industry alone because of greater and greater levels of import penetration; and

Whereas the present 950,000 jobs in apparel are in serious jeopardy as apparel imports continue to increase; and

Whereas because of the continuing flood of imports, unemployment in the apparel industry is far above the national average so that in 1982 when the national average was 9.7%, unemployment in this industry was 15.4%, and five years ago, when the national average was 6.1%, unemployment in apparel was 9.3%; and

Whereas the destruction of jobs in the textile and apparel industries is a national tragedy with widespread consequences because—

(1) there are more production workers employed in this sector of the economy than the combined total of workers employed in basic steel, auto assembly and chemical industries;

(2) the overwhelming number of workers employed in this sector are women and minorities with few other skills and limited opportunities for alternative employment;

(3) other industries which might have offered alternate employment such as electronics, steel and auto have also been severely damaged by imports; and

(4) a rise in unemployment in this sector of the economy is quickly reflected by swollen welfare and relief rolls and other costly social ills; and

Whereas apparel imports continue to increase in large part because of the low wages paid in countries such as Hong Kong ($1.18 per hour), South Korea (63¢ per hour), and Mainland China (16¢ per hour); and

Whereas past policies, such as cutting taxes or increasing transfer payments, designed to stimulate the economy by increasing consumer demand won't work in the apparel industry because they will result in purchases of more imports and will provide no benefit to the domestic market; and

Whereas the multifiber agreements entered into by the United States in the past have not resulted in a live-and-let-live policy for the apparel industry, but have resulted in a much faster rate growth of imports than of domestic production, so that in 1982, a recession year, as the American market for apparel grew at a slow 1.8 percent, imports expanded by 5.5 percent while domestic production fell by 10.2 percent: Now therefore, be it

Resolved, That it is the sense of the Senate that the President should roll back the percentage of the American apparel market now occupied by imports to 25 percent of consumption in order to stem the flood of imports, provide 315,000 American workers with jobs, and prevent annihilation of America's apparel industry.

● Mr. MOYNIHAN. Mr. President, I today am submitting a resolution requesting the administration to roll back the percentage of the American apparel market occupied by imports from its current level of approximately 41 percent to a more realistic 25 percent.

Perhaps no other industry in America is as sensitive to import penetration as apparel. Let me relate a bit of personal history. In 1962, I was part of the U.S. delegation that negotiated the Long Term Cotton Textile Agreement. I was then, and still am, a believer in the efficacy of open world trade. As a result, I had not much sympathy for those pressing us to negotiate strict limits on imports. Yet my eyes were opened at that conference to the fact that the U.S. apparel industry was being destroyed—yes, destroyed—by imports. Some sort of reasonable import limits were necessary in order to save a vital manufacturing industry.

The import quota agreements we have entered into have not been entirely effective. Our apparel import deficit topped $7 billion in 1982. Unemployment in the industry was 15.4 percent in 1982, 60 percent higher than the national unemployment rate. In addition, apparel workers, many of whom are relatively unskilled, have a more difficult time transferring their skills to other industries. A dire situation exists in the industry. And it demands our attention.

We must provide the 950,000 apparel workers in this country with a measure of protection. The import targets set by this resolution will do so without closing the doors to our trading partners. I hope my colleagues will find this legislation worthy of support.●

SENATE RESOLUTION 123—RELATING TO DEPARTMENT OF THE INTERIOR COAL LEASING ACTIVITIES

Mr. DIXON submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. Res. 123

(Providing for an investigation and report by a standing or select Senate Committee regarding Department of the Interior coal leasing activities)

Whereas, the Department of the Interior has already awarded 616 leases, with coal being produced from only 111 leases;

Whereas, the small proportion of leases on which coal is actually being produced indicates that many leases are being held for investment purposes, and that the Federal Government is not sharing in the profits from sales and transfers of leases between private parties;

Whereas, large-scale coal leasing activities by the Department of the Interior can act to depress coal prices, and can operate to make coal mined on private lands uncompetitive;

Whereas, large-scale leasing can temporarily reduce the fair market value of federal leases, and allow bidders to acquire coal at "bargain basement" prices;

Whereas, there have been substantial allegations that the Department of the Interior has mismanaged its coal leasing program;

Whereas, in spite of poor economic conditions, a very soft coal market, the lack of bidding competition, and the inadvertent publication of the Department's minimum bid requirements, the Department persisted in holding the largest coal lease sale in history, the Powder River Basin sale;

Whereas, the April, 1982 Powder River Basin sale also highlights the possible mismanagement of the coal leasing program in that the Federal Government received at least $60 million less than the fair market value of the lease;

Whereas, the Department of the Interior plans to continue a large-scale coal leasing program, and plans in the near future for three regional coal lease sales, with coal offerings exceeding 6 billion tons;

Whereas, a thorough and independent investigation by the Senate of the United States is necessary to determine the facts as to whether the coal leasing program has been mismanaged, whether the Department of the Interior has awarded an excessive number of leases, whether the Federal Government is receiving fair market value for the leases, whether proper appraisals of the value of leases are being made and prudently utilized, whether current bidding procedures work to ensure that sufficient competition exists to ensure that leases are sold only for at least fair market value, whether large-scale leasing activities can serve to depress the coal market generally with adverse impact on all or part of the nation's coal industry, and whether legislation or other remedies are necessary to solve any problems uncovered: Now, therefore, be it

***Resolved*, That (a)(1) it is the purpose of this resolution to provide for the conduct by a standing or select committee of the Senate of an investigation of the coal leasing program of the Department of the Interior to determine whether any mismanagement or any other problems have occurred, and if mismanagement or other problems are found, what new Congressional legislation or administrative action is necessary to resolve them.**

(2) The standing or select committee conducting the investigation provided for in paragraph (1) shall submit to the Senate not later than March 31, 1984 a report on its findings arising out of such investigation along with any recommendations for new Congressional legislation or administrative or other action that it considers necessary and proper in light of such findings.

(b) Within fifteen days after this resolution is agreed to, the majority and minority leaders of the Senate shall either (1) jointly designate a standing committee of the Senate to conduct the investigation provided for in subsection (a), or (2) recommend to the President of the Senate members to be appointed to the select committee authorized under section 2. If the majority and minority leaders designate a standing committee of the Senate to conduct such investigation, it shall be the duty of such standing committee to conduct such investigation; and if such leaders recommend to the President of the Senate members to be appointed to the select committee authorized under section 2, it shall be the duty of such select committee when appointed to conduct such investigation.

(c) Until funds are specifically made available by the Senate for the conduct of the investigation provided for in subsection (a), the standing or select committee conducting such investigation shall be authorized to make such expenditures out of the contingent fund of the Senate, upon vouchers approved by the chairman of such committee, as it considers necessary to the proper conduct of its responsibilities under this resolution.

SEC. 2. (a)(1) That, in the event that the majority and minority leaders of the Senate determine that the investigation provided for in the first section of this resolution should be conducted by a select committee of the Senate established for the purpose of conducting such investigations, there is hereby established a select committee.

(2) The select committee established by this resolution shall consist of nine Members of the Senate, five of whom shall be appointed by the President of the Senate from the majority Members of the Senate upon the recommendation of the majority leader of the Senate, and four of whom shall be appointed by the President of the Senate from the minority members of the Senate upon the recommendation of the minority leader of the Senate. For the purposes of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member, chairman, or vice chairman of the select committee shall not be taken into account. Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee and shall be filled in the same manner as original appointment to it are made.

(3) Members of the Senate who are members of the majority party of the Senate shall elect a chairman for the select committee, and the Members of the Senate who are members of the minority party of the Senate shall elect a vice chairman for such committee. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. Neither the chairman nor the vice chairman of the select committee shall serve at the same time as chairman or ranking minority member of any other committee referred to in paragraph (4)(e)(1) of rule XXV of the Standing Rules of the Senate.

(4) A majority of the members of the select committee shall constitute a quorum for the transaction of business, but the select committee may fix a lesser number as a quorum for the purpose of taking testimony or depositions.

(b) The select committee is authorized and directed to do everything necessary or appropriate for the purpose of conducting the investigation provided for in the first section of this resolution. For such purpose, the select committee is authorized in its discretion (1) to make investigations into any matter within its jurisdiction; (2) to make expenditures from the contingent fund of the Senate as provided for in this section; (3) to employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as it deems necessary or appropriate; (4) to sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate; (5) to hold hearings for taking testimony on oath or to receive documentary or physical evidence relating to the matters and questions which it is authorized to investigate; (6) to require by subpena or otherwise the attendance as witnesses of any persons who the select committee believes have knowledge or information concerning any of the matters or questions which it is authorized to investigate; (7) to require by subpena or otherwise the production for its consideration or for use as evidence in its investigation any books, checks, canceled checks, correspondence, communications, documents, papers, physical evidence, records, recordings, tapes, or materials relating to any of the matters or questions which it is authorized to investigate; (8) to make to the Senate any recommendations it deems appropriate in respect to the willful failure or refusal of any person to appear before it in obedience to a subpena or order, or in respect to the willful failure or refusal of any person to answer questions or give testimony in such person's character as a witness during such person's appearance before it, or in respect to the willful failure or refusal of any officer or employee or former officer or employee of the executive branch of the United States Government or any person, firm, or corporation, or any officer or employee or former officer or employee of any such person or entity, to produce before the committee any books, checks, canceled checks, correspondence, communications, documents, papers, physical evidence, records, recordings, tapes, or materials in obedience to any subpena or order; (9) to take depositions and other testimony on oath anywhere within the United States or in any other country; (10) to procure the temporary or intermittent services of individual consultant or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946; (11) to use on a reimbursable basis, with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, the services of personnel of any such department or agency; (12) to use on a reimbursable basis or otherwise with the prior consent of the chairman of any other Senate committee or the chairman of any subcommittee of any committee of the Senate the facilities or services of any members of the staffs of such other Senate committee or subcommittee whenever the select committee or its chairman deems that such action is necessary or appropriate to enable the select committee to conduct the investigation provided for in the first section of this resolution; and (13) to have access through the agency of any members of the select committee, chief majority counsel, chief minority counsel, or any of its investigatory assistants jointly designated by the chairman and the ranking minority member to any data, evidence, information, reports, analysis, documents, or papers relating to any of the matters of questions which it is authorized to investigate in the custody or under the control of any department, agency, officer, or employee of the executive branch of the United States Government having power under the laws of the United States to investigate alleged criminal activities or to prosecute persons charged with crimes against the United States which will aid the select committee to prepare for or conduct the investigation provided for in the first section of this resolution.

(c)(1) Subpenas may be issued by the select committee acting through the chairman or any other member designated by such chairman, and may be served by any person designated by such chairman or other member anywhere within the borders of the United States. The chairman of the select committee, or any other member thereof, is hereby authorized to administer oaths to any withesses appearing before the committee.

(2) In preparing for or conducting the investigation provided for in the first section of this resolution, the select committee shall be empowered to exercise the powers con-

ferred upon committees of the Senate by section 6002 of title 18 of the United States Code or any other Act of Congress regulating the granting of immunity to witnesses.

(d) The select committee shall submit to the Senate not later than March 31, 1984, the final report described in subsection (a)(2) of the first section of this resolution. After submission of its final report, the select committee shall have three calendar months to close its affairs, and on the expiration of such three calendar months shall cease to exist.

(e) The expenses of the select committee shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee. The provisions of rules XXVI and XXVII of the Standing Rules of the Senate shall apply to the operation of the select committee except to the extent inconsistent with the provisions of this resolution.

(The remarks by Mr. DIXON concerning this legislation appear under statements on introduced bills, bill S. 1142.)

AMENDMENTS SUBMITTED

IMMIGRATION REFORM AND CONTROL ACT OF 1983

McCLURE AMENDMENT NO. 1199

Mr. McCLURE submitted an amendment intended to be proposed by him to the bill (S. 529) to revise and reform the Immigration and Nationality Act, and for other purposes, as follows:

At the appropriate place in the bill insert the following:

Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357) is amended by adding at the end thereof the following:

"(d) Notwithstanding any other provision of this section, other than paragraph (3) subsection (a), an officer or employee of the Service may not enter onto the premises of a farm or other agricultural operation without a properly executed warrant.".

BANKRUPTCY COURT AND FEDERAL JUDGESHIP ACT OF 1983

GORTON AMENDMENT NO. 1200

Mr. GORTON submitted an amendment intended to proposed by him to the bill (S. 1013) to amend title 28 of the United States Code regarding jurisdiction in bankruptcy proceedings, and to establish new Federal judicial positions, as follows:

At page 15, line 8, strike "five" and insert in lieu thereof, "two".

At page 15, line 17, after "section" insert "and title V of this Act".

At page 15, in the text of the table, strike the item relating to the ninth circuit and insert in lieu thereof the following new item:

"Ninth.. 18".

At page 15, in the text of the table, following the item relating to the eleventh circuit add the following new item:

"Twelfth.. 7".

At the end of the bill add the following new title:

TITLE V

SEC. 501. Section 41 of title 28, United States Code is amended—

(1) in the text before the table, by striking out "twelve" and inserting in lieu thereof "thirteen";

(2) in the table, by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

"Ninth................................ Arizona, California, Nevada, Guam, Hawaii."

and

(3) at the end of the table, by adding the following new item:

"Twelfth................................ Alaska, Idaho, Montana, Oregon, Washington."

SEC. 502. The table in section 48 of title 28, United States Code, is amended—

(1) by striking out the time relating to the ninth circuit and inserting in lieu thereof the following new item:

"Ninth................................ San Francisco, Los Angeles.";

and

(2) by adding at the end thereof the following new item:

"Twelfth................................ Portland, Seattle.".

SEC. 503. Each circuit judge in regular service of the former ninth circuit whose official station on the day before the effective date of this title—

(1) is in Arizona, California, Nevada, Guam, or Hawaii is assigned as a circuit judge of the new ninth circuit; and

(2) is in Alaska, Idaho, Montana, Oregon, or Washington is assigned as a circuit judge of the twelfth circuit.

SEC. 504. Each judge who is a senior judge of the former ninth circuit on the day before the effective date of this title may elect to be assigned to the new ninth circuit or to the twelfth circuit and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 505. The seniority of each judge—

(1) who is assigned under section 503 of this Act; or

(2) who elects to be assigned under section 504 of this Act;

shall run from the date of commission of such judge as a judge of the former ninth circuit.

SEC. 506. The provisions of the following paragraphs of this section apply to any case in which, on the day before the effective date of this Act, an appeal or other proceeding has been filed with the former ninth circuit:

(1) If the matter has been submitted for decision, further proceedings in respect of the matter shall he had in the same manner and with the same effect as if this Act had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which it would have gone had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) A petition for rehearing or a petition for rehearing en banc in a matter decided before the effective date of title V this Act, or submitted before the effective date of title V this Act and decided on or after the effective date as provided in paragraph (1) of this section, shall be treated in the same manner and with the same effect as though this Act had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as though this Act had not been enacted.

SEC. 507. As used in sections 503, 504, 505, and 506 of this Act, the term—

(1) "former ninth circuit" means the ninth judicial circuit of the United States as in existence on the day before the effective date of this title;

(2) the term "new ninth circuit" means the ninth judical circuit of the United States established by the amendment made by section 501(2) of this Act; and

(3) the term "twelfth circuit" means the twelfth judicial circuit of the United States established by the amendment made by section 501(3) of this Act.

SEC. 508. The court of appeals for the ninth circuit as constituted on the day before the effective date of this title may take such administrative action as may be required to carry out this title. Such court shall cease to exist for administrative purposes on July 1, 1985.

SEC. 509. The amendments made by this title shall take effect on October 1, 1983.

NOTICES OF HEARINGS

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. COHEN. Mr. President, I wish to announce that the Senate Oversight of Government Management Subcommittee will hold a hearing on S. 1001, reauthorization of the Office of Federal Procurement Policy, on Wednesday, April 27, at 9:30 a.m., in room 485 of the Russell Senate Office Building.

The subcommittee's hearing will focus on the extension of the Office of Federal Procurement Policy for 5 years, until September 30, 1988, and will consider other proposals to amend the OFPP Act.

SUBCOMMITTEE ON THE FAMILY FARM

Mr. WEICKER. Mr. President, I would like to announce that the morning session of the Senate Small Business Committee's Subcommittee on the Family Farm on critical issues facing family farmowners, scheduled for 9:30 a.m. on April 27, 1983, has been postponed until further notice. The afternoon session will be held in room 428A SR as previously scheduled and will begin at 2 p.m., with Senator PRESSLER chairing. For further information, please contact John McNamara of the committee staff at 224-2809.

AUTHORITY FOR COMMITTEES TO MEET

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, April 27, at 10 a.m., to hold an oversight hearing of the Hotel Employees & Restaurant Employees International Union.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, April 28, at 10 a.m., to hold an oversight hearing of the Hotel Employees & Restaurant Employees International Union.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, May 3, at 10 a.m., to hold a hearing on examinations of allegations of fraud and misapplication of Government funds in the shipbuilding industry.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, May 4, at 10 a.m., to hold a hearing on examinations of allegations of fraud and misapplication of Government funds in the shipbuilding industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FAMILY FARM

Mr. BAKER. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Family Farm of the Committee on Small Business by authorized to meet during the session of the Senate on Wednesday, April 27, at 2 p.m., to hold a hearing on critical issues facing family farmowners.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SOVIET EXPANSION IN CENTRAL AMERICA AND THE CARIBBEAN BASIN

● Mr. HELMS. Mr. President, I am deeply concerned about the systematic and intensifying Soviet expansionism in our hemisphere. The current offensive by Soviet-backed Marxist-Lenninist guerrilla groups in Central America in El Salvador, Honduras, Guatemala, and Costa Rica poses a direct threat to our national security interests. The fact that Cuba, Nicaragua, and Grenada are Soviet bases directly threatening our national security interests cannot be denied.

Mr. President, increasing Soviet expansionism in Central America and in the Caribbean Basin threatens not only our sister republics in this hemisphere. Soviet expansionism in the Caribbean Basin threatens our capabilities to assist our NATO allies in times of crisis in the European theater.

Senators do not need to be reminded that well over half of the logistical supplies that we would provide to our NATO allies must be shipped out of our ports in the Gulf of Mexico and transit the Caribbean region on the way to Europe. All of the petroleum products which we would supply to our NATO allies must transit the Gulf of Mexico and the Caribbean Basin.

Should the airlines of communication and the surface and subsurface sea lines of communication in the Caribbean Basin be denied to our aircraft and ships in time of crisis by the Soviet bloc and its surrogates, the fate of Europe would certainly be in doubt. I should not have to remind my colleagues today about the massive German Nazi U-boat threat to our shipping in the Caribbean and off our Atlantic coast during World War II. Who will seriously argue that the Soviets and their allies would not engage in the same type of strategy should they choose to unleash war on Europe at some future date?

Mr. President, the Caracas Declaration of Solidarity of 1954 specifically condemns, and I quote, "The activities of the international Communist movement as constituting intervention in American affairs." The declaration further declares, and I quote:

> That the domination or control of the political institutions of any American State by the international Communist movement extending to this hemisphere the political system of an extra continental power, would constitute a threat to the sovereignty and political independence of the American States, endangering the peace of America, and would call for a meeting of consultation to consider the adoption of appropriate action in accordance to existing treaties.

Mr. President, I ask that the Caracas Declaration of Solidarity of 1954 be printed at the conclusion of my remarks as exhibit 1.

Mr. President, Soviet expansionism in this hemisphere directly, and through its allies and surrogates, is specifically rejected in the Declaration of San José of 1960. Point No. 2 of this document adopted by the Seventh Meeting of Consultation of Ministers of Foreign Affairs, rejects:

> The attempt of the Sino-Soviet powers to make use of the political, economic, or social situation of any American State, inasmuch as that attempt is capable of destroying hemispheric unity and endangering the peace and security of the hemisphere.

To this Senator, that language is as clear as can be and realistically foresaw the attempts at expansion that international communism would make in our hemisphere.

Mr. President, I ask that the Declaration of San José of 1960 be printed at the end of my remarks as exhibit 2.

Mr. President, the distinguished Senator from Idaho (Mr. SYMMS) testified on March 22 of this year before the Foreign Relations Committee and very ably pointed out the increasing dangers from Soviet expansion in our hemisphere.

The distinguished Senator from Idaho clearly described the provocative and threatening actions of the Soviet Union which not only violate the Kennedy-Khrushchev agreement of 1962 but also the Cuba resolution, Public Law 87-733 of 1962.

Mr. President, I ask that the Cuba resolution of 1962 be printed at the conclusion of my remarks as exhibit 3.

On March 15 of this year, the distinguished Senator from Idaho sent the Secretary of State a letter demanding responses about reports that the Soviets were engaged in dangerous military activities in Cuba, including the introduction of nuclear-capable variants of the TU-95 Bear aircraft.

Mr. President, I ask that the distinguished Senator from Idaho's letter to the Secretary of State be printed at the conclusion of my remarks as exhibit 4.

On March 16 of this year, the distinguished Senator from Idaho sent a letter to the Secretary of Defense asking for answers to a more detailed list of questions relating to dangerous Soviet activities in Cuba.

Mr. President, I ask that the distinguished Senator from Idaho's letter to the Secretary of Defense be printed at the conclusion of my remarks as exhibit 5.

During his testimony before the Senate Foreign Relations Committee, the distinguished Senator from Idaho pointed out reports that Soviet SS-20 missiles and Soviet Backfire bombers may well be placed in Cuba within the next 6 to 9 months. He noted Soviet chemical and biological warfare activity in Cuba and described the threat from nuclear capable TU-95 Bear bombers which may be in Cuba which have operable bomb bays.

Mr. President, I ask that the testimony by the distinguished Senator from Idaho (Mr. SYMMS) be printed at the conclusion of my remarks as exhibit 6.

There is no question at all that Soviet expansionism is threatening Central America and the Caribbean area. Many voices are being raised today which point to the danger in our backyard or frontyard. As far as this Senator is concerned, the Americas—North, Central, and South—are like a three story apartment building. The fire is on the second floor and it will spread to the first and the third if

something is not done and done with dispatch.

Mr. President, we cannot allow Soviet expansionism to endanger the liberties and cultural heritage of this hemisphere. We cannot allow Soviet expansionism to strategically isolate our great Republic from our sister republics in the hemisphere. We cannot allow Soviet expansionism to strategically isolate this hemisphere to deny our assistance to our allies in the European theater in times of crisis.

Mr. President, we face a very grave situation in the world today. The challenges posed by the Soviet bloc, that "empire of evil" as President Reagan has so eloquently called it, must be met and we must prevail. Soviet expansion in Central America and in the Caribbean Basin is the most serious direct threat to our national security interests that we confront today. We must meet this challenge resolutely. The time to act is now.

The material follows:

[Exhibit 1]

CARACAS DECLARATION OF SOLIDARITY, 1954 [1]

WHEREAS:

The American republics at the Ninth International Conference of American States declared that international communism, by its anti-democratic nature and its interventionist tendency, is incompatible with the concept of American freedom and resolved to adopt within their respective territories the measures necessary to eradicate and prevent subversive activities;

The Fourth Meeting of Consultation of Ministers of Foreign Affairs recognized that, in addition to adequate internal measures in each state, a high degree of international cooperation is required to eradicate the danger which the subversive activities of international communism pose for the American States; and

The aggressive character of the international communist movement continues to constitute, in the context of world affairs, a special and immediate threat to the national institutions and the peace and security of the American States, and to the right of each state to develop its cultural, political, and economic life freely and naturally without intervention in its internal or external affairs by other States,

The Tenth Inter-American Conference

I

CONDEMNS:

The activities of the international communist movement as constituting intervention in American affairs;

EXPRESSES:

The determination of the American States to take the necessary measures to protect their political independence against the intervention of international communism, acting in the interests of an alien despotism;

REITERATES:

The faith of the peoples of America in the effective exercise of representative democracy as the best means to promote their social and political progress; and

DECLARES:

That the domination or control of the political institutions of any American State by the international communist movement extending to this Hemisphere the political system of an extra continental power, would constitute a threat to the sovereignty and political independence of the American States, endangering the peace of America, and would call for a meeting of consultation to consider the adoption of appropriate action in accordance with existing treaties.

II

Recommends:

That without prejudice to such other measures as they may consider desirable, special attention be given by each of the American governments to the following steps for the purpose of counteracting the subversive activities of the international communist movement within their respective jurisdictions:

1. Measures to require disclosure of the identity, activities, and sources of funds, of those who are spreading propaganda of the international communist movement or who travel in the interests of that movement, and of those who act as its agents or in its behalf; and

2. The exchange of information among governments to assist in fulfilling the purpose of the resolution adopted by the Inter-American Conference and Meetings of Ministers of Foreign Affairs regarding international communism.

III

This declaration of foreign policy made by the American republics in relation to dangers originating outside this hemisphere is designed to protect and not to impair the inalienable right of each American State freely to choose its own form of government and economic system and to live its own social and cultural life.

[Exhibit 2]

DECLARATION OF SAN JOSÉ, 1960 [1]

Text of resolution adopted at Seventh Meeting of Consultation of Ministers of Foreign Affairs, held at San José, Costa Rica, August 22-29, 1960

The Seventh Meeting of Consultation of Ministers of Foreign Affairs:

1. Condemns energetically the invervention or the threat of intervention, even when conditional, by an extracontinental power in the affairs of the American republics and declares that the acceptance of a threat of extracontinental intervention by any American state endangers American solidarity and security, and that this obliges the Organization of American States to disapprove it and reject it with equal vigor.

2. Rejects, also, the attempt of the Sino-Soviet powers to make use of the political, economic, or social situation of any American state, inasmuch as that attempt is capable of destroying hemispheric unity and endangering the peace and security of the hemisphere.

3. Reaffirms the principle of nonintervention by any American state in the internal or external affairs of the other American states, and reiterates that each state has the right to develop its cultural, political, and economic life freely and naturally, respecting the rights of the individual and the principles of universal morality, and as a consequence, no American state may intervene for the purpose of imposing upon another American state its ideologies or its political, economic, or social principles.

4. Reaffirms that the inter-American system is incompatible with any form of totalitarianism and that democracy will achieve the full scope of its objectives in the hemisphere only when all the American republics conduct themselves in accordance with the principles stated in the Declaration of Santiago, Chile, approved at the Fifth Meeting of Consultation of Ministers of Foreign Affairs, the observance of which it recommends as soon as possible.

5. Proclaims that all member states of the regional organization are under obligation to submit to the discipline of the inter-American system, voluntarily and freely agreed upon, and that the soundest guarantee of their sovereignty and their political independence stems from compliance with the provisions of the Charter of the Organization of American States.

6. Declares that all controversies between member states should be resolved by the measures for peaceful solution that are contemplated in the inter-American system.

7. Reaffirms its faith in the regional system and its confidence in the Organization of American States, created to achieve an order of peace and justice that excludes any possible aggression, to promote solidarity among its members, to strengthen their collaboration, and to defend their sovereignty, their territorial integrity, and their political independence, since it is in this Organization that its members find the best guarantee for their evolution and development.

8. Resolves that this declaration shall be known as "The Declaration of San José, Costa Rica."

STATEMENTS

Statement of Mexico

Regarding the "Declaration of San José, Costa Rica," the Delegation of Mexico wishes to make it a matter of record that, in voting in favor of the said Declaration, it has done so with the following understanding:

"The Delegation of Mexico believes that, in reaffirming that each state has the right to develop its cultural, political, and economic life freely and naturally, it has removed even the most remote possibility that that inseparable attribute of sovereignty, which is the right of self-determination, can be impugned, even theoretically.

"The Delegation of Mexico is also of the opinion that the principle of nonintervention—the irreplaceable basis of peace and understanding among states—has been strengthened very effectively.

"Finally, the Delegation of Mexico is convinced that this is a resolution of a general character for all the members states of the Organization, and that in no way is it a condemnation or a threat against Cuba whose aspirations for economic improvement and social justice have the fullest support of the Government and the people of Mexico."

Statement of Guatemala

"The Delegation of Guatemala, in voting in favor of the Declaration of San José, Costa Rica, does so in an eminently American spirit, although it is convinced that the action of the Government of the Republic of Cuba, in adopting a policy inclined toward the Soviet Union and contrary to the inter-American system, is endangering the peace and the security of America, and that the American states would have been justified in assuming a stronger attitude in order to protect the interests of the hemisphere, in compliance with the Charter, agreement, and resolutions of the Organization of American States.

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[1] Declaration of Solidarity for the Preservation of the Political Integrity of the American States Against International Communist Intervention, Adopted by the Tenth Inter-American Conference, March 28, 1954. The Tenth Inter-American Conference, meeting at Caracas, Venezuela, March 1-28, 1954, adopted 117 resolutions and 3 conventions. On the Caracas Declaration of Solidarity, 17 voted in favor, Mexico and Argentina abstaining, and Guatemala voted against; Costa Rica subsequently notified the United States of its support of the resolution.

[1] Adopted on August 28, 1960, by a vote of 19-0. The Dominican Republic did not participate in the Seventh Meeting, and Cuba withdrew before the vote was taken.

[Exhibit 3]

CUBA RESOLUTION (PUBLIC LAW 87-733)

Text of Public Law 87-733 [S. J. Res. 230], 76 Stat. 697, approved October 3, 1962

JOINT RESOLUTION EXPRESSING THE DETERMINATION OF THE UNITED STATES WITH RESPECT TO THE SITUATION IN CUBA

Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers "to extend their system to any portion of this hemisphere as dangerous to our peace and safety"; and

Whereas in the Rio Treaty of 1947 the parties agreed that "an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations"; and

Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared: "The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union"; and

Whereas the international Communist movement has increasingly extended into Cuba its political, economic, and military sphere of influence: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States is determined—

(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere;

(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination.

[Exhibit 4]

U.S. SENATE,
Washington, D.C., March 15, 1983.

Hon. GEORGE SHULTZ,
Secretary of State,
Washington, D.C.

DEAR SECRETARY SHULTZ: I have been informed by several reliable sources outside of the Administration that the Soviets are up to something extremely dangerous in Cuba. I therefore would like to ask several questions of the utmost urgency:

(1) First, have the Soviets deployed bomber variants of their TU-95 Bear aircraft to Cuba recently?

(2) Second, have other types of Soviet aircraft not previously deployed in Cuba recently been seen there?

(3) Third, are the Soviets increasing their deployment of TU-95 Bear aircraft in Cuba, and are the Soviets building revetments for as many as a squadron of Bear aircraft there?

(4) Fourth, does the U.S. have the capability to detect whether the Soviets have deployed nuclear weapons to Cuba?

(5) Fifth, why has the Administration not yet sent to Congress the complete diplomatic record of U.S.-Soviet Agreements and understandings since 1962 regarding Soviet military activity in Cuba, for which there have been repeated requests from the appropriate members?

Finally, Mr. Secretary, I would like to express my appreciation for the recent expression of support I have received from a Senior Administration official for a legislative effort to enforce the Symms Amendment in Central America. I am extremely pleased to hear that the Reagan Administration would support an effort to put some real teeth in our Cuba policy to enforce the Symms Amendment. I think you would agree that Soviet-Cuban aggression and subversion throughout Central America is extremely dangerous to U.S. national security.

Sincerely,

STEVE SYMMS.

[Exhibit 5]

COMMITTEE ON FINANCE,
Washington, D.C., March 16, 1983.

Hon. CASPAR WEINBERGER,
Secretary of Defense,
Department of Defense, Washington, D.C.

DEAR CAP: I have sent a letter about reports of recent provocative Soviet military activity in Cuba to Secretary of State Shultz (attached). Since yesterday, I have been advised that the Soviet threat from Cuba may be even more dangerous than I originally thought. Accordingly, I would like to ask you some additional questions:

(1) Are the Soviets continuing to produce the TU-95 Bear Bomber variant which carries Air-Launched Cruise Missile?

(2) Did the March 1983 Defense Department book, "Soviet Military Power" originally contain a reference to the continued production of Bears which carry Air-Launched Cruise Missiles? If so, why was this reference deleted?

(3) Have the Soviets tested either old or new Air-Launch Cruise Missiles on the Anti-Submarine version of the Bear?

(4) Are there Bears in Cuba which could carry Air-Launch Cruise Missiles? How confident can we be of our judgment on this question?

(5) Are there now as many as ten Bear Bombers of various types in Cuba? Were these Bears first detected last week? Is this the largest number of Bears ever seen in Cuba? What was the largest number of Bears seen in Cuba previously?

(6) Are some of the reported ten Bear Bombers the Anti-Submarine Warfare model? Do these Bears have operable bomb bays and bomb bay doors? Do they have a confirmed operational military capability because of their bomb bays?

(7) Are Anti-Submarine Warfare Bears capable of delivering nuclear bombs or nuclear missiles from their bomb bays? Would they be defined as "offensive weapons?"

(8) Have the Soviets deployed "offensive weapons" in Cuba? Do you agree that the Soviets are violating the 1962 Kennedy-Krushchev Agreement which ended the Cuban Missile Crisis, as President Reagan, General Jones, CIA Director Casey, and Under Secretary Ikle have stated publicly?

(9) Does the ASW Bear have Functionally Related Observable Differences from other TU-95 heavy bombers? Should the Bear ASW variant, TU-142 or TU-95F as it is variously known, therefore count in the Soviet SALT II Treaty aggregate?

I am extremely concerned with the reports that the Soviets now have more Bear bombers in Cuba than have ever been seen there before. I think that the American people should also be extremely concerned by this dangerous Soviet threat. I believe that the Soviets may be executing a plan devised last summer to establish a much higher Soviet military presence in Cuba.

Such an increased Soviet military presence in Cuba could serve two purposes. First, it could help to prevent the U.S. from increasing its military and economic aid to El Salvador, which is being beseiged by Soviet and Cuban supported Marxist revolutionaries. Secondly, last March the late Soviet President Leonid Brezhnev stated that if the U.S. deployed Pershing II and Ground Launched Cruise Missiles in NATO, the Soviet Union would create an "analogous threat" to the U.S. Soviet sources in Moscow stated that this Soviet "analogous threat" would be based in Cuba. Perhaps the reported increased deployment of Soviet Bear bombers to Cuba is part of this "analogous threat" to all Americans. Indeed, in the March 17, 1983 issue of Pravda, Soviet Propagandist Georgiy Arbatov made the following extraordinary nuclear blackmail threat:

"As far as equality of weaponry is concerned, in that case, for the sake of this equality, we would have not only to add to our missiles in Europe, but also to deploy them near American borders."

Finally, Mr. Secretary, I would like to express my appreciation for the recent expression of support I received from a senior Administration official for a legislative effort to enforce the Symms Amendment in Cuba and Central America. As you know, the Symms Amendment requires the U.S. to oppose Soviet-Cuban subversion and aggression in Central America and a Soviet military base in Cuba, by force of arms if necessary. I am extremely pleased to hear that the Reagan Administration would support an effort to put some real teeth in our Cuban policy by enforcing the Symms Amendment. I think you would agree that Soviet-Cuban aggression and subversion throughout Central America is extremely dangerous to the national security interests of the United States.

With best regards, I am

Sincerely,

STEVE SYMMS,
U.S. Senator.

[EXHIBIT 6]

SENATOR SYMMS' TESTIMONY ON EL SALVADOR AID

Mr. Chairman, I thank you for allowing me to testify before the Senate Foreign Relations Committee on the question of U.S. Aid to El Salvador. We are in a desperate crisis.

The Republican Party's 1980 platform made the following statement: "The evidence of the Soviet threat to American security has never been more stark and unambiguous . . . America is in danger without parallel since December 7, 1941."

Mr. Chairman, as we all remember, the Japanese surprise attack on Pearl Harbor occurred on December 7, 1941. Mr. Chairman, the Republican Party ran on that threat assessment in 1980, and won. The American people agreed that the danger to American security was indeed grave. But that statement was made almost 3 years ago, and the danger has grown even greater since then. If this is Pearl Harbor all over again, then we better face up to the crisis. The Salvadoran government soldiers are about to run out of ammunition, and that is why we are meeting here today.

Mr. Chairman, in 1982, President Reagan and three other top Reagan Administration national security officials declared publicly that the Soviet Union is in violation, and I repeat, in violation, of the 1962 Kennedy-Khrushchev Agreement which ended the 1962 Cuban Missile Crisis. We all recall that this was the crisis which brought the world closer to general nuclear war than ever before or since. And the Soviets are judged to be in violation of the very accord which resolved that crisis and brought the world back to peace from the brink of catastrophe. Soviet risk taking brought the world into the 1962 Cuban Missile Crisis, and Soviet risk taking has led to their violation of the accord which ended the crisis—at a time, unlike 1962, when the West is far weaker and far more vulnerable. It is reasonable to conclude that the world could be threatened again with a Soviet direct confrontation if the Soviets have reverted to the status quo ante the 1963 Kennedy-Krushchev Agreement. The Reagan Administration judgments of Soviet violation of the Kennedy-Krushchev Agreement, and the consequent threat to world peace posed by renewed Soviet provocation and risk taking, have been completely, totally ignored by the U.S. and world press. Perhaps our wishful thinking world cannot cope with such harsh truths about reality.

As an essential part of the 1962 Kennedy-Khruschev Agreement, which was contained in now public letters exchanged between the two leaders, the Soviets pledged to remove all their "offensive weapons" from Cuba. Yet despite their solemn, public pledge, over the last 14 years, the Soviets have regularly deployed to Cuba intercontinental bombers, fighter-bombers, and strategic offensive submarines, all capable of delivering nuclear weapons. Indeed, they even have built a strategic submarine base in Cuba, complete with a nuclear weapons handling facility. And I believe that the U.S. does not have the capability to detect whether or not the Soviets have deployed nuclear weapons to Cuba again. Prudence would suggest that we presume that they have deployed nuclear weapons in Cuba.

Because of these Soviet activities in defiance of a solemn accord, Reagan Adminstration officials drew the appropriate conclusions. In March, 1982, CIA Director Casey stated that the 1962 Kennedy-Khrushchev Agreement "has been violated for 20 years." Also in March 1982, then-JCS Chairman General Jones testified: "We (The JCS) interpret Soviet actions in Cuba as a violation" of the 1962 Agreement. Again in March, 1982, under Secretary of Defense Ikle testifed that the 1962 Agreement "had been eroded away to nothing" by Soviet actions, and he confirmed press reports of a possible Soviet nuclear delivery capability from Cuba. President Reagan himself stated on television in May, 1982: "You know, there's been other things we think are violations also of the 1962 Agreement."

The stated provocative actions of the Soviet Union in violation of the 1962 Kennedy-Khrushchev Agreement pose very serious implications for U.S. national security. Even more ominous developments have occurred. Last March, the late Soviet President Brezhnev declared that if the U.S. deployed new missiles in NATO to redress the existing Soviet superiority, he would create an "analogous threat" to the U.S. Soviet sources in Moscow stated that this Soviet threat would come from Cuba. Just last week a top Soviet Spokesman threatened deployment of Soviet missiles near American borders—presumably in Cuba. These are altogether unprecedented Soviet threats. They are extremely provocative. They constitute nuclear blackmail.

Even more significantly, there are reports that the Soviets have recently sent as many as 10 TU-95 Bear Intercontinental bombers to Cuba, more than have ever been present there at one time before. And at least two of these Bears are confirmed by the Chief of Naval Operations to have operable bomb bays.

There are also recent reports linking the Soviets and Cubans with Biological and Chemical warfare activities in Cuba which violate the 1975 Biological Warfare Convention and the 1925 Chemical Warfare Convention. These reports indicate Soviet complicity in these violations. The reported violations included Soviet-Cuban biological warfare and chemical warfare production, storage, and training assistance to other Third World groups, including the Nicaraguan Sandinistas, the Salvador revolutionary guerrillas, the PLO, and SWAPO in Namibia.

Mr. Chairman, I believe that these recent Soviet and Cuban threats and provocations raise the possibility, indeed the liklihood, of a U.S. Soviet confrontation as serious as the 1962 Cuban Missile Crisis. Moreover, there are reports that Reagan Administration officials are speculating in public that the Soviets will deploy SS-20 missiles and Backfire intercontinental bombers to Cuba in the next 6 to 9 months. Such deployments would be consistent with the recent Soviet threat to deploy missiles along U.S. borders, could be accomplished quickly and clandestinely, and could allow Soviet missile coverage of the entire Western Hemisphere.

Even more significantly, the recent Soviet TU-95 bomber deployment to Cuba, biological and chemical warfare activity in Cuba, and Soviet nuclear blackmail threats have come after, I repeat after, the American accusations of Soviet violation of the Kennedy-Khrushchev Agreement. This suggests a deliberate Soviet attempt to intimidate, provoke, and humiliate the U.S. Indeed, such a Soviet threat of force against America is in direct contravention of the 1972 U.S.-Soviet agreement on Basic Principles of Relations. This agreement, which was incorporated into SALT I and SALT II, was supposed to preclude the use of force or even the threat of force in U.S.-Soviet relations.

Mr. Chairman, Soviet strategic offensive nuclear activity in Cuba may violate another international treaty. In 1967, all South and Central American nations, except one, signed the Treaty for the Prohibition of Nuclear Weapons in Latin America. The one Latin American country which did not sign this treaty was Cuba.

The treaty prohibited: (a) "The testing, use, manufacture, production, or *acquisition* by any means whatsoever of any *nuclear weapons*, by the Parties themselves, *directly, or indirectly*, on behalf of anyone else or in any other way, and (b) The *receipt, storage, installation, deployment*, and any form of possession of any *nuclear weapons, directly or indirectly*, by the Parties themselves, by anyone on their behalf, or in any other way. The contracting parties also undertake to refrain from engaging in, encouraging or authorizing, directly or indirectly, or in any way participating in the testing, use, manufacture, production, possession or control of any *nuclear weapon*." (Emphasis added.)

I repeat, Cuba did not sign or ratify this treaty. The U.S. did sign and ratify this treaty. Is this failure, Mr. Chairman, not strong evidence that the Soviet Union does indeed have nuclear weapons deployed in Cuba, in ultimate confirmation of Soviet violation of the Kennedy-Krushchev Agreement? Why did the Cubans not sign this Treaty? I challenge the Cubans to tell the world why they did not sign this treaty, not that it would matter, because they would not comply with it even if they did sign.

Mr. Chairman, the law of the land on U.S. policy toward Cuba and Central America was overwhelmingly reaffirmed for the second time in 20 years by both Houses of the Congress last August, with strong administration support. This law, Mr. Chairman, with which you are familiar, was the "Symms Amendment." The Symms Amendment, which reaffirmed verbatim the September 1962 Cuba Resolution, states in part:

"*Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled*, That *the United States is determined*—

(a) *to prevent* by whatever means may be necessary, including the use of arms, *the Marxist-Leninist regime in Cuba from extending* by force or the threat of force its aggressive or subversive activities to any part of this *hemisphere;*

(b) *to prevent in Cuba* the creation or use of *an externally supported military capability* endangering the security of the United States. . ." (Emphasis added.)

Thus for the last 20 years, the U.S. has been required by law to oppose Soviet-Cuban subversion and aggression and a Soviet military base in Cuba. Indeed, some observers believe that the Kennedy-Khrushchev Agreement of November 1962 itself was inconsistent with the original September 1962 Cuba Resolution. They argue that the original Cuba Resolution prohibited President Kennedy from ever pledging not to invade Cuba if the Soviets agreed to remove their SS-4 and SS-5 missiles and IL-28 light bombers under on-site inspection. Castro reneged on allowing on-site inspection, and so the U.S. non-invasion pledge was even further invalidated. Moreover, President Kennedy also declared as part of the U.S. terms for settlement of the 1962 Cuban Missile crisis that the Soviets and the Cubans were not supposed to be allowed to export ammunition in the Western Hemisphere. Thus, in sum, it can be argued that U.S. foreign policy established by law since September 1962 has never been enforced.

Last week, Mr. Chairman, I sent a letter to Secretary of State Shultz on the reports of Soviet TU-95 Bear bombers with operable bomb bays in Cuba. I asked several questions. (Read letter.)

Mr. Chairman, today I am sending the following letter to Defense Secretary Weinberger also questioning Soviet TU-95 Bear bombers in Cuba in unprecedented numbers. (Read letter.)

I hope that these questions will be answered promptly and fully by Secretaries Shultz and Weinberger.

Finally, Mr. Chairman, I would like to express my appreciation for the recent support I have received from a senior Reagan Administration official for a legislative effort to enforce The Symms Amendment in Cuba and in Central America. President Reagan himself is on record attacking Soviet-Cuban subversion and aggression throughout Central America as extremely dangerous to U.S. supreme national security interests. I believe that President Reagan's statement that the Soviets have violated the Kennedy-Krushchev Agreement should help us to resolve the question of aid to Salvador. The Symms Amendment is also relevant to aid to Salvador. We simply have no alternative than to aid Salvador against Marxist revolution.

Mr. Chairman, there are reports that last week the U.S. had to send two C-130's to Salvador carrying 5.56mm, M-16 ball ammunition. The Salvadoran freedom fighers are about to run out of ammunition. Our crisis is desperate. If this is Pearl Harbor again, praise the Lord and pass the ammunition.

Former Costa Rican Foreign Minister Gonzolo Fascio stated in an interview in the Spring of 1982: "The object of the current communist offensive in Central America is Mexico and its vast oil riches and its geographical proximity to the United States. If the Reagan Administration does not soon take prompt action, the whole Central American Region will go to the Communists in Havana and Moscow by default." Mr. Facio is correct. He has also stated that the Caribbean crisis facing President Reagan is even more dangerous than the Cuban Missile Crisis of 1962.

Mr. Chairman, the vote on aid to Salvador will be a vote for the Monroe Doctrine and a vote for prevention of a Soviet Military Base in Cuba. It will be a vote for opposing Soviet-Cuban aggression and subversion in the Western Hemisphere.

Mr. Chairman, we should bear in mind that the Soviet Diplomat Vasily V. Kuznetsov, now Deputy Foreign Minister and Politburo member, stated back in November 1962 to President Kennedy's special representative at the United Nations, John J. McCloy, that never again would the Soviets back down to U.S. power in a crisis as they were forced to do in Cuba in October 1962. Mr. Kuznetsov in fact was promising 20 years ago to stage another Cuban Missile Crisis, only the second time around the Soviets would turn the tables and force the U.S. to back down. It would be a Cuban Missile Crisis in reverse. This is in fact what is occurring right now, in 1983, in Cuba. The Soviets are openly violating the Kennedy-Khrushchev Agreement of October 1962 by keeping strategic offensive nuclear bases in Cuba.

What is the evidence of Soviet violation of the Kennedy-Khrushchev Agreement, Mr. President? Let me summarize it once again in the following eleven points:

1. The Soviet strategic submarine base built at Cienfuegos, complete with a new nuclear warhead handling facility, new quays, and reportedly even having new submarine pens being constructed.

2. The many visits during the 1970's to the Cienfuegos strategic submarine base of Soviet strategic offensive Golf and Echo class submarines, carrying long-range strategic offensive missiles equipped with nuclear warheads.

3. The Soviet TU-95 Bear heavy intercontinental bombers, capable of carrying nuclear bombs or nuclear air-to-surface missiles, which have been regularly flying to Cuba in recent years. There are reportedly 9 Cuban airfields capable of handling TU-95 Bears.

4. The 40 Soviet nuclear delivery capable MIG-23/27 fighterbombers deployed in Cuba.

5. The several nuclear-missile-equipped Soviet naval task force visits to Cuba in 1981, which cruised around the periphery of the Caribbean, directly threatening vital Venezuelan, Mexican, and American oil fields.

6. The Soviet Combat Brigade in Cuba, equipped with tanks, armored personnel carriers, long range artillery, and supported by long range air transport capabilities.

7. The 66,000 tons of Soviet Military equipment shipped to Cuba during 1981, three times more than in 1962.

8. The long range Soviet Shaddock-type naval and land-based mobile, nuclear-warhead-equipped cruise missiles seen paraded in Havana in 1964, 1965, and 1966. These missiles have a range of 1,550 nautical miles, which is even greater than the 1,200 mile range of the Soviet SS-4 MRBM's supposedly removed from Cuba in 1962.

9. The fact 4 of the 42 Soviet SS-4 MRBM's were never confirmed by U.S. Aerial reconnaissance photographs as having been removed from Cuba in 1962, and may have remained in some of the many caves of Cuba.

10. The fact that Soviet FROG strategic offensive carrying nuclear warheads with a range of about 37 miles were paraded in Havana in 1965.

11. The fact that the number of Soviet MIG's and tanks in Cuba has tripled since 1962. These are the most important offensive ground warfare weapons.

Mr. Chairman, Defense Secretary Weinberger stated in 1982 that the U.S. will resist Soviet strategic offensive nuclear bases in Cuba in 1982, just as we did in 1962. What Mr. Weinberger was asking for was precisely a reaffirmation of the September 1962 Joint Resolution on U.S. Determination in Cuba, which we achieved in August 1982. This reaffirmation was the perfect response to the authoritative statements by the President, the JCS Chairman General Jones, CIA Director Casey, and Under Secretary of Defense Ikle, that the Soviets are violating the Kennedy-Khrushchev Agreement of 1962. The reaffirmation of the 1962 resolution also was the perfect expression of solid support from the U.S. Congress for Defense Secretary Weinberger's call for firm measures to resist Soviet violation of the Monroe Doctrine and to oppose Soviet-Cuban aggression and subversion in the Western Hemisphere.

Mr. Chairman, the former Foreign Minister of Costa Rica, Mr. Gonzalo Fascio, told U.S. journalist Jeffrey St. John in 1982 that the Soviets were already staging a Cuban Missile Crisis in reverse. We need to show strong Senate support for firm U.S. action against renewed Soviet-Cuban provocation. There is open official source evidence of Soviet and Cuban capability to use chemical warfare weapons of mass destruction.

Mr. Chairman, I would like to conclude with two final points. First, in the U.S. State Department Special Report No. 104 entitled "Chemical Warfare in Southeast Asia and Afghanistan: An Update" of November, 1982, there is an interesting footnote. The text describes on page 4 an account of Soviet use of chemical agents in Afghanistan: "These two independent accounts described a Soviet armored vehicle pumping yellow gas through a hose into the waterways." The footnote added: "We know from other sources that Soviet chemical agent delivery methods include this technique, as reported, for example, by a *Cuban* emigre trained by the Soviets in the use of chemical weapons." (Emphasis added.) This evidence indicates that Cubans use chemical warfare, and biological warfare is an integral part of Soviet training in non-nuclear weapons of mass destruction.

My second point is that the Soviets believe that the present conflict in El Salvador is merely a part of a whole pattern of world-wide revolutionary warfare activity. Thus Boris Ponomarev, Chief of the Communist Party of the Soviet Union's International Department, stated candidly in April, 1982 that even weak Third World countries can push America around all over the world:

> "It is a fact that the balance of power between the peoples of the former colonial world, struggling for their national liberation, has changed decisively, and again to the disadvantage of imperialism. This is demonstrated among other things by the successful struggle of the peoples of Angola and Mozambique, Ethiopia. . . . It is demonstrated by the achievement of the Kampuchean and Afghan peoples in warding off intervention and resuming a peaceful life. It is finally demonstrated by the courage of the patriots of Nicaragua and Grenada, the liberation fighters of El Salvador and other Central American republics."

Thus the Soviet aid for Marxist-Leninist revolution in El Salvador is part of a global strategy of world-wide revolutionary war.●

CLINCH RIVER—NOBODY WANTS TO BUY ITS POWER

● Mr. HUMPHREY. Mr. President, last Wednesday I chaired a Regional and Community Development Subcommittee hearing on the Tennessee Valley Authority (TVA) and other southeastern utilities' interest in buying power from the Clinch River breeder reactor project.

To keep the project alive, the backers of Clinch River are now arguing that private investors might offset Federal appropriations on the basis of the revenues the plant might produce from electricity sales. What this hearing's three key witnesses made clear, however, is that nobody is interested in buying the electricity.

The first witness, William Voight, Jr., Deputy Assistant Secretary of Uranium Enrichment and Assessment from the Department of Energy (DOE) denied DOE would need any power for its enrichment plants located near Clinch River. This directly undermined the suggestion made in the DOE-sponsored report on alternative financing of March 15, 1983 that DOE might use all of Clinch River's output to run these plants.

The second witness, William Willis, TVA's general manager, also rejected Clinch River's electrical output. He foresaw no need for TVA to buy

Clinch River's electricity through the end of the century and made it clear that TVA was not about to increase its contribution to the project.

One other possibility suggested in DOE's March 15 report—that utilities south of TVA in the Southeastern Electricity Reliability Council (SERC) might want the electricity, was also discussed. According to DOE's report, utilities in this region would need an additional 16,000 megawatts of electricity capacity before the year 2000. DOE also estimated that Clinch River electricity could be sold for between 14 to 16 cents per kilowatt-hour in the 1990's and that at this rate the plant's lifetime net worth would equal $900 million.

This $900 million figure was challenged. Mr. Willis argued that the figure must be in terms of 1992 rather than 1983 dollars—a point that was not made clear in DOE's report. But the key objections to DOE revenue projections were made by the third key witness, William Chandler of the Environmental Policy Center who formerly had worked as a consultant to the General Accounting Office on TVA's power programs. Mr. Chandler detailed how tenuous DOE's projections of 16,000 megawatts of demand and of 14 to 16 cents per kilowatt-hour were.

Mr. President, both the hearing and Mr. Chandler's testimony suggest that the U.S. Government may have to give Clinch River's electricity away and that consequently alternative financing for the project is likely to be a sham. I ask that Mr. Chandler's written testimony and a newspaper article of April 21, 1983 in the Oak Ridger, which reviewed the hearing's oral testimony, be entered into the RECORD.

The material follows:

[From the Oak (Tenn.) Ridger, Apr. 21, 1983]

TVA COOL TO CRBRP POWER

(By Jim Morrison)

WASHINGTON.—The Tennessee Valley Authority will likely not be a customer for the power generated by a completed Clinch River Breeder Reactor, the TVA's general manager told a Senate subcommittee Wednesday.

William F. Willis of the TVA told the subcommittee on Regional and Community Development that the authority's projected power requirements show it will likely not need to buy power from the Clinch River Reactor. Power from the reactor could go on sale in 1995, if the project proceeds on schedule.

"TVA is in no position to buy some or all the Clinch River Plant's capacity," Willis said. He also said that although TVA has an exclusive option to buy the plant, it "probably will not exercise its option."

Willis said TVA would be willing to lend support to the project by operating the plant at a charge, by "wheeling" power from the plant to purchasers outside the TVA area and by providing "facilities and experience" on a charge basis.

Sale of the electricity to the TVA or southeastern utilities was one of the suggested plans to make the project attractive to private investors. Those suggestions came in a task force report on alternative financing mandated by Congress.

TVA planned 17 nuclear power plants based on energy projections made in the 1970s, Willis said. Five plants are now operational and four more are under construction, but eight others have been deferred or cancelled due to lower projected needs.

The current Department of Energy timetable calls for CRBR completion in 1990 and the TVA will operate the plant during its five-year demonstration phase. After that, the electricity generated by the plant could be sold commercially.

Senator Gordon Humphrey (R-N.H.), a Clinch River Project nemesis, conducted the hearing and was the only subcommittee member present. Among those absent was Senate Majority Leader Howard Baker, who has strongly backed the project since Congress started funding in 1971.

A task force of representatives from the Breeder Reactor Corp. and the DOE released alternative financing proposals March 15 for the $3.6 billion project. Any potential investor would have to be assured of the financial stability of the plant, the report said. Sale of the plant or a portion of the plant's electrical generating capacity to the TVA was one way suggested to ensure investors of a return. Another suggestion offered by the task force was for the DOE to buy the power from the CRBR for use in its uranium enrichment plants in Oak Ridge and Paducah, Ky.

But Wednesday's hearing raised doubt that those suggestions could become reality.

William R. Voigt, Jr., DOE deputy assistant secretary for uranium enrichment and assessment, said it is unlikely power would be needed for the gaseous diffusion plants since the DOE is looking for less expensive ways to enrich uranium, including building a Gas Centrifuge Enrichment Plant at Portsmouth, Ohio. Finally, an independent energy consultant from the Environmental Policy Institute and Center said the southeast region in general will not need additional electrical generating capacity at the time the CRBR will be seeking to sell electricity.

Voigt said reduced demand, largely due to lower-priced foreign competitors, for uranium enrichment done by the United States means the DOE does not need all the electrical power now available through long-term contracts lasting into the early 1990s. "As a result, the department will be paying capacity charges for contract power not purchased from the Tennessee Valley Authority," he added.

Long-term DOE plans call for one or more of the gaseous diffusion plants, which are less efficient than gas centrifuge plants, to be shut down as the Portsmouth facility increases its load. "There would be no need to buy power from Clinch River if the centrifuge enrichment plant goes forward," Voigt said.

Construction of the plant is still in doubt, awaiting Congressional funding.

William Chandler, director of the energy conservation project at the Environmental Policy Institute and Center also took issue with the task force finding concluding the southeast will need 16,000 megawatts of additional power capacity by 1995.

A recent study by the Congressional Research Service using a high rate of economic growth found that the southeast region will have a reserve capacity of 35 percent in 1990 and 26 percent in 1995, Chandler said.

"Revenue projections made by the DOE and the BRC on the basis of sale of electricity or the CRBRP after the initial five-year demonstration phase of the plant are extremely tenuous," Chandler said.

"The likelihood there will be no market for the power (from CRBR) undermines a key part of the (alternative financing) report," Chandler added.

STATEMENT OF WILLIAM U. CHANDLER

(NOTE.—Abbreviation: BRC—Breeder Reactor Corporation; CRBRP—Clinch River Breeder Reactor Project; DOE—U.S. Department of Energy; GAO—U.S. General Accounting Office; NERC—North American Electric Reliability Council; SERC—Southeast Electric Reliability Council; and TVA—U.S. Tennessee Valley Authority.)

CLINCH RIVER AND THE SOUTHEAST POWER SURPLUS

Introduction and summary

The Breeder Reactor Corporation and the U.S. Department of Energy propose to finance construction and operation of the Clinch River Breeder Reactor Project in part with sales of electricity and sale of the plant itself. My statement examines the feasibility of this DOE/BRC proposal in the context of surplus electric generating capacity in the Tennessee Valley Authority service area and throughout the southeast region. My statement also examines other basic assumptions made in the BRC and DOE background analyses supporting the alternative financing proposals.

The proposals to fund the CRBRP by selling the power it generates and ultimately the plant itself require forecasting electric power demand. This necessity reminds me of the advice of Alvin M. Weinberg who as my former employer once warned me, "Never make a prediction until you are very old; you might live to see it not come true."

The long lead-time necessary for building power plants, however, requires that we estimate electric power requirements at least a decade in advance. Projections can be made with econometric and engineering energy demand models, and their reliability can be judged by assessing the models' assumptions and methodologies. The Tennessee Valley Authority, for example, projects electric power demand in its service area through the year 2000 with one of the most sophisticated sets of models used in the utility industry. Thus, the saleability of CRBRP power in the TVA region can be viewed in the light of TVA's demand projections. Similarly, the saleability of CRBRP electricity can be considered using studies of future power demand in the entire southeast region.

A review of future power demand in the TVA region and for the entire southeast leads to two basic conclusions:

1. There is close to a 90 percent probability that TVA will not need Clinch River power through the end of the century.
2. It is highly improbable that the Southeast region will need Clinch River power through the end of the century.

The likelihood that there will be no market for Clinch River power is so great that it undermines a fundamental requirement set by the DOE/BRC drafters of alternative financing plans: "to establish a stable and predictable financial basis for cost-effective completion of the plant." [1] DOE and BRC concluded that CRBRP power would be saleable largely on the basis of a survey

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Footnotes at end of article.

of future power demand that is inappropriate for power demand planning.

Furthermore, basic assumptions made by BRC/DOE in their background analyses, including the future price of electricity in the southeast, are at best inconsistent with published DOE estimates and at worst invalid.

TVA obligations regarding CRBRP power

The Tennessee Valley Authority is obligated by contract to purchase CRBRP power, if any is generated, for the first five years of its operation. TVA would pay the BRC for this power at a rate equal to TVA's avoided generating costs. This rate, presumably, would equal the cost of fuel and operation and maintenance expenses for power generation facilities replaced, and would neither cost nor save TVA customers any money. TVA ratepayers should and would not bear any of the initial capital cost of the CRBRP. The CRBR would be a demonstration plant and by definition would be an unreliable source of power, at least though the intitial five-year demonstration phase. TVA, in any case, will have excess generating capacity through this period (1991-1995), and could not justify the purchase of additional generating facilities. Thus, it would be unfair to charge TVA consumers for any unproven facility even if additional capacity were needed.

The Department of Energy, however, proposes that the CRBRP be sold to raise funds after five years of plant operation. The price of the plant would be determined by estimating the present value of future revenue streams from sales of electric power. TVA is obligated to determine this value and would have first right of refusal. The question then becomes, "Will TVA need to buy capacity equal to the CRBRP in 1996, and, if not, can the power be sold in the surrounding region?"

TVA power demand in 1995

"Will TVA need new generating capacity in 1995?" If the probable answer is "No", then BRC faces a much less stable and predictable financial future.

The probability of TVA needing any new capacity, according to TVA's demand forecasts, is very small. Table 1 reproduces TVA's most recent demand forecast,[2] including High, Medium, and Low peak electric demand scenarios. TVA estimates that there is a 90 percent probability that actual demand in 1995 will be lower than forecast by the high scenario.[3] TVA's forecast means that it is highly unlikely that peak power demand in the TVA system will exceed 34,700 megawatts (peak demand plus a 20 percent reserve margin) in the year that sale of Clinch River would be negotiated.

TABLE 1.—TENNESSEE VALLEY AUTHORITY GENERATING CAPACITY VERSUS PROJECTED PEAK DEMAND

[Megawatts]

	Firm capacity	Projected demand (includes 20 percent reserve margin)		
		High	Medium	Low
Year:				
1983	32,000	24,800	24,800	24,800
1990	37,000	30,500	27,900	25,100
1995	37,000	34,700	30,400	25,600
2000	[1] 37,000	39,300	33,000	26,600

[1] This figure assumes that TVA does not complete deferred capacity totaling 5,324 megawatts. See table 2.

Source: Derived from "Load Forecast Summary Prepared for Fiscal Year 1983," Tennessee Valley Authority, p. 5, and the TVA Information Office.

TVA currently owns approximately 32,000 megawatts of installed electric generating capacity. By 1988, TVA will have completed an additional 5,000 megawatts now under construction, for a total of 37,000 megawatts of power generation capacity. But peak electric demand will be far lower. TVA, in fact, estimates that there is only a 10 per cent chance that demand will exceed 34,700 megawatts in 1995. Thus, TVA will probably have 2300 megawatts of excess capacity in 1995, the year in which the Breeder Reactor Corporation and the Department of Energy propose to sell the CRBRP. There is very little chance that TVA would want to buy the breeder.[4]

Under a more probable TVA demand projection (the "Medium" scenario) TVA will have an excess of 6600 megawatts in 1995, and 4000 megawatts in the year 2000.[5] Even in the highest demand scenario, the Authority would need no new capacity until 1998.

Even if TVA did require new capacity, TVA would be obligated to complete deferred facilities. TVA has deferred completion of 5324 megawatts, plants on which TVA has already spent approximately $2.5 billion.[6] TVA has recently cancelled approximately 5150 megawatts at a loss of $1.85 billion, an amount which TVA ratepayers will be paying for many years.[7] To incur such a loss, TVA must feel confident that it will not need additional capacity. (See Table 2.)

TABLE 2.—TVA DEFERRED AND CANCELED GENERATING CAPACITY

Category	Megawatts	Cost
Capacity canceled	5,150	$1.8 billion (loss)
Capacity deferred	5,324	$2.5 billion (to date)

Source: TVA Nuclear Cancellation Background Paper; TVA Information Office, U.S. General Accounting Office, "TVA Is Justified In Deferring The Yellow Creek Unit 1 Nuclear Powerplant"; and "Tennessee Valley Authority Budget Program for the Fiscal Year Ending September 30, 1983," February 1982, p. 111.

TVA demand forecasts, since the late 1970's, have been expertly prepared. One major uncertainty makes them less reliable, however. The level of power demand for federal uranium enrichment could reduce the aforementioned TVA capacity requirements by 1,925 megawatts.[8] According to TVA:

"Long-term electricity requirements for DOE uranium enrichment on the TVA system are characterized by extreme uncertainty."[9]

TVA attributes this uncertainty to decreased enrichment requirements and the likelihood that the Department of Energy would curtail power purchases from TVA before its other, less expensive suppliers (namely, Electric Energy, Inc., and Ohio Valley Electric Cooperative), and earlier adoption of Advanced Isotopic Separation Technology.[10]

In this context, it would at best be risky for the BRC to plan to sell the CRBRP to TVA.

Demand for power in the Southeast

The saleability of CRBR power elsewhere in the southeast region will depend on four factors: regional growth in the demand for power; completion of planned generating facilities; the cost of new sources of power; and the ability of any new CRBR consortium to wheel power out of the TVA service area.

The Department of Energy study of alternative financial mechanisms for the CRBR implies that new capacity totaling 16,000 megawatts will be required in the Southeast Electric Reliability Council (SERC) region by 1995:

"The area is projected to require 16,000 MWe of additional capacity to serve peak demand periods by 1995. The CRBRP output would displace only about 2 percent of the projected new demand in 1995.[11]

This projection appears to have been based on a report prepared by the North American Electric Reliability Councils,[12] a report which is inadequate in several respects. First, the report is not a study, per se. The authors did not study and project southeast region electric demand, they simply compiled estimates of demand made by the electric utilities, and the quality of the forecasts made by the utilities varies greatly. Utility forecasts may be sophisticated projections such as those made by TVA, or they may be mere trend extrapolations. Any compilation of utility scenarios, therefore, will be of dubious value.

The unreliability of the NERC study is illustrated by its treatment of TVA demand. NERC projects 1991 power demand in the TVA system by using only the TVA "High" demand scenario. TVA, you recall, described this scenario as having a 90 percent probability of being too high.

A recent study by the Congressional Research Service [13] projects that the southeast region (SERC) will have a reserve electric capacity margin of 35 percent in 1990, and 26 percent in 1995. The latter amounts to 6 percent more capacity than is commonly considered "adequate", and 11 percent more than is considered "acceptable". The projection, moreover, is based on a moderately high rate of economic growth (3 percent annual), and a moderating rate of increase in electric prices (2 percent annual). See Table 3. CRS also assumes greater delays in construction of new facilities than does NRC; that is, if NERC's estimates of new construction are correct, the reserve margin would be even larger than CRS projects.

TABLE 3.—PROJECTED PEAK POWER DEMAND AND CAPABILITY IN THE SOUTHEAST REGION, 1990 AND 1995

	Peak (megawatts)	Capacity (megawatts)	Reserve margin (percent)
Year:			
1990	111,000	149,000	35
1995	133,000	167,000	26

Source: Alvin Kaufman and Karen K. Nelson, "Do We Really Need All Those Electric Plants?", U.S. Congressional Research Service, Report No. 82-147 S, August 1982, p. 49.

The prospect of low power demand growth in the southeast makes the sale of the CRBRP unlikely. This, in turn, makes a central element of DOE's alternative financing scheme untenable.

Constraints on wheeling CRBRP power

Even if power demand growth made the CRBRP saleable, legal constraints on wheeling power will at a minimum add great uncertainty to any financial proposal involving sale of CRBRP power. Sections 211 and 212 of the Federal Power Act have made wheeling of power almost impossible except where all involved utilities agree to cooperate. If, for example, power had to be wheeled from the TVA system to a utility customer by first utilizing the transmission system of an intermediate utility, the willing consent of the intermediate utility would be essential.[14]

If TVA buys CRBRP and attempts to wheel its power to another system, further difficulties would arise. The TVA Act (Section 15d) prohibits sale of TVA electricity to any utility not already receiving power from

TVA in 1959. Some 12 utilities are permitted to receive TVA electricity, however, and could buy and in turn sell TVA electricity to another utility. The cost and complexity of this type of arrangement, however, has precluded such sales in the recent past.[15]

Competitiveness of CRBRP power

The saleability of Clinch River power would be reduced by the unreliability and high cost inherent in any demonstration plant. The Department of Energy suggests, however, that CRBRP power could be competitive:

"To build a single coal-fired 350 MWe plant (comparable to the CRBRP output) utilities are projected to spend $584 million (1984 dollars) for a plant going on line in 1991.

"An analysis of the cost of baseload electricity using coal as fuel was performed for the period during which CRBRP will operate. Analyses covered a range of cost projections between 14.6¢ and 15.7¢ per kWh in 1991 in year of expenditure dollars." [16]

These estimates may be misleading. The lower kWh cost cited above is 50 percent higher than DOE published cost estimates for coal-fired power coming on-line in the southeast in the 1990's.[17] The capital cost cited is approximately forty percent higher than published DOE estimates, reflecting, perhaps, an unrealistic assumption that a utility would build a small (350 megawatt) coal-fired plant rather than capture the economies of scale of a larger (600 megawatt) facility.

Conclusion

Revenue projections made by the Department of Energy and the Breeder Reactor Corporation on the basis of sale of electricity and/or the CRBRP after the initial five year demonstration phase of the plant are extremely tenuous. Revenue estimates have been based on levels of electric capacity demand in the southeast that are improbable, and on electric price levels that are inconsistent with published DOE estimates. The DOE/BRC analyses, therefore, fail to meet their own basic criterion, to establish a stable and predictable financial basis for cost-effective completion of Clinch River. A shortfall in CRBRP revenues would be likely if the plant were built, and these would have to be made up by federal appropriations.

FOOTNOTES

[1] U.S. Department of Energy, assistant Secretary for Nuclear Energy, Office of Breeder Reactor Programs, "Report To The Congress On Alternative Financing Of The Clinch River Breeder Reactor Plant Project", March 1983, Washington, D.C., p. iii.

[2] Tennessee Valley Authority Office of Power, "Load Forecast Summary Prepared for Fiscal Year 1983", Chattanooga, Tennessee, September 1982.

[3] The TVA forecast reference actually gives demand in megawatts for the years 1990 and 2000. The forecast also provides estimated growth rates for interim years. These rates are used in the following common compound growth formula to derive the 1995 estimates:

$$a_t = a_0 e^{rt}$$

where
a_t = megawatt total in forecast year
a_0 = megawatt total in base year
e = 2.7182818
r = rate of growth as forecast by TVA
t = time, in years, between base year and forecast year.

[4] Capacity additions were derived from "TVA Is Justified In Deferring The Yellow Creek Unit 1 Nuclear Powerplant", U.S. General Accounting Office, GAO/EMD-82-114, July 30, 1982, p. 24.

[5] TVA "Load Forecast Summary Prepared For Fiscal Year 1983, Op cit, p. 51.

[6] Tennessee Valley Authority, "Nuclear Cancellation Background Paper", unpublished TVA paper on file at the Environmental Policy Institute, dated July 13, 1982, p. 3.

[7] See Reference 3.

[8] TVA "Load Forecast Summary Prepared for Fiscal Year 1983", p. 28.

[9] Ibid, p. 26.

[10] *Ibid*, p. 28.

[11] See Reference 1, p. 10.

[12] North American Electric Reliability Council, "Electric Power Supply and Demand, 1982-1991", August 1982.

[13] Alvin Kaufman and Karen K. Nelson, "Do We Really Need All Those Electric Plants?", Congressional Research Service, Report No. 82-147 S, August 1982.

[14] For a discussion of this situation, see "FERC As A Least-Cost Electric Regulator", Hearing before the Subcommittee On Energy Conservation and Power, Committee On Energy and Commerce, U.S. House of Representatives, Second Session, April 23, 1982, Serial No. 97-152, pps. 139-143.

[15] U.S. General Accounting Office, Letter to The Honorables Robert Walker and John Heinz, "Analysis of the Feasibility of Tennessee Valley Authority Power Being Made Available Through Power Exchange Arrangements to General Public Utilities" (GAO/EMD-82-129), September 30, 1982.

[16] U.S. Department of Energy, *op cit*, p. 10.

[17] U.S. Department of Energy, "Protected Costs of Electricity from Nuclear and Coal-Fired Power Plants", Volume 1, Table S1, p. xi, August 1982. The DOE projection is presented in 1980 dollars for a coal fired power plant with scrubbers coming online in the Southeast region in 1995. The figure cited in this testimony is compared with the DOE "Alternative Financing . . ." report figure by inflating the former to 1991 dollars (the same as the latter) at a 7 percent annual rate (the rate suggested in the former DOE report).●

PRESS ATTACK ON INTELLIGENCE COMMUNITY

● **Mr. GOLDWATER.** Mr. President, once again, segments of the media of this country are attacking our intelligence community. Again, they are using lies and distortion to try and convince the reader that the intelligence community in America is evil, a threat to our freedom, a threat to all the freedoms we cherish. I disagree with them completely, and I hope we are not forced to go through another period when we nearly lost our entire intelligence family because of the distortions raised by the Church committee and the media.

To give you an idea of the type of thinking that is guiding the CIA, there is an article written by Mr. William Casey, Director of the CIA, which appeared in the Wall Street Journal, on April 22 of this year. This article shows how we must regroup to check the Soviet thrust and, I ask that it appear at this point in my remarks.

The article follows:

[From the Wall Street Journal, Apr. 22, 1983]

REGROUP TO CHECK THE SOVIET THRUST

(By William J. Casey)

The effects of American defeats in Vietnam and Iran undermined the confidence of U.S. friends and allies in the Third World (and Europe and Japan) and ensured that the Soviet Union would see in the Third World its principal foreign-policy opportunities for years to come.

The Soviets themselves suffered setbacks in the 1960s and early '70s in the Third World. They suffered one setback after another in Africa. They saw their hopes in South America dashed by the overthrow of Salvador Allende in Chile and they were humiliatingly expelled from Egypt in 1972. When they turned again to the Third World in 1975, it was with a strategy designed to minimize the chance of a repetition of those setbacks. The strategy, enriched and strengthened over several years, is realistic and calculated to exploit effectively both events and opportunities.

First, shown the way by Castro in Angola, the Soviets helped him consolidate the radical power of the MPLA there, creating a government dependent on Soviet and Cuban support for survival. This was followed by the dispatch of thousands of Cuban troops to Ethiopia. Unlike Sadat, neither the MPLA nor Mengistu could afford to order the Cubans and Soviets out.

In the new strategy, the principal, obvious role in Third World countries would be played by another Third World state—Libya, Vietnam, Nicaragua. No superpower would be seen to be guiding or arming or directing the radical forces at work; the host government would be maintained by foreign advisers and troops who couldn't be expelled in the event of a change of heart. Additionally, it was a strategy that made (and makes) any direct response by the West appear neo-imperialistic.

Second, when radical governments came to power, the Soviets directly or through their surrogates helped establish an internal-security structure to ensure that any challenge from within would be stamped out. There would be no more Allendes. Sometimes it worked, as in Ethiopia and Angola, and sometimes there was not enough time, as in Jamaica.

Third, the Soviets supplemented these tactics with their more traditional offerings, such as technical and political training in the U.S.S.R., the rapid supply of weapons and the use of propaganda and subversion to support friends or help destabilize unfriendly governments.

LAUNCHING ITS OWN FORCES

Fourth, where a vacuum existed or the costs and risks were low, the U.S.S.R. proved still willing to launch its own forces at targets on its periphery—Afghanistan, and perhaps elsewhere when and if circumstances seem right.

Fifth, the Soviets advised new radical regimes to mute their revolutionary rhetoric and to try to keep their links to Western commercial resources, foreign assistance and international financial institutions. Moscow's ambitions did not cloud recognition that it could not afford more economic dependents such as Cuba and Vietnam.

This strategy has worked. A Soviet Union that had found itself in 1972 without major successes—except for the survival of the Castro regime—and with many failures in the Third World after two decades of effort could count the following achievements by the end of 1982:

Victory in Vietnam and Hanoi's consolidation of power in all of Indochina.

New radical regimes in Ethiopia, Angola and Nicaragua.

Possession of Afghanistan, a Russian goal for over a century.

Cuban control of Grenada (and new military facilities there for support of further subversion).

An active insurgency in El Salvador, where U.S. support of the elected government has rekindled old Vietnam memories.

Nicaraguan support of revolutionary violence in Honduras and Guatemala, as well as El Salvador.

U.S. expulsion from Iran, which, though not through any Soviet action, represented a major strategic gain for the U.S.S.R.

Rapid progress toward Cuban control of Surinam, the first breakthrough on the South American continent.

Pro-Western regimes under siege in Chad and the Sudan.

Beyond these successes, the Soviets could see opportunities, actual or potential, to achieve their objectives in many other places.

The U.S. needs a realistic counter-strategy. Many components of that strategy also are familiar, though they must be approached and linked in new ways. The measures needed to address the Soviet challenge in the Third World have the additional appeal that they represent also a sensible American approach to the Third World whether or not the U.S.S.R. is involved:

1. We have too often neglected our friends and neutrals in Africa, the Middle East, Latin America and Asia until they became a problem or were threatened by developments we considered hostile to our interests. The Third World now buys 40 percent of our exports; that alone is reason enough to pay greater attention to the problems of the less developed countries (LDCs) before we confront coups, insurgencies or instability. The priority of the Third World in our overall foreign policy must be raised and sustained. The executive branch must do more to educate the public, the Congress and Third World governments about Soviet strategy in the LDCs generally.

2. The U.S. must establish priorities in major commitments. President Nixon wanted to rely on key regional states as bulwarks for stability and peace. There are some dangers in this approach (Iran was to be the key state in the Persian Gulf), but it is generally sensible. If our early help fails to prevent serious trouble, for which countries are we prepared to put our chips on the table? We should choose ahead of time and in consultation with key members of committees of Congress so that their support at crucial moments is more likely. Great losing battles for foreign military sales and economic assistance, played out on the world stage and at critical times, represent devastating setbacks for the U.S. with ramifications going far beyond the affected country.

WE NEED A CONSTANT POLICY

3. We must be prepared to demand firmly but tactfully and privately that our friends observe certain standards of behavior with regard to basic human rights. It is required by our own principles and essential to political support in the U.S. Moreover, we have to be willing to talk straight to those we would help about issues they must address to block foreign exploitation of their problems—issues such as land reform, corruption and the like. We need to show how the Soviets have exploited such vulnerabilities elsewhere to good effect to make clear we aren't preaching out of cultural arrogance but are making recommendations based on experience.

4. We need to be ready to help our friends defend themselves. We can train them in counterinsurgency tactics and upgrade their communications, mobility and intelligence services. We need changes in our foreign-military-sales laws to permit the U.S. to provide arms more quickly. We also need to change our military procurement policies so as to have stocks of certain basic kinds of weapons more readily available.

5. We must find a way to mobilize and use our greatest asset in the Third World—private business. Few in the Third World wish to adopt the Soviet economic system. Neither we nor the Soviets can offer unlimited or even large-scale economic assistance to the LDCs. Investment is the key to economic success or at least survival in the Third World and we, our NATO allies and Japan need to develop a common strategy to promote investment in the Third World. The Soviets are helpless to compete with private capital in these countries.

6. Finally, the executive branch needs to collaborate more closely in the setting of strategy with key members and committees of Congress. Too often opportunities to counter the Soviets have been lost by clashes between the two branches. The independent stand of Congress is a fact of life, and any effort to counter the Soviets in the Third World will fail unless Congress is a party to the executive's thinking and planning—all along the way. Support for a Third World policy must be bipartisan and stable.

Without a sustained, constant policy applied over a number of years, we cannot counter the relentless pressure of the U.S.S.R. in the Third World. It is past time for the American government—executive and Congress—to take the Soviet challenge in the Third World seriously and to develop a broad, integrated strategy for countering it. It will be the principal U.S.-Soviet battleground for many years to come.●

ENVIRONMENTAL AND ENERGY STUDY CONFERENCE ELECTION OF OFFICERS AND EXECUTIVE COMMITTEE

● Mr. HEINZ. Mr. President, it is with pleasure that I bring to my colleagues' attention the 98th Congress leadership team for the Congressional Environmental and Energy Study Conference, which was recently elected by the group's executive committee.

The distinguished junior Senator from Vermont, Patrick J. Leahy, was reelected to serve a second term as Senate Chairman, and our fine colleague, the distinguished junior Senator from Washington, Slade Gorton, was elected to another term as Senate Vice Chairman. I want to thank them for their leadership and commitment to the Conference's goal of informed debate on environmental, energy and natural resources legislation.

At the annual business meeting held on April 7, the results of the recent executive committee elections were also announced. The executive committee is comprised of 11 Senators and 24 House Members and was elected by EESC's 87 Senate Members and 292 House Members.

It is gratifying to note that the Conference has set a new membership record, making it the largest legislative service organization in Congress once again.

The Senate executive committee members again form a well-balanced, solid group. They are:

Mark Andrews, Jeff Bingaman, Rudy Boschwitz, John H. Chafee, Christopher J. Dodd, Slade Gorton, Gary Hart, John Heinz, Patrick J. Leahy, Claiborne Pell, and Warren Rudman.

The executive committee approved the EESC agenda for the coming year. The priority issues include:

Budgets for environmental, energy and natural resources programs; Clean Air Act amendments; Clean Water Act amendments and wetlands protection issues; natural gas policy legislation; hazardous wastes legislation; parks and wilderness proposals; water resources and port development proposals; Pesticide Act amendments; nuclear licensing reform legislation and other nuclear issues; nuclear waste law implementation; coal slurry pipeline legislation; ocean dumping, OCS development and related issues; regulatory reform; renewable energy initiatives; and synthetic fuels development.

Mr. President, I hope my colleagues will feel free to make full use of the resources of the Conference on these and other issues of importance and national concern.●

ANDROPOV IN ACTION

● Mr. SYMMS. Mr. President, when Yuriy Vladimirovich Andropov became General Secretary of the Central Committee of CPSU on November 12 last year—2 days after the death of Leonid Brezhnev—the question of what kind of leadership will he provide for the Soviet Union was asked.

Andropov's foreign and domestic policies pose the most dramatic threats to American national security ever. Andropov has mobilized the Soviet Union to challenge America in two key areas: Central America, our own backyard, and in strategic nuclear capabilities. Moreover, the extent to which the nuclear freeze movement serves Soviet foreign policy objectives is remarkable. Now that Chernenko, Brezhnev's aide and heir apparent, has disappeared from view, Andropov's control is almost complete.

Five months of new Andropov regime have made it clear that the original rumors and speculations about his being a closet liberal, even an admirer of American music and connoisseur of modern art, were not only foolish but deceptively wrong.

Andropov, who will be 69 on June 15, is a man of action with definite ideas of what he wants to do and how he intends to accomplish his goals. He came to his present position not by an accident of history, but in consequence of deliberate plans and efforts of many years. He used his 15 years as chairman of the KGB to his full advantage, eliminating and intimidating his opponents and prospective or real adversaries by leaks from the KGB dossiers and by direct intervention of the secret police.

Early in 1982, when the hour of final confrontation was nearing, KGB agents leaked information in Moscow about the corruption scandal involving Brezhnev's daughter, Galina Churbanov. Her husband, General Churbanov, was at the time Deputy Minister of Interior, the post from which he was relieved several weeks after Andropov assumed power in November 1982.

According to these rumors, Galina was implicated in the corruption affair involving her close friend Boris Buriatov ("The Gypsy"), who was arrested for theft of diamonds, and another friend, Director of the Moscow Circus, who allegedly misappropriated some circus funds. Some of the stolen diamonds were allegedly found in Galina's possession. The investigation of the scandal was in the hands of Gen. Semyon Tsvigun, Brezhnev's brother-in-law and Andropov's deputy in the KGB. Suddenly, late in February 1982, General Tsvigun died; according to the informed sources, he committed suicide. His obituary was small and his funeral was a subdued family affair, not consistent with his position as an important general. Even his former boss was not in attendance. It can be speculated that Andropov had Tsvigun liquidated by the KGB.

Three weeks later, Gen. Yevgeniy Grushevoy, political commander of the Moscow Military District and another close friend of Brezhnev, died also. His funeral was a much more prominently arranged affair in spite of the fact that he occupied a much smaller position than General Tsvigun. Leonid Brezhnev cried uncontrollably at his friend's funeral, a very unusual outburst of emotions for the General Secretary.

On May 27, 1982, Yuriy Andropov moved from his position as Chairman of the KGB into the post of the Secretary of the Central Committee of CPSU for Ideology vacated by the death of Mikhail A. Suslov on January 25. The stage was set for the final act.

In September 1982, Andrey P. Kirilenko, the closest associate and friend of Brezhnev for more than 40 years, who as Politburo member and Secretary of the Central Committee was second in rank—after Brezhnev—in the Soviet hierarchy, abruptly and mysteriously stopped attending official meetings of the Politburo and the Secretariat or any other functions. No explanation was ever given for Kirilenko's absence, but he appeared in perfect health in the crowd at Brezhnev's funeral—not in a lineup of the Politburo and Secretariat; 2 weeks later, Kirilenko appeared at the first post-Brezhnev session of the Central Committee and asked to be relieved of all his duties in the Politburo and the Secretariat for health reasons. His slot in the Politburo was filled by Gaydar A. Aliyev, former head of the KGB in the Azerbaydzhan Republic and an associate of Andropov for many years.

Once in complete control after November 12, 1982, Andropov started immediately implementing his program in both domestic and foreign affairs.

The lack of discipline in the Communist Party, in industry, and in agriculture, is a matter of fact of Soviet life recognized in the Soviet Union and by any outside observer visiting the country. Yuriy Andropov came prepared to deal with this basic disease of socialism in a very drastic way. First, he placed his trusted and uncompromising men in charge of agencies dealing with law and order, police, and security problems. Former Chief of the KGB in the Ukraine, Vitaliy V. Fedorchuk, known for his ruthless treatment of dissidents and disobedient citizens, was placed in charge of the Ministry of Interior which handles the police forces and the 300,000-strong contingent of interior troops. Andropov's former deputy, Viktor Chebrikov, was placed in charge of the KGB, and the new Politburo member, Gaydar A. Aliyev, became First Deputy Prime Minister.

On January 8, 1983, the nationwide campaign on the implementation of higher standards of discipline in industry and agriculture was begun by a conference in Moscow presided over by Gaydar Aliyev and attended by V. Fedorchuk, V. Chebrikov, M. S. Gorbachev--Politburo member and Secretary of the Central Committee responsible for agriculture—Chairman of Trade Unions A. A. Shevlyagin, First Secretary of the Komsomol (Young Communists) V. M. Mishin, and Secretaries of the Central Committee N. I. Ryzhkov (industry), I. V. Kapitonov (party administration) and M. V. Zimyanian (ideology). This conference set up the disciplinary program for the entire country and was followed up by direct action in all towns and communities. Similar meetings were held in all bigger and smaller towns criticizing the performance of industry and lack of discipline, and, in some cases, uncovering irregularities resulting in prosecution through the courts.

A similar conference on the upgrading of performance in agriculture was presided over by Z. N. Nuriyev, Deputy Prime Minister and Chairman of the Commission on Agriculture. This conference was attended by a group of agricultural experts from the Central Committee and addressed by Deputy Chief of the Department of Agriculture A. N. Kashtanov. It, too, was followed up by similar meetings throughout the country.

It was reported in March that the efficiency of the performance of industry and agriculture for January and February increased by 6 and 7 percent as compared with the same months of last year. If it were possible to trust the Soviet statistics, these figures would have given evidence of effectiveness of new methods of control and encouragements introduced by the new Andropov regime.

In foreign affairs, Yuriy Andropov is even more innovative and aggressive than in domestic matters. His actions are based on the reality of overall Soviet military superiority, both strategic and conventional; relative military weakness of Western Europe and Japan; disruption of political process in the Middle East because of the Iran-Iraq war and intransigence of the PLO; and profound instability of Central America.

Andropov's first step was to increase the Soviet military presence in Afghanistan—by the addition of about 30,000 troops—and by stiffening the grip of the military government in Poland.

In the next step, Andropov attempted to implement coordinated actions in two directions at the same time: on one hand, to consolidate the Communist bloc, including China and Yugoslavia; and, on the other, to intimidate the West by increasing peace movements and freeze demands, and flareups of military turmoil in Central America, the Middle East, and Southeast Asia.

The attempted Soviet intervention in the West German elections of March 6 did not have any parallel in the past. Such attempted Soviet political manipulation in the West was without precedent. The Soviet expert on German affairs, Valentin Falin, who was Soviet Ambassador to West Germany for 7 years, warned against such direct interference, predicting a possible backfire. But his advice was dismissed and he himself was relieved from his important position as Deputy Chief of Department in the Central Committee.

Attempting to boost the popularity of the Social Democratic candidate for West German Chancellor, Hans-Joachim Vogel, Andropov received him for a 2½-hour conference in the Kremlin, and even authorized him to utilize Andropov's new proposal in the intermediate range nuclear force missile negotiations. A. Gromyko, Soviet Foreign Minister, was dispatched to West Germany 5 weeks before elections for a 4-day visit to support the position of the Social Democrats.

While the March 6 election was a complete disaster for the Soviet Union, it demonstrated Soviet willingness to directly intervene in Western politics quite openly. The CDU-FDP coalition was reelected with increased majority, and Christian Democrat Helmut Kohl became Chancellor until 1987.

The flareup of Soviet activities after this defeat exceeded the action before it. In a totally unprecedented move, Chief of the General Staff of the Soviet Armed Forces, Marshal Nikolay V. Ogarkov, called a press conference on March 8 in which he threatened that the use of American missiles from German territory against the Soviet Union would automatically trigger Soviet retaliation against the United States.

On March 15, Georgi Arbatov, Director of the Institute for Study of the United States and Canada and close associate of Andropov for years, wrote an article in Pravda in which he attacked the "aggressive policies" of the Reagan administration and said that some U.S. disarmament experts are in need of "medical attention," and that the U.S. proposals on disarmament are "plainly dishonest" and "pure propaganda."

In the meantime, the emigration of Soviet Jews has been completely halted, new ground-to-air missiles, SA-5's, were delivered by the Soviet Union to Syria, and the Soviet negotiator with China, Mikhail Kapitsa, has been promoted to Deputy Minister of Foreign Affairs, to be more effective in his China bargaining.

On April 6, Soviet Minister of Defense, speaking in East Germany, said that use of U.S. missiles in Europe against the Soviet Union would provoke the nuclear devastation of both the United States and Western Europe, and, in an article published the same day, Commander of the Warsaw Pact forces, Marshal Viktor Kulikov, spoke about increasing "war danger" and Soviet ability and readiness to match any U.S. arms buildup.

Soviet Foreign Minister A. Gromyko called a press conference on April 4, first one in years, in which he rejected the U.S. proposal of negotiating scaled reduction of the Soviet intermediate missile [SS-20] against scaled deployment of the U.S. missiles in Europe.

And, on April 9, Georgi Arbatov said in an interview that "we entered a very dangerous period" and "the atmosphere is becoming denser and denser, and any spark could lead to a crisis." Arbatov also stated that the state of United States-Soviet relations was at such a low state that the situation was comparable to the Cuban missile crisis of 1962. Indeed, Arbatov even threatened to display Soviet missiles "along U.S. borders."

Over the past year there have been four top-level Soviet threats to deploy nuclear weapons in Cuba or in Central America.

Andropov has a great ability to orchestrate his military, diplomatic corps, propaganda spokesmen, and the KGB troops. With this background music, the peace groups and freeze enthusiasts demonstrate on the streets of Western Europe and the United States, Vietnamese troops cross from time to time the border into Thailand and shoot innocent people, and guerrillas in El Salvador are never short of Soviet ammunition.

The intensity of the Soviet offensive throughout the world is underscored by a flood of KGB agents into the Western World. About 100 of them were expelled from different countries during the last 5 months, including 47 from France on 1 day, 7 from Great Britain, and others from Italy, Spain, South Africa, Denmark, Norway, Holland, and West Germany.

Andropov's actions seem to have intimidated some people in the West, including some Members of the U.S. Congress who are inclined to vote against any U.S. active support of democratic forces in El Salvador, or Cambodia, or Afghanistan, or any place else in the world. Moreover, Soviet manipulation and intimidation is an element in the nuclear freeze movement.

American passivity in the face of Andropov's worldwide Soviet onslaught against American national security may be proof that we are already paralyzed by Soviet nuclear blackmail and intimidation.

Mr. President, I ask to have printed in the RECORD the following article from Orbis. This article, by Peter Deriabin and T. H. Bagley, entitled "Fedorchuk, the KGB, and the Soviet Succession," amplifies some of the points I have made above.

The article follows:

[From ORBIS—A Journal of World Affairs, Fall 1982]

FEDORCHUK, THE KGB, AND THE SOVIET SUCCESSION*

(By Peter Deriabin with T. H. Bagley)

Yuriy Andropov's first public statement as general secretary of the Central Committee of the Soviet Communist Party echoed Leonid Brezhnev's last one. Citing "the invincible might of the Soviet armed forces," he gave further evidence of the rise of military influence, which Brezhnev had exposed to the world two weeks earlier by dramatically assembling military leaders in Moscow. But—although it was not noted at the time—this development had already been prefigured by events that took place in and around the KGB six months earlier.

When it was announced in May 1982 that my former colleague Vitaly Fedorchuk had replaced Yuriy Andropov as chairman of the KGB, I was stuck not only by the news (I remembered a precedent) but also by the Western commentary.

Brezhnev was not the first Soviet leader to move a Politburo member out of the leadership of the security services into other functions while putting atop the KGB a tough military-security professional who was not even a member of the Central Committee. In early 1946 Stalin moved Lavrenty Beria to other Politburo functions and put at the head of the KGB (then MGB) Viktor Abakumov, the wartime head of the dreaded military-security organization SMERSH.

In that earlier time, Stalin felt his power endangered. War had practically destroyed the economy; the people were hungry. To motivate them to fight, Stalin had for years been forced to substitute Russian patriotism for communist dogma. Dangerous hopes for change had been stirred in the people's hearts by the shattering experience of war and by the alliance with Western democracy. Stalin needed, also, to sovietize whole nations overrun by Soviet troops. So he set Viktor Abakumov's MGB the task of re-establishing docility and cutting his people off from the sight of Western alternatives to communist rule.

Today the Soviet economy is in disarray and food shortages have become a national problem, to be solved by a new "Food Program." Emigrants and foreign observers tell of an accelerating decline in popular morale. Soviet speeches and articles reveal the leaders' deep and urgent concern with restoring discipline. Poland, they admit publicly, poses a threat. At this point Brezhnev moved Politburo member Andropov aside and appointed a former subordinate of Abakumov's to head the KGB—after naming another long-time military-security man, Georgiy Tsinev, to be his first deputy KGB chairman. For the first time in Soviet history, two military-security men hold the KGB's top two positions.

Western treatment of this news was noteworthy. Journalists and scholars seemed to rely even more than usual on rumor and disinformation about Andropov, missed the central fact about Fedorchuk, and paid no attention to Tsinev. Even at its shining best, kremlinology is little better than guesswork, but much of this commentary was profoundly misleading about the Soviet system.

Only a bold man would claim to know what lies behind these recent moves—hidden, like all Soviet leadership matters, behind a screen of secrecy, mazes of disinformation, and clouds of jargon-dense propaganda. We can speculate that they were related to the question of Brezhnev's succession, and insiders may confirm this for us, but there may have been deeper causes. We do not really know that it was Suslov's death that led to Andropov's return to the Secretariat of the Central Committee.

Ignorance of hidden events and relationships is inevitable, but misrepresenting how the Soviet system works is inexcusable. Some commentators, rather than admit ignorance, seem to be guessing not about the Soviet Union I know, but about a world of their own creation. They pass on to us, for example, the news that Andropov, deep down, is something of a liberal. It hardly matters that this is probably based on nonsense and Soviet disinformation. What matters is that it forces upon the reader a dangerously misleading assumption. Using familiar terms like "liberal" and "conservative," "hawk" and "dove," gives the comforting impression that Soviet politics, when you come right down to it, are not so different from our own. Along the same lines, some commentators, grasping at the few straws of information available about Fedorchuk, interpret an article he signed and his harsh repression of Ukrainian dissidence as evidence that he is a "hard-liner." This suggests to the unwary mind (1) that published articles by Soviet leaders reflect their distinctive personal views, (2) that in contrast to "hard-liners" there lurk "soft-liners" in the Soviet hierarchy, and (3) that what Fedorchuk did in the Ukraine was his own idea.

Similar misconceptions underline other questions. Did "a KGB-backed faction" engineer these transfers? (Two false premises: that the KGB acts as an independent political force and that there are "factions.") Do these moves mean that "the KGB is gaining power" or, on the contrary, losing influence? (Implying that the KGB is a separate entity whose "power" varies and, at any given moment, can be weighed.) Does the elevation of a military-security specialist trained by Stalin and Beria mean that the KGB "is again slipping away from party control"? Or may we conclude, on the contrary, that the KGB is so thoroughly "back under party control" that the leaders can now afford to trust a professional to manage its "dangerous" power? (Leading us to believe that the "party" ever did or could lose control of the KGB.) Will this "reformist figure" Andropov—with KGB power behind him—finally have the power (now that he has succeeded Brezhnev) to make "serious reforms" in the limping system? (The premise—that individuals can bend the system to their own independent ideas—keeps us hoping for genuine reform.) Will this urbane fellow who "likes American music and scotch whisky" create easier relations with the West? Can we, as another put it, "breathe easier"?

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*Footnotes at end of article.

Because such false premises have become conventional wisdom even among reputable sovietologists, much study of the USSR had drifted into irrelevancy. Having said this, I do not pretend to come forth here to unveil "the real Andropov" nor to reveal what is going on beneath the surface. I share the West's ignorance of today's secrets. I do, however, know how things are done; that hasn't changed since my time, and it cannot change. I can and will supply some keys to understanding Fedorchuk's appointment, but I can contribute most by simply pointing out certain facts about the system—and about the KGB, which is central to it.

The overriding concern of Soviet leaders has always been to preserve their exclusive power. The KGB is the heart of their system and penetrates every aspect of their society. An examination of Fedorchuk's career illuminates not only the role he has played within that system but also provides a basis for speculation about the significance of his recent appointment.

FEDORCHUK'S CAREER

This man is not just any veteran of forty-three years' KGB service. He is a military counterintelligence (CI) and security specialist, a SMERSH man, a "military chekist." From his earliest days in State Security before his twenty-first birthday until his appointment over thirty years later to head the KGB in the Ukraine, Vitaly Fedorchuk worked in a part of the KGB noted for its tight discipline and harsh methods—and specially connected to the army. This is the central fact of his career, and until now, with all its implications, it has eluded Western observers.

Never since Trotsky's formation in 1918 of the Red Army has the leadership trusted the army to see to its own loyalty. They have given that responsibility, instead to their KGB—from the first days when it was called CheKa until the present, when KGB men are still called chekists. KGB men, in organizations known as Special Departments (*Osobyy Otdel*, or OO) within the army and navy, have saturated the services with spies and informers. They have always reported, not through the military command, but to the military Counterintelligence Directorate—also known as the Directorate of Special Departments and Third Chief Directorate—of Soviet State Security.

In 1942-1943, as the Soviet armies began to roll forward over lands which had been occupied by the German invaders, Stalin separated it from the NKVD and subordinated it directly to himself. He coined for it the now-infamous acronym SMERSH,[1] from the Russian *Smert Shpionam*, "Death to Spies," and gave it powers seldom equaled during the KGB's long history. SMERSH was to eliminate, by whatever means, the threats to his rule stemming from the alien contamination introduced during World War II.[2] SMERSH identified, arrested, interrogated, imprisoned, or shot (sometimes en masse) people who might have collaborated with the occupiers, who had tried to escape, or who had shown disaffection with Soviet rule.

Thus, "wet affairs" are old hat to Fedorchuk. He was active in SMERSH's bloody cleanup of disaffection in the reconquered Ukraine. He was in Hungary at the beginning of 1945 and was surely aware of—and conceivably participated in—the arrest and removal of Raoul Wallenberg. And, as I know directly, men under his command abducted scores of people from occupied Austria.

Fedorchuk's official biographies tell little about his rise through the ranks of State Security. He was born in 1918 in the Ukraine, then under a breakaway regime in wartime turmoil under German occupation—as it would be again, a generation later. At sixteen, in 1934 (the year the Moscow trials were starting), he began to work on newspapers in Zhitomir and Kiev Oblasts, and at eighteen (on the eve of that bloodiest part of the purges, known as the *Yezhovshchina*) he entered a military school in Kiev. Less than three years later, in February 1939 [3] (Beria was by then in charge of State Security) he completed the school and stepped into the dark affairs that had been a mere backdrop to his early years.

I can fill in much of the rest of Fedorchuk's story from my own knowledge and from Soviet publications that have never been translated in the West. Fedorchuk went directly from school into the military counterintelligence part of State Security, and his path crossed mine at many points.

From the military school he went to his first OO assignment in an army unit in the Ural military district.[4] Within weeks—in May or June—his unit was sent to reinforce Soviet units that, under the overall command of General (later Marshal) Zhukov, were fighting the Japanese on the Mongolian frontier. There in that barren wasteland Fedorchuk got his baptism of fire and of military OO work.

Two years earlier one of the top NKVD officials in the Far East, General Genrikh S. Lyushkov, had escaped Stalin's purge of NKVD leaders by defecting to the Japanese. The whole structure of the Soviet army in the Far East and its security services was shaken; Stalin's wrath, in this time of the terrible *Yezhovshchina*, was predictably fierce. An emigrant has recently reported that the bold Japanese incursions into Soviet territory in 1938 and 1939 were in fact encouraged by Lyushkov's information and by Stalin's purge of top Soviet army leaders.[5] The first fighting had taken place in the summer of 1938 near Lake Khasan, southeast of Vladivostok; in May 1938 new warfare broke out along the Khalkhin-Gol River near the easternmost tip of Mongolia and, with a few breaks, continued until September of that year.

It was to the Khalkhin-Gol that young Lieutenant Fedorchuk's unit moved from the Urals. He must have used informants to detect signs of disaffection in Soviet ranks, for many Soviet soldiers deserted when the opportunity arose, and others, as war prisoners, consented to serve the Japanese as spies. They and certain White Russian emigrants in Manchuria were infiltrated back through Russian lines,[6] and it became another task of military CI to detect them.

Later Fedorchuk's unit fought in the defense of Moscow as part of the Fifth Army. Subsequently, Fedorchuk served as OO chief of a tank brigade on the Kalinin front, the Western front, and the North Caucasus front. Fighting on the North Caucasus front ended in 1943. To my knowledge Fedorchuk then fought on the Ukrainian fronts (there were four of them), but a Soviet source [7] tells us no more than that he served "on other fronts," obscuring events and contacts that helped to shape Fedorchuk's postwar career.

On the Ukrainian fronts SMERSH was charged with cleansing Fedorchuk's former homeland, as well as parts of Poland and Czechoslovakia bordering it. I remember hearing in Vienna, later, that Fedorchuk had had some kind of wartime contact with partisans; perhaps he dealt, like so many other SMERSH men, with overrun partisans who were helping the advancing SMERSH to identify former collaborators. This work was directed largely against Ukrainian nationalism and here, I believe, Fedorchuk attracted the special attention of the chiefs on SMERSH on the third and first Ukrainian fronts, General Pyotr I. Ivashutin and Nikolay Korolev, close associates of SMERSH chief Viktor Abakumov. These contacts were important to Fedorchuk's immediate postwar assignments, which in turn were crucial to his career and, eventually, to the position he holds today.

In July 1945 the wartime fronts were dissolved and superseded by groups of forces headquartered in Poland, Berlin/Potsdam, Vienna, and Constanza. Marshal Ivan Konev became the first commander of the central group of forces (TsGV) headquartered in Baden near Vienna. His deputy was Colonel General Aleksey S. Zheltov, and just under Zheltov was General Georgiy K. Tsinev, the former political officer of the Fifty-seventh Army of Konev's wartime front.[8] Zheltov remained until 1950, Tsinev until 1951.

General Nikolay Korolev took command of the TsGV SMERSH while Ivashutin occupied for a time the same position with the southern group of forces in Romania and Bulgaria. By about 1947 Ivashutin had become Korolev's deputy in Baden, with Fedorchuk as a section chief. Korolev departed about 1948[9] and Ivashutin, as I remember, soon after. Colonel Vasiliy Chugunov then moved up to become chief of the Counterintelligence Directorate,[10] with Fedorchuk as his deputy.

When Chugunov was recalled to Moscow at the end of 1952 or early 1953, Fedorchuk took over command of the OO directorate of the TsGV, although by 1954 he had still not been formally confirmed as chief.

I knew him well at this time. He and I were responsible, in different State Security organizations, for the "safety" (from Western temptations) of Soviet occupation personnel: he for soldiers, I for civilians. We met every week or ten days in Vienna.

We had a lot to talk about. We in the KGB's Vienna *rezidentura* depended on Fedorchuk's unit (much larger than ours) for surveillance teams, for listening devices, and for men and vehicles for strong-arm operations. He depended on us for false civilian documents for his military case officers and for operational safehouses for their meetings with spies working against Western occupation forces. We exchanged the results of our military mail censorship and information we received from our secret informants. Our collaboration was so close that Fedorchuk and I discussed the possible transfer of control of certain spies from one unit to the other.

Fedorchuk's men did a lot of kidnaping, too. They picked up scores of refugees, emigrants, Western agents and anti-Soviet activists, not only off the streets of Vienna and in the Soviet zone but even from the western parts of Austria.

He and I collaborated in the preparations for two abductions. One victim was an Austrian named Armin Rentmeister, who we were convinced was an important Western agent. Our spy got him drunk and Fedorchuk's men, stationed outside the safehouse, grabbed him as he reeled out, bundled him into a car (from Fedorchuk's car pool) and drove him off to Soviet imprisonment. (He survived and many years later returned to Austria.)

Our other victim was Bohumil Lausman, a former Czech vice-premier in exile and a thorn in the side of our Czech satellite. The head of Czech State Security in Austria, Bohumil Molnar (later to rise to the top echelons of his service) came to me for authorization and help in grabbing Lausman off the streets of Salzburg, in the American zone. I turned to Fedorchuk, who agreed to supply the needed men and trucks, and then I arranged for Fedorchuk to meet Molnar personally to work out the details. The operation succeeded: Lausman was taken to Czechoslovakia where he was put on trial, betrayed by lying promises into "confessing," and then sent to prison where he died a few years later.[11]

After the end of the occupation of Austria in the summer of 1955, Fedorchuk went to Moscow to attend the Higher KGB school.[12] Although there was a three-year course at the time, senior officers usually completed it within six months to two years, depending on their experience and previous education. It is likely that Fedorchuk got his diploma after less than two years' study of law, thus completing his "higher education." [13]

Fedorchuk, still not forty years old, was now nearing the top ranks of military counterintelligence. It was his next assignment (as I piece his career together from Soviet publications) that gave him command of the largest and most important organization outside Moscow: military CI under the group of Soviet forces in Germany with headquarters in Potsdam.[14] Here in 1957 he relieved his old colleague from Vienna, Georgiy Tsinev, who in the meantime had shifted into military CI like so many other army political officers.

Fedorchuk's unit in Germany ran double agents and other penetration operations against Western intelligence services in Berlin and West Germany and maintained close contact with the huge KGB apparatus centered in the Berlin suburb of Karlshorst. Fedorchuk would have worked closely, in turn, with two colorful heads of the Apparat. Yevgeniy P. Pitovranov, who left Germany in 1958 or 1959, is now helping the KGB run the Soviet chamber of commerce and its contacts with foreign businessmen. Aleksandr M. Korothkov (who died of a heart attack there in 1960), handled part of the famous Rote Kappelle network, and, in the 1950s, headed KGB Illegals. These men and the Apparat they commanded were well placed to help Fedorchuck since they controlled agents inside the Western intelligence services who were trying to spy on Soviet troops. George Blake served until 1958 in the British MI-6 unit in Berlin while Heinz Felfe was running the West German counterintelligence operations against the Soviets from the mid-1950s until 1962.

Such "moles" betrayed Western spies amid Soviet forces in Germany. A big one fell into the KGB net in late 1958: Soviet Military Intelligence (GRU) Lieutenant Colonel Pyotr S. Popov, who had been working secretly on behalf of the CIA for six years.[15] The discovery brought to an end whatever remnant of independence the GRU still retained from the KGB; since then it has been commanded by chekists: from December 1958 by former KGB Chairman Ivan A. Serov and from 1963 (after the discovery of yet another Western spy in the GRU, Colonel Oleg Penkovskiy) by former KGB First Deputy Chairman Pyotr Ivashutin. This old military CI officer, Fedorchuk's long-time chief and mentor, remains in charge of the GRU today, twenty years later.

In the 1960s Fedorchuk moved back to KGB headquarters in Moscow where by 1967 [16]—the year Andropov took over the chairmanship—he took over command of the military Counterintelligence Directorate. Here Fedorchuk found himself again working closely with his old colleagues and predecessors in earlier posts, Georgiy Tsinev and Pyotr Ivashutin. Also close to him were the other KGB deputy chairmen, Semyon Tsvigun and Viktor Chebrikov—Brezhnev's men.

The next phase of Fedorchuk's career is better known to the public. From 1970 to 1982 he was the KGB chairman for the Ukrainian Republic. The assignment—and his long tenure there—show that he enjoyed the special confidence of Brezhnev and Andropov. I think it likely, in fact, that his move there was part of a high-level power struggle still debated by kremlinologists.[17]

First a few words of background about the Ukraine. That area has always represented a special security problem for the Soviet leadership. Lenin practically signed away the Ukraine to get, in 1918, the peace without which his Bolsheviks could not have held on to their new power. For years large parts of the territory claimed independence. When by 1920 the civil war ended and Lenin felt strong enough to reverse his policy and take back under Moscow's wing all the breakaway regions, Soviet armies had to subdue strong military resistance. They failed in Poland and thereby lost the western Ukraine, and even after they had regained control of the rest of the Ukraine they had to fight armed resistance almost up to World War II. Then came another German invasion, exciting new hopes for Ukrainian autonomy, which were, however, smashed by Nazi barbarism. Renewed resistance to Soviet rule was crushed by the return of Soviet tanks and SMERSH (with Fedorchuk). But resistance continued for at least fourteen years after the "liberation." Well into the Khrushchev era, SMERSH (at the beginning) and MGB troops (and their successor organizations) were battling with the resisters, whom they labeled "bandits." By now the fighting seems to have died out, but religious and nationalist dissent has never subsided. The Moscow leadership has tried both accommodation and repression, but the problem persists and the local party and KGB chiefs remain ever susceptible to being made scapegoats for the inevitable failure to resolve the problem.

The job of State Security chief in the Ukraine has always been a sensitive position. In 1952-1953 the post was held for a short time by Pyotr Ivashutin, but fortunately for him, after Stalin's death Beria replaced him with his friend Pavel Yakovlevich Meshik, who was shot with Beria later in the year. From the formation of the KGB in early 1954 until Fedorchuk's arrival in 1970 the post was held by Vitaliy F. Nikitchenko. He survived the job through all Moscow's shifts of tactics through the Khrushchev era and six years of Brezhnev's under four successive KGB chairmen in Moscow.

Then in 1970 Fedorchuk replaced Nikitchenko. In the light of Nikitchenko's long service, it is absurd to suggest that, as one commentator put it, he was ousted because he was "too sympathetic to the Ukrainian nation." [18] It is more likely that Nikitchenko was knocked down as a pawn in the struggle for the party succession. He had been supporting party chief and Politburo member Pyotr Shelest, Khrushchev's man, who had held the post since 1963.

In 1972 Brezhnev was able to replace Shelest with his old friend Vladimir Shcherbitskiy. Soviet statements, supplemented by rumor, have left the impression that Shelest was ousted because of foreign policy differences with Brezhnev. Western analysts have found evidence that Brezhnev was dissatisfied with Shelest's erratic handling of Ukrainian dissent and softness on Ukrainian nationalism,[19] but I have no doubt that the underlying reason for his departure was that Brezhnev wanted his own man, not Khrushchev's old ally, in this key spot. The move seems to have been under preparation for a year or more: Fedorchuk was made a deputy to the Supreme Soviet in 1969 [20]—an unusual appointment for the head of the KGB's military Counterintelligence Directorate. Soon after moving in to the Ukraine job in 1970, he replaced many Ukrainian Oblast KGB chiefs, and by 1971, according to *samizdat* reports, he was vigorously denouncing Shelest to Moscow.[21] Soon after Shcherbitskiy was promoted in 1971 to full member of the Politburo, Shelest was recalled to Moscow and (again according to *samizdat*) was reproached with the charges mentioned above.

Fedorchuk's subsequent career suggests that he was involved in this power play. He continued serenely in his job for ten years under Shcherbitskiy's rule in the Ukraine, was promoted to colonel general, and has now moved upward to head the all-union KGB.

Fedorchuk was a loyal servant of Moscow in the Ukraine, as he had been during earlier SMERSH days. When I knew him, none of us ever thought of him as a Ukrainian. Neither accent nor manner nor interest in things Ukrainian ever suggested that he was other than a Russian. During his time in the Ukraine he denounced publicly (as every KGB chief must) the "infection" of "nationalist prejudice and religious poison." [22] It has been reported that "waves of arrests" followed his takeover,[23] but this need not be attributed to his personal leanings. He is surely a "hard" man; he could not otherwise have risen through such a specialty. But when Moscow wants crackdowns and arrests, it has only to command them.

More important than any hardness Fedorchuk has demonstrated is his military background. In this account of Fedorchuk's career the names of Georgiy Tsinev and Pyotr Ivashutin appear again and again.

These three men, at the top of military-security affairs for the last forty years, represent an extraordinary continuity. That they remain active today in high places despite their advanced ages (Tsinev is 75, Ivashutin 74, and Fedorchuk 64) attests to the importance of the military character of Fedorchuk's recent appointment. Their association illustrates the unusually close personal links between the KGB and the military, military-political, and military-industrial sectors of the Soviet establishment.

Tsinev—too old to take over the KGB chairmanship himself—was a prewar party colleague of Brezhnev's in Dnepropetrovsk and, like Brezhnev, political commissar of an army on the wartime first Ukrainian front. He has occupied high-level posts in military CI since at least 1953. Even during his time in Austria (1945-1951, during Fedorchuk's time there) he performed, as I heard in 1951, functions of special interest to Abakumov. Over the past fifteen years, in addition to supervising military CI as KGB deputy chairman for twelve years, he has also supervised the KGB's related task of protecting the ballistic missiles, nuclear and other special weapons of the Soviet armed forces. This brought him into close contact with Dmitriy Ustinov and the defense-industrial leadership. He had already had experience in Ustinov's field of arms production: Tsinev was given credit for speeding the production of aerial bombs in Dnepropetrovsk in the late 1930s.[24]

Ivashutin, as we have seen, preceded Fedorchuk in at least four of his most important jobs (with Tsinev serving in the time between at least twice) and, from KGB headquarters, directly oversaw Fedorchuk's work in Austria and Germany. In his twenty years as head of the GRU and its intelligence collection, Ivashutin has been supplying military-industrial leaders with scientific and technical information from the West.

There is not space here to describe the full degree of collaboration, at every level, between military-political officers and the KGB's security officers. Their functions overlap to the point that they are sometimes barely distinguishable to an outsider, and many political officers have been sent into the ranks of the KGB—Tsinev and I are examples. As Fedorchuk himself put it, "The Communist Party has supplied and continues to supply Chekist cadres with contingents of staunch communists who know military matters."[25] Brezhnev, while he was a political officer, used to meet with OO officers to discuss counterintelligence operations.[26] Today's top military-political officer, head of the Main Political Directorate of the army and navy, Aleksey Yepishev, was also a chekist in his time, serving as deputy MGB minister (for personnel) from August 1951 to March 1953. During the war he was also close to Ustinov, serving as deputy head of the weapons-producing People's Commissariat of Medium Machine Building in 1943 while Ustinov was People's Commissar of Armaments. Similarly, Yepishev has long been close to Ivashutin, Tsinev, and Fedorchuk. And the job he now holds was formerly occupied by Aleksey Zheltov (with Brezhnev as his deputy for a year), who worked closely in Austria with Tsinev and Fedorchuk. Zheltov today heads the Soviet war veterans organization.

THE ROLE OF THE KGB AND ITS CHIEF

Fedorchuk the military chekist has replaced the political apparatchik Andropov, who, after heading the KGB for fifteen years, moved on to other high party work. The man who took his place is not even a member of the Central Committee. What might all this mean?

One thing the recent changes do not mean is that the KGB is either "slipping from" or "returning to" party control, or that "Stalinism" is returning or retreating. These terms are meaningless, but so popular with journalists and sovietologists alike that before going on to speculate about Andropov and Fedorchuk, it may be useful to discuss what their KGB is and is not.

I am struck by the tendency of Western scholars to overlook, dismiss, or downplay the role of coercion and violence in the Soviet system. One review of the recent work of more than thirty prestigious sovietologists observed that "all the authors agree that the image of a completely centralized totalitarian despotism, rigidly imposing its orders on everyone, is outdated."[27] By emphasizing improvements in Soviet life, by using Soviet terminology, and by ignoring the ugly constants, scholars give the impression, perhaps unintentionally, that the system has changed fundamentally. By devoting their pages to indications of increased participation of different institutions within the controlled bureaucracy, and by giving new names (like "institutional pluralism" and "participatory bureaucracy") to the system to avoid the out-word "totalitarianism," scholars create the impression of an evolution into real pluralism and popular participation.[28] By stating that laws and regulations now work more predictably, they suggest the existence of real law, even justice. By saying that the force of law has "yet" to win acceptance, they imply that it is moving in that direction. While admitting that the Communist Party preserves its controlling role, they fail to examine the ways in which that power is exercised. By sliding around the obstacle of facts in the pursuit of theories of evolution, Western scholars come to absurd conclusions—for example, that the Soviet system "is neither despotic nor free."[29] They also misrepresent the role of the KGB in observations such as the following:

"Following Beria's own ouster and execution in 1953, the secret police was stripped of considerable authority and for the first time since before the purges of the mid-thirties was put firmly under party control.[30]

"Government by means of terror was ended and, especially under Khrushchev, the emphasis became less on control through intimidation and coercion than on efforts to win popular support for the post-Stalin regime.[31]

"Some of the most important characteristics of the present Soviet political system [are that] . . . mass political terror was abolished, the secret police were largely eliminated from the political process within the elite, the still massive Soviet police state was reduced to the political functions of a traditional authoritarian polity."[32]

Similarly, they place too much faith in the dubious premise that "Stalinism" was limited to the time of Stalin's full power. It is said, for example, that a new generation of leaders will not carry the direct burden of "the Stalinist experience" and is gaining greater "confidence about the stability of the Soviet system."[33]

To those who will listen to the victims of today's regime and to those like myself who served inside the secret organs of coercion, it should be clear that the system, its institutions, and most of its methods, remain intact whether the system is called "Stalinism" or "Leninism" or "participatory bureaucracy"; and that far from "gaining confidence" in the stability of the Soviet system, the Soviet leaders (young and old) call for increasing vigilance against "outside" threats and give every indication that they fear for the stability of their rule.

The KGB is the power of their party. It occupies the center of their regime, screening for lifetime loyalty anyone who is admitted to the circle of power, and embodying the violent coercion on which the party relies. Western political scientists who find increasing evidence that the people support the Soviet government, and increasingly participate in it, tend to overlook the overwhelming evidence to the contrary: the deadly borders; the refusal to let people out of the country or even to move freely within it; the censorship of every printed word; tight control of every printing and reproducing machine; prohibition of spontaneous organization (even social); omnipresent informants (averaging one in every eight to ten citizens, by my professional estimate, and one in five in sensitive areas); rigid control over any sort of weapon; and the party's maintenance of special troop units to beat down large-scale popular uprisings. And then there is fear, which can never be properly weighted in political-science "models." It is often dismissed by the facile observation that "mass terror" and "the midnight knock on the door" are things of the past. But the truth is that everyone—including the leaders—lives in fear and must buy his and his family's livelihood and safety at the price of conformity and discipline to a party that can destroy him with ease.

The core of this system is the KGB. Soviet legal texts stress the KGB's "strikingly pronounced political character" in that it "makes possible the functioning and further development of the whole political structure of Soviet society."[34] The KGB-dominated "administrative organs" form a "sub-system" of the state, responsible for internal and external security and therefore including national defense and foreign affairs as well as justice, public order, and state security.[35]

KGB and party are inseparable parts of one and the same body. As recent Soviet writers remind their audiences, Lenin stressed that "a good communist is at the same time a good Chekist."[36] Lenin himself illustrated the point: he not only "played a very great role in directing the political leadership of the organs of state security and in developing the general principles of their organization and activity,"[37] but also sent directly to the Cheka's working levels for information he needed, advised them, and supervised details of their operations. He staunchly defended their almost unrestrained power; the citations are numerous and extend to the last year of his life. He never feared that the Cheka could "escape party control," for he knew that it was party control.

Current textbooks stress this unity. A basic text on Soviet administrative law points out, for example:

"The organizing and directing role in the protection of state security in our country belongs to the Communist Party of the Soviet Union. . . . The activities of the organs of state security have a strikingly pronounced political character. These are political organs executing the line of the Central Committee. . . . Their direction and methods in dealing with the enemies of the Soviet state respond to current requirements and the political aims of the Communist Party.[38] . . . Their organization and activities are carried out under the leadership and unremitting control of the Communist Party.[39] . . . Clear Party instructions orient Soviet Chekists in the present situation."[40]

"The communists of the KGB organs are a loyal forward detachment of the CPSU," wrote a Soviet leader in late 1981. "They must always be at the leading edge of the Party's ideological activity."[41] Even the pro forma link to the government was broken on 5 July 1978 when the KGB's name was changed from "KGB under the Council of Ministers" to "USSR KGB," a change reportedly contested by Kosygin, who, as chairman of the Council of Ministers, was losing even the appearance of control of the KGB.

So this part of the party could no more escape its control than nerves and eyes could escape a body. Stalin may have outmaneuvered his rivals, achieving total control and using State Security for his own purposes, but he was the party chief and State Security was responding to the party.[42] When Soviet writers repeat endlessly that party control over the KGB has been "restored" after the bad days of the "cult of personality" and the "criminal" Beria, it is nothing more than propaganda. If it means anything at all, it means simply that no single Politburo member holds exclusive power and thus none (not even the Politburo-cum-KGB chief Andropov) has exclusive control over the KGB. The general secretary enjoys primary authority over the KGB, but his colleagues are looking over his shoulder.

To ensure maximum control over these essential powers of the party, and to protect his own position, each ruler of the Soviet Union, from Lenin onward, has put a trusted subordinate at the head of the KGB. Loyalties, however, can change with changing conditions, and the performance of Vladimir Semichastnyy serves as a cautionary tale to later leaders. Following the lead of his protector Shelepin, he let himself be bought by Khrushchev's rivals and supported their successful move to oust him; he even brought the returning Khrushchev from the airport to the meeting where he was to be dropped. Semichastnyy thus won himself full membership in the Central Committee and three more years in his KGB job, until Shelepin lost most of his remaining power in 1962. Khrushchev had been better protected by his own original choice as KGB chief: Ivan A. Serov. When Molotov, Malenkov, and Kaganovich—later, with others, labeled an antiparty group—made their move to oust Khrushchev in 1957, Serov provided solid support, as did the army's leader, Defense Minister Marshal Zhukov.

Andropov, the man chosen to replace Semichastnyy, was not a Brezhnev man, curiously enough, but a party apparatchik whose ties to Suslov were probably closer than to Brezhnev. Brezhnev agreed to the appointment, of course, but lost little time inserting his own man, the experienced chekist Semyon Tsvigun, as Andropov's first deputy.[43]

Two months after Andropov's appointment as KGB chairman, he was promoted to candidate member of the Politburo, and six years later to full member. This was a new wrinkle, for no previous chief (except Beria) had ever enjoyed Politburo status. It may have been a means to be sure that the KGB chief could not be seduced as Semichastnyy had been and to bring the affairs of the KGB closer under Politburo scrutiny.

The fate of Aleksandr Shelepin, Serov's successor and Semichastnyy's predecessor and protector, may offer another enlightening precedent to current events. Shelepin was ambitious. Khrushchev supported his rise, promoting him out of the KGB into the triple job of secretary of the Central Committee, chairman of the party-state Control Committee, and deputy chairman of the Council of Ministers. He also let Shelepin's man Semichastnyy take over the KGB. It is hard to say where this would have led if Khrushchev had held power, but Shelepin, taking Semichastnyy with him, went along with Khrushchev's rivals and helped oust his own protector in the hope of taking his place. He won himself full membership in the Politburo two months later but lost two of his three jobs; in 1967 he lost whatever real power remained to him, although he stayed in the Politburo until 1975. It is quite possible that Andropov made a similar attempt to gain power from Brezhnev in late 1981, was thwarted—and became successful with Brezhnev's death.

Andropov's move out of the KGB was not necessarily a promotion. The death of Suslov had many consequences, most of them unknown outside the ruling circle. Some can perhaps be guessed. Andropov had long been a candidate for the succession. His potential supporters would not have liked to see him move up with the KGB still in his hands, but Suslov was there to control the succession. With Suslov's death, this insurance disappeared. In moving Andropov back to the Secretariat, the rest of the Politburo may have simply brought one of their number back into the pack by removing the KGB from his hands before it was too late.

THE BACKGROUND OF THE KGB LEADERSHIP CHANGE

While no firm information about the meaning of the recent changes has reached the West, one can perceive some of the pressures behind them. The regime is being squeezed by urgent and menacing problems. Soviet leaders seek, above all aims of their foreign policy or economic strategy, to hold on to their exclusive power. They have kept it by coercion for over sixty-five years and remain vigilant as changing conditions give rise to new threats.

Every month makes it more clear to the population how badly the regime—and the system—has failed in its self-appointed tasks. Factories continue to turn our shoddily made goods, and shortages of essential parts and products are reported from several sectors. Absenteeism and dissatisfaction with wages and working conditions grow more common; the recent firing of the Trade Unions chief Aleksey Shibayev (whose job is to ensure discipline, compliance, and productivity) suggests the leaders' frustration. Strikes are reported. The farms are failing: food shortages are more frequent, more severe, more widespread and might, at any time, cause riots like the bloody affair at Novocherkassk in 1962 and in other towns since then. Violent crime is growing (according to recent statistics of the regime itself), and drunkenness has become a national problem despite massive but useless "campaigns." Indiscipline and racial strife are weakening the armed forces, according to ex-soldiers I have talked to.

The Polish problem looms large, for it could spill over onto the troubled Soviet lands. Fedorchuk himself revealed that by the summer of 1981 Soviet leaders considered the Polish events as a threat to their very survival in power:

"These events plainly confirm the incontrovertible truth that any kind of belittlement of Marxist and Communist ideology, any mistake, shortcoming, or violation of the economic laws of socialism, and relaxation of ideological and political education of the masses boomerangs, with the inevitable onslaughts of bourgeois ideology. They graphically illustrate that the primary objective of counterrevolutionary forces, supported morally and materially from outside, is to disorient the masses, ideologically disarm and disorganize the Communist Party, and remove it from the leadership of society with the aim of seizing power in the country and creating conditions for the restoration of capitalism."[44]

Soviet leaders probably feel an urgent need to reduce the threat to their authority posed by the corruption endemic at every level of society. The concentration of decisionmaking power in the hands of a few people practically invites bribery and extortion, and the pressures of the plan force everyone to lie and open endless possibilities for black-market operations. Long reported by regime insiders who have emigrated, year by year the problem is given greater attention in the Soviet press. The recent execution for corruption of a deputy minister of fisheries, for example, shows that the regime is being compelled to take action.

It is the KGB, above any other party institution, that sees to it that nothing threatens the leaders' continued hold on power. It staffs or infiltrates the personnel offices of every factory and institution and plays a direct role in enforcing work discipline. For every potential threat, the KGB has responsibility and its internal organization, as a result, reflects the priorities given by the party leaders to their problems. In the 1960s, for example, its unit working against cultural and nationalist dissidents was vastly augmented and upgraded to the rank of Chief Directorate. It is noteworthy that another special directorate has now been formed to cope specifically with economic problems, reviving what was, in the early decades of Soviet rule, one of the most important parts of State Security.

Against this troubled background the appointment of Fedorchuk takes on special significance. Fedorchuk appears to have been Brezhnev's choice. He went to the Ukraine for Brezhnev and Andropov and loyally served Brezhnev's friend Shcherbitskiy there. Tsinev, a long-time friend of Brezhnev and Ustinov, must have backed Fedorchuk's appointment. And Fedorchuk was appointed amid strange events during the first half of 1982 in which Brezhnev, his power apparently under attack, seems to have prevailed.

The West glimpsed in early 1982, through a cloud of secrecy and planted rumors, what looked like an effort to discredit Brezhnev and, indirectly, his "Mafia" and prospective heirs. The instigators might have included the then KGB chief Andropov, Suslov, and even Andropov's KGB first deputy chairman Semyon Tsvigun. Much has been written about the "circus" scandal; the published satire against Brezhnev; the mysterious death of KGB First Deputy Tsvigun; Brezhnev's equally mysterious and blatant disavowal of Tsvigun-not signing his published obituary notice; the sudden death immediately afterward of Mikhail Suslov (the Kremlin's strong man and rock of stability); and the show of "unity" by the Politburo leaders—marching off together to a well-publicized theater evening—which betrayed their worries and suggested the very opposite of the unity they were trying to demonstrate. During this period Tsinev was promoted, replacing Tsvigun, and then, five weeks later, Brezhnev's man Viktor Chebrikov was appointed an unprecedented second first deputy chairman of the KGB. Brezhnev then moved Andropov out of the KGB.

Many rumors about these events have been planted in the Western press. Stories, for example, circulated about Tsvigun committing suicide because he had been unable to prevent (or had caused) an investigation of a smuggling ring compromising Brezhnev's son and daughter. The events are hard to interpret, even for an insider, and our soundest course is to stand back and admit our ignorance.

Certain things can be seen, however. Not only one man's reign but the whole system is clearly in trouble. The leaders have brought to the top of the KGB two military chekists of the school of Viktor Abakumov. And this is what we should be considering.

Much has been written about the role of the Soviet armed forces in the political system. One can hardly avoid the topic today, after the Polish army has taken power in Poland without even pretending to represent the discredited and deflated Communist Party (although General Jaruselski was quickly appointed party leader). As the Soviet leaders demonstrate, even more clearly, their inability to solve the deepening problems of their own country, one cannot fail to wonder whether a "man on a white horse" may, sooner or later, have to step in.

Stalin clearly had similar fears in the face of the devastated conditons of 1945-1946 when he removed the popular wartime hero and leader, Marshal Zhukov, from his commanding post in Germany. For similar reasons Khrushchev later not only removed Zhukov from the post of defense minister and Politburo member but also removed, from its prominent place in Moscow, a painting of Zhukov on a white horse. One suspects that the Soviet leaders were relieved by the death, in 1976, of Politburo member and marshal Andrey Grechko—a prominent commander in World War II who, as minister of defense, had shown an uncomfortable independence from the Politburo and a disconcerting tendency to promote military interests. Instead of another military man, they chose to succeed him Dmitriy Ustinov, a party functionary whose military experience consisted mainly of armaments production. Several sources reported the disappointment (and perhaps resentment) of military candidates, like Marshals Ogarkov and Kulikov, for the post.

The Soviet army could not, however, act independently of the party. Political officers keep close watch on discipline and loyalty, reporting to the Main Political Directorate of the army and navy, which is a department of the Central Committee. There is, also, the party organization within the armed forces, of which practically all field-grade officers and most junior officers are members. The army is also, as we have mentioned, honeycombed with KGB networks controlled by the OOs, using tightly controlled informants and provocative techniques to ensure that the slightest show of disloyalty is reported. These KGB agents within the OOs report vertically through KGB channels only. At the top is the Third Chief Directorate of the KGB, long supervised by Ivashutin, Tsinev, and Fedorchuk.

Although the army cannot organize a coup d'état, army leaders, acting within and through the party and its KGB, can gain influence. And that is what has happened, depending on how one interprets the rise of Fedorchuk.

A prominent military CI man for four decades, Fedorchuk has collaborated closely with all the leading political officers of the armed forces and many of the senior commanders. We have already discussed his special relationship with Tsinev, Ivashutin, and Yepichev. Another of his associates deserves notice in this context. Lieutenant General Sergey S. Shornikov is an army man who joined military CI in 1953, like Tsinev and many others. Since 1967, the year of Brezhnev's consolidation of power and of so many changes in State Security, Shornikov has been commandant of the Kremlin, a position giving him special military responsibility for the protection of the leaders.

SPECULATION

What does such a military constellation signify? It not only tells us something about a struggle for the succession to Brezhnev, but may also reveal the leaders' concern for the very survival of the regime.

Conditions in the country have become so critical that the leaders may foresee a growing and imminent danger of popular unrest, with food riots turning into spontaneous uprisings, and a weakening of party authority. They may believe that the inevitable power struggle after Brezhnev's death will bring these dangers to a head. Therefore, they may have concluded that a severe crackdown is now or soon may be necessary. Their cutting of telephone contacts with the West in July and September 1982 may offer a foretaste.

Such a crackdown has its own dangers. It could harm party morale, raise opposition within the ranks of the army, and discredit the party in the eyes of the people. The KGB would do the dirty work—and (until the spring of 1982) the KGB was headed by a Politburo member. Any problems caused by a KGB headed by Andropov would hit the Politburo directly.

Fedorchuk is not only disciplined enough to carry out whatever harsh measures the leaders require; he is also expendable. Not a high party official, he could later be disavowed. After refilling the Gulag Archipelago, subduing the people, and securing the regime again, he could be made a scapegoat for the "excesses" which "his KGB" committed. He could be branded a "criminal," like Beria before him, for "escaping party control." And this would leave the regime room to maneuver back to a more placid policy, a new détente.

During the period of this crackdown—and during the succession struggle—the leaders would feel safer with their "military" flank covered. Fedorchuk and Tsinev are well connected in top military circles, presumably trusted by the top military-political and military-industrial leaders, and perhaps by the line commanders as well. They are the men most experienced, too, in keeping the army docile. They have for forty years been building compromising dossiers on military leaders, just as other KGB men have been doing in other parts of the society.

Through the KGB, party leaders also control a real military power of their own. Nine divisions of Internal Troops—the party's private army, outside armed forces authority—are administered by the Ministry of Internal Affairs (MVD) but go into action on KGB orders. One crack division (named for Dzerzhinskiy) is barracked inside Moscow, a second just outside. In addition (according to reports I have from a more recent veteran of the KGB) the KGB's own little-known security troops (occasionally mentioned in Soviet law textbooks) number five divisions—and have long been under Tsinev's oversight. The KGB protects the Kremlin, too, where Shornikov's Kremlin guards (with machine guns and light artillery) can bring over 2,000 troops to the immediate defense of the rulers. The army's presence in the Moscow area can be directed by Politburo member Dmitriy Ustinov, issuing orders in his capacity as minister of defense. It includes the Kantemirov Tank Division (which moved quickly in to all the key spots of Moscow during the arrest of Beria) and the Taman Guard Mechanized Infantry Division, which conducts operational exercises with the Dzerzhinskiy division of MVD troops.

Fedorchuk's rise accompanied Andropov's move back to the Secretariat of the Central Committee, from which he came to the KGB fifteen years ago. The connection between these two appointments is hidden behind walls of secrecy. Andropov's rise to the top position may have been far more problematical than it looked from the outside. I have suggested, in the course of this article, several other possible interpretations of Andropov's transfer, which are no more than speculation: (1) that he was moved from the KGB (and replaced there by a professional who was not even a Central Committee member) in order to distance the Politburo from the mass repression that may be imminent; (2) that Andropov was shunted aside after a disatrously unsuccessful effort, with Suslov and Tsvigun, to unseat Brezhnev; and (3) that Andropov was moved away from the KGB, after Suslov's death, to avoid any chance of his acceding to the post of general secretary with the KGB still in his hands.

The much-repeated and widely accepted interpretation (perhaps pushed by Andropov himself) is that Andropov replaced Suslov, was "promoted" into a more strategic position from which to replace Brezhnev, and left the KGB at this point in order to erase or at least blur the stigma of commanding the repressive KGB. I find this hard to accept and am convinced that it is vastly oversimplified, if not concocted to deceive the West and the Soviet people. Whatever the truth, I think that Andropov's fight for the succession, although now won, remains a mystery, and that the rumors reaching the West were not so much glimpses behind the curtain of secrecy as weapons in the ongoing struggle for the succession.

Speculation like ours is inevitable, and it is healthy to remind ourselves that, if we do not know much about recent events, we don't know much more about earlier happenings, either. I am always surprised to see Western books confidently passing on, as history, things I know to be little more than an amalgam of Soviet misrepresentation, gossip, and guesswork. Soviet history is clouded and distorted, and as time goes by, the truth becomes ever harder to dredge out of the muck. This should make us hesitate before guessing about today's mysteries, but at the same time should instruct us that we will not, in the foreseeable future, get any truth or clarification from the Soviet Union itself. The speculations I have presented here at least have the virtue of reflecting the real Soviet Union—not some imaginary place where the KGB "runs amok" out of "party" control, gains or loses "power," or can be manipulated as a separate entity.

A long-time KGB chief heading the regime has no exact precedent, but it is a perfectly natural culmination of the system. Felix Dzerzhinskiy, a top chekist in his time, was a member of Lenin's innermost ruling group and, while running the regular police and the CheKa, also supervised the national economy. In some of the Soviet republics today the top party and state positions are occupied by former KGB and MVD chiefs—and Andropov is not the only State Security man who has served as a full member of candidate member of the Politburo: The oldest member of the Politburo (at 83), Arvid Pelshe was a chekist in 1918 and an NKVD official in the late 1920s, early 1930s, and during World War II. Geidar Aliyev, after twenty-eight years in the KGB, became the party's first secretary in Azerbaijan and for nearly seven years has been a candidate member and is now a full member of the Politburo of the all-union Communist party (CC CPSU). Eduard Shevardnadze, after seven years as MVD chief of the Georgian republic, became its first secretary of the party and has been a candidate member of the CC CPSU Politburo for over four years. Aleksandr N. Aksenov, the deupty KGB chief in Byelorussia, became first secretary of the party of an Oblast, then minister of internal affairs (MVD), and later moved to his present job as chairman of the Council of Ministers of the Byelorussian republic. Valter Klauson, presently chairman of the Estonian Council of Ministers and candidate member of the CPSU Central Committee, was an NKVD official under Beria from 1937-1953, when he used concentration-camp prisoners for highway construction.

And so it goes down through the Central Committee and the most sensitive party and government posts. What is different today, though, is the ascendency of military leaders, with their KGB partner Yuri Andropov in charge and two military chekists in firm command of the KGB. The leaders' rule of iron over the Soviet people is more blatant today than for the past thirty years and betrays their fears about the stability of their faltering regime.

FOOTNOTES

[*] This article is adapted from a chapter in the authors' forthcoming book-length study of the KGB and the Soviet system.

[1] The official date of SMERSH's creation was 19 April 1943, but the name had already been given to wartime military counterintelligence in 1942. The separation from State Security was loose indeed: we occupied the same buildings and kept our old records intact; Beria (of the State Defense Committee) remained the boss.

[2] Of course SMERSH also pursued the normal tasks of military CI: shooting retreating Soviet soldiers, punishing the slightest breach of discipline or the vaguest suggestions of disloyalty to Stalin (like Captain Aleksandr Solzhenitsayn's famous letter joking about the moustache, which SMERSH intercepted), and countering German spies.

[3] Deputaty verkhovnogo Soveta (Moscow: 1979), p. 452, and S. Ostryakov, Voyennyye chekisty (Moscow: Voyenizdat, 1979), p. 132.

[4] Ibid.

[5] "Sobytiya u ozera Khasan," in Russkaya mysl, no. 33, 8 October 1981, p. 5.

[6] S. Ostrykov, Voyennyye chekisyt, p. 132.

[7] Ibid.

[8] The political importance of these men is illustrated by the names of their close collaborators. Within Konev's front alone the political officers (or political members of the military council) were Colonel Leonid Brezhnev of the Eighteenth Army, Major General Aleksey Yepishev of the Thirty-eighth Army, Colonel Georgiy Tsinev of the Fifty-seventh Army, and Colonel Nikolay Shchelokov of the Twenty-eighth Infantry Corps. Shchelokov is now an army general and the USSR minister of internal affairs (MVD). Another political officer was Lieutenant General Nikita Khrushchev. These men had been party colleagues before the war and would remain in its top echelons. See I. S. Konev, Zapiski komanduyushchego frontom, 1943-1944 (Moscow: "Nauka," 1973), pp. 279, 353-363.

[9] He was still in Austria when "A. I. Romanov" defected from the OO of the TsGV in 1948. See A. I. Romanov, Nights Are Longest There (Boston: Little Brown, 1972), pp. 153. 203-204.

[10] SMERSH as a separate organization had come to an end in 1946, although it still carried the designation "GUKR/SMERSH" into 1948. Thereafter it was the Third Chief Counterintelligence Directorate (GUKR) of the Ministry of State Security (MGB). The subordinate units in the field were known by this designation or, at other times, as the Directorate of Special Departments (Osobyy Otdel, or OO).

[11] See my book, the *Secret World* (New York: Ballantine, 1982), for details of these kidnapings. The Lausman case is also described by Ladislav Bittman, a former Czech operative, in *The Deception Game* (New York: Ballantine, 1981), pp. 176-178.

[12] *Deputaty verkhovnogo Soveta SSSR*, p. 452.

[13] The school is no mere operational training establishment; it is a higher juridical institute whose graduates are lawyers.

[14] Former military CI Captain Aleksei Myagkov confirms that Fedorchuk held this post. See Aleksei Myagkov. *Inside the KGB* (New York; Ballantine, 1981), p. 127.

[15] William Hood, *Mole*, (New York: Norton, 1982), tells Popov's story.

[16] By 1967 Fedorchuk's articles concerning the anniversary of the founding of the CheKa began appearing in *Kommunist vooruzhennykh sil*, the Soviet armed forces political magazine. Such articles are traditionally written in this magazine by the heads of the Third Chief Directorate. Aleksei Myagkov confirms (*Inside the KGB*, p. 127) that Fedorchuk held this job after leaving Germany. Fedorchuk probably relieved General Fadeykin, who seems to have taken the position after Tsinev.

[17] See, for example, L. Tillett in *Slavic Review*, December 1975.

[18] Dissidents reported in *Samizdat* that among the evidence of Nikitchenko's softness was his tendency to hold occasional "friendly chats" with Ukrainian dissidents. But this sort of thing was obviously a centralized policy. Andropov was doing the same thing in Moscow, and there are similar reports from other republics. Nikitchenko is about as "soft" as Andropov is "liberal."

[19] See Tillett in *Slavic Review*.

[20] To the Council of the Union. In 1970 he became a member of its standing commission on legislation. He was re-elected in 1979. In February 1976 he became a member of the Politburo of the Central Committee of the Ukrainian Communist Party.

[21] *Ukrainskyi visnyk*, Spring 1975, cited by Tillett in *Slavic Review*.

[22] "Ideolohichni dyversii—zbroya imperializmu", *Pid praporom leninizmu*, October 1981, pp. 10-17. Other articles by Fedorchuk include: "Na strazhe besopasnosti sovetskogo gosudarstva," *Kommunist vooruzhennykh sil*, December 1967; "Polveka no strazhe revolyutsii," *Sovetskiy patriot*, 12 December 1967; "Boyevoy put' armeyskikh chekistov," *Krasnaya zvezda*, 19 December 1968.

[23] See, for example, Adrian Karatnycky, "The KGB Hetman," in *American Spectator*, August 1982, and "Top KGB Post Goes to Ukrainian Security Chief," Radio Liberty Research, 27 May 1982. For a discussion of later arrest, see *Arkhiv Samizdata*, 4532, reporting a speech by Fedorchuk to a meeting of Ukrainian KGB officers in late April 1981 in which he is alleged to have said, "Last year. . . 40 Ukrainian nationalists were rendered harmless. In order to avoid unnecessary international frictions, the majority were tried on criminal charges."

[24] K. S. Grushevoy, *Togda v sorok pervom* (Moscow: 1976), p. 20.

[25] *Red Star*, 19 December 1968.

[26] *S. Ostryakov* (*Voyennyy Chekisty*, pp. 229-230) quotes V. Ye. Zarelus, then OO head in the Eighteenth Airborne Army, on this point.

[27] R. V. Daniels, "Political Change in the USSR: Moving the Immovable?," *Problems of Communism*, November-December 1981, p. 46.

[28] Ibid., p. 49.

[29] Ibid.

[30] A. Rabinovich, in S. Cohen et al., *The Soviet Union Since Stalin* (Bloomington: Indiana University Press, 1980), p. 3.

[31] Ibid., p. 4.

[32] S. Bialer, *Stalin's Successors* (Cambridge, Eng. and New York: Cambridge University Press, 1980), p. 51.

[33] Daniels, "Political Change in the USSR," p. 50.

[34] Yu. M. Kozlov et al., *Sovetskoye administrativnoye pravo* (Moscow: Yuridicheskaya Literatura, 1979), p. 78.

[35] Ibid., p. 5.

[36] A. V. Kalachnikov, *Vospitaniye bditelnosti v Sovetskikh voinov* (Moscow: Voyenizdat, 1980).

[37] Yu. M. Kozlov et al., *Sovetskoye administrativnoye pravo*, p. 5.

[38] Ibid., p. 78.

[39] Ibid., p. 84.

[40] Ibid., p. 88.

[41] Speech by E. A. Shevardnadse, candidate member of the Politburo and former MVD minister of the Georgian SSR, as reported in *Zarya vostoka*, 26 December 1981.

[42] Stalin in my time was top chekist and no one had any doubts about it, regardless of which of his flunkies (Yagoda or Yezhov or Beria or Abakumov) occupied the chair in "Building Number Two," the headquarters on Dzerzhinskiy Square. A call from Stalin through his private secretariat (for example, Poskrebyshev or Malenkov) sparked action quicker, if not as often, as routine command channels. In addition, a huge "Operational Department" in his Kremlin guards directorate worked under his direct orders, a sort of service-within-a-service, carrying out the most sensitive tasks—including murder. See my book, *Watchdogs of Terror* (New Rochelle, N.Y.: Arlington House, 1972).

[43] Andropov was appointed in May 1967; Tsvigun entered as First Deputy in November of the same year. Tsvigun had been KGB Chairman in Moldavia (1950-52) when Brezhnev was First Secretary of the CC CP Moldavia. There have been unconfirmed reports that Tsvigun's wife is a sister of Brezhnev's wife.

[44] See "Ideolohichni dyversii—zbroya imperializmu." Translation is as given in Radio Liberty Research, 22 October 1981 and 27 May 1982.●

PRELIMINARY NOTIFICATION OF PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million, or in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that two such notifications were received on April 18 and April 20, 1983.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room SD 427. I ask to have them printed in the RECORD.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., April 18, 1983.
Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Southwest Asian country for major defense equipment tentatively estimated to cost in excess of $14 million.

Sincerely,

PHILIP C. GAST,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., April 18, 1983.
Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Southeast Asian country tentatively estimated to cost in excess of $50 million.

Sincerely,

PHILIP C. GAST,
Director.●

PROPOSED ARMS SALES

● **Mr. PERCY.** Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of a proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point a notification which has been received.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 25, 1983.
Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 83-18, concerning the Department of the Army's proposed Letter of Offer to the Federal Republic of Germany and other NATO consortium nations for defense articles and services estimated to cost up to $200 million for co-production or $6.4 billion for purchase of total quantity. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST,
Director.

POLICY JUSTIFICATION

GERMANY—STINGER/STINGER POST WEAPON SYSTEM

The Government of the Federal Republic of Germany (FRG), as the lead nation for itself, Belgium, Greece, Italy, the Netherlands, and Turkey has requested the purchase of some components along with related supplies, technical assistance, training and support equipment, and the technical data package for the co-production of other components for acquisition of up to 75,000 STINGER/STINGER POST weapon systems. Other NATO nations may join the consortium in the future. The total estimated value of this case is $200 million for the co-production option. In the highly unlikely event that the FRG purchases all 75,000 weapon systems without any co-production, the dollar value of the transaction could be as much as $6.4 billion.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of our allies in fulfillment of their NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

The FRG, Belgium, Greece, Italy, the Netherlands, and Turkey all have a requirement for the man portable STINGER air defense weapon system. Other NATO nations may also have this requirement in the future. The STINGER weapon system will be fielded by these NATIO nations in accordance with appropriate NATO integrated air defense operational engagement procedures, providing the purchasing countries improved military capabilities through increased forward area and critical asset defense capabilities. Under this program, the STINGER/STINGER POST weapon system will be manufactured by the FRG using the technical data packages and the purchased components, all of which will be provided in accordance with and subject to the limitations on use and transfer provided for under the Arms Export Control Act. This program will result in purchases of approximately $200 million from the U.S. Government.

This sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question between Greece and Turkey.

The prime contractor will be General Dynamics of Pomona, California.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to any of the purchasing nations.

There will be no adverse effect on U.S. defense readiness as a result of this sale.

TRANSMITTAL No. 83-18

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act.[1]

(i) Prospective Purchaser: The Federal Republic of Germany (FRG), acting as lead nation (in accordance with Section 3(d) of the Arms Export Control Act) of a NATO consortium consisting of itself, Belgium, Greece, Italy, the Netherlands, and Turkey. Other NATO nations may join the consortium in the future.

(ii) Total Estimated Value: $200 million for co-production. (In the highly unlikely event that the FRG purchases all 75,000 weapon systems without any co-production, the dollar value of the transaction could be as much as $6.4 billion.)

(iii) Description of Articles or Services Offered: The United States Government will sell some components along with related supplies, technical assistance, training and support equipment, and the technical data package for the co-production of other components for acquisition of up to 75,000 STINGER/STINGER POST weapon systems.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under Separate cover.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: 25 Mar. 1983.●

PROTECTING THE OSCEOLA NATIONAL FOREST FROM PHOSPHATE MINING

● **Mr. CHILES.** Mr. President, yesterday the House Interior Subcommittee on Public Lands and National Parks held a hearing on legislative proposals to protect the Osceola National Forest from possible phosphate strip mining. The subcommittee is considering legislation identical to that which I introduced in the Senate on February 3, 1983, S. 465.

You will recall the Senate passed legislation last year to accomplish the protection of the Osceola National Forest. The bill, however, did not receive the approval of President Reagan. Secretary of the Interior James Watt rejected the pending lease applications for mining in January of this year, but for several reasons Congress needs to further address this issue by enacting legislation. In order to bring the Members of the Senate up to date on where we now stand in terms of the Osceola mining dispute I ask that the testimony I prepared for the House subcommittee hearing be printed in the RECORD.

The testimony follows:

TESTIMONY OF SENATOR LAWTON CHILES

I am pleased to have this opportunity to provide testimony on the issue of legislation to protect the Osceola National Forest from possible phosphate strip mining. This is not a new issue to the Members of this Subcommittee. In fact, under the leadership of this Subcommittee legislation was crafted in the 97th Congress which sought to resolve the outstanding issues associated with pending lease applications for phosphate mining in the Forest. I commend the Subcommittee for its interest, expertise, and perseverance in working to protect this important Florida forest resource. Let me also compliment Congressman Fuqua, who has been so instrumental in making the protection of the Osceola a priority issue before the House of Representatives.

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[1] As defined in Section 47(6) of the Arms Export Control Act.

The Committee is well grounded in the long history of the phosphate mining dispute in the Osceola National Forest, so I won't elaborate on events I know will be part of the hearing record. On a historical note, however, I do want to point out that it was during the October, 1981 House Subcommittee hearing on H.R. 9 that our fears concerning the Reagan Administration's attitude toward possible leasing in the Forest were, in fact, confirmed. The Administration's actions since then with respect to the mining issue clearly support the need for permanent statutory protection for the Osceola National Forest. For this reason I want to briefly revisit the 1981 hearing and then attempt to bring into perspective events which have taken place since that time.

My testimony before this Subcommittee in October, 1981 reflected a strong concern about the possible change in the past official positions of the Department of Agriculture and the Environmental Protection Agency concerning the effects of mining in the Forest. In my testimony I commented, "I hope the position of the Environmental Protection Agency with respect to opposing the leasing on the basis of water quality impact and wetland restoration has not suddenly changed . . ." My fears were confirmed that very morning when Paul C. Cahill, Director, Office of Federal Activities, EPA, testified that the preliminary results of wetland restoration studies and experiments indicated that: "I think with stipulations at least what I've seen so far and with test preliminary results—that we could adequately protect the environment and purposes of the National Forest." This posture, along with other Administration testimony, clearly reinforced in my mind the notion that the Department was prepared to issue the mining leases, and strengthened the case for both the House and Senate to move forward with legislation to ban mining in the Forest. This Subcommittee attempted to achieve this goal by marking up and sending to the House of Representatives H.R. 9, which passed the House on December 15, 1981. What has taken place in both the administrative and legislative arenas since December, 1981 involving the Osceola National Forest illustrates why we still need legislation to protect and ensure the continued protection of the Forest.

Early in 1982 I began hearing reports that the Administration was moving quickly on the lease applications and that leases could possibly be issued as early as that summer. Fearing the Administration was, in fact, pushing ahead in lease processing, I wrote to the Chairman of the Senate Energy and Natural Resources Committee, urging him to schedule hearings on the phosphate mining issue as soon as possible. The Committee held a hearing on April 1, 1982 and the testimony received during the session made an excellent case for moving forward with legislation to protect the Forest from strip-mining. The Administration announced that no decision on leasing would be made before the end of the 97th Congress, however, noticeably absent was any indication from the Administration that its position with respect to possible mining in the Forest had changed in any way.

We know now, however, that at the time of the hearing Paul C. Cahill, Director, Office of Federal Activities, EPA, had in his possession a report for his staff (March, 1982) entitled "Analysis of Reclamation Potential for the Osceola National Forest" which concluded that with current technology, once the Osceola's wetlands were mined for phosphate they could not be restored. Not only did EPA not make this report available to the Committee, the Agency never provided this report to me, even though I requested from Mr. Cahill in December, 1981 any information he had or expected to have on ongoing EPA studies concerning wetland restoration. I did not receive this report until I requested the entire EPA file on the phosphate mining issue on March 25, 1983. Even though this EPA report offered conclusive findings that mining should not take place in the Osceola, without the knowledge of the existence of such a report I was sure the Administration was getting ready to issue the leases.

I was so convinced that the Department of the Interior was eventually going to recommend issuing the leases that I filed suit in May, 1982 to enjoin the issuance of phosphate preference right leases in the Osceola National Forest (Chiles v. Watt, Civ. No. 82-427). The litigation was primarily based on 30 U.S.C. §352, which requires that mineral leases in the Osceola may only be issued if they are subject to such conditions as will ensure the adequate utilization of the lands for the purposes for which the Forest was being acquired and is being administered. Among other things, the suit alleged that meeting this condition requires restoration of strip mined lands to their original state. Given both current and experimental reclamation techniques (because adequate restoration is impossible) the lawsuit filed by both myself and the State of Florida (the two almost identical suits were consolidated) claimed that the statutory conditions of 30 U.S.C. §352 could not be met.

In support of the motion for an injunction on the issuance of leases extensive expert affidavits were submitted on the unique and sensitive aquatic wetland and terrestial ecosystems of the forest, the effects of phosphate mining on the Osceola, and the inability of current technology to protect the Osceola at the level required by law. The lawsuit was dismissed on November 5, 1982 for lack of ripeness on the grounds that Secretary Watt had made no final decision regarding the issuance of the leases.

In the time surrounding the filing of the lawsuit in May and the dismissal of the motion for a preliminary injunction in November, 1982 several significant events were happening both in Congress and in the Executive Branch. In Congress the Osceola legislation was moving through the Senate. The Senate Energy and Natural Resources Committee reported its version of H.R. 9 to the Senate for consideration.

The full Senate passed H.R. 9 on December 19, 1982, which the House subsequently agreed to. The bill was sent to President Reagan on January 3, 1983. Both the House and the Senate had recognized the threats to the forest posed by the pending lease applications and, in the absence of information from the Administration concerning its intentions with respect to the lease application decision, enacted legislation to protect the Forest from phosphate mining and deal fairly with lease applicants.

While Congress was deliberating legislative solutions to the Osceola question, the Administration was working to process the lease applications. On November 15, 1982, the Department of the Interior announced that it would prepare an Environmental Assessment to determine the possibility of reclamation of the Osceola after phosphate strip mining. This study, the Environmental Assessment on State of Reclamation Techniques on Phosphate Mined Lands in Florida and Their Applications to Phosphate Mining in the Osceola National Forest was completed on January 7, 1983. The study concluded that "sufficient technological capabilities do not exist to ensure a reasonable likelihood of successful reclamation of mined areas consistent with the requirements established for mining in the Osceola National Forest." The findings of this report prompted the Secretary of the Interior's decision to reject all preference right lease applications on January 10, 1983. In his press statement Watt said "the finding means there is no reasonable prospect that the phosphate could be commercially mined." Under provisions of law (30 U.S.C. 211(b)) a preference right lease may only be issued if "valuable deposits of phosphate have been discovered."

On January 14 President Reagan announced his decision not to approve H.R. 9. In his veto statement he asserted he did not object to a legislative effort to preclude phosphate mining in the Forest, but he did oppose provisions in the bill providing compensation to applicants who would be determined to have a right to a lease.

On February 4, 1983 Kerr-McGee Corporation filed suit challenging the actions by Secretary Watt and the Department of the Interior with respect to the lease applications. I have recently joined with others including the State of Florida in seeking to intervene on behalf of the Department of the Interior to support the Secretary's rejection of the lease applications.

I fully support the decision by Secretary Watt to reject the applications. Past administrations, environmental studies, agency reports, and public testimony have provided a clear record of adverse impacts of strip mining on the forest and have presented a convincing case that the exclusive use of these lands for intensive phosphate mining would be inconsistent with the multiple use management objectives of the forest. While I support the Department's action on the lease applications, the critical need for legislation still exists. Several important questions remain unresolved. To respond to the most recent events surrounding the Osceola National Forest Senator Hawkins and I introduced S. 465 in February of this year. The purpose of this legislation is to ensure that mining is prohibited by law and that, in the event the administration's decision is overturned, we are not faced with the possibilities of allowing mining in the forest or monetary payments to companies eligible for compensation. I believe the Osceola National Forest deserves to be permanently protected by statute.

In addition, it is incumbent on Congress to set up a procedure for dealing with the possibility of a judicial determination of lease rights. S. 465, the Florida Wilderness Act of 1983, attempts to accomplish this by authorizing the Secretary to award monetary credits (in lieu of cash payments) to any company found by a court of law to be entitled to a lease.

And finally, S. 465 also designates as wilderness seven areas in three national forests in Florida These wilderness proposals are identical to those included last year in H.R. 9. In light of the announcement by the Department of Agriculture to re-evaluate RARE II wilderness recommendations I feel it is increasingly important for Congress to move forward with individual state wilderness bills. The Florida forest wilderness areas have never been controversial so I hope we will see prompt approval by the Committee on these areas.

The Subcommittee has before it legislation identical to S. 465. Positive action on this measure will complete the important review of Florida's valuable forest wilderness areas and insure continued use and protection of the Osceola National Forest.●

COMMUNIST TAKEOVER OF CENTRAL AMERICA

● Mr. EAST. Mr. President, while our President is doing his best to prevent the spread of Communist tyranny in Central America others seem to view with equanimity the prospect of Soviet control of our southern neighbors. The liberal death wish is perspectively diagnosed by George F. Will in his column entitled "Blind Eye on Central America," which appeared in The Washington Post on April 21, 1983. I ask that this essay be printed in the RECORD.

The essay follows:

BLIND EYE ON CENTRAL AMERICA

(By George F. Will)

To begin, a two-question quiz.

First question: since détente was codified at the Nixon-Brezhnev summit in 1973, the Soviet Union has forced a nuclear alert by threatening to intervene with troops in the October 1973 war in the Middle East (a war incited and financed by the Soviet Union); has organized and financed the destruction of the Paris accords and a U.S. ally; has intervened with Cubans and others in Angola, Ethiopia, Yemen, Cambodia, Nicaragua and El Salvador; has invaded Afghanistan; has orchestrated the crushing of Poland; has made a mockery of the Helsinki agreements; has repeatedly violated the informally agreed-to threshold test ban treaty (although we even changed the way we measure violations, in an effort to avoid the need to make protests that would dampen détente); has tried to murder the pope; is violating the terms of SALT II (an amazing feat, considering that SALT II is a tissue of loopholes and ambiguities); is funding and organizing terrorism worldwide; and is continuing an arms buildup unambiguously designed for political intimidation and military aggression. The first quiz question is: why is there a "return to the Cold War"?

Answer: President Reagan gave a speech referring to the Soviet Union as an evil empire.

Second question: the Soviet Union has an army brigade (2,600-3,000 men), 2,500 military advisers (increased 500 last year) and 6,000-8,000 civilian advisers in Cuba. It gave Cuba 66,000 metric tons of military supplies in 1981, 68,000 in 1982 (worth $1 billion). Moscow's annual economic aid to Cuba is $4 billion (more than one-quarter of Cuba's GNP). Cuba has 200 MiGs, including two squadrons of MiG-23 Floggers, at least 650 tanks, at least 90 helicopters, including MI24 attack helicopters, a Koni-class frigate, two Foxtrot attack submarines, at least 50 torpedo attack boats, two amphibious assault ships. A Grenada minister says Cuba will use Grenada's new airport when supplying Cubans in Africa. Cuba, with one-seventh of Mexico's population, has military forces twice the size of Mexico's. The Soviet Union is giving 20 times more military assistance to Cuba than the United States is giving to all of Latin America. In the newest Soviet satellite, Nicaragua, 39 percent of all males over 18 are in uniform, and the regime intends to build a 250,000-person armed force, so one in 10 Nicaraguans will soon be in the military or militia. (All of Honduras' security forces total 20,000. El Salvador's total 32,000.) Nicaragua's regime has built 36 new military bases and garrisons (the previous regime had 13). Nicaraguan pilots and mechanics are being trained in Bulgaria. The regime has received, so far, 50 Soviet tanks, 1,000 East German trucks, 100 anti-aircraft guns, Soviet 152-millimeter howitzers with a range of 17 miles. Cuba has 4,000 to 5,000 civilian advisers in Nicaragua, plus 2,000 military and security advisers. There also are East Germans, Bulgarians, North Koreans, Soviets and members of the PLO. The second quiz question is: about what in Central America does Congress seem most worried?

Answer: fifty-five U.S. trainers in El Salvador.

Events in Central America are spinning rapidly toward a decisive moment in U.S. history. None of the fictions that were used to rationalize acceptance of defeat in Vietnam can be used regarding Central America. The threat there is close, clear and indisputably communist. There the United States will show—will learn—whether it is any longer capable of asserting the will a great power requires, or whether the slide into paralysis is irreversible.

Governments such as Costa Rica's and Panama's are listening as congressional complaints mount. The complaints are against U.S. assistance to armed opponents of Nicaragua's Stalinists, and about even minimal aid for the democratically elected government of El Salvador that is under attack from forces that are extensions, through Nicaragua and Cuba, of the Soviet Union.

The conjunction of these complaints can mean, in effect, the extension of the Brezhnev doctrine in this hemisphere. That is, communist attacks on a regime leech away the regime's legitimacy, and produce pressures for negotiations aimed at "power-sharing" with Stalinists who do not believe in sharing power. But a communist regime, however freshly planted and dependent on foreign totalitarians, as in Nicaragua, must be treated as legitimate and irreversible.

There is a war raging, and if all the substantial, determined military assistance is one-way, there can be but one result. The result will be a communist Central America, and an Iran just a wade across the Rio Grande.●

INTERIOR DEPARTMENT'S COAL LEASING PROGRAM

● Mr. BUMPERS. Mr. President, nearly a year ago, I spoke on the floor of the Senate in opposition to the Department of the Interior's coal leasing program. Last April, the Department held the largest coal lease sale in history in the Powder River Basin of Wyoming and Montana. Even though more than 16 billion tons of Federal coal was already under lease and undeveloped, and the demand for new reserves was extremely soft, the Department offered for lease another 1.6 billion tons of western coal.

I objected to that sale and to the Department's entire leasing program for three major reasons: First, the sale procedures were significantly changed and the minimum bids for the Powder River coal were cut in half only a few days before the sale; second, there was sound evidence that industry had reviewed the confidential bidding information before the sale and may have influenced the decision to lower the minimum bids; and, third, the Department chose to offer large amounts of reserves when the lack of demand for those reserves virtually guaranteed that the bids received would be extremely low. The average bid received for the Powder River Basin coal was only 3.6 cents per ton.

No hearings were ever held in the Senate to review either the Powder River sale in particular or the coal leasing program in general, but hearings were held before the House Interior Committee and the House Appropriations Committee. Last year, the House Appropriations Committee voted to reduce the Bureau of Land Management's coal leasing budget for fiscal year 1983 in order to postpone two major coal sales planned for fiscal year 1983, and to give the committee an opportunity to conduct a thorough analysis of the leasing program.

Unfortunately, the funds for the leasing program were restored in the budget. But the committee's investigative staff did initiate a study of the coal program. This week, the committee released that report. Its findings raise serious questions about the Department's management of the coal program, and I am placing a copy of the summary of the report in the RECORD to draw it to the attention of my colleagues.

The committee staff's study concludes that the Interior Department's coal leasing program "principally benefits leaseholders and surface owners, not the Federal Government." So-called competitive leases have been awarded for "next to nothing, with some leaseholders paying only $1 per acre in annual rental fees." Other leaseholders are reaping "windfall profits" by selling their leases or their preference right lease applications in private markets.

The committee report also notes that, "The April 1982 Powder River Basin sale highlights the mismanagement of the coal leasing program." Such large scale leasing under poor economic conditions distorts the market by flooding it with leased coal. It temporarily reduces fair market value and allows the industry to acquire coal at "fire sale prices." The analysis goes on to state that in the Powder River Basin sale, "Department officials augmented the depression on fair market value by arbitrarily reducing by one-half the fair market value appraisals for the Powder River Basin."

The committee report criticizes many other aspects of the coal leasing program, but it is clear from only the summary that this is not the kind of leasing program that Congress had in mind when it passed the Federal Coal Leasing Act Amendments in 1976. Those amendments were passed to correct abuses in the leasing program which had culminated in President Nixon's placing a moratorium on further leasing in 1971. Coal leases were then being given away with literally no requirements for development. One of the major concerns leading to passage of the act was the fact that a majority of coal leases were being awarded to sole bidders. The 1976 amendments required that coal leases would be issued on a competitive basis, and that the Government would receive fair market value for its coal reserves.

After passing the amendments, Congress should have been able to assume that our coal reserves were leased competitively, that the Government would act as a smart player in deciding how much coal should be offered for lease, and that bids for Federal coal would only be accepted if they equaled fair market value for the reserves. But the leasing program now being conducted by the Interior Department accomplishes none of these objectives. It is clearly in violation of the intent, if not the letter, of the 1976 law.

In the Powder River Basin sale, the average bid was only 3.6 cents per ton. Four of the 11 tracts that received bids brought less than 1 cent per ton, and 1 tract received a bid of less than seven one-hundredths of 1 cent. When these bids are compared to recent prices paid for coal in transactions between private parties, it becomes clear that the Federal Government is a very weak player in the coal market and is not receiving fair market for its coal reserves as required by law.

A study prepared for the Office of Technology Assessment found that prices paid for Powder River Basin coal in private transactions ranged from 18 cents per ton to $1.66 per ton. One of the most significant findings of the House Appropriations staff is that the Government received at least $60 million less than it should have from seven of the Powder River Basin tracts. Another analysis quoted in the report concludes that, "Even a conservative estimate of fair market value for five of the Wyoming tracts would have brought in an additional $131 million."

One would expect that the Department would postpone any additional coal leasing until conditions improve in the coal market and until its leasing procedures can be revised to insure that requirements for competitive bidding and fair market value will be met. But instead, the Department has announced its intention to hold at least four major coal sales between December 1983 and August 1984, including another, larger sale in the Powder River Basin. And this does not represent all the coal that the Interior Department wants to place under lease. The Department also plans to accelerate its processing of noncompetitive "preference right lease applications," which may result in as much as 6 billion tons being leased for no bonus bids. If these leases are issued, and the scheduled sales are held, as much as 16.7 billion tons of additional Federal coal will have been leased between 1981 and 1984, an amount which is roughly equal to the entire amount of coal under lease before this administration took office.

Mr. President, the evidence is overwhelming that the Department of the Interior's coal leasing program is grossly mismanaged and violates the requirements for competition established by Coal Leasing Amendments of 1976. I understand that a General Accounting Office report will soon be released dealing with the leasing program that will support the findings of the House Appropriations Committee investigative staff.

It is past time for the Department to reassess its coal leasing policies. Interior's policy of leasing to meet industry's demand for reserves, rather than any valid demand for production, will only result in a rapid turnover of valuable coal deposits to industry with virtually no return to the Treasury.

I commend the House Appropriations Committee and the House Interior Committee for their oversight of this program, and I am looking forward to reviewing any recommendations they may make for changes in the leasing budget or in the Mineral Leasing Act which may be necessary to improve the administration of the coal leasing program. I urge my colleagues in the Senate to give this matter their attention.

Mr. President, I ask that the summary of the House Appropriation Committee staff's report on the coal leasing program be printed in the RECORD.

The summary follows:

SUMMARY

The Department of Interior's Coal Leasing Program principally benefits leaseholders and surface owners, not the Federal Government. Competitive leases have been awarded for next to nothing with some leaseholders paying only $1.00 per acre in annual rental fees. The Department has never enforced requirements to "diligently develop" the leases, so profiteering leaseholders have been satisfied to retain these leases as an investment rather than an operational coal mine. Some leaseholders are reaping "windfall profits" by assigning (selling) either leases or transferable preference right lease applications. Others are exchanging lease tracts for other more minable (and more valuable) federal tracts. Since the Department allows the exchangor to be the prime mover in the transaction, potentially competitive tracts are being exchanged noncompetitively.

The April 1982 Powder River Basin sale highlights the mismanagement of the coal leasing program. In spite of poor economic conditions, a very soft coal market, and the potential lack of bidding competition, the Department persisted in "holding the largest coal sale in history." Such large-scale leasing under poor economic conditions distorts the market by flooding it with leased coal. It temporarily reduces fair market value and allows the industry to acquire coal at "fire sale" prices. In the Powder River Basin sale, Department officials augmented the depression of fair market value by arbitrarily reducing by one half the fair market value appraisals for the Powder River Basin. Interior officials were unable to furnish any workpapers, calculations, or other documents which supported their presale Powder River Basin appraisal or bid decisions.

BACKGROUND ON COAL LEASING PROGRAM

From 1920 through September 30, 1982, the Department awarded 616 leases, of which approximately one-half were awarded competitively, with in-place reserves of approximately 45 billion tons. There are 85 leases with in-place reserves of 18 billion tons located in the Powder River Basin. Of the 616 leases, 228 have approved mine plans, 119 have pending mine plans, and 269, considered to be undeveloped leases, have not submitted mine plans. Of the 228 leases with approved mining plans, coal is being mined from only 111 leases.

Ownership of Federal coal leases is quite concentrated. Fourteen leaseholders control 229 leases containing approximately 22 billion tons of coal. Five of the owners control 16 billion tons, and one owner controls 3.8 billion tons.

During fiscal year 1982, the 111 leases with operating mines had produced 104 million tons of coal with a mine-mouth value of $1.5 billion. Royalty payments totalled $61 million, of which only 10 percent or $6.1 million remained in the U.S. Treasury; 50 percent or $30.5 million was returned to the States, and 40 percent or $24.4 million was placed in a Federal Reclamation Fund to be distributed and used in the State in which the coal was mined. This percentage distribution applies to all revenues received from the coal program. In addition to the royalty payment of $61 million, an additional $2.7 million was received from the leaseholders' rental of 927,000 acres of land.

The 1984 Budget Justification for the Bureau of Land Management (BLM) reflected receipts from bonus payments for fiscal year 1982 of $7.2 million or an amount less than they should have received for the Powder River sale alone. After a review of the discrepancy, an official of the BLM budget office advised that through an administrative error the bonuses received from the Wyoming portion of the Powder River sale were not reported. The Investigative Staff was advised that the correct amount of bonuses should be $14.9 million, not the $7.2 million as reported.

It should be noted that during fiscal year 1982, a total of $78.6 million was received from the leasing of Federal coal tracts, but only 10 percent or $7.86 million was retained in the U.S. Treasury as miscellaneous receipts.

LEGISLATION AND LITIGATION

The Investigative Staff's review of the legislation and litigation affecting the coal industry has disclosed that today's problems have been with the coal program since the 1800's. Those problems include, but are not limited to, low prices, lack of diligent development, speculation, surface ownership eligibility, and reclamation costs and procedures.

The legislative history of the coal program is a study in the frustration of attempts to provide solutions to coal problems.

Attempts by Congress and/or the Department of the Interior to redress deficiencies in the coal program have oftentimes taken the Government into the Federal courts. Private industry has often sued the Government for enforcing many regulatory provisions including those dealing with diligent development (the requirement to mine coal). This is in spite of the fact that these provisions are and were based on mining principles which were upheld in litigation among industries within the private sector.

The Federal courts have often been the final adjudicator of many coal program problems. At the present time, there are two major suits involving the coal program; one challenges the new regulations, and the other challenges the legitimacy of the Powder River Basin sale. Both suits allege that actions taken by the Department have violated several existing laws and the Department's own regulations.

The issue of fair market value, which was raised in the amended complaint on the Powder River Basin sale, is the most controversial allegation in this litigation. This allegation suggests that the leak of the minimum acceptable bids (MAB's) hopelessly tainted the Powder River Basin bidding process. This suit claims that the bids were reduced in response to the pressures of private industry, and that decisions made by the Department's Minerals Management Service (MMS) personnel, considered arbitrary and without analytical support, compromised the entire lease sale system.

THE IMPACT OF REGULATIONS ON THE COAL LEASING PROGRAM

The 1979 regulations were proposed as a response to the Congressional mandates of recently enacted legislation, including the Federal Coal Leasing Amendments Act of 1976. The coal leasing program had suffered through the Energy Minerals Allocation Recommendation System (EMARS) and moratorium periods. Those responsible for drafting the regulations wanted a foresighted program which could lease coal on a timely basis. But, one of the glaring deficiencies of the 1979 regulations, drafted at the same time Interior was drafting new oil and gas regulations, was failure to take due cognizance of the fact that coal varies in type, minability, quality, and quantity from coal region to coal region. The fair market value and economic policies of 1979 were formulated for the Nation as a whole in the "James Joseph memo," which has been described as the "format for chaos."

The 1982 regulations fare no better in terms of resolving the economic woes of the coal leasing program. The 1982 regulations demonstrate a change in philosophy by the new Administration at the Department. The new philosophy suggests the "marketplace" should dictate leasing levels, leasing sites, and production standards. Industry has a large input into this process. There appear to be some inconsistencies between the goals of this new program and the provisions of the new regulations. Relaxation of the diligent development, maximum economic recovery (MER), preference right lease application (PRLA), and royalty provisions may not be a panacea for problems of competition. In what is recognized as a noncompetitive market, the regulations have been described as anticompetitive.

Since publication of the 1982 regulations, the Department has issued two documents amending and/or clarifying those regulations. On September 13, 1982, MMS published new coal lease sales procedures. These procedures were meant to clarify the post-sale system responsible for bidding and fair market value analysis. Comments submitted by private industry and an MMS field official suggest these new guidelines further confuse the situation.

On January 12, 1983, what have been commonly called "Watt's concessions" were published. A group of Western Governors had complained to the Secretary about the text of the 1982 regulations which among other things "gutted" the States' decisionmaking roles, most visibly with the Regional Coal Teams (RCT's). These concessions and others, which may be forthcoming on land use planning policies, are directly responsive to criticisms voiced by the Governors about the new program. The Governors had been strong supporters of the Secretary's coal leasing policies until the publication of the 1982 regulations. There are differences of opinion as to why these concessions were made and how much they will affect the scheduled coal sales of 1983 and 1984. The consequences of changes in the coal regulations may have been exaggerated.

The coal philosophy of present and past Department of Interior officials has impacted the coal leasing program more than the regulations. The present program, which is about to undergo the third revision of its sales procedures since the Powder River sale, is still without a comprehensive and viable economic resource evaluation system.

POWDER RIVER BASIN COAL LEASE SALE

On April 28, 1982, the Department held the largest coal lease sale in history. About 1.6 billion tons of subbituminous coal in 13 tracts totalling 23,500 acres were offered. Of the 13 tracts, 11 received bids in the amount of $55 million, whereas the original appraised values of these tracts was in excess of $100 million.

The Federal Coal Leasing Amendments Act of 1976 requires that the Department not accept any bid less than the fair market value of the coal. Fair market value is defined in the Uniform Appraisal Standards as well as in the 1979 BLM Coal Regulations as:

> "* * * the amount in cash, or in terms reasonably equivalent to cash, for which in all probability the property would be sold by a knowledgeable owner willing but not obligated to sell to a knowledgeable purchaser who desires but is not obligated to buy."

Rules and policy changes implemented at the Powder River Basin sale affected fair market value, surface ownership rights, and tract evaluation. The Department had published for comment proposed amendments to the 1979 regulations in December 1981. On the date of the Powder River Basin sale (April 28, 1982), the old regulations were still in effect. The Department, nevertheless, modified the prescribed sales procedures. These changes may have violated existing laws and the 1979 regulations.

MMS/CASPER APPRAISAL REPORT

In late 1981, the MMS field office at Casper, Wyoming (MMS/Casper) received concurrence from headquarters (MMS/Reston) on the methodology and appraisal format to be followed in estimating the fair market value of the April 1982 Power River coal lease tracts. This format and method was consistent with the Uniform Appraisal Standards. MMS/Casper spent 4,000 man-hours at a cost of about $60,000 to prepare the estimate of fair market value. On February 26, 1982, MMS/Casper advised MMS/Reston of the estimated fair market value for the Powder River Basin tracts to be included in the March 25, 1982, sale announcement.

LEAK OF FAIR MARKET VALUE ESTIMATES

Sometime between March 10 and 15, 1982, after the estimates of fair market value (minimum acceptable bids—MAB's) were received in the Department, these estimates of fair market value allegedly were "leaked" to unauthorized individuals, e.g., coal industry officials.

This "leak" and the subsequent unsupportable reduction in the "leaked" values have been called "scandalous" by many Government and industry officials. Several Interior officials believed that the sale should have been postponed. The then Deputy Assistant Secretary for Land and Water, however, reportedly had made a personal decision which he felt was irreversible.

During a meeting with the Assistant Secretary for Energy and Minerals and the former Deputy Assistant Secretary for Land and Water, the Investigative Staff inquired why they have not requested the Office of Inspector General (OIG) to investigate the "leak." The former Deputy Assistant Secretary, who was the acknowledged expert for the coal program, advised that he had not heard of the leak until he had read a letter dated March 26, 1982, from Casper, Wyoming, stating that the minimum acceptable bid values may have been compromised; and he pointed out that the date was definitely after he directed that the minimum acceptable bids be reduced. Regarding the need for an OIG investigation, the Assistant Secretary and the former Deputy Assistant Secretary both related that since the General Accounting Office (GAO) was investigating the Powder River Basin sale, they did not believe it was necessary to duplicate the GAO effort. The Investigative Staff pointed out that GAO did not begin its review until the middle of May, or 6 to 8 weeks after cognizance of the leak. The officials then offered that they had a staff member—a noninvestigator—conduct a "sort of investigation" which did not disclose anything significant. The Investigative Staff contacted the staff member who had conducted the inquiry and he advised that he merely telephoned several regional sites and advised them to be more careful not to release confidential data prematurely. He advised that no attempt was made to relate the "leak" with the "reduction" of the minimum acceptable bids.

REDUCTION OF THE MINIMUM ACCEPTABLE BIDS

On March 19, 1982, during a meeting attended by the Assistant Secretary for Energy and Minerals, his Deputy, and the then Deputy Assistant Secretary for Land and Water, a decision was made to eliminate the estimates of fair market value provided by MMS/Casper and to "rush" the adoption of entry-level bids and postsale analysis in time for inclusion in the announcement of the Powder River sale on March 25, 1982. Prior to this, the then Deputy Assistant Secretary for Land and Water perceived the estimates of fair market value to be too high, and MMS/Reston was tasked to come up with an alternative to the MMS/Casper estimates of fair market value.

The senior economist of MMS/Reston, the architect of the new concept, acknowledged that the entry-level bids are not designed to represent fair market value but are only a base from which to begin the auction to arrive at fair market value. The senior economist advised that no calculations were involved in arriving at the new entry-level bids—nothing fancy or anything supported by workpapers or sophisticated calculation. He stated that he merely took MMS/Casper's estimates of fair market value for the three highest valued tracts and averaged out these estimates as follows:

Cents per ton

Tract	*Amount*
Spring Draw	$0.16166
Little Rawhide	.13399
Spring Creek	.19531
Total	.49096
Average	.16365

The senior economist then took the average and divided it in half to arrive at $.08 per ton as the entry-level bid for the three highest valued tracts. Eight cents per ton was one of the four sales levels established for the Powder River Basin sale. The other three sales levels were $.05 per ton, $.025 per ton, and $25 per acre. The process of classifying tracts for these sales levels was equally arbitrary.

The senior economist, who acknowledged that he was not an appraiser, then explained the rationale to justify post-sale analysis. He advised that he has always been impressed with public auctions and the method in which the auction produces fair market value. He explained that when an item is acutioned, the starting point of the action is usually half of the estimate of fair market value. In fact, the senior economist recommended that all fair market value amounts should be cut in half to begin all sales, since during an acution in the throws of bidding frenzy the item is bid up to what could be considered its fair market value. He then related how he once bid $100.00 for a penny stamp and that this experience has stuck with him. The Investigative Staff inquired as to the number of bidders needed to have a competitive sale and was advised that three would be a minimum. He was asked to explain what happens in the post-sale analysis when only one bidder submits a minimum bid, as occurred in the Powder River sale. The senior economist who had taken a fully supportable and documented estimate of fair market value and then averaged it and divided it in half, stated that even if only one bid is offered, that bid represents the marketplace, and therefore, the marketplace in effect has spoken, this single bid representing fair market value.

The then Deputy Assistant Secretary for Land and Water based his perceptions that the originally documented and fully supported calculations of fair market value were "too high, obviously funny, and of little value", on computations made by BLM economists in the form of a scatter diagram. The diagram indicated the range of values received for all the Federal coal lease sales over the past 2 years, but the scatter diagram did not contain any Powder River coal data. He subsequently admitted data from other coal regions with different qualities and types of coal, some with seams smaller than three feet, bear no analytical or economic relationship to coal from the Powder River Basin.

Regarding the rush to revise the lease sale and fair market value evaluation procedures, the then Deputy Assistant Secretary for Land and Water stated, "Why risk the largest sale in American history with minimum acceptable bids that are too high?" The procedures as of the date of this report are still experimental and are undergoing their third generation of change—more than 1 year later.

A Department official cognizant of the new sale procedures, the soft market, and the depressed economy remarked that the Department's interpretation of a competitive sale is that the law (the Federal Coal Leasing Amendments Act in 1976) only required that everyone have an opportunity to bid on a lease; the law did not preclude the Department from holding a "firesale."

SALE RESULTS IN LESS THAN FAIR MARKET VALUE

Because of Departmental edicts, which included unsupportable and undocumented manipulation, unrealistic assumptions on the maintenance tracts, and an unjustifiable 50/50 split in the estimate of fair market value for maintenance tracts, the Investigative Staff has estimated that the Government received about $60 million less than fair market value for seven of the Powder River Basin tracts. The former Deputy Assistant Secretary for Land and Water indicated to the Investigative Staff that the bonus bid is only a component of fair market value. For lease sale purposes, however, both MMS and the coal industry equated the minmum acceptable bid to fair market value. Past and present Interior officials have suggested that this expansion of the definition of fair market value is an attempt by the former Deputy Assistant Secretary to cover up the mismanagment of the coal program.

Based on the MMS original calculations for the three new productions tracts—Spring Draw, Little Rawhide, and South Duck Nest Creek, the Government received $46.5 million less than fair market value.

The results of revised MMS/Casper calculations requested by the Investigative Staff for the four Montana maintenance tracts, indicated the Government received about $28 million less than fair market value. However, since some of the value can be directly attributed to the expertise of the adjoining mine owner, the Government and the mine owner should share the $28 million equally. Therefore, the Government would then receive an additional $14 million over what was originally received.

The Office of Technology Assessment (OTA) also expressed serious doubts that fair market value was received from the Powder River sale. OTA stated that for about half of the tracts offered, no attempt was made at a fair market value calculation.

An analysis, prepared by another consultant, charged that there is overwhelming evidence that the Federal Government has failed to receive fair market value for the vast majority of leases. The report concluded by stating that the Powder River lease sale was a microcosm of the constant failure by the Department to obtain fair market value for coal. The consultant stated that even a conservative estimate of fair market value for five of the Wyoming lease tracts would have brought in an additional $131 million either at the time of the sale or at a later date when the market was stronger.

These sentiments were expressed no more dramatically than by a State official who advised "they are giving away the damn coal."

LACK OF COMPETITIVE BIDDING

One of the concerns leading to the passage of the Federal Coal Leasing Amendments Act of 1976 was that numerous tracts were being awarded to the sole bidders. For example, prior to 1971, about 68 percent of the offered tracts only received one bid. Since 1979, the percentage has remained about the same—70 percent of the offered tracts only attracted one bidder. The April 1982 Powder River sale has continued the dismal showing of competitive bidding. Of the 11 offered tracts, 8 brought only 1 bid (73 percent) and 3 of the tracts each received 2 bids. The Department's post-sale analysis acknowledged that adequate bidding competition was not demonstrated for the respective tracts.

One of the primary reasons for the lack of competition was the poor coal market. Another factor inhibiting competition is tract delineation. The Investigative Staff was advised that tracts are tailored for specific companies, which gives them an advantage in the bidding process. As one official stated, if one company has an unfair advantage, then the chances of competition are remote at best. Competitive bidding for individual tracts is the exception rather than the rule.

Another deterrent to bidding competition is the surface ownership patterns existing in the coal regions. In the Powder River Basin one competitive factor was eliminated in the early 1960's when individuals with foresight purchased the surface rights. Officials have advised that in many situations mineral rights are subservient to surface rights, and surface owners can "ransom" Federally owned coal. Officials of energy companies have advised in some situations they have paid more for surface rights, $600 per acre, than they paid for the mineral rights, $25 per acre. In another example, a company paid $32 million for surface rights to a lease tract it acquired for $22 million. This example is somewhat clouded because the seller has been cited for trespass due to illegal drilling. What impact this drilling information had on the enormous amount paid for surface rights is not known.

SURFACE OWNERS AND LEASEHOLDERS ARE PRINCIPAL BENEFICIARIES OF THE FEDERAL COAL LEASING PROGRAM

Owners of the surface overlying the Federal coal are not the only ones profiting from the Federal leasing program. With little or no cost to obtain and hold Federal coal leases, lessors are either sitting on their leases, assigning them to private parties at enormous profits, or seeking to exchange them for more profitable ones with the Federal Government. One such 20,701-acre lease in Wyoming provides only $20,701 in annual rental income to the Federal Government. Although production from this tract was required by the 1920 Mineral Leasing Act, the requirement was not specifically defined, and there was no pressure to produce. Even now the Federal Coal Leasing Amendments Act requirement for production from pre-1976 leases by 1986 has been relaxed by the 1982 coal leasing regulations so that this lease need not be in production until 1997. This tract was recently offered for sale at an amount that would have provided an enormous windfall profit to the leaseholder.

Many other leaseholders, opting not to hold onto their investments, have sold and are selling their preference right lease applications (PRLA's) and leases to other parties in private transactions called assignments. These leaseholders are reaping windfall profits at the Federal Government's expense. Nearly every time the PRLA's and leases change hands the assignor is making a profit; the owner of the mineral rights—the Federal Government, however, receives no share of that profit. One company which acquired several leases in the 1960's has never mined any coal from these holdings, but has sold off some of these leases at a $150 million profit.

Still other leaseholders, also not content to hold their lease tracts, want to exchange them for other Federal coal leases. There is no Federal policy or procedure governing such exchanges. Here again the leaseholders seem to be reaping the majority of the benefits. Such exchanges can be advantageous to the Federal Government when they are used to (1) assemble Federal coal split by the checkerboard ownership patterns in the West into larger mining units, or (2) shift coal development on Federal or non-Federal lands to offset potential losses in coal development from environmental or land use restrictions. GAO has pointed out that with no policy guidance or procedures governing exchanges, there is no guarantee that the Department will consider some basic criteria for weighing the relative merits of a lease versus an exchange, identify factors that reflect equal value and public benefit, or ensure that exchange proposals be handled equitably or consistently. Of particular concern would be the effect of such exchanges on subsequent lease sale competition. Precedent has been set to deny such exchanges and offer the desired tracts for competitive lease sale. But in the case of one exchange transaction (awarded noncompetitively to AMAX Coal), the North Duck Nest Creek tract could have been combined with the southern half and offered as a competitive tract in the 1982 Powder River sale. Instead the remaining southern tract—a maintenance tract—was offered. Not surprisingly, AMAX was the single successful bidder on the tract. The proposed Bisti exchange in the San Juan Region could have similar results if the Department agrees to the leaseholder's terms.

With the passage of the Federal Coal Leasing Amendments Act in 1976, the Department can no longer issue prospecting permits for the purpose of obtaining noncompetitive preference right leases. But with no specific guidance or procedures for processing lease applications pending at the beginning of the moratorium, inadequate processing of the applications could still create problems for the Department. The pending applications represent between 35 and 60 million tons of annual coal production potential, but if preference right leases are issued based on invalid prospecting permits, the Department will forfeit the opportunity to regain some of the coal reserves included in these applications and lease them competitively. The Department could also lose if inadequate processing fails to disclose insufficient proof that commercial quantities exist. When the lessee subsequently realizes the lease cannot be mined economically and, consequently, cover the costs incurred for Federally imposed environmental stipulations, the Department will be faced with requests to exchange the lease tracts. With these exchange requests comes another set of problems as previously discussed.

With no comprehensive system for processing applications in general, or more specifically for conducting environmental reviews required by the National Environmental Protection Act, two environmentalist organizations have recommended that the Department halt the processing of the preference right lease applications. Both organizations maintain that the authority exists and precedent has been set for denying preference right lease applications; that the Secretary has a duty to carry out the intent of Congress as stated in the Mineral Leasing and the Federal Coal Leasing Amendments Acts; and the Secretary should not be restricted by previous errors made by the Department in initially approving, continuing, or extending prospecting permits.

The diligent development requirement to produce coal from the lease tracts which was also defined by the 1976 Federal Coal Leasing Amendments Act, could have shifted some of the investment risk to the leaseholders, but the Department diluted the requirement—at least for pre-1976—leases in the 1982 leasing regulations. By defining the diligence requirement and strictly enforcing it, the Department could regain many undeveloped leases and use them for the Federal Government's benefit. Instead, the Department has interpreted the Federal Coal Leasing Amendments Act requirement rather broadly in the 1982 regulations by not requiring diligence of pre-1976 leases until 10 years after the leases are readjusted. (These leases have a 20-year term at the end of which they may be adjusted and extended for another 10 years.) This could postpone the production requirement for many leases until the turn of the century. Considering the fact that only 111 of the 616 existing Federal leases were producing as of September 30, 1982, and only about half of the 616 leases have had mine plans submitted for them, it is questionable whether many of the leases could ever attain diligence. But they may never have to fulfill the current diligent development requirements in light of recent proposals to relax the requirements even further. If these attempts are successful, the question that still remains is: "Why should these leaseholders be allowed to hold these tracts and reap the benefits for an annual rental of only $1 (or maybe $3) per acre?" But again the leaseholder, and not the Federal Government, is the apparent beneficiary.

MANY FACTORS SUGGEST WESTERN COAL DEMAND WILL NOT GROW VERY RAPIDLY

During the decade of the 1970's, demand for Western coal grew dramatically. The concentration of Federal coal resources in the West means that the demand for Federal coal is closely tied to the demand for Western coal. But market and policy changes have occurred which are likely to moderate the growth rates of Western coal common in the 1970's. The low sulfur content of Western coal no longer confers the market advantage brought about by the Clean Air Act, because the act's amendments require even Western coal to go through an expensive coal scrubbing process. Electrical growth rates pale in comparison to the early 1970's, and electric utilities are overwhelmingly the largest consumer of coal. Transportation rates, a large part of the delivered cost of Western coal, have skyrocketed, and under the Staggers Rail Act of 1980 which deregulates the railroad industry, this trend is expected to continue. The demise of the synfuels industry and the problems faced in developing the export market for Western coal further moderate the growth in demand for Western coal.

Demand for coal from the major Western Federal coal States will continue to grow at a faster rate than the growth in demand for coal in the Nation as a whole. But the growth rate for Western coal will be much lower than the rates for Western coal common in the 1970's. The competitive position of Western coal will not be as strong as in previous years, nor as strong as the Departments of Energy and Interior project.

WESTERN COAL SUPPLY EXCEEDS DEMAND

The development of the coal industry is limited more by demand than by supply. If coal companies are capable of producing significantly larger quantities of coal than is demanded, an over-capacity situation exists. Due to the current recession in the coal industry, overcapacity exists in most coal regions in the country. In the Powder River Basin alone, estimates of current overcapacity range from 50 to 200 million tons per year. More importantly, the excess capacity is not likely to be absorbed quickly, and will persist into the 1990's.

There also exists considerable production potential from undeveloped leases and unresolved preference right lease applications. One authoritative study found that 358 leases with approximately 13 billion tons of in-place reserves could meet diligence by 1990, if demand were to materialize. The preference right lease applications may have an estimated annual production potential between 35 and 60 million tons.

INTERIOR CONTINUES TO PLAN COAL LEASE SALES FOR THE NEAR FUTURE

In spite of the current reduced demand for coal, the depressed near-term future needs, excess capacity, undeveloped leases, and unresolved preference right lease applications, Interior continues to plan for three regional coal lease sales in the near future, with coal offerings exceeding 6 billion tons. These plans are supported by recent procedural changes which allow leasing targets to be derived based on demand for reserves rather than demand for production. Supporters of leasing for reserves applaud the concept as a move that brings the Federal coal leasing program more in line with the marketplace. Opponents denounce it as a distortion of the marketplace, flooding it with coal, depressing prices below their long run competitive level, and preventing the Federal Government from receiving fair market value for its natural resources.●

SOCIAL SECURITY: FARCE CONTINUES

● Mr. HELMS. Mr. President, this past Friday, the Washington Times printed an article by John Lofton, entitled "Social Security: Farce Continues." I urge Senators to read the article and reflect on recent efforts to reform social security.

Mr. Lofton bases his article on an interview with a bright, young Harvard economist by the name of Peter Ferrara, who is doing as much as anyone I know to advance the need for real social security reform. Ferrara is right when he says that, somehow, Congress managed to hurt just about everybody with its recent round of benefit cuts and tax increases. He is also right in saying we should have focused on guaranteeing benefits to the elderly and providing optional retirement accounts for working men and women.

Mr. President, I am sure Senators are familiar with my efforts to find alternatives to the present Government-run retirement system. In February, I introduced S. 541, the Social Security Guarantee and Individual Retirement Security Act of 1983, which would have done precisely what Mr. Ferrara suggests—guarantee benefits and provide optional retirement accounts in the private sector. Although 10 of 20 sections of the bill were adopted by Congress, several of the most important sections were not. For that reason, I have introduced S. 1125, the Individual Retirement Security Act of 1983, which would authorize every American worker to establish a private retirement account similar to the IRA's most of us are familiar with. I will continue to advocate reform along these lines because, like Peter Ferrara, I believe the new social security program might very well collapse.

Mr. President, I ask that this article be printed in the Record at the conclusion of my remarks.

The article follows:

[From the Washington Times, Apr. 22, 1983]

Social Security: Farce Continues

(By John Lofton)

"Republicans have resisted Democratic electioneering schemes to spend away the Social Security trust funds for political purposes. Now, this bill has come due, and the workers of America are staggering under their new tax burden. This must stop."—1980 Republican Party Platform, which was strongly endorsed by Ronald Reagan as both a candidate and as president. Ronald Reagan, Tip O'Neill, Rep. Claude Pepper and Sen. Daniel Moynihan—among others—were all smiles two days ago when the president signed into law a bill which supposedly demonstrates "for all time," as Reagan put it, our nation's iron-clad commitment to Social Security.

But, Peter Ferrara—a real expert on Social Security who recently resigned after a frustrating year as a senior staff member of the President's Office of Policy Development—is not nearly so optimistic. Ferrara, a 27-year-old graduate of Harvard Law School and Harvard College, where he also studied economics, is author of "Social Security: Averting The Crisis," published by the CATO Institute, a Washington-based libertarian think-tank. Incredibly, during the year he worked for the president, Ferrara never met Reagan except for a brief handshake at a Christmas party.

In an interview, Ferrara shared his thoughts with me on the day the president signed the new Social Security plan into law:

"First, it ingeniously manages to hurt everybody. The elderly have their benefits cut. Workers have their taxes increased (by more than $150 billion). Young people have their returns slashed in real terms to practically nothing. Almost every worker is forced into this plan. It uses general revenues, which violates any remaining principles. And the legislation doesn't either address or solve any of the real Social Security issues."

What might have been? Well, Ferrara says: "If things had been handled well from the beginning, if options had been created for women—like allowing them to shift some of their Social Security tax money into IRAs over the next 20 to 25 years—this could have solved the short-term financing problem.

"But, they did it all wrong. They attacked benefits when there was no need to do this. The problem can't be solved this way. When Jim Baker (the president's chief of staff, who also heads his legislative strategy group) and Richard Darman (Baker's top aide) negotiated with the Social Security Reform Commission, they weren't interested in anything that came out of our Office of Policy Development. What Baker and Darman know about Social Security is beyond me. They didn't want to do anything creative. They didn't trust our shop. They just wanted to play within the existing box. And all you can do is hurt people this way. . . . Their attitude was to do anything that would get people to slap them on the back and say what a great job they did."

Ferrara says that it would have been better to let the liberals talk about cutting Social Security benefits and raising taxes. He observes:

"We should have talked about guaranteeing benefits. The president should have done this and talked about improving the legal status of benefits. This would have cost the Treasury nothing. And it would have eliminated the psychological threat to the elderly and prevented the demagogs from accusing the president of having a secret plan to cut benefits after the 1982 elections."

Ferrara thinks—especially in light of how things turned out—that it was a legislative strategy error to inject the White House into the Social Security arena. Instead, he says, Sen. William Armstrong, R-Colo., and Rep. Jake Pickle, D-Texas, should have been allowed to put their own package together, a package which would have been better than the plan the president signed into law.

As the future, Ferrara says the bottom line is that if inflation returns to 10 to 15 percent by 1985, 1986 or 1987—as it well might—and if the Fed tightens up on the money supply, this new Social Security program will collapse. Furthermore, Ferrara believes that the huge 1988 to 1990 tax hikes being relied on to bail out Social Security may not materialize. And if they do, they probably will not work since huge tax hikes in the past have not saved Social Security.

Peter Ferrara thinks that Ronald Reagan really wants to do something creative about Social Security. But, he fears that the timidity of many of the president's senior aides will prevent this.

Example: Talking with a group of students a few weeks ago on the C-SPAN cable TV network, the president said he thought some studies should be made to see if fundamental changes in Social Security could be made to make the system better for young people. An excellent idea. But, while Reagan was still talking on TV, Richard Darman called Ed Harper, head of the Office of Policy Development, telling him in no uncertain terms: The official word is that there are no new Social Security studies underway—none!

In Chicago last week, at the annual meeting of the Heritage Foundation's Resource Bank, Ed Harper spoke for nearly an hour about the president's domestic policies. At the end of this dog-and-pony show pep-talk, an angry Ed Crane, head of the CATO Institute, wanted to know why Harper never mentioned Social Security since it accounts for such a huge portion of the federal budget?

Good question, Ed. But ask yourself, friend: If you worked for an administration that just signed off on the plan it signed off on, would you want to talk about Social Security? Right. Neither would I.●

THE STRUGGLE OF THE NAMIBIAN PEOPLE FOR INDEPENDENCE

● Mr. DENTON. Mr. President, an International Conference in Support of the Struggle of the Namibian People for Independence is being held in Paris at the UNESCO headquarters from April 25 to 29, 1983. No American citizen, who is aware of our own struggle for freedom more than two centuries ago, can fail to be stirred by the prospect of another country's independence. As Americans, we cherish freedom—freedom from foreign domination, freedom to make our own decisions—and the rights guaranteed to us as citizens by our Constitution, which underpin that freedom. Indeed, thousands of our finest citizens have died in the defense of those freedoms, even as others died at the time of our independence.

Americans are thus historically and naturally disposed to be supportive of the struggles of new countries for independence, in the hope that their emergence on the world stage will expand the range of freedom available to their citizens and that they will join with us, and other free nations, in the defense of freedom.

It is a tragic fact, however, that the Soviet Union does not share these laudable and humane objectives. It is not content with denying it its own citizens the most rudimentary liberties. This tyranical empire has sought to stamp out the sparks of liberty which have glowed in Hungary, Czechoslovakia, Poland, and elsewhere in the world, in the past 30 years. The Soviet Union has brought untold human misery to Southeast Asia, Afghanistan, and most recently, through its Cuban proxies, to Central America and the Caribbean. Similarly, the tragic backdrop to the struggle for Namibian independence is the cynical and self-serving manipulation by the Soviet Union of the Namibian people's desire for freedom. It is my belief that the Soviet Union is the last government on Earth qualified to speak for or understand such a noble cause as individual freedom.

The Subcommittee on Security and Terrorism of the Senate Judiciary Committee held 5 days of hearings in March 1982 to investigate the extent of Soviet, East German, and Cuban involvement in fomenting terrorism in southern Africa. We found, to quote from my report issued at the conclusion of the hearings, that:

> * * * (The African National Congress and the South West African peoples organization) have, to judge from the testimony the subcommittee has received and from the statements and actions of their leaders, been deeply infiltrated by those who seek to advance the imperalistic ambitions of the Soviet Union * * * (and) * * * (the evidence) suggests strongly that the original purposes of the ANC and SWAPO have been subverted, and that the Soviets and their allies have achieved alarmingly effective control over them. The demonstrated activities of these organizations, moreover, cannot easily be reconciled with the goal of liberation or the cause of freedom. The evidence has served to illustrate once again the Soviet Union's support for terrorism under the guise of aiding struggles for national liberation * * *.

These findings, which were inescapable on the basis of the personal, documentary and photographic evidence uncovered by the subcommittee staff and published, together with the testimony of 11 witnesses, in the two volumes of materials related to the hearings, make a mockery of the status artificially accorded to SWAPO by the United Nations General Assembly since 1976, as "* * * the sole and legitimate representative of the people of Namibia". Yet the conference now under way in Paris, under the sponsorship of the United Nations and convened in the headquarters of the United Nations' Education and Scientific Council, accords that same status to SWAPO, even going so far as to provide that a representative of SWAPO shall be seated on the drafting committee which will prepare the final report. None of the other Namibian political parties have even been invited to attend the conference.

What sort of organization is this SWAPO, to be accorded such extraordinary treatment? It is a political party which, at its Congress in 1976, adopted a political program founded squarely on Marxist-Leninist principles, and whose President, Mr. Sam Nujoma, unceremoniously had more than 1,000 SWAPO members who had opposed this step before the Congress, incarcerated in Zambia and Tanzania to facilitate passage of the program. It is an organization which, according to the testimony of Assistant Secretary of State Chester Crocker to the Subcommittee on Security and Terrorism, receives about 90 percent of its military support and 60 percent of its overall support from Communist sources. The subcommittee report on the hearings, moreover, recorded the conclusion that the Soviets and their allies within SWAPO insure that Marxist-Leninist doctrine is systematically taught to all those who are recruited for, or pressed into service in SWAPO and its military wing, PLAN (People's Liberation Army of Namibia).

SWAPO is an organization in exile, based chiefly in Angola, where it is supported and trained by Soviet military advisers and some 30,000 Cuban combat troops, who also maintain in office the MPLA (Popular Movement for the Liberation of Angola) regime, which was installed in power after a brutal Cuban-sponsored coup in 1975. The Cubans continue to assist the MPLA to combat an insurgency of major proportions, undertaken by a rival, and more Western-oriented Angolan movement, UNITA.

SWAPO is a terrorist organization, relying on a systematic campaign of murder, mutilation, sabotage and intimidation of political opponents. Bands of PLAN guerillas make incursions into Ovambo and Kavango, in Northern Namibia, to lay Soviet landmines on roads traveled by local civilians; kill and maim those who are associated with rival political parties; and abduct youths to press into their ranks.

During the hearings conducted by the subcommitte in 1982, two former SWAPO members testified to participating in incidents of abduction of schoolchildren and civilians. SWAPO documents making it plain that this was a relatively common practice were included in the record of the hearings. It is of concern to me that PLAN, having recently suffered a depletion of its ranks, largely as a result of retaliatory strikes by South African and Namibian defense forces against PLAN bases in Angola, has now apparently increased the scale of these cowardly raids. Following reports in France that SWAPO terrorists had kidnaped 127 children in Namibia in a space of less than 3 weeks in February and March this year, I made inquiries about the situation and discovered the following:

In the first 3 months of 1983, 418 civilians were abducted by PLAN in Northern Namibia and forcibly taken across the border into Angola; 321 of these were schoolchildren. South African and Namibian forces apparently captured the abductors of two groups and succeeded in securing the release of 40 civilians, 30 of whom were children. Of a group of 230 students abducted at Oluvanga and Oneliwa on March 3 and 4, 167 children under the age of 15 years, presumably unsuitable for training as terrorists, were released in Angola and able to return to their families in Namibia. The rest of the children, including their teachers, were forced into the service of PLAN. On April 5, 13 more children were abducted near Odimba, Ehapa and in the Onagngola district by four PLAN terrorists. Despite threats that escape would be useless since they would be traced to their villages and killed, the 13 fortunately managed to escape from their abductors in Angola and returned home. All of these cowardly abductions were carried out by the SWAPO/PLAN's elite "special unit" which entered Namibia in January 1983 with instructions to create havoc and kidnap as many young Ovambos as possible.

It is a sad commentary on the use of language and the success of Soviet propaganda when an organization with these credentials is hailed as an agent of liberation. I am pleased to note that the Congress has already seen fit to pass Public Law 97-377, section 154, which requires that none of the funds provided for the international organizations and programs account of the Department of State shall be available for the United States' proportionate share of the cost of any programs for the South West African People's Organization. I believe it will be appropriate for the Congress likewise to insure that U.S. tax dollars should not be applied in support of such spurious and wasteful exercises as the international conference in support of the Struggle of the Namibian People for Independence, until such time as the United Nations council for Namibia ceases to misrepresent SWAPO as a "liberation movement" and comes to report accurately the heinous behavior of that organization. Freedom for the people of Namibia, a cause with which we all identify, does not lie along the path presently adopted by the United Nations.●

APPALLING FRUSTRATIONS IN CENTRAL AMERICA

● Mr. EAST. Mr. President, while our President is trying to prevent a Communist takeover of Central America, many newspaper pundits and politicians seem intent on frustrating the President's anti-Communist policy. Given the record of Communist butchery in Indochina, the willingness of some to abandon our southern neighbors to the tender mercies of the Marxists is appalling.

Columnist Patrick Buchanan has recently written two outstanding articles on the administration's policy and its enemies. I ask that the articles entitled "What if it were Hitler to the South?" and "Judge Clark in the crosshairs" be printed in the RECORD.

The articles follow:

[From the Washington Times, Apr. 22, 1983]

WHAT IF IT WERE HITLER TO THE SOUTH?

(By Patrick Buchanan)

Imagine, if you will, that it is 1938 all over again.

Half of Europe persists in the belief that Hitler is a man of limited ambition whose appeasement will insure peace. The more skeptical half has reluctantly concluded that Hitler will be stopped only by an alliance of superior military force.

America is similarly divided. Between internationalists like FDR who are beginning to share Churchill's view, and isolationists who argue that, no matter Hitler's character or ambition, he is no threat to the Western Hemisphere; therefore, he is Europe's problem, not ours.

Suddenly, new developments. An out-and-out fascist regime, allied openly to Berlin, takes power in Cuba, expels all Americans, mobilises an army of 200,000, brings in 10,000 German troops with patrol boats, hundreds of fixed-wing aircraft; and the island is ringed with anti-aircraft guns. Then, in a series of coups, fascists seize first the tiny island of Grenada, where they build an airfield large enough to accommodate the newest Luftwaffe bombers, and take over Dutch Guiana on the coast of South America, butchering the leading democrats in a fashion that cannot be described in this newspaper. Then, suddenly, Hitlerites take power in Nicaragua, invite the fascist Cubans and Nazis and begin supporting guerrillas in Honduras and Guatemala and appear on the verge of another takeover in El Salvador.

Franklin Roosevelt, frustrated and hamstrung by The Neutrality Act, begins covert support to pro-American guerrillas in Nicaragua, containing, however, some anarchist and Trotskyite elements of the old Abraham Lincoln Brigade.

Would the isolationists of the '30s, under these circumstances, have bedeviled FDR's effort to protect American's soft underbelly from Hitler?

No, because whatever can be said of their vision, the isloationists were patriots, America Firsters, who would and did rally to the commander-in-chief when it became clear the Axis sought the defeat and humiliation of the United States.

What can be said for the politicians of Pigmy Hill who—even as the Soviet beachhead in Central America is being solidified and expanded—are using every conceivable legislative tactic to tie the hands of the president of the United States?

"The 'loss' of El Salvador would be a lethal foreign-policy blow for America, reminding its friends and foes of Vietnam and the Iranian hostages." That is The Economist of London speaking, not the American Conservative Union. "It would bring the sound of guns closer to Panama and Mexico. The United States would then have to withdraw to a new front line, leaving outcast Guatemala and vulnerable Honduras to their fates and digging in behind the more defensible borders of Mexico and Costa Rica."

That is not the half of it.

If El Salvador goes, and with it Central America, the troops will be coming home from all over the world.

If we sit paralyzed while Central America is taken over, who is going to believe we will stand up for Thailand or Turkey, for Pakistan or the Philippines? It is absurd to think the American people will continue to support a forward defense against communist aggression in Berlin or South Korea, after we refused to prevent its success in our own backyard. Yes, the security of the Indian Ocean, the Red Sea and the eastern Mediterranean are important to American security; but what are they to the Caribbean Basin which carries more of our oil than the Persian Gulf? What is the sense of keeping the fleet off the Straits of Hormuz if the Soviets, Cubans and Central American communists dominate the Panama Canal?

Is there any stick these Democratic demagogues will not use to beat Ronald Reagan?

He is "breaking the law" by supporting anti-communists in Nicaragua, we are told. And what law did FDR not break supporting anti-Nazis before World War II? According to the CBS documentary, "Target America," FDR tolerated or collaborated in British actions inside the United States before 1941 that included blackmail, forgery, seduction, kidnapping, wiretapping, safecracking and larceny. Extra-legal and criminal conduct is the story of "A Man Called Intrepid," and old liberals love to tell and retell how FDR ignored the law in the higher cause of stopping Adolf Hitler.

Politically and morally, we cannot side with "Somocistas," comes the pacifist complaint. But did liberals object to fighting alongside Stalin in World War II? Did they object to using ex-Nazis in the cold war creation of NATO? Do they object to collaborating with a Chinese Peoples Army whose top officers got their foreign fighting experience killing Americans in Korea? Of course not.

Let Mexico or the OAS take the lead, says Congress. But if Congress cannot locate its own backbone, will Mexicans or Latins who have practiced 20 years of appeasement of Fidel Castro find one to replace it?

It is not Sandino or Zapata or Villa we face in Central America; nor is it a case of needing Marines to save the plantations of the United Fruit Co.

Central America is the hemispheric base of the successor criminal empire to Hitler's; for them the last domino is not Mexico; it is the United States.

[From the Washington Times, Apr. 25, 1983]

Judge Clark in the Crosshairs

(By Patrick Buchanan)

Now, apparently, it is Bill Clark's turn.

With Ronald Reagan behaving like Ronald Reagan again—digging in his heels on national security, holding Congress' feet to the fire on Central America—appalled official Washington is in an uproar.

Who unleashed Ronald Reagan?

The man being made to pay the price is the president's old friend and trouble-shooter from California days, Judge William Clark.

While the cast of character assassins includes the usual leakers from State, the "thoughtful" Republicans on Capitol Hill, again it includes the indispensable element—the West Wing Trashing Team.

Two weeks ago, you could see it coming. "Reagan Defense Push May Backfire," sang the headline in The Washington Post, with the nicely nuanced subtitle, "'Warmonger' Image Resurfaces." Where would the Post get a comment like that? At the top of the piece an "administration official," who somehow had access to secret White House polls, was quoted, "What the latest round of speeches, especially the 'Star Wars' speech, has done is re-raise the image of Reagan as a warmonger who is eager to zap the Russians." This calculated injury to the president, mind you, came from an individual from whom the president had every right to expect personal loyalty.

The next day the media dumping on Bill Clark began in earnest. In an extended "Profile" on CBS, Leslie Stahl daubed Clark as an all-powerful National Security Council adviser of ideologically rigid views who sees communists everywhere. His policy blunders and disastrous personnel recommendations have caused a ruinous collapse in the president's rating, she said, a revolt among Reagan's more sensible and sensitive advisers and allies.

The "most vicious personal attack on anyone" in the Reagan administration thus far, said Ed Meese, who has witnessed a few.

Sunday, The Washington Post front-paged an interpretive piece pitting black hats Cap Weinberger and Bill Clark against white hats James Baker and Richard Darman, both of whom "are believed to be imbued with the idea that Reagan will be seen as a 'jingoistic warmonger' if he speaks out on national security issues and talks candidly about U.S.-Soviet confrontation." (At least the Post article served to locate the general direction whence the "warmonger" quote had come.)

Last Monday morning, Time and Newsweek piled on.

"Clark's job is to help devise solutions, but he has become instead, in many eyes, part of the problem. Instead of shaping or refining the president's raw conservative instincts, Clark seems determined to let Reagan be Reagan. . . ."

Newsweek was even more exasperated. "His dismal lack of expertise in foreign policy has seriously handicapped William P. Clark since his first Senate confirmation hearing in 1981." "'He's in a job that's too big for him,' says one Clark colleague. On Capitol Hill, the NSC chief is referred to simply as a 'disaster.'"

"Animosity between Clark and Reagan's more pragmatic staff," has been developing for some time. 'There's an attitude of let him fall on his face,' explains one irate top level White House aide. 'We're heading for an explosion. . . . It's going to be all the rest of us against Clark!" declared our irate bureaucratic road warrior who, however, did request and receive from Newsweek a pledge of anonymity.

For those missing the point, Newsweek summarized, "What many find worrisome is Clark's knack for bringing out the deepest strains of Reagan's innate conservatism, untempered by any congressional or geopolitical reality."

There you have it. By the admission of the palace back-stabbers, Bill Clark is a Reaganite who shares the president's world view and sees it as his duty to translate the president's ideas into foreign policy. That is why the White House moderates are bellicose; that is why this city is out to get him.

One senses we are heading for a decisive battle for the soul of the Reagan administration, that either Clark's conservatives or Baker's moderates will prevail, and the other will depart.

And it is probably high time. Loyalty is a twoway street; and if the president wants to retain the loyalty of Reaganites like Bill Clark who are honestly trying to fulfill his mandate, he has an obligation to put a stop to the disloyal and debilitating leaks which, for some inexplicable reason, his chief of staff has been unable to run down, unable to stop for 27 months.

If the president does not decide, and act, a decision may be made for him. As one of his closest colleagues of rank in Reagan's inner circle reminded me the other day, Bill Clark is a fellow for whom going home to the ranch in California holds no terror.●

BLIND EYE ON CENTRAL AMERICA

● Mr. MATTINGLY. Mr. President, in his column printed last Thursday, April 21, in the Washington Post, George Will fastened his discerning eye on events in Central America and on the response of the Congress to the President's efforts to assist the forces in the region that are struggling against the Communist intrusion.

In my view, Mr. Will is right on target as he notes that,

> Events in Central America are spinning rapidly toward a decisive moment in U.S. history.

While Congress continues to quibble over minimal levels of U.S. advisers in El Salvador and loads the President's request for a modest increase in aid to that nation with all manner of amendments and contingencies, the Soviet effort continues unabated.

I applaud the President's decision to make a major address to Congress and to the American people on this issue.

U.S. interests continue to be placed in jeopardy by the apparent failure of the Congress to recognize the clear and present danger that exists so close to its borders.

The article follows:

[From the Washington Post, Apr. 21, 1983]

BLIND EYE ON CENTRAL AMERICA

(By George F. Will)

To begin, a two-question quiz.

First question: since detente was codified at the Nixon-Breshnev summit in 1973, the Soviet Union has forced a nuclear alert by threatening to intervene with troops in the October 1973 war in the Middle East (a war incited and financed by the Soviet Union); has organized and financed the destruction of the Paris accords and a U.S. ally; has intervened with Cubans and others in Angola, Ethiopia, Yemen, Cambodia, Nicaragua and El Salvador; has invaded Afghanistan; has orchestrated the crushing of Poland; has made a mockery of the Helsinki agreements; has repeatedly violated the informally agreed-to threshold test ban treaty (although we even changed the way we measure violations, in an effort to avoid the need to make protests that would dampen detente); has tried to murder the pope; is violating the terms of SALT II (an amazing feat, considering that SALT II is a tissue of loopholes and ambiguities); is funding and organizing terrorism worldwide; and is continuing an arms buildup unambiguously designed aor political intimidation and military aggression. The first quiz question is: why is there a "return to the Cold War"?

Answer. President Reagan gave a speech referring to the Soviet Union as an evil empire.

Second question: The Soviet Union has an army brigade (2,600–3,000 men), 2,500 military advisers (increased 500 last year) and 6,000–8,000 civilian advisers in Cuba. It gave Cuba 66,000 metric tons of military supplies in 1981, 68,000 in 1982 (worth $1 billion). Moscow's annual economic aid to Cuba is $4 billion (more than one-quarter of Cuba's GNP). Cuba has 200 MiGs, including two squadrons of MiG-23 Floggers, at least 650 tanks, at least 90 helicopters, including Mi24 attack helicopters, a Koni-class frigate, two Foxtrot attack submarines, at least 50 torepdo attack boats, two amphibious assault ships. A Grenada minister says Cuba will use Grenada's new airport when supplying Cubans in Africa. Cuba, with one-seventh of Mexico's population, has military forces twice the size of Mexico's. The Soviet Union is giving 20 times more military assistance to Cuba than the United States is giving to all of Latin America. In the newest Soviet satellite, Nicaragua, 39 percent of all males over 18 are in uniform, and the regime intends to build a 250,000-person armed force, so one in 10 Nicaraguans will soon be in the military or militia. (All of Honduras' security forces total 20,000. El Salvador's total 32,000.) Nicaragua's regime has built 36 new military bases and garrisons (the previous regime had 13). Nicaraguan pilots and mechanics are being trained in Bulgaria. The regime has received, so far, 50 Soviet tanks, 1,000 East German trucks, 100 anti-aircraft guns, Soviet 152-millimeter howitzers with a range of 17 miles. Cuba has 4,000 to 5,000 civilian advisers in Nicaragua, plus 2,000 military and security advisers. There also are East Germans, Bulgarians, North Koreans, Soviets and members of the PLO. The second quiz question is: about what in Central America does Congress seem most worried?

Answer: fifty-five U.S. trainers in El Salvador.

Events in Central America are spinning rapidly toward a decisive moment in U.S. history. None of the fictions that were used to rationalize acceptance of defeat in Vietnam can be used regarding Central America. The threat there is close, clear and indisputably communist. There the United States will show—will learn—whether it is any longer capable of asserting the will a great power requires, or whether the slide into paralysis is irreversible.

Governments such as Costa Rica's and Panama's are listening as congressional complaints mount. The complaints are against U.S. assistance to armed opponents of Nicaragua's Stalinists, and about even minimal aid for the democratically elected government of El Salvador that is under attack from forces that are extensions, through Nicaragua and Cuba of the Soviet Union.

The conjunction of these complaints can mean, in effect, the extension of the Brezhnev doctrine in this hemisphere. That is, communist attacks on a regime leech away the regime's legitimacy, and produce pressures for negotiations aimed at "power-sharing" with Stalinists who do not believe in sharing power. But a communist regime, however freshly planted and dependent on foreign totalitarians, as in Nicaragua, must be treated as legitimate and irreversible.

There is a war raging, and if all the substantial, determined military assistance is one-way, there can be but one result. The result will be a communist Central America, and an Iran just a wade across the Rio Grande.●

POLISH CONSTITUTION DAY

● Mr. **SARBANES**. Mr. President, on May 1 we will mark the adoption, 192 years ago, by the people of Poland, of a constitution which peacefully transformed their government from a monarchy to a democracy, setting an example for freedom-loving men and women, of courageous commitment to human rights and individual freedom. The Polish people's indomitable spirit and their dedication to freedom allowed them to create, in 1791, just 2 years after the adoption of the U.S. Constitution, a historic document which abolished class distinction, established absolute religious toleration and declared the equality of all citizens under law. It is with the deepest respect and admiration that I join with citizens across the Nation in paying tribute to the gallant Polish people and their heritage of heroic dedication to freedom.

Across the country the Polish American Congress, a national organization with chapters in all major cities, will celebrate the 192d anniversary of this historic event on Sunday, May 1, 1983. In Maryland the anniversary will be marked by our distinguished Polish community at Baltimore's Polish Home Hall where ceremonies underscoring the meaning and importance of this occasion will take place.

I commend the officers of the Maryland Chapter of the Polish American Congress who have devoted so much time and effort to planning and arranging this important occasion: John F. Pasko, president; Melvin Laszczynski, first vice president; Genevieve Jaworski, vice president; Stephen Giernalcyzk, vice president; Agnes M. Sito, financial secretary; Richard Brzybyszewski, recording secretary; Thaddeus Cwalina, treasurer and Adam Adams, sergeant at arms.

A brave people, long recognized for their chivalry and compassion, the Polish people have for generations struggled for liberty, a struggle which led them to carry on their national banner the motto "For Our Liberty and Yours." But theirs is a tragic history. Despite the fact that it was Poland which stopped Genghis Khan's invasion of Europe in 1250, despite the heroism of Poland's King Jan Sobieski and his 40,000 Polish troops who turned back at Vienna, on September 13, 1663, Turkey's invasion of Europe, despite the great courage and skill of men like Thaddeus Kosciuszko in the 1790's, Jan Paderewski in the 1920's and the brave sons of Poland who fought with the allies in World War II, Poland has time and time again been attacked and occupied by aggressive neighbors. But the spirit of this great people has never died—neither in Poland nor in the lands where Poland's sons and daughters began life anew.

More recently, we have seen a tragic injustice inflicted on the gallant people of Poland in the suppression of the broad movement within Polish society toward guarantees of basic human rights and a more open society, a movement both symbolized and led by Solidarity. Despite the brutal suppression of that movement and the suspension of individual liberties, the indomitable spirit of the Polish people survives.

Mr. President, just as the Polish people courageously sought their own freedom in 1791, so they contributed to this Nation's struggle to create a free society since the earliest days of our colonial beginnings. In 1608, almost 12 years before the Pilgrims landed at Plymouth Rock, Polish artisans arrived in Virginia's Jamestown, and by the fall of that year had built America's first glass factory. A year later two of these Polish colonists saved the life of the colony's leader, Capt. John Smith. But it was in 1619 that these sons and daughters of Poland demonstrated their unquenchable love of freedom. Responsible for the colony's glass and soap factories, they refused to work until they were accorded the same voting privileges enjoyed by the English settlers. Since their services were essential to the well-being of the colony, these first Polish Americans quickly won their rights, and in so doing, to use the words of a scholar on the era, established themselves "among the first champions of American political freedom."

America was to benefit again and again from the commitment to freedom of its citizens of Polish descent. During the American Revolution Thaddeus Kosciuszko and Count Casimir Pulaski, rallied to the banner of our new-born country as it struggled for its independence. With the single exception of Lafayette, Kosciuszko was the only foreigner ever admitted to the American Order of the Cincinnati, an honorary society of Revolutionary War officers. Jefferson wrote of Kosciuszko:

"He is as pure a son of liberty as I have ever known."

After America's war, he returned to Poland, and there was a courageous leader in the movement which created the Constitution of 1791 and later in the heroic but unsuccessful effort to withstand the foreign invasions which followed.

Count Pulaski arrived in America in July 1777 and shortly thereafter was commissioned a brigadier general by the Continental Congress. During the spring and summer of 1778, General Pulaski came to Baltimore to recruit and organize an independent corps of cavalry and infantry. Pulaski's legion from Baltimore and neighboring areas served with distinction in South Carolina and Georgia. Pulaski himself gave his life for the cause of American freedom when he was shot and mortally wounded during the siege of Savannah.

From these early examples of the contributions Polish Americans have made to our land and the cause of freedom throughout the world, there are thousands more which can be found in each generation which followed. Today Americans of Polish descent number well over 10 million and their contribution to the strength and vitality of this Nation is beyond measurement. Polish Americans have contributed significantly to American industry and strengthened American labor. They have added their many talents to public, intellecutual, social and artistic life. Above all, they have always championed our Nation's freedom and honor.

In joining with Polish Americans throughout our land in commemorating that proud triumph in 1791 when Poland immortalized her people's love of freedom in a democratic constitution, let us recall the great contributions Americans of Polish descent have made to our Nation. Let us recall that our national hertiage is rich with the gifts of the Polish people, and let us hope that we will all see again a free Poland, fulfilling its heritage and destiny.●

SANDINISTA LEADERS ON CAPITOL HILL

● Mr. **EAST.** Mr. President, last Friday, three prominent Sandinista leaders—including the General Director of the Foreign Affairs Commission of the Council of State and the First Secretary of the Council of State—presented a vicious anti-American lecture in the Longworth Building and took a tour of Capitol Hill. The State Department has informed my staff that these individuals had not been granted visas by the U.S. Embassy in Managua. This means that the Sandinistas entered this country illegally or that they managed to obtain transit or tourist visas at the U.S. Embassy or consulate outside of their own country. If the former is true, then these officials have committed a criminal act. If the latter is true, then they presumably concealed their official status and have committed a breach of the rules of diplomacy.

I intend to see that the truth of this matter is uncovered and that a diplomatic protest be made to Nicaragua. I also ask that the article entitled "3 Sandinistas Popped Up and Popped Off in D.C.," which appeared in the April 25 edition of the New York Post, be printed in the Record following my comments.

The article follows:

[From the New York Post, Apr. 25, 1983]

Three Sandinistas Popped Up and Popped Off in D.C.

Red-faced State Dept. officials are investigating one of the biggest mysteries to hit Washington in months: the case of the Sandinistas and Congress.

The mystery began last week when three top members of the radical government of Nicaragua appeared Friday at a press conference on Capitol Hill.

They denounced the Reagan Administration's policies in Central America in one of the most anti-U.S. diatribes ever heard in the halls of Congress.

The appearance of Alejandro Rodriguez, a member of the ruling Sandinista Directorate; Rafael Solis, First Secretary of Nicaragua's Council of State; and Mariano Fiallos was especially astonishing because it came just days before the President himself was to give a speech before an extraordinary joint session of Congress to drum up support for his beleaguered Latin American program.

Who let these guys into the country? And why?

Well . . . it appears no one did.

John Caufield, a spokesman for the State Dept's visa office, said the U.S. Embassy in Managua "did not issue visas to these people.

"I simply do not know their status."

In fact, other sources say that the U.S. Embassy in Managua was vehemently opposed to giving these people visas.

But there they were, at a well-attended press conference in Congress Friday—surrounded by dozens of helpful Capitol Hill aides.

That's like having Secretary of State George Shultz and Defense Secretary Caspar Weinberger go to Moscow to address the Politburo on the Soviet menace—and the KGB not knowing how they got into the country!

Instead of acting, State Dept. officials immediately tried to limit the damage, deciding not to throw the three Sandinistas out of the country and telling reporters "they really aren't all that big anyway."

But spokesmen there had a convenient answer waiting: the INS computer was on the fritz.●

FINANCING AGRICULTURAL PRODUCTION

● Mrs. **HAWKINS.** Mr. President, financing agricultural production is a precarious business. As inflation is brought under control it also wrings inflated value out of land used as collateral for many farm loans. The net effect is that many farmers are forced to find other security for their borrowings. When you couple this situation with two, and in some cases three, bad crop years in a row, and then add lower than anticipated commodity prices, it makes for an extremely volatile, emotionally charged set of conditions. That is our situation today.

Some farmers are looking for a quick fix. They advocate extreme measures such as authorizing a moratorium on all Federal farm loans.

On the other hand, most farmers who would not benefit from such action because they are not part of the few borrowers, about 12 percent, who use Federal credit for operating loans, oppose a moratorium.

Because feelings do run so high on this issue, it was with great pleasure that I read the thoughtful, balanced article written by Jeffrey H. Birnbaum which appeared in the Wall Street Journal on April 21.

Mr. Birnbaum correctly points out the dilemma facing the Farmers Home Administration, referring to the agency as a tightrope walker in the arena of public policy. The headline captures the flavor of the carefully documented news account: "Audit Says Farmers Home Administration Is

Too Lenient, Borrowers Says It's Too Harsh."

Mr. President, I commend this article to the careful reading and study of my colleagues in the Senate, and ask, at this time that the article be reprinted in its entirety in the RECORD.

The article follows:

[From the Wall Street Journal, Apr. 21, 1983]

AUDIT SAYS FARMERS HOME ADMINISTRATION IS TOO LENIENT, BORROWERS SAY IT'S TOO HARSH

(By Jeffrey H. Birnbaum)

WASHINGTON.—The Farmers Home Administration is a tightrope walker in the arena of public policy.

"It is awfully easy to fall off," says Frank Naylor Jr., the Agriculture Department undersecretary who oversees the FmHA. "Some would say we probably have."

As the rural lender of last resort, the agency is trying to balance two goals: firm management of nearly $60 billion in loans and maintenance of its good samaritan role to farmer-borrowers during hard times. That dual policy is under debate as different critics contend that the agency has gone too far in both directions.

The Agriculture Department's inspector general, in two recent audits, charges that the agency in recent years has lent millions of dollars that might never be recovered or that rural residents could have gotten from private sources.

In one case cited in the audit's report, the federal government lent $8.8 million to a company whose officers include a convicted bank swindler; the officer disappeared, and the projected loss is more than $8 million. In another case, a Georgia borrower owes the U.S. more than $1 million and is delinquent by $290,000, but the agency extended him additional funds on the strength of his previous year's earnings. That income, however, resulted from the unauthorized sale of collateral on the original loans.

The reports paint a picture of an often-inefficient and understaffed agency that is more interested in keeping farmers afloat than in managing taxpayers' dollars. "It is reasonable to assume that delinquencies will continue to increase under this liberalised policy," a report says.

Many farm groups and farm-state lawmakers, on the other hand, want to make the FmHA more generous. The House and Senate Agriculture Committees have voted to sharply expand the agency's lending and to postpone foreclosures on many troubled farmers as long as they have a reasonable chance to repay eventually.

The Reagan administration wants to hold down the agency's lending and opposes any mandatory moratorium on foreclosures as an irresponsible, and expensive, measure. Conservative farm and banking groups encourage the administration in its efforts to curtail explosive lending growth.

Such groups as the American Farm Bureau Federation and the American Bankers Association believe that keeping farmers solvent when they should go bust prolongs the farmers' pain, uses resources inefficiently and adds to the crop-surplus problem. These groups also say that special treatment gives FmHA borrowers an unfair advantage over farmers who use private banks for credit.

The debate may come to a head soon in Congress. The FmHA is grappling with the problem of providing farm-operating funds in 17 states where such funds, which are vital for spring planting, have run out. So although the agency doesn't want additional lending authority, it may have to ask Congress for more money. On its own, a House appropriations subcommittee last week voted $600 million in new loan money for the 17 states and endorsed a ban on certain FmHA foreclosures.

To try to head off this effort, the Agriculture Department says it will reallocate $400 million from other FmHA programs without giving any additional protection from foreclosures.

Aside from this debate, some farm groups say the agency is too hard on its existing borrowers, particularly on farmers who are having a tough time coping with high interest rates and low commodity prices. Militant opposition to foreclosures is on the rise. In the past year, at least 13 foreclosure auctions or meetings have been disrupted by organised protests. A growing number of farm-state lawmakers believe that the FmHA has a policy to force a certain number of farmers out of business—a charge the agency vigorously denies.

Such critics as the liberal National Farmers Union say that the agency isn't doing all that it can to assist distressed farmers. "I'm not saying that all the loans are correct," but "we don't consider (the agency) to be overlenient at all," says Robert Mullins, the group's chief lobbyist. "If a farmer can prove that he's trying, then they should stick with him; that's why the FmHA was established."

The Center for Rural Affairs, a pro-family-farm group based in Walthill, Neb., accuses the FmHA of favoring big farms over small ones. The agency already has shown this bias, a center spokesman adds, by failing last year to disperse its full allotment of loans to farmers of limited means.

Agency officials deny that they favor big farms. They also say the FmHA has delayed foreclosures on thousands of delinquent borrowers in order to do everything possible for any farmer it believes has a chance to make a go of it.

The agency says that even though fiscal 1982 marked the third consecutive year of declining farm income, only 8,000, or 3 percent, of its 270,000 farm borrowers went out of business and only 844 of those were forced foreclosures. Though the FmHA carries only about 12 percent of the nation's farm debt, some of its loans are, by definition, among the riskiest.

Lenient treatment of borrowers, though, doesn't come without a price. About one-quarter of the agency's farm borrowers were delinquent on their payments at the end of 1982, up from 17% the year before and double the percentage of 1979. On Feb. 28, 1983, 38% of farmer borrowers were in arrears, though that number has since been declining.

The inspector general's audits criticize the agency for its lending practices. In a report that examines FmHA loans granted in fiscal 1980, nearly $2 billion in loans to rural residents are called questionable or improper. The bulk of the dubious loans were given to individuals who earned enough to turn elsewhere for their loans. In addition, $714 million in loans was dispensed without accurate or complete financial data from farmers, and another $417 million could have been lent at higher interest rates or for shorter terms, the report contends.

The second report concerns emergency loans dispersed in fiscal 1982 during natural disasters. The audit concludes that $1.12 billion in loans that were in arrears weren't completely secured by collateral, and that $887.9 million in collateral was sold without permission from the lender. Other delinquent loans were given to farmers who aren't likely to repay them, the report states.

FmHA officials argue that many of the complaints are more technical than significant and that special safeguards have been introduced to prevent the problems from recurring. In addition, officials say employee training has been improved. Officials add, though, that rural loan-making is something less than a science.

"You cannot apply many of the normal business tests that you do on commercial loans," the agency's Mr. Naylor says. "A lot of agricultural lending, I know, is made by looking you in the eye and knowing whether or not you have the capacity to do the job as a farmer. We asked our people to do that and they did the best darn job they knew how to. Most assuredly we made some mistakes."

Mr. Naylor believes, however, that few of the mistakes will cost the taxpayer money. "The farming community at large has over its history built a reputation of which it is very proud," he says. "It pays its debts."●

INTERNATIONAL TRADE AND INVESTMENT ACT

● Mr. ROTH. Mr. President, I rise in support of the International Trade and Investment Act.

Much of the public debate on this legislation has focused on the concepts of reciprocity and retaliation, but this debate should not overshadow the fact that this bill is about priorities and objectives. The International Trade and Investment Act is significant because it is the Congress' first legislative initiative since the Trade Agreements Act of 1979 aimed at developing a coherent and farsighted trade strategy for the 1980's.

This legislation begins to identify areas of high priority trade interest to the United States in this decade and encourages the Executive to develop a trade agenda that will be of the greatest benefit to American workers, firms, and consumers.

Areas of key trade interest identified in the bill are trade in services, high technology products, and restrictions on foreign direct investment. Specific negotiating objectives are provided with respect to each of these areas.

I am particularly pleased that this bill includes the important provisions of my trade in services bill. It provides that principal U.S. negotiating objectives would be the reduction or elimination of barriers to or distortions of international trade in services and the development of internationally agreed rules, including dispute settlement procedures, to reduce or to eliminate such barriers.

Importantly, this bill establishes mechanisms for identifying additional objectives for future negotiations and for ranking these objectives. The administration is required, for the first time, to prepare an annual report to the Congress which systematically enumerates all significant barriers to U.S. commerce and which outlines the administation's strategy for eliminating them. In addition to foreign barriers, these reports could include the effects of U.S. export disincentives. The bill delineates a number of factors the Executive is to take into account in preparing these reports, such as the relative impact of the barriers and the extent to which the barriers are subject to international agreements as well as advice from the private sector and, where appropriate, from State and local governments. This process is intended to assure that our negotiating energies are directed at:

> Those barriers to the expansion of market opportunities which are most important in terms of U.S. commercial interest and with respect to which there is the greatest likelihood of achieving solutions, particularly within accepted international procedures.

Moreover, the administration is to keep the Ways and Means and Finance Committees currently informed on trade policy priorities for the purpose of expanding market opportunities.

Much of the content of this bill which relates to reciprocity and retaliation is intended to clarify the President's existing authority rather than to confer new authority on him. The provisions relating to priorities and objectives on the other hand, provide new direction and a constructive approach for setting our future course in trade.

I would hope that this first step toward organizing for trade policy in the 1980's will be followed by the creation of a new Department of Trade, as proposed in my bill, S. 121. Creating an effective infrastructure for trade promotion and trade policy development, negotiation, and implementation is vital to our national interest in the coming years.

I commend the chairman of the Subcommittee on Trade, Senator Danforth, and the chairman of the Senate Finance Committee, Senator Dole, for their leadership and I hope that the Senate will overwhelmingly support this legislation.●

SALE OF F-16'S TO ISRAEL

● Mr. JOHNSTON. Mr. President, I am pleased to join today as a cosponsor of Senate Resolution 119 and to express my deep concern over the holdup of 75 F-16 fighter aircraft to Israel. This policy is punishing Israel, our strongest ally in the region, undermines American interests in the Middle East and is not a policy which will successfully bring peace to the region.

The Soviet Union is presently engaged in an unprecedented arms buildup in Syria, including SAM-5 missiles manned by Soviet crews and linked by satellite to Moscow. Rather than holding up arms to our most reliable ally in the region, we should be letting the Soviets know that their determination is matched by our own.

In our attempts to bring peace to the region, this policy weakens the hand of those in the Arab world who are ready to make concessions that are necessary for serious negotiations and sends a dangerous message to the radical regimes which believe only U.S. pressure on Israel will produce a Middle East peace settlement. Instead of punishing Israel, we should be taking steps to help Israel feel more secure, enabling her to make further sacrifices for peace.

In recent weeks, Israel and Lebanon are nearing agreement on the terms for withdrawal of Israeli forces. But a long and arduous negotiation remains ahead to secure the removal of PLO and Syrian forces. This policy only encourages the PLO and Syria to delay their departure from Lebanon.

The administration prenotified Congress of this sale over 1 year ago, following its sale of AWACS and F-15 add-on equipment to Saudi Arabia. Since that time, the cost of the planes to Israel has increased significantly. If the planes are not released soon, Israel will have to either buy less planes or increase its defense spending, only further jeopardizing its already fragile economy.

Israel is an important strategic asset and remains our most dependable ally in the Middle East. The United States must restore its lost reputation and reestablish itself as a credible power in the region.

The time is now to release the F-16's and demonstrate that the United States stands firmly committed to Israel's security.●

TRIBUTE TO DR. JOHN HERNANDEZ

● Mr. DOMENICI. Mr. President, Dr. John Hernandez acted as Deputy Administrator of the Environmental Protection Agency for almost 2 years. I strongly supported Dr. Hernandez' nomination because he was uniquely qualified to fill that position. Coming from New Mexico State University as dean of the Engineering School, Dr. Hernandez brought an expertise to EPA that proved to be invaluable.

Regrettably, Dr. Hernandez has left his post at EPA, with the massive reorganization of the Agency. I think the Agency will miss him and I send my very best to him.

Senator Chafee, as chairman of the Environmental Pollution Subcommittee, worked closely with Dr. Hernandez in the past 2 years. During a recent subcommittee hearing, Senator Chafee paid tribute to Dr. Hernandez and I would like his statement to be made a part of the Record at this point:

> Secondly, I would like to say, this is the first opportunity I have had publicly to say anything before this Subcommittee about Dr. John Hernandez. Dr. Hernandez worked very closely with this Committee on the whole Clean Water business, both with the industrial portion of it, but more particularly we dealt with him on the municipal waste treatment part. I want to publicly take this opportunity to thank Dr. Hernandez for his work. In all my dealings with Dr. Hernandez I found him a very honorable, constructive gentleman and it was a pleasure to work with him. We shall miss him and I want to wish him God speed for whatever future undertakings he might have.
>
> Whether he is returning to New Mexico or not I do not know but my experiences with Dr. Hernandez were very fine ones.●

INTERNATIONAL WILDLIFE RESOURCES CONSERVATION ACT OF 1983 AND INTERNATIONAL ENVIRONMENTAL PROTECTION ACT OF 1983

● Mr. CHAFEE. Mr. President, hundreds of years ago, the United States was in the position that many emerging nations are today. It is really rather an enviable position. What I am talking about is the chance that these nations have to conserve and wisely manage their natural resources, particularly their wildlife, before these resources dissipate or disappear.

As a member of the Committee on Environment and Public Works, I have been made painfully aware of the many serious environmental problems our country currently faces. We have made some precarious decisions over the years when we opted for economic and industrial success, at the expense of our natural resources. Now our country and its citizens are spending billions of dollars to recuperate what we have lost, or at least manage the fragments of our environment that remain.

Mr. President, I believe that this country is actively striving to find a good balance between today's economic and energy pressures and the need for a clean, livable environment and wildlife conservation. There is certainly no lack of technological expertise, dedication, and general goodwill directed toward this goal. By introducing S. 1068 on April 15, the International Wildlife Resource Conservation Act of 1983 and the International Environment Protection Act of 1983, I, along with my distinguished colleague from Rhode Island, Senator Pell, are asking that we set our sights a little more broadly: Let us share what we have learned with other countries so that they can avoid some of the damage that we are forced to address in our own country retroactively.

Nowhere among the world's natural resources decline is there a more extreme case than in the area of wildlife and its habitat. We attempt to deal with species-by-species disappearance, through trade laws and such, but the quagmire is much deeper and so must be our approach. This bill is not a wildlife protection bill per se. Rather it and the other measures being introduced by Senator PELL and me are designed to increase the efficiency and tempo with which the United States can transfer to other countries the expertise required to enable them to manage their own wildlife resources more effectively.

This bill reflects information developed during the November 1979 hearings before the 96th Congress Senate Subcommittee on Resource Protection which dealt with the question of international wildlife conservation and the June 1980 hearings before that same subcommittee which addressed H.R. 4685 and Senate amendment 1680.

I was astounded at the tragedy facing our wildlife resources highlighted during those hearings. We see species gradually disappearing from the Earth. Loss of habitat vital to wildlife, such as tropical rain forests, is a prime threat to our international wildlife resources. And I might add that one country's loss of habitat might trigger a decline in a migratory species of unique importance far beyond the boundaries of that land.

Two major problems seem to be accelerating around the world—deforestation and desertification. These two scourges of the world environment are the end result of poor forestry or forestry practices. In most instances, such adverse effects can be avoided by the use of modern agricultural or forestry management practices and having a knowledge of the particular weaknesses and strong points of the ecosystem in which these users are occurring. Members of the subcommittee learned that in all too many instances such knowledge is not available and the result is destruction of habitat leaving the area fit for neither man nor beast.

We all have a stake in preserving and managing the world's wildlife population. Every nation, both those who are just now developing economically and those who have perfected wildlife management methods, will bear the effects if this wonderful resource is allowed to spiral into a drastic decline.

The bill recognizes that the well-being of the United States is linked to the social, economic, and political stability of the rest of the world and that such stability is dependent upon the degree to which the expectations of people in the so-called developing or Third World countries are met. It is apparent, in an era of increasing demands and decreasing supplies of many essential resources, that all available resources, particularly those that are renewable, must be utilized properly. The bill recognizes that wildlife resources—wild flora and fauna man does not yet cultivate or has not yet domesticated—represent perpetually renewable resources of inestimable immediate or potential value if they are conserved, managed, and utilized wisely.

There is all too much evidence that such conservation, management, or utilization is not being practiced. This is particularly true in many of the most genetically rich—and politically volatile—areas of the world: Tropical Africa, Central and South America, and Southeast Asia. In order to meet essential and immediate needs many developing, as well as some industrialized nations, unintentionally yet irrevocably are destroying genetic resources in the form of wild flora and fauna, the value of which as sources of food, fiber, pharmaceuticals, building materials, chemicals, or recreation would far exceed that derived from poorly planned or hastily executed development schemes.

The expertise to develop wildlife resource conservation programs exists in depressingly small quantities throughout most of the world. The scope of the problem may dismay us, but there is a ray of hope in it all. There is the prospect that a country with the economic, scientific, and management capabilities such as ours can, with a little bit of care and commitment, try to change the deteriorating fate of our planet's wildlife. That is what the legislation we are introducing today is all about. It is positive in its approach.

Although the United States possesses a larger reservoir of such expertise than the rest of the world combined, this is not reflected in the U.S. oversea establishment. Most of the few—approximately two dozen—science attachés stationed in our embassies abroad are posted to European or other developed nations. Only one or two to be found throughout the entire continent of Africa—where some of the most pressing wildlife resources conservation problems and opportunities are to be found. In addition, few, if any, of the Department of State's science attachés or counselors even possess degrees in biological or ecological fields. They are usually physicists or other specialists in the so-called hard sciences and have neither the time, training nor background to identify or respond effectively to wildlife resources opportunities or problems. The same can be said of the agricultural attachés—too few in the wrong locations with inadequate backgrounds to deal effectively with the types of problems this bill addresses. The U.S. Agency for International Development's (USAID) small group of environmental officers provide some assistance in helping avoid major problems from USAID projects but they too are spread too thin in too few areas and must deal with priorities other than those needed to enhance wildlife resources conservation and management.

While the Endangered Species Act provides authority for the Secretary of the Interior to "* * * assign or otherwise make available any officer or employee of his department for the purpose of cooperating with foreign countries and international organizations in developing * * * conservation of fish or wildlife," this authority is limited to persons who are an "* * * officer or employee * * *" of the Department of the Interior, thus essentially ruling out personnel of the State fish and game agencies, academia, or private conservation organizations. In addition, the assignment must be to a "* * * foreign country (or) international organization * * *." The latter term has been interpreted by the Department of State to be limited to international organizations of which the Government of the United States is a member. There is a great need for the type of expertise addressed in this bill in organizations, such as universities, nongovernmental conservation or research institutions which are not agencies of the Government involved. There are also several international conservation organizations that are highly effective in developing wildlife resource conservation expertise but of which the Government of the United States is not a member—although agencies of this Government might be. Two such organizations are the International Union for the Conservation of Nature and Natural Resources (IUCN) and the International Institute for Environment and Development (IIED).

This legislation has the very pragmatic aim of encouraging this Nation to take a small but significant step toward a coordinated program to encourage and assist other nations develop the expertise they must have if they are to give proper concern to the conservation and utilization of wildlife resources of value to all nations—including the United States—as they and cooperating industrialized nations accelerate the application of modern technology to the development of the world's natural resources.

Although the bill is designed to encourage the export of U.S. expertise, there also would develop a flow of valuable information back to the United States. This information would assist U.S. agencies to set priorities, meet their statutory and treaty obligations, and simultaneously reduce the likelihood that unnecessary restrictions would be imposed upon American business or other interests. For example, much more reliable information concerning the conservation status of wild flora and fauna would become available as would an increased ability to evaluate the source of such information, thus making it much less likely that erroneous or obsolete information could result in the addition of species to the U.S. foreign, or international lists of endangered species. Placement of a species on such lists triggers a number of domestic, foreign, and international restrictions on trade or other actions that could affect the species. While it is essential that such protection be provided when needed, it also is important that unnecessary restrictions not be imposed. The U.S. Lacey Act makes it a Federal offense to engage in international commerce in wildlife taken or exported unlawfully. Many less developed countries rely on the Lacey Act to back up their own efforts at wildlife law enforcement. The lack of reliable and current information on foreign wildlife laws and legal interpretations makes fair and effective enforcement very difficult. The Fisherman's Protective Act requires U.S. agencies to determine whether foreign nations are in violation of wildlife agreements and, when such is the case, to recommend that the President impose trade sanctions on the offending nation. The National Environmental Policy Act requires an assessment of the impact of certain U.S. actions on the wildlife resources of other nations. The Endangered Species Act requires that each U.S. agency insure that agency actions are not likely to jeopardize the continued existence of any endangered or threatened species or to result in the destruction or adverse modification of critical habitat.

Furthermore, the requirement for international cooperation and sharing of information or expertise is reiterated in a dozen or so international treaties which address the conservation or management of wildlife resources. Unfortunately, authority to meet these responsibilities efficiently is not as clear as are the responsibilities. This bill would clarify the gray areas and improve the capability of the United States to efficiently and effectively meet these obligations.

It would be possible to add wildlife resources conservation responsibilities to the existing staff of the U.S. overseas establishment. However, as stated earlier, those individuals are too few, usually located in the wrong places, already overburdened with their primary duties and lacking the training, skills, or background needed to perform the functions of the envisioned regional wildlife resources attachés.

This legislation clarifies and expands upon existing authorities; it will enable a more efficient and cost-effective means of providing desirable technical assistance and it will enable the evaluation of the effectiveness of such assistance. The net effect of the initiatives provided would exceed the sum of the effort put into them. By setting an example which other developed nations may choose to follow, these initiatives would have a catalytic effect, multiplying the benefits by stimulating developing nations to build upon the expertise thus provided. In addition, the opportunities for U.S. specialists to spend time abroad working with foreign counterparts would provide valuable opportunities to increase their own knowledge and skills for subsequent application to problems in this country.

The key feature of the International Wildlife Resources Conservation Act of 1983 is the establishment of a small group of resource attachés. Mr. President, I ask that a summary of its major provisions be printed in the RECORD.

I am hopeful that the Senate will join us in exploring ways to fulfill the conservation role that we know this country and its wildlife managers, scientists, and its general citizenry are capable of playing.

The material follows:

SECTION-BY-SECTION SUMMARY

SECTION 1 (SHORT TITLE)

The short title of this Act is the "International Wildlife Resources Conservation Act of 1983". The long and more descriptive title is "A bill to provide for the efficient utilization of wildlife resources conservation expertise by the Government of the United States and other nations for the purposes of enhancing the ability of such nations to manage their wildlife resources consistent with mankind's long-term best interests and providing reliable information upon which to guide United States actions".

SECTION 101 (FINDINGS, PURPOSES, AND POLICY)

The Congress finds that the well being of the United States is linked to the social, economic and political stability of the rest of the world; that such stability is dependent, in part, upon the degree to which rising human expectation can be met during a period of increasing demands and diminshing supplies of certain natural resources; that the genetic resources represented by the world's non-domesticated fauna and non-cultivated flora represent virtually untapped renewable resources upon which man will become more dependent as increasing demands for food, fibre, pharmaceuticals, building materials, chemicals, recreation and other basic human needs encounter projected decreasing or more costly supplies of crop lands, fresh water or petroleum for use as fertilizer, pesticides or power for machinery to cultivate, harvest and distribute traditional foodstuffs and other basic materials; that the proper conservation, utilization and continued availability of wildlife resources in areas which are developed or being developed is dependent upon the presence of persons with specialized wildlife resource conservation training and knowledge; that the amount of such expertise in the infrastructures of most foreign governments, the U.S. overseas establishment or anywhere else save within the United States itself or a few other industrialized nations is completely inadequate; that the United States possesses a larger reservoir of such expertise than the rest of the world combined and that it is in the pragmatic best interest of the United States as well as of other nations and mankind in general, to provide an efficient means of exchanging wildlife resources conservation expertise between the United States and other nations.

The purpose of the Act is to establish a comprehensive program to enable specialized agencies such as the Fish and Wildlife Service and the National Park Service to more efficiently share wildlife resources conservation capability and thus stimulate other governments and international organizations to better manage and conserve their wildlife resources. The Act is also intended to improve our own knowledge of the status of wildlife resources abroad and thereby provide reliable information upon which to base sound decisions and to guide U.S. actions.

It is declared to be the policy of Congress that all Federal agencies should encourage the wise conservation of wildlife resources worldwide.

SECTION 102 (DEFINITIONS)

"Conservation" is defined broadly to include all activities associated with ecologically sound scientific wildlife resource management.

"International organization" includes international wildlife conservation organizations of which the United States Government or any department or agency thereof is a member.

"Wildlife resources" is defined to mean any noncultivated plants or nondomesticated animals, and the habitats upon which they depend.

SECTION 103 (REGIONAL WILDLIFE RESOURCES ATTACHÉS)

The Secretaries of State and Interior, working together, will establish up to ten "International Wildlife Resources Conservation Regions" and post "Regional Wildlife Resources Attaches" in those areas. The attaches will be employees of the State Department but the Interior Department will be cooperatively involved in ensuring that the attaches possess adequate technical backgrounds and in assessing the technical, wildlife resources conservation aspects of their performances. The duties of attaches will include: maintaining professional liaison with foreign wildlife conservation agencies and organizations; providing expert environment/wildlife resources conservation staff advice to U.S. embassies, AID offices and others; acquisition and evaluation of data on the conservation status of wildlife, their habitats and the trends in wildlife consumption; and the assimiliation of information needed to implement U.S. statutory and treaty obligations such as the Lacey Act, the Fisherman's Protective Act, the Endangered Species Act, the National Environmental Policy Act, the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, the Convention on International Trade in Endangered Species of Wild Fauna and Flora and various migratory bird and other treaties.

At present there exists no system through which U.S. agencies can readily obtain reliable information on the wildlife resources of other nations. Historically agencies have relied upon published material, which usually is both non-specific to the problem at hand and outdated by the time it is published, and short-term "missions" by consultants or agency specialists which seldom are of sufficient duration or detail to produce the desired results. Information gathered by private organizations or agencies of a foreign government seldom is tailored to U.S. needs and usually reflects the views and policies of the gathering organization. A hopeful exception to this experience is the current proposal by TRAFFIC, U.S.A., to undertake a compilation of foreign wildlife trade laws.

Many U.S. embassies assign requests for information of this kind to commercial or political officers. Some embassies do have scientific attaches, but these employees are generally physicists or chemists, and seldom have the time or necessary biological or ecological backgrounds.

Furthermore, these attaches are unevenly distributed; only one or two, for example, are to be found throughout the African continent. These regular embassy personnel are, through no fault of their own, unable to effectively monitor the status of fauna and flora or provide other professional assistance in wildlife matters.

A small network of wildlife resources attaches would provide a formal and reliable network for gathering wildlife resource information and for evaluating the sources of such information. It would provide a means to acquire data on the status of species, compile wildlife laws of other nations and assess the impact of U.S. actions on these resources. This will help guarantee that any restrictions upon U.S. businesses are justified and that the U.S. actions do not unnecessarily or unintentionally hazard the living natural resources of other nations. They will also give us very practical suggestions as to how our limited resources can be allocated to do the greatest good and to evaluate the effectiveness of our actions.

SECTION 105 (AUTHORIZATION)

There is authorized to be appropriated $750,000 per fiscal year for fiscal years 1983 through 1987 to carry out the provisions of the Act.●

TV, OR NOT TV?

● Mr. DANFORTH. Mr. President, on April 14, 1983, the Senate Rules Committee held hearings on Senate Resolution 66. This resolution would, if adopted, result in gavel-to-gavel coverage of the proceedings of the Senate. I testified at the hearings, expressing my concern that this would have a serious adverse impact on the ability of the Senate to conduct its business.

Another witness at the hearing was the distinguished columnist and television commentator, George Will. As a former Senate staff member as well as a journalist, Mr. Will is uniquely qualified to comment on this issue. He made some excellent arguments in his testimony, some of which he repeated in a recent column in the April 25, 1983, issue of Newsweek. Mr. President, I ask that the column entitled "TV, or Not TV?" be printed in full in the RECORD. I also urge my colleagues to read this column carefully and give serious consideration to the points it makes before making their own decisions on the issue of television coverage of the Senate.

The article referred to follows:

TV, OR NOT TV?

(By George F. Will)

Outside Interstate 495, Washington's beltway, there is no detectable sense of deprivation arising from the fact that senators, who are televised in hearings and elsewhere, are not also televised on the Senate floor. But, understandably, many senators want more opportunities to be seen by vast audiences. And journalists naturally want to extend the domain of all facets of their craft.

The case for putting cameras in the Senate is often couched in rhetoric about "the public's right to know." Of all the rights that have recently blossomed in tropical luxuriance, that right is, to me, the most ill-defined. But whatever it means, the "right to know" about the Senate is not in jeopardy or at issue. It is, to be polite, terminologically inexact to say, as some do, that the Senate today is "closed." Most of the work of the Senate occurs in hearings open to cameras. The floor is observed from the press gallery, and the Senate has provided itself television facilities a short walk from the floor. Many senators citing the "right to know" deserve to be hoist by their own petard. Actually, they want a carefully circumscribed right to know about the chamber. They want cameras restricted to covering only the person speaking. Cameras free to scan the chamber would frequently reveal 94 empty chairs, and five senators paying no attention. But if the public has a sovereign right to "know," should not the cameras scan?

ELECTRONIC JOURNALISM

Some journalists seem to think that those governmental policies are best that make their profession most fun. So we can expect demands to intrude journalism's myriad technologies into every recess of government. Some courtrooms already welcome electronic journalism. Why not the Supreme Court? The court's conferences? All meetings of the Federal Reserve Board? But government exists to produce good government, not entertaining journalism. And it is not axiomatic that "openness" always conduces to better government. Homer nods and so does Howard Baker. Normally wise, he has announced that the Founding Fathers, were they among us, would want television in the Senate. But in the steamy Philadelphia summer of 1787, they closed the doors and even the windows so they could draft the Constitution in an atmosphere conducive to statesmanship. The Senate met behind closed doors for its first seven years.

Some persons advocate television because they think it will change the Senate substantially. One senator professes to believe that cameras would draw a majority of senators to the chamber for great debates about great issues. Never mind the assumption that great debates occur whenever many senators gather. And disregard the danger that senators will use the floor as a stage for making campaign commercials. But remember, because of time constraints (22 minutes of news in the evening newscast), television coverage of political controversies consists almost entirely of short snippets of talk, called "sound bites." The only significant use of cameras in the Senate would be to provide the networks with such bites. Bites? Nibbles, really. Twenty seconds is a big bite. Imagine the incoherence of the Lincoln-Douglas debates reduced to such bites between denture-adhesive commercials.

Anyway, if television altered senators' behavior by luring them to the floor, when would the Senate's work get done? All senators believe, rightly, that they are maddeningly overburdened already. More than half of this fiscal year is past and fewer than half the appropriations bills have been passed. Senators do not need cameras tempting or coercing them to make cameo appearances on the floor to convince the folks back home that their senator is diligent.

Many senators favor television only because they are sure the effect on behavior will be negligible. They say, rightly, that the introduction of television into the House in 1979 did not significantly change the House. But they wrongly argue that television is as suitable for one body as the other.

Scientists know that observing a phenomenon can change the phenomenon. Enlarging the Senate's audience from a few hundred in gallery seats to millions of viewers would mean qualitative change wrought by quantitative change. It would further diminish the Senate ability to function as intended by the Founders, who designed it as a mitigation of popular government, somewhat insulated from popular pressures.

MEDIATED SOVEREIGNTY

Both the House and the Senate embody the defining principle of republican government, which is the principle of representation: the people do not decide issues, they decide who shall decide. But the Senate is much smaller. Its members are insulated by six-year terms (and were insulated by the Founders from popular election). The Senate has permissive rules allowing extensive debate and substantial blocking power for intense minorities. The Senate exemplifies the fact that in America the people are sovereign, but popular sovereignty is mediated and qualified.

I worked on the Senate staff for three years. Since then I have watched the Senate with affection and interest for a decade. I do not think senators feel too isolated from clamorous pressures. They certainly are not insufficiently attentive to the eddies of public opinion. What the government, and especially the Senate, needs is more, not less, insulation from the importunings of the immediate. The Senate is supposed to be a haven for independent judgment. It needs less, not more, pressure to focus on the country's short-term concerns. Televising the Senate would make it even more tumultuous and plebiscitary than it already has become. A Founder said the Senate is the saucer into which we pour controversies to cool. Television would turn up the temperature.

The healthy working of representative government requires a residuum of detachment, distance, aloofness, even mystery. This truth is intellectually difficult to formulate and politically dangerous to express. But this truth is important, as is the process of nurturing and elevating ambience anywhere in the passionate business of politics. The Senate, perhaps more than any of the world's great institutions of representation, has had such an ambience. Television would further subvert that, and the Senate's assigned role in our system.●

S. 1080—ADMINISTRATIVE PROCEDURE ACT AMENDMENT

The PRESIDING OFFICER. S. 1080 will now be read the second time.

The assistant legislative clerk read as follows:

A bill (S. 1080) to amend the Administrative Procedure Act to require Federal agencies to analyze the effects of rules to improve their effectiveness and to decrease their compliance costs, to provide for a periodic review of regulations, and for other purposes.

Mr. BAKER. Mr. President, I object to further consideration of this measure at this time.

The PRESIDING OFFICER. The bill will go to the calendar.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COST OVERRUNS OF THE C5-B

Mr. GRASSLEY. Mr. President, yesterday afternoon, I obtained an Air Force memorandum dealing with contracting for the C5-B aircraft. If you recall, this is a follow-on of the C5-A of about 15 years ago.

The Air Force states that an Air Force cost analysis group estimated the C5-B procurement effort at $566 million above the negotiated firm fixed price. Should this be the case, then under the fixed price contract, the contractor, according to the Air Force memo, might have to sustain the cost overruns.

Let me state categorically that no cost overrun has yet occurred. It is simply a situation in which we have found ourselves before. There is often a mismatch between projected costs and actual costs, or between one set of cost estimates versus another.

My concern with this matter is one of accountability. The independent cost analysis estimate has raised valid questions in my mind about the contractual arrangements in the C5-B and the consequential cost to the taxpayers.

If the ICA analysis is correct, that the cost to the contractor will indeed exceed the contract, then who will absorb the loss? Will it be the contractor or the taxpayer?

History shows that the taxpayer often loses in Government contracts. I think the history of the C5-A is an example of that. Of course, this is inexcusable. But I intend to see that history does not repeat itself and that the taxpayer comes out on top when the C5-B is involved.

This morning I had an opportunity to visit with people from the Pentagon involved with the negotiation of this contract and they assured me that the C5-B contract would not be renegotiated; that the contractor would be held to the firm fixed price contract. These officials assured me that every precaution would be taken to protect the taxpayers. Throughout the conversation there were even hints of possible savings within that contract.

We listened to this same argument years ago, Mr. President, in the case of the C5-A. I hope that this time the assurances I have been given by the Pentagon and by members of the administration are borne out in reality.

We in Congress should demonstrate fiscal responsibility to the taxpayers of this country. We should hold all departments of the Federal Government accountable in the use of our resources. The Defense Department is no exception to that rule. If the Air Force and Lockheed meet or surpass the performance expected of them by the taxpayer, then I for one would be the first in line to commend them.

If, on the other hand, the taxpayer once again takes it on the chin, as he did 15 years ago, then I will jump into the matter with both feet, demanding accountability.

It is my hope that through this effort I can increase the awareness of the public and of the Congress in a responsible way about the history of cost overruns.

Let me also indicate that my concerns do not begin and end with the defense budget or with this administration. Similar problems exist throughout the Government and have existed in past administrations.

With high deficits projected in the near future, it would be less than responsible as Members of Congress to look at all avenues of potential savings for the American taxpayer and to reduce these unprecedented deficits.

So that no one is misled on my position on defense, let me categorically state that I am supportive of this administration's desire to meet the Soviet threat, and that it is my intention to assure the American taxpayer that we are getting sufficient bang for our bucks. At the same time, it is my intention to send a signal to all members of the business community that they can enter into the competitive arena of contracts with the Government being a reliable customer.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. HECHT). Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I had indicated earlier I had hoped to take up the bankruptcy bill this afternoon. Some of the principals who will be engaged in debate and management of that measure are not here and are necessarily away from the Chamber and off the Hill on other official business. It appears the better part of discretion then to postpone the effort to try to reach the bankruptcy bill until tomorrow.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that on tomorrow, after the recognition of the two leaders under the standing order, that four Senators be recognized on special order of not to exceed 15 minutes each in this order: Senators LEVIN, RIEGLE, PROXMIRE, and HATCH.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 2600 HELD AT THE DESK PENDING FURTHER DISPOSITION

Mr. BAKER. Mr. President, the request I am about to make now has also been cleared, I believe, with the minority leader, and I will state it now for his consideration and that of other Senators.

I ask unanimous consent that at such time as the Senate receives from the House of Representatives H.R. 2600, a bill to dedicate the Golden Gate National Recreation Area to Congressman Phillip Burton, it then be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I have no further business to ask the Senate to transact today. May I ask the minority leader whether he has any further business to transact?

Mr. BYRD. I thank the distinguished majority leader. I have nothing.

Mr. BAKER. I thank the minority leader.

Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until 10 a.m. tomorrow.

The motion was agreed to; and, at 5:18 p.m. the Senate recessed until Wednesday, April 27, 1983, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate April 26, 1983:

Department of State

Myles Robert Rene Frechette, of Washington, a career member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Cameroon.

Africa Development Foundation

Francis Stephen Ruddy, an Assistant Administrator of the Agency for International Development, to be a member of the Board of Directors of the African Development Foundation for the term of 2 years (new position).

U.S. Arms Control and Disarmament Agency

David F. Emery, of Maine, to be Deputy Director of the U.S. Arms Control and Disarmament Agency, vice Spurgeon M. Keeny, Jr., resigned.

Department of Defense

Richard Lee Armitage, of Virginia, to be an Assistant Secretary of Defense, vice Francis J. West, resigned.

In the Air Force

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Winfield W. Scott, Jr., 230-24-1597FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. John L. Pickitt, 451-44-6719FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Robert E. Kelley, 049-24-0301FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Robert W. Bazley, 188-18-6378FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Carl H. Cathey, Jr., 244-36-750FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601 and additional duty as Senior U.S. Air Force Member of the Military Staff Committee of the United Nations, under the provisions of title 10, United States Code, section 711:

To be lieutenant general

Lt. Gen. Howard W. Leaf, 353-18-3384FR, U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

Lt. Gen. Hans H. Driessnack, 064-22-2830FR, U.S. Air Force.

In the Air Force

The following officers of the Uniformed Services University of the health sciences class of 1983, for appointment in the Regular Air Force in the grade of captain, effective upon their graduation under the provisions of section 2114, title 10, United States Code, with date of rank to be determined by the Secretary of the Air Force:

Abraham, William P., 217-48-9047
Annes, Colleen A., 565-17-5247
Archer, Stephen C., 223-82-8227
Bauman, Wendall C., 524-78-1894
Chenaille, Peter J., 014-38-1092
Christensen, Alan L., 528-82-7212
Christensen, Val D., 529-74-9987
Collins, Mark S., 149-56-2537
D'Agostino, Louis A., 059-46-6740
Dipuma, Laura L., 114-48-6488
Dotti, Michael W., 199-36-4440
Dubois, Jeffrey J., 028-46-9435
Fitzgerald, Ann J., 522-86-0033
Frangos, Steven A., 550-84-8268
George, Gary L., Jr., 536-64-5493
Gloweinka, Paul R., 110-42-9974
Gray, William J., III, 212-68-8278
Greendyke, Spencer D., 551-70-7794
Haggard, Robert A., 556-11-3509
Haselhorst, Beth A., 574-34-2091
Janik, Daniel J., 338-52-6863
Kadlec, Robert P., 125-42-9146
Kreins, Christina M., 024-38-8055
Lacey, Jane E., 102-50-4390
Lattuada, Charles P., Jr., 389-62-7681
Lieberman, Richard W., 214-76-6411
McCafferty, John C., 033-46-4474
Nord, Keith D., 550-98-[illegible]054
Osborne, John R., 142-44-9153
Randall, Cynthia N., 527-80-4869
Smith, Allen T., 244-96-4257
Spatz, Michael W., 082-50-1546
Tracy, George G., 178-44-0111
Voss, Kevin H., 453-92-4371
Vrtis, Ann M., 344-54-9337
Waller, Stephen G., 498-50-8353
Ward, Jane B., 155-36-2439

In the Air Force

The following officers, U.S. Air Force Officer Training School, for appointment as second lieutenants in the Regular Air Force, under the provisions of section 531, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force:

Adkins, Ray S., 218-58-0247
Aldrich, James R., 473-58-1838
Antonio, John P., Jr., 221-40-8626
Averett, Randel L., 530-64-9127
Barger, John M., 237-04-1522
Beal, Kevin J., 385-50-0850
Bielby, Patrick E., 370-66-7773
Bois, Joseph R., 005-56-4646
Bowman, Walker H., IV, 304-50-8870
Carr, Phillip M., 292-58-7490
Clennan, Ray J., 565-94-4491
Cohen, Leonard M., 252-19-5775
Coman, Ty R., 266-94-9373
Conner, James S., Jr., 465-76-7023
Couick, Jerry R., 246-08-9510
Curry, Damon F., 334-46-8509
Daniels, Robert J., 372-64-1024
Davis, David J., 060-46-9514
Douglass, Randall L., 271-64-7900
Durall, William E., 345-44-2058
Ellis, Robert V., 345-50-7772
Fuller, Susan M., 558-80-3128
Gawler, Steven H., 506-66-4983
Gay, Richard K., 149-58-4404
Graham, Mark S., 244-15-7237
Green, Gregory A., 303-60-0773
Guido, Dawn A., 121-46-2992
Heydeck, Andrew W., 067-50-9294
Howard, Stephen, 498-62-6123
Jacobs, Thomas M., 297-42-4289
Jasinski, Dennis L., 398-54-3466
Jefferies, Trevor R., 576-68-9784
Jones, Ricky G., 411-17-5718
Jones, Roger L., 518-68-9120
Judd, Kenneth D., 314-48-9698
Kerins, Thomas P., 528-04-4017
Linder, Scott L., 237-96-0707
Lynn, Timothy E., 267-23-9198
Maertens, Dean M., 477-78-1930
Matthews, Richard G., 223-73-9939
Mazur, David G., 370-48-3969
Mead, Ralph T., Jr., 132-52-6487
Miller, David A., 495-68-1207
Mitchell, Robert F., 422-66-6561
Moore, David A., 566-70-6800
Nutley, Erik L., 536-62-5738
O'Connor, Michael J., 555-94-5270
O'Linto, Louis W., 092-52-3175
O'Kyen, Marc S., 220-56-7734
Parrish, Lewis M., 163-48-8928
Pusser, Henry W., Jr., 251-96-3385
Reynolds, Janet E., 186-44-1032
Roberts, William R., 452-02-9526
Robbins, William S., 242-17-9562
Rollins, Beverly J., 307-62-1336
Russell, Wayne E., 544-62-3652
Sapiro, David A., 564-70-4219
Schabla, Dmytro, 168-44-6506
Schiller, David P., 279-52-6211
Schmidt, Robert W., 480-60-7188
Shoemaker, Daniel N., 565-92-6520
Skogen, Larry C., 501-64-0651
Smithers, Jimmy D., 328-54-3751
Thal, Alfred E., Jr., 446-66-6812
Van Tassel, Alan R., 291-56-7166
Vansciver, Steven P., 560-86-1964
Verstegen, Paul M., 449-23-7801
Vogel, John M., 565-15-3288
Walicke, Paul A., 086-44-2038
Ward, Stephen R., 405-92-7514
Warren, Clinton J., 579-86-4838
Whitehouse, Zonajean, 526-23-8395
Whittaker, Ryan T., 007-48-1721
Wilson, James R., 179-40-9146
Wirsig, Gerald W., 509-60-8647
Wissler, John B., 546-25-4648

In the Navy

The following-named Naval Academy Midshipmen to be appointed permanent ensign in the Line or staff corps of the U.S. Navy, subject to qualification therefor as provided by law:

Cheamitru, Thomas N.
Laney, Angus M.
Treadwell, Michael I.

The following-named Naval Reserve Officers Training Corps candidates to be appointed permanent ensign in the Line or staff corps of the U.S. Navy, subject to qualification therefor as provided by law:

Asmus, Dora T.
Bowden, Ronald E.
Patterson, William M.

Clayton A. Flowers, Navy Enlisted Commissioning Program candidate to be appointed permanent ensign in the Line of the

U.S. Navy, subject to qualification therefor as provided by law.

The following-named Naval Reserve officers for permanent appointment in the Line or staff corps of the U.S. Navy in the permanent grade of ensign, subject to qualifications therefor as provided by law:

Radler, Harold A., Jr.
Irby, Joel M.
Skidmore, Chad M.
Wheeler, Warren C.

The following-named U.S. Navy officers to be appointed permanent captain in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Ellwanger, Frederick R., III
Laing, John W.
Nicodemus, Honorato P.

The following-named U.S. Navy officers to be appointed permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Cantwell, Danny V.
Deck, David "H"
Holden, Richard T.
Tepas, Joseph J., III

EXTENSIONS OF REMARKS

A SPIRIT THAT LIVES ON

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. PORTER. Mr. Speaker, through a recent visit to the American International Hospital in Zion, Ill., a patient gained a new respect for his body and for life itself. In an article entitled "Heart Beats in Utopia," printed in a publication known as Walnut Acres, Paul Keene poetically describes his experience, ascribing its quality to the healing spirit of Zion's founder—a spirit which lives on in the unique healing environment at the American International Hospital:

HEART BEATS IN UTOPIA

We sit staring out, through barren limbs and stark tree-trunks. We're lost in a virtual jungle and tangle of trees below the house. A blue mountain hunches over the bare fields. Spring can't come too soon now. How one's heart beats in anticipation!

We get to pondering Heart beats! Several months ago we were privileged to behold a soul-shaking sight. We lay shirtless in Zion. An obviously dedicated and capable young man, earnestly probed the surface of our left upper quadrant with what looked and felt like a ball point pen. This was attached by a wire to an instrument which resembled a small TV set. As he probed, a picture of what lay below the skin came onto the screen. We had never before even heard of an Echo Cardiogram.

To simplify our understanding of this happening, it seems that ultra-sound waves enter the chest, look over the heart, and send back a story, which eventually ends up on the screen. Further, this may then be videotaped so that hospital files and all posterity may view one's vital functioning. Marvel of marvels, there we lay, gazing in rapt unbelief at our very own heart's rhythmic, spasmodic behavior. Values opened and closed just when they should have, and we could see them! There beat the center of our being, the core, the without-which-nothing of life itself.

It went about its business just as if no-one were looking. The technician droned his interpretation of its behavior into a microphone, to go on the tape with the picture for the files. "There we see the mitral valve closing while—etc., etc." A mighty unseen hand seemed to grasp the heart muscle every second or so, and give it a wringing squeeze, as one would squeeze a sponge rubber ball. Then back it would spring into shape, always to the proper opening and closing of those cute little doors. Not at all like mechanical valves, these things of flesh at each quiet flap seemed to mold themselves into their appropriate little portals, like lips closing.

Why do they do this? Who tells them how and when? What makes the heart convulse? Who keeps time for it? What makes it so determined to carry on, sometimes against great odds? Ah we'll never be the same, having actually met our heart face to face. We've figured that at last count it must have had the blood squeezed out of it about two and one-quarter billion times since birth, adding two and one-half million per month. What new respect we gained for our body. What new determination to feed it carefully with only the very, very best of foods. Each yielding to unseemly gustatory temptation appears now more literally to be sinful.

Oh let our beings never be so completely carried away with the seeming marvels of the computer age, as to forget or overlook the fact that each of us is still fashioned of the dust of the earth. It is there that our basic wholeness will ever reside. Anything we can ever invent will be as nothing compared to the marvel that is a whole person.

Said the technician—"We're not supposed to say anything, but your heart is every bit as good as mine. Now how about taking a peek at your liver just for fun?" We did. It looked just like a calves liver to us.

ZION, ILL.

In 1893 a powerful healer appeared in the Chicago area. John Alexander Dowie, from Scotland, possessed highly unusual abilities. As a Christian minister his work was characterised by a message of salvation, healing, and holy living. People flocked to him by the thousands, as he vigorously attacked the ills of society, denouncing "Doctors, Drugs and Devils". Congregations grew, buildings sprang up, there was even talk of a tabernacle to hold thirty thousand persons!

His vision of a community of saints became a reality in 1899, with the purchase of thousands of acres of farm land on the shores of Lake Michigan, midway between Chicago and Milwaukee. With his faithful flock he moved there to establish a model community, a theocracy, with God as the ruler.

Within eight years John Dowie had died. But to this day a part of him remains in Zion, Illinois, a small city of twenty thousand inhabitants, which was laid out according to his plans. It is a place of parks and open spaces, of quiet homes set in spacious surroundings. The main streets bear Biblical names: Lydia, Joppa, Jethro, Hermon, Galilee, Gideon, Gabriel. Even now it is a church-family-community centered place, highly unusual in its wide offering of outstanding religious, educational, recreational and cultural opportunities for persons of all ages.

No, John Dowie did not live in vain. From out of unknown regions he brought an extraordinary power. Just as in a few short years after our demise. Time brings most of us to a common level of forgottenness, so today not many living persons even heard of him. His Utopia may have gone the way of most Utopias. But something of his spirit has survived, and shall survive, to lighten the lives of thousands of persons into a long future. Judge Gary, of the Chicago Bar, may not have been embellishing the facts too much in stating in 1903, in granting him citizenship: "Dr. J. A. Dowie is the greatest acquisition from a foreign land that the United States has made since the days of Washington."

OASIS OF HOPE

It was to Zion, Illinois, that we travelled last Fall to visit the American International Hospital (AIH). We had known something of this medical facility through the work of Dr. Harold Manner of Loyola University. Also, this hospital stood out in our minds through its purchase, years earlier, of some of our foods. We knew of it as an unusual institution doing unusual work in the treatment of degenerative diseases. We know personally someone who had had an internal malignant growth removed eleswhere, only to have it return shortly. She then went to AIH, was given a treatment which "killed" the roots of the growth. It was removed again, and in several years since that time has not returned.

People come from all over the world to AIH for treatment. The success are generally more numerous than usual, we are told. The emphasis of the whole enterprise is on the finding and maintaining of optimum health, using traditional and preventive and restorative medicines. With the most advanced scientific and diagnostic techniques and procedures, and AIH team works together to discover the causes of illness and degenerative disease, and then develops individual treatment programs to correct problems, or to prevent them from occurring. Incredibly, AIH is diet conscious. Can you imagine finding organic, synthetic-free foods, whole grain breads, fresh vegetable-and-fruit juices, and vegetarian diets in a modern hospital?

Not having had a physical examination for many years, we had arranged for one, both to see how we were doing, and to learn more about their work to pass along to others. We came away much impressed. We found a two-in-one situation. In the Clinic, several blocks from the Hospital, one registers, fills out forms, is separated from several vials of one's blood, undergoes EKG and stress tests and the like. In the Hospital one can have further, more exotic tests run, or take up residence if one needs treatment.

How different it all was from the cold, super-efficient sterility and formality of the large modern hospital. One could sense a deep dedication throughout to a high professionalism, yet all somehow wrapped up in a homelike, Midwestern warmth and cosiness and sense of genuine caring for each person as an individual that instills confidence from the start. We were on a first-name basis with the nurses and the highly-trained-and-dedicated test-runners and technicians right from the start. At one point the physician who was to conduct one of our tests was thirty minutes late. We could hear him being paged. Finally he dashed in apologetically. He had found one of his patients to be frightened and crying, and had spent this half-hour in consoling and encouraging her. Here again was the healing spirit of John Dowie.

We have no connections with AIH. But we feel we must tell what we know about it, for if we were desperately ill we would most

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

likely think first of going there if we could make the arrangements. We do not know more about results than we have written here, but we were moved by the spirit shown. Their approach makes more sense than any other we have found. On their excellent folder titled Oasis of Hope, there is a beautiful cover picture of a nurse holding lovingly the hand of a patient, betraying the secret of the strengths we felt there. A quotation from Cicero printed inside the folder tells their philosophy in a nutshell—"Where there's life, there's hope."

There are over fifty highly-trained physicians affiliated with AIH, including a number of cancer specialists. They come from various backgrounds and countries, making it truly international. It is not on the fringes of respectability. Rather, it is fully accredited, and is a much-watched-and-copied leader in treating the whole person, showing the way into a more rational future.

We cannot tell you more than this, so instead of writing or calling us, we suggest that you write or call AIH directly. Start with the Clinic at American International Clinic, Zion, Ill. 60099, whose toll-free information number of 800-367-4357. Ask for their literature, including Oasis of Hope.

May your unburdened, properly cared-for heart be enjoying this new year, 1983!●

EDITH HAYNES

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. BROWN of California. Mr. Speaker, on April 29, 1983, the First Friends Church in Whittier, Calif., will be hosting a dinner meeting to commemorate the 30th anniversary of the Friends Committee on Legislation—FCL. I would like to take this opportunity to recognize and commend Mrs. Edith Haynes, past chairperson of FCL, for her outstanding and distinguished effort to reform our prison systems and maintain peace.

Before serving 2 years as chairperson for Southern California FCL, Edith was a teacher for 35 years. Her recent retirement 5 years ago made her only more active as a community leader. She currently works full time for her church, for FCLN, for FCL, for Prison Alternatives Coalition, and other organizations.

Mrs. Haynes has actively participated in prison-visiting programs for the last 30 years, concerning herself primarily with prison reform and prisoner rights. She has aided major groups and causes, reflecting her desire for justice, but at the same time not losing sight of the needs of the individual. She is a tireless worker for peace and justice and an inspiration to people helping people.

Mr. Speaker, it is with great pride that I recognize and commend Edith Haynes for her outstanding dedicated service, not only to the Friends Committee on Legislation but also to our society. I know her efforts and enthusiasm have helped to make her community and our society a better place to live.●

THE MX IN SHEEP'S CLOTHING

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. ACKERMAN. Mr. Speaker, I would like to take this opportunity to call to the attention of my distinguished colleagues a very thoughtful and articulate column by Anthony Lewis in the April 21 New York Times. His topic is the Scowcroft Commission's recommendations regarding the MX missile. It is a subject which we all will be forced to deal with again very soon. I urge my colleagues to read Mr. Lewis's column very carefully, for while it is headlined "The MX's New Clothes," I think an even more appropriate title would be "The MX in Sheep's Clothing."

The article follows:

THE MX'S NEW CLOTHES

(By Anthony Lewis)

BOSTON, April 20.—The argument now being made by President Reagan for building the MX missile is an extreme example of a strange new phenomenon in American statecraft. Our leaders have taken to poor-mouthing the country: announcing how weak and vulnerable it is. The world will not respect us, they say, unless we show our resolve by doing something foolish and dangerous.

It may have begun with President Nixon's warning that the United States would be a "pitiful, helpless giant" unless it intensified the Vietnam War. Then toward the end of that war came Henry Kissinger's self-domino phase: dramatizing the disaster by his insistence that U.S. credibility depended on pouring more into the sinkhole.

Ronald Reagan has poor-mouthed our nuclear strength. As candidate and President, he said the country was open to attack by Soviet missiles through a "window of vulnerability." He suggested that the United States had in effect "unilaterally disarmed" by doing nothing for years while the Russians built up their nuclear armory—when in fact the U.S. put multiple warheads on many missiles, started building Trident submarines, developed cruise missiles and so on.

The MX was supposed to close the "window of vulnerability": the fear that a surprise Soviet attack could knock out land-based missiles in their silos and that, thus disarmed, America would have to give up. A fleet of MX's, each with 10 warheads, would be invulnerable to surprise attack because they would be mobile, or based in a way that assured their survival.

But the premises of that argument are now officially dead. The Scowcroft commission, in its report to the President, dismissed the "window of vulnerability." A massive surprise attack is deterred, the commission said, by the "operational uncertainties" of such a venture—and by Moscow's knowledge that the U.S. would still have thousands of nuclear weapons on bombers and in submarines to retaliate.

The idea that the MX can be made invulnerable was also dropped by General Scowcroft and his colleagues. After all the frustrating years of effort to find a magic basing mode for the huge missile, they concluded that there was none. They suggested that future land-based missiles should be small and mobile.

The premises were gone, but the commission still recommended the MX. The proposal now is to build 100 of these costly weapons, designed to meet a need that has been found nonexistent, and put them into Minuteman silos where on the Administration's past arguments they would be vulnerable. Senator John Tower, an MX advocate, said in 1981 that MX's in fixed silos would be "sitting ducks."

They would also be destabilizing. The MX is a first-strike weapon, one that the Russians will see as having the potential of a surprise attack on them. If a moment of tension comes, if the Russians are misled into thinking we are about to launch, they might be tempted to hit the MX's first. And because the missiles are not survivable, we might prepare a hair-trigger response.

Why would the Scowcroft commission, and then the President, go for such an unstable, unneeded weapon system? The answer lies not in logic, but in politics. In the age of nuclear weapons, proposed new systems develop a momentum of their own. There is a military-industrial complex in both the United States and the Soviet Union.

McGeorge Bundy, in a brilliant analysis of the Scowcroft report, said the unspoken gist of it was that we must have these weapons because the Russians do: "Never mind their contribution to instability in crisis; never mind what the Russians will build in reply; never mind what else you could do with $15 billion . . .; never mind that Soviet advantages on land are fully matched by our superiority in the air and under water."

Brent Scowcroft is a humane and intelligent man. He found himself, I think, in a framework from which he could not escape: the universal awareness that President Reagan had appointed the commission to find some way of getting the MX through Congress. Its task was political. And in the end General Scowcroft fell back on the new politics of fear.

We have to build the MX, he said in an interview, "to demonstrate U.S. national will. If we back away from it now, it will underscore our paralysis for both our opponents and our friends." President Reagan echoed that, saying we had to "demonstrate our resolve, our national will." In short, to make the world believe us, we have to press obsessively on with an expensive and dangerous folly.

How nice it would be if we had a President who could say: "The United States is a confident country. We do not need to prove our strength, to ourselves or others, by persisting in mistakes. We are strong enough to act, not in reflex but in wisdom."●

EIGHT INDUCTED INTO THE WESTCHESTER COUNTY, N.Y., SPORTS HALL OF FAME

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. OTTINGER. Mr. Speaker, I rise today to pay tribute and to call to the attention of my colleagues the induction of Frank Bertino, Alfred Covino, John McGillicuddy, Frank Navarro, Joseph Nowicki, Mickey O'Hagan, James McPoland, and Tommy Whelan into the Westchester County, N.Y., Sports Hall of Fame.

The Westchester Sports Hall of Fame was established in 1968 to honor outstanding professional and amateur sportsmen and women who have lived or are living in Westchester County, N.Y. To be nominated, a prospective inductee must have gained prominence in either professional or amateur athletics as a player, coach, manager, official, owner, writer, or broadcaster. The candidate must also be a person of integrity and good character. Award recipients are nominated by the citizens of Westchester County. Past recipients include Frank Gifford (1974) and Deacon Jones (1974).

I am delighted to join the hall of fame committee in honoring these former athletes for their contribution to the sporting world and their dedication to good sportsmanship. The contributions of these outstanding individuals speak for themselves.

FRANK BERTINO

Born and raised in Port Chester, Bertino was an outstanding football, basketball and baseball player in both high school and college, but has earned top honors as director of the Rye Country Day School Athletic Department for the past 39 years and his recordbreaking football coaching effort of 236 wins, 47 losses and 7 ties. A 51-game unbeaten streak was marred by two tie games but included a 33-game winning streak. Bertino has been honored many times over the years, but he takes special pride in the progress of his students while playing for him and after graduation.

ALFRED COVINO

A lifelong resident of Port Chester, Covino coached football, swimming and baseball for 25 years and never had a losing season. His football teams at Port Chester High School (1936) and Greenwich High School (1946) went on to win their State championships. Covino also successfully coached two semipro football teams. For 40 years, Covino has headed the Port Chester Recreation Commission and he has received numerous honors for his dedication to the enrichment of his community in general and youth specifically.

JOHN F. M'GILLICUDDY

From captain of the Harrison High Huskies football team, to sponsor of some of America's leading sport events, McGillicuddy's life as scholar, athlete and leader has brought the enjoyment and challenge of sports to millions of people. Under his leadership, the Manufacturers Hanover Trust Co. has sponsored numerous athletic events, including the New York City Marathon, the Westchester Half Marathon and, most recently, the Westchester Golf Classic. A native son of Westchester, McGillicuddy now lives in Rye.

FRANK NAVARRO

A guard on the great White Plains High School football teams of the late 1940's, Navarro was chosen to the All-County and All-Metropolitan teams. He went on to the University of Maryland where he starred and was chosen All East Conference at the guard position. Navarro went into coaching football in 1953 and after a successful career at Williams College, Columbia College, and Wabash College, earning Coach of the Year honors several times; he became the 18th head coach in 113 years of football at Princeton University. In a few years, Navarro took a sagging football program and turned it into a winner. Over the past 3 years, Navarro's Princeton Tigers have posted a 14-6-1 record, second only to Yale's 18-3 record in the Ivy League.

JOSEPH F. X. NOWICKI

A resident of Yonkers during his track career, Nowicki ran for Fordham University and in 1943 he was the NCAA and IC4A 880-yard champion, a member of the All College Track and Field First Team, Fordham University's Most Valuable Track and Field Member, and the AAU National 880 Champion. Active duty in the Marine Corps ended Nowicki's career briefly, although he did compete representing his military unit. Returning to Fordham following military service, Nowicki competed for another year at the 1,000-yard distance and took championships at the New York Knights of Columbus, the Boston Athletic Association, the Cleveland Knights of Columbus and other major track meets. He was inducted into the Fordham University Hall of Fame in 1977.

JOHN "MICKEY" O'HAGAN

The first of several basketball superstars to come out of Iona College, O'Hagan was recently chosen to be the first person to be installed in the Iona College Sports Hall of Fame. During his 4 years at Iona, O'Hagan was the first man in the school's history to break the 1,000 point scoring mark which held until basketball great, Richie Guerin, came along several years later. O'Hagan also captained his team to a 22-2 season. After college, he played on several area teams with earned positions on various All-County teams. His community efforts, as a resident of Briarcliff Manor, have continued to earn the respect and honor of all who know him.

JAMES J. M'POLAND

As a high school athlete, McPoland won 27 varsity letters, was chosen quarterback for a New York City All Scholastic Football Team, starred in athletics at Georgetown and New York University, held five world records in track and in 1982, at the age of 68, he entered the Masters Division of the Empire State Games and came home with a gold medal to prove his continuing running ability. McPoland recently completed his fifth year as a regional director for the Empire State Games, an event that hosts close to 80,000 competitors from all over New York State. A leader throughout his life, McPoland is a heavily decorated veteran of the Marine Corps, served 8 years as a Westchester County Legislator and in 1977 was inducted into the Yonkers Sports Hall of Fame.

CHARLES "TOMMY" WHELAN

For 38 years, Whelan has been a sportswriter for the Westchester Rockland Newspapers, and is admired by all who know him for his above and beyond the call of duty approach to his work and his extracurricula efforts for the athletes of Westchester County. In addition to his excellent record as a reporter, Whelan has always been able to find the "Westchester angle," he has personally assisted many area athletes in their times of special need or encouragement, often opening the doors to his home in Chappaqua to help. Many an area athlete who has received a college scholarship can thank Whelan for his help. Westchester is fortunate to have the services of such a competent and concerned man.●

IMPROVING U.S. COMPETITIVENESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, April 27, 1983, into the CONGRESSIONAL RECORD:

IMPROVING U.S. COMPETITIVENESS

In one public meeting after another in southern Indiana, Hoosiers have been asking me why American firms are losing business and jobs to overseas competitors. They point out that foreign businesses are capturing an ever larger share of the American market, while our businesses are enjoying no comparable success in foreign markets. The results are a trade deficit, jobs lost, and severe financial difficulties for some industries. As one might expect, the solution to the problem is a complex one.

The responsibility for our apparent inability to compete with foreign businesses lies with a variety of policies and practices, both domestic and foreign. These include the economic policies that caused the recession in part, the strained relationships among government, business, and labor, administrative practices that do not help our exporters, and trade barriers in foreign countries which keep our firms out of local markets. It is clear that we must work for changes at home and abroad if we are going to improve our competitive position.

First and foremost, the United States must shape up its economic policies. Deficits must be reduced, interest rates must come down, and economic growth with reasonable price stability must be achieved. This means a major change in the present program of big deficits and tight money. We should cut back outsize increases in defense spending, curb sharp growth in the cost of entitlement programs, raise added revenue by closing "loopholes" and otherwise broadening the tax base, and pursue a careful but more accommodative monetary policy. A reduced deficit would enhance the incentive to invest in factories and equipment, in public infrastructure, in research and development, and in education and training. Productivity would begin to rise again. Lower interest rates would cut the costs of production and free up funds for consumer and business borrowing. The demand for goods and services would intensify. Since higher interest rates and a strong dollar make imports cheap and exports expensive, a decline in interest rates would also cut the trade deficit.

Second, specific steps must be taken to revitalize and strengthen American business. While I am skeptical of some proposals for an industrial policy and find the concept of such a policy itself elusive and vague, I believe that there are several proposals which may make America more competitive to some degree. Closer, less adversarial relationships among government, business, and labor, and certain new spending, taxing, and regulatory policies to change patterns of investment within and among industries make sense to me. The revitalization of troubled basic industries, such as automobile and steel manufacturing, and the more rapid expansion of high-technology industries, such as computers and bio-engineering, are desirable and not mutually exclusive. The approach may vary from direct intervention to more passive measures, such as "jawboning" and disseminating information. But whatever we do, we must strive for an environment conducive to commercial risk-taking, improved opportunities for productive investment in all industries, upgraded skills among workers, additional money for research and development, and an open, fair trading order.

Third, we should improve the ability of American firms to export. Legal, physical, and regulatory obstacles to exports must be removed. Examples of ways to increase exports are export trading companies to coax small and medium-size firms into world trade, initiatives by diplomatic personnel overseas to develop markets for American goods and services, and more export credit to offset the generous assistance offered by the governments of our competitors in Europe and Asia. Examples of obstacles to be removed are congested ports and other bottlenecks in our system of transportation, cumbersome export licensing procedures, unclear laws on corrupt business dealings in foreign countries, and a regrettable tendency to use commercial embargoes as tools of foreign policy. Only 10 percent of our manufacturers export at all, and a mere 1 percent of these businesses account for 80 percent of all exported merchandise. Our farmers do better, but even in agriculture we can improve. American public officials, businessmen, and farmers must become more "export-minded".

Fourth, we should diminish or eliminate the trade barriers that foreign nations have raised against American products. The European Economic Community (EEC) targets industries for special aid and uses massive export subsidies to undercut American products in the market. Japan virtually bans the importation of some American farm goods, and it also relies on more subtle forms of protection—complicated customs rules, arbitrary product standards, and an unwieldly system of distribution—to keep American products out. Both the EEC and Japan make special demands on American companies to limit our access to their markets. There has been a proliferation of national purchasing policies and other barriers to American services and foreign direct investment. We have, on the other hand, an enormous, relatively open market to which other nations are given generous access. If legal procedures under the General Agreement on Trade and Tariffs (GATT) are of no use in opening other countries' markets to us, we should not hesitate to raise the threat that foreign firms may be locked out of parts of our market. Also, we should do our best to bring services and foreign direct investment under the GATT. Above all, we must insist on rules of trade that give foreign firms an access to our market equal to, but not better than, the assess our firms have to foreign markets.

There is no reason for deep pessimism about America's ability to compete. A good deal of the recent decline in our competitiveness is due to the recession, high interest rates, and hesitancy on the part of consumers. We can improve our competitiveness by assuring the health of the economy, revitalizing American enterprise, bettering our export performance, and demanding fair trade among nations.●

THE GREAT CANNERY ROW REUNION

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. PANETTA. Mr. Speaker, I am proud to inform my colleagues of a celebration that will be taking place in my home town of Monterey, Calif., during the month of May: the Great Cannery Row Reunion.

As many of my colleagues are aware, Monterey has a colorful history, and no area of town has a better known heritage than Cannery Row. This area right near Monterey Bay was the center of the thriving sardine industry in our part of the country. It was immortalized by John Steinbeck in his novel, "Cannery Row," but to us, and particularly to the many residents of the Monterey Peninsula who remember Cannery Row and who, in fact, participated in the fishing and canning industry, it is a living memory that should not be allowed to die.

It is for this reason that the people of Monterey have set aside much of the month of May to commemorate the human history of Cannery Row—its cannery workers, the fishermen, and the rest of the men and women who lived and worked at Cannery Row in the "sardine years" of Monterey history a half century ago.

Mr. Speaker, the organizers of this celebration have set up an exciting schedule of events, ranging from dinners and wine tours to film and drama festivals, a fireman's muster, a classic car parade, and sailing and windsurfing competitions. In addition, the celebration will focus on providing valuable historical information about Cannery Row and the fishing industry of Monterey, including oral histories, photographs, and momentos. It is hoped that the oral histories gathered at the reunion will form the basis of a historical research library to serve future scholars interested in Cannery Row.

I am proud to be able to take part in this celebration, and I know that the people of Monterey are looking forward to it with great anticipation. Through this celebration, we will all have the benefit of the history and the heritage of the legendary Cannery Row.●

CORRECTIONAL FACILITIES ACT OF 1983

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. SAWYER. Mr. Speaker, according to the Bureau of Justice Statistics, at the end of 1982, there were 412,303 inmates in the U.S. State and Federal prisons. The annual increase of almost 43,000 inmates was the highest in any year since data became available in 1925.

Today, I am joined by my colleague, Mr. Porter, in introducing the Correctional Facilities Act of 1983. This bill authorizes a Federal block grant program for the purpose of helping the States construct and modernize their prison systems. The proposal also authorizes the donation of Federal surplus property to States for use in prison construction. Thirty-nine States are now under State or Federal court orders to reduce their prison populations. Twenty-six States are being investigated by the Civil Rights Division for possible violations of the Civil Rights of Institutionalized Persons Act of 1980. The results of the new law alone, which many of us supported, is the mandate that States spend millions of dollars to bring the prison system in this country up-to-date. It is no secret that the money mandated by this Federal law is not available to the States.

I will not recite here the overwhelming statistics on the amount of crime in this country, or its resulting increase in the fear of crimes experienced by our constituents. We all know the epidemic proportions reached in the problem of criminal justice. It is a national problem. People mistakenly believe that we can solve this problem by putting more police on the streets, and to a point, this is true. But arresting criminals leads us nowhere if these violent criminals are released onto the streets simply because we do not have room for them. Forcing judges to release criminals without regard to the sentences imposed by those same judges, because of prison overcrowding, makes a mockery of the whole system from beginning to end.

Prison reform has not received adequate attention. I believe that this bill authorizing prison construction is necessary to bring our system in line with our expectations. Prison overcrowding is a product of undercapitalization in this area, the increase in the baby boom population, and new mandatory sentencing laws. In addition to construction, we must also look to prison alternatives for nonviolent offenders, so that the costly burden to society of prison confinement will be reserved for violent criminals. Prison industry programs must be expanded. I mention these ideas, which are outside of the scope of this bill, because I truly believe that the internal security of our country cannot be secured without massive reform in the prison portion of our criminal justice system.

The bill presented here today creates a block grant program. For each of the years from 1983 to 1987, $500 million annually will be distributed by the Attorney General to the States for prison construction and modernization. States will receive funding under a formula based on population, criminal population, and corrections expenditures. States may use the block grant to fund 75 percent of its corrections construction expenditures, and 10 percent of the block grant may be used for modernization of existing facilities. This proposal is based on title VIII of H.R. 4898, the Violent Crime Control Act of 1981, which I introduced in the 97th Congress.

The donation of Federal surplus property to States for use in prison construction is also included in this bill. The donation of Federal surplus property is one of the most important forms of assistance the Federal Government can provide in the area of criminal justice facilities.

Prison construction is one important element in solving our prison overcrowding problem. It is only one prison issue that this Congress must address. We cannot expect a healthy criminal justice system until we resolve these prison problems. To illustrate this point, I refer you to a Washington Post editorial which appeared on January 4, 1983:

[From the Washington Post, Jan. 4, 1983]

MORE, BETTER PRISONS

The United States has a higher proportion of its citizens in jail than any other country, except South Africa and the Soviet Union. The total inmate population has nearly doubled in the past decade, to roughly 400,000. Chief Justice Warren E. Burger touches on the corrections crisis in his annual report, emphasizing the burgeoning prison population and the need for both more prison capacity and better training programs to avoid leaving ex-inmates as economic cripples likely to commit more crime. Meanwhile, Alabama state officials are in court this week trying to persuade a federal judge to end 10 years of court supervision of that state's prison system.

Thirty-nine states, including the three jurisdictions in this area, are involved in prison-conditions litigation, in which prisoners have proven or are attempting to prove that conditions violate the Constitution's band on cruel and unusual punishment. Conditions in Alabama's prisons in 1974 were horrible: some cells with six men in a space four-by-eight feet, with no beds, a hole in the middle of the floor for a toilet and no light or running water, a building called the "dog house," locked from the outside, with no supervision of inmates for days at a time, one meal per day—perhaps without utensils—and one shower every 11 days; some inmates not merely being raped, but having their bodies bartered among more powerful inmates.

After a court decision on the merits, there is usually a period of several years during which the judge must work with government officials to formulate and then put into effect a remedy. This remedial stage of litigation is often even more complicated than the original trial, as courts and litigants struggle with the conflicts between constitutional requirements of decent treatment, on the one hand, and fiscal and political realities, on the other. Thus far, the entire Alabama saga has lasted 12 years, and several other cases are comparably ancient.

As the chief justice noted, 37 states now have mandatory sentencing statutes, and 123 new anticrime bills will only add to prison crowding and the associated problems. Society is in a mood to get tough with criminals and put a premium on protection from would-be repeat offenders. But it will always be tough to find a constituency for the budget choices implied by a sound corrections policy.

Federal judges are not elected legislators charged with policy and budget decisions. These judicial interventions are the result of the political failures of legislators, executive officials and voters at all levels of government—across this region and the nation—who let prison squalor and violence mount to constitutionally and morally intolerable levels. The alternative is to pay the full price for criminal justice, as suggested by the chief justice.●

HISTORY—A FANTASTIC TEACHER

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. HANSEN of Utah. Mr. Speaker, in 1938, there was some unrest and anxiety in Great Britain regarding the fantastic buildup of Nazi Germany. The English Parliament chose, however, to think all was well and that the Germans were only building up for their own defense and that there was no reason to shore up Great Britain's own defenses. More adequate defense could have been a deterrent to Adolf Hitler's ambitious ideas of aggression.

Neville Chamberlain, the Prime Minister of England, met with Hitler in Munich, and they signed a treaty which allowed Germany to annex the German-speaking part of Czechoslovakia, and the war between England and Nazi Germany was thus avoided for the time being. This was hailed as a great victory by Chamberlain. Members of Parliament lavished their praises on the Prime Minister. However, one Member of Parliament stated that Chamberlain was deceiving himself and the people of England. Hitler would not live up to his word, and England should prepare for the worst scenario that could be expected from Germany. This Member of Parliament was booed down during that speech and was castigated by the British press. His name was Winston Churchill.

Later on, a man who later became a very popular American President, wrote a book entitled "Why England Slept." Today, in this House, we have a similar set of circumstances with many Members refusing to accept the reality of the Russian buildup and castigating those who point out the reality of the threat of the Soviet Union. Unfortunately, we find many who are like the children of the Old Testament who asked the prophets to tell them what they wanted to hear. "Prophesy unto us smooth things." "Tell us what we want to hear." Later on in the New Testament, Paul the Apostle, in his writings to Timothy says,

> For the time will come when they will not endure sound doctrine; but after their own lusts shall they heap to themselves teachers, having itching ears: And they shall turn away their ears from the truth, and shall be turned unto fables.

The interpretation of this is the same as the Old Testament—that we will have leaders who will give us fables and things we want to hear, while ignoring the truth.

The nuclear freeze resolution is based on fables that people want to believe just as bad as the Parliament of England in 1938 wanted to believe that Hitler was honorable and would live up to his word.

History is a fantastic teacher; it is a shame most of us do not listen.●

HONORING THE CITY OF NORWALK AND NORWALK COMMUNITY HOSPITAL

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. TORRES. Mr. Speaker, I wish to take this opportunity to honor a city that I proudly represent within California's 34th Congressional District: Norwalk, Calif. Norwalk is a solid-growing community of 100,000 people, located in the southeast section of Los Angeles County.

On April 30 and May 1, 1983, the city of Norwalk's Human Services Commission, for the sixth year, will sponsor its annual Health Fair Expo. The city has also been fortunate to have Norwalk Community Hospital serve as cosponsor of the event for the second consecutive year.

The Health Fair Expo is an event where health care services are offered to all city residents, the young and the senior, free of charge except for minimal charge for blood tests. The fair emphasizes the importance of health education and the necessity of detecting diseases early in their cycles.

The House of Representatives has passed its first fiscal year 1984 budget resolution. The resolution sets fiscal year 1984 spending targets for health programs at $96.25 billion in budget authority and $96 billion in outlays. Compared to the fiscal year 1984 current services level, these targets represent increases amounting to $3.35 billion—4 percent—in both budget authority and outlays. Compared to the President's fiscal year 1984 budget request, these targets represent increases of $4.20 billion—5 percent—in budget authority and $5.75 billion—6 percent—in outlays.

Therefore, I ask you, my colleagues, to join me in commending the city of Norwalk and Norwalk Community Hospital in their consistent efforts to meet the ever-demanding needs of health care to community residents.

The city of Norwalk is led by its mayor, Peg Nelson, and mayor protem, Cecil Green, with councilmen Lou Banas, Marcial Rodriguez, and Bob White. The Norwalk Community Hospital is administered by Bernard L. Ginsberg.●

JOHN R. ANDERSON IV

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. MOORHEAD. Mr. Speaker, John R. Anderson IV of San Marino, Calif., completes 2 successful years as president of the Pacific Southwest Region of the Navy League of the United States on April 16, 1983.

Mr. Anderson is a retired Naval Reserve captain and a member of the National Board of Directors of the Navy League.

He has received high honors for his Navy League service from the Secretary of the Navy. On March 25, the Secretary presented to Mr. Anderson a meritorious public service citation. The presentation was made in Washington, D.C., at the 81st Navy League Convention before some 2,200 leaders from the private and public sectors.

The Secretary's citation reads:

> As President of the Pacific Southwest Region of the Navy League of the United States, Mr. Anderson has continuously utilized his position as a civic and business leader in support of the Navy in countless ways. He had been intimately involved in stimulating growth and participation in local youth programs such as Navy Junior ROTC and Sea Cadets. He spearheaded a campaign that raised over $100,000 for the welfare of the crew of the USS New Jersey and has been a prime mover in arranging visits to local Navy installations and ships, a program which significantly enhances two way communications between the Navy and the Los Angeles community. Through his exceptional efforts, Mr. Anderson has significantly expanded public understanding of the U.S. Navy and its role in the security of our nation.

Mr. Speaker, Mr. Anderson is a sincere, dedicated advocate of sea power, freedom of the seas, and the importance of our maritime forces. He has devoted a substantial portion of his life to the Navy that he loves, respects, and values.

I am particularly proud to have this outstanding American living in the 22d California Congressional District.●

A TRIBUTE TO G. BRUCE FEIGHNER, DISTINGUISHED EDUCATOR

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. HERTEL of Michigan. Mr. Speaker, in our tendency to focus on the economic, international, and strategic problems plaguing our country, one area requiring attention if often overlooked: the education of our children. Educating today's youth is our only assurance of enhancing their prospects for a productive and rewarding tomorrow. It is important, therefore, to acknowledge the accomplishments of those, such as G. Bruce Feighner, who, by directing their energy toward furthering education, have helped safeguard the integrity of American society.

G. Bruce Feighner, who has spent over 40 years in education, will retire this June from his current post as principal of Grosse Pointe North High School, which is located in my district. His distinguished career spans back to 1945. At this time, he returned home from active duty in the South Pacific to teach music and to coach baseball at Royal Oak High School. Shortly thereafter, he was promoted to director of music for the entire school system and soon became the assistant principal of Royal Oak High School. The following year, Mr. Feighner accepted the position of junior high principal, which he left after 6 years to become principal of Royal Oak High School. Since 1970, he has been principal of Grosse Pointe North High School. Mr. Feighner's achievements go far beyond his administrative duties.

Mr. Feighner possessed the rare ability to instill in his students a sense of self-esteem and enthusiasm in both their scholastic and creative endeavors. Not only did he foster a positive feeling about learning, but he also stressed the value of developing one's extracurricular interests. In return, Mr. Feighner has enjoyed the respect and admiration of teachers, students, and parents alike. He can take pride in the successes of his former students, several of whom later excelled in their respective careers.

This June, Mr. Feighner will don his cap and gown with the class of 1983. As he joins the graduation procession, he can reflect with pride on his career—a career dedicated to the advancement of education and, thus, the betterment of future generations of Americans.●

CONGRESS, COWARDICE, AND THE FREEZE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. McDONALD. Mr. Speaker, as we approach a final vote on the so-called nuclear freeze resolution, I think it behooves us all to stop and think about the issue in objective terms and not permit emotions to decide this vote. Facts are facts about the Soviet buildup of arms and the nonbuildup of arms by the United States. It is doubtful that, if the Soviets attack, any of the groups promoting the "freeze" will do anything other than hide under the bed. Therefore, we cannot afford to make a mistake on this issue. The "freeze" should be voted down in the name of American security. In support of this statement, I am inserting into the CONGRESSIONAL RECORD the statement of my friend and colleague, Hon. MICKEY EDWARDS (Oklahoma) on this subject as it appeared in the Washington Times on April 19, 1983.

[From the Washington Times, Apr. 19, 1983]

Congress, Cowardice, and the Freeze

(By Representative Mickey Edwards)

Arnaud de Borchgrave, the journalist and author, lamented recently that many people commit acts of political cowardice for fear that if they do otherwise they will not appear properly progressive. Such, I fear, is the case with the Congressional debate over the proposed nuclear freeze resolution

There are several important points in this debate which have not received sufficient attention. Among them:

1. It has been a common rhetorical trick for freeze advocates to maintain, both during the statewide campaigns last fall and now on the House floor, that a freeze resolution is only "advisory," an expression of the sense of the people (or in the national debate, the "sense of Congress") and that it merely conveys "a message" to White House arms control negotiators that we, the people, want to do something to reduce the risk of nuclear war.

That is an absolutely and deliberately false statement. There is a proper form by which the Congress may adopt a so-called "sense of the Congress" resolution, but HJR 13, the nuclear freeze resolution before the House, is not that kind. It is a joint resolution which by its terms requires the signature of the president and which, after being signed by the president, becomes binding.

The nuclear freeze resolution now before Congress is same in form—and effect—as the Gulf of Tonkin resolution, and to portray it in debate as merely an exercise in rhetoric is an appalling distortion.

2. There are issues which require elected representatives to set aside concerns about their political future and follow their consciences. I admit that there is enormous danger in having a Congress full of elitists who believe that they, rather than the people, should decide what is best. I have stated clearly in my own Congressional district that while I am a conservative and have consistently opposed a number of liberal social proposals (national health insurance, for example) if the people I represent clearly wanted such a program, I would feel obligated to vote for it.

But there have to be exceptions.

I have told these same people that if 98 percent of the voters in my district signed a petition supporting the nuclear freeze resolution I would still vote against it. I would vote against it even if polls indicated clearly that my opposition to the freeze would cause my defeat in the next election.

While the American people may debate at length over the relative strength of this country and the Soviets, members of Congress have access to information that shows clearly the nature of the Soviet threat. Many members, for their own reasons, have chosen not to attend intelligence briefings. Perhaps they fear they will hear information that will crimp their style. Or perhaps they simply didn't trust U.S. intelligence agencies. But in any case the information is there for those conscientious enough to avail themselves of it.

Any member of Congress who votes for a nuclear freeze—or for any proposal which has the potential for restricting the ability of the United States to maintain its security—merely in order to protect his or her job commits an act of ultimate political cowardice and seriously compromises the integrity of the Congress.

3. Those who advocate the nuclear freeze contend that theirs is the "moral" position. The opposite is true.

Moral superiority rests with advocates of peace, not necessarily with advocates of military inferiority. When one nation permits itself to be inferior militarily to a potential adversary, the chances of war are increased, not decreased. Proponents of the nuclear freeze who contend that if the United States begins to disarm itself—and a halt to modernization is clearly a form of disarmament—it will result in a build-down by the Soviets, are engaged in wishful thinking.

Over the past dozen years the United States has almost dropped out of the so-called arms race, letting both nuclear and conventional weapons deteriorate into obsolescence, and the Soviets have responded with a massive military buildup unprecedented in the history of all mankind. It is obvious to all but the most naive that the Soviet military buildup is not purely defensive in nature.

It is ultimately dangerous, therefore, and foolish, to believe that a show of peaceful U.S. intentions will cause the Soviets to toast a new era of harmony and begin their own military cutback.

There are many factors in the nuclear freeze debate and many influences upon it, but it is very important that the debate proceed rationally and based on fact. If one believes that deterrent capability pervents war and that weakness and vulnerability invite it, and the historical record is clear on that point, then moral superiority rests not with the advocates of the freeze but with its opponents—whose position is most likely to support continued peace.●

CALL TO CONSCIENCE VIGIL

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. MAZZOLI. Mr. Speaker, once again I am participating in the Congressional Call to Conscience Vigil in an attempt to draw attention to the plight of Soviet Jews and other Prisoners of Conscience who are seeking freedom and emigration from the Soviet Union.

The situation for these people worsens every year. In 1979 some 51,320 Soviet Jews were allowed to emigrate; in 1982 the number had fallen to 2,688—a drop of over 90 percent!

In particular, I am concerned about the plight of the Yakov Beilin family. Yakov Beilin is a forestry technician who lives in a small Jewish community in Tula. Most of his family, eight aunts and uncles who previously lived in Vilna, were exterminated with their young children during World War II.

In 1973, Mr. Beilin's father died after a long illness. Before he died, his last stated wish was that his family move to Israel where his only sister resided. This request the widow Beilin decided to fulfill.

Yakov Beilin's mother was granted permission to emigrate to Israel, But Yakov Beilin, his wife, and two children were refused. Despite her age and frailty, Yakov Beilin's mother decided to make the move.

His mother remains most distressed by being separated from her family. She writes:

> I have but one desire. I beg you to help me bring my son and his family to Israel. The few years that I have left to live I would like to spend together with him.

Mr. Speaker, as one of many concerned members participating in this year's vigil, I hope the Soviet Union will exhibit respect for basic human rights and privileges, as guaranteed under the Soviet constitution and the Helsinki accords, and reunite the Beilin family and other Soviet families in similar circumstances.●

SOCIAL SECURITY INEQUITY

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. THOMAS of California. Mr. Speaker, I am introducing legislation today to correct what I believe is an oversight in the Social Security Amendments of 1983.

In 1967, Congress placed ministers and members of religious orders under social security on a compulsory basis, with certain exceptions. Congress directed clergymen to make payments under the Self-Employed Contributions Act (SECA) to avoid the question of direct Federal taxation of religious institutions. These SECA rates currently amount to 75 percent of the combined employer-employee rate under the Federal Insurance Contributions Act (FICA), yet they are scheduled to increase to 100 percent of the combined rate, less credits, on January 1, 1984. Under the 1967 provisions, nonministerial employees of religious institutions remained exempt from OASDI taxation, although such institutions could elect FICA coverage for their employees.

Under the 1983 amendments, FICA coverage will be extended on a mandatory basis to all employees of nonprofit organizations, including religious institutions, beginning next year. However, ministerial employees of churches will continue to be treated as self-employed for social security purposes, and will be required to pay the higher SECA rates. This segregation of members of the clergy makes little sense, especially when most clergymen are considered common-law employees for income tax purposes. My legislation will eliminate this distinction, and place ministers and members of religious orders under the same social security provisions that govern other church employees.

Under the legislation, churches will be required to match employee and ministerial contributions to the social security trust funds. The constitutional question of direct Federal taxation of religious institutions has, rightly or wrongly, been resolved by Congress in its decision to impose FICA taxes with respect to nonministerial employees of churches. In short, the concern which led to SECA treatment of ministers in the first place is no longer relevant.

My bill leaves in place the exemptions available to conscientious objectors, Christian Science practitioners, and members of certain recognized religious sects. In addition, the legislation establishes a procedure under which ministers may elect SECA coverage if they so desire.

To be sure, the legislation does not mandate FICA coverage in cases where such coverage would be unworkable or unwarranted. Ministers who serve several congregations, and are treated as self-employed for income tax purposes, will continue to pay SECA rates as before. In general, only those who are treated as common-law employees for income tax purposes will be extended FICA coverage.

I urge Congress to act quickly to correct this inequity.●

SCIENTIFIC EQUIPMENT AND FACULTY DONATION ACT OF 1983

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. SHANNON. Mr. Speaker, today I am introducing the Scientific Equipment and Faculty Donation Act of 1983. The purpose of this bill is to provide greater incentives for private industry to assist colleges and universities in educating students in scientific and technical fields.

Two years ago I sponsored legislation that amended the Internal Revenue Code to allow private businesses to obtain an increased charitable deduction when they donated new scientific equipment to colleges and universities. The purpose of this legislation was twofold: To provide these schools with the technical equipment they need to develop and expand research programs in the biological and physical sciences and, by making this equipment available for the education and training of students; to help address the need for trained personnel in these areas.

Most of this legislation was incorporated into section 222 of the Economic Recovery Tax Act of 1981, Public Law 97-34, and is now found in section 170 (e)(4) of the Internal Revenue Code. However, one significant portion of my bill was omitted: the language that would have allowed the donated equipment to be used for educational purposes as well as for research and research training purposes. Furthermore, while this provision has succeeded well in its intended purpose of encouraging the donation of technical equipment to colleges and universities—and in particular, the donation of computer equipment—one problem that had not been anticipated in 1981 was that in order to be truly useful to the school to which it was donated, the donation of any piece of complex technical equipment would necessarily have to be accompanied by installation, adjustment, and repair services. Indeed, contracts for such services often routinely accompany the purchase of this type of equipment. It has therefore become apparent that in order for this special deduction to work in the way it was intended, it should be expanded to apply to this type of service contract.

Sections 1 and 2 of the Scientific Equipment and Faculty Donation Act are intended to be taken by a corporation for services performed under a service contract that is connected with equipment donated under section 170(e)(4) and is of the type normally made available to customers who buy or lease such equipment. For each year in which services under the contract are performed, the donor can deduct either the value of the services or twice the cost of providing them, whichever is less. Section 2 restores to section 170(e)(4) the language allowing the donated equipment to be used for educational as well as for research and research training purposes.

Another bill that I introduced in 1981 became section 221 of the Economic Recovery Tax Act and is now section 44F of the Internal Revenue Code. This provision provides a 25-percent tax credit against a company's increases in research and experimental spending, and against 65 percent of those added expenditures that are for contract research—research that is contracted out to colleges, universities, or research organizations. Section 3 of the legislation we are introducing today would expand section 44F to allow companies to take a credit when they pay the salary of faculty in engineering, computer science, and the physical and biological sciences, or contribute the services of their own employees for such instruction. The amount of the faculty salary, or of the employee's wage allocable to such instruction, is treated as a contract research expense; the company can thus take a 25-percent credit against 65 percent of it. Unlike the other expenditures to which the credit is applied, the full amount expended is counted each year, and not just the increase over the previous year.

Mr. Speaker, we all know how essential it is that our colleges and universities graduate students who have the scientific and technical training that is going to be needed to keep our economy competitive in the years to come; and we also know that many schools have experienced a severe shortage of the up-to-date equipment and highly qualified instructors that are necessary to educate these students. We have already taken some steps to address this problem. The Scientific Equipment and Faculty Donation Act of 1983 will take us further in this direction by providing an incentive to private businesses to contribute to colleges and universities not only technical equipment but the services that are necessary to insure that it works; by allowing students greater access to this equipment; and by giving a greater incentive to private industry to provide or pay for the scientifically and technically knowledgeable instructors that are needed to produce the next generation of qualified personnel. It is an example of how the Tax Code can be used, not just to provide loopholes to special interests, but to further our most important policy goals.●

INCOME TAX SIMPLIFICATION ACT OF 1983

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. PANETTA. Mr. Speaker, on April 13, I introduced H.R. 2520, the Income Tax Simplification Act of 1983. For the convenience of the Members and the public, I would like to place it in the RECORD today. Following is the text of the bill:

H.R. 2520

A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification and reform.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Income Tax Simplification Act of 1983".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Inernal Revenue Code of 1954.

TITLE I—INDIVIDUAL INCOME TAX RATE, ETC.

SEC. 101. INDIVIDUAL INCOME TAX RATES.

Section 1 (relating to tax imposed on individuals) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"There is hereby imposed on the taxable income of every individual, estate, and trust, a tax of 18 percent of such taxable income."

SEC. 102. INCOME TAX CREDIT FOR PERSONAL EXEMPTIONS.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 32 the following new section:

"SEC. 33. PERSONAL EXEMPTIONS.

"(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to—

"(1) $1,000 for the taxpayer; and an additional $1,000 for the spouse of the taxpayer if a joint return is not made by the taxpayer and his spouse, and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer;

"(2) $200 for the taxpayer if he has attained the age of 65 before the close of his taxable year; and an additional exemption of $200 for the spouse of the taxpayer if a joint return is not made by the taxpayer and his spouse, and if the spouse has attained the age of 65 before the close of such taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer;

"(3) $200 for the taxpayer if he is blind at the close of his taxable year; and an additional exemption of $200 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not dependent of another taxpayer; and

"(4) $200 for each dependent of the taxpayer—

"(A) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than $1,000, or

"(B) who is a child of the taxpayer and who (i) has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or (ii) is a student.

"(b) Special Rules and Definitions.—For purposes of subsection (a)—

"(1) Special rules relating to blindness.—

"(A) Determination of blindness.—The determination of whether the spouse of the taxpayer is blind shall be made as of the close of the taxable year of the taxpayer; except that if the spouse dies during such taxable year such determination shall be made as of the time of such death.

"(B) Blindness defined.—An individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees."

"(2) Special rules and definitions relating to dependents.—

"(A) No credit for certain married dependents.—No credit shall be allowed under subsection (a)(4) for any dependent who has made a joint return with his spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

"(B) Child defined.—The term 'child' means an individual who (within the meaning of section 152) is a son, stepson, daughter, or stepdaughter of the taxpayer.

"(C) Student defined.—The term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

"(i) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii); or

"(ii) is pursuing a full-time course of institutional onfarm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.

For purposes of this subparagraph, references to section 170 shall be to such actions as in effect before its repeal by the Income Tax Simplification Act of 1983."

(b) Repeal of Deduction for Personal Exemptions.—Section 151 (relating to allowance of deductions for personal exemptions) is hereby repealed.

TITLE II—TAX REFORMS

SEC. 201. CREDITS AGAINST TAX.

Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by striking out all sections thereof other than—

(1) section 31 (relating to tax withheld on wages), and

(2) section 32 (relating to tax withheld at source on nonresident aliens and foreign corporations and on tax-free covenant bonds).

SEC. 202. ITEMS SPECIFICALLY INCLUDED IN GROSS INCOME.

(a) Prizes and Awards.—Section 74 (relating to prizes and awards) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"Gross income includes amounts received as prizes and awards."

(b) Group-Term Life Insurance Purchased for Employees.—Subsection (a) of section 79 (relating to group-term life insurance purchased for employees) is amended to read as follows:

"(a) General Rule.—There shall be included in the gross income of an employee for the taxable year an amount equal to the cost of group-term life insurance on his life provided for part or all of such year under a policy (or policies) carried directly or indirectly by his employer (or employers)."

(c) Unemployment Compensation.—Subsections (a) and (b) of section 85 (relating to unemployment compensation) are amended to read as follows:

"(a) In General.—Gross income includes unemployment compensation."

SEC. 203. ITEM SPECIFICALLY EXCLUDED FROM GROSS INCOME.

Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by striking out all sections thereof other than—

(1) section 102 (relating to gifts and inheritances), and

(2) section 115 (relating to income of States, municipalities, etc.).

SEC. 204. ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS.

(a) In General.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by striking out all sections thereof other than—

(1) section 161 (relating to allowance of deductions),

(2) section 162 (relating to trade or business expenses),

(3) section 165 (relating to losses),

(4) section 176 (relating to payments with respect to employees of certain foreign corporations),

(5) section 183 (relating to activities not engaged in for profit),

(6) section 1189 (relating to amortization of real property construction period interest and taxes),

(7) section 192 (relating to contributions to Black Lung Benefit Trust), and

(8) section 195 (relating to startup expenditures).

(b) Amendments to Trade or Business Expense Deduction.—

(1) Repeal of deduction for appearances, etc., with respect to legislation.—Subsection (e) of section 162 (Relating to appearances, etc., with respect to legislation) is hereby repealed.

(2) Repeal of partial deduction for treble damage payments under the antitrust laws.—Subsection (g) of section 162 (Relating to treble damage payments under the antitrust laws) is amended by striking out "two-thirds of".

(3) Repeal of special deduction for state legislators.—Subsection (h) of section 162 (relating to State legislator's travel expenses away from home) is hereby repealed.

(c) No Deduction for Wagering Losses.—Subsection (d) of section 165 (relating to wagering losses) is amended to read as follows:

"(d) Wagering Losses.—No deduction shall be allowed for losses from wagering transactions."

SEC. 205. ADDITIONAL ITEMIZED DEDUCTIONS FOR INDIVIDUALS.

Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by striking out all sections thereof other than—

(1) section 211 (relating to allowance of deductions),

(2) section 212 (relating to expenses for production of income), and

(3) section 215 (relating to alimony, etc., payments).

SEC. 206 SPECIAL DEDUCTIONS FOR CORPORATIONS.

Part VIII of subchapter B of chapter 1 (relating to special deductions for corporations) is hereby repealed.

SEC. 207. ITEMS NOT DEDUCTIBLE.

(a) Certain Capital Expenditures Not Deductible.—Section 263 (relating to denial of deduction for certain capital expenditures) is amended by striking out—

(1) subsection (c) (relating to intangible drilling and development costs in the case of oil and gas wells and geothermal wells), and

(2) subsection (d) (relating to expenditures in connection with certain railroad rolling stock).

(b) Disallowance of Certain Entertainment, etc., Expenses.—

(1) In general.—Subsection (a) of section 274 is amended to read as follows:

"(a) Entertainment, Amusement, or Recreation.—No deduction otherwise allowable under this chapter shall be allowed for any item—

"(1) Activity.—With respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation, or

"(2) Facility.—With respect to a facility used in connection with an activity referred to in paragraph (1)."

(2) Repeal of specific exemptions.—Subsection (e) of section 274 (relating to specific exemptions to application of subsection (a)) is hereby repealed.

(3) Restrictions on travel outside the united states.—Subsection (c) of section 274 (relating to certain foreign travel) is

amended by striking out paragraphs (2) and (3).

SEC. 208. REPEAL OF EXCLUSION FROM INCOME FOR DIVIDENDS REINVESTED IN STOCK OF PUBLIC UTILITIES.

Subsection (e) of section 305 (relating to dividend reinvestment in stock of public utilities) is hereby repealed.

SEC. 209. DENIAL OF DEDUCTION FOR EMPLOYER CONTRIBUTIONS TO PENSION PLANS.

Section 404 (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan) is amended to read as follows:

"SEC. 404. NO DEDUCTION FOR CONTRIBUTIONS OF AN EMPLOYER TO AN EMPLOYEES' TRUST OR ANNUITY PLAN OR COMPENSATION UNDER A DEFERRED-PAYMENT PLAN.

"If contributions are paid by an employer to or under a stock bonus, pension, profit-sharing, or annuity plan, or if compensation is paid or accrued on account of any employee under a plan deferring the receipt of such compensation, such contributions or compensation shall not be deductible under this chapter."

SEC. 210. REPEAL OF SPECIAL TREATMENT OF CERTAIN INSURANCE COMPANIES.

(a) INSURANCE COMPANIES SUBJECT TO CORPORATE TAX.—Subsection (c) of section 11 (relating to exceptions from corporate income tax) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(b) REPEAL OF SPECIAL RULES RELATING TO BANKING INSTITUTIONS.—Subchapter H of chapter 1 (relating to banking institutions) is hereby repealed.

SEC. 211. REPEAL OF DEPLETION DEDUCTION, ETC.

Subchapter I of chapter 1 (relating to natural resources) is hereby repealed.

SEC. 212. REPEAL OF EXCLUSION FOR U.S. CITIZENS AND RESIDENTS LIVING ABROAD.

Subpart B of part III of subchapter N of chapter 1 (relating to earned income of citizens of the United States) is hereby repealed.

SEC. 213. REPEAL OF THE TAX EXEMPTION FOR A DISC.

(a) IN GENERAL.—Section 991 (relating to tax exemption of a DISC) is amended by adding at the end thereof the following: "This section shall not apply to any taxable year beginning after December 31, 1983."

(b) TERMINATION OF DISC STATUS.—Section 992(a) (relating to definition of DISC) is amended by adding at the end thereof the following new paragraph:

"(4) TERMINATION.—No corporation shall be treated as a DISC for any taxable year beginning after December 31, 1983."

(c) DEEMED DISTRIBUTION.—Section 995(b)(2) (relating to deemed distributions upon DISC disqualification) is amended by adding at the end thereof the following new subparagraph:

"(C) A corporation which by reason of the provisions of section 992(a)(4), is a former DISC, for its first taxable year beginning after December 31, 1983, shall be treated, for purposes of this paragraph, as having failed to satisfy the conditions of section 992(a)(1) for such taxable year."

SEC. 214. REPEAL OF NONRECOGNITION OF GAIN ON SALE OF PRINCIPAL RESIDENCE.

Section 1034 (relating to rollover of gain on sale of principal residence) is hereby repealed.

SEC. 215 REPEAL OF DEDUCTION FOR NET CAPITAL GAIN.

Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is hereby repealed.

SEC. 216. REPEAL OF INCOME AVERAGING.

Part I of subchapter Q of chapter 1 (relating to income averaging) is hereby repealed.

TITLE III—CORPORATE INCOME TAX RATE

SEC. 301. CORPORATE INCOME TAX RATE REDUCTION.

Subsection (b) of section 11 (relating to amount of corporate income tax) is amended to read as follows:

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be 18 percent of the taxable income for the taxable year."

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE, ETC.

(a) EFFECTIVE DATE.—The amendments made by this Act shall apply to taxable years beginning after December 31, 1983.

(b) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or his delegate shall, as soon as practicable but in any event not later than 90 days after the date of the enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives a draft of any technical and conforming changes in the Internal Revenue Code of 1954 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.●

THE GRAIN MARKET

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● **Mr. SIKORSKI.** Mr. Speaker, I wish to bring to the attention of my colleagues a matter of serious importance. I received a copy of a letter from Mr. Cy Carpenter, president of the Minnesota Farmers Union, sent to Mr. John Block, Secretary of the U.S. Department of Agriculture. Mr. Carpenter is concerned, as am I, about the potential release of millions of bushels of farmer owned reserves into the grain market. He addresses the effect this release may have on grain prices in today's market. I have provided Mr. Carpenter's letter for the consideration of my colleagues.

The letter follows:

MINNESOTA FARMERS UNION,
St. Paul, Minn., March 31, 1983.

JOHN BLOCK,
Secretary, U.S. Department of Agriculture,
Washington, D.C.

DEAR SECRETARY BLOCK: I am writing to you today on an issue that requires your full and immediate attention: rising grain prices and their potential negative impact on the farmer-owned grain reserve program.

During the past two weeks grain prices at elevators across the country have been on the increase as buyers responded to the higher than expected level of participation in the Payment-in-Kind program. This has been welcomed news for American farmers.

Recently, however, some local markets in Minnesota have been buying grain at prices very close to the "trigger" levels for grain in the farmer-owned grain reserve program. I expect this pattern is being repeated in other parts of the country as well.

My concern over this issue dramatically increased with yesterday's news report the government (as of April 4) will begin contracting with farmers in order to help the USDA meet its PIK grain requirements. This action by the government, in combination with the bullish attitude of normal grain buyers, may soon trigger the release of millions of bushels of isolated reserve grain into the market. All of us close to agriculture can immediately predict what will happen to grain prices should that reserve grain be released at this time.

Additionally, release of reserve grain prior to the normal availability of PIK grain will literally flood the market with a surplus of grain and leave farmers without badly needed storage money and liability for interest on the reserve loans.

I see the government's action to buy grain from farmers as an abnormal activity and one that mandates additional protection to farmers with outstanding FOR loans.

As an immediate action to help correct these potential problems I suggest one or a combination of these options: 1) That you immediately move to increase the reserve trigger levels of all commodities covered under the PIK program, 2) that the length of time to "trigger" the release of FOR grain be substantially lengthened, 3) that you will permit farmers to reseal grain in the reserve program under normal rules, if the trigger level is reached.

The Administration has stated from the beginning that the PIK program would not increase the amount of grain actually entering the market in 1983, if participation in the program was high. You have also billed the program as the most effective way to bolster farm prices.

I believe an influx of reserve grain into the market at this time would be disastrous to short and long term grain prices. Farmers entered the PIK program with the knowledge it was the only game in town. In turn, farmers fully expect the Administration to continue efforts to insure the PIK program is carried out in the best interests of producers.

I hope that you share these concerns, agree that action is necessary, and will respond to this letter promptly.

Sincerely,

CY CARPENTER, *President.*●

A BILL TO PROMOTE VOTER REGISTRATION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● **Mr. RANGEL.** Mr. Speaker, I rise today to introduce a bill to stimulate voter registration in Federal elections. A strong democracy requires a high level of citizen participation. Yet statistics show a decided slip in voter participation, a trend which shows little sign of abating.

In 1980, only 55.1 percent of the voting age population of the United States—excluding aliens—bothered to vote in the Presidential election. This extremely low turnout would have shocked 19th century Americans who, between the years of 1840 to 1900, turned out to vote at rates between 75 to 85 percent.

Registration figures are also alarmingly low. In New York State, a mere 61 percent of the eligible population was registered to vote in 1980. In Colorado the figure was 55 percent, and California 67 percent.

It is clear that citizen participation in the electoral process needs to be encouraged.

My bill would promote voter registration in Federal elections by mandating that an application to register to vote in Federal elections be included on every Federal form which an eligible U.S. citizen might fill out. Of course it would be optional for the citizen to fill out the voter registration application. Upon receiving the completed form, the Federal Government will forward any completed registration application to the appropriate State board of elections for processing according to law.

Each year, the Federal Government requires hundreds of millions of citizens to fill out Federal forms: income tax returns, draft registration forms, and so forth. Each of these forms presents an opportunity for the Federal Government to encourage citizens to register to vote in Federal elections, and to offer them the means to do so.

The bill directs the Office of Management and Budget (OMB) to identify every Federal form that is filled out by an individual who might be qualified to vote in a Federal election. All other forms, for instance those filled out exclusively by corporations, States, localities or other groups, as opposed to individuals, would be exempt from the requirement. Likewise, those forms which by their nature are filled out only by people ineligible to vote would be exempt. An example of such a form would be an application to become a legal alien resident of the United States—no person filling out the form could possibly be eligible to vote.

OMB is also charged with developing, in consultation with the Federal Election Commission, the exact format of the registration application that is to be included on the appropriate form.

The provisions of this bill would go into effect 1 year after its enactment into law.

To demonstrate the gravity of the situation that we are facing, I ask that a table showing the voter registration figures by State be entered into the Record. The table follows:

REGISTRATION AND TURNOUT IN THE 1980 ELECTION BY STATE

State	Voting-age population (VAP) [1]	Number registered	Percent of VAP registered
Alabama	2,702,000	2,277,789	84
Alaska	257,000	[2] 258,742	100
Arizona	1,779,000	1,121,169	63
Arkansas	1,562,000	1,185,902	76
California	16,956,000	11,361,020	67
Colorado	2,050,000	1,434,257	55
Connecticut	2,321,000	1,719,108	74
Delaware	420,000	300,600	72
Florida	6,876,000	4,809,721	70
Georgia	3,629,000	2,466,786	68
Hawaii	657,000	402,795	61
Idaho	534,000	561,006	92
Illinois	8,046,000	6,230,332	74
Indiana	3,849,000	2,944,311	64
Iowa	2,083,000	1,746,725	83
Kansas	1,756,000	1,290,539	73
Kentucky	2,532,000	1,824,460	72
Louisiana	2,780,000	2,015,402	72
Maine	790,000	758,978	96
Maryland	3,039,000	2,064,883	68
Massachusetts	4,296,000	3,142,908	73
Michigan	6,557,000	5,725,713	87
Minnesota	2,957,000	2,787,277	94
Mississippi	1,650,000	1,484,140	90
Missouri	3,569,000	2,845,023	80
Montana	560,000	496,402	89
Nebraska	1,138,000	856,182	75
Nevada	533,000	297,318	56
New Hampshire	657,000	553,236	84
New Jersey	5,398,000	3,761,428	70
New Mexico	869,000	652,687	75
New York	12,900,000	7,869,587	61
North Carolina	4,055,000	2,774,844	68
North Dakota	469,000	([3])	
Ohio	7,701,000	5,887,488	76
Oklahoma	2,131,000	1,469,320	69
Oregon	1,909,000	1,569,222	82
Pennsylvania	8,652,000	5,754,287	67
Rhode Island	687,000	547,472	80
South Carolina	2,069,000	1,235,521	60
South Dakota	485,000	447,508	92
Tennessee	3,205,000	2,359,002	74
Texas	9,648,000	6,639,661	69
Utah	901,000	781,711	87
Vermont	359,000	311,919	87
Virginia	3,817,000	2,302,405	60
Washington	2,978,000	2,236,603	75
West Virginia	1,357,000	1,034,546	76
Wisconsin	3,446,000		
Wyoming	335,000	219,423	65
District of Columbia	475,000	290,837	61
National	160,491,000		

[1] U.S. Bureau of the Census Current Population Series P–25, number 879, Projections of the Population of Voting Age for States: Nov. 1980. Includes military and institutionalized persons.

[2] See text page 2.

[3] No statewide registration.

Information compiled by the Election Research Center, Washington, D.C., and reprinted with permission.●

TREASON OF BRITISH SPY HAS SERIOUS EFFECTS ON AMERICAN INTELLIGENCE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. McDONALD. Mr. Speaker, it has recently been revealed that Col. Dick Ellis, now deceased, as an MI6 officer (foreign intelligence) spied for the Germans as well as the Soviets. This would be simply of passing interest, except for the fact that Dick Ellis was one of the British advisers who came to the United States after World War II to assist in setting up our Central Intelligence Agency. Coming on top of the revelation that Anthony Blunt, a renowned Briton, had been a Soviet mole, creates convulsions in intelligence circles. At this point, I wish to insert two items from the London Daily Telegraph that discuss this subject for the edification of my colleagues.

AUTHORS "CERTAIN" THAT MI6 OFFICER SPIED FOR NAZIS

(By Guy Rais)

The authors of two books dealing with operations of the British Secret Service yesterday denied they had wrongly accused a former officer in MI6 of spying for the Nazis before the last war.

Mr. Chapman Pincher, author of "Their Trade is Treachery," and Mr. Nigel West, who wrote "A Matter of Trust," were replying to allegations by Mr. Albert Ross-Smith, in a letter in yesterday's Daily Telegraph, calling for the late Col. Charles "Dick" Ellis to be "publicly exonerated by the Prime Minister as a mark of his 30 years faithful and fruitful work for MI6."

Both authors took a different view of the activities of Col. Ellis, who died nearly eight years ago, aged 84.

Mr. Pincher said: "I stand by what I wrote in my book. There is no doubt in my mind that Ellis spied for the Germans." Mr. West said: "From my careful investigations I am satisfied that at one time Ellis was a German spy."

BLACKMAIL CLAIM

Both Mr. Pincher and Mr. West expressed the view that Col. Ellis could have been blackmailed by the Soviets into working for them after the war when they learned of his German connections.

According to the authors, Australian born Col. Ellis who served in the British Army on the Russian border after the First World War, joined British Intelligence in 1924.

Mr. Ross-Smith, who is on holiday in Egypt, served with Col. Ellis in MI6 during the war, and was his friend for 50 years.

Col. Ellis's name became linked with German intelligence after the capture and interrogation of a German officer at the end of the war in 1945, but it was not until 20 years later that MI5 confirmed its suspicions that he had worked for them.

When finally confronted, according to the books, and told that the German officer could identify him, Col. Ellis claimed he had been "desperately short of money" in Paris just before the war and had "made ends meet" by passing on the Army's internal structure of battle to the Germans. But he denied ever spying for the Russians.

"MI5 were particularly anxious to grill Ellis, not simply to clear up the wartime German evidence, but because they had reason to suspect that he had been later recruited by the Russians," wrote Mr. Pincher.

"Not until 10 years later when Philby detected in 1963, when MI5 could prove its suspicions against him, was the Ellis case reopened as part of the general inquiry into the penetration of both services by the Russians."

Mr. West said yesterday: "Before the letter appeared in The Daily Telegraph, I was in touch with Mr. Ross-Smith and suggested we should not air our views publicly. I was rather surprised when it appeared. I had already made it clear to him that there was never any suggestions that Ellis passed information to the Germans other than the time he was in Paris. But I know that MI5 were distinctly worried that the Russians might have found out about his German spying activities and blackmailed them into working for them after the war.

"Mr. Ross-Smith implied in the letter that my information was at fault but when Sir

Michael Havers, the Attorney-General, applied for an injunction in the High Court last October to prevent publication of my book, he swore an affidavit that its contents, including the account of the Ellis affair, contained hitherto unpublished classified information."

Mr. West said Col. Ellis daughter, who lives in New York, had written to Mrs. Thatcher in 1981 asking to clear her father's name, "but the Prime Minister refused to do so." Mr. Pincher said that Col. Ellis "was a pal of Philby's, who must have known of his past."

LETTERS TO THE EDITOR

HOW A SPY WAS REVEALED

KINTBURY, BERKS.

SIR: Mr. A. M. Ross-Smith does a public service in drawing further attention to the treachery of the late Col. Charles ("Dick") Ellis (April 11), a senior officer of the Secret Intelligence Service (MI6) who confessed to having spied for Germany prior to World War II and immediately after its outbreak.

It was such an appalling case that more should know of it.

Contrary to Mr. Ross-Smith's assertion that Ellis was wrongly accused by me and, later, by others his guilt which ha been kept secret until I exposed it in "Their Trade is Treachery", is now widely known among his former colleagues.

Indeed, one of them remarked to me recently: "I disapprove of disclosures about matters which should remain secret but I'm glad you exposed that traitor, Ellis. He was worse than Philby, he spied for the Abwehr."

Over recent months more details of the Ellis case have come my way. They are all confirmatory and I will publish them in due course.

Meanwhile Mr. Ross-Smith's challenge that I must produce secret documents and tape-recordings out of MI5's registry is ludicrous. It will be 50 years before they are released, if they ever are.

I think, however, that we shall have to wait even longer before any official who knows the facts of the case will deny them. Relatives of Ellis wrote to the Prime Minister asking her to deny them at a time when she and her advisers were looking for ways of discrediting my book. She was unable to do so.

Mr. Ross-Smith is behaving like friends of Maclean and Philby before their guilt became undeniable. Incidentally, no secret documents relating to their activities have yet been published and they are never likely to be.

As with the Ellis files they are far too embarrassing to the departments which the spies penetrated.

CHAPMAN PINCHER.

ELLIS' CONFESSION

LONDON, S.W. 10.

SIR: Nobody can take any pleasure in recording the circumstances of Dick Ellis's admission that he had once sold secrets to the Abwehr before the war, but I am equally certain that this important and historically significant information should not be suppressed.

In his letter Mr. A. M. Ross-Smith has defended his former colleague by arguing that there were several crucial secrets known to Ellis that demonstrably had not been compromised during the last war.

The two, he cites, Ultra and the true loyalty of Dusko Popov, the double agent code-named Tricycle, are not relevant. "A matter of Trust" describes how, in 1966, Ellis confessed to having sold details of the organization and personalities of the British Secret Intelligence Service (MI6) to the Abwehr before the war. The incident predated Ellis's knowledge of both Ultra and Tricycle.

Although he was interrogated about his wartime and post-war record, Ellis steadfastly denied any repetition. At the time of Ellis's statement the security service were concerned that the Russians might have used his pre-war lapse to blackmail him. Ellis denied this and insisted that he had not been a long-term source for either the Abwehr or the Russians.

The fact that the pre-war MI6 "order-of-battle" was betrayed to the Germans is beyond dispute. I have in my possession a number of Abwehr documents which faithfully describe MI6's internal structure and I have published a selection in my history of the security service (1909-45).

Confirmation; that Ellis was the original source of this material can only come from the Prime Minister, who has already declined to comment.

However, I can indirectly support my account by quoting sworn evidence submitted on behalf of the Attorney-General shortly before the publication of "A Matter of Trust."

The principal affidavit filed with the High Court describes my book as containing many references to "incidents, operations and investigations which are said to have taken place since the end of the Second World War and which can only have been related to the defendent by past (or present) members of the security service. Some of these references relate to incidents, operations, investigations and other matters which have not previously been made public.

NIGEL WEST.●

FINANCIAL DISCLOSURE

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. FROST. Mr. Speaker, I am inserting in the CONGRESSIONAL RECORD a balance sheet and income statement for my wife, Valerie, and me for the year 1982.

Because the required financial disclosure of the House does not go into much detail, I am voluntarily providing this additional information.

The financial statement follows:

Balance sheet: Martin and Valerie Frost, as of Dec. 31, 1982

Assets:	
House and lot, 1910 Kessler Parkway, Dallas, Tex	$100,000.00
House and lot, 8530 Riverside Road, Alexandria, Va	110,000.00
Home furnishings and other personal effects	20,000.00
Savings, Wright Patman Federal Credit Union	803.76
Checking account, Wright Patman Congressional Credit Union	932.45
Retirement, U.S. Congress	18,792.47
IRA, Wright Patman Federal Credit Union (Martin and Valerie)	2,421.37
Washington Fringe Benefit Investment Club (Valerie)	1,457.00
Subtotal	254,407.05
Automobiles:	
1979 Chevrolet Chevette	3,050.00
1971 AMC Gremlin	100.00
1982 Dodge Aries Station Wagon	6,675.00
Subtotal	9,825.00
Stocks and bonds:	
4 Shares IBM	375.00
12 Shares Ensearch	228.00
U.S. Savings Bonds	300.00
100 Shares Muse Air (Valerie)	1,100.00
100 Shares Burnup & Sims, Inc. (Valerie)	900.00
Subtotal	2,903.00
Total assets	267,135.05
Liabilities:	
Mortgage:	
Trinity Mortgage Co. of Dallas (Dallas residence)	32,577.34
National Homes Acceptance Corp. (Alexandria residence)	72,838.61
Subtotal	105,415.95
Installment Loans:	
Wright Patman Federal Credit Union	1,000.00
Oak Cliff Bank (automobile)	250.00
Open Charge Accounts (balances)	1,000.00
Wright Patman Federal Credit Union (automobile)	6,178.87
Subtotal	8,419.87
Total liabilities	113,835.82
Net worth:	
Total assets	267,135.05
Total liabilities	113,835.82
Total net worth	153,299.23●

COMMEMORATION OF UKRAINIAN FAMINE OF 1932-33

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. RODINO. Mr. Speaker, this year marks the 50th anniversary of the great famine that took the lives of millions of Ukrainians. This was not, of course, an act of nature but the planned, systematic starvation of millions by Stalin in a brutal attempt to weaken the spirit of the Ukrainian people.

On May 1, the Ukrainian American community of New Jersey will commemorate this tragic episode. This solemn commemoration will be a time for all of us to reflect on the senseless loss of 7 million lives. Let us vow that their deaths will remind us of the need to cry out against injustice and persecution whenever it occurs, and never forget the terrible price of silence.

The civilized world can never forget the murder of the Ukrainians which, along with the Nazi Holocaust, is a strain on our collective conscience. It must be recognized and understood if we are to hope and pray that such horrors are not to be repeated.

I am proud to join the Ukrainian Congress Committee of America in commemorating this tragedy. Free men and women everywhere must sympathise with the terrible fate of the Ukrainians in the 1930's and rededicate ourselves to the principles of freedom for which they suffered.●

COLONEL COCKRELL HONORED FOR OUTSTANDING ACHIEVEMENTS

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. MITCHELL. Mr. Speaker, on April 28, 1983, the illustrious military career of Col. Paul J. Cockrell will be commemorated by the U.S. Army at the ROTC ceremonies. These ceremonies, which will mark the April 6, 1983 end of the colonel's military career, will be held on the campus of Morgan State University, Baltimore, Md. (his alma mater). We are very proud of Colonel Cockrell who continues as a practicing attorney, and I would like to share the following tribute with my colleagues in his honor:

Col. Paul J. Cockrell, attorney at law, was retired from the U.S. Army Reserve on April 6, 1983. He was originally inducted into the U.S. Army as a private at Camp Shelby, Miss., on March 17, 1945, during the latter stages of World War II.

He proceeded to serve 4 years on active duty and was honorably discharged as a staff sergeant in May 1949. He immediately entered Morgan State College as a freshman in September of that year and simultaneously enrolled as a cadet in Morgan's 1-year-old ROTC unit. In 1951 he was elevated to the rank of cadet lieutenant colonel and was designated cadet battalion commander of the fledgling ROTC unit. He was commissioned a second lieutenant of infantry in the Army Reserve on June 2, 1951, and began a steady rise through the commissioned officer ranks until he attained the permanent rank of full colonel.

Colonel Cockrell is a graduate of numerous military schools, including the Judge Advocate School, Charlottesville, Va.; the Army Intelligence School, Fort Holabird, Md.; the Command and General Staff College, Fort Leavenworth, Kans.; the amphibious warfare indoctrination course, the amphibious planning course, and the Army/battalion/brigade landing force planning course at the Little Creek Naval Base, Norfolk, Va. He has also been designated as an Army logistician after having graduated from the associate logistics executive development course at the Army Logistics Management Center, Fort Lee, Va. During the periods 1974, 1975, and 1976, he served as a high level joint staff officer in the Logex military maneuvers at Fort Pickett, Va., and he has also served for 3 years as a liaison officer for the U.S. Military Academy at West Point, N.Y. His various duty assignments during his Army Reserve career have included the position of maneuver area command chief umpire—a position calling for the rank of brigadier general—service as corps G-1, division G-2, as a member of the staff and faculty of the 1st Army Area Intelligence School and he has also served for 2 years as a mobilization designation staff officer with the Office of the Deputy Chief of Staff for Operations and Plans at the Pentagon. Colonel Cockrell has been certified by the U.S. Army as being proficient in the German language and his awards and decorations are too numerous to mention.

During his military career he has served on active duty in Japan and Korea and he currently serves as a member of the U.S. Congressional Advisory Board. He is married to the former Ellen S. Aquilla and is a member of various military, professional, fraternal, and civic organizations including various bar associations, the Military Order of World Wars, and as a life member of the Reserve Officers Association and the Morgan State University Alumni Association.

Colonel Cockrell holds an A.B. degree in political science from Morgan State College and a J.D. Degree (Juris Doctor) in law from the University of Maryland Law School. He is also a graduate of the Morgan State College Political Science Institute and the University of Baltimore's special prosecutors' course.

Upon being designated "alumnus of the year" by Morgan State College in 1970, the citation read, in part, as follows:

> In your busy life, you have found the time to serve our association as an officer, as a member of standing and special committees without the thought of monetary or other compensation. In all of your activities you have exhibited courage and excellence which nurtured and propagated a most desirable Morgan spirit and tradition.

The foregoing civilian citation also typifies the quality of military service of Col. Paul J. Cockrell for 38 years and 20 days. Colonel Cockrell has been a practicing attorney in State, Federal, and military courts since June 13, 1958, during which period he has continued to serve as a citizen soldier with distinction.

The following material was submitted in the record.

DEMOCRATIC CENTRAL COMMITTEE,
Baltimore, Md., April 7, 1983.

DEAR FRIEND: Colonel Paul J. Cockrell, Attorney-At-Law, was retired from the United States Army Reserve on April 6, 1983. He was originally inducted into the United States Army as a Private at Camp Shelby, Miss., on March 17, 1945 during the latter stages of World War II.

He proceeded to serve four years on active duty and was Honorably discharged as a Staff Sergeant in May 1949. He immediately entered Morgan State College as a Freshman in September of that year and simultaneously enrolled as a Cadet in Morgan's one-year-old ROTC Unit. In 1951 he was elevated to the rank of Cadet Lieutenant Colonel and was designated Cadet Battalion Commander of the fledgling ROTC Unit. He was commissioned a Second Lieutenant of Infantry in the Army Reserve on June 2, 1951 and began a steady rise through the Commissioned Officer Ranks until he attained the Permanent Rank of Full Colonel.

Colonel Cockrell is a graduate of numerous Military Schools, including the Judge Advocate School, Charlottesville, Virginia; The Army Intelligence School, Fort Holabird, Maryland; The Command and General Staff College, Fort Leavenworth, Kansas; The Amphibious Warfare Indoctrination Course, the Amphibious Planning Course, and the Army/Battalion/Brigade Landing Force Planning Course at the Little Creek Naval Base, Norfolk, Virginia. He has also been designated as an Army Logistician after having graduated from the Associate Logistics Executive Development Course at the Army Logistics Management Center, Fort Lee, Virginia. During the periods 1974, 1975, and 1976, he served as a High Level Joint Staff Officer in the LOGEX Military Maneuvers at Fort Pickett, Virginia and he has also served for three years as a Liaison Officer for the United States Military Academy at West Point, New York. His various duty assignments during his Army Reserve Career have included the Position of Maneuver Area Command Chief Umpire (a position calling for the rank of Brigadier General), service as Corps G-1, Division G-2, as a member of the Staff and Faculty of the First Army Area Intelligence School and he has also served for two years as a Mobilization Designation Staff Officer with the Office of the Deputy Chief of Staff for Operations and Plans at the Pentagon. Colonel Cockrell has been certified by the United States Army as being proficient in the German Language and his awards and decorations are too numerous to mention.

During his Military career he has served on Active duty in Japan and Korea and he currently serves as a member of the United States Congressional Advisory Board. He is married to the former Ellen S. Aquilla and is a member of various Military, Professional, Fraternal, and Civic Organizations including various Bar Associations, the Military Order of World Wars, and as a life member of the Reserve Officers Association and the Morgan State University Alumni Association.

Colonel Cockrell holds an A.B. degree in Political Science from Morgan State College and a J.D. degree (Juris Doctor) in Law from the University of Maryland Law School. He is also a graduate of the Morgan State College Political Science Institute and the University of Baltimore's Special Prosecutors' Course.

Upon being designated "Alumnus of the Year" by Morgan State College in 1970, the Citation read, in part, as follows:

"In your busy life, you have found the time to serve our association as an Officer, as a member of standing and special Committees without the thought of Monetary or other compensation. In all of your activities you have exhibited courage and excellence with nurtured and propagated a most desirable Morgan Spirit and Tradition."

The foregoing Civilian citation also typifies the quality of Military Service of Colonel Paul J. Cockrell for Thirty Eight years and twenty days. Colonel Cockrell has been a practicing Attorney in State, Federal, and Military Courts since June 13, 1958 during which period he has continued to serve as a Citizen/Soldier with distinction.

This illustrious Military career of Colonel Paul J. Cockrell has come to an end as of April 6, 1983 and will be commemorated by the United States Army at the ROTC ceremonies that will be held at Morgan State University (Colonel Cockrell's Alma Mater), at 10:00 A.M., Thursday, April 28, 1983 where Colonel Cockrell will be presented with the Meritorious Service Medal awarded to him by the Secretary of the Army in commemoration of this marathon display of Honorable, dedicated, and distinguished service.

As a Citizen/Soldier, Colonel Cockrell is deserving of an expression of thanks for his many years of Honorable, distinguished, and Meritorious service.

Sincerely,

TITUS GARNETT, Jr.,
Chairman, District Delegation, 45th Legislative District, Baltimore, Md., Democratic Central Committee.●

THE HOBBS ACT AMENDMENTS

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. BLILEY. Mr. Speaker, I am a cosponsor of H.R. 287, the Hobbs Act amendments, designed to restore once again the power and protection of the Federal Government in preventing and prosecuting acts of union violence.

In 1973, the Supreme Court incorrectly ruled, in my opinion, that acts of violence which occur during a legitimate labor dispute cannot be prosecuted under the Hobbs Federal antiextortion statute.

Not only did this outrageous ruling leave prevention of union violence in the hands of outmanned and outgunned local authorities, who often do not have the will to act decisively because of political ties to union officials—it also grates against the basic principle of fairness.

No class of Americans—in this case, union officials—should have a special exemption from prosecution under a law which is applied to all other Americans.

My colleague from Virginia and the sponsor of H.R. 287, Hon. J. KENNETH ROBINSON, spoke forcefully on behalf of equal justice under the law before the Separation of Powers Subcommittee of the Senate Committee on the Judiciary during recent hearings on the bill.

I ask that his comments be printed in the RECORD.

STATEMENT OF REPRESENTATIVE J. KENNETH ROBINSON OF VIRGINIA, SUBMITTED TO THE SUBCOMMITTEE ON SEPARATION OF POWERS, SENATE COMMITTEE ON THE JUDICIARY

I thank the Chairman for this opportunity to express my support for legislation to revise the Supreme Court's interpretation of the Hobbs Act in the 1973 *Enmons* decision.

Five of the nine Justices ruled in *Enmons*, in effect, that union officials engaged in "legitimate" labor disputes need not fear prosecution for extortion under the Hobbs Act. As sponsor of H.R. 287 in the 98th Congress, and of H.R. 450 in the 97th Congress, I have sought to eliminate by statute this unique exemption carved out of the Hobbs Act by the Supreme Court.

My support for this legislation has its foundation in two bedrock American principles:

First, Government should place the highest of priorities on protecting equal justice under the law for all Americans. Second, our free society provides numerous legal alternatives to the use of force to settle labor-management disputes.

The *Enmons* case stemmed from a violent strike in Louisiana, during which union agents shot up and dynamited electrical transformers and substations. The Federal Government attempted to prosecute the perpetrators under the Hobbs Act.

The basic issue before the High Court was whether severe acts of violence during the course of that strike could be construed as extortion, since wages, the object of the strike, were the property of the employer. Union attorneys argued that enforcement of the Hobbs Act would curtail their legitimate objectives to strike for better wages and working conditions.

Until *Enmons*, no one questioned the purpose of the Hobbs Act. Enacted in 1946 to curb a rising tide of violent labor-management disputes, the Hobbs Act intended that taking another's property by force should be a crime, no matter what the objective. The overriding concern of Congress was to protect interstate commerce from violent labor-management disputes.

The Hobbs Act was designed to apply to all Americans. Congressman Samuel Hobbs, author of the bill, summed it up best with the words, "crime is crime, no matter who commits it; and that robbery is robbery, and extortion extortion, whether or not the perpetrator has a union card."

Thus, prior to *Enmons*, it was commonly held that any actual or threatened use of force or violence to obtain property was a "wrongful" use of force or violence and therefore constituted extortion.

It was considered irrelevant to the Hobbs Act that the person or group obtaining the property claimed legal or other rights to it. The law was believed to prohibit the disruption of interstate commerce through real or threatened force by any persons to resolve property disputes, including labor-management disputes over wages.

But in *Enmons* the Supreme Court sharply split from the intent of Congress and took the position, in effect, that the legitimacy of the ends sought by the union agents—namely, contract concessions—excused from prosecution under the Hobbs Act the use of wanton destruction as a means to force employers to accede to the demands. Thus, the Supreme Court's rationale in *Enmons* boiled down to an "end justifies the means" philosophy.

I want to make it perfectly clear that legislation to correct the *Enmons* decision would not interfere with the right of workers to strike for higher wages. However, strikes which go beyond the mere withholding of labor to shootings, dynamitings, and burnings against resisting employers and non-striking workers constitute extortion by any normal definition, and should be addressed by the Hobbs Act.

The apparent intent of the High Court in *Enmons* was to rely on state and local authorities for law enforcement when criminal union activity is involved. Strike-related crimes are punishable under numerous state and local laws, said the Court. Furthermore, the majority opinion claimed the Federal Government should not be in the business of policing strikes. It is ironic that the Court should suddenly become wary of preventing federal involvement in labor violence, when Congress has seen fit to regulate most other aspects of private-sector labor-management relations.

Let it suffice to say the results of the Supreme Court's peculiar blind spot, or tortured legal semantics, with regard to labor violence have been disastrous.

The 1981 United Mine Workers Union strike in the eastern United States is a classic example. As sharpshooters and saboteurs ravaged the highways in the coal producing regions of Kentucky, Pennsylvania, West Virginia and Virginia, outgunned, intimidated, or financially-strained local law enforcement agencies often looked the other way in the face of well-orchestrated labor violence.

My home state of Virginia was forced to mobilize hundreds of state troopers to protect life and property on the highways, at immense cost to taxpayers.

No federal help was available. Often, the perpetrators slipped easily across state lines to elude capture by state and local authorities. For instance, Kentucky State Police acknowledged that out-of-state "hit men" were responsible for much of the strike havoc wreaked upon their state.

Of course, there are other well documented cases of unpunished extortion caused by the High Court's exemption of union officials—and only union officials—from an anti-extortion law meant to apply to all Americans.

Most adversely affected by the Supreme Court-created loophole in the Hobbs Act protections are, of course, the overwhelming majority of American working men and women who ultimately pay the price of labor violence, either as consumers, or as actual victims.

Mr. Chairman, for the sake of equal justice under the law for all Americans, I pray my colleagues will act swiftly to enact the Hobbs Act Amendment currently before the Congress.●

LET THE TRUTH BE TOLD ABOUT THE SITUATION IN THE MIDDLE EAST

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. LENT. Mr. Speaker, I would like to bring to the attention of my colleagues two excellent articles that appeared recently in the Wall Street Journal concerning the real obstacles to peace in the Middle East. A constituent of mine from Hicksville, N.Y., Mr. J. James Plesser, suggested that the articles deserve broader circulation and I wholeheartedly agree.

Mr. Speaker, these fine essays provide a better understanding of the realities of the situation in the Middle East. While some may have been led to believe that Israel is holding up progress in reaching a peace agreement there, these articles demonstrate quite clearly that this, of course, is not the case.

It has been the PLO's refusal to negotiate and actions by the terrorists who have bombed the U.S. Embassy in Beirut that have held up progress in achieving a solution to the difficulties in the Middle East. I urge all my colleagues to read these most informative studies of the realities of the Middle East problems the United States is attempting to resolve.

Mr. Speaker, I would like to request permission for these articles to be included in the CONGRESSIONAL RECORD so that my colleagues may see and learn from them.

[From Wall Street Journal, Apr. 15, 1983]

THE PLO OBSTACLE

Wishful thinkers in the State Department, frantically chasing after any glimmer of hope for Middle East negotiations, are trying to resurrect President Reagan's initiative for the West Bank and the Gaza Strip. But the initiative, rejected by Israel and most recently by Jordan's King Hussein, is doomed to failure unless the PLO abandons everything it has ever stood for.

The Reagan plan, well-intended, aimed at providing self-government for West Bank and Gaza Arabs without threatening Israeli security. Mr. Reagan recognized that Israel would never countenance a PLO state on its borders, so he embraced the Israeli Labor Party's idea of a self-governing Arab regime somehow connected with Jordan. It would presumably be up to Jordan to police the West Bank and make sure it didn't become a PLO terrorist and military base against Israel.

But what Mr. Reagan failed to reckon with was the continuing intransigence of the PLO and its continuing capacity to cause misery for any Arab leader who works toward an accommodation with Israel. King Hussein learned all he had to know last Saturday when Yasser Arafat failed to deliver PLO support for Jordan's entering in the negotiations. We doubt that the softer line Mr. Arafat espoused two days ago will change the King's mind.

This failure confirmed once again what the Israelis have always said: That the PLO isn't interested in self-government for the West Bank and Gaza. What it wants is the obliteration of the state of Israel and its replacement by a PLO-run state whose flag would fly over Haifa and Beersheba and Jerusalem. And the assassination over the weekend of the leading Palestinian proponent of accommodation with Israel was a dramatic reminder of how Palestinian radicals deal with those who disagree with their nihilistic philosophies.

Such tactics make it clear that federation with the West Bank would be an enormous headache for King Hussein. If he were to crack down too hard on the PLO and its sympathizers on the West Bank, he would risk Sadat-style assassination. If he were to let the PLO pose a security threat to Israel, he would invite Israeli attacks.

The customary fingers are now being pointed at Israel and its West Bank settlements policy, when the real reason for Jordanian rejection is PLO intimidation. In the same way, Israel is blamed for the breakdown of talks about withdrawing from Lebanon, when the real reasons are the Soviet military buildup in Syria and the threat by Arab governments, particularly the Saudis, to boycott Lebanese commerce if Lebanon engages in any trade with Israel.

Israel has occupied the West Bank and Gaza for more than 15 years now, without a single serious move by the PLO and its backers to negotiate Arab self-rule. It is hardly surprising that pressures within Israel for annexation of the West Bank grow stronger. And unless the PLO changes its tune, it may soon be time for U.S. policy makers to accept annexation as a fait accompli.

[From the Wall Street Journal, Apr. 19, 1963]

BEIRUT NORMALCY

The force of it was stunning. A car bomb in Beirut blew up the American embassy yesterday morning, tearing away the front of the building and collapsing the reinforced concrete floors like a deck of cards. At least 39 people, some of them American servicemen, were killed. There is one grisly saving grace about modern-day Mideast politics: Whenever you get your head too far into the clouds, with dreams of grand manipulations and comprehensive peace, one sort of explosion or another will remind you of the bloody impossibility of the place.

On the eve of the embassy tragedy, the centerpiece of the Reagan administration's Mideast policy, its plan to solve the problem of the West Bank, was falling into the trap that has gobbled up every comprehensive-style peace plan for the Mideast. The administration was trying desperately to get Jordan's King Hussein, as well as any other available Arab heads of state, to sit down with the Israelis. The king proved himself a secure hostage to the dictates of Yasser Arafat, who is no more ready to give up his status as a revolutionary figure this time than he has even been. The Peace plan has suffered its predictable impasse.

Before that, the U.S. military was complaining that the Israeli soldiers in Lebanon were harassing our troops there. Top civilian authorities in the Pentagon instructed our Marine commander to write a letter saying so, then leaked the letter and made it a nasty little public incident. There was much speculation about the Israelis' possible dirty motives and ours. In the course of the fight the Israelis revealed one reason for the constant tension: U.S. soldiers in Lebanon were forbidden to establish the normal type of liaison and communications with their Israeli comrades, apparently because of someone's fear that Arabs would regard this as unseemly fraternization. Hence minor conflicts over sector responsibilities were festering in wait of diplomatic solutions.

In the process of all this, the administration delivered insult after insult to the Israelis. The president sent a message to the Syrians saying that the U.S. might include the Syrians' demand for the return of the Golan Heights in any future negotiations. Our Karen Elliott House, in reporting last week's fascinating two-part series on the political pressures that came to bear on the Jordanian king, was told that President Reagan had said he was willing to risk loss of the Jewish vote in 1984 to get the king's cooperation on the peace plan.

The White House has, of course, denied this bit of political expansiveness, but the credibility of the Hussein meeting account was strengthened by the president's earlier threat to hold up sale of F-16 fighter planes to Israel until Israeli troops are out of Lebanon. The situation has also turned slightly poisonous within the U.S. government; the president's adviser for Jewish affairs within the White House has quit after discovering that there is a big difference between being listened to in the Oval Office and having anyone take you seriously.

This everlasting seesaw is by no means new in U.S. diplomacy towards the Middle East. Almost since the formation of the state of Israel 35 years ago, the U.S. has combined its special relationship with Israel with attempts to try to win the friendship and confidence of Arab states and mediate on Israeli-Arab peace. No one can say for sure that some other policy would have worked better, given the conflicts of the area, but the one the U.S. has followed clearly has had serious deficiencies.

Quite possibly the U.S. has been victim to a dangerous illusion: that a broad and stable peace is possible in the Mideast and that we have the power to bring it about. In fact, Israel or no Israel, the region is going to be victim to political instability for years to come; all we can prudently do is to choose the crucial points at which we can mitigate the situation in our own interests, keeping in mind that our best chance for doing that lies with maintaining a close working relationship with the one stable and militarily effective democracy in the area, Israel.

All this fooling around on our part, with large promises and potential commitments to shaky and mutually suspicious Arab leaders, is dangerous. There are Soviets in the Mideast. They have just reminded us of that by restocking Syria with even more advanced weapons than the ones the Syrians lost in the Lebanese war, and sending in large numbers of Russians to help man them. Diplomatically, the Soviets are there too. This time around they played a crucial role in persuading Arafat and Hussein not to bite at the Reagan plan. We cannot casually stomp on our allies in the region with the Russians so eager to make capital of the situation.

Yesterday's bomb might be read by some as just that much more evidence that we have to do more to redress Arab grievances. There is nothing in the record to support such a claim. Terrorism is the work of Arab factions interested in conquest, not peace, and certainly no friends of the U.S. The lesson we should draw from the latest

Beirut horror is that grandstanding and moralizing in such a highly charged situation are merely ways to court embarrassment. It's time to get down to a quieter kind of work, and also to remember who our friends are.●

PROPOSED AMENDMENTS TO THE FOREIGN CORRUPT PRACTICES ACT

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. WIRTH. Mr. Speaker, during the past 2 years, I have talked with many members of the business community about some of their concerns relating to the Foreign Corrupt Practices Act. Today, I am introducing legislation addressed to those concerns.

Unlike other bills introduced on this subject, the legislation introduced today does not seek to gut the existing law. It attempts to provide reassurance to the business community about the meaning of the words of the act, the intent of Congress in passing the act, and the existing policies of the Securities and Exchange Commission and Department of Justice in administering it.

We all have heard the rhetoric about the FCPA. Almost from its inception, the FCPA created fears in the business community, without regard to congressional intent or the meaning of the words of the act. Yet, no one has been prosecuted for inadvertent accounting errors, as some say they fear, and there have been only a handful of bribery prosecutions under the act—all of them clear and unquestionable cases. Unfortunately, the Washington representatives of some trade associations have fueled the fears of the business community, and, instead of providing reassurance about the act, have led a campaign to gut it, and replace its terms with vague, confusing amendments.

The legislation I am introducing contains no new, confusing terms that would provide a field day for lawyers, causing great expense for businesses, especially smaller businesses whom we should be seeking most to help in exporting. I want to contrast this with a measure that has recently been the subject of hearings in a Subcommittee of the Committee on Foreign Affairs.

H.R. 2157

H.R. 2157 dramatically alters provisions of the Federal securities laws which prohibit the bribery of foreign government officials by American firms and require that corporate financial records of public companies reflect the truth. It would gut the Foreign Corrupt Practices Act and render it virtually unenforceable. The bill would place the FCPA under the Export Administration Act and transfer enforcement away from the SEC and the Department of Justice and to the Department of Commerce. And, in the rare event that someone is ever prosecuted under the new, emasculated law, the bill would save that person from any possible embarrassment by changing the name of the act to the "Foreign Trade Practices Act."

This action reflects the view of some trade associations and a few persons in this administration who would have us believe that the FCPA is merely a hindrance to U.S. trade, and not a law which serves to prevent a return to the corporate criminal behavior of the 1970's, when millions of dollars of bribes paid by American companies to foreign officials severely damaged our national stature abroad and undermined faith in U.S. corporations at home.

When Congress passed the act in 1977, Members were painfully aware of the corrupt practices of major multinational companies. Indeed, we read about their unseemly practices on the front pages virtually every day. Those same public companies circumvented accounting controls and created slush funds that, in many cases, were used to make illegal campaign contributions to the Nixon Presidential and other campaigns.

That recent record should not be forgotten, so I would like to recount some of that history.

SCANDALS OF THE SEVENTIES

The disclosures in 1973 of illegal corporate political contributions to the Nixon campaign revealed that the contributions were made possible by the maintenance of off-the-books accounts, false bookkeeping entries, the laundering of funds through foreign bank accounts and other accounting improprieties by major corporations. More than 300 major corporations were eventually found to have illegally contributed money to election campaigns.

American Airlines, Northrop Corp., Gulf Oil, Ashland Oil, Exxon, Phillips Petroleum, and Standard Oil of California each contributed more than $100,000 to the Nixon campaign. Gulf ultimately reported that as much as $6.8 million may have been spent for domestic political contributions during a 12-year period, much of which was laundered through a subsidiary in the Bahamas and then brought into the United States. Criminal charges were brought against a number of corporations and individuals.

The falsification of corporate financial records, designed to disguise or conceal the source and application of corporate funds and the existence of secret slush funds, was also used to facilitate questionable or illegal payments to foreign government officials.

Ultimately, more than 450 corporations disclosed illegal or questionable payments abroad. Some of the biggest spenders included Exxon, with more than $77 million in foreign payments; Raytheon, with more than $23 million; McDonnell Douglas, with more than $15 million and ITT, with at least $8 million. Northrop set up a dummy corporation to pay more than $30 million in questionable and illegal commissions to government officials and agents in the Netherlands, Iran, France, Germany, Saudi Arabia, Brazil, Malaysia, and Taiwan. Grumman and Textron paid millions of dollars to a sales agency in Iran that was owned in part by the commander of the Iranian Air Force.

Those foreign payments had far-reaching impacts on U.S. foreign relations. Lockheed Corp., from 1968 until 1975, made secret payment totaling at least $25 million to foreign government officials. In addition, Lockheed paid more than $200 million to various consultants, commission agents and others, without adequate records or controls to insure that the transfers were actually made for the purposes indicated. Lockheed's payment of $1.6 million to Prime Minister Tanaka of Japan resulted in the criminal prosecution, conviction, and resignation of Tanaka. Further allegations of Lockheed payments shook the Governments of the Netherlands and Italy. Exxon's payments of more than $50 million to Italian political candidates resulted in a scandal that brought substantial election gains to the Communist Party in that country.

The question then before the Congress was whether some dishonest U.S. multinationals should be permitted to shape our foreign policy through the payment of bribes.

The U.S. Congress answered, emphatically, No. It passed the Foreign Corrupt Practices Act, specifically prohibiting the bribing of foreign government officials and foreign political party officials. It placed enforcement of the new law in the hands of the agency responsible for bringing the scandals to light, the SEC. Criminal enforcement of the act, as well as civil enforcement over companies not within the jurisdiction of the SEC, was placed with the Department of Justice.

Congress also determined that existing SEC statutes were not sufficient to address the problems of the serious failures in corporate accounting control. Thus, corporations were required to develop internal accounting control systems and keep truthful books and records. These standards did not apply just to their foreign operations, nor were they designed simply to prevent the accumulation or hiding of funds to be used for bribes. They were designed to assure public shareholders that the management of these companies fulfilled their obligations to shareholders to keep honest financial records.

After 5 years of experience under the act, where are we? Did Congress, in an effort to address the concerns of the 1970's, go far enough? Or did Congress, in its outrage at the revelations, go too far?

OVERSIGHT FINDINGS

The Subcommittee on Telecommunications, Consumer Protection and Finance devoted extensive oversight to this issue during the last Congress. We reviewed trade data supplied by respected international trade economists, the Congressional Research Service, the Office of the U.S. Trade Representative, the Department of Commerce and others. After a review of the data, one simply cannot make a case for the argument that U.S. trade has suffered measurably as a result of the act. The data developed is available to any Member of Congress who wishes to review it.

We reviewed the enforcement record of the SEC and Department of Justice and worked with legal experts. After reviewing these records, one cannot make a case for the argument that innocent businesspersons are being prosecuted for inadvertent law violations. Indeed, there have been only five bribery cases brought in 5 years by the Department of Justice and the SEC, and virtually all accounting cases brought by the SEC have involved major violations of other securities laws, including the antifraud laws.

We reviewed the legislative history of the act and found that Congress intended that bribery prosecutions should be brought only when corrupt payments were made and that standards of reasonableness underlie the accounting provisions.

We talked with hundreds of businesspersons. It was clear from our review that the problems of most members of the business community were based on misperceptions about what the act required. Thus, I believed it was far more responsible to provide reassurance about the reach of the law, rather than substantially rewrite the law. I worked to develop report language to accomplish this. When Senate Members urged that statutory changes were essential, my staff and I spent much of the last 4 months of the 97th Congress in efforts with the Senate to reach suitable statutory changes that would accomplish that goal of reassurance, yet retain the purpose of the law.

As this Congress began, I was hopeful that we could return to those talks, in an effort to allay the perceived, if unjustified, fears of the business community about the act. Unfortunately, the bill reintroduced in the Senate, as well as the bill introduced by Mr. MICA in the House, totally ignores the progress made in those discussions.

A BILL TO REPEAL THE ACT

The drafting of H.R. 2157 reflects a lack of expertise regarding the role of the SEC and the purpose of the act. I am submitting for the record the letter from Chairman DINGELL which describes some of those problems in the bill. If passed, this bill would be nothing more than another lawyers' relief act, creating more ambiguity and confusion for American companies. From the obvious loopholes created by these amendments, it is clear to me that this effort at clarification is tantamount to a repeal of the law.

Certain provisions of this bill create exceptions to the bribery provisions which would in effect gut the act and make it unenforceable.

Section 8A(b)(4) of the bill states that the bribery prohibitions would not apply to:

> * * * any expenditures, including travel and lodging expenses, associated with the selling and purchasing of goods or services or with the demonstration of products* * *."

I would ask sponsors of the bill if they believe that a million dollar bribe to a head of state in order to win a multimillion dollar contract could be prosecuted in light of this exemption. A good defense lawyer would simply claim the bribe was an expenditure associated with the selling and purchasing of goods and services. I can think of few bribes that would not fall within this exception.

There are other exceptions which are equally broad and vague. For example, the bill exempts a payment labeled a "gift" or "token of regard or esteem, " no matter what the value of that gift or level of the foreign official receiving it.

Another example of exemptions from the bribery prohibition is the exemption for a "facilitating or expediting payment to a foreign official," without regard to the size of the payment or level of official. Under this provision, the bribes paid to the Mexican officials in the Pemex/Crawford Enterprises case recently brought by the Justice Department could be characterized as "facilitating payments," as could numerous other bribes disclosed in the foreign payments scandals of the 1970's.

The impact of these exceptions will fall most heavily on honest American businesspersons. Unscrupulous businesspersons will interpret these exceptions broadly and revert to the practices that were prevalent before the act was passed. Some will take advantage of these loopholes, not merely to compete against foreign companies but to take advantage of U.S. competitors who find bribery repugnant.

This bill also would gut the provision which prohibits payments made through third parties—the way most bribes are done. The bill would hold a U.S. firm responsible for a bribe paid through a third party only if the U.S. firm would "direct or authorize, expressly or through a course of conduct," payment of a bribe. What would a company have to do in order to "direct or authorize" a payment? This broad, vague language would be used by unscrupulous businesspersons to take a "head in the sands" approach simply by paying large commissions to third parties and denying that they directed or authorized the payment of bribes to government officials.

The term "course of conduct" is confusing. Is it two payments? Is it more? The term is found in only a handful of other Federal statutes and there is virtually no judicial interpretation of the phrase that would give guidance to businesses.

Passage of this bill or similar legislation would send the wrong message to both the business community and our international trading partners. The change in the name of the law to the "Foreign Trade Practices Act" would send the message that the U.S. Government is unconcerned about bribery—even to the extent that corruption would be called another name. Let us call a spade a spade.

In the past, all parties calling for amendment of the FCPA agreed that we should maintain the intent of the law—to prohibit bribery. However, with the introduction of H.R. 2157 and S. 414, it is clear to me that the effort to clarify the law now has become a campaign to repeal our antibribery law and its mechanics of enforcement.

If that is not the case, then the bill is ineptly drafted. If the scandals of domestic and foreign payments had not been so serious in the mid-1970's, this careless drafting would be simply laughable.

IMPACT OF THE CURRENT LAW

The FCPA has dramatically reduced the number of revelations of bribery of foreign government officials. Moreover, the act has provided a means to sanction U.S. firms for behavior that could impact on U.S. foreign policy efforts. The recent scandals involving the bribery of Pemex officials in Mexico indicates the important role of the law. Mexico is a neighbor, an ally, a major trading partner, and a country seeking to reducing the level of Government corruption. U.S. firms that seek to undermine that effort should be prosecuted and firmly punished.

There are benefits of the law other than preventing bribery and providing a means to punish those who engage in bribery. American diplomats overseas have noted that the law has benefited U.S. businesses who, in their dealings with certain foreign governments, can point out that the FCPA calls for a higher standard of behavior on their part than their foreign competitors. American companies say they have been able to resist requests for payoffs from certain foreign officials by pointing to the constraints of the law. Amounts not spent for bribes abroad have been kept for the benefit of American shareholders at home. One major multinational company told me that its chief foreign competitor was thrown out of a country for bribing an official, and the American company, as a result, won a multimillion dollar contract.

Just as important, however, has been the impact of the accounting provisions of the act. The SEC has had responsibility for reviewing issuer financial statements since 1934 and has had oversight over private sector accounting since 1937. With passage of the FCPA in 1977, the SEC was given another important enforcement tool. The SEC has testified before my subcommittee that, in times of economic downturn, the propensity for fraudulent activities involving financial statements is greater.

Recently, the SEC has brought a number of significant accounting cases involving exaggerations of company sales and assets, failure to keep adequate records, misappropriation or diversion of corporate assets, improper valuation of inventories, unauthorized management perquisites and other cases, in which violations of the accounting provisions of the FCPA have been alleged. In a total of 24 enforcement actions since 1977, violations of the accounting provisions of the act were alleged. Officials of the Division of Enforcement have identified the FCPA as a very important enforcement tool of the Commission. This important tool cannot be shifted to the Commerce Department except at great expense to the SEC's enforcement program and to confidence in the American capital markets.

Moreover, to change the accounting provisions to those suggested in H.R. 2157 and in S. 414 would send the wrong message to the business community. Both bills would remove the criminal liability for FCPA accounting violations, limit cases against individuals to only where the enforcement agency could prove knowledge on the part of the individual, and create other gaps and loopholes that would tell corporate America that Congress is no longer serious about accounting controls and accountability of public companies to their shareholders.

The impact of this on middle and lower level management of corporations is especially damaging. SEC Commissioner Treadway has recently spoken about the increased problem of corporate "cooked books" resulting primarily from activities of middle and lower level management struggling against an economic downturn to meet profit goals set by top management. The Commissioner has pointed to cases where middle and lower level managers and entire divisions have adopted the attitude that "the outright falsification of books and records on a regular, ongoing, pervasive basis is an entirely appropriate way to achieve profit objectives."

The Commissioner further states:

> If we look at the 1970's sensitive payments cases, indeed, if we go back to the 1950's price fixing scandal in the electrical equipment business, we see many of the same circumstances which have caused "cooked books." These included competitive pressures, the inevitability of operating "close to the line" in some areas of the law, the difficulty of resisting long-established operating practices, an emphasis on short-term profits . . . the inability or unwillingness of top management to monitor or scrutinize activities at these levels, and perhaps some insensitivity to signs of illegality.

We indeed should be wary of changing this important law when the need for it domestically has never been greater.

CONCLUSION—OUR LONG-RANGE INTEREST

I am very concerned about the competitiveness of U.S. goods and services in international markets. At the time of the scandals of the 1970's, Congress did not ignore the potential impact of bribery on our foreign commerce. However, Congress determined that it was not in our national interest to gain business that could only be gained by paying bribes. Then Secretary of the Treasury Michael Blumenthal testified that the paying of bribes "is simply not necessary to the successful conduct of business in the United States or overseas," noting his own experience at Bendix. SEC Chairman Hills further testified:

> Indeed, we find in every industry where bribes have been revealed that companies of equal size are proclaiming that they see no need to engage in such practices.

Congress concluded that the payment of bribes is bad business practice:

> It erodes public confidence in the integrity of the free market system. It short-circuits the market place by directing business to those companies too inefficient to compete in terms of price, quality or service, or too lazy to engage in honest salesmanship, or too intent upon unloading marginal products. In short, it rewards corruption instead of efficiency and puts pressure on ethical enterprises to lower their standards or risk losing business.

Bribery of foreign officials by some American companies casts a shadow on all U.S. companies.

It is easy to look for quick fixes in a time of economic recession. But allowing American companies to bribe in order to win overseas contracts will only lead to our demise in the long-run. Payments made overseas are better put to use in investing domestically to make our goods competitive in markets at home and aboard and to put our people back to work by training them for productive employment.

In hearings before the Congress during the height of the bribery scandals of the 1970's, we saw the real tragedy of the American business practices abroad. We saw that we were teaching America's best young people that, to get ahead in the business world, they had to cut corners, walk close to the line, and pay bribes to win business.

As we look for a way to bring this country back into its leadership of world markets, we do not want to teach our brightest young talent that they should look for the quick fix—that they should return to the practices of the 1970's to win overseas trade. We need to train them and encourage them to develop both the ethics and the skills that will benefit us in the long run.

Let me end by saying that the FCPA is not a trade issue. It is not merely a chauvinistic attempt to impose U.S. will on the customs and practices of foreign countries. And it certainly cannot be viewed as a means by which honest businesspersons are prosecuted for de minimus or inadvertent errors. That is just not happening.

It is a law that serves important foreign and domestic policy concerns. As such it should not be hastily amended or discarded.

An analysis follows:

Analysis of the Legislation

A. THE ACCOUNTING PROVISIONS

1. Problems To Be Addressed

With respect to the accounting provisions of the FCPA, the great majority of concerns articulated by the business community fall into three areas. First, it is believed that the accounting provisions call for a degree of perfection impossible to attain. Second, the fact that there is potential criminal liability for violations of the accounting provisions troubles some businesspersons, because the degree of accuracy called for by the FCPA is believed to be so high. Third, the current statute is silent on the liability of a parent company for the acts of a non-wholly-owned subsidiary. Three business concerns stem primarily from misperceptions about the Act, its legislative history, and the policies of the SEC, which is largely responsible for its enforcement.

The 1977 Senate Report noted that the establishment and maintenance of a system of internal accounting controls is an important management obligation and a "fundamental aspect of management's stewardship responsibility." However, the report recognized that "no system of internal controls is perfect, and that there will always be room for improvement."

The Senate report also noted that "management must necessarily estimate and evaluate the cost/benefit relationships of the steps to be taken in fulfillment of its responsibilities under this paragraph."

Still, the House conferees were concerned that the standard for accurate books and records in the Senate bill "if unqualified might connote a degree of exactitude and precision which is unrealistic." For that reason, the Conference report stated that the phrase "in reasonable detail" was added to qualify the recordkeeping provision.

Thus, in contrast to the fears and criticisms of the FCPA, it is clear that both the language of the statute and the legislative history reveal Congressional intent that corporate management should not be held to a level of perfection that is unrealistic, nor should companies incur costs in developing systems of internal accounting controls that may far exceed the benefits.

Based on these and other considerations, I believed statutory amendments were not necessary to meet the concerns of the business community. What was needed, instead, was to make the business community aware of the intent and meaning of the law: that there would be no liability for inadvertent errors, nor where a domestic company did not control a foreign subsidiary, but was effectively only an investor or junior partner in it. However, in the interest of providing reassurance to the business community of that intent and meaning, the proposals in the bill I introduce today place these concepts in the statute itself.

2. Prudent Businessperson Standard

The prudent businessperson standard addresses concerns raised that corporations might be held liable under the accounting provisions for inadvertent or de minimus errors. As stated above, this, of course, has not happened, as the record of the SEC in enforcing the Act makes clear. However, this amendment codifies those concepts inherent in the terms "reasonable assurances" and "reasonable detail." The standard with which an issuer's books and records and internal accounting controls would be measured is that of a prudent businessperson in like circumstances.

3. Cost/Benefit Measurement

Cost/benefit assessments are inherent in the concept of reasonable and prudent business activities. Moreover, the 1977 Senate Report on the FCPA made it clear that "management must necessarily estimate and evaluate the cost/benefit relationships of the steps to be taken in the fulfillment of its responsibilities under (section 13(b)(2))." The SEC's 1981 statement of policy reiterated this view.

4. Extent of Parent or Affiliate Company Liability

The current FCPA is silent on the question of liability of an issuer for violations of the accounting controls and books and records provisions by non-wholly owned subsidiaries. Liability undoubtedly would be found under the statute where an issuer controlled the subsidiary, and control would be a factual question.

This amendment states that where an issuer does not control the subsidiary, the issuer need only show that it proceeded in good faith to use its influence to cause the subsidiary to comply. (Of course, if an issuer/subsidiary relationship is structured solely or primarily to permit the issuer to escape liability under this provision, the issuer would not meet the requirement of good faith).

5. Criminal Liability

Although the Senate bill and the Mica bill remove criminal liability for violations of the accounting provisions, I believe it is appropriate to leave criminal liability in place, particularly in view of the increasing numbers of accounting cases brought by the SEC involving serious failures of accounting controls, "cooked books" and other major violations. To eliminate criminal liability at this time would send precisely the wrong message to potential wrongdoers.

B. THE BRIBERY PROVISIONS

1. Problems To Be Addressed

The major criticisms of the bribery provisions of the FCPA have been that they are not clear with respect to "grease payments"—small payments to lower level officials to perform routine activities, such as unloading goods at a dock; and that companies have difficulty determining the extent of their responsibilities with respect to bribes paid by their agents, under a provision of the law that prohibits payments made "corruptly" to "any person, while knowing or having reason to know" that the payment will be passed on to a foreign government official or political party official.

2. Exceptions for Grease Payments

The legislative history of the FCPA states that the Act: "does not . . . cover so-called 'grease payments' such as payments for expediting shipments through customs or placing a transatlantic telephone call, securing required permits, or obtaining adequate police protections, transactions which may involve even the proper performance of duties."

The definition of "foreign official" was intended to further distinguish payments of this nature:

> In defining "foreign official", the committee emphasizes this crucial distinction [between prohibited payments and "grease" payments] by excluding from the definition of "foreign official" government employees whose duties are "essentially ministerial or clerical."

As the 1977 House Report made clear, although such "grease" payments may be reprehensible in the United States, they may be a way of life in other parts of the world. Moreover, any prohibition encompassing this type of petty corruption would be exceedingly difficult to enforce, not only by government prosecutors but by company officials themselves. Thus, while such payments should not be condoned, they may appropriately be excluded from the reach of the Act. It is clear, however, that major activities, such as the awarding of contracts, no matter how "routine," were not intended to be excepted, nor should they be.

Critics have complained that "grease" payments are not clearly excluded, because the payments are defined primarily in terms of the official receiving the payments and not in terms of the purpose of the payments. Some have suggested that the FCPA should be rewritten to focus on the purpose of the payments, instead of the recipient. After much review of this issue, I disagree.

It is clear that payments to lower-level officials with little decision-making authority do not have the same foreign policy implications as do incidents involving high-level officials. That was the purpose of excluding them from the original Act. The bill I introduce today further defines and clarifies the level of foreign official to whom a payment could have a significant impact on our relations with the government involved.

The bill therefore further defines the terms "ministerial or clerical," as used in the current law to describe a level of foreign government employee who does not have the authority to make judicial or legislative decisions for a foreign government, enter contracts or make other significant policy decisions on behalf of the foreign government, or influence those who do.

3. Liability for Payments Made Through Third Parties

The bribery provisions of the current law prohibit bribes paid 1) to foreign government officials; 2) to foreign political party officials; or 3) to "any person, while knowing or having reason to know" that the bribe will be passed on to a foreign government official or political party official. Much criticism of the FCPA centers on "reason to know."

The experiences of the 1970's demonstrated a clear need for a provision barring bribes paid through third parties, in view of the host of cases involving companies that used agents as conduits for illegal payments. The Congress in 1977 determined that it would not permit companies to do through agents what they could not directly—to take a "head in the sand" approach and attempt to remain free from liability.

The Subcommittee's oversight hearings and review of data for those hearings points to the continuing need for such a provision. In October, 1981, the Justice Department reported to the Subcommittee detailed information on its cases involving allegations of foreign bribes.

In 18 of 27 cases in which the means to accumlate funds could be determined, the funds were accumulated through the use of agents. In 19 of 32 cases where the means to make payments could be determined, payments were made to foreign officials through agents or brokers.

In the last Congress I undertook to determine whether the present wording of the statute was fair. My review involved discussions with numerous lawyers, review of current literature on the FCPA and extensive research by CRS on decided cases interpreting "reason to know" as well as other terms in the statute. I concluded that statements made by some prosecutors soon after the Act was passed, and continuing statements made by cautious lawyers and by critics of the Act, have raised fears where none should be.

A simple reading of the words of the statute should make my point. To bring even a civil case, a prosecutor must prove:

(1) the company, officer or employee,

(2) used a means or instrumentality of interstate commerce

(3) corruptly

(4) to pay or offer or promise to pay something of value

(5) to a third party

(6) while knowing or having reason to know

(7) that a payment, etc. would be given or promised

(8) to a foreign official or political party official

(9) for purposes of influencing an act or decision of the foreign official

(10) in order to obtain or retain business.

A prosecutor must prove all of the above just to bring a civil case, and must prove it by a preponderance of the evidence.

Moreover, to prove a criminal case, a prosecutor must prove all of the above and, in addition, must prove the violation beyond reasonable doubt.

Critics of the law overlook not only the plain words of the statute but also the cases interpreting those terms. I must question the reasoning of those who suggest that a person can be prosecuted by a mere showing of "reason to suspect" (or one "reason to know" in the face of several "reasons to know") that a payment will be passed on as a bribe.

During the last Congress, I repeatedly asked critics of the provision for alternative language that would reach the essential conduct "reason to know" was intended to address, i.e., the "head in the sands" conduct. What was suggested in its place was language that would substantially change the law, and permit corporate executives to, again, escape liability by merely turning their heads. The bill introduced today does not alter the "reason to know" language, because it is not intended to change the law.

Congress should think long and hard before this provision is substantially changed.

C. IS A STRENGTHENING NEEDED?

The bill I introduce today deals with the perceived ambiguities in the current law by attempting to identify the meaning and intent of the existing law. It does not, and is not intended to, change the state of the law. Recently, however, responsible commentators have suggested that strengthening amendments may be appropriate, in the form of amendments to the FCPA or to other securities laws.

For example, in view of the increasing incidences of serious breakdowns in corporate accounting controls in public companies, the following suggestions have been made:

1. Increasing direct individual liability for violations of the accounting provisions of the FCPA and certain other securities laws. (At present, individuals are reached only under the theory that an individual "aided and abetted" an issuer's violation.)
2. Adding statutory authority for the SEC to seek civil fines for corporate officers and directors for securities law violations.
3. Codifying SEC rules under Section 13(b) of the Exchange Act relating to the falsification of accounting records and the making of misleading statements to auditors.
4. Preventing individuals previously enjoined for violations of the federal securities laws from serving as directors of all public companies, as they now are with respect to serving as directors of investment companies.
5. Empowering the SEC to proceed against corporate officers under the theory that they "failed reasonably to supervise" other employees under their supervision, as is now the case with officers of broker-dealers.
6. Adding statutory requirements for independent directors on corporate audit committees.
7. Adding a statutory requirement that all public companies make affirmative statements to their public shareholders regarding the adequacy of their internal accounting controls.
8. Substantially increasing penalties for violations of the Act.

With respect to the bribery provisions of the FCPA, some may be unaware of the present gap in the statute, which is technically limited to bribes paid to obtain or retain business, or to direct business to any person. A narrow reading of the statute would seem to permit bribes paid to receive favorable legislation, for example, or favorable tax treatment, as was the case in the bribes paid to the Honduran official in the United Brands case.

On a broader scale, perhaps we should provide federal "whistle blower" protection for employees who discover corporate fraud and report it to enforcement officials.●

THE MX's NEW CLOTHES BY ANTHONY LEWIS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. OTTINGER. Mr. Speaker, I would like to call to the attention of my colleagues an excellent column by Anthony Lewis that appeared recently in the New York Times. Mr. Lewis outlines the danger the production of the MX missile presents to our great Nation and the tremendous waste of capital this project represents.

[From the New York Times]

THE MX's NEW CLOTHES

(By Anthony Lewis)

BOSTON, April 20.—The argument now being made by President Reagan for building the MX missile is an extreme example of a strange new phenomenon in American statecraft. Our leaders have taken to poor-mouthing the country: announcing how weak and vulnerable it is. The world will not respect us, they say, unless we show our resolve by doing something foolish and dangerous.

It may have begun with President Nixon's warning that the United States would be a "pitiful, helpless giant" unless it intensified the Vietnam War. Then toward the end of that war came Henry Kissinger's self-domino phase: dramatizing the disaster by his insistence that U.S. credibility depended on pouring more into the sinkhole.

Ronald Reagan has poor-mouthed our nuclear strength. As candidate and President, he said the country was open to attack by Soviet missiles through a "window of vulnerability." He suggested that the United States had in effect "unilaterally disarmed" by doing nothing for years while the Russians built up their nuclear armory—when in fact the U.S. put multiple warheads on many missiles, started building Trident submarines, developed cruise missiles and so on.

The MX was supposed to close the "window of vulnerability": the fear that a surprise Soviet attack could knock out our land-based missiles in their silos and that, thus disarmed, America would have to give up. A fleet of MX's, each with 10 warheads, would be invulnerable to surprise attack because they would be mobile, or based in a way that assured their survival.

But the premises of that argument are now officially dead. The Scowcroft commission, in its report to the President, dismissed the "window of vulnerability." A massive surprise attack is deterred, the commission said, by the "operational uncertainties" of such a venture—and by Moscow's knowledge that the U.S. would still have thousands of nuclear weapons on bombers and in submarines to retaliate.

The idea that the MX can be made invulnerable was also dropped by General Scowcroft and his colleagues. After all the frustrating years of effort to find a magic basing mode for the huge missile, they concluded that there was none. They suggested that future land-based missiles should be small and mobile.

The premises were gone, but the commission still recommended the MX. The proposal now is to build 100 of these costly weapons, designed to meet a need that has been found nonexistent, and put them into Minuteman silos where on the Administration's past arguments they would be vulnerable. Senator John Tower, an MX advocate, said in 1981 that MX's in fixed silos would be "sitting ducks."

They would also be destabilizing. The MX is a first-strike weapon, one that the Russians will see as having the potential of a surprise attack on them. If a moment of tension comes, if the Russians are misled into thinking we are about to launch, they might be tempted to hit the MX's first. And because the missiles are not survivable, we might prepare a hair-trigger response.

Why would the Scowcroft commission, and then the President, go for such an unstable, unneeded weapon system? The answer lies not in logic, but in politics. In the age of nuclear weapons, proposed new systems develop a momentum of their own. There is a military-industrial complex in both the United States and the Soviet Union.

McGeorge Bundy, in a brilliant analysis of the Scowcroft report, said the unspoken gist of it was that we must have these weapons because the Russians do: "Never mind their contribution to instability in crisis; never mind what the Russians will build in reply; never mind what else you could do with $15 billion . . .; never mind that Soviet advantages on land are fully matched by our superiority in the air and under water."

Brent Scowcroft is a humane and intelligent man. He found himself, I think, in a framework from which he could not escape: the universal awareness that President Reagan had appointed the commission to find some way of getting the MX through Congress. Its task was political. And in the end General Scowcroft fell back on the new politics of fear.

We have to build the MX, he said in an interview, "to demonstrate U.S. national will. If we back away from it now, it will underscore our paralysis for both our opponents and our friends." President Reagan echoed that, saying we had to "demonstrate our resolve, our national will." In short, to make the world believe us, we have to press obsessively on with an expensive and dangerous folly.

How nice it would be if we had a President who could say: "The United States is a confident country. We do not need to prove our strength, to ourselves or others, by persisting in mistakes. We are strong enough to act, not in reflex but in wisdom.●

A LEGACY

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. MOORHEAD. Mr. Speaker, on Washington's Birthday a dear friend of mine, Mrs. Eadeth Daum, gave a thoughtful, patriotic speech to Glendale Beautiful on the creation and meaning of the Great Seal of the United States. I would like to share it with my colleagues in the House.

A LEGACY: THE GREAT SEAL OF THE UNITED STATES

(By Mrs. Eadeth Daum)

Let me share with you a Legacy! Less than one year ago, "On June 15, 1982, the then Secretary of State, Alexander M. Haig, Jr., hosted a special ceremony commemorating the 200th Anniversary of the Great Seal of the United States." This was held at the Department of State Building, in the Exhibition Hall. A very distinguished occasion, it was observed accordingly.

The Postmaster General of the United States was present, presenting a "First Cover" envelope honoring this date. At the same time the General Counsel of the United States Capitol Historical Society presented the Secretary with their 1982 Commemorative Medal:—one side of which is devoted to this unique 200th Anniversary of the Seal, and the other to the 250th anniversary of George Washington's birth, which we also recognise—this month. Anyone may go to the State Department, in Washington, D.C. and see the Seal.

Today, we—here in Glendale—not only honor the revered Father of our Country, but also share with you the Legacy of our Founding Fathers, as expressed in The Great Seal. Much has been written about its Obverse Side, with The Eagle and the Shield, etc.; very little said about the Reverse Side.

It is significant that the desire of those men who signed the Declaration of Independence, and motivated the final designs of the Seal, was spiritual:—to express Deity's Presence and Guidance.

The Declaration had closed—"with a firm reliance on the protection of divine Providence". The newly-achieved Seal displayed this reliance. You will see that recognition was given for the final, completed work, to Charles Thomson, at that time Secretary of the Continental Congress. In this capacity he daily recorded the many steps attending the Birth of our Nation.

In June of 1782 the designs were adopted by Congress and ratified by the several states. This official act marked the second step in a triad of major importance in the formative history of our United States. Of course, the third step was the signing of our Constitution, on September 17, 1787. The earliest known document to carry the Great Seal of our new Country was on an order to General Washington by the Congress on September 16, 1782 (shortly after its adoption).

In December of 1952 the Declaration of Independence, the Constitution of the United States, and the Bill of Rights—as our Nation's "Charters of Freedom"—were accorded special protection by enshrining them in the National Archives at Washington, D.C. Here may be seen and read the following inscription:—"The Heritage of the Past is the Seed that brings forth the Harvest of the Future".

On the reverse side of the Seal, the symbolic idea of an Unfinished Pyramid, surmounted by the "All-Seeing Eye of Providence" (or Deity) is assuredly a "heritage of the Past". These truly were to inspire and prophesy "a Harvest of the Future". More than all others the Greal Seal of our Country ranks first in importance and authority. It represents the United States in its official capacity, and will be found in our Embassy in every nation abroad, where we are represented, indicating our Government's authority in action. Because it does represent US ("We, the people") it is our Seal. We should have as great interest in it as we have in our "Charters of Freedom". We should be as aware and proud of this Symbol as we are of our Flag, and understand its dual role.

Many of you have travelled abroad. During the fiscal year of 1982, ending September 30th, there were over 3,500,000 Passports issued to Americans to travel outside of our Country. Do you know what appears on the front cover of each Passport? As we travel abroad we have the privilege of claiming asylum in the U.S. Embassy of whatever nation we visit (should it be necessary).

What a Legacy of protection our Founding Fathers provided.

The reserve side of our Seal has borrowed from two world famous devices to bring to our remembrance that we are, indeed, "A new Order in The Ages"—as stated on the Seal. The Unfinished Pyramid recalls the Great Pyramid of Egypt, at Gizeh. It is said to be the largest monument ever erected by human hands, and "covers approximately 13 acres of land". Much has been written about it; it is enshrined in the Egyptian "Book of the Dead". Its origin is still a mystery; but its multitudinous mathematical facts indicate exact computations of long, long ago—before anyone thought of electronic wizardry. One thing must be said, that the Pyramid, the Great Pyramid of Egypt originally was complete, with a Cap-stone of dazzling whiteness.

The second important fact of the reverse side is the Eye of Providence within a triangle, surrounded by a Glory. According to archaeology the eye-within the Triangle is a symbol in use over 50,000 years past, to indicate God looking out of Heaven upon His Creation.

The preeminent characteristic of this Nation from its inception has been its acknowledgment of and Trust in God (as witness our coins and dollar bills.) We are the first and only Nation to acknowledge "In God We Trust", by placing these words on the coins we use. This was first done on April 22, 1864, by Act of Congress; a further influence of the Seal. The action was taken at the suggestion of the Hon. Salmon Chase, Secretary of the Treasury under Abraham Lincoln. A 2¢ piece was the first coin to carry this message, after Mr. Chase had stated, "Our coinage should bear a motto expressing, in the fewest words, that no Nation can be strong except in the strength of God." And so, the evidence of this Nation's faith in God was re-affirmed. We also acknowledge and revere with gratitude our great Emancipator.

This Eye of Providence was well known to King Solomon of Biblical times. Certainly it was logical for those entrusted with evolving a Great Seal for our Nation, to seek for both a symbol to picture the authority of God, and also recognize a strong base—reaching to the "four corners of the earth", for—of course our peoples do come from the same. This symbol indicates that our Nation, and all who come here, must help to complete it by seeking an understanding and guidance of Deity. The broad base of the Pyramid also indicates the strength and duration of our land.

By choice of this most ancient symbol for Deity (the Eye of Providence) no religion would be accented, none left out. All may worship as they will.

We recall that to Moses God had revealed Himself, and declared His name to be I am, saying this would be His memorial to all generations. This is the One I Am, of whom Man is the reflected expression. As this remarkable device is symbolic of our Nation, so it is the symbol for every man, reminding us of the author and source of our being.

If one would benefit most from our Inheritance from the Past, and the great Legacy left to us by Benjamin Franklin, John Adams, Thomas Jefferson, and—yes—George Washington, we should embark on a travel through the Scriptures, and trace this "Eye" for ourselves. However, first—let's think back again to last year! The time is September, and both Houses of Congress approved a resolution authorizing and requesting President Reagan to declare 1983 the "Year of the Bible"—("in recognition of both the formative influence the Bible has been for our Nation, and our national need to study and apply the teachings of the Holy Scriptures").

So—to begin such a "Travel" as mentioned, it would be with the First Book of the Scriptures, in the First Chapter, where we find these words: ("God said, Behold I have given you.") This adventure of individual travel will exact continuing remembrance of the reverse side of our seal, reminding ourselves—as the Seal says—that "He prospers our beginnings——", as He did for mankind throughout the Biblical record. We may trace this all-seeing Eye (or ego) through every book of this inspirational compilation. Also, it is worthy of note that the "Glory" is mentioned more than 380 times in the scriptures. It was well known to our Founders, and we remember that acknowledgment of his glory closes the great Prayer of Christendom.

In researching the reverse side of the seal a strange fact comes to light. Although in the Bible there is ample reference to Egypt, no mention is made therein of the Pyramid! It is the Word of God which has pre-eminence throughout. On the Seal it is not the Pyramid which is surrounded by the glory, but rather the Eye of Providence. Could this signify that all material achievement (from the broad base of "the four corners" of our material world) will fade, as they have faded, into less significance—as man turns his thoughts above the earth to his divine source?

Perhaps we may conclude that the National Symbol of our identity is pregnant with meaning for us all.

The same glory that surrounds the seeing Eye of our Seal shines thoughout the Scriptures, even to "The Morning Star" which closes the last Book, or Revelation. That light has shown on through the ages:—through tragic days of earliest Christianity, through the Inquisition, the Dark Ages, the wars and turmoil of the past almost 2,000 years. And yet, the determination to be free to worship Deity as we will finally culminated in the Revolutionary War, and our subsequent history. The birth of our Nation was followed by an unprecedented surge in Literature, Poetry, Art, Invention, and Spiritual inspiration and revelation.

Our Founding Fathers have given to posterity, with our SEAL, a great Legacy from the Past. It is a Talisman for our future. We, in Glendale Beautiful, benefit from its bequest by our connection with our City Government—at local level—having two of our Members in our City Council; and with our National Government—with a Congressman who lives in Glendale, and who secured for us the copies of our Great Seal, which you have—together with its Brochure. He and all Members of Congress are Members of the U.S. Capitol Historical Society.

As we contemplate, today, in our human existence (beset with instant communications, electronics that boggle our thinking, and the somber threat of atomic destruction)—as all this swirls about us—let us remember always the one who said he was the light of the world; the One who brought Light and the hope of continuing Life, to mankind, for he said "I and my Father are One;" and also these words of his (in the New Testament)—"I will never leave you", and "Lo, I am with you alway, even unto the end of the world".

Friends: our Great Seal of the United States is also our assurance that no human adumbration, or machination of material thinking can obliterate the all-seeing Eye of Providence, and His Glory. This is our Legacy; our Heritage from the Past.●

OFFICIAL ENDS 41 YEARS OF PUBLIC SERVICE

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. COUGHLIN. Mr. Speaker, I am proud to call to the attention of my colleagues the public record of the Honorable A. Russell Parkhouse, Abington, Pa., who was honored at a testimonial dinner last month after 41 years of public service.

Russ Parkhouse served for 19 years as chairman of the Montgomery County, Pa., commissioners, the governing body for a county of more than 650,000. He served previously for 22 years as Abington Township treasurer.

In compiling his remarkable record, Russ Parkhouse set a high standard for public officials at every governmental level. His accomplishments were many and significant. At a time when public officials are undertaking ever more and agonizing decisions, I cite Russ Parkhouse's record as an outstanding example of what can be accomplished. I submit for the CONGRESSIONAL RECORD my letter to Russ Parkhouse which was read at his March 25, 1983 testimonial dinner:

> DEAR RUSS: As George Washington was father of our Country, surely you have been father of our County, leading its growth from a spindly colony of Philadelphia to Montgomery County, the key to the Keystone State.
>
> It has been said that there is more knowledge of our County in your head than in all the file cabinets of the Courthouse. It is true.
>
> It has been said that there is more understanding and love of the people of our County in your heart than in all of the bureaus of govenment. It is true.
>
> And, it has been said that there is more vision of the future of our County in your brain than in all of the politicians and planners. It is true.
>
> From a parochial estuary, you led Montgomery County to the headwaters of the mainstream as a prophetic, progressive, populist regional leader.
>
> You pioneered the regional concept.
>
> Always conservative, patriotic and sound in management of our County and our lives, you yearned for the unfortunate and reached out to leadership that was recognized nationwide.
>
> People of your courage and vision seldom stay so long upon the political scene. Your example challenges all of us to examine our individual and collective concepts of the future.
>
> We are inestimably the better for it.
>
> Godspeed.
>
> LAWRENCE COUGHLIN.●

U.S. POLICY TOWARD NICARAGUA

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. FRANK. Mr. Speaker, on the eve of the President's address to a joint session of Congress, presumably to build support for his Central America master plan, I would like to add my voice to the chorus of dissent challenging the wisdom, the legality, and the likely effects of United States policy toward Nicaragua. Not 4 months ago, the House passed the Boland amendment to the continuing budget resolution, which states in straightforward prose that both the Central Intelligence Agency and Defense Department are prohibited from providing any military equipment, training, advice, or support for any military activities for the purpose of overthrowing the Government of Nicaragua or provoking a military exchange between Nicaragua and Honduras. In simple language, the Congress told the President to "stay out of Nicaragua." It has become increasingly clear, however, that the spirit, if not the letter of the Boland amendment is being violated.

According to news reports, recently confirmed by President Reagan, the United States has been supplying "covert" aid to guerrilla bands in Nicaragua for the purpose of interrupting the flow of arms between Nicaragua and the rebel forces in El Salvador. The principal recipients of our military support, including arms, training, advice, and logistical support, has been the Nicaraguan Democratic Front (FDN), a group explicitly committed to overthrowing the Government of Nicaragua. The distinction between U.S. objectives in providing assistance and the purposes and ongoing actions of the recipients of the assistance is the "loophole" on which the President has been legitimizing our covert activities in the region while simultaneously circumventing the will of Congress. If the absurdity of such a distinction is lost on the Reagan administration it has not eluded former Director of the CIA Adm. Stansfield Turner. In Sunday's Washington Post, Admiral Turner urges an end to the covert operation in Nicaragua, in part because of the tendency that "the people the CIA enlists to do the covert work will not always have the same purpose as the United States," and the covert operations tend to "get out of control."

While I share the disappointment of many people with the human rights and civil liberties record of the Sandinistas in Nicaragua, these shortcomings in no way justify covert operations designed to harass, destabilize, and potentially overthrow the present government. Furthermore, it is neither in our national interest nor in the interests of our allies in the region to help promote a Vietnam-style war-without-borders in Central America. Unfortunately, our policy threatens to do just that.

Tomorrow night, the President will have a unique opportunity to focus the political spotlight on Central America. The problems with American foreign policy will not, however, be solved by rhetoric. I urge my colleagues to signal their opposition to U.S. covert activities in Nicaragua by supporting H.R. 1873, introduced by Representative MICHAEL BARNES. The clear, unambiguous intent of this bill is to close the alleged loophole in the Boland amendment.

It is the duty of the Chief Executive to formulate American foreign policy. There is no justification, however, for cynically disregarding the will of Congress and the law in the process.

When a former director and explicit "staunch supporter" of the CIA questions the wisdom of our covert activities in Nicaragua and speculates that the de facto consequences of our aid to the FDN may violate the terms of the Boland amendment, the allegations of impropriety take on added legitimacy. Adm. Stansfield Turner's thoughtful essay in Sunday's Washington Post not only raises troubling issues about the Nicaraguan affair, but sheds useful light on the inherent risks associated with any covert operation. I urge my colleagues to read Admiral Turner's article.

FROM AN EX-CIA CHIEF: STOP THE "COVERT" OPERATION IN NICARAGUA

(By Stansfield Turner)

> If the Central Intelligence Agency is as deeply involved in providing "covert" aid to guerrilla bands in Nicaragua as reports suggest, it has made a bad mistake. It would be wise to extricate itself from the operation before it gets into a head-on conflict with Congress.
>
> This would, of course, be painful for the CIA to do. It would have to walk away from people to whom it has made commitments, and it would endanger its reputation for reliability. In the long run, however, it would be in the best interests of the agency and of the nation.
>
> As a former CIA director, I do not say this because of the common contention that it is not our province to decide what is best for other nations. That is as superficial an argument as the one that we have the right to do whatever is seen as advancing our national interest. What is required is a careful judgment, in each case, of potential benefits and costs.
>
> There are circumstances, I think, in which covert operations are justified and in which—if they became public knowledge—they would cause little, if any, controversy. The Nicaragua operation, however, is not one of them. It risks substantial damage both to our national interests and to the CIA, especially in light of the growing dispute over whether the agency has violated the law, passed last December, forbidding it to supply military training, advice or sup-

port "for the purpose" of overthrowing the Nicaraguan government.

President Reagan, who has acknowledged U.S. support (but not specifically CIA aid) for the guerrillas moving into Nicaragua from Honduras, has said that our "purpose" is otherwise—to impede the flow of arms from Nicaragua to El Salvador—and that the law therefore, is not being broken. But one of the risks of any covert action is that it may get out of control.

One reason is that the people the CIA enlists to do the covert work will not always have the same purpose as the United States. Generally, their aim is to obtain political power for themselves as soon as possible. As the price for getting the support that we offer them, they may well accept the somewhat different purposes and timetables that we establish. But as a covert action progresses, they may well start working for their own objective, not ours.

The issue, then, is whether the CIA can control their activities by withholding arms, money or whatever. Such controls will work primarily in situations where large amounts of money or military supplies are essential to success. But in most cases, the people working for us gain sufficient momentum of their own at some point to go on without us if necessary.

Another reason covert actions can get out of control is that our own purposes change from those originally set. That could well be what has happened in this instance.

The CIA may have started out deliberately to undermine the government of Nicaragua, only to have the Congress prohibit that purpose. We should not forget that the Congress is notified of all covert actions and, hence, knew of this commitment probably a year to a year and a half before it adopted the restrictive amendment, sponsored by Rep. Edward Boland (D-Mass.), last December.

One way or another, that amendment placed the CIA in the difficult position of having to renege on commitments already made, or of trying to change the direction of covert action. Reneging is difficult because the people we have enlisted are already deeply committed. Changing direction is difficult because the people with whom we are working may not be willing.

A third reason covert actions get out of control is that the CIA people operating them can get carried away with their dedication to getting the job done. It was only in 1974 that Congress passed the Hughes-Ryan amendment requiring that Congress be notified of ongoing actions. And, it was only in 1976 that President Ford issued the first executive order controlling intelligence, including covert actions. Before these controls, the CIA operated covertly with much greater freedom.

There is no question that, as in the case of Nicaragua, the existence of these controls makes the task of covert action more difficult.

It was my observation, as head of the CIA, that quite a few of the "old hands" in the agency found it very difficult to accept the impediments that such controls imposed. I forced several dozens of them into retirement because the controls were the law of the land, or the orders of the president, and I needed to feel comfortable that the people doing covert action would obey them.

A large number of CIA retirees have apparently been called back into service to direct the Nicaraguan action. This raises the risk that the CIA's tradition of dedication to getting the job done may override strict compliance with the Boland amendment. Only the congressional committees on intelligence will be able to judge that when they hear in secret session the CIA's explanation of how it is controlling the Nicaraguan operation so as not to violate the Boland amendment.

I was frankly disappointed to observe how quickly the CIA professionals acceded to the desire of the new administration. They knew better than to undertake this covert action. They should have appreciated that it has virtually been ruled out by the new era of oversight and controls introduced into American intelligence since 1974. Whether these new controls are a good thing or not can be debated, but it is not difficult to understand why they limit the type of covert actions our country can undertake.

Essentially, we pay a price for notifying the Congress about covert actions under the Hughes-Ryan amendment. That price is the high probability that if the action is highly controversial it will leak and it will no longer be possible to undertake it covertly. Witness the fact that the public has long been aware that the CIA is involved in Nicaragua.

This is not to impugn the integrity of Congress. It is an inevitable result of our democratic process. The fact that the Congress had to pass the Boland amendment to curb the CIA's role in Nicaragua is indicative of the problem. That amendment is an open document, yet it gives away the fact that the CIA is doing something covert down in Nicaragua.

When the dust settles on this particular incident, we should decide ourselves whether the price of limiting covert action to noncontroversial objectives is worth it. I believe that it is.

Our country is still suffering from the devisiveness that developed over Vietnam, when national consensus crumbled. Covert action, by its very nature, can be very controversial. We would do well to proceed only where there is a good chance that there would be a national consensus behind that covert action if it became known to the public. After all, the innate wisdom of the American public's outlook is one of the cornerstones of our democratic system.

At the same time we need to avoid letting vocal minorities prevent our undertaking covert actions that the majority would approve. That could happen, I am afraid, if the notification to the Congress were too widespread. An amendment in 1980 to the Hughes-Ryan amendment narrowed the number of committees that are to be informed about the covert action from eight to the two intelligence committees. The record of those two committees, so far, is that noncontroversial covert actions are generally not leaked.

What kinds of covert actions might pass the test of national consensus?

One is covert propaganda, like radio broadcasts, which essentially tell the facts to countries that do not have anything like a free press. Such broadcasts can be much more effective if the hand of the United States behind them is concealed.

Another form of covert action that the majority would find acceptable is paramilitary support to groups struggling to avoid extinction at the hands of invading Russian or Cuban troops. Finally, there would be, I suspect, a consensus on attempting to unseat Khomeini or Qaddafi by covert means were that feasible.

This, the political action side of covert action, will always be the most controversial. What is required here is a careful judgment as to when our national interests are so likely to be damaged that we should consider destabilizing a foreign government.

In making such a judgment we should take into account whether a successor government would likely be better from our point of view. We also need to take into account that destabilizing governments is far more difficult today than in 1953, when we did that in Iran, or in 1954, when we did it in Guatemala. The revolution in communication since then has made it much more difficult to pull the wool over a populace's eyes, as we did in those cases.

That is why the congressional and public instinct on Nicaragua is correct today. We are not likely to get away with toppling the Nicaraguan government by covert means. Even if we do, though, it will likely by a pyrrhic victory. The other costs to us will be high.

Just the cost of our appearing to attempt to destabilize a government of Nicaragua are high because we are widely seen as sponsoring the return to Nicaragua of the supporters of the dictator Anastasio Somoza. This can only reduce our standing in the countries in this region where we have truly important interests: Mexico, Panama, Venezuela and Brazil.

If we worried about a domino effect engulfing these nations, we should be doing all we can to bolster the internal strengths of those countries. Being seen as supporting *Somocistas*, whether true or not, is a sure way to undermine our ability to play a supporting role.

Another cost that is very apparent in this case is that, when the operations verge on violating the law, the CIA is publicly accused of improper performance. Just the fact that several members of Congress have strongly suggested that the CIA is not complying with the law is very injurious to that agency.

Whether the charges are proven right or wrong is not the issue. The CIA has only recently recovered most of its deserved prestige and standing after the public disillusionment that arose following the various investigations of 1975-76. It is, then, damaging to have the public hear members of Congress suggest that the CIA may again not be complying with the law.

The agency's future is totally dependent on being able to recruit and retain a few of the very brightest of our young people. It cannot do that if it is periodically buffeted by public doubt as to the legality and validity of its activities.

If this administration truly believes that it needs the authority to conduct the type of activity underway in Nicaragua, even if most of the Congress and the public would be opposed to it if they knew, it must reopen the whole question of oversight and controls over the U.S. intelligence community.

There is a perfectly legitimate argument that the controls have gone too far. There are many of us who are staunch supporters of the CIA, though, who will argue that there are far greater risks to the future of that vital organization from any substantial relaxation of control than from continuation of the ones that we have.●

THE 68th ANNIVERSARY OF ARMENIAN MARTYRS' DAY

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1983

● Mr. **HUGHES**. Mr. Speaker, April 24, 1983, marks the 68th anniversary of Armenian Martyrs' Day, the 68th anniversary of the beginning of a campaign of genocide against the Armenian people.

The act of genocide—the deliberate and systematic destruction of a people because of their race, creed, or religion—is the act of a harsh, mechanical force, utterly devoid of the gentleness, compassion, and benevolence which we hold to be the very elements of humanity. There is no goodness in killing, and no redemption in genocide. There is only the shock of cruelty.

We must remember that shock. We must remember that the atavism, the cannibalism of mass killing is a possibility even today. Indeed, we must remember that genocide can become a reality as soon as we forget the shock. As soon as we allow ourselves to become complacent in the vigilance and the struggle for human rights and social justice, the terrifying specter of genocide begins to formulate.

On April 24, 1915, hundreds of Armenian religious, political, and intellectual leaders were arrested in Constantinople—now Istanbul—and either murdered or exiled. On that day, the forces of the Ottoman Empire began the first genocide of the 20th century. Over the next 7 years, the genocide of the Ottoman Empire continued. Those who survived the Ottoman's slaughter were sent into exile. More than a million and a half Armenians were massacred, their culture and national heritage practically decimated.

This year, on the 68th anniversary of what historian Herbert A. Gibbons called the blackest page of modern history, I rise to commemorate the Armenian people and Americans of Armenian descent. By preserving our memory of the Armenian martyrs, we pledge ourselves to a future free of destruction, for all peoples of the world.●

THE IMMORALITY OF NUCLEAR WAR

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. **LEHMAN** of Florida. Mr. Speaker, in recent months, we have witnessed increasing religious community involvement in the nuclear war issue. The moral implications of nuclear war are so great that rational examination of the nuclear threat must occur outside the centers of political and military power where ethical considerations are readily ignored.

I would like to share with my colleagues the words of Rabbi Ralph Kingsley of Temple Sinai of North Dade, who reminds us that the notion of a winnable nuclear war comes dangerously close to a policy that accepts the risks of a nuclear holocaust.

The sermon follows:

SERMON FOR MESSAGE OF ISRAEL

(By Rabbi Ralph P. Kingsley, Temple Sinai of North Dade, Fla.)

Thank you.

One of the oft quoted verses from the prophetic literature of the Hebrew Bible comes from the Prophet Zechariah: "Not by might, not by power, but My Spirit" says the Lord of Hosts.

With that beautiful utterance, the prophet meant to teach the people of his time—more than 2,400 years ago—that ultimate victory comes into the world not only through the exercise of raw, physical power, but that it comes also, and perhaps more lastingly through the God inspired force of the human will yearning and working for justice and peace.

Unfortunately, the world and its leaders have not paid much heed to the words of Zechariah over the years. The game of international politics has classically been played precisely by the exercise of might and power, and most of us have learned to live with that, if not always comfortably.

But what makes this time in history so much more precarious is that the exercise of power today, includes the ability of the two super powers, the U.S. and Soviet Union, literally to blow each other off the face of the Earth. Jonathan Schell has clearly demonstrated that fact in his frightening yet classic study "The Fate of the Earth." He warns us not only of the immediate devastation that a nuclear holocaust would cause, but of the longer range effects which might well render our earth unhospitable to human life. "The Peril of Human Extinction" is "an ecological peril" he writes "which exists not because every single person in the world would be killed by the immediate explosive and radioactive effects of a (nuclear) holocaust but because a (nuclear) holocaust might render the biosphere unfit for human survival . . . the nuclear peril is usually seen in isolation from the threats to other forms of life and their ecosystems but in fact it should be seen as the very center of the ecological crisis—as the cloud-covered Everest of which the more immediate, visible kinds of harm to the environment are the mere foothills . . . the question now before the human species therefore is whether life or death will prevail on the Earth. This is not metaphorical language but a literal description of the present state of affairs."

Yet, despite such forecasts and warnings by highly respected and responsible persons, the leaders in Washington and Moscow seem strangely unmoved, undismayed and undeterred. Billions continue to be poured into the research and development of more effective weaponry. Serious emphasis is given to the importance of a second strike capacity, as military and scientific stategists seriously plan for the exigencies of a nuclear war. One reads of evacuations plans, as if there would be a way to run from the devastation and of alternate postal service as if there would be anyone to whom the mail would be delivered.

What Folly! There can be no victory, military or political, in a nuclear war—not even for the munitions makers. There can only be mass destruction, perhaps beyond the ability even to repair the pieces.

I cannot believe that otherwise intelligent people are seriously engaged in contemplating ways to survive a nuclear war, as if there could be a victor. Such a discussion can only be termed a moral obscenity.

Little wonder that the issue of the nuclear arms race has so captured the religious community. An increasing number of churches and synagogues are holding seminars and retreats which focus on the moral and physical implication of nuclear proliferation.

While it is perhaps not surprising that so many main line religious groups, Jewish and Protestant, have joined in support of the call for a nuclear freeze, pressures from Washington to the contrary, it is indicative of the profound seriousness with which the problem of nuclear proliferation is viewed that has seen the normally conservative conference of Roman Catholic bishops issue a draft of a statement that calls for such freeze and for a phased reduction of nuclear weapons, on religious and moral grounds.

The ancient words of Zechariah have taken on a new life. "not by night, not by power, but by My Spirit says the Lord of Hosts."

Some months ago, on the occasion of my birthday, my older son gave me a powerful little book called Jenny. It was written by Yorick Blumenfeld, published in England in 1982. Blumenfeld is a survivor of the Holocaust, who was born in Amsterdam 50 years ago and spent his youth running away from Hitler with his parents, although not too successfully for they were interned in a concentration camp in Morocco.

The little volume is a fictionalized diary, written by a middle class English housewife who lives out a nuclear war in a bomb shelter with her children and other families. It is cursively caligraphied rather than "printed" as if to simulate handwriting, and contains pictures and doodles in the margins much as a diary might. The cover is black on black. Only the name—Jenny—stands out in red. You will be able to read it in a single setting.

What makes the book so powerful is its understatement. It does not pretend to be profound. Rather it is a cry for awareness, a reaching out to those who care, saying to them: "Do something while there is still time."

Let me share a few insights from the book. In one passage, after a discussion of the section of the biblical book of Genesis, Jenny poignantly asks: "What was the point of creation, if it ends in such a nuclear holocaust?"

In another passage, set down a year or so after the nuclear explosion, when at last the shelter is opened, Jenny describes what she sees: a land in which there were no birds. Indeed very few of the trees and shrubs had any leaves . . . they all looked as if burned or scorched . . . and then we noticed insects everywhere, swarms of them . . . beetles and bugs of all kinds."

Somewhat later, one reads a description of the town in which Jenny had lived, as a place devoid of human life, filled only with hideous rats and the bones of corpses . . ." And "where was food to grow—and how?" she asks.

And what of the children? Are their bleeding gums and swollen ankles due to the effects of radiation or from a bad diet caused by the lack of food, Jenny wonders.

Here, emerging from the creative imagination of gifted and concerned writer, is a statement of what he believes will result from the ultimate exercise of power. These brief remarks cannot begin to do justice to the subtleties and nuances of style that underline Yorick Blumenfeld's simple theme. But the message is so clear. Even if we survive a nuclear war, then what for? What will be left of our world? What will be left of us? And if one should be tempted to treat this work as nothing more than fiction, let me suggest that the fact that Yorick Blumenfeld survived one holocaust gave him, perhaps more credibility in his sensitivity to the real possibilities of another—even more dreadful, if that be possible, than the first.

The British edition of Jenny had an extra page added to the diary on which were added the words: "What are you doing to prevent such a tragedy?"

The late President Dwight David Eisenhower said in 1959, "I believe that people in the long run, are going to do more to promote peace than are governments. Indeed, I think that people want peace so much that one of these days, governments had better get out of their way and let them have it."

Yorick Blumenfeld himself, speaks of writing a sequel to Jenny titled: "You Can Do." In an interview in the Columbia University student newspaper, he is quoted as saying the following—which is perhaps, an apt conclusion to these remarks.

"I haven't turned to alcohol, I don't like drugs of any kind. The threat of nuclear holocaust is a problem one has to live with. I don't have any alternative. I must do whatever I can."

And so must we all—by educating and sensitizing ourselves to the overwhelming dangers that inhere in a continuing nuclear arms race, by resorting to political action in order to insist that our government proceed swiftly and seriously to continue the process of disarmament begun with SALT I; and by using our churches and synagogues as places which teach the moral implications of nuclear war, and which serve as catalysts for peace and preachers of the words with which we began these remarks. "Not by might, not by power, but by My Spirit says the Lord of Hosts."

The alternative is too grim.●

WHY THE PEOPLE'S REPUBLIC OF CHINA SHOULD NOT BE PART OF THE ASIAN DEVELOPMENT BANK

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. McDONALD. Mr. Speaker, there are many reasons, in my view, why Red China should not be admitted to the Asian Development Bank, but the other day I received in the mail, a letter from Gen. Ho Ying-Chin of the Republic of China on this subject. He is 93 years old and served his country and the Allied cause during World War II as Commander-in-Chief of the Chinese Armed Forces in the Allied China Theater. In his statement he sets forth the reasons against admission of the Red Chinese in a very succinct manner. Since the annual meeting of the Board of Governors of the Asian Development Bank will take place in Manila from May 4 through May 6, 1983, I think his message is very timely and I commend it to the attention of my colleagues.

AN OPEN LETTER TO THE LEADERS OF THE UNITED STATES AND JAPAN AGAINST THE ADMISSION OF THE CHINESE COMMUNISTS TO THE ASIAN DEVELOPMENT BANK

(By Gen. Ho Ying-Chin)

The Annual Meeting of the Board of Governors of the Asian Development Bank (ADB) will be held in Manila, from May 4 to 6, 1983. The Chinese Communist regime is seeking to apply for admission to the ADB on the condition of prior expulsion of the Republic of China from the Bank. This has led to worldwide repercussions and the Government and the people of the ROC are strongly opposed to it.

I must solemnly point out that the main purpose of the Chinese Communists to join the ADB is not for making any contribution to the regional development and prosperity of Asia, but to use their consistent united front tactics to destroy the fundamental principle of non-interference in the affairs of international organizations by politics and to force the United States, Japan and other Members of the ADB to expel the ROC from the Bank so that the Chinese Communist regime could be recognized as "a sole legal government of China." Should the U.S. and Japan play into the hands of the Peiking regime and permit it to enter the ADB, they would certainly bring serious troubles and disturbances to this non-political international financial organization; and as a result, the accomplishments and the future of the ADB might be impaired. If this should happen to the ADB, the ROC would not be the only victim. The prestige and the interests of the U.S. and Japan as well as the future economic cooperation and development in the Asian and Pacific region would all be adversely affected.

The Republic of China is determined to maintain its membership in the ADB and to oppose admitting the Chinese Communists to the Bank. This position of the ROC Government has repeatedly been conveyed through various channels to the ADB Members and the members of the Board of Governors. Statements were also made by Premier SUN Yun-suan and our Central Bank in this respect in accordance with the basic principles of the ADB Agreement. The people of the ROC in all walks of life have strongly expressed their opinion not to let the Chinese Communists have their own way in order that the development and prosperity of the free world in general and of Asia in particular would not be jeopardised.

In recent months, certain circles in the U.S. Government and Congress have again and again indicated their support for the ROC membership in the ADB, yet they do not rule out the possibility of admitting the Chinese Communists into the organization.

We appreciate the thoughtfulness of our friends in trying to maintain our continued membership in the ADB. However, we, the people of the Republic of China, cannot accept any formula or idea to substitute "Taiwan" for our official name "The Republic of China", or to degrade the ROC status from a full member to an "associate member" as suggested by Japan to pave the way for the admission of the Peiping regime to the ADB. I wish to invite the attention of the Government and the people of the United States and of Japan to the fact that efforts made by the ROC in the struggle against Communism are not only for the preservation of the sovereignty, independence and national survival of the ROC, but also for the maintenance of the common interests and the future of the free nations in Asia as they are closely related to one another. Therefore, for the sake of our national dignity and for the common interests of the international community, we are firmly opposed to the formula contemplated by Japan and the United States.

What I expect the United States and Japan to do is to exercise their influence upon the members of the Board of Governors of the ADB in the light of their respective common interests with the ROC for the defeat of the Chinese Communist plot and for the maintenance of our membership in the ADB in the forthcoming Annual Meeting of the ADB Board of Governors next May with prior consultations with ADB President Masao Fujioka.

Consequently, I would like to put forward the following viewpoints, which are also shared by our people:

First, Communism is un-Chinese in nature and un-Chinese in origin. The Chinese Communist regime conceived in Marxism, Leninism and Communism was unlawfully established and can in no way represent China as a legal government. The Asian Development Bank, as a regional non-political organization, should not follow the bad example of the IMF and IBRD to admit the Peiping regime to the membership for political reasons and to spoil this organization.

Secondly, under their economic system based on collective ownership, which is by nature anti-democracy, antiscience and antihumanity, the Chinese Communists have enslaved and exploited the people on the Chinese Mainland who have become poorer and poorer. However, the wealth thus seized by the Chinese Communist regime has been used in developing nuclear weapons and for war purposes. As the people on the Mainland have no work ethic, lack productivity, their per capita income is so low that the Mainland is not an international consumer market. Such being the case, how could we expect that regime, if admitted, be a constructive member of the ADB?

Thirdly, the Republic of China is a founding member of the ADB. It has consistently fulfilled the obligations stipulated in the ADB Agreement, closely cooperated with the other Members and greatly contributed to the economic cooperation and development in Asia since the establishment of the Bank in 1966. In recent years, the ROC, instead of being a borrower of the Bank, has become a donor. It contributed much to the Bank's General Capital Increase in 1982. Under no circumstances should the ROC be expelled from the membership of the ADB; otherwise, it would constitute a flagrant violation of the letter and spirit of the ADB Agreement.

Fourthly, nowhere in the ADB Agreement may one find any stipulations for the expulsion of a member. At the same time, the Agreement clearly provides that the ADB should refrain from being influenced politically. Therefore, the ADB should not expel the ROC from its membership, nor should it tolerate the political influence by the Chinese Communists. Any proposal either to revise the ADB Agreement or to force us to change our official name, or to degrade our present status in the ADB is not only detrimental to our justifiable position in the

ADB, but also damaging to the Bank itself. We are strongly opposed to it.

The free nations of the world, especially the U.S. and Japan, are all aware that Marxism-Leninism-Communism, since their inception, have become a source of all evil. How could we expect that a typical Communist regime like Peiping would render any assistance or make any contribution to the development and prosperity of Asia for the happiness and well-being of the people in the region? Since the U.S. Congress passed a resolution calling for the preservation of the ROC membership in the ADB in 1980, it should firmly support our lawful rights in that organization so as to preserve the glorious history of 16 years of the Bank and the traditional spirit of justice of the United States, and to frustrate the Chinese Communists in making any further attempt.

Japan should attach valuable importance to the friendship it shares with the ROC in the past 30 years since the end of the Second World War. It should particularly remember the policy of magnanimity enunciated by our late President Chiang Kai-shek. In favor of Japan, the late President Chiang did the following: (1) He proposed in the Cairo Conference that Japan's emperor system be preserved and, as a result, the Japanese political system has remained unchanged; (2) decided not to dispatch Chinese troops to occupy Japanese territory in order to avoid its division; (3) gave up claims of war reparations by Japan, and thus, saved Japan from being condemned to poverty; (4) repatriated quickly two million Japanese soldiers and technical personnel so that Japan could be rapidly rehabilitated. All this should be taken into consideration by Japan in dealing with the ADB case to oppose the admission of the Chinese Communists to the ADB, and to maintain the integrity of the ROC status and rights in the Bank. In other words, Japan should stick to justice and morality and avoid any appeasement.

I fervently hope that the U.S. and Japan will use their enormous influence to maintain the position of the ROC. By this and only by this, can the attempt of the Chinese Communists to expel the ROC from the Bank be defeated and our continued membership in the ADB be maintained.●

TRIBUTE TO CHERYL D. JACKSON

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. SKELTON. Mr. Speaker, I take this time to bring to the attention of my colleagues the achievement of Cheryl Jackson of Jefferson City, Mo. Cheryl was recently awarded the prestigious Harry S. Truman Scholarship for the 1983-84 school year. This award is given to candidates on the combined basis of merit and a demonstrated potential for leadership in government service. There are less than 200 people awarded this scholarship, and that includes both scholars and alternates, so that this is truly a major accomplishment for Cheryl and her family.

I ask my colleagues to join me in adding our congratulations to those of Cheryl Jackson's friends and family on her accomplishment, and wish her well for the school year ahead.●

DEPORTATION OF HANS LIPSCHIS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. RODINO. Mr. Speaker, the Justice Department today confirmed that Hans Lipschis, charged by the United States with concealing his service as a guard at the notorious Nazi death camps at Auschwitz and Birkenau, has left the country under an order of deportation. Lipschis thus becomes the first person charged with complicity in Nazi war crimes to be deported from the United States in over 30 years.

His departure comes, in many ways, at a fitting time, just after the emotional gathering of Holocaust survivors here in Washington and the commemoration of the 40th anniversary of the Warsaw ghetto uprising. The banishment of Lipschis serves as a reminder of the Nazi atrocities as well as a reaffirmation of our country's oft-stated policy that none of the perpetrators be allowed to find sanctuary in the United States.

It is regrettable, however, that this deportation did not come much sooner. Although Lipschis' expulsion is a tribute to the perseverance of the Justice Department's Office of Special Investigations, it is sadly true that our Government waited far too long before seriously trying to track down Nazi war criminals in America. Had it not been for the persistent and tenacious efforts of the House Judiciary Committee, this day of justice would likely never have arrived.

Mr. Speaker, I am proud of the role of the Committee on the Judiciary in galvanizing our Government to act against war criminals living here. It was the committee that first raised this issue publicly in 1974 and called at that time for a centralized team of lawyers and investigators to prosecute the Nazi cases. It was the Judiciary Committee that finally forced the Justice Department to establish OSI in 1979 and to fully fund and staff the unit. It was the Judiciary Committee that insisted that the Justice and State Departments seek evidence in foreign countries and first approached officials in Israel and the Soviet Union about cooperating in these investigations. And it was the Judiciary Committee that wrote the law providing for deportation of the Nazi persecutors.

Hans Lipschis' deportation proves that the committee's decade-long efforts to rid our country of Hitler's henchmen have not been in vain.

I commend the dedicated staff of OSI for achieving what many thought would never happen. The committee will continue to work with the OSI to assure that other war criminals who continue to enjoy secret refuge in America will meet the same fate.●

A PROCLAMATION COMMENDING DR. FREDERICK G. SAMPSON

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. CONYERS. Mr. Speaker, I take extreme pleasure in introducing into the RECORD a proclamation commending Dr. Frederick G. Sampson for his outstanding work in the Detroit, national, and international communities. The proclamation follows:

PROCLAMATION OF COMMENDATION

Whereas Dr. Frederick G. Sampson, Pastor of the Tabernacle Missionary Baptist Church located in Detroit, Michigan, is one of our nation's foremost Baptist Ministers, and

Whereas Dr. Sampson is highly respected by his peers throughout the nation and the world for his devotion, leadership, and intellectual achievements: He received his Doctorate of Ministry and Divinity from the Virginia Theological Seminary and a Divinity Degree from Howard University; And, he recently published a book entitled, "The Romance of Theology in the Black Experience"; And, he lectures at several universities and colleges annually, and

Whereas Dr. Sampson has given of himself tirelessly and unstintingly to bring hope, justice, equality, and peace through his active leadership in the Detroit community, the national community, and the international community: He is a Past-President of the Detroit Branch of the NAACP; And, a member of the State of Michigan Civil Rights Commission; And, he serves on the Commission for the International Year of the Child; And, he serves as a member of the Board of Directors of numerous community organizations, and

Whereas The Current Topic Study Club, the Detroit Branch of the National Association of Colored Women's Clubs, has convened this luncheon today, April 30, 1983, to honor Dr. Sampson, therefore be it

Resolved, That Dr. Frederick G. Sampson be awarded this Proclamation of Commendation in recognition of his extraordinary service to promote Humanitarianism, Peace and Goodwill to all the peoples of the world.●

LIBERTY DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. GILMAN. Mr. Speaker, last week it was my privilege and honor to appear at the ceremonies marking "Liberty Day" in Newburgh, N.Y.

These festivities commemorated the 200th anniversary of the cessation of hostilities in the American Revolutionary War. It was in Newburgh that Gen. George Washington was headquartered at the time of the signing of the peace treaty ending the war, and it was in Newburgh that he announced the cessation of hostilities to his assembled troops.

I was honored to share the platform with my distinguished colleague, the gentleman from New York, Mr. FISH. So that my colleagues may share his thoughts, I am requesting that his speech be inserted in full at this point in the RECORD:

SPEECH OF HON. HAMILTON FISH

Honored Guests, Ladies and Gentlemen, for many months, on nights that threatened battle, the watchfires glowed on top of Mount Beacon. They flickered across the Hudson, signals of danger from oncoming British troops to the encampments of the Revolutionary Army at Newburgh. Since the capture of New York City in 1776, the Hudson Valley was recognised for its strategic location. Occupy the valley, and New England would be cut off from the rest of the colonies.

Then, on April 19, 1783, fires on mountain tops in Southeastern New York and in New Jersey were lit, but this time to hail the end of the war and victory. From here, at Newburgh, to all parts of our young nation, spread the long-awaited news.

As the years passed, it came to mean the birth of Democracy as a major force in the world. The early settlers had come to these shores to practice their religion and seek freedom from oppression. Ultimately, they took up arms, rejecting taxes and rule imposed from across the sea. They declared that Government was no longer to be the natural right of one man, a King, but the responsibility of popular law. Now the American Revolution had been fought and a new Nation born. The monarch's army had been routed and victory for liberty would be carried far beyond Newburgh and the American coastline.

The valiant Americans who began the struggle on the slopes of Bunker Hill eight years before . . . those who fought at White Plains, Saratoga and Yorktown, opened a new life to all people . . . the powerful and enduring world influence of democracy.

The unique contribution of America is that our Founding Fathers saw the universe as a rational construct, governed by natural law, and susceptible to mastery by human beings who were themselves rational creatures. They believed that human beings have the capacity to govern themselves, and viewed governments as instrumentalities which men could assemble and disassemble if they did not meet the basic needs for which they were created.

They believed human beings can achieve fulfillment and that institutions of government are created by men to be their instruments for developing a better world. Our institutions do not have a divine source, but are the creations of men who believed they, as individuals, were the creation of God.

And so, a little over two centuries ago, we embarked on a great adventure in self-government. There is no assurance today of the continued success of this effort, as there was none 200 years ago. To succeed, each generation of Americans must work at it. It is clearly the most difficult, demanding and challenging of any form of Government.

It remains an adventure, an experiment requiring the best of us. Its centerpiece—the rule of law. Its style—reason and persuasion. Its politics—marked by vigorous debate and ready acceptance of the will of the majority, and an equal dedication to the preservation of dissent.

The central element remains involvement—that many join the adventure so that a few cannot corrupt it.

While April 19, 1783 marked the end of a war, it marked the beginning of an evolution in democracy which continues to this day. It is the legacy of freedom and self-government for which we thank the patriots of that day.

There is a moment in our history which I think suggests the temper in which we might approach whatever is before us. On May 19, 1780, the Connecticut State Legislature was in Session. For days, there had been prophecies that it was to be the day of doom. Then suddenly, in mid-morning, the sky turned from blue to grey to black. Men fell on their knees in fear and in prayer, and there were many shouts for adjournment. Then, a State Senator, Abraham Davenport, came forward to the podium, banged the gavel and said, "Gentlemen, either the Day of Judgment is approaching or it is not. If it is not, then there is no need to adjourn, and if it is, I choose to be found doing my duty. I therefore ask, let candles be brought".●

LIBERTY DAY

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. FISH. Mr. Speaker, on a cold snowy day last Tuesday, April 19, 1983, we celebrated Liberty Day in Newburgh, N.Y. The events that took place in Newburgh on that date commemorated the 200th anniversary of the announcement by George Washington of the formal cessation of hostilities between the colonists and Great Britain.

There are many little-known facts regarding George Washington's 18-month stay in Newburgh. My colleague, BEN GILMAN, who represented that area until last year, has captured the historic significance of Liberty Day in his remarks, which were delivered last week. I am sure my colleagues will enjoy learning why we were so honored to participate in the Liberty Day celebration, and why the towns of Newburgh and New Windsor spent so much time and effort to plan such a great event.

The remarks referred to follow:

"LIBERTY DAY" IN NEWBURGH

This is a day we long awaited . . . but we certainly didn't invite the weather—Willard Scott! . . . the culmination of many years of hard work and dedication by our local officials and especially by the National New Windsor Bicentennial Commission, and all of our historic groups which have joined with them to make this celebration such a success.

Our hats are off to you, not just for today, but for all of the past events leading up to today, the Crown Letters banquet in April 1982, the Purple Heart ceremony here in August, the parade on the Hudson, and the reenactment of the occupation of Temple Hill in October.

For all of these events, and for today, we are in the debt of our hard-working volunteers and the leadership of (Tom) Donato, Col. (Howard) Flemming, Ham Fish, and all the others who dedicated themselves to this bicentennial celebration.

This gathering today commemorating General George Washington's announcement to his assembled troops that the final treaty had been signed is more than a recounting of the announcement that the long war was over and that the citizen's militia could go back to their farms, their homes and their loved ones.

It is a reminder to all of us of how costly is the price of liberty and how hard it was to come by. That announcement, which we commemorate today, brought to a conclusion the long 18-month stay of Washington and his troops in our region . . . and the end of a long trail of bloodshed began in April 1775—as Paul Revere made his historic midnight ride in Massachusetts, readying the Continental Army.

We have all been taught that Yorktown was the final and decisive battle of the American Revolution. But few of us realize that there was no recognition of that fact at the time. During the nearly two years between the Battle of Yorktown and the signing of the Peace of Paris, the American people did not know if King George was going to send more troops to continue the war, or if his negotiators in Paris would indeed throw in the towel.

Washington's year and a half stay in Newburgh was the pivotal turning point in the history of democracy on the North American continent.

And it was while Washington was here in Newburgh that our young nation was in serious danger of being taken over by a military junta.

It is unfortunate that the dramatic and significant events which took place in our own Hudson Valley are not too often taught in our history classes, events which were the turning point in North American history—indeed, in the history of the world.

The Continental troops encamped at Temple Hill were growing restless as month after month of inactivity dragged on. And adding salt to their misery, Congress was months behind in appropriating their pay. (A situation which certainly could not occur today.)

The troops started to grumble—mutiny was on their minds.

A number of officers, led by Colonel Lewis Nicola, circulated a flyer urging the Army to use force of arms to impose its will on Congress—implying the Congress should be overthrown and replaced by a military junta. A dictatorship would be secured on the North American continent, with General George Washington as its supreme dictator.

Major John Armstrong called for a meeting of all officers at Temple Hill on Saturday, March 15, 1783, to lay the plans for the American coup d'etat.

But Washington got wind of the meeting and the officers were totally unprepared when he walked in on their meeting that fateful Saturday morning—a pivotal day in American history. Needless to say, Washington's request to make a "few remarks" was welcomed.

As Washington began to read his prepared text, for one of the few times in his life he stammered and stumbled, and a silence filled the room.

Washington then reached into his pocket, bringing out a pair of spectacles, and his normally clear voice broke the stillness as he said:

"I hope you gentlemen can excuse me as I adjust my spectacles, for as you can see I have not only grown grey but also blind in the service of my country."

There was not a dry eye left in that room as Washington read his text—stressing that brave blood was not shed in the Revolution merely to switch one tyranny for another. He urged his men to lay down their arms against Congress, to address their grievances in a lawful manner. Washington emphasized the importance of establishing representative government on the Continent, and the importance of civilian rule over the military.

Washington pointed out the impropriety of the anonymous meeting summons, "addressed more to the passions than to the judgment, calculated to impress the mind with an idea of premeditated injustice in the sovereign power of the United States and to rouse all those resentments which must unavoidably flow from such a belief."

Years later, Washington Irving, at his home at Sunnyside, just south of where we sit tonight, wrote of the pandemonium in the room after Washington's departure:

"The moment Washington retired from the assemblage, a resolution was passed unanimously assuring him that the officers reciprocated his affectionate expressions with the greatest sincerity. Then followed resolutions, declaring that no circumstances of distress or danger should induce conduct calculated to sully the reputation and glory acquired at the price of their blood and eight years faithful services: that they continued to have an unshaken confidence in the justice of Congress and their country: and that the Commander in Chief should be requested to write to the President of the Congress earnestly reentreating a speedy decision on the late address forwarded by a Committee of the Army."

George Washington, in the entire drama of our nation's history, stands alone as a man on whom absolute military and political power was thrust—and he cast it aside.

Only Washington, in all history, had the power to become an absolute dictator, and chose instead to establish the precedent of republican government and civilian rule. . . .

Only George Washington, in all history, put principle and the good of his nation ahead of any and all personal power and glory.

And so, as we assemble here in Newburgh today to reflect on the great events which occurred some 200 years ago, events which changed the shape of mankind forever, it is important for us to recall the sacrifices made by the men who risked and gave their lives for our freedom. Let us reflect, especially, on that greatest of national leaders, George Washington, who administered his command right here in Newburgh and who had the crown of the North American continent thrust into his hands, and who here in Newburgh thrust it aside.

The beacon lights which burned across the river on Mount Beacon should always be remembered as the beacon of freedom here in America, for it was here in Newburgh that our liberties were secured.

And as we enjoy these festivities and ceremonies, which our Committee worked so diligently to arrange, let us pause to reflect on what a fragile, precious thing our freedom is—how close we came to losing it here in Newburgh, and the sacrifices of all of those who fought and died to preserve it in the 200 years since.

Thank you.●

CHARLES G. GULLEDGE, PIONEER IN SYNFUELS

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. WRIGHT. Mr. Speaker, on May 19 the Northern Virginia Community Foundation will honor an old friend and adviser of mine, Mr. Charles G. Gulledge. This gentleman has played such an important part in the affairs of this Nation, as well as the Washington community, that I would like to share with my colleagues some of the highlights of that career.

It was in the 1960's that Chuck Gulledge first acquainted me with the great potential this country has for the development of synthetic fuels to replace our declining resources of oil and gas. It was through his advice and counsel that I came to share this conviction and to participate in the successful effort to establish a national synthetic fuels program.

As president of the Dynalectron Corp., whose headquarters are in McLean, Va., Mr. Gulledge has brought about the development and testing of a number of synthetic fuel technologies, the best known of which is H-coal. This process, now proven by a pilot plant operation in Catlettsburg, Ky., is capable of producing high-quality synthetic crude oil from a wide variety of coals, both those we have in this country and the coals of various foreign nations.

Since establishment of the national synfuels program 3 years ago, the world has seen a severe economic decline, reduced demand for petroleum products, declining prices, and economic conditions not conducive to creating a major new industry of this kind. However, as Chuck Gulledge has been stating for the last two decades, this Nation will be in peril as long as it is dependent upon sources of oil far removed from its shores. Our Nation's long-term need for alternative energy in various forms has not changed in spite of current economic conditions.

It is not only in the advocacy of synthetic fuels that Mr. Gulledge has contributed to this Nation's security and well-being. During World War II he was a radio-radar officer in the U.S. Marine Corps. aviation detachment, where he was responsible for the establishment of maintenance facilities as well as maintenance and tactical use of radar and electronic naval systems. In that capacity he made a major contribution toward the development of airborne gun-laying radar at the Servo Mechanism Laboratory of the Massachusetts Institute of Technology.

Having received a bachelor's degree in mechanical engineering from Washington University in St. Louis, Chuck attended the Graduate Schools of Harvard University and MIT while serving in the Marine Corps, specializing in advanced electronics.

After the war, Mr. Gulledge joined Emerson Electronic Co.'s electronics and avionics division in St. Louis, where he rose to the position of corporate vice president and general manager and served as an advisory member of the company's board of directors.

In 1960, Mr. Gulledge joined the Dynalectron Corp. as president, director, and member of the executive committee of its board of directors. In 1974, he was named chief executive officer. He also serves on the board of most of the company's more than 30 subsidiary firms.

Through the leadership and dedication of Mr. Gulledge, Dynalectron has come to play an important part in this Nation's defense. Highly trained Dynalectron personnel assist the Army, Navy, and Air Force in carrying out many high-technology and logistical missions. Some of this work is classified and cannot be discussed, but it contributes greatly to the effectiveness of this Nation's defense efforts.

Under his leadership the company also has assembled the second largest electrical contracting group in North America and has acquired a strong position in the environmental conservation industry.

The dinner on May 19 will honor Mr. Gulledge not only for his role in national affairs, but for the leadership he has provided to community affairs in the Washington area, most especially in northern Virginia. It will be the first such award ever made by the Northern Virginia Community Foundation.

In 1976, Mr. Gulledge was appointed by the Fairfax County Board of Supervisors to a committee whose purpose was to study the means of encouraging industrial development in the county. It was this blue ribbon panel which recommended the basic policy and direction later adopted by the county, leading to a greatly expanded and invigorated economic development authority.

Two years later he was appointed a commissioner of the county's EDA. Then in 1980, he was elected chairman for a 1-year term, having served the previous year as vice chairman. The following year he was reelected. In 1982, he was reappointed as a commissioner, and last year he was reelected chairman once again.

Under Mr. Gulledge's stewardship, the economic development program of Fairfax County has grown dramatically. Last year alone these efforts added nearly $11 million to county tax revenues and nearly $25 million to State revenues. These figures are a tribute to the vigorous efforts of Mr. Gulledge and his fellow commissioners.

Another measure of Mr. Gulledge's involvement in public affairs is to be found in his many civic and professional memberships. He is a member of the faculty and the advisory board of the Presidents Association of the American Management Association. He is a member of the Corporate Strategic Planning Council of the International Management and Development Institute. He is governor emeritus and past president of the National Aviation Club. He is national corporate chairman of the Fairfax Symphony Orchestra.

He is also a member of the board of directors and executive committee of Fairfax County Chamber of Commerce and serves as chairman and vice president of its chief executive officer roundtable. He is a cofounder and vice chairman of the National Council on Synthetic Fuels Production. In addition, Mr. Gulledge is a member of the Missouri State Board of Engineers, the National Aeronautic Association, the Army Aviation Association of America, the Association of Naval Aviation, Inc., the American Petroleum Institute, the George Mason Institute Industrial Policy Board, the Tyson's Transportation Association, the Governor's Advisory Board on Revenue Estimates, and the Dulles Policy Task Force.

Even the dinner itself honoring Mr. Gulledge will contribute to the advancement of the northern Virginia community, for proceeds from the dinner, in keeping with Mr. Gulledge's wishes, will go to the support of the arts in northern Virginia.

It is a great pleasure to know and share the friendship of this distinguished American.●

COMMEMORATING THE 35TH ANNIVERSARY OF ISRAEL'S INDEPENDENCE

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. BORSKI. Mr. Speaker, I rise to pay tribute to the State of Israel on the 35th anniversary of its independence.

Israel was born out of the ashes of the Holocaust. Today, it stands as a monument to the courage and determination of the Israeli people. Despite a continuous struggle for survival, Israel has transformed a desert wasteland into one of the most advanced and productive societies in the world. A staggering defense burden has not prevented Israel from becoming a leader in agriculture, high technology, and international trade.

On May 1, 1983 the people of Philadelphia will celebrate this occasion by holding an Israeli Independence Day parade and bazaar at Independence Mall.

I cannot think of a more fitting place to pay homage to the State of Israel. Over 200 years ago, our forefathers gathered in Philadelphia to proclaim this country's commitment to freedom and democracy. That spirit was rekindled on May 14, 1948, when David Ben-Gurion announced Israel's independence.

From the moment President Truman recognized Israel's declaration of independence, we have enjoyed a very special relationship with the State of Israel. Our affinity for Israel is not difficult to understand. We share a common faith in the capacity of a free people to build a society based upon justice, compassion, and human progress. It is no coincidence that the only democracy in the Middle East has been one of America's strongest and most dependable allies.

As we salute Israel's remarkable 35 years as a nation, let us renew the closeness and cooperation which has been the trademark of United States-Israeli relations. Our alliance with Israel is being tested as never before. Despite our differences, there can be no doubt of our close friendship and mutual desire for peace.

I congratulate Israel in the 35th anniversary of its independence. I pledge my commitment to strengthen our relations with Israel and work side by side as partners for peace.●

TRIBUTE TO PAULINE AND IRVING SHAW OF EAST ROCKAWAY, N.Y.

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. LENT. Mr. Speaker, it is my distinct pleasure to bring to the attention of my colleagues an event of importance in the Fourth Congressional District I have the honor to represent.

I refer to a most deserving tribute being paid to Pauline and Irving Shaw of East Rockaway, N.Y. Congregation Etz Chaim of the Hewlett-East Rockaway Jewish Centre is honoring Mr. and Mrs. Shaw for their dedicated and untiring efforts on behalf of the congregation, and the community in which they live. This happy event will take place on May 7, 1983.

Pauline and Irving Shaw have been active and dedicated members of Congregation Etz Chaim almost from the founding of the Hewlett-East Rockaway Jewish Centre more than a quarter of a century ago. The account of their journey through life together is the epitome of the American success story, and a shining example of devotion to congregation and community.

Both were educated in New York City schools and attended Brooklyn College. When Irv graduated, after winning a degree of bachelor of science in chemistry, they faced the grim prospect of the Great Depression of the 1930's. The trials of those times can be summed up in the first job Irv landed as a chemist in a wool dyeing plant. A college graduate with a bachelor of science degree, Irv started out at the tremendous salary of $3 per week. And was glad to have a job.

But Irv's rise in the world was swift. In 1936, he joined the Vitarine Co. as an assistant pharmaceutical chemist, and just 11 years later became president of the company, a position he held for the next 30 years. His career in the pharmaceutical industry brought him national attention, and he served with distinction on the boards of the Parenteral Drug Association and the National Association of Pharmaceutical Manufacturers. As a coinventor of several pharmaceutical discoveries, Irv holds several patents. During his years as president of the Vitarine Co., Irv also served as a senior vice president and member of the board of directors of West Chemical Products, Inc. Although retired now, Irv still remains active in the drug manufacturing field as a consultant on the technical and legal aspects of drug manufacturing.

Despite the heavy demands of his very successful business career, Irv has always devoted a great deal of his time and effort to community and temple activities.

Ever active in Congregation Etz Chaim, Irv has been a longtime member of the board, was president of the congregation from 1978 to 1980, and has served as temple historian, editor of the annual journal Hakol, and on many committees. He is also a member of the board of the metropolitan region of the United Synagogue.

And somehow, Irv has found the time to serve on the board of trustees of my home village of East Rockaway, and was recently reelected to his second term in office. During his tenure as trustee, Irv has impressed everyone with the serious interest and concern he has demonstrated in municipal government. He quickly grasps complicated issues and mediates local problems skillfully.

Pauline has been equally active in religious and community affairs. She served for 10 years as vice president of the HERJC Sisterhood, and is a member of the board. She has been an officer on AJC and president of the Hewlett Chapter-Aliyah Group of Hadassah. Pauline also has devoted much time to volunteer teaching with underprivileged children.

Mr. Speaker, this is just a brief overview of the deep involvement of Pauline and Irving Shaw in the spiritual and civic life of their community. Such devotion and dedication deserves our highest commendation.

As a friend and neighbor of this wonderful couple, I can offer personal testimony to their great social consciousness, and to their deep concern for their community. Their example is an inspiration to all of us.

It is a great pleasure for me to offer my congratulations to Pauline and Irving Shaw for the honor they are receiving, and I know that every one of my colleagues in this Chamber joins me in that sentiment, and in sending our warmest good wishes to them, and to their fine children, Shelly and Martin, and to their grandchildren.●

FINANCIAL STATEMENT OF F. JAMES SENSENBRENNER, JR.

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. SENSENBRENNER. Mr. Speaker, through the following statement, I am making my financial net worth as of March 31, 1983, a matter of public record. I have filed a similar statement for each of the 4 preceding years I have served in Congress.

Assets

Real Property:	*Value*
Single family residence at 701 Kings Court, Alexandria, Virginia, at assessed valuation. (Assessed at $220,000. Ratio of assessed to market value—100%.) (Encumbered)	$220,000.00
Condominium at N76 W14726 North Point Dr., village of Menomonee Falls, Waukesha County, Wis., at assessor's estimated market value	67,600.00
Interest in land contract in two family residence at 1601 East Lake Bluff Blvd., and 4230 North Newhall St., village of Shorewood, Milwaukee County, Wis., sold July 1, 1982 to Timothy Bleach	57,844.48
Total	345,444.48

Personal property (Number of shares and common and preferred stocks):	
450—First Interstate Bancorp at $35	15,750.00
289.746—American Telephone & Telegraph, at $64.375	18,652.40
119.726—Idaho Power Co., at $30.75	3,681.57
380.076—Tenneco Corp., at $35.375	13,445.19
118.095—Nevada Power Co., at $27.375	3,232.85
300—Anchor Hocking Corp., at $26.50	7,950.00
360—General Mills, Inc., at $52.50	18,900.00
400—Kellogg Corp., at $26.50	10,600.00
500—Dun & Bradstreet, at $121.25	60,625.00
1,000—Halliburton Co., at $34	34,000.00
1,708—Kimberly-Clark Corp., at $71.125	121,481.50
404—Insilco Corp., at $23.625	9,544.50
100—Minnesota Mining & Manufacturing, at $78.125	7,812.50
100—Rank Organization, Ltd., ADR, at $2.21875	221.87
416—Exxon Corp., at $30.875	12,844.00
480—Standard Oil Co., (Indiana), at $43.50	20,880.00
170—Dart & Kraft, Inc., at $71.00	12,070.00
380—Eastman Kodak Co., at $82.25	31,255.00
100—General Electric Co., at $105	10,500.00
104—General Motors Corp., at $59.375	6,175.00
400—Merck & Co., at $84.875	33,950.00
200—Warner Lambert Co., at $32.00	6,400.00
202.908—Sperry Rand Co., at $37.00	7,507.60
465—Ogden Corp., at $26.625	12,380.62
287—International Business Machines Co., at $101.75	29,202.25
900—Inland Steel Co., at $30.625	27,562.50
168—Monsanto Corp., at $88.25	14,826.00
26—Wisconsin Securities Corp. of Delaware, at $180	4,680.00
333—Benton County Mining Co., at no value	nil.
Total	556,130.35

Life insurance policies (face amount and company):	*Cash surrender value*
$12,000—Northwestern Mutual	$8,748.70
$30,000—Northwestern Mutual	20,744.74
$10,000—Massachusetts Mutual	2,283.70
$100,000—Massachusetts Mutual	33,037.15
$25,000—Old Line Life Insurance Co.	12,551.59
Total	77,365.88

Bank and savings and loan accounts:	*Value*
Marine National Exchange Bank of Milwaukee	$1.00
Marine National Exchange Bank of Milwaukee	1,048.87
Marine National Exchange Bank of Milwaukee	22,980.32
Marine National Exchange Bank of Milwaukee	285.07
Marine National Exchange Bank of Milwaukee	573.68
Freedom Savings & Loan of Menomonee Falls	639.34
Freedom Savings & Loan of Menomonee Falls	5,628.01
Sergeant at Arms, U.S. House of Representatives	896.08
Burke & Herbert Bank of Alexandria, Virginia	198.32
Freedom Savings & Loan of Menomonee Falls	4,057.54
Total	36,308.23

Miscellaneous:	
Bank of America, N.A. Travellers checks	3,010.00
1978 Ford LTD automobile (at Blue Book trade-in value)	1,800.00
Office furniture and equipment	1,000.00
Furniture, clothing and personal property (estimated)	90,000.00
Stamp collection (estimated)	15,500.00
Interest in Wisconsin Retirement Fund	13,032.61
Deposits in Congressional Retirement Fund	20,188.26
Total	144,530.87
Grand Total	1,159,779.81

Liabilities

David E. Krasno and Lisa Roebuck-Krasno (amount due on land contract purchasing, Menomonee Falls, Wis., condominium)	53,844.15
Perpetual American Federal Savings & Loan Association of Washington, D.C. (mortgage on Alexandria, Va., residence)	139,070.06
Miscellaneous 30 day charge accounts	1,500.00
Total liabilities	194,414.21
Net worth	965,365.60

Statement of 1982 taxes paid

Federal income tax	$25,665.00
Wisconsin income tax	5,444.00
Shorewood, Wis., property tax	1,136.06
Menomonee Falls, Wis., property tax	1,367.03
Alexandria, Va., property tax	2,893.44

I further declare that I am a direct beneficiary of two trusts and a contingent beneficiary of one trust. I have no control over the assets of either trust of which I am a direct beneficiary and am a cotrustee of the other trust.

Also, I am neither an officer nor a director of any corporation organized under the laws of the State of Wisconsin or of any other State or foreign country.●

REPEALING DAVIS-BACON: AN UNCOMMON EXERCISE OF COMMONSENSE

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1983

● Mr. ERLENBORN. Mr. Speaker, I am today introducing legislation to repeal the Davis-Bacon Act, recognizing, of course, that in doing so, I am asking the House to act contrary to the manner in which it so often operates—on the basis of the record.

The record in the case of Davis-Bacon—the so-called mother statute along with its near 80 extensions in other laws—is incontrovertible: The Davis-Bacon Act is an engine of inflation, robbing taxpayers of their purchasing power and swelling the Federal deficit. Davis-Bacon is a depression-era relic that is impossible to administer effectively and grossly inflates Federal construction costs. The General Accounting Office, in its 1979 report recommending the act's repeal ("The Davis-Bacon Act Should Be Repealed," HRD-79-18, Apr. 27, 1979) states, with respect to its administration:

> We believe that the continuing problems in administering the act support our overall concern that a systematic management program to determine accurate prevailing wages for every classification of construction worker in each of the varying types of construction in literally every city and area in the Nation could never be achieved. Given the diverse characteristics of the construction industry, the large number of political subdivisions in the country, and the needed voluntary participation of contractors in providing wage data, it is doubtful that additional resources or improvements in administration would result in efficient and effective accomplishment of the act's legislative intent (page 67).

About its inflationary impact, GAO concluded:

> Setting prevailing wages for federally financed construction, as required by the Davis-Bacon Act, has increased the direct cost of Federal construction. We estimate that, as a result of wages being established at higher rates than those actually prevailing in the area of the projects, construction costs for federally financed projects could be increased by an estimated $228 million to $513 million annually (page 76).

The GAO has not been alone in its criticism. Even the Carter administration in its confidential review of Federal contract wage laws could not ignore the inflationary impact of the Davis-Bacon Act. The study concluded that if adoption of numerous administrative reforms lowered prevailing wage determinations by 10 percent, "* * * a reasonable expectation, then total Federal dollar savings under the Davis-Bacon Act would be $1 billion * * *," reducing the rate of inflation by over two-tenths percent. ("Options Paper: Interagency Review of Contract Wage Laws," cited in Oversight Hearings on the Davis-Bacon Act, Subcommittee on Labor, Senate Committee on Labor and Human Resources, 97th Cong., 1st sess., page 8.)

More recently, the Congressional Budget Office estimated that merely four statutory changes in the act would yield for fiscal 1983 an over $800 million savings in budget authority and $239 million savings in outlays (letter from Alice M. Rivlin to Hon. Don Nickles, page 2).

Here is the rest of CBO's report:

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986	1987
THRESHOLD CHANGE						
Budget authority	0	−59.41	−64.29	−69.04	−73.38	−77.30
Estimated outlays	0	−17.67	−39.26	−52.58	−60.54	−66.99
HELPER CLASSIFICATION WAGE DETERMINATION						
Budget authority	0	−622.76	−700.28	−828.85	−934.38	1,038.05
Estimated outlays	0	−185.18	−427.63	−631.29	−770.77	−899.69
MODIFICATION OF PREVAILING WAGE DETERMINATIONS						
Budget authority	0	−121.20	−131.13	−140.82	−149.67	−157.66
Estimated outlays	0	−36.03	−80.08	−107.26	−123.46	−136.65
LOCALIZED WAGE SURVEYS						
Budget authority	0	0	0	0	0	0
Estimated outlays	0	0	0	0	0	0
Total:						
Budget authority	0	−803.37	−895.70	−1,038.71	−1,157.43	−1,273.01
Estimated outlays	0	−238.88	−546.97	−791.13	−954.77	−1,103.33

Davis-Bacon costs taxpayers big bucks. If Congress is searching for ways to cut the budget, it certainly does not lack for options. just the will.●

HOUSE OF REPRESENTATIVES—*Wednesday, April 27, 1983*

The House met at 12 o'clock noon.

The Reverend Dr. William K. Thomas, Mount Olivet United Methodist Church, Arlington, Va., offered the following prayer:

Our gracious Father, for the blessings of life and health, and strength; for family and friends; for our homes and for our native land; for useful work in the service of others; for everything that is worthy and constructive among us; we pause to praise Thee at this time.

Keep us, and those for whom we are responsible, ever in Thy care and under the guidance of Thy purpose for us, personally and as a community of citizens.

In this place of deliberation and decision, direct in such a way as to bring about peace and freedom, for this Nation and for the world. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

ANNOUNCEMENT BY THE SPEAKER

The **SPEAKER**. The Chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces that today during the joint session to hear an address by the President of the United States, only the doors immediately opposite the Speaker and those on his left and right will be open.

No one will be allowed on the floor of the House who does not have the privilege of the floor of the House.

Due to the large attendance which is anticipated, the Chair feels that the rule regarding the privilege of the floor must be strictly adhered to.

Children of Members will not be permitted on the floor and the cooperation of all Members is requested.

BUDGET ISSUES RELATING TO THE LEGISLATIVE CALENDAR

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. **PANETTA**. Mr. Speaker, yesterday afternoon the Budget Users Group met for the first time this year. As you will recall, the Democratic Caucus discussed the need for a users group last December while focusing on ways to make the budget process work more smoothly. Further impetus for the formation of a users group came from the informal initiatives proposed by the House Rules Committee's Budget Process Task Force.

The group is composed of staff representatives of the Speaker, majority leader, majority whip, minority leader, Parliamentarian, Congressional Budget Office as well as the Appropriations, Budget, Rules, Ways and Means, and authorizing committees. We hope to meet once every 2 weeks.

Yesterday we had very helpful discussions on a number of budget process issues, particularly in the scorekeeping and timetable areas. We also discussed the legislation being considered this week in the House. I would like to put in the RECORD the following summary of the legislation we have and will be considering this week and their Budget Act implications:

The summary follows:

BUDGET ISSUES RELATING TO THE LEGISLATIVE CALENDAR

FLOOR SCHEDULE FOR WEEK OF APRIL 25, 1983

Bills to be considered under suspension

Tuesday, April 26—House convenes at noon:

H.R. 2628—Bureau of the Mint Authorization for fiscal year 1984. No Budget Act violations.

H.R. 2600—to dedicate the Golden Gate National Recreational Area to Phillip Burton. Budget Act problem de minimus. This bill would authorize appropriations to carry out this Act which would be effective immediately. As the estimated cost of the project is well below $1,000,000, the Budget Committee's de minimis policy would apply in evaluating the late authorization as a violation of section 402(a) of the Budget Act.

H.R. 2621—Federal Election Commission fiscal year 1984 authorizations. Reported from Interior and Insular Affairs Apr. 25, 1983; Rept. 98-72. No Budget Act violations.

Bills to be considered under a rule

Tuesday, April 26:

H.R. 2065—NASA FY 84 Authorization. No Budget Act violations or budget issues raised. This bill would authorize fiscal year 1984 appropriations for NASA. It does not violate any Budget Act provisions or create any budget process issues.

Wednesday, April 27 and balance of the week:

H.R. 1983[1]—Emergency Housing Assistance Act of 1983. Budget Act problem authorization not reported by May 17, 1982. This bill would authorize $760 million in new budget authority in fiscal year 1983 to make emergency assistance payments to homeowners facing foreclosure of their conventional or VA guaranteed mortages and $100 million to provide shelter for the homeless. Since the bill was not reported by May 17, 1982, it would violate section 402(a) of the Budget Act; however, with the support of a majority of Budget Committee members the rule waives that section of the Budget Act. The House-passed budget resolution for FY 1984, which also revised FY 1983 budget, assumes funding for this measure.

H.R. 1190[1]—Emergency Agriculture Credit Act of 1983 Budget problem: (1) Authorization not reported by 5/17/82. (2) Loan authority not subject to advanced appropriations. Waiver supported by HBC and granted in rule. This bill would authorize appropriations of new budget authority in fiscal 1983 to carry out farm credit programs and to provide additional insured and guaranteed loan authority. Since the bill was not reported by May 17, 1982 and since the new insured and guaranteed loan authority would not be subject to an advance appropriation, the bill would violate Section 402(a) of the Budget Act and Section 3 of the First Concurrent Resolution on the Budget Act for FY 1983, respectively. However, with the support of a majority of Budget Committee members, the rule waives those two points of order against the bill. The House-passed budget resolution for FY 1984 assumes funding for this program in fiscal years 1983 and 1984.

H.J. Res. 13—Mutual and Verifiable Nuclear Weapons Freeze. No budget act violations. The resolution not violate any provisions of the Budget Act.

TEAMSTERS PRESIDENT JACKIE PRESSER

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **PICKLE**. Mr. Speaker, I see where the Reagan administration is falling all over themselves to congratulate Mr. Jackie Presser, the newly elected president of the Teamsters Union.

I am referring, Mr. Speaker, to news reports that soon after Mr. Presser's election, President Reagan telephoned his congratulations to Mr. Presser and Labor Secretary Raymond J. Donovan attended a luncheon given for him by Mr. Presser.

But before everybody falls in love with Mr. Presser, we ought to remember that Mr. Presser currently is the target of a Federal investigation for his alleged connections with organized crime. He is also a named defendant in two Labor Department suits against the Teamsters for mismanagement of Central State pension funds.

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[1] Designates bills of special interest.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

It seems strange to me that the President would congratulate and the Secretary of Labor would lunch with Mr. Presser while he is under investigation. If anything, a wait and see attitude by the administration is warranted.

But we have been down this road before. This is the same kind of attitude that prevailed during the Nixon years. It looks like the administration is so anxious to win the support of any organized labor group in America that they are willing to throw their lot in with men with reported organized crime connections.

Now, no one wants to convict Mr. Presser, but we must ask ourselves what in the world do people think when the President congratulates and the Secretary of Labor lunches with a man under investigation by the Federal Government.

It has been said that Mr. Presser's election will be like a breath of fresh air for the Teamsters, but having been involved in the Central States pension fund investigation for several years, I want to say that from my point of view Mr. Presser's election does not look or smell anything like a breath of fresh air.

AMENDMENT TO PUT FHA MORTGAGES BACK IN HOUSING BILL

(Mr. SAVAGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAVAGE. Mr. Speaker, I rise to recognize that we are going to go through the amendatory process with regard to H.R. 1983 today, the housing bill to provide assistance to those who are in danger of mortgage foreclosures. I want to recognize that in the Capitol today are members from the senior choir from Mount Calvary Baptist Church of Chicago, who come from neighborhoods that are hard hit by the threat of mortgage foreclosures, except that the mortage foreclosures most common in the areas from which these constituents come are FHA mortgages, and unfortunately, this bill excludes FHA mortgages from the relief.

I intend today to propose an amendment to put back into that bill FHA mortgages, because anyone subject to mortgage foreclosure needs to be covered, and I hope I get the consideration of my distinguished colleague from Texas, the sponsor, HENRY GONZALEZ.

SIGN DISCHARGE PETITION NO. 1 TO REPEAL THE INTEREST AND DIVIDEND WITHHOLDING SCHEME

(Mr. D'AMOURS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. D'AMOURS. Mr. Speaker, I rise again today to remind Members of this body that Discharge Petition No. 1, which is the discharge petition which seeks to bring to this floor for a vote the 10-percent withholding scheme on interest and dividends, is still pending at the desk.

We have over two-thirds of the needed signatures to discharge the House Committee on Ways and Means, and I would ask Members, and particularly those who have cosponsored legislation and on record as favoring repeal of the 10-percent withholding scheme to go to the desk and sign Discharge Petition No. 1.

The trade reciprocity bill to which the Kasten amendment was attached, dealing with this matter in the Senate, will not—I repeat—will not be taken up by this body. Therefore, the only and best means we have of assuring that we are going to get some movement in this body on the effort to repeal this unnecessary, unwanted, and burdensome new scheme is by signing Discharge Petition No. 1, currently at the desk.

CONGRESSIONAL ACTION MUST BE SWIFT

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, later today this body will have an opportunity to hear our President discuss one of the most critical foreign policy issues facing our great Nation—the Communist domination of Central America.

And later, we will have the opportunity to take positive action to prevent such a tragic takeover of our friends to the south by the Communist.

I rise today, Mr. Speaker, to urge my colleagues to help prevent disaster for our country and Central America.

No longer can we turn our heads and ignore the growing involvement of the Soviets, the Cubans and the Nicaraguans in the affairs and the lives of our allies in Central America.

Surely, we cannot pretend that last week's grounding by our friends in Brazil of four Libyan planes loaded with a cache of Soviet arms and military equipment did not happen.

The evidence is much too strong and clear to ignore.

Our action must be swift, sure and positive. U.S. aid must be enough to stifle this very real danger of a Communist takeover of Central America.

PRESIDENT'S ADDRESS ON EL SALVADOR

(Mr. COLEMAN of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN of Missouri. Mr. Speaker, this evening the President will come to this Chamber to address the Nation regarding his policies toward El Salvador. By so doing, he is stressing the urgency of the situation in Central America and his belief that we must develop a policy that effectively deals with this growing problem.

Yet, despite the seriousness of his remarks, and the need for the Congress and the American people to listen closely, I know that many Members of this body are already "sharpening their knives" in anticipation of attacking the President's position. One gets the impression that these Member do not care what the President says, or what new information he may present. They simply see this speech tonight as an opportunity for them to go before the cameras for 30 seconds of ridicule at the President's expense.

I would urge my colleagues to put down the hatchets, take the press release stationery out of their typewriters, and put away their pancake makeup.

We owe it to ourselves, our constituents, and our President to fully understand and consider the President's remarks before stampeding to the press gallery.

SUBSTITUTE FOR EMERGENCY HOUSING ASSISTANCE ACT

(Mr. WYLIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYLIE. Mr. Speaker, this afternoon the House will be taking up H.R. 1983, the Emergency Housing Assistance Act. I will offer a substitute that not only attacks the problem of foreclosures in a more direct and cost-effective manner than H.R. 1983, but will also include the $100 million in emergency assistance for the homeless provision.

I take this time to alert my collegues to that fact, since there has been some question about whether my substitute would include the $100 million in emergency assistance for the homeless, and I have concluded that it is in our best interests to do that.

I have spoken to the principal author of the provision, Congressman VENTO, about my intention. The addition of the $100 million to my substitute means that it is more likely to prevail than if it is included in the housing authorization bill.

Housing conferences have a history of being long and drawn out. We have completed many conferences with Christmas carols in the background. I believe these funds for the homeless are too important to run the risk of delaying consideration until next winter.

REDUCTION IN PASSENGER CEILING AT NATIONAL AIRPORT

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, I would like to take this opportunity to express appreciation on behalf of the Washington metropolitan area to Secretary of Transportation Elizabeth Dole for her appropriate decision to propose a reduction in the passenger ceiling at National Airport.

I believe it is important to point out that her proposal, which is being issued for public comment before final decision, would not affect a single flight now in operation at National.

This proposal from the Federal Government, which is the proprietor of both National and Dulles Airports, continues the progress of the local airports policy in the right direction. A lowering of the passenger cap at National will be a tremendous boost to Dulles. With this fall's opening of the Dulles connector linking I-66 and the Dulles Access Highway, the trip from downtown Washington to Dulles will be about a half hour, which will make Dulles more convenient and accessible.

Mrs. Dole's decision is a continuation of the good neighbor policy for the Washington area established in 1981 when the Metropolitan Washington airports policy was implemented and her proposal is another important step toward bringing greater balance between the passenger levels at National and Dulles Airports.

Again, on behalf of the area's citizens, I commend Secretary Dole on her proposal.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 287

Mrs. LLOYD. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 287.

The SPEAKER pro tempore (Mr. Panetta). Is there objection to the request of the gentlewoman from Tennessee?

There was no objection.

BOLAND AMENDMENT NOT BEING VIOLATED BY ADMINISTRATION

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Florida. Mr. Speaker, the language of the Boland amendment came directly from the language included in the intelligence authorization bill's report. As a member of the Intelligence Committee, I had a little bit of something to do with drafting that language and the debate that ensued prior to its adoption.

I can tell you that it is important to this House of Representatives for all our colleagues to know and to understand exactly what type of direction was given to the administration when the Boland language was approved and the Intelligence Authorization Act was approved.

What I am suggesting to you is that those who suggested the Boland amendment is being violated today by the administration are not really aware of the direction given to the administration by the Intelligence Committee. I would urge my colleagues to go to the office of the Intelligence Committee and read the transcript that we are talking about, find out what it was that the Intelligence Committee told the administration that they could do or that they could not do with regard to Central America.

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A DIALOG WITH THE SANDINISTA JUNTA

(Mr. WHITEHURST asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. WHITEHURST. Mr. Speaker, the gentleman from Florida (Mr. Young) and three other colleagues of the Intelligence Committee had the opportunity in the last 2 days to visit Central America. It is impossible, of course, in this time to give the full story of what we saw and heard, but I would like to call the attention of the House to a dialog that we had with members of the Sandinista Junta in Managua on Monday morning.

I told the members of the junta that we wanted the best of relations with their country, but I said, what prevented good relations were their efforts toward exporting their revolution within the frontiers of their neighbors. I called particular attention to the aid that has been given to the rebels in El Salvador. I said that as long as that went on it was impossible for us to have good relations with them.

The answer I got was one of complete denial that they are doing anything to aid and abet the revolution inside the borders of their neighbors.

Mr. Speaker, the headquarters of the rebel movement in El Salvador is located in Managua. Nobody should be under any illusions as to the intentions of the Sandinista government.

SALVAGE CENTRAL AMERICA FROM THOSE WHO WOULD SAVAGE IT

(Mr. MARTIN of North Carolina asked and was given permission to address the House for 1 minute and to reivse and extend his remarks.)

Mr. MARTIN of North Carolina. Mr. Speaker, we will soon face the question whether to try to salvage or to write off the non-Communist governments to our south. We cannot decide here what kind of governments our friends in Central America will have. Not only is it none of our business, but that does not work. Even FDR's handiwork in Nicaragua has finally fallen apart.

But we can say that Soviet, Lybian, and PLO influence will not expand in this hemisphere. That is our business. It has been our business since the Monroe administration. We should commend the chairman of the Foreign Operations Subcommittee for recognizing the need for, at least, a token effort.

But there will be voices of dissent and more voices demanding any effort be meaningless. We have no choice but to make a real effort to salvage Central America from those who would savage that land.

We must reject the line of the Soviet-PLO-Lybian-Cuban axis: That what they seek to contest we must abandon, and what they seek to solidify we must assure them. That line, if adopted again, will give us a choice in a few years whether or not to help defend Mexico and Panama.

PEOPLE OF LYCOMING COUNTY, PA., DECLARED "NATIONAL ANTILITTER CHAMPIONS"

(Mr. GEKAS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, on a lighter note, but nevertheless an important one, conservation being one of the matters uppermost in the minds of the American public, I wish to declare today as "National Antilitter Champions" the people of Lycoming County in my district in central Pennsylvania.

More than 20,000 volunteers representing 16.9 percent of the county population participated in an antilitter campaign of picking up litter from over 700 miles of Lycoming County highways. This represents 81.3 percent of the 861 miles of State highways in the county. They picked up 186 tons of litter and deposited it on a parking lot at the Lycoming County Mall to show the results of their efforts. Over a half million cans were collected for recycling.

Therefore, I put before this House and challenge every Member of the House to compare their efforts or to exceed this record in the hope that we lose the distinction in Lycoming County of being the No. 1 antilitter area in the United States.

Mr. Speaker, Anthony Casale, a citizen of Lycoming County who began this effort, is to be given a great deal of credit, but more credit goes to the rising consciousness of the people of all the country, and especially in Lycoming County, on the need to conserve and to be antilitter in conscience.

INTRODUCTION OF EQUAL ACCESS ACT FOR GREATER PROTECTION OF RELIGIOUS LIBERTY

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks)

Mr. LOTT. Mr. Speaker, a year and a half ago, the Supreme Court, in the case of Widmar against Vincent, took a giant step forward in the protection of religious liberty in the United States. The Court held that a public university could not discriminate against voluntary religious groups in the conduct of extracurricular activities. Whereever a public university makes time and space available for voluntary political, civic, and social groups, the university has a constitutional obligation to make equal access available to voluntary religious groups. These principles of religious liberty and nondiscrimination are in the best traditions of the American system.

Unfortunately, lower courts have been less than eager to follow the lead of the Supreme Court in this area. Even though the Supreme Court held some 15 years ago that the first amendment applies to public secondary and elementary school students, some lower courts have gone so far as to prohibit the exercise by those students of the liberties guaranteed by the Supreme Court in the Widmar case. It seems to me that Congress has both the power and the obligation to protect this exercise of liberties guaranteed by the Constitution.

For that reason, Mr. Speaker, yesterday I introduced the Equal Access Act, which would require all public educational institutions receiving Federal funds to comply with the principles set down in the Widmar case. Schools would be required to recognize the same rights and privileges for voluntary religious groups which they make available to other voluntary extracurricular activites. I am pleased to be joined in this effort by three original cosponsors: the gentleman from New York (Mr. Kemp); the gentleman from Illinois (Mr. Hyde); and the gentleman from California (Mr. Dannemeyer). A similar measure has already been introduced in the other body by Senator Denton, and a somewhat different response to the same problem has been introduced by Senator Hatfield. President Reagan has lent his endorsement to this approach, and Secretary of Education Terrell Bell is expected to endorse the idea in hearings before the Senate Judiciary Committee this Thursday.

The religious liberties of our children are too important to be neglected by this Congress. I call on my colleagues to assist in the enactment of this legislation to redress the inequities our children presently face.

BACK TO THE BASICS IN EDUCATION

(Mr. PACKARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PACKARD. Mr. Speaker, we need to get back to the basics in the education of our children. The report of the National Commission on Excellence in Education forces us to face the fact that the foundations of American education "are presently being eroded by a rising tide of mediocrity that threatens our very future as a nation and a people." The mediocre education we are giving to our children today is a cruel deception. Prompt action is urgently needed to restore meaning to the diplomas awarded by our high schools and colleges.

As the report states, "the primary responsibility for financing and governing the schools" lies with State and local officials. The Commission has recommended that States and localities adopt stiffer requirements for a student to receive a high school diploma. Four years of English and three years of math, science, and social studies should certainly be a part of every student's high school education.

The education of our children must be the very best that we can offer. We must not settle for mediocrity.

UNFAIR FOREIGN COMPETITION: FEEDSTOCK SUBSIDIZED IMPORTS

(Mr. MOLLOHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MOLLOHAN. Mr. Speaker, it is clear that unfair foreign trade practices have become pervasive, undermining both our domestic and overseas markets. One striking case involves the U.S. carbon black industry.

The historical record is enlightening. In 1882, the Cabot Corp. began its first carbon black manufacturing operation just 4 miles from Grantsville, W. Va., on the Little Kanawha River. This represented the first production of carbon black in this country. The Cabot Co. grew and my father, who was born and raised in Grantsville, can well remember the operation as making an important contribution to the local economy. Today Cabot faces a real threat from Mexican producers—a challenge based completely on unfair foreign competition.

Feedstocks for carbon black production are natural gas and a residual oil know as carbon black feedstock. Approximately 70 percent of the cost of carbon black production is attributable to hydrocarbon raw material costs, 86 percent of which is for the purchase of carbon black feedstock.

The price of this feedstock in the United States is $25 a barrel. PEMEX, the Mexican national oil monopoly, charges Mexican carbon black producers about $2 or less a barrel and this price is available only to local producers. With this advantage, Mexican producers have production costs at or near 10 percent of those of U.S. carbon black producers.

The Department of Commerce, acting under U.S. trade laws, has recently determined in an action filed by the U.S. carbon black producers that subsidized feedstock prices for carbon black by the Government of Mexico are not countervailable when Mexican carbon black is imported into the United States since such material is generally available to all Mexican producers. It is argued that this is a comparative advantage based on abundant local natural resources. These arguments are factually incorrect, but more importantly they permit Mexico to grant a clear and intentional subsidy for which a non-oil-producing country would be penalized if made as a monetary grant.

This decision has far-reaching and disastrous implications for all U.S. industries dependent on petroleum feedstocks, such as petrochemicals, anhydrous ammonia, and cement. If the Department of Commerce were permitted to continue this policy, it could well lead to the destruction of important U.S. industries, despite our efforts to promote modernization and productivity. Nonmarketplace advantages—including material subsidies—sponsored by foreign governments to give their industries unfair advantages must be rooted out.

Internationally, we have a free market in name only. The "Rules of the Game" must be amended now.

HOPE FOR CHANGE OF POLICY IN CENTRAL AMERICA

(Mr. BONIOR of Michigan asked and was given permission to address the house for 1 minute)

Mr. BONIOR of Michigan. Mr. Speaker, tonight President Reagan will speak on Central America. At stake is not only our policy toward the region but the kind of vision and leadership the U.S. proposes to the Third World.

Will the President, once again, resort to an analysis that sees the world divided simply into West and East, and ask that we make this view a self-fulfilling prophecy by escalating our military involvement?

Or will he, perhaps, signal a departure from the mistakes of the past and heed the advise of other nations in the region—Mexico, Venezuela, Panama, and Colombia—who say there are peaceful possibilities for Central America? Will he show that he has understood the peoples of the region who have suffered repressive military regimes and decades of heavyhanded U.S. intervention, and now claim the right to self-determination?

We wait for the President to show that our Nation's prestige and its resources will be committed to a policy that understands the complexities of the world and can chart a route to peace for ourselves and others.

A NATION AT RISK

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, every one of us here who cares about the future of our Nation should be shocked and dismayed at the report released yesterday by the Department of Education's National Commission on Educational Excellence.

As a ranking New York member of the Education and Labor Committees, I have a special interest and am appalled by it's contents. This report, entitled "A Nation at Risk" is a scathing indictment of American education today. It points out a number of gross deficiencies in our elementary and secondary schools and the students who attend them.

Even worse—when comparing American students with their counterparts in other industrialized nations—we came out last in 7 out of 19 categories. In addition, the report points out:

> Some 23 million adults are functionally illiterate—some 13 percent of 17-year-olds and nearly 40 percent of minority youth suffer from the same illiteracy;
>
> Average achievement of high school students on most standardized tests is now lower than 26 years ago when sputnik was first launched;
>
> SAT scores have declined every year since 1963—math scores falling an average of 40 points and verbal scores falling 50 points;
>
> The Department of the Navy reported that one-quarter of its own recruits cannot read past the ninth grade level.

Mr. Speaker, for the billions that we spend each year on education—we are, in very graphic terms, not getting any bang for the buck. We have failed to require more rigorous standards for our students and the schools they attend and we have failed to demand quality and instead, have settled for mediocrity. The Federal Government should not be subsidizing such mediocrity.

Let us return to the basics—and begin to impose some significant improvements in the ways we now run our schools—let us urge longer school days and years—better teacher training programs—more emphasis on achievement and superiority—and more rigorous standards for our students. High schools diplomas should be earned—and by this, I mean earned through hard work and accomplishment—not just by putting in time for 4 years.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON MILITARY READINESS OF COMMITTEE ON ARMED SERVICES TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. DANIEL. Mr. Speaker, I ask unanimous consent that the Subcommittee on Military Readiness of the Committee on Armed Services be permitted to sit tomorrow during the 5-minute rule, to complete the markup of its section of the defense authorization bill. I might add that this has the support of the gentleman from Virginia (Mr. WHITEHURST), the ranking minority member.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

Mr. HILER. Mr. Speaker, reserving the right to object, will the gentleman please repeat his request?

Mr. DANIEL. Mr. Speaker, I ask unanimous consent that the Subcommittee on Military Readiness of the Committee on Armed Services be permitted to sit tomorrow during the 5-minute rule, should there be one, in order to complete markup of its section of the defense authorization bill, and I added that this has the support of the gentleman from Virginia (Mr. WHITEHURST) who is the ranking minority member.

Mr. HILER. Mr. Speaker, further reserving the right to object, it is the understanding on this side that tomorrow the nuclear freeze resolution will be up for consideration.

Mr. DANIEL. I do not know that.

Mr. HILER. Mr. Speaker, I feel constrained to object because it is our understanding that the nuclear freeze resolution will be the subject of business for tomorrow, and so I do not think that we want to be meeting during the 5-minute rule while that legislation is being considered.

Further reserving the right to object, will the gentleman withdraw his request and perhaps come back in a little while to get this cleared up?

Mr. DANIEL. I will, of course, do that.

Mr. Speaker, I withdraw my request.

The SPEAKER pro tempore. The gentleman withdraws his request.

AMERICANS KILLED AT U.S. EMBASSY IN BEIRUT HONORED IN MEMORIAL SERVICES

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, yesterday memorial services were held for the Americans killed in the dastardly bombing of the U.S. Embassy in Beirut. Five of the victims in the bombing were employees of the Agency for International Development. Three of them were Americans, William McIntyre, Thomas Blacka, and Albert Votaw.

I had the privilege during four years in AID to work with one of the victims, Bill McIntyre. Bill was the Deputy Director of the mission in Beirut, and before that he served, as the others did, with great distinction both here in the United States and overseas in many capacities.

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Bill, and the other AID employees, were soldiers of good will. Knowing Bill quite well, I think one good testament to him that he would want is that we respect the efforts of public servants in the U.S. Government while they are alive and undertaking their daily tasks.

My deepest condolences go forth to the families of all of the employees who lost their lives in the tragic Beirut bombing.

STATEMENT ON MARKETING ORDERS RESOLUTION

(Mr. ALBOSTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALBOSTA. Mr. Speaker, I am today introducing a concurrent resolution in the House expressing the sense of Congress that agriculture marketing orders should not be changed and the Secretary of Agriculture, should in conjunction with affected producer groups, decide when to implement a marketing order.

During the past 2 years we have seen the Office of Management and Budget assume a role it was never intended to play—deciding when marketing orders are to be used and in effect being allowed to overrule the Secretary of Agriculture on this very important matter to farmers around the country.

Marketing orders were first established in 1937 and have over the years worked to promote the orderly marketing of agriculture commodities, thus insuring a stable and reasonably priced supply of commodities in this country. Now is not the time to disrupt the system of marketing orders that covers everything from citrus crops in California to milk production in Michigan.

This resolution will again clearly restate the position of Congress in support of the marketing order system for parts of American agriculture.

EL SALVADOR

(Mr. LEHMAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEHMAN of California. Mr. Speaker, tonight, President Reagan will be addressing a joint session of Congress to discuss his policy in Central America. I would like to take this opportunity to voice my concern about the course of events in El Salvador.

The El Salvador question is complex, with no quick or easy solutions. The Reagan administration has been unable to find a role for the United States to play which is reasonable, protective of human rights, and still allows for middle ground reforms. One of the most difficult aspects involved in trying to establish a sensible foreign policy regarding El Salvador is that it is unclear which of the disparate political entities in El Salvador, if any, would disavow the use of violence to secure and maintain power.

Congress has tried to insure that U.S. dollars for military aid will not be used to promote Government violence. Despite the untried case of the murdered nuns and no verifiable evidence of a cessation of political repression and violence, the President is asking for $136 million in military aid to El Salvador. This amounts to a 500-percent increase over last year's appropriation. I applaud the caution the House has thus far exhibited in allocating these funds.

Yesterday it was announced that the International Red Cross would be allowed to inspect El Salvadoran prisons without prior notification. It is gains such as this that provide hope for the future of human rights in Central American countries like El Salvador. This long and arduous process of establishing basic human freedoms has not been advanced by the brute force of American military aid. Our policy toward Central America should reflect our values as well as our politics. Let us work to insure that future progress in Central America can be attributed to the wisdom and clarity of the decisions we make today and in the coming weeks regarding Central America.

THE PRESIDENT'S POLICY IN CENTRAL AMERICA

(Mr. LELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LELAND. Mr. Speaker, I rise to address the House on a matter of grave importance to us all: The President's policy in Central America. Tonight the President will make a dramatic appeal to the Congress and the American people to support his Central American policy. My concern is that we are still not clear on what that policy is. Furthermore, we are not acting strongly enough to hold the President accountable to the laws we have already enacted on this question, and to the will of Congress that a lasting and just political solution be found.

Mr. Speaker, I am convinced that behind the President's accommodating rhetoric of late, lies a clear intention to flout the will of Congress. In clear contravention of the Boland amendment, enacted into law last year, the President continues support for groups in Honduras and Costa Rica whose expressed intention is the overthrow of the Government of Nicaragua. To date we have not acted to disclose and stop these clear violations of the law. The President is also attempting to undermine the only significant effort to find a solution through dialog, currently pursued by the Governments of Mexico, Venezuela, Panama, and Colombia. Instead of aiding this attempt, the White House is only pouring more money and arms into the region.

I hope my colleagues in this body will not be swayed by false promises tonight. I hope we will have the courage to take bolder steps to force accountability by the White House, and set the terms for U.S. assistance to Central America. This is a critical moment, and one for which we will be remembered. I hope that for the sake of those who will come after us, that this body will not flinch, and that it will act with boldness and resolve to put a just end to war in Central America.

SHOWDOWN IN CENTRAL AMERICA

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, the situation in Central America is heading for a showdown. The President will address us tonight.

In considering our policy toward Nicaragua, we need to understand the nature of that regime. Make no mistake about it, it is a repressive, avowedly Marxist-Leninist state, with much blood on its hands and much blood in its plans. They are proud to be intimately linked with the Cuban export of revolution, with the East bloc and the Soviet Union, with Libya.

It is proud of its links to the PLO. It is proud of its role in the export of violence.

I urge the American media to consider closely the record of the Nicaraguan leadership, their statements, their character.

I urge them to compare that leadership with the leadership of those who fight against the Nicaraguan regime near the Honduran border, the FDN.

Americans who are interested in movement toward democracy in this region must give the FDN a closer examination, their character and their goals. They will find those opponents of the Sandanistas interested in a pluralistic democratic government for Nicaragua something the Sandanistas promised but never delivered.

READY TO GO ON HOUSING

(Mr. PARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARRIS. Mr. Speaker, I yield to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, I appreciate the gentleman yielding to me.

Mr. Speaker, I am dismayed and surprised that the Emergency Housing Assistance Act has been pulled from the calendar for consideration for today. We are here and ready to go and the only thing that I can think is that there was a possibility that my substitute might have passed.

Now, this is very disconcerting that the leadership can schedule bills for the floor, we make plans to be here to go ahead, and at the last minute the bill is pulled off.

Mr. Speaker, I resent the procedure which has been followed on this emergency assistance housing bill. We were told it was very important that we go ahead with it today.

I thank the gentleman for yielding me this time.

Mr. PARRIS. Mr. Speaker, I yield back the balance of my time.

LET US COMPLETE CONSIDERATION OF THE EMERGENCY HOUSING ASSISTANCE ACT

(Mr. BARTLETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT. Mr. Speaker, I join with the gentleman from Ohio that the procedure today in pulling H.R. 1983 does a great deal of damage to the process.

H.R. 1983 has been scheduled a number of times, a half a dozen times so far, and yet it continues to be pulled.

The House is ready to act today. The Wylie substitute, in fact, the Wylie substitute I believe would have passed today and will pass when the bill is brought up, because the Wylie substitute, as this House knows, will help people. It will provide for more forbearance and fewer foreclosures in this country. If this House wants to help the process, which we do, if this House wants to prevent foreclosures, then we should act on H.R. 1983, act on and pass the Wylie substitute, and we can help people today. It could pass the House today and pass the Senate next week and be signed by the President by the end of the month.

I urge the House to take action on the Wylie substitute and to get it back scheduled and scheduled at a time when this House can act.

THE EMERGENCY HOUSING ASSISTANCE ACT

(Mr. **FRANK** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **FRANK.** Mr. Speaker, I appreciate the zeal for action and ultimate decision by the House on the part of the minority on the housing bill. I just wish maybe a little of that would leak over to the nuclear freeze and they would end their filibuster.

I am in favor of legislation being brought to a vote. I just wish the minority were not so selective about it.

With regard to the mortgage bill, several Members have raised some interesting aspects in which the bill could be improved. There are amendments that have been prepared. For instance, when the bill comes before us, we will have an agreement on an assets test to prevent abuse. We will have agreement on a couple other amendments proposed, some by the minority and some on the majority side.

The time gained on the mortgage bill is not being used to filibuster or to split hairs or to magnify insubstantial differences. The time is going to be used to improve the legislation.

Many Members have raised questions, saying they like the substance, but had some particular points they wanted to improve. We are seeking to improve it and I think the bill that will come before us pretty soon will have an assets test.

Mr. **WYLIE.** Mr. Speaker, will the gentleman yield?

Mr. **FRANK.** I yield to the gentleman from Ohio.

Mr. **WYLIE.** Mr. Speaker, the gentleman spoke of an assets test and I agree there needs to be an assets test in this bill. The gentleman showed me an amendment a little while ago, which seemed to satisfy; but if my substitute had passed, we would not need to get to wrestle with the question of an assets test.

Mr. **FRANK.** Well, I agree with the gentleman from Ohio, if we are not going to have a program, there need not be an assets test. We need not exclude people from a program which does not exist.

The gentleman's substitute would basically say there would be no program. Some of us feel there ought to be a program, but one which is well designed.

Now, I agree, it does not take a lot of time to wipe the program out. We think it takes more time to incorporate some amendments.

I hope the Members will not object if some of the doubts about the specifics that the Members have expressed are addressed in amendments.

FREEDOM FOR EL SALVADOR AND SECURITY FOR THE UNITED STATES ARE AT STAKE

(Mr. **SILJANDER** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **SILJANDER.** Mr. Speaker, I am sometimes alarmed by the naiveté or the simply poor judgment of some of my fellow Members when it comes to Central America. Perhaps they have simply been unable to recognize that the growth of democracy is not an instantaneous event. There are growing pains associated with democracy.

Certainly the United States is not without a history of its own growing pains. We started out as a nation that only gave rights to white, male, wealthy land owners. Thank God we have progressed far in 200 years, but democracy is still developing in this country, in fact, many feel that human rights in this country for the unborn, poor, aged and handicapped are regressing.

I say this because El Salvador is a very young democracy. This nation has certainly suffered its share of atrocities both verified and rumored, but it is growing. Phase I and III of land reform is taking place. An election was held with a great deal of popular support last year, and another election is scheduled late this year.

El Salvador is our ally. It is a country just several hundred miles from our border. We already see the results of guerrilla revolutions in countries like Nicaragua that have resulted in the massacre of thousands of innocent citizens. Why do so many Members persist in opposing the development of democracy in El Salvador and supporting the dictators in Nicaragua?

Yesterday I attended a top secret briefing on the Central American situation. I cannot reveal the details, but suffice it to say that the situation in our neighbor's region leaves me with a deep sense of urgency and concern not only for the yearning of the people in Central America for freedom, but also for the security of the United States.

Tonight the President will address this body. I urge all of you to keep an open mind and not bury your head as the pathetic ostrich does.

AUTHORIZING PRINTING AS HOUSE DOCUMENT OF REPORT OF THE SPEAKER ENTITLED "THE UNITED STATES AND CHINA"

Mr. **GAYDOS.** Mr. Speaker, I offer a resolution (H. Res. 173) and ask unanimous consent for its immediate consideration.

The **SPEAKER** pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. Res. 173

Resolved, That the report of the Speaker entitled "The United States and China" shall be printed as a House document.

Sec. 2. In addition to the usual number, there shall be printed 1,000 copies of such document for the use of the House.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

EMERGENCY AGRICULTURAL CREDIT ACT OF 1983

Mr. **DERRICK.** Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 158 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 158

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1190) to provide emergency credit assistance to farmers, and for other purposes, the first reading of the bill shall be dispensed with, and all points of order against the bill for failure to comply with the provisions of section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344), and section 3 of the concurrent resolution of the Ninety-Seventh Congress (S. Con. Res. 92) setting forth the recommended congressional budget for the United States Government for the fiscal years 1983, 1984, and 1985, and revising the congressional budget for the United States Government for the fiscal year 1982, are hereby waived. After general debate, which shall be confined to the bill and to the amendment made in order by this resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, each section of said substitute shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI, clause 5 of rule XXI, and section 3 of S. Con. Res. 92 of the Ninety-Seventh Congress, are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1245

REQUEST FOR A CALL OF THE HOUSE

Mr. LOTT. Mr. Speaker, I move a call of the House.

The SPEAKER pro tempore. The Chair at this time would not entertain that motion.

The gentleman from South Carolina (Mr. DERRICK) is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield the customary 30 minutes, for purposes of debate only, to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 158 is an open rule providing for consideration of H.R. 1190, a bill to provide emergency credit assistance to farmers, and for other purposes. The rule provides for 1 hour of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture.

House Resolution 158 waives section 402(a) of the Congressional Budget Act—the May 15 reporting deadline for new authorizations—to allow consideration of H.R. 1190. This is necessary since, to achieve the aim of this legislation to give emergency aid to distressed farmers, the authorizations included in the bill must become effective in fiscal year 1983. That makes May 15, 1982, the relevant section 402(a) deadline; which, of course, must be waived.

The rule also waives section 3 of Senate Concurrent Resolution 92—the budget resolution for fiscal year 1983—which requires that bills or amendments providing for loans or loan guarantees shall be in order during fiscal year 1982 or 1983 only if such loans or loan guarantees are provided for in Appropriations Act. This section of Senate Concurrent Resolution 92 is still in force because House Resolution 5, adopted this past January, provided that the rules of the 97th Congress, including all applicable provisions of any concurrent resolution affecting those rules, would be adopted as the rules for the 98th Congress.

House Resolution 158 also makes in order an Agriculture Committee amendment in the nature of a substitute, which will be considered as the original text for the purposes of amendment, each section of which will be considered as having been read. The rule waives points of order under clause 7 of rule XVI (germaneness) and clause 5 of rule XXI—forbidding appropriations in a legislative bill—against that substitute. Germaneness must be waived because the committee substitute provides for some administrative changes and new grants not dealt with in the bill as introduced. Clause 5 of rule XXI must be waived because, by allowing some currently outstanding funds to be used for new purposes, the substitute is technically providing new appropriations. The rule also waives points of order against the substitute for violation of section 3 of Senate Concurrent Resolution 92, since the substitute provides for additional loans and loan guarantees for farmers.

Finally, House Resolution 158 provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 1190 addresses the very serious economic situation of this Nation's farmers. During 1982, 8,200 of the country's Farmers Home Administration borrowers liquidated their farm interests in response to the economic binds they were forced into. In my home State of South Carolina alone, nearly 200 Farmers Home borrowers had to give up their farms. By the end of last year, more than 50 percent of Farmers Home borrowers nationwide were delinquent in their loan repayments.

H.R. 1190 will provide much-needed assistance to thousands of beleaguered farmers who, through no fault of their own, find themselves on the brink of losing their farms. It would be a tragedy if we were to stand by and allow these family farms to fall victim to our temporary economic malaise, over which farmers have no control.

It would be a personal tragedy for these farmers, whose families have struggled for generations to build up farms now threatened by bad weather, high interest rates, high costs, and low commodity prices. This loss of thousands of knowledgeable, dedicated small farmers from the fields would also be a tragedy for the millions of nonfarm Americans who benefit from the products of these farms and the stimulus they provide to the whole economy.

While Congress cannot do anything to improve the weather, and full relief for farmers must await the recovery of our national economy, we can insure that farmers are not pushed into bankruptcy by the unavailability of credit to carry them over until the economic situation improves.

H.R. 1190 will provide such assurances by establishing a new system for deferral of Farmers Home loan repayments and by providing increased authorizations for the Farmers Home economic emergency, disaster emergency, farm ownership, and farm operating loan programs. This assistance will be limited to those farmers who have demonstrated good farm management practices, but have suffered losses due to circumstances beyond their control.

Mr. Speaker, we cannot afford to stand by and watch these hard-working farmers lose their farms. H.R. 1190 will help avert this national tragedy. House Resolution 158 provides for full and open consideration of this crucial legislation. I urge adoption of the rule.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I know of no controversy on the rule itself.

There is some controversy on the measure. The administration opposes it because there are problems with some particular provisions.

But I believe that the farmers of this Nation need help. I know in my district many farmers are losing their farms to foreclosure by the Farmers Home Administration and other Federal agencies. They are in dire need of help.

The farmers are the backbone of this Nation. I think whatever Congress can do to lend a helping hand, we should do.

I have seen on television where auctions are held and hundreds of neighbors join in to try to keep the farm from being auctioned off.

Farmers are sincere. They want to pay for their farms. I do not believe in forgiveness and neither do the farms.

But these loans should be stretched out and every opportunity should be given so that they can pay them back.

This measure, as we will see when it is discussed on the House floor, extends the life of the loan and increases the maximum amount that farmers can borrow and gives a helping hand.

So I urge adoption of this rule. Let the bill be fully debated, keeping in mind that the farmers need help.

Mr. Speaker, I yield 5 minutes to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I thank the gentleman for yielding.

All I have to say is this is some way to run this great deliberative body. The schedule once again has been jerked around like a yoyo. I do not know who we are trying to emulate around here. But if we want to get to the point of being masters of bringing bills to the floor, taking them off, if we do not have the exact amendment coming up at the time we want it, let us just pull it off.

Let me completely clarify what I am talking about. This so-called emergency housing bill which we were supposed to take up this morning has been on the schedule for consideration five or six times now. It is on; it is off.

It was scheduled for today. Everbody knew it was going to be taken up this morning. The Members involved were ready to come to the floor and get involved in debate. Then all of a sudden, because apparently somebody decided that maybe it was not nice for the Wylie substitute to come up early in the amendment process and that maybe the Wylie substitute was, as a matter of fact, going to pass, we would just jerk it off the floor. So, zip, it is gone.

Plus the time. We were told at one point last week that we were going to go in at 3 o'clock, then it was 11 o'clock, then it was 12 o'clock.

I am supposed to be involved in the leadership here, but there is no prior consultation. We are summarily advised, and then when we try to get a call of the House so the Membership will even know what is happening on the floor, we do not get recognized for that.

The ranking member of the Agriculture Committee that is going to be involved in this bill we are going to take up now under this rule is not even here yet.

So I just have to ask: What is the problem here?

Mr. de la GARZA. Mr. Speaker, will the gentleman yield to me?

Mr. LOTT. I will be glad to yield.

Mr. de la GARZA. I do not know what the gentleman's problem is, but I would think that our being on the floor at this stage would in part be due to my power of persuasion, that I have been working on the leadership.

You cannot eat. You cannot have a house without having to eat first.

This is an emergency piece of legislation. I would hope that my dear friend would allow some credit to our power of persuasion to bring this legislation up.

I do not know about the housing measure. I support it. I spoke on behalf of it. I have not consulted with my colleague from Texas, Mr. Gonzalez, but I would think that finally we in the Agriculture Committee have convinced someone to let us come up early.

Mr. LOTT. I just have to say, obviously, the gentleman from Texas is very persuasive. But I doubt that he had a whole lot to do with this change in the schedule at the last minute.

The gentleman was scheduled to have his legislation brought up later this week, Thursday or Friday. I am sure he knows that his legislation is not going to get a whole lot of attention today. Maybe we will be able to work on it. We will have maybe 4 hours of debate, the rule and some debate.

I am sure the gentleman knows that there are some negotiations going on right now to improve this very imperfect piece of legislation that is about to be brought up.

Mr. WATKINS. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I am happy to yield to the gentleman.

Mr. WATKINS. The Mississippi cotton farmers and the soybean farmers need this bill and as quickly as they can.

Mr. LOTT. They do not need it in the form it is in and they know that, too. In fact, various organizations of people have already expressed concerns.

I just wanted to take this time under the rule to object to the way this whole process has been handled. It is no way to treat the membership. It is no way to treat each other.

I hope that maybe we can improve communication and stop this type of procedure on scheduling legislation.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I will be glad to yield to the gentleman.

Mr. WYLIE. I appreciate our minority whip taking this time to express his dismay along with the rest of ours at the procedure which has been followed here.

With all due respect to the gentleman from Texas, chairman of the Agriculture Committee, his power of persuasion had nothing to do with it. I was here and I was asked if I would yield to the other side for the purpose of offering some amendments. Under the rule I am entitled to offer my substitute first.

We went to the Parliamentarian to ascertain that that was the rule. I said that I did not want to forgo my privilege of offering my substitute first because I thought we might have a better chance at passing my substitute at this time.

To suggest that the chairman of the Agriculture Committee went to the Speaker and said that the emergency housing bill should be pulled off in favor of the Agriculture bill is just poppycock. I am glad that the gentleman in the well has taken this time to set the record straight.

Mr. de la GARZA. Mr. Speaker, will the gentleman yield to me?

Mr. LOTT. I am glad to yield further to the gentleman.

Mr. de la GARZA. I would hope that my distinguished colleague and friend, whom I love dearly, would allow some credit here. No, I did not go to the Speaker. I deal with the majority leader's office for scheduling legislation.

No, I did not ask that the housing bill be put off. But, yes, every day, 12 times a day I go by their office and I say let our emergency farm bill come up, let our emergency farm bill come up.

Mr. QUILLEN. Mr. Speaker I yield 1 minute to the gentleman from Indiana (Mr. Hiler).

Mr. HILER. Mr. Speaker, I rise not in objection to the rule, but, as the previous speaker did, in objection to the procedure we are using here.

I think it is absolutely ludicrous that the minority should be notified roughly 15 minutes before a major piece of legislation is going to come before the floor of this House.

The issue of foreclosure is certainly a major issue on the farm today and I think over the course of debate there will be a lot of information that will come out.

Last year there were only 844 foreclosures out of 270,000 Farmers Home loans—844 foreclosures. That is the kind of information that is going to come out in the course of this debate.

Also the kind of information that will come out is that this bill will cost billions and billions of dollars to implement at a time when many are already objecting to the size of the deficit.

So I hope that this bill, if passed, is passed in a more palatable form. But most of all I would hope that this debate goes on for quite some time as this is an issue that does deserve serious discussion.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

Mr. MARTIN of North Carolina. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make a point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 262, nays 133, not voting 38, as follows:

[Roll No. 64]

YEAS—262

Ackerman
Addabbo
Akaka
Albosta
Alexander
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Barnard
Barnes
Bates
Bedell
Beilenson
Bennett
Berman
Bevill
Biaggi
Boland
Boner
Bonior
Bonker
Borski
Boucher
Boxer
Breaux
Britt
Brooks
Brown (CO)
Broyhill
Bryant
Byron
Carper
Carr
Clay
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
D'Amours
Daniel
Daschle
de la Garza
Dellums
Derrick
Dickinson
Dicks
Dixon
Donnelly
Dorgan
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart

Edgar
Edwards (CA)
Emerson
English
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frost
Fuqua
Garcia
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gore
Gray
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hance
Harkin
Harrison
Hatcher
Heftel
Hertel
Hightower
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
LaFalce
Lantos
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Levitas
Lloyd
Long (LA)
Long (MD)
Lowry (WA)
Lujan
Luken
Lundine
MacKay
Markey
Marlenee
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McNulty
Mica
Mikulski
Miller (CA)
Miller (OH)
Minish
Mitchell
Moakley
Mollohan
Moore
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Natcher
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Panetta
Patman
Patterson
Pease
Penny
Perkins
Pickle
Price
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Reid
Richardson
Roberts
Roe
Rowland
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Seiberling
Shannon
Sharp
Shelby
Simon
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Towns
Traxler
Udall
Valentine
Vandergriff
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
Wheat
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wirth
Wise
Wolpe
Wright
Wyden
Yates
Yatron
Young (AK)
Young (MO)
Zablocki

NAYS—133

Anderson
Archer
Badham
Bartlett
Bereuter
Bethune
Bilirakis
Bliley
Broomfield
Burton
Campbell
Carney
Chandler
Chappie
Cheney
Clinger
Coats
Conable
Corcoran
Courter
Craig
Crane, Daniel
Crane, Philip
Dannemeyer
Daub
Davis
DeWine
Dreier
Duncan
Edwards (AL)
Edwards (OK)
Erlenborn
Evans (IA)
Fiedler
Fields
Fish
Forsythe
Frenzel
Gekas
Gradison
Gramm
Green
Gregg
Hammerschmidt
Hansen (ID)
Hansen (UT)
Hartnett
Hiler
Hillis
Holt
Hopkins
Hunter
Johnson
Kasich
Kemp
Kindness
Kramer
Lagomarsino
Latta
Lent
Lewis (CA)
Lewis (FL)
Livingston
Loeffler
Lott
Lowery (CA)
Lungren
Mack
Madigan
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
McCain
McCandless
McCollum
McDade
McDonald
McEwen
McGrath
McKernan
Michel
Moorhead
Morrison (WA)
Nielson
O'Brien
Oxley
Packard
Parris
Pashayan
Paul
Petri
Porter
Pritchard
Regula
Ridge
Rinaldo
Ritter
Robinson
Roemer
Rogers
Roth
Roukema
Rudd
Schaefer
Schneider
Sensenbrenner
Shaw
Shumway
Shuster
Siljander
Skeen
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Spence
Stump
Tauke
Taylor
Thomas (CA)
Vucanovich
Walker
Whitehurst
Winn
Wolf
Wortley
Wylie
Young (FL)
Zschau

NOT VOTING—38

Bateman
Boehlert
Boggs
Bosco
Brown (CA)
Chappell
Clarke
Coughlin
Dingell
Foley
Gaydos
Gingrich
Hawkins
Hefner
Hoyer
Hyde
Lipinski
Martinez
McHugh
McKinney
Mineta
Molinari
Montgomery
Moody
Neal
Nelson
Pepper
Rodino
Rose
Rostenkowski
Schulze
Sikorski
Stangeland
Torricelli
Vander Jagt
Washington
Weber
Wilson

□ 1315

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

Mr. MARTIN of North Carolina. Mr. Speaker, on that I demand a division.

Mr. DERRICK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 341, nays 60, not voting 32, as follows:

[Roll No. 65]

YEAS—341

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Barnard
Barnes
Bartlett
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bevill
Biaggi
Bilirakis
Bliley
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Britt
Brooks
Brown (CO)
Broyhill
Bryant
Byron
Campbell
Carper
Carr
Chandler
Clay
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Courter
Coyne
Crockett
D'Amours
Daniel
Daschle
Davis
de la Garza
Dellums
Derrick
Dickinson
Dicks
Dixon
Donnelly
Dorgan
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fish
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Horton
Howard
Hubbard
Huckaby
Hughes
Hunter
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kolter
Kostmayer
LaFalce
Lantos
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Levitas
Lewis (FL)
Livingston
Lloyd
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Luken
Lundine
Lungren
Mack
MacKay
Markey
Marlenee
Marriott
Martin (NY)
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCurdy
McDade
McEwen
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Mollohan
Montgomery
Moody
Moore
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Penny
Perkins
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Roemer
Rogers
Rose
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Seiberling
Shannon
Sharp
Shaw
Shelby
Shuster
Simon
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Winn
Wirth
Wise
Wolf
Wolpe
Wright
Wyden
Yates
Yatron
Young (FL)
Young (MO)
Zablocki
Zschau

NAYS—60

Badham
Bethune
Broomfield
Burton
Carney
Chappie
Cheney
Clinger
Conable
Corcoran
Coughlin
Craig
Crane, Daniel
Crane, Philip
Dannemeyer
Daub
DeWine
Dreier
Evans (IA)
Fiedler
Fields
Forsythe
Frenzel
Gekas
Gramm
Green
Holt
Hopkins
Johnson
Kramer
Lagomarsino
Latta
Lent
Lewis (CA)
Loeffler
Madigan
Martin (IL)
Martin (NC)
McCollum
McDonald
McGrath
Moorhead
Packard
Paul
Petri
Roth
Schaefer
Sensenbrenner
Shumway
Siljander
Skeen
Smith, Denny
Snyder
Solomon
Stump
Tauke
Vucanovich
Walker
Wortley
Wylie

NOT VOTING—32

Archer
Bateman
Boehlert
Boggs
Breaux
Brown (CA)
Chappell
Clarke
Dingell
Foley
Gingrich
Hawkins
Hoyer
Hyde
Lipinski
Lujan
Martinez
Molinari
Neal
Nelson
Pepper
Rodino
Rostenkowski
Schumer
Sikorski
Smith, Robert
Stangeland
Torricelli
Washington
Weber
Wilson
Young (AK)

☐ 1330

Mr. HUNTER changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. PANETTA). Without objection, a motion to reconsider is laid on the table.

Mr. MARTIN of North Carolina. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. MARTIN of North Carolina. Mr. Speaker, I offer a motion to reconsider.

The SPEAKER pro tempore. Did the gentleman from North Carolina vote on the prevailing side of the vote on the resolution?

Mr. MARTIN of North Carolina. No, Mr. Speaker, I did not.

The SPEAKER pro tempore. The gentleman does not qualify.

For what purpose does the gentleman from Texas (Mr. DE LA GARZA) rise?

Mr. DE LA GARZA. Mr. Speaker, I move to reconsider.

The SPEAKER pro tempore. Did the gentleman from Texas vote on the prevailing side of the vote on the resolution?

Mr. DE LA GARZA. I did, Mr. Speaker.

The SPEAKER pro tempore. The gentleman qualifies.

For what purpose does the gentleman from South Carolina rise?

Mr. DERRICK. Mr. Speaker, I move to table the motion to reconsider.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from South Carolina (Mr. DERRICK).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MARTIN of North Carolina. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count for a quorum.

One hundred and twenty-four Members are present, not a quorum.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 292, nays 111, not voting 30, as follows:

[Roll No. 66]

YEAS—292

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Barnard
Barnes
Bartlett
Bates
Bedell
Beilenson
Bennett
Bereuter
Bevill
Biaggi
Bilirakis
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Brown (CA)
Brown (CO)
Bryant
Byron
Carper
Carr
Clay
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Courter
Coyne
Crockett
D'Amours
Daschle
de la Garza
Dellums
Derrick
Dicks
Dixon
Donnelly
Dorgan
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gore
Gray
Guarini
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Harkin
Harrison
Hartnett
Hatcher
Hefner
Heftel
Hertel
Hightower
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kolter
Kostmayer
LaFalce
Lantos
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Levitas
Lewis (FL)
Lipinski
Lloyd
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
MacKay
Markey
Marlenee
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McEwen
McHugh
McNulty
Mica
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Mollohan
Montgomery
Moody
Moore
Morrison (CT)
Mrazek
Murtha
Myers
Natcher
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Panetta
Patman
Patterson
Pease
Penny
Perkins
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Roberts
Roe
Roemer
Rose
Rowland
Roybal
Russo
Sabo
Savage
Sawyer
Schroeder
Schumer
Seiberling
Shannon
Sharp
Shaw
Shelby
Sikorski
Simon
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Solarz
Spratt
St Germain
Staggers
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Synar
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Winn
Wirth
Wise
Wolpe
Wright
Wyden
Yates
Yatron
Young (AK)
Young (MO)
Zablocki

NAYS—111

Archer
Badham
Bethune
Bliley
Broomfield
Broyhill
Burton
Campbell
Carney
Chandler
Chappie
Cheney
Coats
Conable
Corcoran
Coughlin
Craig
Crane, Daniel
Crane, Philip
Daniel
Dannemeyer
Daub
Davis
DeWine
Dickinson
Dreier
Evans (IA)
Fiedler
Fields
Fish
Forsythe
Franklin
Frenzel
Gekas
Gingrich
Goodling
Gradison
Gramm
Green
Gregg
Gunderson
Hansen (ID)
Hansen (UT)
Hiler
Hillis
Holt
Hopkins
Hunter
Johnson
Kasich
Kramer
Lagomarsino
Latta
Lent
Livingston
Loeffler
Lott
Lowery (CA)
Lungren
Mack
Madigan
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
McCain
McCandless
McCollum
McDonald
McGrath
McKernan
McKinney
Michel
Moorhead
Morrison (WA)
Nielson
O'Brien
Packard
Parris
Pashayan
Paul
Petri
Pritchard
Ritter
Robinson
Rogers
Roth
Roukema
Rudd
Schaefer
Schneider
Schulze
Sensenbrenner
Shumway
Shuster
Siljander
Skeen
Smith, Denny
Snyder
Solomon
Spence
Stump
Tauke
Taylor
Vucanovich
Walker
Whitehurst
Wolf
Wortley
Wylie
Zschau

NOT VOTING—30

Bateman
Berman
Boehlert
Boggs
Chappell
Clarke
Dingell
Dowdy
Foley
Hawkins
Hoyer
Hyde
Jeffords
Lewis (CA)
Lujan
Mavroules
Molinari
Murphy
Neal
Nelson
Nichols
Pepper
Rodino
Rostenkowski
Scheuer
Smith, Robert
Stangeland
Washington
Wilson
Young (FL)

☐ 1350

Mr. HERTEL of Michigan changed his vote from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. Pursuant to House Resolution 158 and rule XXIII, the Chair declared the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1190.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1190), to provide emergency credit assistance to farmers, and for other purposes, with Mr. FLIPPO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas (Mr. DE LA GARZA) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to begin the debate this afternoon on the bill, H.R. 1190, and, first, let me assure my colleagues that the word, emergency, that we have used is used advisedly. The economic crisis in rural America is too familiar to require extensive explanation, but I would highlight a few of the stark realities.

First, let me say that all of us who live in rural America or who are involved in any way with farmers, ranchers, dairy producers, or producers of livestock, sheep and goats and other major commodities know too well that farm income is at the lowest level of this century. It is with no great amount of pride as chairman of the Committee on Agriculture that I stand before the Members to admit that we have in the farm sector the lowest income in this century and the fact that 52 percent of the farm borrowers of the Farmers Home Administration, the lender of last resort to this group, are delinquent in their payments.

These are good, efficient, productive farmers, who, because of other circumstances, find themselves in one of the harshest times since the Great Depression.

So we bring this legislation to the Members with that urging that in a time of emergency and stress we need to do something. I would agree that perhaps the overall economy seems to be taking a turnaround for the better. The good Lord willing, hopefully, that will be the case. I am not here to take or give credit to any individual or to stand for or against the administration or for or against the Congress. My hope and expectation and prayer is that it has turned around, but the last place where the turnaround will impact is in rural America and the first place that we should address the issue should be in rural America.

It is very difficult sometimes, dealing with those in the executive who want to put the farmer or the producer in a vacuum, saying that the Department of Agriculture should be solely for farmer programs. It sounds good, but it is not workable because the farmer does not live in a vacuum. He has to have roads, he has to have bridges, he has to have schools for his children, he has to have implement suppliers, he has to have seed suppliers, he has to have all of the tools available for living in a rural atmosphere. Therefore, if one link falters, the whole sequence falters.

This bill is a modest bill. I know that there are differences of opinion. That is normal, that is natural. Too many on the outside and a few of us here on the inside demand perfection of legislation.

□ 1400

This is impossible. This is not attainable. I will be the first one to admit that. We have to work within the limits of art of the possible. What is possible today, that hour, that minute, that second, and can pass when the votes are tallied, that is what we have to work for; not perfection, not perfection as some demand. It is unobtainable.

We have to start with this. Our average subcommittee has 15 members, so right away you have to have at least 7 to bring the bill out. The full committee has 41; so we have got to have 21 to bring the bill out. In the House, we have to have 218, 219. That is the art of the possible.

We have very carefully drafted this legislation in the subcommittee and in the committee, looking at the need, looking at our resources.

One thing I am proud of in the Agriculture Committee is that we are not just throwing money at the problem. We are the first ones to admit that this is not a solution. We have had to do things like the PIK program, payment in kind. We know that is not a solution. That is a Band-Aid, but it is a tool to assist the farmer to stay in operation.

We have reduced the so-called surplus, applied some of it that we have in storage and used it as a tool to try to assist. That is where we are working daily, diligently, the majority and the minority, the subcommittee chairmen and the ranking subcommittee members, diligently working every day.

How can we help? Where can we help? What can we do?

I do not say this disrespectfully, but just saying "stay the course" is not going to do it. "Everything is all right" is not going to do it. All we know is that the farmers are in trouble.

My dear friends, we need to keep in mind the bottom line. You can talk about the nuclear freeze. You can talk about how many missiles the Russians have and how many missiles there are in Western Europe and how many missiles we have everywhere.

You can talk about submarines. You can talk about all the major issues of this world that we discuss here. The bottom line is that if there is no food, forget the rest; no food, no matter how many missiles, no matter how many submarines.

You know, I think I can tell you this because I had the great experience of riding in a nuclear submarine. I asked the captain of the submarine, "How long can this submarine remain under water?"

He told me, "That's a military secret."

Well, I can divulge the military secret to you without breaking my oath or without breaking or compromising anything relating to that submarine. This is what it is all about, my dear friends. Do you know how long a nuclear submarine can stay under water? As long as it has food for its crew—food for its crew.

The people that we try to help today are those that provide the food and fiber for us here in America, the best fed Nation in the world, possibly in the history of the world, for the lowest amount of disposable income in the world, possibly in the history of the world, with the possible exception of some bare subsistence countries in some very remote areas.

Then we have exports. The world is not buying what we manufacture, my friends. They are not buying our cars, our radios, our television sets. They are buying what we produce. They are buying our food.

So we save the Boeings, we save the Chryslers, we come and save everyone that is in trouble. To hear anyone that would deny those who feed us, I cannot believe it, I cannot believe it; it is beyond my wildest comprehension. After we have set up the President to save major industries, automobiles; major industries, airplanes; what would we do, my friends, if we did not have the food for tomorrow? What would we do? That is what this bill is all about.

Now, I will try to answer some questions that have been raised. Is this a blanket moratorium? Does this make a Rockefeller get a moratorium on his Farmers Home loan? There is no such thing. We have carefully and artfully drafted this bill.

Yes, we give the Secretary less discretion than he would have under ordinary circumstances; but this is not unprecedented. This committee has never agreed to give any Secretary complete discretion and as long as I am chairman and I have any say-so, we will not in the future. That is the prerogative of the legislative system.

We raised to a more practical amount the loan authorization. The Farmers Home Administration came to the committee of the other body and admitted that the operating loan funds were gone in 17 States. They admitted that.

Shortly before that, they had told us, no, everything is fine.

This bill tries to help correct that, although they have taken initial steps to do that.

Fifty-two percent of borrowers are delinquent, 52 percent. How many have gone into bankruptcy? Well, that is debatable, because I personally can attest to one situation where a fellow said, "no, they did not foreclose on me, but the fellow made faces at me and told me, 'do not come back, because we are not going to do anything for you. I had the word from Washington that you types should not get any further assistance.' Therefore, I had to sell out."

OK, count your fingers. Say that is one foreclosure less. Nonetheless, the fellow sold out.

My concern also is—who is going to pick up this land? You know, we are looking at the 1990's and the year 2000. The population of the world is growing by billions. We are the only country in the world that has been blessed to have the climate, north and south and east and west, to grow the variety of food, unlike any other country in the world. The world is going to be looking to us to help the farmers with this bill, H.R. 1190. The world is going to be looking to us whether people will starve. I am talking about starvation, people dying for lack of food. They are going to be looking to us and now is when we have to keep that farmer producing, because once you take productive farmland out of circulation, my friends, it cannot really be put back.

□ 1410

I would attest to you that it will not be put back if it is taken out of circulation. So forgive me if I sound emotional. I have used this term before. I have looked at the crystal ball and I see out there problems. I see mass starvation. I see people dying of hunger. I see us here in the United States, the best quality food for the lowest amount of disposable income. I see us in trouble 10, 20 years from now.

Now is the time. I know that we can talk ourselves around this bill. I know that we can pick points in it. I know that we can bring out any kind of arguments.

But let me lay before you, my friends, the fact that what we do here can well impact on 10 and 20 years from now, whether we are going to have the bounty that the good Lord has blessed us with this time.

And let us keep in mind, as we discuss H.R. 1190, that farm borrowers of the Farmers Home Administration are those who deserve an opportunity to farm but who lack strong financial resources and are, therefore, generally unable to obtain adequate credit at reasonable rates from private sources of funds. Given the desperate cost-income squeeze existing among farmers generally, the squeeze on Farmers Home borrowers is obviously even more acute.

Further, events which have come to light in the last few days compound the serious problems otherwise existing. As I have stated, notwithstanding the assurance of top officials of the Farmers Home Administration as recently as during the committee markup of H.R. 1190 that ample funds were available for farm operating loans, it has now been disclosed that fiscal 1983 funds for this purpose have been exhausted in 18 States—at a crucial time for farmers currently attempting to put in their crops for the 1983 season. The Department of Agriculture has announced that, under asserted emergency authority, it will dip into funds designated for other Farmers Home programs to make up the shortfall in operating funds. At best this is only a stop-gap measure. It is robbing Peter to pay Paul. The word "emergency" therefore takes on an added urgency. Fortunately, we have available, in this crisis situation, remedial legislation for immediate consideration by the House.

To meet these urgent needs, H.R. 1190 offers workable remedies. It reauthorizes, through fiscal 1984, the aptly named economic emergency loan program originally enacted in 1978. For fiscal 1983, it authorizes $600 million in insured and guaranteed loans for operating purposes under this program over and above a $600 million guaranteed loan program authorized by the fiscal 1983 Appropriation Act but, unfortunately, not implemented by the Secretary of Agriculture. To insure that the urgently needed program is not again made a dead letter, H.R. 1190 requires the Secretary to carry out the program. And it authorizes loans and guarantees totaling $600 million for fiscal 1984. Further, for the current fiscal year, the bill authorizes an additional $200 million in operating loans, above funds now authorized, under the regular Farmers Home operating loan program. This amount would be earmarked for new borrowers, a particularly deserving group in view of Farmers Home policy—arguably a valid one—of first meeting the needs of current borrowers for operating funds.

Seldom in my experience in the House has a piece of legislation in so timely a fashion matched a genuine emergency in the Nation. I would emphasize that H.R. 1190 is no giveaway bill; it is, however, an investment in the future—and, in a real sense, in the existence of a significant segment of American agriculture.

There has been considerable controversy—as well as considerable misinformation—about another emergency aspect of the bill which would be effective through September 30, 1984. It involves provisions which, under narrowly and carefully drawn guidelines, will enable some borrowers to avoid foreclosure and obtain a deferral of payment of principal and interest on their Farmers Home loans. The depression in our rural areas has made it impossible for many Farmers Home borrowers to make scheduled repayments on their loans. Their plight is not associated with poor management or inefficient operation. It is a direct result of national and international conditions over which these farmers have no control. It exists without any fault on their part. It is farmers such as these that H.R. 1190 is designed to rescue—not by foregoing their debts, but by giving them nothing more costly than a little additional time to pay their financial obligations to Uncle Sam. The bill would, for a period of 1 year, require the Secretary to forgo foreclosure and defer payment of principal and interest on farm-type Farmers Home loans. But relief of this nature would be available, strictly on a case-by-case basis, only in the following circumstances.

A borrower requesting relief from the Secretary would be required to establish by substantial evidence that he has exercised good management but is unable to make scheduled payments due to conditions beyond his control. Those successfully sustaining this burden would then have to be offered rescheduled repayment terms which the Secretary believes fit the borrower's farm and financial situation. It is only if the borrower then establishes, again by substantial evidence, that he cannot meet even the new terms and that there is a reasonable likelihood that, after a deferral, he will be able fully to repay the loan, that he would become entitled to a 1-year deferral of payments.

It is readily apparent that these provisions do not constitute a loan moratorium or blanket deferral. The committee took great care in assuring that the burden of proving the conditions meriting relief is on each borrower seeking relief. It strengthened those conditions. And it added the requirement that borrowers, if possible, pay what they are able on their loans if they cannot make full payments as scheduled.

But the committee has likewise assured, through fiscal year 1984, that relief for truly deserving borrowers does not depend upon the unbridled discretion of the Secretary. The committee would note that during 1982 the Secretary did, under his present discretionary authority, act in over 40,000 cases to reschedule or defer payments or otherwise adjust loan conditions. However, the committee has received evidence that discretionary relief has not been applied uniformly and consistently throughout the country. Further, the inventory of farms held by the Farmers Home Administration in March of 1983 represented a sevenfold increase over the inventory level of recent years. During the present emergency, the committee is not willing to leave crucial decisions on the financial survival of farmers purely to the Secretary's will or to the fancy of local administrators—it has, therefore, revised the statute to assure relief, on a case-by-case basis, to those who establish the facts meriting relief.

I would point out that the benefits of the deferral provisions will not be restricted to the borrowers involved. It takes little imagination to envision the consequences on the agricultural community—farmers, lenders, and rural enterprises alike—that a wave of foreclosures or forced liquidations would have. The resulting erosion of farm asset values could well devastate all segments of rural America.

In this regard, it is beyond the committee's jurisdiction to prescribe deferrals for worthy but strapped borrowers from private lenders. But such borrowers who may be cut off from further financing by private lenders are among those who may benefit from the economic emergency loan program resurrected by H.R. 1190.

I would not want to leave the impression that H.R. 1190 contains provisions exclusively of an emergency nature. It would, on a longer term basis, change other provisions of the Consolidated Farm and Rural Development Act to insure effective financial assistance for farmers and for the development of rural areas of the Nation.

Last year the House overwhelmingly passed a bill which would have established annual Farmers Home program lending levels for a 3-year period. The Senate failed to act on the bill. Therefore, H.R. 1190 establishes these program levels for fiscal years 1984 through 1986.

The authorized program levels contained in the bill were adopted without controversy within the committee. These provisions enjoyed a broad consensus of support because they reflect a judicious compromise between conflicting interests—first, the need for fiscal restraint, and second, the need for adequate credit to enable rural America to survive a period of economic stress. Credit is no substitute for decent farm income. But it may be all that will permit farmers—including many able and experienced farmers—to hang on pending the economic recovery we have been assured is forthcoming.

I believe that a few illustrations will establish the responsible manner in which the Committee on Agriculture has fashioned this reauthorizing legislation. For example, authorized program levels applicable for fiscal year 1982—the last year of the previously authorized 3-year period—and in H.R. 1190 are as follows:

	Fiscal year 1982	H.R. 1190
Real estate loans (including farm ownership loans)	[1] $1,615,000,000	$1,000,000,000
Farm operating loans	1,325,000,000	1,860,000,000
Emergency Disaster loans	(2)	(2)
Water and sewer loans	300,000,000	500,000,000
Business and industrial loans	1,500,000	1,000,000,000
Community facilities	130,000,000	300,000,000

[1] Including $700,000,000 for insured farm ownership loans.

[2] Amounts necessary.

The bill would also provide that 20 percent of the funds for farm ownership and operating loans would be earmarked for low-income, limited-resource borrowers.

I shall not discuss these figures in detail. But a few of them merit mention. The authorized level for emergency disaster loans—and, I might add, the level utilized for such loans by the Appropriations Committee—has traditionally been established on an "as needed" basis. this recognizes the fact that it is not possible to estimate with any accuracy the magnitude or number of natural disasters which may occur in any given year. H.R. 1190 continues this prudent approach.

As to business and industrial loans, it has long been recognized that this program, consisting largely of loan guarantees, has been one of the most effective—and lowest cost—approaches to creating jobs and promoting healthy economic development in rural areas. While H.R. 1190 would cut by one-third the last authorized annual level for this program, it will maintain a meaningful program operation. I would note that the administration has proposed to abolish this program.

In this connection, according to a recent USDA analysis of the payment-in-kind—PIK—program, rural areas may well experience short-term economic difficulties related to the idling of up to 30 to 50 percent of cropland. It is estimated that agricultural-related employment may be off by 2 to 3 percent, a significant drop in rural areas where unemployment is already unacceptably high. For example, cotton-ginning and rice-drying firms could face a 25-percent decline in demand for their services. Other firms that will face significant declines in demand include those that retail or transport farm production input, apply fertilizer, lime, pesticides and other chemicals; and service farm machinery and equipment.

Farm machinery and implement dealers are an example of rural Main Street firms that will continue to experience financial difficulties associated with the farm sector economic situation. On top of already slumping sales and service functions, PIK may cause an additional 12- to 15-percent decline in business for the local farm implement dealers.

Mr. Chairman, I bring this concern to the attention of the House to illustrate that not only has our farm sector but Main Street in rural areas as well, suffered the consequences of a sorely depressed farm economy. While H.R. 1190 is largely designed to meet the credit needs of our farm sector, we are reauthorizing the rural development lending programs that are so important to rural America.

It would be my hope that the Secretary of Agriculture will use the business and industrial loan program to offset some of the adverse affects that the PIK program will have on rural industries which service our farm sector.

Hearings conducted by the Subcommittee on Conservation, Credit, and Rural Development disclosed a need for other improvements in the programs carried out under the Consolidated Act. The need is also addressed by H.R. 1190. It would—

FARM OWNERSHIP LOANS

Increase the limit for any borrower on insured loans from $200,000 to $300,000, and on guaranteed loans from $300,000 to $400,000.

WATER AND WASTE DISPOSAL FACILITIES

First, direct the Secretary to establish a graduated scale of grant rates reflecting higher rates for communities with lower population and income levels and fix the maximum grant rate—75 percent of costs—for projects in communities with a population of 1,500 or less and an income level below 80 percent of the statewide nonmetropolitan median family income.

Second, direct the Secretary to establish a project selection system for choosing among applicants for loans and grants, the system to give equal weight to factors of low community income, small population, and health hazards resulting from lack of potable water or inadequate waste disposal.

Third, authorize payments to applicants likely to receive grants or loans to assist them in meeting predevelopment costs of facilities.

Fourth, authorize grants to private nonprofit organizations for the purpose of enabling them to provide technical assistance and training to associations likely to receive loans or grants.

Fifth, change the standard for low-income areas eligible for 5-percent loans from those having an income level below the Federal poverty line to those having an income level below 80 percent of the statewide nonmetropolitan median family income.

Sixth, establish a 7-percent maximum loan interest rate for borrowers which do not qualify for 5-percent loans but which have an income level not exceeding 100 percent of the statewide nonmetropolitan median family income.

BUSINESS AND INDUSTRIAL LOANS

First, make clear that lenders whose loans may be insured by the Secretary include commercial banks, trust companies, cooperative lending agencies, mortgage banking firms, insurance companies and other firms and agencies authorized by law to lend money.

Second, impose a limit of $25,000,000 on loans that may be made, insured or guaranteed.

FARM OPERATING LOANS

First, increase the limit for any borrower on insured loans from $100,000 to $200,000, and on guaranteed loans from $200,000 to $400,000.

Second, earmark 20 percent of fiscal year 1983 operating—and farm ownership—loan funds for low-income, limited-resource borrowers.

Third, increase from 7 to 15 years the maximum time for repayment on consolidated and rescheduled loans and limit interest rate on such loans to the lower of the rate on the prior loans or the rate being charged on new loans.

Fourth, require the Secretary to allow a borrower who has adequate security to protect the loan to use proceeds of the sale of loan security to make prospective scheduled loan payments if the sale does not impair the borrower's ability to continue the operation.

EMERGENCY LOANS

First, make clear that eligibility of applicants for assistance based on production losses is to be based solely on criteria specified in the Consolidated Act and is not to be affected by whether or not the Secretary designates a county for program purposes.

Second, permit borrowers having loans approved after December 15, 1979, and before October 1, 1981, to obtain "subsequent" loans for 4 additional years, and borrowers having loans approved after September 30, 1981, and before October 1, 1982, to obtain "subsequent" loans for 3 additional years.

COUNTY COMMITTEES

First, provide for county committees of three or five members, the number for any county to be determined by the Secretary on the basis of relevant factors.

Second, where there are five-member committees, provide that three members would be elected by farmers in the area and two would be appointed by the Secretary.

Third, where there are three-member committees, provide that two members would be so elected and one member would be appointed.

Fourth, except for provisions for staggered terms of the original elected and appointed members, provide that all members are to serve 3-year terms, with a limit of three full terms for elected members.

ADMINISTRATIVE PROVISIONS

First, limit the interest rate, on any loans deferred, consolidated, rescheduled or reamortized by the Secretary under authority of provisions of the Consolidated Act other than the deferral provisions described above, to the lower of the rate on the original loan or on new loans then being made, but only for the balance of the original loans and for the term of the original loans.

Second, permit a borrower having a farm ownership, farm operating, emergency disaster or economic emergency loan to use proceeds from the sale or lease of oil, gas or other minerals under the property, or the proceeds from oil and gas royalties, to make future scheduled payments on the loan, and prohibit considering such minerals as loan collateral unless their value is included as part of appraised value of the property serving as collateral.

Third, require the Secretary to notify borrowers of circumstances under which protective advances may be made.

Fourth, establish new guidelines for the disposition of real property acquired by the Secretary under the Consolidated Act.

Fifth, permit lessee-operators to be considered "owner-operators" generally, rather than only in Hawaii, as under present law.

Sixth, require the Secretary to establish a special unit at the State office level to administer the guarantee program for farm-type loans.

Seventh, require the Secretary to issue, within 60 days of enactment, regulations implementing provisions of the Consolidated Act permitting loans to aliens lawfully admitted for permanent residence.

The various changes in the Consolidated Act and the economic emergency loan program proposed by the bill enjoyed broad support. The committee ordered H.R. 1190, as amended, reported favorably to the House by a roll call vote of 35 to 3.

Sure, there are those that have amendments that might well enhance this legislation. We will take a look at them.

Sure, there are those that might well have amendments that could help us make this a better bill. We will take a look at them and we may even accept some.

But please, I plead with my colleagues, for all that is dear to what we call America, do not knock this bill just because the administration says they do not like it. Perhaps not all of the administration says they do not like it. But they have their reasons and I respect their reasons. But we have a legitimate right to disagree, as they do. We have that legitimate right to disagree.

I think that we have more of a concept of not dealing in a vacuum here in the legislative halls. Unfortunately the administration—and I do not say this in a partisan way at all—I speak not only of the groups that are in the executive at this point in time, but of them before and conceivably after what we do here. They deal in a vacuum, in something called OMB. They deal with figures on a ledger. They can deal in a vacuum.

We cannot because we go home every weekend and we see the faces and the places. When we legislate within the art of the possible, we legislate with faces and places attached to what we put in the reading and the writing.

Not perfect, of course. It is not within the art of the possible to achieve perfection.

So I would plead with all of my colleagues to help us, if you can to help us strengthen this bill. But do not oppose it merely because the administration opposes it because OMB opposes it.

Think of the people that may well be helped. If one farmer is helped, one, we would have achieved our purpose here and this legislation would be worthy of the great Committee on Agriculture and worthy of this House, the people's House of this Congress.

I would hope that my dear colleague, the chairman of the subcommittee, Mr. JONES, would give you, as chairman of the subcommittee, a few more of the details on the legislation as he has worked very closely with it and very diligently. I would like to commend the chairman of the subcommittee and the ranking member of the subcommittee and all of the members of the subcommittee that worked so diligently and so assiduously to perfect this legislation.

I would also then like to thank the members of the full committee that came with constructive amendments to allow us to make it a better bill.

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. LOEFFLER), the chief deputy whip on the minority side.

Mr. LOEFFLER. I thank the distinguished ranking member of the committee for yielding.

At this time, Mr. Chairman, I have very serious reservations about the pending legislation. As the Members of this body know, my entire life has been steeped in agriculture, for my family is in the ranching business. I have a vested interest personally as well as professionally in what we do in the U.S. Congress when we deal with agricultural activities.

But, Mr. Chairman, today is the day that I cannot stand up and say that I can support legislation dealing with agriculture because, quite frankly, I believe the existing provisions as they have been brought to us in this bill are no better a bailout than we have seen on Chrysler, or on Boeing, as the distinguished chairman alluded to, or a bailout as in the pending legislation on housing.

I believe, Mr. Chairman, that when we look at all segments of the private sector, we must address them in a fair and equitable way and realize that in the private sector an individual or a business, however it is defined, has the right to fail as well as to succeed in a free market.

There is no person in the United States of America that believes more in the family-owned farm and ranch than this individual. Again, as I mentioned at the outset, those are my roots and those roots will continue to guide my life.

Specifically, then, I would like to point out to the Members of this body one section that gives me particular heartburn, and that is section 10—which deals with the mandatory loan deferrals. This section would basically require the Secretary of Agriculture to grant widespread deferrals on demand to Farmers Home Administration borrowers who cannot meet certain vague criteria.

As the Members of this body know, the Secretary of Agriculture already has the discretionary authority to establish deferrals on repayments of loans when he deems such action is necessary and appropriate and in the best interests of all concerned.

The Farmers Home Administration generally forecloses only when there is no reasonable chance for the borrower to continue a viable operation.

It has never been and certainly is not now a policy of the Farmers Home Administration to engage in a large-scale foreclosure effort, contrary to some of the statements through the media that have been made around the country.

An examination of recent Farmers Home Administration loan data clearly demonstrates this:

During fiscal year 1982 the Farmers Home Administration served about 270,000 farm borrowers. Out of this total of 270,000 farm borrowers, over 40,000 received special assistance. Remember, out of 270,000, more than 40,000 received special assistance, including subordination, rescheduling, and reamortization of their loans.

Three thousand and five hundred deferrals also were granted by the Farmers Home Administration officials during fiscal year 1982 as compared to only about 840 foreclosures. These 840 foreclosures represent, out of 270,000 borrowers through the Farmers Home Administration, three-tenths of 1 percent of all farm borrowers within the system.

The 270,000 figure, however, represents 12 percent of all of the farmers and ranchers in America. When we look at that figure I must pause for just a moment and say that I have an obligation as a Member of Congress and as an individual involved in agriculture to make certain—for the 88 percent who can acquire loans from other lending institutions as well as the 12 percent that are currently serviced by the Farmers Home Administration—that they all ought to be able to get and keep their loans. But we cannot overlook that 88 percent by saying that there will only be a mandatory deferral of all loans that are in arrears within the Farmers Home Administration.

Mr. Chairman, you have got to look at the needs of the 12 percent at the same time that you look at the needs of the 88 percent, or the rest of the farmers or ranchers in the country.

I believe that this mandatory loan deferral provision that is currently in section 10 of the bill is one that would place a severe disadvantage to those farmers and ranchers who can acquire money from lending institutions other than a Government lending agency.

□ 1420

In addition, the current Farmers Home Administration policy sets a high priority on counseling its borrowers on a case-by-case basis and this is, in fact, as it should be.

This case-by-case counseling is the only equitable way to deal with borrowers. In my judgment, lumping individual problems together as this proposed legislation would do merely invites program abuses on the part of borrowers who might be able to repay their loans but choose not to do so.

In response, again to my distinguished colleague from Texas, the chairman of the House Committee on Agriculture, who has a strong personal interest in agriculture just as I do, individually and from an elected responsibility, this one day I would have to disagree with my distinguished colleague. I believe we are overlooking the fact that the farming and ranching industry is an industry just like any other industry in the United States, and, while I recognize and the Members of this body recognize that no industry in America has been more severely impacted by inflation over the last several decades than farming and ranching, I do know that we are now in a period of recovery.

I do not believe we should look for total bailouts for the housing industry or a partial bailout for the farming and ranching industry, for those people are not efficient and effective business people.

And again, going back to fiscal year 1982, only three-tenths of 1 percent of the entire amount of those borrowing from the Farmers Home Administration actually had to go to foreclosure.

I do not like it; but, you know, if you bail out one, you are going to bail out another. I believe, in fact, that we could address this problem and allow the Government to continue to operate as we have over the past several years; that we are basically in good hands, that we have been fair to every farmer and rancher who has problems through no fault of their own but rather because of a defective economy. But let us not go overboard.

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. LOEFFLER. I would be happy to yield to the distinguished chairman.

Mr. de la GARZA. I appreciate the gentleman's interest and concern. Needless to say it pains me exceedingly that my distinguished colleague and friend and I would differ on this issue. But they are legitimate differences. I would like to just from our side attempt to correct the gentleman, if correction is needed: This is not a bailout. This is not a bailout, but rather just a little help, and I would differ, philosophically with my distinguished colleague, that agriculture is not like any other business. I think that it is a legitimate concern of Government instituted of and for the people by the people as we know it, the democratic system of government, that it is a legitimate concern and area of Government intervention. Certainly, the health, safety, and morals of our citizens are a primary factor in the institution of the Government. Health entails proper nutrition. So, agriculture is not like any other business. It is a special business. Farmers are special people who do a special thing for us. And I would think that a helping hand would be certainly in order.

I have further, more recent figures than the gentleman has, if he would allow me just 1 second. Voluntary liquidations as of September 1982 were 1,909; yes, foreclosures were 484, but other liquidations were 3,999, transfer and assumption were 230, bankruptcy discharges ordered, 1,245.

Therefore, 8,227 farmers have discontinued operations, as contrasted to the figure being used of 844 actual foreclosures. I thank the gentleman for yielding.

Mr. LOEFFLER. I thank my distinguished friend and colleague, the chairman of the Committee on Agriculture. We have worked together in the past and we will work together many times in the future with respect to agricultural legislation on the floor. In fact, to the best of my knowledge, this is the first time we have disagreed.

But, Mr. Chairman, regarding the fact that the American farmer or rancher is a very special person, I have no quarrel with that. I happen to believe that myself. But we are also business people, and we must stand up like any other group of businesses and do our very best to meet the financial obligations that we have. Times have not been easy. From the ranching side of the equation, the equation that I come from, we have not asked the Federal Government for much and we will not ask them for much through good times or bad.

If I might respond further to my distinguished chairman: This bill is a costly bill, it is a bill that will cost in the range of $15 billion.

That means we could—in fact—be making a mistake here, because what we would do is dry up money available to an individual in the farming or ranching business who could acquire money through private lending institutions while allowing someone who is not as good a farmer or rancher an opportunity to go on. This, in my judgment, is just not fair. It is a hard line to draw. But I think that what we must do now is to try to take full advantage of the economic recovery and not do something that will be a day late and in fact cost a dollar more.

Finally, in concluding my remarks Mr. Chairman, I am concerned, because as the distinguished chairman of the Committee on Agriculture knows, we have such a difficult time when we come to the floor of the House with the farm bill, which is scheduled to be before us again in 1985. If we take a step like this, it will become even more difficult for the distinguished chairman and my colleague from Texas, as well as myself, to get the votes that are necessary to address the legitimate overall needs of our farmers and ranchers. Each time we come to the floor we have to scrape and claw to get whatever votes we possibly can to hold onto legitimate farm programs.

I believe that this particular bill will certainly be a disadvantage to us in the years ahead as we debate the farm programs of the future.

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. LOEFFLER. I yield to the gentleman from Texas.

Mr. de la GARZA. I appreciate very much the generosity of the gentleman in yielding, only to say we are dealing here with loans. The gentleman may well have correct figures in outlays, but the outlay is not the cost to the Government. The budget implication under the CBO cost estimate is only $1 million in 1984 and $20 million, $35 million, and $49 million in 1985, 1986, and 1987, respectively; not the billions to which the gentleman refers because what we are dealing with will be repaid. There may be some loss.

Also one final word if the gentleman would allow me, that all we are doing is the same as the private sector. The banks and the private lenders are doing the same thing as provided in the bill. They are giving deferrals, they are working, they are restructuring, they are helping every which way.

This legislation is for the unfortunate who had no other resort and had to deal with Farmers Home Administration. So this is again a legitimate function that Government should do as the private sector is doing, as they are already doing. But there are those that, of necessity, could not get the private sector loans and need the relief provided in the bill.

Mr. MADIGAN. If I may reclaim my time, to respond to the remarks of the distinguished chairman of the committee, I would like to read four things from the committee report: First, CBO does not have adequate data to estimate the increase in demand for subsequent disaster loans.

□ 1450

Second, if all guarantees authorized in this bill are utilized, this additional contingent liability would cost $4.5 billion. That is just with regard to one provision in the bill.

Third, there is no firm basis for estimating the amount of loans that would be refinanced or deferred under section 10.

I am reading from the committee report, Mr. Chairman.

And finally, the cost of administering each fund has not been included in the cost directly related to this bill.

Those are all things that I have just read from the committee report accompanying this bill to the floor of the House. And the $15 billion estimate used by the gentleman from Texas (Mr. Loeffler) is one provided by the Department of Agriculture after looking at the obligations that they would incur should this bill become law.

Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. Gradison), a member of the Ways and Means Committee.

Mr. GRADISON. Mr. Chairman, I am a newcomer to the agricultural section of my district as a result of redistricting. I have quickly learned the importance and the value of the Farmers Home Administration. Its programs are essential to the survival of a number of farmers that I now represent.

Unfortunately, the legislation we have before us today would not do much to improve the assistance that Farmers Home can offer farmers. In fact, I am concerned that H.R. 1190 could actually restrict the credit available to farmers in the future.

A number of Members have raised specific objections to this legislation. I would like to mention one that troubles me greatly. Because Farmers Home loans come from a revolving fund, the availability of loans in future years depends on the repayment of outstanding loans. A mandatory deferral program could significantly reduce the income of that fund and cause less loan money to be available next year and the year after. Thus, in our desire to help farmers who are presently having difficulty making ends meet we could easily be jeopardizing assistance to farmers who will need credit in the future.

In the rural counties I represent the main concerns about the Farmers Home operations are twofold: first, the availability of funds. This, of course, has been taken care of by reprograming, and at least in the short run does not require action by Congress. The second is the ceiling on loans available to individual farmers. H.R. 1190 raises the ceilings from $100,000 to $200,000 for direct loans and from $200,000 to $400,000 for guaranteed loans. This provision has merit and deserves the support of the House.

However, with regard to the issue of foreclosures—which is the principal issue in controversy in H.R. 1190—there have been very few foreclosures in my District and not many are anticipated. The present discretionary authority of the Secretary appears to be adequate to provide deferral in cases where it is justified. Accordingly, I hope that this bill in its present form is defeated.

As a member of both the Committee on Ways and Means and the Budget Committee I have an additional concern—one which I believe is widely shared all over this country. And that is with the massive tax increases which would be required to finance legislation such as this. This House—over the objection of many of us—has already called for a $30 billion increase in taxes in the fiscal year beginning October 1. But this did not take into account budget busting legislation such as this bill, the emergency mortgage foreclosure bill, the housing bill, and on and on. The tens of billions of dollars of added funds to pay for these new programs can only mean higher taxes, higher deficits, and higher interest rates—hardly the direction we need to strengthen the farm economy of the Nation.

Mr. de la GARZA. Mr. Chairman, I yield 6 minutes to the distinguished chairman of the subcommittee, the gentleman from Tennessee (Mr. Jones).

Mr. JONES of Tennessee. Mr. Chairman, I rise in strong support of the Emergency Agricultural Credit Act of 1983, and I urge the House to move with deliberate speed in bringing this bill to a resolution.

First of all, let me express my appreciation to the gentleman from Missouri, Mr. Coleman, for the tremendous effort he has put into this bill. As original cosponsors of H.R. 1190, he and I have worked closely together in fashioning what I believe is one of the most important items the Congress will deal with this year. I want to point out that H.R. 1190 underwent many changes as it moved through the Agriculture Committee. As a result of a great deal of compromise, we have produced a bill which is fair to the American taxpayer, sensitive to the desperate needs of the American family farmer, and recognizes many of the legitimate concerns of the Department of Agriculture.

Chairman DE LA GARZA has already done a good job of describing the bill's provisions in his opening statement. But I would like to point out a few of the serious reasons why this bill is needed.

Mr. Chairman, American farmers today are at a crossroads. They are facing the worst economic crisis since the agricultural depression of the 1920's. The condition of today's farm economy conjures the solemn reminder that the agricultural depression of the 1920's played a large role in propelling America, and indeed the world, into the Great Depression of the 1930's.

Farmers constitute less than 4 percent of the American population, and only about half of this number farm full time. But what is often overlooked is that agriculture is our Nation's largest industry. American agriculture puts about $140 billion a year into goods and services. The agriculture and food industry generates one out of every five jobs in private industry, and it accounts for 20 percent of our gross national product. Even though the value of U.S. agricultural exports is expected to decline another 4 percent in 1983 after falling 11 percent last year, the fact is that our 1982 agricultural exports brought in $39.1 billion and a $23.7 billion surplus in foreign exchange. This farm export activity went a long way toward offsetting the $57.2 billion deficit in our nonagricultural trade.

Despite the fact that the U.S. farmer has contributed so much to our country's balance of payments, and is responsible for America being the best fed and best clothed nation on Earth, he is now up against an economic crisis which may very well jeopardize the underpinnings of our society.

As most of you are aware, net farm income has been falling drastically for the past 3 to 4 years. Agriculture is a capital intensive industry, and while prices have fallen through the floor, farmers' costs have skyrocketed. Fully three-quarters of our farmers must borrow in order to produce their next crop. In 1982, farmers' interest costs were about $23 billion, and this is compared to a net farm income of only $19 billion.

At the beginning of the 1970's total farm debt was only about $50 billion. By 1975, it has risen to over $80 billion, in 1982—when interest exceeded income—the amount of farm debt reached over $200 billion. Estimates for 1983 indicate that farm debt will reach the $218 billion mark.

This bleak picture of farm debt compared to farm income is resulting in a growing number of frightening indicators that America's farm economy is at the breaking point. For instance, delinquency rates among the FmHA farm loan programs is running over 50 percent nationwide, and the number of farm properties which the FmHA has acquired through foreclosure and other adverse actions grew sevenfold between 1981 and 1982.

A similar picture is showing up in the farm credit system. Between 1978 and 1982, the dollar amount of loans in liquidation by Federal land bank associations grew by eight times, and the amount of liquidated loans in production credit associations was more than six times higher in 1982 than in 1978.

Mr. Chairman, I would never attempt to suggest that more credit is the total answer to the American farmer's problems. Credit will never be a good substitute for profit, and what we all need is improved prices and stable markets. But in the meantime, I see no way we can stand by quietly and watch thousands of family farmers go out of business until the Federal Government gets its act together.

Mr. Chairman, I know that in some quarters this bill is viewed as an irresponsible giveaway and an outlandish drain on the Treasury. But I would note that the Congressional Budget Office estimate of the net cost of H.R. 1190 is actually rather small. The key to understanding the cost of this bill is realizing that Federal loan programs differ greatly from most other Government activities. In many Government programs the costs and budget outlays are the same. But in this case we are talking about an altogether different matter. While the outlays of H.R. 1190 are in the hundreds of millions of dollars, the actual total additional cost to the taxpayer through fiscal year 1987 is only $105 million, which includes interest subsidies and unrecovered defaulted loans.

Mr. Chairman, the Members of the House have a serious decision to make today. Those of us from farm districts know how bad the situation truly is. We can support H.R. 1190 and begin to deal with the problem, or we can ignore it and hope it goes away. I hope we make the right decision.

□ 1440

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Montana (Mr. MARLENEE).

Mr. MARLENEE. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of H.R. 1190, the Emergency Agricultural Credit Act of 1983. As others have said, H.R. 1190 was passed by the full Agriculture Committee on a vote of 35 to 3. This bipartisan support shows the extent of concern among my colleagues for the plight of farmers in these difficult economic times. Further, it is an attempt to be responsive to the concerns which have been expressed by many of our constituents.

H.R. 1190 provides, among other things, for a deferral of various types of Farmers Home Administration loans between enactment and September 30, 1984. My colleagues and I on the Agriculture Committee spent a great deal of time and effort attempting to improve the loan deferral provision and to respond to the administration's objections. Our work product is much improved over the starting version. The deferral provision is not intended to be blanket in nature. It is intended to apply only to those situations in which a borrower is able to present substantial evidence that he has suffered production losses caused by conditions beyond his control, and that he is unable to repay the loan under its current terms.

If a borrower is able to meet these conditions and is offered new terms by the Secretary, and then if he can further demonstrate by substantial evidence that he cannot repay under the new terms offered and that following the deferral period there is a reasonable probability full installments can be paid, only then is the Secretary required to grant a deferral. So this provision only becomes mandatory on the Secretary when and if a Farmers Home borrower is able to jump through all of the "hoops" described above.

Furthermore, it is the Secretary who decides whether or not these burdens have been met by the borrower. Only if a borrower were denied deferral relief by the Secretary would he have resort to the courts, and then to succeed in court the borrower would likely be required to demonstrate that the Secretary abused his discretion in refusing to grant deferral relief. Abuse of discretion is a relatively difficult standard to meet. Access to the courts and lawsuits are nothing particularly onerous, as borrowers under current law have such access.

In their minority views on page 114 of the report, my colleagues seem to predict how courts will rule on this issue. While that exercise is inherently speculative in nature, the point remains that the mandatory provision only becomes operative when the Secretary decides the borrower has met all the required showings.

Other provisions of H.R. 1190 include a statutory clarification of Congress intent in eligibility for the economic disaster loans based on production losses. The intent of the committee is to allow the Secretary to provide for the individual farmer who can demonstrate the qualifying production losses but whose operation lies in a county which has not been designated. Section 7 of the bill would prevent hardship in the case in which a single producer's land is divided by a county line, with a home in one county designated for emergency loan purposes and his production in another not designated. With the language of this provision, the Secretary could grant a loan to a qualifying producer even if his production was not in a designated county.

I do not believe that the intent of the committee was to eliminate the county or area designation criteria, as asserted in the minority views. In fact, if that had been the intention of the bill, I would not have been able to support it. This provision merely gives the Secretary supplementary authority, in addition to the existing county designation system, to grant emergency disaster loans to qualifying individual producers in nondesignated counties. This should not substantially disrupt the ability to administer the emergency disaster loan program, but will provide additional flexibility to Farmers Home.

Another provision of importance to producers in a number of parts of the country is that pertaining to proceeds or royalties from the sale or lease of oil, gas, or other minerals. H.R. 1190 provides that such proceeds may be used to make prospective, scheduled payments on a Farmers Home loan. Existing Farmers Home policy requires these proceeds be used to reduce the balance of the principal. The bill further provides for farm ownership loans that Farmers Home may not include mineral rights as part of their collateral unless the appraised value of those minerals is specifically included as part of the property securing the loan. This provision prevents Farmers Home from exercising control over the disposition of minerals unless some compensatory consideration, such as additional loan funds, is provided at the time credit is extended.

Mr. Chairman, I urge my colleagues to support this measure.

Mr. MADIGAN. Mr. Chairman, I yield 3 minutes to the gentleman from Nebraska (Mr. DAUB).

Mr. DAUB. Mr. Chairman, I thank the gentleman for this opportunity to express my deep concern over the pending legislation.

While I commend the distinguished chairman of the committee for his deep concern, which I share, over the difficulties facing the agricultural sector, I am compelled to voice my frustration over the methods which the committee has chosen to attempt to remedy these difficulties.

Let me indicate, as one of the previous speakers did, about where my roots are. I come from farm country, from Nebraska, and I spent 10 years prior to coming to Congress in the agriculture credit field, and I handled abut $3 million a day of unsecured and open-ended credit, and a good deal of my experiences were with Farmers Home Administration-financed customers. So I have some working understanding of this program and how it does help those who are in need in our family-farm and small-farm sector, particularly.

Of utmost concern to me is the language contained within section 10 of the measure, which would require the Secretary of Agriculture, under certain circumstances, to defer or place a moratorium on foreclosures of Farmers Home Administration farm operating loans.

For the benefit of those who are not familiar with the operation of the FmHA farm loan program, I want to take just a moment to explain it. FmHA has two types of loans, a guaranteed loan and an insured loan. The majority of farm operating loans are insured, which means that FmHA borrows to issue paper certificates for sale. The revenues from these certificates are loaned to farmers who cannot qualify for credit elsewhere. Repayments for these loans are used to repay funds borrowed and—I want to underscore this—issue new loans.

One cannot honestly state, therefore, that a moratorium on FmHA loans will not affect the ability of FmHA to provide new loans to farmers in need.

Additionally, as has been said, 88 percent of all producers will not be assisted by this so-called assistance in the bill. Only 12 percent may stand to benefit.

Moratoriums on FmHA loans have been oft mentioned ideas for well over 2 years now. The idea is certainly appealing. It sounds good to the folks and the press back home. But on paper, the figures to support this concept indeed are not realistic. The law currently allows deferral of interest and/or principal to current FmHA borrowers facing legitimate financial difficulties.

I want to point out that, with inflation rates down and with the cost of energy down and with the cost of money down, indeed the cost of production is down.

And I have a lot of other arguments, too, against this moratorium besides it being too expensive and unfair. But I think it's bad precedent, as well, when viewing all other failing sectors of our economy.

Instead of further debating the merits—or lack of them—for the proposed moratorium, I will move on to other objectionable provisions in the bill, such as the mandated economic emergency loan program. Here again, we can point to the bad precedent we would be setting, the majority of farmers who would not benefit from the program, and reality of our budget deficits.

Another area of concern for me is section 7 of the bill, which would eliminate emergency loan eligibility designation on the county basis, instead requiring individual disaster declarations. If we presently have difficulties meeting the needs of producers, how can we hope, under this provision, to possibly service all who deserve it? Over 40,000 producers received special loan assistance in fiscal year 1982—do we propose to be able to screen such a number of producers on a case-by-case basis? We must be honest here.

In all good conscience, I cannot support this measure in its present form and know that I am serving my constituents in the best way possible. The producers who are good business managers deserve better treatment. I truly want to help all those producers with difficulties. However, by supporting this bill, I will be hurting, directly or indirectly, all producers.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina (Mr. TALLON).

Mr. TALLON. Mr. Chairman, today I rise in support of H.R. 1190, the Emergency Farm Credit Act of 1983. I urge my colleagues' support of this crucial signal and decisive action for our American farmers. Farmers constitute less than 4 percent of the American population, and only about half of this number farm full time. But have any of us ever been unable to find food?

Agriculture is our Nation's largest industry. It puts about $140 billion a year into goods and services. Agriculture and the food industry generate 1 out of every 5 jobs in the private sector and account for 20 percent of our gross national product.

While we are being overrun by Japanese cars, German electronics, and held hostage by Middle Eastern oil, we feed the world. Even with falling agricultural exports, the fact is that our 1982 agricultural exports brought in $39.1 billion and a $23.7 billion surplus in foreign exchange.

Despite these contributions to our country's economy and world balance of payments, American farmers have their backs up against the wall. In the early 1960's, the Federal Government called on farmers to increase production and they met the challenge. They were rewarded for their hard work and sacrifices with grain embargoes, weak export markets, severely depressed prices and natural disasters. All circumstances over which they had no control.

Agriculture is a capital intensive industry, and with falling prices, farmers' costs have skyrocketed. Three-quarters of our farmers must borrow in order to produce their next crop.

In 1982, farmers' interest costs were about $23 billion compared to a net farm income of only $19 billion. The result was more farm failures and foreclosures than most of us have ever witnessed.

Our farmers are in trouble. And all we must do is look back to the 1920's when a similar situation occurred to see what is ahead unless we respond. The agricultural depression of the 1920's propelled the country and the world into the Depression of the 1930's.

This legislation is not a bailout, not a subsidy. You know as well as I do that our farmers are a proud people. They only want a fair opportunity to make a decent living. The purpose of this legislation is directly noted in a key word of its title: "Emergency." This legislation would provide additional operating loans primarily earmarked for borrowers who did not receive Farmers Home Administration loans in 1982 or 1983. It provides, on a case-by-case basis, that efficient farmers, who have borrowed from Farmers Home and are currently unable to make scheduled repayments through no fault of their own, would be granted a deferral.

This legislation also makes mandatory a program that should have already been in effect, the economic emergency loan program of the Emergency Agricultural Credit Adjustment Act of 1978.

I urge my colleagues to support this legislation. Now before it is too late, we must take decisive action that will benefit not only our American farmers, but our national economy and our position in world trade.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. HILER).

Mr. HILER. Mr. Chairman, there is no question that agriculture is an important segment of American industry, a very important segment of American industry, and if exports decline precipitously or if we continued to have the kind of corn and wheat prices that we had in 1981-82, or if we had a major oil embargo, there is no question that agriculture would be very, very affected. But agriculture is not going to fall apart at the seams because of the 844 foreclosures that Farmers Home had last year. Out of 270,000 farm loans, which represents just about 12 percent of the total farm credit system, just 844, or less than three-tenths of 1 percent, suffered from foreclosure. Of that total of 270,000 loans, Farmers Home deferred, rescheduled, or subordinated nearly 42,000 of those loans.

As it stands now, Farmers Home is doing a substantial job at trying to ameliorate the effects that are being felt on the farm today. But the passage of section 10 in this bill, with its mandatory deferral, if asked for by the borrower, will do more to hurt agriculture than the 844 foreclosures.

No one has said that everyone who enters into business, whether they be in agriculture or in the foundry industry, which is my industry, no one has said that every one of those people must be guaranteed success. In the decade of the 1970's, 25 percent of the metal casting industry went out of business, and yet there was no one standing on the floor of the House saying that we should provide extra assistance to the foundry industry; 844 foreclosures, while serious for the 844 people affected, should not force this Congress into a multibillion-dollar bailout program.

☐ 1450

Mr. de la GARZA. Mr. Chairman, I yield 1 minute to the gentleman from Iowa (Mr. BEDELL).

Mr. MADIGAN. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Illinois (Mr. MADIGAN) has 7 minutes remaining.

Mr. MADIGAN. Mr. Speaker, I yield 6 minutes to the gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN of Missouri. I thank the gentleman from Illinois for extending me this 6 minutes.

Mr. Chairman, first of all let me say that I am saddened to have to see the procedures by which the bill was brought to the House floor today. I personally, even as a cosponsor of the bill, did not know it was coming up until I saw that, in fact, it was. I hope that we can lay this aside, though. We are, in fact, debating the bill. Let us talk about the merits of the bill, and especially to my colleagues on the Republican side, to consider and talk about the legislation now, and not necessarily about how it got to the floor. It was scheduled for this week, but not quite this promptly.

Mr. Chairman, today we are considering legislation that responds to an American tragedy that is being played out all across rural America. Many farmers, many good farmers, are facing the prospect of losing their land. Some already have.

It is my belief that H.R. 1190, the Emergency Agricultural Credit Act of 1983, which I cosponsored along with Mr. JONES of Tennessee, can give these farmers the temporary shot in the arm they need to get by until our farm economy turns around.

Mr. Chairman, let me take a moment to outline the severe problems we are seeing in rural America. In the past 10 years, thanks in large part to the skyrocketing inflation we suffered during the last decade, farm debt mushroomed from $53 billion to $215 billion. The interest on the debt now accounts for 15 percent of a farmer's annual cost of production. As all of us know a farmer must borrow heavily each and every year to get his crop in the ground. Farming today is not a mom-and-pop, shoestring operation. It is a very capital intensive business that requires foresight, fortitude, and skill.

The inflation rates I just mentioned caused land prices to jump. Cost of machinery, seed, fertilizer and all the other costs of production went through the roof. But, prices the farmer received at the end of the year have stayed stagnant. That old buzz work, "stagflation" has no truer meaning anywhere than on the farm where the price a farmer receives for a bushel of corn or wheat has been stuck at depression levels for years. Make no mistake about it, all the credit in the world is of no use to a farmer until prices rise to allow him to make a profit on his operation.

This brings us to the major economic problem we face on the farm today.

There are many financing sources available to American farmers, namely the farm credit system of cooperative banks, a consortium of farmers and lending institutions, private insurance companies, banks and commercial lenders; the Commodity Credit Corporation; and, finally, the lender of last resort, Farmers Home Administration (FmHA). Only after all other sources of credit have declined to extend credit will a farmer be allowed to turn to FmHA. It is not surprising then that Farmers Home is holding a proportionately greater amount of delinquent loans than other sources of farm credit. According to best estimates, the delinquency rate for other lenders is approximately 4 percent for farm loans. Farmers Home Administration, on the other hand, has a delinquency rate of almost 52 percent under its stringent standards. Because it is often farmers with little operating equity who are dependent on FmHA for loans, particularly young, beginning farmers, it is not true that all farmers who are having difficulty repaying their loans are poor managers. Many just have not built the equity to refinance or diversify their operations.

Therefore, through no fault of their own, many farmers who would be successful under normal economic conditions, are facing foreclosure and bankruptcy. Farm sales and auctions on the courthouse steps are occurring all too frequently in rural communities. Far too often, the victims are conscientious farmers who simply have not had the time or opportunity to build up the equity they need to keep the wolf away from the door.

The Emergency Agricultural Credit Act of 1983 is designed to assist these farmers. And, the need for this assistance is immediate. Just 2 weeks ago the Secretary of Agriculture announced that FmHA operating funds for fiscal year 1983 were gone in 17 States. Demand for operating capital is so high that these States have already lent the limit of what is available to them. Just a few days ago, USDA allocated an additional $400 million more in loan money for these States. Demand is virtually as high in other States as well. If we are to give good farmers who are temporarily in an economic crunch one last chance to make it, we must act with speed and diligence.

Let me outline the key provisions of H.R. 1190. Imagine, if you will, a farmer from your State. He has got a FmHA loan; not a commercial or private loan, but due to the economic downturn this farmer's back is against the wall. His income is not enough to meet his payments.

Under H.R. 1190, this farmer would go to his local Farmers Home office to explore some new alternatives. He will have with him documented evidence that his farm operating plan; drawn up and supervised by his county FmHA supervisor, is economically viable under normal circumstances. He will have evidence that in years gone by he has met his obligations. He will be able to prove that he is a hard worker with an attainable goal of making his farm a profitable venture.

With this documented evidence in hand, the farmer will as a matter of right have an opportunity to meet with his county Farmers Home supervisor to try to work out a consolidation, reamortization, or rescheduling of his existing debt package. The benefits are obvious. The farmer gets some breathing room and the Government will get its money. Hopefully, a great many delinquencies can be resolved through this first step.

Obviously, however, there will be cases where a debt consolidation cannot be arranged. In those cases our farmer and his local FmHA supervisor will explore a one-time-only, 1-year deferral of his payments to FmHA.

Let me stress that substantiated proof is required of the farmer. Before he can expect a deferral he must prove by substantial evidence that: First, he has followed good management practices but has suffered production or economic losses because of economic or natural conditions beyond his control; second, he is unable to repay his loan at the time of his request based upon a comprehensive statement of his farm and financial situation; and third, that following the deferral period there is a reasonable probability that he can pay the installments on his loan in full accordance with FmHA regulations providing normal economic conditions exist. The burden of proof is on the borrower-farmer to show he qualifies under these criteria.

With this documented evidence on file, the Farmers Home Administration official must grant the farmer's request for a 1-year, one-time-only deferral of principal and interest payments. Once the deferral period has ended the farmer will begin repayment of his loan at interest rates then in effect, or at the rate of his original loan, whichever is lower.

If, for some reason, the local Farmers Home official turns down the farmer's request for a deferral, the farmer can appeal to a group of local farmers similar to panels which now operate through the Agriculture Stabilization and Conservation Service network.

I would hope that my colleagues agree with that, with these protections in place, this deferral procedure is not a bailout for deadbeats. Not every farmer will get a deferral because not every farmer will qualify for one. Those who cannot prove their case will not be eligible, and will not be granted a deferral. The provisions of H.R. 1190 do not provide for a blanket moratorium, but rather a well-defined, selective deferral based on substantial evidence.

I would like to point out at this time, Mr. Chairman, that last year the House overwhelmingly voted for H.R. 5831 which would have entitled a borrower to a deferral—not limited to one year—if he merely showed circumstances less demanding than those enumerated in H.R. 1190. After a resounding 372-to-39 passage in the House last year on H.R. 5831, the Senate failed to act.

What will these deferrals cost once H.R. 1190 becomes law? The Congressional Budget Office (CBO) estimates that 40 percent of the delinquent FmHA loans might be deferred. CBO thinks it will cost $35 million to cover additional administrative expenses. Because the loans will be paid back in future years, there is a temporary accounting deficit of $2.5 billion. What these figures do not indicate is that we are dealing with secured loans. The exposure to the theory is limited. The only loss would be 1 year's worth of interest on the deferred interest of a farmer's loan. At the end of the deferral period, full installments will be due and payable. If they cannot be made, then the FmHA should not have approved the deferral.

I will now proceed to other parts of the Emergency Agricultural Credit Act. There are two traditional farm emergency lending programs: First, emergency disaster loans help farmers recover from natural disasters; second, economic emergency loans to assist farmers caught in a cost-price squeeze.

H.R. 1190 specifies that farmers who have sustained a natural disaster loss will be considered on a case-by-case basis for emergency disaster loans. Criteria have been laid out in the Consolidated Farm and Federal Development Act which makes it clear that farmers should be reviewed individually for disaster assistance. However, this provision has been circumvented by Department rulings which call for an overall county loss percentage as a result of a natural disaster. If a farmer lives in a county whose overall damage does not meet the 30-percent dollar-loss minimum he does not get individual assistance. That is not fair as the following example from my own district in Missouri shows.

A farmer did not receive disaster assistance just because his crops were on the wrong side of the county line, according to Department procedures. His farm was cut by a county line and most of his crops were in one county. His house was in another. When the rains came, and stayed for several weeks, his crop was destroyed and it was too late to plant again that season. Now the county where his house was located sustained a countywide dollar loss of more than 30 percent. However the rains did not hit the entire county where his crops were located nearly as hard on an overall county basis. So, while his neighbors received emergency loans in the county where he lived, he could not get assistance for most of his crops right across the county line. As I said, that is not fair, and under H.R. 1190 the Secretary will be required to look at each individual disaster claim on its own merits . . . not some arbitrary countywide dollar loss criteria that leaves some deserving farmers without relief.

Section 8 of H.R. 1190 amends the Emergency Agricultural Credit Adjustment Act of 1978 which requires the Secretary to carry out the economic emergency lending program through September 30, 1984. This section would appropriate an additional $600 million for direct loans to the $600 million in guaranteed already appropriated for 1983. The bill now before us would reauthorize the economic emergency lending provisions so these sorely needed funds could be lent to deserving farmers.

Frankly, I can't think of a better time to do this. As I mentioned before, 17 States have already run out of funds for lending. In spite of the success of the payment-in-kind (PIK) program, through which we will probably see some $2.5 to $3 billion less need for credit, demand is still running ahead of supply in the farm credit area. There is still time to rectify this shortfall through H.R. 1190.

The final provision I wish to discuss in some depth is the one which deals with the FmHA county committees. H.R. 1190 provides for committees of three to five members. The number of members will be determined by the Secretary on the basis of such relevant factors as loan volume within a county. With five-member committees, three members would be elected by farmers in the area and two would be appointed by the Secretary. In the case of three-member committees, two would be elected by farmers and one would be appointed. All members would serve 3-year terms, except the original members who may serve fewer years because H.R. 1190 calls for staggered terms of membership.

The need for such elected committee members is obvious. Elected committees will increase the confidence of farmers in the FmHA. Many farmers now have a negative image of FmHA. They feel they have no voice in the decisionmaking process. By electing committee members, I feel the system would be more accountable to the farmers of the county, while also decentralizing the decisionmaking process.

The committees would have the responsibility of approving a farmer's eligibility for loans—as it does now under current law—and it would serve as the appeal board for adverse decisions involving a farmer's request for a deferral or rescheduling of FmHA loans.

In conclusion, Mr. Chairman, this legislation has been long in the making. When my colleague and subcommittee chairman, Mr. JONES and I first conceived this legislation, we knew it would take patience and compromise to fashion a workable bill. We have gained input and assistance from members of the committee, farmers, lenders, and affected farm and agribusiness organizations. Administration officials have had significant input.

The full committee has recognized the wisdom and need for this legislation by overwhelmingly passing it out of committee by a 35-to-3 margin.

I urge my colleagues to understand the need for H.R. 1190 and to have compassion for the struggling farmer who needs a fair shake from the Federal Government. We are certainly giving a great many foreign nations more than a fair shake when it comes to deferring or rescheduling their debts. This administration is asking the Congress to appropriate $8 billion to the IMF for this purpose. Can we do any less for the hard-working men and women across the heartland of America who are putting food on our tables and feeding millions of people throughout the world?

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. No, I am sorry; I do not have enough time.

Mr. Chairman, not every farmer will get a deferral. Not every farmer deserves a deferral. He has to prove his case to the county supervisor.

I would like to point out, Mr. Chairman, that last year this House overwhelmingly passed H.R. 5831, which would have entitled a borrower to a deferral in a lot looser language than we have in this bill, not limited to 1 year, and there were only 39 dissenting votes in this entire House for that particular proposal.

The CHAIRMAN. The gentleman from Illinois (Mr. MADIGAN) has 1 minute remaining.

Mr. MADIGAN. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. THOMAS).

Mr. THOMAS of California. I thank the gentleman for yielding

Mr. Chairman, will the gentleman from Missouri respond to a question?

Mr. COLEMAN of Missouri. Yes.

Mr. THOMAS of California. In discussing the deferral procedure, when a farmer is presented with the optional payback and he chooses to go to the deferral, the length of the deferral is for 12 months?

Mr. COLEMAN of Missouri. That is right; for up to 12 months.

Mr. THOMAS of California. Up to 12 months. During the deferral, that is, no payment on the loan, there is interest accruing, of course, is there not, during the period when he does not pay anything?

Mr. COLEMAN of Missouri. There would be no interest on the interest, but he would have to pay back the note and the interest that was due to that point.

Mr. THOMAS of California. So he could buy an entire year with no interest based on the deferral over that year period.

Mr. COLEMAN of Missouri. I do not believe that is true. The interest on the interest, in other words, is not compounded, but he does have to pay back that interest that would run through the deferral period, and he also would have to pay back the principal.

I might point out that, again, this is a bipartisan effort. On a vote of 35 to 3, this bill passed out of committee, so it is not fraught with the difficulties that a lot of people have mentioned today.

Mr. THOMAS of California. I understand that. If the gentleman will recall, I was on the Committee on Agriculture and I understand how we worked together to help those individuals.

The CHAIRMAN. The gentleman from Texas (Mr. DE LA GARZA) has 4 minutes remaining.

Mr. DE LA GARZA. Mr. Chairman. I yield 1 minute to the gentleman from Illinois (Mr. DURBIN).

Mr. DURBIN. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support today of H.R. 1190. I am proud to represent one of the greatest agricultural districts in our country. It is a district which is directly south of the gentleman from Illinois, who is speaking as the minority spokesman on the Committee on Agriculture.

We are blessed in our portion of the country with a rather substantially positive debt-to-equity ratio in comparison to many other States in the Midwest, and yet we know nationwide that at least as far as the Farmers Home Administration is concerned, we are in very deep trouble. In the course of 3 years, the number of delinquencies to the Farmers Home Administration, as a percent of all loans, has more than doubled. In the span of 2 years, the number of farms acquired by the Farmers Home Administration has increased by fivefold. As we entertained witnesses before the committee in reference to this particular legislation, we were advised that the problems are greater in some areas of the country, but are particularly difficult on those farmers in the age group 30 to 40 with a gross farm income of less than $100,000.

If we do not take a positive step today with this legislation, we could lose a generation of farmers, and I applaud the efforts to pass this bill quickly.

As I listen to the debate on this measure, I feel compelled to note that this bill is not a moratorium on debt. It is clearly a deferral. Neither is it a means of forcing bad credit risks on farm and home. The burden is still on the borrower to prove his creditworthiness by substantial evidence.

My fellow Illinoisan, Jack Block, is doing an excellent job as our Secretary of Agriculture. The broad bipartisan support which this bill had in committee demonstrates that our efforts are not political, but rather in the best interests of meeting everybody's credit needs in our farming community.

● Mr. FAUNTROY. Mr. Chairman, I rise in support of H.R. 1190, the Emergency Agricultural Credit Act. This bipartisan measure is needed to cushion the farmers of America, who, have been among the most victimized in America by economic policies which have created high interest rates depriving our Nation's farmers of the credit necessary to continue in business.

This emergency measure would insure that the Farmers Home Administration would be able to continue to provide credit to farmers unable to secure operating loans from either the commercial market or cooperative lending institutions.

Mr. Chairman, this economic and social crisis is affecting the majority of America's farmers but it is especially threatening to our smaller family farmers, the most productive of all of our farmers. As in other areas of our national life, this crisis, which is hurting all Americans, is reflected most acutely in the black experience. Historically, there has been no institutional governmental support for the black agricultural producer. Conventional lending practices, price support programs, and tax writeoffs have been oriented to benefit large-scale producers.

H.R. 1190 is of crucial importance to all Americans and is especially important to the preservation of the surviving 57,271 black farmers.

In supporting H.R. 1190, it is also important that we support the amendment of Congressman BERKLEY BEDELL which would retain current limits on the size of loans which may be made to individual farmers.

This amendment is necessary to insure that the most productive units of agricultural production, the small-scale family farm, has access to necessary credit provided by a lender of last resort such as the Farmers Home Administration. The need for this amendment to insure that black farmers have access to this lender of last resort is fully documented in the report of the Civil Rights Commission on "The Decline of Black Farming in America." I quote from page 123 of that report:

> The Farmers Home Administration is in a unique position to assist Black farmers. Historically, Congress has mandated FmHA to provide financial support and supervision to those farmers who are unable to obtain credit elsewhere. Congress further reinforced its intent to reach those in greatest need when, in 1978, it authorized FmHA to make "limited resource loans" with special terms and conditions to low income farmers, minorities, and women who have had great difficulty obtaining credit in the past.
>
> Despite its tradition as a lender of last resort, however, FmHA has become increasingly a lender for farmers with large assets, who rely heavily on debt financing to expand their agricultural operations, while taking advantage of inflation, technology, and tax benefits.
>
> Thus, despite their disproportionate need, Black farmers received only a very small proportion, 2.5 percent, of the total dollar amount loaned through FmHA's farm credit programs in 1981. Furthermore, while the limited resource loan program was specifically intended to enhance the ability of minorities to qualify for and repay FmHA loans, most Black FmHA borrowers did not even benefit even from these loans. In fact, in six States white borrowers were more likely than Blacks to have received these low interest, limited resource loans.
>
> Complaints filed by Southern Black farmers assert that FmHA denies them equal credit opportunities by failing to provide them with applications and information regarding relevant loan programs; awarding Blacks smaller loans under less hospitable conditions than whites; and taking inordinate time to process loans for Blacks. FmHA data reveal that targets and actual loans to minorities have been declining in many States. USDA's onsite review of FmHA offices reveal that targets have not been set or aspired to at the county level where loans are made, nor has adequate outreach been conducted to ensure that minority farmers are aware of FmHA loan programs, particularly limited resource loans.
>
> Hence, it appears that, far from accomplishing its original purpose, FmHA has failed to advance, and in some cases may have hindered the efforts of Black small farm operators to remain a viable force in agriculture. In light of these problems, civil rights enforcement is particularly important to ensure that FmHA provides equal opportunities for minority farmers.

Mr. Chairman, our urban consumers have a direct interest in a healthy rural economy, characterized by a flourishing family farm system of agriculture, competitive in structure, and providing high quality nutrition to the American people at affordable prices.●

● Mr. GUNDERSON. Mr. Chairman, I am in support of H.R. 1190, the Emergency Agricultural Credit Act of 1983, and would like to take this opportunity to first thank and commend my two colleagues on the Conservation, Credit and Rural Development Subcommittee, the gentleman from Tennessee (Mr. JONES) and the gentleman from Missouri (Mr. COLEMAN) for their diligence and persistence in getting this legislation to the floor today.

You know, we all represent people who, in one way or another, have been hit hard by the recent economic recession. And those of us who represent rural areas fully recognize the depth of that recession—both in terms of individual cases we have witnessed and assisted, and in terms of the composite economic tragedy vividly portrayed by the overall farm statistics of the period.

Net realized farm income decreased 20 percent in 1981 and another 10 percent in 1982. At the same time, farm debt loads have continued to increase. In fact, the Farmers Home Administration has currently outstanding over $5.6 billion in farm ownership loans and over $2.25 billion in farm operating loans.

This is a debt to farm income ratio of 13 to 1—compared with a 3-to-1 ratio only 10 years ago.

And in that same period of time—10 years—we've lost over 8 percent of our farms and 24 percent of our farm population. We simply cannot afford to let current economic conditions exacerbate these losses.

Clearly, Congress must act with all deliberate speed. However, whatever action is taken must not only be timely, but responsible as well.

It has been said many times before, but it always rings true, that you cannot solve a problem by simply throwing money at it and expecting it to go away. Solutions to difficult economic problems must be thoughtful and fully considered.

In its original form, H.R. 1190 did not meet these criteria—particularly in terms of the blanket moratorium provisions it contained for FmHA foreclosures and delinquencies. However, through several weeks of hearings and markup sessions, the bill has been crafted into a creative and acceptable solution to many of the short- and long-term financing problems our farm families face.

Besides providing for the reauthorization of FmHA programs to serve future capital needs, H.R. 1190 authorizes an additional $200 million for operating loans in the current fiscal year to meet the needs of persons who have never before had to borrow from the FmHA. Twenty percent of those funds are earmarked for limited resource borrowers.

This funding is crucial. While the FmHA has been able to stay with 97 percent of its present 270,000 farm borrowers in the past year, there is an increasing demand for loans from the Government's "lender of last resort" from new borrowers during the current economic crunch. This $200 million is, thus, most appropriate and timely.

Similarly, reactivation of the economic emergency loan program through September 30, 1984, will assist FmHA in responding to the unique credit climate occasioned by depressed commodity prices and general economic recession.

Finally, we provide a remedy for those singular situations where no amount of additional credit will resolve a personal financial crisis. And of all the sections of this bill, Mr. Chairman, this was the most difficult to draft. We had to be personally responsive and fiscally responsible.

And I believe we accomplished both of these goals by providing a reamortization and deferral option for farmers who can show through substantial evidence that they cannot make existing payments despite good management practices and because of economic or natural conditions beyond their control.

Mr. Chairman, I do not claim that this legislation is perfect—only that it is a good bill. I, therefore, urge my colleagues to carefully consider any amendments that may be offered to it and, in the final analysis, to support it. Thank you, Mr. Chairman.●

● Mr. PEPPER. Mr. Chairman, I thank the distinguished gentleman from Texas and the Committee on Agriculture for expediting action on this important legislation. This bill represents Congress overdue recognition of the serious crisis which is prevailing on our agricultural sector.

H.R. 1190 is a sensible bill. The Farmers Home Administration reported that at the end of January, 52 percent of all FmHA borrowers were delinquent on repayments of their loans. In order to insure that we stall a possible epidemic of foreclosures in the Farmers Home system, it is essential that we mandate a policy of forbearance. Without such a policy, everybody stands to lose: Farmers Home would undoubtedly be unable to recover the full value of its investments from liquidations; good farmers would be forced to discontinue operations with little hope of having the opportunity to return to farming; and the American agricultural structure would suffer from the loss of efficient producers of food and fiber. H.R. 1190 addresses the crisis with concrete and immediate solutions.

Mr. Chairman, this bill is not a bailout for farmers any more than it is a bailout for American taxpayers. Its effects would be to allow good farmers experiencing financial difficulty to survive until the arrival of the much promised recovery, and to prevent the FmHA from having to acquire additional inventories of foreclosed land—which would most likely be acquired at a substantial loss—inventories that would further strain our growing budget deficit. By enabling strong farmers to continue production, we are exercising nothing more nor less than sound business judgment.

My only regret is that the bill does not directly address the needs of financially imperiled farmers who owe debts to private sector lenders. Farmers Home Administration holds only 12 percent of all farm debt. Many farmers borrowing within the farm credit system and from other private lenders also face foreclosure and liquidation as a consequence of unmanageable debt-service requirements. It had been my hope that emergency legislation would include broad authorization for the Secretary of Agriculture to purchase or guarantee private-sector farm loans in cases where the borrower is faced with foreclosure. H.R. 1402, which I introduced earlier in the session, contains a provision that would assist good farmers who face difficulty in meeting their repayment obligations on private-sector loans.

Mr. Chairman, I ask unanimous consent that a copy of my bill be printed in the RECORD at the conclusion of my remarks.

Although H.R. 1190 does not specifically deal with private farm debt, the distinguished chairman of the Agriculture Committee has assured me that funds authorized for the economic emergency loan program may appropriately be used to assist private-sector borrowers. As the bill mandates that the Secretary implement the economic emergency loan program, hopefully we will see it used to that end.

The Emergency Agricultural Credit Act of 1983 safeguards the interests of our farmers and may prove itself to be a key element in preserving the productive structure of our agricultural system. I thank the gentleman for this time and urge my colleagues to vote in favor of H.R. 1190.

The text of H.R. 1402 follows:

H.R. 1402

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Emergency Agricultural Credit Assistance Act of 1983".

DEFERRAL OF FARMERS HOME ADMINISTRATION LOANS

SEC. 2. (a) The Secretary shall, for a period of not less than one year, permit the deferral of principal and interest on, and forego foreclosure of, any outstanding loan made, insured, or held by the Secretary before the date of the enactment of this Act under any law administered by the Farmers Home Administration if—

(1) the farmer to whom such loan was made requests such deferral not later than September 30, 1984, and

(2) the county committee for the county or area in which such farmer's farm is locate determines and certifies in writing to the Secretary that such farmer—

(A) is the owner or operator of a farm which is not larger than a family farm,

(B) has demonstrated good farm management practices,

(C) due to circumstances beyond such farmer's control, is temporarily unable to continue making payments of such principal and interest when due, and

(D) is reasonably likely to be able to repay such loan after such deferral period.

(b) The Secretary shall permit interest that accrues during the deferral period on any loan deferred under subsection (a) to bear no interest during or after such period.

(c)(1) After the deferral period permitted with respect to any loan under subsection (a), the Secretary shall make available, at the request of the borrower, procedures whereby such loan may be consolidated, rescheduled, or reamortized to provide equitable repayment terms consistent with such borrower's farm and financial situation.

(2) Any loan so consolidated, rescheduled, or reamortized shall bear interest at a rate not to exceed the lower of—

(A) the rate of interest payable with respect to such loan before such consolidation, rescheduling, or reamortization, or

(B) the rate of interest payable with respect to similar loans made under laws administered by the Farmers Home Administration on the date of such consolidation, rescheduling, or reamortization.

AGREEMENTS FOR DEFERRALS OF PRIVATE AGRICULTURAL LOANS

SEC. 3. (a) Except as provided in subsection (c), the Secretary shall, at the request of a private lender, enter into an agreement described in subsection (b) with respect to any loan made by such private lender to a farmer before the date of the enactment of this Act for any purpose for which a loan may be made, insured, or guaranteed under any law administered by the Farmers Home Administration if the county committee for the county or area in which such farmer's farm is located determines and certifies in writing to the Secretary that—

(1) such farmer is the owner or operator of a farm which is not larger than a family farm,

(2) such farmer has demonstrated good farm management practices,

(3) because of circumstances beyond such farmer's control, such farmer is temporarily unable to make payments of principal and interest due on such loan,

(4) such private lender is unwilling to defer such payments and forgo foreclosure of such loan in the absence of such an agreement,

(5) such farmer is unable to obtain sufficient credit at reasonable rates and terms to refinance the outstanding indebtedness on such loan, taking into consideration prevailing private and cooperative rates and terms in the community in which such farmer resides for loans for similar purposes and periods of time,

(5) foreclosure or liquidation of such loan would seriously impair the economic viability of the farming, ranching, or aquaculture operation of such farmer, and

(6) such farmer is reasonably likely to be able to repay such loan after the period of such agreement, if such agreement is made.

(b) Any agreement entered into under subsection (a) shall include the following terms:

(1) The private lender with whom such agreement is made—

(A) shall, during the one-year period beginning on the date such agreement is made, defer the payment by the farmer involved of principal and interest due on, and forgo foreclosure of, the loan made to such farmer, and

(B) shall not, at any time, charge any interest on any interest which accrues on such loan during such period.

(2) The Secretary shall—

(A) guarantee the repayment of such loan after such period, and

(B) not impose any fee or charge on such private lender or such farmer as a condition for entering into such agreement.

(c)(1) The Secretary may not enter into any agreement under subsection (a) which would—

(A) require the Secretary to guarantee the repayment of more than 90 per centum of the principal and interest payable on any loan,

(B) cause the total principal amount outstanding on loans—

(i) guaranteed under this Act with respect to a particular farmer to exceed $500,000, or

(ii) made, insured, or guaranteed under this Act or any other law administered by the Farmers Home Administration with respect to a particular farmer to exceed $1,000,000, or

(C) require the Secretary to guarantee any loan with respect to which the interest rate or any other fee is determined by the Secretary to be excessive, taking into consideration prevailing private and cooperative rates and terms in the community in which the farmer involved resides for loans for similar purposes and periods of time.

(2) The Secretary may not enter into an agreement under subsection (a) after September 30, 1984.

(d)(1)(A) Moneys in the Agricultural Credit Insurance Fund described in section 309 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929) shall be used—

(i) for the discharge of obligations into under subsection (a), and

(ii) for the payment of administrative expenses incurred by the Secretary in carrying out this section.

(B) Section 346 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994) and any other provision of law limiting the availability of moneys from such Fund shall not apply with respect to the use of such moneys under subparagraph (A).

(C) Notes and security acquired by the Secretary in connection with such agreements shall be treated in the same manner as is provided in section 309(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(d)).

(2) The Secretary may purchase the guaranteed portion of any loan with respect to which an agreement is entered into under subsection (a) and may pay any expense or fee incident to such purchase.

(3) Section 310B(d)(6) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(d)(6)) shall apply with respect to notes acquired by the Secretary in connection with agreements entered into under subsection (a) in the same manner as such section applies with respect to notes insured or guaranteed under such Act.

PROCEDURAL PROVISIONS

SEC. 4. (a) The Secretary shall take steps to ensure that farmers and private lenders who may benefit from the provisions of section 2 or section 3 receive adequate notice of such provisions.

(b) The Secretary shall provide procedures—

(1) for appeal and review of any determination which is the basis of a certification required to be made by a county committee under section 2 or section 3, and

(2) for reversal or modification of such determination if the facts warrant such action.

EXTENSION OF EMERGENCY AGRICULTURAL CREDIT ADJUSTMENT ACT OF 1978

Sec. 5. Section 211 of the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961 note) is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1984".

DEFINITIONS

Sec. 6. For purposes of this Act—

(1) the term "county committee" means a county committee appointed under section 332 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1982),

(2) the term "farmer" means any farmer, any rancher, any individual engaged in aquaculture, or any farm cooperative or private domestic corporation or partnership that is controlled directly by farmers, ranchers, or individuals engaged in aquaculture and is engaged primarily and directly in farming, ranching, or aquaculture,

(3) the term "private lender" means any lending institution legally organized in the United States, including any institution of the Farm Credit System specified in section 1.2 of the Farm Credit Act of 1971 (12 U.S.C. 2002),

(4) the term "Secretary" means the Secretary of Agriculture, and

(5) the term "United States" shall have the meaning given to it in section 343(6) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(6)).●

● Mr. FRENZEL. Mr. Chairman, I rise today to applaud the authors of H.R. 1190, the Emergency Agricultural Credit Act, and the entire House Agriculture Committee, for the concern which they have shown toward bringing some relief to those borrowers under the Farmers Home Administration currently facing tight financial conditions.

By making emergency loan programs more applicable to specific cases, raising the ceiling on direct and guaranteed loans, and the many other provisions of this bill, stresses the need for adequate, and available credit for our farm economy.

However, despite some good provisions which are entailed in this bill, I believe that, if enacted, its overall result would be to create confusion in the current management of Farmers Home Administration's programs. H.R. 1190 would actually hamper the opportunity for the Farmers Home Administration to serve new borrowers, or adequately see to the needs of its present borrowers, by overburdening the agency with the paperwork which the provisions of this act would demand. It is also conceivable that many borrowers, who might otherwise be saved, assuming that they were given the proper attention, would slip past the Farmers Home Administration into bankruptcy.

Mr. Chairman, the Farmers Home Administration is not interested in seeing farmers go bankrupt. It was established to see that farmers, whose borrowing needs were not met by other lending institutions, received a fair opportunity to continue farming. I believe that under the present difficult conditions the Farmers Home Administration has been doing an admirable job in that respect.

The fact remains, however, in good times, or in bad, there will always be farmers who will fail. The passage of this act cannot change that. The Government cannot indemnify any citizen against all risks.

With the discretionary authority which the Secretary of Agriculture already has at his disposal he was compelled to foreclose on only three-tenths of 1 percent of all delinquent Farmers Home Administration loans. I think that is an extraordinary record.

I believe that the Secretary has shown a great amount of understanding in managing this aspect of the farm economy, and that the deferral sections of this bill are needless additions which would only serve to tie the Secretary's hands in his attempt to manage the Department of Agriculture effectively.

Mr. Chairman, I am also greatly concerned with the impact that this act would have on the Federal budget.

The cost of the deferral sections of H.R. 1190 alone could cost anywhere from $2.6 billion, according to CBO estimates, to $6.8 billion, according to USDA estimates.

In addition to that, the ceilings established for the rural development insurance fund, and the agricultural credit insurance fund, along with the various other loan programs in this bill, total up to approximately $20 billion in outlays over the next 5 years.

Mr. Chairman, certainly Congress must relay its concern to the Secretary of Agriculture, and the Farmers Home Administration, that they continue to grant some greater than normal latitude toward those borrowers who still have the opportunity to reassert their creditworthiness as the economy improves. However, considering that this act does not benefit the other 88 percent of our creditworthy agricultural producers, it is unwise for Congress to show its concern in such a costly manner.

Secretary Block has, in my opinion taken great steps toward revitalizing the credit situation of the farm economy, and the payment-in-kind program is a good example of this.

It is for these reasons Mr. Chairman that I cannot support H.R. 1190.●

● Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 1190, the emergency farm credit bill.

This legislation is a sound, reasonable piece of legislation that will help many of the Nation's farmers through a difficult time which has been compounded for many farm families in the current crisis in the agricultural economy of this Nation.

I want to commend the members of the House Agriculture Committee for reporting this legislation which has a variety of programs, loan deferrals, and other credit features to help the Farmers Home Administration speedily resolve many individual precarious situations for farm families until our agricultural economy improves.

I am in full agreement with the statements of Congressman Ed Jones of Tennessee, chairman of the House Subcommittee on Conservation, Credit, and Rural Development which describe this legislation as one of the most important bills the House will deal with this year.

Given the present situation in many farm States, and in Puerto Rico, I am aware that many farmers are being forced out of business, and more will be in future months unless some relief is provided which would allow the Farmers Home Administration to defer loans, and use some compassion and sympathy on a case-by-case basis.

It seems to me that it is a wise and prudent decision by members of the House Agriculture Committee who have shaped this legislation for our consideration today, wise and prudent in the sense that it will allow farmers to stay in the agricultural enterprises, and to survive the present farm crisis. Once driven out of business by economic necessity, many young farmers may choose never to return to the land, or continue their farming operations. Such a loss of talent and individual enterprise will be felt and missed by this country. The flight from the farm has been well documented in recent months, and all of us are aware of the emergency nature which this legislation will help ameliorate.

I am particularly pleased by the loan deferral and renegotiation features of H.R. 1190. This bill provides that a farmer borrower who has FmHA loans could be granted renegotiated payment terms, or even a 1-year deferral in some cases.

The legislation is responsible since the applicants would have to establish by substantial evidence that he could not repay loans on time because of conditions beyond his control.

This provision applies to FmHA farm operating loans, farm ownership loans, economic emergency loans and natural disaster loans.

I also support the provisions which would reactivate the economic emergency loan program through September 30, 1984, and which would provide a $600 million a year appropriation.

Other provisions of H.R. 1190 provide additional funds for insured farm operating loans, and set a ceiling for insured water and sewer facility loans, a program of FmHA so important to rural areas of the Nation and Puerto Rico.

I am hopeful that this legislation will become public law for it sends a signal to our Nation's farmers that the Congress recognizes their special plight, and has taken urgent action to resolve the current dilemma of foreclosures in our Nation's agricultural industries.●

Mr. CRAIG. Mr. Chairman, as a taxpayer, farmer, rancher, and Congressman, I strongly object to H.R. 1190 in its present form. Primarily, I cannot support extending the maximum repayment period on operating loans, significantly increasing the bloated Federal budget with the economic emergency loan program, providing additional moneys for sewer and water projects in a farm bill, changing the disaster designation and county loan committee structure, or attempting to address the spring farm operating loan situation after the operating loan season has passed. I believe current Farmers Home Adminsitration policy does allow the necessary flexibility to assist current borrowers.

Lending by Farmers Home Administration has skyrocketed above and beyond the wildest intentions of the Members who passed the original act creating the Resettlement Administration in 1935 to assist farmers. Today, the Resettlement Administration is Farmers Home Administration. In 1973, FmHA lent $1.4 billion through the farmer programs for farm ownership, farm operating, disaster emergency, and economic emergency loans. Five years later, these same programs were lending four times that amount. During the period of 1979–81, FmHA lent farmers almost $22 million. The total for the last 9 years is $38.8 billion, which is 75 percent of the total amount of money Farmers Home Administration has loaned in its 47-year history. One of our basic problems today is Congress having allocated too many Federal tax dollars into programs for farmers who are now finding a very difficult time paying that money back.

During the last few months, the media, in both my district and across the Nation, have reported on numerous FmHA farm sales and foreclosures and that FmHA has been less than fair with a number of these borrowers. Let us set the record straight.

In my district, as well as other agricultural districts across this country, FmHA has given individual borrowers every opportunity to succeed. In some cases, FmHA has bent over backward at taxpayers' expense. There are FmHA borrowers in Idaho who have not made payments in 2, 3, and even 5 years while FmHA attempts to take the necessary action against them.

Mr. Chairman, I think this Congress needs to be reminded of the current criteria under which FmHA is operating and lending money. Farmers Home Administration will continue with borrowers who: First, made good faith efforts to repay their loans; second, were unable to repay because of circumstances beyond their control to keep their accounts current; third, practice sound management; fourth, maintain and care for secured property; and fifth, show promise of repaying new operating loan and interest from current year's production. If the borrower can meet these reasonable provisions, loans can be rescheduled, reamortized, deferred up to 3 years, or simply carried during the production cycle.

Through its regular loan programs, FmHA enabled nearly 100,000 farmers to stay in business in fiscal year 1982. In addition, another 42,000 borrowers still are in business because FmHA went the extra mile in working out deferral, rescheduling, and subordination agreements.

The agency deferred principal and/or interest payments for 3,600 farmers, and rescheduled or reamortized loans for 12,000 borrowers. FmHA also subordinated its security for nearly 30,000 borrowers to enable them to obtain loans from private lenders. In addition to these servicing actions, 25 percent of the 270,000 FmHA borrowers were being carried as delinquent at the end of the year.

During the past few months, I have met with Secretary Block; Under Secretary Frank Naylor; Charles Shuman, Administrator of FmHA; and the Idaho State director of FmHA. These gentlemen have given numerous assurances that they are doing everything possible to keep their borrowers in operation. I have been informed that FmHA will continue its lenient policies in 1983 and beyond if necessary.

The bill before us today is supposed to be an emergency agriculture credit program for farmers, but the House Agriculture Committee has included a major section on water and waste disposal facilities. I fail to see the relevance of this provision to the intent of this legislation. Further, this water and sewer provision authorizes USDA to make grants to private, nonprofit organizations to enable them to provide technical assistance and training to associations made likely to receive grants or loans made from FmHA. It appears we are just opening the doors to "fly-by-night" consultants disguised as nonprofit operators who will garner a great deal of money. Why not just give the money to the local towns and communities directly? The money would probably be better spent without the Federal redtape.

The bill extends the maximum repayment period for a consolidated or rescheduled farm operating loan from 7 years to 15 years. If a tractor, plow, or dairy cow will not pay for itself in 7 years, how is it going to be paid in 15 years? Ask a successful farmer how many years he wants his payments to run, and the good farmer will say, "I want this loan paid in full before the machine or animal is worn out, I don't want to be paying for something worth nothing with borrowed money." If this provision is accepted, a farmer will still be paying for a tractor which is junk and a dairy cow which died.

There has been a great deal of discussion about farmers using FmHA guaranteed loans. Frankly, Mr. Chairman, banks and private lenders in my State are not very interested in the guarantee program. If the borrower cannot get a commercial credit loan, the commercial lender is not interested in participating in the FmHA guarantee program, either. I would not be interested in the guarantee program after all the paperpushing it takes to process the borrower's application.

The economic emergency insured loan program expired in October 1982, and yet Congress is attempting to continue a program where there has not been adequate justification for the program. One small area of the economic emergency insured program is all I could support. Currently, those farmers wishing to sell their operation and having economic emergency loans cannot have those loans transferred to another eligible FmHA buyer at the same rates and terms. Any loan must be transferred at higher interest rates and shorter terms. With the current tight credit and high leverage of many farmers, these sales cannot take place. I have introduced an amendment to H.R. 1190 which allows these transfers to take place rather than forcing liquidation or foreclosure. I am currently working on a number of cases with exactly this problem. I believe the administration would support this provision. No additional funds are expended, while protecting the interest of the current borrower and the Government.

H.R. 1190 provides that disaster assistance be determined solely on the applicant's percentage of production or physical losses, regardless of whether USDA has designated the applicant's county eligible for disaster assistance. As Secretary Block has stated, "Individual disaster designations in this program place an intolerable administrative burden on the agency which will have the practical effect of extended delays in the approval of loans to farmers." In effect, we are just piling more burden on an already overburdened FmHA county office staff.

The proposal to expand the county committee in their role to help advise and consult the county supervisor will create additional bureaucratic headaches as well as possible conflicts of interest. Having a present FmHA borrower on the county committee leaves the gate open for conflict of interest. Further, asking a local lender to serve on the county committee when that lender is also making loans to the same clientele creates the same problems.

Let us dwell for a moment on the budgetary aspects of this legislation. We need to explore the total implications. For the period of 1983-87, all provisions of H.R. 1190 would result in an estimated increase over the administration's budget of $19.8 billion in total outlays. Meanwhile, every month the Treasury is going back into the capital markets borrowing more of the available money which the private sector needs to get our economy healthy again. We cannot rob the private sector by passing additional spending legislation and expect the economy to prosper. Who are we kidding?

I want to touch on the subject of deferrals again, because I think it is a critical issue in this legislation. CBO has estimated the actual final cost of the blanket deferral provisions at over $2.6 billion by assuming the final participation figure will be 40 percent of the total FmHA borrowers. If virtually 100 percent of the FmHA borrowers apply for the deferral and then proceed through the legal appeals process, the costs, according to the USDA, will be well over $6.8 billion. By expending the deferrals, we take funds away from the revolving funds and increase the budget outlays to the program.

In essence, the lending season for farmers is virtually over for this year. The farmers are already in the fields. They are worrying about late frost, spring rains, and machinery breakdowns. I believe any legislation adopted by Congress, even in the next few weeks and then implemented in the local county offices, will not significantly impact the loan situation for this year. We are again in the "throw money at the problem" syndrome. Just throw money at it, and the problem will go away as if by magic, at least for a time.

As a farmer myself, I realize farmers are suffering through this current recession. However, the National economy is strengthening. A successful PIK program, lower interest rates, and low inflation are already showing their effects.

My final question is this: What are we doing in this legislation to help 88 percent of the farmers who do not receive FmHA assistance? Presently, 12 percent of the farmers receive FmHA assistance. A much smaller proportion of these farmers are in a critical financial situation. So in the name of helping the entire agriculture sector, this House is attempting to assist fewer than 4 percent to 5 percent of the farmers; an agriculture ballout to a small few. Congress must realize that our agricultural economic future depends on a strong demand for agriculture products and a healthy world economy. We need to pass legislation to expend export trade, not domestic Government programs through legislation such as H.R. 1190.

I urge the defeat of this legislation in its current form, and starting over with a realistic approach—an approach which addresses low commodity prices, not through expanded Government loans or price supports but through new agricultural export policies such as blended credit and long-term trade agreements.

□ 1500

Mr. CHAIRMAN. The Chair will state that the gentleman from Texas (Mr. DE LA GARZA) has 3 minutes remaining.

Mr. DE LA GARZA. Mr. Chairman, may I inquire, has the gentleman from Illinois (Mr. MADIGAN) concluded?

The CHAIRMAN. The gentleman from Illinois (Mr. MADIGAN) has consumed all of his time.

Mr. DE LA GARZA. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I take this time only to say, first, to my colleague, the gentleman from Nebraska, that if there is any word, "moratorium," or if there is any moratorium as such in this legislation, I will pull it down.

The gentleman from Missouri (Mr. COLEMAN,) carefully explained that it is a deferral. It is a deferral under specific circumstances.

We see the words, "the Secretary," but we know the approval process begins at the local level with the county supervisors. They have the right to make the initial decision. The burden of proof is on the farmer. Then, if a request is denied, the farmer has, of course, the right to go through the administrative procedure of appealing, and then conceivably he could go to court.

But I want to clear this up, because the litany from the other side is that it is a moratorium. We hear about section 10 and $15 billion and Heaven knows what else. All that is not correct or is taken out of context.

I would like to say one more thing. The order of the day seems to be that "my roots are in agriculture; therefore, I can kick it in the teeth." All I can say is, thank God we have city folks in this Chamber and in this body.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I think the gentleman from Texas (Mr. DE LA GARZA) is making a very good point. I think that some of the opponents of this legislation—and I am not really sure how they came to that conclusion—have tried to present this as some type of an extreme measure, but in fact it is a very modest measure. Even the administration views it to be a modest measure.

Mr. Chairman, I refer to page 31 of the committee's report. It states on that page as follows:

> In view of all of these circumstances, it is perhaps not surprising that Mr. James Johnson, Deputy Under Secretary of Agriculture for Small Community and Rural Development, informed that Committee, at the conclusion of its markup of H.R. 1190, that he did not believe that FmHA would do anything different under the deferral provisions contained in the bill, as amended, than it is now doing, on a case-by-case basis, by way of deferral or reamortization.

Mr. Chairman, I must say that perhaps this legislation does not go as far as some Members would like to see it go, but it does prod the Secretary a bit and puts a little pressure on him to help the farmers out.

Mr. Chairman, I thank the gentleman for yielding.

Mr. DE LA GARZA. Mr. Chairman, the gentleman from Oklahoma (Mr. ENGLISH) is eminently correct. We are working with the art of the possible and trying to lend a helping hand. I guess our differences are philosphical, between those who of us who believe in helping and those do not.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DE LA GARZA) has expired, and all time has expired.

Pursuant to the rule, the amendment in the nature of a substitute, recommended by the Committee on Agriculture shall be considered as an original bill for the purpose of amendment under the 5-minute rule, and each section shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 of H.R. 1190 is as follows:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Emergency Agricultural Credit Act of 1983".

REQUEST TO OFFER AMENDMENTS

Mr. DE LA GARZA. Mr. Chairman, I have an amendment at the desk. This is a technical amendment correcting typographical errors.

The CHAIRMAN. The Clerk will read the amendment, but first the Chair will inquire, does the gentleman wish to make a unanimous-consent request?

Mr. DE LA GARZA. Yes, Mr. Chairman, I do, if this is the proper time.

Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc, inasmuch as this affects six different sections, to correct typographical errors.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Texas?

Mr. **MADIGAN**. Mr. Chairman, I object.

The **CHAIRMAN**. Objection is heard.

Are there any amendments to section 1?

AMENDMENT OFFERED BY MR. MADIGAN

Mr. **MADIGAN**. Mr. Chairman, I offer an amendment to section 1.

The **CHAIRMAN**. The Clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. MADIGAN: Page 2, strike out lines 3 and 4 and insert in lieu thereof the following:
>
> That this Act may be cited as the "Consolidated Farm and Rural Development Act Amendments of 1983".

Mr. **MADIGAN**. Mr. Chairman, the title of this bill, the Emergency Agricultural Credit Act, is, I think, a misnomer. It implies that the bill will benefit the credit problems of all farmers, those with loans from private lenders, the farm credit system, and the Farmers Home Administration, when in fact it will only benefit a very small number of Farmers Home Administration borrowers.

The Farmers Home Administration only serves the credit needs of about 12 percent of all farm borrowers. This legislation would provide special benefits for about half of that 12 percent. In essence, we have legislation which is designed to provide subsidized special benefits to about 6 percent of all farm borrowers. That does not take into consideration how the remaining Farmers Home Administration borrowers may be adversely affected by this bill, because if some borrowers do not repay their loans into this revolving fund, clearly not enough money would be available next year for the farmers who would want to participate at that time.

Another reason why this bill is inappropriately titled is that it covers a great deal more than just agricultural credit. H.R. 1190 has numerous provisions affecting FmHA rural development programs and administrative procedures as well. Thus, to cite this bill as the Emergency Agricultural Credit Act is misleading, and, I think, also unfair.

I am, therefore, offering this amendment to give this legislation the title which I think is its proper title, a bill to amend the Consolidated Farm and Rural Development Act. This is the title which this legislation had in 1979 and again last year, when the Agriculture Committee attempted to fulfill its mandated authorization schedule of and review for the Farmers Home farm and rural development loan programs.

May I add just one thing to my remarks, Mr. Chairman. It is not a question of how the Farmers Home Administration would conduct itself under the provisions of this bill with regard to the moratorium or deferral, whichever we want to call it. What is at issue is how the borrower would conduct himself or herself, because under the provisions of this bill that borrower could be offered a new schedule, as has been suggested, but the borrower could reject the new schedule and insist on the deferral. Upon insisting on the deferral he could cause the financial problems for the administration to which I just alluded.

Because of that provision and others, the bill is not supported by the administration. It is not supported by the farm credit system, it is not supported by the agricultural bankers, it is not supported by the American Farm Bureau, and it is not supported by any other major commodity group. What we have is a bill that is ostensibly supposed to be for farmers that most farmers and most people involved in the giving of agricultural credit are clearly opposed to, and for that reason, I think it is mistitled and the title should be corrected.

Mr. **DE LA GARZA**. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, I have never said this with more sincerity than I do now. I am shocked that anyone would object to correcting typographical errors in a bill that we are ostensibly going to try to perfect.

Mr. **MADIGAN**. Mr. Chairman, will the gentleman yield?

Mr. **DE LA GARZA**. I yield to the gentleman from Michigan.

Mr. **MADIGAN**. Mr. Chairman, common courtesy would suggest that perhaps we would be provided with copies of a multisection amendment before we are asked to consider it.

Mr. Chairman, I thank the gentleman for yielding.

Mr. **DE LA GARZA**. Mr. Chairman, copies have been distributed. Copies were printed in the RECORD, and copies have been distributed.

The gentleman had best check with his staff. I am still shocked that we would operate with this degree of lack of cooperation.

□ 1510

I am addressing the amendment at hand. I do not care what you call this legislation, but when the Department of Agriculture comes to the Senate and says that 17 States are out of money, what in the world would you call that if not an emergency?

This is an attempt to degrade this bill. This is an insult to the American farmer, an insult to the American farmer, to those that provide the food and the fiber.

If we disagree philosophically, fine. I have no problem with that. If the gentleman is trying to correct the legislation, I have no problem with that; but to make fun of those who suffer, who provide us the food and the fiber for survival in this country and bring back dollars from the outside world, this is no way to discuss the problems of rural America.

Again I repeat, we can call it the consolidated bill. We can call it any other bill; but what is important is what is behind the effort.

I resent the administration using the legislative methods of delay to voice objection to something. Yes, they have a legitimate right to object, but they are crossing into the legislative field, prostituting our system to voice their objections to something, by the tactics of delay.

I think, my dear friends, I do not care how you vote. Call it what you may, but it is an emergency. The dictionary says what an emergency is. The farmers are in trouble and they need help.

This is no way, it pains me, this is no way to begin consideration of legislation that is aimed honestly, conscientiously, to help rural America.

If you save one farmer it would have been all worthwhile; to save one, it would all have been worthwhile.

This is no way to begin this debate. This is why I am sad. Legitimate concerns, yes; the administration has a right to disagree, they sent their message that they disagree with this legislation. That is fine, but they were not elected Members of Congress. They were elected to execute the laws; I guess I may have let my emotions carry my intent here, I would oppose the amendment for the simple reason that when we are trying honestly to help, we would be arguing about what to call the thing.

I think it is demeaning that we would be arguing over that, but I would ask my colleagues to support me. Is it an emergency? The dictionary says it is an emergency and that is what we are calling it.

Mr. **THOMAS** of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would say to those of you who are watching and listening, as a former member of the Agriculture Committee and as one who continues to represent an agricultural district, I am vitally concerned with the welfare of the American farmer. Those people in my district who have participated in various farm programs, and a number of them do not participate in the programs that many of you are familiar with in terms of subsidized agriculture, such as the wheat and feed grain programs, we do have a number of cotton growers however, but I represent a large number of people who are involved in what we like to call specialty agriculture, who deal with products that you may see on your grocers' shelves, but perhaps have never seen growing; things like artichokes, pistachios, almonds, melons, and a lot of various fruits and nuts.

There are a lot of jokes about California because of that; but the thing I am most proud of is that these people participate less in the various governmental programs than almost any other form of agriculture in the United States. These people deal primarily in terms of trying to stay in the agribusiness by utilizing the private sector for loans. These people are not going to be accorded the same privileges that are accorded those who have borrowed from the Government in this emergency legislation.

Let me say to my dear friend and chairman of the agriculture committee that when you have emergency legislation—

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I have a very brief time. I tried to get another member of the Agriculture Committee to yield to me so that I could discuss some points. But the gentleman would not yield. Let me try to make my points and then if I have some time, I will certainly yield.

Mr. de la GARZA. I have a correction I would like to make.

Mr. THOMAS of California. Certainly, I yield to my chairman.

Mr. de la GARZA. My area in Texas is similar to the area of the gentleman. We produce fruits and vegetables. Those people are not precluded from participating in the Farmers Home Administration loans.

Mr. THOMAS of California. Certainly. I did not say they were precluded. I said that by choice they preferred to deal in the private sector as much as they are able.

This is titled an emergency farm bill. Let me say to my chairman that I understand his strong feelings when it comes to the American farmer and his berating of the administration in terms of the positions that it may have taken on an issue which is close to his heart; but let me say, speaking from the minority side, as one who is no longer a member of the committee, but one who clearly is concerned about what is occurring, and I have checked with members of the committee, including, for example, the ranking member of the committee who certainly should be aware if it is an emergency, that we are working together to try to solve this bipartisan problem, that perhaps he ought to know that the bill was going to come to the floor today.

It is my understanding that the gentleman from Illinois was not notified that the bill was going to come to the floor today.

If that is the approach that we are going to take to try to pass a so-called bipartisan bill, I would say to the chairman that that probably is not the best atmosphere is which to function.

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I will not yield further until I finish my statement.

Let me say also that it is one of the clear signs that the recession is over when we have a jobs bill that moves through this House. With the first jobs bill, I felt that the recession was beginning to wane. Now that we have an emergency farm bill, there is no question in my mind that the recession has waned, because by the time this body moves to the floor with jobs bills and farmers' bail-out bills—and I will use that term—the problem is, the recession is over.

I understand the impassioned pleas of the chairman; but understand some of us. We would like to be notified when an emergency bill is being moved, so that if we do have objections, we can do it in an orderly and a reasonable fashion. You can bet your boots the recession is over, the jobs bill has been off this floor and as we move this piece of farmers' legislation, everyone can be assured that by virtue of the timetable upon which Congress works, the recession is over.

I support the idea of striking "emergency" from the title.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. Certainly, I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Well, Mr. Chairman, I simply would point out to the gentleman that I had no idea that this legislation was coming to the floor, either. I have been on the committee for some time and as a member, I do not think that I knew anything more about the timing schedule than anyone else. I would assume that the events is what determined when this legislation was coming to the floor; but to insinuate that somehow the minority was at a disadvantage, was not allowed to know what was taking place and perhaps that the members of the majority did know, I think the gentleman is totally in error.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. ENGLISH. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

I think, Mr. Chairman, that the insinuation has been made in statements before us today that perhaps those people who are receiving assistance should not receive any assistance because they are a small number.

I would simply point out that by the very definition, the Farmers Home Administration is the lender of last resort. When one looks back in the 1930's and the Great Depression, the difficult times that our farmers were having, this Nation made a conscious decision, to treat agriculture and our farmers a bit different than they do other businessmen.

□ 1520

You may ask why should that be the case; why was that done in the 1930's? Not to the benefit of the farmers, not because Thomas Jefferson thought those farmers were the salt of the Earth, but due to the fact that it was in the best interests of the consumer, of the American people in general, that we keep competition in the production of food and fiber by keeping the family farmer on the farm.

I think no one wishes to see that the numbers of people who are producing the agricultural commodities be reduced to a few very large corporations. Obviously we all know that this would mean the end of reasonably priced food and fiber, not only for the people of this country but throughout the world.

The Farmers Home Administration is a last ditch attempt to save farmers from going under, to help keep sufficient numbers to keep competition. So we find that the lender of last resort, by its very definition, has a very small number of people that it attempts to save.

What we are attempting to do here today is to salvage the investment that was made, to recognize that we have an agricultural depression that is underway. Even though the rest of the economy may be recovering, we find that that is certainly not true as far as American agriculture in general is concerned.

I would simply urge those who say they are concerned about the small number of people that may be affected directly, that this is so by the very definition of the program, and perhaps their opposition lies in the Farmers Home program in general and not in this legislation specifically.

I think that we would all agree that those people who are still within the Farmers Home program today are people who would be repaying their loans in normal times and certainly it is in the best interests of the U.S. Government, the taxpayers, and all farmers in general that we give them some additional consideration.

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. I am happy to yield.

Mr. de la GARZA. I thank the gentleman for yielding.

I would like to again make the statement I made to our colleague from California, that the Farmers Home Administration does not prohibit loans to food and vegetable specialty crops. They work with them. Also as to the fruit and vegetable specialty crops, many producers of these crops avail themselves of the resources of the Government by something called marketing orders, which, by the way, this administration is trying to kick out, if I can use the vernacular.

So the record is being twisted every which way here. The Farmers Home Administration does provide loans for speciality crops, fruits and vegetables. They also do receive assistance through federally guided marketing orders, and I wanted to set the record straight in that respect.

Mr. ENGLISH. I thank the chairmam. I would simply like to say, Mr. Chairman, it appears to me what we may be discussing is a far broader question than the question of loan deferrals. I find in here a question by some of whether or not there should even be a Farmers Home program and that I think, Mr. Chairman, is a very different question indeed.

Mr. COLEMAN of Missouri. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we all know we are not going to go probably more than another hour here this afternoon, and we have gotten off to a rather contentious start. I pleaded a while ago to my colleagues, especially those on my side of the aisle, who felt that perhaps we were not properly notified about this bill coming to the floor. I am a cosponsor of this bill and I had no idea that it was going to be brought up today. But I did know it was to be scheduled this week, and I knew that it could be at any time, pending the business of the floor.

I did not make the decision to bring this up. I would have preferred not to have brought it up today, but tomorrow or the next day.

Regardless of that, let us talk about the bill. Let us talk about why we need to have the bill.

We have a lot more in this bill than a loan deferral section. I would like to talk about the 90 percent of the other parts of the bill for a minute and that is to address the problems of emergency disaster loans and also for economic emergency loans.

This House last year passed an appropriations bill for $600 million in emergency guaranteed loans. It became law but the administration has not administered those loans. They have found a technicality, they say, in the bowels of OMB as to why that particular appropriation bill should not be properly administered.

We think that is should be. It passed by an overwhelming vote of this House and the other body. The President signed it into law, and yet it has not been utilized.

There are a number of farmers who could take advantage and have the opportunity to have these loans available for them during this period of time. This bill takes care of that problem.

We have the administration who is not necessarily following the letter of the law on determining, for example, who is eligible for emergency disaster loans.

The 30-percent requirement of countywide loss; the GAO reports that have come out; the new regulations the department has come up with, all call into question the procedures used in this area.

These are addressed in H.R. 1190.

I would like to also mention the fact again that if this is not an emergency piece of legislation, what do we need to have before us then when 17 States run out of Farmers Home Administration money? If that does not hit me over the head and pronounce an emergency, I do not know what would.

I would ask all of my colleagues who might come from those 17 States to come to the floor and tell us why you need that money. If you do not need the money I would like to hear why your State or district does not need the $400 million that the Secretary of Agriculture has already requested the Appropriations Committee of this House to come forward with. I would like to hear why we should not have this and why it is not an emergency. There are reasons why this is an emergency bill.

Finally I would like to say that again, trying to put partisanship aside, for whatever reason this has been brought out, and I am not supporting or opposing the administration, supporting or opposing anything except this bill, I would like to talk about the merits of the bill. We worked with the administration. I personally tried to work with the administration. They were not locked out of the proceedings of this bill. The gentleman from Tennessee, Mr. JONES, and I, who are cosponsors, have worked together with lenders, with farmers' groups, and maybe some of the national farm groups are not supporting the legislation.

But I also will point out that some of the national farm groups mischaracterized this legislation and when they were before our subcommittee admitted that they did not even know what was in the bill when they opposed it.

If anybody uses the word "moratorium" on this floor about this bill it is obvious they do not understand this bill because I, again, challenge anybody here to find the word "moratorium" or even the effect of a moratorium in this particular bill.

This administration is asking us to appropriate $8 billion to the International Monetary Fund so that other countries can have their loans deferred. We are simply asking that same compassion and opportunity for America's farmers, be they the 844 that were foreclosed on, the 1,000 that we have heard about, or the 6,000 that were run out of business last year, to have the opportunity to hang on for 12 months after the effective date of this bill.

The administration is asking $8 billion to bail out other countries. We are asking for a little bit here to defer for 1 year farmers who are in a very difficult economic position. They are going to pay it back. They always have paid it back.

I think the PIC program is going to work and is working.

Give them a chance to hang on. Let us put this sniping aside. It is not good for agriculture, it is not good for the House.

Mr. ALEXANDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am pleased to rise in support of H.R. 1190, the bill sponsored by my friend, neighbor and colleague, ED JONES of Tennessee, chairman of the Agriculture Subcommittee on Conservation on Credit. This bill, which has the approval of the Agriculture Committee, is designed to provide protection to our most endangered species—the American farmer. Earlier this year, I met on several occasions with Mr. JONES and other farm credit lenders to consider possible approaches to solving the problem of farm debt. This legislation is, in large part, the outcome of those discussions.

This bill merits the complete and enthusiastic support of the House of Representatives. It is a balanced and reasonable response to the farmer's desperate cry for help, and it has energy, muscle, and practical intelligence to actually do something about the intolerable consequences of an agricultural depression which has persisted now for at least 3 years. What the bill does is expand the direct link of credit to farmers while strengthening the guaranteed loan authority of the Farmers Home Administration, an agency which has been underutilized during these last few years.

We hear much these days about an economic recovery. Tell that to the Nation's farmers. Hundreds of thousands of them are brought to brink of the foreclosure and bankruptcy each year, and many—too many—have been pushed over the edge by negligence and outmoded or indifferent policy. H.R. 1190 addresses the problem squarely. It will provide the lifeline needed to keep thousands of farm families out of the bankruptcy courts and in productive agriculture until the farm economy improves. Department of Agriculture records show that there were 1,245 bankruptcies, 5,908 liquidations, and 4,313 notices of accelerations in fiscal 1982, and, without legislation of this type, the number will almost certainly rise dramatically this year.

The bill's most significant aspect is that it authorizes additional resources for the depleted farm operating fund of FmHA—including an additional $200 million in insured farm operating loans for fiscal 1983. In view of the recent crisis—in which the FmHA came up short in such funds—the farmers who were thrown into confusion and doubt deserve this kind of reassurance.

In addition, the bill would raise maximum lending limits on FmHA insured loans from the current $100,000 to a level of $200,000. Insured real estate loans would go from a ceiling of $200,000 to a new and more provident ceiling of $300,000. And guaranteed loans would be raised from $200,000 to $400,000 for operating loans and $300,000 to $400,000 for real estate loans. These increases are reasonable and necessary in view of the rapid inflation in operating costs and land values since Congress last set lending limits in the mid-1970's. Under these outmoded limits, farmers in my area—the Midsouth—are unduly restricted; they cannot keep pace.

The bill would require that at least 20 percent of all available insured operating and ownership loans be made available for low income, limited resource borrowers. Without this provision, young, beginning farmers would be virtually shut out of farming; the legendary American horn of plenty would die away at the source. Despite a depressed farming economy, the FmHA allocated only 54 percent of the $265 million which was provided for limited resources borrowers in fiscal 1982. H.R. 1190 would supply a corrective to this kind of feckless indifference.

But even the new limits may not adequately serve the total credit demand on our Nation's farms, given the fact that large numbers of borrowers who formerly got financing through commercial banks or through the farm credit system are now coming to FmHA for the first time. Speaking on the floor in January, I raised the specter that farm credit and other commercial lenders might be on the edge of cutting off credit to a significant number of people; they have done so, and this was one of the reasons why the USDA underestimated the demand for farm operating loans this year.

But I am hopeful that H.R. 1190 will permit the FmHA to serve as a fully equipped lender of last resort for these traditional farm borrowers—most of them people both thrifty and competent. I can assure them that those of us on the Agriculture Subcommittee on Appropriations will do everything we can to make the needed money available.

Another critical area covered by this legislation is the FmHA water and waste disposal facilities program. When the farm operating loan funds for 17 States including my own ran dry on April 7, a total of $300 million was transferred by Secretary Block from these water and waste programs to make up part of the deficit. In effect, they borrowed from Peter to pay Paul—which is all right, so long as they repay Peter.

I went along with this stop-gap solution because it is all the Secretary offered at the time. I must note, however, that the administration has made no request for supplemental funds or taken any other step to pay back the water and waste programs. I insist that they find the means of doing so. H.R. 1190 addresses this overlooked problem by providing major improvements in the water and waste disposal loan program.

Current FmHA procedures would be replaced by a simple graduated grant formula based on community income and size. The number of communities eligible for subsidized interest rates would be broadened, and the selection process would be refined to target areas with severe health or safety needs and low community income. This new standard is in sharp contrast to the existing procedure which has kept many lower income communities out of the program because of arbitrary limits on eligibility and insurmountable interest rates.

Another problem area addressed by H.R. 1190 is that of the FmHA economic emergency loan program, which would be replenished by $600 million through September 30, 1984. Allocation of these funds would be mandatory in the case of borrowers who have exhausted other sources of credit. This administration has refused for 2 years to utilize the available economic emergency authority. If those funds had been used earlier, the FmHA operating loan fund would not have been exhausted week before last, nor would the water and waste programs have been raided for bailout money.

As I look over the scope of this bill, I cannot help being pleased to note how many of the recommendations made to me by a farm credit advisory committee in my district have come to be incorporated in it. Most striking in this regard is the bill's provision for making greater use of FmHA's guaranteed loan authority. I have been trying for years to persuade Farmers Home to use its muscle in this way. H.R. 1190 would create a special guaranteed farm loan program unit in each State, and this office could specialize in timely guarantees of commercial loans and would provide the expertise which is now lacking at the local level.

I must also take note of a provision in the bill which has been misrepresented by detractors. I mean, of course, the one which allows the rescheduling of debt payments—the so-called moratorium. As Chairman Jones and others have noted on many occasions, the bill does not provide for a blanket moratorium. It does, however, require the FmHA to forgo foreclosures and to renegotiate payments for 1 year if the borrower demonstrates that he has followed good management practices and that his indebtedness has been aggravated by conditions beyond his control. He must show a reasonable probability of repayment under the bill, entitling him to a deferral of principal and interest payments for 1 year. After that time, he would be allowed to consolidate, reschedule, and reamoritze his loans on terms which he could handle. He would be allowed only one such deferral.

This is a fair and reasonable procedure and will help to keep good and necessary people in business who would otherwise be forced out of farming. The deferral provision is critical: This provision must be adopted, and the Agriculture Committee is to be commended for coming to terms with the problem by this ingenious and totally fair and responsible method.

By no means have I mentioned all the noteworthy provisions of H.R. 1190—which may go down in legislative history as a model of fairness and responsibility, but I have, I think, touched on some of its highlights. Once again, I congratulate Chairman Jones and the others who have had a hand in formulating this solution. I am proud to have been in on that process myself.

Farm bankruptcies are increasing at a rate which we cannot afford, for reasons of either compassion or public policy. I therefore urge my colleagues to approve H.R. 1190 as a necessary and long overdue bulwark against financial catastrophe for the American farm family.

□ 1530

Mr. HIGHTOWER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is classic when you are in opposition to fight every step of the way. We are seeing that in this bill today. I am opposed very much to the amendment that would change the name of the bill.

First of all, the objection has been to how we got here; they would rather not be here right now. I can understand that when you are in opposition.

When you are in opposition you do not want to change the typing, make the other corrections. You start out by wanting to change the name. I like the name the way it is. Let us leave it that way, because it talks about an emergency. That is why we are here. An emergency really depends on how the matter affects you. I think it is well understood by Members of Congress that not everybody represents farm districts, and not every farm district is in trouble. As has been pointed out it is only about 12 percent that are in trouble. But if you are part of the 12 percent then it is very, very serious.

The fact that seems to me forgotten is that the Farmers Home Administration was designed to take care of those people who really have trouble. If you have an emergency procedure designed to take care of a need that is real, and then you do not keep it working, your efforts are wasted. The economic condition of our farmers continues to stagnate for many different reasons.

The supplies of most major farm commodities far exceed the current demand in both the domestic and foreign markets. The purchasing power of our foreign customers remains weakened by poor world economic conditions, thus keeping our export sales at depressed levels. The entire farm economy remains in a state of uncertainly, and we continue to loose farmers due to these tough financial times. There are several sections of H.R. 1190 which will take important steps to provide the credit needs which our farmers need during these times which are characterized by high costs of production and low-commodity prices. H.R. 1190 will strengthen the ability of the Farmers Home Administration to properly service the needs of our farmers. Many of the current regulations, under which the FmHA is curently operating, do not allow for the increased credit needs of today's modern agriculture.

Many things over which the farmer has no control are forcing him into increasingly larger credit requirements. Demand for agricultural credit has experienced phenominal growth in recent years, due to the fact that farm production expenses have increased over $40 billion since 1978. Farm debt has almost doubled since 1978, and is projected to reach $215 billion in 1983. The number of farmers continues to decline, thus placing an increasing burden on those remaining to provide food and fiber not only to the consumers of the United States, but also a significant portion of the world's population.

Due to these developments, our farmers desperately need these increase loan ceilings. Testimony by several major farm organizations has expressed the need to increase the operating loan limitations and the administration has also proposed legislation to increase the ceilings on operating loans. I feel that the proposed increase from $100,000 to $200,000 for the operating loan limits is a vital necessity to many of our farmers.

Another important section of this bill would resolve a very serious shortcoming in the eligibility requirements for emergency disaster loans. H.R. 1190 addresses this problem very clearly by providing that loan eligibility for production losses shall be based upon the applicant's actual production or physical losses, regardless of whether the Secretary designates the entire county as one which meets the production loss criteria.

In the past many farmers have experienced substantial losses but have not been eligible for emergency disaster loans simply because the entire country did not meet the Secretary's requirements. Some farmers operate farms divided by county lines and in the past have qualified for disaster loans on part of their land in one county but did not qualify on another portion simply because the line ran through it. The Comptroller General has determined that an applicant's eligibility may not under the Consolidated Farm and Rural Development Act be determined by whether or not the Secretary determines the county is eligible for disaster loan purposes. H.R. 1180 address this problem very clearly by stating that loan eligibility for production losses should be based on the applicant's actual production losses and shall not be affected.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. HIGHTOWER. I yield to the gentleman.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Chairman, I rise to inform the gentleman that he has an ally in objecting to this amendment, namely the Secretary of Agriculture, John Block. And I would like to quote from a news release.

Mr. HIGHTOWER. I am always pleased to be with my friend, the Secretary, when I can.

Mr. DE LA GARZA. He is truly a friend of the farmer. I do not know about other people around him but Jack Block is. Let me quote from a news release from the Office of Governmental and Public Affairs of the Department of Agriculture, in transferring $400 million in lending authority from other accounts to the FmHA operating loan program.

(On request of Mr. DE LA GARZA and by unanimous consent, Mr. HIGHTOWER was allowed to proceed for 3 additional minutes.)

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. HIGHTOWER. I yield to the gentleman.

Mr. DE LA GARZA. I thank the gentleman for yielding.

The release quotes the Secretary, your and my friend:

> This interchange will come from programs with a less urgent and immediate need. Without a doubt, farmers who are preparing to plant this year's crops will have the most pressing needs throughout the next several weeks.

Then the release says:

> Block is using the Secretary of Agriculture's interchange authority to deal with the urgent need. That authority allows funds to be transferred between USDA programs in cases of extraordinary emergency.

And then quote our friend Jack Block:

> It is clear that the urgency to provide operating credit to farmers constitutes such an emergency.

Secretary Block.

Mr. HIGHTOWER. It is going to make the difference in whether some people can remain in the farm business. Now farming has been compared to other businesses and industries. But they do not compare. You can put in a grocery store, if it goes out of business, there will be another grocery store come along or maybe you can go into a shoe store business, if you cannot sell groceries. But if a farmer goes out of business, then it makes it necessary for someone else to come in and farm that land, increase the size of his operation. This is one of the main reasons why we are going to have to increase these operational loan limits.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. HIGHTOWER. I yield to the gentleman.

Mr. ENGLISH. Mr. Chairman, I thank the gentleman for yielding.

I know the gentleman comes from the panhandle area of Texas which is a neighbor to my own district.

Mr. HIGHTOWER. Baja, Okla.

Mr. ENGLISH. Baja, Okla., as it is known. I also know the gentleman has a good deal of oil and gas exploration activity in his district. Many of his farmers have been able to stay on the farm as a result of that gas and oil activity, as a result, a little oil and gas bonus check certainly helps out.

Mr. HIGHTOWER. "Had" would be a better word.

Mr. ENGLISH. Has helped out in the past, that is correct. I would also point out that there is a section of this bill on page 21 which I think certainly remedies many of the problems that we have had out in our part of the country; those farmers that have had one of those loans from the lender of last resort, the Farmers Home Administration, finds that he is unable to take that bonus check and use it to make his payment on his Farmers Home loan, even though he may not have any farm income. Instead the Farmers Home Administration says he has to put that on the back end of the loan even though those royalties, those minerals that he has down there are in no way a part of the loan, they are not part of the collateral. He received no additional consideration for those minerals.

Mr. HIGHTOWER. That bonus check may be the only oil and gas check he will ever see because there might be a dry hole.

Mr. ENGLISH. That is exactly right. The gentleman makes an excellent point. But it seems to me rather strange that a fellow can go to work in town, make a little extra money, go down the section line picking up pop bottles.

(On request of Mr. English and by unanimous consent, Mr. Hightower was allowed to proceed for 2 additional minutes.)

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. HIGHTOWER. I yield to the gentleman.

Mr. ENGLISH. I thank the gentleman for yielding.

But the farmer can go down the section line picking up pop bottles and any revenue he has there he can use as he sees fit. But he is unable to take that bonus check or any income that he might have from the royalty and be able to make his payment. Instead he is foreclosed on because all that money had to go to the back end of the loan. I notice that the opponents of this bill also want to strike that section. Evidently they feel that the farmer should not be able to use that bonus check to make the payment on his farmers home loan. They would rather see him foreclosed on instead.

Mr. HIGHTOWER. We have the cleanest bar ditches because the farmers are picking up those pop bottles.

I yield back the balance of my time.

□ 1540

Mr. NIELSON of Utah. Mr. Chairman, I rise in support of the amendment.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. NIELSON of Utah. I yield to the gentleman from Illinois.

Mr. MADIGAN. I thank the gentleman for yielding.

I want to say to my close friend, the gentleman from Texas (Mr. Hightower) that if he wants to be on the side of Secretary Block on this issue that he should be aware that the Secretary has been quoted in the press as saying that this bill should be defeated.

And then if I may, I would like to respond for just a moment to my distinguished colleague from Missouri (Mr. Coleman) who urges that we conduct ourselves here in a bipartisan manner.

And in responding to the gentleman from Missouri, I would like to remind all my colleagues that a couple of hours ago in a colloquy between the distinguished minority whip, the gentleman from Mississippi (Mr. Lott) and the distinguished chairman of the Agriculture Committee, the gentleman from Texas (Mr. de la Garza), we were advised, the gentleman from Mississippi (Mr. Lott) and the rest of us were advised by the gentleman from Texas (Mr. de la Garza) that the bill was up now because the gentleman from Texas had been able to persuade the Speaker to bring it up.

So obviously the majority was aware that the bill was coming up. The minority was not. I was in the Commerce Committee trying to deal with an issue of importance to agriculture in the Commerce Committee, was called out of there, ran to the floor of the House and found that we were already working on this bill. That was the notification given the ranking minority member of the Agriculture Committee.

With regard to the amendments being considered here, all of the amendments to be offered by the minority have been carried to the majority in the order in which they are going to be offered, and an offer has been made to discuss or explain with the majority staff the provisions in any or all of those amendments.

No such courtesy has been extended to the minority by the majority, either with regard to the amendments, or with regard to the scheduling of the bill.

Now this gentleman for 11 years has worked very hard to have the reputation of being a Member of Congress who can get along with people and work with people as the ranking member of this subcommittee that produced this bill. I worked many hours with the gentleman from Tennessee and we were always able to resolve our problems and come to this floor in a bipartisan spirit. And I would hope that the balance of my career in Congress will be marked by that kind of bipartisan activity, but it only will be if I am given the common courtesy that should be extended to any Member of Congress, but particularly to the ranking member of a committee of Congress.

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. NIELSON of Utah. I yield to the gentleman from Texas.

Mr. de la GARZA. I appreciate the gentleman yielding.

Again with the gentleman from Missouri, I feel terrible that we would deteriorate into this debate.

As the gentleman and the record will verify, I asked the gentleman from Mississippi (Mr. Lott), our dear colleague, if would he not feel that my power of persuasion had something to do with scheduling the bill, because I have been asking not the Speaker, and I specifically say not the Speaker, but the majority leader with whom I deal with scheduling legislation.

I had no more notice than the gentleman had. All that I knew was that conceivably this legislation would come up this week. I had been scheduled to go to a parliamentary meeting in Helsinki, but I was informed by the minority leader that maybe Wednesday, maybe Thursday, maybe Friday, the bill might come up.

So, to keep the record straight, I had no more notice than my dear distinguished friend, the ranking minority member.

I did not do the scheduling. Yes, I had been insisting that we be brought up at the earliest possible moment.

And I would like the record to show that.

Now, as between minority and majority, how the schedulers work, I do not know.

I thank the gentleman for the time.

Mr. NIELSON of Utah. If I may reclaim my time, I would like to point out that the gentleman from Illinois (Mr. Madigan) and I were both involved in the Energy and Commerce Committee marking up bills this morning, and neither he nor anyone else in that group knew about this until we were informed of a vote on the floor.

So the gentleman from Illinois (Mr. Madigan) is correct. He was not notified. I do not know what efforts were made to notify him. I think the way the rule was put together was most unfair and I support the gentleman in that regard.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. NIELSON of Utah. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. I thank the gentleman for yielding.

As a member of the committee, does the gentleman feel like that he is more entitled to be notified than I, as a member of the committee, am?

Mr. NIELSON of Utah. I would think the ranking minority member should be notified when the bill is going to come up.

Mr. ENGLISH. And does the gentleman believe that the Agriculture Committee should simply wait until doomsday to have this thing brought up?

The CHAIRMAN pro tempore (Mr. Murtha). The time of the gentleman from Utah (Mr. Nielson) has expired.

(At the request of Mr. English and by unanimous consent, Mr. Nielson of Utah was allowed to proceed for 1 additional minute.)

Mr. NIELSON of Utah. Would the gentleman repeat his question?

Mr. ENGLISH. I was asking if the gentleman feels that the chairman of the House Committee on Agriculture should have simply waited until doomsday until some other type of scheduling is worked out or should he not be trying to bring legislation to the floor that was scheduled last Thursday?

Mr. NIELSON of Utah. That is not the point. The point was that the gentleman from Illinois (Mr. Madigan) was not informed that it was brought up. He was not told. He was not called out of the Energy and Commerce Committee and told it would be brought up. And I think that was a great discourtesy.

Mr. ENGLISH. It seems to me, as I understood what the chairman of the House Agriculture Committee said, I am not sure that he knew personally that this legislation was going to be brought up more than a few minutes before it was actually brought up.

The question I guess that we come down to, it seems to me, we have some awful sensitive egos and folks are getting awful pompous around here when they feel like they are not given proper notice as to when legislation will be brought up. This legislation was scheduled last Thursday. And, as I understand it, the chairman has been trying to get it to the floor ever since.

Mr. DORGAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like for one to compliment the chairman of the committee for getting this bill to the floor.

The fact is this bill was scheduled last week. It ought not to be very surprising to anybody in this House that at some point very soon we were going to be discussing this act, the Emergency Agricultural Credit Act. And the fact that we were not able to discuss it when it was scheduled last week was disappointing to me. The fact that the chairman of the committee has been able to get time on the floor now from the leadership is encouraging to me.

Unfortunately this is like a march that starts out on the wrong foot. We ought not to be arguing about who was notified and who was not. We got this thing to the floor and we are discussing it because there is an emergency out there in the farm belt. We ought not to be arguing about the title. That is foolishness. The title of this bill is fine with me. If somebody wanted to come up with a better title, that is fine with me, too.

The question is the substance of this bill. The one thing that discourages farmers around this country more than anything else is a group of politicians who cannot get the substance but instead sort of nitpik around the outside of it.

The substance of this bill deals with an emergency. I come from a State, 1 of 17 States that has run out of the operating funds under the Farmers Home Administration. We in Congress about 3 weeks prior to the Farmers Home Administration notifying us they were out of operating funds, were told, "No there is plenty of money. There is going to be no problem here. We are going to be able to satisfy the loan requirements of the family farmers who are eligible."

All of a sudden we discover that we are out of operating funds.

Well now there is a fix. There is some money moved around from ownership funds. Now North Dakota is out of ownership funds, as a matter of fact.

Now, I say to my colleagues, anybody on this floor who knows much about agriculture and has driven through the small towns of rural America lately and does not believe there is an emergency, has not had their eyes open. There is an emergency. We had an industry with somewhere around $30 billion in income. That income was eroded to about $16 or $17 billion.

We have an agriculture sector in this country in which we are losing some of the best young farmers. We are losing agriculture's future.

If anybody listened to the Public Broadcasting Service, the PBS radio network, a couple days ago and heard the 10-minute summary they did on a farm family out in the Midwest that is losing their farm—I had a Congressman from New York tell me it brought tears to his eyes as he listened to it on the way in to the House that day—because these are times of real stress for some very good young people who have invested their life earnings in the opportunity to farm. And many of those folks are the ones who are losing that farm today. They are losing it because prices have been too low and interest rates have been too high. And they cannot make it under those circumstances.

We are talking about farm prices in real dollars that are equivalent to the farm prices of the 1930's. We do have an emergency. And I just think that we ought to get out of this notion of debating about what the title of this bill ought to be.

Clearly there is an emergency in the farm belt in this country.

I think the gentleman from Missouri made a cogent point. He talked about the $8 billion INF bailout. Tom Paxton wrote a song, the name of the song was "I'm Changing my Name to Chrysler." He has been singing that around the country for a few years. Maybe he ought to change the title of that song to, "I'm Changing my Name to Poland."

The fact is the Secretary of Agriculture, through commodity credit funds, has a loan deferral now going on for the country of Poland, the Communist government of Poland is getting money every month from commodity credit funds to pay for loans that Poland cannot pay to American banks.

☐ 1550

We are saying that if the Soviet satellite country cannot make the payment, we will, out of the commodity credit funds in the USDA.

The point is, we do now have a loan deferral for the Government of Poland. We, it seems to me, ought to pass the Emergency Agricultural Credit Act and give loan deferrals to qualified young farmers, to qualified family farmers out there who need help. It is an emergency. Let us stop arguing about the title and get on with this bill and pass the bill for the family farmers of America.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. DORGAN. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Chairman, I will say again that I hope we can get away from this. I had no more notice than my dear friend, the gentleman from Illinois, the ranking minority member. But as chairman of the committee, any time I have a bill out of committee I make a conscientious effort and work daily to get it up on the floor. And that is what I was doing. If I have had some degree of success, fine. But the argument I used with the leadership was that this was emergency legislation, this is emergency legislation. If my dear friend from Illinois changes the name on me now, I am going to be in trouble with them, and the next time he may have a bill on which he agrees with me they are not going to believe us. So I would hope that my dear friend would withdraw the amendment and let me keep my word to the leadership. Secretary Block says it is an emergency. Everybody says it is an emergency. We have got a lot more problems than to be spending an hour on what we are going to call the legislation.

I have offered to sit down with my dear friend and discuss his legitimate concerns. We have offered to work with him. I know that he can have some constructive impact on this legislation. I would hope that, somehow, we would get back to that spirit and discuss legitimate concerns.

And my dear friend from California mentioned something. I did not criticize the Department of Agriculture for their objection to the legislation. I was criticizing the method which I felt that they were using in usurping some of our legislative authority.

The CHAIRMAN pro tempore. The time of the gentleman from North Dakota (Mr. DORGAN) has expired.

(On request of Mr. MADIGAN, and by unanimous consent, Mr. DORGAN was allowed to proceed for 2 additional minutes.)

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. DORGAN. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I seek recognition for the purpose of making two unanimous-consent requests.

Mr. Chairman, I [illegible] unanimous consent that the amendment pending before the Committee [illegible] withdrawn.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MADIGAN. Mr. Chairman, I ask unanimous consent that the amendments of the gentleman from Texas

(Mr. DE LA GARZA) be considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DORGAN. Mr. Chairman, I yield back the balance of my time.

AMENDMENTS OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I offer amendments under the unanimous consent request of our distinguished colleague, the gentleman from Illinois (Mr. MADIGAN).

The CHAIRMAN pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. DE LA GARZA: Page 3, line 10, strike out "talking" and insert in lieu thereof "taking".

Page 7, line 19, strike out "1927" and insert in lieu thereof "1927(a)(3)(A)".

Page 14, lines 22 and 24, strike out "subparagraph" and insert in lieu thereof "paragraph".

Page 16, line 2, strike out "for" and insert in lieu thereof "from".

Page 20, line 16, strike out the second period and insert in lieu thereof a semicolon.

Page 25, line 4, after "of" insert "the".

Mr. DE LA GARZA (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Mr. Chairman, as sincerely and as respectfully as I have made all of my other statements throughout the day, I thank my distinguished colleague, the gentleman from Illinois. I think that this gets us back on the track to do the work that we need to do within the art of the possible and to resolve the differences that we might have on the legislation.

This amendment is really to correct typographical errors, "for" where it should have been "from" and "paragraph" where it should have been "paragraphs," et cetera.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Texas (Mr. DE LA GARZA).

The amendments were agreed to.

The CHAIRMAN. Are there other amendments to section 1? If not, the Clerk will designate section 2.

Section 2 reads as follows:

OWNERSHIP LOAN LIMITS

SEC. 2. Section 305 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1925) is amended by—

(1) striking out "$200,000" and inserting in lieu thereof "$300,000"; and

(2) striking out "$300,000" and inserting in lieu thereof "$400,000".

AMENDMENT OFFERED BY MR. BEDELL

Mr. BEDELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEDELL: On page 2, line 6, strike section 2.

Mr. BEDELL. Mr. Chairman, the two amendments I am offering today strike sections 2 and 5 from the bill, and these amendments would retain current limits on the size of operating and ownership loans which Farmers Home may make to individual borrowers.

The rationale for offering my amendment is straightforward. When you have unexpected guests show up for dinner, you divide the meal into smaller, not larger, portions. As everyone knows, 2 weeks ago the Farmers Home Administration exhausted its credibility and our patience by dropping the news that it was out of operating loan funds in 17 States. I understand that has now been increased to 22 States. Everyone should note that previously, at the time we passed the legislation in our committee, we were advised that there was plenty of money available. Of course, Farmers Home announced last week that it satisfied the needs for operating funds but only by raiding the farm ownership and water and sewer programs. This sleight of hand can hardly be expected to assure that the essential credit needs of rural America are met.

In view of the difficulty we face in making sure that the limited amount of loan funds are made available to all eligible borrowers, I believe that it is unwise to increase, indeed in some cases to double, the individual loan limits as proposed in H.R. 1190.

In addition, I think there are other valid reasons for retaining the current loan limits.

Obviously, there are farmers who have reached the current loan limits, including some in my own State of Iowa. But most of these farmers are able to continue to obtain credit because of the active cooperation of the Farmers Home Administration in subordinating its lien on property so that the borrower can obtain commercial credit.

First-time borrowers with Farmers Home who have credit needs in excess of current loan limits are encouraged to take advantage of Farmers Home underutilized loan guarantee program which has a higher loan limit and provides a Federal guarantee to secure commercial credit. A farmer can receive the loan guarantee in addition to his direct loan.

Second, Farmers Home is intended to serve as a lender of last resort, providing credit to beginning and moderate size family farmers. As these farmers expand their operations and become more credit worthy, they are expected to obtain financing from commercial banks and farm credit systems.

Third, if the economic emergency loan program is reactivated and made mandatory, as proposed in H.R. 1190, then an additional $600 million will be made available to farmers with a generous loan limit of $400,000 per borrower.

Surely this higher EE loan limit should accommodate even the most credit needy Farmers Home borrower.

Finally, the bill provides a modest increase of only 14 percent in the amount of operating loans funds authorized for the balance of 1983, and all of this increase is reserved for new Farmers Home borrowers. Thus, the bill does not directly address the current fund shortage plaguing Farmers Home.

The present problems confronting the Federal budget have required that we scrutinize all Federal programs to make sure that our limited resources serve the maximum number of beneficiaries. This program of the Farmers Home Administration should not be exempted from a similar review.

I urge the support of the Members for assuring that the limited dollars available are allocated among the maximum number of borrowers.

Mr. DASCHLE. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from South Dakota.

Mr. DASCHLE. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask the gentleman to briefly summarize the differences between his amendment and the bill with regard to ownership and operating loans. That is a little unclear. For operating loans, is it my understanding that the gentleman drops the loan limit from $200,000 to $150,000, or is it to $100,000?

Mr. BEDELL. To $100,000. It is where it is today.

Mr. DASCHLE. Where it is today. And for ownership loans, it is what?

Mr. BEDELL. Dragged from $300,000 to $200,000, which is where it is today.

Mr. DASCHEL. It is my understanding, and correct me if I am wrong, that the ownership loan, on the average, in 1980 was $79,503. Is that the gentleman's understanding?

Mr. BEDELL. I think the gentleman is correct.

Mr. DASCHLE. And for 1981 it was $76,000, actually dropped. In 1982 it was $76,616. So what we are saying is that the average loan for ownership in the last 3 years was substantially below what the gentleman's loan limit would suggest.

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So I commend the gentleman. I wonder if he has the average of the loans for operating purposes. Does the gentleman have those available to him?

Mr. BEDELL. Yes, I do. The average size of the operating loans made last year was just $34,150.

Mr. DASCHLE. And your limit is $100,000?

Mr. BEDELL. That is correct.

Mr. DASCHLE. So we are talking about an average here which is one-third what the loan limit is as established by your amendment. I just think it goes far enough.

The CHAIRMAN pro tempore (Mr. Murtha). The time of the gentleman from Iowa (Mr. Bedell) has expired.

PARLIAMENTARY INQUIRY

Mr. MADIGAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. MADIGAN. Mr. Chairman, I understand that the gentleman from Iowa has two amendments pending at the desk. I understood that we were reading the bill by section, so it would appear that his amendment to section 2 would be in order to be considered, but I understood that he offered amendments to both section 2 and 5.

Mr. BEDELL. No, I did not.

Mr. MADIGAN. You did not? Only the amendment to section 2 is pending?

Mr. BEDELL. I would be glad to offer them if there is a desire to do so. I would be glad to offer them both.

Mr. MADIGAN. I was just confused.

The CHAIRMAN pro tempore. The time of the gentleman from Iowa (Mr. Bedell) has expired.

(By unanimous consent, Mr. Bedell was allowed to proceed for 2 additional minutes.)

Mr. GUNDERSON. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Let me follow up, if I can, on the colloquy that has just been going on.

The gentleman says that the average limit on an operating loan right now is $100,000, presently in effect.

Mr. BEDELL. The limit is $100,000.

Mr. GUNDERSON. Yes; and the average operating loan is $34,000.

Mr. BEDELL. $34,150 last year.

Mr. GUNDERSON. Approximately one-third. My gut reaction is to support your amendment, but I wonder if that is not exactly the problem around here, that we all want to play the parochial game. I do not need $100,000 for most of my small dairy farmers in western Wisconsin. But likewise, we cannot deal that way.

What would happen if, in the PIK program, we said that no State could have more than so many acres in PIK. That would be bad for Iowa in terms of corn. But we cannot operate that way. We have to govern as a country. I hope that we never in Iowa, we never in Wisconsin, we never in South Dakota get into the business where we need $200,000 and $300,000 operating loans. I hope our farms are never that size, because what that does to us socially and economically is bad.

But I think at the same time, let us be a little bit forward and recognize what is happening in some other parts of the country. We have to govern as a committee, we have to govern as a Congress, and we have to govern as a nation. We understand that some people are at the point where they have to have this kind of money for their regular operating loans. I think the fact that we have presently an average operating loan one-third of the limit shows that Farmers Home Administration generally, and in particular under this administration, is never going to be giving away that money freely and excessively.

Mr. BEDELL. May I reclaim my time to answer the gentleman?

Mr. GUNDERSON. Yes. I would be happy to hear your thoughts.

Mr. BEDELL. I think the gentleman raises a good point. Two things the gentleman should be aware of.

First of all, we are running out of money. If we were not running out of money, I think it would be a completely different thing. We have to decide where we are going to spend what money we have, and are we going to distribute it to the maximum number of farmers who have needs, or are we going to let a few larger farmers absorb the large part of it?

Second, I hope the gentleman understands that in this bill we say the Secretary shall institute the economic emergency loan program. Under that program, he has discretion to make emergency loans to people.

The CHAIRMAN pro tempore. The time of the gentleman from Iowa (Mr. Bedell) has again expired.

(By unanimous consent, Mr. Bedell was allowed to proceed for 2 additional minutes.)

Mr. BEDELL. This was an additional $400 million. In effect, what we are doing, even withholding my limits that I have in here, is increasing it from $100,000 to $500,000. It seems to me that is a pretty sizable increase, especially at a time when we have been short of money. That would be the answer.

Mr. GUNDERSON. If the gentleman would yield further, I am not all that excited about the economic emergency program, because really what that does is, it gives a loan to the guy who already is on the last course of financial credit, and I am not sure that we are not saving some people there who should not be saved, yet I recognize the frustrations of many people on this committee that USDA simply has not followed through.

Does the gentleman have any breakdown, by either type of farm operation or by State, of those who are presently using the limit of $100,000 for an operating loan?

Mr. DASCHLE. Mr. Chairman, will the gentleman yield to me? I can answer that question.

Mr. BEDELL. I will be glad to yield to the gentleman from South Dakota.

Mr. DASCHLE. I was given that information. I think it would be interesting to note that, to the best of my knowledge, from this chart that $53,000 is the largest average on a State-by-State basis. So even using the largest average within any State, we are at one-half the limit that is stipulated in the Bedell amendment.

So I think it addresses a very legitimate concern that there are differences, of course, in size, if we go from State to State. But we still leave a lot of latitude. Keep in mind here that we are talking about three times what the average is on a national basis, and twice what the average is by looking at the largest States. So I think there is the flexibility there.

Let me touch on one other point. I think that we can also look to the inequity that has already occurred as a result of running short of funds. I think 17 States were seriously jeopardized as a result of not having funds, and I think part of that can be attributed to the fact that we just have not had enough money to go around as it is under the current limits.

The CHAIRMAN pro tempore. The time of the gentleman from Iowa (Mr. Bedell) has again expired.

(On request of Mr. Gunderson and by unanimous consent, Mr. Bedell was allowed to proceed for 2 additional minutes.)

Mr. DASCHLE. So really I think the Bedell amendment addresses that point. If at a later date we can show that this is out of date, certainly we can update it, but nothing, no statistics, none of the information we have been shown gives us any evidence whatsoever that we need to increase beyond what we currently have in the statutes today.

Mr. BEDELL. If I might further answer the gentleman as well, he is concerned about economic emergency loans because they only go to people who are in serious difficulty. I would also point out to the gentleman, for those people who are not in that type of difficulty, the Farmers Home Administration has the authority to issue both direct loans and guaranteed loans. The limit on ownership loans is $200,000. They also can issue up to $300,000 of guaranteed loans in which they would guarantee 90 percent of the loan to the bank.

If the person is not in that difficult economic emergency, he would then be eligible for that $300,000. Farmers Home can give you both.

Mr. GUNDERSON. Mr. Chairman, would the gentleman yield to me for two quick points?

Mr. BEDELL. I will be glad to yield to the gentleman, but the gentleman from North Dakota has been asking me to yield. I will yield to the gentleman from North Dakota first.

Mr. DORGAN. I thank the gentleman for yielding.

Mr. Chairman, I rise to point out that we are talking about the lender of last resort here. That is why the distinction the gentleman from Wisconsin raised, I think, ought to be discussed.

It is true that if you do not have the larger operators involved in the PIK program, a supply management program would not work. I understand that. But a supply management program and the participation in it is substantially different than providing loan funds to the lender of last resort for the farmers who need those loan funds the most. That is what we are talking about here.

At a time when we have scarce money available for almost unlimited needs, the process of economizing is absolutely necessary. In that process, it is the wrong time to raise the limits, and the gentleman's amendment brings those limits back down to where they are today, and I rise in strong support of the gentleman's idea. I think it is important.

The CHAIRMAN pro tempore. The time of the gentleman from Iowa (Mr. BEDELL) has again expired.

(On request of Mr. HIGHTOWER and by unanimous consent, Mr. BEDELL was allowed to proceed for 3 additional minutes.)

Mr. GUNDERSON. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. I thank the gentleman for yielding.

Very quickly, first understand, if there is any doubt by anybody, I am a supporter of this bill. I think we have worked hard on it in the subcommittee, we have worked hard on it in the committee, and I think, at least I am hopeful, that we can eliminate some of the concerns that have been mentioned today, and that we can go on either today or later this week or next week and pass this bill.

But beyond that, let me ask one further question in this regard.

Does the gentleman recall any time in our subcommittee hearings or in our full committee consideration of the bill where there has been any kind of abuse of the maximum level of allowed operating loan money that would not justify this kind of an increase for those unique circumstances where FmHA believes it is necessary?

Mr. BEDELL. If I might, I do not think that is the issue. The issue is that we are running out of money. We are out money in many cases.

The question we have to ask ourselves is: What are we going to do with the limited funds that we have? Are we going to continue to operate as we have under the limits that we have operated under in the past, where we distribute that as widely as possible, or are we going to increase substantially those limits so that the limited amount of money that we have will go to significantly fewer farmers?

To me, that is the issue. I do not think it is a question of abuse of what we have had in the past, because we have been living under these limits in the past, my amendment simply says we are going to continue to operate as we have in the past.

Mr. HIGHTOWER. Mr. Chairman, will the gentleman yield to me?

Mr. BEDELL. I yield to the gentleman from Texas.

Mr. HIGHTOWER. I thank the gentleman for yielding.

Mr. Chairman, the gentleman and I have discussed this very proposition many times over the years, and it is a problem that exists always with legislation of this type. There are so many people who believe that the world looks like their neighborhood.

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I am not saying that the gentleman does that, but he does represent the Iowa area very well. The thing we are forgetting is that farming is done in different ways in different parts of the world, and in the High Plains of Texas that I am privileged to represent the farm economic units are much, much larger and the amount of funding necessary for operating loans is consequently much higher.

That is not because someone has bought all the land that adjoined him and has gotten to be rich and prosperous and that is the reason why he has got a large number of acres; it is because the average is so much higher, because that is the kind of economic unit that had to be put together for him to be in the farming business at all.

In the Northern High Plains of Texas, for dryland wheat and grain sorghum, combined with irrigated wheat and grain sorghum, in an economic unit, according to a study made by Texas A&M, for 1982 the high debt average was $252,000.

The CHAIRMAN pro tempore. The time of the gentleman from Iowa (Mr. BEDELL) has expired.

(On request of Mr. HIGHTOWER, and by unanimous consent, Mr. BEDELL was allowed to proceed for 3 additional minutes.)

Mr. HIGHTOWER. Mr. Chairman, if the gentleman will yield further, as I say, that figure was $252,000, and the medium debt for 1982 was $215,000. The low debt for that kind of farming unit was $205,000.

Now, I am saying that these people are farmers, too, and if we are going to say that we are going to give this person a blood transfusion that desperately needs it to sustain life but we are only going to give him one-half a pint when he needs 2 pints to live, then that is not an economic or a wise use of that blood for that kind of an example.

Mr. Chairman, if we say that we believe that we ought to keep these farmers in operation, that we are going to save all those where the economic units are much smaller, but we are going to sacrifice the large economic units, we are going to have a disaster, a tremendous disaster, in my part of the world.

Mr. BEDELL. Mr. Chairman, I appreciate the gentleman's statement.

I would point out to the gentleman that we are talking about ownership loans.

Mr. HIGHTOWER. No, I am talking about operating loans.

Mr. BEDELL. All right. But in the operating loans, which is a separate amendment that I will offer, on that issue right now the most that person could borrow is $100,000. That is on operating loans.

Mr. HIGHTOWER. That is right.

Mr. BEDELL. Under this bill, which says that the Secretary shall reinstate economic energency loans, he would also be entitled to an additional $400,000, so he could borrow five times what he can at this time. I do not think that is a pint of blood, I think that is a gallon of blood, I might say to the gentleman from Texas.

Mr. HIGHTOWER. Mr. Chairman, that is not the way to plan a farm operation. You do not plan an economic disaster. I am talking about operating loans that need to be increased.

Mr. BEDELL. This is not a disaster loan. These are economic emergency loans which say the Farmers Home Administration has the authority to grant these loans without its being declared a disaster area.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BEDELL) has expired.

(On request of Mr. BEREUTER, and by unanimous consent, Mr. BEDELL was allowed to proceed for 3 additional minutes.)

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Michigan.

Mr. WOLFE. Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague, the gentleman in the well.

In my view, the amendment offered by the gentleman from Iowa (Mr. BEDELL) will substantially improve the bill by assisting precisely that element of the farm community that has been so devastated by the current recession.

We already know that the Farmers Home Administration has already exhausted its 1983 allocations in 17 States and will soon run out of funds in other States. Since H.R. 1190 increases the authorization for FmHA-insured operating loans by only 14 percent, it seems to me it only makes sense to retain current limits on loan amounts so that we can help the largest number of family farmers.

I believe the gentleman's amendment is certainly timely. It does not, as he points out, alter current practice. The bill as drafted, however, would create a situation in which there would be far fewer farmers who would be able to take advantage of the emergency provisions that are the purpose of the legislation.

Mr. Chairman, on H.R. 1190 itself, let me say that those of us with agricultural constituencies know only too well the tragic stories of our small family farmers who are facing foreclosure or bankruptcy. Many of them are the young men and women on whom our country will depend for its agricultural productivity in the future. How many of us here have heard repeatedly from our constituents about the gap between the professed policy and the actual performance of the Farmers Home Administration. This bill will put into law the policy the Congress expects the Farmers Home to follow. If will provide Farmers Home with the funding and the guidance necessary to be the lender of last resort in American agriculture. By approving this bill we will send a message to our small family farmers that we appreciate their important contribution to our country and its economy and that we are prepared to help see them through these hard times.

So, Mr. Chairman, I thank the gentleman from Iowa, (Mr. BEDELL) for his leadership in this terribly vital matter.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for yielding, and for the same reasons just enunciated by the gentleman from Michigan (Mr. WOLPE) I support the amendment offered by the gentleman from Iowa (Mr. BEDELL) and I commend him for offering it.

Mr. Chairman, I rise in strong support of the Bedell amendment to the Emergency Agricultural Credit Act, because I believe that the increased loan limits contained in the bill are excessive and unjustified. While some increase in the loan limitations may be justified in light of increased production and ownership costs in recent years, I think the committee went too far in doubling those limits. The administration had originally proposed to increase the limits by 50 percent.

Mr. Chairman, in a time of diminishing resources, it only makes sense that those resources be spread to the greatest number of farmers whose continued operations depend upon a relatively limited but secure line of credit which has heretofore been provided by the Farmers Home Administration. The increase which has been recommended by the committee will merely result in a raid upon the limited funds in the bill by those borrowers who operate the larger farm units, at the expense of the struggling family-sized operation.

I urge my colleagues to support the Bedell amendment, on behalf of the family farmers in our agricultural regions.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, I thank the gentleman for yielding.

I would ask the gentleman one question. As I understand the gentleman's amendment, it leaves the limits where they have been for the last 4 years?

Mr. BEDELL. That is correct.

Mr. STENHOLM. Mr. Chairman, how does the gentleman acknowledge or answer the problem that we have had with 43 percent of inflation over the last 4 years, and in fact if we leave the limit at the same level, we are in fact almost cutting in half the loan limit applicable to all farmers?

Mr. BEDELL. Mr. Chairman, the answer to that, of course, is twofold.

First of all, we are running out of money, and it makes sense to increase the limits when we are running out of money in that area.

Second, this bill mandates the reinstatement of the economic emergency loan program. The gentleman from Texas knows that those are loans that are available for any farmer who is in an economic emergency. That is the purpose supposedly of Farmers Home lending as a lender of last resort to help those farmers.

So, therefore, it is not really holding it the same. On the operating loans, it is increasing it from one to in effect five as a limit, and on the ownership loans it is increasing it from in effect two to six.

The CHAIRMAN pro tempore. The time of the gentleman from Iowa (Mr. BEDELL) has again expired.

(By unanimous consent, Mr. BEDELL was allowed to proceed for 1 additional minute.)

Mr. EVANS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I am glad to yield to the gentleman from Illinois.

Mr. EVANS of Illinois. Mr. Chairman, we have heard a lot of statistics, and I rise in support of the amendment before us.

Mr. Chairman, recently I received a letter from a small farmer in the 17th Congressional District of Illinois, Mr. James T. Connell III.

Mr. Connell states this:

> I have applied for a "limited resource" loan through the FmHA and was encouraged that all looked good, and the loan would easily be approved. However, I have now become a "victim" of the funding problems facing the FmHA loan program and am on hold for future funding if and when a higher percentage of regular higher rate loans are made * * * I now rent some land and have an opportunity to purchase an adjoining 89 acres at a reasonable price. This would give me the acreage I need to make a good one-man, efficient operation * * *.

Mr. Chairman, I think Mr. Connell's remarks demonstrate the plight faced by small farmers and the crucial role played by Farmers Home Administration loans. Raising the limit on individual loans will be a major departure from our commitment to family farmers. It will create the conditions for a credit squeeze on these farmers at a time when many are struggling to survive. The House should reaffirm its commitment to family farmers by adopting the amendment offered by the gentleman from Iowa.

I also would like to draw my colleague's attention to the following article by Mr. Lauren Soth, which was published in the Monmouth Review-Atlas. Mr. Soth provides a clear explanation of how farm credit programs have changed to the detriment of family farmers. He makes a strong case for keeping the FmHA loan limits at their present level.

Mr. Chairman, the article to which I referred is as follows:

FmHA LOAN POLICIES QUESTIONED

(By Lauren Soth)

The Small Farm Advocate, a newsletter published by the Center for Rural Affairs in Walthill, Neb., ran an editorial recently criticizing the Farmers Home Administration for failing to carry out its assigned mission. Instead of functioning as a lender of last resort for farm families of modest means, the FmHA "has become more of a shock absorber, cushioning the risks of farm expansion for larger and larger farms."

FmHA's loans have shifted from low-equity and beginning farmers to the operators of larger-than-family farms in the last decade, says the Advocate, which admittedly looks at agricultural affairs with a special-interested periscope. Its charge that small farming is being discriminated against, even by the credit institution set up to favor small farmers, however, has substance. In my observation, the shift has been going on longer than 10 years.

FmHA regulations, based on the law, require that a loan for farm ownership or farm operation be made to an operator of "not larger than a family farm after the loan is closed." A family farm is defined as one managed by the borrower with a substantial amount of the labor provided by family members.

The intent clearly is to limit these loans to farms of small size that one family can operate without year-round or extensive hired labor. The law specifies that a borrower must not be able to get credit elsewhere, and it sets modest loan ceilings.

The Small Farm Advocate says these standards have been undermined. It points out that many large grain farmers became overextended in the high-price 1970s and were squeezed when prices fell. Bankers curtailed operating credit, and the credit ratings of many of these large-scale farmers became as weak as those of beginning farmers or other small-scale operators.

"Under pressure of the farm strike and tractors on the mall, Congress sidestepped the family-size farm requirement and loan ceiling by simply creating an entirely new 'temporary' program) now in its fifth year)—the economic emergency program," declares the Advocate. "At the same time it adopted a $400,000 loan ceiling—four times the comparable operating loan ceiling! There could be little doubt that Congress was priming FmHA to provide bail-outs for overextended big farmers."

FmHA also manages a "limited resource" program that provides low-interest loans (3 percent below the regular FmHA rate for operating loans and half the regular rate for ownership loans) to beginning and low-equity farmers. The law requires that at least 20 percent of both operating and ownership loans go to limited-resource borrowers.

However, the 20 percent level has not been reached. Nationally, only about half of the funds available for operating loans were loaned out last year. There was a wide variation among the states. Ownership loan money has been more fully used—in Iowa, for example, all of it. Apparently, some state FmHA officials have been less than zealous in notifying borrowers of the limited-resource loans.

The national administration has taken a negative attitude toward these loans. The Advocate charges that FmHA is turning back limited-resource borrowers in order to serve large farmers under the emergency loan program.

Congress now is considering legislation that would extend the emergency loans, the disaster loan program and a proposal for deferral of payments on loans, all of which would be available to larger than family farm borrowers.

"There is no public purpose served in bailing out large farms which are victims of their own miscalculating greed to expand," says the Advocate. It wants Congress to reject the emergency and disaster loan proposals as well as another amendment which would double the operating loan ceiling from $100,000 to $200,000.

The Reagan administration opposes the deferral plan for both regular FmHA loans and the emergency and disaster loans. The advocate wants the deferral program strengthened for small farmers—to force FmHA to carry out present law providing for deferral and adjustment of loans where a borrower is temporarily unable to make payments because of circumstances beyond his or her control.

Families on small and part-time farms long have been the underdogs so far as public agricultural services are concerned, including credit. The USDA's recent effort to stimulate research and education in organic methods and small-scale farming is being aborted by this administration. Yet small farmers make up at least two-thirds of the farming population.

I agree with the Small Farm Advocate that "there is a longstanding public purpose . . . in assisting low-equity and beginning farmers to deal with start-up costs and finance modest improvements of a farm's resources."

Subsidized loans should be carefully made, of course, only to capable farmers using sound practices who have good prospects of repayment. But it's a shame to see such people sidetracked in favor of established farmers who made bad judgments on land, machinery or building commitments.

Mr. **WEAVER**. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish to commend the gentleman from Iowa (Mr. BEDELL) for offering this amendment, and I rise in strong support of it. I believe it is essential for the family farmers that the loans be given to as many people as possible who are in that particular category.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Iowa (Mr. BEDELL).

Mr. **MADIGAN**. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1620

The CHAIRMAN pro tempore. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 67]

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Badham
Barnard
Barnes
Bartlett
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton
Byron
Campbell
Carney
Carper
Carr
Chandler
Chappie
Cheney
Clarke
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conable
Conte
Conyers
Cooper
Corcoran
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel
Dannemeyer
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Ford (TN)
Forsythe
Fowler
Frank
Franklin
Frenzel
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptu
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kolter
Kostmayer
Kramer
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKernan
McNulty
Mica
Michel
Mikulski
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Murphy
Murtha
Myers
Natcher
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Penny
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Roemer
Rogers
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Sawyer
Schaefer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shannon
Sharp
Shaw
Shelby
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin

Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (MO)
Zablocki
Zschau

□ 1640

The CHAIRMAN pro tempore. Three hundred ninety-six Members have answered to their names, a quorum is present, and the Committee will resume its business.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. MURTHA). The Chair will advise those few Members who may have intended to be recorded on this quorum call when a recorded vote inadvertently began on the pending amendment that if their names were not re-recorded on the quorum call, the tally clerk will include their names.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Illinois (Mr. MADIGAN) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Five minutes will be allowed for the vote.

The vote was taken by electronic device and there were—ayes 284, noes 121, not voting 28, as follows:

[Roll No. 68]

AYES—284

Ackerman
Addabbo
Albosta
Alexander
Anderson
Annunzio
Applegate
Archer
Aspin
Barnes
Bartlett
Bedell
Beilenson
Bennett
Bereuter
Berman
Biaggi
Bliley
Boland
Bonior
Bonker
Borski
Boucher
Boxer
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Byron
Carney
Carper
Carr
Chandler
Clarke
Clinger
Coats
Collins
Conable
Conte
Conyers
Coughlin
Coyne
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel
Dannemeyer
Daschle
Daub
Davis
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edgar
Emerson
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Feighan
Ferraro
Fields
Fish
Florio
Foglietta
Fowler
Frank
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Glickman
Goodling
Gore
Gray
Green
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hamilton
Hammerschmidt
Hansen (ID)
Hansen (UT)
Harkin
Harrison
Heftel
Hertel
Hillis
Horton
Howard
Hoyer
Hubbard
Hughes
Hunter
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Kaptur
Kastenmeier
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
Kramer
Leach
Lehman (FL)
Lent
Levin
Levine
Levitas
Lewis (FL)
Lipinski
Long (LA)
Long (MD)
Lowry (WA)
Lujan
Luken
Lundine
Mack
MacKay
Markey
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Mavroules
Mazzoli
McCandless
McCloskey
McDade
McDonald
McEwen
McGrath
McHugh
McNulty
Mica
Mikulski
Miller (OH)
Minish
Mitchell
Moakley
Molinari
Mollohan
Moody
Morrison (CT)
Murphy
Murtha
Natcher
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ottinger
Owens
Packard
Parris
Patterson
Paul
Pease
Penny
Perkins
Petri
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ratchford
Regula
Reid
Richardson
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Roth
Roukema
Roybal
Rudd
Russo
Sabo
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Sensenbrenner
Shannon
Sharp
Shaw
Shuster
Sikorski
Siljander
Simon
Sisisky
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Snowe
Snyder
Solarz
Solomon
Spratt
St Germain
Staggers
Stangeland
Stark
Stokes
Stratton
Studds
Swift
Synar
Tauke
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vento
Volkmer
Walgren
Walker
Watkins
Weaver
Weber
Weiss
Wheat
Whitehurst
Whittaker
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolpe
Wright
Wyden
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki

NOES—121

Akaka
Andrews (NC)
Andrews (TX)
Anthony
Badham
Barnard
Bates
Bethune
Bevill
Bilirakis
Boner
Bosco
Breaux
Bryant
Burton
Campbell
Chappie
Cheney
Coelho
Coleman (MO)
Coleman (TX)
Cooper
Corcoran
Courter
de la Garza
Dowdy
Dreier
Dyson
Edwards (AL)
Edwards (CA)
Edwards (OK)
English
Fazio
Fiedler
Flippo
Ford (TN)
Forsythe
Franklin
Frenzel
Gilman
Gingrich
Gonzalez
Gradison
Gramm
Gregg
Hall, Ralph
Hall, Sam
Hance
Hartnett
Hatcher
Hefner
Hightower
Hiler
Holt
Hopkins
Huckaby
Jones (TN)
Kasich
Kazen
Kemp
Kindness
Lagomarsino
Lantos
Latta
Leath
Lehman (CA)
Leland
Lewis (CA)
Livingston
Lloyd
Loeffler
Lott
Lowery (CA)
Lungren
Madigan
Matsui
McCain
McCollum
McCurdy
McKernan
Michel
Mineta
Montgomery
Moore
Moorhead
Morrison (WA)
Myers
Nichols
O'Brien
Ortiz
Oxley
Panetta
Patman
Pritchard
Ray
Ridge
Roemer
Rowland
Schaefer
Schulze
Shelby
Skeen
Skelton
Smith, Robert
Spence
Stenholm
Stump
Sundquist
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Vandergriff
Vucanovich
Waxman
Whitley
Whitten
Wolf
Wortley
Wylie
Zschau

NOT VOTING—28

AuCoin
Bateman
Boehlert
Boggs
Chappell
Clay
Crockett
Foley
Ford (MI)
Frost
Fuqua
Hawkins
Hyde
LaFalce
Marlenee
Martinez
McKinney
Miller (CA)
Mrazek
Neal
Pashayan
Pepper
Rose
Rostenkowski
Savage
Shumway
Taylor
Washington

□ 1450

Mr. SKELTON and Mr. STUMP changed their votes from "aye" to "no."

Mr. PORTER and Mr. HUNTER changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, out of an overabundance of concern for some of what happened earlier today and out of caution, I would like to inform all of the Members that I have asked the leadership after we rise today if the bill could be brought up tomorrow, if not tomorrow, then on Friday, if not on Friday, then on Monday, Tuesday, or Wednesday of next week at the earliest possible time.

Therefore, I give notice to all of the Members that should my usual powers of persuasion prevail, we might have this back up again tomorrow.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MURTHA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1190) to provide emergency credit assistance to farmers, and for other purposes, had come to no resolution thereon.

FUNDING OF FOREIGN POLICY INITIATIVES

(Mr. GOODLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. GOODLING. Mr. Speaker, as one of the newest members of the House Permanent Select Committee on Intelligence I came to this committee with no preconceived notions of what was or what was not meant by the Boland amendment. Rather, I had serious concerns with regard to this administration's compliance with the Boland amendment and I remembered what my impressions were when I voted for the Boland amendment, not privileged to the information that is available to me now on this Intelligence Committee.

I do consider it to be a serious allegation to accuse anyone of violating the law and before I made up my mind, I wished to review the records which most recently came to my attention. I am referring to the enhanced legislative history which was briefly referred to by Chairman **Boland** on the floor during the debate and final approval of his amendment that the language, which he offered, had been agreed to by the House and Senate Intelligence committees and also, by the Reagan Administration.

The language of the Boland amendment now found in Public Law 97-377, section 793, specifically stated that—

> None of the funds provided in this act may be used by the Central Intelligence Agency or the Department of Defense to furnish military equipment, military training or advice or other support for military activities to any group or individual not part of a country's armed forces or the purpose of overthrowing the government of Nicaragua or provoking a military exchange between Nicaragua and Honduras.

I think in examining this language, we should look to the legislative history created on the House floor when the House voted down two proposals which would have been more restrictive than the Boland amendment. First, the House voted down a proposal which would have denied funds for the purpose of carrying out military activities in or against Nicaragua. That provision was defeated. Second, the House voted down a proposal which would have denied funds to groups or individuals known by the United States to have the intent of overthrowing the Nicaraguan Government. So, there is no doubt that Congress, at least the House, objected to a prohibition of funds based on the intent of the groups or persons receiving the funds.

I understand that in the other body, a similar amendment was rejected which would have prohibited funds in support of regular military forces or paramilitary groups operating in Central America. If either of these proposals had been adopted, U.S. aid to the anti-Sandinistas would have been illegal. However, neither amendment prevailed. The substantially different language proposed by Chairman **Boland** was approved. The wording of the Boland amendment on its face clearly allows aid to the anti-Communist guerrilla forces for purposes other than overthrowing the Sandinistas, which the other amendments would have barred.

Clearly, the Boland amendment was a compromise which did not contemplate a total prohibition against our U.S. presence in Central America. But, in addition to this as I mentioned earlier I have had the opportunity to review the committee executive session transcripts and have read with great interest the thorough discussions and explanations of what the Boland amendment would or would not prohibit. After reviewing those documents and having the opportunity to discuss my concerns with other members of the committee, I am thoroughly convinced that the actions of the Reagan administration to date are in keeping with the provisions of the law.

After reading the transcripts, I am very much of the opinion that this Congress provided the executive branch with authorities and powers which have not been invoked and were never contemplated by either this administration or Congress. While I make no judgments with respect to policy, I am thoroughly convinced that there is, in fact, no violation of the law.

If I may endeavor to keep one thing clear, we are discussing whether our Government is breaking the law, that is, the Boland amendment adopted last December. I think we should all keep that issue separate from whether you agree or disagree with the policy. You may wish to take issue with the policy determination, you may wish to argue with the policy determination, or you may want to change our policy but I think you should do so from the premise that one, the President has not violated either the spirit or the letter of the Boland amendment.

It has been my understanding from the Constitution that the President makes foreign policy determinations and attempts to implement those policies. When Congress takes issue with those policies, it has certain perogatives which Congress may exercise in order to effectuate a change in policy or redirect policy, hence, our discussion with regard to Congress authority and power to fund or not to fund foreign policy initiatives. It is at this point, in which I believe, constructive discussions may begin.

JUDICIARY COMMITTEE CHAIRMAN JOINS UNIVERSITY OF DELAWARE IN TRIBUTE TO THE LATE PROFESSOR PAUL DOLAN

(Mr. CARPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CARPER. Mr. Speaker, in 1982 a beloved and revered professor at the University of Delaware died in a tragic accident. Prof. Paul Dolan taught at the university for over 40 years. He was an institution there, and most of us who attended the university came into contact with this exceptional man at one time or another.

To show the great esteem in which Professor Dolan was held, his friends and colleagues established in his name a lecture series to be delivered at the university. Because of Professor Dolan's intense interest in public law and the courts, the first speaker chosen to deliver the introductory address was the Honorable **Peter Rodino**.

We were honored to have Mr. **Rodino** address us recently. Few, if any, people are as qualified as my colleague to discuss public law and the courts, and everyone who attended the lecture came away far better informed about the initiatives that have been proposed to change the jurisdiction of the Federal courts.

Those persons who attended the lecture came away reassured that Chairman **Rodino** will continue to work to protect the courts' ability to guard our rights.

I would like to submit for publication in the **Record** the text of my colleague's speech. I believe that Professor Dolan would want all of us who are entrusted with guarding the Constitution to hear and heed Mr. **Rodino**'s warning.

ADDRESS BY HON. PETER W. RODINO, JR.

President Trabast, Congressman Carper, Mrs. Dolan, students, friends of Professor Dolan, and guests:

It is a great honor to have been chosen to present the introductory lecture of this series in memory of Professor Dolan. I understand that Professor Dolan, in the words of a colleague, "taught at the University forever" and that it is a safe bet that a large portion of the college-educated residents of Delaware was at one time or another enrolled in one of his courses. His intense interest in the area of Public Law and the Courts parallels my own involvement in this field. So it is also a pleasure for me to be here for this event.

I have been asked to address the continuing legislative effort in the Congress to undo the constitutional balance of power among the branches of government that has served us superbly for 200 years. But, had I not been asked, I think I would have chosen this topic anyway. For the current efforts to strip the federal courts of jurisdiction over the issues of abortion, school desegregation, and school prayer have implications far graver than the immediacy of these issues themselves, however important they may be.

These efforts would be a large and misguided step toward restoring to the legislatures the unchecked powers they exercised after the revolution . . . abuses that led our founding fathers to conceive and draft a constitution based on the separation of powers, a system that established an independent judiciary so that our republic might more perfectly function.

I believe these bills that would deny the federal judiciary authority to interpret the constitution and order remedies for violations would, if passed, threaten a constitutional collision of tragic dimensions.

There are bills now pending in the U.S. House of Representatives to limit judicial authority. Some would strip all federal courts, including the Supreme Court, of jurisdiction in the areas I mentioned. Others would affect only the lower courts.

This emotional challenge to our Constitution and the principle of separation of powers holds profound implications for all citizens. If it were to succeed and survive, there would be no constitutional guarantee that would be secure. This battle, therefore, is not one to be waged only by lawyers and professors and legislators and judges. It is one to be fought by all of us. For, if we are to be beneficiaries of the Constitution, we must also be defenders of the Constitution.

Many liberals and conservatives alike have united in opposition.

Four former attorneys general have denounced these proposals. William French Smith, the current attorney general, has warned that Congress cannot tamper with the "core functions" of the Supreme Court, which some of these bills would do. He did, however, endorse as constitutional a bill passed by the Senate last year that would have limited the power of lower federal courts to order busing for school desegregation. The measure died in the House.

Robert Bork, a former solicitor general with conservative credentials, appointed by President Reagan to the Federal Appellate Court bench, has labeled these bills "unwise and probably unconstitutional."

Senator Barry Goldwater, the vintage conservative who has fallen into disfavor with the elements of the so-called New Right because of his crusty defense of constitutional principles, has assailed these bills as assaults on the doctrine of separation of powers and on the independence of the courts.

To me, the most telling rejection has been the unanimous denunciation of these proposals by the Chief Justices of the Supreme Courts of all 50 states. Proponents seem to imply that, with these laws on the books, the state courts would feel free to disregard the controlling Supreme Court decisions, that the authority of the Court would not be binding. The states' chief justices rejected this notion and called the court-stripping idea "a hazardous experiment with the nation's judicial system."

Because there has been no authoritative ruling on the matter, there is scholarly disagreement over the extent of the power of Congress to limit court jurisdiction. Some argue that the Exceptions Clause of Article III of the Constitution gives Congress the power to regulate the jurisdiction of all the federal courts. Article III establishes Supreme Court jurisdiction "with such Exceptions, and under such Regulations as the Congress may make." Others, including many who oppose abortion, busing, and the ban on school prayer, contend—as one put it—that the Founding Fathers did not intend "to authorize exceptions which engulf the rule" that establishes court jurisdiction. They argue further that Congressional power under the Exceptions Clause is limited by other constitutional provisions that guarantee due process and equal protection.

Personally, I do not believe that Congress can strip the Supreme Court of its essential role of reviewing the constitutionality of state laws and state acts.

But, suppose, for a moment, that the Congress did enact a law denying the Supreme Court jurisdiction over state school-prayer statutes. Then, suppose that your state or mine passed a law mandating prayer in the public schools. Despite the federal law, a plaintiff challenges the state statute and takes its case to the Supreme Court, and that court rules the act denying it jurisdiction is unconstitutional.

What happens then? Each of you can write your own scenario, any of which is certain to be a prescription for horrible confrontation between the two branches, a constitutional gridlock.

If these court-stripping proposals were to be found constitutionally sound, the precedent established would, I think, be equally disastrous. No longer would there be a single interpretation of the Constitution. Fifty state courts could go in 50 different directions. And, if Congress could ultimately control the issues the federal courts could address, all constitutional rights would be subject to the tyranny of the majority of the moment.

Today's court critics are extremely unhappy with the rulings on abortion, busing, and prayer. If they can nullify these decisions by court-stripping, where might tomorrow's mean majority strike? Would they take from the court authority to rule on state laws that might restrict freedom of the press or the right to peaceably assemble? Would they bar the court from hearing challenges to laws impinging on constitutional protection against unreasonable search and seizure? Would they place beyond the court's reach laws that nullify property rights, due process and equal protection? Who—at a given time—might not be subject to majoritarian persecution?

Some of us may vehemently disagree with the court's decisions on some constitutional issues. We do not have to agree with the court. . . . But we are bound to obey it. For instance, I am a Catholic. I am strongly pro-life. But these bills are not really about abortion or busing or school prayer. Rather, they are radical efforts to redefine the role of the courts in determining constitutional rights and remedies. . . . That's what they are all about.

The Constitution is a flexible document. But it must not be one subject to the passions or political expediency of the times or bent by the will of a mere legislative majority. A legislative majority has no right to subvert the Constitution.

Our system of justice is a global marvel. The availability of the courts to assist the least among us is an attribute of our society that makes our nation special. The courts are the institution to which our people can turn when they are without resources to open other doors. Indeed, Tocqueville pronounced American courts as "the most powerful barriers that have been devised against the tryanny of political assemblies." We must not destroy those barriers.

Do we really want to chance embarking on a course that would give ordinary majorities in Congress—with the approval of a President—the right to abolish constitutional rights as determined by the courts? Do we really want to give Congress the last word on what the courts may judge? In addition, the state legislatures might follow the lead of Congress and deprive state courts of jurisdiction, leaving aggrieved citizens with no recourse to judicial review in constitutional cases. But the court decisions to which backers of this legislation object would still be the law. Those decisions would not be wiped out. They would remain the law . . . but there would be no way to enforce them. This condition would breed contempt for the judiciary and undercut respect for the rule of law.

The courts, of course, are not always right. When dealing with the law and its application, Chief Justice Hughes remarked, judges "do not suddenly rise into a stratosphere of icy certainty." This is evident in the several times the Supreme Court has modified its decisions or reversed itself over the years. As Justice Brandeis wrote, in matters involving the Constitution, "the Court bows to the lessons of experience and the force of better reasoning."

If we seek to overturn court decisions, there are two proper ways to proceed.

First, we can amend the Constitution. This is, as Justice Frankfurter observed, "a leaden-footed process," one made deliberately difficult by the Founding Fathers to provide time for serious public debate.

Or, we can follow the path that Senator Moynihan has succinctly labeled: "Debate, Legislate, Litigate." It is proper to debate these issues at length and in depth. It is proper to pass new laws that seek to comport with the Constitution. It is proper to defend these laws before the courts, to try to get the judges to bow to the force of better reasoning. If the law is struck down, it is proper to go back to the drawing board and try, try again.

What is not proper is to try, out of pique, to take away court jurisdiction and threaten our system of shared power among the branches.

The current hostility toward the judiciary stems not only from dissatisfaction with decisions but also unhappiness with what some perceive to be unwarranted judicial activism. Indeed, Attorney General Smith has called for "judicial self-restraint" and has insisted that judges should not substitute their policy judgments for those of elected officials.

In the past, however, the political branches, with what has been called "quivering sensitivity" to the popular will, have enacted laws or endorsed concepts that denied basic rights. And complaint courts have upheld these laws and concepts, thereby creating circumstances that took extensive efforts by many segments of society to correct, with the judiciary usually in the lead.

Many persons question whether the courts have the competence and resources to run mental hospitals, prisons, schools, or welfare departments—to be the problem-solvers for all society. Judges don't want to run prison systems and school systems and all the rest. They don't want to be wardens and superintendents. They are not "social engineers" imported from some alien community. They are homegrown folks who had thrust on them controversial cases involving constitutional principles that required vindication. In these cases, the courts have moved to fill voids created by default or failure by the executive or the legislature to respond to the demand of individual rights. Judges do not go out beating the bushes for cases. But the courts cannot decline jurisdiction where the law—by accident or design—is unclear, and where questions of serious denials of constitutional rights are at issue. Yes, the judiciary has at times assumed legislative and executive obligations because the political branches—through intent, ineptness, or insensitivity— have avoided the risks these obligations impose. As David Brink, past president of the American Bar Association, put it, the other branches have used the courts as "dumping grounds for hot potatoes" and then castigated the courts for the way the cases were handled.

In short, the Judiciary has not eagerly usurped the authority or prerogatives of the other branches. Rather, if there is a distortion of our system of shared power—a point I do not concede—it is because of the failure of the other branches to make policy judgments. Dissatisfied citizens have turned to the courts only after the other branches, to avoid political risk or curry political favor, have either shirked their obligation or acted deliberately to deny basic rights.

The courts have not hungrily invaded legislative and executive turf. Instead, they have entered territory the others have abandoned or feared to tread. But weakness or timidity in one branch is not properly corrected by shackling another. When the other branches diligently meet their responsibilities, there is no need for the judiciary to intrude . . . . In fact, I am sure the judges will gladly refrain from doing so.

Of course, we must not look to the courts to solve all our disputes. Courts need not be the only forum where justice is administered. But they have had an awesome role imposed on them, and they must continue to be the institution to which aggrieved citizens can turn for resolution of disputes and for interpretation and clarification of the law. Our courts must continue to be the guarantors of basic constitutional rights, if our system of shared power is to endure.

Under the Constitution, majority rule is vested in the Congress and the President, while the courts are the watchdog for the rights of the minority. Historically, Congress and the courts have accommodated each other. "Each side's self-restraint has legitimized the other's authority," one scholar has written. "It is on that fragile reed that our democratic system rests."

We must be wary of legislation that would strip from the courts their constitutional rule, deprive people of the ability to assert their rights . . . and perhaps snap that fragile reed.

Conflicts in a system of divided power are inevitable. Accommodation and compromise are necessary to resolve these conflicts, if we are to prevent the branches from warring with one another.

Attacks on the courts are not new. Supreme Court decisions have provoked retaliatory efforts throughout recent history. President Roosevelt, angry that the court had struck down New Deal legislation, tried to expand the court from nine to 15 justices. His plan was rejected in Congress . . . During the controversy, however, the Court began sustaining New Deal statutes, a change that became known as the "switch in time that saved nine."

In the 1950s, the Court struck down state antisubversive laws and certain contempt of Congress actions. Bills were introduced to bar the court from hearing cases in these areas. The bills died.

Another batch of court-curbing bills appeared following the court's 1964 rulings in state reapportionment cases. They also died. Following the court's 1966 *Miranda* decision on the protection of rights of criminal defendants, several bills sought to prevent the court from reviewing any trial judge's ruling on the admissibility of a confession. They, too, died.

The current bills I have been discussing have been referred to the House Judiciary Committee. As chairman of that committee I have been credited . . . or blamed—depending on one's point of view—with "bottling up" these proposals.

Some years ago, my predecessor as chairman, the late Manny Celler, reportedly was asked where he stood on a piece of legislation. He is said to have replied: "I don't stand on it; I sit on it."

That anecdote is often cited by those who complain that the Congress is frequently dilatory. But Congress has been described as a body made up of 535 diverse persons that is not designed to be fast on its 1,070 feet. . . .

The Judiciary Committee does approach this legislation in a deliberate manner. I make no apology for this. These proposals seek historic changes in the law. The subjects are complex; the issues volatile. They raise profound constitutional questions. They demand the most thoughtful examination for their potential effect on individual rights and the doctrine of separation of powers.

I will continue to base my decisions on careful study of these very tough issues—and on my conviction of what is best for the country.

One scholar who favors this legislation has written that he considers withdrawal of jurisdiction an appropriate response to what he sees as judicial excess. But he seems not at all sure that this is a wise course, and he suggests that if experience proved it to be unwise, the statutes could be readily repealed.

I would rather move slowly, with care and comity and, I would hope, wisely in the first place.

The Constitution is a magnificent and precious document. It has passed from generation to generation unsullied. Today we are the inheritors of this marvelous system of law. But we—all of us—have an obligation to be trustees—guarantors—of this system. . . . to guard jealously the rights and protections it promises. . . . to ensure that those rights and protections are not eroded or chipped away.

Benjamin Franklin long ago reminded all of us that preservation of our form of government depended on our constant vigilance. Franklin one time was asked what kind of government we had, a republic or a monarchy. Franklin replied, "a republic if you can keep it."

Let us all pledge to preserve the ideals on which our nation was founded. Let us leave the Constitution for our inheritors as unimpaired as it was left to us. Let us assure all citizens that our fundamental law, our bedrock principles, our system and its institutions are enduring.

For the real security of this nation lies in the integrity of its institutions and the informed confidence of its people.

A REPORT ON TRADE BY THE TREASURY DEPARTMENT

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. VENTO. Mr. Speaker, I want to bring to the attention of my colleagues a preliminary report from the Treasury Department. This report shows some startling facts about the problem of "offsets" and how current countertrade agreements are robbing the United States of jobs, technology and skilled expertise.

What is an offset? It is the modern day ripoff by foreign governments. It occurs when American companies sell to foreign governments under military and nonmilitary contracts. In return for the contract, foreign governments are demanding more and more that American companies provide them with subcontracts or other economic incentives to offset the purchase price. Offsets are literally draining billions and billions of dollars from the U.S. economy.

The Treasury Department report is based on a survey of the electronics and aerospace industries. Between 1975 and 1981, the report shows 26 of the largest American electronics and aerospace companies provided foreign governments with $9.5 billion in offsets in return for $15.2 billion in contracts.

This is the first aggregate data on offsets. It is the first time Congress can take a hard look at the exports of American technology and American jobs overseas.

The bottom line is that of $15 billion of export sales, over 60 percent was eliminated by offsets. So when you hear boasts about the importance of military sales to the economy you should divide by three to get a true figure.

The preliminary report also shows that the highest percentage of offset benefits went to Canada and Japan which received $4.6 billion and $1.1 billion respectively. In addition, according to the Treasury document, the Department of Defense encouraged the offset arrangements in the majority of cases.

American companies are being forced to give away jobs and technology. And this is being done with the Defense Department's blessing. This occurs partly as a result of shortsighted attempts by the armed services to reduce the unit cost of weapons systems, no matter what the long-term consequences of America's increased reliance on overseas contractors.

Essentially the offsets occur because a government makes its defense decision on economic rather that military grounds. The game is to extort the maximum benefit from the short-term profit oriented managers of competing military system companies.

Offsets benefit the prime contractor because if they get the sale, they make a profit. Offset deals hurt subcontracts because most offset demands require the transfer of subcontracting to the foreign country. Typically offsets also involve the transfer of advanced technology, particularly in the fields of electronics and materials processing. The Treasury survey shows that this has deleterious long term effects on the U.S. competitive position.

Beyond the economic effect of the transfer of high technology, there are also security problems. Many other countries do not have the U.S. concern about technology security and thus, there is a real risk of U.S. defense technology winding up in Russian hands.

It is worth emphasizing the fact that the two most persistent demanders of offsets are Canada and Japan, the two so-called members of the Western alliance who contribute least to collective security. If Canada was willing to increase its defense spending to the

NATO average of 3.3 percent of GNP—currently it is half that—they would have a more viable domestic defense industry than is the current situation. As for Japan which spends even less of its GNP on defense, I would point out that they are using the technical capabilities gained through offset demands to enter the airliner industry. It is ironic that this is happening as production of the Lockheed L-1011 is ending since much Japanese capability was gained through demands for coproduction of the P-2 and P-3—both Lockheed designed aircraft.

The most troublesome feature of the report is the fact that the Department of Defense encourages offsets. This occurs partly as a result of a shortsighted attempt by the Pentagon to reduce weapons system unit costs no matter what the long term cost and no matter the defense consequences of increased reliance on overseas suppliers. There have been some advertisements commenting on the fact that the F-18 has won every competition for overseas sales over the F-16. This is true. However, the determining factor in these sales was the offset package. The F-16 has shown little cost growth. However, the out-of-control costs of the F-18 has led the Navy and the manufacturers to increase production and to hide costs. In the Canadian F-18 sale, the Navy was urging the Canadians to buy the F-18 for the air defense of our continent at the same time that the F-18 was found unsuitable for the air defense of the Navy's carriers. Once again parochial interests have triumphed over national security interests.

The Department of Defense has been behaving in an unacceptable manner. I knew Congressman LaFalce, the chairman of the Economic Stabilization Subcommittee, shares my concerns about DOD stewardship of our defense industries and I expect him to react positively to continued subcommittee investigations of the problem.

The administration has failed to develop a policy to respond to the growing problems of offsets. At present, this administration has at least four independent groups studying offsets. It has become evident in the subcommittee's hearings on this issue that these groups are not cooperating and indeed are not even aware of each other's work.

This situation of confusion and chaos is unacceptable. We have yet one more situation where the administration cannot get its act together—cannot shoot straight. In this situation, I believe it is the duty of Congress in general, and of the Subcommittee on Economic Stabilization in particular, to establish a coherent policy. I believe that with the leadership and interest of our subcommittee chairman, Mr. LaFalce, and other members of the subcommittee, we have the capability to do so.

I would also like to mention one aspect of the report which disturbs me greatly. This survey was completed over a year ago. However, its submission to Congress was delayed until it had been cleared with industry and modified to meet industry objections. Even then, Assistant Secretary Leland was not sure that this congressionally mandated study should be released to Congress. It was only because of Mr. LaFalce's interest that this report is now available.

It is surprising and profoundly disturbing to discover that industry has the power to influence the conduct of the Treasury's official duties. I believe that we should examine the history of the report most carefully.

Mr. Speaker, the problems posed to our country by the continued acceptance of uncontrolled offset packages is most serious. We face the loss of jobs, industrial capabilities, and billions of dollars in our economy. Equally as important, offsets threaten our national security. The administration has failed to close or even to come to grips with the offsets gap. It is clear that Congress must move ahead on this issue.

At this time I would like to bring to my colleagues' attention the executive summary of the Treasury Department report on offsets.

Department of the Treasury Report—Survey of Offset/Coproduction Requirements

In response to a request from and based on questions initially suggested by the Treasury Department, the Aerospace Industries Association and the Electronic Industries Association jointly conducted a survey of their members on offset and coproduction commitments made to foreign governments in connection with major export contracts. The objective was to gather data on the nature and extent of offset/coproduction practices.

The information produced by the survey represents a sampling of the companies polled; response to the survey questionnaire was entirely voluntary and many companies did not respond or indicated they had made no offset commitments. Nethertheless, 26 of the largest aerospace and electronic equipment manufacturers in the United States did respond, reporting a total of 143 contracts involving offset commitments signed between January 1. 1975, and the summer of 1981. The total value of these contracts was $15.2 billion.

The nature and value of the offset commitments associated with these contracts varied substantially, and included coproduction, licensed production, subcontracts, foreign investment, technology transfer, and countertrade. Definitions of the various forms of offset are contained in the survey questionnaire at Annex A, and also on page 4 of this report. A specific offset value was reported for 130 contracts; these offsets amounted, in total, to $9.55 billion.

The great majority of contract value and of offset commitments related to sales of military aircraft. That is, 74 percent of total sales and of total offsets were for military aircraft contracts. Subcontracting, licensed production, civil buys by the U.S. company, defense buys by the company, and coproduction were the most frequently used types of offset.

OECD "Medium R&D" countries received the majority of offsets in every major offset category except coproduction and licensed production; in the latter category, OECD Medium and High R&D countries combined received the lion's share.

Canada was by far the chief individual country beneficiary of offset commitments, both in number of contracts (28) and in value ($4.6 billion). Other significant beneficiaries were Japan, "NATO", Sweden, and Israel. A few developing countries are beginning to appear as offset beneficiaries, where the practice had been limited to industrialized countries.

The time periods allotted for fulfilling offset requirements are quite long—averaging seven and one-half years. Hence the effects of these transactions will continue to be felt for some time. Two-thirds of the responses indicated that U.S. competition for the contract existed, while just over half faced foreign competition—most often French. About three-fourths indicated that the deal would have been lost if offsets had not been offered.

The U.S. Government played a role in the great majority of the sales—as approver of the export license, direct seller of equipment via the Foreign Military Sales (FMS) channel, etc. While two-thirds of the respondents thought that multilateral agreements to limit offsets would be advantageous, 75 percent felt that unilateral action by the U.S. Government would be disadvantageous.

INTRODUCTION OF THE INTELLIGENCE ACTIVITIES OVERSIGHT IMPROVEMENT ACT

(Mr. FOWLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FOWLER. Mr. Speaker, a strong and effective intelligence-gathering capability is vital to our national defense. Intelligence collection and analysis and counterespionage activities contribute as much to our security as do missiles, tanks, and aircraft carriers. As an original member of the House Permanent Select Committee on Intelligence, I have worked to bolster the efforts of our intelligence community in these areas. On this objective there is widespread agreement both in the Congress and among the American people.

However, there is another category of intelligence activity that has attracted attention and controversy vastly out of proportion to its role within our intelligence agencies. I am referring to covert action, also known as "special activity" in the parlance of the intelligence community.

As defined by the President's December 1981 Executive order on U.S. intelligence activities, special activities are those "conducted in support of national foreign policy objectives abroad which are planned and executed so that the role of the United States is not apparent or acknowledged publicly * * * but which are not intended to influence U.S. political processes, public opinion, policies, or media and do not include diplomatic activities or the collection and production of intelligence or related support functions."

Historically, these covert actions have included political, economic, propaganda, and paramilitary activities designed to influence foreign governments, organizations, or events. Legally, statutory authority to conduct such actions has never been expressly granted, except for the rather vague provision of the original National Security Act which authorized the CIA "to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct." Otherwise, "special activities" are governed solely by Executive orders, which can be and in the recent past have been, changed by each new administration.

As for the congressional role, the primary mechanism for congressional involvement in overseeing covert operations has been the Hughes-Ryan amendment which, as amended in 1980, requires the intelligence community to provide timely information to the two intelligence committees on covert activities.

Apart from being informed, there is no formal means for the Congress to either provide legislative branch sanction to the activity in question or to block such activity.

The controversy surrounding our policy in Nicaragua raises again the question of the adequacy of the current system for determining when and under what kind of controls covert actions should be undertaken. While much congressional and media attention was focused on this subject during the mid-1970's, aside from the adoption of the Hughes-Ryan amendment, no legislative action was taken.

The absence of clear and permanent standards to govern the conduct of covert activities and of a well-defined role for the Congress has been, in my opinion, harmful to both our overt and covert foreign policies. Suspicions abroad and here at home about "uncontrolled" covert actions have reduced confidence in the intelligence community and have undermined our efforts to rebuild the national consensus in favor of necessary intelligence activities that was damaged by the revelations of the early 1970's.

As Adm. Bobby Inman, former Deputy Director of Central Intelligence and one of the most respected intelligence professionals, said in a recent magazine interview:

> This (covert action) is the single most divisive issue in trying to create a consensus on intelligence policy. In the public perception, covert action is our major function. In reality, it is a minuscule part of our total effort.

In response to these concerns, I am today introducing the Intelligence Activities Oversight Improvement Act. In brief, my bill would replace the current covert activity oversight system of Executive order standards and simple reporting to Congress with one which provides statutory standards and a formal means for congressional decisionmaking.

I am not trying to legislate a prohibition on covert activities. There have been in the past, and no doubt will be in the future, extraordinary circumstances in which covert action is the only available means to protect vital interests of the United States.

At the same time, I am trying to clarify the standards under which covert activities may be initiated. With an inherent danger of disclosure, with a mixed record of accomplishment, and with their risk of long-term damage to the success of American foreign policy objectives, covert actions should not be routine. As a foreign policy tool that must necessarily remain shielded from our normal democratic processes and as a method which quite often has a very low cost-benefit ratio, covert action must be a last resort.

My legislation also aims at clearly establishing that these clandestine, covert actions, which cannot be subjected to the usual public debate, will be consistent with our official, openly proclaimed foreign policy. Experience has shown that covert operations work best when they are consistent with our publicly avowed ideals and foreign policy. It would seem only logical that neither overt nor covert policy can be successful when they are at odds with each other and since we are governed by a democratic system our covert foreign policy must be the controlling force.

Specifically, my legislation would require that in order for a covert activity to be initiated, the President must make a written finding that such activity is:

Essential to the national defense or foreign policy of the United States;

Consistent with, and in support of, the publicly avowed foreign policy of the United States;

Likely to produce benefits that justify the anticipated risks and consequences of its disclosure to a foreign power;

Necessary because overt or less sensitive alternatives could not achieve the intended objectives; and

Required by circumstances that dictate the use of extraordinary means.

In addition to providing more exacting, statutory standards for the executive branch, my legislation would also transform the congressional role by giving to the two intelligence committees the authority to disapprove major covert actions. I anticipate that this will be the most controversial provision of the bill, not only in the executive branch but in the Congress itself. I myself have concluded after much thought and experience with covert actions that a legislative veto is required.

Under the present system, the Congress, or more precisely its intelligence committees, has the right to be "fully and currently informed" of "significant anticipated intelligence activity. We can influence the executive branch policymakers by expressing our concerns and misgivings.

Yet the same statute which grants these rights (section 501(a) of the National Security Act) also states that the reporting provision "shall not require approval of the intelligence committees as a condition precedent to the initiation of any such anticipated intelligence activity."

Over the years the Congress has shown great reluctance to become involved in intelligence activities. In part this stemmed from deference to the President as the architect of American foreign policy and in part it resulted from uneasiness about potential security breaches if Congress thoroughly reviewed intelligence programs.

However, I would say that the very nature of intelligence activities, which cannot be subjected to the crucible of full public scrutiny, cries out for the involvement of the people's branch of government, the Congress, in passing judgment on these activities. Such outside scrutiny can also serve to sharpen the internal review process within the intelligence community and the executive branch. When an outside party has oversight authority those directly responsible for implementing a given program are more likely to thoroughly analyze the advisability of the program.

The revelations and investigations that rocked the intelligence community in the mid-1970's did move the Congress toward a greater role in the field of intelligence policy, culminating in the creation of the two intelligence committees. As to the question of security, I must say, in all due humility, that the record of these two panels in protecting the Nation's secrets has been exemplary.

Thus, my legislation is built on the solid foundations laid over the past 6 years of congressional oversight of intelligence activities. Yet the current arrangement with respect to covert actions is less than totally satisfactory. It is ambiguous. It confuses the line between power and responsibility. The "plausible deniability" that the Congress has created for itself in the area of covert activities does not lend well to full accountability for either the executive or legislative branches.

The Intelligence Activities Oversight Improvement Act seeks to remedy these problems by establishing a clear role for the Congress in the conduct of covert actions. Under the bill, such actions that involve, or may involve, elements of high risk, major resources, or serious political consequences can be vetoed by the concurrent disapproval of the two intelligence committees within 15 calendar days of their receiving notice of the planned activity from the President.

Other provisions in the bill: allow the President to limit the prior notice of major covert activities to the chairmen and ranking minority members of the intelligence committees in emergencies; establish alternative procedures to authorize nonmajor covert actions; define covert activities in the same way as the most recent Executive order on the subject; and exempt all wartime intelligence operations from the provisions of the bill.

In introducing the Intelligence Activities Oversight Improvement Act I hope to advance the effort to establish a national consensus on the conduct of covert activities. Such a consensus offers a number of important benefits. It would provide statutory guidelines to the Congress, the administration and the intelligence community to govern covert actions and to insure that those projects with high risks are only undertaken when absolutely essential. It would improve public confidence in American foreign policy at home and abroad. And in the long run, it would mean better policy, both overt and covert. This, assuredly, is its goal. At this point I include a summary of the bill:

SUMMARY OF THE INTELLIGENCE ACTIVITIES OVERSIGHT IMPROVEMENT ACT

Section 1 gives the short title of the bill, the "Intelligence Activities Oversight Improvement Act."

Section 2 repeals Section 662 of the Foreign Assistance Act, which is the so-called Hughes-Ryan Amendment. This statute, which requires the President to make a finding that an "anticipated intelligence activity" is "important to the national security of the United States," would be supplanted by the provisions of section 3(b)(1) of the Intelligence Activities Oversight Improvement Act.

Section 3 amends Section 501 of the National Security Act, which is the section on congressional oversight of intelligence activities.

Subsection (a) tracks the language of section 501(a)(1) of the National Security Act, except for striking the following: "(A) the foregoing provision shall not require approval of the intelligence committees as a condition precedent to the initiation of any such anticipated intelligence activity, and (B) of the President determines it is essential to limit prior notice to meet extraordinary circumstances affecting vital interests of the United States, such notice shall be limited to the chairmen and ranking minority members of the intelligence committees, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate . . ." Part (B) would be replaced by the provisions of section 3(b)(3) of the Intelligence Activities Oversight Improvement Act.

Subsection (b) establishes the new system for oversight of covert actions (called "special activities" in the bill).

Paragraph (1) prohibits the initiation of any special activity unless and until the President has approved the activity and has made a written finding that:

"(A) such activity is essential to the national defense or the conduct of the foreign policy of the United States;

(B) such activity is consistent with and in support of, the publicly avowed foreign policy of the United States;

(C) the anticipated benefits of such activity justify the forseeable risks and likely consequencs of its disclosure to a foreign power;

(D) overt or less sensitive alternatives would not be likely to achieve the intended objectives; and

(E) the circumstances require the use of extraordinary means."

Paragraph (2) requires the President to submit, before a major special activity is commenced, a report to the House and Senate Intelligence Committees containing the written finding required by Paragraph (1), a description of the nature and scope of the activity, and a justification for the activity. The two intelligence committees then have 15 calendar days in which to jointly disapprove such activity.

Paragraph (3) allows the President to limit the prior notice required by Paragraph (2) to the Chairmen and ranking minority members of the intelligence committees for 48 hours, provided that such limitation "is essential to meet extraordinary interests of the United States."

Paragraph (4) requires the President to provide any additional information that either intelligence committee might request about special activities reported under Paragraph (2).

Paragraph (5) allows the President to authorize special activities which do not or will not "involve elements of high risk, major resources, or serious political consequences" by category rather than individual project. The President is required to find "that activities falling within the category are important to the national security of the United States" and to report, before any activity within the category is commenced, to the intelligence committees, describing and justifying the category and activities within it.

Paragraph (6) requires ongoing Executive Branch supervision of each activity authorized by category under paragraph (5). This supervision is to "ensure that each such activity remains consistent with the nature and scope of the category as authorized by the President."

Paragraph (7) requires the President to provide any additional information that either intelligence committee might request about the special activities authorized by category under Paragraph (5).

Paragraph (8) defines "special activity" in the same language used in the President's December 1, 1981 Executive Order on United States Intelligence Activities.

Paragraph (9) exempts war-time activities from the provisions of the bill.

□ 1700

RECESS

The SPEAKER. Pursuant to the order of the House of Thursday, April 21, 1983, the Chair declares the House in recess until approximately 7:40 p.m.

Accordingly, (at 5 o'clock p.m.), the House stood in recess until approximately 7:40 p.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 7 o'clock and 44 minutes p.m.

JOINT SESSION OF THE HOUSE AND SENATE HELD PURSUANT TO THE PROVISIONS OF HOUSE CONCURRENT RESOLUTION 114 TO HEAR AN ADDRESS BY THE PRESIDENT OF THE UNITED STATES

The SPEAKER of the House presided.

The Doorkeeper, the Honorable James T. Molloy, announced the Vice President and Members of the U.S. Senate, who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort the President of the United States into the Chamber: The gentleman from Texas (Mr. WRIGHT), the gentleman from Washington (Mr. FOLEY), the gentleman from Louisiana (Mr. LONG), the gentleman from Arkansas (Mr. ALEXANDER), the gentleman from California (Mr. EDWARDS), the gentleman from Illinois (Mr. MICHEL), the gentleman from Mississippi (Mr. LOTT), the gentleman from New York (Mr. KEMP), the gentleman from California (Mr. MOORHEAD), and the gentleman from California (Mr. LAGOMARSINO).

The VICE PRESIDENT. The President of the Senate, at the direction of that body, appoints the following Senators as members of the committee on the part of the Senate to escort the President of the United States into the Chamber:

The Senator from Tennessee (Mr. BAKER), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), the Senator from Idaho (Mr. MCCLURE), the Senator from Utah (Mr. GARN), the Senator from South Carolina (Mr. THURMOND), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Arizona (Mr. GOLDWATER), the Senator from West Virginia (Mr. BYRD), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Georgia (Mr. NUNN), the

Senator from Arkansas (Mr. PRYOR), the Senator from Nebraska (Mr. EXON), and the Senator from Massachusetts (Mr. TSONGAS).

The Doorkeeper announced the ambassadors, ministers, and charges d'affaires of foreign governments.

The ambassadors, ministers, and chargés d'affaires of foreign governments entered the Hall of the House of Representatives and took the seats reserved for them.

The Doorkeeper announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 8 o'clock p.m., the Doorkeeper announced the President of the United States.

The President of the United States, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. Members of the Congress, I have the high privilege and the distinct honor of presenting to you the President of the United States.

[Applause, the Members rising.]

ADDRESS BY THE PRESIDENT OF THE UNITED STATES ON CENTRAL AMERICA (H. DOC. NO. 98-53)

The PRESIDENT. Mr. Speaker, Mr. President, distinguished Members of the Congress, honored guests and my fellow Americans:

A number of times in the past years, Members of Congress and a President have come together in meetings like this to resolve a crisis. I have asked for this meeting in the hope that we can prevent one.

It would be hard to find many Americans who are not aware of our stake in the Middle East, the Persian Gulf, or the NATO line dividing the free world from the Communist bloc, and the same could be said for Asia. But in spite of, or maybe because of, a flurry of stories about places like Nicaragua and El Salvador and, yes, some concerted propaganda, many of us find it hard to believe we have a stake in problems involving those countries. Too many have thought of Central America as just a place way down below Mexico that cannot possibly constitute a threat to our well being.

That is why I have asked for this session. Central America's problems do directly affect the security and the well being of our own people. And Central America is much closer to the United States than many of the world trouble spots that concern us. As we work to restore our own economy, we cannot afford to lose sight of our neighbors to the south.

El Salvador is nearer to Texas than Texas is to Massachusetts. Nicaragua is just as close to Miami, San Antonio, San Diego, and Tucson as those cities are to Washington where we are gathered tonight.

But nearness on the map does not even begin to tell the strategic importance of Central America, bordering as it does on the Caribbean, our lifeline to the outside world. Two-thirds of all our foreign trade and petroleum pass through the Panama Canal and the Caribbean. In a European crisis at least half of our supplies for NATO would go through these areas by sea. It is well to remember that in early 1942 a handful of Hitler's submarines sank more tonnage there than in all of the Atlantic Ocean. And they did this without a single naval base anywhere in the area.

Today the situation is different. Cuba is host to a Soviet combat brigade, a submarine base capable of servicing Soviet submarines, and military air bases visited regularly by Soviet military aircraft.

Because of its importance, the Caribbean Basin is a magnet for adventurism. We are all aware of the Libyan cargo planes refueling in Brazil a few days ago on their way to deliver medical supplies to Nicaragua. Brazilian authorities discovered the so-called supplies were actually munitions and prevented their delivery. You may remember that last month, speaking on national television I showed an aerial photo of an airfield being built in the Island of Grenada. Well, if that airfield had been completed, those planes could have refueled there and completed their journey.

If the Nazis during World War II and the Soviets today could recognize the Caribbean and Central America as vital to our interests, should not we also?

For several years now, under two Administrations, the United States has been increasing its defense of freedom in the Caribbean Basin. And I can tell you tonight, democracy is beginning to take root in El Salvador, which until a short time ago knew only dictatorship. The new government is now delivering on its promises of democracy, reforms and free elections. It was not easy and there was resistance to many of the attempted reforms, with assassinations of some of the reformers. Guerrilla bands and urban terrorists were portrayed in a worldwide propaganda campaign as freedom fighters representative of the people. Ten days before I came into office, the guerrillas launched what they called a "final offensive" to overthrow the government. And their radio boasted that our new Administration would be too late to prevent their victory. Well, they learned that democracy cannot be so easily defeated.

President Carter did not hesitate. He authorized arms and munitions to El Salvador. The guerrilla offensive failed, but not America's will. Every President since this country assumed global responsibilities has known that those responsibilities could only be met if we pursued a bipartisan foreign policy.

As I said a moment ago, the Government of El Salvador has been keeping its promises, like the land reform program which is making thousands of farm tenants farm owners. In a little over 3 years, 20 percent of the arable land in El Salvador has been redistributed to more than 450,000 people. That is one in ten Salvadorans who have benefited directly from this program.

El Salvador has continued to strive toward an orderly and democratic society. The government promised free elections. On March 28th, little more than a year ago, after months of campaigning by a variety of candidates, the suffering people of El Salvador were offered a chance to vote—to choose the kind of government they wanted. Suddenly the so-called freedom fighters in the hills were exposed for what they really are: a small minority who want power for themselves and their backers, not democracy for the people. The guerrillas threatened death to anyone who voted. They destroyed hundreds of buses and trucks to keep the people from getting to the polling places. Their slogan was brutal: "Vote today, die tonight." But on election day, an unprecedented 80 percent of the electorate braved ambush and gunfire, and trudged for miles, many of them, to vote for freedom. That is truly fighting for freedom. We can never turn our backs on that.

Members of this Congress who went there as observers told me of a woman who was wounded by rifle fire on the way to the polls, who refused to leave the line to have her wound treated until after she had voted. Another woman had been told by the guerrillas that she would be killed when she returned from the polls, and she told the guerrillas, "You can kill me, you can kill my family, you can kill my neighbors; you can't kill us all." The real freedom fighters of El Salvador turned out to be the people of that country—the young, the old, the in-between—more than one million of them out of a population of less than five million. The world should respect this courage and not allow it to be belittled or forgotten. Again, I say in good conscience, we can never turn our backs on that.

The democratic political parties and factions in El Salvador are coming together around the common goal of seeking a political solution to their country's problems. New national elections will be held this year and they will be open to all political parties. The government has invited the guerrillas to participate in the election and is preparing an amnesty law. The people of El Salvador are earning their freedom and they deserve our moral and material support to protect it.

Yes, there are still major problems regarding human rights, the criminal justice system and violence against non-combatants and, like the rest of Central America, El Salvador also faces severe economic problems. But in addition to recession—depressed prices for major agricultural exports, El Salvador's economy is being deliberately sabotaged.

Tonight in El Salvador—because of ruthless guerrilla attacks—much of the fertile land cannot be cultivated, less than half the rolling stock of the railways remains operational, bridges, water facilities, telephone and electrical systems have been destroyed and damaged. In one 22-month period there were 5,000 disruptions of electrical power. One region was without electricity for a third of a year.

I think Secretary of State Shultz put it very well the other day: "Unable to win the free loyalty of El Salvador's people, the guerrillas," he said, "are deliberately and systematically depriving them of food, water, transportation, light, sanitation, and jobs. And these are the people who claim they want to help the common people."

They do not want elections because they know they would be defeated. But as the previous election showed the Salvadoran people's desire for democracy will not be defeated.

The guerrillas are not embattled peasants armed with muskets. They are professionals, sometimes with better training and weaponry than the government soldiers. The Salvadoran battalions that have received United States training have been conducting themselves well in the battlefield and with the civilian population. But so far we have only provided enough money to train 1 Salvadoran soldier out of 10, fewer than the number of guerrillas that are trained by Nicaragua and Cuba.

And let me set the record straight on Nicaragua, a country next to El Salvador. In 1979 when the new government took over in Nicaragua, after a revolution which overthrew the authoritarian rule of Somoza, everyone hoped for the growth of democracy. We in the United States did too. By January of 1981, our emergency relief and recovery aid to Nicaragua totaled $118 million—more than provided by any other developed country. In fact, in the first 2 years of Sandinista rule, the United States directly or indirectly sent five times more aid to Nicaragua than it had in the 2 years prior to the revolution. Can anyone doubt the generosity and the good faith of the American people?

These were hardly the actions of a nation implacably hostile to Nicaragua. Yet the government of Nicaragua has treated us as an enemy. It has rejected our repeated peace efforts, it has broken its promises to us, to the Organization of American States and, most important of all, to the people of Nicaragua.

No sooner was victory achieved than a small clique ousted others who had been part of the revolution from having any voice in the government. Humberto Ortega, the Minister of Defense, declared Marxism-Leninism would be their guide, and so it is.

The government of Nicaragua has imposed a new dictatorship, it has refused to hold the elections it promised, it has seized control of most media and subjects all media to heavy prior censorship. It denied the bishops and priests of the Roman Catholic Church the right to say mass on radio during Holy Week, it insulted and mocked the Pope, it has driven the Miskito Indians from their homelands—burning their villages, destroying their crops, and forcing them into involuntary internment camps far from home; it has moved against the private sector and free labor unions; it condoned mob action against Nicaragua's independent human rights commission and drove the director of that commission into exile.

In short, after all of these acts of repression by the government, is it any wonder that opposition has formed? Contrary to propaganda, the opponents of the Sandinistas are not diehard supporters of the previous Somoza regime. In fact, many are anti-Somoza heroes who fought beside the Sandinistas to bring down the Somoza government. Now they have been denied any part of a new government because they truly want a democracy for Nicaragua, and they still do. Others are Miskito Indians fighting for their homes, their lands and their lives.

The Sandinista revolution in Nicaragua turned out to be just an exchange of one set of autocratic rulers for another, and the people still had no freedom, no democratic rights, and more poverty. Even worse than its predecessor, It is helping Cuba and the Soviets to destabilize our hemisphere.

Meanwhile, the Government of El Salvador, making every effort to guarantee democracy, free labor unions, freedom of religion, and a free press, is under attack by guerrillas dedicated to the same philosophy that prevails in Nicaragua, Cuba and, yes, the Soviet Union.

Violence has been Nicaragua's most important export to the world. It is the ultimate in hyprocrisy for the unelected Nicaraguan Government to charge that we seek their overthrow when they are doing everything they can to bring down the elected Government of El Salvador. The guerrilla attacks are directed from a headquarters in Managua, the capital of Nicaragua.

But let us be clear as the the American attitude toward the Government of Nicaragua. We do not seek its overthrow. Our interest is to insure that it does not infect its neighbors through the export of subversion and violence. Our purpose, in conformity with American and international law, is to pervent the flow of arms to El Salvador, Honduras, Guatemala, and Costa Rica. We have attempted to have a dialogue with the Government of Nicaragua, but it persists in its efforts to spread violence.

We should not—and we will not—protect the Nicaraguan Government from the anger of its own people. But we should, through diplomacy, offer an alternative. And, as Nicaragua ponders its options, we can and will—with all the resources of diplomacy—protect each country of Central America from the danger of war.

Even Costa Rica, Central America's oldest and strongest democracy, a government so peaceful it does not even have an army, is the object of bullying and threats from Nicaragua's dictators.

Nicaragua's neighbors know that Sandinista promises of peace, nonalliance, and nonintervention have not been kept. Some 36 new military bases have been built—there were only 13 during the Somoza years.

Nicaragua's new army numbers 25,000 men supported by a militia of 50,000. It is the largest army in Central America supplemented by 2,000 Cuban military and security advisers. It is equipped with the most modern weapons, dozens of Soviet-made tanks, 800 Soviet-bloc trucks, Soviet 152-MM howitzers, 100 anti-aircraft guns, plus planes and helicopters. There are additional thousands of civilian advisers from Cuba, the Soviet Union, East Germany, Libya, and the PLO. And we are attacked because we have 55 military trainers in El Salvador.

The goal of the professional guerrilla movements in Central America is as simple as it is sinister—to destabilize the entire region from the Panama Canal to Mexico. And if you doubt me on this point, just consider what Cayetano Carpio, the now-deceased Salvadoran guerrilla leader, said earlier this month. Carpio said that after El Salvador falls, El Salvador and Nicaragua would be "arm-in-arm and struggling for the total liberation of Central America."

Nicaragua's dictatorial junta, who themselves made war and won power operating from bases in Honduras and Costa Rica, like to pretend that they are today being attacked by forces based in Honduras. The fact is, it is Nicaragua's government that threatens Honduras, not the reverse.

It is Nicaragua who has moved heavy tanks close to the border, and Nicaragua who speaks of war. It was Nicaraguan radio that announced on April 8 the creation of a new, unified revolutionary coordinating board to push forward the Marxist struggle in Honduras.

Nicaragua, supported by weapons and military resources provided by the Communist bloc, represses its own people, refuses to make peace, and sponsors a guerrilla war against El Salvador.

President Truman's words are as apt today as they were in 1947, when he, too, spoke before a Joint Session of the Congress:

> At the present moment in world history nearly every nation must choose between alternative ways of life. The choice is not too often a free one.
>
> On way of life is based upon the will of the majority, and is distinguished by free institutions, representative government, free elections, guarantees of individual liberty, freedom of speech and religion, and freedom from political oppression.
>
> The second way of life is based upon the will of a minority forcibly imposed upon the majority. It relies upon terror and oppression, a controlled press and radio, fixed elections, and the suppression of personal freedoms.
>
> I believe that it must be the policy of the United States to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures.
>
> I believe that we must assist free peoples to work out their own destinies in their own way.
>
> I believe that our help should be primarily through economic and financial aid which is essential to economic stability and orderly political processes.
>
> * * * Collapse of free institutions and loss of independence would be disastrous not only for them but for the world. Discouragement and possibly failure would quickly be the lot of neighboring peoples striving to maintain their freedom and independence.

The countries of Central America are smaller than the nations that prompted President Truman's message. But the political and strategic stakes are the same. Will our response—economic, social, military—be as appropriate and successful as Mr. Truman's bold solutions to the problems of postwar Europe?

Some people have forgotten the successes of those years—and the decades of peace, prosperity, and freedom they secured.

Some people talk as though the United States were incapable of acting effectively in international affairs without risking war or damaging those we seek to help.

Are democracies required to remain passive while threats to their security and prosperity accumulate?

Must we just accept the destabilization of an entire region from the Panama Canal to Mexico on our southern border?

Must we sit by while independent nations of this hemisphere are integrated into the most aggressive empire the modern world has seen?

Must we wait while Central Americans are driven from their homes, like the more than 4 million who have sought refuge out of Afghanistan or the 1½ million who have fled Indochina or the more than 1 million Cubans who have fled Castro's Caribbean utopia? Must we, by default, leave the people of El Salvador no choice but to flee their homes, creating another tragic human exodus?

I do not believe there is a majority in the Congress or the country that counsels passivity, resignation, defeatism, in the face of this challenge to freedom and security in our own hemisphere.

I do not believe that a majority of the Congress or the country is prepared to stand by passively while the people of Central America are delivered to totalitarianism and we ourselves are left vulnerable to new dangers.

Only last week an official of the Soviet Union reiterated Brezhnev's threat to station nuclear missiles in this hemisphere—5 minutes from the United States. Like an echo, Nicaragua's Commandant, Daniel Ortega, confirmed that, if asked, his country would consider accepting those missiles. I understand that today they may be having second thoughts.

Now, before I go any further, let me say to those who invoke the memory of Vietnam: There is no thought of sending American combat troops to Central America; they are not needed and, indeed, they have not been requested there. [Applause.]

All our neighbors ask of us is assistance in training and arms to protect themselves while they build a better, freer life.

We must continue to encourage peace among the nations of Central America. We must support the regional efforts now underway to promote solutions to regional problems.

We cannot be certain that the Marxist-Leninist bands who believe war is an instrument of politics will be readily discouraged. It is crucial that we not become discouraged before they do. Otherwise, the region's freedom will be lost and our security damaged in ways that can hardly be calculated.

If Central America were to fall, what would the consequences be for our position in Asia, Europe, and for alliances such as NATO? If the United States cannot respond to a threat near our own borders, why should Europeans or Asians believe that we are seriously concerned about threats to them? If the Soviets can assume that nothing short of an actual attack on the United States will provoke an American response, which ally, which friend, will trust us then?

The Congress shares both the power and the responsibility for our foreign policy.

Tonight, I ask you, the Congress, to join me in a bold, generous approach to the problems of peace and poverty, democracy and dictatorship in the region. Join me in a program that prevents Communists victory in the short run but goes beyond to produce for the deprived people of the area the reality of present progress and the promise of more to come.

Let us lay the foundation for a bipartisan approach to sustain the independence and freedom of the countries of Central America. We in the Administration reach out to you in this spirit. We will pursue four basic goals in Central America:

First: in response to decades of inequity and indifference, we will support democracy, reform, and human freedom. This means using our assistance, our powers of persuasion and our legitimate "leverage" to bolster humane democratic systems where they already exist and to help countries on their way to that goal complete the process as quickly as human institutions can be changed. Elections—in El Salvador and also in Nicaragua—must be open to all, fair and safe. The international community must help. We will work at human rights problems, not walk away from them.

Second: In response to the challenge of world recession and, in the case of El Salvador, to the unrelenting campaign of economic sabotage by the guerrillas, we will support economic development. By a margin of 2-to-1, our aid is economic now, not military. Seventy-seven cents out of every dollar we will spend in the area this year goes for food, fertilizers, and other essentials for economic growth and development. And our economic program goes beyond traditional aid: The Caribbean Basin Initiative introduced in the House earlier today will provide powerful trade and investment incentives to help these countries achieve self-sustaining economic growth without exporting United States jobs. Our goal must be to focus our immense and growing technology, to enhance health care, agriculture, industry, and to insure that we who inhabit this interdependent region come to know and understand each other better, retaining our diverse identities, respecting our diverse traditions and institutions.

Third: In response to the military challenge from Cuba and Nicaragua, to their deliberate use of force to spread tyranny, we will support the security of the region's threatened nations. We do not view security assistance as an end in itself, but as a shield for democratization, economic development and diplomacy. No amount of reform will bring peace so long as guerrillas believe they will win by force.

No amount of economic help will suffice if guerrilla units can destroy roads and bridges and power stations and crops again and again with impunity. But with better training and material help our neighbors can hold off the guerrillas and give democratic reform time to take root.

Fourth: We will support dialog and negotiations both among the countries of the region and within each country. The terms and conditions of participation in elections are negotiable. Costa Rica is a shining example of democracy. Honduras has made the move from military rule to democratic government. Guatemala is pledged to the same course. The United States will work toward a political solution in Central America which will serve the interests of the democratic process.

To support these diplomatic goals I offer these assurances:

The United States will support any agreement among Central American countries for the withdrawal—under fully verifiable and reciprocal conditions—of all foreign military and security advisors and troops.

We want to help opposition groups join the political process in all countries and compete by ballots instead of bullets.

We will support any verifiable reciprocal agreement among Central American countries on the renunciation of support for insurgencies on neighbors' territory.

And, Finally, we desire to help Central America end its costly arms race, and will support any verifiable, reciprocal agreements on the non-importation of offensive weapons.

To move us toward these goals more rapidly I am tonight announcing my intention to name an Ambassador-at-Large as my special envoy to Central America. He or she will report to me through the Secretary of State. The Ambassador's responsibilities will be to lend United States support to the efforts of regional governments to bring peace to this troubled area and to work closely with the Congress to assure the fullest possible bipartisan coordination of our policies toward the region.

What I am asking for is prompt congressional approval for the full reprograming of funds for key current economic and security programs so that the people of Central America can hold the line against externally supported aggression.

In addition, I am asking for prompt action on the supplement request in these same areas to carry us through the current fiscal year and for early and favorable congressional action on my request for fiscal year 1984. And, finally, I am asking that the bipartisan consensus which last year acted on the trade and tax provisions of the Caribbean Basin Initiatives in the House again take the lead to move this vital proposal to the floor of both Chambers. And, as I said before, the greatest share of these requests is targeted toward economic and humanitarian aid, not military.

What the administration is asking for on behalf of freedom in Central America is so small, so minimal, considering what is at stake. The total amount requested for aid to all of Central American in 1984 is about $600 million; that is less than one-tenth of what Americans will spend this year on coin-operated video games.

In summation, I say to you that tonight there can be no question: The national security of all the Americas is at stake in Central America. If we cannot defend ourselves there, we cannot expect to prevail elsewhere. Our credibility would collapse, our alliances would crumble, and the safety of our homeland would be put in jeopardy.

We have a vital interest, a moral duty, and a solemn responsibility.

This is not a partisan issue. It is a question of our meeting our moral responsibility to ourselves, our friends, and our posterity. It is a duty that falls on all of us—the President, the Congress, and the people. We must perform it together. Who among us would wish to bear responsibility for failing to meet our shared obligation?

Thank you. God bless you and good night.

[Applause, the Members rising.]

At 8 o'clock and 39 minutes p.m., the President, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Doorkeeper escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet.

The ambassadors, ministers, and chargés d'affaires of foreign governments.

□ 2045

JOINT SESSION DISSOLVED

The SPEAKER. The Chair declares the joint session of the two Houses now dissolved.

Accordingly (at 8 o'clock and 45 minutes p.m.), the joint session of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

MESSAGE OF THE PRESIDENT REFERRED TO COMMITTEE OF THE WHOLE HOUSE ON THE STATE OF THE UNION

Mr. WRIGHT. Mr. Speaker I move that the message of the President be referred to the Committee of the Whole House on the State of the Union and ordered printed.

The motion was agreed to.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will announce that further business of the House will be conducted when the non-Members leave the Chamber.

THIRTY-SECOND ANNUAL PROFESSIONAL SECRETARIES WEEK

The SPEAKER. Under a previous order of the House, the gentleman from Georgia (Mr. Ray) is recognized for 5 minutes.

Mr. RAY. Mr. Speaker, I rise today to mark the observance of the 32d annual Professional Secretaries Week.

This is a time to pay tribute to the women and men all over the country whose contributions to business and government we often take for granted.

We should never forget that professional secretaries have a demanding task. We rely on them to play a greater managerial role today while cheerfully doing the many other jobs that keep our offices operating smoothly.

I have served both in private industry and government, and I must say that some of the finest, most talented, and most professional secretaries anywhere work for the Congress of the United States.

The professional congressional secretary of today's modern times must be politically and legislatively astute, a diplomat who is thoroughly tested by the trying circumstances of literally hundreds of telephone calls and requests for sometimes near impossible situations. In the hectic atmosphere in which we live and work in today, our secretaries find themselves adequately filling the breach in holding our schedules together, running interference while we are bogged down in committees, on the floor of the House of Representatives, or back in our home districts.

Among the best of the professional secretaries is Joyce Edelson of my staff, who brings to the job determination and the capability to get things done fast and done well. She is in the mold of another great Capitol Hill secretary, Thelma E. Williams, of Byron, Ga.

Miss Williams arrived in Washington one summer, 19 years old, fresh out of college, and intended to stay a year. That was in 1917.

She retired in 1957 after working for several distinguished Members of Congress. During her career she was the first staff person for the Naval Affairs Committee, the committee which eventually became the House Armed Services Committee.

For several years she worked for the Department of Justice, and was on one occasion the assistant to the Honorable William P. Rogers, who later became the U.S. Attorney General and Secretary of State.

Upon retirement she found herself restless and went to work in 1958 as the personal assistant to the late Dr. Frederick Brown Harris, who had served as the Chaplain of the Senate, for a total of 24 years. When Dr. Harris retired in January of 1969, Miss Williams also retired for the second time, and then became chaplain of the Washington Area Pilot Clubs, a position which she holds today.

Mr. ROWLAND. Will the gentleman yield?

Mr. RAY. I would be happy to yield to my distinguished colleague from Georgia.

Mr. ROWLAND. I am well familiar with the story of Miss Williams and how she represents the finest traditions of public service. The first job Miss Williams had in Washington was working for Congressman Wash Larsen of Dublin, Ga., which is my hometown.

As I recall, during her long and varied career on Capitol Hill, she worked for several Congressmen, including Carl Vinson of Milledgeville, Ga., which is also in my district. The late Mr. Vinson was, of course, the chairman of the House Armed Services Committee. I think it is very fitting to cite Miss Williams as an example of the outstanding professionalism that exists among staff members on Capitol Hill.

Mr. RAY. I thank my distinguished colleague from Georgia for that information. And I agree, Miss Williams, who keeps a close eye on Congress and has many friends here, is, indeed, a distinguished secretary and professional person whom I salute as a fellow Georgian and one of whom we can all be proud.

Mr. Speaker, on behalf of all of those professional people who rely on the people in our offices, and who work with us as our secretaries, I would like to say, "Thank you."

□ 2050

DEMOCRATIC RESPONSE TO PRESIDENT'S ADDRESS ON CENTRAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 60 minutes.

GENERAL LEAVE

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent that all Members may have 2 days within which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. ALEXANDER. Mr. Speaker, tonight we in the Congress, the people's branch of government, have just heard a most important message from the President of the United States.

It has been in the tradition of the Congress since the beginning of this Nation that the security of our country as well as the protection of freedom throughout the world should be shared with bipartisan support.

Mr. Speaker, it is not often that citizens of the United States have the opportunity to witness the actual beginning of the legislative policy process in Congress in response to an important message of the President. This evening we have the privilege of using this special time to call upon several elected representatives of the American people to share their thoughts with us as we take this first step in responding to a Presidential message which now calls for action by the U.S. Congress.

Mr. Speaker, it is my privilege now to yield to the majority leader of the House, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I thank the distinguished gentleman from Arkansas (Mr. ALEXANDER), for his initiative in seeking this hour that we might have some comment on the speech that was just made by the President of the United States.

Fundamentally, I agree with the basic precepts set forth in that speech. If we are to have a foreign policy with any credibility it has to be a bipartisan foreign policy. Surely none of us wants to see another Cuba in our hemisphere. Surely all of us have great respect for the bravery of the people of El Salvador who sacrificed their very safety in order to ratify the democratic processes in such overwhelming numbers last year. And surely all of us would stay the intrusion of Communist infiltration before it came so close as to threaten our own shores.

There are three things basically that I think really ought to be stressed. The first thing we have a responsibility, if we embark upon this course, to persevere and not to grow weary in well doing. That applies to a military commitment, and it applies to a commitment of economic assistance as well. In embarking, as the President asks us to do upon a Caribbean Basin Initiative, I believe we have a responsibility to see it through.

Some years ago, in 1961, we undertook the grand design of an alliance for progress. We raised hopes throughout the hemisphere but soon grew weary of well doing and withdrew our funds and our efforts and did not see it through. By so quickly abandoning the promise, we created a wave of disillusionment in Latin America. We cannot, we must not do that again.

The second thing, I think we need to say is that there is a necessity to support basic democratic forms in those governments of the hemisphere which are trying to demonstrate that the legitimate social and economic objectives of their people can be realized—and better realized—without the sacrifice of individual liberties. And surely El Salvador qualifies in that regard. When 80 percent of those people endured the difficulties and the dangers which they endured in order to cast ballots in that election in March of last year, they gave to us and to all the world a convincing demonstration of a deep determination to be free. Surely 80-percent voter participation is a goal that any State in the United States would do well to emulate.

But as we guard those free institutions and as we insist that nations try to have some form of elective, nonviolent local self-determination, I believe we have the responsibility as well as to guard ourselves against the temptations of self-righteousness. We cannot, after all, insist that other governments fashion themselves as computer printouts of ourselves or as carbon copies of the United States. They have their own traditions and their own institutions.

While we do have a right, I think, to insist that a country, in exchange for financial aid from us, should observe the rules of individual liberties for its people, we must remember that there have been occasions in which we ourselves have not been paragons of political purity. During the Civil War, when our Government was in danger by an insurgency, Abraham Lincoln, whom we revere today, abolished habeas corpus. As recently as World War II, when we felt that were in the right and doing a necessary thing, we did very grave injury against the rights of American citizens of Japanese ancestry by interning them in camps.

So we should be cautious lest we fall prey to the temptations of self-righteousness in measuring the emerging embroynic free Government of El Salvador against standards that we would apply to ourselves today.

Then, finally, I think we need to say one other thing. There is a need for us to make an earnest good faith effort to seek an agreement, a military domestic nonintervention agreement with Nicaragua. Now, it may be beyond hope. There may be no realistic hope of our finding a reconciliation on any deeper plane than the fact that they do not want us to invade them and we do not want them to invade their neighbors. But I would quote to you Benito Juarez, one of the great statesmen of all time in this hemisphere, who said, "Respect for the rights of others is peace."

We applauded the President a few moments ago when he said "It is the ultimate in hypocrisy for the unelected Nicaraguan Government to charge that we seek their overthrow when they are doing everything they can to bring down the elected Government of El Salvador." And that is true. That is hypocritical. But let us be honest with ourselves, I say to my friends. Would it not also be hypocrisy for us to condemn Nicaraguan support of the guerilla intrusions within the borders of El Salvador aimed at overthrowing that Government if we were at the same time offering military and financial support to the same kind of intrusions within the borders of Nicaragua aimed at the violent overthrow of that Government, however distasteful the Government may be to you and me.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. Not at the moment. I am sure the gentleman will have some time.

I would like to conclude this limited time that I have by saying that this requires perseverance, it requires continued dedication to remove the root economic causes of war and revolution, and it requires an ability on our side to look at things and try to see them through the eyes of our neighbors throughout the hemisphere and to work thus for the kind of peaceful political solutions that can solve their legitimate problems.

□ 2100

Now, if my time has not expired, I will yield to my friend.

The **SPEAKER** pro tempore. The gentleman from Arkansas has the time.

Mr. ALEXANDER. I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, I thank the gentleman for yielding.

I am just delighted to hear the remarks of the majority leader, because I think they are well spoken and they are very temperate and I thank the gentleman for that.

Along with the suggestion of military nonintervention, does the gentleman not think it would be constructive for our Government, or the people of this country to insists that the people in Nicaragua have a democratic election so that the people of that country can determine their own destiny?

Mr. WRIGHT. I think it would be quite appropriate for us to insist upon that as a condition for our granting military aid or as a condition for our granting economic aid to that government and that people.

I am not at all sure that we have the right to insist in every instance what other governments and other people must do. I do know that in 1961 when the military junta overthrew the elected government of Peru, then President John F. Kennedy withdrew our Ambassador and our diplomatic recognition from the Government of Peru and announced that he would reinstate that diplomatic recognition whenever they ratified the validity of their government by means of free elections. They did so, and he did so.

It seems to me that we have every right to make this a precondition of assistance that we might render to other governments.

On the other hand, I am not at all sure that we do have a right to dictate to other governments what forms they may have within their own borders beyond that. I think we have a right to insist, however, that they do not bother their neighbors and that they abide by the terms of the Rio Treaty. But as we insist that others do so, it seems to me that we have an overriding responsibility to do so ourselves.

Mr. DANNEMEYER. I thank the gentleman.

Mr. ALEXANDER. Is the minority leader present or someone who would like to speak in his stead? I agreed to yield equal time to the minority leader and should he appear, he can claim that time.

I yield now to the gentleman from Maryland (Mr. BARNES), the chairman of the Subcommittee of the Western Hemisphere for the Committee on Foreign Affairs.

Mr. BARNES. I thank my friend, the gentleman from Arkansas, for yielding. I am pleased to have the opportunity to participate in this discussion tonight, obviously an extremely important speech by President Reagan. I am informed that this is only the 10th time since World War II that a President of the United States has addressed a joint session of Congress in this manner. This may very well be the most important speech a President has given with respect to Latin America in a decade or more.

I was very pleased by the general thrust and tone of President Reagan's address to us this evening. I think the President is absolutely correct in his basic premise and that is that the United States has major security interests, major economic interests, and major interests generally in the future of the hemisphere and particularly in the future of the countries of Central America and that we have an absolute necessity for our interests to be actively involved in the region and to not walk away from the region or turn our backs on the problems that exist there.

I was pleased to hear the President stress those points. I was pleased, as I know many of my colleagues on the Democratic side were tonight, to hear a new tone from President Reagan with respect to efforts to bring about diplomatic initiatives, to address some of the problems that we confront in the region. This is, to my knowledge, the first time that the President has used the phrase "dialog and negotiations" to underscore his policy with respect to what the United States will be doing in the region.

I think his selection of the statement from President Truman's address to Congress, which I do not know, frankly, my history is not that good, but I assume was probably the speech that he gave when he outlined the Marshall plan to the Congress, I think his selection of those remarks was right on the mark in terms of what the President of the United States should be saying and what we in the Congress should be saying about our responsibilities in the region and how the United States can address the problems.

President Reagan quoted President Truman tonight as having said to an earlier Congress:

> I believe that our help should be primarily through economic and financial aid, which is essential to economic stability and orderly political processes.

That is the thrust of many of us on the Foreign Affairs Committee. I know it is the thrust of the bipartisan majority of the Congress. I see the gentleman from New York (Mr. KEMP) here at this time. I know he has worked with many of us on both sides of the aisle to address the economic problems of the region.

I must say, however, that much of the tone of the President's speech belied what President Truman said, because so much of the speech tonight, I think regrettably, was focused on the military component of the challenge that we face in the region. There is a military component to that challenge. We should not be naive about that. We should not ignore it. We should not fail to respond to it and address it, but it is clearly not the principal component of the problem we face.

We could kill every guerrilla in El Salvador and the problems of El Salvador would not be solved. I think everyone in this Chamber, Republican and Democrat, would agree. We certainly have the military capability in the United States to kill every guerrilla in that country, but that would not begin to solve the basic underlying problems of the region.

I think, quite frankly, that the President missed an opportunity tonight; although basically I think the speech was a positive step in the direction that many of us have been advocating for years, really, I think, nonetheless, he missed an opportunity tonight to take us another step down that road by advocating a new approach, a new initiative to address those social, economic, and political problems that are the base of the problem in Central America.

I also regret, quite frankly, that there was not more emphasis in the speech with respect to developments in in our region on the whole issue of democratic institutions and respect for human rights.

I regret that a President of the United States would give a major address of this kind and not put significant focus on that aspect of U.S. policy.

Let me just tell you of two conversations that I have had in recent weeks with leaders of democratic countries in our region. President Belaunde of Peru, a democratically elected President, told me he would not be President of Peru today had it not been for the constant reaffirmation by President Carter, by Vice President Mondale, by Secretary of State Muskie and Secretary of State Vance of the commitment of the United States to human rights in Peru and human rights throughout our hemisphere.

Just 2 or 3 weeks ago several of us, Republicans and Democrats, had breakfast with the visiting President of Ecuador, another democratic friend of the United States. I told President Hurtado of Ecuador what President Belaunde had told me and he said, "The same thing is true in my case." He said, "I would not be the President today of a democratic Ecuador." He said, "Had I been elected President in a democratic election, I might not have been permitted to take office as a democratically elected President, had there not been a constant reaffirmation by the President of the United States," in this case again President Carter, "of the President of the United States to human rights for the people of Ecuador now a proud democracy and a friend of the United States."

I regret, frankly, that President Reagan tonight did not give the same kind of emphasis to that commitment or reaffirm that commitment in the way that some of our leaders in this country have in the past.

On balance, it was an excellent step forward for the administration's policies in the region and I applaud the President for many of the comments that he made tonight and I reaffirm my commitment to work with the President as chairman of the Subcommittee on the Western Hemispher, to pass the Caribbean Basin Initiative, to support the President's economic initiatives.

I hope that the effort that the President made tonight to reach out for a bipartisan consensus on these issues can build and that we can take those aspects of the speech about which all of us can agree and work together vigorously, because the region is important. President Reagan is absolutely right. The region is enormously important to the United States. We have security interests there. We have economic interests there. We cannot walk away from it. I hope that we will build on it in a very positive way and I hope that tonight can be the beginning of that effort.

I thank the gentleman from Arkansas for the opportunity to participate.

Mr. ALEXANDER. I thank the gentleman from Maryland, the chairman of the Subcommittee on the Western Hemisphere.

I now yield to the gentleman from New York (Mr. KEMP).

□ 2110

Mr. KEMP. Mr. Speaker, I thank the gentleman from Arkansas for yielding. I also thank him for his statement and that of the majority leader and I thank our friend from Arkansas for taking this time.

I must admit that there was a little bit of trepidation on the minority side of the aisle as to how the time was gong to be used. But I want to compliment my friends for what has generally been a very thoughtful and positive reaction to President Reagan's call to the Congress to share in a bipartisan effort toward putting some of those fires out in Central America from wherever they may emanate.

Mr. Speaker, the previous gentleman in the well, my friend from Maryland, has indeed made a positive contribution to this debate. I for one listened to just about everything he had to say as I returned to the Chamber. He did address the fact that the President was very candid, was very positive in attempting to use economic assistance as a means of providing more opportunity for Central America, indeed El Salvador, to overcome some of its problems. I appreciate the gentleman mentioning the Caribbean Basin Initiative. The gentleman alluded to the fact, however, and if he wants to stand, I am not really being argumentative, but he suggested that somehow the President neglected to talk about human rights or at least downplayed that somewhat and did not quite lay as much emphasis on a positive alternative as he did to the military money.

I think it is important at this point in my remarks to remind all of us of the President's allusion to the fact that 77 cents of every dollar going into Central America from the United States of America is in some form of economic assistance in the way of agricultural support or food or trying to provide that type of assistance which is so important to offsetting the major emphasis that has been placed on the economy by the Marxist guerrillas throughout Central America.

So I do not want to argue the point except to say to my friend that I guess we can look at it from your perspective or another, but as a strong supporter of the Caribbean Basin Initiative, if you couple the economic assistance with the trade, America is the only country on this Earth that opens up its markets to the extent that we do, to Asian Third World countries, to African Third World countries, to the Latin American Third World countries. That has to be part of our foreign aid. I think there are a lot of people at this time in our country that are deeply concerned not only about protectionism or jobs but I think you have to say that this country for a number of years has had a very open market to Third World countries, indeed 40 percent of all our exports go to Third World countries.

One out of every ten jobs in America relates to our exports to Third World countries. I think the President did a pretty good job. I know the gentleman is not nitpicking. But I mention that fact frankly because I share the gentleman's thesis. Anticommunism is no solution to communism in Latin America, Africa, Asia, or any place else. But I think this President has quite candidly and openly and rather positively, if I might brag for a moment, suggested that it is the military assistance that buys enough time so that reforms in the social, economic, and political sense can go forward.

He has made a tremendous commitment to democracy.

The gentleman is a Democrat, big D and small d and I respect that. I too am Democratic, I am a small d Democrat, I sit on the right side of the aisle.

I want you to know that I think President Reagan and his administration are making a valiant effort to overcome some of the hostility in this hemisphere to people who really think that democracy somehow is too much trust in people. The whole effort to export democracy, again, is a healthy sign for this country. I am glad to see him on that side. I want to be on that side, I will tell you. I would like to see Nicaragua be democratic. The gentleman mentioned Peru and Ecuador and he gave credit to President Carter. Let those of us in this body also recognize, as the gentleman from Louisiana (Mr. LIVINGSTON), who was there firsthand during the elections, that President Magana would not be President of El Salvador had it not been for the fact that this country, the Congress, the gentleman from Maryland, and others gave assistance and helped bring about a democratic election. Jeffersonian democracy? Hardly. But the steps are being taken and I think the President put the burden on us in the Congress to join him in making sure that that flame does not go out, that that flicker of hope that President Truman talked about when he unveiled the Marshall plan in Western Europe for democracy and anti-Soviet thrust into the southern flank of NATO, would not crush the spirit of those people and frankly some of the foreign aid that was given and military aid that

President Truman and President Roosevelt and every other President in this country in both parties has been willing to give has kept that spirit alive.

So, I think the President has struck a very responsive chord. I know we will know probably more tomorrow than we know tonight. I just want to stand up here early on as the gentleman from Maryland and others have done and say it was not perfect, it is not perfect, we do not live in a perfect world. Solzhenitsyn said, "If America do not lead the free world the free world will not have a leader."

Ladies and gentlemen, it is not our place to sit on the sidelines and let Central America go.

The President told us squarely face to face, that we not turn our back on the world, cannot turn our back on Central America, it is closer to us than many of the countries upon whom we rely for friendship, our allies for basing for support for our foreign policy.

We have troops in Lebanon. Does anybody want to say that Amin Gemayel came to power in Lebanon in a democratic way? But we support him; I support him. I want to give assistance to Lebanon.

Did we ask about the democratic rights in Thailand and the people of Thailand before we rushed military assistance to offset what Cambodia and Vietnam were doing in Southeast Asia? Absolutely not.

There was a fire in that region; we rushed assistance and we did not ask necessarily the same questions that we are imposing upon El Salvador.

Let me say parenthetically I am not suggesting that what we are trying to do is wrong, I am not suggesting that the gentleman and those of us on this side of the aisle should not pursue a human rights policy in which all of us in a moral and principle way could be proud.

I think you, Mr. BARNES, deserve credit for spending as much time in Central America as you have.

I think Dr. LONG takes more criticism in this House than any other single person and frankly I want to say as one Member who serves on this subcommittee, I just thank God there was somebody willing to go down there and spend that amount of time, Mr. Majority Leader.

I know you are interested in that region. I praised you earlier for your remarks, Mr. Majority Leader, and thank you for your leadership.

I also want to thank, though he is not here, Dr. LONG. Because, Dr. LONG, I may disagree with him, I may get frustrated, I know others do, but he had the tenacity to go down there.

I do not think there would be $30 million without "Doc LONG."

I hope we finish this reprograming job. We are not reprograming anything in the way that is going to put F-16's into El Salvador; we are giving ammunition and spare parts and the type of training that is absolutely essential to find out if the human rights program and the reforms of the judicial system and the political and social fabric can be changed.

I just do not want to see us simply cast this burden off and say we are going to turn our backs on history, turn our backs on them and simply stand on the sidelines.

I think it has been a constructive hour or so that the gentleman from Arkansas has taken. I hope I have not trespassed on his time too much. He is generous in giving us a chance to do it. I want to compliment him for it.

I particularly again appreciate the remarks that have been said before in the spirit of Truman. Truman talked in 1946 about keeping the hope of democracy and freedom alive. I think President Reagan in the same vein was doing the same thing tonight. This issue is not an easy one, it is tough to explain. I do not care if you live in Maryland, Florida or Louisiana or Texas or Buffalo, N.Y., it is tough to explain. But they sent us down here to do what is right, they sent us down here to vote our conscience, they sent us down here to take a look at the issues and the facts and make a stand and to explain it.

I really believe that in the final analysis the American people are mature enough, our democracy is civilized enough that we have the type of people in this country that can understand that it is critical to the future of this country, to the strategic region of the Western Hemisphere, to the understanding of the high moral ground upon which democracy stands in the world today, for the Congress to support the President. I do not mean willy-nilly, I do not mean capriciously; we ought to question, we ought to debate, be skeptical, we ought to ask all the questions that becomes a legislative body as a separate and equal branch, the U.S. Congress.

☐ 2120

But I hope, I really do hope that when the rollcall is called that all of us in a bipartisan way stand by him in support of this flame of democracy that should not be extinguished by us just cutting them off at the knees.

From my standpoint, I will tell you what, I want to be there when the rollcall is called.

And I appreciate so much the gentleman's time and I thank the gentleman and hope that the Congress will respond to the President's clarion call.

Mr. ALEXANDER. I welcome the remarks of the gentleman from New York.

Mr. Speaker, I yield to the gentleman from Georgia (Mr. FOWLER), a member of the permanent Select Committee on Intelligence.

Mr. FOWLER. Mr. Speaker, at the outset, I want to make it clear that I have no quarrel with the publicly stated goals of the President concerning our policy in Central America. I too believe that the United States has legitimate interests in the Caribbean Basin, including the promotion of stability, the pursuit of human rights, and the prevention of hostile military influences within the area. I too believe that we should resist Soviet and Cuban expansionism. I too believe that the totalitarian Communist systems in the Soviet Union, Cuba, and elsewhere are obnoxious to the human spirit. And I too am concerned about disturbing trends in this direction within Nicaragua. And, of course, I firmly believe with my countrymen and my President that conflicts should be settled—whenever possible—through the ballot box rather than the barrel of a gun.

In short, I do not dispute the publicly avowed ends of administration policy in Central America. However, I have serious reservations about the success of the methods the administration has chosen for achieving its policy. I am particularly disturbed by its apparent move to a confrontational approach toward the Congress, as evidenced by its disregard for congressionally legislated limits on covert action in Central America, and by its often heated rhetoric aimed at questioning the intelligence—or the patriotism of those who disagree with its policies. I am encouraged by the more conciliatory tone of the President's address tonight. I do not question the sincerity or the conviction of the administration's Central America policy, only its effectiveness.

It is my opinion, and one shared by the distinguished panel of American and Central American political and economic leaders who recently issued the Report of the Inter-American Dialog, that the principal problems in Central America are economic and political rather than military, and are primarily domestic in origin rather than foreign dominated. I am pleased that the President has at least rhetorically acknowledged there is truth to these propositions.

But the administration's primary reliance on military solutions to the turmoil in the region has risked widening the conflict and made it more difficult for the United States to be credible in its support of regional negotiations. Indeed, in those areas where this has not been the case I have supported the administration's policy, specifically as an original cosponsor of the Caribbean Basin Initiative for promoting economic growth.

Flawed perceptions inevitably produce faulty policies which fail to achieve the desired results. The arms flow to the rebel forces in El Salvador appears to have not been seriously impeded. The hold of the Sandinistas on the major cities and institutions of Nicaragua appears to have become more entrenched. The balance of power in Honduras seems to be shifting away from the newly elected civilian leaders and back toward the military. The economies in the region have been seriously damaged. Finally, and fundamentally, the level of violence in the area has not abated. It is this last point, more than anything else, that threatens the democratic process, undermines economic reforms, diminishes human rights, and spreads instability.

However, it is not my purpose to point the finger of blame for past policies. Such an exercise would be divisive and unproductive. A similar potential danger existed last year with regard to the future solvency of the social security system. Yet in response to that crisis the President and Congress, Democrats and Republicans pulled together for the national interest. Bipartisanship is at the very least equally important in the field of foreign policy. Therefore, I urge the President of the United States to break out of any preconceived ideological straitjacket and take a fresh, pragmatic look at the effectiveness of his policies, and to reach out for other viewpoints in the Congress and in the country, all in order to forge a national consensus on our policy in Central America. None of this would require him to abandon his publicly stated goals, which are, in my opinion, widely shared. However, I am asking him to reconsider his methods.

In that spirit, I offer the following recommendations:

First, the United States should openly, and unequivocally endorse and encourage the regional peace initiative undertaken by the Contadora Group of Mexico, Venezuela, Colombia, and Panama. These allies of the United States have urged "all countries of Central America to use dialog and negotiation to reduce tensions and to establish the basis for a permanent climate of peaceful coexistence and mutual respect." While we have offered vague encouragement to regional peace initiatives, as the President did again this evening, we have effectively opposed the Contadora effort by our continued opposition to bilateral dialogs between Nicaragua and its neighbors and to unconditional discussions within El Salvador and Nicaragua between the governments and the opposition. It should be noted that the Contadora countries are not seeking to impose any kind of settlement on the participating parties; rather, they are offering a framework to get substantial discussions underway. If any party, including Nicaragua, proves unwilling to negotiate in good faith, then the burden for the failure of the negotiations would clearly fall on that party.

Second, I would ask the consideration of the President to "go to the source," in the words of former Secretary Alexander Haig, by engaging in bilateral discussions with Cuba. Such a step was endorsed in the report of the Inter-American dialog I mentioned earlier. Many of the administration's legitimate concerns about Central America center on Cuba's role in that region. While bilateral talks are certainly no guarantee of a successful resolution of our problems with the Cubans, an absence of direct dialog substantially reduces the chances for peaceful solutions. As President Nixon was perhaps the one American leader best positioned to successfully open a dialog with the People's Republic of China—a country which also has an objectionable political system—so perhaps President Reagan could initiate direct communications with Cuba. Third, in order to reduce domestic and international skepticism about American willingness to support negotiations, I would urge the President to follow through on this intention to appoint a special, independent, high-level envoy to coordinate our negotiating effort in Central America. I only hope that such an envoy will be given clear authority by the President to act in support of the negotiation process across the board throughout Central America. It should be someone of considerable stature, internationally and domestically, like Ambassador Habib in the Middle East, in order for us to achieve the result that we all wish.

The goal of these suggestions is to place the United States squarely on the side of transferring conflicts from the battlefield to the conference table. It is my contention that only in this way can any of our legitimate objectives in Central America, including those enunciated by the administration, be achieved.

Mr. ALEXANDER. I thank the gentleman from Georgia.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. I thank the gentleman for yielding.

I first want to compliment the gentleman for taking out this special order on this occasion following the President's speech on an issue that probably is as important as any that might arise during this administration or this Congress.

□ 2130

I also want to compliment the thoughtfulness of the preceding speakers. All of them have done an outstanding job. This is an issue which, as the President pointed out, is one that is not partisan in nature. It is one which concerns the basic security of every person in the Western Hemisphere, certainly the security of the people in Central America, and if you can accept that fact, then certainly also that of those of us who live both to the north and to the south of those people.

Most particularly, I am pleased that all of the speakers who have preceded me seemed to grasp the sense that President Reagan's speech spoke, in effect, to the spirit of democracy, to the support by the United States of that spirit in Central America and regions all across the globe.

The President has expressed his concern for events that have gone on for some time in Central America. As a matter of fact, those events did not just rise up with the beginning of the Reagan administration or even the Carter administration; they go back 100, 200 or more years. They deal with circumstances that have evolved in Central America and various countries over which none of us in this Congress have any control. But every one of us, as American citizens, as Members of Congress, as family people, certainly have genuine reason to be concerned about those events.

It seems to me that, in a bipartisan nature, should indeed rally behind the President in his call to support the spirit of democracy in Central America. In fact, in El Salvador, we currently have a government in existence for a little over a year which was elected by some 80 percent of the electorate, 80 percent of the eligible voters, who trooped to the polls under tremendously adverse conditions described by the President tonight, to cast their ballot in hopes that they might ultimately be able to choose their own leaders and determine their own destinies.

Now, in contrast to that point in Nicaragua, where there is conflict going on, there is a government there that toppled a tyrant, if you will, an oppressive regime, but which to date, since their taking of power, has offered their people no free elections, has suppressed the press in that nation, has suppressed the activities of the church and, in fact, demeaned the Pope, the leader of that church, and has taken measures to suppress the rights and liberties and freedoms of various ethnic groups in that nation, specifically the Miskito Indians, who they have even taken measures to transfer from their homes, obliterate their homes, and move them into other regions of the country.

Now, it seems to me that there is a great contrast between those two forms of government. On the one hand you have a struggling democracy, not without its blemishes, not without its faults; but on the other you have a totalitarian group of people who have offered no hope for democracy whatsoever to their people.

I think that it is in the interest of all of us in this Congress to support the President in his expression of support for that spirit of democracy which we must cling to if we are to survive as a nation. If we turn our backs on a free people or on a people who would hope to control their own destinies, then we are in fact serving ourselves no good and cannot truly aspire to democracy in this country.

We must keep our eyes open. We must be aware of what goes on in this world, and particularly what goes on in those nations below our southern borders, but as well to what goes on in nations throughout this world. If we close our eyes to tyranny and to oppression, then we do not serve the interests of democracy.

I think that the President's position was well taken. He has offered us some alternatives which would ultimately lead to peaceful resolution, not only in El Salvador but in Nicaragua and in all Central America. If we reject him, if we reject what he has to offer, we risk a catastrophe in Central America, in El Salvador, in Nicaragua, and perhaps in this country as well.

I hope all of the Members of this body will rally around this President in his support for that spirit of democracy.

Mr. ALEXANDER. I thank the gentleman from Louisiana.

Mr. Speaker, I yield now to the gentleman from Florida (Mr. Fascell).

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Speaker, I want to thank the gentleman from Arkansas for his leadership in arranging this effort this evening. We need more bipartisan discussions on an intelligent plane to deal with the problems of the country.

It is certainly clear, and it has been clear to me and, I think, to many of my colleagues, even though we have a difference of opinion with respect to many issues, that the issue we discuss tonight is not a partisan issue. It is a question of policy.

I love the call of the President, as a Democrat, for a bipartisan approach to the solution of this problem. I welcome that, and I think all of us do in the Congress. The issue really is not new.

I think one of the first speeches I ever made in my first term in Congress—in fact it was before I ever came here—was about the fact that we, the United States, and the hemisphere were sitting on the edge of a volcano that was about to blow up—a "volcano" called Central and Latin America—and that we needed to focus our attention on that part of the world because of the sweeping changes that were taking place there and demanded by the people, 80 percent of whom never participated in the mainstream politically, economically, or socially of their countries, and there was no way in the world to keep the lid on that situation.

Now, when you aggravate that with external forces, particularly the Communists, who are looking to aggravate every situation in dealing with the West, you understand that they have been trying in every way in the world to penetrate economically, politically, and socially. And particularly since World War II, we have seen them coming with the wars of national liberation. We have known that as a country. That is not a new crisis. The problem we have had is that we have not been willing to make the commitment as a nation in order to have some answer, other than a military answer, to that kind of thrust.

I will say this to you: As a supporter of a strong military, your military is no good unless it is committed. You have to use it. The threat is there, but I do not believe that in international politics in this day and time you can threaten or bluff anyone or any sovereign country, no matter how small. We have seen the results of that.

So we are here now with another crisis as a result of the same problem, as we know instinctively that a military solution is not the answer. The President said tonight we are not talking about U.S. troops. We are going to use our economic and political leverage. We are going to support the forces of democracy. All of these are concepts which all of us support.

Had this call come early on for a bipartisan effort, we might not have had the confrontation that has existed. Of course we cannot walk away from the problem, but if we are going to walk, we had better walk together. That means Republicans and Democrats, the Congress, the President, and the American people. We must have a clearly defined policy that the American people can understand and are willing to support, as reflected by the Congress with its diversity of views.

It is one thing to say we must rally behind the President. I am for that. He is our President. But as the gentleman from New York correctly said, that does not mean we should use a rubberstamp or act willy-nilly. We have the right to ask questions and to be in on the formulation of the solution. That is the important thing.

The Congress has supported the Presidential efforts under two administrations, and the confrontation that exists today comes over a matter of policy in attempting to achieve the same objectives. We need to eliminate that confrontation. I am willing to work toward that. As the ranking member on the Democratic side of the Committee on Foreign Affairs, I have supported the President's policy, and I am willing to work toward a bipartisan effort to solve the current crisis.

But, just as my other Democratic colleagues who have a different point of view, I would like to be in on the discussion of the solution to the problem.

□ 2140

You cannot be handed a fait accompli and then say, "Now, gentlemen, this is it. This is the way we are going to solve the problem." That is not bipartisanship.

I welcome the President's call for bipartisanship. I hope it is now followed up by a real effort within the Congress and by the administration to involve the Democratic leadership and the Democratic members of the Committee on Foreign Affairs to ask the question:

> Gentlemen, is there a consensus here that we can arrive at that is easily explainable to the American people, carrying out the objectives which the President has laid out in his speech, all of which we can support and all of which we must support? Can we reach a consensus? Can we move in a truly bipartisan fashion?

I believe the answer to that question is a clear yes, because we must work together. It is in our national interest to do so; it is in the interest of the hemisphere to do so; it is certainly in the interest of the people in El Salvador who are struggling for democracy and are looking to us as their closest and strongest friend to help them to do so.

So we have got to put these petty differences behind us, and I would hope that we will get the opportunity to be part of that effort. This is not a partisan issue; this is a policy issue. That is why this event tonight is so important. In fact, as far as I am concerned, I will say to my distinguished colleague who had the idea of arranging this special order that this is a historic event in the Congress of the United States.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, I would like to commend the gentleman in the well, because I think he has hit the nail on the head, and I think many of us on this side of the aisle recognize the importance of what he is saying.

If our administration wants a bipartisan foreign policy, it is to be bipartisan not in rhetoric alone, but we do have to involve the ranking members of subcommittees and the chairmen of subcommittees like the gentleman in the well. There is just absolutely no doubt that if we have the support and the consideration and the concern of Members like the gentleman from Florida (Mr. Fascell), this Nation and this policy toward Central America will go further and faster than it has ever gone before.

Mr. FASCELL. Mr. Speaker, if the gentleman will yield, I want to thank the gentleman from Pennsylvania (Mr. Ritter) for his comment, and I want to assure the gentleman that an effort has been made to start as of several days ago to do exactly what the gentleman is talking about, at least in the Committee on Foreign Affairs. We have brought together Democrats of all persuasions and Republicans of all persuasions to see if we can truly come together to form a consensus and a policy that the administration can go along with. I hope that we can work that out.

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman from Florida (Mr. Fascell). No debate on Latin American policy would be complete without the gentleman from Florida.

Mr. Speaker, I will yield to the gentleman from California (Mr. Hunter) and following that, I will yield to the gentleman from Arizona (Mr. McCain). It is my intention to yield after that to the gentleman from New Mexico (Mr. Richardson).

Mr. Speaker, I yield to the gentleman from California (Mr. Hunter).

Mr. HUNTER. Mr. Speaker, I appreciate the gentleman's yielding.

I am reminded now and was reminded by the President's speech tonight that historically we have underestimated our problems in Central America, and looking at history, we can recall being somewhat bemused and entertained by Fidel Castro when we learned he was the gentleman who was going to take out the dictator Batista, in Cuba. And we can recall later on down the line how this Nation was poised on the brink of nuclear war because of the problems that we had had in Cuba and because of the attempt by the Soviet Union to emplace some 40 intermediate range missiles in that country.

Another thing that I would remind my colleagues of is that the Soviets backed down at that time. They were backed down by President John Kennedy, but they backed down because at the time the Soviets had a strategic force which totaled some 70 intercontinental ballistic missiles, which would have taken many hours to make ready and could have been taken out by our strategic bombers long before they were ready to launch. Today that is not the case.

I think it was very interesting that the President pointed out that Mr. Ortega responded to the Soviet suggestion that strategic missiles could be placed in his country and indicated that he would be amenable to that emplacement. I think we can look forward, if we abandon Central America to the Marxists, to the Soviet Union, which is much more interested in consolidating its gains and is not interested in retreating as it did in Cuba in 1962.

Mr. Speaker, I thank the gentleman for his remarks, and I thank my colleagues for their interest and their intention to be extremely involved in this issue that will be resolved on a bipartisan basis.

Mr. ALEXANDER. Mr. Speaker, I yield now quickly to the gentleman from Arizona (Mr. McCain).

Mr. McCAIN. Mr. Speaker, I would like to say that all of us are appreciative of Members of the U.S. Congress, like our colleague, the gentleman from Florida (Mr. Fascell), who will, I am sure, lead this body in a bipartisan effort to solve this very difficult problem.

I want to talk about two issues, if I may, tonight, that I believe I am familiar with. One of them is the domino theory and the other is negotiations. All of us are concerned with the domino theory which has been rebutted by my friends, and I would like to relate a brief anecdote, if I may.

I was in a cell in 1968, and I was called in to see the man who happened to be the general of the North Vietnamese Army. He said to me:

> Now, because of the Tet offensive, we have liberated South Vietnam, and after we liberate South Vietnam, we will liberate Cambodia, we will liberate Laos, and we will liberate all of Southeast Asia.

Then I happened to be treated to the "Voice of Hanoi" that night where the domino theory was debunked by the men who sat in this very body.

Negotiations? We want negotiations. No one wants more negotiations than those who have engaged in combat with the enemy to save American lives, and I believe I am one who wants negotiations as much as anybody.

Chairman Mao said, "Political power is the flower that blossoms from the muzzle of a gun." We need two to negotiate. We need both sides to negotiate, and we need someone to put the same intense pressures on the El Salvadoran liberals to negotiate as we are now applying to the Government of El Salvador.

Mr. Speaker, if this nation of El Salvador falls, if the domino theory continues as I expect it will unless we make a commitment to the freedom of that nation, the responsibility will rest on the shoulders of the Members of this body.

Mr. ALEXANDER. Mr. Speaker, I thank my friend, the gentleman from Arizona (Mr. McCain).

Mr. Speaker, I now yield to the gentleman from New Mexico (Mr. Richardson).

Mr. RICHARDSON. Mr. Speaker, I want to thank the gentleman from Arkansas (Mr. Alexander) for selecting me for participation in this special order.

I, too, was encouraged by the President's more conciliatory tone tonight and his renewed spirit of bipartisanship, but the agony of Central America today is exceeded only by its peoples' longing for the killing to stop. Yet the war continues. The destruction increases. And we are asked to finance the fighting with more and more American dollars.

One of the most painful lessons we learned a dozen years ago in Vietnam was that we cannot transport peace and freedom and democracy in B-52's.

Nor are we likely to achieve any better results today in Latin America in Huey Helicopters.

President Reagan has reaffirmed his intention to commit this Nation to resolving Latin American political problems with U.S. military might.

It is not accurate to bill this as a debate between those who want to turn tail and let the Communists win and those who do not. All of us in the Congress oppose Marxist power in Central America. But our current policies cannot and will not save that region. They will only prevent us from resolving the fighting and restoring the peace.

The administration has taken a bad situation and made it worse. By opposing a political settlement in El Salvador we are only escalating the conflict. This negative approach to the stark realities of the political and military situation in El Salvador is a prescription for disaster. Although we claim to be searching for a solution, we reject proposals for negotiations. But if we insist on pursuing our current course, the guerrillas may not be participating in negotiations. Instead, they may well have absolute control of the Government.

Any further assistance to El Salvador should be conditioned on the willingness of that Government to open talks with all major parties to the conflict.

In the case of Nicaragua, last December the Congress passed a law prohibiting this administration from spending any funds "for overthrowing the Government of Nicaragua or provoking a military exchange between Nicaragua and Honduras."

Yet, in direct defiance of the Congress and the American people, this administration has secretly launched an updated version of the Bay of Pigs. Not only is this current policy wrong, but this President is wrong in his interpretation of that law.

In the past 2 years, we have secretly slipped over $60 million worth of weapons, helicopters, and supplies to the anti-Sandinista forces operating in Nicaragua. Our actions will only serve to further drive that regime into the arms of the Soviets and to strengthen their grip on that country.

As a result, there is cause for real concern that we may soon have a Central American-wide conflagration on our hands. How will we respond when this CIA-sponsored invasion fails and if, in retaliation, Nicaragua strikes at the pro-American Government in Honduras? Or what action will we take if a tottering Sandinista government requests direct military assistance from Cuba? We will then face enormously difficult choices. Rather than avoiding these grim possibilities by redoubling our efforts to achieve a peaceful solution, this administration is fanning the flames. There is an ominous portent of things to come: Today we are modernizing airfields for military use in Honduras with runways designed to land U.S. tactical aircraft and thus personnel and equipment.

I believe we must rein in and extricate the CIA from these activities. I hope the House will cut off funds for covert operations in the days ahead.

Additionally, I believe the Congress must attach stringent new conditions to any aid we do authorize for El Salvador.

While the administration claims not to be seeking a military victory that cannot be won, their budget figures tell another story. The Reagan administration's military aid request for Latin America is eight times what our military expenditures were in 1980. In stark contrast, the 1984 economic aid request for that region is only slightly more than 2½ times the 1980 figures, while development assistance has remained relatively stable.

Equally disturbing are other related aspects of our foreign policy toward Latin America.

It appears we are putting all our hope in the military option.

It is unconscionable that this administration may be forfeiting to the Soviet Union the opportunity to train and educate the future leaders, administrators, and Government officials of this region.

I believe we could promote greater U.S. influence in Latin America if we would strengthen our educational and cultural exchange programs. These efforts are as vital to our national security as our military capability is—and if we had the former we might not have to use the latter.

Serious academic and technical training programs are probably the most effective ways we have to communicate with and to influence successor generations of Latin American leaders during the formative years of their careers. The exposure to our American ideas and to our American political philosophies can stimulate a lifelong interest and understanding of the United States.

A vigorous program for bringing future leaders of Latin America to the United States is clearly in our national interest. But the administration's budget priorities in this area are a national disgrace.

Where exactly does President Reagan want the future leaders of Latin America educated—at institutions like the University of New Mexico and Princeton, or at Patrice Lumumba University in Moscow? Judging by his budget figures, he has chosen the latter.

Today, there are nearly 6,000 students from Latin America going to universities in the Soviet Union. By contrast, less than 500 are being educated on Government scholarships in the United States.

In country after country in Latin America, for every student we take, the Soviet Union takes 10, or in some cases, 20.

And what is the administration's response to this education gap? Not only does the President oppose doubling the American exchange program for 1986, but, even worse, he wants to cut funding for traditional exchanges for 1984 to even lower than the meager 1983 level. This is a classic example of being pennywise and pound foolish—and we will pay the price in the years to come.

In conscience, a final word must be said. This administration, in a disturbing echo from the past, is now attempting to equate support for official policy with patriotism. Critics of our current policy have been attacked—and I quote the Secretary of State—as desiring "to see Soviet influence in El Salvador improved."

This foot-stamping is not only unfair, but dangerous. I would remind this administration that remaining silent in the face of policies that hurt the Nation is not patriotism, but moral cowardice. Criticism of our public policy does not weaken the Nation; rather, it serves to refine, correct, and strengthen our national course. If the policy is sound, it will become better understood and therefore more effective under the searchlight of honest debate; if it is not sound, then it can best be remedied by constructive examination and frank discussion.

Let us seize the chance to lift from the people of Central America and ourselves the terror of endless, brutal conflict. Let us restore a truer sense of purpose and a sounder policy, so that we can become the great and good land we can be, when we are faithful to the ideals that gave us birth.

□ 2150

REPUBLICAN REBUTTAL TO DEMOCRATIC COMMENTS ON PRESIDENT'S SPEECH ON EL SALVADOR

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Loeffler) is recognized for 60 minutes.

Mr. LOEFFLER. Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. Gekas).

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I believe it is worthy of repetition on some parts of the President's speech to endorse his call for help to Central America on a basis other than—important as it is—in making sure that democracy in El Salvador survives and succeeds. That is important to us all; but as a matter of selfish or personal or national pride, we have another reason for supporting Central American democracy in El Salvador, and that is, as the President said, to make sure that we preserve our lifelines, our economic and transported lifelines in that area.

To me, some of the most important warnings that the President issued this evening were in the context of what happened in World War II, where the Nazis were able to roam the Caribbean and distort our economic shipping and do other harm at a time when presumably we had even stronger ties to Central America than we have now.

It is on this ground, preserving our marketplaces in Central America, preserving our life lines, that the very economy that we are trying to nurture here in the United States partially depends.

So for a variety of reasons, including our own efforts to make sure that our economy continues on its upturn and to preserve our transported and economic life lines, we ought to be supporting the President's initiative on El Salvador.

Mr. LOEFFLER. Mr. Speaker, I yield to the gentleman from New York (Mr. McHugh).

Mr. McHUGH. Mr. Speaker, I thank the gentleman for yielding and I want to express my appreciation to him and to the gentleman from Arkansas for giving us this opportunity to respond to the President's speech, which hopefully is a contribution to an important bipartisan dialog.

I think, first of all, I would like to thank the President for being here tonight to give the speech, because it is important for him as the leader of our country to spell out very clearly what his policies are on this difficult issue.

I would also like to commend the President for some of the constructive elements in his speech, most particularly his expression of willingness to pursue negotiations, assuming the other side is willing and, of course, like other colleagues, I would like to commend the President for his call for bipartisanship.

It has been distressing to me as a member of the Appropriations Committee to see increasing divisiveness over issues affecting our foreign policy, issues which traditionally have not been partisan in nature.

So all these things, I think, are positive elements in the President's speech; but I also think it is important to understand why the President had to give the speech at this time. It is clear to him, I am sure, that the situation in El Salvador is deteriorating, at least in military terms, despite the fact that we have been providing increasing amounts of military and economic aid.

At the same time, while the President seeks to respond to that problem, he finds that in this country there is an erosion of support politically for this policy.

I think is is important for the President and the rest of us to understand why that is so, because if we are going to construct a bipartisan policy, which is effective in protecting our interests in Central America it is important to gain the support of the American people, something which I believe is lacking now.

The problem is not that the American people do not care about Central America or do not care about our interests there. The problem is that they have perceived the problem in El Salvador as fundamentally one of inequities which have existed for generations and that succeeding governments in El Salvador, some of which we have supported, are still engaged, at least certain elements of the government, are still engaged in indiscriminate killing of innocent people. American citizens do not want their tax dollars used in a way which associates us with that problem.

This is somethings which the President has to recognize and emphasize. He mentioned it tonight; but frankly, I would be happy if he had given more notice to that, since that is what the American people are primarily concerned about in terms of our policy there.

I think it is important in that context to recognize that there are elements of the opposition in El Salvador that are not Communist. There are people that have legitimate grievances about this problem of human rights violations and that, therefore, we should be careful not to characterize all those in opposition as Communists or Communist inspired.

It is certainly true that Communists are participating in the opposition and I, for one, would not want the opposition to win by military force, because those who are the extreme leftists, unfortunately, are those primarily with guns; but there are political leaders of the opposition who are democrats with a small "d", people like Zamora and Ungo, and I think it is terribly important, as the President acknowledged tonight, that we pursue an effort toward negotiations which will attempt at least to draw out those more moderate elements of the opposition who could perhaps come together with the more moderate elements of the Government.

Let me say here that there are moderate elements in the Salvadoran Government who we can support. I think President Magana is a moderate, reasonable man, who is trying to do the best he can to resolve some of these underlying inequities in this country and he deserves our support and encouragement; but I think the way to deal with this problem effectively, the way to gain the support of the American people, is to stand aggressively for legitimate change, to help those moderates within the Government and in the opposition who are concerned about the achieving of legitimate change and to try to isolate in the process the extremes of the right in the Salvadoran Government and the extremes of the left in the opposition.

The way to do that is with political initiative; so to me, I think the constructive part of the President's speech tonight was his commitment to seek negotiations, to seek a political dialog. There is no guarantee, if the left chooses not to participate, then they can assume the blame for the failure of negotiations; but I think the key here is that tonight's speech was a glimmer of hope that this political initiative will begin and I certainly look for concrete actions and steps which will be taken by the administration to implement that search for a political resolution, so that the moderates can be put on center stage and the extremes of the left and right can be isolated.

I think if the President follows up this speech with those types of specific actions and specific steps in a real effort, a meaningful effort to achieve a political settlement, he will have in fact the kind of bipartisan support that he has called for tonight. I, for one, will be willing to join in that bipartisan effort under those circumstances.

I thank the gentleman for yielding.

□ 2200

Mr. LOEFFLER. I now yield to the distinguished gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. I thank the gentleman from Texas for yielding and also thank him and the gentleman from Arkansas for providing time for this debate to take place this evening. I think the character of the debate has underscored the importance of the speech that took place earlier this evening from the President of the United States.

This debate I think has been a worthwhile adjunct to that speech because I think it has underscored that the Congress can indeed come together in a bipartisan way to begin the process of supporting a policy that is vital to the security interests of our own country.

I think as a part of the debate it would be well to clarify maybe a couple of the things that the President did say tonight with regard to what our policy is and will be with regard to the two key areas of which he made particular mention, one being El Salvador. I think it is important to point out, as the President pointed out in his speech, that our policy toward El Salvador will be "the democratic political parties and factions in El Salvador are coming together around the common goal of seeking a political solution to their country's problems. New national elections will be held this year and they will be open to all political parties. The government has invited the guerrillas to participate in the election and is preparing an amnesty law. The people of El Salvador are earning their freedom and they deserve our moral and material support to protect it."

In other words, that is what the policy is, that is what the policy is that it seems to me we can unite around, based upon the statements that some of the previous speakers have made.

Also the President talked about Nicaragua and the kind of problems we have in Nicaragua. The problem with Nicaragua is not that they might at some point reach out to the Cuban Government. The fact is that they have already reached out to the Cuban Government and the President made that very clear in his speech tonight, too.

The President said:

> Nicaragua's new army numbers 25,000 men supported by a militia of 50,000. It is the largest army in Central America supplemented by 2,000 Cuban military and security advisers. It is equipped with the most modern weapons, dozens of Soviet-made tanks, 800 Soviet block trucks, Soviet 152-mm howitzers, 100 antiaircraft guns, plus planes and helicopters. There are additional thousands of civilian advisers from Cuba, the Soviet Union, East Germany, Libya, and the Palestine Liberation Organization."

In other words, our fear of what is taking place in Nicaragua is that we have already had a Marxist dictatorship formed there which is being supported by Cuba and the Soviet bloc.

I think it is also well to point out, as the gentleman from New York has pointed out, with regard to EL Salvador, that we should be very careful about how we characterize the opposition to the Sandinistas in Nicaragua because it has been often said that the opposition there is all pro Somoza. The fact is that many of the opposition in Nicaragua are democratic leaders, moderate leaders, who want democracy for their nation. They are not people who want to go back to the days of Somoza but, rather, a people who want their nation to be freed from all dictators, whether they come from the right or the left.

I thank the gentleman for giving me this time and again thank him for his contribution to this debate.

Mr. LOEFFLER. I thank the distinguished gentleman from Pennsylvania.

At this time I yield to another distinguished gentleman from Pennsylvania (Mr. RITTER).

Mr. RITTER. I thank the gentleman for yielding.

One of the areas which has not been discussed but relates to what the gentleman from New York (Mr. MCHUGH) was talking about when he talked about whatever we do here is going to demand the support of the American people, one of the great costs perhaps in the minds of the American people, the greatest cost could be the flow of refugees which would exist a Central America which was dominated by totalitarian regimes.

I think we have yet to feel even the beginning of the outflow of refugees coming from Nicaragua, although I would suspect that in everyone's congressional district there are Nicaraguans who opposed the Somoza regime and who were a part, or at least supported the Sandinista revolution and who today have left the country of Nicaragua to seek refuge elsewhere because of the direction the Sandinista government has gone.

I think the people may still be watching the direction of the Nicaraguan Government and the future of Nicaragua, but when that becomes firmly established in the minds of the Nicaraguan people we may well see hundreds of thousands of Nicaraguans who could not vote with their voice but who voted with their feet coming up through Central America and eventually into the United States. People have estimated some 10 million to 20 million refugees putting pressure on American borders in the event of a destabilized, potentially communized Central America.

Again, this kind of a problem has no roots in partisanship, and the kind of bipartisan attitude shown by many of my colleagues on the other side of the aisle, and ending up with I think the eloquent statement of the gentleman from New York (Mr. MCHUGH), who has I think shown interest and expertise in the Central American area, I think with that spirit of bipartisanship we can solve these problems.

I thank both the gentleman from Arkansas and the gentleman from Texas for holding this very important special order.

Mr. LOEFFLER. I thank the gentleman from Pennsylvania.

Mr. Speaker, I now yield to the distinguished majority chief deputy whip, my counterpart on the opposite side of the aisle, the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. I thank the gentleman for yielding and I hope that the debate that we have observed this evening represents a preview of coming attractions for the kind of debate we can have in the Congress on matters of national concern to deal with the issues before this Congress forthrightly and currently in an effort to resolve the problems that face our people.

It was just last week when we rejoiced by observing a President who offered to negotiate a long-term grain deal with the Soviet Union, thereby changing fundamentally his foreign policy toward the Soviet Union. Tonight we see that same President come before us and call for a bipartisan solution, a bipartisan political solution to the problems in Central America.

We have just heard several Members of this Congress recognize the importance of the issues raised by the President this evening. It is apparent from their comments that the problems occurring in Central America are not problems that have suddenly arrived. The political situation in Latin America, for those of us who have observed it closely, and the cause of freedom have been in ferment for more than a decade.

The Congress during several administrations has continued its effort to develop an appropriate bipartisan foreign policy not only for the Central American region, but, indeed, for all the countries of the world. Therefore, the President's call this evening for a bipartisan solution to the problems in Latin America is welcomed by all of us.

The Soviets and the Cubans have the prescription for overthrow, but we among the democracies of the Western Hemisphere, the freedom-loving people, have the prescription for progress. We know how to work in concert with our sister nations in this Western Hemisphere to build and develop institutions that serve our economies and respond to the hopes of all Americans.

We must join hands with all freedom-loving peoples in the Western Hemisphere, with all of our brothers and sisters, be they from Central America or South America or North America, we are all Americans living in one hemisphere, to formulate a policy not merely to deal with change but to provide for that change through practical demonstrations in democracy and hemispheric cooperation.

Mr. Speaker, in the days and weeks to come we will continue to give our most serious attention to the problems of promoting and defending freedom in Central America.

I thank the gentleman for yielding.

☐ 2210

Mr. LOEFFLER. Mr. Speaker, in conclusion this evening as we bring to a close two special orders, that were brought about as a result of the distinguished chief deputy whip of the majority party, I wish to state that I very strongly agree with the President that we must prevent a crisis in Central America, for such a crisis would provide us very serious regional as well as global implications.

And while most of the debate and the comments throughout this hour-plus, give or take, have been centered primarily upon the responsibilities of the United States, the hopes and aspirations that we have for our Salvadoran friends, the criticism that we levy toward a regime that does not seek democracy in Nicaragua, I think it is also important to note that as we move ahead in the days that lie before us, considering what the President has laid before us in the Congress of the United States, that equally important in Central America are those who seek freedom and democracy, either existing or improved fashion, in Panama, Honduras, Costa Rica, Guatamala, Belize, and in Mexico.

I believe very strongly that the domino theory is not mere theory. As a nation, in fact as a leader of the free world the United States cannot stand idly by and allow the dominos to tumble. We can prevent this. Destiny is now in our hands in the Halls of Congress, within the powers of the executive branch and certainly within the desires of the American people.

I am hopeful that the mood and temperament of this debate was most considerate, most determined, most temperate in its approach, most far-reaching in its thoughts, does in fact manifest that we, as a congressional institution and the executive branch working with the American people will not lose sight of what we have said too often and that is now our challenge is to respond in a responsible, bipartisan effort, not only Congress, not only the President, or the executive branch, but the entire Nation.

I thank the Speaker.

FEDERAL-STATE PARTNERSHIP NEEDED FOR PRISON CONSTRUCTION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. PORTER) is recognized for 5 minutes.

● **Mr. PORTER.** Mr. Speaker, I recently joined my colleague Congressman HAROLD SAWYER in introducing the Correctional Facilities Act of 1983. This legislation addresses the serious need in our criminal justice system for prison construction and modernization.

This bill creates a partnership between the Federal Government and the States to improve existing prison facilities and build new ones. Congress will allocate $500 million annually, from 1983 to 1987, to the States and territories. Through a formula based on State population, criminal population, and corrections expenditures, States will be allocated funds. The funds will be used to subsidize 75 percent of its expenditures on criminal justice facility construction. States may use 10 percent of the available funds to improve existing corrections facilities.

The dangerously inadequate condition of our Nation's prisons and jails clearly warrants this Federal initiative. Prison populations across the country are growing and as a result prisons are severely overcrowded. Correctional facilities have had to release prisoners early, double-bunk and "hot bed" prisoners, or force them to sleep on the floor, all of which has led to a proliferation of litigation on prison conditions.

The cost per cell of building prisons as well as the cost of operating them has risen dramatically. States have tried alternatives to new construction including renovating old facilities and converting surplus Federal properties into correctional facilities, but their capacity to handle the problem in most cases has been substantially exhausted.

Since prisons are and will continue to play a necessary role in our criminal justice system, they should be as humane as possible. Prisoner's rights should be carefully protected, and facilities, including living arrangements, health and sanitation levels, and safety should be improved. Many experts believe that the first step in diverting an individual from a life of crime is making him believe he has been fairly treated. Thus, it is essential that we do our utmost to maintain livable conditions in our prisons.

This legislative proposal will direct significant Federal financial assistance which will aid the States in their efforts to reduce epidemic overcrowding and improve substandard conditions in their prisons and jails.

Further, this bill also authorizes the donation of appropriate Federal properties to the States for use as criminal justice facilities.

There is no Federal support for local public work projects that has any greater implications for promoting public safety than the renovation of our prisons and jails to bring them into compliance with court mandated standards.

This proposal offers a practical approach to the prison problem. It does not offer a panacea for all the woes of our criminal justice and penal systems. However, it does acknowledge that the Federal Government has a responsibility to the States as a result of constitutional issues raised and the Federal court-ordered mandates imposed. This bill would facilitate, rather than preempt, the actions of the States in reacting to the current crisis.

I urge my colleagues' support.●

FINANCIAL DISCLOSURE STATEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes.

● Mr. KASTENMEIER. Mr. Speaker, although Public Law 95-521, the Ethics in Government Act of 1978, requires public financial disclosure reporting, nonetheless, I am continuing my practice, started in 1963, of making a report in the CONGRESSIONAL RECORD on my financial condition. This disclosure, through its more precise reporting, differs in important respects from the report which we are required by law and by House rules to file.

My report covers the calendar year 1982 and also includes the amount of Federal, State of Wisconsin, and local real estate taxes paid in 1982.

Statement of financial condition—December 31, 1982

Checking account with the Sergeant at Arms (thru Dec. 30), House of Representatives	$128.40
Cash	1.43
Securities (stocks, bonds, etc.)	(1)
Residential real estate:	
Arlington house and lot (current assessment (1983))	191,800.00
Less mortgage	12,576.00
Equity	179,224.00
Sun Prairie house and lot	29,000.00
Improvements	1,766.00
Back lot	1,200.00
Sewer and water improvements	4,789.00
Total	36,755.00
Less mortgage	13,565.00
Less unpaid sewer and water assessments	1,010.00
Total	14,575.00
Equity	22,180.00
Household goods and miscellaneous personalty	8,000.00
Miscellaneous assets, deposits, with the U.S. civil service retirement fund through December 31, 1982, available only in accordance with applicable laws and regulations	73,999.07
Additional retirement fund deposit	1,130.00
Cash value	(1)
Cash surrender value of life insurance:	
On the life of Robert W. Kastenmeier	(1)
On the life of Dorothy C. Kastenmeier	544.00
Deposit, Donaldson Run	400.00
Automobiles:	
1976 Oldsmobile	600.00
1978 Mercury	2,250.00
Total assets	213,327.83
Less personal notes. National Bank of Washington	1,000.00
Net Worth	212,327.83
Taxes paid in 1982:	
Federal income tax	12,392.69
Wisconsin income tax	3,922.51
Federal employers tax	101.61
Arlington County real estate tax	1,976.66
Sun Prairie real estate taxes, including (1981)	1,927.73
Assessments (1982)	1,799.64
State sales taxes and duty	428.00
Total taxes	22,550.84
Less Federal refund	3,902.00
Net taxes	18,648.84
1982 Income (in addition to congressional salary)	(1)
Gross rent, Sun Prairie house	3,690.00
Honoraria (3)	4,000.00
Total	7,690.00
1982 Separate income of my wife, Dorothy C. Kastenmeier:	
Rental income	575.00
Fredonia State Bank, dividends	260.00
Wages	100.00
Total	935.00

[1] None.●

ELIGIBILITY FOR ELECTION OF SPOUSAL IRA EXPANDED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut (Mrs. KENNELLY) is recognized for 5 minutes.

● Mrs. KENNELLY. Mr. Speaker, the legislation I am introducing today will assist those couples whose second earner has only a small amount of compensation by allowing any couple who meets the other qualifications to elect a spousal Individual Retirement Account (IRA) regardless of the compensation level of the second spouse.

The Economic Recovery Tax Act of 1981 increased the annual deduction limit for individual retirement accounts or annuities (IRA's) to the lesser of $2,000 or 100 percent of compensation. The 1981 act also provided that an individual is allowed a deduction for contributions to an IRA for the benefit of the individual's spouse who has not attained age 70½ if, first, the spouse has no compensation for the year and, second, the couple files a joint income tax return for the year. Under this provision, deductible contributions are increased to $2,250—or 100 percent of compensation includible in gross income, if less. The annual contributions may be divided as the spouses choose, so long as the contribution for neither spouse exceeds $2,000 and the total contributions for both spouses do not exceed $2,250—or 100 percent of compensation, if less.

Since the $2,250 spousal IRA is limited to the situation where one spouse has no compensation for the year, those couples where the second spouse earns a very low amount of compensation are unable to benefit from the increased deduction. In addition, other types of compensation, such as a fee for services as a juror can cause loss of eligibility for a spousal IRA. Although the spouse who has little compensation for the year can open an IRA in his or her own name, often such an account is impractical. Many financial institutions will not accept a small contribution to first open an IRA. Consequently, a spouse with less than $250 or $500 of compensation may not be able to establish a separate IRA. My bill merely states that a spouse can elect a spousal IRA without regard to the amount of earnings he or she has. It does not effect in any way the current limits on contributions to an IRA or a spousal IRA.

The IRA was designed to help the large number of the country's workers, including many who are covered by employer-sponsored retirement plans, who face the prospect of retiring without the resources needed to provide adequate retirement income levels. This legislation will correct an inequity and will help individuals in providing their own retirement income security.

Further, I feel sure the committee, in expanding the spousal IRA, did not intend to penalize those spouses having very low earnings. My bill will merely insure that all spouses can benefit from the spousal IRA, including those having minimal earnings.●

IRRESPONSIBLE NEWS RELEASE ISSUED BY OPM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. Ford) is recognized for 10 minutes.

● Mr. FORD of Michigan. Mr. Speaker, the Office of Personnel Management last month issued one of the most reckless and irresponsible news releases I have ever seen.

It dealt with the issue of civil service retirement and quoted OPM Director Donald Devine as saying:

> Total CSRS spending in 1982 was $31.4 billion. * * * In other words, CSRS spent more last year on its approximately 1.9 million beneficiaries than was spent through basic welfare assistance for more than 25 million needy Americans.

This statement is totally false. And in a recent appearance before the Committee on Post Office and Civil Service the Director conceded its inaccuracy. Yet the record has not been corrected.

What was Mr. Devine's explanation? "Well, the staff unfortunately confused income with outgo, but other than that, the numbers are basically right," he told the committee.

Basically right? Hardly. The Director was off by more than $12 billion.

The President's budget states that actual 1982 payments to civil service retirees and survivors were $18.8 billion. This certainly is not insignificant. Any retirement system which covers over 4.5 million employees and annuitants is bound to be expensive. But the payments were $12.6 billion less than the Director claimed.

The Director, a political appointee, is spearheading the administration's efforts to cut Federal retirement programs to reduce, in part, the tremendous deficits its economic program has brought about. This effort has sunk to the level of releasing false and misleading information in attempts to convince the public the CSRS is an overly generous system on the verge of bankruptcy. The facts do not support this conclusion.

The average annuity paid to retirees and survivors in 1982 was $855 per month. When you consider that Federal employment does not qualify an individual for social security, this is far from extravagant. The average age of employees taking optional retirement over the last 10 years was 61.1. A 1979 study of private sector retirements found the average age to be 61.8. And while much has been said about Federal workers retiring early, as of September 30, 1982, 252,000 employees—about one-tenth of the work force—were eligible to retire but continued to work. Most were over 60 years of age.

The fund is hardly going bankrupt. Employees pay 7 percent of their gross salaries into the fund. In 1982, these contributions, combined with matching employer contributions, interest, and payments from the Postal Service amounted to more than $17 billion. The fund balance—which by law must be invested in U.S. Government bonds—is projected to grow from $96 billion to more than $124 billion in the next 2 years.

Finally, contrary to popular belief, the Federal white-collar compensation package is no longer more generous than that typically offered in the private sector. Federal pay and benefits have been cut by more than $17.6 billion since 1977. As a result, studies completed this year by both Government and private sector experts confirm that Federal white-collar and private sector benefits packages are now comparable.●

A TRIBUTE TO REV. SEBASTIAN MIKLAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. de la Garza) is recognized for 5 minutes.

● Mr. de la GARZA. Mr. Speaker, the Reverend Sebastian Miklas, after 34 years as director of Catholic University's Adult Education Division in Washington, is retiring to a well deserved rest. There could be no more generous or humane individual than Father Sebastian, as he is affectionately known by all. I will remember him especially well. He asked me to speak to adult education classes which he taught, and that was privilege enough—but he said I was a particularly welcomed guest lecturer because my 15th district had a city named Sebastian. On April 20, the Washington Post featured an article on Sebastian Miklas that I would like to submit, and to add my own personal testimony to this great man's life.

The article follows:

> Father Sebastian Miklas needn't climb four steep flights of stairs to reach his spartan attic room that is cold in winter and stifling in summer, but he prefers it that way.
>
> And although his many admirers would give him anything, his main possessions are a few books, an old manual typewriter and an ancient green Datsun that is more rust than metal these days.
>
> Counselor, confessor and confidant to the well-connected and the powerless alike, Father Sebastian, a Franciscan monk of the Capuchin order, is considered by many to be a truly holy man, a special priest who has literally given the shirt off his back in nearly 50 years of working to aid the needy.
>
> Earlier this month, the 70-year-old friar from Wheeling, W. Va., began his final session of teaching at Catholic University where he has been director of adult education for 34 years. Come June, his modest offices in the basement of O'Boyle Hall on the Brookland campus will be vacant. Although officially retired last Dec. 31, he is teaching three courses this spring and working in the office each day.
>
> A firm handshake and ramrod-straight posture reflect the life of rigor. The gentle voice and laughing eyes disarm an anxious visitor. His self-deprecating humor would test his idol, author G.K. Chesterton, but the jokes are funny without sharp barbs. He is perhaps Catholic University's second-best-known personality after the Rev. Gilbert Hartke of drama department fame, but he remains underwhelmed by his own considerable achievements.
>
> Although articulate and open on other subjects, he declined to be interviewed about his career. But his longtime assistant Celka Prescott commented generously with his tacit approval.
>
> Father Sebastian is well-known as an economics professor, author, speaker and early local television personality who came to be know as "God's Television Salesman," but his most popular work has been in adult education.
>
> The Division of Adult Education at Catholic, which he founded in 1947, has provided instruction to nearly 125,000 people in courses ranging from remedial reading, grammar and mathematics to such standard noncredit fare as foreign language instruction, art, theology and philosophy.
>
> Originally intended to teach Catholics more about their religion, the adult education division was the first such noncredit program in Washington and one of the first in the nation.
>
> Adult education departments have become increasingly attractive to administrators of financially strapped universities as poten-

tially lucrative profit centers, but Father Sebastian always operates on a break-even premise. Courses at some local colleges may cost nearly $100 but remain less than $50 at Catholic.

Father Sebastian has been able to keep prices low by relying on low overhead, which means frequent 18-hour days for him and acting director Prescott and the help of more than 50 volunteers, including many former students who stuff envelopes, address brochures and deliver them.

"Father has never been a bossy type of boss. There's nothing that he'll ask anyone to do that he won't do himself," said Prescott, his assistant since the program's inception. "He's so easy to get along with. It's always been 'Let's try this,' never 'Do it my way.' People are just naturally attracted to him and his work. That's why the volunteers come and help out because of Father."

Father Sebastian is a former semipro baseball catcher who turned down a major league contract to enter the seminary.

His absence and that of his volunteer corps may mean higher operating costs for Catholic next year.

"By being able to utilize free labor from his dedicated volunteers, Father Sebastian was able to operate with a minimum of paid staff," said Spencer Cosmos, dean of Catholic's University College, which oversees adult education. "It keeps prices low and affordable to anyone in the community."

Cosmos said Catholic "has always had a dual relationship with the community because it is the national university of the [Catholic] church with thousands of priests and nuns passing through each summer, most without any community ties, but Father Sebastian has done as much as anyone for C.U."

Many question whether the university will be able to reach the same student population served by Father Sebastian and follow the lead of other area schools next year when adult education is assimilated into the Division of Continuing Education. Some fear the days of low-cost courses are over at the university, but Cosmos is not among them.

"Many of the things we've done in continuing ed are based upon Father Sebastian's successes and contacts," Cosmos said. "Everyone we seem to meet at presentations and conferences knows and likes him.

"Some of our programs are profit motivated, but the chief goal of adult education here has always been community service. That's the way it should be and that's the way I hope to keep it."●

THE FRANKING PRIVILEGE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 10 minutes.

● Mr. UDALL. Mr. Speaker, in my capacity as Chairman of the Commission on Congressional Mailing Standards, I take this time to give the House a bit of background on the Commission's pending proposal to amend its regulations governing use of the franking privilege. Let me begin with a short history of the privilege itself.

The history of the frank dates back to the English House of Commons in the 17th century.

On November 8, 1775, the American Continental Congress authorized its Members to use the franking privilege as a means of keeping their constituents fully informed of their actions. The First Congress of the United States enacted a franking law in 1789. Almost immediately, public debate erupted over whether the franking privilege gave incumbent Members of Congress an unfair advantage over their political opponents. In a 1791 congressional debate over the continuance of the franking privilege, the justification for it was summarized succinctly:

> The privilege of franking was granted to the members, not as a personal advantage, but as a benefit to their constituents, who, by means of it, derive information from those who are best qualified to give it, as they are the persons chosen to administer the General Government.

The franking privilege remained a necessary and valuable tool of our representative government for nearly 200 years—although, as we all know, the road was not always as smooth or the motivation as pure as our forefathers might have hoped. In fact, at one point, abuses of the frank became so blatant that the Congress itself repealed the authorization statute and there was no franking privilege for a brief time during the late 19th century. In 1895, Congress reestablished the privilege with the proviso that the matter so mailed had to pertain to "official business."

By the early 1970's new problems and controversies had blossomed and it was clear that most of these could be boiled down and traced to two basic flaws in the 1895 franking law. First, the absence of standards by which to determine whether mail should be frankable—almost anything was frankable as long as the mailing Member deemed it official business. This presented real problems—for example, one Member decided it was official business to frank his lawn furniture to his vacation retreat. Another franked campaign brochures to each address in his district right before election day. Guidance on the meaning of this key phrase was provided by the Post Office Department, which issued advisory opinions upon request. In 1968, however, the Department ceased giving opinions to members of the public, and in 1971 it relinquished entirely its responsibilities in this area.

Private litigants then asked Federal courts to assume these responsibilities. Individuals running against incumbents in the 1972 congressional elections filed lawsuits in district courts in four different circuits. They claimed that the incumbents were sending mail under the frank that was not official business. Disparate decisions resulted. Members literally were risking being hauled into court whenever they used their franks. The second flaw in the 1895 law flowed from the first: The absence of any one authority with clear responsibility for regulating use of the frank—responsibility had been claimed by and spread among various entities within the legislative, executive, and judicial branches of Government.

By 1973 it was clear to me—I was then Chairman of the main postal subcommittee—that something had to be done—not just to straighten out the chaos, but to save the franking privilege itself—which was in very real danger of extinction. And so we moved decisively to remedy the fundamental problems. The act of December 18, 1973, was the first major revision of the franking law since the 18th century. It established clear principles of frankability, and specifically prohibited the franking of certain types of mail matter. Just as importantly, the 1973 act had as its foundation the principle of self-regulation. It established the House Commission on Congressional Mailing Standards and authorized it not only to hear and decide cases concerning abuse of the franking privilege, but also to issue regulations and to render day-to-day advice and instruction to Members and their staffs to help prevent problems.

The Commission is a bipartisan body of six Members (three from each party), all of whom are appointed by the Speaker, who also designates the Chairman. We are funded by, but independent from, the Post Office and Civil Service Committee. I am the only Chairman the Commission has ever had—at least up to this point.

The act of 1973 has been an enormous success. In its early years, the Franking Commission—as it has come to be called—received many more complaints about abuse of the frank than it has received in recent years. Individual Members are no longer in danger of judicial sanctions. I can recall only one lawsuit against a Member in recent years—and that was quickly dismissed by the court for lack of jurisdiction. I believe this shows the law is working. I also believe that the quality of Members' mailings—especially newsletters—has improved. The key has been to minimize as much as possible the personal and political benefits of the frank to Members—although this can never be done totally—and maximize the public benefit of keeping our constituents informed on what we are doing.

The principle of self-regulation is working. And an important aspect of self-regulation is the constant reach for ways to refine and improve, which brings us to the task at hand now—the proposed revisions of the Commission's regulations.

Twice since 1973 we have moved to further refine and strengthen our self-regulation. In 1977, we amended the House rules to limit the number of postal patron mailings to six per

Member per year, to bar mass mailings during the 60-day preelection period and to require all Members to bring their proposed postal patron mailings to the Commission for a premailing advisory opinion. In 1981, we amended the law itself to codify the provisions of these rules and make other improvements, including strengthening the authority of the Commission.

Our actions in 1977 and 1981 were guided by the same concern which motivated us in 1973—to perserve the franking privilege by making sure it is used only for what it is supposed to be used for: Keeping the public informed of our official activities.

Our current proposal to modify our regulations has the same foundation. We feel the need to tighten up for three basic reasons.

First, the Commission has been involved as a defendant in a lawsuit brought by Common Cause seeking to have the franking statute declared unconstitutional because it gives incumbents an unfair advantage over others who seek office. After 7 years of litigation, we won the case last fall at the district court level. The court's opinion indicates that the key to our victory was our record of good faith, self-policing activity since 1973—especially our major actions of 1977 and 1981. The court concluded its opinion, though, by warning us that it would be watching us very closely in the future:

> We do not suggest that the franking privilege may never be shown to create such an imbalance in the campaign process as to constitute a cognizable interference with important rights. We hold only that the level of impact has not been shown to be sufficient in this case for us to assume the responsibility of redrafting a statute or promulgating regulations to govern the congressional use of the frank.

Common Cause has appealed the decision to the Supreme Court. Motions have been filed by all parties and we are awaiting word on whether the Court will take the case.

Second, technology—and the ingenuity of Members and their staffs—have caught up with us. The proliferation of computers and word processors and direct mail consultants have rendered some of our existing restrictions meaningless. For example, our limit of six on postal patron mailings is not much good anymore for keeping total franked mail volume at reasonable levels when Members have access to technology which permits them to mail millions of individually addressed pieces. The mass mailing cutoff is meaningless as a way of minimizing preelection advantage when Members can send assorted mailings of 499 pieces—a "mass mailing" is 500 pieces—to different lists right up to election day, or use word processors to change letters just enough to make them not parts of mass mailings. We need to conform our regulations to the new reality of the high-technology age. We also need to close the nontechnological loopholes which our experience has uncovered—like letting Members' names appear in newsletter headlines so large that the actual report to the constituents is dwarfed, or permitting Members to lavish themselves with backdoor self-praise by filling newsletters with stories and photos about awards they have received from different groups. Third, finally, we need to get a handle on the shyrocketing costs of franked mailings. Sometimes we forget who's paying our postage—the taxpayers. Franked mail volume is always higher, for some reason, in even-numbered years, so let's look at volumes and costs over the past several such years.

Year	Number of pieces	Cost
1978	447,925,000	$47,053,000
1980	511,869,000	62,603,000
1982	772,696,000	99,309,000
1984 (conservative USPS projection at current rates)	839,822,000	104,077,000

As mailing technology advances, and more and more Members use it more and more, the costs will escalate more and more rapidly. The key is to get a handle on the new problems of high individually addressed volume.

For all of these reasons, we are suggesting the regulation revisions of which you are well aware. We are not trying to sneak anything by anybody. We are all in this self-policing business together. The Commission has written to every House Member asking for guidance. We are extending our comment deadline to May 13, and we are holding a special, off-the-record, information Commission meeting on May 3 to hear Members' verbal views.

To say that the reaction of some Members so far has been one of concern would be putting it very mildly. But remember—the Commission has an extraordinarily tough job to do and is trying to do it the best it can. To those Members who offer nothing but criticism, I say, "How about some constructive alternatives to deal with these very real problems?" For example, to get at the problem of individually addressed mailings during cutoff periods, we propose that no self-initiated mailings be permitted, regardless of form of address. If you do not like that idea, what is your alternative? To meet the new reality that the postal patron limit of six is becoming meaningless because Members are now going to individually addressed mailings, we propose a limit of eight districtwide mailings per year, regardless of form of address. What is your alternative to stem rising costs and keep the incumbent's mailing advantage within reasonable limits? We are trying to stop newsletters from looking like campaign flyers by limiting things like size and ink colors. What is your solution?

I say these things in the spirit of friendship. We are all in this together. It is our franking privilege that is at stake.●

THE 250th ANNIVERSARY OF THE BIRTH OF JOHN JAMISON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Stratton) is recognized for 5 minutes.

● Mr. STRATTON. Mr. Speaker, it is my honor to bring to the attention of my colleagues the 250th anniversary celebration last fall of the birth of John Jamison whose very extensive family live today not only in my congressional district but are also scattered throughout New York State and New Jersey.

John Jamison was born on September 29, 1732, in County Newry, Ireland. Family members have traced his life and discovered that he left Ireland in 1765 and came to Perth Amboy, N.J.

During the Revolutionary War, Mr. Jamison served in the Monmouth County Militia. Subsequent to this service he lived a full life, dying at the age of 100 in 1832. He is buried in the Maple Avenue Cemetery in Fultonville, N.Y.

There are more than five generations of Jamisons descended from John Jamison, and I know that the present Jamison family is extremely proud of their ancestor. I am honored to be able to include this brief family history of the John Jamison family in the Congressional Record.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Taylor (at the request of Mr. Michel), on account of death in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Hiler) to revise and extend their remarks and include extraneous material:)

Mr. Loeffler, for 60 minutes, today.

Mr. Porter, for 5 minutes, today.

Mr. Burton, for 10 minutes, today.

Mr. Nielson of Utah, for 5 minutes, today.

Mr. McEwen, for 30 minutes, today.

(The following Members (at the request of Mr. Penny) to revise and extend their remarks and include extraneous material:)

Mr. Kastenmeier, for 5 minutes, today.

Mrs. Kennelly, for 5 minutes, today.

Mr. Udall, for 10 minutes, today.

Mr. Ford of Michigan, for 10 minutes, today.

Mr. de la Garza, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

(The following Members (at the request of Mr. Alexander) to revise and extend their remarks and include extraneous material:)

Mr. Stratton, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Dingell, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,449.

(The following Members (at the request of Mr. Hiler) and to include extraneous matter:)

Mr. Madigan in two instances.
Mr. Frenzel.
Mr. Goodling in three instances.
Mr. Green.
Mr. Michel in two instances.
Mr. Ritter in two instances.
Mr. Fields.
Mr. Porter in two instances.
Mr. Hunter.
Mr. Martin of North Carolina in four instances.
Mr. Paul.
Mr. Courter in two instances.
Mr. Conable.
Mr. Erlenborn.
Mr. Dannemeyer.
Mr. Gradison.
Mr. Whitehurst in two instances.
Mr. McEwen in three instances.
Mr. Lagomarsino in two instances.
Mr. Moorhead.
Mr. Gilman.
Mr. O'Brien.
Mr. Zschau.
Mr. Broyhill.
Mr. Denny Smith.
Mr. Gunderson.
Mr. Duncan.
Mr. Schulze.
Mr. Nielson of Utah.
Mr. Smith of New Jersey.
Mr. Stump.

(The following Members (at the request of Mr. Penny) and to include extraneous matter:)

Mrs. Kennelly in two instances.
Mr. Roe in two instances.
Mr. Udall.
Mr. Eckart.
Mr. Addabbo.
Mr. Guarini.
Mr. Wheat.
Mr. Ratchford.
Mr. Richardson.
Mr. Pepper.
Mr. Gray.
Mr. Solarz in three instances.
Mr. Vento.
Mr. Rodino.
Mr. Stark.
Mr. AuCoin.
Mr. McDonald.
Mr. English.
Mr. Murtha.
Mr. Edgar.
Mr. Valentine.
Mr. Alexander.
Mr. Levitas.
Mr. Hall of Ohio.
Mr. Ford of Tennessee.
Mr. Won Pat.
Mr. Walgren.
Mr. Mrazek.
Mr. Hubbard in two instances.
Mr. Pease.
Mrs. Byron.

ADJOURNMENT

Mr. ALEXANDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 14 minutes p.m.) the House adjourned until tomorrow, Thursday, April 28, 1983, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1009. A letter from the Director, Office of Management and Budget, transmitting a report on funds to be made available for projects and activities in civil jurisdictions or States with high unemployment or labor surplus areas that cannot be rapidly and efficiently utilized as specified in the targeting provisions of the jobs bill; pursuant to section 101(d) of Public Law 98-8; to the Committee on Appropriations.

1010. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to eliminate general or flag-officer grade requirements from certain statutory positions, and for other purposes; to the Committee on Armed Services.

1011. A letter from the Secretary of Education, transmitting proposed final funding priorities for research and training centers for the National Institute of Handicapped Research for fiscal year 1983, pursuant to section 431(d) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

1012. A letter from the Secretary of Education, transmitting a report on allocation of work-years under the Department's annual appropriation act among the organizational units or components of the Department, for fiscal year 1983, pursuant to section 403(a)(2) of Public Law 96-88; to the Committee on Education and Labor.

1013. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the President's determination (No. 83-6) to furnish defense services to the Government of Algeria, pursuant to section 3(a)(1) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1014. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed license for the export of defense articles or services sold commercially under a contract Australia (Transmittal No. MC-10-82), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1015. A letter from the Chairman, Federal Reserve System, transmitting the annual report of the Federal Open Market Committee of the Federal Reserve System under the Freedom of Information Act during calendar year 1982, pursuant to 5 U.S.C. 552(a)(o); to the Committee on Government Operations.

1016. A letter from the Secretary of Transportation, transmitting the ninth annual highway safety stewardship report, pursuant to section 203(e) of the Highway Safety Act of 1973 and sections 151(g) and 152(g) of title 23, United States Code; to the Committee on Public Works and Transportation.

1017. A letter from the Director, National Institute of Corrections, Department of Justice, transmitting the seventh annual report of the Institute covering fiscal year 1982, pursuant to 18 U.S.C. 4253(b); to the Committee on the Judiciary.

1018. A letter from the Secretary of Transportation, transmitting the quarterly report on Urban Mass Transportation Administration obligations by State and activity as of December 31, 1982, pursuant to section 4(h)(1) of the Urban Mass Transportation Act, as amended; to the Committee on Public Works and Transportation.

1019. A letter from the Deputy Administrator of General Services, transmitting a revised prospectus for alterations at the F. Edward Hébert Federal Building, New Orleans, La., and a design authorization request seeking approval to initiate design of nine projects in 1984 with construction planned for fiscal year 1985, pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

1020. A letter from the Deputy Administrator of General Services, transmitting lease prospectuses at 34 locations, pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

1021. A letter from the Acting Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to authorize appropriations for environmental research, development, and demonstrations for fiscal years 1984 and 1985; to the Committee on Science and Technology.

1022. A letter from the Comptroller General of the United States, transmitting a report on the Small Business Administration's 7(a) loan guarantee program (GAO/RCED-83-95; April 25, 1983); jointly, to the Committees on Government Operations and Small Business.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. NEAL:

H.R. 2756. A bill to amend the Bretton Woods Agreements Act to authorize an increase in the U.S. quota in the International Monetary Fund, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. APPLEGATE (by request):

H.R. 2757. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; to the Committee on Veterans' Affairs.

H.R. 2758. A bill to amend title 38, United States Code, to clarify the authority of the Administrator to permit a Federal fiduciary, administratively appointed by the Veterans' Administration, to deduct from the beneficiary's estate a modest commission for fiduciary services; to the Committee on Veterans' Affairs.

By Mr. ARCHER:

H.R. 2759. A bill to delay the effective date of the provisions of revenue ruling 83-3 which relate to the deductibility of certain expenses paid by ministers; to the Committee on Ways and Means.

By Mr. BOLAND (for himself and Mr. Zablocki):

H.R. 2760. A bill to amend the Intelligence Authorization Act for fiscal year 1983 to prohibit U.S. support for military or paramilitary operations in Nicaragua and to authorize assistance, to be openly provided to governments of countries in Central America, to interdict the supply of military equipment from Nicaragua and Cuba to individuals, groups, organizations, or movements seeking to overthrow governments of countries in Central America; jointly, to the Permanent Select Committee on Intelligence and the Committee on Foreign Affairs.

By Mr. BONKER (for himself, Mr. Mica, Mr. Barnes, Mr. Feighan, Ms. Snowe, Mr. Gejdenson, Mr. Wolpe, Mr. Berman, Mr. Bereuter, and Mr. Zschau):

H.R. 2761. A bill to amend the authorities contained in the Export Administration Act of 1979, and for other purposes; jointly, to the Committees on Foreign Affairs and Rules.

By Mrs. BOXER (for herself, Mr. Waxman, and Mr. Weiss):

H.R. 2762. A bill to appropriate funds for epidemiological and medical research on acquired immune disorders and related opportunistic infections; to the Committee on Appropriations.

H.R. 2763. A bill to appropriate funds for basic scientific and medical research on acquired immune disorders and related opportunistic infections; to the Committee on Appropriations.

By Mr. BROYHILL (by request):

H.R. 2764. A bill to amend the Rail Passenger Service Act to authorize additional appropriations for the National Railroad Passenger Corporation, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ENGLISH:

H.R. 2765. A bill to require an acreage reduction program for each of the 1984 and 1985 crops of wheat and feed grains if the carryover from the preceding crop is excessive; to the Committee on Agriculture.

By Mr. ERLENBORN:

H.R. 2766. A bill to amend the Contract Work Hours and Safety Standards Act and the Walsh-Healey Act to permit employees, to whom such acts apply, to work any combination of hours in a 40-hour workweek; jointly, to the Committees on Education and Labor and the Judiciary.

By Mr. FLORIO:

H.R. 2767. A bill to give priority to claims of governmental units pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and the Solid Waste Disposal Act, for costs incurred to respond to hazards created by release of hazardous substances, except for claims arising from releases into navigable waters; to the Committee on Energy and Commerce.

By Mr. FOGLIETTA (for himself, Mr. Borski, Mr. Gray, Mr. Edgar, and Mr. Kostmayer):

H.R. 2768. A bill to provide for the inclusion of the Washington Square area within Independence National Historical Park, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GIBBONS (for himself, Mr. Rostenkowski, Mr. Wright, Mr. Michel, Mr. Pickle, Mr. Rangel, Mr. Downey of New York, Mr. Fowler, Mr. Anthony, Mr. Conable, Mr. Archer, Mr. Vander Jagt, Mr. Philip M. Crane, Mr. Frenzel, Mr. Gradison, Mr. Moore, and Mr. Campbell):

H.R. 2769. A bill to promote economic revitalization and facilitate expansion of economic opportunities in the Caribbean Basin region; to the Committee on Ways and Means.

By Mr. GIBBONS (for himself, Mr. Jones of Oklahoma, Mr. Conable, and Mr. Frenzel):

H.R. 2770. A bill to extend nondiscriminatory treatment and other trade benefits to the Hungarian People's Republic and to the People's Republic of China during the 5-year period beginning on July 1, 1983; to the Committee on Ways and Means.

By Mr. HUNTER:

H.R. 2771. A bill to require the Department of the Navy to request the Federal Bureau of Investigation to investigate the death of Michael John Lockwood; to the Committee on Armed Services.

By Mrs. KENNELLY:

H.R. 2772. A bill to amend the Internal Revenue Code of 1954 to provide that a spouse may elect a spousal individual retirement account without regard to whether the spouse has compensation; to the Committee on Ways and Means.

H.R. 2773. A bill to provide that the Secretary of Health and Human Services may grant deemed certification status under the medicare program with respect to comprehensive outpatient rehabilitation facilities and other outpatient rehabilitation clinics and agencies accredited by a national organization to the same extent and under the same conditions as with respect to other providers; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. LEACH of Iowa:

H.R. 2774. A bill to amend the Peace Corps Act with respect to the number of Peace Corps volunteers; to the Committee on Foreign Affairs.

By Mr. MOORE:

H.R. 2775. A bill to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to prepare feasibility reports for flood control and allied purposes for certain rivers in Louisiana and Mississippi; to the Committee on Public Works and Transportation.

By Mr. RATCHFORD:

H.R. 2776. A bill relating to the tariff treatment of gut imported for use in the manufacture of surgical sutures; to the Committee on Ways and Means.

By Mr. DINGELL (for himself, Mr. Perkins, Mr. St Germain, Mr. Howard, and Mr. Ford of Michigan):

H.R. 2777. A bill to amend the Congressional Budget Act of 1974 to improve the budget process, and for other purposes; to the Committee on Rules.

By Mr. STARK:

H.R. 2778. A bill to prohibit imports from Iran until the Government of Iran ceases its persecution of the Bahais in Iran; to the Committee on Ways and Means.

By Mr. VENTO:

H.R. 2779. A bill to amend the Internal Revenue Code of 1954 to provide an exclusion from gross income for that portion of a governmental pension received by an individual which does not exceed the maximum benefits payable under title II of the Social Security Act which could have been excluded from income for the taxable year; to the Committee on Ways and Means.

By Mr. WEISS (for himself, Mr. Conyers, Mr. Levin of Michigan, Mr. MacKay, Mr. Towns, and Mr. Erdreich):

H.R. 2780. A bill to extend and amend the provisions of title 31, United States Code, relating to the general revenue sharing program; to the Committee on Government Operations.

By Mr. WILLIAMS of Montana:

H.R. 2781. A bill to amend the Native American Programs Act of 1974 to impose certain limitation with respect to the administration of such act, and for other purposes; to the Committee on Education and Labor.

By Mr. LaFALCE (for himself, Mr. McKinney, Mr. St Germain, Mr. Lundine, Mr. Vento, Mr. D'Amours, Ms. Oakar, Mr. Minish, Mr. Fauntroy, Mr. Schumer, Mr. Coyne, Mr. Morrison of Connecticut, Ms. Kaptur, Mr. Levin of Michigan, Mr. Torres, Mr. Wortley, Mr. Garcia, Mr. Frank, and Mr. Annunzio):

H.R. 2782. A bill to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States; jointly, to the Committees on Banking, Finance and Urban Affairs and Education and Labor.

By Mr. AKAKA:

H.R. 2783. A bill to authorize the Secretary of the Army to construct certain flood control and navigation projects in the State of Hawaii, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. BREAUX (for himself and Mr. Forsythe):

H.R. 2784. A bill to authorize appropriations to carry out the Atlantic Tunas Convention Act of 1975 during fiscal years 1984, 1985, and 1986, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BROWN of California (for himself, Mr. Roberts, Mr. Staggers, Mr. Penny, Mr. Panetta, Mr. Foley, Mr. Coelho, Mr. Volkmer, Mr. Olin, Mr. Gunderson, Mr. Evans of Iowa, and Mr. Franklin):

H.R. 2785. A bill to amend the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act relating to the scientific advisory panel and to extend the authorization for appropriations for such act; to the Committee on Agriculture.

By Mr. EDGAR (by request):

H.R. 2786. A bill to amend title 38, United States Code, to provide that appointments to certain positions in the Department of Medicine and Surgery of the Veterans' Administration may be optional and to clarify the authority of the Chief Medical Director or designee regarding disciplinary actions on probationary employees; to the Committee on Veterans' Affairs.

By Mr. FOWLER:

H.R. 2787. A bill to amend the National Security Act of 1947, and for other purposes; to the Permanent Select Committee on Intelligence.

By Mr. GORE:

H.R. 2788. A bill to establish the President's Commission on the Human Applications of Genetic Engineering; to the Committee on Energy and Commerce.

By Mr. GREEN:

H.R. 2789. A bill to amend section 376 of title 28, United States Codes, to provide that certain judicial annuities for surviving spouses shall not terminate by reason of remarriage of an annuitant after age 60, and to provide cost of-living adjustment for such annuities; to the Committee on the Judiciary.

By Mr. KOGOVSEK:

H.R. 2790. A bill to amend the Colorado River Basin Salinity Control Act to authorize certain additional measures to assure accomplishment of the objectives of title II of such act, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MURPHY:

H.R. 2791. A bill to amend title 38, United States Code, to provide that former prisoners of war are entitled to compensation from the Veterans' Administration based on the length of their internment, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. REID (for himself and Mrs. Vucanovich):

H.R. 2792. A bill to amend the Internal Revenue Code of 1954 to provide that proceeds from identical wagers shall not be aggregated for purposes of determining whether tax should be withheld on such proceeds; to the Committee on Ways and Means.

H.R. 2793. A bill to amend the Internal Revenue Code of 1954 to provide that the deduction for wagering losses shall be allowable as a deduction from gross income but only with respect to wagering transactions which are legal under Federal and State laws; to the Committee on Ways and Means.

By Mr. ST GERMAIN:

H.R. 2794. A bill to amend the Clean Air Act to better protect against interstate transport of pollutants, to control existing and new sources of acid deposition, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SCHULZE:

H.R. 2795. A bill to amend section 301 of the Trade Act of 1974 to define unreasonable foreign acts, policies, and practices as they affect U.S. rights; to the Committee on Ways and Means.

By Mr. STRATTON:

H.R. 2796. A bill entitled: "Specialty Steel Fair Trade Act of 1983"; to the Committee on Ways and Means.

By Mr. STRATTON (for himself and Mrs. Holt):

H.R. 2797. A bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1984, and for other purposes; to the Committee on Armed Services.

By Mr. VOLKMER:

H.R. 2798. A bill to amend title 10 of the United States Code relating to retention in active status of certain officers; to the Committee on Armed Services.

By Mr. WEAVER:

H.R. 2799. A bill to define the conditions for use of phenoxy herbicides on Federal lands managed by the Bureau of Land Management or by the U.S. Forest Service; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. HERTEL of Michigan:

H.R. 2800. A bill to authorize appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for the fiscal years 1984 and 1985, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Science and Technology.

By Mr. WEAVER:

H.R. 2801. A bill to expand the purposes for which receipts from certain lands of the National Forest System may be expended for the benefit of counties, and for other purposes; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

H.R. 2802. A bill to provide for the calculation of the State or county share in case of a default on, or extension of, any Federal timber sales contract where payments are required to be made to States or counties in connection with such sales; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. ALBOSTA:

H. Con. Res. 117. Concurrent resolution expressing the sense of the Congress with respect to the implementation of agricultural marketing orders; to the Committee on Agriculture.

By Mr. GAYDOS:

H. Res. 173. Resolution authorizing the printing as a House document of the report of the Speaker entitled "The United States and China"; considered and agreed to.

Mr. HAMMERSCHMIDT:

H. Res. 174. Resolution to prohibit Forest Service land sales; jointly to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. BONER of Tennessee (for himself, Mr Badham, and Mr. Florio):

H. Res. 175. Resolution urging that improvements be made in implementation of Federal inspection services at U.S. gateway and preclearance airports; jointly to the Committees on Agriculture, the Judiciary, and Ways and Means.

MEMORIALS

Under clause 4 of rule XXII.

98. The SPEAKER presented a memorial of the Senate of the State of Kansas, relative to the American servicemen and civilians unaccounted for in Southeast Asia; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. COELHO:

H.R. 2803. A bill for the relief of Capt. John T. Tyrrell, U.S. Air Force; to the Committee on the Judiciary.

By Mr. SHELBY:

H.R. 2804. A bill for the relief of Henry Ford Harrison; to the Committee on the Judiciary.

By Mrs. VUCANOVICH:

H.R. 2805. A bill for the relief of George C. Lindauer; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 31: Mr. Wilson, Mr. Vandergriff, Mr. D'Amours, Mr. Ford of Michigan, Mr. Vander Jagt, Mr. Kostmayer, Mr. Richardson, Mr. Torricelli, Mr. McKinney, Mr. Lent, Mr. Horton, Mr. Smith of Florida, Mr. Mitchell, Mr. Owens, Mr. Jeffords, Mr. Solarz, Mr. Won Pat, Ms. Mikulski, Mr. McEwen, Mr. Forsythe, Mr. Whitley, Mr. Mineta, Mr. Wortley, Mr. Jacobs, Mr. Leach of Iowa, Mr. Applegate, Mr. Kindness, and Mr. Panetta.

H.R. 70: Mr. Sawyer.

H.R. 75: Mr. Sisisky.

H.R. 216: Mr. Morrison of Washington.

H.R. 287: Mr. Hartnett, Mr. Kramer, Mr. Dickinson, Mr. Bateman, and Mr. Corcoran.

H.R. 460: Mr. Emerson.

H.R. 461: Mr. Emerson.

H.R. 483: Mr. Anderson.

H.R. 491: Mr. Roth, Mr. Ireland, Mr. Staggers, and Mr. Thomas of Georgia.

H.R. 493: Mr. Hutto.

H.R. 634: Mr. Kindness, Mr. Rahall, Mr. Hall of Ohio, Mr. Eckart, Mr. Oxley, Mr. Williams of Ohio, Mr. DeWine, and Mr. Kasich.

H.R. 822: Mr. Ackerman, Mr. Barnes, Mr. Bedell, Mr. Beilenson, Mr. Berman, Mrs. Boxer, Mr. Conyers, Mr. Crockett, Mr. Dellums, Mr. Downey of New York, Mr. Dwyer of New Jersey, Mr. Eckart, Mr. Edgar, Mr. Edwards of Oklahoma, Mr. Fauntroy, Mr. Feighan, Mr. Fish, Mr. Foglietta, Mr. Ford of Tennessee, Mr. Forsythe, Mr. Frank, Mr. Hall of Ohio, Mr. Harrison, Mr. Hughes, Mr. Jacobs, Mr. Jeffords, Ms. Kaptur, Mr. Kildee, Mr. Kostmayer, Mr. Lehman of Florida, Mr. Leland, Mr. Levine of California, Mr. Lowry of Washington, Mr. Lundine, Mr. McHugh, Mr. Markey, Mr. Mavroules, Mr. Mazzoli, Ms. Mikulski, Mr. Miller of California, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Morrison of Connecticut, Mr. Mrazek, Mr. Oberstar, Mr. Obey, Mr. Ottinger, Mr. Owens, Mr. Porter, Mr. Rahall, Mr. Rangel, Mr. Ratchford, Mr. Reid, Mr. Rodino, Mr. Roe, Mr. Scheuer, Mr. Seiberling, Mr. Sharp, Mr. Simon, Mr. Smith of New Jersey, Mr. Studds, Mr. Torricelli, Mr. Traxler, Mr. Vento, Mr. Walgren, Mr. Weaver, Mr. Whittaker, Mr. Williams of Ohio, Mr. Wyden, and Mr. Yatron.

H.R. 953: Mr. Oberstar, Mr. Bonior of Michigan, Mr. Feighan, Ms. Mikulski, Mr. Rowland, Mr. Winn, Mr. Pepper, Mr. Edwards of California, Mr. Zablocki, and Mr. Ackerman.

H.R. 954: Mr. Towns and Mr. Gilman.

H.R. 1016: Mr. Fish and Mr. Martinez.

H.R. 1028: Mr. Zschau.

H.R. 1067: Mr. McDade and Mr. Williams of Montana.

H.R. 1084: Mr. Bates.

H.R. 1092: Mr. Jenkins and Mr. Mica.

H.R. 1176: Mr. Glickman, Mr. Rodino, Mr. Shaw, Mr. Bates, Mr. Carper, Mr. Martinez, and Mr. Nielson of Utah.

H.R. 1199: Mr. Ackerman, Mr. McCloskey, Mr. Schumer, Mr. Yatron, Mr. Vander Jagt, and Mr. Martinez.

H.R. 1249: Mr. Swift, Mr. Davis, Mr. Washington, and Mr. Towns.

H.R. 1376: Mr. Badham.

H.R. 1398: Mr. Lagomarsino.

H.R. 1405: Mr. McCloskey, Mr. Skelton, and Mr. Kolter.

H.R. 1543: Mr. Levin of Michigan, Mr. Gray, Mrs. Collins, Mr. Schumer, and Mr. de Lugo.

H.R. 1571: Mr. Fields.

H.R. 1610: Mr. Stump.

H.R. 1622: Mr. Volkmer, Mr. McKinney, Mr. Gray, Mr. Levine of California, Mr. Bedell, Mr. Harkin, and Mr. Leland.

H.R. 1644: Mr. Green, Mr. Oberstar, Mr. Nowak, Mr. Eckart, Mr. Fauntroy, Mr. Seiberling, Mr. Dwyer of New Jersey, Mr. Bosco, Mr. Ackerman, Mr. Smith of Florida, and Mr. Hughes.

H.R. 1694: Mr. Minish.

H.R. 1720: Mr. AuCoin, Mr. Fish, Mr. Leland, Mr. Pritchard, Mr. Seiberling, Mr. Washington, and Mr. Wyden.

H.R. 1727: Mr. Rangel.

H.R. 1752: Mr. McCloskey, Mr. Mrazek, and Mr. Stratton.

H.R. 1824: Mr. LaFalce, Mr. Pritchard, Mr. Patterson, Mr. Goodling, Mr. Feighan, Ms. Oakar, Mr. Ackerman, Mr. Dellums, Mr. Pepper, Mr. Hertel of Michigan, Mr. Carper, Mr. Levine of California, Mrs. Schneider, Mr. Marriott, and Mr. Seiberling.

H.R. 1899: Mr. Feighan.

H.R. 1903: Mr. Pepper, Mr. Reid, Mr. Downey of New York, Mr. McKinney, Mr. Perkins, Mr. Leland, and Mr. Frank.

H.R. 1937: Mr. Porter and Mr. Weaver.

H.R. 1955: Mr. Coleman of Missouri and Mr. Hammerschmidt.

H.R. 1991: Mr. Clinger and Ms. Oakar.

H.R. 2063: Mr. Seiberling, Mr. Miller of California, Mr. Boland, Mr. Edwards of California, Mr. Bonior of Michigan, Mr. Nowak, Mr. McNulty, Mr. Frank, Mr. Guarini, Mr. Washington, Mr. Feighan, Mr. Staggers, Mr. Eckart, Mr. Ford of Michigan, Mr. Clinger, Mr. Long of Maryland, Mr. Biaggi, Mr. Edgar, Mrs. Schneider, Mr. Bedell, and Mr. Mollohan.

H.R. 2103: Mr. Ratchford, Mr. Alexander, Mr. Williams of Montana, Mr. Conyers, and Mr. Sunia.

H.R. 2144: Mr. Britt, Mr. Anthony, and Mr. Frost.

H.R. 2150: Mr. Ford of Tennessee.

H.R. 2172: Mr. Sensenbrenner, Mr. Hall of Ohio, and Mr. Daub.

H.R. 2187: Mr. Harrison, Mr. Young of Alaska, Mr. Kindness, Mr. Roe, Mr. Edgar, Mr. Broyhill, Mr. Winn, Mr. Bonior of Michigan, Mr. Lantos, Mr. Ratchford, Mr. Lehman of Florida, Mr. Sunia, Mr. Fish, Mr. Martin of New York, Mr. Smith of Florida, Mr. Fauntroy, Mr. Reid, Mr. Fazio, Mr. Mollohan, Mrs. Schroeder, Mr. Dwyer of New Jersey, Mr. Martinez, Mr. Forsythe, Mr. Alexander, and Mr. Hughes.

H.R. 2225: Mr. Hammerschmidt, Mrs. Schroeder, Mr. Akaka, Mr. Badham, Mr. Shaw, Mr. Horton, Mr. Daub, and Mr. Wyden.

H.R 2228: Mr. MacKay.

H.R. 2271: Mr. Hughes, Mr. Feighan, Mr. Thomas of Georgia, Mr. Daub, and Mr. Mitchell.

H.R. 2299: Mr. Kogovsek.

H.R. 2318: Mr. Penny.

H.R. 2323: Mr. Vento, Mr. Martinez, Mr. Oxley, Mr. Edwards of Oklahoma, Mr. Long of Louisiana, Mr. Feighan, Mr. Guarini, and Mr. Daub.

H.R. 2355: Mr. Madigan, Mr. Gore, Mr. Fazio, Mr. Winn, Mr. Skelton, Mr. Frank, Mr. Dwyer of New Jersey, Mr. Frost, Mrs. Boxer, Mr. Howard, Mr. Miller of Ohio, Mr. Mollohan, Mr. Martinez, Mr. Martin of New York, Mr. Leland, Mr. Neal, Mr. Ackerman, Mr. Horton, Mr. Daub, and Mr. Guarini.

H.R. 2361: Mr. Towns.

H.R. 2377: Mr. Porter.

H.R. 2448: Mr. Dannemeyer and Mr. Forsythe.

H.R. 2505: Mr. Richardson.

H.R. 2563: Mr. Conable and Mr. Goodling.

H.R. 2582: Mr. Dwyer of New Jersey, Mr. Ackerman, Mr. Fauntroy, Mr. Ottinger, Mr. Corrada, Mr. Roe, Mr. Williams of Montana, and Mr. Minish.

H.R. 2589: Mr. Derrick.

H.R. 2664: Mr. Richardson.

H.J. Res. 51: Mr. Forsythe, Mr. Horton, Mr. Hutto, Mr. Jeffords, Mr. Kasich, Mr. Lagomarsino, Mr. Markey, Mr. Martin of New York, Mr. McCain, Mr. Richardson, Mr. Robinson, Mr. Roemer, Mr. Roe, Mr. Sisisky, Mr. Solomon, Mr. Wolf, Mr. Wolpe, Mr. Bateman, Mr. Washington, and Mr. Lipinski.

H.J. Res. 93: Mr. Foglietta, Mr. Parris, and Mr. Lipinski.

H.J. Res. 114: Mr. Rinaldo, Mr. Miller of Ohio, Mr. Tauzin, and Mr. Albosta.

H.J. Res. 145: Mr. Guarini, Mrs. Hall of Indiana, Mr. Shelby, Mr. Berman, Mr. Fazio, Mr. Yatron, Mr. St Germain, Mrs. Schneider, Mr. Neal, and Mr. Scheuer.

H.J. Res. 154: Mr. Ackerman, Mr. Jacobs, Mr. Jones of Tennessee, Mr. Madigan, and Mr. Sikorski.

H.J. Res. 179: Mr. Martin of New York, Mr. Hyde, Mr. McKinney, Mr. Shumway, Mr. Porter, Mr. Hertel of Michigan, Mr. McGrath, Mr. Pritchard, Mr. Morrison of Washington, Mr. Mazzoli, Mr. Boner of Tennessee, Mr. Waxman, Mr. Mineta, Mr. Simon, Mr. Britt, Mr. Gradison, Mr. Montgomery, Mr. McNulty, Mr. Forsythe, Mr. Lipinski, Mr. Scheuer, and Mr. Bates.

H.J. Res. 181: Mr. Jacobs.

H.J. Res. 196: Mr. Alexander, Mr. Bedell, Mr. Boner of Tennessee, Mr. Breaux, Mr. Brooks, Mr. Daniel B. Craine, Mr. Daschle, Mr. Daub, Mr. Dickinson, Mr. Dowdy of Mississippi, Mr. Edgar, Mr. Fauntroy, Mr. Forsythe, Mr. Frenzel, Mr. Frost, and Mr. Bennett.

H.J. Res. 218: Mr. Forsythe and Mr. Edgar.

H.J. Res. 219: Mr. Lehman of Florida, Mr. Bilirakis, Mr. Young of Florida, and Mr. Lewis of Florida.

H.J. Res. 228: Mr. Richardson, Mr. Dyson, Mr. Traxler, Mr. Stump, Mr. Solomon, Mr. Nichols, Mr. Vento, Mr. Dwyer of New Jersey, Mr. Scheuer, Mr. Forsythe, Mr. Flippo, Mr. Coleman of Texas, Mr. Wise, Mr. Dannemeyer, Mr. Daub, Mr. Long of Louisiana, Mr. Guarini, Mr. Hightower, Mr. Watkins, and Mrs. Holt.

H. Con. Res. 23: Mr. Wylie.

H. Con. Res. 96: Mr. Gingrich, Mr. Lagomarsino, Mr. Simon, and Mr. Mitchell.

H. Con. Res. 100: Mr. Fascell, Mr. Ritter, Mr. Kemp, Mr. Wirth, Mr. Wortley, Mr. Solomon, Mr. Forsythe, Mr. Courter, Mr. Lagomarsino, Mr. Smith of Florida, Mr. Rinaldo, Mr. Coyne, Mr. Moakley, Mr. Kindness, Mr. Frost, Mr. Archer, Mr. Livingston, Mr. Kasich, Mr. Wilson, Mr. Levin of Michigan, Mr. Frenzel, Mr. Hall of Ohio, Mr. Corcoran, Mr. Gilman, Mr. Bliley, Mr. McCollum, Mr. Jeffords, Mr. Fauntroy, Mr. Fields, Mr. Won Pat, Mr. Lent, Mr. Schumer, Mr. McGrath, Mr. Harkin, Mr. Guarini, Mr. Wolf, and Mr. Lungren.

H. Con. Res. 115: Mr. Daniel B. Crane, Mr. Edwards of Oklahoma, Mr. Morrison of Washington, Mr. Lungren, Mr. Goodling, Mr. Franklin, Mr. DeWine, and Mr. Gradison.

H. Res. 17: Mr. Ackerman, Mr. Aspin, Mr. Bedell, Mr. Bonior of Michigan, Mr. Bonker, Mr. Coleman of Missouri, Mr. D'Amours, Mr. Duncan, Mr. Fish, Mr. Gonzalez, Mr. Jacobs, Mr. Porter, Mr. Shannon, Mr. Smith of Florida, Mr. Stark, Mr. Swift, Mr. Udall, Mr. Walgren, Mr. Winn, Mr. Wise, and Mr. Won Pat.

H. Res. 33: Mr. Swift.

H. Res. 119: Mr. Ford of Tennessee.

H. Res. 137: Mr. Mitchell, Mr. Washington, Mr. Neal, Mr. Bedell, Mr. Clinger, Mr. McGrath, Mr. Jeffords, Mr. Won Pat, and Mr. Leland.

H. Res. 155: Mr. Ackerman, Mr. Bliley, Mr. Bryant, Mr. Chandler, Mr. Feighan, Ms. Ferraro, Mr. Horton, Ms. Kaptur, Mr. Kasich, Mr. Long of Louisiana, Mr. Nelson of Florida, Ms. Mikulski, Mr. Sisisky, Mr. Vento, Mr. Weiss, and Mr. Yates.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 287: Mrs. Lloyd.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

80. By the SPEAKER: Petition of Americans for Democratic Action, Massachusetts chapter, Boston, Mass., relative to aid to El Salvador; to the Committee on Foreign Affairs.

81. Also, petition of the City Council of New York, N.Y., relative to the release of Arnold Dinerstein from the Soviet Union; to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.J. Res. 13

By Mr. AuCOIN:

(Amendment in the nature of a substitute.)

—Strike out everything after the resolving clause and insert in lieu thereof the following:

That, consistent with the maintenance of essential equivalence in overall nuclear capabilities, the Strategic Arms Reduction Talks (START) between the United States and the Soviet Union should have the following objectives:

(1) Pursuing the objective of negotiating an immediate, mutual and verifiable freeze.

(2) Deciding when and how to achieve a mutual verifiable freeze on testing, production, and further deployment of nuclear warheads, missiles, and other delivery systems.

(3) Consistent with pursuing the objective of negotiating an immediate, mutual and verifiable freeze, giving special attention to destabilizing weapons, especially those which give either nation capabilities which confer upon it even the hypothetical advantages of a first strike.

(4) Providing the cooperative measures of verification, including provisions for on-site inspection as appropriate, to complement

National Technical Means of verification and to ensure compliance.

(5) Proceeding from this mutual and verifiable freeze, pursuing substantial, equitable, and verifiable reductions through numerical ceilings, annual percentages, or any other equally effective and verifiable means of strengthening strategic stability.

(6) Preserving present limitations and controls on nuclear weapons and nuclear delivery systems.

(7) Incorporating ongoing negotiations in Geneva on intermediate-range nuclear systems into the START negotiations.

In those negotiations, the United States shall make every effort to reach a common position with our North Atlantic Treaty Organization allies on any element of an agreement which would be inconsistent with existing United States commitments to those allies.

Sec. 2. Consistent with pursuing the overriding objective of negotiating an immediate, mutual and verifiable freeze, nothing in this resolution shall be construed to prevent the United States from taking advantage of concurrent and complementary arms control proposals.

Sec. 3. This resolution does not endorse any type of unilateral disarmament on the part of the United States.

To the amendment in the nature of a substitute offered by Mr. Broomfield of Michigan.

—In the text proposed to be inserted as the preamble of the resolution by the Broomfield amendment-in-the-nature-of-a-substitute, strike out all that follows "Whereas" the first place it appears and insert in lieu thereof the following: "the greatest challenge facing the Earth is to prevent the occurrence of nuclear war by accident or design;"

"Whereas the United States and the Soviet Union have signed the Joint Statement of Agreed Principles for Disarmament Negotiations, known as the McCloy-Zorin Agreement, enumerating general principles for future negotiations for international peace and security;

"Whereas the increasing stockpiles of nuclear weapons and nuclear delivery systems by both the United States and the Soviet Union have not stengthened international peace and security but in fact enhance the prospect for mutual destruction;

"Whereas adequate verification of compliance has always been an indispensable part of any international arms control agreement; and

"Whereas a mutual and verifiable freeze and reductions in nuclear weapons and nuclear delivery systems would greatly reduce the risk of nuclear war: Now, therefore, be it".

In the text of the matter proposed to be inserted after the resolving clause by the Broomfield amendment-in-the-nature-of-a-substitute, strike out all that follows "That" and insert in lieu thereof the following: ", consistent with the maintenance of essential equivalence in overall nuclear capabilities, the Strategic Arms Reduction Talks (START) between the United States and the Soviet Union should have the following objectives:

"(1) Pursuing the objective of negotiating an immediate, mutual and verifiable freeze.

"(2) Deciding when and how to achieve a mutual verifiable freeze on testing, production, and further deployment of nuclear warheads, missiles, and other delivery systems.

"(3) Consistent with pursuing the objective of negotiating an immediate, mutual and verifiable freeze, giving special attention to destabilizing weapons, especially those which give either nation capabilities which confer upon it even the hypothetical advantages of a first strike.

"(4) Providing the cooperative measures of verification, including provisions for onsite inspection as appropriate, to complement National Technical Means of verification and to ensure compliance.

"(5) Proceeding from this mutual and verifiable freeze, pursuing substantial, equitable, and verifiable reductions through numerical ceilings, annual percentages, or any other equally effective and verifiable means of strenghening strategic stability.

"(6) Preserving present limitations and controls on nuclear weapons and nuclear delivery systems.

"(7) Incorporating ongoing negotiations in Geneva on intermediate-range nuclear systems into the START negotiations.

In those negotiations, the United States shall make every effort to reach a common position with our North Atlantic Treaty Organization allies on any element of an agreement which would be inconsistent with existing United States commitments to those allies.

Sec. 2. Consistent with pursuing the overriding objective of negotiating an immediate, mutual and verifiable freeze, nothing in this resolution shall be construed to prevent the United States from taking advantage of concurrent and complementary arms control proposals.

Sec. 3. This resolution does not endorse any type of unilateral disarmament on the part of the United States.

By Mr. KEMP:

—At the end of the joint resolution add a new section:

"Sec. Violation of existing arms control agreements will be deemed evidence of bad faith and grounds for termination of any negotiations pursuant to this resolution."

On page 5, strike lines 11 through 13.

By Mr. KRAMER:

—On page 5, line 13, insert the following: "Discussing the impact of developing comprehensive defensive systems consistent with all provisions of Treaty on the Limitation of Anti-Ballistic Missile Systems.".

By Mr. MARKEY:

—Add the following at the end of the text of the resolution:

Sec. 3. Consistent with pursuing the overriding objective of negotiating an immediate, mutual and verifiable freeze, the United States and the Soviet Union should make every effort to halt the spread of nuclear weapons.

By Mr. MARTIN of North Carolina:

—On page 4, strike line 17 and all that follows through line 22 and insert in lieu thereof the following:

"(1) Pursuing the objective of negotiating an immediate, mutual and verifiable freeze.

(2) Pursuing the essentiel objective of negotiating immediate, mutual and verifiable reductions in nuclear weapons while deciding when and how to achieve a mutual verifiable freeze on testing, production, and further deployment of nuclear warheads, missiles, and other delivery systems and systems which would threaten the viability of sea-based nuclear deterrent forces, and to include all air defense systems designed to stop nuclear bombers. Submarines are not delivery systems as used herein."

On page 5, strike line 4 and all that follows through the word "pursuing" on line 5 and insert in lieu thereof "(4) Pursuing".

—Page 4, strike out line 17 and 18 and insert in lieu thereof the following:

(1) Pursuing the objectives of negotiating an immediate, mutual and verifiable freeze and immediate, mutual and verifiable reductions.

Page 5, line 4, strike out "Proceeding from" and insert in lieu thereof "Together with".

By Mr. WALKER:

—At the beginning of the preamble, add the following new whereas clause.

Whereas the purpose of this resolution is to be an expression of concern over the threat of nuclear war, and as such shall not be regarded as having the force of law.

H.R. 1983

By Mr. SAVAGE:

—Page 8, line 7, strike out "insured" and all that follows through "or" on line 8.

SENATE—*Wednesday, April 27, 1983*

(Legislative day of Tuesday, April 26, 1983)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Loving Father in Heaven, spring breaks through and reminds us again of things so easily forgotten.

Life in all its power reasserts itself and we are amazed. As flowers bloom, grass turns green again, leaves return to the trees and the fragrance and beauty of spring immerses us in its euphoria.

Forgive us Lord for so easily taking for granted fundamentals. We live as though life were our prerogative. Our hearts beat thousands of times daily pumping life-giving blood throughout our systems, our lungs expand and contract fueling our systems with oxygen. Our reflexes function automatically, our digestive systems process food intake, building bone and muscle, skin and hair and fingernails. And we take this for granted until illness or disease or tragedy strike. So often, dear God, we have to lose a good thing before we appreciate it. Help us not only to be thankful but to live thankfully.

As Congress anticipates its Joint Session and the President prepares to address it on exceedingly vital issues, may he be given special wisdom and may the people be attentive and responsive. May Thy will be done in America as it is in Heaven. Through Jesus Christ the Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE CHAPLAIN'S PRAYERS

Mr. BAKER. Mr. President, I am always fascinated by the Chaplain's prayers. They are more than ordinarily interesting, not only inspirational, but challenging.

I am always tempted to make some remark about some aspect of them, like the day the Chaplain prayed the Senate would not rearrange the furniture while the house was burning down. I debated a long time about whether to try to amend that prayer or not and decided against it for fear that there might be a divided house. And today the less known physiology was intriguing in the extreme, especially that part dealing with fingernails and hair.

SHAKESPEARE'S BIRTHDAY

Mr. BAKER. Mr. President, in honor of William Shakespeare's birthday this past Saturday, I am substituting the traditional weekly poem in favor of five of Shakespeare's sonnets. I ask unanimous consent that the sonnets be printed in the RECORD at this point. Happy birthday William.

There being no objection, the sonnets were ordered to be printed in the RECORD, as follows:

When to the sessions of sweet silent thought
I summon up remembrance of things past,
I sigh the lack of many a thing I sought,
And with old woes new wail my dear time's waste:
Then can I drown an eye, unused to flow,
For precious friends hid in death's dateless night,
And weep afresh love's long since cancelled woe,
And moan the expense of many a vanished sight.
Then can I grieve at grievances foregone,
And heavily from woe to woe tell o'er
The sad account of fore-bemoaned moan,
Which I new pay as if not paid before.
But if the while I think on thee, dear friend,
All losses are restored and sorrows end.

Not marble nor the gilded monuments
Of princes shall outlive this pow'rful rhyme,
But you shall shine more bright in these contents
Than unswept stone, besmeared with sluttish time.
When wasteful war shall statues overturn,
And broils root out the work of masonry,
Nor Mars his sword nor war's quick fire shall burn
The living record of your memory.
Gainst death and all oblivious enmity
Shall you pace forth; your praise shall still find room
Even in the eyes of all posterity
That wear this world out to the ending Doom.
So, till the Judgment that yourself arise,
You live in this and dwell in lovers' eyes.

Like as the waves make toward the pebbled shore,
So do our minutes hasten to their end;
Each changing place with that which goes before,
In sequent toil all forward do contend.
Nativity, once in the main of light,
Crawls to maturity, wherewith being crowned,
Crooked eclipses 'gainst his glory fight,
And Time that gave doth now his gift confound.
Time doth transfix the flourish set on youth
And delves the parallels in beauty's brow,
Feeds on the rarities of Nature's truth,
And nothing stands but for his scythe to mow:
And yet to times in hope my verse shall stand,
Praising thy worth, despite his cruel hand.

When I have seen by Time's fell hand defaced
The rich, proud cost of outworn buried age,
When sometime lofty towers I see downrased
And brass eternal slave to mortal rage;
When I have seen the hungry ocean gain
Advantage on the kingdom of the shore,
And the firm soil win of the wat'ry main,
Increasing store with loss and loss with store;
When I have seen such interchange of state,
Or state itself confounded to decay,
Ruin hath taught me thus to ruminate,
That Time will come and take my love away.
This thought is as a death, which cannot choose
But weep to have that which it fears to lose.

Let me not to the marriage of true minds
Admit impediments; love is not love
Which alters when it alteration finds,
Or bends with the remover to remove.
Oh, no, it is an ever-fixed mark,
That looks on tempests and is never shaken;
It is the star to every wand'ring bark,
Whose worth's unknown, although his height be taken.
Love's not Time's fool, though rosy lips and cheeks
Within his bending sickle's compass come;
Love alters not with his brief hours and weeks,
But bears it out even to the edge of Doom.
If this be error, and upon me proved,
I never writ, nor no man ever loved.

NATIONAL SECRETARIES WEEK

Mr. BAKER. Mr. President, in 1881, in New York City, the central branch of the Young Women's Christian Association advertised a course it was offering in typewriting for women. The next day, newspapers ridiculed the idea, stating that such a course would be "too hard on the female constitution," and that the female students would not be able to survive the demands and strains of a 6-month course.

Some 20 years later, an advertisement in the New York Times for a life position as a stenographer listed these conditions: "She shall not marry, shall

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

not attend dances . . . shall in all ways discourage marriageable men from seeking her company . . . shall not affect puffs, powder, paint, or in any other way make herself attractive to look upon."

Well, you have come a long way Baby, maybe. While the above description does not exactly fit most of the stenographers I know, it is perhaps a useful example of the changes that have taken place in our work force.

I must admit that the first time I heard of National Secretaries Week, I cynically imagined it to be the brainstorm of a young advertising executive for a florists' association. But then I realized that this celebration is part of a nationwide effort to restore the dignity that the term "secretary" was first associated with, over a century ago.

Things have progressively changed along the way, thanks in part to scenes like the one P. G. Wodehouse wrote in a movie called "Damsel in Distress." George Burns played a press agent, and Gracie Allen was his secretary. Gracie answers the phone and reports to Burns that the call is for him and that the person on the line is a Hawaiian. "A Hawaiian?" Burns asks inquisitively. "Yes," Gracie replies, "he says he's Brown from the Morning Sun."

Mr. President, I applaud the efforts of those who are intent on changing the stereotyped and usually unfair image of the secretary, but I have one little problem. With that image restoration far from being complete, most individuals resent being called a secretary. I believe they have that right. I have over two dozen members of my staff who could be labeled secretaries according to some standards. But who can classify such a thing, especially when you include the concomitants of self-worth and professionalism to such categorization.

Is the individual who has been on Capitol Hill for over 10 years and has developed a keen sense of the legislative process and the Senate's computer system, a secretary? Is the individual who has mastered the intracacies of scheduling to the point where I am afraid the President's advance team will try to hire her away, a secretary? Is the individual whose political reports throughout the 1982 elections were better than most political columns, and whose memorandums are becoming famous on Capitol Hill. Is that person a secretary? Or is the manager of my entire operation in the Hart Building—which is a considerable undertaking, may I say—a secretary?

To the person who is confident about which of these individuals I am speaking about, are, and which of the staff members are not secretaries, I say to them, "You inform the staffers," and add one suggestion. Do inform them, bring Mr. T as a bodyguard.

The fact remains that the word "secretary" has seen better days. After all, if this really is National Secretaries Week, then maybe I should send a dozen daisies to William Hildenbrand, the Secretary of the Senate. Maybe the Secretary of the Interior, Mr. Watt, would like a new digital recording of "Surfin Safari" by the Beach Boys, as his gift for National Secretaries Week.

Mr. BYRD. Will the majority leader yield?

Mr. BAKER. I am happy to yield.

Mr. BYRD. Or a matching foot.

Mr. BAKER. A matching foot with matched toes.

When women began to enter the work force in large numbers, doctors feared that their rate of heart disease would increase along with the added pressures. What has in fact happened, according to recent reports, is that the female executives are doing all right, but the "secretaries" of men who exhibit type A behavior are increasingly becoming victims of heart attacks and heart disease.

This is a great deal of hardship and personal pain to live through, just to have what is still the majority of workers think of you as a nail-polishing, gum-cracking woman on the prowl for a husband with a body temperature IQ.

So Mr. President, I dare not commend the secretaries on my staff, whoever they may be, during National Secretaries Week. Rather, I think I shall start, today, "National Staff Appreciation Week." After all, I want to be fair, and whoever heard of "National Legislative Directors Week." I want to freely confess before the Senate and all combined that the women and men who conduct the work of the world in so many staff positions, are the ones who really get the work done and those of us who stand in the fore and occupy positions of responsibility in business, in industry, and in public life owe an extraordinary debt of gratitude to these individuals.

It does not make any difference to me whether people want to be called secretaries or staff people, or executive or administrative assistants, or anything else. I want to publicly proclaim that we could not get along without them.

Mr. BYRD. Will the majority leader yield?

Mr. BAKER. Yes.

(Mr. COCHRAN assumed the chair.)

Mr. BYRD. I appreciate the remarks of the majority leader. I only heard a portion of them, but I did get the full thrust of his remarks.

I feel as he does. I have been on the Hill for 31 years and with the exception of about 2 or 3 years of that time my administrative assistant has been a woman. I have found that I have been well served and my people have been well served.

Another thing: I have not been hesitant to reward merit where it exists. I have not had to be importuned by any women's organization to employ women on my staff. They have been in the top positions and have been paid well.

I join with the majority leader on what he has said.

Mr. BAKER. Mr. President, I thank the Senator. I do acknowledge that there is a special sensitivity, apparently, that attaches to the word "stenographer" or "secretary." I do not think there should be. But if these qualified and talented people who work so faithfully and diligently as administrative assistants or staff assistants prefer a different name, maybe we ought to actually change the name from National Secretaries Week to something else. I would be for it.

SENATE SCHEDULE

Mr. BAKER. Mr. President, there are four special orders today, which will consume an hour.

Let me outline for the minority leader what I would like to ask the Senate to do today and then we can make arrangements for it, unless he or other Senators have a serious objection to the proposal.

I intend to ask the Senate to provide for time for the transaction of routine morning business to begin at the end of the time for special orders and continue until 12 noon.

At 12 noon, there is a requirement for a Republican conference, which we do not have often, unlike policy luncheons which occur every Tuesday. To accommodate that I will ask the Senate to stand in recess from 12 noon until 2 p.m., which we have done to accommodate both sides from time to time.

At 2 p.m., it is my intention to try to reach the bankruptcy bills. I say bills because there is more than one bill on the calendar. There is some dispute on how we may manage that, whether we are going to take up one or both, or whether we will find some other variation of that theme. Senators should be aware that it is the intention of the leadership on this side to try to reach the bankruptcy bills today beginning at approximately 2 p.m.

I anticipate, Mr. President, that the Senate will not be asked to remain in session past 6 p.m. today since there is a joint session of the Congress in the Hall of the House of Representatives to hear a message from the President of the United States beginning at 8 p.m. procedures will have to be made for the Senate to assemble and proceed as a body to that event.

If the minority leader finds no great fault with that, I intend to propound a series of unanimous consent requests to that effect.

Mr. President, let me propound the request.

ORDER DESIGNATING PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

First, Mr. President, I ask unanimous consent that after the execution of the special orders there be a time for the transaction of routine morning business in which Senators may speak for not more than 5 minutes each and which will extend not past the hour of 12 noon.

ORDER FOR RECESS FROM 12 NOON UNTILL 2 P.M. TODAY

Mr. President, I further ask unanimous consent that at the hour of 12 noon the Senate stand in recess until the hour of 2 p.m. today.

ORDER FOR RECESS FROM 6 P.M. UNTIL 7:30 P.M. TODAY

Mr. President, I ask unanimous consent that at the hour of 6 p.m. today, or earlier if so ordered, the Senate stand in recess until the hour of 7:30 p.m., and that at the hour of 7:30 p.m. the Senate reconvene for the purpose of preparing to proceed as a body to the Hall of the House of Representative to hear an address by the President of the United States pursuant to a House concurrent resolution previously adopted.

ORDER FOR RECESS UNTIL TOMORROW AT 10 A.M.

Mr. President, I further ask unanimous consent that at the end of the joint session, the Senate then automatically stand in recess until the hour of 10 a.m. on tomorrow, Thursday.

Mr. President, that is the extent of the request.

The **PRESIDING OFFICER**. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Once again, Mr. President, I say that at 2 p.m. or shortly thereafter it is my hope that we will reach the bankruptcy bill or bills. I will confer with the minority leader and other Senators on that subject. I think there is some prospect that we can work out our complications and deal with that matter in a minimal amount of time.

If that is the case, then tomorrow I hope we can turn to one or the other of two things, and perhaps both of them: The Pacific Islands Treaty, which is on the Executive Calendar, and also the immigration bill.

Mr. President, I anticipate the Senate will be in session on Friday but I do not expect it to be a late session. I will have a further announcement to make on that in the course of this day or tomorrow.

Mr. President, I have no further need for my time, if any time remains, under the standing order.

Mr. President, is there time remaining?

The **PRESIDING OFFICER**. The Senator's time has expired.

Mr. BAKER. I thought as much. I thank the Senator. I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The **PRESIDING OFFICER**. The minority leader is recognized.

Mr. BYRD. Does the Senator from Michigan wish time?

Mr. LEVIN. No, Mr. President.

Mr. BYRD. I yield the remainder of my time to the distinguished majority leader, if he has need of it.

Mr. BAKER. I thank the Senator.

Mr. President, I might make one other announcement.

I mentioned the Pacific Islands Treaty and the immigration bill. It appears unlikely that we can reach the budget resolution this week. We might be able to get to it Friday briefly, but I do not expect serious debate on the budget resolution to begin until Monday.

Mr. BYRD. I thank the majority leader.

Mr. BAKER. I yield back the remainder of the time, Mr. President, if the minority leader has no objection, and I yield the floor.

RECOGNITION OF SENATOR LEVIN

The **PRESIDING OFFICER**. Under the previous order, the Senator from Michigan is recognized for not to exceed 15 minutes.

Mr. LEVIN. I thank the Chair.

RECOGNITION OF ARMENIAN MARTYRS DAY

Mr. LEVIN. Mr. President, on or about April 24 every year, wherever an Armenian lives or an Armenian community flourishes, heads are bowed in memory of 1.5 million innocent victims of man's inhumanity to man.

This week marks the 68th anniversary of the Armenian genocide, a tragic event which is recorded by eyewitness accounts in historical archives throughout the world. This historical record documents the crime perpetrated against the Armenian nation and people by the Turkish Ottoman Government as the first genocide of the 20th century. Whosoever denies it must not be allowed to succeed in rewriting history.

These eyewitness accounts were reported by survivors, journalists, government officials and missionaries of many nations—eyewitness accounts which shocked all civilized mankind.

But it was soon forgotten, not by the surviving Armenians, but by most of the rest of the world. So that when Adolf Hitler planned his invasion of Poland and the destruction of its people, he was able to scornfully state, "Who, after all, speaks today of the annihilation of the Armenians(?)."

This day serves as a tragic reminder that the first genocide of the 20th century became the precedent for the Holocaust of World War II. The line from Armenia to Auschwitz is a direct one. If the Armenians of 1915 had been remembered, if the perpetrators of their genocide were punished by a world tribunal, and if international laws were enacted preventing the heinous crime of genocide, 6 million Jews might not have perished at the hands of the Nazis.

The world did not learn a lesson from the Armenian genocide. By commemorating the memory of these victims we can try once again to prevent history from repeating itself. Such tragedies can only be prevented in the future if they are remembered. This is the legacy our ancestors left to the surviving generations.

That legacy represents a challenge—a challenge not to back down from Turkish Government efforts to rewrite history; a challenge not to back down from bureaucratic blunders of our own State Department.

There must be a constant struggle to fight against the efforts of the Turkish Government to still our voices. These efforts include a letter which Members of Congress received last week from the Turkish Ambassador in Washington. The Turkish Ambassador urged Members of Congress not to speak on Martyrs Day because commemorating the "so-called Armenian massacre," would have a "potentially adverse impact on United States-Turkish relations. . . ."

The effort to distort the historical record also includes a letter to the editor of the Washington Post from the Turkish Ambassador printed just yesterday—which said, in part:

> (N)o reliable evidence exists to justify the allegation that the Ottoman Empire planned or carried out a massacre of its Armenian population. . . .

Mr. President, the historical record of the Armenian genocide and the role of the Turkish Ottoman Government is both exhaustive and overwhelming. A brief review of that history will reveal that, in 1915, the distinguished U.S. Ambassador to the Ottoman Empire, Henry Morgenthau, acting on instructions from Secretaries of State William Jennings Bryan and Robert Lansing, organized and led protests by all nations, among them Turkey's allies, over what Ambassador Morgenthau referred to as Turkey's program of "race extermination."

Ambassador Morgenthau telegramed the following to the Secretary of State on July 16, 1915:

> Deportation of and excesses against peaceful Armenians is increasing and from harrowing reports of eye witnesses it appears that a campaign of race extermination is in progress under a pretext of reprisal against rebellion.

Ambassador Morgenthau wrote the following in his book, Ambassador Morgenthau's Story:

> When the Turkish authorities gave the orders for these deportations, they were merely giving the death warrant to a whole race; they understood this well and in their conversations with me, they made no particular attempt to conceal the fact.
>
> I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915.

So wrote our Ambassador to Turkey.

Mr. President, in 1920, the Armenian genocide was confirmed by the U.S. Senate in a resolution which read, in part:

> The testimony adduced at the hearings by the sub-committee of the Senate Committee of Foreign Relations have clearly established the truth of the reported massacres and other atrocities from which the Armenian people have suffered.

More recently, during a 1979 United Nations debate on the Armenian Genocide, the United States voted to include the Armenian Genocide in a report entitled "Study of the Question of the Prevention and Punishment of the Crime of Genocide."

On April 30, 1981, the U.S. Holocaust Memorial Council voted unanimously to include the Armenian Genocide in its planned memorial to victims of the Holocaust.

President Carter said on May 16, 1978:

> . . . (T)here was a concerted effort made to eliminate all the Armenian people. . . .

In a proclamation honoring victims of the Holocaust, President Reagan said on April 22, 1981:

> Like the genocide of the Armenians before it. . . the lessons of the Holocaust must never be forgotten.

So the letters from the Turkish Ambassador are defied by the historical record and the positions that have been taken by our Government. Those letters did not stop Representative CHARLES "CHIP" PASHAYAN of California from organizing a "special order" in the House of Representatives last week, during which time more than 40 of his colleagues stood up and answered those letters from the Turkish Ambassador.

Today, we in the Senate are honoring this solemn occasion during a specially set a side period of time.

Ours is also a constant struggle because of a State Department bureaucratic blunder which allowed the following to be printed in the August 1982 issue of its official magazine, the Bulletin:

> Because the historical record of the 1915 events in Asia minor is ambiguous, the Department of State does not endorse allegations that the Turkish Government committed a genocide against the American people.

This unbelievable and outrageous denial of decades of U.S. policy infuriated me and others in the Senate, as it did the Armenian community and those students of history who know the difference between fact and fiction.

It was only last week that the State Department informed us that finally, eight months later, it will publish the following editor's note in the next issue of the Bulletin:

> The article . . . which appeared in the August 1982 issue of the Bulletin, its accompanying note and footnotes were not intended as statements of policy of the United States. Nor did they represent any change in U.S. policy.

While this is a clarification that was long overdue, it should not have been necessary to make in the first place. What we need now from the State Department is a specific reaffirmation of U.S. policy with regard to the Armenian genocide.

Mr. President, that is why I, along with our friend, Senator WILSON of California, would like to introduce into the RECORD and for consideration by the Senate a bipartisan resolution to reaffirm the historical realities of the Armenian genocide. This resolution is identical to House Resolution 171, which was introduced on April 21 by Representatives PASHAYAN and WAXMAN. I ask unanimous consent that the full text of the resolution be printed in the RECORD folloing the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEVIN. Mr. President, the struggle which has manifested itself in the American political process is a struggle which must be fought in the political arena.

The refusal of the Turkish Government to acknowledge its role in the massacre of the Armenians, as the New York Times wrote Saturday:

> In no way justifies a minuscule group of Armenian terrorists, who in a decade have killed 26 Turkish diplomats. But it surely justifies using the memorial day, as less vengeful Armenians ask with increasing urgency, to call for an accounting of a dark and unpunished crime.

With the support of the Congress, we can foresee construction of a Holocaust Museum in Washington, in which the Armenian genocide will be focused on and remembered; we can foresee passage of a resolution which reaffirms the historical realities of the Armenian genocide; we can foresee adoption of April 24, 1984, as a day of remembrance for victims of genocide, especially the 1.5 million Armenian martyrs; and we can finally, finally, foresee Senate ratification of the International Genocide Convention Treaty in order to, once and for all, outlaw the crime of genocide. This would be a long-overdue U.S. commemorative to the killing and suffering of the 1.5 million Armenians the world let down.

Mr. President, a few years ago, in the presence of two dear friends, Alex Manoogian and Edward Mardigian, and among 4,000 Armenian Americans, I spoke at the unveiling services of the Gomidas Vartabed Monument in the heart of downtown Detroit. This was a monument erected by the Armenian community as a gift to the city in memory of the genocide victims.

The emotions of that day still live with me, for in the shadow of the giant 70-story skyscraper of the Detroit Renaissance Center, stands a statue of the father of Armenian music, whose life symbolizes the tragedy of the Armenian people. Gomidas was among the 200 Armenian intellectuals and community leaders who were arrested in Constantinople by the Turkish Ottoman Government on April 24, 1915, the eve of the genocide. Though he was one of the few who survived the genocide, Gomidas died a man broken in body and in mind. Yet the spirit of Gomidas lives through that monument, a symbol of the rebirth of the Armenian people, a symbol that the Armenian people live and the genocide failed.

This is why on or about every April 24, Armenians reflect on their proud heritage and rich culture. It was on such a solemn occasion that, just 3 days, ago, on April 24, I was the privileged guest of Father Dajad Davidian and St. James Armenian Church of Watertown, Mass., where I participated in their commemoration of Armenian Martyrs Day.

Mr. President, every April 24, Armenians reflect on their proud heritage and rich culture—from the time of St. Gregory the Illuminator, who led Armenia to become the first Christian nation of the world in 301 A.D., to the present, where Armenians make important contributions to the world of business, philanthropy, academia, the arts and sciences, and, yes, politics. It is through such reflections that we are able to appreciate the reasons which have kept the Armenian people so vital a community and so valuable a part of our Nation.

While the survivors of the genocide mourn their lost ones, they also must pass along their stories of tragedy so that the memory of those who perished are not forgotten by the world. The martyrs live on through them—through each and all of us who remember. Those of the younger generation should never forget the sacrifice of their ancestors. They, also, should never forget the rich culture which has contributed so much to the world communty. And together, they should perpetuate the story of the Armenian people and share its lessons with all the people of the world. Only in that way can some of the suffering of the genocide be redeemed.

Mr. President. I thank Stephen Serkaian of my staff for his help in preparing the special order.

EXHIBIT 1

S. RES. 124

Whereas the Armenian genocide was conceived by the Turkish Ottoman government and implemented from 1915 to 1923, resulting in the extermination of one and a half million Armenian men, women, and children, the deportation of an additional five hundred thousand survivors, and the elimination of a two thousand five hundred-year Armenian presence in its historic homeland;

Whereas the Armenian genocide is amply documented in the archives of the United States, as well as of Austria, France, Germany, and Great Britain;

Whereas United States Ambassador to Turkey Henry Morgenthau organized and led protests by all nations, among them Turkey's allies, over Turkey's program of race extermination;

Whereas an organization known as Near East Relief, chartered by an Act of Congress, contributed some $113,000,000 from 1915 to 1930 to aid the Armenian genocide survivors and, whereas, one hundred and thirty two thousand orphans became foster children of the American people;

Whereas the fact of the Armenian genocide was confirmed in Senate Resolution 359 dated May 13, 1920, which stated in part, "the testimony adduced at the hearings conducted by the subcommittee of the Senate Committee on Foreign Relations have clearly established the truth of the reported massacres and other atrocities from which the Armenian people have suffered";

Whereas the fact of the Armenian genocide was also confirmed in House Resolution 148 which stated in part, "that April 24, 1975, is hereby designated as 'National Day of Remembrance of Man's Inhumanity to Man', and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day as a day of remembrance for all victims of genocide, especially those of Armenian ancestry who succumbed to the genocide perpetrated in 1915, and in whose memory this date is commemorated by all Armenians and their friends throughout the world";

Whereas former President Jimmy Carter in a May 16, 1978, speech at the White House stated in part, "I feel very deeply that I, as President, ought to make sure that this (Armenian genocide) is never forgotten";

Whereas the United States, during the March 14 and 16, 1979, sessions of the United Nations Commission on Human Rights, voted in support of paragraph 30 in a report entitled, "Study of the Questions of the Prevention and Punishment of the Crime of Genocide" which stated, "Passing to the modern era, one may note the existence of relatively full documentation dealing with the massacres of Armenians.";

Whereas the United States Holocaust Memorial Council, an independent Federal agency, unanimously resolved on April 30, 1981, that, "the Armenian genocide should be included in the Holocaust Museum Memorial";

Whereas President Ronald Reagan in Proclamation numbered 4838, dated April 22, 1981, stated in part, "like the genocide of the Armenians before it, and the genocide of the Cambodians which followed it—and like too many other persecutions of too many other peoples—the lessons of the holocaust must never be forgotten"; and

Whereas the fact of the Armenian genocide has been documented, affirmed, and reaffirmed for over six decades: Now, therefore be it

Resolved, That the policy of the United States has embraced and shall embrace these historical events.

Mr. LEVIN. Mr. President, I ask unanimous consent that a number of fact sheets on the Armenian genocide compiled by the Armenian Assembly, a national nonprofit coalition representing the Armenian-American Community, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FACT SHEET: THE ARMENIAN GENOCIDE

During the second half of the nineteenth century, the Armenian population of the Ottoman (Turkish) Empire became the target of heightened persecution by the Ottoman government. These persecutions culminated in a three decade period during which the Armenians were systematically uprooted from their homeland of 3,000 years and eliminated through massacres of exile.

THE PATTERN OF PERSECUTION: 1894–1924

1894–1896: 200,000 Armenians massacred during the reign of the Ottoman Shutan Abdul Hamid II.

1909: 21,000 Armenians massacred in Cilicia.

1915–1923: 1,500,000 Armenians perished, and more than 500,000 were exiled from their homes in the Ottoman Empire.

At the beginning of World War I, there were some 2,500,000 Armenians living in the Ottoman Empire. Since the Armenian Genocide, fewer than 100,000 declared Armenians reside in Turkey. Armenian citizens of Russia were also subject to massacre during the Turkish invasions of 1918 and 1920.

MOBILIZATION FOR WORLD WAR I SETS THE STAGE FOR GENOCIDE

1. On August 2, 1914, general mobilization of the Turkish army was declared. Like their fellow Turkish citizens, all able-bodied Armenian men, with few exceptions, were called up for military service. Beginning in February, 1915, the Armenians in the armed forces were segregated into labor battalions, disarmed, and ultimately worked to death or massacred.

2. Also in August, 1914, the Young Turk government began to release murderers and other confirmed criminals from prisons throughout Asia Minor and placed them in the Special Organization (Teshkilati Mahsusa) for the express purpose of ending the "Armenian Question" by annihilating the Armenians. Whole villages were massacred outright in the fall and winter of 1914 in the eastern provinces.

3. In February, 1915, the Turkish government disarmed the Armenian mountaineers of Zeitun, near Marash, and deported the population to the Salt Desert near Konia, or to the Syrian desert. Packed into boxcars, or forced to walk, often without food or water for days, they quickly perished. Deportations and massacres soon became the plight of Armenians in other areas.

4. On April 24, 1915, about 200 Armenian religious, political, and intellectual leaders were arrested in Constantinople (Istanbul) exiled, or taken to the interior and murdered. Similar measures were executed throughout the empire in all Armenian centers.

5. The Edict of Deportation was formally promulgated on May 27, 1915. Soon afterwards, Armenians throughout the Ottoman Empire were deported on short notice. Men were usually separated from the group and massacred. The remaining women, children, and elderly were marched across Asia Minor and Turkish Armenia to the Syrian desert, constantly attacked by brigands and the Special Organization "guards" who were ostensibly to offer protection. Thousands were kidnapped. Most of the deportees were massacred or died of starvation, disease, or exposure.

6. Approximately 500,000 Armenian refugees escaped to the north across the Russian border, south into Arab countries, or to Europe and the United States. Thus, the Armenians of the Ottoman Empire were virtually eliminated from their ancestral homeland as a result of a carefully executed government plan of genocide.

7. Armenians who did return from exile to their homes following World War I found conditions uncertain, despite assurances by the Allies that their lives and property would be secure. With the rise of Mustapha Kemal (Ataturk) beginning in 1919, the Armenians again were subjected to waves of massacres. Those who survived either fled or were expelled by the Kemalist regime in 1922-25.

FACT SHEET: U.S. RECOGNITION OF THE ARMENIAN GENOCIDE

During the second half of the nineteenth century, the Armenian population of the Ottoman (Turkish) Empire became the target of heightened persecution by the Ottoman government. These persecutions culminated in a three-decade period during which the Armenians were systematically uprooted from their homeland of 3,000 years and eliminated through massacres or exile.

The United States Archives are replete with material documenting the premeditated extermination of the Armenian people, as well as American interventions to prevent the full realization of Turkey's genocidal plan and humanitarian assistance for those who survived. The U.S. Ambassador to the Ottoman Empire, Henry Morgenthau, acting on instructions from Secretaries of State William Jennings Bryan and Robert Lansing, organized and led protests by all nations, among them Turkey's allies, over what Ambassador Morgenthau referred to as Turkey's program of "race extermination." The archives also demonstrate that the American people, through an organization known as Near East Relief chartered by an act of Congress, contributed some $113 million between 1915 and 1930 to aid the Armenian Genocide survivors. In addition, 132,000 orphans became foster children of the American people and owe their lives to this effort.

U.S. REAFFIRMATION—A PARTIAL CHRONOLOGY

July 16, 1915—Telegram from U.S. Ambassador Henry Morgenthau to the Secretary of State:

"Deportation of and excesses against peaceful Armenians is increasing and from harrowing reports of eye witnesses it appears that a campaign of race extermination is in progress under a pretext of reprisal against rebellion."

May 13, 1920—Senate Resolution 359:

". . . the testimony adduced at the hearings conducted by the subcommittee of the Senate Committee on Foreign Relations have clearly established the truth of the reported massacres and other atrocities from which the Armenian people have suffered."

April 8, 1975—House Joint Resolution 148:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that April 24, 1975, is hereby designated as 'National Day of remembrance of Man's Inhumanity to Man', and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day as a day of remembrance for all the victims of genocide, especially those of Armenian ancestry who succumbed to the genocide perpetrated in 1915, and in whose memory this date is commemorated by all Armenians and their friends throughout the world."

May 11, 1976—Hearing, U.S. House of Representatives Committee on International Relations Subcommittee on Future Foreign Policy Research and Development Investigation Into Certain Past Instances of Genocide and Exploration of Policy Options for the Future, Opening Statement by Chairman Lester Wolff:

"We have before us a panel of distinguished guests who will provide us with a wealth of information on the first genocidal tragedy of the 20th century, that which befell the Armenian people in the years 1910-20 when 1.5 million people were killed or driven from their homes and left to die. Our purpose in this is twofold. We shall examine this tragedy as part of the broader problem of genocide and also to determine whether the repercussions of the tragedy are still being felt today."

May 16, 1978—Speech by former President Jimmy Carter at the White House:

". . . it's generally not known in the world that in the years preceding 1916, there was a concerted effort made to eliminate all the Armenian people, probably one of the greatest tragedies that ever befell any group. And there weren't any Nuremberg trials."

April 24, 1980—Speech by U.S. Holocaust Memorial Council Director Monroe Freedman:

"Today we recall in sorrow the million and one-half Armenians who were tortured, starved, and butchered to death in the First Genocide of the Twentieth Century."

April 22, 1981—Days of Remembrance of Victims of the Holocaust Proclamation 4838, by President Ronald Reagan:

"Like the genocide of the Armenians before it, and the genocide of the Cambodians which followed it—and like too many other such persecutions of too many other peoples—the lessons of the Holocaust must never be forgotten."

April 30, 1981—Days of Remembrance Commemoration, Capitol Rotunda Speech by U.S. Holocaust Memorial Council Chairman Elie Wiesel:

"Before the planning of the final solution, Hitler asked, 'Who remembers the Armenians?' He was right. No one remembered them, as no one remembered the Jews. Rejected by everyone, they felt expelled from history."

March 1983—U.S. Holocaust Memorial Council booklet entitled Armenian Genocide Commemorative Fund:

"The 1915-23 genocide of the Armenian citizens of the Ottoman Turkish Empire will have a place of prominence in the Holocaust Museum. Approval by the Holocaust Council was unanimous."

Mr. LEVIN. Mr. President, I ask unanimous consent that the following letter from the State Department to Congressman PASHAYAN be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF STATE, UNDER SECRETARY OF STATE FOR POLITICAL AFFAIRS,
Washington, D.C., April 21, 1983.

The Hon. CHARLES PASHAYAN, Jr.,
House of Representatives.

DEAR MR. PASHAYAN: I especially respect the prominent leadership role you exercise in the Armenian-American community and am consequently pleased to write to you on the controversial subject of the August 1982 Department of State Bulletin article on Armenian terrorism.

May I reemphasize to you that neither the article, its accompanying note, nor footnotes were intended as statements of policy of the United States. Nor did they represent any change in U.S. policy. Policy statements which are a part of the public record remain there and speak for themselves.

As you can understand, the Administration remains deeply concerned over the concerted efforts of some terrorist groups to invoke the tragic events of 1915 as a pretext for terrorism against Turkish diplomats and private and public activities of Turkey and Turks around the world. The United States Government condemns most strongly all such acts of terror.

We sincerely desire to end this unfortunate controversy over the Bulletin article. To that end, the Department of State plans to publish the following editor's note in the next issue of the Department of State Bulletin.

The article "Armenian Terrorism: A Profile," which appeared in the August 1982 issue of the Bulletin, its accompanying note and footnotes were not intended as statements of policy of the United States. Nor did they represent any change in U.S. policy.

I hope that the above clarification will alleviate any concerns you may have.

Sincerely,
LAWRENCE S. EAGLEBURGER.

Mr. LEVIN. Mr. President, I ask unanimous consent that a number of articles from the New York Times be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[An editorial from the New York Times, Apr. 23, 1983]

ARMENIAN MEMORY, TURKISH AMNESIA

The saddest date on the Armenian calendar is April 24, when a scattered people remembers a catastrophe most of us have forgotten. It happened in 1915, when a large and thriving Armenian community in Turkey became the object of the century's first official genocide.

It was a gruesome campaign, resulting in the death or deportation of perhaps 1.5 million of 2.3 million Turkish Armenians. Yet the perpetrators faced no judicial inquiry, no ministers resigned in disgrace and subsequent Turkish Governments have declined even to acknowledge what happened.

This amnesia in no way justifies a minuscule group of Armenian terrorists, who in a decade have killed 26 Turkish diplomats. But it surely justifies using the memorial day, as less vengeful Armenians ask with increasing urgency, to call for an accounting of a dark and unpunished crime.

A stateless people, Armenians were vulnerably located on both sides of the Eastern Front when World War I pitted Germany and the Ottoman Empire against Czarist Russia, Britain and France. Islamic Turkey looked on Christian Armenians as collectively suspect—even, according to one theorist, an "alien impurity."

"Alas, those who were innocent today might be guilty tomorrow," explained Turkey's Interior Minister, who ordered the deportation of entire communities and condoned plunder and murder by Turkish troops, beginning in April 1915.

The killings appalled German diplomats, who had no motive for exaggeration. Their dismay was shared by the American envoy, Henry Morgenthau Sr., who fed eyewitness accounts to foreign journalists. The weight of the evidence makes credible an Ottoman document, dated Sept. 16, 1915, asserting that the regime's purpose was "to destroy completely all the Armenians living in Turkey."

As shocking as what happened was what didn't. Much of the world protested, but with little effect and with numbed incredulity. An account of a ferocious killing on the shores of Lake Van prompted this meditation in The New Republic: "Humanity refuses to think that a civilized nation was even fractionally responsible for such desolation."

In that refusal, Franz Werfel foresaw other horrors. His powerful novel, "The Forty Days of Musa Dagh," describes a meeting between Turkey's Defense Minister, Enver Pasha, and a German pastor. Suppose Germany had enemies in its midst, said Enver, "shall we say, Poles or Social Democrats or Jews. . . . Would you consider it so cruel if, for the sake of victory, all dangerous elements in the population were simply herded together and sent packing into distant, uninhabited territory? . . . There can be no peace between human beings and plague germs."

Werfel, a Czech-German Jew, was writing in 1933. He later fled Germany, and died in America in 1945, when what began in Anatolia had produced Auschwitz.

KARL E. MEYER.

[The following articles were published in the New York Times from Mar. 20, 1915 to June 1, 1919]

WHOLE PLAIN STREWN BY ARMENIAN BODIES

LONDON, March 19—Appalling accounts of conditions in Armenia have reached the officials in London of the Armenian Red Cross Fund and have been given out by them.

The latest recital is from an Armenian doctor named Dardarian, who says that the whole plain of Alashgerd is virtually covered with the bodies of men, women, and children.

When the Russian forces retreated from this district the Kurds fell upon the helpless people and shut them up in mosques. The men were killed and the women were carried away to the mountains.

The organisers of the Red Cross Fund say there are 130,000 destitute Armenians now in the Caucasus.

PETROGRAD, March 19.—A telegram from Urumiah, Northwestern Persia, says that prior to the evacuation of towns between

Jufia and Tabriz the "Turks and Kurds, who were retreating before the Russian advance, pillaged and burned the villages and put to death some of the inhabitants.

At Salmas, Pagaduk, and Sarna orders are said to have been given by the Turkish Commissioner for the destruction of the towns.

All the Armenian inhabitants of Antvat were collected and, according to this message, 600 males were put to death, and the women, after being compelled to embrace the Mohammedan faith, were divided into parties and sent to various interior towns.

APPEAL TO TURKEY TO STOP MASSACRES

WASHINGTON, April 27.—An appeal for relief of Armenian Christians in Turkey, following reported massacres and threatened further outrages, was made to the Turkish Government today by the United States.

Acting upon the request of the Russian Government, submitted through Ambassador Bakhmeteff, Secretary Bryan cabled to Ambassador Morgenthau at Constantinople to make representations to the Turkish authorities asking that steps be taken for the protection of imperiled Armenians and to prevent the recurrence of religious outbreaks.

Ambassador Bakhmeteff called at the State Department late today with a dispatch from his Government, which included an appeal to the President of the United States for aid, forwarded through the Russian Government from the Catholics of the Armenian Church at Etchmiadzin in the Caucasus.

The request from the head of the Armenian Church to this Government, forwarded through the Russian Ambassador," said Secretary Bryan, "is the first official notice the department has received of the reported Armenian massacres. Our action was taken as a matter of humanity.

The Russian Embassy today gave out a translation of a recent speech by the Minister of Foreign Affairs in the Duma, in which the presence of Russian troops in Persia was explained. The Foreign Minister said:

"The presence of our troops in Persian territory by no means involves a violation of Persian neutrality. Our detachments were sent to that country some years ago for the definite purpose of establishing and maintaining order in districts contiguous to our possessions of high economic importance to us also to prevent the seizure of some of these districts by the Turks, who openly strove to create for themselves there especially in the district of Urumiah a convenient base for military operations against the Caucasus. The Persian Government not having the actual power to maintain its neutrality met the Turkish violation of the latter with protests, which, however, had no results.

MORE ARMENIAN MASSACRES

TIFLIS, Transcaucasia, (via Petrograd and London), June 5.—After the occupation by the Russians of Van Turkih Armenia, bands of Kurds continued to commit atrocities in the district of Bitlis, Moush and Diarbekr, Armenian volunteers in increasing numbers are fighting desperately to protect the Christian population from the Kurds. Inhabitants of Diarbekr, following the example of the Armenians in Van, have organized armed bands.

The population of Urumiah, in Persia, Armenia, greeted the Russians with enthusiasm. Food for the refugees in the American missions was brought by the Russians. The consulates at Urumian and Van have suffered little in the fighting which has been going on during the last few months.

The successes of the Russians in these districts are creating dissatisfaction among the Persians and Arabians. Disorders are developing.

The concentration by the Turks of military efforts on the Dardanelles has caused a shortage of arms and ammunition for their troo[illegible]n the Caucasus. A portion of the artille[illegible]as been removed from the Turkish fort[illegible] Erzerum, the principal city of Turkish Armenia.

WHOLESALE MASSACRES OF ARMENIANS BY TURKS

LONDON, July 28.—The Earl of Crewe, Lord President of the Council, replying in the House of Lords today to a question by Viscount Bryce, concerning the killing of Christians in Armenia by the Turks, said the information received at the Foreign Office showed that such crimes had recently increased both in number and in degree of atrocity. They include, Lord Crewe declared, both wholesale massacre and wholesale deportations, which were carried out under the guise of enforced evacuation. Similar crimes, he added, had been committed by the Turks against Christians on the Persian border.

The presence of the Germans and the influence they exercised had been, Lord Crewe continued, "an absolute and unmitigrated curse both to the Christian and Moslam population. They have shown a most complete cynical disregard for the country and the people who inhabit it."

Lord Crewe said he regretted that it was impossible to take immediate steps for the suppression of such atrocities, but that those responsible for them would ultimately receive just punishment.

REPORT TURKS SHOT WOMEN AND CHILDREN

PARIS, Aug. 3.—B. Varazdate, a member of the Executive Committee of the Armenian Social Democratic Party, writing to L'Humanita, the Socialist daily, says that the committee has received word to the effect that Turks, after massacring all the males of the population in the region of Bitlis, Turkish Armenia, assembled 9,000 women and children and drove them to the banks of the Tigris, where they shot them and threw the bodies into the river.

These advices have not been substantiated from any other sources.

The Armenian population of Cilicia, in the Turkish Vilayet of Adana, also has been subjected to persecutions, according to the reports of the communities. More than 40,000 persons already are dead and it is feared that the Armenians at Moush and Diarbekr, to Kurdistan also have been massacred.

Twenty members of the Armenian Social Democratic Party, M. Varazdate says, have been publicly hanged in Constantinople after being charged with wishing to found an independent Armenia.

ARMENIAN HORRORS GROW

LONDON, Friday, August 6.—The Daily Chronicle says:

"A tragic episode of the war in the East is the wholesale massacre of the Armenians in the eastern vilayets of Asia Minor by the Turks and Kurds. Regarding the terrible scale of these massacres, greater than any which occurred under Abdul Hamid, there is now no room for doubt, and the statements made on the subject last week by Lord Bryce in the House of Lords were officially corroborated by Lord Crewe.

"In certain cases the Armenians have defended themselves successfully. At the town of Van, for instance, to which Enver I'asha sent his brother-in-law with a commission of extermination, the victims rose after the massacres had begun, barricaded the Armenian quarter, and held our against the Turkish seige for four weeks until relieved by the advent of the Russian army. But with this and some similar exceptions they have been powerless. Tens and probably hundreds of thousands have been butchered, and great numbers more have been deported by road hundreds of miles to Western Anatolia under conditions amounting to slow extermination.

"The Germans, who are masters of the Central Ottoman Administration, have to their everlasting shame not only permitted, but rather encouraged these horrors. The allied powers have notified the Turkish officials that they will hold them personally responsible, and at this stage they can do no more. There is perhaps room for an effective American protest, though we have not yet heard of one."

The Chronicle concludes by making an appeal to British private charity, citing the following terrible account of ruin and devastation following the Turkish massacres in Northeastern Armenia, telegraphed by Ayvadian, the Archbishop of Van, and Aram, the Governor of Van, to the honorary secretary of the Armenian Red Cross and Refugee Fund:

"Besides Van, the provinces of Chatakh, Moks, Sparkert, Mamertank, and Khizan are saved. The rest are ruined and devastated. Men, women, and children are massacred. Twenty thousand people are homeless. Famine and infectious disease prevail. Many volunteers are sick and wounded. Notwithstanding assistance from the Russian Government and the Armenians in the Caucasus, there is great want of doctors, drugs, ambulances, and food. The situation in Bitlis, Moush, and Diarbekr is terrible. We beg urgently for immediate help."

ARMENIANS ARE SENT TO PERISH IN DESERT

LONDON, Wednesday, Aug. 18.—The Daily News has received from Aneurin Williams, M. P., a copy of a letter from Constantinople, dated July 18, describing the terrible plight of the Armenians in Turkey. The letter says:

"We now know with certainty from a reliable source that the Armenians have been deported in a body from all the towns and villages in Cilicia to the desert regions south of Aleppo. The refugees will have to traverse on foot a distance, requiring marches of from one to two or even more months.

"We learn, besides, that the roads and the Euphrates are strewn with corpses of exiles, and those who survive are doomed to certain death, since they will find neither house, work, nor food in the desert. It is a plan to exterminate the whole Armenian people.

"Courts-martial operate everywhere without cessation. Twelve Armenians were hanged at Caessroa on a charge of having obeyed instructions which they had received from a meeting secretly held at Buchareat by the Trooahak and Ilunchak societies. Many have fallen from blows from clubs. Thirteen Armenians were killed in this way at Diarbekr and six at Cassuea. Thirteen others were killed on their way from Chabine-Karahissar to Bluas. The priests of the village of Kurk with their five companions suffered the same fate on the road to Sow-Chehrasvas although they had their hands bound.

"Hundreds of women and young girls and even children groan in prisons. Churches and convents have been pillaged, defiled, and destroyed. The villages around Van and Bitlis have been pillaged and the inhabitants put to the sword.

"At the beginning of this month all the inhabitants of Karahissar were pitilessly massacred, with the exception of a few children."

Burn 1,000 Armenians

London, Friday, Aug. 20.—A Reuter dispatch from Petrograd says:

"Almost unbelievable details of Turkish massacres of Armenians in Bitlis have reached Petrograd.

"In one village 1,000 men, women and children are reported to have been locked in a wooden building and burned to death.

"In another large village only thirty-six persons, it is said, escaped massacre.

"In still another instance, it is asserted, several scores of men and women were tied together by chains and thrown into Lake Van."

Turks Depopulate Towns of Armenia

A traveler who has just arrived in New York from Turkey, where he was long a resident, told The Times yesterday of conditions as he found them in Constantinople, and of the wholesale deportations of Armenians from the interior districts of Asiatic Turkey. For reasons that are valid the narrator does not wish to have his name published, but The Times can vouch for his qualifications as an observer, especially of conditions in the Armenian district.

Leaving Sivas, where he spent some time, he proceeded to Constantinople and thence to Athens, from which port he sailed for New York. When in Constantinople about four weeks ago, he said, the tension was pretty high. In official circles it was maintained that everything was proceeding smoothly for the Turks, but there were many individuals, he said, who expressed discouragement. These put little faith in Germany's motives in aiding Turkey, and some even charged Enver Pasha with having sold out to Germany for money.

1,500,000 Armenians Starve

The American Armenian Relief Fund Committee has received two letters from Constantinople describing the horrors to which the Armenian Christians in Turkey are being subjected. One letter, dated June 15, says in part:

"The Turkish Government is executing today the plan of scattering the Armenians of the Armenian provinces, profiting from the troubles of the European powers and from the acquiescence of Germany and Austria.

"These people are being removed without any of their goods and chattels, and to places where the climate is totally unsuited to them. They are left without shelter, without food, and without clothing, depending only upon the morsels of bread which the Government will throw before them, a Government which is unable even to feed its own troops.

"It is impossible to read or to hear, without shedding tears, even the meagre details of these deportations. Most of the families have traveled on foot, old men and children have died on the way, young women in child-birth have been left on mountain passes, and at least ten deaths a day are recorded among them even in their place of exile victims of hunger and sickness. It has not been possible as yet to forward any help to Sultanieh, owing to the interdiction of the Government, in spite of the efforts of the American Ambassador, whose philanthropic and generous endeavors in aid of the Armenians are gratefully acknowledged."

Answer Morgenthau by Hanging Armenians

London, Thursday, Sept. 16.—A Times correspondent, lately in Salonika, says that all the reports from Turkey are agreed as to the terrible character of the Turkish atrocities against Armenians. It is believed that it is the official intention that this shall be a campaign of extermination, involving the murdering of 800,000 to 1,000,000 persons. Christians can escape murder by embracing Mahomedanism, in which case all the female members of the convert's family of marriageable age—wife, sisters, or children—are distributed around to other Turks, making the reversion to Christianity in future practically impossible.

The American Minister at Constantinople is said to have protested recently against the massacre, in view of the danger to which they exposed the American missionaries. The only response to his protest was the hanging of twenty leading Armenians the next day in the streets of Constantinople.

500,000 Armenians Said To Have Perished

Washington, Sept. 23.—Charles R. Crane of Chicago, a Director of Roberts College, Constantinople, and James L. Burton of Boston, Foreign Secretary of the American Board of Commissioners for Foreign Missions, visited the State Department today and conferred with Acting Secretary of State Polk and other officials regarding the slaughter of Armenians by Turks and Kurds in Asia Minor. They will attend a meeting of a general committee, to be held in New York within a few days, to devise a plan for appealing to the American people for funds and aid for as many of the unfortunate Armenians as can be helped.

It was learned, in connection with the conferences held here today, that general representations have from time to time been made to the Ottoman Government by Ambassador Morgenthau for humane treatment of Armenians. Despite these representations, the slaughter of Armenians has continued.

The records of the State Department are replete with detailed reports from American Consular officers in Asia Minor, which give harrowing tales of the treatment of the Armenian Christians by the Turks and the Kurds. These reports have not been made public. They indicate that the Turk has undertaken a war of extermination on Armenians, especially those of the Gregorian Church, to which about 90 percent of the Armenians belong. The Turkish Government originally ordered the deportation of all Armenians, but, some time ago, after representations had been made by Ambassador Morgenthau, the Ottoman Government gave assurances that the order would be modified so as not to embrace Catholic and Protestant Armenians.

Armenian Women Put Up at Auction

The statement made by Count von Bernstorff, the German Ambassador, in a letter to Miran Sevasly of Boston, in which he characterized the reports concerning Turkish atrocities perpetrated against the Armenians as "pure inventions," will be answered in a few days by a number of well-known Americans who are cognizant of the actual situation in Turkey, and who, it is said, will produce absolutely trustworthy evidence and authenticated data to prove, as one of them put it yesterday. That "all Armenia is bloody with atrocities."

The letter of the German Ambassador to Mr. Sevasly was published in The Times of yesterday, and the statements made by Count von Bernstorff created nothing short of indignation in missionary and other circles in which the Armenian situation is at the present time now of vital concern.

"So far as the German Ambassador is concerned, all that I care to say just now," said Professor Samuel T. Dutton, Secretary of the Committee on Armenian Atrocities, yesterday, "is that he has evidently been badly misinformed. I am quite sure that he will be much surprised when he sees the concrete material, all of it throughly authenticated, concerning what has happened in Armenia which is in the possession of this committee".

Armenian Officials Murdered by Turks

London, Sept. 29.—The Cairo correspondent of The Times, in a dispatch dated Sept. 27, says:

Confirmation has reached here of reports of Armenian atrocities of a nauseating and appalling character. Undoubtedly, as on previous occasions, these outrages have been engineered from Stamboul. There is reason to believe that the attack on the Armenians was decided upon on Enver Pasha's return after his repulse in the Caucasus, when he appeared to be infuriated against the Armenians because they had greatly assisted the Russians.

"Talat Bey evidently seized the opportunity to retaliate upon the defenseless colonies in Asia Minor. The formula adopted as a cloak was an order for the expulsion of the Armenians and their deportation to centres in the interior. Resistance or delay in compliance with the order was made the excuse for murder, rape, and other savageries.

"One instance in which leading Armenians were concerned shows the fate awaiting even those who obeyed the order. Vartkes Effendi and Zohrab Effendi, two prominent members of Parliament; Agnnuni, one of the chief Dashnakists; Haladjian Effendi, and Pastermedijian Effendi, ex-Ministers of Public Works and Agriculture, were put in a carriage at Urfa for conveyance to Diarbvekr, and then were murdered en route, their escort reporting that the murders were the work of brigands. Vartkes was but recently recipient of marks of Talaat Bey's friendship.

"Refugees from Suedia now at Port Said appear to have fought most valiantly. When the deportation order came 4,800 of these took to the hills, where they resisted for seven weeks, one attack of the Turks lasting continuously for twenty-six hours. It is believed that Armenians elsewhere are resisting, but the case of the inland colonies is almost hopeless.

"The nature and scale of the atrocities dwarf anything perpetrated in Belgium or under Abdul Ha mid, whose exploits in this direction now assume an aspect of moderation compared with those of the present Governors of Turkey. Talaat Bay, when ordering the deportations, said:

"'After this, for fifty years there will not be an Armenian question.'"

SAYS EXTINCTION MENACES ARMENIA

Dr. M. Simbad Gabriel, President of the Armenian General Progressive Association in the United States told a Times reporter last night that no American could possibly conceive of the atrocities which the Turks had perpetrated on the Christian Armenians. He said that from correspondence he had received from Nubar Pasha, the diplomatic representative in Paris of the Katholikos or head of the Armenian church, he estimated the number of Armenians put to death as more than 450,000, while 600,000 others had been driven from their homes to wander among the villages of Asia Minor, all these out of a population of 1,500,000.

"We in America can't begin to realize the extent of this reign of terror," said Dr. Gabriel, "because Armenians in Turkey are not allowed to write, nor even to converse with each other of what they are undergoing at the hands of the Turks. Nubar Pasha writes that he has been informed by the Katholikos and also by prominent Armenians in Constantinople, who bind him by the most solemn oaths not to reveal their names, of some of the horrible deeds which have been perpetrated by the Moslems on the Armenians.

TALES OF ARMENIAN HORRORS CONFIRMED

Professor Samuel Train Dutton, Secretary of the Committee on Armenian Atrocities, made public yesterday a preliminary statement of the committee outlining the result of its investigation of the terrible conditions existing among the Armenians. The committee says that the reports concerning the massacre, torture, and other maltreatment of Armenians of all-ages abundantly are confirmed by its investigation.

Other members of the committee besides Professor Dutton are Cleveland H. Dodge, Arthur Curtiss James, Rabbi Stephen S. Wise, John R. Mott, Frank Mason North, James L. Barton, William Sloane, D. Stuart Dodge, and others.

The statement issued by the committee yesterday is as follows:

"A sub-committee has thoroughly investigated the evidence and has just made report to the full committee confirming in every particular the statement recently made by Viscount Bryce regarding the imprisonment, torture, murder, massacre, and exile into the deserts of Northern Arabia of defenseless and innocent Armenians, including decrepit men, women and children, and their forcible conversion to Islam.

"Written testimonies of eyewitnesses whose names are known to the committee, but which obviously cannot now be made public, have been examined with utmost care. This testimony covers hundreds of pages, and the character and position of the authors and the positiveness of utteraned carry absolute conviction.

GOVERNMENT SENDS PLEA FOR ARMENIA

WASHINGTON, Oct. 4—Further representations have been made to the Ottoman Government by the Government of the United States regarding the Armenian atrocities.

Secretary of State Lansing tonight sent to Ambassador Morganthau at Constantinople a message voicing the interest of the American people in the Armenian situation, and urging that steps be taken by the Turkish Government for the protection and humane treatment of the Armenians.

The message did not take the form of a protest from the Government of the United States, but directed Mr. Morganthau to inform the Ottoman Government that the atrocities inflicted upon the Armenian Christians had aroused strong sentiment among the American people, and that a continuation of these atrocities would tend to jeopardize the good feeling of the people of the United States toward the people of Turkey.

Secretary Lansing said today that no representations had been made to Germany regarding the treatment of the Armenians by the Turks. It was learned, however, that Ambassador Morganthau had reported that the German Embassy at Constantinople had filed a protest on this subject with the Turkish Foreign Office. An announcement some time ago was to the effect that the State Department had asked Count von Bernstorff, the German Ambassador here, to bring the matter to the attention of his Foreign Office.

800,000 ARMENIANS COUNTED DESTROYED

LONDON, Thursday, Oct. 7.—The Daily Chronicle's Parliamentary correspondent in the House of Lords says:

"This afternoon Lord Bryce gave a heart-piercing account of the circumstances under which the Armenian people are being exterminated as a result of an absolutely premeditated policy elaborately pursued by the gang now in control of Turkey. He computes that since May last 800,000 Armenians, men, women, and children, have been slain in cold blood in Asia Minor.

"The House of Lords is a very unemotional assembly, but it was thrilled in every fibre at the story of the horrors compared to which even the atrocities of Abdul Hamid pale. As Lord Bryce truly said, there is not a case in history since the days of Tamerlane where a crime so hideous and on so gigantic a scale has been recorded. An ex-Sultan of Turkey is credited with saying that 'the only way to get rid of the Armenian question is to get rid of the Armenian.'"

"That horrible policy has," Lord Bryce said, "been carried out far more thoroughly by the present Turkish Government than it ever was by Abdul Hamid. The Armenian nation is not yet quite extinct; forlorn remnants have found refuge in the Caucasian provinces; some managed to reach Egypt; a few ill-armed, half-starved bands; are bravely defending themselves from would-be assassins in the mountains of Sassun and Cilicia.

SPARE ARMENIANS, POPE ASKS SULTAN

ROME, Oct. 10—Mgr. Dolci, the Apostolic Delegate at Constantinople, having reported to the Holy See on the sufferings of the Armenians, Pope Benedict has written an autograph letter to the Sultan of Turkey interceding for the unfortunate people.

BERLIN, Oct, 10, (by Wireless to Tuckerton, N.J.).—"The Cologne Gasette refers to the accusations of Lord Cromer and the Marquis of Crews in the House of Lords that German Consular officials encouraged the Turkish population to attack Armenians," says the Overseas News Agency. "The newspaper states that the purpose of these unfounded assertions is easy to comprehend. England wishes to divert the attention of neutrals from the violation of Greek neutrality, and, since the Belgian question is no longer novel enough, turns to new accusations."

MASSACRES RENEWED, MORGENTHAU REPORTS

WASHINGTON, Oct. 12.—Armenian massacres in Asiatic Turkey have been renewed with vigor since Bulgaria's practical entrance into the war as Turkey's ally. This information reached the State Department today from Ambassador Morgenthaus, who stated that the majority of the Armenians in Asiatic Turkey had been killed.

Although representations were made by this Government, some time ago, warning Turkey that further atrocities against the Armenians would alienate the sympathies of the American people, no answer has been received.

Earlier representations were met with two concessions, promising that those Armenians who wished to leave the country would be permitted to do so unharmed, and further that Protestant Armenians would be spared. Information recently reaching this country, however, indicates that these conditions have not been strictly adhered to. From one quarter it was asserted that "they were rescinded the next day."

Although $100,000 from private subscriptions has been placed at Ambassador Morgenthau's disposal, for distribution among the Armenian refugees now banished to desert towns, no arrangements have been made for bringing Armenians to this country, as was originally planned, except where friends or relatives send for them. Those Armenians who were spared are now gathered in the country between the Tigres and Euphrates Rivers.

TURKISH OFFICIAL DENIES ATROCITIES

Djelal Munif Bey, the Turkish Consul General in New York, in an official statement to the times yesterday declared the report made public a week ago last Sunday by the American Committee on Armenian Atrocities, which asserted that not in the one thousand years just ended had a people suffered such terrible outrages as are those the Turks are perpetrating upon the Armenians, to be a fabrication. The report described the atrocities as being officially sanctioned from Constantinople, and it was stated that the situation was one involving an attempt to wipe out an entire race.

Among the men who signed the report were Bishop David H. Greeer, Cleveland H. Dodge, Oscar S. Straus, Rabbi Stephen S. Wise, the Rev. Dr. James L. Barton, William Sloane, Professor Samuel P. Dutton, Charles R. Crane, and Arthur Curtiss James. Cardinal Gibbons has, since the report was issued, accepted membership on the committee.

The committee, in a foreword to the report, stated that it vouched for its truthfulness, and added that "the movement against the Armenians forms part of a concerted movement against all non-Turkish and missionary and progressive elements, including the Zionists."

The Times yesterday asked Djelal Bey, as the highest Turkish official in New York, if he, as the representative of the Ottoman Government, had any reply to make to the charges made by the Armenian Atrocities Committee.

ONLY 200,000 ARMENIANS NOW LEFT IN TURKEY

TIFLIS, Transcaucasia, Oct. 19 (via Petrograd and London, Oct. 21).—The estimate is made by the Armenian newspaper Mshak that of the 1,200,000 Armenian inhabitants of Turkey before the war there remain not more than 200,000. This residue, the Mshak says, may disappear before the end of the war, on account of the Turkish policy of extermination.

The figures of the Mshak are based on the estimate of the Armenian Patriarch at Constantinople that 850,000 Armenians have been killed or enslaved by the Turks. In addition to which 200,000 Armenians are believed to have fled to Russia

Germany Says She Cannot Stop Turks

Washington, Oct. 22.—Confidential advices received today by the State Department said the German Government had officially made efforts to alleviate alleged atrocities upon Armenians in Turkey, but that Turkish officials apparently displayed lack of interest in such endeavors.

Representations were made by the United States through Ambassador Morgenthau at Constantinople some time ago, warning Turkey that continued persecution of Armenians would alienate the friendship of the American people. A number of dispatches on the subject have been received from Mr. Morgenthau, but there has been no announcement of a definite answer from the Ottoman Government.

Slay All Armenians in City of Kerasunt

London, Tuesday, Oct. 28.—A dispatch to the Daily Mail from Odessa says:

"The Turks have massacred the entire Armenian population of Kerasunt, on the Black Sea."

Kerasunt is a seaport in Asiatic Turkey, about seventy miles west of Trebizond. It is situated on a rocky promontory with a spacious bay on the east side. The heights surrounding are covered with luxurious vegetation. The population of Kerasunt is about 24,000.

London, Oct. 25.—An eyewitness story of Armenian atrocities, given to the British staff at the Dardanelles by an Armenian prisoner who was serving in the Turkish Army, is sent by the Reuter correspondent with the Dardanelles fleet. This Armenian says the declaration of martial law at Zile included the confiscation of all Armenian property.

He describes how women were tied to the tails of oxcarts and exposed to hunger and rough weather until they accepted conversion to Islam or death; how mothers were bayoneted before the eyes of their children, and how Armenian girls were distributed as chattels among civil and military officials.

The prisoner says that as a soldier he was compelled to assist in many massacres, being on one occasion a member of a party of forty soldiers which superintended the death of 800 Armenians. His account closes as follows:

"There is reason to believe that German advisers of the Turks have urged upon them the undesirability of allowing a large alien and persumably unfriendly population to inhabit ports which lie open to Russian attack."

Aid for Armenians Blocked by Turkey

The American Committee on Armenian Atrocities, among the members of which are Cardinal Gibbons, Cleveland H. Dodge, Bishop David H. Greer; Oscar S. Straus, Professor, Samuel T. Dutton, Charles R. Crane, and many other prominent citizens, issued a statement yesterday in which it was said that authentic reports from Turkey proved that the war of extermination being waged by the Turks against the Armenians was so terrible that when all the facts were known the world would realize that what had been done was "the greatest, most pathetic, and most arbitrary tragedy in history."

Attempts to furnish food to the Armenians, ordered deported to distant parts of the empire were blocked by the Turkish authorities, the committee said, the Turkish officials stating that "they wished nothing to be done that would prolong their lives."

In the statement the committee makes public a report received a few days ago from an official representative of one of the neutral powers, who, reporting on conditions in one of the Armenian camps, says:

"I have verified their encampment and a more pitiable sight cannot be imagined. They are, almost without exception, ragged, hungry and sick. This is not surprising in view of the fact that they have been on the road for nearly two months, with no change of clothing, no chance to bathe, no shelter, and little to eat. I watched them one time when their food was brought. Wild animals could not be worse. They rushed upon the guards who carried the food and the guards beat them back with clubs, hitting hard enough to kill sometimes. To watch them one could hardly believe these people to be human beings. As one walks through the camp, mothers offer their children and beg you to take them. In fact, the Turks have been taking their choice of these children and girls, for slaves or worse. There are very few men among them as most of the men were killed on the road. Women and children were also killed. The entire movement seems to be the most thoroughly organized and effective massacre this country has ever seen."

Germany Protested Armenian Massacres

Boston, Dec. 22.—The German Government on Aug. 9 last filed at Constantinople a protest against the Turkish treatment of Armenians, according to Dr. James L. Barton, Chairman of the National Committee for Armenian and Serbian Relief, who today made public the text of the protest.

In a statement quoting the official statement transmitted by the German Embassy at Constantinople, Dr. Barton, speaking for the committee, called attention to the fact that Count Ernest von Reventlow, the German naval expert, in a recent statement, published in the Tages Zeitung in Germany and cabled to the United States, strongly defended Turkey's massacre of the Armenians on the basis of military necessity.

"One wonders," Dr. Barton added, "whether von Reventlow knows that throughout the length and breadth of the Turkish Empire, after the men (who only were capable of revolution, but who, according to every known evidence, did not revolt) had nearly all been disposed of, the attack fell upon the widows and orphans, who were driven from their homes by hundreds of thousands at the point of the bayonet.

"It is possible that von Reventlow knows that fully one-half of these refugees miserably perished from violence, exposure and starvation. He must be ignorant of the sickening reports made by many eyewitnesses—American, Italian, British, German—civilian and official, who tell of seeing these helpless inoffensive women and girls brained because they clamored for food or forced into Islam because perchance they were comely, of women throwing their babies into rivers or over precipices to save them from the impending horror of continued existence.

Americans' Deaths Laid to the Turks

The strain and shock of the tragedies that the war has brought to Turkey during the last year is responsible for the deaths of five of the American missionaries on duty in the Turkish Embassy since the first of last May, the period covered by the Turkish campaign against the Armenians, according to the annual report of the Rev. Dr. James L. Barton, the foreign secretary of the Board of Commissioners of Foreign Missions, made public here yesterday.

The missionaries whose deaths are attributed to the terrible conditions in Turkey were Mrs. Mary E. Barnum, died at Harpoot, May 9, after fifty-six years of service in Turkey; Mrs. Charlotte E. Ely, died at Bitlis, July 11, after forty-seven years continuous service; the Rev. George P. Knapp, died at Diarbekr, Aug. 10, after twenty-five years service at Harpoot and at Bitlis; Mrs. Martha W. Raynolds, wife of the Rev. Dr. George C. Raynolds, died Aug. 27, from injuries received while in flight from Van to Tiflis, Russia, and Mrs. Elizabeth Ussher, died of typhus fever at Van, July 14, after sixteen years of service.

The report goes into the war situation in detail. Among the hundreds of thousands of Armenians and other Christians who perished in Turkey, Dr. Barton states, were "professors and teachers in our schools, pastors and preachers, pupils, and all other classes," every one of whom, he adds, "miserably perished at home, or have died of exposure upon the road toward northern Arabia or elsewhere where vast multitudes have been exiled."

"Probably in all history," Dr. Barton continues, "two hundred missionaries have never been called on to pass through more terrible experiences than have our missionaries in Turkey during the last nine or ten months, and the end is not yet."

Referring to the treatment of Americans by the Turkish authorities, Dr. Barton says that when Harpoot was made a military centre several of the buildings of Euphrates College were voluntarily turned over to the Turkish military authorities. A large dormitory was not and the American Consul sealed the door with the official seal of the United States.

Million Armenians Killed or in Exile

In a statement issued yesterday from the offices of the American Committee for Armenian and Syrian Relief at 70 Fifth Avenue, further atrocities committed by Turks upon Armenian Christians were detailed and additional evidence was given to support Lord Bryce's assertion that the massacres are the result of a deliberate plan of the Turkish Government to "get rid of the Armenian question," as Abdul Hamid once said, by getting "rid of the Armenians."

Professor Samuel T. Dutton, Secretary of the committee, said:

"According to all of the best evidence which the American committee has received, it is probably well within the truth to say that of the 2,000,000 Armenians in Turkey a year ago, at least 1,000,000 have been killed or forced into Islam, or compelled to flee the country, or have died upon the way to exile, or are now upon the road to the deserts of Northern Arabia, or are already there. The number of victims is constantly increasing. Surely there can be no greater need of immediate help, even in these troublous times, than the desperate need of the Armenian refugees. The American committee has already done much in collecting and sending funds, as has also the English committees, but there is still the direct need of generous contributions. All contributions should be sent to Charles R. Crane, Treasurer, 70 Fifth Avenue."

Sultan Searching Out Authors of Killings

London, Dec. 6.—The London news papers today printed an interview with Mohammed VI, the Turkish Sultan, obtained by a British correspondent in Constantinople, who describes that ruler as a very different personality from his two brothers who preceded him on the throne.

Mohammed VI says the correspondent, gives one the impression of possessing a strong character and considerable intellectual force. He is tall and slender, and his appearance suggests that of a university professor.

In talking with the correspondent the Sultan condemned the unwisdom and lack of foresight which brought Turkey into the war and led her to the calamity which had befallen her. He declared that if he had been Sultan this would never have happened.

The ruler expressed great sorrow at the treatment of the Armenians by "certain political committees of Turkey," and added:

"Such misdeeds and the mutual slaughter of sons of the same fatherland have broken my heart. I ordered an inquiry as soon as I came to the throne so that the fomentors might be severely punished, but various factors prevented my orders from being promptly carried out. The matter is now being thoroughly investigated. Justice will soon be done and we will never have a repetition of these ugly events."

The Sultan asked the interviewer to publish the following from him:

"The great majority of the nation is entirely innocent of the misdeeds attributed to it. Only a limited number of persons are responsible.

Saw Armenians Drowned in Groups

Portland, Me., Feb. 1.—The young American woman who Abram I. Elkus, former American Ambassador to Turkey, says is the only living eyewitness to the atrocities of the Turks against the Armenians, excepting the Turks themselves, was found in this city today by newspaper men. She is Mrs. George Dar Arsanian of 27 Washington Avenue, and through the assistance of Mr. Elkus and ex-Ambassador James W. Gerard, she escaped from Turkey and eventually returned to America.

Her first husband, Robert Agasarian, an Armenian by birth, but a naturalised American citizen and resident of this country for twenty years was murdered, she says, by the Turks along with hundreds of others, and her little son was drowned in a river near the town of Chmeshgasak, Turkey.

Turks Hang Kemal Bey for Armenian Massacres

Constantinople, April 12.—Kemal Bey, Governor of Diarbekr, has been publicly hanged in Bayazid Square in Stamboul, in the presence of the Military Governor of Constantinople and other high officials. Kemal Bey was sentenced to death as one of those responsible for the Armenian deportations and massacres in the Yoghad district.

The former commander of the gendarmero in Yoghad was sentenced to fifteen years imprisonment in the fortress.

These sentences were confirmed by an imperial irade.

The trial of those responsible for the Armenian massacres by the Turks began early in February at Constantinople. The prosecutor declared that it was necessary to punish the authors of the massacres, which had filled the whole world with a feeling of horror.

Kemal Bey was former Turkish Minister of Food.

Armenian Girls Tell of Massacres

Personal narratives told by Christian women and girls of Armenia, who were deported from their homes to virtual captivity or slavery in the camps of the Turks, Circassians and Arabs, or were held captives in Turkish harems in Asia Minor, have been received by the American Committee for Armenian and Syrian Relief. A statement issued by the Committee says that the women whose stories are now made public, were released by their masters or rescued by allied troops.

"After the signing of the armistice," says the Committee's statement, "many of the Turks, believing that by so doing they could escape punishment, turned the women—many of them with babies—into the streets. Cable dispatches to the Committee have reported that numbers of these women were wandering about the country, crazed by starvation and exposure. As fast as possible they are being gathered up by the Committee's relief workers and placed in homes established for their care. A late telegram said that fifteen such homes have been established in Asia Minor.

Stories of the Armenian victims of Turkish atrocity were obtained by Dr. Loyal I. Wirt, member of an expedition sent to Turkey by the Committee. They were taken down as related by Dr. W. A. Kennedy, Field Director of the Lord Mayor's Relief Fund of London. Dr. Kennedy assured Dr. Wirt that he personally reread the affidavits to the narrators and they signed them in his presence.

RECOGNITION OF SENATOR RIEGLE

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan (Mr. Riegle) is recognized for not to exceed 15 minutes.

ARMENIAN MARTYRS DAY

Mr. RIEGLE. Mr. President, I begin by commending my colleague from Michigan (Mr. Levin) for his important leadership on this issue and for being the driving force behind this effort today in the Senate.

I also acknowledge his staff member, Steve Serkaian, for his leadership and efforts on this matter in helping Senator Levin and all of us take account of this matter and bring it to the attention of the country today. In a sense, Steve, who is on the floor now, represents all Armenian people, Armenian Americans and others around the world about whom we speak and to whom we pay tribute today. I think it is fitting to recognize both his presence and his leadership.

Mr. President, today we pause to recall one of the greatest tragedies of this century. Sixty-eight years ago, the world witnessed the brutal killing of over 1.5 million Armenian men, women, and children in what became the first genocide of the 20th century.

On this anniversary, we acknowledge the pain and suffering of the millions of Armenians at the hands of the Turkish authorities. We reread the gruesome accounts of the atrocity and wonder how such evil acts were allowed to continue for 7 long years.

The full horror of the massacres began on the night of April 24, 1915, when the Turkish police rounded up all of the Armenian intellectuals from their homes in Constantinople, effectively silencing the voice of a generation. In the villages, Turkish soldiers gathered the unarmed Armenian men into the village square, executed them, and then deported the women and children into the vast Syrian desert. Few survived.

Henry Morgenthau, our Ambassador to Turkey at that time, tried to alert this country to the tragedy:

> When the Turkish authorities gave the orders for these deportations, they were merely giving the death warrant to a whole race.
>
> I have by no means told the most terrible details, for a complete narration of the sadistic orgies of which these Armenian men and women were the victims can never be printed in an American publication . . . I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915.

Although the Armenians were the objects of murderous annihilation in this century, their experience of genocide has often been overshadowed by more recent holocausts and, in some cases, has even been challenged as a historical fact.

The world's failure to acknowledge the Armenian genocide provided Hitler with a precedent for his crimes—the century's second genocide, which took the lives of 6 million Jews and millions of other innocent people.

"Who remembers the Armenians?" This was the question Hitler asked at the time he was planning his final solution for the Jews of Europe. A deafening silence was the response to his question as Europe stood by to witness yet another tragic annihilation.

Since the Armenian tragedy in 1915, genocide has become part of the historical fabric of this century. Its victims have become more numerous and widespread with the passage of time. Now, six decades after the first genocide, history has recorded the death of 6 million Jews at the hands of Hitler and his regime; the genocide of the Cambodian people in which more than 2½ million people were killed by the repressive Pol Pot regime; the murder of 300,000 individuals in Uganda under Idi Amin; the merciless killings and repression in El Salvador, Argentina and Afghanistan, to mention only some places where this is occurring. The Armenian people, the first victims of this horror, stand as symbols of the human capacity for cruelty to fellow human beings.

In observing Armenian Martyrs Day, we seek to insure that the massacre of over 1.5 million Armenians will not be forgotten. For only by keeping the memory of past horrors alive can we guard against the possibility of future genocides.

The establishment of the Holocaust Memorial as part of the Smithsonian Museum will serve to educate current and future generations of Americans on the massacre of the Armenians as well as the Holocaust against the Jews. By rededicating ourselves to fighting bigotry and indifference to human suffering, we can pay a living tribute to the brave Armenians.

The most valuable lessons of human experience are those learned from our mistakes. However, nothing can be learned from the mistakes we fail to admit. Even as we note the 68th anniversary of the Armenian genocide, the Turkish Government refuses to acknowledge the role of its predecessors in the events which history so clearly reveals. Today, the Government of Turkey continues to distort the realities of the massacre.

I join with members of the Armenian community and the Congress who have called on the United States to reaffirm its policy of recognizing the Armenian genocide. Until the Turkish Government also acknowledges its role in the massacre, justice will escape the grasp of the Armenian community. The United States must extend to Turkey the hand of diplomacy with an offer to discuss and resolve this issue, which has been too long unsettled.

An important step in demonstrating our commitment to human rights and our understanding of the lessons of the genocides of the 20th century is the ratification of the Genocide Convention. For 34 years the Convention has been before the community of nations. Conspicuously absent from the list of 88 nations which have ratified is the United States, despite its role as a leading force for human rights.

Clearly, the time has come for the world to recognize that the use of genocide as an instrument of national policy—by any nation at any time—is a crime against all mankind that must be universally condemned.

In remembering the horrors of the Armenian genocide, and the Jewish Holocaust which followed it, we would do well to heed the words of George Santayana, "Those who do not remember the past are condemned to repeat it."

Finally, this: Every Armenian family today has been scarred by the events of the past about which we speak today. We bring this issue forward to illuminate it, to remind ourselves about it, to dedicate ourselves to making sure not only that history is clear about what has happened but also to put ourselves in a stronger position to resist the evil forces that bring about events such as this. We are saying to all those persons and families who sustained personal losses and tragedy of the greatest magnitude that we understand and we are at one with them in our commitment to setting the record straight and asking for justice.

We still do not have justice. We still have a situation in which an accounting has not been made, and we must maintain the pressure until it is made. I intend to be part of the effort to continue that struggle until, finally, justice is done.

THE ARMENIAN TRAGEDY

Mr. **JACKSON**. Mr. President, I want to join my colleagues today in honoring the concern of the Armenian people who suffered the tragedy of mass destruction between 1915–1923.

The terrible events of those years testified to the fact that modern societies and governments can be a mask for ancient brutalities. This truth helps explain the strong interest of the American people in human rights on a worldwide basis. It underpinned the spirited campaign of Eleanor Roosevelt and the American Government for the adoption by the U.N. General Assembly of the 1948 Universal Declaration of Human Rights. It was influential in the decision by the U.S. Holocaust Memorial Council, of which I am a member, to give the Armenian catastrophe a place of prominence in the projected Holocaust Museum to be built here in Washington on the Mall.

The story of the Armenian tragedy should not be buried and forgotten. It should be told. It should be told, like others that have followed it, not to stir up division, but to encourage reconciliation; not just to recall the suffering of the past, but to strengthen the commitment to standards for today and tomorrow which exclude racism and genocide.

Mr. **BOSCHWITZ**. Mr. President, I rise today to join a number of my Senate colleagues in paying tribute and recognition to the 68th anniversary of Armenian Martyrs Day. At about this time every year we take time to honor the memory of the 1.5 million Armenians who perished during the years 1915–1923 at the hands of the Ottoman Turkish Empire.

Near the close of the 19th century, the Armenian population of the Ottoman Empire became the target of increased persecution by the government. This persecution reached truly gruesome proportions during the 1915-1923 period and serves as yet another tragic reminder of how cruel human beings can sometimes be to one another.

Mr. President, I am very pleased that the U.S. Holocaust Memorial Council, of which I am a member, has unanimously resolved to include the Armenian genocide in its museum and educational programs. The reason why was stated eloquently by council chairman Elie Wiesel in 1981:

> Before the planning of the final solution, Hitler asked, "Who remembers the Armenians?" He was right. No one remembered them, as no one remembers the Jews. Rejected by everyone, they felt expelled from history.

We were wise in establishing the Holocaust Memorial Council to commemorate the suffering of the Jewish people under the Nazi regime, and we are also wise to remember the persecution of the Armenians. After all, the same evil instinct in the human spirit which was responsible for the Jewish Holocaust was also at work in the case of the Armenians and more recently in Cambodia.

Mr. President, if we continually remind ourselves of these events perhaps we can prevent future holocausts. In this sense, Armenian Martyrs Day is both a commemoration and a warning. I therefore offer my thanks to my colleagues Senator RIEGLE and Senator LEVIN for organizing this special order in the Senate.

Mr. **WILSON**. Mr. President, I am pleased to join my distinguished colleague from Michigan in sponsoring a resolution which recognizes the terrible fate of over 1.5 million Armenians. Though this tragedy occurred over 65 years ago, it is important to recognize that history cannot be rewritten or forgotten. To this end, I join Senator LEVIN in offering this resolution.

Mr. President, I would also ask unanimous consent that a statement on this issue by the Honorable Governor of California, George Deukmejian, be printed in the RECORD. Governor Deukmejian is the Nation's first Governor of Armenian descent. His remarks, which appeared in the Sunday, April 24, edition of the Los Angeles Times, reflect the concern which members of the Armenian community share about the recognition of this horrible demonstration of inhumanity.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OUR DEBT TO THE PAST WILL SECURE OUR FUTURE

(By George Deukmejian)

The observance of Armenian Martyrs Day has always been a deeply moving experience for me. This year it has new meaning. I know that I would not be here at today's observance as governor of the nation's most populous state if it were not for this great country—the land of hope, freedom and opportunity for so many, regardless of their background. President Theodore Roosevelt expressed it very well when he said: "America is not a matter of birthplace or creed or line of descent. America is a matter of principle, of idealism, of character."

We can be thankful that, for us, America is the free and beautiful homeland that our parents, grandparents, brothers and sisters only dreamed of. It was a dream for which many of our loved ones died. They suffered so that we could have the opportunity to provide a future of hope and prosperity for ourselves and our children.

And so I urge all Americans of Armenian descent: As we share the painful memories that bring us together today, let us remember how fortunate we are to live in this land and to have a place we can call home.

Much of the world's population is not so fortunate, including millions of Armenians who still live under oppression and discrimination. It is for them, as much as for the victims of unspeakable atrocities, that we gather and pray today.

As Armenian-Americans, we share many strong bonds of pride. But we also share bonds of pain. Few of our families escaped murder, violence and terror that marked one of history's darkest chapters. We hurt together, we cry together and yes, we are angry that, year after year, decade after decade, the wrongs inflicted upon our people have gone unanswered and largely ignored.

But tears and anger alone accomplish nothing. Instead, it is our duty to share the lessons of our painful past with a world that seems to have learned little about common human decency.

Let's remember that we are hardly alone in our suffering. Violence in many forms has become a part of the daily diet of most of mankind. How many Americans have been victimized by criminals? How many millions of people around the world live under the constant threat of death or imprisonment simply because they seek freedom, self-determination and a homeland they can call their own?

To be free from violence and the fear of violence is a basic human right, and I consider it the first responsibility of government. That is why restoring public safety here in California has been the central concern of my public life and is my top priority as governor.

Yet throughout this century, beginning with the planned murder of 1.5 million Armenians, it has been government that has committed the worst crimes of violence and the worst violations of basic human rights.

That is why we must never lower our voices—as individuals or as a nation—in support of people around the world who are struggling to break the yoke of totalitarianism and violence. We must never lower our guard against potential enemies, both foreign and domestic, who would infringe on our own precious gifts of freedom and democracy.

We are often asked why we are so insistent on calling attention to atrocities that occurred many years ago. Why do we bring upon ourselves the pain of recalling the loss of families and friends and homes?

The answer is very simple. If the decent, humane people of this world don't remember, you can be sure that the tyrants will—and history will go on repeating itself, just as it has in recent years in Cambodia, Iran, Poland and Afghanistan.

Who can ignore the chilling words of Adolf Hitler, who felt he could get away with the elimination of Polish Jews during World War II because, as he put it, "Who still talks nowadays of the extermination of the Armenians?"

It is with both profound sorrow and a sense of pride that I, as governor of California, have issued a proclamation designating today as a state Day of Remembrance. Let us mark this observance not only by memorializing the loved ones we have lost, but also by rededicating ourselves to the ideal for which they persevered; the right of all people to live and work and raise their children in peace and freedom.

Up to now, mankind's record in this regard has been poor. We must all work together to make it better. As Armenian-Americans, who have experienced both the deliberate destruction of our world and the bright promise of a new world, I believe we have a unique opportunity to do just that.

We have seen mankind at its best and its worst. By sharing this perspective with our fellow citizens and with succeeding generations, we can help summon in them the overpowering dream of peace and freedom that all people in this troubled world share. With God's help, I know we can make progress toward this dream. We owe it to our children, and we owe it to our parents and grandparents, who suffered so that we could reach this promised land called America.

● **Mr. TSONGAS.** Mr. President, April 24, 1983, marked the 67th anniversary of one of the most dreadful episodes in history: the massacre of more than 1 million Armenians in Turkey between 1915 and 1923. Because I believe there is value in reminding Americans of this period of atrocities, last week I introduced a resolution calling on the President to designate April 24, 1984, a day of remembrance for all victims of genocide, especially those of Armenian ancestry. However, today I rise to protest the August 1982 Department of State bulletin, which takes an offical position that—

> The Department of State does not endorse allegations that the Turkish government committed a genocide against the Armenian people.

The Armenian genocide is a well-established historical fact. The genocide perpetrated against the Armenian people must never be forgotten. It is imperative that we who value human life and dignity acknowledge such tragedies and strive to prevent them from happening again.

Regardless of short-term political consideration, the State Department should acknowledge the facts of the Armenian genocide. To do otherwise would set a precedent for other nations that tamper with their history for political advantage.

I am appalled by State Department's attempt to overlook the arrests, deportations, torture, and murder that occurred with the complicity of the Turkish Government in the early part of this century.

The State Department's position is unsatisfactory and inconsistent with President Reagan's Proclamation 4838, which states, in part:

> Like the genocide of the Armenians before it, and the genocide of the Cambodians which followed it—and like too many other such persecutions of too many other peoples—the lessons of the Holocaust must never be forgotten.

Further, the State Department's statement does a disservice to people of Armenian descent living in the United States and other countries. By compiling an accurate record of the events of the past, these people can maintain a sense of ethic identity and alert future generations about evil in the past so as to avoid it in the future. The State Department is wrong to mislead these people regarding the atrocities committed against their ancestors. For these reasons, I strongly object to the action of the Department of State denying the part played by the Turkish Government in the Armenian genocide.

Mr. President, an article appeared in the New York Times Monday, April 15, 1983, expressing the sentiments of the Greek Government urging Turkish acknowledgement of the 1915 massacre. I ask that this article be printed in the Record.

The article follows:

[From the New York Times, Monday, Apr. 25, 1983]

Politicians in Greece Demand Turks Admit Armenian Deaths

Athens, April 24 (Reuters)—Greek political parties from both the right and left called on Turkey today to acknowledge that as many as 1.5 million Armenians met death at the hands of Turks in 1915.

Turkey has denied the charge in the face of extensive documentation.

The party representatives were speaking at a meeting of more than 1,000 of Greece's 10,000 Armenians to mark the 68th anniversary of what historians say was a massacre by the Ottoman authorities during World War I.●

● **Mr. HEINZ.** Mr. President, I rise today to join with my distinguished colleagues from Michigan, Senators Levin and Riegle, in commemorating the 68th anniversary of Armenian Martyrs Day. This day marks the events that took place between 1915 and 1923 in which more than 1.5 million Armenians were systematically deported and murdered by a declining Ottoman Empire.

The rich heritage of the Armenian people dates back over 3,000 years and it is only through sheer courage and determination that their culture survives today. Located at what is commonly referred to as "the crossroads of the world," between the Caspian, Black, and Mediterranean Seas, Armenia has fought off foreign aggressors and domination throughout its history.

It was on the night of April 24, 1915, that 200 intellectuals, community leaders, and prominent citizens of Armenian ancestry were executed, signifing the beginning of the plan to exterminate the entire Armenian Christian population located within the Ottoman borders.

The heinous acts committed against the Armenians were clearly the result of a brutally calculated plan which has come to be known as the first genocide of the 20th century.

It is our responsibility to recall this tragic event in the same fashion that we recall later acts of genocide such as that committed against the Jews by a repressive and uncontrolled Nazi regime. It is our responsibility to make this Nation and the world aware of the atrocities of the past, of the injustice and human suffering of entire races of people, so that we can be on the watch. So that we can guarantee as best we can that it shall never happen again.●

Mr. METZENBAUM. Mr. President, I want to express to Senators LEVIN and RIEGLE my appreciation for providing us with this opportunity to remember and to mourn the systematic, barbaric and unspeakably cruel massacre by Turkey of the 1.5 million martyrs of Armenia, and I wish also to express my outrage at the fact that it took 8 months for the Department of State to formally retract an insulting and demeaning note that appeared at the conclusion of an article in the August 1982 Department of State Bulletin.

"Because the historical record of the 1915 events in Asia Minor is Ambiguous," the note reads, "the Department of State does not endorse allegations that the Turkish Government committed a genocide against the Armenian people."

Mr. President, I cannot imagine how anyone could find the slightest bit of ambiguity about this unspeakably cruel brutal slaughter of a gentle cultured people.

I cannot imagine how anyone who has read the dispatches sent to Washington at the time by then-U.S. Ambassador Henry Morgenthau could describe as "allegations" what Ambassador Morgenthau called "A Campaign of Race Extermination."

I cannot imagine how our State Department could have permitted this contemptible sentence to appear in official print.

And above all, Mr. President, I am truly appalled by the fact that the State Department has only now seen fit to retract this language. I believe that the Department should also apologize—humbly—to the Armenian-American community and to the public at large.

Not long ago, President Reagan expressed his dismay at the fact that there exist today groups and individuals who deny the reality of the Nazi genocide against the Jews.

The President was right to speak as he did. But consider the feelings of the Armenian-American community—of people whose parents and grandparents are in many cases the survivors of the terrible events of 1915 and the years thereafter.

Armenian history is not being distorted by the kinds of hate groups who soil the memory of the Jews of Europe. Instead, Armenian-Americans have confronted a denial of their history by the Government of the United States.

There is nothing ambiguous Mr. President about the headlines in the New York Times at the time the genocide was in progress.

March 20, 1915: Whole Plain Strewn With Armenian Bodies.

April 28, 1915: Appeal to Turkey to Stop Massacres.

June 6, 1915: More Armenian Massacres.

July 29, 1915: Wholesale Massacres of Armenians by Turks.

August 4, 1915: Report Turks Shot Women and Children.

August 6, 1915: Armenian Horrors Grow.

August 18, 1915: Armenians Are Sentenced to Perish in Desert

August 20, 1915. Burn 1,000 Armenians.

August 27, 1915: Turks Depopulate Towns of Armenia.

September 3, 1915: Turks Massacre Armenians of Isnid.

September 5, 1915: 1,500,000 Armenians Starve.

September 16, 1915: Answer Morgenthau by Hanging Armenians.

September 21, 1915: Bryce Asks U.S. To Aid Armenia; says that all the Christians in Trebizond, numbering 10,000 were drowned.

These are just a few of the headlines, the chronicle of horror goes on and on.

September 29, 1915: Armenian Women Put Up at Auction.

October 11, 1915: Spare Armenians, Pope Asks Sultan.

October 13, 1915: Massacres Renewed, Morgenthau Reports.

October 22, 1915: Germany Says She Cannot Stop Turks.

October 26, 1915: Slay All Armenians in City of Kerasunt.

November 1, 1915: Aid for Armenians Blocked by Turks.

The record could not be more clear.

The Armenians were slaughtered.

They were slaughtered by order of the Turkish authorities.

And they were the first victims in a century that may someday be described by historians as the age of genocide.

The agony of Armenia must not be forgotten.

It must not be trivialized, minimized, or distorted for political purposes.

And, Mr. President, the descendants of the Armenian martyrs must not be made to suffer the grief and pain that have been inflicted upon them by a cynical note in a State Department publication.

As a Senator, I apologize to Armenians everywhere for this outrage, and I call upon the Secretary of State to act immediately to make full amends for a gratuitous and patently false insult to everyone who believes in facing the truth.

THE ARMENIAN GENOCIDE

● Mr. PELL. Mr. President, earlier this month, over 10,000 Jewish survivors of the Holocaust gathered in Washington to honor those who were murdered by the Nazis and to remember the pain, the suffering and the lessons of that heinous experience. The Holocaust is a sad reminder that those who forget history are condemned to repeat it. The tragedy of the Holocaust might well have been prevented if the world had recalled an earlier, equally dark episode in the 20th century history of mankind: The willful massacre of 1.5 million Armenians at the hands of the Turks during World War I.

Before World War I, Armenians, a gentle, highly cultured people, lived alongside the Turks and demanded only tolerance and freedom from their Turkish rulers. In response, the Turkish Government launched a coordinated drive to round up and eliminate every Armenian man, woman, and child. Today, on the 68th anniversary of the Armenian genocide, we honor those courageous individuals who were exterminated for no other reason than that their national heritage was considered alien by the Turkish leadership.

The Armenian genocide and the Holocaust remind us that man possesses the pernicious quality of bigotry and the capacity to be cruel. We must never forget the despicable, inhuman treatment suffered by the Armenians and the Jews at the hands of their fellow men. We must keep the memories of these solemn and painful events alive in order that history will not repeat itself yet again.

If we are truly concerned about eliminating the evil of genocide from the heart of mankind; if justice and compassion are values which we sincerely cherish; if the death of 1.5 million Armenians is to be more than a tragic footnote to our times; then we must not forget the brutal assault on human dignity which was the Armenian genocide.●

● Mr. LAUTENBERG. Mr. President, man's inhumanity to man has been an all too prevelent occurrence throughout the centuries. Persecution, banishment, and enslavement of peoples are well-known and well-documented in almost every civilization and every period of history.

But these violations and abuses of basic human rights take on particular importance for us when we consider the most terrible occurrences of our own 20th century. In recent weeks, Americans here in Washington and throughout the United States, again took note of the Holocaust in which 6 million Jews and tens of thousands of other Europeans were simply murdered as a matter of policy of the Nazi government of Germany. As the survivors of that Holocuast and their children gathered in Washington earlier this month, the cry most often heard was, "We must not forget."

We must not and will not forget, Mr. President, for there is to be a Holocaust Museum in Washington, D.C., just a short distance from the Mall and the center of our political life. An important part of the museum will be devoted to another tragedy in an earlier part of this century, the massive massacre and systematic persecution of the Armenian people by the Ottoman Empire and the Turkish Government almost 70 years ago.

The killing of over 1.5 million Armenians in Turkey and the scattering of tens of thousands more, particularly in 1915 and the months that followed, was the world's first genocidal experience of this century. How horrible it is to contemplate that a second genocidal policy would follow on even a greater scale only 25 years later. But to the Armenians and those who filed endless numbers of eyewitness accounts of the massacres and mass death following forced deportation of Armenians across Asia Minor in 1915, there could be no set of circumstances imaginable more completely depraved or corrupt or inhumane.

The American Committee on Armenian Atrocities called the genocide, "the greatest, most pathetic, and most arbitrary tragedy in history."

The American Ambassador to Turkey, Henry Morgenthau, Sr., called it a "plan of extermination" in telegrams back to the State Department.

News reports of 1915 quoted eyewitness accounts of the systematic and deliberate nature of the killings of thousands of men, women, and children simply because they were Armenian or Christian or both.

On the floor of the House of Lords in London, Lord Crewe brought the attention of the Crown to "wholesale massacre and wholesale deportations" of Armenians carried on under the noise and distraction of another tragedy, the European war we now know as World War I.

As Cicero once noted, "Laws are silent amid the clash of arms." So this was true for the Armenian nation.

The United States was not involved in the World War I in 1915, Mr. President, and as the leading neutral nation received numerous appeals to intercede with the Turkish Government on behalf of the Armenians and to provide assistance to the Armenians if possible.

Secretary of State William Jennings Bryan explained our representations and protests as "a matter of humanity." But Ambassador Morgenthau reported no satisfaction from our official protests and appealed for private funds and relief for the Armenians from the "injustice, grief, poverty, and starvation; that continued.

The United States and many other countries opened their hearts then, Mr. President, and we must not now close our minds.

We heard excuses then about the needs of the Ottoman Empire, of the requirements of nationalism and of the necessities of development. We have heard these same excuses since then in other contexts—from other states at other times.

But there has never been, nor can there ever be, any acceptable excuse for the systematic murdering of civilian populations. To know that this has occurred and has been condemned is vital to our determination not to see it happen again or to tolerate any indifference to it.

Some would not like to know. Others would have all of us forget. But as we recently have said about the Holocaust, to deny or to rewrite the history of genocide in our century is to add the final triumph to the perpetrators of these most heinous crimes.

There should be no escape from the reality of these horrible deeds, no softening of the meaning of the tragedy of the Armenian people 68 years ago. We must know in order to do better as civilized human beings.●

ARMENIAN GENOCIDE, 1915-23

Mr. BIDEN. Mr. President, the 19th and 20th centuries have been an era of nationalistic upheavals. In the name of nationhood or of a supposed greatness attached to a particular people, millions of human beings have suffered because their own ethnic background or religious beliefs did not conform to those of the ruling authority of the time.

A particularly cataclysmic instance of this occurred from 1915 through 1923, when the Ottoman Empire massacred an estimated 1.5 million Armenians living for the most part in Asia Minor. Whole villages were wiped out, thousands of individuals were deported, and countless others fled into the desert, where many perished from exposure or disease. Their property was sequestered, and centuries of culture destroyed.

It has come to my attention that the August 1982 issue of the Department of State Bulletin carried a statement describing the record of the massacres as "ambiguous," and further declaring that "the Department of State does not endorse allegations that the Turkish Government committed a genocide against the Armenian people."

Mr. President, there is nothing "ambiguous" about the murder of 1.5 million human beings. The massacres were brutal, concerted, and blatantly systematic. There were numerous eyewitness accounts. Our own archives contain reports from Henry Morgenthau, our Ambassador in Constantinople from 1913 to 1916, who recounted direct conversations with Turkish Government officials who admitted the atrocities.

And I emphasize that this is not the same government that exists now. This was the aftermath of the Ottoman Empire.

Spokesmen for the State Department have promised for months to review and clarify the statement printed in the Bulletin. My hope is that Department officials will retract the statement and issue an explicit acknowledgement of the historical record of the genocide.

Throughout history, there have been too many examples of denials that events of such horrible dimensions have occurred, perhaps because their immensity is so incomprehensible or because rationalizations or intentional ignorance are the easier path to follow. In our own country, there have been those who have contended that slavery was beneficial to the blacks who lived under it. More recently, in the memory of many of those in this Chamber today, there have been denials that the Holocaust effected by Nazi Germany ever occurred. The revisionists are at work.

Today, there are elderly survivors of the genocide which took place in Armenia nearly 70 years ago. They still bear the emotional scars of those events, as do their descendants. Many Armenians throughout the world maintain the cultural traditions of their ancestors and venerate the memory of those who died at the hands of others not so very long ago.

No individual who values human life should ever forget this example of the ultimate danger of persecution. Though the events which I have spoken of today were regional, in a place far away, the conscience on the matter the conscience of the world must be global. I hope that my colleagues will join with me today in the annual commemoration of Armenian Martyrs Day, which is today.

ANNIVERSARY OF THE ARMENIAN MASSACRES

Mr. SPECTER. Mr. President, this past Sunday, April 24, marked the 68th anniversary of the massacre of nearly 1.5 million Armenians by the Turks between the years of 1915 and 1923. Today I offer my tribute to these early victims of 20th century genocide. The ill-fated Christian Armenians were repeatedly brutalized, having suffered attempts at wholesale annihilation during the Ottoman Empire and the rise of Kemal Ataturk. It is only fitting that this body pause to honor their memory on April 27, Armenian Martyrs Day.

Mr. President, the deportation, starvation, and horrible extermination sustained by innocent Armenians during these years are not the sole instances of man's incredible inhumanity to man in this blood-soaked region of the world. Yet, how ironic it is that these crimes were often committed by people who shared, or would soon share, the same persecution at the hands of a venomous majority.

How ironic that many of the participants in these compaigns of slaughter were Kurds, who were themselves an oppressed people yearning for self-determination. How equally ironic that many of the same Turks who perpetrated the genocidal acts against the Armenians would see their own descendants suffer similar massacres in Cyprus, while others would be objects of discrimination and scorn in several Western European cities, where Turks are an immigrant work force.

While a pitiful few learn from the vindictive turns of the wheel of history, let the U.S. Senate never be afraid to loudly decry acts of atrocity, wherever and whenever they are committed. Let not the Armenian holocaust be a mere occasion for commeneration, but rather let this day serve as a reaffirmation of America's intent to oppose tyranny with its every ounce of strength, and its equal intent to preserve freedom and the spirit of humanity.

Mr. **PERCY**. Mr. President, today the Senate commemorates the 68th anniversary of Armenian martyrs. Beginning in 1915, an estimated 1.5 million Armenians were killed, or died of disease and hunger, in an enforced dispersal and elimination of the Armenian population of the former Ottoman empire. Perhaps half a million survived by fleeing abroad.

This century has seen great progress for the self determination of peoples, but the century has also seen unprecedented slaughter of whole ethnic identities. The Armenians we remember today were the first, tragically followed by the Nazi Holocaust that sought to exterminate the Jews, and in our day by the mass slaughter of Cambodians.

Today we must rededicate ourselves to work to insure that there is never another genocide, and that all nationalities have an opportunity to live in peace and security.

We pay special tribute to the Armenian national heritage, which continues to flourish, and to the Armenian Americans who have found a new home here, and so enriched our lives and communities in the United States.

● Mr. **QUAYLE**. Mr. President, today I want to join a number of my fellow colleagues in paying homage to and recognizing the 68th anniversary of Armenian Martyrs Day.

Recently here in Washington there was a gathering of the survivors of the Jewish Holocaust. Their tragedy is something we as a nation and as a world cannot and must not forget. Yet all to often we do forget other such similar atrocities, the Armenian genocide especially.

As President Reagan stated so clearly in his proclamation issued on April 22, 1981, to proclaim April 26 to May 3 as "Days of Remembrance of Victims of Holocaust:"

> Like the genocide of the Armenians before it, and the genocide of the Cambodians which followed it and like too many other such persecutions of too many other peoples—the lessons of the Holocaust must never be forgotten.

This is a solemn occasion for all of us who believe in human rights and in the goodness of man. It still is incomprehensible to me that 1.5 million Armenian men, women, and children were massacred in their own homeland. Yet it happened.

What is as mind boggling is that less than a quarter of a century later another holocaust took place. Now, some 60 years after the Armenian tragedy the world is still learning of the horrors the Cambodian people endured under Pol Pot.

Mr.. President, these horrible blots that exist in the annals of world history can never be swept away and forgotten as some would like.

Last year a controversy erupted when an article appeared in the Department of State "Bulletin" titled "Armenian Terrorism: A Profile." A note at the end stated, "Because the historical record of the 1915 events in Asia Minor is ambiguous, the Department of State does not endorse allegations that the Turkish Government committed a genocide against the Armenian people."

Since this was released the State Department has said that the note was not an effort to change the official position of the Department of State. I must say I am glad to learn that. Frankly, I cannot even understand how this statement was ever allowed to be published in the first place.

It does seem ironic to me that such a statement can be printed in a State Department publication when our own U.S. Ambassador, Henry Morgenthau, cabled the Secretary of State on July 16, 1915, and stated:

> Deportation of excesses against peaceful Armenians is increasing and from harrowing reports of eye witnesses it appears that a campaign of race extermination is in progress under a pretext of reprisal against rebellion.

Even the U.S. Senate passed Resolution 359 on May 13, 1920, which stated:

> * * * the testimony adduced at the hearings conducted by the subcommittee of the Senate Committee on Foreign Relations have clearly established the truth of the reported massacres and other atrocities from which the Armenian people have suffered.

Mr. President, there are some 600,000 Armenians living in the United States. Indiana is fortunate to have a prominent Armenian community who have become proud Hoosiers and Americans.

I have heard from many of them during these past days and I want to say here and now that my thoughts are with them during this time of thoughtful reflection on this period of history.

We in this body must continue to speak out on atrocities that happened in the past and keep a vigil for those that may happen in the future. Without a firm eye on history man can only repeat his mistakes. Atrocities of the magnitude the Armenian people were forced to endure have happened twice more since 1915.

We as a nation stand for justice, equality, and democracy. As the leaders of the free world, we are not only charged with vigilance to do all we can to keep history from repeating itself, but also reminding ourselves and others of the past so man's inhumanity to man ceases.

Hopefully, commemorative opportunities like this will help us be successful in our task.●

● Mr. **SARBANES**. Mr. President, today we observe the 68th anniversary of Armenian Martyrs Day, commemorating the date on which the Turkish Government began its systematic annihilation of 1.5 million Armenian people. The massacres of 1915 uprooted an entire Nation, systematically eliminated its leaders and intellectuals, extinguished half of its people and left the survivors homeless, scattering them around the world.

We commemorate the Armenian Genocide in part to pay tribute to its survivors and to the memory of its victims, and in part to reinforce our own determination to insure such deeds will not be repeated. As citizens of a nation founded on the ideals of human dignity and freedom, we must make a solemn vow that we will never remain indifferent and impassive in the face of such assaults on peoples and on the basic essence of our humanity.

The contributions of Armenian-Americans to our society have greatly enriched the Nation. Armenian principles of devotion to family, religion, and hard work are reflected in every aspect of American life. The diversity of achievement is remarkable: George Deukmejian, the newly elected Governor of California, Vartan Gregorian, distinguished president of the New York Public Library, and the late William Saroyan, an author who brought to life for millions of Americans the reality of his Armenian heritage. These achievements express the high character, courage, and perseverance of the Armenian people. Armenian-American Marylanders in the Baltimore and Washington metropolitan areas and throughout Maryland daily make valuable contributions to the vitality of our State.

The Armenian people, who have lived with tragedy, are committed to the proposition that the world will understand as they do the meaning of that tragedy. The depth of this commitment is given eloquent testimony in the story of Harry Kachadourian which appeared in the Baltimore Evening Sun on April 22, 1983. I ask that it be reprinted in the Record.

The article follows:

[From the Evening Sun, Apr. 22, 1983]

Armenians Can't Forget Massacre

(By Peter Ruehl)

Nearly 75 years ago, Harry Kachadourian slipped out of Turkey, a flight that saved his life.

But even today, he, like other Armenians, still wonders why the world has forgotten the genocide that took place from 1915 to 1920, when some 1.5 million Armenians were killed by Turks who wanted to exterminate them.

And, even today, Turkey still will not officially admit the massacre occurred.

"You have no idea how cruel, how . . . ," says Kachadourian, 88, his voice trailing away. "I can't explain."

Kachadourian sits in the office above his store. The office is a huge room filled with antiques and the oriental rugs he has sold since the 1920s.

It is mid-afternoon and the store on North Howard Street's Antique Row is empty and Kachadourian's normally gentle voice rises.

His mother, a brother and a sister were killed in a 1915 massacre of Armenians and Kachadourian still carries the indignation, the outrage caused by their deaths. The American ambassador to Turkey, Henry Morgenthau, knew of the slaughter, he says, and numerous accounts found their way in the world press.

"The British army was right in Istanbul," Kachadourian says. "They [Turkish soldiers] butchered 100,000 people and [the British] didn't do a damn thing. I can't understand."

At age 14, about two years before the mass killings, Kachadourian left Turkey with a Swiss missionary. His father had died a natural death several years earlier and his mother, knowing the boy would be drafted at age 15, wanted him to leave.

"You see," he says, rummaging through books and yellowed newspaper accounts of the massacres, "when the Armenians were drafted, they weren't treated as real soldiers in the Turk army.

"They were disarmed and placed on labor forces and most of them eventually died. My mother knew she probably would never see me again if I had been drafted."

She never did speak to her son again. Kachadourian, a brother and a sister reached the U.S. and, in 1915, learned their mother had been killed.

Another brother and his entire family also were killed. Kachadourian shows you a picture of an attractive young woman, about 17. She is wearing a white dress. The photograph is in an oval frame that was popular in those days.

"My other sister," Kachadourian says. "She fought a soldier who tried to rape her and he cut her head off with his sword."

The Armenians, mostly Christians, and Turks, mostly Moslems, have a history of poor relations, although religion is not at the core. When the Ottoman Turks conquered Constantinople (Istanbul) in 1453, Armenia—then independent—became a semi-autonomous state within the new empire.

While Armenian's borders have fluctuated throughout history, it generally lies in central Turkey.

By most accounts, the first mass attempt at eradicating the Armenians occurred in 1895, while Turkey was under the rule of the Ottoman Empire. Some estimates say 200,000 Armenians died that year when the Turkish emperor attempted to create a "pure" state.

After World War I, the victorious Allies initially planned to create a separate Armenian state, but the area was carved up with most of it again placed in Turkey and a small portion located in the U.S.S.R.

A study by a British organization, the Minority Rights Group, cites the fact that the Armenian people had been nearly exterminated at the time as one reason for the failure to create a separate state. The world also was war-weary at the time, the study notes, and the U.S. was entering a period of isolationism.

Since then, the West has tended to ignore what has happened in the past, many Armenian-Americans complain, saying Turkey never even has been forced to admit to a holocaust. That has given rise to an Armenian terrorist movement—condemned by most Armenians—against Turks.

"People just don't want to know what happened to us," says Kachadourian. "Germany had admitted to the genocide against the Jews. A million-and-a-half Armenians died."

He recalls the Turks required all Armenians to give up their weapons, even kitchen knives. Soldiers frequently would search the homes to ensure compliance.

"They'd beat the people if they thought they had concealed them," Kachadourian says, "and so people would buy knives from the soldiers just so they'd have something to give them when they searched the house."

Kachadourian's father built and ran a large inn, which included not only rooms and a restaurant, but also stables and a bath house. At one point, he says, a law was enacted that said a Turk had to own at least half of any business owned by an Armenian, with the result that his father had to relinquish that much to a local government official.

Set Momjian, a Philadelphian and prominent member of the American-Armenian community, says the U.S. gradually is awakening to the attempt at genocide against the Armenians by the Turks. He notes that former President Carter set aside April 24 as the offical day of remembrance in this country.

In the Baltimore area, a group of about 50 Armenians plans to gather at Security Mall, according to Peter Petrosian, one of the organizers. They will form a carpool and drive to Washington to donate blood to the Red Cross, then attend special services at St. Mary's Armenian Apostolic Church in Chevy Chase.

Momjian, who served at the United Nations under Carter and also as a presidential adviser, says the issue of Armenian genocide is thorny from a U.S. diplomatic standpoint. Turkey is an ally that borders on the U.S.S.R.

"The problem we constantly have," Momjian says, "is that Turkey is a NATO country."

In the U.N., Turkey was successful for years in convincing Western nations to delete a condemnation of the Armenian massacres from a report on genocide. Momjian says. In 1979, he and others were successful in having the condemnation placed in the document.

And, although Turkey denies the killings, Momjian says, the U.S. State Department has "thousands of documents" to the contrary. Many consist of cables sent by ambassadors outlining what was occurring.

"There's just no question about it," Momjian says.●

Mr. LEVIN. Mr. President, I ask unanimous consent that subsequent statements which may be offered in recognition of Armenian Martyrs Day be inserted in the Record at the point during which this presentation is taking place, even though they may be submitted later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin (Mr. Proxmire) is recognized for not to exceed 15 minutes.

COMMEMORATION OF THE ARMENIAN GENOCIDE

Mr. PROXMIRE. Mr. President, my purpose in participating in this special order is twofold. First, it is our duty to insure that the genocide of the Armenian people is never forgotten. Unlike the German persecution of the Jews which followed it, the Armenian genocide is little known and seldom recognized. The perpetrators of this horror were never held accountable for their deed, and their successor governments have declined to even acknowledge what happened.

Had the world taken ample note of this genocide at the time, and had the Turks been held accountable, as were the Nazis, perhaps the Jewish persecution in World War II could have been avoided. This is clearly shown by the fact that Adolf Hitler, while planning the extermination of the Jews, asked rhetorically, "Who remembers the Armenians?" Hitler, unfortunately, was right.

It is incredible that the world did not remember the Armenian genocide. The pattern of their persecution dates back to 1894, when, in a 2-year period, 200,000 Armenians were massacred under the reign of the Ottoman Sultan Abdul Hamid II. Later, in 1909, 21,000 Cilician Armenians were massacred. Finally, in the first genocide of the 20th century, the Turks killed 1.5 million Armenians and exiled another 500,000 from their homes. Nevertheless, despite the protests of numerous diplomatic observers, the world stood by and did nothing.

Because the world failed to act, and because the Turks were allowed to deny their crime, the Jews paid the price in World War II. This makes it clear that, although it is 60 years after the fact, we must not and cannot allow the Armenian genocide, or any other genocide, to be forgotten.

This brings me to my second reason for participating in this special order, and the reason that is most pressing at this moment.

The August 1982 issue of the Department of State Bulletin contained an unprecedented note which stated:

> Because the historical record of the 1915 events in Asia Minor is ambiguous, the Department of State does not endorse allegations that the Turkish government committed a genocide against the Armenian people.

At the urgent prodding of numerous Members of Congress, the Department later said that this note did not necessarily present the official position of the Department. Nevertheless, for the official publication of the Department of State to raise doubts regarding the existence of this genocide—in the face of the overwhelming verifying evidence—is a dangerous sort of revisionism which cannot be tolerated.

The documentation of the Armenian genocide is clear and irrefutable. U.S. Ambassador to Turkey at the time, Henry Morgenthau, Sr., reported that "a campaign of race extermination" was being waged against the Armenians. He reiterated this fact in numerous telegrams and interviews and in his book, "Ambassador Morgenthau's Story."

His account was corroborated by the private cables of German diplomats and the public reporting of the New York Times.

In short, there can be no question about the ambiguity of the record here.

The record is clear. It is undeniable.

But, Mr. President, the failure of the State Department to affirm the Armenian genocide involves a matter of principle.

Attempts to deny or rewrite inconvenient chapters in history, especially for political expediency, are dangerous and inimical to a free society.

Moreover, they are an insult to both justice and memory.

Thus, it is not just for the Armenians or their descendants that we need to keep the record clear.

It is for ourselves.

In closing, Mr. President, I want to thank the Senators from Michigan (Mr. Levin and Mr. Riegle) for sponsoring this colloquy.

This is the second colloquy the Senate has conducted in as many weeks on the subject of genocide; our earlier colloquy focused on the Nazi Holocaust.

I know that these colloquies have been educational, and I hope that they will serve as a source of motivation to go beyond the very painful step of affirmation of the past to active efforts to prevent its reoccurrence.

We have the means—the Genocide Convention. We merely need the will to ratify it.

QUORUM CALL

Mr. LEVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Pressler). Without objection, it is so ordered.

RECOGNITION OF SENATOR HATCH

The PRESIDING OFFICER. Under the previous order the Senator from Utah is recognized for not to exceed 15 minutes.

THE BUDGET

Mr. HATCH. Mr. President, once again the congressional budget process is being used to raise taxes. Why are we raising taxes? Because Tip O'Neill and the House Democrats, and now a majority of the Senate Budget Committee, tell us we must raise taxes in order to reduce deficits. Suddenly they have become fiscal conservatives worried about deficit spending.

Anyone in their right mind will be struck by what has happened in the past after taxes have been increased, supposedly to reduce deficits: Between fiscal 1977 and 1982, total taxes increased nearly $262 billion. But the Government ran up deficits of nearly $350 billion. That is, following tax increases, deficits have not been reduced. Deficit reduction promises have not been kept.

Instead, Government spending has risen faster than the revenue increases. In 1977 to 1982, while taxes increased $262 billion, Government, spending increased even more. It rose $328 billion.

I agree that we should reduce deficits. I have always argued against deficits. Wanton use of deficit spending has led to recurrent economic crises. We are only now beginning to recover from one of these crises.

In the past, Tip O'Neill, the House Democrats, and a majority of my Senate colleagues were not opposed to deficit spending. They were, instead, big spenders. I do not believe there sudden conversion to fiscal responsibility and deficit reduction.

Until the last few decades, Federal budget policy had been to balance the budget whenever possible as an essential element of sound fiscal policy. Then came the New Deal, and with it the endorsement of deficit spending. Additional Government spending and unbalanced budgets were necessary, we were told, to provide the seeds of economic expansion, recovery, and growth.

Now, after several decades of this policy, we should have learned that we have stimulated little other than the growth in Government. A comparison of the 1950's with the 1970's shows how much worse off we are today with more Government:

During the 1950's, inflation averaged 2.1 percent per year. Inflation tripled during the 1970's.

The prime rate averaged 3.3 percent in the 1950's. It has more than doubled over the last 10 years.

In the 1950's, unemployment averaged 4.7 percent. Unemployment has more than doubled over the last 10 years.

In the 1950's, with little inflation, taxpayers receiving higher wages were not pushed into higher tax brackets and forced to pay a higher percentage of their income as taxes. In the 1970's, however, "bracket creep" forced taxpayers to hand over an extra $127 billion in Federal income taxes.

We have stimulated growth in Government. We certainly have not stimulated the natural demand that will produce the healthy, long-term, noninflationary economic growth which would be beneficial to all our citizens.

Those who voted with Tip O'Neill for the House budget have not learned this tragic lesson. Those on the Senate Budget Committee who would urge a strikingly similar budget on the Senate have not learned this tragic lesson. This is not why they are suddenly decrying big deficits. This is not why they are raising your taxes.

Look for a moment at the House budget and the Domenici-Chiles budget: Tip O'Neill's budget would boost general taxes $267 billion between now and 1988 and $305 billion if you add another year to it. Domestic social welfare spending would increase $205 billion, wiping out the hard-earned cuts of the last 2 years. They propose almost $50 billion in increased spending between this year and next.

The Domenici-Chiles budget tracks the House budget to a striking degree. It raises $265 billion more in taxes by 1988. Domestic spending would rise $132 billion by 1988. Total spending would rise $42 billion through next year alone.

Nevertheless, neither Tip O'Neill's budget nor the Senate Budget Committee's budget reduces the deficit despite all the taxes they raise. Absolutely not. Despite raising $265 billion in general taxes, the House budget still has a deficit of $121 billion in fiscal year 1988. Despite raising $267 billion in general taxes, the Domenici-Chiles budget still has a deficit of $123 billion in 1988.

Same tax hikes, same minimal deficit reduction. Their budgets are no different than before: Tax, spend, and do little about reducing the deficit.

The House and the majority of the Senate Budget Committee would have us believe that the Reagan administration's 1981 tax-rate reductions and indexing proposals caused these deficits. I say to that nonsense.

These deficits are the accumulated results of years of fiscal mismanagement and the economic disarray this has caused. These deficits are not the result of the Reagan tax cuts. These rate reductions only unmasked the growth in Federal spending. These rate reductions only reduced the burden of taxes on the economy and the American taxpayer. They lowered the tax burden from its historic high of 20.1 percent of GNP at the end of the Carter administration and returned it to its traditional level of around 18.5 percent by fiscal year 1983.

Let us face it, over the decades of deficit spending the average tax rate on income earned by U.S. taxpayers has been greatest. It increased by 18 percent between 1972 and 1982. More strikingly, the incentive to work and invest has been hurt by a 21-percent increase in the average marginal tax rate over the same 10 years. In 1972, a 24.4-percent average tax was levied on the last dollar earned. In 1982, the marginal rate increased 5 points to 29.5 percent.

Remember that the 1982 figures take into account the beginning of President Reagan's tax-rate reductions. So that even with those cuts, contrary to the wailing of some of my colleagues, the tax burden has increased significantly in the last decade.

Even with the Economic Tax Act of 1981, the average combined Federal and social security taxes and State income taxes paid by a Utah family of four with an income of $15,000 has risen. It amounted to an average combined tax rate of 17.4 percent. If we assume increases in salary to compensate for inflation, this family's average tax rate in 1984 will have gone up even with these 1982 tax reductions. It will have risen from 17.4 to 18.7 percent for an increase of $195 in a family of 4 making $15,000.

Let us not kid ourselves about the effects of both TIP O'NEILL's or the Domenici-Chiles budget for your taxes. The amount of revenues to be raised in 1984 and 1985 alone would be next to impossible without eliminating the third-year of the tax cut and tax indexing.

Let us look at what eliminating the third year of the tax cut would do to the tax burden: Repeal would hit hardest at middle- and lower-income Americans. Households making between $10,000 and $50,000 a year currently pay about two-thirds of all income taxes. These households will get about 70 percent of the benefits of the 1983 tax cut. If next July's cut is eliminated, they will be hit with tax increases of between $31 and $838 in the first year of repeal alone.

They will have to stand up and vote to raise taxes, if that is what they want to do. That is a very bad thing, however, because the taxpayer may catch on that that is what they want to do.

With indexing, they would have to stand up and be counted in favor of raising taxes. No wonder they are opposed to indexing.

This need to eliminate the third year and indexing, if revenue projections are to be met, and the proposed dramatic increases in domestic spending are striking proof of TIP O'NEILL and the Senate Budget Committee's real intention.

I am convinced that the advocates of Government spending are now decrying deficits simply because they need a device to enable them to obtain revenues. They want more revenues in order to continue to maintain, or even expand, Government spending. When was the last time any of us saw tax increases result in deficit decreases or national debt decreases?

Their sudden conversion to fiscal responsibility is, thus, nothing more than a "phony" conversion, a cruel hoax on the American taxpayer. These "big spenders" are still "big spenders." They want more revenues, more taxes, more of the taxpayers' hard-earned income to spend as they decide. They do not want to let the taxpayer decide how to spend his own money.

The only legitimate, honest way to cut the deficit is not to raise taxes. The only legitimate, honest way to cut the deficit is to cut Federal spending where the public sector cannot compete with the private sector.

Only when these "new converts" to fiscal responsibility propose cutting the deficit by cutting nonessential Federal spending will I believe in their conversion. Only when all of us face up to this crucial task will we be realistically and truthfully facing our economic responsibility to the American people. Until then, I believe that this cry for deficit reduction by the "big spenders" is merely a cloak for once again increasing the tax burden on the American citizen. They will once again increase taxes in order to continue excessive Government spending.

Only if we cut Government spending—not increase it—and only if we continue to refuse to raise taxes once again will our economy recover. Certainly this is the fiscal responsibility to which the taxpayer is entitled.

NUCLEAR FREEZE—ABOVE ALL; MIDGETMAN IF WE CANNOT GET IT

Mr. PROXMIRE. Mr. President, for many months now I have pleaded daily on the floor of the Senate for this body to support a nuclear freeze. I can think of no more important action this Government of ours could take than to stop the nuclear arms race on a mutual, verifiable basis, and stop it now.

I intend to continue speaking out on this issue. I will not stop fighting to persuade this body, and ultimately the President, to negotiate and ratify a nuclear arms freeze. Unfortunately, our prospects of achieving such an effort, let alone such an agreement, are not bright. So we must do what we can in the meantime.

A remarkable young Congressman, AL GORE, of Tennessee, has been waging a noble fight to reduce the vulnerability of this country, and the U.S.S.R., too, by moving from massive, heavily MIRV'ed, highly vulnerable and very threatening missiles to a large number of single warhead, mobile, widely distributed missiles. These single warhead missiles would be the mirror opposite of the mammoth, MIRV'ed MX's. They would be far less vulnerable and they would be far less threatening. Unfortunately, however, they could not be deployed for 10 years or so. And 10 years from now we could have suffered a nuclear holocaust.

Congressman GORE has won over some very impressive supporters. Henry Kissinger, a former Secretary of State and highly regarded in matters of this kind, and the prestigious and expert Scowcroft Commission have supported the Gore proposal—and the Commission has done that by calling for this deployment which they point out cannot take place, unfortunately, until the next decade—and the New York Times has supported the Gore proposal. The Los Angeles Times, in an editorial a couple of weeks ago, suggested that we should buy this part of the Scowcroft proposal and forget about the multi-MIRV'ed, stationary MX. Mr. President, I wholeheartedly agree with that recommendation. Of course, in the meantime, for the next 10 years if necessary, or longer, we should pursue the freeze. But, if we cannot win on that, the single warhead, mobile missile, the Midgetman, as it has been dubbed, makes sense.

Mr. President, I ask unanimous consent that the editorial from the Los Angeles Times to which I have referred be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Apr. 14, 1983]

A MIDGETMAN IN THE WINDOW

The "window of vulnerability" that has been vexing some strategic thinkers for a number of years, and that has been pointed to with such alarm by the Reagan Administration, may not be open so very wide after all. That at least is one of the conclusions reached by the Presidential Commission on Strategic Forces, which has been taking yet another look at the MX missile-basing question. It is a conclusion that is plainly intended to advance congressional acceptance of the land-based MX, but that might in the end serve a contrary purpose.

The window of vulnerability refers to that possible period, placed by some at later in this decade, when U.S. strategic forces could be discerned as being at a distinct disadvantage compared to the strategic forces of the Soviet Union. Such an eventuality, the theory goes, might tempt the Soviet leaders either to try to overwhelm American nuclear retaliatory capacity with a massive first-strike or to use the threat of their preponderant strategic strength to neutralize a U.S. response to Soviet military or political actions elsewhere.

The presidential commission, a distinguished bepartisan group composed largely of former government officials, now suggests, as others suggested earlier, that the vulnerability issue has been overstated. Land-based Minuteman intercontinental missiles are indeed susceptible to attack from powerful and presumably highly accurate Soviet ICBMs and will remain so, the commission found. But the consequences of that vulnerability should not be exaggerated.

Even assuming the theoretical but far from certain simultaneous destruction of all 1,047 of those missiles before they could be launched, the United States would still retain an enormous air- and sea-based retaliatory arsenal capable of inflicting unacceptably immense destruction of the Soviet homeland. Barring unexpected and unlikely Soviet technological breakthroughs, the sea-launched ballistic missiles in particular would remain largely safe from crippling attack. In other words, the United States would retain a sufficiently formidable deterrent force, whatever destruction fell on its land-based missiles.

Yet, vulnerable or not, those land-based missiles have to be maintained and strengthened, the commission says, and the strengthening should come by replacing 100 silo-house Minuteman missiles with 100 of the larger and more accurate MXs. The commission concedes that the MX would be no less vulnerable than the Minuteman is now, but the panel nonetheless is unanimous in recommending MX deployment as apart of the triad of deterrent forces. One reason is military, "to remove the Soviet advantage in ICBM capability." But a main reason is political.

The MX, in the commission's view, would be a military means to a political end. With its 10 warheads and high level of accuracy, the MX would pose a far greater threat than does the Minuteman to the Soviet Union's own hardened missile sites and command centers. That threat is seen as an inducement to the Soviets to negotiate a major reduction in their own vast force of intercontinental missiles armed with multiple warheads.

But there is more. Multiple-warhead missiles in fixed sites, whether American or Soviet, can be viewed as tempting targets. They are examples of too many eggs in one basket, and as such they might, in a moment of madness, invite a first-strike. They are, in short, anxiety-provoking and potentially destabilizing. Recognizing that, the commission proposed as an "overriding goal" the early development of a new missile, much smaller than the MX, armed with only one warhead, and mobile.

Two purposes would be served. First, the spread-out missiles would greatly multiply the number of targets that the Soviets would have to hit to be successful in any first-strike—in itself a deterrent to attack. Second, the new missile, already nicknamed Midgetman, could not itself be regarded as a first-strike weapon. If the Soviets could be made to copy the American effort and move away from their own multi-warhead first-strike missiles toward smaller and more dispersed ICBMs, a greater level of strategic stability could result.

Longstanding congressional skepticism toward the MX probably won't abate in the wake of the presidential commission's report. The majority feeling still seems to be that the MX remains too expensive, too vulnerable and possibly too destabilizing to adopt. On the other hand, the idea of a smaller, cheaper, mobile and more survivable missile appears to be gathering support.

The Midgetman would be a missile for the early 1990s. But if, as a growing informed consensus has it, the window of vulnerability is less ominously open than some had thought, the nation could afford to wait for its development without incurring great risk. The presidential commission wants Congress to accept its recommendations as a package: The MX now, the smaller missile later. Congress is under no obligation to make that deal. It can say no to the MX while keeping open the option to develop the new missile, and that is what it should do.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that I may be allowed to proceed for 1 minute as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAVE THE LIGHT FOR NIGHT

Mr. GORTON. Mr. President, the distinguished Senator from Maine (Mr. Mitchell) and I introduced S. 255, a bill to extend daylight saving time by 4 weeks in the spring. Tuesday of last week we held hearings on the subject in the Commerce Committee. Last weekend, as we all know, we got to "spring forward," and we now enjoy an additional hour of daylight in the evening as a result. Although there are many good reasons to extend daylight saving time, such as energy conservation, traffic safety, and crime prevention, the best reason of all is simply that people like it. Ellen Goodman expressed this commonsense view in her column in the Washington Post last Saturday. I fully agree with her opinion on the subject, and I ask unanimous consent that her column be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Apr. 23, 1983]

(By Ellen Goodman)

Save the Light for Night

Boston.—This morning, the sun rose at 4:59 a.m. So did I.

We have been making our early morning appearances like this, in tandem, for weeks now. The sun and I rose together at 5:12 on April 10, at 5:20 on April 3.

I don't know what the sun does at 4:59 in the morning. But let me tell you there is very little that people can do at that hour. I can, of course, worry. But generally I like to do my worrying while it is still dark outside. It helps the paranoia.

I could also get up. But something in me rebels at beating the newspapers to the doorstep. I could also take aim at the feathered chorus in my neighborhood. This particular collection of the smog-throated baritone-beaked urban birds have bio-rhythms that refuse to adjust to digital time.

But my favorite activity these April mornings is to stare at the ceiling and think about daylight wasting time.

The culprit of early April risings, I tell myself, is not in our stars but in our government. It isn't nature but Congress that arouses me and my fellow Americans, especially those below the age of three. It is Washington, believe it or not, like it or not, that tells us what time it is.

Daylight Savings Time, alias "fast time," alias "war time," alias "peace time." The whole business has had a checkered history in our lives. We adopted it in World War I and then again in World War II. In 1966, we stretched the saving from the last Sunday in April to the last Sunday in October, for every state except those that abstained. In 1973, during the oil crisis, we went to year-round daylight savings, and then went back again to the six-month rule.

For the past six or seven years, a plan to transfer one hour from the morning (when we don't want it) to the evening (when we do want it) has been a perennial blossom in the nation's capital. Year after year, it comes up and collapses.

This February, two congressmen sponsored a bill that would make the switch the first Sunday in March instead of the last Sunday in April. On Tuesday, there were Senate hearings on a similar bill.

The sponsors each year talk about respectable things like energy savings—an estimated 100,000 barrels of oil a day—and safety savings. But it's the light savings that is our real attraction. Most Americans are, after all, people who run their lives by clocks and their sleep by electricity. They go out with the light switch and wake up with the alarm.

We no longer go to bed and go to work with the sun. We spring forward and fall backward with the government. I grant you that it's peculiar to have our time federally mandated. It's a bit like controlling the tide. But as long as Washington is in this business, let it be a popular one.

There are people who disagree. Some of them live at the western edge of a time zone, and see dawn an hour later than easterners. Others farm for a living and prefer an early start and a darker evening.

John Watt, the secretary of the American Farm Bureau Federation, who testified Tuesday at the Senate hearings, grew up in a Pennsylvania farmhouse with two summer clocks. His father's stayed on standard time; his mother's on saving time. His father's on farm time; his mother's on town time. But most of us are on town time now.

Of all the rules and regulations our government makes, time may be the strangest. But if we're going to manufacture it, punch in and punch out of the day, let's do it right.

I lie here, at the end of daylight wasting time, lobbying for the change. The powers that be should take an hour of spring from the morning and give it to the evening. This year, O Washington, let there be light at 7:26 at night instead of 4:59 in the morning.

BRAZILIAN CONFISCATION OF LIBYAN CLANDESTINE ARMS SHIPMENTS TO NICARAGUA

Mr. MURKOWSKI. Mr. President, on Saturday, April 16, four Libyan planes were detained in route to Nicaragua by Brazilian authorities. The Brazilians had discovered that what they carried were, in fact, heavy arms and ammunition and not the medical supplies that were claimed to have been on board. The weapons were discovered after one of the four aircraft, a Hercules C-130, was stranded in Recife due to engine failure. The other three, which were Soviet-built 76T's, landed in Manaus. When Brazilian officials opened the holds of these planes, they found—not medical supplies—but over 120 tons of munitions, rifles, and heavy armes, and to top it off, T-39 Czech-built attack trainer jet in parts. No American weapons were found in the cargo.

Imagine their surprise. Of course, if anyone had thought it over, they would see how questionable it is that Libyans would have 120 tons of medical supplies to export to anyone let alone have it themselves. Apparently, American intelligence had been tracking these planes since they left Libya, But it took the purely fortuitous failure of a engine to confirm Brazilian suspicions. Contrary to the newspapers, there was no collabortion between Brazilian authorities and American intelligence. What does this imply about the extent of clandestine arms importing into Nicaragua? How can we ascertain accurately the level of foregin military support that is evidently pouring into Nicaragua and other Latin American countries in an apparent effort to totally destabilize the region?

The Libyans were required to obtain permission for overflight of Brazil. They were also required to obtain permission to land for refueling. But they will not have to make such requests in the future, after the 10,000-foot airstrip is completed on the island of Grenada. Grenada has claimed that this airstrip is being built to take care of the burgeoning tourist industry on the tiny island. But how can Grenada justify this when we know that their Hilton Hotel just burned down and the island's tourist accommodations are now very limited.

Once the runway is built, Libyan—or any other planes—will be able to fly directly from their point of origin to Grenada and thence to Nicaragua, without the necessity of explaining themselves to any country that might be hostile to their operations. I doubt if Libya would have much trouble obtaining landing rights for the Grenadan airport, since Libya was of one the larger financial contributors to its construction. This was the first blatant attempt by Colonel Qadhafi to export revolution outside Africa, and into the South American Hemisphere, and he was caught redhanded. The poor colonel was forced to take the unusual step—at least for him—of publicly apologizing to the Brazilian Government.

The Libyan support for Nicaragua's attempt to subvert struggling democratic governments is only one—possibly minor—problem. Although the Libyan material may have been "outdated" and " unsophisticated," according to the Brazilian newspapers, Cuban and Soviet aid in cash, weapons, and training, is certainly enough, when added to the Libyan ordinance, to overwhelm other governments in Latin America.

It is clear that unless the United States is willing to take positive action, El Salvador, Honduras, perhaps Guatemala, Costa Rica, and ultimately Mexico, could succumb to the machinations of those who would overthrow their governments. We know that it is imperative that we do something to insure this does not happen. What we are faced with is the question of what sort of help we should provide.

We cannot afford not to follow events in Central America with the greatest attention. Neither can we afford to sit on the sidelines and watch. For one thing, Mexico, from whom the United States imports 25 percent of its oil, is in an extremely fragile economic state at the present time. Were Mexico to declare bankruptcy or to default on its $80 million debt to the United States, it would have a substantial effect on American banks.

The Panama Canal, which transects Central America, is totally dependent on the stability of the region. Forty-four percent of all foreign trade tonnage and over half of our imported strategic minerals pass through the canal. Some 45 percent of the crude oil destined for the United States crosses the Caribbean Basin. The vulnerability of this commerce to military or political upheaval is self-evident.

This Senator certainly does not wish to be understood as suggesting that the United States become embroiled in the internal politics of another nation. Our aid has been sought by the Salvadoran leaders. What I advocate today is that we begin to examine additional means for active participation by the United States in establishing peace in the region. The administration's proposal for increased military training should be given serious consideration.

We might also consider an active role in regional negotiations, particularly since the admirable efforts of Venezuela, Colombia, Mexico, and Panama to meet with the Central American countries involved to resolve their conflicts seem to be foundering.

In the final analysis, we may have to consider a significantly altered approach. The administration recognizes this. Secretary of State George Shultz, in a speech to the Dallas World Affairs Council, stated that—

> Just as no amount of reform can bring peace so long as the guerrillas believe they can win a military victory, no amount of economic help will suffice if guerrilla units can destroy roads, bridges, power stations, and crops again and again with impunity.

The Libyans' adventurism into the South American Continent for the first time should serve to impress upon both Congress and the American people the ease with which foreign instigators can back their propaganda with military support. We cannot afford to ignore this infiltration of arms and personnel into an area of the highest strategic significance for the United States. We particularly need to watch the potential danger for increased shipments via the new airport being completed in Grenada. I call upon the administration and Congress to heed the warning of the Libyan weapons and make the decisions, however painful, that must be made to insure the economic, political, and even physical security of our friends and neighbors in the Central American Hemisphere.

A PRAGMATIC VIEW OF THE SITUATION IN EL SALVADOR

Mr. DENTON. Mr. President, I am deeply concerned about recent efforts to deny badly needed military assistance to El Salvador, or to attach conditions that would render it ineffective. The persistent efforts of many, in Congress and the media, to strangle the President's authority to conduct U.S. foreign policy in Central America have made Congress the decisive forum, the group which can permit the Soviet-Cuban-Nicaraguan-supported guerrillas in El Salvador to reap another victory for the global spread of Communist tyranny.

During the last 20 years, Congress has played a growing role in the conduct of our Nation's foreign policy. In many instances, it has acted responsibly. But this Senator believes that congressional influence was a major factor in causing disaster in Vietnam, Angola, Iran, and Afghanistan. I do not want to be part of a congressional crippling of this Nation's coping with a militarily spreading Communist conquest in our own hemisphere.

In the Washington Post of April 17, our U.N. Ambassador, Jeane Kirkpatrick, wrote about the current congressional debate on El Salvador and Central America. She placed the issue in perspective and pointed out the overwhelming evidence that the conflict in El Salvador cannot be considered in isolation from the lessons or our experiences in Vietnam and Nicaragua.

In Vietnam, the Congress progressively cut off aid to South Vietnam in the vain hope that it would lead to true self-determination and prosperity under a less repressive government. The actions of the leaders in Vietnam, their activities throughout Southeast Asia, have demonstrated the hollowness of that hope. I commend to my colleagues a column by James Webb, "This Holocaust Is Still Going On," in the Washington Post of April 14. A major part of the responsibility for the outcome in Vietnam, with its immediate related disasters in Cambodia and Laos and with numerous other indirectly related disasters, rests squarely on the shoulders of Congress.

Similarly, as Ambassador Kirkpatrick pointed out, there is a disparity between what American policymakers in 1979 hoped would happen in Nicaragua and what has actually happened. Since the Sandinistas come to power, they have clearly stated their intentions in Nicaragua and in Central America. Ambassador Kirkpatrick recites a litany of evidence about the true nature of the Sandinista government and its external supporters.

Today, El Salvador is under military attack. It is obvious that the terrorists, the FDR-FMLN, derive their support and their armament from Nicaragua and its allies. It is clear that their objectives are the same as those of their external patrons. There has been remarkably little effort to hide that fact. Yet, during the past month, three congressional committees—the Senate Appropriations Subcommittee on Foreign Operations, the Senate Foreign Relations Committee, and the House Foreign Affairs Committee—have debated whether to approve the President's request for additional military assistance to a legitimately elected government. None of them gave the President the approval he wanted; none of them agreed with the others. While the debate about what sort of U.S. involvement Congress will support drags on, the people and the popularly elected Government of El Salvador, engaged in a desperate struggle for survival, do not know whether the one ally capable of providing the needed assistance will do so. Freedom lovers in El Salvador wonder whether U.S. failure of understanding and of purpose will cause them to be ground under foot by the more reliable support of the U.S.S.R. for terroristic tyranny.

In recent testimony before the House Committee on Foreign Affairs, Msgr. Freddy Delgado, Chairman of the Human Rights Commission established by the Pact of Apaneca, stated bluntly that the dialog needed right now is one between the President and the Congress of the United States. He added that "it is a poor guide that points in two directions."

Monsignor Delgado knows—as does the President of the United States, the Government and people of El Salvador, and the guerrillas—that what happens in the next few weeks will be decisive in shaping that country's future. That is why Nicaragua's Interior Minister, Tomas Borge, accepts invitations to speak at American universities, and why Guillermo Ungo, President of the FDR-FMLN, spends most of his time traveling abroad. They know that, without American assistance, the Salvadoran Government, no matter how freely elected and popularly supported, cannot survive against a guerrilla army that receives extensive and sustained assistance and support from Nicaragua and its allies. They know that because they see every day the systematic guerrilla effort to destroy the country's economy.

During the past 6 months, the economic damage has totaled $85.5 million. Under the draining military siege, unemployment has reached 40 percent, and an additional 35,000 Salvadorans have become refugees. Last March 2, the guerrillas announced that they would begin to target the electrical industry throughout El Salvador for destruction and to sabotage all forms of transport on the country's roads. The burden of that destruction falls on the general population and rural peasants, and the defense against it is both difficult and expensive.

It is folly to oppose military aid now by parroting the unhelpful assertion that the solutions in El Salvador must be political and economical. Our President and the last President know that, and the United States has striven toward those solutions. But it takes two to tango. The solution now being applied by the Communists is a gun to the head. We must support actions which will effectively spike that gun so that political and economic progress can go on.

If Congress refuses seriously to consider the mounting evidence about the FDR-FMLN and its supporters, if it denies aid or permits only niggardly assistance, it will condemn one more set of people, the people of El Salvador, to a future far different from that which they desire, and one devoid of the rights and liberties we jealously guard for ourselves. The heat of Communist propaganda is focused on this issue. I hope we can stand the heat, avoid confusion, persevere to face the facts, and permit responsible U.S. action in coordination with the democratic countries in that area. If confusion prevails, the light of hope for freedom will be dimmed once more throughout the world. If confusion prevails, flames of danger will ignite in our own back yard, flames which will be much more costly and difficult to extinguish later unless we take the appropriate steps now.

I urge my colleagues to read carefully the articles by Jeane Kirkpatrick and James Webb, which I ask to be printed in the RECORD immediately following my remarks. I urge my colleagues to support the President's request for aid to El Salvador. If they fail to do so, they will have no excuse. For, as our knowledgeable Ambassador to the United Nations points out, they will not be able to plead "I didn't know."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THIS HOLOCAUST STILL GOES ON

(By James Webb)

In this week of remembering the anguish of the Holocaust, in these days of commemorating those who survived, let us take just a moment to consider the crimes that continue in Cambodia.

No one knows how many Cambodians were killed after the communists took control of that country. Estimates run from one-third to one-half of the population, which means the count is easily 2 to 3 million. Following such slaughter, the Vietnamese communists moved in, supposedly to stabilize the country. For those who have been thinking of the Holocaust, this is analogous to the Russians "liberating" Poland from the Nazis.

Currently, there are 200,000 Vietnamese soldiers occupying Cambodia. Behind them, following a policy dictated from Hanoi, hundreds of thousands of Vietnamese are beginning to settle the country. There have been few clear examples in history of a "final solution" planned to eliminate a national and ethnic identity. The Cambodians, who were almost wiped out, are now going to be absorbed.

Our media dance around this tragedy, reporting it in bits and pieces, avoiding the jugular issues that are playing themselves out for the world to see. The questions the media are avoiding are two: why are the Vietnamese really doing this? And why are so many Americans remaining silent in the face of such a completely hideous act?

The Vietnamese communists did not move into Cambodia to liberate the Cambodians, any more than the Russians moved into Poland to liberate the Poles. They do not remain in Cambodia to stabilize that country, any more than the Russians remain in Eastern Europe for the good of the people they have conquered. The Vietnamese communist move was, first, conquest. Or, as one Australian general said a few years ago, "if you don't believe in the domino theory yet, go ask a few million of the dominoes."

Second, it was a consequence of centuries of ethnic animosity between the Vietnamese and the Cambodians, which has periodcally spilled over into attempts at genocide—usually at the expense of the Cambodians. And finally, it is the clearest way for the North

Vietnamese, who have conquered the South and who completely dominate the present communist government, to prevent insurrection in South Vietnam. The troops in Cambodia are principally South Vietnamese, with North Vietnamese officers to prevent massive desertions into Thailand. If they were returned home to a South Vietnam that is now rife with unrest and poverty, they would endanger what many escapees indicate is a country ready to revolt.

So the Vietnamese communists are exporting their domestic strife, and fulfilling a long-held dream of conquest in the bargain.

Why do we not recognise this? First, we are bored and embarrassed by Southeast Asia. Vietnam and its turbulence is old news in a society that burns through issues and abandons them for fresher stuff. More important, however, such recognition would require many prominent Americans to admit that they were duped by the communists in Hanoi during the war. Even now, one American professor in Bangkok returned from a visit in Hanoi with a "high Vietnamese official" (who would not be identified) and proclaimed that, honest, folks, the Vietnamese are just trying to help Cambodia. What was the "high Vietnamese official" expected to say? What would happen to his position inside a totalitarian system if he expressed the dissenting views that we so cherish in our own political system?

Too many of our brightest people were too easily deceived by creatures of a communist state during the Vietnam War. Too many Americans are even today allowing ego to override intellect. So they ignore the reality of their own deception, even as it unfolds before their eyes.

It was our own country that was accused of "fascism" and "genocide" during the war. But think of this: for all our bombs and soldiers, how many people risked their lives on frail little boats in the open sea to escape the killing during the war? The answer is: about the same number of people who are currently trying to sneak from West Berlin into East Germany—zero. The notions of fascism and genocide existed in Vietnam. Unfortunately, even many of our own people branded the wrong side with such labels.

Perhaps the ultimate lesson of the Holocaust is that we do not believe incomprehensible tragedies until they have played themselves out. And then we console ourselves with little ceremonies and empty phrases like "Never Again."

I wish it were not so.

This Time We Know What's Happening

(By Jeane J. Kirkpatrick)

The whole scenario sounds like a grade B movie from the 1950s, but that, alas, does not mean it is not true. It's almost unbearably unfashionable to say so, but there is a plan to create a communist Central America which, if successful, will have momentous consequences for our security and that of our European allies, for Israel's international position, and for the unfortunate people of Central America. So far, Congress seems unwilling to make a serious effort to prevent—by means short of war—these human and strategic catastrophes.

Even though a very well organised lobby works indefatigably to confuse the moral, political and intellectual questions involved in U.S. policy toward Central America, there is growing clarity about the issues and the stakes. Indeed, what distinguishes the current debate about military and economic aid for Central America from similar disputes about China, Cuba, Vietnam and Nicaragua is that we have *fewer* illusions and more information.

We know by now what the government of Nicaragua is and what it intends—in El Salvador, Honduras, Costa Rica, New York, Jerusalem. We know who the guerrillas in El Salvador are, where and how they get their arms, what their plans are, who their friends are.

As recently as July 1979 it was possible for American policymakers of optimistic disposition to suppose that, if they acted wisely and generously, Nicaragua would emerge from its bloody civil war with an independent, pluralist, socialist, neutralist government. To this end, the United States rushed some $24.6 million in emergency food, medical and reconstruction assistance to the FSLN on their triumph, provided $118 million direct economic assistance in the subsequent 18 months, and assisted the new government in securing, in addition, some $262 million from multilateral lending institutions (an amount almost double the amount the Somoza government had received in the preceding 20 years). But before the Carter administration left office in January 1981, the decision was made that Nicaragua no longer met U.S. requirements for assistance, its pattern of internal repression and external aggression being already clear. And during the subsequent two years, Nicaragua's facade of democratic intentions and national independence have been not ripped off, but cast aside.

Everyone who cares to know now understands that the government of Nicaragua has imposed a new dictatorship; that it has refused to hold the elections it promised; that it has seized control of all media except a lone newspaper that it subjects to heavy prior censorship; that it denied the bishops and priests of the Roman Catholic Church the right to say Mass on television during Holy Week; that it insulted the pope; that it has stifled the private sector and independent trade unions; attacked the opposition; driven the Miskito Indians out of their homelands—burning their villages, destroying their crops, forcing them into exile or into involuntary internment in camps far from home.

Persons interested in such questions understand, too, that Nicaragua's rulers have introduced into the country many thousands of Cuban teachers, trainers and supervisors, including at least 2,000 military advisers. The Sandinista rulers have denied their international supporters the comforts of ambiguity. They have explained who their friends are and what convictions guide them.

From Moscow and Managua they have announced their principles: "We guide ourselves by the scientific doctrines of the Revolution, by Marxism-Leninism," Minister of Defense Humberto Ortega explained to his army; ". . . our political force is Sandinismo and our doctrine is Marxist-Leninism." "Marxism-Leninism is a fundamental part of the Sandinista ideology," said another member of the junta, Victor Tirado Lopez. They have issued a new stamp with a picture of Karl Marx and excerpts from the Communist Manifesto.

Nicaragua's leaders are done with dissembling. They are proud of their ideology, proud of their monopoly of power, proud of their huge new military force (which has no peer in the region), proud of their role in Central America's guerrilla war, proud of their string of successes in international diplomacy. Those successes are impressive: a seat on the U.N. Security Council, a stymied regional diplomatic initiative, continued support from the Socialist International and a resounding victory at the Delhi Summit of the Non-Aligned Movement. Proud too of their friends, including: Libya, the PLO and, of course, Cuba, their constant companions. The PLO connection, acclaimed by Yassar Arafat at the revolution's first anniversary (". . . the Nicaraguan people's victory is the victory of the Palestinians. Anyone who threatens Nicaragua will have to face Palestinian combatants."), has spawned international progeny. This past week a Latin American preparatory meeting on Palestine has been held in Managua for the purpose of "obtaining governmental and nongovernmental support for the Palestinian cause" and "opposing" Israel's aggressive policy. According to Radio Sandino, delegates from some 20 nations and 10 U.N. organizations were expected.

Such conferences are but one manifestation of the junta's vocation for public diplomacy. Other examples may be observed on U.S. television and, especially, at the United Nations where, with dazzling chutzpah, Nicaragua's leaders last week pressed their demand for immunity from attack by anti-Sandinista Nicaraguans, at the same time they stepped up support for Salvador's guerrillas.

The character of El Salvador's guerrilla struggle is no more ambiguous than that of Nicaragua's government. Since the elections of March 1982, nobody even pretends that the FMLN enjoys popular support, is "really" a bunch of agrarian reformers, or a coalition that would, if victorious, usher in a more perfect democracy.

The fictions with which communist insurgents have conventionally clothed their conquest of power are not available to the partisans of the FMLN. The pretense that the FMLN is an indigenous guerrilla movement without significant foreign support has also been largely abandoned. Too many truckloads, planeloads, boatloads of arms from Cuba, Nicaragua and the Eastern bloc have been found; too many documents have been captured, too many pictures taken, too many bold announcements made from Managua. The facts about the FMLN are understood by people interested in these questions. It is a professional guerrilla operation directed from command and control centers in Nicaragua, armed with Soviet bloc arms delivered through Cuba and Nicaragua, bent on establishing in El Salvador the kind of one-party dictatorship linked to the Soviet Union that already exists in Nicaragua.

There has, moreover, been so much discussion among them of "revolution without frontiers," of "liberating" and "unifying" Central America, so many threats to Honduras, so much bullying of Costa Rica and guerilla activity in Guatemala, that it is hardly possible seriously to doubt the regional character of Soviet/Cuban/Nicaraguan goals.

Yet to be fully faced is the relevance of these small, poor nations of the Central American isthmus to the United States, or the importance of Caribbean sea lanes to the Western Alliance. Neither is the extent of the Soviet investment—military, economic, cultural—in this hemisphere yet fully appreciated. But very reluctantly, most serious observers have come to acknowledge that, yes, the area's location gives it a certain irreducible relevance to our national interest. These serious observers grouse about the way the Reagan administration talks about the issues; they grouse about the government of El Salvador; but they understand.

The Economist noted last week that "The 'loss' of El Salvador could be a lethal foreign policy blow for American. . . ." and The New Republic made a similar observation.

There is also a growing, if grudging, acknowledgment that money—in the form of economic and military assistance—is quite probably the key to the viability of the region's non-communist governments. And two top aides of previous Democratic administrations, one a former assistant secretary of state, wrote in last week's New York Times Magazine that, "The area is of clear strategic and political importance to the United States . . ." so that "to stop American aid would be to deliver—yes, deliver—El Salvador into the hands of a guerrilla movement that is . . . allied externally with America's adversaries, and capable itself of the greatest brutality," and advised that ". . . abandonment is an option Democrats should reject."

Yet if few in or out of Congress advocated outright abandonment, a good many argued for such little assistance on such niggardly terms that the effect is almost sure to be the same.

From the perspective of hemispheric policy, it was an extraordinary week.

An official of the Soviet foreign office, Vadim Zagladin, reiterated Brezhnev's threat to install nuclear missiles in the Western Hemisphere five minutes from the United States. And a member of the Nicaraguan junta announced that, if asked, his government would consider installing Soviet nuclear missiles in Nicaragua.

In Managua, Nicaraguan officials, made clear their determination to continue support for revolution in Central America while, at exactly the same time, their representatives at the United Nations demanded protection from an internal insurgency.

Meanwhile, the Democratic majority on the Latin American subcommittee of the House Committee on Foreign Affairs acted to deny the democratically elected government of El Salvador the military assistance it needs to stave off a very well armed and advised Marxist insurgency and, simultaneously, to deny a democratic Nicaraguan insurgency any support against a repressive, aggressive Marxist government—though the clear effect of such a policy would be to make the United States the enforcer of Brezhnev's doctrine of irreversible communist revolution.

If, as often suggested, the "Vietnam Syndrome" explains the extraordinary reluctance of America's political class to provide urgently needed assistance to endangered friendly governments in an area of clear national interest, in what does that syndrome consist? Obviously, the Vietnam experience did not make us isolationist. The U.S. government pursues, with the full consent of Congress, a foreign policy that involves us in the affairs of four continents. We support a large standing army and a huge defense establishment. We station troops in remote places, provide billions of dollars in economic and military assistance to governments of all sorts in Asia, Africa and the Middle East. Neither the moral nor military misgivings expressed with regard to Central America are evident with regard to these other regions.

Nobody talks about slippery slopes when we rush weapons to Thailand, trainers to Lebanon or economic aid to Africa or Asia. Nobody talks about human rights when there is murder and mayhem in Zimbabwe, though one can readily imagine the outcry if the bishops of El Salvador had issued a statement resembling that of the bishops of Zimbabwe.

Why?

Why is Congress so much more reluctant to assist an imperfect democratic government clearly important to our national interest than much less perfect governments in more remote regions?

What is it that Central America has in common with Vietnam that so repels liberals? Is it just the nature of the contest—the fact that, in both, well-financed communist guerrilla movements have simultaneously targeted the existing government and what is generally called "world public opinion"?

Is it because lobbies of the left have managed, in both cases, to make the anti-communist side seem unbearably unfashionable?

God knows there are parallels enough in the public discussion of Vietnam and Central America. In both cases, well-orchestrated international campaigns have focused mercilessly on the political and moral failings of the government. And in El Salvador, as in Vietnam, the introduction of elections and reforms, the reduction of human rights abuses and corruption have proved not to have much effect on the drumbeat of criticism. In El Salvador, as in Vietnam, Congress calls the U.S. commitment into doubt from quarter to quarter, "certification" to "certification" undermining the confidence of vulnerable allies in our reliability and their viability.

As with Vietnam, doubt is continuously voiced about whether the government of El Salvador, which struggles mightily to satisfy American demands, is morally of American approval or even of survival.

But there are a few crucial differences too, and those differences involve what we know and when we know it. Not only do we know who Salvador's FMLN is, when we didn't know who the Vietcong were, we know now who the Vietcong were, how they came down from the North (20,000 in the early years alone), how they were supplied, how Western public opinion was manipulated into believing that the National Liberation Front, created by decision of the North Vietnamese Communist Party, was a spontaneous product of "deeper" social causes. We know all these things now because Gen. Vo Nguyen Giap and his colleague, Gen. Vo Bam, have told us about them.

We know too about human rights under those two Vietnamese regimes, about the labor camps and mass deportations. We know this at least in part because Stephen J. Morris' careful study has documented with endless, painful details that "The violation human rights by the Communist Party of Vietnam, in both the North and the South, was incomparably worse than the violation of human rights by the former Thieu government in South Vietnam. The difference was not one of degree but one of quality."

We know the Vietcong did not establish a broad-based government or a socialist democracy. We know what happened—and is still happening—in Cambodia. We do not enjoy thinking much about these matters, but we know about them, just as surely as we know the character and the stakes of the contest in Central American.

The crucial difference between Vietnam and Central America is not the Pacific Ocean, though that is important. The crucial difference is that the Congress that cut off aid to Vietnam could say it did not guess what would follow.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. BAKER. Mr. President, it is 12 o'clock noon and, as I indicated earlier, there is a caucus of Senators off the floor. An order has been entered for the Senate to stand in recess until the hour of 2 p.m. today, I believe, and I ask the Chair to now execute that order.

The PRESIDING OFFICER. The Senate stands in recess until 2 p.m.

Thereupon, at 12 o'clock noon, the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. WARNER).

MUSINGS OF THE MAJORITY LEADER ON A BEAUTIFUL DAY IN WASHINGTON

Mr. BAKER. Mr. President, I am presently the only occupant of this Chamber except for the distinguished Presiding Officer, and under those circumstances, I feel compelled to take certain liberties. There is a long list of bills here that I am now willing to pass by unanimous consent, and we will see how fast that brings Senators to the floor.

Seriously, Mr. President, I do not plan to ask the Senate to turn to the bankruptcy bills until those who are principal to the debate and the management of those measures and the minority leader have an opportunity to come to the floor.

While I am doing that, Mr. President, I cannot help but share my musings with the Senate. I just walked from the Dirksen Office Building across the east ellipse of the Capitol Grounds to the Senate steps. I would estimate the temperature is about 85 degrees, the grass is freshly mowed, the air is soft and sweet, the sunshine is penetrating, and it confirms what I have always believed and that is winter should be a place that you visit and not a season of the year. I have waited months for this day when we could shed the last remnants of winter and engage once more in the natural festivities that mankind enjoys so much in the spring and summer.

I am tempted, Mr. President, to ask that the Senate adjourn itself to the front lawn of the Capitol and conduct our business there. But on further thought it struck me that if I get 100 Senators out there under those salubrious circumstances, it would be impossible to keep a quorum.

I even had the opportunity to do a little historical research to see when, if at all, the Senate last met out of doors, and I can find no such record. The closest I found was when the Capitol was burned in August 1814 by errant British troops. Incidentally, that fire began in my office, and I have been tempted ever since to start another one. [Laughter.]

Mr. President, after that, surely the Senate did not meet in its accustomed Chambers because they had been incinerated, but there is no clear historic record that the Senate met on the lawn or anyplace else outside. The closest we can come is to an undocumented report that the Congress, both the House and the Senate, met in a tavern across the street from the Capitol in the space now occupied by the Supreme Court Building. Perhaps there is significance to be attached to the fact that the House of Representatives met on the ground floor and the Senate met on the second floor thereby giving rise no doubt to the term of the Senate as the upper Chamber.

Mr. President, I have said all I know how to say and still there are no Senators here, and therefore I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. **HEFLIN**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The Senator from Alabama is recognized.

EVOLUTIONARY DEVELOPMENT OF STRATEGIC DEFENSIVE SYSTEMS: A CONCEPT WHOSE TIME HAS COME

Mr. **HEFLIN**. Mr. President, I sincerely believe that an objective examination of President Reagan's recent call for the development of strategic defense systems will disclose that this is a concept whose time has come.

Once past the emotional reactions of those who are tied to the strategic doctrines of the past, this new approach may, indeed, lead to an ultimate reduction in offensive missiles on both sides.

For too long we have relied on strategic policy based on the threat of retaliation rather than a commitment to self-defense. I have wondered ever since the signing of the ABM treaty in 1972, as I asked anew in remarks to this body last December 18, what could be more stabilizing than the ability to defend one's homeland against nuclear attack?

Yet, many of those who are most vocal through the media continue to insist that defense would touch off a new arms race by raising fears that one side was preparing to attack and then defend itself against retaliatory attack. Defense, in fact, is not provocative—it is the opposite. If each side neutralizes the other's offensive capability, the threat of aggression must be reduced. The U.S. history discloses proudly that ours is not an aggressor nation. But several times, we have been caught, with almost tragic results, with our guard down.

Still, there are numerous critics who suggest that ballistic missile defense (BMD) is destabilizing. Their arguments should be challenged not only on first priciples, but on the grounds that major reductions in offensive weapons are made more feasible if such weapons are protected by BMD.

It is not simply how many strategic weapons are allowed on each side, but how survivable those weapons are. Therefore, we must see to it that a strategic defensive policy that is basically conducive to arms control is not made to appear as the reverse.

I am convinced that it was our technical superiority in strategic areas which induced the Soviets to agree to the ABM treaty, as well as SALT I. As I noted in my remarks in December, when the ABM treaty was negotiated it was assumed major reductions in offensive ballistic missile forces would be shortly forthcoming. Instead, the Soviets stepped up their strategic programs on all fronts and, today, our land-based ICBM force stands vulnerable to a first strike. Vulnerability, I submit, is the most provocative and destabilizing condition of all, encouraging, at the minimum, international adventures backed by the threat of a first strike.

The ABM treaty permits limited deployment by both sides, and the Soviets have a system deployed around Moscow. However, Congress decided in 1976 to phase out our deployed site at Grand Forks, S. Dak. Meanwhile, the Soviets have continued with a system-level program, at expenditures three times greater than ours, which we assume could be rapidly deployed in the future. The United States has pursued a modest R&D ballistic missile defense (BMD) program since the early 1970's, progressively developing means to defend our ground-based ICBM force and developing technologies which have provided remarkable advances for future defensive options.

I agree with President Reagan that we need to step up the pace of R&D on advanced long-range BMD concepts which will fully challenge our Nation's creative scientific capabilities for success and breakthroughs as well as our political willingness to seek visionary solutions. In this connection, I was one of the first Members of this body to speak out on the potential use of directed energy technologies, such as high-energy lasers, for future defensive weapons.

In the future, we should be able to use ground-based or space-based, high-energy lasers to destory ballistic missile targets, as well as other offensive targets. I have felt for some time that we need to accelerate our efforts in the development of this technology. However, one of my primary concerns has been the fragmentation and lack of coordination among the various Government agencies of the current research and development in the area of directed energy.

This concern was amplified as a result of hearings that I chaired in late 1979. The purpose of these hearings was to provide a broader review of the highly diverse, important, and rapidly developing laser technology. From these hearings, I determined that we did not have the proper environment to focus this technology. Therefore, in the last Congress, I introduced legislation calling for a Laser/Particle Beam Institute to provide a long-range program in this area and serve as a coordinating and managing body for those Government agencies involved in laser/particle beam research and development.

I have recently been encouraged by what appears to be better coordination of these efforts. However, because of the importance of this technology, the Science, Technology, and Space Subcommittee plans to conduct further hearings on this issue later this year.

While the President's March 23 announcement properly emphasized the more advanced, long-term BMD concepts, I would encourage him to seriously consider an evolutionary approach that also would include more mature, nearer term BMD concepts.

I have followed with great interest the progress in Army BMD systems and technology development centered at Huntsville, Ala. This program has made dramatic strides in recent years over a broad spectrum of systems.

As early as the 1960's, BMD demonstrated essential strategic defensive systems technologies, including phased array radars and Sprint-class interceptors. By the 1970's, the program technologies were developed to enable defense against sophisticated missiles in the terminal stages of attack through the use of complex data processing, and discriminating technologies, and quick-response interceptors. The program evolved in the 1970's with the development of onboard data processing and long-wave infrared sensors for early identification of targets outside the atmosphere. Today, BMD is demonstrating advanced sensors and data processing and smart missiles capable of intercepting incoming missiles with nonnuclear warheads. Programs also are already underway in the nontraditional technology areas of directed energy weapons.

These technology successes provide vast encouragement to the hopes for a successful strategic defense in the future and can be demonstrated, with the option for deployment, on an evolutionary basis while futuristic space-based systems concepts are maturing. Skeptics have dismissed the long-range portion of this thinking as a "Star Wars" fantasy, but I believe history will prove them to be wrong.

Secretary Caspar W. Weinberger recently noted:

> Perhaps one reason for the skepticism with which some have greeted this initiative is due to misunderstanding. Many would have you believe that we seek to develop a single system which can intercept and defend flawlessly against all missiles and all attacks. We know there is no such "magic bullet." What we are trying to develop first is a defense network—a series of systems, not necessarily based on the same technology or physical principles—which taken together will provide a reliable defense against nuclear ballistic missiles.
>
> The concept we will need to perfect is not dissimilar to the one we now employ to defend our fleet against tactical missile attack. The layered fleet defense system consists of F-14 fighters and Phoenix Missiles at long ranges, the Aegis Cruiser at medium range, and close-in weapons systems. All are under control of computers which keep track of dozens of incoming missiles, and direct interceptors to destroy them. The ballistic missile defenses we seek to build must do these functions also, not against dozens of targets, but against thousands and at vastly greater ranges.

Secretary Weinberger was referring to a defense network, which I believe to be consistent with BMD's layered defense concept, where defense is possible in various regimes of an attacking missile's trajectory.

My interest in also considering more mature BMD concepts is based on several compelling factors that are consistent with the President's policy initiative. They can be fielded earlier and they can be securely based on our own soil. They would pose no threat for any use other than purely defensive objectives, and they would effectively complement any advanced systems that may be deployed later.

I am convinced that we should carefully and objectively evaluate the President's call for the development of strategic defensive systems as a means of making nuclear weapons impotent and obsolete. If we raise ourselves above partisanship, as indeed we must, and look with open minds at what could represent a more stabilizing strategic policy, I believe we will come to agree that this initiative can signal a change in America's strategic policy that is likely to live in history as a dramatic turning point toward world peace. It puts us on a course that is fundamentally more secure and humane.

I believe America's scientists and engineers, who have brought this Nation to preeminence in world technology and to the Moon and back, can succeed in developing the defensive systems to make this peaceful vision a reality.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOVIET JEWISH EMIGRATION

Mr. EXON. Mr. President, I rise today to bring once again to the attention of the U.S. Senate the plight of Jews who wish to emigrate from the Soviet Union but are not allowed to do so.

In 1971 the Soviet Union began a new phase in their emigration policy which became more lenient and allowed over 13,000 Jews to leave the country that year. The program continued and between 1971 and 1979 the numbers remained above the 13,000 mark and even hit a high of over 51,000 in 1979—the year the SALT II Treaty was signed.

This encouraging trend was to be, unfortunately, short lived. New restrictions were imposed by the Soviets in 1980 and 1981, and the number of visas dropped to about 21,000 in 1980, and dropped further to about 9,400 in 1981. These figures took a dramatic nosedive to less than 2,700 in 1982. This is a clear and discouraging sign of a reversal in the pre-1979 trend and an indication that the situation is becoming increasingly worse.

Hundreds of thousands of Jews have shown an interest in leaving the Soviet Union but have been discouraged or flatly refused. Grigory Rosenshtein is one of these many unfortunate people. Mr. Rosenshtein, along with the rest of his family, first applied for an exit visa in November of 1973. He was refused, and has been repeatedly refused, an exit visa on the grounds that he saw a classified document 18 years ago, which he does not remember. In anticipation of filing for an application to emigrate to Israel, Grigory resigned his job at the Science Institute for Instrument Automization in 1973. Since that time he has been working at various menial jobs, has often been unemployed, and is now struggling to make ends meet.

Mr. President, earlier this year I wrote to General Secretary Andropov on behalf of Grigory Rosenshtein and his family, and urged that his Government give favorable consideration to granting their visa request. I ask unanimous consent that a copy of that letter be made a part of the RECORD at this time and hope that a response will be forthcoming soon. Unfortunately, earlier such letters which I have written on behalf of other refuseniks have not even been afforded the courtesy of a response.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., March 11, 1983.

General Secretary YURI ANDROPOV,
General Secretary of the Communist Party, the Kremlin, Moscow, U.S.S.R.

DEAR GENERAL SECRETARY ANDROPOV: The plight of Grigory Rosenshtein has been called to my attention and I request that his case be afforded renewed consideration by your government.

Mr. Rosenshtein, along with his entire family, first applied for an exit visa in November of 1973. He was refused, and has been repeatedly refused, an exit visa on the grounds that he saw a classified document 18 years ago, which he does not remember. In anticipation of filing for an application to emigrate to Israel, Grigory resigned his job at the Science Research Institute for Instrument Automization in 1973. Since that time, he has been working at various menial jobs, has often been unemployed, and is struggling to made ends meet.

The concern for this individual, and others like him, is shared by my colleagues both in the U.S. Senate and House of Representatives. It is my belief that it would be in the best interests of both our governments if the case of Mr. Rosenshtein and his family was reconsidered with the hope that their request can be granted favorable consideration.

Mr. Rosenshtein and his family reside at Butlerova 2-1-69, Moscow 117485, RSFSR, USSR. I look forward to your response and for greater cooperation in the future between our governments and people.

With best wishes.

Cordially,

J. JAMES EXON,
U.S. Senator.

Mr. EXON. Mr. President, all of my colleagues should reflect for a moment on the fact that Jewish life in the Soviet Union is being systematically destroyed. The over 2 million Soviet Jews are being subjected to attempts, many of them successful, to wipe out their religious practices and educational opportunities. Yiddish and Hebrew are not taught in Soviet schools. Mailings of cultural materials to Soviet Jews from abroad are intercepted. Only about 50 synagogues exist in the country today. The number of Jewish students in Soviet institutions of higher learning has plummeted by half since 1968. These are but a few examples of discrimination against Jews in Soviet Russia. This is why greater emigration should and must be allowed.

I am deeply concerned about the future of Grigory Rozenshtein and thousands of others like him. With United States-Soviet relations at their current "rock-bottom" state, more lenient Soviet emigration policies are one way—virtually painless for the Soviet Government—for them to show an interest in more meaningful peaceful coexistence. It would also be a way for the Soviets to move toward compliance with the 1975 Helsinki accords. Furthermore, it is simply humane.

I want to salute my friend and colleague (Senator Boren) for organizing this year's 1983 "Congressional Call to Conscience Vigil" here in the Senate. The Union of Councils for Soviet Jews, the National Conference on Soviet Jewry, and the Student Coalition for Soviet Jewry have also performed a great service in keeping this issue before the world.

We must forget the plight of those in the Soviet Union who are being discriminated against—solely because of the religious beliefs. Likewise, we must never let the Soviet Union forget either.

DECONTROL OF "OLD GAS"

Mr. EXON. Mr. President, I wish to bring to the attention of my colleagues, a recent study provided to my office by the Library of Congress. This study entitled, "Natural Gas Revenues of Major U.S. Energy Companies, 1977-81" was first reported in early March. This version which I am submitting today for the record is a further refinement of that first study, and provides a grouping of the major oil companies into two categories of eight firms based upon production.

The results of this upgraded study are the same as the first: that major oil companies revenues from sales of natural gas have doubled since the enactment of the Natural Gas Policy Act of 1978, growing at an annual rate of about 25 percent over the 5-year period studied. The study also points out that these major oil firms control a significant share of so-called old gas which remains regulated under the NGPA. Finally, the study demonstrates that during this same period, crude oil prices increased nearly fourfold and that natural gas prices rose more slowly than crude oil prices as a result of the price ceilings under the NGPA.

Mr. President, as the Congressional Research Service points out in this study which I am presenting today, the top 16 major U.S. oil companies have a great interest in seeing the price of natural gas rise to equal oil prices. These giant firms produce nearly one-half of the volume of natural gas marketed and have interests in approximately half of proven gas reserves in this country.

I would urge my colleagues to review this paper as the Congress considers the President's proposal to remove price ceilings on all old gas supplies.

Mr. President, I ask unanimous consent that the study entitled "Natural Gas Revenues of Major U.S. Energy Companies, 1977-81" be printed in the Record.

There being no objection, the study was ordered to be printed in the Record, as follows:

[Report No. 83-67 E]

Natural Gas Revenues of Major U.S. Energy Companies, 1977-1981

(By David J. Cantor)

ABSTRACT

Natural gas accounts for a significant proportion of the revenues of major energy and oil companies. The 26 major energy companies, including the 16 major oil companies have experienced a doubling of the revenues from the production of natural gas since 1977. Their natural gas revenues as a percentage of combined natural gas and crude oil revenues has fallen from about 30 percent to approximately 22 percent, but that decline is largely the result of the increase in oil prices. The top-eight oil companies have seen their revenues from natural gas rise more slowly than for all 26 major energy companies combined, explained in part by the facts that natural gas activity of firms is somewhat less important to these firms than to the others, and that they realize a lower average value for their gas sales than do others. Nevertheless, the revenues from natural gas of oil companies comprise most of the gas revenues of the 26 major U.S. energy companies.

NATURAL GAS REVENUES OF MAJOR U.S. ENERGY COMPANIES, 1977-1981

Natural gas sales provide a significant portion of major energy company revenues from their combined sales of domestic natural gas and crude oil. In 1977 and 1978, prior to the world oil price shock of 1979, gas accounted for over 30 percent of their revenues from sales of domestic natural gas and crude oil. In 1979, oil prices rose rapidly relative to natural gas prices. Oil revenues rose faster then gas revenues, and the proportion of major energy company gas revenues declined. In 1980 and 1981, the gas share of these revenues levelled off at about 22 percent. The 16 major U.S. oil companies account for about 90 percent of the natural gas revenues of the major U.S. energy companies. The importance of domestic natural gas to major energy companies is highlighted, also, by the fact that these produce approximately half of the volume of natural gas marketed in the United States and have interests in approximately half of proven natural gas reserves in the country.

This report presents an analysis of the levels and trends of natural gas revenues of 26 major U.S. energy companies including 16 major oil companies, for the period 1977 through 1981.[1] The companies are those whose corporate financial data are reported to the U.S. Department of Energy, Energy Information Administration for its Financial Reporting System (FRS). The period under review is constrained by the availability of FRS data. Nevertheless, the period extends from the year immediately prior to enactment of the Natural Gas Policy Act of 1978 (NGPA) through most of the period during which NGPA pricing has been in effect, and during the period of sharply rising crude oil prices from 1979 through mid-1981. All of the data discussed herein treat only revenues, production, and reserves for domestic oil and gas operations of the FRS companies.

I. Natural gas and crude oil revenues of major energy companies, 1977-81

1. Trends in Natural Gas Revenues of Major U.S. Energy Companies, 1977-1981.—Since 1977, the major U.S. energy companies have experienced a more than two-fold growth in operating revenues derived from their sales of domestically produced natural gas. In 1977, the 26 energy companies had gas revenues of about 8.2 billion dollars. Preliminary data for 1981 indicate that their gas revenues increased to about 17.8 billion dollars, or 2.2 times that of 1977. These data are presented in Table 1.

TABLE 1.—REVENUES FROM THE SALE OF DOMESTIC NATURAL GAS OF MAJOR ENERGY COMPANIES, 1977–1981[1]

[Dollars in millions]

	Natural gas revenues	Year-to-year change	Percent change
Year:			
1977	$8,174		
1978	9,258	$1,084	11.7
1979	11,491	2,233	19.4
1980	13,991	2,500	21.8
1981[2]	17,782	3,791	27.1

[1] The major energy companies are those selected for inclusion in the Financial Reporting System (FRS) of the U.S. Department of Energy, Energy Information Administration. The companies are: Amerada Hess, American Petrofina, Ashland Oil, Atlantic Richfield, Burlington Northern, Cities Service, Coastal States, Conoco, Exxon, Getty Oil, Gulf Oil, Kerr-McGee, Marathon Oil, Mobil, Occidental, Phillips Petroleum, Shell Oil, Standard Oil of California, Standard Oil of Indiana, Standard Oil of Ohio, Sun Company, Superior, Tenneco, Texaco, Union Oil of California, and Union Pacific.

[2] Preliminary data.

Source: U.S. Department of Energy, Energy Information Administration. Office of Economics and Statistics. By telephone communication, March 3, 1983.

Over the entire five-year period, combined gas revenues of the 26 companies increased at an average annual rate of 21.5 percent. In general, however, gas revenues grew at an increasing rate over this period: in 1978, the change in gas revenue was 1.1 billion dollars; in 1979, 2.2 billion dollars; in 1980, 2.5 billion dollars; and, in 1981, 3.8 billion dollars.

This acceleration in the growth of gas revenues reflects the phased decontrol of gas prices allowed by NGPA, and the response of producers away from controlled to decontrolled gas sources. From 1978 through 1981, gas revenues from sales of domestic gas by the 26 major companies grew at an annual rate of 24.3 percent.

2. Share of natural gas revenues in combined revenues from sale of domestic oil and gas of major energy companies, 1977-1981.—Natural gas revenues of the 26 major energy companies were approximately 30 percent of their combined revenues from sales of domestic crude oil and natural gas in 1977-79. In 1980, this share declined to 23.5 percent, and, in 1981, to 22.5 percent. These data are presented in Table 2.

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[1] The major energy companies are those required to report company financial data to the U.S. Department of Energy, Energy Information Administration (EIA) on Form EIA-28: Financial Reporting System. The companies were chosen by EIA from the top 50 publicly held domestic crude oil producers in 1976, who accounted for at least 1 percent of either production or reserves of oil, coal, or uranium; or one percent of oil production, refining capacity, or petroleum product sales. These companies are: Amerada Hess, American Petrofina, Ashland, Atlantic Richfield, Burlington Northern, Cities Service, Coastal States, Conoco, Exxon, Getty Oil, Gulf Oil, Kerr-McGee, Marathon Oil, Mobil, Occidental, Phillips Petroleum, Shell Oil, Standard Oil of California, Standard Oil of Indiana, Standard Oil of Ohio, Sun Company, Superior, Tenneco, Texaco, Union Oil of California, and Union Pacific.

Source: U.S. Department of Energy. Energy Information Administration, Energy Company Development Patterns in the Post Embargo Era. Volume 1, October 1982, Washington, D.C., p. 99.

Two factors, in particular, explain this decline in the share of natural gas revenues. First, both domestic and world oil prices rose sharply from 1979 through mid-1981. Second, natural gas price controls prior to NGPA and constraints imposed by NGPA restrained the growth of revenues from gas.

Between 1979 and mid-1981, both world and domestic oil prices rose sharply and persistently. The average refiner acquisition cost of imported crude oil was essentially constant in 1977 and 1978 at approximately $14.55 per barrel. In 1979, prices for imported crude rose more than seven dollars per barrel, and in 1980, by an additional twelve dollars per barrel. In 1981, the increase in imported crude moderated, and the price rose three dollars per barrel. Over the period, 1978 through 1981, therefore, imported oil prices more than doubled, rising at an annual rate of 36.5 precent from $14.57 to $37.05 per barrel.

Over this period, domestic crude oil prices increased as well despite controls on them through January 1981. In 1977 and 1978 national average domestic wellhead prices were in the range of $8.50 to $9.00 per barrel, but rose to $12.64 in 1979, $21.59 in 1980, and $31.77 in 1981. Thus, domestic crude prices increased nearly fourfold in this period 1978-1981, at an annual rate of 53.5 percent. The average value of a barrel of domestic crude oil sold by the 26 major companies was generally lower than the national average domestic wellhead price, rising from about $8.30 per barrel in 1977-78 to $29.10 in 1981 at an annual rate of 51.8 percent. These data, published by the Energy Information Administration (EIA) or compiled from EIA data, are presented in Tables 3.

TABLE 2.—NATURAL GAS SHARE OF COMBINED REVENUES OF DOMESTIC CRUDE OIL AND NATURAL GAS OF MAJOR ENERGY COMPANIES, 1977–81

[Dollar amounts in millions]

	Domestic natural gas revenues		Domestic crude oil revenues [1]		Combined natural gas and crude oil revenues	
	Amount	Percent	Amount	Percent	Amount	Percent
Year:						
1977	$8,174	30.8	$18,374	69.2	$26,548	100
1978	9,258	31.6	20,057	68.4	29,315	100
1979	11,491	29.7	27,219	70.3	38,710	100
1980	13,991	23.5	45,547	76.5	59,538	100
1981 [2]	17,782	22.5	67,216	77.5	84,998	100

[1] Includes lease condensate and natural gas liquids.

[2] Preliminary data.

Source: U.S. Department of Energy, Energy Information Administration. Office of Economics and Statistics. By telephone communication, March 3, 1983.

Note.—The major energy companies are those selected for inclusion in the Financial Reporting System (FRS) of the U.S. Department of Energy, Energy Information Administration. The companies are: Amerada Hess, American Petrofina, Ashland Oil, Atlantic Richfield, Burlington Northern, Cities Service, Coastal States, Conoco, Exxon, Getty Oil, Gulf Oil, Kerr-McGee, Marathon Oil, Mobil, Occidental, Phillips Petroleum, Shell Oil, Standard Oil of California, Standard Oil of Indiana, Standard Oil of Ohio, Sun Company, Superior, Tenneco, Texaco, Union Oil of California, and Union Pacific.

These sharp increases in oil prices far exceeded the growth in both national average wellhead prices for natural gas and the average value of natural gas marketed by the 26 major energy companies. The national average wellhead value of gas rose from $0.79 per thousand cubic feet (mcf) in 1977 to $1.96 per mcf in 1981 at an annual rate of 25.8 percent. The average value of natural gas marketed by the 26 companies rose at an annual rate of 25.1 percent from $0.73 per mcf in 1977 to $1.79 per mcf in 1981. These data are also shown in table 3. That natural gas prices rose more slowly than crude oil prices is a result of price ceilings under NGPA, as well as the pricing provisions of long-term contracts between producers and natural gas pipelines.

These trends in prices of both oil and gas explain for the most part why the gas share of total domestic gas and crude oil revenues of the 26 major energy companies fell. Clearly the gas share declined because domestic oil prices rose twice as fast as natural gas prices. Reinforcing this conclusion is the fact that the volumes of both domestic gas and crude oil were essentially constant throughout the period, with the sole exception of a 15-percent increase in crude oil volume in 1978 (see footnotes to table 3).

TABLE 3.—VALUE OF DOMESTIC NATURAL GAS AND CRUDE OIL AND IMPORTED CRUDE OIL–NATIONAL AVERAGE AND AVERAGE VALUE OF SALES OF MAJOR ENERGY COMPANIES, 1977–81 [1]

	Dollars per thousand cubic feet		Dollars per barrel		
	Domestic natural gas wellhead value [2]	Average value of natural gas of major energy companies [3]	Imported crude oil price [4]	National average domestic crude oil price [5]	Average value of crude oil of major energy companies [6]
Year:					
1977	$0.79	$0.73	$14.53	$8.57	$8.36
1978	0.91	0.85	14.57	9.00	8.27
1979	1.18	1.07	21.67	12.64	11.25
1980	1.59	1.39	33.89	21.59	19.02
1981	1.98	1.79	37.05	31.77	[7] 29.10

[1] The major energy companies are those selected for inclusion in the Financial Reporting System (FRS) of the U.S. Department of Energy, Energy Information Administration. The companies are: Amerada Hess, American Petrofina, Ashland Oil, Atlantic Richfield, Burlington Northern, Cities Service, Coastal States, Conoco, Exxon, Getty Oil, Gulf Oil, Kerr-McGee, Marathon Oil, Mobil, Occidental, Phillips Petroleum, Shell Oil, Standard Oil of California, Standard Oil of Indiana, Standard Oil of Ohio, Sun Company, Superior, Tenneco, Texaco, Union Oil of California, and Union Pacific.

[2] Data from U.S. Department of Energy. Monthly Energy Review. November, 1982.

[3] Computed by dividing total natural gas revenues by total marketed production. The revenue and production data are: 1977—$8,174 million, 11.19 billion cubic feet; 1978—$9,258 million, 10.87 billion cubic feet; 1979—$11,491 million, 10.71 billion cubic feet; 1980—$13,991 million, 10.05 billion cubic feet; 1981—$17,782 million, 9.95 billion cubic feet.

[4] The values are the Refiner Acquisition Prices.

[5] The values are the domestic crude oil wellhead prices.

[6] Computed by dividing total crude oil (including lease condensate and natural gas liquids) revenues by total marketed production. The revenue and production data are: 1977—$18,374 million, 2196.7 million barrels; 1978—$20,057 million, 2424.7 million barrels; 1979—$27,219 million, 2419.3 million barrels; 1980—$45,547 million, 2394.5 million barrels; 1981—$67,216 million, 2310.2 million barrels.

[7] Preliminary data.

Compiled by CRS using as sources: U.S. Department of Energy. Energy Information Administration. Monthly Energy Review, November 1982. U.S. Department of Energy. Energy Information Administration. Office of Economics and Statistics. By telephone communication, March 4, 1983.

II. Natural gas and crude oil revenues of major oil companies, 1977-81

The major domestic oil producing companies accounted for most of the revenues and production of natural gas among the 26 major U.S. energy companies. Ninety percent or more of the revenues from the sale of domestic natural gas of the 26 major U.S. energy companies were received by 16 major U.S. oil producing companies.[2] In 1977, these 16 companies had revenues of $7.6 billion from the sale of domestic natural gas, or 92.8 percent of the revenue of all 26 major energy companies. In 1981, preliminary data show that $16 billion of the $17.8 billion in natural gas revenues of the 26 major energy companies, or 89.8 percent, were received by these 16 oil companies.

1. Definition of the major oil companies.—The 16 major oil companies covered by this report are the largest domestic crude oil producing companies, ranked by crude oil production in 1981 which also produce natural gas, and are among the top-40 natural gas producers according to American Petroleum Institute (API) data.[3] Only Standard Oil of Ohio, which API ranked second among domestic oil producing companies, is excluded, because it did not produce a sufficient volume of gas in 1981 to merit placement on API list of the top-40 natural gas producers. The API data and crude oil and natural gas production and proven U.S. natural gas reserves are presented in Appendix A.

All of the 16 companies are included in the list of the 26 major U.S. energy companies as defined by the U.S. Department of Energy, Energy Information Administration (EIA). The data presented herein were obtained from EIA. The 16 companies were divided into two groups of eight to further separate the largest oil companies from the others. The first group of eight companies comprise:

Group I Companies: Atlantic Richfield, Exxon, Gulf Oil, Mobil, Shell Oil, Standard Oil of California, Standard Oil of Indiana, and Texaco.

Each of these companies produced at least 300,000 barrels per day in 1981 or 2.7 percent of total daily production, according to API data.

The second group of companies comprise:

Group II Companies: Cities Services, Conoco, Getty Oil, Marathon-Oil, Phillips Petroleum, Sun Company, Union Oil of California, and Tenneco.

Each of these companies produced at least 100,000 barrels per day in 1981, or 0.9 percent of total daily production, according to API data.

A second basis for dividing the sixteen major oil companies into two groups is the fact that the first group is relatively more concentrated in crude oil production than the second group. The first group of companies produced 31 percent of U.S. crude oil in 1981 and 30 percent of natural gas. The second group of companies accounted for 12.7 percent of crude oil and for 13.5 percent of natural gas in 1981.

2. Trends in natural gas revenues of major U.S. oil companies, 1977-81. The major U.S. oil companies experienced a doubling of their revenues from their sale of domestically produced natural gas since 1977. The Group I companies saw their natural gas revenues rise from $5.1 billion in 1977 to $10.1 billion in 1981. The Group II companies revenues from natural gas rose from $2.4 billion in 1977 to $5.8 billion in 1981. These data are presented in Table 4.

Over the five year period, Group I company revenues from natural gas increased by 96.8 percent, annual rate of 18.45 percent. Their gas revenues increased at an accelerating rate over the five year: in 1978, the change was $615 million, in 1979, $1.0 billion; in 1980, $1.4 billion; and, in 1981, $1.95 billion.

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[2] The 16 major oil companies are: Atlantic Richfield, Cities Service, Conoco, Exxon, Getty Oil, Gulf Oil, Marathon Oil, Mobil, Phillips Petroleum, Shell Oil, Standard Oil of California, Standard Oil of Indiana, Sun Company, Tenneco, Texaco, and Union Oil of California.

[3] M. A. Brannan and H. R. Epps, Market Shares and Individual Company Data for U.S. Energy Markets: 1950-1981. Washington, D.C., American Petroleum Institute. October 1982, p. 37.

The Group II companies experienced an even faster growth in natural gas revenues than the Group I companies. Their revenues increased by 139 percent over the five year period, an annual rate of 24.3 percent. The growth in Group II company revenues, while faster than that of Group I companies, was not at an accelerating rate. In 1978, their revenues rose by $344 million; in 1979, by 918 million; in 1980, by $783 million; and, in 1981, by $1.4 billion.

The faster growth of Group II company revenues from natural gas is explained by the relative importance of natural gas production of these companies in contrast to the Group I companies. For both groups, however, their growth of gas revenues reflects the phased decontrol of gas prices allowed by NGPA, and the response of producers away from controlled to decontrolled gas sources.

3. Shares of natural gas revenues in combined revenues from sales of domestic oil and gas of major oil companies, 1977–81.—The revenues from sales of natural gas of the major oil companies as a share of combined revenues of oil and gas parallels the experience of all 26 major energy companies. The gas revenue share declined from 1977 to 1981 for both Group I and Group II oil companies.

TABLE 4.—REVENUES FROM THE SALE OF DOMESTIC NATURAL GAS OF MAJOR OIL COMPANIES, 1977–81

[Dollars in millions]

	Natural gas revenues	Year-to-year change	Percent change
Year:	A. Group I companies [1]		
1977	$5,140		
1978	5,755	$615	12.0
1979	6,766	1,011	17.6
1980	8,165	1,399	20.7
1981 [2]	10,118	1,953	23.9
	B. Group II companies [1]		
1977	2,448		
1978	2,792	344	14.1
1979	3,710	918	32.9
1980	4,493	783	21.1
1981 [2]	5,849	1,356	30.2

[1] Group I companies are: Atlantic Richfield, Exxon, Gulf Oil, Mobil, Shell Oil, Standard Oil of California, Standard Oil of Indiana, and Texaco. Group II companies are: Cities Service, Conoco, Getty Oil, Marathon Oil, Phillips Petroleum, Sun Co., Union Oil of California, and Tenneco.

[2] Preliminary data.

Source: U.S. Department of Energy, Energy Information Administration. Office of Economics and Statistics. By telephone communications, March 25, 1983.

The Group I companies saw the gas share of combined oil and gas revenues fall from about 30 percent of the total in 1977–1978 to 19.6 percent in 1981. The Group II companies, in which natural gas figures more prominently, experienced an increase in the gas share of combined revenues from 33 percent in 1977 to 35.7 percent in 1979; in 1980, however, this share fell to 28.3 percent, and in 1981, to 26.5 percent of their combined oil and gas revenues. These data are presented in Table 5.

These trends are explained for the most part by the more rapid increase in crude oil prices than in natural gas prices. The data in Table 6 show the average value of natural gas and crude oil marketed by the major oil companies. The growth in the average value of Group I company gas was at an annual rate of about 24 percent, or about 13 percent of the annual growth in the average value of their domestic crude oil, 38.2 percent. The Group II companies experienced a faster rate of growth in the average values of both their gas and oil, 26.7 and 39.3 percent, respectively.

Although the data are not sufficiently disaggregated to identify the natural gas marketed by NGPA category, it is possible that the gas marketed by the Group I companies has a larger component of the older, price-controlled gas compared with the gas of the Group II companies. The average value of Group I gas marketed is 10 to 15 percent below the national average wellhead value of natural gas. On the other hand, the average value of Group II gas marketed was, at most, 6 percent less than the national average wellhead value and exceeded the national average value in 1978 and 1979. This disparity in the experience of the two groups of oil companies with respect to the average value per thousand cubic feet received from their sales of natural gas, strongly implies that the Group I companies have a greater share of older, price-controlled gas in their total volume of sales than do the Group II companies.

TABLE 5.—NATURAL GAS SHARE OF COMBINED REVENUES OF DOMESTIC CRUDE OIL AND NATURAL GAS OF MAJOR OIL COMPANIES, 1977–81

[Dollars in millions]

	Domestic natural gas revenues		Domestic natural oil revenues		Combined natural gas and crude oil revenues	
	Amount	Percent	Amount	Percent	Amount	Percent
	A. Group I companies [1]					
Year:						
1977	$5,140	29.8	$12,117	70.2	$17,257	100
1978	5,755	30.7	12,978	69.3	18,733	100
1979	6,766	28.5	16,994	71.5	23,760	100
1980	8,165	22.7	27,761	77.3	35,926	100
1981	10,118	19.6	41,495	80.4	51,613	100
	B. Group II companies [2]					
1977	2,448	33.2	4,925	66.8	7,373	100
1978	2,792	35.4	5,089	64.6	7,881	100
1979	3,710	35.7	6,675	64.3	10,385	100
1980	4,493	28.3	11,406	71.7	15,899	100
1981 [3]	5,849	26.5	16,261	73.5	22,110	100

[1] Includes lease condensate and natural gas liquids.

[2] Group I Companies are: Atlantic Richfield, Exxon, Gulf Oil, Mobil, Shell Oil, Standard Oil of California, Standard Oil of Indiana, and Texaco. Group II Companies are: Cities Service, Conoco, Getty Oil, Marathon Oil, Phillips Petroleum, Sun Company, Union Oil of California, and Tenneco.

[3] Preliminary data.

Source: U.S. Department of Energy, Energy Information Administration. Office of Economics and Statistics. By telephone communication, March 25, 1983.

TABLE 6.—VALUE OF DOMESTIC NATURAL GAS AND CRUDE OIL AND IMPORTED CRUDE OIL—NATURAL AVERAGE AND AVERAGE VALUE OF SALES OF MAJOR OIL COMPANIES, 1977–81 [1]

	Dollars per thousand cubic feet		Dollars per barrel		
	Domestic natural gas wellhead value [2]	Average value of natural gas of major oil companies [3]	Imported crude oil price [4]	National average domestic crude oil price [5]	Average value of crude oil of major oil companies [6]
	A. Group I Companies [1]				
Year:					
1977	$0.79	$0.72	$14.53	$8.57	$8.14
1978	0.91	0.81	14.57	9.00	8.56
1979	1.18	1.00	21.67	12.64	11.72
1980	1.50	1.31	33.89	21.59	19.11
1981	1.98	[7] 1.70	37.05	31.77	[7] 29.70
	B. Group II Companies [1]				
1977	0.79	0.76	14.53	8.57	7.82
1978	0.91	0.97	14.57	9.00	8.45
1979	1.18	1.20	21.67	12.64	11.22
1980	1.50	1.50	33.89	21.59	19.37
1981	1.98	[7] 1.96	37.05	31.77	29.41

[1] Group I Companies are: Atlantic Richfield, Exxon, Gulf Oil, Mobil, Shell Oil, Standard Oil of California, Standard Oil of Indiana, and Texaco. Group II Companies are: Cities Service, Conoco, Getty Oil, Marathon Oil, Phillips Petroleum, Sun Company, Union Oil of California, and Tenneco.

[2] Data from U.S. Department of Energy. Monthly Energy Review. November, 1982.

[3] Computed by dividing total natural gas revenues by total marketed production. The revenue and production data are:

	Revenue (dollars in millions)		Production (billion cubic feet)	
	Group I	Group II	Group I	Group II
1977	$5,140	$2,448	7.16	3.21
1978	5,755	2,792	7.14	2.89
1979	6,766	3,710	6.76	3.10
1980	8,165	4,493	6.24	3.00
1981	10,118	5,849	5.97	2.99

[4] The values are Refiner Acquisition Prices.

[5] The values are the domestic crude oil wellhead prices.

[6] Computed by dividing total crude oil (including lease condensate and natural gas liquids) revenues by total marketed production. The revenue and production data are:

	Revenue (dollars in millions)		Production (million barrels)	
	Group I	Group II	Group I	Group II
1977	$12,117	$4,925	1,488	630
1978	12,978	5,089	1,571	602
1979	16,994	6,675	1,502	595
1980	27,761	11,406	1,453	589
1981	41,495	16,261	1,397	553

[7] Preliminary data.

Compiled by CRS using as sources: U.S. Department of Energy, Energy Information Administration. Monthly Energy Review, November 1982. U.S. Department of Energy. Energy Information Administration. Office of Economics and Statistics. By telephone communication, March 25, 1983.

III. Additional observations

The data show clearly that gas is a very significant element of the upstream (or resource extraction) operations of major energy companies, most of which are oil companies. Their gas revenues have risen markedly since 1977. Their gas revenues account for more than a fifth of their combined gross revenues from the sale of domestic crude oil and natural gas; even though this share is down from earlier years, it is still significant.

There are, in addition, other indicators of the importance of natural gas in the operations of these 26 companies. They market about half of the domestic natural gas produced in the United States. Also, they control more than half of the reserves of natural gas in the United States. These data are presented in Table 7.

Three caveats must be stated at this point. First, the data presented in this report refer only to the gross, pre-tax revenues, marketed production, and reserves of domestic gas and oil. International operations are not considered; nor are refining, distribution, or other energy and non-energy business activities of these companies taken into account. In the total picture of the companies' business operations, the revenues derived from production and marketing of natural gas will be a smaller share of total operating revenues.

TABLE 7.—SHARES OF MAJOR ENERGY COMPANIES OF TOTAL MARKETED PRODUCTION AND RESERVES OF DOMESTIC NATURAL GAS, 1977–81 [1]

	Marketed productions (trillion cubic feet)		Share of major energy companies (percent)	Reserves [2] (trillion cubic feet)		Share of major energy companies (percent)
	Total U.S.	Major energy companies		Total U.S.	Major energy companies	
Year:						
1977	20.03	11.19	55.9	216.0	123.6	57.2
1978	19.97	10.87	54.4	208.9	119.1	57.0
1979	20.47	10.71	52.3	200.3	115.8	57.8
1980	20.38	10.05	49.3	194.9	110.3	56.6
1981	20.37	[3] 9.95	48.8	199.0	[3] 108.4	54.5

[1] The major energy companies are those selected for inclusion in the Financial Reporting System (FRS) of the U.S. Department of Energy, Energy Information Administration. The companies are: Amerada Hess, American Petrofina, Ashland Oil, Atlantic Richfield, Burlington Northern, Cities Service, Coastal States, Conoco, Exxon, Getty Oil, Gulf Oil, Kerr-McGee, Marathon Oil, Mobil, Occidental, Phillips Petroleum, Shell Oil, Standard Oil of California, Standard Oil of Indiana, Standard Oil of Ohio, Sun Company, Superior, Tenneco, Texaco, Union Oil of California, and Union Pacific.

[2] Reserves at beginning of year.

[3] Preliminary data.

Source: American Gas Association, Gas Data Book, 1982. U.S. Department of Energy, Energy Information Administration, Energy Company Development Patterns in the Postembargo Era, Volume 2. U.S. Department of Energy, Energy Information Administration, Office of Economics and Statistics. By telephone communication, March 3–4, 1983.

Second, no inference regarding the contribution of gas to the profitability of the 26 companies can be made. The revenue data do not net out costs of production or other expenses related to this segment of company business, largely because natural gas operations cannot be conveniently separated from oil operations. For this reason, companies do not report separate cost data for oil and for gas. Nor are there accepted accounting practices and standards to achieve this separation.

Third, the data are not sufficiently disaggregated to identify the natural gas marketed, or reserves, by NGPA category. Even though the average value of gas marketed by the 26 companies is below the national average wellhead value by approximately 10 percent, this difference points to only the possibility that older, price-controlled gas is held, produced, and marketed to a greater extent by the 26 companies than for all gas producers. Data on the volume of natural gas broken out by NGPA category are not available either for all 26 companies together or for individual companies to permit any firm conclusions to be drawn on this subject.

APPENDIX A.—MAJOR U.S. OIL COMPANIES-CRUDE OIL AND NATURAL GAS PRODUCTION AND PROVEN NATURAL GAS RESERVES, 1981 [1]

	Crude oil production [2] (000 barrels/day)	Natural gas production (million cubic feet)	Proven natural gas reserves (billion cubic feet)
Company:			
Exxon	752.0	1,118,725	10,924.0
Standard Oil of Ohio	717.3	(³)	6,688.7
Atlantic Richfield	530.9	425,225	13,378.0
Shell Oil	537.0	686,855	7,130.0
Standard Oil of Indiana	437.0	832,790	8,857.0
Texaco	381.0	975,280	6,899.0
Gulf Oil	345.4	615,025	4,172.0
Standard Oil of California	342.0	510,886	5,294.0
Mobil	316.0	694,010	6,310.0
Getty Oil	277.7	318,488	2,476.0
Phillips Petroleum	268.0	328,135	3,425.0
Sun Company	217.3	380,330	3,296.0
Union Oil of California	168.2	413,891	7,121.0
Marathon Oil	165.9	160,841	2,030.8
Cities Service	148.1	301,816	2,749.0
Conoco	139.0	269,095	2,602.0

APPENDIX A.—MAJOR U.S. OIL COMPANIES-CRUDE OIL AND NATURAL GAS PRODUCTION AND PROVEN NATURAL GAS RESERVES, 1981 [1]—Continued

	Crude oil production [2] (000 barrels/day)	Natural gas production (million cubic feet)	Proven natural gas reserves (billion cubic feet)
Tenneco	104.9	437,142	3,451.0
Total—United States	11,788.0	19,422,000	198,000.0

[1] Companies ranked in descending order of crude oil production.

[2] Includes lease condensate and natural gas liquids.

[3] Equals not available.

Source: M. A. Brennan and H. R. Epps, Market Shares and Individual Co. Data for U.S. Energy Markets: 1950–81. Washington, D.C., American Petroleum Institute. October 1982, Tables I. A1. I. A2, I. A4.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I am advised that on this side it will require about 15 more minutes to go through the clearance process to get to the bankruptcy bills.

Mr. President, I ask unanimous consent that the time which began at 2 p.m. until the hour of 2:30 p.m. be devoted to the transaction of routine morning business and that Senators may speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICANS MISSING AND UNACCOUNTED FOR IN SOUTHEAST ASIA

Mr. PELL. Mr. President, it has been 10 years since the last American prisoner of war returned from Vietnam. Sadly, the coming home of this brave American did not close the book on the Vietnam war. Today, 2,494 Americans, including 10 from my home State of Rhode Island, remain missing and unaccounted for in Southeast Asia. For their families and friends, the agony of that tragic war has not ended. The passage of time has not healed their wounds or soothed their heartache because questions remain about the fate of their loved ones. It is the duty of both the President and Congress to do all that we can to resolve these questions. It is our moral responsibility to make every effort to recover the remains of those Americans who died so courageously and selflessly in Southeast Asia and to learn the truth about those for whom there is no accounting. Until the truth is learned and these Americans are brought home, the fear, the emptiness, and the pain will continue for their families and the last dark chapter of the American involvement in Southeast Asia will not be finished.

Earlier this month, the Rhode Island House of Representatives passed a resolution on Americans missing and unaccounted for in Southeast Asia. Mr. President, I ask unanimous consent that the full text of the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

STATE OF RHODE ISLAND HOUSE RESOLUTION

Whereas these United States were served faithfully by its citizen soldiers in Viet Nam, in a military engagement not their doing, in which thousands died and from which many missing in action may still be slave prisoners in Communist-dominated Eastern countries; and

Whereas the Viet Nam engagement was far from being a democratically popular enterprise and the federal government of these United States may not yet have done everything possible to search out and secure freedom for all United States citizens still held prisoner in Viet Nam, Cambodia, or Laos; and

Whereas United States governmental agencies have infiltrated hostile territories for national welfare on many previous occasions, and can do so again to ascertain the existence and condition of loyal citizen soldiers possibly still languishing in a condition of servitude to Communist-dominated nations of Southeast Asia; and

Whereas, in the aftermath of this war, the final muster of 2,498 Americans still has not been called and they are believed to be prisoners of war, and among the uncounted are 10 of Rhode Island's beloved sons, Charles Cappelli, Laurent Dion, Curtis Eaton, Kenneth Goff, George Jourdenais, Frederick Mellor, Orland Pender, James Ray, Edward Shaw and Louis Walton: Now, therefore, be it.

Resolved, That this house of representatives of the state of Rhode Island and Providence Plantations hereby respectfully requests the congress of the United States to implement and execute a program for the immediate rescue of prisoners in Viet Nam, Cambodia and Laos; and be it further

Resolved, That the secretary of state be and she hereby is authorized and directed to transmit duly certified copies of this resolution to the members of the Rhode Island delegation in the congress of the United States.

JOAN BENOIT WINS BOSTON MARATHON

Mr. COHEN. Mr. President, most of the world knows by now that Joan Benoit, a Maine native, set a world record when she won the Boston Marathon last week in a time unequaled by any woman runner in history. Her time of 2:22:42 on the punishing Boston course beat the existing world record for women by nearly 3 minutes; indeed, her time would have won every men's Olympic marathon through 1956.

I have had the privilege of knowing Joan and her family for several years. She and I both attended Bowdoin College in Brunswick, Maine, and our paths have crossed on many occasions in recent years.

To the ancient Greeks, honor was the prize of Arete. It was the tribute paid to people of ability, those who chose to live nobly for a year rather than pass many years of living a quiet, ordinary life. The object of the honorable person was to take possession of the beautiful. Through her incomparable skill on the running track, and her conduct off it, Joan Benoit has indeed taken possession of the beautiful.

I ask unanimous consent that there be printed in the Record two articles concerning Joan's most recent triumph. One is a column by John S. Day, Washington correspondent for the Bangor (Maine) Daily News, and another is a profile of Joan in the current issue of Sports Illustrated.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Bangor Daily News, Apr. 23, 1983]

The Sweet Triumph of a Long-Distance Runner

(By John Day)

Washington.—You have to be a middle-aged, male runner to really appreciate Joan Benoit.

About five years ago, when I first moved here, a woman journalist friend of mine dropped into the Washington Bureau of the BDN, changed into a sweatsuit and invited me to join her in a leisurely jog down Capitol Hill to the Washington Monument . . . and then back again.

"Try it, you'll like it," she said.

I said, "You go. I've got to write a story."

I knew, as any fool does, that the monument is 1.5 miles due west and distant from Capitol Hill. My friend galloped down the Hill, picking her way through tourists on the flat mall between the two sites, circled the monument three times, and then jogged back to the Capitol, a round trip of more than 3 miles, in just over 30 minutes, without breaking into a sweat.

With seven bucks and a taxi, I couldn't beat that time.

A few days after she went back to Maine, I bought a $40 pair of running shoes and tried to duplicate her feat. The part where you run down Capitol Hill was relatively easy. Passing the hotdog and pizza stands along the mall wasn't.

It was murder, at first, this jogging business. When you run on pavement, which you have to do all the time in the city, the pounding swells your ankles, cripples your knees and turns your spinal cord into an arthritic nightmare.

And that's just for openers.

Run at night, run too slow, you're liable to get mugged.

Let your mind wander, there's a good chance you'll be turned into a pancake by a metro bus.

Forget to pick your route carefully, you're certain to bump into somebody who knows you and thinks you look stupid, half undressed, huffing and puffing your way along the city streets early in the morning.

Actually, I run for bagels, not glory. One wholewheat, with cream cheese and scallions at the end of a 1.5 mile jog is a worthy companion to the New York Times. The job makes time pass quickly between getting up and getting the bagel.

I don't run every day, and I don't run distances anywhere near as long as Joan Benoit, but I have some understanding of what drives her and a tremendous appreciation of what she accomplished last Monday in winning the Boston Marathon.

Benoit did more than just win the race, she shattered the parameters of women's long-distance running beyond recognition. In all probability, she is the only Maine athlete, male or female, to set a new world record of any substance.

Before last Monday, no woman had run the marathon faster than 2 hours, 25 minutes, 49 seconds. Benoit would have been satisfied to shave a few seconds off that mark. Her time Monday of 2:22:42 was a full 2:47 under the world's record. That was seven minutes better than Monday's second place finisher, and 13 minutes faster then Benoit's own 1979 winning time for the Boston Marathon.

Only 165 world-class male marathoners, from a field of more than 7,500, did better than Benoit on the 26-mile course Monday.

The Boston Globe said, "To put it simply, no woman on the planet had ever run 26 miles anywhere near as rapidly as Benoit did yesterday."

Using a baseball analogy, it was as if the bullpen catcher on the 1928 Yankees hit 72 home runs one year after Ruth struck 60. Or somebody ran the mile in 3 minutes and 25 seconds two days after Roger Bannister broke the fabeled 4-minute barrier.

Based on Monday's performance, Benoit is the best woman's runner in the world, and the odds-on favorite to win a gold medal at the Los Angeles Olympics next year.

I sat beside Benoit at a luncheon held in her honor by Bill Cohen and Tip O'Neill shortly after her 1979 Boston Marathon victory. An unknown Bowdoin College student at the time, she captured the heart of Boston when she sprinted across the finish line wearing a Red Sox cap.

At Tip's luncheon she was quiet and gracious, deferential to Bill Rodgers, the male marathon winner, and obviously not that comfortable under the spotlight.

Leigh Montville, a sportswriter, wrote about Benoit's training routine in Tuesday's Globe. She goes out to her family's summer home on a small island in Casco Bay, he reported, and she runs "around . . . And around . . . And around."

The island has no phone. It's less than a half-mile long. Just a dirt road and two cottages. Benoit always leaves strict orders not to be interrupted during those training routines. She refuses to disclose the island's name or location, Montville reported.

He speculated, "The noise of Boston and yesterday and the world record—the astonishing 2:22.42 for the 26 miles, 385 yards from Hopkington to the television cameras and state troopers at the Prudential—is drowned by the sound of the surf hitting the rocks."

"I'm from Maine," Benoit told Montville. "I grew up in Maine and that's where I plan to live when all of this is over. I guess we're just quiet up there. Maine people are neat. They're not really looking for all kinds of excitement."

One reporter reading another, I suspect Leigh Montville is a little bit in love with Joan Benoit.

This is a guy who dumps on the Red Sox, slanders the Patriots and beats up on the Celtics for a living.

On the front page of Monday's Globe, he's writing, "She is cut from the same bolt of L.L. Bean flannel as lobster fishermen and woodsmen. She is a child of the outdoors, clean air and clean horizons. Natural."

She is, of course.

She epitomizes both excellence in athletics and the spirit of the state.

She's a heroine to middle-aged, male reporters who envy her her endurance, her determination and her island, and can only imagine her triumphs.

[From Sports Illustrated, May 2, 1983]

The Marathon's Maine Woman

(By Kenny Moore and Lisa Twyman)

Joan Benoit stood calmly at the Boston Marathon starting line on April 18, serene amid chaos. Around her, tiny Hopkinton, Mass. was enduring its annual Patriots Day seige. Helicopters whirled overhead. The 6,674 shivering runners nervously shed their disposable old sweaters and plastic garbage bags, wedged together on the narrow road and were astonished at the warmth generated within their mass.

Many of the competitors had rows of numbers inked on their wrists or palms, the times they hoped to hit at intermediate points. Benoit was clean. She had a goal, an immodest one, but it was secret. Besides, an even pace this day would be subordinate to racing tactics. That was because nearby trotted Allison Roe of New Zealand, the women's world-record holder at 2:25:29.

The morning before, Roe had telephoned Benoit with the news that Grete Waitz of Norway, who had brought the women's record down more than nine minutes in the 1978, '79 and '80 New York Marathons and from whom Roe had wrested the mark by 13 seconds in the 1981 New York race, had that day *tied* the record in the London Marathon. Roe's intent in passing this along was to encourage Benoit to join in a record attempt. But Benoit, holder of the U.S. women's mark at 2:26:11, joins nothing but battle. "Usually there's somebody I want to run into the ground," she told Roe. "But my goal tomorrow is just to run the best race I'm capable of."

At the gun Benoit bolted out with reckless swiftness. Her time for the first mile was 4:47, a bare 11 seconds slower than her personal best for the distance. "Rumor had it that Allison was going to sit on my tail," she would say later. "I wasn't going to wait around and play cat and mouse."

Roe wouldn't see Benoit for the rest of the race. She led by a minute at five miles, which she reached so quickly that race officials missed her completely. At 10 miles her time was 51:38, shattering her American record at that distance by a gaudy minute and 40 seconds. Noting her pace, an experienced male runner near Benoit had already told her, "You better watch it, lady."

Indeed, the sensational start seemed to place Benoit in mortal peril. A blazing early pace is, typically, the way runners come unhinged at Boston. There are lots of tempting downhills in the early going. Their price isn't exacted until the last eight miles. A year earlier Waitz had run at a 2:23 pace until the last three miles, but her thighs were so shocked by the pounding by then that they cramped and she couldn't finish.

Benoit knew this. She's the women's distance coach at Boston University. Yet she charged undeterred through the cheers from Wellesley College students to reach the halfway point in 1:08:23. "Two-seventeen pace," she thought. "This isn't right." Even her secret goal had been only 2:24. She had told intimates to expect a spectacular race from her, but whether it would be one of revelation or collapse she didn't yet know.

Benoit, at 25, is defined by both startling athletic achievement and collapse. Her competitive tenacity strikes many as incongruous with her 5'3", 105-pound Campbell's Soup-kid appearance. But it is never far from the surface, and it often has compelled her to damage herself in the hunt for better performance.

She began as a downhill skier, natural for the daughter of André Benoit of Cape Elizabeth, Maine, because he'd been an enlisted man in the Tenth Mountain Division, fighting in the Italian Alps in World War II. "Her first race was a little thing, only halfway down the bunny slope," he recalls. "Joanie won. She was only in the third grade, but you could see the exhilaration in her face."

Character revealed. She seemed such a cute, soft, quiet child. Only in sport did the wildness show. The look that her father saw as exhilaration, others, watching her run in later years, took to be a deep hunger. "Her eyes," a voice in the crowd once remarked as she passed, "are as hungry as a shark's."

Skiing showed the absolutist in her. At age 16 she appealed to her parents to let her transfer from Cape Elizabeth High to Burke Mountain School in Vermont, because there she could ski eight hours a day and be tutored in the evening.

"By mutual agreement, we decided it wasn't the best thing," says her father.

Benoit remembers it differently. "He said no." There was absolutism in the father as well.

It was skiing that first hurt her. In her sophomore year in high school she broke her right leg while slalom racing. The cast came off 10 weeks later, and she started running to rehabilitate the atrophied limb. By her senior year in high school, her mile time was down to 5:15.

But she couldn't yet abandon all her other sports. She played basketball and tennis in high school and co-captained the field-hockey team. When she went to Bowdoin, among the pines and stone out-croppings of Brunswick, Maine, she kept on with field hockey. Then in her sophomore year she was benched for turning up at a game unable to move at more than a trot because she'd run a half marathon the day before, finishing second. In response, the absolutist emerged.

After that season she quit field hockey—and Bowdoin—to go to North Carolina State, to train with the prodigiously gifted Julie Shea. Benoit was miserable there. Shea tore her up in workouts. And she never felt comfortable in the South. "I'm a Yankee," she says. "I missed Maine. I missed the ocean." She went home after three semesters, returned to Bowdoin, studying history and the environment, and has based herself in New England ever since.

She has not become an accomplished exponent of the trades of her region. She is an experienced lobsterwoman, in both the trapping and the cooking. She knits soft wool sweaters that depict farm scenes overhung with knit apple trees and knit apples. She square-dances, puts up delicious preserves, collects stamps. And she loves to take long runs in the peaceful morning countryside.

It was these that prepared her for her first Boston Marathon, in 1979, her senior year at Bowdoin. She had slept on a friend's floor the night before. They got stuck in an immense traffic jam before the race. "I just got out of the car and ran through the woods," she says. "I must have bushwhacked two miles to the start. I remember thinking, 'I hope I don't warm up too much.' "

She had time to cool, trapped back in the pack, waiting to run after the gun had gone off. She moved into the lead after 19 miles. At the 23-mile mark she picked up a Red Sox cap from a friend. And that was what she wore as she crossed the finish line in the rain, an upset winner in the women's race with an American record of 2:35:15.

At once she was thrust into the maelstrom of delirious attention that swirls about a Boston winner: interviews, invitations, offers; the phone ringing, always ringing. There was even a movie producer demanding her portfolio. "Just a few poses in leotard and tennis and cheerleading outfits," he said. "Yeah, right," said Benoit, restraining herself.

All this celebrity became a vexation to a private young woman from Maine who had done what she had done not to be famous, but because a long hard run was what she seemed born for. "I hated the publicity," she says. "I hated it so much that I seriously considered giving up running so I would be left alone."

That would be OK with her mother. The extremity to which the marathon forces Joan is repellent to Nancy Benoit. Once she sent her daughter a picture of herself crossing a marathon finish line, pale and limp and chilled. She attached a note that read, "Joanie, if marathons make you look like this, please don't run any more. Love, Mom."

Benoit passed 15 miles in this year's Boston race in 1:18:56. She was still on 2:17 pace. Jaqueline Gareau of Canada, who had won in 1980 after the chicanery of Rosie Ruiz had been exposed, was moving up to second, where she would finish with 2:29:27. "There is fear when you do what Joan did," she would say. "Maybe you will break down."

"I was getting a little scared by the splits," Benoit would say. "But heck, I felt so good."

That's a relative term for a marathoner. She had been developing blisters since six miles. Now, at 17 miles, she got a stitch in her side. She slowed slightly and took some water. Minutes later at that same spot, Roe dropped out with leg cramps.

Benoit's stride is not long, but rapid, her heels rising high behind her. She maintained her cadence over the hills, and at 20 miles her time was 1:46:44. She was slowing but still well ahead of record pace. At 21 miles, Heartbreak Hill was behind her, too.

Hers are Achilles' heels. They became chronically sore in 1979, when in the span of four days she ran a marathon and two-mile, 800-meter and 10,000-meter races. Both Achilles tendons tightened so that she couldn't walk for days. Her good races after that, including two American-record half marathons, were achieved in pain. She wondered whether running was worth it. "She kept chickening out of surgery," says Bob Sevene, her Athletics West coach. "Finally she gave the surgeon a shot, even though we practically had to drag her into the hospital."

During the operation degenerated bursa sacs in both heels were taken out. The right tendon was partially ruptured. Scar issue and bone spurs had to be removed. The doctor put walking casts on both of Benoit's legs. But two days after getting out of the hospital she was pedaling furiously on a stationary bicycle. "The little body tends to hide the tiger," says Sevene. "But of all the people I've ever coached, she is the most tenacious."

She also worked on Nautilus machines. And when the casts came off, she added swimming workouts. "My overall strength and fitness increased," Benoit says. "I was hungry to get going."

This she did last spring and summer with U.S. bests for 10 miles and for the half marathon. In August she shattered Waitz's course record at the 7.1-mile Falmouth road race by 39 seconds, with a 36:34. "A friend got married the night before the race," she said. "I won Falmouth on vodka and wedding cake."

In September, in what now seems a harbinger of a race, she ran the Nike Marathon in Eugene, Ore. She heard no accurate splits after her halfway time of 1:11:20, thought she had slowed too much for any kind of mark and then finished sprinting in an American women's record 2:26:11, the third-best marathon time ever run by a woman. An hour and a half after the race she was getting her hands all scratched up picking the large blackberries that grew near the course. "I'd stay in a berry patch all summer," she said, "so long as I didn't get poison ivy. I ran here instead of the Chicago Marathon because I knew about these. Chicago doesn't have any blackberries."

Benoit put in a good winter's training before the Boston Marathon. She ran well in cross-country, indoors and on the roads. In March she led the U.S. women to the world cross-country title in Gateshead, England. Waitz won the individual title. Benoit was fourth.

Two days before that race, she went out on a purportedly gentle 10-mile run with a not entirely decrepit past Olympic marathoner who prefers not to be named and practically killed him on the uphills. "It was like I was back being destroyed by Gerry Lindgren again," he marveled later.

If that weren't enough indication of fitness, a treadmill test measuring maximum oxygen consumption that Benoit took in the winter was. Men, science says, score higher on this measure of aerobic capacity than do women. For example, Greg Meyer, this year's Boston men's winner with a sterling time of 2:09:00, consumes 80 milliliters of oxygen per kilogram of body weight per minute at full effort. By contrast, Mary Decker Tabb tested at 67 ml/kg/min. three years ago. By More amazing contrast, Benoit's reading is 79, the highest ever by a women. The test cannot predict performance, but is a guide to potential. "Confirms what we already knew," says Sevene. "She's nowhere near her limits."

Both Sevene and Benoit recognize that if her potential is ever to be reached, her compulsive mileage-gathering has to be held within limits. Her tendons are still vulnerable. "Looking back," says Benoit, "I guess the surgery was a blessing in disguise. It made me rest—something I'm not very good at." Two weeks before Boston, when most runners would be relaxing their training, she put in a 125-mile week, 10 more than she'd ever done. Asked why, she smiles, "I don't know," she says.

It wasn't until she reached Coolidge Corner, two miles from the finish, that the fatigue began to be almost insurmountable.

"But I was still in control," Benoit says. And there were the Boston U women she coaches, howling at her from up in the trees that line Beacon Street. She would make it now. The cheers escalated into a din.

She crossed the finish line at the Prudential Center in 2:22:42, a world's best by two minutes and 47 seconds. It was a time that would have won every m men's Olympic marathon through 1956. She would have beaten the immortal 1952 champion, Emile Zatopek of Czechoslovakia, by 21.2 seconds. There being no berry patches in downtown Boston, Benoit celebrated by dancing at a Beantown night spot, the 57 Club, until the wee hours of the next morning.

This may not have been Benoit's magic day, in the sense that she will have no other. The last half of her race was six minutes slower than the first, in part because of the hills, in larger part because of her headlong early pace. Had she balanced the halves of her race, she might have been able to approach 2:20. This is the time she has said it will take to win the first women's Olympic marathon, next year in Los Angeles.

For now her thoughts are more on the coming summer, when she'll leave her post at Boston University and move back to Maine, where there's a seaside house she will renovate and then gradually fill with antiques. A friend up there is building a lobster boat, and in back of the house there's a tideflat full of clams.

The odds are that diversions such as these will temper her compulsion for long runs in the thick, salty Atlantic air just enough for her tendons to hold. She'll not dwell for long on the magnitude of what she has done. She'll just matter-of-factly train and knit and pick and can, and happily emerge in about a year for the Olympic Trials and the Olympics to show us that even this marvelous display at Boston was mere bushwhacking, just warming up.

OLDER AMERICANS MONTH

Mr. GLENN. Mr. President, I am pleased to cosponsor Senate Concurrent Resolution 24, a resolution to designate the month of May as "Older Americans Month." With this resolution, the U.S. Congress joins States and local communities across the Nation in celebrating the accomplishments and continuing contributions of older Americans.

The theme of this year's recognition ceremonies will be "Older Americans: Keys to Our Future." This theme emphasizes the role of our 27 million older Americans—a very diverse group of individuals—as valuable, integral members of our society. Today, many older American are continuing to work, and many are volunteering their time and energies to assist others in their communities.

Our heritage is rooted in the efforts of those who went before us. Older Americans built our society and in many ways they are also building our future. Earlier in this century, older Americans struggled with a rugged determination to save democracy, and with a strong work ethic to revive the world economy. They continue to make invaluable contributions to our Nation's well-being. We can learn a great deal from the past and present efforts and accomplishments of our Nation's older Americans.

I urge my colleagues to join me in paying tribute to our older citizens by supporting this resolution to designate May as Older Americans Month.

LEGISLATIVE MORATORIUM ON OIL AND GAS LEASING IN SELECTED AREAS OF THE CALIFORNIA COAST

Mr. CRANSTON. Mr. President, I am delighted that my colleague from California (Mr. WILSON) has joined in supporting a legislative moratorium on oil and gas leasing in certain selected areas of the California coast.

The moratorium bill, S. 1103, which Senator WILSON introduced last week, is very similar to the bill, S. 760, which I introduced in March. The areas off the California coastline which the two bills would protect are identical. We recognize—as do an overwhelming number of our fellow Californians and State, regional and local governmental units within our State—that there are environmentally-sensitive, beautiful areas along the coast in which the grave risks of economic and environmental damage outweigh any benefits from exploring to locate and exploit the limited oil and gas resources believed to be located in those areas.

Both Senator WILSON and I support the careful development of oil and gas resources on the Outer Continental Shelf off California when the potential resource is large enough and the risk of environmental damage is small enough to justify leasing and when drilling activity in the area selected is consistent with the State's own coastal zone management plan. In the case of these very beautiful and unspoiled areas of the California coast covered by both S. 760 and S. 1103, it is clearly neither.

The Senate Energy and Natural Resources Committee will be determining the language of any moratorium legislation which emerges. But in its delibberation the committee cannot avoid the unmistakable fact that both Senators from California are asking for a legislative moratorium, along with several other colleagues who have cosponsored my bill.

I am looking forward to working with my colleague from California to move this important bipartisan legislation early in this session.

SOVIET JEWRY

Mr. PERCY. Mr. President, it is a great privilege for me to join this week in the Senate's participation in the 1983 Congressional Call to Conscience Vigil on behalf of Soviet Jewry. As most of my colleagues know, the Call to Conscience Vigil is a coordinated effort of Members of Congress to call the plight of Soviet Jews to public attention and to work throughout the year on behalf of deserving individual cases.

In the Soviet Union, the authorities have conspired in a systematic and increasingly blatant campaign to suppress all manifestations of Jewish identity among Soviet Jews who are harassed for practicing their religion or their cultural traditions. Teaching of Hebrew is a particular target, with the police intimidating language teachers with threats of or actual imprisonment, and confiscating books and other teaching materials. In many Soviet cities, small and beleaguered Jewish communities are under constant threat from the police and the KGB.

Of the many individual cases of Soviet Jews and their families on whose behalf I work, there is one of which I will make special mention today.

Abe Stolar is special in many ways. First, he was born in Chicago 71 years ago, and was taken to the U.S.S.R. by his family when he was a teenager. A few years later, Stalin's purges claimed Abe's father's life. For the last 10 years Abe and his wife Gita, and son Michael, have been trying to return to the United States. Abe is still a U.S. citizen and his son has U.S. citizenship.

In 1975, after having received permission to emigrate, and with all their documentation and affairs in order, the Stolar family were turned back at Moscow airport literally as they were about to board a plane, in an unusually cruel and heartbreaking incident, even by Soviet standards. Just recently, the Stolars were again turned down for permission to emigrate, after the authorities themselves had suggested that the family reapply.

Abe Stolar has not given up hope. Nor have I. I have begun a new series of private appeals to Soviet authorities on his behalf, and I here also call public attention to this disgraceful situation of an American citizen deprived so long of permission to return to his native land.

Today I pledge to continue to work for the release of Abe Stolar and his family in every way I can think of, just as I pledge to continue to work on behalf of numerous other refuseniks and Prisoners of Conscience. At the same time I will continue to speak out against the harassment of Soviet Jews who seek to carry on their religious and cultural traditions.

ECONOMIC EQUITY ACT

Mr. CRANSTON. Mr. President, I have today joined as a cosponsor of S. 888, the proposed Economic Equity Act. This bill contains a variety of provisions aimed at a number of problems facing women. The legislation was developed by a bipartisan group of House and Senate Members. Senators HATFIELD, DURENBERGER, and PACKWOOD are the principal sponsors in the Senate. Members of the Congressional Caucus on Women's Issues have been the principal sponsors of the companion legislation introduced in the House. Some of the provisions of S. 888 have been or will be introduced as separate bills. S. 888 clearly represents the hard work and concern of many dedicated Members of Congress.

Mr. President, I fully support each of the separate pieces of the proposed Economic Equity Act. I actively supported certain provisions of the version of this legislation which was introduced in the 97th Congress. I have already cosponsored S. 372, the proposed Fair Insurance Practices Act, which is undoubtedly the most controversial part of S. 888, and I expect to cosponsor other components of S. 888 as they are separately introduced.

I have, however, held back on cosponsorship of S. 888 itself because of my concern about a potential danger that exists. That danger is a possible misunderstanding of its scope and impact upon some of the fundamental economic inequities suffered by millions of women in our society. S. 888 deals with a number of serious problems, and it deals with them in a responsible, effective manner. It does not, however, in my opinion, go far enough. There are a number of important and controversial issues that are not addressed in S. 888, and it is essential to recognize the need to deal with these issues as well. I would like to outline some of these other—most critical issues—that are not addressed by S. 888.

PAY EQUITY

Mr. President, it is not an exaggeration to say that the major economic problem facing working women today is wage discrimination and lack of pay equity.

Although it has been almost 20 years since the passage of the Equal Pay Act and title VII of the Civil Rights Act of 1964, the earnings gap between men and women has not declined, but in fact has continued to widen. In the 1950's, full-time female workers earned 64 percent of what similarly situated male employees earned. Today, women earn, on the average, only 59 cents for every comparable dollar earned by men. Two principal factors contribute to this continuing disparity: Segregation of women into occupations where the services they perform are undervalued, wages low, and the opportunities limited, and persistent wage discrimination against female workers in every job classification, at every level of experience, and in every field.

While the number of women entering the labor market has grown enormously over the past few years, most have been concentrated in a handful of occupational fields, generally characterized by limited earnings, limited advancement opportunities, or limited supervisorial responsibilities. Moreover, gaining entry to a generally higher paying male-dominated occupational field is no guarantee of equal treatment or pay. Wage discrimination against female workers exists today in every profession, occupation, or field of employment, notwithstanding the existence of State and Federal equal pay statutes. Women earn less than men in traditionally female occupations as well as in traditionally male occupations. For example, female clerical workers earn on the average only 67 percent of what male clerical workers earn. Female engineers earn 86 percent of the salary of male engineers; female college professors and lawyers receive 71 percent of what their male counterparts earn.

Mr. President, even in the "new" occupational fields which have not yet become sexually stereotyped, women earn less than men. In 1981, the median weekly pay for a female computer operator was $355; for a male, $488.

Some have suggested that these pay disparities exist because of the large number of new female entrants into the work force and shorter work histories of many women. Numerous studies, however, have found that these large pay differences persist even when factors such as years of service, job classification, prior work experience, and other valuables are held constant. Some proportion of the overall difference in wages may be attributed to discontinuous work patterns of many women as they enter and leave the work force, particularly for childrearing responsibilities, but the fact remains that regardless of the criteria chosen—age, education, length of time in the work force, work history—women in every category earn less on the average than men with the same characteristics.

In addition, it is well documented that salaries paid in occupations and professional fields dominated by female workers are universally lower than education, skills, responsibilities, and working conditions warrant. Many of the occupations viewed as traditional female occupations—for example, nursing—are demanding, require extensive special education and training, entail physical exertion, and involve life and death decisionmaking. Yet registered nurses often earn less than bus drivers, and the salaries paid to practical nurses are generally the equivalent of those paid to janitors. The conclusion is inescapable that work which is considered "women's work" is underpaid because it is performed predominately by women, rather than because of the value of the work, the training required, the risks or demands of the job, or other relevant factors.

The combination of unequal pay for equal work, unequal pay for work of comparable worth and occupational segregation has devastating implications for the economic status of women of all ages.

Yet, Mr. President, S. 888 is silent on this most pressing economic issue facing women. A comprehensive evaluation of existing enforcement mechanisms and authorities under both the Equal Pay Act and title VII must be made to determine whether these laws should be strengthened in order to reach these forms of discrimination in the work force. Economic equity for women will not become a reality until equal pay for equal work and equal pay for work of comparable worth becomes a reality.

SOCIAL SECURITY AND EARNINGS SHARING

Similarly, Mr. President, although S. 888 deals with long-overdue reforms in private pension programs, it is silent on the need to provide for fundamental changes in the social security system to meet adequately the needs of older women or disabled women.

Social security is the basic source of income for most older Americans. Improvement in private pension programs cannot in any way replace the need to reform the social security system to provide greater equity for women.

Mr. President, I have introduced legislation, S. 3034 in the last Congress, and S. 3 in this Congress, which would provide for implementation of a system of earnings sharing in social security—a concept that has been identified by virtually every task force or commission which has studied the inequities faced by women under the social security system as the most promising and direct approach to dealing with these problems. I was pleased that an amendment was adopted which I offered in the Senate to the social security reform legislation directing the Secretary of Health and Human Services to submit to the Congress a report on implementation of earnings sharing. I believe that the interest expressed in the earnings sharing proposal during the debate on the social security legislation means that we will be able to tackle this important problem within the very near future.

S. 888 contains a provision in section 101 to incorporate the earnings sharing concept into income computation for purposes of establishing spousal IRA accounts. I fully support this provision. However, Mr. President, it is important to recognize that economic equity for older women will not become a reality until the problems within the social security system are adequately addressed.

CHILD CARE

Mr. President, the situation is much the same with respect to the provisions of S. 888 with regard to child care.

Lack of accessibility to adequate child care services is a major barrier to the attainment of economic equity and security for millions of women and their families. The U.S. Commission on Civil Rights has noted that studies have suggested that one of every five or six unemployed women is unemployed because she is unable to make satisfactory child care arrangements. Lack of adequate child care restricts employment opportunities for women in a number of other ways, such as limiting advancement opportunities and adversely affecting employee job performance.

Mr. President, adequate child-care services must be a cornerstone of any effort to provide women with equal opportunities in the work force. Without such assistance, economic equity will remain an elusive goal.

S. 888 addresses the need for child-care services principally by expanding the existing child-care tax credit and authorizing an $8 million grant program to support information and referral programs designed to help parents locate existing child-care services. I support these provisions. S. 888 would make the existing child-care tax credit refundable. In 1981, I fought hard for such a provision which is essential if the benefits of the tax credit are to reach the low-income working families in the greatest need of assistance. The Senate agreed to the refundability provision, but the House refused to accept it in conference. Similarly, I have long championed support for information and referral programs. Some of the most successful models of information and referral programs are located in California, and I have worked closely with these California programs in my efforts to develop comprehensive child-care legislation. Provisions relating to support for information and referral programs were included in the child-care legislation I first introduced in 1979. They are included as well in the updated version of this measure, S. 4, that I introduced on January 26.

But, Mr. President, it is important to recognize that neither an expanded child-care tax credit nor information and referral programs are likely, by themselves, to increase the availability of child-care resources where none or inadequate resources exist. The tax credit in particular has limited utility in reaching low-income families. A yearly tax adjustment—even with a refundability provision--provides only modest assistance to families living from paycheck to paycheck who must face weekly child-care bills.

In the past 2 years, direct assistance for child-care programs, through programs like title XX, the child-care food program and CETA, have been drastically cut. As a result, countless families all over the country have been pushed out of child-care programs.

Any serious effort to deal with the child-care needs of these families must go beyond a tax credit and referral program approach. The time is long overdue for this Nation to recognize that adequate child-care services are essential to the well being of children and their families. As I indicated, I have introduced legislation, S. 4, the proposed Child Care Assistance Act of 1983, which is designed to establish a comprehensive format for addressing child-care needs.

Economic equity for women and their families cannot be achieved until we deal in a direct and meaningful fashion with this issue.

CONCLUSION

Mr. President, I want to reiterate my full support for the provisions of S. 888. I also recognize that certain issues could not be addressed in a legislative package that was designed to attract the broadest possible bipartisan support. The provisions of S. 888 are important, meritorious, and should receive the full support of this body.

But the cosponsors and supporters of this measure must not, and I am sure do not, delude themselves into believing that enactment of this legislation would resolve other underlying problems that must be resolved if we are to truly achieve economic equity for women. There is much more that must be done. Issues like pay equity, adequate support for child-care services, and major changes in the social security system must be addressed. S. 3 and S. 4 are deserving of the same bipartisan support as S. 888 has gained. I hope that as attention and energies are focused upon the provisions of S. 888, these other issues and measures will not be forgotten. I will do my best to see that they are not, and I call upon the supporters of S. 888 to work the same consensus of concern and support for the reforms that S. 3 and S. 4 would effect.

Finally, Mr. President, we must not forget that legislative initiatives will never be an adequate substitute for ratification of the equal rights amendment. Until we have achieved a sound, constitutional guarantee of equality of rights, economic equity for women will rest upon a legislative quicksand. Legislation passed today can be repealed tomorrow or frustrated by inept or misguided executive branch implementation. Advancements can be eroded as the commitment of Members of Congress and the executive branch ebb and flow, or as the economy turns upward or downward.

Mr. President, I support S. 888 as a step in the right direction. I believe, however, we can and must go much farther in the pursuit of economic equity and justice for women. I am committed to the long haul over the full distance yet to be successfully traveled.

ORDER OF PROCEDURE

Mr. **BAKER**. Now, Mr. President, what I am about to suggest next is perhaps a little unusual, but I really think it has no adverse consequences and does not impact adversely on the interest of any party. The clearance process for laying this measure down—I am speaking of the bankruptcy bills—is still under way on both sides. It may be that within a few moments we will have that clearance, and I can ask the Chair by unanimous consent to lay these measures before the Senate in order. I have indicated earlier that if we cannot do that, I intend to move to the consideration of these measures. I prefer to do it the other way. But in order to conserve time, Mr. President, I have consulted with the chairman of the Judiciary Committee. He has indicated that he is willing to go ahead and make his opening statement now, even though neither bankruptcy bill technically is pending before the Senate.

Now, the time for the transaction of routine morning business has expired. We are not yet on the bill, but I would inquire of the Chair, is there any restriction on speaking by the distinguished Senator from South Carolina on the bill?

The **PRESIDING OFFICER**. Under the rules, since there is nothing at present before the Senate, the Senator is not entitled to speak.

Mr. **BAKER**. Yes. Mr. President, that is technically so, and of course the circumstances are such that there is always something before the Senate. I can cure it this way then.

ROUTINE MORNING BUSINESS

Mr. **BAKER**. Mr. President, I ask unanimous consent that there be an additional period for the transaction of routine morning business in which Senators may speak, and that the time for such business may extend not past 3 p.m.

The **PRESIDING OFFICER**. Is there objection? The Chair hears none, and it is so ordered.

Mr. **BAKER**. Now, Mr. President, I yield the floor so that the distinguished chairman of the Judiciary Committee may make his opening statement on the bankruptcy bill.

The **PRESIDING OFFICER**. The Senator from South Carolina is recognized.

BANKRUPTCY COURT AND FEDERAL JUDGESHIP ACT OF 1983—S. 1013

(Statements at this point in the proceedings by Senators THURMOND and DOLE are printed later in today's RECORD when the Senate proceeded to consider the bill (S. 1013) by unanimous consent.)

Mr. HEFLIN. I see the distinguished majority leader coming to the proper position, and if he has something he would like to take up at this time, I will withhold my remarks. I will give the Senator the floor.

Mr. BAKER. I thank the Senator.

I have to report that there is one more step to be taken, I believe, before we can formally lay down the measure, so I have no requirement for time at this moment and I thank the Senator for his offer.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Alabama.

(Mr. HEFLIN's statement is printed later in today's RECORD when the Senate proceeded to consider the bill by unanimous consent.)

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended until not later than 3:30 p.m. under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. KASTEN). The Senator from North Carolina.

(Mr. HELMS' statement is printed later in today's RECORD when the Senate proceeded to consider the bill (S. 1013) by unanimous consent.)

Mr. HELMS. Mr. President, I thank the Chair and I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, once again I must report that negotiations are going forward on this matter and I am optimistic that we are going to work out the details, but we have not yet worked them out. I just talked to one of the Senators who has expressed a concern about this measure and he indicated that he thought surely it would clear but that he would like another 15 to 20 minutes.

EXTENSION OF TIME FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended not past the hour of 4 p.m. under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order of the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. DECONCINI are printed later in today's RECORD when the Senate proceeded to consider the bill (S. 1013), by unanimous consent.)

Mr. BAKER. Mr. President, I believe we are ready now to get to the matter at hand. So that I can make sure all the players are on deck, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KASTEN. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SPECTER). Without objection, it is so ordered.

CENTRAL AMERICA AND SOUTHEAST ASIA: THE REAL VIETNAM ANALOGY

Mr. KASTEN. Mr. President, as we prepare to receive President Reagan's address on Central America, we should, I believe, consider not only the political and strategic issues concerning the region, but also the moral issue. By this, I mean the issue of respect for human rights.

We are not faced with a stark choice between good and evil in Central America, but between better and worse: between a system that is struggling toward democracy and protection of human rights, and a totalitarian form of government which is, of necessity, at war with human dignity.

The questions we must ask ourselves are: What can we expect if the Marxists win in El Salvador? What will be the outcome of a successful Nicaraguan "revolution without borders" in Central and South America? What can we expect in the way of respect for human rights if the Salvadoran rebels are victorious?

It is here we might invoke the analogy between El Salvador and Vietnam. The Vietnam analogy is certainly popular with opponents of the administration. "No More Vietnams" is their battle cry. By this, they mean that the United States should remain inactive in the face of blatant acts of aggression by the Soviet Union or its Cuban and Nicaraguan surrogates. But what must be remembered is that in reality Vietnam represents a successful case of Soviet aggression and the imposition of a brutal tyranny over the people of Vietnam and Cambodia. I agree that there should be "no more Vietnams" and that the United States must do what is necessary to prevent a repetition of that horror. Thus, it is my desire that the Marxists do not win in El Salvador.

The continuing violations of human rights in Vietnam and the ongoing holocaust in Cambodia do not offer much hope that a Marxist victory in El Salvador would improve the human rights of the Salvadorans. And we have not dreamt or made up the stories of atrocities that occur on a daily basis in "liberated" Indochina. A recent pamphlet by Ginette Sagan, founder of the west coast chapter of Amnesty International and Stephen Denny entitled "Violations of Human Rights in the Socialist Republic of Vietnam," estimates that there are at least 60,000 prisoners of conscience in that country. This total includes 400 writers, poets, and journalists, and over 2,000 religious leaders. The Wall Street Journal of April 8, 1982, placed the number of inmates in "reeducation" camps at between 100,000 and 200,000. The U.S. Embassy in Thailand compiled a report, based on refugee testimony, describing conditions in 14 Vietnamese "reeducation" camps, and revealing a systematic pattern of privation, beatings, and summary executions. These articles and studies do not even address the tens of thousands of Vietnamese and ethnic Chinese—the boat people—who died trying to escape their so-called liberators.

What about Cambodia? There are now 200,000 Vietnamese soldiers in that sad country. While anywhere from 2 to 3 million Cambodians have been slaughtered by Cambodian and Vietnamese Communists, Hanoi has begun to settle Vietnamese farmers in Cambodia. Meanwhile the Vietnamese Army prepares for an assault on Cambodia refugee camps along the Thai border. Has there been a clearer example of a "final solution" planned to eliminate a national and ethnic identity? I do not think so.

Those who are truly interested in human rights will, I think, agree with me that what has happened in Southeast Asia since the American withdrawal is barbaric. They will agree that if history is any guide, Marxist-Leninist regimes do not respect human rights. It was, after all, Lenin who said, "everything is moral which is necessary for the annihilation of the old exploiting order" and who called for "purging the * * * land of all kinds of harmful insects." The Vietnamese heirs of Lenin followed his guidance. Should we take the chance that his Nicaraguan and Salvadoran followers will act any differently?

Mr. President, I ask unanimous consent to have printed in the RECORD a number of short items describing the current situation in Southeast Asia.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPRESSION IN VIETNAM: ONE WOMAN ATTEMPTS TO "AWAKEN" THE UNITED STATES

(By Harold Johnson)

LOS ANGELES.—A "curtain of silence . . . has fallen in Vietnam on the subject of human rights."

That assessment, written in 1978 by French journalist P. R. Paringaux, remains all too accurate today, according to a prominent American human rights activist who is championing the cause of political prisoners in Vietnam.

"Well grounded" estimates place the number of prisoners of conscience in Vietnam at "sixty thousand or more," says Ginetta Sagan, founder of the West Coast chapter of Amnesty International and a former member of the American board of directors of that worldwide human rights organization. The government of Vietnam, she observes, remains "largely uncooperative" with regard to supplying information on the detainees.

Hanoi's silence angers Sagan—but it does not surprise her. ["They have much to hide, after all," she says.]

More alarming, in her view, is that "an almost equal silence" on the subject prevails in the United States. ["The massive violation of human rights going on in Vietnam receives scant attention from the American press and public," she declares.]

Her principal energies over the past several years have been devoted to rectifying that situation. ["Only by awakening the American people to the plight of Vietnamese prisoners of conscience," Sagan asserts, "can we bring pressure on Hanoi to act less repressively."]

To that end, Sagan and several associates travelled throughout the United States and Europe from 1978 to the end of last year, interviewing Vietnamese refugees who had been interned by the communists after the North Vietnamese victory in 1975. In all, they spoke to some 500 former prisoners, most of whom had been detained in the camps set up to "re-educate" persons not conforming to the new communist government's ideological norms. Information culled from these interviews forms the basis of a book, "Violations of Human Rights in the Socialist Republic of Vietnam," which Sagan will publish in Los Angeles on April 30—the eighth anniversary of the fall of Saigon to the communists.

It is a grim picture, she says, that emerges from her research. People have been sent to the camps largely for such "crimes" as having supported the South during the war or "attempting to exercise such fundamental freedoms as freedom of speech or freedom of the press," she notes. ["Those interned have included nearly 400 writers, poets and journalists and over 2,000 religious leaders. Even leaders of the opposition to U.S.-supported regimes were sent to the camps."]

The camps, she has learned, are "places of hard labor where hunger and disease predominate, where prisoners are harshly punished for minor infractions of camp rules, subjected to political indoctrination, and forced to write long 'confessions' denouncing themselves and others for alleged misdeeds in the past."

[Sagan is well qualified to issue such an indictment. Her three and a half decades of work in the field of human rights have given her "a fair ability to discern truth from fiction in the statements of refugees from oppressive regimes," she says. She bases her harsh judgment of the Hanoi regime on what she terms the "depressing sameness" of reports from Vietnamese refugees across the world.]

Sagan's concern for the plight of political prisoners dates from her own experience as a captured resistance member in World War II Italy. The mistreatment which she and her fellow prisoners received at the hands of the Facists helped mold her into a determined and perpetual foe of political repression. Since moving to the United States soon after the war, she has worked in behalf of prisoners of conscience in many lands—including, during the Vietnam conflict, people detained by the Thieu regime in the South.

Her criticism of the South Vietnamese government led her into an alliance with the American Left, a number of whose leaders became her friends. Many of these ties have since been severed, however, because of Sagan's decision to speak out against repression by the victorious communists. "A lot of my friends in the U.S. peace movement will no longer speak to me," she says.

Indeed, she believes that one reason the facts about human rights violations in Vietnam are "so little known" in this country is that many leaders of the antiwar movement "have chosen to downplay or ignore them."

[She relates, for example, that one activist "who had been very eloquent about the plight of prisoners of conscience under Thieu," has said, concerning the present conditions in Vietnam: "we know that the repression exists, . . . [but] given the recent history of that country, it would be moral arrogance for us to criticize Hanoi."]

Some former peace movement leaders do not even acknowledge that human rights violations occur on any significant scale. One such activist, Margaret Meinertz, has described in a gushing manner a reeducation camp she visited in 1979. It "looked as though it could have been a small tropical resort area simply because of the surrounding natural beauty," she reported. Inmates, she claimed, were being trained "in skills for nonmilitary jobs, manual labor in vegetable and animal production as well as cultural and sporting activities."

Sagan dismisses such favorable accounts. Her investigations have convinced her that several "model camps" have been set up for the purpose of impressing visitors sympathetic to the Hanoi regime. "Concentration camps," Sagan says, "is the best term to describe the institutions these visitors don't see—the institutions where the vast majority of detainees are held."

Severe mistreatment of inmates is an almost universal feature of these camps, according to Sagan. Recalcitrant prisoners, "are placed in boxes or metal air freight containers left behind by the U.S., or in dark cells underground, shackled."

These measures "demand a public outcry," says Sagan. And given Hanoi's desire for diplomatic recognition and financial aid from the United States, such an outcry in this country might move Vietnamese officials to modify their repressive policies, she believes.

"The first step," she says, "is to get the facts out to the American people." Though she is "determined" to do this, she does not anticipate that it will be an easy task. Concerning the difficulty of convincing free people of the reality of repression elsewhere, she cites words written by a resistance fighter in World War II:

> Sometimes, when we hear these reports about torture, we become frightened—as if the whole thing was unthinkable, as if we were the victims of a collective hallucination.
>
> But in actual fact, it is not the proof that is lacking, but the courage to believe the reports.

[From the Wall Street Journal, Apr. 8, 1982]

THE VIETNAMESE GULAG

Elsewhere on this page appear lengthy excerpts from a State Department report on Vietnam's so-called "reeducation camps. The report was compiled over a period of a year or so from interviews with Vietnamese refugees, and appears in abbreviated form in the State Department's forthcoming annual report on human rights.

The interviews weren't conducted in accordance with Miranda rules of evidence; they are subject to the distortions of memory and the biases of both interviewer and interviewee; and they no doubt can be found wrong, contradictory and exaggerated on certain points. Overall, however, the report confirms what some observers of Indochina have feared for some time: that the Vietnamese have established their very own gulag.

The picture of this gulag as it emerges from the excerpts nearby isn't for the fainthearted: starvation diets, beatings, torture and summary executions on a wide and systematic scale. Repression and slave labor, not "reeducation," seem to be the real point of the camps. Many are shot down in cold blood for attempting to escape; others tell of bribing their way out with money or sexual favors.

Intelligence sources and State Department officials say the camps are still going strong. Most estimates place the gulag population at between 100,000 and 200,000. All of the ex-prisoners quoted in the excerpts said that they were in the camps as recently as 1980-81.

The reeducation camps don't appear to have yet approached the ferocity of the Soviet gulag, where tens of millions lost their lives in post-revolutionary Russia. But that may only be because the Vietnamese have found other, even more deadly, means of ridding themselves of enemies of the state—including the exodus of the boat people, when tens of thousands were drowned or died of exposure on the open seas as they attempted to flee their persecutors. And the Vietnamese gulag, it's now clear, consists of more than concentration camps. "New Economic Zones" have been established in the hinterlands to which undesirables are forced to relocate as virtual slave labor. Many refugees say that conditions in the zones are as harsh and mortality as high as in the camps.

There are also reports that at least 50,000 Vietnamese have been shipped off to the original gulag—Siberia—and other places in the Soviet Union and East Bloc to labor in mines and factories. Vietnamese emigres say preparations are being made for hundreds of thousands more to follow.

In this fashion, State Department and intelligence sources believe, the Vietnamese and Soviets may be trying to solve several problems at once. Exporting labor alleviates unemployment in Vietnam itself and helps the Soviets cope with their current manpower shortages. Up to 60% of the earnings of the Vietnamese laborers is reportedly confiscated to help pay off Vietnam's large and growing debt to the Soviets. And though there is some indication that so far the workers have been "volunteers," in the sense that even life in the Soviet gulag is preferable to life in Vietnam these days, there have also been reports that the workers are being drawn from reeducation camps or are being assigned on the basis of class and affiliation with the former Saigon government.

There is a temptation to dismiss such reports as overwrought. But the Vietnamese themselves last year disclosed that they had signed "labor agreements" with the Soviet Union, East Germany, Bulgaria and others for "training" programs for Vietnamese workers. The World Confederation of Labor has requested that the UN investigate the arrangements, and Sen. William Armstrong, Republican of Colorado, says he plans to call for hearings on whether slave labor, including the Vietnamese, is being used to construct the gas pipeline from Siberia to Western Europe.

In any case, it's clear that the Vietnamese Communists are already living up to the worst that was feared of them before they "liberated" the south. At that time many of America's opinion molders were busily assuring us that these were really stouthearted reformers whose main purpose in life was to bring peace to the country and teach illiterates to read.

As late as 1979, for example, the New York Times ran a story straight-forwardly repeating Hanoi's bald lie that only "several thousand" people were being held in the camps "largely for their own protection," presumably from the angered revolutionary masses. That figure was upped to 20,000 last year when Amnesty International issued a report calling for the closedown of the camps—a twentyfold increase that was still at least five times too small. And Neil Sheehan, a Vietnam war reporter, in 1980 wrote a long article that depicted a reeducation camp as a primitive sort of college campus where the students worked hard but studied as advertised.

The Vietnamese gulag is deserving of our horror in its own right. It should also be remembered as we read of "revolutionaires" elsewhere who mouth social-democratic pieties while preparing to bring their brand of "peace" to the societies they are terrorizing.

[From the Wall Street Journal, Apr. 8, 1982]

DAILY LIFE IN VIETNAM'S "REEDUCATION" CAMPS

The following are excerpts from reports on Vietnamese "reeducation camps" compiled by personnel from the U.S. Embassy in Thailand. The unclassified reports are based on interviews last year with more than 60 refugees who fled Vietnam in 1980-81. The interviews are continuing.

Embassy and State Department officials estimate that there are at least 50 reeducation camps in Vietnam holding more than 126,000 captives, most of them political prisoners. The reports describe conditions in 14 such camps and portray a systematic pattern of privation, beatings and summary executions.

An editorial on this subject appears on this page. The subtitles in the material below are the names of the camps.

GIA RA Z30

Two Vietnamese refugees reported having been incarcerated in a reeducation camp at Gia Ra Z-30 . . . Reports of refugees held in the camp place the prisoner population at 4,000. The camp is located in the District of Xuan Loc in Dong Nai (Long Khanh) Province.

Physical Description: A brick wall surrounds the camp, beyond which are three barbed wire fences and one wooden fence . . . Prisoners are locked inside their detention houses at 1800 hours. Mobile guards roam the camp at night . . . One source said that camp authorities allow prisoners one liter of potable water per day.

Categories of Prisoners: Prisoners include: political prisoners, former ARVN military personnel and civilian officials working for the previous regime at the local or central level. Among the political prisoners are Roman Catholic priests and members of political parties.

Identification of Camp Officials: Camp Commander of Public Security Lt. Col. Trinn Van Thich. Deputy commander is "Pre-Captain" Phung. . . .

Conditions at Camp: Prisoners' diet consists of the following: Breakfast: one bowl of hard corn or sliced cassava; Lunch: rice mixed with sliced manioc or corn; Supper: two bowls of sliced cassava or sweet potato, or corn without rice, plus salted water or salt. Occasionally prisoners receive salted or spoiled fish. Subcamp "Khu-B" has a first aid station. "Khu-A" and "Khu-C" have dispensaries though "Khu-C" lacks medicines and equipment. Prisoners work eight hours per day clearing forest land, cutting wood and farming. One source reported 20 deaths due to a lack of medication (time frame not specified). Deaths also resulted from mine explosions and from executions by camp authorities. Guards generally prohibited conversation among prisoners.

Reports of Inhumane Treatment: Camp authorities have placed prisoners in stocks in dark cells and beaten them to death. Guards strike prisoners with rifle butts. Guards use sticks wrapped in cloth to hit prisoners on the chest. Guards also punish prisoners by cutting food rations. Guards have carried out executions. Thai Van Hiep, an ARVN sergeant, was shot to death for his "struggle against hard labor in the farming fields. . . ."

HAM TAN Z30D

Eight Vietnamese refugees reported having been incarcerated in a reeducation camp at Ham Tan Z30D. . . . Refugees place the prisoner population at approximately 4,000. The camp is located in the District of Ham Tan in Thuan Hai Province, near Da Mai village. . . .

Physical Description: There are nine separate areas comprising a total of 17 compounds. The camp area is surrounded by three barriers: a thick wall of bamboo, a barbed wire fence supported by steel poles and a three-meter-wide trench. . . . Conditions are very unsanitary. Human waste is collected daily in the camp for use in fertilizing camp gardens. Water is drawn from a stream described as "very, very dirty." Prisoners are given one and one half liters of boiled water daily.

Categories of Prisoners: The prison population comprises former ARVN military officers and NCOs, RVN civilian bureaucrats, politicians under the previous regime, religious leaders including Buddhist, Christian and Hoa Hao sects, resistance personnel, civil criminals and "political prisoners. . . ."

Conditions at Camp: Diet consists of manioc, yams, some vegetables and rice. Meat and fish are rarely provided. . . . Prisoners must work eight hours per day, seven days per week. Work includes: clearing jungle, cutting trees, camp construction and farming. Common causes of death are execution, illness such as malnutrition and labor accidents.

Reports of Inhumane Treatment: Prisoners report several instances of torture. ARVN Capt. Nguyen Van Thu was shackled and beaten until his teeth were broken and he vomited blood. Nguyen Duy Gia, identified as a "former Tokyo bank director" over 60 years old, was placed in stocks in March-April 1979. . . . "Restoration Movement" prisoners are placed in "dark cells," their feet are shackled, and they are forced to lie on the floor with their legs raised up against a wooden beam. Guards regularly beat prisoners.

GIA TRUNG

Conditions at Camp: Each subcamp has a dispensary which uses Oriental medicines. Prisoners are served three meals daily which consist of: breakfast—manioc, sweet potatoes or corn; lunch—rice with salt and some vegetable; dinner—rice or sweet potato and vegetables; amounting to approximately 15 kg. of staple food per prisoner, per month. Prisoners work eight hours per day, seven days per week clearing jungle, digging fish ponds and planting vegetables. Nighttime study sessions focus on self-criticism, government policies and Communist Party history. Common causes of death include malnutrition, suicide, "being shot down. . . ."

TAN HIEP

Ten Vietnamese refugees reported having been incarcerated in a reeducation camp at Tan Hiep (Suoi Mau) . . . .

Physical Description: The camp comprises five subcamps. There is also a hard labor camp named Trang Bom. The site was formerly used by the Republic of Vietnam (RVN) to hold North Vietnamese Army (NVA) prisoners. The camp comprises approximately 25 buildings which are concrete-walled, have tin roofs and dirt or concrete floors. Multiple barbed wire fences surround the camp. . . .

Reports of Inhumane Treatment: Refugees report that punishment for "careless talk" or camp rule infractions includes beating and shackling inside connex boxes in the sun without water. Christmas 1978, 400 prisoners staged a demonstration against the camp authorities. The 400 were reportedly tortured, sent to Chi Hoa Prison in Ho Chi Minh City and then to Phu Khanh Province. Former ARVN Capt. Nguyen Thanh Long, according to two separate reports, was accused of having attempted to contact the Vietnamese resistance. He was beaten by four to six men and shackled inside a connex. In March 1978, he committed suicide. ARVN Major Bui Huu Hghia was suspected of being a leader of resistance inside the camp. Cadre shackled him for three months, after which he died. Refugees report that prisoners were shot during escape attempts or after being caught. In the 1975-77 period, two ARVN majors were given a one-hour "trial" by camp authorities following an escape attempt and then shot. In the 1977-78 period, ARVN 1st Lt. Nguyen Koah Bong was "shot down" by guards in an escape attempt. Guards shot Marine Lieutenant Nguyen Ngoc Bun in a September 1980 escape attempt. In the 1975-76 period, guards shackled Catholic priest

Father Thanh for 15 days following his escape attempt. Finally, a secondhand report states that in April 1980, cadre discovered former ARVN Airborne Public Affairs Officer Nguyen Xuan kept a diary regarding his imprisonment which he intended to smuggle out of the camp. He was shackled inside a connex and tortured for three months. . . .

NGHE TINH

Conditions for Release: K-1 prisoner claimed that 50 prisoners were released every three months. K-2 prisoner said that prisoners were released on order of the "National Security Department." K-3 prisoner paid 5 taels of gold for his release.

VUON DAO

Conditions at camp: By December 1979, the diet consisted of 500 grams per day of a mixture of rice/sorghum/wheat with very limited amounts of meat, fish and vegetables. By early 1980, diet consisted of either a small bowl of sorghum or a 100-gram piece of bread, twice per day, very limited vegetables and salt water. . . . Prisoners sometimes worked on local farms for which local farmers paid cadre, who pocketed the money.

Reports of Inhumane Treatment: . . . Guards place prisoners in connexes and beat them with rifles and sticks. Following beatings, guards reportedly place prisoners in cell measuring 2x2x2 meters, allowing them only one liter of water per day for washing and drinking and a small quantity of boiled rice. Lt. Col. Nhuyen Duc Xich, Gia Dinh province chief and an inspector general (appointed by President Thieu), was confined in cell four months, then held in a connex container for two months. He was eventually "shot down" without trial for an alleged escape attempt. . . .

Conditions for Release: Refugees state 150 prisoners were released in the 1977-79 period. Officially, authorities said that those released had done well in reeducation. Refugees claim however that releases came on the basis of bribes including prisoners' wives bestowing sexual favors on the camp commander. Some lower ranking officers were released on "humanitarian grounds."

CAY CAY (BAU DO)

Reports of Inhumane Treatment: People who make "mistakes," or who are "reluctant workers" or who make jokes about the regime are beaten up and tortured: "Both legs of victim are locked up with both hands tied on a bamboo stick with face down day and night. The inmate with free hands next to the victim can feed him during mealtime." Hoang Quy, 1st Lt.-ARVN and a former seminarian, was suspected of saying mass for Christian prisoners. Cadre "locked up his legs" from July 1977 until October 1978.

Conditions for Release: Former prisoners note that prisoners are released on basis of family connections with high ranking Communist officials, payment of bribes and having served for a long time. One prisoner noted that lower ranking prisoners gained release earlier than prisoners who have higher ranks (in the previous government). One prisoner noted that he had heard from guards in 1978 that a significant number of prisoners would be set free so as to provide more room to incarcerate people trying to escape Vietnam. . . .

[From the Washington Post, Apr. 14, 1983]

This Holocaust Still Goes On

(By James Webb)

WHY DO WE IGNORE IT?

In this week of remembering the anguish of the Holocaust, in these days of commemorating them who survived, let us take just a moment to consider the crimes that continue in Cambodia.

No one knows how many Cambodians were killed after the communists took control of that country. Estimates run from one-third to one-half of the population, which means the count is easily 2 to 3 million. Following such slaughter, the Vietnamese communists moved in, supposedly to stabilize the country. For those who have been thinking of the Holocaust, this is analogous to the Russians, "liberating" Poland from the Nazis.

Currently, there are 200,000 Vietnamese soldiers occupying Combodia. Behind them following a policy dictated from Hanoi, hundreds of thousands of Vietnamese are beginning to settle the country. There have been few clearer examples in history of a "final solution" planned to eliminate a national and ethnic identity. The Cambodians, who were almost wiped out, are now going to be absorbed.

Our media dance around this tragedy, reporting it in bits and pieces, avoiding the jugular issues that are playing themselves out for the world to see. The questions the media are avoiding are two: why are the Vietnamese really doing this? And why are so many Americans remaining silent in the face of such a completely hideous act?

The Vietnamese communists did not move into Cambodia to liberate the Cambodians, any more than the Russians moved into Poland to liberate the Poles. They do not remain in Cambodia to stabilize that country, any more than the Russians remain in Eastern Europe for the good of the people they conquered. The Vietnamese communist move was, first, conquest. Or, as one Australian general said a few years ago, "if you don't believe in the domino theory yet, go ask a few million of the dominoes."

Second, it was a consequence of centuries of ethnic animosity between the Vietnamese and the Cambodians, which has periodically spilled over into attempts at genocide—usually at the expense of the Cambodians. And finally, it is the dearest way for the North Vietnamese, who have conquered the South and who completely dominate the present communist government, to prevent insurrection in South Vietnam. The troops in Cambodia are prinicipally South Vietnamese, with North Vietnamese officers to prevent massive desertions into Thailand. If they were returned home to a South Vietnam that is now rife with unrest and poverty, they would endanger what many escapees indicate is a country ready to revolt.

So the Vietnamese communists are exporting their domestic strife, and fulfilling a long-held dream of conquest in the bargain.

Why do we not recognize this? First, we are bored and embarrassed by Southeast Asia. Vietnam and its turbulence is old news in a society that burns through issues and abandons them for fresher stuff. More important, however, such recognition would require many prominent Americans to admit that they were duped by the communists in Hanoi during the war. Even now, an American professor in Bangkok returned from a visit in Hanoi with a "high Vietnamese official" (who would not be identified) and proclaimed that, honest, folks, the Vietnamese are just trying to help Cambodia. What was the "high Vietnamese official" expected to say? What would happen to his position inside a totalitarian system if he expressed the dissenting views that we so cherish in our own political system?

Too many of our brightest people were too easily deceived by creatures of a communist state during the Vietnam War. Too many Americans are even today allowing ego to override intellect. So they ignore the reality of their own deception even as it unfolds before their eyes.

It was our own country that was accused of "fascism" and "genocide" during the war. But think of this: for all our bombs and soldiers, how many people risked their lives on the frail little boats in the open sea to escape the killing during the war? The answer is about the same number of people who are currently trying to sneak from West Berlin into East Germany—zero. The notions of fascism and genocide existed in Vietnam. Unfortunately, even many of our own people branded the wrong side with such labels.

Perhaps the ultimate lesson of the Holocaust is that we do not believe incomprehensible tragedies until they have played themselves out. And then we console ourselves with little ceremonies and empty phrases like "Never Again."

I wish it were not so.

VN Offensive Predicted on Khmer Camp

The Army yesterday predicted an offensive will be launched by Vietnamese-backed forces against strongholds of the Kampuchean resistance forces, including a major encampment holding more than 70,000 refugees near the Thai border.

Secretary of the Army Office Col. Naruedol Dejpradiyuth told a press conference that the prediction was based on a recent mass movement of the Vietnamese forces in areas between Poipet and Sisophon districts in Battambang.

The three areas, occupied by guerrillas of the Khmer People's National Liberation Front (KPNLF) and the Khmer Rouge, which are expected to be the targets of the new offensive are Baan Nong Samet, Phnom Chat and Baan Sangae. They are located north of Aranyaprathet and Ta Phraya districts in Prachinuri, he said.

Col. Naruedol said Thai soldiers had been put on the alert for the imminent offensive.

The Army's report confirmed fears expressed last month by Foreign Minister ACM Siddhi Savetsila who said the Vietnamese might be planning to attack the refugee camp at Nong Samet, which houses more than 70,000 refugees.

Nong Samet is located only a few kilometers from the Thai border and is said to be within striking distance of Vietnamese artillery units.

The Vietnamese in late January launched an attack which destroyed the refugee camp at Baan Nong Chan opposite Ta Phraya, sending more than 30,000 Khmer civilians fleeing across the Thai border for shelter.

Spokesman for the Supreme Command Lt. Gen. Viba Procuhirren, told the same press conference that the Vietnamese and Heng Samrin soldiers had been holding joint military exercises near the Thai border for the past month. He said tanks and infantrymen were involved in the exercise, during which they practiced mine-laying in areas around Baan Yangdaengkum, Baan Preay and Baan Kontral opposite Baan None Mark Moon in Ta Phraya. The Vietnamese recently recaptured the three villages from KPNLF guerrillas after a series of fierce battles.

The joint exercise is an indication that the Vietnamese-Heng Samrin forces are planning yet another offensive to strike at the Khmer resistance guerrillas," he said.

[From the Washington Times, Apr. 18, 1983]

CAMBODIAN SLAUGHTER CALLED "HOLOCAUST"

Eight years ago yesterday victorious Khmer Rouge guerrilla troops marched into Phnom Penh, the capital of Cambodia, and began a reign of terror unprecedented in the world since the Holocaust of World War II.

Entire cities were emptied as the Pol Pot regime sent 3 million people into the countryside to make a living off the land. Hundreds of thousands of Cambodians died in the first days alone, many of them killed for no other reason than that they had received an education. Others were executed simply for wearing glasses—a hint that they might be able to read.

On Friday, a commemorative conference was held in the Senate Caucus Room as senior U.S. representatives and others discussed America's commitment to the Cambodian refugees who even today still are pouring into Thailand as a result of Vietnamese attacks on refugee camps. Among those who testified was Chhang Song, chairman of the Arlington-based Save Cambodia, Inc., a non-profit group dedicated to helping the Cambodian people. Chhang, who served as information minister in the Lon Nol government, is to return to Thailand next month to play himself and serve as an adviser in the David Puttnam ("Chariots of Fire") production of "The Killing Fields," a film about the fall of Phnom Penh based on the true-life experiences of New York Times reporter Sidney Schanberg. Chhang Song was interviewed by Times State Department correspondent Peter Almond.

Q. Mr. Chhang, this is the eighth anniversary of the fall of Cambodia. At the same time, Jews have gathered here to commemorate the Holocaust of World War II. Do you see any similarities between what has happened to Cambodia and what has happened to the Jewish people?

A. There is a great deal of similarity, but more proportionately speaking, what has been happening for the past eight years in Cambodia is far worse than what happened in Nazi Germany. In that case, it affected only a portion of all the Jews worldwide. Six million were ruthlessly exterminated by the Nazis. In Cambodia, however, close to one third of the Cambodian people have been exterminated by their own rulers, the Khmer Rouge.

Forty years ago, we said that never again would these things happen. But now it's happening. And our Jewish friends are commemorating the event and saying that this Holocaust should not happen again, and are now drumming up support to create a museum to sustain awareness so as to prevent it from happening again. But it has been happening now for the past eight years in Cambodia. I don't know whether this is because of some racial overtone to it or not, as it is happening to an Asian country. But suppose it happened to a European country now. How would the Western world react? And that is why we are trying to commemorate this event because this is important to us. That 3 million people have been killed there has been well documented by both journalists and officials. There have been attempts to publicize this, but there has not been any appropriate action taken to prevent this or to ameliorate the inhuman conditions, and alleviate the suffering.

Q. Do you think it's because Americans just don't care?

A. I don't know if it is because Americans just don't care or whether it's because it's inherent in human nature because it's happening to somebody else, another race, another country. But if you look at some of the pictures I have, tell me if anything is different, better than the Holocaust. These pictures have been well publicized by the press, but it just does not attract that much attention.

Q. Is this part of the reaction to Vietnam? Do you think Americans just want to turn away from that whole area?

A. I think there was a tendency to turn away from that whole area from the beginning. But I think the country probably has been healed by now. Americans are very responsible people, very learned, and if they know enough about it (a problem) I think they do care. There has to be some American leadership in regards to that part of the world, but I don't think there has been any. The Americans are following the Chinese. And they do everything the Thais, the Chinese or ASEAN tells them to do. They say they follow the ASEAN lead, as though these little countries could lead the United States. But there has not been any major, active political formulations by the United States government to deal with the situation of the Vietnam aftermath.

Q. How many people have been killed?

A. In 1975, when Cambodia fell to the Khmer Rouge communists, all officials and officers of the former government and their families were eliminated. Also eliminated were the educated, the businessmen, the wealthy, the professionals, doctors and engineers. Whoever had any connection, however remote, with the West also was eliminated. Very few managed to survive. Amazingly, because of the sheer number, some managed to survive.

In 1979, when the Vietnamese moved in and installed a puppet government the repression continued, but not in the same form as the Khmer Rouge. There're more subtle ways of killing people. They conceal that. The killing is the same, it's just different tactics.

Most important, the Vietnamese play on the massacres committed by the Pol Pot people, and play it well. They say "now we are the liberators." I think that the Cambodian tragedy continues to mount, and the aggressors become the liberators, and the Khmer Rouge, who are Cambodian, became the most despicable rulers of the Cambodian people. So, Cambodians are threatened with extinction from within and from without.

I got a report about the Vietnamese making an agreement with the government in Cambodia to settle Vietnamese inside Cambodia. This is a process of absorbing and digesting Cambodia into a Greater Vietnam.

The problem is that the Cambodians, whether communist or noncommunist, do not recognize that. They think the Vietnamese will make Cambodia into a sort of federation. Communists talk about that and noncommunists talk about that. It's self-defeating because it distracts their attention from what is happening.

The Vietnamese are not going to make a federation. They just move in, install a puppet regime, and gradually move the civilians in and gradually would get the Cambodians to join Vietnam. This happened to South Vietnam, and is going to happen to Cambodia. In the long run it's assimilation, absorption.

Q. Is it possible to say that life in Cambodia is better under the Vietnamese than it was under the Pol Pot regime?

A. I think so. Life is better, but there are still subhuman living conditions. It's foreign domination. All liberties, freedoms and human rights are being denied. I receive a lot of communications from people in Cambodia indicating that conditions have not improved except that the killing is less than under the Pol Pot regime, and that there is some attempt to rebuild the society.

Q. How many refugees are there?

A. They have about 100,000 or more in Thai camps at any time. But as the Vietnamese attack the border camps, hundreds of thousands more refugees are fleeing into Thailand. They are building camps to accommodate the new arrivals. You have close to 400,000 refugees at any time now. They have to be sheltered and fed. Security is another very difficult problem. The Vietnamese are attacking what are in many cases just women and children. Not many men remain.

Q. How many Cambodian refugees are there in the United States?

A. About 80,000 have been admitted since 1975. In the Washington area, there are a little over 3,000. Our office has succeeded in getting jobs for about 500 in the past year.

Q. What can America do to influence anything in Cambodia?

A. The Americans can always do something if they really want to do it. I don't mean to go and land the Marines there and attempt to topple this or that government, but to monitor the situation and continue to provide humanitarian assistance as well as to put pressure on other countries to bring about a fair, peaceful solution. I don't mean Americans should go and preach their own ideas everywhere. It's impossible for the American people to go around and do everything for everybody else, but there have been agreements which bind Americans to that part of the world.

Q. Could you list three or four things America could do?

A. It could continue to provide assistance and a haven to those thousands of refugees who escaped from Cambodia by providing direct assistance in resettling them in this country, and by appealing to other governments in the Western Hemisphere to help resettle them. It could provide food for these people, and by using American influence would put pressure on Vietnam, the Soviet Union and other powers to stop interfering militarily in the area. To work a compromise solution would neutralize the whole area.

Q. What kind of pressure do you think we can put on the Soviets and the Chinese to do anything?

A. I think the Chinese would listen to the United States if it would come up with a cohesive, comprehensive policy to protect the people in that part of the world. I think it is also in the Chinese interest to keep that part of the world at peace. I think the Chinese would want that very much.

Q. Is there any kind of democratic spark that Americans could recognize?

A. Yes. The democratic spark is the revolt. The revolt in Cambodia was first against Pol Pot and within the Communist Party his people controlled. That led to dissensions and a lot of uprising. At the same time, there are several pockets of resistance fighting the communists.

There have been a lot of spontaneous uprisings of the people against the communist regimes ruling them. But once those initial spontaneous reactions form into a movement, there are always attempts by the communists to go and grab them.

Q. But how do we reach them and talk to them?

A. I don't think the United States should interfere. To a greater extent, the United States should open up a possibility for the Cambodians to fight for freedom. But the United States should not dictate the terms, should not tell them which direction to go.

It should promote freedom through the Voice of America, different communications, gestures and humanitarian aid, and through different diplomatic avenues at the United Nations so that the Cambodians could see that the United States stands for freedom. I think the Cambodians by themselves would gravitate around that kind of cause.

Q. Do you think the United States has a responsibility for what has happened, and what is happening, to Cambodia?

A. I think everybody recognizes that the United States does have a responsibility, because the United States was there and withdrew from that part of the world. One way or the other, the United States cannot avoid its responsibilities in Southeast Asia.

Q. What kind of future do you think Cambodia has?

A. A lot of people I run into tell me the situation is irreversible, that once a country becomes communist you cannot de-communize it. I don't believe that. There has not been a case of a communist regime, like in Cambodia, appealing to the United States for help. Now there is such a case.

I started to speak since the fall of the country. At the beginning I did not receive any credibility. Now I do. It's just a matter of doing it. I think that with a little luck I might even see the end result of it. I have my whole life to do it.

[From the Washington Times, Apr. 15, 1983]

Khmer Chief Asks for Aid to Refugees

(By Al Santoli)

Vietnam veteran Al Santoli, author of the highly praised book "Everything We Had: An Oral History of the Vietnam War" (Random House, 1981), has been watching the fighting along the Thailand-Cambodia border in recent weeks. Santoli was in Cambodia March 31, just as the Vietnamese began their current offensive against refugee camps along the Thai border. The offensive has continued with thrusts inside Thai territory. Santoli's exclusive dispatch to the Washington Times from the scene of the fighting follows:

Prom Chat, Cambodia.—The straw huts of the refugee camps at Nong Samet and Prey Chan hold more than 77,000 civilian refugees, including nearly 30,000 children and 25,000 former residents of the Nong Chan camp that was burned down by the Vietnamese Jan. 31.

During the attack at Nong Chan, Gen. Chea Rithy Chut—commander of the 1,700 non-communist defenders of the camps—gained the respect of Thai officials when he remained on the front lines with his soldiers after they ran out of ammunition; his forces held off the Vietnamese tanks until all 40,000 civilians had been evacuated.

Still lacking ammunition, food and medicine, Chea Chut's soldiers of the Khmer People's National Liberation Front, founded by revered statesman Son Sann, are waiting for an imminent attack on Nong Samet.

"There is no ground fighting at Nong Samet at present," Chea Chut said. He added, "The Vietnamese are massing more than 9,000 troops and tanks nearby. Vietnamese artillery shells fall in our area. Much of the Vietnamese ammunition is American, confiscated in 1975 and much of it is new Soviet-issue."

"We respect the United States," Chea Chut said. "But we have been forgotten by Americans. Why is this true?"

Chea Chut believes the fall of Cambodia and the takeover by the brutal Pol Pot regime was the fault of the United States government and that the United States should "please come to our help." The wiry general discounted any effect world opinion will have on the Vietnamese in getting them to halt their offensive. The fact Vietnam virtually has invaded Thailand from Cambodia, a nation that Vietnam earlier invaded, does not seem to faze nor interest the world press.

"The Vietnamese do not care about world opinion," Chea Chut said. "If they did, they would not have attacked the civilian center at Nong Chan and burned a Red Cross hospital to the ground."

He said, "We will wait, we will fight, we will die. Please tell the world what is going on here."

PROTECTING THE UPPER MISSISSIPPI RIVER

Mr. KASTEN. Mr. President, today I am pleased to announce my support for S. 449, a bill to provide better environmental management of the Upper Mississippi River.

This bill will establish a better balance between the different uses of the river. Where past management practices have emphasized the river as a transportation artery, this legislation places equal emphasis on the river as the key element of an ecosystem. The Upper Mississippi is unique in the Nation as the only water body designated as part of both the National Wildlife Refuge System and the National Waterway Transportation System.

Today, we are seeing the rapid degradation of the Upper Mississippi's resources. Critical habitat for fish and wildlife is being lost. As a key part of the Mississippi flyway, the river is a vital link in the life cycle of nearly three-fourths of the Nation's migratory waterfowl. Destruction of this habitat would have a profound impact on some of our Nation's most spectacular wildlife populations.

In addition to providing important habitat for wildlife, the upper Mississippi is a valuable recreational resource. Recreational use of this river makes a substantial contribution to the local economy. In Wisconsin alone, over $234 million annually can be directly attributed to recreational use of the river. Recreational use of the waterway, in fact, far outweighs the economic benefits that can be linked to use of the river for transportation in my home State.

This legislation is an important step toward protecting the upper Mississippi River. While the benefits of shipping along the upper Mississippi are overshadowed by other uses in Wisconsin, I recognize the key role of this transportation artery to other States. In addition to providing for better environmental management of the river, S. 449 will improve transportation facilities.

For these compelling reasons, I am joining a number of my colleagues from States bordering the Mississippi in taking action to correct the abuses of the past. I am hopeful we can move forward quickly in adopting this legislation, and that we can prevent the loss of this key environmental resource.

Mr. President, I ask unanimous consent to have printed in the Record an excellent article on the upper Mississippi River, which appeared in the spring issue of Outdoor America.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Outdoor America, spring 1983]

An Upper Mississippi River Chronicle

(By Norah Deakin Davis)

From the Twin Cities to St. Louis, the Mississippi wanders across a wide floodplain bordered by rolling hills and bluffs. At times the hills follow the shore, then dip down into side valleys. The valleys beckon to river travelers but pass like country roads unexplored.

Down in the floodplain the river is braided by islands into a labyrinth of sloughs, merging into marshes and ponds. From an airplane the main channel would be difficult to discriminate, were it not for an occasional towboat pushing a string of barges. Back in the sloughs, fishermen in skiffs try their luck beneath circling clouds of ducks. Beavers cross the water, their wakes widening V's behind them.

During the late 1920s the beaver was successfully reintroduced to the wildlife refuges that stretch along most of the upper Mississippi. These backwaters are one of the most productive habitats in nature. The water is shallow, allowing the sun to penetrate to submerged vegetation nourished by organic nutrients washed down from upstream. Fish spawn in the quiet pools, birds feed on the aquatic plants, and muskrats make the mudbanks their home. In autumn, bald eagles are lured to the sloughs in search of wounded waterfowl. By December the eagles move to the channel, finding pools where the water is free of ice so they can feed on fish. Between 500 and 700 eagles congregate along the upper Mississippi, their Midwestern wintering grounds.

But these fertile backwaters are dying. Dams built in the 1930s to deepen the main channel are choking the floodplain lakes and sloughs with silt. The dams have so accelerated the natural process of sedimentation that a fourth of the sloughs have been converted to marshland in only 40 years. If nothing is done, within the next generation or two the upper Mississippi will be transformed from a natural river into an artificial canal bordered by mud flats.

The destruction has been accomplished in the name of inexpensive transportation. It has happened in increments, each innocent in itself, starting in 1824 when the federal government authorized the removal of boulders, trees and other hazards to commercial traffic. With the river safer for navigation, small steamboats with shallow drafts soon plied the upper Mississippi and many of its tributaries. Then in 1878, to accommodate riverboats with a greater draft, Congress directed the Corps of Engineers to deepen the navigable channel to 4.5 feet.

TAMING THE RIVER

To constrict the river's flow and increase its velocity so it would scour the channel, the engineers built hundreds of "wing dams" out of brush and rock. Sunk at right angles to shore, the wing dams help confine the water to midstream, where it digs a deeper channel. Sandbars tend to form behind the dikes and gradually narrow the river. To further deepen the water, the Corps constructed "closing dams" across many of the side channels to keep the flow in the main channel.

To discourage erosion, the shore opposite a wing dam was in most places fortified with rocks. The rock protection was called "riprap." Without it, the current deflected from the wing dam would chew away at the opposite bank and begin to form a loop, intensifying the river's natural tendency to meander. Together, riprap and wing dams were intended to tame the river into a narrow, deep, straight canal that would be easy to navigate.

By themselves, however, riprap and wing dams did not achieve the 4.5-foot depth. The Corps of Engineers had to initiate the expensive, endless process of dredging—digging out the sandbars that build up between the river's deep pools. In the 1800s, the bars were a constant hazard to steamboats. The pilot who misjudged the water would find his sternwheeler running aground, and it would sometimes take days to work free, even with the passengers pitching in to help.

In 1907 Congress authorized a six-foot channel to accommodate more powerful vessels carrying heavier payloads. This was a last-ditch attempt to save the steamboat in its death struggle with the railroad. The Corps went ahead with dredging to six feet, but the steamboat was doomed. River traffic continued to decline.

During World War I the government, in need of an expanded transportation system for carrying war materials, sponsored the Federal Barge Line. River traffic experienced a rebirth. After the war, barges were used for transporting coal and grain, and by 1930 the six-foot channel was considered inadequate. The public had raised no objection to the earlier modifications, but this time, when a nine-foot channel was proposed, the Izaak Walton League stepped forward to fight the project on environmental grounds.

THE LEAGUE PROTESTS

In addition to deeper dredging, the Corps proposed to construct a series of dams on the upper Mississippi to achieve additional depth by raising the water level. The sportsmen's league was sufficiently farsighted to suspect that the reservoirs would fill with silt. Other opponents of the project, such as the U.S. Bureau of Fisheries, expressed misgivings on the grounds that too little was known about the biological effects.

This was the second time the Izaak Walton League had fought for the Mississippi River. In the early 1920s the newly-formed league had successfully campaigned against a project to drain the river bottoms for agriculture. The sportsmen had proposed an alternative: a wildlife refuge to protect the rich bottomlands. On June 7, 1924, Congress established the Upper Mississippi Wild Life and Fish Refuge.

It has been said that the Mississippi was to the Izaak Walton League what Yosemite was to the Sierra Club. Today the Upper Mississippi refuge contains 194,000 acres of wetlands extending from the foot of Lake Pepin in Minnesota to Rock Island in Illinois. It is a maze of sloughs, lakes, marshes and islands. Environmentalists believe large portions qualify for wilderness designation. With a visitation of 3.5 million people a year, it is the most heavily used wildlife refuge in the United States.

In the case of the nine-foot channel, however, the voice of the barge industry was louder than that of the Izaak Walton League. Congress approved the upper Mississippi project, and the engineers went to work on the massive task of building 29 dams. The system constitutes what the Corps calls a "stairway of water," a series of slackwater pools each a step lower than the one upstream. Each dam has one or more locks to take river traffic to the next pool. Near the dams the current is hardly noticeable even in times of high water. Only during floods, when the gates are all the way open, does the Mississippi once again flow free.

The locks and dams were completed during the 1930s. Much of the floodplain was submerged under the reservoirs created by the dams, making the Mississippi wider at La Crosse, Wis., than it is at New Orleans. With the water level raised, new wetlands were formed and old ones expanded. Each pool has three distinct ecological habitats. The tailwater area just downstream from each dam most resembles the preimpoundment condition of the river: sloughs and islands. The middle area, once islands and hay meadows, is now marshes and shallow water. At the lower end is an open-water pool. The total water surface has been greatly increased at the expense of bottomland forests and meadows. Aquatic habitat has expanded and terrestrial declined.

The increase in water surface initially caused an explosive growth in wildlife populations that favor pooled conditions. Fish that inhabit slow-moving water have benefited, but sturgeon, paddlefish and others that prefer a fast current are reduced to feeding in the tailwaters downstream of the dams. Raising the water level has also benefited migrating waterfowl and such marsh birds as egrets and herons. Although little data exists, biologists agree that usage of the river corridor by migrating flocks increased after 1930. A major migratory route, the Mississippi had always attracted a great variety of waterfowl, but apparently they stayed only a short time because food sources were limited. The pooled river has increased usage by providing better habitat than the river of 1930, although some biologists suspect that it does not compare with the Mississippi as it was prior to the first navigation project back in 1824.

Whatever the initial condition of the river habitat, the nine-foot channel did benefit fish and wildlife at first, but everyone, including the Corps, agrees that these benefits peaked a few years ago and we are beginning to see a decline. The ecological boom was temporary because now the backwaters are disappearing, choked with sand and silt. Two of these rich wildernesses—Question Slough and Weaver Bottoms—are among those that are threatened. Located downstream from Lake Pepin in one of the mid-pool zones, Question Slough at one time was a shallow backwater and Weaver Bottoms a meadow where farmers cut hay in the summer. After the water levels were raised, both became highly productive wetlands—until the decline began. Question Slough winds beneath dense canopies of black willows and cottonwoods and flows into sunlit marshes filled with duckweed and pool lilies. Weaver Bottoms is the temporary home, during spring and fall migrations, of the largest concentration of whistling swans in the United States.

DREDGING'S TOLL

Some of the backwaters of Mississippi are threatened by silt and others by sand. In the case of Weaver Bottoms, the culprit is sand. Sluggish water can carry fine silt in suspension, but only fast water has the energy to transport coarse, heavy particles of sand and gravel. Before the dams were built, high riverbanks protected Weaver Bottoms from frequent flooding. Now that the water level has been raised, the banks separating river and marsh are often overtopped. Floodwaters pour in, blanketing Weaver Bottoms with sand. Much of it is dredge spoil, which the Corps of Engineers removes from a nearby sandbar that forms in the channel.

For the past 50 years, the Corps has dredged 1.5 million cubic yards a year between Minneapolis and Guttenberg, Iowa. Until 1974, disposal sites were chosen according to economic considerations without regard to environmental effects. Dredging is expensive, so costs were held down by selecting the most convenient locations. The sand was dumped wherever the dredge boat was working. Deposited on the shore, the dredged spoil covers over normal streambank vegetation, replacing it with a new, far more hostile environment.

Along with affecting the riverbank ecology, dredging has also destroyed populations of freshwater mussels, a major source of food for waterfowl. Of the waterfowl that depend on the upper Mississippi refuge, dredging has hit the canvasback duck the hardest. At the Keokuk, Iowa, pool nearly one million ducks were counted in a single day in 1969. At any one time a third of the world's population of canvasbacks may be feeding at pools on the river. The ducks come down from the north and fly to Chesapeake Bay or the Gulf of Mexico, relying on food along the Mississippi for the energy to finish their migration. Today the canvasback population has dropped to half the 1969 level. Dredging of the river bottom has decimated the fingernail clam, one of the canvasback's prime food sources.

THE EFFECTS OF SILTATION

Where Weaver Bottoms suffers from the effects of dredge spoil, Question Slough suffers from the more insidious problem of silt from erosion. The eroded soil smothers the slough's submerged plants. With the silt come nitrates and phosphates that stimulate algal blooms and mats of aquatic weeds. The algae and weeds consume oxygen as they decay, and the slough eutrophies—its water becomes stagnant and excessively fertile. The slough fills in with silt and decaying vegetation.

The process is natural. For thousands of years the river has flooded, leaving behind silt as it recedes, so with every spring some sloughs become shallower. The growth of vegetation speeds up the process by trapping additional sediment, and eventually what were once backwaters fill in and age into marshes. The seasons pass and floodwaters inundate the marshes until they too silt in. A slough is gone, a wet meadow has emerged.

The dams, by slowing the current, have greatly accelerated the normal process of sedimentation. It has changed from a phenomenon that takes centuries to one that flashes by in a matter of decades.

Most estimates give the backwaters that are left 50 years or less. The change could happen even faster. In the past, sedimentation took place underwater where it was invisible. But now as the silt reaches the surface and plants speed up the accretion, the rate of sedimentation may become exponential.

As the backwaters silt in, the marshes creep downstream. The marshlands of the middle region become meadows—terrestrial habitat that is biologically less productive—and the open pools turn into marshes. In most cases what is already lost cannot be retrieved. At the same time, few new backwaters are coming into existence.

In the past when the Mississippi flooded, its raging waters would sometimes cut through one of the meander loops that form as the river wanders across its floodplain. The stranded former channel became an oxbow lake, a new backwater. In time it too underwent siltation and formed a marsh. Year after year the spring floods came and the cycle repeated itself. Old wetlands dried up, new ones formed. A river system has a dynamic equilibrium, continually replacing its lost backwaters by meandering. But when rock riprap is used to control bank erosion, the normal pattern of meandering is disturbed. Along most of the upper Mississippi no oxbows have formed in the past ten years. The lost wetlands are not being replaced.

RIVER OR CANAL?

We could reverse this process, but a hydraulics engineer would be reluctant to do so. Releasing the river from constraints and allowing it to reestablish meandering channels would reduce the Mississippi's value for navigation. And as the wetlands silt in, the water stored in them has to go somewhere. To accommodate the increased volume, the main channel will either increase its width or, if it is confined by bluffs, increase its depth and velocity. Without the wetlands the channel will become deeper and faster: a stable, trained, hydraulically-efficient waterway, ideal for navigation. Or, as others see it, a dull gray canal between mud flats.

In 1973, with awareness of the impact of dredging on wetlands and wildlife growing, the state of Wisconsin initiated a lawsuit against the Corps. The engineers had never prepared an environmental impact statement for the operation and maintenance of the nine-foot channel. In March of 1974 a federal district court granted Wisconsin an injunction against dredging. The Corps, the state and the Fish and Wildlife Service agreed that it was time to talk.

In authorizing both the dams and the wildlife refuge, Congress had created the problem by mandating two uses of the upper Mississippi that are inherently contradictory. Late in 1974 it was decided that an interagency study was needed to resolve the conflicting demands on the river. A task force called GREAT, or Great River Environmental Action Team, was formed to study the situation through 1983. Work groups contracted with universities and private firms to conduct research. The major emphasis has been dredging and its impact on wildlife, but attention is also being paid to other demands on the river, such as recreation. GREAT has also instituted pilot programs to test new ways of disposing of dredge spoil, including locating dredge stockpiles near population centers so the public can use the spoil for landfills, road sanding and concrete aggregate.

DREDGING REDUCTIONS RECOMMENDED

One of GREAT's major recommendations was that the depth of maintenance dredging be reduced. In the past the Corps dredged 11 or even 13 feet in order to accommodate vessels with a nine-foot draft, having interpreted the nine-foot mandate of Congress to mean draft, not channel. Reducing the depth would save millions in tax dollars and alleviate the disposal problem. Then during times of low flow when the water's depth is most critical, in order to ride safely in the river, barges would carry lighter loads. This curtailing of operations would be an acknowledgment of the inherent limitations on water transportation imposed by nature.

Other studies for GREAT investigated the effect of side-channel alterations. For the Question Slough area, measures were recommended to restore some of the flowage patterns that existed before the locks and dams were built. Gated aeration culverts were installed to bring in oxygenated water, along with a partial closing dam to reduce the influx of sediment. But Question Slough is only one of many wetlands. Each is unique and must be studied individually to determine the best method for slowing its deterioration. Much of what we need to know about the Mississippi will require long-term monitoring and research.

Numerous problems of the river are no closer to solution today than they were in 1974. Dredge spoil is not yet sold to the public. There are legal issues that revolve around the government being in competition with private sand and gravel companies. At the same time, reduction in the depth of dredging is being vigorously opposed by the barge industry. And the overriding question remains: How can fish and wildlife survive the stresses imposed by barge traffic in the very midst of their spawning and feeding grounds?

WATER QUALITY THREAT

Various alternatives exist. One is to pronounce the wetlands dead. Let them silt in. But if they do, we will see a deterioration of water quality, because the backwaters function as biological cleansers. In the slow water of the sloughs, pollutants settle out along with sediment, the impoundments acting like sewage treatment lagoons. They have helped keep the Mississippi's water quality, at least below Lake Pepin, tolerable. But as the water surface decreases—as everything but a central canal silts in—the fecal coliforms, the PCBs, the lead, the mercury, the cadmium, the pesticides will all show up at the water intakes of dozens of towns and cities that depend on the Mississippi for drinking water.

If the river bottoms are allowed to deteriorate, those towns will also face more destructive flooding. Wetlands serve to temporarily store excess water, releasing it slowly and thereby moderating the extremes of a flooding river.

The Mississippi's backwater are considered to be one of the most important aquatic resources left in the United States. If they become terrestrial habitat, they will be farmed and eventually industrialized. Dr. Thomas Claflin, an aquatic ecologist at the University of Wisconsin at La Crosse, argues that we should have the Mississippi's wetlands because to keep what we have is cheaper than to spend millions developing new wetlands. The Corps of Engineers has already built experimental marshes, but they are expensive—and small. What makes the Mississippi's backwater so valuable to wildlife and recreationists is that they are an integral unit. A Washington official defended the Mississippi with an apt comparison: "You can't duplicate the Grand Canyon with dozens of little canyons."

If we decide not to write off these places of beauty, some say the only thing to do is to rip out the dams. Eliminate commercial navigation on the upper Mississippi. One biologist who leans toward this radical solution suggests that bulk commodities such as coal and grain currently transported by barge could instead be moved by unit train. Those who shrink at such a drastic and possibly unrealistic step can only suggest admittedly stopgap measures to help the wetland resource last a little longer.

As we mold the river to our needs, we make it more vulnerable to such threats as pollution and excess silt. Taking away the Mississippi's ability to meander, to adjust its channel, has made it less able to cope with external changes. It is less resilient and more dependent on artificial management to maintain its natural resources. Managing the channel to prolong the life of the backwaters will be expensive—like any life-support system. The Mississippi highway will not be a cheap road, as it has been in the past. Seven or eight years ago, to move dredge spoil cost the Corps 59 cents a cubic yard. Today it runs $3. As costs rise, river transportation will be less and less competitive. Society will have to pay the increasing price of maintaining an unstable system—a river channelized for navigation.

As long as the Mississippi is used for commercial navigation, dredge spoil will be a headache demanding more and more expensive remedies—unless the wetlands are allowed to fill and the river attains the hydraulic efficiency of a canal. In that event we will have to spend a gread deal more on sewage treatment and flood control.

ADDRESSING EROSION

In the case of silt, once it is in the river it is there to stay. The best solution is to treat the underlying cause—poor soil conservation practices. In Iowa, erosion is so severe that in many counties two bushels of topsoil are required to grow each bushel of corn. One cause is the increasing cultivation of hilly land, prone to erosion. As prime agricultural acreage is lost to urban sprawl—as farms on the fringes of towns are turned into subdivisions and shopping centers—steep pastures end up sown in row crops.

But the greatest threat to the upper Mississippi may well be agribusiness. The sole goal of corporate-owned farms is to maximize profit. Often policy is to plow up every inch of ground, including hedgerows and windbreaks. Oversized tractors are used that are too big to manage the tight curves required by contour plowing.

The soil conservation practices learned in the 1930s were forgotten as food prices rose in the 1960s. And as long as prices go up, the Midwest will gladly be the breadbasket of the nation, just as the North African desert was once the granary of the Roman Empire. As a French philosopher has said, the forests came before civilization, the deserts after. Iowa topsoil was once 14 to 16 inches deep. Today six to eight inches remain.

Heavier application of fertilizer has masked the loss of soil. The rising cost of fertilizers may help turn farmers back to old practices such as terracing, stripcropping and crop rotation. The new technique of no-till farming is also promising. With no-till the seed is planted through the residue of last year's crop. The soil is not disturbed by plowing.

Whatever happens in the cornfield, mud will continue to come down the Mississippi just as it always has. The only way to protect the wetlands completely would be to let the river play things its own way: in other words, eliminate commercial navigation. If that is not to be, some compromise must be found, some means of considerate coexistence. Jerry Schotzko of the Upper Mississippi Wild Life and Fish Refuge suggests the only realistic approach is to limit future expansion, both by commercial and recreational interests. Growth by either one imperils the wildlands. When it comes to resolving conflicts, he says, those pressing for the other interests—navigation and recreation—always look toward gains. Fish and wildlife are just trying to hold their own. Every time we compromise when it comes to wilderness, we increase the earth's losses, but all that happens to the other interests is that they reduce their future gains. They operate on earnings; the earth, approaching bankruptcy, operates on capital.

Mr. KASTEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered

Mr. BAKER. Mr. President, all things come to those who wait. We have waited a long time, and I have long since agreed to settle for far less than all things. But we have an agreement, I believe. I have consulted with the minority leader, with the chairman of the committee, and with all of those who have indicated a particular interest in this matter. I have reason to think that the unanimous-consent request I am about to propound may not be objected to. I hope not.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar Order No. 82, S. 1013, a bill to amend title 28 of the United States Code regarding jurisdiction in bankruptcy proceedings, and to establish new Federal judicial positions, it be considered under the following time agreement:

Two hours on the bill to be equally divided between the chairman of the Judiciary Committee and the ranking minority member or their designees;

Twenty minutes equally divided on each of three amendments to be offered by the Senator from South Carolina (Mr. THURMOND) with the Senator from Alabama (Mr. HEFLIN) dealing with:

Ten additional Federal district judges; miscellaneous technical and clarification of bankruptcy retirement and abstention provisions, three current bankruptcy positions omitted from bill; and

Committee clarifying amendment;

Twenty minutes equally divided on an amendment to be offered by the Senator from South Carolina (Mr. THURMOND), dealing with salaries, bankruptcy, judges, and Federal magistrates;

Twenty minutes equally divided on an amendment to be offered by the Senator from Arizona (Mr. DECONCINI) dealing with:

Bankruptcy appellate panels;

Fifteen minutes equally divided on an amendment to be offered by the Senator from Washington (Mr. GORTON) dealing with a new circuit.

One hour on an amendment to be offered by the Senator from Kansas (Mr. Dole), the Senator from South Carolina (Mr. THURMOND) and the Senator from Alabama (Mr. HEFLIN) containing the substance of S. 445, a bill to amend title 11 of the United States Code, and for other purposes, as well as the committee amendments thereto; that no further amendments in any degree be in order; 5 minutes on any debatable motions, appeals, or points of order, if so submitted to the Senate; and that the agreement be in the usual form.

I also ask unanimous consent that following the consideration of S. 1013, the Senate turn to the consideration of Calendar No. 102, S. 445, a bill to amend title II of the United States Code, and for other purposes, and the bill be considered under the following time agreement:

One hour on the bill to be equally divided between the chairman of the Judiciary Committee and the ranking minority member, or their designees:

That the provisions of rule XVII, paragraph 5, of the standing rules be waived;

That there be 15 minutes on an amendment to be offered by the Senator from Alaska (Mr. STEVENS) dealing with fishing;

That no amendments other than committee amendments be in order;

That no other amendments in any degree, be in order;

Five minutes on any debatable motions, appeals or points of order, if so submitted to the Senate; and

That the agreement be in the usual form.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, is the Senator from Ohio correct in the assurances he has received that S. 445 would indeed be brought to the floor and that the leadership, including the chairman of the committee, would press for enactment of that legislation, notwithstanding the fact that it would have been included as an amendment to S. 1013?

Mr. BAKER. The Senator is correct. Such action, I believe, would be automatic under the order, but I can give the Senator my assurance that it is the intention of the leadership on this side to proceed in that manner.

Mr. METZENBAUM. I thank the Senator.

Mr. THURMOND. Mr. President, that is correct.

Mr. METZENBAUM. I thank the chairman.

And am I correct in my understanding that the amendment to S. 1013 which will include S. 445 as it came out of the committee will be an exact duplicate of S. 445 as it came out of the committee with only those amendments as made by the committee?

Mr. THURMOND. Including such others as made. In other words, S. 445, if passed today, would be identical to the S. 445 amendment to S. 1013.

Mr. METZENBAUM. I thank the Senator.

Is the Senator from Ohio also correct in his understanding that the amendment to be offered by the Senator from Alaska is in the exact form as that which the Senator from Ohio and representatives of the Senator from Ohio have agreed to in the last 15 or 20 minutes, or are there any problems in connection with that matter?

Mr. BAKER. There are no problems with that. It will be in the identical form.

Mr. METZENBAUM. I thank the majority leader and the chairman of the Judiciary Committee.

Mr. President, I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, the unanimous-consent request is agreed to.

BANKRUPTCY COURT AND FEDERAL JUDGESHIP ACT OF 1983

The PRESIDING OFFICER. The Senate will proceed to the consideration of Calendar Order No. 82, S. 1013, which the clerk will state by title.

The bill clerk read as follows:

A bill (A. 1013) to amend title XXVIII of the United States Code regarding jurisdiction in bankruptcy proceedings, and to establish new Federal judicial positions.

The Senate proceeded to consider the bill.

Mr. BYRD. Mr. President, I have a question of the majority leader.

What is the outlook for the rest of the afternoon insofar as rollcall votes are concerned and insofar as the length of the session today is concerned?

Mr. BAKER. Mr. President, I thank the minority leader for inquiring. It is the hope and expectation of the leadership on this side that we can finish action on this bill, that it will not require a rollcall vote, none of the amendments will require a rollcall vote, and that the Senate can recess not later than 6 p.m. this evening under the order previously entered, to reconvene at 7:30 p.m.

Mr. METZENBAUM. On the second bill?

Mr. BAKER. Both bills.

Tomorrow, Mr. President, assuming that is so, it is the hope of the leadership that we can take up the immigration bill.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield myself such time as may be required.

I ask unanimous consent that my opening statement, which I have already delivered, and all other statements prior to this unanimous consent appear following the unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I am very pleased that the Senate is to begin action today on S. 1013, the Bankruptcy Court and Federal Judgeship Act of 1983. This bill, sponsored by myself and by the distinguished ranking minority member of the Subcommittee on Courts, Senator HEFLIN, addresses the issues raised by the June 28, 1982, decision of the Supreme Court in *Northern Pipeline Construction Company* v. *Marathon Pipe Line Company*, 102 S. Ct. 2858 (1982). As I am sure my colleagues are aware, the Court held in Marathon that the jurisdiction conferred on the bankruptcy courts by section 241(a) of the Bankruptcy Reform Act of 1978 could not constitutionally be exercised by current bankruptcy judges, because those judges lacked the protections afforded to members of the Federal judiciary by article III of the Constitution. The Court stayed the effective date of its decision until October 4, 1982, and again until December 24, 1982, to allow time for Congress to reconstitute the bankruptcy courts. Congress failed to meet either deadline, and the Court refused to extend its stay beyond December 24.

The Federal courts are currently operating under an interim rule promulgated by the Judicial Conference. That rule basically routes to the district courts matters which Marathon would require to be heard by article III judges, but allows existing bankruptcy judges to continue to enter judgments and orders in traditional bankruptcy matters, subject to district court review. I commend the Judicial Conference for its prompt action in issuing this rule which has helped to ease the confusion following expiration of the Supreme Court's stay. Congress must nevertheless act as soon as possible to restructure the present system for handling bankruptcy matters and place it on a firm constitutional footing. It is absolutely essential that our Nation have a stable and workable bankruptcy system of sound constitutionality.

The bankruptcy judges issue has been a particularly difficult one to resolve. The Marathon decision, primarily because there was no majority opinion, did not provide the Congress with a very clear picture of what jurisdiction article I bankruptcy judges may or may not exercise pursuant to the Constitution. Perhaps because of the ambiguity of the Court's decision, several different bills addressing the issues it raised were introduced and considered by the Judiciary Committee. Senator DOLE, for example, introduced S. 443, the Bankruptcy Court Reorganization Act of 1983. The distinguished Senator from Pennsylvania (Mr. SPECTER) introduced S. 54, the Bankruptcy Court Reform Act of 1983; and the distinguished Senator from Alabama (Mr. HEFLIN) introduced S. 792, the Bankruptcy Court Act of 1983. All of these measures offered a different resolution of Marathon issues—none, however, embodying the approach taken by H.R. 3, the bill approved by the House Judiciary Committee. After carefully studying the various bills which had been referred to the Judiciary Committee, Senator HEFLIN and I drafted a compromise proposal which was presented to the committee as S. , an original committee bill. On March 22, the Thurmond-Heflin bill was approved by the committee by a vote of 15 to 1. Senator HEFLIN and I, therefore, feel confident that S. 1013 represents a consensus of the members of our committee regarding a proper resolution of the issues raised in Marathon.

The Thurmond-Helfin bill contains four titles, title I of which provides a solution to the bankruptcy judges issue. The provisions of title I are based on those found in S. 792, the bill recently introduced by Senator HEFLIN. Senator HEFLIN's contributions to the development and approval of S. 1013 are, therefore, very significant, and I would like to commend him for his fine work on this very difficult issue. Title I implements an article I solution to the issues raised in the Marathon decision. It repeals the jurdisdictional provisions of the 1978 Bankruptcy Reform Act struck down by Marathon and enacts a new chapter 90 of title 28 of the United States Code redefining the jurisdiction of the district courts and the bankruptcy courts. Like the 1978 act, all jurisdiction over bankruptcy cases and proceedings is vested in the district courts, with bankruptcy courts authorized to exercise this jurisdiction.

Unlike the 1978 act, however, S. 1013 affords far greater control over bankruptcy matters both to the district courts and to the parties themselves. While all bankruptcy cases and proceedings will automatically be referred to the bankruptcy courts, the bill establishes a recall mechanism which would allow a district court judge, on his own motion, or on the motion of a party, or of a bankruptcy judge, to recall any matter which had been referred to the bankruptcy court. Recall is further mandated in two instances: First, in any proceeding involving a claim or cause of action which is not one arising under title 11; or second, in any proceeding where the district court determines that Federal laws regulating organizations or activities affecting interstate commerce are involved. This recall feature, a major departure from the 1978 act, will permit a determination by an article III judge of those matters addressed by the Marathon case, as well as of any bankruptcy case or proceeding. The district court thus retains full power to withdraw or limit the reference of a bankruptcy case or proceeding to the bankruptcy court at any time for any reason.

S. 1013 also affords greater control to the parties over the forum in which their claims will be considered. Again, the recall mechanism is the primary means of accomplishing this goal. While the parties may consent to the bankruptcy judge handling any proceeding, they may have any Marathon-type proceeding heard by an article III judge simply by moving for recall. Also, the abstention provisions of the 1978 act have been strengthened to allow a party who wishes to have a related proceeding based purely on State law heard in State court to have access to that forum.

Once a case or proceeding has been recalled, the bill allows the district courts to designate a bankruptcy judge to serve as a magistrate, exercising powers which magistrates have pursuant to 28 U.S.C. 636, or as a special master pursuant to rule 53 of the Federal Rules of Civil Procedure. The district court may also refer a case or proceeding to a U.S. magistrate pursuant to section 636 of title 28. The applicable standard of review for the findings of bankruptcy judges as magistrates or as special masters will be that provided for in existing law. This reference provision will allow the most flexible and efficient use of judicial resources, thereby keeping to a minimum any possible delay in the handling of bankruptcy matters at the district court level.

Yet another provision of title I which will help to assure prompt handling of bankruptcy cases and proceedings by the district courts is section 103 authorizing the promulgation of local rules for the prompt determination of bankruptcy matters, including the establishment of a special bankruptcy calendar. The bill also authorizes the chief judge of each district court to designate one or more district judges who will have as one of his primary responsibilities the handling of bankruptcy matters.

One other important provision contained in title I is section 1471(h) relating to Federal abstention in the case of claims or causes of action grounded purely in State law which are brought in the bankruptcy or Federal district court in the context of a bankruptcy proceeding. This provision attempts to address a serious problem with the 1978 act which, for the first time, accorded the Federal courts subject-matter jurisdiction over countless State claims that happened to be related to a proceeding in bankruptcy only because the same parties were involved in both actions. The result of this was to sharply enhance the jurisdiction of the Federal courts at the expense of the State courts in a manner that some believe to be unconstitutional.

Paragraph (1) of this section would direct the district judge to abstain from hearing any claim or cause of action, where this is in "the interest of justice"—which is present law—or in "the interest or comity with State courts and respect for State law." Such a decision to abstain would be unreviewable.

To bolster the opportunity for matters of State law to be decided in State courts, where they normally ought to be, paragraph (2) would establish a right in either party to move that State law issues be heard in State court. The district judge would be required to abstain under such circumstances. Upon final resolution of the State law issues in State court, the case would be returned to the Federal bankruptcy or district court where the bankruptcy proceedings would take place.

The new abstention provisions represent an important contribution by S. 1013 in establishing a bankruptcy court system that is clearly constitutional and one likely to be a stable part of our national system of courts in the years ahead. Further, I believe that they will insure that our court system, as a whole, is made more efficient by enabling bankruptcy courts to focus on their area of expertise—bankruptcy cases—and State courts to focus on theirs—State law cases. The new provisions do not entirely reverse the changes enacted by the 1978 act but merely attempt to establish a more appropriate balance between the scope of responsibilities of Federal and State tribunals.

Title II of S. 1013 specifies the number and allocation of the new article I bankruptcy judges to be appointed by the President. The 1978 act authorized the appointment by the President of article I judges, but did not specify their number or the districts to which they would be assigned. S. 1013 sets the number of bankruptcy judges at 229 and assigns those judges basically as existing bankruptcy judges are now assigned.

Title III of the bill authorizes additional article III positions for the district courts and courts of appeal; 51 new district court judgeships and 24 circuit court judgeships are authorized. These numbers are based on the 1980 and 1982 recommendations of the Judicial Conference of the United States for new judges needed to handle the increased civil and criminal caseload of the Federal judicial system. No additional judgeships are authorized to handle those bankruptcy matters which, under Marathon, would require the attention of an article III judge. Experience under the interim rule suggests that the percentage of bankruptcy matters handled by the district courts will be relatively low, although some moderate increase of the workload in district courts may be expected.

Title IV of S. 1013 contains a number of administrative and technical provisions. The major provisions of this title deal with retirement of Federal judges, the establishment of a retirement system for bankruptcy judges, and life insurance policies for Federal judges. Regarding the retirement of article III judges, the bill establishes a modified rule of 80 allowing judges to retire or take senior status between the ages of 65 and 70 if their age and years of service equal 80. With regard to retirement for bankruptcy judges, S. 1013 establishes a retirement system, based on that for Members of Congress, for both existing judges and for the new bankruptcy judges appointed by the President. A bankruptcy judge will receive retirement pay at a rate equal to 2.5 percent of his average pay times his years of service, with an 80-percent cap. Regarding life insurance policies, the bill makes two basic changes. First, it allows a judge who resigns or retires to convert his basic and optional Federal employees group life insurance policy to an individual life insurance policy in the private sector if he is willing to pay the necessary premium costs for conversion. Second, it would allow a judge to make an irrevocable assignment of the incidents of ownership in his Federal life insurance policy, thereby placing the proceeds of such policy outside his estate in the event of his death. Title IV also contains a provision clarifying the length of the terms of existing bankruptcy judges and several provisions amending or deleting portions of the 1978 act as necessitated by changes made by other provisions of S. 1013.

Mr. President, as I indicated earlier, the Thurmond-Heflin bill represents the clear consensus of the Judiciary Committee members on how best to resolve the issues raised in Marathon. The committee considered a variety of alternatives, but settled on the approach embodied in S. 1013 for several reasons. First, it authorizes fewer article III judgeships than other alternatives. Because it retains the present article I bankruptcy structure, S. 1013 authorizes no new article III positions for handling of bankruptcy matters. The 75 article III positions which it does authorize represents a figure less than half of those authorized by other major proposals. Second, the provisions of this bill may be implemented immediately, thereby avoiding the long delays in the confirmation process associated with an article III solution and continued operation under an interim system. S. 1013 also clearly implements a workable system. Its provisions are similar to those of the interim rule under which the courts are currently operating, and experience under that rule has thus far been positive. Only a small percentage of bankruptcy matters have required action by an article III judge. The approach embodied in S. 1013 is also preferable because it assures specialization in the bankruptcy area by retaining article I judges who handle only bankruptcy matters. While certain article III solutions provide for specialization as well, they do so at the cost of setting up a separate, but parallel, article III court system for bankruptcy cases alone.

The committee also believes that S. 1013 represents a clearly constitutional approach to resolving Marathon issues. While the constitutionality of any new system must ultimately be tested in the courts, we believe that the recall and consent provisions of title I of this bill adequately addresses the specific issues raised in Marathon. Obviously the approach embodied in S. 1013 is based on a relatively narrow reading of that decision. It is, however, a reading which the committee believes to be well founded and entirely appropriate. The concurring views of Justices Rehnquist and O'Connor, in our opinion, fairly define the breadth of the holding in Marathon. Consequently, the committee does not view

Marathon as calling into question the authority of article I bankruptcy judges to handle bankruptcy cases and proceedings other than the type of proceeding involved in the Marathon case.

In summary, Mr. President, S. 1013 provides for the most appropriate resolution of Marathon issues, while addressing the needs of the Federal judicial system in other areas as well. It implements a system which has proven workable, is likely to be found constitutional, and results in the least disruption in the present system. I strongly urge my colleagues to support the Bankruptcy Court and Federal Judgeship Act of 1983.

Mr. President, I shall comment briefly regarding budgetary matters and passage of S. 1013. The Congressional Budget Office estimates that enactment of S. 1013 could cause additional expenditures of $1.3 million in fiscal year 1983. It is our intention that the judiciary will absorb these costs and consequently not our intent to increase future appropriation requests for fiscal year 1983.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, the statement by the distinguished chairman of the committee has fairly well outlined the proposal now pending, the need for it, and a lot of the historical background.

Mr. President, the Senator from Kansas wishes to express his full support for S. 1013, the Bankruptcy Court and Federal Judgeship Act of 1983.

NORTHERN PIPELINE

On June 28, of last year, the Supreme Court, in the Northern Pipeline case, ruled that Congress had acted unconstitutionally by delegating to article I bankruptcy judges the power to decide certain cases involving issues of State law. The Senate Judiciary Committee has responded to Northern Pipeline by adopting a Thurmond/Heflin proposal that would continue the article I status of bankruptcy courts but would permit them to decide Marathon-type cases only upon the consent of the parties, subject to the control of the district courts. This solution was decided upon by the committee after several months of analyzing and discussing the Northern Pipeline problem and the various approaches available to resolve it.

As the Members of the Senate are aware, I sponsored legislation which could have assigned bankruptcy cases to the presently sitting article III district courts, thus insuring one unified constitutional forum for the resolution of all bankruptcy matters. And I remain convinced that this approach would have been the most efficient way to resolve the constitutional problem thrust upon the system by the Supreme Court.

Nevertheless, I am fully aware of the political and practical problems of my proposal, and therefore defer to the decision of the committee that S. 1013 represents a more viable solution. What is important now is that the Congress act. Ten months have already passed since the Northern Pipeline case was decided. For too long, bankruptcy case administration has been surrounded by uncertainty under the interim rule promulgated by the Judicial Conference. Congress can no longer delay in providing a permanent response to the problem.

OMNIBUS JUDGESHIPS

I also express my support for title III of S. 1013, which would authorize the creation of an additional 75 district court judgeships. This title is based solely upon the 1980 and 1982 recommendations of the Judicial Conference, which in turn was based on two extensive surveys of judgeship needs conducted by the Administrative Office of the U.S. Courts in 1979 and 1981.

It should be emphasized that in formulating its recommendations, the Judicial Conference did not rely upon a "Projection methodology" but rather acted only on the basis of demonstrated current need. In addition, the Conference sought to hold its recommendations to the minimum necessary to avoid serious caseload congestion in the individual courts.

In like manner, in acting on the legislation, the committee chose to include only those additional judgeships which could be justified on the basis of the Judicial Conference's documented analyses. As the committee report states, this was determined to be the "fairest method of allocating judicial priorities * * * and * * * the best way to avoid a situation is which political considerations may predominate."

CONCLUSION

In concluding, I simply reiterate my full support for S. 1013. My hope is that this much-needed legislation will receive prompt, favorable action by the full Senate.

I congratulate both Senator THURMOND, the distinguished chairman of the committee, and the distinguished Senator from Alabama, Senator HEFLIN, for their untiring efforts in bringing this bill to the floor.

I think it indicates the good-faith effort, which was bi-partisan, non-partisan, whatever, to get this problem solved which results from the Northern Pipeline case Supreme Court ruling last June 28.

More important now is that Congress act, and we have consumed a lot of time, and it seems to me that an effort to get to conference with the House conferees and to work out our differences in conference requires that we move very quickly, and that is why I hope we will dispose of this legislation today.

In conclusion, I only state that I support S. 1013. It is my hope that this much-needed legislation will receive prompt approval and we will be discussing later on an amendment that I will offer for myself and the distinguished chairman of the committee and the distinguished Senator from Alabama.

But at this point there is no amendment pending. It is the hope of the majority leader to work out some unanimous-consent agreements so that we can dispose of this legislation rather quickly.

Mr. HEFLIN. Mr. President, I rise today as sponsor of the Thurmond-Heflin Bankruptcy Courts Act of 1983, S. 1013, which redefines the relationship and delineates the jurisdiction for the bankruptcy and district courts of the United States.

I would like to commend Chairman THURMOND, the ranking minority member, Senator BIDEN, and the chairman of the Subcommittee on Courts, Senator DOLE, for their dynamic leadership and diligent assistance in the formulation of this compromise measure.

This legislation is in response to the U.S. Supreme Court decision in Northern Pipeline Construction Co., against Marathon Pipe Line Co., in which the Court ruled unconstitutional the bankruptcy court system created under the Bankruptcy Reform Act of 1978. The Supreme Court, in a plurality opinion, held that it was unconstitutional for Congress to have assigned the power to decide certain bankruptcy cases grounded in State law to Federal bankruptcy judges who did not have life tenure and the guarantee against reductions in salary contained in article III of the U.S. Constitution. The Supreme Court stayed its decision until October 4, 1982, and later extended the stay to December 24, 1982, to give Congress an opportunity to respond.

Congress, particularly the Senate Judiciary Committee, worked on these matters during that period of time. These matters, however, were surrounded by a great deal of controversy and, as the deadlines of those dates approached, we were unable to reach an agreement as to the proper procedure to follow.

When Congress did not act, the Court issued its judgment.

The bankruptcy courts have since operated under an interim rule proposed by the Judicial Conference of the United States and adopted by the Judicial Council for each circuit.

This bill today represent a proposed permanent response to the Marathon case by the Committee on the Judiciary. After extensive hearings and study of alternative proposals, the Judiciary Committee fashioned this proposal which is considered to be the most sensible solution. This basic article I concept was recommended by the American Bar Association and the Judicial Conference of the United States with some modifications by the Senate Judiciary Committee.

This proposal would continue the use of an article I bankruptcy court as an adjunct to the article III district courts, except that the jurisdiction and the authority of the bankruptcy courts would be subject to the control of the district court and the consent of the parties. Core bankruptcy cases could continue to be heard by an article I bankruptcy judge, while Marathon-type State law cases would be decided in such a forum only upon the consent of the parties. If the parties object to the bankruptcy judge deciding these Marathon-type cases, then the cases must be recalled by the district court and decided by the district court. In addition, any case may be recalled at the discretion of the district court, either on its own motion, or that of the bankruptcy judge or any party to the litigation. In any recalled case, the district court could designate any bankruptcy judge in that district to serve either as special master or magistrate to hear such cases; or refer such cases to a U.S. magistrate. Then the case would then be referred back to the district court judge for his decision.

This recall feature is a major departure from the system established by the Bankruptcy Reform Act of 1978 and will permit a determination by an article III judge of those matters addressed by the Marathon case.

In accordance with the 1978 Bankruptcy Act, the bill authorizes the appointment of 229 new article I judges, representing the number of existing permanent bankruptcy positions, with at least one full-time bankruptcy judge for each Federal judicial district. I understand that an amendment will be offered to increase this number to 232. These judges would serve 14-year terms and be appointed by the President with the advice and consent of the Senate on April 1, 1984.

Ever since the Supreme Court issued the Marathon decision, numerous alternative solutions have been proposed, many of which centered around an article III approach. This approach would have abolished the present article I bankruptcy system and created between 189 and 227 additional article III judgeships.

I, along with my colleagues on the Judiciary Committee, believe that a primary advantage of the article I solution advanced in this legislation over other approaches is that it would allow the immediate implementation of a constitutionally sound working system without causing a major disruption of the existing court organization.

This response can be immediately implemented and thus avoid the long delays associated with the confirmation process of new article III judges. This also avoids the substantial increase in the number of article III lifetime judges which would be expensive and may not be fully justified or desirable in the potential light of a relatively few number of cases requiring action by an article III judge.

That this system is workable is evidenced by the recent surveys throughout the country and testimony given in recent hearings that indicate that the bankruptcy courts are functioning well under the model rule, upon which this legislation is based.

This proposal also gives future Congresses the discretion to restructure the bankruptcy system and make improvements and adjustments and avoids the inflexibility of a permanent article III system.

Of course, the most critical question surrounding this legislation is its constitutionality. This proposal addresses the constitutional flaws noted in Marathon by enacting two substantial changes in the administration of the bankruptcy system. First, the parties in Marathon-type litigation would be given more control to determine the forum, including article III courts, in which their cases will be heard. Second, the district court judges would be given more control to determine the forum, including the district court, in which Marathon-type cases will be heard.

Greater authority over the choice of forum is also given to the parties by the abstention provisions of this legislation which amends the existing abstention provision to allow the district court to abstain, not only in the interest of justice, but also in the interest of comity with State courts or respect for State law. It also requires the court to abstain in the instance of claims arising under State law in a related proceeding where a party has made a motion for abstention. The 1978 act significantly expanded the scope of Federal jurisdiction by empowering Federal courts to exercise jurisdiction over claims governed solely by State law, such as contract claims or divorce; which do not meet the traditional requirements for Federal jurisdiction. This bill gives increased respect for State courts and State laws by according greater opportunity for purely State law issues to be adjudicated in State court.

Mr. President, this proposal represents an appropriate, sound response to the Marathon decision. It addresses the issues raised in this case in a manner which brings stability to the bankruptcy system and establishes an enduring process for resolving bankruptcy disputes, while avoiding the disadvantages of article III approaches.

Not only does this legislation address the problems with the bankruptcy structure, it also authorizes additional United States district and circuit judges, as recommended by the Judicial Conference, of the United States to help handle the swelling caseload facing our Federal judicial system. The President is authorized to appoint with the advice and consent of the Senate, 24 additional judges for the U.S. Courts of Appeal and 61 additional judgeships for the U.S. District Courts. Finally, the bill provides for a fair and reasonable retirement system for bankruptcy judges and modifies the existing retirement system for article III district and circuit court judges.

Mr. President, I urge my colleagues in the Senate to support this vital legislation so that we might end the uncertainties under which our bankruptcy courts now operate.

In closing, I would like to say that I sincerely appreciate the fine, capable and tireless assistance of the committee staff in developing this legislation, especially our chief counsel, "Dee" Lide, Steve Markman, and Sally Rogers.

I would also like to tell you that I deeply appreciate the fine, capable, and tireless assistance of the members of my staff on the Subcommittee on Courts, including Arthur Briskman and Randal Black.

This legislation received strong bipartisan support by the Senate Judiciary Committee and was favorably reported to the full Senate by a 15-to-1 vote. I encourage my colleagues to join our distinguished chairman and members of the committee and support Senate bill 1013.

Mr. HELMS. Mr. President, it is no secret to anyone familiar with bankruptcy courts and the operation of the Bankruptcy Code of 1978 that serious reforms are long overdue. With the decision of the Supreme Court in *Northern Pipeline Construction Co.* v. *Marathon Pipline Co.*, 102 S.Ct. 2858 (1982), it was clear that Congress needed to act in order to cure the defects in the jurisdictional structure of the bankruptcy courts. Also the passage of time and the processing of bankruptcy cases proved that the 1978 Bankruptcy Code was deficient in many respects. I have received numerous complaints from constitutents about their experience in bankruptcy courts, impressing upon me the necessity of congressional action to amend the 1978 code.

Thus, the Senator from North Carolina has for some time favored clearing up the bankruptcy court jurisdiction problems as well as making substantive reforms in the 1978 Bankruptcy Code. For these reasons I welcomed Judiciary Committee action early in the 98th Congress on bankruptcy matters.

Unfortunately, Mr. President, when the Judiciary Committee presented its final package on bankruptcy reform to the Senate in the form of S. 1013 and S. 445, S. 1013 contained an item not directly related to the bankruptcy problems. Title III of S. 1013 created 75 new Federal district court and circuit court judgeships. Under article III of the Constitution, these new judges, unlike the article I bankruptcy judges, would hold their offices for life tenures, without the possibility of diminution in compensation. This additional, nonbankruptcy provision was, to my mind, most imprudent and unwise, and it caused—and still causes—this Senate to have grave reservations about the bill.

Mr. President, it is this Senator's strong conviction that the United States does not need, at this point in its history, 75 new Federal judges. If the Federal judiciary is overworked, then the solution to that problem is for Congress to pass legislation reducing the workload of the Federal courts. The solution is not to create more Federal judges and an estimated $32 million a year increase in the cost of operating the Federal judiciary.

To a significant extent, the problem of crowded dockets and heavy caseloads in Federal courts is a result of judicial activism and usurpation by the judges themselves. Supreme Court and lower Federal court decisions over the last quarter century have provided strong incentives for plaintiffs to file more and more lawsuits. The Federal judiciary has recognized any number of alleged constitutional rights that the framers of the Constitution never had any idea they were creating. The "right" to abortion, the "right" to drive voluntary school prayer out of the schools, and the "right" to massive forced busing to achieve racial balance would all be novelties to those who drafted the U.S. Constitution. Moreover, the Federal courts have virtually destroyed the traditional powers reserved to the States in our federal system.

In his foreword to "A Blueprint for Judicial Reform," George Gilder accurately stated the problem Federal judges have created for American government:

> The American constitutional system faces a threat from within. American courts have fallen before a campaign—launched and sanctified in the law schools, propagated through the media and foundations, fostered by politicians of both parties, and spearheaded by an array of publicly financed "public interest" lawyers—to dramatically change the religious and moral underpinnings of American law and society.
>
> In place of the values of family, faith and freedom, enshrined in a Constitution under God, many federal judges now support a movement toward humanism and social change, designed to transform our schools, homes, libraries, media and culture into vessels of socialism, sexual liberation, atheism and amorality.

The point here, Mr. President, is that Federal judges have vastly expanded their own powers in many areas and actually usurped power in others—all to the detriment of the rule of law and constitutional government—and now their dockets are clogged as a result. The bill currently before the Senate proposes as a solution to this problem that we create more Federal judges.

Mr. President, it is the position of this Senator that, given recent legal history, creating more Federal judges is not the appropriate remedy. Instead, we should be exercising our powers here in Congress to provide a check on the manifest abuses of the Federal courts. One such check is to withdraw Federal court jurisdiction in areas of judicial excesses and to tighten up such jurisdiction in others.

In addition to these problems with the creation of 75 new judgeships, another major reason to oppose the judgeships provision is the substantial cost that the taxpayer will bear as a result. According to the report with S. 1013, the total expense associated with adding new judicial positions is "$300,000 to $400,000 per year," and that includes:

> The higher judicial payroll, additional support staff (such as law clerks, court reporters, and secretaries), and other administrative expenses necessary to establish a new circuit or district judicial position. (Report, p. 46.)

Again according to the report:

> It is estimated that by fiscal year 1988 the cost per year for 75 new judgeships will be nearly $32 million. (Report, p. 46.)

Mr. President, at a time when the Federal budget is literally out of control and the deficit grows by leaps and bounds each year, it is foolish to expand the Federal bench in such a costly way. Instead of increasing these costs, Congress should be looking for ways to reduce them.

I am pleased, however, to report that, while we still have differences over the judgeships provision of S. 1013, the President and I are in agreement about currently needed reforms in Federal jurisdiction.

In a letter to me bearing the date of April 26, 1983, the President points out several areas in which jurisdiction should be curtailed and indicates that further study of this matter is now under way.

Such reforms in Federal court jurisdiction will go a long way in eliminating the need for any future expansion of the Federal judiciary. It is my hope that both the Senate and the House will act on certain of these proposals in the near term.

Mr. President, I ask unanimous consent that the letter of April 26, 1983, from President Reagan be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

THE WHITE HOUSE,
Washington, April 26, 1983.

Senator JESSE HELMS,
U.S. Senate, Washington, D.C.

DEAR JESSE: Pursuant to your conversation this morning with Ed Meese, I would like you to know that this Administration is very much interested in working with the Chief Justice of the United States and the Judicial Conference on the means to reduce the amount of litigation before the federal courts. Among the measures being pursued are limitations on the intervention of federal courts in state judicial proceedings, including the improper use of writs of habeas corpus, and the imposition of penalties upon lawyers who institute frivolous lawsuits. A portion of these improvements are already included in legislation before the congress as part of the comprehensive anti-crime bill proposed by this Administration.

In addition, we are looking at other ways in which the jurisdiction of the federal court can be reduced, such as limitations on standing to sue, eliminating litigation on issues that should be moot, striking certain areas of mandatory jurisdiction, etc.

On a subject of particular interest to you and me, voluntary prayer in the schools, we have initiated and wholeheartedly support a constitutional amendment which would considerably reduce the litigation in this field by providing that nothing in the Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions.

I feel that these legislative initiatives will go a long way toward reducing the workload of the federal courts, eliminating unnecessary litigation, and removing the need for large numbers of additional judges every few years in the future.

I hope this information will be of assistance to you. Best personal regards.

Sincerely,

RON.

Mr. HELMS. Mr. President, because of the assurances contained in President Reagan's letter and certain other assurances from the White House, this Senator will not seek, at this time, to offer several amendments that were previously under consideration in connection with S. 1013. Those amendments undoubtedly will come before the Senate another day.

Finally, Mr. President, I want to take this opportunity to thank my distinguished colleague from South Carolina, the President pro tem of the Senate and the chairman of the Judiciary Committee, the Honorable STROM THURMOND, for all his hard work on getting the bankruptcy reforms before the Senate. He is certainly right to proceed quickly in this Congress to correct a situation that has lingered too long already. I commend him for his efforts, and although we on a rare occasion differ on ways of attacking certain problems, he always has my utmost respect and esteem, and it is a distinct honor to serve in the Senate with him.

Mr. President, in order to provide some perspective on the range of judi-

cial abuses we have witnessed in recent years, I ask unanimous consent that the following articles be printed in the Record at the conclusion of my remarks (including footnotes):

Senator John P. East, "Why Create More Federal Judgeships?" Washington Times, April 21, 1983.

Congressman John Ashbrook, "Are Judges Abusing Our Rights?", Readers Digest, August 1981.

Senator Sam J. Ervin, Jr., "Judicial Verbicide: An Affront to the Constitution," A Blueprint for Judicial Reform (Free Congress Research and Education Foundation: 1981).

Chief Justice Robert T. Donnelly (of Missouri), "The State of the Judiciary in Missouri—1982" (an address to the Missouri General Assembly), January 7, 1982.

Attorney General John Ashcroft (of Missouri), "Abuses of Federal Judicial Power" (testimony before Judiciary Subcommittee on Separation of Powers), March 16, 1983.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Times, Apr. 21, 1983]

Why Create More Federal Judgeships?

I welcome the effort by the Committee on the Judiciary to resolve the problems presented by the decision of the Supreme Court in *Norther Pipeline Co.* v. *Marathon Pipe Line Co.*,—U.S.—, 73 L. Ed. 2d 598, 644 (1982). Unfortunately, the Committee chose this important legislation as a vehicle for including a provision to increase the number of federal judges in response to the alleged backlog of non-bankruptcy litigation in federal courts. Except for that provision I would have voted for this bill.

The legislative urge to create more and more federal judges also produces a more powerful judiciary which is ever eager to take control of more and more public issues normally reserved to elected representatives. In this respect, beneficence of Congress is not only self-defeating, but also eventually self-destructive.

Our Constitution envisages a government in which primary policy-making responsibilities are entrusted to elected representatives who are responsible to the values and will of the people. Alexander Hamilton, in the *Federalist No. 78*, described the proper roles of our three branches of government in these words:

> The executive not only dispenses the honors but holds the sword of the community. The legislature not only commands the purse but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over either the sword or the purse; no direction either of the strength or the wealth of the society and can take no active resolution whatever. It may truly be said to have neither force nor will but merely judgment . . .

How far our system of government has already shifted from this balance of power and interest is abundantly clear. As we create more federal courts and provide them with more opportunities to impose their will on larger numbers of persons who are being drawn into federal courts, we will see the federal courts far exceeding the modest role that Hamilton envisioned for the judicial branch.

Instead of government by elected representatives who are responsive to the values and will of the people, we will see a government increasingly dominated by an unelected, appointed elite of federal judges who hold office for life tenure and are therefore effectively unaccountable to the American people. As Howard has observed:

> Our increasing reliance on law and litigation to resolve conflicts has far-reaching implications. The more we litigate and the more judges intervene in our affairs, the more our shared values and elective political processes are undermined. As Justice Felix Frankfurter wrote in warning of the "inherently oligarchical powers" of judicial review, "Such an assertion of judicial power deflects responsibility from those on whom in a democratic society it ulitimately rests—the people."

Courts that make rules for universities, prisons, welfare agencies, or other bodies take on the functions of legislatures. But courts are afflicted with a kind of tunnel vision. A judge is not in a position—nor does he have the warrant—to balance competing political and economic interests as legislators are accustomed to doing. Yet he can order heavy expenditures of public funds to carry out his decisions, and that means either that taxpayers will pay more or that other public projects will get less.

The increasing problem of the backlog of federal cases is, in my judgment, directly related to judicial activism and usurpation of power by federal judges. Congress should respond to this problem not by increasing the size of federal judiciary (in effect a reward for improper conduct), but by limiting the powers of federal judges. That kind of reform would solve the caseload problem, while at the same time eliminating the need for the high expense and burden of more judges. What America needs is notmore judges, with more power, but fewer judges with less power.

For the foregoing reasons, I urged my colleagues to reject this legislation as unwise and unnecessary.

Before discussing my objections to increasing the number of Article III federal judges, I should remark that the unfortunate decision of the Supreme Court in *Northern Pipeline* precipitated the current crisis in the bankruptcy courts. Even though Congress has been roundly criticized for its deliberative pace in responding to *Northern Pipeline*, I remind my colleagues that we in Congress are being held accountable for a mess that the Supreme court could have avoided if it had accepted Justice White's recommendations of deference to congressional judgment in the *Northern Pipeline* case. After all, members of Congress, like justices of the Supreme Court, are sworn to uphold the Constitution, and after due deliberation, a majority of Congress decided five years ago that the 1978 Act was constitutional.

"Creating more courts is like building more highways: It simply encourages traffic." So observed Professor A. E. Dick Howard of the University of Virginia Law School, in a widely acclaimed article on the mounting problem of excessive litigation that recently appeared in The Wilson Quarterly (Summer, 1981). Parkinson's law, it would appear, applies not only to administrative agencies, but also to our court system. Like bureaucrats, judges tend to make work for themselves. Indeed, there seems to be a direct correlation between Congress' continuing authorization for more federal judges and the spectacular rise in the number of cases in the federal judiciary.

Between 1975 and 1982, Congress increased the number of federal judges by 33 percent, adding almost 150 more federal judges to the growing judiciary. At the same time, the number of cases rose by 75 percent.

In my judgment, it is difficult to avoid the unfortunate conclusion that the well-intentioned efforts of Congress to rescue the courts from their unmanageable caseloads are actually worsening the situation and that the current backlog of cases plaguing our system of justice is directly attributable to repeated authorization for more judges.

This growth of litigation in our society is an unhealthy phenomenon. The more our citizens are invited to resolve their disputes through the legalistic formalities procedures of the courts, the less likely they are to rely on the informal methods of cooperation within their community. Instead of encouraging citizens to compromise, the trend toward litigating disputes through the rigid rules of courts invites controversy over the smallest of matters.

Are Judges Abusing Our Rights?

(By Representative John Ashbrook—R., Ohio)

Federal marshals clapped handcuffs on University of Georgia Prof. James A. Dinnan last summer and hauled him off to prison. What could this 50-year-old academician possibly have done? Dinnan had served on a faculty committee that voted 6 to 3 against promoting a young woman assistant professor.

The woman sued, alleging sex discrimination. In pre-trial proceedings, Dinnan readily described the criteria he used in his decision but refused to say how he had voted. For that refusal, federal Judge Wilbur D. Owens, Jr., held him in civil contempt and ordered him to pay $100 a day for 30 days and then spend 90 days in jail unless he answered the question.

Released three months later, Dinnan discovered that he faced another jail term if he refused to reveal his vote in further proceedings. Vowing to move to another country first, Dinnan proclaimed, "If academic freedom is not the right to judge one's peers free from outside pressure or intimidation, then when is it? Once the courts control the schools of America, you're headed toward totalitarianism."

Dinnan's protest is among the growing number of complaints nationwide that many judges are overreaching their constitutional authority. We have, declares Harvard professor emeritus Nathan Glazer, developed an "imperial judiciary" in which judges "now reach into the lives of the people, against the will of the people, more than ever in American history." States the Los Angeles Times: "More and more judges have developed an itch for more and more power, and they are scratching it at every opportunity."

Today, should a judge find that there has been a denial of due process or equal protection, he can overrule the President and Congress as well as state and local legislatures. He can seize a school system, prison or mental hospital, appropriate public funds, and set policy. Examples abound:

In Atlanta, parents, outraged by "head shops" pushing drug paraphernalia aimed at youngsters, persuaded the Georgia legislature to outlaw such sales. But last December a federal judge voided the statute as "vague," even though similar wording has been upheld in laws outlawing counterfeiting, gambling and bootlegging paraphernalia. So drug paraphernalia reappeared in the head shops.

Outside Albany, N.Y., high school students sought to hold a voluntary prayer session in their classrooms before the start of the school day. Outlawing the practice as "too dangerous to permit," federal Judge Irving R. Kaufman argued that it "might indicate the state has placed its imprimatur on a particular religious creed."

In Parma, Ohio, voters chose to require a referendum on all zoning variances. A federal judge treated this vote as evidence, along with other city actions, of intentional racial discrimination and ordered the community to provide low-income housing.

Decisions of this sort have altered the nation's basic governmental structure. They have stripped power from elected officials and transferred it to appointed judges who serve for life.

Keeping judges in their proper sphere is an old problem. Tyrannical and lawless judges in part caused rebelling Englishmen to draw up the Magna Carta in 1215. In 1625 English statesman Francis Bacon warned: "Judges ought to remember that their office is to interpret law and not to make or give law." The judicial role under the U.S. Constitution has been a problem from the start, with judges reaching for power and colliding with Presidents and Congress.

Voter reaction against the "activist" Supreme Court under Chief Justice Earl Warren was a major factor in the 1968 Presidential election of Richard Nixon. Nixon appointed four Justices during his first term, but in many respects the Court's activism actually accelerated. All the busing decisions, the voiding of the abortion laws of 46 states and the overturning of death-penalty statutes are products of the Supreme Court under Chief Justice Warren Burger, who succeeded Warren in 1969. when it comes to voiding acts of Congress, the Burger Court has been the most activist ever.[*] In 11 years it has voided 37 Congressional enactments compared with 29 such actions by the Warren Court in a 16-year period.

Concern over the High Court's use of its powers is shared even by some of the Court itself. Justice William H. Rehnquist accuses the present activist majority of "fashioning for itself a legislative role resembling that once thought to be the domain of Congress." Justice Byron White has said that the fact "that the Court has ample precedent for the creation of new constitutional rights should not lead it to repeat the process at will."

For generations, the federal judiciary upheld the position that education is a field reserved for the states. Then, in 1969, the Warren Court decreed that the due-process clause gave federal judges the right to oversee public-school discipline, supplanting elected legislators and school boards.

In 1975, the Burger Court expanded the trend by overturning an Ohio law allowing school principals to suspend disruptive students for up to ten days. Such actions have contributed to an epidemic of violence in the nation's high schools. Columnist James Kilpatrick reported the story of a St. Louis teacher who gave this explanation for choosing early retirement: "The courts have made it just about impossible to suspend or expel a disruptive child. I'd had all I could take."

No mandates have stirred more controversy than those directing school busing. In 1971 the Supreme Court declared that a local federal judge had seemingly unlimited power to force a racial balance to his satisfaction. Soon judges were ordering large-scale busing.

Over the past two decades, Supreme Court Justices have written a code of criminal procedure overwhelmingly favoring criminal defendants. In one case, two Bronx, N.Y., policemen saw a man start across the street, glance nervously at them, then turn and hurry off, hugging a vanity case. After giving chase, they cornered him, and found a pistol in the vanity along with heroin packaged for street sale. But the New York Court of Appeals judges ruled that the police had to exclude the evidence, and they dismissed the indictment—thus freeing the pusher—because the officers did not have "probable cause" for arrest. One dissenting judge protested: "Such a conclusion borders on the absured. The officers had every right, if not the obligation, to pursue the defendant in order to investigate this highly suspicious conduct." Last December the Supreme Court declined to hear the prosecutor's petition that the ruling imposes "an unreasonable burden on our police."

The federal judiciary ruled (in 1966) against police interrogation if the suspect objects. When police could interrogate, they solved 91 of every 100 murders; today the percentage of unsolved murders has tripled to an all-time high.

State legislators have sought repeatedly to deter murder by imposing the death penalty. Again and again they have been thwarted by a Supreme Court that arbitrarily changes the rules. In 1972 five Justices decreed that the death-penalty laws of 41 states were unconstitutional because they left to the *uncontrolled* discretion of judges or jurors whether defendants should be imprisoned or die. Thirty-six states promptly enacted new laws making death mandatory for specified categories of murder and other crimes. Then the Justices did a U-turn in 1978, holding Ohio's death-penalty law invalid because it failed to give the sentencing judge *enough* discretion.

Many legal authorities feel today's rampant judicial activism deprives the American people of the right to be governed by elected representatives. For checks and balances on judges, we must look to the other branches of government and to the electorate. Congress has two clear ways to curb judges.

1. The Constitution gives our elected legislators power to remove whole classes of cases from court jurisdiction. At least 20 bills to do so are pending. Last May Prof. Charles E. Rice of Notre Dame University Law School testified: "It would be a healthful corrective. Supreme Court decisions in several areas are distortions of the constitutional intent. It is the duty of Congress to remedy this wrong. The Court might learn a salutary lesson and avoid future excursions beyond its proper bounds."

2. The 14th Amendment, under which the Supreme Court has invaded most state functions, specifically names Congress the supreme definer and guardian of the rights it creates. Chief Justice Earl Warren, for example, declared that Congress can supplant the rules for police interrogations his Court handed down.

At stake in the struggle to control our high-handed judiciary is nothing less than the sanctity of law itself in our constitutional system. As the distinguished legal historian Raoul Berger asks, "How long can public respect for the Court survive if people become aware that the tribunal which condemns the acts of others as unconstitutional is itself acting unconstitutionally?"

JUDICIAL VERBICIDE: AN AFFRONT TO THE CONSTITUTION

(By Sam J. Ervin, Jr.[1])

JUDICIAL VERBICIDE

Jim's Administrator was suing the railroad for his wrongful death. The first witness he called to the stand testified as follows: "I saw Jim walking up the track. A fast train passed, going up the track. After it passed, I didn't see Jim. I walked up the track a little way and discovered Jim's severed head lying on one side of the track, and the rest of his body on the other." The witness was asked how he reacted to his gruesome discovery. He responded: "I said to myself something serious must have happened to Jim."

Something serious has been happening to constitutional government in America, and I want to write about it. My motive for doing so is as lofty as that which caused Job Hicks to be indicted and convicted of disturbing religious worship in the Superior Court of Burke County, North Carolina, my home county, 75 years ago. Job revered the word of the Lord. An acquaintance of his, John Watts, took a notion he had been called to preach the Gospel, and adopted the practice of doing so in any little country church which would allow him to occupy its pulpit. While he was well versed in his profession as a brick mason, John Watts was woefully ignorant in matters of theology. One Sunday, Job Hicks imbibed a little too much Burke County corn liquor, a rather potent beverage. After so doing, he walked by a little country church, saw John Watts in the pulpit, and heard him expounding to the congregation his peculiar version of a biblical text. Job Hicks entered the church, staggered to the pulpit, grabbed John Watts' coat collar, dragged him to the door, and threw him out of the church.

When the time came for the pronouncement of the sentence upon the jury's verdict of guilty, Judge Robinson, the presiding judge, observed: "Mr. Hicks, when you were guilty of such unseemly conduct on the Sabbath Day, you must have been too drunk to realize what you were doing." Job Hicks responded: "It is true, Your Honor, that I had had several drinks, but I wouldn't want Your Honor to think I was so drunk that I could stand by and hear the Word of the Lord being *mummicked up* like that without doing something about it."

Although I am completely sober, I am constrained to confess I am like Job Hicks in one respect. I cannot remain silent while the words of the Constitution are being *mummicked up* by Supreme Court Justices. This is so because I entertain the abiding conviction that the Constitution is our most precious heritage as Americans. When it is interpreted and applied aright, the Constitution protects all human beings within our borders from tyranny on the one hand and anarchy on the other. William Evart Gladstone the wise English statesman, correctly described it as the most wonderful work ever struck off at a given time by the brain and purpose of man.[2]

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[*] Chief Justice Burger has been a frequent dissenter from many of the so-called "Burger Court's" most activist decisions.

Footnotes at end of article.

I entitle this essay "Judicial Verbicide: An Affront to the Constitution." I am prompted to do so by this trenchant truth which was told by Dr. Oliver Wendell Holmes in his *Autocrat of the Breakfast Table:*

"Life and language are alike sacred. Homicide and verbicide—that is—violent treatment of a word with fatal results to its legitimate meaning, which is its life—are alike forbidden."[3]

WHY THE CONSTITUTION WAS FRAMED AND RATIFIED

The term "Founding Fathers" is well designed to describe those who framed and ratified the Constitution and its first ten amendments. For ease of expression, I also apply it to those who framed and ratified subsequent amendments. The Founding Fathers knew the history of the struggle of the people against arbitrary governmental power during countless ages for the right to self-rule and freedom from tyranny, and understood the lessons taught by that history.

As a consequence they knew these eternal truths: First, that "whatever government is not a government of laws is a despotism, let it be called what it may,"[4] second, that occupants of public offices love power and are prone to abuse it,[5] and, third, that what autocratic rulers of the people had done in the past might be attempted by their new rulers in the future unless they were restrained by laws which they alone could neither alter nor nullify.[6]

The Founding Fathers desired above all things to secure to the people in a written Constitution every right which they had wrested from autocratic rulers while they were struggling for the right to self-rule and freedom from tyranny. Their knowledge of history gave them the wisdom to know that this objective could be accomplished only in a government of laws, *i.e.*, a government which rules by certain, constant, and uniform laws rather than by the arbitrary, uncertain, and inconstant wills of impatient men who happen to occupy for a fleeting moment of time legislative, executive, or judicial offices.

WHAT THE CONSTITUTION WAS DESIGNED TO ACCOMPLISH

For these reasons, the Founding Fathers framed and ratified the Constitution, which they intended to last for the ages, to constitute a law for both rulers and people in war and in peace, and to cover with the shield of its protection all classes of men with impartiality at all times and under all circumstances.[7] While they intended it to endure for the ages as the nation's basic instrument of government, the Founding Fathers realized that useful alterations of some of its provisions would be suggested by experience.[8]

Consequently, they made provision for its amendment in one way and one way only, *i.e.*, by combined action of Congress and the states as set forth in Article V. By so doing, they ordained that "nothing new can be put into the constitution except through the amendatory process" and "nothing old can be taken out without the same process;"[9] and thereby forbade Supreme Court Justices to attempt to revise the Constitution while professing to interpret it.[10]

In farming and ratifying the Constitution, the Founding Fathers recognized and applied an everlasting truth embodied by the British philosopher, Thomas Watts, in this phrase: "Freedom is political power divided into small fragments." They divided all governmental powers between the federal government and the states by delegating to the former the powers essential to enable it to operate as a national government for all the states, and by reserving to the states all other powers. They divided among the Congress, the President, and the federal judiciary the powers delegated to the federal government by giving Congress the power to make federal laws, imposing on the President the duty to enforce federal laws, and assigning to the federal judiciary the power to interpret federal laws for all purposes and state laws for the limited purpose of determining their constitutional validity.

In making this division of powers, the Founding Fathers vested in the Supreme Court as the head of the federal judiciary the awesome authority to determine with finality whether governmental action, federal or state, harmonizes with the Constitution as the supreme law of the land, and mandated that all federal and state officers, including Supreme Court Justices, should be bound by oath or affirmation to support the Constitution.[11]

The Founding Fathers undertook to immunize Supreme Court Justices against temptation to violate their oaths or affirmations to support the Constitution by making them independent of everything except the Constitution itself. To this end, they stipulated in Article III that Supreme Court Justices "shall hold their offices during good behaviour . . . and receive for their services a compensation, which shall not be diminished during their continuance in office."

In commenting upon the obligation of Supreme Court Justices to check unconstitutional action in his dissenting opinion in *United States v. Butler* (1936), Justice (afterwards Chief Justice) Stone made this cogent comment: "While unconstitutional exercise of power by the executive and legislative branches of government is subject to judicial restraint, the only check upon our own exercise of power is our own sense of self-restraint."[12]

WISE AMERICANS CONDEMN JUDICIAL ACTIVISM AND VERBICIDE

Some exceedingly wise Americans, who understood and revered the Constitution, have expressed opinions concerning Justices who do not exercise the self-restraint which their oaths or affirmations to support the Constitution impose upon them, and the impact of their derelictions upon constitutional government. George Washington, who served as President of the convention that framed the Constitution before becoming our first President under it, gave America this solemn warning in his *Farewell Address:*

"If in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always overbalance in permanent evil any partial or transient benefit which the use can at any time yield."

Chief Justice Marshall emphasized the supreme importance of a Supreme Court Justices accepting the Constitution as the absolute rule for the government of his official conduct by declaring that if he does not discharge his duties agreeably to the Constitution, his oath or affirmation to support that instrument "is worse than solemn mockery."[13] Another great constitutional scholar, Judge Thomas M. Cooley, asserted that such a Justice is "justly chargeable with reckless disregard of official oath and public duty."[14]

Benjamin N. Cardozo, Chief Justice of the New York Court of Appeals and Justice of the United States Supreme Court, stated in *The Nature of the Judicial Process* that "judges are not commissioned to make and unmake rules at pleasure in accordance with changing views of expediency or wisdom" and that "it would put an end to the reign of law" if judges adopted the practice of substituting their personal notions of justice for rules established by a government of laws.[15]

CONSTITUTIONAL OBLIGATIONS OF SUPREME COURT JUSTICES

No question is more crucial to America than this: What obligation does the Constitution impose upon Supreme Court Justices? America's greatest jurist of all time, Chief Justice John Marshall, answered this question with candor and clarity in his opinions in *Marbury v. Madison* (1803) and *Gibbons v. Ogden* (1824).[16] In these indisputably sound opinions, Chief Justice Marshall declared:

1. That the principles of the Constitution are designed to be permanent.
2. That the words of the Constitution must be understood to mean what they say.
3. That the Constitution constitutes an absolute rule for the government of Supreme Court Justices in their official action.

In elaborating the second declaration, Marshall said:

"As men whose intentions require no concealment generally employ the words which most directly and aptly express the ideas they intend to convey, the enlightened patriots who framed our Constitution, and the people who adopted it, must be understood to have employed words in their natural sense, and to have intended what they have said."[17]

JUDICIAL ACTIVISM AND VERBICIDE

Judges who perpetrate *verbicide* on the Constitution are judicial activists. A judicial activist is a judge who interprets the Constitution to mean what it would have said if he instead of the Founding Fathers had written it. Contrary to popular opinion all judicial activists are not liberals. Some of them are conservatives. A liberal judicial activist is a judge who expands the scope of the Constitution by stretching its words beyond their true meaning, and a conservative judicial activist is one who narrows the scope of the Constitution by restricting their true meaning. Judicial activism of the right or the left substitutes the personal will of the judge for the impersonal will of the law. The majority opinion in *Miranda v. Arizona* (1966) is the product of liberal judicial activism, and the majority opinion in *Laird v. Tatum* (1972) is the product of conservative judicial activism.[18]

Judges are fallible human beings. The temptation to substitute one's personal notions of justice for law lies in wait for all occupants of judicial offices, and sometimes ordinarily self-restrained judges succumb to it. Nobody doubts the good intentions of the judicial activists. They undoubtedly lay the flattering unction to their souls that their judicial activism is better than the handiwork of the Founding Fathers, and that America will be highly blessed by an exchange of the constitutional government ordained by the Constitution for a government embodying their personal notions.

Before accepting these assurances as verity Americans would do well to ponder what Daniel Webster said about public officials who undertake to substitute their good intentions for rules of law. Webster said:

"Good intentions will always be pleaded for every assumption of authority. It is hardly too strong to say that the Constitution was made to guard the people against the dangers of good intentions. There are men in all ages who mean to govern well, but they mean to govern. They promise to be good masters, but they mean to be masters."

ALEXANDER HAMILTION'S ASSURANCE CONCERNING JUDICIAL ACTIVISM AND VERBICIDE

When the Constitutional Convention of 1787 submitted the Constitution to the States, Eldridge Gerry, who had been a delegate from Massachusetts, and George Mason, who had been a delegate from Virginia, opposed its ratification because it contained no provision sufficient to compel Supreme Court Justices to obey their oaths or affirmations to support it. Gerry complained that, "There are not well defined limits to the judiciary powers" and that "it would be a herculean labour to attempt to describe the dangers with which they are replete." George Mason said that "the power of construing the laws would enable the Supreme Court of the United States to substitute its own pleasure for the law of the land and that the errors and usurpations of the Supreme Court would be uncontrollable and remediless."

Alexander Hamilton, a delegate from New York, rejected these arguments with the emphatic assertion that "the supposed danger of judiciary encroachments . . . is, in reality, a phantom." To support his assertion, Hamilton maintained in much detail that men selected to sit on the Supreme Court would be chosen with a view to those qualifications which fit men for the stations of judges, and that they would give that inflexible and uniform adherence to legal rules and precedents which is indispensable in courts of justice.[19]

By his remarks, Hamilton assured the several states that men selected to sit upon the Supreme Court would be able and willing to subject themselves to the restraint inherent in the judicial process. Experience makes this proposition indisputable: Although one may possess a brilliant intellect and be actuated by lofty motives, he is not qualified for the station of judge in a government of laws unless he is able and willing to subject himself to the restraint inherent in the judicial process.

FRUITS OF JUDICIAL ACTIVISM AND VERBICIDE

Hamilton's prediction about the qualifications of the men to be selected to serve as Supreme Court Justices proved valid for generations. Unfortunately, however, for constitutional government in America, Hamilton's phantom has now become an exceedingly live ghost. While they have acted with reasonable judicial decorum in ordinary cases, the tragic truth is that during recent years some Supreme Court Justices have adopted and exercised the role of judicial activists with more or less abandon in cases involving the place of the states in the federal system, cases involving prosecution for crimes in federal and state courts, and cases having emotional, political, and racial overtones.

A high proportion of these cases have been decided by a sharply divided Court. Limitations of language and space compel me to confine my remarks in respect to them to the handiwork of the Supreme Court Justices who have enacted the role of judicial activists and to omit reference to that of their brethren whose vigorous dissents have protested such actions.

By committing verbicide on the Constitution, the judicial activists concentrate in the federal government powers the Constitution reserves to the states; diminish the capacity of federal executive officers and the states to bring criminals to justice; rob individuals of personal and property rights; and expand their own powers and those of Congress far beyond their constitutional limits.

In Milton's poetic phrase, the cases in which the Supreme Court has committed *verbicide* upon the Constitution have become as "thick as autumnal leaves that strow the books of Vallombrosa."[20] The number and variety of these cases make it impossible to detail them within appropriate limits. If anyone should detail them in their entirety, he would be justly chargeable with forsaking time and encroaching upon eternity. Merely to indicate how judicial verbicide performs its wonders, I cite a few of the innovative decisions an activist Supreme Court has handed down since 1968. They are *Jones v. Alfred H. Mayer Co.* (1968); *Sullivan v. Little Hunting Park* (1969); *Tillman v. Wheaton-Haven Recreation Association* (1973); *Johnson v. Railway Express Agency* (1975); *Runyon v. McCrary* (1976) and *McDonald v. Santa Fe Trail Transportation Company* (1976).[21]

By committing colossal verbicide on the plain words of the Thirteenth Amendment and the Civil Rights Act of 1866, Supreme Court Justices have assigned to themselves and Congress powers to dominate and punish the private thoughts, the private prejudices, and the private business and social activities of Americans which are repugnant to the powers given them by the Constitution.

A CHORUS OF PROTEST AGAINST JUDICIAL ACTIVISM AND VERBICIDE

In charging in Chief Justice John Marshall's unhappy phrase that some Supreme Court Justices are making a solemn mockery of their oaths to support the Constitution, I am not a lone voice crying in a constitutional wilderness. I am, in truth, simply one member of a constantly expanding chorus.

Judge Learned Hand, Alexander Bickel, Philip B. Kurland, and other profoundly enlightened constitutional scholars have made similar accusations. These charges are corroborated in detail by these recent books: *Government by Judiciary*, by Raoul Berger; *The Price of Perfect Justice*, by Macklin Fleming; and *Disaster by Decree*, by Lino A. Graglia.[22] Besides the apostasy of the activist Justices to the Constitution is highlighted in numerous vigorous dissents by their brethren on the Supreme Court bench.

One of the most lucid comments on the judicial verbicide of activist Supreme Court Justices in that of Justice Jackson in his concurring opinion in *Brown* v. *Allen* (1953).[23] In deploring the perverted use of the great writ of *habeas corpus* to rob the verdicts and judgments of state courts in criminal trials of any finality, Justice Jackson said:

"Rightly or wrongly, the belief is widely held by the practicing profession that this Court no longer repects impersonal rules of law but is guided in these matters by personal impressions which from time to time may be shared by a majority of the Justices. Whatever has been intended, this Court also has generated an impression in much of the judiciary that regard for precedents and authorities is obsolete, that words no longer mean what they have always meant to the profession, that the law knows no fixed principles."

Justice Jackson closed his observations on judicial verbicide with this sage comment:

"I know of no way we can have equal justice under law except we have some law."

EXCUSES FOR JUDICIAL ACTIVISM AND VERBICIDE

Candor compels the confession that many Americans commend the usurpations of the activist Justices, especially when they harmonize with their wishes. These erring ones seek to coerce critics of judicial activism into silence. To this end, they assert that all Supreme Court decisions are entitled to respect, and that those who criticize any of them are unpatriotic. This assertion is contemptuous of the wisdom of the Founding Fathers in incorporating in the First Amendment for the benefit of all Americans guarantees of freedom of speech and the press. Besides, it is downright silly.

Like other official action, judicial decisions merit respect only when they are respectable, and no decision of the Supreme Court is respectable if it flouts the Constitution its makers have obligated themselves by oath or affirmation to support. As Justice Felix Frankfurter so rightly declared: "Judges as persons, or courts as institutions . . . are entitled to no greater immunity from criticism than other persons or institutions . . . Judges must be kept mindful of their limitations and their ultimate public responsibility by a vigorous stream of criticism expressed with candor however blunt."[24]

Chief Justice Stone concurred with Justice Frankfurter's view by stating that "where the courts deal, as ours do, with great public questions, the only protection against unwise decisions, and even judicial usurpation, is careful scrutiny of their action, and fearless comment upon it."[25] Apologists for the *verbicidal* attacks of Supreme Court Justices upon the Constitution attempt to justify them by these arguments:

1. They are necesssary to keep government abreast of the time because the amendatory process established by Article V is too cumbersome and dilatory.

2. They are desirable because they make pleasing amendments to the nation's supreme law which Congress and the states are unwilling to make.

3. They prove that the Constitution is a living instrument of government.

THE INVALIDITY OF THE EXCUSES

There are two incontestable answers to these arguments in their entirety. They are first, that tyranny on the bench is as reprehensible as tyranny on the throne; and, second, that the ultimate result of judicial activism on the part of the Supreme Court Justices is the destruction of the government of laws the Constitution was ordained by the people to create and preserve.

There are also separate irrefutable answers to each of the arguments. As James Madison, the Father of the Constitution, stated, the Founding Fathers created the amendatory process of which the apologists complain to ensure that Congress and the states will act with deliberation when they consider proposed changes in the Constitution and will refrain from acting unwisely in making them.

The Founding Fathers knew that a Constitution is destitute of value if its provisions are as mutable as simple legislative enactments,[26] and they certainly did not intend that decisions of constitutional questions by the Supreme Court should ever be rightly compared as they were by Justice Roberts in a colorful phrase with restricted railroad tickets, good for this day and train only.[27]

The second argument of the apologists is the stuff of which tyranny is made. Its underlying premise is their apprehension that Congress and the states acting in combination may have too much wisdom to amend the Constitution in ways pleasing to them. Hence, they maintain that for their pleasure Supreme Court Justices ought to usurp and exercise the power the Consitution vests exclusively in the people to have the Constitution amended only by the representatives they choose to act for them at congressional and state levels.

The usurpation of this power by Supreme Court Justices does not prove that the Constitution is a living instrument of government. On the contrary, it proves that the Constitution is dead, and that the people of our land are being ruled by the transitory personal notions of Justices who occupy for a fleeting moment of history seats on the Supreme Court bench rather than by the enduring precepts of the Constitution.

Despite *Miranda's* disapproval of confessions, I am going to make an honest one. Those who abhor tyranny on the bench as much as tyranny on the throne are unable to devise any pragmatic procedure to compel activist Judges to observe their oaths or affirmations to support the Constitution.

Judicial aberrations are not impeachable offenses under Article II, Section 4. No earthly power can compel activist Justices to exercise self-restraint if they are unable or unwilling to do so, and the soundest criticism is not likely to deter activist Justices from their activism and verbicide when they honestly believe their handiwork is better than that of the Founding Fathers. It is obvious, moreover, that Congress and the states cannot protect constitutional government adequately by adding new amendments to the Constitution. This is true for these reasons: First, it is folly to expect activist Justices to obey new constitutional provisions when they spurn the old; and, second, it would complicate simplicity and convert the Constitution into a confusing document as long as the Encyclopaedia Britannica to rid us of all the judicial usurpations of recent years.

IN CONCLUSION

All history proclaims this everlasting truth: No nation can enjoy the right to self-rule and the right to freedom from tyranny under a government of men. The Founding Fathers framed and ratified the Constitution to secure these precious rights to Americans for all time. Judicial verbicide substitutes the personal notions of judges for the precepts of the Constitution. Hence, judicial verbicide is calculated to convert the Constitution into a worthless scrap of paper and to replace our government of laws with a judicial oligarchy.

A great Senator, Daniel Webster, warned America in eloquent words what the destruction of our Constitution would entail. He said:

"Other misfortunes may be borne, or their effects overcome. If disastrous wars should sweep our commerce from the ocean, another generation may renew it; if it exhaust our treasury, future industry may replenish it; if it desolate and lay waste our fields, still, under a new cultivation, they will grow green again, and ripen to future harvests.

"It were but a trifle even if the walls of yonder Capitol were to crumble if its lofty pillars should fall, and its gorgeous decorations be all covered by the dust of the valley. All of these may be rebuilt.

"But who shall reconstruct the fabric of demolished government?

"Who shall read again the well-proportioned columns of constitutional liberty?

"Who shall frame together the skillful architecture which unites national sovereignty with States Rights, individual security, and public prosperity?

"No, if these columns fall, they will be raised not again. Like the Colisseum and the Parthenon, they will be destined to a mournful and melancholy immortality. Bitterer tears, however, will flow over them than ever were shed over the monuments of Roman or Grecian art; for they will be the monuments of a more glorious edifice than Greece or Rome ever saw—the edifice of constitutional American liberty."

Finally, I reiterate some inescapable conclusions: The distinction between the power to amend the Constitution and the power to interpret it is as wide as the gulf which yawns between Lazarus in Abraham's bosom and Dives in hell. The power to amend is the power to change the meaning of the Constitution, and the power to interpret is the power to determine the meaning of the Constitution as established by the Founding Fathers.

The Founding Fathers did not contemplate that any Supreme Court Justice would convert his oath or affirmation to support the Constitution into something worse than solemn mockery. On the contrary, they contemplated that his oath or affirmation to support that supreme instrument of government would implant indelibly in his mind, heart, and conscience a solemn obligation to be faithful to the Constitution.

A Justice who twists the words of the Constitution awry under the guise of interpreting it to substitute his personal notion for a constitutional precept is contemptuous of intellectual integrity. His act in so doing is as inexcusable as that of the witness who commits perjury after taking an oath or making an affirmation to testify truthfully.

We must not despair because there is no way by which law can compel activist Supreme Court Justices to subject their personal wills to the precepts of the Constitution. This is true because it is not yet unconstitutional for Americans to invoke divine aid when they are at their wits' end.

Hence, we can pray—hopefully not in vain—that the activist Justices will heed the tragic truth spoken by Webster and their own oaths or affirmations to support the Constitution, and become born-again supporters fo the most precious instrument of government the world has ever known.

FOOTNOTES

[1] This article is based on an address given as the second of a series of Hubert H. Humphrey Lectures in Public Affairs at Louisiana State University, October 22, 1980. The series, established in honor of the late Vice President and former Senator from Minnesota, who received his Master's degree from LSU in 1942 and an honorary Doctor of Laws in 1965, is sponsored by the department of political science, of which Ellis Sandoz serves as chairman. This article also appeared in *Modern Age* (Summer 1981). It is reprinted with the author's permission.

[2] William Ewart Gladstone, "Kin Beyond the Sea," *North American Review*, September-October, 1878.

[3] Oliver Wendell Holmes, *Autocrat of the Breakfast Table*, (The Limited Editions Club, 1955), p. 9.

[4] Daniel Webster, *The Writings and Teachings of Daniel Webster*, Vol. 2, (National Edition) p. 165.

[5] George Washington, *Farewell Address*.

[6] *Ex parte Milligan*, 4 Wallace 2, 120-121.

[7] *Id.*

[8] James Madison, *The Federalist*, No. 43.

[9] Frankfurter, Justice, *Ullman* v. *United States*, 350 U.S. 422, 428 (1956).

[10] Cardozo, Chief Justice, *Sun Printing and Publishing Association* v. *Remington Paper and Power Company*, 235 N.Y. 338, 139 N.E. 470 (1923). *See also, West Coast Hotel Company* v. *Parrish*, 300 U.S. 379 (1937) when Justice Sutherland stated in a dissent: "The judicial function is that of interpretation; it does not include the power of amendment under the guise of interpretation. To miss the point of difference between the two is to miss all that the phrase 'Supreme law of the land' stands for and to convert what was intended as inescapable and enduring mandates into mere moral reflections. If the Constitution, intelligently and reasonably construed in the light of these principles, stands in the way of desirable legislation, the blame must rest upon that instrument, and not upon the court for enforcing it according to its terms. The remedy in that situation—and the only true remedy—is to amend the Constitution."

[11] The United States Constitution.

[12] *United States* v. *Butler*, 297 U.S. 1, 78 (1936).

[13] *Marbury* v. *Madison*, 1 Cranch 137, 180 (1803).

[14] Thomas M. Cooley, *Constitutional Limitations*, (Boston: Little, Brown and Company, 1868), pp. 88-89. See Volume 1, p. 153, of the 8th Edition of this treatise where Judge Cooley makes this statement: "Whoever derives power from the Constitution to perform any public function is disloyal to that instrument, and grossly derelict in duty, if he does that which he is not reasonably satisfied the Constitution permits. Whether the power be legislative, executive, or judicial, there is a manifest disregard of the constitutional and moral obligation by one, who having taken an oath to observe that instrument, takes part in any action which he cannot say he believes to be no violation of its provisions."

[15] Benjamin N. Cardozo, *The Nature of the Judicial Process*, (New Haven: Yale University Press), pp. 68, 136.

[16] *Marbury v. Madison*, 1 Cranch 137, 175, 180 (1803); *Gibbons v. Ogden*, 9 Wheaton 1, 188 (1824).

[17] *3 Gibbons v. Ogden*, 9 Wheaton 188 (1824).

[18] *Miranda v. Arizona*, 384 U.S. 486 (1966); *Laird v. Tatum*, 408 U.S. 1 (1972).

[19] Alexander Hamilton, *The Federalist*, Nos. 78,81.

[20] John Milton, *Paradise Lost*, Book I, line 292.

[21] *Jones v. Alfred H. Mayer Company*, 392 U.S. 409 (1968; *Sullivan v. Little Hunting Park*, 396 U.S. 229 (1969); *Tillman v. Wheaton-Haven Recreation Association*, 410 U.S. 431 (1973), *Johnson v. Railway Express Agency*, 421 U.S. 454 (1975); *Runyon v. McCrary*, 427 U.S. 160 (1976); *McDonald v. Santa Fe Trail Transportation Company*, 427 U.S. 273 (1976).

[22] Raoul Berger, *Government by Judiciary*, (Cambridge: Harvard University Press, 1977); Macklin Fleming, *The Price of Perfect Justice*, (New York: Basic Books, 1974); Lino Graglia, *Disaster by Decree*, (Ithaca, New York: Cornell University Press, 1976).

[23] *Brown v. Allen*, 344 U.S. 443, 542-550 (1953).

[24] Frankfurter, Justice, in *Bridges v. California*, 314 U.S. 252, 289-290 (1941).

[25] Alpheus Thomas Mason, *Harlan Fiske Stone, Pillar of the Law*, (New York: Viking Press, 1968) p. 398.

[26] James Madison, *The Federalist*, No. 43.

[27] Roberts, Justice, *Smith v. Allwright*, 321 U.S. 649,669 (1941).

THE STATE OF THE JUDICIARY IN MISSOURI—1982

(By Chief Justice Robert T. Donnelly)

Your Excellency, Mr. President, Mr. Speaker, Members of the 81st General Assembly, Ladies and Gentlemen:

I perceive the coming period of our nation's history as one which will sorely test the strength and integrity of our system of government, and I am impelled to speak of my concern. As was eloquently said in different context, my effort "may be a quixotic tilt at windmills which belittles great principles of liberty. Only time can tell." [1] Howev-

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Footnotes at end.

er, I must say to you what I believe. Of course, it must also be said that the views I express are not necessarily shared by the other judges of the Supreme Court of Missouri.

My area of concern, of course, is the state judiciary in Missouri. I regret that I cannot speak honestly of the condition of the state judiciary without openly discussing the turf now occupied by the judiciary of our national government and without addressing the constitutional legitimacy of its claim.

I will use the word subjectivism many times today. As I use the word, the doctrine of subjectivism would legitimate the use by a judge of his individual feeling as the standard by which he would decide constitutional questions. I hope my distaste for subjectivism will be evident by the time I finish.

Today, as perhaps never before, there is great public concern about the impact of "government" on our lives. We are in the midst of a period when even the President of the United States speaks out at every opportunity against too much government in Washington. I do not intent to influence you one way or another on that question. The point I would hope to make is that the essence of the relationship between our people and their government is that the people, not the government, are sovereign. Officials of government can rightfully exercise only such powers as the people freely give them. Their assertions of power are of no legal or conceptual validity if made without the consent of the people.

How does this impact on the state judiciary of Missouri?

In 1965, when I first became a judge of the Supreme Court of Missouri, I swore that I would support the Constitution of the United States. In so doing, did I also bind myself to follow the latest pronouncement made by a majority of the justices of the United States Supreme Court on a given question as if such pronouncement equates with the express language of the United States Constitution?

Article VI of the United States Constitution provides in part:

"*This Constitution*, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, *shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby*, any Thing in the Constitution or Laws of the State to the Contrary notwithstanding." [2]

Of course, if a case ruled upon by the Supreme Court of Missouri is reviewed and ruled upon by the United States Supreme Court, the latter ruling is "the law of the case" and must be followed.

However, if a case ruled upon by the Supreme Court of Illinois is reviewed by the United States Court and an opinion is handed down by the United States Supreme Court, is that opinion "the supreme Law of the Land" and, therefore, binding on me in Missouri when I am confronted with a similar situation? Are decisions of the United States Supreme Court "the supreme Law of the Land" prescribed in Article VI of the United States Constitution?

For many years members of the federal judiciary have injected federal control into almost every facet of the lives of our citizens. Although bound, by oath or affirmation, to support all of the Constitution of the United States, they have excised the tenth original amendment.[3] Their arrogations are a matter of record.[4] They boast of routinely engaging in "bureaucratic and administrative functions, such as overseeing [state] schools, [state] mental hospitals, and [state] prisons." [5] They refuse to recognize the ultimate question: Shall judges be restricted to the exercise of those powers which derive "from the consent of the governed"? [6]

In 1905, the United States Supreme Court, in *Lochner* v. *New York*,[7] struck down a state statute which provided that no employees should be required or permitted to work in bakeries more than sixty hours in a week, or ten hours a day, holding that such statute was an unreasonable, unnecessary and arbitrary interference with the right of an individual to contract. Mr. Justice Holmes had the following to say in dissent:

"It is settled by various decisions of this court that state constitutions and state laws may regulate life in many ways which we as legislators might think as injudicious or if you like as tyrannical as this, and which equally with this interfere with the liberty to contract, * * *. Some of these laws embody convictions or prejudices which judges are likely to share. Some may not. But a constitution is not intended to embody a particular economic theory, whether of paternalism and the organic relation of the citizen to the State or laissez faire. It is made for people of fundamentally differing views, and the accident of our finding certain opinions natural and familiar or novel and even shocking ought not to conclude our judgment upon the question whether statutes embodying them conflict with the Constitution of the United States." [8]

In a period of several years before and after the decision in *Lochner*, the United States Supreme Court, under the mantle of "substantive due process," rather routinely struck down state legislative enactments. This period has come to be known as the Lochner Era, and was referred to in the case of *Ferguson* v. *Skrupa*,[9] as follows:

"The doctrine that prevailed in *Lochner*, * * * and like cases—that due process authorizes courts to hold laws unconstitutional when they believe the legislature has acted unwisely—has long since been discarded. We have returned to the original constitutional proposition that courts do not substitute their social and economic beliefs for the judgment of legislative bodies, who are elected to pass laws." [10]

Of course, the *Ferguson* prognosis was erroneous. The books are bulging with Lochnerian "substitutions." Mention of a few will suffice.

In April 1969, in *Shapiro* v. *Thompson*, [11] the Court struck down state statutes requiring one year's residence prior to receiving welfare benefits, holding that because this requirement impinged on the "constitutionally guaranteed right of interstate travel," it was to be judged by the standard of whether it promoted a compelling state interest.

In January 1873, in *Roe* v. *Wade*,[12] the Court struck down a Texas abortion statute, holding that the statute infringed on a pregnant woman's right of privacy, in the opinion of the Court could not be justified by a compelling state interest, and, therefore, violated the due process clause. The Court then proceeded to declare, by trimesters of pregnancy, the interests of a state which the Court considers "compelling."

The problem posed is that the compelling state interest standard requires a judicial evaluation which is subjective in nature and which requires that a judge decide whether "the legislature has acted unwisely." As noted by Mr. Justice Rehnquist, "the compelling state interest standard will inevitably require [courts] to examine * * * legislative policies and pass on the wisdom of these policies in the very process of deciding whether a particular state interest put forward may or may not be 'compelling.' "[13]

In *Duncan* v. *Louisiana*,[14] the Court held that the sixth amendment right to trial by jury applies to state criminal prosecutions, and cited with approval a study which had concluded "that juries do understand the evidence and come to sound conclusions in most of the cases presented to them and that when juries differ with the result at which the judge would have arrived, it is usually because they are serving some of the very purposes for which they were created and for which they are now employed." [15]

In *Jackson* v. *Virginia*,[16] the Supreme Court rejected the presumption that trial juries will act rationally and held "that in a challenge to a state criminal conviction brought under 28 U.S.C. § 2254 * * * the applicant is entitled to habeas corpus relief if it is found that upon the record evidence adduced at the trial no rational trier of fact could have found proof of guilt beyond a reasonable doubt."[17] Despite the Court's disclaimers, history teaches us in Missouri that the Court's use of the word "rational" gives a federal court carte blanche to substitute its view of guilt or innocence for that of the trial jury.[18]

In 1969, in *State* v. *Brizendine*,[19] I was joined by four of my brothers in stating: "This opinion is filed in the records of this Court because the people of Missouri are entitled to know that the effect of this [Federal statute, as evidenced by the action of the Federal judiciary in this case, is to make this Court subservient to the trial courts of the Federal Judicial system in cases involving violations of the criminal laws of this State." [20] It is enough to say that the *Brizendine* prediction has proved alarmingly accurate.

Why does the Court persist in injecting the federal judiciary into the administration of justice in the states?

It has been suggested that the Court's "assault upon the legal order by moral imperatives" may have contributed to the excesses of the Nixon Presidency and Watergate.[21] The suggestion may be accurate. It is a fact that at some point in time after World War II the Supreme Court of the United States ceased to function only as a court. It molded itself into an organ for control of social policy and made that policy effectual by utilization of the fourteenth amendment to amend the Constitution according to the predilections of its majority.[22] I have no right to question the good faith of its majority or its desire "to do good things." I do question the wisdom of its derogating "the rule of law" as a viable concept and its creating a climate in which the leaders of another department of government could come to believe that there are no legal limits to the exercise of arbitrary power and no ultimate responsibility to the governed.

In any event, the United States Supreme Court "dropped the other shoe" in 1979. The Court made it clear, in *North Carolina* v. *Butler*, [23] that state courts are not permitted to entertain interpretations of the United States Constitution which vary from rulings of the United States Supreme Court.[24] How could this have happened in America? If you are curious, you can find the answer in Eric Hoffer's "The True Believer." [25]

In my view, the Constitution of the United States sets the outer limits of the powers delegated by the people to their agents in the legislative department,[26] the executive department,[27] and the judicial department[28] of the federal government. I find support for this view in the Preamble[29] to the Constitution of the United States and in the Declaration of Independence which declares, as I read it, that even members of the judicial department may exercise only those powers which derive "from the consent of the governed."

History tells us that the Framers, in establishing a federal government, were influenced by the teachings of Locke, Rousseau, and others, and by the social concept they espoused. This concept would recognize a continuing right in the people to call their agents, even the United States Supreme Court, to account. It would assure that the people, and not an agency of government, will determine the direction of their lives. If, in fact, the United States Supreme Court is exercising powers without the consent of the governed—the people—then the rights it purports to secure in their name are counterfeit—its benevolence a fraud.

Where, then, do we find a delegation of power by the people to the United States Supreme Court to declare "the supreme Law of the Land" under Article VI of the United States Constitution? Where do we find "the consent of the governed?"

There is nothing in the Constitution itself which could be construed as conferring power, express or implied, in the Court to declare "the supreme Law of the Land."

In *Cooper* v. *Aaron*, [30] the Court asserted:

"Article VI of the Constitution makes the Constitution the 'supreme Law of the Land.' In 1803, Chief Justice Marshall, speaking for a unanimous Court, referring to the Constitution as 'the fundamental and paramount law of the nation,' declared in the notable case of *Marbury* v. *Madison*, 1 Cranch 137, 177, that 'It is emphatically the province and duty of the judicial department to say what the law is.' This decision declared the basic principle that the federal judiciary is supreme in the exposition of the law of the Constitution, and that principle has ever since been respected by this Court and the Country as a permanent and indispensable feature of our constitutional system. It follows that the interpretation of the Fourteenth Amendment enunciated by this Court in the *Brown* case is the supreme law of the land, and Art. VI of the Constitution makes it of binding effect on the States 'any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.' " [31]

I think it must be said that Mr. Justice Brennan,[32] in drafting the opinion in *Cooper*, may have painted with the broadest brush ever used in analytical jurisprudence. If it was his purpose to premise consent of the people upon their failure to anticipate the ultimate misuse of Marshall's dictum in *Marbury*,[33] he excised the most turbulent and traumatic period in the history of our nation. In *Scott* v. *Sandford*,[34] the Supreme Court held that Dred Scott—

"A negro, whose ancestors were imported into this country, and sold as slaves, [could not] become a member of the political community formed and brought into existence by the Constitution of the United States, and as such become entitled to all the rights, and privileges, and immunities, guaranteed by that instrument to the citizen.[35]

In the debates with Senator Douglas in 1858, Abraham Lincoln repeatedly stated his distaste for the *Dred Scott* decision and his refusal to follow it.[36] And, in his first Inaugural Address, March 4, 1861, he articulated his perception of the role of the United States Supreme Court:

"I do not forget the position assumed by some that constitutional questions are to be decided by the Supreme Court; nor do I deny that such decisions must be binding, in any case, upon the parties to a suit, as to the object of that suit, while they are also entitled to very high respect and consideration in all parallel cases by all other departments of the government. And, while it is obviously possible that such decision may be erroneous in any given case, still the evil effect following it, being limited to that particular case, with the chance that it may be overruled and never become a precedent for other cases, can better be borne than could the evils of a different practice. At the same time, the candid citizen must confess that if the policy of the government, upon vital questions affecting the whole people, is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made, in ordinary litigation between parties in personnel actions, the people will have ceased to be their own rulers, having to that extent practically resigned the government into the hands of that element tribunal." [37]

I believe the Lincoln statement is as appropriate today as it was in 1861. The *Cooper* assertion is an arrogation.

I take no personal pleasure in noting publicly the propensities of the department of government which Hamilton predicted "will always be the least dangerous to the political rights of the Constitution * * *."[38] However, in my view, the academicians, the media and other molders of public opinion in America prostitute their talents when, for whatever reason, they persist in tolerating "arrogations" by calling them "interpretations." I profoundly respect the United States Supreme Court as an institution. However, even the United States Supreme Court should not be permitted to wield power it was never given. Mr. Justice Black said it best:

"I realize that many good and able men have eloquently spoken and written, sometimes in rhapsodical strains, about the duty of this Court to keep the Constitution in tune with the times. The idea is that the Constitution must be changed from time to time and that this Court is charged with a duty to make those changes. For myself, I must with all deference reject that philosophy. The Constitution makers knew the need for change and provided for it. Amendments suggested by the people's elected representatives can be submitted to the people or their selected agents for ratification. That method of change was good for our Fathers, and being somewhat old-fashioned I must add it is good enough for me. * * *" [39]

No doubt, the veteran legislators among you have found my remarks this morning different from those contained in the State of the Judiciary addresses I delivered when you honored me many years ago as the first Chief Justice of Missouri to address the General Assembly of Missouri. A multitude of practical problems within the judicial department deserve your attention. But years of experience have taught us that the Missouri General Assembly will respond reasonably to our needs.

Today, I have felt compelled to set aside a discussion of those needs for the moment and to attempt to persuade you that an insidious disease exists in our nation. The greed for power has surfaced from time to time in all civilizations. The uniqueness of our present concern is that the disease has cropped out among judges, where one would least expect it.

My cousin, David, his father, and I have served this state, in its public offices, for nearly a century. You know I am no demagogue. I have no taste for courthouse-door confrontations. But those who would arrogate power for themselves by reliance upon selfserving substanceless declarations (whether made by Marshall or Brennan) need to be reminded that a deliberate course of action, which would effectually transfer determinations of public polity from the people, or their elected representatives in the Congress and in the legislatures of the states, to judicial elites is not "good behavior."[40]

In the hill country where I come from, I suspect what I have said to you today would be characterized as attempting to get your attention by hitting you between the eyes with an ax handle. Missourians are a proud people. We, and our sons, have fought in four wars alongside brothers from other states because we love America. We wish to preserve its promise.

Thank you very much.

APPENDIX

If you agree with what you have just heard, the following Resolution is submitted for your consideration:

Be it Resolved by the General Assembly of the State of Missouri: That the General Assembly of the State of Missouri does hereby request each member of the Missouri delegation to the United States Congress to petition the United States Congress that it propose, whenever two-thirds of both Houses shall deem it necessary, the following amendment to the Constitution of the United States:

Section 1. Article V of the Constitution of the United States is hereby repealed.

Section 2. The Congress, whenever two-thirds of both Houses shall deem it necessary, or, whenever two-thirds of the judges of the United States Supreme Court certify to the Congress that they consider a decision or adjudication of such Court the supreme law of the land and binding on the States, or, on the application of the Legislatures of two-thirds of the several States, shall propose amendments to the Consitution of the United States, which amendments shall be valid to all intents and purposes, as part of the Constitution of the United States, when ratified by the Legislatures of three-fourths of the several States; provided that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

Be it further resolved that a duly attested copy of this Resolution be immediately transmitted to the President of the United States, to the Secretary of the United States Senate, to the Clerk of the United States House of Representatives, to each member of the Missouri delegation to the United States Congress, and to the presiding officer of each house of each State Legislature in the United States.

FOOTNOTES

[1] *Kunz* v. *New York*, 340 U.S. 290, 295 (1950) (Jackson, J., dissenting).

[2] U.S. Const. art. VI (emphasis added).

[3] "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

[4] See, e.g., R. Berger, "Government by Judiciary" (1977).

[5] Kaufman, "Chilling Judicial Independence," 88 Yale L. J. 681, 686-87 (1979).

[6] The Declaration of Independence (1776).

[7] 198 U.S. 45 (1905), overruled, *Day-Brite Lighting, Inc.* v. *Missouri*, 342 U.S. 421 (1952), overruled, *Ferguson* v. *Skrupa*, 372 U.S. 726 (1963).

[8] Id. at 75-76 (Holmes, J., dissenting).

[9] 372 U.S. 726 (1963).

[10] Id. at 730.

[11] 394 U.S. 618 (1969).

[12] 410 U.S. 113 (1973).

[13] Id at 174 (Rehnquist, J., dissenting).

[14] 391 U.S. 145 (1968).

[15] Id. at 157.

[16] 443 U.S. 307 (1979).

[17] Id. at 324.

[18] See, e.g. *Antonio* v. *Kirkpatrick*, 453 F.Supp. 1161 (W.D.Mo.), aff'd, 579 F.2d 1147 (8th Cir. 1978).

[19] 445 S.W.2d 827 (Mo. banc 1969).

[20] Id. at 828. The federal statute involved was 28 U.S.C. § 2254, the federal habeas corpus statute.

[21] A. Bickel, "The Morality of Consent," 120-23 (1975).

[22] See R. Jackson, "The Struggle for Judicial Supremacy: A Study of a Crisis in American Political Power" 322 (1941); C. McIllwain, "Constitutionalism: Ancient and Modern" 146 (1947).

[23] 441 U.S. 369 (1979).

[24] Id. at 376.

[25] E. Hoffer, "The True Believer" (1951).

[26] U.S. Const. art.I.

[27] U.S. Const. art. II.

[28] U.S. Const. art. III.

[29] "We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."

[30] 358 U.S. 1 (1958).

[31] Id. at 18 (emphasis added).

[32] Although the opinion in *Cooper*, is labeled "per curiam," one author has discovered that the papers of Mr. Justice Harold Burton reveal that Brennan was selected to draft the opinion as a reflection of "both the acceptance of Brennan by his fellow justices as a full-fledged member of the Court and the absolute confidence of the Chief Justice [Earl Warren] in the 'freshman justice.'" Heck, "The Socialization of a Freshman Justice: The Early Years of Justice Brennan," 10 Pac. L.J. 707, 723-24 (1979).

[33] *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137 (1803).

[34] 60 U.S. (19 How.) 393 (1857).

[35] Id. at 403.

[36] See 3 and 4 "The Writings of Abraham Lincoln" (A. Lapsley ed. 1906).

[37] 5 "The Writings of Abraham Lincoln" 262, note 36 supra.

[38] The Federalist No. 78 (A. Hamilton).

[39] *Griswold* v. *Connecticut*, 381 U.S. 479, 522 (1965) (Black, J., dissenting).

[40] U.S. Const. art III, § 1.

TESTIMONY OF ATTORNEY GENERAL JOHN ASHCROFT

Mr. Chairman and Members of the Subcommittee, I am honored by your invitation to appear here today. I come to tell you of a malady which afflicts certain segments of the federal judiciary—a malady which weakens the abilities of other branches of this government and the sovereign states to deal creatively with the grave problems we face.

That malady is the tendency of some (though thankfully not all) federal judges to interpret and apply the law to the states in an ever expanding way. The result of this expansion—some might call it abuse—is an ever increasing paralysis of state governments, significant interference with state criminal justice systems, and futher encroachment by the federal judiciary into the day-to-day operation of state and local governments.

Assuming that the constitution and the laws adopted by Congress are responses to historical stimuli, we have indulged the notion that the courts may "amend" these laws by interpreting them in the present circumstances, especially in the absence of legislative amendment. But this is a government of laws. If it is not, we are, as Macaulay judged us "all sail and no anchor."[1]

I submit to this Subcommittee that the governments of the states were never meant to sail to the last announced prevailing wind of a fickle and unlimited federal judiciary. If the states are to retain their sovereignty—and by that I mean their ability to confront the challenges of modern government in an autonomous and creative way for the benefit of their citizens—the Courts cannot continue to find new "fundamental" rights, new ways to do away with state criminal convictions, or new technical "violations" of civil rights, the remedy imposed resulting in a miniscule or non-existent benefit to the plaintiff and a financial bonanza for the attorney who represents him.

At this point, it is imperative that I add a few prefatory comments to my testimony to follow. Those who knowingly violate the civil rights of others deserve to be punished. Society cannot and should not tolerate deliberate unlawful discrimination, especially by those who have governmental responsibilities. Such actions represent tears in the fabric of society—tears which are properly addressed by the courts.

Unfortunately, we have moved away from this fundamental position into an ever expanding universe of "violations." It is simply not possible to know whether the good faith act of an official, determined by him to be the wisest and best course within his decisional context, and which seems within the law, will become a violation of the Constitution or civil rights when reviewed by a federal court. Certainly under today's judicial interpretations, democracy itself is suspect, since in working the will of the majority we must, by definition, frustrate the efforts and dreams of some minority.

It is ironic that one who comes from a repressive society to this country, and who would, one would think, glory in the rarefied air of American individual rights, has said:

"The defense of individual rights has reached such extremes as to make society as a whole defenseless. . . ."[2]

In no area of our current jurisprudence does this statement convict us more than in the recent history of post-conviction habeas corpus petitions. In Missouri, we have one of the most egregious examples of habeas corpus abuse.

On December 4, 1973, Calvin Ross, his cousin Robert Ross and another person began a crime spree in Southeast Missouri. In rural Stoddard County, the three robbed a liquor store, sexually assaulted the female proprietor with a soda bottle, and shot and wounded a customer. Not content, they proceeded to New Madrid County, entered a rural grocery store, and beat and robbed a 70-year-old man who was filling in for the owner who had gone to pick up his son at school. Finally, they shot the unconscious septuagenarian in the face, blowing out his eye.

On the basis of these acts, Calvin Ross was convicted by a unanimous jury of the robbery and assault of these victims.

Robert Ross, Calvin's cousin, objected to the composition of the jury during his criminal trial. Both the trial court and the Missouri Court of Appeals rejected Robert's objection. On Appeal to the 8th Circuit, U.S. Court of Appeals, Robert's conviction was reversed. He was retried and convicted.

Calvin did not raise the jury composition argument at his trial. However, noting cousin Robert's success with the Federal court, Calvin raised the issue 5 years after his trial. Missouri appellate courts rejected the claim. However, the 8th Circuit determined that Calvin's jury panel was unconstitutional, largely because the state had "obscured" the unconstitutional jury selection process by adding four additional blacks to the jury panel. The Court presumed prejudice, and in the face of unrefuted evidence of guilt, reversed the conviction.

Because of a difficulty in assembling witnesses 8 years after the crime, when the 8th Circuit rendered its decision, Calvin Ross was not retried and was set free. Judge William H. Billings of the Missouri Court of Appeals, now of the Missouri Supreme Court, wrote in his opinion prior to the 8th Circuit decision:

"Because we are not unaware that attacks on Missouri procedures and decisions often find a friendly audience in some halls of justice of the federal system of jurisprudence, we have reviewed the trial transcript to determine whether plain error infected the defendant's trial. . . . We conclude not.

"The defendant's guilt was established by overwhelming evidence . . . ."[3]

Unfortunately, this is not an isolated example. In February, 1975, William Eldridge committed three counts of robbery by means of a dangerous and deadly weapon. The evidence of Eldridge's guilt was overwhelming, including identification by eyewitnesses following Eldridge's arrest within 2 hours of the crime and while Eldridge was wearing the clothes which these witnesses had described. In fact, a defect in the cuff of Eldridge's pants which the witnesses had described was found in the pants Eldridge was wearing at the time of his arrest.

Two years after his conviction, Eldridge filed for postconviction relief in state court, claiming ineffective assistance of counsel. The state circuit court conducted a full hearing, obtaining testimony of witnesses whom Eldridge believed should have been called by defense counsel, but who did not testify at the trial. Some of these witnesses had indicated to the original defense counsel that they would take the Fifth Amendment and refuse to testify on behalf of Eldridge at the trial. In addition, evidence at that hearing indicated that Eldridge had been less than fully cooperative with his defense attorney, failing to disclose material facts which might have assisted the lawyer. The lower state court ruled against Eldridge's motion, as did the Missouri Supreme Court. (*Eldridge* v. *State*, 592 S.W.2d 738 (Mo. Banc 1979).

In 1980, six years after the crime, Eldridge filed a petition for a Writ of Habeas Corpus in the U.S. District Court for the Eastern District of Missouri. The U.S. Magistrate ordered another full evidentiary hearing at which those who had earlier indicated that they would not testify at the state trial testified. Following the hearing, the U.S. Magistrate characterized the testimony as "highly suspect" and "unpersuasive." Upon the recommendation of the Magistrate, District Judge Meredith dismissed Eldridge's petition.

The 8th Circuit Court of Appeals accepted Eldridge's appeal, and on December 3, 1981, issued a Writ of Habeas Corpus on the basis of ineffective assistance of counsel. The 8th Circuit, without the benefit of hearing testimony itself, ignoring the clear findings of 2 other members of the judiciary who had heard the testimony of witnesses and found it unreliable and in the face of uncontroverted evidence of guilt, released William Eldridge.

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[1] Footnotes at end of testimony.

A final example from the current body of habeas corpus law will serve to highlight the open-ended nature of the Writ and the present interpretations of the Federal courts which allow State court judgments to be attacked decades after the conviction.

On April 15, 1937, Goodman Walker pled guilty to "having carnal knowledge of a female person under the age of 10 years." According to the Florida Attorney General's Office, Walker was "caught in the act." Although the death penalty was available for such a crime, the State judge imposed a life imprisonment sentence, perhaps as a result of the plea bargaining.

On August 23, 1968, 31 years after the guilty plea was entered, Walker filed a Petition for a Writ of Habeas Corpus in the Federal courts, his State court actions having been decided against him. The Federal District Court denied Walker the relief requested, as did the 5th Circuit Court of Appeals. *Walker* v. *Wainwright*, 430 F.2d 936 (5th Cir. 1970). In the original habeas corpus petition, Walker claimed that his plea had been coerced by the use of physical force and that he had not been represented by counsel during the hearing.

On August 28, 1971, Walker filed a second petition for Habeas Corpus, this time alleging not the absence, but the ineffective assistance of counsel. Both the original trial judge and the appointed defense lawyer were deceased by this time. The State of Florida, now unable to present rebuttal evidence, was confronted with a presumption of the federal court that prejudice existed. The court stated:

"(N)o showing has been made why the prejudice naturally to be anticipated in such circumstances did not in fact occur."

The district judge was clearly aware of the predicament in which he had placed the state. After ordering that Mr. Walker be set free, the court said:

"Considering the long period of time that has passed since the alleged crime took place, it is manifestly impossible to retry this prisoner." 350 F.Supp. 916, 920 (M.D. Fla. 1971).

What lesson does *Walker* v. *Wainwright* teach us? First, it teaches that habeas corpus petitions may be filed long after the state can present evidence to rebut the "new" evidence upon which the petitioner relies. Second, and more importantly, it teaches us that in the course of the plea bargain negotiation, the apparent benefit obtained by a defendant because of his plea bargain is of no consequence in the eyes of the federal judge. The strategic decisions of defense counsel, who is responsible for the management of the defense, and which, in this case, possibly saved the defendant from execution, are subject to later criticism whenever a petitioner expresses grounds which stir the conscience of the federal judge.

This Subcommittee is fully aware of the broad spectrum of problems which the current habeas corpus rulings of the federal courts create for the states in terms of the finality of judgments. Following the Supreme Court's decision in *Jackson* v. *Virginia*, 443 U.S. 307 (1979), the sufficiency of the evidence upon which a state conviction is based is now completely reviewable by the federal court under the guise of a petition for Writ of Habeas Corpus. This is a clear cut intrusion into state criminal proceedings and raises significant questions about the doctrine of federal-state comity. Further, and as the examples I have cited indicate, a criminal conviction is never final until the creativity of a convict is exhausted.

The very purpose of the state court criminal action is to determine guilt. Evidence is presented to a trier of fact (judge or jury) who has the ability not only to hear the evidence in its entirety, but weigh the credibility of the persons offering that evidence. Thereafter, any judicial review is exercised in a vacuum, each side presenting only lifeless, edited versions of testimony which each feels will support its position. An appellate judge does not have the opportunity to make a determination as to the credibility of any witness. The result of this structural problem is adequately underscored in the examples I have provided the Subcommittee.

Of late, Justices of our Supreme Court and other judges of the federal system have expressed alarm at their ever-increasing work loads. Severely over-crowded dockets will diminish the quality of justice. Yet this untenable position is judicially created. In 1953, prisoners filed 541 habeas petitions in federal district courts.[4] In 1979, over 18,000 such petitions were filed.[5]

These cases represent a significant portion of the judicial workload. Attorney General Charles Graddick of Alabama recently studied one segment of the federal judiciary, the Middle District of Alabama, to determine the level of its caseload. General Graddick's study found that one of every three cases in that district was either a federal habeas corpus or 42 U.S.C. 1983 action. The implications of the imposition of reasonable restrictions on these causes of action for the Federal caseload are obvious.

Certainly, I do not contend that habeas corpus reviews should be barred entirely. However, there must be a reasoned effort to provide finality for state judgments and to limit the amount of time within which a federal habeas corpus petition can be brought. State courts are just as concerned with justice as the federal courts and are just as reliable. I am confident that this Congress can address these well known habeas corpus problems and provide an effective solution which will balance the interests of the criminal justice system with those of persons who are convicted under it.

In 1978, Alexander Solzhenitsyn commented:

"A decline in courage may be the most striking feature which an outside observer notices in the West in our days. The Western World has lost its civil courage. . . .

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"A statesman who wants to achieve something important and highly constructive for his country has to move cautiously and even timidly. . . . As he moves ahead, he has to prove that each single step of his is well founded and absolutely flawless. Actually, an outstanding and particularly gifted person who has unusual and unexpected initiative in mind hardly gets a chance to assert himself. From the very beginning, dozens of traps will be set out for him.

"Thus, mediocrity triumphs with the excuse of restrictions imposed by democracy."[6]

One of these traps—and a most lethal one in terms of governmental initiatives—is the current abuse of 42 U.S.C. Section 1983.

Section 1983, enacted by Congress in 1981, was primarily focused on surpressing the Ku Klux Klan in an environment of state and local indifference to the Klan's outrageous excesses. There is no evidence in the Congressional debates that Congress intended to limit the political independence of the Southern States.[7] For nearly a century, Section 1983 was a very limited remedy. In 1961, the Warren Court decided *Monroe* v. *Pape*, 365 U.S. 167 (1961), a decision which opened the door to Section 1983 as a remedy widely available to redres nearly every official act which a plaintiff feels violates his or her civil rights. Today, the scope of 1983 suits is limited only by the bravado and creativity of plaintiff's counsel.

The increase in civil rights litigation in the past 20 years bears witness to the impact of *Pape* and the existence of 42 U.S.C. Section 1988. In 1960, approximately 300 federal actions under all civil rights acts were filed.[8] By 1980, there were 12,944 general civil rights actions filed, in addition to 6,000+ state prisoner civil rights actions.[9] State courts are being replaced by federal courts as the primary trial setting for any tort alledgedly committed by a state official, with an alarmingly detrimental impact on the national-state balance of responsibilities and duties so carefully woven into our Constitution by the Framers.

I am not pleased to say that Missouri is a state in which the Bench and Bar have combined to develop new purposes for Section 1983 suits which, in my opinion, are clearly outside the proper scope of Section 1983.

In early 1981, Assistant Attorneys General in my Trade Offense Division were informed of a diamond marketing scheme which they believed constituted a criminal violation of the Missouri Securities Law. During the course of the investigation, persons associated with the diamond company filed a $65 million Section 1983 action against an Assistant Attorney General and the State Commissioner of Securities, alleging that their efforts violated the civil rights of the plaintiffs and company sales representatives.

The company in question had used this tactic before. In several states which had been investigating the company, lawsuits of this magnitude had stopped investigations. Although we filed appropriate motions for summary judgment based on prosecutorial and qualified immunity, the federal judge refused to rule on the motions, contrary to Supreme Court decisions which indicate the propriety of early immunity decisions, and subjected my assistants to lengthy discovery proceedings.

Ultimately, the principals in the company were indicted for securities fraud by a Missouri grand jury. We also obtained evidence, after the civil rights suit was voluntarily dismissed by the plaintiffs, that its primary purpose was to "discourage" the continuation of the investigation. Although a common law cause of action, cognizable in state court was available, plaintiffs' attorneys knew they would receive a better reception in the federal courthouse. And this is but one of several examples of the use of Section 1983 to beat public officials into submission. This is a serious and growing problem for all who wish to serve the public.

In June of 1982, the United States Supreme Court decided *Harlow* v. *Fitzgerald*, 102 S.Ct. 2727 (1982). That case made it abundantly clear that a bare allegation of malice raised against executive officials.

"Should not suffice to subject government officials either to the costs of trial or to the burdens of broad-reaching discovery . . . Id. at 2738."

Yet today, as I testify before you, a federal judge holds the former Governor of Missouri hostage to a bare claim of malice by refusing to rule on pending motions for summary judgment. The former Governor has been subjected to time-consuming, expensive depositions and discovery. His private life has been disrupted and his personal affairs since leaving public office have been subject to a level of exacting scrutiny which even public life never before required.

The costs to society of Section 1983 run amok are exceedingly high.

1. Substantial official energy is devoted to the defense of lawsuits--dimishing the ability of public officials to focus on vital public issues.

2. Talented individuals in the private sector are discouraged from entering public life—the very real threat of litigation makes the cost too high.

3. Individuals in public service are leaving. In a sense, they have had enough, and see their ability to contribute diminished.

4. The decision making process is compromised. One is tempted to consider personal consequences over public benefits. The bold, creative plans often needed to solve today's problems are discarded in favor of the less controversial and, more often than not, the less effective.

I believe the abuse of Section 1983 must be curbed. I see three critical steps that will solve the problem. First, the Congress should limit Section 1983 to cases for which no other common law or statutory state remedy exists. In this way, plaintiffs will not be able to rely on an expansive federal judiciary as an ally in their harassment of public officials.

Second, attorneys' fees must be made available to prevailing defendants in frivolous and harassment-oriented cases. Given the liberal attorneys' fees available to plaintiffs in these cases, there is a significant temptation for plaintiffs' attorneys to file actions without assessing the merits or to further the interests of the client who intends nothing more than harassment.

Third, prompt resolution of defendants' claims of immunity prior to the initiation of the discovery of defendants should be the rule, not the exception. Until a judge rules on a summary judgment motion, or motions for protective orders, resource consumptive discovery will continue and the costs to society mount up unnecessarily.

The final area of federal judicial abuse about which I wish to speak to this Subcommittee finds its roots in 42 U.S.C. Section 1988, which provides that prevailing parties in actions to enforce civil rights may be awarded attorneys' fees at the discretion of the trial judge.

Section 1988 has spawned a disturbing strategy for litigation by some attorneys. The idea is to file a broad based, ambiguous, shotgun lawsuit against a large state institution, engage in extensive discovery, cause the case to drag on for years, gain some relief from the court on a few of the issues raised or, better yet, secure a limited consent decree which, because of all other factors, defendants cannot afford *not* to enter. Once this strategy is followed successfully by the plaintiffs, plaintiffs' counsel comes into the federal court and seeks an exhorbitant fee for every minute devoted to the case. The passage of time is of great benefit to the plaintiffs' lawyer, although not to the class he represents, because any institution, will, over the years seek to improve itself. Because of the pendency of the lawsuit, plaintiffs' attorneys can claim that any institutional improvements were the result of their lawsuit and will attempt to recover attorney fees for changes which, more often than not, would have been made by the institution as it, in its normal processes, identified problems and attempted to solve them as appropriations became available.

Although it is not universally the case, there is an underlying theme of an unbridled, profit motive which drives many attorneys who handle civil rights claims on behalf of individuals and classes. One cannot blame the attorneys—federal judges using Section 1988 have encouraged their avarice.

In 1980, an action entitled *Association for Retard Citizens* v. *Olsen* was filed in the federal court in North Dakota.[10] In October of 1981, the state of North Dakota asked the court to issue an order in areas in which the state conceded that its efforts to assist retarded citizens fell short of constitutional standards. The Court, in November, 1981, issued an interim order on the issues which the state conceded. Following the issuance of the interim order, plaintiffs' attorneys sought an interim attorneys' fee award of $400,000, which accounted for every hour which the plaintiffs had expended to date in preparation of the lawsuit. This figure included a multiplier. The federal judge awarded plaintiffs $183,000, but said he would reevaluate the interim award at the conclusion of the trial, in light of the ultimate disposition of the case.

Because the judge had indicated that he would reevaluate the award, and because the North Dakota legislature had not appropriated funds since the interim award was not entered as a final judgment in the case, North Dakota was unable to pay the interim attorneys' fee award.

Plaintiffs' attorneys filed a motion for contempt claiming, among other things, that attorneys' fees had not been paid. The federal judge did not find the state in contempt; however, he awarded interest at the rate of 14 percent on the $183,000 interim award, and provided that the state of North Dakota would be required to pay between 17.5 and 18.5 percent interest on any operational loans which the plaintiffs' firm was required to take out. There had been no evidence these loans had been sought by the plaintiffs' firm, nor that they would be necessary in the future. The judge's order gave the firm carte blanche authority to borrow funds for whatever operational purposes it deemed appropriate knowing that the state would be responsible for paying the established interest rate on those loans.

Ultimately, in August of 1982, following the trial of the disputed issues, the judge awarded over $521,000 in attorneys' fees despite the request of the attorneys that a multiplier be employed and that they be awarded $1.1 million. The attorneys' fee award actually granted by the judge represented every hour claimed by the attorneys and included payment for work by four attorneys whose names had never appeared on official documents filed with the court and whose activities on the case were completely unknown to the state of North Dakota until the request for attorneys' fees was filed.

Other state Attorneys General will be addressing other Subcommittees of this Senate as efforts are made to understand the extremely unfortunate impact of Section 1988 on current civil rights litigation. Their stories will, in some measure, highlight the sometimes carnivorous nature of the plaintiffs' counsel representing civil right clients. For the remainder of my testimony, I wish to discuss several additional cases which highlight the attorneys' bonanza which Section 1988 has proved to be.

In 1973, Willie E. Young, a Black woman, was employed as a public health nurse by the Virginia State Department of Health. She was hired as a public health nurse at the lowest level (A) because the institution from which she received her nursing degree was not accredited by the National League of Nursing at the time of her graduation. Ms. Young filed a protest with Virginia Equal Employment Opportunity Coordinator, the result of which was that Ms. Young was given credit for previous experience and promoted to a Level B. In 1975, Ms. Young was informed that she could not advance to Level C because of her non-accredited degree. To this point, she had not applied for a Level C position. Ms. Young filed a complaint with the Federal Equal Employment Opportunity Commission and following negotiations with that agency, the Department of Health, having determined that the institution from which Ms. Young had received her nursing degree had been subsequently accredited, eliminated the requirement that barred Ms. Young from advancement to Level C, in February 1977.

In January, 1978, Ms. Young filed a federal civil rights action claiming that she had been discriminated against on account of her race. For technical, procedural reasons the lawsuit was dismissed for failure to show receipt of the right to sue notice from the E.E.O.C.

In June of 1978, Ms. Young was invited to apply for the position of public health nurse, Level C. She did so for the first time, as a result of the invitation, passed the merit examination for the position on September 13, 1978, and was informed of Level C vacancies available for her elsewhere in the state where she could apply. On October 30, 1978, Ms. Young filed a civil rights complaint in federal district court claiming that she had been discriminated against on account of her race and despite her qualifications and that she had been denied promotion to public health nurse, Level C, since October 1, 1973. Ultimately, Ms. Young and the state of Virginia settled the action by promoting Ms. Young to Level C and awarding her $992.00 in back pay. The District Court denied attorneys' fees. The 4th Circuit United States Court of Appeals reversed the District Court's decision not to award attorneys' fees and remanded for a determination of the appropriate attorneys' fees available for Ms. Young's attorneys. On remand, Ms. Young's attorneys were awarded $30,737 in attorneys' fees, despite the fact that their client received only $992 for her alleged damages and the relief she requested had been granted prior to the filing of the suit.[12]

Two other areas of Section 1988 abuse cry out for remedy. First, despite the fact that I am unable to find any evidence of Congressional intent to support the current interpretation by the federal courts, these federal courts have determined that the application of "multiplier" and "contingency awards" are appropriate in certain civil rights actions.

In *Keith* v. *Volpe*,[13] prevailing attorneys for plaintiffs who represented a large number of parties in a successful challenge to a Los Angeles freeway project asked the court to award base attorneys' fees of $629,857.14, a figure which represented the normal hourly rate for every hour spent by all of the personnel plaintiffs' attorneys claimed were required for the preparation and presentation of the case, including $515,654.54 in attorneys' fees and $114,212.50 for law clerks, paralegals, and planners' services (which are surely expenses, not fees for attorneys). The court reviewed the request of the attorneys and determined that the $629,867.14 should by multipied by 3.5. The court stated:

"The court finds that a multiplier of 3.5 properly reflects the contingent nature of the case and the quality of counsel's efforts as described above. This multiplier also takes into account the effect of the delay between the time plaintiffs' counsel rendered their services and the date on which the order determining their entitlement to fees was entered." [14]

Thus, confronted with base fees of $629,867.14, the trial court awarded attorneys' fees of $2,205,534.99.

Unfortunately, while this 3.5 multiplier is higher than is normally experienced in the civil rights cases, the use of multipliers and contingency awards by federal judges is an all too common occurrence which drives the costs of these lawsuits far beyond the bounds of reason. (E.G *Grudizinski* v. *Mack*, (D.C. Ore., No. 75-1065 Jan. 28, 1980), multiplier of 2.0 equalling $270,000; *Wells* v. *Hutchinson*, 499 F. Supp. 174 (E.D. Tex 1980) 2.0 multiplier rendering $21,000 in fees). I submit to you that the use of multipliers substantially exceeds the intent of Congress expressed in Section 1988. Congress should prohibit the federal judiciary from applying multipliers in civil rights attorneys' fees award matters.

Second, courts award Section 1988 attorneys' fees holding that plaintiffs prevail when they do not win. In *NAACP* v. *Wilmington Medical Center, Inc.*,[15] In 1975, plaintiffs filed an action against Wilmington Medical Center alleging violations of civil rights as a result of the center's selection of a site for relocation and removal of certain in-patient and out-patient services which allegedly had the effect of excluding persons from participation in the center's programs and services and subjecting them to discrimination and segregation on the basis of race, national origin, or physical handicap. Defendants filed a motion for summary judgment as did the plaintiffs. The District Court, on its motion, ordered the Department of Health, Education and Welfare to conduct a civil rights investigation. HEW found that the implementation of the Medical Center's relocation plan would be a violation of civil rights statutes; the Medical Center voluntarily entered into a contract of assurances with HEW which modified certain aspects of the Medical Center's original plan, and which, in HEW's judgment eliminated the discriminatory impact. The plaintiffs then amended their complaint, alleging that the contract of assurances between HEW and the medical center further violated the civil rights of the plaintiffs.

The trial on the merits resulted in a complete verdict for the defendants. The District Court concluded that the plaintiffs had failed to prove discrimination on any of the claims asserted against the Medical Center. Thereafter, the District Court rejected plaintiffs' contention that they were entitled to attorneys' fees. The District Court expressly rejected plaintiffs' claim that they were the catalyst in obtaining the HEW investigation and agreement, largely on the basis of the plaintiffs' opposition to and contention that the contract of assurances was a further violation of plaintiffs' civil rights.

On appeal, the 3rd Circuit ruled that the plaintiffs were the prevailing party and entitled to reasonable attorneys fees despite the fact that at trial every single issue was decided in favor of the defendants.

The case is presently before the United States Supreme Court on a Petition for Writ of Certiorari.

I respectfully submit to this Subcommittee that the litany of excesses I described today are but the tip of the proverbial iceberg. It is incumbent upon this Congress to take steps to curb these abuses and restore sanity to the courtroom.

While I am convinced that the federal judges whose actions I have described have been motivated by what they believe is the proper interpretation of the law and what they believe is for the good of the country, judges are never more than interpreters of the law. They cannot and should not be its authors.

In describing his brethren on the bench, Richard Neely, a judge of the West Virginia Supreme Court of Appeals, has noted:

"Those (Judges) who are timid sedulously follow precedents; those who are bold cavalierly disregard precedents. Consequently, law is frequently more a function of the attitude of judges than a set of principles which are understood, . . ." [16]

Judge Neely's comments are not intended to flatter the judiciary. I believe the proper response is much like that of President-elect Lincoln when told by a Southern delegate following his election that "everything now depends on you." To that he replied:

"I cannot agree to that. My course is as plain as a turnpike road. It is marked out by the Constitution. I am in no doubt which way to go. Suppose now we all stop discussing and try the experiment of obedience of the Constitution and the laws. Don't you think it would work?" [17]

I, for one, think that it is time for a judicial experiment in obedience to the Constitution and the law. Thank You.

FOOTNOTES

[1] Letter to H.S. Randall, May 23, 1857. Quoted in L. Henkin, "Foreign Affairs and the Constitution" (1972) at p. 271.

[2] Alexander Solzhenitsyn, Associated Harvard Alumni Address, June 8, 1978.

[3] *State* v. *Ross*, 554 S.W. 2d 522, 523-4 (Mo.App. 1977).

[4] *Brown* v. *Allen*, 344 U.S. 443, 537 n. 8 (1953).

[5] Administrative Office of the United States Courts, 1979 Annual Report of the Director.

[6] Op. Cit. Footnote 2.

[7] Note, Section 1983 and Federalism, 90 Harv.L.Rev. 1133 (1977). See text pp. 1153-1156.

[8] Administrative Office of the United States Courts, 1960 Annual Report of the Director.

[9] Administrative Office of the United States Courts, 1980 Annual Report of the Director.

[10] *Association for Retarded Citizens* v. *Olsen*, Case No. A1 50-141 (N.D. Dist. Ct.).

[11] *Young* v. *Kenley*, 641 F.2d 192 (4th Cir. 1981).

[12] *Young* v. *Kenley*, 485 F. Supp. 365 (E.D. Va. 1980).

[13] 86 F.R.D. 565 (C.D. Ca. 1980).

[14] Id. at 577.

[15] 689 F.2d 1161 (3rd Cir. 1982).

[16] R. Neely, "How Courts Govern America," Yale Univ. Press, (1981), p. 11.

[17] G. F. Own, "Abraham Lincoln: The Man and His Faith," Tyndale House Publ., Inc. (1981), p. 124.

Mr. DeCONCINI. Mr. President, I have been informed by the distinguished chairman, the President pro tem, and the majority leader that this bankruptcy legislation that I have sought to get on the floor for well over a year now in the precise manner and under almost the same conditions—that they would be tied together and have an opportunity to pass—is before us. And lo and behold, it appears that two amendments that I wanted to have under consideration may be a stumbling block. Far be it for this Senator to delay this body, because I think the necessity not only for the judgeships but also for the substantive part of the legislation that is before us is paramount.

I have two amendments. I understand one of them will be accepted which would provide for the appellate procedures on a discretionary basis by each circuit. It has worked well in the ninth circuit, and I would appreciate the Senator from Alabama and also the Senator from South Carolina agreeing that this one will be available and put in the package.

What disturbs me more than anything else, Mr. President, quite frankly, is that I have an amendment that would change the standard and would not permit discharge in bankruptcy of obligations arising from the infliction of willful, wanton, or reckless injury.

Today there exists in the bankruptcy statute an unconscionable loophole which makes it possible for drunk drivers or others who have acted with willful, wanton, or reckless conduct and who have injured, killed, or caused property damage to others to escape civil liability for their actions by having their judgment debt discharged in Federal bankruptcy court. This loophole affords opportunity for scandalous abuse.

Imagine the heartbreak of a parent who has been notified that his or her child has been killed or permanently disabled by somebody who has acted in a willful, wanton, or reckless manner, such as weaving down a road, totally oblivious to the danger posed to other. Then imagine the distraught parent, or wife, losing whatever compensation they have recovered for their loss because the tort-feasor has turned to the bankruptcy court and received a complete discharge of his liability. Or imagine the hardship on children who lose a father, a mother, or perhaps both to a drunk driver or somebody else who acted in a negligent manner. These are not hypotheticals. Every day in some bankruptcy court, a person or family who have been the victims of another's willfull, wanton, or reckless conduct are being deprived of their duly won and deserved judgments. Mr. Chairman, I could cite examples where the present interpretation of the law would make us all just sick. Suffice it to say, that I believe we can all agree that an innocent victim of anothers outrageous conduct should not be deprived of their right to a judgment if they can show that the perpetrator was at fault. Bankruptcy was never meant to be a shield behind which drunk drivers, and others who have acted in a reckless manner, can absolve themselves of liability. The concept of the fresh start for a debtor must defer to the possibility of a fresh start of the innocent victim.

As used in this amendment, the words "willful," "wanton," and "reckless," should be given a broad meaning to include such things punitive damages and other examples where the conduct of the debtor has been so negligent as to make that debtor undeserving of a discharge in bankruptcy.

The amendment as offered would not include within its scope purely negligent conduct. This term is generally meant to mean that a reasonable person would not have realized the risk of there action and not done the thing that caused the injury. This person doesn't know of the risk but should have.

The term reckless generally is understood to mean that the perpetrator of the injury knew of the risk and went ahead with his action anyway. He adverted to the harm. Surely, we do not want to insulate from liability people that conduct themselves in a willful, wanton, or reckless manner as these words are generally understood. It may even be questionable whether we want to discharge a negligent tortfeasor, but my amendment does not address that.

There is a portion of this bill now, no longer an amendment, regarding drunk driving, but it is questionable whether or not it goes far enough to insure that particular discharge. However, we are in the process of attempting to pass a bill so we can rectify the Marathon decision and create a number of new judges that the courts so badly need.

Rather than hold up the Senate proceedings, I can only say that it is most regrettable, that such a significant amendment shall not be considered, but under the circumstances, far be it for me to keep the Senate from functioning. Quite frankly, I think we spend too much time on it now. I hope the majority leader, who is here, has had an opportunity to read the Pearson-Ribicoff recommendations to the Senate Rules Committee and might consider some debate and serious consideration so we would not have this type of problem.

Under those rules, as I read them just this last weekend, I believe we would have an opportunity to have this amendment up and get a vote on it and have it decided one way or the other. Unfortunately, that is not how the body runs today, and I am well aware of it.

I thank the chairman of the committee for his indulgence and for the cooperation that he has extended to me. I will not object to the unanimous-consent agreement that has been proposed providing, Mr. President—I want to call this to the attention of the majority leader and the chairman of the committee—no one else is objecting to it. If there is going to be further debate on the subject or other amendments other than the agreement offered, then my objection will stand. I understand that is not the case, so I will withhold my objection.

Mr. President, I ask unanimous consent to have printed in the RECORD the amendment I was going to offer.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

(Purpose: To amend title 11 relating to the discharge of debts incurred by persons driving while intoxicated)

At the appropriate place in the amendment add the following new sections:

SEC.   . Section 523(a)(6) of title 11, United States Code, is amended to read as follows:

"(6) for willful, wanton, or reckless injury by the debtor to another entity or to the property of another entity;".

SEC.   . Section 1141(d) of title 11, United States Code, is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) The confirmation of a plan does not discharge any debtor from any debt excepting from discharge under section 523(a)(6) of this title.".

Mr. BAKER. Mr. President, I thank the Senator from Arizona. I appreciate his observations, and I especially appreciate his cooperation.

I have also read the Pearson-Ribicoff/Ribicoff-Pearson recommendations. Indeed, I have conferred with former Senators Ribicoff and Pearson on a number of occasions, as has the minority leader and others. They have the recommendations, and they go a long way toward streamlining the procedure of the Senate, I believe.

I commend the chairman of the Rules Committee, Senator MATHIAS, and the ranking minority member, Senator FORD, for agreeing to hold hearings on those recommendations.

I assure the Senator from Arizona that I am perfectly willing to take up and attempt to deal with any recommendations the Rules Committee may submit to us in that respect.

Mr. HATCH. Mr. President, last summer the Supreme Court in *Northern Pipeline Construction Co.* v. *Marathon Pipe Line Co.* (102 S. Crt. 2858 (1982)), found unconstitutional Congress broad grant of jurisdiction to bankruptcy judges who lack life tenure and guarantees against salary reductions. The Court stayed its ruling until December 24, 1982, to allow Congress to reformulate that jurisdiction in an acceptable manner. When Congress failed to meet that deadline, the bankruptcy courts began to operate under an interim rule designed by the Judicial Conference of the United States. This interim rule, in essence, grants all bankruptcy jurisdiction to district courts, article III courts that have the necessary judicial attributes, but allows bankruptcy judges to continue to exercise that jurisdiction. This interim rule passed constitutional muster when examined by the fifth circuit in the case of *Braniff* v. *CAB* (No. 83-1048, 5th Circ., Feb. 28, 1983).

This brief background, in my opinion, itself argues for the wisdom of the compromise struck in the Judiciary Committee and embodied in S. 1013. S. 1013 is basically patterned after the interim rule which has proven to work very well in practice.

S. 1013 would make the bankruptcy courts adjuncts of the district courts for the adjudication of bankruptcy matters. Article III district courts would be the repositories of bankruptcy jurisdiction, but the article I bankruptcy judges would continue to exercise the majority of that jurisdiction, except that this exercise would be subject to the control of the district courts and the consent of the parties. Thus, most bankruptcy disputes would be handled in article I courts with the expertise to deal with these matters while Marathon-type State law cases would fall within the purview of such courts only if the parties agree. In the absence of such consent, the district courts would decide the issue. This is a masterful compromise. The district courts would be empowered to handle the unique type of cases that the Supreme Court addressed in Marathon; namely, cases related to bankruptcy proceedings but actually raising wholly State law claims that arise involving the bankrupt. Bankruptcy courts, meantime, would continue to handle ordinary bankruptcy functions unless the parties also wished them to deal with the broader Marathon-type case.

To administer this redefined jurisdiction, the bill creates 229 new article I bankruptcy judges, approximately the number of current bankruptcy judges, with at least one judge for every Federal judicial district. In addition, the bill creates 24 new court of appeals judgeships and 51 district court judgeships. These new judgeships were justified even before the Marathon problem arose. In the wake of Marathon, they are even more needed. To some degree, Federal courts should have some additional bankruptcy cases to handle if the parties do not consent to bankruptcy court jurisdiction. Accordingly, the case for 75 new judgeships is even more compelling after this restructuring of bankruptcy jurisdiction.

As I mentioned earlier, this is a masterful compromise for several reasons:

First, it is a proven system which can be implemented without undue dislocations in the administration of bankruptcy disputes. The interim rule has been operating since last year. Moreover, it has been operating efficiently. At the time that the Judiciary Committee was considering this issue, a report from the Central District of California indicated that although 7,000 bankruptcies had been filed under the interim rule, only 53 had been demanded any district court attention. In other words, the bulk of the bankruptcy work was being done by bankruptcy courts. The issues which demanded an article III resolution were appropriately handled.

Second, as indicated by the above statistics, the system created by this bill is workable. For the most part, bankruptcy experts will handle technical bankruptcy matters, but the district court is available if necessary. This is further assured by S. 1013 because it provides that a party is deemed to have consented to the bankruptcy court jurisdiction if the issue is not raised at the first hearing. Moreover, it is workable because it provides bankruptcy practitioners and individuals in financial difficulty with a forum to insure expeditious resolution of their cases.

Third, it is constitutional. As I mentioned earlier, the fifth circuit has already upheld the interim rule after which this bill is patterned.

Finally, this avoids many of the pitfalls presented by other alternatives considered by the Judiciary Committee before arriving at this important compromise. Of most importance in this context is that the committee did not create a specialized article III court. This was the committee's recognition that specialized life tenure judges could develop a cramped perspective of the law. When an identifiable jurist works full time in a closed legal environment hearing the same kind of issue day after day, they are liable to lose sight of the basic values at stake in their decisions. For instance, in the 1920's the Commerce Court of the United States operated with the sole function of reviewing Interstate Commerce Commission rulings. Because that court dealt solely with railroading issues, the railroads committed great resources to appointing judges after their own persuasion. The court quickly acquired the reputation of vulnerability to railroad interests. For this reason, it was later abolished. In my opinion, the Judiciary Committee was wise in avoiding the creation of an article III court which gave some types of cases and some legal practitioners special access to a life tenure judge.

One aspect of this bill is particularly attractive. It would permit a party to a case which is based entirely in State law but just happens to involve a party who has filed for bankruptcy to have his case heard in State court. This wisely permits State courts to resolve State law issues. The case for this provision grows out of an examination of the Marathon case.

Section 1471(h) in S. 1013 allows district courts to abstain "in the interest of comity with State courts and respect for State law." This section further requires the district court to abstain from deciding a State law claim, not arising under title 11, where a party affirmatively moves for abstention. This is wise constitutional policy and wise court administration policy. Under our constitutional system of courts, Federal laws are generally interpreted in Federal courts and State laws in State courts. Permit me to explain my thoughts on this matter in more detail:

The plurality decision in Marathon discussed extensively the attributes of article III judges and bankruptcy judges as a basis for invalidating the broad grant of jurisdiction in the Bankruptcy Reform Act (BRA). An alternative article III consideration tacitly influenced the decision, and under slightly different circumstances might have become the primary basis for decision. This alternative article III argument recognizes that bankruptcy courts have used the practically limitless language of the BRA[1] to assert Federal question jurisdiction over non-Federal questions. Although bankruptcy is clearly a Federal question, State law claims do not automatically become subject to litigation in a Federal court, perhaps even a Federal court in a distant State, simply because it is tangentially related to a bankruptcy claim.

Article III states that the Federal judicial power extends to cases "arising under this Constitution and the laws of the United States." This is the basis for Federal question jurisdiction. Justice Cardozo gave perhaps the best definition of the limits of Federal question jurisdiction:

> How and when a case arises "under the Constitution or laws of the United States" has been much considered in the books. Some tests are well established. To bring a case within the [limits of federal question jurisdiction], a right or immunity created by the Constitution or laws of the United States must be an element, and an essential one, of the plaintiff's cause of action * * * The right or immunity must be such that it will be supported if the Constitution or laws of the United States are given one construction or effect, and defeated if they receive another * * * A genuine and present controversy, not merely a possible or conjectural one, must exist with reference thereto * * *.[2]

Disputes regarding the distribution of a bankrupt's estate are clearly Federal questions. The Constitution itself provides for "uniform laws on the subject of Bankruptcies." Thus, if the BRA had limited its jurisdictional grant to cases "arising under" title II, the bankruptcy courts would have been fully within the established limits of Federal judicial power under article III. The open-ended language of the BRA, however, went on to confer jurisdiction on bankruptcy courts over matters merely "related to" title II. Thus bankruptcy judges have taken jurisdiction over State law issues that are vaguely related to bankruptcy proceedings but which have no basis in Federal law at all.

A noted commentator on bankruptcy law notes that the BRA jurisdictional grant has no conceptual limit.[3] Indeed, bankruptcy courts have tended to find no limits on the sweep of their authority. For instance, bankruptcy courts have managed to find enough relationship between a bankruptcy proceeding and a wide variety of State civil proceedings to assert Federal jurisdiction, including the following: an action brought under a State corporation law alleging willful appropriation of a corporate opportunity,[4] an action to rescind a contract for purchase of a motel on grounds of misrepresentation,[5] an action to foreclose on mortgages,[6] an action regarding the validity of liens on homestead property,[7] actions regarding truth in lending violations,[8] an action alleging property damage,[9] and an action alleging breach of contract.[10] These cases assert no "right or immunity created by the Constitution or laws of the United States," let alone asserting the type of "essential" Federal element that Justice Cardozo found necessary for Federal question jurisdiction. These are State law questions.

Federal law determines the content of the debtor's estate. In particular, Federal law governs disputes over whether property transferred prior to a bankruptcy should be returned to a bankrupt's estate to help satisfy creditors. Federal law also dictates which creditors are qualified to claim a share of the distribution of the bankrupt's remaining properties. State law defines the legal substance of those claims. The doctrine of Erie Railroad against Tompkins[11] has frequently been invoked in bankruptcy litigation as a reminder that Federal courts may not create substantive legal rights that a State has chosen not to provide.[12] Erie also has governed the failure of a Federal court to acknowledge rights created by a State,[13] even if the State holds a minority view of commercial law[14] In short the Federal bankruptcy courts have no authority, constitutional or otherwise, to reestablish the regime of Swift against Tyson.[15]

These issues of purely State law are also not subject to doctrines of ancillary jurisdiction which otherwise might operate to pull them into Federal court. These State law claims are not subservient to Federal bankruptcy rights, but entirely separate causes of action which happen to involve a party who is also in bankruptcy court. The primary function of ancillary jurisdiction is to prevent relitigation of issues adjudged in an original suit.[16] Once decided, these State law claims

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Footnotes at end of speech.

are not subject to relitigation in the context of bankruptcy because the State court decision has already determined with finality whether the contested property belongs in the estate. Ancillary jurisdiction is not an alternative explanation for extensive assertion of Federal jurisdiction over State law litigation.

Clearly the intent of the broad jurisdictional grant in the 1978 act was to promote desirable goal of efficient case administration and reduce delays in estate administration occasioned by litigation outside of the Federal bankruptcy system. A recent commentary suggests, however, that—

> exercise of jurisdiction by bankruptcy courts to the full extent permitted by the Code may impede rather than facilitate congressional goals because full exercise may congest bankruptcy courts with bankruptcy-related cases. The broad jurisdictional grant, intended to eliminate delay and expense caused by jurisdictional disputes under the Act, instead may create the delay and expense of crowded dockets.[17]

This same commentary argues that bankruptcy courts should abstain from hearing bankruptcy-related civil proceeding on grounds of judicial economy.

Another aspect of the efficiency question is raised by a brief reminder of the intolerable situation created by Swift against Tyson. A judicial system which permits Federal judicial officers to conjecture on the outcome of a case under State law can hardly be deemed efficient. Instead of a single uniform State law, such a system would create two separate bodies of State law, one applicable to parties before a bankruptcy court and the other applicable to the rest of the State.

This leads to a final consideration of equity and fairness. If a party to a suit has a wholly State law claim which he wishes to have decided before his local State court, what principles of equity dictate that he should be subject to the jurisdiction of a distant Federal court simply because the other party to a suit has filed for bankruptcy? The expense and convenience of travel is involved in this consideration, but also the wisdom of allowing State courts to settle disputes involving its citizens and its laws.

These considerations of constitutionality, efficiency, and equity argue persuasively for this provision, which requires a Federal district court to abstain from hearing "related," nonbankruptcy cases grounded in State law where any party requests that the case be heard in State court. This provision deals solely with cases of purely State law without any bankruptcy issues for which one party requests a State court determination. There is no diversity involved in these issues and no Federal question jurisdiction. These are purely State law questions.

This should not be construed in any way to be a return to the distinctions of summary and plenary jurisdiction that confused bankruptcy law prior to 1978. The pre-1978 determination of jurisdiction turned on the question of whether the assets of the estate were within the constructive or actual control of the court. This bifurcated jurisdiction, based as it was on undefined tenets of statutory law, engendered expensive and time-consuming disputes over jurisdiction. This provision simply acknowledges established constitutional bounds between State and Federal law issues.

Purely State law claims without Federal question jurisdiction under article III will, upon the request of any party, be simply adjudicated in State courts, as similar cases have been decided without jurisdictional disputes since the inception of the Constitution. Federal bankruptcy claims, cases arising under title II, will be heard in Federal courts. This is not a new statutory scheme or a return to an old bifurcated system of jurisdiction but a continuation of the proper constitutional limits of Federal bankruptcy jurisdiction that existed prior to the overreaching 1978 act. The 1978 act had improperly federalized issues of State law in which neither diversity nor a Federal question existed.

Thus, for reasons dictated by sound constitutional policy as well as judicial economy and procedural fairness to claimants, it is appropriate to require a Federal district court involved in bankruptcy matters to honor the request of a party to that proceeding to have wholly State law issues resolved in State courts. While this provision is likely to be used only infrequently, its availability will strengthen the jurisdictional provisions of the bill in general.

In conclusion, I would like to reiterate my commendations for the members of the Judiciary Committee, specifically Chairman **Thurmond**, Senator **Dole**, and Senator **Heflin**, for their insight in designing this compromise to address the issues raised by Marathon. I urge my colleagues to support S. 1013.

FOOTNOTES

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[1] See 18 U.S.C. 1471(b) which states that bankruptcy courts have jurisdiction over "all civil proceedings arising under Title 11 or arising in or related to cases under Title 11."

[2] *Gully v. First National Bank*, 299 U.S. 109,117 (1936).

[3] 1 *Collier on Bankruptcy* 3.01(1)(e), at 3-48 to -49, (15th Ed. 1979)

[4] *Trim Cut Co. v. Beasley*, 4 Bankr. Rptr. 243, 2 C.B.C. 2d 117 (D. Del. 1980).

[5] *Griffith v. Realty Executives Inc.*, 2 C.B.C. 2d 387 (D. N.M. 1980).

[6] *Family Savings and Loan v. Calabria*, 5 Bankr. Rptr. 13, 2 C.B.C. 2d 264 (D. Conn. 1980).

[7] *Tidwell v. Thomas*, 2 C.B.C. 2d 172 (N.D. Tex. 1980).

[8] *Cohen v. Beneficial Finance Co.*, 2 C.B.C. 2d 64 (M.D. Fla. 1980).

[9] *Thompson v. First State Bank*, 3 Bankr. Rptr. 312 (D. S.D. 1980).

[10] *Colgrove v. Hoopa Timber Co.*, 3 C.B.C. 2d 839 (N.D. Cal. 1981).

[11] 304 U.S. 64 (1938).

[12] See, e.g., *In re Faber's Inc.*, 360 F. Supp. 946 (D. Conn. 1978).

[13] See, e.g., *In re Morris*, 602 F. 2d 826 (8th Cir. 1979); *In re Transystems*, 569 F. 2d 1366 (5th Cir. 1978).

[14] *Segovia Dev. Corp. v. Constructor Maza Inc.*, 628 F. 2d 724 (1st Cir., 1980); *In re Anselm*, 344 F. Supp. 544 (W.D. Ky. 1972).

[15] 41 U.S. 1 (1842); see "Bankruptcy and the Limits of Federal Jurisdiction" 95 Harv. L. Rev. 703 (1982).

[16] *O'Brien v. Richtarsic*, F. Supp. (D. N.Y.), 2 F.R.D. 42, 44.

[17] "Selective Exercise of Jurisdiction in Bankruptcy-Related Civil Proceedings," 59 Texas L.R. 325 (1981).

AMENDMENT NO. 1202

(Purpose: To make technical and conforming amendments)

Mr. THURMOND. Mr. President, I send to the desk a package of amendments to S. 1013 which I offer on behalf of myself and my distinguished colleague from Alabama (Mr. **Heflin**) and ask that they be immediately considered.

The PRESIDING OFFICER. The clerk will state the amendments.

The bill clerk read as follows:

The Senator from South Carolina (Mr. **Thurmond**), for himself and Mr. **Heflin**, proposes an amendment numbered 1202

On page 3, line 20, add at the end thereof "title 11 or arising in a case under title 11".

On page 5, line 10, strike out "and" and insert in lieu thereof "or".

On page 5, strike out lines 15 through 25, and insert in lieu thereof the following:

"(2) In a proceeding involving the debtor which is based upon a State law claim or cause of action not arising under title 11, or arising in a case under title 11, which could not otherwise have been brought in Federal court absent jurisdiction under this section, the court shall, upon proper motion, abstain from adjudicating such claim in the bankruptcy proceeding where an action to adjudicate such claim has been or will be timely instituted and prosecuted in a State forum of appropriate jurisdiction: *Provided*, That this paragraph shall be construed to limit the applicability of the stay provided for by section 362 of title 11, United States Code, only to the extent necessary to permit adjudication but not the execution of such claim by the State forum.

On page 6, line 3, strike out "1741 (e)" and insert in lieu thereof "(d) or (e)".

On page 12, strike out the following:

"Arkansas
Eastern 1
Western .... 1";

and insert in lieu thereof the following:

"Arkansas
Eastern and Western .... 2".

On page 13, strike out the following:

"New Mexico .... 1",

and insert in lieu thereof the following:

"New Mexico .... 2".

On page 14, strike out the following:

"Texas
Northern .... 3",

and insert in lieu thereof the following:

"Texas
Northern .... 4".

On page 14, strike out the following:

"Virginia
Eastern 3
Western .... 2".

and insert in lieu thereof the following:

"Virginia

Eastern	3
Western	3".

On page 20, between the table and line 1 insert the following:

Sec. 303. Section 131 of title 28, United States Code, is amended in the second paragraph thereof by inserting "Jackson," after "Lander,".

On page 21, beginning with line 19, strike out through line 4 on page 29 and insert in lieu thereof the following:

Sec. 402. (a) Subchapter III (civil service retirement) of chapter 83 of title 5, United States Code, is amended—

(1) in section 8331(1) by inserting before the semicolon at the end of clause (i) the following: ", except a bankruptcy judge";

(2) in section 8331(22) thereof by—

(A) striking out "adding this paragraph" and inserting in lieu thereof "of November 6, 1978 (Public Law 95-598; 92 Stat. 2549), or under section 152 of title 28, United States Code";

(B) striking out "and that" after "March 31, 1984," in subparagraph (A) and inserting in lieu thereof: "and continues to serve as a bankruptcy judge after such date until either the date on which a successor for such judge is appointed, or October 1, 1984, whichever date is earlier, and who";

(C) striking out "or" at the end of subparagraph (A);

(D) striking out "201 of this Act but that" and inserting in lieu thereof "201 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549) but who"; and

(E) striking out the period at the end of subparagraph (B) and inserting in lieu thereof the following: "; or"

(C) is appointed as a United States bankruptcy judge on or after April 1, 1984.";

(3) in section 8334(a) thereof by adding "or a bankruptcy judge" before the period at the end of the first sentence of paragraph (1) thereof;

(4) in section 8334(c) thereof by striking out of the table, in the item relating to Bankruptcy judges, "7. . . . After January 1, 1970." and inserting in lieu thereof:

"7	January 1, 1970, to September 30, 1983.
"8	After September 30, 1983.".

(5) in section 8336 thereof by—

(A) redesignating subsection (k) thereof as subsection (1); and

(B) adding after subsection (j) the following new subsection:

"(k) An employee who is a bankruptcy judge and is separated from the service after becoming 62 years of age and completing 5 years of civilian service or after becoming 60 years of age and completing 10 years of service as a bankruptcy judge is entitled to an annuity."; and

(6) in section 8339 by—

(A) striking out "(o)" each place it appears in subsections (f), (j), (k), (l), and (m) and inserting in lieu thereof "(n)";

(B) inserting "or (n)" after "(c)" in paragraph (2) of subsection (g);

(C) striking out "or (c)" each time it appears in subsection (g) and inserting in lieu thereof "(C), or (n)"; and

(D) striking out "after March 31, 1979, and before April 1, 1984," in subsection (n) thereof and inserting in lieu thereof "as a referee in bankruptcy and".

(b) The amendments made by this section shall take effect on October 1, 1983, and shall apply to bankruptcy judges who retire on or after such date.

On page 29, line 5, strike out "404" and insert in lieu thereof "403".

On page 29, line 18, strike out "405" and insert in lieu thereof "404".

On page 30, line 7, strike out "406" and insert in lieu thereof "405".

On page 30, line 19, strike out "407" and insert in lieu thereof "406".

On page 30, line 24, strike out "employee" and insert in lieu thereof "Federal judge".

On page 30, line 25, strike out "employee's" and insert in lieu thereof "judge's".

On page 31, strike out lines 5 through 7 and insert in lieu thereof the following:

Sec. 407. Chapter 6 of title 28, United States Code, as added by section 201(a) of the Act of November 6, 1978 (Public Law 95-598, 29 Stat. 2657), effective April 1, 1984, is amended by repealing section 160 and repealing the item relating to section 160 in the table of sections thereof.

On page 31, line 8, strike out "409" and insert in lieu thereof "408".

On page 32, before line 1, insert the following new sections:

Sec. 409. Section 775 of title 28, United States Code, as such section is to become effective April 1, 1984, is amended by striking out "the same as" in the first sentence and inserting in lieu thereof " on an equivalent basis as".

On page 32, between lines 3 and 4 insert the following:

Sec. 411. Section 1334 of title 28, United States Code, as such section is to become effective April 1, 1984, is amended to read as follows:

"§ 1334. Bankruptcy appeals

"(a) The district courts shall have jurisdiction of appeals from all final judgments, orders, and decrees of bankruptcy courts.

"(b) The district courts shall have jurisdiction of appeals from interlocutory orders and decrees of bankruptcy courts, but only by leave of the district court to which the appeal is taken.

"(c) An appeal under this section shall be taken to the district court for the judicial district in which the bankruptcy court is located.".

On page 32, line 4, strike out "411" and insert in lieu thereof "412".

On page 32, line 11, strike out "412" and insert in lieu thereof "413".

On page 32, line 18, strike out "413" and insert in lieu thereof "414".

On page 33, line 5, strike out "414" and insert in lieu thereof "415".

On page 33, strike out lines 11 through 14 and insert in lieu thereof the following:

(b) Section 405(c)(2) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549) is amended to read as follows:

"(2) During the transition period, the jurisdiction of the district courts, and the courts of appeals in hearing bankruptcy appeals shall be the same as the jurisdiction of such courts under title 28 and the jurisdiction granted under the amendments made by sections 102 and 412 of the Bankruptcy Court and Federal Judgeship Act of 1983.".

On page 33, line 15, strike out "415" and insert in lieu thereof "416".

On page 33, line 15, strike out "209, 211, 234, 239," and insert in lieu thereof "203, 204, 208, 209, 211, 215, 232, 234, 236, 237, 238, 239, 240,".

On page 33, line 18, strike out "416" and insert in lieu thereof "417".

On page 34, line 1, strike out "417" and insert in lieu thereof "418 (a)".

On page 34, between lines 9 and 10 insert the following:

(b) If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act, or the application of that provision to persons or circumstances other than those as to which it is held invalid, is not affected thereby.

On page 34, line 10, strike out "418" and insert in lieu thereof "419".

On page 34, line 13, insert "407," before "408,".

On page 34, line 14, strike out "409, 410, and 412" and insert in lieu thereof "409, 410, 411, and 413".

On page 34, after line 14, add the following:

(c) The amendments made by section 402 shall become effective on October 1, 1983, and shall apply to bankruptcy judges who retire on or after such date.

Mr. THURMOND. Mr. President, these amendments are primarily technical or clarifying in nature and do not alter the basic substance of S. 1013 as reported by the committee.

Probably the most significant changes are found in section 402 pertaining to retirement for bankruptcy judges. While the basic thrust of these provisions remains the same—that is, bankruptcy judges still get improved retirement benefits based on those for Members of Congress—this section has been redrafted to amend title 5, where provisions for retirement of Government employees are generally located rather than to amend title 28.

Mr. President, I ask unanimous consent that a more detailed explanation of these amendments be printed in the Congressional Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

EXPLANATION OF COMMITTEE AMENDMENTS TO S. 1013

TITLE I

Section 102, providing for a new section 1471 of title 28, is amended in subsection 1471(h) setting forth the abstention provisions of the bill. The changes made in this subsection are clarifying changes.

TITLE II

Section 201 is amended to provide for the 2 bankruptcy judges authorized for Arkansas to sit in both the Eastern and Western Districts. S. 1013, as reported by the Committee, authorized one judge for the Eastern District and one judge for the Western District. This change reflects the current arrangement in that State.

Section 201 is also amended to add 3 additional bankruptcy judges—one for the District of New Mexico, one for the Northern District of Texas, and one for the Western District of Virginia. These are existing positions which were inadvertently left out of S. 1013 as reported. The addition of these judges brings the total number of bankruptcy judgeships authorized in S. 1013 to 232.

TITLE III

A new section 303 was added to allow for the holding of court in Jackson, Wyoming. This provision was included, at the request of Senator Simpson, in bill approved by the Committee last year authorizing the 1980 Judicial Conference recommendations. This language does not authorize the construction of new facilities, but simply allows the

Administrative Office of the United States Courts to use existing facilities in Jackson for the holding of court if it chooses to do so.

TITLE IV

A new section 402 is added dealing with the retirement system for existing bankruptcy judges and for the new bankruptcy judges appointed by the President. Section 402 in S. 1013 as reported by the Committee added a new section 377 to Chapter 17 of title 28 to provide for the retirement of bankruptcy judges. The new section 402, rather than adding an additional section to title 28, simply amends title 5, which contains provisions for retirement of Federal employees generally. the elaborate transfer of monies back and forth between the general Civil Service Retirement and Disability Fund and Judicial Survivors' Annuity Fund is thereby avoided. Also, the new section 402 permits bankruptcy judges to participate in related programs, such as disability and survivors' annuities, without the drafting of new and unnecessary parallel provisions. As provided for in S. 1013 as reported, bankruptcy judges' retirement will be based on retirement for Members of Congress, i.e. 2.5 percent of average pay times years of service, with an 80 percent cap. The new section 402 further conforms the retirement system for bankruptcy judges to that for Members of Congress by providing that a bankruptcy judge becomes eligible for a retirement annuity at the same age as does a Member—62 years of age, after completing 5 years of service, and 60 years, after completing 10 years of service. This is a slight change from S. 1013 as reported which provides for an annuity at age 60 after 8 years of service as a bankruptcy judge. A further conforming amendment is the provision of the new section 402 regarding contribution of 8 percent of basic pay by the bankruptcy judge to civil service retirement. This is the same withholding rate as currently applies to Members of Congress.

Section 402 is deleted from the bill as unnecessary in light of the changes made by the new section 402 to section 8331(22) of title 5. Following this deletion, appropriate changes in section numbers are made.

Section 407, regarding irrevocable assignment of Federal Employees Group Life Insurance policies, is amended by substituting the words "Federal judge" for the word "employee." The purpose of this amendment is to clarify that this provision extends only to Federal judges, not to all Federal employees. This concern was addressed at Full Committee mark-up by a technical amendment offered by Senator THURMOND on behalf of Senator KENNEDY. This amendment gives further effect to the Kennedy amendment.

Section 408, authorizing circuit court judges to hold bankruptcy court, is deleted as unnecessary since bankruptcy courts are to be regarded as adjuncts of the district courts, and there are existing provisions in title 28 authorizing circuit court judges to be assigned to hold district court.

A new section 407 is added which repeals section 160 of title 28, as added by section 201(a) of the 1978 Act. Section 160 authorizes the establishment by the circuit councils of appellate panels composed of Article I bankruptcy judges to hear appeals from the bankruptcy courts. S. 1013, as reported, deleted section 1482 of title 28 giving such panels jurisdiction over such bankruptcy appeals. Repeal of section 160 is a necessary corresponding change.

A new section 409 is added to address a technical problem which has been identified regarding a provision of the 1978 Act dealing with magistrates' salaries. The 1978 Bankruptcy Reform Act attempted to revise the formula for setting the salaries of United States magistrates by removing a reference to the office of referee in bankruptcy and replacing the deleted material with a statutorily enacted maximum salary rate at $48,500 per annum, subject to annual adjustment. While the chosen salary level was accurate when the 1978 provision was drafted, it had become out-of-date by the time the law was enacted on November 6th due to the intervening salary adjustment on October 1, 1978. Moreover, the provision was not made immediately effective but deferred until April 1, 1984. Magistrates now receive a full-time, annual salary of $63,000. The reduction to $48,500 per annum on April 1984, that occur if no correction is made, would have a significant impact on the magistrates system. The new section 409 retains magistrates' salaries at the current rate of $63,600 annually. It also retains the salary of bankruptcy judges at the current level of $63,600. The figure of $63,600 is, however, set as a statutory maximum for both bankruptcy judges and magistrates. They will receive no further salary increases unless and until the Congress acts affirmatively to raise their salaries. This removes them from coverage of the Federal Salary Act of 1967.

A new section 410 is added amending section 775 of title 28 dealing with salaries of employees of the bankruptcy courts. The purpose of adding this section is to clarify that the bankruptcy court employees need not be paid exactly the same as similar district court employees, but that they be paid "on an equivalent basis" based on a formula considering the actual workload of these employees.

A new section 412 is added which amends section 1334 of title 28 dealing with bankruptcy appeals. This section provides for appeals from all interlocutory orders and decrees and from final judgments, orders, and decrees of the bankruptcy to go to the district courts. This provision is very similar to the existing section 1334, which provides for bankruptcy appeals to go to district courts if bankruptcy appellate panels have not been established. Since S. 1013 as reported deleted section 1482 giving jurisdiction over appeals to the bankruptcy appellate panels, this is a necessary corresponding change to provide for all appeals to go to district courts. As the Committee report explains (see pages 20 and 37), it was thought more appropriate, following Marathon, for appeals to go to the district courts, to which the bankruptcy courts are adjunct, rather than to another body of Article I judges.

Section 414(b), amending the transition provisions of the 1978 Act, is redrafted to clarify that the appellate system provided for in S. 1013 and in these amendments shall be in effect during the remainder of the transition period.

Section 415 is amended by adding other sections of the 1978 Act which are no longer necessary and should be repealed in light of the provisions of S. 1013. Those additional sections are as follows:

Section 203—authority to designate district judges to hold bankruptcy court; not needed

Section 204—same as 203

Section 208—Judicial Conference Membership

Section 215—modified by earlier provisions of S. 1013

Section 232—Magistrates' salaries; revised by prior Committee amendment

Section 236—pertains to bankruptcy appellate panels; no longer necessary

Section 237—same as 236

Section 238—bankruptcy appeals; modified by prior Committee amendment

Section 240—same as 238

Section 417, regarding severability, is amended by adding a new subsection (b) to clarify that section 417 covers the provisions of S. 1013, as well as provisions of the Act and amendments to the 1978 Act.

Section 418 is amended by adding a new subsection (c) clarifying that the new retirement provisions for bankruptcy judges take effect on October 1, 1983.

● Mr. DOMENICI. Mr. President, I commend Senator THURMOND for bringing this bill to the floor. I have been very concerned about the operation of the bankruptcy courts since the Marathon Pipeline case. On June 28, 1983, the Supreme Court held, in Northern Pipeline Construction against Marathon Pipeline Company that the jurisdiction conferred on the bankruptcy courts under existing law could not be constitutionally exercised by those courts. Because the Supreme Court recognized the far-reaching affect of its decision it stayed the entry of its order to allow Congress time to correct the constitutional problems. Their concern was the orderly administration and adjudication of bankruptcy system. Since then, the stay has been extended and the deadline for congressional action pursuant to the stay has passed. For several months the bankruptcy courts have been functioning under rules promulgated by the Administrative Office of the U.S. Court and adopted by each district. The court system of this country is a very fundamental component of our government and it is very important that Congress correct the deficiencies pointed out in the Marathon.

The result has been that the bankruptcy system has been in constitutional limbo. The magnitude of this problem and the potential waste of judicial resources is evident because of the over 700,000 bankruptcy estates and 100,000 adversary proceedings pending on the bankruptcy court docket. It is estimated that 10,000 new bankruptcy petitions are being filed every week.

This is also an opportunity to address the need for additional judges. New Mexico is one of the jurisdictions where the bankruptcy court is overworked. Following the implementation of the Bankruptcy Code in 1979, the filing of adversary proceedings have increased 164 percent. The Director of the Administrative Office applied the case weights quantity and complexity of cases and concluded that New Mexico needed two full-time judges to meet the court's bankruptcy litigation. The judicial conference agreed with this recommendation.

Originally, the Thurmond-Heflin bill only provided one bankruptcy judge for New Mexico because the bill based its judgeship numbers on existing full-time judgeships. I called this matter to the attention of the Senator from South Carolina and he, graciously, and promptly held hearings on the need for additional judges.

Judge Howard Bratton, the Chief Judge for the Federal District in New Mexico, testified regarding the caseload in New Mexico. He pointed out that the increase in filings are due to the rampant population growth my State is experiencing—twice that of the national average. New Mexico was the ninth fastest growing State in the country during the 1970's. There are more and more high-technology firms locating in New Mexico, and at the same time our energy industries continue to play a key role in New Mexico's growth. The need is clearly there for an additional bankruptcy judge and I am very pleased that the committee amendments provide for a greatly needed additional judge for New Mexico.

This additional bankruptcy judge will help the court keep abreast of the increased filings and will provide for the prompt disposition of pending cases. At the end of March 1983, there were 2,016 bankruptcy cases pending. Based on the most recent 9 months' data, caseload per judge as of June 30, 1983, is expected to be 1,365 cases, or an increase of 176 percent in less than 5 years.

I would like to see this Congress pass this bill, correct the jurisdictional problems pointed out in the Marathon case, and appoint some greatly needed judges throughout the country. I know in New Mexico such a new judge would be very busy right now.

Thank you, Mr. President.●

● Mr. **BOSCHWITZ.** Mr. President, I am pleased that my colleagues on the Judiciary Committee have authorized Federal judgeships as part of the reported bankruptcy legislation. I am particularly pleased that the bill as reported converts the temporary judgeship in Minnesota into a permanent judgeship.

Public Law 95-486 created two additional district judgeships for Minnesota. That law also provides, however, that the first vacancy occurring 5 or more years after its effective date would not be filled. Thus, the first vacancy occurring after November 1983 would leave Minnesota with a total of five Federal judgeships.

Last fall, in testimony before the Courts Subcommittee, I first suggested that the judgeship be made permanent. At that time, the Judicial Conference had not made its recommendations. Unfortunately, no legislation was considered last Congress, even after the recommendations were made.

I believe that now is the time to make the judgeship permanent—not later this year when there is a greater urgency. The facts and circumstances in Minnesota justify making the judgeship permanent. In 1981, the district of Minnesota had 420 filings per judgeship and 368 weighted filings per judgeship. If the temporary judgeship did not exist, there would have been 442 weighted filings per judgeship. As of March 31, 1982, the statistics show 518 filings per judgeship and about 450 weighted filings per judgeship. These statistics by themselves support making the judgeship permanent.

But these statistics do not tell the full story. Judge Earl R. Larson is currently on senior status and thus is not included in calculating the filings per judgeship. When Judge Larson goes inactive as anticipated this year, the workload of the other judges will, in fact, increase. The expiration of the temporary judgeship would further aggravate the situation.

I have contacted the Honorable Donald P. Lay, chief judge of the eighth circuit court of appeals, Judge Donald D. Alsop and other district judges who support making the temporary judgeship permanent. I have also been in contact with the Administrative Office of the U.S. Courts and the eighth circuit's representatives to the Judicial Conference. In fact, the Judicial Conference has recommended that the temporary judgeship be made permanent.

Mr. President, I would also like to commend my distinguished colleague for offering the amendment to create new Federal judgeships in various district courts where they are needed—especially in Minnesota.

According to the Department of Justice, Minnesota's Federal judgeships have the fourth heaviest caseload in the Nation. In a letter to the chairman of the Judiciary Committee, Assistant Attorney General Rose reported a weighted caseload of 525 cases per judgeship in Minnesota. While Minnesota's judges have borne this caseload well, I believe the additional judgeship will have a positive effect on the administration of justice.

In conclusion, I believe that the caseload in Minnesota fully warrants making the temporary judgeship permanent and creating a new judgeship in Minnesota.

Thank you.●

● Mr. **SIMPSON.** Mr. President, I do wish to indicate strong support of this amendment to S. 1013 authorizing Jackson, Wyo., as a place for holding Federal court in the district of Wyoming. The western portion of Wyoming contains the administrative offices of the Grand Teton and Yellowstone National Parks, the National Elk Refuge, the Bridger-Teton National Forest, and the Fish and Wildlife Service, and many other Federal agencies. These Government agencies—and the lands that they administer—have engendered a number of Federal lawsuits. "Petty" criminal offenses which occur on Federal lands are now also being tried before the U.S. magistrate for Yellowstone National Park—yet at present there is no easily accessible Federal courtroom available for use in any of these types of cases.

The U.S. District Court for Wyoming has its primary location in the southeastern corner of the State in our capital city, Cheyenne. There is a second permanent courtroom available to the Federal courts in Casper, Wyo. Cheyenne is 443 miles from Jackson, and the central Wyoming city of Casper is 248 miles from Jackson. During the winter months the weather may often be so severe that travel from the northwestern areas to the Federal courtrooms is impossible.

This amendment would allow the Federal court to travel to Jackson for the holding of court sessions, rather than requiring the attorneys and witnesses to travel to the Federal courtroom in Cheyenne or Casper. The bill would also remove an obstacle to discussions between the town of Jackson and the County of Teton and the Administrative Office of the U.S. Courts regarding possible Federal participation in a proposed city/county justice facility. Federal participation—which would be decided solely by the Administrative Office—would provide access to the courtrooms in this new facility for the district court, the bankruptcy court, and the Federal magistrate.

The cases which arise in the northwestern part of the State often involve multiple parties and numerous witnesses. Examples of this are condemnation suits in which the Federal Government may seek to acquire parcels of land from diverse parties, boundary disputes, Snake River meander line cases, and criminal cases arising within the parks or upon Indian reservations in which the defendant, the victim, and all witnesses may be residents of the northwestern corner of the State. The inconvenience and expense of conducting litigation across these vast distances of Wyoming is often prohibitive and burdensome.

Mr. President, this provision relating to Wyoming—as other portions of this bill—are necessary and responsible. I urge my colleagues in the Senate to support this legislation.●

Mr. **THURMOND.** I ask for a vote on the amendment, Mr. President. I am ready to vote on the amendment unless someone cares to speak.

The **PRESIDING OFFICER.** Is all time yielded back?

Mr. **THURMOND.** I yield back my time.

Mr. **HEFLIN.** Mr. President, I yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1202) was agreed to.

Mr. THURMOND. I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1203

(Purpose: to statutorily set the salaries of magistrates and bankruptcy judges not subject to adjustment)

Mr. THURMOND. Mr. President, I send to the desk an amendment to S. 1013 and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The bill clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an amendment numbered 1203.

Mr. THURMOND. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, after line 24, add the following new section:

SEC. 417. (a) Section 634(a) of title 28, United States Code, is amended by striking out, in the first sentence thereof, "the rates now or hereafter provided for full-time and part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended" and inserting in lieu thereof: "$63,600".

(b) The rates for salaries of full-time and part-time magistrates in effect on the day before the date of enactment of this Act shall continue in effect until adjusted, or new rates determined, under the amendments made by this Act.

(c) Section 634(c) of title 28, United States Code, is amended by striking out "subsection III" and inserting in lieu thereof "subchapter III".

(d) Section 154 of title 28, United States Code, as such section is to become effective April 1, 1984, is amended to read as follows:

"§ 154. Salaries of bankruptcy judges

"Each judge of a bankruptcy court shall receive a salary at the annual rate of pay of $63,600.".

(e) Notwithstanding section 5307 of title 5, United States Code, or any other provision of law, a magistrate's or a bankruptcy judge's annual rate of pay shall not exceed $63,600 unless authorized by a law specifically referring to the rates of pay for such magistrates or bankruptcy judges.

(f) Section 225(f)(C) of the Federal Salary Act of 1967 (2 U.S.C. 356(c)) is amended by striking out "and magistrates", and inserting in lieu thereof, "except bankruptcy judges".

(g) Section 404 (f) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549) is amended by striking out the last sentence.

On page 34, line 1, strike out "417" and insert in lieu thereof "418".

Mr. THURMOND. Mr. President, this amendment would retain the salaries of U.S. magistrates and bankruptcy judges at their current level of $63,600. It would, however, set that figure as a statutory maximum and would require Congress to act affirmatively if magistrates and bankruptcy judges are to receive any further pay increases. This amendment, in essence, removes these nonarticle III judicial officers from coverage of the Federal Salary Act of 1967, pursuant to which they receive salary increases unless Congress takes action to prevent such an increase from going into effect.

This amendment also addresses a particular problem which has been brought to the attention of the committee regarding the salaries of U.S. magistrates. The 1978 Bankruptcy Reform Act, S. 232, attempted to revise the formula for setting the salaries of U.S. magistrates by removing a reference to the office of referee in bankruptcy and replacing the deleted material with a statutorily enacted maximum salary rate at $48,500 per annum, subject to annual adjustment. While the chosen salary level was accurate when the 1978 provision was drafted, it had become out of date by the time the law was enacted on November 6 due to the intervening salary adjustment on October 1, 1978. Moreover, the provision was not made immediately effective but deferred until April 1, 1984. Magistrates now receive a full-time, annual salary of $63,600. The reduction to $48,500 per annum in April 1984 that occur if no correction is made, would have a significant impact on the magistrates system. This amendment adds a new section 409 to title IV of S. 1013, retaining salaries of magistrates at their current level of $63,600.

As I indicated earlier, however, this amendment addresses the salary levels of both bankruptcy judges and magistrates, freezing both at their current levels. Any future salary increases would have to be acted on affirmatively by Congress.

Mr. President, I feel strongly that Congress should reassert its control over salary increases for these judicial officers. I find it very disturbing that the practically automatic pay increases which these officers received pursuant to the Federal Salary Act and section 471 of title 28 have resulted in a pay increase for magistrates of over $15,000 in the brief period of 5 years. Now, they are faced with a situation of receiving a substantial pay reduction should the statutory maximum set in 1978, with a 1984 effective date, go into effect. I do not wish, at this point, to significantly cut salaries.

The PRESIDING OFFICER. Is all time yielded back?

Mr. THURMOND. I yield back our time, Mr. President.

Mr. HEFLIN. I yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1203) was agreed to.

Mr. THURMOND. I move to reconsider the vote by which the amendment was agreed to.

Mr. HEFLIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1204

(Purpose: To provide for 10 additional district court judgeships)

Mr. THURMOND. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The bill clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) for himself and Mr. HEFLIN, proposes an amendment numbered 1204.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 2, strike out "four" and insert in lieu thereof "five".

One page 16, line 3, after "California," insert "one additional district judge for the district of Colorado,".

On page 16, line 4, after "Connecticut," insert "one additional district judge for the district of Delaware,".

On page 16, line 7, strike out "three" and insert in lieu thereof "four".

On page 16, line 15, after "Michigan," insert "one additional district judge for the district of Minnesota,".

One page 16, line 19, after "Montana," insert "one additional district judge for the district of Nevada,".

On page 16, line 22, after "New York," insert "one additional district judge for the district of Ohio,".

On page 17, line 2, before "two" insert "one additional district judge for the northern district of Texas,".

On page 17, line 4, after "Texas," insert "one additional district judge for the district of Utah,".

On page 17, line 5, after "Virginia," insert "one additional district judge for the eastern district of Washington,".

On page 18, strike out the following:

"California:	
Northern	12
Eastern	6
Central	21
Southern	7
Colorado	6
Connecticut	6
Delaware	3".

and insert in lieu thereof the following:

"California:	
Northern	12
Eastern	6
Central	22
Southern	7
Colorado	7
Connecticut	6
Delaware	4".

On page 18, strike out the following:

"Illinois:	
Northern	19".

and insert in lieu thereof the following:

"Illinois:
Northern .... 20".

On page 19, strike out the following:

"Minnesota .... 6"

and insert in lieu thereof the following:

"Minnesota .... 7".

On page 19, strike out the following:

"Nevada .... 3"

and insert in lieu thereof the following:

"Nevada .... 4".

On page 19, strike out the following:

"Ohio:
Northern 10
Southern .... 6"

and insert in lieu thereof the following:

"Ohio:
Northern 10
Southern .... 7".

On page 20, strike out the following:

"Texas:
Northern 9
Eastern 6
Southern 13
Western .... 3"
"Utah .... 3"

and insert in lieu therof the following:

"Texas:
Northern 10
Eastern 6
Southern 13
Western 7
Utah .... 4".

On page 20, strike out the following:

"Washington:
Eastern 4

and insert in lieu thereof the following:

"Washington:
Eastern .... 5".

Mr. THURMOND. Mr. President, the amendment which I am now offering would add 10 district court judges to S. 1013, the Bankruptcy Court and Federal Judgeship Act of 1983. Title III of S. 1013 currently contains those positions recommended by the Judicial Conference in 1980 and in 1982. The Conference recommended, and S. 1013 authorizes, 51 new district court judges and 24 new circuit court judges. This amendment would add an additional 10 district court judges, one in each of the following districts:

Southern District of Ohio;
District of Utah;
Northern District of Illinois;
District of Minnesota;
Northern District of Texas;
District of Colorado;
District of Nevada;
Eastern District of Washington;
District of Delaware;
Central District of California.

An additional judgeship in these districts was recommended to the committee by the Department of Justice. The first seven districts are recommended because they are the districts with the heaviest existing caseload—a caseload which will becoming heavier depending on how much bankruptcy work article III judges are required to handle. A new district court position for the Eastern District of Washington is recommended because that district also has a very heavy existing caseload, and an error in computing that caseload resulting in a new judge not being recommended for the Eastern District by the Conference in 1982.

A new judge for Delaware is recommended because of the unique nature of the workload in that district, stemming largely from the fact that Delaware is the state of incorporation for many major companies. The District of Delaware is, therefore, frequently called on to handle complex and time-consuming litigation involving corporate and banking laws. Finally, the Department recommended an additional judge for the Central District of California based on the sheer volume of bankruptcy work in that district. Currently over 16,600 adversary bankruptcy proceedings have been filed in that district, and some portion of that work will have to be handled by article III judges.

Mr. President, I ask unanimous consent that the following letters be placed in the RECORD following my remarks: Two letters from Jonathan C. Rose, Assistant Attorney General of the Department of Justice, containing the recommendation of the Department for the new judgeships authorized by this amendment, and a letter from William Weller, Legislative Affairs Officer for the Judicial Conference, concerning the computational error made with regard to weighted filings in the Eastern District of Washington.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGAL POLICY,
Washington, D.C., April 18, 1983.

Hon. STROM THURMOND,
Chairman, Committee on Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter supplements my letter to you of April 6, 1983, wherein the Department of Justice supported the creation of nine district court judgeships beyond those recommended by the Judicial Conference as part of the Thurmond-Heflin bankruptcy courts bill, S. 1013.

I have enclosed a list of every judicial district, along with the weighted caseload each district would have if the additional judgeships recommended by the Judicial Conference were created. The column on the right represents the civil and criminal workload only, while the middle column assumes the addition of some bankruptcy jurisdiction. This assumption is justified because the district courts would be required to handle some bankruptcy matters that the Article I bankruptcy courts provided in S. 1013 would be precluded from handling by the Supreme Court's decision in Northern Pipeline. As described in my earlier letter, we have assumed that the district courts' share of the bankruptcy workload would be equivalent to about ten percent of the adversary proceedings.

The figures in the attached chart are based on figures prepared by the Administrative Office of the United States Courts for the year ending June 30, 1982. These figures are more current than those that were available to the Judicial Conference working committees that prepared the omnibus judgeship recommendations, but were available to the Judicial Conference when it formally adopted its report in December, 1982.

The seven districts at the top of the chart are the first we recommended to receive an additional district judge. Each has a heavy existing caseload, and will have a heavier one once some bankruptcy jurisdiction is assumed. Even when the judgeships recommended by the Judicial Conference are taken into account, each of these districts has over 450 weighted cases per judge. When bankruptcy work is factored in, they have around 500 or more cases per judge.

We understand that the Administrative Office of the U.S. Courts has provided to you a letter stating that because of a caseload computational error, the Eastern District of Washington also had reached an annual weighted caseload of 450 (500 including bankruptcy) filings per judge and therefore would merit an additional district judge as well.

In my previous letter we recommended an additional judgeship for the Central District of California because of its extraordinary volume of adversary bankruptcy proceedings (15,629). In the case of Delaware, we recommended an additional district judge because of that state's unique status as the state of incorporation for many of the nation's major companies and its potential, therefore, for the Johns-Mansville type of complex bankruptcy litigation. We do not believe that, unless the existing caseload standards are to be lowered equitably around the country, the creation of additional district judgeships can be numerically justified at this time.

We are confident of the procedures employed to justify the creation of these ten additional district judges beyond those recommended by Judicial Conference in its 1980 and 1982 reports—based as it is on the numbers contained in those two reports as corrected by the Administrative Office. However, we are firmly of the view that Congressional enactment of the judgeships recommended in those two reports is urgently needed and is essential to the effective functioning of our nation's judicial system. Thus, if the recommendations for the ten additional district judgeships which we have recently made to you could engender any considerable confusion or debate on the Senate floor, it would be our recommendation that consideration of these additional judgeships be postponed, and only those contained in the 1980 and 1982 Judicial Conference recommendations be voted upon at this time.

With warmest regards.

Sincerely,

JONATHAN C. ROSE,
Assistant Attorney General.

WEIGHTED FILINGS

District	With Bankruptcy cases	Civil and criminal cases only
Ohio, Southern	582	546
Utah	557	512
Illinois, northern	536	511
Minnesota	525	502
Texas, northern	514	490
Colorado	504	458
Nevada	496	480
Connecticut	490	467
Texas, southern	477	464
California, central	474	400
Oklahoma, western	474	468
Missouri, eastern	470	449

WEIGHTED FILINGS—Continued

District	With bankruptcy cases	Civil and criminal cases only
Tennessee, eastern	469	414
Michigan, eastern	467	448
Wisconsin, western	467	451
Oregon	466	439
Indiana, southern	463	412
Oklahoma, western	461	450
Georgia, middle	457	403
New Hampshire	456	436
Georgia, southern	454	433
Tennessee, middle	453	426
Kansas	445	412
Ohio, northern	441	397
Washington, eastern	438	393
California, northern	435	392
Alabama, northern	435	412
Michigan, western	433	376
Virginia, eastern	429	407
Texas, eastern	429	425
Tennessee, western	426	388
Arkansas, eastern	426	411
Wisconsin, eastern	425	384
Virginia, western	424	393
Mississippi, southern	421	406
Iowa, northern	419	350
Louisiana, middle	417	404
Georgia, northern	414	378
Massachusetts	410	396
Iowa, southern	409	382
California, eastern	408	341
New York, eastern	406	392
New Jersey	406	377
Mississippi, northern	405	388
Louisiana, eastern	402	380
Illinois, central	401	382
Oklahoma, northern	401	379
New York, northern	400	372
Pennsylvania, eastern	397	361
Texas, western	393	376
New York, southern	389	382
Missouri, western	389	354
Alabama, southern	387	361
South Carolina	383	366
Florida, middle	382	360
Illinois, southern	381	362
Nebraska	378	349
Idaho	376	332
Alabama, middle	376	355
North Carolina, eastern	372	329
Maryland	370	344
New Mexico	364	340
Louisiana, western	361	354
Kentucky, western	361	344
District of Columbia	359	357
Rhode Island	358	341
California, southern	353	329
Pennsylvania, middle	351	327
Washington, western	349	315
North Carolina, western	342	317
West Virginia, southern	341	326
Indiana, northern	341	326
Alaska	335	211
New York, western	334	305
Florida, southern	315	309
West Virginia, northern	306	266
Pennsylvania, western	300	268
Arizona	289	269
Florida, northern	281	271
Hawaii	279	271
Montana	279	268
Arkansas, western	278	267
North Carolina, middle	275	248
Maine	265	238
Wyoming	265	259
North Dakota	260	242
Puerto Rico	258	249
South Dakota	253	226
Delaware	242	238
Vermont	240	231
Kentucky, eastern	237	226

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGAL POLICY,
Washington, D.C., April 6, 1983.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary,
Washington, D.C.

DEAR MR. CHAIRMAN: The Department of Justice is pleased to provide its views on the need for nine district court judgeships in addition to those recommended by the Judicial Conference in its biennial report. In our view, the judgeships under consideration are needed to handle the workload that will be generated as a consequence of the establishment of an Article I bankruptcy court as well as the existing civil and criminal caseloads.

Although not a model of clarity, the Supreme Court's decision in *Northern Pipeline Construction Co.* v. *Marathon Pipe Line Co.*, U.S. , 102 S. Ct. 2858 (1982), requires that some bankruptcy proceedings be decided by judges who have the life tenure and compensation protection of Article III of the Constitution. If bankruptcy courts are established under Article I of the Constitution to handle the bulk of the bankruptcy caseload, then the matters that they cannot constitutionally decide must be handled by existing Article III courts. Thus, the impact that this remaining bankruptcy workload would have on the only Article III courts capable of handling it, the federal district courts, would become an important consideration.

The impact of this bankruptcy workload on the district courts is difficult to estimate. However, an estimate of 10 percent of the adversary proceedings seems reasonable. Adversary proceedings are those where the interests of two parties are inherently in conflict, and they form the universe from which most contested proceedings arise. In developing the proposal that later was incorporated into S. 443, the Administrative Office of the United States Courts assumed that 10-25 percent of the adversary proceedings would result in contested matters requiring the decision of a judge. Under the proposed Bankruptcy Court and Federal Judgeship Act of 1983 (the "Thurmond-Heflin bill"), these matters would reach the district courts in three ways. First, the district courts will be hearing many related proceedings, such as that in Northern Pipeline. Second, they will be hearing appeals from the final decisions of the Article I bankruptcy courts, where the rule of decision is provided by Title 11, or where the parties consented to the bankruptcy judge's jurisdiction. Third, the district courts will be reviewing the proposed findings and judgments of bankruptcy judges who acted as magistrates or as special masters in recalled proceedings.

The Department of Justice has reviewed the workload statistics for the district courts to determine whether they have sufficient judicial personnel to handle the additional workload they would be asked to absorb. It appears that most district courts are capable of absorbing the bankruptcy-related workload without overburdening their judges, at least when the 51 additional district judgeships recommended by the Judicial Conference and included in the Thurmond-Heflin bill have been created. However, the caseload statistics indicate that a problem may well exist in eight districts: Central California, Colorado, Northern Illinois, Minnesota, Nevada, Southern Ohio, Northern Texas and Utah.

All eight of these districts currently have weighted civil and criminal filings substantially above the benchmark of 400 per judgeship used by the Judicial Conference to determine the need for an additional judgeship. Seven of the eight would have weighted civil and criminal filings of over 450 per judgeship after the judgeships recommended by the Judicial Conference are added. Thus, the judges in these districts are fully occupied without the addition of any bankruptcy jurisdiction. In the same seven districts, the addition of this bankruptcy-related workload would increase the weighted filings to about 500 or more per judgeship.[1] The figures for these seven districts are as follows:

District	Judgeships (existing plus omnibus)	Weighted filings per judgeship (including omnibus judges)		Total adversary proceedings
		Without bankruptcy	With bankruptcy	
Colorado	6	459	504	2,720
Northern Illinois	20	511	535	4,932
Minnesota	6	502	525	1,380
Nevada	3	460	495	1,069
Southern Ohio	6	546	582	2,166
Northern Texas	9	490	514	2,191
Utah	3	512	547	1,336

The eighth district where the bankruptcy-related workload merits another judgeship is the Central District of California. After the four new judgeships recommended by the Judicial Conference are added, the district will have a weighted civil and criminal caseload of 399 per judgeship. However, Central California is a special case because its bankruptcy workload is three times larger than that of any other district. In 1981-82, 29,925 bankruptcy cases were filed, and 15,629 adversary proceedings were commenced. Because of the generous exemptions established by state law (proceedings related to which would be subject to "recall" by the district courts under the Thurmond-Heflin bill), and other reasons peculiar to California, the bankruptcy caseload in California is likely to remain above the national average. If the four judgeships recommended by the Judicial Conference are necessary to handle the existing civil and criminal caseload, then there can be little doubt that the new bankruptcy workload will keep another judge busy.

The figures discussed above indicate, we believe, that the additional bankruptcy-related workload that would be borne by the district courts under the Thurmond-Heflin bill would justify the addition of a new district judgeship, over and above the judgeships recommended by the Judicial Conference, in each district discussed above.

It should be emphasized that this conclusion in no way contradicts the recommendations, findings, or procedures of the Judicial Conference. Since 1976, and at the specific request of Congress, the Judicial Conference has declined to factor into its recommendations an estimate of future caseloads. As the district courts had only an appellate role in bankruptcy adjudication under the 1978 Bankruptcy Reform Act until the Judicial Conference's Emergency Rule went into effect on December 24, 1982, the recommendations developed during 1981-82 do not include any needs attributable to bankruptcy trial jurisdiction. The Judicial Conference has specifically declined to estimate the impact of this new jurisdiction, except and to the extent necessary for the Administrative Office to develop the proposal that later was incorporated into S. 443. The Department's estimate of the impact of a bill that has yet to be enacted is one that the Judicial Conference, for institutional reasons unrelated to the resolution of the current bankruptcy situation, is not in a position to make.

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[1] This is calculated by dividing ten percent of the number of adversary proceedings by the number of district judgeships authorized for the district (including any of the 51 district judgeships recommended by the Judicial Conference) and adding this figure to the weighted civil and criminal filings per judgeship for the district. All figures are for the year ending June 30, 1982, as compiled and published by the Administrative Office of the U.S. Courts.

It appears that the methodology used on a national basis to determine the need for additional judgeships may result in an underestimation of the workload being carried by the three current judges in Delaware. Delaware is the state of incorporation for about 40% of both the Fortune 500 companies and the companies listed on the two leading stock exchanges. Therefore, Delaware is a proper venue for commercial litigation involving a number of companies that is greatly disproportionate to the state's population. Also, Delaware is in the forefront of the trend toward interstate banking, and therefore will be the venue of much significant litigation on complex issues of bank regulation. The complexity of the litigation in Delaware federal court is indicated by the numbers of written and published opinions per judge, which are among the highest in the nation.

We understand that the creation of new judgeships is a sensitive matter, and that the Committee, in the sound exercise of its judgment, may decide that no judgeships should be created unless first recommended by the Judicial Conference. The decision to consider estimates of future needs is one that the Committee alone can make. If Congress regularly enacted the Judicial Conference's recommendations, these districts could be expected to operate understaffed for a short time. However, judgeship bills seem to be passed only sporadically. A good case can be made that the judges in these districts currently are fully occupied, that they will be seriously understaffed when they assume responsibility for some of the bankruptcy workload, and that they will continue to be understaffed for a number of years unless they receive an additional judgeship at the same time they are given additional responsibilities. Therefore, the Department of Justice recommends that the nine additional judgeships be added to those already provided in the Thurmond-Heflin bill.

Thank you for giving the Department of Justice the opportunity to present its views on this matter.

Sincerely,

JONATHAN C. ROSE,
Assistant Attorney General.

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS,
Washington, D.C., April 14, 1983.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Yesterday Senators Jackson and Gorton forwarded a copy of material submitted for your consideration during your hearing on April 6 requesting authorization for an additional district judgeship for the Eastern District of Washington. Both Senators asked the Administrative Office to "confirm that there was a mistake in the weighting factor used in the 1981 data"—which resulted in a misrepresentative statistical profile of the Eastern District of Washington's workload burden during the period when the Judicial Conference's Committee on Court Administration was evaluating objective criteria as part of its latest biennial judgeship survey. The Senators also asked us to confirm a pattern of increasing case filings in the district in recent years.

In response to their request I have asked knowledgeable Administrative Office personnel to review our records. We can verify that erroneous information unintentionally entered by attorneys filing cases in the district court clerk's office did indeed result in erroneous information being tabulated by our office. Civil caseload data consequently was misrepresentatively "underweighted" for parts of management years 1981 and 1982. The district court clerk's office has taken corrective action and has worked with our office to revise inaccurate data. Information provided by the court's judges in their submission for your April 6 hearing record is correct. We can also verify a pattern of caseload growth in the district in recent years. We can further confirm that the errors which distorted data were not discovered in time to permit revisions in Judicial Conference biennial survey recommendations approved last September; the Conference had already acted before our office knew that our data was inaccurate.

Would the Conference have recommended an additional judgeship for the district had correct data been evaluated during the biennial survey? For reasons we have explained in previous submissions filed with your committee, most recently reiterated in Judge Hunter's April 6 statement, I cannot answer that question. The Administrative Office does not presume to substitute its assessments and estimates for the Court Administration Committee's and the Conference's judgment. I can advise you that we believe the district's request is, in our opinion, a meritorious one.

In the two decades in which the Conference and Congress have worked together in assessing judgeships needs the Conference has always recognized that its role was designed to be an advisory one to the Congress. Every bill authorizing new judgeships during those years has included positions which, while not recommended by the Conference, have been found necessary by the Congress. The ultimate policy decision—the final judgment—is exclusively within the Congressional domain. In instances like this one, that final repository of authority in Congress serves the practical purpose of permitting corrective action where warranted. If in your opinion the error which has in fact occurred should be corrected now the Conference will, of course, support your decision.

Sincerely,

WILLIAM JAMES WELLER,
Legislative Affairs Officer.

Mr. THURMOND. Mr. President, I might say, concerning the Delaware judgeship, that several people have asked me why it was included since its weighted caseload figures do not come up to the figures of the other districts, but I think the Department of Justice has fully explained the reason for that. I might say that this judgeship is strongly recommended by the distinguished ranking member of this committee (Mr. BIDEN) and also the senior Senator from Delaware (Mr. ROTH).

Mr. BIDEN. Mr. President, I support the judgeship amendment to S. 1013, the Thurmond/Heflin Bankruptcy Court and Federal Judgeship Act of 1983. This amendment will add 10 Federal district court judgeships to the judgeship section of the bill, one to each of the following districts: The Central District of California, the District of Colorado, the District of Delaware, the Northern District of Illinois, the District of Minnesota, the District of Nevada, the Southern District of Ohio, the Northern District of Texas, the District of Utah, and the Eastern District of Washington.

The judgeships in 8 of these 10 districts were recommended by the Department of Justice, based upon the workload statistics kept by the Administrative Office of the Judicial Conference, the organization charged with keeping track of judicial workloads and the need for additional judgeships.

The two remaining judgeships are based upon evidence produced at a hearing before the Judiciary Committee on April 6 of this year.

First, I would like to address the situation in Delaware.

Mr. Chairman, in the District Court of Delaware we are blessed with some of the most competent and dedicated judges in the Fedeal court system. But even so, the role of Delaware as the home of a substantial proportion of the major corporations in America has led to a situation where cases litigated in Delaware are so important, and so complex, that even the excellent judges we have in our State are becoming overwhelmed.

The president of the Delaware bar, the president-elect, and the past president of the Delaware bar testified at the April 6 hearing. Those witnesses told us that approximately 40 percent of the "Fortune 500" large public companies, and nearly the same percentage of corporations listed on the New York Stock Exchange and the American Stock Exchange, have incorporated in Delaware.

These corporations are involved in litigation raising questions of the utmost commercial consequence at the cutting edge of Federal law. As a result, their orders must be backed up by detailed written opinions in an extraordinarily large percentage of cases. Unfortunately, the weighted case filings measuring system fails to take into account the importance of reported opinions per judge, but as I believe the Delaware witnesses clearly demonstrated, the Delaware judges are overworked even by comparison to the judges of the other overworked districts currently being considered for an additional judgeship.

For example, according to Westlaw, Delaware's district judges reported an average of 29.67 opinions per judge in 1982, while of the eight districts originally recommended by the Justice Department for additional judgeships, only the Northern District of Illinois comes close, with an average of 23.38 opinions per judge. The remaining seven districts show averages ranging from 2.35 reported opinions per judge to 15.5 reported opinions. Comparable results were also demonstrated at the hearing for the years 1980 and 1981.

Mr. President, I believe the witnesses at the April 6 hearing established that Delaware's unique position in the world of corporate law warrants an additional judgeship. Citing these arguments, Assistant Attorney General for Legal Policy, Jonathan Rose, has included the Delaware District Court in his letter to Chairman THURMOND recommending additional judgeships.

Finally, Mr. Chairman, Senators GORTON and JACKSON brought to our attention at the April 6 hearing the fact that case filings in the Eastern District of Washington have been recorded with incorrect weighting factors, thereby resulting in weighted case filings numbers substantially lower than what they should be. The Administrative Office of the Judicial Conference has investigated the situation and has confirmed that the Eastern District of Washington weighted case filings have been underestimated. Accordingly, we have included the Eastern District of Washington in this amendment.

Mr. President, I conclude by thanking the chairman of the full committee for his cooperation and for allowing me the opportunity to make the case on the additional judge for Delaware, in addition to the other judges, and thank publicly Senator DOLE for holding the hearing to determine whether or not the uniqueness of the Delaware situation warranted an additional judge.

Mr. HATCH. Mr. President, I rise in support of this amendment to provide the Federal judiciary with adequate resources for it to accomplish its essential constitutional mission. Without adjustments in the judicial manpower of some Federal court districts across the Nation, the burgeoning caseload will begin to affect efficient and fair administration of justice. When the number of cases filed increases dramatically over a period of years without any increase in judicial resources to resolve such disputes, intolerable strains are placed on the institution which Alexander Hamilton described as the "bulwark of a limited Constitution," namely the Federal judiciary.

Let me take a specific example to illustrate this problem. In the U.S. District Court of Utah, the number of cases filed—and remember that each of these cases demand at least some measure of a judge's precious time—has increased from 647 per year in 1977 to 1,489 in 1982. This is a 130.1 percent change. No district in the 10th circuit and only three other districts in the entire Nation have experienced a sharper climb in the rate of filings.

These filing statistics broken down to show the expanded demands on each of Utah's three district court judges is even more revelatory of the inordinate pressures exerted by this growing caseload. In 1977, the Utah district had 324 filings per judgeship; in 1982, each judgeship was handling 495 filings.

In an effort to update these workload indicia, I contacted the clerk of the Utah district court this week. The statistics for the first 3 months of 1983 were alarming. In the first 3 months of 1982—through March 30—a total of 364 cases were filed in the Utah district. In the same 3-month period in 1983, 606 cases were filed. Thus in a comparable period 1 year later, the number of filings had nearly doubled. Another comparison would put this 3-month figure in perspective: As I mentioned earlier, in all of 1977, 647 cases were filed; the first quarter of 1983 has generated nearly an equivalent caseload to that annual 1977 figure.

These statistics, standing alone, build an impressive case for congressional action to increase the number of judgeships in Utah to account for the changing circumstance of a growing judicial caseload. Even these statistics, however, do not account for the impact of bankruptcy jurisdiction on the Utah district court. The bill approved by our Senate Judiciary Committee just last week vests bankruptcy jurisdiction in the district courts with adjunct article I bankruptcy courts empowered to exercise such jurisdiction. The district court, under this bill, could, however, recall any case at its discretion and would be required to recall some cases at the request of either party. Thus, a restructuring of the bankruptcy system is likely to result in some additional workload for the Utah district on top of its already-difficult predicament. As we have learned in trying to arrive at a sensible resolution to the bankruptcy court problem, it is difficult to estimate with exactitude the number of bankruptcy cases that the district courts, rather than the bankruptcy courts, will need to handle. In attempting to make this prediction, however, the Justice Department stated that an estimate of 10 percent of all adversary proceedings requiring district court action was reasonable. Based on this assumption, the Justice Department develped a list of 10 districts whose existing caseload, in conjuction with added bankruptcy cases, justified an additional judgeship. The Department found that the Utah district could expect 512 weighted filings per judgeship without even considering the bankruptcy additions and 547 weighted filings per judgeship with bankruptcy included. Only one district on the Justice Department's list of eight would have more filings per judgeship. These weighted filings factor in the complexity of cases and the likelihood that significant trail time will be required. The conclusion of this study further speaks to the need for bolstering the supply of judicial resources in Utah to meet the demand for judicial resolution skills.

To summarize this statistical analysis, I would return to the finding of the Administrative Office of the U.S. Courts in their "Management Statistics for United States District Courts, 1982" that the rate of case filings has climbed 130.1 percent in the last 6 years. This compares to a national average rate of change of only 39.8 percent. From 1981 to 1982, the Utah filings figure increased at a 26.7 percent clip, while the national average was 13.5 percent—one-half the Utah rate of increase. Moreover, as I indicated earlier, the first 3 months of 1983 have doubled the caseload increases for a comparable period in 1982 in Utah. In other words, Utah's caseload was already growing at twice the national average in 1982, but 1983 is already outstripping those alarming 1982 statistics.

As I mentioned at the outset, Utah is merely one example of the strain placed on current judges by the growing caseload. The Justice Department, in a letter to Chairman STROM THURMOND dated April 18, 1983, recommended that nine other districts receive judgeships. Those districts, listed in order of need according to number of filings per judgeship, are:

Ohio, S. 582.
Utah 557.
Illinois, N. 536
Minnesota 525
Texas, N. 514
Colorado 504
Washington, E. 500
Nevada 496
California, C. 474

California and Delaware were recommended for judgeships by the Justice Department for reasons beyond the number of filings per judgeship. The central district of California will receive an extraordinary volume of adversary proceedings (15,629). Delaware is recommended for an additional district judge because of that State's unique status as the State of incorporation for many of the Nation's major companies and its potential, therefore, for the Johns-Manville type of complex bankruptcy litigation.

The Justice Department recommendation stated succinctly the reasons for this amendment:

> We are firmly of the view that Congressional enactment of the judgeships recommended * * * is urgently needed and is essential to the effective functioning of our Nation's judicial system.

In conclusion, I would like to state that we can be justifiably proud of the dedicated judges that serve in Federal courts. Despite taxing circumstances, such as those found in Utah due to the caseload, they have maintained praiseworthy standards of judicial conduct.

My remarks today should not be construed in any way as an indication that Federal courts have compromised their calling to administer justice due to these pressures. My point is, however, that we cannot expect to maintain the highest standards of justice without some accommodation for these changing circumstances.

Mr. THURMOND. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HEFLIN. I yield back my time.

Mr. THURMOND. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1204) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEFLIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1205

(Purpose: To suggest guidelines for the appointments of bankruptcy judges)

Mr. THURMOND. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from South Carolina (Mr. Thurmond), on behalf of Mr. Kennedy, proposes an amendment numbered 1205.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, between the table and line 1, insert the following new section:

"It is the sense of the Congress that the President, in selecting individuals for nomination to the Federal judgeships created by this Act, shall give due consideration to qualified individuals without regard to race, color, sex, religion, or national origin."

Mr. THURMOND. Mr. President, I am offering this amendment on behalf of the distinguished Senator from Massachusetts (Mr. Kennedy). It is a simple amendment and would state the sense of the Congress that bankruptcy court nominations be made by the President among qualified individuals without regard to race, color, sex, religion, or national origin. I strongly support this principle of nondiscrimination and support the present amendment.

Mr. President, I yield back my time.

Mr. HEFLIN. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1205) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEFLIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1206

(Purpose: To reinstate the provisions for bankruptcy appellate panels)

Mr. THURMOND. Mr. President, I now send to the desk an amendment and ask the clerk to report.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from South Carolina (Mr. Thurmond), for himself and Mr. DeConcini, proposes an amendment numbered 1206.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5 of the amendment, strike out the amendment adding section 407 which amends section 160 of title 28, United States Code.

On page 6 of the amendment, adding section 411 which amends section 1334 of title 28, United States Code, strike out the period and closing quotation marks at the end of section 1334 and insert in lieu thereof the following:

"(d) The Judicial Council of a circuit may establish bankruptcy appellate panels to exercise the jurisdiction conferred by this section for any judicial district within the circuit. Each such panel shall consist of three bankruptcy judges designated by the chief judge of the circuit from among the bankruptcy judges of the circuit and shall exercise all of the jurisdiction of such district court under this section, sitting at a place convenient to the parties to the appeal, except that a panel may not hear: (1) an appeal from a judgment, order, or decree entered by a member of the panel; or (2) an appeal in which a party has objected to the exercise of jurisdiction by the panel.

"(e) The courts of appeals shall have jurisdiction of appeals from all final decisions, final judgments, orders, or decrees of a district court or a bankruptcy appellate panel entered under this section in the same manner as such an appeal may be taken in civil cases generally.".

On page 7 of the amendment, strike out "236, 237, 238, 239, 240," and inserting on lieu thereof "239,".

At the end of the amendment add the following:

On page 9 of the bill, after line 25 add the following:

"§ 1478. Appeals

"(a) Panels designated under section 160 (a) of this title shall have jurisdiction of appeals from all final judgments, orders, and decrees of bankruptcy courts.

"(b) Panels designated under section 160 (a) of this title shall have jurisdiction of appeals from interlocutory judgments, orders, and decrees of bankruptcy courts, but only by leave of the panel to which the appeal is taken.".

On page 2 of the bill, in the table between lines 8 and 9, add, after the item relating to section 1477, the following:

"1478. Appeals".

Mr. THURMOND. Mr. President, I ask unanimous consent that the distinguished Senator from Arizona (Mr. DeConcini) be added as an original cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I am offering an amendment on behalf of myself and Senator DeConcini that will allow the continuation of a practice of handling bankruptcy appeals that has worked well in the ninth circuit over the past 4 years. The bill before us would strike those provisions of the law that allow a circuit, in its discretion, to create appellate panels composed of bankruptcy judges to hear bankruptcy appeals in the first instance. The judges and practitioners alike of the ninth circuit have found this option practical and worthwhile. If a circuit does not want to adopt this procedure, they will not have to—only a circuit that feels this will promote the administration of justice will utilize this program.

This proposal is supported by the chief judge of the ninth circuit and all of the rest of the ninth circuit judges. I urge the Senate to adopt the amendment.

Mr. HEFLIN. Mr. President, I ask unanimous consent that a letter dated April 26, 1983, from the Honorable James R. Browning, chief judge of the U.S. Court of Appeals of the Ninth Circuit, and the attachment thereto, be printed in the Record.

There being no objection, the letter, with its attachment, was ordered to be printed in the Record, as follows:

U.S. Court of Appeals,
Ninth Circuit,
San Francisco, Calif., April 26, 1983.

Hon. Howell Heflin,
U.S. Senate,
Washington, D.C.

Dear Senator Heflin: I enclose a report on the three years of operation of the Bankruptcy Appellate Panels in the Ninth Circuit.

As I indicated on the phone, responses to a questionnaire distributed to attorneys who appeared before the Bankruptcy Appellate Panels reflect an overwhelming approval of the procedure. Over 90 percent of those responding to the questionnaire desired the program be continued. Eighty-three percent indicated they had greater confidence in opinions on bankruptcy matters issued by the Bankruptcy Appellate Panels than they had in opinions on bankruptcy matters issued by district courts.

The program was also approved by an overwhelming majority of circuit judges, district judges, and bankruptcy judges of the circuit.

It is some indication of the effectiveness of the project that in the three years of its operation, from 1979 to 1982, bankruptcy appeals filed in United States courts of appeals nationwide rose by 21 percent, while during the same period bankruptcy appeals in the Ninth Circuit fell by 12 percent.

On the basis of the successful operation of the Bankruptcy Appellate Panels in the

Ninth Circuit, the Judicial Conference of the United States concluded they should be continued. A provision to that effect was included in legislation proposed by the Conference in response to *Marathon* and introduced in the House by Congressman Kastenmeier. See H.R. 1401.

I appreciate the importance of uniform and simplified procedures in the federal court system, but I suggest that the process of achieving that uniformity should not begin with the elimination of a project that lawyers and judges alike believe to be efficient and effective.

Best regards,

James R. Browning.

Report on Ninth Circuit Bankruptcy Appellate Panels

The bankruptcy appellate panels of the Ninth Circuit concluded their third year of operation with a substantial increase in case disposals, a substantial increase in appeals filed, and an unclear future due to the *Marathon* decision. The panels were authorized in the Bankruptcy Reform Act of 1978. The authorization was optional, however, and the panels were explicitly set out to be "experimental." Only the First and Ninth Circuits actually set up panel experiments. (A full description of the legislative history and first years' operation of the bankruptcy appellate panels is set down in an article by Bankruptcy Judge Lloyd George in the Brigham Young University Law Review. A copy of the article is attached.)

Consistent with the experimental nature of the program, the panels established in the Ninth Circuit first heard only bankruptcy appeals originating in the Districts of Arizona and Central California. Once procedures were working smoothly, jurisdiction was expanded in December 1980 to include appeals from all of California and Nevada.

In December 1982, in recognition of the widely shared view that the bankruptcy appellate panels were a successful experiment that should be made a permanent fixture in the Ninth Circuit, the Circuit Council expanded the program to include all bankruptcy appeals in the circuit. To handle this increased workload, the total complement of bankruptcy judges serving on the panels was increased from five to seven.

The final implementation of the *Marathon* decision led the ninth Circuit Council to issue an order that removed jurisdiction from the BAPS of all appeals filed after the December 25 effective date of *Marathon*. Appeals from orders entered prior to that date will continue to be processed by the panels.

Each of the judges serving on the appellate panels continues to carry a full bankruptcy court caseload; appellate panel duty is entirely in addition to these regular duties. The panels "ride circuit" and almost always hear an appeal in the district in which it originates. The three-judge panels sit three days each month, each day in a different location. An individual judge sits on appeals two days per month, hears five to eight appeals, and writes an average of two opinions per month. Given the very substantial regular duties of bankruptcy judges, this assumption of extra judicial work is an impressive commentary on the dedication of panel members.

As the attached table of BAP caseload indicates, the panels' caseload has risen substantially over the three years in operation. Disposals have not kept pace with filings, resulting in a very substantial increase in the year-end pending figures. This statistic, however, is a misleading indicator of the panels' backlog, since roughly half of these cases are ripe for dismissal but the BAP clerk does not have the staff to process them. (The staffing ratio of appeals to clerical employees in the BAP clerk's office is more than 170 to 1; in circuit courts generally, the ratio is 78 to 1.) With the cessation of new cases and the addition of two new judges, the panels should be able to work expeditiously through the backlog.

The bankruptcy appellate panels in the Ninth Circuit continue to enjoy a very high reputation in the bankruptcy bar and on the circuit, district and bankruptcy benches. This is indicated by the results of a questionnaire survey conducted in the summer of 1982. Of those responding to the questionnaire, well over 90 percent desired the program to be continued. The high level of attorney support for the program is undoubtedly related to the fact that 84 percent of the respondents believed panel members have either an "excellent" or "good" grasp of the applicable law and 83 percent indicated greater confidence in a BAP opinion than in a district court decision on a bankruptcy appeal. (A summary of this evaluation is attached.) Another indication of their favored status is the surge of filings as the effective date of *Marathon* approached: 146 cases were filed during November and December of 1982. This level of filings in two months was not achieved in the first ten months of 1981.

It is not easy to measure directly the effect of the panels on the caseload of the court of appeals. There is, however, one striking measure of their impact: Between 1979 (the year before the BAP experiment began) and 1982, the level of bankruptcy appeals filed in all U.S. circuit courts rose by 21 percent. In this same period, bankruptcy appeals filed in the Ninth Circuit Court of Appeals fell by 12 percent. It is highly likely that a major reason behind this fall in circuit court workload is the presence of the bankruptcy appellate panels. A loss of the panels would almost certainly increase the workload of the circuit court.

The bankruptcy appellate panels have, in just three years, become an established part of the bankruptcy system in the Ninth Circuit. The panels have developed effective legal and administrative procedures, their work is highly regarded by both bench and bar, and they are contributing to a real reduction in the workload of the court of appeals. It is the strong hope in the Ninth Circuit that any future bankruptcy legislation allow this demonstrably useful program to be continued.

BANKRUPTCY APPELLATE PANELS CASEFLOW STATISTICS

	Filings	Disposals			Year-end pending
		After [1] submission	Before [2] submission	Total	
Calendar year:					
1980	56	7	21	28	28
1981	400	39	134	173	255
1982	615	113	148	261	609

[1] Disposals by judicial order, memorandum or opinion after submission.

[2] Dismissals by clerk or judge before submission.

Summary of Questionnaire Evaluation: Ninth Circuit Bankruptcy Appellate Panels

In order to obtain the views of lawyers and judges regarding the bankruptcy appellate panel (hereinafter BAP) experiment, questionnaires were distributed to all lawyers appearing before the panels during the months of May and June 1982. Questionnaires were also distributed to bankruptcy, district and circuit judges, soliciting their opinion of the program.

The rate of return for the questionnaires varied from 34 percent (bankruptcy lawyers) to 79 percent (bankruptcy judges). Because of the relatively low return rate in several categories of respondent, the results reported below should be viewed with some caution. The general impression of the effectiveness and value of the program, however, was uniformly high.

Attorney Opinions.—The majority of attorneys responding support the BAP program: 93 percent want the panels to continue and 92 percent felt the program should be expanded throughout the entire circuit. It would appear that the major reason for this support was greater confidence in the correctness of a BAP opinion: 83 percent of those attorneys responding indicated greater confidence in a BAP opinion than in a district court opinion on a bankruptcy appeal. The confidence is undoubtedly related to the fact that 84 percent believed the judges on the panels to have either an "excellent" or "good" grasp of the applicable law. In addition, lawyers indicated strong support for the quality of written BAP opinions.

Somewhat surprisingly, attorneys did not necessarily believe the BAP program either to save their clients' money or to expedite the bankruptcy appeals process. Of those attorneys answering the question on whether they felt the BAPs were more economical, 52 percent agreed that the panels were more economical, 48 percent disagreed. There was only a little more support for the proposition that the BAPs expedited the appeals process: 58 percent agreed while 42 percent disagreed.

It would appear from the responses and written comments on the questionnaries of attorneys who have practiced before BAPs, that the system is highly regarded because the judges sitting on BAP panels are believed to be well versed in the relevant law, fair during oral argument, and effective in writing opinions. Given the specialized nature of bankruptcy law, attorneys appear very supportive of an appeals process that allows a hearing before judges who deal with bankruptcy matters on a daily basis. Apparently the expected side effects of speed and economy are less significant to the bankruptcy bar than this well on confidence in the bankruptcy judges sitting on BAP panels.

Bankruptcy Judges Opinions.—Bankruptcy judges evinced even stronger support for the BAP program than the lawyers. Every responding bankruptcy judge believed the program should be continued, and 89 percent believed the program should be expanded circuit-wide. As with the lawyers, it would appear that a major reason for their strong support is the belief that panel members are particularly expert in bankruptcy law. When asked to compare BAP decisions to bankruptcy appeals in the district courts, 63 percent believed the BAP decisions to be superior to the district courts in application of relevant law to the facts. The remaining 37 percent viewed BAP decisions as essentially similar to those of the district courts. No judge believed them to be inferior to district court opinions on this dimension. The comments of one bankruptcy judge may sum up the general views of both bankruptcy judges and lawyers:

"Bankruptcy has become a specialized area of the law. Usually only the most difficult cases go up on appeal. Given the broad spectrum of cases a district judge must deal with and the infrequency of the appeals of bankruptcy matters, it is unfair to expect that he alone can match the expertise of the three bankruptcy judge panel in an area they work in daily. BAP is a significant improvement in the appellate process."

District and Circuit Judges' Opinions.—The questionnaires returned by district and circuit judges contained a significant number of non-responses—a reflection of the fact that few of these judges have had any direct experience with the bankruptcy appellate panels or their rulings. Despite these limitations, the questionnaires indicated substantial support among both district and circuit judges for continuation of the program and expansion to the rest of the circuit.

Summary.—The data from these questionnaires shows a strong support for the BAP project among lawyers and judges at all levels in the Ninth Circuit. This support relates not only to continuing the existence of the BAP panels but to extending them circuit-wide. It would appear that the major reason for this strong support lies in the perceived high quality of the work being done by the existing BAP panels rather than the impact of the program on the speed or cost of bankruptcy appeals. Both district and circuit judges—despite limited experience to date—generally believe, in one district judge's words, that the program is "a useful device to alleviate burdens on both district and circuit courts."

Mr. THURMOND. Mr. President, I am informed that this amendment is drafted in the second degree. I ask unanimous consent that it be accepted as if it were in the first degree.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HEFLIN. Mr. President, I yield back my time.

Mr. THURMOND. I yield back my time.

Mr. METZENBAUM. Mr. President, before all time is yielded back, will the Senator be good enough to explain what transpired in connection with this amendment? I just did not understand what took place.

Mr. HEFLIN. Basically, this is the amendment offered by Senator DECONCINI that he alluded to earlier which will allow for appellate panels. If an article I judge handles it, then there are three article I judges on the appeal panel. Original consent, of course, has to be given by the parties to do it. It will give an option for the various circuits to have an appeal to a circuit court judge or to the three-judge panel.

Mr. METZENBAUM. It does not go beyond——

Mr. THURMOND. I might say to the Senator that the circuit councils are not required to establish bankruptcy appellate panels but may do so if they wish to.

Mr. METZENBAUM. It did not go beyond the original DeConcini amendment and it does not include the other DeConcini amendment?

Mr. THURMOND. No; it does not.

Mr. HEFLIN. No. It is existing law.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1203) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I understand that the distinguished Senator from Washington (Mr. GORTON) has an amendment.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 1200

(Purpose: To create a twelfth circuit court of appeals)

Mr. GORTON. Mr. President, I call up amendment No. 1200 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. GORTON) proposes an amendment numbered 1200.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At page 15, line 8, strike "five" and insert in lieu thereof, "two".

At page 15, line 17, after "section" insert "and title V of this Act".

At page 15, in the text of the table, strike the item relating to the ninth circuit and insert in lieu thereof the following new item:

"Ninth.. 18

At page 15, in the text of the table, following the item relating to the eleventh circuit add the following new item:

"Twelfth.. 7

At the end of the bill add the following new title:

TITLE V

SEC. 501. Section 41 of title 28, United States Code is amended—

(1) in the text before the table, by striking out "twelve" and inserting in lieu thereof "thirteen";

(2) in the table, by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

"Ninth.............................. Arizona, California, Nevada, Guam, Hawaii."

and

(3) at the end of the table, by adding the following new item:

"Twelfth.............................. Alaska, Idaho, Montana, Oregon, Washington.".

SEC. 502. The table in section 48 of title 28, United States Code, is amended—

(1) by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

"Ninth.............................. San Francisco, Los Angeles.";

and

(2) by adding at the end thereof the following new item:

"Twelfth.............................. Portland, Seattle.".

SEC. 503. Each circuit judge in regular service of the former ninth circuit whose official station on the day before the effective date of this title—

(1) is in Arizona, California, Nevada, Guam, or Hawaii is assigned as a circuit judge of the new ninth circuit; and

(2) is in Alaska, Idaho, Montana, Oregon, or Washington is assigned as a circuit judge of the twelfth circuit.

SEC. 504. Each judge who is a senior judge of the former ninth circuit on the day before the effective date of this title may elect to be assigned to the new ninth circuit or to the twelfth circuit and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 505. The seniority of each judge—

(1) who is assigned under section 503 of this Act; or

(2) who elects to be assigned under section 504 of this Act;

shall run from the date of commission of such judge as a judge of the former ninth circuit.

SEC. 506. The provisions of the following paragraphs of this section apply to any case in which, on the day before the effective date of this Act, an appeal or other proceeding has been filed with the former ninth circuit:

(1) If the matter has been submitted for decision, further proceedings in respect of the matter shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which it would have gone had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) A petition for rehearing or a petition for rehearing en banc in a matter decided before the effective date of title V this Act, or submitted before the effective date of title V this Act and decided on or after the effective date as provided in paragraph (1) of this section, shall be treated in the same manner and with the same effect as though this Act had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as though this Act had not been enacted.

SEC. 507. As used in sections 503, 504, 505, and 506 of this Act, the term—

(1) "former ninth circuit" means the ninth judicial circuit of the United States as in existence on the day before the effective date of this title;

(2) the term "new ninth circuit" means the ninth judicial circuit of the United States established by the amendment made by section 501(2) of this Act; and

(3) the term "twelfth circuit" means the twelfth judicial circuit of the United States

established by the amendment made by section 501(3) of this Act.

Sec. 508. The court of appeals for the ninth circuit as constituted on the day before the effective date of this title may take such administrative action as may be required to carry out this title. Such court shall cease to exist for administrative purposes on July 1, 1985.

Sec. 509. The amendments made by this title shall take effect on October 1, 1983.

Mr. GORTON. Mr. President, this amendment would carve out a new circuit court of appeals to be denominated the 12th circuit. It would separate from the present ninth circuit the States of Washington, Oregon, Idaho, Montana, and Alaska. It would create for those States a circuit of seven of the judges who are authorized for the ninth circuit by the bill which is before the Senate at the present time, thus creating a court of approximately the same size, the same population, and the same caseload as the present very distinguished first circuit in New England.

This was the subject of a bill which a number of Northwest Senators considered introducing last year, and the presence of this bill on the floor gave me an opportunity to discuss what I consider to be the urgent need of that proposal.

If Senators will look at the report accompanying the bill which is now before the Senate, they will note that other than the ninth circuit, the largest circuit court of appeals, even after the increases provided by this bill, will be the fifth circuit with 16 judges. The ninth circuit, prior to the passage of this bill, has 23 circuit court judges. This bill will increase that number by 5, from 23 to 28.

If my amendment were adopted, only two new judges would be added to the two circuits combined, and I am not convinced that even that number would be needed were the circuit to be divided.

I simply point out to the distinguished chairman of the Judiciary Committee that if his State of South Carolina were in a circuit like that in which my State is located, most of the appeals from South Carolina would be argued in New York City, before New York judges; and perhaps the distinguished Senator from South Carolina would enlighten us on whether or not he thinks that would be a good idea for the people of his State. I do not, in our case.

There is a great procedural awkwardness to the present situation. The judges spend a great deal of time traveling rather than hearing cases or working on cases which they have already heard. The geographical extent and the size and caseload of the circuit make it, for all practical purposes, twice as large as the next largest circuit in the United States.

I must confess that this kind of division is opposed by the distinguished chief judge of the circuit, whose letter on a different subject was just read into the Record by the Senator from Alabama. In spite of that opposition, however, I am absolutely convinced that such a division is necessary.

I would be remiss if I did not inform my colleagues that there are other proposals to divide the ninth circuit, this being one which really cares only for the Northwest.

From the point of view of caseload, the circuit would be evenly divided if California were a single circuit in and of itself and if the many States now in the circuit were in a new one.

It is also possible that Hawaii might prefer to be in a smaller circuit than California. There is a different proposal which would divide California into two circuits, the merits of which I think are somewhat dubious.

I recognize that this proposal represents a very significant change, almost certainly not one which should be adopted as a floor amendment to a bill creating extra judges. I bring up the amendment, however, simply because I should like the assurance of the distinguished Senator from South Carolina and the distinguished Senator from Kansas, who I understand chairs the subcommittee which would deal with a proposal of this sort, that the matter would receive their very serious consideration.

I am convinced that some change is necessary. We created a new circuit court 2 or 3 years ago out of a single circuit not as large or with as heavy a caseload as the ninth circuit has at the present time. I believe it is time to bring home justice to the people of the Pacific Northwest, rather than having us as a very small tail on a very large California dog.

I yield to the Senator from Kansas for any response he may wish to make.

Mr. DOLE. I can say, as chairman of the Courts Subcommittee, that we would be pleased to explore not only the bill but also other possible options. The Senator from Washington has indicated a number of options, something the Senator from Kansas is not as familiar with as is the Senator from Washington.

I am willing to suggest and to promise the Senator from Washington that we in our subcommittee, at the earliest possible time, will address the problem and include the specific problem raised by his bill, or will have specific hearings on that proposal.

I am certain that the Senator from South Carolina would have no objection to the Courts Subcommittee hearing the proposal. The distinguished Senator from Alabama is a member of that subcommittee, and he is a very experienced judge in his own right.

Mr. THURMOND. Mr. president, we have no objection to a hearing on this matter. I feel that after a hearing, a determination can be made as to the merits or necessity of splitting the ninth circuit. I think that would be the proper way to go about it.

I commend the able Senator from Washington for bringing up this matter. He can be assured of my cooperation and that of the chairman of the subcommittee.

Mr. GORTON. Mr. President, I yield to the Senator from Alabama.

Mr. HEFLIN. First, let me say that Senator Cranston, who is in California, would have reservations about the amendment of the Senator from Washington.

As the Senator from Washington perhaps knows, a year ago, a symposium of the active ninth circuit judges adopted a resolution requesting that Congress not take any action on rearranging the ninth circuit for 2 years. The circuit is currently experimenting with administrative procedures for running a large circuit more efficiently, and the judges want that time to see if these procedures work. In a resolution which only one judge opposed, the symposium agreed to report to Congress in June of 1984 on its progress.

I understand that Senator Cranston would have no objection to holding hearings and that he would endeavor to try to do what is best for that circuit.

I might say that in the fifth circuit we had problems which we understand are confronting the ninth circuit The judges, interested groups, the bar association—in effect, all people involved—went through a debate for a number of months, perhaps years, and finally the matter was worked out.

I think there will be a lot of differences of opinions about procedures, relative to these matters in almost every aspect. I think there should be hearings, as the Senator has suggested, to start spotlighting this issue.

This circuit, as I understand it, has 24 or 25 judges. They have many divisions, and they are working on some administrative procedures.

Mr. GORTON. There would be 28, if this is passed.

Mr. HEFLIN. Because of its sheer numbers, that raises the issues involved.

I will be glad to participate in hearings, and let us get on with this matter. In fact, I have advocated taking another look at the entire circuit court of appeals system. At the present time, one circuit has 28 judges and another circuit has 3 judges. So we should look at this matter on an overall basis as to what is best nationwide, rather than just what some judges want or what some lawyers want or what some States want. The whole thing should be looked at carefully, to determine how to improve the administration of justice in America at the appellate level.

But I appreciate the Senator bringing this to our attention, and we will be glad to cooperate with him in hearings along with Senator Dole and the distinguished chairman of our committee.

Mr. GORTON. I thank my friend from Alabama. I thank the distinguished chairman of the Judiciary Committee and the distinguished Senator from Kansas.

Based on those assurances and reiterating my firm view that justice will be best served by the creation of a new circuit but understanding it is a matter that requires discussion, I will withdraw the amendment and submit at the same time a bill which I am sure will be assigned to the Judiciary Committee for that purpose.

With that, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. THURMOND. Mr. President, I wish to thank the able Senator and he may rest assured that hearings will be held on this matter.

Mr. President, because there has been some confusion on the abstention issue, let me briefly summarize what the committee has attempted to do in section 1471(h) with respect to Federal court abstention of certain claims. Abstention by Federal courts in the bankruptcy area is not a new concept. Section 1471(d) of existing law provides for a district court or bankruptcy court, in the interest of justice to abstain from hearing a particular proceeding. Current law further provides that such abstention, or decision not to abstain, is not reviewable. Section 1471(h)(1) builds on this existing provision but gives it greater effect by allowing the district court or bankruptcy court to abstain, not only in the interest of justice, but also in the interest of comity with State courts and respect for State law.

Along this same line, section 1471(h)(2) would require the court to abstain in the instance of a State law claim or cause of action, not arising under title 11, where a party affirmatively makes a motion for abstention. Such abstention will only be for the purpose of allowing determinations in State court of the application of State law to the claim or cause of action, and would not limit the applicability of the stay provided for by section 362 of title 11

In enacting this change, the following factors have influenced the committee:

The Bankruptcy Act of 1978 significantly expanded the scope of Federal jurisdiction far beyond that which existed prior to the act. As the definitive scholarly work on bankruptcy, "Collier on Bankruptcy," has observed, the 1978 act eliminated all conceptual limits to Federal jurisdiction. There are a number of observers who believe that this jurisdiction is in violation of the Constitution to the extent that it establishes Federal jurisdiction over claims based purely upon State law in which there is a total absence of a Federal question, as well as an absence of diversity. Nor are we referring to claims which are ancillary to the Federal claim in any reasonable sense of that term.

As a result of the 1978 Bankruptcy Act, Federal courts have been empowered to exercise jurisdiction over claims that are governed solely by State law. This is inconsistent with the premise under our constitutional system that Federal laws are interpreted in Federal court, and State laws in State court.

While the objective of consolidation of judicial proceedings within a single forum is a worthy and desirable one, this is not the overriding objective of the Nation's constitutional system of courts. Among competing values which have to be considered, and which were inadequately considered by the 1978 act, are the interests of judicial federalism and the interests of allowing State courts to decide matters of State law. The purpose of our constitutional institutions is not mere efficiency; indeed, many of these institutions are purposely slow and deliberate.

Even if judicial economy were the sole value of our system of courts, there is question whether the 1978 act would be effective in achieving this. The volume of State law cases placed within the bankruptcy courts by the act is so potentially great that it threatens to impede the ability of such courts to expeditiously process core bankruptcy cases; title 11 cases must have first claim on the bankruptcy court's resources if they are to be managed efficiently.

In resolving purely State law matters, the Federal courts set no precedent for the resolution of future controversies of a similar character. The law which they create is applicable only to the individual parties in the litigation; it carries no precedential value within the State itself. Therefore, the 1978 act fosters the creation of two separate State laws—one for the individual parties before the bankruptcy courts, the other for everyone else in the State. The administration of justice in the broadest sense, will be made less efficient.

Mr. President, let me make a few final observations on this issue. First, I would note that the proposed changes in section 1471(h)(2) would not reverse entirely the direction of the 1978 act—although some might not be adverse to doing this—but would merely shift the balance slightly back in the direction of increased respect for State courts and State law. I would imagine that the great majority of cases that were originally placed within the Federal courts by the 1978 act would remain in this forum following enactment of the proposed amendments.

Second, I would reemphasize that it is not the intent of this section to require abstention in the case of State law claims which would have some independent basis upon which to be heard in Federal court, including a Federal question or diversity basis. Nor is it the intent to require the removal of genuinely ancillary claims, although not claims in which there is a mere identity of parties or a general feeling that it would be more convenient or more economical to resolve the claims in a single forum. If that were genuinely the case, I have little doubt that there would be no motion for abstention; if there is a motion for abstention, however, I believe that it would be inequitable to deny to an individual his constitutional right to have his State law claim adjudicated in a State court.

Third, I would emphasize that, while the committee has chosen not to place any specific temporal limits in this section, it is the intent that adjudication of the claim in the State court that is the subject of the abstention motion be both instituted in a timely manner and prosecuted in a timely manner. This determination will, of necessity, have to be subject to an analysis of individual cases, although reasonable rules would not necessarily be inconsistent with this section. Once this process has been completed, the case would be returned to the Federal courts for final disposition of the bankruptcy proceedings.

Finally, let me restate the intent of section 1471(h)(2). Two categories of proceedings are not subject to mandatory recall under this provision; (1) those proceedings that are authorized by title 11; and (2) those proceedings that are authorized by title 11, are integral to the core bankruptcy function of restructuring debtor-creditor rights, and were within the jurisdiction of the bankruptcy judges prior to the 1978 Act. Examples of proceedings not subject to recall include: contested and uncontested matters concerning the administration of the estate; allowance of and objection to claims against the estate; setoffs to claims against the estate; proceedings to lift the automatic stay; proceedings to set aside fraudulent conveyances under section 548 of title 11; proceedings to set aside preferences; proceedings to turn over property of the estate under sections 542-3 of title 11; orders authorizing the use of cash collateral; orders approving the sale of property free and clear of liens: allowances or denials of discharge; proceedings regarding the confirmation of plans; and proceedings to determine the dischargeability of debts. Such proceedings could not be brought in State or Federal court by any person in the absence of a petition in bankruptcy.

A proceeding does not arise under title 11, however, merely because title 11 passes to the estate a cause of action the debtor had. Such suits are subject to mandatory recall where the right to recovery is governed by State law. The most common, although not the only example, is the type of suit involved in Marathon, a State law contract action by the estate against a party that had not filed a claim against the estate. Such suits are not an integral part of the restructuring of debtor-creditor rights, and would have been brought in State court before the 1978 act.

Mr. HEFLIN. Mr. President, I concur in that statement and I think the statement contains matters that are correct.

Mr. THURMOND. Mr. President, the distinguished Senator from Kansas has an amendment that he wishes to offer at this time.

AMENDMENT NO. 1208

Mr. DOLE. Mr. President, I send an amendment to the desk for myself, the distinguished Senator from South Carolina, the chairman of the committee (Mr. THURMOND), and the distinguished Senator from Alabama (Mr. HEFLIN) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself, Mr. THURMOND, and Mr. HEFLIN, proposes an amendment numbered 1208.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new title:

TITLE V

SEC. 500. This title may be cited as the "Omnibus Bankruptcy Improvements Act of 1983".

SUBTITLE A—CONSUMER CREDIT AMENDMENTS

SEC. 501. This subtitle may be cited as the "Consumer Debtor Bankruptcy Amendments Act of 1983".

SEC. 502. (a) Section 301 of title 11 of the United States Code, is amended—

(1) by striking out "A voluntary" and inserting in lieu thereof "(a) For a debtor who is not an individual, a voluntary"; and

(2) by adding at the end thereof the following new subsection:

"(b) With respect to an individual debtor or debtors, a voluntary case under this title is commenced by the filing with the bankruptcy court of a petition which conditionally designates a chapter under which relief is sought. The filing of such a petition shall constitute an order for relief under the provisions of the chapter conditionally designated. A final designation of the chapter under which relief is sought shall be made within the time period specified in section 521 of this title.

(b) Section 302(a) of title 11, United States Code, is amended to read as follows:

"(a) A joint case under this title is commenced by the filing, with the bankruptcy court, of a single petition pursuant to section 301(b) by an individual and such individual's spouse. The commencement of a joint case under a chapter of this title constitutes an order for relief under the chapter conditionally designated in accordance with section 301(b).".

SEC. 503. (a) Section 305 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(d)(1) Subject to the provisions of paragraph (2), the court on its own motion according to procedures established by rule, and not at the request or suggestion of any party in interest, may dismiss a case under chapter 7 of this title filed by an individual debtor if it finds that the granting of relief under such chapter would be a substantial abuse of the provisions of such chapter. In determining the question of substantial abuse, there shall be a presumption in favor of granting the relief requested by the debtor.

"(2) Prior to dismissing any chapter 7 case for substantial abuse, the court shall set forth, in writing within 20 days of the permanent designation of relief made by the debtor under the provisions of section 521(a)(3), its reasons for finding that substantial abuse would occur; and the court shall, at the same time, advise the debtor of his right to respond in writing and/or to request and secure a hearing on the court's findings. The court shall establish, by rule, time limits for the debtor's response and for the court's written findings in response thereto. No creditor or representative of a creditor may participate in judicial proceedings relating to substantial abuse except upon the request of the court.

"(3) Any dismissal of a case under chapter 7 pursuant to this subsection is a final order, and the debtor shall have the right to appeal. No creditor or representative of a creditor may appeal any judicial decision on substantial abuse. In passing upon such an appeal, the court shall accept the bankruptcy court's findings of fact unless clearly erroneous. If the appellate court holds that the ruling of substantial abuse constitutes an error of law, it shall reverse.".

(b) Section 349 of title 11 is amended by amending subsection (a) to read as follows:

"(a) Unless the court, for cause, orders otherwise, the dismissal of a case under this title does not bar the discharge, in a later case under this title, of debts that were dischargeable in the case dismissed; nor does it prejudice the debtor in any respect with regard to the filing of a subsequent petition under this title.".

SEC. 504. Section 704 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The Trustee shall";

(2) by adding after paragraph (3) a new paragraph (4) to read as follows:

"(4) counsel with individual debtors as provided in subsection (b) of this section;"

(3) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(4) by adding at the end thereof the following:

"(b)(1) In the case of an individual debtor or debtors, immediately prior to the meeting of creditors under section 341 of this title, the trustee shall provide counseling to such debtor or debtors. Such counseling shall include—

"(A) a simple explanation to the debtor of the relief available to such debtor under chapters 7 and 13 of this title;

"(B) an analysis of the debtor's estimated income and expenses, and information concerning the possibility of repayment of debts under the provisions of chapter 13;

"(C) an analysis of the debtor's position if he elects relief under chapter 7, including a statement as to debts that would be discharged under such chapter; and

"(D) a statement to the debtor that the trustee is making no recommendation as to appropriate relief under this title, and that the debtor is free to make whatever final designation of chapter relief he may deem to be in his own best interests.

"(2) The trustee shall make no recommendation as to the final designation by the debtor of the chapter under which the debtor should seek relief, nor shall the trustee influence nor advise the debtor as to what final designation of relief the debtor should make. The trustee shall not suggest how the court will dispose of the debtor's petition.

"(3) Counsel for the debtor shall be present during the counseling by the trustee required by this section: *Provided*, That the debtor may waive the attendance of counsel. No creditor may be present during the counseling provided for in this section.

"(4) The trustee may waive counseling if, after review of the debtor's statement of estimated income and expenses, the trustee determines and reports to the court that a reasonable chapter 13 plan could not be devised. Counseling shall be waived with regard to any debtor that does not have regular income.".

SEC. 505. Section 341(c) of title 11, United States Code, is amended to read as follows:

"(c) The court shall convene, and may preside at any meeting under this section. The court shall also perform such judicial duties as may be required under other provisions of this title promptly in conjunction with the meeting.".

SEC. 506. Section 506(a) of title 11, United States Code, is amended by—

(1) inserting "(1)" after "(a)",

(2) striking out the last sentence, and

(3) adding at the end thereof the following new paragraph:

"(2) The value of the creditor's interest in the estate's interest in such property shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest. The value of consumer goods which the debtor seeks to redeem pursuant to section 722 of this title or which are to be retained pursuant to section 1325(a)(5)(B)(ii) of this title shall be presumed to be the established resale market price, if such market exists, as may be determined from recognized trade publications or by comparable means. If no such market exists, or if the court determines that resale value is inappropriate in light of the proposed use or disposition of the property, the court may utilize such other methods of valuation as may be appropriate under the circumstances.".

SEC. 507. Section 521 of title 11, United States Code, is amended by—

(1) redesignating paragraphs (2), (3), and (4) as paragraphs (5), (6), and (7), respectively;

(2) amending paragraph (7), as redesignated, to read as follows:

"(7) appear at the hearing required under section 341(c) of this title.".

(3) inserting after paragraph (1) the following new paragraphs:

"(2) file, at any time prior to the first meeting of creditors, a statement of the debtor's current income and an estimate of the debtor's current expenditures for the support of himself and his dependents.

"(3) in the case of an individual debtor or debtors, make a final designation of the chapter under which relief is requested no later than ten days after the counseling provided under section 704(b) of this title. If the debtor makes a final designation for relief under a chapter other than that specified in the conditional designation filed at the commencement of the case, such final designation shall be treated as a conversion under the provisions of section 348. No costs or trustee's fees shall be assessed against the debtor upon such a conversion that would not have been assessed if the debtor had filed initially under the chapter finally designated.

"(4) if the debtor's schedule of assets and liabilities includes consumer debts which are secured by property of the estate, the debtor shall file and serve, within thirty days after the filing of a petition under chapter 7 of this title but no later than five days before the first meeting of creditors, upon each creditor holding such security and the trustee, a statement expressing the debtor's intention with respect to retention or surrender of the collateral and, if applicable, specifying that the collateral is claimed as exempt, that the debtor intends to redeem the collateral, or that the debtor intends to reaffirm debts secured by the collateral;".

(4) inserting "(a)" before "The debtor"; and

(5) adding at the end thereof the following new subsection:

"(b) At or before the conclusion of the meeting of creditors provided for by section 341 of this title, or upon such other date as the court in a specific case and in the exercise of its equitable powers may fix, the debtor shall perform his intention with regard to secured creditors, as specified by paragraph (3) of subsection (a), by surrendering such property to the creditor or the trustee; redeeming such property by paying the redemption price, or confirming his intention to pay such price pursuant to section 722(b); or by reaffirming the debt. If the debtor has not fully performed his obligations under paragraph (3) of subsection (a) and this subsection at or before the meeting of creditors, the stay imposed by section 362(a) of this title shall terminate with respect to the enforcement of liens against such property, unless the court orders otherwise.".

Sec. 508. (a)(1) That part of section 522(b) of title 11, United States Code, before the numbered paragraphs (1) and (2), is amended to read as follows:

"(b) Notwithstanding section 541 of this title, an individual debtor may elect to exempt the property in either subparagraph (1), or in the alternative, subparagraph (2). In joint cases filed under section 302, and individual cases of married debtors whose estates are consolidated, both of the debtors must elect to exempt the property in either subparagraph (1), or in the alternative, subparagraph (2). If the parties cannot agree on the alternative to be elected, they shall be deemed to elect subparagraph (1), where such election is permitted under the law of the jurisdiction where the case is filed. Such property is—".

(2) Subsection 522(m) of title 11, United States Code, is amended to read as follows:

"(m) Subject to the limitation in subsection (b), this section shall apply separately with respect to each debtor in a joint case.".

(3) Subsection 522(d)(3) of title 11, United States Code, is amended by adding "or $4,000 in aggregate value" after "item".

(4) Subsection 522(d)(5) of title 11, United States Code, is amended to read as follows:

"(5) The debtor's aggregate interest, not to exceed in value $400 plus any unused amount of the exemption provided under paragraph (1) of this subsection, not to exceed $2,000, in any property.

(b) Section 522(f) of title 11, United States Code, is amended by—

(1) striking subparagraph (A) in paragraph (2) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(2) inserting after "debtor" the second time it appears in subparagraph (A) as redesignated herein, the following: "up to an aggregate value of $1,000".

Sec. 509. (a) Section 523(a) of title 11, United States Code, is amended in paragraph (3) by striking out "section 521(1)" and inserting in lieu thereof "section 521(a)(1)".

(b) Section 523 of title 11, United States Code, shall be further amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) For purposes of subsection (a)(2) of this section, any debt which was incurred on or within forty days before the date of the filing of a petition under this title is presumed to be nondischargeable under such subsection; however, such presumption shall not apply to the extent such debts were incurred for expenses which were reasonably necessary for the support of the debtor or the debtor's dependents, and shall be rebuttable by the debtor.".

"(e) If a creditor requests a determination of dischargeability of a consumer debt under subsection (a)(2) of this section, and such debt is discharged, the court shall grant judgment in favor of the debtor for the costs of, and a reasonable attorney's fee for, the proceeding if the court finds that the position of the creditor was not substantially justified, except that the court shall not award such costs and fees if special circumstances would make the award unjust.".

Sec. 510. (a) Section 524(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking out "and" at the end thereof,

(2) in paragraph (3) by striking out the period and inserting in lieu thereof "; and", and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) does not operate as an injunction against the enforcement of a lien that has not been avoided under the provisions of this title.".

(b) Section 524(c) of title 11, United States Code, is amended—

(1) in paragraph (1) by inserting "and" at the end thereof, and

(2) by striking out paragraphs (2), (3), and (4), and inserting in lieu thereof the following new paragraph:

"(2)(A) such agreement contains a clear and conspicuous statement which advises the debtor that the agreement may be rescinded at any time prior to discharge or within sixty days after it is filed with the court, whichever occurs later, by giving a written notice of rescission to the creditor. Any reaffirmation agreement so filed with the court shall be reviewed by the court and shall be effective from the date of filing in all cases where the debtor is represented by counsel, or the date on which the court approves such agreement in the case of a debtor appearing pro se; and such agreement shall be binding according to its terms from and after such date unless the court, in the exercise of its equitable powers, and after notice and hearing, orders otherwise within sixty days after the filing of the agreement. Any payments made by the debtor prior to the expiration of sixty days after the date of the filing of the agreement shall be held by the creditor in trust for the benefit of the debtor in the event of any subsequent rescission or disallowance of the agreement effected in accordance with this section, except where the debtor has had possession and use of the collateral during the pendency of the agreement.

"(B) Subparagraph (A) of this paragraph shall not apply to a case concerning an individual, to the extent that such debt is a consumer debt secured by real property.".

(c) Section 524(d) of title 11, United States Code, is amended to read as follows:

"(d) At the meeting of creditors provided for under section 341(c) of this title, the court shall inform the debtor of the nature and effect of a discharge, and of any reaffirmation of the debt, including that any reaffirmation agreement entered into in accordance with the provisions of subsection (c) is voluntary on the part of the debtor and the legal effect and consequences of a default under such agreement.".

Sec. 511. (a) Section 547(b) of title 11, United States Code, is amended—

(1) in paragraph (4) by amending subparagraph (B) to read as follows:

"(B) between ninety days and one year before the date of the filing of the petition, if such creditor at the time of such transfer was an insider;".

(2) in paragraph (4) by striking out "and" at the end thereof; and

(3) in paragraph (5) by striking out the period at the end of the paragraph and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(6) if such creditor at the time of such transfer had reasonable cause to believe the debtor was insolvent at the time of such transfer.".

(b) Section 547 of title 11 of the United States Code is amended in subsection (c) thereof by striking subparagraph (2)(B) of such subsection, and by redesignating subparagraphs (2)(C) and (2)(D) thereof as (2)(B) and (2)(C) respectively.

Sec. 512. Section 554(c) of title 11, United States Code, is amended by striking out "section 521(1)" and inserting in lieu thereof "section 521(a)(1)".

Sec. 513. Section 706 of title 11, United States Code, is amended by adding at the end thereof the following:

"(e) Notwithstanding subsection (a) of this section, the right to convert secured by this section shall exist in any case converted to this chapter pursuant to section 521(a)(3) of this title.".

Sec. 514. Section 722 of title 11, United States Code, is amended by—

(1) inserting "(a)" before "An", and

(2) adding at the end thereof the following new subsections:

"(b) Upon notice and hearing, the court may require a creditor to accept payments in redemption of the value of a claim secured by a nonpossessory, nonpurchase money security interest in property of a type specified in subsection (a) of this section, over a reasonable period not to exceed five years, if such tangible personal property consists of—

"(1) household furnishings, household goods, wearing apparel, appliances, books, animals, crops, musical instruments, or jewelry that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor; or

"(2) implements, professional books, or tools of the trade of the debtor or of the trade of a dependent of the debtor which have a value in excess of $1,000.

"(c) Upon notice and hearing, the court may avoid any lien, in whole or in part, of the type specified in subsection (b) if the court finds: (1) that the debtor has no reasonable ability to pay the redemption value of such property; and (2) the enforcement of such lien would impose undue hardship on the debtor.".

Sec. 515. (a) Section 1103(b) is amended—

(1) inserting "having an adverse interest" after "entity"; and

(2) adding at the end thereof the following: "Representation of one or more creditors of the same class as represented by the committee shall not per se constitute the representation of an adverse interest.".

Sec. 516. Section 1106(a)(2) of title 11, United States Code, is amended by striking out "section 521(1)" and inserting in lieu thereof "section 521(a)(1)".

Sec. 517. Section 1111(a) of title 11, United States Code, is amended by striking out "section 521(1)" and inserting in lieu thereof "section 521(a)(1)".

Sec. 518. Section 1301 of title 11, United States Code, is amended by inserting after subsection (c) the following new subsection:

"(d) A creditor who proposes to act pursuant to subsection (c) shall notify the debtor and codebtor of such intention. The debtor or codebtor shall then have ten days to file and serve a written objection to the taking of the proposed action. If the debtor or codebtor does not file and serve a timely written objection, then the creditor's action taken in accordance with the notice shall not violate this section.".

Sec. 519. Section 1307(b) of title 11, United States Code, is amended by adding after the first sentence the following: "This right to dismiss shall exist in a case converted pursuant to section 521(a)(3) of this title.".

Sec. 520. Section 1321 of title 11, United States Code, is amended by—

(1) inserting "(a)" before "The debtor", and

(2) adding at the end thereof the following new subsection:

"(b) Unless otherwise ordered by the court, the case will be automatically dismissed unless payments under the plan commence within thirty days after the filing of the plan. The payments shall be made to the trustee, and shall be retained by the trustee until a plan is confirmed or not confirmed. If any plan is confirmed, the trustee shall then distribute the funds in accordance with the plan. If no plan is confirmed, the funds shall be returned to the debtor after deducting the costs of administration.

Sec. 521. (a) Section 1322(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking out "and" at the end thereof,

(2) by redesignating paragraph (3) as paragraph (4), and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) provide for payment, in deferred cash payments, of claims of a type specified in section 523(a) of this title; and".

(b) Section 1322(b) of title 11, United States Code, is amended by amending paragraph (1) thereof to read as follows:

"(1) designate a class or classes of unsecured claims, as provided in section 1122 of this title, but may not discriminate unfairly against any class so designated; however, such plan may treat claims which are specified in section 523(a) or involve a codebtor differently than other unsecured claims;".

(c) Section 1322(c) is amended to read as follows:

"(c) The plan may not provide for payments over a period of more than five years.".

Sec. 522. Section 1325(a) of title 11, United States Code, is amended—

(a) in paragraph (3) by inserting ", and the plan represents a bona fide effort which is consistent with the debtor's ability to repay his debts, after providing support for himself and his dependents," before the semicolon,

(b) in paragraph (C) of paragraph (5) thereof by striking out "and",

(c) by redesignating paragraph (6) as paragraph (7), and

(d) by inserting after paragraph (5) the following new paragraph:

"(6) the plan extends for a period of five years or the plan provides for payment of a reasonable portion of all allowed unsecured claims; and".

Sec. 523. Section 1328(a)(2) of title 11, United States Code, is amended to read as follows:

"(2) of a kind specified in section 523(a) of this title.".

Subtitle B—Agricultural Produce Bailment Amendments

Sec. 531. This subtitle may be cited as the "Agricultural Produce Bailment Bankruptcy Amendments Act of 1983".

Sec. 532. Section 109 of title 11, United States Code, is amended in subsection (e), by inserting after "commodity broker," the following: "or a person engaged in the business of operating a farm produce storage facility (with respect to the debts of that business),".

Sec. 533. Section 501 of title 11, United States Code, is amended by inserting at the end thereof the following new subsection:

"(e) A valid receipt for the storage of grain (as defined in section 557 of this title), issued by a grain storage facility (as defined in section 557 of this title) as evidence of ownership of grain stored in such facility shall be considered sufficient proof of claim of a right to receive grain, or the proceeds of grain, equal in value to the quantity, quality, and type of grain specified in such receipt. If a claimant surrenders such receipt to another person for the purpose of securing a loan, without assigning to such person any ownership interest in such receipt, then an affidavit made by such person verifying the ownership of such receipt shall be considered prima facie proof of such claim.".

Sec. 534. Section 503(b)(1)(B) of title 11, United States Code, is amended by striking out "507(a)(6)" and inserting in lieu thereof "507(a)(7)".

Sec. 535. Section 507(a) of title 11, United States Code, is amended—

(1) by adding after paragraph (4) the following:

"(5) Fifth, allowed unsecured claims of farmers or other persons engaged in farming operations arising from the sale or conversion of farm produce to or by a debtor engaged in the business of operating a farm produce storage facility where such sale or conversion occurred within one hundred and eighty days before the date of the filing of the petition or before the cessation of the debtor's business, whichever was earlier, but only to the extent of $2,000 for each such individual.";

(2) by striking out "(5) Fifth" and inserting in lieu thereof "(6) Sixth"; and

(3) by striking out "(6) Sixth" and inserting in lieu thereof "(7) Seventh".

Sec. 536. Section 546 of title 11, United States Code, is amended—

(a) In the first sentence of subsection (c) thereof, by striking out "The" and inserting in lieu thereof "Except as provided in subsection (e) of this section, the"; and

(b) By adding at the end thereof the following new subsection:

"(e) In the case of a seller who is a producer of grain sold to a grain storage facility, owned or operated by the debtor, in the ordinary course of such seller's business (as such terms are defined in section 557 of this title), the rights and powers of the trustee under sections 544(a), 545, 547, and 549 of this title are subject to any statutory or common law right of such seller to reclaim such goods if the debtor has received such goods while insolvent, but—

"(1) such producer may not reclaim any grain unless such producer demands, in writing, reclamation of such grain before twenty days after receipt thereof by the debtor; and

"(2) the court may deny reclamation to such a producer with a right of reclamation that has made such a demand only if the court secures such claim by a lien.".

Sec. 537. (a) Chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new section:

"§ 557. Expedited determination of interests in, and abandonment or other disposition of grain assets

"(a) This section applies only in a case concerning a debtor that owns or operates a grain storage facility and only with respect to grain and the proceeds of grain. This section does not affect the application of any other section of this title to property other than grain and proceeds of grain.

"(b) For purposes of this section—

"(1) 'grain' means wheat, corn, grain sorghum, barley, oats, rye, soybeans, other dry edible beans, or rice;

"(2) 'grain storage facility' means a site or physical structure regularly used to store grain for producers, or to store grain acquired from producers for resale;

"(3) 'grain storage facility receipt' means any document of the type routinely issued by a debtor operating a grain storage facility for the purpose of establishing a record of ownership of a quantity of grain which is stored with such facility by an owner thereof upon a contract of bailment. Such term shall include a warehouse receipt or a scale ticket, provided identification of the owner of the produce represented thereby and the type, quantity, and quality of the produce represented thereby is clearly noted upon the face of such document; and

"(4) 'producer' means an entity which engages in the growing of grain.

"(c)(1) Notwithstanding sections 362, 363, 365, and 554 of this title, on the court's own motion the court may, and on the request of the trustee or an entity that claims an interest in grain or proceeds of grain the court shall, expedite the procedures for the determination of interests in and the abandonment or other disposition of grain and proceeds of grain, by shortening to the greatest extent feasible such time periods as are otherwise applicable for such procedures and by establishing, by order, a timetable for the completion of each applicable procedure specified in subsection (d) of this section. Such time periods and such timetable may be modified by the court for cause, but in no case may the final disposition of grain or the proceeds of grain under this section occur later than 120 days after the date the petition is filed, except in accordance with subsection (f) of this section.

"(2) The court shall shorten such periods, or establish such timetable, giving due consideration to the following factors—

"(A) any need of an entity claiming an interest in such grain or proceeds of grain for a prompt determination of such interest;

"(B) any need of such entity for a prompt disposition of such grain;

"(C) the market for such grain;

"(D) the conditions under which such grain is stored;

"(E) the costs of continued storage or disposition of such grain;

"(F) the orderly administration of the estate;

"(G) the appropriate opportunity for an entity to assert an interest in such grain; and

"(H) such other considerations as are relevant to the need to expedite such procedures in the case.

"(d) The procedures that may be expedited under subsection (c) of this section include—

"(1) the filing of and response to—

"(A) a claim of ownership;

"(B) a proof of claim;

"(C) a request for abandonment;

"(D) a request for relief from the stay of action against property under section 362(a) of this title;

"(E) a request for determination of secured status;

"(F) a request for determination of whether such grain or proceeds of grain—

"(i) is property of the estate;

"(ii) must be turned over to the estate; or

"(iii) may be used, sold, or leased; and

"(G) any other request for determination of an interest in such grain or proceeds of grain;

"(2) the disposition of such grain or proceeds of grain by way of—

"(A) sale of such grain;

"(B) abandonment;

"(C) distribution; or

"(D) such other method as is equitable in the case;

"(3) subject to sections 701, 702, 703, 1104, and 1302 of this title, the appointment of a trustee or examiner and the retention and compensation of any professional person required to assist with respect to matters relevant to the determination of interests in or disposition of such grain or proceeds of grain; and

"(4) the determination of any dispute concerning a matter specified in paragraph (1), (2), or (3) of this subsection.

"(e) Any claimant's production to the court of a valid grain storage facility receipt held by that claimant as evidence of ownership of a quantity of farm produce sold by the trustee shall be sufficient to establish a right to possession in such claimant of a share of the proceeds equal in value to the quantity, quality, and type of farm produce specified in such document. In any case where a claimant has placed the original of such document on deposit with any party as collateral for a loan, without assigning ownership interests in the farm produce over to such party, an affidavit from such party verifying ownership of such receipt by the claimant shall be sufficient to establish a prima facie claim of right to possession of proceeds in such claimant.

"(f)(1) Any governmental unit that has regulatory jurisdiction over the operation or liquidation of the debtor or the debtor's business shall be given notice of any request made or order entered under subsection (c) of this section.

"(2) Any such governmental unit may raise, and may appear and be heard on, any issue relating to grain or the proceeds of grain in a case in which a request is made, or an order is entered, under subsection (c) of this section.

"(3) The trustee shall consult with such governmental unit before taking any action relating to the disposition of grain in the possession, custody, or control of the debtor or the estate.

"(g) The court may extend the period for final disposition of grain, or the proceeds of grain, under this section beyond one hundred and twenty days where the court finds that—

"(1) the interests of justice so require in light of the complexity of the case; and

"(2) the interests of those claimants entitled to distribution of grain assets or the proceeds of grain assets will not be materially injured by such additional delay.

"(h) In all cases where the quantity of a specific type of grain held by a debtor operating a grain storage facility exceeds ten thousand bushels, such grain shall be sold by the trustee and the assets thereof distributed in accordance with the provisions of this section.

"(i)(1) Unless an order establishing an expedited procedure under subsection (c) of this section, or determining any interest in or approving any disposition of grain or proceeds of grain, is stayed pending appeal—

"(A) the reversal or modification of such order on appeal does not affect the validity of any procedure, determination, or disposition that occurs before such reversal or modification, whether or not any entity knew of the pendency of the appeal; and

"(B) neither the court nor the trustee may delay, due to the appeal of such order, any proceeding in the case in which such order is issued.

"(2) A stay of orders entered pursuant to this section may be entered by the bankruptcy court under the following circumstances:

"(A) the party filing the request for a stay, except the United States, shall post a bond or other security in an amount equal to the value of grain assets or the proceeds of grain assets, distribution of which are affected by the requested stay; and the grain assets, if unliquidated, shall be liquidated by the trustee; and

"(B) the parties ultimately prevailing upon appeal shall be awarded their pro rata share of the proceeds of the liquidation, plus a sum equal to the difference in value between the awarded share and the highest intermediate value (between the date of the entry of the order of stay and the date of final order of distribution) of the produce sold which was owned by, or secured to, such parties, plus interest on the amount of any original award at the prevailing rate allowed by law upon judgments, with interest to accrue from the date of the entry of the order of stay. Interest payments and differential payments provided for herein shall be satisfied out of the bond posted by the party requesting the order of stay where that party is unsuccessful upon appeal of the distribution order, and shall be satisfied out of accrued interest on the proceeds held by the trustee in all other cases.

"(j) In effecting the distribution of grain or grain assets under this title in a case involving a grain storage facility, the court shall not diminish the total portion of grain or grain assets available for distribution to claimants who are determined to be owners of grain stored in the facility pursuant to contracts of bailment for the benefit of secured creditors of the debtor, or for the benefit of producers who have sold grain to the debtor.

"(k) In any action brought pursuant to chapter 11 of this title, the provisions of this section shall govern the abandonment of farm produce held by the trustee or debtor in possession of a farm produce storage facility business for which reorganization is sought, where such farm produce is not property of the debtor's estate, but is held by the debtor upon a contract of bailment only. The abandonment of any quantity of such produce shall take place upon the request of the owner thereof, and shall be done regardless of its effect upon any existing or proposed plan of reorganization.

"(l)(1) The trustee may recover from grain and proceeds of grain the reasonable and necessary costs and expenses allowable under section 503(b) of this title attributable to preserving or disposing of grain or proceeds of grain, but may not recover from such grain or proceeds of grain any other costs or expenses.

"(2) Notwithstanding section 326(a) of this title, the dollar amounts of money specified in such section include the value, as of the date of disposition, of any grain that the trustee distributes in kind.".

(b) The table of sections of chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new item:

"557. Expedited determination of interests in, and abandonment or other disposition of grain assets.".

Sec. 538. Section 1123(a)(1) of title 11, United States Code, is amended by striking out "or 507(a)(6)" and inserting in lieu thereof "507(a)(5) or 507(a)(7)".

Sec. 539. Section 1129(a)(9)(B) of title 11, United States Code, is amended by striking out "or 507(a)(5)" and inserting in lieu thereof "507(a)(5), or 507(a)(6)".

Sec. 540. Section 1129(a)(9)(C) of title 11, United States Code, is amended by striking out "507(a)(6)" and inserting in lieu thereof "507(a)(7)".

SUBTITLE C—LEASEHOLD MANAGEMENT AMENDMENTS

Sec. 551. This subtitle may be cited as the "Leasehold Management Bankruptcy Amendments Act of 1983".

Sec. 552. (a) Section 365 of title 11, United States Code, is amended by amending subsections (a), (b), (c), and (d) to read as follows:

"(a) Except as provided in sections 765 and 766 of this title and in subsections (b), (c), and (d) of this section, the trustee, subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor. The trustee shall timely perform all the obligations of the tenant arising from and after the date of the order for relief, under an unexpired nonresidential lease (including payment of the rent and other charges specified in such lease) until such nonresidential lease is assumed or rejected and notwithstanding the provisions of section 503 of this title. For cause shown, the court may extend the time for performance of any obligation of rent or other charges due upon an unexpired lease pursuant to the provisions of section 108(b) of this title. Acceptance of such performance shall not constitute a waiver or relinquishment of the lessor's rights under the lease or under this title.

"(b)(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee—

"(A) cures, or provides adequate assurance that the trustee will promptly cure, such default;

"(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

"(C) provides adequate assurance of future performance under such contract or lease.

"(2) Paragraph (1) of this subsection does not apply to a default that is a breach of a provision relating to—

"(A) the insolvency or financial condition of the debtor or the debtor's insider (excluding a credit guarantor of the debtor) at any time before the closing of the case;

"(B) the commencement of a case under this title; or

"(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement.

"(3) For the purposes of paragraph (1) of this subsection and paragraph (2)(B) of subsection (f), adequate assurance of future performance of a lease of real property in a shopping center includes adequate assurance—

"(A) of the source of rent and other consideration due under such lease, and in the case of an assignment, with an operating and financial performance, including guarantors, similar to that of the original tenant when the lease was executed;

"(B) that any percentage rent due under such lease will not decline substantially;

"(C) that assumption or assignment of such lease is subject to all the provisions thereof, including (but not limited to) provisions such as a radius, location, use, or exclusivity provision, and will not breach any such provision contained in any other lease, financing agreement, or master agreement relating to such shopping center; and

"(D) that assumption or assignment of such lease will not disrupt any tenant mix or balance in such shopping center.

"(4) Notwithstanding any other provision of this section, if there has been a default in an unexpired lease of the debtor, other than a default of a kind specified in paragraph (2) of this subsection, the trustee may not require a lessor to provide services or supplies incidental to such lease before assumption of such lease unless the lessor is compensated under the terms of such lease for any services and supplies provided under such lease before assumption of such lease.

"(c) The trustee may not assume or assign any executory contract or unexpired residential or nonresidential lease of the debtor, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties, if—

"(1)(A) applicable law excuses a party, other than the debtor, to such contract or lease from accepting performance from or rendering performance to an entity other than the debtor or the debtor in possession or an assignee of such contract or lease, by virtue of the terms of such contract or lease, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties; and

"(B) such party does not consent to such assumption or assignment; or

"(2) such contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or to issue a security of the debtor; or

"(3) such nonresidential lease has been terminated under State law prior to the order for relief.

"(d)(1) In a case under chapter 7 of this title, if the trustee does not assume or reject an executory contract or unexpired residential lease of the debtor within sixty days after the order for relief, or within such additional time as the court, for cause, within such sixty-day period, fixes, then such contract or lease is deemed rejected.

"(2) In a case under chapter 9, 11, or 13 of this title, the trustee may assume or reject an executory contract or unexpired residential lease of the debtor at any time before the confirmation of a plan but the court, on the request of any party to such contract, may order the trustee to determine within a specified period of time whether to assume or reject such contract or lease.

"(3) In a case under any chapter of this title, if the trustee does not assume or reject an unexpired nonresidential lease of the debtor within sixty days after the date of the order for relief, or within such additional time as the court, for cause, within such sixty-day period, fixes, then such lease is deemed rejected, and in the case of a nonresidential lease of real property where the debtor is the lessee, the court shall order the premises to be vacated immediately.".

(b) Section 365 is further amended by adding at the end thereof the following new subsection:

"(l) If an unexpired lease is assigned pursuant to this section, the lessor of the property may require a deposit or other security for the performance of the obligations under the lease substantially the same as would have been required by the landlord upon the initial leasing to a similar tenant.".

Sec. 553. Section 541(b) of title 11, United States Code, is amended to read as follows:

"(b) Property of the estate does not include—

"(1) any power that the debtor may exercise solely for the benefit of an entity other than the debtor; and

"(2) the debtor's interest in property by virtue of a nonresidential lease which has expired by virtue of its own terms without regard to the bankruptcy proceedings. Notwithstanding the provisions of section 362(a) of this title, a lessor shall, without further order of the court, be entitled to enforce such lessor's rights to possession of property under a nonresidential lease which has expired by virtue of its own terms.".

Subtitle D—Amendments to Title 11, Section 523 Relating to the Discharge of Debts Incurred by Persons Driving While Intoxicated

Sec. 561. Section 523(a) of title 11, United States Code, is amended by—

(1) striking out "or" at the end of paragraph (8); and

(2) by adding the following new paragraph after such paragraph:

"(9) to any entity, to the extent that such debt arises from a judgment or consent decree entered in a court of record against the debtor wherein liability was incurred by such debtor as a result of the debtor's operation of a motor vehicle while legally intoxicated under the laws or regulations of any jurisdiction within the United States or its territories wherein such motor vehicle was operated and within which such liability was incurred; or".

Subtitle E—Referees Salary and Expense Fund

Sec. 571. This subtitle may be cited as the "Referees Salary and Expense Fund Act of 1983".

Sec. 572. Section 403(e) of the Act of November 6, 1978 (92 Stat. 2683; Public Law 95-598), is amended to read as follows:

"(e) Notwithstanding subsection (a) of this section—

"(1) a fee may not be charged under section 40c(2)(a) of the Bankruptcy Act in a case pending under such Act after September 30, 1979, to the extent that such fee exceeds $200,000;

"(2) a fee may not be charged under section 40c(2)(b) of the Bankruptcy Act in a case in which the plan is confirmed after September 30, 1978, or in which the final determination as to the amount of such fee is made after September 30, 1979, notwithstanding an earlier confirmation date, to the extent that such fee exceeds $100,000;

"(3) after September 30, 1979, all moneys collected for payment into the referees' salary and expense fund in cases filed under the Bankruptcy Act shall be collected and paid into the general fund of the Treasury; and

"(4) any balance in the referees' salary and expense fund in the Treasury on October 1, 1979, shall be transferred to the general fund of the Treasury and the referees' salary and expense fund account shall be closed.".

Subtitle F—Amendments Regarding Repurchase Agreements

Sec. 581. Section 101 of title 11, United States Code, is amended—

(a) by redesignating paragraphs (35), (36), (37), (38), (39), (40), and (41), as paragraphs (37), (38), (39), (40), (41), (42), and (43), respectively, and

(b) by inserting after paragraph (34) the following new paragraphs:

"(35) 'repo participant' means any entity that, on any day during the period beginning 90 days before the date of the filing of the petition, has or has had one or more outstanding repurchase agreements with the debtor with an aggregate repurchase price of $100,000 or more;

"(36) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement) means any agreement, including related terms, which provides for the transfer of certificates of deposit, eligible bankers' acceptances, or securities against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, or securities with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, or securities as described above, at a date certain within two years after such transfers or on demand, against the transfer of funds;".

Sec. 582. Section 362(b) of title 11, United States Code, is amended—

(a) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively, and

(b) by inserting after paragraph (6) the following new paragraph:

"(7) under subsection (a) of this section, of the setoff by a repo participant, of any mutual debt and claim under or in connection with repurchase agreements that constitutes the setoff of a claim against the debtor for a margin payment, as defined in section 741(5) or 761(15) of this title, or settlement payment, as defined in section 741(8) of this title, arising out of repurchase agreements against cash, securities, or other property held by or due from such repo participant to margin, guarantee, secure or settle repurchase agreements;".

SEC. 583. Section 546 of title 11, United States Code, is amended by inserting after paragraph (e), as added by section 536, the following new paragraph:

"(f) Notwithstanding sections 544, 545, 547, 548(a)(2), and 548(b) of this title, the trustee may not avoid a transfer that is a margin payment, as defined in section 741(5) or 761(15) of this title, or settlement payment, as defined in section 741(8) of this title, made by or to a repo participant, in connection with a repurchase agreement and that is made before the commencement of the case, except under section 548(a)(1) of this title.".

SEC. 584. Section 548(d)(2) of title 11, United States Code, is amended by inserting after paragraph (B) the following new paragraph:

"(C) a repo participant that receives a margin payment, as defined in section 741(5) or 761(15) of this title, or settlement payment, as defined in section 741(8) of this title, in connection with a repurchase agreement, takes for value to the extent of such payment.".

SEC. 585. Section 553(b)(1) of title 11, United States Code, is amended by inserting ", 362(b)(7)," after "362(b)(6)".

SEC. 586. (a) Chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new section:

"§ 559. Contractual right to liquidate a repurchase agreement

"The exercise of a contractual right of a repo participant to cause the liquidation of a repurchase agreement because of a condition of the kind specified in section 365(e)(1) of this title shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by order of a court or administrative agency in any proceeding under this title, unless, where the debtor is a stockbroker or securities clearing agency, such order is authorized under the provisions of the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) or any statute administered by the Securities and Exchange Commission. In the event that a repo participant liquidates one or more repurchase agreements with a debtor and under the terms of one or more such agreements has agreed to deliver assets subject to repurchase agreements to the debtor, any excess of the market prices received on liquidation of such assets (or if any such assets are not disposed of on the date of liquidation of such repurchase agreements, at the prices available at the time of liquidation of such repurchase agreements from a generally recognized source or the most recent closing bid quotation from such a source) over the sum of the stated repurchase prices and all expenses in connection with the liquidation of such repurchase agreements shall be deemed property of the estate, subject to the available rights of setoff. As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw, applicable to each party to the repurchase agreement, of a national securities exchange, a national securities association, or a securities clearing agency, and a right, whether or not evidenced in writing, arising under common law, under law merchant or by reason of normal business practice.".

(b) The analysis of sections for chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new item:

"559. Contractual right to liquidate a repurchase agreement.".

SEC. 587. The amendments made by this subtitle shall become effective upon the date of enactment: *Provided*, That they shall apply only to cases commenced on or after the date of enactment.

SUBTITLE G—AMENDMENTS TO TITLE 11, SECTION 365 OF THE UNITED STATES CODE TO PROVIDE ADEQUATE PROTECTION FOR TIMESHARE CONSUMERS

SEC. 591. Title 11, United States Code, section 101 is hereby amended by—

(1) redesignating paragraph (43), as redesignated by section 581, as paragraph (44); and

(2) adding the following paragraph after paragraph (42), as redesignated in section 581:

"(43) 'timeshare plan' means and shall include that interest purchased in any arrangement, plan, scheme, or similar device, but not including exchange programs, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right to use agreement, or by any other means, whereby a purchaser, in exchange for consideration, receives a right to use accommodations, facilities, or recreational sites, whether improved or unimproved, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than three years. A 'timeshare interest' is that interest purchased in a timeshare plan which grants the purchaser the right to use and occupy accommodations, facilities, or recreational sites, whether improved or unimproved, pursuant to a timeshare plan.".

SEC. 592. Section 365(h)(1) of title 11, United States Code, is amended to read as follows:

"(h)(1) If the trustee rejects an unexpired lease of real property of the debtor under which the debtor is the lessor, or a timeshare interest under a timeshare plan under which the debtor is the timeshare interest seller, the lessee or timeshare interest purchaser under such lease or timeshare plan may treat such lease or timeshare plan as terminated by such rejection, where the disaffirmance by the trustee amounts to such a breach as would entitle the lessee or timeshare interest purchaser to treat such lease as terminated by virtue of its own terms, applicable nonbankruptcy law, or other agreements the lessee or timeshare interest purchaser has made with other parties; or, in the alternative, the lessee or timeshare interest purchaser may remain in possession of the leasehold or timeshare interest under any lease or timeshare plan the term of which has commenced for the balance of such term and for any renewal or extension of such term that is enforceable by such lessee or timeshare interest purchaser under applicable nonbankruptcy law.".

SEC. 593. Section 365(h)(2) of title 11, United States Code, is amended to read as follows:

"(2) If such lessee or timeshare interest purchaser remains in possession as provided in paragraph (1) of this subsection, such lessee or timeshare interest purchaser may offset against the rent reserved under such lease or moneys due for such timeshare interest for the balance of the term after the date of the rejection of such lease or timeshare interest, and any such renewal or extension thereof, any damages occurring after such date caused by the nonperformance of any obligation of the debtor under such lease or timeshare plan after such date, but such lessee or timeshare interest purchaser does not have any rights against the estate on account of any damages arising after such date from such rejection, other than such offset.".

SEC. 594. Section 365(i)(1) of title 11, United States Code, is amended to read as follows:

"(i)(1) If the trustee rejects an executory contract of the debtor for the sale of real property or for the sale of a timeshare interest under a timeshare plan, under which the purchaser is in possession, such purchaser may treat such contract as terminated, or, in the alternative, may remain in possession of such real property or timeshare interest.".

SUBTITLE H—BANKRUPTCY OVERSIGHT

SEC. 601. The Director of the Administrative Office of the United States Courts shall compile statistics in a manner to be prescribed by such Director, which shall show—

(1) the assets and liabilities of debtors in bankruptcy, including the estimated income and expenses of individuals filing for relief under the provisions of title 11, as such information may be available to the court from the petitions filed by such debtors;

(2) a summary of the amount of debt discharged in cases under each chapter of title 11, and the total amount of disbursements to creditors by the bankruptcy courts in such cases; and

(3) the average amount of time elapsed between the filing of the case and payments to creditors in cases under each chapter of title 11.

Such statistics shall be compiled for each judicial district on an annual basis.

SUBTITLE I—TECHNICAL AMENDMENTS TO TITLE 11

SEC. 611. (a) Section 101(2)(D) of title 11 of the United States Code is amended by striking out "or all" after "business".

(b) Section 101(8)(B) of title 11 of the United States Code is amended by striking out the colon at the end thereof and inserting in lieu thereof a semicolon.

(c) Section 101(9)(B) of title 11 of the United States Code is amended by—

(1) inserting "348(d)," after "section"; and

(2) striking out "502(h) or 502(i)" and inserting in lieu thereof "or 502(h)".

(d) Section 101(14) of title 11 of the United States Code is amended by inserting "or" after "trust,".

(e) Section 101(24) of title 11 of the United States Code is amended by striking out "stock broker" and inserting in lieu thereof "stockbroker".

(f) Section 101(26)(B)(ii) of title 11 of the United States Code is amended by striking out "separate" each place it appears and inserting in lieu thereof "nonpartnership".

(g) Section 101(38)(B)(vi) of title 11 of the United States Code, as redesignated by section 581 of this Act, is amended by—

(1) striking out "certificate specified in clause (xii) of subparagraph (A)" and insert-

ing in lieu thereof "certificate of a kind specified in subparagraph (A)(xii)"; and

(2) striking out "the subject of such a registration statement" and inserting in lieu thereof "required to be the subject of a registration statement".

(h) Section 101(44) of title 11 of the United States Code, as so redesignated, is amended by striking out the period and inserting in lieu thereof "; and".

(i) Section 101 of title 11 of the United States Code is amended by adding at the end thereof the following new paragraph to be numbered accordingly:

"( ) 'United States', when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States.".

(j) Section 101 of title 11 of the United States Code is amended by inserting the following new paragraphs to be listed where appropriate alphabetically and the entire list numbered correctly:

"( ) 'State' includes the District of Columbia and Puerto Rico, except for the purpose of defining who may be a debtor under chapter 9 of this title;

"( ) 'forward contract' means a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity, or product or by-product thereof, with a maturity date more than two days after the date the contract is entered into;

"( ) 'forward contract merchant' means a person whose business consists in whole or in part of entering into forward contracts as or with merchants in commodities; and

"( ) 'financial institution' means person that is a commercial or savings bank, industrial savings bank, savings and loan association, or trust company and, when any such person is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741(7) of this title, such customer.".

Sec. 612. Section 102 of title 11 of the United States Code is amended by striking out "continued" and inserting in lieu thereof "contained" in paragraph (8).

Sec. 613. Section 103(c) of title 11 of the United States Code is amended by striking out "stockholder" and inserting in lieu thereof "stockbroker".

Sec. 614. Section 106 of title 11, United States Code, is amended to read as follows:

"§ 106. Waiver of sovereign immunity

"(a) The filing of a proof of claim against the estate by a governmental unit is a waiver by that governmental unit of sovereign immunity with respect to claims arising out of the same transaction or occurrence out of which such governmental unit's filed claim arose.

"(b) Where a governmental unit files a proof of claim and where such claim is allowed, the estate may offset against such allowed claim or interest any claim against such governmental unit that is property of the estate.

"(c) A provision of this title that contains "creditor," "entity," or "governmental unit" applies to governmental units, and a determination by the court of an issue arising under such a provision binds governmental units without regard to sovereign immunity.".

Sec. 615. (a) Subsections (a)(1), (b)(1), and (c)(1) of section 108 of title 11 of the United States Code are each amended by striking out "and" each place it appears and inserting in lieu thereof "or".

(b) Subsections (a), (b), and (c) of section 108 of title 11 of the United States Code are each amended by inserting "nonbankruptcy" after "applicable" and after "entered in a" each place such terms appear.

(c) Section 108(a) of title 11 of the United States Code is amended by inserting ", or any person to whose rights the trustee succeeds," after "debtor".

(d) Section 108 of title 11 of the United States Code is amended—

(1) in subsection (c) by inserting after "bankruptcy court" the following: "or for taking other collection action, including levy,".

(2) by adding after subsection (c) the following:

"(d) If applicable law or an agreement suspends the period of limitation for assessing a tax liability of the debtor as of the commencement of a case under this title, such suspension shall not expire before 90 days following the earlier of—

"(1) termination or expiration of the stay under section 362 of this title, or

"(2) the date, determined under sections 362(b)(9) and 505(c) of this title, after which assessment of such tax liability is permitted.

"(e) If applicable law fixes a period for filing a petition or otherwise commencing an action in the United States Tax Court, or in a similar judicial or administrative forum under State or local law, and if any such act is stayed under section 362 of this title, such period shall not expire before 60 days after termination or expiration of the stay with respect to any such petition or action.".

Sec. 616. (a) Section 109 of title 11 of the United States Code, is amended by striking out "in the United States," the first place it appears.

(b) Section 109(b)(2) is amended by—

(1) striking out "or" before "credit union"; and

(2) inserting ", industrial bank or similar institution which is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h))" after "credit union".

(c) Section 109(a)(4) is amended by striking out "or credit union" and inserting in lieu thereof "credit union, industrial bank, or similar institution which is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h))".

(d) Section 109(c)(5)(D) of title 11 of the United States Code of this Act is amended by striking out "preference" and inserting in lieu thereof "transfer that is avoidable under section 547 of this title".

(e) Section 109(d) of title 11 of the United States Code is amended by striking out "stockholder" and inserting in lieu thereof "stockbroker".

(f) Section 109 is amended by adding at the end thereof the following new subsection:

"(f) The court shall not permit any person to file for relief under this title who, within the previous six months, (1) has sought relief under this title in a proceeding which was dismissed by the court for willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case; or (2) has voluntarily dismissed a proceeding filed under this title following the filing of a request for relief from the automatic stay provided by section 362.".

Sec. 617. Section 303(b) of title 11 of the United States Code is amended by inserting "against a person" after "involuntary case".

Sec. 618. Section 303(j)(2) of title 11 of the United States Code is amended by striking out "debtors" and inserting in lieu thereof "debtor".

Sec. 619. Section 321(b) of title 11 of the United States Code is amended by striking out "a case" and inserting in lieu thereof "the case".

Sec. 620. Section 322(b)(1) of title 11 of the United States Code is amended by inserting "required to be" after "bond".

Sec. 621. (a) Section 326(a) of title 11 of the United States Code is amended by striking out all the language beginning with "three percent" through "$50,000" the second place the latter appears and inserting in lieu thereof "three percent on any amount in excess of $3,000,".

(b) Section 326(d) of title 11 of the United States Code is amended to read as follows:

"(d) The court may deny allowance of compensation for services or reimbursement of expenses of the trustee if the trustee failed to make diligent inquiry into facts that would permit denial of allowance under section 328(c) of this title or, with knowledge of such facts, employed a professional person under section 327 of this title.".

(c) Section 327(c) of title 11 of the United States Code is amended to read as follows:

"(c) In a case under chapter 7 or 11 of this title, a person is not disqualified for employment under this section solely because of such person's employment by or representation of a creditor, unless there is objection by another creditor, in which case the court shall disapprove such employment where there is an actual conflict of interest.".

Sec. 622. Section 328(a) of title 11 of the United States Code is amended by striking out "unanticipatable" and inserting in lieu thereof "not capable of being anticipated".

Sec. 623. (a) Section 329(a) of title 11 of the United States Code is amended by striking out "and" the first place it appears and inserting in lieu thereof "or".

(b) Section 329(b)(1) of title 11 of the United States Code is amended by striking out "trustee" and inserting in lieu thereof "estate".

Sec. 624. Section 330(a) of title 11 of the United States Code is amended—

(1) by striking out "to any parties in interest and to the United States trustee"; and

(2) in paragraph (1), by striking out "time, the nature, the extent, and the value of such services" and inserting in lieu thereof "nature, the extent, the value of such services, the time spent on such services".

Sec. 625. (a) Section 330(b) of title 11 of the United States Code is amended by striking out "$20" and inserting in lieu thereof "$45".

(b) Section 330 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(c) Unless the court orders otherwise, in a case under chapter 13 of this title the compensation paid to the trustee serving in the case shall not be less than $10 per month during the administration of the plan.".

Sec. 626. (a) Section 341(b) of title 11 of the United States Code is amended to read as follows:

"(b)(1) In a case under chapter 13 of this title, the court may order a meeting of creditors.

"(2) The court may order a meeting of any equity security holders.".

Sec. 627. Section 342 of title 11 of the United States Code is amended to read as follows:

"§ 342. Notice

"There shall be given such notice as is appropriate, including notice to any holder of a community claim, of an order for relief in a case under this title.".

Sec. 628. Section 343 of title 11 of the United States Code is amended by striking out "examiner" the last place it appears and inserting in lieu thereof "examine".

Sec. 629. Section 344 of title 11 of the United States Code is amended by inserting before the period "or in accordance with such regulations as may be promulgated by the Attorney General".

Sec. 630. Section 345 of title 11 of the United States Code is amended by adding at the end thereof a new subsection (c) as follows:

"(c) All entities with which such moneys are deposited or invested are authorized to deposit or invest such moneys as may be required under this section.".

Sec. 631. (a) Section 346(c)(2) of title 11 of the United States Code is amended by striking out "operation" and inserting in lieu thereof "corporation".

(b) Section 346(f) of title 11 of the United States Code is amended by striking out "State or local".

(c) Section 346(g)(2) of title 11 of the United States Code is amended by striking out "as adjusted under subsection (j)(5) of this section,".

(d) Section 346(j) of title 11 of the United States Code is amended by striking out paragraphs (3), (4), (5), (6), and (7).

Sec. 632. Section 348(b) of title 11 of the United States Code is amended by striking out "means" and inserting in lieu thereof "refers to".

Sec. 633. Section 349(b) of title 11 of the United States Code is amended—

(1) in paragraph (1)(B), by striking out "522(i)(2)" and inserting in lieu thereof "522(h)(2)"; and

(2) in paragraph (2), by striking out "522(i)(1)" and inserting in lieu thereof "522(h)(2)".

Sec. 634. Section 350(b) of title 11 of the United States Code is amended by striking out "a" and inserting in lieu thereof "A".

Sec. 635. Section 361(1) of title 11 of the United States Code is amended by inserting "a cash payment or" after "make".

Sec. 636. (a) Section 362(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "action or" after "other";

(2) in paragraph (3), by inserting "or to exercise control over property of the estate" after "estate" the second place it appears; and

(3) in paragraph (8) by striking out "court concerning the debtor" and inserting in lieu thereof "court or similar administrative or judicial forum under State or local law, concerning the debtor".

(b) Section 362(b) of title 11 of the United States Code is amended—

(1) in paragraph (3), by inserting "or to the extent that such act is accomplished within the period provided under section 547(e)(2) of this title" after "title";

(2) in paragraph (4) by striking out "or" following "police" and inserting in lieu thereof "and";

(3) in paragraph (6), by—

(A) inserting "(or due from)" after "held by";

(B) striking out "or secure commodity contracts" and inserting in lieu thereof "secure, or settle commodity contracts", and by inserting "financial institution" after "stock broker" each time it appears.

(4) in paragraph (7), by—

(A) striking out "said" and inserting in lieu thereof "the"; and

(B) striking out "or" the last place it appears;

(5) in paragraph (8), by striking out the period and inserting in lieu thereof a semicolon; and

(6) by adding after paragraph (8) the following new paragraphs:

"(9) under subsection (a) of this section, of the filing of any continuation statement or the refiling of any notice of a Federal tax lien required by nonbankruptcy law properly filed under such law before the date of the filing of the petition; or

"(10) under subsection (a) of this section, of the presentment of a negotiable instrument and the giving of notice of and protesting dishonor of such an instrument.".

(c) Section 362(c)(2)(B) of title 11 of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

(d) Section 362(d)(2) of title 11 of the United States Code is amended—

(1) by inserting "under subsection (a) of this section" after "property" the first place it appears; and

(2) in subparagraph (B), by inserting "in a case under chapter 11 of this title or to an effective plan in a case under chapter 13 of this title, as the case may be" after "reorganization".

(e) Section 362(e) of title 11 of the United States Code is amended—

(1) in the first sentence by inserting "the conclusion of" after "pending"; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "The court shall order such stay continued in effect pending the conclusion of the final hearing under subsection (d) of this section if there is a reasonable likelihood that the party opposing relief from such stay will prevail at the conclusion of such final hearing. If the hearing under this subsection is a preliminary hearing, then such final hearing shall be commenced not later than thirty days after the conclusion of such preliminary hearing.".

(f) Section 362(f) of title 11 of the United States Code is amended by—

(1) striking out "The" and inserting in lieu thereof "Upon request of a party in interest, the"; and

(2) inserting "with or" after "court,".

Sec. 637. (a) Section 363(a) of title 11 of the United States Code is amended by—

(1) inserting "whenever acquired" after "equivalents"; and

(2) inserting "and includes the proceeds, products, offspring, rents, or profits of property subject to a security interest as provided in section 552(b) of this title whether existing before or after the commencement of a case under this title" after "interest".

(b) Section 363(b) of title 11 of the United States Code is amended by—

(1) striking out "(b)" and inserting in lieu thereof "(b)(1)"; and

(2) adding at the end thereof the following new paragraph:

"(2) If notification is required under subsection (a) of section 7A of the Clayton Act (15 U.S.C. 18a) in the case of a transaction under this subsection, then—

"(A) notwithstanding subsection (a) of such section, such notification shall be given by the trustee; and

"(B) notwithstanding subsection (b) of such section, the required waiting period shall end on the tenth day after the date of the receipt of such notification, unless the court, after notice and hearing, orders otherwise.".

(c) Section 363(e) of title 11 of the United States Code is amended by—

(1) inserting ", with or without a hearing," after "court"; and

(2) striking out the last sentence.

(d) Section 363(f)(3) of title 11 of the United States Code is amended by striking out "such interest" the second place it appears and inserting in lieu thereof "all liens on such property".

(e) Section 363(h) of title 11 of the United States Code is amended by striking out "immediately before" and inserting in lieu thereof "at the time of".

(f) Section 363(j) of title 11 of the United States Code is amended by striking out "compenation" and inserting in lieu thereof "compensation".

(g) Section 363(k) of title 11 of the United States Code is amended by striking out "if the holder" and inserting in lieu thereof "the holder of such claim may bid at such sale, and, if such holder".

(h) Section 363(l) of title 11 of the United States Code is amended by—

(1) striking out "The trustee" and inserting in lieu thereof "Subject to the provisions of section 365, the trustee";

(2) striking out "conditions" and inserting in lieu thereof "condition";

(3) striking out "a taking" and inserting in lieu thereof "or the taking"; and

(4) striking out "interests" and inserting in lieu thereof "interest".

(i) Section 363(n) of title 11 of the United States Code is amended by—

(1) striking out "void" and inserting in lieu thereof "avoid";

(2) striking out "voiding" and inserting in lieu thereof "avoiding"; and

(3) amending the last sentence to read as follows: "In addition to any recovery under the preceding sentence, the court may grant judgment for punitive damages in favor of the estate and against any such party that entered into such an agreement in willful disregard of this subsection.".

(j) Section 363 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(o) In any hearing under this section—

"(1) the trustee has the burden of proof on the issue of adequate protection; and

"(2) the entity asserting an interest in property has the burden of proof on the issue of the validity, priority, or extent of such interest.".

Sec. 638. (a) Section 365(b)(2)(A) of title 11 of the United States Code is amended by inserting "or the debtor's insider" after "condition of the debtor".

(b) Section 365(e) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "or lease" each place it appears and inserting in lieu thereof ", lease, or applicable law"; and

(2) in paragraph (2), by striking out "the trustee" and inserting in lieu thereof "an entity other than the debtor or the debtor in possession".

(c) Section 365(f)(3) of title 11 of the United States Code is amended by inserting a comma after "applicable law".

(d) Section 365(h) of the United States Code is amended by adding at the end thereof the following new paragraph:

"(3) In the event that the lessee or timeshare interest holder shall elect to treat the lease under this subsection as terminated, any sublessee, leasehold mortgagee, or similarly situated entity may elect to succeed to the right of the lessee to remain in possession.".

(e) Section 365(i)(2)(A) of title 11 of the United States Code is amended by—

(1) striking out the comma after "may";

(2) inserting "under such contract" after "debtor"; and

(3) adding the following new paragraph:

"(3) In the event that the purchaser shall elect to treat such contract under this subsection as terminated, any holder of a security interest in such purchaser's interest may elect to succeed to the right of such purchaser to remain in possession as set forth in paragraph (1) of this subsection.".

(f) Section 365(j) of title 11 of the United States Code is amended by inserting "to or for the benefit of the debtor" before the period at the end thereof.

Sec. 639. Section 366(a) of title 11 of the United States Code is amended by inserting "of the commencement of a case under this title or" after "basis".

Sec. 640. Section 501(d) of title 11 of the United States Code is amended by inserting "502(e)(2)," before "502(f)".

Sec. 641. (a) Section 502(a) of title 11 of the United States Code is amended by inserting "general" before "partner".

(b) Section 502(b) of title 11 of the United States Code is amended—

(1) by inserting "(e)(2)," after "subsections";

(2) by inserting "in lawful currency of the United States" after "claim" the second place it appears;

(3) in paragraph (1), by striking out ", and unenforceable against" and inserting in lieu thereof "and";

(4) in paragraph (2), by inserting "other than unmatured interest due to an original issue discount of less than one-half of 1 percent of the stated redemption price at maturity multiplied by the number of full years from the date of original issue to maturity" after "interest";

(5) by striking out paragraph (3) and redesignating paragraphs (4), (5), (6), (7), (8), and (9) as paragraphs (3), (4), (5), (6), (7), and (8), respectively;

(6) in paragraph (3), as redesignated by paragraph (5), by inserting "the" after "exceeds";

(7) in paragraph (5), as redesignated by paragraph (5), by—

(A) striking out "the claim" and inserting in lieu thereof "such claim",

(B) striking out the comma after "petition", and

(C) inserting "or 523(a)(6)" after "523(a)(5)";

(8) by amending paragraph (6), as redesignated by paragraph (5), to read as follows:

"(6) if such claim is the claim of a lessor for damages resulting from the termination of a lease of real property, such claim exceeds—

"(A) the greater of—

"(i) the rent reserved for the rental year during which such termination occurs; or

"(ii) 15 percent of the rent reserved for the remaining term of such lease, not to exceed the rent reserved for the three years commencing with the rental year during which such termination occurs; plus

"(B) any unpaid rent due under such lease, without acceleration, on the earlier of—

"(i) the date of the filing of the petition; or

"(ii) the date on which such lessor repossessed, or the lessee surrendered, the leased property;"; and

(9) in paragraph (7), as redesignated by paragraph (5), by—

(A) inserting "the claim of an employee" before "for damages";

(B) striking out "and" in subparagraph (A)(i) and inserting in lieu thereof "or";

(C) striking out "the" the first place it appears in subparagraph (B) and inserting in lieu thereof "any"; and

(D) inserting a comma after "such contract" in subparagraph (B).

(c) Section 502(c) of title 11 of the United States Code is amended—

(1) in paragraph (1) by—

(A) inserting "the" before "fixing"; and

(B) striking out "closing" and inserting in lieu thereof "administration"; and

(2) in paragraph (2), by—

(A) inserting "right to payment arising from a" after "any"; and

(B) striking out "if such breach gives rise to a right to payment".

(d) Section 502(d) of title 11 of the United States Code is amended by—

(1) striking out "section 542, 543, 550, or 553 of";

(2) striking out "section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of"; and

(3) striking out "section 522(i), 542, 543, 550, or 553 of".

(e) Section 502(e)(1) of title 11, United States Code, is amended—

(1) by striking out "and (b)" and inserting in lieu thereof ", (b), and (c)"; and

(2) by striking out the commas before and after "or has secured";

(3) in subparagraph (B), by inserting "or disallowance" after "allowance"; and

(4) in subparagraph (C), by—

(A) striking out "requests subrogation" and inserting in lieu thereof "asserts a right of subrogation to the rights of such creditor"; and

(B) striking out "to the rights of such creditor".

(f) Section 502(h) of title 11 of the United States Code is amended by striking out "522(i)" and inserting in lieu thereof "522".

(g) Section 502(i) of title 11 of the United States Code is amended to read as follows:

"(i) There shall be allowed a claim for any tax liability arising from payment from the estate of a claim for wages, salaries, or commissions, including vacation, severance, or sick pay, whether or not a proof of such claim is filed.".

(h) Section 502(j) of title 11 of the United States Code is amended to read as follows:

"(j) A claim that has been allowed or disallowed may be reconsidered for cause. A reconsidered claim may be allowed or disallowed according to the equities of the case. Reconsideration of a claim under this subsection does not affect the validity of any payment or transfer from the estate made to a holder of an allowed claim on account of such allowed claim that is not reconsidered, but if a reconsidered claim is allowed and is of the same class as such holder's claim, such holder may not receive any additional payment or transfer from the estate on account of such holder's allowed claim until the holder of such reconsidered and allowed claim receives payment on account of such claim proportionate in value to that already received by such other holder. This subsection does not alter or modify the trustee's right to recover from a creditor any excess payment or transfer made to such creditor.".

Sec. 642. Section 503(b) of title 11 of the United States Code is amended—

(1) by striking out the comma after "be allowed";

(2) in paragraph (1)(B)(i), by inserting "or required to be collected or withheld from another with respect to any payment made by or to the estate" after "estate";

(3) in paragraph (1)(C), by—

(A) striking out the comma after "credit"; and

(B) inserting "incurred by the estate" after "paragraph";

(4) in paragraph (2), by inserting "(a)" after "330";

(5) in paragraph (3), by inserting a comma after "paragraph (4) of this subsection";

(6) in paragraph (3)(C), by striking out the comma after "case";

(7) in paragraph (5), by striking out "and" after the semicolon;

(8) in paragraph (6), by striking out the period and inserting in lieu thereof "; and"; and

(9) by adding at the end thereof the following new paragraph:

"(7) the actual, necessary expenses, other than compensation and reimbursement specified in paragraph (2) of this subsection, incurred by a committee appointed under section 1102 of this title.".

Sec. 643. Section 505(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by—

(A) inserting "or liability of an entity for" after "or legality of"; and

(B) striking out ", whether or not paid, and whether or not contested before and adjudicated by a judicial or administrative tribunal of competent jurisdiction" and inserting in lieu thereof "or paid";

(2) in paragraph (2)(A), by—

(A) inserting "or liability of the debtor for" after "or legality of"; and

(B) striking out "or legality" the second place it appears and inserting in lieu thereof ", legality, or liability";

(3) in paragraph (2)(B)(i), by striking out "and" and inserting in lieu thereof "or"; and

(4) by adding at the end thereof a new paragraph (3) to read as follows:

"(3) Notwithstanding subparagraph (B) of this paragraph, the court may offset against a claim for, or request for payment of, a tax liability any counterclaim with respect to such tax liability for the same taxable period, event, act (or failure to act) to which the claim or request for payment relates, and may, where appropriate, order a net credit or refund to be made to the estate. The preceding sentence shall not apply if, at the commencement of the case under this title, the debtor had filed suit for refund relating to such taxable period, event, act (or failure to act), and if the stay on continuation of such suit is terminated under section 362 of this title.".

Sec. 644. (a) Section 506(a)(1) of title 11 of the United States Code, as redesignated by section 506, is amended to read as follows:

"(a)(1) An allowed claim of a creditor either secured by a lien on property in which the estate has an interest or that is subject to setoff under section 553 of this title is a secured claim to the extent of the value of such lien or to the extent of the amount subject to setoff, as the case may be, and, except to the extent that such creditor does not have recourse under any agreement or applicable nonbankruptcy law against the debtor on account of such claim, is an unsecured claim to the extent that the value of such lien or the amount so subject to setoff is less than the amount of such allowed claim.".

(b) Section 506(b) of title 11 of the United States Code is amended by inserting "for" after "provided".

(c) Paragraphs (1) and (2) of section 506(d) of title 11 of the United States Code are amended to read as follows:

"(1) such claim was disallowed only under section 502(b)(5) or 502(e) of this title; or

"(2) such claim is not an allowed secured claim due only to the failure of any entity to file a proof of such claim under section 501 of this title.".

Sec. 645. (a) Section 507(a) of title 11 of the United States Code is amended—

(1) in paragraph (3), by inserting a comma after "severance";

(2) in paragraph (4), by striking out "employee benefit plans" and inserting in lieu thereof "an employee benefit plan";

(3) in paragraph (4)(B)(i), by inserting "each" after "covered by";

(4) in paragraph (7), as redesignated in section 535, by inserting "only" after "units,";

(5) in paragraph (7)(A), as redesignated herein, by amending clauses (ii) and (iii) to read as follows:

"(ii) assessed within 240 days before the date of the filing of the petition; or

"(iii) not assessed before commencement of the case, unless at such time the liability remained assessable under the applicable statute of limitations, solely because of an act or failure to act described in section 523(a)(1)(B) or 523(a)(1)(C) of this title.".

(b) Section 507(b) of title 11 of the United States Code is amended to read as follows:

"(b) Notwithstanding section 726(b) of this title, if the trustee provides, under section 362, 363, or 364 of this title, adequate protection of the interest of an entity other than the estate that has an interest in property of the estate, or if the court finds that there is adequate protection of such interest, and if, notwithstanding such protection, the holder of an interest suffers a decrease in the value of such interest such holder shall have a claim allowable under subsection (a)(1) of this section, and such holder's allowable claim shall have priority over every other claim allowable under such subsection except similar claims under this subsection.".

(c) Section 507(c) of title 11 of the United States Code is amended by striking out "shall be treated the same" and inserting in lieu thereof "has the same priority".

(d) Section 507(d) of title 11 of the United States Code is amended to read as follows:

"(d)(1) If a claim of a kind specified in paragraph (3), (4), (5), (6), or (7) of subsection (a) of this section is held by an entity other than the original holder of such claim, then such claim is entitled to priority under each such subsection, as the case may be, but only to the extent of the value actually transferred to or for the benefit of such original holder on account of the transfer of such claim by such original holder.

"(2) An entity which is a creditor because—

"(A) a consumer used a credit card as defined in section 103(k) of the Trust in Lending Act (15 U.S.C. 1602(k)), for a transaction within subsection (a)(5) involving property or services which were not delivered prior to the petition;

"(B) the debtor was advanced funds prior to the petition based on its presentation of charge slips, vouchers, or similar documents arising from said transaction; and

"(C) the person advancing the funds is unable to collect the funds from the consumer because such property or services were not delivered or provided, shall be subrogated to the consumer's claim under subsection (a)(5).".

Sec. 646. (a) Section 509(a) of title 11 of the United States Code is amended by—

(1) striking out "subsections (b) and" and inserting in lieu thereof "subsection (b) or"; and

(2) inserting "against the debtor" after "a creditor".

(b) Section 509(b)(1) of title 11 of the United States Code is amended by striking out "of a" and inserting in lieu thereof "of such".

(c) Section 509(c) of title 11 of the United States Code is amended by striking out "section 509 of this title" and inserting in lieu thereof "this section".

Sec. 647. Section 510(b) of title 11 of the United States Code is amended to read as follows:

"(b) For the purpose of distribution under this title, a claim arising from rescission of a purchase or sale of a security of the debtor or of an affiliate of the debtor or for damages arising from the purchase or sale of such a security shall be subordinated to all claims or interests that are senior to the claim or interest represented by such security.".

Sec. 648. (a) Section 521(a)(1) of title 11 of the United States Code, as redesignated herein, is amended to read as follows:

"(a)(1) file a list of creditors and, unless the court orders otherwise, a schedule of assets, liabilities, and equity interests, and a statement of the debtor's financial affairs;".

(b) Section 521(a)(5) of title 11 of the United States Code, as redesignated in section 507, is amended by inserting ", whether or not immunity is granted under section 344 of this title" after "estate" the second place it appears.

Sec. 649. (a) Section 522(a)(2) of title 11 of the United States Code is amended by inserting ", or with respect to property that becomes property of the estate after such date, as of the date such property becomes property of the estate" after "petition".

(b) Section 522(c) of title 11 of the United States Code is amended to read as follows:

"(c) Unless the case is dismissed, property exempted under this section is not liable during or after the case for any debt of the debtor that arose, or that is determined under section 502 of this title as if such debt had arisen, before the commencement of the case, except—

"(1) a debt of a kind specified in section 523(a)(1), 523(a)(5), or 523(a)(6) of this title; or

"(2) a debt secured by a lien that is—

"(A)(i) not avoided under subsection (f) or (g) of this section or under section 544, 545, 547, 548, 549, or 724(a) of this title; and

"(ii) not void under section 506(d) of this title; or

"(B) a tax lien, notice of which is properly filed, whether or not such lien is avoided under section 545(2) of this title.".

(c) Section 522(e) of title 11 of the United States Code is amended by—

(1) striking out "exemptions" and inserting in lieu thereof "an exemption";

(2) striking out "with respect to such claim against property that" and inserting in lieu thereof "to the extent of such claim with respect to property";

(3) striking out "or (h) of this section to avoid a transfer, under subsection (g)" and by inserting in lieu thereof ", (g), (h),"; and

(4) striking out "to exempt property, or under subsection (i) of this section to recover property or to preserve a transfer,".

(d) Section 522(g) of title 11 of the United States Code is amended to read as follows:

"(g) Notwithstanding any waiver of an exemption, the debtor may avoid a transfer or recover a setoff of property of the debtor and exempt such property under subsection (i) of this section, whether or not the trustee attempts to recover such property or avoid such transfer, if—

"(1)(A) such transfer is avoidable by the trustee under section 544, 545, 547, 548, 549, or 724(a) of this title, or recoverable by the trustee under section 553 of this title;

"(B) such transfer was not a voluntary transfer of such property by the debtor; and

"(C) the debtor did not conceal such property; or

"(2) such transfer is in satisfaction of a lien of a kind specified in subsection (f)(2) of this section.".

(e) Section 522(h) of title 11 of the United States Code is amended to read as follows:

"(h)(1) The debtor's power to avoid a transfer or recover a setoff under subsection (f) or (g) of this section is subject to the limitations of section 550 of this title to which the trustee's power to avoid such a transfer or recover such a setoff under this title is subject.

"(2) Notwithstanding section 551 of this title, a transfer avoided or property recovered by the trustee or by the debtor may be preserved for the benefit of the debtor, if—

"(A)(i) such property otherwise would be exempt under subsection (i) of this section;

"(ii) such transfer was not a voluntary transfer of such property by the debtor; and

"(iii) the debtor did not conceal such property; or

"(B) such transfer is of a kind specified in subsection (f) of this section.".

(f) Section 522(i) of title 11 of the United States Code is amended to read as follows:

"(i) The debtor may exempt under subsection (b) of this section property disencumbered or recovered under subsection (f), (g), or (h) of this section to the extent the debtor could have exempted such property under subsection (b) of this section had such property not been encumbered, transferred, or set off.".

(g) Section 522(j) of title 11 of the United States Code is amended to read as follows:

"(j) The debtor may exempt a particular kind of property under subsection (i) of this section only to the extent that such exemption, plus the debtor's already claimed exemption of the same kind of property under subsection (b) of this section, does not exceed the limitation specified for such kind of property in subsection (b) of this section.".

(h) Section 522(k) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "(g)" and inserting in lieu thereof "(i)"; and

(2) in paragraph (2), by—

(A) striking out "(h)" and inserting in lieu thereof "(g)"; and

(B) striking out "or of recovery of property under subsection (i)(1) of this section,".

(i) Section 522(l) of title 11 of the United States Code is amended by—

(1) striking out ", or may claim property as exempt from property of the estate"; and

(2) inserting after the second sentence thereof the following new sentence: "In the event of the debtor's death, a dependent of the debtor may claim property as exempt from property of the estate.".

(j) Section 522 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(n) For purposes of this section the State or local law applicable under subsection (b) of this section is the State or local law in effect upon the date of the filing of the petition.".

Sec. 650. (a) Section 523(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by—

(A) striking out "obtaining" each place it appears; and

(B) striking out "refinance of credit," and inserting in lieu thereof "refinancing of credit, to the extent obtained"; and

(2) in paragraph (3), by striking out "(6)" each place it appears and inserting in lieu thereof "(7)" and by striking out "521(1)" and inserting in lieu thereof "521(a)(1)"; and

(3) by striking out "of higher education" in paragraph (8).

(b) Section 523(c) of title 11 of the United States Code is amended by inserting "of a kind" after "debt" the first time it appears.

Sec. 651. Section 524(a) of title 11 of the United States Code is amended by striking out "any act" each place it appears and inserting in lieu thereof "an act".

Sec. 652. Section 525 of title 11 of the United States Code is amended by—

(1) inserting "the" before "Perishable";

(2) inserting "(a)" before "Except"; and

(3) adding a new subsection (b) as follows:

"(b) No private employer may terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under this title or a bankrupt or a debtor under the Bankruptcy Act, or any person with whom such bankrupt or debtor has been associated, solely because such bankrupt or debtor is or has been a debtor under this title or under the Bankruptcy Act, or has been insolvent before the commencement of a case under this title or during the case but before the grant or denial of a discharge; or, who has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.".

Sec. 653. (a) Section 541(a) of title 11 of the United States Code is amended—

(1) by striking out "under" the second time it appears;

(2) by inserting "and by whomever held" after "located";

(3) in paragraph (3), by inserting "329(b), 363(n)," after "section";

(4) in paragraph (5), by striking out "An" and inserting in lieu thereof "Any"; and

(5) in paragraph (6), by striking out "and" and inserting in lieu thereof "or".

(b) Section 541(c) of title 11 of the United States Code is amended—

(1) by inserting "in an agreement, transfer instrument, or applicable law" after "provision"; and

(2) in paragraph (1)(B), by—

(A) striking out "the taking" and inserting in lieu thereof "taking"; and

(B) inserting "before such commencement" after "custodian".

(c) Section 541(d) of title 11 of the United States Code is amended by inserting "(1)" after "(a)".

(d) Section 541(e) of title 11 of the United States Code is repealed.

Sec. 654. Section 542(e) of title 11 of the United States Code is amended by inserting "to turn over or" before "disclose".

Sec. 655. (a) Section 543(a) of title 11 of the United States Code is amended by inserting ", product, offspring, rents, or profits" after "proceeds".

(b) Section 543(b) of title 11 of the United States Code is amended—

(1) in paragraph (1), by—

(A) inserting "held by or" after "debtor"; and

(B) inserting ", product, offspring, rents, or profits" after "proceeds"; and

(2) in paragraph (2), by inserting ", product, offspring, rents, or profits" after "proceeds".

(c) Section 543(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "or proceeds, product, offspring, rents, or profits of such property" after "property"; and

(2) in paragraph (3), by inserting "that has been" before "approved".

(d) Section 543(d) of title 11 of the United States Code is amended to read as follows:

"(d) After notice and hearing, the bankruptcy court—

"(1) may excuse compliance with subsection (a), (b), or (c) of this section, if the interests of creditors, and, if the debtor is not insolvent of equity security holders, would be better served by permitting a custodian to continue in possession, custody, or control of such property, and

"(2) shall excuse compliance with subsections (a) and (b)(1) of this section if the custodian is an assignee for the benefit of the debtor's creditors that was appointed or took possession more than 120 days before the date of the filing of the petition, unless compliance with such subsections is necessary to prevent fraud or injustice.".

Sec. 656. Section 544(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "such" after "obtained";

(2) in paragraph (2), by striking out "; and" and inserting in lieu thereof "; or"; and

(3) in paragraph (3), by—

(A) inserting ", other than fixtures," after "property"; and

(B) inserting "and has perfected such transfer" after "purchaser" the second place it appears.

Sec. 657. Section 545 of title 11 of the United States Code is amended—

(1) in paragraph (1)(A), by striking out "is" the first time it appears;

(2) in paragraph (1)(C), by striking out "apponted" and inserting in lieu thereof "appointed or authorized to take"; and

(3) in paragraph (2), by striking out "on the date of the filing of the petition" each place it appears and inserting in lieu thereof "at the time of the commencement of the case".

Sec. 658. (a) Section 546(a) of title 11 of the United States Code is amended in paragraph (1) by striking out "and" and inserting in lieu thereof "or".

(b) Section 546(b) of title 11 of the United States Code is amended by striking out "the trustee under section 544, 545, or" and inserting in lieu thereof "a trustee under sections 544, 545, and".

(c) Section 546(c) of title 11 of the United States Code is amended—

(1) by striking out "the trustee" and inserting in lieu thereof "a trustee";

(2) by striking out "right" the first place it appears;

(3) by inserting "of goods" after "seller" the first place it appears;

(4) by striking out "of goods" after "business," and inserting in lieu thereof "that has sold goods"; and

(5) in paragraph (2), by—

(A) inserting "the" after "if"; and

(B) striking out "an administrative expense" and inserting in lieu thereof "a claim of a kind specified in section 503(b) of this title".

(d) Section 546(d) of title 11 is amended by inserting "financial institution" after "stockbroker".

Sec. 659. (a) Section 547(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by inserting "including proceeds of such property," after "law,"; and

(2) in paragraph (4), by—

(A) striking out ", without penalty"; and

(B) inserting "without penalty" after "payable".

(b) Section 547(b) of title 11 of the United States Code is amended by striking out "of property of the debtor" and inserting in lieu thereof "of an interest of the debtor in property".

(c) Section 547(c) of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by inserting "by the debtor" after "incurred";

(2) in paragraph (3), by striking out "of" the first place it appears and inserting in lieu thereof "that creates";

(3) in paragraph (3)(B), by—

(A) inserting "on or" after "perfected"; and

(B) striking out "such security interest attaches" and inserting in lieu thereof "the debtor receives possession of such property";

(4) in paragraph (5), by—

(A) striking out "of" the first place it appears and inserting in lieu thereof "that creates"; and

(B) striking out "all security interest" and inserting in lieu thereof "all security interests";

(5) in paragraph (5)(A)(ii), by striking out "and" and inserting in lieu thereof "or";

(6) in paragraph (5)(B) by striking out "or";

(7) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; or"; and

(8) by adding at the end thereof the following new paragraph:

"(7) to or for the benefit of a creditor to the extent such transfer was made to such creditor by a credit guarantor in payment of a debt evidenced by a note or bond issued by the debtor prior to the commencement of the case and in accordance with the terms of the debtor's credit guaranty agreement with the credit guarantor, and payment of which was supported from time of its issuance until such transfer by an irrevocable letter of credit, irrevocable commitment to lend funds, irrevocable note purchase agreement, or a bond of indemnity issued by a credit guarantor in the ordinary course of its business.".

(d) Section 547(d) of title 11 of the United States Code is amended by—

(1) striking out "A" and inserting in lieu thereof "The";

(2) inserting "an interest in" after "transfer of";

(3) inserting "to or for the benefit of a surety" after "transferred"; and

(4) inserting "such" after "reimbursement of".

(e) Section 547(e) of title 11 of the United States Code is amended—

(1) by amending paragraph (1) to read as follows:

"(1) For the purposes of this section, a transfer of property is perfected when either a bona fide purchaser from the debtor of real property, other than fixtures, or a creditor on a simple contract, against whom applicable law permits such transfer to be perfected, cannot acquire an interest in such real property or a judicial lien on personal property that is superior to the interest of the transferee."; and

(2) in paragraph (2)(C)(i), by striking out "and" and inserting in lieu thereof "or".

(f) Section 547 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(g) For the purposes of this section, the trustee has the burden of proving the avoidability of a transfer under subsection (b) of this section, and the creditor or party in interest against whom recovery or avoidance is sought has the burden of proving the nonavoidability of a transfer under subsection (c) of this section.".

Sec. 660. (a) Section 548(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "occurred" and inserting in lieu thereof "was made"; and

(2) in paragraph (2)(B)(ii), by inserting "or a transaction" after "engaged in business".

(b) Section 548(b) of title 11 of the United States Code is amended by striking out "the debtor" each place it appears and inserting in lieu thereof "such debtor".

(c) Section 548(c) of title 11 of the United States Code is amended by—

(1) inserting "or may retain" after "lien on"; and

(2) striking out ", may retain any lien transferred,".

(d)(1) Section 548(d)(1) of title 11 of the United States Code is amended by—

(A) striking out "becomes so far" and inserting in lieu thereof "is so";

(B) striking out "such transfer could have been" and inserting in lieu thereof "applicable law permits such transfer to be"; and

(C) striking out "occurs" and inserting in lieu thereof "is made".

(2) Section 548(d)(2)(B) of title 11 is amended by inserting "financial institution" after "stockbroker".

Sec. 661. (a) Section 549(a) of title 11 of the United States Code is amended—

(1) by striking out "(b) and (c)" and inserting in lieu thereof "(b) or (c)"; and

(2) in paragraph (2)(A), by inserting "only" after "authorized".

(b) Section 549(b) of title 11 of the United States Code is amended by—

(1) inserting "the trustee may not avoid under subsection (a) of this section," after "involuntary case,";

(2) striking out "that occurs" and inserting in lieu thereof "made";

(3) striking out "is valid against the trustee to the extent of" and inserting in lieu thereof "to the extent"; and

(4) inserting "is" before "given".

(c) Section 549(c) of title 11 of the United States Code is amended to read as follows:

"(c) The trustee may not avoid under subsection (a) of this section a transfer of real property to a good faith purchaser without knowledge of the commencement of the case and for present fair equivalent value unless a copy or notice of the petition was filed, where a conveyance of such real property may be recorded to perfect such transfer, before such transfer is so perfected that a bona fide purchaser of such property, against whom applicable law permits such transfer to be perfected, could not acquire an interest that is superior to the interest of such good faith purchaser. A good faith purchaser without knowledge of the commencement of the case and for less than present fair equivalent value has a lien on the property transferred to the extent of any present value given, unless a copy or notice of the petition was so filed before such transfer was so perfected.".

(d) Section 549(d)(1) of title 11 of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

Sec. 662. (a) Section 550(a) of title 11 of the United States Code is amended—

(1) by inserting "363(n)," before "544";

(2) by inserting "553(b)," after "549,"; and

(3) in paragraph (2), by striking out "immediate or mediate transferee of" and inserting in lieu thereof "subsequent transferee of".

(b) Section 550(b)(2) of title 11 of the United States Code is amended by striking out "immediate or mediate" and inserting in lieu thereof "subsequent".

(c) Section 550(d) of title 11 of the United States Code is amended—

(1) in paragraph (1)(A), by inserting "or accruing to" after "by";

(2) in paragraph (1)(B), by striking out "value" and inserting in lieu thereof "the value of such property";

(3) in paragraph (2), by striking out subparagraphs (D) and (E) and inserting in lieu thereof the following:

"(D) payment of any debt secured by a lien on such property that is superior or equal to the rights of the estate; and"; and

(4) in paragraph (2), by redesignating subparagraph (F) as subparagraph (E).

(d) Section 550(e)(1) of title 11 of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

Sec. 663. Section 551 of title 11 of the United States Code is amended by striking out "but only with respect to property of the estate".

Sec. 664. Section 552(b) of title 11 of the United States Code is amended by—

(1) inserting "522," after "506(c),";

(2) striking out "a secured party enter" and inserting in lieu thereof "an entity entered"; and

(3) striking out "except to the extent" and inserting in lieu thereof "except to any extent".

Sec. 665. Section 553(b)(1) of title 11 of the United States Code is amended by striking out "or 365(h)(1)" and inserting in lieu thereof ", 365(h)(2), or 365(i)(2)".

Sec. 666. (a) Subsections (a) and (b) of section 554 of title 11 of the United States Code are each amended by inserting "and benefit" after "value".

(b) Section 554(c) of title 11 of the United States Code is amended to read as follows:

"(c) Unless the court orders otherwise, any property scheduled under section 521(a)(1) of this title not otherwise administered at the time of the closing of a case is abandoned to the debtor and administered for purposes of section 350 of this title.".

(c) Section 554(d) of title 11 of the United States Code is amended by striking out "section (a) or (b) of".

Sec. 667. Section 555 of title 11 is amended by inserting "financial institution" after "stockbroker".

Sec. 668. (a) Chapter 5 of title 11 of the United States Code is amended by adding at the end thereof the following new section:

"§ 558. Defenses of the estate

"The estate shall have the benefit of any defense available to the debtor as against any entity other than the estate, including statutes of limitation, statutes of frauds, usury, and other personal defenses. A waiver of any such defense by the debtor after the commencement of the case does not bind the estate.".

(b) The table of sections for chapter 5 of title 11 of the United States Code is amended by adding at the end thereof the following new item:

"558. Defenses of the estate.".

Sec. 669. The table of sections for chapter 7 of title 11 of the United States Code is amended by striking out "Succesor" in the item relating to section 703 and inserting in lieu thereof "Successor".

Sec. 670. (a) Section 702(b) of title 11 of the United States Code is amended by inserting "held" after "meeting of creditors".

(b) Section 702(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "of a kind" after "claims"; and

(2) in paragraph (2), by inserting "a" after "for".

(c) Section 702(d) of title 11 of the United States Code is amended by striking out "subsection (c) of".

Sec. 671. Section 703(b) of title 11 of the United States Code is amended by striking out "specified in section 701(a) of this title. Sections 701(b) and 701(c) of this title apply to such interim trustee" and inserting in lieu thereof "and subject to the provisions of section 701 of this title".

Sec. 672. Section 704(a) of title 11 of the United States Code as amended by section 504 is amended—

(1) in paragraph (1), by striking out "up";

(2) in paragraph (7), by striking out "with the court and"; and

(3) by amending paragraph (8) to read as follows:

"(8) file interim reports, as circumstances justify, of the condition of the estate and make and file a final report and account of the administration of the estate with the court.".

Sec. 673. Paragraphs (1) and (2) of section 707 of title 11 of the United States Code are each amended by striking out "and" and inserting in lieu thereof "or".

Sec. 674. (a) Section 723(a) of title 11 of the United States Code is amended by striking out "title" and inserting in lieu thereof "chapter".

(b) Section 723(c) of title 11 of the United States Code is amended by—

(1) striking out "such case" each place it appears and inserting in lieu thereof "such partner's case";

(2) striking out "be property" and inserting in lieu thereof "by property";

(3) striking out "726(a)" and inserting in lieu thereof "726"; and

(4) striking out "the kind" and inserting in lieu thereof "a kind".

Sec. 675. (a) Section 724(b) of title 11 of the United States Code is amended—

(1) by striking out "and" the first place it appears and by striking out "taxes" and inserting in lieu thereof "a tax";

(2) in paragraph (1), by striking out "such tax lien" and inserting in lieu thereof "the lien securing such tax claim";

(3) in paragraph (2), by striking out "claims" and inserting in lieu thereof "any holder of a claim of a kind";

(4) in paragraph (3), by—

(A) inserting "tax" after "allowed"; and

(B) striking out "that is";

(5) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) fifth, to any holder of a claim of a kind specified in sections 507(a)(1), 507(a)(2), 507(a)(3), 507(a)(4), and 507(a)(5) of this title, to the extent that such claim is not paid under paragraph (2) of this subsection;";

(6) in paragraph (6), as redesignated by paragraph (5), by—

(A) striking out "fifth" and inserting in lieu thereof "sixth";

(B) inserting "tax" after "allowed"; and

(C) striking out "tax" after "such" the third place it appears; and

(7) in paragraph (7), as redesignated by paragraph (5), by striking out "sixth" and inserting in lieu thereof "seventh".

(b) Section 724(c) of title 11 of the United States Code is amended by—

(1) striking out "creditor" and inserting in lieu thereof "holder of a claim"; and

(2) striking out "creditors" each place it appears and inserting in lieu thereof "holders".

(c) Section 724(d) of title 11 of the United States Code is amended by—

(1) striking out "whose priority" and inserting in lieu thereof "the priority of which"; and

(2) inserting "if such lien were" after "the same as".

SEC. 676. Section 725 of title 11 of the United States Code is amended by inserting "of property of the estate" after "distribution".

SEC. 677. (a) Section 726(a) of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by—

(A) inserting ", 501(b), or 501(c)" after "501(a)"; and

(B) adding "or" after the semicolon;

(2) by striking out paragraph (2)(B) and redesignating paragraph (2)(C) as paragraph (2)(B);

(3) in paragraph (2)(B), as redesignated by paragraph (2), by inserting ", 501(b), or 501(c)" after "501(a)";

(4) in paragraph (3), by—

(A) inserting ", 501(b), or 501(c)" after "501(a)"; and

(B) striking out "(C)" and inserting in lieu thereof "(B)"; and

(5) in paragraph (5), by striking out "legal rate" and inserting in lieu thereof "contract rate where a contract exists, and if not, the legal rate".

(b) Section 726(b) of title 11 of the United States Code is amended by—

(1) striking out "a particular paragraph" and inserting in lieu thereof "each such particular paragraph"; and

(2) striking out "administrative expenses" each place it appears and inserting in lieu thereof "a claim allowed under section 503(b) of this title"; and

(3) striking out "have" and inserting in lieu thereof "has".

(c) Section 726(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "Administrative expenses" and inserting in lieu thereof "Claims allowed under section 503 of this title"; and

(2) in paragraph (2), by striking out "Claims other than for administrative expenses" and inserting in lieu thereof "Allowed claims, other than claims allowed under section 503 of this title,".

SEC. 678. (a) Section 727(a) of title 11 of the United States Code is amended—

(1) in paragraph (6)(C), by striking out "property" and inserting in lieu thereof "properly";

(2) in paragraph (7), by inserting ", under this title or under the Bankruptcy Act," after "another case"; and

(3) in paragraph (8), by inserting a comma after "371".

(b) Section 727(c)(1) of title 11 of the United States Code is amended by inserting "the granting of a" after "to".

(c) Section 727(e)(2)(A) of title 11 of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

SEC. 679. (a) Section 728(c) of title 11 of the United States Code is amended by striking out the comma after "taxable income".

(b) Section 728(d)(2) of title 11 of the United States Code is amended by inserting "otherwise" after "is", and by striking out "otherwise" after "partner".

SEC. 680. Section 741 of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by—

(A) striking out "the debtor" the first time it appears and inserting in lieu thereof "a person";

(B) striking out "holds" and inserting in lieu thereof "has";

(C) striking out "the debtor" the second and third time it appears and inserting in lieu thereof "such person"; and

(D) striking out "business as a stockbroker" and inserting in lieu thereof "such person's business as a stockbroker,";

(2) in paragraph (2)(B), by—

(A) striking out "holds" and inserting in lieu thereof "has";

(B) striking out "the debtor" the first place it appears and inserting in lieu thereof "a person"; and

(C) by striking out "the debtor" and inserting in lieu thereof "such person" in clause (ii);

(3) in paragraph (4)(A)(i), by striking out "and that is" and inserting in lieu thereof "from and that is the lawful";

(4) in paragraph (6)(A)(i), by—

(A) inserting a comma after "petition"; and

(B) inserting "any" after "except"; and

(5) in paragraph (7), by amending such paragraph to read as follows:

"(7) 'securities contract' means contract for the purchase, sale, or loan of a security, including an option for the purchase or sale of a security, certificate of deposit, or group or index of securitites (including any interest therein or based on the value thereof), or any option entered into on a national securities exchange relating to foreign currencies, or the guarantee of any settlement of cash or securities by or to a securities clearing agency;"; and

(6) in paragraph (8) by inserting "a final settlement payment," after "settlement payment on account,".

SEC. 681. Section 745(a) of title 11 of the United States Code is amended by inserting "the debtor for" after "by".

SEC. 682. (a) Section 752(a) of title 11 of the United States Code is amended by—

(1) striking out "customers allowed" and in lieu thereof "customers' allowed";

(2) inserting "of the kind" after "except claims"; and

(3) inserting "such" before "customer property".

(b) Section 752(b)(2) of title 11 of the United States Code is amended by striking out "726(a)" and inserting in lieu thereof "726".

SEC. 683. Section 761 of title 11 of the United States Code is amended—

(1) in paragraph (10), by—

(A) striking out "and that is" in subparagraph (A)(viii) and inserting in lieu thereof "from and that is the lawful"; and

(B) striking out "based on such property" in subparagraph (B) and inserting in lieu thereof "for which such property would be liable"; and

(2) in paragraph (17), by—

(A) striking out "the aggregate of all of a customer's accounts" and inserting in lieu thereof "all accounts of a customer";

(B) striking out subparagraph (B); and

(C) redesignating subparagraph (C) as subparagraph (B).

SEC. 684. Section 763(a) of title 11 of the United States Code is amended by—

(1) inserting "the debtor for" after "by"; and

(2) striking out "deemed to be" and inserting in lieu thereof "treated as".

SEC. 685. Section 764(a) of title 11 of the United States Code is amended by inserting "by the debtor" after "any transfer".

SEC. 686. Section 765(a) of title 11 of the United States Code is amended by striking out "notice under", and inserting in lieu thereof "notice required by".

SEC. 687. (a) Section 766(a) of title 11 of the United States Code is amended by striking out "of" the first place it appears and inserting in lieu thereof "held by the debtor for".

(b) Section 766(b) of title 11 of the United States Code is amended by amending the first sentence thereof to read as follows: "If an open commodity contract is being actively traded as of the date of the filing of the petition, the trustee shall, as required by sections 765 and 766(c) of this title, transfer such commodity contract, if feasible, or close out such commodity contract on or before the last day of trading in such contract or on the first day on which notice of intent to deliver on such commodity contract may be tendered, whichever first occurs.".

(c) Section 766(j)(2) of title 11 of the United States Code is amended by striking out "726(a)" and inserting in lieu thereof "726".

SEC. 688. Section 901(a) of title 11 of the United States Code is amended by—

(1) inserting "341, 342," after "301,";

(2) striking out "547" and inserting in lieu thereof "547(a), 547(b), 547(c), 547(d), 547(e)(1), 547(e)(2), 547(f), 547(g)"; and

(3) inserting a comma after "1111(b)".

SEC. 689. Section 902(2) of title 11 of the United States Code is amended by striking out "title, legal or equitable, to real property against which has been levied a special assessment or special tax" and by inserting in lieu thereof "legal or equitable title to real property against which a special assessment or special tax has been levied".

SEC. 690. Section 903(2) of title 11 of the United States Code is amended by striking out "to" the first place it appears.

SEC. 691. Chapter 9 of title 11 of the United States Code is amended by striking out "SUBCHAPER II" and inserting in lieu thereof "SUBCHAPTER II".

SEC. 692. (a) Section 921(c) of title 11 of the United States Code is amended by—

(1) striking out "an" and inserting in lieu thereof "any"; and

(2) striking out the comma after "petition" the second place it appears.

(b) Section 921 of title 11 of the United States Code is amended by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(c) Section 921(a) is amended by striking out "109(c)" and inserting in lieu thereof "109(d)".

(d) Section 921(d) of title 11 of the United States Code, as so redesignated, is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (c)".

SEC. 693. (a) Section 922(a)(1) of title 11 of the United States Code is amended by—

(1) inserting "a" before "judicial"; and

(2) inserting "action or" before "proceeding".

(b) Section 922(b) of title 11 of the United States Code is amended by striking out "and (g)" and inserting in lieu thereof "(g), and (h)".

SEC. 694. (a) Section 927(a)(4) of title 11 of the United States Code is amended by—

(1) striking out "if" and inserting in lieu thereof "failure of"; and

(2) striking out "is not" and inserting in lieu thereof "to be".

(b) Section 927(b) of title 11 of the United States Code is amended by inserting "of a plan under this chapter" after "confirmation".

Sec. 695. Section 943(b) of title 11 of the United States Code is amended—

(1) in paragraph (4), by striking out "to be taken"; and

(2) by amending paragraph (5) to read as follows:

"(5) except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that on the effective date of the plan each holder of a claim of a kind specified in section 507(a)(1) of this title will receive on account of such claim cash equal to the allowed amount of such claim; and".

Sec. 696. Section 945(a) of title 11 of the United States Code is amended by striking out "execution" and inserting in lieu thereof "implementation".

Sec. 697. Section 1102(b)(1) of title 11 of the United States Code is amended by striking out "order for relief" and inserting in lieu thereof "commencement of the case".

Sec. 698. Section 1103(c) of title 11 of the United States Code is amended—

(1) in paragraph (3), by—

(A) striking out "recommendations" and inserting in lieu thereof "determinations"; and

(B) inserting "or rejections" after "acceptances"; and

(2) in paragraph (4), by striking out ", if a trustee or examiner, as the case may be, has not previously been appointed under this chapter in the case".

Sec. 699. Section 1105 of title 11 of the United States Code is amended by striking out "estate, and" and inserting in lieu thereof "estate and of the".

Sec. 700. Section 1106(b) of title 11 of the United States Code is amended by inserting ", except to the extent that the court orders otherwise," before "any other".

Sec. 701. Section 1107(a) of title 11 of the United States Code is amended by inserting "serving in a case" after "on a trustee".

Sec. 702. Section 1108 of title 11 of the United States Code is amended by inserting ", on request of a party in interest and after notice and a hearing," after "court".

Sec. 703. Section 1111(b) of title 11 of the United States Code is amended to read as follows:

"(b)(1) Except where property of the estate that secures a claim is sold subject to section 363(k) of this title, abandoned under sections 554 or 557 of this title, or surrendered to the holders of such claims, or is to be sold, abandoned, or surrendered under the plan—

"(A) a claim secured by such property shall be allowed or disallowed under section 502 of this title the same as if the holder of such claim had recourse against the debtor on account of such claim, whether or not such holder had such recourse, unless the class of which such claim is a part elects, by at least two-thirds in amount and more than one-half in number of allowed claims of such class, to be governed by subparagraph (B) of this paragraph; and

"(B) unless the aggregate value of the interests in such property of the holders of such claims is inconsequential, the class may elect, as provided under subparagraph (A) of this paragraph, that such claims of such class, whether or not the holders of such claims had recourse against the debtor and notwithstanding section 506(a) of this title, are secured claims to the full extent that such claims are allowed.

"(2) The provisions of paragraph (1) of this subsection are limited to the purposes of this chapter and such paragraph shall not in any other way alter, affect, or create any right or liability of or in any other entity who may be liable with the debtor on a debt to which the provisions of such paragraph apply.".

Sec. 704. (a) Section 1112(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by striking out "is an involuntary case originally commenced under this chapter" and inserting in lieu thereof "originally was commenced as an involuntary case under this chapter"; and

(2) in paragraph (3), by striking out "on other than" and inserting in lieu thereof "other than on".

(b) Section 1112(b) of title 11 of the United States Code is amended—

(1) in paragraph (5), by inserting "a request made for" before "additional"; and

(2) in paragraph (8), by striking out "and" and inserting in lieu thereof "or".

Sec. 705. (a) Section 1121(c)(3) of title 11 of the United States Code is amended by striking out "the claims or interests of which are" and inserting in lieu thereof "of claims or interests that is".

(b) Section 1121(d) of title 11 of the United States Code is amended by inserting "made within the respective periods specified in subsection (c) of this section" after "interest".

Sec. 706. (a) Section 1123(a) of title 11 of the United States Code is amended—

(1) by striking out "A" and inserting in lieu thereof "Notwithstanding any otherwise applicable nonbankruptcy law, a";

(2) in paragraph (1), by inserting commas after "classes of claims" and after "507(a)(7) of this title";

(3) in paragraph (3), by striking out "shall";

(4) in paragraph (5), by striking out "execution" and inserting in lieu thereof "implementation"; and

(5) in paragraph (5)(G), by inserting "of" after "waiving".

(b) Section 1123(b)(2) of title 11 of the United States Code is amended by—

(1) striking out "or rejection" and inserting in lieu thereof ", rejection, or assignment"; and

(2) striking out "under section 365 of this title" and inserting in lieu thereof "under such section".

Sec. 707. Section 1124 of title 11 of the United States Code is amended—

(1) by amending paragraph (2)(A) to read as follows:

"(A) cures any such default that occurred before or after the commencement of the case under this title, other than a default of a kind specified in section 365(b)(2) of this title;"; and

(2) in paragraph (3)(B)(i), by striking out "and" and inserting in lieu thereof "or".

Sec. 708. (a) Section 1125(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting ", but need not include such information about any other possible or proposed plan" after "plan";

(2) in paragraph (2)(B), by inserting "the" after "with"; and

(3) in paragraph (2)(C), by inserting "of" after "holders".

(b) Section 1125(d) of title 11 of the United States Code is amended by—

(1) inserting "required under subsection (b) of this section" after "statement" the first place it appears; and

(2) inserting ", or otherwise seek review of," after "appeal from".

(c) Section 1125(e) of title 11 of the United States Code is amended by—

(1) inserting "acceptance or rejection of a plan" after "solicits"; and

(2) inserting "solicitation of acceptance or rejection of a plan or" after "governing".

Sec. 709. (a) Section 1126(b)(2) of title 11 of the United States Code is amended by striking out "1125(a)(1)" and inserting in lieu thereof "1125(a)".

(b) Section 1126(d) of title 11 of the United States Code is amended by inserting a comma after "such interests" the first place it appears.

(c) Section 1126(f) of title 11 of the United States Code is amended by—

(1) striking out "is deemed" and inserting in lieu thereof ", and each holder of a claim or interest of such class, are deemed";

(2) striking out "solicititation" and inserting in lieu thereof "solicitation"; and

(3) striking out "interest" and inserting in lieu thereof "interests".

(d) Section 1126(g) of title 11 of the United States Code is amended by striking out "any payment or compensation" and inserting in lieu thereof "receive or retain any property".

Sec. 710. (a) Section 1127(a) of title 11 of the United States Code is amended by—

(1) inserting "of a plan" after "After the proponent"; and

(2) inserting "of such plan" after "modification".

(b) Section 1127(b) of title 11 of the United States Code is amended by striking out "the court, after notice and a hearing, confirms such plan, as modified, under section 1129 of this title, and circumstances warrant such modification" and inserting in lieu thereof "circumstances warrant such modification and the court, after notice and a hearing, confirms such plan as modified, under section 1129 of this title".

Sec. 711. (a) Section 1129(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "chapter." and inserting in lieu thereof "title.";

(2) in paragraph (2), by striking out "chapter." and inserting in lieu thereof "title.";

(3) by amending paragraph (4) to read as follows:

"(4) Any payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable;";

(4) in paragraph (5)(A)(ii), by striking out the period and inserting in lieu thereof "; and";

(5) in paragraph (5)(B), by striking out "The" and inserting in lieu thereof "the";

(6) in paragraph (6), by inserting "governmental" after "Any";

(7) in paragraph (7), by—

(A) inserting "of claims or interests" after "each class"; and

(B) striking out "creditor's" in subparagraph (B) and inserting in lieu thereof "holder's";

(8) in paragraph (8), by inserting "of claims or interests" after "each class";

(9) in paragraph (9)(C), by inserting "507(a)(1) that results from the sale of a capital asset, recapture of an investment tax credit, recapture of depreciation, or similar event or" after "section"; and

(10) by amending paragraph (10) to read as follows:

“(10) If a class of claims is impaired under the plan, at least one class of claims that is impaired under the plan has accepted the plan, determined without including any acceptance of the plan by any insider.”.

(b) Section 1129(b) of title 11 of the United States Code is amended—

(1) by striking out “Notwithstanding section 510(a) of this title, if” and inserting in lieu thereof “If”;

(2) in paragraph (2)(A), by striking out “lien” each place it appears and inserting in lieu thereof “liens”;

(3) in paragraph (2)(B)(ii), by inserting “under the plan” after “retain”; and

(4) in paragraph (2)(C)(i), by—

(A) striking out “claim” and inserting in lieu thereof “interest”; and

(B) striking out “and the value” and inserting in lieu thereof “or the value”.

(c) Section 1129(d) of title 11 of the United States Code is amended by—

(1) striking out “a party in interest that is”;

(2) inserting “the application of” after “avoidance of” the second place it appears; and

(3) adding at the end thereof the following new sentence: “In any hearing under this subsection, the governmental unit has the burden of proof on the issue of avoidance.”.

Sec. 712. (a) Section 1141(a) of title 11 of the United States Code is amended by—

(1) striking out “Except” and inserting in lieu thereof “Notwithstanding section 510(a) of this title and except”; and

(2) striking out “any creditor or equity security holder of, or general partner in,” and inserting in lieu thereof “any creditor, equity security holder, or general partner in”.

(b) Section 1141(c) of title 11 of the United States Code is amended to read as follows:

“(c) Except as provided in subsections (d)(2) and (d)(3) of this section and except as otherwise provided in the plan or in the order confirming the plan, after confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors, equity security holders, and of general partners in the debtor.”.

Sec. 713. (a) The heading for section 1142 of title 11 of the United States Code is amended to read as follows:

“§1142. Implementation of plan”.

(b) The item relating to section 1142 in the table of sections for chapter 11 of title 11 of the United States Code is amended by striking out “Execution” and inserting in lieu thereof “Implementation”.

(c) Section 1142(a) of title 11 of the United States Code is amended by striking out the comma after “plan” the second place it appears.

(d) Section 1142(b) of title 11 of the United States Code is amended by inserting “a” after “by”.

Sec. 714. Section 1144 of title 11 of the United States Code is amended by inserting “if and only” after “revoke such order”.

Sec. 715. (a) Section 1145(a) of title 11 of the United States Code is amended—

(1) by striking out “Except with respect to an entity that is an underwriter as defined in subsection (b) of this section, section” and inserting in lieu thereof “Section”;

(2) in paragraph (3), by striking out “or an affiliate”;

(3) in paragraph (3)(B)(i), by inserting “or 15(d)” after “13” and by inserting “or 78o(d)” after “78m”;

(4) by amending paragraph (3)(B)(ii) to read as follows:

“(ii) in compliance with the disclosure and reporting provision of such applicable section; and”;

(5) in paragraph (3)(C), by striking out “two” each place it appears and inserting in lieu thereof “one”;

(6) in paragraph (3)(C)(ii), by striking out “180” each place it appears and inserting in lieu thereof “90”; and

(7) in paragraph (4), by striking out “stockholder” each place it appears and inserting in lieu thereof “stockbroker”.

(b) Section 1145(b) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting “and except with respect to ordinary trading transactions of an entity that is not an issuer” after “subsection”;

(2) in paragraph (1)(C), by striking out “for” and inserting in lieu thereof “from”;

(3) in paragraph (2)(A)(i), by striking out “combination” and inserting in lieu thereof “or combining”; and

(4) in paragraph (2)(A)(ii), by striking out “among” and inserting in lieu thereof “from or to”.

(c) Section 1145(d) of title 11 of the United States Code is amended by striking out “commercial”.

Sec. 716. (a) Section 1146(c) of title 11 of the United States Code is amended by striking out “State or local”.

(b) Section 1146(d)(1) of title 11 of the United States Code is amended by striking out “and” and inserting in lieu thereof “or”.

Sec. 717. Section 1163 of title 11 of the United States Code is amended by striking out “qualified” and inserting in lieu thereof “eligible, qualified,”.

Sec. 718. Section 1166 of title 11 of the United States Code is amended by striking out “the Interstate Commerce Act (49 U.S.C. 1 et seq.)” and inserting in lieu thereof “subtitle IV of title 49”.

Sec. 719. Section 1168(b) of title 11 of the United States Code is amended by inserting a comma after “approval”.

Sec. 720. Section 1169(c) of title 11 of the United States Code is amended by striking out “the Interstate Commerce Act (49 U.S.C. 1 et seq.)” and inserting in lieu thereof “subtitle IV of title 49”.

Sec. 721. (a) Section 1170(a) of title 11 of the United States Code is amended by inserting “of all or a portion” after “the abandonment”.

(b) Section 1170(c) of title 11 of the United States Code is amended by inserting a comma after “abandonment”.

(c) Section 1170(d)(2) of title 11 of the United States Code is amended by—

(1) striking out “the abandonment of a railroad line” and inserting in lieu thereof “such abandonment”; and

(2) striking out “termination” each place it appears and inserting in lieu thereof “suspension”.

Sec. 722. Section 1171(b) of title 11 of the United States Code is amended by striking out “such” and inserting in lieu thereof “the same”.

Sec. 723. Section 1173(a)(4) of title 11 of the United States Code is amended by striking out “compatible” and inserting in lieu thereof “consistent”.

Sec. 724. (a) Section 1301(b) of title 11 of the United States Code is amended by inserting “and may protest” after “of” the first place it appears.

(b) Section 1301(c)(3) of title 11 of the United States Code is amended by inserting “continuation of” after “by”.

(c) Section 1301 of title 11 of the United States Code is amended by adding the following new subsection:

“(e) The confirmation of a plan shall automatically grant relief from the stay as to any particular claim to the extent that the plan does not propose to pay any amount of that allowed claim.”.

Sec. 725. (a) Section 1302(b) of title 11 of the United States Code is amended—

(1) in paragraph (2)(C), by striking out “and”;

(2) by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

“(3) dispose of, under regulations issued by the Director of the Administrative Office of the United States Courts, moneys received or to be received in a case under chapter XIII of the Bankruptcy Act; and”.

(b) Section 1302(e) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out “fix” and inserting in lieu thereof “set for such individual”;

(2) in paragraph (1)(A), by striking out “for such individual”; and

(3) in paragraph (2)(A), by—

(A) striking out “of” and inserting in lieu thereof “received by”; and

(B) striking out “upon all payments” and inserting in lieu thereof “of all such payments made”.

Sec. 726. Section 1304(b) of title 11 of the United States Code is amended by striking out the comma after “of the debtor”.

Sec. 727. (a) Section 1307(b) of title 11 of the United States Code is amended by inserting a comma after “time”.

(b) Section 1307(c) of title 11 of the United States Code is amended—

(1) in paragraph (4), by inserting “a request made for” before “additional”;

(2) in paragraph (6), by striking out “and” after the semicolon and inserting in lieu thereof “or”; and

(3) in paragraph (7), by inserting “other than completion of payments under the plan” after “in the plan”.

Sec. 728. (a) Section 1322(a)(2) of title 11 of the United States Code is amended by inserting a comma after “payments”.

(b) Section 1322(b) of title 11 of the United States Code is amended—

(1) in paragraph (2), by inserting “, or leave unaffected the rights of holders of any class of claims” before the semicolon;

(2) in paragraph (4), by inserting “other” after “claim or any”;

(3) in paragraph (5), (i) by striking out “maintenance of payments” and (ii) by striking out “on any unsecured claim or secured claim” and inserting in lieu thereof “maintenance payments on any claim”;

(4) in paragraph (7), by—

(A) inserting “subject to section 365 of this title,” before “provide”;

(B) striking out “or rejection” and inserting in lieu thereof “, rejection, or assignment”; and

(C) striking out “under section 365 of this title” and inserting in lieu thereof “under such section”; and

(5) in paragraph (8), by striking out “any”.

Sec. 729. Section 1323(c) of title 11 of the United States Code is amended by striking out “the plan as modified, unless the modification provides for a change in the rights of such holder from what such rights were under the plan before modification, and” and inserting in lieu thereof “such plan as modified, unless”.

Sec. 730. Section 1324 of title 11 of the United States Code is amended by striking out "the" the second place it appears.

Sec. 731. (a) Section 1325(a)(1) of title 11 of the United States Code is amended by inserting "the" before "other".

(b) Section 1325(b) of title 11 of the United States Code is amended by—

(1) striking out "After confirmation of a plan," and inserting "Upon the filing of the case,"; and

(2) striking out "any" the second place it appears.

Sec. 732. Section 1326(a)(2) of title 11 of the United States Code is amended by inserting "of this title" after "1302(d)".

Sec. 733. Section 1328(e) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "by the debtor" after "obtained"; and

(2) in paragraph (2), by striking out "knowledge of such fraud came to the requesting party" and inserting in lieu thereof "the requesting party did not know of such fraud until".

Sec. 734. Section 1329(a) of title 11 of the United States Code is amended—

(1) by inserting "of the plan" after "confirmation";

(2) by striking out "a plan" and inserting in lieu thereof "such plan"; and

(3) in paragraph (3), by striking out the comma.

Sec. 735. Section 15102 of title 11 of the United States Code is amended by striking out "chapter" the first place it appears and inserting in lieu thereof "title".

Sec. 736. Section 15103(f) of title 11 of the United States Code is amended by—

(1) striking out "324,";

(2) inserting "341(b)," after "326(b),";

(3) inserting "1106(a)(1), 1108," after "1105"; and

(4) inserting "1302(b)(1), 1302(b)(3)," after "1302(a),".

Sec. 737. Section 15322(b)(1) of title 11 of the United States Code is amended by—

(1) inserting "required to be" after "bond" the first place it appears;

(2) striking out "(2)"; and

(3) inserting "of this title" before the semicolon.

Sec. 738. Section 15324 of title 11 of the United States Code is amended by inserting a comma after "a trustee".

Sec. 739. Section 15330 of title 11 of the United States Code is amended by adding at the end thereof the following: "The notice required under section 330 of this title shall be given to the United States trustee.".

Sec. 740. (a) Section 15701(a) of title 11 of the United States Code is amended by striking out "trustee established" and inserting in lieu thereof "trustees established".

(b) Section 15701(b) of title 11 of the United States Code is amended by striking out "such persons" and inserting in lieu thereof "the members of such panel".

Sec. 741. (a) Section 15703(a) of title 11 of the United States Code is amended by striking out "specified in section 15701(a) of this title. Sections 701(b) and 701(c) of this title apply to such interim trustee." and by inserting in lieu thereof "and subject to the provisions of sections 701 and 15701 of this title.".

(b) Section 15703(b) of title 11 of the United States Code is amended by striking out "truste" and inserting in lieu thereof "trustee".

Sec. 742. Section 15704 of title 11 of the United States Code is amended to read as follows:

"§15704. Duties of trustee

"The trustee shall—

"(1) if the business of the debtor is authorized to be operated, file with the United States trustee periodic reports and summaries of the operation of such business, including a statement of receipts and disbursements; and

"(2) make and file interim reports, as circumstances justify, on the condition of the estate with the United States trustee and make and file a final report and account of the administration of the estate with the United States trustee and the court.".

Sec. 743. Section 151102(b) of title 11 of the United States Code is amended by striking out "interest of" and inserting in lieu thereof "interest,".

Sec. 744. (a) Chapter 15 of title 11 of the United States Code is amended by inserting after section 151105 the following new sections:

"§151106. Duties of trustee and examiner

"(a) A trustee shall perform the duties specified in sections 704(2), 704(4), 704(6), and 15704 of this title.

"(b) A trustee shall transmit a copy or a summary of any statement filed under section 1106(a)(4)(A) of this title to any creditors' committee, to any indenture trustee, to the United States trustee, and to any other entity as the court designates.

"§151108. Authorization to operate business

"Unless the court, upon the request of a party in interest or the United States trustee if there is no creditors' committee and after notice and a hearing, orders otherwise, the trustee may operate the debtor's business.".

(b) The table of sections for chapter 15 of title 11 of the United States Code is amended by inserting after the item relating to section 151105 the following new items:

"151106. Duties of trustee and examiner.
"151108. Authorization to operate business.".

Sec. 745. (a) Section 151302(a) of title 11 of the United States Code is amended by inserting ", or shall appoint a disinterested person to serve," after "The United States trustee shall serve".

(b) Section 151302(b) of title 11 of the United States Code is amended to read as follows:

"(b) The trustee shall—

"(1) perform the duties specified in sections 704(2), 704(4), 704(6), and 15704 of this title; and

(2) dispose of, pursuant to regulations issued by the Attorney General, moneys received or to be received in a case under chapter XIII of the Bankruptcy Act.".

Subtitle J—Miscellaneous

Sec. 751. If any provision of this title or any amendment made by this title, or the application thereof to any person or circumstance is held invalid, the provisions of every other part, and their application shall not be affected thereby.

Sec. 752. Except as otherwise provided in this title the amendments made by this title shall become effective three months after the date of enactment and shall not apply to any case pending on the date of enactment of this title.

Mr. DOLE. Mr. President, I have sent to the desk at this time an amendment to S. 1013. This amendment contains the text, verbatim, of S. 445, the Omnibus Bankruptcy Improvements Act of 1983, as that bill was reported out of the Judiciary Committee last week.

S. 445 was approved by the Committee on the Judiciary by unanimous voice vote on Tuesday, April 25, with committee amendments. The bill and the bill report have been filed with the clerk and the bill is in appropriate posture for action as a separate matter. I offer the text of the bill as amendment to S. 1013 because I believe that the two bills, both of which deal with the reform of the bankruptcy system, should be considered and acted upon by the Senate as a package.

I have had discussions with the sponsors of S. 1013, Senators Thurmond and Heflin, and they support my amendment and join in it.

The text of S. 445 represents a compromise between Senator Metzenbaum and myself, and I believe that it can now be fairly represented as a consensus bill. In addition, Senator Metzenbaum and I also conferred on the text of the bill report and it is, to my knowledge, acceptable to the Senator from Ohio.

Mr. President, I ask unanimous consent to have printed in the Record a memorandum setting forth the purposes of the bill and the impetus for the bill, and also a memorandum setting forth support for S. 445.

There being no objection, the material was ordered to be printed in the Record, as follows:

1. PURPOSES OF THE BILL

(1) To establish a system of debtor counseling, to ensure that debtors are aware of the option of debt repayment plans under Chapter 13, and thereby to encourage greater use of Chapter 13.

(2) To correct provisions of the 1978 Bankruptcy Reform Act which have altered the balance of equities between debtors and creditors in bankruptcy excessively in favor of debtors, such as to encourage unnecessary filings;

(3) To revise inefficient procedures which have unduly burdened good faith creditors seeking to recover on legitimate claims, and which have diminished the efficiency of the courts.

2. IMPETUS FOR THE BILL

(1) Personal bankruptcies have increased 103 percent since the new Code went into effect in October, 1979. They have risen from 172,000 in 1979 before the new Code to over 400,000 during the year just ended.

(2) The increase cannot be blamed entirely on the recession. Studies presented to the Subcommittee on Courts during hearings on this bill determined that provisions of the Code which excessively liberalized debtor's rights are responsible for a large portion of the increase—one study concluded as much as 50 percent.

(3) In addition, witnesses have identified various problems with the bankruptcy procedures under the Reform Act. These problems have created unnecessary difficulties for certain classes of claimants in bankruptcy, such as farmers attempting to remove grain from insolvent elevators, shopping center developers and tenants, and participants in repurchase agreements.

SUPPORT FOR S. 445

1. Testimony. Over sixty witnesses appeared in hearings held over a period of two years and testified concerning the provisions of S. 445. Those witnesses included bankruptcy judges, legal scholars, bankruptcy practitioners, and creditor and consumer groups. The weight of the testimony from those persons knowledgeable about bankruptcy law and procedure was overwhelmingly in favor of the changes provided for in S. 445.

In addition to those witnesses, many individuals active in bankruptcy practice have privately communicated to members of the Committee their support for the bill, and the debtor counseling provisions in particular.

2. Major companies supporting the bill:

Banks: Bank of America, Citibank, N.Y., Chemical Bank, Chase Manhattan, Marine Midland, Mellon Bank, 1st Penn. Bank.

Business Ass'n: Chamber of Commerce, U.S. Nat'l Federation of Independent Bus., National Small Business Ass'n.

Retailers: Nat'l Auto Dealers Ass'n, Nat'l Retail Merchants, Allied Stores, J. C. Penney, May Co., Sears, Montgomery Ward's, Western Auto.

Consumer Finance Companies: Nat'l Consumer Finance Ass'n, Beneficial Finance, CIT, Citicorp, Dial Finance, Household International, General Electric Credit, Transamerica Finance, Security Pacific, General Motors Acceptance.

Credit Unions: Credit Union Ass'n's in 19 states and National Association of Credit Unions (representing all 50 states), National Association of Federal Credit Unions.

Petroleum Companies: Atlantic Richfield, Chevron, Cities Service, Conoco, Exxon, Mobile.

Mr. DOLE. Mr. President, at the outset, I express my appreciation for the Senate's early consideration of the bankruptcy reform legislative initiatives which I and other members of the Judiciary Committee have sponsored. The Senate now has before it S. 1013, the committee bill which will correct the problems posed for the bankruptcy system by the Supreme Court decision in the case of Northern Pipe Line Co. against Marathon Pipe Line Co. As important as that legislation is to the future functioning of the bankruptcy system, I believe that the amendments to the Bankruptcy Code contained in S. 445 to be no less important.

The Members of the Senate are familiar, I am sure, with the various bankruptcy reform measures which are contained in the body of S. 445. All of the legislative proposals which are included in this bill were before the Senate last year as part of the omnibus bankruptcy and court reform legislative package which I circulated during the waning days of the 97th Congress. Unfortunately, due to the press of other business, the Senate was not able to act upon the legislation last year. As a result, S. 445 was introduced early this year with the intent that it should be moved as quickly as possible through the committee and on to the floor of this body for action.

The bill is composed of 10 subtitles, each of which focuses on an area of bankruptcy reform important to the members of this committee first, and perhaps most important, are the provisions of subtitle A of the bill which correct defects in those sections of the Bankruptcy Reform Act that deal with consumer debtor petitions. These defects have served to encourage needless filings, inhibited good-faith creditors in recovering upon legitimate claims, and impaired the efficiency of the courts through inadequate procedures. The language of subtitle A is drawn directly from the text of S. 2000 in the 97th Congress, with changes which have been approved by all parties involved in the drafting of the legislation and which are contained in committee amendments which I will move the Senate to adopt.

In addition to the amendments drawn from S. 2000, the bill contains the text of several measures approved by the committee last year. For example, subtitle B consists of the amendments to the Bankruptcy Code which were included in the grain elevator bankruptcy bill that I and other member of the committee sponsored last year. That measure would require the courts to establish expedited procedures to govern the abandonment of grain from bankruptcy grain elevators to farmers who have merely stored grain in the insolvent warehouse. Subtitle C contains the substance of legislation sponsored by Senator HATCH and others which would remedy defects in the code which create problems for shopping center owners and tenants when the bankruptcy of a shopping center tenant occurs. Subtitle D is the Danforth amendments which would act to prohibit the discharge of debts incurred as a result of an act of drunk driving; that legislation was S. 2159 in the 97th Congress. Likewise, the remaining subtitles of the legislation consist of other bankruptcy reform measures which the Judiciary Committee has had under study for some time. Hearings on all of these measures were held throughout 1981, 1982, and the early part of this year in the Judiciary Subcommittee on Courts. The language of each subtitle has undergone rigorous scrutiny by staff counsel for the majority and the minority, and numerous proposals offered by my Republican and Democratic colleagues have been accepted as the drafting process has gone forward. Many of those proposals are contained in the committee amendments which accompany the bill as reported. They substantially enhance protections for debtors and I am pleased to report to this body that our ongoing discussions have resulted in all of the remaining differences being resolved. Concerns that were previously raised regarding provisions of the bill dealing with future income, attorney's fees, reaffirmation agreements, loading up by debtors, and nonpossessory, nonpurchase money liens have now been addressed. I want to thank Senators KENNEDY, METZENBAUM, LEAHY, BAUCUS, DECONCINI, and HEFLIN for their persistence in working toward consensus in these areas.

In sum, Mr. President, I am convinced that the legislation before the committee now represents reasonable bankruptcy reform which all Members of the Senate can support. I am also of the opinion that the passage of the omnibus bankruptcy improvement package is essential to preserving public faith in the bankruptcy system that we have today. The public has a right to expect a bankruptcy system that provides adequate relief to those individuals who are in true financial difficulty, yet does not reward those who would manipulate the system for gain, or place undue burdens upon good-faith creditors seeking to recover upon legitimate claims. While most of the reforms enacted as part of the 1978 act have worked well, and have been of benefit to both debtors and creditors, the time has come for Congress to correct the few flaws that are present in that law. Those who need bankruptcy relief should get bankruptcy relief; but we must, at the same time, insure that the bankruptcy laws do not encourage manipulation and abuse of the system. The bill before the Senate today provides the opportunity for the Congress to restore equitable balance to the relationships between debtors and creditors in bankruptcy, and I urge all Members to join me in voting in favor of the improvements package.

Mr. President, this amendment contains the text of S. 445, the Omnibus Bankruptcy Improvement Act of 1983, the bill reported out of the Judiciary Committee last week, S. 445, as approved by the Committee on the Judiciary by unanimous voice vote on Tuesday, April 25, with committee amendments.

The bill and the bill report have been filed with the clerk, and the bill is in appropriate posture for action as a separate matter.

I offer the text of the bill as amended to S. 1013 because I believe the two bills, both of which deal with the reform to the bankruptcy system, should be considered and acted upon by the Senate as a package.

I have discussed this with the sponsors of S. 1013, Senator THURMOND and Senator HEFLIN, and they have indicated they support the amendment and they have joined in it.

I also suggest that this represents a compromise between my position and other Senators and the position of Senator METZENBAUM and some of his supporters.

I believe that it can now be fairly represented as a consensus bill.

What we will do after this is adopted is, we will then pass S. 445 separately.

So I express my appreciation generally for the early consideration of the Senate of bankruptcy reform legislation. It was a matter that sort of died in the so-called lameduck session of Congress. There were sone differences.

Senator METZENBAUM felt strongly about particularly the future income provisions. A number of areas of compromise were worked out, I think about 8, or 9, or 10. But there was at least one with which we could not agree, but that has now been addressed and we are in a position, I believe, in the Senate of having almost unanimous support for this provision.

We have 10 subtitles. Of course, the most important subtitle is subtitle (a) of the bill which corrects defects at least in those sections of the Bankruptcy Reform Act that deal with consumer debtor petitions. These defects have served to encourage needless filing, inhibited good-faith creditors in recovering upon legitimate claims, and I believe impaired the efficiency of the court through inadequate procedures.

The language of subtitle (a) is drawn directly from the text of S. 2000 of the 97th Congress, the changes which have been approved by all parties involved in drafting the legislation and which are contained in the committee amendment which I will move the Senate adopt.

But there are, as I have indicated, nine other subtitles. They have undergone rigorous scrutiny, and I shall refer to the subtitles so that the RECORD will be complete.

Subtitle A is the consumer credit amendments; subtitle B is the grain elevator bankruptcy amendments. This is drawn from S. 3037, the 97th Congress. We passed this one provision about three times in the Senate. We are hopeful that the House will respond. It is very important to American farmers.

Subtitle C is the shopping centers bankruptcy amendments offered by Senator HATCH.

Subtitle D is the drunk drivers' nondischargeability of debts, which was S. 2159 in the 97th Congress. It prohibits debts incurred as a result of an act of drunk driving from being discharged in bankruptcy, which was offered by the distinguished Senator from Missouri, Senator DANFORTH.

Subtitle E is the referee's salary and expense fund amendments, drawn from S. 863. I think that is an amendment by the distinguished chairman, Senator THURMOND.

Subtitle F is the repurchase agreements amendment.

Subtitle G is the timesharing agreements amendments. This is one we have considered, and it is properly included.

Subtitle H is bankruptcy oversight.

Subtitle I is technical and clarifying amendments. I will put into the RECORD more explanatory material.

I can say each of these titles has been addressed in committee. They have been approved, I think without objection, in most cases. They are part of this amendment I have sent to the desk, and I believe the amendment should be adopted for the reasons stated.

I ask unanimous consent to put additional explanatory material into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TOPICAL SUMMARY: S. 445

Subtitle A: Consumer Credit Amendments. S. 2000 in the 97th Congress, (Dole), as modified by Committee amendments.

Subtitle B: Grain Elevator Bankruptcy Amendments. Text is drawn from S. 3037 in 97th Congress. Provides procedures for expedited abandonment of grain from bankrupt elevators. (Dole)

Subtitle C: Shopping Centers Bankruptcy Amendments. S. 2297 in 97th, S. 549 in 98th. Establishes a timetable within which trustee would have to accept or reject leases on shopping center properties in bankruptcy. (Hatch)

Subtitle D: Drunk Drivers' Nondischargeability of Debts. S. 2159 in 97th Congress. Prohibits debts incurred as a result of an act of drunk driving from being discharged in bankruptcy. (Danforth)

Subtitle E: Referee's Salary and Expense Fund Amendments. (Drawn from S. 863 in 97th Congress.) Corrects a drafting error in the 1978 act which requires a handful of corporate debtors in bankruptcy to continue making payments to the non-existent fund.

Subtitle F: Repurchase Agreements Amendments. Proposal of the Federal Reserve Board, which exempts repurchase agreements from the automatic stay in bankruptcy.

Subtitle G: Timesharing Agreements Amendments. S. 3027 in the 97th Congress, S. 492 in the 98th. This subtitle provides that persons who hold timesharing agreements shall be granted a lien on the property involved when the timesharing contractor goes bankrupt and the trustee terminates the timesharing contract.

Subtitle H: Bankruptcy Oversight. This subtitle directs the Administrative Office to collect information on bankruptcy filings regarding levels of debtor income and assets, debtor living expenses, and total amounts recovered for creditors in proceedings under Chapters 7, 11, and 13. This information will assist Congress in analyzing the functioning of the bankruptcy system.

Subtitle I: Technical and Clarifying Amendments. The bulk of the provisions in this subtitle are drawn from S. 863, which passed the Senate by unanimous consent in 1981. The provisions correct grammatical, punctuation, and spelling errors in the code, clarify the intent of the drafters in certain sections, and generally refine procedures.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield myself half a minute.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in strong support of the amendment offered by my distinguished colleague from Kansas, Senator DOLE. The text of his amendment is identical to that of S. 445, the Omnibus Bankruptcy Improvements Act of 1983. S. 445 makes a number of substantive changes in the 1978 Bankruptcy Reform Act which are necessary to the efficient and effective working of our bankruptcy laws. This bill was unanimously approved by our committee on April 19, 1983.

Of greatest significance are the provisions of this amendment dealing with the dramatic rise in consumer bankruptcy filed last Congress on S. 2000 to the approximately 103 percent since the end of fiscal year 1979. While other factors, such as the economy and lawyer advertising, have contributed to this increase, the size of this increase suggests that the 1978 changes in the substantive bankruptcy laws have also been a significant contributing factor. S. 445 and the Dole amendment address this problem by authorizing a court to dismiss a case under chapter 7 where the court determines that granting of relief under this chapter would constitute a substantial abuse of the bankruptcy laws. The amendment also provides for the court to give financial counseling to the debtor regarding the chapter under which he wishes to file for relief. The thrust of these changes is to encourage greater use of chapter 13, under which debtors with regular income pay all or a portion of their debts through a court-approved plan. Unlike S. 445 as originally drafted, the creditor will not be able to raise the issue of a debtor's access to chapter 7 relief. This compromise approach takes the place of the so-called future income test under which the court, following a motion by a creditor to dismiss a chapter 7 filing, would have evaluated the ability of debtors to pay a reasonable portion of their debts out of future income. The consumer credit portion of the Dole amendment also contains a number of other important provisions necessary to restore the appropriate balance between debtors and creditors in this area. These provisions include those relating to valuation of collateral, the debtor's duties regarding retention or surrender of collateral, exemptions, loading up of debts prior to a bankruptcy filing, reaffirmation of debts, and others.

Aside from these consumer credit provisions, the Dole amendment also makes an important and necessary substantive changes in other areas of bankruptcy law. For example, it contains provisions relating to grain elevator bankruptcies, shopping center tenant bankruptcies, timeshare developer bankruptcies, limits on contributions to the now defunct Referees' Salary and Expense Fund, repurchase agreements, and certain technical amendments to the 1978 act. These other items were noncontroversial during Committee consideration—many of them hav'ng been previously approved by the House or Senate.

Mr. President, I strongly urge my colleagues to support this amendment. As I indicated earlier, I believe these provisions to be essential to the efficient working of the bankruptcy laws of our Nation.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, Senator Biden has allocated the time under his control to my direction, and I yield myself such time as may be necessary.

Let me preface my remarks by saying that the Senator from Kansas and I have worked long and arduously on this measure, and his staff and my staff have spent many hours on it.

As a matter of fact, S. 445 is a separate bill from what we have before us, and the amendment is to offer S. 445 as an amendment to S. 1013.

I would like to have concurrence from the author of the amendment, the bill, to the fact that the legislative history in every respect as made in connection with S. 445 is equally applicable to this bill, to that portion of the bill which is S. 445 as an amendment. Am I correct in my understanding of that?

Mr. DOLE. That is correct. When we take up the bill separately I intend to make the same statement and offer the same history so that it will be identical.

Mr. METZENBAUM. I thank the Senator from Kansas.

Let me address myself to the issues of this matter. I do not intend to oppose this amendment's being adopted. But I think it is appropriate that we talk a little bit about the entire bankruptcy question, the substantive law aspect. I am not addressing myself to the bill itself but only to S. 445 as an amendment.

In 1978, Congress passed a Bankruptcy Reform Act, and it contained a number of different amendments. Many of those amendments were salutary. The argument was made, at least in the last year, that they went too far. It was claimed that the bankruptcy laws were being abused, and it was claimed that those who were attempting to go bankrupt were abusing the privilege.

Well, indeed, it is a privilege to go bankrupt. I am not sure that those who are privileged go bankrupt, but it is a privilege to have the right to get a clean slate, and for almost 100 years we have had in our law the right of an individual to file for bankruptcy, and upon discharge of his debts to be able to have a fresh start.

Along came the so-called bankruptcy amendments of 1982, and that bill was debated, argued, amended, criticized, praised, and wound up not being enacted into law.

Before that came to pass a very effective lobby had thrown its entire weight into the passage of that bill, the so-called creditors lobby and, I might say parenthetically, led particularly by one major finance company in the country, and if my information is correct I think the largest one, just as in the case of the withholding of dividends and interest provision in connection with the banking industry, so too we found a tremendous amount of misinformation was being spread throughout the country. I remember when I was first called and told that the Black Caucus was supporting the bill. I knew that did not make sense and it was not logical because the blacks of this country, the poor of this country, those who could not fend for themselves and who have had difficulty in the economic mainstream, are the very ones who needed the right to go bankrupt, and it did not add up to me.

Sure enough, notwithstanding the numerous calls that were made to me with that representation, upon further research it was found that indeed the Black Caucus had not supported the bill.

Then I heard—I was getting messages, some directly and some indirectly—that my opposition to S. 2000, which was the number of the bill last year, comparable to S. 445 this year, would somehow be embarrassing to me, and that I should not be opposed to it, and was I not concerned about the embarrassment.

I did not find anything embarrassing about it. As a matter of fact, I stood tall and proud when others who joined me in that opposition included some of the finest organizations in this country, a total list of which comprises the Leadership Conference Membership Organizations on Civil Rights. They came out in opposition to that bill during an early stage, in opposition to S. 445 as well.

Mr. President, I ask unanimous consent that the list of that group be printed in the Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

Leadership Conference Membership Organizations—Opposed to S. 2000

Actors Equity.
African Methodist Episcopal Church.
African Methodist Episcopal Zion Church.
Alpha Kappa Alpha Sorority, Inc.
Alpha Phi Alpha Fraternity, Inc.
Amalgamated Clothing and Textile Workers of America.
American Association of University Women.
American Baptist Churches, U.S.A.—National Ministries.
American Civil Liberties Union.
American Coalition of Citizens with Disabilities, Inc.
American Council of the Blind.
American Ethical Union.
American Federation of Government Employees.
American Federation of Labor—Congress of Industrial Organizations.
American Federation of State, County and Municipal Employees, AFL-CIO.
American Federation of Teachers, AFL-CIO.
American Jewish Committee.
American Jewish Congress.
American Postal Workers Union, AFL-CIO.
American Veterans Committee.
Americans for Democratic Action.
Anti-Defamation League of B'nai B'rith.
A. Philip Randolph Institute.
Asociacion Nacional Pro Personas Mayores.
B'nai B'rith Women.
Buildings and Construction Trades Department—AFL-CIO.
Center for Community Change.
Center for National Policy Review.
Children's Defense Fund.
Church of the Brethren—World Ministries Commission.
Church Women United.
Citizens Lobby for Freedom and Fair Play.
Coalition of Labor Union Women.
Communication Workers of America.
Congress of Italian-American Organizations, Inc.
Delta Sigma Theta Sorority.
Division of Homeland Ministries—Christian Church (Disciples of Christ).
Episcopal Church—Public Affairs Office.
Federation of Organizations for Professional Women.
Friends Committee on National Legislation.
Frontiers Internationals, Inc.
Frontlash.
Hadassah, Women's Zionist Organization of America.
Hotel and Restaurant Employees and Bartenders International Union.
Improved Benevolent & Protective Order of Elks of the World.
Industrial Union Department—AFL-CIO.
International Association of Machinists and Aerospace Workers.
International Ladies' Garment Workers' Union of America.
International Molders & Allied Workers Union.
International Union of Electrical, Radio & Machine Workers.
International Union of Operating Engineers.
International Union, United Automobile Workers of America.
Iota Phi Lambda Sorority, Inc.
Japanese-American Citizens League.
Jewish Labor Committee.
Jewish War Veterans.
Kappa Alpha PSI Fraternity.
Labor Council for Latin American Advancement.
Labor Zionist Alliance.
Lawyer's Committee for Civil Rights Under Law.
League for Industrial Democracy.
League of Women Voters of the United States.
Lutheran Church in America—Division for Mission in North America.

Mexican-American Legal Defense and Education Fund.
NAACP Legal Defense and Education Fund, Inc.
National Alliance of Postal & Federal Employees.
National Alliance of Postal & Federal Employees—National Women's Auxiliary.
National Association for the Advancement of Colored People.
National Association of Colored Women's Clubs, Inc.
National Association of Community Health Centers.
National Association of Human Rights Workers.
National Association of Market Developers.
National Association of Negro Business & Professional Women's Clubs, Inc.
National Association of Real Estate Brokers, Inc.
National Association of Social Workers.
National Association of University Women.
National Association of Women Federal Contractors.
National Bar Association.
National Beauty Culturists' League, Inc.
National Business League.
National Catholic Conference for Interracial Justice.
National Coalition of Cuban Americans.
National Committee Against Discrimination in Housing
National Community Action Agency Executive Directors Association.
National Conference of Black Mayors, Inc.
National Conference of Catholic Charities.
National Conference of Christians and Jews, Inc.
National Congress for Community Economic Development.
National Council of Catholic Women.
National Council of Churches—Division of Church & Society.
National Council of Jewish Women.
National Council of La Raza.
National Council of Negro Women.
National Council of Senior Citizens, Inc.
National Dental Association.
National Education Association.
National Farmers Union.
National Federation of Temple Sisterhoods.
National Funeral Directors and Morticians Association.
National Hispanic Housing Coalition.
National Image.
National Jewish Community Relations Advisory Council.
National Jewish Welfare Board.
National Legal Aid & Defender Association.
National Low Income Housing Coalition.
National Neighbors.
National Newspaper Publishers Association.
National Office for Black Catholics.
National Organization for Women.
National Post Office Mail Handlers, Watchmen, Messengers & Group Leaders.
National Sorority of Phi Delta Kappa, Inc.
National Urban League.
National Women's Political Caucus.
Newspaper Guild.
Oil, Chemical & Atomic Workers International Union.
Omega Psi Phi Fraternity, Inc.
Opportunities Industrialization Center—Government Relations Services. (OIC's of America)
Organization of Chinese Americans, Inc.
Phi Beta Sigma Fraternity, Inc.
Pioneer Women—American Affairs.
Potomac Institute.
Project Equality, Inc.
Recruitment and Training Program.
Retail, Wholesale & Department Store Union, AFL-CIO.
Rural America.
Sigma Gamma Rho Sorority, Inc.
Southern Christian Leadership Conference.
Transport Workers Union of America.
Union of American Hebrew Congregations.
Unitarian Unversalists Association.
United Association of Journeymen & Apprentices of the Plumbing & Pipe Fitting Industry of the U.S. & Canada—AFL-CIO.
United Church of Christ—Commission for Racial Justice Now.
United Church of Christ—Office for Church in Society.
United Farm Workers of America, AFL-CIO.
United Food and Commercial Workers International Union.
United Hebrew Trades.
United Methodist Church—Board of Church and Society.
United Methodist Church—Board of Global Ministries Women's Division.
United Mine Workers of America.
United Neighborhood Centers of America, Inc.
United Presbyterian Church—Unit on Church & Race.
United Rubber, Cork, Linoleum & Plastic Workers of America.
U.S. Catholic Conference—Division of Urban Affairs.
United States Youth Council
United Steel Workers of America.
United Synagogue of America.
Voter Education Project, Inc.
Women's American ORT.
Women's Equity Action League.
Women's Legal Defense Fund.
Women's Workforce—Wider Opportunities for Women.
Workmen's Circle.
Young Men's Christian Association of the USA, National Board.
Young Women's Christian Association of the USA, National Board.
Zeta Phi Beta Sorority, Inc.

Mr. METZENBAUM. The argument was made that the credit industry, the banks, the finance companies were all being hurt. People were going bankrupt, they could not collect their money. Well, at first blush, the obvious answer was that, of course, more people were going bankrupt. There was a recession on. Ten percent of the working people of this country were unemployed; mortgagees were foreclosing on their loans on working people and on farmers and others as well, and it was very understandable that more people were going bankrupt.

So that seemed to be an obvious answer. Then we had testimony before our committee from a bankruptcy judge in the South who had made a study of this subject, and he pointed out some very interesting facts. The number of bankruptcies per dollar of credit outstanding had actually decreased since the amendments of 1978. So that argument did not hold water. But the credit industry never paid any attention to the reality of that fact.

The fact is, when this bill again came back in 1983, it had a number of provisions in it that I and others found objectionable. I am pleased to say that we have been able to work with the author of this legislation, who also is the chairman of the subcommittee having jurisdiction of this matter, and as a consequence the Federal exemptions have been preserved while clearcut loopholes in those exemptions have been closed. We had no difficulty with that.

It is a fact that there were some instances in which you could combine State and Federal exemptions and abuse really the rights of the creditors as well as abuse the privileges of the debtors. So that was changed. But the Federal exemptions as such have been preserved.

Existing protections requiring court approval of reaffirmation agreements have been maintained for debtors not represented by attorneys. What that means is that too often the credit industry has gone to the bankrupt and threatened him or her with all sorts of nonsense in order to get the debtor to reaffirm that he or she would continue to meet their obligations in connection with the debt even after bankruptcy. That matter has been taken care of in this bill.

Then the matter of finance company liens on all health aids and on tools of the trade up to $1,000 in value may be avoided as the bill now stands and liens on household goods may be avoided when the court finds that payment of the redemption value is impossible and loss of the property would impose an undue hardship on the debtor. We have been able to change the bill so that that is no longer a problem.

We have been able to change the bill so that the presumption that debts incurred prior to filing for bankruptcy were fraudulently incurred will not include debts incurred for expenses reasonably necessary for the support of the debtor or the debtor's dependents.

Mr. President, I am aware of the fact that some of the words I am using and the phrases I am using are language of the courts, language of those who practice in bankruptcy courts, but, in essence, what we are saying is we have been able to make some changes that continue to provide protection for the debtor and do not make it just a creditor's bill.

Another change that was made is that the court will be required to award attorneys fees to debtors who prevail when a creditor challenges the discharge if the creditor was not substantially justified in making the challenge.

Now, all of those improvements were very important. But they do not compare in importance to the one provision that is not in this bill which was the most important change of all. The credit industry wanted the bankrupt to be able to prove that he or she could not pay 50 percent of their debts over a period of 3 to 5 years. Although we went back and forth as to who would have the burden of proof in such a matter, in essence, it would have added more to the litigation. It would have required the debtor to have more attorneys fees. It would have made it that much more difficult for the debtor to go bankrupt and it would have provided a mortgage on his or her future. That to us was the essence of the egregious portions of S. 445.

Why, we said, should any individual who wants to go bankrupt be called upon to prove that her or she is making $15,000, $18,000, $20,000, $25,000 a year and would not have to mortgage their future? It had not happened in the last 100 years. What was there about 1983 that made it right to expect a debtor to do that? Merely because the creditors' lobby wanted it? That was not reason enough. They were not being hurt. They had an easy remedy. If you do not want people to go bankrupt and discharge some of their debts, do not lend them the money. The reason the credit industry is a creditor is because it offers credit and that is how it makes the money. It charges for offering that credit and it does not give its money away and nobody expects it to do so. But it did not have the right, and it does not have the right, and under the law it will not have the right, to cause a debtor to mortgage his or her future.

I cannot tell you strongly enough and loudly enough how pleased I am that, after continuous battle, day in and day out, pressure, pressure, pressure to let the bill go with the future income mortgaging provision in it, we have successfully worked out with the author of this amendment the total elimination of the future income language. And for that I want to express my personal appreciation to him.

I have worked with him on a number of matters this year and in the past. I find that we are not always in agreement, but I always find that he is reasonable. I feel that in this matter, once he came to understand what the issue was all about, I cannot say that he approved of eliminating the future income text but at least he acceded to our concerns and the future income matter is no longer in the legislation.

Now I want it understood that I believe that S. 445, either in its original form or by amendment, because it is identical, still tips the balance unnecessarily in favor of creditors at a most inappropriate time. This still is a creditors bill. It is not a debtors or consumers bill. And consumers are the ones who have suffered so much from inflation, so much from the high interest rates, and so much from the record postwar unemployment that, in my opinion, no bill at all would be the best bill.

But since it is obvious that there is to be a bill, I believe that, if legislation is to be enacted, S. 445, either in the original form or as an amendment to this bill, is a significant improvement over the original proposals that were made last year.

Although I cannot say that I support the bill or the amendment, I can say that I do not rise to oppose the amendment of the Senator from Kansas and I do indicate my appreciation for his cooperation in connection with this matter.

Mr. DOLE. Mr. President, let me say that I appreciate the comments of the distinguished Senator from Ohio. I also understand the great amount of staff work done by Marge Baker and Doug Comer. They deserve special thanks and we appreciate that.

I believe that there has been a bringing together of opposing views for the most part. I think the coalition for bankruptcy reform has provided a valuable service. They have been directly involved in some of these areas and I think they have been very reasonable. I would like to include in the RECORD just some of the members of the groups that support this provision.

I think, as the Senator from Ohio said, even those who may have been in strong opposition now will be in a neutral position for the most part—they may not be in the position to say we are very enthusiastic about S. 445, but I think at least they may be neutral in their opposition.

So I just suggest that we have tried to work out the differences. It seemed to the Senator from Kansas if we were going to get this bill moving, we had to do it and do it as quickly as we could.

I want to thank the majority leader and the minority leader and others for scheduling this measure, because next week we get into the budget process. That might take 1 week, maybe 2 weeks, and then who knows what will happen after that. So I thank the Senator from Ohio for his willingness to try to work out a compromise.

I believe that we have reached a reasonable position. I would hope that the amendment might be adopted.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. Chairman, today I rise to join as a sponsor and support my distinguished subcommittee chairman, Senator BOB DOLE, in this amendment to S. 1013, which is the substance of S. 445, the Omnibus Bankruptcy Improvements Act that was favorably reported by the Senate Judiciary Committee.

The Bankruptcy Reform Act of 1978 represented a comprehensive revision and liberalization of many aspects of the bankruptcy law. Most of the substantive reforms have worked well and have had a beneficial impact on the bankruptcy system. It has now, however, become evident that some modifications and improvements are in order if we are to insure equity and efficiency under this law.

I am very concerned with the rapid increase in the rate of bankruptcies and any loopholes in the existing law which might encourage unnecessary bankruptcy filings. Since the Bankruptcy Reform Act took effect in October 1979, the number of bankruptcies has more than doubled. While there is no doubt that the sluggish economy was a major contributor to this increase, this factor alone does not explain this unprecedented increase in bankruptcy cases. The bankruptcy law has become too liberal, particularly in the area of consumer credit transactions, and has provided an escape hatch for those overextended debtors who in the long run could well afford to meet their obligations.

In the area of consumer bankruptcies, this legislation will tighten certain provisions of the 1978 Bankruptcy Act, revise inefficient procedures, and eliminate provisions which are unduly burdensome for good-faith creditors seeking to recover on legitimate claims. While this measure corrects abuses and oversights in the existing bankruptcy law, it retains those protections needed by deserving debtors who find themselves in financial difficulty.

This amendment also addresses other problem areas in need of revision. It provides procedures for expedited distribution of grain stored in bankrupt elevators, to insure that farmers who own grain stored in the elevators and farmers who have sold grain to a bankrupt elevator operator, but who have not received payments, are not punished financially by delays in bankruptcy court proceedings.

Another provision concerns the bankruptcy of shopping centers and amends the law as to affirming or rejecting leases of space in a shopping center. This legislation is needed to stop abuses in those instances where a shopping center tenant is in bankruptcy and is unable to fulfill his lease obligations. This often may result in shopping center vacancies or assignment of the lease by the trustee to tenants with nonconforming uses, both of which curtail the business of fellow tenants. This proposal would establish a timetable within which trustees would have to affirm or reject leases of space held by a bankrupt tenant, would instate rules regarding the assignment of the lease, and would insure that leases that have expired by virtue of their own terms before the filing of a bankruptcy petition are not artificially "revived" by the bankruptcy court.

Also contained in this package is a modified version of a bill introduced by Senator Danforth which provides that a debt incurred as a result of an act of drunk driving is not dischargeable. Under existing law, a debt resulting from a tortious act is nondischargeable only if the debt is the result of a "willful and malicious injury" to the property or person of another. In most States, the act of the drunk driver is grounded in negligence and is, thus, dischargeable. By making such debts nondischargeable, we can protect victims of the drunk driver and deter drunk driving.

This legislation further includes a proposal by the Federal Reserve Board which would exempt repurchase agreements from the automatic stay in bankruptcy proceedings. This is designed to prevent a domino effect, should a major securities dealer declare bankruptcy.

Also in this package is a provision to protect holders of timesharing agreements in the event the timesharing contractor goes bankrupt. Under timesharing agreements, a party purchases the right to use the property for a designated length of time each year. Under present law, when the contractor goes bankrupt, the holder of the timesharing agreement is relegated to the position of a general, unsecured creditor. This bill would update the bankruptcy law to make it compatible with the concept of timesharing by granting the holder of such an agreement a lien against the property if the timesharing contract is rejected by the trustee in bankruptcy.

Mr. President, these revisions and clarifications included in this legislation are needed to bring about a more equitable bankruptcy law and to insure fairness to the parties involved. I urge my colleagues to support this vital legislative package of reforms. I hope that the U.S. Senate can join together and act in a positive nonpartisan way in this most important area.

Mr. President, I would also like to add that since Senator DeConcini previously mentioned the question of bankruptcy and the possibility of the nondischargeability of judgments which might involve drunk driving, this amendment has provisions in it which will tighten this and prevent the discharge of judgments or claims where the debtor's operation of a motor vehicle while legally intoxicated were to occur. I think this means that drunk driving injuries that are caused to individuals or to property will not be dischargeable in the future. I think this strengthens it a great deal.

I believe Senator DeConcini will be actually pleased with these provisions in this pertaining to that matter.

On the farmers' grain bankruptcy bill, where we have had people with granaries and elevators, I think the Senator from Kansas said he passed it three times. According to my calculations, he passed it four times and this will be the fifth time that he passed that particular phase of the amendment.

I congratulate the distinguished Senator from Ohio and the distinguished Senator from Kansas on working out this agreement relative to this bill. I was glad to assist in trying to work out the matter. We feel, overall, that this is a good amendment.

We now have linkage of two bankruptcy bills, one a structural bill for the courts, and the other one a substantive law bill. I think that we have made a great deal of progress in trying to eliminate the problems that have arisen pertaining to the constitutionality of the court structure and the experience which has occurred since 1978 dealing with the substantive bankruptcy law.

AMENDMENT NO. 1208, AS MODIFIED

Mr. DOLE. Mr. President, the distinguished Senator from Alaska, the majority whip, Senator Stevens, has an amendment relating to fishing. It has been discussed with the leadership, with the distinguished chairman of the committee, I think the Senator from Alabama, the Senator from Ohio, and the Senator from Kansas. We have no objection to the amendment.

What I would like to do is to modify the amendment I will send to the desk since Senator Stevens cannot be present, and to include the statement of the Senator from Alaska.

Mr. METZENBAUM. Will the Senator yield?

Mr. DOLE. I am happy to yield.

Mr. METZENBAUM. Mr. President, the Senator from Ohio spent the last hour or two on the amendment of the Senator from Alaska. Will the Senator represent that the language modification is in the exact form which has been agreed upon by my staff, the staff of Senator Stevens, and the Senator's staff?

Mr. DOLE. That is my understanding.

Mr. METZENBAUM. I would only say to the Senator from Kansas that it has been a little difficult to work on that particular amendment this afternoon. I would ask his assurance that if, for some reason, there has been some item changed that we have not picked up, which we find objectionable, he will see to it that appropriate correction will be made either here or in conference.

Mr. DOLE. The amendment is very short. It is that title V of the bill, as amended, is modified to include the following:

> or in the case of a United States fisherman who has caught fish sold to a fish processing facility owned or operated by the debtor in the ordinary course of such sellers business (as such terms are defined in section 557 of this title)

And then it says that section 536(b) is amended by adding in such subsection after the word "grain" the following: "or fish" and then by adding in such subsection after the word "grain" the second time it appears the following: "or fish."

Mr. METZENBAUM. Mr. President, I agree totally that is what the amendment reads. I think both the Senator from Kansas and I recognize it is a little difficult to follow an amendment in that form. If necessary, I hope it will be corrected so that we achieve that which we all intend to achieve. That is to put the fishermen in the same position as the farmers where the circumstances are identical.

Mr. DOLE. I might say, Mr. President, this has been thoroughly discussed.

Mr. HEFLIN. Mr. President, will the distinguished Senator yield for a question?

Mr. DOLE. I yield.

Mr. HEFLIN. I conclude instead of them being put in the same camp they are being put in the same boat in regard to that.

The second thing is that I think this is broad enough to take care of any Alabama-caught catfish.

Mr. DOLE. I agree.

Mr. THURMOND. Mr. President, I just want to say that we approve of the amendment by the distinguished and able Senator from Alaska. We hope the Senate will see fit to adopt it.

Mr. DOLE. Mr. President, I send the modification to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 1208), as modified, is as follows:

> Section 1. At subtitle "B" of Title V of the bill as amended, add the following: (a) "or in the case of a United States fisherman who has caught fish sold to a fish processing facility owned or operated by the debtor in the ordinary course of such sellers business (as such terms are defined in section 557 of this title)" after the word "Title" in section 536(b) of the bill as amended, (b) by adding in such subsection, after the word "grain", the following: "or fish"; by adding in such subsection, after the word "grain" the second time it appears, the following: "or fish"

● Mr. STEVENS. Mr. President, I thank the Senator from South Carolina, the Senator from Kansas, and the Senator from Ohio for their cooperation and support for my amendment which brings fishermen into equal treatment with their counterparts in agriculture.

This amendment will for the first time allow fishermen to enjoy the same protection under our bankruptcy laws as farmers regarding their right to payment for fish that has been landed and delivered to a processing facility. My amendment will allow those fishermen who contribute the product that forms the basis for the bankruptcy estate to also hold a right to compensation for their fish. This amendment gives those fishermen a superior claim up to $2,000 for the value of product that they land.

I thank the Senate for consideration of this measure, and urge that the Senate adopt the amendment.●

The **PRESIDING OFFICER**. Do Senators yield back their time?

Mr. HEFLIN. I yield back my time.

The **PRESIDING OFFICER**. Does the Senator from Ohio yield back his time?

Mr. METZENBAUM. I yield back my time.

The **PRESIDING OFFICER**. All time is yielded back. The question is on agreeing to the amendment, as modified.

The amendment (No. 1208), as modified, was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, although all of us understand that substantive changes are needed in the Bankruptcy Code of 1978, at the same time we must acknowledge that, procedurally, the act has been a success. Bankruptcy cases under the code were being handled far more expeditiously and efficiently than under prior law. In fact, but for the Supreme Court's decision in the Marathon Pipe Line case, none of us would be advocating a change in the 1978 system.

But the Supreme Court did decide the Marathon case, and we must deal with the issues raised by the Court. In arriving at a response to the problems generated by that decision, two policies ought to receive our primary attention. First, we ought to develop a response that is certain to survive constitutional scrutiny. Second, we ought to develop a response that causes the least disruption and which will consolidate the gains in case administration under the 1978 code. In my view, the only proposal I have seen that meets these criteria is one which would retain the current court structure but change the tenure of the bankruptcy judges from 14 years to life during good behavior that is to say, making bankruptcy judges article III judges in a separate and distinct class from the district court.

Mr. President, I do not assert that the proposal before us today is totally without merit. It avoids the unpopular course of creating a large number of article III judgeships at one time. I find that very appealing. At the same time, however, I have serious doubts about its constitutionality. In order for the system created under this bill to function efficiently and to avoid clogging the district courts, parties must regularly waive objections to the bankruptcy courts' exercise of plenary jurisdiction. Such jurisdiction, however, cannot be conferred upon the court by the parties, if it is otherwise lacking. This fact alone convinces me that the restructuring contained in S. 1013 is of sufficiently uncertain constitutionality as to be unacceptable. And, in cases where the parties do not agree to have the bankruptcy court exercise plenary jurisdiction, this proposal would add another undue and unnecessary burden onto the district courts.

Mr. President, my major concern about conferring article III status on bankruptcy judges, while otherwise retaining the current court structure, is my reluctance to create so many new article III positions at one time. That is a problem however, with which a bill could deal. My remaining concern is what will happen to these positions if there is what some see, and what we all hope, will be an eventual reduction in the caseload of the bankruptcy courts. In that case, Mr. President, I believe that the power of the Congress is sufficient to transfer some of the positions from the bankruptcy courts to the district courts. Unfortunately, I feel quite confident that the caseload of the district courts will never be substantially reduced and that the concern is therefore academic.

Mr. President, because I believe the bill reported by the Judiciary Committee to be of questionable constitutionality, to constitute an undue burden on the district courts and to be lacking in sufficient certainty, I cannot support it. I regret that I will not be able to vote against this proposal because I think that the provisions of S. 1013 creating new district court judgeships is badly needed, and thus, some bill should pass. And, it may well be more important to get our discussions with the House about a solution to the Marathon case started than to continue to debate the form our proposal will take.

Mr. THURMOND. Mr. President, we have made every effort to come up with a bill that is constitutional, and I suggest that the able and distinguished Senator from Washington read our report beginning on page 32 regarding the constitutionality of this particular piece of legislation. I feel that, being such an able lawyer, he will be convinced that it is constitutional after reading our report.

The **PRESIDING OFFICER**. Do Senators yield back their time on the bill?

Mr. HEFLIN. Yes, we yield back our time.

Mr. THURMOND. Mr. President, I wonder if any other Senator has any amendments. If not, third reading.

The **PRESIDING OFFICER**. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. THURMOND. Mr. President, I just want to take 1 minute to express my deep appreciation to the able and distinguished Senator from Alabama for his fine cooperation and the great help he has given on this important matter.

I would also like to express my appreciation to the able and distinguished Senator from Kansas for the great service he has rendered in connection with bankruptcy matters and specifically with this legislation.

I also thank my distinguished and able friend from Ohio (Mr. Metzenbaum) for the cooperation he has given in getting this matter before the Senate for consideration and passage and for his deep interest in this legislation.

Finally, I thank the able and distinguished Senator from Arizona (Mr. DeConcini) for his deep interest in bankruptcy issues and for the fine contribution he has made to this legislation.

Mr. President, I wish to express my appreciation to certain staff members here who have done such a fine job: Steve Markman and Sally Rogers of the Judiciary Committee staff; Mr. Dee Lide, the chief counsel of the Judiciary Committee; Mr. Arthur Briskman of Senator Heflin's staff, Mr. Doug Comer of Senator Dole's staff, Ms. Marge Baker of Senator Metzenbaum's staff, and Mr. Bob Feidler of Senator DeConcini's staff.

These staff members have worked very hard on this legislation. This is a matter that has required a great deal of time-consuming thought and negotiation. I commend all these staff members for the fine job they have done.

I yield back my time, Mr. President.

Mr. METZENBAUM. Mr. President, let me for just a moment say that we who work on the floor of the Senate cannot do so without the able assistance of our own assistants. I have about two-and-a-half assistants helping me—Marge Baker, who represents one-and-a-half, and Marilyn Faulkson, one, and they have been a big assistance to me. They have been so diligent in this entire matter for the last year and I publicly express my appreciation to them. I know they have a great working relationship with the staff of Senator Thurmond, Senator Heflin, and Senator Dole. I appreciate the cooperation that has been extended by the very able chairman of our committee and the Senator from Alabama.

Mr. HEFLIN. Mr. President, I concur in the accolades that have been given to various staff members for their work on this bill. I think we would be remiss if we did not mention the great work that Jan Wilson of the Legislative Counsel has done. She worked on this many, many days and many, many nights, I may say, relative to getting this bill in proper legislative language.

I particularly pay tribute to my staff, Randall Black and the judge, Arthur Briskman, who was a judge in Alabama before he came here. He probably is more knowledgeable about bankruptcy law than any person that I have known on the Hill here. He practiced for many years in the bankruptcy courts of Alabama and has vast knowledge of the law of bankruptcy. That knowledge has been of great benefit to us as we have worked on this legislation.

Mr. THURMOND. Mr. President, in speaking about staff members, I overlooked two members. I wish to thank Peggy Mainor and Randall Black of Senator Heflin's staff. I also wish to express appreciation to Jan Wilson, of the Legislative Counsel's Office. She was most helpful, as Senator Heflin stated, in the work on the legislation.

Mr. President, I yield back my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

The bill (S. 1013) was passed as follows:

S. 1013

An act to amend title 28 of the United States Code regarding jurisdiction in bankruptcy proceedings, and to establish new Federal judicial positions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Bankruptcy Court and Federal Judgeship Act of 1983".

TITLE I

Sec. 101. Section 241 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2668), adding chapter 90 of title 28, United States Code, is hereby repealed.

Sec. 102. (a) Title 28, United States Code, is amended by inserting after chapter 89 the following:

"CHAPTER 90—DISTRICT COURTS AND BANKRUPTCY COURTS

"Sec.
"1471. Jurisdiction.
"1472. Venue of cases under title 11.
"1473. Venue of proceedings arising under or related to cases under title 11.
"1474. Venue of cases ancillary to foreign proceedings.
"1475. Change of venue.
"1476. Removal of bankruptcy cases.
"1477. Jury trials.
"1478. Appeals.

"§ 1471. Jurisdiction

"(a) Except as provided in subsection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title 11.

"(b) Notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.

"(c) All cases under title 11 and all civil proceedings arising under title 11, or arising in or related to cases under title 11 shall be referred to the bankruptcy court for the district. The bankruptcy court for the district in which a case or proceeding under title 11 is pending shall have the authority to exercise all of the jurisdiction conferred on the district courts by subsections (a) and (b) of this section, except where inconsistent with the Constitution, unless such case or proceeding has been recalled by the district court.

"(d) The district court on its own motion may recall any case or proceeding referred to the bankruptcy court under subsection (c) of this section.

"(e)(1) Any party, or the bankruptcy judge, may file a petition for recall of any civil case or proceeding referred to the bankruptcy court under subsection (c). Such petition shall be filed with the clerk of the district court for the district, and shall contain a short and plain statement of the grounds for recall. Written notice of the filing of such a petition shall be given promptly to all parties.

"(2) Recall of a proceeding pursuant to such petition may be granted in the discretion of the district court, except that recall shall be granted—

"(A) with respect to a proceeding involving a claim or cause of action which is not one arising under title 11 or arising in a case under title 11; or

"(B) where the district court determines that resolution of the proceeding requires consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce.

"(f) A case or proceeding which has been recalled by the district court under this section shall be determined by the district court. The court, in its discretion, may determine the entire case. In any case or proceeding before the district court pursuant to subsection (d) or (e), such court may—

"(1) designate any bankruptcy judge within the district to serve as a special master to hear such case or proceeding and to make findings and recommendations pursuant to the Federal Rules of Civil Procedure, notwithstanding Rule 53(b) thereof, or

"(2) refer such case or proceeding to a United States magistrate in accordance with the provisions of section 636 of this title as applicable to civil proceedings generally, or to a bankruptcy judge, who shall exercise all of the jurisdiction and powers of a United States magistrate under section 636.

For purposes of this section, the district court shall use the standard of review provided in Rule 53(e)(2) of the Federal Rules of Civil Procedure or section 636(b) of this title, as the case may be, unless the court, in its designation of the special master or its referral to the magistrate orders otherwise.

"(g) Notwithstanding the provisions of subsection (e), and subject to a right to appeal pursuant to section 1334 of this title, any party to a case or proceeding under subsection (a) or (b) of this section shall be deemed to have consented to the exercise of jurisdiction by the bankruptcy court to determine the entire matter if the party has failed to file a timely petition pursuant to subsection (e)(1) of this section. Such a petition must be filed together with the initial pleading of the party.

"(h)(1) Nothing in this section prevents a district court in the interest of justice, or in the interest of comity with State courts or respect for State law, from abstaining from hearing a particular proceeding arising under title 11 or arising in or related to a case under title 11. Such abstention, or a decision not to abstain, is not reviewable by appeal or otherwise.

"(2) In a proceeding involving the debtor which is based upon a State law claim or cause of action not arising under title 11 or arising in a case under title 11, which could not otherwise have been brought in Federal court absent jurisdiction under this section, the court shall, upon proper motion, abstain from adjudicating such claim in the bankruptcy proceeding where an action to adjudicate such claim has been or will be timely instituted and prosecuted in a State forum of appropriate jurisdiction: *Provided,* That this paragraph shall be construed to limit the applicability of the stay provided for by section 362 of title 11, United States Code, only to the extent necessary to permit adjudication but not the execution of such claim by the State forum.

"(3) A motion to abstain pursuant to this subsection shall be filed within ten days of the granting of a petition to recall pursuant to subsection (d) or (e).

"(i) Subject to the provisions of this section, the bankruptcy court in which a case under title 11 is commenced or pending may exercise jurisdiction over all property, wherever located, of the debtor or the estate as of the date of the commencement of such case.

"§ 1472. Venue of cases under title 11

"Except as provided in section 1474 of this title, a case under title 11 may be commenced in the district court for a district—

"(1) in which the domicile, residence, principal place of business, in the United States, or principal assets, in the United States, of the person or entity that is the subject of such case have been located for the one hundred and eighty days immediately preceding such commencement, or for a longer portion of such one hundred and eighty-day period than the domicile, residence, principal place of business, in the United States, or principal assets, in the United States, of such person were located in any other district; or

"(2) in which there is pending a case under title 11 concerning such person's affiliate, general partner, or partnership.

"§ 1473. Venue of proceedings arising under or related to cases under title 11

"(a) Except as provided in subsections (b) and (d) of this section, a proceeding arising in or related to a case under title 11 may be commenced in the district court in which such case is pending.

"(b) Except as provided in subsection (d) of this section, a trustee in a case under title 11 may commence a proceeding arising in or related to such case to recover a money judgment of, or property worth, less than $1,000 or a consumer debt of less than $5,000, only in the district court for the district in which the defendant resides.

"(c) Except as provided in subsection (b) of this section, a trustee in a case under title 11 may commence a proceeding arising in or related to such case as statutory successor to the debtor or creditors under section 541 or 544(b) of title 11 in the district court for the district where the State or Federal court sits in which, under applicable nonbankruptcy venue provisions, the debtor or creditors, as the case may be, may have commenced an action on which such proceeding is based if the case under title 11 had not been commenced.

"(d) A trustee may commence a proceeding arising under title 11 or arising in or related to a case under title 11 based on a claim arising after the commencement of such case from the operation of the business of the debtor only in the district court for the district where a State or Federal court sits in which, under applicable nonbankruptcy venue provisions an action on such claim may have been brought.

"(e) A proceeding arising in or related to a case under title 11, based on a claim arising after the commencement of such case from the operation of the business of the debtor, may be commenced against the representative of the estate in such case in the district court for the district where the State or Federal court sits in which the party commencing such proceeding may, under applicable nonbankruptcy venue provisions, have brought an action on such claim, or in the district court in which such case is pending.

"§ 1474. Venue of cases ancillary to foreign proceedings

"(a) A case under section 304 of title 11 to enjoin the commencement or continuation of an action or proceeding in a State or Federal court, or the enforcement of a judgment, may be commenced only in the district court for the district where the State or Federal court sits in which is pending the action or proceeding against which the injunction is sought.

"(b) A case under section 304 of title 11 to enjoin the enforcement of a lien against property, or to require turnover of property of an estate, may be commenced only in the district court for the district in which such property is found.

"(c) A case under section 304 of title 11, other than a case specified in subsection (a) or (b) of this section, may be commenced only in the district court of the district in which is located the principal assets, in the United States, of the estate that is the subject of such case.

"§ 1475. Change of venue

"A district court may transfer a case or proceeding under title 11 to a district court for another district, in the interest of justice or for the convenience of the parties.

"§ 1476. Removal of bankruptcy cases

"(a) A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power, to the district court for the district where such civil action is pending, if the district courts have jurisdiction over such claim or cause of action, under section 1471 of this title.

"(b) The court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground. An order under this subsection remanding a claim or cause of action, or a decision to not remand, is not reviewable by appeal or otherwise.

"§ 1477. Jury trials

"(a) Except as provided in subsection (b) of this section, this chapter and title 11 do not affect any right to trial by jury.

"(b) The district court may order the issues arising under section 303 of title 11 to be tried without a jury.

"§ 1478. Appeals

"(a) Panels designated under section 160(a) of this title shall have jurisdiction of appeals from all final judgments, orders, and decrees of bankruptcy courts.

"(b) Panels designated under section 160(a) of this title shall have jurisdiction of appeals from interlocutory judgments, orders, and decrees of bankruptcy courts, but only by leave of the panel to which the appeal is taken.".

(b) The table of chapters of part IV of title 28, United States Code, is amended by inserting after the item relating to chapter 89 the following:

"90. District Courts and Bankruptcy Courts .... 1471".

Sec. 103. (a) Chapter 5 of title 28. United States Code, is amended by adding at the end thereof the following new section:

"§ 145. Promulgation of rules for bankruptcy cases and proceedings

"(a) The chief judge of each district court shall be responsible for the expeditious determination of all cases under title 11 and all civil proceedings arising under title 11, or arising in or related to cases under title 11, which are before such court and may designate one or more district court judges whose primary responsibility shall be matters involving bankruptcy and may designate such other district court judges as such chief judge deems necessary to carry out the provisions of this title.

"(b) Each district court may promulgate local rules or orders to carry out the provisions of this chapter including rules or orders providing for the maintenance of a special bankruptcy calendar.".

(b) The table of sections for chapter 5 of title 28, United States Code, is amended by inserting at the end thereof the following new item:

"145. Promulgation of rules for bankruptcy cases and proceedings.".

Sec. 104. Section 332(d) of title 28, United States Code, is amended by adding at the end thereof the following:

"(4) The council may make necessary and appropriate orders and rules for the effective and expeditious administration of justice in the district and bankruptcy courts regarding the disposition of cases or proceedings under title 11, and for the administration of cases in equity, law, and admiralty referred to the bankruptcy court which are within the authority of such court pursuant to chapter 90 of this title. Each such court, and all officers and employees of such court, shall promptly carry into effect all orders and rules of the council.".

Sec. 105. Section 636 of title 28, United States Code, is amended—

(1) by striking "and to involuntarily dismiss an action" from the first sentence of subsection (b)(1)(A) thereof and inserting in lieu thereof the following: "to involuntarily dismiss an action, and, in a case or proceeding under title 11, to allow or disallow a claim, a stay, an exemption, a priority, an account, a discharge, or any other application";

(2) by striking from the first sentence of subsection (c)(2) thereof "shall, at the time the action is filed, notify the parties of their right to consent to the exercise of such jurisdiction." and inserting in lieu thereof the following: "shall, at the time the action is filed, notify the parties in a civil action of the availability of a magistrate to exercise such jurisdiction."; and

(3) by adding at the end thereof the following new subsection:

"(h) For purposes of this section, cases and proceedings filed in the district courts under section 1471 of this title shall be deemed to be civil actions.".

TITLE II

Sec. 201. Section 152 of title 28, United States Code, as such section is to become effective April 1, 1984, is amended—

(1) by inserting "(a)" before "The President shall appoint"; and

(2) by adding at the end thereof the following:

"(b) Such bankruptcy judges shall be appointed for the several judicial districts as follows:

"Districts	*Judges*
Alabama:	
Northern	5
Middle	2
Southern	2
Alaska	1
Arizona	4
Arkansas: Eastern and Western	2
California:	
Northern	7
Eastern	4
Central	12
Southern	3
Colorado	4
Connecticut	2
Delaware	1
District of Columbia	1
Florida:	
Northern	1
Middle	2
Southern	3
Georgia:	
Northern	4
Middle	2
Southern	1
Hawaii	1
Idaho	1
Illinois:	
Northern	8
Central	2
Southern	1
Indiana:	
Northern	2
Southern	4
Iowa:	
Northern	1
Southern	1
Kansas	3
Kentucky:	
Eastern	1
Western	2
Louisiana:	
Eastern	2
Middle	1
Western	2
Maine	2
Maryland	2
Massachusetts	4
Michigan:	
Eastern	4
Western	2
Minnesota	4
Mississippi:	
Northern	1
Southern	2
Missouri:	
Eastern	3
Western	3
Montana	1
Nebraska	1
Nevada	2
New Hampshire	1
New Jersey	5
New Mexico	2
New York:	
Northern	2
Southern	7
Eastern	6
Western	3

"Districts	*Judges*
North Carolina:	
Eastern	3
Western	1
Middle	3
North Dakota	1
Ohio:	
Northern	8
Southern	7
Oklahoma:	
Northern	1
Eastern	1
Western	2
Oregon	4
Pennsylvania:	
Eastern	3
Middle	2
Western	3
Puerto Rico	2
Rhode Island	1
South Carolina	1
South Dakota	1
Tennessee:	
Eastern	2
Middle	2
Western	2
Texas:	
Northern	4
Southern	3
Eastern	1
Western	2
Utah	2
Vermont	1
Virginia:	
Eastern	3
Western	3
Washington:	
Eastern	1
Western	4
West Virginia:	
Northern	1
Southern	1
Wisconsin:	
Eastern	3
Western	2
Wyoming	1".

SEC. 202. It is the sense of the Congress that the President, in selecting individuals for nomination to the Federal judgeships created by this Act, shall give due consideration to qualified individuals without regard to race, color, sex, religion, or national origin.

TITLE III

SEC. 301. (a) The President shall appoint, by and with the advice and consent of the Senate, two additional circuit judges for the first circuit court of appeals, two additional circuit judges for the second circuit court of appeals, two additional circuit judges for the third circuit court of appeals, one additional circuit judge for the fourth circuit court of appeals, two additional circuit judges for the fifth circuit court of appeals, four additional circuit judges for the sixth circuit court of appeals, two additional circuit judges for the seventh circuit court of appeals, one additional circuit judge for the eighth circuit court of appeals, five additional circuit judges for the ninth circuit court of appeals, two additional circuit judges for the tenth circuit court of appeals, and one additional circuit judge for the District of Columbia circuit court of appeals.

(b) In order that the table contained in section 44(a) of title 28, United States Code, will, with respect to each judicial circuit, reflect the changes in the total number of permanent circuit judgeships authorized as a result of subsection (a) of this section, such table is amended to read as follows:

"Circuits	*Number of judges*
District of Columbia	12
First	6
Second	13
Third	12
Fourth	11
Fifth	16
Sixth	15
Seventh	11
Eighth	10
Ninth	28
Tenth	10
Eleventh	12
Federal	12".

SEC. 302. (a) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the southern district of Alabama, one additional district judge for the district of Alaska, five additional district judges for the central district of California, one additional district judge for the district of Colorado, one additional district judge for the district of Connecticut, one additional district judge for the district of Delaware, three additional district judges for the southern district of Florida, one additional district judge for the middle district of Georgia, one additional district judge for the district of Hawaii, four additional district judges for the northern district of Illinois, one additional district judge for the southern district of Illinois, one additional district judge for the western district of Kentucky, one additional district judge for the western district of Louisiana, one additional district judge for the district of Maryland, one additional district judge for the district of Massachusetts, two additional district judges for the eastern district of Michigan, one additional district judge for the district of Minnesota, one additional district judge for the northern district of Mississippi, two additional district judges for the southern district of Mississippi, one additional district judge for the eastern district of Missouri, one additional district judge for the district of Montana, one additional district judge for the district of Nevada, three additional district judges for the district of New Jersey, one additional district judge for the northern district of New York, two additional district judges for the eastern district of New York, one additional district judge for the district of Ohio, one additional district judge for the western district of Oklahoma, one additional district judge for the district of Rhode Island, one additional district judge for the eastern district of Tennessee, one additional district judge for the western district of Tennessee, one additional district judge for the northern district of Texas, two additional district judges for the eastern district of Texas, one additional district judge for the western district of Texas, one additional district judge for the district of Utah, one additional district judge for the eastern district of Virginia, one additional district judge for the eastern district of Washington, one additional district judge for the western district of Washington, and one additional district judge for the district of Wyoming.

(b) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the western district of Arkansas, one additional district judge for the northern district of Illinois, one additional district judge for the northern district of Indiana, one additional district judge for the district of Massachusetts, one additional district judge for the western district of New York, one additional district judge for the eastern district of North Carolina, one additional district judge for the northern district of Ohio, and one additional district judge for the western district of Washington. The first vacancy in each of the offices of district judge authorized by this subsection, occurring five years or more after the effective date of this Act, shall not be filled.

(c) The existing district judgeship for the district of Minnesota and the existing district judgeship for the northern district of Ohio, heretofore authorized by section 2 of the Act of October 20, 1978 (Public Law 95-486, 92 Stat. 1631), shall, as of the effective date of this Act, be authorized under section 133 of title 28, United States Code, and the incumbents of those offices shall henceforth hold their offices under section 133, as amended by this Act.

(d) In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent district judgeships authorized as a result of subsections (a) and (c) of this section, such table is amended to read as follows:

"Districts	*Judges*
Alabama:	
Northern	7
Middle	3
Southern	3
Alaska	3
Arizona	8
Arkansas:	
Eastern	3
Western	1
Eastern and Western	2
California:	
Northern	12
Eastern	6
Central	22
Southern	7
Colorado	7
Connecticut	6
Delaware	4
District of Columbia	15
Florida:	
Northern	3
Middle	9
Southern	15
Georgia:	
Northern	11
Middle	3
Southern	3
Hawaii	3
Idaho	2
Illinois:	
Northern	20
Central	3
Southern	3
Indiana:	
Northern	4
Southern	5
Iowa:	
Northern	1
Southern	2
Northern and Southern	1
Kansas	5
Kentucky:	
Eastern	4
Western	4
Eastern and Western	1
Louisiana:	
Eastern	13
Middle	2
Western	6
Maine	2
Maryland	10
Massachusetts	11
Michigan:	
Eastern	15
Western	4
Minnesota	7

"*Districts*	*Judges*
Mississippi:	
Northern	3
Southern	5
Missouri:	
Eastern	5
Western	5
Eastern and Western	2
Montana	3
Nebraska	3
Nevada	4
New Hampshire	2
New Jersey	14
New Mexico	4
New York:	
Northern	4
Southern	27
Eastern	12
Western	3
North Carolina:	
Eastern	3
Middle	3
Western	3
North Dakota	2
Ohio:	
Northern	10
Southern	7
Oklahoma:	
Northern	2
Eastern	1
Western	4
Northern, Eastern and Western	2
Oregon	5
Pennsylvania:	
Eastern	19
Middle	5
Western	10
Puerto Rico	7
Rhode Island	3
South Carolina	8
South Dakota	3
Tennessee:	
Eastern	4
Middle	3
Western	4
Texas:	
Northern	10
Eastern	6
Southern	13
Western	7
Utah	4
Vermont	2
Virginia:	
Eastern	9
Western	4
Washington:	
Eastern	3
Western	6
West Virginia:	
Northern	2
Southern	4
Wisconsin:	
Eastern	4
Western	2
Wyoming	2".

SEC. 303. Section 131 of title 28, United States Code, is amended in the second paragraph thereof by inserting "Jackson," after "Lander,".

TITLE IV

SEC. 401. (a) Section 371 of title 28, United States Code, is amended to read as follows:

"§ 371. Retirement on salary; retirement in senior status

"(a) Any justice or judge of the United States appointed to hold office during good behavior may retire from the office after attaining the age and meeting the service requirements, whether continuous or otherwise, of subsection (c) and shall, during the remainder of his lifetime, receive an annuity equal to the salary he was receiving at the time he retired.

"(b) Any justice or judge of the United States appointed to hold office during good behavior may retain the office but retire from regular active service after attaining the age and meeting the service requirements, whether continuous or otherwise, of subsection (c) of this section and shall, during remainder of his lifetime, continue to receive the salary of the office.

"(c) The age and service requirements for retirement under this section are as follows:

"Attained age:	Years of service:
65	15
66	14
67	13
68	12
69	11
70	10

"(d) The President shall appoint, by and with the advice and consent of the Senate, a successor to a justice or judge who retires under this section.".

(b) The item relating to section 371 in the table of sections of chapter 17 of title 28 is amended to read as follows:

"371 Retirement on salary; retirement in senior status.".

(c) The amendments made by this section shall apply with respect to any justice or judge of the United States appointed to hold office during good behavior who retires on or after the date of enactment of this Act.

SEC. 402. (a) Subchapter III (civil service retirement) of chapter 83 of title 5, United States Code, is amended—

(1) in section 8331 (1) by inserting before the semicolon at the end of clause (i) the following: ", except a bankruptcy judge";

(2) in section 8331 (22) thereof by—

(A) striking out "adding this paragraph" and inserting in lieu thereof "of November 6, 1978 (Public Law 95-598; 92 Stat. 2549), or under section 152 of title 28, United States Code";

(B) striking out "and that" after "March 31, 1984," in subparagraph (A) and inserting in lieu thereof; "and continues to serve as a bankruptcy judge after such date until either the date on which a successor for such judge is appointed, or October 1, 1984, whichever date is earlier, and who";

(C) striking out "or" at the end of subparagraph (A);

(D) striking out "201 of this Act but that" and inserting in lieu thereof "201 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549) but who"; and

(E) striking out the period at the end of subparagraph (B) and inserting in lieu thereof the following: "; or

"(C) is appointed as a United States bankruptcy judge on or after April 1, 1984.";

(3) in section 8334(a) thereof by adding "or a bankruptcy judge" before the period at the end of the first sentence of paragraph (1) thereof;

(4) in section 8334(c) thereof by striking out of the table, in the item relating to Bankruptcy judges,

"7.............. After January 1, 1970."

and inserting in lieu thereof:

"7.............. January 1, 1970, to September 30, 1983.

"8.............. After September 30, 1983.".

(5) in section 8336 thereof by—

(A) redesignating subsection (k) thereof as subsection (l); and

(B) adding after subsection (j) the following new subsection:

"(k) An employee who is a bankruptcy judge and is separated from the service after becoming sixty two years of age and completing five years of civilian service or after becoming sixty-years of age and completing ten years of service as a bankruptcy judge is entitled to an annuity."; and

(6) in section 8339 by—

(A) striking out "(o)" each place it appears in subsections (f), (j), (k), (l), and (m) and inserting in lieu thereof "(n)";

(B) inserting "or (n)" after "(c)" in paragraph (2) of subsection (g);

(C) striking out "or (c)" each time it appears in subsection (g) and inserting in lieu thereof "(c), or (n)"; and

(D) striking out "after March 31, 1979, and before April 1, 1984," in subsection (n) thereof and inserting in lieu thereof "as a referee in bankruptcy and".

(b) The amendments made by this section shall take effect on October 1, 1983, and shall apply to bankruptcy judges who retire on or after such date.

SEC. 403. Section 8701(a) of title 5, United States Code, is amended by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively, and by adding a new paragraph (5) as follows:

"(5) a justice or judge of the United States appointed to hold office during good behavior (i) who is in regular active judicial service, or (ii) who is retired from regular active service under section 371(b) or 372(a) of title 28, United States Code, or (iii) who has resigned the judicial office under 371(a) of title 28 with the continued right during the remainder of his lifetime to receive the salary of office at the time of his resignation;".

SEC. 404. Section 8714a(c) of title 5, United States Code, is amended by adding a new paragraph (3) as follows:

"(3) Notwithstanding paragraph (c)(1) of this section, a justice or judge of the United States as defined by section 8701(a)(5) of this title who resigns his office without meeting the requirements of section 371(a) of title 28, United States Code, for continuation of the judicial salary shall have the right to convert regular optional life insurance coverage issued under this section during his judicial service to an individual policy of life insurance under the same conditions approved by the Office governing conversion of basic life insurance coverage for employees eligible as provided in section 8706(a) of this title.".

SEC. 405. Section 8714b(c) of title 5, United States Code, is amended by adding to paragraph (1) at the end thereof the following: "A justice or judge of the United States as defined by section 8701(a)(5) of this title who resigns his office without meeting the requirements of section 371(a) of title 28, United States Code, for continuation of the judicial salary shall have the right to convert additional optional life insurance coverage issued under this section during his judicial service to an individual policy of life insurance under the same conditions approved by the Office governing conversion of basic life insurance coverage for employees eligible as provided in section 8706(a) of this title.".

SEC. 406. (a) Section 8706 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) Under regulations prescribed by the Office, each policy purchase under this chapter shall provide that an insured Federal judge may make an irrevocable assignment of the judge's incidents of ownership in the policy.".

(b) The heading for section 8706 of title 5, United States Code, and the item relating to section 8706 in the analysis for chapter 87 of such title are each amended by inserting "; assignment of ownership" after "insurance".

Sec. 407. Section 291(b) of title 28, United States Code, is amended by inserting "or bankruptcy" after "to hold a district".

Sec. 408. (a) Section 456(b) of title 28, United States Code, is amended—

(1) by striking out "and" after "Federal Circuit"; and

(2) by inserting ", and the United States Bankruptcy Court for the District of Columbia" before "shall be".

(b) Section 456(d) of title 28, United States Code, is amended by striking out "district judge" and inserting in lieu thereof "district and bankruptcy judge".

(c) Section 456(e) of title 28, United States Code, is amended by striking out "or district" and inserting in lieu thereof "district, or bankruptcy".

(d) Section 456(g) of title 28, United States Code, is amended by striking out "or district" and inserting in lieu thereof ", district, or bankruptcy".

Sec. 409. Section 775 of title 28, United States Code, as such section is to become effective April 1, 1984, is amended by striking out "the same as" in the first sentence and inserting in lieu thereof "on an equivalent basis as".

Sec. 410. Section 957 of title 28, United States Code, is amended by inserting "or bankruptcy court" after "district court".

Sec. 411. Section 1334 of title 28, United States Code, as such section is to become effective April 1, 1984, is amended to read as follows:

"§ 1334. Bankruptcy appeals

"(a) The district courts shall have jurisdiction of appeals from all final judgments, orders, and decrees of bankruptcy courts.

"(b) The district courts shall have jurisdiction of appeals from interlocutory orders and decrees of bankruptcy courts, but only by leave of the district court to which the appeal is taken.

"(c) An appeal under this section shall be taken to the district court for the judicial district in which the bankruptcy court is located.

"(d) The Judicial Council of a circuit may establish bankruptcy appellate panels to exercise the jurisdiction conferred by this section for any judicial district within the circuit. Each such panel shall consist of three bankruptcy judges designated by the chief judge of the circuit from among the bankruptcy judges of the circuit and shall exercise all of the jurisdiction of such district court under this section, sitting at a place convenient to the parties to the appeal, except that a panel may not hear: (1) an appeal from a judgment, order, or decree entered by a member of the panel; or (2) an appeal in which a party has objected to the exercise of jurisdiction by the panel.

"(e) The courts of appeals shall have jurisdiction of appeals from all final decisions, final judgments, orders, or decrees of a district court or a bankruptcy appellate panel entered under this section in the same manner as such an appeal may be taken in civil cases generally.".

Sec. 412. Section 1360 of title 28, United States Code, is amended—

(1) by striking out "or Territories";

(2) by striking out "or Territory" each place it appears, and

(3) by striking out "within the Territory" and inserting in lieu thereof "within the State".

Sec. 413. Section 2256 of title 28, United States Code, as such section is to become effective April 1, 1984 is amended—

(1) by striking out "A bankruptcy court" and inserting in lieu thereof "A district court"; and

(2) in paragraph (1) by striking out "the court" and inserting in lieu thereof "the bankruptcy court".

Sec. 414. Section 404(b) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549) is amended by—

(1) striking out "and expires on" in the first sentence;

(2) inserting before the period at the end of the first sentence "whichever is later, but not later than October 1, 1984"; and

(3) inserting after "March 31, 1984", in the second sentence ", except as such date may be extended to October 1, 1984, for referees, pursuant to this subsection".

Sec. 415. (a) Section 405(b) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549) is amended by—

(1) striking out "241,"; and

(2) inserting after "Act" the first place it appears the following: "and the Bankruptcy Court and Federal Judgeship Act of 1983".

(b) Section 405 (c) (2) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549) is amended to read as follows:

"(2) During the transition period, the jurisdiction of the district courts, and the courts of appeals in hearing bankruptcy appeals shall be the same as the jurisdiction of such courts under title 28 and the jurisdiction granted under the amendments made by sections 102 and 412 of the Bankruptcy Court and Federal Judgeship Act of 1983.".

Sec. 416. Sections 202, 203, 204, 208, 209, 211, 215, 232, 234, 239, and 241 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549) are repealed.

Sec. 417. (a) Except as provided in subsection (b), the amendments made by this Act to section 8706 of title 5, United States Code, shall apply to policies purchased by judges after the date of enactment of this Act.

(b) If a company which issued a policy which is in effect on the date of the enactment of this Act agrees, the amendments made by this Act shall apply to such policy.

Sec. 418. (a) Section 634(a) of title 28, United States Code, is amended by striking out, in the first sentence thereof, "the rates now or hereafter provided for full-time and part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended" and inserting in lieu thereof: "$63,600".

(b) The rates for salaries of full-time and part-time magistrates in effect on the day before the date of enactment of this Act shall continue in effect until adjusted, or new rates determined, under the amendments made by this Act.

(c) Section 634(c) of title 28, United States Code, is amended by striking out "subsection III" and inserting in lieu thereof "subchapter III".

(d) Section 154 of title 28, United States Code, as such section is to become effective April 1, 1984, is amended to read as follows:

"§ 154. Salaries of bankruptcy judges.

"Each judge of a bankruptcy court shall receive a salary at the annual rate of pay of $63,600.".

(e) Notwithstanding section 5307 of title 5, United States Code, or any other provision of law, a magistrate's or a bankruptcy judge's annual rate of pay shall not exceed $63,600 unless authorized by a law specifically referring to the rates of pay for such magistrates or bankruptcy judges.

(f) Section 225(f)(C) of the Federal Salary Act of 1967 (2 U.S.C. 356(c)) is amended by striking out "and magistrates", and inserting in lieu thereof ", except bankruptcy judges".

(g) Section 404(f) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549) is amended by striking out the last sentence.

Sec. 419. (a) If any part of the Act of November 6, 1978 (Public Law 95-598, 92 Stat. 2549) or any amendment thereto is held invalid, the remainder of that Act and any amendments thereto shall not be affected thereby. If any provision of any part of that Act or any amendment thereto, or the application thereof to any person or circumstances, is held invalid, the provisions of other parts and of any amendments thereto and their application to other persons or circumstances shall not be affected thereby.

(b) If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act, or the application of that provision to persons or circumstances other than those as to which it is held invalid, is not affected thereby.

Sec. 420. (a) Except as otherwise provided in this Act, the amendments made by this Act shall become effective upon the date of enactment.

(b) The amendments made by sections 102, 201, 407, 408, 409, 410, 411, and 413 shall become effective on April 1, 1984.

(c) The amendments made by section 402 shall become effective on October 1, 1983, and shall apply to bankruptcy judges who retire on or after such date.

TITLE V

Sec. 500. This title may be cited as the "Omnibus Bankruptcy Improvements Act of 1983".

Subtitle A—Consumer Credit Amendments

Sec. 501. This subtitle may be cited as the "Consumer Debtor Bankruptcy Amendments Act of 1983".

Sec. 502. (a) Section 301 of title 11 of the United States Code, is amended—

(1) by striking out "A voluntary" and inserting in lieu thereof "(a) For a debtor who is not an individual, a voluntary"; and

(2) by adding at the end thereof the following new subsection:

"(b) With respect to an individual debtor or debtors, a voluntary case under this title is commenced by the filing with the bankruptcy court of a petition which conditionally designates a chapter under which relief is sought. The filing of such a petition shall constitute an order for relief under the provisions of the chapter conditionally designated. A final designation of the chapter under which relief is sought shall be made within the time period specified in section 521 of this title.

(b) Section 302(a) of title 11, United States Code, is amended to read as follows:

"(a) A joint case under this title is commenced by the filing, with the bankruptcy court, of a single petition pursuant to section 301(b) by an individual and such individual's spouse. The commencement of a joint case under a chapter of this title constitutes an order for relief under the chapter conditionally designated in accordance with section 301(b).".

Sec. 503. (a) Section 305 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(d)(1) Subject to the provisions of paragraph (2), the court on its own motion according to procedures established by rule, and not at the request or suggestion of any party in interest, may dismiss a case under chapter 7 of this title filed by an individual debtor if it finds that the granting of relief under such chapter would be a substantial abuse of the provisions of such chapter. In determining the question of substantial abuse, there shall be a presumption in favor of granting the relief requested by the debtor.

"(2) Prior to dismissing any chapter 7 case for substantial abuse, the court shall set forth, in writing within 20 days of the permanent designation of relief made by the debtor under the provisions of section 521(a)(3), its reasons for finding that substantial abuse would occur; and the court shall, at the same time, advise the debtor of his right to respond in writing and/or to request and secure a hearing on the court's findings. The court shall establish, by rule, time limits for the debtor's response and for the court's written findings in response thereto. No creditor or representative of a creditor may participate in judicial proceedings relating to substantial abuse except upon the request of the court.

"(3) Any dismissal of a case under chapter 7 pursuant to this subsection is a final order, and the debtor shall have the right to appeal. No creditor or representative of a creditor may appeal any judicial decision on substantial abuse. In passing upon such an appeal, the court shall accept the bankruptcy court's findings of fact unless clearly erroneous. If the appellate court holds that the ruling of substantial abuse constitutes an error of law, it shall reverse.".

(b) Section 349 of title 11 is amended by amending subsection (a) to read as follows:

"(a) Unless the court, for cause, orders otherwise, the dismissal of a case under this title does not bar the discharge, in a later case under this title, of debts that were dischargeable in the case dismissed; nor does it prejudice the debtor in any respect with regard to the filing of a subsequent petition under this title.".

Sec. 504. Section 704 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The Trustee shall";

(2) by adding after paragraph (3) a new paragraph (4) to read as follows:

"(4) counsel with individual debtors as provided in subsection (b) of this section;"

(3) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(4) by adding at the end thereof the following:

"(b)(1) In the case of an individual debtor or debtors, immediately prior to the meeting of creditors under section 341 of this title, the trustee shall provide counseling to such debtor or debtors. Such counseling shall include—

"(A) a simple explanation to the debtor of the relief available to such debtor under chapters 7 and 13 of this title;

"(B) an analysis of the debtor's estimated income and expenses, and information concerning the possibility of repayment of debts under the provisions of chapter 13;

"(C) an analysis of the debtor's position if he elects relief under chapter 7, including a statement as to debts that would be discharged under such chapter; and

"(D) a statement to the debtor that the trustee is making no recommendation as to appropriate relief under this title, and that the debtor is free to make whatever final designation of chapter relief he may deem to be in his own best interests.

"(2) The trustee shall make no recommendation as to the final designation by the debtor of the chapter under which the debtor should seek relief, nor shall the trustee influence nor advise the debtor as to what final designation of relief the debtor should make. The trustee shall not suggest how the court will dispose of the debtor's petition.

"(3) Counsel for the debtor shall be present during the counseling by the trustee required by this section: *Provided*, That the debtor may waive the attendance of counsel. No creditor may be present during the counseling provided for in this section.

"(4) The trustee may waive counseling if, after review of the debtor's statement of estimated income and expenses, the trustee determines and reports to the court that a reasonable chapter 13 plan could not be devised. Counseling shall be waived with regard to any debtor that does not have regular income.".

Sec. 505. Section 341(c) of title 11, United States Code, is amended to read as follows:

"(c) The court shall convene, and may preside at any meeting under this section. The court shall also perform such judicial duties as may be required under other provisions of this title promptly in conjunction with the meeting.".

Sec. 506. Section 506(a) of title 11, United States Code, is amended by—

(1) inserting "(1)" after "(a)",

(2) striking out the last sentence, and

(3) adding at the end thereof the following new paragraph:

"(2) The value of the creditor's interest in the estate's interest in such property shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest. The value of consumer goods which the debtor seeks to redeem pursuant to section 722 of this title or which are to be retained pursuant to section 1325(a)(5)(B)(ii) of this title shall be presumed to be the established resale market price, if such market exists, as may be determined from recognized trade publications or by comparable means. If no such market exists, or if the court determines that resale value is inappropriate in light of the proposed use or disposition of the property, the court may utilize such other methods of valuation as may be appropriate under the circumstances.".

Sec. 507. Section 521 of title 11, United States Code, is amended by—

(1) redesignating paragraphs (2), (3), and (4) as paragraphs (5), (6), and (7), respectively;

(2) amending paragraph (7), as redesignated, to read as follows:

"(7) appear at the hearing required under section 341(c) of this title.".

(3) inserting after paragraph (1) the following new paragraphs:

"(2) file, at any time prior to the first meeting of creditors, a statement of the debtor's current income and an estimate of the debtor's current expenditures for the support of himself and his dependents.

"(3) in the case of an individual debtor or debtors, make a final designation of the chapter under which relief is requested no later than ten days after the counseling provided under section 704(b) of this title. If the debtor makes a final designation for relief under a chapter other than that specified in the conditional designation filed at the commencement of the case, such final designation shall be treated as a conversion under the provisions of section 348. No costs or trustee's fees shall be assessed against the debtor upon such a conversion that would not have been assessed if the debtor had filed initially under the chapter finally designated.

"(4) if the debtor's schedule of assets and liabilities includes consumer debts which are secured by property of the estate, the debtor shall file and serve, within thirty days after the filing of a petition under chapter 7 of this title but no later than five days before the first meeting of creditors, upon each creditor holding such security and the trustee, a statement expressing the debtor's intention with respect to retention or surrender of the collateral and, if applicable, specifying that the collateral is claimed as exempt, that the debtor intends to redeem the collateral, or that the debtor intends to reaffirm debts secured by the collateral;".

(4) inserting "(a)" before "The debtor"; and

(5) adding at the end thereof the following new subsection:

"(b) At or before the conclusion of the meeting of creditors provided for by section 341 of this title, or upon such other date as the court in a specific case and in the exercise of its equitable powers may fix, the debtor shall perform his intention with regard to secured creditors, as specified by paragraph (3) of subsection (a), by surrendering such property to the creditor or the trustee; redeeming such property by paying the redemption price, or confirming his intention to pay such price pursuant to section 722(b); or by reaffirming the debt. If the debtor has not fully performed his obligations under paragraph (3) of subsection (a) and this subsection at or before the meeting of creditors, the stay imposed by section 362(a) of this title shall terminate with respect to the enforcement of liens against such property, unless the court orders otherwise.".

Sec. 508. (a)(1) That part of section 522(b) of title 11, United States Code, before the numbered paragraphs (1) and (2), is amended to read as follows:

"(b) Notwithstanding section 541 of this title, an individual debtor may elect to exempt the property in either subparagraph (1), or in the alternative, subparagraph (2). In joint cases filed under section 302, and individual cases of married debtors whose estates are consolidated, both of the debtors must elect to exempt the property in either subparagraph (1), or in the alternative, subparagraph (2). If the parties cannot agree on the alternative to be elected, they shall be deemed to elect subparagraph (1), where such election is permitted under the law of the jurisdiction where the case is filed. Such property is—".

(2) Subsection 522(m) of title 11, United States Code, is amended to read as follows:

"(m) Subject to the limitation in subsection (b), this section shall apply separately with respect to each debtor in a joint case.".

(3) Subsection 522(d)(3) of title 11, United States Code, is amended by adding "or $4,000 in aggregate value" after "item".

(4) Subsection 522(d)(5) of title 11, United States Code, is amended to read as follows:

"(5) The debtor's aggregate interest, not to exceed in value $400 plus any unused amount of the exemption provided under paragraph (1) of this subsection, not to exceed $2,000, in any property.

(b) Section 522(f) of title 11, United States Code, is amended by—

(1) striking subparagraph (A) in paragraph (2) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(2) inserting after "debtor" the second time it appears in subparagraph (A) as redesignated herein, the following: "up to an aggregate value of $1,000".

Sec. 509. (a) Section 523(a) of title 11, United States Code, is amended in paragraph (3) by striking out "section 521(1)" and inserting in lieu thereof "section 521(a)(1)".

(b) Section 523 of title 11, United States Code, shall be further amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) For purposes of subsection (a)(2) of this section, any debt which was incurred on or within forty days before the date of the filing of a petition under this title is presumed to be nondischargeable under such subsection; however, such presumption shall not apply to the extent such debts were incurred for expenses which were reasonably necessary for the support of the debtor or the debtor's dependents, and shall be rebuttable by the debtor.".

"(e) If a creditor requests a determination of dischargeability of a consumer debt under subsection (a)(2) of this section, and such debt is discharged, the court shall grant judgment in favor of the debtor for the costs of, and a reasonable attorney's fee for, the proceeding if the court finds that the position of the creditor was not substantially justified, except that the court shall not award such costs and fees if special circumstances would make the award unjust.".

Sec. 510. (a) Section 524(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking out "and" at the end thereof,

(2) in paragraph (3) by striking out the period and inserting in lieu thereof "; and", and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) does not operate as an injunction against the enforcement of a lien that has not been avoided under the provisions of this title.".

(b) Section 524(c) of title 11, United States Code, is amended—

(1) in paragraph (1) by inserting "and" at the end thereof, and

(2) by striking out paragraphs (2), (3), and (4), and inserting in lieu thereof the following new paragraph:

"(2)(A) such agreement contains a clear and conspicuous statement which advises the debtor that the agreement may be rescinded at any time prior to discharge or within sixty days after it is filed with the court, whichever occurs later, by giving a written notice of rescission to the creditor. Any reaffirmation agreement so filed with the court shall be reviewed by the court and shall be effective from the date of filing in all cases where the debtor is represented by counsel, or the date on which the court approves such agreement in the case of a debtor appearing pro se; and such agreement shall be binding according to its terms from and after such date unless the court, in the exercise of its equitable powers, and after notice and hearing, orders otherwise within sixty days after the filing of the agreement. Any payments made by the debtor prior to the expiration of sixty days after the date of the filing of the agreement shall be held by the creditor in trust for the benefit of the debtor in the event of any subsequent rescission or disallowance of the agreement effected in accordance with this section, except where the debtor has had possession and use of the collateral during the pendency of the agreement.

"(B) Subparagraph (A) of this paragraph shall not apply to a case concerning an individual, to the extent that such debt is a consumer debt secured by real property.".

(c) Section 524(d) of title 11, United States Code, is amended to read as follows:

"(d) At the meeting of creditors provided for under section 341(c) of this title, the court shall inform the debtor of the nature and effect of a discharge, and of any reaffirmation of the debt, including that any reaffirmation agreement entered into in accordance with the provisions of subsection (c) is voluntary on the part of the debtor and the legal effect and consequences of a default under such agreement.".

Sec. 511. (a) Section 547(b) of title 11, United States Code, is amended—

(1) in paragraph (4) by amending subparagraph (B) to read as follows:

"(B) between ninety days and one year before the date of the filing of the petition, if such creditor at the time of such transfer was an insider;",

(2) in paragraph (4) by striking out "and" at the end thereof; and

(3) in paragraph (5) by striking out the period at the end of the paragraph and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(6) if such creditor at the time of such transfer had reasonable cause to believe the debtor was insolvent at the time of such transfer.".

(b) Section 547 of title 11 of the United States Code is amended in subsection (c) thereof by striking subparagraph (2)(B) of such subsection, and by redesignating subparagraphs (2)(C) and (2)(D) thereof as (2)(B) and (2)(C) respectively.

Sec. 512. Section 554(c) of title 11, United States Code, is amended by striking out "section 521(1)" and inserting in lieu thereof "section 521(a)(1)".

Sec. 513. Section 706 of title 11, United States Code, is amended by adding at the end thereof the following:

"(e) Notwithstanding subsection (a) of this section, the right to convert secured by this section shall exist in any case converted to this chapter pursuant to section 521(a)(3) of this title.".

Sec. 514. Section 722 of title 11, United States Code, is amended by—

(1) inserting "(a)" before "An", and

(2) adding at the end thereof the following new subsections:

"(b) Upon notice and hearing, the court may require a creditor to accept payments in redemption of the value of a claim secured by a nonpossessory, nonpurchase money security interest in property of a type specified in subsection (a) of this section, over a reasonable period not to exceed five years, if such tangible personal property consists of—

"(1) household furnishings, household goods, wearing apparel, appliances, books, animals, crops, musical instruments, or jewelry that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor; or

"(2) implements, professional books, or tools of the trade of the debtor or of the trade of a dependent of the debtor which have a value in excess of $1,000.

"(c) Upon notice and hearing, the court may avoid any lien, in whole or in part, of the type specified in subsection (b) if the court finds: (1) that the debtor has no reasonable ability to pay the redemption value of such property; and (2) the enforcement of such lien would impose undue hardship on the debtor.".

Sec. 515. (a) Section 1103(b) is amended—

(1) inserting "having an adverse interest" after "entity"; and

(2) adding at the end thereof the following: "Representation of one or more creditors of the same class as represented by the committee shall not per se constitute the representation of an adverse interest.".

Sec. 516. Section 1106(a)(2) of title 11, United States Code, is amended by striking out "section 521(1)" and inserting in lieu thereof "section 521(a)(1)".

Sec. 517. Section 1111(a) of title 11, United States Code, is amended by striking out "section 521(1)" and inserting in lieu thereof "section 521(a)(1)".

Sec. 518. Section 1301 of title 11, United States Code, is amended by inserting after subsection (c) the following new subsection:

"(d) A creditor who proposes to act pursuant to subsection (c) shall notify the debtor and codebtor of such intention. The debtor or codebtor shall then have ten days to file and serve a written objection to the taking of the proposed action. If the debtor or codebtor does not file and serve a timely written objection, then the creditor's action taken in accordance with the notice shall not violate this section.".

Sec. 519. Section 1307(b) of title 11, United States Code, is amended by adding after the first sentence the following: "This right to dismiss shall exist in a case converted pursuant to section 521(a)(3) of this title.".

Sec. 520. Section 1321 of title 11, United States Code, is amended by—

(1) inserting "(a)" before "The debtor", and

(2) adding at the end thereof the following new subsection:

"(b) Unless otherwise ordered by the court, the case will be automatically dismissed unless payments under the plan commence within thirty days after the filing of the plan. The payments shall be made to the trustee, and shall be retained by the trustee until a plan is confirmed or not confirmed. If any plan is confirmed, the trustee shall then distribute the funds in accordance with the plan. If no plan is confirmed, the funds shall be returned to the debtor after deducting the costs of administration.

Sec. 521. (a) Section 1322(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking out "and" at the end thereof,

(2) by redesignating paragraph (3) as paragraph (4), and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) provide for payment, in deferred cash payments, of claims of a type specified in section 523(a) of this title; and".

(b) Section 1322(b) of title 11, United States Code, is amended by amending paragraph (1) thereof to read as follows:

"(1) designate a class or classes of unsecured claims, as provided in section 1122 of this title, but may not discriminate unfairly against any class so designated; however, such plan may treat claims which are specified in section 523(a) or involve a codebtor differently than other unsecured claims;".

(c) Section 1322(c) is amended to read as follows:

"(c) The plan may not provide for payments over a period of more than five years.".

Sec. 522. Section 1325(a) of title 11, United States Code, is amended—

(a) in paragraph (3) by inserting ", and the plan represents a bona fide effort which is consistent with the debtor's ability to repay his debts, after providing support for himself and his dependents," before the semicolon,

(b) in paragraph (C) of paragraph (5) thereof by striking out "and",

(c) by redesignating paragraph (6) as paragraph (7), and

(d) by inserting after paragraph (5) the following new paragraph:

"(6) the plan extends for a period of five years or the plan provides for payment of a reasonable portion of all allowed unsecured claims; and".

Sec. 523. Section 1328(a)(2) of title 11, United States Code, is amended to read as follows:

"(2) of a kind specified in section 523(a) of this title.".

Subtitle B—Agricultural Produce Bailment Amendments

Sec. 531. This subtitle may be cited as the "Agricultural Produce Bailment Bankruptcy Amendments Act of 1983".

Sec. 532. Section 109 of title 11, United States Code, is amended in subsection (e), by inserting after "commodity broker," the following: "or a person engaged in the business of operating a farm produce storage facility (with respect to the debts of that business),".

Sec. 533. Section 501 of title 11, United States Code, is amended by inserting at the end thereof the following new subsection:

"(e) A valid receipt for the storage of grain (as defined in section 557 of this title), issued by a grain storage facility (as defined in section 557 of this title) as evidence of ownership of grain stored in such facility shall be considered sufficient proof of claim of a right to receive grain, or the proceeds of grain, equal in value to the quantity, quality, and type of grain specified in such receipt. If a claimant surrenders such receipt to another person for the purpose of securing a loan, without assigning to such person any ownership interest in such receipt, then an affidavit made by such person verifying the ownership of such receipt shall be considered prima facie proof of such claim.".

Sec. 534. Section 503(b)(1)(B) of title 11, United States Code, is amended by striking out "507(a)(6)" and inserting in lieu thereof "507(a)(7)".

Sec. 535. Section 507(a) of title 11, United States Code, is amended—

(1) by adding after paragraph (4) the following:

"(5) Fifth, allowed unsecured claims of farmers or other persons engaged in farming operations or the catching of fish arising from the sale or conversion of farm produce to or by a debtor engaged in the business of operating a farm produce storage facility where such sale or conversion occurred within one hundred and eighty days before the date of the filing of the petition or before the cessation of the debtor's business, whichever was earlier, but only to the extent of $2,000 for each such individual.";

(2) by striking out "(5) Fifth" and inserting in lieu thereof "(6) Sixth"; and

(3) by striking out "(6) Sixth" and inserting in lieu thereof "(7) Seventh".

Sec. 536. Section 546 of title 11, United States Code, is amended—

(a) In the first sentence of subsection (c) thereof, by striking out "The" and inserting in lieu thereof "Except as provided in subsection (e) of this section, the"; and

(b) By adding at the end thereof the following new subsection:

"(e) In the case of a seller who is a producer of grain sold to a grain storage facility, owned or operated by the debtor, in the ordinary course of such seller's business (as such terms are defined in section 557 of this title or in the case of a United States fisherman who has caught fish sold to a fish processing facility owned or operated by the debtor in the ordinary course of such sellers business (as such terms are defined in section 557 of this title), the rights and powers of the trustee under sections 544(a), 545, 547, and 549 of this title are subject to any statutory or common law right of such seller to reclaim such goods if the debtor has received such goods while insolvent, but—

"(1) such producer may not reclaim any grain or fish unless such producer demands, in writing, reclamation of such grain or fish before twenty days after receipt thereof by the debtor; and

"(2) the court may deny reclamation to such a producer with a right of reclamation that has made such a demand only if the court secures such claim by a lien.".

Sec. 537. (a) Chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new section:

"§ 557. Expedited determination of interests in, and abandonment or other disposition of grain assets

"(a) This section applies only in a case concerning a debtor that owns or operates a grain storage facility and only with respect to grain and the proceeds of grain. This section does not affect the application of any other section of this title to property other than grain and proceeds of grain.

"(b) For purposes of this section—

"(1) 'grain' means wheat, corn, grain sorghum, barley, oats, rye, soybeans, other dry edible beans, or rice;

"(2) 'grain storage facility' means a site or physical structure regularly used to store grain for producers, or to store grain acquired from producers for resale;

"(3) 'grain storage facility receipt' means any document of the type routinely issued by a debtor operating a grain storage facility for the purpose of establishing a record of ownership of a quantity of grain which is stored with such facility by an owner thereof upon a contract of bailment. Such term shall include a warehouse receipt or a scale ticket, provided identification of the owner of the produce represented thereby and the type, quantity, and quality of the produce represented thereby is clearly noted upon the face of such document; and

"(4) 'producer' means an entity which engages in the growing of grain.

"(c)(1) Notwithstanding sections 362, 363, 365, and 554 of this title, on the court's own motion the court may, and on the request of the trustee or an entity that claims an interest in grain or proceeds of grain the court shall, expedite the procedures for the determination of interests in and the abandonment or other disposition of grain and proceeds of grain, by shortening to the greatest extent feasible such time periods as are otherwise applicable for such procedures and by establishing, by order, a timetable for the completion of each applicable procedure specified in subsection (d) of this section. Such time periods and such timetable may be modified by the court for cause, but in no case may the final disposition of grain or the proceeds of grain under this section occur later than 120 days after the date the petition is filed, except in accordance with subsection (f) of this section.

"(2) The court shall shorten such periods, or establish such timetable, giving due consideration to the following factors—

"(A) any need of an entity claiming an interest in such grain or proceeds of grain for a prompt determination of such interest;

"(B) any need of such entity for a prompt disposition of such grain;

"(C) the market for such grain;

"(D) the conditions under which such grain is stored;

"(E) the costs of continued storage or disposition of such grain;

"(F) the orderly administration of the estate;

"(G) the appropriate opportunity for an entity to assert an interest in such grain; and

"(H) such other considerations as are relevant to the need to expedite such procedures in the case.

"(d) The procedures that may be expedited under subsection (c) of this section include—

"(1) the filing of and response to—

"(A) a claim of ownership;

"(B) a proof of claim;

"(C) a request for abandonment;

"(D) a request for relief from the stay of action against property under section 362(a) of this title;

"(E) a request for determination of secured status;

"(F) a request for determination of whether such grain or proceeds of grain—

"(i) is property of the estate;

"(ii) must be turned over to the estate; or

"(iii) may be used, sold, or leased; and

"(G) any other request for determination of an interest in such grain or proceeds of grain;

"(2) the disposition of such grain or proceeds of grain by way of—

"(A) sale of such grain;

"(B) abandonment;

"(C) distribution; or

"(D) such other method as is equitable in the case;

"(3) subject to sections 701, 702, 703, 1104, and 1302 of this title, the appointment of a trustee or examiner and the retention and compensation of any professional person required to assist with respect to matters relevant to the determination of interests in or disposition of such grain or proceeds of grain; and

"(4) the determination of any dispute concerning a matter specified in paragraph (1), (2), or (3) of this subsection.

"(e) Any claimant's production to the court of a valid grain storage facility receipt held by that claimant as evidence of ownership of a quantity of farm produce sold by the trustee shall be sufficient to establish a right to possession in such claimant of a share of the proceeds equal in value to the quantity, quality, and type of farm produce specified in such document. In any case where a claimant has placed the original of such document on deposit with any party as collateral for a loan, without assigning ownership interests in the farm produce over to such party, an affidavit from such party verifying ownership of such receipt by the claimant shall be sufficient to establish a prima facie claim of right to possession of proceeds in such claimant.

"(f)(1) Any governmental unit that has regulatory jurisdiction over the operation or liquidation of the debtor or the debtor's business shall be given notice of any request made or order entered under subsection (c) of this section.

"(2) Any such governmental unit may raise, and may appear and be heard on, any issue relating to grain or the proceeds of grain in a case in which a request is made, or an order is entered, under subsection (c) of this section.

"(3) The trustee shall consult with such governmental unit before taking any action relating to the disposition of grain in the possession, custody, or control of the debtor or the estate.

"(g) The court may extend the period for final disposition of grain, or the proceeds of grain, under this section beyond one hundred and twenty days where the court finds that—

"(1) the interests of justice so require in light of the complexity of the case; and

"(2) the interests of those claimants entitled to distribution of grain assets or the proceeds of grain assets will not be materially injured by such additional delay.

"(h) In all cases where the quantity of a specific type of grain held by a debtor operating a grain storage facility exceeds ten thousand bushels, such grain shall be sold by the trustee and the assets thereof distributed in accordance with the provisions of this section.

"(i)(1) Unless an order establishing an expedited procedure under subsection (c) of this section, or determining any interest in or approving any disposition of grain or proceeds of grain, is stayed pending appeal—

"(A) the reversal or modification of such order on appeal does not affect the validity of any procedure, determination, or disposition that occurs before such reversal or modification, whether or not any entity knew of the pendency of the appeal; and

"(B) neither the court nor the trustee may delay, due to the appeal of such order, any proceeding in the case in which such order is issued.

"(2) A stay of orders entered pursuant to this section may be entered by the bankruptcy court under the following circumstances:

"(A) the party filing the request for a stay, except the United States, shall post a bond or other security in an amount equal to the value of grain assets or the proceeds of grain assets, distribution of which are affected by the requested stay; and the grain assets, if unliquidated, shall be liquidated by the trustee; and

"(B) the parties ultimately prevailing upon appeal shall be awarded their pro rata share of the proceeds of the liquidation, plus a sum equal to the difference in value between the awarded share and the highest intermediate value (between the date of the entry of the order of stay and the date of final order of distribution) of the produce sold which was owned by, or secured to, such parties, plus interest on the amount of any original award at the prevailing rate allowed by law upon judgments, with interest to accrue from the date of the entry of the order of stay. Interest payments and differential payments provided for herein shall be satisfied out of the bond posted by the party requesting the order of stay where that party is unsuccessful upon appeal of the distribution order, and shall be satisfied out of accrued interest on the proceeds held by the trustee in all other cases.

"(j) In effecting the distribution of grain or grain assets under this title in a case involving a grain storage facility, the court shall not diminish the total portion of grain or grain assets available for distribution to claimants who are determined to be owners of grain stored in the facility pursuant to contracts of bailment for the benefit of secured creditors of the debtor, or for the benefit of producers who have sold grain to the debtor.

"(k) In any action brought pursuant to chapter 11 of this title, the provisions of this section shall govern the abandonment of farm produce held by the trustee or debtor in possession of a farm produce storage facility business for which reorganization is sought, where such farm produce is not property of the debtor's estate, but is held by the debtor upon a contract of bailment only. The abandonment of any quantity of such produce shall take place upon the request of the owner thereof, and shall be done regardless of its effect upon any existing or proposed plan of reorganization.

"(l)(1) The trustee may recover from grain and proceeds of grain the reasonable and necessary costs and expenses allowable under section 503(b) of this title attributable to preserving or disposing of grain or proceeds of grain, but may not recover from such grain or proceeds of grain any other costs or expenses.

"(2) Notwithstanding section 326(a) of this title, the dollar amounts of money specified in such section include the value, as of the date of disposition, of any grain that the trustee distributes in kind.".

(b) The table of sections of chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new item:

"557. Expedited determination of interests in, and abandonment or other disposition of grain assets.".

Sec. 538. Section 1123(a)(1) of title 11, United States Code, is amended by striking out "or 507(a)(6)" and inserting in lieu thereof "507(a)(5) or 507(a)(7)".

Sec. 539. Section 1129(a)(9)(B) of title 11, United States Code, is amended by striking out "or 507(a)(5)" and inserting in lieu thereof "507(a)(5), or 507(a)(6)".

Sec. 540. Section 1129(a)(9)(C) of title 11, United States Code, is amended by striking out "507(a)(6)" and inserting in lieu thereof "507(a)(7)".

Subtitle C—Leasehold Management Amendments

Sec. 551. This subtitle may be cited as the "Leasehold Management Bankruptcy Amendments Act of 1983".

Sec. 552. (a) Section 365 of title 11, United States Code, is amended by amending subsections (a), (b), (c), and (d) to read as follows:

"(a) Except as provided in sections 765 and 766 of this title and in subsections (b), (c), and (d) of this section, the trustee, subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor. The trustee shall timely perform all the obligations of the tenant arising from and after the date of the order for relief, under an unexpired nonresidential lease (including payment of the rent and other charges specified in such lease) until such nonresidential lease is assumed or rejected and notwithstanding the provisions of section 503 of this title. For cause shown, the court may extend the time for performance of any obligation of rent or other charges due upon an unexpired lease pursuant to the provisions of section 108(b) of this title. Acceptance of such performance shall not constitute a waiver or relinquishment of the lessor's rights under the lease or under this title.

"(b)(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee—

"(A) cures, or provides adequate assurance that the trustee will promptly cure, such default;

"(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

"(C) provides adequate assurance of future performance under such contract or lease.

"(2) Paragraph (1) of this subsection does not apply to a default that is a breach of a provision relating to—

"(A) the insolvency or financial condition of the debtor or the debtor's insider (excluding a credit guarantor of the debtor) at any time before the closing of the case;

"(B) the commencement of a case under this title; or

"(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement.

"(3) For the purposes of paragraph (1) of this subsection and paragraph (2)(B) of subsection (f), adequate assurance of future performance of a lease of real property in a shopping center includes adequate assurance—

"(A) of the source of rent and other consideration due under such lease, and in the case of an assignment, with an operating and financial performance, including guarantors, similar to that of the original tenant when the lease was executed;

"(B) that any percentage rent due under such lease will not decline substantially;

"(C) that assumption or assignment of such lease is subject to all the provisions thereof, including (but not limited to) provisions such as a radius, location, use, or exclusivity provision, and will not breach any such provision contained in any other lease, financing agreement, or master agreement relating to such shopping center; and

"(D) that assumption or assignment of such lease will not disrupt any tenant mix or balance in such shopping center.

"(4) Notwithstanding any other provision of this section, if there has been a default in an unexpired lease of the debtor, other than a default of a kind specified in paragraph (2) of this subsection, the trustee may not require a lessor to provide services or supplies incidental to such lease before assumption of such lease unless the lessor is compensated under the terms of such lease for any services and supplies provided under such lease before assumption of such lease.

"(c) The trustee may not assume or assign any executory contract or unexpired residential or nonresidential lease of the debtor, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties, if—

"(1)(A) applicable law excuses a party, other than the debtor, to such contract or lease from accepting performance from or rendering performance to an entity other than the debtor or the debtor in possession or an assignee of such contract or lease, by virtue of the terms of such contract or lease, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties; and

"(B) such party does not consent to such assumption or assignment; or

"(2) such contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or to issue a security of the debtor; or

"(3) such nonresidential lease has been terminated under State law prior to the order for relief.

"(d)(1) In a case under chapter 7 of this title, if the trustee does not assume or reject an executory contract or unexpired residential lease of the debtor within sixty days after the order for relief, or within such additional time as the court, for cause, within such sixty-day period, fixes, then such contract or lease is deemed rejected.

"(2) In a case under chapter 9, 11, or 13 of this title, the trustee may assume or reject an executory contract or unexpired residential lease of the debtor at any time before the confirmation of a plan but the court, on the request of any party to such contract, may order the trustee to determine within a specified period of time whether to assume or reject such contract or lease.

"(3) In a case under any chapter of this title, if the trustee does not assume or reject an unexpired nonresidential lease of the debtor within sixty days after the date of the order for relief, or within such additional time as the court, for cause, within such sixty-day period, fixes, then such lease is deemed rejected, and in the case of a nonresidential lease of real property where the debtor is the lessee, the court shall order the premises to be vacated immediately.".

(b) Section 365 is further amended by adding at the end thereof the following new subsection:

"(l) If an unexpired lease is assigned pursuant to this section, the lessor of the property may require a deposit or other security for the performance of the obligations under the lease substantially the same as would have been required by the landlord upon the initial leasing to a similar tenant.".

Sec. 553. Section 541(b) of title 11, United States Code, is amended to read as follows:

"(b) Property of the estate does not include—

"(1) any power that the debtor may exercise solely for the benefit of an entity other than the debtor; and

"(2) the debtor's interest in property by virtue of a nonresidential lease which has expired by virtue of its own terms without regard to the bankruptcy proceedings. Notwithstanding the provisions of section 362(a) of this title, a lessor shall, without further order of the court, be entitled to enforce such lessor's rights to possession of property under a nonresidential lease which has expired by virtue of its own terms.".

Subtitle D—Amendments to Title 11, Section 523 Relating to the Discharge of Debts Incurred by Persons Driving While Intoxicated

Sec. 561. Section 523(a) of title 11, United States Code, is amended by—

(1) striking out "or" at the end of paragraph (8); and

(2) by adding the following new paragraph after such paragraph:

"(9) to any entity, to the extent that such debt arises from a judgment or consent decree entered in a court of record against the debtor wherein liability was incurred by such debtor as a result of the debtor's operation of a motor vehicle while legally intoxicated under the laws or regulations of any jurisdiction within the United States or its territories wherein such motor vehicle was operated and within which such liability was incurred; or".

Subtitle E—Referees Salary and Expense Fund

Sec. 571. This subtitle may be cited as the "Referees Salary and Expense Fund Act of 1983".

Sec. 572. Section 403(e) of the Act of November 6, 1978 (92 Stat. 2683; Public Law 95-598), is amended to read as follows:

"(e) Notwithstanding subsection (a) of this section—

"(1) a fee may not be charged under section 40c(2)(a) of the Bankruptcy Act in a case pending under such Act after September 30, 1979, to the extent that such fee exceeds $200,000;

"(2) a fee may not be charged under section 40c(2)(b) of the Bankruptcy Act in a case in which the plan is confirmed after September 30, 1978, or in which the final determination as to the amount of such fee is made after September 30, 1979, notwithstanding an earlier confirmation date, to the extent that such fee exceeds $100,000;

"(3) after September 30, 1979, all moneys collected for payment into the referees' salary and expense fund in cases filed under the Bankruptcy Act shall be collected and paid into the general fund of the Treasury; and

"(4) any balance in the referees' salary and expense fund in the Treasury on October 1, 1979, shall be transferred to the general fund of the Treasury and the referees' salary and expense fund account shall be closed.".

Subtitle F—Amendments Regarding Repurchase Agreements

Sec. 581. Section 101 of title 11, United States Code, is amended—

(a) by redesignating paragraphs (35), (36), (37), (38), (39), (40), and (41), as paragraphs (37), (38), (39), (40), (41), (42), and (43), respectively, and

(b) by inserting after paragraph (34) the following new paragraphs:

"(35) 'repo participant' means any entity that, on any day during the period beginning 90 days before the date of the filing of the petition, has or has had one or more outstanding repurchase agreements with the debtor with an aggregate repurchase price of $100,000 or more;

"(36) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement) means any agreement, including related terms, which provides for the transfer of certificates of deposit, eligible bankers' acceptances, or securities against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, or securities with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, or securities as described above, at a date certain within two years after such transfers or on demand, against the transfer of funds;".

Sec. 582. Section 362(b) of title 11, United States Code, is amended—

(a) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively, and

(b) by inserting after paragraph (6) the following new paragraph:

"(7) under subsection (a) of this section, of the setoff by a repo participant, of any mutual debt and claim under or in connection with repurchase agreements that constitutes the setoff of a claim against the debtor for a margin payment, as defined in section 741(5) or 761(15) of this title, or settlement payment, as defined in section 741(8) of this title, arising out of repurchase agreements against cash, securities, or other property held by or due from such repo participant to margin, guarantee, secure or settle repurchase agreements;".

Sec. 583. Section 546 of title 11, United States Code, is amended by inserting after paragraph (e), as added by section 536, the following new paragraph:

"(f) Notwithstanding sections 544, 545, 547, 548(a)(2), and 548(b) of this title, the trustee may not avoid a transfer that is a margin payment, as defined in section 741(5) or 761(15) of this title, or settlement payment, as defined in section 741(8) of this title, made by or to a repo participant, in connection with a repurchase agreement and that is made before the commencement of the case, except under section 548(a)(1) of this title.".

Sec. 584. Section 548(d)(2) of title 11, United States Code, is amended by inserting after paragraph (B) the following new paragraph:

"(C) a repo participant that receives a margin payment, as defined in section 741(5) or 761(15) of this title, or settlement payment, as defined in section 741(8) of this title, in connection with a repurchase agreement, takes for value to the extent of such payment.".

Sec. 585. Section 553(b)(1) of title 11, United States Code, is amended by inserting ", 362(b)(7)," after "362(b)(6)".

Sec. 586. (a) Chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new section:

"§ 559. Contractual right to liquidate a repurchase agreement

"The exercise of a contractual right of a repo participant to cause the liquidation of a repurchase agreement because of a condition of the kind specified in section 365(e)(1) of this title shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by order of a court or administrative agency in any proceeding under this title, unless, where the debtor is a stockbroker or securities clearing agency, such order is authorized under the provisions of the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) or any statute administered by the Securities and Exchange Commission. In the event that a repo participant liquidates one or more repurchase agreements with a debtor and under the terms of one or more such agreements has agreed to deliver assets subject to repurchase agreements to the debtor, any excess of the market prices received on liquidation of such assets (or if any such assets are not disposed of on the date of liquidation of such repurchase agreements, at the prices available at the time of liquidation of such repurchase agreements from a generally recognized source or the most recent closing bid quotation from such a source) over the sum of the stated repurchase prices and all expenses in connection with the liquidation of such repurchase agreements shall be deemed property of the estate, subject to the available rights of setoff. As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw, applicable to each party to the repurchase agreement, of a national securities exchange, a national securities association, or a securities clearing agency, and a right, whether or not evidenced in writing, arising under common law, under law merchant or by reason of normal business practice.".

(b) The analysis of sections for chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new item:

"559. Contractual right to liquidate a repurchase agreement.".

Sec. 587. The amendments made by this subtitle shall become effective upon the date of enactment: *Provided*, That they shall apply only to cases commenced on or after the date of enactment.

Subtitle G—Amendments to Title 11, Section 365 of the United States Code to Provide Adequate Protection for Timeshare Consumers

Sec. 591. Title 11, United States Code, section 101 is hereby amended by—

(1) redesignating paragraph (43), as redesignated by section 581, as paragraph (44); and

(2) adding the following paragraph after paragraph (42), as redesignated in section 581:

"(43) 'timeshare plan' means and shall include that interest purchased in any arrangement, plan, scheme, or similar device, but not including exchange programs, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right to use agreement, or by any other means, whereby a purchaser, in exchange for consideration, receives a right to use accommodations, facilities, or recreational sites, whether improved or unimproved, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than three years. A 'timeshare interest' is that interest purchased in a timeshare plan which grants the purchaser the right to use and occupy accommodations, facilities, or recreational sites, whether improved or unimproved, pursuant to a timeshare plan.".

Sec. 592. Section 365(h)(1) of title 11, United States Code, is amended to read as follows:

"(h)(1) If the trustee rejects an unexpired lease of real property of the debtor under which the debtor is the lessor, or a timeshare interest under a timeshare plan under which the debtor is the timeshare interest seller, the lessee or timeshare interest purchaser under such lease or timeshare plan may treat such lease or timeshare plan as terminated by such rejection, where the disaffirmance by the trustee amounts to such a breach as would entitle the lessee or timeshare interest purchaser to treat such lease as terminated by virtue of its own terms, applicable nonbankruptcy law, or other agreements the lessee or timeshare interest purchaser has made with other parties; or, in the alternative, the lessee or timeshare interest purchaser may remain in possession of the leasehold or timeshare interest under any lease or timeshare plan the term of which has commenced for the balance of such term and for any renewal or extension of such term that is enforceable by such lessee or timeshare interest purchaser under applicable nonbankruptcy law.".

Sec. 593. Section 365(h)(2) of title 11, United States Code, is amended to read as follows:

"(2) If such lessee or timeshare interest purchaser remains in possession as provided in paragraph (1) of this subsection, such lessee or timeshare interest purchaser may offset against the rent reserved under such lease or moneys due for such timeshare interest for the balance of the term after the date of the rejection of such lease or timeshare interest, and any such renewal or extension thereof, any damages occurring after such date caused by the nonperformance of any obligation of the debtor under such lease or timeshare plan after such date, but such lessee or timeshare interest purchaser does not have any rights against the estate on account of any damages arising after such date from such rejection, other than such offset.".

Sec. 594. Section 365(i)(1) of title 11, United States Code, is amended to read as follows:

"(i)(1) If the trustee rejects an executory contract of the debtor for the sale of real property or for the sale of a timeshare interest under a timeshare plan, under which the purchaser is in possession, such purchaser may treat such contract as terminated, or, in the alternative, may remain in possession of such real property or timeshare interest.".

Subtitle H—Bankruptcy Oversight

Sec. 601. The Director of the Administrative Office of the United States Courts shall compile statistics in a manner to be prescribed by such Director, which shall show—

(1) the assets and liabilities of debtors in bankruptcy, including the estimated income and expenses of individuals filing for relief under the provisions of title 11, as such information may be available to the court from the petitions filed by such debtors;

(2) a summary of the amount of debt discharged in cases under each chapter of title 11, and the total amount of disbursements to creditors by the bankruptcy courts in such cases; and

(3) the average amount of time elapsed between the filing of the case and payments to creditors in cases under each chapter of title 11.

Such statistics shall be compiled for each judicial district on an annual basis.

Subtitle I—Technical Amendments to Title 11

Sec. 611. (a) Section 101(2)(D) of title 11 of the United States Code is amended by striking out "or all" after "business".

(b) Section 101(8)(B) of title 11 of the United States Code is amended by striking out the colon at the end thereof and inserting in lieu thereof a semicolon.

(c) Section 101(9)(B) of title 11 of the United States Code is amended by—

(1) inserting "348(d)," after "section"; and

(2) striking out "502(h) or 502(i)" and inserting in lieu thereof "or 502(h)".

(d) Section 101(14) of title 11 of the United States Code is amended by inserting "or" after "trust,".

(e) Section 101(24) of title 11 of the United States Code is amended by striking out "stock broker" and inserting in lieu thereof "stockbroker".

(f) Section 101(26)(B)(ii) of title 11 of the United States Code is amended by striking out "separate" each place it appears and inserting in lieu thereof "nonpartnership".

(g) Section 101(38)(B)(vi) of title 11 of the United States Code, as redesignated by section 581 of this Act, is amended by—

(1) striking out "certificate specified in clause (xii) of subparagraph (A)" and inserting in lieu thereof "certificate of a kind specified in subparagraph (A)(xii)"; and

(2) striking out "the subject of such a registration statement" and inserting in lieu thereof "required to be the subject of a registration statement".

(h) Section 101(44) of title 11 of the United States Code, as so redesignated, is amended by striking out the period and inserting in lieu thereof "; and".

(i) Section 101 of title 11 of the United States Code is amended by adding at the end thereof the following new paragraph to be numbered accordingly:

"( ) 'United States', when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States.".

(j) Section 101 of title 11 of the United States Code is amended by inserting the following new paragraphs to be listed where appropriate alphabetically and the entire list numbered correctly:

"( ) 'State' includes the District of Columbia and Puerto Rico, except for the purpose of defining who may be a debtor under chapter 9 of this title;

"( ) 'forward contract' means a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity, or product or by-product thereof, with a maturity date more than two days after the date the contract is entered into;

"( ) 'forward contract merchant' means a person whose business consists in whole or in part of entering into forward contracts as or with merchants in commodities; and

"( ) 'financial institution' means a person that is a commercial or savings bank, industrial savings bank, savings and loan association, or trust company and, when any such person is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741(7) of this title, such customer.".

Sec. 612. Section 102 of title 11 of the United States Code is amended by striking out "continued" and inserting in lieu thereof "contained" in paragraph (8).

Sec. 613. Section 103(c) of title 11 of the United States Code is amended by striking out "stockholder" and inserting in lieu thereof "stockbroker".

Sec. 614. Section 106 of title 11, United States Code, is amended to read as follows:

"§ 106. Waiver of sovereign immunity

"(a) The filing of a proof of claim against the estate by a governmental unit is a waiver by that governmental unit of sovereign immunity with respect to claims arising out of the same transaction or occurrence out of which such governmental unit's filed claim arose.

"(b) Where a governmental unit files a proof of claim and where such claim is allowed, the estate may offset against such allowed claim or interest any claim against such governmental unit that is property of the estate.

"(c) A provision of this title that contains "creditor," "entity," or "governmental unit" applies to governmental units, and a determination by the court of an issue arising under such a provision binds governmental units without regard to sovereign immunity.".

Sec. 615. (a) Subsections (a)(1), (b)(1), and (c)(1) of section 108 of title 11 of the United States Code are each amended by striking out "and" each place it appears and inserting in lieu thereof "or".

(b) Subsections (a), (b), and (c) of section 108 of title 11 of the United States Code are each amended by inserting "nonbankruptcy" after "applicable" and after "entered in a" each place such terms appear.

(c) Section 108(a) of title 11 of the United States Code is amended by inserting ", or any person to whose rights the trustee succeeds," after "debtor".

(d) Section 108 of title 11 of the United States Code is amended—

(1) in subsection (c) by inserting after "bankruptcy court" the following: "or for taking other collection action, including levy,".

(2) by adding after subsection (c) the following:

"(d) If applicable law or an agreement suspends the period of limitation for assessing a tax liability of the debtor as of the commencement of a case under this title, such suspension shall not expire before 90 days following the earlier of—

"(1) termination or expiration of the stay under section 362 of this title, or

"(2) the date, determined under sections 362(b)(9) and 505(c) of this title, after which assessment of such tax liability is permitted.

"(e) If applicable law fixes a period for filing a petition or otherwise commencing an action in the United States Tax Court, or in a similar judicial or administrative forum under State or local law, and if any such act is stayed under section 362 of this title, such period shall not expire before 60 days after termination or expiration of the stay with respect to any such petition or action.".

Sec. 616. (a) Section 109 of title 11 of the United States Code, is amended by striking out "in the United States," the first place it appears.

(b) Section 109(b)(2) is amended by—

(1) striking out "or" before "credit union"; and

(2) inserting ", industrial bank or similar institution which is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h))" after "credit union".

(c) Section 109(a)(4) is amended by striking out "or credit union" and inserting in lieu thereof "credit union, industrial bank, or similar institution which is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h))".

(d) Section 109(c)(5)(D) of title 11 of the United States Code of this Act is amended by striking out "preference" and inserting in lieu thereof "transfer that is avoidable under section 547 of this title".

(e) Section 109(d) of title 11 of the United States Code is amended by striking out "stockholder" and inserting in lieu thereof "stockbroker".

(f) Section 109 is amended by adding at the end thereof the following new subsection:

"(f) The court shall not permit any person to file for relief under this title who, within the previous six months, (1) has sought relief under this title in a proceeding which was dismissed by the court for willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case; or (2) has voluntarily dismissed a proceeding filed under this title following the filing of a request for relief from the automatic stay provided by section 362.".

Sec. 617. Section 303(b) of title 11 of the United States Code is amended by inserting "against a person" after "involuntary case".

Sec. 618. Section 303(j)(2) of title 11 of the United States Code is amended by striking out "debtors" and inserting in lieu thereof "debtor".

Sec. 619. Section 321(b) of title 11 of the United States Code is amended by striking out "a case" and inserting in lieu thereof "the case".

Sec. 620. Section 322(b)(1) of title 11 of the United States Code is amended by inserting "required to be" after "bond".

Sec. 621. (a) Section 326(a) of title 11 of the United States Code is amended by striking out all the language beginning with "three percent" through "$50,000" the second place the latter appears and inserting in lieu thereof "three percent on any amount in excess of $3,000,".

(b) Section 326(d) of title 11 of the United States Code is amended to read as follows:

"(d) The court may deny allowance of compensation for services or reimbursement of expenses of the trustee if the trustee failed to make diligent inquiry into facts that would permit denial of allowance under section 328(c) of this title or, with knowledge of such facts, employed a professional person under section 327 of this title.".

(c) Section 327(c) of title 11 of the United States Code is amended to read as follows:

"(c) In a case under chapter 7 or 11 of this title, a person is not disqualified for employment under this section solely because of such person's employment by or representation of a creditor, unless there is objection by another creditor, in which case the court shall disapprove such employment where there is an actual conflict of interest.".

Sec. 622. Section 328(a) of title 11 of the United States Code is amended by striking out "unanticipatable" and inserting in lieu thereof "not capable of being anticipated".

Sec. 623. (a) Section 329(a) of title 11 of the United States Code is amended by striking out "and" the first place it appears and inserting in lieu thereof "or".

(b) Section 329(b)(1) of title 11 of the United States Code is amended by striking out "trustee" and inserting in lieu thereof "estate".

Sec. 624. Section 330(a) of title 11 of the United States Code is amended—

(1) by striking out "to any parties in interest and to the United States trustee"; and

(2) in paragraph (1), by striking out "time, the nature, the extent, and the value of such services" and inserting in lieu thereof "nature, the extent, the value of such services, the time spent on such services".

Sec. 625. (a) Section 330(b) of title 11 of the United States Code is amended by striking out "$20" and inserting in lieu thereof "$45".

(b) Section 330 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(c) Unless the court orders otherwise, in a case under chapter 13 of this title the compensation paid to the trustee serving in the case shall not be less than $10 per month during the administration of the plan.".

Sec. 626. (a) Section 341(b) of title 11 of the United States Code is amended to read as follows:

"(b)(1) In a case under chapter 13 of this title, the court may order a meeting of creditors.

"(2) The court may order a meeting of any equity security holders.".

Sec. 627. Section 342 of title 11 of the United States Code is amended to read as follows:

"§ 342. Notice

"There shall be given such notice as is appropriate, including notice to any holder of a community claim, of an order for relief in a case under this title.".

Sec. 628. Section 343 of title 11 of the United States Code is amended by striking out "examiner" the last place it appears and inserting in lieu thereof "examine".

Sec. 629. Section 344 of title 11 of the United States Code is amended by inserting before the period "or in accordance with such regulations as may be promulgated by the Attorney General".

Sec. 630. Section 345 of title 11 of the United States Code is amended by adding at the end thereof a new subsection (c) as follows:

"(c) All entities with which such moneys are deposited or invested are authorized to deposit or invest such moneys as may be required under this section.".

Sec. 631. (a) Section 346(c)(2) of title 11 of the United States Code is amended by striking out "operation" and inserting in lieu thereof "corporation".

(b) Section 346(f) of title 11 of the United States Code is amended by striking out "State or local".

(c) Section 346(g)(2) of title 11 of the United States Code is amended by striking out "as adjusted under subsection (j)(5) of this section,".

(d) Section 346(j) of title 11 of the United States Code is amended by striking out paragraphs (3), (4), (5), (6), and (7).

Sec. 632. Section 348(b) of title 11 of the United States Code is amended by striking out "means" and inserting in lieu thereof "refers to".

Sec. 633. Section 349(b) of title 11 of the United States Code is amended—

(1) in paragraph (1)(B), by striking out "522(i)(2)" and inserting in lieu thereof "522(h)(2)"; and

(2) in paragraph (2), by striking out "522(i)(1)" and inserting in lieu thereof "522(h)(2)".

Sec. 634. Section 350(b) of title 11 of the United States Code is amended by striking out "a" and inserting in lieu thereof "A".

Sec. 635. Section 361(1) of title 11 of the United States Code is amended by inserting "a cash payment or" after "make".

Sec. 636. (a) Section 362(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "action or" after "other";

(2) in paragraph (3), by inserting "or to exercise control over property of the estate" after "estate" the second place it appears; and

(3) in paragraph (8) by striking out "court concerning the debtor" and inserting in lieu thereof "court or similar administrative or judicial forum under State or local law, concerning the debtor".

(b) Section 362(b) of title 11 of the United States Code is amended—

(1) in paragraph (3), by inserting "or to the extent that such act is accomplished within the period provided under section 547(e)(2) of this title" after "title";

(2) in paragraph (4) by striking out "or" following "police" and inserting in lieu thereof "and";

(3) in paragraph (6), by—

(A) inserting "(or due from)" after "held by";

(B) striking out "or secure commodity contracts" and inserting in lieu thereof "secure, or settle commodity contracts", and by inserting "financial institution" after "stock broker" each time it appears.

(4) in paragraph (7), by—

(A) striking out "said" and inserting in lieu thereof "the"; and

(B) striking out "or" the last place it appears;

(5) in paragraph (8), by striking out the period and inserting in lieu thereof a semicolon; and

(6) by adding after paragraph (8) the following new paragraphs:

"(9) under subsection (a) of this section, of the filing of any continuation statement or the refiling of any notice of a Federal tax lien required by nonbankruptcy law properly filed under such law before the date of the filing of the petition; or

"(10) under subsection (a) of this section, of the presentment of a negotiable instrument and the giving of notice of and protesting dishonor of such an instrument.".

(c) Section 362(c)(2)(B) of title 11 of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

(d) Section 362(d)(2) of title 11 of the United States Code is amended—

(1) by inserting "under subsection (a) of this section" after "property" the first place it appears; and

(2) in subparagraph (B), by inserting "in a case under chapter 11 of this title or to an effective plan in a case under chapter 13 of this title, as the case may be" after "reorganization".

(e) Section 362(e) of title 11 of the United States Code is amended—

(1) in the first sentence by inserting "the conclusion of" after "pending"; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "The court shall order such stay continued in effect pending the conclusion of the final hearing under subsection (d) of this section if there is a reasonable likelihood that the party opposing relief from such stay will prevail at the conclusion of such final hearing. If the hearing under this subsection is a preliminary hearing, then such final hearing shall be commenced not later than thirty days after the conclusion of such preliminary hearing.".

(f) Section 362(f) of title 11 of the United States Code is amended by—

(1) striking out "The" and inserting in lieu thereof "Upon request of a party in interest, the"; and

(2) inserting "with or" after "court,".

Sec. 637. (a) Section 363(a) of title 11 of the United States Code is amended by—

(1) inserting "whenever acquired" after "equivalents"; and

(2) inserting "and includes the proceeds, products, offspring, rents, or profits of property subject to a security interest as provided in section 552(b) of this title whether existing before or after the commencement of a case under this title" after "interest".

(b) Section 363(b) of title 11 of the United States Code is amended by—

(1) striking out "(b)" and inserting in lieu thereof "(b)(1)"; and

(2) adding at the end thereof the following new paragraph:

"(2) If notification is required under subsection (a) of section 7A of the Clayton Act (15 U.S.C. 18a) in the case of a transaction under this subsection, then—

"(A) notwithstanding subsection (a) of such section, such notification shall be given by the trustee; and

"(B) notwithstanding subsection (b) of such section, the required waiting period shall end on the tenth day after the date of the receipt of such notification, unless the court, after notice and hearing, orders otherwise.".

(c) Section 363(e) of title 11 of the United States Code is amended by—

(1) inserting ", with or without a hearing," after "court"; and

(2) striking out the last sentence.

(d) Section 363(f)(3) of title 11 of the United States Code is amended by striking out "such interest" the second place it appears and inserting in lieu thereof "all liens on such property".

(e) Section 363(h) of title 11 of the United States Code is amended by striking out "immediately before" and inserting in lieu thereof "at the time of".

(f) Section 363(j) of title 11 of the United States Code is amended by striking out "compenation" and inserting in lieu thereof "compensation".

(g) Section 363(k) of title 11 of the United States Code is amended by striking out "if the holder" and inserting in lieu thereof "the holder of such claim may bid at such sale, and, if such holder".

(h) Section 363(l) of title 11 of the United States Code is amended by—

(1) striking out "The trustee" and inserting in lieu thereof "Subject to the provisions of section 365, the trustee";

(2) striking out "conditions" and inserting in lieu thereof "condition";

(3) striking out "a taking" and inserting in lieu thereof "or the taking"; and

(4) striking out "interests" and inserting in lieu thereof "interest".

(i) Section 363(n) of title 11 of the United States Code is amended by—

(1) striking out "void" and inserting in lieu thereof "avoid";

(2) striking out "voiding" and inserting in lieu thereof "avoiding"; and

(3) amending the last sentence to read as follows: "In addition to any recovery under the preceding sentence, the court may grant judgment for punitive damages in favor of the estate and against any such party that entered into such an agreement in willful disregard of this subsection.".

(j) Section 363 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(o) In any hearing under this section—

"(1) the trustee has the burden of proof on the issue of adequate protection; and

"(2) the entity asserting an interest in property has the burden of proof on the issue of the validity, priority, or extent of such interest.".

Sec. 638. (a) Section 365(b)(2)(A) of title 11 of the United States Code is amended by inserting "or the debtor's insider" after "condition of the debtor".

(b) Section 365(e) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "or lease" each place it appears and inserting in lieu thereof ", lease, or applicable law"; and

(2) in paragraph (2), by striking out "the trustee" and inserting in lieu thereof "an entity other than the debtor or the debtor in possession".

(c) Section 365(f)(3) of title 11 of the United States Code is amended by inserting a comma after "applicable law".

(d) Section 365(h) of the United States Code is amended by adding at the end thereof the following new paragraph:

"(3) In the event that the lessee or timeshare interest holder shall elect to treat the lease under this subsection as terminated, any sublessee, leasehold mortgagee, or similarly situated entity may elect to succeed to the right of the lessee to remain in possession.".

(e) Section 365(i)(2)(A) of title 11 of the United States Code is amended by—

(1) striking out the comma after "may";

(2) inserting "under such contract" after "debtor"; and

(3) adding the following new paragraph:

"(3) in the event that the purchaser shall elect to treat such contract under this subsection as terminated, any holder of a security interest in such purchaser's interest may elect to succeed to the right of such purchaser to remain in possession as set forth in paragraph (1) of this subsection.".

(f) Section 365(j) of title 11 of the United States Code is amended by inserting "to or for the benefit of the debtor" before the period at the end thereof.

Sec. 639. Section 366(a) of title 11 of the United States Code is amended by inserting "of the commencement of a case under this title or" after "basis".

Sec. 640. Section 501(d) of title 11 of the United States Code is amended by inserting "502(e)(2)," before "502(f)".

Sec. 641. (a) Section 502(a) of title 11 of the United States Code is amended by inserting "general" before "partner".

(b) Section 502(b) of title 11 of the United States Code is amended—

(1) by inserting "(e)(2)," after "subsections";

(2) by inserting "in lawful currency of the United States" after "claim" the second place it appears;

(3) in paragraph (1), by striking out ", and unenforceable against" and inserting in lieu thereof "and";

(4) in paragraph (2), by inserting "other than unmatured interest due to an original issue discount of less than one-half of 1 percent of the stated redemption price at maturity multiplied by the number of full years from the date of original issue to maturity" after "interest";

(5) by striking out paragraph (3) and redesignating paragraphs (4), (5), (6), (7), (8), and (9) as paragraphs (3), (4), (5), (6), (7), and (8), respectively;

(6) in paragraph (3), as redesignated by paragraph (5), by inserting "the" after "exceeds";

(7) in paragraph (5), as redesignated by paragraph (5), by—

(A) striking out "the claim" and inserting in lieu thereof "such claim",

(B) striking out the comma after "petition", and

(C) inserting "or 523(a)(6)" after "523(a)(5)";

(8) by amending paragraph (6), as redesignated by paragraph (5), to read as follows:

"(6) if such claim is the claim of a lessor for damages resulting from the termination of a lease of real property, such claim exceeds—

"(A) the greater of—

"(i) the rent reserved for the rental year during which such termination occurs; or

"(ii) 15 percent of the rent reserved for the remaining term of such lease, not to exceed the rent reserved for the three years commencing with the rental year during which such termination occurs; plus

"(B) any unpaid rent due under such lease, without acceleration, on the earlier of—

"(i) the date of the filing of the petition; or

"(ii) the date on which such lessor repossessed, or the lessee surrendered, the leased property;"; and

(9) in paragraph (7), as redesignated by paragraph (5), by—

(A) inserting "the claim of an employee" before "for damages";

(B) striking out "and" in subparagraph (A)(i) and inserting in lieu thereof "or";

(C) striking out "the" the first place it appears in subparagraph (B) and inserting in lieu thereof "any"; and

(D) inserting a comma after "such contract" in subparagraph (B).

(c) Section 502(c) of title 11 of the United States Code is amended—

(1) in paragraph (1) by—

(A) inserting "the" before "fixing"; and

(B) striking out "closing" and inserting in lieu thereof "administration"; and

(2) in paragraph (2), by—

(A) inserting "right to payment arising from a" after "any"; and

(B) striking out "if such breach gives rise to a right to payment".

(d) Section 502(d) of title 11 of the United States Code is amended by—

(1) striking out "section 542, 543, 550, or 553 of";

(2) striking out "section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of"; and

(3) striking out "section 522(i), 542, 543, 550, or 553 of".

(e) Section 502(e)(1) of title 11, United States Code, is amended—

(1) by striking out "and (b)" and inserting in lieu thereof ", (b), and (c)"; and

(2) by striking out the commas before and after "or has secured";

(3) in subparagraph (B), by inserting "or disallowance" after "allowance"; and

(4) in subparagraph (C), by—

(A) striking out "requests subrogation" and inserting in lieu thereof "asserts a right of subrogation to the rights of such creditor"; and

(B) striking out "to the rights of such creditor".

(f) Section 502(h) of title 11 of the United States Code is amended by striking out "522(i)" and inserting in lieu thereof "522".

(g) Section 502(i) of title 11 of the United States Code is amended to read as follows:

"(i) There shall be allowed a claim for any tax liability arising from payment from the estate of a claim for wages, salaries, or commissions, including vacation, severance, or sick pay, whether or not a proof of such claim is filed.".

(h) Section 502(j) of title 11 of the United States Code is amended to read as follows:

"(j) A claim that has been allowed or disallowed may be reconsidered for cause. A reconsidered claim may be allowed or disallowed according to the equities of the case. Reconsideration of a claim under this subsection does not affect the validity of any payment or transfer from the estate made to a holder of an allowed claim on account of such allowed claim that is not reconsidered, but if a reconsidered claim is allowed and is of the same class as such holder's claim, such holder may not receive any additional payment or transfer from the estate on account of such holder's allowed claim until the holder of such reconsidered and allowed claim receives payment on account of such claim proportionate in value to that already received by such other holder. This subsection does not alter or modify the trustee's right to recover from a creditor any excess payment or transfer made to such creditor.".

Sec. 642. Section 503(b) of title 11 of the United States Code is amended—

(1) by striking out the comma after "be allowed";

(2) in paragraph (1)(B)(i), by inserting "or required to be collected or withheld from another with respect to any payment made by or to the estate" after "estate";

(3) in paragraph (1)(C), by—

(A) striking out the comma after "credit"; and

(B) inserting "incurred by the estate" after "paragraph";

(4) in paragraph (2), by inserting "(a)" after "330";

(5) in paragraph (3), by inserting a comma after "paragraph (4) of this subsection";

(6) in paragraph (3)(C), by striking out the comma after "case";

(7) in paragraph (5), by striking out "and" after the semicolon;

(8) in paragraph (6), by striking out the period and inserting in lieu thereof "; and"; and

(9) by adding at the end thereof the following new paragraph:

"(7) the actual, necessary expenses, other than compensation and reimbursement specified in paragraph (2) of this subsection, incurred by a committee appointed under section 1102 of this title.".

Sec. 643. Section 505(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by—

(A) inserting "or liability of an entity for" after "or legality of"; and

(B) striking out ", whether or not paid, and whether or not contested before and adjudicated by a judicial or administrative tribunal of competent jurisdiction" and inserting in lieu thereof "or paid";

(2) in paragraph (2)(A), by—

(A) inserting "or liability of the debtor for" after "or legality of"; and

(B) striking out "or legality" the second place it appears and inserting in lieu thereof ", legality, or liability";

(3) in paragraph (2)(B)(i), by striking out "and" and inserting in lieu thereof "or"; and

(4) by adding at the end thereof a new paragraph (3) to read as follows:

"(3) Notwithstanding subparagraph (B) of this paragraph, the court may offset against a claim for, or request for payment of, a tax liability any counterclaim with respect to such tax liability for the same taxable period, event, act (or failure to act) to which the claim or request for payment relates, and may, where appropriate, order a net credit or refund to be made to the estate. The preceding sentence shall not apply if, at the commencement of the case under this title, the debtor had filed suit for refund relating to such taxable period, event, act (or failure to act), and if the stay on continuation of such suit is terminated under section 362 of this title.".

Sec. 644. (a) Section 506(a)(1) of title 11 of the United States Code, as redesignated by section 505, is amended to read as follows:

"(a)(1) An allowed claim of a creditor either secured by a lien on property in which the estate has an interest or that is subject to setoff under section 553 of this title is a secured claim to the extent of the value of such lien or to the extent of the amount subject to setoff, as the case may be, and, except to the extent that such creditor does not have recourse under any agreement or applicable nonbankruptcy law against the debtor on account of such claim, is an unsecured claim to the extent that the value of such lien or the amount so subject to setoff is less than the amount of such allowed claim.".

(b) Section 506(b) of title 11 of the United States Code is amended by inserting "for" after "provided".

(c) Paragraphs (1) and (2) of section 506(d) of title 11 of the United States Code are amended to read as follows:

"(1) such claim was disallowed only under section 502(b)(5) or 502(e) of this title; or

"(2) such claim is not an allowed secured claim due only to the failure of any entity to file a proof of such claim under section 501 of this title.".

Sec. 645. (a) Section 507(a) of title 11 of the United States Code is amended—

(1) in paragraph (3), by inserting a comma after "severance";

(2) in paragraph (4), by striking out "employee benefit plans" and inserting in lieu thereof "an employee benefit plan";

(3) in paragraph (4)(B)(i), by inserting "each" after "covered by";

(4) in paragraph (7), as redesignated in section 535, by inserting "only" after "units,";

(5) in paragraph (7)(A), as redesignated herein, by amending clauses (ii) and (iii) to read as follows:

"(ii) assessed within 240 days before the date of the filing of the petition; or

"(iii) not assessed before commencement of the case, unless at such time the liability remained assessable under the applicable statute of limitations, solely because of an act or failure to act described in section 523(a)(1)(B) or 523(a)(1)(C) of this title.".

(b) Section 507(b) of title 11 of the United States Code is amended to read as follows:

"(b) Notwithstanding section 726(b) of this title, if the trustee provides, under section 362, 363, or 364 of this title, adequate protection of the interest of an entity other than the estate that has an interest in property of the estate, or if the court finds that there is adequate protection of such interest, and if, notwithstanding such protection, the holder of an interest suffers a decrease in the value of such interest such holder shall have a claim allowable under subsection (a)(1) of this section, and such holder's allowable claim shall have priority over every other claim allowable under such subsection except similar claims under this subsection.".

(c) Section 507(c) of title 11 of the United States Code is amended by striking out "shall be treated the same" and inserting in lieu thereof "has the same priority".

(d) Section 507(d) of title 11 of the United States Code is amended to read as follows:

"(d)(1) If a claim of a kind specified in paragraph (3), (4), (5), (6), or (7) of subsection (a) of this section is held by an entity other than the original holder of such claim, then such claim is entitled to priority under each such subsection, as the case may be, but only to the extent of the value actually transferred to or for the benefit of such original holder on account of the transfer of such claim by such original holder.

"(2) An entity which is a creditor because—

"(A) a consumer used a credit card as defined in section 103(k) of the Trust in Lending Act (15 U.S.C. 1602(k)), for a transaction within subsection (a)(5) involving property or services which were not delivered prior to the petition;

"(B) the debtor was advanced funds prior to the petition based on its presentation of charge slips, vouchers, or similar documents arising from said transaction; and

"(C) the person advancing the funds is unable to collect the funds from the consumer because such property or services were not delivered or provided, shall be subrogated to the consumer's claim under subsection (a)(5).".

Sec. 646. (a) Section 509(a) of title 11 of the United States Code is amended by—

(1) striking out "subsections (b) and" and inserting in lieu thereof "subsection (b) or"; and

(2) inserting "against the debtor" after "a creditor".

(b) Section 509(b)(1) of title 11 of the United States Code is amended by striking out "of a" and inserting in lieu thereof "of such".

(c) Section 509(c) of title 11 of the United States Code is amended by striking out "section 509 of this title" and inserting in lieu thereof "this section".

Sec. 647. Section 510(b) of title 11 of the United States Code is amended to read as follows:

"(b) For the purpose of distribution under this title, a claim arising from rescission of a purchase or sale of a security of the debtor or of an affiliate of the debtor or for damages arising from the purchase or sale of such a security shall be subordinated to all claims or interests that are senior to the claim or interest represented by such security.".

Sec. 648. (a) Section 521(a)(1) of title 11 of the United States Code, as redesignated herein, is amended to read as follows:

"(a)(1) file a list of creditors and, unless the court orders otherwise, a schedule of assets, liabilities, and equity interests, and a statement of the debtor's financial affairs;".

(b) Section 521(a)(5) of title 11 of the United States Code, as redesignated in section 507, is amended by inserting ", whether or not immunity is granted under section 344 of this title" after "estate" the second place it appears.

Sec. 649. (a) Section 522(a)(2) of title 11 of the United States Code is amended by inserting ", or with respect to property that becomes property of the estate after such date, as of the date such property becomes property of the estate" after "petition".

(b) Section 522(c) of title 11 of the United States Code is amended to read as follows:

"(c) Unless the case is dismissed, property exempted under this section is not liable during or after the case for any debt of the debtor that arose, or that is determined under section 502 of this title as if such debt had arisen, before the commencement of the case, except—

"(1) a debt of a kind specified in section 523(a)(1), 523(a)(5), or 523(a)(6) of this title; or

"(2) a debt secured by a lien that is—

"(A)(i) not avoided under subsection (f) or (g) of this section or under section 544, 545, 547, 548, 549, or 724(a) of this title; and

"(ii) not void under section 506(d) of this title; or

"(B) a tax lien, notice of which is properly filed, whether or not such lien is avoided under section 545(2) of this title.".

(c) Section 522(e) of title 11 of the United States Code is amended by—

(1) striking out "exemptions" and inserting in lieu thereof "an exemption";

(2) striking out "with respect to such claim against property that" and inserting in lieu thereof "to the extent of such claim with respect to property";

(3) striking out "or (h) of this section to avoid a transfer, under subsection (g)" and by inserting in lieu thereof ", (g), (h),"; and

(4) striking out "to exempt property, or under subsection (i) of this section to recover property or to preserve a transfer,".

(d) Section 522(g) of title 11 of the United States Code is amended to read as follows:

"(g) Notwithstanding any waiver of an exemption, the debtor may avoid a transfer or recover a setoff of property of the debtor and exempt such property under subsection (i) of this section, whether or not the trustee attempts to recover such property or avoid such transfer, if—

"(1)(A) such transfer is avoidable by the trustee under section 544, 545, 547, 548, 549, or 724(a) of this title, or recoverable by the trustee under section 553 of this title;

"(B) such transfer was not a voluntary transfer of such property by the debtor; and

"(C) the debtor did not conceal such property; or

"(2) such transfer is in satisfaction of a lien of a kind specified in subsection (f)(2) of this section.".

(e) Section 522(h) of title 11 of the United States Code is amended to read as follows:

"(h)(1) The debtor's power to avoid a transfer or recover a setoff under subsection (f) or (g) of this section is subject to the limitations of section 550 of this title to which the trustee's power to avoid such a transfer or recover such a setoff under this title is subject.

"(2) Notwithstanding section 551 of this title, a transfer avoided or property recovered by the trustee or by the debtor may be preserved for the benefit of the debtor, if—

"(A)(i) such property otherwise would be exempt under subsection (i) of this section;

"(ii) such transfer was not a voluntary transfer of such property by the debtor; and

"(iii) the debtor did not conceal such property; or

"(B) such transfer is of a kind specified in subsection (f) of this section.".

(f) Section 522(i) of title 11 of the United States Code is amended to read as follows:

"(i) The debtor may exempt under subsection (b) of this section property disencumbered or recovered under subsection (f), (g), or (h) of this section to the extent the debtor could have exempted such property under subsection (b) of this section had such property not been encumbered, transferred, or set off.".

(g) Section 522(j) of title 11 of the United States Code is amended to read as follows:

"(j) The debtor may exempt a particular kind of property under subsection (i) of this section only to the extent that such exemption, plus the debtor's already claimed exemption of the same kind of property under subsection (b) of this section, does not exceed the limitation specified for such kind of property in subsection (b) of this section.".

(h) Section 522(k) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "(g)" and inserting in lieu thereof "(i)"; and

(2) in paragraph (2), by—

(A) striking out "(h)" and inserting in lieu thereof "(g)"; and

(B) striking out "or of recovery of property under subsection (i)(1) of this section,".

(i) Section 522(l) of title 11 of the United States Code is amended by—

(1) striking out ", or may claim property as exempt from property of the estate"; and

(2) inserting after the second sentence thereof the following new sentence: "In the event of the debtor's death, a dependent of the debtor may claim property as exempt from property of the estate.".

(j) Section 522 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(n) For purposes of this section the State or local law applicable under subsection (b) of this section is the State or local law in effect upon the date of the filing of the petition.".

Sec. 650. (a) Section 523(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by—

(A) striking out "obtaining" each place it appears; and

(B) striking out "refinance of credit," and inserting in lieu thereof "refinancing of credit, to the extent obtained"; and

(2) in paragraph (3), by striking out "(6)" each place it appears and inserting in lieu thereof "(7)" and by striking out "521(1)" and inserting in lieu thereof "521(a)(1)"; and

(3) by striking out "of higher education" in paragraph (8).

(b) Section 523(c) of title 11 of the United States Code is amended by inserting "of a kind" after "debt" the first time it appears.

Sec. 651. Section 524(a) of title 11 of the United States Code is amended by striking out "any act" each place it appears and inserting in lieu thereof "an act".

Sec. 652. Section 525 of title 11 of the United States Code is amended by—

(1) inserting "the" before "Perishable";

(2) inserting "(a)" before "Except"; and

(3) adding a new subsection (b) as follows:

"(b) No private employer may terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under this title or a bankrupt or a debtor under the Bankruptcy Act, or any person with whom such bankrupt or debtor has been associated, solely because such bankrupt or debtor is or has been a debtor under this title or under the Bankruptcy Act, or has been insolvent before the commencement of a case under this title or during the case but before the grant or denial of a discharge; or, who has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.".

Sec. 653. (a) Section 541(a) of title 11 of the United States Code is amended—

(1) by striking out "under" the second time it appears;

(2) by inserting "and by whomever held" after "located";

(3) in paragraph (3), by inserting "329(b), 363(n)," after "section";

(4) in paragraph (5), by striking out "An" and inserting in lieu thereof "Any"; and

(5) in paragraph (6), by striking out "and" and inserting in lieu thereof "or".

(b) Section 541(c) of title 11 of the United States Code is amended—

(1) by inserting "in an agreement, transfer instrument, or applicable law" after "provision"; and

(2) in paragraph (1)(B), by—

(A) striking out "the taking" and inserting in lieu thereof "taking"; and

(B) inserting "before such commencement" after "custodian".

(c) Section 541(d) of title 11 of the United States Code is amended by inserting "(1)" after "(a)".

(d) Section 541(e) of title 11 of the United States Code is repealed.

Sec. 654. Section 542(e) of title 11 of the United States Code is amended by inserting "to turn over or" before "disclose".

Sec. 655. (a) Section 543(a) of title 11 of the United States Code is amended by inserting ", product, offspring, rents, or profits" after "proceeds".

(b) Section 543(b) of title 11 of the United States Code is amended—

(1) in paragraph (1), by—

(A) inserting "held by or" after "debtor"; and

(B) inserting ", product, offspring, rents, or profits" after "proceeds"; and

(2) in paragraph (2), by inserting ", product, offspring, rents, or profits" after "proceeds".

(c) Section 543(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "or proceeds, product, offspring, rents, or profits of such property" after "property"; and

(2) in paragraph (3), by inserting "that has been" before "approved".

(d) Section 543(d) of title 11 of the United States Code is amended to read as follows:

"(d) After notice and hearing, the bankruptcy court—

"(1) may excuse compliance with subsection (a), (b), or (c) of this section, if the interests of creditors, and, if the debtor is not insolvent of equity security holders, would be better served by permitting a custodian to continue in possession, custody, or control of such property, and

"(2) shall excuse compliance with subsections (a) and (b)(1) of this section if the custodian is an assignee for the benefit of the debtor's creditors that was appointed or took possession more than 120 days before the date of the filing of the petition, unless compliance with such subsections is necessary to prevent fraud or injustice.".

Sec. 656. Section 544(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "such" after "obtained";

(2) in paragraph (2), by striking out "; and" and inserting in lieu thereof "; or"; and

(3) in paragraph (3), by—

(A) inserting ", other than fixtures," after "property"; and

(B) inserting "and has perfected such transfer" after "purchaser" the second place it appears.

Sec. 657. Section 545 of title 11 of the United States Code is amended—

(1) in paragraph (1)(A), by striking out "is" the first time it appears;

(2) in paragraph (1)(C), by striking out "apponted" and inserting in lieu thereof "appointed or authorized to take"; and

(3) in paragraph (2), by striking out "on the date of the filing of the petition" each place it appears and inserting in lieu thereof "at the time of the commencement of the case".

Sec. 658. (a) Section 546(a) of title 11 of the United States Code is amended in paragraph (1) by striking out "and" and inserting in lieu thereof "or".

(b) Section 546(b) of title 11 of the United States Code is amended by striking out "the trustee under section 544, 545, or" and inserting in lieu thereof "a trustee under sections 544, 545, and".

(c) Section 546(c) of title 11 of the United States Code is amended—

(1) by striking out "the trustee" and inserting in lieu thereof "a trustee";

(2) by striking out "right" the first place it appears;

(3) by inserting "of goods" after "seller" the first place it appears;

(4) by striking out "of goods" after "business," and inserting in lieu thereof "that has sold goods"; and

(5) in paragraph (2), by—

(A) inserting "the" after "if"; and

(B) striking out "an administrative expense" and inserting in lieu thereof "a claim of a kind specified in section 503(b) of this title".

(d) Section 546(d) of title 11 is amended by inserting "financial institution" after "stockbroker".

Sec. 659. (a) Section 547(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by inserting "including proceeds of such property," after "law,"; and

(2) in paragraph (4), by—

(A) striking out ", without penalty"; and

(B) inserting "without penalty" after "payable".

(b) Section 547(b) of title 11 of the United States Code is amended by striking out "of property of the debtor" and inserting in lieu thereof "of an interest of the debtor in property".

(c) Section 547(c) of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by inserting "by the debtor" after "incurred";

(2) in paragraph (3), by striking out "of" the first place it appears and inserting in lieu thereof "that creates";

(3) in paragraph (3)(B), by—

(A) inserting "on or" after "perfected"; and

(B) striking out "such security interest attaches" and inserting in lieu thereof "the debtor receives possession of such property";

(4) in paragraph (5), by—

(A) striking out "of" the first place it appears and inserting in lieu thereof "that creates"; and

(B) striking out "all security interest" and inserting in lieu thereof "all security interests";

(5) in paragraph (5)(A)(ii), by striking out "and" and inserting in lieu thereof "or";

(6) in paragraph (5)(B) by striking out "or";

(7) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; or"; and

(8) by adding at the end thereof the following new paragraph:

"(7) to or for the benefit of a creditor to the extent such transfer was made to such creditor by a credit guarantor in payment of a debt evidenced by a note or bond issued by the debtor prior to the commencement of the case and in accordance with the terms of the debtor's credit guaranty agreement with the credit guarantor, and payment of which was supported from time of its issuance until such transfer by an irrevocable letter of credit, irrevocable commitment to lend funds, irrevocable note purchase agreement, or a bond of indemnity issued by a credit guarantor in the ordinary course of its business.".

(d) Section 547(d) of title 11 of the United States Code is amended by—

(1) striking out "A" and inserting in lieu thereof "The";

(2) inserting "an interest in" after "transfer of";

(3) inserting "to or for the benefit of a surety" after "transferred"; and

(4) inserting "such" after "reimbursement of".

(e) Section 547(e) of title 11 of the United States Code is amended—

(1) by amending paragraph (1) to read as follows:

"(1) For the purposes of this section, a transfer of property is perfected when either a bona fide purchaser from the debtor of real property, other than fixtures, or a creditor on a simple contract, against whom applicable law permits such transfer to be perfected, cannot acquire an interest in such real property or a judicial lien on personal property that is superior to the interest of the transferee."; and

(2) in paragraph (2)(C)(i), by striking out "and" and inserting in lieu thereof "or".

(f) Section 547 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(g) For the purposes of this section, the trustee has the burden of proving the avoidability of a transfer under subsection (b) of this section, and the creditor or party in interest against whom recovery or avoidance is sought has the burden of proving the nonavoidability of a transfer under subsection (c) of this section.".

Sec. 660. (a) Section 548(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "occurred" and inserting in lieu thereof "was made"; and

(2) in paragraph (2)(B)(ii), by inserting "or a transaction" after "engaged in business".

(b) Section 548(b) of title 11 of the United States Code is amended by striking out "the debtor" each place it appears and inserting in lieu thereof "such debtor".

(c) Section 548(c) of title 11 of the United States Code is amended by—

(1) inserting "or may retain" after "lien on"; and

(2) striking out ", may retain any lien transferred,".

(d)(1) Section 548(d)(1) of title 11 of the United States Code is amended by—

(A) striking out "becomes so far" and inserting in lieu thereof "is so";

(B) striking out "such transfer could have been" and inserting in lieu thereof "applicable law permits such transfer to be"; and

(C) striking out "oocurs" and inserting in lieu thereof "is made".

(2) Section 548(d)(2)(B) of title 11 is amended by inserting "financial institution" after "stockbroker".

Sec. 661. (a) Section 549(a) of title 11 of the United States Code is amended—

(1) by striking out "(b) and (c)" and inserting in lieu thereof "(b) or (c)"; and

(2) in paragraph (2)(A), by inserting "only" after "authorized".

(b) Section 549(b) of title 11 of the United States Code is amended by—

(1) inserting "the trustee may not avoid under subsection (a) of this section," after "involuntary case,";

(2) striking out "that occurs" and inserting in lieu thereof "made";

(3) striking out "is valid against the trustee to the extent of" and inserting in lieu thereof "to the extent"; and

(4) inserting "is" before "given".

(c) Section 549(c) of title 11 of the United States Code is amended to read as follows:

"(c) The trustee may not avoid under subsection (a) of this section a transfer of real property to a good faith purchaser without knowledge of the commencement of the case and for present fair equivalent value unless a copy or notice of the petition was filed, where a conveyance of such real property may be recorded to perfect such transfer, before such transfer is so perfected that a bona fide purchaser of such property, against whom applicable law permits such transfer to be perfected, could not acquire an interest that is superior to the interest of such good faith purchaser. A good faith purchaser without knowledge of the commencement of the case and for less than present fair equivalent value has a lien on the property transferred to the extent of any present value given, unless a copy or notice of the petition was so filed before such transfer was so perfected.".

(d) Section 549(d)(1) of title 11 of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

Sec. 662. (a) Section 550(a) of title 11 of the United States Code is amended—

(1) by inserting "363(n)," before "544";

(2) by inserting "553(b)," after "549,"; and

(3) in paragraph (2), by striking out "immediate or mediate transferee of" and inserting in lieu thereof "subsequent transferee of".

(b) Section 550(b)(2) of title 11 of the United States Code is amended by striking out "immediate or mediate" and inserting in lieu thereof "subsequent".

(c) Section 550(d) of title 11 of the United States Code is amended—

(1) in paragraph (1)(A), by inserting "or accruing to" after "by";

(2) in paragraph (1)(B), by striking out "value" and inserting in lieu thereof "the value of such property";

(3) in paragraph (2), by striking out subparagraphs (D) and (E) and inserting in lieu thereof the following:

"(D) payment of any debt secured by a lien on such property that is superior or equal to the rights of the estate; and"; and

(4) in paragraph (2), by redesignating subparagraph (F) as subparagraph (E).

(d) Section 550(e)(1) of title 11 of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

Sec. 663. Section 551 of title 11 of the United States Code is amended by striking out "but only with respect to property of the estate".

Sec. 664. Section 552(b) of title 11 of the United States Code is amended by—

(1) inserting "522," after "506(c),";

(2) striking out "a secured party enter" and inserting in lieu thereof "an entity entered"; and

(3) striking out "except to the extent" and inserting in lieu thereof "except to any extent".

Sec. 665. Section 553(b)(1) of title 11 of the United States Code is amended by striking out "or 365(h)(1)" and inserting in lieu thereof ", 365(h)(2), or 365(i)(2)".

Sec. 666. (a) Subsections (a) and (b) of section 554 of title 11 of the United States Code are each amended by inserting "and benefit" after "value".

(b) Section 554(c) of title 11 of the United States Code is amended to read as follows:

"(c) Unless the court orders otherwise, any property scheduled under section 521(a)(1) of this title not otherwise administered at the time of the closing of a case is abandoned to the debtor and administered for purposes of section 350 of this title.".

(c) Section 554(d) of title 11 of the United States Code is amended by striking out "section (a) or (b) of".

Sec. 667. Section 555 of title 11 is amended by inserting "financial institution" after "stockbroker".

Sec. 668. (a) Chapter 5 of title 11 of the United States Code is amended by adding at the end thereof the following new section:

"§ 558. Defenses of the estate

"The estate shall have the benefit of any defense available to the debtor as against any entity other than the estate, including statutes of limitation, statutes of frauds, usury, and other personal defenses. A waiver of any such defense by the debtor after the commencement of the case does not bind the estate.".

(b) The table of sections for chapter 5 of title 11 of the United States Code is amended by adding at the end thereof the following new item:

"558. Defenses of the estate.".

Sec. 669. The table of sections for chapter 7 of title 11 of the United States Code is amended by striking out "Succesor" in the item relating to section 703 and inserting in lieu thereof "Successor".

Sec. 670. (a) Section 702(b) of title 11 of the United States Code is amended by inserting "held" after "meeting of creditors".

(b) Section 702(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "of a kind" after "claims"; and

(2) in paragraph (2), by inserting "a" after "for".

(c) Section 702(d) of title 11 of the United States Code is amended by striking out "subsection (c) of".

Sec. 671. Section 703(b) of title 11 of the United States Code is amended by striking out "specified in section 701(a) of this title. Sections 701(b) and 701(c) of this title apply to such interim trustee" and inserting in lieu thereof "and subject to the provisions of section 701 of this title".

Sec. 672. Section 704(a) of title 11 of the United States Code as amended by section 504 is amended—

(1) in paragraph (1), by striking out "up";

(2) in paragraph (7), by striking out "with the court and"; and

(3) by amending paragraph (8) to read as follows:

"(8) file interim reports, as circumstances justify, of the condition of the estate and make and file a final report and account of the administration of the estate with the court.".

Sec. 673. Paragraphs (1) and (2) of section 707 of title 11 of the United States Code are each amended by striking out "and" and inserting in lieu thereof "or".

Sec. 674. (a) Section 723(a) of title 11 of the United States Code is amended by striking out "title" and inserting in lieu thereof "chapter".

(b) Section 723(c) of title 11 of the United States Code is amended by—

(1) striking out "such case" each place it appears and inserting in lieu thereof "such partner's case";

(2) striking out "be property" and inserting in lieu thereof "by property";

(3) striking out "726(a)" and inserting in lieu thereof "726"; and

(4) striking out "the kind" and inserting in lieu thereof "a kind".

Sec. 675. (a) Section 724(b) of title 11 of the United States Code is amended—

(1) by striking out "and" the first place it appears and by striking out "taxes" and inserting in lieu thereof "a tax";

(2) in paragraph (1), by striking out "such tax lien" and inserting in lieu thereof "the lien securing such tax claim";

(3) in paragraph (2), by striking out "claims" and inserting in lieu thereof "any holder of a claim of a kind";

(4) in paragraph (3), by—

(A) inserting "tax" after "allowed"; and

(B) striking out "that is";

(5) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) fifth, to any holder of a claim of a kind specified in sections 507(a)(1), 507(a)(2), 507(a)(3), 507(a)(4), and 507(a)(5) of this title, to the extent that such claim is not paid under paragraph (2) of this subsection;";

(6) in paragraph (6), as redesignated by paragraph (5), by—

(A) striking out "fifth" and inserting in lieu thereof "sixth";

(B) inserting "tax" after "allowed"; and

(C) striking out "tax" after "such" the third place it appears; and

(7) in paragraph (7), as redesignated by paragraph (5), by striking out "sixth" and inserting in lieu thereof "seventh".

(b) Section 724(c) of title 11 of the United States Code is amended by—

(1) striking out "creditor" and inserting in lieu thereof "holder of a claim"; and

(2) striking out "creditors" each place it appears and inserting in lieu thereof "holders".

(c) Section 724(d) of title 11 of the United States Code is amended by—

(1) striking out "whose priority" and inserting in lieu thereof "the priority of which"; and

(2) inserting "if such lien were" after "the same as".

Sec. 676. Section 725 of title 11 of the United States Code is amended by inserting "of property of the estate" after "distribution".

Sec. 677. (a) Section 726(a) of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by—

(A) inserting ", 501(b), or 501(c)" after "501(a)"; and

(B) adding "or" after the semicolon;

(2) by striking out paragraph (2)(B) and redesignating paragraph (2)(C) as paragraph (2)(B);

(3) in paragraph (2)(B), as redesignated by paragraph (2), by inserting ", 501(b), or 501(c)" after "501(a)";

(4) in paragraph (3), by—

(A) inserting ", 501(b), or 501(c)" after "501(a)"; and

(B) striking out "(C)" and inserting in lieu thereof "(B)"; and

(5) in paragraph (5), by striking out "legal rate" and inserting in lieu thereof "contract rate where a contract exists, and if not, the legal rate".

(b) Section 726(b) of title 11 of the United States Code is amended by—

(1) striking out "a particular paragraph" and inserting in lieu thereof "each such particular paragraph"; and

(2) striking out "administrative expenses" each place it appears and inserting in lieu thereof "a claim allowed under section 503(b) of this title"; and

(3) striking out "have" and inserting in lieu thereof "has".

(c) Section 726(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "Administrative expenses" and inserting in lieu thereof "Claims allowed under section 503 of this title"; and

(2) in paragraph (2), by striking out "Claims other than for administrative expenses" and inserting in lieu thereof "Allowed claims, other than claims allowed under section 503 of this title,".

Sec. 678. (a) Section 727(a) of title 11 of the United States Code is amended—

(1) in paragraph (6)(C), by striking out "property" and inserting in lieu thereof "properly";

(2) in paragraph (7), by inserting ", under this title or under the Bankruptcy Act," after "another case"; and

(3) in paragraph (8), by inserting a comma after "371".

(b) Section 727(c)(1) of title 11 of the United States Code is amended by inserting "the granting of a" after "to".

(c) Section 727(e)(2)(A) of title 11 of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

Sec. 679. (a) Section 728(c) of title 11 of the United States Code is amended by striking out the comma after "taxable income".

(b) Section 728(d)(2) of title 11 of the United States Code is amended by inserting "otherwise" after "is", and by striking out "otherwise" after "partner".

Sec. 680. Section 741 of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by—

(A) striking out "the debtor" the first time it appears and inserting in lieu thereof "a person";

(B) striking out "holds" and inserting in lieu thereof "has";

(C) striking out "the debtor" the second and third time it appears and inserting in lieu thereof "such person"; and

(D) striking out "business as a stockbroker" and inserting in lieu thereof "such person's business as a stockbroker,";

(2) in paragraph (2)(B), by—

(A) striking out "holds" and inserting in lieu thereof "has";

(B) striking out "the debtor" the first place it appears and inserting in lieu thereof "a person"; and

(C) by striking out "the debtor" and inserting in lieu thereof "such person" in clause (ii);

(3) in paragraph (4)(A)(i), by striking out "and that is" and inserting in lieu thereof "from and that is the lawful";

(4) in paragraph (6)(A)(i), by—

(A) inserting a comma after "petition"; and

(B) inserting "any" after "except"; and

(5) in paragraph (7), by amending such paragraph to read as follows:

"(7) 'securities contract' means contract for the purchase, sale, or loan of a security, including an option for the purchase or sale of a security, certificate of deposit, or group or index of securitites (including any interest therein or based on the value thereof), or any option entered into on a national securities exchange relating to foreign currencies, or the guarantee of any settlement of cash or securities by or to a securities clearing agency;"; and

(6) in paragraph (8) by inserting "a final settlement payment," after "settlement payment on account,".

Sec. 681. Section 745(a) of title 11 of the United States Code is amended by inserting "the debtor for" after "by".

Sec. 682. (a) Section 752(a) of title 11 of the United States Code is amended by—

(1) striking out "customers allowed" and in lieu thereof "customers' allowed";

(2) inserting "of the kind" after "except claims"; and

(3) inserting "such" before "customer property".

(b) Section 752(b)(2) of title 11 of the United States Code is amended by striking out "726(a)" and inserting in lieu thereof "726".

Sec. 683. Section 761 of title 11 of the United States Code is amended—

(1) in paragraph (10), by—

(A) striking out "and that is" in subparagraph (A)(viii) and inserting in lieu thereof "from and that is the lawful"; and

(B) striking out "based on such property" in subparagraph (B) and inserting in lieu thereof "for which such property would be liable"; and

(2) in paragraph (17), by—

(A) striking out "the aggregate of all of a customer's accounts" and inserting in lieu thereof "all accounts of a customer";

(B) striking out subparagraph (B); and

(C) redesignating subparagraph (C) as subparagraph (B).

Sec. 684. Section 763(a) of title 11 of the United States Code is amended by—

(1) inserting "the debtor for" after "by"; and

(2) striking out "deemed to be" and inserting in lieu thereof "treated as".

Sec. 685. Section 764(a) of title 11 of the United States Code is amended by inserting "by the debtor" after "any transfer".

Sec. 686. Section 765(a) of title 11 of the United States Code is amended by striking out "notice under", and inserting in lieu thereof "notice required by".

Sec. 687. (a) Section 766(a) of title 11 of the United States Code is amended by striking out "of" the first place it appears and inserting in lieu thereof "held by the debtor for".

(b) Section 766(b) of title 11 of the United States Code is amended by amending the first sentence thereof to read as follows: "If an open commodity contract is being actively traded as of the date of the filing of the petition, the trustee shall, as required by sections 765 and 766(c) of this title, transfer such commodity contract, if feasible, or close out such commodity contract on or before the last day of trading in such contract or on the first day on which notice of intent to deliver on such commodity contract may be tendered, whichever first occurs.".

(c) Section 766(j)(2) of title 11 of the United States Code is amended by striking out "726(a)" and inserting in lieu thereof "726".

Sec. 688. Section 901(a) of title 11 of the United States Code is amended by—

(1) inserting "341, 342," after "301,";

(2) striking out "547" and inserting in lieu thereof "547(a), 547(b), 547(c), 547(d), 547(e)(1), 547(e)(2), 547(f), 547(g)"; and

(3) inserting a comma after "1111(b)".

Sec. 689. Section 902(2) of title 11 of the United States Code is amended by striking out "title, legal or equitable, to real property against which has been levied a special assessment or special tax" and by inserting in lieu thereof "legal or equitable title to real property against which a special assessment or special tax has been levied".

Sec. 690. Section 903(2) of title 11 of the United States Code is amended by striking out "to" the first place it appears.

Sec. 691. Chapter 9 of title 11 of the United States Code is amended by striking out "SUBCHAPER II" and inserting in lieu thereof "SUBCHAPTER II".

Sec. 692. (a) Section 921(c) of title 11 of the United States Code is amended by—

(1) striking out "an" and inserting in lieu thereof "any"; and

(2) striking out the comma after "petition" the second place it appears.

(b) Section 921 of title 11 of the United States Code is amended by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(c) Section 921(a) is amended by striking out "109(c)" and inserting in lieu thereof "109(d)".

(d) Section 921(d) of title 11 of the United States Code, as so redesignated, is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (c)".

Sec. 693. (a) Section 922(a)(1) of title 11 of the United States Code is amended by—

(1) inserting "a" before "judicial"; and

(2) inserting "action or" before "proceeding".

(b) Section 922(b) of title 11 of the United States Code is amended by striking out "and (g)" and inserting in lieu thereof "(g), and (h)".

Sec. 694. (a) Section 927(a)(4) of title 11 of the United States Code is amended by—

(1) striking out "if" and inserting in lieu thereof "failure of"; and

(2) striking out "is not" and inserting in lieu thereof "to be".

(b) Section 927(b) of title 11 of the United States Code is amended by inserting "of a plan under this chapter" after "confirmation".

Sec. 695. Section 943(b) of title 11 of the United States Code is amended—

(1) in paragraph (4), by striking out "to be taken"; and

(2) by amending paragraph (5) to read as follows:

"(5) except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that on the effective date of the plan each holder of a claim of a kind specified in section 507(a)(1) of this title will receive on account of such claim cash equal to the allowed amount of such claim; and".

Sec. 696. Section 945(a) of title 11 of the United States Code is amended by striking out "execution" and inserting in lieu thereof "implementation".

Sec. 697. Section 1102(b)(1) of title 11 of the United States Code is amended by striking out "order for relief" and inserting in lieu thereof "commencement of the case".

Sec. 698. Section 1103(c) of title 11 of the United States Code is amended—

(1) in paragraph (3), by—

(A) striking out "recommendations" and inserting in lieu thereof "determinations"; and

(B) inserting "or rejections" after "acceptances"; and

(2) in paragraph (4), by striking out ", if a trustee or examiner, as the case may be, has not previously been appointed under this chapter in the case".

Sec. 699. Section 1105 of title 11 of the United States Code is amended by striking out "estate, and" and inserting in lieu thereof "estate and of the".

Sec. 700. Section 1106(b) of title 11 of the United States Code is amended by inserting ", except to the extent that the court orders otherwise," before "any other".

Sec. 701. Section 1107(a) of title 11 of the United States Code is amended by inserting "serving in a case" after "on a trustee".

Sec. 702. Section 1108 of title 11 of the United States Code is amended by inserting ", on request of a party in interest and after notice and a hearing," after "court".

Sec. 703. Section 1111(b) of title 11 of the United States Code is amended to read as follows:

"(b)(1) Except where property of the estate that secures a claim is sold subject to section 363(k) of this title, abandoned under sections 554 or 557 of this title, or surrendered to the holders of such claims, or is to be sold, abandoned, or surrendered under the plan—

"(A) a claim secured by such property shall be allowed or disallowed under section 502 of this title the same as if the holder of such claim had recourse against the debtor on account of such claim, whether or not such holder had such recourse, unless the class of which such claim is a part elects, by at least two-thirds in amount and more than one-half in number of allowed claims of such class, to be governed by subparagraph (B) of this paragraph; and

"(B) unless the aggregate value of the interests in such property of the holders of such claims is inconsequential, the class may elect, as provided under subparagraph (A) of this paragraph, that such claims of such class, whether or not the holders of such claims had recourse against the debtor and notwithstanding section 506(a) of this title, are secured claims to the full extent that such claims are allowed.

"(2) The provisions of paragraph (1) of this subsection are limited to the purposes of this chapter and such paragraph shall not in any other way alter, affect, or create any right or liability of or in any other entity who may be liable with the debtor on a debt to which the provisions of such paragraph apply.".

Sec. 704. (a) Section 1112(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by striking out "is an involuntary case originally commenced under this chapter" and inserting in lieu thereof "originally was commenced as an involuntary case under this chapter"; and

(2) in paragraph (3), by striking out "on other than" and inserting in lieu thereof "other than on".

(b) Section 1112(b) of title 11 of the United States Code is amended—

(1) in paragraph (5), by inserting "a request made for" before "additional"; and

(2) in paragraph (8), by striking out "and" and inserting in lieu thereof "or".

Sec. 705. (a) Section 1121(c)(3) of title 11 of the United States Code is amended by striking out "the claims or interests of which are" and inserting in lieu thereof "of claims or interests that is".

(b) Section 1121(d) of title 11 of the United States Code is amended by inserting "made within the respective periods specified in subsection (c) of this section" after "interest".

Sec. 706. (a) Section 1123(a) of title 11 of the United States Code is amended—

(1) by striking out "A" and inserting in lieu thereof "Notwithstanding any otherwise applicable nonbankruptcy law, a";

(2) in paragraph (1), by inserting commas after "classes of claims" and after "507(a)(7) of this title";

(3) in paragraph (3), by striking out "shall";

(4) in paragraph (5), by striking out "execution" and inserting in lieu thereof "implementation"; and

(5) in paragraph (5)(G), by inserting "of" after "waiving".

(b) Section 1123(b)(2) of title 11 of the United States Code is amended by—

(1) striking out "or rejection" and inserting in lieu thereof ", rejection, or assignment"; and

(2) striking out "under section 365 of this title" and inserting in lieu thereof "under such section".

Sec. 707. Section 1124 of title 11 of the United States Code is amended—

(1) by amending paragraph (2)(A) to read as follows:

"(A) cures any such default that occurred before or after the commencement of the case under this title, other than a default of a kind specified in section 365(b)(2) of this title;"; and

(2) in paragraph (3)(B)(i), by striking out "and" and inserting in lieu thereof "or".

Sec. 708. (a) Section 1125(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting ", but need not include such information about any other possible or proposed plan" after "plan";

(2) in paragraph (2)(B), by inserting "the" after "with"; and

(3) in paragraph (2)(C), by inserting "of" after "holders".

(b) Section 1125(d) of title 11 of the United States Code is amended by—

(1) inserting "required under subsection (b) of this section" after "statement" the first place it appears; and

(2) inserting ", or otherwise seek review of," after "appeal from".

(c) Section 1125(e) of title 11 of the United States Code is amended by—

(1) inserting "acceptance or rejection of a plan" after "solicits"; and

(2) inserting "solicitation of acceptance or rejection of a plan or" after "governing".

Sec. 709. (a) Section 1126(b)(2) of title 11 of the United States Code is amended by striking out "1125(a)(1)" and inserting in lieu thereof "1125(a)".

(b) Section 1126(d) of title 11 of the United States Code is amended by inserting a comma after "such interests" the first place it appears.

(c) Section 1126(f) of title 11 of the United States Code is amended by—

(1) striking out "is deemed" and inserting in lieu thereof ", and each holder of a claim or interest of such class, are deemed";

(2) striking out "solicititation" and inserting in lieu thereof "solicitation"; and

(3) striking out "interest" and inserting in lieu thereof "interests".

(d) Section 1126(g) of title 11 of the United States Code is amended by striking out "any payment or compensation" and inserting in lieu thereof "receive or retain any property".

Sec. 710. (a) Section 1127(a) of title 11 of the United States Code is amended by—

(1) inserting "of a plan" after "After the proponent"; and

(2) inserting "of such plan" after "modification".

(b) Section 1127(b) of title 11 of the United States Code is amended by striking out "the court, after notice and a hearing, confirms such plan, as modified, under section 1129 of this title, and circumstances warrant such modification" and inserting in lieu thereof "circumstances warrant such modification and the court, after notice and a hearing, confirms such plan as modified, under section 1129 of this title".

Sec. 711. (a) Section 1129(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "chapter." and inserting in lieu thereof "title.";

(2) in paragraph (2), by striking out "chapter." and inserting in lieu thereof "title.";

(3) by amending paragraph (4) to read as follows:

"(4) Any payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable;";

(4) in paragraph (5)(A)(ii), by striking out the period and inserting in lieu thereof "; and";

(5) in paragraph (5)(B), by striking out "The" and inserting in lieu thereof "the";

(6) in paragraph (6), by inserting "governmental" after "Any";

(7) in paragraph (7), by—

(A) inserting "of claims or interests" after "each class"; and

(B) striking out "creditor's" in subparagraph (B) and inserting in lieu thereof "holder's";

(8) in paragraph (8), by inserting "of claims or interests" after "each class";

(9) in paragraph (9)(C), by inserting "507(a)(1) that results from the sale of a capital asset, recapture of an investment tax credit, recapture of depreciation, or similar event or" after "section"; and

(10) by amending paragraph (10) to read as follows:

"(10) If a class of claims is impaired under the plan, at least one class of claims that is impaired under the plan has accepted the plan, determined without including any acceptance of the plan by any insider.".

(b) Section 1129(b) of title 11 of the United States Code is amended—

(1) by striking out "Notwithstanding section 510(a) of this title, if" and inserting in lieu thereof "If";

(2) in paragraph (2)(A), by striking out "lien" each place it appears and inserting in lieu thereof "liens";

(3) in paragraph (2)(B)(ii), by inserting "under the plan" after "retain"; and

(4) in paragraph (2)(C)(i), by—

(A) striking out "claim" and inserting in lieu thereof "interest"; and

(B) striking out "and the value" and inserting in lieu thereof "or the value".

(c) Section 1129(d) of title 11 of the United States Code is amended by—

(1) striking out "a party in interest that is";

(2) inserting "the application of" after "avoidance of" the second place it appears; and

(3) adding at the end thereof the following new sentence: "In any hearing under this subsection, the governmental unit has the burden of proof on the issue of avoidance.".

Sec. 712. (a) Section 1141(a) of title 11 of the United States Code is amended by—

(1) striking out "Except" and inserting in lieu thereof "Notwithstanding section 510(a) of this title and except"; and

(2) striking out "any creditor or equity security holder of, or general partner in," and inserting in lieu thereof "any creditor, equity security holder, or general partner in".

(b) Section 1141(c) of title 11 of the United States Code is amended to read as follows:

"(c) Except as provided in subsections (d)(2) and (d)(3) of this section and except as otherwise provided in the plan or in the order confirming the plan, after confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors, equity security holders, and of general partners in the debtor.".

Sec. 713. (a) The heading for section 1142 of title 11 of the United States Code is amended to read as follows:

"§1142. Implementation of plan".

(b) The item relating to section 1142 in the table of sections for chapter 11 of title 11 of the United States Code is amended by striking out "Execution" and inserting in lieu thereof "Implementation".

(c) Section 1142(a) of title 11 of the United States Code is amended by striking out the comma after "plan" the second place it appears.

(d) Section 1142(b) of title 11 of the United States Code is amended by inserting "a" after "by".

Sec. 714. Section 1144 of title 11 of the United States Code is amended by inserting "if and only" after "revoke such order".

Sec. 715. (a) Section 1145(a) of title 11 of the United States Code is amended—

(1) by striking out "Except with respect to an entity that is an underwriter as defined in subsection (b) of this section, section" and inserting in lieu thereof "Section";

(2) in paragraph (3), by striking out "or an affiliate";

(3) in paragraph (3)(B)(i), by inserting "or 15(d)" after "13" and by inserting "or 78o(d)" after "78m";

(4) by amending paragraph (3)(B)(ii) to read as follows:

"(ii) in compliance with the disclosure and reporting provision of such applicable section; and";

(5) in paragraph (3)(C), by striking out "two" each place it appears and inserting in lieu thereof "one";

(6) in paragraph (3)(C)(ii), by striking out "180" each place it appears and inserting in lieu thereof "90"; and

(7) in paragraph (4), by striking out "stockholder" each place it appears and inserting in lieu thereof "stockbroker".

(b) Section 1145(b) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "and except with respect to ordinary trading transactions of an entity that is not an issuer" after "subsection";

(2) in paragraph (1)(C), by striking out "for" and inserting in lieu thereof "from";

(3) in paragraph (2)(A)(i), by striking out "combination" and inserting in lieu thereof "or combining"; and

(4) in paragraph (2)(A)(ii), by striking out "among" and inserting in lieu thereof "from or to".

(c) Section 1145(d) of title 11 of the United States Code is amended by striking out "commercial".

Sec. 716. (a) Section 1146(c) of title 11 of the United States Code is amended by striking out "State or local".

(b) Section 1146(d)(1) of title 11 of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

Sec. 717. Section 1163 of title 11 of the United States Code is amended by striking out "qualified" and inserting in lieu thereof "eligible, qualified,".

Sec. 718. Section 1166 of title 11 of the United States Code is amended by striking out "the Interstate Commerce Act (49 U.S.C. 1 et seq.)" and inserting in lieu thereof "subtitle IV of title 49".

Sec. 719. Section 1168(b) of title 11 of the United States Code is amended by inserting a comma after "approval".

Sec. 720. Section 1169(c) of title 11 of the United States Code is amended by striking out "the Interstate Commerce Act (49 U.S.C. 1 et seq.)" and inserting in lieu thereof "subtitle IV of title 49".

Sec. 721. (a) Section 1170(a) of title 11 of the United States Code is amended by inserting "of all or a portion" after "the abandonment".

(b) Section 1170(c) of title 11 of the United States Code is amended by inserting a comma after "abandonment".

(c) Section 1170(d)(2) of title 11 of the United States Code is amended by—

(1) striking out "the abandonment of a railroad line" and inserting in lieu thereof "such abandonment"; and

(2) striking out "termination" each place it appears and inserting in lieu thereof "suspension".

Sec. 722. Section 1171(b) of title 11 of the United States Code is amended by striking out "such" and inserting in lieu thereof "the same".

Sec. 723. Section 1173(a)(4) of title 11 of the United States Code is amended by striking out "compatible" and inserting in lieu thereof "consistent".

Sec. 724. (a) Section 1301(b) of title 11 of the United States Code is amended by inserting "and may protest" after "of" the first place it appears.

(b) Section 1301(c)(3) of title 11 of the United States Code is amended by inserting "continuation of" after "by".

(c) Section 1301 of title 11 of the United States Code is amended by adding the following new subsection:

"(e) The confirmation of a plan shall automatically grant relief from the stay as to any particular claim to the extent that the plan does not propose to pay any amount of that allowed claim.".

Sec. 725. (a) Section 1302(b) of title 11 of the United States Code is amended—

(1) in paragraph (2)(C), by striking out "and";

(2) by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) dispose of, under regulations issued by the Director of the Administrative Office of the United States Courts, moneys received or to be received in a case under chapter XIII of the Bankruptcy Act; and".

(b) Section 1302(e) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "fix" and inserting in lieu thereof "set for such individual";

(2) in paragraph (1)(A), by striking out "for such individual"; and

(3) in paragraph (2)(A), by—

(A) striking out "of" and inserting in lieu thereof "received by"; and

(B) striking out "upon all payments" and inserting in lieu thereof "of all such payments made".

Sec. 726. Section 1304(b) of title 11 of the United States Code is amended by striking out the comma after "of the debtor".

Sec. 727. (a) Section 1307(b) of title 11 of the United States Code is amended by inserting a comma after "time".

(b) Section 1307(c) of title 11 of the United States Code is amended—

(1) in paragraph (4), by inserting "a request made for" before "additional";

(2) in paragraph (6), by striking out "and" after the semicolon and inserting in lieu thereof "or"; and

(3) in paragraph (7), by inserting "other than completion of payments under the plan" after "in the plan".

Sec. 728. (a) Section 1322(a)(2) of title 11 of the United States Code is amended by inserting a comma after "payments".

(b) Section 1322(b) of title 11 of the United States Code is amended—

(1) in paragraph (2), by inserting ", or leave unaffected the rights of holders of any class of claims" before the semicolon;

(2) in paragraph (4), by inserting "other" after "claim or any";

(3) in paragraph (5), (i) by striking out "maintenance of payments" and (ii) by striking out "on any unsecured claim or secured claim" and inserting in lieu thereof "maintenance payments on any claim";

(4) in paragraph (7), by—

(A) inserting "subject to section 365 of this title," before "provide";

(B) striking out "or rejection" and inserting in lieu thereof ", rejection, or assignment"; and

(C) striking out "under section 365 of this title" and inserting in lieu thereof "under such section"; and

(5) in paragraph (8), by striking out "any".

Sec. 729. Section 1323(c) of title 11 of the United States Code is amended by striking out "the plan as modified, unless the modification provides for a change in the rights of such holder from what such rights were under the plan before modification, and" and inserting in lieu thereof "such plan as modified, unless".

Sec. 730. Section 1324 of title 11 of the United States Code is amended by striking out "the" the second place it appears.

Sec. 731. (a) Section 1325(a)(1) of title 11 of the United States Code is amended by inserting "the" before "other".

(b) Section 1325(b) of title 11 of the United States Code is amended by—

(1) striking out "After confirmation of a plan," and inserting "Upon the filing of the case,"; and

(2) striking out "any" the second place it appears.

Sec. 732. Section 1326(a)(2) of title 11 of the United States Code is amended by inserting "of this title" after "1302(d)".

Sec. 733. Section 1328(e) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "by the debtor" after "obtained"; and

(2) in paragraph (2), by striking out "knowledge of such fraud came to the requesting party" and inserting in lieu thereof "the requesting party did not know of such fraud until".

Sec. 734. Section 1329(a) of title 11 of the United States Code is amended—

(1) by inserting "of the plan" after "confirmation";

(2) by striking out "a plan" and inserting in lieu thereof "such plan"; and

(3) in paragraph (3), by striking out the comma.

Sec. 735. Section 15102 of title 11 of the United States Code is amended by striking out "chapter" the first place it appears and inserting in lieu thereof "title".

Sec. 736. Section 15103(f) of title 11 of the United States Code is amended by—

(1) striking out "324,";

(2) inserting "341(b)," after "326(b),";

(3) inserting "1106(a)(1), 1108," after "1105"; and

(4) inserting "1302(b)(1), 1302(b)(3)," after "1302(a),".

Sec. 737. Section 15322(b)(1) of title 11 of the United States Code is amended by—

(1) inserting "required to be" after "bond" the first place it appears;

(2) striking out "(2)"; and

(3) inserting "of this title" before the semicolon.

Sec. 738. Section 15324 of title 11 of the United States Code is amended by inserting a comma after "a trustee".

Sec. 739. Section 15330 of title 11 of the United States Code is amended by adding at the end thereof the following: "The notice required under section 330 of this title shall be given to the United States trustee.".

Sec. 740. (a) Section 15701(a) of title 11 of the United States Code is amended by striking out "trustee established" and inserting in lieu thereof "trustees established".

(b) Section 15701(b) of title 11 of the United States Code is amended by striking out "such persons" and inserting in lieu thereof "the members of such panel".

Sec. 741. (a) Section 15703(a) of title 11 of the United States Code is amended by striking out "specified in section 15701(a) of this title. Sections 701(b) and 701(c) of this title apply to such interim trustee." and by inserting in lieu thereof "and subject to the provisions of sections 701 and 15701 of this title.".

(b) Section 15703(b) of title 11 of the United States Code is amended by striking out "truste" and inserting in lieu thereof "trustee".

Sec. 742. Section 15704 of title 11 of the United States Code is amended to read as follows:

"§15704. Duties of trustee

"The trustee shall—

"(1) if the business of the debtor is authorized to be operated, file with the United States trustee periodic reports and summaries of the operation of such business, including a statement of receipts and disbursements; and

"(2) make and file interim reports, as circumstances justify, on the condition of the estate with the United States trustee and make and file a final report and account of the administration of the estate with the United States trustee and the court.".

Sec. 743. Section 151102(b) of title 11 of the United States Code is amended by striking out "interest of" and inserting in lieu thereof "interest,".

Sec. 744. (a) Chapter 15 of title 11 of the United States Code is amended by inserting after section 151105 the following new sections:

"§151106. Duties of trustee and examiner

"(a) A trustee shall perform the duties specified in sections 704(2), 704(4), 704(6), and 15704 of this title.

"(b) A trustee shall transmit a copy or a summary of any statement filed under section 1106(a)(4)(A) of this title to any creditors' committee, to any indenture trustee, to the United States trustee, and to any other entity as the court designates.

"§151108. Authorization to operate business

"Unless the court, upon the request of a party in interest or the United States trustee if there is no creditors' committee and after notice and a hearing, orders otherwise, the trustee may operate the debtor's business.".

(b) The table of sections for chapter 15 of title 11 of the United States Code is amended by inserting after the item relating to section 151105 the following new items:

"151106. Duties of trustee and examiner.
"151108. Authorization to operate business.".

Sec. 745. (a) Section 151302(a) of title 11 of the United States Code is amended by inserting ", or shall appoint a disinterested person to serve," after "The United States trustee shall serve".

(b) Section 151302(b) of title 11 of the United States Code is amended to read as follows:

"(b) The trustee shall—

"(1) perform the duties specified in sections 704(2), 704(4), 704(6), and 15704 of this title; and

"(2) dispose of, pursuant to regulations issued by the Attorney General, moneys received or to be received in a case under chapter XIII of the Bankruptcy Act.".

Subtitle J—Miscellaneous

Sec. 751. If any provision of this title or any amendment made by this title, or the application thereof to any person or circumstance is held invalid, the provisions of every other part, and their application shall not be affected thereby.

Sec. 752. Except as otherwise provided in this title the amendments made by this title shall become effective three months after the date of enactment and shall not apply to any case pending on the date of enactment of this title.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OMNIBUS BANKRUPTCY IMPROVEMENTS ACT OF 1983

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 445, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 445) to amend title 11, United States Code, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments.

Mr. DOLE. Mr. President, I move the adoption of the committee amendments.

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc.

AMENDMENT NO. 1211

(Purpose: Fisherman's Rights In Bankruptcy)

Mr. DOLE. Mr. President, I also ask unanimous consent that I may modify S. 445 to reflect again the proposal by the distinguished Senator from Alaska (Mr. Stevens).

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. Dole), for Mr. Stevens, proposes an amendment numbered 1211.

Mr. DOLE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 21, on line 7 after the language "title" insert the following: "or in the case of a United States fisherman who has caught fish sold to a fish processing facility owned or operated by the debtor in the ordinary course of such sellers business (as such terms are defined in section 557 of this title)"

On page 21, line 12 after the word "grain", insert the following "or fish"

On page 21, line 14, after the word "grain", insert the following: "or fish",

● Mr. STEVENS. Mr. President, I thank the Senator from South Carolina, the Senator from Kansas, and the Senator from Ohio for their cooperation and support for my amendment which brings fishermen into equal treatment with their counterparts in agriculture.

This amendment will, for the first time, allow fishermen to enjoy the same protection under our bankruptcy laws as farmers regarding their right to payment for fish that has been landed and delivered to a processing facility. My amendment will allow those fishermen who contribute the product that forms the basis for the bankruptcy estate to also hold a right to compensation for their fish. This amendment gives those fishermen a superior claim up to $2,000 for the value of product that they land.

I thank the Senate for consideration of this measure, and urge that the Senate adopt the amendment.●

Mr. DOLE. Mr. President, I assure the Senator from Ohio that this is the same modification that was in the other proposal.

Mr. President, has the modification been agreed to?

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to indicate that, although I do not intend to ask for a rollcall vote, the Senator from Ohio is not in support of S. 445, but I do not wish to belabor the point. I think the Senate would be better served and the country would be better served without the bill, but if we are going to have a bill, it is in about as good shape as it can be, as I stated in connection with S. 445 when it was offered as an amendment to S. 1013.

The PRESIDING OFFICER. Is all time yielded back on the amendment?

Mr. HEFLIN. I yield back my time.

Mr. DOLE. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1211) was agreed to.

Mr. HEFLIN. Mr. Chairman, I rise in support of Senate bill 445, the Bankruptcy Improvements Act of 1983. I wish to thank Chairman Thurmond, Senator Biden, our ranking minority Member, and Senator Dole, chairman of the Subcommittee on Courts for their dynamic leadership in addressing the concerns presented in this legislation.

The Bankruptcy Reform Act of 1978 represented a comprehensive revision and liberalization of many aspects of the bankruptcy law. Most of the substantive reforms have worked well and have had a beneficial impact on the bankruptcy system. It has now, however, become evident that some modifications and improvements are in order if we are to insure equity and efficiency under this law.

I am very concerned with the rapid increase in the rate of bankruptcies and any loopholes in the existing law which might encourage unnecessary bankruptcy filings. Since the Bankruptcy Reform Act took effect in October 1979, the number of bankruptcies has more than doubled. While there is no doubt that the sluggish economy was a major contributor to this increase, this factor alone does not explain this unprecedented increase in bankruptcy cases. The bankruptcy law has become too liberal, particularly in the area of consumer credit transactions, and has provided an escape hatch for those overextended debtors, who in the long-run could well afford to meet their obligations.

In the area of consumer bankruptcies, this legislation will tighten certain provisions of the 1978 Bankruptcy Act, revise inefficient procedures, and eliminate provisions which are unduly burdensome for good-faith creditors seeking to recover on legitimate claims. While this measure corrects abuses and oversights in the existing bankruptcy law, it retains those protections needed by deserving debtors who find themselves in financial difficulty.

This bill also addresses other problem areas in need of revision. It provides procedures for expedited distribution of grain stored in bankrupt elevators, to insure that farmers who own grain stored in the elevators and farmers who have sold grain to a bankrupt elevator operator, but who have not received payments, are not punished financially by delays in bankruptcy court proceedings.

Another provision concerns the bankruptcy of shopping centers and amends the law as to affirming or rejecting leases of space in a shopping center. This legislation is needed to stop abuses in those instances where a shopping center tenant is in bankruptcy and is unable to fulfill his lease obligations. This often may result in shopping center vacancies or assignment of the lease by the trustee to tenants with nonconforming uses, both of which curtail the business of fellow tenants. This proposal would establish a timetable within which trustees would have to affirm or reject leases of space held by a bankrupt tenant, would instate rules regarding the assignment of the lease, and would insure that leases that have expired by virtue of their own terms before the filing of a bankruptcy petition are not artificially revived by the bankruptcy court.

Also contained in this package is a modified version of a bill introduced by Senator DANFORTH which provides that a debt incurred as a result of an act of drunk driving is not dischargeable. Under existing law, a debt resulting from a tortious act is nondischargeable only if the debt is the result of a willful and malicious injury to the property or person of another. In most States, the act of the drunk driver is grounded in negligence and is thus, dischargeable. By making such debts nondischargeable, we can protect victims of the drunk driver and deter drunk driving.

This legislation further includes a proposal by the Federal Reserve Board which would exempt repurchase agreements from the automatic stay in bankruptcy proceedings. This is designed to prevent a domino effect, should a major securities dealer declare bankruptcy.

Also in this package is a provision to protect holders of time-sharing agreements in the time-sharing contractor goes bankrupt. Under time-sharing agreements, a party purchases the right to use the property for a designated length of time each year. Under present law, when the contractor goes bankrupt, the holder of the time-sharing agreement is relegated to the position of a general, unsecured creditor. This bill would update the bankruptcy law to make it compatible with the concept of time sharing by granting the holder of such an agreement a lien against the property if the time-sharing contract is rejected by the trustee in bankruptcy.

Mr. President, these revisions and clarifications included in this legislation are needed to bring about a more equitable bankruptcy law and to insure fairness to the parties involved. I urge my colleagues to support this vital legislative package of reforms. I hope that the U.S. Senate can join together and act in a positive nonpartisan way in this most important area.

Mr. THURMOND. Mr. President, I strongly support passage of S. 445. Again, I commend the able Senator from Kansas, who worked so hard on this legislation, and the able Senator from Alabama for his fine service in connection with it.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I would like to put in the RECORD at this point the same explanation I made with regard to S. 445 when it was offered as an amendment to S. 1013. I ask unanimous consent to have printed at this point material indicating the members of the reform coalition and the purpose of the bill and what I believe the bill will accomplish.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

1. PURPOSES OF THE BILL

(1) To establish a system of debtor counseling, to ensure that debtors are aware of the option of debt repayment plans under Chapter 13, and thereby to encourage greater use of Chapter 13.

(2) To correct provisions of the 1978 Bankruptcy Reform Act which have altered the balance of equities between debtors and creditors in bankruptcy excessively in favor of debtors, such as to encourage unnecessary filings.

(3) To revise inefficient procedures which have unduly burdened good faith creditors seeking to recover on legitimate claims, and which have diminished the efficiency of the courts.

2. IMPETUS FOR THE BILL

(1) Personal bankruptcies have increased 103 percent since the new Code went into effect in October, 1979. They have risen from 172,000 in 1979 before the new Code to over 400,000 during the just ended.

(2) The increase cannot be blamed entirely on the recession. Studies presented to the Subcommittee on Courts during hearings on this bill determined that provisions of the Code which excessively liberalized debtor's rights are responsible for a large portion of the increase—one study concluded as much as 50 percent.

(3) In addition, witnesses have identified various problems with the bankruptcy procedures under the Reform Act. These problems have created unnecessary difficulties for certain classes of claimants in bankruptcy, such as farmers attempting to remove grain from insolvent elevators, shopping center developers and tenants, and participants in repurchase agreements.

1. TESTIMONY

Over sixty witnesses appeared in hearings held over a period of two years and testified concerning the provisions of S. 445. Those witnesses included bankruptcy judges, legal scholars, bankruptcy practitioners, and creditor and consumer groups. The weight of the testimony from those persons knowledgeable about bankruptcy law and procedure was overwhelmingly in favor of the changes provided for in S. 445.

In addition to those witnesses, many individuals active in bankruptcy practice have privately communicated to members of the Committee their support for the bill, and the debtor counseling provisions in particular.

2. MAJOR COMPANIES SUPPORTING THE BILL

Banks: Bank of America, Citibank, N.Y, Chemical Bank, Chase Manhattan, Marine Midland, Mellon Bank, 1st Penn. Bank.

Business Ass'n: Chamber of Commerce, U.S., Nat'l Federation of Independent Bus., National Small Business Ass'n.

Retailers: Nat'l Auto Dealers Assn., Nat'l Retail Merchants, Allied Stores, J. C. Penney, May Co., Sears, Montgomery Ward's, Western Auto.

Consumer Finance Companies: Nat'l Consumer Finance Ass'n, Beneficial Finance, CIT, Citicorp, Dial Finance, Household International, General Electric Credit, Transamerica Finance, Security Pacific, General Motors Acceptance.

Credit Unions: Credit Union Ass'n's in 19 States and National Association of Credit Unions (representing all 50 States), National Association of Federal Credit Unions.

Petroleum Companies: Atlantic Richfield, Cities Service, Exxon, Chevron, Conoco, Mobile, more.

Mr. THURMOND. Mr. President, I have already made a statement in support of this bill when it came up as an amendment to the previous legislation, S. 1013.

● Mr. DANFORTH. Mr. President, I support this legislation. We enacted the Bankruptcy Reform Act in 1978 because of our concern that the prior law was outdated in its treatment of debtor-creditor relations. Our bankruptcy laws must strike a delicate balance between protecting the interests of creditors and those of debtors who are unable to meet their obligations. On the other hand, a law that is too lenient encourages the use of bankruptcy as an alternative to fulfiling one's debts. Not only can a law that is too lenient lead to disrespect for one's obligations, it will also contribute to higher interest rates and inflation.

This bill also contains important provisions granting farmers protection from losses such as those many have suffered in the past year as a result of grain elevator bankruptcies. These provisions are similar to a bill Senator Dole and I introduced in the last Congress. Although this legislation is of little comfort to those who have already sustained losses, it will insure that farmers will not suffer further as a result of bankruptcy court delays. I am gratified to see Senate passage of these relief measures.

Mr. President, I especially want to thank Senator Dole and the distinguished Chairman of the Judiciary Committee, Senator Thurmond, for including in this bill a provision which would close an unconscionable loophole in the Federal bankruptcy statute. This loophole has allowed drunk drivers who have injured, killed, or caused property damage to others to escape civil liability for their actions by having their judgment debts discharged in bankruptcy.

Under present law, a debt that is the result of a tortious act—such as a judgment against a debtor as the result of an automobile accident—is nondischargeable only if the debt is the result of a willful and malicious injury to the property or person of another. In many States, an injury resulting from an act of drunk driving will support only a finding of negligence on the part of the driver. Thus, often the debt is discharged—unless the bankruptcy court finds that the act of drunk driving was a willful and malicious act by the nature of the circumstances surrounding it.

Subtitle D of S. 445 is a modified version of S. 605, a bill I introduced earlier this session with Senators Dole, Pell, and Boschwitz. S. 605 would have simply defined drunk driving as a willful and malicious offense for purposes of the bankruptcy statute. The provision in the bill before us achieves the same result by specifically stating that debts arising from drunk driving shall be nondischargeable.

Mr. President, this provision will help deter drunk driving and will help protect victims of the drunk driver. Again, I want to express my deep appreciation to the Senator from Kansas and the Judiciary Committee for including it in this bill.●

● Mr. JEPSEN. Mr. President, there is a great urgency to reform grain elevator bankruptcy laws. Presently, the laws on the books fail to protect the interests of farmers.

Legislation to rectify this problem passed the Senate four separate times during the last session of Congress, but each time was bottled up in a House committee. Regretfully, the 97th Congress adjourned without taking final action on this issue. However, interest in eliminating the harsh effects of a warehouse bankruptcy has continued.

There is a unique relationship between farmers, grain and elevators, and a warehouse receipt traditionally constituted ownership proof of grain stored in an elevator.

Provisions in the legislation we are discussing today would give farmers who have sold grain but not received payment a secured creditor position in assets distribution following an elevator bankruptcy, establish a timetable for bankruptcy proceedings, and provide a definition of a warehouse receipt.

This section of the bankruptcy bill is designed to respond to the concerns and needs of the farm producing community. Under the present law, farmers who have stored grain in commercial facilities and have maintained ownership of that grain find their property tied up if an elevator goes bankrupt. Often they are required to wait unreasonable lengths of time and incur unnecessary expenses. This poses an undue hardship, particularly when the stored products represent a major portion of the marketable assets for grain farmers.

Because of the unnecessary and burdensome delays in getting this legislation through Congress during the last session of Congress, millions of dollars of farmers' operating capital has been effectively tied up in bankruptcy proceedings.

With high signup figures under the PIK program, it is imperative that the bankruptcy laws be changed. In some instances, the PIK program will entail farmers obtaining their PIK stocks from elevators outside of their communities. If the PIK program is to operate successfully, farmers must have confidence in the elevator in which their products are stored and be assured there are legal mechanisms that will prevent unfair confiscation of their personal property in any case of elevator bankruptcy. A bankrupt elevator will heighten the financial plight of those farmers in the PIK program.

In sum, Mr. President, the Congress finds itself trying once again to adequately address a problem the Senate resolved four separate times in the last session of Congress.

I sincerely hope that this particular piece of legislation will quickly pass the House and proceed to the White House for signature.

With the PIK program important to so many of our Nation's farmers, we need immediate legislative action to eliminate concerns relating to elevator bankruptcies. Simply stated, this legislation is essential for the economic well-being of America's farming communities.●

Mr. METZENBAUM. Mr. President, again I have an inquiry of the Senator from Kansas, but I know the answer. That is, the committee has a full legislative history with respect to S. 445 that is equally applicable to this bill, to S. 445, when it was offered as an amendment to S. 1013.

Mr. DOLE. The Senator is correct.

Mr. METZENBAUM. Mr. President, I do not intend to repeat the remarks I made in connection with S. 445 when it was offered as an amendment to S. 1013, but in order that legislative history may be clear, let me state here that I repeat those remarks, as if restated at this point and ask unanimous consent that those remarks, the ones I made in connection with the amendment to S. 1013 when S. 445 was offered as an amendment, be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Mr. Metzenbaum's earlier remarks are set forth below.)

Mr. METZENBAUM. Let me address myself to the issues of this matter. I do not intend to oppose this amendment's being adopted. But I think it is appropriate that we talk a little bit about the entire bankruptcy question, the substantive law aspect. I am not addressing myself to the bill itself but only to S. 445 as an amendment.

In 1978, Congress passed a Bankruptcy Reform Act, and it contained a number of different amendments. Many of those amendments were salutary. The argument was made, at least in the last year, that they went too far. It was claimed that the bankruptcy laws were being abused, and it was claimed that those who were attempting to go bankrupt were abusing the privilege.

Well, indeed, it is a privilege to go bankrupt. I am not sure that those who are privileged go bankrupt, but it is a privilege to have the right to get a clean slate, and for almost 100 years we have had in our law the right of an individual to file for bankruptcy, and upon discharge of his debts to be able to have a fresh start.

Along came the so-called bankruptcy amendments of 1982, and that bill was debated, argued, amended, criticized, praised, and wound up not being enacted into law.

Before that came to pass a very effective lobby had thrown its entire weight into the passage of that bill, the so-called creditors lobby and, I might say parenthetically, led particularly by one major finance company in the country, and if my information is correct I think the largest one, just as in the case of the withholding of dividends and interest provision in connection with the banking industry, so too we found a tremendous amount of misinformation was being spread throughout the country. I remember when I was first called and told that the Black Caucus was supporting the bill. I knew that did not make sense and it was not logical because the blacks of this country, the poor of this country, those who could not fend for themselves and who have had difficulty in the economic mainstream, are the very ones who needed the right to go bankrupt, and it did not add up to me.

Sure enough, notwithstanding the numerous calls that were made to me with that representation, upon further research it was found that indeed the Black Caucus had not supported the bill.

Then I heard—I was getting messages, some directly and some indirectly—that my opposition to S. 2000, which was the number of the bill last year, comparable to S. 445 this year, would somehow be embarrassing to me, and that I should not be opposed to it, and was I not concerned about the embarrassment.

I did not find anything embarrassing about it. As a matter of fact, I stood tall and proud when others who joined me in that opposition included some of the finest organizations in this country, a total list of which comprises the Leadership Conference Membership Organizations on Civil Rights. They came out in opposition to that bill during an early stage, in opposition to S. 445 as well.

Mr. President, I ask unanimous consent that the list of that group be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LEADERSHIP CONFERENCE MEMBERSHIP ORGANIZATIONS—OPPOSED TO S. 2000

Actors Equity.
African Methodist Episcopal Church.
African Methodist Episcopal Zion Church.
Alpha Kappa Alpha Sorority, Inc.
Alpha Phi Alpha Fraternity, Inc.
Amalgamated Clothing and Textile Workers of America.
American Association of University Women.
American Baptist Churches, U.S.A.—National Ministries.
American Civil Liberties Union.
American Coalition of Citizens with Disabilities, Inc.
American Council of the Blind.
American Ethical Union.
American Federation of Government Employees.
American Federation of Labor—Congress of Industrial Organizations.
American Federation of State, County and Municipal Employees, AFL-CIO.
American Federation of Teachers, AFL-CIO.
American Jewish Committee.
American Jewish Congress.
American Postal Workers Union, AFL-CIO.
American Veterans Committee.
Americans for Democratic Action.
Anti-Defamation League of B'nai Brith.
A. Philip Randolph Institute.
Asociacion Nacional Pro Personas Mayores.
B'nai B'rith Women.
Building and Construction Trades Department—AFL-CIO.
Center for Community Change.
Center for National Policy Review.
Children's Defense Fund.
Church of the Brethren—World Ministries Commission.
Church Women United.
Citizens Lobby for Freedom and Fair Play.
Coalition of Labor Union Women.
Communication Workers of America.
Congress of Italian-American Organizations, Inc.
Delta Sigma Theta Sorority.
Division of Homeland Ministries—Christian Church (Disciples of Christ).
Episcopal Church—Public Affairs Office.
Federation of Organizations for Professional Women.
Friends Committee on National Legislation.
Frontiers Internationals, Inc.
Frontlash.
Hadassah, Women's Zionist Organization of America.
Hotel and Restaurant Employees and Bartenders International Union.
Improved Benevolent & Protective Order of Elks of the World.
Industrial Union Department—AFL-CIO.
International Association of Machinists and Aerospace Workers.
International Ladies' Garment Workers' Union of America.
International Molders & Allied Workers Union.
International Union of Electrical, Radio & Machine Workers.
International Union of Operating Engineers.
International Union, United Automobile Workers of America.
Iota Phi Lambda Sorority, Inc.
Japanese American Citizens League.
Jewish Labor Committee.
Jewish War Veterans.
Kappa Alpha PSI Fraternity.
Labor Council for Latin American Advancement.
Labor Zionist Alliance.
Lawyers' Committee for Civil Rights Under Law.
League for Industrial Democracy.
League of Women Voters of the United States.
Lutheran Church in America—Division for Mission in North America.
Mexican American Legal Defense and Education Fund.
NAACP Legal Defense and Education Fund, Inc.
National Alliance of Postal & Federal Employees.
National Alliance of Postal & Federal Employees—National Women's Auxiliary.
National Association for the Advancement of Colored People.
National Association of Colored Women's Clubs, Inc.
National Association of Community Health Centers.
National Association of Human Rights Workers.
National Association of Market Developers.
National Association of Negro Business & Professional Women's Clubs, Inc.
National Association of Real Estate Brokers, Inc.
National Association of Social Workers.
National Association of University Women.
National Association of Women Federal Contractors.
National Bar Association.
National Beauty Culturists' League, Inc.
National Business League.
National Catholic Conference for Interracial Justice.
National Coalition of Cuban Americans.
National Committee Against Discrimination in Housing.
National Community Action Agency Executive Directors Association.
National Conference of Black Mayors, Inc.
National Conference of Catholic Charities.
National Conference of Christians and Jews, Inc.
National Congress for Community Economic Development.
National Council of Catholic Women.
National Council of Churches—Division of Church & Society.
National Council of Jewish Women.
National Council of La Raza.
National Council of Negro Women.
National Council of Senior Citizens, Inc.
National Dental Association.
National Education Association.
National Farmers Union.
National Federation of Temple Sisterhoods.
National Funeral Directors and Morticians Association.
National Hispanic Housing Coalition.
National Image.
National Jewish Community Relations Advisory Council.
National Jewish Welfare Board.
National Legal Aid & Defender Association.
National Low Income Housing Coalition.
National Neighbors.
National Newspaper Publishers Association.
National Office for Black Catholics.
National Organization for Women.
National Post Office Mail Handlers, Watchmen, Messengers & Group Leaders.
National Sorority of Phi Delta Kappa, Inc.
National Urban League.
National Women's Political Caucus.
Newspaper Guild.
Oil, Chemical & Atomic Workers International Union.
Omega Psi Phi Fraternity, Inc.
Opportunities Industrialization Center—Government Relations Services (OIC's of America).
Organization of Chinese Americans, Inc.
Phi Beta Sigma Fraternity, Inc.
Pioneer Women—American Affairs.
Potomac Institute.
Project Equality, Inc.
Recruitment and Training Program.
Retail, Wholesale & Department Store Union, AFL-CIO.
Rural America.
Sigma Gamma Rho Sorority, Inc.
Southern Christian Leadership Conference.
Transport Workers Union of America.
Union of American, Hebrew Congregations.
Unitarian Universalists Association.
United Association of Journeymen & Apprentices of the Plumbing & Pipe Fitting Industry of the U.S. & Canada—AFL-CIO.
United Church of Christ—Commission for Racial Justice Now.
United Church of Christ—Office for Church in Society.
United Farm Workers of America, AFL-CIO.
United Food and Commercial Workers International Union.
United Hebrew Trades.
United Methodist Church—Board of Church and Society.
United Methodist Church—Board of Global Ministries Women's Division.

United mine workers of America.

United Neighborhood Centers of America, Inc.

United Presbyterian Church—Unit on Church & Race.

United Rubber, Cork Linoleum & Plastic Workers of America.

U.S. Catholic Conference—Division of Urban Affairs.

United States Youth Council.

United Steel Workers of America.

United Synagogue of America.

Voter Education Project, Inc.

Women's American Ort.

Women's Equity Action League.

Women's Legal Defense Fund.

Women's Workforce—Wider Opportunities for Women.

Workmen's Circle.

Young Men's Christian Association of the USA, National Board.

Young Women's Christian Assocation of the USA, National Board.

Zeta Phi Beta Sorority, Inc.

Mr. METZENBAUM. The argument was made that the credit industry, the banks, the finance companies were all being hurt. People were going bankrupt, they could not collect their money. Well, at first blush, the obvious answer was that, of course, more people were going bankrupt. There was a recession on. Ten percent of the working people of this country were unemployed; mortgages were foreclosing on their loans on working people and on farmers and others as well, and it was very understandable that more people were going bankrupt.

So that seemed to be an obvious answer. Then we had testimony before our committee from a bankruptcy judge in the South who had made a study of this subject, and he pointed out some very interesting facts. The number of bankruptcies per dollar of credit outstanding had actually decreased since the amendments of 1978. So that argument did not hold water. But the credit industry never paid any attention to the reality of that fact.

The fact is, when this bill again came back in 1983, it has a number of provisions in it that I and others found objectionable. I am pleased to say that we have been able to work with the author of this legislation, who also is the chairman of the subcommittee having jurisdiction of this matter, and as a consequence the Federal exemptions have been preserved while clearcut loopholes in those exemptions have been closed. We had no difficulty with that.

It is a fact that there were some instances in which you could combine State and Federal exemptions and abuse really the rights of the creditors as well as abuse the privileges of the debtors. So that was changed. But the Federal exemptions as such have been preserved.

Existing protections requiring court approval of reaffirmation agreements have been maintained for debtors not represented by attorneys. What that means is that too often the credit industry has gone to the bankrupt and threatened him or her with all sorts of nonsense in order to get the debtor to reaffirm that he or she would continue to meet their obligations in connection with the debt even after bankruptcy. That matter has been taken care of in this bill.

Then the matter of finance company liens on all health aids and on tools of the trade up to $1,000 in value may be avoided as the bill now stands and liens on household goods may be avoided when the court finds that payment of the redemption value is impossible and loss of the property would impose an undue hardship on the debtor. We have been able to change the bill so that that is no longer a problem.

We have been able to change the bill so that the presumption that debts incurred prior to filing for bankruptcy were fraudulently incurred will not include debts incurred for expenses reasonably necessary for the support of the debtor or the debtor's dependents.

Mr. President, I am aware of the fact that some of the words I am using and the phrases I am using are language of the courts, language of those who practice in bankruptcy courts, but, in essence, what we are saying is we have been able to make some changes that continue to provide protection for the debtor and do not make it just a creditor's bill.

Another change that was made is that the court will be required to award attorneys fees to debtors who prevail when a creditor challenges the discharge if the creditor was not substantially justified in making the challenge.

Now, all of those improvements were very important. But they do not compare in importance to the one provision that is not in this bill which was the most important change of all. The credit industry wanted the bankrupt to be able to prove that he or she could not pay 50 percent of their debts over a period of 3 to 5 years. Although we went back and forth as to who would have the burden of proof in such a matter, in essence, it would have added more to the litigation. It would have required the debtor to have more attorneys fees. It would have made it that much more difficult for the debtor to go bankrupt and it would have provided a mortgage on his or her future. That to us was the essence of the agregious portions of S. 445.

Why, we said, should any individual who wants to go bankrupt be called upon to prove that he or she is making $15,000, $18,000, $20,000, $25,000 a year and would not have to mortgage their future? It had not happened in the last 100 years. What was there about 1983 that made it right to expect a debtor to do that? Merely because the creditors' lobby wanted it? That was not reason enough. They were not being hurt. They had an easy remedy. If you do not want people to go bankrupt and discharge some of their debts, do not lend them the money. The reason the credit industry is a creditor is because it offers credit and that is how it makes the money. It charges for offering that credit and it does not give its money away and nobody expects it to do so. But it did not have the right and it does not have the right, and under this law it will not have the right, to cause a debtor to mortgage his or her future.

I cannot tell you strongly enough and loudly enough how pleased I am that, after the continuous battle, day in and day out, pressure, pressure, pressure to let the bill go with the future income mortgaging provision in it, we have successfully worked out with the author of this amendment the total elimination of the future income language. And for that I want to express my personal appreciation to him.

I have worked with him on a number of matters this year and in the past. I find that we are not always in agreement, but I always find that he is reasonable. I feel that in this matter, once he came to understand what the issue was all about, I cannot say that he approved of eliminating the future income text but at least he acceded to our concerns and the future income matter is no longer in the legislation.

Now I want it understood that I believe that S. 445, either in its original form or by amendment, because it is identical, still tips the balance unnecessarily in favor of creditors at a most inappropriate time. This still is a creditors bill. It is not a debtors or consumers bill. And consumers are the ones who have suffered so much from inflation, so much from the high interest rates, and so much from the record postwar unemployment that, in my opinion, no bill at all would be the best bill.

But since it is obvious that there is to be a bill, I believe that, if legislation is to be enacted, S. 445, either in the original form or as an amendment to this bill, is a significant improvement over the original proposals that were made last year.

Although I cannot say that I support the bill or the amendment, I can say that I do not rise to oppose the amendment of the Senator from Kansas and I do indicate my appreciation for his cooperation in connection with this matter.

● **Mr. EAST.** Mr. President, I want to indicate my support for S. 445, the Omnibus Bankruptcy Improvements Act of 1983, and for that portion of S. 1013 which reorganizes the bankruptcy courts. My concern throughout the consideration of these bills has been to insure final enactment of these bills at the earliest possible time. Because of this concern, I have continually supported the strategy of linking the Bankruptcy Code reform bill to the bankruptcy court reorganization bill. I advocated this approach during markup in the Committee on the Judiciary and worked to keep this approach open throughout the consideration of the bills.

I am pleased that many of my colleagues agree that linkage of the bills is sound legislative strategy. I hope that a majority of the Senate will vote in favor of any motion offered to link the bills. After all, the 95th Congress originally created the problems with the Bankruptcy Code and the bankruptcy courts in one unified piece of legislation, the Bankruptcy Act of 1978. The need for reform of the 1978 Bankruptcy Code is urgent. In my own State of North Carolina, we have seen well over a 100-percent increase in people filing since 1979. In 1982, 8,873 people filed personal bankruptcy in North Carolina.

While much of the increase in bankruptcies is due to high interest rates, inflation and rising unemployment, it is apparent that many debtors have been counseled to seek the discharge of all of their debts in a chapter 7 straight bankruptcy when they might easily have repaid some or all of their debts in a court-supervised chapter 13 plan. Under the 1978 code, we have seen the growth of law firms specializing in a high volume of quick and easy straight bankruptcy filings with a minimum of client counseling.

In addition to the need for Bankruptcy Code reform, Congress needs to reorganize the bankruptcy courts in response to the problems presented by the decision of the Supreme Court in Northern Pipeline Co. against Marathon Pipe Line Co. The solution agreed upon by the Committee on the Judiciary is sound and I hope the Senate will support this approach.

My other concern during the consideration of the bills has been that portion of S. 1013 that adds 75 new Federal judges to the existing army of more than 500 Federal judges. I have explained my reasons for opposing the additional 75 Federal judges at length in my minority views in the report on S. 1013. Essentially my objections can be reduced to two points. One, the Federal judiciary has already grown too powerful and the addition of 75 judges will increase the capacity of the Federal judiciary to continue expanding its power. Two, the purported reason for increasing the number of judges is the alleged backlog of general Federal litigation. The proper solution to this alleged backlog of general Federal litigation is reducing the backlog by limiting the activism of the Federal judiciary. Increasing the number of Federal judges will not reduce the alleged backlog of general Federal litigation, but instead will encourage the kind of activism that created the huge volume of Federal litigation in the first place.●

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. DOLE. I yield back my time.

Mr. THURMOND. I yield back my time

Mr. HEFLIN. I yield back my time.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 445) was ordered to be engrossed for a third reading, was read the third time and passed.

[The bill S. 445 will appear in a subsequent edition of the RECORD.]

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HEFLIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECESS AT 6:10 P.M. AND FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, is the action of the Senate completed on this measure?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I believe there is an order for the Senate to recess at 6 p.m. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I ask unanimous consent that the time be extended to 6:10 p.m. and that in the time between now and 6:10 p.m. there be a period for the transaction of routine morning business in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that tomorrow, after the recognition of the two leaders under the standing order, five Senators be recognized on special orders of not to exceed 15 minutes each as follows and in the following order: Senators THURMOND, LEAHY, EAGLETON, PRYOR, MELCHER, and BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF COMMITTEE OF SENATORS TO ESCORT THE PRESIDENT OF THE UNITED STATES

Mr. BAKER. Mr. President, I have a series of items that appear to have been cleared by the minority leader. I would like to state them now for his consideration and that of other Senators.

Mr. President, first I ask unanimous consent that the Vice President be authorized to appoint a committee of Senators on the part of the Senate to join with a like committee on the part of the House of Representatives to escort the President of the United States into the House Chamber for the joint session to be held this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BAKER. Mr. President, next I have clearance on my side of the aisle to proceed to the consideration of Senate Resolution 116, Calendar Order No. 104. May I inquire of the minority leader if he is prepared to consider that item at this time?

Mr. BYRD. Mr. President, this side is ready to proceed.

Mr. BAKER. I thank the minority leader.

RESOLUTION DEPLORING BOMBING OF THE U.S. EMBASSY IN BEIRUT, LEBANON

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Calendar Order No. 104, Senate Resolution 116.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 116) deploring the bombing of the United States Embassy in Beirut, Lebanon, and expressing the sorrow and condolences of the Senate on the death and wounding of Americans caught in the bombing, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Foreign Relations with amendments, as follows:

On page 3, line 2, after "Intelligence", insert "the Administrator of the Agency for International Development";

On page 3, line 6, delete "memorial or other";

On page 3, after line 4, insert the following:

"SEC. 3. The Secretary of State shall transmit a copy of this resolution to the families of the deceased Lebanese employees of the United States Embassy in Beirut, Lebanon, and to the wounded Lebanese employees."

The amendments were agreed to.

Mr. GOLDWATER. Mr. President, I rise to speak in support of Senate Resolution 116. The purpose of this resolution is to deplore the recent bombing of the U.S. Embassy in Beirut, and to express the sorrow and condolences of the Senate on the death and wounding of Americans caught in this bombing.

I am sure that most of my colleagues are aware that on April 18, 1983, the U.S. Embassy in Beirut, Lebanon, was the target of a car-bomb attack. A great many people were killed and wounded in this brutal and cowardly act. Among the dead were over 15 Americans, most of whom were assigned to the U.S. Embassy on official business. Many local Lebanese employees of the Embassy were also killed and wounded.

Mr. President, every year the United States of America dispatches loyal and patriotic citizens abroad to serve on what are often difficult and dangerous missions for our Government. These people would include diplomatic, military, intelligence, AID, and other personnel. The President of the United States provides these people their missions, and the Congress funds their activities.

How often we forget that simply being an American official abroad is a dangerous undertaking. How often we forget the routine stresses and strains to which these people are subjected. The attack on the U.S. Embassy in Beirut is just the most recent reminder to all of us of the sacrifice these patriotic Americans are prepared to make to their country in the cause of peace and freedom.

Mr. President, my resolution is a simple testament by the U.S. Senate to the memory of these Americans and Lebanese who have sacrificed their lives for the cause of peace in the Middle East. It expresses profound sorrow at the death and wounding of these people, and extends condolences to the families of the deceased.

I am gratified that over 30 of my colleagues have cosponsored this resolution. I hope they work for its speedy passage by the U.S. Senate today.

Mr. MURKOWSKI. Mr. President, a memorial service was held on April 26 for the 17 Americans killed when a van loaded with explosives blew up at the entrance to the U.S. Embassy in Beirut. Altogether some 61 people were murdered in this vicious attack. Sixteen of the seventeen were brought back to the United States over the weekend.

What is strange about this tragic event is that we have yet to discover who is actually responsible for the bombing. I do not mean that we cannot find one culprit, but that we suffer from a plethora of culprits. No less than three groups, some of whom we had never heard of, have tried to take credit for the bombing. It is a measure of our times that so many actually want to be thought of as killers. In light of this, we should be proud that the President and the State Department have not responded in kind. Violence should not beget violence or even violent talk. We must use this terrible act as an incentive to work even more diligently for peace and stability in the Middle East. President Reagan is to be commended for his insistence that we press resolutely for a withdrawal of foreign troops from Lebanon. We do not want to see any more American lives lost in Lebanon. We do not want to see any more lives lost in Lebanon.

The Americans that died in the explosion had voluntarily chosen to be stationed in Beirut. It is for their families and friends that we should grieve. I would like to take this moment to praise the survivors for their courage and patriotism. It is for them that we should maintain our exertions for peace. If I may quote Nicholas Veliotes, Assistant Secretary of State for Near Eastern Affairs, as reported in the New York Times,

> We are going to rededicate our efforts, policies, resources, and people. Obviously, there is trouble in Lebanon as there is in many other parts of the world, but that is not any reason for the United States to cut and run.

The resolution, as amended and agreed to, reads as follows:

S. RES. 116

Whereas on April 18, 1983, the United States Embassy in Beirut, Lebanon, was the target of a brutal and cowardly terrorist attack, which resulted in scores of dead and wounded, including the death of many Americans, most of whom were employed by the United States Government;

Whereas many Lebanese citizens were also killed and wounded, many of whom were employed by the United States Embassy in Beirut;

Whereas the members of the American Foreign Service, including people assigned from the diplomatic, military, intelligence, and other communities, are often exposed to extremely hazardous conditions in the performance of their duties;

Whereas the members of such communities assigned to Lebanon were dedicated to and worked for the pursuit of peace in the Middle East;

Whereas the American people have been extraordinarily patient in supporting their Government's peace initiatives in Lebanon, and

Whereas this is one of those critical moments in the history of the United States when the American people are united in their grief and must be united in their resolve: Now, therefore, be it

Resolved, That the Senate—

(1) deplores the brutal and cowardly bombing of the United States Embassy in Beirut, Lebanon, on April 18, 1983, which resulted in scores of dead and wounded, including the death of many Americans, most of whom were employed by the United States Government;

(2) expresses its profound sorrow at the death and wounding of these people and extends its deepest sympathy to the families of the deceased;

(3) urges the Secretary of State, the Secretary of Defense, the Director of Central Intelligence, the Administrator of the Agency for International Development, and all other Cabinet members whose people were among the dead and wounded to schedule and hold commemorative ceremonies as appropriate to honor the victims; and

(4) accords its respect and gratitude, on behalf of the American people, to the memory of the Americans who sacrificed their lives for the noble cause of peace in the Middle East.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the families of the deceased Americans and to the wounded Americans.

SEC. 3. The Secretary of State shall transmit a copy of this resolution to the families of the deceased Lebanese employees of the United States Embassy in Beirut, Lebanon, and to the wounded Lebanese employees.

The title was amended so as to read: "Resolution deploring the bombing of the United States Embassy in Beirut, Lebanon, and expressing the sorrow and condolences of the Senate on the death and wounding of those caught in the bombing, and for other purposes.".

CLERGY APPRECIATION WEEK

Mr. BAKER. Mr. President, next I have before me Senate Joint Resolution 33, which is Calendar Order No. 17. May I inquire of the minority leader if he is prepared to consider that item?

Mr. BYRD. Mr. President, we are prepared.

Mr. BAKER. Mr. President, I ask unanimous consent then that the Senate proceed to the consideration of Calendar Order No. 17, Senate Joint Resolution 33.

The PRESIDING OFFICER. Without objection, it is so ordered. The joint resolution will be stated by title.

The legislative clerk read as follows:

> A joint resolution (S.J. Res. 33) designating the week commencing February 20, 1983, as Clergy Appreciation Week in the United States.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration and, without objection, the joint resolution will be considered to have been read the second time at length.

AMENDMENT NO. 1212

(Purpose: Designating the week of January 29, 1984 as "Clergy Appreciation Week" in the United States)

Mr. BYRD. Mr. President, I send to the desk an amendment by Mr. RIEGLE and ask that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from West Virginia (Mr. BYRD), for Mr. RIEGLE, proposes an amendment numbered 1212:
>
> Strike out "February 3, 1983, marks the fortieth" in the second Whereas clause and insert in lieu thereof "February 3, 1984, marks the forty-first".
>
> On page two, line 3, strike out "commencing February 2, 1983," and insert in lieu thereof "of January 29, 1984".
>
> On page two, line 7, strike out "fortieth" and insert in lieu thereof "forty-first".

The amendment (No. 1212) was agreed to.

The **PRESIDING OFFICER.** If there are no further amendments to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and to be read a third time.

The joint resolution was read the third time.

The **PRESIDING OFFICER.** The question is, Shall the joint resolution pass?

The joint resolution (S.J. Res. 33) was passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 33), with its preamble, is as follows:

S.J. Res. 33

Whereas clergy everywhere sacrifice and serve others contributing meaningfully to our way of life; and

Whereas February 3, 1984, marks the forty-first anniversary of the sinking of the United States troopship Dorchester in the North Atlantic off the coast of Greenland; and

Whereas six hundred and seventy-eight men perished in the disaster including four chaplains—Rabbi Alexander D. Goode, Father Johnny P. Washington, Clark V. Poling, and George L. Fox; and

Whereas these clergy went down with the ship after giving their lifejackets to soldiers who had lost theirs; and

Whereas clergy such as these four chaplains have provided moral strength, courage, and guidance to people throughout the world in times of war and peace; and

Whereas it is most appropriate that a week be designated in observance of clergy of all faiths who have performed with honor: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of January 29, 1984, is designated "Clergy Appreciation Week" to recognize the continuing sacrifice and support which clergy of all faiths and nationalities provide to challenges to the well-being of the world's citizens. As February 3 marks the forty-first anniversary of the ultimate sacrifice made by four chaplains aboard the United States troopship Dorchester as they gave their lifejackets to soldiers who did not have their own, the President of the United States is authorized and requested to issue a proclamation for the observance of this week with appropriate ceremonies and activities to honor clergy in this country and throughout the world.

The title was amended as follows:

Strike out "commencing February 20, 1983" in the title and insert in lieu thereof "of January 29, 1984."

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISCHARGE AND REFERRAL OF S. 1022

Mr. BAKER. Mr. President, next I ask unanimous consent that the bill S. 1022, a bill to amend section 8(a) of the Small Business Act, to treat businesses owned by Indian tribes as socially and economically disadvantaged small business concerns, be discharged from the Select Committee on Indian Affairs and be referred to the Small Business Committee.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, finally, may I inquire of the minority leader if there are items on today's Executive Calendar that he is prepared to consider for action by unanimous consent, and particularly I inquire of the minority leader if he would be prepared to consider those items beginning on page 3 under the heading Army and all of those on page 4, on page 5, with the exception of item No. 109, all of those items on page 6 and on page 7 but not including the final item, which is No. 118.

Mr. BYRD. Mr. President, this side is ready to proceed with all of the nominations on the Executive Calendar.

Mr. BAKER. Mr. President, I thank the Senator. I wish I were similarly positioned, but I am not. I appreciate the response of the minority leader.

EXECUTIVE SESSION

Mr. BAKER. In view of the reply of the minority leader, Mr. President, I now ask unanimous consent that the Senate go into executive session for the purpose of considering the nominations identified by me in my statement to the minority leader.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. BAKER. Mr. President, I now ask unanimous consent that the nominations so identified be considered en bloc.

The **PRESIDING OFFICER.** Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

In The Army

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Robert M. Elton, 287-26-8508, U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. John F. Forrest, 356-16-9650 (age 55), U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 610, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Robert L. Wetzel, 519-44-2999, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Carl E. Vuono, 196-26-8686, U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Eugene P. Forrester, 410-64-1272 (age 56), United States Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. James M. Lee, 246-20-1593, U.S. Army.

In the Navy

The following-named officer, under the provisions of title 10, United States Code, section 5137, to be appointed as Chief of the Bureau of Medicine and Surgery and Surgeon General:

To be surgeon general

Rear Adm. Lewis H. Seaton, Medical Corps, 195-24-2167/2100, U.S. Navy.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be vice admiral

Vice Adm. Ernest R. Seymour, 091-24-2574/1310, U.S. Navy.

The following named officer, under the provisions of title 10, United States Code, section 5064, to be Director of Budget and Reports in the Department of the Navy.

To be director of budget and reports

Rear Adm. Daniel L. Cooper, 285-30-9826/1120, United States Navy.

Department of Commerce

Alfred Hugh Kingon, of New York, to be an Assistant Secretary of Commerce, vice Raymond J. Waldmann, resigned.

Mr. DOLE. Mr. President, I am pleased to report the favorable recommendation of the Committee on Finance that the Senate confirm the President's nomination of Alfred H. Kingon to be Assistant Secretary of Commerce for International Economic Policy.

Mr. Kingon, a resident of New York, until recently served as editor-in-chief of Financial World, an economic and financial journal. Between 1980 and 1982 he also served as editor-in-chief of the Saturday Review when he led a valiant, if ultimately unsuccessful, attempt to save that magazine. He has extensive experience in the financial and securities fields, and in international commercial transactions.

The Assistant Secretary of Commerce for International Economic Policy is responsible for advising the Secretary on a wide range of bilateral and multilateral trade and investment issues. Mr. Kingon is qualified to exercise these responsibilities. I urge the Senate to support his nomination.

DEPARTMENT OF STATE

Jay P. Moffat, of New Hampshire, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chad.

James D. Rosenthal, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Revolutionary Republic of Guinea.

Alvin P. Adams, Jr., of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Djibouti.

1984 LOUISIANA WORLD EXPOSITION

John Giffen Weinmann, of Louisiana, to be Commissioner General of the United States Government for the 1984 Louisiana World Exposition. (New position)

Mr. LONG. Mr. President, it is an honor for me today to speak in behalf of Mr. John Weinmann, the White House's nominee for Commissioner General to the 1984 Louisiana World Exposition.

Mr. Weinmann will work with former U.S. Ambassador Harry R. Melone, who is Deputy Commissioner General of the fair, in getting foreign nations to sponsor pavilions at the exposition.

As a prominent New Orleans lawyer and businessman and a leader in the community, Mr. Weinmann will be a great asset to the exposition.

His past diligent and unselfish work in behalf of the fair proves he is committed to the success of this monumental project.

The participation of foreign countries in the exposition is vital to its success. I believe Mr. Weinmann is uniquely qualified in achieving this goal.

Because the fair is of tremendous importance to the State of Louisiana and to the Nation, I believe that we must appoint men and women of Mr. Weinmann's caliber in its most responsible positions.

Mr. President, I urge my Senate colleagues to confirm his nomination as Commissioner General of the 1984 Louisiana World Exposition.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominations were confirmed en bloc.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:30 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 245. A joint resolution to correct Public Law 98-8 due to errors in the enrollment of H.R. 1718.

(The enrolled joint resolution was subsequently signed by the President pro tempore, Mr. THURMOND.)

At 2:15 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 62. A joint resolution to provide for the designation of the week beginning on May 15, 1983, as "National Parkinson's Disease Week."

The message also announced that the House has passed the following joint resolution, with amendments, in which it requests the concurrence of the Senate:

S.J. Res. 49. A joint resolution to authorize and request the President to proclaim the week of April 10-16, 1983, as "A Week of Remembrance for the 40th Anniversary of the Warsaw Ghetto Uprising."

The message further announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2065. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes;

H.R. 2600. An act to dedicate the Golden Gate National Recreation Area to Congressman Phillip Burton;

H.R. 2621. An act to authorize appropriations for the Federal Election Commission for fiscal year 1984;

H.R. 2628. An act to amend title 31, United States Code, to authorize appropriations for the Bureau of the Mint for fiscal year 1984, and for other purposes;

H.J. Res. 244. A joint resolution designating May 24, 1983, as "Brooklyn Bridge Day."

MEASURES REFERRED

The following bills and joint resolution were read twice by title and referred as indicated:

H.R. 2065. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2621. An act to authorize appropriations for the Federal Election Commission for fiscal year 1984; to the Committee on Rules and Administration.

H.R. 2628. An act to amend title 31, United States Code, to authorize appropriations for the Bureau of the Mint for fiscal year 1984, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.J. Res. 244. Joint resolution designating May 24, 1983, as "Brooklyn Bridge Day"; to the Committee on the Judiciary.

MEASURE HELD AT THE DESK

The following bill was held at the desk by unanimous consent:

H.R. 2600. An act to dedicate the Golden Gate National Recreation Area to Congressman Phillip Burton.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-923. A communication from the Acting Secretary of Agriculture transmitting, pursuant to law, the annual Animal Welfare Enforcement Report; to the Committee on Agriculture, Nutrition, and Forestry.

EC-924. A communication from the Comptroller of the Currency transmitting, pursuant to law, the 1982 annual report on the Consumer Activities of the Comptroller of the Currency; to the Committee on Banking, Housing, and Urban Affairs.

EC-925. A communication from the Secretary of Energy transmitting, pursuant to law, the annual report for 1982 of the Bonneville Power Administration; to the Committee on Energy and Natural Resources.

EC-926. A communication from the Commissioner of Social Security transmitting, pursuant to law, a report on a new Privacy Act system of records matching Black Lung Worker's Compensation with Social Security Master Beneficiary Records; to the Committee on Finance.

EC-927. A communication from the Secretary of Agriculture transmitting a draft of proposed legislation to improve administration and achieve savings in the Food Stamp Act of 1977; to the Committee on Agriculture, Nutrition, and Forestry.

EC-928. A communication from the Deputy Secretary of Agriculture transmitting a draft of proposed legislation to contain costs and create greater flexibility in operation of the National School Lunch Act and the Child Nutrition Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC-929. A communication from the Clerk of the Court of Claims transmitting, pursuant to law, a copy of the Court's judgment in the case of *Gila River Pima-Maricopa Indian Community* v. *The United States;* to the Committee on Appropriations.

EC-930. A communication from the Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, a report on a decision to convert the training and audiovisual support center activity at Fort Benjamin Harrison, Indiana, to performance under contract; to the Committee on Armed Services.

EC-931. A communication from the President and Chairman of the Export-Import Bank of the United States transmitting, pursuant to law, a report on loan, guarantee, and insurance transactions by the Bank with Communist countries during March 1983; to the Committee on Banking, Housing, and Urban Affairs.

EC-932. A communication from the Secretary of Transportation transmitting a draft of proposed legislation to permit levying of charges by the Coast Guard for certain services to vessels of the United States; to the Committee on Commerce, Science, and Transportation.

EC-933. A communication from the Secretary of Transportation transmitting, pursuant to law, the 1982 National Airway System annual report; to the Committee on Commerce, Science, and Transportation.

EC-934. A communication from the General Counsel of the Department of Energy transmitting, pursuant to law, notice of a meeting related to the International Energy Program to be held April 21 and 22, 1983; to the Committee on Energy and Natural Resources.

EC-935. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Triennial Assessment of the Tennessee Valley Authority—Fiscal Years 1980-1982"; to the Committee on Environment and Public Works.

EC-936. A communication from the Executive Director of the Board for International Broadcasting transmitting an addition to proposed legislation authorizing appropriations for the Board; to the Committee on Foreign Relations.

EC-937. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, copies of international agreements, other than treaties, entered into by the United States within the previous sixty days; to the Committee on Foreign Relations.

EC-938. A communication from the Acting Secretary of the U.S. Postal Rate Commission transmitting, pursuant to law, a copy of the Opinion and Recommended Decision Upon Reconsideration of the Commission On Bulk Third-Class Rates; to the Committee on Governmental Affairs.

EC-939. A communication from the Under Secretary of State for Management transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-940. A communication from the Acting Director of the U.S. Information Agency transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-941. A communication from the Deputy Assistant Secretary of Defense for Administration transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-942. A communication from the Chairman of the Federal Trade Commission transmitting, pursuant to law, the Commission's 1982 Government in the Sunshine Act annual report; to the Committee on Governmental Affairs.

EC-943. A communication from the Assistant Secretary of the Interior for Indian Affairs transmitting, pursuant to law, a plan for the use and distribution of the judgment funds awarded to the Southern Ute Tribe in Dockets 342-70, 343-70, 523-71, and 524-71 before the United States Court of Claims; to the Select Committee on Indian Affairs.

EC-944. A communication from the Assistant Secretary of the Interior for Indian Affairs transmitting, pursuant to law, a proposed plan for the use and distribution of judgment funds awarded to the Potawatomi Nation of Indians by the Indian Claims Commission and the United States Court of Claims; to the Select Committee on Indian Affairs.

EC-945. A communication from the Chief Justice of the Supreme Court of the United States transmitting, pursuant to law, rules to govern the practice and procedure in bankruptcy cases under Title 11, United States Code; to the Committee on the Judiciary.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FOR THE PERIOD JAN. 1 TO MAR. 31, 1983

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Bob Kasten:									
Germany	Mark	616	255.00					616	255.00
Warren Kane:									
Columbia	Peso	24,148.8	344.00					24,148.8	344.00
Venezuela	Bolivare	2,020.15	472.00					2,020.15	472.00
Barbados	BDS	768.78	382.00					768.78	382.00
Senator Dennis DeConcini:									
Egypt	Pound	355.32	282.00					355.32	282.00
Jordan	Dinar	28.240	79.00					28.240	79.00
Israel	Shekel	9,706.50	270.00	43,679.25	1,215.00			53,385.75	1,485.00
United States	Dollar				2,879.00				2,879.00
Senator Lowell Weicker, Jr.:									
Cuba	Dollar		200.00						200.00
Total			2,284.00		4,094.00				6,378.00

MARK O. HATFIELD,
Chairman, Committee on Appropriations, Apr. 20, 1983.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FOR THE PERIOD JAN. 1 TO MAR. 31, 1983

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John Tower:									
Switzerland	Swiss franc	346.00	172.00					346.00	172.00
West Germany	Deutsche mark	1,067.64	434.00					1,067.64	434.00
Denmark	Danish kroner	1,353.44	156.00					1,353.55	156.00
Sweden	Swedish kroner	849.20	113.00					849.20	113.00
United Kingdom	British pound	139.17	212.00					139.17	212.00
James F. McGovern:									
Switzerland	Swiss franc	346.00	172.00					346.00	172.00
West Germany	Deutsche mark	1,067.64	434.00					1,067.64	434.00
Denmark	Danish kroner	1,353.44	156.00					1,353.44	156.00
Sweden	Swedish kroner	849.20	113.00					849.20	113.00
United Kingdom	British pound	139.17	212.00					139.17	212.00
James R. Locher:									
Switzerland	Swiss franc	346.00	172.00					346.00	172.00
West Germany	Deutsche mark	1,067.64	434.00					1,067.64	434.00
Denmark	Danish kroner	1,353.44	156.00					1,353.44	156.00
Sweden	Swedish kroner	849.20	113.00					849.20	113.00
United Kingdom	British pound	139.17	212.00					139.17	212.00
Frank J. Gaffney:									
Switzerland	Swiss franc	346.00	172.00					346.00	172.00
West Germany	Deutsche mark	836.40	340.00					836.40	340.00
West Germany	Deutsche mark	231.24	94.00					231.24	94.00
Denmark	Danish kroner	1,353.55	156.00					1,353.55	156.00
Sweden	Swedish kroner	849.20	113.00					849.20	113.00
United Kingdom	British pound	139.17	212.00					139.17	212.00
William L. Ball:									
West Germany	Deutsche mark	204.85	614.55					204.85	614.55
			2,182.55						2,182.55
Total			4,962.55						4,962.55

JOHN TOWER,
Chairman, Committee on Armed Services, Apr. 13, 1983.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FOR THE PERIOD OCT. 1 TO DEC. 31, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Gary Hart:									
Switzerland	Swiss franc	541.05	243.00					541.05	243.00
United Kingdom	Pound	68.12	109.00					68.12	109.00
Paul Besozzi:									
Switzerland	Swiss franc	541.05	243.00					541.05	243.00
United Kingdom	Pound	68.12	109.00					68.12	109.00
Senator Sam Nunn:									
United Kingdom	Pound	116.67	196.00					116.67	196.00
Switzerland	Swiss franc	179.95	85.69					179.95	85.69
Federal Republic of Germany	Mark	210	84.00					210	84.00
Arnold Punaro:									
United Kingdom	Pound	259.52	147.45					259.52	147.45
Federal Republic of Germany	Mark	1,046.64	406.00					1,046.64	406.00
Switzerland	Swiss franc	179.95	81.00					179.95	81.00
Spain	Peseta	35,850	300.00					35,850	300.00
Dorothy Fosdick:									
Portugal	Escudo	12,076	134.17					12,076	134.17
Greece	Drachma	9,400	130.74					9,400	130.74
Italy	Lira	228,871	155.06					228,871	155.06
Federal Republic of Germany	Deutsche mark	578.25	225.00					578.25	225.00
United Kingdom	Pound	324.40	545.00					324.40	545.00
Bermuda	Dollar		280.00						280.00
G. Kenneth Johnson:									
Federal Republic of Germany	Deutsche mark	1,532.50	613.00					1,532.50	613.00
Richard Finn:									
Turkey	Turkish lira	40,140	229.00					20,140	229.00
Greece	Drachma	10,530	150.00					10,530	150.00
Italy	Lira	249,690	174.00					249,690	174.00
Portugal	Escudo	13,408	150.00					13,408	150.00
Drew Harker:									
Turkey	Turkish lira	25,140	200.80					25,140	200.80
Greece	Drachma	10,530	150.00					10,530	150.00
Italy	Lira	249,690	174.00					249,690	174.00
Portugal	Escudo	20,111	225.00					20,111	225.00
L. Wayne Arny:									
Federal Republic of Germany	Deutsche mark	528.84	208.00					528.84	208.00
Holland	Guilder	684	246.00					684	246.00
Total			5,993.91						5,993.91

JOHN TOWER,
Chairman, Committee on Armed Services, Apr. 12, 1983.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FOR THE PERIOD JULY 1 TO SEPT. 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John Tower:									
United Kingdom	Pound	379.13	665.00					379.13	665.00
Senator William Cohen:									
United Kingdom	Pound	393.39	690.00					393.39	690.00
Senator Carl Levin:									
Israel	United States dollar		270.00		1,298.00		591.11		2,159.11
Lebanon	United States dollar						413.60		413.60
Senator Dan Quayle:									
France	Franc		336.00						336.00
Netherlands	Guilder	235.65	86.00					235.65	86.00
Federal Republic of Germany	Mark		87.00						87.00
United Kingdom	Pound	116.83	200.00					116.83	200.00
Rhett B. Dawson:									
United Kingdom	Pound	336.06	688.56					366.06	688.56
L. Wayne Arny:									
United Kingdom	Pound	549.09	945.00	42.60	73.27			591.69	1,018.27
[illegible]:									
Israel	United States dollar		270.00		1,298.00		310.50		1,878.50
Lebanon	United States dollar						58.00		58.00
[illegible]:									
Netherlands	Guilder	235.65	86.00					235.65	86.00
Federal Republic of Germany	Mark		87.00						87.00
France	Franc	1,822.00	261.00					1,822.00	261.00
United Kingdom	Pound	116.83	200.00					116.83	200.00
Belgium	Franc		79.00						79.00
United States	Dollar				953.00				953.00
Carl Smith:									
United Kingdom	Pound	393.39	690.00					393.39	690.00
William L. Ball:									
United Kingdom	Pound	366.06	630.00		925.00				1,555.00
Total			6,270.56		4,547.27		1,373.21		12,191.04

JOHN TOWER,
Chairman, Committee on Armed Services, Apr. 12, 1983.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, FOR TRAVEL FOR THE PERIOD JAN. 1 TO MAR. 31, 1983

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John Heinz:									
Israel	United States dollar		300.00						300.00
Italy	Lire	193.9665	136.50					193.9665	136.50
West Germany	Deutsche mark	114.7155	93.00					114.7155	93.00
William A. Reinsch:									
Israel	United States dollar		300.00						300.00
Italy	Lire	126.469	89.00					126.469	89.00
United States	Dollar				600.00				600.00
Total			918.50		600.00				1,518.50

JAKE GARN,
Chairman, Committee on Banking, Housing, and Urban Affairs, Mar. 18, 1983.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, FOR TRAVEL FOR THE PERIOD OCT. 1 TO DEC. 31, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Riley K. Temple:									
England	United States dollar		420.00						420.00
Kenya	Shilling	6,656.20	600.00					6,656.20	600.00
United States	United States dollar				2,533.00				2,533.00
[illegible] L. McAuliffe:									
Japan	Yen	273,830	985.00					273,830	985.00
United States	United States dollar				2,086.00				2,086.00
Mark L. Schneider:									
Canada	Canadian dollar	275	225.00	61.00	50.00			336	275.00
United States	United States dollar				238.00				238.00
Ward H. White:									
Italy	Lire	250,908	174.00					250,908	174.00
Kenya	Shilling	8,248.35	744.02					8,248.35	744.02
Hong Kong	Hong Kong dollar	2,684.20	412.00					2,684.20	412.00
United States	United States dollar				2,927.00				2,927.00
William D. Phillips:									
Japan	Yen	461,966	1,678.00					461,966	1,678.00
Korea	Won	149,00	200.00					149,00	200.00
United States	United States dollar				1,195.00				1,195.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, FOR TRAVEL FOR THE PERIOD OCT. 1 TO DEC. 31, 1982—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Total			5,438.02		9,029.00				14,467.02

BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation, Apr. 19, 1983.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, FOR TRAVEL FOR THE PERIOD JAN. 1 TO MAR. 31, 1983

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
John D. Hardy:									
England	Pound	455.10	686.00					455.10	686.00
United States	United States dollar				1,983.00				1,983.00
Total			686.00		1,983.00				2,669.00

BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation, Apr. 19, 1983.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P. L. 95-384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FOR THE PERIOD JAN. 1 TO MAR. 31, 1983

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Malcolm Wallop			246.36		3,972.26				4,218.62
Senator Patrick Leahy			444.00		3,825.00				4,269.00
Eric Newsom			656.49		3,080.00				3,736.49
Patricia Smith			656.49		3,080.00				3,736.49
Stephen Flanagan			656.49		3,080.00				3,736.49
Senator John Chafee			655.66		1,618.00				2,273.66
Scott Harris			798.07		1,832.00				2,630.07
Larry Kettlewell			877.35		1,832.00				2,709.35
Senator Daniel Patrick Moynihan			306.00		4,541.66				4,847.66
Victoria Toensing			833.12		2,214.66				3,047.78
Peter Sullivan			794.00		2,214.66				3,008.66
Total			6,924.03		31,290.24				38,214.27

BARRY GOLDWATER,
Chairman, Select Committee on Intelligence, Mar. 31, 1983.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR TRAVEL FOR THE PERIOD JAN. 1 TO MAR. 31, 1983

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Charles McC. Mathias:									
France	French franc	1,582.30	228.00					1,582.30	228.00
Ralph Oman:									
France	French franc	2,109.70	304.00					2,109.70	304.00
Total			532.00						532.00

STROM THURMOND,
Chairman, Committee on the Judiciary, Mar. 30, 1983.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON LABOR AND HUMAN RESOURCES, FOR TRAVEL FOR THE PERIOD JAN. 1 TO MAR. 31, 1983

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
John Dudinsky, Jr.:									
Bahamas	Dollar		144.00						144.00
Total			144.00						144.00

ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources, Mar. 4, 1983.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), JOINT ECONOMIC COMMITTEE, FOR TRAVEL FOR THE PERIOD FEB. 10 TO FEB. 20, 1983

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Roger Jepsen:									
United States	Dollar				4,236.00				4,236.00
United Kingdom	Pound	137.55	212.00			33.00	50.83	170.55	262.83
France	Franc	1,116.80	164.00					1,116.80	164.00
Italy	Lire	219,150	158.00					219,150	158.00
Representative Dan Lungren:									
United States	Dollar				3,843.00				3,843.00
United Kingdom	Pound	68.73	106.00			33.00	50.83	101.73	156.83
France	Franc	1,116.80	164.00					1,116.80	164.00
Bruce Bartlett:									
United States	Dollar				4,173.00				4,173.00
United Kingdom	Pound	275.10	424.00			33.00	50.83	308.10	474.83
France	Franc	1,116.80	164.00					1,116.80	164.00
Italy	Lire	219,150	158.00					219,150	158.00
Total			1,550.00		12,252.00		152.49		13,954.49

ROGER W. JEPSEN,
Chairman, Joint Economic Committee, Apr. 8, 1983.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), CODEL MATTINGLY/BOREN, FOR TRAVEL AUTHORIZED BY THE MAJORITY AND THE MINORITY LEADERS FOR THE PERIOD AUG. 22 TO SEPT. 2, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Mack Mattingly:									
United Kingdom	Pound	181.65	315.00					181.65	315.00
Federal Republic of Germany	Deutsche mark	408.24	168.00					408.24	168.00
Belgium	Belgian franc	7,929.60	168.00					7,929.60	168.00
Senator David L. Boren:									
United Kingdom	Pound	181.65	315.00					181.65	315.00
Federal Republic of Germany	Deutsche mark	408.24	168.00					408.24	168.00
Belgium	Belgian mark	9,893.59	209.61					9,893.59	209.61
Netherlands	Guilder	641.90	242.23					641.90	242.23
Senator Paula Hawkins:									
United Kingdom	Pound	181.65	315.00					181.65	315.00
Federal Republic of Germany	Deutsche mark	408.24	168.00					408.24	168.00
Netherlands	Guilder	217.30	82.00					217.30	82.00
Senator Nicholas F. Brady:									
United Kingdom	Pound	181.65	315.00					181.65	315.00
Federal Republic of Germany	Deutsche mark	408.24	168.00					408.24	168.00
Belgium	Belgian franc	3,964.80	84.00					3,964.80	84.00
William F. Hildenbrand:									
United Kingdom	Pound	181.65	315.00					181.65	315.00
Federal Republic of Germany	Deutsche mark	408.24	168.00					408.24	168.00
Belgium	Belgian franc	9,489.56	201.05					9,489.56	201.05
Netherlands	Guilder	651.90	246.00					651.90	246.00
Howard S. Liebengood:									
United Kingdom	Pound	181.65	315.00					181.65	315.00
Federal Republic of Germany	Deutsche mark	1,137.24	468.00					1,137.24	468.00
Netherlands	Guilder	434.60	164.00					434.60	164.00
Rhett Dawson:									
United Kingdom	Pound	181.65	315.00					181.65	315.00
Federal Republic of Germany	Deutsche mark	408.24	168.00					408.24	168.00
Belgium	Belgian franc	11,894.4	252.00					11,894.4	252.00
Netherlands	Guilder	651.90	246.00					651.90	246.00
Jeanine Drysdale Lowe:									
United Kingdom	Pound	181.65	315.00					181.65	315.00
Federal Republic of Germany	Deutsche mark	408.24	168.00					408.24	168.00
Belgium	Belgian franc	11,894.4	252.00					11,894.4	252.00
Netherlands	Guilder	651.90	246.00					651.90	246.00
Yvonne L. Hopkins:									
United Kingdom	Pound	181.65	315.00					181.65	315.00
Federal Republic of Germany	Deutsche mark	408.24	168.00					408.24	168.00
Belgium	Belgian franc	10,015.84	212.20					10,015.84	212.20
Netherlands	Guilder	651.90	246.00					651.90	246.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), CODEL MATTINGLY/BOREN, FOR TRAVEL AUTHORIZED BY THE MAJORITY AND THE MINORITY LEADERS FOR THE PERIOD AUG. 22 TO SEPT. 2, 1982—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Delegation expenses [1]									
United Kingdom							6,129.22		2,129.22
Federal Republic of Germany							1,627.96		1,627.96
Belgium							2,477.93		2,477.93
Netherlands							4,324.07		4,324.07
Total			7,498.09				14,559.18		22,057.27

[1] Delegation expenses include direct payments and reimbursements to State Department and Defense Department under authority of sec. 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95-384, and S. Res. 179, agreed to May 25, 1977.

MACK MATTINGLY,
Chairman of Delegation, Apr. 20, 1983.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), CODEL COCHRAN, FOR TRAVEL AUTHORIZED BY THE MAJORITY AND THE MINORITY LEADERS FOR THE PERIOD OCT. 11 TO OCT. 23, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Thad Cochran:									
People's Republic of China	Yuan	1,034.25	525.00					1,034.25	525.00
Hong Kong	Hong Kong dollar	1,370.90	206.00					1,370.90	206.00
Senator Patrick Leahy:									
People's Republic of China	Yuan	1,034.25	525.00					1,034.25	525.00
Hong Kong	Hong Kong dollar	1,370.90	206.00					1,370.90	206.00
Senator David Pryor:									
People's Republic of China	Yuan	1,034.25	525.00					1,034.25	525.00
Hong Kong	Hong Kong dollar	1,370.90	206.00					1,370.90	206.00
Senator Paula Hawkins:									
People's Republic of China	Yuan	591.00	300.00					591.00	300.00
Hong Kong	Hong Kong dollar	685.50	103.00					685.50	103.00
William F. Hildenbrand:									
People's Republic of China	Yuan	1,034.25	525.00					1,034.25	525.00
Hong Kong	Hong Kong dollar	1,370.90	206.00					1,370.90	206.00
Howard S. Liebengood:									
People's Republic of China	Yuan	1,034.25	525.00					1,034.25	525.00
Hong Kong	Hong Kong dollar	1,370.90	206.00					1,370.90	206.00
Marilyn Courtot:									
Hong Kong	Hong Kong dollar	1,370.90	206.00					1,370.90	206.00
Terrence Sauvain:									
People's Republic of China	Yuan	1,034.25	525.00					1,034.25	525.00
Hong Kong	Hong Kong dollar	1,370.90	206.00					1,370.90	206.00
Vivian Dubrovin:									
People's Republic of China	Yuan	1,034.25	525.00					1,034.25	525.00
Hong Kong	Hong Kong dollar	1,370.90	206.00					1,370.90	206.00
Jeanine Drysdale Lowe:									
People's Republic of China	Yuan	1,034.25	525.00					1,034.25	525.00
Hong Kong	Hong Kong dollar	1,290.10	194.00					1,290.10	194.00
William LaForge:									
People's Republic of China	Yuan	1,034.25	525.00					1,034.25	525.00
Hong Kong	Hong Kong dollar	1,370.90	206.00					1,370.90	206.00
Delegation expenses [1]									
People's Republic of China							3,313.59		3,313.59
Hong Kong							2,709.48		2,709.48
Total			7,176.00				6,023.07		13,199.07

[1] Delegation expenses include direct payments and reimbursements to State Department and Defense Department under authority of sec. 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95-384, and S. Res. 179, agreed to May 25, 1977.

THAD COCHRAN,
Chairman of Delegation, Feb. 25, 1983.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), CODEL STEVENS, FOR TRAVEL AUTHORIZED BY THE MAJORITY AND THE MINORITY LEADERS FOR THE PERIOD NOV. 5 TO 21, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Ted Stevens:									
Portugal	Escudo	11,741	130.00					11,741	130.00
Greece	Drachma	10,785	150.00					10,785	150.00
Italy	Lire	230,256	156.00					230,256	156.00
Germany	Deutsche mark	578.25	225.00					578.25	225.00
United Kingdom	Pound	569.09	956.06					569.09	956.06
Bermuda	United States dollar		280.00						280.00
Senator Henry M. Jackson:									
Portugal	Escudo	13,101	145.13					13,101	145.13
Greece	Drachma	10,785	150.00					10,785	150.00
Italy	Lire	230,256	156.00					230,256	156.00
Germany	Deutsche mark	578.25	225.00					578.25	225.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), CODEL STEVENS, FOR TRAVEL AUTHORIZED BY THE MAJORITY AND THE MINORITY LEADERS FOR THE PERIOD NOV. 5 TO 21, 1982—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United Kingdom	Pound	407.96	685.37					407.96	685.37
Bermuda	United States Dollar		280.00						280.00
Senator James A. McClure:									
Portugal	Escudo	13,541	150.00					13,541	150.00
Greece	Drachma	10,785	150.00					10,785	150.00
Italy	Lire	230,256	156.00					230,256	156.00
Germany	Deutsche mark	578.25	225.00					578.25	225.00
United Kingdom	Pound	490.66	824.30					490.66	824.30
Bermuda	United States dollar		280.00						280.00
Senator Mark Andrews:									
Portugal	Escudo	13,541	150.00					13,541	150.00
Greece	Drachma	10,785	150.00					10,785	150.00
Italy	Lire	230,256	156.00					230,256	156.00
Germany	Deutsche mark	578.25	225.00					578.25	225.00
United Kingdom	Pound	460.90	774.31					460.90	774.31
Bermuda	United States dollar		280.00						280.00
Senator Frank Murkowski:									
Portugal	Escudo	13,541	150.00					13,541	150.00
Greece	Drachma	10,785	150.00					10,785	150.00
Italy	Lire	230,256	156.00					230,256	156.00
Germany	Deutsche mark	578.25	225.00					578.25	225.00
United Kingdom	Pound	619.38	1,040.55					619.38	1,040.55
Bermuda	United States dollar		280.00						280.00
Howard O. Greene, Jr.:									
Portugal	Escudo	13,541	150.00					13,541	150.00
Greece	Drachma	10,785	150.00					10,785	150.00
Italy	Lire	230,256	156.00					230,256	156.00
Germany	Deutsche mark	578.25	225.00					578.25	225.00
United Kingdom	Pound	369.96	621.53					369.96	621.53
Bermuda	United States dollar		280.00						280.00
Rebecca Gernhardt:									
Portugal	Escudo	13,541	150.00					13,541	150.00
Greece	Drachma	10,785	150.00					10,785	150.00
Italy	Lire	230,256	156.00					230,256	156.00
Germany	Deutsche mark	578.25	225.00					578.25	225.00
United Kingdom	Pound	379.94	638.29					379.94	638.29
Bermuda	United States dollar		280.00						280.00
Yvonne L. Hopkins:									
Portugal	Escudo	13,541	150.00					13,541	150.00
Greece	Drachma	10,785	150.00					10,785	150.00
Italy	Lire	230,256	156.00					230,256	156.00
Germany	Deutsche mark	578.25	225.00					578.25	225.00
United Kingdom	Pound	289.35	486.10					289.35	486.10
Bermuda	United States dollar		280.00						280.00
Delegation expenses: [1]									
Portugal							3,399.50		3,399.50
Greece							2,900.77		2,900.77
Italy							2,812.26		2,812.26
Germany							1,451.48		1,451.48
United Kingdom							719.05		719.05
Bermuda							719.05		719.05
Total			13,689.64				12,002.11		25,691.75

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[1] Delegation expenses include direct payments and reimbursements to State Department and Defense Department under authority of sec. 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95-384, and S. Res. 179, agreed to May 25, 1977.

TED STEVENS,
Chairman of Delegation, Apr. 20, 1983.

REPORT OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation; with an amendment in the nature of a substitute:

S. 66. A bill to amend the Communications Act of 1934 (together with minority views) (Rept. No. 98-67).

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

S. 1037. A bill to authorize appropriations for the fiscal year 1984 and 1985 for certain maritime programs of the Department of Transportation, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PACKWOOD, from Committee on Commerce, Science, and Transportation:

Harry O'Connor, of California, to be a member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 1, 1984.

(The above nomination was reported from the Committee on Commerce, Science, and Transportation subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND:

S. 1149. A bill to amend title 10, United States Code, to provide benefits under the survivor benefit plan to the spouses and dependent children of members of the Reserve components of the uniformed services who die after completing service requirements for participation in that plan but before being afforded the opportunity to elect participation in the plan, to provide for the payment of annuities under the plan to dependent children of members of the uniformed services who die on active duty after becoming entitled to or qualified for retired or retainer pay, and for other purposes; to the Committee on Armed Services.

By Mr. LEVIN:

S. 1150. A bill to make certain amendments to title 18, United States Code, relating to rights of witnesses appearing before grand juries; to the Committee on the Judiciary.

By Mr. ANDREWS (by request):

S. 1151. A bill to compensate heirs of deceased Indians for improper payments from trust estates to States or political subdivisions thereof as reimbursements for old age assistance received by decedents during their lifetime; to the Select Committee on Indian Affairs.

By Mrs. HAWKINS:

S. 1152. A bill to amend the Consumer Protection Act with respect to consumer leases and rental-purchase agreements; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HEINZ:

S. 1153. A bill to amend the Internal Revenue Code of 1954 to allow corporations a credit against tax for contributions for child programming on public radio and television stations; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. Riegle, Mr. Metzenbaum, Mr. Eagleton, Mr. Randolph, Mr. Pell, Mr. Matsunaga, and Mr. Dodd):

S. 1154. A bill to provide grants to States for the purpose of providing health insurance or health care benefits to unemployed workers, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HOLLINGS (for himself and Mr. Thurmond):

S. 1155. A bill to provide benefits to individuals who are totally disabled due to employment-related brown lung disease and to their surviving dependents, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GORTON:

S. 1156. A bill to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes; to the Committee on the Judiciary.

By Mr. PERCY (for himself and Mr. Dixon):

S. 1157. A bill to deauthorize the William L. Springer Lake portion of the flood control project for the Illinois River and tributaries, Illinois, Wisconsin, and Indiana, and for other purposes; to the Committee on Environment and Public Works.

By Mr. PERCY (for himself and Mr. Glenn):

S. 1158. A bill to apply duty-free treatment to imported water chestnuts and bamboo shoots; to the Committee on Finance.

By Mr. HATFIELD (for himself and Mr. Cranston, Mr. Hollings, Mr. Packwood, Mr. Quayle, Mr. Sarbanes, Mr. Durenberger, Mr. Burdick, Mr. Mitchell, Mr. Jackson, Mr. Andrews, Mr. Sasser, Mr. Eagleton, Mr. Melcher, Mr. Hart, Mr. Randolph, Mr. Huddleston, Mr. Ford, and Mr. Riegle):

S. 1159. A bill to amend the Export Administration Act of 1979 to extend the provisions relating to the export of domestically produced crude oil; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LAXALT:

S. 1160. A bill to authorize Douglas County of the State of Nevada to transfer certain land to a private owner; to the Committee on Energy and Natural Resources.

By Mr. DURENBERGER (for himself, Mr. Bentsen, Mr. Symms, Mr. Pryor, Mr. Wallop, Mr. Moynihan, and Mr. Boren):

S. 1161. A bill to amend the Internal Revenue Code of 1954 to make it clear that certain motor vehicle operating leases are leases; to the Committee on Finance.

By Mr. GLENN (for himself and Mr. Metzenbaum):

S. 1162. A bill to authorize the Secretary of the Army to construct a project to provide shoreline protection for Maumee Bay State Park, Ohio; to the Committee on Environment and Public Works.

By Mr. GLENN:

S. 1163. A bill to amend title 5 of the United States Code to provide death benefits to survivors of Federal law enforcement officers and firefighters, and for other purposes; to the Committee on Governmental Affairs.

S. 1164. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the payment of benefits with respect to public safety officers who die of certain medical conditions sustained in the performance of duty; to the Committee on the Judiciary.

By Mr. QUAYLE (for himself, Mr. Cohen, Mr. Goldwater, Mr. Humphrey, Mr. Jepsen, Mr. Levin, Mr. Stennis, Mr. Thurmond, Mr. Tower, and Mr. Warner):

S. 1165. A bill to provide for the continued operation of overseas schools for dependents of Department of Defense personnel by the Department of Defense; to the Committee on Armed Services.

By Mr. DURENBERGER (for himself and Mr. Kasten):

S. 1166. A bill to amend the Internal Revenue Code of 1954 to provide that the amount of the medical expense deduction allowable for expenses incurred in the operation of a motor vehicle will be determined in the same manner Government employees determine reimbursement for use of their vehicles on Government business; to the Committee on Finance.

By Mr. DURENBERGER (for himself, Mrs. Kassebaum, Mr. Cranston, Mr. Kasten, Mr. DeConcini, and Mr. Heinz):

S. 1167. A bill to amend the Internal Revenue Code of 1954 to provide that the amount of the charitable deduction allowable for expenses incurred in the operation of a motor vehicle will be determined in the same manner Government employees determine reimbursement for use of their vehicles on Government business; to the Committee on Finance.

By Mr. BOREN (by request):

S. 1168. A bill to declare that the United States holds certain lands in trust for the Kaw Tribe of Oklahoma; to the Select Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LEVIN (for himself and Mr. Wilson):

S. Res. 124. Resolution to affirm the Armenian genocide; to the Committee on the Judiciary.

By Mr. LEVIN (for himself, Mr. Dodd, Mr. Dixon, Mr. Grassley, Mr. Lugar, Mr. Zorinsky, Mr. Cohen, Mr. Hollings, Mr. Hecht, Mr. Mitchell, Mr. Metzenbaum, and Mr. Riegle):

S. Res. 125. Resolution expressing the sense of the Senate that the Government of the Soviet Union should allow Ida Nudel to emigrate to Israel, and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND:

S. 1149. A bill to amend title 10, United States Code, to provide benefits under the survivor benefit plan to the spouses and dependent children of members of the Reserve components of the uniformed services who die after completing service requirements for participation in that plan but before being afforded the opportunity to elect participation in the plan, to provide for the payment of annuities under the plan to dependent children of members of the uniformed services who die on active duty after becoming entitled to or qualified for retired or retainer pay, and for other purposes; to the Committee on the Judiciary.

SURVIVOR BENEFIT PLAN BILL

Mr. THURMOND. Mr. President, in March of this year, I introduced S. 717 and S. 719, which would correct two of the inequities that currently exist in the military survivor benefit plan [SBP]. There are several remaining inequities in the SBP, and today I am introducing a bill which, when taken in conjunction with S. 717 and S. 719, addresses some of these remaining deficiencies.

Mr. President, my proposed legislation contains four needed corrections to the SBP. When Public Law 92-425 was enacted in 1972, members of Reserve components were allowed to join the Reserve components survivor benefit plan. However, if these members died prior to reaching age 60, even if qualified for retired pay in every other respect, their spouse was not permitted under the original SBP legislation to receive an annuity.

In 1978, Public Law 95-397 partially addressed this inequity. However, it did not include a retroactive provision. Thus, those widows whose qualified Reserve spouses dies prior to the enactment of Public Law 95-397 were left without any annuity. This situation persists today, in spite of the fact that the decreased husbands of these reservist widows would have been entitled to retired pay, except for the fact they died prior to reaching age 60.

Mr. President, the bill I am introducing today would allow those families of eligible Reserve retirees who died between 1972 and 1978 to receive a portion of that annuity.

This legislation would also permit an annuity to be paid to the surviving spouse or dependent child of a reservist who had completed his 20 qualifying years, but who had not yet had an opportunity to make a survivor benefit plan election because he died before he was notified of this eligibility. At the present time, as much as a year can elapse between the attainment of eligibility for reserve retired pay at age 60, upon the completion of 20 qualifying years, and the receipt of notification of such eligibility from the Reserve centers.

My proposed legislation would also raise the minimum cost base amount from $300 to $750, thereby taking into account the inflation that has existed since 1972 when the first survivor benefit plan for the military was enacted. Under current law, in calculating the cost of the survivor benefit, the retiree pays 2½ percent of the first $300 of base pay and 10 percent of the remainder of base pay. This proposed change in the base will adjust for the increase in the Consumer Price Index since 1972 and permit the retiree to provide for his survivors without having to pay an excessive amount for SBP.

Mr. President, the fourth element of the legislation I am introducing today would authorize the payment of an annuity to the dependent children of an Armed Forces member who dies on active duty after becoming entitled to retired pay, if there is no eligible spouse. Current law pemits the payment of SBP to a surviving spouse, but through an oversight, does not address the situation where the member had no spouse, but does have dependent children.

I hope my distinguished colleagues will recognize the necessity of removing these inequities from the survivor benefit plan and will join me in cosponsoring this legislation.

Mr. President, I ask unanimous consent that this bill be printed in the Congressional Record at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Uniformed Services Survivor Benefits Amendments of 1983".

Sec. 2. Section 1448(a)(2) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of clause (A);

(2) by striking out the period at the end of clause (B) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new clauses:

"(C) to a person who dies before being notified under section 1331(d) of this title that he has completed the years of service required for eligibility for retired or retainer pay under chapter 67 of this title if on the date of death the person (i) had completed the years of service required for eligibility for retired pay under chapter 67 of this title, and (ii) was married or had a dependent child; and

"(D) to a person who dies during the 90-day period beginning on the date he receives notification under section 1331(d) of this title that he has completed the years of service required for eligibility for retired or retainer pay under chapter 67 of this title if on the date of death the person (i) has not made an election under clause (B) to participate in the Plan, and (ii) was married or had a dependent child.".

Sec. 3. Subsection (d) of section 1448 of title 10, United States Code, is amended to read as follows:

"(d) If a member of an armed force dies on active duty after he has become entitled to retired or retainer pay, or after he has qualified for that pay except that he has not applied for or been granted that pay, and his spouse or dependent child is eligible for dependency and indemnity compensation under section 411(a) or section 413 of title 38 in an amount that is less than the annuity the spouse or dependent child would have received under this subchapter if it had applied to the member when he died, the Secretary concerned shall pay to the spouse or dependent child an annuity equal to the difference between that amount of dependency and indemnity compensation and 55 percent of the retired or retainer pay to which the otherwise eligible spouse or dependent child described in section 1450(a)(1) or 1450(a)(2) of this title would have been entitled if the member had been entitled to that pay based upon his years of active service when he died.".

Sec. 4. (a) Section 1450(j) of title 10, United States Code, is amended by adding at the end thereof the following new sentence: "An annuity payable by virtue of clause (C) or (D) of section 1448(a)(2) of this title shall be effective on the first day after the death of the person to whom the Plan applies.".

(b) Section 1452(a)(1) of such title is amended by striking out "$300" and inserting in lieu thereof "$750".

Sec. 5. (a) The Secretary concerned shall pay an annuity to any individual who is the surviving spouse or a dependent child of a member or former member of the uniformed services who—

(1) died during the period beginning on September 21, 1972, and ending on September 30, 1978; and

(2) at the time of his death would have been eligible for retired pay under chapter 67 of title 10, United States Code, but for the fact that he was under sixty years of age.

(b) An annuity under subsection (a) shall be paid under the provisions of subchapter II of chapter 73 of title 10, United States Code, in the same manner as if the member or former member had died after September 30, 1980, and had elected under section 1448(a)(2)(B) of such title to participate in the survivor benefit plan established by such subchapter and had made a designation under section 1448(e) of such title to provide an annuity to become effective on the first day after his death.

(c) If an individual entitled to an annuity under this section is also entitled to an annuity under subchapter II of chapter 73 of title 10, United States Code, based upon a subsequent marriage, the individual may not receive both annuities but must elect which to receive.

(d) As used in this section:

(1) "Uniformed services" means the Armed Forces and the commissioned corps of the Public Health Service and of the National Oceanic and Atmospheric Administration.

(2) "Surviving spouse" has the meaning given the terms "widow" and "widower" in section 1447 of title 10, United States Code.

(3) "Dependent child" has the meaning given such term in section 1447 of title 10, United States Code.

(4) "Secretary concerned" has the meaning given such term in section 101(8) of title 10, United States Code, and includes the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration, and the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service.

Sec. 6. The amendments made by sections 2, 3, and 4 and the provisions of section 5 shall apply to annuities payable and to reductions in retired or retainer pay for months beginning on or after the date of the enactment of this Act. No benefits shall accrue to any person by virtue of the enactment of this Act for any period before the date of the enactment of this Act.

By Mr. LEVIN:

S. 1150. A bill to make certain amendments to title 18, United States Code, relating to rights of witnesses appearing before grand juries; to the Committee on the Judiciary.

GRAND JURY BILL

Mr. LEVIN. Mr. President, today I am again introducing legislation to allow witnesses called before a Federal grand jury to testify to be accompanied by an attorney in the grand jury room. This legislation is identical to the witness/counsel provision which was included in the broader grand jury reform bill I introduced during the 97th Congress. I am introducing this single reform measure at this time because it narrowly focuses the issue and because it will eliminate the most glaring defect in the current system—the exclusion of attorneys from the grand jury room.

Currently, witnesses called before a Federal grand jury are not entitled to have their counsel present in the grand jury chamber to advise them. If a witness has a question about important rights and privileges available to him, such as the right against self-incrimination, he must leave the room and seek the advice of an attorney waiting outside. This practice is time-consuming and it is only available to those who can afford the luxury of hiring an attorney to sit outside the room. It also has a "chilling" effect on a witness' right to receive advice from counsel because the witness runs the risk of prejudicing the jury each time he leaves the room to seek advice before answering a question.

My bill would insure that every witness called to testify may be accompanied by an attorney. In order not to turn the grand jury proceedings into a "mini-trial" or disrupt them in any way, the attorney's role would be limited. The attorney would only be allowed in the room during his client's appearance before the grand jury and would be prohibited from addressing the grand jurors, the prosecutor, or otherwise taking any part in the proceedings. Few attorneys would risk disrupting the grand jury proceedings by ignoring these rules, but if this should occur, the court would have the authority to remove such counsel, and appoint new counsel or order the witness to obtain new counsel, or hold the counsel in contempt.

Mr. President. Both the American Bar Association and the American Law Institute support this proposal. In fact the American Bar Association considers it to be one of their highest legislative priorities.

Fifteen States have already enacted statutes to permit attorneys to accompany witnesses before the grand jury. In testimony before the Subcommittee on Criminal Justice of the House Judiciary Committee last year, Richard H. Kuh, who is a member of the Grand Jury Committee of the American Bar Association's Section of Criminal Justice, reported that, "the experience to date in those States that allow counsel in the grand jury room has been good." In 1980, I contacted district attorneys in a number of these States to inquire whether allowing attorneys to accompany witnesses in their appearance before the grand jury had resulted in any disruption of their State's grand jury proceedings. Most of the responses I received indicated that this change in procedure has not had a disruptive effect. For example, in the State of Minnesota, Mr. Thomas L. Johnson, Hennepin County attorney, had this to say about the reform:

> The experience we have had with counsel representation before the grand jury has been positive. It has presented no impediment to the manner or time within which a matter is presented to the grand jury.

Eugene Gold, district attorney for Kings County in New York, responded to my letter as follows:

> Except for one or two isolated and insignificant incidents, we have not experienced any disruption of, or interference with, the grand jury process by attorneys who have appeared in the jury room as counsel to witnesses. Moreover, the presence of counsel in the jury room has eliminated to a large extent delay caused to by those witnesses who, under the previous law, exercised their right to interrupt the questioning to leave the room . . . .

And a St. Louis attorney wrote:

> I have personally conducted grand jury investigations where potential defendants have had counsel present when they testified before the grand jury. On these occasions there have been no disruptions whatsoever.

Mr. President, complex and important legal issues face any witness who is called to testify before a grand jury. Yet the Federal grand jury system, unlike almost all other stages of criminal proceedings, does not allow witnesses to be accompanied by an attorney, even for the limited purpose of receiving advice. So long the role of the attorney is a limited one, we can provide witnesses called before the grand jury with greater protections against waiving their rights without in any way disrupting the historic functions of the grand jury. My bill accomplishes that goal.

I hope that we will address this serious shortcoming in the Federal grand jury procedure without further delay by enacting this measure.

By Mr. ANDREWS (by request):

S. 1151. A bill to compensate heirs of deceased Indians for improper payments from trust estates to States or political subdivisions thereof as reimbursements for old age assistance received by decedents during their lifetime; to the Select Committee on Indian Affairs.

INDIAN CLAIMS

● Mr. ANDREWS. Mr. President, in the closing days of the 97th Congress, legislation was passed by the Congress and signed into law by the President on December 30, 1982, extending for the last time the statutory period of limitations for bringing of claims of Indian tribes or individual Indians for claims for monetary damages arising from incident or transactions occurring prior to July 1, 1966.

Prior to July 1, 1966, there was no limitation on the time in which the United States could bring an action for damages either on its own behalf or on behalf of an Indian tribe or individual Indian. In 1966, Congress enacted 28 U.S.C. 2415 to establish a time limit of 6 years for claims based on contracts and 3 years for claims for most torts. Six years was allowed for trespass or conversion damages affecting lands. There is no time limit on actions to establish title to property.

In 1972, at the request of the Department of the Interior and the Department of Justice, the statutory period for the United States to bring Indian claims was extended to 1977. In 1977, this period was extended to 1980. In 1980, this period was extended to December 31, 1982, with the following proviso:

> Not later than June 30, 1981, the Secretary of the Interior, after consultation with the Attorney General, shall submit to the Congress legislative proposals to resolve those Indian claims . . . that the Secretary of the Interior or the Attorney General believes are not appropriate to resolve by litigation.

Mr. President, both the Secretary of the Interior and the Attorney General failed to meet this congressionally mandated deadline. In the fall of 1981, my distinguished predecessor, as chairman of the Select Committee on Indian Affairs, Senator COHEN of Maine, sent inquiries as to when legislative proposals might be forthcoming. Receiving an inadequate response, he set oversight hearings before the select committee in April 1982 and again in September 1982. These hearings established that: One, the Department of the Interior, through its "2415" project, had identified between 12,000 to 17,000 Indian claims that had not been presented to the Department of Justice or had been rejected by Justice for litigation for reasons not necessarily going to the merits; two, the Department of the Interior had administratively concluded that the claims for one reason or another lacked sufficient substance to warrant either litigation or legislation; and, three, after reaching this determination, the Department of the Interior did not provide proper notification to the owner of the claim of the administrative determination not to prosecute so that the claimants might bring their own action.

Having stated these criticisms, I would like to say that the job imposed on the administration was monumental; the time constraints of the various extensions led to fits and starts in the processing of the claims; and, the problems of notifying claimants may at times exceed the problem of identifying the claim.

Nevertheless, the integrity of the "process," the integrity of the law, and the integrity of the Government was called into question; not just figuratively, but literally. In September 1982, a class action lawsuit was filed against the Secretary of the Interior and others in the U.S. District Court for the District of Columbia (*Covelo Indian Community* v. *Watt, et al.*, Civ. No. 82-2725) contesting in the manner in which the "2415" claims had been handled and seeking declaratory and mandatory injunctive relief. On November 17, 1982, the Federal District Court ordered that the executive branch "submit legislative proposals to Congress to resolve al those claims . . . that defendants will not litigate before December 31, 1982" and that "if defendants cannot make the necessary legislative submission by that date, they shall institute protective litigation to cover those claims, not the subject of legislative submissions."

Mr. President, at the time this case was argued and, indeed, even at the time the opinion was filed on November 17, 1982, the only claim resolving legislation the Executive contended had been submitted to the Congress was that of "Old Age Assistance" claims. In fact, this legislation proposal was not received by the Senate until November 26, 1982, shortly after entry of the district court order. The bill I introduce today is the bill that was sent by the administration to the Senate on November 26, 1982.

Mr. President, these "Old Age Assistance" claims involve claims for payments to States or their subdivisions out of trust estates or deceased Indians who had received old age assistance during their lifetime. The payments were made according to directives of the Department of the Interior.

In hearings before the Select Committee on Indian Affairs in 1982, Interior Department witnesses estimated that $2.5 million had been improperly paid to reimburse the following States or counties therein: Minnesota, Nebraska, North Dakota, Idaho, Montana, Oregon, Wisconsin, and Washington.

In 1962, in the case of *Running Horse* v. *Udall*, 211 F. Supp. 586 (D. D.C., 1962), it was determined that such payments to States or their political subdivisions from trust estates of deceased Indians was contrary to Federal law, Any State or political subdivision thereof that received such a payment is thus potentially subject to suit for restitution of any such payment received.

Mr. President, these payments were made to those States in accordance with directives of the Department of the Interior. The States are clearly without fault and yet the individual Indian beneficiary suffered harm. The legislation I introduce today recognizes this fact and would hold the States and their political subdivisions harmless.

Under this legislation, the Federal Government will assume responsibility for the claims. Under the circumstances, this is entirely reasonable.

In conclusion, I would note that the legislation I introduce today is recommended to the Congress by the executive branch. Although the letter of transmittal notes that improper payments were paid from approximately 5,000 trust estates, this bill would address far fewer claims; approximately 1,650 claims. This discrepancy will be considered in the hearings on the bill. I introduce this legislation today to begin the long overdue process of congressional resolution of the "2415" claims of the Indian people.

Mr. President, I ask that this bill be printed in full at the conclusion of these remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) The Secretary of the Interior is authorized to determine claims for compensation filed by the heirs or successors of heirs of deceased Indians for the improper reimbursement to any State or political subdivision thereof out of trust estates of those deceased Indians of old age assistance payments received by the decedents during their lifetime.

(b) Claimants shall submit their claims for compensation under this Act in writing to the Secretary of the Interior in accordance with and within two years after the date on which the regulations required by section 2 are published in the Federal Register: *Provided*, That no claim in an amount of less than fifty dollars ($50) shall be paid by the Secretary: *Provided further*, That no interest shall be paid upon any compensation ascertained pursuant to the provisions of this Act.

SEC. 2. (a) Within ninety days after enactment of this Act, the Secretary of the Interior shall promulgate and publish in the Federal Register final regulations and procedures for the processing of claims under this Act, along with a list of all deceased Indians whose trust estates were subject to reimbursement of old age assistance payments received by the decedents during their lifetime.

(b) Where the prospective claimants described in subsection 2(a) are ascertainable through a reasonable search of Department of the Interior records, notice of this Act and the rights conferred hereunder shall be provided.

(c) The Secretary shall also cause to be published in such newspapers of general circulation as the Secretary considers necessary, an explanation of the rights conferred by this Act as well as the procedures for filing claims hereunder.

SEC. 3. (a) The payment of any claim, after its determination in accordance with this Act, shall be a full discharge to the United States or any State or political subdivision thereof of all claims and demands touching any of the matters involved in the controversy.

(b) A final determination by the Secretary made against a claimant shall forever bar any further claim or demand by such claimant against the United States or any State or political subdivision thereof arising out of the matter involved in the controversy.

(c) To carry out the provisions of this Act, there are authorized to be appropriated the sums of $750,000 for fiscal year 1983 and $750,000 for fiscal year 1984, such sums to remain available until expended: *Provided*, That not more than $200,000 of the total of such sums be available for administrative costs necessary to implement this Act.●

By Mrs. HAWKINS:

S. 1152. A bill to amend the Consumer Credit Protection Act with respect to consumer leases and rental-purchase agreements; to the Committee on Banking, Housing, and Urban Affairs.

CONSUMER LEASE AND RENTAL PURCHASE AGREEMENT ACT

● Mrs. HAWKINS. Mr. President, the legislation I am introducing today has been drafted by the Federal Reserve Board and it addresses two matters important to consumers. First, it amends provisions in the Consumer Credit Protection Act so that consumers will have easy access to the data, concerning their costs and responsibilities, most useful when they go comparison shopping at banks for consumer leases. Second, this legislation extends similar disclosure requirements for the first time to rental-purchase agreements. In my opinion, these are important issues. A significant number of consumers now use or acquire property through these two financing techniques, yet they lack the protection and information afforded those who borrow rather than lease or rent.

It was for this reason that the Consumer Leasing Act was first enacted in 1976 as a supplement to the Truth in Lending Act. At that time, a growing number of consumers were leasing automobiles and other durable goods instead of purchasing them through installment credit sales. Unfortunately many of these leases were offered without terms sufficiently clear to inform consumers of all their financial obligations. Congress passed the Consumer Leasing Act in response.

Consumers had been attracted to leases because of the absence of a downpayment and because monthly payments were lower than under installment credit sales. They may also have preferred other unique characteristics offered by some leases, such as the lack of long-term obligations and freedom from maintenance responsibilities.

Like the Truth in Lending Act, the Consumer Leasing Act is primarily a disclosure statute. Lessors are required to give their customers summary data that is easily understood describing the costs and terms of the agreement.

The law also contains provisions that limit a consumer's liability at the end of the lease term in open-end leases. In this type of lease, the customer is responsible for the difference between the estimate made at the beginning of the lease of what the property will be worth at the end of the term and what the property is, in fact, worth at that time. The law limits the amount paid by the customer at the end of the term to no more than three times the monthly payment, with certain limited exceptions. This "three monthly payment" rule is intended to prevent lessors from offering low monthly payments while giving an unrealistically high value to the estimated end of term value of the property. This practice can result in consumers having to pay very large balloon payments. Thus, the Leasing Act was an important step toward greater consumer protection.

CONSUMER LEASING DISCLOSURE SIMPLIFICATION

However, the Federal Reserve Board has long felt that both consumers and financial intermediaries will benefit if consumer leasing disclosure provisions were streamlined just as the Truth in Lending Act was simplified 3 years ago. The bill I am introducing today incorporates the Federal Reserve's draft legislation designed to simplify consumer leasing disclosure. It is offered as a starting place for serious consideration by Congress of improvements to the leasing statute.

The bill simplifies leasing rules by applying principles used in the 1980 simplification of the credit provisions of the Truth in Lending Act. It emphasizes disclosure to consumers of essential cost information in a straightforward manner. Thus, it substantially reduces both the number and the complexity of the data disclosed, concentrating instead only on the information most likely to be used in shopping and decisionmaking. It also requires that disclosed information be presented separately from other information so as to highlight it for consumers. The section-by-section analysis that follows my remarks points out the important changes from the existing law, and the table provides a brief summary of the main points.

While this bill is patterned largely on the truth in lending simplification effort, this bill does contain some differences. For example, civil liability provisions in the Truth in Lending Act were revised in 1980 to limit statutory penalties for violating only certain disclosure requirements. This was done in reaction to the large number of truth in lending suits that had been brought because of only technical violations. However, this bill's disclosure requirements are pared back to essential cost figures. Thus, there is little need to exempt any of them from the general liability rules. Therefore, the Federal Reserve draft, which this bill tracts, does not follow truth in lending by limiting statutory penalties to only certain of the required disclosures.

RENTAL-PURCHASE AGREEMENTS

A form of consumer lease that is not covered by the Consumer Leasing Act is the rental-purchase agreement. Typically, these are agreements covering month-to-month or week-to-week rentals of home appliances, such as TV's. Such agreements may be canceled by consumers at any time, but provide that consumers will own rented goods only after a certain number of payments have been made.

Complaints have been received concerning abuses by firms offering rental-purchase agreements. Apparently, lease agreements have been offered emphasizing ownership options without clearly disclosing the type of payments needed to acquire titles, which may total several times their retail prices. In other cases, advertising is directed toward low income people and is designed to deceive them into thinking there is no other financing option if they want to own an appliance. Other allegations include renting used property although it was represented as new.

This bill addresses these abuses by requiring meaningful disclosure of the terms of rental-purchase agreements. Disclosure provisions emphasize information about how much must be paid before ownership is acquired and about the lack of equity in the property because this is the kind of information most useful to consumers who finance through rental-purchase agreements.

I am indebted to the Federal Reserve Board and its professional staff for the initiative they have taken in submitting to me draft legislation simplifying and improving the Consumer Leasing Act. This legislation is technical. I welcome comments from all interested parties on ways it may be improved to afford protection to consumers without placing an unreasonable burden on industry.

Mr. President, I ask unanimous consent that a table relating to this bill, a section-by-section analysis, and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROPOSED LEASING STATUTORY REVISION MAJOR CHANGES

Issue	Present treatment	Proposed treatment	Rationale
1. Should rental-purchase agreements be covered?	Not covered	Covered (Section 102(b))	Popular type of transaction with potential for consumers to be misled. Coverage sought by both industry and consumer groups.
2. What disclosures should be required for rental-purchase agreements.	No disclosures	Require six items of information be disclosed, including total of payments necessary to acquire ownership and fact that no equity is acquired during rental term. (Section 114)	Limited coverage would provide most important items of information at a minimum cost to industry.
3. How many items should be required disclosures for a consumer lease? How detailed should they be.	As many as twenty-one disclosures; very detailed with itemized components.	Thirteen disclosures for open-end lease, twelve for closed-end. Eliminates many detailed disclosures, such as conditions for early termination and consumer's maintenance responsibility. Cross-reference to the contract added. (Section 112)	Excess information reduces benefits to consumers due to confusion and "overload." Redundant contractual provisions, such as wear and use standards, and non-shopping information, such as conditions for early termination, would no longer be required.
4. Should there be a "central cost disclosure" for a consumer lease and how should it be calculated.	Finance charge equivalent, which is total lease obligation less value at consummation. No rate disclosure.	Total lease cost, which is sum of initial payments, scheduled payments and end-of-term payments. No rate disclosure. (Section 112(5))	Inadequacy of present system in providing a valid comparison between leases and credit sales. Rate disclosure would give invalid APR comparison and would be difficult to calculate.
5. What format should the disclosures take	Regulation requires "clear, conspicuous, and meaningful sequence," but may intermingle with other information and contract terms.	Segregated from everything else that is not directly related ("federal box"). (Section 111)	Segregating disclosures from contract or state required information would lessen confusion and better highlight most important items for shopping.
Other Changes			
6. What standard should be adopted for preemption of state law.	Inconsistent state laws preempted, except those that provide greater protection and benefit to the consumer.	Inconsistent state laws are preempted, inconsistency defined narrowly to mean compliance with the state law would violate federal. "Greater protection and benefit" standard dropped. (Section 131)	Proposal would adopt an easier method to achieve essentially the same result as present treatment. Preemption would be rare. More protective state limitations on consumer's end-of-term liability would not be inconsistent under proposed standard. State laws covering rental-purchase agreements would likely be unaffected by proposal.
7. Should the lessor have to pay the consumer's attorney's fees in all suits to collect more than the maximum allowed in an open-end lease—even if the lessor is successful	Lessor must pay consumer's attorney's fees, even if successful, in suit to collect additional end-of-term payments.	Lessor pays consumer's attorney's fees only if lessor is unsuccessful in suit. (Section 113(a))	Would parallel similar provisions in other statutes and more equitably apportion costs. Some increase in litigation anticipated.
8. Should the early termination or extension of an open-end lease be subject to the same limitation on the amount of the balloon payment that applies at scheduled lease end	Early terminations not subject to limitation. Unclear how limitation applies to leases that have been extended.	No change in treatment of early terminations. Extensions are subject to limitation on amount of balloon payment. After the first month of the extension, lessor must reduce the anticipated residual value according to a depreciation factor, but no new disclosures required. (Sections 113 and 115)	Applying the limitation to early terminations would be unfair because of the disproportionate depreciation in the early years of the lease. Proposal clarifies long-standing issue of whether and how to apply the limitation to extended leases.
9. What statute of limitations should apply to violations	One year from end of lease for all violations	One year from consummation of lease or rental-purchase agreement for disclosure violations; one year from end of lease for substantive end-of-term liability violations. (Section 122(g))	Effective statute of limitations may be 4 or 5 years for most violations now. Proposal would reduce it to a more reasonable one year from occurrence of violation, which is the rule in Truth in Lending.

PROPOSED LEASING STATUTORY REVISION

CLOSED-END LEASE—MODEL DISCLOSURE FORM

Total initial payments: $............
Total scheduled payments: $............
Total end-of-term payments: $............
Total lease cost: $............
Payment schedule:
Number:
Amount:
When due:

Security deposit: You are giving a refundable security deposit $............

Insurance:........... The total cost of your insurance included in the amounts shown above will be $............

...........You must also buy insurance, and the cost is not included in the amounts shown above.

Official charges: .... The total count of your official fees and taxes included in the amounts shown above will be $............

.... You must also pay certain official fees and taxes that are not included in the amounts shown above.

Early termination: If the lease ends earlier than scheduled, you may be liable for additional amounts.

Appraisal: If the lease ends earlier than scheduled, you will have the right to have the vehicle appraised at your expense by someone agreeable both to you and to us.

We will then be bound by the appraisal in determining your liability.

Late payments: For each payment more than .... late, you will be charged $............

You may have other costs. See your lease for information about: Nonpayment and default, wear and use standards, maintenance responsibility.

OPEN-END LEASE—MODEL DISCLOSURE FORM

Total initial payments: $............
Total scheduled payments: $............
Total end-of-term payments: $............
Total lease cost: $...........
Payment schedule:
Number:
Amount:
When due:

Security deposit: You are giving a refundable security deposit of $............

Insurance: .... The total cost of your insurance included in the amounts shown above will be $............

.... You must also buy insurance, and the cost is not included in the amounts shown above.

Official charges: .... The total cost of your official fees and taxes included in the amounts shown above will be $............

.... You must also pay certain official fees and taxes that are not included in the amounts shown above.

Expiration: We estimate that, at the scheduled end of the lease, the vehicle should be worth $.......... [wholesale] [retail]. If it is worth less, you may have to pay the difference. However, at that time, you will not have to pay more than $.......... unless:

We can prove in court that our estimate was reasonable; or

The extra charge results from excessive use or from damage beyond ordinary wear.

Early termination: If the lease ends earlier than scheduled, you may be liable for additional amounts.

Appraisal: Whenever the lease ends, you will have the right to have the vehicle appraised at your expense by someone agreeable both to you and to us. We will then be bound by the appraisal in determining your liability.

Late payments: For each payment more than .... late, you will be charged $............

You may have other costs. See your lease for information about: Nonpayment and default, wear and use standards, maintenance responsibility.

RENTAL-PURCHASE AGREEMENT—MODEL DISCLOSURE FORM

You will make weekly/monthly payments of $...........

In order to own the property, you will make . . . . weekly/monthly payments that will total $........... Until you have made all of these payments, you will not own the property.

The total of payments does not include other charges, such as fees for late payment, default, pickup, and reinstatement. See your contract for information about these charges.

You are responsible for the fair market value of the property if it is lost, stolen, damaged, or destroyed.

This property is .... new, ... used.

SECTION-BY-SECTION ANALYSIS

INTRODUCTION

The bill amends the consumer lease provisions currently found in Title I of the Consumer Credit Protection Act (CCPA). It consolidates into a separate title (Title X) all of the provisions that relate to leasing and adds new provisions dealing with rental-purchase agreements. A list of the amendments to Title I that are necessary to remove all references to leases appears at the end of the bill.

The bill is divided into four chapters. The first chapter contains general provisions, such as definitions and rule-writing authority. Chapter 2 contains the major substantive provisions—the disclosure and advertising rules for consumer leases and rental-purchase agreements (located in separate sections for ease of use) and the limitations on liability at the end of a consumer lease. Chapter 3 contains all of the provisions relating to enforcement and liability. Chapter 4 contains other miscellaneous provisions, including the preemption and exemption standards.

Chapter 1—General Provisions

Section 101—Short Title

This provision reflects the removal of the consumer leasing provisions from Title I into a separate title of the CCPA and the expansion of coverage to the rental-purchase industry.

Section 102—Findings and Declaration of Purpose

This section, in explaining the objectives of the bill discusses both consumer leases and rental-purchase agreements. Paragraph (a) on consumer leasing is modeled after § 102(a) of Truth in Lending (TIL) and reflects the intent to provide disclosures that permit consumers to compare lease terms, limit potential balloon payments, and assure accurate advertising of lease terms. It no longer states that a purpose is to enable the comparison of lease terms with credit terms.

Rental-purchase agreements are covered in paragraph (b). This paragraph recognizes that rental-purchase agreements are an alternative method of acquiring ownership of personal property and expresses the intent to provide meaningful disclosures and accurate advertising in this area.

Section 103—Definitions and Rules of Construction

Most of the definitions are incorporated from TIL and the Consumer Leasing Act (CLA).

A definition of "rental-purchase agreement" is added. These transactions are not now covered by either TIL or CLA. The definition covers rentals of four months or less that are automatically renewable as each payment is made and that transfer ownership of the rental property to the consumer for no or nominal consideration after a certain number of payments are made. It includes rentals that impose no obligation beyond the initial period (generally a week or a month).

The definition also covers rental-purchase agreements that have a "buy out" feature (an option to purchase the goods outright at some time during the rental for a designated price) in addition to the other criteria. The definition does not, however, include agreements that provide only for a buy out, without allowing ownership to transfer for little or no consideration. An argument can be made that this latter type of agreement, while apparently less common, should also be covered since it is in many respects similar to those that are covered. In both cases, the consumer has the possibility of becoming the owner of the property at a future time and, since the ownership potential is an attractive marketing feature, they may both present a similar need for consumers to understand the cost of ownership. Furthermore, the failure to cover these agreements creates the possibility that lessors may modify their contracts in order to evade the requirements of the law. At the same time, however, agreements that allow ownership only through a buy out feature require a large single payment in addition to the regularly scheduled smaller payments; thus they may not provide as attractive an alternative to buying on credit as those that require no lump sum payments and may not be marketed or advertised the same way. If the definition were expanded to cover this type of agreement, some adjustment to the disclosure requirements would be necessary, for example, to reflect the amount of the lump sum payment needed to purchase the goods.

A definition of "residual value" is added to explain that term as it is used in §§ 112 and 113. "Residual value" is most relevant to so-called open-end leases, but may also be relevant to other leases that base early termination penalties on the value of the leased property. The term refers only to the value of the leased property without deducting the lessor's disposition costs.

A definition of "consummation" is added. Consummation is the time at which disclosures must be given and its definition is essentially the same as that currently in Regulation M. When a contractual obligation is created is a matter to be determined under applicable law.

The definition of "lessor" differs from the current definition in three ways. It reflects the coverage of the rental-purchase industry. In addition, only those persons who regularly provide consumer leases or rental-purchase agreements are covered; those persons who merely offer or arrange leases are not lessors. Like the definition of "creditor" in TIL, only the person to whom the obligation is initially payable is the lessor. For example, the lessor in a typical indirect auto lease is generally the auto dealer, not the financial institution to whom the obligation is assigned.

"Consumer" substitutes for "lessee" and covers those persons who lease as well as those persons who rent.

The definition of "security interest" is deleted since the draft no longer calls for disclosure of security interests.

Section 104—Exempted Transactions

The first exemption restates part of the current definition of "consumer lease" in § 181 of CLA.

The second exemption is for leases of safe deposit boxes.

Section 105—Regulations

This section is modeled after § 105 of TIL and sets out the Board's rule-writing authority, the requirement to publish model forms and clauses, and the uniform effective date (October 1) for purposes of compliance with amendments and interpretations.

The general rule-writing authority set forth in § 105(a) permits the regulation to contain numerical tolerances as necessary and adjust the disclosures to accommodate new developments in the consumer leasing and rental-purchase industries.

While the bill does not include a specific requirement that model forms and clauses be published for comment in the Federal Register, the Board will of course publish these models as it has done in the past. In addition, the regulation will set forth what is proper use of the models, allowing lessors to use the exact models, or to delete information or rearrange the format as is permitted in § 105(b) of TIL.

Chapter 2—Consumer Leases and Rental-Purchase Agreements

Section 111—General Requirements of Disclosure

The general requirements of disclosure are patterned after §§ 121, 124, and 128(b)(1) of TIL. This section covers who makes and receives the disclosures, when the disclosures are to be made, the form of the disclosures, the use of estimates in making the disclosures, and the effect of subsequent events on the disclosures that have been made.

Section 112—Consumer Lease Disclosures

This section lists 13 disclosures that must be given by the lessor to the consumer. Although 13 items are enumerated, the lessor need only give those disclosures that are applicable. For example, if no charge is imposed for late payments, no disclosure of the late payment charge needs to be given. One disclosure—item (12)—is required only for open-end leases and may be omitted in other cases.

The first item calls for the total of initial payments to the lessor. Because it is common in automobile leasing to collect a delivery charge when the vehicle is delivered, this figure includes all payments made up to and including the time of delivery of the property. Of course, in unusual circumstances where delivery of the property is before consummation of the lease, this disclosure includes all amounts payable before consummation. Although one charge may be payable at consummation and another charge not payable until delivery, this disclosure only calls for the total of initial charges; no itemization is required (or even permitted to be with the other disclosures, because of the segregation requirement in § 111(c)).

The first item might include, for example, insurance premiums, license fees or registration fees paid to the lessor at the inception of the lease, as well as the first scheduled periodic payment if it is paid by the time of delivery or consummation.

Item (2) is the payment schedule. It does not include amounts to be paid to third parties. A disclosure such as "48 monthly payments of $300" is sufficient. It is not necessary to state the time of the month that the payment is due or the month that the payments begin, although this information is permitted. If the first periodic payment is included in the initial payment (item (1)), it is not reflected in the payment schedule. Total initial payments, total scheduled payments, and total end-of-term payments are mutually exclusive categories.

The third item is the total of regularly scheduled payments. This disclosure only contemplates that the number of payments and the amount of each payment disclosed in item (2) be multiplied and the product disclosed here. For example, a lease calling for 47 payments of $300 discloses a total of $14,100 for item (3).

Item (4) is the total of amounts payable to the lessor at the scheduled end of the lease. The lessor assumes for purposes of this disclosure that the residual value of the property at the expiration of an open-end lease will not differ from the lessor's estimate of the value made at consummation. Thus, item (4) does not include the residual value in an open-end lease. This disclosure also does not include any charges that would be collected only at early termination or upon the extension of the lease term. This is only the disclosure of the total of amounts payable at the scheduled end of the lease term. Furthermore, any amount collected with one of the scheduled periodic payments, such as a large final periodic payment, is not included in this total, but is part of the payment schedule and total of periodic payments in items (2) and (3). Any anticipated disposition charge is estimated and included in this disclosure. Disposition costs are the costs of selling the property; they include fees for storage, auction and bid solicitation, as well as other administrative costs of conducting and documenting the sale. (The cost of reconditioning the property before disposing of it may be either estimated and included in the disposition charge and other expiration charges or considered as a way of calculating excess wear and use.)

Item (5) calls for the total of item (1), initial payments, item (3), scheduled payments, and item (4), expiration payments. Since the categories are mutually exclusive, no amount is counted twice. In addition, no significant payment from the consumer to the lessor is missing from item (5).

An argument can be made that item (5) is not accurate because it fails to discount the amount to present value. A difference in the size and timing of payments could result in two leases that disclose the same total lease cost but actually represent a different cost to the consumer and a different yield to the lessor. For example, a lease with a large initial payment and low monthly payments would be costlier than the same lease with a lower initial payment and larger monthly payments—even though their disclosed total lease cost would be the same. Thus, item (5) could mislead a consumer who relied on it as the sole expression of the cost of the lease.

Nevertheless, while the disclosure is imperfect, it provides a bottom-line figure that gives the consumer an idea of the overall cost associated with the lease. Without it, the consumer would see only the costs of the parts—never the cost of the whole package. The disclosure is not intended to stand alone but to be seen in conjunction with the other disclosures. If it were the only disclosure, its imperfection would be a serious flaw; but because it is disclosed with other items that accurately reflect the size and timing of payments, it is unlikely to lead a consumer to choose the more expensive of two leases. A discounted value would have the advantage of greater accuracy, but the marginal benefit would be outweighed by the complexity of the calculation and the resulting burden on lessors.

Clearly there is merit to the argument that the total lease cost should be eliminated because it is not perfect. Yet the merit must be weighed against the benefits of the disclosure. The issue is subject to further debate.

Because the refundable security deposit will be returned to the consumer if the lease is performed as the parties contemplate, item (6) requires the amount of the security deposit to be disclosed separately from the total of other charges.

Item (7) calls for one of two disclosures: (a) the total cost to the consumer of required insurance; or (b) a statement that the consumer is required to buy insurance and that its cost is not given in the disclosure statement. The first disclosure is required if the lessor builds the cost of insurance into the price of the lease or explicitly includes the premium in the periodic payments collected from the consumer. In this case, the cost of the insurance is also reflected in other required disclosures (such as scheduled payments) and therefore is an unidentified component of the "total lease cost."

The second disclosure called for by item (7) is mandated only if insurance is required to be purchased from a third party, or if, at the time the disclosure statement is provided, the lessor does not know whether the consumer will choose to purchase required insurance from the lessor or from a third party.

The eighth item is also a two-part disclosure. When any official fees or taxes are paid by the lessor and explicitly charged to the consumer, the lessor discloses the total cost to the consumer. For example, sales or use taxes are commonly paid by the lessor and added to the consumer's periodic payments. In addition to including the taxes as components of items (2), (3), and (5), the lessor shows the total of such taxes over the term of the lease. If there are any official fees or taxes for which the consumer is independently responsible, the lessor discloses that the consumer must pay official fees or taxes (or both) that are not included in the numerical disclosures. In the event that both methods of payment are to be used, both disclosures in item (8) must be given.

Item (9) requires the disclosure of the late payment charge. This does not include any termination charges, post-default charges, or excess wear and use charges. It requires the disclosure only of charges that are added to individual delinquent payments by a lessor who otherwise considers the transaction ongoing on its original terms. The disclosure may add the time period after which the late charge may be imposed, such as, "If any payment is more than 10 days late. * * *"

The tenth item is a statement that the consumer may have additional liability if the lease ends earlier than scheduled. It is applicable whenever the consumer is liable for the excess of anticipated residual value over actual residual value at early termination. It is also applicable whenever an extra charge is imposed on the consumer for voluntary early termination. It does not call for any explanation of how early termination charges are assessed or the conditions under which they are imposed. This disclosure is in addition to—not in place of—the requirement in § 113(d) that default and early termination charges must be reasonable.

Whenever the consumer's liability at the termination of the lease is based on the residual value of the property (whether the lease ends early, late, or on schedule), the consumer has the right under § 113(e) to have the property appraised at his or her own expense by a party agreeable to both the lessor and the consumer. This right—and the disclosure of it in item (11)—is modeled after the current CLA.

The twelfth disclosure is only required in an open-end lease. These leases, usually of automobiles, impose end-of-term liability on the consumer based on the lessor's estimate of the property's end-of-term value. The consumer's liability at the end of the lease term is determined by comparing the actual residual value of the vehicle at that time with the lessor's original estimate of its value—the anticipated residual value. If market conditions or other factors have reduced the value of the vehicle by more than the lessor anticipated, the consumer is liable for the difference.

The substantive provisions in § 113 protect the consumer from unreasonable estimates by the lessor. Nevertheless, an open-end lease has the potential for greater cost than a closed-end lease. That cost is not among the other required disclosures, and it is information that the consumer needs in order to intelligently shop for a lease. Item (12) therefore calls for the disclosure of this information. Although the substantive limitation on the consumer's potential end-of-term liability is essentially the same as under existing law, this disclosure is considerably less detailed than that required by the current regulation.

The last disclosure is a cross-reference to the lease contract for additional information about non-payment and default, wear and use standards, and maintenance responsibility. In order to encourage the consumer to read the contract information about these and other matters, the cross-reference also requires a statement that the consumer may be liable for other amounts.

Section 113—Consumer's Liability at Early Termination or at the End of the Lease Term

Section 113 is modeled after § 183 of the CLA. Whereas most of the rest of the bill involves disclosure issues, this section sets forth substantive rights that limit the consumer's liability both at early termination and at the end of a lease term. The end of the lease term includes both the original scheduled end of the lease and any extension beyond the original scheduled end.

Subsection (a) limits the potential balloon payment at the end of the lease term. It applies to open-end leases, that is, leases in which the consumer's liability at the end of the lease term is based on the lessor's estimate of the value of the leased property—the anticipated residual value. At the end of the lease term, the anticipated residual value is compared with the value of the property—actual residual value. If the anticipated residual value exceeds the actual residual value by more than three times the payment allocable to a month, there is a rebuttable presumption that the original estimate was unreasonable. The lessor may collect the amount in excess only by bringing a successful court action proving that the estimate was reasonable. If the lessor sues for the excess and fails to rebut the presumption, however, the lessor must pay the consumer's attorney's fees.

The three monthly payment limitation in subsection (a) does not apply to early terminations, but it does apply to open-end leases when they end on schedule and when they end later than the scheduled end. Section 115(b) provides the rules on how the limitation applies to extensions.

The current § 183(a) requirement that the estimate be made in good faith is deleted. The rebuttable presumption that the estimate is unreasonable to the extent it exceeds three times the average payment allocable to a month is sufficient to insure the protections and purpose of this section.

Subsection (b) provides that the presumption does not apply to the extent that the excess over three monthly payments is due to physical damage to the leased property beyond reasonable wear and use or to excessive use. Standards for reasonable wear and use may be set in the lease.

Subsection (c) provides that the consumer may agree to pay all or a portion of the excess by an agreement, if that agreement is reached with the lessor after the end of the lease term.

Subsection (d) addresses penalties or other charges for delinquency, default, and early termination. Such penalties or other charges may be specified in the lease provided they are reasonable in light of the listed factors. Penalties and other charges for early termination are reasonable if they preserve the yield the lessor would have earned had the lease gone to full term and permit recovery of expected or actual losses occasioned by the termination, such as lost tax benefits and increased administrative expenses. This provision applies to all leases, not just to open-end leases.

Subsection (e) provides the consumer the right to obtain, at the consumer's expense, a professional appraisal of the leased property. The right to a professional appraisal applies in all leases in which liability is based on the residual value. This includes end-term liability in open-end leases and certain closed-end leases in which the early termination penalty is based on the value of the leased property at the time of termination.

Section 114—Rental-Purchase Disclosures

This section requires the disclosure of six items for rental-purchase agreements. The first item requires the lessor to state the amounts and timing of payments. It tells the consumer the total amount payable each period and when it is due. For example, the disclosure "You will make weekly payments of $17" is sufficient. The amount of each payment does not have to be itemized.

The second disclosure gives the consumer the total number of payments to be made before the consumer becomes the owner of the property and the sum of these payments. This disclosure might read as follows: "In order to own the property, you will make 78 weekly payments that will total $1,326."

The third item is a statement that the consumer will not own the property until the consumer has made all the payments necessary to acquire ownership. This is the "no equity" disclosure. It expresses the fact that, if the consumer does not make all of the payments required for ownership, the consumer has no ownership rights in the property, and that the consumer will forfeit any monies paid if he or she does not make the total of payments necessary to acquire ownership.

The fourth disclosure is a cross-reference to the contract. It requires a statement that the total of payments does not include other charges, such as late payment, default, pick-up, and reinstatement fees, and that the consumer should see the contract for an explanation of these charges. This disclosure makes the consumer aware that there may be other charges associated with the transaction that are not included in the total of payments. The consumer is referred to the contract for an explanation of these terms.

Item (5) is a statement that the consumer is responsible for the fair market value of the property if it is lost, stolen, damaged, or destroyed. Since the rental property belongs to the lessor until the consumer makes the total of payments necessary to acquire ownership, most rental-purchase agreements make the consumer responsible for its fair market value if it is lost, stolen, damaged, or destroyed. This disclosure tells the consumer that this amount may have to be paid above and beyond any payments made under the rental agreement. It is not necessary to disclose an amount for the fair market value since it is impossible to determine at the inception of the agreement what this amount will be.

The final disclosure requires a statement as to whether the property is new or used. "Used" means that the property has been rented one or more times for any period of time or was acquired in a used condition by the lessor. This disclosure informs the consumer of the condition of the property at the time he or she enters into the transaction, information that is particularly useful in evaluating whether or not to become the owner of the goods. The issue of whether the goods are new or used has been raised in a number of recent lawsuits against lessors alleging that they rented used goods to consumers on the pretext that they were new. If the lessor does not know whether the particular property is new or used, the lessor should state that it is used.

Section 115—Renegotiations and Extensions

Subsection (a) sets out the basic rule that a renegotiation is a new transaction and that new disclosures under § 112 or § 114 must be given. Whether a renegotiation has occurred is determined by reference to whether the original obligation has been satisfied or extinguished and replaced by a new obligation; this determination is based on the parties' contract and applicable law. The test is the same as that used currently in Regulation M to define renegotiations and that used in revised Regulation Z to define refinancings.

This subsection also lists four events that are not renegotiations even if they are accomplished by satisfying and replacing an existing lease.

Subsection (b) addresses extensions. Although no disclosures are required when a lease or rental-purchase agreement is extended, the provision reflects the fact that lessors who extend an open-end lease beyond the original term are subject to the presumptions and duties in § 113. If a lease is extended for one month or less, the lessor must determine the conumer's end-of-term liability on the basis of the original estimated value of the leased property—the anticipated residual value disclosed under § 112(12)(A). If a lease is extended for more than one month, on a month-to-month basis or otherwise, the lessor must still comply with § 113. The lessor is to redetermine the anticipated residual value of the leased property when the extension ends and the property is returned. The originally disclosed anticipated residual value should be reduced by an amount reflecting the depreciation that occurred over the extended time period.

The lessor may use any reasonable method to determine the depreciation that results during an extension; the lessor need not engage in complex recalculations. For example, if a portion of each periodic payment reflects the depreciation of the leased property that correlates with the original estimated value, the lessor may subtract the depreciation portion of each periodic payment made during the extension from the original estimated value. If the leased property appreciates, this provision is inapplicable.

No disclosure is required to be made of the reestimated value under subsection (b).

Section 116—Consumer Lease Advertising

This section describes the requirements imposed on any person advertising a consumer lease for which disclosures are required. A consumer lease that is not offered by a "lessor" is not subject to the advertising provisions of the draft because it is not subject to the disclosure requirements.

Any person advertising a lease subject to the advertising provisions must comply with this section. Even if the person advertising the lease is not itself a lessor, that person is subject to the advertising requirements and subject to liability for their violation. However, § 122(b) states that the owner or personnel, as such, of any medium in which an advertisement appears or through which it is disseminated shall not be liable for an advertising violation. Thus, the newspaper, television network, or radio station that prints or broadcasts a lease advertisement has no liability for violations.

The bill uses the concept of "triggering terms" that has been employed by both TIL and CLA. Whenever certain information—any of the triggering terms—is given in an advertisement, certain additional information must also be given. The triggering terms are items of information that alone might be deceptive, but that are less deceptive if put in context. Thus, the purpose of the advertising rules is to put the triggering terms in the appropriate context.

If an advertisement states the amount of any payment or that any or no downpayment or other payment is required at the inception of the lease, it must also clearly and conspicuously state the enumerated disclosures.

The amount of any payment is a triggering term regardless of whether the payment is a scheduled monthly payment, an upfront charge, or an expiration charge. Since advertisers may be inclined to attract a customer by highlighting the lowest payment of the lease, this provision requires them to place the payment in the context of the other costs in the lease.

The fact that any or no downpayment or other payment is required at the inception of the lease is also a triggering term. Thus, the statement that there is no downpayment or a low downpayment would trigger the other disclosures even in the absence of a specific dollar amount.

Once the advertisement has triggered the disclosures, the following information must be given: (i) that the transaction is a lease; (ii) the total amount of all payments required at the inception of the lease; (iii) that a security deposit is required; (iv) the payment schedule; and (v) a statement of the consumer's possible liability for additional amounts at the end of an open-end lease. This last item is a required disclosure only in those cases where the consumer's liability at the end of the lease term is based on the lessor's anticipated residual value; therefore it is not required in ads for closed-end leases.

Section 117—Rental-Purchase Advertising

Section 117 contains the rules on rental-purchase advertising. It uses the same triggering concept described above in connection with consumer lease advertising. The triggering terms in rental-purchase ads are references to the amount of any payment and to the right to acquire ownership.

Referring to or stating the amount of any payment includes such statements as "low weekly payments" and "$75.00 a month." Since advertisers may try to attract customers by stressing the low payments associated with the rental of the product, this provision requires them to place that term in the context of the other information about the plan.

Any reference to the right to acquire ownership includes such statements as "rent to own" or "own this product with low payments." Since such frequently used statements stress the ownership option without disclosing the total of payments necessary to acquire ownership, their use requires additional information for the consumer to be able to understand the transaction.

If the advertisement states either one or both of the triggering terms, it must also state that it is a rental-purchase agreement, the total of payments necessary to acquire ownership, and that the consumer acquires no ownership rights if the property is not rented for the term required for ownership to transfer.

Chapter 3—Enforcement and Liability

Section 121—Administrative Enforcement

This section is modeled on the administrative enforcement provision of the current law, § 108 of TIL. Two federal agencies named in the current act, the Civil Aeronautics Board and the Department of Agriculture, have been eliminated from the list because it appears that their enforcement authority is unlikely to be exercised.

Section 122—Civil Liability

This section contains the civil liability provisions, which incorporate most of the provisions of § 130 of TIL and § 185 of CLA. (The defenses to actions are in a separate section of the draft, § 123.) The bill reflects many of the changes made to civil liability during the 1980 simplification of TIL, for example, the limitation of damage awards in class actions and the provisions dealing with multiple consumers. One change made in the 1980 TIL amendments that is not in the bill, however, is the limiting of statutory penalties to only certain of the disclosures.

Two substantive changes are made to the existing CLA liability provisions. Currently, § 185(b) has a statute of limitations of one year from the end of the lease term for all violations. For example, a violation in the initial disclosures on a three-year automobile lease subjects the lessor to liability for four years (one year from the end of the lease term), even though the violation may have nothing to do with end-of-term liability.

The bill changes the statute of limitations to one year from the occurrence of the violation for all actions in order to parallel the TIL statute of limitations. It continues to provide, however, that for violations involving the end-of-term liability in an open-end lease, the statute of limitations remains one year from the end of the lease term. This protects the right of the consumer to bring an action in regard to the end-of-term liability, since this liability will not be determined until the end of the lease term.

The current § 183(a) requires the lessor to pay the consumer's attorney's fees in any action involving a suit to collect additional end-of-term payments beyond the three monthly payment limit. Thus, the lessor must pay the consumer's attorney's fees even if the lessor is successful in the action. The draft requires the lessor to pay the consumer's attorney's fees only if the lessor is unsuccessful in a suit. This change is made to parallel similar provisions in other statutes and to be more equitable to the lessor in those cases where the lessor has a legitimate claim for more than three times the monthly payment because of conditions outside the lessor's control, such as a decline in the price of used cars. This change may, however, cause an increase in litigation.

Section 123—Defenses

This section contains the defenses to civil suits and is patterned on § 130(b), (c), and (f) of TIL. It reflects the 1980 changes to those TIL provisions, such as the 60-day correction period for errors and the examples of bona fide errors.

Section 124—Liability of Assignees

Section 124 deals with the liability of assignees and is based on § 130 of TIL.

Section 125—Criminal Liability

Section 125 contains the provisions on criminal liability and is based on § 112 of TIL.

Chapter 4—Miscellaneous

Section 131—Relation to State Laws

Subsection (a) describes the preemption standard. It differs from the preemption standard of § 186(a) of the current CLA in its statement of the test for determining inconsistency: the laws of a state are inconsistent if a person is unable to comply with them without violating a provision of the federal law.

The current act provides that the Board may not determine that a state law is inconsistent with a provision of the federal law if the state law provides greater protection and benefit to the consumer. The bill eliminates this additional provision because the strict preemption standard accomplishes essentially the same thing. For example, a two-monthly payment limitation on the consumer's end-of-term liability is a feature of most Uniform Consumer Credit Code (U3C) states. It is not preempted under the current standard because it provides greater protection and benefit to the consumer. Similarly, it is not preempted under the draft because a lessor can comply with the state provision without violating a provision of the federal law. Although the present standard and the proposal are similar in outcome, the proposed standard avoids some of the difficulty of application that characterizes the present standard, in which the "greater protection and benefit" may at times be hard to determine.

Because the bill preemption standard is narrow, preempting in only the most exteme cases of inconsistency, lessors in some states must provide both state and federal disclosures. About 14 states have comprehensive disclosure laws covering consumer leasing; 11 of them are U3C states (all requiring approximately the same eight disclosures, of which five are in addition to those in the proposal). In those states, the disclosures are not preempted by either the current or proposed federal law. Due to the segregation requirement of the proposal, the federal disclosures will be separate from the state information and the contract language. In those states, therefore, unless the states conform their laws to the federal law, the proposal may result in longer documents being provided to the consumer, rather than the simplified, shorter forms that result in most other jurisdictions.

The narrow preemption standard also applies to rental-purchase agreements. A state law that recharacterized these agreements as credit sales in order to impose, for example, usury limitations on them, would be unaffected by the federal disclosures. In addition, state disclosure schemes would be generally unaffected even if they treat rental-purchase agreements as credit sales. For example, if a state required the lessor to say the rental-purchase agreement is a "sale," or required disclosure of an "annual percentage rate," those requirements would not be preempted. The segregation of the federal disclosures, however, should minimize any confusion that results from the coexistence of state and federal disclosure schemes.

Subsection (b) sets out the standards that must be met if transactions made under a substantially similar state law are to be exempted from the requirements of this title. Some editorial changes have been made, but the substance is essentially the same as § 186(b) of CLA.

Subsection (c) concerning the validity and enforceability of contracts is essentially the same as § 111(d) of TIL.

Subsection (d) provides that only states may request preemption and exemption determinations.

Section 132—Effect on Governmental Agencies

This provision that the United States government, states and their agencies are not subject to civil or criminal penalties is modeled after § 113(b) of TIL. The other provisions in § 113 of TIL, which all deal with approval and use of consumer credit documents required by federal agencies in their programs, are omitted as unnecessary since it does not appear that lease forms are provided or required by the agencies.

Section 133—Reports by Board and Attorney General

This section, requiring annual reports to the Congress by the Board and the Attorney General, mirrors § 114 of TIL.

Section 134—Effective Date

The delayed effective date provisions are modeled on the effective date provisions in the 1980 simplification of TIL. The October 1 date parallels the October 1 date in § 105 of the draft, thus providing uniform compliance dates for all lessors subject to this title.

S. 1152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Consumer Lease and Rental-Purchase Agreement Act".

Sec. 2. The Consumer Credit Protection Act is amended by adding at the end thereof the following new title:

"TITLE X—CONSUMER LEASE AND RENTAL-PURCHASE ACT

"Chap.	Sec.
"1. General Provisions	101
"2. Consumer Leases and Rental-Purchase Agreements	111
"3. Enforcement and Liability	121
"4. Miscellaneous	131

"Chapter 1—General Provisions

"Sec.
"101. Short title.
"102. Findings and declaration of purpose.
"103. Definitions and rules of construction.
"104. Exempted transactions.
"105. Regulations.

"Chapter 2—Consumer Leases and Rental-Purchase Agreements

"Sec.
"111. General requirements of disclosure.
"112. Consumer lease disclosures.
"113. Consumer's liability at early termination or at the end of the lease term.
"114. Rental-purchase disclosures.
"115. Renegotiations and extensions.
"116. Consumer lease advertising.
"117. Rental-purchase advertising.

"Chapter 3—Enforcement and Liability

"121. Administrative enforcement.
"122. Civil liability.
"123. Defenses.
"124. Liability of assignees.
"125. Criminal liability.

"Chapter 4—Miscellaneous

"Sec.
"131. Relation to State laws.
"132. Effect on governmental agencies.
"133. Reports by Board and Attorney General.
"134. Effective date.

"TITLE X—CONSUMER LEASE AND RENTAL-PURCHASE ACT

"Chapter 1—General Provisions

"§ 101. Short title

"This title may be cited as the "Consumer Lease and Rental-Purchase Act".

"§ 102. Findings and declaration of purpose

"(a) The Congress finds that the leasing of consumer goods continues to be a popular alternative to installment credit purchases. It is the purpose of this title to assure a more meaningful disclosure of the terms of leases of personal property for personal, family or household purposes, permitting the consumer to compare more readily the various lease terms available; to limit the potential balloon payment in consumer leases to a reasonable amount; and to assure accurate disclosure of lease terms in advertising.

"(b) The Congress also finds that a significant number of consumers have begun to acquire ownership of personal property through rental-purchase agreements. These rental-purchase agreements have been offered without adequate cost disclosures. It is the purpose of this statute to assure meaningful disclosure of the terms of rental-purchase agreements; to make the consumer aware of the total cost of the agreement; to inform the consumer when ownership will transfer; and to assure accurate disclosure of rental terms in advertising.

"§ 103. Definitions and rules of construction

"(a) The following definitions apply to this title:

"(1) 'Advertisement' means a commercial message in any medium that aids, promotes, or assists directly or indirectly a consumer lease or a rental-purchase agreement.

"(2) 'Agricultural purposes' includes the production, harvest, exhibition, marketing, transportation, processing, and manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures those agricultural products, including but not limited to the acquisition of farmlands, real property with a farm residence, and personal property and services used primarily in farming.

"(3) 'Board' refers to the Board of Governors of the Federal Reserve System.

"(4) 'Consumer' means a natural person who leases personal property under a consumer lease or rents personal property under a rental-purchase agreement.

"(5) 'Consumer lease' means a contract in the form of a lease or bailment for the use of personal property by a natural person primarily for personal, family, or household purposes, for a period exceeding four months, in which the total lease cost is not more than $25,000, whether or not the consumer has the option to purchase or otherwise become the owner of the property at the expiration of the lease. The term does not include any 'credit sale' as defined in Title I.

"(6) 'Consummation' means the time a consumer becomes contractually obligated on a consumer lease or rental-purchase agreement.

"(7) 'Lessor' means a person who regularly provides the use of property through consumer leases or rental-purchase agreements and to whom the obligation is initially payable on the face of the lease or rental-purchase agreement.

"(8) 'Personal property' means any property that is not real property under the laws of the state where it is located when it is made available for a consumer lease or a rental-purchase agreement.

"(9) 'Rental-purchase agreement' means an agreement for the use of personal property by a natural person primarily for personal, family, or household purposes, for an initial period of four months or less (whether or not there is any obligation beyond the initial period) that is automatically renewable with each payment and that permits the consumer to become the owner of the property for no or nominal consideration after making a specified number of payments. The term does not include any 'credit sale' as defined in Title I.

"(10) 'Residual value' means the wholesale or retail fair market value of the leased property at early termination or the end of the lease term in a consumer lease.

"(11) 'State' refers to any state, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States.

"(b) Unless the context indicates otherwise, lease means consumer lease and agreement means rental-purchase agreement.

"(c) Any reference to any provision of this title includes reference to the regulations of the Board under this title.

"§ 104. Exempted transactions

"This title does not apply to the following:

"(1) Consumer leases and rental-purchase agreements primarily for business, commercial, or agricultural purposes, or those made with government agencies or instrumentalities or with organizations.

"(2) A lease of a safe deposit box.

"§ 195. Regulations

"(a) The Board shall write regulations to carry out the purposes of this title, to prevent its circumvention, and to facilitate compliance with its requirements. The regulations may contain classifications and differentiations and may provide for adjustments and exceptions for any class of transactions.

"(b) The Board shall publish model disclosure forms and clauses to facilitate compliance with the disclosure requirements and to aid the consumer in understanding the transaction. In designing forms, the Board shall consider the use of lessors of data processing or similar automated equipment. Use of the models shall be optional. A lessor who properly uses the models shall be deemed to be in compliance with the disclosure requirements.

"(c) Any regulation of the Board, or any amendment or interpretation thereof, that requires a disclosure different from the disclosures previously required shall have an effective date of the October 1 that follows the date of promulgation by at least six months. The Board may at its discretion lengthen that period of time to permit lessors to adjust their forms to accommodate new requirements; the Board may also shorten that period of time if it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive practices. In any case, lessors may comply with any newly promulgated disclosure requirement prior to its effective date.

"Chapter 2—Consumer Leases and Rental-Purchase Agreements

"§ 111. General requirements of disclosure

"(a) The lessor shall disclose to the consumer the information required by this title. In a transaction involving more than one consumer, a lessor need disclose to only one of the consumers who are primarily obligated. In a transaction involving more than one lessor, only one lessor need make the disclosures.

"(b) The disclosures shall be made at or before consummation of the consumer lease or rental-purchase agreement.

"(c) The disclosures shall be made clearly and conspicuously in writing, in a form that the consumer may keep. The disclosures required under sections 112 and 114 shall be segregated from all other terms, data, or information provided.

"(d) Information required to be disclosed may be given in the form of estimates and identified as such when lessor does not know the exact information.

"(e) If a disclosure become inaccurate as the result of any act, occurrence, or agreement after delivery of the required disclosures, the resulting inaccuracy is not a violation of this title.

"§ 112. Consumer lease disclosures

"For each consumer lease, the lessor shall disclose the following items, as applicable:

"(1) The total of initial payments required at or before consummation of the lease or delivery of the property, whichever is later.

"(2) The number, amounts, and timing of scheduled payments.

"(3) The total of scheduled payments.

"(4) The total of amounts payable at the expiration of the lease (not including any difference between the anticipated residual value and the actual residual value).

"(5) The total lease cost, which is the sum of items (1), (3), and (4).

"(6) The amount of any required security deposit.

"(7) When the consumer buys required insurance from or through the lessor, the total cost. When the consumer does not buy required insurance from or through the lessor, a statement that the consumer must buy insurance and that the cost is not included in the numerical disclosures.

"(8) When any official fees and taxes are paid to or through the lessor, the total cost. When any official fees or taxes are not paid to or through the lessor, a statement that the consumer must pay official fees or taxes and that the amounts are not included in the numerical disclosures.

"(9) Any dollar charge or percentage amount that may be imposed for a late payment, other than a deferral or extensions charge.

"(10) A statement that the consumer may be liable for additional amounts if the lease is terminated early

"(11) When the consumer's liability is based on the residual value of the property, a statement that the consumer may have the property appraised at the consumer's expense by an independent third party agreed to by the consumer and lessor, and that the lessor will be bound by the appraisal.

"(12) When the consumer's liability at the end of the lease term is based on the anticipated residual value of the property:

"(A) The anticipated residual value of the property, marked as wholesale or retail;

"(B) A brief statement of the consumer's potential liability at the end of the lease term;

"(C) The product of three times the average payment allocable to a month; and

"(D) A statement that the consumer's liability will generally be limited to item (12)(C) unless the excess is a result of excessive use or unreasonable wear and use, or the lessor brings a successful court action proving that the estimate of the anticipated residual value was reasonable.

"(13) A statement that the consumer may have other costs and that the consumer should refer to the appropriate lease document for information about non-payment and default, wear and use standards, and maintenance responsibility.

"§ 113. Consumer's liability at early termination or at the end of the lease term

"(a) When the consumer's liability at the end of the lease term is based on the anticipated residual value of the leased property, the anticipated residual value shall be a reasonable estimate of the actual residual value of the property at the end of the lease term. There shall be a rebuttable presumption that the anticipated residual value is unreasonable to the extent that it exceeds the actual residual value at the end of the lease term by more than three times the average payment allocable to a month. The lessor shall not collect any amount in excess of three times the average payment allocable to a month unless the lessor brings a successful action in court proving that the estimate was reasonable. If the lessor fails to rebut the presumption, the lessor must pay the costs of the action and the consumer's reasonable attorney's fees.

"(b) The presumption in subsection (a) shall not apply to the extent that the excess of the anticipated residual value over the actual residual value is due to damage to the property beyond reasonable wear and use or to excessive use. The lessor may set reasonable standards for wear and use in the lease.

"(c) Subsection (a) does not preclude the right of a willing consumer and lessor to make a mutually agreeable final adjustment with respect to the excess of three times the average payment allocable to a month, provided the agreement is made after the end of the lease term.

"(d) In the lease the lessor may specify penalties or other charges for delinquency, default, or early termination, if the amounts are reasonable in light of the anticipated or actual harm caused by the delinquency, default, or early termination, the difficulties of proof of loss, and the inconvenience or nonfeasibility of otherwise obtaining an adequate remedy.

"(e) When the consumer's liability is based on the residual value of the leased property, the consumer may obtain at the consumer's expense a professional appraisal of the property by an independent third party agreed to by both parties. This appraisal shall be binding on the parties.

§ 1814. Rental-purchase disclosures

"For each rental-purchase agreement, the lessor shall disclose the following items, as applicable:

"(1) The amounts and timing of payments.

"(2) The number of payments and the total of payments necessary to acquire ownership of the property.

"(3) A statement that the consumer will not own the property until the consumer has made the number of payments and the total of payments necessary to acquire ownership.

"(4) A statement that the total of payments does not include other charges, such as late payment, default, pick-up, and reinstatement fees, and that the consumer should see the contract for an explanation of these charges.

"(5) A statement that the consumer is responsible for the fair market value of the property if it is lost, stolen, damaged, or destroyed.

"(6) A statement indicating whether the property is new or used.

"§ 115 Renegotiations and extensions

"(a) A renegotiation occurs when an existing consumer lease or rental-purchase agreement is satisfied and replaced by a new lease or agreement undertaken by the same lessor and consumer. A renegotiation is a new lease or agreement requiring new disclosures. However, events such as the following shall not be treated as renegotiations.

"(1) The addition or return of property in a multiple-item lease or agreement provided the average payment allocable to a payment period is not changed by more than 25 percent.

"(2) A deferral or extension of one or more periodic payments, or portions of a periodic payment.

"(3) A reduction in charges in the lease or agreement.

"(4) A lease or agreement involving a court proceeding.

"(b) No disclosures are required for any extension of a consumer lease or a rental-purchase agreement. However, a lessor that extends or permits a consumer to extend a consumer lease for more than one month beyond the end of the lease term shall (for purposes of section 113) recalculate the anticipated residual value of the leased property to reflect the depreciation resulting from the extended term.

"§116. Consumer lease advertising

"If an advertisement for a consumer lease states the amount of any payment or states that any or no initial payment is required, the advertisement must also clearly and conspicuously state the following items, as applicable:

"(1) That the transaction advertised is a lease.

"(2) The total of initial payments required at or before consummation of the lease or delivery of the property, whichever is later.

"(3) That a security deposit is required.

"(4) The number, amounts, and timing of scheduled payments.

"(5) For a lease in which the consumer's liability at the end of the lease term is based on the anticipated residual value of the property, that an extra charge may be imposed at the end of the lease term.

"§117. Rental-purchase advertising

"If an advertisement for a rental-purchase agreement refers to or states the amount of any payment or the right to acquire ownership, the advertisement must also clearly and conspicuously state the following items, as applicable:

"(1) That the transaction advertised is a rental-purchase agreement.

"(2) The total of payments necessary to acquire ownership.

"(3) That the consumer acquires no ownership rights if the property is not rented for the term required for ownership to transfer.

"CHAPTER 3—ENFORCEMENT AND LIABILITY

"§ 121. Administrative enforcement

"(a) Compliance with the requirements imposed by this title shall be enforced under:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of:

"(A) national banks, by the Comptroller of the Currency.

"(B) member banks of the Federal Reserve System (other than national banks), by the Board.

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the

Board of Directors of the Federal Deposit Insurance Corporation.

"(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions.

"(3) the Federal Credit Union Act, by the National Credit Union Administration with respect to any federal credit union.

"(4) the Packers and Stockyards Act, 1921 (except as provided in section 406 of that act), by the Secretary of Agriculture with respect to any activities subject to that act.

"(5) the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any federal land bank, federal land bank association, federal intermediate credit bank, or production credit association.

"(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any act referred to, a violation of a requirement imposed by this title shall be deemed to be a violation of a requirement imposed under that act. In addition to its powers under any provision of law specifically referred to in subsection (a), each agency may exercise any other authority conferred on it by law in enforcing any requirement imposed under this title.

"(c) Except to the extent that enforcement of the requirements imposed by this title is specifically committed to some other agency under subsection (a), the Federal Trade Commission shall enforce the requirements. For the purpose of exercising its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed by this title shall be deemed a violation of a requirement imposed under that act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed by this title, whether or not that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

"(d) The authority of the Board to issue regulations under this title does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed by this title.

"§ 122. Civil liability

"(a) Except as otherwise provided in this title, a lessor who fails to comply with a requirement of section 111, 112, 113, 114, or 115 with respect to a comsumer is liable to the consumer in an amount equal to the sum of—

(1) actual damages sustained by the consumer as a result of the violation;

"(2) in the case of an individual action relating to a consumer lease, 25 percent of the total of scheduled payments under the lease, but not less than $100 nor greater than $1,000;

"(3) in the case of an individual action relating to a rental-purchase agreement, 25 percent of the total of payments necessary to acquire ownership, but not less than $100 nor greater than $1,000;

"(4) in the case of a class action, the amount the court determines to be appropriate with no minimum recovery as to each member. The total recovery in any class action or series of class actions arising out of the same violation may not be more than the lesser of $500,000 or 1 percent of the net worth of the lessor. In determining the amount of the award in any class action, the court shall consider, among other relevant factors, the amount of actual damages awarded, the frequency and persistence of the violation, the lessor's resources, and the extent to which the lessor's violation was intentional;

"(5) the costs of the action and reasonable attorney's fees as determined by the court.

"(b) In the case of an advertisement, any lessor who fails to comply with the requirements of sections 116 and 117 with regard to any person is liable to that person for actual damages suffered from the violation, the costs of the action, and reasonable attorney's fees. Any owner or personnel of any medium in which an advertisement appears or through which it is disseminated shall not be liable under this section.

"(c) When there are multiple lessors, liability shall be imposed only on the lessor who made the disclosures. When no disclosures have been given, liability shall be imposed on all lessors.

"(d) When there are multiple consumers in a consumer lease or a rental-purchase agreement, there shall be only one recovery of damages under subsection (a) for a violation of this title.

"(e) Multiple violations in connection with a single consumer lease or rental-purchase agreement entitle the consumer to a single recovery under this section.

"(f) An action under this section may be brought in any United States district court or in any other court of competent jurisdiction within one year of the date of the occurrence of the violation, except that in the case of a violation under section 113 an action may be brought within one year of the end of the lease term. This subsection does not bar a consumer from asserting a violation of this title in an action to collect the debt brought more than one year from the date of the occurrence of the violation as a matter of defense by recoupment or set-off, except as otherwise provided by state law.

"(g) A consumer may not take any action to offset any amount for which a lessor is potentially liable under subsection (a) against any amount owed by the consumer, unless the amount of the lessor's liability has been determined by judgment of a court of competent jurisdiction in an action in which the lessor was a party. This subsection does not bar a consumer then in default on the obligation from asserting a violation of this title as an original action, or as a defense or counterclaim to an action brought by the lessor to collect amounts owed by the consumer.

"§ 123. Defenses

"(a) A lessor is not liable under sections 121, 122, or 125 for a violation of the requirements of sections 112 and 114 if within 60 days after discovering the error, and before an action under section 122 is filed or written notice of the error is received from the consumer, the lessor notifies the consumer of the error and makes whatever adjustments in the account are necessary to assure that the consumer will not be required to pay an amount in excess of the amounts actually disclosed. This provision applies whether the discovery of the error was made through a final written examination report or the lessor's own procedures.

"(b) A lessor is not liable under section 121 for a violation of this title if the lessor shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error even though the lessor maintained procedures reasonably adapted to avoid such error. Examples of a bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programming, and printing errors. An error of legal judgment with respect to the requirements of this title for any act done or omitted in good faith in conformity with any rule, regulation, interpretation, or approval promulgated by the Board or by an official duly authorized by the Board. This rule applies even if, after the act or omisson has occurred, the rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"§ 124. Liability of assignees

"(a) For purposes of section 122 and 123, the term 'lessor' as used in those sections shall include an assignee of the lessor. However, a civil action for a violation of this title may be brought against an assignee only if the violation is apparent on the face of the disclosure statement. a violation apparent on the face of the disclosure statement includes, but is not limited to, a disclosure that can be determined to be incomplete or inaccurate from the face of the disclosure statement or other documents assigned. An assignee has no liability where the assignment is involuntary.

"(b) In an action by or against an assignee, the consumer's written acknowledgment of receipt shall be conclusive proof that the disclosures were made, provided the assignee had no knowledge that disclosures had not been made when the assignee acquired the obligation.

"§ 125. Criminal liability

"A fine of $5,000 or a prison term of not more than one year, or both, may be imposed on anyone who willfully and knowingly fails to comply with any requirement imposed under this title.

"CHAPTER 4—MISCELLANEOUS

"§ 131. Relation to State laws

"(a) This title does not annul, alter, or affect the laws of any state regarding the disclosure of consumer leases or rental-purchase agreements, nor does this title exempt any person subject to the provisions of this title from complying with the laws of any state with respect to consumer leases or rental-purchase agreements, except to the extent those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The laws of a state are inconsistent if a person is unable to comply with them without violating a provision of this title. The Board is authorized to determine whether such inconsistencies exist.

"(b) The Board shall by regulation exempt from the requirements of this title any class of lease transactions and rental-purchase agreements within any state if it determines that the state law contains requirements substantially similar to those imposed by this title or gives greater protection and benefit to the consumer, and that there is adequate provision for enforcement.

"(c) Except as specified in sections 122 and 123, this title does not affect the validity or enforceability of any contract or obligation under State or Federal law.

"(d) Determinations under this section may be requested by any State.

"§ 132. Effect on governmental agencies

"No civil or criminal penalty provided by this title for violations may be imposed on the United States or any of its departments or agencies, any State or political subdivision, or any agency of any State or political subdivision.

"§ 133. Reports by Board and Attorney General

"Each year the Board and the Attorney General shall report to the Congress concerning the administration of their functions under this title, including any recommendations necessary or appropriate. In addition, the Board's report shall include its assessment of the extent to which compliance with the requirements imposed by this title is being achieved.

"§ 134. Effective date

"(a) This title shall take effect on the October 1 that is at least two years after the date of its enactment.

"(b) All regulations, forms, and clauses required to be prescribed shall be promulgated one year prior to such effective date.

"(c) Notwithstanding subsections (a) and (b), any lessor may comply with the requirements of this title, in accordance with the regulations, forms, and clauses prescribed by the Board, prior to such effective date.".

SEC. 3. (a) Section 102 of the Truth and Lending Act is amended by striking out "(a)" before "The Congress" and by striking out subsection (b).

(b) Section 105(b) of such Act is amended by striking out "or lessee", by striking out "or lessors", and by striking out "or lessor" each place it appears.

(c) Section 105(d) of such Act is amended by striking out ", or chapter 5", by striking out "or lessors" each place it appears, and by striking out "or lessor".

(d) Section 121(a) of such Act is amended by striking out "a consumer lease or", and by striking out "or lessor".

(e) Section 121(b) of such Act is amended by striking out "or one lessor as defined in section 181(3)," and by striking out "or lessor" each place it appears.

(f) Section 122(b) of such Act is amended by striking out "or lessor" and by striking out "chapters 4 and 5" and inserting in lieu thereof "chapter 4".

(g) Section 130(a) of such Act is amended by striking out "or 5", by striking out "(i)", by striking out "or (ii) in the case of an individual action relating to a consumer lease under chapter 5 of this title, 25 per centum of the total amount of monthly payments under the lease,", and by striking out "or 5".

(h) Section 130(b) of such Act is amended by striking out "or chapter 5".

(i) Section 130(d) of such Act is amended by striking out "or consumer lease".

(j) Section 130(g) of such Act is amended by striking out "or 5" and by striking out "consumer lease,".

(k) Chapter 5 of title I of the Consumer Credit Protection Act is repealed.●

By Mr. HEINZ:

S. 1153. A bill to amend the Internal Revenue Code of 1954 to allow corporations a credit against tax for contributions for child programing on public radio and television stations; to the Committee on Finance.

CHILDREN'S TELEVISION TAX CREDIT ACT OF 1983

● Mr. HEINZ. Mr. President, today I rise to introduce the Children's Television Tax Credit Act of 1983. The legislation will increase tax incentive for corporate underwriters of children's television. The bill will be a significant initiative to help public broadcasting meet the need for more and better quality children's television programing. I believe that this legislation, closely following National Children and Television Week which so many of my colleagues cosponsored, merits the consideration and support of the Congress.

I propose a 3-year experiment allowing corporations to take a 50-percent tax credit, up to $100,000 per year, on every corporate contribution made to any FCC licensed charitable public television station to produce, advertise, or broadcast high quality, innovative programing for the children of America. The tax credit would be available to the traditional sponsors of children's programing, such as the Sears-Roebuck Foundation, as well as to commerical networks and to other corporations who wish to contribute to the welfare of our Nation's most precious resource—its children.

The present charitable deduction would continue to be available for any funds not subject to the credit. For example, a corporation which donated $1 million last year for purposes of producing a public television production would be encouraged to give $1.2 million this year; $200,000 would be subject to 50-percent tax credit treatment, so the corporation would receive $100,000 in nonrefundable tax credits. In addition, it would be able to deduct the charitable donation of $1 million as it had done the previous year. This would encourage large corporations which approached their charitable limit to give more funds, which would be earmaked for purposes of children's programing. This would also encourage small corporate donors to give money to children's programing since they would get slightly better tax treatment by this tax credit than the already available charitable tax deduction. The cost to the Government of this special treatment is extremely low. The Committee on Joint Taxation has determined that the tax credit will cost just $10 million per year.

As a nation, we are recognizing that the private sector must play a greater role in support of important public services. Both the president and the Congress have encouraged increased charitable giving, corporate social responsibility, and public/private partnerships through administrative action, as well as tax legislation.

The sad fact is that adequate support for high quality television and radio prgraming for our children is gradually diminishing. Economic realities make it difficult for the commerical networks to develop new programs for children. Some such as television critics like John O'Conner of the New York Times, have argued, "The state of children's programs on ABC, CBS, and NBC is rapidly becoming a national disgrace." Although I am aware that the networks have produced some quality children's TV, it is true that as broadcasters go about maximizing profits, younger viewers are not of major concern. Children do not control a significant amount of disposable dollars.

Unfortunately, television is big business with big fiscal responsibilities. Fortunes are made or lost on the turn of a rating point. Can we leave the fate of children's programing to the operation of the marketplace? I think the question answers itself.

We are becoming more aware that the marketplace approach will not be effective, even those of us who once advocated this approach have begun to review their thinking. Most recently, Mark Fowler, chairman of the FCC, speaking about children's TV, said last month:

> Let us end Government by a wink and regulation by a nod when it comes to certain categories of programs. Let us be advocates of public broadcasting's mission in this area, to fill gaps left by the broadcast and nonbroadcast marketplace.

Public television is then a good part of the answer. And certainly the Government should maintain or increase its level of support for this essential part of our national culture. But as we all know, the Federal budget is in some difficulty; the Federal Government cannot do it alone.

Chairman Fowler also said in his speech:

> I believe it is incumbent on those who care about children's programing, and I include myself among those, to advocate a sufficient budget for public broadcasting to help meet the needs of the child audience.

It is ironic that at the same time the Reagan administration has proposed to cut the funding for the Corporation for Public Broadcasting from $140 million in fiscal year 1983 to just $75 million by fiscal year 1986. That is nearly a 50-percent cut.

The Congress designation of "National Children and Television Week" encourages an increased investment in children's programing by all segments of American society. Many individuals and many groups have searched for ways to accomplish this. I have been working since January 8, 1983, when the President signed the legislation sponsored by Mr. Wirth and myself to develop a partial solution to the problem.

One immediate solution is to find a way to give the public-spirited members of the private sector a proper incentive that encourages them to do more of what they have often demonstrated they want to do.

Part of the inspiration for my proposal comes from the recent announcement that five public television stations have joined forces to form a consortium to produce programing for children and their families. The consortium members include WQED/Pittsburgh, KCET/Los Angeles, KCTA/Minneapolis-St. Paul; SCETV/South Carolina; and WETA/Washington, D.C. The series, supported in large part by the Corporation for Public Broadcasting (CPB), will premiere on PBS in the fall of 1984.

Only public television has not forgotten the children, which may explain why it is watched and loved by so many young people. The regular service has included "Mister Rogers' Neighborhood," "Sesame Street," "Electric Company," "Zoom," "Once Upon a Classic," and others.

In summary, Mr. President, the intent of this plan is to generate major gifts for public broadcasting from corporations capable of making them by providing an appropriate incentive. At a time when American corporations are seeking to reduce their own tax burdens, is there a more effective way to also benefit American society?

The advantage of this plan is that it calls on and rewards the public spirited efforts of this Nation's private sector to help accomplish a good for a precious, unprotected portion of our entire society. I urge my colleagues to join me in this important initiative.

Mr. President, I ask unanimous consent that the following statements by America's best friends of children's television be included in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

Bob Keeshan, President, Robert Keeshan Associates: Senator Heinz' legislative proposal is seminal in the strictest sense. As it improves the quality of one of the greatest influences on young Americans, children's programming, it will, therefore, influence the development of future events in our nation. It is highly original and will make a great contribution to the nurturing of the country's young people; truly developing the future.

Jean Ganz Cooney, President, Childrens Television Workshop: Business has a vested interest in ensuring that its future employees, customers, and stockholders are prepared by adequate education to participate in tomorrow's social, economic, and political world. But our educational system is currently lagging behind other industrial nations. Because television is our most cost-effective teachers aide, its use as a supplement to formal education should be encouraged. Government incentives for helping to marshal the forces of TV for educational and quality entertainment programing aimed at children is a logical and appropriate step because children have neither economic nor political clout and have no impact as lobbyists for their own welfare. Congress, through its far-sighted encouragement of corporations to participate in this important phase of electronically-assisted education, will be rewarding those institutions for doing what is right and necessary if our country hopes to continue as a world leader.

Cecily Truett, Producer of "Reading Rainbow": Corporate and private sector sponsorship is a major prerequisite to the development and production of quality children's television programs. An increase in the tax incentives for such potential underwriters will be a significant factor in promoting their active involvement in the financial support of quality children's television production.

Peggy Wollerman, Vice-President for Public Affairs, Kellogg Company: We at Kellogg Company very much support the leadership which Senator John Heinz has brought to the issue of quality children's television programing. The introduction of this legislation, which provides tax credits to corporations who sponsor childrens' shows on public broadcasting stations, will be an additional incentive for companies to lend their support to this very worthwhile effort.

Nicholas B. Van Dyck, President, National Council for Childrens Television: The recent Congressional resolution calling for National Children and Television Week states that, "Television can create an intellectual and emotional environment which can play a decisive role in shaping individual development and perception," and that, "This nation has a continuing responsibility to provide appropriate, stimulative programing for children and adolescents. The legislative proposal by Senator Heinz and the cosponsors is a direct, constructive response to this resolution. Apart from appropriations for public broadcasting, some of which are allocated to children's programs, the proposed legislation is one of the most significant legislative initiatives in Congressional history to ensure that children who eagerly assimilate television's messages, will be given their fair share of the best that TV can offer them.

Fred McFeely Rogers and Family Communications: Fifteen years ago, back in the earliest days of "Mr. Roger's Neighborhood," the Sears-Roebuck Foundation was there when we really needed them. Their continued support has allowed our unique program to grow and mature. We have had the luxury of continual experimentation and exploration. There is obviously a need for television that supports the healthy, emotional development of families with young children. The Sears-Roebuck Foundation has enabled us to provide such programing. It is my hope that this bill, introduced by Senator John Heinz, a long-time friend of television for children, will encourage other corporations to regard healthy children's television as a goal worth supporting. And with their help, many more people will dare to be innovative and will produce more programs that will help children grow.●

By Mr. KENNEDY (for himself, Mr. RIEGLE, Mr. METZENBAUM, Mr. EAGLETON, Mr. RANDOLPH, Mr. PELL, Mr. MATSUNAGA, and Mr. DODD):

S. 1154. A bill to provide grants to States for the purpose of providing health insurance or health-care benefits to unemployed workers, and for other purposes; to the Committee on Labor and Human Resources.

HEALTH CARE FOR THE UNEMPLOYED WORKERS ACT

● Mr. KENNEDY. Mr. President, for millions of Americans, the tragedy of unemployment in this recession has been accompanied by a second, equally serious loss—the loss of health insurance. According to the CBO, 10.7 million Americans have lost health insurance as a result of unemployment and the true number may be much higher. These families have been left without protection against potentially ruinous medical costs. Even small but essential medical needs—drugs to control hypertension, prenatal care—are beyond the means of families forced to live on their limited unemployment check.

We all know that most Americans obtain their health insurance coverage through the workplace. But we rarely stop and think what happens when a worker becomes unemployed and loses health insurance. There are few places to turn for help. Individual coverage is simply unaffordable. Few can qualify for public programs such as medicaid. Many simply postpone seeking care until they become seriously ill and require extended hospitalization.

For pregnant women, lack of health insurance and the resulting inability to afford adequate prenatal care can mean increased complications in pregnancy and a greatly elevated risk of prematurity, illness, and even serious physical and mental handicaps for their child.

These fears are not simply speculative. A Michigan Department of Public Health study found that the number of women who delivered babies with no prenatal care has tripled, and inadequate care of infants attributed to high unemployment has been associated with an increase in the State's infant mortality for the first time in a decade.

The lack of health insurance is particularly critical for the unemployed, since they suffer greater health problems than their working counterparts. Harvey Brenner of Johns Hopkins University found, for example, that a 1.4-percent increase in unemployment is linked to approximately 51,000 premature deaths over a 5-year period—primarily due to stress.

These are just statistics. The human drama is far more poignant. A Michigan carpenter, unemployed and without health insurance for 15 months, is repeatedly hounded by a collection company because he cannot pay the $2,600 hospital bill for the birth of his third daughter. A Pennsylvania man with intestinal cancer tries to treat his disease with corn starch and sleeping pills. An Iowa family must meet the $100 a month cost of asthma medicine and doctor visits out of their $740 a month in unemployment benefits. Thousands of Americans, men and women, adult and children, have only the emergency room in the local public hospital to turn to for care.

The time has clearly come for the Federal Government to act. Health care professionals, State and local governments, providers, labor unions and others have all reached this conclusion. It is essential, however, that the Federal Government meet its responsibilities through a program that offers real hope—not simply token gestures—or voluntary efforts—for the millions

of Americans who are unemployed and without health insurance. For this reason we are introducing legislation that will allow the States to begin to offer basic health protection for the unemployed and their families.

Our program, authorized at $900 million in fiscal year 1983 and $2.7 billion for fiscal year 1984-86, will provide States broad flexibility to develop a program for assuring the availability of basic health care to the unemployed and their families. By placing special emphasis on primary and preventive care, our proposal will allow these families to continue good, cost-effective health practices, rather than having to postpone essential care and run the risk of more serious illness later. Prenatal, delivery, and postnatal care would be provided for all eligible families. This program would reach workers now receiving unemployment compensation, as well as workers who have exhausted their unemployment benefits during the last 2 years. It would permit the States to impose a modest premium for health care coverage, scaled to the size of recipients' unemployment compensation.

To help communities particularly hard hit by unemployment and lack of health care coverage for the residents of the area, our bill establishes a special grant program for providing care in public and nonprofit facilities to indigent, uninsured individuals and families. Funding of $100 million is authorized in fiscal year 1984, $110 million in fiscal year 1985, and $120 million in fiscal year 1986.

The problem of health care for the unemployed is not a new one, nor one that will disappear at the long-awaited end of the recession. The magnitude of the current crisis demands quick and effective action. We believe our bill is a critical step toward meeting this pressing need.●

● Mr. RIEGLE. Mr. President, I am pleased to introduce along with my colleague from Massachusetts (Mr. KENNEDY) S. 1154, a bill to provide health-care protection to individuals who have lost their health insurance because they are unemployed.

As unemployment rates remain at very high levels, more and more workers and their families face the loss of the health-care protection they received through their work. This loss of health-care protection coupled with continued increases in the cost of medical care means that unemployed workers face serious financial problems if they or members of their families have any kind of medical problem. For the unemployed who have lost their insurance, preventive care has become a thing of the past, and they are allowing otherwise easily treated and minor conditions to grow into chronic and serious conditions. The problem of loss of health insurance for unemployed workers is a serious one. It is estimated that half a million workers in my home State of Michigan and over 14 million workers and members of their families have lost health insurance coverage because they are unemployed. The problem is one that we must deal with now.

The legislation would fund grants to States providing for the establishment of a health benefit program for all individuals receiving UI benefits—for 4 weeks or more—or for those unemployed workers who had received UI benefits within the previous 2 years. The health benefit program would be designed and administered by the States and would include a mixture of medical and hospital coverage. Unemployed workers could be asked to help finance part of the cost of the program through premiums, copayments or deductibles, but in no instance can the amount exceed 5 percent of the unemployed worker's unemployment insurance benefit. States would be asked to contribute some State revenues toward the financing of the program on a sliding scale based on the rate of unemployment within the State. Those States, like Michigan, experiencing a sustained high rate of unemployment would not be required to utilize any State revenues.

Even though I have introduced separate proposals for dealing with the problem of loss of health insurance protection for unemployed workers, I am joining in sponsoring S. 1154 because I believe it is a viable option that has sufficient support to be acted on immediately. As I said in my testimony before the Committee on Finance last week, I am willing to endorse any approach and to vigorously fight for its enactment if it genuinely meets the health needs of unemployed workers and their families without placing additional financial burdens on other levels of government that lack the resources necessary to deal with what is a national problem.

This bill represents such an approach. It provides immediate assistance to unemployed workers who have lost their health insurance. Achieving the same objectives envisioned in the bill I introduced earlier this year, S. 307, this legislation embraces the concept of immediate and affordable protection for unemployed workers and their families. This bill recognizes the problem as national in scope and provides a national remedy. It provides a viable alternative for meeting the essential health needs of the millions of workers and their families who have lost their health insurance while at the same time providing the Congress with more time to develop a long-term solution to this critical problem.

I urge all of my colleagues to join with us in this important effort assuring the availability of vital health benefits to millions of Americans.●

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 1155. A bill to provide benefits to individuals who are totally disabled due to employment-related brown lung disease and to their surviving dependents, and for other purposes; to the Committee on Labor and Human Resources.

BROWN LUNG DISEASE BENEFITS ACT OF 1983

● Mr. HOLLINGS. Mr. President, today Senator THURMOND and I are introducing legislation to provide compensation benefits for textile workers who have become totally disabled due to brown lung disease. Brown lung, or byssinosis, is a disease of the lungs which afflicts textile workers exposed to cotton dust over a period of years. The symptoms include chest tightness, coughing, and wheezing. In its early stages, these symptoms usually occur after a temporary absence from work and this delayed response has become known as "Monday dyspnea." Chronic respiratory symptoms and permanent dyspnea follow in textile workers who have suffered acute effects of the dust for years, eventually disabling workers by severe airway obstruction and a condition similar to emphysema and chronic bronchitis.

The purpose of the legislation we offer today, Mr. President, is to provide financial assistance, in cooperation with the States, to workers who are totally disabled due to byssinosis arising out of their employment in a textile plant. In addition, this measure will provide assistance to the surviving dependents of workers whose deaths were due to byssinosis or who were totally disabled by byssinosis at the time of their death.

The need for this legislation is clear. It has been more than 200 years since byssinosis was first recognized in foreign countries as a disease associated with textile manufacturing.

In Great Britain, it has been a compensable occupational disease since 1940, but it was not until a few years ago that we in the United States recognized the existence of the disease or the serious problem it constituted within the textile industry. There is abundant historical evidence, including early mortality studies, which clearly shows a marked increase in respiratory morbidity and mortality among cotton textile workers. Numerous cross-sectional studies of U.S. cotton textile workers have reported diminished lung function among cotton textile workers. And the few prospective epidemiological studies that have been completed consistently reveal increased declines in lung function over time among those occupationally exposed to cotton dust. This view was recently supported by a prospective study of a textile community in my own State of South Carolina.

For many of the victims of byssinosis, time is running out. There are thousands of retired individuals who have worked 30, 40, 50 years in the textile mills who today are physically and financially crippled because of brown lung disease. A study conducted by the late Arend Bouhuys estimated that in the United States alone approximately 30,000 people are disabled by respiratory disease due to their previous employment in the cotton textile industry. And according to Department of Labor statistics, 85,000 active cotton mill workers suffer varying degrees of partial disability from byssinosis. Any current partial disability might very well progress to total disability for workers previously exposed to high levels of dust for a long period, even with reduced exposure now.

Workers with serious respiratory ailments face both loss of income and the high, escalating costs of health care. Presumably, workers' compensation programs are designed to provide no-fault insurance for employees exposed to hazardous industrial environments. However, few of the large number of byssinotics potentially eligible for workers' compensation benefits have been able to gain assistance from this benefit system.

Even companies that have recognized byssinosis as an industrial disease, and that have been willing to institute cotton dust controls, have regularly challenged the compensation claims of former employees. In many cases, the notion of contributory negligence has been used, undermining the no-fault compensation system with the successful argument that the worker's smoking habits may be the real or primary contributing cause of chronic lung disease. Since there is presently no way to determine absolutely the relationship between a specific worker's illness and cotton dust exposure, regardless of smoking habits, many of them are subjected to the devastating financial consequences of industrial disability in addition to their disastrous health condition.

While questions remain for the investigation of cotton dust, the overwhelming positive correlation between cotton dust and byssinosis indicates that action must be taken against the hazards of cotton dust exposure and adequate financial compensation for disabled workers. Many are living without retirement pensions, without adequate social security, and without the breath to walk up a flight of stairs. It is primarily for these individuals that I urge the Senate to give prompt and favorable consideration to this legislation.

I ask unanimous consent, Mr. President, that a listing of the major provisions of the Brown Lung Diseases Benefits Act of 1983, and the bill, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAJOR PROVISIONS OF THE BROWN LUNG DISEASE BENEFITS ACT OF 1983

1. Level of Benefits. Compensation benefits are calculated at 37½ percent of the lowest federal worker GS 2 pay level which is equal to ½ the rate of compensation received by a totally disabled GS 2 federal worker. If the law were in effect today, compensation rates would be as listed below:

No dependents, $304.90 per month.

One dependent, $457.40 per month.

Two dependents, $533.60 per month.

Three or more dependents, $609.80 per month.

Any compensation received under state law would be subtracted from the federal compensation.

A portion of any Social Security benefit would also be subtracted.

2. Liability. Benefit payments are paid by the federal government and by responsible employers. Eligible workers who have retired before January 1, 1983 will receive benefits paid for by the federal government. Benefits for those retiring on or after January 1, 1983 will be paid for by the owner or owners who employed the brown lung victim.

3. Medical Presumptions. The legislation authorizes the Secretary of Labor to establish and use medical presumptions in determining whether a worker is totally disabled due to brown lung disease and whether the disease was caused by the worker's employment in a textile plant.

4. Total Disability. A worker is considered to be totally disabled when it is medically determined that byssinosis prevents the individual from performing work comparable to that which he or she performed while employed in the textile industry.

5. Time Limitation. To be eligible for a claim, a worker must file within three years of a medical determination of byssinosis. A claim for benefits by an eligible survivor must be filed within three years of the enactment of this Act or three years after the date of death, whichever is later.

6. Job Protection. No employer may discharge a worker or in any other way discriminate against a worker because he or she is suffering from byssinosis or has filed a claim for brown lung compensation benefits.

S. 1155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Brown Lung Disease Benefits Act of 1983".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) there are a significant number of workers who are totally disabled due to byssinosis arising out of their employment in the textile industry;

(2) there are a substantial number of survivors of workers whose deaths were due to byssinosis or who were totally disabled by byssinosis at the time of their death;

(3) few States provide benefits to workers or their surviving dependents for death or disability due to byssinosis;

(4) the Congress has provided in the Black Lung Benefits Act (30 U.S.C. 901 et seq.) for the payment of benefits to coal miners who are totally disabled due to pneumoconiosis arising out of employment in coal mines and to the surviving dependents of miners whose deaths were due to byssinosis or who were totally disabled by byssinosis at the time of their death.

(b) It is the purpose of this Act to provide assistance, in cooperation with the States, to workers who are totally disabled due to byssinosis arising out of their employment in a taxtile plant and to the surviving dependents of workers whose deaths were due to byssinosis or who were totally disabled by byssinosis at the time of their death.

DEFINITIONS

SEC. 3. For the purpose of this Act—

(a) The term "byssinosis" means a chronic dust disease of the lung and the sequelae arising out of employment in a textile plant.

(b)(1) The term "child" means a child or a stepchild who is—

(A) unmarried; and

(B)(i) under eighteen years of age;

(ii) under a disability (as defined in section 223 (d) of the Social Security Act (42 U.S.C. 423(d))) which began—

(I) in the case of a person other than a student, before the age specified in section 202(d)(1)(B)(ii) of the Social Security Act (42 U.S.C. 402(d)(1)(B)(ii)); or

(II) in the case of a student, before the person ceased to be a student; or

(iii) a student.

(2) The determination of the status of an individual as a child of a worker, widow or widower shall be made in accordance with section 216(h) (2) or (3) of the Social Security Act (42 U.S.C. 416(h) (2) and (3)) as if the worker, widow or widower were the insured individual referred to in such section.

(c) The term "dependent" means—

(1) A child (as defined in subsection (b)(1) without regard to subparagraph (B)(ii) of such subsection); or

(2)(A) A spouse—

(i) who is a member of the same household as a worker;

(ii) who is receiving regular contributions from a worker for support of the spouse;

(iii) whose husband or wife is a worker who has been ordered by a court to contribute to the support of the spouse; or

(iv) who meets the requirements of section 216(b) (1) or (2) of the Social Security Act (42 U.S.C. 416(b) (1) or (2)).

(B) The determination of the status of an individual as the husband or wife of a worker shall be made in accordance with section 216(h)(1) of the Social Security Act as if the worker were the insured individual referred to in such section.

(d) The term "employer" means an operator of a textile plant.

(e) The term "Secretary" means the Secretary of Labor.

(f) The term "spouse" means a wife or husband

(1) who was living with, or dependent for support on, a worker at the time of the death of the worker and is unmarried;

(2) who is living apart from a worker for reasonable cause or because of the desertion of the worker and is unmarried;

(3) who meets the requirements of section 216(c) (1), (2), (3), (4), or (5) and section 216(k) of the Social Security Act (42 U.S.C. 416(c) (1), (2), (3), or (4) and 416(k)), and is unmarried; or

(4) who is a surviving divorced wife (as defined in section 216(d)(2) of the Social Security Act)—

(A) who, for the month preceding the month in which a worker died, was receiving at least one-half of the support of the surviving divorced wife (as determined in accordance with regulations prescribed by the Secretary) from the worker;

(B) who was receiving substantial contributions from a worker (pursuant to a written agreement); or

(C) who was, at the time of the death of a worker, a party to a court order for substantial contributions from the worker to the support of the surviving divorced wife.

(g) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

(h) The term "student" means—

(1) a full-time student as defined in section 202(d)(7) of the Social Security Act (42 U.S.C. 402(d)(7)); or

(2) a student as defined in section 8101(17) of title 5, United States Code.

(i) The term "textile plant" means a workplace where workers are exposed to cotton dust which, if inhaled in sufficient quantities over a period of time, may impair lung function to the point that byssinosis exists.

(j) The term "total disability" shall have the meaning given the term in regulations of the Secretary except that the regulations—

(1) shall provide that a worker shall be considered totally disabled when it is medically determined that byssinosis prevents the individual from engaging in gainful employment requiring skills and abilities comparable to those of employment in a textile plant or plants in which the individual engaged with some regularity and over a substantial period of time; and

(2) may not provide more restrictive criteria than the criteria provided under section 223(d) of the Social Security Act (42 U.S.C. 423(d)) for determining whether a person is under a disability.

(k) The term "wife" includes a divorced wife (as defined in section 216(d)(1) of the Social Security Act (42 U.S.C. 416(d)(1)))—

(1) who is receiving at least one-half of the support of the divorced wife (as determined in accordance with regulations prescribed by the Secretary of Health and Human Services) from a worker;

(2) who is receiving substantial contributions from a worker (pursuant to a written agreement); or

(3) who is a party to a court order for substantial contributions from a worker to the support of the divorced wife.

(l) The term "worker" means an individual who is or was employed in a textile plant.

BENEFIT CLAIMS

SEC. 4. (a)(1) Except as provided in paragraph (2), a claim for benefits for death or total disability due to byssinosis shall be filed pursuant to the applicable State worker's compensation law.

(2) During a period in which a worker or the surviving spouse, child, parent, brother, or sister is not covered by a State worker's compensation law which provides adequate coverage for byssinosis, the worker or the surviving spouse, child, parent, brother, and sister of the worker shall be entitled to claim benefits under this Act.

(b)(1) For the purposes of this section, a State worker's compensation law shall not be considered to provide adequate coverage for byssinosis during a period unless it is included in a list of State laws found by the Secretary to provide adequate coverage during the period.

(2) No later than October 1, 1983, the Secretary shall publish in the Federal Register a list of State worker's compensation laws which provide adequate coverage for byssinosis.

(3) The Secretary shall revise and republish in the Federal Register such list as may be appropriate to reflect changes in the State laws due to legislation or judicial or administrative interpretation.

(4) The Secretary shall include a State worker's compensation law on the list during a period only if the Secretary finds that during the period under the law—

(A) benefits must be paid for total disability or death of a worker due to byssinosis;

(B) the amount of cash benefits for the disability or death is substantially equivalent to or greater than the amount of cash benefits prescribed under section 4(a);

(C) the standards for determining death or total disability due to byssinosis are substantially equivalent to the standards prescribed under section 3(j);

(D) a claim for benefits on account of total disability of a worker due to byssinosis is considered to be timely filed by a worker if the claim is filed within three years after a medical determination of total disability due to byssinosis has been made;

(E) there are in effect provisions with respect to prior employers which are substantially equivalent to the provisions prescribed under this Act; and

(F) there are applicable such other provisions, regulations, or interpretations as the Secretary determines are consistent with this Act and necessary or appropriate to assure adequate compensation for total disability or death due to byssinosis.

(5) The action of the Secretary in including or failing to include a State worker's compensation law on the list shall be subject to judicial review exclusively in the United States court of appeals for the circuit in which the State is located or the United States Court of Appeals for the District of Columbia.

ENTITLEMENT TO BENEFITS

SEC. 5. (a)(1) Except as provided in paragraphs (2) and (3), benefit payments shall be made by the Secretary under this Act as follows:

(A) In the case of total disability of a worker due to byassinosis, the disabled worker shall be paid benefits during the disability at a rate equal to 37.5 percent of the monthly pay rate for Federal employees in step 1 of grade GS-2 of the General Schedule established under section 5332 of title 5, United States Code.

(B) In the case of death of a worker due to byssinosis or of a worker receiving benefits under this Act, benefits shall be paid to the spouse of the worker at the rate the deceased worker would have received if the worker was totally disabled.

(C)(i) Benefits shall be paid under this subparagraph—

(I) in the case of the child or children of a worker whose death was due to byssinosis,

(II) in the case of the child or children of a worker who was receiving benefits under this Act at the time of the death of the worker;

(III) in the case of the child or children of a worker who was totally disabled by byssinosis at the time of the death of the worker; and

(IV) in the case of the child or children of a widow or widower who was receiving benefits under this Act at the time of the death of the widow or widower.

(ii) If there is one child described in clause (i), benefits shall be paid at the rate specified in subparagraph (A).

(iii) If there is more than one child described in clause (i), benefits paid shall be divided equally among the children and paid at the rate specified in subparagraph (A) increased by—

(I) 50 percent of the rate if there are two children;

(II) 75 percent of the rate if there are three children; and

(III) 100 percent of the rate if there are more than three children.

(iv) A child shall not be entitled to benefits under this subparagraph during a month in which a widow or widower is entitled to benefits udner subparararagph (B).

(D) In the case of an individual who is entitled to benefit payments under subparagraph (A) or (B) and who has one or more dependents, the benefit payment shall be increased at the rate of—

(i) 50 percent of the payment if the individual has one dependent;

(ii) 75 percent of the payment if the individual has two dependents; and

(iii) 100 percent of the payment if the individual has three or more dependents.

(2) Benefit payments under this section to a worker or the surviving spouse, child, parent, brother, or sister of the worker shall be reduced in a monthly or other appropriate basis by—

(A) an amount equal to any payment received by the worker or the surviving spouse, child, parent, brother, or sister of the worker on account of the disability of the worker under the worker's compensation, unemployment compensation, or disability insurance laws of a State;

(B) the amount by which the payment would be reduced on account of excess earnings of the worker under section 203(b) through (l) of the Social Security Act (42 U.S.C. 403(b) through (l)) if the amount paid were a benefit payable under section 202 of such act (42 U.S.C. 402); and

(C) an amount equal to not more than 50 percent of any benefits received under the Social Security Act (42 U.S.C. 301 et seq.).

(3) No payments of benefits shall be required under this subsection—

(A) except pursuant to a claim for benefits filed in such manner, in such form, and containing such information, as the secretary shall by regulation precribe; or

(B) for a period prior to the date six months after the date of the enactment of this Act.

(b) Benefits payable under this section shall not be considered income for purposes fo the Internal Revenue Code of 1954.

TIME LIMITATIONS AND MEDICAL PRESUMPTIONS

SEC. 6. (a)(1) In order to be eligible for disability benefits under this Act, a worker must file a claim for the benefits within three years after a medical detemination of total disability due to byssinosis.

(2) In order to be eligible for death benefits under this Act, a survivor of a worker must file a claim for the benefits within three years after the later of the date of the enactment of this Act or the date of death of the worker.

(b) In conjunction with the Director of the National Institute for Occupational Safety and Health, the Secretary shall by regulation establish standards and presumptions for determining whether a worker is or was totally disabled from byssinosis and whether the byssinosis arose out of the employment in a textile plant.

EMPLOYER LIABILITY

SEC. 7. (a) Except as provided in section 8(c)(1), an emloyer shall be liable for securing the payment of benefits to employees at a level which is not less thant the level of payments required under this Act.

(b) During a period in which a State worker's compensation law is not included on the list published by the Secretary under section 4(b), each employer in the State shall secure the payment of benefits for which the employer is liable under this Act by—

(1) qualifying as a self-insurer in accordance with regulations prescribed by the Secretary; or

(2) establishing and maintaining insurance for the payment of the benefits in accordance with this section with a stock company, mutual company, association, person, or fund which is authorized under the laws of the state to insure worker's compensation.

(c) in order to meet the requirements of subsection (b)(2), a policy or contract of insurance must—

(1) require the payment of benefits at a level which is not less than the level of benefits required under this Act;

(2) provide that insolvency or bankruptcy of the insured employer shall not relieve the insurance carrier of liability for the payments; and

(3) contain such other provisions as the Secretary may by regulation require.

(d) During the period beginning on the date of the commencement of a policy or contract of insurance issued to comply with subsection (b)(2), and ending on the date of the expiration the policy or contract, the policy or contract may not be canceled until at least thirty days have elapsed after notice of cancellation has been sent by registered or certified mail to the Secretary and to the employer at the last known place of business of the employer.

PAYMENT OF BENEFITS

Sec. 8. (a)(1) The Secretary shall pay a totally disabled worker or widow, widower, child, parent, brother, or sister of the worker the benefits to which the individual is entitled under this Act if—

(A) an employer liable for the benefits has not qualified as a self-insurer or obtained a policy or contract of insurance pursuant to section 7;

(B) the employer has not paid the benefits within a reasonable length of time; or

(C) no employer is required to secure the payment of the benefits.

(2) In the case referred to in paragraph (1) (A) or (B), the employer shall be liable to the United States in a civil action in an amount equal to the amount paid to the worker or the widow, widower, child, parent, brother, or sister of the worker under this Act.

(B) The Secretary may by regulation establish standards for apportioning liability for benefits payable under this section among more than one employer.

(c)(1) Benefit claims based upon employment in a textile plant prior to January 1, 1983, shall be paid by the Secretary in accordance with this Act.

(2) Benefit claims based upon employment in a textile plant after January 1, 1983, shall be paid by the Secretary and be a liability of the responsible employer in accordance with this Act.

COOPERATION WITH STATES

Sec. 9. Notwithstanding any other provision of law, in order to carry out this Act, with the consent and cooperation of a State agency charged with the administration of the State worker's compensation law, the Secretary may—

(1) utilize the services of the State agency; and

(2) advance funds to or reimburse the State agency for the services.

REGULATIONS; OTHER LAWS

Sec. 10. (a) Within two hundred and seventy days after the date of the enactment of this Act, the Secretary shall issue such regulations as the Secretary considers appropriate to carry out this Act.

(b) Within one hundred and twenty days after the convening of each session of the Congress, the Secretary shall submit to the Congress an annual report on the administration of this Act.

(c)(1) Nothing in this Act shall relieve an employer of the duty to comply with a State worker's compensation law except insofar as the law is in conflict with this Act.

(2) The provisions of a State worker's compensation law which provide greater benefits than the benefits payable under this Act shall not be considered to be in conflict with the provisions of this Act.

(d)(1) Except as otherwise provided in this subsection and regulations of the Secretary, during a period in which a State workmen's compensation law is not included on the list published by the Secretary under section 4(b), sections 5, 6, 11, 14 through 28, 34, 35, 36, 39, 40, and 42 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 905, 906, 911, 914 through 928, 934, 935, 936, 939, 940, and 942) shall be applicable to each employer in the State with respect to death or total disability due to byssinosis arising out of employment in a textile plant.

(2) In administering this Act, the Secretary may prescribe in the Federal Register such additional provisions (not inconsistent with provisions of the Longshoremen's and Harbor Worker's Compensation Act not referred to in paragraph (1) as the Secretary considers necessary to provide for the payment of benefits by the employer to persons entitled to benefits under this Act.

RESEARCH

Sec. 11. (a) The Secretary may enter into contracts with, and make grants to, public and private agencies and organizations and individuals for the construction, purchase, and operation of fixed site and mobile clinical facilities for the analysis, examination, and treatment of respiratory and pulmonary impairments in active and inactive textile plant workers.

(b) The Secretary shall initiate research within the National Institute for Occupational Safety and Health, and may make research grants to public and private agencies and organizations and individuals, for the purpose of devising a simple and effective test to detect, measure, and treat respiratory and pulmonary impairments in active and inactive textile plant workers.

(c) Except as otherwise provided by the Secretary, in order to be eligible for a grant under this section, an agency, organization, or individual must make all information, uses, products, processes, patents, and other developments resulting from the grant available to the general public.

DISCRIMINATION

Sec. 12. (a)(1) An employer may not discharge or discriminate against a worker employed by the employer on the ground that the worker is suffering from byssinosis or has filed a claim for benefits under this Act or any other Federal or State law.

(2) A person may not cause or attempt to cause an employer to violate this subsection.

(b)(1) Within ninety days after a violation of subsection (a), a worker who believes that the worker has been discharged or otherwise discriminated against by a person in violation of subsection (a), or a representative of the worker, may apply to the Secretary for a review of the alleged discharge or discrimination.

(2) The Secretary shall send a copy of the application to the person who allegedly committed the violation.

(3)(A) Upon receipt of an application for review under paragraph (1), the Secretary shall cause an investigation to be made of the allegations contained in the application.

(B) In conducting the investigation, upon the request of a party to the investigation, the Secretary shall provide an opportunity for public hearing to enable the parties to present information relating to the alleged violation.

(C) At least five days before the hearing, each party shall be given written notice of the time and place of the hearing.

(D) The hearing shall be on the record and subject to the provisions of section 554 of title 5, United States Code.

(E) A hearing examine presiding over a hearing held pursuant to this paragraph shall receive compensation at a rate not less than the rate prescribed for step 1 of grade GS-16 of the General Schedule established under section 5532 of title 5, United States Code.

(5)(A) Upon completing the investigation, the Secretary shall make findings of fact on the violation alleged in the application.

(B) If the Secretary finds that the violation did occur, the Secretary shall issue a decision and an order requiring the person committing the violation to take such affirmative action as the Secretary considers appropriate, including the rehiring or reinstatement of the worker to the former position of the worker with back pay.

(C) If the Secretary finds that there is no violation, the Secretary shall issue an order denying the application.

(D) The order shall incorporate the findings of the Secretary.

(c) If an order is issued under subsection (b)(5)(B) granting relief to a worker, at the request of the worker, the Secretary shall—

(1) assess against the person committing the violation a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) determined by the Secretary to have been reasonably incurred by the worker for, or in connection with, the institution and prosecution of the proceedings; and

(2) transmit the sum to the worker.

AUTHORIZATION OF APPROPRIATIONS

Sec. 13. There is authorized to be appropriated such sums as may be necessary to carry out this Act.

Finally, Mr. President, in reintroducing this bill, the distinguished senior Senator from South Carolina and I are recognizing the fact that hundreds of thousands of working are possible victims by byssinosis. Those workers who are most likely to contract it are the backbone of the textile industry which is vital to our regional economy. Estimates indicate that 250,000 to 300,000 textile workers are significantly exposed to cotton dust in the primary textile industry. This bill would establish a method for compensating these workers for disability that arises out of their employment. Such compensation is only fair.

Several years ago, Mr. President, Congress initiated a compensation program for those who suffer from black lung. I urge the Labor and Human Resources Committee to arrange to hold hearings on this bill as soon as possible. Delay only increases the number of those who suffer from this debilitating condition.●

By Mr. PERCY (for himself and Mr. DIXON):

S. 1157. A bill to deauthorize the William L. Springer Lake portion of the flood control project for the Illinois River and tributaries, Illinois, Wisconsin, and Indiana, and for other purposes; Environment and Public Works.

WILLIAM L. SPRINGER LAKE

Mr. PERCY. Mr. President, today my distinguished colleague from Illinois Senator DIXON and I are introducing legislation to deauthorize the William L. Springer Lake portion of the flood control project for the Illinois River and tributaries authorized by section 203 of the Flood Control Act of 1962. The project site is only 1 mile upstream from Decatur, Ill.

The Springer Lake project was declared inactive by the Corps of Engineers when no economic justification was found for completing the proposed dam and lake. We need to deauthorize the project now because the Federal Government still owns a 52-acre site, which would have been used in the construction of the project, that the city of Decatur would now like to use for the expansion of its water treatment landfill operations.

There is no opposition that we know of to this deauthorization. the mayor and city council fully support this effort. The Republican leader in the House of Representatives, BOB MICHEL, has proposed identical legislation in the other body.

Mr. President, I also ask unanimous consent that an editorial which recently appeared in the Chicago Sun-Times entitled "Forget This Dam" be included in the RECORD following this statement.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Chicago Sun-Times, Mar. 1, 1983]

FORGET THIS DAM

Twenty years ago Congress authorized the Army Corps of Engineers to dam the Sangamon River and create a huge reservoir to control flooding and provide water for nearby Decatur.

Known as the Lake Springer-Oakley Dam project, it was immediately and justifiably denounced by environmentalists because it would flood more land than it protected and provide Decatur with water it didn't need.

The environmentalists won a partial victory in 1975 when the Corps placed the project on its inactive list. This year Congress should close the book on the ill-conceived project by passing a bill to deauthorize it and give 52 acres of government-owned land to Decatur for a landfill to hold lime sludge from a water treatment plant.

The bill is sponsored by Rep. Robert H. Michel (R-Ill.) and backed by other Downstate representatives. Its passage would cure a nagging headache for farmers and conservationists in central Illinois.

By Mr. PERCY (for himself and Mr. GLENN):

S. 1158. A bill to apply duty-free treatment to imported water chestnuts and bamboo shoots; to the Committee on Finance.

DUTY-FREE TREATMENT OF WATER CHESTNUTS AND BAMBOO SHOOTS

Mr. PERCY. Mr. President, today I am introducing, for myself and my good friend Senator GLENN legislation to remove permanently the column I rate of duty on imported processed water chestnuts and bamboo shoots.

Water chestnuts and bamboo shoots are currently imported from Canada, Guatemala, Thailand, Taiwan, and the People's Republic of China. La Choy Food Products of Archbold, Ohio, a division of Beatrice Foods of Chicago, Ill., and other U.S. companies use these vegetables in a variety of increasingly popular packaged oriental food products. They also sell these vegetables directly for use in home cooking.

This legislation makes permanent the temporary suspension of duties on these vegetables which was approved by Congress without opposition and signed into law by the President as part of Public Law 96-609 on December 28, 1980. This temporary suspension of the tariff duties is scheduled to expire June 30, 1983.

Hearings held by the Trade Subcommittee of the House Ways and Means Committee in 1980 determined that there were no American processors of water chestnuts and bamboo shoots and that suspension of the duty would not affect the limited production of freshwater chestnuts in this country. The situation remains the same today, and no opposition has arisen to the tariff suspension during the more than 2 years of its operation. Therefore, the reimposition of the duties on these vegetables on the expiration of the temporary suspension on June 30, 1983, will not serve to protect a domestic industry. However, the reimposition of these duties would have the effect of unnecessarily increasing the cost of these vegetables to consumers.

Mr. President, our introduction of this legislation follows the introduction of an identical bill—H.R. 1898—in the House of Representatives. That legislation was introduced by Representative DELBERT LATTA and is moving ahead in the House. In fact, the Ways and Means Committee is holding a hearing on this tariff measure today. We will certainly work to have the Finance Committee focus attention on it here in the Senate, too.

I urge my colleagues to support this legislation and ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) items 903.45, 903.50, and 903.55 of the Tariff Schedules of the United States (19 U.S.C. 1202) are repealed.

(b) Subpart A of part 8 of schedule 1 of such schedules is amended as follows:

(1) Item 137.84 is amended by striking out "25% ad val." in column 1 and inserting in lieu thereof "free".

(2) Item 138.40 is amended by striking out "17.5% ad val." in column 1 and inserting in lieu thereof "free".

(c) Subpart C of part 8 of schedule 1 of such schedules is amended as follows:

(1) Item 141.70 is amended by striking out "7% ad val." in column 1 and inserting in lieu thereof "free".

(2) Item 141.78 is amended by striking out "9% ad val." in column 1 and inserting in lieu thereof "free".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after June 30, 1983.

Mr GLENN. Mr. President, I am cosponsoring, with my distinguished colleague Senator PERCY, legislation to prevent the reimposition of tariff duties on imported, processed water chestnuts and bamboo shoots. The current temporary suspension of duties on these products has for 2 years significantly reduced consumer prices of these vegetables and of the prepared foods in which they are incorporated.

La Choy Food Products, the largest importer and user of these vegetables, employs 500 workers in Archbold, Ohio. La Choy and other companies sell water chestnuts and bamboo shoots directly to consumers and include them in a variety of increasingly popular, packaged oriental food products. Reimposing tariffs on these products would serve no useful purpose. The revenues from such duties would be minimal and there is no domestic industry producing these vegetables that would benefit from such trade restrictions.

For these reasons, I urge my colleagues to join me in support of this bill.

By Mr. HATFIELD (for himself, Mr. CRANSTON, Mr. HOLLINGS, Mr. PACKWOOD, Mr. QUAYLE, Mr. SARBANES, Mr. DURENBERGER, Mr. BURDICK, Mr. MITCHELL, Mr. JACKSON, Mr. ANDREWS, Mr. SASSER, Mr. EAGLETON, Mr. MELCHER, Mr. HART, Mr. RANDOLPH, Mr. HUDDLESTON, Mr. FORD, and Mr. RIEGLE):

S. 1159. A bill to amend the Export Administration Act of 1979 to extend the provisions relating to the export of domestically produced crude oil; to the Committee on Banking, Housing, and Urban Affairs.

ALASKAN OIL EXPORT RESTRICTIONS

Mr. HATFIELD. Mr. President, on September 30, 1983, the Export Administration Act of 1979 will expire. With it will expire important restrictions on the export of Alaskan North Slope oil. These restrictions are in our national interest. They should be retained.

In 1973, as part of the legislation approving the trans-Alaska pipeline, the Congress specifically restricted the export of Alaskan oil and provided that the Congress would have 60 days to prevent, by concurrent resolution, any exports proposed by the President. The Congress recognized then, as I believe it will now, that it simply makes no sense to undertake an enormous investment in oil exporation, development, and infrastructure in the name of energy security—and then reverse direction by exporting away the very security we have worked so hard to create.

These restrictions were debated and strengthened in 1977 when the Export Administration Act of 1969 was extended for 2 years. Also strengthened was the role of the Congress. Rejection by one House of Congress could halt oil exports.

Two years later, with the Export Administration Act of 1979, these oil export restrictions reached the form they have today. In the U.S. Senate, they were approved 52 to 30. In the House of Representatives, 340 Members voted in favor of the restrictions; 61 voted against them.

The Export Administration Act of 1979, and the legislation I will propose today, did not prevent exports of Alaskan oil. However, it does impose restrictions that permit exports under certain carefully drawn conditions.

I would like to read them now. Crude oil may be exported only if:

(A) The President makes and publishes express findings that exports of such crude oil, including exchanges—

1. Will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

2. Will, within three months following the initiation of such exports or exchanges, result in:

(a) Acquisition cost to the refiners which purchase the imported crude oil being lower than the acquisition cost such refiners would have to pay for the domestically produced oil in the absence of such an export or exchange; and

(b) Not less than 75 percent of such savings in costs being reflected in wholesale and retail prices of products refined from such imported crude oil.

3. Will be made only pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

4. Are clearly necessary to protect the national interest; and

5. Are in accordance with the provisions of this Act.

(B) The President reports such findings to the Congress, and the Congress, within 60 days thereafter, agrees to a concurrent resolution approving such exports on the basis of the findings.

These restrictions are prudent. They are essential to our energy security and to the security of our Nation. They should be retained.

These restrictions do provide the President sufficient flexibility to submit an export proposal if he determines that our national interest and the interest of U.S. consumers will be served. However, unlike other laws restricting oil exports, the restrictions guarantee a strong, affirmative congressional role in any export decision. In addition, the restrictions do not affect existing international bilateral and multilateral oil supply obligations.

I do not believe that now is the time to weaken these restrictions. Our economy and our security have been shaken by two major oil crises in the last decade. When the international economy emerges from today's global recession, our ability to act—as we must—as a Nation, unbound by the dictates of petroleum-exporting nations whose interests are not always our own, will be determined by the foresight with which we address the future today.

Mr. President, some are proposing now that we lift these restrictions, that we sell Alaskan oil to Japan, that we can replace this oil with imports from other nations such as Saudi Arabia.

Mr. President, I do not believe that we serve the interest of this Nation by reducing our supply of secure U.S. oil. I do not believe we act with foresight if we draw down our reserves to stimulate exports and replace these exports with increased imports of Middle Eastern oil.

I do not believe that we serve the interest of this Nation if we pump oil exports out of Alaska faster than we are filling our own strategic petroleum reserve. I do not believe we act with foresight if we allow to wither the multibillion-dollar U.S. refining and transportation infrastructure dedicated to Alaskan oil—for once this infrastructure and the thousands of people to run it are gone; they can never be replaced in time to serve our needs in some future crisis.

I do not believe that we serve the interest of the Nation by allowing Japan to improve cosmetically its balance-of-payments surplus with the United States and thus delay changing the restrictions it imposes on imports of America's manufactured and agricultural products. I do not believe we act with foresight if, by selling Japan oil now, that nation will have less incentive to develop its own petroleum reserves.

Mr. President, I am introducing before the Senate today legislation that would extend the current Alaskan oil export restrictions indefinitely. I am joined by my distinguished colleagues, Senator CRANSTON, Senator HOLLINGS, Senator PACKWOOD, Senator QUAYLE, Senator SARBANES, Senator DURENBERGER, Senator BURDICK, Senator MITCHELL, Senator JACKSON, Senator SASSER, Senator ANDREWS, Senator EAGLETON, Senator MELCHER, Senator HART, Senator RANDOLPH, Senator HUDDLESTON, Senator FORD, and Senator RIEGLE. I am pleased to note that an identical bill in the House of Representatives, H.R. 1197, already has 213 cosponsors.

The existing restrictions on oil exports should be retained. They are a sound investment in commonsense. They may well be the measure of our security in years to come.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7(d) of the Export Administration Act of 1979 (50 U.S.C. App. 2406(d)) is amended by adding at the end thereof the following new paragraph:

"(4) The termination provisions contained in section 20 of this Act shall not apply to this subsection."

By Mr. DURENBERGER (for himself, Mr. BENTSEN, Mr. SYMMS, Mr. PRYOR, Mr. WALLOP, Mr. MOYNIHAN, and Mr. BOREN):

S. 1161. A bill to amend the Internal Revenue Code of 1954 to make it clear that certain motor vehicles operating leases are leases; to the Committee on Finance.

TERMINAL RENTAL ADJUSTMENT CLAUSE BILL

● **Mr. DURENBERGER.** Mr. President, the bill I introduce today with a number of my colleagues from the Finance Committee will settle a controversy that many of us thought should never have arisen, and that we thought we had settled last year in the Tax Equity and Fiscal Responsibility Act.

Our bill will make clear that a terminal rental adjustment clause (TRAC) in a motor vehicle operating lease will not be taken into account in determining whether an agreement is a lease for Federal tax purposes if the lessor either is personally liable for repayment or has pledged certain other property as security for amounts borrowed to finance the acquisition of the property. The bill would be effective for all agreements regardless of whether they were signed before or after the effective date of the act.

For the purposes of our bill, a terminal rental adjustment clause is a provision in an agreement that permits or requires an adjustment in the rental price based on the amount realized in the disposition of the property at the termination of the lease. This form of lease is used for approximately 4 million vehicles according to the American Automotive Leasing Association (AALA).

The history of TRAC has been torturous these last few years. In 1979, the Internal Revenue Service reversed a longstanding audit practice in a private letter ruling denying lease treatment both retroactively and prospectively to agreements containing a terminal rental adjustment clause. This letter was not made public until May 1980. In 1981, the Tax Court overruled the Service in Swift Dodge against Commissioner.

While the decision was on appeal, Congress stepped in last year during TEFRA and included a provision stating loud and clear that the Service was not to disallow TRAC leases retroactively and was not to disallow such leases prospectively until new regulations were issued. It was the understanding of many of us, including my distinguished colleague from Texas and the sponsor of that provision, Mr. Bentsen, that the Treasury should issue new regulations only after a major policy level study of the economic and tax consequences and only under extraordinary circumstances.

Despite Congress' intent, the Treasury issued regulations only 11 weeks after the passage of TEFRA and without any major study of the effects of the change. These regulations would deny lease treatment for tax purposes of leases containing a terminal rental adjustment clause.

If the Treasury had done the study of the economic effect of such regulations, they would have found devastating results. In the short run, the fact of proposing regulations with an effective date of the date first issued has caused turmoil in the industry. A wait-and-see attitude is widespread. After all, final regulations along the lines of the proposed regulations will mean that deals must be renegotiated and contracts rewritten. Unless a user has an urgent need for an automobile, the company is likely to wait until more certainty is available on actual costs.

Some say companies will delay 3 months, others say 6 to 9 months. A 3-month delay alone could result in the loss of 375,000 new-car purchases with a sales value of $3.75 billion. The automobile industry certainly cannot afford such losses at this time.

A look at the long-term effect of a denial of lease treatment brings even more staggering economic problems. Denial of lease treatment is likely to discourage leasing generally. According to a study prepared for the American Automobile Leasing Association, business-owned vehicles are held 32 months compared to 28 months for leased vehicles. If businesses delayed 4 additional months in purchasing new cars, the automobile industry would lose billions of dollars. Even a 1-month delay would reduce new-car purchases by approximately 57,000 vehicles, which at an average price of $10,000, means $570 million.

Should all the present TRAC leases continue as leases but be recognized for tax purposes as sales, the long-range revenue effect on the Treasury is estimated at $85 million annually. This results from the shift of the investment tax credit and depreciation to the users of the vehicles.

Mr. President, let me note briefly the one real difference between this year's bill and the TEFRA provision. This year, vehicles used for either business or personal reasons are eligible for lease treatment. During TEFRA, at Treasury's urging, we included only leases for business purposes. Treasury expressed concern that estimates, which showed no appreciable revenue loss, had been done only on business leases. Given the Finance Committee's concern with revenue impacts, we accepted this modification. However, no sound tax policy exists to treat personal differently from business leases, and such a distinction causes signficant administrative complexity requiring the Service to examine the use to which each automobile is put.

Mr. President, in these difficult economic times, the Congress must speak out to end the uncertainty that has engulfed the automobile leasing industry, an uncertainty that has significant ripple effects on the already-troubled automobile industry. Failure to do so is likely to bring a revenue loss to the Federal Government and certainly a loss to the country's economy. We can ill afford such adverse consequences from our inaction.

I ask unanimous consent that the bill and the attached background materials be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7701 of the Internal Revenue Code of 1954 (relating to definitions) is amended by relettering subsection (d) as (e) and by inserting after subsection (c) the following new subsection:

"(d) Motor Vehicle Operating Leases.—

"(1) In general.—For purposes of this title, the fact that a motor vehicle operating agreement contains a terminal rental adjustment clause shall not be taken into account in determining whether such agreement is a lease.

"(2) Definitions.—For purposes of paragraph (1)—

"(A) The term 'motor vehicle operating agreement' means any agreement with respect to a motor vehicle (including a trailer) under which the lessor—

"(i) is personally liable for the repayment of, or

"(ii) has pledged property (but only to the extent of the net fair market value of the lessor's interest in such property), other than property subject to the agreement or property directly or indirectly financed by indebtedness secured by property subject to the agreement, as security for,

all amounts borrowed to finance the acquisition of property subject to the agreement.

"(B) The term 'terminal rental adjustment clause' means a provision of an agreement which permits or requires the rental price to be adjusted upward or downward by reference to the amount realized by the lessor under the agreement upon sale or other disposition of such property."

Sec. 2. The amendment made by the first section of this Act shall apply whether the agreement was entered into before or after the enactment of this Act.

Summary of Contents

A. The proposed legislation.

B. Why the proposed legislation should be enacted.

I. Removing the power of Treasury to change the rule of section 210 of TEFRA without Congressional involvement is desirable in order to insure that Congress will be involved in any policy change of tax law in this area, and is necessary to prevent a reversal of existing law through administrative action rather than through the legislative type of deliberation and consideration that was contemplated when Congress enacted section 210 of TEFRA.

a. Section 210 of TEFRA was enacted not only to prevent the retroactive application of a new IRS audit position, but also to provide a rule for the future which could be changed by an IRS regulation only under "extraordinary circumstances" and then only after Treasury and the IRS had completed major policy-level studies addressing the tax and economic issues raised by such a change.

b. Contrary to Congressional intent, Treasury issued a proposed regulation (which it labeled as merely "interpretative") to reverse the rule contained in section 210 only 81 days after its enactment without conducting economic or policy studies contemplated by Congressional sponsors of section 210.

II. Removing the power of the IRS to issue a regulation reversing the rule set forth in section 210 of TEFRA will prevent a loss of revenue to the Treasury that would result from the issuance of such a regulation.

III. The exclusion from TEFRA section 210 of consumer leases of motor vehicles for personal use was inserted in section 210 of TEFRA at the last moment at the request of Treasury without appropriate consideration, and any rule that would make a distinction as to the lessor's tax treatment on the basis of the type of use of the property by the lessee should be made only by Congress after appropriate consideration and deliberation.

a. As a matter of law and sound tax policy, no reasonable basis exists for distinguishing motor vehicle lease transactions on the basis of the type of use of the property by the lessee.

b. Consumer leases for personal use are entitled to protection of the kind provided in section 210 of TEFRA against retroactive changes in IRS audit position just as much as commercial leases for business use, and are equally entitled to protection against ill-considered future administrative policy changes.

c. Application of the existing rule contained in section 210 of TEFRA to motor vehicles that are used for personal purposes will not result in a revenue loss.

IV. The rule provided by the proposed legislation is consistent with substantial judicial authority.

a. The existence of a terminal rental adjustment clause is not inconsistent with lease treatment under the holding of the U.S. Supreme Court.

1. The U.S. Supreme Court in essence has instructed the IRS to stay out of the business of recharacterizing lease transactions as sales where the form of the transaction is not principally motivated by tax avoidance features.

2. Motor vehicle leases in general, and terminal rental adjustment clauses contained therein, are motivated by business and economic realities, not by tax avoidance.

3. Open-end motor vehicle lessors retain genuine and significant attributes of a traditional lessor.

b. Although the only justification given by the IRS for issuance of the proposed regulation to reverse the rule of section 210 of TEFRA is of a technical nature, the lower courts, being divided on this very issue, do not even consistently support the IRS technical position.

V. Failure to enact the proposed legislation will allow the IRS to proceed with the issuance of regulations reversing the rule of section 210 of TEFRA that will have serious adverse consequences to motor vehicle lessors, dealers and manufacturers, but which will provide no significant benefit to the public or the government.

VI. Enactment of the proposed legislation is not inconsistent with the decision of Congress to repeal safe harbor leasing.

VII. Codification of Federal income tax statutes is a valuable aid to tax practitioners, taxpayers, and IRS personnel to enhance compliance with and administration of the nation's tax laws.

VIII. Revenue Effect of Proposed Legislation.

a. As to commercially leased automobiles for business use, enactment of the proposed legislation will not result in a revenue loss and could result in an increase in government revenues in the short run by as much as $300 million to $900 million and thereafter by as much as $85 million annually.

b. As to consumer leases of automobiles for personal use, enactment of the proposed legislation is unlikely to result in a revenue loss.

IX. Conclusion.

Appendix: Report on the Impact of Proposed IRS Regulations on TRAC Leases by Emil M. Sunley.

A. THE PROPOSED LEGISLATION

The proposed legislation will

(1) remove the power of the Treasury Department to issue regulations without the involvement of Congress that would change the existing rule of law set forth in section 210 of TEFRA, which provides that the existence of a terminal rental adjustment clause in certain motor vehicle agreements will not be taken into account in determining whether such agreement constitutes a lease for Federal income tax purposes,

(2) remove the limitation presently contained in section 210 of TEFRA relating to motor vehicles that are used for personal purposes, and

(3) codify the existing rule of law as set forth in section 210 of TEFRA.

B. WHY THE PROPOSED LEGISLATION SHOULD BE ENACTED

I. Removing the power of Treasury to change the rule of section 210 of TEFRA without Congressional involvement is desirable in order to insure that Congress will be involved in any policy change of tax law in this area, and is necessary to prevent a reversal of existing law through administrative action rather than through the legislative type of deliberation and consideration that was contemplated when Congress enacted section 210 of TEFRA.

Section 210 of the Tax Equity and Fiscal Responsibility Act of 1983 ("TEFRA"), which was signed into law by the President on September 3, 1982, provides that the existence of a terminal rental adjustment clause in a "qualified motor vehicle agreement" shall not be taken into account in determining whether such agreement is a lease. A qualified motor vehicle agreement is defined in section 210 of TEFRA as an agreement with respect to a motor vehicle (1) entered into prior to the enactment of any law or the publication of a regulation providing a contrary rule, (2) with respect to which the lessor is personally liable for repayment of all amounts borrowed to finance the leased property, and (3) with respect to which the lessee uses the leased property in a business or for the production of income. A "terminal rental adjustment clause" is defined as a provision permitting or requiring an adjustment to the rent by reference to the amount realized by the lessor on the sale of the leased property. Although section 210 of TEFRA does not prevent Treasury from issuing contrary rules on a prospective basis, section 210 and its legislative history neither requires nor encourages the adoption of a regulation to reverse the rule stated in section 210. To the contrary, the principal sponsors and supporters in the Senate and in the House intended that a reversal of the existing law expressed in section 210 would occur only through legislative type of deliberation.

a. Section 210 of TEFRA was enacted not only to prevent the retroactive application of a new IRS audit position, but also to provide a rule for the future which could be changed by an IRS regulation only under "extraordinary circumstances" and then only after Treasury and the IRS had completed major policy-level studies addressing the tax and economic issues raised by such a change.

One of the purposes of Congress in enacting section 210 of TEFRA was to prevent the retroactive application of a new IRS audit position reflected in an Internal Revenue Service Technical Advice Memorandum issued by the National Office in December 1979 (LTR 8019120) that would have reversed a longstanding audit position recognizing leases containing terminal rental adjustment clauses (which had been used by the motor vehicle fleet leasing industry for more than 30 years) as true leases. The intent of Congress, however, was far broader than to simply prevent retroactive application of the new IRS audit position. Congress, in enacting section 210, intended to provide a rule for the future which could be changed by an Internal Revenue Service regulation only under extraordinary circumstances and then only after Treasury and the IRS had completed major policy-level studies that addressed economic issues in addition to addressing technical tax considerations. Had Congress intended to simply provide retroactive relief, it presumably would have made section 210 applicable only to transactions entered into prior to a date certain. Furthermore, if Congress had intended to allow the Internal Revenue Service to reverse the rule of section 210 on the sole basis of technical tax considerations without also considering important policy and economic issues resulting from such a change, Congress presumably would have permitted the Internal Revenue Service to change the rule prospectively through the simple issuance of a Revenue Ruling.

The legislative history and views of the principal sponsors of the legislative proposals that were ultimately enacted as section 210 of TEFRA support the view that any reversal of section 210 would not occur without a legislative type of deliberation and consideration and that any change in section 210 through an IRS regulation would be based only on extraordinary circumstances after completion of policy-level studies addressing both tax and economic issues. The first bill on this subject (H.R. 8073) was introduced in 1980 by the then-Chairman of the House Committee on Ways and Means. Hearings were held on the bill in September 1980. Hearing on foreign convention tax rules and minor tax bills before the Subcommittee on Selected Revenues of the House Committee on Ways and Means, September 8, 1980, 96th Cong., 2d Sess., at 270-283. This bill and an identical bill introduced in the Senate would have provided only retroactive relief.

In June 1981, Congressman Gibbons and former Congressman Bafalis introduced H.R. 3857 which would have provided prospective as well as retroactive relief. This bill would have required legislative action by Congress before the IRS could reclassify a motor vehicle lease because of the presence of a terminal rental adjustment clause. In his statement on introduction of the bill, Mr. Gibbons made it clear that the bill "solves the problems created by the Technical Advice Memorandum for future as well as for past years" and emphasized that proposals for change would have to grow out of "careful study of the policy and technical issues that would be involved in not treating a business lease as such for tax purposes" and be submitted to Congress for legislative enactment. See, 127 Cong. Rec. 11939 (daily ed., June 9, 1981). The 97th Congress ended without enactment of Mr. Gibbons' bill. In May 1982, H.R. 6358 was introduced by Congressman Vander Jagt and former Congressman Holland. H.R. 6358 provided a rule of law for the future as well as for the past but, like section 210 of TEFRA, would have allowed a change to be effected by legislation or by prospective Treasury Department regulation. In introducing the bill, Mr. Holland stated that his bill was based on the premise that neither Congress nor the Treasury Department would consider a prospective change until the Treasury Department had conducted a "major policy-level study of the economic and tax issues" as to whether sufficient reason existed to require a change. Mr. Holland further stated:

"My bill does not require such a study. However, it certainly contemplates that no change would be made without a thorough analysis of these issues." 128 Cong. Rec. 9769 (daily ed., May 12 1982).

On the Senate side, the Finance Committee in its amendment to H.R. 4961 included a provision substantially the same as the Holland bill. Senator Bentsen who, together with Senator Armstrong, were the principal sponsors of this provision which ultimately was enacted as section 210 of TEFRA, stated (referring to himself and to Senator Armstrong) that "it was our intent to include in the Committee-reported bill the substance of legislation we had drafted which was identical to the Holland bill, H.R. 6358," and that "his bill was based on the premise neither Congress nor the Treasury Department would consider any changes to existing law unless the Department had previously conducted a major policy-level study of the economic and tax issues bearing on the question whether there is sufficient reason to deny fleet lessors the depreciation and investment tax credits otherwise allowed owner-lessors of depreciable business property." Senator Bentsen further stated that he and Senator Armstrong "shared Mr. Holland's view that such a change could be effected by prospective Teasury Department regulations only in the most extraordinary circumstances", and that "the Committee clearly did not intend that Treasury exercise an unfettered discretion in publishing a regulation". See, Exchange of correspondence between Senator Bentsen and Congressman Matsui, 128 Cong. Rec. 20963 (daily ed., August 12, 1982).

b. Contrary to Congressional intent, Treasury issued a proposed regulation (which it labeled as merely "interpretative") to reverse the rule contained in section 210 only 81 days after its enactment without conducting economic or policy studies contemplated by Congressional sponsors of section 210.

On November 23, 1982, only 81 days after the enactment of section 210, Treasury issued a proposed regulation to reverse the rule contained in section 210. Contrary to Congressional intent, Treasury conducted no economic or policy studies. Treasury and IRS considerations were limited to the technical issues that would have been involved in the issuance of a Revenue Ruling. Not only did Treasury fail to make any effort to comply with the Congressional intent that economic and tax policy studies first show the need for any change in the rule of section 210, but asserted in its Notice of Proposed Rulemaking that "the notice and public procedure requirements of 5 U.S.C. § 553 do not apply because the rules proposed are interpretaiive". The failure of Treasury to conduct the important policy and economic studies contemplated by Congress in delegating legislative authority to Treasury and the view of Treasury that its proposed regulation is merely interpretative in disregard of the fact that its proposed regulation would reverse a rule of law enacted by Congress, make it necessary and desirable that the power of Treasury to change the rule of section 210 of TEFRA without Congressional involvement be removed.

II. Removing the power of the IRS to issue a regulation reversing the rule set forth in section 210 of TEFRA will present a loss of revenue to the Treasury that would result from the issuance of such a regulation.

Economic studies conducted by Emil M. Sunley and Gerard M. Brannon conclude that enactment of the proposed legislation will not result in a revenue loss to the Government, but would prevent a loss of revenue that could result if Treasury were to issue a final regulation similar to that proposed. Finalization of the proposed regulation could result in a revenue loss as great as $300 million to $900 million in the short run and $85 million annually thereafter. See, Section VIII, Revenue Effect of Proposed Legislation, for further discussion.

III. The exclusion from TEFRA section 210 of consumer leases of motor vehicles for personal use was inserted in section 210 of TEFRA at the last moment at the request of Treasury without appropriate consideration, and any rule that would make a distinction as to the lessor's tax treatment on the basis of the type of use of the property by the lessee should be made only by Congress after appropriate consideration and deliberation.

The proposal as initially sought by Senators Bentsen and Armstrong, as well as H.R. 6358 introduced by Mr. Holland and Mr. Vander Jagt in 1982 and earlier legislative proposals, would all have applied without regard to the type of use by the lessee. The limitation in section 210 of TEFRA involving personal use of motor vehicles was inserted at the last moment during the Senate Finance Committee markup proceeding at the request of Treasury. Although the Treasury request for the unusual limitation was probably prompted by initial fears of a potential revenue loss associated with leasing for personal use, appropriate consideration was not given to the tax policy and revenue implications of the limitation, and no negative inference was intended. See, Exchange of correspondence between Senator Bentsen and Congressman Matsui, 128 Cong. Rec. E3867 (daily ed., August 12, 1981). Adoption of such an unusual rule that would distinguish the lessor's tax treatment on the basis of the type of use by the lessee should be made only by Congress after appropriate consideration of the tax policy and economic implications.

a. As a matter of law and sound tax policy, no reasonable basis exists for distinguishing motor vehicle lease transactions on the basis of the type of use of the property by the lessee.

As stated by Senator Bentsen in expressing his view of the intent of the Senate Finance Committee [See, Exchange of correspondence between Senator Bentsen and Congressman Matsui, 128 Cong. Rec. E3867 (daily ed., August 12, 1981)], it would be "both bad law and bad tax policy" to draw a negative inference from the personal use limitation in section 210 of TEFRA that lessors under consumer leases shall be subject to different substantive tax rules than lessees under commercial leases. In addition, a distinction based on use by the lessee creates needless compliance and administrative difficulties for taxpayers and the IRS.

b. Consumer leases for personal use are entitled to protection of the kind provided in section 210 of TEFRA against retroactive changes in IRS audit position just as much as commercial leases for business use, and are equally entitled to protection against ill-considered future administrative policy changes.

As previously stated, one of the purposes of section 210 of TEFRA was to provide protection against the retroactive application of an adverse change in longstanding IRS audit policy involving motor vehicle leases with terminal rental adjustment clauses. Prior to the change in IRS audit policy as reflected in the 1979 Technical Advice Memorandum, the longstanding IRS audit position was to recognize leases with such clauses as true leases. *Leslie Leasing Co.* 80 T.C. , No. 15 (1983). This longstanding audit position made no distinction based on use by the lessee. Leases for personal use should be afforded the same protection against retroactive changes in IRS audit position as were afforded leases for business use by section 210 of TEFRA. Consumer leases are equally entitled to protection against ill-considered future administrative changes undertaken without appropriate policy and economic considerations.

c. Application of the existing rule contained in section 210 of TEFRA to motor vehicles that are used for personal purposes will not result in a revenue loss.

Economic consultants to the ad hoc group have concluded that extension of the rule set forth in section 210 of TEFRA to consumer leases should not result in a revenue loss. See Section VIII, Revenue Effect of Proposed Legislation, for further discussion.

IV. The rule provided by the proposed legislation is consistent with substantial judicial authority.

The IRS, in advocating the position adopted in its proposed regulation, has asserted as the ground therefor that from a technical standpoint lease agreements with terminal rental adjustment clauses should be properly treated for income tax purposes as conditional sales contracts. We do not believe that "technical purity" provides a sufficient basis in the present circumstances for reversal of the rule contained in section 210 of TEFRA in view of the adverse economic consequences and lack of revenue gain or other form of benefit to the public that would result from such a change (See, Sections V and VIII of this statement). But even from a technical standpoint, the position adopted by the IRS in its proposed regulation is suspect under the holding of the Supreme Court and is not uniformly supported by the decisions of the lower courts on this very issue.

a. The existence of a terminal rental adjustment clause is not inconsistent with lease treatment under the holding of the U.S. Supreme Court.

In *Frank Lyon Co.* v. *United States*, 435 U.S. 561 (1978), the Supreme Court, in addressing a conflict between the Eighth Circuit and the Fourth Circuit, mandated the standard for characterizing a lease transaction for federal income tax purposes. In holding that the transaction under consideration constituted a lease for federal income tax purposes, the Supreme Court rejected the narrow application of the burdens and benefits of ownership test on which the proposed regulation is grounded. Instead, the Supreme Court adopted an approach that examined the intent of the parties, the economic substance, and the extent of which the transaction had been structured for tax avoidance purposes:

"[W]e hold that where, as here, there is a genuine multiple party transaction with economic substance which is compelled or encouraged by business or regulatory realities, is imbued with tax independent considerations, and is not shaped solely by tax avoidance features that have meaningless labels attached, the Government should honor the allocation of rights and duties effectuated by the parties." 435 U.S. at 583-4.

Application of this holding indicates that the existence of a terminal rental adjustment clause in motor vehicle leases is not inconsistent with lease treatment for federal income tax purposes.

1. The U.S. Supreme Court in essence has instructed the IRS to stay out of the business of recharacterizing lease transactions as sales where the form of the transaction is not principally motivated by tax avoidance features.

The Supreme Court in *Lyon* has effectively instructed the IRS to honor the allocation of rights and duties effectuated by the parties where the form of the transaction is not motivated by tax avoidance features. This instruction is indeed sound from both a technical and policy viewpoint. The IRS need not be involved as an arbiter to determine the correct characterization of every business lease transaction where tax avoidance features are not present.

2. Motor vehicle leases in general, and terminal rental adjustment clauses contained therein, are motivated by business and economic realities, not by tax avoidance.

Motor vehicle lease transactions are not generally motivated by tax avoidance features. From the lessor's standpoint, most motor vehicle leasing companies are engaged in the business of motor vehicle leasing to realize a profit from the leasing transactions rather than to shelter income from non-leasing activities. Indeed, the principal source of income for many motor vehicle lessors is the income derived from motor vehicle leasing transactions. Likewise, the decision of motor vehicle users to lease rather than own vehicles is not typically motivated by tax reasons. For example, fleet lessees typically choose to lease rather than own vehicles for sound business reasons, such as: (1) the conservation of working capital by avoiding an initial large cash investment; (2) the ability to obtain the use of business assets without violating potential restrictions on borrowings or regulatory requirements; and (3) "off-balance sheet financing", enabling lessees the use of a large fleet of late-model vehicles without impairing financial statements. Additional evidence that motor vehicle lease transactions are compelled by business and economic realities and not tax avoidance is found in the fact that motor vehicle lease transactions with terminal rental adjustment clauses have been widespread for more than 30 years, thus predating the investment tax credit and ACRS provisions of the Internal Revenue Code, as well as the fact that enactment of the proposed legislation will not result in a revenue loss to the government.

Use of terminal rental adjustment provisions in motor vehicle leases serve important business purposes and are compelled by economic realities. First, utilization of the terminal rental adjustment clause recognizes the economic fact that the motor vehicle lessee is better able than the lessor to control the costs of using the vehicles through proper maintenance, careful operation, and extent and type of use. In the absence of a terminal rental adjustment clause, the lessor would find it necessary to charge a higher rent to protect itself against poorer maintenance or more extensive or greater use of the vehicle than was originally contemplated. Moreover, utilization of "wear and tear" clauses that are typically found in closed-end motor vehicle leases inevitably lead to costly and unnecessary disputes between the lessor and lessee. Thus, cost efficiency is the fundamental economic reality motivating terminal rental adjustment clauses, not tax avoidance.

3. Open-end motor vehicle lessors retain genuine and significant attributes of a traditional lessor.

Consistent with the holding in *Lyon*, motor vehicle lessors in open-end lease transactions retain genuine and significant attributes of a traditional lessor. The lessor is treated as the owner of the vehicle for state law purposes, which impose requirements to comply with state insurance, registration and titling requirements, liability for personal property taxes, liability for parking and other motor vehicle violations, and potential liability to third parties for damages caused by the vehicles. As vehicle owners, the lessors are subject to disclosure and recordkeeping requirements imposed by federal law. For financial accounting purposes, the vehicles are treated as assets of the lessor rather than of the business lessee and the corresponding liability for funds borrowed to finance the acquisition of the vehicles is primarily that of the lessor, not the lessees. Conversely, in a conditional sale, the liability to the third party lender is primarily that of the vehicle user.

Other important factors are also present which are consistent with traditional lessor status. In most cases, leasing is a principal or exclusive activity of the lessor. Many of the larger motor vehicle lessors have been in business for several decades.

b. Although the only justification given by the IRS for issuance of the proposed regulation to reverse the rule of section 210 of TEFRA is of a technical nature, the lower courts, being divided on this very issue, do not even consistently support the IRS technical position.

The Tax Court and the Ninth Circuit have had occasion to consider the appropriate classification of a motor vehicle lease with a terminal rental adjustment clause from a technical viewpoint. *Swift Dodge*, 76 T.C. 547 (1981), rev'd, 692 F.2d 651 (9th Cir., 1982); *Leslie Leasing Co.*, 80 T.C. , No. 15 (1983). *Swift Dodge* was decided by both the Tax Court and the Ninth Circuit without application of section 210 of TEFRA. The Tax Court held that a motor vehicle lease with a terminal rental adjustment clause constituted a valid lease for federal income tax purposes. The Ninth Circuit held a contrary view. In *Leslie Leasing Co.* The Tax Court applied section 210 to the business leases, but as to the personal use leases which were not covered by section 210 of TEFRA, because the taxpayer's appeal would lie with the Ninth Circuit the Tax Court was constrained to follow the holding of the Ninth Circuit under the principles of *Golsen*, 54 T.C. 742 (1970), aff'd, 445 F.2d 985 (10th Cir. 1971), cert. denied, 404 U.S. 940 (1971). The Tax Court in *Leslie Leasing*, however, gave no indication that it intends to follow the Ninth Circuit decision in cases appealable to other circuits where the constraints of *Golsen* are not present. Thus, the technical position asserted by the Internal Revenue Service as the ground supporting the position taken in the proposed regulation does not even find consistent support in the decisions of the courts that have had occasion to consider the issue on a technical, substantive basis.

V. Failure to enact the proposed legislation will allow the IRS to proceed with the issuance of regulations reversing the rule of section 210 that will have serious adverse consequences to motor vehicle lessors, dealers and manufacturers, but which will provide no significant benefit to the public or the government.

Failure to enact the proposed legislation will allow the IRS to proceed with the issuance of regulations reversing the rule of section 210 of TEFRA. The issuance of such regulations will provide no revenue increase or any other significant benefit to the public or the government. To the contrary, the issuance of such regulations may cause a significant detriment to the public and the government in the form of decreased revenues, increased administrative costs that will inevitably arise from renewed litigation involving the validity of the position taken in the regulations and increased motor vehicle costs.

Although reversal of the rule of section 210 will provide no significant benefit to the public or the government, it will have serious adverse consequences to motor vehicle lessors, dealers, and manufacturers. If the Treasury regulations were adopted effective on the date of publication, there will clearly be a very significant short-term disruption. All contracts would have to be rewritten and executives within each company would have to consider the new terms and conditions. During the adjustment period, the path of least resistance for many vehicle users would be to defer delivery of new automobiles. Economic analyses indicate that the short-term disruption would likely last at least three months, and could last as long as six to nine months. The analyses further indicate that each month delay in replacing leased vehicles would result in a loss of 125,000 new car purchases with a sales value of $1.2 billion. This analysis is based on the estimate that 3.5 million cars are currently leased to businesses under open-end leases with terminal rental adjustment clauses and that the leased cars turn over on average every 28 months. A three-month delay would, thus, result in a loss of 375,000 new car purchases with a sales value of $3.7 billion.

The adverse consequences to motor vehicle lessors, dealers, manufacturers and users would not be limited to the short run. Users of automobiles who lease under open-end arrangements do so because it is the most efficient alternative. To the extent that denial of lease treatment for such arrangements discourages this form of transaction (which is by far the most prevalent form of motor vehicle leasing), any other form of transaction must be assumed to be less efficient and more costly. For example, closed-end leases are generally more expensive to the user than open-end leases because the lessor must be compensated for the additional risks which are within the lessee's control but which the lessor would assume. Assuming unit elasticity of demand, for every 1 percent increase in user costs, there will be a 1 percent reduction in the number of vehicles put into service. Based on industry studies, a 1 percent annual increase in costs would translate into a reduced annual demand for approximately 17,000 new cars, with an annual effect on the U.S. economy of approximately $170 million.

An increase in the cost of leasing could also cause motor vehicle users to purchase rather than lease the vehicles. Owned vehicles are carried as capital assets on a company's balance sheet and are subject to all the cost and budget controls generally imposed on capital asset acquisitions. This process translates into longer holding periods and less frequent replacement cycles for owned vehicles than for leased vehicles. An economic study prepared for the American Automotive Leasing Association indicates that the average holding period for leased business vehicles is approximately 28 months, compared to 32 months for owned vehicles. A permanent four-month delay in the replacement cycle could result in an annual loss of 200,000 new car and light truck purchases with a value of $2 billion.

VI. Enactment of the proposed legislation is not inconsistent with the decision of Congress to repeal safe harbor leasing.

Motor vehicle lease transactions with terminal rental adjustment clauses should not be confused with the concept of safe harbor leasing which was enacted in 1981 as a part of the Economic Tax Recovery Act and repealed by TEFRA in 1982. they lie at opposite ends of the tax spectrum. The intent of Congress in enacting safe harbor leasing was to provide a means for transferring tax benefits rather than a means of determining which person was in substance the owner of the property. See, S. Rept. No. 97-494, Vol. 1, 97th Cong. 2d Sess., p. 130; H. Rept. No. 97-760, 97th Cong. 2d Sess., p. 492. Safe harbor lease transactions often did not bear any resemblance to a lease. As explained by the staff of the Joint Committee on Taxation:

"[A] transaction generally will not be given effect for tax purpose unless it serves some business purpose aside from reducing taxes. Because the leasing provision was intended to be only a transferability provision, many of the transactions that will be characterized as a lease under the safe harbor will have no business purpose (other than to transfer tax benefits). When the substance of the transaction is examined, the transaction may not bear any resemblance to a lease." Jt. Comm. on Taxation, General Explanation of the Economic Recovery Tax Act of 1981, p. 104.

In repealing safe harbor leasing, three basic reasons were advanced: (1) concern that some taxpayers utilized safe harbor rules to avoid their equitable share of tax, (2) the derivative effect of eroding respect for and compliance with the tax laws on the part of other taxpayers, and (3) to prevent what was viewed as significant revenue losses attributable to safe harbor leasing.

Motor vehicle leases with terminal rental adjustment clauses bear no resemblance to safe harbor leases either in form, substance or intent of the parties. Whereas safe harbor leases were developed primarily to permit a sale of tax benefits, motor vehicle leases with terminal rental adjustment clauses are not tax motivated and are entered into for substantial business purposes. Whereas safe harbor transactions resulted in substantial revenue losses to the government, motor vehicle leases with terminal rental adjustment clauses result in no revenue loss. The form and substance of the two transactions are also entirely different. In a typical safe harbor lease, the lessee often retained title to the property and in those cases where title was not retained by the lessee, the lessee could acquire title through payment of a nominal sum (such as $1) even though substantial residual value remained in the property at the end of the lease term. Conversely, the lessor in a typical safe harbor lease anticipated no benefits or profits from ownership of the property (other than the tax benefits) and typically had no interest in the residual value of the property at the end of the lease term. In open-end motor vehicle lease transactions, the lessor is the owner of the property for local law purposes, expects to realize a profit from the transaction independent of tax benefits and normally realizes substantial residual value from the motor vehicle at the termination of the lease.

Accordingly, in contrasting the stark differences between safe harbor transactions and motor vehicle leases with terminal rental adjustment clauses, there is no inconsistency in enactment of the proposed legislation with the decision of Congress to repeal safe harbor leasing.

VII. Codification of Federal income tax statutes is a valuable aid to tax practitioners, taxpayers, and IRS personnel to enhance compliance with and administration of the nation's tax laws.

The present rule of law regarding certain motor vehicle lease agreements with terminal rental adjustment clauses does not appear in the Internal Revenue Code but, rather, appears only as section 210 of TEFRA. Codification of the rule would provide aid to tax practitioners, taxpayers and IRS personnel in complying with and administering the tax law. Simply stated, codification of the provision will enable affected people to find it.

VIII. Revenue Effect of Proposed Legislation.

Economic consultants to the ad hoc group, Emil M. Sunley and Gerard M. Brannon, have concluded that enactment of the proposed legislation will not result in a revenue loss to the government, but may prevent a revenue loss that could occur if the proposed regulations are finalized.

a. As to commercially leased automobiles for business use, enactment of the proposed legislation will not result in a revenue loss and could result in an increase in government revenues in the short run by as much as $300 million to $900 million and thereafter by as much as $85 million annually.

The economic consultants to the ad hoc group have concluded that, as to motor vehicles leased for business use, enactment of the proposed legislation will not result in a revenue loss, but would prevent a loss of revenue that could result from issuance of proposed regulations by as much as $300 million to $900 million in the short run and thereafter by as much as $85 million annually. Their conclusions are summarized as follows:

(1) To the extent that the proposed legislation is viewed as a continuation of existing law embodied in section 210 of TEFRA, the enactment of the proposed legislation would, of course, not result in any revenue gain or loss.

(2) The following conclusions are based on a comparison of the proposed legislation to the rule set forth in the proposed regulations.

(a) As previously explained, if the proposed regulation is adopted effective the date of publication, a significant short-term disruption would occur resulting in a delay in replacement of leased vehicles. The disruption is likely to last at least three months. Each month delay in replacing leased vehicles would result in reduced sales of approximately $1.2 billion. Assuming that a loss in automobile sales translates dollar-for-dollar into a loss of GNP, and further assuming a 24 percent tax rate on changes in GNP, it is estimated that a one-month delay in replacing leased vehicles would reduce government revenues by $300 million and a three-month delay would reduce government revenues by $900 million.

(b) In the long run, enactment of the proposed legislation will not result in a revenue loss, but, depending upon the response of business to a regulatory reversal of section 210 of TEFRA, could prevent a revenue loss of as much as $85 million annually. One possible response to finalization of the proposed regulation would be to continue to use leases with terminal rental adjustment clauses, but to treat the leases as conditional sales for tax purposes. Assuming that rentals are increased sufficiently to compensate the lessor for a loss of tax benefits, the user woud have a higher tax basis than the lessor, thereby increasing the total amount of accelerated cost recovery deductions and investment tax credit. It is estimated that the government would lose revenue of approximately $50 per motor vehicle. If all motor vehicle leases with terminal rental adjustment clauses were switched to conditional sales in this fashion, the annual revenue loss resulting from failure to enact the legislation would be approximately $85 million.

b. As to consumer leases of automobiles for personal use, enactment of the proposed legislation is unlikely to result in a revenue loss.

The economic consultants have concluded that, as to motor vehicles leased for personal use, enactment of proposed legislation is unlikely to result in a revenue loss.

IX. Conclusion

Enactment of the proposed legislation is desirable to insure that Treasury will not change the existing rule of law embodied in section 210 of TEFRA without Congressional involvement and without the type of deliberation and consideration that was contemplated by Congress when it enacted section 210 of TEFRA. Enactment of the proposed legislation will not result in a revenue loss to the government, but will prevent a loss of revenue to the government that could result from the issuance of a regulation reversing the rule set forth in section 210 of TEFRA. Although allowing the Treasury to issue regulations reversing the rule of section 210 of TEFRA will not raise any revenue and will provide no other significant form of benefit to the government or the public, such regulations will have serious adverse consequences to motor vehicle lessors, dealers, manufacturers, and users. Achievement of "technical purity," the only ground asserted by the IRS in support of its proposed regulation, does not (even if that purpose were accomplished, which it is not) constitute sufficient reason for causing serious disruption and economic harm to the motor vehicle industry, particularly where no revenue gain or other form of significant benefit to the government or the public is achieved. But even from a technical standpoint, the position advocated by the IRS in its proposed regulations is inconsistent with the holding of the Supreme Court and lacks consistent support in the lower courts. As to motor vehicles used for personal use, no reasonable basis exists for distinguishing between motor vehicle lease transactions on the basis of the type of use of the property by the lessee. This is especially true since no revenue loss will be involved.

REPORT ON THE IMPACT OF PROPOSED IRS REGULATIONS ON TRAC LEASES

(By Emil M. Sunley [1])

(Economic Consultant to Ad Hoc Group of U.S. Motor Vehicle Lessors, Manufacturers and Dealers)

Treasury's proposed regulations on TRAC Leases if adopted as a final rule would cause serious, both short term and long term, disruptions in the automobile leasing and sales markets. This report assesses the magnitude of these disruptions and the impact these regulations would have on Federal revenues.

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[1] Director of Tax Analysis, Deloitte Haskins & Sells.

SHORT TERM DISRUPTION

If the Treasury regulation is adopted, effective the date of publication, there will clearly be a significant short term disruption. Contracts would have to be rewritten. Executives within each company would have to consider the new terms and conditions. The path of least resistence for many business vehicles users would be not to take delivery to new automobiles in the interim. Instead these companies would continue to use the automobiles previously leased.

There is probably no way to get a good handle on just how long the short run disuption might last. Given normal "bureaucractic" delays in large organizations, the short term disruption would likely last at least three months. The delay could last as long as six to nine months. Each month delay in replacing leased vehicles would result in a loss of 125,000 new car purchases, having a sales value of $1.2 billion. (This assumes that 3 5 million cars are currently leased to businesses under TRAC leases and that these leased cars turn over on average every 28 months.) A three-month delay would result in a loss of 375,000 new car purchases, with a sales value of $3.7 billion.

In the short-run it is reasonable to assume that a loss in automobile sales translates dollar-for-dollar into a loss of GNP. Thus a loss in automobile sales reduces government revenue. Using the usual Treasury assumption of a 24 precent tax rate on charges in GNP, a one month delay would reduce Federal revenues by $300 million and a three month delay would reduce Federal revenues by $900 million.

LONG TERM DISRUPTION

In the long term, elimination of TRAC leases would raise the cost of automobiles for business use. Given the higher cost, businesses will use fewer automobiles. How many fewer depends on: (1) the percentage increase in the after-tax cost of using an automobile and (2) how sensitive the demand for automobiles is to an increase in cost. This second factor is usually referred to as the elasticity of demand and is defined as the percentage decrease in demand for a given percentage increase in price. A reasonable estimate of the elasticity of demand for automobiles probably would be 1.0. Given this estimate of elasticity of demand, a 10 percent increase in the cost of automobiles will reduce demand by 10 percent.

Three alternatives need to be considered. First, businesses may continue to lease automobiles, but under closed-end leases. Second, businesses may purchase automobiles outright instead of leasing them. Third, TRAC leases may continue to be used, but rents would be adjusted upward to reflect the fact that the transaction will be treated as a conditional sale for tax purposes under which the leassee/buyer would be allowed the depreciation deductions and investment tax credits.

1. *Closed-end lease alternative.* If businesses switch to closed-end leases, the rentals will have to be higher because the lessor must calculate rentals by reference to estimated rather than actual residuals. A number of leasing companies offer both closed-end and TRAC leases. One company reviewed actual leases for a 1980 model sold in 1982 and a 1979 model sold in 1981. In case of the 1980 model, the closed-end depreciation cost that was built into the lease rate for a closed-end lease was $3.310. When the automobile was sold in 1982 it turned out the actual net depreciation cost was only $2,515. Thus, on the 1980 model a closed-end lease customer would have paid $795 ($3,310-$2,515) per car more than a TRAC customer. The spread was only $225 for the 1979 model sold in 1981. This resulted from the weak resale market experienced in 1981.

It should be recognized that closed-end leases have terminal adjustments, namely, "wear and tear" clauses. These clauses protect the lessor from the risk that cars will be returned in poor condition. In theory, they do not protect the lessor from fluctuations in the condition of the resale market. In practice, however, these clauses may provide some protection. When the resale market is strong, lessors may be quite lenient in assessing charges for "wear and tear". But, when the resale market is soft, lessors may fully enforce "wear and tear" clauses.

2. *Ownership alternative.* Businesses will lease or buy equipment, including automobiles, depending on which procedure minimizes the cost to capital. Even in a world without taxes, businesses would lease equipment when the cost is less than outright purchase. There are essentially four reasons why a leasing an automobile may be less costly to users than outright purchase.

The lessor may purchase automobiles in volume at a lower price per vehicle.

The lessor may be able to sell the automobiles at the end of the lease term at higher prices than the users would be able to sell them.

The lessor may be able to finance the equipment on more favorable credit terms.

The lessor may be able to more efficiently manage a stock of automobiles than the user. For example, the lessor may be able more efficiently to title and insure automobiles.

To the extent that the cost of ownership is higher than the cost of leasing, businesses will use fewer automobiles. How many fewer, as indicated above, depends on the elasticity of demand.

There is also an additional effect of switching to ownership. The average holding period for fleet users who own their own fleets is 32 months as compared to an average holding period of 28 months for fleet users who lease their business fleets. Given that 4 million cars and light trucks are under TRAC leases, a lengthening of the average holding period from 28 to 32 months would reduce the annual turnover of leased vehicles by 200,000 units. This translates into a $2 billion annual reduction in new car purchases for business use.

3. *Transfer Depreciation Deduction.* The third alternative would be to continue to use the TRAC lease but to treat the transaction as a conditional sale for tax purposes. The lessor/seller would have to raise the rentals (or "installment sales payments") to offset the reduced tax shield. The lessee/buyer would claim depreciation deductions and also deduct unstated interest on the "installment sale."

It turns out that this alternative would actually lower the after-tax cost of the lessee/buyer. (This is demonstrated by an example below.) However, a switch to conditional sales still could be disruptive. If the users are treated for tax purposes as purchasers, then the decision to "lease" another automobile would be treated in many firms as a capital budgeting decision. In contrast, under current business practices, replacing leased automobiles is treated as an operating cost.

A switch from a lease to a conditional sale transfers the depreciation deductions to the lessee/buyer. But since the buyer will have a higher cost basis, the amount of depreciation and investment tax credit allowed is increased. The after-tax cost of the lessee/buyer is reduced. The Government comes out behind.

Consider a simplified TRAC lease of a $10,000 automobile with the following terms and conditions:[2]

1. The lease is for 30 months with rental payments of $1,665 at the beginning of each 6 months period.
2. The automobile is placed in service on July 1, 1983.
3. The lessor and the lessee are calendar year taxpayers.
4. The lessor elects to pass through the investment tax credit.
5. The automobile is depreciated as 3-year property.
6. The automobile is turned in and sold on December 31, 1985.
7. The automobile depreciates in value at the rate of 1.8 percent of original cost per month. After 30 months, the automobile is sold for $4,600.
8. The terminal rental adjustment clause assumes that the automobile is sold for $4,600.

If the lessor uses a 12 percent after-tax discount rate, the present value of the after-tax cash flow is just equal to the original investment of $10,000.

The cash-flow from the investment is calculated as shown in Table 1. The addendum to Table 1 indicates the present value of the taxes paid by the lessor is $921.

Now consider a conditional sale. The rentals (or installment payments) are increased by 3.6 percent from $1,665 to $1,725, as shown in Table 2. The present value of the after-tax cash-flow of the lessor/seller is still equal to $10,000 He is just as well off.

Tables 3 and 4 show the after-tax cost of the lessee/buyer. Under a TRAC lease, the present value of the after-tax cost is $3,953 (Table 3), but if there is a conditional sale (Table 4), the present values of the after-tax cost is reduced to $3,902.

How does the Government come out? Under a conditional sale, the Government loses $50 per automobile. Given that 1.7 million cars and light trucks are leased each year, if all TRAC leases are switched to conditional sales, the annual revenue loss would be $85 million.

Present value of taxes

Lease transaction	
Lessor	$921
Lessee	−3,504
Total	−2,583
Conditional sale:	
Seller	1,190
Buyer	−3,823
Total	−2,633
Difference	−50
Buyer	−3,823
Total	−2,633
Difference	−50

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[2] This admittedly is a simplified example. Rental payments are typically made monthly. The rents charged also must cover the services such as insurance and titling provided by the lessor. All equity financing is assumed. The example, however, captures the essence of the tax issues.

TABLE 1.—LEASE EXAMPLE CALCULATION OF PRESENT VALUE OF LESSOR'S CASH FLOW

Time	Amount	Discount factor	Present value of cash flow
July 1, 1983: Rent	1,665	1.00000	1,665
December 31, 1983: Tax at end of 1983:			
Rent	1,665		
Depreciation	−2,500		
Taxable income	−835		
Tax (46 percent)	−384		
Cash flow	384	.94491	363
January 1, 1984: Rent	1,665	.94491	1,573
July 1, 1984: Rent	1,665	.89286	1,487
December 31, 1984: Tax at end of 1984:			
Rent	3,330		
Depreciation	−3,800		
Taxable income	−470		
Tax (46 percent)	−216		
Cash flow	216	.84367	182
January [1], 1985: Rent	1,665	.84367	1,405
July 1, 1985: Rent	1,665	.79719	1,327
December 31, 1985: Regular tax at end of 1985:			
Rent	3,330		
Tax (46 percent)	1,532		
Cash flow	−1,532	.75328	−1,154
December 31, 1985: Proceeds from sale	4,600	.75328	3,465
Recapture tax:			
Sales price	4,600		
Adjusted basis	3,700		
Gain	900		
Tax (46 percent)	414		
Cash flow	−414	.75328	−312
Total			10,000
Addendum: Present value of tax payments:			
December 31, 1983			−363
December 31, 1984			−182
December 31, 1985			1,154
December 31, 1985			312
Total			921

TABLE 2.—CONDITIONAL-SALE EXAMPLE CALCULATION OF PRESENT VALUE OF THE SELLER'S CASH FLOW

Time	Amount	Discount factor	Present value of cash flow
July 1, 1983: Payment	$1,725	1.00000	$1,725
December 31, 1983: Tax at end of 1983:			
Payment	1,725		
Cost recovery [1]	1,304		
Taxable income	421		
Tax (46 percent)	194		
Cash flow	−194	.94491	−183
January 1, 1984: Payment	1,725	.94491	1,630
July 1, 1984: Payment	1,725	.89286	1,540
December 31, 1984: Tax at end of 1984:			
Payments	3,450		
Cost recovery	2,609		
Taxable income	841		
Tax (46 percent)	387		
Cash flow	−387	.84367	−327
January 1, 1985: Payment	1,725	.84367	1,455
July 1, 1985: Payment	1,725	.79719	1,375
December 31, 1985: Final payment	4,600	.75328	3,465
December 31, 1985: Tax at end of 1985:			
Payment	8,050		
Cost recovery	6,087		
Taxable income	1,963		
Tax (46 percent)	903		
Cash flow	−903	.75328	−680
Total			10,000
Addendum: Present value of tax payments:			
December 31, 1983			183
December 31, 1984			327
December 31, 1985			680
Total			1,190

[1] The original cost of $10,000 is recovered ratably as the 5 installments of $1,725 and the final installment of $4,600 are received. Cost recovery is equal to 75.614 percent of each payment.

TABLE 3.—LEASE EXAMPLE CALCULATION OF THE LESSEE'S AFTER-TAX COST

Time	Amount	Discount factor	Present value of cash flow
July 1, 1983: Payment	$1,665	1.00000	$1,665
December 31, 1983: Tax at end of 1983:			
Payment	−1,665		
⅕ of basis adjustment	100		
Taxable income	−1,565		
Tax (46 percent)	−720		
ITC	−600		
Tax	−1,320	.94491	−1,247
January 1, 1984: Rent	1,665	.94491	1,573
July 1, 1984: Rent	1,665	.89286	1,487
December 31, 1984: Tax at end of 1984:			
Rent	−3,330		
⅕ of basis adjustment	100		
Taxable income	−3,230		
Tax (46 percent)	−1,486	.84367	−1,254
January 1, 1985: Rent	1,665	.84367	1,405
July 1, 1985: Rent	1,665	.79719	1,327
December 31, 1985: Tax at end of 1985:			
Rent	−3,330		
Taxable income	−3,330		
Tax (46 percent)	−1,532		
Recapture of ITC	200		
Tax	−1,332	.75328	−1,003
Total			3,953
Addendum: Present value of tax payments:			
December 31, 1983			−1,247
December 31, 1984			−1,254
December 31, 1985			−1,003
Total			−3,504

TABLE 4.—CONDITIONAL-SALE EXAMPLE CALCULATION OF THE BUYER'S AFTER-TAX COST

Time	Amount	Discount factor	Present value after-tax credits
July 1, 1983: Payment	$1,725	1.00000	$1,725
Dec. 31, 1983: Tax at end of 1983:			
Depreciation [1]	−2,796		
Taxable income	−2,796		
Tax (46 percent)	−1,286		
ITC [1]	−692		
Total	−1,978	.94491	−1,869
Jan. 1, 1984: Payment	1,725	.94491	1,630
July 1, 1984: Payment	1,725	.89286	1,540
Dec. 31, 1984: Tax at end of 1984:			
Depreciation	−4,249		
Unstated interest [2]	−299		
Taxable income	−4,548		
Tax (46 percent)	−2,092	.84367	−1,765
Jan. 1, 1985: Payment	1,725	.84367	1,455
July 1, 1985: Payment	1,725	.79719	1,375
Dec. 31, 1985: Regular tax at end of 1985:			
Unstated interest	−1,398		
Taxable income	−1,398		
Tax (46 percent)	−643		
Recapture of ITC	231		
Tax	−412	.75328	−310
Dec. 31, 1985: Recapture tax:			
Sales price	4,600		
Adjusted basis [3]	4,252		
Gain	348		
Tax (46 percent)	160	.75328	121
Total			3,902
Addendum: Present value of tax payments:			
Dec. 31, 1983			−1,869
Dec. 31, 1984			−1,765
Dec. 31, 1985			−310
Dec. 31, 1985			121
Total			−3,823

[1] The basis for depreciation and the ITC are determined under the rules for an installment sale using a 10-percent discount rate. The basis adjustment for ½ of the ITC reduces the basis for depreciation from $11,528 to $11,182.

TABLE 4.—CONDITIONAL-SALE EXAMPLE CALCULATION OF THE BUYER'S AFTER-TAX COST—Continued

Time	Payments	Discount	Value
July 1, 1983	1,725	1.00000	1,725
Jan. 1, 1984	1,725	1.00000	1,725
July 1, 1984	1,725	.90703	1,565
Jan. 1, 1985	1,725	.86384	1,490
July 1, 1985	1,725	.82270	1,419
Dec. 31, 1985	4,600	.78353	3,604
Subtotal	13,225		11,528
Multiplied by			.97
Total			11,182

[2] The amount of unstated interest on this installment purchase is $1,697, which is equal to the difference between payments of $13,225 and basis of $11,528. Therefore, 17.361 percent of the last 4 payments is treated as unstated interest and deducted for tax purposes.

[3] Adjusted basis at time of sale is equal to 4,252.

	Amount
Original basis	11,528
Less ITC basis adjustment	346
Total	11,182
Less prior depreciation	7,045
Total	4,137
Plus one-half of recaptured ITC	115
Adjusted basis	4,252

●

By Mr. GLENN (for himself and Mr. METZENBAUM):

S. 1162. A bill to authorize the Secretary of the Army to construct a project to provide shoreline protection for Maumee Bay State Park, Ohio; to the Committee on Environment and Public Works.

MAUMEE BAY STATE PARK

Mr. GLENN. Mr. President, I am pleased to introduce legislation today to authorize a shoreline erosion protection project at Maumee Bay State Park in northwest Ohio.

The potential benefits are several: Industrial development, increased job opportunities in a depressed area, expanded recreation facilities and environmental protection. As such, the project would substantially enhance quality of life in the area on the south shore of Lake Erie near Toledo.

This is not a go-it-alone expenditure for the Federal Treasury. The State of Ohio has agreed to finance approximately one-third of the estimated $10.396 million project. The State has also expressed an interest in completing the overall development of the Maumee Bay State Park currently estimated at $36 million.

In addition to serving as a tourist attraction, the park is expected to act as a catalyst to promote new Toledo convention trade. The immediate problem, however, is to halt shoreline erosion at the 1,700-acre park adjoining the Cedar Point National Wildlife Refuge in Lucas County, Ohio. Erosion is destroying the shoreline at the rate of 12 feet per year and unless the deterioration is stopped, the State of Ohio cannot continue with its major development plans at Maumee Bay State Park. Already the State has invested more than $2 million.

Now, an investment of Federal funds is needed to make this valuable property an outdoor asset that everyone can enjoy.

Mr. METZENBAUM. Mr. President, I am pleased to join with Senator GLENN in introducing legislation to authorize a shoreline erosion project at Maumee Bay State Park in northwest Ohio. This bill is necessary to halt the erosion of the park's beach which runs along the south shore of Lake Erie near the city of Toledo.

The beach at Maumee Bay State Park is one of its major attractions. The beach's shoreline, however, is eroding at the rapid rate of 12 feet per year. Unless this stabilization project is undertaken promptly, the future development and success of the entire park will be threatened.

The State of Ohio has already committed more than $2 million to the revitalization and expansion of the park and plans eventually to spend as much as $36 million on the park's overall development. Yet Ohio cannot move forward with its redevelopment plans until the beach erosion problem is addressed.

The bill we are introducing today incorporates the recommendations of the U.S. District Corps of Engineers. The corps has estimated that it will cost $10,396,000 to put a halt to the park's shoreline erosion. Under our bill, Ohio will pay an estimated one-third of that amount.

The revitalization of Maumee Bay State Park will mean increased job opportunities in an area currently suffering from high unemployment. It will also bring an estimated $3 million per year in new revenues into the economically hard-hit Toledo area. Finally, this project will mean untold hours of enjoyment and recreational activity for millions of Ohioans and other visitors who will come to the park each year.

But first, Mr. President, we must put a halt to shoreline erosion. Our bill will accomplish that objective. I urge its adoption.

By Mr. GLENN:

S. 1163. A bill to amend title 5 of the United States Code to provide death benefits to survivors of Federal law enforcement officers and firefighters, and for other purposes; to the Committee on Governmental Affairs.

S. 1164. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the payment of benefits with respect to public safety officers who die of certain medical conditions sustained in the performance of duty; to the Committee on the Judiciary.

FIREFIGHTER AND LAW ENFORCEMENT PERSONNEL SURVIVORS' BENEFITS

Mr. GLENN. Mr. President, I am today introducing two bills intended to address existing inequities in the law governing benefits paid to the survivors of law enforcement personnel and firefighters who die in the line of duty.

Even though they address different aspects of the problem, these measures share a common commitment to ease the financial suffering for the spouses and children of those dedicated people who die while risking their lives to protect the rest of us.

The first bill would extend a $50,000 death benefit to the survivors of Federal law enforcement and firefighting personnel. This is already done when State and local public service officers die in the line of duty. My proposal merely attempts to bring uniformity to this effort.

The second bill seeks to correct an inequity, perhaps the result of an oversight, in the Public Safety Officers' Benefit Act of 1968. Specifically, this legislation would provide compensation to the survivors of officers and firefighters, who, indeed, die while performing their official responsibilities, but not as a result of a direct traumatic injury. The current provision is too restrictive.

Fortunately, these two proposals, even when considered jointly, would put minimal pressure on the Federal Treasury, despite their importance to the few families that will be affected.

In 1980, Congress passed legislation similar to the first measure I am introducing today. That measure, retroactive to 1976, was vetoed by then-President Jimmy Carter, who described the $50,000 lump sum benefit as preferential and unwarranted.

The bill I have submitted today carries no retroactive feature, a fact that will help to control outlays. The Congressional Budget Office, in an estimate released prior to passage of the 1980 bill, foresaw costs of about $500,000 based on an average of 10 Federal law enforcement or firefighting personnel who die in the line of duty each year.

Federal personnel originally were excluded when the Public Safety Officers Benefit Act was enacted, on the assumption that existing benefits were sufficiently generous and that inclusion in the new program would constitute special treatment. I am not convinced that existing benefits are adequate, especially in the case of younger, lower paid officers whose survivors must meet the high costs of mortgage rates, child rearing, and education. Nor does my proposal represent preferential treatment. These firefighters and law enforcement officers are already singled out by the very nature of their occupations which require them to confront danger, and even death, on a regular bases.

The second bill I am introducing today attempts to inject a much-needed element of commonsense into the existing Public Safety Officers Benefit Act. Specifically, I hope to correct a defect that denies benefits to deserving survivors. The costs, according to the best available estimates, normally would run about $2.5 to $3 million annually.

In passing the 1968 bill, Congress intended to grant benefits to dependents, only when officers are killed in the line of duty, not when death resulted from a non-job-related heart attack or an occupational disease incurred in another employment.

Although well-intentioned, that provision has generated inequities that I am attempting to address. Spouses and children have been denied benefits when a law enforcement officer or firefighter dies from service-related causes, though not as a result of direct traumatic injury. An example is the firefighter who makes a strenuous rescue of an endangered citizen several stories above the ground, then carries the person down a ladder and later dies of a heart attack. Given interpretations of existing law, the firefighters' survivors likely would be denied compensation because no direct personal injury was involved.

Such rulings are unfairly restrictive. They force families to suffer unnecessarily, and the example is not entirely hypothetical. Such incidents have occurred and will continue to occur, until we amend the law. That is my purpose today.

The current standard for benefit payments to survivors stipulates that death must have stemmed from "the direct and proximate result of a personal injury sustained in the line of duty." The new language outlined in my bill would grant death benefits to survivors when a public safety officer dies from "a medical condition sustained while ingesting or inhaling a poisonous substance or while subject to extreme physical stress on a single occasion, or during a single event, in the performance of duty."

Nothing we do here can erase the anguish felt by the spouses and children who lose loved ones killed while trying to prevent injury to the rest of us. Congress, however, can permit these families to heal without enduring the added burden of financial stress. We can do no less if we hope to reaffirm the value of human life.

Mr. President, I ask unanimous consent that the two bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) subchapter I of chapter 81 of title 5, United States Code, is amended by inserting after section 8147 the following new section:

"§ 8148. Death benefits for law enforcement officers and firefighters

"(a) For the purpose of this section—

"(1) 'law enforcement officer' means an employee—

"(A) the duties of whose position include performing work directly connected with—

"(i) the control of crime of juvenile delinquency;

"(ii) the enforcement of the criminal laws; or

"(iii) the protection of Federal officials, public buildings or property, or foreign diplomatic missions; and

"(B) who, at the time the personal injury referred to in subsection (b) of this section is sustained, is—

"(i) engaged in the detection of crime;

"(ii) engaged in the apprehension of an alleged criminal offender;

"(iii) engaged in the keeping in physical custody of an alleged or convicted criminal offender; or

"(iv) assaulted or subjected to the conduct of criminal activity in the line of duty;

"(2) 'firefighter' means an employee the duties of whose position include performing work directly connected with the control and extinguishment of fires and who, at the time the personal injury referred to in subsection (b) of this section is sustained, is engaged in such work in the control or extinguishment of a fire or other emergency operation;

"(3) 'child' means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased law enforcement officer or firefighter (as defined in paragraphs (1) and (2)) who, at the time of such law enforcement officer or firefighter's death, is—

"(A) 18 years of age or under;

"(B) over 18 years of age and a student; or

"(C) over 18 years of age and incapable of self-support because of physical or mental disability;

"(4) 'dependent' means substantially reliant for support upon the income of the deceased law enforcement officer or firefighter;

"(5) 'intoxication' means a disturbance of mental or physical faculties resulting from the introduction of alcohol, drugs, or other substances into the body; and

"(6) 'detection of crime' means the physical pursuit, investigation, or interviewing of any individual at a crime scene, but shall not include laboratory investigation, studies, or other similar acts of a nondangerous nature.

"(b)(1) In any case in which the Secretary of Labor determines, under regulations prescribed pursuant to this section, that a law enforcement officer or firefighter has died as the direct and proximate result of a personal injury inflicted by an outside force and in the line of duty, the Secretary shall pay a benefit of $50,000 as follows:

"(A) if there is no surviving child of such law enforcement officer or firefighter, to the surviving spouse of such law enforcement officer or firefighter;

"(B) if there are one or more surviving children and a surviving spouse, one-half to the surviving children in equal shares and one-half to the surviving spouse;

"(C) if there is no surviving spouse, to the surviving children of such law enforcement officer or firefighter in equal shares; or

"(D) if none of the above, to the dependent parent or parents of such law enforcement officer or firefighter in equal shares.

"(2) In any case in which the Secretary determines, upon a showing of need and prior to taking final action, that the death of a law enforcement officer or firefighter is one with respect to which a benefit will probably be paid, the Secretary may make an interim benefit payment not exceeding $3,000 to the individual entitled to receive a benefit under paragraph (1) of this subsection.

"(3) The amount of an interim payment to any individual under paragraph (2) of this subsection shall be deducted from the amount of any final benefit paid to such individual.

"(4) In any case in which there is no final benefit paid, the recipient of any interim payment under paragraph (2) of this subsection shall be liable for repayment of such amount. The Secretary may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

"(5) The benefit payable under this section shall be in addition to any compensation or other benefit that may be due under this subchapter or from any other source, but shall be reduced by payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-531(1)).

"(6) No benefit paid under this section shall be subject to execution or attachment.

"(7) No benefit shall be paid under this section—

"(A) if the law enforcement officer or firefighter's death was caused by the intentional misconduct of the law enforcement officer or firefighter or by such law enforcement officer or firefighter's intention to bring about such death;

"(B) if voluntary intoxication of the law enforcement officer or firefighter was the proximate cause of death; or

"(C) to any individual who would otherwise be entitled to a benefit under this section if such individual's actions were a substantial contributing factor to the law enforcement officer or firefighter's death.

"(c) The Secretary may prescribe rules, regulations, and procedures to carry out the purpose of this section. Such rules, regulations, and procedures will be determinative of conflict of laws and issues arising under this section. Rules, regulations, and procedures prescribed under this section may include regulations governing the recognition of agents or other persons representing claimants under this section before the Secretary. The Secretary may prescribe the maximum fees which may be charged for services performed in connection with any claim under this section before the Secretary, and any agreement in violation of such rules and regulations shall be void.".

(2) The table of sections for chapter 81 of title 5, United States Code, is amended by inserting after the item relating to section 8147 the following new item:

"8148. Death benefits for law enforcement officers and firefighters.".

(b)(1) Section 8101(9) of title 5, United States Code, relating to definition of "child", is amended by inserting after "means" the following: ", except as provided in section 8148(a)(3) of this title,".

(2) Section 8101(12) of such title, relating to definition of "compensation", is amended by striking out "Fund, but this does not in any way reduce the amount of the monthly compensation payable for disability or death;" and inserting in lieu thereof the following: "Fund, except that—

"(A) this paragraph does not in any way reduce the amount of the monthly compensation payable for disability or death; and

"(B) such term does not include benefits paid under section 8148 of this title;".

Sec. 2. The authority to make payments under section 8148 of title 5, United States Code (as added by the first section of this Act), shall be effective only to the extent provided for in advance by appropriation Acts.

Sec. 3. The amendments made by this Act shall take effect October 1, 1983, and shall apply with respect to injuries sustained on or after such date.

S. 1164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1201(a) of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797(a)) is amended by inserting "or of a medical condition sustained while ingesting or inhaling a poisonous substance or while subject to extreme physical stress, on a single occasion or during a single event, in the performance of duty," after "in the line of duty,".

Sec. 2. The amendment made by the first section of this Act shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

By Mr. QUAYLE (for himself, Mr. Cohen, Mr. Goldwater, Mr. Humphrey, Mr. Jepsen, Mr. Levin, Mr. Stennis, Mr. Thurmond, Mr. Tower, and Mr. Warner):

S. 1165. A bill to provide for the continued operation of overseas schools for dependents of Department of Defense personnel by the Department of Defense; to the Committee on Finance.

DEPARTMENT OF DEFENSE DEPENDENTS' SCHOOLS

Mr. QUAYLE. Mr. President, today I am introducing legislation which will retain the Department of Defense dependents' schools within the Department of Defense, and prevent their transfer to the Department of Education. The issue here is whether the Department of Defense dependents; schools, which are now functioning smoothly in the Department of Defense, should remain there as a part of our commitment to a strong national defense, a volunteer army, and strong support for our military personnel and their dependents.

The principal purpose of my bill is to repeal those provisions of the Department of Education Organization Act which require the transfer of the Department of Defense dependents' schools to the Department of Education by no later than May 3, 1984. An additional purpose of the bill is to return the Advisory Council on Dependents' Education to the Department of Defense by amending the Defense Dependents Education Act of 1978.

Mr. President, this is not a new idea, nor even a new piece of legislation. I introduced a very similar bill, S. 1474, into the last Congress, and it was approved by the Senate on May 6, 1982, in the form of an amendment to the fiscal year 1983 defense authorization bill. Why has not this important step been enacted into the law? During conference the House of Representatives, feared that we had not had sufficient public discussion of the issue and agreed to only a one year extension of the transfer date—from May 3, 1983, to May 3, 1984.

We have had that discussion now. Hearings before both the House of Representatives relevant committees had been held during 1982. On December 9, 1982, the Senate Armed Services Subcommittee on Manpower and Personnel held its hearings. the subcommittee heard from witnesses representing the Department of Defense, the Department of Education, the Overseas Education Association, and most importantly, teachers and parents from around the globe involved with the DOD dependents' schools.

The jury is in, Mr. President, and the answer is a resounding "no" to this proposed transfer to the Department of Education.

The overseas dependents schools, currently operated by the Department of Defense, are located on military installations in 20 foreign countries and enroll approximately 136,000 children from kindergarten through high school. These schools are modeled after public schools in the United States and provide a very sound education to dependents of Department of Defense personnel, allowing them to reenter American schools with relative ease after a lengthy overseas tour.

The Department of Defense schools are accredited by the North Central Association of Colleges and Schools, an American commission on schools, and overseas students consistently achieve scholastic aptitude test scores which compare favorably to scores achieved in American public schools.

Mr. President, I think it is clear that a transfer of the defense schools to another Federal agency is not likely to improve upon these successes. The overseas dependents schools should continue to be operated by the Defense Department. My bill contemplates that the Secretary of Defense may call upon the Secretary of Education for information, advice, and technical assistance in continuing to provide an education of high quality to military dependents. Numerous economic, administrative, and military considerations are present, however, which strongly argue against a transfer of the schools to the Department of Education.

If the case against the transfer is so strong, my colleagues here and those reading the RECORD will ask "Who supports this transfer to the Department of Education?"

The Department of Defense opposes the transfer.

The administration opposes the transfer.

Even the Department of Education, which would gain authority over the schools, opposes the transfer.

Jack Rollins, president of the Overseas Education Association, and a supporter of the transfer to the Department of Education, stated in our Senate hearings that all members of the OEA support this change. However, Mr. President, I want the Senate to know that I have received many letters, cards, and even signed petitions from members of the OEA who oppose any interference or control by the Department of Education in the DOD dependents' schools.

Just one example is the statement made by Heidi-Marie Shurtloff, a member of the Overseas Federation of Teachers and Overseas Education Association, during the Senate hearings:

> OFT and AFT opposed transfer of the DODDS schools to Education when the department was created. We raised many questions about the effects of the transfer on teachers and the schools. None of the questions we raised have been answered to the satisfaction of our members.

What are those questions which must be answered?

First, the transfer is likely to create problems from a fiscal standpoint. For example, the Department of Defense schools are currently supported by finance and payroll offices already operated by the Army, Navy, and Air Force as a part of the existing military mission. These fiscal offices will not be transferred, and it would be necessary for the Department of Education to establish a separate financial management system to service the overseas schools. This new system would be costly and inefficient, requiring many additional employees to assume new tasks now being handled by the military services.

Furthermore, the Department of Education would have to assume many hidden costs which are difficult to ascertain because they arise out of essential services now provided by local military commanders on a nonreimbursable basis. These services include communications, mail delivery, shipment of supplies, contracting assistance, and physical security. The Department of Education would have to assume many of these responsibilities or provide budget support for them if the schools are placed under the exclusive jurisdiction of that agency.

Second, experience has shown that a division of authority between two departments clearly erodes efficiency in overall management. Yet, this would be a result of the DOD schools being transferred to the Department of Education. For example, the Department of Education Organization Act (Public Law 96-88) currently provides in sections 401 and 419 that school personnel will continue to be treated as Department of Defense employees for certain purposes following the transfer. These provisions will lead to confusion in many instances with respect to administrative authority governing the employees' activities.

Finally, the fiscal and administrative issues discussed above are matched by the important considerations of military effectiveness. The DOD schools are an integral and coordinated part of the total defense support structure, and school policies now incorporate many uniquely military considerations arising out of mission, operational and morale requirements.

The intangible but sensitive working relationship between educators, school policymakers, and military commanders would be lost upon a transfer of the schools to another Federal agency and could not be replaced by a series of interagency agreements or memorandums. Such a loss would hamper the military's efficiency in responding to defense commitments which may involve the transfer and edcuation of dependents.

For these reasons, Mr. President, my legislation would rescind the projected transfer of the DOD schools to the Education Department. The specific amendments encompass two major provisions. The initial section of the bill amends the Department of Education Organization Act by repealing all sections and provisions of that act relating to the overseas dependents' schools system, its transfer and its planned administration by the Education Department. The second section amends the Defense Dependents' Education Act of 1978 by returning the Advisory Council on Dependents' Education to the Department of Defense. The bill additionally provides authority for the Secretary of Defense to call upon the Secretary of Education for advice and technical support in the operation of the schools.

I recently received a letter dated April 19, 1983, from Lawrence J. Korb, Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics, on this issue. I would like to quote one paragraph from that letter which cogently sums up the arguments for this bill and makes clear the support of the administration.

> For over 35 years the Defense dependents' schools have successfully educated the children of military personnel stationed in overseas areas. The schools are a central element of military family life and are an integral part of the overall compensation package that has been developed to retain our career personnel. For these reasons, as well as the administrative difficulties likely to be

posed by such a transfer, I seek your renewed support for the proposed bill which would leave the overseas schools within the Department of Defense.

I ask unanimous consent that a copy of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) (1) sections 208 and 302, subsection (e) of section 202, and subsection (f) of section 401 of the Department of Education Organization Act (20 U.S.C. 3418, 3442, 3412(e), and 3461(f)) are repealed.

(2) Section 419(a) of such Act (20 U.S.C. 3479(a)) is amended—

(A) by striking out "(1)" after the subsection designation "(a)"; and

(B) by striking out paragraph (2).

(3) Section 503(a) of such Act (20 U.S.C. 3503(a)) is amended—

(A) by striking out "(1)" after the subsection designation "(a)"; and

(B) by striking out clause (2).

(b) The table of contents at the beginning of such Act is amended by striking out the items relating to sections 208 and 302.

SEC. 2. (a) The second sentence of section 1410(b) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 928(b)) is amended by striking out "The Secretary of Education, in consultation with the Secretary of Defense," and inserting in lieu thereof "The Secretary of Defense".

(b) Section 1411(a) of the Department of Defense Dependents' Education Act of 1978 (20 U.S.C. 929(a)) is amended to read as follows:

"(a) There is established in the Department of Defense an Advisory Council on Dependents' Education (hereinafter in this section referred to as the 'Council'). The Council shall be composed of—

"(1) the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics (hereinafter in this section referred to as the 'Assistant Secretary'), who shall be the chairman of the Council;

"(2) six individuals appointed by the Assistant Secretary, who shall be individuals versed by training or experience in the field of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, and sponsors of students enrolled in the defense dependents' education system;

"(3) not more than three representatives from overseas military commands appointed by the Assistant Secretary; and

"(4) one individual appointed by the Secretary of Education.

The Director shall be the Executive Secretary of the Council.".

(c) Section 1411 (b) (1) of such Act (20 U.S.C. 929(b) (1)) is amended—

(1) by striking out "four" each place it appears and inserting in lieu thereof "two"; and

(2) by striking out "Secretary of Education" and inserting in lieu thereof "Assistant Secretary".

(d) Section 1411 (c) of such Act (20 U.S.C. 929 (c)) is amended—

(1) by striking out clause (2);

(2) by redesignating clauses (3), (4), and (5) as clauses (2), (3), and (4), respectively; and

(3) by striking out "Secretary of Education" in clause (4) (as redesignated in clause (2) of this subsection) and inserting in lieu thereof "Assistant Secretary".

SEC. 3. The Director of the Office of Management and Budget, the Secretary of Defense, and the Secretary of Education are each directed to take such action as may be necessary to assure the continued effective administration of the defense dependents' education system pursuant to title XIV of the Education Amendments of 1978.

By Mr. DURENBERGER (for himself and Mr. KASTEN):

S. 1166. A bill to amend the Internal Revenue Code of 1954 to provide that the amount of the medical expense deduction allowable for expenses incurred in the operation of a motor vehicle will be determined in the same manner Government employees determine reimbursement for use of their vehicles on Government business; to the Committee on Finance.

MEDICAL MILEAGE EXPENSE DEDUCTION

● **Mr. DURENBERGER.** Mr. President, today I reintroduce legislation that would increase the current mileage deduction for medically related trips to equal that granted Government employees. Presently, those driving for medically related reasons may deduct only 9 cents per mile while Government employees may deduct 20 cents.

The need for this legislation is even greater now than it was 2 years ago when I introduced it. Last year the Congress increased the threshold for the medical expense deduction from 3 percent to 5 percent or adjusted gross income. This means out-of-pocket medical expenses can be even more of a burden than they were before.

Out-of-pocket nonmedical expenses can consume a tremendous percent of the family budget. These nonmedical expenses include loss of pay, transportation to different medical facilities, food and lodging while away from home, child care, special clothing, and special food. The burdens also include inability to change jobs and move because of loss of medical coverage for the affected individual.

Mr. President, let me give one example to highlight the necessity of this bill. Although cancer is one of the leading causes of death in this country and the second leading cause of death among children, only 1 percent of the cancer patients in this country are children. The few pediatric facilities treating cancer often are miles from the homes of the children affected.

In testimony before the Finance Committee last year, Grace Monaco, representing Candlelighters, an international coalition of families of children with cancer, reported on the results of a survey on transportation to treatment facilities. Eighty-two percent of the families went by car, and thirteen percent of the families were over 200 miles from the medical center.

A family can spend thousands of dollars for travel to these medical centers. These travel costs on top of the other out-of-pocket costs not covered by medical insurance can wipe out a family's savings and cause severe financial hardship for the parents and other children at a time they are shouldering an overwhelming emotional burden.

Mr. President, let us not make the mistake of thinking that these nonmedical expenses will never affect us. Unfortunately, there comes a time in each of our lives or in the life of one we know and love, where medical assistance is necessary. This is especially true for those who have been stricken by cancer or other terminal diseases.

The emotional burdens on a family that is faced with a terminally ill family member are self-evident and need not be stated here. However, the financial burden borne by each family is second only to the distress caused by the disease itself.

Tragically, we are powerless to ease the emotional burden, but the Congress may assist in easing the financial burden by giving this measure our swift and favorable consideration.

I ask unanimous consent that the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 213 of the Internal Revenue Code of 1954 (relating to medical expense deductions) is amended by inserting after subsection (f) the following new subsection:

"(g) AMOUNT OF DEDUCTION FOR EXPENSES OF OPERATING A MOTOR VEHICLE.—The amount allowable as a deduction under this section with respect to expenses incurred by the taxpayer for the operation of a motor vehicle shall be equal to the amount the taxpayer would have received if the taxpayer were engaged on official business for the Government and reimbursed under section 5704 of title 5.".

(b) The amendment made by subsection (a) shall apply with respect to the operation of a motor vehicle occurring after the date of the enactment of this Act in taxable years ending after such date.●

By Mr. DURENBERGER (for himself, Mrs. KASSEBAUM, Mr. CRANSTON, Mr. KASTEN, Mr. DECONCINI, and Mr. HEINZ):

S. 1167. A bill to amend the Internal Revenue Code of 1954 to provide that the amount of the charitable deduction allowable for expenses incurred in the operation of a motor vehicle will be determined in the same manner Government employees determine reimbursement for use of their vehicles on Government business; to the Committee on Finance.

VOLUNTEER MILEAGE BILL

● Mr. **DURENBERGER**. Mr. President, last week was National Volunteer Week in recognition of the invaluable contributions volunteers make to the betterment of our Nation and its people. This is one form of recognition for their contribution, and an important one. The bill we are introducing today provides another form of recognition—recognition through our tax system of the high cost of operating a car in performing the volunteer service.

Present law provides a disincentive to volunteers to use their cars. They may deduct a standard mileage rate of 9 cents per mile, or, they may deduct their actual unreimbursed expenses such as gas, oil, tolls, and parking fees. But they cannot deduct depreciation, insurance, or repairs—all of which can be quite substantial.

The 9-cent-per-mile rate bears little resemblance to the cost of operating a car. It is my understanding that a 7-cents-per-mile figure was initially set in 1958 and has been adjusted by only 2 cents since. The 7-cent-allowance figure was not realistic in 1958 and certainly does not reflect the soaring price of gasoline and other costs of operating a car in the last few years.

The bill we introduce today would permit volunteers to deduct the same amount for the use of their car as those on Government business. At present this is 20 cents per mile.

Just as Government workers perform a public service, volunteers perform a public service. We in this country are looking for innovative ways to meet the demand and the need for public services. It is fitting that we should turn to these volunteers. In many cases, we can better accomplish our necessary social obligations without adding to the size of the Federal bureaucracy.

Throughout my career, I have had the good fortune to be involved in a wide range of public service organizations. These opportunities have given as much to me as I hope I have to them.

I have been fortunate these past 4 years to meet, as a public servant, with numerous philanthropic organizations. As I said in introducing this bill in the 97th Congress, these experiences have cemented by belief that the private sector is ready and willing to take on the many tasks facing us as a nation, and to provide the needed services at the national, State, local and neighborhood levels. These last 2 years since the bill was introduced have only reinforced my belief in the ability of the private sector—and especially the voluntary sector—to take on these tasks.

But we should not ask the voluntary sector to take on additional tasks without more appropriately acknowledging the value of their contributions. Our bill is a recognition, at least in part, of the valuable contributions of time made by millions of Americans.

A 1981 Gallup survey estimated that 31 perecent of Americans volunteer on a regular, active basis of 2 or more hours per week. Ten percent of adults averaged 7 or more hours of volunteer activity a week. Another study estimated the value of the volunteers' activities in fiscal year 1981 at $64.5 billion. If the Federal Government had performed these services instead of volunteers, the Federal deficity would have more than doubled. These volunteer hours greatly enhance the money give to charity. Numerous studies have shown that the value of a dollar given to a charitable organization is multiplied three to four times through the efforts of volunteers.

Several States have taken the lead on this issue and already have a higher deduction in their tax systems. Similar bills are pending before the Minnesota Legislature, backed by approximately 60 State and local voluntary organizations. And other States have bills before their legislatures.

Mr. President, one of the most exciting and challenging opportunities we are going to face as a nation in the next decade is in the area of service delivery. It will also be one of the most difficult tasks, not because we lack the ability and creativity to design and encourage alternative delivery systems, but because we are not offering the right incentives. We are not sending the signals that say we trust the private sector to deliver needed public services.

This bill will send such a signal to the private sector. It is time to act. I urge my colleagues to give this bill early consideration.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 170 of the Internal Revenue Code of 1954 (relating to charitable deductions) is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following new subsection:

"(h) AMOUNT OF DEDUCTION FOR EXPENSES OF OPERATING A MOTOR VEHICLE.—The amount allowable as a deduction under this section with respect to expenses incurred by the taxpayer for the operation of a motor vehicle shall be equal to the amount the taxpayer would have received if the taxpayer were engaged on official business for the Government and reimbursed under section 5704 of title 5.".

(b) The amendment made by subsection (a) shall apply with respect to the operation of a motor vehicle occurring after the date of the enactment of this Act in taxable years ending after such date.●

Mr. **CRANSTON**. Mr. President, I am once again cosponsoring legislation to increase the allowable tax deduction for charitable volunteers who use their automobiles in performance of their charitable services. This bill is identical to the measure introduced in the previous Congress by Senator DURENBURGER, which I also cosponsored.

Taxpayers who currently use their automobiles in connection with volunteer work for a charitable organization can deduct only 9 cents per mile. Taxpayers who use a car on business can deduct 20 cents per mile. The discrepancy between the 9-cent mileage deduction for volunteers and the 20-cent standard deduction for business people is a counterproductive limitation on dedicated men and women who volunteer to drive many miles without pay to visit nursing homes, transport elderly and handicapped citizens to the grocery store, and to perform hundreds of other services for fellow humans in need.

These people do not engage in volunteer activities in order to reap tax deductions. But high gasoline prices and petty tax treatment can discourage these people.

The bill I am cosponsoring would support and encourage volunteer activities by pegging the auto mileage deduction for charitable volunteers to the same rate allowed business people—currently 20 cents per mile. If it costs 20 cents per mile to operate a car on business, it costs the same amount to operate a car as a volunteer.

In fact, evidence suggests that the 20-cent deduction is insufficient. The American Automobile Association estimates that auto costs average about 30 cents per mile. A major car rental company estimates that the average cost in 20 key cities runs as high as 47 cents per mile for a new compact-size car.

The same study revealed that the 9-cent-per-mile deduction for volunteers is particularly ludicrous in Los Angeles, where costs per mile are greater than in any other city in the Nation—an average of 57 cents per mile for new compact-size cars. The study indicated that costs in San Francisco are third highest nationally, at 52 cents per mile. San Diego ranks 10th at an average of 46 cents per mile.

These figures suggest that increasing the volunteer mileage deduction to 20 cents per mile may cover less than half the real costs. But the change in the Tax Code would represent an improvement over the unrealistic nine cents per mile deduction currently allowed.

Testimony by representatives of charitable organizations last year in hearings conducted by the Finance Subcommittee on Taxation and Debt

Management documented the driving expenses incurred by volunteers. Representatives of these organizations testified that many individuals drive more than 100 miles per week and as many as 12,000 miles per year in their dedicated efforts.

Those are the miles that help to deliver Meals on Wheels. Those are the miles that bring volunteers to immobile people and bring housebound citizens to church or to doctors' appointments. Those are the miles that bring many youths to the countryside on Boy Scout and Big Brother field trips.

The recession has increased the pressure on many volunteers to forgo their nonpaying charitable efforts and to seek wages and salaries which will supplement family incomes. Economic pressures are threatening to force dedicated people out of the volunteer ranks at the very time that those volunteer services are most vital to fill the need caused by cuts in domestic social programs and high unemployment. Let us not allow Federal tax policy to thin volunteer ranks still further. The 9-cents-mileage deduction—when compared to the 20-cent-standard deduction—is an insult to the value of volunteer efforts nationwide. I do not believe that we want to make the cost of volunteer efforts prohibitive. I do believe that we want to encourage voluntarism and its benefits. I strongly urge my colleagues to reverse an inequity in the tax laws by passing this legislation to give charitable volunteers the same auto mileage deduction available to business people.

ADDITIONAL COSPONSORS

S. 29

At the request of Mr. GRASSLEY, the name of the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 29, a bill to strengthen law enforcement in the areas of child exploitation and pornography, and for other purposes.

S. 74

At the request of Mr. MELCHER, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Arizona (Mr. DECONCINI), the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Ohio (Mr. METZENBAUM), the Senator from New York (Mr. MOYNIHAN), the Senator from Maryland (Mr. SARBANES), the Senator from Tennessee (Mr. SASSER), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of S. 74, a bill entitled the "Reye's Syndrome Act of 1983."

S. 137

At the request of Mr. ROTH, the names of the Senator from Arkansas (Mr. PRYOR), and the Senator from Indiana (Mr. QUAYLE) were added as cosponsors of S. 137, a bill to amend the Internal Revenue Code of 1954 to continue to allow mortgage bonds to be issued.

S. 212

At the request of Mr. PRESSLER, the names of the Senator from Georgia (Mr. NUNN), and the Senator from California (Mr. WILSON) were added as cosponsors of S. 212, a bill to authorize funds for the U.S. Travel and Tourism Administration.

S. 314

At the request of Mr. GOLDWATER, the name of the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 314, a bill to encourage in-flight emergency care aboard aircraft by requiring the placement of emergency equipment, supplies, and drugs aboard aircraft and by relieving appropriate persons of liability for the provision and use of such emergency equipment, supplies, and drugs.

S. 388

At the request of Mr. HEFLIN, the name of the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 388, a bill to create an offense for aggravated property destruction.

S. 402

At the request of Mr. MOYNIHAN, the names of the Senator from Michigan (Mr. RIEGLE), the Senator from Washington (Mr. JACKSON), and the Senator from Massachusetts (Mr. TSONGAS) were added as cosponsors of S. 402, a bill to reenact the Emergency School Aid Act.

S. 445

At the request of Mr. DOLE, the names of the Senator from Tennessee (Mr. SASSER), the Senator from North Dakota (Mr. ANDREWS), and the Senator from Illinois (Mr. PERCY) were added as cosponsors of S. 445, a bill to amend title 11, United States Code, and for other purposes.

S. 449

At the request of Mr. BOSCHWITZ, the name of the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of S. 449, a bill to authorize the construction of a lock on the Mississippi River in the vicinity of Alton, Ill. and Mo., and to provide for the coordinated use and enhancement of the upper Mississippi River system, and for other purposes.

S. 454

At the request of Mr. BYRD, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of S. 454, a bill to provide for an accelerated study of the causes and effects of acidic deposition during a 5-year period, and to provide for grants for mitigation at sites where there are harmful effects on ecosystems resulting from high acidity.

S. 462

At the request of Mr. GRASSLEY, the names of the Senator from Nevada (Mr. LAXALT), and the Senator from Kansas (Mrs. KASSEBAUM) were added as cosponsors of S. 462, a bill to amend section 1951 of title 18 of the United States Code, and for other purposes.

S. 476

At the request of Mr. LEVIN, the name of the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 476, a bill to amend title II of the Social Security Act to require a finding of medical improvement when disability benefits are terminated, to provide for a review and right to personal appearance prior to termination of disability benefits, to provide for uniform standards in determining disability, to provide continued payment of disability benefits during the appeals process, and for other purposes.

S. 496

At the request of Mr. COHEN, the names of the Senator from Virginia (Mr. WARNER), and the Senator from Minnesota (Mr. DURENBERGER) were added as cosponsors of S. 496, a bill to amend title 10, United States Code, to authorize the Secretary concerned to transport to the place of burial the remains of a member of the uniformed services entitled to retired or retainer pay who dies in a military medical facility.

S. 508

At the request of Mr. LAXALT, the names of the Senator from Utah (Mr. HATCH), the Senator from Missouri (Mr. DANFORTH), and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 508, a bill to exempt entities receiving financial assistance from the Rural Electrification Administration from fees under the Federal Land Policy and Management Act of 1976.

S. 530

At the request of Mr. PELL, the name of the Senator from Maine (Mr. MITCHELL) was added as a cosponsor of S. 530, a bill to provide for a program of financial assistance to States in order to strengthen instruction in mathematics, science, computer education, foreign languages, and vocational education, and for other purposes.

S. 540

At the request of Mr. GOLDWATER, the names of the Senator from Michigan (Mr. LEVIN), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of S. 540, a bill to amend the Public Health Service Act to establish a National Institute of Arthritis and Musculoskeletal and Skin Diseases, and for other purposes.

S. 616

At the request of Mr. BUMPERS, the names of the Senator from Colorado (Mr. HART), and the Senator from Ohio (Mr. METZENBAUM) were added as cosponsors of S. 616, a bill to promote the use of solar and other renewable forms of energy developed by the private sector.

S. 617

At the request of Mr. Bumpers, the names of the Senator from Colorado (Mr. Hart), and the Senator from Ohio (Mr. Metzenbaum) were added as cosponsors of S. 617, a bill to promote the use of energy conserving equipment and biofuels by the Department of Defense, and for other purposes.

S. 618

At the request of Mr. Bumpers, the names of the Senator from Colorado (Mr. Hart), and the Senator from Ohio (Mr. Metzenbaum) were added as cosponsors of S. 618, a bill to revise certain Federal training and economic development programs to create jobs and develop skills in renewable energy and energy conservation industries, and for other purposes.

S. 619

At the request of Mr. Bumpers, the names of the Senator from Colorado (Mr. Hart), and the Senator from Ohio (Mr. Metzenbaum) were added as cosponsors of S. 619, a bill to reauthorize, extend, and enhance existing Federal programs to encourage conservation and the use of renewable energy by this Nation's consumers.

S. 636

At the request of Mr. Hart, the name of the Senator from Arkansas (Mr. Pryor) was added as a cosponsor of S. 636, a bill to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to provide for judicial review of certain final decisions of the Administrator of Veterans' Affairs; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration; and for other purposes.

S. 681

At the request of Mr. Exon,, the name of the Senator from Nebraska (Mr. Zorinsky) was added as a cosponsor of S. 681, a bill to authorize the Secretary of the Interior to engage in a feasibility study of water resource development and for other purposes in the Central Platt Valley, Nebr.

S. 856

At the request of Mr. Cochran, the name of the Senator from Oklahoma (Mr. Boren) was added as a cosponsor of S. 856, a bill to provide for an Indian housing program for construction and financing of housing for Indians, and for other purposes.

S. 869

At the request of Mr. Heinz, the names of the Senator from Washington (Mr. Gorton), the Senator from Mississippi (Mr. Cochran), and the Senator from Georgia (Mr. Mattingly) were added as cosponsors of S. 869, a bill to amend the Export-Import Bank Act of 1945.

S. 870

At the request of Mr. Armstrong, the name of the Senator from North Carolina (Mr. Helms) was added as a cosponsor of S. 870. a bill entitled "the Federal contractor employees flexitime bill."

S. 873

At the request of Mr. Lugar, the name of the Senator from Alaska (Mr. Murkowski) was added as a cosponsor of S. 873, a bill to help insure the Nation's independent factual knowledge of the Soviet Union and Eastern European countries, to help maintain the national capability for advanced research and training on which that knowledge depends, and to provide partial financial support for national programs to serve both purposes.

S. 888

At the request of Mr. Cranston, his name was added as a cosponsor of S. 888, a bill entitled "The Economic Equity Act."

S. 924

At the request of Mr. Dole, the name of the Senator from Alabama (Mr. Denton) was added as a cosponsor of S. 924, a bill to designate the Veterans' Administration Medical Center in Leavenworth, Kans., as the Dwight D. Eisenhower Veterans' Administration Medical Center.

S. 995

At the request of Mr. Exon, the names of the Senator from Arkansas (Mr. Pryor), the Senator from Illinois (Mr. Dixon), and the Senator from South Carolina (Mr. Hollings) were added as cosponsors of S. 995, a bill to amend title 38, United States Code, to modify the rule for the commencement of the period of payment of certain adjustments in compensation in the case of hospitalized veterans.

S. 997

At the request of Mr. Exon, the name of the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of S. 997, a bill to authorize and direct the Secretary of the Interior to engage in a special study of the potential for groundwater recharge in the high plains States, and for other purposes.

S. 1013

At the request of Mr. Thurmond, the name of the Senator from Oregon (Mr. Hatfield) was added as a cosponsor of S. 1013, an original bill to amend title 28 of the United States Code regarding jurisdiction in bankruptcy proceedings, and to establish new Federal judicial positions.

S. 1045

At the request of Mr. Boschwitz, the name of the Senator from Michigan (Mr. Riegle) was added as a cosponsor of S. 1045, a bill to assure the production of an adequate supply of pure and wholesome milk to meet the needs of markets in the United States, to assure a reasonable level of return to dairy farmers and stable prices for dairy products for consumers, to stabilize a temporary imbalance in the supply and demand for dairy products, to enable milk producers to establish, finance, and carry out a coordinated program of dairy products promotion to improve, maintain, and develop markets for dairy products, and for other purposes.

S. 1113

At the request of Mr. D'Amato, the names of the Senator from Mississippi (Mr. Stennis), the Senator from North Carolina (Mr. Helms), the Senator from Louisiana (Mr. Long), and the Senator from Montana (Mr. Melcher) were added as cosponsors of S. 1113, a bill to amend the Internal Revenue Code of 1954 to provide that tax-exempt interest shall not be taken into account in determining the amount of social security benefits to be taxed.

S. 1144

At the request of Mr. Heinz, the name of the Senator from Maine (Mr. Mitchell) was added as a cosponsor of S. 1144, a bill to suspend periodic reviews of disability beneficiaries having mental impairments pending regulatory reform of the disability determination process.

SENATE JOINT RESOLUTION 48

At the request of Mr. McClure, the name of the Senator from Colorado (Mr. Armstrong) was added as a cosponsor of Senate Joint Resolution 48, a joint resolution to amend the Constitution of the United States to limit budget outlays for a fiscal year to not more than 20 per centum of gross national product for such fiscal year.

SENATE JOINT RESOLUTION 54

At the request of Mr. Nickles, the name of the Senator from South Carolina (Mr. Hollings) was added as a cosponsor of Senate Joint Resolution 54, a joint resolution to authorize and request the President to designate the month of January 1984 as National Eye Health Care Month.

SENATE JOINT RESOLUTION 61

At the request of Mr. Andrews, the names of the Senator from Nebraska (Mr. Zorinsky), the Senator from Texas (Mr. Bentsen), the Senator from West Virginia (Mr. Randolph), the Senator from California (Mr. Wilson), and the Senator from Alabama (Mr. Heflin) were added as cosponsors of Senate Joint Resolution 61, a joint resolution to designate the week of May 22, 1983, through May 28, 1983, as National Digestive Diseases Awareness Week.

SENATE JOINT RESOLUTION 66

At the request of Mr. Inouye, the name of the Senator from Alabama

(Mr. Heflin) was added as a cosponsor of Senate Joint Resolution 66, a joint resolution to authorize and request the President to designate May 6, 1983, as National Nurse Recognition Day.

SENATE JOINT RESOLUTION 67

At the request of Mr. Heflin, the names of the Senator from Kentucky (Mr. Huddleston), the Senator from Missouri (Mr. Eagleton), the Senator from Missouri (Mr. Danforth), and the Senator from New York (Mr. D'Amato) were added as cosponsors of Senate Joint Resolution 67, a joint resolution to designate the week of September 25, 1983, through October 1, 1983, as National Respiratory Therapy Week.

SENATE JOINT RESOLUTION 68

At the request of Mr. Specter, the names of the Senator from California (Mr. Wilson), the Senator from Louisiana (Mr. Johnston), and the Senator from Rhode Island (Mr. Chafee) were added as cosponsors of Senate Joint Resolution 68, a joint resolution to authorize and request the President to designate July 16, 1983, as National Atomic Veterans' Day.

SENATE JOINT RESOLUTION 81

At the request of Mr. Heinz, the names of the Senator from Kentucky (Mr. Ford), the Senator from California (Mr. Wilson), the Senator from Alabama (Mr. Heflin), the Senator from Alaska (Mr. Murkowski), and the Senator from New Jersey (Mr. Bradley) were added as cosponsors of Senate Joint Resolution 81, a joint resolution to authorize and request the President to designate October 16, 1983, as World Food Day.

SENATE JOINT RESOLUTION 83

At the request of Mr. Heinz, the names of the Senator from California (Mr. Cranston), the Senator from Michigan (Mr. Riegle), the Senator from Mississippi (Mr. Stennis), the Senator from Oklahoma (Mr. Boren), the Senator from West Virginia (Mr. Randolph), the Senator from Minnesota (Mr. Durenberger), the Senator from Hawaii (Mr. Inouye), the Senator from Rhode Island (Mr. Chafee), the Senator from Indiana (Mr. Lugar), the Senator from Arkansas (Mr. Pryor), the Senator from Vermont (Mr. Stafford), the Senator from Rhode Island (Mr. Pell), the Senator from Nebraska (Mr. Zorinsky), and the Senator from Florida (Mrs. Hawkins) were added as cosponsors of Senate Joint Resolution 83, a bill to recognize Senior Center Week during Senior Citizen Month as proclaimed by the President.

SENATE CONCURRENT RESOLUTION 14

At the request of Mr. Lugar, the name of the Senator from Washington (Mr. Jackson) was added as a cosponsor of Senate Concurrent Resolution 14, a concurrent resolution in commemoration of the bicentennial of the birth of Simon Bolivar, hero of the independence of the Americas.

SENATE RESOLUTION 104

At the request of Mr. Lugar, the name of the Senator from Arizona (Mr. Goldwater) was added as a cosponsor of Senate Resolution 104, a resolution to disapprove of the regulations proposed by the Federal Election Commission relating to contributions and activities by corporations and labor organizations.

SENATE RESOLUTION 106

At the request of Mr. Thurmond, the names of the Senator from North Carolina (Mr. Helms), the Senator from Mississippi (Mr. Stennis), the Senator from Massachusetts (Mr. Tsongas), the Senator from Illinois (Mr. Dixon), the Senator from Alabama (Mr. Heflin), the Senator from Nevada (Mr. Laxalt), the Senator from New York (Mr. D'Amato), the Senator from New Hampshire (Mr. Rudman), the Senator from Maryland (Mr. Sarbanes), the Senator from Wisconsin (Mr. Kasten), the Senator from Pennsylvania (Mr. Heinz), the Senator from Florida (Mrs. Hawkins), the Senator from South Dakota (Mr. Abdnor), the Senator from Pennsylvania (Mr. Specter), the Senator from Ohio (Mr. Metzenbaum), the Senator from Kansas (Mr. Dole), the Senator from Utah (Mr. Garn), and the Senator from Tennessee (Mr. Baker) were added as cosponsors of Senate Resolution 106, a resolution to commemorate the 10th anniversary of the U.S. Product Safety Commission by designating the week of May 8, 1983, through May 14, 1983, as National Product Safety Week.

SENATE RESOLUTION 112

At the request of Mr. Lugar, the names of the Senator from Utah (Mr. Garn), the Senator from Iowa (Mr. Grassley), and the Senator from Pennsylvania (Mr. Heinz), were added as cosponsors of Senate Resolution 112, a resolution expressing the sense of the Senate with respect to the protection of refugees and civilians caught in the armed conflict on the border between Thailand and Kampuchea.

SENATE RESOLUTION 116

At the request of Mr. Mitchell, his name was added as a cosponsor of Senate Resolution 116, a resolution deploring the bombing of the U.S Embassy in Beirut, Lebanon, and expressing the sorrow and condolences of the Senate on the death and wounding of Americans caught in the bombing, and for other purposes.

At the request of Mr. Goldwater, the names of the Senator from Indiana (Mr. Lugar), the Senator from Arkansas (Mr. Bumpers), the Senator from Utah (Mr. Garn), the Senator from Alaska (Mr. Stevens), the Senator from Alabama (Mr. Denton), the Senator from Washington (Mr. Gorton), the Senator from South Carolina (Mr. Thurmond), the Senator from Alaska (Mr. Murkowski), and the Senator from Tennessee (Mr. Sasser) were added as cosponsors of Senate Resolution 116, supra.

SENATE RESOLUTION 119

At the request of Mr. D'Amato, the names of the Senator from Maine (Mr. Cohen), the Senator from Illinois (Mr. Dixon), the Senator from South Carolina (Mr. Hollings), the Senator from Oregon (Mr. Packwood), the Senator from Wisconsin (Mr. Kasten), and the Senator from Michigan (Mr. Levin) were added as cosponsors of Senate Resolution 119, a resolution expressing the sense of the Senate that the United States should proceed with the sale and delivery of F-16 aircraft to Israel.

SENATE RESOLUTION 125—RELATING TO THE EMIGRATION OF IDA NUDEL

Mr. LEVIN (for himself, Mr. Dodd, Mr. Dixon, Mr. Grassley, Mr. Lugar, Mr. Zorinsky, Mr. Cohen, Mr. Hollings, Mr. Hecht, Mr. Mitchell, Mr. Metzenbaum, and Mr. Riegle) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 125

Whereas the Soviet Union is a party to the Final Act of the Conference on Security and Cooperation in Europe and the Universal Declaration of Human Rights,

Whereas Ida Nudel first applied to emigrate from the Soviet Union to Israel in 1971 in order to rejoin her sister—her only living relative;

Whereas in June 1978, Ida Nudel was convicted by the Soviet Government of "malicious hooliganism" for hanging a banner on her balcony which said "KGB, give me my visa";

Whereas Ida Nudel was then sentenced to four years of exile in Siberia after a trial in which no witnesses were allowed to testify in her behalf;

Whereas Ida Nudel is in grave physical danger due to her heart, liver, kidney, and diabetic ailments and has been denied appropriate medical care;

Whereas Ida Nudel was released from Siberian exile on March 26, 1982;

Whereas upon release, Ida Nudel was denied permission by Soviet authorities to reside in Moscow;

Whereas Ida Nudel traveled the Soviet Union for nine months in search of a municipality that would grant her a residence permit;

Whereas in December 1982, Ida Nudel was finally awarded residence status in a small town in Moldavia; and

Whereas Ida Nudel currently resides in Moldavia and continues to be subjected to harassment by Soviet authorities: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President, acting directly or through the Secretary of State, should—

(1) continue to express at every suitable opportunity and in the strongest possible terms the opposition of the United States

Government to the forced exile and repressive treatment of Ida Nudel; and

(2) urge the Government of the Soviet Union to—

(A) provide her with adequate medical care;

(B) grant Ida Nudel residence status in Moscow; and

(C) accept Ida Nudel's application for an exit visa, and allow her to emigrate to Israel to join her sister, in accordance with the Final Act of the Conference on Security and Cooperation in Europe and with the Universal Declaration of Human Rights.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President with the request that he further transmit such copy to the Ambassador of the Union of Soviet Socalist Republics to the United States.

● Mr. LEVIN. Mr. President, today, April 27, marks the 50th birthday of Ida Nudel—a woman of unflinching courage, a woman of selfless devotion to a cause, a woman who became known as the Guardian Angel because of her years of tireless dedication to helping Soviet Jewish prisoners of conscience and their families. I wish that on this day we could celebrate—unfortunately, years of repression make this a day of sadness, not one of celebration.

Accordingly, I am writing to invite you to cosponsor a resolution which I am planning to introduce on Ida Nudel's birthday which calls on the Government of the Soviet Union to end its repressive measures, to allow her to emigrate to Israel, and to allow her to live where she chooses in the Soviet Union until she is able to leave.

Twelve long years have passed since Ida Nudel first requested permission from Soviet authorities to emigrate in order to join her only living relative, Elena Fridman, a sister in Israel. She first applied to emigrate in 1971, but her request was refused. Each time she subsequently applied to emigrate, she has been singled out as an active figure in the Jewish emigration movement, has been harassed, and has been denied an exit visa.

On June 21, 1978, judges in Moscow handed down a verdict of guilty to charges of malicious hooliganism and sentenced Ida Nudel to a term of 4 years' exile in Siberia. She had been tried and convicted for publicly expressing here desire to emigrate from the Soviet Union—she had hung a placard on the balcony of her Moscow apartment which read, KGB Give Me My Visa. During Ida's 4 years in the desolation of Siberia, she continued here struggle to promote Jewish emigration despite here deteriorating physical condition—including heart, liver, kidney, and diabetic ailments.

Since Ida Nudel's release from Siberia on March 26 of 1982, the Soviet Government has continued to make her life difficult. Upon her release, she went to Moscow to apply for her exit visa and was promptly denied on the grounds that only residents of the district could apply. Her subsequent application for the reinstatement of her residence status in Moscow was turned down and she was forced out of her apartment there.

Ida Nudel spent the next 9 difficult months traveling the length and breadth of the Soviet Union in search of a municipality that would award her a residence permit. In December of 1982, she was granted residence status in a small town in Moldavia—far away from the hub of Jewish emigration activity. Presently, she resides there continuing her protest against her own personal circumstances as well as the conditions other Soviet Jews are forced to endure.

Ida Nudel's long years of internal exile, as well as the punitive measures she has suffered at the hands of Soviet authorities, represent gross abuses of her rights as a Soviet citizen, as well as flagrant transgressions of international obligations assumed by the Soviet Government. In light of the violations of political and civil liberties and fundamental human freedoms, it is essential that the struggle of Ida Nudel be present in our hearts and in our words.●

AMENDMENTS SUBMITTED

RADIO BROADCASTING TO CUBA ACT

HAWKINS AMENDMENT NO. 1201

(Referred to the Committee on Foreign Relations.)

Mrs. HAWKINS submitted an amendment intended to be proposed by her to the bill (S. 602) to provide for the broadcasting of accurate information to the people of Cuba, and for other purposes, as follows:

At the appropriate place in the bill add:

FACILITY COMPENSATION

SEC. . (a) It is the intent of the Congress that the Secretary of State should seek prompt and full settlement of United States claims against the Government of Cuba arising from Cuban interference with broadcasting in the United States. Pending the settlement of these claims, it is appropriate to provide some interim assistance to the United States broadcasters who are adversely affected by Cuban radio interference, and who seek to assert their right to measures to counteract the effects of such interference.

(b) Accordingly, the Board for International Broadcasting shall make payments to the United States radio broadcasting station licensees, upon their application for expenses which they have, incurred or will incur in mitigating pursuant to special temporary authority from the F.C.C. the affects of activities by the Government of Cuba which directly interfere with the transmission or reception of broadcasts by these licensees, such expenses shall be limited to the cost of equipment (replaced less depreciation) and associated technical and engineering costs.

(c) The Board for International Broadcasting shall issue such regulations and establish such procedures for carrying out this Section as the Board finds appropriate, such regulations shall be issued no later than 180 days after enactment of this act.

(d) They are authorized to be appropriated to the Board for International Broadcasting, Five million ($5,000,000) Dollars for use in compensating United States radio braodcasting licensees pursuant to this section. Amounts appropriated under this section are authorized to be available until expended.

● Mrs. HAWKINS. Mr. President, the administration's proposal to establish a radio station for broadcasting to Cuba has focused attention on the issue of Cuban interference, an issue that has long been of concern to Florida. In the last Congress, when the Senate Foreign Relations Committee marked up Radio Marti, it added a provision to allow for the compensation of certain radio stations according to guidelines that were to be drawn up by the FCC. I support the concept of compensation because I believe that the Federal Government must bear some responsibility for helping stations overcome the effects of a situation beyond domestic control. However, I would recommend that the Senate take a different approach to the issue of compensation.

Today I am introducing an amendment to S. 602, the Radio Marti bill, to provide for facility compensation. By this we would compensate radio broadcasters for the cost of altering their facilities in an attempt to overcome the effect of Cuban interference. The Board of International Broadcasting would be responsible for overseeing this compensation program, and a pot of $5 million would be set up and drawn upon until expended. These funds would be available both for broadcasters who have suffered interference and for those who might in the future.

The House International Operations Subcommittee has followed this approach, and I believe that it addresses the legitimate concerns of the broadcasting community. I know that some broadcasters have called for mandatory economic compensation that could amount to hundreds of millions of dollars, but I believe that there are irresponsible and thinly disguised attempts to kill the bill.

Mr. President, I urge the Senate not only to act on the Radio Marti bill as soon as possible, but that it adopt this reasonable, responsible approach to the compensation issue as well.●

BANKRUPTCY COURT AND FEDERAL JUDGESHIP ACT OF 1983

THURMOND AMENDMENT NO. 1202

Mr. THURMOND (for himself and Mr. Heflin) proposed an amendment to the bill (S. 1013) to amend title 28 of the United States Code regarding jurisdiction in bankruptcy proceedings, and to establish new Federal judicial positions, as follows:

On page 3, line 20, add at the end thereof "title 11 or rising in a * * *."

On page 5, line 10, strike out "and" and insert in lieu thereof "or".

On page 5, strike out lines 15 through 25, and insert in lieu thereof the following:

"(2) In a proceeding involving the debtor which is based upon a State law claim or cause of action not arising under title 11, or arising in a case under title 11 which could not otherwise have been brought in Federal court absent jurisdiction under this section, the court shall, upon proper motion, abstain from adjudicating such claim in the bankruptcy proceeding where an action to adjudicate such claim has been or will be timely instituted and prosecuted in a State forum of appropriate jurisdiction: *Provided*, That this paragraph shall be construed to limit the applicability of the stay provided for by section 362 of title 11, United States Code, only to the extent necessary to permit adjudication but not the execution of such claim by the State forum.

On page 6, line 3, strike out "1741(e)" and insert in lieu thereof "(d) or (e)".

On page 12, strike out the following:

"Arkansas	
Eastern	1
Western	1";

and insert in lieu thereof the following:

"Arkansas	
Eastern and Western	2".

On page 13, strike out the following:

"New Mexico	1",

and insert in lieu thereof the following:

"New Mexico	2".

On page 14, strike out the following:

"Texas	
Northern	3",

and insert in lieu thereof the following:

"Texas	
Northern	4".

On page 14, strike out the following:

"Virginia	
Eastern	3
Western	2",

and insert in lieu thereof the following:

"Virginia	
Eastern	3
Western	3".

On page 20, between the table and line 1 insert the following:

Sec. 303. Section 131 of title 28, United States Code, is amended in the second paragraph thereof by inserting "Jackson," after "Lander,".

On page 21, beginning with line 19, strike out through line 4 on page 29 and insert in lieu thereof the following:

Sec. 402. (a) Subchapter III (civil service retirement) of chapter 83 of title 5, United States Code, is amended—

(1) in section 8331 (1) by inserting before the semicolon at the end of clause (i) the following: ", except a bankruptcy judge";

(2) in section 8331 (22) thereof by—

(A) striking out "adding this paragraph" and inserting in lieu thereof "of November 6, 1978 (Public Law 95-598; 92 Stat. 2549), or under section 152 of title 28, United States Code";

(B) striking out "and that" after "March 31, 1984," in subparagraph (A) and inserting in lieu thereof: "and continues to serve as a bankruptcy judge after such date until either the date on which a successor for such judge is appointed, or October 1, 1984, whichever date is earlier, and who";

(C) striking out "or" at the end of subparagraph (A);

(D) striking out "201 of this Act but that" and inserting in lieu thereof "201 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549) but who"; and

(E) striking out the period at the end of subparagraph (B) and inserting in lieu thereof the following: "; or

"(C) is appointed as a United States bankruptcy judge on or after April 1, 1984.";

(3) in section 8334(a) thereof by adding "or a bankruptcy judge" before the period at the end of the first sentence of paragraph (1) thereof;

(4) in section 8334(c) thereof by striking out of the table, in the item relating to bankruptcy judges, "7. . . . After January 1, 1970." and inserting in lieu thereof: "7 . . . January 1, 1970, to September 30, 1983. "8 . . . After September 30, 1983.".

(5) in section 8336 thereof by—

(A) redesignating subsection (k) thereof as subsection (l); and

(B) adding after subsection (j) the following new subsection:

"(k) An employee who is a bankruptcy judge and is separated from the service after becoming 62 years of age and completing 5 years of civilian service or after becoming 60 years of age and completing 10 years of service as a bankruptcy judge is entitled to an annuity."; and

(6) in section 8339 by—

(A) striking out "(o)" each place it appears in subsections (f), (j), (k), (l), and (m) and inserting in lieu thereof "(n)";

(B) inserting "or (n)" after "(c)" in paragraph (2) of subsection (g);

(C) striking out "or (c)" each time it appears in subsection (g) and inserting in lieu thereof "(c), or (n)"; and

(D) striking out "after March 31, 1979, and before April 1, 1984," in subsection (n) thereof and inserting in lieu thereof "as a referee in bankruptcy and".

(b) The amendments made by this section shall take effect on October 1, 1983, and shall apply to bankruptcy judges who retire on or after such date.

On page 29, line 5, strike out "404" and insert in lieu thereof "403".

On page 29, line 18, strike out "405" and insert in lieu thereof "404".

On page 30, line 7, strike out "406" and insert in lieu thereof "405".

On page 30, line 19, strike out "407" and insert in lieu thereof "406".

On page 30, line 24, strike out "employee" and insert in lieu thereof "Federal judge".

On page 30, line 25, strike out "employee's" and insert in lieu thereof "judge's".

On page 31, strike out lines 5 through 7 and insert in lieu thereof the following:

Sec. 407. Chapter 6 of title 28, United States Code, as added by section 201 (a) of the Act of November 6, 1978 (Public Law 95-598, 29 State. 2657), effective April 1, 1984, is amended by repealing section 160 and repealing the item relating to section 160 in the table of sections thereof.

On page 31, line 8, strike out "409" and insert in lieu thereof "408".

On page 32, before line 1, insert the following new sections:

Sec. 409. Section 775 of title 28, United States Code, as such section is to become effective April 1, 1984, is amended by striking out "the same as" in the first sentence and inserting in lieu thereof "on an equivalent basis as".

On page 32, between lines 3 and 4 insert the following:

Sec. 411. Section 1334 of title 28, United States Code, as such section is to become effective April 1, 1984, is amended to read as follows:

"§ 1334. Bankruptcy appeals

"(a) The district courts shall have jurisdiction of appeals from all final judgments, orders, and decrees of bankruptcy courts.

"(b) The district courts shall have jurisdiction of appeals from interlocutory orders and decrees of bankruptcy courts, but only by leave of the district court to which the appeal is taken.

"(c) An appeal under this section shall be taken to the district court for the judicial district in which the bankruptcy court is located.".

On page 32, line 4, strike out "411" and insert in lieu thereof "412".

On page 32, line 11, strike out "412" and insert in lieu thereof "413".

On page 32, line 18, strike out "413" and insert in lieu thereof "414".

On page 33, line 5, strike out "414" and insert in lieu thereof "415".

On page 33, strike out lines 11 through 14 and insert in lieu thereof the following:

(b) Section 405(c)(2) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549) is amended to read as follows:

"(2) During the transition period, the jurisdiction of the district courts, and the courts of appeals in hearing bankruptcy appeals shall be the same as the jurisdiction of such courts under title 28 and the jurisdiction granted under the amendments made by sections 102 and 412 of the Bankruptcy Court and Federal Judgeship Act of 1983.".

On page 33, line 15, strike out "415" and insert in lieu thereof "416".

On page 33, line 15, strike out "209, 211, 234, 239," and insert in lieu thereof "203, 204, 208, 209, 211, 215, 232, 234, 236, 237, 238, 239, 240,".

On page 33, line 18, strike out "416" and insert in lieu thereof "417".

On page 34, line 1, strike out "417" and insert in lieu thereof "418(a)".

On page 34, between lines 9 and 10 insert the following:

(b) If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act, or the application of that provision to persons or circumstances other than those as to which it is held invalid, is not affected thereby.

On page 34, line 10, strike out "418" and insert in lieu thereof "419".

On page 34, line 13, insert "407," before "408,".

On page 34, line 14, strike out "409, 410, and 412" and insert in lieu thereof "409, 410, 411, and 413".

On page 34, after line 14, add the following:

(c) the amendment made by section 402 shall become effective on October 1, 1983, and shall apply to bankruptcy judges who retire on or after such date.

THURMOND AMENDMENT NO. 1203

Mr. THURMOND proposed an amendment to the bill S. 1013, supra, as follows:

On page 33, after line 24, add the following new section:

SEC. 417. (a) Section 634(a) of title 28, United States Code is amended by striking out, in the first sentence thereof, "the rates now or hereafter provided for full-time and part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended" and inserting in lieu thereof: "$63,600".

(b) The rates for salaries of full-time and part-time magistrates in effect on the day before the date of enactment of this Act shall continue in effect until adjusted, or new rates determined, under the amendments made by this Act.

(c) Section 634(c) of title 28, United States Code, is amended by striking out "subsection III" and inserting in lieu thereof "subchapter III".

(d) Section 154 of title 28, United States Code, as such section is to become effective April 1, 1984, is amended to read as follows:

"§ 154. Salaries of bankruptcy judges

"Each judge of a bankruptcy court shall receive a salary at the annual rate of pay of $63,600.".

(e) Notwithstanding section 5307 of title 5, United States Code, or any other provision of law, a magistrate's or a bankruptcy judge's annual rate of pay shall not exceed $63,600 unless authorized by a law specifically referring to the rates of pay for such magistrates or bankruptcy judges.

(f) Section 225(f)(C) of the Federal Salary Act of 1967 (2 U.S.C. 356(c)) is amended by striking out "and magistrates", and inserting in lieu thereof ", except bankruptcy judges".

(g) Section 404(f) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549) is amended by striking out the last sentence.

On page 34, line 1, strike out "417" and insert in lieu thereof "418".

THURMOND AMENDMENT NO. 1204

Mr. THURMOND proposed an amendment to the bill S. 1013, supra, as follows:

On page 16, line 2, strike out "four" and insert in lieu thereof "five".

On page 16, line 3, after "California," insert "one additional district judge for the district of Colorado,".

On page 16, line 4, after "Connecticut," insert "one additional district judge for the district of Delaware,".

On page 16, line 7, strike out "three" and insert in lieu thereof "four".

On page 16, line 15, after "Michigan," insert "one additional district judge for the district of Minnesota,".

On page 16, line 19, after "Montana," insert "one additional district judge for the district of Nevada,".

On page 16, line 22, after "New York," insert "one additional district judge for the district of Ohio,".

On page 17, line 2, before "two" insert "one additional district judge for the northern district of Texas,".

On page 17, line 4, after "Texas," insert "one additional district judge for the district of Utah,".

On page 17, line 5, after "Virginia," insert "one additional district judge for the eastern district of Washington,".

On page 18, strike out the following:

"California:	
Northern	12
Eastern	6
Central	21
Southern	7
Colorado	6
Connecticut	6
Delaware	3"

and insert in lieu thereof the following:

"California:	
Northern	12
Eastern	6
Central	22
Southern	7
Colorado	7
Connecticut	6
Delaware	4".

On page 18, strike out the following:

"Illinois:	
Northern	19"

and insert in lieu thereof the following:

"Illinois:	
Northern	20".

On page 19, strike out the following:

"Minnesota	5"

and insert in lieu thereof the following:

"Minnesota	7".

On page 19, strike out the following:

"Nevada	3"

and insert in lieu thereof the following:

"Nevada	4".

On page 19, strike out the following:

"Ohio:	
Northern	10
Southern	6"

and insert in lieu thereof the following:

"Ohio:	
Northern	10
Southern	7".

On page 20, strike out the following:

"Texas:	
Northern	9
Eastern	6
Southern	13
Western	7
Utah	3"

and insert in lieu thereof the following:

"Texas:	
Northern	10
Eastern	6
Southern	13
Western	7
Utah	4".

On page 20, strike out the following:

"Washington:	
Eastern	2"

and insert in lieu thereof the following:

"Washington:	
Eastern	3".

THURMOND AMENDMENT NO. 1205

Mr. THURMOND proposed an amendment to the bill S. 1013, supra, as follows:

On page 14, between the table and line 1, insert the following new section:

"It is the sense of the Congress that the President, in selecting individuals for nomination to the Federal judgeships created by this Act, shall give due consideration to qualified individuals without regard to race, color, sex, religion, or national origin."

THURMOND AMENDMENT NO. 1206

Mr. THURMOND proposed an amendment to amendment No. 1202, proposed by Mr. THURMOND (for himself and Mr. HEFLIN) to the bill, S. 1013, supra, as follows:

On page 5 of the amendment, strike out the amendment adding section 407 which amends section 160 of title 28, United States Code.

On page 6 of the amendment, adding section 411 which amends section 1334 of title 28, United States Code, strike out the period and closing quotation marks at the end of section 1334 and insert in lieu thereof the following:

"(d) The Judical Council of a circuit may establish bankruptcy appellate panels to exercise the jurisdiction conferred by this section for any judicial district within the circuit. Each such panel shall consist of three bankruptcy judges designated by the chief judge of the circuit from among the bankruptcy judges of the circuit and shall exercise all of the jurisdiction of such district court under this section. sitting at a place convenient to the parties to the appeal, except that a panel may not hear: (1) an appeal from a judgment, order, or decree entered by a member of the panel; or (2) an appeal in which a party has objected to the exercise of jurisdiction by the panel.

"(e) The courts of appeals shall have jurisdiction of appeals from all final decisions, final judgments, orders, or decrees of a district court or a bankruptcy appellate panel entered under this section in the same manner as such an appeal may be taken in civil cases generally.".

On page 7 of the amendment, strike out "236, 237, 238, 239, 240," and inserting in lieu thereof "239,".

At the end of the amendment add the following:

On page 9 of the bill, after line 25 add the following:

"§ 1478. Appeals

"(a) Panels designated under section 160(a) of this title shall have jurisdiction of appeals from all final judgments, orders, and decrees of bankruptcy courts.

"(b) Panels designated under section 160(a) of this title shall have jurisdiction of appeals from interlocutory judgments, orders, and decrees of bankruptcy courts, but only by leave of the panel to which the appeal is taken.".

On page 2 of the bill, in the table between lines 8 and 9, add, after the item relating to section 1477, the following:

"1478. Appeals".

IMMIGRATION REFORM AND CONTROL ACT OF 1983

KENNEDY AMENDMENT NO. 1207

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill (S. 529) to revise and reform the Immigration and Nationality Act, and for other purposes, as follows:

On page 212, line 7, insert "(a)" after "Sec. 403.".

On page 213, between lines 5 and 6, insert the following:

(b)(1) The provisions of section 274A of the Immigration and Nationality Act shall terminate 30 calendar days after receipt of the last report required to be transmitted under subsection (a), if—

(A) the Comptroller General determines, and so reports in such report, that a widespread pattern of discrimination has resulted against citizens or nationals of the United States or against eligible workers seeking employment, as a result of carrying out such provisions; and

(B) the Congress, within such period of 30 calendar days, adopts a concurrent resolution stating in substance that it approves the findings of the Comptroller General contained in such report.

(2) Any concurrent resolution referred to in clause (B) of paragraph (1) shall be considered in the Senate in accordance with subsection (d).

(c) For the purpose of expediting the consideration and adoption of concurrent resolutions under subsection (b), a motion to proceed to the consideration of any such concurrent resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(d)(1) For purposes of subsection (b), the continuity of a session of Congress is broken only by an adjourment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

(2) Paragraphs (3) and (4) of this subsection are enacted—

(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of concurrent resolutions referred to in subsection (b), and supersede other rules of the Senate only to the extent that such paragraphs are inconsistent therewith; and

(B) With full recognition of the contitutional right of the Senate to change such rules at any time, in the same manner and to the case of any other rule of the Senate.

(3)(A) If the committee of the Senate to which has been referred a resolution relating to a certification has not reported such resolution at the end of ten calendar days after its introduction, not counting any day which is excluded under paragraph (1) of this subsection, it is in order to move either to discharge the committee from further consideration of the resolution or discharge the committee from further consideration of any other resolution introduced with respect to the same certification which has been referred to the committee, except that no motion to discharge shall be in order after the committee has reported a resolution with respect to the same certification.

(B) A motion to discharge under subparagraph (A) of this paragraph may be made only by a Senator favoring the resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution, the time to be divided equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(4)(A) A motion in the Senate to proceed to the consideration of a resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

BANKRUPTCY COURT AND FEDERAL JUDGESHIP ACT OF 1983

DOLE AMENDMENT NO. 1208

Mr. DOLE (for himself, Mr. THURMOND, Mr. HATFIELD, and Mr. HEFLIN) proposed an amendment to the bill, S. 1013, supra, as follows:

At the end of the bill add the following new title:

TITLE V

Sec. 500. This title may be cited as the "Omnibus Bankruptcy Improvements Act of 1983".

SUBTITLE A—CONSUMER CREDIT AMENDMENTS

Sec. 501. This subtitle may be cited as the "Consumer Debtor Bankruptcy Amendments Act of 1983".

Sec. 502. (a) Section 301 of title 11 of the United States Code, is amended—

(1) by striking out "A voluntary" and inserting in lieu thereof "(a) For a debtor who is not an individual, a voluntary"; and

(2) by adding at the end thereof the following new subsection:

"(b) With respect to an individual debtor or debtors, a voluntary case under this title is commenced by the filing with the bankruptcy court of a petition which conditionally designates a chapter under which relief is sought. The filing of such a petition shall constitute an order for relief under the provisions of the chapter conditionally designated. A final designation of the chapter under which relief is sought shall be made within the time period specified in section 521 of this title.

(b) Section 302(a) of title 11, United States Code, is amended to read as follows:

"(a) A joint case under this title is commenced by the filing, with the bankruptcy court, of a single petition pursuant to section 301(b) by an individual and such individual's spouse. The commencement of a joint case under a chapter of this title constitutes an order for relief under the chapter conditionally designated in accordance with section 301(b).".

Sec. 503. (a) Section 305 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(d)(1) Subject to the provisions of paragraph (2), the court on its own motion according to procedures established by rule, and not at the request or suggestion of any party in interest, may dismiss a case under chapter 7 of this title filed by an individual debtor if it finds that the granting of relief under such chapter would be a substantial abuse of the provisions of such chapter. In determining the question of substantial abuse, there shall be a presumption in favor of granting the relief requested by the debtor.

"(2) Prior to dismissing any chapter 7 case for substantial abuse, the court shall set forth, in writing within 20 days of the permanent designation of relief made by the debtor under the provisions of section 521(a)(3), its reasons for finding that substantial abuse would occur; and the court shall, at the same time, advise the debtor of his right to respond in writing and/or to request and secure a hearing on the court's findings. The court shall establish, by rule, time limits for the debtor's response and for the court's written findings in response thereto. No creditor or representative of a creditor may participate in judicial proceedings relating to substantial abuse except upon the request of the court.

"(3) Any dismissal of a case under chapter 7 pursuant to this subsection is a final order, and the debtor shall have the right to appeal. No creditor or representative of a creditor may appeal any judicial decision on substantial abuse. In passing upon such an appeal, the court shall accept the bankruptcy court's findings of fact unless clearly erroneous. If the appellate court holds that the ruling of substantial abuse constitutes an error of law, it shall reverse.".

(b) Section 349 of title 11 is amended by amending subsection (a) to read as follows:

"(a) Unless the court, for cause, orders otherwise, the dismissal of a case under this title does not bar the discharge, in a later case under this title, of debts that were dischargeable in the case dismissed; nor does it prejudice the debtor in any respect with regard to the filing of a subsequent petition under this title.".

Sec. 504. Section 704 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The Trustee shall";

(2) by adding after paragraph (3) a new paragraph (4) to read as follows:

"(4) counsel with individual debtors as provided in subsection (b) of this section;"

(3) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(4) by adding at the end thereof the following:

"(b)(1) In the case of an individual debtor or debtors, immediately prior to the meeting of creditors under section 341 of this title, the trustee shall provide counseling to such debtor or debtors. Such counseling shall include—

"(A) a simple explanation to the debtor of the relief available to such debtor under chapters 7 and 13 of this title;

"(B) an analysis of the debtor's estimated income and expenses, and information concerning the possibility of repayment of debts under the provisions of chapter 13;

"(C) an analysis of the debtor's position if he elects relief under chapter 7, including a statement as to debts that would be discharged under such chapter; and

"(D) a statement to the debtor that the trustee is making no recommendation as to appropriate relief under this title, and that the debtor is free to make whatever final designation of chapter relief he may deem to be in his own best interests.

"(2) The trustee shall make no recommendation as to the final designation by the debtor of the chapter under which the debtor should seek relief, nor shall the trustee influence nor advise the debtor as to what final designation of relief the debtor should make. The trustee shall not suggest how the court will dispose of the debtor's petition.

"(3) Counsel for the debtor shall be present during the counseling by the trustee required by this section: *Provided*, That the debtor may waive the attendance of counsel. No creditor may be present during the counseling provided for in this section.

"(4) The trustee may waive counseling if, after review of the debtor's statement of estimated income and expenses, the trustee determines and reports to the court that a reasonable chapter 13 plan could not be devised. Counseling shall be waived with regard to any debtor that does not have regular income.".

SEC. 505. Section 341(c) of title 11, United States Code, is amended to read as follows:

"(c) The court shall convene, and may preside at any meeting under this section. The court shall also perform such judicial duties as may be required under other provisions of this title promptly in conjunction with the meeting.".

SEC. 506. Section 506(a) of title 11, United States Code, is amended by—

(1) inserting "(1)" after "(a)",

(2) striking out the last sentence, and

(3) adding at the end thereof the following new paragraph:

"(2) The value of the creditor's interest in the estate's interest in such property shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest. The value of consumer goods which the debtor seeks to redeem pursuant to section 722 of this title or which are to be retained pursuant to section 1325(a)(5)(B)(ii) of this title shall be presumed to be the established resale market price, if such market exists, as may be determined from recognized trade publications or by comparable means. If no such market exists, or if the court determines that resale value is inappropriate in light of the proposed use or disposition of the property, the court may utilize such other methods of valuation as may be appropriate under the circumstances.".

SEC. 507. Section 521 of title 11, United States Code, is amended by—

(1) redesignating paragraphs (2), (3), and (4) as paragraphs (5), (6), and (7), respectively;

(2) amending paragraph (7), as redesignated, to read as follows:

"(7) appear at the hearing required under section 341(c) of this title.".

(3) inserting after paragraph (1) the following new paragraphs:

"(2) file, at any time prior to the first meeting of creditors, a statement of the debtor's current income and an estimate of the debtor's current expenditures for the support of himself and his dependents.

"(3) in the case of an individual debtor or debtors, make a final designation of the chapter under which relief is requested no later than ten days after the counseling provided under section 704(b) of this title. If the debtor makes a final designation for relief under a chapter other than that specified in the conditional designation filed at the commencement of the case, such final designation shall be treated as a conversion under the provisions of section 348. No costs or trustee's fees shall be assessed against the debtor upon such a conversion that would not have been assessed if the debtor had filed initially under the chapter finally designated.

"(4) if the debtor's schedule of assets and liabilities includes consumer debts which are secured by property of the estate, the debtor shall file and serve, within thirty days after the filing of a petition under chapter 7 of this title but no later than five days before the first meeting of creditors, upon each creditor holding such security and the trustee, a statement expressing the debtor's intention with respect to retention or surrender of the collateral and, if applicable, specifying that the collateral is claimed as exempt, that the debtor intends to redeem the collateral, or that the debtor intends to reaffirm debts secured by the collateral;".

(4) inserting "(a)" before "The debtor"; and

(5) adding at the end thereof the following new subsection:

"(b) At or before the conclusion of the meeting of creditors provided for by section 341 of this title, or upon such other date as the court in a specific case and in the exercise of its equitable powers may fix, the debtor shall perform his intention with regard to secured creditors, as specified by paragraph (3) of subsection (a), by surrendering such property to the creditor or the trustee; redeeming such property by paying the redemption price, or confirming his intention to pay such price pursuant to section 722(b); or by reaffirming the debt. If the debtor has not fully performed his obligations under paragraph (3) of subsection (a) and this subsection at or before the meeting of creditors, the stay imposed by section 362(a) of this title shall terminate with respect to the enforcement of liens against such property, unless the court orders otherwise.".

SEC. 508. (a)(1) That part of section 522(b) of title 11, United States Code, before the numbered paragraphs (1) and (2), is amended to read as follows:

"(b) Notwithstanding section 541 of this title, an individual debtor may elect to exempt the property in either subparagraph (1), or in the alternative, subparagraph (2). In joint cases filed under section 302, and individual cases of married debtors whose estates are consolidated, both of the debtors must elect to exempt the property in either subparagraph (1), or in the alternative, subparagraph (2). If the parties cannot agree on the alternative to be elected, they shall be deemed to elect subparagraph (1), where such election is permitted under the law of the jurisdiction where the case is filed. Such property is—".

(2) Subsection 522(m) of title 11, United States Code, is amended to read as follows:

"(m) Subject to the limitation in subsection (b), this section shall apply separately with respect to each debtor in a joint case.".

(3) Subsection 522(d)(3) of title 11, United States Code, is amended by adding "or $4,000 in aggregate value" after "item".

(4) Subsection 522(d)(5) of title 11, United States Code, is amended to read as follows:

"(5) The debtor's aggregate interest, not to exceed in value $400 plus any unused amount of the exemption provided under paragraph (1) of this subsection, not to exceed $2,000, in any property.

(b) Section 522(f) of title 11, United States Code, is amended by—

(1) striking subparagraph (A) in paragraph (2) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(2) inserting after "debtor" the second time it appears in subparagraph (A) as redesignated herein, the following: "up to an aggregate value of $1,000".

SEC. 509. (a) Section 523(a) of title 11, United States Code, is amended in paragraph (3) by striking out "section 521(1)" and inserting in lieu thereof "section 521(a)(1)".

(b) Section 523 of title 11, United States Code, shall be further amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) For purposes of subsection (a)(2) of this section, any debt which was incurred on or within forty days before the date of the filing of a petition under this title is presumed to be nondischargeable under such subsection; however, such presumption shall not apply to the extent such debts were incurred for expenses which were reasonably necessary for the support of the debtor or the debtor's dependents, and shall be rebuttable by the debtor.".

"(e) If a creditor requests a determination of dischargeability of a consumer debt under subsection (a)(2) of this section, and such debt is discharged, the court shall grant judgment in favor of the debtor for the costs of, and a reasonable attorney's fee for, the proceeding if the court finds that the position of the creditor was not substantially justified, except that the court shall not award such costs and fees if special circumstances would make the award unjust.".

SEC. 510. (a) Section 524(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking out "and" at the end thereof,

(2) in paragraph (3) by striking out the period and inserting in lieu thereof "; and", and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) does not operate as an injunction against the enforcement of a lien that has not been avoided under the provisions of this title.".

(b) Section 524(c) of title 11, United States Code, is amended—

(1) in paragraph (1) by inserting "and" at the end thereof, and

(2) by striking out paragraphs (2), (3), and (4), and inserting in lieu thereof the following new paragraph:

"(2)(A) such agreement contains a clear and conspicuous statement which advises the debtor that the agreement may be rescinded at any time prior to discharge or within sixty days after it is filed with the court, whichever occurs later, by giving a written notice of rescission to the creditor. Any reaffirmation agreement so filed with the court shall be reviewed by the court and shall be effective from the date of filing in all cases where the debtor is represented by counsel, or the date on which the court approves such agreement in the case of a debtor appearing pro se; and such agreement shall be binding according to its terms from and after such date unless the court, in the exercise of its equitable powers, and after notice and hearing, orders otherwise within sixty days after the filing of the agreement. Any payments made by the debtor prior to the expiration of sixty days after the date of the filing of the agreement shall be held by the creditor in trust for the benefit of the debtor in the event of any subsequent rescission or disallowance of the agreement effected in accordance with this section, except where the debtor has had possession and use of the collateral during the pendency of the agreement.

"(B) Subparagraph (A) of this paragraph shall not apply to a case concerning an individual, to the extent that such debt is a consumer debt secured by real property.".

(c) Section 524(d) of title 11, United States Code, is amended to read as follows:

"(d) At the meeting of creditors provided for under section 341(c) of this title, the court shall inform the debtor of the nature and effect of a discharge, and of any reaffirmation of the debt, including that any reaffirmation agreement entered into in accordance with the provisions of subsection (c) is voluntary on the part of the debtor and the legal effect and consequences of a default under such agreement.".

Sec. 511. (a) Section 547(b) of title 11, United States Code, is amended—

(1) in paragraph (4) by amending subparagraph (B) to read as follows:

"(B) between ninety days and one year before the date of the filing of the petition, if such creditor at the time of such transfer was an insider;".

(2) in paragraph (4) by striking out "and" at the end thereof; and

(3) in paragraph (5) by striking out the period at the end of the paragraph and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(6) if such creditor at the time of such transfer had reasonable cause to believe the debtor was insolvent at the time of such transfer.".

(b) Section 547 of title 11 of the United States Code is amended in subsection (c) thereof by striking subparagraph (2)(B) of such subsection, and by redesignating subparagraphs (2)(C) and (2)(D) thereof as (2)(B) and (2)(C) respectively.

Sec. 512. Section 554(c) of title 11, United States Code, is amended by striking out "section 521(1)" and inserting in lieu thereof "section 521(a)(1)".

Sec. 513. Section 706 of title 11, United States Code, is amended by adding at the end thereof the following:

"(e) Notwithstanding subsection (a) of this section, the right to convert secured by this section shall exist in any case converted to this chapter pursuant to section 521(a)(3) of this title.".

Sec. 514. Section 722 of title 11, United States Code, is amended by—

(1) inserting "(a)" before "An", and

(2) adding at the end thereof the following new subsections:

"(b) Upon notice and hearing, the court may require a creditor to accept payments in redemption of the value of a claim secured by a nonpossessory, nonpurchase money security interest in property of a type specified in subsection (a) of this section, over a reasonable period not to exceed five years, if such tangible personal property consists of—

"(1) household furnishings, household goods, wearing apparel, appliances, books, animals, crops, musical instruments, or jewelry that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor; or

"(2) implements, professional books, or tools of the trade of the debtor or of the trade of a dependent of the debtor which have a value in excess of $1,000.

"(c) Upon notice and hearing, the court may avoid any lien, in whole or in part, of the type specified in subsection (b) if the court finds: (1) that the debtor has no reasonable ability to pay the redemption value of such property; and (2) the enforcement of such lien would impose undue hardship on the debtor.".

Sec. 515. (a) Section 1103(b) is amended—

(1) inserting "having an adverse interest" after "entity"; and

(2) adding at the end thereof the following: "Representation of one or more creditors of the same class as represented by the committee shall not per se constitute the representation of an adverse interest.".

Sec. 516. Section 1106(a)(2) of title 11, United States Code, is amended by striking out "section 521(1)" and inserting in lieu thereof "section 521(a)(1)".

Sec. 517. Section 1111(a) of title 11, United States Code, is amended by striking out "section 521(1)" and inserting in lieu thereof "section 521(a)(1)".

Sec. 518. Section 1301 of title 11, United States Code, is amended by inserting after subsection (c) the following new subsection:

"(d) A creditor who proposes to act pursuant to subsection (c) shall notify the debtor and codebtor of such intention. The debtor or codebtor shall then have ten days to file and serve a written objection to the taking of the proposed action. If the debtor or codebtor does not file and serve a timely written objection, then the creditor's action taken in accordance with the notice shall not violate this section.".

Sec. 519. Section 1307(b) of title 11, United States Code, is amended by adding after the first sentence the following: "This right to dismiss shall exist in a case converted pursuant to section 521(a)(3) of this title.".

Sec. 520. Section 1321 of title 11, United States Code, is amended by—

(1) inserting "(a)" before "The debtor", and

(2) adding at the end thereof the following new subsection:

"(b) Unless otherwise ordered by the court, the case will be automatically dismissed unless payments under the plan commence within thirty days after the filing of the plan. The payments shall be made to the trustee, and shall be retained by the trustee until a plan is confirmed or not confirmed. If any plan is confirmed, the trustee shall then distribute the funds in accordance with the plan. If no plan is confirmed, the funds shall be returned to the debtor after deducting the costs of administration.

Sec. 521. (a) Section 1322(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking out "and" at the end thereof,

(2) by redesignating paragraph (3) as paragraph (4), and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) provide for payment, in deferred cash payments, of claims of a type specified in section 523(a) of this title; and".

(b) Section 1322(b) of title 11, United States Code, is amended by amending paragraph (1) thereof to read as follows:

"(1) designate a class or classes of unsecured claims, as provided in section 1122 of this title, but may not discriminate unfairly against any class so designated; however, such plan may treat claims which are specified in section 523(a) or involve a codebtor differently than other unsecured claims;".

(c) Section 1322(c) is amended to read as follows:

"(c) The plan may not provide for payments over a period of more than five years.".

Sec. 522. Section 1325(a) of title 11, United States Code, is amended—

(a) in paragraph (3) by inserting ", and the plan represents a bona fide effort which is consistent with the debtor's ability to repay his debts, after providing support for himself and his dependents," before the semicolon,

(b) in paragraph (C) of paragraph (5) thereof by striking out "and",

(c) by redesignating paragraph (6) as paragraph (7), and

(d) by inserting after paragraph (5) the following new paragraph:

"(6) the plan extends for a period of five years or the plan provides for payment of a reasonable portion of all allowed unsecured claims; and".

Sec. 523. Section 1328(a)(2) of title 11, United States Code, is amended to read as follows:

"(2) of a kind specified in section 523(a) of this title.".

SUBTITLE B—AGRICULTURAL PRODUCE BAILMENT AMENDMENTS

Sec. 531. This subtitle may be cited as the "Agricultural Produce Bailment Bankruptcy Amendments Act of 1983".

Sec. 532. Section 109 of title 11, United States Code, is amended in subsection (e), by inserting after "commodity broker," the following: "or a person engaged in the business of operating a farm produce storage facility (with respect to the debts of that business),".

Sec. 533. Section 501 of title 11, United States Code, is amended by inserting at the end thereof the following new subsection:

"(e) A valid receipt for the storage of grain (as defined in section 557 of this title), issued by a grain storage facility (as defined in section 557 of this title) as evidence of ownership of grain stored in such facility shall be considered sufficient proof of claim of a right to receive grain, or the proceeds of grain, equal in value to the quantity, quality, and type of grain specified in such receipt. If a claimant surrenders such receipt to another person for the purpose of securing a loan, without assigning to such person any ownership interest in such receipt, then an affidavit made by such person verifying the ownership of such receipt shall be considered prima facie proof of such claim.".

Sec. 534. Section 503(b)(1)(B) of title 11, United States Code, is amended by striking out "507(a)(6)" and inserting in lieu thereof "507(a)(7)".

Sec. 535. Section 507(a) of title 11, United States Code, is amended—

(1) by adding after paragraph (4) the following:

"(5) Fifth, allowed unsecured claims of farmers or other persons engaged in farming operations arising from the sale or conversion of farm produce to or by a debtor engaged in the business of operating a farm produce storage facility where such sale or conversion occurred within one hundred and eighty days before the date of the filing of the petition or before the cessation of the debtor's business, whichever was earlier, but only to the extent of $2,000 for each such individual.";

(2) by striking out "(5) Fifth" and inserting in lieu thereof "(6) Sixth"; and

(3) by striking out "(6) Sixth" and inserting in lieu thereof "(7) Seventh".

SEC. 536. Section 546 of title 11, United States Code, is amended—

(a) In the first sentence of subsection (c) thereof, by striking out "The" and inserting in lieu thereof "Except as provided in subsection (e) of this section, the"; and

(b) By adding at the end thereof the following new subsection:

"(e) In the case of a seller who is a producer of grain sold to a grain storage facility, owned or operated by the debtor, in the ordinary course of such seller's business (as such terms are defined in section 557 of this title), the rights and powers of the trustee under sections 544(a), 545, 547, and 549 of this title are subject to any statutory or common law right of such seller to reclaim such goods if the debtor has received such goods while insolvent, but—

"(1) such producer may not reclaim any grain unless such producer demands, in writing, reclamation of such grain before twenty days after receipt thereof by the debtor; and

"(2) the court may deny reclamation to such a producer with a right of reclamation that has made such a demand only if the court secures such claim by a lien.".

SEC. 537. (a) Chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new section:

"§ 557. Expedited determination of interests in, and abandonment or other disposition of grain assets

"(a) This section applies only in a case concerning a debtor that owns or operates a grain storage facility and only with respect to grain and the proceeds of grain. This section does not affect the application of any other section of this title to property other than grain and proceeds of grain.

"(b) For purposes of this section—

"(1) 'grain' means wheat, corn, grain sorghum, barley, oats, rye, soybeans, other dry edible beans, or rice;

"(2) 'grain storage facility' means a site or physical structure regularly used to store grain for producers, or to store grain acquired from producers for resale;

"(3) 'grain storage facility receipt' means any document of the type routinely issued by a debtor operating a grain storage facility for the purpose of establishing a record of ownership of a quantity of grain which is stored with such facility by an owner thereof upon a contract of bailment. Such term shall include a warehouse receipt or a scale ticket, provided identification of the owner of the produce represented thereby and the type, quantity, and quality of the produce represented thereby is clearly noted upon the face of such document; and

"(4) 'producer' means an entity which engages in the growing of grain.

"(c)(1) Notwithstanding sections 362, 363, 365, and 554 of this title, on the court's own motion the court may, and on the request of the trustee or an entity that claims an interest in grain or proceeds of grain the court shall, expedite the procedures for the determination of interests in and the abandonment or other disposition of grain and proceeds of grain, by shortening to the greatest extent feasible such time periods as are otherwise applicable for such procedures and by establishing, by order, a timetable for the completion of each applicable procedure specified in subsection (d) of this section. Such time periods and such timetable may be modified by the court for cause, but in no case may the final disposition of grain or the proceeds of grain under this section occur later than 120 days after the date the petition is filed, except in accordance with subsection (f) of this section.

"(2) The court shall shorten such periods, or establish such timetable, giving due consideration to the following factors—

"(A) any need of an entity claiming an interest in such grain or proceeds of grain for a prompt determination of such interest;

"(B) any need of such entity for a prompt disposition of such grain;

"(C) the market for such grain;

"(D) the conditions under which such grain is stored;

"(E) the costs of continued storage or disposition of such grain;

"(F) the orderly administration of the estate;

"(G) the appropriate opportunity for an entity to assert an interest in such grain; and

"(H) such other considerations as are relevant to the need to expedite such procedures in the case.

"(d) The procedures that may be expedited under subsection (c) of this section include—

"(1) the filing of and response to—

"(A) a claim of ownership;

"(B) a proof of claim;

"(C) a request for abandonment;

"(D) a request for relief from the stay of action against property under section 362(a) of this title;

"(E) a request for determination of secured status;

"(F) a request for determination of whether such grain or proceeds of grain—

"(i) is property of the estate;

"(ii) must be turned over to the estate; or

"(iii) may be used, sold, or leased; and

"(G) any other request for determination of an interest in such grain or proceeds of grain;

"(2) the disposition of such grain or proceeds of grain by way of—

"(A) sale of such grain;

"(B) abandonment;

"(C) distribution; or

"(D) such other method as is equitable in the case;

"(3) subject to sections 701, 702, 703, 1104, and 1302 of this title, the appointment of a trustee or examiner and the retention and compensation of any professional person required to assist with respect to matters relevant to the determination of interests in or disposition of such grain or proceeds of grain; and

"(4) the determination of any dispute concerning a matter specified in paragraph (1), (2), or (3) of this subsection.

"(e) Any claimant's production to the court of a valid grain storage facility receipt held by that claimant as evidence of ownership of a quantity of farm produce sold by the trustee shall be sufficient to establish a right to possession in such claimant of a share of the proceeds equal in value to the quantity, quality, and type of farm produce specified in such document. In any case where a claimant has placed the original of such document on deposit with any party as collateral for a loan, without assigning ownership interests in the farm produce over to such party, an affidavit from such party verifying ownership of such receipt by the claimant shall be sufficient to establish a prima facie claim of right to possession of proceeds in such claimant.

"(f)(1) Any governmental unit that has regulatory jurisdiction over the operation or liquidation of the debtor or the debtor's business shall be given notice of any request made or order entered under subsection (c) of this section.

"(2) Any such governmental unit may raise, and may appear and be heard on, any issue relating to grain or the proceeds of grain in a case in which a request is made, or an order is entered, under subsection (c) of this section.

"(3) The trustee shall consult with such governmental unit before taking any action relating to the disposition of grain in the possession, custody, or control of the debtor or the estate.

"(g) The court may extend the period for final disposition of grain, or the proceeds of grain, under this section beyond one hundred and twenty days where the court finds that—

"(1) the interests of justice so require in light of the complexity of the case; and

"(2) the interests of those claimants entitled to distribution of grain assets or the proceeds of grain assets will not be materially injured by such additional delay.

"(h) In all cases where the quantity of a specific type of grain held by a debtor operating a grain storage facility exceeds ten thousand bushels, such grain shall be sold by the trustee and the assets thereof distributed in accordance with the provisions of this section.

"(i)(1) Unless an order establishing an expedited procedure under subsection (c) of this section, or determining any interest in or approving any disposition of grain or proceeds of grain, is stayed pending appeal—

"(A) the reversal or modification of such order on appeal does not affect the validity of any procedure, determination, or disposition that occurs before such reversal or modification, whether or not any entity knew of the pendency of the appeal; and

"(B) neither the court nor the trustee may delay, due to the appeal of such order, any proceeding in the case in which such order is issued.

"(2) A stay of orders entered pursuant to this section may be entered by the bankruptcy court under the following circumstances:

"(A) the party filing the request for a stay, except the United States, shall post a bond or other security in an amount equal to the value of grain assets or the proceeds of grain assets, distribution of which are affected by the requested stay; and the grain assets, if unliquidated, shall be liquidated by the trustee; and

"(B) the parties ultimately prevailing upon appeal shall be awarded their pro rata share of the proceeds of the liquidation, plus a sum equal to the difference in value between the awarded share and the highest intermediate value (between the date of the entry of the order of stay and the date of final order of distribution) of the produce sold which was owned by, or secured to, such parties, plus interest on the amount of any original award at the prevailing rate allowed by law upon judgments, with interest to accrue from the date of the entry of the order of stay. Interest payments and differential payments provided for herein shall be satisfied out of the bond posted by the party requesting the order of stay where that party is unsuccessful upon appeal of the distribution order, and shall be satisfied out of accrued interest on the proceeds held by the trustee in all other cases.

"(j) In effecting the distribution of grain or grain assets under this title in a case involving a grain storage facility, the court shall not diminish the total portion of grain or grain assets available for distribution to claimants who are determined to be owners of grain stored in the facility pursuant to contracts of bailment for the benefit of secured creditors of the debtor, or for the benefit of producers who have sold grain to the debtor.

"(k) In any action brought pursuant to chapter 11 of this title, the provisions of this section shall govern the abandonment of farm produce held by the trustee or debtor in possession of a farm produce storage facility business for which reorganization is sought, where such farm produce is not property of the debtor's estate, but is held by the debtor upon a contract of bailment only. The abandonment of any quantity of such produce shall take place upon the request of the owner thereof, and shall be done regardless of its effect upon any existing or proposed plan of reorganization.

"(l)(1) The trustee may recover from grain and proceeds of grain the reasonable and necessary costs and expenses allowable under section 503(b) of this title attributable to preserving or disposing of grain or proceeds of grain, but may not recover from such grain or proceeds of grain any other costs or expenses.

"(2) Notwithstanding section 326(a) of this title, the dollar amounts of money specified in such section include the value, as of the date of disposition, of any grain that the trustee distributes in kind.".

(b) The table of sections of chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new item:

"557. Expedited determination of interests in, and abandonment or other disposition of grain assets.".

Sec. 538. Section 1123(a)(1) of title 11, United States Code, is amended by striking out "or 507(a)(6)" and inserting in lieu thereof "507(a)(5) or 507(a)(7)".

Sec. 539. Section 1129(a)(9)(B) of title 11, United States Code, is amended by striking out "or 507(a)(5)" and inserting in lieu thereof "507(a)(5), or 507(a)(6)".

Sec. 540. Section 1129(a)(9)(C) of title 11, United States Code, is amended by striking out "507(a)(6)" and inserting in lieu thereof "507(a)(7)".

Subtitle C—Leasehold Management Amendments

Sec. 551. This subtitle may be cited as the "Leasehold Management Bankruptcy Amendments Act of 1983".

Sec. 552. (a) Section 365 of title 11, United States Code, is amended by amending subsections (a), (b), (c), and (d) to read as follows:

"(a) Except as provided in sections 765 and 766 of this title and in subsections (b), (c), and (d) of this section, the trustee, subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor. The trustee shall timely perform all the obligations of the tenant arising from and after the date of the order for relief, under an unexpired nonresidential lease (including payment of the rent and other charges specified in such lease) until such nonresidential lease is assumed or rejected and notwithstanding the provisions of section 503 of this title. For cause shown, the court may extend the time for performance of any obligation of rent or other charges due upon an unexpired lease pursuant to the provisions of section 108(b) of this title. Acceptance of such performance shall not constitute a waiver or relinquishment of the lessor's rights under the lease or under this title.

"(b)(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee—

"(A) cures, or provides adequate assurance that the trustee will promptly cure, such default;

"(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

"(C) provides adequate assurance of future performance under such contract or lease.

"(2) Paragraph (1) of this subsection does not apply to a default that is a breach of a provision relating to—

"(A) the insolvency or financial condition of the debtor or the debtor's insider (excluding a credit guarantor of the debtor) at any time before the closing of the case;

"(B) the commencement of a case under this title; or

"(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement.

"(3) For the purposes of paragraph (1) of this subsection and paragraph (2)(B) of subsection (f), adequate assurance of future performance of a lease of real property in a shopping center includes adequate assurance—

"(A) of the source of rent and other consideration due under such lease, and in the case of an assignment, with an operating and financial performance, including guarantors, similar to that of the original tenant when the lease was executed;

"(B) that any percentage rent due under such lease will not decline substantially;

"(C) that assumption or assignment of such lease is subject to all the provisions thereof, including (but not limited to) provisions such as a radius, location, use, or exclusivity provision, and will not breach any such provision contained in any other lease, financing agreement, or master agreement relating to such shopping center; and

"(D) that assumption or assignment of such lease will not disrupt any tenant mix or balance in such shopping center.

"(4) Notwithstanding any other provision of this section, if there has been a default in an unexpired lease of the debtor, other than a default of a kind specified in paragraph (2) of this subsection, the trustee may not require a lessor to provide services or supplies incidental to such lease before assumption of such lease unless the lessor is compensated under the terms of such lease for any services and supplies provided under such lease before assumption of such lease.

"(c) The trustee may not assume or assign any executory contract or unexpired residential or nonresidential lease of the debtor, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties, if—

"(1)(A) applicable law excuses a party, other than the debtor, to such contract or lease from accepting performance from or rendering performance to an entity other than the debtor or the debtor in possession or an assignee of such contract or lease, by virtue of the terms of such contract or lease, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties; and

"(B) such party does not consent to such assumption or assignment; or

"(2) such contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or to issue a security of the debtor; or

"(3) such nonresidential lease has been terminated under State law prior to the order for relief.

"(d)(1) In a case under chapter 7 of this title, if the trustee does not assume or reject an executory contract or unexpired residential lease of the debtor within sixty days after the order for relief, or within such additional time as the court, for cause, within such sixty-day period, fixes, then such contract or lease is deemed rejected.

"(2) In a case under chapter 9, 11, or 13 of this title, the trustee may assume or reject an executory contract or unexpired residential lease of the debtor at any time before the confirmation of a plan but the court, on the request of any party to such contract, may order the trustee to determine within a specified period of time whether to assume or reject such contract or lease.

"(3) In a case under any chapter of this title, if the trustee does not assume or reject an unexpired nonresidential lease of the debtor within sixty days after the date of the order for relief, or within such additional time as the court, for cause, within such sixty-day period, fixes, then such lease is deemed rejected, and in the case of a nonresidential lease of real property where the debtor is the lessee, the court shall order the premises to be vacated immediately.".

(b) Section 365 is further amended by adding at the end thereof the following new subsection:

"(l) If an unexpired lease is assigned pursuant to this section, the lessor of the property may require a deposit or other security for the performance of the obligations under the lease substantially the same as would have been required by the landlord upon the initial leasing to a similar tenant.".

Sec. 553. Section 541(b) of title 11, United States Code, is amended to read as follows:

"(b) Property of the estate does not include—

"(1) any power that the debtor may exercise solely for the benefit of an entity other than the debtor; and

"(2) the debtor's interest in property by virtue of a nonresidential lease which has expired by virtue of its own terms without regard to the bankruptcy proceedings. Notwithstanding the provisions of section 362(a) of this title, a lessor shall, without further order of the court, be entitled to enforce such lessor's rights to possession of property under a nonresidential lease which has expired by virtue of its own terms.".

Subtitle D—Amendments to Title 11, Section 523 Relating to the Discharge of Debts Incurred by Persons Driving While Intoxicated

Sec. 561. Section 523(a) of title 11, United States Code, is amended by—

(1) striking out "or" at the end of paragraph (8); and

(2) by adding the following new paragraph after such paragraph:

"(9) to any entity, to the extent that such debt arises from a judgment or consent decree entered in a court of record against the debtor wherein liability was incurred by such debtor as a result of the debtor's operation of a motor vehicle while legally intoxicated under the laws or regulations of any jurisdiction within the United States or its territories wherein such motor vehicle was operated and within which such liability was incurred; or".

Subtitle E—Referees Salary and Expense Fund

Sec. 571. This subtitle may be cited as the "Referees Salary and Expense Fund Act of 1983".

Sec. 572. Section 403(e) of the Act of November 6, 1978 (92 Stat. 2683; Public Law 95-598), is amended to read as follows:

"(e) Notwithstanding subsection (a) of this section—

"(1) a fee may not be charged under section 40c(2)(a) of the Bankruptcy Act in a case pending under such Act after September 30, 1979, to the extent that such fee exceeds $200,000;

"(2) a fee may not be charged under section 40c(2)(b) of the Bankruptcy Act in a case in which the plan is confirmed after September 30, 1978, or in which the final determination as to the amount of such fee is made after September 30, 1979, notwithstanding an earlier confirmation date, to the extent that such fee exceeds $100,000;

"(3) after September 30, 1979, all moneys collected for payment into the referees' salary and expense fund in cases filed under the Bankruptcy Act shall be collected and paid into the general fund of the Treasury; and

"(4) any balance in the referees' salary and expense fund in the Treasury on October 1, 1979, shall be transferred to the general fund of the Treasury and the referees' salary and expense fund account shall be closed.".

Subtitle F—Amendments Regarding Repurchase Agreements

Sec. 581. Section 101 of title 11, United States Code, is amended—

(a) by redesignating paragraphs (35), (36), (37), (38), (39), (40), and (41), as paragraphs (37), (38), (39), (40), (41), (42), and (43), respectively, and

(b) by inserting after paragraph (34) the following new paragraphs:

"(35) 'repo participant' means any entity that, on any day during the period beginning 90 days before the date of the filing of the petition, has or has had one or more outstanding repurchase agreements with the debtor with an aggregate repurchase price of $100,000 or more;

"(36) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement) means any agreement, including related terms, which provides for the transfer of certificates of deposit, eligible bankers' acceptances, or securities against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, or securities with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, or securities as described above, at a date certain within two years after such transfers or on demand, against the transfer of funds;".

Sec. 582. Section 362(b) of title 11, United States Code, is amended—

(a) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively, and

(b) by inserting after paragraph (6) the following new paragraph:

"(7) under subsection (a) of this section, of the setoff by a repo participant, of any mutual debt and claim under or in connection with repurchase agreements that constitutes the setoff of a claim against the debtor for a margin payment, as defined in section 741(5) or 761(15) of this title, or settlement payment, as defined in section 741(8) of this title, arising out of repurchase agreements against cash, securities, or other property held by or due from such repo participant to margin, guarantee, secure or settle repurchase agreements;".

Sec. 583. Section 546 of title 11, United States Code, is amended by inserting after paragraph (e), as added by section 536, the following new paragraph:

"(f) Notwithstanding sections 544, 545, 547, 548(a)(2), and 548(b) of this title, the trustee may not avoid a transfer that is a margin payment, as defined in section 741(5) or 761(15) of this title, or settlement payment, as defined in section 741(8) of this title, made by or to a repo participant, in connection with a repurchase agreement and that is made before the commencement of the case, except under section 548(a)(1) of this title.".

Sec. 584. Section 548(d)(2) of title 11, United States Code, is amended by inserting after paragraph (B) the following new paragraph:

"(C) a repo participant that receives a margin payment, as defined in section 741(5) or 761(15) of this title, or settlement payment, as defined in section 741(8) of this title, in connection with a repurchase agreement, takes for value to the extent of such payment.".

Sec. 585. Section 553(b)(1) of title 11, United States Code, is amended by inserting ", 362(b)(7)," after "362(b)(6)".

Sec. 586. (a) Chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new section:

"§ 559. Contractual right to liquidate a repurchase agreement

"The exercise of a contractual right of a repo participant to cause the liquidation of a repurchase agreement because of a condition of the kind specified in section 365(e)(1) of this title shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by order of a court or administrative agency in any proceeding under this title, unless, where the debtor is a stockbroker or securities clearing agency, such order is authorized under the provisions of the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) or any statute administered by the Securities and Exchange Commission. In the event that a repo participant liquidates one or more repurchase agreements with a debtor and under the terms of one or more such agreements has agreed to deliver assets subject to repurchase agreements to the debtor, any excess of the market prices received on liquidation of such assets (or if any such assets are not disposed of on the date of liquidation of such repurchase agreements, at the prices available at the time of liquidation of such repurchase agreements from a generally recognized source or the most recent closing bid quotation from such a source) over the sum of the stated repurchase prices and all expenses in connection with the liquidation of such repurchase agreements shall be deemed property of the estate, subject to the available rights of setoff. As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw, applicable to each party to the repurchase agreement, of a national securities exchange, a national securities association, or a securities clearing agency, and a right, whether or not evidenced in writing, arising under common law, under law merchant or by reason of normal business practice.".

(b) The analysis of sections for chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new item:

"559. Contractual right to liquidate a repurchase agreement.".

Sec. 587. The amendments made by this subtitle shall become effective upon the date of enactment: *Provided*, That they shall apply only to cases commenced on or after the date of enactment.

Subtitle G—Amendments to Title 11, Section 365 of the United States Code to Provide Adequate Protection for Timeshare Consumers

Sec. 591. Title 11, United States Code, section 101 is hereby amended by—

(1) redesignating paragraph (43), as redesignated by section 581, as paragraph (44); and

(2) adding the following paragraph after paragraph (42), as redesignated in section 581:

"(43) 'timeshare plan' means and shall include that interest purchased in any arrangement, plan, scheme, or similar device, but not including exchange programs, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right to use agreement, or by any other means, whereby a purchaser, in exchange for consideration, receives a right to use accommodations, facilities, or recreational sites, whether improved or unimproved, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than three years. A 'timeshare interest' is that interest purchased in a timeshare plan which grants the purchaser the right to use and occupy accommodations, facilities, or recreational sites, whether improved or unimproved, pursuant to a timeshare plan.".

Sec. 592. Section 365(h)(1) of title 11, United States Code, is amended to read as follows:

"(h)(1) If the trustee rejects an unexpired lease of real property of the debtor under which the debtor is the lessor, or a timeshare interest under a timeshare plan under which the debtor is the timeshare interest seller, the lessee or timeshare interest purchaser under such lease or timeshare plan may treat such lease or timeshare plan as terminated by such rejection, where the disaffirmance by the trustee amounts to such a breach as would entitle the lessee or timeshare interest purchaser to treat such lease as terminated by virtue of its own terms, applicable nonbankruptcy law, or other agreements the lessee or timeshare interest purchaser has made with other parties; or, in the alternative, the lessee or timeshare interest purchaser may remain in possession of the leasehold or timeshare interest under any lease or timeshare plan the term of which has commenced for the balance of such term and for any renewal or extension of such term that is enforceable by such lessee or timeshare interest purchaser under applicable nonbankruptcy law.".

Sec. 593. Section 365(h)(2) of title 11, United States Code, is amended to read as follows:

"(2) If such lessee or timeshare interest purchaser remains in possession as provided in paragraph (1) of this subsection, such lessee or timeshare interest purchaser may offset against the rent reserved under such lease or moneys due for such timeshare interest for the balance of the term after the date of the rejection of such lease or timeshare interest, and any such renewal or extension thereof, any damages occurring after such date caused by the nonperformance of any obligation of the debtor under such lease or timeshare plan after such date, but such lessee or timeshare interest purchaser does not have any rights against the estate on account of any damages arising after such date from such rejection, other than such offset.".

Sec. 594. Section 365(i)(1) of title 11, United States Code, is amended to read as follows:

"(i)(1) If the trustee rejects an executory contract of the debtor for the sale of real property or for the sale of a timeshare interest under a timeshare plan, under which the purchaser is in possession, such purchaser may treat such contract as terminated, or, in the alternative, may remain in possession of such real property or timeshare interest.".

SUBTITLE H—BANKRUPTCY OVERSIGHT

Sec. 601. The Director of the Administrative Office of the United States Courts shall compile statistics in a manner to be prescribed by such Director, which shall show—

(1) the assets and liabilities of debtors in bankruptcy, including the estimated income and expenses of individuals filing for relief under the provisions of title 11, as such information may be available to the court from the petitions filed by such debtors;

(2) a summary of the amount of debt discharged in cases under each chapter of title 11, and the total amount of disbursements to creditors by the bankruptcy courts in such cases; and

(3) the average amount of time elapsed between the filing of the case and payments to creditors in cases under each chapter of title 11.

Such statistics shall be compiled for each judicial district on an annual basis.

SUBTITLE I—TECHNICAL AMENDMENTS TO TITLE 11

Sec. 611. (a) Section 101(2)(D) of title 11 of the United States Code is amended by striking out "or all" after "business".

(b) Section 101(8)(B) of title 11 of the United States Code is amended by striking out the colon at the end thereof and inserting in lieu thereof a semicolon.

(c) Section 101(9)(B) of title 11 of the United States Code is amended by—

(1) inserting "348(d)," after "section"; and

(2) striking out "502(h) or 502(i)" and inserting in lieu thereof "or 502(h)".

(d) Section 101(14) of title 11 of the United States Code is amended by inserting "or" after "trust,".

(e) Section 101(24) of title 11 of the United States Code is amended by striking out "stock broker" and inserting in lieu thereof "stockbroker".

(f) Section 101(26)(B)(ii) of title 11 of the United States Code is amended by striking out "separate" each place it appears and inserting in lieu thereof "nonpartnership".

(g) Section 101(38)(B)(vi) of title 11 of the United States Code, as redesignated by section 581 of this Act, is amended by—

(1) striking out "certificate specified in clause (xii) of subparagraph (A)" and inserting in lieu thereof "certificate of a kind specified in subparagraph (A)(xii)"; and

(2) striking out "the subject of such a registration statement" and inserting in lieu thereof "required to be the subject of a registration statement".

(h) Section 101(44) of title 11 of the United States Code, as so redesignated, is amended by striking out the period and inserting in lieu thereof "; and".

(i) Section 101 of title 11 of the United States Code is amended by adding at the end thereof the following new paragraph to be numbered accordingly:

"( ) 'United States', when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States.".

(j) Section 101 of title 11 of the United States Code is amended by inserting the following new paragraphs to be listed where appropriate alphabetically and the entire list numbered correctly:

"( ) 'State' includes the District of Columbia and Puerto Rico, except for the purpose of defining who may be a debtor under chapter 9 of this title;

"( ) 'forward contract' means a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity, or product or by-product thereof, with a maturity date more than two days after the date the contract is entered into;

"( ) 'forward contract merchant' means a person whose business consists in whole or in part of entering into forward contracts as or with merchants in commodities; and

"( ) 'financial institution' means person that is a commercial or savings bank, industrial savings bank, savings and loan association, or trust company and, when any such person is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741(7) of this title, such customer.".

Sec. 612. Section 102 of title 11 of the United States Code is amended by striking out "continued" and inserting in lieu thereof "contained" in paragraph (8).

Sec. 613. Section 103(c) of title 11 of the United States Code is amended by striking out "stockholder" and inserting in lieu thereof "stockbroker".

Sec. 614. Section 106 of title 11, United States Code, is amended to read as follows:

"§ 106. Waiver of sovereign immunity

"(a) The filing of a proof of claim against the estate by a governmental unit is a waiver by that governmental unit of sovereign immunity with respect to claims arising out of the same transaction or occurrence out of which such governmental unit's filed claim arose.

"(b) Where a governmental unit files a proof of claim and where such claim is allowed, the estate may offset against such allowed claim or interest any claim against such governmental unit that is property of the estate.

"(c) A provision of this title that contains "creditor," "entity," or "governmental unit" applies to governmental units, and a determination by the court of an issue arising under such a provision binds governmental units without regard to sovereign immunity.".

Sec. 615. (a) Subsections (a)(1), (b)(1), and (c)(1) of section 108 of title 11 of the United States Code are each amended by striking out "and" each place it appears and inserting in lieu thereof "or".

(b) Subsections (a), (b), and (c) of section 108 of title 11 of the United States Code are each amended by inserting "nonbankruptcy" after "applicable" and after "entered in a" each place such terms appear.

(c) Section 108(a) of title 11 of the United States Code is amended by inserting ", or any person to whose rights the trustee succeeds," after "debtor".

(d) Section 108 of title 11 of the United States Code is amended—

(1) in subsection (c) by inserting after "bankruptcy court" the following: "or for taking other collection action, including levy,".

(2) by adding after subsection (c) the following:

"(d) If applicable law or an agreement suspends the period of limitation for assessing a tax liability of the debtor as of the commencement of a case under this title, such suspension shall not expire before 90 days following the earlier of—

"(1) termination or expiration of the stay under section 362 of this title, or

"(2) the date, determined under sections 362(b)(9) and 505(c) of this title, after which assessment of such tax liability is permitted.

"(e) If applicable law fixes a period for filing a petition or otherwise commencing an action in the United States Tax Court, or in a similar judicial or administrative forum under State or local law, and if any such act is stayed under section 362 of this title, such period shall not expire before 60 days after termination or expiration of the stay with respect to any such petition or action.".

Sec. 616. (a) Section 109 of title 11 of the United States Code, is amended by striking out "in the United States," the first place it appears.

(b) Section 109(b)(2) is amended by—

(1) striking out "or" before "credit union"; and

(2) inserting ", industrial bank or similar institution which is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h))" after "credit union".

(c) Section 109(a)(4) is amended by striking out "or credit union" and inserting in lieu thereof "credit union, industrial bank, or similar institution which is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h))".

(d) Section 109(c)(5)(D) of title 11 of the United States Code of this Act is amended by striking out "preference" and inserting in lieu thereof "transfer that is avoidable under section 547 of this title".

(e) Section 109(d) of title 11 of the United States Code is amended by striking out "stockholder" and inserting in lieu thereof "stockbroker".

(f) Section 109 is amended by adding at the end thereof the following new subsection:

"(f) The court shall not permit any person to file for relief under this title who, within the previous six months, (1) has sought relief under this title in a proceeding which was dismissed by the court for willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case; or (2) has voluntarily dismissed a proceeding filed under this title following the filing of a request for relief from the automatic stay provided by section 362.".

Sec. 617. Section 303(b) of title 11 of the United States Code is amended by inserting "against a person" after "involuntary case".

Sec. 618. Section 303(j)(2) of title 11 of the United States Code is amended by striking out "debtors" and inserting in lieu thereof "debtor".

Sec. 619. Section 321(b) of title 11 of the United States Code is amended by striking out "a case" and inserting in lieu thereof "the case".

Sec. 620. Section 322(b)(1) of title 11 of the United States Code is amended by inserting "required to be" after "bond".

Sec. 621. (a) Section 326(a) of title 11 of the United States Code is amended by striking out all the language beginning with "three percent" through "$50,000" the second place the latter appears and inserting in lieu thereof "three percent on any amount in excess of $3,000,".

(b) Section 326(d) of title 11 of the United States Code is amended to read as follows:

"(d) The court may deny allowance of compensation for services or reimbursement of expenses of the trustee if the trustee failed to make diligent inquiry into facts that would permit denial of allowance under section 328(c) of this title or, with knowledge of such facts, employed a professional person under section 327 of this title.".

(c) Section 327(c) of title 11 of the United States Code is amended to read as follows:

"(c) In a case under chapter 7 or 11 of this title, a person is not disqualified for employment under this section solely because of such person's employment by or representation of a creditor, unless there is objection by another creditor, in which case the court shall disapprove such employment where there is an actual conflict of interest.".

Sec. 622. Section 328(a) of title 11 of the United States Code is amended by striking out "unanticipatable" and inserting in lieu thereof "not capable of being anticipated".

Sec. 623. (a) Section 329(a) of title 11 of the United States Code is amended by striking out "and" the first place it appears and inserting in lieu thereof "or".

(b) Section 329(b)(1) of title 11 of the United States Code is amended by striking out "trustee" and inserting in lieu thereof "estate".

Sec. 624. Section 330(a) of title 11 of the United States Code is amended—

(1) by striking out "to any parties in interest and to the United States trustee"; and

(2) in paragraph (1), by striking out "time, the nature, the extent, and the value of such services" and inserting in lieu thereof "nature, the extent, the value of such services, the time spent on such services".

Sec. 625. (a) Section 330(b) of title 11 of the United States Code is amended by striking out "$20" and inserting in lieu thereof "$45".

(b) Section 330 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(c) Unless the court orders otherwise, in a case under chapter 13 of this title the compensation paid to the trustee serving in the case shall not be less than $10 per month during the administration of the plan.".

Sec. 626. (a) Section 341(b) of title 11 of the United States Code is amended to read as follows:

"(b)(1) In a case under chapter 13 of this title, the court may order a meeting of creditors.

"(2) The court may order a meeting of any equity security holders.".

Sec. 627. Section 342 of title 11 of the United States Code is amended to read as follows:

"§ 342. Notice

"There shall be given such notice as is appropriate, including notice to any holder of a community claim, of an order for relief in a case under this title.".

Sec. 628. Section 343 of title 11 of the United States Code is amended by striking out "examiner" the last place it appears and inserting in lieu thereof "examine".

Sec. 629. Section 344 of title 11 of the United States Code is amended by inserting before the period "or in accordance with such regulations as may be promulgated by the Attorney General".

Sec. 630. Section 345 of title 11 of the United States Code is amended by adding at the end thereof a new subsection (c) as follows:

"(c) All entities with which such moneys are deposited or invested are authorized to deposit or invest such moneys as may be required under this section.".

Sec. 631. (a) Section 346(c)(2) of title 11 of the United States Code is amended by striking out "operation" and inserting in lieu thereof "corporation".

(b) Section 346(f) of title 11 of the United States Code is amended by striking out "State or local".

(c) Section 346(g)(2) of title 11 of the United States Code is amended by striking out "as adjusted under subsection (j)(5) of this section,".

(d) Section 346(j) of title 11 of the United States Code is amended by striking out paragraphs (3), (4), (5), (6), and (7).

Sec. 632. Section 348(b) of title 11 of the United States Code is amended by striking out "means" and inserting in lieu thereof "refers to".

Sec. 633. Section 349(b) of title 11 of the United States Code is amended—

(1) in paragraph (1)(B), by striking out "522(i)(2)" and inserting in lieu thereof "522(h)(2)"; and

(2) in paragraph (2), by striking out "522(i)(1)" and inserting in lieu thereof "522(h)(2)".

Sec. 634. Section 350(b) of title 11 of the United States Code is amended by striking out "a" and inserting in lieu thereof "A".

Sec. 635. Section 361(1) of title 11 of the United States Code is amended by inserting "a cash payment or" after "make".

Sec. 636. (a) Section 362(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "action or" after "other";

(2) in paragraph (3), by inserting "or to exercise control over property of the estate" after "estate" the second place it appears; and

(3) in paragraph (8) by striking out "court concerning the debtor" and inserting in lieu thereof "court or similar administrative or judicial forum under State or local law, concerning the debtor".

(b) Section 362(b) of title 11 of the United States Code is amended—

(1) in paragraph (3), by inserting "or to the extent that such act is accomplished within the period provided under section 547(e)(2) of this title" after "title";

(2) in paragraph (4) by striking out "or" following "police" and inserting in lieu thereof "and";

(3) in paragraph (6), by—

(A) inserting "(or due from)" after "held by";

(B) striking out "or secure commodity contracts" and inserting in lieu thereof "secure, or settle commodity contracts", and by inserting "financial institution" after "stock broker" each time it appears.

(4) in paragraph (7), by—

(A) striking out "said" and inserting in lieu thereof "the"; and

(B) striking out "or" the last place it appears;

(5) in paragraph (8), by striking out the period and inserting in lieu thereof a semicolon; and

(6) by adding after paragraph (8) the following new paragraphs:

"(9) under subsection (a) of this section, of the filing of any continuation statement or the refiling of any notice of a Federal tax lien required by nonbankruptcy law properly filed under such law before the date of the filing of the petition; or

"(10) under subsection (a) of this section, of the presentment of a negotiable instrument and the giving of notice of and protesting dishonor of such an instrument.".

(c) Section 362(c)(2)(B) of title 11 of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

(d) Section 362(d)(2) of title 11 of the United States Code is amended—

(1) by inserting "under subsection (a) of this section" after "property" the first place it appears; and

(2) in subparagraph (B), by inserting "in a case under chapter 11 of this title or to an effective plan in a case under chapter 13 of this title, as the case may be" after "reorganization".

(e) Section 362(e) of title 11 of the United States Code is amended—

(1) in the first sentence by inserting "the conclusion of" after "pending"; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "The court shall order such stay continued in effect pending the conclusion of the final hearing under subsection (d) of this section if there is a reasonable likelihood that the party opposing relief from such stay will prevail at the conclusion of such final hearing. If the hearing under this subsection is a preliminary hearing, then such final hearing shall be commenced not later than thirty days after the conclusion of such preliminary hearing.".

(f) Section 362(f) of title 11 of the United States Code is amended by—

(1) striking out "The" and inserting in lieu thereof "Upon request of a party in interest, the"; and

(2) inserting "with or" after "court,".

Sec. 637. (a) Section 363(a) of title 11 of the United States Code is amended by—

(1) inserting "whenever acquired" after "equivalents"; and

(2) inserting "and includes the proceeds, products, offspring, rents, or profits of property subject to a security interest as provided in section 552(b) of this title whether existing before or after the commencement of a case under this title" after "interest".

(b) Section 363(b) of title 11 of the United States Code is amended by—

(1) striking out "(b)" and inserting in lieu thereof "(b)(1)"; and

(2) adding at the end thereof the following new paragraph:

"(2) If notification is required under subsection (a) of section 7A of the Clayton Ac (15 U.S.C. 18a) in the case of a transaction under this subsection, then—

"(A) notwithstanding subsection (a) of such section, such notification shall be given by the trustee; and

"(B) notwithstanding subsection (b) of such section, the required waiting period shall end on the tenth day after the date of the receipt of such notification, unless th court, after notice and hearing, orders otherwise.".

(c) Section 363(e) of title 11 of the United States Code is amended by—

(1) inserting ", with or without a hearing," after "court"; and

(2) striking out the last sentence.

(d) Section 363(f)(3) of title 11 of the United States Code is amended by striking out "such interest" the second place it appears and inserting in lieu thereof "all liens on such property".

(e) Section 363(h) of title 11 of the United States Code is amended by striking out "immediately before" and inserting in lieu thereof "at the time of".

(f) Section 363(j) of title 11 of the United States Code is amended by striking out "compenation" and inserting in lieu thereof "compensation".

(g) Section 363(k) of title 11 of the United States Code is amended by striking out "if the holder" and inserting in lieu thereof "the holder of such claim may bid at such sale, and, if such holder".

(h) Section 363(l) of title 11 of the United States Code is amended by—

(1) striking out "The trustee" and inserting in lieu thereof "Subject to the provisions of section 365, the trustee";

(2) striking out "conditions" and inserting in lieu thereof "condition";

(3) striking out "a taking" and inserting in lieu thereof "or the taking"; and

(4) striking out "interests" and inserting in lieu thereof "interest".

(i) Section 363(n) of title 11 of the United States Code is amended by—

(1) striking out "void" and inserting in lieu thereof "avoid";

(2) striking out "voiding" and inserting in lieu thereof "avoiding"; and

(3) amending the last sentence to read as follows: "In addition to any recovery under the preceding sentence, the court may grant judgment for punitive damages in favor of the estate and against any such party that entered into such an agreement in willful disregard of this subsection.".

(j) Section 363 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(o) In any hearing under this section—

"(1) the trustee has the burden of proof on the issue of adequate protection; and

"(2) the entity asserting an interest in property has the burden of proof on the issue of the validity, priority, or extent of such interest.".

Sec. 638. (a) Section 365(b)(2)(A) of title 11 of the United States Code is amended by inserting "or the debtor's insider" after "condition of the debtor".

(b) Section 365(e) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "or lease" each place it appears and inserting in lieu thereof ", lease, or applicable law"; and

(2) in paragraph (2), by striking out "the trustee" and inserting in lieu thereof "an entity other than the debtor or the debtor in possession".

(c) Section 365(f)(3) of title 11 of the United States Code is amended by inserting a comma after "applicable law".

(d) Section 365(h) of the United States Code is amended by adding at the end thereof the following new paragraph:

"(3) In the event that the lessee or timeshare interest holder shall elect to treat the lease under this subsection as terminated, any sublessee, leasehold mortgagee, or similarly situated entity may elect to succeed to the right of the lessee to remain in possession.".

(e) Section 365(i)(2)(A) of title 11 of the United States Code is amended by—

(1) striking out the comma after "may";

(2) inserting "under such contract" after "debtor"; and

(3) adding the following new paragraph:

"(3) in the event that the purchaser shall elect to treat such contract under this subsection as terminated, any holder of a security interest in such purchaser's interest may elect to succeed to the right of such purchaser to remain in possession as set forth in paragraph (1) of this subsection.".

(f) Section 365(j) of title 11 of the United States Code is amended by inserting "to or for the benefit of the debtor" before the period at the end thereof.

Sec. 639. Section 366(a) of title 11 of the United States Code is amended by inserting "of the commencement of a case under this title or" after "basis".

Sec. 640. Section 501(d) of title 11 of the United States Code is amended by inserting "502(e)(2)," before "502(f)".

Sec. 641. (a) Section 502(a) of title 11 of the United States Code is amended by inserting "general" before "partner".

(b) Section 502(b) of title 11 of the United States Code is amended—

(1) by inserting "(e)(2)," after "subsections";

(2) by inserting "in lawful currency of the United States" after "claim" the second place it appears;

(3) in paragraph (1), by striking out ", and unenforceable against" and inserting in lieu thereof "and";

(4) in paragraph (2), by inserting "other than unmatured interest due to an original issue discount of less than one-half of 1 percent of the stated redemption price at maturity multiplied by the number of full years from the date of original issue to maturity" after "interest";

(5) by striking out paragraph (3) and redesignating paragraphs (4), (5), (6), (7), (8), and (9) as paragraphs (3), (4), (5), (6), (7), and (8), respectively;

(6) in paragraph (3), as redesignated by paragraph (5), by inserting "the" after "exceeds";

(7) in paragraph (5), as redesignated by paragraph (5), by—

(A) striking out "the claim" and inserting in lieu thereof "such claim",

(B) striking out the comma after "petition", and

(C) inserting "or 523(a)(6)" after "523(a)(5)";

(8) by amending paragraph (6), as redesignated by paragraph (5), to read as follows:

"(6) if such claim is the claim of a lessor for damages resulting from the termination of a lease of real property, such claim exceeds—

"(A) the greater of—

"(i) the rent reserved for the rental year during which such termination occurs; or

"(ii) 15 percent of the rent reserved for the remaining term of such lease, not to exceed the rent reserved for the three years commencing with the rental year during which such termination occurs; plus

"(B) any unpaid rent due under such lease, without acceleration, on the earlier of—

"(i) the date of the filing of the petition; or

"(ii) the date on which such lessor repossessed, or the lessee surrendered, the leased property;"; and

(9) in paragraph (7), as redesignated by paragraph (5), by—

(A) inserting "the claim of an employee" before "for damages";

(B) striking out "and" in subparagraph (A)(i) and inserting in lieu thereof "or";

(C) striking out "the" the first place it appears in subparagraph (B) and inserting in lieu thereof "any"; and

(D) inserting a comma after "such contract" in subparagraph (B).

(c) Section 502(c) of title 11 of the United States Code is amended—

(1) in paragraph (1) by—

(A) inserting "the" before "fixing"; and

(B) striking out "closing" and inserting in lieu thereof "administration"; and

(2) in paragraph (2), by—

(A) inserting "right to payment arising from a" after "any"; and

(B) striking out "if such breach gives rise to a right to payment".

(d) Section 502(d) of title 11 of the United States Code is amended by—

(1) striking out "section 542, 543, 550, or 553 of";

(2) striking out "section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of"; and

(3) striking out "section 522(i), 542, 543, 550, or 553 of".

(e) Section 502(e)(1) of title 11, United States Code, is amended—

(1) by striking out "and (b)" and inserting in lieu thereof ", (b), and (c)"; and

(2) by striking out the commas before and after "or has secured";

(3) in subparagraph (B), by inserting "or disallowance" after "allowance"; and

(4) in subparagraph (C), by—

(A) striking out "requests subrogation" and inserting in lieu thereof "asserts a right of subrogation to the rights of such creditor"; and

(B) striking out "to the rights of such creditor".

(f) Section 502(h) of title 11 of the United States Code is amended by striking out "522(i)" and inserting in lieu thereof "522".

(g) Section 502(i) of title 11 of the United States Code is amended to read as follows:

"(i) There shall be allowed a claim for any tax liability arising from payment from the estate of a claim for wages, salaries, or commissions, including vacation, severance, or sick pay, whether or not a proof of such claim is filed.".

(h) Section 502(j) of title 11 of the United States Code is amended to read as follows:

"(j) A claim that has been allowed or disallowed may be reconsidered for cause. A reconsidered claim may be allowed or disallowed according to the equities of the case. Reconsideration of a claim under this subsection does not affect the validity of any payment or transfer from the estate made to a holder of an allowed claim on account of such allowed claim that is not reconsidered, but if a reconsidered claim is allowed and is of the same class as such holder's claim, such holder may not receive any additional payment or transfer from the estate on account of such holder's allowed claim until the holder of such reconsidered and allowed claim receives payment on account of such claim proportionate in value to that already received by such other holder. This subsection does not alter or modify the trustee's right to recover from a creditor any excess payment or transfer made to such creditor.".

Sec. 642. Section 503(b) of title 11 of the United States Code is amended—

(1) by striking out the comma after "be allowed";

(2) in paragraph (1)(B)(i), by inserting "or required to be collected or withheld from another with respect to any payment made by or to the estate" after "estate";

(3) in paragraph (1)(C), by—

(A) striking out the comma after "credit"; and

(B) inserting "incurred by the estate" after "paragraph";

(4) in paragraph (2), by inserting "(a)" after "330";

(5) in paragraph (3), by inserting a comma after "paragraph (4) of this subsection";

(6) in paragraph (3)(C), by striking out the comma after "case";

(7) in paragraph (5), by striking out "and" after the semicolon;

(8) in paragraph (6), by striking out the period and inserting in lieu thereof "; and"; and

(9) by adding at the end thereof the following new paragraph:

"(7) the actual, necessary expenses, other than compensation and reimbursement specified in paragraph (2) of this subsection, incurred by a committee appointed under section 1102 of this title.".

Sec. 643. Section 505(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by—

(A) inserting "or liability of an entity for" after "or legality of"; and

(B) striking out ", whether or not paid, and whether or not contested before and adjudicated by a judicial or administrative tribunal of competent jurisdiction" and inserting in lieu thereof "or paid";

(2) in paragraph (2)(A), by—

(A) inserting "or liability of the debtor for" after "or legality of"; and

(B) striking out "or legality" the second place it appears and inserting in lieu thereof ", legality, or liability";

(3) in paragraph (2)(B)(i), by striking out "and" and inserting in lieu thereof "or"; and

(4) by adding at the end thereof a new paragraph (3) to read as follows:

"(3) Notwithstanding subparagraph (B) of this paragraph, the court may offset against a claim for, or request for payment of, a tax liability any counterclaim with respect to such tax liability for the same taxable period, event, act (or failure to act) to which the claim or request for payment relates, and may, where appropriate, order a net credit or refund to be made to the estate. The preceding sentence shall not apply if, at the commencement of the case under this title, the debtor had filed suit for refund relating to such taxable period, event, act (or failure to act), and if the stay on continuation of such suit is terminated under section 362 of this title.".

Sec. 644. (a) Section 506(a)(1) of title 11 of the United States Code, as redesignated by section 506, is amended to read as follows:

"(a)(1) An allowed claim of a creditor either secured by a lien on property in which the estate has an interest or that is subject to setoff under section 553 of this title is a secured claim to the extent of the value of such lien or to the extent of the amount subject to setoff, as the case may be, and, except to the extent that such creditor does not have recourse under any agreement or applicable nonbankruptcy law against the debtor on account of such claim, is an unsecured claim to the extent that the value of such lien or the amount so subject to setoff is less than the amount of such allowed claim.".

(b) Section 506(b) of title 11 of the United States Code is amended by inserting "for" after "provided".

(c) Paragraphs (1) and (2) of section 506(d) of title 11 of the United States Code are amended to read as follows:

"(1) such claim was disallowed only under section 502(b)(5) or 502(e) of this title; or

"(2) such claim is not an allowed secured claim due only to the failure of any entity to file a proof of such claim under section 501 of this title.".

Sec. 645. (a) Section 507(a) of title 11 of the United States Code is amended—

(1) in paragraph (3), by inserting a comma after "severance";

(2) in paragraph (4), by striking out "employee benefit plans" and inserting in lieu thereof "an employee benefit plan";

(3) in paragraph (4)(B)(i), by inserting "each" after "covered by";

(4) in paragraph (7), as redesignated in section 535, by inserting "only" after "units,";

(5) in paragraph (7)(A), as redesignated herein, by amending clauses (ii) and (iii) to read as follows:

"(ii) assessed within 240 days before the date of the filing of the petition; or

"(iii) not assessed before commencement of the case, unless at such time the liability remained assessable under the applicable statute of limitations, solely because of an act or failure to act described in section 523(a)(1)(B) or 523(a)(1)(C) of this title.".

(b) Section 507(b) of title 11 of the United States Code is amended to read as follows:

"(b) Notwithstanding section 726(b) of this title, if the trustee provides, under section 362, 363, or 364 of this title, adequate protection of the interest of an entity other than the estate that has an interest in property of the estate, or if the court finds that there is adequate protection of such interest, and if, notwithstanding such protection, the holder of an interest suffers a decrease in the value of such interest such holder shall have a claim allowable under subsection (a)(1) of this section, and such holder's allowable claim shall have priority over every other claim allowable under such subsection except similar claims under this subsection.".

(c) Section 507(c) of title 11 of the United States Code is amended by striking out "shall be treated the same" and inserting in lieu thereof "has the same priority".

(d) Section 507(d) of title 11 of the United States Code is amended to read as follows:

"(d)(1) If a claim of a kind specified in paragraph (3), (4), (5), (6), or (7) of subsection (a) of this section is held by an entity other than the original holder of such claim, then such claim is entitled to priority under each such subsection, as the case may be, but only to the extent of the value actually transferred to or for the benefit of such original holder on account of the transfer of such claim by such original holder.

"(2) An entity which is a creditor because—

"(A) a consumer used a credit card as defined in section 103(k) of the Trust in Lending Act (15 U.S.C. 1602(k)), for a transaction within subsection (a)(5) involving property or services which were not delivered prior to the petition;

"(B) the debtor was advanced funds prior to the petition based on its presentation of charge slips, vouchers, or similar documents arising from said transaction; and

"(C) the person advancing the funds is unable to collect the funds from the consumer because such property or services were not delivered or provided, shall be subrogated to the consumer's claim under subsection (a)(5).".

Sec. 646. (a) Section 509(a) of title 11 of the United States Code is amended by—

(1) striking out "subsections (b) and" and inserting in lieu thereof "subsection (b) or"; and

(2) inserting "against the debtor" after "a creditor".

(b) Section 509(b)(1) of title 11 of the United States Code is amended by striking out "of a" and inserting in lieu thereof "of such".

(c) Section 509(c) of title 11 of the United States Code is amended by striking out "section 509 of this title" and inserting in lieu thereof "this section".

Sec. 647. Section 510(b) of title 11 of the United States Code is amended to read as follows:

"(b) For the purpose of distribution under this title, a claim arising from rescission of a purchase or sale of a security of the debtor or of an affiliate of the debtor or for damages arising from the purchase or sale of such a security shall be subordinated to all claims or interests that are senior to the claim or interest represented by such security.".

Sec. 648. (a) Section 521(a)(1) of title 11 of the United States Code, as redesignated herein, is amended to read as follows:

"(a)(1) file a list of creditors and, unless the court orders otherwise, a schedule of assets, liabilities, and equity interests, and a statement of the debtor's financial affairs;".

(b) Section 521(a)(5) of title 11 of the United States Code, as redesignated in section 507, is amended by inserting ", whether or not immunity is granted under section 344 of this title" after "estate" the second place it appears.

Sec. 649. (a) Section 522(a)(2) of title 11 of the United States Code is amended by inserting ", or with respect to property that becomes property of the estate after such date, as of the date such property becomes property of the estate" after "petition".

(b) Section 522(c) of title 11 of the United States Code is amended to read as follows:

"(c) Unless the case is dismissed, property exempted under this section is not liable during or after the case for any debt of the debtor that arose, or that is determined under section 502 of this title as if such debt had arisen, before the commencement of the case, except—

"(1) a debt of a kind specified in section 523(a)(1), 523(a)(5), or 523(a)(6) of this title; or

"(2) a debt secured by a lien that is—

"(A)(i) not avoided under subsection (f) or (g) of this section or under section 544, 545, 547, 548, 549, or 724(a) of this title; and

"(ii) not void under section 506(d) of this title; or

"(B) a tax lien, notice of which is properly filed, whether or not such lien is avoided under section 545(2) of this title.".

(c) Section 522(e) of title 11 of the United States Code is amended by—

(1) striking out "exemptions" and inserting in lieu thereof "an exemption";

(2) striking out "with respect to such claim against property that" and inserting in lieu thereof "to the extent of such claim with respect to property";

(3) striking out "or (h) of this section to avoid a transfer, under subsection (g)" and by inserting in lieu thereof ", (g), (h),"; and

(4) striking out "to exempt property, or under subsection (i) of this section to recover property or to preserve a transfer,".

(d) Section 522(g) of title 11 of the United States Code is amended to read as follows:

"(g) Notwithstanding any waiver of an exemption, the debtor may avoid a transfer or recover a setoff of property of the debtor and exempt such property under subsection (i) of this section, whether or not the trustee attempts to recover such property or avoid such transfer, if—

"(1)(A) such transfer is avoidable by the trustee under section 544, 545, 547, 548, 549, or 724(a) of this title, or recoverable by the trustee under section 553 of this title;

"(B) such transfer was not a voluntary transfer of such property by the debtor; and

"(C) the debtor did not conceal such property; or

"(2) such transfer is in satisfaction of a lien of a kind specified in subsection (f)(2) of this section.".

(e) Section 522(h) of title 11 of the United States Code is amended to read as follows:

"(h)(1) The debtor's power to avoid a transfer or recover a setoff under subsection (f) or (g) of this section is subject to the limitations of section 550 of this title to which the trustee's power to avoid such a transfer or recover such a setoff under this title is subject.

"(2) Notwithstanding section 551 of this title, a transfer avoided or property recovered by the trustee or by the debtor may be preserved for the benefit of the debtor, if—

"(A)(i) such property otherwise would be exempt under subsection (l) of this section;

"(ii) such transfer was not a voluntary transfer of such property by the debtor; and

"(iii) the debtor did not conceal such property; or

"(B) such transfer is of a kind specified in subsection (f) of this section.".

(f) Section 522(i) of title 11 of the United States Code is amended to read as follows:

"(i) The debtor may exempt under subsection (b) of this section property disencumbered or recovered under subsection (f), (g), or (h) of this section to the extent the debtor could have exempted such property under subsection (b) of this section had such property not been encumbered, transferred, or set off.".

(g) Section 522(j) of title 11 of the United States Code is amended to read as follows:

"(j) The debtor may exempt a particular kind of property under subsection (i) of this section only to the extent that such exemption, plus the debtor's already claimed exemption of the same kind of property under subsection (b) of this section, does not exceed the limitation specified for such kind of property in subsection (b) of this section.".

(h) Section 522(k) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "(g)" and inserting in lieu thereof "(i)"; and

(2) in paragraph (2), by—

(A) striking out "(h)" and inserting in lieu thereof "(g)"; and

(B) striking out "or of recovery of property under subsection (i)(1) of this section,".

(i) Section 522(l) of title 11 of the United States Code is amended by—

(1) striking out ", or may claim property as exempt from property of the estate"; and

(2) inserting after the second sentence thereof the following new sentence: "In the event of the debtor's death, a dependent of the debtor may claim property as exempt from property of the estate.".

(j) Section 522 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(n) For purposes of this section the State or local law applicable under subsection (b) of this section is the State or local law in effect upon the date of the filing of the petition.".

Sec. 650. (a) Section 523(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by—

(A) striking out "obtaining" each place it appears; and

(B) striking out "refinance of credit," and inserting in lieu thereof "refinancing of credit, to the extent obtained"; and

(2) in paragraph (3), by striking out "(6)" each place it appears and inserting in lieu thereof "(7)" and by striking out "521(1)" and inserting in lieu thereof "521(a)(1)"; and

(3) by striking out "of higher education" in paragraph (8).

(b) Section 523(c) of title 11 of the United States Code is amended by inserting "of a kind" after "debt" the first time it appears.

Sec. 651. Section 524(a) of title 11 of the United States Code is amended by striking out "any act" each place it appears and inserting in lieu thereof "an act".

Sec. 652. Section 525 of title 11 of the United States Code is amended by—

(1) inserting "the" before "Perishable";

(2) inserting "(a)" before "Except"; and

(3) adding a new subsection (b) as follows:

"(b) No private employer may terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under this title or a bankrupt or a debtor under the Bankruptcy Act, or any person with whom such bankrupt or debtor has been associated, solely because such bankrupt or debtor is or has been a debtor under this title or under the Bankruptcy Act, or has been insolvent before the commencement of a case under this title or during the case but before the grant or denial of a discharge; or, who has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.".

Sec. 653. (a) Section 541(a) of title 11 of the United States Code is amended—

(1) by striking out "under" the second time it appears;

(2) by inserting "and by whomever held" after "located";

(3) in paragraph (3), by inserting "329(b), 363(n)," after "section";

(4) in paragraph (5), by striking out "An" and inserting in lieu thereof "Any"; and

(5) in paragraph (6), by striking out "and" and inserting in lieu thereof "or".

(b) Section 541(c) of title 11 of the United States Code is amended—

(1) by inserting "in an agreement, transfer instrument, or applicable law" after "provision"; and

(2) in paragraph (1)(B), by—

(A) striking out "the taking" and inserting in lieu thereof "taking"; and

(B) inserting "before such commencement" after "custodian".

(c) Section 541(d) of title 11 of the United States Code is amended by inserting "(1)" after "(a)".

(d) Section 541(e) of title 11 of the United States Code is repealed.

Sec. 654. Section 542(e) of title 11 of the United States Code is amended by inserting "to turn over or" before "disclose".

Sec. 655. (a) Section 543(a) of title 11 of the United States Code is amended by inserting ", product, offspring, rents, or profits" after "proceeds".

(b) Section 543(b) of title 11 of the United States Code is amended—

(1) in paragraph (1), by—

(A) inserting "held by or" after "debtor"; and

(B) inserting ", product, offspring, rents, or profits" after "proceeds"; and

(2) in paragraph (2), by inserting ", product, offspring, rents, or profits" after "proceeds".

(c) Section 543(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "or proceeds, product, offspring, rents, or profits of such property" after "property"; and

(2) in paragraph (3), by inserting "that has been" before "approved".

(d) Section 543(d) of title 11 of the United States Code is amended to read as follows:

"(d) After notice and hearing, the bankruptcy court—

"(1) may excuse compliance with subsection (a), (b), or (c) of this section, if the interests of creditors, and, if the debtor is not insolvent of equity security holders, would be better served by permitting a custodian to continue in possession, custody, or control of such property, and

"(2) shall excuse compliance with subsections (a) and (b)(1) of this section if the custodian is an assignee for the benefit of the debtor's creditors that was appointed or took possession more than 120 days before the date of the filing of the petition, unless compliance with such subsections is necessary to prevent fraud or injustice.".

Sec. 656. Section 544(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "such" after "obtained";

(2) in paragraph (2), by striking out "; and" and inserting in lieu thereof "; or"; and

(3) in paragraph (3), by—

(A) inserting ", other than fixtures," after "property"; and

(B) inserting "and has perfected such transfer" after "purchaser" the second place it appears.

Sec. 657. Section 545 of title 11 of the United States Code is amended—

(1) in paragraph (1)(A), by striking out "is" the first time it appears;

(2) in paragraph (1)(C), by striking out "apponted" and inserting in lieu thereof "appointed or authorized to take"; and

(3) in paragraph (2), by striking out "on the date of the filing of the petition" each place it appears and inserting in lieu thereof "at the time of the commencement of the case".

Sec. 658. (a) Section 546(a) of title 11 of the United States Code is amended in paragraph (1) by striking out "and" and inserting in lieu thereof "or".

(b) Section 546(b) of title 11 of the United States Code is amended by striking out "the trustee under section 544, 545, or" and inserting in lieu thereof "a trustee under sections 544, 545, and".

(c) Section 546(c) of title 11 of the United States Code is amended—

(1) by striking out "the trustee" and inserting in lieu thereof "a trustee";

(2) by striking out "right" the first place it appears;

(3) by inserting "of goods" after "seller" the first place it appears;

(4) by striking out "of goods" after "business," and inserting in lieu thereof "that has sold goods"; and

(5) in paragraph (2), by—

(A) inserting "the" after "if"; and

(B) striking out "an administrative expense" and inserting in lieu thereof "a claim of a kind specified in section 503(b) of this title".

(d) Section 546(d) of title 11 is amended by inserting "financial institution" after "stockbroker".

Sec. 659. (a) Section 547(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by inserting "including proceeds of such property," after "law,"; and

(2) in paragraph (4), by—

(A) striking out ", without penalty"; and

(B) inserting "without penalty" after "payable".

(b) Section 547(b) of title 11 of the United States Code is amended by striking out "of property of the debtor" and inserting in lieu thereof "of an interest of the debtor in property".

(c) Section 547(c) of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by inserting "by the debtor" after "incurred";

(2) in paragraph (3), by striking out "of" the first place it appears and inserting in lieu thereof "that creates";

(3) in paragraph (3)(B), by—

(A) inserting "on or" after "perfected"; and

(B) striking out "such security interest attaches" and inserting in lieu thereof "the debtor receives possession of such property";

(4) in paragraph (5), by—

(A) striking out "of" the first place it appears and inserting in lieu thereof "that creates"; and

(B) striking out "all security interest" and inserting in lieu thereof "all security interests";

(5) in paragraph (5)(A)(ii), by striking out "and" and inserting in lieu thereof "or";

(6) in paragraph (5)(B) by striking out "or";

(7) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(7) to or for the benefit of a creditor to the extent such transfer was made to such creditor by a credit guarantor in payment of a debt evidenced by a note or bond issued by the debtor prior to the commencement of the case and in accordance with the terms of the debtor's credit guaranty agreement with the credit guarantor, and payment of which was supported from time of its issuance until such transfer by an irrevocable letter of credit, irrevocable commitment to lend funds, irrevocable note purchase agreement, or a bond of indemnity issued by a credit guarantor in the ordinary course of its business.".

(d) Section 547(d) of title 11 of the United States Code is amended by—

(1) striking out "A" and inserting in lieu thereof "The";

(2) inserting "an interest in" after "transfer of";

(3) inserting "to or for the benefit of a surety" after "transferred"; and

(4) inserting "such" after "reimbursement of".

(e) Section 547(e) of title 11 of the United States Code is amended—

(1) by amending paragraph (1) to read as follows:

"(1) For the purposes of this section, a transfer of property is perfected when either a bona fide purchaser from the debtor of real property, other than fixtures, or a creditor on a simple contract, against whom applicable law permits such transfer to be perfected, cannot acquire an interest in such real property or a judicial lien on personal property that is superior to the interest of the transferee."; and

(2) in paragraph (2)(C)(i), by striking out "and" and inserting in lieu thereof "or".

(f) Section 547 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(g) For the purposes of this section, the trustee has the burden of proving the avoidability of a transfer under subsection (b) of this section, and the creditor or party in interest against whom recovery or avoidance is sought has the burden of proving the nonavoidability of a transfer under subsection (c) of this section.".

Sec. 660. (a) Section 548(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "occurred" and inserting in lieu thereof "was made"; and

(2) in paragraph (2)(B)(ii), by inserting "or a transaction" after "engaged in business".

(b) Section 548(b) of title 11 of the United States Code is amended by striking out "the debtor" each place it appears and inserting in lieu thereof "such debtor".

(c) Section 548(c) of title 11 of the United States Code is amended by—

(1) inserting "or may retain" after "lien on"; and

(2) striking out ", may retain any lien transferred,".

(d)(1) Section 548(d)(1) of title 11 of the United States Code is amended by—

(A) striking out "becomes so far" and inserting in lieu thereof "is so";

(B) striking out "such transfer could have been" and inserting in lieu thereof "applicable law permits such transfer to be"; and

(C) striking out "occurs" and inserting in lieu thereof "is made".

(2) Section 548(d)(2)(B) of title 11 is amended by inserting "financial institution" after "stockbroker".

Sec. 661. (a) Section 549(a) of title 11 of the United States Code is amended—

(1) by striking out "(b) and (c)" and inserting in lieu thereof "(b) or (c)"; and

(2) in paragraph (2)(A), by inserting "only" after "authorized".

(b) Section 549(b) of title 11 of the United States Code is amended by—

(1) inserting "the trustee may not avoid under subsection (a) of this section," after "involuntary case,";

(2) striking out "that occurs" and inserting in lieu thereof "made";

(3) striking out "is valid against the trustee to the extent of" and inserting in lieu thereof "to the extent"; and

(4) inserting "is" before "given".

(c) Section 549(c) of title 11 of the United States Code is amended to read as follows:

"(c) The trustee may not avoid under subsection (a) of this section a transfer of real property to a good faith purchaser without knowledge of the commencement of the case and for present fair equivalent value unless a copy or notice of the petition was filed, where a conveyance of such real property may be recorded to perfect such transfer, before such transfer is so perfected that a bona fide purchaser of such property, against whom applicable law permits such transfer to be perfected, could not acquire an interest that is superior to the interest of such good faith purchaser. A good faith purchaser without knowledge of the commencement of the case and for less than present fair equivalent value has a lien on the property transferred to the extent of any present value given, unless a copy or notice of the petition was so filed before such transfer was so perfected.".

(d) Section 549(d)(1) of title 11 of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

Sec. 662. (a) Section 550(a) of title 11 of the United States Code is amended—

(1) by inserting "363(n)," before "544";

(2) by inserting "553(b)," after "549,"; and

(3) in paragraph (2), by striking out "immediate or mediate transferee of" and inserting in lieu thereof "subsequent transferee of".

(b) Section 550(b)(2) of title 11 of the United States Code is amended by striking out "immediate or mediate" and inserting in lieu thereof "subsequent".

(c) Section 550(d) of title 11 of the United States Code is amended—

(1) in paragraph (1)(A), by inserting "or accruing to" after "by";

(2) in paragraph (1)(B), by striking out "value" and inserting in lieu thereof "the value of such property";

(3) in paragraph (2), by striking out subparagraphs (D) and (E) and inserting in lieu thereof the following:

"(D) payment of any debt secured by a lien on such property that is superior or equal to the rights of the estate; and"; and

(4) in paragraph (2), by redesignating subparagraph (F) as subparagraph (E).

(d) Section 550(e)(1) of title 11 of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

Sec. 663. Section 551 of title 11 of the United States Code is amended by striking out "but only with respect to property of the estate".

Sec. 664. Section 552(b) of title 11 of the United States Code is amended by—

(1) inserting "522," after "506(c),";

(2) striking out "a secured party enter" and inserting in lieu thereof "an entity entered"; and

(3) striking out "except to the extent" and inserting in lieu thereof "except to any extent".

Sec. 665. Section 553(b)(1) of title 11 of the United States Code is amended by striking out "or 365(h)(1)" and inserting in lieu thereof ", 365(h)(2), or 365(i)(2)".

Sec. 666. (a) Subsections (a) and (b) of section 554 of title 11 of the United States Code are each amended by inserting "and benefit" after "value".

(b) Section 554(c) of title 11 of the United States Code is amended to read as follows:

"(c) Unless the court orders otherwise, any property scheduled under section 521(a)(1) of this title not otherwise administered at the time of the closing of a case is abandoned to the debtor and administered for purposes of section 350 of this title.".

(c) Section 554(d) of title 11 of the United States Code is amended by striking out "section (a) or (b) of".

Sec. 667. Section 555 of title 11 is amended by inserting "financial institution" after "stockbroker".

Sec. 668. (a) Chapter 5 of title 11 of the United States Code is amended by adding at the end thereof the following new section:

"§ 558. Defenses of the estate

"The estate shall have the benefit of any defense available to the debtor as against any entity other than the estate, including statutes of limitation, statutes of frauds, usury, and other personal defenses. A waiver of any such defense by the debtor after the commencement of the case does not bind the estate.".

(b) The table of sections for chapter 5 of title 11 of the United States Code is amended by adding at the end thereof the following new item:

"558. Defenses of the estate."

Sec. 669. The table of sections for chapter 7 of title 11 of the United States Code is amended by striking out "Succesor" in the item relating to section 703 and inserting in lieu thereof "Successor".

Sec. 670. (a) Section 702(b) of title 11 of the United States Code is amended by inserting "held" after "meeting of creditors".

(b) Section 702(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "of a kind" after "claims"; and

(2) in paragraph (2), by inserting "a" after "for".

(c) Section 702(d) of title 11 of the United States Code is amended by striking out "subsection (c) of".

Sec. 671. Section 703(b) of title 11 of the United States Code is amended by striking out "specified in section 701(a) of this title. Sections 701(b) and 701(c) of this title apply to such interim trustee" and inserting in lieu thereof "and subject to the provisions of section 701 of this title".

Sec. 672. Section 704(a) of title 11 of the United States Code as amended by section 504 is amended—

(1) in paragraph (1), by striking out "up";

(2) in paragraph (7), by striking out "with the court and"; and

(3) by amending paragraph (8) to read as follows:

"(8) file interim reports, as circumstances justify, of the condition of the estate and make and file a final report and account of the administration of the estate with the court.".

Sec. 673. Paragraphs (1) and (2) of section 707 of title 11 of the United States Code are each amended by striking out "and" and inserting in lieu thereof "or".

Sec. 674. (a) Section 723(a) of title 11 of the United States Code is amended by striking out "title" and inserting in lieu thereof "chapter".

(b) Section 723(c) of title 11 of the United States Code is amended by—

(1) striking out "such case" each place it appears and inserting in lieu thereof "such partner's case";

(2) striking out "be property" and inserting in lieu thereof "by property";

(3) striking out "726(a)" and inserting in lieu thereof "726"; and

(4) striking out "the kind" and inserting in lieu thereof "a kind".

Sec. 675. (a) Section 724(b) of title 11 of the United States Code is amended—

(1) by striking out "and" the first place it appears and by striking out "taxes" and inserting in lieu thereof "a tax";

(2) in paragraph (1), by striking out "such tax lien" and inserting in lieu thereof "the lien securing such tax claim";

(3) in paragraph (2), by striking out "claims" and inserting in lieu thereof "any holder of a claim of a kind";

(4) in paragraph (3), by—

(A) inserting "tax" after "allowed"; and

(B) striking out "that is";

(5) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) fifth, to any holder of a claim of a kind specified in sections 507(a)(1), 507(a)(2), 507(a)(3), 507(a)(4), and 507(a)(5) of this title, to the extent that such claim is not paid under paragraph (2) of this subsection;";

(6) in paragraph (6), as redesignated by paragraph (5), by—

(A) striking out "fifth" and inserting in lieu thereof "sixth";

(B) inserting "tax" after "allowed"; and

(C) striking out "tax" after "such" the third place it appears; and

(7) in paragraph (7), as redesignated by paragraph (5), by striking out "sixth" and inserting in lieu thereof "seventh".

(b) Section 724(c) of title 11 of the United States Code is amended by—

(1) striking out "creditor" and inserting in lieu thereof "holder of a claim"; and

(2) striking out "creditors" each place it appears and inserting in lieu thereof "holders".

(c) Section 724(d) of title 11 of the United States Code is amended by—

(1) striking out "whose priority" and inserting in lieu thereof "the priority of which"; and

(2) inserting "if such lien were" after "the same as".

Sec. 676. Section 725 of title 11 of the United States Code is amended by inserting "of property of the estate" after "distribution".

Sec. 677. (a) Section 726(a) of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by—

(A) inserting ", 501(b), or 501(c)" after "501(a)"; and

(B) adding "or" after the semicolon;

(2) by striking out paragraph (2)(B) and redesignating paragraph (2)(C) as paragraph (2)(B);

(3) in paragraph (2)(B), as redesignated by paragraph (2), by inserting ", 501(b), or 501(c)" after "501(a)";

(4) in paragraph (3), by—

(A) inserting ", 501(b), or 501(c)" after "501(a)"; and

(B) striking out "(C)" and inserting in lieu thereof "(B)"; and

(5) in paragraph (5), by striking out "legal rate" and inserting in lieu thereof "contract rate where a contract exists, and if not, the legal rate".

(b) Section 726(b) of title 11 of the United States Code is amended by—

(1) striking out "a particular paragraph" and inserting in lieu thereof "each such particular paragraph"; and

(2) striking out "administrative expenses" each place it appears and inserting in lieu thereof "a claim allowed under section 503(b) of this title"; and

(3) striking out "have" and inserting in lieu thereof "has".

(c) Section 726(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "Administrative expenses" and inserting in lieu thereof "Claims allowed under section 503 of this title"; and

(2) in paragraph (2), by striking out "Claims other than for administrative expenses" and inserting in lieu thereof "Allowed claims, other than claims allowed under section 503 of this title,".

Sec. 678. (a) Section 727(a) of title 11 of the United States Code is amended—

(1) in paragraph (6)(C), by striking out "property" and inserting in lieu thereof "properly";

(2) in paragraph (7), by inserting ", under this title or under the Bankruptcy Act," after "another case"; and

(3) in paragraph (8), by inserting a comma after "371".

(b) Section 727(c)(1) of title 11 of the United States Code is amended by inserting "the granting of a" after "to".

(c) Section 727(e)(2)(A) of title 11 of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

Sec. 679. (a) Section 728(c) of title 11 of the United States Code is amended by striking out the comma after "taxable income".

(b) Section 728(d)(2) of title 11 of the United States Code is amended by inserting "otherwise" after "is", and by striking out "otherwise" after "partner".

Sec. 680. Section 741 of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by—

(A) striking out "the debtor" the first time it appears and inserting in lieu thereof "a person";

(B) striking out "holds" and inserting in lieu thereof "has";

(C) striking out "the debtor" the second and third time it appears and inserting in lieu thereof "such person"; and

(D) striking out "business as a stockbroker" and inserting in lieu thereof "such person's business as a stockbroker,";

(2) in paragraph (2)(B), by—

(A) striking out "holds" and inserting in lieu thereof "has";

(B) striking out "the debtor" the first place it appears and inserting in lieu thereof "a person"; and

(C) by striking out "the debtor" and inserting in lieu thereof "such person" in clause (ii);

(3) in paragraph (4)(A)(i), by striking out "and that is" and inserting in lieu thereof "from and that is the lawful";

(4) in paragraph (6)(A)(i), by—

(A) inserting a comma after "petition"; and

(B) inserting "any" after "except"; and

(5) in paragraph (7), by amending such paragraph to read as follows:

"(7) 'securities contract' means contract for the purchase, sale, or loan of a security, including an option for the purchase or sale of a security, certificate of deposit, or group or index of securitites (including any interest therein or based on the value thereof), or any option entered into on a national securities exchange relating to foreign currencies, or the guarantee of any settlement of cash or securities by or to a securities clearing agency;"; and

(6) in paragraph (8) by inserting "a final settlement payment," after "settlement payment on account,".

Sec. 681. Section 745(a) of title 11 of the United States Code is amended by inserting "the debtor for" after "by".

Sec. 682. (a) Section 752(a) of title 11 of the United States Code is amended by—

(1) striking out "customers allowed" and in lieu thereof "customers' allowed";

(2) inserting "of the kind" after "except claims"; and

(3) inserting "such" before "customer property".

(b) Section 752(b)(2) of title 11 of the United States Code is amended by striking out "726(a)" and inserting in lieu thereof "726".

Sec. 683. Section 761 of title 11 of the United States Code is amended—

(1) in paragraph (10), by—

(A) striking out "and that is" in subparagraph (A)(viii) and inserting in lieu thereof "from and that is the lawful"; and

(B) striking out "based on such property" in subparagraph (B) and inserting in lieu thereof "for which such property would be liable"; and

(2) in paragraph (17), by—

(A) striking out "the aggregate of all of a customer's accounts" and inserting in lieu thereof "all accounts of a customer";

(B) striking out subparagraph (B); and

(C) redesignating subparagraph (C) as subparagraph (B).

Sec. 684. Section 763(a) of title 11 of the United States Code is amended by—

(1) inserting "the debtor for" after "by"; and

(2) striking out "deemed to be" and inserting in lieu thereof "treated as".

Sec. 685. Section 764(a) of title 11 of the United States Code is amended by inserting "by the debtor" after "any transfer".

Sec. 686. Section 765(a) of title 11 of the United States Code is amended by striking out "notice under", and inserting in lieu thereof "notice required by".

Sec. 687. (a) Section 766(a) of title 11 of the United States Code is amended by striking out "of" the first place it appears and inserting in lieu thereof "held by the debtor for".

(b) Section 766(b) of title 11 of the United States Code is amended by amending the first sentence thereof to read as follows: "If an open commodity contract is being actively traded as of the date of the filing of the petition, the trustee shall, as required by sections 765 and 766(c) of this title, transfer such commodity contract, if feasible, or close out such commodity contract on or before the last day of trading in such contract or on the first day on which notice of intent to deliver on such commodity contract may be tendered, whichever first occurs.".

(c) Section 766(j)(2) of title 11 of the United States Code is amended by striking out "726(a)" and inserting in lieu thereof "726".

Sec. 688. Section 901(a) of title 11 of the United States Code is amended by—

(1) inserting "341, 342," after "301,";

(2) striking out "547" and inserting in lieu thereof "547(a), 547(b), 547(c), 547(d), 547(e)(1), 547(e)(2), 547(f), 547(g)"; and

(3) inserting a comma after "1111(b)".

Sec. 689. Section 902(2) of title 11 of the United States Code is amended by striking out "title, legal or equitable, to real property against which has been levied a special assessment or special tax" and by inserting in lieu thereof "legal or equitable title to real property against which a special assessment or special tax has been levied".

Sec. 690. Section 903(2) of title 11 of the United States Code is amended by striking out "to" the first place it appears.

Sec. 691. Chapter 9 of title 11 of the United States Code is amended by striking out "SUBCHAPER II" and inserting in lieu thereof "SUBCHAPTER II".

Sec. 692. (a) Section 921(c) of title 11 of the United States Code is amended by—

(1) striking out "an" and inserting in lieu thereof "any"; and

(2) striking out the comma after "petition" the second place it appears.

(b) Section 921 of title 11 of the United States Code is amended by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(c) Section 921(a) is amended by striking out "109(c)" and inserting in lieu thereof "109(d)".

(d) Section 921(d) of title 11 of the United States Code, as so redesignated, is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (c)".

Sec. 693. (a) Section 922(a)(1) of title 11 of the United States Code is amended by—

(1) inserting "a" before "judicial"; and

(2) inserting "action or" before "proceeding".

(b) Section 922(b) of title 11 of the United States Code is amended by striking out "and (g)" and inserting in lieu thereof "(g), and (h)".

Sec. 694. (a) Section 927(a)(4) of title 11 of the United States Code is amended by—

(1) striking out "if" and inserting in lieu thereof "failure of"; and

(2) striking out "is not" and inserting in lieu thereof "to be".

(b) Section 927(b) of title 11 of the United States Code is amended by inserting "of a plan under this chapter" after "confirmation".

Sec. 695. Section 943(b) of title 11 of the United States Code is amended—

(1) in paragraph (4), by striking out "to be taken"; and

(2) by amending paragraph (5) to read as follows:

"(5) except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that on the effective date of the plan each holder of a claim of a kind specified in section 507(a)(1) of this title will receive on account of such claim cash equal to the allowed amount of such claim; and".

Sec. 696. Section 945(a) of title 11 of the United States Code is amended by striking out "execution" and inserting in lieu thereof "implementation".

Sec. 697. Section 1102(b)(1) of title 11 of the United States Code is amended by striking out "order for relief" and inserting in lieu thereof "commencement of the case".

Sec. 698. Section 1103(c) of title 11 of the United States Code is amended—

(1) in paragraph (3), by—

(A) striking out "recommendations" and inserting in lieu thereof "determinations"; and

(B) inserting "or rejections" after "acceptances"; and

(2) in paragraph (4), by striking out ", if a trustee or examiner, as the case may be, has not previously been appointed under this chapter in the case".

Sec. 699. Section 1105 of title 11 of the United States Code is amended by striking out "estate, and" and inserting in lieu thereof "estate and of the".

Sec. 700. Section 1106(b) of title 11 of the United States Code is amended by inserting ", except to the extent that the court orders otherwise," before "any other".

Sec. 701. Section 1107(a) of title 11 of the United States Code is amended by inserting "serving in a case" after "on a trustee".

Sec. 702. Section 1108 of title 11 of the United States Code is amended by inserting ", on request of a party in interest and after notice and a hearing," after "court".

Sec. 703. Section 1111(b) of title 11 of the United States Code is amended to read as follows:

"(b)(1) Except where property of the estate that secures a claim is sold subject to section 363(k) of this title, abandoned under sections 554 or 557 of this title, or surrendered to the holders of such claims, or is to be sold, abandoned, or surrendered under the plan—

"(A) a claim secured by such property shall be allowed or disallowed under section 502 of this title the same as if the holder of such claim had recourse against the debtor on account of such claim, whether or not such holder had such recourse, unless the class of which such claim is a part elects, by at least two-thirds in amount and more than one-half in number of allowed claims of such class, to be governed by subparagraph (B) of this paragraph; and

"(B) unless the aggregate value of the interests in such property of the holders of such claims is inconsequential, the class may elect, as provided under subparagraph (A) of this paragraph, that such claims of such class, whether or not the holders of such claims had recourse against the debtor and notwithstanding section 506(a) of this title, are secured claims to the full extent that such claims are allowed.

"(2) The provisions of paragraph (1) of this subsection are limited to the purposes of this chapter and such paragraph shall not in any other way alter, affect, or create any right or liability of or in any other entity who may be liable with the debtor on a debt to which the provisions of such paragraph apply.".

Sec. 704. (a) Section 1112(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by striking out "is an involuntary case originally commenced under this chapter" and inserting in lieu thereof "originally was commenced as an involuntary case under this chapter"; and

(2) in paragraph (3), by striking out "on other than" and inserting in lieu thereof "other than on".

(b) Section 1112(b) of title 11 of the United States Code is amended—

(1) in paragraph (5), by inserting "a request made for" before "additional"; and

(2) in paragraph (8), by striking out "and" and inserting in lieu thereof "or".

Sec. 705. (a) Section 1121(c)(3) of title 11 of the United States Code is amended by striking out "the claims or interests of which are" and inserting in lieu thereof "of claims or interests that is".

(b) Section 1121(d) of title 11 of the United States Code is amended by inserting "made within the respective periods specified in subsection (c) of this section" after "interest".

Sec. 706. (a) Section 1123(a) of title 11 of the United States Code is amended—

(1) by striking out "A" and inserting in lieu thereof "Notwithstanding any otherwise applicable nonbankruptcy law, a";

(2) in paragraph (1), by inserting commas after "classes of claims" and after "507(a)(7) of this title";

(3) in paragraph (3), by striking out "shall";

(4) in paragraph (5), by striking out "execution" and inserting in lieu thereof "implementation"; and

(5) in paragraph (5)(G), by inserting "of" after "waiving".

(b) Section 1123(b)(2) of title 11 of the United States Code is amended by—

(1) striking out "or rejection" and inserting in lieu thereof ", rejection, or assignment"; and

(2) striking out "under section 365 of this title" and inserting in lieu thereof "under such section".

Sec. 707. Section 1124 of title 11 of the United States Code is amended—

(1) by amending paragraph (2)(A) to read as follows:

"(A) cures any such default that occurred before or after the commencement of the case under this title, other than a default of a kind specified in section 365(b)(2) of this title;"; and

(2) in paragraph (3)(B)(i), by striking out "and" and inserting in lieu thereof "or".

Sec. 708. (a) Section 1125(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting ", but need not include such information about any other possible or proposed plan" after "plan";

(2) in paragraph (2)(B), by inserting "the" after "with"; and

(3) in paragraph (2)(C), by inserting "of" after "holders".

(b) Section 1125(d) of title 11 of the United States Code is amended by—

(1) inserting "required under subsection (b) of this section" after "statement" the first place it appears; and

(2) inserting ", or otherwise seek review of," after "appeal from".

(c) Section 1125(e) of title 11 of the United States Code is amended by—

(1) inserting "acceptance or rejection of a plan" after "solicits"; and

(2) inserting "solicitation of acceptance or rejection of a plan or" after "governing".

SEC. 709. (a) Section 1126(b)(2) of title 11 of the United States Code is amended by striking out "1125(a)(1)" and inserting in lieu thereof "1125(a)".

(b) Section 1126(d) of title 11 of the United States Code is amended by inserting a comma after "such interests" the first place it appears.

(c) Section 1126(f) of title 11 of the United States Code is amended by—

(1) striking out "is deemed" and inserting in lieu thereof ", and each holder of a claim or interest of such class, are deemed";

(2) striking out "solicitation" and inserting in lieu thereof "solicitation"; and

(3) striking out "interest" and inserting in lieu thereof "interests".

(d) Section 1126(g) of title 11 of the United States Code is amended by striking out "any payment or compensation" and inserting in lieu thereof "receive or retain any property".

SEC. 710. (a) Section 1127(a) of title 11 of the United States Code is amended by—

(1) inserting "of a plan" after "After the proponent"; and

(2) inserting "of such plan" after "modification".

(b) Section 1127(b) of title 11 of the United States Code is amended by striking out "the court, after notice and a hearing, confirms such plan, as modified, under section 1129 of this title, and circumstances warrant such modification" and inserting in lieu thereof "circumstances warrant such modification and the court, after notice and a hearing, confirms such plan as modified, under section 1129 of this title".

SEC. 711. (a) Section 1129(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "chapter." and inserting in lieu thereof "title.";

(2) in paragraph (2), by striking out "chapter." and inserting in lieu thereof "title.";

(3) by amending paragraph (4) to read as follows:

"(4) Any payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable;";

(4) in paragraph (5)(A)(ii), by striking out the period and inserting in lieu thereof "; and";

(5) in paragraph (5)(B), by striking out "The" and inserting in lieu thereof "the";

(6) in paragraph (6), by inserting "governmental" after "Any";

(7) in paragraph (7), by—

(A) inserting "of claims or interests" after "each class"; and

(B) striking out "creditor's" in subparagraph (B) and inserting in lieu thereof "holder's";

(8) in paragraph (8), by inserting "of claims or interests" after "each class";

(9) in paragraph (9)(C), by inserting "507(a)(1) that results from the sale of a capital asset, recapture of an investment tax credit, recapture of depreciation, or similar event or" after "section"; and

(10) by amending paragraph (10) to read as follows:

"(10) If a class of claims is impaired under the plan, at least one class of claims that is impaired under the plan has accepted the plan, determined without including any acceptance of the plan by any insider.".

(b) Section 1129(b) of title 11 of the United States Code is amended—

(1) by striking out "Notwithstanding section 510(a) of this title, if" and inserting in lieu thereof "If";

(2) in paragraph (2)(A), by striking out "lien" each place it appears and inserting in lieu thereof "liens";

(3) in paragraph (2)(B)(ii), by inserting "under the plan" after "retain"; and

(4) in paragraph (2)(C)(i), by—

(A) striking out "claim" and inserting in lieu thereof "interest"; and

(B) striking out "and the value" and inserting in lieu thereof "or the value".

(c) Section 1129(d) of title 11 of the United States Code is amended by—

(1) striking out "a party in interest that is";

(2) inserting "the application of" after "avoidance of" the second place it appears; and

(3) adding at the end thereof the following new sentence: "In any hearing under this subsection, the governmental unit has the burden of proof on the issue of avoidance.".

SEC. 712. (a) Section 1141(a) of title 11 of the United States Code is amended by—

(1) striking out "Except" and inserting in lieu thereof "Notwithstanding section 510(a) of this title and except"; and

(2) striking out "any creditor or equity security holder of, or general partner in," and inserting in lieu thereof "any creditor, equity security holder, or general partner in".

(b) Section 1141(c) of title 11 of the United States Code is amended to read as follows:

"(c) Except as provided in subsections (d)(2) and (d)(3) of this section and except as otherwise provided in the plan or in the order confirming the plan, after confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors, equity security holders, and of general partners in the debtor.".

SEC. 713. (a) The heading for section 1142 of title 11 of the United States Code is amended to read as follows:

"§1142. Implementation of plan".

(b) The item relating to section 1142 in the table of sections for chapter 11 of title 11 of the United States Code is amended by striking out "Execution" and inserting in lieu thereof "Implementation".

(c) Section 1142(a) of title 11 of the United States Code is amended by striking out the comma after "plan" the second place it appears.

(d) Section 1142(b) of title 11 of the United States Code is amended by inserting "a" after "by".

SEC. 714. Section 1144 of title 11 of the United States Code is amended by inserting "if and only" after "revoke such order".

SEC. 715. (a) Section 1145(a) of title 11 of the United States Code is amended—

(1) by striking out "Except with respect to an entity that is an underwriter as defined in subsection (b) of this section, section" and inserting in lieu thereof "Section";

(2) in paragraph (3), by striking out "or an affiliate";

(3) in paragraph (3)(B)(i), by inserting "or 15(d)" after "13" and by inserting "or 78o(d)" after "78m";

(4) by amending paragraph (3)(B)(ii) to read as follows:

"(ii) in compliance with the disclosure and reporting provision of such applicable section; and";

(5) in paragraph (3)(C), by striking out "two" each place it appears and inserting in lieu thereof "one";

(6) in paragraph (3)(C)(ii), by striking out "180" each place it appears and inserting in lieu thereof "90"; and

(7) in paragraph (4), by striking out "stockholder" each place it appears and inserting in lieu thereof "stockbroker".

(b) Section 1145(b) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "and except with respect to ordinary trading transactions of an entity that is not an issuer" after "subsection";

(2) in paragraph (1)(C), by striking out "for" and inserting in lieu thereof "from";

(3) in paragraph (2)(A)(i), by striking out "combination" and inserting in lieu thereof "or combining"; and

(4) in paragraph (2)(A)(ii), by striking out "among" and inserting in lieu thereof "from or to".

(c) Section 1145(d) of title 11 of the United States Code is amended by striking out "commercial".

SEC. 716. (a) Section 1146(c) of title 11 of the United States Code is amended by striking out "State or local".

(b) Section 1146(d)(1) of title 11 of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

SEC. 717. Section 1163 of title 11 of the United States Code is amended by striking out "qualified" and inserting in lieu thereof "eligible, qualified,".

SEC. 718. Section 1166 of title 11 of the United States Code is amended by striking out "the Interstate Commerce Act (49 U.S.C. 1 et seq.)" and inserting in lieu thereof "subtitle IV of title 49".

SEC. 719. Section 1168(b) of title 11 of the United States Code is amended by inserting a comma after "approval".

SEC. 720. Section 1169(c) of title 11 of the United States Code is amended by striking out "the Interstate Commerce Act (49 U.S.C. 1 et seq.)" and inserting in lieu thereof "subtitle IV of title 49".

SEC. 721. (a) Section 1170(a) of title 11 of the United States Code is amended by inserting "of all or a portion" after "the abandonment".

(b) Section 1170(c) of title 11 of the United States Code is amended by inserting a comma after "abandonment".

(c) Section 1170(d)(2) of title 11 of the United States Code is amended by—

(1) striking out "the abandonment of a railroad line" and inserting in lieu thereof "such abandonment"; and

(2) striking out "termination" each place it appears and inserting in lieu thereof "suspension".

SEC. 722. Section 1171(b) of title 11 of the United States Code is amended by striking out "such" and inserting in lieu thereof "the same".

SEC. 723. Section 1173(a)(4) of title 11 of the United States Code is amended by striking out "compatible" and inserting in lieu thereof "consistent".

SEC. 724. (a) Section 1301(b) of title 11 of the United States Code is amended by inserting "and may protest" after "of" the first place it appears.

(b) Section 1301(c)(3) of title 11 of the United States Code is amended by inserting "continuation of" after "by".

(c) Section 1301 of title 11 of the United States Code is amended by adding the following new subsection:

"(e) The confirmation of a plan shall automatically grant relief from the stay as to any particular claim to the extent that the plan does not propose to pay any amount of that allowed claim.".

Sec. 725. (a) Section 1302(b) of title 11 of the United States Code is amended—

(1) in paragraph (2)(C), by striking out "and";

(2) by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) dispose of, under regulations issued by the Director of the Administrative Office of the United States Courts, moneys received or to be received in a case under chapter XIII of the Bankruptcy Act; and".

(b) Section 1302(e) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "fix" and inserting in lieu thereof "set for such individual";

(2) in paragraph (1)(A), by striking out "for such individual"; and

(3) in paragraph (2)(A), by—

(A) striking out "of" and inserting in lieu thereof "received by"; and

(B) striking out "upon all payments" and inserting in lieu thereof "of all such payments made".

Sec. 726. Section 1304(b) of title 11 of the United States Code is amended by striking out the comma after "of the debtor".

Sec. 727. (a) Section 1307(b) of title 11 of the United States Code is amended by inserting a comma after "time".

(b) Section 1307(c) of title 11 of the United States Code is amended—

(1) in paragraph (4), by inserting "a request made for" before "additional";

(2) in paragraph (6), by striking out "and" after the semicolon and inserting in lieu thereof "or"; and

(3) in paragraph (7), by inserting "other than completion of payments under the plan" after "in the plan".

Sec. 728. (a) Section 1322(a)(2) of title 11 of the United States Code is amended by inserting a comma after "payments".

(b) Section 1322(b) of title 11 of the United States Code is amended—

(1) in paragraph (2), by inserting ", or leave unaffected the rights of holders of any class of claims" before the semicolon;

(2) in paragraph (4), by inserting "other" after "claim or any";

(3) in paragraph (5), (i) by striking out "maintenance of payments" and (ii) by striking out "on any unsecured claim or secured claim" and inserting in lieu thereof "maintenance payments on any claim";

(4) in paragraph (7), by—

(A) inserting "subject to section 365 of this title," before "provide";

(B) striking out "or rejection" and inserting in lieu thereof ", rejection, or assignment"; and

(C) striking out "under section 365 of this title" and inserting in lieu thereof "under such section"; and

(5) in paragraph (8), by striking out "any".

Sec. 729. Section 1323(c) of title 11 of the United States Code is amended by striking out "the plan as modified, unless the modification provides for a change in the rights of such holder from what such rights were under the plan before modification, and" and inserting in lieu thereof "such plan as modified, unless".

Sec. 730. Section 1324 of title 11 of the United States Code is amended by striking out "the" the second place it appears.

Sec. 731. (a) Section 1325(a)(1) of title 11 of the United States Code is amended by inserting "the" before "other".

(b) Section 1325(b) of title 11 of the United States Code is amended by—

(1) striking out "After confirmation of a plan," and inserting "Upon the filing of the case,"; and

(2) striking out "any" the second place it appears.

Sec. 732. Section 1326(a)(2) of title 11 of the United States Code is amended by inserting "of this title" after "1302(d)".

Sec. 733. Section 1328(e) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "by the debtor" after "obtained"; and

(2) in paragraph (2), by striking out "knowledge of such fraud came to the requesting party" and inserting in lieu thereof "the requesting party did not know of such fraud until".

Sec. 734. Section 1329(a) of title 11 of the United States Code is amended—

(1) by inserting "of the plan" after "confirmation";

(2) by striking out "a plan" and inserting in lieu thereof "such plan"; and

(3) in paragraph (3), by striking out the comma.

Sec. 735. Section 15102 of title 11 of the United States Code is amended by striking out "chapter" the first place it appears and inserting in lieu thereof "title".

Sec. 736. Section 15103(f) of title 11 of the United States Code is amended by—

(1) striking out "324,";

(2) inserting "341(b)," after "326(b),";

(3) inserting "1106(a)(1), 1108," after "1105"; and

(4) inserting "1302(b)(1), 1302(b)(3)," after "1302(a),".

Sec. 737. Section 15322(b)(1) of title 11 of the United States Code is amended by—

(1) inserting "required to be" after "bond" the first place it appears;

(2) striking out "(2)"; and

(3) inserting "of this title" before the semicolon.

Sec. 738. Section 15324 of title 11 of the United States Code is amended by inserting a comma after "a trustee".

Sec. 739. Section 15330 of title 11 of the United States Code is amended by adding at the end thereof the following: "The notice required under section 330 of this title shall be given to the United States trustee.".

Sec. 740. (a) Section 15701(a) of title 11 of the United States Code is amended by striking out "trustee established" and inserting in lieu thereof "trustees established".

(b) Section 15701(b) of title 11 of the United States Code is amended by striking out "such persons" and inserting in lieu thereof "the members of such panel".

Sec. 741. (a) Section 15703(a) of title 11 of the United States Code is amended by striking out "specified in section 15701(a) of this title. Sections 701(b) and 701(c) of this title apply to such interim trustee." and by inserting in lieu thereof "and subject to the provisions of sections 701 and 15701 of this title.".

(b) Section 15703(b) of title 11 of the United States Code is amended by striking out "truste" and inserting in lieu thereof "trustee".

Sec. 742. Section 15704 of title 11 of the United States Code is amended to read as follows:

"§15704. Duties of trustee

"The trustee shall—

"(1) if the business of the debtor is authorized to be operated, file with the United States trustee periodic reports and summaries of the operation of such business, including a statement of receipts and disbursements; and

"(2) make and file interim reports, as circumstances justify, on the condition of the estate with the United States trustee and make and file a final report and account of the administration of the estate with the United States trustee and the court.".

Sec. 743. Section 151102(b) of title 11 of the United States Code is amended by striking out "interest of" and inserting in lieu thereof "interest,".

Sec. 744. (a) Chapter 15 of title 11 of the United States Code is amended by inserting after section 151105 the following new sections:

"§151106. Duties of trustee and examiner

"(a) A trustee shall perform the duties specified in sections 704(2), 704(4), 704(6), and 15704 of this title.

"(b) A trustee shall transmit a copy or a summary of any statement filed under section 1106(a)(4)(A) of this title to any creditors' committee, to any indenture trustee, to the United States trustee, and to any other entity as the court designates.

"§151108. Authorization to operate business

"Unless the court, upon the request of a party in interest or the United States trustee if there is no creditors' committee and after notice and a hearing, orders otherwise, the trustee may operate the debtor's business.".

(b) The table of sections for chapter 15 of title 11 of the United States Code is amended by inserting after the item relating to section 151105 the following new items:

"151106. Duties of trustee and examiner.

"151108. Authorization to operate business.".

Sec. 745. (a) Section 151302(a) of title 11 of the United States Code is amended by inserting ", or shall appoint a disinterested person to serve," after "The United States trustee shall serve".

(b) Section 151302(b) of title 11 of the United States Code is amended to read as follows:

"(b) The trustee shall—

"(1) perform the duties specified in sections 704(2), 704(4), 704(6), and 15704 of this title; and

(2) dispose of, pursuant to regulations issued by the Attorney General, moneys received or to be received in a case under chapter XIII of the Bankruptcy Act.".

Subtitle J—Miscellaneous

Sec. 751. If any provision of this title or any amendment made by this title, or the application thereof to any person or circumstance is held invalid, the provisions of every other part, and their application shall not be affected thereby.

Sec. 752. Except as otherwise provided in this title the amendments made by this title shall become effective three months after the date of enactment and shall not apply to any case pending on the date of enactment of this title.

IMMIGRATION REFORM AND CONTROL ACT OF 1983

KENNEDY AMENDMENT NO. 1209 AND NO. 1210

(Ordered to lie on the table.)

Mr. KENNEDY submitted amendments intended to be proposed by him to the bill, S. 529, supra, as follows:

On page 184, line 20, strike out "JANUARY 1, 1980" and insert in lieu thereof "DECEMBER 31, 1981".

On page 187, line 7, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 187, line 9, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 187, line 13, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 187, line 15, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 187, line 17, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 187, line 19, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 188, lines 6 and 7, strike out "January 1, 1981" and insert in lieu thereof "December 31, 1981".

On page 188, lines 9 and 10, strike out "December 31, 1980" and insert in lieu thereof "December 30, 1980".

On page 188, line 20, strike out "December 31, 1980" and insert in lieu thereof "December 31, 1981".

On page 188, line 23, strike out "December 31, 1980" and insert in lieu thereof "December 30, 1981".

On page 193, line 15, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 193, line 17, strike out "January 1, 1981" and insert in lieu thereof "December 31, 1981".

On page 198, amend the item between lines 5 and 6 to read as follows:

"SEC. 245A. Adjustment of status of certain entrants before December 31, 1981, to that of person admitted for temporary or permanent residence.".

AMENDMENT NO. 1210

Beginning on page 121 with line 21, strike out all through line 3 on page 149 and insert in lieu thereof the following:

PART C—ADJUDICATION PROCEDURES AND ASYLUM

INSPECTION AND EXCLUSION

SEC. 121. Subsection (b) of section 235 (8 U.S.C. 1225) is amended to read as follows:

"(b)(1)(A) An immigration officer shall inspect each alien who is seeking entry to the United States.

"(B)(i) If the examining immigration officer determines that the alien seeking entry—

"(I) does not present the documentation required (if any) to obtain entry to the United States.

"(II) does not have any reasonable basis for legal entry into the United States, and

"(III) does not indicate an intention to apply for asylum under section 208,

subject to clause (ii), the alien shall be excluded from entry into the United States without a hearing.

"(ii) Before excluding an alien without a hearing under clause (i), the examining immigration officer shall inform the alien of his right to have an administrative law judge redetermine the conditions described in clause (i). If the alien requests such a redetermination by an administrative law judge, the alien shall not be so excluded without a hearing until and unless the administrative law judge (after a nonadversarial, summary proceeding in which the alien may appear personally) redetermines that the alien meets the conditions of subclauses (I) through (III) of clause (i).

"(C) If the examining immigration officer determines that an alien seeking entry, other than an alien crewman and except as otherwise provided in subparagraph (B), subsection (c), or section 273(d), is otherwise not clearly and beyond a doubt entitled to land, the alien shall be detained for a hearing before an administrative law judge on exclusion of the alien.

"(2) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien, whose privilege to land is so challenged, before an administrative law judge for a hearing on exclusion of the alien.

"(3) The Attorney General shall establish, after consultation with the Judiciary Committees of the Congress, procedures which assure that aliens are not excluded under paragraph (1)(B) without an inquiry into their reasons for seeking entry into the United States.

"(4) In the case of an alien who would be excluded from entry under paragraph (1)(B) but indicating an intention to apply for asylum, the exclusion hearing with respect to such entry shall be limited to the issues raised in connection with the alien's application for asylum.".

UNITED STATES IMMIGRATION BOARD AND ESTABLISHMENT OF ADMINISTRATIVE LAW JUDGE SYSTEM

SEC. 122. (a) Title I is amended by adding at the end the following new section:

"UNITED STATES IMMIGRATION BOARD; USE OF ADMINISTRATIVE LAW JUDGES

"SEC. 107. (a)(1) There is established, as an independent agency in the Department of Justice, a United States Immigration Board (hereinafter in this section referred to as the 'Board') composed of a Chairman and five other members appointed by the President by and with the advice and consent of the Senate.

"(2) The term of office of the Chairman and all other members of the Board shall be six years except that—

"(A) of the members first appointed under this subsection, two shall be appointed for a term of two years, two shall be appointed for a term of four years, and two shall be appointed for a term of six years,

"(B) a member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and

"(C) a member may serve after the expiration of his term until reappointed or his successor has taken office.

"(3) A member of the Board may be removed by the President only for neglect of duty or malfeasance in office.

"(4) Members of the Board (other than the Chairman) are entitled, subject to amounts provided in advance in appropriation Acts, to receive compensation at the rate now or hereafter provided for grade GS-17 of the General Schedule, under section 5332 of title 5, United States Code. The Chairman is entitled, subject to amounts provided in advance in appropriation Acts, to receive compensation at the rate now or hereafter provided for grade GS-18 of such General Schedule.

"(5) The Chairman shall be responsible on behalf of the Board for the administrative operations of the Board. The Board shall establish rules of practice and procedure for itself and for the administrative law judges.

"(b)(1) The Board shall hear and determine appeals from—

"(A) final decisions of administrative law judges under this Act, other than a redetermination excluding an alien under section 235(b)(1)(B) or a determination granting voluntary departure under section 244(e) within a period of at least 30 days if the sole ground of appeal is that a greater period of departure time should have been fixed;

"(B) decisions on applications for the exercise of the discretionary authority contained in section 212(c) or section 212(d)(3)(B);

"(C) decisions involving the imposition of administrative fines and penalties under title II of this Act, including mitigation thereof;

"(D)(i) decisions on petitions filed in accordance with section 204, other than petitions to accord preference status under paragraph (3) of (6) of section 203(a) or petitions on behalf of a child described in section 101(b)(1)(F), and

"(ii) decisions on requests for revalidation and decisions revoking approval of such petitions under section 205; and

"(E) determinations relating to bond, parole, or detention of an alien under sections 242(a) and 242(c).

"(2) Three members of the Board constitute a quorum of the Board, except that the Chairman (or any member of the Board designated by the Chairman) is empowered to decide nondispositive motions.

"(3) The Board shall act in panels of three or more members or en banc (as designated by the Chairman in accordance with the rules of the Board). A final decision of such a panel shall be considered to be a final decision of the Board.

"(4)(A) Appeals to the Board from final orders of deportation or exclusion (including an order respecting asylum contained in such an order) shall be filed not later than 20 days after the date of the final order.

"(B) The Board shall review the decision of an administrative law judge based solely upon the administrative record upon which the decision is made and the findings of fact in the judge's order, if supported by reasonable, substantial, and probative evidence on the record considered as a whole, shall be conclusive.

"(5) A final decision of the Board shall be binding on all administrative law judges, immigration officers, and consular officers under this Act unless and until otherwise modified or reversed by a court of the United States.

"(6) In a case in which the Board is considering an appeal of a decision of an administrative law judge respecting an application for asylum, the Board shall render its decision on the appeal not later than 60 days after the date the appeal is filed.

"(c)(1) The Chairman, in accordance with sections 3105 and 5108 and other provisions of title 5, United States Code, relating to administrative law judges in the competitive service, shall—

"(A) appoint administrative law judges, except that no more than 70 such judges may be appointed and hold office under this section at any time, and

"(B) designate one such judge to serve as chief administrative law judge.

"(2) In accordance with rules established by the Board, the chief administrative law judge—

"(A) shall have responsibility for the administrative activities affecting administrative law judges, and

"(B) may designate any administrative law judge in active service to hear and decide any cases described in paragraph (3).

"(3) Administrative law judges shall hear and decide—

"(A) exclusion cases under sections 236 and 360(c),

"(B) deportation and suspension of deportation cases under sections 242, 243, and 244,

"(C) rescission of adjustment of status cases under sections 245A(b)(4) and 246,

"(D) with respect to judges designated to hear such cases, applications for asylum under section 208,

"(E) the assessment of civil penalties under section 274A, and

"(F) such other cases arising under this Act as the Attorney General may provide by regulation.

Administrative law judges may also, without a formal hearing, make redeterminations pursuant to section 235(b)(1)(B)(ii).

"(4) In considering and deciding cases coming before them, administrative law judges may administer oaths, shall record and receive evidence and render findings of fact and conclusions of law, shall determine all applications for discretionary relief which may properly be raised in the proceedings, and shall exercise such discretion conferred upon the Attorney General by law as the Attorney General may specify for the just and equitable disposition of cases coming before such judges.".

(b) The table of contents is amended by inserting immediately after the item relating to section 106 the following new item:

"Sec. 107. United States Immigration Board; use of administrative law judges.".

JUDICIAL REVIEW

Sec. 123. (a) Subsection (a) of section 106 (8 U.S.C. 1105a) is amended—

(1) by striking out "AND EXCLUSION" in the heading and inserting in lieu thereof ", EXCLUSION, AND ASYLUM";

(2) in the matter before paragraph (1), by striking out "The procedure" and all that follows through "any prior Act" and inserting in lieu thereof the following: "Notwithstanding section 279 of this Act, section 1331 of title 28, United States Code, or any other provision of law, the procedures prescribed by and all the provisions of chapter 158 of title 28, United States Code, shall apply to, and shall be the sole and exclusive procedure for, the judicial review of all final orders of exclusion or deportation (including determinations respecting asylum encompassed within such orders and regardless of whether or not the alien is in custody and not including exclusions effected without a hearing pursuant to section 235(b)(1)(B)) made against aliens within (or seeking entry into) and United States";

(3) in paragraph (1), by striking out "not later than six months" and all that follows through "whichever is the later" and inserting in lieu thereof "by the alien involved or the Service not later than 30 days from the date of the final order";

(4) by inserting ", in the case of review sought by an individual petitioner," in paragraph (2) after "in whole or in part, or";

(5) by inserting "in the case of review sought by an individual petitioner," in paragraph (3) after "(3)";

(6) by inserting "exclusion or" before "deportation" in paragraphs (3) and (4);

(7) by striking out "Attorney General's findings of fact" in paragraphs (4) and (6) and inserting in lieu thereof "findings of fact in the order";

(8) by striking out "(4) except as provided in" in paragraph (4) and inserting in lieu thereof "(4)(A) except as provided in subparagraph (B) and in";

(9) by adding at the end of paragraph (4) the following new subparagraph:

"(B) to the extent that an order relates to a determination on an application for asylum, the court shall only have jurisdiction to review (i) whether the jurisdiction of the administrative law judge or the United States Immigration Board was properly exercised, (ii) whether the asylum determination was made in accordance with applicable laws and regulations, (iii) the constitutionality of the laws and regulations, pursuant to which the determination was made, and (iv) whether the decision was arbitrary or capricious;";

(10) in paragraph (7)—

(A) by inserting "or exclusion" after "deportation" each place it appears,

(E) by striking out "subsection (c) of section 242 of this Act" and inserting in lieu thereof "section 235(b) or 242(c)",

(c) by striking out "a deportation order;" and inserting in lieu thereof "an exclusion or deportation order;", and

(D) by inserting "and" at the end thereof;

(11) by striking out "; and" at the end of paragraph (8) and inserting in lieu thereof a period; and

(12) by striking out paragraph (9).

(b) Subsection (b) of such section is amended to read as follows:

"(b)(1) Nothing in the provisions of this section shall be construed as limiting the right of habeas corpus under chapter 153 of title 28, United States Code. Petitions for habeas corpus based upon custody effected pursuant to this Act may be brought individually or on a multiple party basis as the interests of judicial efficiency and justice may require.

"(2) No court shall have jurisdiction to entertain a petition relating to a determination concerning asylum under section 208 except in a petition for review under subsection (a).

"(3) Notwithstanding any other provision of law, no court of the United States shall have jurisdiction to review determinations of administrative law judges or of the United States Immigration Board respecting the reopening or reconsideration of exclusion or deportation proceedings or asylum determinations outside of such proceedings, the reopening of an application for asylum because of changed circumstances, the Attorney General's denial of a stay of execution of an exclusion or deportation order, or a redetermination to exclude an alien from entering the United States under section 235(b)(1)(B).".

(c) Subsection (c) of such section is amended by striking out "deportation or of exclusion" and inserting in lieu thereof "an administrative law judge".

(d) Section 279 (8 U.S.C. 1329) is amended by striking out "The district courts" in the first sentence and inserting in lieu thereof "Except as otherwise provided under section 106, the district courts".

(e) The item in the table of contents relating to section 106 is amended to read as follows:

"Sec. 106. Judicial review of orders of deportation, exclusion, and asylum.".

(f) In the case of a final order of deportation or exclusion entered before the date of the enactment of this Act, a petition for review with respect to that order may in no case be filed under section 106(a)(1) of the Immigration and Nationality Act later than the earlier of (1) 30 days after the date of the enactment of this Act, or (2) the date (if any) such petition was required to be filed under the law in existence before the date of the enactment of this Act.

ASYLUM

Sec. 124. (a)(1) Subsection (a) of section 208 (8 U.S.C. 1158) is amended to read as follows:

"(a)(1)(A) Except as provided in subparagraph (B), any alien physically present in the United States or at a land border or port of entry may apply for asylum in accordance with this section.

"(B)(i) In the case of an alien against whom exclusion or deportation proceedings have been instituted, the alien's application for asylum may not be considered unless—

"(I) not later than 14 days after the date of the service of the notice instituting such proceedings, the alien has filed notice of intention to file an application for asylum and, not later than 30 days after the date of filing such notice of intention, the alien has actually filed the application for asylum,

"(II) the alien can make a clear showing, to the satisfaction of the administrative law judge conducting the proceeding, that changed circumstances after the date of the notice instituting the proceeding have resulted in a change in the basis for the alien's claim for asylum, or

"(III) the administrative law judge determines, solely in his discretion, that the interests of justice require the consideration of the application.

"(ii) An alien who has previously applied for asylum and had such application denied may not again apply for asylum unless the alien can make a clear showing that changed circumstances after the date of the denial of the previous application have resulted in a change in the basis for the alien's claim for asylum.

"(2) Applications for asylum shall be considered before administrative law judges who are specially designated by the United States Immigration Board as having special training in international relations and international law. An individual who has served as a special inquiry officer under this title before the date of the enactment of the Immigration Reform and Control Act of 1983 may not be designated to hear applications under this section, unless the individual has received such special training after the date of the enactment of this Act.

"(3)(A)(i) Upon the filing of an application for asylum, an administrative law judge, at the earliest practicable time and after consultation with the attorney for the Government and the applicant, shall set the application for hearing on a day certain or list it for trial on a weekly or other short-term hearing calendar, so as to assure a speedy hearing.

"(ii) Unless the applicant consents in writing to the contrary, the hearing on the asylum application shall commence not later than 45 days after the date the application has been filed. The holding of an asylum hearing shall not delay the holding of any exclusion or deportation proceeding.

"(iii) In the case of an alien who has filed an application for asylum and who has been continuously detained pursuant to section 235 or 242 since the date the application was filed, if a hearing on the application is not held on a timely basis under clause (ii) or a decision on the application rendered on a timely basis under subparagraph (D), and if actions or inaction by the applicant have not resulted in unreasonable delay in the proceedings, the Attorney General shall provide for the release of the alien on parole subject to such reasonable conditions as the Attorney General may establish to assure the presence of the alien at any appropriate proceedings.

"(B)(i) A hearing on the asylum application shall be open to the public, unless the applicant requests that it be closed to the public.

"(ii) At the time of filing of notice of intention to apply for asylum, the alien shall be advised of the privilege of being represented by counsel (in accordance with section 292) and of the availability of legal services.

"(iii) The applicant is entitled to have the asylum hearing closed to the public, to present evidence and witnesses in his own behalf, to examine and object to evidence against him, and to cross-examine witnesses presented by the Government.

"(C) A complete record of the proceedings and of all testimony and evidence produced at the hearing shall be kept. The hearing shall be recorded verbatim. The Attorney General, and the United States Immigration Board, shall provide that a transcript of a hearing held under this section is made available not later than 10 days after the date of completion of the hearing.

"(D) The administrative law judge shall render a determination on the application not later than 30 days after the date of completion of the hearing. The determination of the administrative law judge shall be based only on the evidence produced at the hearing.

"(E) The Attorney General shall allocate sufficient resources so as to assure that applications for asylum are heard and determined on a timely basis under this paragraph.

"(4) An alien may be granted asylum only if the administrative law judge determines that the alien (A) is a refugee within the meaning of section 101(A)(42)(A), and (B) does not meet a condition described in one of the subparagraphs of section 243(h)(2).

"(5) The burden of proof shall be upon the alien applying for asylum to establish the alien's eligibility for asylum.

"(6) After making a determination on an application for asylum under this section, an administrative law judge may not reopen the proceeding at the request of the applicant except upon a clear showing that, since the date of such determination, changed circumstances have resulted in a change in the basis for the alien's claim for asylum.".

(2) Subsection (b) of such section is amended by inserting "(1)" after "determines that the alien" and by inserting before the period at the end the following: ", or (2) meets a condition described in one of the subparagraphs of section 243(h)(2)".

(3) Such section is further amended by adding at the end the following new subsection:

"(d) The procedures set forth in this section shall be the sole and exclusive procedure for determining asylum.".

(b) Section 243(h) (8 U.S.C. 1253(h)) is amended by adding at the end the following new paragraph:

"(3) An application for relief under this subsection shall be considered to be an application for asylum under section 208 and shall be considered in accordance with the procedures set forth in that section.".

(c) Section 222(f) (8 U.S.C. 1202(f)) is amended by inserting "(1)" after "(f)" and by adding at the end the following new paragraph:

"(2) The records or any document of the Department of Justice, the Department of State, or any other Government agency, or foreign government, pertaining to the issuance or denial of any application for asylum, refugee status, withholding of deportation under sections 207, 208, and 243(h) of this Act, or any other application arising under a claim of persecution on account of race, religion, political opinion, nationality, or membership in a particular social group, shall be confidential and exempt from disclosure and shall be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States. In the discretion of the Attorney General or the Secretary of State, as the case may be, certified copies of such records or document may be made available to a court which certifies that the information contained in such records or document is needed by the court in the interests of the ends of justice in a case pending before the court.

"(3) Notwithstanding the provisions of paragraph (2), there shall be made available from such records and document information relating to the number of applications for asylum submitted, the country of origin of the applicants, and the number of such applicants which were accepted, denied, or remain pending, and general information relating to asylum, refugee status, and withholding of deportation.".

EFFECTIVE DATES AND TRANSITION

SEC. 125. (a)(1) Except as otherwise provided in this section, the amendments made by this part take effect on the date of the enactment of this Act.

(a)(A) Except as provided in subparagraph (B), the amendments made by this part (other than those made by sections 121, 123(a)(2), 123(a)(3), 123(a)(6), 123(a)(10), 123(a)(12), 123(b), 123(d), and 124(b)) shall not apply to—

(i) any exclusion or deportation proceeding (or administrative or judicial review thereof) which was initiated before the hearing transition date (designated under subsection (c)(1)(A)), or

(ii) to any application for asylum filed before the asylum transition date (designated under subsection (c)(1)(B)).

In the case of such proceedings and such applications initiated before such dates which continue after such dates, the United States Immigration Board shall provide that administrative law judges may assume and perform such functions of special inquiry officers as may be appropriate and consistent with their duties as administrative law judges.

(B) Paragraphs (1)(B), (3)(B)(ii), (3)(B)(iii), (4), and (6) of section 208(a) and section 208(b) of the Immigration and Nationality Act (as amended by section 124(a) of this part) shall apply to applications for asylum made after the date of the enactment of this Act, except that—

(i) in the case of an alien against whom exclusion or deportation proceedings have been instituted as of the date of the enactment of this Act, the restriction of paragraph (1)(B)(i) of section 208(a) of the Immigration and Nationality Act (as so amended) shall apply to asylum applications made more than 14 days after the date of the enactment of this Act (rather than the date of the service of the notice of such exclusion or deportation proceeding), and

(ii) references in any such paragraph to an administrative law judge shall be deemed (before the asylum transition date) to be a reference to the immigration officer conducting the asylum hearing.

(b)(1) The President shall nominate the Chairman and other members of the United States Immigration Board (hereinafter in this section referred to as the "Board") not later than 45 days after the date of the enactment of this Act.

(2) The Chairman, in consultation with the Attorney General, shall designate a date, not later than 45 days after the Chairman and a majority of the members of the Board are appointed, on which the Board shall assume the present functions of the Board of Immigration Appeals (under existing rules and regulations).

(3)(A) The Board shall provide promptly for establishment of interim final rules of practice and procedure which will apply to the Board (when not acting as the Board of Immigration Appeals under paragraph (2)) and administrative law judges under the Immigration and Nationality Act, after the hearing transition date or asylum transition date, designated under subsection (c)(1), as the case may be.

(B) Not later than 60 days after the date such interim final rules are established, the Chairman shall appoint at least 10 administrative law judges who are qualified to be designated to hear asylum cases under section 208 of the Immigration and Nationality Act. The Board shall provide for such special training of these administrative law judges as it deems appropriate.

(c)(1) In order to provide for the orderly transfer of proceedings from the existing special inquiry system to the administrative law judge system, the Board, in consultation with the Attorney General, shall designate—

(A) a "hearing transition date", to be not later than 45 days after the date interim final rules of practice and procedure are established under subsection (b)(3)(A), and

(B) an "asylum transition date", after the establishment of interim final rules of practice and procedure respecting applications for asylum and after the appointment and designation of administrative law judges, in accordance with section 3105 of title 5, United States Code, under subsection (b)(3)(B).

(2) During the period before the hearing transition date or the asylum transition date (in the case of asylum hearings), any proceeding or hearing under the Immigration and Nationality Act which may be conducted by a special inquiry officer may be conducted by an individual appointed and qualified as an administrative law judge in accordance with all the rules and procedures otherwise applicable to a special inquiry officer's conduct of such proceeding or hearing.

(d) Individuals acting as special inquiry officers on the date of the enactment of this Act and on the hearing transition date may (without regard to other provisions of law) continue to conduct proceedings or hearings under the Immigration and Nationality Act after such transition date during the period ending two years after the date of the enactment of this Act.

(e)(1) The enactment of this part shall not result in any loss of rights or powers, interruption of jurisdiction, or prejudice to matters pending in the Board of Immigration Appeals or before special inquiry officers on the day before this Act takes effect.

(2) Under rules established by the United States Immigration Board, with respect to exclusion and deportation cases pending as of the hearing transition date and applications for asylum pending as of the asylum transition date, the United States Immigration Board shall be deemed to be a continuation of the Board of Immigration Appeals and administrative law judges shall be deemed to be a continuation of special inquiry officers for the purposes of effectuating the continuation of all existing powers, rights, and jurisdiction.

(f) In order to implement this section and the amendments made by this part, there are authorized to be appropriated $20,000,000 for fiscal year 1984.

TECHNICAL AND CONFORMING AMENDMENTS

Sec. 126. (a)(1) Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

"(43) The term 'administrative law judge' means such a judge appointed under section 107.".

(2) Section 101(b) (8 U.S.C. 1101(b)) is amended by striking out paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) The first sentence of section 234 (8 U.S.C. 1124) is amended by striking out "special inquiry officers" and inserting in lieu thereof "administrative law judges".

(c)(1) Subsection (a) of section 235 (8 U.S.C. 1225) is amended—

(A) by striking out "special inquiry officers" in the first sentence and inserting in lieu thereof "administrative law judges",

(B) by striking out ", including special inquiry officers," in the fourth sentence and inserting in lieu thereof "and any administrative law judge",

(C) by striking out ", including special inquiry officers," in the sixth sentence,

(D) by striking out "and special inquiry officers" in the sixth sentence and inserting in lieu thereof "and administrative law judges", and

(E) by striking out "special inquiry officers" each place it appears in the seventh sentence and inserting in lieu thereof "administrative law judge".

(2) Subsection (c) of such section is amended—

(A) by striking out "the special inquiry officers during the examination before either of such officers" in the first sentence and inserting in lieu thereof "during the examination or an administrative law judge during an exclusion hearing",

(B) by striking out "no further inquiry by a special inquiry officer" in the first sentence and inserting in lieu thereof "no further examination or exclusion hearing",

(C) by striking out "inquiry or further inquiry" in the first sentence and inserting in lieu thereof "examination or hearing",

(D) by striking out "any inquiry or further inquiry by a special inquiry officer" in the second sentence and inserting in lieu thereof "any examination or hearing", and

(E) by striking out "an inquiry before a special inquiry officer" in the third sentence and inserting in lieu thereof "an exclusion hearing before an administrative law judge".

(d) Sections 106(a)(2), 236, and 242(b) (8 U.S.C. 1105a(a)(2), 1126, 1252(b)) are each amended by striking out "A" and "a" each place either appears before "special inquiry officer" and inserting in lieu thereof "An" and "an", respectively.

(e)(1) Sections 106(a)(2) and 236 (8 U.S.C. 1105a(a)(2), 1226) are each amended by striking out "special inquiry officer" and inserting in lieu thereof "administrative law judge" each place it appears.

(2) Subsection (a) of section 236 (8 U.S.C. 1226) is amended—

(A) by amending the first sentence to read as follows: "An administrative law judge shall conduct proceedings under this section.",

(B) by striking out "for further inquiry" in the second sentence and inserting in lieu thereof "for an exclusion hearing",

(C) by striking out "at the inquiry" in the third sentence and inserting in lieu thereof "at the hearing",

(D) by striking out the fourth sentence,

(E) by striking out "regulations as the Attorney General shall prescribe" in the fifth sentence and inserting in lieu thereof "rules as the United States Immigration Board shall establish", and

(F) by striking out "inquiry" in the seventh sentence and inserting in lieu thereof "hearing".

(3) Subsection (b) of such section is amended—

(A) by striking out "From a decision" and all that follows through "Attorney General" in the first sentence and inserting in lieu thereof the following: "From a decision of an administrative law judge excluding or admitting an alien, the alien or the immigration officer in charge at the port where the hearing is held, respectively, may file a timely appeal of the decision with the United States Immigration Board in accordance with rules established by the Board",

(B) by striking out "Attorney General" in the fourth sentence and inserting in lieu thereof "United States Immigration Board", and

(C) by striking out the third sentence.

(4) Subsection (c) of such section is amended by striking out "to the Attorney General".

(f) Section 242(b) (8 U.S.C. 1252(b)) is amended—

(1) by striking out "special inquiry officer" each place it appears in the first, second, third, and seventh sentences and inserting in lieu thereof "administrative law judge",

(2) by striking out "shall administer oaths" and all that follows through "Attorney General," in the first sentence,

(3) by striking out "Attorney General shall prescribe" in the second sentence and inserting in lieu thereof "United States Immigration Board shall establish",

(4) by striking out "In any case" and all that follows through "an additional immigration officer" in the fourth sentence and inserting in lieu thereof "An immigration officer" and by striking out "in such case such additional immigration officer" in that sentence,

(5) by striking out the fifth and sixth sentences,

(6) by striking out "such regulations" and all that follows through "shall prescribe" in the seventh sentence and inserting in lieu thereof "rules as are established by the United States Immigration Board",

(7) by striking out "Such regulations" in the eighth sentence and inserting in lieu thereof "Such rules", and

(8) by striking out "Attorney General shall be final" in the tenth sentence and inserting in lieu thereof "administrative law judge shall be final unless reversed on appeal".

(g) The last sentence of section 273(d) (8 U.S.C. 1323(d)) is amended by striking out "special inquiry officers" and inserting in lieu thereof "administrative law judges".

(h) Section 292 (8 U.S.C. 1362) is amended—

(1) by striking out "In" and all that follows through "proceedings," and inserting in lieu thereof "In any proceeding or hearing before an administrative law judge and in any appeal before the United States Immigration Board from any such proceeding", and

(2) by inserting "and at no unreasonable delay" after "Government".

(i) Section 360(c) (8 U.S.C. 1503(c)) is amended—

(1) by inserting "(and appeals thereof)" in the first sentence after "proceedings", and

(2) by striking out the second sentence.

(j) Any reference in section 203(h) of the Immigration and Nationality Act, as in effect before March 17, 1980, to a special inquiry officer shall be deemed to be a reference also to an adminstrative law judge under section 101(a)(43) of such Act.

On page 103, in the table of contents, amend the item relating to section 122 to read as follows:

"Sec. 122. United States Immigration Board; use of administrative law judges.".

BANKRUPTCY AMENDMENTS ACT OF 1983

STEVENS AMENDMENT NO. 1211

Mr. DOLE (for Mr. Stevens) proposed an amendment to the bill, S. 445, to amend title 11, United States Code, and other purposes, as follows:

On page 21, on line 7 after the language "title" insert the following: "or in the case of a United States fisherman who has caught fish sold to a fish processing facility owned or operated by the debtor in the ordinary course of such sellers business (as such terms are defined in section 557 of this title)".

On page 21, line 12 after the word "grain", insert the following "or fish".

On page 21, line 14, after the word "grain", insert the following: "or fish".

CLERGY APPRECIATION WEEK

RIEGLE AMENDMENT NO. 1212

Mr. BYRD (for Mr. Riegle) proposed the following amendment to the joint resolution (S.J. Res. 33) designating the week of January 29, 1984 as "Clergy Appreciation Week" in the United States, as follows:

Strike out "commencing February 20, 1983" in the heading and insert in lieu thereof "of January 29, 1984."

Strike out "February 3, 1983, marks the fortieth" in the second Whereas clause and insert in lieu thereof "February 3, 1984, marks the forty-first".

On page two, line 3, strike out "commencing February 20, 1983," and insert in lieu thereof "of January 29, 1984".

On page two, line 7, strike out "fortieth" and insert in lieu thereof "forty-first".

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, April 27, at 9:30 a.m., to consider S. 1001, reauthorization of the Office of Federal Procurement Policy.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, April 28, at 2:30 p.m., to consider the nominations of John Ryan to be a member of the Board of Governors of the Postal Service, and Maria Johnson to be a member of the Merit Systems Protection Board.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be deemed to have been authorized to meet during the session of the Senate on Tuesday, April 26, at 3:30 p.m., to hold a nomination hearing on Helene Von Domm to be Ambassador to Austria.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 27, at 9:30 a.m., to hold a hearing on "Endowment for the Democracies Project."

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 27, at 10 a.m., to hold a hearing on "Radio Broadcasting to Cuba."

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, April 28, at 10 a.m., in order to receive testimony concerning S. 815, Religious Speech Protection Act, S. 425 and S. 1059, the Equal Access to Justice Act.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, April 27, 1983, in order to receive testimony concerning the following nominations:

Judge Joel M. Flaum, of Illinois, to be U.S. Circuit Judge for the seventh circuit;

Mr. Ricardo H. Hinojosa, of Texas, to be U.S. District Judge for the southern district of Texas.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON FINANCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Finance Committee be authorized to meet during the session of the Senate on Wednesday, April 27, at 1 p.m., to hold a hearing on health care for the unemployed.

The PRESIDING OFFICER. Without objection it is so ordered.

ADDITIONAL STATEMENTS

SENATOR McCLURE'S PRESS CONFERENCE ON SALT II VIOLATIONS

● Mr. McCLURE. Mr. President, on Monday I held a press conference to discuss what I believe are clear and serious violations of the so-called SALT II treaty and other existing arms control agreements. I believe that the American people ought to know about these violations, in order to make a judgment as to whether our own compliance with these agreements makes sense in light of the Soviet attitude toward them. Furthermore, I wish to encourage the President not to be so overly cautious or timid in his own discussion and categorization of these violations that their significance is lost on the American people as well as the world community.

I acknowledge that this may make negotiations with Soviets more difficult, but it will also make them more realistic. I ask unanimous consent that the text of my prepared statement from Monday's press conference be printed in the RECORD. I also ask unanimous consent that my letter to the President and an additional article on the subject be printed in the RECORD. The Wall Street Journal published an editorial on Monday which I believe is also timely and pertinent, and I ask that it be printed in the RECORD along with the other material.

The material follows:

PRESERVING THE INTEGRITY OF THE ARMS CONTROL PROCESS, APRIL, 25, 1983

(By U.S. Senator Jim McClure)

My purpose in this press conference is to help inform the American people that the arms control process has, so far, not protected their security interests.

By bringing together solid unclassified information on Soviet arms control violations and circumventions—and by making it widely available to the public—I hope to preserve the integrity of the arms control process, by enforcing Soviet compliance with existing treaties.

The arms control process, over the past 15 years, has not been working. Verification and compliance have become the Achilles' Heel of the arms control process.

Overall, the arms control process has *not* produced stability around the world. It has *not* produced better relations between the United States and the Soviet Union. And it has *not* enhanced security, or put an end to the growth of nuclear arms.

Much of the reason for the failure in the arms control process is the Soviet Union's quest for unilateral advantage.

The arms control process has had almost no effect in restraining Soviet nuclear weapons programs. It has, however, contributed to American unilateral arms restraint on a massive scale, thereby weakening America's security.

The arms control treaties of the past, in their application, have imposed unequal terms and constraints on the United States. In addition, we have been unable to enforce Soviet compliance with these treaties. But, despite the failure of arms control to serve U.S. interests—and enhance peace and security—we cannot afford to discard the arms control process. It must continue, despite our disappointment with past results. We can never give up in our efforts to negotiate with the Soviets for a more peaceful and secure world.

Soviet SALT negotiating deception, violations and circumventions, designed to gain unilateral advantages, have led to the destruction of all the basic U.S. objectives in entering into arms control treaties.

To help restore and preserve the integrity of the arms control process, Soviet compliance with existing arms control treaties must be of the highest priority. The U.S. enforcement of Soviet compliance with existing treaties will help bring peace and will protect American security.

As former Director of the Arms Control and Disarmament Agency, Dr. Eugene Rostow, testified before Congress in July, 1981:

"No arms control agreement can contribute to the goal of a peaceful world unless we have confidence that the Soviet Union is abiding by its terms."

The Soviet Union, as the evidence shows in the following seven points, is not abiding by the terms of the treaties.

One: There is an open and shut case, established from official documents and statements, that the Soviets are violating the most important provision of the SALT II Treaty—Article IV, Paragraph 9—by flight testing two new-type ICBMs. The SALT II Treaty specifically allows for only one new-type ICBM to be flight tested on each side. The Soviets are flight-testing a new medium ICBM the size of the MX, and a new small mobile ICBM.

The Soviets are violating the SALT II new-type ICBM provision by doing precisely what the U.S. is prevented from doing so as to comply with the SALT II new-type ICBM provision.

The Hart Amendment to the Fiscal Year 1983 Extended Continuing Resolution enforces U.S. compliance with the SALT II new-type ICBM provision. The U.S. is prohibited by the Hart Amendment from flight-testing the MX ICBM and from planning the development of a new small ICBM for a possible first flight test in 1989. The Hart Amendment was, indeed, justified to the Senate for the express purpose of ensuring U.S. compliance with SALT II, Article IV, Paragraph 9.

The U.S. cannot even test the MX and plan to develop a new small ICBM because the Congress and the President believe that this would violate SALT II. While the Hart Amendment prevents the U.S. from both testing the MX, and developing a new small ICBM, the Soviets are doing precisely what the U.S. is prevented from doing. The Soviets are testing a new large ICBM and a new small ICBM. If the U.S. would violate SALT II by testing the MX missile and developing a new small missile, then the Soviets must be violating SALT II by doing precisely that themselves.

Thus, by the Congress' and the President's legally established interpretation of SALT II, Article IV, Paragraph 9, the Soviets must be found to be in violation of SALT II.

Two: The U.S. now has 95 percent confidence that the Soviets have violated the 150-kiloton limit of the Threshold Test Ban Treaty (TTBT), by several tests of nuclear weapons at militarily significant levels of 250 kilotons and above.

The Soviets have conducted 15 nuclear weapons tests estimated about 150-kilotons. There is now strong agreement on this judgment within the government.

The conclusion that the Soviets are violating the TTBT does not even assume Soviet efforts to mask or conceal their test yields, for which there is good evidence. If such evidence were used in the assessment, the confidence level would rise closer to 100 percent.

Moreover, the Soviets have rebuffed all U.S. attempts to achieve enhanced verification of the TTBT, further bolstering our belief that the Soviets are cheating.

Three: The Soviets probably have, by careful conservative estimate derived from unclassified government information, from 1,000 to 2,000 extra ICBMs, carrying from 2,000 to 4,000 nuclear warheads. These Soviet ICBMs do not count at all in the SALT II Treaty. These stockpiled excess Soviet ICBMs constitute, in the opinion of the Defense Department, a significant covert, Soviet strategic reserve ICBM force.

There are four types of stockpiled ICBMs: mobile, reload-refire, test range, and covert soft launch.

Four: According to Defense Department data, these 1,000 to 2,000 excess Soviet ICBMs either violate or circumvent the SALT II Treaty in 11 significant provisions. For example, all five SALT II ceilings on missile launchers are being circumvented by these excess Soviet ICBMs.

In particular, reported Soviet ICBM rapid reload and refire exercises constitute violations of the explicit SALT II prohibiton on the "test" of the "rapid reload of ICBM launchers." This violation exists even though the Soviets did not agree to a definition of "rapid."

Moreover, there is strong evidence cited by two top Reagan Administration officials that the Soviets have violated four provisions of SALT II by deploying mobile SS-16 ICBMs at a test range. And all of these violations or circumventions are being illegally camouflaged and concealed.

Thus, there are 11 counts of Soviet SALT II violations or circumventions in this area of stockpiled missiles alone. These 11 counts of Soviet SALT II violations or circumventions are established from unclassified evidence and official U.S. government statements.

These Soviet violations or circumventions of the SALT II launcher ceilings make a mockery of the basic constraints of the treaty.

Five: These facts strongly support President Reagan's five public statements accusing the Soviet Union of violating five arms control treaties. The President has already accused the Soviets of violating the SALT II Treaty, the Threshold Test Ban Treaty, the Kennedy-Khrushchev Agreement of 1962, the Biological Warfare Convention, and the Chemical Warfare Convention.

Six: There is thus a consistent pattern of Soviet violations of the whole range of arms control treaties.

Seven: The existence of the Soviet General Staff Directorate of Strategic Deception is now known.

This Soviet military group, headed by the Chief of the Soviet General Staff, Marshal Nikolai Ogarkov himself, controls Soviet SALT negotiating and compliance behavior. This group is largely responsible for Soviet SALT negotiating deception, and SALT violations and circumventions. It is also responsible for the massive and expanding Soviet program of camouflage, concealment and deception, which is itself a violation of SALT. Soviet negotiating deception was a key element in allowing the Soviets to achieve unilateral advantages in SALT. For example, the Soviets protected their SS-19 ICBM and the Backfire bomber from constraint in SALT I and SALT II by using negotiating deception—false and misleading statements.

Indeed, Marshal Ogarkov was the top ranking Soviet military delegate to the SALT I negotiations between 1969 and 1971, precisely at the time when he was in command of the Strategic Deception Directorate. Ogarkov continued to play a key role in the SALT II negotiations, while maintaining his leadership of the Strategic Deception Directorate.

We are all aware of the analogy of the 1930's to the 1970's. History teaches us that military weakness and diplomatic appeasement breed war, not peace. Arms control treaties with the Soviets are worthless, unless the Soviets comply. Indeed, U.S. unilateral compliance with arms control treaties, while the Soviets cheat, can even be dangerous to world peace and U.S. national security.

Arms control efforts in the 1930's actually contributed to the outbreak of World War II. In the 1930's, clear evidence of Japanese and German violation of the naval treaties was not challenged by the West. Technical defects in the treaties, loopholes or ambiguous intelligence evidence were not responsible for the violations by the aggressor nations. The violations were a deliberate policy on the part of Germany and Japan. Loopholes or ambiguous evidence were not responsible for the West's failure to challenge the violations. Bad policy and weak will were responsbile.

Today, we face an increasingly clear pattern of Soviet violations of existing arms control treaties. American failure to challenge these Soviet violations will be more dangerous than any other course of action because an American failure of nerve will only encourage more aggessive Soviet violations.

After a decade of detente and arms control, U.S.-Soviet relations are worse than they were in 1972. America and the world are less secure, because of the relentless Soviet military buildup during the years of detente, in breach of SALT I and SALT II. There are now more nuclear armaments in the world, rather than less, despite two SALT agreements with which the U.S. has complied completely.

In fact, the Soviets use arms control negotiations to gain unilateral advantage. After negotiating SALT agreements with loopholes that leave all of their strategic programs unconstrained, the Soviets then go further to violate and circumvent the SALT agreements.

Finally, I would like to make public a new letter to President Reagan that summarizes my findings on Soviet SALT violations so far, and asks the President some further questions on the problem of Soviet SALT violations.

Next week I will have a further announcement concerning Soviet violation of the 1962 Kennedy-Khrushchev Agreement that ended the Cuban Missile Crisis. Massive violations of this agreement have contributed directly to Soviet-Cuban subversion and aggression throughout Central America, which has led to the current crisis in Nicaragua and El Salvador.

U.S. Senate,
Washington, D.C., April 25, 1983.

Hon. Ronald Reagan,
The President, the White House, Washington, D.C.

Dear Mr. President: I strongly support your view that increased attention be given to the whole question of Soviet compliance with existing arms control treaties. I was particularly interested in your statement on Soviet SALT II compliance on April 22, 1983, where you stated:

"Unfortunately, those previous treaties [i.e. SALT II] are so ambiguous that it amounts to loopholes . . . it is so ambiguous that it is difficult to establish and have hard and fast evidence that a treaty has been violated . . . if you can't get that kind of court room evidence you need, then you can't make the charge of violations . . . ." (emphasis added)

While there are indeed loopholes and ambiguities in the SALT II Treaty, the provision of SALT II on new type ICBMs is in no way ambiguous. The Soviets are not allowed to make significant changes beyond 5 percent increases in the characteristics, especially throw-weight, of old ICBMs. The only allowble Soviet solid fuel old ICBM is the SS-13, which was first flight-tested in 1965.

The Soviet missile test on February 8 they now indicate is only a modification of the SS-13. In actuality, it is a new missile, the PL-5.

It is inconceivable that a new Soviet ICBM, the PL-5 first tested in 1983, would be within 5 percent of the throw-weight of the SS-13.

The SS-16 is somewhat smaller than the old SS-13, but is has 200 percent of the SS-13's throw-weight. By this precedent, and other evidence, the PL-5's throw-weight must be comparable to that of the SS-16, which would clearly be more than 5 percent greater than the SS-13's throw-weight. Indeed, it is reported that the PL-5 transporter-erector-launcher is almost two meters longer than that of the SS-16, suggesting that the PL-5 itself is larger than the SS-16 and thus has more throw-weight even than the SS-16. Thus the Soviet tests of the PL-5 can only be described as a blatant violation of the SALT II Treaty.

It is neither possible nor wise to apply criminal law standards to arms control compliance issues. U.S. National Technical Means of SALT verification can almost never produce evidence that is so conclusive that it can convict in a court of law. Our NTM produce much good evidence, but it is always necessary to exercise human judgment in its interpretation and analysis. Intelligence is by its nature an art, and is rarely conclusive. Demanding absolute certainty in arms control compliance issues is simply unrealistic, and it will completely paralyze all further verification and compliance enforcement efforts.

On the problem of SALT II loopholes and ambiguities, I would also like to call your attention to another point. If all previous arms control treaties are now judged to be full of loopholes and ambiguities, and if all intelligence is now judged always to be ambiguous, can Soviet compliance with any arms control treaty ever be enforced?

Mr. President, please don't allow yourself to be pushed into a corner by overly cautious advisors. The Carter Administration pledged that it would have immediately challenged as SALT II violations Soviet telemetry encryption as complete as is now reported on the new Soviet medium ICBM (PL-4), on the SS-NX-20 Typhoon SLBM, and on the PL-5 ICBM. The Soviets are reportedly encrypting 95 to 100 percent of the telemetry on these missiles. All former President Carter stated to a joint session of Congress on 18 June, 1979 after returning from the Vienna SALT II Summit:

"It is the SALT II agreement itself which forbids concealment measures . . . it forbids the encryption or encoding of crucial missile test information. A violation of this part of the agreement—which we would quickly detect—would be just as serious as a violation on the limits of strategic weapons themselves."

Carter's statement means that nearly complete Soviet encryption must be regarded as being just as serious a SALT II violation as exceeding the launcher ceilings, which the Soviets are also doing. Telemetry encryption would be irreversible and would both defeat the objective and purpose of SALT II and undercut it. The U.S. thus has compelling grounds for declaring SALT II null and void.

Moreover, a Carter Administration State Department White Paper on SALT II verification published in August 1979 stated:

"Deliberate concealment efforts are themselves a violation, and if detected could be grounds for abrogating the Treaty, even if we are not certain what activity is being concealed . . . concealment measures designed to impede verification would themselves be violations."

Frank Church's Foreign Relations Committee was so concerned about Soviet encryption of telemetry in 1979 that it adopted, by a 15 to 0 vote in 1979, an understanding to the SALT II Treaty proposed by Senator Biden. This understanding stated that telemetry encryption that impedes verification "will be raised by the United States in the Standing Consultative Commission and, if the issue is not resolved to the satisfaction of the U.S., the U.S. reserves the right to exercise all other available remedies including but not limited to the right to withdraw from the treaty."

In sum, the Carter Administration and the Senate Foreign Relations Committee in 1979 pledged to abrogate SALT II if the Soviets used concealment measures such as almost complete telemetry encryption. Without abrogation, we could at least charge violation.

Mr. President, the SALT II Treaty is unequal in favor of the Soviets, places greater restraints on the U.S. than on the USSR, and in the view of the Senate Armed Services Committee in 1979 is not in the U.S. national security interest. If we not only abide by SALT II, but allow the Soviets to selectively violate its main provisions whenever they desire, we convert the arms control process into nothing more than unilateral disarmament of the United States. We also give the Soviets a free license to cheat.

Rationalizing this policy on the basis of ambiguities in SALT II and in intelligence evidence simply ignores the fact that ambiguities exist in any treaty and in all intelligence evidence, and would certainly be present in any START or INF treaty which your Administration may successfully negotiate.

If we allow the Soviets to perceive the slightest residual doubt concerning our will to vigorously insist upon Soviet compliance, we will convert to the arms control process into an exercise of legitimization of Soviet military superiority which will hasten the decline of the West.

Those who counsel you to adopt these policies in the name of "moderation" might do well to contemplate an observation in A. L. Rowse's classic study of appeasement, Appeasement: A Study In Political Decline, 1933 to 1939. Dr. Rowse observed, concerning the origins of World War II: "It was the middle man who ruined us."

Rowse meant that lack of will disguised as moderation allowed the growth of the Nazis threat that nearly conquered Europe and took 40 million lives in World War II.

Dr. Rowse characterized the politicians of the 1930's as "men of peace, [they had] no use for confrontation, [or] force . . . . That they did not know what they were dealing with is the most charitable explanation of their failure."

Finally, I am also puzzled by your April 22, 1983 statement suggesting that "further evidence . . . we believe, can be obtained from the Soviet Union in asking them directly the answer to some questions . . . ."

The Soviets have already repeatedly and emphatically denied the five arms control violations accusations you have already made. The Soviets have always officially denied violating any treaties. Are the Soviets now likely to confess their misdeeds, or are their excuses more reliable than U.S. intelligence data?

In fact, the Soviets are likely to compound their violations by engaging in further diplomatic duplicity. As former President Jimmy Carter stated on December 31, 1979, Soviet President Brezhnev's response to Carter's note requesting an explanation of the reasons for the Soviet invasion of Afghanistan:

"Was obviously *false* . . . . The tone of his [i.e. Brezhnev's] message to me . . . was completely inadequate and completely *misleading*. He is not telling the facts accurately . . . . My opinion of the Russians has changed more drastically in the last week than even the previous two and a half years before that . . . this action of the Soviets has made a more dramatic change in my opinion of what the Soviet's ultimate goals are than anything they've done in the previous time I've been in office . . . ." (emphasis added)

As Senator John Warner stated in a Senate speech on January 2, 1980: "In view of the President's [i.e. Carter's] statement that Brezhnev lied to him about Afghanistan, it might well be that Brezhnev lied during the SALT II negotiations."

As you stated on January 29, 1981, ". . . they [the Soviets] reserve unto themselves the right to commit any crime, to lie, to cheat . . . ."

Mr. President, there is also evidence that Brezhnev lied to the U.S. in the SALT I negotiations over their SS-19 ICBM, and lied to the U.S. in SALT II over the Backfire bomber. Is the Soviet leader Yuri Andropov, former Chief of the KGB, more honest and trustworthy than Brezhnev?

Accordingly, Mr. President, I would like to ask you:

(1) Is there a qualitative difference in the specificity of the treaty language and the clarity of the intelligence evidence which underlies each of your five accusations of Soviet arms control treaty violations?

(2) Will you reveal what the Soviets have told the U.S. in diplomatic channels about their missile testing since October 26, 1982?

(3) What is your evaluation of the veracity of the Soviet statements, compared to our own intelligence assessments? What are the implications of any differences?

(4) Do you believe that the conclusive evidence of Soviet violation of the Biological and Chemical Warfare Treaties should make us more suspicious of Soviet violations of other arms control treaties?

(5) What is the ratio of the weight of the warhead of the PL-5 to its throw-weight, and is this ratio consistent with the SALT II constraint that single warhead missiles can not have warheads weighing less than half the total throw-weight?

(6) Why has this Administration not set up a Red Team to study Soviet cheating scenarios, as you recently ordered?

Thank you in advance, Mr. President, for your prompt responses to my further questions.

With warmest personal regards,

James A. McClure,
U.S. Senator.

Covert Strategic Reserve ICBM Force: Another Soviet SALT II Violation

(By U.S. Senator Jim McClure)

At a time when the House of Representatives is still debating the nuclear weapons freeze resolution, I would like to present the third case in my series of analyses of Soviet violations of strategic arms limitations (SALT) agreements. At the beginning, I would like to summarize my conclusions.

First: There is an open and shut case, established from official documents and statements, that the Soviets are violating the most important provisions of the SALT II Treaty—Article IV, Paragraph 9—by flight testing *two* new types of ICBMs. SALT II specifically allows for only *one* new type of ICBM to be flight-tested on each side. The Soviets are flight-testing a new medium ICBM the size of the MX, and a new small mobile ICBM.

The Soviets are violating SALT II by doing precisely what the U.S. is prevented from doing in order to comply with SALT II. That is, the U.S. is prohibited by the "Hart Amendment" to The Fiscal year 1983 Extended Continuing Resolution from flight-testing even the MX ICBM and simultaneously planning to develop a new small ICBM for possible first flight test in 1989.

The Hart Amendment to the FY 1983 extended Continuing Resolution enforces U.S. compliance with the SALT II new type ICBM provision—Article IV, Paragraph 9.

The Hart Amendment was, indeed, justified to the Senate for the express purpose of ensuring U.S. compliance with SALT II Article IV, Paragraph 9.

The U.S. can not even test the MX and develop a new small ICBM, because the Congress and the President believe that this would violate SALT II. While the Hart Amendment prevents the U.S. from testing the MX, and developing a new small ICBM, in order for the U.S. to comply with SALT II, the Soviets are doing precisely what the U.S. is prevented from doing. The Soviets are testing a new large ICBM and a new small ICBM. If the U.S. would violate SALT II by testing the MX missile and developing a new small missile, then the Soviets must be violating SALT II by doing precisely that themselves.

Thus, by the Congress' and the President's *legally* established interpretation of SALT II, Article IV, Paragraph 9, the Soviets must be found to be in violation of SALT II.

Here is my view on the Soviet violations of SALT II. While there are indeed loopholes and ambiguities in the SALT II Treaty, the provision of SALT II on one new type ICBM is in no way ambiguous. The Soviets are not allowed to make significant changes beyond 5 percent increases in the characteristics, especially throw-weight, of old ICBMs. The only allowable Soviet solid fuel old ICBM is the SS-13, which was first flight-tested in 1965. It is inconceivable that a new Soviet ICBM, the PL-5 first tested in 1983, would be within 5 percent of the throw-weight of the SS-13. Indeed, the SS-16, first flight-tested in 1972, is a useful guide to estimating the throw-weight of the PL-5. The Soviets are not known to design new missiles inferior to old ones.

The SS-16 is somewhat smaller than the old SS-13, but it has the 200 percent of the SS-13's throw-weight. By this precedent, and other evidence, the PL-5's throw-weight must be comparable to that of the SS-16, which would clearly be more than 5 percent greater than the SS-13's throw-weight. Indeed, it is reported that the PL-5 transporter-erector-launcher is almost two meters longer than that of the SS-16, suggesting that the PL-5 itself is larger than the SS-16 and thus has more throw-weight even than the SS-16. Thus the Soviet tests of the PL-5 can only be described as a blatant violation of the SALT II Treaty.

Second: The U.S. now has 95 percent confidence that the Soviets have violated the 150-kiloton limit of the Threshold Test Ban Treaty (TTBT), by testing nuclear weapons at militarily significant levels of 250 kilotons and above. The Soviets have conducted 15 nuclear weapons tests above 150 kilotons.

There is now almost unanimous agreement on this judgment within the government. Unlike many other verification judgments, we can now make a hard, mathematical conclusion that the Soviets are almost certainly violating the TTBT. The problem of interpreting often imprecise arms control treaty language, and often ambiguous intelligence evidence are not present in the case of our assessment of Soviet violation of the TTBT. The 150-kiloton threshold is precise, and the intelligence is unambiguous when treated statistically.

This conclusion does not even assume Soviet efforts to mask or conceal their test yields, for which there is good evidence. If such evidence were used in the assessment, the confidence level would rise closer to 100 percent. Moreover, the Soviets have rebuffed all U.S. attempts to achieve enhanced verification of the TTBT, thereby providing conclusive evidence of Soviet cheating.

Third: The Soviets probably have, by careful conservative estimate derived from unclassified government information, about 1,000 to 2,000 extra ICBMs, carrying between 2,000 to 4,000 nuclear warheads. These Soviet ICBMs *do not count at all* in the SALT II Treaty.

The stockpiled excess Soviet ICBMs constitute, in the opinion of the Defense Department, a significant covert, Soviet strategic reserve ICBM force. Some of these are camouflaged and concealed Soviet mobile missiles.

Fourth: According to Defense Department and U.S. Arms Control and Disarmament Agency statements, these excess Soviet ICBMs either violate or circumvent the SALT II Treaty in 11 significant provisions.

For example, all five SALT II ceilings on strategic delivery vehicles are being [violated or] circumvented by these excess Soviet ICBMs. In particular, Soviet ICBM rapid reload and refire exercises constitute [clear-cut] violations of the explicit SALT II prohibition on the "test" of the "rapid reload of ICBM launchers."

Moreover, there is strong evidence that the Soviets have violated four provisions of SALT II by deploying mobile SS-16 ICBMs at a test range. And all of these violations are being illegally camouflaged and concealed. Thus, there are 11 counts of Soviet SALT II violations or circumventions in this area of stockpiled missiles alone. These 11 counts of Soviet SALT II violations or circumventions are established from unclassified evidence and official U.S. government statements. These Soviet violations or circumventions of the SALT II launcher ceilings make a mockery of the basic constraints of the Treaty.

Fifth: These facts strongly support President Reagan's five public statements accusing the Soviet Union of violating five arms control treaties.

Sixth: The Soviet military group, headed by the Chief of the Soviet General Staff, Marshal Nikolai Ogarkov, controls Soviet SALT negotiating and compliance behavior. It is largely responsible for Soviet SALT negotiating deception, as well as SALT violations and circumventions.

It is also responsible for the massive Soviet program of camouflage, concealment and deception, which is itself a violation of SALT. Indeed, Marshal Ogarkov was the top ranking Soviet military delegate to SALT I negotiations between 1969 and 1971, precisely at the time when he was in command of the Strategic Deception Directorate.

Ogarkov continued to play a key role in the SALT II negotiations, while maintaining his leadership of the Strategic Deception Directorate.

Seventh: There is a consistent pattern of Soviet violations of the whole range of arms control treaties:

(a) Soviet deployment of heavy ICBMs replacing light ICBMs in violation of the SALT I Interim Agreement, enabling the Soviets to quintuple their counterforce capability.

(b) Soviet development of a nationwide ABM defense in violation of the SALT I ABM Treaty, through their construction of ABM battle management radars, three types of SAMs for ABM mode use, and a mobile new ABM in mass production.

(c) Soviet violation of the Biological and Chemical Warfare Conventions.

(d) Soviet violation of the Kennedy-Khrushchev Agreement of 1962.

(e) Soviet deployment of long-range air-to-surface cruise missiles on TU-95 Bear and Backfire bombers, in violation of SALT II.

(f) Almost total encryption of telemetry associated with the testing of all significant missiles in violation of SALT II.

(g) Soviet production of more than 30 Backfire bombers a year, the SALT II limit.

We have already seen that there is one arms control treaty where Soviet violation is conclusively established. The Soviets have clearly violated the Threshold Test Ban Treaty. I have also pointed out a consistent pattern of strong evidence of Soviet violations of numerous arms control treaties. The conclusive evidence of Soviet violation of the TTBT strengthens the individual cases in the pattern of Soviet arms control violations.

Eighth: All U.S. arms control objectives have been negated by Soviet SALT negotiating deception, violations and circumventions, which are designed to gain the Soviets unilateral advantages.

Ninth: An analysis of the growing Soviet strategic threat, both offensive and defensive, indicates that the Soviets are breaking out of both the SALT II Treaty and the SALT I ABM Treaty.

A. SOVIET ICBM RAPID RELOAD AND REFIRE CAPABILITY

The SALT II Treaty explicitly and clearly bans a Soviet rapid reload and refire ICBM capability. The SALT II Treaty Article IV Paragraph 5 states:

"Each Party undertakes:

a) Not to supply *ICBM launchers deployment areas* with intercontinental ballistic *missiles* in *excess* of a number consistent with *normal* deployment, maintenance, training, and replacement requirements:

b) Not to provide *storage facilities* for or to store ICBMs in excess of *normal* deployment requirements at launch sites of ICBM launchers;

c) Not to develop, *test*, or deploy systems for *rapid reload* of ICBM launchers. (emphasis added)

Thus the SALT II Treaty clearly prohibits a Soviet ICBM rapid reload and refire capability, or even the testing of a rapid reload capability.

The Defense Department book *Soviet Military Power* of March 1983 has several statements that relate to the above SALT II provision. On pages 17, 19, and 21 it states:

"For their ICBM . . . forces, the Soviets have stocked extra missiles, propellants, and warheads throughout the USSR. . . . Some ICBMs and SLBMs may have been designated as strategic reserves . . . *The Soviets have contingency plans for reloading and refiring ICBM's from launchers that already have been used to fire an initial round.* The cold-launch technique employed by the SS-17 and SS-18 lends itself to such a reload capability. The Soviets probably can not refurbish and reload silo launchers in a period less than a few days; nevertheless they believe that this capability is of significant value because they anticipate that a nuclear war might be protracted. The Soviets have made provisions for the delivery of reserve missiles, warheads, and propellants to ICBM complexes for reload purposes. *None* of these extra missiles or warheads are counted under SALT agreements. *Only the launchers are counted.* (emphasis added)

The above DOD statement clearly states that the Soviets have a rapid reload and refire capability. Thus they have violated or circumvented the SALT II Treaty, Article IV, Paragraph 5, by developing, testing, and deploying a rapid reload and refire capability.

Moreover, *Aviation Week* in September 1980 reported that the Soviets have actually conducted exercises with their cold-launched SS-18 for rapid reload and refire. Such excercises demonstrated the Soviet capability to rapidly reload and rapidly refire their SS-18 ICBMs.

These exercises constitute clear-cut violations of the explicit SALT II prohibition on the "test" of the "rapid reload of ICBM launchers."

The cold-launched SS-17 also has a rapid reload and refire capability. Thus the Soviets have a fairly significant rapid reload and refire capability. There are 326 SS-18 ICBMs and 150 SS-17 ICBMs, a total of 476 ICBMs. These missiles carry a total of about 3,860 highly accurate, high yield counterforce capable warheads. If these launchers are rapidly reloadable and refirable, this means the Soviets can quickly launch 952 counterforce missiles carrying 7,720 highly accurate, powerful warheads. Thus this rapid reload and refire capability provides the Soviets with a 200% increase in the counterforce capability of two elements in their counterforce ICBM force. Their counterforce SS-19 ICBM already numbers about 360 launchers, and these carry about 2,160 highly accurate, powerful warheads.

B. STOCKPILED MISSILES FOR COVERT SOFT LAUNCH

According to Defense Department Posture Statements, the Soviets have replaced about 820 SS-11 and SS-9 ICBMs with new SS-17, SS-18 and SS-19 ICBMs. Another 400 or so early model SS-11s have reportedly been replaced by later models and the SS-11. Moreover, the Soviets have deactivated about 209 old SS-7 and SS-8 ICBMs. These old, replaced ICBMs total 1,429. These missiles have reportedly not been observed being dismantled or destroyed, hence they must be assumed to still be operationally capable, especially if erectors, transporters, and propellants are available to covertly launch them from soft launch pads as they all reportedly were during their early flight-test programs. Such launch equipment reportedly exists. There are estimates that another 1,000 old Soviet ICBMs may exist in rear echelon depots and warehouses or factories. Thus, there may be as many as 2,400 plus old Soviet ICBMs.

There are unclassified reports that SS-11 ICBMs have been observed at soft pads used for launching SS-4 Medium Range Ballistic Missiles (MRBM). These SS-11s have reportedly appeared at SS-4 MRBM complexes at soft launch pads several times. This raises the question of whether SS-11s are intended to be covertly deployed and launched at MRBM and Intermediate Range Ballistic Missile (IRBM) complexes, where there are also many soft launch pads. As noted, SS-11s can easily be soft launched, as they were early in the SS-11 flight test program. All that is required is an erector and propellants. Moreover, ICBM equipment has reportedly been observed being returned to deactivated old SS-7/8 ICBM complexes. This raises questions about Soviet intentions to clandestinely redeploy old ICBMs at old ICBM complexes for covert soft launch.

C. SOVIETS DEPLOY MOBILE SS-16 ICBM'S IN VIOLATION OF SALT II TREATY

There is converging evidence from many public sources that the Soviet mobile SS-16 ICBM is *deployed operationally* at the Plesetsk test range in northern Russia. About 100 to 200 SS-16 missiles are estimated to be deployed operationally at Plesetsk.

This operational deployment violates the SALT II Treaty in the following four provisions: Common Understanding to Paragraph 8 of Article 4: "During the term of the Treaty, the USSR will not *produce, test,* or *deploy* ICBMs of the type designated by the USSR as the RS-14 and known to the U.S. as the *SS-16* . . ."

Article 7: "ICBM and SLBM test and training launchers are ICBM and SLBM launchers used only for testing to training,"

and the Protocol, Article I: "Each Party undertakes not to *deploy* mobile ICBM launchers or to flight-test ICBMs from such launchers."

In addition, Soviet SS-16 mobile ICBM deployment (and all excess ICBMs in general) are inconsistent with that Data Exchange of SALT II: USSR number of launchers of ICBMs "1398" USSR number of fixed launchers of ICBMs of "1398." Thus, according to Soviet supplied data, there are no mobile or excess Soviet ICBMs.

The precedent is well established that the Soviets have already *deployed operational* ICBMs at Soviet ICBM test ranges for a long period of time. The Carter Administration openly stated this fact:

"The Second Common Understanding [i.e., to Article VII of the SALT II Treaty] deals with the disposition of eighteen Soviet launchers located at the Tyuratam test range, which the Soviet Union stated were test and training launchers associated with fractional orbital missiles, *but which the United States assessed to be part of the operational SS-9 missile force.*" (U.S. State Department, Document number 12B, *THE SALT II AGREEMENT* p. 37, emphasis added.)

This statement established, for the first time publicly, that the Soviets have long deployed 18 SS-9 ICBMs in an operational status at a test range. The SALT I agreement was thus circumvented by the Soviets for 11 years, because Article I of the SALT I agreement limited the number of Soviet ICBM launchers, without including these test range SS-9s which were part of the operational ICBM force. This precedent means that all ICBM launchers at all Soviet test ranges should be considered deployed and operational.

Several definitional questions must be addressed to analyze Soviet mobile ICBM deployment at test ranges. First, the distinction between a test range and a deployed operational ICBM complex has always been artificial. This is because the first ICBM ranges in both the U.S. and the USSR were also concurrently operational complexes with ICBMs deployed there. In the early ICBM era, 1958 to 1963, there was a dearth of ICBMs on both sides. Both sides therefore used test range launchers operationally, as the U.S. did during the Cuban Missile Crisis. Test ranges have thus always had operational capability. However, in 1969, U.S. Intelligence created a distinction between deployed ICBM complexes and test ranges in order to exclude some Soviet ICBMs from counting in SALT totals. This was done in order to make SALT negotiations easier by making Soviet ICBM advantages appear less.

Second, the concepts of ICBM deployment and operational use are themselves vague. Defining the criteria for identifying *mobile* ICBM operational deployment is even more difficult and therefore has never been rigorously done. The reason was that until recently the U.S. has never identified any Soviet mobile ICBM operational deployment, so there was no perceived need to define the concept. Is a mobile ICBM "deployed" when it is in a garage, or only when it is covered by camouflage in a forest? The Soviets have carefully camouflaged and concealed all their mobile SS-16 testing and deployment activity, thereby exploiting the inability of U.S. Intelligence to define operational deployment for mobile ICBMs.

The evidence of Soviet deployment of SS-16 ICBMs is as follows:

The New York Times reported that the Soviets had produced over 100 SS-100 mobile ICBMs. ("Pentagon Aides Say Moscow Has Mobile Missiles Able to Reach US," The New York Times, November 2, 1977.)

The SALT Handbook, edited by Michael B. Donley (The Heritage Foundation, 1979) stated on page 67:

"There are reports of up to *a hundred* SS-16s in the *mobile mode* being in storage." (emphasis added)

On April 5, 1982, Evans and Novak reported in The Washington Post that there was agreement within the intelligence community that the Soviets had operationally deployed 100 to 200 SS-16 mobile ICBMs at the Plesetsk Test Range.

Assistant Secretary of Defense Richard Perle stated on November 27, 1982, in regard to SS-16 deployment that there "was some considerable evidence that could well indicate a violation." On October 3, 1982, former Arms Control Director, Eugene Rostow said, "Certainly evidence has come along that causes great concern about whether the SS-16 provisions of SALT II are being respected."

Thus, the facts reported are clear. There are 100 to 200 operationally deployed SS-16s at Plesetsk, and this Soviet SS-16 deployment violates SALT II.

Indeed, the U.S. Arms Control and Disarmament Agency has reportedly recently completed a study which actually *confirms* that the Soviets have operationally deployed the SS-16 at Plesetsk in violation of the SALT II Treaty.

The danger of camouflaged SS-16 mobile ICBM deployment at Plesetsk is compounded by the fact that the SS-16 has a rapid reload and refire capability. Thus, if there are 200 SS-16 launchers deployed at Plesetsk, they can fire 400 SS-16s rather quickly. This is a significant covert strategic reserve and these launchers would be extremely difficult for the U.S. to target, because they are mobile and camouflaged.

D. COVERT UPGRADE OF MOBILE IRBMS

The Soviets have, according to the State Department, deployed 351 SS-20 mobile IRBMs. These SS-20s are also camouflaged and concealed, and they, too, have a rapid reload and refire capability.

There are several ways in which the SS-20 IRBM, which has an estimated range of 5,000 kilometers, could be made into an ICBM.

First, under the SALT I definition of an ICBM, the SS-20 would clearly qualify. This is because it can reach the U.S. from the USSR, which was the SALT I definition of an ICBM. Second, the SS-20's range can be easily increased by removing 1 or 2 warheads. In this case, it would differ from the SS-16 ICBM only by its lack of a 3rd booster stage. Third, extra SS-16 3rd stages could be covertly added to the SS-16, thus clandestinely converting it into an SS-16.

Fourth, there is in fact considerable uncertainty about the full range capability of the SS-20, which is compounded by the reported fact that its telemetry signals were heavily encrypted throughout its flight-test program. Moreover, this reported heavy encryption could also be used to mask the testing of the SS-20 with fewer than 3 warheads, thus extending its range covertly.

In sum, the SS-20 has an inherent ICBM capability. If each SS-20 can be rapidly reloaded and refired, then there could be 702 SS-20s fired. This would be a total of 702 warheads with high accuracy and yield.

E. ALL SOVIET TEST RANGE ICBM LAUNCHERS SHOULD COUNT IN SALT II

There are reportedly as many as 100 Soviet ICBM launchers at Soviet test ranges. Test and training launchers are impossible to differentiate from each other and from operational ICBM launchers. As noted, the SALT II Treaty analysis of the Carter Administration reveals that the Soviets use test range launchers as part of their operational ICBM force. Under SALT I and SALT II, however, all Soviet ICBM launchers at test ranges are by definition test and training launchers and therefore do not count in the SALT II ceilings. Thus, there is a built-in loophole in SALT I and SALT II exempting test and training launchers from counting in the agreed ceilings, even though the Soviets are known to use these launchers for operational deployment. Thus, for eleven years the Soviets have been able to circumvent all the SALT I and SALT II ICBM launcher ceilings merely by having operational (test and training) ICBM launchers at test ranges.

F. IMPLICATIONS OF EXCESS SOVIET ICBM'S

There are very significant military implications of excess Soviet ICBMs. First, the Soviets have more than doubled their MIRV'd ICBM counterforce capability. Their rapid reload and refire capability for the 476 SS-17 and SS-18 could allow them to salvo a first strike. The rapidity of their reload and refire is now estimated at a couple of days, but in a period of crisis or threat, this time could easily be significantly reduced to one day or less. The extra missiles and equipment are reportedly already stockpiled and ready to the ICBM complexes.

Second, the 1,429 stockpiled old ICBM's can be used for covert soft launch from unidentified sites such as warehouses, factories, and medium-range missile pads. Even roads and parking lots could easily become covert soft launch sites. This capability gives the Soviets a significant covert strategic reserve for second strike, countervalue purposes.

Third, the Soviets have stockpiled a significant number—100 to 200—of mobile ICBMs, which are camouflaged and concealed. These are an additional second strike, strategic reserve ICBM force.

Fourth, the Soviets have about 100 ICBM launchers at test ranges, which provide a third strategic reserve, and many of these can also be rapidly reloaded and refired.

Finally, the Soviets have a fourth strategic reserve in the form of camouflaged and concealed mobile IRBMs, which can easily be upgraded into ICBMs in several ways. Indeed, these IRBMs should count in SALT II as ICBMs and SALT I definition and by inherent capability.

To summarize the conclusions of this analysis, the Soviets probably have the following capabilities in excess ICBM's, by careful conservative estimate:

TABLE I

	Excess ICBM's	Excess warheads
SS-17/18 rapid reload and refire first strike counterforce	476	3,860
SS-9/11, SS-7/8 covert soft launch second strike countervalue	1,429	1,429
SS-16 covert second strike countervalue	200	200
Test range ICBM's	100	100
SS-20 IRBM's for covert upgrade, second strike countervalue	351	351
Total	2,556	5,940

In addition, the SS-16, SS-20 and test range launchers all also have a significant rapid reload and refire capability which is not even included in the table.

This probable Soviet excess ICBM capability is extremely significant. With this massive Soviet reserve ICBM capability, totally uncounted in either the SALT I or SALT II ICBM launcher ceilings, the Soviets have either violated or circumvented SALT II in the following 11 ways:

(1) All the SALT II ceilings on missile launchers are circumvented:

2,400 missile launchers, bombers, and Air-to-Surface Ballistic Missiles (Article III, Paragraph 1)

2,250 missile launchers, bombers, and Air-to-Surface Ballistic Missiles (Article III, Paragraph 2)

1,320 MIRV'ed missile launchers and bombers equipped with long-range missiles (Article V, Paragraph 2)

1,200 MIRV'ed missile launchers (Article V, Paragraph 3)

820 MIRV'ed ICBM LAUNCHERS (Article V, Paragraph 3)

These are among the most important constraints in the SALT II Treaty.

(2) The provision of SALT II (Article VII, Paragraph 1), which prohibits use of test and training launchers at test ranges for operational purposes.

(3) The SALT II ban (Article IV, Paragraph 8, Common Understanding) on SS-16 development, production, and deployment.

(4) The SALT II ban (Article IV, Paragraph 5) on stockpiling excess ICBM's for rapid reload and refire of ICBM's. In particular, the SS-18 ICBM rapid reload and refire exercises constitute clearcut violation of the explicit SALT II prohibition on the "test" of the "rapid reload of ICBM launchers."

(5) The SALT II Data Exchange, which does not include Soviet reload-refire missiles, covert soft launch stockpiled ICBM's, SS-16's, test range ICBM's, or SS-20's.

(6) The Soviets are camouflaging and concealing reload and refire ICBM's, SS-16 and SS-20 test range launchers, and covert soft launch ICBM's, thereby violating SALT II's Article XV prohibition on deliberate interference with U.S. National Technical means of verification.

Moreover, when the Soviets begin deploying their 5th Generation ICBM's in the 1984-1985 period, the PL-4 and PL-5 they will probably be replacing some of their SS-16/20, SS-17, SS-18, SS-19 ICBM's. Thus, the huge Soviet stockpile of excess ICBM's will be even further augmented when the new PL-4 and PL-5 ICBM's begin being deployed in the near future.

G. CONCLUSION: FAILURES OF ARMS CONTROL

Mr. President, we are all aware of the analogy of the 1930's to the 1970's. History teaches us that weakness and appeasement breeds war, not peace. Arms control treaties with the Soviets are worthless, unless the Soviets comply. Indeed, U.S. unilateral compliance with arms control treaties while the Soviets cheat can be dangerous to world peace and U.S. national security, because it can dangerously weaken America. Because of U.S. unilateral compliance with arms control treaties in the face of massive evidence of Soviet cheating, there is today less stability in the world than in 1972, the year that détente began.

After a decade of détente, United States-Soviet relations are today worse than they were in 1972. America and the world are less secure, because of the relentless Soviet military buildup during the years of détente. There are now more nuclear armaments in the world, rather than less, despite SALT treaties.

In fact, the Soviet approach to arms control negotiations has been to gain unilateral advantage. After negotiating SALT agreements with loopholes which leave all of their strategic programs unconstrained, the Soviets go on to circumvent and even violate the SALT agreement. Thus, the Soviet approach to arms control is to gain unilateral advantage through negotiating deception, then to circumvent and violate the treaties themselves.

Summary of the Soviet strategic offensive threat

The Soviets have already deployed over 820 advanced ICBMs comparable to or even more powerful than the U.S. MX missile of which we plan only 100. The Soviets deployed more MX-size warheads last year than U.S. plans for 1987-89, over 1,000. They now have 6,000 ICBM warheads, or three times the number the U.S. has.

The Soviets are already in the process of replacing fourth generation missiles they built after 1975. They are replacing these missiles "with SS-19 Mod 3 and SS-18 Mod 4 MIRV'd ICBM's, the world's most lethal ICBMs."

The Soviets have staged:

"First tests of a new medium solid-propellant ICBM similar in size and payload to the U.S. MX."

"The first test of a new small solid-propellant ICBM, which could be deployed on mobile transporters." Thus the Reagan Administration has publicly acknowledged that the Soviets have 2 new types of ICBMs in test, and SALT II allows only one.

"Preparations to begin testing other new ICBMs, probably in 1983." These missiles are probably follow-ons to the SS-18 and SS-19. Thus, the Soviets have 2 more new ICBMs, for a total of 4.

The Soviets are testing a new heavy bomber, the Blackjack, which is 20 percent larger than the U.S. B-1, while continuing to produce the Backfire which is almost as large as the B-1.

Development of ALCM, SLCM and GLCM of 3,000 km range. The ALCM is to be "carried by the Backfire, the Blackjack and possibly the Bear . . ." This will put the Soviets way over the SALT II ceiling of 1,320 MIRV'd missiles and bombers equipped with long-range cruise missiles.

The Soviets are producing two new missile submarines, the Typhoon, 50 percent larger than our Trident, and the Delta III. Both carry MIRV'd missiles. The Typhoon will soon be operational.

The Soviets are preparing "to begin testing another new SLBM, probably in 1983."

Summary of the Soviet strategic defense threat

On top of an air defense system consisting of about 2,600 fighter-interceptor aircraft (versus a few hundred for the United

States) and over 10,000 SAM launchers, (zero for the United States) the Soviets are:

Drastically improving their air defense capability through "further deployment of the SA-10 low altitude SAM around Moscow and throughout the U.S.S.R.," and are "testing a mobile version of the SA-10 SAM."

They have begun "deployment of Foxhound interceptors which can identify and track targets flying beneath it and fire air-to-air missiles against these targets."

They are "testing two additional new air defense interceptor aircraft," and deploying an AWACs aircraft.

They have tested the SA-12 in an ABM mode, which gives them a base for a nationwide ABM defense.

In the ABM area the Soviets are building a new ABM system at Moscow which "includes a new, very large phased-array radar and deployment of new ABM interceptors."

These interceptors include a high speed short range and an improved long range interceptor.

The Soviets "continue to pursue extensive ABM research and development programs including a rapidly deployable ABM system and improvements for the Moscow defense."

"additional construction of large phased-array radars around the periphery of the USSR." In 1981 the JCS revealed that "Soviet phased array radars, which may be designed to improve impact predictions and target handling for ABM battle management, are under construction at various locations throughout the USSR."

The Soviets are "testing high-energy laser systems for land-based and sea-based air defense" and are developing a space-based laser weapon.

The Soviets have constructed "hardened facilities numbering in the thousands, command vehicles, and evacuation plans designed to protect party, military, governmental, and industrial staff, essential workers and, to the extent possible, the general population." Soviet civil defense is funded at 20 to 30 times the U.S. effort.

What does this all mean?

The Soviet strategy is one of being able to fight, survive and win a nuclear war.

Soviet forces are designed for a strategy which calls for:

"Forces which are designed to destroy Western nuclear forces on the ground and in flight to their targets, and for the capability to survive should nuclear weapons reach the Soviet homeland."

Protection of the homeland is a vital Soviet mission. The Soviets put "great importance" on this mission and on "working hard to keep Western modernization programs to a minimum during peacetime."

"The Soviets appear to believe that nuclear war might last months, and have factored this into their force deployments."

"Since the late 1950's, the Soviets have developed and deployed nuclear forces having two fundamental capabilities: strike against nuclear arsenals and command and control systems, and support of land warfare in Eurasia."

Soviet strategy is based on "a first or preemptive strike."

The soviets have built a capability to reload and fire additional missiles from their silos in support of a long war.

On SALT II, the following summary points emerge:

There is an expanding range of Soviet activities that are outside the Treaty limits. These include:

Well over 250 more operational strategic delivery vehicles than allowed by SALT II.

Circumvention or violation of the SALT II delivery vehicle ceilings through refire missile activity.

Testing of two new type ICBMs and preparations for testing two more.

Extensive telemetry encryption.

Deployment of the SS-16 ICBM

Preparations to deploy long range (3,000 km) cruise missiles on the Backfire bomber.

Production of more than 30 Backfires per year—36 to 40—in violation of SALT II.

The Soviets are clearly violating the chemical and biological weapons treaties.

There is 95 percent confidence that the soviets have violated the TTBT with nuclear weapon tests at militarily significant levels—above 250 kilotons.

The Soviets have violated the Kennedy-Khrushchev Agreement of 1962 which ended the Cuban Missile Crisis.

There are major compliance issues with the ABM Treaty:

Construction of large phased array radars with ABM battle-management potential.

Testing of SAM missiles and radars in the ABM mode and production of a rapidly deployable mobile ABM.

On the nuclear freeze:

It is basically a fraud. It is closest to the types of arms control agreements that have failed in the past (the Biological Warfare Convention for example) and it is nothing but a big loophole of the type the Soviets have exploited in the past.

Key elements are not verifiable and the Soviet compliance record does not exactly suggest trust.

It would freeze U.S. into an inferior position with major elements of our deterrent vulnerable to Soviet attack.

It would freeze us into a position in which our forces are old and Soviet forces are new.

It would allow the Soviets to continue to erode our bomber penetration and ASW capability.

President Reagan's accusations

President Reagan himself has taken the lead in pointing out Soviet arms control violations, which I applaud as leadership and statesmanship in the best tradition of our republic. President Reagan has a realistic view of the Soviet Union and of the intentions of the Soviet Politburo. He understands the dangers of Marxism-Leninism, and the degree to which this ideology guides and legitimizes the rule of the Soviet Communist Party. The American people share President Reagan's realism regarding the Soviets.

President Reagan has made the following five accusations of Soviet violations of five arms control treaties:

1. Soviet violation of the unratified SALT II treaty

President Reagan made the following statement at a press breakfast on February 23, 1983 about Soviet flight-testing of a second new type ICBM in violation of SALT II:

"This last one comes the closest to indicating that it is a violation."

There is an open and shut case on this SALT II violation, testing of 2 new type ICBM's when only one is allowed. President Reagan stated further in regard to Soviet SALT II violations on April 21, 1983 ". . . When have they stopped?"

2. Soviet violation of the Kennedy-Khrushchev agreement of October 28, 1962

This agreement was supposed to "halt further introduction of such weapons systems (i.e., Soviet offensive missiles and other offensive weapons, which Khrushchev even defined as including Soviet troops) into Cuba "as firm undertakings" on the part of "both" the United States and the Soviet governments.

President Reagan stated at a press conference in May 1982: "You know, there's been other things we think are violations also of the 1962 agreement."

There is conclusive physical evidence of Soviet military activity in Cuba in violation of the Kennedy-Khrushchev Agreement.

3. Soviet violations of the Threshold Test Ban Treaty of 1974

President Reagan stated on March 28, 1983: "We have reason to believe that there have been numerous violations."

On the Threshold Test Ban Treaty, the U.S. has 95 percent confidence of several Soviet violations of the TTBT at militarily significant levels.

4. and 5. Soviet violations of the Chemical Warfare Geneva Protocol of 1925 and the Biological Warfare Convention of 1975.

President Reagan stated on January 26, 1983: "There is overwhelming evidence of Soviet violations of international treaties concerning chemical and biological weapons."

President Reagan also stated on June 17, 1982, at the United Nations: "The Soviet Union and their allies are violating the Geneva Protocol of 1925 . . . and the 1972 (i.e. ratified in 1975) Biological Warfare Convention. There is conclusive evidence."

There is conclusive physical evidence of these Soviet violations in South East and South West Asia, as well as at Sverdlovsk in the USSR.

In addition, President Reagan has made two further statements on Soviet arms control compliance in general. On May 9, 1982, President Reagan stated: "So far, the Soviet Union has used arms control negotiations primarily as an instrument to restrict U.S. defense programs and in conjunction with their own arms buildup, as a means to enhance Soviet power and prestige. *Unfortunately, for some time suspicions have grown that the Soviet Union has not been living up to its obligations under existing arms control treaties.*" (Emphasis added.)

President Reagan added recently, on March 31, 1983: "And I am sorry to say, there have been increasingly serious grounds for questioning their (i.e. Soviet) compliance with the arms control agreements that have already been signed and that we have both pledged to uphold. *I may have more to say on this in the near future . . .*" (Emphasis added.)

The President is not alone in his concerns about SALT II violations. On April 7, 1983, Defense Secretary Weinberger was asked if the Soviet Union was violating the SALT II Treaty, particularly with regard to testing a second new type ICBM. Weinberger answered:

"They're (i.e., the Soviets) doing a lot of things that seem to us to involve work with two missiles, whereas the SALT treaty appears to limit the one. They're doing a lot of things about encryption . . . which the SALT treaty appears to ban . . . there may be a violation, indeed, and *this would not be the first time.* The real violation of the Soviets is with the chemical treaties and the use of chemical warfare in Afghanistan and Kampuchea. And that isn't a question of interpretation. That's unfortunately a flat fact." (Emphasis added.)

Weinberger added that there may be several Soviet SALT II violations. According to Human Events of April 16, 1983:

"A high-level interagency group, cochaired by Admiral Jonathan Howe, head of the State Department Political-Military Bureau, and Assistant Secretary of Defense Richard Perle, unanimously agreed on March 8 that the Soviets blatantly violated the SALT II treaty that both the Soviets and the United States have agreed not to undercut. William E. Jackson, who served with the Arms Control and Disarmament Agency in the previous Administration and is now with the Brookings Institution, confirmed the report. In a press conference last week, Jackson said the Soviets, in violation of SALT II, tested a missile on February 8 that may have had twice the warhead payload of the SS-13, rather than the 5 percent allowed. He also said the agreement allows only one new type of ICBM to each side, but that the Soviets have developed two."

Assistant Secretary of State Richard Burt stated on March 20, 1983:

"You can be sure that if the Soviet Union has violated any arms control agreement, this Administration will come forward and talk about it."

President Reagan already has accused the Soviets of five violations of five arms control treaties, although this fact is not well known in the Congress or throughout the country.

In addition to President Reagan's five accusations, there are two other violations which deserve mention. First, the Soviets have violated the SALT I ABM Treaty, according to Henry Kissinger. Second, the Soviets have violated the SALT I Interim Agreement in many ways, such as, by replacing light ICBM's with heavy ICBM's. Henry Kissinger called this "sharp practice" and former Defense Secretary Melvin Laird called it a violation.

Soviet negotiating deception in SALT goes hand in glove with Soviet SALT violations. A new book, Inside the Soviet Army by a Soviet defector, Viktor Suvorov, has described the May 26, 1972 SALT I signing ceremony in Moscow:

"At the signing ceremony the American President sat at the conference table with Brezhnev . . . But did the American President know that he was sitting at the table with the head of an organization . . . the Communist Party of the Soviet Union . . . (which) has shot 60 million people in its own country[?] . . . right behind Brezhnev [was] General Ogarkov . . . head of the [Soviet General Staff] Chief Directorate of *Strategic Deception*. This Chief Directorate is the most powerful in the Soviet General Staff . . . everything in this huge country must be done in such a way that the enemy always has a false impression of what is going on. . . . The Chief Directorate of Strategic Deception . . . shows the watchful eye of the camera a reassuring picture, behind the shelter of which the gangsters who call themselves the Communist Party of the Soviet Union, the Soviet Army, Military Industry and so forth go about their business . . . There is no doubt that these activities enable the Politburo, without great difficulty, to empty the pockets of those in the West who will not understand that they are dealing with organized crime, committed by a state which is operating on a world-wide scale." (Emphasis added.)

The above revelation of the Soviet General Staff Strategic Deception Directorate is the first unclassified reference to the military group which controls Soviet SALT negotiating and compliance behavior.

Suvorov went on to write that after the signing of SALT I in May 1972: ". . . having exploited the credulity of America, the Soviet Union built an excellent rocket . . . Its manufacture is an out-and-out violation of the SALT I agreement . . . Ogarkov's organization succeeded. . ."

The Soviet rocket which Suvorov is describing is almost certainly the SS-19 ICBM, which does indeed violate SALT I's Article II for Brezhnev and Soviet military and defense industrial leaders did indeed use negotiating deception to prevent the U.S. from discovering the SS-19's existence before signing SALT I. Henry Kissinger was right in seeing "sharp practice" in Brezhnev's approach to the Soviet SS-19. This issue will be treated in detail in a later statement.

Soviet ABM's

Former Defense Secretary Harold Brown, along with another Carter Administration official and two Democratic senators, said last week that the Reagan administration shouldn't publicize Soviet arms control violations because that would risk disruption of the unratified SALT II agreement and current arms talks. And indeed the Washington Post reported that President Reagan has backed away from suggestions that he publicly denounce the Soviet Union for arms violations and has decided to pursue discussions privately through diplomatic channels or at the U.S.-Soviet Standing Consultative Commission in Geneva.

But the issues involved here are far too important to consign to the bowels of the State Department. This is not some legalistic quarrel about whether the Soviets violate treaties. We know they do; "yellow rain" teaches us that. Nor is it merely a matter of whether future treaties have adequate verification procedures. The real issue is whether the Soviet activities in question pose a grave new threat to the security of the U.S. As a letter recently placed in the Congressional Record by Sen. Steve Symms of Idaho makes clear, what we need to know is whether the Soviets are right now building a nationwide anti-ballistic missile system.

A comprehensive ABM system requires sophisticated phased-array radars, which are capable of targeting incoming warheads for interceptor missiles. The 1972 treaty limiting ABM systems concentrated on limiting such radars. Phased-array radars are also the long lead-time elements of an ABM system. According to Sen. Symms, the Soviets have "now almost completed" five ABM Battle Management Radar sites throughout the Soviet Union. He asks whether this could "provide a base for a Soviet nationwide ABM defense?"

Surely this is a question that deserves an answer, even laying aside all questions of whether it violates the mirage-like provisions of arms control agreements. For even if there had never been any arms control treaties, Soviet deployment of an ABM would drastically change the strategic balance. If the Soviets could knock out most of our missiles in a first strike, a Soviet leader might believe that an ABM could handle most of the remainder. While of course this would not mean war overnight, it would be a most ominous development.

Sen. Symm's letter on phased-array radars, though, is no bolt from the blue. In early 1981, just prior to Mr. Reagan's inauguration, the Joint Chiefs of Staff reported to Congress, "Soviet phased-array radars, which may be designed to improve impact predictions and target handling capabilities for ABM battle management, are under construction at various locations throughout the U.S.S.R. These radars could perform some battle management functions as well as provide redundant ballistic missile early warning coverage."

Indeed, Defense Secretary Caspar Weinberger's latest report on Soviet military power starts off with an artist's depiction of the new Pushkino ABM radar near Moscow, which provides 360 degree strategic defense coverage from its phased-array radar coupled with silo-launched interceptor missiles. In 1980, Aviation Week cited a secret National Intelligence Estimate (NIE 11-38), which stated that the U.S.S.R. is capable of deploying a "high-quality, thick bank of ballistic missile defense systems within one year from the time the U.S. could detect that the deployment was unmistakable."

If the Soviets have the long lead-time radars in place, they can choose from a variety of possible interceptor missiles. They have tested a whole series of surface-to-air missiles in an ABM mode. The most recent is the SA-12, which may be ready for production. The Soviets have also tested in ABM modes their ground launched SA-5s and SA-10s, along with SA-N-6s being deployed on picket ships off the Soviet coast to engage cruise missiles and carrier aircraft. As part of the limited ABM capability allowed by the 1972 treaty, they have tested and possibly are deploying a new SH-4 ABM, which can intercept warheads before they enter the atmosphere.

Is former Secretary Brown telling us that the public should not know whether the U.S. government thinks a Soviet ABM "breakout" is under way? Is this what President Reagan thinks? They seem to be saying the public should not be told that this is a deeply serious question. If there were no treaty, no one would be afraid to ask it. And if the answer were yes, we would adjust our military deployments accordingly. We would build an ABM of our own, though probably in the near term designed to defend our missile silos rather than to tackle the far more difficult task of defending cities against an unimpeded first strike. The Army affirms that it has the technical capability to provide such a defensive system around our silos, which would make the MX missile a far more sensible system. And we would move to insure that our second-strike weapons could penetrate Soviet defenses, probably by turning out lots of low-cost cruise missiles to be launched from a variety of platforms.

Yet we seem to be unable even to consider such programs seriously. Mr. Brown seems to be saying we should not even ask the first question. While our policy makers get themselves tied up in knots over what constitutes a violation of the ABM treaty or some other arms accord, the Soviet Union pursues a single-minded policy of using arms control to gain unilateral military advantage. It's past time we turned away from arguments over violations toward figuring out how we need to react to Soviet developments and insure our own defense.●

IMMIGRATION REFORM AND CONTROL ACT

● Mr. KENNEDY. Mr. President, the Senate will shortly consider S. 529 "The Immigration Reform and Control Act," which has been reported by the Judiciary Committee by a vote of 13 to 4.

I voted against the bill, as I did last year, because I have serious reservations about the measure in its present form. During the committee's consideration of the bill I offered a number of amendments to address these concerns, and I intend to do so on the Senate floor.

For the Record, Mr. President, I ask that the following excerpts from the minority views I filed with the committee report be printed.

The excerpts follow:

Minority Views of Senator Kennedy

INTERNATIONAL COOPERATION

Although I am concerned over specific provisions of this legislation, I am even more concerned over the larger issue of the migration pressures our country will encounter in the decades ahead. I am concerned this legislation is moving forward in a kind of vacuum, and that we will be deluding ourselves if we think this legislation will really solve the many immigration problems our country—along with many others—face today. At best this is a band-aid to a potential hemorrhage—a very tentative step in a long-term process.

Every day it becomes clearer that the complex migration problems, which are growing around the world, will require greater international action. Domestic laws and actions alone are no longer sufficient. Economic and developmental problems in neighboring countries—or even in countries far away—will have more impact upon migration to the United States then any combination of domestic laws or policies. And violence and conflict can produce a flow of people that only concerted international action can deal with.

There are no easy answers. But it is imperative that we understand that migration is an international issue, and not merely a domestic concern. It will require far greater international cooperation than we have undertaken to date.

In fact, one of the most important recommendations of the 1981 Select Commission on Immigration and Refugee Policy, was the United States should become more actively involved in efforts to achieve international cooperation on world migration and refugee problems.

I strongly endorse the Commission's recommendations that the United States should expand bilateral consultations to promote cooperation on migration issues in the Western Hemisphere—especially with our neighbors, Mexico and Canada. These two nations deserve special consideration in our policies, and I commend Senator Simpson for his personal efforts to meet with the leaders of Mexico during the development of this legislation.

However, this bill is moving forward without adequate consultations by the Executive Branch with our neighbors. If we are to achieve genuine cooperation we must consult in advance, before changes in our immigration policies are set.

Unilateral policies, like fences, do not always make good neighbors. During our consideration of this bill we must give greater weight to this concern and the Administration must give greater evidence that it, too, is pursuing it.

EMPLOYER SANCTIONS

A fundamental concern I have about this bill is that it must not become a vehicle for discriminatory action against Hispanic Americans and other minority groups. Immigrants and undocumented aliens must not become scapegoats for the serious problems our country faces today. In too many quarters, migrants and undocumented aliens are being unfairly blamed for the current high levels of unemployment in the United States.

We must be extremely cautious to avoid legislative action that raises the level of intolerance and discrimination in our society. The employer sanctions provisions present this danger, and I regret that the Committee did not accept an amendment that addresses this issue.

I have in the past supported legal sanctions against employers who knowingly hire undocumented aliens. I have done so as a matter of principle; it is wrong that the sanctions under current law fall solely on the undocumented aliens, not on employers who may be exploiting them. The government needs stronger enforcement tools to deal with the serious problem of employers who engage in a pattern and practice of hiring and exploiting undocumented aliens.

However, throughout the Select Commission's work, as well as during the extensive hearings of the Subcommittee, two central objections were raised again and again: (1) that the proposed employer sanctions might result in discrimination against certain American workers, especially Hispanics and Asians; and (2) that employers would be unnecessarily burdened with paperwork in implementing the sanctions.

The history of immigration legislation in recent decades is that once an immigration law is enacted, Congress does not act again for many years. To assure that Congress will not ignore any discrimination that arises in the implementation of employer sanctions, I offered two amendments to provide the following safeguards:

(1) To insure that a fair and impartial study of the sanctions program is available to Congress, and that public hearings will be held on them, I felt the General Accounting Office should be explicitly required in the statute to undertake an independent study of their implementation. I am pleased the Committee accepted this amendment, as well as providing additional authorization for the work of Equal Employment Opportunity Commission, and to the Department of Labor for enforcement activities of the Wage and Hour Division and the Office of Federal Contract Compliance Programs within the Employment Standard Administration.

(2) The employer sanctions should be "sunsetted" after five years, so that Congress will be obliged to face this issue of discrimination squarely, if it develops. If employer sanctions become a pretext for discrimination, then the authority for them should expire unless Congress enacts new legislations with additional protections. If no discrimination materializes, then under my amendment sanctions will be continued.

I regret the Committee did not accept this second provision. If it is adopted, I believe minorities in our society will be given a pledge that, if a serious pattern of discrimination emerges, Congress will not ignore it. Given the significant changes proposed by this legislation, this is the minimum assurance we should be willing to provide.

LEGAL IMMIGRATION

It is frequently heard today that immigration to the United States is, somehow, bad—that the numbers are too high, the impact is undesirable, and the consequences for the future are negative. These implications fly in the face of American history, and I reject them, as did the Select Commission on Immigration and Refugee Policy.

Illegal immigration must be controlled. But there is no evidence that the current levels of *legal* immigration are dangerous or contrary to our national interests. In fact, the Select Commission concluded:

"Based on its research and analysis, the Commission has found the contributions of immigrants to the U.S. society to be overwhelmingly positive. It believes that an immigrant admissions policy that facilitates the entry of qualified applicants is in the U.S. national interest. Whether measured by the number of Nobel Prize winners who have come to the United States as immigrants (30 percent of all U.S. Nobel laureates), the introductions of new concepts in music, art and literature or the industries built by immigrant labor, immigration has been of enormous benefit to this country."

The Commission also rejected the notion that current immigration is destabilizing or somehow threatening to our national unity. Although the admission of immigrants and refugees to the United States has increased numerically over the past decade, the proportion of foreign born citizens in the United States is dramatically lower than at any previous point in our history. In 1890, the percentage of foreign born was 14.7; in 1970, it was down to a bare 4.7.

Veiled reference is also frequently made to the more than 800,000 immigrants and refugees who entered the United States in 1980. But all who use that figure—often rounding it off to a neat one million—do so knowing it was an extraordinarily unusual year due to the admission of large numbers of Indochinese refugees and the influx of Cubans and Haitians. The numbers before and since are much lower, and will not reach the 1980 level again in the foreseeable future.

We must avoid scare tactics and scare statistics designed to feed false fears.

PREFERENCES FOR IMMIGRATION

The bill makes a number of unfortunate and unwise changes in the existing immigration preference system. These changes will jeopardize our country's historic commitment to family reunion as the principal goal of our immigration policy.

For the first time, this bill places the admission of the immediate relatives of United States citizens—spouses, children and parents—under a rigid annual ceiling.

These changes are contrary to the recommendations of the Select Commission as well as to the views of every recent Administration—Republican or Democratic. I agree with the Reagan Administration that they compromise our traditional concern for family reunification.

Throughout our history we have never placed a ceiling on the admission of immediate relatives, and there is no valid reason for doing so now. Under the terms of the bill, immediate relatives are still given the highest priority; but if their numbers increase in the years ahead, other family reunion preferences will be cut back.

I am gratified the Committee accepted my amendment to restore 5th preference for brothers and sisters of United States citizens, although limiting it in the future to unmarried brothers and sisters. I remained troubled, however, by the bill's restrictions on the 2nd preference and the inclusion of immediate relatives in an overall immigration ceiling.

JUDICIAL REVIEW OF ASYLUM CASES

Some very important reforms of the asylum adjudication process have been achieved in this legislation and I support them. However, I regret that the Committee limited judicial review of the asylum process without granting full independence to the new Immigration Board, as originally proposes when the bill was introduced. As a result, the Committee bill does not achieve the autonomy the asylum process needs in order to assure fair and non-politicial adjudication of asylum claims. In this situation, the elimination of judicial review is particularly objectionable, since it has been the only avenue for challenging discriminatory decisions. Habeas corpus jurisdiction is not sufficient since the bill also limits this remedy to constitutional, not statutory, habeas corpus.

I believe the provisions adopted by the House Judiciary Committee achieve these goals, and I intend to offer them as a substitute amendment on the floor.

TEMPORARY FOREIGN WORKERS

I continue to support the unanimous vote of the Select Commission and the actions of the Committee in rejecting the establishment of an expanded temporary foreign worker program. Adoption of the legalization program and implementation of the new immigration system will result in the legal admission of additional immigrants and an adjustment in the status of undocumented aliens already working here.

Until the impact of these changes is assessed, there is no valid justification for a large new temporary foreign worker program. Any such program would have serious consequences for American labor and American wages. The Committee has acted responsibly in rejecting calls for a new "bracero" program.

The existing need for temporary workers can be met by the H-2 visa program. The Committee has acted to make this program more flexible, but we must be extremely cautious not to allow these changes to undermine labor standards or to depress wages. Employers seeking H-2 workers must be required to seek American workers first, and we should plan the elimination of this program in the future, not its expansion.

FOREIGN STUDENTS

The Committee bill should be amended to permit students of exceptional merit and ability—who are participating in essential academic, professional and industrial programs—to remain in this country without leaving for two years, and not subject to an arbitrary ceiling. To do otherwise is contrary to our national interests. It also ignores the current reality that exceptionally qualified students do not return to their homes in the Third World or elsewhere; they simply move to Japan or Europe and use their skills to help those nations compete against the United States. It makes no sense, when our faculties and firms are starved for scientific talent, for the United States to train engineers or computer specialists at M.I.T. or Berkeley for jobs in Tokyo or Bonn.

LEGALIZATION PROGRAM

The Select Commission voted unanimously to recommend that a flexible and generous program be established to adjust the status of undocumented aliens already leading productive lives in the United States. It did so because "the existence of a large undocumented/illegal migrant population should not be tolerated"—and because "the costs to society of permitting a large group of persons to live in illegal, second-class status are enormous." The Commission recognized that mass deportations were out of the question, for both legal and humanitarian reasons; such deportations would undermine new enforcement programs and would waste available enforcement resources.

For a legalization program to work, it must be comprehensive, it must reach out to as many undocumented aliens as possible, and it must have as few exceptions as possible.

I regret, therefore, that the Committee did not this year adopt my amendment to make the legalization cut-off date more inclusive—moving it forward from January 1, 1980, to December 31, 1981. Even by the estimates compiled by the Immigration and Naturalization Service this will mean that close to two-thirds of the undocumented aliens in the United States will not be eligible for the legalization program. It means that a large, subterranean, exploited class of people will be left in limbo.

Everyone who has worked on this legislation agrees that the legalization program is a critical part of the package of reforms we are considering. Yet, under the terms of the bill, legalization will not achieve its goals because the cut-off date will exclude two-thirds of those we are seeking to legalize. This makes no sense on the merits, and no political sense either. Why make a difficult political decision to legalize undocumented aliens, knowing it will not really deal with the problem?

Finally, some concern has been expressed over the impact this legalization program will have on state and local social programs. According to the research of the Select Commission and others on the characteristics of the undocumented alien population, these concerns appear to be exaggerated. Undocumented aliens are here to work, not to seek welfare; they are in many respects undocumented taxpayers contributing to the communities in which they live without the benefits of those taxes.

Nonetheless, should there develop clear evidence after the one-year legalization program that a significant financial burden has developed on state and local programs, the Federal Government should, of course, respond to any financial burdens imposed by this legislation.

CONCLUSION

As ranking minority member of the Subcommittee on Immigration and Refugee Policy, I have been honored to work closely with the Chairman, Senator Simpson, in a bipartisan effort to achieve genuine reforms, based upon reason, fairness, and careful study. We have attempted to review immigration policy in light of America's best interest, yet with full regard for our immigrant heritage and our humanitarian traditions. I know from many hours of hearings, and from the two-year effort of the Select Commission, how hard Senator Simpson has personally worked to achieve this difficult task.

I pledge my continued cooperation to enact a bill that reflects our shared goals. We have come a long way—but we still have some distance to go.

We have rejected—as we must continue to reject—calls for harsh and discriminatory enforcement of our immigration laws, including the deputizing of local police officers to enforce our complex immigration policies. We have rejected cruel and racist calls against immigration. We have rejected efforts to drastically reduce our annual immigration quotas and to restrict the admission of refugees.

But we must also assure minorities in our society that no new discrimination will result from any provision in this bill. If we can give this assurance in clear and unmistakable terms—and if we can strengthen the bill in other areas—I believe it should and will become law, and will be a step toward immigration reform.●

SECRETARY OF THE SENATE COMMENDED

● Mr. D'AMATO. Mr. President, I applaud the recent decision to limit the amount of amendments the Senate publishes for its Members. The Secretary of the Senate, Bill Hildenbrand, is to be commended for showing the American taxpayer that thriftiness can start in the U.S. Senate.

In the last Congress, printing costs for the 5,000 proposed amendments exceeded $1 million. Only 200 or so of these amendments, however, were called for consideration.

I would like other parts of the Federal Government to take notice of this action and follow the lead of the Senate. If the Congress, the administration, and all Federal agencies took a close look at their operating cost, I believe they will discover many ways to cut their expenses. This would be a big step in the right direction to bring Government spending under control.

The American taxpayer should pay no more than the minimum that it costs to run Government as efficiently as possible. This million-dollar savings may seem small in the face of a $200 billion deficit but it is big in the message it represents.●

THE FUTURE OF THE AMERICAN ECONOMY

● Mr. ARMSTRONG. Mr. President, Martin Feldstein, Chairman of the Council of Economic Advisers is a man of great wisdom. His observations about the future of our Nation's economy deserve thoughtful consideration of every Senator. I urge my colleagues to read and reflect upon the speeches he presented before the Economic Club of Detroit and the Financial World dinner. While I do not necessarily agree with all the points which Chairman Feldstein makes, I am impressed by the clarity and commonsense of his discussion of the Nation's economic options. I believe that these two speeches are important background information for every Senator.

I ask that the speeches be printed in the RECORD.

The speeches follow:

ECONOMIC RECOVERY: FROM HOPE TO PROGRESS

(Remarks by Martin Feldstein, Chairman, Council of Economic Advisers to the Economic Club of Detroit, March 28, 1983)

Thank you. I am very pleased to be here in Detroit and to be with this distinguished audience today. I very much welcome this opportunity to comment on current economic conditions and on the things that must be done in the months ahead if we are to achieve a sound and sustained recovery.

The economy is undoubtedly looking better now than it did just a few months ago. Most of the businessmen I talk with tell me that they are seeing encouraging signs of improving economic conditions in their own industries. Their experience is very consistent with the general flow of economic statistics in the past few weeks.

CHANGING OUTLOOK

From last summer until about seven weeks ago, the evidence kept accumulating that a recovery was in the offing but there were no signs of an actual upturn in economic activity. Then, about seven weeks ago, we began to get statistics on the performance of the economy in Janaury that showed an upturn in employment and industrial production. Housing starts jumped to an annual rate of 1.7 million units and the backlog of unfilled orders rose for the first time.

The statistics for February have not been quite as encouraging. Although industrial production and real consumer outlays increased, employment and working hours declined. But despite this mixed picture, the February levels of employment, income and production remained above the December level. It now looks like January was the turning point from a year of hope to a year of progress.

It is, of course, important not to put too much weight on any single statistic or on any month's batch of economic news. The basic reasons for believing that 1983 will be a year of economic recovery are essentially the same ones that we have been seeing for the past six months. The lower interest rates and the higher share prices will encourage additional spending by businesses and households. The decline in mortgage rates—from more than 17 percent a year ago to less than 13 percent today—has caused housing starts to rise substantially, bringing with it increased outlays for large consumer durables. The very substantial reduction in inflation since the near double-digit level of 1981 means that the growth of the money stock will no longer be absorbed by higher prices but can finance a rising volume of real income.

One of the most favorable developments of the past few weeks has been the decline of oil prices on the world market and the prospect that prices will decline further as the OPEC cartel weakens its grip on world production. A lower oil price will reduce inflation, raise real incomes and increase the levels of production and employment.

The combination of favorable economic news during the past two months—especially the evidence that implies that the recession reached bottom in December and that the recovery is now under way—has led the Administration to revise our economic forecast. Each April the Administration sends to Congress some technical revisions of the budget that it had submitted in January. This year, as part of those revisions, we are updating the economic forecast on which the budget is based to reflect the extra information on the economy that has become available since last December when the previous forecast was made. As you probably know, I announced last week that the new Administration forecast raises the projected growth of real GNP from the fourth quarter of 1982 to the fourth quarter of 1983 to 4.7 percent.

There is, of course, substantial uncertainty about this forecast as there is about every forecast. To give you a sense of that uncertainty, I might just note that in a survey of 45 leading economists earlier this month, half of the projected 1983 growth rates were between 3.8 percent and 5.5 percent. Although I am more comfortable with our estimate of 4.7 percent, than I would be with either 3.8 percent or 5.5 percent, I cannot say that the private forecasters within this rather wide range are necessarily too pessimistic or too optimistic. It is moreover chastening to realize that half of the private forecasters in this monthly survey think this year's growth will be either less than 3.8 percent or more than 5.5 percent.

Those of us whose fate it is to forecast should be humbled by the inherent uncertainly of economic developments. Any forecast is necessarily a balance of probabilities. Since we know that we cannot be exactly right, we can only try to make a balanced forecast in which we are as likely to be too high as too low.

I have been discussing the production side of the economy and have said virtually nothing about the remarkable improvement in inflation that has been taking place. Inflation has been so low in recent months—the CPI has shown no increase from December to February and producer prices are actually lower now than they were in December—that it is easy to forget that consumer prices actually rose more than 25 percent in just the two year period to December 1980. It is now easy to forget that two years ago many people were understandably concerned that inflation was out of control and might go on rising to higher and higher levels.

Fortunately, the worst of inflation is now well behind us. During 1982, consumer prices rose less than four percent and the broad price index—the GNP deflator—rose only 4.4 percent.

Because of the very favorable inflation developments during the past two months, the fall in the price of oil, and the continuing improvements in unit labor costs, the Administration has also revised down our inflation forecast for 1983. Our current analysis projects that the GNP deflator will rise only 4.5 percent from the fourth quarter of 1982 to the fourth quarter of 1983, despite the strengthening recovery and the prospect of higher farm prices.

BUDGET IMPACT

I might just note that the combination of higher projected real GNP and lower inflation leaves the 1983 increase in nominal GNP—that is, GNP at market prices—essentially unchanged. The revised increase in nominal GNP—up from 8.8 percent to 9.3 percent—is well within the range of projection uncertainty.

The lack of a significant change in nominal GNP means that the revision of the forecast has little effect on the projected budget deficit. The higher real growth means more income and therefore more taxes but the lower inflation means less income and therefore less tax revenue. As a rough approximation, tax receipts depend on nominal GNP and the countervailing changes in real growth and inflation have little net impact on revenue. There are of course additional effects on unemployment insurance benefits and inflation-indexed benefits but the overall effect is small. The Office of Management and Budget is currently recalculating the future budget outlays and receipts to reflect the new forecast and other technical and legislative changes since the original budget was prepared.

Although we will have to wait until the OMB analysis is done to see the total effect of these changes, the likely impact of the changed forecast is to reduce the projected 1984 deficit by only about $10 billion. Since the projected deficit is now $189 billion, it is clear that the forecast revision is too small to have any effect on the appropriate budget policy.

I want to emphasize this point because there have in recent weeks been some in Congress and the press who have said that the stronger economic upturn than originally anticipated has reduced the need for fiscal discipline. That is just plain wrong. Although the improved economic outlook is very welcome, it does not alter the need for deliberate action to shrink the budget deficits in the years ahead.

The Administration's emphasis all along has been on reducing the budget deficit over the longer-term, particularly during the period from 1985 through 1988. It is important to note therefore that the revised forecast has very little effect on the projected deficit in this period. Nominal GNP in 1988 is increased by less than one percent and the implied reduction in the deficit—about ten to fifteen billion dollars—is well within the range of uncertainty about the basic level of the deficit.

FORWARD-LOOKING CONSUMERS

Although the prospect for a sound and sustained recovery has undoubtedly improved in the past few weeks, several uncertainties continue to cloud the outlook: weak retail sales, a growing international trade deficit, and declining investment in plant and equipment. Behind all of these problems is the high level of the real interest rate and thus indirectly the large prospective budget deficit that we now face in the second half of the 1980's.

Increased consumer spending is a necessary link in the natural process of a self-reinforcing recovery. Increased sales cause increased production which leads to more employment, more income, and then more consumer spending. In this way the spiral builds on itself to create a higher level of real economic activity.

Here in Detroit I don't have to remind you about the importance of auto sales in the economic recovery. The increased employment in the production of what the government calls transportation equipment accounts for about one out of every four of the extra jobs created in manufacturing between December and February. The overall industrial production index rose less than two percent over this period, but the production of automobile products rose more than 10 percent. It is disturbing therefore that the seasonally adjusted level of the sale of domestic autos has been drifting downward since November and that the March sales level of slightly less than six million cars per year is no higher than the February level even though the special finance terms have been expected to expire this month. The actual dollar value of retail automotive sales in February was about 10 percent below their November level.

The weak auto sales have been sufficient to cause total retail sales to decline during the past few months. Without the decline in autos, seasonally adjusted retail sales have been rising every month since September. Indeed, between January and February retail sales increased in virtually every major category except autos, gasoline and home furnishings.

A broader measure of total personal consumption expenditures—including the outlays on services that are not included in retail sales—shows increased real outlays in each of the past three months despite the decline in auto sales. These increases have, however, been very modest, with a cumulative rise of only about one percent over the past three months. For the future, we can only hope that the increase in consumer confidence and the rise in real disposable income will strengthen consumer demand and reinforce this link in the recovery process.

Although some families spend each week's pay check as it arrives, most middle and upper income people base their spending on their income over a substantially longer period of time. When someone thinks his income is going to be higher in the future, he is more willing to spend today. Similarly, the expectation of a future decline in disposable income causes a current cut-back in spending. This forward-looking aspect of consumer behavior is particularly important for home buying and for spending on consumer durables like cars.

I emphasize this forward-looking aspect of consumer behavior because the Democratic proposal to eliminate the third year or repeal indexing would mean that taxes would be higher in every future year. Higher taxes mean lower take home pay and this reduction in future spendable income means that households will spend less in 1983 and 1984 as well as in every future year.

The fundamental implication of this forward-looking aspect of consumer behavior is that a repeal of indexing would jeopardize the recovery this year even though it only raised tax revenue in the future. Moreover, eliminating the third year of the tax cut would have a disproportionately large adverse effect on spending in 1983 because it would imply that taxpayers will have less spendable income in the future as well as in the current year.

BUDGET DEFICITS

I am a firm supporter of retaining the third year of the tax cut and tax indexing even though I believe that the most serious long-term economic problem facing our government is the prospect of large budget deficits for many years to come. This year, about half of the deficit is cyclical, reflecting the reduced level of tax receipts caused by the recession. But even as the economy recovers and the cyclical deficit shrinks and vanishes, the remaining structural deficit will rise to $300 billion by 1988 if legislative changes are not made.

As I noted earlier, a more rapid recovery would have only a relatively small effect on the size of the budget deficit. For example, if the level of real GNP in 1984 is 1 percent greater than the Administration's new forecast, the budget deficit would be reduced by only about $12 billion. Moreover, if the higher real GNP growth were accompanied by a lower level of inflation, the reduction in the budget deficit would be even smaller. There is simply no way to avoid the need for substantial legislative changes.

Failure to reduce the prospective future deficits would have very serious consequences for the economy in both the near term and the more distant future. This is a very serious problem because a high rate of capital formation plays a key part in increasing productivity and economic growth. A high rate of capital formation is also necessary if the United States is to maintain its role as a leading industrial nation in the world economy.

Moreover, one needn't look to lower long-term growth to see the adverse consequences of large budget deficits. The prospect of large future deficits in the second half of the 1980s and beyond would keep long-term interest rates high in the next few years and thereby depress spending on investment in plant and equipment and in housing. The higher real long-term interest rate would also keep the exchange value of the dollar very high, thus encouraging imports and weakening the competitive position of U.S. exports in the world economy. In short, the prospect of large budget deficits would mean a very lopsided and unhealthy recovery in which several key industries fail to share in the economic expansion.

BUDGET STRATEGY

Persistent budget deficits of 5 or 6 percent of GNP are simply unacceptable. The Administration is committed to reducing those deficits substantially in the coming years and moving toward a balanced budget.

It would, in principle, be possible to achieve a budget balance solely by reducing nondefense government spending. In 1960, nondefense spending by the Federal Government (excluding interest) accounted for 8 percent of gross national product. By 1970, the share had increased from 8 percent to 11 percent. And by the current fiscal year, nondefense outlays have reached 16 percent of GNP, twice the GNP share in 1980. If nondefense spending were back at the GNP share of 1960, we would have a budget surplus now and could provide substantial additional tax reductions.

We cannot, however, turn the spending clock back to 1960 or even to 1970. New spending programs have been introduced and old spending programs have been expanded during this period that, realistically, cannot be reversed. For example, the cost of the Social Security program increased from two percent of GNP in 1960 to an estimated five percent of GNP in 1988 under current law. The Medicare program did not exist in 1960 but is likely to cost more than two percent of GNP in 1988. Together the Social Security and Medicare programs in 1988 will represent 7 percent of GNP in 1988, almost as much as the entire 8.0 percent share of GNP spent on all nondefense programs in 1960. The recently enacted changes aimed at assuring the solvency of the Social Security program are expected to reduce 1988 outlays on Social Security from 5.0 percent of GNP to 4.8 percent of GNP, a reduction of about $10 billion in the $250 billion Social Security program. I think that indicates the politically realistic level of spending reform for this large and important program.

But even while recognizing that some areas of spending cannot or should not be reduced, we must also move to slow the growth of spending in other areas in the years ahead or face the need for vast tax increases. To be specific, if we maintain the current GNP share of nondefense spending and bring defense outlays back up to 8 percent of GNP—less than the share in either 1970 or 1960—total Federal outlays would exceed 27 percent of GNP. By comparison, under current law tax receipts are now 19 percent of GNP and would still be 19 percent of GNP in 1988 when the economy is at full employment. Closing the gap between tax receipts and outlays without reducing the spending share of GNP would require raising total taxes by nearly 50 percent, from 19 percent of GNP to 27 percent of GNP.

Such a tax increase must be rejected. The Administration's budget plan calls instead for a balance between reductions in government spending and increases in government revenue that would shrink the deficit year by year until about two-thirds of the 1988 deficit is eliminated. In 1988, for example, the Administration's budget reduces the deficit from the six percent of GNP that would result under the current baseline budget to a bit over two percent of GNP. The reduction in the deficit is divided almost equally, with reductions in spending equal to $70 billion and increases in tax revenue equal to $85 billion. (The remaining deficit reduction—about $35 billion—is accounted for by the lower cost of interest on the national debt that results from reducing the deficits between now and 1988.)

PRESERVING TAX INDEXING

A crucial feature of the President's budget is reducing the deficits while preserving the inflation adjustment of the personal income tax that is now scheduled to begin in 1985. The long-term success or failure of Ronald Reagan's economic program is likely to hinge more on retaining that tax indexing feature of the personal income tax than on any other piece of legislation. I firmly believe that the most important legislative battle this year will be over the attempt to repeal indexing.

The repeal of indexing would mean that bracket creep would raise taxes higher and higher, permitting Congress to finance even greater amounts of government spending without having to vote explicitly for any increase in tax rates. Moreover, the repeal of indexing would thus give Congress a strong incentive to pursue policies that increase the rate of inflation. With indexing gone, spiraling inflation could generate a surge of tax revenues that could finance greater government spending while permitting Congress the political luxury of occasionally voting so-called "tax cuts" that actually failed to offset inflation but provided a framework for further income redistribution.

Surely many financial investors would interpret the repeal of indexing as an indication that inflation would soon be on the rise. The result would be an increase in interest rates, especially long-term interest rates on bonds and mortgages. Higher interest rates could threaten the recovery in housing and other interest sensitive sectors and possibly bring the incipient recovery in the economy as a whole to a premature end.

There are some who agree that tax indexing is desirable and fair but nevertheless advocate its repeal by arguing that the large budget deficits that we now face mean that we cannot afford an indexed tax system. That argument is wrong. What they should say is that the large budget deficits in future years mean that we must either cut spending or raise taxes or both. That's just what the Administration's budget does. It calls for a balanced package of spending cuts and revenue increases, including a standby tax equal to one percent of GNP that will go into effect in October 1985 unless very rapid economic growth between now and then has reduced the deficit to less than 2.5 percent of GNP.

If tax revenue must be raised, the repeal of indexing isn't a satisfactory substitute for an explicit tax increase. Because the repeal of indexing is a hidden way of increasing taxes, it removes the pressure to choose between spending cuts and more taxes. And unlike voting an explicit tax increase, repealing indexing doesn't provide a fixed amount of additional tax revenue but starts a money machine that will squeeze more and more money from taxpayers in the years ahead. The repeal of indexing is politically tempting to many in Congress because it increases revenue without explicitly increasing taxes. It is the very opposite of responsible budgeting.

A common alternative rationale for repealing indexing is given by those who mistakenly believe that the combination of indexed benefits and indexed taxes inevitably produces budget deficits because "indexing raises benefits but reduces taxes." This argument is wrong because it misrepresents what indexing is all about. The indexing of benefits means that benefits just keep pace with inflation. The indexing of tax rates means that tax receipts don't rise faster then inflation through bracket creep. With complete indexing, inflation doesn't alter the real value of either benefits or taxes and therefore doesn't increase or decrease the real value of the deficit.

There are finally those who claim that they don't want to repeal indexing but just to postpone it for a year or two to help shrink the budget deficit. In reality, postponing indexing would have relatively little effect on future budget deficits. Slipping the starting date for indexing to 1986 would only raise an extra $12 billion in 1988. It is hard to avoid the suspicion that those who advocate postponement believe that if indexing is postponed once, it will be postponed again and again until it is eventually repealed. It is critically important to start indexing on schedule in 1985 because once the American taxpayers experience indexing it will be here to stay.

If indexing were repealed, the resulting tax increases would be relatively greatest for the lowest income taxpayers. It is the lowest income taxpayer who benefits most from the indexing of the $1,000 personal exemption and the $3,400 zero bracket amount. In addition, since the tax brackets are narrower at lower incomes, bracket creep is more severe. Eliminating indexing would cause the 1985 tax liability of those with incomes under $10,000 to rise by more than 9 percent while the tax liability of those with incomes over $100,000 would rise by less than 2 percent.

The repeal of indexing would eliminate political accountability and encourage wasteful government spending. It would make greater inflation an aid to politicians and an extra burden to taxpayers. It would initiate a continuous battle over the distribution of the tax burden.

President Reagan believes that an unindexed tax system is fundamentally dishonest and has said that he would veto legislation that repealed indexing. But, quite frankly, the President needs your help in persuading Congress that tax indexing has widespread support and must not be repealed.

BUDGET RESOLUTION AND ECONOMIC RECOVERY

In the months ahead, the Congress will focus on developing a budget resolution and the associated appropriation legislation. The recently passed House budget resolution was unfortunately a display of counterproductive partisanship. It is now critical that Congress move quickly to join with the Administration and to legislate the changes that will assure financial markets and others at the present time that the budget deficit will indeed shrink rapidly in the second half of the 1980s.

If Congress does adopt a responsible budget, we will be well on our way to a sound, balanced and sustainable economic recovery. There is no doubt that 1983 is a crucial year for our economic future. I fervently hope that the Nation will grasp this opportunity.

Thank you.

SPENDING AND TAXING

(Remarks by Martin Feldstein, Chairman, Council of Economic Advisers before the Financial World Dinner for the Outstanding Chief Executive Officers of 1982 New York, March 15, 1983).

Thank you. It is a great pleasure for me to be with all of you this evening. I am delighted to be able to join with you and with Financial World in paying tribute to the Chief Executive Officer of the Year whose name I know but cannot tell you. The true strength of America's economy is men like tonight's honoree whose leadership and management skills guide our nation's businesses. It is good to gather on an occasion like this to remind ourselves and others that our economic future depends on the hard work, foresight and courage of America's business leaders.

This evening I want to talk with you about the basic business of government: spending and taxing. There is no more serious problem facing our country today than the prospect of the vast budget deficits that have resulted from the relentless growth of government spending in the postwar period. There is no more difficult requirement than limiting the increase in spending in the years ahead. And there is no more challenging task than shaping the tax system to raise the required revenue in the manner that does the least damage to the economy. It is these themes—the explosive growth of nondefense spending, the harm caused by persistent deficits, and the importance of focusing on the quality as well as the quantity of taxes—that I will discuss tonight.

THE GROWTH OF SPENDING

Consider first the growth of government spending. The total outlays of the Federal government have been rising substantially faster than gross national product for more than two decades. In 1960, Federal outlays accounted for 18.5 percent of GNP. By 1980, the GNP share had increased to 22.4 percent, a rise of more than one-fifth in just two decades.

The growth of spending would have been much faster if the defense share of GNP had not been cut by more than 40 percent during this period, down from 9.1 percent of GNP in 1960 to 5.3 percent in 1980. Government spending on domestic programs, that is, excluding defense outlays and interest payments on the national debt, rose from 8.0 percent of GNP in 1960 to 15.1 percent in 1980, a near doubling of the share of GNP devoted to nondefense outlays. To express this same fact in a somewhat different way, real GNP per capita rose slightly more than 50 percent between 1960 and 1980 but real per capita government spending on nondefense programs tripled during the same two decades.

Why did nondefense outlays grow so much more rapidly than GNP? It would take all evening and then some to examine each major spending program and the reason for its rapid growth. But looking beyond these details, I think it is useful to distinguish three fundamental explanations of the very rapid growth in the share of GNP devoted to nondefense outlays.

First, the speed at which many of the outlays grew was itself unintended and unanticipated. This reflects the so-called "entitlement" character of many of the programs introduced or modified in the 1960's or early 1970's. In such programs, the basic legislation does not appropriate a fixed amount of money for a particular purpose but establishes rules that define who is eligible for benefits and the nature and amount of benefits for which each person is eligible. Funds must subsequently be appropriated to pay for these benefits.

The Medicare program is a good example of the unintended and unanticipated growth in outlays. Medicare was introduced in 1966 and immediately experienced costs that were far greater than had been budgeted before the program began. A decade ago, Medicare outlays were less than $10 billion. In the current year they will be more than $50 billion. And Medicare actuaries now project that by 1988 the cost of the program will exceed $100 billion or more than two percent of GNP.

The dramatic growth of this program reflects greater utilization of services than had been anticipated and a very much faster rise in the cost of health care services than had been forecast. For example, the cost of a day of hospital care, which had risen at less than 7 percent a year for the decade before Medicare was introduced, jumped more than 13 percent a year in the decade after Medicare began. The increase in utilization and the rapid rise in costs was not an accident of history but a direct response to the Medicare program itself.

The Medicare example is paralleled in a wide variety of other programs in such disparte areas as housing, nutrition, and disability insurance. In each case, program costs grew far beyond what had been anticipated.

The government's failure to anticipate the full budgetary consequences of these legislative actions is an example of a more general problem: the inherent myopia of government decision-making. Political accountability means that a policy will be judged not by its long-term consequences but by its apparent effects within as little as two years. A congressman or senator may understand the long-run implications of a policy, but the relevance to him of those long-run effects is very limited if voters look only at the short-run impact. The political process lacks the equivalent of capital assets through which private decision-makers are rewarded or penalized for the long-term consequences of previous decisions. And because the political process does not reward or punish elected officials for the long-term consequences of their actions, there is little or no incentive for these officials to learn about such long-term effects. Political myopia reflects the public's general inability to anticipate the long-run consequences of political decisions and even to associate those consequences when they occur with the policies that caused them. It is not surprising therefore that well-meaning policies frequently have unexpected adverse consequences and that policies with short-run costs and long-run benefits are not adopted.

The second principal reason for the rapid growth of the government's share of national income during the past quarter century was the overly optimistic view about the long-run prospect for economic growth. At the time that the new spending programs were enacted and old programs expanded, it was widely thought that it would be possible to increase government outlays without taking a larger share of GNP because the GNP itself would be growing rapidly. Between 1960 and 1967, real GNP grew at an annual rate of 4.6 percent. Since then the growth rate has been only 2.6 percent. This 2 percentage point difference in growth rates has had a very substantial cumulative effect on the level of real GNP and therefore on the ratio of non-defense outlays to GNP.

If real GNP had continued go grow at 4.6 percent for the fifteen years since 1967, the level of GNP in 1982 would have been 35 percent higher than its actual value. With the higher level of GNP, the actual 1982 non-defense outlays would have been 11.1 percent of GNP instead of the 15.1 percent that actually occurred. The four percentage point difference between these two figures would have put the 1982 budget in surplus instead of showing a deficit of 3.7 percent of GNP.

In short, then, nondefense outlays grew more rapidly and GNP grew more slowly than was anticipated in the 1960s and 1970s when new programs were enacted and old programs enlarged. It is very significant that, even though experience showed that the previous assumptions were false, nothing was done to slow the growth of nondefense outlays. Instead, these outlays were financed by a combination of shrinking defense expenditures, hidden tax increases, and rising budget deficits.

Defense outlays were reduced from 9.1 percent of GNP in 1960 to 5.3 percent of GNP in 1980, there was a widespread national consensus that defense outlays were too low. After adjusting for inflation, defense outlays were at exactly the same dollar amount in 1980 as they had been in 1960 despite the doubling of real GNP that had occurred over those two decades.

The combination of increasing inflation and an unindexed tax system pushed individuals into higher brackets and raised the share of income collected in taxes. Ironically, despite so-called tax cuts in 1976 and 1978, the Federal income tax collections rose 35 percent more than earned personal income (i.e. personal income excluding transfers) between 1965 and 1980. The combination of the Federal personal income tax and the social insurance contribution rose from 15 percent of earned personal income in 1960 to 23 percent in 1980. And, as a result of bracket creep and rising Social Security taxes, a couple earning about twice the median income, i.e. about $40,000, saw their marginal tax rates rise from about 36 percent in 1960 to more than 55 percent in 1980.

Despite the shrinking defense outlays and rising taxes, the budget deficits began to increase. The deficits were only a fraction of a percent of GNP in the 1960's but exceeded two percent of GNP in the second half of the 1970's. Now, the low rate of inflation has virtually eliminated bracket creep as a major "hidden" source of extra tax revenue. It is now clear that greater tax revenue will no longer automatically be available to finance a rapidly expanding government budget. The government must at last recognize that the spending growth must be curtailed or taxes explicitly increased.

The American public may not know all of the numbers that I have discussed this evening but they undoubtedly came to feel that they were seeing more growth of government spending than they wanted. They objected to paying higher and higher taxes to finance transfers and public service aimed not at the poor but at others who were not so different from themselves. Moreover, state and local spending grew faster than Federal government spending, raising government spending to 33 percent of GNP in 1980 from 25 percent of GNP a quarter century earlier.

President Reagan came to Washington with a strong conviction that the size of government can be reduced without hurting the poor. The legislative changes that the Administration proposed and that Congress enacted have slowed the growth of domestic programs and have begun to shrink the share of GNP accounted for by government programs. Even with no further legislative changes, the outlays for domestic programs will shrink from 15.1 percent of GNP in 1980 to 13.6 percent in 1988, a dramatic reversal of the steady climb that had raised the nondefense share from 10.6 percent of GNP to 15.1 percent in the previous decade.

It is of course true, as some have noted, that the total outlays of the Federal government will take a larger share of GNP in the current fiscal year—25.2 percent—than it did in 1980 when the share was only 22.4 percent. But this increase is due entirely to the recession. The recession not only increases outlays for unemployment insurance and other social programs but also lowers the level of GNP and therefore mechanically increases the ratio of outlays to GNP. The spending share of GNP at what might roughly be called the full employment level of GNP—i.e., the GNP level corresponding to a 6.5 percent unemployment rate—would be almost exactly the same this year (22.4 percent) as it was in 1980.

The difficulty of achieving further reductions in domestic spending cannot be denied. By 1988, more than half of the domestic spending will be in the Social Security (OASDI) and Medicare programs. It has been widely recognized for several years now that the growth of Social Security had to be slowed if the solvency of that program was to be preserved without further rapid increases in tax rates. The recommendations of the National Commission on Social Security do indeed call for a slowdown in the growth of benefits and, with strong bipartisan support, these reform proposals are moving rapidly through both houses of Congress.

But just how much of a reduction in benefits has been proposed as a result of the financial crisis and national resolve to deal with the problem? Very little. In 1980, benefits were 4.5 percent of GNP or about $115 billion. By 1988, under current law, benefits would rise to 5.0 percent of GNP or about $250 billion. The recommendation of the Social Security Commission, as embodied in the Administration's budget, is to reduce those benefits by about $10 billion. Even with this change, the GNP share spent on the Social Security program would increase from 4.5 percent in 1980 to 4.8 percent in 1988.

The situation with Medicare is very similar. The share of GNP spent on Medicare doubled between 1970 and 1980, rising from 0.7 percent in 1970 to 1.4 percent in 1980. With the existing benefits and rules, Medicare outlays would rise to 2.2 percent of GNP or about $110 billion in 1988. The President has proposed structural reforms aimed at reducing Medicare outlays, strengthening protection against catastrophic costs and making Medicare insurance premiums reflect costs more accurately. There is no doubt that these proposals are controversial and the Administration will have to work hard for their enactment. But if they are enacted as proposed, the reduction of Medicare outlays relative to the current program would be only $5 billion a year by 1988 and Medicare outlays will still rise from 1.4 percent of GNP in 1980 to 2.1 percent of GNP in 1988.

As these facts show, it is extremely difficult to slow the growth of the major trust-funded programs that provide substantial benefits for the broad middle class. Further reductions in domestic spending can only be achieved by a careful questioning of the myraid of individual programs financed out of general revenue. It is in this part of the budget that President Reagan has achieved a dramatic change of direction.

Between 1970 and 1980, spending on domestic programs other than Social Security and Medicare rose from 6.8 percent of GNP to 9.1 percent of GNP. Since then, the GNP share spent on these programs has actually been shrinking. Last year it was down to 8.3 percent of GNP. Even with no further legislative changes, it will continue to decline in the years ahead, reaching approximately the same 6.8 percent share in 1986 that prevailed in 1970 and then declining further to 6.4 percent of GNP in 1988. It is a truly remarkable achievement in changing the direction of government.

The 1984 budget that the President submitted to Congress in January calls for further reductions in these domestic programs. If these budget proposals are adopted and no new spending programs are introduced or old ones enlarged, spending on these nondefense programs will shrink to 5.5 percent of GNP in 1988, smaller than the share in 1960 before the introduction of programs like Medicaid and Food Stamps that have apparently become permanent parts of the government landscape.

Despite this dramatic progress in reducing spending on a myriad of domestic programs, govenment outlays would still exceed 23 percent of GNP in 1988, about three percentage points higher than in 1970 and five percentage points higher than in 1960. This increase in outlay does not reflect greater defense spending, since the GNP share devoted to defense would actually be lower in 1988 than in either 1970 or 1969. The primary reason is the rapid growth of Social Security and Medicare outlays from 2.2 percent of GNP in 1960 to 3.8 percent of GNP in 1970 and 6.9 percent of GNP in 1988. This accounts for nearly all of the increase in outlays as a fraction of GNP since 1960 and 1970. The additional sources of increased outlays, the rise in interest payments on the national debt, was actually just about offset by the fall in defense spending as a share of GNP between 1960 and 1988.

These are the fundamental facts that define the budget dilemma. Despite the President's remarkable success in turning around the rapid growth of domestic spending in a very wide range of activities, the irreducible growth of the Social Security and Medicare programs inevitably raises the share of government outlays in national income. Since the budget was balanced in 1960s, the growth of spending since then implies that there must either be large budget deficits or an increase in tax receipts as a share of GNP.

DEFICITS OR TAX INCREASES

There are those who argue that it is better to accept large deficits than tax increases. One argument for that conclusion is that large deficits put pressure on the Congress to reduce spending while eliminating those deficits by tax increases would provide an opportunity for greater spending. There is no doubt some truth to that argument but I want to focus on the more basic issue of the appropriate long-term policy and not on the strategic question of how to achieve the desired spending reductions.

The more fundamental argument can be summarized as follows: Deficits are no worse than tax increases because it is government spending and not the budget deficit that crowds out private spending. Moreover, this line of reasoning continues, higher taxes hurt incentives in a way that higher deficits do not.

This common argument is basically incorrect. While it is true that it is government spending that crowds out private spending, it is the way that government spending is financed that determines the kind of private spending that is crowded out. More specifically, budget deficits compete for the available funds in the capital market and therefore crowd out private investment. In contrast, the primary effect of higher personal taxes is to reduce private consumption.

Failure to prevent persistent large deficits would have very adverse consequences for the economy in both the near term and the more distant future. The primary effect of budget deficits is to reduce capital formation. This is a very serious problem because a high rate of capital formation plays a key part in increasing productivity and economic growth. A high rate of capital formation is also necessary if the United States is to maintain its role as a leading industrial nation in the world economy.

For the past two decades, total net private saving in the United States—including the saving of households, businesses and pension funds—has averaged only about 7 percent of GNP. A budget deficit of 6 percent of GNP—the size of the deficit that would persist for the indefinite future without legislation action—would absorb an amount equal to nearly all of that saving and virtually eliminate the increase in capital intensity as a source of higher productivity.

Moreover, one needn't look to lower long-term growth to see the adverse consequence of large budget deficits. The prospect of large future deficits in the second half of the 1980s and beyond would keep long-term interest rates high in the next few years and thereby depress spending on investment in plant and equipment and in housing. The higher real long-term interest rate would also keep the exchange value of the dollar very high, thus encouraging imports and weakening the competitive position of U.S. exports in the world economy. In short, the prospect of large budget deficits would mean a very lopsided and unhealthy recovery in which several key industries fail to share in the economic expansion.

The ineluctable growth of government spending and the adverse consequences of protracted budget deficits imply that tax revenues must be increased in the year ahead. Since we cannot turn back the spending clock to 1960 or 1970, we cannot hold the level of taxation at the 19 percent of GNP that prevailed in 1960.

The President's budget for the next five years recognizes this basic fiscal fact. In addition to continuing the process of reducing spending, the budget calls for significant increases in revenue. For fiscal year 1988, the final year of the current budget, the budget proposes to reduce outlays by $100 billion and to increase receipts by $84 billion. Much of the tax increase is part of the bipartisan plan for maintaining the solvency of the Social Security system. Other major components are the oil tax and the personal income tax surcharge that make up the standby tax. With these tax increases, total receipts in 1988 are forecast to be about 21 percent of GNP, just about the same share as in 1981.

THE QUANTITY AND QUALITY OF TAXES

The tax burden on the economy depends not only on the quantity of taxes but also on the quality of taxes. All taxes are bad but some taxes are worse than others. Taxes are bad not only because they take away the fruits of labor, of risk-taking and of saving but also because they distort economic decisions and thereby lead to a wasteful misallocation of resources. Although there is no simple rule for improving the quality of taxes, there are a few principles that can be a useful guide. The most basic principle is to minimize the tax-inducted distortions of economic choices—choices about how much to work, about how much to save, and about how to invest the capital that results from such saving. A key corollary of this principle is that the marginal tax rates paid on additional income or profits are more important than the average tax rates. A second implication is that taxes do more harm when they are levied on individuals or activities that are more responsive to tax rules. Taxes that reduce the incentive to save or that cause a misallocation of capital among different uses are particularly undesirable because they unnecessarily increase the total economic burden of the tax system and reduce productivity and economic growth.

The tax changes that the President has supported and that have been enacted into law deserve very high marks for increasing the quality of the tax system. The top marginal tax rate was reduced from 70 percent to 50 percent. Marginal tax rates at virtually all income levels have been reduced by the reductions that cut rates by 15 percent since 1981 and will reduce them a further 10 percent this year. Those who would repeal the third year of the tax cut would leave marginal tax rates permanently higher. The specific proposal to limit the tax reduction to $700 would have the particularly undesirable effect of eliminating any reduction in marginal tax rates for millions of taxpayers while reducing their average tax rates. For example, a couple with taxable income of $36,000 next year would pay virtually the same amount of tax with or without the $700 cap but would face a marginal tax rate of 37 percent if the $700 cap is enacted instead of the 33 percent that would result from the full tax cut. Overall, the $700 cap would produce about $6 billion of extra revenue but would leave marginal tax rates permanently higher for taxpayers now facing marginal tax rates of 33 to 45 percent.

The inflation indexing of the personal income tax that was enacted in 1981 and is scheduled to become effective in 1985 will automatically prevent inflation from pushing individuals into tax brackets with higher marginal tax rates. Without indexing, only four or five years of moderate inflation would be needed to push a couple from the 28 percent marginal tax rate bracket to the 33 percent bracket and a few more years would take them to the 38 percent bracket.

The rise in Social Security payroll taxes causes less economic distortion than an equal increase in income taxes. To the extent that individuals recognize that higher Social Security tax payments imply higher future benefits, the payroll deductions are seen less as a tax than as forced savings. I would not exaggerate the importance of this but I do think that it may have some favorable effect and that this favorable effect can be strengthened by helping employees to see this link between extra taxes and extra benefits. A second favorable feature of the Social Security tax is that there is a maximum income on which the tax is levied. For anyone earning more than $35,700, an extra dollar of earnings involves no extra tax. So when the marginal tax rate of the personal income tax gets relatively high, the extra marginal tax associated with the payroll tax is eliminated. A final virtue of the Social Security tax is that, unlike the income tax, it does not reduce the return to saving and investment. No tax is good, let alone perfect, but the payroll tax has many virtues and is a desirable way to finance the nearly half of domestic spending that is devoted to Social Security and Medicare.

SAVINGS AND INVESTMENT

The 1981 tax legislation marked a major shift of tax policy away from discriminating against savings and capital formation. Indeed, there were no fewer than six substantial changes in the personal tax rules aimed at encouraging individuals to save more. Of particular significance was the feature that permits the 40 million employees who already participate in company pension plans to make additional tax deductible contributions of up to $2000 a year to Individual Retirement Accounts. This change has established the principle that individuals should not pay tax on a portion of their income that is not spent and that the interest and dividends on that saving should also accumulate tax free until the entire amount is withdrawn to be spent.

I believe that the new IRA accounts will gradually increase the rate of saving in the economy. I do not agree with the critics who claim that the expanded IRA provision and other rules will simply induce individuals to transfer assets from one type of account to another to claim the tax advantage. In a study that I did before joining the government, I found that the majority of families have only enough financial assets on hand to take advantage of the new Individual Retirement Account option for less than two years and then would have to save more to get any tax benefit.

Of course, there are some individuals who would save at least $2,000 a year even without the IRA account. For them, the IRA provides no additional incentive to save. The 1981 tax law therefore provided a further saving incentive for savings that are not part of an IRA, a Keogh plan or a corporate pension plan. Beginning in 1985, a taxpayer will be able to exclude from taxable income 15 percent of all interest receipts up to $6,000. Although this exclusion is only very partial and is also subject to a dollar limit, it does increase the overall incentive to save and reinforces the tax principle that savings or capital income deserve special treatment. An indirect but very important source of reductions in the effective tax rate on income from savings has been the fall in inflation. Because our tax law bases tax liability on nominal interest income and nominal capital gains, a lower rate of inflation can mean a substantial reduction in the effective rate of tax. An individual in the 30 percent tax bracket who earned a 15 percent interest rate when the inflation rate was 10 percent had an after tax yield of 10.5 percent and an after-tax *real* yield of only 0.5 percent. By contrast, if that individual earns a 10 percent interest rate when the inflation rate is 5 percent, the after tax yield is 7 percent and the real after tax yield is 2 percent. The effective tax rate on the same real interest income falls from 90 percent when inflation is 10 percent to 60 percent when inflation is 5 percent. In emphasizing that the tax reduction caused by lower inflation is substantial, I don't mean to minimize the remaining tax distortion that even a 5 percent rate of inflation can cause.

The interaction of inflation and the existing tax accounting methods for depreciation and inventories also caused the effective tax rate on the income from corporate capital to rise sharply in the 1970s. In the mid-1960s, nonfinancial corporations, their shareholders and their creditors paid taxes to the federal, state and local governments equal to 55 percent of their real capital income, including both equity and debt. By the second half of the 1970s, the tax share had jumped to 68 percent, back to where it had been in the early 1950s before accelerated depreciation and before the investment tax credit. With the tax bite rising from 55 percent to 68 percent, the share left for the providers of capital fell from 45 percent to 32 percent, a decline of nearly one-third. The real after-tax rate of return to those who provide the debt and equity capital was only 3.1 percent by the late 1970s, just not enough to provide an adequate incentive for saving and risk-taking.

I want to emphasize that this substantial increase in the effective tax rate occurred despite occasional reductions in the statutory corporate tax rate and liberalization of the statutory depreciation rules. The effective tax rate rose because the increasing rate of inflation caused a rise in the value of artificial tax accounting profits relative to real profits. The primary source of this was due to the reduced value of real depreciation of plant and equipment.

The great significance of this is that the sharp reduction in inflation that has been achieved since 1980 automatically implies a substantial reduction in the effective rate of tax on the income from corporate capital. In addition, the Administration proposed and Congress enacted in 1981 a major change in tax depreciation rules that provides for substantially faster and therefore more valuable depreciation than had previously existed. Although the 1982 tax act modified the 1981 improvements, the net effect of the two tax changes and the lower rate of inflation represented a significant improvement for virtually all types of depreciable investment.

The combination of a low inflation rate and the tax changes that the Administration successfully sponsored in 1981 can bring the overall effective tax rate on the income from corporate capital down substantially and back below even the 55 percent effective tax rate of the mid-1960s. Although this effective tax rate would still be higher than many of us would like to see, it would be at its lowest level in the entire post-war period. The result would be a very substantial improvement in the incentive to invest in corporate capital. Second, the present value of depreciation and the effective tax rate on corporate investment still depends a great deal on the rate of inflation. A return of the rate of inflation to 10 percent would offset more than half of the gain that has been made in improving the value of depreciation allowances.

There are of course those who point to the current low level of investment in plant and equipment as evidence that the increased investment incentives have failed and are unlikely to improve investment in the future. It is indeed true that real business investment in new plant and equipment was about 5 percent lower in 1982 than in 1981 and is expected to decline another 5 percent between 1982 and 1983. But this should not be interpreted as evidence that the improved tax climate for business investment has failed. The fall in investment indicates that the short-run business cycle conditions have outweighed the long-run improvement in potential after-tax profitability. With capacity utilization below 70 percent and real corporate profits about one-third lower than they were in 1979, it is not at all surprising that investment has declined substantially. Investment continues at its current rate only because firms look at their longer-run needs for capacity and at the opportunities for cost-saving investments in modernizing existing plants. Without the favorable tax changes, the investment rate might have been significantly lower than it is today. I am convinced that as the recovery begins and capacity utilization increases, the new tax rules will mean a higher level of capital formation in business plant and equipment than would otherwise have occurred.

Although the recent changes in the tax treatment of saving and investment represent a major improvement over the earlier tax rules, there is no reason for complacency. More can be done and should be done to strengthen the incentives to save and to invest in business plant and equipment. It would be inappropriate for me in my current position to suggest any specific changes that I might favor. But I want to assure you that this is a subject in which I am personally very interested and one which will continue to receive careful attention in the Administration.

TAX INDEXING

There is a final aspect of tax policy on which I want to comment this evening: the inflation indexing of the personal income tax that is now scheduled to begin in 1985. The long-term success or failure of Ronald Reagan's economic program is likely to hinge more on retaining the tax indexing feature of the personal income tax than on any other piece of legislation. I firmly believe that the most important legislative battle this year will be over the attempt to repeal indexing.

The repeal of indexing would mean that bracket creep would raise taxes higher and higher, permitting Congress to finance ever greater amounts of government spending without having to vote explicitly for any increase in tax rates. The repeal of indexing would thus give Congress a strong incentive to pursue policies that increase the rate of inflation. With indexing gone, spiraling inflation would generate a surge of tax revenues that could finance greater government spending while permitting Congress the political luxury of occasionally voting so-called "tax cuts" that actually failed to offset inflation but provided a framework for further income redistribution.

Surely many financial investors would interpret the repeal of indexing as an indication that inflation would soon be on the rise. The result would be an increase in interest rates, especially long-term interest rates on bonds and mortgages. Higher interest rates could threaten the recovery in housing and other interest sensitive sectors and possibly bring the incipient recovery in the economy as a whole to a premature end.

President Reagan believes that an unindexed tax system is fundamentally dishonest and has said that he would veto legislation that repealed indexing. But, quite frankly, the President needs your help in persuading Congress that tax indexing has widespread support and must not be repealed or postponed.

The President has proposed a budget that preserves tax indexing while shrinking the deficit rapidly as the economy recovers. It is now critical that the Congress move quickly to join with the Administration in making the legislative changes that are needed to assure financial markets and others that the economy is firmly on the path to budget balance.

There is no doubt that 1983 is a crucial year for our economic future. The tax and budget policies adopted this year will influence our economic performance for many years to come. We now must all work together to make sure that the policies are wise and that the economic future is bright.●

JOBS TAX CREDITS, S. 371

● **Mr. SASSER.** Mr. President, on April 12, the National Advisory Council to the Senate Small Business Committee met to discuss issues of concern to the small business community. One of the topics which generated extended debate was the use of jobs tax credits. Jobs tax credits are a concept which I feel address many problems of our current economic situation and I have introduced legislation, S. 371, which seeks to promote the use of this valuable tool in the marketplace. Thus, I was very interested in the comments of these small business leaders on a matter of mutual interest.

I was struck by the sense of obligation expressed by the council members to lend a hand in retraining our Nation's unemployed. These men and women felt a responsibility to employ unskilled workers and provide them with a gainful future. Most participants agreed that jobs tax credits could do much in promoting their efforts to upgrade the skills of our Nation's unemployed.

There were also comments on the benefits to be derived from a jobs tax credit in terms of capital retention for small businesses. With the cost of capital still high for small firms and the capital base for small business subject to wide variations, jobs tax credits provide a means of retaining a significant degree of the business' capital.

While most council members agreed that a jobs tax credit is a good idea, many expressed reservations about the cost of such legislation. In this time of fiscal austerity such concerns are perhaps more warranted than ever. To answer this legitimate concern, Mr. President, I am pleased to point out that the cost of S. 371 in terms of lost revenue is not great. The figures provided me by the Joint Tax Committee illustrate the revenue impact of S. 371 over the next 5 fiscal years. I submit for the RECORD the table showing the revenue estimate of S. 371.

Targeted Jobs Tax Credit Amendments Act of 1983

Fiscal years:	Billions
1984	−$0.6
1985	−.9
1986	−.7
1987	−.4
1988	−.1

When we consider the revenue impact of jobs tax credit legislation, Mr. President, we have to weigh in the effect of decreased Federal expenditures for unemployment compensation, welfare payments, and other assistance programs that occur when people are put back to work. In addition to these significant savings there is the increased sense of self-worth an individual feels when he or she is taking home a paycheck. These benefits, in my estimation, will more than offset the minimal cost of S. 371.

A final comment I wish to relate from the National Advisory Council meeting is the recognition that jobs tax credit provide persons with real jobs where they can learn marketable skills. Jobs tax credits do not create public works jobs which may be gone in a short period of time.

Mr. President, I want to commend the members of the National Advisory Council for the forthright manner in which they accepted their responsibility for providing the necessary training and employment that our Nation's unemployed so desperately need. It is our responsibility to do what we can to promote such activity. S. 371 does much to stimulate employment in the small business sector and in the economy as a whole. As such, it is an important measure which I urge my colleagues to support.●

THE BOMBING OF THE U.S. EMBASSY IN BEIRUT

● Mr. D'AMATO. Mr. President, I rise today to voice my outrage over the brutal terrorist attack on the U.S. Embassy in Beirut. Terrorism is a disease that has plagued the world for many centuries, but never to the degree or frequency witnessed in the last two decades. The recent attack on the U.S. Embassy in unparalleled in the history of American diplomatic missions. The senseless brutality of this bombing attack, in which scores of innocent people were killed or wounded, reveals the true mentality, not only of the perpetrators of this crime, but of all terrorists. Despite all the "ideological" banter, there is no justification for this heinous crime, or for any other act of terrorism.

Terrorism is a significant barrier to any negotiated settlement in the Middle East. It is the major destabilizing factor in this volatile region, as demonstrated by recent assassinations of those individuals committed to peace. Perhaps now is the time to initiate a program to counter the terrorist threat in order to insure the security and safety of our citizens abroad.

I urge all Americans, in light of this tragedy, to support our President in reaffirming our commitment to a peaceful resolution of the Middle East conflict, and to show these terrorists and their supporters that the United States will not stand idly by while this type of atrocity occurs, nor will we submit to armed terrorist aggression.

As a Senator from New York State, I offer my deepest sympathies and condolences to the family of Frank J. Johnston of New York, First Secretary of the U.S. Embassy's Economic and Commercial Section. I call upon my colleagues to denounce this attack, and to honor those Americans who sacrificed their lives in the service of their country.●

POLISH COURAGE

● Mr. MURKOWSKI. Mr. President, April marks the 40th anniversary of the Warsaw Ghetto Uprising of 1943 against the Nazis. This anniversary is important not only to Polish Jews, but to all Poles. The uprising in the Jewish ghetto was strongly supported by the Polish underground. The ghetto was burned in 1943. In 1944 all of Warsaw was razed. One out of five Poles died in the war.

The solidarity of all Poles was made clear at a mass held to honor the victims of the uprising, when Szymon Szurmiej, director of the National Yiddish Theater, spoke from the altar of the Catholic church. He said:

> The three and a half million Jews who lived in the country with the Poles were like one family.

What happened to Warsaw at the hands of the Nazis could happen again—this time under the tanks and guns of the Russians. The Polish people know only too well the dangers in maintaining their struggle for freedom. Not only Poland's own history, but events in Hungary, Czechoslovakia, and Afghanistan show only too painfully what happens to those who defy the Russians. As Americans, we are duty bound to encourage these struggles for freedom. As Americans, we should be reminded by their hard-won steps to freedom of our own perhaps too easy path.

Lech Walesa, one of the most courageous men of our time, was detained en route to Warsaw last week. He had intended to lay a wreath at the foot of the Warsaw ghetto monument. In spite of the attempt on the part of the Polish authorities to use this anniversary to obscure the repressions of the present Government in loud polemics against the Nazis, their actions in detaining Mr. Walesa three times in less than 1 week and in the arrest of Janusz Onyszkiewicz, former national spokesman for Solidarity, clearly underscore the continuity of the Nazi regime in the Soviet presence.

Mr. President, I would like to take this opportunity to praise Mr. Walesa for his courage, courage of the highest order, in his refusal to submit to this pressure.

Mr. President, there are several factors underlying the Polish Government's actions in the past few days. One is the symbolic power inherent in the celebration of the anniversary of the Warsaw Ghetto Uprising. The fact that the head of the PLO mission in Warsaw, Fuad Yassin, thought it appropriate to lay a wreath at the monument serves as a sign that all people acknowlege the heroism of those who resist oppression.

Another factor is the fast approaching May Day celebrations. May 1 is a date that always generates strong emotions and often brings violence in many parts of the world. Each year governments and resistance groups alike take advantage of the historic nature of this date to advertise their interests. When Lech Walesa announced that he had met with underground Solidarity leaders to discuss plans for May Day demonstrations, it occasioned the first of three detentions by authorities.

A third worry for the Communist authorities is the great potential for Solidarity to influence other movements for freedom. An article in the Washington Post this week—April 20—refers to unrest in Estonia, fomented in part by what they see there as the successes of the Solidarity movement in Poland. Were the authorities to allow any public demonstration of support for Solidarity, which an appearance by Lech Walesa would most certainly be, it might signal to potential resisters the lenience if not weakness of the Communist regime.

Finally, the projected visit of the Pope in June is a focus of concern for the Polish authorities. I ask the Senate, why is the Pope's message of peace and of respect for mankind a threat to Polish Communist authorities? Mr. President, I suggest that the Polish military and the Soviets are afraid. Why? Why does a movement for freedom of choice, of speech, of religion, of pursuit of happiness, constitute such a potential danger to them? Perhaps because such a message makes manifest the essential humanity of people and condemns any system that denies this. I ask the distinguished Members of this body to reflect on this as May Day approaches, and to attend carefully to events in Poland.

Thank you, Mr. President.●

SENIOR CITIZENS

● Mr. PELL. Mr. President, I wish to call the attention of the Senate to a splendid example of full utilization of the talents and experience of our senior citizens.

The example is provided by Charles Swartz, a 71-year-old Rhode Islander who draws upon his 44 year career in the textile business to serve as financial consultant to other senior citizens at the Old Stone Bank, Rhode Island's second largest commercial bank.

Mr. Swartz conceived the idea of the service himself after observing that senior citizens needed a reliable source of information and advice, and his efforts have won high praise from his banking colleagues as well as his senior citizen clients.

I congratulate him for his energy and determination in making his talents available in such an exemplary manner.

Mr. President, I submit for the RECORD an article entitled "Old Stone Bank's Senior Citizens' Financial Consultant," by Theodore W. Barnes, president and chief executive officer of the Old Stone Corp., which appeared in the September 1982 issue of United States Banker.

The article follows:

[From the United States Banker, September 1982]

OLD STONE BANK'S SENIOR CITIZENS' FINANCIAL CONSULTANT

(By Theodore W. Barnes)

In late October 1980, Old Stone found something new to add to its existing services for older customers. In doing so, the bank's efforts on behalf of seniors have acquired a very positive and personable image.

Old Stone is offering, free of charge, the services of a financial consultant who is a senior citizen himself.

Seventy-one years young, Charles Swartz joined Old Stone approximately two years ago as the bank's first senior citizens' financial consultant. His portfolio is impressive and his credentials trace a 44-year career in the textile industry. Upon his retirement, he put his executive abilities to work for the elderly via an amazing variety of roles.

Swartz has served as a member of the Rhode Island White House Conference on Aging and on the Governor's Advisory Committee on Aging. He also participated in the Department of Elderly Affairs Preretirement Planning Program, service on the Senior Citizens Transportation Board and an election advisor to the Silver Haired Legislature. "Hands on" experience as a Meals on Wheels volunteer is yet another part of his activity in support of Rhode Island's elderly.

If Old Stone had set down on paper the qualifications they were looking for in a senior citizens' financial consultant, the bank would have been hard pressed to find a candidate as suitable as Charles Swartz.

However, the bank did not find him . . . he actually found the bank . . . and it happened this way:

A TIMELY IDEA

Several years into a retirement that could hardly be described as "leisurely" had given Charles Swartz an intensive view of the needs of older citizens. High on the list of priorities was the need for information on practical, everyday matters pertaining to health, housing and finance.

He found it amazing that some individuals actually sought financial advice from newspaper columnists on the most vital monetary matters; how to provide for sufficient income in later years or how to invest the money received from the sale of a home. Charles Swartz felt strongly that this type of advice should come from banks, and banks should be making an extra effort to reach out to older citizens with this kind of help.

Charlie (as he prefers to be called) contacted several Rhode Island banks to discuss his idea of financial counseling for senior citizens. The various bank executives he met with agreed that his idea had merit. One bank—Old Stone Bank, the second largest commercial bank in Rhode Island—swiftly put his concept into action.

Charlie literally took his senior citizens' financial consultant services "on the road" and began to make numerous appearances, talking to large and small groups at housing complexes for the elderly, community centers, local libraries, churches, preretirement planning sessions and senior citizen centers.

HOW HE DOES IT

His approach to financial counseling is to provide people with information on the options open to them. To help them get a clear picture of their financial status, Charlie devised a very practical, workable, four-part form. By filling out this "financial tool," individuals put down on paper their assets and liabilities. For many, this is a first-time experience and a most revealing one. With this information they can then move on to some basic financial planning.

Charlie's format for speaking engagements is totally flexible; he appears solo or has Old Stone officers accompany him.

Charlie, officially part of the bank's Marketing Group, has an office within the group's facilities.

On occasion he makes house calls to seniors who are shut-ins or patients in nursing homes and sets in motion procedures to help resolve problems, financial or otherwise. Charlie's vast experience with State and government agencies for the elderly enable him to serve as an excellent "sounding board" on matters pertaining to seniors.

Old Stone Bank makes good use of Charlie as an effective communicator both externally and internally. Last year, an insurance company that provided policies to older bank customers decided to cancel the policies. Although the bank was not responsible, the situation could have been embarrassing. Charlie was asked to handle incoming inquiries and he did so in true diplomatic fashion.

As Charlie so neatly puts it, "Outside the bank, I represent Old Stone to senior citizens. Inside the bank, I represent seniors citizens to Old Stone."

He does a great job on both fronts, and this past June, Charlie was the winner of the Rhode Island Better Business Bureau's Courtesy Award for helpful service to the public.

Charlie's endeavors under the Old Stone banner have strengthened the bank's efforts on behalf of seniors, by giving it a focal point and a positive personality.●

REAUTHORIZATION OF THE LEGAL SERVICES CORPORATION

● Mr. DANFORTH. Mr. President, on Thursday, April 21, I joined Senator EAGLETON and several other colleagues in introducing legislation to reauthorize the Legal Services Corporation. I did so, despite the administration's desire to eliminate funding for the Corporation, because I believe that the Legal Services Corporation and the legal services program play an essential role in our system of justice.

Perhaps the most noble of our Nation's historical commitments is to assure equal justice for all citizens. The Legal Services Corporation, operating as an independent entity, enables us to honor this commitment—fulfilling the mandate of Congress to provide effective legal representation for those who would otherwise be unable to afford it. Absent the legal services program, many Americans would go without representation—simply because they are poor.

At the present, the need among low-income citizens for civil legal assistance exceeds the level of services currently provided by both the Corporation and the private bar. Elimination of the Corporation and its funding could further impair the rights of the disadvantaged to equal justice under the law. The voluntary effort to provide the poor with access to our justice system, while significant, is not sufficient to meet the needs of the poor, and it is unrealistic to expect the States to step in. Accordingly, we must continue to meet our commitment with the Legal Services Corporation.

Moreover, this commitment requires us to increase funding for the Corporation, if we are to assure equal access to our system of justice for all Americans. Over the past 2 years, reductions in funding for the Corporation have forced it to cut back its services. It has been estimated that 7 million needy Americans have legal problems that make them eligible for legal services assistance, but the offices funded by the Corporation were able to pursue only 1.1 million cases in 1982, down from 1.2 million in 1981. Furthermore, last year legal services closed nearly 300 of its 1,475 local offices and lost almost one-third of its national staff.

Of course, the legal services program has always generated a great deal of controversy, even though the overwhelming majority of legal services cases concern routine matters—resolved without litigation. We must remember, however, that such controversy is inevitable, because effective legal representation of a client often requires confronting powerful interests—public and private. Such confrontations and conflicts are inherent components of our adversarial system of justice, and it was to shield legal services from the repercussions of such adversarial confrontations that the independent corporation was created.

At the same time, while much criticism of the Corporation's activities has been unfounded, there has been legitimate concern expressed about activities that channel the resources of the Corporation away from the primary purpose of the legal services program. Because of such concerns, restrictions have been imposed in recent years on such activities as class action suits and lobbying by legal services attorneys.

The problem with these restrictions is how to assure that the resources of the Corporation are focused directly on the provision of civil legal assistance for low-income Americans without limiting the ability of legal services attorneys to effectively represent their clients. The measure we are introducing today attempts to deal with this problem; it carries forward some recently imposed restrictions on legal services activities, while it modifies the restrictions on others.

One area in particular that is addressed is that of lobbying and political activity. Such activity by legal services attorneys is a concern for many of us; however, lobbying on behalf of a client is a traditional and well-recognized aspect of lawyering. The canons of ethics of the American Bar Association's model code of professional responsibility state that a lawyer has a duty to represent his or her client zealously within the bounds of the law, and that if a lawyer believes that the existence or absence of a rule of law, substantive or procedural, causes or contributes to an unjust result, he or she should endeavor by lawful means to obtain appropriate changes in the law. If a lawyer can do this for a wealthy individual, he or she should be allowed to do this for a poor client, as well. The legislation we introduce today modifies the existing restriction on legal services lobbying to allow such zealous representation of a client.

I know that there are those who will object to this; however, this Nation was founded on the belief that all citizens, rich and poor alike, are entitled to equal protection under the law. If we are to ask all citizens to bear the responsibilities of citizenship, we must work to insure that all citizens can exercise their fundamental rights, and the legal services program should guarantee the free exercise of these rights for all Americans.

It has often been noted, and I think with appropriate pride, that it is an act of great self-confidence for a government to make resources available to test the legality of government practices. This is what legal services often does, because a lawyer who represents poor people is inevitably going to be an advocate for them against Government agencies. I urge my colleagues to join me in an expression of self-confidence in our system of government by renewing support for the Legal Services Corporation and thereby assuring equal justice for all Americans.●

DAIRY PRODUCTION ACT OF 1983

● Mr. RIEGLE. Mr. President, I am pleased to cosponsor today S. 1045, the Dairy Production Act of 1983. This legislation offers an effective means to reduce the surplus and the chronic problems of overproduction in the dairy industry.

The Congress has attempted, in recent years, to halt the Federal expenditures for the milk price support program. These outlays have risen from less than $1 billion in 1979 to almost $2.5 billion in 1983. The cause of this is declining consumption and increased production efficiencies. In the United States, per capita consumption of milk products has dropped from 548 pounds in 1979 to 541 in 1981. Production has risen during the same period from 11,464 pounds per cow to 12,122. It appears that this trend is continuing in 1983, and that we must act to reverse the trend and restore balance to the industry.

S. 1045 will meet the basic requirements of equity and effectiveness. It will insure that production is reduced, through meaningful disincentives to expanding production, while minimizing the long-term harm to dairy producers. In addition, it offers positive incentives to reduce production, through diversion payments, and will begin a sorely needed dairy promotion program. This can be accomplished at a Federal cost far below current levels.

The diversion program is perhaps the most controversial aspect of this legislation. The concept is sound, and has been employed in other commodities. There is no reason that it would not be successful in inducing dairy producers to reduce production levels below their base amounts. I believe, however, that the actual incentive levels may need modification in the final consensus version of the legislation, since the 30-percent allowance and the $10 per hundredweight payment may not accurately reflect market needs.

Mr. President, the current dairy price-support-system is not working. The system of deductions, instituted by the Department of Agriculture, has caused hardship to producers and created a reaction where more milk is actually entering the marketplace. We need a program that will reduce production immediately, will give producers both a penalty for overproduction and a reward for reductions. Under this plan, I am confident that we can erase the surpluses and return the market to an equilibrium status.

Recently, Mr. Elwood Kirkpatrick, president of the Michigan Milk Producers Association, testified in the Senate Agriculture Committee in support of S. 1045. This testimony provides a detailed analysis of this legislation, and speaks directly to the need for the incentives, and for the dairy promotion program. I ask that this testimony be included in the RECORD at this point, and I commend it to my colleagues.

The testimony follows:

STATEMENT OF ELWOOD KIRKPATRICK

I am Elwood Kirkpatrick, a dairy farmer from Kinde, Michigan, and President of Michigan Milk Producers Association, a dairy cooperative marketing association headquartered in Southfield, Michigan, and owned by dairy farmers from throughout the state of Michigan. I also serve on the Board of Directors and the Executive Committee of the National Milk Producers Federation.

I would like to direct my comments today to the National Dairy Promotion Program which is an integral part of the policy recommendations advanced by the National Milk Producers Federation for dealing with the current dairy surplus situation. Mr. Norman Barker, President of the National Milk Producers Federation will address proposed amendments to the Dairy Price Support Program as contained in the Dairy Compliance Program. I would like to associate myself with his testimony. I am in full accord with what he has to say.

The National Milk Producers Federation is a national farm commodity organization representing dairy farmers and the dairy cooperative marketing associations they own and operate throughout the nation. The vast bulk of the nation's milk supply is marketed by farmers through their dairy cooperatives. These cooperatives represent the effort of the individual farmer to provide himself with effective representation in the marketing of his product and to assure a market at reasonable prices for his production.

Dairy farmers have had substantial experience in the operation of dairy product promotion programs. Such efforts have demonstrated positive effects in maintaining and expanding consumption of milk and dairy products. At the present time, however, there is an urgent need to increase these efforts. The concept set forth in the National Dairy Promotion Program will meet this need. The program is outlined in some detail in the attached concept paper which I ask be included in the record of the hearing as part of my prepared testimony.

NEED FOR THE PROGRAM

Much has been said of the problems being experienced with the growing cost of the Dairy Price Support Program. Most of this discussion has centered on the fact that milk production has expanded in the past few years, resulting in increased Commodity Credit Corporation dairy product purchases. There is another side to that issue. This involves the decline in milk consumption that has taken place in recent years. According to reports of the U.S. Department of Agriculture, milk consumption per capita stabilized and showed some increase during the late 1970's following a substantial decline during the 1950's and 1960's. The experience of the 1970's was, we feel, the result of increased and more effective product promotion programs.

But during the past few years, we have again experienced a decline in per capita consumption. From 548 pounds milk equivalent (fat-solids basis) per capita consumption in 1979, consumption fell to 544 pounds in 1980 and to 541 in 1981. This represents a total decrease in milk consumption of almost two billion pounds from 1979 per capita levels and four billion pounds on the basis of the 558 pounds consumed per capita in 1972.

Milk consumption per capita, U.S. milk equivalent, fat-solids basis

Year	*Pounds*
1969	569
1970	561
1971	556
1972	558
1973	551
1974	539
1975	540
1976	540
1977	542
1978	545
1979	548
1980	544
1981	541

Source: "Dairy, Outlook and Situation," USDA, ERS, DS-390, September 1982.

The decline in consumption we are witnessing at the present time encompasses a wide range of dairy products and fluid milk. The increase in consumption of manufactured products in recent years has been a major factor in maintaining and increasing milk consumption. This is particularly true of cheese. In 1970, per capita cheese consumption was 11.5 pounds. By 1978, this had increased to 17.2 pounds. There was a slowing of the pattern of expanding consumption in 1979, however, growth resumed in 1980, in large part due to the specially targeted product promotion programs conducted by the dairy industry. This successful effort was repeated in 1981 with equally impressive results.

When we look at the food marketing picture today, we witness a highly sophisticated industry where thousands of products compete for the attention and the budget of the consumer. Hundreds of millions of dollars are spent on the promotion of the products that stock the shelves of the nation's food stores. For too long, we in agriculture have assumed that because we produce a product that is pure and wholesome and one which provides an unmatched nutritional value that it has an automatic acceptance by the consumer. We have learned, we are continuing to learn, that this is not the case.

The dairy industry is witnessing the development of a new generation of imitation dairy products that compete for the consumer dollar. Many of these products are presented as "nutritionally equivalent" to genuine dairy products, a claim not supported by scientific fact but allowed by mandate of the Food and Drug Administration.

It is estimated that imitation cheese products represent almost five percent of the total cheese market in the United States today. The primary feedstock for these products is casein. I realize that neither the U.S. International Trade Commission nor the administration feels that such inroads into a major market represents material interference, but for the U.S. dairy farmer it is most significant.

It is for the purpose of addressing these issues that dairy farmers have joined together in support of the National Dairy Promotion Program. The legislation before the Committee would authorize the development of such a national program aimed at promoting expanded use of milk and dairy products and assisting related marketing and nutritional research as well as nutrition education efforts. There is solid evidence that such efforts are successful. Such an effort is an essential part of any overall industry program to address the problems currently confronting the dairy industry.

NATIONAL DAIRY PROMOTION PROGRAM

The legislation before the Committee is similar in most respects to that approved for other commodities in recent legislation and essentially identical to the programs supported by dairy farmers in several states. It authorizes the development of a national producer-funded program for the promotion of milk and dairy products as well as related marketing and nutritional research and nutrition education efforts. The development of the program would be under the direction of the Secretary of Agriculture and it would initially be placed in operation at his direction.

The program itself would be directed by a Board of Directors comprised of dairy farmers, however, budgets for program operations and actual project plans would be subject to review and approval by the Secretary.

There are a number of areas in which this proposed program differs from those approved for other commodities.

The program would initially be established at the direction of the Secretary of Agriculture. The Secretary would issue the basic order establishing the program after receiving public comment on a proposal submitted to him by interested parties. This may appear to be deliberately bypassing the process of producer referendum that is common in placing such programs into effect. There is sound reason for doing so. The initial intent of the program is to assist as rapidly and directly as possible in reducing government costs under the Dairy Price Support Program through expansion of consumption of milk and dairy products. Each additional pound of cheese consumed means 10 pounds less milk available for sale to the Commodity Credit Corporation under the price support program.

The lengthy process of national hearings and referendum involved in initially establishing such a program would mean substantial delays in implementing these efforts. These delays would be costly from the standpoint of both the government and the dairy farmer. We are dealing, essentially, with an emergency situation that requires emergency actions.

The conduct of the program in this manner is meant as a short term condition. In order for the program to continue beyond December 31, 1985, it would have to be approved by a majority of the dairy farmers voting in a referendum held during August or September 1985. Thereafter, any program changes would have to be approved in a similar producer referendum and a representative group of 10 percent or more of the producers covered under the program would be able to petition the Secretary for a referendum to determine whether farmers desired to continue the program at any time after October 1, 1985.

The legislation calls for a mandatory assessment on all milk marketed of 15 cents per hundredweight. The full support nature of the program is essential to its success. The dairy industry has had considerable experience with voluntary programs or programs under which individual producers can request refunds of contributions. At the same time, considerable experience has been gained in the use of mandatory or full support programs of this type. Of the two, the effectiveness of the full support program is so much superior that a comparison can hardly be made.

The funds provided under such a program are used to further market expansion efforts for all dairy farmers. This point is critical. A major weakness of voluntary programs has been that those participating carry the burden for the entire industry. All farmers benefit to an equal degree from such efforts, therefore, each should be expected to share in program costs.

Provision is made to allow dairy farmers already making contributions to qualified programs aimed at promoting the use of milk and dairy products generally to be credited for up to ten percent of their contributions to such programs. This assures that the national program would not supersede existing successful state, regional and cooperative programs. To a great degree, the national effort would be complimentary of these programs as it would permit specific targeting of promotion opportunities when local funds may not be adequate to meet a need. It would also allow reinforcement of these existing efforts with research measuring the program's effectiveness and studies regarding the nutritional value of milk and dairy products.

Even with the 10 cent credit, for many dairy farmers their participation in this program will be in addition to substantial contributions they are already making to such operations. In my own case, I presently participate in state, regional, and national programs. In my own cooperative, there is virtually unanimous support for this proposal. It has been discussed in detail during membership meetings in recent months and Michigan Milk members are not only supportive of the concept, they are enthusiastic in that support.

As noted earlier, there is precedent for a mandatory research and promotion program in the dairy industry. The table attached to my testimony details a number of major dairy states that have such a program in effect at the present time. The most recently approved program, that in Wisconsin, was approved by more than 76 percent of the dairy farmers in the state in a referendum ending just two weeks ago.

In addition to the state programs, many of the cooperative marketing associations maintain their own advertising and promotion efforts as well as provide active support to nutrition education programs. In many of these instances, a portion of the funds are used for cooperative brand advertising with the balance devoted to generic promotion. The generic promotion efforts of cooperatives would be recognized as qualifying under the crediting provisions of the proposed legislation.

In total, over sixty percent of the milk supply of the nation is included under full support promotion efforts either under a state or cooperative program.

It has been suggested that the referendum provisions of the measure be amended to remove the authority for cooperative marketing associations to vote on behalf of their members. Frankly, the provisions now in the bill will assure broader participation in the producer referendum and more fully reflect the desires and needs of dairy farmers.

Each individual dairy farmer would be assured the right to cast his ballot in any referendum. If a cooperative marketing association chose to exercise the option to vote on behalf of its membership, it would be required to inform the membership of how the vote was cast and the reasons for the action. At the same time, information would be provided as to how a member disagreeing with the cooperative's action could cast an individual ballot.

This assures a broad participation by dairy farmers. It assures them that they will have complete information on the program before making an individual decision. Finally, it guarantees them the opportunity to exercise their vote as an individual if they should so desire.

There is another point that should be clearly understood in this regard. Dairy cooperative marketing associations are owned and operated by dairy farmers. While professional management is employed to carry out the operations of the cooperative, the policy decisions are made by dairy farmers themselves through member-elected Board of Directors. These directors act on behalf of their fellow members in determining policy. As one who has been active in his own cooperative throughout my career as a dairy farmer, I know that one of the prime requirements within such an organization is action that is in keeping with the desires of the membership.

Because there are already substantial milk promotion programs in operation throughout the nation, the opportunity exists to expand these efforts with little or no administrative or overhead costs. The National Dairy Promotion Board directing the program would be able to receive proposals from existing agencies, review them and, if accepted provide funds for such operations.

This would mean, in the fullest sense, that this program would operate on a complimentary basis with existing promotion efforts. As clearly stated in the legislation, it is not intended to replace or supplant existing programs. These are effective, they must be continued. What we are seeking here is a means of making existing programs more complete, more effective and to do a more complete job on a national basis.

ANTICIPATED IMPACT OF NATIONAL DAIRY PRODUCTS PROMOTION PROGRAM

What benefit can dairy farmers expect from funds committed to a program of promotion of manufactured dairy products?

Several years ago, the Economic Research Service of the U.S. Department of Agriculture conducted extensive research into the impact of promotion programs aimed specifically at butter and cheese. The findings of these studies were published in "Butter and Cheese, Sales Changes Associated With Three Levels of Promotion," Agricultural Economic Report No. 322, January 1976. These studies indicated substantial potential returns from such programs. Quoting from the report's summary:

"A 9-cent per capita investment in promoting butter in controlled market tests resulted in a sales gain of about 4.5 percent over sales with no promotion. The study period was May 1972-73. Sales dropped, however, by 4.5 percent wher the investment level was 6 cents per capita and by 3.5 percent at a 3-cent promotion level. The negative results were apparently due to counter-promotions for oleomargarine in the form of advertisements that offered cents-off coupons on oleomargarine."

"For cheese, the 3-cent-per-capita promotion level did not increase sales significantly. But gains of about 15 percent occurred at promotion levels of 6 and 9 cents. Moreover, for each 1-percent change in the number of trade advertisements for cheese (both retailer and manufacturer), cheese sales changed one-half of 1 percent in the same direction."

Overall, it was concluded that a $12 million expenditure nationally would have increased cheese consumption 244 million pounds annually or about 2.4 billion pounds milk equivalent. A national promotion program for butter costing $18 million would raise butter sales by 450 million pounds milk equivalent. The estimates for butter assumes there would be counterpromotion of oleomargarine as occurred in USDA's test markets.

Updating the results of the USDA work to reflect increases in advertising costs, it is estimated that it would cost $72 million today to operate the cheese and butter promotion programs described above. Such programs would increase consumption, however, by almost 2.9 billion pounds milk equivalent. If the alternative market for this product was the CCC, this represents a savings of $460 million in reduced government purchases at the present $13.10 support level.

The USDA study was based only on the impact of promotion efforts on sales through supermarkets. It did not measure or estimate the potential increase through other outlets. Therefore, it could be expected that the impact would be somewhat greater than presented.

The results of the USDA investigation are borne out by the experience of the "Slice of Life" cheese promotion campaigns conducted in 1980 and 1981 by the United Dairy Industry Association. These promotion efforts were conducted during September, October, and November each of the two past years. The cumulative effect of the effort was an increase in cheese purchases of 188 million pounds during the two years.

The initial effort in 1980 brought about an 86.7 million pound increase in purchases over the previous year. When repeated the following year, another 101.6 million pound gain was recorded.

As detailed for the Committee during hearings on similar legislation a year ago, research by Dr. Stanley Thompson at Michigan State University has indicated that the potential return to dairy farmers for an investment in generic promotion of fluid milk returns $2.20 for every dollar committed to such programs. Analysis of this work and similar studies indicate there exists considerable potential for expansion of effort in this area if adequate funds are available for such programs.

While precise estimates are not available, it is anticipated that the program envisioned by this legislation could provide an additional $120 million to be used for dairy product promotion work. This would be new money provided by dairy farmers in addition to that they are already committing to these efforts. If, as some have estimated, this could have the effect of expanding the demand for milk and dairy products by some six billion pounds annually over a period of time, it would have significant effects on dairy farmer income. It would also mean substantial government savings if the alternative market for this milk is the Commodity Credit Corporation through the Dairy Price Support Program.

This is why I am so interested in and concerned with this legislation. It can mean money in my pocket as a dairyman. It can also assist in relieving the current pressures on the government program that has provided a basic level of stability and price assurance to my industry. I view this, quite frankly, as a logical and essential companion to the Dairy Compliance Program discussed by Mr. Barker.

Together, these programs will work to bring about a restoration of the supply-demand balance within the dairy industry and serve to maintain strong markets for dairy farmers. In the end, that is the basic essential needed to assure a continued supply of milk to meet the needs of the nation.

Full support dairy promotion programs through either State promotion orders or cooperative action (1981 milk production)

State	*Billion pounds*
Wisconsin	22,705
California	14,244
New York	11,093
Michigan	5,103
Washington	3,017
Vermont	2,301
Idaho	2,160
Georgia	1,396
Oregon	1,220
Maine	699
Total	63,938
Cooperative programs	21,776
Totals estimated	22,526
Total	85,714

Rate of assessment for state program ranges from 5.0 cents per hundredweight to 1.1 percent of the price of milk. Under cooperative programs, the rate ranges from 9 cents per hundredweight to one percent of the gross price of milk at the farm plus one cent.

BASIC CONCEPT OF THE NATIONAL DAIRY PROMOTION PROGRAM, MARCH 23, 1983

1. The program would be financed by a uniform checkoff of 15 cents per hundredweight on all milk marketed. The collection would be made by those who pay farmers for their milk with the funds transmitted to the Dairy Promotion Board. A credit up to 10 cents would be available to farmers participating in qualified cooperative, state or regional programs.

2. The National Dairy Promotion Program is not designed to supplant other existing advertising and promotion efforts operated through state, regional, and national organizations. It would, in fact, reinforce and strengthen such efforts.

3. The program would be administered by a Board of Directors composed of dairy farmers. The Board would be appointed by the Secretary of Agriculture from nominees submitted by producers. Board membership would be on a geographic basis to assure representation of all milk producing regions. The legislation calls for a Board of not less than 36 members selected on the basis of geography and milk production volume. In determining regional representation, states would not be divided. A region might include more than one state and a region might have more than one director.

4. The program would be directed toward increasing sales and consumption of milk and dairy products and related marketing and nutritional research and nutrition education.

This would provide a national program which avoids duplication of existing programs, concentrates effort in areas holding promise of greatest potential for increased sales, and whose impact would yield benefits to all dairy farmers through the milk pricing structure.

5. The program would go into effect at the direction of the Secretary of Agriculture after receiving public comment on a proposed promotion order. Its continuation after December 31 would depend on approval of a majority of dairy farmers voting in an industry-wide referendum. In such referendum, members of cooperative associations would be allowed to vote as a unit. If this were done, the cooperative's Board of Directors would be required to notify the membership of how their vote was cast and the reasons for such vote. At the same time, opportunity would be provided for the individual member to cast a separate ballot.

In addition, the legislation provides a means for producers to petition the Secretary to hold a referendum to determine if the program should be continued.

6. The program would be mandatory with no provision for refund to individuals. The program is designed and intended to improve markets and income for all dairy farmers throughout the country. To the extent that this is accomplished, all will share in the returns, therefore, all should share in the commitment.

7. There would be a very limited requirement for staff to carry out the directions of the Dairy Board. For the most part, program activities should be carried out on a contract basis.

Section-by-Section Explanation of the Dairy Promotion Program

SECTION 301—FINDINGS AND DECLARATION OF POLICY

Because dairy products are basic foods and a valuable part of the human diet; dairy product production is a significant factor in the national economy; there must be ready availability and efficient marketing of dairy products to meet the needs of the market; the maintenance and expansion of markets for dairy products is vital to the welfare of dairy farmers and others; and the marketing of dairy products involves interstate commerce, the Congress declares it to be policy that the authorization and establishment of an effective and continuous program of promotion designed to strengthen the markets for U.S. dairy products is essential and in the public interest.

SECTION 202—DEFINITIONS

(a) The term "Board" means the National Dairy and Research Promotion Board established under the Act.

(b) "Department" means the Department of Agriculture.

(c) "Secretary" means the Secretary of Agriculture.

(d) "Milk" means all classes of cow's milk produced in the United States.

(e) "Dairy products" means manufactured dairy products for human consumption derived from the processing of milk and includes fluid milk products.

(f) "Fluid milk products" means manufactured liquid products derived from the processing of milk and customarily consumed as beverages.

(g) "Person" is any indvidual, group of individuals, partnership, corporation, association, cooperative or other entity.

(h) "Producer" is any person engaged in the production of milk in the United States for commercial use.

(i) "Promotion" means actions to advance the image and sales of, and demand for dairy products, including paid advertising, sales promotion and publicity.

(j) "Research" means such efforts as studies testing effectiveness of market development and promotion efforts, studies relating to the nutritional value of milk and dairy products and other related efforts to expand demand for milk and dairy products.

(k) "United States" means the several states, the District of Columbia, Commonwealth of Puerto Rico, Commonwealth of Northern Mariana Islands and the territories and possessions of the United States.

SECTION 203—ISSUANCE OF ORDERS

(a) Within 30 days of receipt of a proposal for an order, the Secretary shall publish the proposed order and request public comment. A proposal for an order may be submitted by organizations certified under Section 206 or by any interested person affected by the Act.

(b) The Secretary shall issue a dairy products promotion and research order after opportunity for public comment. The order shall become effective no later than 90 days following publication of the proposal.

(c) The Secretary is authorized to amend dairy products promotion and research orders.

SECTION 204.—REQUIRED TERMS IN ORDERS

Any order issued shall contain the following terms and conditions:

(a) Provision for establishment of a National Dairy Promotion Board:

(A) The board would consist of not less than 36 members.

(B) The order shall define the powers and duties of the board which are limited to these set out in this Section, including powers:

1. Receive, evaluate and budget for promotion and research project proposals and make recommendations to the Secretary regarding such proposals.

2. Develop promotion and research project proposals and seek their implementation.

3. To administer the order according to its terms and provisions;

4. Make rules and regulations to carry out the terms and provisions of the order;

5. Receive, investigate and report complaints of violations of the order to the Secretary; and

6. Recommend amendments to the order to the Secretary.

7. Board members will be appointed by the Secretary for terms of three years. No member shall serve more than two consecutive terms. Initial appointments shall be proportionately for one, two and three year terms.

8. The board may appoint an executive committee from its members. Its membership shall reflect the composition of the membership of the board and it shall have such duties and powers as are granted it by the board.

9. Board members shall serve without compensation but shall be reimbursed for reasonable expenses, including a per diem allowance as recommended by the board and approved by the Secretary.

(b) All members of the board shall be milk producers. In appointing board members, the Secretary shall select appointees from nominees submitted by eligible organizations certified by the Secretary unless it is determined that a substantial number of producers are not represented by such organizations. In that case, the Secretary will provide a means for making such nominations. In making appointments, the Secretary shall consider the geographic distribution of milk production. Whole states will compromise the basis for such consideration and a region may be represented by more than one director. A region may also be made up of more than one state.

(c) The board shall develop promotion or research plans and projects and submit them to the Secretary for approval. Only those approved by the Secretary will take effect.

(d) On a fiscal year basis, the board shall submit its budget to the Secretary for approval. This will include administrative expenses as well as costs of promotion and research projects.

(e) Each milk producer shall pay an assessment of fifteen cents per hundredweight on milk marketed. The assessment will be collected by those making payment to farmers for milk. Producers participating in qualified state and regional programs intended to increase the consumption of milk and dairy products generally, shall receive credit of up to 10 cents per hundredweight for their contribution to such programs. Funds collected shall be remitted to the Board as prescribed in the order. To facilitate collection, the board is authorized to designate different operators or classes of operators of plants to recognize marketing practices in the industry. The Secretary may bring suit against any person subject to the order for the collection of the assessment.

(f) The board shall maintain such books and records and submit periodic reports as required by the Secretary.

(g) With the approval of the Secretary, the board may enter into contracts for the development and conduct of promotion and research activities. Such contracts willl provide that the contractor submit a plan and budget to the board setting forth estimated program costs. Such program will become effective only if approved by the Secretary. The contracting party shall keep accurate records of all transactions and make periodic reports and accountings to the board as required by the Secretary or the Board.

(h) Pending disbursement of funds, the board may (with the approval of the Secretary) invest funds collected. Such investments shall be in obligations of the U.S. or agencies of the U.S. or in general obligations of any State or political subdivision or in interest-bearing account or certificate of deposit of a Federal Reserve System member bank, or in obligations guaranteed as to principal and interest by the United States.

(i) No funds collected by the board may be used to influence government policy except that the board may make recommendations to the Secretary as needed amendment to the dairy products promotion order.

SECTION 205—PERMISSIVE TERMS IN ORDERS

Orders issued under the Act may contain one or more of the following terms and conditions:

(a) Terms allowing establishing, issuing, putting into effect and the administration of projects for advertising and promotion of the sale and consumption of dairy products or research projects and for the disbursement of the funds for such programs. Such programs shall not use unfair or deceptive practices with respect to the quality, value or use of competing products.

(b) Terms requiring operators of plants receiving milk for commercial use to maintain records and to make them available for inspection. Such operators may also be required to file such reports as are necessary for the administration and enforcement of the Act. All information obtained shall be kept confidential by the Department. No information obtained shall be made available except in connection with administration obtained shall be made available except in connection with administration of the Act or as part of enforcement activities in connection with it.

(c) Terms and conditions incidental to and not inconsistent with the provisions of the Act and necessary to effectuate other provisions of an order.

SECTION 206—CERTIFICATION OF ORGANIZATIONS

(a) The Secretary shall certify eligibility of organizations to participate in making nominations to the board. The Secretary's determination as to certifications shall be final.

(b) In addition to other information, certification shall be based on a report submitted by the organization including the following information:

(1) Geographic territory covered by the organization's active membership.

(2) Nature and size of the active membership, including the proportion of the total number of active milk producers represented.

(3) Evidence of the stability and permanency of the organization.

(4) Sources of the organization's operating funds.

(5) Functions of the organization.

(6) A statement of the organization's ability and willingness to further the aims and objectives of the Act.

(c) The primary considerations in certifying an organization shall be whether its membership consists primarily of milk producers and whether the overriding interest is in the production of milk and dairy products.

SECTION 207—REQUIREMENT OF A REFERENDUM

(a) Within 60 days preceding September 30, 1985, a referendum will be conducted among producers to determine whether the order will be continued. The order will be discontinued unless approved by at least one-half of the producers voting in a referendum.

(b) The Secretary shall be reimbursed for the expenses incurred in the conduct of a referendum (other than salary payments to government employees).

SECTION 208—SUSPENSION AND TERMINATION OF ORDERS

(a) After September 30, 1985, the Secretary may terminate or suspend an order or a provision of an order if he finds that it obstructs or does not effectuate the policy of the Act.

(b) After September 30, 1985, on request of a representative group of milk producers comprising 10 percent or more of the producers subject to the order, the Secretary shall conduct a referendum to determine if producers desire to continue the program. The Secretary may, on his own volition, call for such a referendum at any time.

SECTION 209—COOPERATIVE ASSOCIATION REPRESENTATION

In any referendum on an orrder or amendment to an order, cooperative associations engaged in marketing milk or dairy products shall be allowed to vote on behalf of their members. If a cooperative association exercises this prerogative, it shall provide its members a description of the question presented in the referendum and a statement of the manner in which the association's vote was cast. The members shall also be informed of procedures to follow should a member choose to cast an individual ballot. Such individual ballots will be tabulated by the Secretary and the vote of the cooperative association adjusted accordingly.

SECTION 210—PETITION AND REVIEW

(a) Any person subject to an order may petition the Secretary stating that the order, a provision of the order or obligation under the order is not in accordance with law and requesting relief from the order of modification. The Secretary shall provide opportunity for a hearing on the petition. After such hearing, the Secretary shall make a ruling on the petition which, if in accordance with law, shall be final.

(b) U.S. district courts are vested with jurisdiction to review such rulings if a complaint is filed within 20 days of the ruling. If the court determines a ruling is not in accordance with the law, it will remand the proceedings to the Secretary with instructions to either make such ruling as the court determines to be in accordance with the law or to take such further actions as the court feels the law requires.

SECTION 211—ENFORCEMENT

(a) U.S. District courts have jurisdiction to enforce and to prevent violations of orders or regulations issued under the Act. Civil actions brought under this provision shall be referred to the Attorney General for action. If the Secretary believes that written notice or warning to persons committing a minor violation would adequately serve administration of the Act, he is not required to refer such action to the Attorney General.

(b) Any person willfully violating any provision of an order or who willfully refuses to remit any assessment is liable to a penalty of not more than $1,000 for each such violation.

SECTION 212—INVESTIGATIONS; POWER TO SUBPOENA AND TAKE OATHS AND AFFIRMATIONS; AID OF COURTS

The Secretary may make such investigations as deemed necessary for the effective administration of the Act. In such investigations, the Secretary is empowered to administer oaths and affirmations, summon witnesses, take inquiry. In the case of a refusal to obey a subpoena, the Secretary may invoke the aid of any court in the United States within the jurisdiction of which the investigation is carried on or where such person resides or does business. The court may issue an order directing such person to appear before the Secretary and to produce records or give evidence touching the matter under investigation.

SECTION 213—ADMINISTRATIVE PROVISION

Nothing in this act shall be construed to preempt or supersede any other program relating to dairy product promotion organized and operating under the laws of the United States or any states. The provisions of this Act applicable to orders shall be applicable to amendments to orders.

Section 214. Separability Clause.

Section 215. Necessary funds to carry out the provisions of the Act are authorized to be appropriated. No appropriated funds shall be used for payment of the expenses or obligations of the board in administering an order.

TRIBUTE TO CLYDE WALLACE

● Mr. HOLLINGS. Mr. President, today I rise to pay tribute to Mr. Clyde Wallace of Cheraw, S.C. I want to take this moment to recognize the tremendous contribution Mr. Wallace has made in protecting the health and welfare of citizens throughout South Carolina and North Carolina.

Mr. Clyde Wallace is the chairman of Pee Dee CACTUS, Inc., a nonprofit corporation which stands for Citizens Against Chemical Toxins in Underground Storage. He and the members of his organization have been struggling for months to prevent the construction of a proposed hazardous waste dump in Anson County, N.C. The proposed dump would have been located perilously close to Jones Creek, a tributary to the Pee Dee River which runs through the southern part of North Carolina and the northeastern part of South Carolina. Last week, on April 24, 1983, Mr. Wallace and his CACTUS club members saw their efforts vindicated as the company which had earlier sought to construct the hazardous waste dump announced that it was abandoning its plans concerning the Anson County site.

Mr. Wallace was instrumental in forcing the waste dump contractor to realize that the local citizenry was not going to stand idly by and allow the construction of a dump that could easily have contaminated the major water source in northeastern South Carolina. His diligence and devotion to the cause of preventing the construction of the proposed waste site is a shining example of what concerned individuals can accomplish. Mr. Wallace was not the pawn of any special interest group. On the contrary, he worked on a grassroots level bringing his case to the people whose health and welfare might have been jeopardized by the proposed dump. And the people rallied behind him.

Led by Mr. Wallace, meetings were held with State officials from both South Carolina and North Carolina, with U.S. legislators, with EPA administrators, and most importantly, with ordinary citizens living in and around the Pee Dee River area. Expert engineers were consulted and supported the citizens' fears that the dump could pose a serious health hazard if constructed on the Anson County site.

By building a consensus of concerned citizens, Mr. Wallace was able to send a uniform message to those whose actions may have endangered the low country way of life. That message was, of course, "Don't build the Anson County waste dump!"

For his persistent and victorious efforts to stop the construction of the proposed Anson County hazardous waste dump, I give Mr. Wallace my highest salute. His exemplary public service for the protection of the health and welfare of his fellow citizens deserves the admiration of his entire community. For all the citizens of Cheraw and South Carolina, I extend my thanks to Mr. Clyde Wal-

lace for the tremendous civic devotion he has displayed in tackling the Anson County hazardous waste dump problem.

Mr. President, I ask that the accompanying article be inserted in the Congressional Record following my tribute to Mr. Wallace.

The article follows:

[From the Washington Post, Apr. 24, 1983]

Hazardous-Waste Plan Dumped

(By Cass Peterson)

The nation's largest waste disposal firm has abandoned plans to build a hazardous-waste landfill in North Carolina, citing the "political, social and economic climate" in the state.

The decision, confirmed this week by Chemical Waste Management Inc., of Oak Brook, Ill., ends a bitter controversy over a proposal to build the landfill in a rural area of Anson County, near the state's southern border. Citizens in Anson County and across the border in Cheraw, S.C., had fought the proposed landfill for more than a year, contending that the site posed a danger to the Pee Dee River, a major source of drinking water.

Chemical Waste Management spokesman Don Reddieliffe said the firm has "dropped any plans to pursue" the Anson County site. He said the firm also has abandoned its appeal of the state's denial of a permit to reopen a hazardous-waste incinerating facility near Greensboro, and that any other plans for facilities in the state "are in abeyance."

While the fears expressed by Carolinians were similar to those that surround proposals for hazardous-waste facilities across the nation, the Anson County case became a kind of informal referendum on the adequacy of new federal regulations governing hazardous-waste landfills.

Last December, North Carolina Gov. James B. Hunt declared a moratorium on hazardous-waste landfills in his state, saying that the federal rules are not stringent enough to protect North Carolinians.

The legislature now is struggling to pass its own regulations. The confusing and emotional process is complicated by a state law that prohibits North Carolina rules from being stricter than federal ones.

Hunt has thrown his support behind a bill that would forbid the disposal of certain highly toxic wastes and place a limit on the allowable concentration of others. The bill also would continue the landfill moratorium until Jan. 1, 1985.

In Anson County, jubilant citizens plan to celebrate tonight, but a leader of the landfill opponents conceded that their fight is not over.

"We're celebrating, but we still have a long way to go," said Landon Scarborough, a Wadesboro businessman who heads Citizens Against Chemical Toxins in Underground Storage (CACTUS). "We're in no way giving up the fight to see that North Carolina comes up with the proper regulations to govern these sites."●

WHAT WONDERS WE HAVE WROUGHT

● **Mr. DURENBERGER.** Mr. President, the small secular liberal arts college is very much a part of our American heritage. It is disheartening to see so many fine institutions closing their doors, or suffering severe financial stress. But occasionally, amidst the dark news, a beacon of hope does appear. St. Michael's College, in Burlington, Vt., continues to shine its light as a symbol of that liberal arts tradition.

Its president, Mr. Edward Henry, has successfully guided St. Michael's through these difficult and trying economic times. His innovation and vision have resulted in progress during a period of recession. The following examples, cited in the February 23 Chronicle of Higher Education, are good evidence of Mr. Henry's fine leadership:

Shortly after he became president in 1976, Mr. Henry called for "a grand dialogue" among members of both the religious order and the lay faculty to redefine the mission and goals of the college. The introspective study produced a new statement that, among other things, called for "a liberal education in the light of the Catholic faith" for undergraduates and "a Christian presence" at all academic, social, and religious functions on campus. All new programs must be "consonant with the mission and goals of the college," as one faculty member put it, and all new faculty members must accept the mission and goals before they are hired.

To fulfill its role as a liberal-arts college, Saint Michael's developed a new core curriculum for undergraduates. Beginning last September, all new students must select a minimum of 15 courses from six academic areas, including communications, humanities, natural sciences and mathematics, social sciences, philosophy, and religious studies. The college dropped several weak master's-degree programs in English, history, and science, which were draining resources from the undergraduate curriculum.

To improve the quality of the student body, Mr. Henry held enrollment down and increased tuition. For the last several years, enrollment has hovered around 1,620, a bit above the 1,500 students the college needs to maintain a balanced budget. The cost of one year at Saint Michael's is $7,850, more than $2,000 above the average price of tuition, room, and board at other Catholic colleges.

About 2,000 students applied last year for the 450 places in the freshman class—an increase of 30 percent since 1976. The students come from the top 25 percent of their high-school graduating classes—they used to come from the top 40 percent—and bring Scholastic Aptitude Test scores that average 500 on the verbal and 520 on the mathematics tests.

To provide a friendly small-town environment for undergraduates, who usually come directly from high school, Saint Michael's built campus housing to accommodate 90 percent of its students. In essence, the college makes residential life a four-year course in human relations. Most students follow a "growing-up" pattern in their living arrangements. The freshmen live in large residence halls, while the sophomores move to smaller halls or "common-interest houses," such as Philosophy House. Since 1981, juniors and seniors have been able to sample apartment life in the college's new townhouse complexes.

The college established its first development department in 1976 to organize fund-raising after an agreement with the Society of Saint Edmund left the institution sponsored but not financially supported by the order. By 1981, the development staff had sorted through decades of jumbled records and "found" 7,000 alumni. Forty percent of them gave $226,600 that year, enough to win a first place for the college in a sustained-giving competition sponsored by the Council for Advancement and Support of Education.

To increase its visibility, Saint Michael's offered new activities to attract people from the surrounding community to the campus. Among the programs were a conference on women's studies, "Women and Society," which drew an audience of nearly 2,000, and an eight-part lecture series on religious conflict in Northern Ireland, which drew lively responses from throughout the state.

With a little encouragement, students and faculty members began to get involved in activities off the campus. The students developed a volunteer fire-and-rescue squad for the Burlington area that has been copied by other New England colleges. One faculty member—Dominique P. Casavant, a professor of physics—has been elected mayor of Winooski twice, while another—J. Dennis Delaney, an associate professor of modern languages—is a member of the Vermont Senate.

In 1981 a Saint Michael's student production of Paul Sills' "Story Theatre" was one of eight plays performed at the Kennedy Center in Washington in the finals of the American College Theatre Festival's annual nationwide competition. Last year the college reached the finals again with Aristophanes' "The Birds." Right now the college is awaiting the results of last month's regional competition at Keene State College, where theater students presented "Pathelin and the Physician: Two French Farces."

Mr. Henry credits his predecessor, Bernard L. Boutin, the college's first lay president, with making some tough decisions more than a decade ago that proved crucial to the future of the institution.

Mr. Henry says early moves to balance the budget, increase enrollments by admitting women, and break away from the founding order, although they were unpopular and alienated many on the campus, enabled the college to survive.

Mr. Henry's achievements should be an example to educators throughout the country of a man's ability to reach beyond other's expectations. Mr. President, I would like to salute Mr. Edward Henry and Saint Michael's College.●

EDUCATION FOR ECONOMIC SECURITY ACT

● **Mr. MITCHELL.** Mr. President, I am pleased to join as cosponsor of S. 530, the Education for Economic Security Act introduced by Senators Pell and Stafford. This bill provides a program of financial assistance to States for the purpose of strengthening instruction in mathematics, science, computer literacy, foreign language instruction, vocational education, and other areas pertinent to public education in an age of new and emerging technologies.

The need for this legislation is clear and pressing. By the end of this decade it is estimated that, if nothing more is done, we could have a shortfall of over 2½ million technically skilled workers. We will need more computer programers, more technicians, more engineers, more scientists to manage the new technologies which are now emerging. We will need more persons in business, as well, who are conversant in other languages and cultures and who will be able to help U.S. businesses compete in the international marketplace.

The need, however, does not simply stop with those who will work in these high technology businesses. What is at least as important is to create an informed citizenry which is scientifically and mathematically literate at least to the degree that they can follow developments and make good decisions on future directions in our increasingly complex society. The issues with which we are not confronted—genetic engineering, hazardous wastes, nuclear plant emergencies, environmental pollution, disarmament, overpopulation, economic crises to name just a few—all require some understanding of science and a method for reasonable balancing risks and benefits.

The situation from which we start, however, is, to put it bluntly, appalling. Two-thirds of U.S. school districts allow graduation from high school with no more than one course in science or mathematics. Almost half of all high school graduates have had no mathematics or science beyond 10th grade. Fewer than half of high school graduates complete even 1 year of foreign language.

Even for those who take classes, however, the situation is dismal; 50 percent of our secondary math and science teachers are not certified to teach these subjects. At current rates of loss, we will have 35 percent fewer science and math teachers in 1992 then we have now. This lack of qualifications for teachers has taken its toll in what students learn. A recent survey has shown that high school graduates are continuing their decline in mathematical skills—particularly in exercises that require students to demonstrate an understanding of mathematical knowledge and apply it to nonroutine situations.

While we see this deterioration of skills in American schools, our competitors are moving ahead. Japan, with half our population, produced 24,000 more engineers than did we last year. The U.S.S.R. is producing 300,000 engineers in a year compared to only 63,000 in the United States. These statistics are even worse when one considers that 53 percent of the Ph. D. graduates of U.S. engineering schools are in fact foreign nationals—some of whom will stay in the United States but most of whom are on temporary visas and will return to their native lands.

Education is primarily the concern of the State and local government. It is up to the local boards to reach decisions on how to correct the defects in the curriculums they provide to their students.

Having said this, however, is not to say that the situation is of no concern for the Federal Government. Because of vital national need, it is both appropriate and incumbent upon the Federal Government to provide incentives for improvement of science, math, computer, and foreign language education in the United States. The Education for Economic Security Act does just this. First, it provides local school districts with funds to upgrade instruction in these critical areas. Second, it provides funding for employment-based vocational training programs in new and emerging technology. Third, it provides final assistance to colleges and universities to implement programs for teachers training, retraining, and inservice upgrading of skills in math, science, and computer technology.

I commend Senators Pell and Stafford for introducing this bill and proudly join them and many other Senators in cosponsoring this legislation. I urge all of my fellow Senators to join in support of S. 530.●

DEDICATION OF THE HERBERT CLARK HOOVER DEPARTMENT OF COMMERCE BUILDING

● Mr. GOLDWATER. Mr. President, last Monday night, April 25, the Department of Commerce Building was formally dedicated as the Herbert Clark Hoover Department of Commerce Building. The Congress recognized Hoover's vital contributions to the Department by enacting Public Law 97-120, which directed the name change. Hoover was the seventh Secretary of Commerce, serving in the Harding and Coolidge administrations just prior to his own election as President in 1928. Hoover redefined the role Commerce would have in the decades ahead, and has probably had greater impact on the Department than any other Secretary.

Speakers at the dedication included Commerce Secretary Malcolm Baldrige, Senator Mark Hatfield, who introduced and won approval of the legislation naming the building, and Dr. George Nash, who is now preparing the official multivolume biography of Hoover. The biography is sponsored by the Herbert Hoover Presidential Library Association, headquartered in West Branch, Iowa. Distinguished guests at the dedication included two of President Hoover's grandsons, Herbert Hoover III and Andrew Hoover.

This marks the third Cabinet building to be named for a prominent American. The Department of Health and Human Services Building was dedicated in the name of Hubert H. Humphrey on November 1, 1977, and the Department of Labor Building was dedicated to former Secretary Frances Perkins on April 10, 1980.

The dedication ceremony also marked the official release of the first volume of Dr. Nash's work, entitled "The Life of Herbert Hoover, the Engineer, 1874-1914." Herbert Hoover burst on the world scene in 1914, when he gained international prominence for his work to mitigate the acute food shortages caused by the disruption and dislocation of World War I. His subsequent career at the Department of Commerce, in the White House, and in later years when two successive Presidents established Hoover commissions to conform Government to the times, are relatively well known. His first 40 years, however, remain obscure, and Dr. Nash's first volume will help fill that void.

Mr. President, I ask that the remarks of Secretary Baldrige, Senator Hatfield, and Dr. Nash at the dedication of the Herbert Clark Hoover Department of Commerce Building be printed in the Record.

The remarks follow:

Remarks by Secretary of Commerce Malcolm Baldrige

We are late coming here. We are late in dedicating this building to the memory of Herbert Clark Hoover for his outstanding service as Secretary of Commerce.

But thanks to chairman Mark Hatfield of the Senate Appropriations Committee, we finally are here. And we are grateful to Senator Hatfield for sponsoring the legislation insuring that this building will serve as an enduring monument to Secretary Hoover's many achievements.

Like this building, those achievements are massive and enduring. Mr. Hoover was an administrator and engineer whose wide-ranging interests helped usher America into the modern industrial world. He had a creative mind and an uncanny foresight.

Secretary Hoover's leadership was crucial, for example, in the founding of the telecommunications industry. As clearly as any other person of his time, he saw the vast potential for electronic transmission of information. And in 1923 established the Radio Division in the Commerce Department to foster the broadcasting industry. In 1927 he participated in the first intercity broadcast of a new technological marvel called television.

Secretary Hoover was equally involved in establishing the aviation industry. By creating the aeronautics branch in the Department in 1926, he directed making airport facilities standard, specifications for aircraft construction, and the testing and licensing of pilots.

Then there's the subject of productivity we hear so much about those days, as though we discovered it only recently. Secretary Hoover was not only one of the original discoverers of productivity, it is not too much to say he did as much about it as any other person before or since his time.

He did it by directing the National Bureau of Standards to take the lead in creating voluntary standards for hundreds of industrial products, from sheet steel to bolts and chinaware. The situation for both industry and the consumer at the time was chaotic, with tremendous waste of national resources. Just a couple of examples: Secretary Hoover found that the lumber industry produced 32 different thicknesses of a 1-inch board, some so thin, he reported that they "threatened to become paper." After standardizing lumber products, he went after face brick. It was produced in 54 different sizes. He got them reduced to two.

We will never know how many billions of dollars in savings were effected through his leadership in establishing standards in scores of industries. The resulting economies of scale can't be calculated. We do know that when World War II came along, those standards helped American industry provide the vast quantities of war material that led to victory on the battlefield.

But Secretary Hoover's interests ranged far beyond technology. He fought for the abolition of child labor and he led the successful campaign to convince the steel industry to move from the 12-hour day to the 8-hour day. He promoted home ownership by establishing a housing division in the department. He was one of the earliest advocates of strong support for basic scientific research, and he transformed the National Bureau of Standards into the great scientific institution it is today.

On June 10, 1929, Mr. Hoover, then President, laid the cornerstone of this building. One of the speakers at the ceremony, referring to his service as Secretary of Commerce, said this:

"The Department of Commerce as it stands today is in the fullest sense a monument to him and in its newer incarnation on this spot it will become increasingly so."

Senator HATFIELD, you have added tangible form to the truth of that prophecy.

This building, whose construction Secretary Hoover initiated and whose cornerstone bears his name, now stands as a permanent memorial to his many accomplishments on behalf of the American people. All those who work in it, now and in the future, will draw inspiration from his exemplary service.

REMARKS OF SENATOR MARK O. HATFIELD

Thank you, Mr. Secretary.

The logic and justness of associating the name of Herbert Clark Hoover, the seventh Secretary of the Department of Commerce, to the building which houses this Department, is manifest to all of us who have known or studied this remarkable man. That the legislation honoring Hoover in this way passed both Houses of Congress without dissent is evidence of the broad reassessment of President Hoover now underway. The economic collapse of 1929 and the partisan politics which followed obscured President Hoover's accomplishments for decades. But now Americans, led by the scholarly community, are reawakening to the very real achievements of this extraordinarily talented man. The naming of this building is another step in that process.

While Herbert Hoover has been one of our most controversial Presidents, his vital role at the Department of Commerce is above dispute. His singular mark in the history of the Department has been documented by Secretary Baldrige, Biographer Nash, and others who have taken note of Hoover's term as Secretary.

But for all of this, I believe we should honor Herbert Hoover today for more than simply his approximately eight years of contributions to the Department of Commerce. We honor him for the person he was, which so exemplified American ideals. His way was a storybook life. The son of a blacksmith, he lost both parents before his ninth birthday, and this tragedy led to his move from Iowa to Oregon where he was raised by his maternal uncle. Hoover weathered all of the adversity visited upon his life, and he rose solely on his ability and effort to great wealth, and then to great service.

One of the major tenets of his life was service to humankind. I believe it is fitting that we pause today to acknowledge Hoover's dedication to preserving the sanctity of life. We are ever-mindful of the moments in history where human dignity has been denigrated and where human lives have been casually dismissed. The recent commemoration of the Holocaust points to the need for all of us to elevate the value placed on each human life by society and by government. In this light, Hoover can be seen as perhaps the pre-eminent figure of the century in saving lives.

As a young engineer in China, he helped in the administration of food to victims of the Boxer Rebellion. As the destruction and dislocation of World War I threatened famine, he was able to satisfy the demands of belligerents on both sides and organized and operated the Committee for the Relief of Belgium. After the war, as head of the American Relief Administration, he expanded this effort to the entire continent, feeding over 10 million people per day in Europe.

In 1921, he responded to the plea of Maxim Gorky to send and distribute food to countless Russians facing famine, "despite" his own sense of repugnance for Soviet policies and Communism. For almost two years, Hoover's program fed approximately 30 million Soviet citizens throughout 25 provinces in Russia and the Ukraine. His relief efforts abroad were renewed during World War II, and again in the immediate port-war period. It should also be noted that Herbert Hoover was the first President in the history of our Republic to use the powers of the presidency to interdict an economic cycle for purposes of alleviating the impact of the Depression upon the people. President Kennedy thought him the ideal person to be the Honorary Chairman of the Peace Corps, but because Hoover was 86 at the time, he declined the invitation.

On the domestic scene, he headed Boys Clubs of America for many years, and established Care, Inc., today one of our largest charities.

His concern for people extended to their education. At one end of our continent stands one of the world's greatest centers of learning, the Hoover Institution of War, Peace and Revolution, which he established with European governmental documents he had the foresight to collect during World War I. And near the other end of our continent for many years stood a small school near Camp Hoover in the Shenandoah Mountains, which he built and operated with his own funds to provide a rudimentary education for mountain people with no other educational opportunities.

Another facet of the man was that he was totally contemporary. He lived to age 90, and his innovative proposals and his astute observations constantly belied his advanced years. Whether in his engineering career, in government service, or in later life when two successive Presidents judged him the most able to conform government to current needs, he was always equal to, or ahead of the times.

These personal characteristics, plus his easy warmth, sense of humor, and enormous intellect led me to revere Mr. Hoover. His philosophy of the role of government, his understanding of power and the proper use of it, and his global mentality have all made Hoover an appropriate role model for me as I go about conducting my affairs in public office. Hoover was blessed with a keen sense of problem solving. His attention to detail and his desire to go beyond a solution to finding the "best solution" were his hallmarks. This was the case when he was Secretary of the Department of Commerce and was finding optimal standardizing procedures, and this was also the case when it came to something as simple as eating a peach.

One of my fondest memories of him was when we were at the Bohemian Grove and were about to eat a peach. I did not enjoy eating peaches because inevitably I ended up with juice smeared all over my face, as well as with the bitter taste of the fuzzy peach skin remaining in my mouth. But Mr. Hoover showed me that by cutting the peach horizontally, and then by twisting the peach to remove the pit, you could eat the peach with a spoon and use the skin as a cup to hold the juices. Well, I've enjoyed many peaches since that day, thanks to Mr. Hoover.

All of the many memories that I hold of President Hoover extoll his gentleness and his warmth, in short, his immense sense of peace. He loved fishing and tying his own flies, and he shared these skills with me as I got to know him in the time we spent together in the latter part of his life. He was gracious to me when I was a graduate student at Stanford University. He allowed me access to his personal papers for the preparation of my master's thesis. When I later would visit with him periodically in New York to share a few afternoons visiting or playing Canasta, I was awestruck by his generous spirit and his quiet humility.

Even before these times, however, Herbert Hoover loomed large in my life. As a fifth grader in 1932, I made my entry into political life by plastering the streets of Salem, Oregon with handbills promoting his re-election. When I someday look back on my own career in public service, one of my most satisfying achievements will have been contributing to a true understanding and recognition of Mr. Hoover, of which the dedication of this building is a major milestone.

HERBERT HOOVER: AN UNCOMMON MAN

(By George H. Nash, Ph. D.)

Many years ago a famous criminal attorney declared: "In the great flood of human life that is spawned upon the earth, it is not often that a man is born." And seldom indeed is there born a man whose life is as filled with achievement as the man whom we honor tonight.

Born in 1874 in a little Iowa farming community, Herbert Hoover was orphaned before he was ten. By the time he was twenty-one, he had worked his way through Stanford University and had entered his chosen profession of mining engineering. At the age of twenty-four he was superintendent of a gold mine in Australia. At the age of twenty-six he was manager of a gigantic coal-mining enterprise with nine thousand employees in northern China and had survived a harrowing skirmish with death in the Boxer Rebellion. By 1914, at the age of 40, Herbert Hoover was an extraordinarily successful mining engineer with multinational interests on nearly every continent.

With the outbreak of World War I, Hoover rose to international prominence as director of the Commission for Relief in Belgium, a humanitarian relief agency which ultimately brought food to 10,000,000 French and Belgian civilians a day—an unprecedentd undertaking in world history. After serving as head of President Wilson's wartime Food Administration, he returned to Europe after the armistice for ten months as Director-General of the American Relief Administration, organizing the supply of food for starving millions, facilitating the emergence of stable economies, and helping thereby to check the advance of Bolshevik revolution in central Europe. Thanks in considerable measure to the relief efforts of Hoover and his staff, perhaps one-third of the population of Europe was saved from famine and death.

In the 1920's, when he served as Secretary of Commerce under Presidents Harding and Coolidge, it was said that Hoover was undersecretary of every other department. In fact, one historian has jocularly remarked, "While Hoover had only one term in the Presidency he had almost as many years in the White House as Franklin Roosevelt." Certainly it seems correct to say that in domestic affairs, at least, Hoover was the most influential man in American public life between 1921 and 1933. The first person to have his image transmitted publicly over television (in 1927), the first President to have a telephone permanently on his desk, Hoover after his four years in the White House lived longer as an ex-President (31½ years) than any other former chief executive in our history. These were strenuous years, too; even in his mid-eighties he worked eight to twelve hours a day. Between the ages of eighty-five and ninety he published a four-volume history of his immense relief efforts in World Wars I and II. From Wilson to Eisenhower, he served five Presidents of the United States. He wrote incessantly: numerous books and articles, uncounted thousands of letters. A recent bibliography of his published writings and addresses contains over 1200 entries.

When Herbert Hoover died in 1964, he had lived ninety extraordinarily productive years, including a full fifty in public service. Few American careers have been as multifaceted and remarkable as his.

It is one portion of this career—his tenure as Secretary of Commerce in the 1920's—that brings us together this evening. In 1926, while Hoover was Commerce Secretary, Congress authorized the construction of the buildings here in Washington that comprise what is now known as the Federal Triangle. Hoover was keenly interested in this undertaking and particularly in the plans for the new Commerce Department building. Fifty-four years ago tonight, when the scale model of the Federal Triangle was unveiled for public display, Hoover, now President of the United States, addressed the ceremony. He pointed to the urgent need for adequate housing for several federal agencies—to the fact that 25,000 federal employees in Washington were then working in rented buildings or in temporary structures built hastily during World War I. The Commerce Department's employees, for instance, were scattered in twenty different locations, three of which (he later recalled) had been condemned by the Public Health Service!

A few weeks later, on June 10, 1929, President Hoover himself laid the cornerstone for the new Department of Commerce building, the edifice in which we are now gathered. He used the same trowel that George Washington had used in laying the foundation of the United States Capitol in 1793. And when, in early January 1932, this massive building was ready for occupancy, President Hoover, no doubt with a certain proprietary satisfaction, walked over from the White House to inspect.

There was much to examine. The new building covered nearly eight acres, comprised 3,311 rooms, and was reputed to be, in floor space, the largest office building in the world. The next day the New York Times dutifully reported that the structure contained thirty-six elevators, 3,700 radiators, 7,000 steel constructed windows, and more than 9,000,000 bricks.

Not everyone was enamored of this imposing edifice. A year later Harold Ickes called it "Hoover's Folly." But in 1954, when Hoover revisited this building, he noted wryly that it could accommodate only half of the Commerce Department's current Washington employees and that the other half were once again scattered elsewhere.

But of course it is more than Hoover's involvement with the construction of this building that draws us together at this ceremony. More than any other man, Herbert Hoover was responsible for transforming the Department of Commerce into a Cabinet agency of importance. When Hoover became Secretary in 1921 the department was a mere collection of semiautonomous bureaus whose principal functions (as he later put it) seemed to be "putting the fish to bed at night and turning on the lights" in the lighthouses. The department ranked next to the bottom of the status pyramid at Washington dinner parties, and one of Hoover's predecessors told him that he would need to work only two hours a day at his new job.

Hoover, of course, had a different conception of his office. During his 7½ years as Secretary of Commerce he promoted an audacious program of domestic reform and reconstruction. A tireless exponent of efficiency, he launched a national campaign to eliminate waste in industry. Between 1921 and 1924, his Commerce Department sponsored over 900 conferences on the single subject of efficiency and standardization of products. Under Hoover's leadership the number of sizes of milk bottles in this country, for example, was reduced from 49 to 4. While Secretary of Commerce, Hoover took the initiative in a plan for national waterway development, including the St. Lawrence Seaway, and was a principal architect of the Colorado River Compact that led to the creation of the Hoover Dam. In 1922 he called the first national aviation conference and helped to devise the framework for the rapid growth of civil aeronautics in the 1920's. He was the man most responsible for establishing the fundamental structure of radio regulation that persists in America to this day. In the field of labor relations, Hoover played a key role in the settlement of the traumatic national coal and railroad strikes of 1922 and in the elimination of the twelve-hour day in the steel industry in 1923. He mobilized the resources of great private foundations in the cause of scientific and social research, such as pioneering studies of the business cycle. He urged insurance companies to establish a private system of old-age pensions long before Social Security. He organized and skillfully led private philanthropic institutions in the fields of child health and home ownership. In 1927 President Coolidge asked him to coordinate a vast relief effort for more than 1,000,000 victims of the Mississippi River flood—the greatest natural disaster in American history.

During Hoover's term as Secretary of Commerce his department's work force increased by more than 50 percent and its appropriation nearly doubled. Numerous bureaus were reorganized and others—such as the Patent Office and Bureau of Mines—were acquired from other Cabinet agencies. But perhaps the best measure of Hoover's pervasive influence is this: that in 1928 he was able to go from one of the least prestigious Cabinet posts all the way to the Presidency of the United States—and without ever having held an elective office.

In the context of his times Hoover was undoubtedly a governmental "activist." But it is imperative to understand the philosophy that undergirded his conduct. In his remarks at the laying of the cornerstone of this building in 1929, he stated his purpose succinctly. The Department of Commerce, he said, should seek "by cooperation and not by compulsion" to foster the economic progress of the country. Time and again he insisted that the form and extent of governmental involvement in the economy must be carefully defined and, above all, kept consistent with the broad American traditions of voluntarism, local self-government, and individual initiative.

As Hoover perceived it, the fundamental role of the Federal government was to stimulate the private sector to organize and govern itself. Wherever possible he searched for non-coercive, decentralized, cooperative arrangements to solve such social problems as unemployment. The Federal government, he believed, should act primarily as a fact-finding agency, a clearinghouse for expertise, a coordinator and publicity agent for enlightened private efforts at problem solving. It should not supplant the private sector or entangle it in an enervating web of petty regulation. Repeatedly, in fact, Hoover employed governmental power to facilitate the growth of non-governmental, mediating institutions:

> "We cannot cure foolishness by legislation [he said in 1925]. We cannot catch economic forces with bureaucracy. Yet we can influence economic forces by co-operation in the community. The national and local governments . . . can best serve the community by bringing about co-operation in the large sense between groups. . . . Every time we find solution outside of government we have not only strengthened character but we have preserved our sense of real self-government."

In an autobiographical statement written during World War I, Hoover declared: "There is little importance to men's lives except the accomplishments they leave to posterity." It is in "the origination or administration of tangible institutions or constructive works," he wrote, that men's contributions to posterity can best be measured. "When all is said and done," he asserted, "accomplishment is all that counts."

During his lifetime Hoover created many "tangible institutions," including the modern Department of Commerce. But institutions, as he knew, are animated by the spirit and social philosophy of their founders. Tonight's ceremony of dedication, therefore, is not simply an occasion for remembrance of past accomplishments. It is an opportunity to examine afresh the principles that informed Herbert Hoover's career, the vision that gave direction to his deeds. And if we do, we shall, I think, be astonished by how contemporary his life still seems and by how pertinent his philosophy remains.●

REPORT BY THE NATIONAL COMMISSION ON EXCELLENCE IN EDUCATION

● Mr. PELL. Mr. President, the report of the National Commission on Excellence in Education has clearly enumerated a series of very serious inadequacies and weaknesses in our Nation's educational system that should be of concern to every American.

It would appear, however, that the Commission report should go to every State and local education agency and board member, as well as to President Reagan. That is where well over 90 percent of educational funding comes from and that is where the control of our educational system actually lies. I would hope that the President, whose responsibilities extend to less than 10 percent of all educational spending, would make sure that this report is very widely distributed. If that cannot be done, then we in Congress should do it.

The vast majority of the recommendations put forth by the Commission do not and should not involve the Federal Government. The length of the schoolday and school year, the amount of homework a student should do, secondary school requirements for graduation, and college and university admissions standards are matters wholly within the province of jurisdictions other than the Federal Government.

I am somewhat surprised that in the area of Federal responsibility the Commission's recommendations are less than specific. The report emphasizes that the Federal Government has a responsibility to identify the national interest in education and to fund and support efforts to protect that interest. It calls generally for Federal financial aid for the gifted, handicapped, minorities, and economically disadvantaged. Yet, it makes no specific reference to the Federal programs now in effect, and which are so seriously threatened by the proposals advocated by the Reagan administration over the past 2 years.

For instance, the Commission report cites some very serious and alarming problems with respect to adult illiteracy, but they make no reference to adult basic education, a program at the Federal level that this administration has consistently sought to reduce in funding and to include in a block grant with vocational education. This is but one example where the Commission has been too vague and general in its recommendations. Similar examples could be given for such very important programs as the title I program of educational aid to disadvantaged children, the Education for All Handicapped Children Act, aid to libraries and library services, just to mention a few.

The Commission report also cites severe problems in science and mathematics education, but says nothing specific about how the Federal Government might help alleviate those problems. To my mind, the evidence in the report is strong support for S. 530, the Education for Economic Security Act, which I and 23 of my colleagues have introduced. That bill was recently reported out of the Education Subcommittee and will soon be considered by the full Committee on Labor and Human Resources.

On balance, the Commission has done a valuable and highly credible job of pointing out some very serious flaws in our educational system, but I do believe that it could and should have been much more specific in its recommendations, particularly in regard to the Federal programs already in place and the role the Federal Government should play in the years ahead in helping strengthen our educational system.●

KIDNAPING AND CHILD MOLESTATION

● Mr. GARN. Mr. President, by a unanimous vote in both Houses, the biennial session of the Utah State Legislature passed the toughest and most comprehensive kidnaping and child molestation laws in the country. This action seems only appropriate considering the high regard Utahans have for their children and family life and also because Utah has more children per capita than any other State.

The new law, previously known as H.B. 209, separates into categories the crimes of rape, sodomy, sexual abuse, and kidnaping, enabling Utah to keep track of these crimes and what happens to the offender. The law also provides extensive treatment of victims while requiring mandatory minimum sentences and creates new first degree felonies for those convicted of heinous crimes. Those convicted would not be eligible for probation and if convicted three times would face life imprisonment without the possibility of parole.

According to Brent D. Ward, U.S. attorney for the district of Utah:

> The act was a joint effort of members of Utah Law Enforcement Coordinating Committee (LECC) and Prof. Irv Prager of SLAM (Concerned Citizens for Stronger Laws Against Molesters). It also marks the first time in history that Federal and State officials have cooperated in drafting and successfully lobbying State legislation of such comprehensive proportions.

This coordination of law enforcement, under the recommendations of William French Smith, Attorney General of the United States, is commendable and indeed necessary to counter the epidemic increase of child assaults.

Utah is proud to take the lead in protecting innocent children. And I hope this will serve as an impetus to inspire other States and their legislatures to come to grips with these abhorrent crimes.●

OPPOSITION TO THE IMF BAILOUT

● Mr. HUMPHREY. Mr. President, today's edition of the Wall Street Journal contains a column written by Deepak Lal, a reader in political economy at the University of London, which convincingly puts to rest many of the frantic cries of those who clamor for an increase in the resources of the International Monetary Fund.

Mr. Lal's analysis serves to illustrate that aggregate numbers alone do not tell the whole story; in fact, they may distort it a great deal. As Mr. Lal reveals, the ratio of debt service to exports of nonoil LDC's has historically been much higher than current levels. The existing problem is one of liquidity, not insolvency, and has been caused both by bankers' actions and by mismanagement of debtor economies.

Supporters of the IMF bailout are quick to point out that the Fund is solely and uniquely qualified to act as an international financial intermediary, enforcer of economic austerity, and lender of last resort. I respectfully urge my colleagues to pay particular attention to Mr. Lal's refutation of these claims; namely, that the IMF need not be a lender in order to participate in stabilization programs, that private bank lending should be allowed to flow freely to those who will most productively utilize it, and that appropriate actions by central bankers will ward off any bank panics in the event a default should occur.

This Senator fully shares and has argued repeatedly Mr. Lal's central concern, that the banks and troubled debtor nations must not be encouraged to believe that the Western taxpayer stands ever ready to spare them the consequences of their misguided decisions and policies. A flat congressional rejection of the most recent IMF quota increase would convey this message most convincingly.

I ask that the article appear in the RECORD.

The article follows:

[From the Wall Street Journal, Apr. 27, 1983]

THE "DEBT CRISIS": NO NEED FOR IMF BAILOUT

(By Deepak Lal)

LONDON.—Numerous bankers, officials and academics in both the industrialized and Third World Countries are arguing that there is a Third World debt crisis which threatens the stability of the Western banking system. An increase in International Monetary Fund quotas is considered desirable in dealing with this crisis.

I would like to put the case for the opposition to these currently fashionable views.

The commonly cited indicators of an impending debt crisis are the growth of the Third World's external debt and a rise in the ratio of debt or the costs of its servicing, to either GNP or exports. But these indicators are of dubious relevance. Even if we take them at their face value, they do not indicate any serious problem as judged by historical standards of the last period in which private portfolio lending was a major part of the process of transferring capital from rich to poor countries—the 19th and early part of the 20th century.

Public or publicly guaranteed Third World long-term debt grew from about $97 billion in 1973 to $505 billion in 1982 nominal terms (according to the IMF). This represents only a rough doubling in real terms, if account is taken of the rise in the world price level during this period. But the consequent rise in the ratio of debt to exports of the non-oil developing countries from 0.9 to 1.1 between 1973 and 1982 cannot be taken to represent an excess burden. In 1913, the ratio of external debt to exports ranged from a high of 8.6 for Canada to a low of 2.2 for China and Japan, with that for Latin America being 5.2

Moreover, the ratios of debt service charges to exports of the 12 major borrowers in private capital markets in 1981-82—except for Mexico, Brazil and Chile—were lower than the 0.39 ratio for Argentina in 1900-14. The "crisis" in the abovementioned Latin American countries, and in Argentina, Colombia and the Philippines, is primarily a liquidity crisis. It was brought on by the refusal of the commercial banks to roll over the short-term credits they had increasingly extended in 1981 and 1982.

These doubts about any current or impending generalized debt crisis in the Third World do not imply that all commercial lending in the past has been wise or that it has been productively used by the borrowers. In fact, past mistakes in lending to some Third World countries have led the commercial banks to precipitate the short-run liquidity crises in these countries. The banks hope to put pressure on the governments of these countries to set their domestic houses in order. They also hope to have the risks of their loans to these countries underwritten through the accompanying IMF and World Bank stabilization and structural adjustment programs.

There is a convergence of interests among the IMF (an agency desperately in search of a role since the move to generalized floating), Third World borrowers and the commercial banks. They stand to gain from the direct or indirect handouts by Western taxpayers entailed by this bailout of imprudent commercial banks and their illiquid but by no means insolvent Third World customers.

It is in this context that the demand for a substantial increase in the IMF's quotas to fulfill its new self-designated role in the prevention of debt crises and bank failures needs to be assessed. Two issues need to be separated. The first concerns the need for some form of international sanctions against defaulting countries. The second is whether increased IMF resources are required to enforce any such sanctions.

In order to restore an improvident borrower to good health in the international capital market, it may be necessary for the borrowing country to accept unpalatable changes in its economic policies. The conditionality of IMF stabilization programs is of great importance in helping to establish sound macroeconomic policies in countries in crisis, as well as in deterring others from following unsound policies which might land them in the arms of the IMF. The maintenance of stringent IMF conditionality would therefore be in the interest of developing countries. It would reduce the default risk perceived by commercial lenders, with an accompanying increase in the Third World's access to commercial lending.

There is no reason, however, to believe that this approval from the IMF also requires it to provide concessional lending. For those countries with access to the commercial bank market, the acceptance of an IMF program should unclog previously blocked private credit lines.

Though it is often asserted that the poorer developing countries do not have access to the Euro-currency markets, there is little evidence that there is a bias against lending to poor countries. Some relatively well-managed poor economies, such as India, have been able to borrow fairly cheaply on Euromarkets. They chose not to enter these markets sooner. It is the mismanaged poor economies, many of them in the sub-Saharan economy, which haven't been able to borrow as much as they liked because of the doubts lenders quite rightly have of their ability to make productive use of these loans.

The supposedly structural balance of payments problems of most of these countries are of their own making. Any country can generate such a problem by maintaining overvalued exchange rates, protective devices which penalize exports, and domestic fiscal policies which push aggregate expenditure above output.

Nor, finally, is there a need for the IMF to assume the role of lender of last resort for the international banking system. Since the collapse of West Germany's Herstatt bank in the mid-1970s, it has been clear that the national monetary authorities of the industrial countries would act as lenders of last resort for their commercial banks and their foreign subsidiaries. Moreover, the fear that bank failures triggered by Third World defaults could lead to another Great Depression, is only reasonable if it is assumed that the national authorities would allow bank failures to affect their national money supplies.

Bank failures would hurt the uninsured depositors and the shareholders of the banks that failed. As long as the money supply is maintained, however, this would not lead to a depression. Because of past errors in lending, the real worth of the assets of many commercial banks is lower than they had expected. But it is arguable whether commercial banks should be bailed out at taxpayers' expense, either by national authorities talking over some of their bad debts, or by channeling extra liquidity through the IMF to the debtor countries and thereby preventing these debts from being written off.

To prevent the "moral hazard" which such actions would entail for future lending, it may even be desirable to allow a few banking failures. OPEC has lent its surpluses to the Third World via the commercial banking system, which in turn hasn't exercised a sufficient degree of prudence in its lending, because both believe that Western taxpayers would ultimately bear the risks.

As long as the liquidity of the Western banking system is not allowed to callapse and the rising tide of protectionism in the West is stemmed, enabling well-managed Third World countries to service their visible debt, some bank failures which disabuse of OPEC and commercial banks of these dangerous misconceptions may well be desirable.●

ANNIVERSARY OF CORONATION OF KING KALAKAUA

● **Mr. INOUYE.** Mr. President, this year marks the 100th anniversary of the coronation of King Kalakaua, ruling monarch of the Kingdom of Hawaii from 1874 until his death in 1891.

The coronation of 1883 was probably the grandest event ever celebrated in the Hawaiian Islands, serving notice to Hawaiians and the world of the sovereignty of the Kingdom of Hawaii. As David Kalakaua was invested with the ancient and precious symbols of Hawaiian royalty, many representatives from great nations of Europe, Asia, and the Americas paid their respects.

The little Kingdom of Hawaii was weak in military and economic power, but rich in culture and meaning to the Hawaiian people. David Kalakaua brought to the throne a worldly sophistication and deep-rooted love for his people. The citizens of Hawaii returned his love by openly embracing their monarch—culture and the arts flourished as never before, ancient hula was revived, and oral histories recorded for posterity. The Hawaiian Islands, a relative speck in the Pacific, was recognized as an equally legitimate kingdom by the strong, powerful nations of the world.

But even as these festivities marked the high point of the Hawaiian Kingdom, the Hawaiian Islands were buffeted by forces beyond their control: The commercial success of the Yankee trader, dominance of the sugar planters, influx of immigrant groups who brought with them established cultures of their own. Before the dawn of the 20th century, the Kingdom of Hawaii was to come to an end.

Yet the Hawaiian people have never relinquished the fond memory of the coronation of David Kalakaua. For this one brief shining moment in history, the untarnished dreams of the Hawaiian people met the optimistic hopes of their beloved monarch.

To mark the coronation of 1883 the "Friends of Iolani Palace" sponsored a centennial coronation program authentically recreating this historic event at the Iolani Palace, our Nation's only former royal palace. At this occasion, Miss Abigail Keinoki Kekaulike Kawananakoa, a member of the family with the closest blood ties to the Kalakaua dynasty, spoke very eloquently of the meaning of the coronation. Her words were very moving, and they have been with me since I heard them. They hold deep meaning to anyone who loves Hawaii, or wishes to truly understand the islands' rich past.

Mr. President, I ask that Miss Kawananakoa's remarks be printed in the Record.

The remarks follow:

The Importance of the Coronation to Hawaii

(By Miss Abigail Kinoiki Kekaulike Kawananakoa, President of The Friends of Iolani Palace)

And thus, on these grounds, at this moment one hundred years ago, a Hawaiian King took up his golden crown.

He did this in a ceremony rich in the royal traditions of two different civilizations. It was a measure long contemplated by Hawaiian sovereigns in imitation of the custom of European monarchal states. From his own past King Kalakaua drew the regalia of Hawaiian kingship: the feather cloak, the tabu stick, the kahili, and the ivory pendant. From the outside world he brought the crowns and thrones and sceptre of other kings. He set his coronation at the noon hour, and so he displayed the flaming torches of mid-day which was sacred to the highest lords of the centuries before him. To some of his foreign subjects, King Kalakaua's coronation ceremony was deemed an extravagant expense that the little kingdom of Hawaii could not easily afford. But what they could not understand, and what King Kalakaua understood very well was that the coronation would, as it did, add untold lustre to his throne, to his reign, and to his kingdom. That one ceremony made all the great nations of the world, the mighty kings, queens and potentates, take notice of little Hawaii, almost lost as it was in the vast expanses of oceania.

The people who gathered a century ago brought with them hope for the survival of their country in a troubled world. They wished for a place of respect in that world. They dreamed of a future for themselves and their ways of life.

In its yearning this nation had found itself a king who would dream its bravest dreams of all. In the hands of David Kalakaua the Hawaiian kingdom would reach itself higher and extend itself farther into the world than it ever had before.

There would be grand patriotic celebrations at home, of which this coronation was only the first. There would be the creation of a palace and royal regalia which would become treasures of the future. There would be revivals of the hula and other Hawaiian art forms which might otherwise have vanished. There would be bold diplomatic gestures in countries around the world.

In public affairs, the value of ceremony cannot be ignored, nor can it be measured merely in the expenditure of money. Its true value lies in the continuing stream of history that is always embodied in ceremonials and rituals. This value, King Kalakaua expressed most eloquently in his coronation by restoring so many of the ancient customs, symbols, and rites of his own people and of the age-old line of kings and princes from whom he descended and whose living successor he was.

After this coronation King Kalakaua would accept an invitation to be represented at the coronation of Tsar Alexander III of Russia. His envoy would be treated with great respect at the imperial court of St. Petersburg. Later, a powerful battleship would appear at the entrance to Honolulu Harbor. Its mission was not to coerce a helpless nation as had happened in decades past. It had crossed the sea only to deliver to Kalakaua an Emperor's gift: the diamond and ruby cross of Russia's highest diplomatic award.

This was one of many international courtesies this king would attract to his country. It became a matter of course for the monarchs of the world, from Roumania to Thailand, to inform our king of births, deaths, and marriages in their families, and to express sympathy on the death of an alii here at home.

By the end of the Kalakaua era the Hawaiian flag would fly proudly over diplomatic establishments in ninety-three cities around the world. At that time there were less than fifty sovereign nations in the world. More than one hundred other nations which are independent today were ruled by these few. In that small community of nations there was Hawaii.

The Hawaii of King Kalakaua reached not only to the vast distances of the world, but deep into its own being. Kalakaua would summon the artists of the hula from obscurity. He would encourage poets to celebrate the adventure of living in the complex imagery of an ancient language. A museum would be founded and collections of ancient artifacts begun. The elegant literature of this country, its genealogies, its histories, and its songs would be preserved in written form for the future.

In this commemoration of that coronation one hundred years ago, we have strived to recreate the spirit of the day, and to portray and recount with as much authenticity as we can the very splendid events that marked so auspicious an occasion in the living history of these islands. We are trying to turn back the clock from a prosaic today to a more brilliant yesterday and to relive, if only for a moment or two, the brilliance of another day and of another time.

The spirits of David Kalakaua and Julia Kapiolani tread softly and tenderly upon this hallowed ground, before the palace that they built, where they dwelled, and at this coronation pavilion where they were together crowned and sanctified as King and Queen of Hawaii.

There is none among us today who can remember that day a hundred years ago, but Hawaii remembers . . . and that is enough for all of us, that with Hawaii we too shall remember, and our children with us, and their children too, after we are gone. We celebrate the majestic intentions of Hawaii's last King, his love of the past and his hopes for the future. We are the future of the Hawaiian nation. In our desire to enjoy and preserve our heritage we are not so very different from Kalakaua's people of 1883. Like our forebears who came to these grounds a century ago we may, if we choose, draw strength and pride and hope from the works of David Kalakaua. The past, the present, and the future are one in the calculus of the ages, but one century ago a spark of brilliance lit the Pacific, a moment of glory was ours, and it is that spark, that moment, that we remember today.

In this we are heirs to the treasures of a kingdom . . . and the boundless dreams of a King.●

AMENDMENT OF THE CLEAN AIR ACT

● **Mr. GOLDWATER.** Mr. President, the current recession has created hardhips in many sectors of this country's economy. Some of the worst problems have occurred in what are termed smokestack industries. With the tremendous problems forcing these industries from foreign imports, lack of domestic markets and the need for them to modernize, it makes little sense for the Federal Government to add to their problems. As a case in point, the nonferrous-smelting industry—primarily copper—has spent almost $2 billion in the last decade to improve their ambient air quality standards to meet Federal specifications. This amount of money is triple to what industry as a whole has spent and they have made great strides in reducing their sulfur dioxide emissions. However, if these companies must meet the total requirement of the Clean Air Act, it may mean the end of the domestic copper industry as we know it today. What these companies need is a simple 5-year extension of the requirements of section 107 of the Clean Air Act which will give the nonferrous industry the time and the money to meet the stringent requirements.

Because of the impact of the copper industry on the economy of my State of Arizona, the Arizona Legislature recently passed House Concurrent Memorial 2001. This memorial simply urges the U.S. Congress to amend the Clean Air Act in order that these smelters may have 5-year extensions to reduce their sulfur dioxide emissions and to take certain other control measures into consideration in establishing and monitoring these emissions for the next 5 years.

Mr. President, without relief of this kind it is doubtful if one of our basic industries will continue to survive in this country. I would hope that Congress will see fit to balance the concerns of all people involved and accept the idea of a 5-year extension for this industry.

Mr. President, I ask that this memorial be included in the Record and presented to the Senate for its consideration.

The memorial follows:

House Concurrent Memorial 2001

Whereas, the domestic copper producing industry must compete in a world market which effectively limits copper prices; and

Whereas, most foreign producers are not subject to stringent requirements for environmental controls which in the United States add from ten to fifteen cents to the cost of producing a pound of copper; and

Whereas, most foreign producers have significantly lower labor costs and in many cases enjoy government subsidies; and

Whereas, the depressed state of the United States economy and the economies of most foreign countries has severely reduced the demand for copper, resulting in the lowest copper prices, in terms of constant 1982 dollars, since the depression of the 1930's; and

Whereas, as a result of the foregoing conditions, a large segment of the domestic copper industry is shut down, with nearly twelve thousand copper industry workers unemployed in Arizona alone, causing a serious adverse effect on this state's economy; and

Whereas, seven of the fourteen domestic primary copper smelters are located in the State of Arizona, which normally produces more than half of all the copper produced in the United States; and

Whereas, Arizona copper producers already have spent more than three-quarters of a billion dollars installing pollution control equipment to comply with the Clean Air Act, resulting in substantial corporate debts; and

Whereas, additional time is now needed before the domestic copper industry should be required to incur further enormous costs for additional pollution control equipment; and

Whereas, all ambient air standards for sulfur oxides can be achieved by the use of supplemental controls; and

Whereas, some domestic smelters which have already installed sulfur dioxide control equipment may be able to achieve all ambient air standards for sulfur oxides at all times by using supplemental controls for as little as five per cent of the time, accomplishing enormous savings in capital investment; and

Whereas, the State of Arizona has adequate laws and regulations for the enforcement of ambient air standards; and

Whereas, during the Ninety-seventh Congress, the United States Congress Senate Committee on Environment and Public Works and the United States Congress House Committee on Energy and Commerce approved amendments to section 119 of the Clean Air Act which would do the following:

(a) Defer for an additional five years the requirement that primary nonferrous smelters comply with state implementation plan emission limitations for sulfur oxides by extending the period of an initial primary nonferrous smelter order to January 1, 1988 and providing for a second nonferrous smelter order which would defer compliance until January 1, 1993.

(b) Grant states or the Administrator of the Environmental Protection Agency authority to take into account a de minimis use of supplemental controls in establishing state implementation plan emission limitations for sulfur oxides at primary nonferrous smelters and define such de minimis use as the use of supplemental controls for no more than five percent of the time in a calendar year.

Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

1. That the Congress amend section 119 of the Clean Air Act in the manner approved by the Senate and House Committees during the Ninety-seventh Congress as set forth in the immediately preceding recital.

2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the House of Representatives of the United States and to each Member of the Arizona Congressional Delegation.●

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, in a moment, the Senate will recess until 7:30 p.m. tonight, at which time the Senate will reconvene for the purpose of proceeding as a body to the Hall of the House of Representatives to receive, in joint session, a message from the President of the United States.

At the conclusion of that message, the Senate will stand in recess automatically until 10 a.m. tomorrow morning.

It is the intention of the leadership to try to reach the immigration bill tomorrow as the pending business before the Senate.

RECESS UNTIL 7:30 P.M.

Mr. BAKER. Mr. President, I have nothing further to address to the Senate. I inquire of the minority leader if there is any other matter he wishes to attend to at this time.

Mr. BYRD. Mr. President, I thank the distinguished majority leader, and I answer in the negative.

Mr. BAKER. Mr. President, there is an order for the Senate to recess at this point.

I remind Senators that the Senate will automatically stand in recess at the conclusion of the joint session this evening.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 7:30 p.m.

Thereupon, at 6:11 p.m., the Senate recessed until 7:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. WILSON).

QUORUM CALL

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT SESSION OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF THE UNITED STATES

Mr. BAKER. Mr. President, I move, in accordance with the previous order, that the Senate stand in recess so that the Senators may proceed to the Hall of the House of Representatives for the joint session, and that upon the conclusion of the joint session, the Senate stand in recess, under the order previously entered, until 10 a.m. tomorrow.

The motion was agreed to; and at 7:40 p.m., the Senators, preceded by the Sergeant at Arms, Howard Liebengood; the Secretary of the Senate, William F. Hildenbrand; the Vice President of the United States; and the President pro tempore (Mr. THURMOND), proceeded to the Hall of the House of Representatives to hear the address by the President of the United States, Ronald Reagan.

(The address delivered by the President of the United States to the joint session of the two Houses of Congress is printed in the proceedings of the House of Representatives in today's RECORD.)

RECESS UNTIL 10 A.M. TOMORROW

At the conclusion of the joint session of the two Houses, and in accordance with the order previously entered, at 8:45 p.m. the Senate recessed until tomorrow, Thursday, April 28, 1983, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate April 27, 1983:

DEPARTMENT OF STATE

Curtin Winsor, Jr., of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Costa Rica.

DEPARTMENT OF JUSTICE

Lois H. Herrington, of California, to be an Assistant Attorney General, vice a new position created by Public Law 95-598, approved November 6, 1978.

IN THE NAVY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be vice admiral

Vice Adm. Robert R. Monroe, 409-38-6086/1110, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. William J. Cowhill, 331-20-9875/1120, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Carol C. Smith, Jr., 418-30-4646/1310, U.S. Navy.

IN THE MARINE CORPS

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. D'Wayne Gray, 462-38-7595, U.S. Marine Corps.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 27, 1983:

Department of State

Jay P. Moffat, of New Hampshire, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chad.

James D. Rosenthal, of California, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Revolutionary Republic of Guinea.

Alvin P. Adams, Jr., of Virginia, a career member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Djibouti.

1984 Louisiana World Exposition

John Giffen Weinmann, of Louisiana, to be Commissioner General of the U.S. Government for the 1984 Louisiana World Exposition.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

In the Army

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Robert M. Elton, 287-26-8508, U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. John F. Forrest, 356-16-9650 (age 55), U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Robert L. Wetzel, 519-44-2999, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Carl E. Vuono, 196-26-8686, U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Eugene P. Forrester, 410-64-1272 (age 56), U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. James M. Lee, 246-20-1593, U.S. Army.

In the Navy

The following-named officer, under the provisions of title 10, United States Code, section 5137, to be appointed as Chief of the Bureau of Medicine and Surgery and Surgeon General:

To be surgeon general

Rear. Adm. Lewis H. Seaton, Medical Corps, 195-24-2167/2100, U.S. Navy.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be vice admiral

Vice Adm. Ernest R. Seymour, 091-24-2574/1310, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 5064, to be Director of Budget and Reports in the Department of the Navy.

To be director of budget and reports

Rear Adm. Daniel L. Cooper, 285-30-9826/1120, U.S. Navy.

Department of Commerce

Alfred Hugh Kingon, of New York, to be an Assistant Secretary of Commerce.

EXTENSIONS OF REMARKS

WINNING SPEECHES IN THE AMERICAN LEGION'S ORATORICAL CONTEST—ROCKLAND COUNTY, N.Y.

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. GILMAN. Mr. Speaker, it is so important for our young people to be aware of our unique and wonderful history, and yet we find that some of our students are not fully cognizant of the lessons of our historical past.

I am therefore pleased to share with my colleagues statements by two young people in my congressional district, Rockland County, N.Y. Their winning entries into the American Legion high school oratorical contest in my congressional district illustrate how these outstanding students understand and appreciate our Government and the Constitution.

Sandy Baum of Spring Valley, a student at Spring Valley High School, placed second in the county's contest. Sandy's essay is titled, "Our Founding Fathers of the Constitution."

Alison Tepper, a student at Nanuet High School, placed first in the competition with her entry, "The Constitution: An Understanding of Human Nature by the Founding Fathers." Alison went on to achieve fourth place in the New York State American Legion oratorical competition.

I congratulate both of these students, and all of the students who entered this competition. The art of oratory certainly will not be lost for long, if young people like Alison and Sandy continue in their proven excellence.

Accordingly, Mr. Speaker, at this point in the RECORD I include the full text of these two winning entries in the Rockland County American Legion contest:

OUR FOUNDING FATHERS OF THE CONSTITUTION

(By Sandy Baum)

A child born here in these United States to parents who are illegal aliens is in fact an American Citizen. Therefore, he, as each one of you, has certain rights guaranteed to him by the United States Constitution. His rights to life, liberty, and the pursuit of happiness cannot be taken from him. When he grows up he may wonder just how he obtained his rights. He will probably learn that they were given to him in the Constitution written over 200 years ago. But, who wrote the Constitution? And how did its writers know what would be needed to ensure the liberty of future generations? Exactly how much say in the government were we citizens intended to have? To answer these questions, we must examine the revolutionary period, the Founding Fathers of the Constitution, and their ideas.

Let's take a look at the revolutionary period. The American revolution of 1776 ended British rule over the thirteen colonies. With no government, the country could easily have slipped into a state of anarchy. The people's new-found sense of freedom helped to develop their new government, the Articles of Confederation. The Articles were a loose league of friendship between the states. Each state was like a small separate country, governing itself. The Articles were comparable to today's United Nations both in principle and in (lack of) effectiveness. They were meant to unify the States, but held almost no power over them.

The Articles of Confederation were basically defective. There was no strong central power to govern the states. Each state legislature was its own supreme law. Each state could have had different tariff laws, coinage of money and codes of justice. Each had an equal vote in the Articles, regardless of the state's population.

The Articles of Confederation did not protect the growing American economy. Working and farm people had enough power in local and state government to place heavy taxes on business, causing their bankruptcy. Also they allowed so much paper money to be printed as to become almost worthless.

There was no national army to protect America's frontier, therefore, foreign trade was hampered. The routes into and out of the states were dangerous, being open to enemy attacks. As you can see, a strong central power was needed.

Alexander Hamilton, a delegate from New York, called a meeting to revise the Articles on May 25, 1787. Fifty-five delegates came to the convention held in Philadelphia. Although they did not know at the time, the delegates were soon to become the authors and the founders of the new constitution. At this gathering of educated and enlightened men there were as many different ideas as there were delegates. The delegates were, for the most part, the rich upper class. Two thirds of them were planters or merchants, or men of related professions. Alexander Hamilton had said, "All communities divide themselves into a few and the many. The first are rich and well-born, the other, the mass of people". The delegates were the property holders, who wanted protection from the poor. Some delegates, as illustrated by Sherman of Connecticut, thought that, "The people immediately should have as little to do as may be about the government.

Other delegates, such as Ben Franklin, spoke in defense of the common man, that he said "God grant that not only the love of liberty, but through knowledge of the rights of man, may pervade all the nations of the earth, so that a philosopher may set his foot anywhere on its surface, and say, "This is my country' ". Thomas Jefferson, the author of the Declaration of Independence and a believer in liberty, summed up his thoughts of government when he said, "a government must derive its just powers from the consent of the governed".

You may now ask yourself what would hammer these varied opinions together into a constitution that would last for over 200 years and hopefully many more. The answer to this question can be summed up in one word—compromise.

Ben Franklin wrote, "The players of our game are so many, their ideas so different . . . (thus), the wisest must agree to some unreasonable things (in order) that reasonable ones of more consequence may be obtained". The founding fathers were enlightened men having been brought up believing in democratic rule as in existence in England at the time. These men were wealthy, but they were also men of revolution. They were exposed to ideas of the French Philosophers. To Locke's idea of the social contract, Rousseau's idea of the General Will, and Montesquieu's idea of checks and balances. And perhaps, most importantly, they were exposed to the ideas of English commonwealth law that man is endowed by his creator, with certain inalienable rights which include life, liberty, and the pursuit of property (which was changed by Jefferson to "the pursuit of happiness"). So the constitution when finally written was a compromise of ideas. It protected the few from the many but also the many from the few.

But, the question remains "how much power, voice, and freedom in the government were we citizens intended to have?"

The written constitution limited our powers, but at the same time, gave us many rights. James Madison said, "a dependence on the people, is, no doubt, the primary control on the government, but experience has taught mankind the necessity of auxiliary precautions".

The precautions put into our constitution were the system of checks and balances of Montesquieu. In his book, De l'Esprit des Lois, he said that a power must check a power. The Constitution created an executive, judicial, and legislative branch of government, each branch checking the other so that one did not get more power than the other.

The house of Legislature provided a way for the people to have voice in the government, because the representatives were directly elected by the people. The senators were elected by their state legislatures, as a way of not letting the people get too much power.

The president, the head of the executive branch, was picked by an electoral college as a means of limiting the people's power. The delegates thought the people were not qualified to elect their own president, because many were ignorant of politics.

Most of our rights, that is, our freedoms, come from the Bill of Rights, the first 10 amendments to the constitution. Thomas Jefferson insisted that the Bill of Rights be added. Also, rights, not given by the Constitution to the Federal Government, but not denied to the States, were considered States rights, as stated in amendment 10.

Is the government and our expectations about our freedoms the same today as it was 200 years ago? The government has

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

changed, giving the vote and extending protections and rights to many new peoples over the years. Was the success of our government just luck? It could not have been. The spirit of freedom of our enlightened founding fathers was forged into the constitution, permitting it to bend and improve over the years, giving us the most democratic and free country that has ever existed.

THE CONSTITUTION: AN UNDERSTANDING OF HUMAN NATURE BY THE FOUNDING FATHERS

(By Alison Tepper)

In 1787, when the constitution was written, the United States numbered 13. The colonists had recently experienced a bitter revolutionary struggle with an external force; their mother country England. It had been a revolution against oppression, injustice, tyranny and abuse, and now the patriots were left to institute their own system of government, to create an agent to make, enforce, and interpret the laws of their own society.

During the revolutionary war, the Continental Congress realized that the colonies needed a cement to bind their union. They proposed the Articles of Confederation which proclaimed that "each state retained its sovereignty, freedom, and independence," but constituted for these states a "perpetual union." It in fact, merely established a weak central government which more closely resembled a league of friendship.

This was fine during war time when the people of each state were united against a common enemy, but as the war ended this bond was severed and people turned their loyalties to the individual states. It was clear that the Articles of Confederation, with its lack of strong central legislative capabilities, would not suffice.

The Continental Congress called for a convention for the sole and express purpose of "revising" the Articles of Confederation. The Congress did not realize that this convention would establish for the United States a totally new plan for the structure of the American government, or that it would dissolve the body which had created it. The men at this convention wrote the Constitution and thus, were deemed by later generations, to be called the Founding Fathers. Jefferson, Adams, Madison, these were the men whose names would become synonymous with democracy.

These men had an intuitive understanding of human nature. They knew that men were selfish and contentious. The 55 delegates were all merchants, investors, land speculators, lawyers and businessmen. They believed that man's primary driving force was one of self-interest, and they believed that he needed a strong political constitution to control him. But, their distrust of man was basically a distrust of the common man, and they were concerned with creating a government that would check uprisings and rebellions by inflamed mobs. They were especially fearful of mass plunderings of the rich.

Paradoxically, it seemed indispensable to these men that the mass of citizens should have a voice in making the laws which they were to obey, and in choosing their administrators. They believed that the ultimate power of government must of necessity reside with the people. If a government did not proceed from the people, from what other source could it legitimately come? To adopt any other theory would not only be inconsistent with their opinion of past British rule, but would also be inviting to dictatorship and monarchy in the future.

Thus, the Founding Fathers were faced with a difficult dilemma: in their eyes the common man was an unchangeable creature of self-interest and yet, a government must be based upon him.

They therefore set out to create a system of balanced government full of constitutional devices that would force various interests to check and control one another. They created a strong central government binding the states together in a tightly knit federation, with each state retaining an individual government, but with powers subordinate to the federal government. Now the federal government would have the power to crush uprisings among small groups, among groups within a state, and among the states themselves.

Secondly, they realized that an absolute democracy involving the people directly would cause the opinions of the common masses, who were the most populous of all the groups, to weigh too heavily and dominate lawmaking. They therefore opted to choose representatives. The chosen few would represent the majority consensus of the people and would also refine and elaborate the public views. Representatives chosen by the people would be wiser and more orderly than the people themselves acting in mass assemblage. The Founding Fathers somehow anticipated that the representatives would be members of trade or industry. They felt, for example, that the merchant would represent his employees. They rested their decision upon this ideal.

The Fathers also created a split assembly whose purpose was not only to settle the dispute of whether representation was to be deemed by population or by state, but also to provide the wealthy upper class and the mobs with separate houses, each with the ability to counteract the other. Over both houses would rest an executive department with veto power, and incorporated into the entire system, would be an independent judiciary department. Thus, the inevitable tendency of the rich and the poor to take advantage of each other would be minimized. The Fathers had no hope, and offered none for the way men conducted themselves. They wrote a constitution that proved that they truly understood human nature, and, in fact, underwrote this knowledge in their document.

A testimony to the brilliance of the document is its continued relevance in modern times. Though most articles of the 18th century have become obsolete, the constitution has not. The Fathers proved their understanding of mankind's nature and its consistency through changing times. Even through periods of war and presidential assassination, the constitution has remained a guiding force, and the government has remained stable.

Additionally, the constitution has proven able to supercede corruption, even within its own governmental branches.

So great was the vision of the Founding Fathers that they were able to write a document that prevented any one citizen or citizens from trying to gain excessive power, or neglect their duties and obligations as citizens. In recent times, during the Nixon Administration, the constitution proved its ability to check the actions of citizens who believed themselves to be above the system. Even a President was unable to subvert the constitution.

Whether the Fathers were driven by self-serving motivations or by an honest desire to extend democratic principles, the fact remains that they composed a brilliant document, coupling flexibility with stability. The constitution's elasticity lies in its ability to withstand crises as the Civil War and the corruptions of the Harding and Nixon administrations. The Fathers incorporated an "elastic clause" into the constitution, granting to Congress the right to make all laws necessary and proper for the delegation of its powers. Allowance for judicial interpretation of laws and an amendment process also add to its suppleness. These further exemplify the Founding Fathers' desire that the federal government have sovereignty over the mobs.

The constitution's stability lies in its declaration of the government's purpose, the people's rights, and the people's responsibility to their government.

The Fathers sought to create a country based upon a system of democratic principles extended to all of its citizens. The citizens of the United States have the responsibility to uphold these principles to insure the success of the democracy begun by the fathers, and thus, insure their own success in the United States democracy.●

A TRIBUTE TO MR. AND MRS. WARREN HILLGREN OF LA CANADA

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. MOORHEAD. Mr. Speaker, in recognition of their many years of dedicated service to their community, the Kiwanis Club of La Canada has selected Mr. and Mrs. Warren Hillgren as La Canadans of the Year for 1982.

The Hillgrens are special people. They are the finest example of the involved community couple; they are the epitome of the caring neighbors, the concerned citizens, the intelligent participants in the democratic process.

In most cases, their activities are separate, yet their final goal—the creating and fostering of a caring, vibrant city—is the same. La Canada Flintridge is a vital, energized city and much of the credit for this success rightfully belongs with the Hillgrens.

Seven years ago, Warren led the successful fight for incorporation and has been a member of the La Canada Flintridge City Council since the city's formation in 1976. During this tenure, he has been mayor for 2 years and mayor pro-tem for 2 years.

He has served in positions of leadership in the La Canada Chamber of Commerce, the Los Angeles County Sanitation District, and the League of California Cities.

Mrs. Hillgren is a board member and past president of the Flintridge Assistance League and a board member of the National Assistance League. She is a past president of the United Way Community Drive.

Both are continually involved in aiding the local schools, local sports programs, the YMCA, local health centers, and their church.

Repeatedly, they have given of their energies, their time, and their resources with a graceful generosity that encourages success and emulation and admiration. They are pillars in the community and fitting recipients of the Kiwanis La Canadans of the Year Award.●

TOBACCO PRICE SUPPORT PROGRAM

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. McEWEN. Mr. Speaker, I am today inserting, for the benefit of the Members of the House of Representatives, my testimony before the House Agriculture Committee, Subcommittee on Tobacco and Peanuts on the tobacco price support program. I do so in the hope that Members will join me in pressing for the continuation of this program which is vitally important to the continued operation of many traditional family farms in southern Ohio and our Nation.

The testimony follows:

Mr. Chairman and members of the Committee, I appreciate the opportunity to speak about the Tobacco Price Support Program. I believe as strongly today as I did when I spoke on the floor of the House during the 1981 Farm Bill debate, that this program is vitally important to the continued operation of many traditional family farms. This program, in many instances, offers the very means of survival for about 171,000 of our Nation's small farm families.

The federal tobacco program enables many small farms to collectively and equitably stabilize the supply and price of tobacco to prevent a boom and bust economy that few small farmers could survive. Each acre of burley tobacco requires an average of 250 hours of labor, and it allows a large number of small farms to utilize large quantities of labor, and to stay in business.

The cultivation and sale of tobacco has been a significant force in my home state of Ohio. In 1982, more than 14,000 acres of tobacco were harvested, and, more importantly, 86,000 Ohioans relied either directly or indirectly on the tobacco crop for their family's paycheck. In fact, 2.1 percent of all private sector jobs are generated by tobacco.

Further, the tobacco program is the least expensive of all the major commodity programs. For 47 years the tobacco program has been one of the few federal programs to return more to the treasury than it removes while at the same time allowing small farmers to maintain their livelihood without being forced out of agriculture by big corporations and increased mechanization. In fact, only 1 percent of all tobacco loans ($56.7 million) have not been recovered in the 47 years of the program's operation.

In the area of tax revenue, $2.5 billion was paid to the federal government by the excise tax on cigarettes in 1982, and in my home state of Ohio, $201 million was the total net state tax collection for 1981. Now that Congress has doubled these excise taxes since the enactment of the Tax Equity and Fiscal Responsibility Act of 1982, federal tax revenues are anticipated to be $4.6 billion in 1983.

Since the passage of the 1981 Farm Bill, the tobacco growers have assumed a significant new responsibility in the operation of their program. While I think that we are asking the farmers to assume a very large financial burden by enacting the no net cost program, they have willingly done so in an effort to establish an orderly and viable marketing program for this most vital sector of our economy.

In reviewing the no net cost program, it is significant to point out that the farmers of burley and flue-cured tobacco recently had an opportunity to vote on a three-year referendum to decide whether or not they favored maintaining the tobacco program. In December of 1982, 93 percent of the flue-cured farmers, and 97 percent of the burley farmers cast a vote of confidence for the tobacco program. In my home State of Ohio, the approval rating among tobacco growers was 97 percent in favor of the Tobacco Program.

It is my belief that the new no net cost tobacco program is effective because the tobacco program provides assistance to family farmers at a minimal cost, expands employment, and increases tax revenues. Although it is not yet a full year old, this program should serve as a model for other federal price support programs.●

OUR LATIN AMERICAN AIMS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. LAGOMARSINO. Mr. Speaker, I would like to call to the attention of my colleagues a commentary by William Randolph Hearst, Jr., appearing in the April 24, 1983, edition of the Los Angeles Herald Examiner. Mr. Hearst's views on the crisis in Central America and the ultimate effect on Mexico should be given serious consideration.

[From the Los Angeles Herald Examiner, April 24, 1983]

OUR LATIN AMERICAN AIMS

(By William Randolph Hearst, Jr.)

Secretary of State George P. Shultz is back home after having frank talks with high Mexican government officials. He had long sessions with Mexico's foreign minister, Bernardo Sepulveda, who failed to agree with him on the means to peace in Central America. Undisturbed on the outside—the British use a great word, "unflappable"—Secretary Shultz exacted from his counterpart a pledge to promote processes of dialogue and negotiations.

Mexico claims concern about U.S. arms assistance to beleaguered governments ripped by communist-supported guerrilla depredations, like that of El Salvador. It also shies away from hard and realistic insights into the communist-run junta of Nicaragua. But four Libyan planes just landed in Brazil to refuel, presumably with medical supplies for Nicaragua. Tipped off, Brazilian authorities boarded the planes and discovered cargoes of bombs and guns instead.

In that context, it's useful to remember that Libya is a Soviet client state, and that its erratic strongman, Moammar Khadafy, is a sworn enemy of the United States and godfather to terrorists. That episode should be an eye-opener for the Mexican foreign minister.

Yet from all I hear and read, I don't expect Mexico to resolve basic foreign-policy differences with us, although its own national integrity might well come under guerrilla guns in the near future.

Just wait and see: Revolutionary forces will soon attempt to exploit the sad state of the Mexican economy for the sake of general upheaval. It accounts for the first tier U.S. economic officials Secretary Shultz had with him to seek solutions to stem the plummeting Mexican economy, where today inflation runs at the rate of about 100 percent annually.

The Reagan administration is all for negotiations to settle disputes, but not at gunpoint. From Moscow have come dark hints that the Soviets might try another missile crisis like the Cuban one of November 1962, by installing some of their nuclear armory in the Caribbean or Central America. Clearly, should the Russians act secretly now, as they did more than 20 years ago, it would create an intolerable situation for us, our neighbors, the Western Hemisphere and the world.

Recognizing the perils involved, nine Latin American foreign ministers hurriedly began peace talks in Panama City. They selected three of their colleagues from Colombia, Panama and Venezuela to head for Moscow, where they were scheduled to arrive this weekend. Mexican Foreign Minister Sepulveda briefed his fellow ministers on the no-nonsense views of Secretary Shultz in Mexico.

Besides the aid requests of President Reagan for El Salvador in a military-and-credits package of $136 million, cut $50 million by Congress, conversations apparently zeroed in on the Nicaraguan regime's pro-Moscow tilt. Secretary Shultz, authoritative sources report, said Nicaraguan junta personalities don't even bother to hide links with the guerrillas.

Nicaraguan Defense Minister Humberto Ortega, for instance, was quoted as making this remarkable declaration:

"We have no choice. Of course we are not ashamed to be helping El Salvador (guerrillas). We would like to help all revolutions. But we do not have enough weapons for our own people. So help must be mainly moral and political. The amount we can give compared to the extent of U.S. help to the Salvadoran government is puny."

Besides the self-serving views in the last part of his statement, Ortega coyly overlooked the steady logistical supply provided by Cuba, PLO terrorist and Bulgarian deep-sea shipping specialists dredging and building massive port facilities. Does Ortega think these are freebies? And why are all these foreigners surfacing so suddenly in Nicaragua? The answer is, of course, that the Soviet Union always uses proxy satellite regimes to try to avoid confrontations with us when they can use others in their debt.

So I find it most appalling that some of our national legislators carp at providing funds for American national safety or think that even half a loaf will do the job. It can't and it won't.

Either the Soviet threat which has spread right into our backyard is real or it isn't. The doubters in Congress must ask themselves that question and answer it out loud. National preservation is at stake and a wrong answer won't permit second-guessing.

Next Wednesday, April 27, President Reagan will address a televised joint session of Congress to detail his view that the crisis in El Salvador is a threat to our interest and warrants immediate emergency military assistance. His speech will be a rare appearance, usually reserved for such important occasions like a state of the Union message.

Don't miss it.●

MARY A. MEYERS: FIGHTING MULTIPLE SCLEROSIS

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. O'BRIEN. Mr. Speaker, multiple sclerosis is a crippling disease which profoundly affects the lives of many Americans, both those who have the disease and those around them. There are some people, though, a very special group, who spend their lives searching for a cure, while also working to ease the pain and suffering of those afflicted with the disease. I was pleased to see an article in the Herald News recently by Madeline Hildebrand describing the remarkable efforts of one such person: Mary A. Meyers, of Joliet.

Mrs. Meyers' sensitivity to the problems associated with MS began 26 years ago when one of her brothers, Salvatore Altiery, was diagnosed to have the disease. She resolved that the best way to help her brother and others afflicted with MS was to take action herself. And that she did.

While employed with the Selective Service, and with limited resources, Mrs. Meyers organized a local MS chapter, raising money and recruiting volunteers to help her battle against MS. Because of her efforts, she was named to be the first chairman of the local chapter, a position she still holds today. In fact, she was just recently reelected local chairman at a meeting of the Will County Branch Chapter of the National MS Society.

Though a cure has not yet been found for MS, Mrs. Meyers' unswerving determination to fight MS has brought us one step closer to eradicating the disease once and for all. In addition, local MS patients will tell you that her hard work and compassion have made their suffering more bearable and their days much brighter. I am certain that her brother, Salvatore, would say the same thing if he were here today. MS took his life in 1965.

Mr. Speaker, it seems to me that the world would be a better place with a few more people like Mary A. Meyers.●

WASHINGTON TOPIC

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. PEASE. Mr. Speaker, if the Japanese sell 1.6 million cars a year in the U.S. market, why are more American cars not sold in Japan?

I sought the answer to that question while visiting Japan as part of a six-member delegation of Trade Subcommittee members. Some of what I learned was encouraging, and some was quite discouraging. My findings were the topic of my most recent weekly newspaper column. It follows.

WASHINGTON REPORT

(By Don J. Pease, U.S. Congressman, 13th District)

If the Japanese sell 1.6 million cars a year in the U.S. market, why aren't more American cars sold in Japan?

When are the Japanese going to open their markets to U.S.-made automobiles and other products?

On my visit to Japan over Easter week as a member of the Trade Subcommittee of the House Ways and Means Committee, I was determined to find some answers to those questions which are repeatedly asked of me by puzzled, angry and frustrated constituents of the auto-intensive 13th Congressional district.

I talked with the head of General Motors Corporation's Japanese operation, with the presidents of Japanese auto firms, and with the top trade officials of Japan. I spent nearly three hours visiting the "homologation" plant where GM cars are prepared for sale in Japan.

Some of what I learned was encouraging; some was quite discouraging.

On the encouraging side, I learned that—contrary to my previous understanding—the Japanese government does not require each and every U.S. car to be individually inspected as it comes off the ship, nor after the car is modified for the Japanese market. The only individual inspection comes after the car is purchased, and the same inspection is required of all cars, Japanese as well as foreign.

Contrary to what many people believe, Japan levies no tariff on U.S. cars entering its market. (The U.S. tariff on Japanese cars is 2.9 percent.)

Worried about measures in Congress like the automobile domestic content bill of which I am a sponsor, the Japanese government really is trying to make it easier for U.S. car (and other) manufacturers to sell their products in Japan.

That's the encouraging news. On the negative side, recent progress can't obscure the fact that Japan still has a long way to go in opening up its markets, and there are several specific factors which work against U.S. auto sales in Japan.

For example, there is the issue of self-certification versus precertification. The U.S. government allows auto manufacturers to self-certify that each specific model meets U.S. safety and performance standards. The Japanese government requires that Japanese technicians examine and certify (as meeting safety and performance standards) each type or model of car before it can be sold in Japan. The process—usually performed in the U.S.—can take three to six months.

Every nation has its own particular design standards relating to engine emissions, headlights, brakelights, bumper strength, etc. Getting U.S. cars modified for the Japanese market, or vice versa, is called homologation. For the average General Motors car, homologation means over $500 in parts and nine hours of labor making the required changes by hand at a garage such as the one I visited three weeks ago. In contrast, when Toyota manufactures cars for the U.S. market, it makes the required changes on the assembly line at much less cost.

(Incidentally, even though cars drive on the left-hand side of the road in Japan, homologation does not include shifting the steering wheel of a U.S. car to the right-hand side. The Japanese customer must drive American style.)

Another discouraging fact is that Japanese customers are apparently much more fanatic about perfect "fit and trim" and initial mechanical condition than are U.S. auto customers. The company which sells GM cars through 85 dealerships in Japan told me that it would have no hope of selling U.S. cars to Japanese customers without extensive work on fit and trim in its own garage. For the average GM car, the dealer spends 57 hours fixing up body trim, body glass, body paint, body panels, alignment, water leaks, etc. and performing new car conditioning.

In contrast, the dealer told me, new Volkswagens, which he also sells, require an average of seven hours for the same process.

Finally, American cars are expensive in Japan; a $13,000 Camaro I watched being modified sells for $27,000. Why? Causes are ocean freight, pre-certification costs (for the model, not individual cars), homologation costs, "fit and trim" costs, a 22 percent tax that applies to all (domestic and imported) large cars, dealer mark-ups much higher than is coming in the U.S. (this also applies to all cars, domestic and imported), and the currently "strong" U.S. dollar which gives all other nations' firms a significant price advantage over U.S. manufacturers.

All in all, U.S. auto companies have their work cut out for them when they try to sell cars in the Japanese market.●

ARMENIAN MARTYRS DAY

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1983

● Mr. GUARINI. Mr. Speaker, April 24 marks the 68th anniversary of the start of one of the most massive and inhuman crimes of the 20th century, the massacre of the Armenians. From this date in 1915, the rulers of the Ottoman Empire began an 8-year campaign of genocide against its Armenian populace that resulted in the extermination of 1.5 million Armenians, the deportation of 500,000 survivors, and the elimination of Armenian culture from its homeland.

The observance of Armenian Martyrs Day is a very important event for us to commemorate. The barbarity of the Turkish Government in annihilating the Armenian population in

Turkey was unfortunately only the first genocide of the 20th century. It is our ability to forget or ignore the lessons of history that has allowed genocide to be so prevalent in this century.

We must press the Turkish people to admit responsibility for the actions of their ancestors. The massacre of 1½ million people can no longer be denied by the Turkish Government. Although acceptance of responsibility for this genocide will do nothing to alter the past, the continued denial of this mass murder by present-day Turks makes them a party to the earlier atrocities. This genocide must be recognized by the Turkish Government as a first step in the healing process.

I am pleased that the U.S. Holocaust Memorial Council has unanimously agreed to include the Armenian genocide in its museum and educational programs. However, I must express my disappointment at the recent Department of State article entitled: "Armenian Terrorism: A Profile," that notes that the Department of State does not endorse allegations that the Turkish Government committed genocide against the Armenian people.

This is a ludicrous position for the State Department to develop after years of accepting the genocide as fact. The events of 1915 through 1923 are not ambiguous as the Department of State has noted. In fact, there were many Americans present in Turkey, including U.S. Ambassador Henry Morgenthau, who reported at that time exactly what was taking place. I call on the State Department to recognize the plight of the Armenians in the Ottoman Empire for what it was, genocide.

Mr. Speaker, I would like to thank Representative PASHAYAN for allowing me to participate in this special order commemorating Armenian Martyrs Day, and I join with the thousands of Armenian-Americans in my district and State in remembering this occasion.●

A TECHNICAL TARIFF CORRECTION

HON. WILLIAM R. RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. RATCHFORD. Mr. Speaker, I rise today to have the pleasure of introducing a technical tariff correction on behalf of a firm in my district—Davis & Geck, a division of American Cyanamid Co.

Davis & Geck has been a quality manufacturer of surgical sutures since 1901. This firm has a strong tradition of service to our Nation. Davis & Geck was a major supplier of sutures for the U.S. Armed Forces in World War I and supplied almost 80 percent of the surgical sutures needs of the Allied Forces in World War II and in the Korean conflict.

Surgical sutures are precisely manufactured under highly controlled environmental conditions. The company currently imports surgical catgut from Australia for the manufacture of sutures. At present, to satisfy tariff classifications, the catgut is sterilized in Australia and then shipped to the United States. Sutures are again sterilized upon completion of the manufacturing process.

This legislation, Mr. Speaker, would allow Davis & Geck to import unsterilized catgut and utilize a new electron beam method of sterilization upon completion of the manufacturing process and thereby increase tensile strength, a necessary property in surgical sutures. Currently, unsterilized catgut falls under a tennis racquet category with the Tariff Code. Catgut currently imported by Davis & Geck cannot be utilized by the racquet stringing industry; surgical catgut is cut to 5-foot lengths whereby racquet stringing catgut is cut to a minimum of 20-foot lengths.

Mr. Speaker, this legislation substantially improves product quality, preserves resources through the elimination of multiple sterilization, and has no effective tariff revenue impact.●

SUPPORT OF UNIFORMED SERVICES FORMER SPOUSE HEALTH CARE ACT OF 1983

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. WHITEHURST. Mr. Speaker, last year the 97th Congress enacted the Armed Services Former Spouses Protection Act, as title X of the 1983 Defense Authorization Act. I was proud to play a major role in having that legislation enacted into law. The fact is that this issue should have been addressed long ago.

The Uniformed Services Former Spouses Protection Act was just a first step toward recognizing the inequities that unfairly penalize the long-term military spouses, who play such a vital role in our overall ability to maintain a viable fighting force. I must admit that I have been disappointed with the foot dragging and bureaucratic roadblocks the Defense Department and individual services have thrown up to thwart the intent of Congress with regard to this legislation, particularly with respect to the continued health care provisions of the act.

I remain extremely concerned about the unfairness in the system as it affects the health care issue for long-term military spouses. Unfortunately, the act, which became effective February 1, 1983, was prospective in nature with its health care provisions, and the language of the act is far too restrictive with regard to who should be covered, thereby preventing many deserving long-term spouses from eligibility for continued health care. I have also become disturbingly aware of the callousness of the Department of Defense and individuals services toward those long-term military spouses who desperately need medical care, and who for any number of reasons are not eligible for or cannot afford health insurance.

In an effort to address this issue futher, I have introduced H.R. 2715, which would revise and extend the health care provisions of the Uniformed Services Former Spouses Protection Act, providing medical coverage for the individuals who meet the eligibility requirements irrespective of the date of divorce, dissolution or annulment of the marriage, and redefinining the qualifying criteria. I am including the text of my bill for the RECORD, and I hope that my colleagues on the House Armed Services Committee and in the Congress will join with me in supporting this legislation, which takes another step forward toward addressing the inequities that have for far too long penalized the long-term military spouse in the event of divorce, and it allows us to demonstrate meaningful recognition and appreciation for their support and sacrifices during a military career.

The text of the bill follows:

H.R. 2715

A bill to amend title 10, United States Code, with respect to the provision of medical benefits to certain former spouses of retired members of the Armed Forces

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1072(2) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of clause (E); and

(2) by striking out clause (F) and inserting in lieu thereof the following:

"(F) a person who is the former spouse of a member or former member who performed at least twenty years of service which is creditable in determining the member's or former member's eligibility for retired or retainer pay, or equivalent pay, and who on the date of the final decree of divorce, dissolution, or annulment had been married to the member or former member for a period of at least twenty years, not less than ten years of which were during the period the member or former member performed service creditable in determining the member's eligibility for retired or retainer pay;

"(G) a person (i) who is the former spouse of a member or former member, and (ii) who has a disease or disability attributable to or arising from the nature or location of the service performed by the member or former member during the marriage, or from treatment received at a United States military medical facility.".

(b) Section 1077 of such title is amended by adding at the end thereof the following new subsection:

"(c) In the case of a person covered by section 1072(2)(G) of this title who is not also covered by section 1072(2)(F) of this title, the only health care that may be provided under section 1076 of this title is health care necessary for the treatment of any disease or disability of that person described in clause (ii) of section 1072(2)(G) of this title.".

Sec. 2. The amendments made by this Act shall apply with respect to health care furnished on or after the date of the enactment of this Act and in the case of a former spouse regardless of the date of the applicable decree of divorce, dissolution, or annulment.●

THE PLIGHT OF SOVIET JEWRY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. PEPPER. Mr. Speaker, allow me to bring to your attention and that of my distinguished colleagues the plight of three Soviet refuseniks, Mrs. Cherna Goldort, Mr. Boris Lisinker, and Mr. Grigory Aleksandrovich Vigdorov.

These three people belong to an unfortunate minority of Soviet citizens who find themselves constantly persecuted because of their ethnic background. This form of oppression is in direct conflict with the Helsinki Accords of 1975.

I am attaching for your information three statements about people of great character and suffering. We should not allow this situation to be forgotten, and I call upon all of our colleagues to continue joining in the stream of protest against such inhumane treatment.

BORIS LISINKER

Boris Lisinker is a highly educated man. He is a mathematician as well as a Candidate of Science. Yet since he applied for an exit visa, Boris has been unable to find work. In order to support himself and Alla, he has been giving private lessons. The reason why the Lisinkers are being refused exit visas is because Boris' mother and Alla's parents would be remaining in the U.S.S.R. The Lisinkers have been constantly sending appeals to the authorities, but so far their efforts have been in vain. This is a case of the Soviets applying rules of "family reunion" against the applicants, disregarding the wishes of all the responsible adults concerned. Another twist to this story is that Boris' father, Shimon Tauber, lives in Israel. After World War II, Boris' parents were separated. His mother remarried, and Boris took on the name of his stepfather. Contact with his natural father was lost until 1980, when Boris located him in Israel. It seems that in 1945 after World War II, Boris' father found his way to Israel from Poland, where he lost track of his family. Shimon Tauber has the documents to prove that he is indeed the father, and yearns to be reunited with his long-lost son.

GRIGORY ALEKSANDROVICH VIGDOROV

We were in Russia at the time that our son left his job but he had not received his visa at that time or since. He has been refused by OVIR three times. His home phone was disconnected. When we called from Israel to our son, at the post office, we could not make connection. We don't know why. Our letters also have not been received. He writes that he can't find a position because the Russian government has closed every door. He found a small part-time job near Moscow as a tree surgeon. It is hard work and is in an area a few hours from where he lives.

So far as his job is concerned, we are not worried; but we are very disheartened about our separation from him. From the time he was born, our son lived with us, as one family. In our two bedroom house, everybody was happy. It was a three room flat with one kitchen, one hall and two bedrooms. . . .

We are old people and in poor health. . . . It's been almost three years since we've been able to see our children. I hope . . . that you can comprehend our plight. This situation is "killing" us, since we are very weak. No one listens to our heartfelt pleas. We are frail and feel helpless since there is nothing we can do to help our son. . . .

We are sure that if a respected American personality or official takes a personal interest in our case, our family can be reunited. We entreat you, write to us . . . and do what you can to help us . . . It would be most appreciated if you send a letter to our son and his family, supporting him in his cause. Our children very much need assistance.

CHERNA GOLDORT

We thank you very much for not forgetting us and for the help that you give us. We are hopeful that your help will assist us to meet, at last, our mother.

Since seven and a half years ago, our mother has been refused an exit permit to Israel, to us, her only children.

It seems that the authorities are abusing her for no reason, because, during these years the Soviet authorities gave her different reasons for refusal.

A long time ago (eleven years ago), she was employed in a secret institute, "ANIICHT" (Altaisk Scientific Research Institute of Chemical Technology), at the city of Biisk.

The secret institute, under the management of Mr. Savchenko, declares that there were no secret aspects to our mother's job, and that they are not responsible for the recurrent refusals, and, on the other occasions, they declared that "The Secrecy of the Institute" will be the reason for refusal, for many years to come.●

SUPPORT SOVIET JEWRY

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. ADDABBO. Mr. Speaker, I would like to share with my colleagues a resolution passed by the Union of Councils for Soviet Jews which calls upon world leaders to aid Jews who are being held in the Soviet Union.

This is a timely occasion to reflect upon the fate of these Jews who seek to emigrate and preserve their culture, because "Solidarity Sunday" for Soviet Jewry will soon be observed. For those of you who have not seen the resolution, it is reprinted here as follows:

Whereas, Soviet Jewish emigration is at a virtual standstill;

Whereas, the Soviet government's policy of equating Zionism with Fascism is promoting historical anti-Semitism, creating the pre-pogrom atmosphere;

Whereas, incidents of threats, harassment and arrest are on the increase; and

Whereas, because of the persecution of Hebrew teachers and the prevention of the study of Jewish history and tradition is leading to cultural genocide, the UCSJ is convinced that the Soviet Jewish community is now in physical danger.

Now, therefore, be it resolved:

1. The UCSJ calls upon the religious leaders of the world to express to the Soviet Union their outrage before the situation deteriorates futher;

2. The UCSJ calls upon the heads of government of the free world to issue a joint statement of protest to Yuri Andropov deploring the critical situation facing Soviet Jews;

3. The UCSJ calls upon the heads of governments to raise this issue in every forum of contact with the Soviet Union;

4. The UCSJ calls upon all those who deal with the Soviets in the areas of culture, science and trade to serve notice that there will be no "business as usual" while Soviet Jews are held hostage;

5. The UCSJ urges all citizens of the world to raise their voices in protest against the imminent danger facing the Jews in the Soviet Union; and

6. The UCSJ calls upon every Jew in the world to take action against the aforementioned trends that can lead to the destruction of the Soviet Jews.

Therefore, be it resolved that the UCSJ in coordination with the Women's Campaign for Soviet Jews (35s) serve notice upon the Soviet government that there will be no respite until the above mentioned persecutions have stopped and the doors are open.●

NICHOLAS MATHEWS, AMERICAN

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. WHITEHURST. Mr. Speaker, about 2 weeks ago, Virginia and the United States lost a great patriot and a much-beloved citizen. Many of us had the privilege of counting Nick Mathews as a friend, and no one who ever met him could fail to be touched by the great love he felt for his adopted country.

An editorial eulogizing Mr. Nick appeared in the April 22 edition of the Norfolk Virginian-Pilot, and I am pleased to share it with my colleagues at this point in the RECORD, as a tribute to a dear friend and a wonderful man:

[From the Norfolk Virginian-Pilot, Apr. 22, 1983]

NICHOLAS MATHEWS, AMERICAN

So, then, to every man his chance—
To every man, regardless of his birth,
His shining, golden opportunity—
To every man the right to live,
To work, to be himself,
And to become
Whatever thing his manhood and his vision
Can combine to make him—
This, seeker,
Is the promise of America.

—*Thomas Wolfe.*

Nicholas Mathews, who was 82 years old at his death last week, and Mary Mathews, his wife, who survives him, learned about the promise of America in their native Greece and crossed the seas to claim it.

Baptized as Nicolas Matheor on the island of Karpathos, Mr. Mathews emigrated to the United States in 1920. Mrs. Mathews—Maria Pappamihalopoulou when she was growing up in Sparta—emigrated a decade later. "My mother said to me," Mrs. Mathews once told a reporter, "My girl, I give you my blessings. You will live better life than here. The United States is blessed soil. I let you go because your life will be better. . . .'"

Not easy, but better. A spare existence with virtually no chance to raise themselves in the world or to expand their horizons was the bleak prospect in Greece. So the young man and the young woman who were to meet and marry in America, at different times and different places parted from family, friends and neighbors and voyaged to the New World.

Such separations occur all the time. But each departure is touched by hope and heartache, fear and excitement, prose and poetry. The emigrants' destination is not invariably the United States, of course. But time and again it is, and was—this nation counts some 50 million legal immigrants since 1920, some 700,000 from Greece. And still the immigrants come, often illegally.

Not all immigrants prosper as spectacularly as the Mathewses did. And there were lean years before the Mathewses founded Nick's Seafood Pavilion in Yorktown, developed it into a thriving enterprise and could contribute abundantly to their community. They supported restoration efforts in the historic town. They picked up the tab when it couldn't pay the electric bill. The Yorktown Victory Center, built by Virginia for the American Revolution Bicentennial, stands on valuable acreage donated by the Mathewses. Mr. Mathews' body will occupy a small portion of that land.

Mr. Mathews died on a Navy jet aircraft, en route to Mississippi, where Mrs. Mathews was to christen the guided-missile cruiser Yorktown. The launching took place as scheduled, with Mrs. Mathews christening the cruiser "in the name of the United States and in the memory of my husband."

Ebullient, religious, patriotic, energetic, generous, the Mathewses are a classic story of immigrant success. they were unashamedly—and, indeed, unfashionably—grateful to God and country for smiling upon their labors. The cornerstone of the Yorktown Victory Center contains a time capsule. Among the artifacts is a photograph of the Mathewses, on which they wrote:

"With respect, love and joy from our heart and soul, we give our personal belongings—the cross, engraved 'Entouto Nika [With this sign, be victorious], God Bless America,' the American flag, the Statue of Liberty, and our pictures and our mothers' pictures to the country we love so much."

Rest in peace, Citizen Mathews.●

DR. JOHN WESLEY WILLIAMS

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. WHEAT. Mr. Speaker, it is all too frequent in these hectic times in which we live, that the achievements and community contributions of some of our most outstanding citizens tend to be overlooked.

With that in mind, I rise to bring to the attention of my colleagues, the career of a remarkable man, who I am proud to say is my constituent in the Fifth Congressional District of Missouri.

I refer to Dr. John Wesley Williams, who is being honored at a retirement dinner on April 30, 1983, at the Radisson-Muehlebach Hotel in Kansas City, Mo. Dr. Williams has served as pastor of St. Stephens Baptist Church for the past 39 years.

Dr. Williams was born and reared in Houston, Tex. He attended Conroe Normal and Industrial College as well as Bishop College. He received a bachelor of theology and honorary doctor of divinity degree from Conroe. He has also received a bachelor of divinity, a masters of theology and doctor of theology from Central Baptist Theological Seminary in Kansas City, Kans. He has been the recipient of numerous honorary degrees.

While preaching at the New Light Baptist Church in San Antonio, Tex., he met Marena Belle Wilson; on November 12, 1943, she became his wife. Together they have raised three children, John, Jr., Dorothy Mae McKeeve, and Marena Ann Williams.

In 1944, he became pastor of St. Stephens Baptist Church in Kansas City, Mo.

His tireless dedication to service produced one of his greatest achievements. On February 7, 1970, in large part due to his enormous energy, a ground-breaking ceremony was held for the Dr. Martin Luther King Hospital. The hospital opened its doors for patients in May 1972.

He has been instrumental in creating programs and services which aid young people, the elderly, and those confined in prison, as well as the distressed, both spiritually and physically. His travels too vast, his accomplishments too numerous, his influence in individual lives too great to be recounted here. On May 8 Dr. Williams will preach his last sermon as pastor of St. Stephens. He will be missed. I take this opportunity to wish him a happy and enjoyable retirement.●

A FIRST-CLASS FARM AUCTIONEER

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. McEWEN. Mr. Speaker, I would like to bring to the attention of my colleagues an article which appeared in the March 1983 issue of the Buckeye Auctioneer. Emmett H. Bailey is 80 years old now and is an active farm auctioneer. He remains an inspiration to us all as an American pioneer who helped take the auction business from the backwoods and put it on a superhighway.

The article follows:

A TRIBUTE TO THE BAILEY-MURPHY CO.

Today there are many successful real estate auction companies operating throughout Ohio and across the nation. One of the first pioneer auction firms originated in Wilmington, Clinton County, Ohio, in the mid 1930's selling both real and personal property at public auction. The founder of this company, Emmett H. Bailey, had worked for many years during the depression for the old Kentucky Land Bank, the forerunner of Federal Land Bank as we all know it today. Emmett had worked for many years managing, rehabilitating and preparing for sale many, many farms that had been abandoned or foreclosed on during the dismal farming years in the early 30's. Emmett was an outstanding sales manager, appraiser, ringman and public relations man. The first auctioneers in the company were Ray Murphy and Emmett's cousin, Bill Bailey. Ray and Bill quickly established themselves as first-class farm auctioneers, and there are many sale goers today who classified this pair as the best team that ever walked a line of farm machinery. With their good judgment and Irish wit, they could pick bidders' pockets, and the Bailey-Murphy Company became strongly established over a very wide area. Emmett, a strong deskman and leader, has never had an equal at making an inspiring and convincing real estate talk at auctions. I first remember the company as a teenage farm boy in the early 40's when all newspapers in southwestern Ohio were full of Bailey-Murphy Co. sale ads.

Following World War II as agricultural products and land prices began to rise, the company became more active in the sale of estate farms at auction as well as other types of residential and commercial real estate. Emmett, Ray and Bill were enormously successful pioneers in many new auction innovations that most of us use today such as evening sales, mailing lists and the complete auction concept of booking the sale and handling all details down to handing the seller a trust account check. They were thorough business people who operated from a strong home office with a full staff of sales and office personnel that really put the auctioneer on a high level of acceptability by bankers, lawyers and other people throughout the area they served. They changed the image of the auctioneer from that of a mediocre struggling businessman to a respected leading professional citizen.

There are a number of strong Bailey-Murphy type organizations—some of them headed by graduates of what I have always called the "Emmett Bailey finishing school." Meredith Darbyshire, Frank Weade and Charlie Hunter who all held top offices in the Ohio organization—Darby was a National president—are among some of the people who were at one time associated with the Bailey-Murphy Co.

Today Emmett H. Bailey is 80 years old and still a member of the Ohio Auctioneers Association, and in my mind blazed a trail that helped take the auction business from the backwoods and put it on a super highway. Ray Murphy passed away a number of years ago, and Bill Bailey has been retired as an active auctioneer. The Bailey-Murphy Co. operates today in a new office building in Wilmington, Ohio. For those of us who have enjoyed many successful years in the auction business, we owe a great debt to the founders of the Bailey-Murphy Co.●

MEDICARE ELIGIBILITY OF OUTPATIENT REHABILITATION FACILITIES

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mrs. KENNELLY. Mr. Speaker, I am introducing legislation today to authorize the Secretary of Health and Human Services to accept accreditation by the Commission on Accreditation of Rehabilitation Facilities (CARF) in determining the medicare eligibility of outpatient rehabilitation facilities. The bill simply gives the Secretary the discretion to recognize CARF accreditation in lieu of certification by a State medicare agency.

Each year all rehabilitation agencies and comprehensive outpatient rehabilitation facilities must be certified by State medicare agencies in order to be a medicare provider. Each facility must meet the standards required to be a medicare provider which are intended to insure that quality services are maintained for beneficiaries.

Many of these same facilities also seek accreditation by CARF. CARF is a private, nonprofit organization which adopts and supplies standards for rehabilitation facilities throughout the United States.

This bill gives the Secretary the discretion to accept CARF accreditation if it is determined that CARF's standards meet the criteria established in medicare regulations, but does not require the Secretary to accept CARF accreditation. Furthermore, if "deemed status" is established for CARF-accredited facilities, those facilities which are not CARF accredited could continue to provide medicare services as long as they are certified by the State medicare agency. The measure simply eliminates the need for outpatient rehabilitation facilities to undergo two similar surveys. This would not only save the facilities administrative expenses incurred from site surveys, but would also reduce unnecessary Government expenditures.●

SURRENDER BY ANOTHER NAME

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. LAGOMARSINO. Mr. Speaker, a recent editorial appearing in the Santa Maria Times, in my district, refers to the idea of negotiations between the Government of El Salvador and the guerrillas as being surrender by another name. I urge my colleagues to consider what the effect would be of tying aid to El Salvador on unconditional negotiations with the guerrillas. It would mean, in the opinion of the Santa Maria Times and many others, "thinly camouflaged surrender."

The editorial follows:

Much of the news from Washington these days has to be discouraging for the Salvadoran people, who can look to the United States alone for help against a grand alliance of world communism—Soviets, Cubans, Czechs, East Germans, and yes, even Palestinians.

For example, the House Foreign Affairs Western Hemisphere subcommittee recently voted to require that the Salvadoran government agree to negotiate with the Marxist guerrillas in order to qualify for continued U.S. assistance. The subcommittee's majority, voting strictly by party lines, rejected President Reagan's request for $50 million in military aid for El Salvador and reduced from $86.3 million to $50 million the military aid request for fiscal 1984 and 1985. Even that truncated sum depends on the prescribed dialogue.

We must hope the subcommittee's conditions are not ratified by Congress. Such forced talks would be tantamount to having the guerrillas shoot their way into power, as Secretary of State George Shultz has warned. The guerrillas, who refused to participate in the heavily supervised elections last year, have vetoed every suggestion of sharing in future elections.

The idea of Salvadoran government-guerrilla negotiations now being bandied about this country is but a sugar-coated call for a coalition government with the Marxists, which in turn would be a thinly camouflaged surrender. Such a plan flies in the face of all that we have learned in this generation and, in fact, all that we know of history.

The House subcommittee's dangerous condition for U.S. aid to a besieged ally is foolish as it would have been to insist, for example, that the British during the depths of World War II would receive no lend-lease assistance unless they entered upon peace negotiations with Nazi Germany. And have the congressmen who now seek this easy face-saving way out of El Salvador forgotten so soon the futility of the protracted negotiations during the war in Vietnam that helped disarm our purpose and that ultimately led to the disaster there?

Salvadoran voters, who trooped to the polls last year in record numbers to elect a new government despite death threats from the guerrillas, deserve to be supported and sustained by Congress and people of this country—not sold out in the name of lofty-sounding but ruinous negotiations with a cruel, implacable foe.●

AL HARZENSTEIN ADDRESSES NEW CITIZENS

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. GRAY. Mr. Speaker, at naturalization ceremonies conducted February 23 in Philadelphia, Attorney A. S. Harzenstein offered encouragement and inspiration to a group of new American citizens. Mr. Harzenstein practices law in Philadelphia and presently is national vice president of the Federal Bar Association.

Following is the text of his meaningful statement which I trust will be of interest to my colleagues in the Congress.

President Kennedy in his inaugural address said, "Ask not what your country can do for you, but what you can do for your country." There is no time in our history when this is more true. Our country has put out and put out beyond reason and beyond care, and we now have millions of unemployed. We have various hardships. We have deficits. We have failed to run our country as we would run our homes or our businesses.

We cannot buy more than we sell. If we do we go into debt. That's exactly what happened.

We cannot buy our automobiles abroad if we want to keep our automobile factories working here. We cannot charge more for our goods here if we expect to be competitive. When contracts were handed out to make busses, running into millions of dollars, involving Philadelphia and some other cities, to our shame the contracts were given to Japan.

Now, what that does is it gives work to Japan and it takes work away from us here. It puts people on the unemployment list. They have to be maintained. After that runs out, it puts people on welfare. It reduces our tax income because if people are not working they are not paying taxes. This is a situation which has to be corrected.

I will relate one or two stories to you.

Years ago I had a cousin who came over from Russia. He was then sixteen. He found a job working in a wholesale house to get his training. They paid him three-fifty a week. Two or three years later—and he was living with us—he said, "You know, Al, when I was in Russia, everybody said, 'There's no grass in the United States, but the streets are lined with gold,' and I thought all I had to do was chip off some from the curbs and I would be rich."

Well, it didn't work out that way. But in the end, he learned the language, he worked, he saved, the family helped him, he went into business, and he was successful.

The same thing happened to my own father.

Now we have a lot of people who have come from a lot of lands.

Some years ago there was a man named Israel Zangwill who wrote a book called, "The Melting Pot." We need more of the melting pot today. One of our problems is that each group is pulling towards itself. Each group is trying to take out more than is there.

If you have a corporation or you have a business, if you take out and simply issue more shares of stock, each one of your shares of stock is going to be worth less. If the government goes in debt and prints more money, the money is going to be worth less. And so you have inflation. The government must be run the same as you run a business, at least in principle. We can't spend what we haven't got.

We've got to work. We've got to become competitive. We've got to keep our business here. If we want steel, we have got to make it here. If we want automobiles, we have got to make them here. If we want television sets, radio sets, we have got to make them here.

I have had numerous experiences with clients who have manufactured some articles here. I can think of one, just a small item used in a shower to reduce water. They were produced here to sell for $15 apiece. A contract was let out to a company in Taiwan and they have produced it to sell here for $7 apiece including the transportation.

Now, we cannot operate that way. We have got to be competitive. We have got to keep the work here. We have got to get out of this business of unemployment. If we go to work and take pride in our work, we will achieve this.

Mrs. Kirkpatrick, the Ambassador to our United Nations, recently stated that one of our problems here was that we think more of comforts and the good things of life, and democracies are unwilling to make the necessary sacrifices. I'm afraid she was right. And she was comparing us with other countries like Russia for instance. We have got to be willing to work hard and make the sacrifice so we can all hang together.

For some years I had an office in Washington with the government, and I noticed as I would come into Union Station that they have carved in stone there various sayings. One was, "He who would bring home the wealth of the Indies must bring the wealth of the Indies with him," which means to me you can take out exactly what you put in. If you work hard and diligently, you will make a success and you'll find that these streets are paved with gold—the gold of freedom, which we all want.●

C-5 COST OVERRUN MYTH

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. McDONALD. Mr. Speaker, yesterday in the press it was reported that the so-called watchdog group, project on military procurements, had discovered a cost overrun on the C-5. The so-called watchdog group again displayed its ignorance, as it has on previous occasions. A cost overrun is not permitted under the present contract with Lockheed. That was the basic premise of the Lockheed offer—a fixed price, and when this offer was made, inflation was still out of hand. The so-called overrun is a product of an internal Air Force document on what could occur and is not a fact. The truth, if the press is still interested in that old fashioned commodity, is contained in the memorandum issued yesterday afternoon by the Assistant Secretary of the Air Force, Russell D. Hale, and I insert it at this point in the RECORD to correct any misimpressions that might have been created by yesterday's fairy tale.

[From the Washington Post, April 26, 1983]

$556 MILLION COST OVERRUN PREDICTED ON C5B CONTRACT

Lockheed Corp. is likely to exceed the maximum amount allowed in its contract for building 50 C5B transports by $566 million, according to an Air Force memo that came to light yesterday.

In making the memo public, the watchdog group Project on Military Procurement warned against attempts by Lockheed to make up for this "overrun" by charging the money to changes the Air Force is likely to request as the plane moves along in production. An Air Force spokesman said last night that the service is determined to keep that from happening.

The memo was written by LeRoy T. Baseman, chairman of an Air Force cost analysis group that reviewed the 1982 fixed-price contract for the 50 C5Bs. The group estimated that Lockheed's cost would turn out to be $9.1 billion for the 50 planes, or $566 million more than the maximum allowed under the contract, counting escalation clauses.

"This means that Lockheed may realize only about half of their expected profit," Baseman's memo said. He warned that "every change to the contract, which was proposed under conditions favorable to the Air Force, would give the contractor the opportunity to renegotiate the contract value under conditions less favorable to the Air Force. It is suggested that the C5B program be baselined and that engineering changes and scheduled perturbations be kept to an absolute minimum. . . ."●

A TRIBUTE TO NICK L. SALAZAR

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. RICHARDSON. Mr. Speaker, I would like to draw my colleagues' attention to an article which appeared recently in Northern New Mexico Today of April 6, 1983, a newspaper in my district. The article pays tribute to State Representative Nick L. Salazar, a pillar of the San Juan Pueblo community. Nick, who represents Rio Arriba County in the State legislature in Santa Fe, has spent a lifetime working to better the educational and economic opportunities of thousands of New Mexicans.

Nick Salazar is a modest man, Mr. Speaker. He would never dwell on his many civic achievements. Therefore, I think it is only appropriate for my colleagues to have an opportunity to read this excellent article, which discusses in detail Nick's many contributions to the private and public sectors.

I offer my congratulations to Nick for a job well done.

SALAZAR HELPING PEOPLE TO HELP THEMSELVES

(By John Armistead)

Nick L. Salazar believes in local people solving their own problems. That's just one reason why he's become such an active citizen in northern New Mexico.

Salazar, a state representative from Rio Arriba County and an employee of the Los Alamos National Laboratory, said, "Especially in northern New Mexico people must work to solve their own problems. The attitudes of the people and the history of this part of the state make it very difficult for someone, some planner in Washington, for instance, to come here with grand ideas and great plans and have much success selling solutions to local people."

"We must be responsible for getting good things done here," the San Juan Pueblo resident said. "I know we don't have the money, the tax base to a accomplish everything we'd like, so we apply for assistance from the federal and state governments. In decades past, people in northern New Mexico didn't really know they could get assistance to solve problems such as lack of adequate rural health care, aid for young people who want a college education or vocational training, help with water, housing and roads. I think we are seeing some dramatic changes, however, as people are becoming more aware that they can apply for and get help to improve the standard of living in their local communities."

A complex, yet practical man, Salazar, 52, has spent much of his life in service to communities in Rio Arriba County and in encouraging people to become better educated.

He is, or has been, director of numerous area, state and national organizations whose goals include better educational opportunities; economic development for rural, less affluent areas such as Rio Arriba County; better health care; and job training.

"I was born into a poor family and reared poor, like a majority of the people of northern New Mexico," Salazar said in reference to his childhood at Jan Juan Pueblo. "I had guidance, an inner vision perhaps, that told me to make a better life for myself I needed to get an education, to develop job skills. The military service helped me to get some education, and the laboratory in Los Alamos has been a big help to me. I've worked hard, been lucky, become better educated, have had a good job with a good employer, and I want to create and expand educational and job opportunities so young people of this area can do the things I have been able to do."

Encouraging people to get an education and acquire job skills and training so they can compete in the job market is a driving force for Salazar. Salazar, serving his sixth term as state representative, has sponsored or co-sponsored bills to provide or increase financial aid to college-bound students; helped create Northern New Mexico Community College; co-sponsored the bill that creates the community college in Santa Fe; fought for tuition assistance at private colleges; directed the association of New Mexico Independent Colleges and Universities; and has been president of the National Education Institute for Economic Development, to list just some of his activities.

"It may sound trite, but I believe our hope for a good future lies with our young people. They must be educated and they must have jobs so they can be productive and contribute to society," Salazar added.

Salazar and his wife, a San Juan Pueblo Indian, have three children. "My children all have college degrees: one has two master's degrees, one has only one master's and the third child is working on his master's," he said. "Obviously, education for our children, all children of northern New Mexico is important to me. I'll continue to do whatever is necessary through the legislature, through associations, and at state and national government levels to see to it that educational opportunities don't dry up."

Salazar is hesitant to talk about himself, to "toot his own horn" but his enthusiasm for the things of value in his life soon overpowers his natural shyness.

"I don't intend to sound like I'm bragging. I'm not. I'm just a person who has to be participating, active. I really believe that we must work hard in northern New Mexico to improve our life and not let outsiders come here and impose too many restrictions and demands that are not compatible with what we know is northern New Mexico." Training of people and their acquiring job skills has concerned Salazar for some time. Leo Murphy, executive director of the North Central New Mexico Economic Development District, says Salazar's persistent efforts have been largely responsible for establishment of area vocational schools (in Santa Fe, Bernalillo County, Espanola, and Luna), and creation of industrial parks in Pojoaque, Santa Fe, Bernalillo, and a park designation at Las Vegas.

"Nick may not mention it, but his efforts in the state legislature and his efforts through the economic development district (Salazar is the first and only president so far of the North Central New Mexico Economic Development District) have helped lay the groundwork for job skills training for many people of northen New Mexico. These vocational schools, and community colleges which Nick supports, are an excellent initial effort for local workers to become qualified for the high technology corridor jobs of the future."

Salazar said he combines his dream of future energy resources such as fusion energy with his dreams of better education and jobs for the people of northern New Mexico.

"I see a lot of money going into our educational system, yet I hear and read some disturbing news about our students' decline aptitudes for science and mathematics," Salazar said. "I feel strong that math and science should be stressed and should be at the forefront of our educational programs. We have an excellent pool of labor here for future industries, many of them probably having to do with science and technology, and science and math are going to have to regain in a position of prominence if we are going to train our people."

Another of Salazar's personal commitments involves health care and housing for poor and elderly people. He was instrumental in creation of medical care act to help fund rural health clinics, helped start the first indigent medical fund in Rio Arriba County, and authored the medical student loan program to help the students get medical degrees.

He also has been instrumental in getting more beds for Espanola hospital and assisted Santa Fe St. Vincent's Hospital in getting a full body counter for scanning for certain disorders.

Through Operation Breakthrough a few years ago, Salazar's efforts resulted in the building of 1,350 houses for poor elderly people and other low income families in several counties in northern New Mexico. Northern New Mexico was the only place in the United States in which the "aggregate program" of providing low income housing in several counties simultaneously was enacted.

Salazar's legislative accomplishments and his involvement in local, state, regional and national organizations is numerous.

A few organizations in which he is active are: National Association of Development Organizations, Public Works and Economic Development Districts Association, New Mexico Health Resources, Inc., New Mexico Health Systems Agency Governing Body, New Mexico Regional Housing Authority (Region 2), Governor's Council on Rural Medical Practices, Development Authority of New Mexico, and the Governor's Council on Rural Development.

The National Association of Development Organizations in 1979 honored Salazar by creating the Nick L. Salazar Award, a national yearly award given to a board member of an economic development district somewhere in the U.S. who has contributed significantly to economic development. Also in 1979, former Gov. Bruce King declared the week of October 7 as Nick L. Salazar Week in New Mexico.

Salazar was a Rio Arriba County commissioner for four years (at the time of the raid on the courthouse in Tierra Amarilla, in which he was held hostage), has been president of the Espanola Jaycees, and is a rancher and farmer.

"Ranching and farming are hobbies for me," Salazar said. "I run a few head of cattle on federal land in the mountains, and I grow apples and raise hay. The work at Los Alamos and the state and community activities are stressful and mental. But I enjoy my farm and ranch--I can be outdoors doing some hard physical work. It's refreshing."

Work is no stranger to Nick Salazar, nor is it a threat. "I do the things I do because I enjoy variety, I enjoy helping people. Perhaps it sounds again like I'm bragging, but I really am not trying to accomplish and achieve just to be doing it. I guess I'm one of those crazy people who believes that if we help ourselves, our dreams come much closer to reality."●

CONGRESSIONAL SALUTE SETTING ASIDE A DAY FOR AMERICA HONORING THE HONORABLE ADAM "OATSIE" REISER OF PATERSON, N.J., DISTINGUISHED CITIZEN, COMMUNITY LEADER, AND GREAT AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. ROE. Mr. Speaker, on Sunday, May 1, the people of the city of Paterson in the county of Passaic, my congressional district and State of New Jersey are setting aside "A Day for America" and will join together in testimony to a distinguished citizen, esteemed public safety officer, community leader, and good friend, the Honorable Adam "Oatsie" Reiser of Paterson, N.J., whose lifetime of good works and standards of excellence in his daily pursuits have truly enriched our community, State, and Nation.

Mr. Speaker, I know that you and our colleagues here in the Congress will want to join with me in extending our deepest appreciation to Adam Reiser for all of his good deeds and share great pride in the success of his achievements with his good wife Joan, their sons Marc and Adam, and daughters-in-law Joann and Judith on this milestone of achievement in their family endeavors.

It is most important to point out that in the city of Paterson the Honorable Frank X. Graves, New Jersey State senator and mayor of the city of Paterson, has proclaimed May 1, the Day for America, as Adam "Oatsie" Reiser Day for the city of Paterson. It is indeed appropriate that this commemoration of A Day for America honoring Adam Reiser should be commemorated on the 26th annual celebration of Law Day, U.S.A.

Mr. Speaker, as you know, pursuant to congressional resolution, the President has issued his proclamation for Law Day, U.S.A. 1983—a day set aside for all Americans to reflect on our legal heritage, the rights we enjoy under our democracy, and the role of law in our society. The theme of this year's Law Day observance is "sharing in justice," highlighting both the rights and the responsibilities of each citizen as a participant in shaping and protecting our laws and system of justice.

Oatsie is a highly esteemed member of our Nation's corps of public safety officers—of national and international eminence—widely known in law enforcement circles, not only in the State of New Jersey but, to mention a few States and countries: in Washington, D.C., Texas, California, New England, Florida, Hawaii, Dominican Republic, Paris, London, Rome, and so forth.

Indeed, Adam Reiser has participated in sharing in justice above and beyond the call of duty. His outstanding record of performance in service to people has been recognized by many civic and government organizations. He is especially proud of the Man of the Year Award that he received from the Paterson Elks for his devotion to the youth of America.

As we all know, the charitable and benevolent activities of the Benevolent and Protective Order of Elks span the needs and concerns of all of our people—young and adults alike. They have provided assistance to needy and unfortunate individuals and their generous contributions to God's special children who are physically handicapped and scholarships for the education of our young people are applauded by all of us.

Oatsie Reiser is a champion of the poor and underprivileged dating back to the depression of the 1930's when he was appointed a school attendance officer visiting homes of youngsters to see why they were not in school. His firsthand experiences during those visits made lasting impressions on young Adam Reiser and he marshaled friends and neighbors to help clothe and feed the school children at no expense to the destitute families. Throughout the years, his volunteer organization particularly remembered the poverty stricken at Thanksgiving and Christmas with a turkey and all of the trimmings to make a festive dinner to celebrate those special occasions.

Mr. Speaker, we are proud to boast that Adam Reiser was born in the city of Paterson in December 1900. He is an outstanding individual who throughout his lifetime has earned the respect and esteem of all of us who have had the good fortune to know him. In his youth he excelled in sports, playing football, basketball, and baseball at Central High School, St. Peter's Prep, and St. Peter's College.

In his law enforcement career he has sought optimum public safety for all of our people. He joined the staff of the Passaic County prosecutor's office as an investigator in 1941 and moved swiftly through the ranks from detective in 1944 to lieutenant in 1955 to captain in 1957 to chief of county detectives in 1959 until his retirement December 31, 1975.

Adam is past president of the Passaic County Chiefs Association, a member of the New Jersey State Police Chiefs Association where he currently serves on the executive board, member, International Association of Police Chiefs and a founding member of its New Jersey State Federation. He is also a member of the Disabled American Veterans (DAV), Catholic War Veterans, Elks Lodge 60 of Paterson, and many other prestigious civic organizations.

Mr. Speaker, it is indeed appropriate that we reflect on the deeds and achievements of our people who have contributed to the quality of our way of life here in America. In commemorating Law Day, U.S.A., a Day for America, I am especially pleased to join with the mayor and citizens of the city of Paterson in observance of Adam "Oatsie" Reiser Day in the city of Paterson. It is a pleasure to seek this national recognition of Oatsie's quality of leadership and sincerity of purpose dedicated to service to people which have surely contributed to the quality of life and a way of life for our people. We do indeed salute a distinguished citizen, outstanding community leader, and great American—the Honorable Adam "Oatsie" Reiser of Paterson, N.J.●

CONSISTENT SUPPLY MANAGEMENT NEEDED

HON. GLENN ENGLISH

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. ENGLISH. Mr. Speaker, I have been a strong supporter of a consistent supply management program—one that gives farmers the tools to receive a fair profit in the marketplace.

Unfortunately, supply management has too often meant crisis management. In order to provide some consistency and predictability to farm programs I am introducing a supply management-trigger bill.

The legislation would require the Secretary of Agriculture to implement an acreage limitation or set-aside program for wheat and feed grains if the carryover for the preceding year exceeds 5 percent of total world usage.

The current oversupply situation is a problem that has been allowed to develop since the mid-1970's. Between 1971 and 1981 the average carryover of wheat stocks has been almost 815 million bushels per year. USDA is projecting that the carryover for the next 3 years will average almost 1.4 billion bushels per year.

The authority to implement reduced acreage programs is currently discretionary with the Secretary of Agriculture. However, no Agriculture Secretary in recent history has had a free hand in determining farm policy. Increasingly, outside forces such as the Departments of State and Treasury, the Council of Economic Advisers, the Office of Management and Budget, and even the President's political advisers have all had a hand in making important decisions affecting farm programs.

By providing automatic production controls, the influence of politics is removed from the process. Under this supply management-trigger bill a supply management program would have been required in 7 of the last 10 years. A consistent and predictable program is needed to eliminate excess stocks—especially in a manner that does not disrupt the entire economy.

This legislation is similar to an amendment that I offered to the 1981 farm bill. Since that time it has been adopted as a policy of the American Farm Bureau Federation.

I believe it is an idea that deserves the serious attention of this Congress.

The text of the bill follows:

H.R. 2765

A bill to require an acreage reduction program for each of the 1984 and 1985 crops of wheat and feed grains if the carryover from the preceding crop is excessive

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 107B(e)(1)(A) of the Agricultural Act of 1949 is amended by inserting immediately after the first sentence the following: "The Secretary shall, however, provide for such an acreage limitation or set-aside program for each of the 1984 and 1985 crops of wheat, if the Secretary estimates that the domestic carryover of wheat at the end of the year preceding the year for which the determination is made will exceed five per centum of total world usage of wheat for the year for which the determination is made.".

SEC. 2. Section 105B(e)(1)(A) of the Agricultural Act of 1949 is amended by inserting immediately after the first sentence the following: "The Secretary shall, however, provide for such an acreage limitation or set-aside program for each of the 1984 and 1985 crops of feed grains, if the Secretary estimates that the domestic carryover of feed grains at the end of the year preceding the year for which the determination is made will exceed five per centum of total world usage of feed grains for the year for which the determination is made.".●

CONGRATUATIONS TO CLAUDE SITTON

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. VALENTINE. Mr. Speaker, the people of North Carolina are proud to count among their own Claude Sitton, editor of the Raleigh News and Observer and recent winner of the Pulitzer Prize. A seasoned journalist who has dedicated his professional life to reporting the truth, Mr. Sitton has brought professionalism and solid news judgment to the News and Observer and the Raleigh Times, and thousands of readers look forward every Sunday morning to his prize-winning column.

Mr. Speaker, the Pulitzer Prize represents the highest level of journalistic achievement, a level Claude Sitton has reached often in his career. I ask my colleagues to join me in congratulating him, and ask unanimous consent that the article by Frank Daniels Jr., publisher of the News and Observer, be inserted in the Record.

[From the Raleigh News and Observer,
Apr. 24, 1983]

The N&O Family Is Proud of Editor

(By Frank Daniels, Jr.)

Around 6 a.m. the morning after Claude Sitton won a Pulitzer Prize for his Sunday column in The News and Observer, he was jogging through the cold dawn along Winthrop Avenue, a half mile from his home in Brookhaven.

A carrier for The News and Observer pulled his car over and rolled down the window. "Congratulations, Claude," he teasingly said. "You just keep on writing that bull and I'll keep throwing it."

The employees, stockholders, carriers and dealers of The News and Observer Publishing Co. are proud of Claude Sitton and pleased that the Pulitzer Prize Board recognized that he richly deserved this honor.

The award affords me a chance to tell you some things about Claude that you might not otherwise see this side of his obituary. A child of the Depression, he grew up in rural Conyers, Ga., not far from Atlanta. He was raised to believe in the worth of hard work, the church, loyalty and faithfulness. One of the surprising things I learned as recently as last year when I visited with his mother, a delightfully bright and sprightly woman just turned 90, was that Claude, now the epitome of propriety, was pretty much of a hellraiser as a teenager.

Claude has a rich heritage in journalism. After serving a hitch in the Merchant Marine and the Navy in World War II and graduating from Emory University in 1949, he went to work for the International News Service, now the "I" in UPI. He put in a tour as a U.S. information officer and press attache in the American Embassy in Ghana for two years in the late '50s.

He became known as a reporter's reporter while covering the civil rights movement in the South for The New York Times from 1957 to 1964. He is credited with introducing the use of the narrow notebook that a reporter could comfortably conceal in his coat pocket. During those tense, highly emotional days, reporters were oftentimes fair game.

The News and Observer Publishing Company invited Sitton in 1968 to join us as editorial director. He succeeded Jonathan Daniels as editor in 1970.

Since then, he has been a hard-working, aggressive editor, directing more than 130 reporters and editors of The News and Observer and The Raleigh Times and the editorial page of The News and Observer.

Sitton spends 10 to 12 hours a day in his 3rd floor office, with additional time spent at home reading. The writing of his prize-winning column begins at home on Thursday evenings.

The logic that he pursues Sunday after Sunday reflects a logical man who tries to reason through a problem and to look at the various solutions.

Sitton's energies extend beyond his job at the newspapers and his jogging. He has served six years on the board of the American Society of Newspaper Editors. As chairman of its ethics committee, he was responsible for promoting and editing "Playing It Straight," an ethics handbook now found in newsrooms throughout the country. He has also served on the board of the N.C. Press Association.

Claude Sitton is accessible—both to readers of our newspapers and to the people who work with him and for whom he fights tooth and nail. He has good news judgment and tries hard to transmit it to his colleagues. He is a strong advocate for the readers' interests, arguing for more news space, better printing quality and more reader services.

Despite rumors to the contrary, Sitton is not a man of all work and no play. Nor, to those who know him, is he the crusty curmudgeon his critics make him out to be. He is a caring husband and father of four grown children.

A lover of the North Carolina mountains, he and his wife Eva enjoy hiking the state's Appalachian Trail. He enjoys gardening and his morning four-mile jogs. He is a church goer and served on the diaconate at White Memorial Presbyterian Church.

During the CB craze, Sitton's handle was "Blue Pencil," partly because of the Mustang he drove but mostly because he cannot read something without instinctively penciling it. He now drives the fastest American-made automobile, the GT Mustang. But you can be sure, as a stickler for what's right—in the newsroom or on the highway—he's no hot rodder.

Also a lover of country music, he is a passable guitar player. The best thing about his singing, though, is that he knows most of the words.

A year or so ago, Sitton underwent surgery correcting a minor malfunction of the heart. When the operation was mentioned in passing to one Raleighite, a member of the National Congressional Club, which has often felt the prick of Sitton's pen, the fellow feigned astonishment. "Surely you are mistaken," he exclaimed. "It couldn't have been Claude. He doesn't have a heart."

The 900 employees of The News and Observer Publishing Co. who share in the pride and satisfaction of Claude's Pulitzer Prize know how wrong the man was. Sitton has a heart that beats steadily and strongly for what he believes in—whole truths, high principles, fair play, hard work and that we reap what we sow.

That heartbeat is reflected in the columns that the Pulitzer Board considered worth journalism's highest honor.

We're proud of the guy.●

BOGG'S CONGRESSIONAL PAPERS DEDICATED

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. LONG of Louisiana. Mr. Speaker, I rise today in remembrance of the late Hale Boggs, whose 28 years in the House of Representatives were distinguished by exemplary moral vision and leadership. His singular contributions to his city, New Orleans; his State, Louisiana, and to his country are well known to my colleagues in Congress.

While Hale's brillant career came to a premature end, we in the House of Representatives are fortunate to have the counsel of his extremely capable wife, LINDY BOGGS.

Mr. Speaker, last month the congressional papers of Hale Boggs were delivered to Howard Tilton Library of Tulane University, where they will become an important resource for students of American Government and public policy.

At the dedication ceremony on March 5, 1983, Mr. Moise W. Dennery, a prominent New Orleans attorney, eloquently encapsulated the career of former House Majority Leader Hale Boggs. I commend his remarks to my colleagues and ask that they be printed in the RECORD.

REMARKS MADE AT THE DEDICATION OF THE HALE BOGGS CONGRESSIONAL SEAT PAPERS AT HOWARD-TILTON LIBRARY, TULANE UNIVERSITY

Thank you Lindy, President Kelly and family, friends and admirers of Hale Boggs.

The congressional papers of Hale are not only an important addition to the Tulane Library—they constitute a permanent record of a great Congressman, a great political leader, indeed, a great American. He is best described in a speech to the Senate made by Russell Long on June 20, 1973, eight short months after that fateful day in Alaska, Russell said:

"He was a man of rare gifts. He had a keen mind that went quickly to the heart of an issue. He had courage, conviction, and a large view of life and politics. Most of all, he had the essential gift of a leader: The ability to reconcile divergent views and find the common ground of agreement. Where lesser men could see only hopeless disagreement and deadlock, Hale could see a way. * * * There is no doubt in my mind", said the Senator, "That Hale would have become the next Speaker, and that he would have been one of the very best in our country's history."

Hale Boggs served this city, this State, and this country well for many years. He capped an illustrious twenty-eight year career as a Member of the House of Representatives when he was elected majority leader—the highest congressioanl post attained by a Louisianian since our State was admitted to the Union.

Hale was extremely active and influential in the legislative processes which led to the enactment of many lasting and important national programs. He was an able politician in the best and noblest sense of the word: It was through his ability to reconcile differences and resolve issues that he was able to secure the passage of many memorable pieces of legislation. Politics, as Hale often said, is the art of the possible.

William S. White said it best when he wrote of Hale:

"Under his leadership, divergencies of all kinds—regional, cultural, ideological, racial—remained only matters for rational discussion and disputation rather than spurting up into reasons for implacable infighting."

Hale was a national democrat—he supported the legislative goals of his party—but he never placed political partisanship above patriotism—to paraphrase one of the many well remembered Wilsons—what was good for the country was good enough for Hale.

It would be impossible today to review all of Hale's accomplishments as a member of the House. Some of the more important and interesting ones, however, should be mentioned.

One of the lesser known but more unusual pieces of legislation in which Hale had a hand was an amendment to the proposed 1970 Legislative Reorganization Act—an amendment which required the recording of teller votes in the House. The old show of hands ploy no longer works for bills in final passage in the House.

Hale was recognized by his peers as an expert on foreign policy and economics—he chaired the Subcommittee on Foreign Economic Policy of the Joint House-Senate Economic Committee; he served as a permanent member of the United States Delegation to the Inter-Parliamentary Union; he pioneered efforts leading to the establishment of NATO; he laid the groundwork for the creation of the Common Market; he authored the Foreign Investment Act of 1959.

As all of us know, Hale was a great supporter of free trade—starting with his days as the first executive director of International House; he formulated many trade agreements signed by this Government; he cosponsored the 1962 Trade Expansion Act; the General Agreement on Tariffs and Trade—GATT—was one of his pet projects, and he was one of the few who thoroughly understood its meaning; he authored the bill leading to the construction of the New Orleans tidewater channel; and he coauthored the Sugar Act—thereby saving the sugar industry in Louisiana.

On the domestic front, Hale participated in drafting and enacting many reforms in the Internal Revenue Code—particularly those affecting the community property States; he authored the revenue provisions of the Interstate Highway Trust Fund; he wrote the 1968 Flood Insurance Law; and he was a member of the Joint Committee on Internal Revenue Taxation for ten years.

Hale was always interested in the welfare of people—many of us may not remember that the first Federal program for the rehabilitation of drug addicts resulted from the adoption of the Boggs-Daniels narcotic code; his compassion and concern for the individual was shown in his successful efforts to extend social security benefits, his support of many needed public works programs and of the OEO program, his work in securing the adoption of the 1968 Fair Housing Act and, perhaps more poignantly, his leadership in defeating a proposed freeze on the number of children who would be helped under Federal programs.

Hale was willing to put his entire political career on the line when the time came to take a position on civil rights—specifically on the 1965 Voting Rights Act. After much soul searching, Hale took his position—he concluded—in his own words—that "The fundamental right to vote must be a part of this great experiment in human progress under which is America". As the first Congressman from the deep South who dared to endorse civil rights legislation, he took the floor during the debate on the voting rights bill following another deep southern Representative who had vehemently oppose the bill—and his speech probably persuaded the House to adopt the legislation. As the NAACP's Clarence Mitchell, Jr. said: "Hale Boggs is providing leadership to the Nation on (the civil rights issue)". Hale made a stirring speech on the House floor in support of the 1968 Fair Housing Act, and as a member of the National Commission on the Causes and Prevention of Violence, he spoke in clear and unequivocal terms of the need for racial justice.

One of Hale's colleagues once said "When Hale takes the floor, there is always order in the House." On April 22, 1971, Hale proved the truth of that statement—without telling his staff of his plans, for he did not want to give his associates an opportunity to talk him out of his intentions—Hale took a special order of business and held the floor for one hour before a packed gallery and a full floor of members who listened with rapt attention to one of Hale's greatest and most courageous speeches. I remind you—this was before Watergate—this was when J. Edgar Hoover was almost omnipotent—but Hale fearlessly criticized the creeping tyranny of Government and the consequent loss of personal liberty before the powers, prerogatives and privileges of the executive branch—he criticized the Congress for permitting this—and he particularly criticized the FBI for bugging congressional telephones, including his.

Hale Boggs, verily, was a man for all seasons—today Hale Boggs represents love, Hale Boggs is a wonderful memory, Hale Boggs is a mountain in Alaska and a skyscraper in New Orleans, Hale Boggs is truly a part of history—and these are the reasons all of us—family, friends and associates—have gathered here today.

Thank you.●

JAMES McGRATH: A LIVING LEGEND IN BROOKLYN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. SOLARZ. Mr. Speaker, a good friend of mine, James McGrath, was honored recently by being added to the Brooklyn Hall of Fame. Mr. McGrath is a distinguished journalist in our community; but, equally important, he is a noted community activist who works tirelessly and constantly for the betterment of Brooklyn.

I was delighted to participate in the ceremony which was conducted on behalf of Mr. McGrath. For all of us, however, it was a bittersweet celebration. Jim's wonderful wife, Joan Antlick McGrath, passed away a few weeks ago after battling a terrible and difficult illness. I know that all the attendees keenly shared his sense of loss at what would otherwise have been a purely joyous event.

Jim's newspaper, the Brooklyn Graphic, ran a thoughtful article on Brooklyn's "Living Legend." I thought it appropriate to have this article reprinted in today's RECORD.

Jim, we salute you.

The article follows:

[From the Brooklyn Graphic, Apr. 20, 1983]

A LIVING LEGEND

(By Larry Gambella)

I have always wanted to meet a living legend and I can honestly say that I have. The living legend is James McGrath. Jim is 51 years old and his 4 children: Barbara, 25, Stephanie Kobalka, 23, married to Paul; James, Jr. 10, and Rose, 8. These children reflect the McGrath quality of helping others no matter how small or large the problem is. They have been instrumental in assisting in the transition the McGrath's are experiencing now with the passing of Joan Antlick McGrath, Jim's wife.

James McGrath, recognized for his dedication to humanity by having his name enrolled in the Brooklyn Hall of Fame is the first journalist to enjoy this honor. How does a man achieve such meritorious recognition? Well, here is James McGrath: Man of the Year.

When asked why he has been instrumental is providing assistance to so many people, Jim answers, "I'm promoting the good news of the Lord." Jim is a journalist of acclaim and his life reads like a newspaper with its many facets and sections. McGrath is the editor-in-chief of Brooklyn's most popular weekly, The Graphic. He has edited and has been editorial consultant to the Home Reporter Chain (Bay Ridge Home Reporter, Sunset Park News, Park Slope News), the Courier Life Chain (Flatbush Life, Kings Courier, Bay News, Canarsie Digest), the Brooklyn Bulletin, the New York Recorder, and the Shore Record.

Let's take Jim McGrath's life and fictiously call it the "McGrath News." Here are those pages you are most likely to find.

In the Religious Organizations News section you will find news on Jim McGrath's activities in St. Mary, Mother of Jesus Holy Name Society, of which he is the president. Possibly it would include some news about Our Lady of Miracles Holy Name in Canarsie of which Jim was president. Jim would also include news about the J.C.H. and local temples and synagogues, where he is a friend. McGrath is the former chairman of District 8 of the Diocesan Union of Holy Name Societies.

Turn the next page of the newspaper and read about the projects and work being accomplished in the Bensonhurst and Bath Beach area by Kiwanis International, and as an active member, Jim is involved in those worthwhile projects.

On the medical news page you will find Jim's name on the Coney Island Hospital Advisory Board and as Director of the Joan A. McGrath Foundation, the much needed project begun by Jim's wife, to raise funds for a CAT scan for Coney Island Hospital. He also is on the Kings County Health Care Review Organization Board.

Flip to the next page and read about what is going on with the American Legion. McGrath is a member of the Sgt. Bealin Post American Legion and has been a Judge Advocate of the Cummings Brothers Post. Jim has also served his country in the Korean War and was Honorably discharged in 1959.

Police Precinct news is next and again we find the McGrath name being dropped. As a past president of the 67th Precinct Community Council and one who is called upon for various activities by the 62nd Precinct in the area, Jim McGrath's guidance and experience make him the "Answer Man" in many areas requiring expertise.

To insure that current and concise reporting will be the standards by which the "McGrath Newspaper" will function, Jim conducts workshops in writing press releases for schools, colleges, and civic organizations.

Then on the the Awards page. Indefatigable work and accomplishments are not always passed over by sometimes ungrateful people. Jim has received a portion of gratitudes and thanks for his time and energy, although not enough to match the work he has done. For instance, in 1969 he received the Diocesan Union of Holy Name Societies Convention Award. In fact other awards include citizens for a Better Brooklyn, 1971; Catholic War Veterans, 1971; American Legion, 1971; The Mayor's City Certificate of Appreciation, 1973; 67th Precinct Peerless Leadership and Service, 1972 and 1973; Reverend Martin Luther Memorial Award for Outstanding Community Service, 1980; Bensonhurst Independent Democrats for "A humanist whose entire life is a living symbol expressing his love for all people and their cultures," 1980; Seth Low's Martin Luther King Community Service Award, 1979; Ryan Repertory Award for Support of Cultural Arts, 1982; National Sorority of Phi Delta Kappa Theta Chapter Honorable Mention, 1965; and so on, and so forth. Now you can understand why the name "McGrath" is a household word in our community.

As you probably guessed, the Editorial page follows. When asked what the future for Jim McGrath will be like, Jim answers, "As much as I may not welcome it, I think I have a responsibility to follow up on Joan's Cat Scan Drive and, of course, my chief concern is for my children, and for our church and our community."

But why is Jim McGrath such a concerned, caring individual? "I guess it's because of my parents, Mary and James. They taught us to help any person in need and to be considerate. St. Theresa of Avila School stressed that too when I was a boy. In fact, you can check with Sister Jean Alice, my fourth grade teacher, who resides at St. Mary's." My brothers and sisters learned the same lessons. My brother, Billy, is the head of an art gallery and his aim is to promote the talents of local artists. My sister Joan is active in church and community groups which serve her neighborhood. Jack is a vice principal in a high school in Florida and Mary belongs to the Marianist League, 67th Precinct Council and the Cat Scan Foundation."

Jim McGrath continues to editorialize when he tells who Jim McGrath is. "A friend of people. He'll do what he can to help someone else and to help his community. His recognition and awards attest to his service. He uses journalism as a tool to help others because he is one human being who cares about other human beings. James McGrath is a teacher who is concerned about kids and he had the reputation of being the toughest teacher kids have ever had. It is McGrath's feeling that youngsters want to have standards—and they want to know what those standards are. My students have entered all fields and all endeavors. My advice has always been to be the best you would at whatever you want to be and call on me for any help I can give."

But like any great newspaper man, there comes a time when, you plan your retirement to reap the harvest of your toils and enjoy the deserved rest and relaxation. When does James McGrath expect to retire? "I won't retire because of my 8 and 10 year old children who'll make sure I don't retire. The children are bright and I'll do what I have to do to make them successful. These are great children and supportive—I can't let them down."

Has the legend, Jim McGrath, had any disappointments? "We're not always able to deliver—but we have to try." Simple, but it says it all.

We turn the last page of the "McGrath News" and we have learned many things about a living legend who has served many people in his work as chairman of civic, political, social, business, labor and industrial communities; as a member of Mayor Lindsay's School Task Force, Urban Action Task Force and Office of Neighborhood Government; as director of federally funded antipoverty programs; as manager and consultant for political campaigns; as teacher of social studies and journalism; as dean of students; as advisor to school publications and clubs; as recruiter and trainer of personnel; as developer of community relations programs; as public speaker; as instructor of experimental educational programs; as in publication productions; as editor of community newspapers; as developer of labor union strategies; as public relations person; as delegate to many unions; and most of all as a loving human being.

Call it a vocation, but truly, Jim McGrath has earned a reputation as a pillar of society and a bulwark and a living legend but these are mere words which Jim McGrath has transformed into action. Don't talk of race. Don't talk of creed. Don't talk of personal philosophy. It matters not to Jim McGrath—what matters is that you are human, you are in need, you are a friend, you want to help and you are sincere. Is James McGrath asking for too much or do we feel that too few of us can deliver? We need each other and we have one another and we love one another. That's what we have learned from the example of James McGrath, the living legend. Thank you.●

IMPACT OF H.R. 1760 ON NATURAL GAS PRICES EVALUATED

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. DANNEMEYER. Mr. Speaker, the Subcommittee on Fossil and Synthetic Fuels has completed its exhaustive legislative hearings on natural gas. The next step is for all of us to closely examine the many options now before the Congress. Clearly part of that process entails the impact of any proposal on the price that interstate pipelines will pay for natural gas.

In this connection, I would like to share with my colleagues an analysis by the Federal Energy Regulatory Commission based upon the extensive data which is filed with the Commission on natural gas transactions. The data was presented by FERC Chairman C. M. Butler III before our subcommittee on Wednesday, April 20, 1983. Butler stated that, "On average, the administration's proposal should reduce gas costs by 20 cents to 35 cents per Mcf in the short term."

Table 2 of Butler's testimony broke down the estimated impact on price for each of 19 major interstate pipelines. In this manner, Members can gage the results for the pipelines that serve their respective regions of the country. It is important to point out, as is noted on the table, that there will be an extra cost savings of 7 cents per Mcf due to the reduction in take-or-pay levels to a maximum figure of 70 percent, as provided for in H.R. 1760.

In addition to the FERC data, I would also like to bring the analysis of the General Accounting Office to the attention of my colleagues. In response to a request by the chairman of the Committee on Energy and Natural Resources in the other body, the GAO looked at prices and supplies of natural gas under current law and under the administration proposal. Prices will be lower for each of the years from 1983 through 1987 under the administration reform package. This should be useful information as the debate on natural gas policy moves forward.

Both the FERC data and the GAO report confirm the soundness of H.R. 1760, the Natural Gas Consumer Regulatory Reform Act of 1983, as the framework within which to act on natural gas issues. While other items should be added to it in order to directly address gas imports and contracts between pipelines and local utilities, it is the overall approach that is important at this stage.

Mr. Speaker, I would like to include the FERC data and the GAO information in table form at this point in the RECORD:

PRICE AND SUPPLIES OF NATURAL GAS UNDER NGPA AND S. 615, 1983-87

[Price [1] (1982 dollars per thousand cubic feet)]

	1983	1984	1985	1986	1987
NGPA	2.70	2.98	3.40	3.58	3.76
S. 615	2.43	2.58	3.28	3.56	3.71
Difference (NGPA-S. 615	+.27	+.40	+.12	+.02	+.05

QUANTITIES SUPPLIED AND DEMANDED

[In trillion cubic feet]

	1983	1984	1985	1986	1987
	Supply/ Demand	Supply/ Demand	[2]	[2]	[2]
NGPA	19.2/18.3	18.7/18.1	18.3	18.0	17.7
S. 615	19.1/18.6	18.4/18.6	17.8	17.3	17.0
Difference (NGPA-S. 615	0.1/-0.3	0.3/-0.5	0.5	0.7	0.7

[1] National average wellhead price includes section 110 costs, severance taxes, and other taxes.

[2] Supply and demand are equated in 1985 and beyond as the gas market is substantially decontrolled.

Source: General Accounting Office.

ESTIMATED IMPACT OF ADMINISTRATION PROPOSAL ON MAJOR INTERSTATE PIPELINES

[Dollars/Mcf]

REDUCTION IN GAS COSTS

	1983		1985	
Pipeline	Current oil prices. Gas cap—$2.50	$25 per barrel oil price. Gas cap—$2.00	Current oil prices. Gas market-clearing price—$2.90	$25 per barrel oil price. Gas market-clearing price—$2.40
Cities Service	0.18	0.30		
C.I.G.	.16	.29		
Columbia	.24	.42		
Consolidated	.10	.17		
El Paso	.21	.41		
Florida Gas	.12	.21		
Kansas-Nebraska	.12	.24		
Michigan-Wisconsin	.18	.32		
N.G.P.L.	.16	.28		
Northern Natural	.23	.41		
Northwest P.L.	.13	.28		
Panhandle Eastern	.11	.23		
Southern	.26	.43		
Tennessee	.22	.36		
Texas Eastern	.11	.19		
Transco	.11	.31		
Transwestern	.40	.64		
Trunkline	.18	.34		
United	.27	.46		
Average	0.20	0.35	[1] 0.47	[1] 0.97
Extra cost savings due to reduction in take-or-pay to 70 percent	0.07	0.07	0.08	0.08

[1] 1985 projections for individual pipelines are not available. Totals reflect 1983 sales volumes and the following assumptions about prices: Section 107 gas equals $5 per Mcf in 198; section 102 gas escalates at 4 percent above inflation; all other categories escalate at a 5-percent inflation rate.

Source: Federal Energy Regulatory Commission.●

THE 125TH ANNIVERSARY OF THE LEHIGH SAENGERBUND

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. RITTER. Mr. Speaker, this year marks the 125th anniversary of the Lehigh Saengerbund in Allentown, Pa. On Saturday, April 23, I will have the honor of participating in the festivities to commemorate this historic event in the organization's long and proud history.

Few organizations have stood the test of time as grandly as the Lehigh Saengerbund. Beginning as a small group of men whose purpose was to retain and foster their traditions, customs, speech, song, and ideals, the group has grown over the years and has become known as an organization dedicated to the betterment of our community and Nation. The solid brick building at 5th and Oak Streets that houses the Saengerbund epitomizes the iron will of the men who founded the organization in 1858 and the many more who built upon that foundation. Their desire to serve their fellow man and promote their heritage is something that we can still learn from today.

Promoting culture and traditions was only part of its service to the community. Their hearts were always open to anyone recently arrived from the old country. The hand of friendship was always extended and their door was always open. Any newcomer to America, homesick for the motherland, could stop by the Saengerbund for a feeling of the life he left behind. But few were homesick as the whirlwind of activities from dancing and singing to summer picnics at Dorney Park brought many families together both in marriage and friendship.

The first 50 years were heady ones as increasing German immigration helped to swell the ranks of the Lehigh Saengerbund. However, as the dark clouds of war spread through Europe and the conflict between the United States and Germany became imminent, many feared that war fostering an anti-German feeling would bring to an end the beloved Saengerbund. To offset any wrong feelings, the men of the Saengerbund publically reaffirmed their allegiance to the United States and willingness to fight against the Kaiser. Many men answered the call and served with gallantry in the trenches of their homeland. And after the war, the Lehigh Saengerbund emerged stronger than ever.

During the interwar years, the Saengerbund organized a soccer team which eventually became known as the Allentown Sports Club in 1951. In 1952, they celebrated their first championship and over the past 30 years have added three more. Other changes occurred too. In 1930, wives were allowed to directly participate with the result being the formation of the Ladies Chorus of the Lehigh Saengerbund. Later, in 1937, the newly remodeled Saenger Hall, rathskeller, and new bowling alleys were dedicated.

With the end of World War II and America's increased mobility, the Saengerbund singers traveled throughout the eastern seaboard and have, until the late seventies, taken annual group trips to Germany. In addition, the Saenger Hall has been witness to many visiting groups and dignitaries from Austria And Germany. Each year, the Saengerbund celebrates its anniversary with a gala concert event.

Our community is rightly proud of the achievements of the Lehigh Saengerbund and hope they will continue to work hard to better our community and preserve their right and beautiful culture. This year is an important year for all Americans who trace their heritage to Germany. In addition, to the 125th anniversary of our Saengerbund, celebrations in Philadelphia will mark "300 years of Germans in America." The importance of this year for all German-Americans is all fitting as they have singly, and as a group, made important contributions to the greatness of our Nation. It is my high honor to congratulate you on your past achievements and wish you all the best in the future.●

CONGRESSIONAL SALUTE TO HON. THOMAS J. DUCH, ESTEEMED MAYOR OF GARFIELD, N.J., 1983 "MAN OF THE YEAR," BOYS CLUB OF GARFIELD

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. ROE. Mr. Speaker, on Saturday, April 30, the residents of Garfield, county of Bergen, my Congressional District, and State of New Jersey will join together in testimony to an esteemed mayor, outstanding community leader, and good friend—Hon. Thomas J. Duch of Garfield, N.J.—whose standards of excellence throughout his lifetime have earned him the most highly coveted distinguished citizen's award of the Boys Club of Garfield—the Man of the Year. I know that you and our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations to Mayor Duch upon receiving this citation of merit for his leadership endeavors on behalf of our young people.

Mr. Speaker, the Boys Club of Garfield is one of our Nation's most prestigious affiliates of the Boys Club of America. We are all familiar with the noble traditions of the Boys Clubs of America and their outstanding public service to the people of our Nation in helping our young men to achieve leadership qualities of self-reliance, character building, sportsmanship, fair play, and eagerness to serve others. Their deeply committed endeavors in exercising measures to keep America beautiful and attain greater communion and understanding in friendship and goodwill among all mankind are a significant investment in the enrichment and excellence of the quality of our way of life here in America.

Thomas J. Duch has by his example and lifetime of dedication to these same true American ideals personified exemplary leadership in his outstanding responsible service to our people which has truly enriched our community, State, and Nation.

Mr. Speaker, our man of the year Tom has brought great honor and prestige to the city of Garfield and we are particularly proud of his compassion, dedication, and untiring efforts on behalf of our young people. His personal commitment to the economic, social, and cultural enhancement of our community is applauded by all of us. When he was elected mayor of the city of Garfield in May 1981 for a 4-year term, he was the youngest mayor in the history of Bergen County.

Tom was educated in the elementary and secondary schools of the city of Garfield. His high school activities included membership in the parent-teacher student association, class council, youth board of education, key club, track team, and National Honor Society. He was president of student government, coeditor in chief of the high school yearbook, Retrospect; reporter on the school newspaper, the Quill; student representative on the coordinating council of school associations; as well as band announcer-narrator.

In his extracurricular activities in college he was president, prelaw society; representative to regional prelaw conference of Lehigh Valley Colleges and Universities; coordinator, freshman orientation program for college of arts and sciences; trustee, International Relations Society; and editor, prelaw society newsletter.

While in law school, he was student senator, student bar association; member, international law society; and member, orientation committee for first year student programs.

Mr. Speaker, in addition to having been elected the chief executive officer of the city of Garfield, he serves as a member of the planning board, the library board, the New Jersey Mayors Association, the New Jersey Conference of Mayors, St. Michael's Cathedral Building Committee, and the Bergen County Community Development Committee. He is also secretary of the West Central Bergen Mayors Association.

Tom has served on the Garfield Bicentennial Celebration Committee and the Garfield Drug Abuse Action Committee. He has also served as C.C.D. instructor and as C.Y.O adviser, SS. Peter and Paul Byzantine Catholic Church, Bethlehem, Pa.; and as president of the C.Y.O. of St. Michael's Byzantine Catholic Cathedral, Passaic, N.J.

Some of his additional affiliations with professional and civic organizations and in public service to our people include: Central of Polish Organizations, Pulaski Parade Committee, Russian Club, Italian-American Forum of Lodi and Garfield, St. Ciro Society, St. Anthony Society, G.H.S. Drama Club, National Honor Society and Sports Program, Boys Club, Girls Club, Garfield Day Nursery, and Passaic Valley Council of Boy Scouts of America.

Mr. Speaker, the fulfillment of the purpose, goals, and aims of the Boys Clubs of America could not be achieved without the leadership of people like Mayor Thomas J. Duch and the strong team effort of volunteer and professional leaders of our communities who participate unselfishly and willingly of their busy schedules in passing these sterling traditions along to our youth of America.

It is with great pleasure that I take this opportunity to call your attention to this year's recipient of an award of excellence that expresses appreciation for the untiring, unselfish, herculean efforts of a highly compassionate individual. We do indeed salute an outstanding individual, esteemed mayor and great American—the Boys Club of Garfield's Man of the Year—Hon. Thomas J. Duch.●

TWO WOMEN WHO CARED

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. COURTER. Mr. Speaker, as Americans, I believe we must have a special remembrance for the members of our Armed Forces—both living and dead—those valiant men and women who have fought to preserve the many freedoms all Americans enjoy.

I think it is fitting, then, to honor our brave and patriotic countrymen. During the month of May, there are 2 days of observance: Armed Forces Day, May 21 and Memorial Day, May 31.

However, at this time, I would like to mention two women from Stirling, N.J., the late Marie Metzler and Mrs. Edna Burbach, who have shown exceptional concern and dedication to the members of the armed services.

Every Memorial Day since World War II, these two women would place flowers at the World War I memorial in Stirling. Although Miss Metzler has sinced passed away, and Mrs. Burbach has moved to Florida, the tradition continues. Mrs. Burbach sends money each year to buy flowers for the memorial.

As a teacher in the Gilette grade school, Mrs. Burbach encouraged the students to become involved in remembering holidays such as Flag Day, Veterans Day, and Memorial Day. I might also add that neither of the two fine women had children in the services, nor did they seek recognition for their efforts.

The Passaic Township American Legion Post 484 normally honors those who serve in the armed services. Instead, the members have chosen to honor two women who cared—Marie Metzler and Edna Burbach, and I am pleased to have the opportunity to participate in this memorable tribute.●

ORPHANS OF THE RECOVERY

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. AuCOIN. Mr. Speaker, many years ago grass seed growers in my Congressional District in Oregon, in the Willamette Valley, made an interesting discovery.

After harvesting the seed, they left the grass straw in the field to dry, and then set the straw on fire. The flames destroyed the useless straw, so in the spring the crop regenerated itself, growing tall and strong.

I was thinking about this as the economy begins to send new sprouts through the scorched earth of the recession which is, in my State, a depression. There are those who see the economy regenerating itself and I sincerely hope they are right. But this comes as no consolation to millions of Americans who are out of work and out of hope.

They are not the chaff on our economic landscape. But they are in desperation. As we here renew the debate over our economic priorities, their voices deserve to be heard, and heeded. I want to share with you all an article from the April issue of Oregon Magazine "Orphans of the Recovery," in which a furnace operator, a sawyer, a tuna skinner, a steelworker, and a planerman tell their stories.

[From the Oregon Magazine, April 1983]

ORPHANS OF THE RECOVERY

(By Ken Doctor)

These hands are idle. Deeply creased, well worn after more than 5,000 shifts. Workingmen's hands, without work. The hands of lifers, solid citizens, working stiffs, the backbone of Oregon's resource-rich economy. These hands are folded upon one another, waiting. These hands grasp one too-frequently. These hands clench in accusation. These hands upraise, asking why.

Oregon's recovery has apparently begun. After three to four years of what can only be called a depression for residents of much of the state, signs of the upturn are eagerly reported. The President himself, after carefully keeping out of Oregon for quite a while, has made a special trip to proclaim the happy days to come.

Even so, as this economic downturn was unlike others in the state's history, so will be the recovery. This recovery parallels a profound transformation in the American economy, a massive change in the nature of production and work itself. Because of this transformation, Oregon will not simply be picking up the pieces and returning to boom times of the seventies. While all of us will be touched by the transformation, one can see it most clearly in those the recovery is leaving behind, the older workers, left grinding in the gears of the great economic machine.

"These people played the game by the rules and now they are stuck," says University of Oregon Professor Ed Weeks, a social ecologist, who is studying the impact of the state's economic changes.

Stop in at the Halfway Tavern, Ted's Diner, Donna's Hairdoes or along Hard Cash Road or the thousands of other byways of rural Oregon, and you hear the stories, stories of the older generation of workers whose well-planned futures have gone up in smoke. Those who put in their time at the plant, raised their kids, own their modest homes and are now prisoners of their own success.

"You have what are called lifers and floaters," says Weeks. "That's how the wood products industry adjusts to changes. Floaters know the best thing to do is to leave in hard times. Lifers try to wait it out, with seniority. That strategy has tragic consequences when the mill does not reopen. By the time they recognize what's happening, it's impossible to sell their house."

The floaters left Oregon months and years ago, off to Oklahoma City, Houston and Rock Springs, Wyoming, intending to tap into the boom energy industries, which now too have hit the skids. Some have returned, believing that if they're going to be unemployed, they might as well be idle in their home state.

And the lifers have run into a bewildering set of circumstances that have changed the economic landscape.

Consider the markets for traditional products. Higher interest rates and lower birth rates have meant a lower demand for housing. "Realistically, I don't think we'll reach two million housing units again. Even if we do, we'll have smaller housing units and multiple-family housing, which account for less lumber," says Brad Witt, researcher for the Lumber, Production and Industrial Workers union. While the American market has shrunk, the Asian market has offered fresh opportunities. But many mills have been unwilling to move fast enough to meet the demands for higher quality and different lumber dimensions, unwilling to break out of the "2x4 mentality." Similarly, the demand for Oregon's minerals has declined, as has the demand for canned fish, once the basis for a mainstay industry of Oregon's Northwest Coast.

But, of as much importance, especially in the future as markets perhaps improve, is industry's relatively new and intensive concern for productivity. Oregon's $10-an-hour jobs are being exported overseas to Asia and Latin America, where workers will work for one-fifth as much, or to the southern United States, where workers, often not union members, work for as little as half of Northwest workers' pay. At the same time, the mechanization of routine production techniques—the introduction of high technology to factory work—has reduced the number of jobs required. In fact, it's estimated that a million dollars in investment only produces half as many jobs as it did five years ago.

These changes—both in markets and production—began well before the economic downturn, but the downturn threw their impact into high relief. In Oregon, plant bankruptcies and plant closures proliferated. The workers in Oregon's wood products industry, which has since the state's founding practically defined its character, were joined by steelworkers, apparel workers and cannery workers in the unemployment lines. They joined a group composed nationally of assemblers, mechanics, painters and welders, employees of the old-line industries of the industrial North. Over the last three years, blue-collar jobs in the U.S. have declined 10 percent, while white-collar jobs have increased 5 percent.

While some of those associated with the old-line industries—clerical workers, bookkeepers, salespeople—can use their skills in new job areas, more than a million Americans find themselves "dislocated." The new word of federal bureaucratese means simply that a person's working life has outlived the need for his or her skills.

In Oregon, the first problem is assessing the damage. Says Portland-based Brad Witt, "These are the hidden faces. There's a big question mark there. Their plants have closed. We don't know how many have moved to Oklahoma or into the forest to poach deer to bring food to the family table. I walk down Burnside here and there's a lot of people missing a part of their lives, and you don't know if they've lost a job or what."

Looking at some raw numbers, we do know that Oregon had some 80,000 manufacturing jobs in wood products in 1978-9, the peak of the boom. State projections show that Oregon won't get back to the 70,000 level for two more years—and won't increase beyond that over the subsequent five years. Other old-line industries may take until 1990 to reach 1978 levels, if they reach them at all.

So who are these thousands of dislocated workers? While the floaters may have the flexibility to move into other lines of work and the younger workers the time to learn new skills and be part of a new industry's workforce, it is the older worker who bears the disproportionate brunt of the dislocation. One of the reasons is the structure of the wood products industry, in which workers hold seniority only at the plant level. Even if an employee has labored for one company for a quarter of a century at a plant now closed, he has no seniority—and no priority—at another of the company's plants. In fact, his experience, or really his age, is a liability. He tends to be at the top of the pay scale, while younger workers will be earning less per hour and may be more interested in adapting to the changing demands of the workplace of the future. No one has an absolutely reliable count of plants that have closed permanently or of the numbers of workers left without seniority in the game of workplace roulette. But the number of plants at least approaches 100 in Oregon. That translates into thousands of older, dislocated workers, who have gained less physically demanding jobs and now find themselves unable to pull the green chain and perform other strenuous duties even if such jobs were offered.

And the jobs aren't being offered. Ed Weeks points to Oregon studies that show that older workers, affected by closures, are much less likely to find comparable employment, and the stories you hear around the state bear this out.

"I took in my unemployment slip to the mill and applied, and they signed it and said 'no job'," says Lee Walker, a fifty-nine-year-old Reedsport millworker with thirty years of experience. "Before I went out the door, they hired four young guys." Walker has filed an age discrimination suit.

"These guys thought it would be thirty years and out, and they'd be in hog heaven," says Don Millburn, an unemployed Coos Bay millwright. Thirty years of work and age sixty-two were the magic numbers many workers looked forward to. For those who didn't make it before the plant closed, economic uncertainty is something they've learned to live with.

Certainly there has been a safety net, no matter how tattered and torn it is, that separates the early eighties from the thirties. Yet some older workers are not eligible for a pension; others could take half their expected monthy draw—perhaps $250 to $300—now, but they'd have to be content with that for the rest of their lives. Then there's the promise of Social Security for those who can make it to sixty-two without financial devastation. Complicating the picture for these older workers and their spouses is the high cost of maintaining individual health insurance—many can't and realize that one lengthy hospital stay will wipe them out. Unemployment insurance has helped tide people over, but for some, benefits have run out. "They run out of benefits and people look at them as if they're deadbeats," says Bettie Torres, secretary of Roseburg's International Woodworkers of America local.

That link between financial and emotional well-being is a key one. Speaking at a plant closure conference, Burns Mayor John Houck made the connection:

"I am going to go back to 1980, when the Edward Hines Mill was still running. In 1980, the mill was operating at its peak and employed 912 people. Burns had a population at that time of 3,571 people. The mill was the major employer, with its sawmill and logging crews. Today, they employ 272 people; that is as high as they will ever go again. We have lost over 600 jobs that will never return to that plant.

"Our population has decreased from 3,571 to 3 102. . . . We have more vacant houses, and everything in Burns is for sale. . . . Our tax collection rate is very low because of the high rate of unemployment. The official unemployment rate is 23 percent, but the true figure is more like 37 percent. . . . You have taken away a lot of pride from our people, which will cause them to be scarred for life. We have had a tremendous upturn in alcohol consumption; we also have a tremendous upturn in the divorce rate. . . . I personally know of five couples in Burns where the husband lost his job and the wife became the primary breadwinner. The husbands left for Nevada three or four months later to work in the mines. Now they are suing their wives for divorce. All at once they have a little security, and they don't ever want to be reminded of when they lost their pride and were no longer the primary breadwinner. It's just heart-sickening to see this."

Adds Jerry Brown, a Portland mental health therapist who has worked with both labor and industry on the problems of dislocation, "It's like a divorce. The issue of 'giving them my youth.' The immense anger. After all, this dreadful depression. They're angry. They're guilty. People say, 'I should have known this would happen.' "

In addition, there is abundant suspicion. Talk to the older dislocated worker and you hear about manipulation of the unemployment statistics, of aliens unfairly receiving Social Security, of the employment service's own age discrimination procedures, of inflexible community college training programs, of the raising of Social Security retirement age. If it is a kind of paranoia, it is understandable.

So what do you do with the wounded veteran of old Oregon to prepare him for the computer age? It's a hot question in government. The federal government's first major initiative is called the federal Job Training Partnership Act (JTPA), the first of President Reagan's "New Federalism" programs. Dubbed "son of CETA," the program will kick $3.5 billion a year into state governments, about $30 million of which will come to Oregon, beginning this fall. About $1.2 million of it is slated for the "dislocated." But no one yet knows *how* it will be used.

Gov. Vic Atiyeh has appointed an eighteen-member policy-making board to allocate the funds, and it is currently setting up shop. But already there are political disagreements.

Only one labor representative is on the board. He is Mike Wooten, business agent for the carpenters union in Roseburg. Wooten, a Republican, ran a losing effort against incumbent Mary Wendy Roberts for the Bureau of Labor and Industries Commissioner job last fall. Roberts, herself, is not on the panel.

Says Bob Baugh, state AFL-CIO secretary-treasurer and one of the state's most articulate economic-development opinion leaders, "We would obviously be the people to talk with. He [Wooten] was appointed with no consultation of organized labor." Why didn't the state consult with AFL-CIO? Answers Donna Barnhard, a JTPA staffer and member of the Governor's Executive Department, "It was a passive oversight that will be corrected."

Little has been done in the retraining field in the state. Chemeketa Community College in Salem, though, is six months into a high-tech training program for laid-off Boise Cascade workers. Nationally, some major corporations and some unions have begun setting up permanent programs for dealing with the ongoing problem of dislocation. And the problems will be ongoing. Even the rosiest economic forecasts talk about a 7 percent unemployment rate in 1986, and the changes caused by mechanization and robotization will mean more dislocated workers over the next twenty years, at least.

The most frequently voiced panacea for blue-collar dislocation is high tech. Can high technology continue to grow and produce more and more jobs? What kind of jobs can it offer?

"These are low-wage jobs," says Brad Witt. "We'd be replacing a $10- or $11-an-hour job with half as much pay. The person suffers, the family suffers, and the state settles for less in income tax." Ed Weeks wonders about the other growing part of the economy—the "service" sector. "Take Tex, the old-time logger, who gets a job in a restaurant. It's unlikely to see Tex swagger up to a table and pop a cork and ask whether he can let the wine breathe for a while.

Among other suggestions are the establishment at Oregon State University of a research center on developing new wood products—and new jobs—for the twenty-first century and a government program to ease the transition of mills from producing products for the domestic market to internationally desired goods.

Numerous and fundamental questions are involved here. First must come an acknowledgment that in a fat and happy society, the players involved—corporations, government and unions—were either unprepared, unequipped or unconcerned to deal with the problems we now face. Now, even with rising unemployment, the problems will remain and may intensify as Hyster shuts down in Portland and 13,000 aluminum industry jobs hang in the balance of the regional energy controversy.

As Oregon follows the national trend away from a resource-based economy to the service/high-tech one, the problems will not automatically be solved.

This may be a breakthrough to the much-vaunted, post-industrial leisure society, but many in Oregon and elsewhere are being caught in the transition. This is unlike the last major redefinition-of-work unheaval—the Industrial Revolution. Millions were thrown off farms, but there were jobs for them in the cities.

Says Weeks, "We are going to have a substantial part of the populace for whom we are not going to have work. Society is going to have to rethink the idea of work."

For the dislocated workers, the questions are what can they now do and who will pay them how much to do it. Are early pension plans the answer; if so, who will subsidize them? Who will cover health care costs, especially for catastrophic illness?

Then, lastly, there is the moral question. What do we owe them? What do they owe us? Economists look at the labor force as "human capital." But that term masks the suffering involved.

Concludes Ed Weeks, "Unless you put it before people, they try to wish it away. There ain't much of a constituency for these people."

TUNA SKINNER

(Hedy Kiminki, 60, Tuna Skinner, Bumble Bee Seafoods, Astoria. Last Worked Regularly, January 1980.)

I worked there twelve years. I was just a tuna skinner. I wished I had a nickel for every one I skinned. More than 400 people worked there. There's no more tuna plants around here. I worked picking shrimp, but that doesn't last too long either. I'm no filleter. That's kind of a new technique. I getting too old for the new techniques. They'd rather train somebody that's good for ten years, and I'm not.

My son worked at the plant, too. He's unemployed and he's waiting just like I am for shrimp season to open up, to be called back for Astoria Ocean Foods. Fresh and frozen, April to October, overtime and all that garbage, but you've got to make it in that short period of time. He doesn't have a choice in the matter. It's a good thing he has a wife that's working, because if he didn't—his unemployment dropped from $125 down to $51. He's got two little kids at home. He's up a creek without a paddle.

I make $6.10 an hour, but it's either feast or famine. I've lived here in this town now for thirty-six years. My husband grew up in this town. So what's the use of packing up and leaving? Where else are you going to go? I'm not going to California, they got enough trouble.

My husband retired from the Coast Guard thirty years ago. We live off of his pension, and he's seventy-three years old. So he has Social Security and we have that kind of income. But if something happens to him, I'm going be up a creek without a paddle.

I don't have any health insurance because I haven't worked enough. But I'm covered by Uncle Sam, because he is retired, so I'm covered by that, unless I get sick here in town, because there's no place for me to go here in town.

Something's gotta give someplace. Everything's gone to pot. It's bad all over. I have one daughter in Bend. She says it's bad over there too. But the fishing season is bad here. They haven't been catching any fish either. By the time you get through paying for your license and all that stuff, and you don't have any fish, you're in debt. I went through one depression already. I don't want to see another one. During the last depression, when you had a dollar to spend, at least you could buy some groceries. When you got a dollar now, you can't buy anything. What can you buy for a dollar? I was married in '36, and good God, you got your pork chops for two bits a pound, hamburger was two bits a pound and you could feed a family on a couple of bucks. But you can't no more.

FURNACE OPERATOR

(Alfred Jones, 58, Melting Furnace Operator, Hanna Nickel Company, Tri-City. Last Worked, March 1982.)

I worked there twenty-seven years. We had four melting furnaces. We poured 'em every thirteen minutes. I just seen that everything was okay with them, power input, checking the water, slipped the electrodes, relieved the mixer operators for lunch and so forth.

I was on the negotiating committee. We had a short strike. But we went back to work. They told us they were in trouble then. But when we met up at the motel, all the executive board, they wanted to take everything. They wanted to slash us to the bone. We said, 'Can we have some kind of work guarantee if we make some concessions?' No way. This negotiator for the company got a call during the meeting and said, 'Gentlemen, that's it.' In a day, they started shutting down. There were about 500 at the plant. There's a big percentage of people who started when the plant started. There's quite a few over fifty-five that got twenty, twenty-five years of service and more.

I did get four days in December. A friend of mine had a little drywall work to do, I made $96. I enjoyed it. But there's a lot of guys who could do it. They naturally hire younger people. I had a heart attack ten years ago. You put down about cardiovascular problems and that's it. I only had one guy really get grumpy with me. I just stood there and looked at him. I asked him for work and he got snotty about it. Thirty years ago, I'd have got him outside and worked him over.

If a guy would get enough training to get a job to subsist until sixty-two and some medical, it would be enough for older people like me.

Now I'm in a hell of a fix. I've used some of my savings, $600 a month, utilities and gasoline to hunt work. I've got a twelve-year-old boy. He's into sports. I want to give it to him as long as he can get it, you know. My big goddamn worry, that's medical. I could be wiped out in two days, maybe one. My blood pressure's gone up. My medication's doubled. I get up two, three o'clock in the damn morning. I get out my calculator, and figure this, figure that, to see how I can make it till I'm sixty-two. You plan on something all your life and all of a sudden, it's turned over.

You'd be surprised at the damn phone calls I get here from the younger guys, who are getting unemployment and food stamps and medical. They're desperate. They just can't make it. I had a good friend who shot and killed himself. He was number one on the seniority list. He was in good health. But he couldn't face it. He was my age.

I remember the Depression. My dad worked for an oil refinery, he got laid off and went back to California. My grandmother and grandfather, they were on WPA, they got canned food and stuff. Early in the morning when my momma would make up an extra plate of biscuits and the hobos would stop by and my mom would give them some. She'd have wood to chop or something they could do. They were people who were just like I am now or will be soon. But I'm not going to do that and neither are a lot of these other people. This government better realize it. We're starting to get mad.

SAWYER

(David Mickelson, 56, Head Sawyer, Cape Arago Lumber Company, Coos Bay. Last Worked, April 1980.)

I worked there since May of 1946. You don't step into the head sawing job overnight. I pulled on the planer and green chain, worked on the resaw and the whole thing.

It employed 160, 170 people, a two-shift operation. It's an old mill, over 100 years old, probably the oldest one on the West Coast. This company is private owned. They make a profit, they put it into their pocket. They don't put nothing back into the equipment. That equipment's been there for a lot of years.

It didn't hurt them to stop and close that operation for a few years until things get back again. They go crying for relief and extensions. What extensions did we get? I would say we didn't have more than two weeks notice.

What money we had in our bank account is going pretty fast. I'm gonna have to find something. I'm about to the end of my rope now. I'm to the point now that I'm keeping up my medical insurance and that costs $190 a month. I'm gonna have to cut it back. A person does that and then something will happen.

I'm not eligible for a pension until sixty-two. I went to work in January under this Green Thumb program. It goes through the unemployment office and it's for people fifty-five and older. It's through the federal government. You only work twenty hours a week, minimum wage, for nonprofit organizations. I'm working for the Charleston Fire Department. I started the 17th of January. It's $3.35 an hour. I was getting close to $12 an hour. You have to do something or a guy goes crazy.

My wife doesn't work. I worked nights all the time, you see. She did work when we were first married. When I got the night job sawing, that was no good. One would be home, the other would be gone.

We can't even go out here and plant trees. The wetbacks are doing that. Out there in the woods isn't that pleasant a job, but every job has its ups and downs. I could do it. It's pretty darned hard for a person to pull up stakes and move out. If I sold my house, I'd have to buy another one. I've lived here most of my life. I couldn't see how it would be feasible unless a person really had something that was going to work for him.

Lots of 'em from the plant have left the area. Some of 'em are down in Texas, six or eight of 'em in one group down in Texas. Some in Utah, California. Those in Texas were working in the oil fields. One guy called me last May, told me they were all laid off. They just quit drilling. The oil companies, you know, you never know about them. Some of the guys came back for a short period, then left again. Right now, Weyerhaeuser is the only mill on the bay still operating.

STEELWORKER

(Jim Tichgelaar, 44, Steelworker, Oregon Steel Mills, Portland. Last Worked Regularly, July 1980.)

Our peak employment was about 150. We were producing pellets for reduction to steel. We were basically a feedmill. They overcapitalized and had to dump something. If you're in steel in the metro area, what are your choices? Your choices are Oregon Steel Mills, which has had people on layoffs for almost four years, or Cascade Rolling Mills in McMinnville. Then you have Seattle, Bethlehem. Bethlehem has only guaranteed to keep that plant open through 1984. West Coast steelmaking is going, gone.

When the company hired a guy to do placement, the placement rate for the maintenance people was great. Those skills are transferable. The management people went to work for the people who bought the rights to the process. They went to Saudi Arabia or Nigeria. The production people? The production people do not have a salable job skill.

One of the guys is driving taxi for Broadway cab. Lucky to make minimum right now. We were lucky in one respect and only one respect. We had a relatively young work force. I'm one of the older workers. Older means forty. I'll be forty-five this year. They could move into some other kind of jobs, of course, taking a severe reduction.

I've worked four months in three years. I just missed my first house payment. I have a wife with rheumatoid arthritis. If she hadn't been working, we would have lost the house a long time ago. I'm either over-qualified or under-qualified. I filed an unfair labor practice to get a $5.20-an-hour job a guy refused me because of past union activity. I had to drop because it was all one-on-one conversation. You get stigmatized. The whole idea of blacklisting bothers me.

The American Dream of owning a house is basically shot down the tubes, except for the upper middle class. I don't know how many are holding in that upper middle class. I used to be one of them critters. And now I'm too wealthy. I couldn't even get a free brick of cheese, for godsakes, last month. Luckily enough, a neighbor of mine did qualify and gave me half a brick. It has become totally ludicrous. I finally became eligible for food stamps this month because my unemployment benefits totally have run out unless this extension they are talking about passes. And I don't want it, I want a job. You're allowed, on the standards of the federal government, for shelter and utilities, $195 a month. I told the lady, 'Find me that house. I want it.' I've been involved in the growth of United Farm Workers, the anti-war movement. Very concerned. I've got five children. I'll always be involved. But when I can look at that involvement and say that you may end up sleeping under a bridge . . . . Reagan is going to do more, I hope, to make good Democrats and good trade unionists, than what I've been able to do in twenty-three years of work. That's the only good thing I can hope will come out of this.

PLANERMAN

William C. Francis, 59, Planerman, Douglas County Lumber Company, Sutherlin. Last Worked, March 1982.)

I worked at Douglas County Lumber Company for about five years. I worked night shift. I've worked around here since '46. I started out in the woods, then I worked in several mills. I worked for Tyee Lumber Company, used to fall timber, that was by hand, then springboards, and wedges and the old whip. In 1947, I got injured in the woods working for Roseburg Lumber Company. A tree on my leg. It pretty much crippled me up. I started working mills. I started pulling chain, went to planerman, feederman. I worked at L&H Lumber in Sutherlin for twenty years. Roseburg Lumber bought them out. It was unionized in the late '60s. It was shut down. In Green, I worked on a planer that made hardwood pallets. I worked for Keller Lumber Company. I had a chance to go to work for Douglas County Lumber Company in 1977. I got on there. Pretty good job. Paid well, good machinery to work on. Then after Carter got out and what's-'is-name got in, things went downhill pretty fast. I was laid off, worked for a while, then I was laid off again.

I've been going around applying for work, if they'll take your application. Most of them, you just sign a list, some of them won't even let you do that. And the lists are long. You have to show five job contacts a week to get your unemployment check. One good thing is that gasoline prices have come down.

When they find you're fifty-nine years old and handicapped, that pretty much does it. It's pretty obvious, but they won't say it to you.

My unemployment has just about run out. I had to let my insurance go. I have a wife and one child at home. My wife works in a little store as a clerk. She barely makes minimum wage.

This last meeting we had here [at the union hall] we had a man from Portland taking names from guys who were interested in welding, guys who were in the lumber industry and wanted to start out in something else and go to school. I signed up for it, but I never heard anything. It was five or six months ago. I've run planer for twenty-six years and I can't really see where I'd do anything else. I'm too old to make a major move.

I was planning to work till sixty-five. I'm frustrated, very nervous. I'm in a pretty bad situation right now. Five years ago, you know, I had cancer and never laid off work. I'd go to Eugene every morning and took radiation treatments and then I worked nights. I worked my shift, sometimes twelve hours. I made up my mind, I was going to whip it. And I did. It's been five years. But then last Saturday, I noticed I was getting some blood in my sputum, so my wife made an appointment to see the doctor. So I don't know. I very well may have had it. My insurance has run out. I'm just going to have to tell them the Veterans are going to take care of it. My wife's pretty nervous. Kinda shook-up She's optimistic. It's hard to be. We all try to be.

There's a lot of resentment here, with the Administration spending as much on missiles, taking away school lunch programs and things of this nature, really coming down on people who need it.●

REAGAN'S CHALLENGE

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● **Mr. MARTIN of North Carolina.** Mr. Speaker, in yesterday's edition, the Charlotte News printed a very thoughtful editorial addressing the formidable challenge facing President Reagan in his effort to rally public and congressional support against Communist expansion in Central America. It is a vital issue, and I commend this statement to my colleagues.

The editorial follows.

[From the Charlotte News, Apr. 26, 1983]

REAGAN'S CHALLENGE

President Reagan has a formidable task in his address to Congress and the nation tomorrow night on his Latin America policy. His task is to persuade a country that, in large part, does not want to be persuaded.

Surely there is no longer any serious doubt about the communist presence and Soviet influence in Latin America, Cuba is a fact. Nicaragua is a fact. And surely there is little doubt left about their support for the guerrillas in El Salvador.

But it is not fashionable to believe in the communist bogeyman. Nor is it pleasant or fashionable to dwell on the reality of life in communist countries, or on the equally grim reality of communism's expansionist designs. A lot of Americans don't want the administration to be right in its warnings about Latin America.

Quite apart from that, many harbor deep doubts about administration policy. They worry that U.S. involvement will be bloody or futile or, as in the case of Vietnam, both. They are sickened by the savagery of America's anti-communist friends in El Salvador and Guatamela.

The president does not face a public that is merely skeptical. He faces a Congress and a public that are, to significant degree, hostile and frightened. Yet if he cannot persuade them, American effectiveness in Central America and the world will be severely hampered.

We trust the president will talk plainly about the communist threat and what it will take to resist it. We hope he will also talk frankly about both the successes and the failures of the U.S. effort to nurture human rights, economic justice and a democratic system in El Salvador. There may be grave reluctance to wade into the quagmire. But we don't believe that the Congress or the country is really ready to abandon its neighbors to communist rule and Soviet domination.●

THE VALUE OF INDEXING

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. MICHEL. Mr. Speaker, should the Congress eliminate indexing? There are those who say we should, but I believe most American people understand that indexing helps lower- and middle-income families. The Peoria Journal Star, in an editorial endorsing the indexing concept, called this issue "more important than any other tax matter likely to come before the current Congress." I agree and I want to share this excellent editorial with our colleagues.

At this point I want to insert in the RECORD, "The Value of Indexing," an editorial in the Peoria Journal Star, April 17, 1983.

THE VALUE OF INDEXING

The value of "indexing"—tying income or taxes or debt or whatever to inflation—was demonstrated anew by the Census Bureau's final income statistics for 1981, which were announced the other day.

The study noted that, in terms of maintaining their lifestyles, families with no wage earners fared better than those with working members, thanks to automatic increases in Social Security and other retirement and social benefit programs. They are "indexed" and go up automatically to keep the beneficiary abreast or ahead of inflation.

For families with no wage earners, real median income in 1981 was $9,410, unchanged from the year before. For families with one wage earner, real median income was $17,630, down 4.5 percent. And those with two workers had median income of $26,860, down 1.3 percent.

It was the third year that indexing of social programs helped families with no earners keep up with inflation better than those who have jobs.

That is not to say that it's better to be without a job, because obviously the wage earners had higher incomes. But it is to say that if indexing of social programs is a good policy so is indexing of taxes.

Congress in 1981 approved indexing of income taxes, and this significant change is due to go into effect in 1985. But there are powerful forces in Washington trying to repeal it. One day this month five Republican senators, enough to tip the balance of power in the Senate to the Democrats, called for repeal of indexing.

For many years the federal government has been reaping a harvest of higher taxes without anyone in office ever voting to raise them. It works like this:

You get a pay raise from your employer that keeps you even with inflation, a so-called cost-of-living increase. But the income tax acts if you got a real raise. Because you get more money than you did before—but can't buy any more with it because of inflation—the income tax law puts you into a higher bracket and you pay a higher tax.

So you have less real money than you had before, despite your raise, and the government gets more tax revenue. Congressmen and presidents don't have to approve higher taxes; the government gets more automatically.

Tax indexing will change that—if it's permitted to go into effect the year after next. It will not let your tax go up if your income increases by nothing more than the rate of inflation.

This is not some scheme to benefit the rich. Taxpayers at the lower end of the scale will benefit more proportionately because the tax brackets are narrower, meaning people with low incomes are propelled faster into higher brackets than the rich are—especially the very rich, who are already in the top bracket.

The $1,000 personal exemption and the $3,400 zero bracket amount also are indexed, and this, too, does relatively more for the poor than the rich.

The state of Minnesota has an income tax structured like the federal one, and it was indexed in 1979. Last year, when the Minnesota legislature decided the state needed more revenue, the issue has to be faced squarely: raise the income tax or get the money some other way. Citizens pressured legislators not to raise the income tax, so they increased the sales tax 1 percent.

You can argue which would have been better, but the point is that the issue was debated and decided with the public watching and with the vote of every legislator on the record. Prior to 1979, Minnesota wouldn't have had to do anything; bracket creep would have brought in the additional funds automatically.

So, many politicians now are getting nervous in Washington, knowing that if indexing is allowed to go into effect as scheduled in 1985 it will mean the end of the gravy train running on automatic pilot.

Keep an eye on the issue; it's more important than any other tax matter likely to come before the current Congress.●

THE EDUCATIONAL OPPORTUNITY AND EQUITY ACT OF 1983

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. GRADISON. Mr. Speaker, on March 1, I introduced H.R. 1730, the Educational Opportunity and Equity Act of 1983. This bill, which would provide tuition tax credits for parents who send their children to private elementary and secondary schools, was drafted by the administration based on legislation which President Reagan offered last year and amendments to that bill which the Senate Finance Committee adopted in markup last fall. This year's bill has also been introduced as S 528 by Senator DOLE.

H.R. 1730 would allow parents to claim a nonrefundable income tax credit for up to 50 percent of tuition paid for each child in private elementary and secondary schools. The maximum credit would be $100 in 1983, $200 in 1984, and $300 in 1985, and subsequent years.

Only families with adjusted gross incomes under $40,000 could claim the maximum credit. Families with incomes between $40,000 and $60,000 could receive a partial credit, while those with incomes over $60,000 could get no credit at all.

Only parents who send their children to tax-exempt, nonprofit institutions will be eligible for the credit. None of the provisions in the bill will go into effect until either Congress or the Supreme Court declares that a criteria for tax-exempt status is that a school does not discriminate on the basis of race. The Supreme Court has heard oral arguments in a case that may result in such a decision. If that case does not yield a decision that allows the tax-exempt status of discriminatory schools to be revoked, the tuition tax credit legislation would not be effective until Congress passes legislation to prevent discriminatory schools from claiming tax-exempt status.

The bill also has other strong antidiscrimination provisions. No family can take the credit unless the school to which it pays tuition files a statement each year attesting that it has not followed a racially discriminatory policy. The statement must be made under oath, and school officials would be subject to penalties for perjury. If a person is discriminated against by a school, the Attorney General is authorized to file an action on behalf of the United States against the school.

Mr. Speaker, educational opportunity and choice are essential to our pluralistic society. Maintaining the education diversity that benefits us all requires not only that parents have the right to choose alternative schools, but also that they can afford to exercise that right. Unfortunately, for many parents private schools are becoming increasingly unaffordable. The high cost of tuition, combined with the burden of property taxes that pay for schools that they do not even use, has simply become too much for many to bear. Tuition tax credits are a simple, efficient, and equitable means to give more families the freedom of educational choice which they desire.

Let me also point out that H.R. 1750 would provide major benefits to moderate- and low-income families. According to a study by the Bureau of the Census in 1979, more than 50 percent of the children enrolled in private schools came from families with incomes below $25,000. Moreover, since this bill would offer a tax credit, the dollar amount of the benefit is the same to all families, unlike a deduction which gives greater benefits to the wealthy.●

THE INGREDIENTS FOR A POLITICAL SOLUTION IN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. BIAGGI. Mr. Speaker, as chairman of the bipartisan Ad Hoc Congressional Committee for Irish Affairs, I wish to share with my colleagues a column from the April 25 New York Daily News by Beth Fallon entitled "Like Whiskey—People Need Blending."

The focus of the article is the ongoing activity in Ireland aimed at laying the foundation for an ultimate political solution. Unfortunately and as too often in the past—the foundation is frayed because of its incompleteness. It has been my contention throughout the 5½ years that the ad hoc committee has been in existence that if one is serious about a peaceful political solution in Northern Ireland—there must be participation by all parties to the conflict.

Let me quote from the Fallon article:

> Prime Minister Garrett Fitzgerald of the Republic [of Ireland] will host his much cherished "forum" of Irishmen, north and south, next month in Dublin. The northern Unionists refused to attend—the IRA were refused admittance. Others, representing what Fitzgerald calls 80 percent of Irishmen will be talking. But not, notably, the ones who are doing the fighting. Any deal ultimately has to satisfy at least a majority of the Unionists and a majority of the IRA.

In 1978 and early 1979, I proposed that an Irish peace forum be held in the United States at which all segments of political thought would be invited to the United States to present various proposals for a political solution in Northern Ireland. I included in this forum representatives of paramilitary organizations which had legally sanctioned political parties. I added another condition that all parties would have to agree to a cease-fire as a condition for attendance. I went to Belfast and Dublin together with my colleague, Mr. GILMAN of New York, in search of this cease-fire and forum. Unfortunately my efforts proved ultimately unsuccessful because of the refusal of the Provisional IRA to agree to a cease-fire.

Initiatives which have preceded my forum proposal and those which have followed have been flawed and have failed because of the limited scope of the participants. I fear the same will happen to the Fitzgerald forum. I think it is time we faced up to the facts as they are in Northern Ireland. Unless a political settlement can be agreed to by all sides—it will never endure. No settlement will be achieved unless all parties are involved in the negotiations. In my eyes it is as simple as that. To me the proposal I sought in 1978 is as valid today as it was then.

I urge my colleagues to read the message in the Fallon article and work with the Ad Hoc Congressional Committee for Irish Affairs in the cause of peace, justice, and human rights in Northern Ireland.

LIKE WHISKY, PEOPLE NEED BLENDING

(By Beth Fallon)

The mayors of Dublin and Belfast visited the Mayor of New York last week, and as courtesy calls go, it was a fine visit. Mayor Koch had been the guest of Mayor Daniel Browne in Dublin this past spring, and as Browne said, "You left us in a turmoil. It took us a month to recover." Mayor Thomas Patton, here from Belfast, noted that it is his first visit to New York and said it struck him as a very big place, especially when viewed from a helicopter.

"Just a small town on the Hudson," Koch said in an unprecedented attack of modesty. "Wait until you see the rest of the country. It gets bigger."

The mayors, whose jobs in Ireland are mostly ceremonial, came as Browne put it "to demonstrate to the American people the fact that two Irishmen of different kinds can come together." Added Patton, "We want to prove people can live together, free of all the leeches that are around our shoulders."

He did not identify the "leeches." Both men condemned "terrorism," but neither declared whether they meant the Catholics of the Irish Republican Army, the Protestants of the Ulster Defense League or the 10,000 British soldiers who currently occupy Northern Ireland. However, their remarks seemed particularly aimed at the IRA, which since the 1981 hunger strike in the Maze prison left 10 dead has had increased encouragement from American Irish Catholics. Both Belfast and Dublin would like to see that support cut off.

The IRA "have no support in the North of Ireland whatsoever," said Browne, a summation which ignores the election of five members of the Northern Assembly by Sinn Fein, the IRA political wing, and a sixth chosen in a by-election just recently. Among the oppressed Catholics of the north, the IRA has considerable support and more tolerance—mostly because, except for their guns, nothing has moved either in North or South toward a just settlement for 60 years.

"Ulster will fight and Ulster will be right." This has always been the battle cry of Protestant Orangemen, and their threat should Britain withdraw. It has been clear for some time that the Republic has no intention of ever fighting for the rights of the Catholic minority in the North, should it ever come to that, and would prefer the IRA to stop fighting, too, since its activity makes Dublin's inactivity all the more noticeable. Ulster won't have much of a fight to wage if it is only one fighting.

However, the attention focused on the situation in the North has led to several developments. In any assessment of Irish politics, it would be insanely premature to call them "hopeful." But they are better than nothing, and in a situation fraught with such injustice, misery and the bloodletting of many innocents, any sign of change bears watching.

Browne and Patton on the same airplane is a good thing, and to be encouraged. There have been exchange visits by the two town's councils, tours of the Shannon Development Area in the south by northern politicians and businessmen and other forms of cooperation, some pushed gently by the Ireland Cooperation North group, which sponsored the mayors' joint tour. "They want to bring peace to Northern Ireland by giving cocktail parties in New York," said one Irishman acidly. But it is something.

Prime Minister Garret FitzGerald of the Republic will host his much-cherished "Forum" of Irishmen, north and south, next month in Dublin. The northern Unionists refused to attend, the IRA were refused admittance. Others, representing what FitzGerald calls 80 percent of Irishmen, will be talking. But not, notably, the ones who are doing the fighting. Any deal ultimately has to satisfy at least a majority of the Unionists and a majority of the IRA.

For it to be more than talk, the Forum would have to face the fact that "the troubles" began with an injustice and will not end until the injustice to northern Catholics is relieved. But there are many ways that might be accomplished while protecting the just concerns of Protestants—a northern federalism, a dual system of citizenship for Ulstermen, a real retreat from the divisive effects of having an official state religion.

"The people in the Falls Road and the Shankill Road can get together," said Mayor Patton of his two warring communities, and everyone of good will hopes that is so. Meanwhile, Browne cautioned Koch not to drink the Jamesons' Irish whisky he brought from Dublin with Patton's famed Old Bushmills' from the North. "When they get together in your stomach," cautioned Browne, "they fight." Patton roared with laughter.

Maybe some day they can do a blend.●

TRIBUTE TO MARGARET MANGANELLA

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. MURTHA. Mr. Speaker, today, a leading citizen of Johnstown, Pa., is being honored for a tireless life of humanitarian service to the community.

Mrs. Margaret Manganella is being recognized at a dinner sponsored by the Johnstown Chapter of Carnegie International. She will be presented the 20th Annual Good Human Relations Award and I am happy and proud to join with the thousands of men and women of the Johnstown area who have benefited by virtue of Margaret's good works. Since the 1930's, she has conducted classes for immigrants who were applying for American citizenship; an immigrant from Italy, Mrs. Manganella has assisted more than a thousand persons achieve naturalized citizenship status. She has done this selflessly, without charge, simply out of her sense of good citizenship.

Other community involvement includes service as an air raid warden and a first aid teacher during the Second World War.

Despite such a schedule Margaret has also managed to include regular

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teaching of Sunday school class throughout the years.

Recently, she retired after 25 years of employment with the Pennsylvania Liquor Control Board. She has the distinction of being the first woman ever to serve as an employee of this organization.

I am doubly proud to join in the recognition of Mrs. Manganella's years of service—for being such an outstanding human being and because she has provided her many services for the people of the 12th District of Pennsylvania.●

ENCOURAGING FLEXIBLE WORKING HOURS

HON. JOHN N. ERLENBORN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. ERLENBORN. Mr. Speaker, today, I am reintroducing legislation to amend the Walsh-Healey Public Contracts Act and the Contract Work Hours Act to eliminate the penalty imposed on Federal contractors and their employees who wish to participate in flexible working hour arrangements.

The Walsh-Healey Public Contracts Act of 1936 applies to employees engaged in producing materials, supplies, articles, equipment, or naval vessels for the Federal Government under contracts exceeding $10,000. Exempted are bona fide executive, office, custodial, or maintenance work. The act requires overtime of at least time-and-one-half an employee's regular rate for hours worked in excess of 40 per week or 8 per day. The per-week limitation is consistent with the Fair Labor Standards Act—enacted in 1938, 2 years after the Walsh-Healey Act—which sets minimum wage rates and maximum hours for work done on non-Federal contracts. The per-day limitation is an additional constraint imposed on employers under contract with the Federal Government.

The Contract Work Hours Act of 1962 covers all Federal contracts not covered by the Walsh-Healey Act involving the use of laborers and mechanics on Federal projects or on any other federally financed contracts involving laborers and mechanics. The act, which like Walsh-Healey imposes an 8-hour daily limitation on straight time, applies to construction contracts covered by the Davis-Bacon Act, to service contracts under the Service Contract Act, and to supply contracts between $2,500 and $10,000—that is those contracts below the threshold for coverage by the Walsh-Healey Act.

These per day limitations on straight time hours worked do not, of course, prevent Federal contractors from establishing flexitime and compressed workweek schedules for their employees. However, they do unnecessarily increase contracting costs. Thus, contract costs are inflated or, as a means of retaining a competitive edge, contractors are discouraged from implementing flexitime and compressed workweek schedules; if an employer has already established an innovative working hours arrangement, the act discourages him from bidding on Federal contracts at all.

There is simply no justification for imposing on Federal contractors this additional requirement not present under the Fair Labor Standards Act for non-Federal work. My bill merely would conform the overtime provisions of these acts to the Fair Labor Standards Act. Thus, overtime would be payable only for hours worked in excess of 40 per week.

Importantly, flexible and compressed work scheduling is permitted by the Federal Government for its own employees. This past July Congress extended this authority for 3 more years. The program has proven highly popular with Federal employees, particularly women who are better able to juggle their family and professional responsibilities.

The advantages of innovative work scheduling were readily apparent to sponsors of the Federal program. The gentlewoman from New York (Ms. FERRARO), citing the private sector's experience stated:

> These variations from the standard, fixed-schedule 8-hour work-day evolved as a means of coping with social change, particularly the dramatic increase of women in the workforce, and the desire of all employees for better accommodation between their working and personal lives. Employers found that they benefited from higher usage of building and equipment, decreased traffic congestion, and improved attendance, punctuality and morale. Employees felt they had more control over their working lives. Flexible schedules have also helped reduce the conflicts between work and personal needs, particularly for working women and others with household responsibilities." CONGRESSIONAL RECORD, March 2, 1982, pages H564-H565.)

No better argument could I make for my own bill. I would hope that Members who believe, as does the gentlewoman from New York, that the Federal Government should accommodate the desires of its work force which reflect changes in society generally would support my legislation to assure greater numbers of Federal contractor employees the same opportunities to gain "more control over their working lives" as have been so willingly granted to Federal employees. After all, it makes no sense, on the one hand, to recognize the benefits of innovative scheduling for women in the Federal work force while, on the other hand, acquiescing to outdated Federal contracting rules which deny those benefits for women in the private work force.

Enactment of my bill would eliminate such rules which have led to the inequitable treatment of Federal contractor employees, particularly women who in ever-greater numbers are working outside the home.●

ADEQUATE FUNDING FOR GCEP

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. McEWEN. Mr. Speaker, I am today inserting, for the benefit of the Members of the House of Representatives, my testimony before the House Appropriations Committee Subcommittee on Energy and Water Development on funding for the Gas Centrifuge Enrichment Plant at Piketon, Ohio. I do so in the hope that Members will join me in pressing for adequate funding for this vitally important project.

The statement follows:

STATEMENT OF CONGRESSMAN BOB MCEWEN BEFORE HOUSE COMMITTEE ON APPROPRIATIONS, SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT, MARCH 24, 1983

Mr. Chairman and members of the Committee, I appreciate the opportunity to speak to the Department of Energy's Fiscal Year 1984 budget request for the uranium enrichment program—a program of enormous strategic importance and economic consequence to the United States, and a program which is completely financed from revenues obtained from the sale of enrichment services to domestic and foreign customers.

We know that the supply of enrichment services to domestic and foreign utilities for civilian reactors is a growing business. This year, revenues from the sale of enriched uranium will total $2.4 billion, with estimates of a cumulative value of approximately $100 billion from now until year 2000. We also know that despite the origin of nuclear technology here in the United States, and our previous position as the sole supplier of enrichment services to the free world prior to 1974, our share of the foreign market has eroded to approximately 35%. As long as we retain our share of the international market, revenues from the sale of uranium will offset all GCEP construction costs. Delays in 1978, 1979, and 1980 slowed progress of the project; any further delays will cause the enrichment program to be so severely crippled that the United States will not be able to meet its contractual obligations in the 1990's.

Time is of the essence, with the U.S. market suffering increasing penetration by foreign origin enrichment services—a trend which is likely to continue unless firm and resolute action is taken to:

1. avoid the kinds of whimsical policy and program changes wrought by the actions of previous Administrations and Congresses—actions which have aided and abetted the formation of indigenous uranium enrichment capacity in Europe, which is now a direct threat to tens of thousands of U.S. jobs.

2. complete the Gas Centrifuge Enrichment Plant, now well advanced in construction, as rapidly as possible, with the objective of minimizing U.S. enrichment costs over the remainder of this century.

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3. continue the development of advanced enrichment technology such as AIS which may reduce enrichment costs in year 2000 and beyond.

The prompt completion of GCEP is the most urgently needed and important element in the effort to restore the U.S. preeminence in the world enrichment business, and is the objective of the DOE fiscal year 1984 GCEP budget request of $572 million. This project is now on schedule; coming in below budget; the centrifuge machines are being manufactured by U.S. industry and are operating extremely well; thousands of U.S. firms have committed their financial and human resources to the success of GCEP; and finally the result of advanced centrifuge development work which is applicable to GCEP, promises that costs will be competitive with any other advanced enrichment technology now known or under development.

These benefits from GCEP are now within our reach, yet I am aware of proposals to slow or stop the progress now being made on GCEP, while we await the results from research experiments which are in an embryonic stage of development. The centrifuge process on the other hand enjoys the maturity and benefit of 25 years of development, with further major improvements now likely from modest changes which will be retrofittable into GCEP.

I therefore urge you and your committee to approve the DOE GCEP fiscal year 1984 request of $572 million. To respond to the Siren's Song to delay and hobble the GCEP project will assuredly contribute to further erosion of the U.S. enrichment market and result in the loss of thousands of American jobs.●

CAMBODIAN REFUGEES

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. SOLARZ. Mr. Speaker, all too frequently we hear of the problems caused by refugees who have entered the United States. Today, I would like to include in the RECORD the following letter which I recently received from a church congregation in New Hampshire. Reverend Mallery describes the positive acceptance by the community and the equally positive contributions of the Cambodian refugee familes in this New England town.

I urge my colleagues to take a moment today to read this letter At a time when thousands of Cambodian civilians are suffering due to recent hostilities along the Thai-Cambodian border, we should reconsider our present policy of strictly interpreting and implementing U.S. immigration laws—which reject for resettlement in the United States, Khmer refugees who I believe face a clear fear of persecution should they return to their homeland—and adopt a more compassionate policy. It seems to me that these individuals would make a meaningful contribution to our society—as exemplified by the Cambodian families described in the following letter.

THE FIRST CONGREGATIONAL CHURCH,
Jaffrey Center, N.H., April 17, 1983.

Representative STEPHEN SOLARZ,
House Foreign Affairs Subcommittee on East Asia and the Pacific, House of Representatives, Washington, D.C.

DEAR REPRESENTATIVE SOLARZ: Members of my congregation and I are greatly troubled over the high rejection rate of Cambodian refugees under present INS screening procedures. The security of refugees in the holding centers in Thailand is also of great concern to us.

As a congregation we have shared in the sponsorship of two refugee families and are currently active with a Cambodian family of eight. They are making a very good adjustment in employment, schooling, and community relationships, and we feel good about their resettlement in our town.

We have applied for sponsorship of three other members of this family presently in Thailand camps. We are therefore particularly eager that your committee act speedily and effectively in any way you can to expedite the proper screening and legitimate entry of a much larger percentage of Cambodian refugees than is the case under present INS procedure.

Respectfully yours,
WESLEY A. MALLERY,
Pastor.●

TAX SCAMS FACE TOUGH TREATMENT

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. STARK. Mr. Speaker, much as the well-known scientific principle, it seems that with every congressional effort to bring equity to our tax laws comes an opposite and equal effort to undermine that commitment to fairness. A most recent example of this came to my attention several weeks ago and was aptly reported on in the Sunday edition of the Washington Post.

As you'll remember, Congress in 1981 passed legislation prohibiting so-called tax straddles, whereby many were manipulating the Tax Code and wiping out their tax liabilities through an arcane system of shifting short-term losses and long-term gains. To save $1.7 billion in tax losses, Congress atempted to close this loophole and force those dealing in commodity markets to pay a 32-percent tax rate, still far below the 46-percent corporate level or the 50-percent normal income level.

Yet, as the Post reported, it did not take long for sophisticated investment firms to twist the law and subvert the very nature of tax equity through elaborate tax scams. I intend to eliminate these new gimmicks through legislation. I will make retroactive to April 15, the day all Americans are requested to abide by the spirit and letter of our tax laws.

As Post reporter Thomas B. Edsall wrote in his Sunday article:

> In the struggle to pay the least, Wall Street has come up with a new mechanism for commodity trading that apparently finesses the best efforts of congressional tax reforms and opens up new vistas in tax avoidance and tax deferral.

The article goes on to expose the process whereby huge investment firms:

> Set up corporations in tax-haven countries to avoid paying U.S. income taxes by converting dividend income into stock appreciation, using multiple corporations to reduce tax liability, and by making wide dispersal of stock ownership to reduce top tax rates.

I recently asked the Joint Committee on Taxation to analyze the tax liability on $1 million in profits made through one of these schemes offered by E. F. Hutton & Co., Inc., which set up a commodity reserve fund in the British Virgin Islands. According to the committee, a person with $1 million profit in Hutton's program would be able to cheat the U.S. Treasury out of at least $120,000 and would be able to defer that tax liability far into the future.

According to the joint committee's report, which was quoted in the Post:

> The Hutton plan involves exploitation or circumvention of the following: the corporate income tax, the rules taxing corporate shareholders, the accumulated earning tax rules, the rules requiring gains from trading in commodity futures to be marked to market, and the capital gains rules.

The E. F. Hutton fund is certainly not unique. Other similar investment plans are or have been marketed by such firms as Drexel Burnham Lambert & Sytel Traders, Ltd. Regardless of who is doing the marketing, it is obvious that these Rube Goldberg investment schemes have no other interest at heart than to circumvent the spirit if not the letter of the law Congress just wrote.

It is unfortunate that the intent of our most recent tax reforms has been so flagrantly flaunted. It is imperative we send an even clearer message to those who exploit the intent of our Tax Code. I am currently working on that clearer message, and those who manipulate our system should be put on alert that the message I intend to carry through legislation now being prepared will be not only clearer but stronger as well.●

THE OREGON NOBLE FIR

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. DENNY SMITH. Mr. Speaker, it is with great pleasure that I rise to announce that tomorrow at 9:30 a.m. an Oregon Noble Fir tree will be ceremoniously planted on the U.S. Capitol Grounds. This Noble Fir—donated by Portland Nursery and transported by Airborne Freight Corp.—was selected and sanctioned in cooperation with the Architect of the Capitol as the tree to best represent Oregon on the grounds.

My colleagues Mr. AuCoin, Mr. Bob Smith, Mr. Weaver and Mr. Wyden as well as Senator Hatfield and Senator Packwood from the other body have been invited to help shovel Washington soil around our Oregon tree. Members of the Oregon State Society have personally been invited to attend as well as any other Oregonians.

When I was approached by a constituent to find out if Oregon was represented by a memorial tree on the Capitol Grounds, I found some interesting historical facts. In 1923, Senator Charles McNary planted a red oak on the Capitol grounds as Oregon's contribution to the landscaping of our Nation's Capitol. This tree has since died and been removed. Upon learning of this, the Oregon Forest Products Transportation Foundation and I decided to plant another Oregon tree.

I am proud to say that the tree planting has received the support of the Oregon State Legislature and the backing of our Governor, Victor Atiyeh. As the Governor proclaimed:

> The great Noble Fir thus symbolizes the everlasting commitment of our State and our citizens to the freedom through unity that binds our Nation together. The tremendous growth and beauty of this tree will in turn remind all Americans of the unique pride and pioneer achievement of Oregon and Oregonians.●

THE AMTRAK IMPROVEMENT ACT

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. BROYHILL. Mr. Speaker, today, I am introducing by request the administration's bill to reauthorize the National Rail Passenger Corporation (Amtrak).

The bill, entitled the Amtrak Improvement Act of 1983, would authorize funds to be appropriated to Amtrak at levels of $682 million for fiscal year 1984 and $650 million for fiscal year 1985.

As pointed out by Secretary Dole in her letter of transmittal to the Congress, these authorization levels will cover Amtrak's operating expenses, capital acquisitions and improvements, and labor protection obligations. The Secretary notes that:

> With effective management and cost control, Amtrak can operate its nationwide system within these subsidy levels. Any route reductions that may occur will result from the application of statutory ridership criteria and financial standards, not from Federal budgetary structures.

The administration's bill would amend the Rail Passenger Service Act in several respects.

First, the bill would increase the State's contribution to rail passenger service under section 403 (b) and (d) of the Act. Specifically, it would require a State or locality to contribute 100 percent of the long-term avoidable losses of operating the service plus the associated capital costs, and labor protection obligations, should service be discontinued.

Currently, a State's share of the costs incurred in operating section 403(b) service is 45 percent of the short-term avoidable loss in the first year of operation, 65 percent in each subsequent year plus 50 percent of the associated capital costs. Secretary Dole aptly points out that:

> Since 403(b) services are provided at the request of a State or a group of States and usually benefit one or two specific States rather than the Nation as a whole, it is appropriate for the beneficiaries to subsidize them.

Similarly, the Secretary indicates the operation of commuter services under section 403(d) is a local, rather than a national responsibility and should not be funded by the Federal Government.

Second, the bill would amend the labor protection program for Amtrak employees deprived of employment by a discontinuance of rail service. Under the administration's proposal, the Secretary of Transportation and labor representatives together would frame a new labor protection arrangement comparable to that afforded Conrail employees.

Finally, the administration's bill would exempt passenger service operated by a railroad on behalf of Amtrak from State laws mandating the number of crew members required to perform particular tasks. Amtrak services in the Northeast are currently exempt from these "full crew" laws. This proposal would then, simply extend that exemption to services operated for Amtrak by others.●

CRIME VICTIMS IN AMERICA

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. COURTER. Mr. Speaker, In our society, accused perpetrators of violent crimes are tried and punished through the criminal justice system. Legal counsel is provided to insure the rights of the accused are preserved.

But does our responsibility end there? What of the victims of violent crimes, the permanent, or disabling injuries suffered, the mental and emotional anguish endured by both the victim and the family?

My colleagues, I am proud to say that my home State of New Jersey has made great strides in recognizing the plight of crime victims and in giving them public support. Many counties in our State have crime victim assistance units.

Much of the groundwork for crime victim assistance programs and efforts to promote public awareness is due, in part, to a courageous man who has worked tirelessly for the forgotten element of our justice system: The crime victim. This man, whom I rise to pay tribute to today, is Mr. Robert Grayson, the chairman of the New Jersey Council on Crime Victims.

In 1975, Mr. Grayson was the victim of a vicious, unprovoked attack by a gang of four men which left him permanently blind in the right eye. Frustrated and angered by the lact of sensitivity given to the victim by the criminal justice system, Mr. Grayson decided to pursue a career as a crime victim advocate.

His accomplishments are many including spearheading a drive to bring the plight of elderly crime victims to the White House Conference on Aging, developing the Victim-Witness Assistance Network in New Jersey, and writing and publishing the Victims Companion, a booklet designed to familiarize and prepare victims for court appearances.

Mr. Grayson has made a personal commitment to strengthening New Jersey State laws to aid crime victims. He developed seven State laws, including a bill to strengthen the powers of the Violent Crimes Compensation Board, a bill calling for a mandatory victim impact statement to be filed in the presentencing report, and stronger compensation laws for senior citizens. The New Jersey State Legislature is currently considering the crime victim bill of rights.

Appearing before a House of Representatives Subcommittee on Crime, Mr. Grayson addressed the issue of what the Federal Government can do to help victims, and he continues to do the same on national and local television and radio.

The education of the public and providing rehabilitation services for crime victims are necessary goals of this crusade. As members of a humane and compassionate society, I think we can do no less than to commend and encourage support for Mr. Robert Grayson in his tireless work to establish a network for crime victims in America.●

IDA NUDEL

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mrs. KENNELLY. Mr. Speaker, knowing of the interest of my colleagues in Ida Nudel, the internationally known Soviet refusenik, especially those who joined me last year in the special order on her behalf, I wanted to share with you a letter that Congresswomen FERRARO, MIKULSKI, and I sent to Ida on the occasion of her 52d birthday. The letter contains information about Ida that we learned from our meeting with Ida's sister, Elana Fridman in Israel during our recent visit to the Middle East, and attempts to convey to Ida that we have not and will not forget her plight.

The text of the letter follows:

CONGRESS OF THE UNITED STATES,
Washington, D.C., April 27, 1983.

IDA NUDEL
Ulitas Sovietskaya 64/2 Bendery 278102, Moldavia, SSR U.S.S.R.

DEAR IDA: We want to extend to you our best and most heartfelt wishes on your 52nd birthday on April 27, 1983.

We have just returned from Israel where we met your sister, Elana, and learned of the hardship and harassment which you continue to face since your release from Siberia. We learned from her, and from others what we already suspected—that your life continues to be difficult, and that your desire to live in freedom and dignity in Israel continues to be thwarted. Would that the achievement of your desires were things we could easily give to you as presents on your birthday.

We know that today, another year has passed, and you live in Moldavia, in an apartment without heat or water.

We know that you are in ill health and that you have been prevented from finding work in your field.

We know that you are still in exile from your home and friends in Moscow, although the authorities claim your exile is over.

We know that another year has passed, and you are still in Russia, far from your beloved sister in Israel; and that joining her there must at times seem a distant dream.

We know that you are another year older, and that you still suffer at the hands of the Soviet officials because you dared to fight the Soviet regime on behalf of all Soviet Jewish Prisoners of Conscience.

We know that for another year you have been an inspiration to all Soviet Jews, and to those around the world who cherish freedom, and who fight against tyranny and injustice.

We know all these things, and we want to share with you the fact that we have not forgotten you. We have not forgotten your bravery or your suffering; and most of all, we have not forgotten your desire to emigrate to Israel. We have more to convey to you than mere birthday greetings. Our birthday present to you is our promise to do everything we can—including contacting national leaders on your behalf—to obtain permission for you to join your sister in Israel.

Also, we will place a copy of this letter to you in the CONGRESSIONAL RECORD, where all Members of Congress will see it and be reminded of your continuing struggle.

We will not grow lax in our efforts on your behalf. Another year has passed in our lives too, one that has strengthened our resolve to fight for you and for your life, the way you have fought for others.

We will fight for the goal that your future birthdays will be spent in happier circumstances, with those you love, in the place that you choose to live. Our thoughts are with you, our prayers are with you, and with us remains the determination to do everything in our power to make your birthday wishes, and our wishes for you, become a reality.

Sincerely,

BARBARA B. KENNELLY,
GERALDINE FERRARO,
BARBARA MIKULSKI,
Members of Congress.●

LONG ISLAND'S SPECIAL OLYMPICS

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. MRAZEK. Mr. Speaker, the Special Olympics has assumed a treasured status in the hearts and minds of thousands of Americans.

This unique and exemplary program has performed the seemingly impossible for children who, only a few short years ago, were forced to sit and watch when it came to athletic competition. The success of the program in allowing these children to compete—and perhaps to win—is a matter of record, and Special Olympics has been instrumental in demonstrating to its participants that life's obstacles can be overcome.

On April 30, my home county of Suffolk in Long Island's Third Congressional District will hold its annual Special Olympics at Ward Melville High School. A tradition since 1968, the Special Olympics would be impossible without an enthusiastic cadre of supporters and volunteers from the community who give their time to bring unforgettable joy to the participants.

I ask my colleagues today to join me in saluting the unique spirit which drives the Special Olympics. The participants may not be the Dave Wottles or the Wilma Rudolphs of the future, but for one glorious day they will have the opportunity to build enough dreams to carry them until the next year and the next Special Olympics. They may not have the skill or the good fortune to win, but they will know the thrill of trying, of giving their best.●

THE MEMPHIS BLUES TRADITION

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. FORD of Tennessee. Mr. Speaker, it is with great pleasure and a sense of pride that I have the opportunity today to bring to the attention of my colleagues an outstanding event that will take place in Washington this week spotlighting the rich musical heritage of my home, Memphis, Tenn.

The Smithsonian Institution's program in black American culture will celebrate "The Memphis Blues Tradition" in a 2-day salute to the blues, the only original American music form which developed around the turn of the century on world famous Beale Street in Memphis. This event marks the second time this season the Smithsonian has honored the cultural contribution the Memphis region has made to this country's musical heritage. In the fall, a weekend spotlighted the gospel tradition highlighting the work of Rev. Herbert Brewster, Sr., composer, playwright and producer, who for 50 years has conducted a gospel ministry in Memphis, and has been a major force in the development of the new gospel music literature. This weekend's salute to the "Memphis Blues Tradition" will feature such blues greats as B.B. King, Bobby Blue Bland and Memphis Slim who will entertain in concert on Friday evening and join in an examination of the tradition on Saturday.

With the development of this program of black American performing arts traditions, the Smithsonian has offered a commitment to recognize the importance and influence of the rich musical heritage of black American music. A study of blues music notes the diversity of people, culture and regional styles represented, which evolved into a soul-searching commentary of the people and the time. Such tunes as W.C. Handy's "Memphis Blues" composed in 1907 and many other blues standards like "Roll and Tumble," "Joe Turner," and "Poor Boy Long Ways From Home" provide the spark to generate generations of soulful composers and melodies. The blues style of music and its many derivatives such as jazz have become a mainstay of American music known and enjoyed by peoples the world over.

The history of Memphis can be traced from the mid-19th century through the flowing lyrics of many blues melodies. The river port city of Memphis was founded in 1819. The 1870's brought yellow fever epidemics which ravaged the city. By 1899 the city had slowly regained its vitality to become a prospering center for black culture in the midsouth, attracting musicians from all over the region. The history, local politics and the quality of life in the south were general topics of blues compositions like "**Lawyer Clark Blues,**" "**Working Man Blues,**" and "Beale Street Mess Around" which told the stories of the life and times of the composers.

The stories these songs tell trace the history of the black American. This history must be preserved and a deepening understanding and appreciation encouraged. In an effort to do this the Smithsonian in conjunction with the Memphis Blues Foundation has developed a music curriculum based on the blues for the Memphis city schools for the purpose of passing this heritage and history on to future generations.

The Smithsonian's program in black American culture salute to "The Memphis Blues Tradition" is a historic occasion commemorating the value that Beale Street and the blues have had on shaping American music. Memphis has provided the spark and talent for generations of musicians who have made the music industry what it is today. I am indeed proud to represent the district that is known worldwide as the "Home of the Blues."●

CONABLE CONSTITUENT POLL

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. CONABLE. Mr. Speaker, as always, a constituent questionnaire on the issues before us produces instructive information on the people's views.

We have recently completed the tabulation of responses to this year's constituent poll in the 30th Congressional District of New York, and I am submitting the results for the consideration of our colleagues and others who examine this RECORD. More than 26,000 persons responded to the poll this year, reflecting the high interest of an informed, literate constituency.

The poll results follow:

RESULTS OF 1983 CONGRESSIONAL QUESTIONNAIRE

[Figures in percent]

(1) Do you favor adjusting income tax brackets by the cost of living to prevent taxpayers being moved into higher brackets by inflation?—Yes 85.0; no 13.5.

(2) Do you favor a tax credit up to $300 for tuition expenses at private elementary and secondary schools?—Yes 43.5; no 51.5.

(3) To make up a long-term deficit in the social security fund after the year 2000, do you favor:

(a) Raising social security taxes at that time?—Yes 39.5; no 34.0.

(b) Gradually increasing the retirement age from 65 to 66?—Yes 55.5; no 27.5.

(4) Should civilian Federal employees be included in social security?—Yes 82.0; no 15.0.

(5) How confident are you that social security benefits will be available to people retiring 20 years from now?

(a) Very confident?—Yes 19.5; no 18.0.

(b) Somewhat confident?—Yes 43.5; no 11.0.

(c) Not at all?—Yes 35.5; no 13.5.

(6) To increase temporary employment by about 500,000 jobs, should the Federal Government spend an additional $5 to $7 billion for public service or public works employment?—Yes 47.5; no 48.0.

(7) Should Government increase barriers to importing foreign products into our country even though it could tend to reduce our exports?—Yes 42.0; no 55.5.

(8) Which long term economic problems are our major concern? (Rate in order)

(1) Unemployment.
(2) Budget deficits.
(3) Inflation.
(4) High taxes.
(5) High interest rates.
(6) Other.

(9) Check the programs for which you favor freezing/lowering Federal spending.

(1) Government pay and pensions.
(2) National defense.
(3) Food stamps.
(4) Welfare assistance.
(5) Farm price supports.
(6) College student aid.
(7) Housing subsidies.
(8) Medicare and medicaid.

(10) What is the Nation's No. 1 need?

(1) More employment.
(2) Balance Federal budget.
(3) Honesty and leadership.
(4) Less government.
(5) Improved economy.
(6) Hold down inflation.●

GOVERNMENT INTRUSION IN OUR LIVES

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. PAUL. Mr. Speaker, I never cease to be amazed at the incredibly tortured and tortuous web of Government intrusion in our lives. Unfortunately, the consequences of this intrusion are often brutal and shocking, even to one who is already rather cynical about Government.

The latest outrage concerns Federal energy policy, Federal regulation of hospital practices, and the deaths of thousands of people from a mysterious malady known as Legionnaire's disease.

During the 1970's, when Government regulated and controlled our Nation's energy resources, the policy planners created such havoc in the marketplace—such shortages and high prices—that they found it necessary to institute austerity measures to cut down on the use of energy. Everyone remembers the gaslines, the uncomfortable temperatures in public buildings, and the constant reminders from Government not to be fuelish. What rot. The entire so-called crisis was conceived and manufactured by the Federal Government, as were the subsequent, fumbling efforts to manage the crisis.

At least the foolishness seemed relatively innocuous then. We were all inconvenienced—some more than others—but there was little serious damage apparent.

So it seemed at the time. Now we have learned that the damage was far greater than we imagined. Scientists at Ohio State University have discovered, during the course of a 3-year study, that Federal energy conservation measures—specifically, a Federal requirement that hospitals lower the temperature at which they maintained hot water supplies from 140° to 110°—were directly responsible for the infamous Legionnaire's disease, which infected hundreds of thousands of people and took the lives of so many Americans.

This Federal policy dictate "created a near-perfect environment for the bacteria to thrive," according to a UPI report quoting the study's findings. By forcing hospitals to cool down their water supply, our Government took the lives of American citizens.

This somber news of Government culpability raises important questions about the responsibility of government, and the bureaucrats who conceived and administered those fatal policies. Through administrative fiat (mandatory energy conservation policies and the use of Federal accreditation procedures to force hospitals into compliance), the U.S. Government took actions that brought death to innocent Americans. How should the Government pay?

If I, as a physician, instituted practices or established policies that led to deaths among my patients, I would be liable for charges of malpractice—and rightly so. But the U.S. Government, by forcing unsafe policies on American hospitals, has done just that; it has killed innocent people.

This sad, sorry spectacle comes as no great surprise to those of us who are familiar with the ways of government. People suffer and die routinely, needlessly, as a result of mindless government policies and misguided interference in medical care.

As a physician, I sometimes send patients to Mexico to receive treatments they cannot get here in the United States. My colleagues do the same.

In the North, surgeons send patients to Canada to receive a proven, nonsurgical treatment for severe back pain that the FDA has not gotten around to stamping "U.S. Government-approved."

But the policies that led to death from Legionnaire's disease were not only Government approved, but Government sponsored. How do we assess the blame for this? Just as important, when will we in Congress resolve to put a stop to this, to strip government of the capacity for inflicting this kind of destruction on the American people?●

REMEMBRANCE OF THE ARMENIAN GENOCIDE

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1983

● Mr. RODINO. Mr. Speaker, the tragedy that befell 1.5 million Armenians at the hands of the Ottoman Turks serves as a reminder to us all that persecution, hatred, and the destruction of an entire people is something that did happen, can happen, and will happen if we are not constantly vigilant.

This solemn occasion is a time to honor the memory of the Armenian men, women, and children who were destroyed in the years 1915-23 as well as to praise the spirit of the Armenian people. Their courage, their determination, and their refusal to forget their slaughtered sisters and brothers should not go unrecognized.

We should also consider the lessons of the Armenian genocide, lessons we should have learned long ago. When Hitler planned for the "final solution" of the Jews in Europe, he reportedly asked rhetorically: "Who remembers the Armenians?" Tragically, few did remember. I can think of no starker example of how the world's failure to cry out against persecution allowed tragedy to occur again.

The Armenian genocide is to be included in the Holocaust Memorial that will, we hope, keep alive the memory of the victims of genocide wherever it has occurred. We must keep that memory alive if we are to live in a civilized world where the atrocities we have seen in this century will not be tolerated.●

UNIQUE FIRE SAFETY PROGRAM IN ARKANSAS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. WALGREN. Mr. Speaker, on March 16, 1983, the Subcommittee on Science, Research and Technology of the Committee on Science and Technology held hearings on the Federal Fire Prevention and Control Act. A bill reauthorizing the act will be considered soon by the House. Congressman BERYL ANTHONY submitted testimony for the record of that hearing which described a comprehensive approach to fire safety in Arkansas called Operation Dixieland. My colleague's statement provides an example of a combined effort by Federal, State, and local officials to combat the fire problem.

STATEMENT BY CONGRESSMAN BERYL ANTHONY, JR.

I am pleased to have an opportunity to share with the members of the Subcommittee, a progress report on Operation Dixieland.

When most people think of fire protection they think of a red truck, lights flashing, a siren shrieking, rushing to a blazing building.

Fire engines are a colorful and important part of fire protection, but there is more to fire protection than equipment and putting out fires. A really effective fire protection system is one in which people and equipment work together to prevent fires.

The United States' fire death rate exceeds that of all other industrialized nations. Of the 10 states with the worst fire death rates, nine are southeastern, including my own state of Arkansas. An estimated 100 to 120 persons are killed each year by fire in Arkansas and another 500 persons are injured annually in fires.

The rate of death due to fire is higher for people who live in rural areas, those whose incomes are below the poverty level, and blacks.

Since coming to Congress I have been advocating that states develop master plans for fire protection. Master planning provides an organized approach to defining, obtaining, and maintaining the level of fire safety and the consequent fire prevention and control system desired by a community. Citizen awareness and participation in fire protection is the key to the success of master planning.

I have worked closely with the Federal Emergency Management Agency's U.S. Fire Administration to develop a unique and comprehensive approach to fire safety in Arkansas called Operation Dixieland. it is a combined effort by federal, state, and local officials. The U.S. Fire Administration is working closely with the Arkansas Fire Academy at Camden, the state focus for the project, and with other state agencies, local communities, and the private sector.

Under Operation Dixieland, a multi-program approach to fire safety-ranging from a Sesame Street Fire Safety Program aimed at pre-school children, to the training of fire personnel at the National Fire Academy, to research into and testing of new designs in protective fire fighter clothing, to the training of citizens to detect fire hazards in their homes and communities—has been developed.

With initial funding of $80,000 from the U.S. Fire Administration, Operation Dixieland began in October, 1980. Although the project received federal funding only through September, 1982, the programs of Operation Dixieland have continued. Specific accomplishments of this unique program include:

National Fire Academy Campus Courses. Through Operation Dixieland, 51 students have been sent to the National Fire Academy in Maryland for special training. This has increased the level of preparedness of the Arkansas Fire service. These people have in turn shared their training with other Arkansas fire departments.

Public Fire Education Programs. A special program on public education has been established at the Morris Booker Memorial College in Dermott, Arkansas. The persons trained through this program are now working throughout the State in public fire education programs. In addition, public service announcements and programs on smoke detectors, kerosene heaters, woodburning stoves and other relevant topics continue to be used in the State. A statewide Public Education Resource Catalog has been developed and is in use by local fire departments. The catalog details the resources available for public education activities, as well as those available for training purposes. Four Fire Service Resource Centers have also been established in the state. These centers stock basic information and visual aid equipment which local fire departments can use in conducting their in-house or public education seminars.

Residential Fire Safety Surveys. Hundreds of homes have been surveyed in Arkansas by volunteers who are trained to detect hazardous conditions and counsel the homeowner on how to correct problems. The survey has collected valuable information on local fire problems which assists local fire departments in their fire protection planning. Efforts have been directed toward reaching those segments of the population which are experiencing a high incidence of fire deaths and injury.

Fire Incidence Reporting System. This system is allowing the Arkansas Fire Service to move into the field of detailed fire incidence reporting. We do not yet understand as much as we should about our fire problem, but with proper use of this data, the fire service can more effectively and efficiently address the problem.

Sesame Street Pre-School Fire Safety. This is an excellent example of the public education efforts in the state. Short term benefits of the project were directed at reducing the fire death and injury rates of pre-school children. The program also increased the fire danger awareness of these children, thus providing fire safety behavior patterns that will be retained. Five thousand pre-school children in four Arkansas cities have been trained in burn prevention, fire danger awareness, and "stop, drop and roll" techniques through the program.

Project Fires Protective Clothing. A cooperative research project with FEMA's National Fire Data Center has been conducted in an effort to test new designs in protective fire fighter clothing.

This is, by no means, a complete account of the projects or progress made through Operation Dixieland. In Arkansas we are hopeful that Operation Dixieland will become the model for the Southeastern states and the entire country. We have already learned that the program will have to be modified and adapted to the unique needs of each state and region. We found in Arkansas that the fire problems are as varied as the state itself. No one program or approach was applicable statewide.

The key ingredients for our success has been cooperation between state, local, and federal officials; the development of a comprehensive master plan for fire safety; and citizen awareness and participation in fire protection.

I believe the funds we received under the authority of Federal Fire Prevention Control Act have resulted in better fire safety for the people of my state. I urge you to take the success of this project into consideration as you review this legislation.●

WHAT THE JOBS BILL IS WORTH TO GEORGIA

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● **Mr. LEVITAS.** Mr. Speaker, an article which appeared in the Atlanta Constitution last week discussed the skepticism among officials in the State of Georgia as to just how much the jobs bill, passed by Congress last month, would do in the way of creating jobs in the State of Georgia. The article points to a number of problems with the legislation which will limit the number and type of jobs to be created as a result of the bill.

One of the reasons I voted against the jobs bill was because I foresaw many of the problems which the State officials mentioned in this article are now facing. I would like to place the article in the RECORD and call it to the attention of my colleagues.

[From the Atlanta Constitution, Apr. 20, 1983]

WHAT IS JOBS BILL WORTH TO GEORGIA?

STATE OFFICIALS CONFUSED BY PROVISIONS

(By Celia W. Dugger)

Georgia is expected to get $35 million of the $4.6 billion jobs bill President Reagan signed last month, but state officials are skeptical about how many jobs will be created and say they are befuddled by the hodge-podge way the funds are being distributed.

The funds are to be spent on a host of programs, many of which are already in place. They will help build libraries, provide daycare for working parents, train and locate jobs for laid-off employees, and weatherize homes, hospitals and schools, among many other things.

The Department of Human Resources expects to receive about $14 million, much of which will probably be used to help people get and keep jobs. But DHR budget director Dottie Roach cautions that DHR will not be providing many jobs directly to the unemployed.

Job creation "will only be substantial if there are job opportunities. If the private sector doesn't hire people, (the funds) will not provide any jobs," she said.

State budget director Clark Stevens pointed out that the funds are for one-time expenditures and said Gov. Joe Frank Harris wants to avoid creating obligations the state would have to pay for when the jobs bill funds run out.

As a result, the state will emphasize projects that involve short-term construction, equipment purchases and job training, he said. The jobs bill is "just not going to create lasting jobs in Georgia," he said.

Larry Williams, an analyst in the state Office of Planning and Budget, sat with a two-inch stack of paper in front of him Monday and tried to explain which of more than a dozen federal agencies will be funneling money to numerous state agencies.

The jobs bill, passed hurriedly as a dramatic statement of Congress' concern about unemployment, was signed almost a month ago, but the state still has not received firm figures for how much money it will get, how much time it will have to spend the funds, or what rules will govern how the money is spent.

"There's no coordination responsibility at the federal level," Williams said. "It's hard to spend money like this."

Another state official, who asked not to be identified, said implementation of the jobs bill "makes a Chinese fire drill look orderly." He said the bill became "one gigantic Christmas tree," with the funds from it spread among a variety of programs.

Gov. Joe Frank Harris has asked state agency heads to submit project proposals for jobs bill funds, including information on the number of jobs that would be created. Budget officials said they expect the proposals to come in this week.

Georgia, which had an 8.5 percent unemployment rate in February, considerably lower than the national rate of 10.4 percent, will not get proportionately as much funding as other states that have been hard hit by the recession.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, April 28, 1983, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 29

8:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1984 for the National Institutes of Health, and the Alcohol, Drug Abuse, and Mental Health Administration, Department of Health and Human Services.
SD-116

9:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 73, proposing an amendment to the Constitution of the United States relating to voluntary school prayer.

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 249, to make permanent and extend the exclusion from income for amounts paid under educational assistance programs, and S. 825, to exclude income from the sale of membership lists from the unrelated business income tax on nonprofit organizations.
SD-215

Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on S. 32 and S. 33, bills to prohibit the owner of certain audiovisual equipment from renting, leasing, or lending for commercial advantage without the authorization of the copyright owner.
SD-226

Labor and Human Resources
Family and Human Services Subcommittee
Business meeting, to mark up S. 1003, authorizing funds through fiscal year 1986 for child abuse prevention and treatment and adoption reform programs, and proposed legislation authorizing funds for the Domestic Volunteer Service Act.
SD-430

MAY 2

8:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Office of the Assistant Secretary for Health, Health Care Financing Administration, and the Office of Human Development Services, all of the Department of Health and Human Services; vocational and adult education programs, bilingual education programs, and libraries, all of the Department of Education, and certain programs of related agencies.
SD-116

9:00 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 622, to authorize the Secretary of the Interior to undertake feasibility investigations, S. 662, to provide for confirmation of the repayment contract of the Dallas Creek participating project of the Upper Colorado storage project, S. 805, to authorize the Secretary of the Interior to construct, operate, and maintain the Santa Margarita project, California, and S. 818, to authorize the replacement of existing pump casings in Robert B. Griffith water project pumping plants 1A and 2A (formerly the southern Nevada water project).
SD-138

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume oversight hearings on the President's budget request for fiscal year 1984 for the Department of Energy's research and development pro-

grams, focusing on nuclear waste activities.
SD-366

Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To hold hearings on S. 883 and S. 558, bills to expedite exploration and development of geothermal resources.
SD-562

10:30 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S.J. Res. 73, proposing an amendment to the Constitution of the United States relating to voluntary school prayer.
SD-226

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Mineral Management Service, Department of the Interior, and the Advisory Council on Historic Preservation.
SD-138

Foreign Relations
To hold hearings on the nomination of Malcolm R. Barnebey, of Texas, to be Ambassador to Belize.
SD-419

4:30 p.m.
Foreign Relations
Closed briefing on the CSIS Soviet Project (Center for Strategic and International Studies, Georgetown University).
SD-116, Capitol

MAY 3

8:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Health Resources and Services Administration, National Eye Institute, both of the Department of Health and Human Services, and elementary and secondary education programs, and higher education programs, both of the Department of Education.
SD-116

9:30 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings to review the current state of and competition within the financial services industry.
SD-538

Energy and Natural Resources
Energy Research and Development Subcommittee
To continue oversight hearings on the President's budget request for fiscal year 1984 for the Department of Energy's research and development programs.
SD-366

Labor and Human Resources
To hold hearings on proposed legislation authorizing funds for the Legal Services Corporation.
SD-430

Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings on S. 811, proposed Health Care for Displaced Workers Act.
SD-430

10:00 a.m.
Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

Government Affairs
Permanent Subcommittee on Investigations
To hold hearings to examine allegations of fraud and misapplication of government funds in the shipbuilding industry.
SD-342

Judiciary
Business meeting, to consider pending calendar business.
SD-226

Joint Economic
Economic Goals and Intergovernmental Policy Subcommittee
To hold hearings on international comparisions of student achievement, and to examine the shortage of teachers in the math and science fields.
SR-232A

10:15 a.m.
Foreign Relations
To hold hearings on the nomination of Richard S. Williamson, of Virginia, to be the Representative of the United States of America to the Vienna Office of the United Nations and Deputy Representative of the United States of America to the International Atomic Energy Agency, with the rank of Ambassador.
SD-419

MAY 4

9:00 a.m.
Armed Services
Sea Power and Force Projection Subcommittee
Closed business meeting, to mark up certain provisions of S. 675, authorizing funds for fiscal year 1984 for military programs of the Department of Defense.
SR-222

9:30 a.m.
Labor and Human Resources
Business meeting, to consider proposed legislation relating to science education.
SD-430

10:00 a.m.
Appropriations
District of Columbia Subcommittee
To resume hearings on proposed budget estimate for fiscal year 1984 for the government of the District of Columbia.
SD-192

Banking, Housing, and Urban Affairs
To continue oversight hearings to review the current state of and competition within the financial services industry.
SD-538

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings to examine allegations of fraud and misapplication of government funds in the shipbuilding industry.
SD-342

Judiciary
Criminal Law Subcommittee
To hold hearings on S. 829, proposed Comprehensive Crime Control Act.
SD-226

Joint Economic
To hold hearings to examine certain aspects of the proposed Federal budget.
SD-124

10:30 a.m.
Judiciary
Separation of Powers Subcommittee
To resume hearings to explore certain Federal court procedures relating to the exclusionary rule, habeas corpus, and related matters.
SR-418

2:00 p.m.
Appropriations
Defense Subcommittee
To hold hearings on the supplemental budget request for fiscal year ending September 30, 1983 for the defense establishment.
SD-192

Armed Services
Preparedness Subcommittee
Closed business meeting, to mark up certain provisions of S. 675, authorizing funds for fiscal year 1984 for military programs of the Department of Defense.
SR-222

Judiciary
To hold hearings on pending nominations.
SD-226

MAY 5

9:30 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings to review certain secondary market and mortgage foreclosure issues.
SD-538

Labor and Human Resources
To hold hearings on S. 772, to establish an Interagency Committee on Smoking and Health to coordinate Federal and private activities to educate the public about the health hazards of smoking.
SD-430

10:00 a.m.
Appropriations
District of Columbia Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1984 for the government of the District of Columbia.
SD-138

Armed Services
Manpower and Personnel Subcommittee
Closed business meeting, to mark up certain provisions of S. 675, authorizing funds for fiscal year 1984 for military programs of the Department of Defense, and S. 989, proposed Omnibus Military Personnel Act.
SR-232A

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

Foreign Relations
Business meeting, to consider pending calendar business.
SD-419

11:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Office of Revenue Sharing (New York City loan program), Federal Home Loan Bank Board, National Credit Union Administration, and the Environmental Protection Agency.
SD-124

2:00 p.m.
Armed Services
Tactical Warfare Subcommittee
Closed business meeting, to mark up certain provisions of S. 675, authorizing funds for fiscal year 1984 for military programs of the Department of Defense.
SR-222

Foreign Relations
Business meeting, to consider pending calendar business.
SD-419

Judiciary
Constitution Subcommittee
To hold hearings on S. 81 and S. 141, bills to revise current law relating to civil actions for the deprivation of rights.
SD-226

MAY 6

9:00 a.m.
Armed Services
Military Construction Subcommittee
Closed business meeting, to mark up S. 720, authorizing funds for fiscal year 1984 for military construction programs of the Department of Defense.
SR-222

10:00 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To hold oversight hearings on the Strategic Petroleum Reserve to review financing mechanisms, interim storage, fill capacity, and other related issues.
SD-366

Governmental Affairs
Information Management and Regulatory Affairs Subcommittee
To hold oversight hearings on the implementation of the Paperwork Reduction Act of 1980.

MAY 9

8:30 a.m.
Armed Services
Strategic and Theater Nuclear Forces Subcommittee
Closed business meeting, to mark up certain provisions of S. 675, authorizing funds for fiscal year 1984 for military programs of the Department of Defense, S. 1106, authorizing funds for the fiscal year ending September 30, 1983 for national security programs of the Department of Energy, and S. 1107, authorizing funds for fiscal years 1984 and 1985 for national security programs of the Department of Energy.
SR-222

9:30 a.m.
Finance
Health Subcommittee
To hold hearings on proposed budget requests for fiscal year 1984 for Medicare and Medicaid cost sharing.
SD-215

10:00 a.m.
Judiciary
Immigration and Refugee Policy Subcommittee
To hold hearings on proposed authorizations for refugee programs.
SD-226

Rules and Administration
To hold hearings to review recommendations of the Senate study group on U.S. Senate practice and procedure.
SR-301

MAY 10

8:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs of the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-116

9:00 a.m.
*Commerce, Science, and Transportation
To hold hearings on the nomination of E. Pendleton James, of California, to be a Member of the Board of Directors of the Communications Satellite Corporation.
SR-232A

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 999, proposed International Telecommunications Act.
SR-253

Labor and Human Resources
To hold hearings on home health care services.
SD-430

10:00 a.m.
Appropriations
Defense Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1984 for certain defense related programs, focusing on arms control and military strategy.
SD-192

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

Foreign Relations
Business meeting, to consider pending calendar business.
SD-419

Judiciary
Business meeting, to consider pending calendar business.
SD-226

Rules and Administration
To hold hearings on certain matters relating to the Senate media galleries, including membership, rules and procedures, outside activities of gallery staff, space and facilities, and security clearances for gallery members.
SR-301

2:00 p.m.
Foreign Relations
Business meeting, to consider pending calendar business.
SD-419

MAY 11

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To continue hearings on S. 999, proposed International Telecommunications Act.
SR-232A

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

10:00 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on oil pipeline deregulation.
SD-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To hold hearings on the District of Columbia school system's career oriented curriculum.
SD-124

Labor and Human Resources
To continue hearings on home health care services.
SD-430

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-225

MAY 12

9:30 a.m.
Judiciary
Juvenile Justice Subcommittee
To hold hearings on certain tragedies involving children.
SD-562

Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on computerization of criminal history.
SD-226

Labor and Human Resources
To resume hearings on S. 772, to establish an Interagency Committee on Smoking and Health to coordinate Federal and private activities to educate the public about the health hazards of smoking.
SD-430

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Department of Housing and Urban Development.
SD-124

Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for territorial affairs.
SD-192

Judiciary

Constitution Subcommittee

To resume hearings on S. 81 and S. 141, bills to revise current law relating to civil actions for the deprivation of rights.

SD-226

MAY 13

9:30 a.m.

Finance

Taxation and Debt Management Subcommittee

To hold hearings on S. 137, to permit the continued issuance of mortgage revenue bonds after December 31, 1983, and S. 1061, to revise certain IRS provisions relating to the tax treatment of bonds that are guaranteed by certain Federal agencies.

SD-215

Labor and Human Resources

Business meeting, to mark up S.772, to establish an Interagency Committee on Smoking and Health to coordinate Federal and private activities to educate the public about the health hazards of smoking.

SD-430

10:00

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Labor and Human Resources

To hold hearings to examine fire safety matters.

SD-430

10:30 a.m.

Judiciary

Separation of Powers Subcommittee

To resume hearings to explore certain Federal court procedures relating to the exclusionary rule, habeas corpus, and related matters.

SD-226

MAY 16

9:30 a.m.

Judiciary

To resume hearings on S. 610, to encourage college student-athletes to complete their undergraduate education before becoming professional athletes.

SD-226

10:00 a.m.

Labor and Human Resources

Aging Subcommittee

To hold hearings to discuss the progress made in the treatment of Alzheimer's disease.

SD-430

MAY 17

9:30 a.m.

Rules and Administration

To hold hearings on S. 85, to provide for public financing of U.S. Senate general election campaigns, S. 151, to limit contributions to U.S. Senate campaigns by certain multicandidate political committees, S. 732, to increase individual and party participation, to provide for the adjustment of contribution limits, and to allow candidates to control expenditures made on their behalf, S. 810, to provide for certain adjustments in campaign contribution limits, and other pending legislation.

SR-301

10:30 a.m.

Judiciary

Business meeting, to consider pending calendar business.

SD-226

2:00 p.m.

Environment and Public Works

Water Resources Subcommittee

To hold hearings on S. 1031, S. 970, and S. 865, bills to provide for the operation, maintenance, and construction of national waterways.

SD-406

MAY 18

9:30 a.m.

Governmental Affairs

Governmental Efficiency and the District of Columbia Subcommittee

To resume hearings on the status of emergency preparedness in the Washington, D.C. metropolitan area.

SD-562

Labor and Human Resources

To hold oversight hearings on activities of the Equal Employment Opportunity Commission.

SD-430

10:00 a.m.

Veterans' Affairs

To hold oversight hearings to review adverse health effects from exposure to agent orange, and other related matters.

SD-628

2:00 p.m.

Judiciary

To hold hearings on pending nominations.

SD-226

Veterans' Affairs

To continue oversight hearings to review adverse health effects from exposure to agent orange, and other related matters.

SD-628

MAY 19

9:30 a.m.

Commerce, Science, and Transportation

To resume hearings on S. 372, to promote interstate commerce by prohibiting discrimination in the writing and selling of insurance contracts.

SR-253

Judiciary

Patents, Copyrights and Trademarks Subcommittee

To hold hearings on computer chips protection

SD-226

Labor and Human Resources

To hold hearings on health care cost.

SD-430

10:00 a.m.

Environment and Public Works

Environmental Pollution Subcommittee

To hold hearings on S. 696, to provide for the ratification of the Memorandum of Agreement between the U.S. Department of the Interior and the State of Texas for the Management of the Matagorda Island State Park and Wildlife Management Area A Unit of the National Wildlife Refuge System in Calhoun County, Texas.

SD-406

Judiciary

Courts Subcommittee

To hold hearings to discuss bankruptcy matters relating to the Manville Corporation in Denver, Colorado.

SD-562

10:30 a.m.

Energy and Natural Resources

To hold oversight hearings on the geopolitics of strategic and critical minerals.

SD-366

MAY 20

9:30 a.m.

Labor and Human Resources

To hold hearings on the effects of chemotherapy in the treatment of cancer.

SD-430

10:00 a.m.

Judiciary

To resume oversight hearings on organized crime in the United States.

SD-226

Judiciary

Constitution Subcommittee

To hold hearings on S.J. Res. 10, proposing an amendment to the Constitution of the United States relative to equal rights for women and men, and on related measures.

SD-628

MAY 23

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs under the subcommittee's jurisdiction.

SD-124

MAY 24

9:30 a.m.

Labor and Human Resources

Labor Subcommittee

To hold oversight hearings on the Employee Retirement Income Security Act (ERISA).

SD-430

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs under the subcommittee's jurisdiction.

SD-124

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to investigate the use of offshore banks, trusts, and companies to facilitate criminal activity in the United States.

SD-342

Judiciary

Business meeting, to consider pending calendar business.

SD-226

MAY 25

9:30 a.m.

Judiciary

Juvenile Justice Subcommittee

To hold hearings on the problem of parental kidnaping.

SD-226

Labor and Human Resources

To continue hearings on health care cost.

SD-430

10:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings to investigate the use of offshore banks, trusts, and companies to facilitate criminal activity in the United States.
SD-342

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

JUNE 8

9:30 a.m.
Labor and Human Resources
To hold hearings on food safety.
SD-430

10:00 a.m.
Veterans Affairs
To hold hearings on proposed legislation providing for certain veterans' compensation.
SR-418

JUNE 9

9:30 a.m.
Labor and Human Resources
To continue hearings on food safety.
SD-430

JUNE 10

9:30 a.m.
Labor and Human Resources
To continue hearings on food safety.
SD-430

JUNE 14

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on proposed legislation revising certain provisions of the Labor-Management Reporting and Disclosure Act (Landrum-Griffin Act).
SD-430

JUNE 15

9:30 a.m.
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To resume oversight hearings on activities of the Patent and Trademark Office, Department of Commerce.
SD-226

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on the proposed Alien Education Assistance Act.
SD-430

Veterans' Affairs
To hold oversight hearings to review certain health care and other services provided Vietnam veterans.
SR-418

2:30 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

JUNE 16

9:30 a.m.
Judiciary
Juvenile Justice Subcommittee
To hold hearings on deinstitutionalization of certain status offenders.
SD-226

Labor and Human Resources
Labor Subcommittee
To resume hearings on proposed legislation revising certain provisions of the Labor-Management Reporting and Disclosure Act (Landrum-Griffin Act).
SD-430

JUNE 20

10:00 a.m.
Judiciary
Immigration and Refugee Policy Subcommittee
To resume hearings on proposed authorizations for refugee programs.
SD-226

JUNE 22

9:30 a.m.
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on patent term restoration.
SD-226

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

10:00 a.m.
Labor and Human Resources
Family and Human Services Subcommittee
To resume oversight hearings on the breakdown of the traditional family unit, focusing on causes and remedies.
SD-430

Veterans' Affairs
To hold oversight hearings on certain health care services for veterans.
SR-418

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

JUNE 23

10:00 a.m.
Labor and Human Resources
Family and Human Services Subcommittee
To continue oversight hearings on the breakdown of the traditional family unit, focusing on the role of Federal policy.
SD-430

JUNE 27

10:00 a.m.
Judiciary
Immigration and Refugee Policy Subcommittee
To resume hearings on proposed authorizations for refugee programs.
SD-226

JUNE 29

9:30 a.m.
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on Federal Government patent policy.
SD-226

10:00 a.m.
Veterans' Affairs
Business meeting, to consider proposed legislation providing for certain veterans' compensation.
SR-418

JUNE 30

9:30 a.m.
Judiciary
Juvenile Justice Subcommittee
To hold hearings on juvenile offenders of serious and violent crimes.
SD-226

JULY 6

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

JULY 13

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

JULY 20

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

JULY 27

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

CANCELLATIONS

APRIL 29

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue joint hearings with the Committee on Labor and Human Resources on S. 425, to provide equal access and opportunity to public school students who wish to meet voluntarily for religious purposes.
SD-430

Labor and Human Resources
To continue joint hearings with the Committee on the Judiciary's Subcommittee on Constitution on S. 425, to provide equal access and opportunity to public school students who wish to meet voluntarily for religious purposes.
SD-430

SENATE—*Thursday, April 28, 1983*

(Legislative day of Tuesday, April 26, 1983)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Eternal God, I pray today for leadership in the loneliness of decision. When all available facts are in, when the data has been processed as effectively as possible, when counsel has been sought and received, decision is demanded and cannot be delegated.

At such a time of aloneness, may Senators remember that there is One to Whom they may turn for ultimate wisdom and guidance. May they realize that Thou art "closer than hands or feet"—"nearer than breathing"—that if they reach for Thee, they have already gone too far.

May they know gracious God, that Thou art more ready to give insight and direction than they to receive. May they heed the admonition of the Apostle James, "You have not because you ask not." (James 4: 2). Forbid Lord that they should deprive themselves of Thy gracious enabling. We pray this in the name of Him who is "Wonderful, Counselor, Mighty God, Everlasting Father." Amen.

RECOGNITION OF THE MAJORITY LEADER

The **PRESIDENT** pro tempore. The majority leader is recognized.

Mr. **BAKER**. I thank the Chair.

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. **BAKER**. Mr. President, I ask unanimous consent that after the execution of the several special orders which have been provided for there be a period for the transaction of routine morning business of not longer than 30 minutes in length in which Senators may speak for not more than 5 minutes each.

The **PRESIDENT** pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

IMMIGRATION REFORM AND CONTROL—S. 529

Mr. **BAKER**. Mr. President, at the conclusion of the time for the transaction of routine morning business, it is the intention of the leadership on this side to ask the Senate to turn to the consideration of S. 529, the immigration bill.

I had been advised that there may be an objection to proceeding to that by unanimous consent, perhaps objections on both sides of the aisle, but Senators should be aware that notice has been given now for many days that it is the intention of the leadership to proceed to this matter as soon as it is available and the schedule of the Senate suggests that it is appropriate.

That moment has arrived, and if there is an objection to the request to proceed to the consideration of the immigration bill, it is the intention of the leadership to move to the consideration of that item today.

Mr. President, today is Thursday. Today is the regular late day of the Senate if a late day is required.

Senators should be on notice that today may be a late day. If we are debating the motion to proceed, and I hope we are not, but if we are, it is the intention of the leadership, notwithstanding, to stay late and we will debate the motion to proceed tomorrow; we will debate the motion to proceed on Saturday if necessary.

THE BUDGET RESOLUTION

The reason I may sound harsh and adamant on that subject is that we have the budget resolution to deal with and it is the hope and expectation of the leadership that we will turn to the consideration of the budget resolution on Monday.

I have a strong desire to get up the immigration bill and to pass it, to dispose of it before we reach the budget resolution.

Mr. President, I anticipate that the budget resolution, even though limited to 50 hours of debate under the statute, may require all or most of next week. Therefore, Senators should be on notice that any evening and all evenings next week may be late evenings because I feel that it is important that we finish the budget resolution as promptly as possible and within the confines of the days available to the Senate next week.

Mr. President, none of those announcements are happy announcements, but I felt Senators should be aware of them at this time.

THE PRESIDENT'S SPEECH

Mr. **BAKER**. Mr. President, last night, President Reagan delivered a major address on U.S. policy in Central America before a joint session of Congress and the American people, and I would like to take this opportunity to comment briefly on his remarks.

When the President first suggested the idea of a speech before a joint session, many were skeptical; they called it a high risk venture, one which could do more harm than good. But President Reagan was firm in his desire to communicate to all Americans his commitment to Central America, and his willingness to join in a bipartisan effort to sustain the independence and freedom of countries in that battered region. And he was right.

In his speech, President Reagan affirmed that U.S. policy in Central America is based on an undying support for democracy, reform and human rights. He stressed the need for economic development in the region, and pledged to support negotiations in this regional crisis.

Mr. President, I want to commend the President on what was, an important and historical speech, and point out that the address is already fueling support for his policies. I ask unanimous consent, Mr. President, that the text of the President's address be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TEXT OF THE ADDRESS BY THE PRESIDENT TO A JOINT SESSION OF THE CONGRESS

A number of times in past years, Members of Congress and a President have come together in meetings like this to resolve a crisis. I have asked for this meeting in the hope that we can prevent one.

It would be hard to find many Americans who are not aware of our stake in the Middle East, the Persian Gulf, or the NATO line dividing the free world from the Communist bloc. The same could be said for Asia.

But in spite of, or maybe because of, a flurry of stories about places like Nicaragua and El Salvador and, yes, some concerted propaganda, many of us find it hard to believe we have a stake in problems involving those countries. Too many have thought of Central America as a place way down below Mexico that can not possibly constitute a threat to our well being.

That is why I have asked for this session. Central America's problems do directly affect the security and well being of our own people. And Central America is much closer to the United States than many of the world trouble spots that concern us. As we work to restore our own economy, we cannot afford to lose sight of our neighbors to the South.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

El Salvador is nearer to Texas than Texas is to Massachusetts. Nicaragua is just as close to Miami, San Antonio, San Diego, and Tucson as those cities are to Washington where we are gathered tonight.

But nearness on the map does not even begin to tell the strategic importance of Central America, bordering as it does on the Caribbean—our lifeline to the outside world. Two-thirds of all our foreign trade and petroleum pass through the Panama Canal and the Caribbean. In a European crisis, at least half of our supplies for NATO would go through these areas by sea. It is well to remember that in early 1942 a handful of Hitler's submarines sank more tonnage there than in all of the Atlantic Ocean. And they did this without a single naval base anywhere in the area.

Today, the situation is different. Cuba is host to a Soviet combat brigade, a submarine base capable of servicing Soviet submarines, and military air bases visited regularly by Soviet military aircraft.

Because of its importance, the Caribbean Basin is a magnet for adventurism. We are all aware of the Libyan cargo planes refueling in Brazil a few days ago on their way to deliver medical supplies to Nicaragua. Brazilian authorities discovered the so-called medical supplies were actually munitions and prevented their delivery. You may remember that last month, speaking on national television, I showed an aerial photo of an airfield being built on the island of Grenada. Well, if that airfield had been completed, those planes could have refueled there and completed their journey.

If the Nazis during World War II and the Soviets today could recognize the Caribbean and Central America as vital to our interests, should not we also?

For several years now, under two administrations, the United States has been increasing its defense of freedom in the Caribbean Basin. And I can tell you tonight, democracy is beginning to take root in El Salvador which, until a short time ago, knew only dictatorship. The new government is now delivering on its promises of democracy, reforms, and free elections. It was not easy and there was resistance to many of the attempted reforms with assassinations of the reformers. Guerrilla bands and urban terrorists were portrayed in a worldwide propaganda campaign as freedom fighters representative of the people. Ten days before I came into office, the guerrillas launched what they called a "final offensive" to overthrow the government. Their radio boasted that our new Administration would be too late to prevent their victory. They learned democracy cannot be so easily defeated.

President Carter did not hesitate. He authorized arms and ammunition to El Salvador. The guerrilla offensive failed, but not America's will. Every President since this country assumed global responsibilities has known that those responsibilities could only be met if we pursued a bipartisan foreign policy.

As I said a moment ago, the government of El Salvador has been keeping its promises, like the land reform program which is making thousands of farm tenants, farm owners. In a little over 3 years, 20 percent of the arable land in El Salvador has been redistributed to more than 450,000 people. That is about one in ten Salvadorans who has directly benefitted from this program.

El Salvador has continued to strive toward an orderly and democratic society. The government promised free elections. On March 28th, little more than a year ago, after months of campaigning by a variety of candidates, the suffering people of El Salvador were offered a chance to vote—to choose the kind of government they wanted. Suddenly the so-called freedom fighters in the hills were exposed for what they really are—a small minority who want power for themselves and their backers—not democracy for the people. The guerrillas threatened death to anyone who voted. They destroyed hundreds of busses and trucks to keep the people from getting to the polling places. Their slogan was brutal: "Vote today, die tonight." But on election day, an unprecedented 80 percent of the electorate braved ambush and gunfire, and trudged for miles to vote for freedom. That is truly fighting for freedom. We can never turn our backs on that.

Members of this Congress who went there as observers told me of a woman who was wounded by rifle fire on the way to the polls, who refused to leave the line to have her wound treated until after she had voted. Another woman had been told by the guerrillas she would be killed when she returned from the polls, and she told the guerrillas, "You can kill me, you can kill my family, kill my neighbors, but you can't kill us all." The real freedom fighters of El Salvador turned out to be the people of that country—the young, the old, the in-between—more than 1 million of them out of a population of less than 5 million. The world should respect this courage, not allow it to be belittled or forgotten. Again, I say in good conscience, we can never turn our backs on that.

The democratic political parties and factions in El Salvador are coming together around the common goal of seeking a political solution to their country's problems. New national elections will be held this year and they will be open to all political parties. The government has invited the guerrillas to participate in the election and is preparing an amnesty law. The people of El Salvador are earning their freedom and they deserve our moral and material support to protect it.

Yes, there are still major problems regarding human rights, the criminal justice system, and violence against non-combatants. And, like the rest of Central America, El Salvador also faces severe economic problems. But, in addition to recession-depressed prices for major agricultural exports, El Salvador's economy is being deliberately sabotaged.

Tonight in El Salvador—because of ruthless guerrilla attacks—much of the fertile land cannot be cultivated; less than half the rolling stock of the railways remains operational; bridges, water facilities, telephone and electrical systems have been destroyed and damaged. In one 22-month period, there were 5,000 interruptions of electrical power. One region was without electricity for a third of a year.

I think Secretary of State Shultz put it very well the other day: "Unable to win the free loyalty of El Salvador's people, the guerrillas are deliberately and systematically depriving them of food, water, transportation, light, sanitation, and jobs. And these are the people who claim they want to help the common people."

They do not want elections because they know they would be defeated. But, as the previous election showed, the Salvadoran people's desire for democracy will not be defeated.

The guerrillas are not embattled peasants armed with muskets. They are professionals, sometimes with better training and weaponry than the government's soldiers. The Salvadoran battalions that have received U.S. training have been conducting themselves well on the battlefield and with the civilian population. But, so far, we have only provided enough money to train one Salvadoran soldier out of ten, fewer than the number of guerrillas trained by Nicaragua and Cuba.

And let me set the record straight on Nicaragua, a country next to El Salvador. In 1979, when the new government took over in Nicaragua, after a revolution which overthrew the authoritarian rule of Somoza, everyone hoped for the growth of democracy. We in the United States did, too. By January of 1981, our emergency relief and recovery aid to Nicaragua totalled $118 million—more than provided by any other developed country. In fact, in the first 2 years of Sandinista rule, the United States directly or indirectly sent five times more aid to Nicaragua than it had in the 2 years prior to the revolution. Can anyone doubt the generosity and good faith of the American people?

These were hardly the actions of a nation implacably hostile to Nicaragua. Yet, the government of Nicaragua has treated us as an enemy. It has rejected our repeated peace efforts. It has broken its promises to us, to the Organization of American States, and, most important of all, to the people of Nicaragua.

No sooner was victory achieved than a small clique ousted others who had been part of the revolution from having any voice in government. Humberto Ortega, the Minister of Defense, declared Marxism-Leninism would be their guide, and so it is.

The government of Nicaragua has imposed a new dictatorship; it has refused to hold the elections it promised; it has seized control of most media and subjects all media to heavy prior censorship; it denied the bishops and priests of the Roman Catholic Church the right to say Mass on radio during Holy Week; it insulted and mocked the Pope; it has driven the Miskito Indians from their homelands—burning their villages, destroying their crops, and forcing them into involuntary internment camps far from home; it has moved against the private sector and free labor unions; it condoned mob action against Nicaragua's independent human rights commission and drove the director of that commission into exile.

In short, after all these acts of repression by the government, is it any wonder opposition has formed? Contrary to propaganda, the opponents of the Sandinistas are not die-hard supporters of the previous Somoza regime. In fact, many are anti-Somoza heroes who fought beside the Sandinistas to bring down the Somoza government. Now they have been denied any part in the new government because they truly wanted democracy for Nicaragua and still do. Others are Miskito Indians fighting for their homes, lands, and lives.

The Sandinista revolution in Nicaragua turned out to be just an exchange of one set of autocratic rulers for another, and the people still have no freedom, no democratic rights, and more poverty. Even worse than its predecessor, it is helping Cuba and the Soviets to destabilize our hemisphere.

Meanwhile, the government of El Salvador, making every effort to guarantee democracy, free labor unions, freedom of religion, and a free press, is under attack by guerrillas dedicated to the same philosophy that prevails in Nicaragua, Cuba, and, yes, the Soviet Union. Violence has been Nicaragua's most important export to the world. It is the ultimate in hypocrisy for the unelected Nicaraguan government to charge that we seek their overthrow when they are doing everything they can to bring down the elected government of El Salvador. The guerrilla attacks are directed from a headquarters in Managua, the capital of Nicaragua.

But let us be clear as to the American attitude toward the government of Nicaragua. We do not seek its overthrow. Our interest is to insure that it does not infect its neighbors through the export of subversion and violence. Our purpose, in conformity with American and international law, is to prevent the flow of arms to El Salvador, Honduras, Guatemala, and Costa Rica. We have attempted to have a dialog with the government of Nicaragua but it persists in its efforts to spread violence.

We should not—and we will not—protect the Nicaraguan government from the anger of its own people. But we should, through diplomacy, offer an alternative. And, as Nicaragua ponders its options, we can and will—with all of the resources of diplomacy—protect each country of Central America from the danger of war.

Even Costa Rica, Central America's oldest and strongest democracy, a government so peaceful it does not even have an army, is the object of bullying and threats from Nicaragua's dictators.

Nicaragua's neighbors know that Sandinista promises of peace, non-alliance, and non-intervention have not been kept. Some 36 new military bases have been built—there were only 13 during the Somoza years.

Nicaragua's new army numbers 25,000 men supported by a militia of 50,000. It is the largest army in Central America supplemented by 2,000 Cuban military and security advisors. It is equipped with the most modern weapons, dozens of Soviet-made tanks, 800 Soviet-bloc trucks, Soviet 152-MM howitzers, 100 anti-aircraft guns, plus planes and helicopters. There are additional thousands of civilian advisors from Cuba, the Soviet Union, East Germany, Libya, and the Palestine Liberation Organization. And we are attacked because we have 55 military trainers in El Salvador.

The goal of the professional guerrilla movements in Central America is as simple as it is sinister—to destabilize the entire region from the Panama Canal to Mexico. If you doubt me on this point, just consider what Cayetano Carpio, the now-deceased Salvadoran guerrilla leader, said earlier this month. Carpio said that after El Salvador falls, El Salvador and Nicaragua would be "arm-in-arm and struggling for the total liberation of Central America."

Nicaragua's dictatorial junta, who themselves made war and won power operating from bases in Honduras and Costa Rica, like to pretend they are today being attacked by forces based in Honduras. The fact is, it is Nicaragua's government that threatens Honduras, not the reverse.

It is Nicaragua who has moved heavy tanks close to the border, and Nicaragua who speaks of war. It was Nicaraguan radio that announced on April 8th the creation of a new, unified revolutionary coordinating board to push forward the Marxist struggle in Honduras.

Nicaragua, supported by weapons and military resources provided by the Communist bloc, represses its own people, refuses to make peace, and sponsors a guerrilla war against El Salvador.

President Truman's words are as apt today as they were in 1947, when he, too, spoke before a joint Session of the Congress:

"At the present moment in world history nearly every nation must choose between alternative ways of life. The choice is too often not a free one.

"One way of life is based upon the will of the majority, and is distinguished by free institutions, representative government, free elections, guarantees of individual liberty, freedom of speech and religion, and freedom from political oppression.

"The second way of life is based upon the will of a minority forcibly imposed upon the majority. It relies upon terror and oppression, a controlled press and radio, fixed elections, and the suppression of personal freedoms.

"I believe that it must be the policy of the United States to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures.

"I believe that we must assist free peoples to work out their own destinies in their own way.

"I believe that our help should be primarily through economic and financial aid which is essential to economic stability and orderly political processes.

"* * * Collapse of free institutions and loss of independence would be disastrous not only for them but for the world. Discouragement and possibly failure would quickly be the lot of neighboring peoples striving to maintain their freedom and independence."

The countries of Central America are smaller than the nations that prompted President Truman's message. But the political and strategic stakes are the same. Will our response—economic, social, military—be as appropriate and successful as Mr. Truman's bold solutions to the problems of postwar Europe?

Some people have forgotten the successes of those years—and the decades of peace, prosperity, and freedom they secured.

Some people talk as though the United States were incapable of acting effectively in international affairs without risking war or damaging those we seek to help.

Are democracies required to remain passive while threats to their security and prosperity accumulate?

Must we just accept the destabilization of an entire region from the Panama Canal to Mexico on our southern border?

Must we sit by while independent nations of this hemisphere are integrated into the most aggressive empire the modern world has seen?

Must we wait while Central Americans are driven from their homes, like the more than 4 million who have sought refuge out of Afghanistan or the 1½ million who have fled Indochina or the more than 1 million Cubans who have fled Castro's Caribbean utopia? Must we, by default, leave the people of El Salvador no choice but to flee their homes, creating another tragic human exodus?

I do not believe there is a majority in the Congress or the country that counsels passivity, resignation, defeatism, in the face of this challenge to freedom and security in our hemisphere.

I do not believe that a majority of the Congress or the country is prepared to stand by passively while the people of Central America are delivered to totalitarianism and we ourselves are left vulnerable to new dangers.

Only last week an official of the Soviet Union reiterated Brezhnev's threat to station nuclear missiles in this hemisphere—five minutes from the United States. Like an echo, Nicaragua's Commandante, Daniel Ortega, confirmed that, if asked, his country would consider accepting those missiles. I understand that today they may be having second thoughts.

Now, before I go any further, let me say to those who invoke the memory of Vietnam: There is no thought of sending American combat troops to Central America; they are not needed—indeed, they have not been requested there. All our neighbors ask of us is assistance in training and arms to protect themselves while they build a better, freer life.

We must continue to encourage peace among the nations of Central America. We must support the regional efforts now underway to promote solutions to regional problems.

We cannot be certain that the Marxist-Leninist bands who believe war is an instrument of politics will be readily discouraged. It is crucial that we not become discouraged before they do. Otherwise the region's freedom will be lost and our security damaged in ways that can hardly be calculated.

If Central America were to fall, what would the consequences be for our position in Asia and Europe, and for alliances such as NATO? If the United States cannot respond to a threat near our own borders, why should Europeans or Asians believe we are seriously concerned about threats to them? If the Soviets can assume that nothing short of an actual attack on the United States will provoke an American response, which ally, which friend will trust us then?

The Congress shares both the power and the responsibility for our foreign policy.

Tonight, I ask you, the Congress, to join me in a bold, generous approach to the problems of peace and poverty, democracy and dictatorship in the region. Join me in a program that prevents Communist victory in the short run, but goes beyond to produce, for the deprived people of the area, the reality of present progress and the promise of more to come.

Let us lay the foundation for a bipartisan approach to sustain the independence and freedom of the countries of Central America. We in the Administration reach out to you in this spirit.

We will pursue four basic goals in Central America:

First: In response to decades of inequity and indifference, we will support democracy, reform, and human freedom. This means using our assistance, our powers of persuasion, and our legitimate "leverage" to bolster humane democratic systems where they already exist and to help countries on their way to that goal complete the process as quickly as human institutions can be changed. Elections—in El Salvador and also in Nicaragua—must be open to all, fair and safe. The international community must help. We will work at human rights problems, not walk away from them.

Second: In response to the challenge of world recession and, in the case of El Salvador, to the unrelenting campaign of economic sabotage by the guerrillas, we will support economic development. By a margin of two-to-one, our aid is economic, not military. Seventy-seven cents out of every dollar we will spend in the area this year goes for food, fertilizers, and other essentials for economic growth and development. And our economic program goes beyond traditional aid: The Caribbean Basin Initiative introduced in the House earlier today will provide powerful trade and investment incentives to help these countries achieve self-sustaining economic growth without exporting U.S. jobs. Our goal must be to focus our immense and growing technology to enhance health care, agriculture, industry; to ensure that we who inhabit this interdependent region come to know and understand each other better, retaining our diverse identities, respecting our diverse traditions and institutions.

Third: In response to the military challenge from Cuba and Nicaragua—to their deliberate use of force to spread tyranny—we will support the security of the region's threatened nations. We do not view security assistance as an end in itself, but as a shield for democratization, economic development, and diplomacy. No amount of reform will bring peace so long as guerrillas believe they will win by force. No amount of economic help will suffice if guerrilla units can destroy roads, bridges, power stations, and crops again and again with impunity. But, with better training and material help, our neighbors can hold off the guerrillas and give democratic reform time to take root.

Fourth: We will support dialogue and negotiations—both among the countries of the region and within each country. The terms and conditions of participation in elections are negotiable. Costa Rica is a shining example of democracy. Honduras has made the move from military rule to a democratic government. Guatemala is pledged to the same course. The United States will work toward a political solution in Central America which will serve the interests of the democratic process.

To support these diplomatic goals, I offer these assurances:

The United States will support any agreement among Central American countries for the withdrawal—under fully verifiable and reciprocal conditions—of all foreign military and security advisors and troops.

We want to help opposition groups join the political process in all countries and compete by ballots instead of bullets.

We will support any verifiable, reciprocal agreement among Central American countries on the renunciation of support for insurgencies on neighbors' territory.

And, finally, we desire to help Central America end its costly arms race, and will support any verifiable, reciprocal agreements on the non-importation of offensive weapons.

To move us toward these goals more rapidly, I am tonight announcing my intention to name an Ambassador-at-Large as my special envoy to Central America. He or she will report to me through the Secretary of State. The Ambassador's responsibilities will be to lend U.S. support to the efforts of regional governments to bring peace to this troubled area and to work closely with the Congress to assure the fullest possible, bipartisan coordination of our policies toward the region.

What I am asking for is prompt congressional approval for the full reprogramming of funds for key current economic and security programs so that the people of Central America can hold the line against externally-supported aggression. In addition, I am asking for prompt action on the supplemental request in these same areas to carry us through the current fiscal year, and for early and favorable congressional action on my requests for fiscal year 1984. Finally, I am asking that the bipartisan consensus, which last year acted on the trade and tax provisions of the Caribbean Basin Initiative in the House, again take the lead to move this vital proposal to the floor of both chambers. And, as I said before, the greatest share of these requests is targeted toward economic and humanitarian aid, not military.

What the Administration is asking for on behalf of freedom in Central America is so small, so minimal—considering what is at stake. The total amount requested for aid to all of Central America in 1984 is about $600 million; that is less than one-tenth of what Americans will spend this year on coin-operated video games.

In summation, I say to you that tonight there can be no question: The national security of all the Americas is at stake in Central America. If we cannot defend ourselves there, we cannot expect to prevail elsewhere. Our credibility would collapse, our alliances would crumble, and the safety of our homeland would be put at jeopardy.

We have a vital interest, a moral duty, and a solemn responsibility.

This is not a partisan issue. It is a question of our meeting our moral responsibility to ourselves, our friends, and our posterity. It is a duty that falls to all of us—the President, the Congress, and the people. We must perform it together. Who among us would wish to bear responsibility for failing to meet our shared obligation?

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have no further need for my time if any is remaining under the standing order, and I yield the remainder of it to the minority leader.

Mr. BYRD. I thank the distinguished majority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

THE PRESIDENT'S SPEECH AND THE ALTERNATIVE VIEWPOINT BY SENATOR DODD

Mr. BYRD. Mr. President, the majority leader has referred to the President's speech of last evening.

I listened to that speech very attentively and carefully, as I am sure all Members of the Senate did. The President, as always, excellent in his delivery and it seemed to me that he was conciliatory in tone as well as in the letter of the speech.

There are many who will hail his suggestion that there be a special envoy. There are others who may feel that this is not a good idea.

I am glad that the President did not go to the extent of naming a special envoy last evening. It seems to me that if one is to be named, I hope it will be someone with stature and experience in this field and one who will be recognized as such. The naming of a special envoy could be good or it could be bad, and it could largely depend upon the person who is named. I have no one in mind as far as I am concerned at this point, but I just offer that as a suggestion.

Regarding, the President's speech, an alternative viewpoint was presented by Senator DODD. I think he made a fine expression of that alternative viewpoint and in some areas I think the President's speech and Mr. DODD's speech could be very easily blended. The President spoke of negotiations, of a dialog, which was one of the center points that was made also by Mr. DODD.

I do not think there was, and I would hope that there would not be, an impression that there is a party position on this matter. For the record, may I say that we have not discussed it at great length in our own caucus. We have not had any votes that I recall on the matter there.

But I think it was good that we had an alternative viewpoint expressed last night. It lends to the national dialog and to the debate.

This is a subject of great concern and it eventually could have far-reaching repercussions in this country.

Insofar as my party is concerned, there is not unanimity on this issue, and I think that should be stated for the Record. I am sure that the same can be said of the Republican Party.

Everyone joins in wanting to see peace in Central America, wanting to see human rights respected, and wanting to avoid getting involved militarily and in not wanting to see American boys engaged there in a war.

I think that the speech that Mr. DODD made last night could very well have been by a Republican. The feeling on this subject cuts across both parties. There are some Republicans who will probably feel one way, others who will feel another, and the same on my side of the aisle.

I agree with the President that we should try to reach a bipartisan solution.

I have tried to make foreign policy issues bipartisan insofar as I could. I do not—at this point at least—see a unified position in either party as to the course we should pursue in El Salvador. I am not absolutely sure where I will come out on the matter of aid. For several years I have been voting against foreign aid, both economic and military. I think, nonetheless, that there are some countries we should assist with aid where it is in our own security interests that we do so.

As to the speeches of Mr. Reagan and Mr. DODD, both spoke with feeling and sincerity of purpose. There also, I must acknowledge, is room for differing viewpoints, and that is what Mr. DODD was expressing last night. I think he performed a service in presenting a viewpoint that, although it was not on all fours in coinciding with the President's viewpoint, I am sure the President respects. Likewise, those who may not agree with the President, nevertheless respect his viewpoint. The American people are best served when they are exposed to information that reflects divergent points of view. Only in this way can the interests of the Nation be best served.

I am one who is not absolutely sure as to what is the best thing to do. What is the best approach in the interests of peace and security and a better way of life for the people in Central America, and also the security interests of our own country? I am not yet sure in my own mind. I have been struggling, wrestling, probing, and reaching in an effort to try to determine what is best. So I applaud those who in their own minds have reached conclusions one way or the other. I am sure they have studied the matter carefully. It is easy for people to see differently and yet be looking at the same thing, as many of us did on SALT, and as many of us did on the Panama Canal treaties and on AWACS.

So I compliment both the President and Mr. Dodd on their presentation of somewhat different viewpoints. Both were well done, both were well delivered, and just as the majority leader has rightfully asked to put the President's speech in the Record, I ask unanimous consent that Mr. Dodd's speech be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Democratic Response to President Reagan's Address to Joint Session of Congress

(Remarks delivered by Senator Christopher J. Dodd)

Good evening. I want to thank the networks for the opportunity to offer a different viewpoint. While there is no unanimity in Congress—on either side of the aisle—on Central America, tonight I am speaking for the many Americans who are concerned about our ever-deepening involvement in the military conflict in that part of the world.

I am pleased to note that the President this evening was willing to recognize an economic and political dimension of the problems in Central America, including the possibility of negotiations. Concerned Members of Congress have been pressing this point of view since he came to office. Regrettably, however, as his statement tonight demonstrates, the fundamental view continues to emphasize military problems and the search for military solutions.

In the months and years that follow this evening, after the applause has faded and the ringing phrases are forgotten, Americans will have to live with the choices we make in this fateful time of decision.

In the past, we as a nation have learned painfully that the truth is never as simple as some would paint it. Charts and statistics can be used or misused to prove any side of a case. And speeches can sound very good without being very right.

So first of all, let me state clearly that on some very important things, all Americans stand in agreement.

We will oppose the establishment of Marxist states in Central America.

We will not accept the creation of Soviet military bases in Central America.

And, we will not tolerate the placement of Soviet offensive missiles in Central America—or anywhere in this hemisphere.

Finally, we are fully prepared to defend our security and the security of the Americans, if necessary, by military means.

All patriotic Americans share these goals. But many of us in Congress, Democrats and Republicans, respectfully disagree with the President because we believe the means he has chosen will not fulfill them.

Those of us who oppose the President's policy believe that he is mistaken in critical ways. To begin with, we believe the Administration fundamentally misunderstands the causes of the conflict in Central America. We cannot afford to found so important a policy on ignorance—and the painful truth is that many of our highest officials seem to know as little about Central America in 1983 as we knew about Indochina in 1963.

I've lived with the people in this region. Let me share some facts with you about Central America.

Most of the people there are apallingly poor. They can't afford to feed their families when they're hungry. They can't find a doctor for them when they're sick. They live in rural dirt shacks with dirt floors or city slums without plumbing or clean water. The majority can't read or write. Many of them don't even know how to count.

It takes all five Spanish-speaking countries of Central America more than a year to produce what this nation does in less than three days. Virtually none of even that meager amount ever reaches the bulk of the people. In short, a very few live in isolated splendor while the very many suffer in shantytown squalor. In country after country, dictatorship or military dominance has stifled democracy and destroyed human rights.

If Central America were not racked with poverty, there would be no revolution. If Central America were not racked with hunger, there would be no revolution. If Central America were not racked with unjustices, there would be no revolution. In short, there would be nothing for the Soviets to exploit. But unless those oppressive conditions change, the region will continue to seethe with revolution—with or without the Soviets.

Instead of trying to do something about the factors which breed revolution, this Administration has turned to massive military buildups at a cost of hundreds of millions of dollars. Its policy is ever increasing military assistance, endless military training, and further military involvement. This is a formula for failure. And it is a proven prescription for picking a loser. The American people know that we have been down this road before—and that it only leads to a dark tunnel of endless intervention.

Tonight the President himself told us that things were not going well in Central America. But for this the President cannot blame Congress. We have given him what he has asked. $700 million in economic and military assistance has been delivered or is on its way to El Salvador since Ronald Reagan came to office . . . all at his request, and all with Congressional approval. One of every five Salvadoran soliders fighting for its government was trained right here in the United States. American soldiers are there now training Salvadoran army units which are employing modern weapons built in American factories.

Now the President asks for an even greater commitment. His requests for El Salvador alone will bring the total aid to that country during his term to more than $1 billion.

One billion dollars to counter a rebel army that, according to all reports, does not exceed 7,000 guerrillas. That means you are paying $140,000 in hard-earned tax dollars for each one of those guerrillas we are trying to defeat.

While your tax dollars have been pouring into El Salvador, the money skimmed off by that nation's rich is leaving the country. For every dollar we've sent in, more than a dollar has gone out—to numbered accounts in Zurich or to buy Wall Street stocks. It raises the question of why we should invest in the future of El Salvador when the wealthiest citizens of that country are investing in Swiss banks.

What return have we achieved for all we have spent? The army in El Salvador has been reluctant to fight—and it is led by an officer corps working a nine-to-five shift with weekends off. Land reform has been abandoned. At least 30,000 civilians have been killed, and the majority of them have been victims of the government's own security forces. American nuns and labor advisors have been murdered—and the judicial system is so intimidated that it cannot even bring accused murderers to trial.

For those 30,000 murders, confirmed by our own embassy, there have been fewer than 200 convictions.

American dollars alone cannot buy military victory—that is the lesson of the painful past and of this newest conflict in Central America. If we continue down that road, if we continue to ally ourselves with repression, we will not only deny our own most basic values, we will also find ourselves once again on the losing side. It is folly, pure and simple, to pursue a course which is wrong in principle—in order to wage a conflict which cannot be won.

After 30,000 deaths, after hundreds of millions of dollars, with the ante going up, with no end in sight, and with no hope for any real change, the time has come for a different approach. Yes, we are fully prepared to be involved in Central America. But the question is the nature and quality of our involvement. We must offer an alternative policy that can work.

First, we should use the power and influence of the United States to achieve an immediate cessation of hostilities in both El Salvador and Nicaragua. Already in both those countries too many people have died. It is time for the killing to stop.

Second, the United States should use all its power and influence to work for a negotieated political settlement in Central America.

In El Salvador, the rebels have offered to negotiate unconditionally. Let us test their sincerity. We certainly have the leverage to move the government to the bargaining table. On his recent trip to that very Catholic region, the Pope lent the moral force of his office to such a step. It is practical and realistic to expect, that if we support it, these talks can get underway. And every major ally of ours in the region—Mexico, Panama, Venezuela, and Colombia—is anxious for such a step to be taken, and has offerd to make the arrangements.

Those same nations have volunteered to bring Nicaragua into negotiations—and Nicaragua has agreed to talk. Instead, as we know from press accounts, this Administration is conducting a not so secret war inside that country.

No one in this Congress or this country is under the delusion that the Sandinista government is a model democracy or a force for stability. But the insurgents we have supported are the remnants of the old Somoza regime—a regime whose corruption, graft, torture, and despotism made it universally despised in Nicaragua. The Sandinistas may not be winners, but right now we are backing sure losers. We are doing for the Sandinista Marxists what they could not do for themselves. We are weakening the very groups inside Nicaragua which believe in a free and democratic society. And that is the sad irony of this Administration's policy.

Third, we must restore America's role as a source of hope and a force for progress in Central America. We must help governments only if they will help their own people. We must hear the cry for bread, schools, work, and opportunity that comes from campesinos everywhere in this hemisphere. We must make violent revolution preventable by making peaceful revolution possible.

Most important, this approach would permit the United States to move with the tide of history rather than stand against it.

For us, the stakes are diplomatic, political, and strategic. But for the people of El Salvador, life itself is on the line.

I have been to that country and I know about the morticians who travel the streets each morning to collect the bodies of those summarily dispatched the night before by Salvadoran Security Forces—gangland-style—the victim on bended knee, thumbs wired behind the back, a bullet through the brain.

We recoil at such an image for our association with criminals such as these is not America's tradition. In other, brighter days we have stood for the aspirations of all the people who are part of the Americas. Two centuries ago, our nation raised the light of liberty before the world—and all of this hemisphere looked to us as an example and an inspiration. In this Capitol building from which I speak tonight, men like Daniel Webster, Henry Clay, and Abraham Lincoln once spoke of an America leading the way to human progress and human rights—and people everywhere listened with hope.

There is no greater or larger ideal than the one which was forged here in the early days of this Republic. That ideal of liberty is our greatest strength as a nation; it is a powerful and peaceful weapon against tyranny of any kind anywhere in this hemisphere.

We can take the road of military escalation. But we really don't know what the next step will be, where it will lead, or how much it will cost. This much, however, we do know. It will mean greater violence. It will mean greater bloodshed. It will mean greater hostilities. And, inevitably, the day will come when it will mean a regional conflict in Central America.

When that day comes—when "the dogs of war" are loose in Central America, when the cheering has stopped—we will know where the President's appeal for more American money and a deeper American commitment has taken us.

Thank you and good night.

Mr. BYRD. There is one other thing I think I should state, and that is with respect to asking the networks for time to respond to the speech of the President. This is a routine thing for the Democratic Party to do under this administration, just as it was routine for the Republican Party to do under the previous Democratic administration.

We have established a precedent with the networks, and I think generally they have been very responsive to our requests. We did not want to give up that precedent in this instance. So, I, on behalf of all Senators and the American people, express appreciation to the networks for allowing an alternative viewpoint to be expressed. I think it is important that we have a national debate, a national dialog on this controversial and difficult problem, so that people be informed as best they can be in order that they can make up their own minds in an informed and balanced way.

But, as I say, the mere fact that the Democratic Party on both sides of the Hill requested network time for response, does not mean that there is total unanimity in the Democratic Party, as I am sure there is not total unanimity in the Republican Party on this issue. But it is important that various viewpoints be expressed so that we can all be better informed.

I thank the distinguished majority leader.

Mr. BAKER. I thank the Senator.

Mr. President, I yield back the remainder of the time remaining if there is no further requirement by the minority leader, and I see no other Senator seeking recognition.

RECOGNITION OF SENATOR THURMOND

The PRESIDING OFFICER (Mr. ABDNOR). Under the previous order, the Senator from South Carolina (Mr. THURMOND) is recognized for not to exceed 15 minutes.

RETIRED MILITARY PAY CUTS

Mr. THURMOND. Mr. President, I rise to express my concern about the repeated proposals to reduce retired military pay to the extent that one of the most persuasive incentives for pursing a military career is jeopardized. The 97th Congress approved some drastic reductions of retired pay last year, and now more reductions are being proposed.

Time passes quickly, Mr. President. How soon we forget actions taken by Congress in years past that seriously impacted upon our defense forces by contributing to the loss of highly skilled and experienced middle managers.

Fortunately, the negative effect of cuts in military retired pay on enlistment and retention was offset somewhat by other actions and developments. For one thing, the 97th Congress took necessary action to provide substantial pay increases for our active duty military people. That action, combined with a depressed economy, resulted in the highest recruiting and retention rates the military services have enjoyed for many years.

Mr. President, now, as the economy begins to improve, the administration is asking Congress to take additional action to make a career in our armed services less attractive. Regrettably, this proposal was made before the military services had a chance to study the plan and make recommendations. Over the past 10 years, Congress has taken several piecemeal actions adversely affecting the military retirement system. This has caused concern among our military men and women as to whether it is worth staying with a career where the fringe benefit and retirement rules keep changing from year to year, resulting in a perception that their expected lifestyle after service of 20 or more years to their country is slipping away from them.

Of particular concern to career military people and military retirees is the proposal to make permanent the now temporary reduction in cost-of-living adjustments (COLA) in military retirees pay. At present, those retirees' under age 62—other than service-connected disabled veterans—are limited to only half of the COLA to which other retirees are entitled based on increases in the projected Consumer Price Index (CPI). This reduction is already in effect for the next 2 years. It should not be extended on a permanent basis. It is unnecessary and unreasonable to make it a permanent feature of the military retirement program. If this provision is made permanent, it would on an average reduce the lifetime value of military retirement by 32 percent, with the greatest adverse impact on enlisted retirees.

Mr. President, it is encouraging to note that the Joint Chiefs of Staff oppose this permanent cap on cost-of-living adjustments. I understand also that Secretary Weinberger now agrees with the Joint Chiefs. They oppose this permanent limitation on adjustments because of the serious adverse effect it would have on retention, force readiness, and morale. In short, it would discourage military careers.

In addition to the permanent cap on pay adjustments, there are other proposed pay cuts in retired pay and benefits before the Congress. These include:

Rounding down each monthly payment to the next lower dollar;

Eliminating the 1-year look-back feature by which retirees can compute their initial retired pay;

Freezing the retired pay adjustments for fiscal year 1984 and delaying further adjustments 13 months until June 1985; and

Requiring more cost sharing in the provision of medical care to beneficiaries by instituting fees at direct care facilities.

If these reductions are added to those already taken in recent years, it will be obvious that the retirees have been singled out in our society as the ones to take the most severe cuts because of economic problems.

Mr. President, I would like to remind my distinguished colleagues of what Congress has already done to the retirement system over the years, especially the last 2 years. If this trend is continued, it will certainly adversely impact upon the composition of our career military force structure.

The 97th Congress clearly demonstrated that the military retirement system was not sacred. The following actions already taken, when combined with new proposals, will have a severe adverse effect, not only on the current, but also on the future value of the typical retirement annuity:

Frequency of cost-of-living adjustments reduced from twice to once a year;

Personnel who entered the service after September 8, 1980, and who remain until eligible for retirement will have their annuity based on the average of the highest 3 years of service;

Cost-of-living adjustments for military retirees under age 62 (other than service-connected disabled veterans) limited to 50 percent of the projected CPI for fiscal years 1983, 1984, and 1985. (Almost 78 percent of military retirees are under age 62);

Rounding off to the nearest year when computing years of service eliminated;

Cost-of-living adjustments for those military retirees working for civil service have an equal amount deducted from their civil service pay. (This is in addition to the dual compensation law, which already cuts military retired pay by almost one-third); and

State courts permitted to award all of a retiree's pay to a former spouse.

Mr. President, both the short term and the long-term impacts of these changes on the All-Volunteer Force are being overlooked. Proponents of military retirement reforms look only at the current favorable recruiting and retention rates. However, we all know for a fact that a declining economy has prompted young men and women to seek job training through military service. By the same token, we have retained a much higher percentage of middle grade and senior noncommissioned officers because of stagnant employment opportunities.

Recent retention surveys reveal that the No. 1 reason people remained in the service was the present retirement system. If the No. 1 incentive is no longer there, personnel with marketable skills increasingly will exit to the private sector in order to obtain a more secure, stable future for themselves and their families.

As the value of retirement annuities declines, the services will be forced to put more money into special incentive pay to keep the people in critical skills. Not only are special pay and bonuses expensive, but they also erode the concept that every member is equally important to the overall mission of the armed services.

Mr. President, it would behoove the critics of the military retirement system to examine the extraordinary demands which set a career military member apart from others in our society. Among these are:

Long hours with no overtime pay, costly periodic relocations, forced family separation and frequent exposure to risk;

Inability to control living/working conditions;

Being subject to a demanding code of conduct and the Uniformed Code of Military Justice; and

Acceptance of a highly disciplined and controlled lifestyle in a society where others enjoy virtually unlimited individual freedoms, such as the right of free speech and political activity. (Similarly, military people are expected to maintain an acute sense of purpose when some in our society question the value of our institutions and national policy.)

In short, we ask military people to surrender some elements of freedom and safety to serve and defend a society that ironically has the highest degree of freedom, independence and security in the world.

Mr. President, we must not forget that so often when we talk about pay and benefits for our military people, we tend to refer to higher ranking officers. Yet, over 80 percent of all military personnel are enlisted members, most of whom are in the lower and middle grades.

Congress imposes restrictions upon the number of enlisted personnel who may achieve the two top enlisted grades. Only 2 percent of the force may hold the grade of E-8, and only 1 percent can be grade E-9. This also means that the greatest majority of our military retirees are in the grades of E-5, E-6, and E-7.

The average retired pay of more than 60 percent of the current retiree population is below the 1982 poverty threshold for a family of four. Most retirees must acquire new skills and enter the job market in midlife to make ends meet.

Mr. President, we must not allow the readiness of our armed services to deteriorate further for lack of qualified, skilled career personnel. If we make permanent the "half COLA" adjustment for those military retirees under age 62, those men and women we need the most to remain in the career force increasingly will look elsewhere for a career. I also question the proposed freeze on the fiscal year 1984 COLA. An 8-month delay might be acceptable.

There is another serious problem already developing which is largely created by so many severe pay penalties being imposed on military retirees. Traditionally, military retirees have been a valuable source of skilled professionals for entry into the Federal civilian work force. I predict that this source will dry up with the continued cuts in military retired pay, especially the reduction in one's civil service salary by the amount equal to military retiree COLA increase. Already, highly qualified military retirees are leaving their civil service jobs to seek a second career outside the Federal Government, because of this COLA offset in the last Congress on top of the already existing dual-compensation penalty. We can ill afford to lose such a skilled personnel resource.

Not only were these proposed reductions put forward without prior study by the military services, but they are being made without the benefit of the Fifth Quadrennial Review of Military Compensation report, which is due to be delivered to President Reagan by October 1, 1983. I believe any further modifications should not be considered until this report is completed and the military services have an opportunity to make their recommendations to the Secretary of Defense. In my judgment, a more equitable solution can be found to reduce the Federal deficit.

In summary, there is no question that even the most sophisticated weapons have limitations. However, highly qualified, well paid and motivated people have no limitations when it comes to protecting the freedom of this Nation.

Mr. President, I recommend that the proposals to make the "half COLA" permanent and to freeze fiscal year 1984 COLA adjustments be given a critical review by my distinguished colleagues. I understand that the Budget Committee does not agree with the permanent "half COLA" and has proposed only an 8-month delay of the fiscal year 1984 COLA. This 8-month delay might be acceptable.

On the other hand, I strongly recommend that the Senate unequivocally reject the proposal to make permanent the "half COLA" reductions for our retired military personnel. We must restore the confidence of our military personnel in our Government. The continued erosion of this faith at the expenses of our national security must cease. Dedication is being stretched to its limits.

Mr. President, many in the military community—active and retired—already believe that Congress has been acting in bad faith with them. The greatest danger to our security posed by further cuts in military retirement and related benefits, is that service people more and more are concluding that their Government no longer places great value on their service, dedication and loyalty.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR LEAHY

The PRESIDING OFFICER. Under the previous order, the Senator from Vermont is recognized for not to exceed 15 minutes.

Mr. LEAHY. Thank you, Mr. President.

CENTRAL AMERICA

Mr. LEAHY. Mr. President, in Central America, the United States is facing a most serious challenge to its efforts to devise a workable approach to the problems of the Third World. Somehow, the United States must find a policy which will advance our interests in democracy, stability, and justice, while at the same time resolutely resisting the ambitions of the Soviet Union and its surrogates. As recent public debate attests, it is not yet clear that the United States has found a policy which can command a bipartisan consensus.

The President has addressed the Congress. He did last night. We have given him a fair hearing.

Today, in my judgment, we should consider the facts and identify the issues. We need to put the rhetoric in the context of reality.

WHAT IS HAPPENING IN CENTRAL AMERICA?

It is clear to me, having twice visited the region in the past 12 months, and having spent a considerable amount of my time in my committee work studying Central America, that events in one country cannot be separated from events in its neighbors. Simply put, we are seeing a region in profound upheaval. I am under no illusions. Much of this upheaval works to the benefit of outside forces hostile to American interests and to genuine democracy. The Soviet Union and its clients are once again seeking to exploit misery and conflict for strategic gains.

However, Mr. President, I am convinced Central America would be a deeply troubled region even without the activities of the Soviet Union and its surrogates. The underlying forces for change are deep and go far back into the history of that impoverished land. A broad and widening spectrum of the peoples of Central America will not tolerate any longer the pattern of oligarchical rule, political authoritarianism, economic deprivation and exploitation, and appalling social injustices. Change is coming in Central America, as it is throughout the Third World, and if it is to take a direction amenable to our values and interests, we must identify with it, guide it, and accept it

In America's handling of the forces of change in Central America, we face a stern test of the maturity of our foreign policy, and the sophistication of our institutions. It is no secret that I fear our current approach is failing that test. We are in grave danger of substituting military force and covert action for a supple policy aimed at allowing us to lead, rather than to combat, the inexorable demands for change, reform, and justice in Central America.

IS CENTRAL AMERICA IMPORTANT TO U.S. INTERESTS?

No one in this body would deny that Central America is important to American interests. It is within our "sphere of influence." Aside from the tired arguments that "it is in our own backyard" there is the stronger case to be made that Central America will prove to be a test for how we deal with the Third World, as I said before, how we deal with the forces of change in the world today.

Politically, others in the region will inevitably weigh our ability to deal with the revolutionary spirit. Countries of truly vital interest to the United States, such as Mexico, Venezuela, and Columbia, will be watching with great care how we cope with the challenges of Central America. They will also evaluate our stance in relation to their own efforts to bring about a peaceful resolution to the tensions in the region.

The costs to us of a failed policy in Central America cannot be ignored. If we continue to identify with the forces of repression, as my distinguished friend from Hawaii has so eloquently stated, we will truly lose Central America. If we fail to stand for justice, for economic development, for improving the lot of the hungry and the poor, we will not only be fighting against the tides of change, but we will be throwing away the very strength of our policy position.

Let me reiterate. It would be wrong and shortsighted if the Senate were to think that covert action is the principal defect in our current approach to Central America.

Moreover, in this tightly interrelated world of ours, if we do not work for economic growth and improved conditions in Central America, we will inherit a tidal wave of illegal immigration that the President mentioned. There are more immigrants on our shores, and they are coming to escape poverty, repression, and violence. Let there be no mistake about this. Illegal immigration is a price we will pay for this administration's policy in Central America.

HOW DO WE ADVANCE U.S. INTERESTS?

Given the importance of American interests in Central America, how can we best advance them? This, in my view, is the key question at the heart of this debate. Fundamentally, the choice is between the military approach of the President, and those who believe another alternative is possible, one which emphasizes diplomacy, economic incentives, human rights, political and social reform, and dialog among all the politically active elements willing to participate in building democracy.

At present, the most controversial element of the administration's policy is the use of covert action. While we must carefully examine this issue, in my judgment, it would be wrong and shortsighted if the Senate were to think that covert action is the principal defect in our current approach to Central America.

The President has openly admitted U.S. assistance to anti-Sandinista insurgents based in Honduras and operating inside Nicaragua. There really is no need to debate what we are doing. The issues are: Is this activity legal? Is it compatible with the moral and ethical standards of the American people? And, finally, is it effective in advancing American policy objectives?

Mr. President, I would like briefly to elaborate on each of these critical issues. Before this debate can properly be concluded, I believe very strongly that the Senate must address each of them, and come to some fundamental conclusions. This is a turning point in American policy in Central America. Either the administration will continue, strengthened in the conviction that it has the support of Congress; or, it will be compelled, however reluctantly, to reassess its policy and its means of implementation.

IS THE ADMINISTRATION OBSERVING THE LAW?

The Boland amendment states:

> None of the funds provided in the Act (Continuing Resolution) may be used by the Central Intelligence Agency or the Department of Defense to furnish military equipment, military training or advice, or other support for military assistance, to any group or individual, not part of a country's armed forces, for the purpose of overthrowing the Government of Nicaragua or provoking a military exchange between Nicaragua and Honduras.

This language was adapted from a classified section in the conference of the two Intelligence Committees on the intelligence community authorization last fall. It was enacted into law by overwhelming majorities by both Houses. There can be absolutely no question that it is the law of the land, which the President is constitutionally bound to uphold and enforce.

What does the Boland amendment mean? The language is, admittedly, imprecise. Some have sought, for this reason, to argue that the amendment means nothing; that it was a paper compromise to avoid the real issue. Perhaps it means that for some, but not for me. I read the Boland amendment to be a directive from Congress to the President that while we would countenance strong measures to interdict the flow of arms from Nicaragua to El Salvador, Congress did not want the United States engaged in the business of overthrowing other governments.

Now, a sophist could claim that in providing support to anti-Sandinista insurgents, the United States is not directly seeking to overthrow the Government of Nicaragua. Our purposes are allegedly quite different from those of the insurgents. In the first place, we must ask ourselves bluntly whether there is any practical difference between aiding insurgents who want to take power in Managua, while saying that is not our purpose, and giving them that aid because we unequivocally share their aim? The effective consequence is the same: The United States is providing aid which is going to support an insurgency aimed at bringing down the present Government of Nicaragua and substituting another.

Mr. President, even if the majority of this body concludes that there is no violation of the Boland amendment, I see a deep moral question in continuing this activity. If the clear and unshakeable American aim is simply to interdict the flow of arms, how can we arm, train, and advise people who are entering Nicaragua to fight and die for some totally different objective? Does that mean that when we have achieved our objective, or have concluded that it cannot be achieved, we will withdraw our support, leaving the Nicaraguan insurgents in the same position as the Kurds of Iran, or the Montagnards of South Vietnam? I do not believe this is compatible with American moral standards, or what we expect from our Government in its dealings with other peoples. On the other hand, if we do continue to support the Nicaraguan guerrilla force, will we be drawn ever deeper into the conflict?

The legal and moral issues entwined around our current activities in Nicaragua are very difficult. Once again, however, even assuming these could be satisfactorily resolved, there are very serious questions about the practicality of our current policy toward Nicaragua—not to mention El Salvador. Ostensibly, our aim toward Nicaragua is to encourage democratic practices and improve relations between our two countries.

The Senate should ask itself whether these aims are being helped by actions which identify the United States with the loathed Somocistas, the brutes who tortured and killed so many thousands of Nicaraguans, and whose vicious conduct made the Sandinista revolution possible? Are we not repeating our mistake of the Cuban revolution, and by our fear and misunderstanding, undermining the very democratic elements within Nicaragua able to influence and change the Sandinistas? Are we not forcing them into the arms of the Sandinistas by making the choice either support for the hated Somocistas or patriotic defense against U.S. intervention? Some have said the best thing the Sandinistas have going for them in their campaign to crush or co-opt all democratic opposition is U.S. support of the insurgents.

Another very important question is the attitude and actions of other states in the region and the surrounding area. Do we have the full support of Mexico, Venezuela, Colombia, Panama, and the others? Who supports us? So far as I can tell, essentially only Honduras supports our policy, and having been there recently, I can tell you that this support is with substantial trepidation and concern about where it might lead. Mexico, Venezuela, Colombia, Panama, all support a negotiated regional solution to the turmoil of Central America. It is no accident that they are pursuing the diplomatic track without us. How can we expect to provide the leadership for a regional solution when we are clearly identified as the critical backers of one party to the Salvadoran conflict, and another party to the insurgency in Nicaragua?

Most importantly, Mr. President, does this approach—emphasis on military solutions and covert action—have the support of the American people? I can tell you that my constituents have written me—petitioned me—in overwhelming numbers of their profound concern about growing involvements in these conflicts in Central America. Many of our Vermont town meetings passed resolutions on El Salvador, and I ask unanimous consent that they be printed in the RECORD at the conclusion of this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. Mr. President, I strongly suspect the experts in the executive branch have not really thought through where our policies in Central America may lead. Typically, the executive branch is playing out the policy day by day, seeing which headline catches the President's interest. But, the American people recognize the true implications of current policy—they know that ultimately it leads to deeper American military involvement, up to and including sending American forces. They do not want that, they will not support it, and it would be a catastrophe for our entire foreign and national security policy.

Mr. President, I have gone on at some length, and I apologize for taking so much time. However, I think no one would suggest the issues are not of sufficient importance to warrant a statement of this length. My purpose is to set out as best I can the context for evaluating present policy and activities in Nicaragua. Now that the President has spoken, I hope we will turn to these questions, this time determined to take clear, concrete action.

I hope, also, that the administration will reverse the partisan approach it has adopted to foreign policy. For 2½ years the administration has rebuffed all attempts of the Congress to forge a bipartisan foreign policy on arms control, the Middle East, Central America, and so on. For the sake of the country, I hope it is not too late for them to change. For the sake of our foreign policy, I hope they realize only a bipartisan one has any chance of success.

Mr. President, I yield the floor.

EXHIBIT 1

VERMONT TOWNS WHICH VOTED TO END AID TO EL SALVADOR IN 1981, 1982, AND 1983

Burlington, St. Albans, Plainfield, Thetford, Marshfield, Rockingham, Putney, Westminster, Marlboro, Shrewsbury, Weston, West Windsor, and Townshend.

TOWN OF MARLBORO, VT.,
March 28, 1983.

The Town of Marlboro, Vermont, at its annual Town Meeting in March 1983, passed a resolution:

To call upon the President, Secretary of State and the Vermont Congressional Delegation to:

1. Immediately end all military and economic aid to the government of El Salvador, including training of Salvadoran military personnel in the United States.
2. Immediately recall all U.S. military adivsors presently in El Salvador.

Sincerely,

JERRY COLLINS,
Chairman, Board of Selectmen.

TOWN CLERK'S OFFICE,
Marshfield, Vt.

Art. 21. Article by petition: Shall the Town of Marshfield call upon the President and the Vermont Congressional Delegation to immediately end all military and economic aid to the Government of El Salvador, including the training of Salvadoran military personnel in the United States and immediately recall all U.S. Military advisors presently in El Salvador. Moved, seconded and voted to adopt as read.

TOWN OF ROCKINGHAM,
Bellows Falls, Vt., March 30, 1983.

Motion made by Christopher Kibbe and seconded by several people that the Town of Rockingham vote to ask our Vermont Congressional Delegation to support HJR 399 in the House of Representatives and Senator Dodd's resolution in the Senate. This bill cuts off military aid, nullifies the certification process, and returns this process to the Congress. A similar resolution has been offered in the Senate by Christopher Dodd. Our Congressional Delegation can act as our voice to say "no" to continued military aid to El Salvador. Motion carried.

A true copy as it appears in Town Meeting Volume 167—Page 440. Town of Rockingham, Vermont, March 30th, 1983.

Attest:

RITA M. BRUCE,
Town Clerk.

TOWN OF WESTMINSTER, VT.,
March 8, 1982.

Hon. PATRICK J. LEAHY,
U.S. Senate,
Washington, D.C.

DEAR MR. LEAHY: The freemen present and voting at Town Meeting, March 1, 1982 in Westminster, Vermont, took the following action on:

Article 21: (By Petition) Voted to ask the members of the Vermont Congressional delegation to introduce a resolution in the United States Congress requesting the President of the United States to propose to the Soviet Union a mutual nuclear moratorium by which the United States and the Soviet Union agree to halt immediately the testing, production and deployment of all nuclear warheads, missiles and delivery systems. Motion: Barbara Greenwood Second: Wesley Price Voted by Voice Vote.

Article 26: Voted to ask our Vermont Congressional Delegations to support HJR 399 in the House of Representatives and Senator Dodd's resolution in the Senate, and say "No" to continued military aid to El Salvador. Motion: Jo Ann Golden Second: Eva Mondon Voted by Voice Vote.

Attest:

BETTY J. HOLTON, C.M.C.,
Town Clerk.

TOWN OF PLAINFIELD, VT.,
April 1, 1983.

DEAR SENATOR LEAHY: Regarding your recent request, Article 10 as it appeared in the Town Report:

"Shall the registered voters of the Town of Plainfield call upon the President of the United States and the Vermont Congressional Delegation to (1) immediately end all military aid to the government of El Salvador, including the training of Salvadoran military personnel in the United States and (2) immediately recall all military advisors currently in El Salvador."

The vote, by show of hands, was 83 for and 22 against.

Sincerely,

JEAN R. OLSON,
Assistant Town Clerk.

MINUTES OF THE PUTNEY TOWN MEETING,
MARCH 2, 1982

Wendy Wallace passed out an information sheet on HJR 399, a bill to cut military aid to El Salvador and give Congress power of certification. She moved (Bill Caldwell seconded) that the Town support the passage of this bill in Congress. A show of hands passed the motion by a substantial majority.

OFFICE OF THE CITY CLERK,
Burlington, Vt., April 4, 1983.

Office of Senator PATRICK J. LEAHY,
Montpelier, Vt.

DEAR BETTY: Enclosed is a sample ballot from the November 1982 General Election with the wording on the question regarding aid to El Salvador. The vote on this article was: Yes, 4378; No, 1500.

Please don't hesitate to contact me if you would like any further information.

Sincerely,

JOANNA H. BERK,
Administrative Secretary.

OFFICIAL ABSENT VOTER BALLOT SPECIAL CITY MEETING

BURLINGTON, VERMONT, TUESDAY, NOVEMBER 2, 1982

Special Article

Instruction to voters:

To vote in favor of the following special article, place a cross (X) in the square marked YES under the article.

To vote against the following special article, place a cross (X) in the square marked NO under the article.

GENERAL ELECTION—SPECIAL ARTICLE—REFERENDUM QUESTION—AID TO EL SALVADOR

"Do the people of Burlington urge the President and the Vermont Congressional Delegation to:

1. Immediately end all military and economic aid to the government of El Salvador, including the training of Salvadoran military personnel in the United States.

2. Immediately recall all U.S. Military Advisors presently in El Salvador?"

If in favor of the article, make a cross (X) in this square ☐

If opposed to the article, make a cross (X) in this square ☐

RECOGNITION OF SENATOR EAGLETON

The **PRESIDING OFFICER.** Under the previous order, the Senator from Missouri (Mr. EAGLETON) is recognized for not to exceed 15 minutes.

INDEXATION: ONLY WHEN WE CAN AFFORD IT

Mr. **EAGLETON.** Mr. President, today I am introducing a bill to tie the scheduled tax indexation to achievement of a Federal deficit which does not ecxeed 2 percent of the gross national product (GNP).

Quite frankly, this bill represents a compromise of my own feeling that indexing was a terrible mistake and should be repealed outright.

There comes a time, however, for compromise. There are many in this Chamber who feel as I do—perhaps a majority—that indexing should be repealed. But there is on the other side a determined group of Senators and a President who insist that indexing is the crown jewel of the administration's economic program and must be protected at all costs.

In that situation, we face a bitter and protracted fight that has every prospect of ending in a stalemate. If that is allowed to happen, the country will be the loser. Deficits, already projected to soar about $200 billion this year, will continue to haunt us for the indefinite future.

Whether you favor or oppose indexing, the plain and simple fact is that we cannot afford it at this time. The revenue which would be lost through indexing will be added dollar for dollar to our already monstrous deficits and the American taxpayer would pay a cruel price in the form of higher interest rates, higher inflation, and the possibility of a new recession.

It is time to put aside partisan wrangling and do what is right for the country. Both the House-passed budget resolution and the resolution reported by the Senate Budget Committee recognize that cuts in defense and domestic spending will not be enough by themselves to remove the economic threat of these almost unimaginable deficits. Something is going to have to give on the revenue side and both resolutions call for $30 billion in revenue adjustments for fiscal year 1984.

I do not know whether that particular figure will survive after Senate floor debate and conference with the House. Nor can I say at this point what options we will have for raising these new revenues. It could be elimination or capping of the third-year tax cut. It could be a new energy tax. Or it could involve some new income surtax as the administration has recommended.

I do know this—some change in indexing must be part of the package if we are to have any hope of controlling outyear deficits. Indexing will outlive us all and will hang as a sword over the economic future of generations to come. It is a lifetime mortgage on the capacity of the Federal Government to respond to the needs of the Nation.

The conventional wisdom around here, parroted ad nauseam, is that we cannot do much about next year's deficit; we have to focus on the outyears. Yet, most of the debate I have heard around this Chamber is focused precisely on short-term remedies. I propose that we begin here and now to set a responsible course for the future by putting off those things we might like to have, but cannot afford. I would start with indexing.

Thus, Mr. President, my bill is a simple one. It says that, rather than implementing indexing in calendar year 1985 regardless of economic conditions at that time, we put it off until we have gotten control of the runaway deficits that threaten to sink us all.

The bill establishes as a triggering event the achievement of a Federal deficit which does not exceed 2-percent of the GNP. The dismal fact is that the administration projects the deficit will not be in that 2 percent range until sometime after 1988.

Over a 4-year period (1985 through 1988), my bill will reduce projected deficits by $90 billion. I ask unanimous consent that a table showing the year-by-year savings from this approach be printed at this point in my remarks.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 1.)

Mr. **EAGLETON.** Now, Mr. President, I want to make an observation and then ask a key question.

The administration's budget calls for contingency tax increases beginning in fiscal year 1986 unless the deficit has fallen by that time to 2.5 percent or less of GNP. With that proposal, the administration concedes the heart of my argument here—namely that there is only so much debt that can be borne by our economy without the whole thing coming unraveled. The administration concedes my main point and the only question is, What do we do to correct the present deficit imbalance? The administration sets the acceptable ratio of debt to GNP at 2.5 percent. The Congressional Budget Office and most economists put the figure at 2 percent if we are going to have sustained and stable economic growth. That is why that figure is in my bill.

The question is, What do we do about it, now that we all agree on the nature of our problem? The administration is proposing a brand new tax beginning in 1986. I am proposing that before we look at new taxes, we take a second look at future tax cuts such as indexing, which we unwisely put on the books 2 years ago on the blue-sky assurance of this administration that it would pay for itself and be all good things to all good people.

We have learned something in the last 2 years. We know better and we have to to act before it is too late.

When both sides are dug in as they were a week or two ago on the withholding question, and as they are now on indexing, somebody has to start thinking about ways to break the impasse.

Frankly, it surpasses my understanding how this administration can seriously propose levying new contingency taxes at the same time it is defending contingency tax cuts. It is a self-canceling proposition at best and some might say it is irresponsible gamemenship.

Massive outyear deficits threaten to strangle our nascent economic recovery in its cradle. I think it is time we did what is best for the country and if that means bending on my own side to reach a settlement, so be it. I am prepared to walk that mile and that is what this bill represents—a good-faith effort to arrive at an agreement on this troubling issue.

I hope it will receive the serious consideration of every Member of this body.

Mr. President, I ask unanimous consent that the full text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (e) of section 104 of the Economic Recovery Tax Act of 1981 (relating to the effective date for adjustments to prevent inflation-caused tax increase) is amended to read as follows:

"(e) EFFECTIVE DATE.—

"(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the later of—

"(A) December 31, 1984, or

"(B) the date on which the Secretary of the Treasury certifies that the Federal deficit for the most recently completed fiscal year did not exceed 2 percent of the gross national product for such fiscal year.

"(2) ADJUSTMENTS IN TAX TABLES.—Notwithstanding section 1(f) of the Internal Revenue Code of 1954—

"(A) the Secretary of the Treasury shall not prescribe tables under section 1(f) of such Code prior to the date described in paragraph (1)(B) of this subsection, and

"(B) the tables contained in subsections (a), (b), (c), (d), and (e) of section 1 of such Code shall apply to taxable years beginning on or before the later of—

"(i) the date described in paragraph (1)(B) of this subsection, or

"(ii) December 31, 1984.

"(3) The Secretary of the Treasury shall publish any certification made under paragraph (1)(B) in the Federal Register.

"(4) For purposes of this subsection—

"(A) FEDERAL DEFICIT.—The term 'Federal deficit' means, with respect to any fiscal year, the excess of—

"(i) aggregate outlays of the Federal Government during such fiscal year, over

"(ii) aggregate receipts of the Federal Government during such fiscal year.

"(B) GROSS NATIONAL PRODUCT.—The term 'Gross National Product' means the gross national product determined by the Secretary of Commerce.

"(C) FISCAL YEAR.—The term 'fiscal year' means the 12-month period beginning on October 1 of each calendar year.".

(b) Paragraph (1) of section 1(f) of the Internal Revenue Code of 1954 (relating to adjustments in tax tables), as added by section 104 of the Economic Recovery Tax Act of 1981, is amended by striking out "1984 and each subsequent" and inserting in lieu thereof "each".

EXHIBIT 1

CBO BUDGET BASELINE FORECASTS

[Fiscal year in billions]

	1983	1984	1985	1986	1987	1988
Nominal GNP	3196.8	3498.7	3821.5	4142.2	4459.0	4791.7
Budget deficit	194	197	214	231	250	267
Deficit as Percent of GNP	6.1	5.6	5.6	5.6	5.6	5.6
Indexing—revenue loss			6.2	16.7	27.9	39.9

Source: February 1983 CBO baseline budget publication; assumptions based on current policy.

RECOGNITION OF SENATOR PRYOR

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas is recognized for not to exceed 15 minutes.

OFFICE OF OPERATIONAL TESTING

Mr. PRYOR. Mr. President, today Senator BILL ROTH of Delaware and I are proud to be joined by a distinguished group of cosponsors in reintroducing legislation to create within the Department of Defense an independent Office of Operational Testing. Senators LEVIN, ARMSTRONG, KASSEBAUM, KENNEDY, BUMPERS, HART, PROXMIRE, SARBANES, SASSER, DIXON, BINGAMAN, DURENBERGER, and CRANSTON are cosponsors of this bill.

Almost 1 year ago, I proposed creation of this office as an amendment to the Defense authorization bill for fiscal year 1983. Later, Senator ROTH, Senator LEVIN, and I proposed S. 3001, a revised version of the earlier amendment. Events over the last year have reinforced the need for this legislation—greater budget pressures, increased concern about the effectiveness of weapons systems, and the critical need for setting national security priorities.

The Office of Operational Testing created by this bill will be responsible for monitoring and passing independent judgment on new weapons long before they reach production and get to our soldiers. It will provide to the Pentagon, to the Congress and, most importantly, to the American people new guarantees that expensive, sophisticated weapons will not be sent to the battlefield prematurely.

Operational tests, designed to evaluate a weapons' capabilities under realistic and demanding battlefield conditions, are a sham when weapons are pampered and coaxed through the testing process by their own developers. We have seen ample evidence of unrealistic tests conducted by the Pentagon's research arm. We have also witnessed many examples of weapons pushed into production before they are ready. The General Accounting Office and numerous respected defense critics have called attention again and again to weapons failures which could have been detected and corrected through more thorough, unbiased operational tests. The area, defense critics insist, is the most sadly neglected and critical part of the weapons procurement process.

In our rush to secure the latest, most sophisticated weaponry, we are sending guns, tanks, ships, and other essentials to troops in the field before we know the weapons will work in battlefield conditions. The losers are the troops expected to defend their lives with undependable weapons, and the American taxpayers who must foot the bill for production of billion-dollar weapons systems that do not work.

The Pentagon has created an unavoidable conflict of interest by making researchers, developers, and defense contractors also responsible for operational tests of new weapons systems. The same industry responsible for pushing weapons into production also plays a role in passing judgment on the weapon's performance.

I could cite many examples, dating back to World War II, of weapons flops which could have been avoided through more thorough and demanding operational testing. These tests are one of the public's few protections against exorbitant investments in weapons systems which fail.

The M-16 rifles issued to soldiers during the Vietnam war were perhaps the best publicized weapons disaster.

Men wrote home to their families of moments of horror on the battlefield when the weapons they depended on for protection failed to fire and jammed during the heat of attack. The weapons were considered so useless that Viet Cong soldiers refused to pick up abandoned rifles on the battlefield.

Congressional inquiries after the war established without question that M-16 rifles had been issued to frontline soldiers before they were thoroughly tested outside the laboratory.

Likewise, the M-1 tank has been criticized extensively. In an April 1982 issue of Reason magazine entitled "We Pay For Duds: How the Pentagon Cheats on Weapons Testing," Dina Rasor carefully examined the limitations of the M-1 tank and weapons testing generally.

Furthermore, the General Accounting Office reported on June 25, 1982, that the testing of the Maverick missile had not been conducted in such a way that we could be assured that the missile was suitable for effective use in combat.

Russell Murray, the former Assistant Secretary of DOD, presented an excellent summary of the situation during testimony at Senate Governmental Affairs Committee hearings in October 1981.

Also, in the July 24, 1982 issue of National Journal entitled "Billion-Dollar Failures May Slip Through the Pentagon Weapons Testing Net," Michael Gordon has carefully analyzed this issue.

Let me illustrate how the integrity of operational tests can be compromised:

First. Overly qualified crews and operators used during tests of new weapons. The General Accounting Office says this practice calls into question the "performance, maintainability and readiness of the system in a realistic operational environment."

Second. Combining low operational test scores with much higher developmental test results. Tests done under ideal conditions combined with operational tests pull up low battlefield scores. GAO has condemned the practice on several occasions.

Third. Discounting unfavorable test results. GAO charged that Army did this during testing of the M-1, raising questions about the tank's reliability in the hands of soldiers.

Fourth. Incomplete reporting of test data to Congress. The GAO in a 1980 report complained that DOD was not giving Congress adequate data to aid in decisionmaking about major weapons systems. They said reports to Congress contained misleading or incomplete data in numerous instances.

A blue-ribbon panel appointed by President Nixon concluded 13 years ago what defense critics have been saying ever since—that operational testing needs to be removed from the "researchers" and "developers" in the Pentagon and put into the hands of independent testers totally removed from the politics of weapons procurement.

The panel found that too much attention is devoted to developmental testing, conducted by scientists under highly controlled conditions, while too little time and money is set aside for operational tests. Operational tests are conducted out in the field by actual servicemen under conditions simulating wartime conditions as closely as possible.

The panel recommended establishment of an operational testing and evaluation group, with civilian leadership, within the Office of the Secretary of Defense.

It urged allocation of a substantial budget for operational testing, which would be administered through the independent office. It also recommended that services be required to budget separately for operational testing, rather than including the estimated costs of tests in the total budget for a new weapons system. Finally, it called for more joint testing of weapons systems, a move which individual services have consistently resisted.

The report cited three major reasons for the recurrent problems we have seen in testing conducted by the services with little direction from above. First, operational testing and evaluation in the services has lacked much of the independence which encourages objectivity and high level action. Second, throughout the services there has been little guidance from high levels as to what is desired from OT&E activities. Third, there has been too little support and encouragement of operational testing and evaluation from high levels within the services. This means that not only is more funding required to support operational testing but also that there should be the visible indication of how operational testing results are used in making important decisions.

Because of jealous turf-guarding at the Pentagon, the recommendations for improving operational testing never have been fully implemented. I am convinced the time is long overdue for creating an independent oversight office to make certain weapons are thoroughly tested and scrutinized.

This bill would:

First, establish a new position at the Defense Department—a Director of Operational Testing and Evaluation who would be appointed by the President and confirmed by the Senate.

Second, assign responsibilities for operational testing and evaluation to the Director of the new office.

Third, provide for direct reporting responsibility to the Secretary of Defense.

Fourth, require that the Director of the Operational Testing Office make an annual report to Congress and respond to requests from congressional committees about the status of testing.

Fifth, provide for separate budget requests for the Director's office.

Sixth, provide access by the General Accounting Office to records and data relating to operational testing and evaluation.

This bill represents a demand for better quality control and objectivity. It is a step which defense analysts agree could bring about the most desperately needed improvement in the weapons procurement process. We cannot afford to pour precious resources into sophisticated weapons which fail our men on the battlefield. There is no place in any war effort for weapons which do not work. I urge the support of my colleagues for this long overdue change within the Department of Defense.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Operational Testing and Evaluation Act of 1983".

DEPARTMENT OF DEFENSE DIRECTOR OF OPERATIONAL TESTING AND EVALUATION

SEC. 2. (a)(1) Chapter 4 of title 10, United States Code, is amended by inserting after section 136 the following new section:

"§ 136a. Director of Operational Testing and Evaluation: appointment; powers and duties

"(a) There is a Director of Operational Testing and Evaluation of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Director performs all duties relating to operational testing and evaluation in the Department of Defense including—

"(1) being the principal adviser to the Secretary of Defense on operational testing and evaluation in the Department of Defense;

"(2) prescribing the administrative organization in each of the military departments for planning and conducting operational testing and evaluation;

"(3) prescribing policies and procedures for the conduct of operational testing and evaluation in the Department of Defense;

"(4) monitoring, reviewing, and providing guidance for all operational testing and evaluation in the Department of Defense;

"(5) determining in advance the adequacy of the plans and the available funds for operational testing and evaluation to be conducted in connection with each major development program and each potential major development program in the Department of Defense;

"(6) coordinating operational testing and evaluation conducted jointly by more than one military department;

"(7) analyzing the results of the operational testing and evaluation conducted for each major development program and each potential major development program in the Department of Defense and reporting to the Secretary of Defense on (A) whether the testing and evaluation performed was adequate, and (B) whether the testing and evaluation results confirm that the items or components actually tested were effective and suitable for combat; and

"(8) reviewing and making recommendations to the Secretary of Defense on all budgetary and financial matters relating to operational testing and evaluation, including operational testing facilities and equipment, in the Department of Defense.

"(c) The Director shall report directly, without intervening review or approval, to the Secretary of Defense. The Director and his staff are independent of all research and development offices or organizations in the Department of Defense.

"(d) The Director shall have access to all records and data in the Department of Defense, including the records and data of each military department, that the Director considers necessary to review in order to carry out his duties under this section.

"(e) The Director may require that such observers as he designates be present during the preparation for and the conduct of the testing part of any operational testing and evaluation conducted in the Department of Defense.

"(f) The Secretary of a military department shall report to the Director all results of all operational testing and evaluation conducted by the military department and of all studies conducted by the military department in connection with operational testing and evaluation in the military department.

"(g) The Director shall respond to requests from the Congress for information relating to operational testing and evaluation in the Department of Defense.

"(h) No funds may be obligated or expended by the Secretary of a military department to conduct any operational testing and evaluation if such operational testing and evaluation is not approved in advance by the Secretary of Defense, in consultation with the Director, or is not conducted within the scope, or in accordance with the conditions, specified by the Secretary of Defense in approving the operational testing and evaluation.

"(i) For the purposes of this section 'operational testing and evaluation' means the field testing, under realistic combat conditions, of any item of, or key component of, weapons, equipment, or munitions for the purpose of determining the effectiveness and suitability of the weapons, equipment, or munitions for use in combat by typical military users and the evaluation of the results of such testing.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 136 the following new item:

"136a. Director of Operational Testing and Evaluation: appointment; powers and duties".

(b) For each fiscal year, the President shall include in the Budget transmitted to the Congress pursuant to section 201 of the Budget and Accounting Act, 1921, a separate request for new budget authority for, and an estimate of the outlays by, the Director of Operational Testing and Evaluation of the Department of Defense in carrying out the duties and responsibilities set forth in section 136a of title 10, United States Code (as added by subsection (a)).

(c) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"Director of Operational Testing and Evaluation, Department of Defense.".

SEC. 3. (a) The Comptroller General of the United States shall have access to all records and data in the Department of Defense, including the records and data of each military department, relating to operational testing and evaluation in the Department of Defense.

(b) The Secretary of Defense shall cooperate with the Comptroller General in carrying out subsection (a).

(c) For the purposes of this section, the term "operational testing and evaluation" has the same meaning as provided in section 136a(g) of title 10, United States Code (as added by section 2(a)(1) of this Act).

Mr. ROTH. Mr. President, I am pleased to join with Senator PRYOR in sponsoring this legislation which would create an independent Office of Operational Testing in the Department of Defense. I believe improved operational testing procedures will help reduce the costs of major weapons systems while at the same time improve the reliability of the weapons we field. This bill represents a first step in the effort to reform testing procedures and will serve as the focal point of oversight hearings on DOD management of weapons testing programs.

This legislation is the result of extensive hearings I convened 2 years ago in my Committee on Governmental Affairs. These oversight hearings were designed to be an intensive review of the management of the acquisition process in the Defense Department. There were many weaknesses in the acquisition process the committee examined including unrealistic cost estimating for new weapons programs, noncompetitive and sole-source procurements, "gold-plating" of weapons systems and ineffective operational weapons testing programs. All of these problems have at least two things in common: They drive up the costs of weapons programs and they have been around for many, many years. I believe the legislation we are introducing today will begin the process of ending one of those problems which has festered in the depths of the Pentagon hallways for far too long.

Mr. President, this legislation is designed to improve and insure the reliability of the operational testing conducted on weapons systems and other highly technical military hardware. Such tests are designed to determine exactly how well a given system would perform in actual combat, usually by testing the system in simulated but realistic combat conditions. Other tests are conducted on the system to determine whether it meets the specifications and tolerances it was designed to meet and are called developmental tests. Together, developmental, and operational tests, if done correctly and thoroughly, can tell us whether or not what we plan to buy will work as advertised, both in battle and as measured by the specifications it was designed to meet.

Developmental tests are begun from the very moment a system is conceived. They are used to help define the concept of a weapons system and they establish how the weapon will have to be designed to meet the broad specifications set for it when it was initially approved for development. Engineering tests are conducted to determine what materials and system configurations will need to be built to insure that a weapons system will satisfy its design requirements. At some point in the development process, a complete prototype is usually built and tested.

As the weapon is being developed, operational testing is begun. Such testing does not always require a working prototype. In some cases, tests using existing equipment can help determine whether a system will be able to fulfill its mission in the field as envisioned by military planners.

Mr. President, the testing process as currently structured in the Defense Department, and as I have outlined it, is seriously flawed. Accurate and realistic operational tests are crucial to the ultimate success of a weapons program but in most cases such tests are conducted too late in the process of developing the weapon to be of much use. Usually, operational tests are never done in time to influence the initial decision to develop a weapon and, consequently, many concepts for new weapons are approved before it is actually determined whether a proposed system could realistically work on the battlefield as well as it works on paper. Unfortunately, paper cannot stop bullets and a weapon which passes the grade as an idea may never be able to meet the true test in actual use.

This lack of adequate forethought with respect to operational testing is aggravated by pressure from defense contractors, project managers, and service chiefs to push ahead with a new program. Decisions are often made years in advance by Pentagon planners on what weapons system they want to have in their arsenal. The pressure on the program manager to insure that a particular weapon is developed and built to fill the niche left for it is so intense that making sure a weapon works may lose out to making sure it is built, period.

Such pressure not only affects the effectiveness of weapons systems it also affects their costs. It is much more efficient to build it right the first time than it is to build it any way you can and be forced to come back later to fix up your mistakes. Effective operational tests can indicate whether it is realistic to expect a new weapon to be capable of performing in a certain way under battlefield conditions and can indicate where changes should be made before the concrete has set. The efficiency which results from effective operational tests can save the taxpayers' dollars from being spent on costly, unnecessary repairs.

Mr. President, there are numerous cases in which ineffective operational testing has cost the taxpayer millions of dollars. For example, the newest generation of the Maverick missile, and antitank weapon, is designed to be fired from several miles away from its target so that the pilot is not required to put himself in danger by moving in close to a tank in order to destroy it. Unfortunately, even though this weapon is now reaching the final stages of development, it has become apparent to many experts, including GAO, that a camouflaged tank cannot be picked out of a chaotic battlefield at ranges of greater than 3,000 feet. A simply operational test would have revealed this problem before the weapon reached this late stage of development.

Another weapon which was developed even though it had serious battlefield deficiences was the TOW antitank missile. Fired from a bazooka-like device, the TOW missile trails a thin wire which directs the weapon to the target. Unfortunately, the soldier must keep his sights trained on the target to insure that the weapon scores a hit which means that he must remain standing or kneeling in face of enemy fire for several seconds. Only a soldier with a death wish would want to do that. Again, and adequate operational test would have uncovered this problem.

Mr. President, there are many other examples which could be used but the point is that these are disturbing signs that operational testing in the Defense Department is not working as it should. This problem may result, in part, because the testing operations in the Department are uncoordinated and because the existing Office of Testing and Evaluation is not insulated from the pressure to develop and approve new weapons programs. Currently, the Office is a part of the responsibility of the Under Secretary for Research and Development, the agency in DOD responsible for developing and building new weapons programs.

The Under Secretary and his personnel have a vested interest in seeing a weapon, once conceived, through to production. They do not want to hear from the Office of Testing and Evaluation that a new weapon will not work on the battlefield unless it is modified or sent back to the drawing board. As one Pentagon official put it:

> For every voice that says, "Dont't proceed, fix first" there are nine that say, "Move ahead and we'll fix the problems later."

The one lonely voice of the operational testing office can hardly be expected to overcome such pressures, some subtle and some not.

Mr. President, Russell Murray, a former head of operational testing in DOD, testified before my committee last year that:

> The objective of operational testing is to find out whether a new weapon, even if it does meet its specifications, will really be useful and needed in combat. . . . People rightly worry about the acquisition process already taking too long, but wrongly try to speed things up by shortcutting the operational tests. That may get hardware into the field sooner, but not working hardware. The way to do that is to get the design right before—not after—it is built.

I agree with Russell Murray and I hope this legislation will serve as a stimulus to improvements in operational testing programs in the Defense Department.

THE SUCCESS STORY OF STEPHENS, INC.

Mr. PRYOR. Mr. President, readers of the April 26, 1983, Wall Street Journal were probably surprised to learn that this country's biggest non-New York investment banker is located not in Chicago or California or Texas but in Little Rock, Ark.

The citizens of my State, however, have long been aware of the success of Stephens, Inc., and the contributions the company has made to Arkansas during its 50 years of doing business.

The story of the Stephens brothers, Witt and Jack, is a colorful one, of two poor southerners who created a billion-dollar empire stretching from Little Rock to Hong Kong. The special value of this article is that it points out the appeal of these Arkansans and the contribution they have made to their State and region.

For instance, this passage describes the background of Witt Stephens, the elder of the two brothers:

> The company's sometimes demanding pace reflects the philosophy of founder Witt Stephens, who once wrote a "book" about salesmanship that contained only the word "work" repeated on every page. The more colorful of the two brothers, Witt was reared on a farm about 40 miles south of Little Rock and left home during the Depression to sell belt buckles for a jewelry company. A few years later, he borrowed $15,000 to start Stephens, whose initial successes came quickly as he bought municipal bonds at Depression-produced prices of 25 cents on the dollar and sold them later for nearly face value. He soon branched into real-estate, oil and gas investments.
>
> A large man with an ever-present cigar and a voice one acquaintance says sounds like "peas pouring onto a dry cowhide," Witt Stephens proved adept at combining his sometimes ruthless business tactics with country charm. In 1945, he was questioned at a hearing in Philadelphia by a Securities and Exchange Commission lawyer about his proposed purchase of a Fort Smith, Ark., gas utility. "This nice young fellow from Harvard was questioning me awful hard about where I was going to get the cash for the deal," Mr. Stephens recalls. After letting the lawyer seem to back him into a corner, Mr. Stephens says he looked at the judge and, tongue in cheek, drawled, "I brung it with me" while reaching into his pocket for a cashier's check for the required amount. The acquisition was approved. "We had a lot of fun in those days," he says.

Much of the business success of Stephens, Inc., is attributed to the younger brother, Jack and his determination to extend the company to the corners of the world. This is also demonstrated in the Journal's article:

> Jack Stephens acknowledges that he has had to use his imagination on occasion to cut losses on experiments that fizzled. But, he says, Stephen's entrepreneurial posture has been necessary for it "to stay out of the way" of New York investment bankers. Stephens has sought its own "niches," he says, tailored to its location and abilities, such as its specializing in agricultural investments. And "if we can't stay out of (New York competitors') way, we try to join them" as part of underwriting teams, he says.
>
> One of Stephen's biggest problems these days, Jack Stephens says, is convincing potential customers with widespread interests that Stephens is more than just a regional investment banker. He notes that besides the company's recently acquired presence in Denver, Stephens not long ago added an overseas office in Hong Kong and changed its outside auditor to a national firm from one in Little Rock to accommodate its expanding business. He adds that other moves to give Stephens more nationally competitive operations are in the works, but he declines to discuss them.
>
> Signs of Stephen's increasingly cosmopolitan profile extend to a room at the company where "Mr. Witt," as Stephen's employees call the founder, formerly kept a large portrait of Will Rogers, one of his heroes. The portrait was recently removed by a New York interior decorator in favor of pictures more in tune with Stephen's new image. However, as he looks at the demoted portrait, resting on the floor, Witt Stephens isn't too disturbed. He laughs and says, "I'll have it put back up when the decorator goes back to New York."

One chief feature of this newspaper article is the vivid way it portrays the Stephens company as the essentially local business it has always been. At the same time, it has major worldwide proportions. But from its very origins it has been a grassroots effort:

> Despite the company's size, Stephens' investment-banking staff of about 150 is housed in a decidely plain, gray building that might be mistaken for the quarters of a small-town newspaper. (Inside, however, are all the signs of wealth, including enough art

> objects to fill a small museum.) Stephens, ranked as the 12th-largest U.S. investment banker in terms of capital by Institutional Investor magazine, is sparsely staffed compared with its New York brethren Morgan Stanley & Co., which is only slightly larger than Stephens in terms of capital but which provides a greater variety of consumer services than the Arkansas concern, has a staff of about 2,300 to handle its investment-banking operations. Stephens' small staff means hard work for its employees, who handle some 7,940 accounts. One employee recalls he worked for 63 consecutive days, including Saturdays and Sundays immediately after joining the company.
>
> In 1954, Mr. Stephens bought a controlling interest in Arkla Inc., an ailing Little Rock-based gas utility. Shortly after that, he became Arkla's chief executive and turned over most of Stephens business chores to his younger brother, who had joined the company in 1946.
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> The utility regained its financial health under Witt Stephens' management, which, Mr. Stephens concedes, included "drastic" measures such as cutting Arkla's staff by 500 employees, or 22% of its work force. He made every Arkla employee, including himself, responsible for sales and was occasionally seen going door-to-door selling the company's gas-powered air conditioners.

Finally, Mr. President, the Wall Street Journal has done the country a service in simply showing the flavor of the Stephens brothers and their organization. I think an excerpt from the article says it best:

> LITTLE ROCK, ARK.—When Stephens Inc. talks, people listen—here in Arkansas.
>
> But even though Stephens is the nation's biggest investment banker off Wall Street, it sometimes gets scant attention from out-of-staters. For example, Gordon Smale, the president of Denver-based Atlantic Oil Corp., told Stephens he didn't have time to talk when the Arkansas company called him in January about a possible tender offer by Stephens itself for Atlantic. "I pictured a small brokerage house with a staff of two," he explains.
>
> A few days later, Stephens called him again with a plan to buy all of the oil and gas concern's common stock outstanding for about $37 million. This time Mr. Smale had time to talk. Afterward, he scurried to find out more about his Arkansas suitor from contacts in the financial community but could learn only that Stephens is long on capital and short on renown.
>
> Stephens's low profile is partly the result of its location in this Southern state's government seat where capital business is usually of more concern than business capital. Probably more important, however, is the business style of its owners, brothers W. R. "Witt" and Jackson T. "Jack" Stephens. During the company's 50-year history, 75-year-old Witt, Stephen's founder and now one of its directors, and Jack, the company's 59-year old chief executive, have quietly made Stephens into the Southern gentleman of investment bankers by catering to government, corporate and high-toned private customers.
>
> Though Stephens underwrites stock offerings, places municipal bonds and invests its own money like any Wall Street investment banker, it offers few of the consumer services, such as money-market funds, that have helped inspire the ad splashes of some of its New York competitors. And though Stephens is gradually enlarging its sphere of operations, it hasn't needed a high profile because much of its business is generated through high-placed friends.
>
> Indeed, the brothers' power behind the scenes in politics and business has made operating outside the public arena almost second nature for them. Moreover, Jack Stephens says, many of the company's clients prize confidentiality and are attracted to Stephens' quiet ways.
>
> Atlantic Oil's Mr. Smale says Stephens' "laid-back, family-oriented" way of doing business made possible a friendly merger between his company and Stephens. "New York investment bankers usually treat us like we've just hicks from the sticks," he says, adding that several such firms offered to help him fight off Stephens' takeover bid "for a mere million dollars." But during negotiations with Stephens, which included family-style lunches in the company's baronial dining room and drinks in the company's in-house bar, Mr. Smale began to see the Arkansas company as more friend than foe. After dickering with Stephens for a few weeks, Atlantic agreed to a sweetened acquisition offer of $44 million.
>
> Mr. Smale, whom Stephens plans to retain to help run the small, but oil-rich, Denver concern, says that as negotiations progressed with Stephens, he became increasingly impressed with the reverse side of its congenial style. "You have a tendency to think that since they're folksy, they're sort of loosely run, but that's misleading," he says. "When they focus on something, they're really hard-hitting."
>
> Stephens, Mr. Smale says, apparently did "very good homework" in sizing up Atlantic before making its tender offer and seemed aware that several of Atlantic's biggest holders needed cash and were willing to sell their shares. Moreover, he says, Stephens paid for tendered Atlantic shares with "surprising" speed, sometimes wiring millions of dollars only hours after the shares were tendered. "This made a tremendous impression on the brokerage community in Denver," he adds. "Wall Street brokers tend to drag their feet on payments."
>
> Stephens's ability to swoop down with breathtaking speed on acquisition prospects such as Atlantic Oil has been honed on many such purchases. Buying and selling companies is more "fun," and often more profitable, than most traditional investment-banking activities, Jack Stephens says. Under his management, the company has owned everything from a nursing-home chain to a small airline. Currently it has 12 operating units, the largest of which is Stephens Production Co., whose chief business is producing natural gas.
>
> But the company's major enterprise, Jack Stephens says, has always been investment banking. And in that line, Stephens has enough financial weight to swing substantial acquisitions without straining. The company reported assets of $239 million as of May 31, 1982, but that is a considerable understatement of its size, say Little Rock businessmen familiar with Stephens. The Stephens empire, including companies owned personally by the brothers, is probably worth more than $1 billion, they say. Part of the understatement, one businessman says, is that Stephens values its natural-gas reserves, totaling about 600 billion cubic feet, at original rather than market value.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I understand that the distinguished Senator from Arkansas is finished with his special order. Is that correct?

Mr. PRYOR. That is correct.

Mr. BAKER. I understand that the next order is in favor of Senator MELCHER, who is on his way to the floor. I ask unanimous consent that I may suggest the absence of a quorum without it being charged against the time of Senator MELCHER.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GOLDWATER). Without objection, it is so ordered.

RECOGNITION OF SENATOR MELCHER

The PRESIDING OFFICER. Under the previous order, the Senator from Montana is recognized.

THE PRESIDENT'S SPEECH

Mr. MELCHER. Mr. President, President Reagan's address to a joint session of Congress last night was strange.

It was strange that, in his own words, "We will not protect the Nicaraguan Government from the anger of its own people, but we should through diplomacy, offer an alternative."

It is a strange expression when indeed, we spend scores of millions of dollars in the CIA's military neorevolution adventure in Nicaragua. It is a strange new form of diplomacy.

It is also strange logic to cite the hundreds of millions of dollars that we poured into Nicaragua in failure as a sound reason to continue to pour hundreds of millions of dollars into El Salvador.

After three generations of American meddling in Nicaragua, with the result a Marxist government that ridicules Pope John Paul's visitation of peace and reconciliation, I find that to be a conclusive argument against furthering a billion-dollar military meddling in El Salvador.

I would not send one nickel more in military aid to either one of them, Nicaragua or El Salvador, this year or next year or, paraphrasing David Stockman on the coming Federal deficit, "not as far as the eye can see."

When the President said, "I do not believe there is a majority in the Congress or the country that counsels passivity, resignation, or defeatism in the face of this challenge to freedom and security in our hemisphere," he was stating the obvious. Americans have not changed. But it is a strange conclusion on the President's part to believe that Americans want to continue along the same old weary path of shoveling money into military armaments in Central America for corrupt or suspicious governments that use it to protect and perpetuate the kind of economic climate that has skimmed the cream of the wealth of those nations for hundreds of years.

It is strange, to quote President Truman, speaking of European nations in the late 1940's, as an example of what should be pushed as American policy for Central America now. In fact, we have vital and urgent economic concerns here at home that must be met if we are to remain the dominant world peace advocate, and that role must be based on a strong economy here in the United States in order to keep us a strong military peacekeeper, particularly in this hemisphere. The military aid costing us billions of dollars poured into Central America is paid for with borrowed money that would be better spent for our own needs, both in strengthening our economy and meeting our own defense needs.

It just happens that the $214 billion being spent on our national defense for this year can be said to be all borrowed dollars because that is the figure which equals David Stockman's figure of this year's Federal deficit.

It is indeed strange for the President to address a joint session of Congress without acknowledging that this Nation's No. 1 task is the nurturing of the faint but promising indicators of economic recovery. Rather than borrowing money to buy more armaments, proposing new billion dollar Central American expenditures for those armaments, I would urge supplying El Salvador food or humanitarian needs.

The surplus food commodities we have in Federal storage can be used for their help and their health. Under this administration's bookkeeping for the PIK program, which is a program to cut down on U.S. agricultural production, we do not count that in budget dollars, nor does it, under this method of bookkeeping, count as adding to the Federal deficit. Although the PIK program is the most massive Federal farm program in terms of dollar value, the administration's bookkeeping methods do not count it as dollar outlays, and I strongly recommend that these food commodities be sent to El Salvador rather than armaments which, I repeat, are paid for with real, borrowed dollars that come out of the taxpayers' pockets.

Along that line, Mr. President, the annual per capita consumption of meat in 1982 in El Salvador was 13 pounds and in Nicaragua 28 pounds, as compared to the 106 pounds that we consume per capita here in the United States. Yet, we imported 30 million pounds of beef from Nicaragua and 3 million pounds of meat from El Salvador in that very same year.

I cite this as an example to stress that the average person in these two countries should have had the availability of that meat, which they very definitely need for sound nutrition and which we do not. I cite this in particular because I think it is one of the many examples of the desperate economic situation in these countries which ignores the nutrition of the masses of their people while generating Yankee dollar income for a very few of the ruling economic group of those two countries.

Last night, I found myself, as I listened to the President, recalling very similar rhetoric on radio broadcasts paid for by H. L. Hunt a couple of decades ago. To be sure, the President's voice and his delivery were better than that of the commentators on H. L. Hunt radio broadcasts, but there was great similarity in the content of the message which explained the Communist world threat and a great similarity in drawing the conclusion that America must counter by spending large quantities of money to wipe out the threat.

I am willing, and I know the American people are willing, to decisively act against any military basing of submarines or nuclear weapons or other overt actions attempted by the Soviet Union or any other hostile country. But I do not believe it is wise to continue meddling in the internal affairs of El Salvador or Nicaragua with armaments.

But the President's strange approach to develop a bipartisan Central American policy fails to correct past failures of military waste and corruption of the countries we have attempted to help.

"Negotiation," as the President mentioned, is a correct approach and should be taken up by the Organization of American States. More dollars of armaments will not buy the peace here.

REQUEST FOR DOCUMENT BY THE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MELCHER. Mr. President, I wish to outline the activity of the Select Committee on Indian Affairs and particularly myself to obtain a document from the Department of the Interior.

On April 12, a little more than 2 weeks ago, the Select Committee on Indian Affairs conducted a hearing concerning the Bureau of Indian Affairs funding of a duplicate soil study of the Blackfeet Reservation.

The Blackfeet Reservation is located in northern Montana and a previous soil study was done a few years ago.

The purpose of our hearing was to inquire into the need for spending another $1.2 million to have a new soil study which would practically duplicate the previous study and which would add little new material.

At that hearing I requested that the Interior Department provide the committee with a copy of a memorandum. The memorandum is entitled: "The Nature and Extent of the Secretary's Trust Responsibility When Indian Interest Conflict With Other National or Departmental Interests."

This was a document prepared in October of 1981 by the Associate Solicitor for Energy and Resources, Mr. Alexander Good.

At the hearing on April 12 of this year, Mr. John Fritz, Deputy Assistant Secretary for Indian Affairs, was the Department of Interior's witness, and he responded in the affirmative to my request that this document be provided promptly, hopefully that very day, to the committee.

Prior to the hearing I had attempted to obtain the memorandum through committee staff by requesting it from the Associate Solicitor on Indian Affairs, Mr. Larry Jensen. His office referred us to Alex Good, the Associate Solicitor for Energy and Resources. Mr. Good referred us to Mr. Paul Powell, the Interior Department's Congressional Liaison, who referred us back to Mr. Good. We were subsequently referred back to Mr. Powell who stated we would need to supply them with a Freedom of Information request.

This could not be completed prior to the oversight hearing, so we informed Mr. Powell that I would request the document for the committee at the hearing.

Subsequent to the hearing, on April 15, we were told by Mr. Fritz that the Solicitor's Office would call me regarding the memo. They did not call, so we called Mr. Good's office on April 18, 1983. He again referred us to Mr. Powell. Mr. Powell said that he had to confer with the Solicitor's Office on my request. In the meantime I contacted the Solicitor for the Department of the Interior, Mr. William Coldiron. On April 19, 1983, Mr. Coldiron called my office and informed one of my staff members that all that was needed was a written request for the document. On April 19, 1983, a staff member hand-delivered a letter to Mr. Coldiron's office. On April 20, 1983, we were informed that Mr. Coldiron had not received the letter yet. On April 21, 1983, Mr. Coldiron's office informed us that we would have to contact Mr. Good. Mr. Good again referred us to Mr. Powell. The runaround began again. We still do not have the document; nor do we even have a response to our written request.

One of the arguments that Mr. Powell gave for not simply releasing the memo was that it has not been used to set policy. However, in a December 1982, letter to Mr. Elmer Savilla, the Executive Director of the National Tribal Chairmen's Association, Mr. Jensen, the Associate Solicitor for Indian Affairs, denied a request for this document stating "Its circulation has been strictly limited to Department personnel to whom access was necessary in the development of the document and in the subsequent decisionmaking process." I would conclude from this sentence that it has been used to set policy. That letter was written in December of 1982, which was about 14 months after the document was prepared.

At this point I ask unanimous consent that the following material be printed in the Record: First, the excerpt from the Indian Affairs Committee hearing transcript wherein the request for this document appears, two, my letter to Solicitor Coldiron, third, the National Tribal Chairmans Association December 14, 1982 request for the document, fourth, the Department's denial of this request and subsequent appeal and denials.

There being no objection, the material was ordered to be printed in the Record, as follows:

Excerpt

(April 12, 1983 select committee on Indian affairs oversight hearing.)

I have asked for some additional information that I am sure you can dig out for us and provide for the record.

I would like also that you supply a copy of a memorandum today; I think you can find it today; I don't know whether to call it memorandum or a document, but either one. The Department of Interior's Solicitor's Office prepared a paper entitled "The Nature and Extent of the Secretary's Trust Responsibility When Indian Interests Conflict with Other National or Departmental Interests." That is the title.

(Material to be supplied follows:)

Senator **Melcher**. This seems to have some bearing on the points we have been discussing and may give us a better idea of how this present conflict between the Tribe and the Department developed and perhaps how it can be resolved.

I am certainly of the opinion that all of these matters can be resolved. I would like them to be resolved as quickly as possible in terms of this contract and in terms of the Tribe's resolution against access. And I guess if we resolve the contract dispute, we have resolved the access dispute almost automatically. It wouldn't be anything that anybody had to be concerned about in the future.

U.S. Senate,
Select Committee on Indian Affairs,
Washington, DC, April 19, 1983.

Mr. Bill Coldiron,
Solicitor, Department of the Interior, Washington, DC.

Dear Bill: During the Senate Select Committee on Indian Affairs' April 12, 1983 hearing, concerning the Bureau of Indian Affairs' award of a duplicate contract to CH2M Hill, Inc. for soils studies on the Blackfeet Reservation, I requested the Department to furnish the Committee a copy of a memorandum prepared by your office entitled:

"The Nature and Extent of the Secretarys Trust Responsibility When Indian Interests Conflict With Other National or Departmental Interests." October 28, 1981 by the Associate Solicitor for Energy and Resources.

To date, this memorandum has not been forwarded to the Committee. I hope that you can arrange to have the memorandum delivered to me.

I appreciate your help and with best regards.

Sincerely,

John Melcher.

National Tribal
Chairmen's Association,
Washington, DC, December 14, 1982.

Hon. James Watt,
Secretary, U.S. Department of Interior, Washington, DC.

Dear Secretary Watt: In a memorandum dated October 28, 1981, the Associate Solicitor for Energy and Resources forwarded to you an opinion entitled "The Nature and Extent of the Secretarys Trust Responsibility When Indian Interests Conflict With Other National or Departmental Interests."

I am requesting a copy of that opinion or memorandum for the benefit of the federally recognized Indian tribes to whom you have a fiduciary responsibility as principal Trustee. I assume that there is no need to remind you that the courts have long recognized the duty of a Trustee to inform the Beneficiary of that Trust of any document that may be used for or against the clients interest.

I make this request under the Freedom of Information Act. I understand that a reply must be forwarded within a period of ten days.

Sincerely,

Elmer M. Savilla,
Executive Director.

U.S. Department of the Interior,
Office of the Solicitor,
Washington, DC, December 10, 1982.

Mr. Elmer M. Savilla,
Executive Director, National Tribal Chairmen's Association, Washington, DC.

Dear Mr. Savilla: I have your request to Secretary Watt for a copy of a memorandum dated October 28, 1981 from the Associate Solicitor for Energy and Resources. As indicated in your letter, the memorandum is captioned "Nature and Extent of the Secretary's Trust Responsibility when Indian Interests Conflict with other National or Departmental Interests."

The memorandum in question was only a preliminary analysis of legal issues and as such was not intended to represent the views of the Solicitor's Office. It was a confidential exchange between attorney and client based on confidential communications from the latter. In accordance with this expectation of confidentiality, the memorandum is plainly marked on its face as "privileged and confidential communications of counsel." Its circulation has been strictly limited to Department personnel to whom access was necessary in the development of the document and in the subsequent decision-making process.

For the foregoing reasons the memorandum is within the fifth statutory exemption provided by the Freedom of Information Act. 50 U.S.C. 552(b)(5). In addition to its being an intra-agency memorandum which would not be available by law to a party other than an agency in litigation with the agency, I find in accordance with 43 CFR 2.15(c) that sound ground exists to withhold the memorandum. That sound ground is the protection of the privileged communication between client and attorney without which legal services cannot be properly provided. Accordingly, your request for a copy of the memorandum dated October 28, 1981 must be denied.

Besides myself, Mr. Alexander Hansen Good, Associate Solicitor, Division of Energy and Resources, is responsible for the denial of your request. You may appeal this denial of your request by writing within 20 working days after the date of this denial to the Freedom of Information Act Appeals Officer, Office of the Assistant Secretary—Policy, Budget and Administration, U.S. Department of the Interior, Washington, D.C. 20240. Information on appeals is in 43 CFR 2.17, as amended August 31, 1982, 47 F.R. 38325, 38326.

Sincerely,

Lawrence J. Jensen,
Associate Solicitor,
Division of Indian Affairs.

National Tribal
Chairmen's Association,
Washington, DC, January 28, 1983.

Freedom of Information Act Appeals Officer,
Office of the Assistant Secretary—Policy Budget and Administration, U.S. Department of the Interior, Washington, DC.

Dear Sir or Madam: The National Tribal Chairmen's Association hereby wishes to appeal the December 30, 1982 denial of our December 14, 1982 request for a copy of an opinion entitled "The Nature and Extent of the Secretary's Trust Responsibility When Indian Interests Conflict With Other National or Departmental Interests". Copies of both the request and the denial are attached. The denial is based on Exemption 5 of the FOIA and on an invocation of attorney/client privelege.

We believe that these bases for withholding the document are inappropriate in a case where the Secretary of the Interior and the Assistant Secretary-Indian Affairs act as trustees for the Indian tribes. It is hornbook law that beneficiaries of a trust are entitled to full information about the administration of a trust, including opinions of attorneys used by the trustee in the administration of the trust. Scott on Trusts (3rd Ed.) § 173, Bogert, *Trustees and Trusts*, (2nd Ed.) § 1961.

This is particularly true where, as deducible from the title of the memorandum, it appears that the trustee may be getting advice upon conflicts which may prevent him from carrying out his duty of fair representation of the interests of the beneficiary. For these reasons we ask that, pursuant to 43 CFR § 2.17 and 2.18, you reverse the decision to withhold the document.

Sincerely,

ELMER M. SAVILLA,
Executive Director.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC.

Mr. ELMER M. SAVILLA,
National Tribal Chairmen's Association

ACKNOWLEDGMENT

FREEDOM OF INFORMATION ACT APPEAL

Your appeal was received on 2/1/83, and has been assigned Appeal No. 83-8. You should use this number as a reference on any further correspondence on your appeal.

For your information, the statute requires that a final determination on any appeal shall be made within 20 working days after receipt of the appeal. This time limit may be extended for an additional 10 working days if unusual circumstances warrant such an extension (43CFR2.18(c)).

FOIA APPEALS OFFICER,
Department of the Interior.

NATIONAL TRIBAL
CHAIRMEN'S ASSOCIATION,
Washington, DC., January 28, 1983.

JAMES G. WATT,
Secretary of the Interior,
Washington, DC.

DEAR SECRETARY WATT: In the attached denial of our request for a memorandum captioned "Nature and Extent of the Secretary's Trust Responsibility when Indian Interests Conflict with Other National or Department Interests", it is stated that the circulation of the document "has been strictly limited to Department personnel to whom access was necessary in the development of the document and in the subsequent decision making process."

This language suggests that a decision on the issues raised in the original memorandum has been made. We therefore request, pursuant to the Freedom of Information Act, disclosure of all documents, memoranda and any other document memorializing the decision that was made.

Sincerely,

ELMER M. SAVILLA,
Executive Director.

U.S. DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
Washington, DC, February 16, 1983.

Mr. ELMER M. SAVILLA,
Executive Director, National Tribal Chairmen's Association.

DEAR MR. SAVILLA: This is in response to your request of January 28 for disclosure of all documents, memoranda and any other document memorializing a decision on the issues raised in the memorandum captioned "Nature and Extent of the Secretary's Trust Responsibility when Indian Interests Conflict with Other National or Departmental Interests."

There are no documents memorializing any decision on the issues raised in the memorandum.

Sincerely,

LAWRENCE J. JENSEN,
Associate Solicitor,
Division of Indian Affairs.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, March 25, 1983.

Mr. ELMER M. SAVILLA,
Executive Director, National Tribal Chairmen's Association, Washington, DC.

DEAR MR. SAVILLA: This is a response to your Freedom of Information Act appeal dated January 28, 1983 (FOIA 83-8). The appeal concerns a document you seek from the Department, namely, an October 28, 1981 memorandum from the Associate Solicitor—Energy and Resources to the Under Secretary, subject: Nature and Extent of the Secretary's Trust Responsibility when Indian Interests Conflict with other National or Departmental Interests.

Your request on appeal is denied. The memorandum you seek is an internal communication containing recommendations and opinions being used in the decision-making and policy formulation process. The memorandum also represents attorney work-product prepared for use in developing litigation strategy in current and future water rights cases. Release of the material would be disruptive to the deliberative process in this Department. Therefore, sound grounds exist for continued denial of the memorandum pursuant to exemption (5) of the Freedom of Information Act (5 U.S.C. 552(b)(5)).

With regard to your argument that the memorandum should be disclosed because of the Secretary's trust responsibility, we have previously determined that such responsibility does not automatically require disclosures sought on behalf of Indian Tribes. Release of the document would be misleading since a final decision on the issue has not been made. Its release also would interfere with the Department's internal decision-making process, and jeopardize our ability to withhold the document from other requesters. In this instance, the detrimental effects of disclosure outweigh the trust responsibility considerations.

To assist you in understanding the legal basis for this decision, enclosed is a copy of a memorandum from the Deputy Associate Solicitor dated March 17, 1983.

This is a final determination on your appeal for this Department. Amendments to the Freedom of Information Act require that I inform you that you have a right to obtain judicial review in the United States District Court for the District in which the withheld records are located, or in which you reside or have your principal place of business, or in the United States District Court for the District of Columbia.

In addition to me, the officer responsible for this decision is Timothy S. Elliott, Deputy Associate Solicitor of the Department.

Sincerely,

REED PHILLIPS, Jr.,
Director, Office of Information Resources Management.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, DC, March 17, 1983.

Memorandum

To: Assistant Secretary—Policy, Budget, and Administration (Attention: Department FOIA Appeals Officer)

Thru: Associate Solicitor—Division of General Law

From: Deputy Associate Solicitor—Division of General Law

Subject: Freedom of Information Act Appeal of National Tribal Chairmen's Association (Savilla) (No. 83-8)

This provides the advice of the Office of the Solicitor on the Freedom of Information Act appeal filed by Elmer M. Savilla of the National Tribal Chairmen's Association.

By letter dated December 14, 1982, Mr. Savilla filed a Freedom of Information Act request addressed to the Secretary of the Interior for a copy of a memorandum dated October 28, 1981 from the Associate Solicitor for Energy and Resources entitled "The Nature and Extent of the Secretary's Trust Responsibility When Indian Interests Conflict With Other National or Departmental Interests."

By letter dated December 30, 1982 the Associate Solicitor, Division of Indian Affairs responded to Mr. Savilla's request. The requested document was denied on the basis that it is within exemption (5) to the FOIA's disclosure requirement. The December 30, 1982 letter advised Mr. Savilla as follows:

> The memorandum in question was only a preliminary analysis of legal issues and as such was not intended to represent the views of the Solicitor's Office. It was a confidential exchange between attorney and client based on confidential communications from the latter.

ANALYSIS AND CONCLUSIONS

The applicability of exemption (5) to the document in issue in this appeal was considered in our opinion in the Appeal of Mark Trahant, No. 81-94 (January 22, 1982), which concerned the exact same document.

We concluded that the memorandum was within two privileges encomposed within exemption (5)[1] [*deliberative process* and attorney work-product] for the following reasons:

(a) The memorandum was an internal Departmental communication and hence qualified as an inter- or an intra-agency memorandum;

(b) It was within the deliberative process privilege because it contained recommendations and opinions concerning an issue that was pending in the Department; and

(c) It was within the attorney work-product privilege because it was prepared by an attorney and discussed the attorney's mental impressions and strategies that could have application in pending as well as future litigation.

Because the issues discussed in the withheld memorandum are still pending we conclude that it continues to be within the deliberative process privilege. Further, because the discussion in the memorandum relates to an attorney's litigation strategy that may be applied in pending as well as future cases, we conclude that it is also within the attorney work-product privilege. As in *Trahant* we do not find it necessary to consider whether the document is also within attorney-client privilege. Rather than repeat all of the analysis in the *Trahant* opinion on the two privileges we find to be applicable here, we are incorporating herein the discussion from that opinion (attached). For these reasons we conclude that the continued withholding of the document in issue pursuant to exemption (5) is legally supportable.

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[1] Exemption (5) to FOIA's mandatory disclosure requirements exempts "inter-agency or intra-agency memorandums or letters which would not be available by law to a party . . . in litigation with the agency" 5 U.S.C. 552(b)(5).

Mr. Savilla's appeal letter argues that he is entitled to the requested document pursuant to the trust responsibility because it concerns a matter on which the Secretary of the Interior and/or the Assistant Secretary of Indian Affairs are acting as trustees on behalf of Indian Tribes. Mr. Savilla has cited *Scott on Trusts* §173 (3rd Ed.) and *Bogert, Trustee and Trusts* §1961, (2nd Ed.) in support of his argument.

In *Appeal of DNA—Peoples Legal Services (Frye)*, No. 81-45 (January 5, 1982), we considered whether the trust responsibility to Indian tribes requires disclosure of an otherwise exempt document sought on behalf of the Tribes. We concluded that the trust responsibility does not require automatic disclosure, but that a balancing test is appropriate whereby the harm resulting from disclosure is weighed against the trust responsibility to the Tribes. We stated as follows in the *Frye* opinion:

> We do not agree that our trust responsibility to Indian Tribes means that we are required to disclose confidential commercial information obtained from private entities. Rather, our trust responsibility must be considered in light of such factors as the nature of the information requested, to whom the information pertains, who furnished the information, etc. Considering these various factors it is our conclusion that in this case there is no trust responsibility to the parties represented by Mr. Frye that overrides the confidentiality of the information withheld from Mr. Frye.

While the *Frye* opinion concerned information that was found to be within exemption (4), we believe the same type of rationale would apply to documents that are within exemption (5). Applying this balancing test, we find that the following reasons weigh on the side of continued withholding: (1) that disclosure at this time could be misleading because there has not as yet been a final decision on the pending issue discussed in the memorandum and (2) if we disclosed the document to Mr. Savilla, even on a restricted basis, based on our trust responsibility, there would be a substantial risk that it could be found that we waived any privilege we might claim with respect to other parties that might seek the document. *See, County of Madison v. Department of Justice*, 641 F. 2d 1036 (1st Cir. 1981). Therefore, disclosure to Mr. Savilla could be extremely detrimental because it could give the public access to privileged internal communications. In view of these considerations it is our view that our trust responsibility to the Tribes does not outweigh the Department's interest in the continued withholding of the document. It is our further view that our trust responsibility does not go so far as to require that Indian Tribes be made a part of the Department's internal decisionmaking process even where the issue under consideration pertains to an application of the trust responsibility to specific situations.

If you adopt our recommendation and deny the appeal, you should send Mr. Savilla a copy of the attached *Trahant* opinion.

TIMOTHY S. ELLIOTT.

Attachment

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, DC, January 22, 1982.

Memorandum

To: Assistant Secretary—Policy, Budget and Administration (Attention: Department's FOIA Appeals Officer)
Through: Associate Solicitor—Division of General Law
From: Deputy Associate Solicitor—Division of General Law
Subject: FOIA Appeal from Mark N. Trahant (No. 81-94)

This provides the legal advice on Mr. Trahant's appeal of December 8, 1981.

On November 19, 1981, Mr. Mark Trahant submitted a Freedom of Information Act request to the Department's Executive Secretariat for access to a memorandum from the Associate Solicitor—Energy and Resources to the Under Secretary dated October 28, 1981, dealing with the following subject: "Nature and Extent of the Secretary's Trust Responsibility when Indian Interests Conflict with other National or Departmental Interests."

The Executive Secretariat responded to the request on December 4, 1981, and the request was denied. The exemption cited in support of the denial was exemption (5) to FOIA's disclosure requirements, 5 U.S.C. 552(b)(5). Mr. Trahant was advised that the denial was based on the reasons that "[t]he memorandum contains advice and recommendations that are part of the deliberative process, as well as an attorney's work product including potential litigation strategy, analysis, and conclusions."

We have reviewed the October 28 memorandum and find that it is basically recommending a course of action based on the legal analysis contained therein. The memorandum further provides strategy recommendations that can be utilized in pending and future water rights litigation.

APPLICABLE LAW

Exemption (5) exempts from mandatory disclosure "inter-agency of intra-agency memorandums or letters which would not be available by law to a party . . . in litigation with the agency." 5 U.S.C. 552(b)(5). The purpose of the exemption is to permit the nondisclosure of internal communications that would ordinarily be privileged against discovery by a private party in a lawsuit with the Government. H. Rept. 1497, 89th Cong., 2d Sess. 10 (1966); *Environmental Protection Agency* v. *Mink*, 410 U.S. 73, 85-86 (1973); *NLRB* v. *Sears, Roebuck & Co.*, 421 U.S. 132, 154-155 (1975).

Among the discovery privileges incorporated in the exemption is the executive or deliberative process privilege. This privilege permits withholding of communications reflecting the exchange of opinions, ideas, evaluations and recommendations as part of the process of reaching an administrative decision or formulating an agency policy. *EPA* v. *Mink, supra*, 410 U.S. at 89; *Soucie* v. *David*, 448 F.2d 1067, 1077 (D.C. Cir. 1971); *Ackerly* v. *Ley*, 420 F2d 1336, 1341 (D.C. Cir. 1969).

Besides the deliberative process privilege, other privileges incorporated in exemption (5) include the attorney-client privilege and the privilege for an attorney's work-product. The attorney-client privilege protects from compelled disclosure confidential communications from a client to his attorney. Included within the scope of the privilege are documents prepared by an attorney that would disclose confidential communications from his client. The purpose of the privilege is to "facilitate the administration of justice" by "promoting freedom of consultation of legal advisors by clients." *Natta* v. *Hogan*, 392 F.2d 686, 691 (10th Cir. 1968). *Generally, Upjohn Co.* v. *U.S.*, ______ U.S. ______, 66 L. Ed. 2d 584, 591-596 (1981). The work-product doctrine—which is separate from, but often overlaps with, the attorney-client privilege—protects from discovery material developed by or for an attorney in anticipation of or during litigation. *Hickman* v. *Taylor*, 329 U.S. 495 (1947); *United States* v. *Nobles*, 422 U.S. 225, 236-239 (1975).

Because the requested memorandum basically consists of recommendations and opinions, we do not find it necessary to give consideration to the rules that apply to the fact/opinion dichotomy in exemption (5) cases.

CONCLUSIONS

There is no question that the requested document is an internal communication of the Department of the Interior and hence qualifies as an inter- or intra-agency memorandum. There is next for consideration whether the memorandum fits within one or more of the privileges encompassed within exemption (5).

The issues discussed in the October 28, 1981 memorandum are ones that are presently pending in the Department and have not as yet been resolved. Further, there may be additional discussion and consideration of the issues along with submission of additional materials to the decisionmaker.

Disclosure of the requested memorandum in these circumstances would be disruptive of the deliberative process and would undoubtedly inhibit the Department's full and frank consideration of all of the alternatives in resolving this issue. Accordingly, it is our opinion that the memorandum is within the protection of the deliberative process component of exemption (5).

Further, we believe that this memorandum which was prepared by an attorney and relates to litigation strategy in current and future water rights cases, is also within the attorney work-product privilege incorporated in exemption (5). Because of our conclusion that the deliberative process and attorney work-product privileges apply, we do not find it necessary to decide at this time whether the attorney-client privilege may also apply to protect disclosure of the document.

Based on the foregoing, it is our conclusion that the continued withholding of the October 28, 1981, memorandum is legally supportable.

TIMOTHY S. ELLIOTT.

Mr. MELCHER. Mr. President, the select committee is currently conducting an investigation into the exercise by the Department of the Interior and the Bureau of Indian Affairs of their trust responsibility regarding Indians, particulary when exercise of that responsibility poses a potential conflict with other statutory responsibilities of the Department.

The committee has determined that the memorandum entitled, "The Nature and Extent of the Secretary's Trust Responsibility when Indian Interests Conflict with Other National or Departmental Interests," dated October 28, 1981, by the associate solicitor for energy and resources of the Department of the Interior, has an obvious and direct bearing on the select committee's investigation.

I am puzzled and amazed by the Department's apparent reluctance in this matter. The committee's initial request for this document was made over 3 weeks ago and so far all we have heard in response is bureaucratic double-talk which translates as delay, delay, delay.

If the Department believes that the memorandum is not an accurate or authorized statement of official departmental policy, the select committee would be pleased to receive with the memorandum any other documents or statements that reflect official departmental policy.

It is very clear to me that if the document is embarrassing or if the document puts the Department of Interior in some type of conflicting position, no real purpose is served by delaying its release or keeping it secret. The fact that it was drawn up in 1981 and requested to be revised by an Indian organization a year later, 1982; and the subsequent fact, that the Select Committee on Indian Affairs wishes to review it, has now created some sort of prominence in the document.

Whatever the purpose of the document, that purpose is surely defeated by the Department of Interior refusal to release it.

If the document does not have much impact or is not meant to have much impact perhaps that can be clearly stated. However, the fact that it has been difficult to obtain, has lent a great deal of importance to the policy discussions it purports to contain or some of us think it might contain.

Whatever those policy discussions are, Congress has a role in carrying them out or correcting them if they seem ill-advised, and the Department of Interior may be creating a huge mountain of uncertainty and suspicion of a document that really does not contain that amount of substance.

Whatever the case is, Mr. President, I urge those in the Department of Interior responsible for this delay to supply the document in question forthwith. To do otherwise would, in my opinion, not only be futile, but also would be a gross disservice to all parties, and create a serious confrontation between the Senate and the Department of the Interior.

Mr. President, I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 5 minutes.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR AS WELL AS CONVENTIONAL MILITARY BALANCE BETWEEN UNITED STATES AND SOVIETS REMARKABLY CLOSE

Mr. PROXMIRE. Mr. President, President Reagan contends that we have fallen behind the Soviets in military spending. He says we must spend much more heavily to catch up. Is he right? No. He is wrong. Here is why:

First, the President overlooks the immense differences in military capability between our allies and the Soviet's allies. Russia's Warsaw Pact allies have no nuclear power. They have feeble economies. Compared to our NATO allies, Russia's allies muster a truly pitiful military strength.

In addition, the Warsaw Pact countries lack the most vital ingredient of all—loyalty to the Soviet cause. In the event of a Russian invasion of Western Europe, for instance, where would Poland stand? Would other Warsaw Pact countries give more than lukewarm support to a Soviet Union on the march in Europe? I doubt it.

On the other hand, France and England are both nuclear powers and the level of military competence and morale in the face of a Russian attack would certainly be far stronger among the Western Europeans. But every time the President hits the TV tube and brings out the charts, it is strictly the Soviets versus the United States.

And that is only the beginning of the disadvantages for the Soviet Union that the President overlooks. The People's Republic of China faces at least a quarter of the Russian military force on their long common border. The Chinese alone have more soldiers in the military than the Soviet Union.

Also, the President dramatizes the starkest advantage for the Soviet Union in the 1,300 intermediate range warheads trained on Europe, compared to none by the United States. Sounds impressive, does it not? But President Reagan just forgets about the 400 intermediate range warheads that England, France, and China have that are capable of hitting the Soviet Union. He says nothing about the additional 400 warheads on U.S. submarines assigned to NATO control. And try to find any reference in the President's speeches to medium range bombers we have that can reach the Soviet Union from the European bases and have a backup of—get this—6,000 nuclear warheads.

The President says nothing about our remarkable worldwide submarine fleet. Three weeks ago the Secretary of the Navy and the Chief of the Naval Command told the Defense Appropriations Committee that our nuclear-powered, nuclear-missile carrying submarine fleet is, as of now, invulnerable. I asked the Secretary: "How about the future?" His answer: "Senator, our submarine fleet will become increasingly invulnerable throughout the century." Now, the President can properly argue that the submarine fleet is different than the land based missiles the Soviet Union has. He is right. And get the difference. Our submarine fleet is more mobile, less visible and therefore far more likely to survive any nuclear attack than Russian land-based missiles. Furthermore our submarine missiles are becoming constantly more accurate. In aggregate, they constitute a far greater threat to the Soviet Union than the Soviet Union's land based missiles pose to us. Having said that, however, let me hasten to add that the comparison does not mean very much because the power of annihilation is so immense on both sides that any numbers comparison is irrelevant. The evidence suggest we could deliver more devastating nuclear blows on the Soviet Union than they could deliver on this country. But the devastation would be so absolute, the ruin so complete that if we or the Soviet Union had twice as much or half as much. We would still have a suicide standoff.

It is true of course that the Soviet Union has more military troops than we do. They have three or four times as many tanks. They have an extraordinarily thorough air defense that would give our bombers great difficulty in reaching targets within the Soviet Union, although our cruise missiles could probably foil their air defense.

On the other hand, based on the toughest tests of all in full warfare in the Middle East, our fighter planes knocked off 80 of the Russian fighters and lost none. Does this mean our planes are superior in quality? You bet your life it does. In a recent article in the Christian Science Monitor, John Holdren, a vice chairman of the Federation of American Scientists, points to other areas of military superiority we enjoy over the Soviet Union. He writes:

> Concerning actual ability to deploy substantial forces far from its homeland, the Soviet Union is well behind the United States. The Soviets have less than half the long-range military airlift capacity of the United States. They have a marine corps of 13,500 men, versus 192,000 for the United States. The Soviets have three small aircraft carriers, deploying a total of 90 warplanes and helicopters. The United States

> has 14 much larger carriers deploying about a thousand warplanes and helicopters.

And Holdren concludes:

> The "bottom line" is that neither NATO nor the Warsaw pact has the sort of clear preponderance of military power that could provide confidence of "victory"—of gains outweighing losses—in a major conventional war, much less a nuclear one at any scale. Nor is either side remotely on the verge of acquiring such a preponderance.

Mr. President I ask unanimous consent that the article by Mr. Holdren entitled, "Why Does Reagan Say America is Behind?" be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Apr. 12, 1983]

WHY DOES REAGAN SAY AMERICA IS BEHIND?

(By John P. Holdren)

In his March 23 speech to the nation on defense spending and policy, President Reagan repeated his earlier claim that the Soviet Union enjoys a "margin of nuclear superiority" over the United States. Calling on the Congress and the public to support his massive military budget, the President used electronic graphics and a stream of numbers to buttress his contention that the East-West military balance overall—nuclear capabilities as well as conventional ones—has titled dangerously in favor of the Soviets.

It isn't so. The US and its allies are strong enough militarily to discourage any plausible Soviet threat to our security, and we can remain so without the massive military buildup to which the Reagan administration has committed itself. The President has been able to suggest otherwise only by presenting an incomplete and misleading picture of the military balance. What has been left out? What is the President trying to sell the American people, and why?

One of the main omissions from the President's portrayal was the relevant military forces of our allies. Repeatedly, he compared US forces with Soviet forces, rather than comparing the forces of the two alliances—the North Atlantic Treaty Organization (NATO) and the Warsaw Pact—that actually face each other as potential adversaries. The Soviet Union accounts for 90 percent of the Warsaw Pact's military spending, while US accounts for only about 60 percent of NATO's. NATO as a whole spends more on defense and has more military manpower than the Warsaw Pact as a whole.

Other factors unfavorable to the Soviets—and unmentioned by the President—are the questionable loyalty of some of their East European allies and the presence of a billion potentially hostile Chinese to the southeast. The Chinese alone have more men in uniform than the Soviet Union does, and, while the Chinese are much less well equipped, the Soviets have thought it necessary to deploy about a fourth of the Red Army opposite the 7,000-kilometer Chinese border.

The omission of the forces of our European allies and China played an important part in President Reagan's portrayal of massive asymmetry in "intermediate-range nuclear weapons." His electronic chart with this title, showing 1,300 Soviet warheads to none for the US, pertained only to deployments by the two superpowers and indeed only to a subset of those: land-based, intermediate-range missiles. The Soviet missiles in this category are targeted on Western Europe and Asia; they cannot reach the US (other than Alaska). Opposing them, but omitted from the President's chart, are about 400 warheads on land-based and submarine-launched intermediate-range missiles deployed by Great Britain, France, and China, and another 400 warheads on US missile subs assigned to NATO control.

Also left out entirely from President Reagan's comparison of "intermediate-range nuclear weapons" were the nuclear-capable medium-range bombers and strike aircraft deployed by NATO and the Warsaw Pact by the hundreds (and by China by the score). The US alone has an inventory of more than 6,000 nuclear bombs available for delivery by such aircraft.

There is room for argument, of course, about the exact numbers and capabilities of these weapons systems. But the overall conclusion is both clear and completely contrary to the message of President Reagan's chart. There are formidable arsenals of intermediate-range nuclear weapons aimed at the Soviet Union, offsetting the ones the Soviet Union has aimed at others. Differences of detail in the composition of these arsenals are made irrelevant by the excessive, almost incomprehensible destructive power of both.

The destructive capacity of the "central strategic forces" of the two superpowers—their intercontinental ballistic missiles, their sub-launched ballistic missiles, and their intercontinental bombers—is greater still, but the conclusion is the same: the differences in composition of the forces on the two sides produce no usable advantage for either. Yet the Reagan administration seems determined to dwell on the details, seeking evidence, in the inevitable differences in subcategories of strategic weaponry, for the proposition that the Soviet Union has "nuclear superiority."

The administration bemoans the advantage of the Soviet ICBM force in number of missiles and megatonnage. Never mind the asymmetry in this comparison—that the Soviet ICBMs contain 70 percent of the warheads and 75 percent of the megatonnage in their entire strategic arsenal, while the US ICBMs contain only 25 percent of the warheads and 40 percent of the megatonnage in our strategic arsenal. Never mind either that the US has about 2,000 more deliverable warheads in its total strategic arsenal than the Soviet Union does.

In the case of the submarine-based strategic forces, the President complained that the Soviets had deployed four new types of sub-launched ballistic missiles in a period in which the US deployed only two new types. These figures prove little, except perhaps that the Soviets are trying hard to catch up. By the measures that matter most, the US submarine-missile force remains superior. We have far more warheads in this force than the Soviets do; our sub-launched warheads are more accurate than theirs; we keep a far larger percentage of our missile subs at sea (rather than vulnerable in port) at all times than the Soviets do; and our subs at sea are much less susceptible to detection (and hence destruction) than those of the Soviets are.

As for the intercontinental bombers, President Reagan repeated his administration's lament about the increasing age (and implied obsolescence) of our B-52 force. The oldest B-52s in our force of some 300 of these bombers were deployed starting in 1956, but three-quarters of the force consists of later models with greater range, payload, and mission flexibility. All of the B-52s have been upgraded repeatedly over the past two decades with advanced electronics and other improvements. Many now carry supersonic ground-attack missiles (first deployed in 1972) or air-launched cruise missiles (1982).

By contrast, the entire intercontinental bomber force of the Soviet Union consists of 150 aircraft of the same 1956 vintage as the oldest B-52, but of substantially inferior capability. (Two-thirds have propellers!) The total payload of the Soviet intercontinental bomber force is one-fourth that of its US counterpart.

To downplay the inferiority of the Soviet long-range bomber force, the Reagan administration has decided to portray the medium-range Soviet Backfire bomber as "intercontinental." (The President did so in his speech, as did the Department of Defense in its much-publicized March 1983 edition of "Soviet Military Power.") The Backfire—a swing-wing, supersonic aircraft with a bomb load comparable to that of an F-4 Phantom—has an unrefuelded combat radius of perhaps 3,000 kilometers. It could reach the northwestern US from Soviet arctic bases near Alaska, but it is not an "intercontinental" bomber by the generally accepted definitions.

In any case, the US has its own swing-wing, supersonic counterparts to the backfire: our F-111E/F strike aircraft and FB-111A bomber. First deployed in 1967 (compared to 1974 for the Backfire—the US was ahead as usual), the F-111s have a range around 60 percent of the Backfire's and bomb loads one-and-a-half to two times as great. The somewhat shorter range of the F-111s probably does not console the Soviets much, because we enjoy the use of more bases close to the Soviet Union than vice versa. We deploy a total of about 215 F-111s; the Soviets have perhaps 200 Backfires.

President Reagan made much ado in his speech about the growing ability of the Soviet Union to project military force far beyond its borders. The centerpiece of the President's argument on this point was a set of reconnaissance photographs of military installations in the Caribbean and Central America where Soviet-built radars and weapons are deployed. He characterized the MIG-23 fighters on a Cuban airfield in one of these photos as "modern," as if their presence should be special cause for alarm. This aircraft was first deployed by the Soviet Union in 1971 and now serves in the air forces of Cuba, Syria, Libya, and India, among others. The US has sold many comparable (and better) aircraft to a variety of third-world countries.

Concerning actual ability to deploy substantial forces far from its homeland, the Soviet Union is well behind the US. The Soviets have less than half the long-range military airlift capacity of the US. They have a marine corps of 13,500 men, vs. 192,000 for the US. The Soviets have three small aircraft carriers, deploying a total of 90 warplanes and helicopters. The US has 14 much larger aircraft carriers, deploying about a thousand warplanes and helicopters.

All this is not to suggest that the Soviet military forces are less than formidable. They do deploy more tanks than all their potential adversaries combined. They have more interceptor aircraft, more heavy artillery, and more submarines than NATO does. NATO, on the other hand, has more major surface warships, more helicopters, and several anti-tank missiles for every Soviet tank.

What does it all mean? There never will be and does not have to be numerical equality in every subcategory of the East-West military balance. With respect of long-range nuclear weaponry, the enormous and secure overkill capabilities of both sides make category-by-category quibbling ridiculous. With respect to shorter-range and conventional weaponry, an approximate overall balance of capabilities is the only sort of equality that is either achievable or worth achieving.

The "bottom line" is that neither NATO nor the Warsaw Pact has the sort of clear preponderance of military power that could provide confidence of "victory"—of gains outweighing losses—in a major conventional war, much less a nuclear one at any scale. Nor is either side remotely on the verge of acquiring such a preponderance.

Why, then, is the Reagan administration trying so hard to undermine confidence in the military strength of the US and its allies? Can it be sound strategy to try to convince adversaries and allies alike that we are weaker than is really the case? If the fear is that the Soviets will exploit perceived weaknesses in the West to act more aggressively against our interests, how better to encourage them than by *fostering* an erroneous perception of weakness?

It is always dangerous to speculate on the motivations of others, but in this case it seems essential to try to understand what may be motivating President Reagan and his advisers. The writings, speeches, and interviews of prominent defense strategists in or close to this administration (men such as Richard Perle, Richard Pipes, Colin Gray, and Edward Teller) provide some clues. I believe that this group has concluded—and has persuaded the Reagan administration—that the national interests of the US require that we try to reestablish substantial military *superiority* over the Soviet Union.

The pursuit of such superiority does have some superficial attractions. It is possible to think that the Soviets will either have to try to match us, doing grave damage to their economy in the process, or let us retake a commanding lead. Either outcome would seem to reduce their ability to stir up trouble around the world.

The one defect in this scheme that the Reagan strategists seem to have perceived is that the American people won't buy it. It is not in the American character to pay for a massive military buildup designed to achieve superiority, all the less when the costs are manifestly squeezing social welfare programs. The American people would only pay for such a buildup if they thought it was needed to *catch up*. Thus emerges the administration's need to take some liberties with the portrayal of the military balance.

Alas, beyond the obvious difficulty of selling such a program to the American people, the Reagan administration's apparent pursuit of military superiority has some graver defects.

One of them is the supposition that the strain of an accelerated arms race will do more damage to the Soviet economy than to our own. It is true that the US economy is large and more robust than that of the Soviet Union. But it is also true that the mix of goods and services in theirs is much more readily manipulated by government, to military ends, than is the case in ours.

A second defect is the idea that damaging the Soviet economy would benefit the US. It seems at least equally likely that the deteriorating economic conditions in the Soviet Union would increase the belligerency of the Soviet government, if only to divert the attention of the populace away from domestic difficulties and toward foreign "enemies."

A third defect is the notion that the US would be able to attain a usable military superiority if the Soviets chose not to "race." The key word is *usable*. Unless the Soviet Union decides not only not to race but to disarm unilaterally, it will retain enough conventional and nuclear military power to make the costs of U.S. military action against the Soviets' key interests exceed any conceivable benefits. This is the situation that prevails today, in both directions. Under such circumstances, what is the meaning of "superiority"? How could it be used?

Two dangers in all this are especially acute. First, we seem likely, in the pursuit of an illusory superiority, to deploy (and to stimulate others to deploy in reaction) more weapons whose nature and numbers in themselves increase the chance of nuclear war by mistake or miscalculation, Second, is the possibility that, emboldened by a mistake sense that we actually had achieved a usable superiority, we might *try* to use it—triggering a conflict that could escalate out of control.

I may be wrong, of course. Conceivably the Reagan administration is not seeking military superiority in the guise of "catching up." But that is certainly what it looks like on the basis of the President's defense budget, his misleading portrayal of the military balance, and the available evidence on the thinking of the strategic analysts most influential in his administration. And that is almost certainly what it looks like to the Soviets.

CAMBODIA WITNESS

Mr. PROXMIRE. Mr. President, on April 25, an exhibit opened in the rotunda of the Russell Senate Office Building which has had a profound impact on all those who have seen it.

Entitled "Cambodia Witness," the exhibit consists of 52 photographs that tell the story of a Cambodia brutalized by the reign of Pol Pot from 1975 to 1979.

Organized by Amnesty International, the exhibit will remain in the Russell Building through April 30 before moving to the House Cannon Building to continue on display from May 2 to May 13.

The photographs presented are grizzly. They record the evidence of what has been termed the "Asian Auschwitz." Bearing mute witness to the screaming pain, mutilation and killing which took up to 450 lives each day for 5 years, these photographs are a startling revelation of one of the greatest atrocities of modern times. The pyramids of skulls, heaps of bones and decrepit walls of abandoned torture cells testify to the horror of one-half million men, women and children executed by the Khmer Rouge. An estimated 2 million others died from forced labor, starvation and disease as a result of the mass oppression.

Mr. President, it is difficult for us in America to imagine an event as devestatingly cruel as genocide. Genocide cares not for the beauty of a woman's face, the dreams of a growing child, or the visions of men. Genocide would extinguish them all.

Though we can never comprehend what drives tyrants to such unthinkable acts as those now being remembered in the Russell rotunda, we can move to apprehend such acts before they occur again.

I urge my colleagues—I urge all Americans—to see "Cambodia Witness." Perhaps through this testimony to terror we will all realize the need to ratify an international treaty against genocide, a treaty which has remained unsigned by the United States for 30 years.

Mr. President, I ask unanimous consent that the "Cambodia Witness" brochure be printed in the RECORD.

There being no objection, the brochure was ordered to be printed in the RECORD, as follows:

In the case of Democratic Kampuchea, better known as Cambodia, human rights violations reached a scale which has been called "the most serious to have occurred anywhere since nazism.[1] Traditional Cambodia society was shattered by the spillover of the Second Indochina War into that country. The civil conflict between the forces of Lon Nol and the Khmer Rouge left a land and people broken and divided.

On April 17, 1975, the Khmer Rouge forces entered the capital of Phnom Penh and immediately ordered the evacuation of the cities and towns of Cambodia. Within three days, the war-swollen city of Phnom Penh was emptied of its population of more than two million. Thousands of people died during these evacuations and more were killed while on the road.

The Khmer Rouge instigated a series of purges and massacres to eliminate various population groups. First to be killed were the officials and military officers of the deposed regime. These killings often extended to their wives, children and families.

In late 1975 systematic executions of lower ranking officials, former army personnel and village leaders began. These killings were soon followed by executions of members of the commercial and educated classes. Students and teachers, described by the Khmer Rouge as the "worthless ones," were often summarily murdered or disappeared. Many people were randomly executed and minor infringements of work discipline or criticizing official instructions could results in death.

Thousands of pages of documents attesting to the systematic nature of Khmer Rouge policies remain intact in Cambodia. Sometimes events became known from the accounts of survivors or reports from refugees. In some instances the physical plant of a prison-execution center still stands. In other instances the mass graves found throughout Cambodia with their hundreds of thousands of skulls, are mute witnesses to events.

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[1] Chairman of the United Nations Human Rights Subcommission.

The most clearly documented killings carried out by the Khmer Rouge are those that took place at S-21 now known as Tuol Sleng, the central security prison in Phnom Penh, Tuol Sleng was an extermination center at the hub of a countrywide system of imprisonment and executions.

Records found in the prison files show that at least 15,000 people were liquidated at Tuol Sleng. Execution schedules recorded each day's work. October 15, 1977—418 killed. October 18, 1977—179 killed. October 20—88 killed. October 23—148. The highest figure was May 27, 1978—582 killed.

Mass grave sites have been discovered throughout the Cambodian countryside. Cheung Ek, where over eight thousand skulls have been counted, is reported to have been a burial ground for Tuol Sleng.

Once discovered, the grave pits were opened the bones and skulls removed in order to estimate the number of dead. The mass graves contain those executed—not the old, young, or sick who died along the road during the forced evacuations, nor those who died from malnutrition or from forced labor or other causes. At this time, comprehensive information about the total number of mass grave sites throughout Cambodia is unavailable.

Members of ethnic minorities were victims of repeated massacres. Thousands of ethnic Chinese, Vietnamese, Lao, and Thai were killed. The Cham, an Islamic minority, were singled out for especially harsh treatment. Recognizable by their distinctive dress, customs, and dialect, the Cham lived in their own villages and neighborhoods.

The Khmer Rouge ruthlessly suppressed Islamic practices and Cham religious and community leaders were executed. After 1976 there was a ban on the use of the Cham language, dress, and customs. Communities and villages were broken up. The Cham were subjected to largescale and widespread massacres or dispersed among the larger population.

The destruction of the Cham can be seen to have reached genocidal proportions. The 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide defines "genocide" as a number of acts "committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group," including killings, and "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part. . . .".

A similar situation befell Cambodia's preeminent religious group, the Buddhist monkhood. The Constitution of Democratic Kampuchea strictly prohibited "reactionary religion" and religious activity was brutally supressed. The Catholic cathedral in Phnom Pehn was removed stone by stone from its site on Monivong Avenue. Buddhist temples, Moslem mosques, and Protestant churches were demolished or converted to warehouses.

Once in power the Khmer Rouge desecrated and destroyed Buddhist books and holy objects. Worship, prayer, and meditation were forbidden. Monks were forced to disrobe—the monkhood disbanded and virtually destroyed. The leading, the most venerated, and those monks who refused to disrobe, were executed. Others died of starvation and disease or simply disappeared. Before 1975 the population of monks was estimated at between forth and sixty thousand. By late 1979, eight months after the ouster of the Khmer Rouge, fewer than one thousand monks has returned to their former monasteries.

Cambodian society, with its customs and traditions, has been torn apart. The damage and trauma to the people of Cambodia are incalculable. Over the years the physical evidence will fade. The tropics will swiftly repossess the mass grave sites.

However, in many countries as diverse as Uganda, Guatemala, Indonesia, Afghanistan, the Philippines, El Salvador, Ethiopia, Iran or Chile, people from all walks of life and of many political points of view and religious beliefs have been or are being killed by governmental authorities. When there have been flagrant and persistent violations of human rights, where extreme suffering has been inflicted, and whenever survival is at stake, it is necessary to raise the question of accountability.

Political killings are crimes for which governments and their forces are responsible under national and international law. Those who hold power must be accountable for the exercise of that power. Mechanisms which make governments more responsible for actions towards their own citizens must be implemented.

Witness means knowledge, understanding, wisdom. Another meaning is to attest to facts. A witness is someone called to be present and testify to an event having taken place.

It is important not to forget the victims and survivors of the massive murder by government practiced in Cambodia. It is also important to remember that the Cambodian government under the Khmer Rouge was not and is not the only government that *takes* instead of *protects* the lives of its citizens.—Joan Libby

THE C-5B PROGRAM

Mr. HOLLINGS. Mr. President, in the past few days there has been much discussion about the possibility of a large overrun on the C-5B program. All discussion has been negative and one sided. To present another view of this situation, I ask unanimous consent that an article by David Wood, that appeared in the Los Angeles Times on April 27, 1983, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TIMES ERRED IN REPORTING LOCKHEED OVERRUN ON C-5B

(By David Wood)

WASHINGTON.—An internal Air Force report on the cost of Lockheed Corp.'s C-5B program was a "worst-case" projection by government cost analysts, not a report on actual cost overruns as The Times reported Tuesday. In fact, the Air Force said, the cost of the program may run under estimates.

Russell D. Hale, assistant Air Force secretary for financial management, said in a statement Tuesday that "to suggest that there is a $566-million cost overrun on a program which is less than six months old is preposterous.

"There is no cost overrun in this program today and we do not anticipate an overrun in the future," Hale said.

The Times report Tuesday was based on an independent Air Force study of the C-5B program predicting that the total cost of the 6-year Lockheed effort could be $566 million more than the $7.8 billion provided in the contract signed Dec. 31, 1982.

The Times misunderstood the report, believing it to be an analysis of actual cost overruns rather than an assessment of what the total cost of the C-5B project could turn out to be over the life of the Lockheed contract.

As a result, The Times incorrectly indicated that during the first three months of the contract, costs had already exceeded Lockheed's projections by $566 million.

Hale said in an interview Tuesday that the independent analysts intentionally take the "gloomier" view in projecting costs. "What their estimate (suggests) is that if you take the high estimate, (the cost) could be higher than the firm fixed-priced contract which includes their profits," he said.

Copies of the report were released Monday by the Project on Military Procurement, a nonpartisan watchdog group that focuses on military spending. It is an offshoot of the Fund for Constitutional Government, a nonprofit group founded during Watergate to investigate corruption in government. Its financial backers range from liberal philanthropist Stewart Mott to the Rockefeller Family Fund.

In an interview at the company's Burbank headquarters, Lockheed Chairman and chief Executive Roy A. Anderson vigorously denounced what he termed "irresponsible" and "inaccurate" reporting of the C-5B cost situation.

Anderson said the reports about a cost overrun have damaged unfairly Lockheed's credibility among investors, whose large imbalance of orders to sell Lockheed stock caused the New York Stock Exchange to suspend trading of the issue for all of Tuesday. Initial leaks of the reports contributed to the price of Lockheed stock falling $3.25 per share, to $120.25, in Monday's trading, Anderson said.

He said the company could not now be $500 million over budget on the C-5B because Lockheed hasn't even spent that much yet.

The Air Force analysis warned that because Lockheed is building 50 of the giant cargo planes under a firm fixed-price contract, higher-than-anticipated costs could mean a reduction in Lockheed's profit.

The report further warned that the Air Force should be wary of reopening the contract, an action that the government analysts said "would give the contractor the opportunity to renegotiate the contract value under conditions less favorable to the Air Force."

Such an analysis, formally called an "independent cost analysis," is routinely performed while a major contract is being negotiated as a check on the costs estimated by the contractor and the military managers of a program such as the C-5B.

Hale said the Air Force had "negotiated down" Lockheed's proposed contract price and therefore was "not about to open that thing up." He also pointed out a conclusion in the cost analysis report that if the Air Force adheres strictly to the terms of the firm fixed-price contract, the C-5B program could be completed for $206 million less than the currently approved price. He asserted that this reduction "will be realized" because of a reduction in the projected requirement for Lockheed to provide initial spare parts.

ESTIMATE IN DISPUTE

The Air Force officials negotiating the contract did not agree with the cost estimate in the independent analysis. But Hale said the report, a "worst-case" estimate, was close enough to the negotiated contract cost to validate the contract.

In the interview Tuesday, Hale said the independent analysis cost estimate had included several possible costs not included in the Lockheed contract. He said it projected inflation over the next four years at a slightly higher rate than the 7 percent to 8 percent inflation on which the contract is based. It addition, Hale said, the analysis used a higher estimate of the costs associated with ordering engineering changes on the C-5B after the contract has been signed.

In the Lockheed contract, Hale said, potential engineering changes were estimated at 3 percent of total contract costs, while the analysis used 5 percent.

Five engineering changes have been approved, of which four involve no cost change and one will save an estimated $15 million, according to Hale. He said two additional proposed engineering changes could be absorbed within the 3 percent allowance for such changes.

In the interview, Lockheed's Anderson said, "If their (worst-case) facts were realized, we could lose half of our profit. But the Air Force didn't say (that) this in fact was going to happen. Under certain circumstances we could underrun on costs." The contract calls for Lockheed to make a profit of 15 percent of the program's cost.

In fact, Anderson said, Lockheed so far is below budget. "But we don't say that's representative because the contract is only 3 months old" and many things can happen over its eventual 6-year term, he said.

The entire contract cannot be renegotiated unless the Air Force asks for modifications exceeding 3 percent of the value of the whole contract, or unless Congress delays or speeds up the program, Anderson said.

"We'd like to see the contract stay right as it is," Anderson said. "We hope it (an unchanged contract) can show how well we can perform."

EL SALVADOR

Mr. THURMOND. Mr. President, I rise in support of President Reagan's foreign policy initiatives in Central America and commend the President on his address last night to a joint session of Congress.

In order to prevent further deterioration of the situation in Central America, it is imperative that this additional funding program be approved. We are not merely discussing the future of a small Latin American country. We are debating the security of the entire Western Hemisphere. The Sandinistan victory in Nicaragua clearly strengthened the hopes and the morale of the Marxist-Leninists in El Salvador. The defeat of government forces in El Slavador would encourage rebels in Honduras, Guatemala, and Costa Rica. Our lack of action in this matter will undoubtedly lead to a spread of the Communist aggression in Central America.

Mr. President, the proposed administration security assistance package is designed to give the Salvadoran military the capability to seize the initiative from the Communist guerrillas. This will allow the government forces to protect the economic infrastructure of El Salvador and allow the development of that country's democratic, social, and economic institutions.

The program will enhance the mobility of the Salvadoran Armed Forces. It will improve the expansion, maintenance, and modernization capabilities of the army. The program will bring the proportion of Salvadoran soldiers trained by U.S. advisers to over 50 percent. In addition, 25 percent of the funds will be devoted to improving the civic capabilities of the Salvadoran Army. The program will permit the Salvadoran military to reach the people with increased medical and engineering services that directly benefit them, in contrast to the hardships that are inflicted upon them by the guerrillas.

The most important factor of this entire package is that it will assist the Salvadoran Army in becoming more skilled and, therefore, less dependent on the United States. This will reduce the need for further U.S. aid in this area in the future.

Mr. President, the administration's foreign policy initiatives in Central America provide more than military assistance. The program seeks to bolster the economies of this vitally important region. In fact, the proposal outlined by the President last night provides by a 2-to-1 margin more economic aid than military assistance. The administration is committed to a policy which will develop the economies of countries like El Salvador, while stabilizing the political situation there so that free and open democracies can flourish.

With respect to Nicaragua, I am confident that our Government is obeying the law. Since the Sandinistas came to power in that country several years ago, the government has become increasingly Marxist-Leninist and oppressive in character. In addition, they have exported this violence, oppression, and subversion to their neighbors and have jeopardized the security of the entire region. Our goal with respect to that country should be to support those who seek a peaceful transition toward a free and democratic society.

Mr. President, the truth about the situation in Central America needs to be publicized. The Soviets, through their surrogate, Fidel Castro, have been successful in destabilizing that entire section of our hemisphere. By refusing to appropriate an adequate amount of aid for El Salvador, we will actually be acceding to Soviet efforts to dominate Central America. This includes jeopardizing the security of the Panama Canal and the Caribbean Basin. This area is vital to our foreign trade and petroleum interests, and it is the passage through which one-half of our supplies for NATO would be transported in a European crisis.

By approving this security assistance package, we can continue the advancements being made in El Salvador, and we can help preserve a democratic lifestyle for the people of Central America.

If we turn our backs on the people of El Salvador and other Central American countries, we do great harm to the future of democracy itself, and we send a disastrous message to friends and foes alike.

I hope every Member of the U.S. Congress will support this program. It is a rational, compassionate, and workable solution to the political, social, and economic problems which have devastated Central America for the last several years.

Mr. President, I came across an article that appeared in the February 1983 issue of Time magazine entitled "El Salvador: It Is Not Vietnam." The article places the Central American situation in its proper perspective, and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

El Salvador: It Is Not Viet Nam

(By Strobe Talbott)

For the past few weeks, Americans have been asking themselves some urgent and difficult questions about the ugly civil war in El Salvador. Will the latest guerrilla offensive succeed in disrupting and discrediting the elections scheduled for next month? Will the beleaguered civilian President, José Napoleón Duarte, be able to stave off the leftist challenge? Can he also rein in the right-wing military leaders with whom he shares what remains of central power—and therefore with whom he shares responsibility for atrocities committed by the security forces? And what can the U.S. do? Can it simultaneously foster land reform and counterinsurgency, especially when both campaigns are going so badly?

The crisis has also posed questions that more directly affect the American people: Is El Salvador a new Viet Nam? Is the U.S. about to repeat the mistakes that led it into the greatest single setback to its military power, political prestige and national self-confidence in this century? The news media have repeatedly been asking that of late. So have Senators and Congressmen in their interrogation of Government witnesses. So have academics and student leaders at teach-ins.

The natural tendency to draw cautionary comparisons with Viet Nam has already asserted itself to an unnatural, and certainly unhealthy, extent in the political debate about El Salvador. It has fostered prejudices over judgments and dogmas over lessons, both among conservatives (neo and otherwise), who are well represented in the Administration, and among their opponents on the left.

The liberal exhortation "No more Viet Nams!" could be a prescription for appeasement, passivism and isolationism; the hardliners' rejoinder—"No more 'No more Viet Nams!'"—could translate into a recipe for macho bullying: "Let's go beat the stuffing out of somebody somewhere just to show that we're tough again." The danger of the first response is paralysis; the danger of the second is reflexive, unthinking action. Neither impulse makes for sound policy.

When U.S. fighters downed a pair of Libyan jets last August, two choruses sounded in counterpoint: "Hooray! We've finally put Viet Nam behind us!" and, from the other side of the stage, "Beware! The Gulf of Sidra may be another Gulf of Tonkin!" (thus bringing onstage, with clanking chains, the ghost of the 1964 naval skirmish off the coast of Viet Nam, which Lyndon Johnson used as a pretext to escalate American involvement there).

The Viet Nam syndrome has even clouded views of our adversaries' foreign entanglements. Some commentators, as well as some American Government officials, continue to toy hopefully with the idea that Afghanistan may turn out to be the Soviet Union's Viet Nam—never mind that Afghanistan is right on the Soviet border and that whatever else the leaders in Moscow have to worry about, they need not fear student marches on the Kremlin or peacenik political challengers in the next elections to the Supreme Soviet.

Still, it is inevitable, indeed understandable, that the Viet Nam analogy should arise in the context of the civil war in El Salvador. Precisely because the American debacle in Indochina was such a protracted, painful and preoccupying episode, it is sure to come to mind whenever the U.S. faces circumstances that are even superficially similar. Television coverage of El Salvador has provided some gnawingly familiar images: Marxist-led peasants vs. patrols of boy soldiers in ill-fitting uniforms and G.I.-style helmets, ambushes and massacres in the jungles, a trickle of American advisers into the embattled country, and, back in Washington, a Secretary of State telling a skeptical Congress that this is where the U.S. must draw the line against Communist adventurism.

But the parallels to Viet Nam are far outnumbered by the divergences. Viet Nam is 9,000 miles from the U.S.; El Salvador is a near neighbor. The military-civilian government in San Salvador is its own worst enemy, in the sense that it has alienated its own people and embarrassed what few friends it has left in the world. Still, the junta bears little resemblance to the assorted cliques and strongmen that the U.S. supported in Saigon.

Another difference between now and then: the Viet Cong had spent decades building up their cadres, fighting skills, command structure and supply lines; they also had North Viet Nam, with its huge regular army, first backing them up, then leading them in their conquest. The Salvadoran insurgency, by contrast, is limited to about 6,000 active fighters, many of whom are recent converts to the cause.

The closest analogue to a North Viet Nam in Central America is Nicaragua, which is not really very close at all. The Sandinista regime there is still young and insecure. True, it is gravitating into the Soviet-Cuban orbit and building a formidable military machine, at least by Central American standards; but that buildup is partly in reaction to the Reagan Administration's implacable hostility. Much as the Sandinistas would like to see their Salvadoran comrades triumph. Nicaragua does not have a common border with El Salvador, and the extent to which the Sandinistas are shipping arms to the guerrillas is debatable. There is no equivalent of the Ho Chi Minh Trail and, far more important, of Ho Chi Minh himself.

In short, the Viet Nam analogy is really the Viet Nam fallacy. It is fallacious not just in the objective difference between the two situations, but in the way that indulgence of a false analogy can skew judgment. In general, foreign policy is better served by a conscious attempt to analyze each situation afresh, rather than by the wisdom of hindsight (which, of course, is really not wisdom at all). Soldiers, it has often been said, have the bad habit of waging the last war. Americans, in their current fretting over El Salvador, are similarly afflicted. Across the political spectrum, there is no one who wants to re-experience in Central America the defeat of Indochina. From that, the left is tempted to conclude: Better not to fight at all, anywhere, ever again. The right concludes the opposite: Fight somewhere, soon, only this time, by God, win.

The Administration's current policy, to prop up Duarte long enough to get some rudimentary democratic institutions and economic reforms in place, is in plenty of trouble on the ground in El Salvador; and it is couched in some of the more bellicose, almost hysterical idioms of Haigspeak back in Washington. But as long as the Administration seeks to curb the abuses of the regime and discourage the political ambitions of the military, providing American assistance against the guerrillas is a reasonable and responsible course. The humanitarian as well as geopolitical goal of the U.S. is to stop the escalation of violence in Central America, and that means exerting force against the insurgents through arms aid, as well as putting political pressure on our less savory clients to moderate their ways.

Should that policy fail, the Administration will face some excruciatingly difficult choices. If Duarte should lose out to one of his rightist rivals, does the U.S. withdraw its support and leave the repressive new regime to its own brutal but dwindling devices? More difficult still, if the guerrillas seem on the brink of military victory, does the U.S. send in combat troops? Friendly countries in the region and American allies around the world would almost unanimously oppose deeper, more direct American involvement; the Administration would also have to contend with massive political and popular resistance in this country, based as much as anything on distaste for the type of regime the U.S. would be trying to rescue. Besides, the rationale for the Administration's ends and means in El Salvador rests on the reassurances, repeated by Haig's deputy Thomas Enders only last week, that the U.S. seeks a political, not a military, solution. Sending in troops would undercut the already precarious credibility of that policy.

Those and other relevant considerations would be, and should be, enough to give the Administration plenty of reason to look for alternatives to military intervention. But the hard fact is the U.S. cannot pre-emptively and categorically rule out more direct use of force in El Salvador, which is what some of Haig's cross-examiners in the Senate seemed to want him to do. Any nation, but especially a superpower, must reserve the option of armed action in defense of its vital interests. To foreclose that option in a nasty little crisis close to home would raise new questions about American defense commitments all over the world. The other half of the dilemma is that if the U.S. does resort to force, it must do so—and be seen to do so—in order to defeat real enemies in the here and now, rather than to exorcise ghosts from half a decade ago and half a globe away.

To the extent that policymakers and spokesmen for both left and right can avoid historymongering, so much the better. There is a converse to Philosopher George Santayana's famous warning, "Those who cannot remember the past are condemmed to repeat it." It is equally true that those who dwell obsessively on the past are prone to poor analysis, divisive debate, unconstructive criticism and bad decisions as they face the future. In short, they are doomed to ask the wrong questions, which can only yield the wrong answers.

CHILDREN'S TELEVISION TAX CREDIT ACT OF 1983

Mr. HEINZ. Mr. President, yesterday when I introduced the Children's Television Tax Credit Act of 1983, S. 1153, the text of the bill was not printed in the Record.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the text of the bill was ordered to be printed in the Record, as follows:

S. 1153

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR CHILD PROGRAMMING ON PUBLIC RADIO AND TELEVISION.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44H the following new section:

"SEC. 44I. CREDIT FOR CHILD PROGRAMMING CONTRIBUTIONS.

"(a) In General.—In the case of a corporation electing the application of this section, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the aggregate amount of child programming contributions made by the taxpayer during the taxable year.

"(b) Limitations.—

"(1) Maximum dollar amount.—The aggregate amount of child programming contributions of the taxpayer which may be taken into account under subsection (a) for any taxable year shall not exceed $200,000.

"(2) Liability for tax.—

"(A) In general.—The credit allowed by subsection (a) for any taxable year shall not exceed an amount equal to the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowed under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(B) Carryback and carryover of unused credit.—

"(i) Allowance of credit.—If the amount of the credit determined under this section for any taxable year exceeds the limitation provided under subparagraph (A) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(I) a child programming credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(II) a child programming credit carryover to each of the 15 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by this section for such years. If any portion of such excess is a carryback to a taxable year beginning before January 1, 1983, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 18 taxable years to which (by reason of subclauses (I) and (II)) such credit may be carried, and then to each of the other 17 taxable years to the extent that, because of the limitation contained in clause (ii), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(ii) LIMITATION.—The amount of the unused credit which may be added under clause (i) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided under subparagraph (A) for such taxable year exceeds the sum of—

"(I) the credit allowable under this section for such taxable year, and

"(II) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CHILD PROGRAMMING CONTRIBUTION.—The term 'child programming contribution' means any cash contribution made to a public radio or television station which—

"(A) uses such contribution solely in acquiring, producing, advertising, broadcasting, or transmitting children's programs, and

"(B) delivers to the taxpayer a written statement representing that its use of the contribution will be in accordance with the provisions of subparagraph (A).

"(2) PUBLIC RADIO OR TELEVISION STATION.—The term 'public radio or television station' means a radio or television broadcast station which—

"(A) is described in section 170(c) or is wholely owned and operated by an organization or entity described in section 170(c), and

"(B) is a public broadcast station (within the meaning of section 397 of the Communications Act of 1934 (47 U.S.C. 397(6))).

"(3) CHILDREN'S PROGRAMS.—The term 'children's program' means any program originally produced and broadcast primarily for an audience of children who are 16 years of age or younger. Such term does not include any program originally produced for a general audience which is nevertheless significantly viewed by children.

"(4) AGGREGATION OF EXPENDITURES.—

"(A) IN GENERAL.—In determining the amount of the credit under this section—

"(i) all members of the same controlled group of corporations shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such member shall be its proportionate share of the child programming contributions giving rise to the credit.

"(B) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a) (4) and (e)(3)(C) of section 1563.

"(5) PASSTHROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS.—Under regulations prescribed by the Secretary, rules similar to the rules of section 52(d) shall apply.

"(6) CORPORATION ON ACCRUAL BASIS.—In the case of a corporation reporting its taxable income on the accrual basis, if—

"(A) the board of directors authorizes child programming contribution during any taxable year, and

"(B) payment of such contribution is made after the close of such taxable year and on or before the 15th day of the third month following the close of such taxable year,

then the taxpayer may elect to treat such contribution as paid during such taxable year.

"(7) ELECTIONS.—Any election allowed under this section may be made only at the time of the filing of the return for the taxable year and shall be in such form as the Secretary shall by regulations prescribe.

"(d) DENIAL OF DOUBLE BENEFIT.—If any portion of a child programming contribution is taken into account under subsection (a), such portion shall not be taken into account in determining the amount of any credit or deduction allowable under any other provision of this chapter.".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 55(c)(3) of the Internal Revenue Code of 1954 (relating to credits) is amended—

(A) by striking out "or 44F" in clause (i) and inserting in lieu thereof "44F, or 44I", and

(B) by inserting "44I(b)(2)(A)," after "44F(g)(1)," in clause (ii).

(2) Subsection (c) of section 381 of such code (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(31) CREDIT UNDER SECTION 44I.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 44I, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 44I in respect of the distributor or transferor corporation.".

(3) Section 383 of such Code (relating to special limitations on unused investment credits, work incentive program credits, new employee credits, alcohol fuel credits, foreign taxes, and capital losses), as in effect for taxable years beginning with and after the first taxable year to which the amendments made by the Tax Reform Act of 1976 apply, is amended—

(A) by inserting "to any unused credit of the corporation under section 44I(b)(2)(B)," after 44G(b)(2),", and

(B) by inserting "child programming credits," after "employee stock ownership credits," in the section heading.

(4) Section 383 of such Code (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) is amended—

(A) by inserting "to any unused credit of the corporation which could otherwise be carried forward under section 44I(b)(2)(B)," after 44G(b)(2),", and

(B) by inserting "child programming credits," after "employee stock ownership credits," in the section heading.

(5) The table of sections for part V of subchapter C of chapter 1 is amended by inserting "child programming credits," after "employee stock ownership credits," in the item relating to section 383.

(6) Subparagraph (C) of section 651(d)(4) of such Code (defining credit carryback) is amended by striking out "and employee stock ownership credit carryback" and inserting in lieu thereof "employee stock ownership credit carryback, and child programming credit carryback".

(7) Section 6411 of such Code (relating to quick refunds in respect of tentative carryback adjustments) is amended—

(A) by striking out "or unused employee stock ownership credit" each place it appears and inserting in lieu thereof "unused employee stock ownership credit, or unused child programming credit";

(B) by inserting "by a child programming credit carryback provided by section 44I(b)(2)" after "by an employee stock ownership credit carryback provided in section 44G(b)(2)," in the first sentence of subsection (a);

(C) by striking out "or an employee stock ownership credit carryback from" each place it appears and inserting in lieu thereof "an employee stock ownership credit carryback, or a child programming credit carryback from"; and

(D) by striking out "research and experimental credit carryback)" in the second sentence of subsection (a) and inserting in lieu thereof "research and experimental credit carryback, or, in the case of a child programming credit carryback, to an investment credit carryback, a new employee credit carryback, a research and experimental credit carryback, or an employee stock ownership credit carryback)".

(8) Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44H" and inserting in lieu thereof "44H, and 44I".

(9) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44H the following new item:

"Sec. 44I. Credit for child programming contributions.".

SEC. 2. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1982 and before January 1, 1986.

ABORTION AND THE CONSCIENCE OF THE NATION

Mr. JEPSEN. Mr. President, I am privileged today to bring to the attention of my colleagues and readers of the CONGRESSIONAL RECORD a scholarly article of widespread significance.

Ronald Reagan, 40th President of the United States, is author of an article entitled "Abortion and the Conscience of the Nation" in the spring 1983 edition of Human Life Review being released today.

In addition to President Reagan's comments, volume IX, No. 2 of the Review contains other articles addressing the impact on America and her people of current abortion-on-demand policies.

I am pleased to note that President Reagan specifically endorses the Respect Human Life Act which I introduced in this body and Congressman HENRY HYDE introduced in the House of Representatives. This is the fifth such public endorsement by the President of this bill, S. 467, which would establish a minimum Federal policy concerning abortion. It would not put an end to current abortion-on-demand policies, but rather would end Government assistance for the performance of abortion, except to save the life of the mother. It would also prohibit Government-assisted hospitals from engaging in the selected killing of handicapped newborns.

The President writes:

> Abortion concerns not just the unborn child, it concerns every one of us. . . . We cannot diminish the value of one category of human life—the unborn—without diminishing the value of all life.

He uses Bloomington, Ind.'s case of "Baby Doe" who was allowed to starve to death because he had Down's syndrome as an example of the tragic proof of this truism.

The President also writes:

> I know that when the true issue of infanticide is placed before the American people, with all the facts openly aired, we will have no trouble deciding that a mentally or physically handicapped baby has the same intrinsic worth and right to life as the rest of us.

President Reagan clearly points out that:

> Our nationwide policy of abortion-on-demand through all 9 months of pregnancy was neither voted for by our people nor enacted by our legislators—not a single State had such unrestricted abortion before the Supreme Court decreed it to be national policy in 1973.

He encourages Americans not to lose heart. "This is not the first time our country has been divided by a Supreme Court decision that denied the value of certain human lives." The Dred Scott decision of 1857 that denied recognition of full humanity to our Nation's blacks was not overturned quickly. It took years of effort by a determined few of appealing to the hearts and minds of their countrymen, to the truth of human dignity under God.

President Reagan eloquently compares that denial of human rights called slavery to the current denial of human rights to the unborn and imperfect:

> Abraham Lincoln recognized that we could not survive as a free land when some men could decide that others were not fit to be free and should therefore be slaves. Likewise, we cannot survive as a free nation when some men decide that others are not fit to live and should be abandoned to abortion or infanticide.

I share the President's deep concern for the many innocent lives that have been lost and will continue to be lost until America takes a stand on this issue of life of death.

I strongly urge my colleagues to join me in taking the first step toward ending Federal tax dollar participation in abortion and infanticide by cosponsoring S. 467, the Respect Human Life Act. I request that this legislation come before the Senate as quickly as possible for fair consideration and action.

I ask unanimous consent that President Ronald Reagan's article, "Abortion and the Conscience of the Nation," be printed in the RECORD in its entirety.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[Excerpt From the Human Life Review, Vol. IX, No. 2., pp. 7-16]

ABORTION AND THE CONSCIENCE OF THE NATION

(By Ronald Reagan)

The 10th anniversary of the Supreme Court decision in *Roe* v. *Wade* is a good time for us to pause and reflect. Our nationwide policy of abortion-on-demand through all nine months of pregnancy was neither voted for by our people nor enacted by our legislators—not a single state had such unrestricted abortion before the Supreme Court decreed it to be national policy in 1973. But the consequences of this judicial decision are now obvious: since 1973, more than 15 million unborn children have had their lives snuffed out by legalized abortions. That is over ten times the number of Americans lost in all our nation's wars.

Make no mistake, abortion-on-demand is not a right granted by the Consitution. No serious scholar, including one disposed to agree with the Court's result, has argued that the framers of the Constitution intended to create such a right. Shortly after the *Roe* v. *Wade* decision, Professor John Hart Ely, now Dean of Stanford Law School, wrote that the opinion "is not constitutional law and gives almost no sense of an obligation to try to be." Nowhere do the plain words of the Constitution even hint at a "right" so sweeping as to permit abortion up to the time the child is ready to be born. Yet that is what the Court ruled.

As an act of "raw judicial power" (to use Justice White's biting phrase), the decision by the seven-man majority in *Roe* v. *Wade* has so far been made to stick. But the Court's decision has by no means settled the debate. Instead, *Roe* v. *Wade* has become a continuing prod to the conscience of the nation.

Abortion concerns not just the unborn child, it concerns every one of us. The English poet, John Donne, wrote: ". . . any man's death diminishes me, because I am involved in mankind; and therefore never send to know for whom the bell tolls; it tolls for thee."

We cannot diminish the value of one category of human life—the unborn—without diminishing the value of all human life. We saw tragic proof of this truism last year when the Indiana courts allowed the starvation death of "Baby Doe" in Bloomington because the child had Down's Syndrome.

Many of our fellow citizens grieve over the loss of life that has followed *Roe* v. *Wade*. Margaret Heckler, soon after being nominated to head the largest department of our government, Health and Human Services, told an audience that she believed abortion to be the greatest moral crisis facing our country today. And the revered Mother Teresa, who works in the streets of Calcutta ministering to dying people in her world-famous mission of mercy, has said that "the greatest misery of our time is the generalized abortion of children."

Over the first two years of my Administration I have closely followed and assisted efforts in Congress to reverse the tide of abortion—efforts of Congressmen, Senators and citizens responding to an urgent moral crisis. Regrettably, I have also seen the massive efforts of those who, under the banner of "freedom of choice," have so far blocked every effort to reverse nationwide abortion-on-demand.

Despite the formidable obstacles before us, we must not lose heart. This is not the first time our country has been divided by a Supreme Court decision that denied the value of certain human lives. The *Dred Scott* decision of 1857 was not overturned in a day, or a year, or even a decade. At first, only a minority of Americans recognized and deplored the moral crisis brought about by denying the full humanity of our black brothers and sisters; but that minority persisted in their vision and finally prevailed; They did it by appealing to the hearts and minds of their countrymen, to the truth of human dignity under God. From their example, we know that respect for the sacred value of human life is too deeply engrained in the hearts of our people to remain forever suppressed. But the great majority of the American people have not yet made their voices heard, and we cannot expect them to—any more than the public voice arose against slavery—*until* the issue is clearly framed and presented.

What, then is the real issue? I have often said that when we talk about abortion, we are talking about two lives—the life of the mother and the life of the unborn child. Why else do we call a pregnant woman a mother? I have also said that anyone who doesn't feel sure whether we are talking about a second human life should clearly give life the benefit of the doubt. If you don't know whether a body is alive or dead, you would never bury it. I think this consideration itself should be enough for all of us to insist on protecting the unborn.

The case against abortion does not rest here, however, for medical practice confirms at every step the correctness of these moral sensibilities. Modern medicine treats the unborn child as a patient. Medical pioneers have made great breakthroughs in treating the unborn—for genetic problems, vitamin deficiencies, irregular heart rhythms, and other medical conditions. Who can forget George Will's moving account of the little boy who underwent brain surgery six times during the nine weeks before he was born? Who is the *patient* if not that tiny unborn human being who can feel pain when he or she is approached by doctors who come to kill rather than to cure?

The real question today is not when human life begins, but, *What is the value of human life?* The abortionist who reassembles the arms and legs of a tiny baby to make sure all its parts have been torn from its mother's body can hardly doubt whether it is a human being. The real question for him and for all of us is whether that tiny human life has a God-given right to be protected by the law—the same right we have.

What more dramatic confirmation could we have of the real issue than the Baby Doe case in Bloomington, Indiana? The death of that tiny infant tore at the hearts of all Americans because the child was undeniably a live human being—one lying helpless before the eyes of the doctors and the eyes of the nation. The real issue for the courts was *not* whether Baby Doe was a human being. The real issue was whether to protect the life of a human being who had Down's Syndrome, who would probably be mentally handicapped, but who needed a routine surgical procedure to unblock his esophagus and allow him to eat. A doctor testified to the presiding judge that, even with his physical problem corrected, Baby Doe would have a "non-existent" possibility for "a minimally adequate quality of life"—in other words, that retardation was the equivalent of a crime deserving the death penalty. The judge let Baby Doe starve and die, and the Indiana Supreme Court sanctioned his decision.

Federal law does not allow federally-assisted hospitals to decide that Down's Syndrome infants are not worth treating, much less to decide to starve them to death. Accordingly, I have directed the Departments of Justice and HHS to apply civil rights regulations to protect handicapped newborns. All hospitals receiving federal funds must post notices which will clearly state that failure to feed handicapped babies is prohibited by federal law. The basic issue is whether to value and protect the lives of the handicapped, whether to recognize the sanctity of human life. This is the same basic issue that underlies the question of abortion.

The 1981 Senate hearings on the beginning of human life brought out the basic issue more clearly than ever before. The many medical and scientific witnesses who testified disagreed on many things, but not on the *scientific* evidence that the unborn child is alive, is a distinct individual, or is a member of the human species. They did disagree over the *value* question, whether to give value to a human life at its early and most vulnerable stages of existence.

Regrettably, we live at a time when some persons do *not* value all human life. They want to pick and choose which individuals have value. Some have said that only those individuals with "consciousness of self" are human beings. One such writer has followed this deadly logic and concluded that "shocking as it may seem, a newly born infant is not a human being."

A Nobel Prize winning scientist has suggested that if a handicapped child "were not declared fully human until three days after birth, then all parents could be allowed the choice." In other words, "quality control" to see if newly born human beings are up to snuff.

Obviously, some influential people want to deny that every human life has intrinsic, sacred worth. They insist that a member of the human race must have certain qualities before they accord him or her status as a "human being."

Events have borne out the editorial in a California medical journal which explained three years before *Roe* v. *Wade* that the social acceptance of abortion is a "defiance of the long-held Western ethic of intrinsic and equal value for every human life regardless of its stage, condition, or status."

Every legislator, every doctor, and every citizen needs to recognize that the real issue is whether to affirm and protect the sanctity of all human life, or to embrace a social ethic where some human lives are valued and other are not. As a nation, we must choose between the sanctity of life ethic and the "quality of life" ethic.

I have no trouble identifying the answer our nation has always given to this basic question, and the answer that I hope and pray it will give in the future. America was founded by men and women who shared a vision of the value of each and every individual. They stated this vision clearly from the very start in the Declaration of Independence, using words that every schoolboy and schoolgirl can recite:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness."

We fought a terrible war to guarantee that one category of mankind—black people in America—could not be denied the inalienable rights with which their Creator endowed them. The great champion of the sanctity of all human life in that day, Abraham Lincoln, gave us his assessment of the Declaration's purpose. Speaking of the framers of that noble document, he said:

"This was their majestic interpretation of the economy of the Universe. This was their lofty, and wise, and noble understanding of the justice of the Creator to His creatures. Yes, gentlemen, to all His creatures, to the whole great family of man. In their enlightened belief, nothing stamped with the divine image and likeness was sent into the world to be trodden on . . . They grasped not only the whole race of man then living, but they reached forward and seized upon the farthest posterity. They erected a beacon to guide their children and their children's children, and the countless myriads who should inhabit the earth in other ages."

He warned also of the danger we would face if we closed our eyes to the value of life in any category of human beings:

"I should like to know if taking this old Declaration of Independence, which declares that all men are equal upon principle and making exceptions to it where will it stop. If one man says it does not mean a Negro, why not another say it does not mean some other man?"

When Congressman John A. Bingham of Ohio drafted the Fourteenth Amendment to guarantee the rights of life, liberty, and property to all human beings, he explained that *all* are "entitled to the protection of American law, because its divine spirit of equality declares that all men are created equal." He said the rights guaranteed by the amendment would therefore apply to "any human being." Justice William Brennan, writing in another case decided only the year before *Roe* v. *Wade*, referred to our society as one that "strongly affirms the sanctity of life."

Another William Brennan—not the Justice—has reminded us of the terrible consequences that can follow when a nation rejects the sanctity of life ethic:

"The cultural environment for a human holocaust is present whenever any society can be misled into defining individuals as less than human and therefore devoid of value and respect."

As a nation today, we have *not* rejected the sanctity of human life. The American people have not had an opportunity to express their view on the sanctity of human life in the unborn. I am convinced that Americans do not want to play God with the value of human life. It is not for us to decide who is worthy to live and who is not. Even the Supreme Court's opinion in *Roe* v. *Wade* did not explicitly reject the traditional American idea of intrinsic worth and value in all human life; it simply dodged this issue.

The Congress has before it several measures that would enable our people to reaffirm the sanctity of human life, even the smallest and the youngest and the most defenseless. The Human Life Bill expressly recognizes the unborn as human beings and accordingly protests them as persons under our Constitution. This bill, first introduced by Senator Jesse Helms, provided the vehicle for the Senate hearings in 1981 which contributed so much to our understanding of the real issue of abortion.

The Respect Human Life Act, just introduced in the 98th Congress, states in its first section that the policy of the United States is "to protect innocent life, both before and after birth." This bill, sponsored by Congressman Henry Hyde and Senator Roger Jepsen, prohibits the federal government from performing abortions or assisting those who do so, except to save the life of the mother. It also addresses the pressing issue of infanticide which, as we have seen, flows inevitably from permissive abortion as another step in the denial of the inviolability of innocent human life.

I have endorsed each of these measures, as well as the more difficult route of constitutional amendment, and I will give these initiatives my full support. Each of them, in different ways, attempts to reverse the tragic policy of abortion-on-demand imposed by the Supreme Court ten years ago. Each of them is a decisive way to affirm the sanctity of human life.

We must all educate ourselves to the reality of the horrors taking place. Doctors today know that unborn children can feel a touch within the womb and that they respond to pain. But how many Americans are aware that abortion techniques are allowed today, in all 50 states, that burn the skin of a baby with a salt solution, in an agonizing death that can last for hours?

Another example: two years ago, the *Philadelphia Inquirer* ran a Sunday special supplement on "The Dreaded Complication." The "dreaded complication" referred to in the article—the complication feared by doctors who perform abortions—is the *survival* of the child despite all the painful attacks during the abortion procedure. Some unborn children *do* survive the late-term abortions the Supreme Court has made legal. Is there any question that these victims of abortion deserve our attention and protection? Is there any question that those who *don't* survive were living human beings before they were killed?

Late-term abortions, especially when the baby survives, but is then killed by starvation, neglect, or suffocation, show once again the link between abortion and infanticide. The time to stop both is now. As my Administration acts to stop infanticide, we will be fully aware of the real issue that underlies the death of babies before and soon after birth.

Our society has, fortunately, become sensitive to the rights and special needs of the handicapped, but I am shocked that physical or mental handicaps of newborns are still used to justify their extinction. This Administration has a Surgeon General, Dr. C. Everett Koop, who has done perhaps more than any other American for handicapped children, by pioneering surgical techniques to help them, by speaking out on the value of their lives, and by working with them in the context of loving families. You will not find his former patients advocating the so-called "quality-of-life" ethic.

I know that when the true issue of infanticide is placed before the American people, with all the facts openly aired, we will have no trouble deciding that a mentally or physically handicapped baby has the same intrinsic worth and right to life as the rest of us. As the New Jersey Supreme Court said two decades ago, in a decision upholding the sanctity of human life, "a child need not be perfect to have a worthwhile life."

Whether we are talking about pain suffered by unborn children, or about late-term abortions, or about infanticide, we inevitably focus on the humanity of the unborn child. Each of these issues is a potential rallying point for the sanctity of life ethic. Once we as a nation rally around any one of these issues to affirm the sanctity of life, we will see the importance of affirming this principle across the board.

Malcolm Muggeridge, the English writer, goes right to the heart of the matter: "Either life is always and in all circumstances sacred, or intrinsically of no account; it is inconceivable that it should be in some cases the one, and in some the other." The sanctity of innocent human life is a principle that Congress should proclaim at every opportunity.

It is possible that the Supreme Court itself may overturn its abortion rulings. We need only recall that in *Brown* v. *Board of Education* the court reversed its own earlier "separate-but-equal" decision. I believe if the Supreme Court took another look at *Roe* v. *Wade*, and considered the real issue between the sanctity of life ethic and the quality of life ethic, it would change its mind once again.

As we continue to work to overturn *Roe* v. *Wade*, we must also continue to lay the groundwork for a society in which abortion is not the accepted answer to unwanted pregnancy. Pro-life people have already taken heroic steps, often at great personal sacrifice, to provide for unwed mothers. I recently spoke about a young pregnant woman named Victoria, who said, "In this society we save whales, we save timber wolves and bald eagles and Coke bottles. Yet, everyone wanted me to throw away my baby. She has been helped by Sava-a-Life, a group in Dallas, which provides a way for unwed mothers to preserve the human life within them when they might otherwise be tempted to resort to abortion. I think also of House of His Creation in Coatesville, Pennsylvania, where a loving couple has taken in almost 200 young women in the past ten years. They have seen, as a fact of life, that the girls are *not* better off having abortions than saving their babies. I am also reminded of the remarkable Rossow family of Ellington, Connecticut, who have opened their hearts and their home to nine handicapped adopted and foster children.

The Adolescent Family Life Program, adopted by Congress at the request of Senator Jeremiah Denton, has opened new opportunities for unwed mothers to give their children life. We should not rest until own entire society echoes the tone of John Powell in the dedication of his book, *Abortion: The Silent Holocaust*, a dedication to every woman carrying an unwanted child: "Please believe that you are not alone. There are many of us that truly love you, who want to stand at your side, and help in any way we can." And we can echo the always-practical woman of faith, Mother Teresa, when she says, "If you don't want the little child, that unborn child, give him to me." We have so many families in America seeking to adopt children that the slogan "Every child a wanted child" is now the emptiest of all reasons to tolerate abortion.

I have often said we need to join in prayer to bring protection to the unborn. Prayer and action are needed to uphold the sanctity of human life. I believe it will not be possible to accomplish our work, the work of saving lives, "without being a soul of prayer." The famous British Member of Parliament, William Wilberforce, prayed with his small group of influential friends, the "Clapham Sect," for *decades* to see an end to slavery in the British empire. Wilberforce led that struggle in Parliament, unflaggingly, because he believed in the sanctity of human life. He saw the fulfillment of his impossible dream when Parliament outlawed slavery just before his death.

Let his faith and perseverance be our guide. We will never recognize the true value of our own lives until we affirm the value in the life of others, a value of which Malcolm Muggeridge says: ". . . however low it flickers or fiercely burns, it is still a Divine flame which no man dare presume to put out, be his motives ever so humane and enlightened."

Abraham Lincoln recognized that we could not survive as a free land when some men could decide that others were not fit to be free and should therefore be slaves. Likewise, we cannot survive as a free nation when some men decide that others are not fit to live and should be abandoned to abortion or infanticide. My Administration is dedicated to the preservation of America as a free land, and there is no cause more important for preserving that freedom than affirming the transcendent right to life of all human beings, the right without which no other rights have any meaning.

BEIRUT EMBASSY BOMBING

Mr. DeCONCINI. Mr. President, the recent bombing of the U.S. Embassy in Beirut is, to me, an almost inevitable result of the United States' continued inability to use power properly. In Lebanon, we have used just enough power to position ourselves in a precarious and vulnerable situation, yet we have not used enough of our power to protect ourselves or to see to it that our goals for Lebanon and the Middle East are accomplished.

The inept use of power is a common problem for us—and notice I said inept use, not abuse. Despite the warlike image portrayed by Communist propaganda, Americans have always been reluctant to use force. We want peace, even where it cannot be obtained; we want negotiations, even when no one wants to negotiate; we want compromise, even when one side is right and the other is wrong. It took a direct attack to get us into World War II, and we were still in the process of negotiating with the Japanese when the attack was underway. Our effort in Vietnam was plagued with incrementalism, with fruitless negotiations, with useless calls for elections. And in Vietnam, the plain fact of the matter was that the only thing that could stop the war was a military victory by one side or the other—and we know all too well which side was the victor.

So we stand in Lebanon, a peacekeeper not particularly wanted by either side in a nation that could be decades away from self-government. We have called for peace to appear in a place full of factions and sworn enemies; we have called for negotiations when the opposing sides have nothing they want to say to each other; we have called for compromise when the goals of one side are clearly more in our Nation's interest than those of the other side.

We have two choices for using power effectively in Lebanon. We can decide to make the peace work by substantially augmenting our military strength in Lebanon. The risks accompanying this decision are substantial, but the potential benefits are equally great or, we can simply continue to support Israel with financial and military aid. We can encourage Israel to pursue both military and political goals and policies which will shape the course of events in Lebanon in a way that corresponds to U.S. interests.

In sum, Mr. President, we must change our policy toward Lebanon. Peace and security in the Middle East are vital to us. We must quickly decide to use the power that we can project there in an effective manner, either via Israel or on our own. We are doing no good in Lebanon now, and our involvement there has already cost us the lives of at least 17 Americans who were strong, brave, and dedicated to our Nation. We cannot afford such a costly loss.

Mr. President, I ask unanimous consent to have printed in the Record an article that appeared in the Wall Street Journal of April 5, 1983, and an article by William Safire, on the same subject, which appeared in the New York Times of April 7, 1983.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Wall Street Journal, Apr. 5, 1983]

How Central Is the Palestinian Problem?

(By Benjamin Netanyahu)

We are frequently told that the "Palestinian problem" lies at the heart of the present unrest in the Mideast. Solve this problem and you will have peace in the area. And the U.S., which is often the target of Arab hostility and criticism, will enjoy a stable and enduring alliance with the Arab world.

However plausible this idea may appear, it does not correspond to Middle Eastern realities.

In the last 30 years, virtually every Arab state has been at war or on the verge of war with at least one of its Arab neighbors. Not one part of the Arab world has escaped this grim regularity.

In North Africa, Libya has clashed with Egypt and Tunisia, threatened Sudan and financed efforts to topple other Arab regimes. Egypt under Nasser invaded Yemen and now trades threats with Qadhafi. Algeria has waged surrogate warfare against Morocco using the Polisario forces in the Sahara.

In the Arabian peninsula, the two Yemens have been warring intermittently for years. Saudi Arabia, while trying to buy off all potential enemies in the Arab world, in turn seeks to dominate the smaller states of the Gulf and has pressed territorial claims against all of them. Kuwait frets over Saudi encroachment on its territory, but worries even more about Iraq, which claims Kuwait in its entirety.

And in the heart of the Middle East, Syria has attacked Jordan, jostles with Iraq and has made a shambles of Lebanon in seven years of ruthless occupation.

The fact that nearly all of these states are frequently bound by treaties of unity and endless protestations of brotherhood and friendship counts for nothing.

LAWRENCE'S CHARACTERIZATION

The Arab world is littered with broken agreements. At the first sign of a neighbor's vulnerability, aggression erupts against the potential victim, to be checked only by the perception or presence of countervailing power. Thus when Saadam Hussein of Iraq perceived post-revolutionary Iran as weak and ripe for plunder, he swiftly revoked the border agreement he had signed five years earlier with the shah and invaded Iran's oil-rich provinces. As early as 1928, T. E. Lawrence characterized the Arab regimes as "tyrannies cemented with blood" and said that "it will be generations before any two Arab states join voluntarily." Fifty-five years later nothing has changed.

No lasting peace is possible among the Arab states as long as the tendency for violence remains central in Arab political life, and every Arab regime will continue to depend on force even for its internal survival. Since King Farouk, every Egyptian ruler has been a military man, relying on the army to crush opposition. Libya is ruled by a colonel and a small clique of officers. The army runs Algeria, and Hassan of Morocco depends on the loyalty of his army to sustain his regime. In Saudi Arabia not one but two armies (they watch each other) protect the princes. In Syria, an Alawite officer corps run by Assad's brother suppresses dissent, sometimes with mass murder as at Hama recently. Hussein of Jordan relies on his Bedouin forces to subdue any threat to his rule. Hussein of Iraq depends on his secret police and army. Virtually every Arab leader has been the target of attempted or successful assassination.

None of these conflicts has anything to do with Israel. None of this violence has Israel as its target. Yet most of the discussions about achieving "peace" in the Middle East focus exclusively on the Arab-Israeli conflict and ignore the pervasive violence that characterizes the Arab world.

To assume that this turbulence and endemic instability will disappear, or even subside, with the theoretical resolution of the Arab-Israeli conflict is to expect the impossible. Even the disappearance of Israel would not make the slightest difference.

Making peace among themselves is hard enough for the Arab states: Making peace with non-Arabs is even harder. For the Arabs regard the area from Morocco to the Persian Gulf as theirs, as Arab despite the presence of numerous peoples that make up a sizable portion of the population—Berbers, Kurds, Copts, Druse, Jews, Circassians, Armenians, blacks and others. These non-Arab or non-Moslem peoples can be accepted only in a state of subjugation, within a dominant Arab domain, never as independent equals. That is why the Arabs would be as hostile to any non-Arab sovereign state—say a Berber one in North Africa, or a Coptic state in lower Egypt—as they are to the Jewish state of Israel.

While the specific enmity to Israel is deeply rooted in this general intolerance, Israel's sin is particularly odious in Arab eyes. For the Jews of Israel are the only non-Arab people to have successfully defied Arab domination and achieved independence.

Thus, the very existence of Israel challenges the concept of a unified and uninterrupted Arab domain. Even the presumed champion of Palestinian statehood, Yasser Arafat, has said: "The question of borders does not interest us. Palestine is only a small drop in the great Arab ocean. Our nation is a great Arab nation extending from the Atlantic to the Red Sea and beyond.

It is not surprising that hardly a syllable was uttered about a "Palestinian people" or about the "Palestinian homeland" in Judea and Samaria until Israel gained control of that strategic area in 1967. The theme of "homelessness" has been especially promoted since then and inflated far beyond its real proportion. For most Palestinian Arabs have homes. Many of them, in fact, live as full citizens in eastern Palestine, or Jordan, which constitutes nearly 80% of mandatory Palestine. Similarly, most of the Arabs, of Judea-Samaria are not homeless refugees; they hold Jordanian citizenship and live in the same homes they occupied before the establishment of Israel. Several hundred thousand work in the Gulf oil states, but are no more "homeless" than are, for example, the many thousands of Americans who work in Saudi Arabia. That a few hundred thousand remain unintegrated is because the Arab states have kept them incarcerated in refugee camps for political reasons. As long ago as 1957, Elfan Rees, the adviser on refugees to the World Council of Churches, noted: "I hold that, political reasons aside, the Arab refugee problem is the easiest of the postwar refugee problems to solve. By faith, by language, by race and by social organization, they are indistinguishable from their fellows of the host country."

Whatever remains of the refugee problem can and should be resolved by the Arab world that has created and sustained it. Should they dedicate to it a tiny fraction of their enormous resources of land and money, they could make the problem disappear overnight.

It has long been recognized that to be a minority is not necessarily a tragedy. All nations have their minorities. The tragedy is to be everwhere a minority. This was precisely the Jewish situation before the creation of the state of Israel. As for the Arabs, they employ a reverse logic. For them it is a tragedy to be a minority anywhere in the vast swatch of land of the Middle East and North Africa. It is not enough for them that the Palestinian Arabs constitute the entire population of Jordan, and the western Palestinians the majority of that population. They now demand a second Palestinian state in the western part of Palestine, which would add one more state to the 21 they already have. They find it intolerable that some Arabs may live as a minority in Israel just as other peoples have lived as minorities in *their* midst. The only difference is that the Arab citizens of Israel enjoy the civil liberties and the rule of law (despite calumnious claims to the contrary) that are denied to many non-Arab peoples living under Arab rule.

The Palestinian refugee problem is not the cause but the result of the two major assaults on Israel's life by the Arabs in 1948 and 1967. Before those attempts Israel didn't possess Judea-Samaria, which some now urge her to surrender, supposedly because retention of them is the barrier to "peace." Relinquishing Judea-Samaria, which strategically dominates the approaches to Israel from the east, would merely strip Israel of her minimum security zone and the basis of deterrence against the bellicose Arab armies surrounding her. It would bring back the situation of May 1967, in which Israel lived as if with a noose around its neck.

A HOLLOW TREAT

Telling Israel that the best security is peace—a peace that would depend on treaties and guarantees alone and would require Israel to surrender a crucial element of its deterrence—is to flout reality. It would be as if the U.S., in exchange for Soviet promises for "peace," were required to dismantle its forward defenses that provide it with the crucial warning time necessary to protect North America from a Soviet attack.

And what about the threat that if another Palestinian state isn't created "moderate" Arab regimes will turn to the Soviet Union? This is a hollow threat. There is no question here of Arab "disenchantment" with the West because there was never an enchantment to begin with. The democratic way of life is repugnant to all Arab regimes. That is why there has never been a shred of democracy in any Arab country, save for tiny Lebanon, where it struggles to survive against the forces of intolerance and terrorism that plague the Arab world. If there are Arab states that look to the West, it isn't because of organic links but because of self-interest that cannot be satisfied anywhere else. For this reason only, Jordan, Egypt, Saudi Arabia and the Gulf sheikdoms will continue to rely on the West for either aid, or weaponry, or markets, clearly recognizing that they are too weak, and the Soviet Union too close, for them to do without American protection.

The ongoing unrest in the Middle East isn't generated by the Palestinian problem, but by the propensity for violence in the Arab world and the general intolerance toward non-Arab peoples. Neither of these tendencies, nor the need of some Arab states for the West, will be affected in any way by whether or not Israel yields up the sliver of territory (roughly the size of Greater Los Angeles) that is, however, indispensible for its defense.

[From the Washington Post, Apr. 7, 1983]

REAGAN'S MIDEAST PANIC

(By William Safire)

WASHINGTON, April 6—Desperate to salvage some semblance of progress for his ill-advised Mideast plan, President Reagan is showing a new weakness toward the Russians and is becoming an object of scorn among Arabs.

Sixteen years ago, as the Soviet Union armed the Arab world, Moscow broadcast statements that "warned the Government of Israel that it would bear full responsibility for its aggressive policy." Thanks to its preemptive strike as Arab armies massed in 1967, Israel was able to thwart the Soviet-sponsored attack.

Today, stung by the recent defeat of its P.L.O. and Syrian clients, the Russians are again sponsoring a military buildup—this time equipping Syria with the most sophisticated SAM-5 missiles, manned by Soviet crews. Again, Moscow lays the groundwork for war by accusing Israel of planning aggression: "Military preparations are being conducted openly in Israel," reads a Tass statement dated March 31, "with the aim of delivering a piratic strike against Syria."

What was President Reagan's response to the Soviet arms buildup and propaganda barrage? Did he warn Mr. Andropov that a continued arming of Syria was provocative, and did he reassure our democratic ally that the Soviet arms shipments would be more than offset by our own?

Just the opposite. Asked if he planned to counter the Soviet shipment of surface-to-air missiles with the delivery of F-16 aircraft to Israel, Mr. Reagan proceeded to encourage the Russian buildup: he chose that moment to announce he would withhold the weapons from Israel until it complied with his order to get out of the areas of Lebanon that had been the staging ground for terrorism.

That made a liar out of our Secretary of State, who had been assuring one and all that threats to cut off aid would not be used against Israel in the Lebanon negotiations. That also made heroes of the Russians, who could now re-arm their puppet and pump out incendiary propaganda without the disapproval of the U.S. President.

Having responded with weakness to the Soviet move, Mr. Reagan then put on a display of pleading, hand-wringing and bribing that can only earn the contempt of Arab leaders who find him easy to manipulate.

King Hussein was repeatedly announcing the expected arrival of Yasir Arafat in Jordan; the P.L.O. leader at first snubbed him and went to Saudi Arabia. Mr. Reagan offered the Saudis 1,500 of our newest tanks, threatening to strip the U.S. Army clean, if only they would persuade Mr. Arafat to let King Hussein represent him. Mr. Reagan has been on the telephone to Jordan all week, promising its King military equipment and who knows what negotiating sweeteners.

By stalling, by making the American President look foolishly eager, the Arab leaders are able to extract weapons and promises from the U.S. and obtain new humiliations for Israel.

If and when King Hussein chooses to interpret an Arafat wink as a mandate and joins the talks, he hopes to have twisted the Americans into a position of forcing the Israelis to hand over land on which their security depends. All this maneuvering is to induce Mr. Reagan into promising he will "deliver" Israel or cut off its military lifeline; at that point, King Hussein will not represent Palestinian Arabs, he will represent the P.L.O., which demands what Israel will never give.

Mr. Reagan was led to believe that the announcement of his plan would draw the Arabs into face-to-face negotiations. It has not. Mr. Reagan need not admit his plan was a fiasco; Presidents don't do that. But he should adopt a less frenetic aproach:

He should tell the Russians that any further arms buildup in Syria will be countered by our arms buildup of Israel. That will remove Moscow's incentive to try out new weaponry and will reassure our ally.

He should contain his impatience in Lebanon; the only time an Arab state can justify any peace talk with Israel is when it has land to regain. We should be sponsoring rather than resisting a timetable toward a peace treaty, and planning to withdraw our forces rather than to put more in.

He should open his mind to a new thought: that Palestinian refugees have far more of a claim on other Arab lands than on Israel. A brilliant exposition of this, by the Israeli diplomat Benjamin Netanyahu, appeared in Tuesday's Wall Street Journal and should be required White House reading.

He should stop chasing King Hussein and let it be known that the U.S. will urge a reconvening of Camp David autonomy talks in a few months. Those who show up, show up; if Egypt is reluctant, postpone it until year-end. The time pressure is on those who want to slow Israel's West Bank settlements. Our aim should be to assist at a conference that can succeed, not to preside at one doomed to failure.

Will he do any of this? Not likely; Mr. Reagan, now a prisoner of the Hebib-Clark-Weinberger mindset, has done a tragic flip-flop on Israel.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE IMMIGRATION BILL

Mr. BAKER. Mr. President, there are approximately 8 or 10 minutes remaining in morning business. I do not intend to try to end morning business before 12 noon. I wish Senators to know, however, those who are listening in their offices on their address systems, that at 12 noon, when morning business ends, it is the intent of the leadership to move to consideration of the immigration bill.

I have discussed this with the minority leader, who is aware of it. I wish then simply to let all Senators know that that motion will be made at 12 noon.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The time for morning business has expired.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended for 5 minutes under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished majority leader. I will not take the full 5 minutes.

(The remarks of Mr. Byrd relating to the introduction of legislation are printed late in today's Record under Statements on Introduced Bills and Joint Resolutions.)

STUDY GUIDE ON ITALIAN AMERICANS

Mr. BRADLEY. Mr. President, I call the attention of my colleagues to a study that was recently published by the United Federation of Teachers. "The Study Guide on Italian-Americans" is a comprehensive manual highlighting the innumerable contributions which Italian-Americans have made in every area of American life. I congratulate the UFT on their impressive undertaking.

A number of years ago, a need was identified for improved social studies curricula aimed at projecting the positive image of Italian-Americans. "The Study Guide on Italian-Americans" is the outcome of that effort. "The Guide" embodies a shift away from the "melting-pot" theory of American social development. It embraces instead a "culturally pluralistic" approach—emphasizing the rich culture and heritage which each ethnic group brought to America, and the ability of these cultures to thrive together in one nation.

Italian-Americans have a particularly strong history of retaining traditions of family and culture. Italian-American children studying at the elementary school level will be encouraged to take pride in this heritage. All children will learn of the many contributions that Italian-Americans have made to American life.

I firmly believe that it is possible for our diverse ethnic groups to live as one nation and continue to take pride in their cultural identities. Today, I am pleased to call the attention of my colleagues to the many contributions of our Italian-American citizens, and to join with the UFT in celebrating the publication of "The Study Guide on Italian-Americans."

ARMENIAN MARTYRS DAY

Mr. BRADLEY. Mr. President, I join my colleagues in honoring Armenian Martyrs Day. The tragic history of the Armenian people remains today a powerful lesson to all Americans about the horrors of genocide. Between 1915 and 1923, over 1.5 million Armenians were massacred by the Turkish Ottoman Empire. Many independent nations were born after the dismantling of the Ottoman Empire, but because of the Armenian genocide, no free Armenia exists today. Many survivors came to the United States to escape genocide and to begin new lives. Armenian-Americans have made significant contributions to American society, but they have not forgotten the horrible fate of their ancestors. Americans must also never forget the Armenian martyrs.

As the recent reunion of Holocaust survivors showed us, there is a great need to educate Americans and the rest of the world about the horrors of genocide. During this century we have witnessed the slaughter of the Armenians, the Holocaust of the Jewish people in World War II, and today we watch the ongoing massacres in Cambodia. Groups, such as the Armenian National Committee, make Americans aware of the lessons of genocide.

HOWARD L. RUNYON, SR., TO LEAD INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

Mr. **BRADLEY**. Mr. President, I should like to recognize the honor recently bestowed upon Howard L. Runyon, Sr., chief of the Passaic Township, NJ, Police Department. On October 5 of this year he will be installed as president of the International Association of Chiefs of Police. As such, Chief Runyon will be the youngest person ever to lead this important group.

Chief Runyon, a resident of Basking Ridge, N.J., has had an outstanding record in law enforcement which I would like to share with my colleagues.

Howard Runyon has been a police officer for 20 years—16½ of which have been as a chief of police. During this time he has been cited 12 times with awards for his leadership and outstanding police work, including the J. Edgar Hoover Award from the FBI National Academy.

Chief Runyon also knows how important training and professionalism are to effective law enforcement. He has generously given his time to make sure that new recruits receive proper training. For 11 years he has directed the training of the Morris County Firefighters and Police Academy. He has served for 4 years as commissioner and member of the National Criminal Justice Accreditation Council and previously served as commissioner of the New Jersey Police Training Commission.

New Jerseyites are justifiably proud of the accomplishments of Howard Runyon and we look forward to his leadership of the International Association of Chiefs of Police.

CONCLUSION OF ROUTINE MORNING BUSINESS

The **PRESIDING OFFICER**. Is there further morning business? The Chair hears no Senator seeking recognition. Morning business is closed.

IMMIGRATION REFORM AND CONTROL ACT OF 1983

Mr. **BAKER**. Mr. President, as I have indicated a number of times over the course of the last several days, it is my intention to ask the Senate now to turn to the consideration of the immigration bill. Mr. President, I do not believe there is any purpose to be served by asking unanimous consent to do so since I understand there will be an objection. Therefore, Mr. President, I now move that the Senate proceed to the consideration of Calendar No. 98, S. 529.

The **PRESIDING OFFICER**. The question is on agreeing to the motion.

Mr. **CRANSTON** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from California.

Mr. **CRANSTON**. I would like to explain my reason for wishing that this matter would not come up at this point. I was prepared to object to a unanimous-consent request. I do object to proceeding at this time. I do not seek to obstruct or to delay for any substantial period of time Senate consideration of the Simpson-Mazzoli immigration bill.

On the contrary, my purpose in seeking a delay is to insure that Senate deliberations will occur only after each Senator is afforded needed opportunity for full briefing, discussion, and assessment of this legislation. Although much of S. 529 is identical to the bill passed last August, there are some important new additions for consideration both in the bill itself and in amendments that are likely to be offered.

This is not just an issue of interest to Californians, although Californians are deeply interested; we have many of the people who come across the border without documents in our State, but a variety of groups with a national base are very concerned and would like more time to consider the provisions in the bill in its present form. These include the American Bar Association, the American Civil Liberties Union, the U.S. Chamber of Commerce, farm workers, and several Hispanic organizations.

The major reasons for seeking more time for consideration of this bill are threefold: First, there are problems with so-called technical amendments adopted during committee markup without full discussion. These technical amendments would have the effect of severely restricting the number of presently undocumented workers eligible for legalization by requiring both current physical presence, even for workers who have been here more or less continuously since January 1, 1977, and severe limitations on both continuous absence and aggregate absence. In practice, many aliens—particularly those from Hispanic nations—often return home for family visits, funerals, and so forth; these provisions would severely restrict Mexican eligibility for legalization. Amendments on these provisions—and detailed assessment of them—are in the process of being drafted. But it is physically impossible to have these ready now, let alone to allow Senators time to absorb the issues involved.

Second, the H-2 visa program for temporary agricultural workers contains serious problems. Apparently the distinguished Senator from Arizona is drafting an amendment to this section, and I would certainly like time to study his proposal and assess its impact on affected groups before voting. California, with the largest population of farm workers, is the most affected by H-2 provisions. But it is by no means the only place affected. Because the proposal, which may provide for a 3-year phase-in of the H-2 program, is not in final form, we have not had a chance to see or study it. In fact, the Judiciary Committee did not vote on this measure precisely because negotiations were taking place among labor, growers, and Hispanic groups concerned with both economic and civil rights problems. These concerns are fundamental to our concept of justice, and must, in all fairness, be aired and studied.

Mr. **KENNEDY**. Will the chairman yield?

Mr. **CRANSTON**. I wish I was the chairman. I am not. I am glad to yield.

Mr. **KENNEDY**. There has been a good deal of attention to the objection of the Senator from California, and I think he is entitled to have the leadership present to listen to his objection. I was not going to be one that was going to object to the consideration of this bill, but these are important matters. The points that the Senator is making are matters which I have spent a good deal of time on. I was quite prepared to consider various amendments today. I have had them printed in the RECORD. But I think the Senator is entitled to have his objections listened to, and I would hope that we could get the majority leader back in the Chamber so that we can have some attention given to these concerns. They are not unreasonable, and they are important. I do not know how the Senator feels about it. If it does not bother him, it will not bother me that much. But it seems to me that he has taken a good deal of heat for his objections, and they are legitimate, and he is entitled to be heard on them.

The **PRESIDING OFFICER**. Does the Senator suggest the absence of a quorum?

Mr. **KENNEDY**. I hope we can get a quorum call, so that we get the attention of the majority leader, who has the responsibility of setting the agenda. But if it is not a matter he cares to choose——

Mr. **SIMPSON**. Mr. President, without intruding on the Senator from California, let me say that the majority leader is indeed vitally concerned about this issue, just as the minority leader is vitally concerned about this issue. Neither is on the floor at the present time. They are planning the agenda, working on the flow of bills through the U.S. Senate.

Senator Cranston addresses these issues very skillfully. Each and every element of what he will say today has been addressed in one way or another in the past 2 years. This bill passed the U.S. Senate last August by a vote of 80 to 19. There have been serious attempts, good faith attempts, with Senator Kennedy, who is the ranking minority member of this subcommittee, and me, to address each of those issues, and we did. We protected minorities and we opened the fifth preference. We will hear those arguments.

Everyone is well aware of the intensity and sincerity of the Senator from California, and he is being heard.

Mr. KENNEDY. If the Senator from California will yield, so that I can address the Senator from Wyoming. There has been a draft proposal by Senator DeConcini to try to provide some transitional period of time for the growers in the Southwest. I understand that Senator DeConcini has made an effort several days ago to work that out with the interested parties. Has that been worked out? The Senator from California was just addressing that issue, and it is my information that that has not been worked out. The Senator has said that these matters have been worked out.

Mr. SIMPSON. I certainly had hoped that it would be worked out, and it was almost 3 weeks ago to this day when they said they were working on that. They continued to labor on that issue, apparently, and they have been urged to proceed.

I have visited with the AFL-CIO leadership, and I have visited with the growers' group. They know what their problems are. They ought to get it resolved. It seems that immigration reform is resolved only in the last flashpoint instant of time. That is the way the bill works and will always work, because it is so fraught with stuff.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMPSON. I will object to that.

The PRESIDING OFFICER. A quorum call is underway.

The bill clerk continued the call of the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I have had the opportunity now to confer with the distinguished manager of the measure on this side, the distinguished assistant minority leader, the distinguished Senator from Massachusetts, and others—and the chairman of the Judiciary Committee is here and with us on the floor—on how we might finally dispose of this matter.

As my colleagues know, the business pending before the Senate at this moment is the motion to proceed to the consideration of the immigration bill. We have not reached the bill itself.

Mr. President, I am encouraged to think now that we may be able to get the bill up. I would like to make these representations.

I hope and expect that we will be able to make good progress on this bill today. We will stay today as long as the managers on both sides think it is profitable and useful to do so. But, in the course of the day, Mr. President, I have agreed that we will shop for a unanimous-consent agreement that would provide for final passage of this measure, together with other matters that must be dealt with, such as the range and nature and time of further amendments, that we would provide a final passage time for this bill after we do the budget resolution. I have already announced that it is going to take all of next week, I expect, to do the budget resolution. So, as a practical matter, we are talking about resuming consideration of this bill a week from tomorrow.

Mr. President, I say once again that I expect us to do as much as we can on this bill today, if we pursue this course of action. I hope that we will get well along into it. If this works out and we can get a unanimous-consent agreement through today, then I do not expect to ask the Senate to be in session tomorrow, on Friday. Otherwise, of course, Mr. President, we will have to stay on this bill as long as we need to stay on this bill.

Mr. President, with that statement, I would like to renew my motion, which, of course, is now pending, that the Senate proceed to the consideration of this measure.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

Without objection, it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 529) to revise and reform the Immigration and Nationality Act, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause, and insert the following:

SHORT TITLE; REFERENCES IN ACT

Section 1. (a) This Act may be cited as the "Immigration Reform and Control Act of 1983".

(b) Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to, or repeal of, a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

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TITLE I—CONTROL OF ILLEGAL IMMIGRATION

Part A—Employment

CONTROL OF UNLAWFUL EMPLOYMENT OF ALIENS

Sec. 101. (a)(1) Chapter 8 of title II is amended by inserting after section 274 (8 U.S.C. 1324) the following new section:

"UNLAWFUL EMPLOYMENT OF ALIENS

"Sec. 274A. (a)(1) It is unlawful for a person or other entity after the date of the enactment of this section—

"(A) to hire, or for consideration to recruit or refer, for employment in the United States an alien knowing the alien is an unauthorized alien (as defined in paragraph (4)) with respect to such employment, or

"(B) to hire for employment in the United States an individual without complying with the requirements of subsection (b).

Subparagraph (B) shall not apply to a person or entity which employs three or fewer employees.

"(2) It is unlawful for a person or other entity who, after hiring an alien for employment subsequent to the date of the enactment of this Act and in accordance with paragraph (1), continues to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

"(3) A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

"(4) As used in this section, the term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.

"(b) Except as provided in subsection (c), the requirements referred to in paragraphs (1)(B) and (3) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, that—

"(1) the person or entity must attest, under penalty of perjury and on a form established by the Attorney General by regulation, that he has verified that the individual is eligible to be employed (or recruited or referred for employment) in accordance with subsection (a)(1)(A) by examining the individual's—

"(A) United States passport, or

"(B)(i) social security account number card (issued by the Social Security Administration under section 205(c)(2)(B) of the Social Security Act and in such secure form, if any, as the Administrator of Social Security has made available) or certificate of birth in the United States or United States consular report of birth or, in the case of an individual without a social security card or a certificate of birth in the United States or a United States consular report of birth, a passport of a foreign country or registration for classification as a refugee or, in the case of an applicant for asylum who does not have documentation referred to in this subclause, any other identification acceptable to the Attorney General, and

"(ii)(I) alien documentation, identification, and telecommunication card, or similar fraud-resistant card issued by the Attorney General to aliens, or other identification issued by the Attorney General to aliens who establish eligibility for employment,

"(II) driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds sufficient for purposes of this section, or

"(III) in the case of individuals under sixteen years of age or in a State which does not provide for issuance of an identification document (other than a driver's license) referred to in subclause (II), documentation of personal identity of such other type as the Attorney General finds, by regulation, provides a reliable means of identification;

"(2) the individual must attest, under penalty of perjury and on the form established by the Attorney General for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment; and

"(3) after completion of such form in accordance with paragraphs (1) and (2), the person or entity must retain the form and make it available for inspection by officers of the Service or of the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending on the later of five years after such date or, in the case of the hiring of the individual, one year after the date the individual's employment is terminated.

A person or entity has complied with paragraph (1) with respect to examination of a document if the document reasonably appears on its face to be genuine. Notwithstanding any other provision of law, the person or entity may copy a document presented by an individual pursuant to this subsection and may retain the copy, but only (except as otherwise permitted under law) for the purpose of complying with the requirements of this subsection.

"(c)(1) Within three years after the date of the enactment of this section, the President shall implement such changes in or additions to the requirements of subsection (b) as may be necessary to establish a secure system to determine employment eligibility in the United States, which system shall conform to the requirements of paragraph (2).

"(2) Such system shall be designed in a manner so that—

"(A) the system will reliably determine that a person with the identity claimed by an employee or prospective employee is eligible to work, and that the employee or prospective employee is not claiming the identity of another individual;

"(B) if the system requires an examination by an employer of any document, such document must be in a form which is resistant to counterfeiting and tampering;

"(C) personal information utilized by the system is available to Government agencies, employers, and other persons only to the extent necessary for the purpose of verifying that the individual is not an unauthorized alien;

"(D) the system will protect the privacy and security of personal information and identifiers utilized in the system including recommendations to the Congress for the establishment of civil and criminal sanctions for unauthorized use or disclosure of the information or identifiers contained in such system;

"(E) a verification that an employee or prospective employee is eligible to be employed in the United States may not be withheld for any reason other than that the employee or prospective employee is an unauthorized alien;

"(F) the system shall not be used for law enforcement purposes (other than for enforcement of this section or section 1546 of title 18, United States Code);

"(G) if the system requires individuals to present a card or other document (designed specifically for use for this purpose) at the time of hiring, recruitment, or referral, then such document may not be required to be presented for any purpose other than under this section (or enforcement of section 1546 of title 18, United States Code) nor to be carried on one's person; and

"(H) the President shall examine existing Federal and State identification systems, or the systems referred to in subsection (b) of this section, to determine suitability for use with the permanent system authorized to be developed by this section.

"(d)(1)(A) In the case of a person or entity which violates paragraph (1)(A) or (2) of subsection (a) and which—

"(i) has not previously been determined (after opportunity for a hearing under paragraph (4)(A)) to have violated either such paragraph, the person or entity shall be subject to a civil penalty of $1,000 for each unauthorized alien with respect to which the violation occurred, or

"(ii) has previously been determined (after opportunity for a hearing under paragraph (4)(A)) to have violated either such paragraph, the person or entity shall be subject to a civil penalty of $2,000 for each unauthorized alien with respect to which the violation occurred.

In counting the number of previous determinations of violations for purposes of determining whether clause (i) or (ii) applies, determinations of more than one violation in the course of a single proceeding or adjudication shall be considered as a single determination. In the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for its own hiring, recruiting, or referral for employment, each such subdivision shall be considered a separate person or entity if such hiring, recruiting, or referral for employment is not under the direct control of another subdivision or any entity or office exercising final management authority over such subdivisions.

"(B) In the case of a person or entity which has engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the person or entity shall be fined not more than $1,000, imprisoned not more than six months, or both, for each violation.

"(2) Whenever the Attorney General has reasonable cause to believe that a person or entity is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the person or entity, as the Attorney General deems necessary.

"(3) A person or entity which violates subsection (a)(1)(B) shall be subject to a civil penalty of $500 for each individual with respect to which such violation occurred.

"(4)(A) Before assessing a civil penalty under this subsection against a person or entity, the Attorney General shall provide the person or entity with notice and the opportunity to request a hearing respecting the violation. Any hearing so requested shall be conducted before an immigration officer designated by the Attorney General.

"(B) If the person or entity against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Attorney General shall file a suit to collect the amount in any appropriate district court of the United States. In any such suit or in any other suit seeking to review the Attorney General's determination, the suit shall be determined solely upon the administrative record upon which the civil penalty was assessed and the Attor-

ney General's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(e) In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) to be employed in the United States, the Attorney General shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

"(f) The provisions of this section preempt any State or local law imposing civil or criminal sanctions upon those who employ, or refer or recruit for employment, unauthorized aliens.

"(g) The President shall monitor the implementation of this section (including the effectiveness of the verification system described in subsection (b) and the status of the development and implementation of the secure verification system described in subsection (c)) and the impact of this section on employment in the United States of aliens and of citizens and nationals of the United States, on the illegal entry of aliens into the United States, and on the failure of aliens who have legally entered the United States to remain in legal status.".

(2)(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(B)(i) Where the Attorney General has reason to believe that a person or entity may have violated subsection (a) of section 274A of the Immigration and Nationality Act during the six-month period beginning on the first day of the first month beginning after the date of the enactment of this Act, the Attorney General shall notify such person or entity of such belief and shall not conduct any proceeding, nor impose any penalty, under such section on the basis of such alleged violation or violations.

(ii) Where the Attorney General has reason to believe that a person or entity may have violated subsection (a) of section 274A of the Immigration and Nationality Act during the subsequent six-month period, the Attorney General shall, in the first instance of such a violation (or violations) occurring during such period, provide a warning to the person or entity that such a violation or violations may have occurred and shall not conduct any proceeding, nor impose any penalty, under such section on the basis of such alleged violation or violations.

(C) During the year beginning on the date of the enactment of this Act, the Attorney General, in cooperation with the Secretaries of Commerce, Labor, and Agriculture and the Administrator of the Small Business Administration, shall disseminate forms and information to employers, employment agencies, and organizations representing employees and provide for public education respecting the requirements of section 274A of the Immigration and Nationality Act.

(b) The table of contents is amended by inserting after the item relating to section 274 the following new item:

"Sec. 274A. Unlawful employment of aliens.".

(c)(1) The Migrant and Seasonal Agricultural Worker Protection Act (Public Law 97-470) is amended—

(A) by striking out "101(a)(15)(H)(ii)" in paragraphs (8)(B) and (10)(B) of section 3 (29 U.S.C. 1802) and inserting in lieu thereof "101(a)(15)(H)(ii)(a)";

(B) in section 103(a) (29 U.S.C. 1813(a))—

(i) by striking out "or" at the end of paragraph (4),

(ii) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or", and

(iii) by adding at the end the following new paragraph:

"(6) has been found to have violated paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act.";

(C) by striking out section 106 (29 U.S.C. 1816) and the corresponding item in the table of contents; and

(D) by striking out "section 106" in section 501(b) (29 U.S.C. 1856(b)) and by inserting in lieu thereof "paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act".

(2) The amendments made by paragraph (1) shall apply to the employment, recruitment, referral, or utilization of the services of an individual occurring on or after the first day of the seventh month beginning after the date of the enactment of this Act.

(d) Nothing in this section shall be construed to restrict the authority of the Equal Employment Opportunity Commission to investigate allegations, in writing and under oath or affirmation, of unlawful employment practices, as provided in section 2000e-5 of title 42, the United States Code, or any other authority provided therein.

FRAUD AND MISUSE OF CERTAIN DOCUMENTS

SEC. 102. (a) Section 1546 of title 18, United States Code, is amended—

(1) by amending the heading to read as follows:

"§ 1546. Fraud and misuse of visas, permits, and other documents";

(2) by striking out "or other document required for entry into the United States" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States",

(3) by striking out "or document" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States",

(4) by striking out "$2,000" and inserting in lieu thereof "$5,000",

(5) by inserting "(a)" before "Whoever" the first place it appears, and

(6) by adding at the end the following new subsection:

"(b) Whoever without authority of the issuing agency and with unlawful intent—

"(1) photographs, prints, or in any manner makes or executes any engraving, photograph, print, or impression in the likeness of—

"(A) any document presented to satisfy a requirement of the Immigration and Nationality Act or regulations issued thereunder, or

"(B) any document presented to obtain a required document described in subparagraph (A), including any document presented to establish eligibility for adjustment of status under subsection (a) or (b) of section 245A of the Immigration and Nationality Act;

"(2) sells, transfers, distributes, presents, or uses, or possesses with the intent to sell, transfer, distribute, present, or use, an engraving, photograph, print, or impression in the likeness of a document described in subparagraph (A) or (B) of paragraph (1);

"(3) alters any document described in subparagraph (A) or (B) of paragraph (1) relating to another person; or

"(4) sells, transfers, distributes, presents, or uses, or possesses with the intent to sell, transfer, distribute, present, or use, any document described in subparagraph (A) or (B) of paragraph (1) relating to another person, whether or not altered,

shall be fined not to exceed $5,000 or imprisoned not more than five years, or both.".

(b) The item relating to section 1546 in the table of sections of chapter 75 of such title is amended to read as follows:

"1546. Fraud and misuse of visas, permits, and other documents.".

PART B—ENFORCEMENT AND FEES

IMMIGRATION AND NATURALIZATION SERVICE ENFORCEMENT ACTIVITIES

SEC. 111. (a) It is the sense of the Congress that an essential element of the program of immigration control and reform established by this Act is an increase in border patrol and other enforcement activities of the Immigration and Naturalization Service in order to prevent and deter the illegal entry of aliens into the United States.

(b) In order to do this in the most effective and efficient manner, it is the intent of the Congress to provide, through the annual authorization of appropriations process for the Department of Justice, for a controlled and closely monitored increase in the level of the border patrol and of other appropriate enforcement activities of the Immigration and Naturalization Service to achieve an effective level of control of illegal immigration.

UNLAWFUL TRANSPORTATION OF ALIENS TO THE UNITED STATES

SEC. 112. Section 274 (8 U.S.C. 1324) is amended—

(1) by striking out ": Provided, however" and all that follows up to the period at the end of subsection (a),

(2) by inserting "or subsection (c)" after "subsection (a)" in subsection (b)(1), and

(3) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States such alien by himself or through another in any manner whatsoever, regardless of whether or not fraudulent, evasive, or surreptitious means are used and regardless of any official action which may later be taken with respect to such alien, shall, for each transaction constituting a violation of this subsection (regardless of the number of aliens involved)—

"(1) be fined an amount equal to [illegible],500, the imposition of which may not be suspended by the court, plus, in the court's descretion, an additional amount not to exceed $2,500 for each such alien in respect to whom a violation of this subsection occurred, or be imprisoned not to exceed one year, or both, or

"(2) in the case of a second or subsequent offense, an offense done for the purpose of commercial advantage or private gain, an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer, or an offense during which either the offender or the alien with the knowledge of the offender makes any false or misleading statement or

engages in any act or conduct intended to mislead any officer, agent, or employee of the United States, be fined $2,500, the imposition of which may not be suspended by the court, plus, in the court's discretion, an additional amount not to exceed $7,500 for each such alien in respect to whom a violation of this subsection occurred, or be imprisoned not to exceed five years, or both.".

UNLAWFUL ENTRY INTO THE UNITED STATES

SEC. 113. Section 275 (8 U.S.C. 1325) is amended by inserting "or attempts to enter" after "enters".

FEES

SEC. 114. (a) Section 281 (8 U.S.C. 1351) is amended—

(1) by amending the section heading to read as follows: "NONIMMIGRANT VISA FEES AND BORDER FACILITY FEES";

(2) by inserting "(a)" after "SEC. 281."; and

(3) by adding at the end the following new subsection:

"(b) The Attorney General, after consultation with the Secretary of State, shall impose fees for an alien's use of border facilities or services of the Service in an amount necessary to make the total of such fees substantially equal to the cost of maintaining and operating such facilities and services.".

(b) The item in the table of contents relating to section 281 is amended to read as follows:

"Sec. 281. Nonimmigrant visa fees and border facility fees.".

PART C—ADJUDICATION PROCEDURES AND ASYLUM

INSPECTION AND EXCLUSION

SEC. 121. (a) Section 235(a) (8 U.S.C. 1225(a)) is amended by striking out "arriving at ports" in the second sentence and inserting in lieu thereof "entering at ports or at the land borders".

(b) Section 235(b) (8 U.S.C. 1225(b)) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following:

"(b)(1) If an examining immigration officer at the port of arrival determines that an alien does not have the documentation required to obtain entry into the United States, does not have any reasonable basis for legal entry into the United States, and has not applied for asylum under section 208, such alien shall not be admissible and shall be excluded from entry into the United States without further inquiry or hearing.

"(2) If an examining immigration officer at a port of entry or land border of the United States determines that an alien (other than an alien crewman and except as otherwise provided in subsection (c) of this section and in section 273(d)) is otherwise not clearly and beyond a doubt entitled to land, such alien shall be detained for a hearing on exclusion of the alien to be held before an immigration judge.",

(2) by designating the sentence beginning "The decision" as paragraph (3), and

(3) by adding at the end the following new paragraphs:

"(4) The Attorney General shall establish procedures, after consultation with the Judiciary Committees of the Congress, which assure that aliens are not excluded under paragraph (1) without an inquiry into their reasons for unlawfully seeking entry into the United States.

"(5) In the case of an alien who would be excluded from entry under paragraph (1) but for an application for asylum under section 208, the exclusion hearing with respect to such entry shall be limited to the issues raised by the asylum application.".

(c) Section 237 (8 U.S.C. 1227) is amended—

(1) by striking out "arrived in" in the first sentence of subsection (a)(1) and inserting in lieu thereof "entered";

(2) by striking out "arrived" in the second sentence of subsection (a)(1) and inserting in lieu thereof "entered the United States";

(3) by striking out "airport of arrival" in the first sentence of subsection (b) and inserting in lieu thereof "port of entry";

(4) by striking out "port of arrival" in the second sentence of subsection (b) and inserting in lieu thereof "port of entry";

(5) by striking out "arrived in" in the first sentence of subsection (c) and inserting in lieu thereof "entered"; and

(6) by striking out "arrived in" in subsection (e) and inserting in lieu thereof "entered".

UNITED STATES IMMIGRATION BOARD AND ESTABLISHMENT OF IMMIGRATION JUDGE SYSTEM

SEC. 122. (a) Title I is amended by adding at the end the following new section:

"UNITED STATES IMMIGRATION BOARD; USE OF IMMIGRATION JUDGES

"SEC. 107. (a)(1) There is established in the Department of Justice a United States Immigration Board (hereafter in this section referred to as the 'Board') composed of a Chairman and eight other members appointed by the Attorney General.

"(2) The term of office of the Chairman and all other members of the Board shall be six years, except that—

"(A) of the members first appointed under this subsection, three shall be appointed for a term of two years, three shall be appointed for a term of four years, and three shall be appointed for a term of six years,

"(B) a member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and

"(C) a member may serve after the expiration of his term until his successor has taken office.

"(3) The Attorney General may remove a member of the Board only for neglect of duty or malfeasance in office.

"(4) Members of the Board (other than the Chairman) are entitled to receive compensation at the rate now or hereafter provided for grade GS-17 of the General Schedule, under section 5332 of title 5, United States Code. The Chairman is entitled to receive compensation at the rate now or hereafter provided for grade GS-18 of the General Schedule, under section 5332 of title 5, United States Code.

"(5) The Chairman shall be responsible on behalf of the Board for the administrative operations of the Board and shall promulgate rules of practice and procedure for the Board and immigration judges.

"(b)(1) The Board shall hear and determine appeals from—

"(A) final decisions of immigration judges under this Act, other than a determination granting voluntary departure under section 244(e) within a period of at least thirty days if the sole ground of appeal is that a greater period of departure time should have been fixed;

"(B) decisions on applications for the exercise of the discretionary authority contained in section 212(c) or section 212(d)(3)(B);

"(C) decisions involving the imposition of administrative fines and penalties, including mitigation thereof;

"(D)(i) decisions on petitions filed in accordance with section 204, other than petitions to accord preference status under paragraph (1) or (2) of section 203(b) or petitions on behalf of a child described in section 101(b)(1)(F), and (ii) decisions on requests for revalidation and decisions revoking approval of such petitions under section 205;

"(E) determinations relating to bond, parole, or detention of an alien under sections 242(a) and 242(c); and

"(F) such other decisions or determinations arising under this Act as the Attorney General may by regulation prescribe.

"(2) Three members of the Board constitute a quorum of the Board, except that the Chairman (or any member of the Board designated by the Chairman) is empowered to decide nondispositive motions.

"(3) The Board shall act in panels of three or more members or en banc (as designated by the Chairman in accordance with the rules of the Board). A final decision of such a panel shall be considered to be a final decision of the Board.

"(4) The Board shall review the decision of an immigration judge based solely upon the administrative record upon which the decision is based, and the findings of fact in the judge's order, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(5)(A) A final decision of the Board shall be binding on all immigration judges, immigration officers, and consular officers under this Act unless and until otherwise modified or reversed by the Attorney General under subparagraph (B) or by a court of the United States.

"(B) If the Attorney General determines that it is necessary for the national interest of the United States, the Attorney General may, within thirty days after the date of a final decision of the Board on a case, provide that the case be certified to him for his review, and the Attorney General shall render a decision on the case within thirty days. The determination of the Attorney General on such case shall be considered for other purposes of this Act to be the final decision of the Board on that case. If the Attorney General shall not have rendered a decision within thirty days, the final decision of the Board shall be considered final and not subject to further review by the Attorney General.".

"(c)(1) The Attorney General shall, in accordance with procedures and regulations governing appointment and, except as provided in this paragraph, compensation in the competitive service—

"(A) appoint immigration judges;

"(B) set the rate of compensation for such judges at a rate not to exceed the rate now or hereafter prescribed for grade GS-16 of the General Schedule, under section 5332 of title 5, United States Code; and

"(C) designate one such judge to serve as chief immigration judge, who shall be entitled to compensation at the rate now or hereafter prescribed for grade GS-17 of such General Schedule.

"(2) In accordance with the rules established by the Board, the chief immigration judge—

"(A) shall have responsibility for the administrative activities affecting immigration judges, and

"(B) may designate any immigration judge in active service to hear and decide any cases described in paragraph (3).

"(3) Immigration judges shall hear and decide—

"(A) exclusion cases under sections 236 and 360(c),

"(B) deportation and suspension of deportation cases under sections 242, 243, and 244,

"(C) rescission of adjustment of status cases under section 246,

"(D) with respect to judges designated to hear such cases, applications for asylum under section 208, and

"(E) such other cases as the Attorney General may provide by regulation.

An immigration judge may not hear or decide the case of an alien excluded from entry under section 235(b)(1).

"(4) In considering and deciding cases coming before them, immigration judges may administer oaths and receive evidence, shall determine all applications for discretionary relief which may properly be raised in the proceedings, and shall exercise such discretion conferred upon the Attorney General by law as the Attorney General may specify for the just and equitable disposition of cases coming before such judges.".

(2) The table of contents is amended by inserting immediately after the item relating to section 106 the following new item:

"Sec. 107. United States Immigration Board; use of immigration judges.".

(3) Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

"(43) The term 'immigration judge' means such a judge appointed under section 107.".

(4) Section 101(b) (8 U.S.C. 1101(b)) is amended by striking out paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) The first sentence of section 236(b) (8 U.S.C. 1226(b)) is amended by striking out "From a decision" and all that follows through "Attorney General" and inserting in lieu thereof the following: "Within fifteen days after the date of a decision of an immigration judge excluding or admitting an alien, the alien or the immigration officer in charge at the port where the hearing is held, respectively, may file an appeal of the decision with the United States Immigration Board in accordance with rules established by the Chairman of the Board".

(c) Section 242(b)(4) (8 U.S.C. 1252(b)(4)) is amended by striking out "reasonable, substantial, and probative" and inserting in lieu thereof "substantial".

(d) Section 242 (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

"(i) Except as otherwise provided in section 291, in any deportation proceeding under this Act the burden of proof shall be upon the Attorney General to establish deportability by a preponderance of the evidence.".

JUDICIAL REVIEW

Sec. 123. (a) Subsection (a) of section 106 (8 U.S.C. 1105a) is amended—

(1) by striking out "six months" in paragraph (1) and inserting in lieu thereof "forty-five days".

(2) by striking out "Attorney General's findings of fact" in paragraphs (4) and (6) and inserting in lieu thereof "findings of fact in the order",

(3) by striking out "(4) except as provided in" in paragraph (4) and inserting in lieu thereof "(4)(A) except as provided in subparagraph (B) and in",

(4) by striking out "reasonable, substantial, and probative" in paragraph (4) and inserting in lieu thereof "substantial",

(5) by adding at the end of paragraph (4) the following new subparagraph:

"(B) the court shall not review the order to the extent that the order relates to an application for asylum;",

(6) by adding "and" at the end of paragraph (7),

(7) by striking out "; and" at the end of paragraph (8) and inserting in lieu thereof a period, and

(8) by striking out paragraph (9).

(b) Subsection (b) of such section is amended to read as follows:

"(b)(1)(A) Notwithstanding any other provision of law (except as provided under subparagraph (B)), there shall be no judicial review of a final order of exclusion or a final order respecting an application for asylum.

"(B) Where the Attorney General has reviewed and either reversed or modified a determination of the United States Immigration Board under section 107(b)(5)(B), judicial review of such determination shall be available in the same manner, and to the same extent, as a final order of deportation may be reviewed under subsection (a).

"(2) Nothing in this section shall be construed as limiting the right of habeas corpus under the Constitution of the United States.

"(3) Notwithstanding any other provision of law, no court of the United States shall have jurisdiction to review determinations of immigration judges or of the United States Immigration Board respecting the reopening or reconsideration of exclusion or deportation proceedings or asylum determinations outside of such proceedings, the reopening of an application for asylum because of changed circumstances, the Attorney General's denial of a stay of execution of an exclusion or deportation order, or the exclusion of an alien from the United States under section 235(b)(1).".

(c) Subsection (c) of such section is amended by striking out "deportation or of exclusion" and inserting in lieu thereof "an immigration judge".

(d) The section heading for section 106 is amended to read as follows:

"JUDICIAL REVIEW OF ORDERS OF DEPORTATION, EXCLUSION, AND ASYLUM".

(e) In the case of a final order of deportation entered before the date of the enactment of this Act, a petition for review with respect to that order may in no case be filed under section 106(a)(1) of the Immigration and Nationality Act later than the earlier of (1) thirty days after the date of the enactment of this Act, or (2) of the date (if any) such petition was required to be filed under the law in existence before the date of the enactment of this Act.

(f) Section 279 (8 U.S.C. 1329) is amended—

(1) by striking out "The district courts" and inserting in lieu thereof "(a) Except as otherwise provided under section 106, the district courts"; and

(2) by adding at the end thereof the following new subsection:

"(b) An action for judicial review of any administrative action arising under this Act, or regulations issued pursuant to this Act, other than a final order of deportation as provided in section 106(a) of this Act, may not be filed later than thirty days after the date of the final administrative action or from the effective date of this section, whichever is later.".

ASYLUM

Sec. 124. (a)(1) Subsection (a) of section 208 (8 U.S.C. 1158) is amended to read as follows:

"(a)(1)(A) Except as provided in subparagraph (B), any alien physically present in the United States or at a land border or port of entry may apply for asylum in accordance with this section.

"(B)(i) An alien against whom exclusion or deportation proceedings have been instituted may not file a notice of intention to apply for asylum more than fourteen days, nor perfect such application for asylum more than thirty-five days, after the date of the service of the notice instituting such proceedings unless the alien can make a clear showing, to the satisfaction of the immigration judge conducting the proceeding, that changed circumstances in the country of the alien's nationality (or, in the case of an alien having no nationality, the country of the alien's last habitual residence), between the date of notice instituting the proceeding and the date of application for asylum, have resulted in a change in the alien's eligibility for asylum.

"(ii) An alien who has previously applied for asylum and had such application denied may not again apply for asylum unless the alien can make a clear showing that changed circumstances in the country of the alien's nationality (or, in the case of the alien having no nationality, the country of the alien's last habitual residence), between the date of the previous denial of asylum and the date of the subsequent application for asylum, have resulted in a change in the alien's eligibility for asylum.

"(2) Applications for asylum shall be considered before immigration judges who are specially designated by the United States Immigration Board as having special training in international relations and international law. The Attorney General shall provide special training in international relations and international law for individuals who served as special inquiry officers before the date of enactment of the Immigration Reform and Control Act of 1983 in order to qualify such individuals to hear applications under this section.

"(3)(A) A hearing on the asylum application shall be closed to the public, unless the applicant requests that it be open to the public. To the extent practicable, the hearing shall be conducted in a nonadversarial, informal manner, except that the applicant is entitled to be assisted by counsel (in accordance with section 292), to present evidence, and to examine and cross-examine witnesses. A complete record of the proceedings and of all testimony and evidence produced at the hearing shall be kept. The determination of the immigration judge shall be based only on the evidence produced at the hearing.

"(B)(i) The Secretary of State shall on a continuing basis make available information on human rights in all countries to the Attorney General and to immigration judges who hear applications under this section. The immigration judges shall use such information, if available without delay to the proceedings, as general guidelines in making the asylum determination.

"(ii) The Attorney General shall provide notice to the Secretary of State whenever an application for asylum is filed under this section. The Secretary of State may submit comments to the immigration judge on such application, but the immigration judge shall not delay the proceeding in order to receive such comments.

"(4) The Attorney General may, in his discretion, grant an alien asylum only if the immigration judge determines that the alien (A) is a refugee within the meaning of section 101(a)(42)(A), and (B) does not meet a condition described in one of the subparagraphs of section 243(h)(2).

"(5) The burden of proof shall be upon the alien applying for asylum to establish the alien's eligibility for asylum.

"(6) After making a determination on an application for asylum under this section, an immigration judge may not reopen the proceeding at the request of the applicant except upon a clear showing that, since the date of such determination, changed circumstances in the country of the alien's nationality (or, in the case of an alien having no nationality, the country of the alien's last habitual residence) have resulted in a change in the alien's eligibility for asylum.".

(2) Subsection (b) of such section is amended by inserting "(1)" after "determines that the alien" and by inserting before the period at the end the following: ", or (2) meets a condition described in one of the subparagraphs of section 243(h)(2)".

(3) Such section is further amended by adding at the end the following new subsection:

"(d) The procedures set forth in this section shall be the sole and exclusive procedure for determining asylum.".

(b) Section 243(h) (8 U.S.C. 1253(h)) is amended by adding at the end the following new paragraph:

"(3) An application for relief under this subsection shall be considered to be an application for asylum under section 208 and shall be considered in accordance with the procedures set forth in that section.".

(c) Section 222(f) (8 U.S.C. 1202(f)) is redesignated as "Sec. 222. (f)(1)."

(d) Section 222(f) (8 U.S.C. 1202(f)) is amended by adding a new subsection (f)(2) to read as follows:

"(2) The records or any document of the Department of Justice, the Department of State, or any other Government agency, or foreign government, pertaining to the issuance or denial of any application for asylum, refugee status, withholding of deportation under sections 207, 208, and 243(h) of this Act, or any other application arising under a claim of persecution on account of race, religion, political opinion, nationality, or membership in a particular social group, shall be confidential and exempt from disclosure and shall be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States. In the discretion of the Attorney General or the Secretary of State, as the case may be, certified copies of such records may be made available to a court which certifies that the information contained in such records is needed by the court in the interests of the ends of justice in a case pending before the court.".

EFFECTIVE DATES AND TRANSITION

Sec. 125. (a)(1) Except as otherwise provided in this section, the amendments made by this part take effect on the date of the enactment of this Act.

(2)(A) Except as provided in subparagraph (B), the amendments made by this part (other than those made by sections 121(a), 122(a)(2), 123(a)(5), 123(a)(8), and 124(b)) shall not apply to—

(i) any exclusion or deportation proceeding (or administrative or judicial review thereof) which was initiated before the hearing transition date (designated under subsection (c)(1)(A)), or

(ii) to any application for asylum filed before the asylum transition date (designated under subsection (c)(1)(B)).

In the case of such proceedings and such applications initiated before such dates which continue after such dates, the United States Immigration Board shall provide that immigration judges may assume and perform such functions of special inquiry officers as may be appropriate and consistent with their duties as immigration judges.

(B) Paragraphs (1)(B), (3), (4), and (6) of section 208(a) and section 208(b) of the Immigration and Nationality Act (as amended by section 124(a) of this part) shall apply to applications for asylum made after the date of the enactment of this Act, except that—

(i) in the case of an alien against whom exclusion or deportation proceedings have been instituted as of the date of the enactment of this Act, the restriction of paragraph (1)(B)(i) of section 208(a) of the Immigration and Nationality Act (as so amended) shall apply to asylum applications made more than fourteen days after the date of the enactment of this Act (rather than the date of the service of the notice of such exclusion or deportation proceeding), and

(ii) references in the last sentence of paragraph (3) and in paragraph (6) of such section to an immigration judge shall be deemed (before the asylum transition date) to be a reference to a special inquiry officer conducting the asylum hearing.

(3) The amendments made by section 121(b) shall apply to deportation proceedings pending on or commenced after the date of the enactment of this Act.

(b)(1) The Attorney General shall appoint the Chairman and other members of the United States Immigration Board (hereafter in this section referred to as the "Board") not later than forty-five days after the date of the enactment of this Act.

(2) The Chairman, in consultation with the Attorney General, shall designate a date, not later than forty-five days after the Chairman and a majority of the members of the Board are appointed, on which the Board shall assume the present functions of the Board of Immigration Appeals (under existing rules and regulations).

(3)(A) The Chairman shall provide promptly for establishment of interim final rules of practice and procedure which will apply to the Board (when not acting as the Board of Immigration Appeals under paragraph (2)) and immigration judges under the Immigration and Nationality Act, after the hearing transition date or asylum transition date, designated under subsection (c)(1), as the case may be.

(B) Not later than sixty days after the date such interim final rules are established, the Attorney General shall appoint at least ten immigration judges who are qualified to be designated to hear asylum cases under section 208 of the Immigration and Nationality Act. The Board shall provide for such special training of these immigration judges as it deems appropriate.

(c)(1) In order to provide for the orderly transfer of proceedings from the existing special inquiry system to the immigration judge system, the Board, in consultation with the Attorney General, shall designate—

(A) a "hearing transition date", to be not later than forty-five days after the date interim final rules of practice and procedure are established under subsection (b)(3)(A), and

(B) an "asylum transition date", after the establishment of interim final rules of practice and procedure respecting applications for asylum and after the appointment and designation of immigration judges under subsection (b)(3)(B).

(2) During the period before the hearing transition date or the asylum transition date (in the case of asylum hearings), any proceeding or hearing under the Immigration and Nationality Act which may be conducted by a special inquiry officer may be conducted by an individual appointed and qualified as an immigration judge in accordance with all the rules and procedures otherwise applicable to a special inquiry officer's conduct of such proceeding or hearing.

(d) Individuals acting as special inquiry officers on the date of the enactment of this Act and on the hearing transition date may (without regard to other provisions of law) assume the duties of an acting immigration judge after such transition date during the period ending two years after the date of the enactment of this Act. If such individuals remain in such capacity through the end of such period and have not been appointed to the United States Immigration Board or as immigration judges, then they shall be deemed, for purposes of continuing employment in the Department of Justice, to have been employed by the Department as special inquiry officers during such period.

(e)(1) The enactment of this part shall not result in any loss of rights or powers, interruption of jurisdiction, or prejudice to matters pending in the Board of Immigration Appeals or before special inquiry officers on the day before this Act takes effect.

(2) Under rules established by the Chairman of the United States Immigration Board, with respect to exclusion and deportation cases pending as of the hearing transition date and applications for asylum pending as of the asylum transition date, the United States Immigration Board shall be deemed to be a continuation of the Board of Immigration Appeals and immigration judges shall be deemed to be a continuation of special inquiry officers for the purposes of effectuating the continuation of all existing powers, rights, and jurisdiction.

(f) The Attorney General shall provide that in the case of members of the Board of Immigration Appeals who—

(1) have served for a period of at least three years,

(2) are not appointed as members of the United States Immigration Board or as immigration judges, and

(3) continue to be employed by the Attorney General after the date the functions of the Board of Immigration Appeals are assumed by the United States Immigration Board,

there shall be no reduction in grade or compensation for one year after the date of termination of the individual's membership on the Board of Immigration Appeals.

TECHNICAL AND CONFORMING AMENDMENTS

Sec. 126. (a) The first sentence of section 234 (8 U.S.C. 1124) is amended by striking out "special inquiry officers" and inserting in lieu thereof "immigration judges".

(b)(1) Subsection (a) of section 235 (8 U.S.C. 1225) is amended—

(A) by striking out "special inquiry officers" in the first sentence and inserting in lieu thereof "immigration judges",

(B) by striking out ", including special inquiry officers," in the fourth sentence and *inserting in lieu thereof "and any immigration judge",*

(C) by striking out ", including special inquiry officers," in the sixth sentence,

(D) by striking out "and special inquiry officers" in the sixth sentence and inserting in lieu thereof "and immigration judges", and

(E) by striking out "special inquiry officer" each place it appears in the seventh sentence and inserting in lieu thereof "immigration judge".

(2) Subsection (b) of such section is amended by striking out "a special inquiry officer for further inquiry" in the second sentence and inserting in lieu thereof "an immigration judge for an exclusion hearing".

(3) Subsection (c) of such section is amended—

(A) by striking out "or to the special inquiry officer during the examination before either of such officers" in the first sentence and inserting in lieu thereof "during the examination or an immigration judge during an exclusion hearing",

(B) by striking out "no further inquiry by a special inquiry officer" in the first sentence and inserting in lieu thereof "no further examination or exclusion hearing",

(C) by striking out "inquiry or further inquiry" in the first sentence and inserting in lieu thereof "examination or hearing",

(D) by striking out "any inquiry or further inquiry by a special inquiry officer" in the second sentence and inserting in lieu thereof "any examination or hearing", and

(E) by striking out "an inquiry before a special inquiry officer" in the third sentence and inserting in lieu thereof "an exclusion hearing before an immigration judge".

(c)(1) Sections 106(a)(2), 236, and 242(b) (8 U.S.C. 1105a(a)(2), 1126, 1252(b)) are each amended by striking out "A" and "a" each place either appears before "special inquiry officer" and inserting in lieu thereof "An" and "an", respectively.

(d)(1) Sections 106(a)(2) and 236 (8 U.S.C. 1105a(a)(2), 1226) are each amended by striking out "special inquiry officer" and inserting in lieu thereof "immigration judge" each place it appears.

(2) Subsection (a) of section 236 (8 U.S.C. 1226) is amended—

(A) by amending the first sentence to read as follows: "An immigration judge shall conduct proceedings under this section.",

(B) by striking out "for further inquiry" in the second sentence and inserting in lieu thereof "for an exclusion hearing",

(C) by striking out "at the inquiry" in the third sentence and inserting in lieu thereof "at the hearing",

(D) by striking out the fourth sentence,

(E) by striking out "regulations as the Attorney General shall prescribe" in the fifth sentence and inserting in lieu thereof "rules as the Chairman of the United States Immigration Board shall establish",

(F) by striking out "inquiry" in the sixth sentence and inserting in lieu thereof "hearing", and

(G) by striking out "inquiry" in the seventh sentence and inserting in lieu thereof "hearing".

(3) Subsection (b) of such section is amended by striking out "Attorney General" in the first and fourth sentences and inserting in lieu thereof "United States Immigration Board" and by striking out the third sentence.

(4) Subsection (c) of such section is amended by striking out "to the Attorney General".

(e) Section 242(b) (8 U.S.C. 1252(b)) is amended—

(1) by striking out "special inquiry officer" each place it appears in the first, second, third, and seventh sentences and inserting in lieu thereof "immigration judge",

(2) by striking out "shall administer oaths" and all that follows through "Attorney General," in the first sentence,

(3) by striking out "Attorney General shall prescribe" in the second sentence and inserting in lieu thereof "Chairman of the United States Immigration Board shall establish",

(4) by striking out "In any case" and all that follows through "an additional immigration officer" in the fourth sentence and inserting in lieu thereof "An immigration officer" and by striking out "in such case such additional immigration officer" in that sentence,

(5) by striking out the fifth and sixth sentences,

(6) by striking out "such regulations" and all that follows through "shall prescribe" in the seventh sentence and inserting in lieu thereof "rules as are established by the Chairman of the United States Immigration Board",

(7) by striking out "Such regulations" in the eighth sentence and inserting in lieu thereof "Such rules", and

(8) by striking out "Attorney General shall be final" in the tenth sentence and inserting in lieu thereof "immigration judge shall be final unless reversed on appeal".

(f) The last sentence of section 273(d) (8 U.S.C. 1323(d)) is amended by striking out "special inquiry officers" and inserting in lieu thereof "immigration judges".

(g) Section 292 (8 U.S.C. 1362) is amended to read as follows:

"SEC. 292. In any proceeding or hearing before an immigration judge and in any appeal before the United States Immigration Board or the Attorney General from any such proceeding, the person concerned shall have the privilege of being represented (at no expense to the Government and at no unreasonable delay) by such counsel, authorized to practice in such proceedings, as he shall choose.".

(h) Section 360(c) (8 U.S.C. 1503(c)) is amended—

(1) by inserting "(and appeals thereof)" in the first sentence after the word "proceedings", and

(2) by striking out the second sentence.

(i) Any reference in section 203(h) of the Immigration and Nationality Act, as in effect before March 17, 1980, to a special inquiry officer shall be deemed to be a reference also to an immigration judge under section 101(a)(43) of such Act.

PART D—ADJUSTMENT OF STATUS

LIMITATIONS ON ADJUSTMENT OF NONIMMIGRANTS TO IMMIGRANT STATUS BY VISA ABUSERS

SEC. 131. (a) Section 245(c)(2) (8 U.S.C. 1255(c)(2)) is amended by striking out "hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status" and inserting in lieu thereof "has failed to maintain continuously a legal status since entry into the United States".

(b) The amendment made by subsection (a) shall apply to applications for adjustment of status filed before, on, or after the date of the enactment of this Act.

PART E—DEPORTATION PROCEEDINGS

BURDEN OF PROOF

SEC. 141. Section 291 (8 U.S.C. 1361) is amended in the third sentence by inserting "to identify himself correctly by name and nationality and" after "such person".

TITLE II—REFORM OF LEGAL IMMIGRATION

PART A—IMMIGRANTS

NUMERICAL LIMITATIONS

SEC. 201. (a) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a) Exclusive of special immigrants defined in section 101(a)(27), immigrants born to permanent resident aliens during a temporary visit abroad, immediate relatives specified in subsection (b) of this section, immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative, aliens who are admitted or granted asylum under section 207 or 208, aliens provided records of permanent residence under section 214(d), and aliens whose status is adjusted to permanent resident status under section 245A, aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(1) family reunification immigrants described in section 203(a) and immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(a), in a number not to exceed in any fiscal year the number equal to (A) three hundred and fifty thousand, minus (B) the sum of (i) the number of immediate relatives specified in subsection (b) of this section who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, (ii) the number of immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative, (iii) the number of immigrants born to permanent resident aliens during a temporary visit abroad, and (iv) the number of aliens who in the previous fiscal year were provided records of permanent residence under section 214(d), plus (C) the difference (if any) between the maximum number of visas which may be issued under paragraph (2) during the prior fiscal year and the number of visas issued under that paragraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 per centum of the numerical limitation for all of such fiscal year, and

"(2) independent immigrants described in section 203(b) and immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b), in a number not to exceed in any fiscal year the number equal to (A) seventy-five thousand, minus (B) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (C) the difference (if any) between the maximum number of visas which may be issued under paragraph (1) during the prior fiscal year and the number of visas issued under that paragraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 per centum of the numerical limitation for all of such fiscal year.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2)(A) Except as provided in subparagraph (B), the total number of natives of any single foreign state who are issued immigrant visas or may otherwise acquire the status of an alien lawfully admitted for permanent residence under subsections (a) and (b) of section 203 or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under subsection (a) or (b) of section 203 shall not exceed in any fiscal year—

"(i) twenty thousand, in the case of any foreign state other than a foreign state contiguous to the United States, or

"(ii) forty thousand (or the number determined under subparagraph (C)), in the case of any foreign state contiguous to the United States.

"(B) If in a fiscal year the total number of immediate relatives specified in section 201(b), immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative, aliens provided records of permanent residence under section 214(d), and special immigrants defined in section 101(a)(27) (other than those described in subparagraph (A) thereof) who were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence who are natives of a particular foreign state exceeded twenty thousand, then the numerical limitation applicable to that state in the following fiscal year under subparagraph (A) shall be reduced by the amount of such excess.

"(C) If in any fiscal year the number of aliens chargeable to a contiguous foreign state who are issued immigrant visas or otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence is less than forty thousand, then in the following fiscal year the number to be used in clause (ii) of subparagraph (A) for the other contiguous foreign state shall be forty thousand plus the amount of the difference.".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1) for family reunification immigrants shall be allotted visas as follows:

"(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a number not to exceed 15 per centum of such numerical limitation, plus any visas not required for the class specified in paragraph (4).

"(2) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the spouses or children of an alien lawfully admitted for permanent residence or who (A) as of May 27, 1982, had received approval of a petition made on their behalf for preference status by reason of the relationship described in this paragraph as in effect on such date, and (B) continue to qualify under the terms of the Act as in effect on such date shall be allocated visas in a number not to exceed 65 per centum of such numerical limitation, plus any visas not required for the class specified in paragraph (1).

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas in a number not to exceed 10 per centum of such numerical limitation, plus any visas not required for the classes specified in paragraphs (1) and (2).

"(4) UNMARRIED BROTHERS AND SISTERS OF CITIZENS AND PREVIOUS FIFTH PREFERENCE.—

"(A) qualified immigrants who are the unmarried brothers or sisters of citizens of the United States, if such citizens are at least twenty-one years of age, and

"(B) qualified immigrants who (i) as of the date of enactment of the Immigration Reform and Control Act of 1983 had received approval of a petition made on their behalf for preference status by reason of the relationship described in paragraph (5) of section 203(a) of this Act as in effect on the day before such date, and (ii) continue to qualify under the terms of this Act as in effect on the day before such date,

shall be allocated visas in a number not to exceed 10 per centum of such numerical limitation, plus any visas not required for the classes specified in paragraphs (1) through (3).".

"(b) PREFERENCE AND NONPREFERENCE ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(2) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING DOCTORAL DEGREES OR ALIENS OF EXCEPTIONAL ABILITY.—Qualified immigrants who are members of the professions holding doctoral degrees (or the equivalent degree) or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States, shall be allocated visas. The Attorney General may, when he deems it to be in the national interest, waive the requirement of the preceding sentence that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning or a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States, shall be allocated any visas not required for the classes specified in paragraph (1).

"(3) INVESTORS.—Qualified immigrants who have invested, or established to the Attorney General their intention to invest, substantial capital (in an amount set by the Attorney General and not less than $250,000) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, shall be allocated any visas not required for the classes specified in paragraphs (1) and (2), but in a number not to exceed 10 per centum of such numerical limitation.

"(4) NONPREFERENCE ALIENS.—Visas authorized in any fiscal year under section 201(a)(2), less those required for issuance to the classes specified in paragraphs (1) through (3), shall be made available to other qualified immigrants in the chronological order in which they qualify. No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (A) a valid home study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorised by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (B) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under the age of sixteen except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14). The provisions of sections 212(d)(11) shall apply with respect to any alien petitioning to be classified as a preference immigrant under paragraph (1).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(1) the sum of (A) the number of family reunification immigrants described in subsection (a), and (B) the number of immediate relatives specified in section 201(b), immigrants born to permanent residents during a temporary visit abroad, immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative or under section 203(a), and aliens provided records of permanent residence under section 214(d), who are natives of such state and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(2) the sum of (A) the number of independent immigrants described in subsection (b), and (B) the number of special immigrants defined in section 101(a)(27) (other than those described in subparagraph (A) thereof) and immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b), who are natives of such state and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 4.65 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e), section 204 (8 U.S.C. 1154) is amended by striking out subsection (f), and section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (3) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (3) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (1) or (3) of section 203(a)",

(ii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (3) of section 203(b)", and

(iii) by striking out "203(a)(6)" and inserting in lieu thereof "203(b)(2)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by striking out the semicolon at the end thereof and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new subparagraph:

"(B) was admitted as an independent immigrant described in paragraph (3) of section 203(b) and by the end of the one-year period following the date of entry failed to invest substantial capital in an enterprise in the United States as required in such paragraph or, having made such investment, has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry or after the date such substantial investment was made, whichever date was later;".

LABOR CERTIFICATION

SEC. 203. (a) Paragraph (14) of section 212(a) (8 U.S.C. 1182(a)) is amended by striking out "(A)" and all that follows through the end and inserting in lieu thereof the following: "(A) there are not sufficient qualified workers available in the United States in the occupations in which the aliens will be employed; (B) sufficient workers in the United States could not within a reasonable period of time be trained for such occupations by (or through funds provided by) potential employers; and (C) the employment of aliens in such occupations will not adversely affect the wages and working conditions of workers in the United States who are similarly employed. In making such determinations the Secretary of Labor may use labor market information without reference to the specific job opportunity for which certification is requested. An alien on behalf of whom a certification is sought must have an offer of employment from an employer in the United States. The exclusion of aliens under this paragraph shall only apply to preference immigrants described in section 203(b) (1) and (2) and to nonpreference immigrants described in section 203(b)(4). Decisions of the Secretary of Labor made pursuant to this paragraph, including the issuance and content of regulations and the use of labor market information under this paragraph, shall be reviewable by an appropriate district court of the United States, but the court shall not set aside such a decision unless there is compelling evidence that the Secretary made such decision in an arbitrary and capricious manner;".

(b) Section 212(d) (8 U.S.C. 1181(d)) is amended by adding at the end the following new paragraph:

"(11) The requirement in paragraph (14) of subsection (a) relating to an offer of employment from an employer in the United States may be waived with respect to any alien seeking to enter the United States as an immigrant under section 203(b)(1), if the Attorney General deems it to be in the national interest.".

G–4 SPECIAL IMMIGRANTS

SEC. 204. (a) Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by striking out "or" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; or", and by adding at the end of the following new subparagraph:

"(I)(i) an immigrant who is the unmarried son or daughter of an officer or employee, or of a former officer or employee, of an international organization described in paragraph (15)(G)(i), and (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States within seven years of the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least seven years between the ages of five and twenty-one years, and (II) applies for admission under this subparagraph no later than his twenty-fifth birthday or six months after the date this subparagraph is enacted, whichever is later;

"(ii) an immigrant who is the surviving spouse of a deceased officer or employee of such an international organization, and (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States within seven years of the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least fifteen years prior to the death of such officer or employee, and (II) applies for admission under this subparagraph no later than six months after the date of such death or six months after the date this subparagraph is enacted, whichever is later;

"(iii) an immigrant who is a retired officer or employee of such an international organization, and (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv), has resided and been physically present in the United States within seven years of the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least fifteen years prior to the officer or employee's retirement from any such international organization, and (II) applies for admission under this subparagraph (i) on or before December 31, 1992 and (ii) no later than six months after the date of such retirement or six months after the date this subparagraph is enacted, whichever is later; or

"(iv) an immigrant who is the spouse of a retired officer or employee accorded the status of special immigrant under clause (iii), accompanying or following to join such retired officer or employee as a member of his immediate family.".

(b) Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended by striking out "or" at the end of subparagraph (L), by striking out the period at the end of subparagraph (M) and inserting in lieu thereof "; or", and by adding at the end the following new paragraph:

"(N)(i) the parent of an alien accorded the status of special immigrant under paragraph (27)(I)(i), but only if and while the alien is a child, or

"(ii) a child of such parent or of an alien accorded the status of a special immigrant under paragraph (27)(I) (ii), (iii), or (iv).".

EFFECTIVE DATES AND TRANSITION

SEC. 205. (a) The amendments made by sections 201, 202, and 203 shall apply to the admission of aliens to the United States on and after October 1, 1984. The amendments made by section 204 shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1984, such petition shall be deemed, as of such date, to be a petition for the new corresponding preference or nonpreference status (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding preference or nonpreference status" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1984), the preference status described in such section as in effect after such date;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1984), the preference status described in such section as in effect after such date;

(C) preference status described in section 203(a)(3) of such Act (as in effect on Septem-

ber 30, 1984), the preference status described in both paragraphs (1) and (2) of section 203(b) of such Act as in effect after such date;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1984), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1984), the preference status described in section 203(a)(4) of such Act as in effect after such date;

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1984), the preference status described in section 203(b)(2), in the case of skilled labor, or the nonpreference status described in section 203(b)(4), in the case of unskilled labor, of such Act as in effect after such date; and

(G) nonpreference status described in section 203(a)(7) of such Act (as in effect on September 30, 1984), the preference statuses described in both paragraphs (3) and (4) of section 203(b) of such Act (as in effect after such date) in the case of investors or the nonpreference described in section 203(b)(4) of such Act (as in effect after such date) in the case of noninvestors.

(c) When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1984, makes application for admission, his admissibility under paragraphs (20) and (21) of section 212(a) shall be determined under the provisions of law in effect on the date of the issuance of such visa.

PART B—NONIMMIGRANTS

H-2 WORKERS

SEC. 211. (a) Paragraph (15)(H) of section 101(a) (8 U.S.C. 1101(a)) is amended by striking out "to perform temporary services or labor, if unemployed persons capable of performing such service or labor cannot be found in this country" in clause (ii) and inserting in lieu thereof "(a) to perform agricultural labor or services, as defined by the Secretary of Labor in regulations, of a temporary or seasonal nature, or (b) to perform other temporary services or labor".

(b) Section 214 (8 U.S.C. 1184) is amended—

(1) by adding at the end of subsection (a) the following new sentences: "An alien may not be admitted to the United States as a nonimmigrant under section 101(a)(15)(H)(ii)(a) for an aggregate period of more than eight months in any calendar year, except in the case of agricultural labor or services which the Secretary of Labor, before the date of the enactment of the Immigration Reform and Control Act of 1983, has recognised require a longer period, which may exceed one year. An alien who was admitted to the United States as a nonimmigrant under section 101(a)(15)(H)(ii) during the preceding five-year period may not be admitted under that provision if the alien violated the terms of any such previous admission. The Attorney General shall provide for such procedures for the entry and exit of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section.",

(2) by inserting "(1)" after "(c)" in subsection (c),

(3) by adding at the end of subsection (c) the following new paragraphs:

"(2)(A) A petition to import an alien as a nonimmigrant under section 101(a)(15)(H)(ii) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

"(i) there are not sufficient workers who are able, willing, qualified, and who will be available at the time and at the place needed to perform the labor or services involved in the petition, and

"(ii) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States who are similarly employed.

The Secretary of Labor may require by regulation, as a condition of issuing the certification, the payment of a fee to recover the reasonable costs of processing applications for certification.

"(B) The Secretary of Labor may not issue a certification under subparagraph (A) if—

"(i) there is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification; or

"(ii) the employer, during the previous two years, employed nonimmigrant aliens admitted to the United States under section 101(a)(15)(H)(ii) and the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer during that period substantially violated an essential term or condition of the labor certification with respect to the employment of domestic or nonimmigrant workers or has not paid a penalty (or penalties) for such violations which may be assessed by the Secretary of Labor, except that no employer may be denied certification for more than one year for any such violation.

"(3)(A) In the case of an application for a labor certification under section 101(a)(15)(H)(ii)(a)—

"(i) the Secretary of Labor may not require that such an application for labor certification be filed more than eighty days before the first date the employer requires the labor or services of the alien;

"(ii) the Secretary of Labor shall make, not less than twenty days before the date such labor or services are first required to be performed, the certification described in paragraphs (2)(A) (i) and (ii) if an employer has complied with the criteria for certification, including the recruitment of eligible individuals as prescribed by the Secretary, and the employer does not actually have, or has not been provided with referrals of, qualified eligible individuals who have agreed to perform such labor or services on the terms and conditions of a job offer which meets the requirements of the Secretary and who are otherwise available, except that the terms of such labor certification shall remain effective only if the employer continues to accept for employment, until the date the aliens depart for work with the employer, qualified eligible individuals who apply to the employer or are referred to the employer; and

"(iii) the petition, or the application for a certification, may be filed by an association representing agricultural producers who use agricultural labor or services. The filing of such a petition or application on a member's behalf does not relieve the member of any liability for representations made in such petition or application unless the association is the sole employer of all alien agricultural labor or services, in which case only the association shall be liable for representations made in such petition or application.

"(B) The Secretary of Labor shall provide for an expedited procedure for the review of a denial of certification under paragraph (2) in the case of a nonimmigrant described in section 101(a)(15)(H)(ii)(a), or at the applicant's request, a de novo administrative hearing.

"(C) The Secretary of Labor shall expeditiously make a new determination on the request for certification in the case of a nonimmigrant described in section 101(a)(15)(H)(ii)(a) if qualified eligible individuals are not actually available at the time such labor or services are required and a certification was denied in whole or in part because of the availability of qualified eligible individuals. If the employer asserts that any eligible individuals who have been referred are not qualified, the burden of proof is on the employer to establish that the individuals referred are not qualified because of employment-related reasons.

"(D) For purposes of this paragraph, the term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(a)(4)) with respect to that employment.

"(4) The Secretary of Labor, in consultation with the Attorney General and the Secretary of Agriculture, shall annually report to the Congress on the certifications provided under this subsection, the impact of aliens admitted pursuant to such certifications on labor conditions in the United States, and on compliance of employers and nonimmigrants with the terms and conditions of such nonimmigrants' admission to the United States.

"(5) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1984, $10,000,000 for the purposes (A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in section 101(a)(15)(H)(ii), and (B) of monitoring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States. The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this subsection.", and

(4) by adding at the end the following new subsection:

"(e) The provisions of subsections (a) and (c) of this section preempt any State or local law regulating admissibility of nonimmigrant workers.".

(c) The amendments made by this section apply to petitions and applications filed under section 214(c) of the Immigration and Nationality Act on or after the first day of the sixth month beginning after the date of the enactment of this Act.

(d) The Attorney General in consultation with the Secretary of Labor and, in connection with agricultural labor or services, the Secretary of Agriculture, shall approve all regulations to be issued implementing the amendments made by this section. Notwithstanding any other provision of law, final regulations implementing the amendments made by this section shall be issued, on an interim or other basis, not later than the first day of the sixth month beginning after the date of the enactment of this Act.

STUDENTS

SEC. 212. (a) Section 212(e) (8 U.S.C. 1182(e)) is amended—

(1) by inserting "(1)" after "No person",

(2) by inserting after "training," the following: "or (2) admitted under section

101(a)(15) (F) or (M) or acquiring such status after admission,", and

(3) by striking out "clause (iii)" in the second proviso and inserting in lieu thereof "clause (1)(iii) or clause (2)", and

(4) by inserting before the period at the end thereof the following: ": And provided further, That the Attorney General may, if he determines it to be in the public interest, waive such two-year foreign residence requirement—

"(A) in the case of an alien admitted under section 101(a)(15)(F) who has obtained a degree in a natural science, mathematics, computer science, or an engineering field from a college or university in the United States, who is applying for a visa as an immigrant described in section 202(b)(1), and (i) who has been offered a position on the faculty of such an institution teaching in the field in which he obtained such degree, up to a limit of one thousand five hundred such waivers per year, or (ii) who has been offered a research or technical position by a United States employer in the field in which he obtained such degree, up to a limit of four thousand five hundred such waivers per year, or

"(B) in the case of an alien admitted under section 101(a)(15)(F) who has obtained a degree in a natural science, computer science, or in a field of engineering or business, who is applying for a visa as a nonimmigrant described in section 101(a)(15)(H)(iii), and who will receive no more than four years of training by a United States firm, corporation, or other legal entity, which training will enable such alien to return to the country of his nationality or last residence and be employed there as a manager by the same firm, corporation, or other legal entity, or a branch, subsidiary, or affiliate thereof".

(b) Section 245(c) (8 U.S.C. 1255(c)) is amended by striking out "or" before "(3)" and by inserting before the period at the end the following: ", or (4) an alien (other than an immediate relative specified in section 201(b) or an alien who has received a waiver of the two-year foreign residence requirement of section 212(e) or, with respect to aliens admitted under section 101(a)(15)(F) before the date of enactment of this Act, who has satisfied the degree and other requirements as would be necessary before such alien would be qualified to apply for such a waiver if the two-year foreign residence requirement were in effect for him) who entered the United States classified as a nonimmigrant under subparagraph (F) or (M) of section 101(a)(15) or who was admitted as a nonimmigrant visitor without a visa under section 212(l).".

(c)(1) The amendments made by subsection (a) apply to aliens admitted to the United States after the date of the enactment of this Act.

(2) The amendments made by subsection (b) apply to aliens without regard to the date the aliens enter the United States.

VISA WAIVER FOR CERTAIN VISITORS

SEC. 213. (a) Section 212 (8 U.S.C. 1182) is amended by adding at the end thereof the following new subsection:

"(l)(1) The Attorney General and the Secretary of State are authorized to establish a pilot program (hereafter in this subsection referred to as the 'program') under which the requirement of paragraph (26)(B) of subsection (a) may be waived by the Attorney General and the Secretary of State, acting jointly and in accordance with this subsection, in the case of an alien who—

"(A) is applying for admission during the pilot program period (as defined in paragraph (5)) as a nonimmigrant visitor (described in section 101(a)(15)(B)) for a period not exceeding ninety days;

"(B) is a national of a country which—

"(i) extends (or agrees to extend) reciprocal privileges to citizens and nationals of the United States, and

"(ii) is designated as a pilot country under paragraph (3);

"(C) before such admission completes such immigration form as the Attorney General shall establish under paragraph (2)(C) and executes a waiver of review and appeal described in paragraph (2)(D);

"(D) has a round-trip, nonrefundable, nontransferable, open-dated transportation ticket which—

"(i) is issued by a carrier which has entered into an agreement described in paragraph (4), and

"(ii) guarantees transport of the alien out of the United States at the end of the alien's visit; and

"(E) has been determined not to represent a threat to the welfare, safety, or security of the United States;

except that no such alien may be admitted without a visa pursuant to this subsection if the alien failed to comply with the conditions of any previous admission as a nonimmigrant.

"(2)(A) The program may not be put into operation until the end of the thirty-day period beginning on the date that the Attorney General submits to the Congress a certification that the screening and monitoring system described in subparagraph (B) is operational and that the form described in subparagraph (C) has been produced.

"(B) The Attorney General in cooperation with the Secretary of State shall develop and establish an automated data arrival and departure control system to screen and monitor the arrival into and departure from the United States of nonimmigrant visitors receiving a visa waiver under the program.

"(C) The Attorney General shall develop a form for use under the program. Such form shall be consistent and compatible with the control system developed under subparagraph (B). Such form shall provide for, among other items—

"(i) a summary description of the conditions for excluding nonimmigrant visitors from the United States under subsection (a) and this subsection,

"(ii) a description of the conditions of entry with a waiver under this subsection, including the limitation of such entry to ninety days and the consequences of failure to abide by such conditions, and

"(iii) questions for the alien to answer concerning any previous denial of the alien's application for a visa.

"(D) An alien may not be provided a waiver under this subsection unless the alien has waived any right (i) to review or appeal under the Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States or (ii) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

"(3)(A) The Attorney General and the Secretary of State acting jointly may designate up to eight countries as pilot countries for purposes of this subsection.

"(B) For the period beginning after the thirty-day period described in paragraph (2)(A) and ending on the last day of the first fiscal year which begins after such thirty-day period, a country may not be designated as a pilot country unless the sum of the total number of refusals during the fiscal year ending immediately before such thirty-day period of nonimmigrant visitor visas for nationals of that country was less than 2.0 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during such fiscal year.

"(C) For each fiscal year (within the pilot program period) after the period specified in subparagraph (B)—

"(i) in the case of a country which was a pilot country in the previous fiscal year, a country may not be designated as a pilot country unless the sum of—

"(I) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor, and

"(II) the total number of nationals of that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

was less than 2.0 per centum of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year, or

"(ii) in the case of another country, the country may not be designated as a pilot country unless the total number of refusals during the previous fiscal year of nonimmigrant visitor visas for nationals of that country was less than 2.0 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during such previous fiscal year.

"(4) The agreement referred to in paragraph (1)(D)(i) is an agreement between a carrier and the Attorney General under which the carrier agrees, in consideration of the waiver of the visa requirement with respect to a nonimmigrant visitor under this subsection—

"(A) to indemnify the United States against any costs for the transportation of the alien from the United States if the visitor is refused admission to the United States or remains in the United States unlawfully after the ninety-day period described in paragraph (1)(A)(i), and

"(B) to submit daily to immigration officers any immigration forms received with respect to nonimmigrant visitors provided a waiver under this subsection.

The Attorney General may terminate such an agreement with five days' notice to the carrier for the carrier's failure to meet the terms of such agreement.

"(5) For purposes of this subsection, the term 'pilot program period' means the period beginning at the end of the thirty-day period referred to in paragraph (2)(A) and ending on the last day of the third fiscal year which begins after such thirty-day period.".

(b) Section 214(a) (8 U.S.C. 1184(a)) is amended by adding at the end the following new sentence: "No alien admitted to the United States without a visa pursuant to section 212(l) may be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding 90 days from the date of admission.".

(c) Section 248 (8 U.S.C. 1258) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu

thereof ", and" and by adding at the end thereof the following new paragraph:

"(4) an alien admitted as a nonimmigrant visitor without a visa under section 212(l).".

TITLE III—LEGALIZATION

LEGALIZATION

SEC. 301. (a) Chapter 5 of title II is amended by inserting after section 245 (8 U.S.C. 1255) the following new section:

"ADJUSTMENT OF STATUS OF CERTAIN ENTRANTS BEFORE JANUARY 1, 1980, TO THAT OF PERSON ADMITTED FOR TEMPORARY OR PERMANENT RESIDENCE

"SEC. 245A. (a) The Attorney General may, in his discretion and under such regulations as he shall prescribe, adjust the status of an alien to that of an alien lawfully admitted for permanent residence if—

"(1) the alien applies for such adjustment during the twelve-month period beginning on a date 90 days after the date of enactment of this section, or, in the case of an alien who is the subject of an order to show cause issued under section 242, not later than 30 days after the date of issuance of such order,

"(2)(A) the alien (other than an alien who entered as a nonimmigrant) establishes that he entered the United States prior to January 1, 1977, and has resided continuously in the United States in an unlawful status from January 1, 1977, through the date of enactment of the Immigration Reform and Control Act of 1983, or

"(B) the alien entered the United States as a nonimmigrant before January 1, 1977, the alien's period of authorised stay as a nonimmigrant expired before January 1, 1977, through the passage of time or the alien's unlawful status was known to the Government as of January 1, 1977, and the alien has resided continuously in the United States in an unlawful status from January 1, 1977, through the date of enactment of the Immigration Reform and Control Act of 1983, and

"(C) if the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof;

"(3) the alien was physically present in the United States since the date of enactment of the Immigration Reform and Control Act of 1983; and

"(4) the alien—

"(A) is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2),

"(B) has not been convicted of any felony or of three or more misdemeanors committed in the United States, and

"(C) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(b)(1) The Attorney General may, in his discretion and under such regulations as he shall prescribe, adjust the status of an alien to that of an alien lawfully admitted for temporary residence if—

"(A) the alien applies for such adjustment during the twelve-month period beginning on a date 90 days after the date of enactment of this section, or, in the case of an alien who is the subject of an order to show cause issued under section 242, not later than 30 days after the date of issuance of such order;

"(B)(i)(I) the alien (other than an alien who entered as a nonimmigrant) establishes that he entered the United States prior to January 1, 1980, and has resided continuously in the United States in an unlawful status from January 1, 1980, through the date of enactment of the Immigration Reform and Control Act of 1983; or

"(II) the alien entered the United States as a nonimmigrant before January 1, 1980, the alien's period of authorized stay as a nonimmigrant expired before January 1, 1980, through the passage of time or the alien's unlawful status was known to the Government as of January 1, 1980, and the alien has resided continuously in the United States in an unlawful status from January 1, 1980, through the date of enactment of the Immigration Reform and Control Act of 1983; and

"(III) if the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof; or

"(ii) the alien is—

"(I) a national of Cuba who arrived in the United States and presented himself for inspection after April 20, 1980, and before January 1, 1981, and who is still physically present in the United States;

"(II) a national of Haiti who on December 31, 1980, was the subject of exclusion or deportation proceedings under section 236 or section 242 of the Immigration and Nationality Act, including a national of Haiti who on that date was under an order of exclusion and deportation or under an order of deportation which had not yet been executed;

"(III) a national of Haiti who was paroled into the United States under section 212(d)(5) of such Act or was granted voluntary departure before December 31, 1980, and was physically present in the United States on that date; or

"(IV) a national of Cuba or Haiti who on December 31, 1980, had an application for asylum pending with the Immigration and Naturalization Service;

"(C) the alien was physically present in the United States since the date of enactment of the Immigration Reform and Control Act of 1983; and

"(D) the alien—

"(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2),

"(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States, and

"(iii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(2) During the period an alien is in the lawful temporary resident status granted under paragraph (1)—

"(A) the Attorney General shall permit the alien to return to the United States after such brief and casual trips abroad, in accordance with subsection (d)(3), as reflect an intention on the part of the alien to adjust to lawful permanent resident status under paragraph (3), and

"(B) the Attorney General shall grant the alien authorisation to engage in employment in the United States and provide to that alien an 'employment authorized' endorsement or other appropriate work permit.

"(3) The Attorney General, in his discretion and under such regulations as he may prescribe, may adjust the status of any alien provided lawful temporary resident status under paragraph (1) to that of an alien lawfully admitted for permanent residence if the alien—

"(A) applies for such adjustment during the six-month period beginning with the first day of the thirty-seventh month that begins after the date the alien was granted such temporary resident status;

"(B) establishes that he has continuously resided in the United States since the date the alien was granted such temporary resident status;

"(C)(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2), and

"(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States; and

"(D) can demonstrate that he either (i) meets the requirement of paragraph (1) of section 312 (relating to minimal understanding of ordinary English), or (ii) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English.

"(4) The Attorney General shall provide for termination of temporary resident status granted an alien under this subsection—

"(A) if the alien commits an act that (i) makes the alien inadmissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2), or (ii) is convicted of any felony or three or more misdemeanors committed in the United States, or

"(B) at the end of the forty-second month beginning after the date the alien is granted such status, unless the alien has filed an application for adjustment of such status pursuant to paragraph (3) and such application has not been denied.

"(c)(1) The Attorney General shall provide that applications for adjustment of status under subsection (a) and subsection (b)(1) may be filed with the Attorney General or with any qualified organization or State or local government which the Attorney General may designate if such organization or government agrees to transmit any such application to him. No qualified organization or such government may make a determination required by this section to be made by the Attorney General.

"(2) The provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) shall not be applicable in the determination of an alien's admissibility under subsections (a)(3)(A), (b)(1)(C)(i), (b)(3)(C)(i), and (b)(4)(A)(i), and the Attorney General, in making such determination with respect to a particular alien, may waive any other provision of such section other than paragraph (9), (10), (23) (except for so much of such paragraph as relates to a single offense of simple possession of thirty grams or less of marihuana), (27), (28), (29), or (33), for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(3) During the six-month period beginning on the date of the enactment of this section, the Attorney General, in cooperation with qualified organizations and governments designated under paragraph (1) and the Secretary of Labor, shall broadly disseminate information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits.

"(4) The Attorney General shall prescribe a fee of $100 or more to be paid by each alien who files an application for adjustment of status under subsection (a) or subsection (b)(1). The Attorney General shall

deposit payments received under the preceding sentence in a separate account and amounts in such account shall be available, without fiscal year limitation, only to cover administrative expenses incurred in connection with the review of applications filed under this section.

"(d)(1) For purposes of subsection (a), an alien shall be considered to have resided continuously in the United States, if, during the period between January 1, 1977, and the date of enactment of the Immigration Reform and Control Act of 1983, such alien—

"(A) had not been outside the United States for any one period of time in excess of 30 days;

"(B) had not been outside the United States for an aggregate period of time in excess of 180 days; and

"(C) meets the requirements of paragraph (4).

"(2) For purposes of subsection (b)(1), an alien shall be considered to have resided continuously in the United States, if, during the period between January 1, 1980 (or in the case of an alien described by subparagraph (B)(ii) of such subsection, January 1, 1981), and the date of enactment of the Immigration Reform and Control Act of 1983, such alien—

"(A) had not been outside the United States for any one period of time in excess of 30 days;

"(B) had not been outside the United States for an aggregate period of time—

"(i) in the case of an alien described by subsection (b)(1)(B)(i), in excess of 90 days; or

"(ii) in the case of an alien described by subsection (b)(1)(B)(ii), in excess of 60 days; and

"(C) meets the requirements of paragraph (4).

"(3) For purposes of subsection (b)(3), an alien shall be considered to have resided continuously in the United States, if, during the period between the date of adjustment to temporary resident status and the date of filing an application under paragraph (3) of such subsection, such alien—

"(A) had not been outside the United States for any one period of time in excess of 30 days;

"(B) had not been outside the United States for any aggregate period of time in excess of 90 days; and

"(C) meets the requirements of paragraph (4).

"(4)(A) For purposes of subsection (a), (b)(1), or (b)(3), an alien shall not be considered to have resided continuously in the United States, if, during the period of time referred to in paragraph (1), (2), or (3) of this subsection, whichever is applicable, such alien was outside the United States as a result of a departure under an order of deportation.

"(B) Any period of time during which an alien is outside the United States pursuant to the advance parole procedures of the Service shall not be considered as part of the period of time during which an alien is outside the United States for purposes of this subsection.

"(5)(A) Each individual who applies for adjustment of status under subsection (a), (b)(1), or (b)(3) shall submit with his application such documents as are necessary to establish that such alien has employment in the United States, together with independent corroboration of the information contained in such documents, except that if the Attorney General determines that such proof of employment is inapplicable, the Attorney General may accept other documents which support the individual's application for adjustment of status, together with independent corroboration of the information contained in such documents.

"(B) Any document of Federal, State, or local government submitted pursuant to subparagraph (A) shall be in the form of a certified copy.

"(e)(1) During the period an alien is in lawful temporary resident status granted under subsection (b)(1) and during the three-year period beginning on the date an alien is granted lawful permanent resident status under subsection (a) or (b)(3), and notwithstanding any other provision of law—

"(A) except as provided in paragraph (2), the alien is not eligible for—

"(i) any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government,

"(ii) medical assistance under a State plan approved under title XIX of the Social Security Act, and

"(iii) assistance under the Food Stamp Act of 1977, and

"(B) a State or political subdivision therein may provide that the alien is not eligible for the programs of financial or medical assistance furnished under the law of that State or political subdivision.

"(2)(A) Paragraph (1) shall not apply to an alien described in subsection (b)(1)(B)(ii) (relating to certain Cuban and Haitian entrants).

"(B) For the purpose of section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–122), assistance shall be continued under such section with respect to an alien without regard to the alien's adjustment of status under this section.

"(f) The Attorney General, after consultation with the Committees on the Judiciary of the House of Representatives and the Senate and with qualified organizations and governments designated pursuant to subsection (c)(1), shall prescribe regulations as may be necessary to carry out the provisions of this section. Such regulations may be prescribed to take effect on an interim basis if the Attorney General determines that this is necessary in order to implement this section in a timely manner.

"(g)(1) No decision or determination made by the Attorney General under this section may be reviewed by any court of the United States or of any State.

"(2) No alien denied adjustment of status under this section may raise a claim to such adjustment in any proceeding of the United States or any State involving the status of such alien, including any proceeding of deportation or exclusion under this Act.

"(3) No denial of adjustment of status under subsection (a) or subsection (b) based on a late filing of an application for such adjustment may be reviewed by a court of the United States or of any State or reviewed in any administrative proceeding of the United States Government.

"(h) Notwithstanding any other provision of law, the retired or retainer pay of a member or former member of the Armed Forces of the United States or the annuity of a retired employee of the Federal Government shall not be reduced while such individual is temporarily employed by the Service for a period of not to exceed fifteen months to perform duties in connection with the adjustment of status of aliens under this section.".

(b) The table of contents for chapter 5 of title II is amended by inserting after the item relating to section 245 the following new item:

"Sec. 245A. Adjustment of status of certain entrants before January 1, 1980, to that of person admitted for temporary or permanent residence.".

(c)(1) Public Law 89–732 (approved November 2, 1966) is repealed.

(2) The repeal made by paragraph (1) shall not apply to a native or citizen of Cuba who has been inspected and admitted or paroled into the United States before April 21, 1980.

STATE LEGALIZATION IMPACT-ASSISTANCE BLOCK GRANTS

Sec. 302. (a) There are authorized to be appropriated for grants (and related Federal administrative costs) to carry out this section such sums as may be necessary for fiscal year 1984 and for each of the five succeeding fiscal years.

(b)(1) From the sums appropriated under subsection (a) for a fiscal year (less the amount reserved for Federal administrative costs), the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall allot to each State (as defined in subsection (i)(1)) meeting the requirements of subsection (d) an amount determined in accordance with a formula, established by the Secretary, which takes into account—

(A)(i) the number of eligible legalized aliens (as defined in subsection (i)(2)) residing in the State in that fiscal year,

(ii) the ratio of the number of eligible legalized aliens in the State to the total number of residents of that State and to the total number of such aliens in all the States in that fiscal year, and

(iii) the amount of expenditures the State is likely to incur in that fiscal year in providing assistance for eligible legalized aliens under programs of public assistance (as defined in subsection (i)(3)), and

(B) such other factors as the Secretary deems appropriate to provide for an equitable distribution of such sums.

(2) In determining the number of eligible legalized aliens for purposes of subclauses (i) and (ii) of paragraph (1)(A), the Secretary may estimate such number on the basis of such data as he may deem appropriate.

(3) For each fiscal year the Secretary shall make payments, as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), to each State from its allotment under paragraph (1). Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

(c) A State may use amounts paid to it under subsection (b)(2) for the purpose of providing assistance with respect to eligible legalized aliens under programs of public assistance, but only to the extent such assistance is otherwise available under such programs to citizens residing in the State.

(d) In order to receive an allotment for a fiscal year under subsection (b), a State must prepare and transmit to the Secretary—

(1) a report describing the intended use of payments the State is to receive under this

section for the fiscal year, including (A) a description of those programs of public assistance and localities of the State identified by the State as needing assistance from grants under this section, and (B) criteria for and administrative methods of disbursing funds received under this section, and

(2) a statement of assurances that certifies that (A) funds allotted to the State under this section will only be used to carry out the purposes described in subsection (c), (B) the State will provide a fair method (as determined by the State) for allocating funds allotted to the State under this section among the programs and localities identified under paragraph (1)(A), and (C) fiscal control and fund accounting procedures will be established that are adequate to meet the requirements incorporated by subsections (e) through (f).

The State shall promptly revise the report referred to in paragraph (1) to reflect substantial changes in its intended use of the funds allotted the State under this section. Such report (for fiscal years after fiscal year 1984), and any revisions proposed thereto, shall be made public within the State in such manner as to facilitate review of and comments from interested persons and local governments on the intended use and distribution of funds for the fiscal year.

(e)(1)(A) Each State shall prepare and submit to the Secretary annual reports on its activities under this section. In order properly to evaluate and to compare the performance of different States assisted under this section and to assure the proper expenditure of funds under this section, such reports shall be in such form and contain such information as the Secretary determines (after consultation with the States and the Comptroller General) to be necessary (i) to secure an accurate description of those activities, (ii) to secure a complete record of the purposes for which funds were spent, of the recipients of such funds, and of the progress made toward achieving the purposes of this section, and (iii) to determine the extent to which funds were expended consistent with the State's description and statement transmitted under subsection (d). Copies of the report shall be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

(B) The Secretary shall annually report to the Congress on activities funded under subsection (b) and shall provide for transmittal of a copy of such report to each State.

(2)(A) Each State shall, not less often than once every two years, audit its expenditures from amounts received under this section. Such State audits shall be conducted by an entity independent of the State agency administering a program funded under this section in accordance with the Comptroller General's standards for auditing governmental organizations, programs, activities, and functions and generally accepted auditing standards. Within 30 days following the completion of each audit report, the State shall submit a copy of that audit report to the Secretary.

(B) Each State shall repay to the United States amounts found by the Secretary, after notice and opportunity for a hearing to the State, not to have been expended in accordance with this section and, if such repayment is not made, the Secretary may offset such amounts against the amount of any allotment to which the State is or may become entitled under this section or may otherwise recover such amounts.

(C) The Secretary may, after notice and opportunity for a hearing, withhold payment of funds to any State which is not using its allotment under this section in accordance with this section. The Secretary may withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

(3) The State shall make copies of the reports and audits required by this subsection available for public inspection within the State.

(4)(A) For the purpose of evaluating and reviewing the block grant established under this section, the Secretary and the Comptroller General shall have access to any books, accounts, records, correspondence, or other documents that are related to such block grant, and that are in the possession, custody, or control of States, political subdivisions thereof, or any of their grantees.

(B) In conjunction with an evaluation or review under subparagraph (A), no State or political subdivision thereof (or grantee of either) shall be required to create or prepare new records to comply with subparagraph (A).

(f) Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payment may be made by a State from funds allotted to the State under this section, or

(2) having knowledge of the occurrence of any event affecting his initial or continued right to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized,

shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

(g)(1)(A) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this section are considered to be programs and activities receiving Federal financial assistance.

(B) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this section.

(2) Whenever the Secretary finds that a State, or an entity that has received a payment from an allotment to a State under subsection (b), has failed to comply with a provision of law referred to in paragraph (1)(A), with paragraph (1)(B), or with an applicable regulation (including one prescribed to carry out paragraph (1)(B)), he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

(B) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

(C) take such other action as may be provided by law.

(3) When a matter is referred to the Attorney General pursuant to paragraph (2)(A), or whenever he has reason to believe that the entity is engaged in a pattern or practice in violation of a provision of law referred to in paragraph (1)(A) or in violation of paragraph (1)(B), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(h) In establishing regulations and guidelines to carry out this section, the Secretary shall consult with representatives of State and local governments.

(i) For purposes of this section:

(1) The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

(2) The term "eligible legalized alien" means—

(A) an alien who has been granted permanent resident status under section 245A(a) of the Immigration and Nationality Act, but only until the end of the three-year period beginning on the date the alien was granted such status; and

(B) an alien who has been granted temporary resident status under section 245A(b)(1) of such Act, but only until—

(i) such temporary resident status is terminated or

(ii) if the alien has been subsequently granted permanent resident status under section 245A(b)(2) of such Act, until the end of the three-year period beginning on the date such permanent resident status was granted,

whichever is later.

(3) The term "program of public assistance" means State or local programs which provide for cash, medical, or other assistance (as defined by the Secretary) designed to meet the basic subsistence or health needs of individuals or required in the interest of public health.

TITLE IV—GENERAL PROVISIONS

REPORTS TO CONGRESS

SEC. 401. The President shall submit the following reports to the Committees on the Judiciary of the Senate and of the House of Representatives:

(a) Reports on the implementation of section 274A of the Immigration and Nationality Act (relating to unlawful employment of aliens), which shall include—

(1) an analysis of the adequacy of the verification procedure set forth in subsection (b) of that section;

(2) the status of the development and implementation of a more secure verification system as provided in subsection (c) of that section; and

(3) the impact of that section on—

(A) the employment, wages, and working conditions of United States workers,

(B) the number of aliens entering the United States illegally,

(C) the violation of terms and conditions of nonimmigrant visas by foreign visitors,

(D) discrimination against citizen and permanent resident alien members of minority groups, and

(E) the paperwork and recordkeeping burden on United States employers.

Reports concerning the matters described in paragraphs (1), (2), and subparagraphs (A), *(B), and (C) of paragraph (3) shall be submitted every six months beginning six months after the date of the enactment of this Act. Reports concerning the matters described in subparagraphs (D) and (E) of paragraph (3) shall be submitted three times: the first not later than eighteen months after the date of enactment of this Act, the second not later than thirty-six months after the date of enactment of this Act, and the third not later than fifty-four months after the date of enactment of this Act.*

(b) A report on the general legal admissions under the Immigration and Nationality Act, which shall include—

(1) the number of aliens admitted during the forty-two months after the date of the enactment of this Act as immediate relatives and other permanent residents, refugees, asylees, and parolees, and

(2) the impact of the admission or parole of such aliens on the economy of the United States and the employment of citizens and aliens in the United States.

This report shall be submitted not later than four years after the date of the enactment of this Act.

(c) A report on the implementation of the temporary worker program (popularly known as the "H-2" program), which shall include—

(1) the impact of the program on the labor needs of the United States agricultural employers and on the wages and working conditions of United States agricultural workers,

(2) the development of regulations with respect to the program,

(3) recommendations for modifications of the program, including—

(A) improving the timeliness of decisions regarding admission of temporary foreign workers under the program,

(B) removing any economic disincentives to hiring United States citizens or permanent resident aliens for jobs for which temporary foreign workers have been requested, and

(C) improving cooperation among government agencies, employers, employer associations, workers, unions, and other worker associations to end the dependence of any industry on a constant supply of temporary foreign workers.

The report shall be submitted not later than two years after the date of the enactment of this Act.

(d) A report on the pilot program established under section 212(l) of the Immigration and Nationality Act, added by section 213(a) of this Act (popularly known as the "visa waiver program"), which shall include—

(1) an evaluation of the program, including its impact on the control of alien visitors to the United States, consular operations in the countries designated under section 212(l)(3)(A) of the Immigration and Nationality Act, and the impact of the program on the United States tourism industry, and

(2) recommendations on the extension of the program and the expansion of the number of countries which may be designated under such section.

The report shall be submitted not later than two years after the commencement of the program.

(e) A report on the population whose status is legalized under the legalization program established under section 301 of this Act, which shall include—

(1) geographical origins and manner of entry of these aliens into the United States,

(2) their demographic characteristics,

(3) their patterns of employment,

(4) their participation in social service programs, and

(5) a general profile and characteristics of the population legalized under the program.

The report shall be submitted not later than two years after the date of the enactment of this Act.

(f) Three years after the date of enactment of this Act, the Secretary of Labor, after consulting with the Attorney General, and with representatives of domestic employers and representative domestic employees, and domestic institutions of higher learning, shall submit to the Congress and the President a report, to be accompanied by his recommendations for changes in current law and regulations, concerning the Nation's need for qualified immigrants identified in paragraphs (1) and (2) of subsection (b) of this section who have acquired professional or technical skills that may be in critical demand in the United States. Another such report shall be submitted five years after the date of enactment of this Act.

ENFORCEMENT OF THE IMMIGRATION LAWS OF THE UNITED STATES

Sec. 402. It is the sense of the Congress that—

(1) the immigration laws of the United States should be enforced vigorously and uniformly; and

(2) in the enforcement of such laws, the Attorney General should take due and deliberate actions necessary to safeguard the constitutional rights, personal safety, and human dignity of United States citizens and aliens.

REPORT BY THE COMPTROLLER GENERAL

Sec. 403. Beginning one year after the date of enactment of this section, and at intervals of one year thereafter for a period of five years after such date, the Comptroller General of the United States shall prepare and transmit to the Committee on the Judiciary and the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate a report describing the results of a comprehensive review of the implementation and enforcement of the provisions contained in the amendment made by section 101(a) of this Act during the preceding twelve-month period, for the purpose of determining if—

(1) such provisions have been carried out satisfactorily;

(2) a pattern of discrimination has resulted against citizens or nationals of the United States or against eligible workers seeking employment; and

(3) an unnecessary regulatory burden has been created for employers hiring such workers.

Such committees shall hold public hearings on the contents of each such report and shall submit their findings and recommendations for remedial action, if necessary, to their respective Houses of Congress not later than 60 days after the date of receipt of any such report.

AUTHORIZATION OF APPROPRIATIONS

Sec. 404. (a) Section 404 (8 U.S.C. 1101, note) is amended to read as follows:

"Sec. 404. There are authorized to be appropriated for the fiscal year 1984, $200,000,000 to carry out the provisions of this Act other than section 214(c)(5) of chapter 2 of title IV.".

(b) There are authorized to be appropriated, in addition to such sums as may be available for such purposes, such sums as may be necessary to the Department of Labor for enforcement activities of the Wage and Hour Division and the Office of Federal Contract Compliance Programs within the Employment Standards Administration of the Department and to the Equal Employment Opportunity Commission for its enforcement activities in connection with the enforcement of section 274A of the Immigration and Nationality Act.

OFFICIAL LANGUAGE

Sec. 405. It is the sense of the Congress that—

(1) the English language is the official language of the United States, and

(2) no language other than the English language is recognized as the official language of the United States.

Mr. BAKER. Mr. President, once again may I say to my friend from California, the assistant minority leader, the Senator from Massachusetts, and, of course, the Senator from Wyoming, the manager here, and the chairman of the Judiciary Committee, and others, that I expect we are going to do the best we can on this bill today. But I think we could get the unanimous-consent agreement that I have just described in general terms and we will work on this side very diligently to do that. I am hopeful that Senators will be cooperative.

I express my appreciation to all of those who have been involved in these negotiations.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I thank the majority leader for his cooperation in this matter. I also thank my good friend, the Senator from Wyoming, for his cooperation. I think we have worked out an approach that will permit those who want time to consider this measure to have that time but will not unduly delay action on the pending bill. I am very grateful to all of those who have been involved in this effort to achieve an accommodation that will permit the Senate to proceed expeditiously with the program that the majority leader has been desirous of pursuing.

I would also like to thank the Senator from Massachusetts for his part in this. With his usual political skill, he intervened at an appropriate moment which led to a resolution of what could have been a difficult circumstance. I thank my friend from Massachusetts for that.

Mr. KENNEDY. Mr. President, I thank the Senator from California. I, too, wish to thank both the leader for his consideration and, once again, the chairman of the Immigration Subcommittee, Senator SIMPSON, who, as I will comment later, has been tireless in this whole pursuit of a public policy issue of enormous importance and accommodating the interests of those that have some difference. I am very grateful to him for his attitude and his cooperative spirit. I want to give the assurance to the Senator that, as in the subcommittee and in the course of the hearings, it will certainly not be the position of the Senator from Massachusetts to delay the proceedings of the Senate.

I will have amendments this afternoon. I would be willing to enter into time agreements of an hour or even less to move the process forward. In the meantime, I will talk to some of our colleagues on our side of the aisle who have indicated a willingness to offer amendments and, at this particular time, try and urge their attendance so we can establish a process for the consideration of the amendments.

Mr. CRANSTON. Mr. President, I would like to complete the statement that I was engaged in making when the Senator from Massachusetts made his proposal fortuitously. I will be very brief. It will just take 3 or 4 minutes. I want to continue to state the reasons for those of us who have done so for seeking more time on this measure.

I was speaking of the proposal that Senator DECONCINI is apparently going to offer.

Because the DeConcini proposal, which may provide for a 3-year phase-in of the H-2 program, is not in final form, we have not had a chance to see it or study it. In fact, the Judiciary Committee did not vote on this measure precisely because negotiations were taking place among labor, growers, and Hispanic groups concerned with both economic and civil rights problems. These concerns are fundamental to our concept of justice, and must, in all fairness, be aired and studied.

The third point I wanted to make about the reasons we are seeking more time is that there is broad concern that the full Senate, even during last year's debate, did not understand the severe discriminatory effects of employer sanctions on U.S. citizens or legal resident aliens, especially Hispanics and Asians. Several groups have been seeking time to discuss these issues with Senators.

This morning, Senators WILSON, DOMENICI, and I sponsored a forum for Senate staff on employer sanctions. This is exactly the kind of education needed over the next several days on this legislation. It is my understanding that there are other forums and briefings planned on other aspects of the Simpson-Mazzoli bill. Let us make sure we all have a chance to benefit from these sessions and that the public can benefit and that the national interest can benefit from whatever further information and understanding of this legislation evolves from those efforts.

In addition to the forums, negotiations are underway—among affected groups and with Senators and staffs—on various aspects of the bill, notably provisions for employer sanctions, H-2 visas, judicial review and asylm procedures.

This bill is surely the most comprehensive change in our Nation's immigration laws in the last 20 years. Given the level of concern by American citizens over various of its provisions, and the amount of effort already underway to seek agreements and understandings, it is only just that we not rush to consideration in final form. And I am glad that that is now what will occur in the Senate; that we will not rush to final judgment. Rather, we should now have time to insure better understanding of the issues that we must confront, debate, and vote upon.

I have given my personal assurance prior to today's actions on the floor to my good friend from Wyoming, the distinguished chairman of the Subcommittee on Immigration, that my intention has been purely to allow time for needed education and discussion of this bill.

I am glad that we now have worked out that time. I again thank the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank the Senator from California. This has been a very interesting negotiation. I have the enviable, or unenviable, position, as you may discern in your own definition, of having Senator CRANSTON and Senator KENNEDY as the ranking members of the subcommittees which I chair. And I add one other dimension to it, the other ranking member of the other subcommittee that I chair is Senator HART. So the three of them keep me very alert, I can assure you.

Mr. CRANSTON. The Senator is always alert without our help.

Mr. SIMPSON. I really appreciate what AL CRANSTON and TED KENNEDY have done in reaching what I think can be an opportunity to address everything you need to address out of the concern and the sincerity that you do have, and that is very real, and I found that to be very true.

So we will proceed with the legislation today with votes on various amendments. Hopefully we can reach many of them. I want to discuss some that maybe we would want to hold over. Maybe we will get into one or two that we will say, "We will hold the vote on that." I would like to discuss this transitional phase-in program that the unions and the growers insist that they are working on, but we do not see their work product yet. So we will talk about that today. Hopefully we can begin to see them go toward their work product, I hope so, and then have a time certain to be set for the vote after the budget has been taken care of and at a time which will be convenient to the membership and will also give those with further amendments the opportunity to present them.

So I thank the Senator from California and the Senator from Massachusetts. It is typical of the spirit which we have had, not only when I was in the minority but now in the majority. I appreciate it.

I want to thank the majority leader, Senator BAKER, for his courtesy and his persistence in seeing that this matter is considered in the Senate. Also to Senator BYRD for his assistance in seeing that it is before us as a serious issue to be addressed.

I also want to thank the subcommittee members: Senator GRASSLEY, Senator MATHIAS, and Senator HEFLIN, and particularly, as I have already done, Senator KENNEDY, who has reservations which he will present to you today. I thank him for the manner in which he participated in the crafting of this measure.

It certainly would not be appropriate if I were not to mention Senator THURMOND. He has been the most extraordinary helpmate and has followed the issue so seriously and so sincerely, with great enthusiasm, presenting me with every opportunity as the subcommittee chairman to move forward, to be flexible. He has trusted me, and I have deeply and keenly appreciated Senator THURMOND and what he has done for me personally and with regard to this legislation.

So, with that, I really do not intend to take a great deal of your time in addressing, very briefly, the issue of the legislation.

This is the Immigration Reform and Control Act of 1983. It is something I commend to you. I have already discussed the relationship which Senator KENNEDY and I have had in our deliberations on this bill, on a tough, gut-hard issue. He has been long dedicated and long interested. He is now paced for the long distance on this one because he has been working on the issue for some 17 years.

Mr. President, I spoke here 8 months ago and presented the case that our present immigration laws no longer serve the national interest, no longer promote the well-being of the majority of the American people. Eight months ago I reported to you that immigration to the United States was out of control. I reported to you also the first duty of a sovereign nation was to control its borders. We do not.

I regret to inform you that on this date, in spite of many of my colleagues' best efforts, the situation is still so, still true. Not only the American people but people the world over know that the United States cannot perform the very first function of a sovereign nation: We cannot control our own borders.

I continue to feel very deeply that uncontrolled immigration is one of the greatest threats to the future of this country—uncontrolled immigration—to American values, traditions, institutions, and the way in which we live.

In contrast, controlled immigration has been one of the finest traditions and the finest things of our remarkable heritage. We have no desire to change that.

Last August, I informed you that net immigration—that is, legal plus illegal—probably exceeded 750,000 per year. That is still true today.

I told you the asylum backlog had grown from 5,000 to 105,000, and today that backlog is over 143,000.

Further, the INS apprehended nearly 1 million illegal aliens last year. This year the apprehension rate has increased by more than 50 percent. Hundreds of thousands of illegal immigrants still cross our borders each year and some estimate the annual inflow at 500,000 persons. Of course, I think with the latest figures, there are many more.

Here are the latest figures: 108,000 human beings were apprehended at our borders last month, in 1 month. We anticipate that we apprehend one out of four. Some say one out of five. Those are the numbers.

You have to talk about numbers because numbers are human beings, but those are the numbers. Illegal immigration continues to depress wages and working conditions for American workers, especially low-income, low-skilled Americans who are the most likely to face direct competition.

Illegal immigrants continue to remain a fearful, exploitable subclass in American society, and I believe that the widespread flouting of our Nation's immigration laws still leads to a disrespect for our laws and our institutions in general.

In short, then, Mr. President, the problems remain. Nothing has changed. In most areas, the immigration problem has only deeply worsened.

So the bill we consider here today, and on to other times, is almost the exact bill which the Senate approved last year by a vote of 80 to 19. It contains the three-legged stool of employer sanctions and that means penalties against those who knowingly—knowingly—hire illegal, undocumented workers, a more secure worker identification system, and increased enforcement. It provides a fair and reasonable legalization program for those who have been in this country continuously for more than 3 years. It seeks to restructure our asylum adjudication procedures which have become absolutely bogged down under an overwhelming burden of asylum applications.

It also reforms our legal immigration system by holding the level of immigrant admissions at current levels—we are not decreasing or increasing—and by dividing visas reasonably between family reunification immigrants and new seed immigrants, which are another very important part of our heritage.

But there have been some important changes in the bill since it was last before this body. Those changes have been reasonable and have improved the legislation. They have been acceptable to me. Amendments were adopted in committee to provide even more protection against any possible discriminatory effects of employer sanctions. In addition to the Presidential reports on the possible effects of employer sanctions on minorities, we have added a requirement that is very important: The GAO is to report annually on any discrimination against minorities or any undue burden on U.S. employers caused by the legislation. Both the Judiciary Committees and the Labor Committees of each House of Congress are required to hold hearings on these reports and make recommendations to their respective Houses.

We have also provided an authorization for additional appropriations to the EEOC and the Department of Labor in order to provide additional enforcement of present employment discrimination laws and present wage and hour laws.

We have strengthened the provisions for family reunification by reinstating the "fifth preference"—there was a serious debate on that in the last session—for unmarried brothers and sisters. And we have moved up the filing date to the date of enactment of this legislation

Finally, we have strengthened the enforcement provisions by providing for funding of the bill at $200 million to carry out the legislation in 1984.

As we continue to demand better enforcement of our Nation's immigration laws, we must support that demand with proper funding. We have not done that in the past.

So, Mr. President, I recommended this bill to my colleagues 8 months ago. I recommend it to you now. I can say that. It is a better bill than the one that passed here by a vote of 80 to 19 in August 1982. I am pleased with the improvements.

In attempting to propose these reasonable immigration reforms, reforms which I sincerely hope and feel deeply are free of meanness and nativism and xenophobia, it is too bad a word like that is so difficult to communicate. It is such a simple gut reaction. It means fear of foreigners.

Those things are not in this bill or it would not have progressed this far.

I have learned much in the process, Mr. President, but one thing principally is this: This is actually a continuing, running gun battle with tunnel vision, short-term special interests constantly cutting—I think the word actually would be slashing—across the long-term national interest. We must recognize that the American public continues to overwhelmingly support immigration reform. Indeed, all recent polls disclose that more than 90 percent of the citizens of this country feel we must regain control of our borders.

Immigration reform can be a significant test of a more common thesis of U.S. politics. This will be the test: Is U.S. politics increasingly controlled by narrow and wholly selfish special interests rather than being representative of the broad public will? We shall find that out once again.

The entire issue, Mr. President, is a very, very tough one. It is a political no-win situation in every sense. It generates feelings and accusations of guilt, fear, emotionalism, and racism, and it is very susceptible to being a vehicle to engage in good old high drama.

So, many colleague in the House, RON MAZZOLI, a Democrat from the third district of Kentucky, and myself as chairman here—people often say to us, how is this, that a Republican from Wyoming and a Democrat from Kentucky are moving this legislation in this fashion? The issue is that not many others of either body could do that because their constituencies would not allow them to do it. They would freeze them in place. That is reality.

So I salute the courage of those in this issue, such as the Senator from California and the Senator from Massachusetts—and courage is a word for them. It is a tough situation politically, especially in California.

I personally do not see how any legislator from California, with the various conflicts from the various constituent groups, will ever be able to support this bill. That is a reality of life, Democrat or Republican, because of the situation with growers, with chamber, with employers, with citizens, with Hispanics—bam! Gridlock of the first order.

We understand those things in this debate in this national issue of, I think, high import, and I am not obsessed by it. I have much to do around here without this one on my desk. We have not allowed it to reach levels of intensity and hysteria, and it has not. I say that we have done our level best to prevent the debate from ever going in that direction.

So the bill we recommend today is a fair, workable, humane approach to controlling illegal and legal immigration. A wide diversity of public interest groups involved in immigration support it—the editorial writers of all the major newspapers and dailies and weeklies throughout the United States; citizens of this country; the administration with its support—there is no partisanship in this issue. There never has been. Its supporters and its detractors come from the full spectrum of philosophies. If we do not act in a timely and a rational manner to control our borders, I am deeply concerned that, in the near future, we shall find that we have come to a debate which is increasingly strident, unpleasant, and clouded by a return to the past in immigration reform, which has always been characterized by racism or restrictionism or nativism.

I do not want to be part of that and other ugly elements which we have successfully excised from this reform effort. We have made a special, special attempt at all points in the debate and the hearings to recognize the deep problems that the Hispanic community has with the legislation. I have said to them in all honesty that it seems to me that the worst thing that could happen to the Hispanic community is to do nothing. Then we shall begin to deal in this body, as we always deal in this body, on emergency, short-term solutions, which will include this trip, then, more money for the INS, more money for the border patrol—after all, we have not done anything, so why not just get them off their duffs and give them money to do their work?—more intrusions into the workplace, more sweeps. And, finally, after that, after an employer has been busted five or six times, he or she will come to the recognition of one thing, as all Americans: "I am not going to go through that hassle any more. There is a way to do that for me; I am never going to hire anybody again who 'looks foreign'."

That would be the truest and most devastating form of discrimination.

Mr. President, I respectfully submit this to my colleagues. I submit it in all sincerity as a work product that came down through the Select Committee—a very diverse group, indeed—through the Ford administration, through the Carter administration, through the Reagan administration. I always say to people—and it is still not too late to say this because we have time for the debate—that if you do not embrace the various provisions of this proposed legislation, please furnish us an alternative. But no fair quoting from the Statute of Liberty, because the moving words of Emma Lazarus on that statue—and that statement is not a smart-aleck statement—because the moving words on that statue in the harbor, on that Lady of the Golden Door, do not say "Send us everybody you've got, legally or illegally."

I commend the legislation to my colleagues for their attention and appreciate the opportunity to make these remarks.

Mr. GRASSLEY. Mr. President, approximately 30 years have passed since the last major reform of U.S. immigration policy. The time has arrived to undergo this painful process again.

Theodore H. White described the situation in which America finds itself resulting from our current set of chaotic complicated immigration laws:

> One starts with the obvious: That the United States has lost one of the cardinal attributes of sovereignty—it no longer controls its own borders. Its immigration laws are flouted by aliens and citizens alike, as no system of laws has been flouted since prohibition. And the impending transformation of our nation, its culture, and its ethnic heritage could become one of the central debates of the politics of the 1980s. see White, America in Search of Itself, p. 361 (1982).

The debate has already begun, and let us hope that S. 529 is just the first step in the reformation process.

Though most Americans currently residing in the United States owe their presence here to the open-door immigration policies of the past, the perpetuation of the myth that this country is one without limits can only prove harmful in the long run. Technology is one of the major reasons why today's immigration phenomenon is entirely different from the immigration waves of the past. As Mr. White continued to explain:

> The earlier immigrants from Europe spent weeks trekking to ports, and then more weeks in the steerage of tramp steamers, to reach the promised land. A modern immigrant can be here in three or four hours from any airport in the Caribbean, in fifteen hours from Asia.
>
> It once took years of work and savings for an honest man to buy passage for his family to join him. Now after six months a diligent immigrant can afford air passage for all the rest of his family. The result has been a stampede, almost an invasion. supra., pp. 361-362.

America currently accepts over twice as many legal immigrants as the rest of the world combined. This does not include the estimated 3 to 6 million aliens illegally in the country. Control of our borders is essential in order to protect U.S. citizens from a continued high unemployment rate and to foster a reliance on our laws by those outside our country who wish to reside here.

The Immigration Reform and Control Act is a well-conceived product which may go far in achieving our badly needed reforms. The provisions of the bill relating to employer sanctions, increased interior and border enforcement and a secure worker eligibility identity system are necessary to regain control over our borders.

Though the concept of legalization has been one of the most hotly debated aspects of the bill, I believe that legalization in some form is not only in the best interests of those undocumented aliens already firmly residing here but for the citizenry of our country as well. A large undocumented population contributes to the creation and perpetuation of an exploited subclass society afraid to report crimes and illnesses which endanger the public health.

A variety of legalization programs were presented to the Select Commission on Immigration and Refugee Policy, a bipartisan group established by the Carter administration to study solutions to our immigration problems, and the Senate Subcommittee on Immigration and Refugee Policy ranging from a massive deportation program to total amnesty for all aliens upon enactment of the bill. We studied it all, and all the various alternatives came between those two extremes. The Select Commission's final report stated that it was guided by two major principles in developing its legalization recommendations:

First, the legalization program should be consistent with U.S. interests and second, the program should not encourage further undocumented migration.

The approach adopted in S. 529, as a result of a compromise worked out by Senator Simpson and myself, is consistent with these goals. This provision provides that all illegal aliens who have resided continuously in the United States up to January 1, 1977, are eligible for permanent residence status upon enactment of the bill. Illegal aliens who have resided continuously in the United States between January 1, 1977, and January 1, 1980, are eligible to apply for temporary resident status with access to permanent residency 3 years following enactment. In addition, temporary residents are ineligible for all Federal assistance programs such as AFDC, food stamps, medicaid and the like. Permanent residents are ineligible for Federal programs for the first 3 years of their permanent residence.

Though my original goal was to have no legalization prior to the assurance of the development of a secure worker authorization system, I find the present bill language is acceptable. Under S. 529, the Attorney General is required to develop a counterfeit-proof identifier within 3 years after enactment of the bill. Temporary residents are required to remain in that status for 3 years. Therefore, we do not actually realize full-blown legalization until the identification system is in place.

The advantages of this proposal are apparent. Massive deportations are not only impractical but nearly impossible. The best chance of apprehending an illegal alien is at the border. The odds plunge drastically downward once that alien has reached the interior of the country. A massive deportation policy was implemented back in 1954 with alarming results. Not only was it unsuccessful in returning many illegal aliens, but the civil rights of many U.S. citizens and permanent residents were violated in the course of this program.

The only realistic remedy to deal with the current population of undocumented workers is to legitimize their status in a way which will insure that these people continue to work and become productive and participating members of their communities. I believe legalization as embodied in this bill before this body now accomplishes these goals.

I did have a major concern with last year's bill in the area of the lack of cooperation between the Immigration and Naturalization Service and State and local law enforcement agencies. I first became aware of this problem in my visit to the border area around El Paso January of 1982. The tremendous burden placed on the border patrol is only obvious once one sees it firsthand. To prevent law enforcement agencies from working together in this area is an unnecessary waste of resources. And the policy at that time was to discourage cooperation, in fact almost to prohibit such cooperation between the INS and local law enforcement authorities.

To alleviate this situation and to enhance our ability to apprehend illegal aliens, I offered an amendment which was adopted in 1982 in subcommittee consideration of this bill however that amendment was subsequently deleted in full committee which formalized cooperative agreements between the INS and the local law enforcement agencies.

My intention when I offered this amendment was to clarify a confused situation in which State and local law enforcement agencies were unsure as to their liability if they cooperated with Federal immigration officers. Legal authorities in several States indicated that the situation was so unclear as to preclude any cooperation, not for fear of doing wrong, but because they did not know where the limits to their actions, if any, would lie. I sought to ameliorate this chilling effect.

This situation—this chilling effect—developed largely due to a directive issued in 1978 by then Attorney General Griffin Bell. The Bell directive established the policy of the Carter administration that Federal-State cooperation in this area was not to be encouraged and should not be viewed as desirable by that Justice Department leadership; hence, the situation where we were at the time of my amendment last year.

At that time, I began conversations with Attorney General William French-Smith and his staff at the Department of Justice about this very point, and I found from the new administration a much more positive impression of cooperation between State and local and Federal authorities. At that time, I was assured that Commissioner Nelson and Attorney General Smith would immediately begin a review of the Bell directive in order to correct the misimpression it had created that cooperation of any kind between Federal, State, and local law enforcement authorities in the area of immigration was inappropriate and unlawful.

These assurances made my amendment unnecessary and today I am pleased to report that the Department of Justice has fulfilled their promise and issued a new directive. That new directive was issued on February 10 of this year, to encourage the cooperation which I envisioned in my amendment a year ago.

The issuance of operating instructions, to INS field offices followed on April 22, I congratulate Attorney General Smith and Commissioner Nelson for taking this very important step which will greatly assist our immigration control efforts.

I ask unanimous consent to have printed in the Record a copy of that directive and instructions.

There being no objection, the material was ordered to be printed in the Record, as follows:

[Memorandum]

INS RELATIONSHIP WITH LOCAL AND STATE POLICE

From: Alan C. Nelson, Commissioner.
To: Regional Commissioners—Eastern Region, Southern Region, Western Region, Northern Region.

The Department of Justice has approved a revision of the Griffin Bell directive of June 23, 1978 regarding INS's relationship with local and state police. The revised directive, approved by Attorney General William French Smith, reflects a policy of cooperation with the local and state police. Such revised policy, which is now in effect, states:

It is Department of Justice policy for the Immigration and Naturalization Service to cooperate with local and state law enforcement officers who notify the Service of suspected violations of the immigration laws. The Service will review the immigration status of individuals detained by local or state law enforcement authorities for other than immigration violations upon request and as available resources permit.

INS agents and local officers may also engage in joint operations which are expected to uncover violations of both immigration and state laws. The INS recognizes that local authorities provide valuable support for mutual law enforcement efforts (such as when violence may occur or crowd or traffic control is necessary). Within the scope of such cooperative efforts, INS agents will remain responsible for all arrests for immigration violations.

In many local jurisdictions, state law authorizes local officers to enforce criminal provisions of federal law, including criminal immigration provisions. Such operations are conducted by local officers under their local authority and will not be directed by the Service.

The Service is regularly asked to assist local officers in tracking and locating lost persons or suspected criminals. INS agents will continue to assist such local enforcement efforts. INS agents may make arrests for non-immigration criminal offenses only to the extent that individual state laws permit them to do so as private citizens.

The following guidelines are to assist the Service in carrying out the policy of mutual cooperation, within the respective lines of authority of INS enforcement of the immigration laws and local and state law enforcement of their laws:

1. INS officers will not direct, propose, or request that state or local law enforcement operations be carried out when these operations will be beneficial only to INS.
2. Joint operations will not be conducted unless there are independent and articulable facts which clearly indicate that the involvement of both INS and another law enforcement entity is required. For instance, INS officers will not direct local or state police officers to set up roadblocks for the sole purpose of making immigration checks.
3. Local authorities should be asked for support when the articulable facts indicate that an INS operation is likely to uncover a violation of state or local codes or result in, for example, a need for crowd or traffic control.
4. INS officers will not direct local or state police officers to stop vehicles for the purpose of making immigration checks only. However, such officers may effect arrests of persons involved in smuggling and related violations as authorized in sec. 274(c).

The purpose of this revised directive is to ensure cooperation between Service officers and state and local law enforcement officials when such operations will be mutually beneficial to both entities. The Griffin Bell directive previously in effect was widely interpreted both by state and local law enforcement and by INS as a mutual "hands-off" approach. Attorney General Smith's revision does not provide for any increased immigration enforcement authority by local law enforcement entities, yet it does encourage mutual cooperation.

This revised policy is *not* to be interpreted as a broadening of state and local law enforcement officers authority regarding enforcement of the Immigration and Nationality Act. The Attorneys General of some states have issued opinions declaring that their local and state law enforcement officers have authority to enforce the criminal provisions of the immigration laws; however, in joint operations, INS will be responsible for all arrests for immigration violations. No state operations involving enforcement of federal criminal immigration provisions will be directed or proposed by INS; any state operation must be under state authority.

Although these guidelines will be included in the appropriate handbooks, they should be expeditiously distributed to all immigration officers. Officers in those jurisdictions where courts have imposed additional restrictions should be advised that these guidelines do not replace any court orders.

Field officers should direct any questions on these guidelines to regional enforcement and counsel offices.

Mr. GRASSLEY. Mr. President, this bill is a carefully crafted package which must remain largely intact in order to pass both bodies and go to the President's desk for signature. It is my hope that we can move S. 529 rapidly through the Senate, that in turn the House will act quickly and that it not die there as it did in December of last year at the time of the closing of the lameduck session, and that pursuant to favorable House and Senate action the President will approve this bill by the end of the year. If we do not act now, it may be another 30 years before we return to the issue of immigration control.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CHAFEE). the Senator from Florida is recognized.

Mr. CHILES. Mr. President, I am relieved today that the Senate is again considering much-needed reform in our immigration policy in S. 529, the Immigration Reform and Control Act of 1983.

We passed the time to act long ago. After years of neglect and abuse in our immigration policy, Senator SIMPSON led the Senate in a major reform of immigration law last year. His bill was a gallant effort of compromise. He shepherded it through the committee and through Senate action with the skill and diligence that has become associated with his work. Unfortunately, he had to repeat the feat again this year. Hopefully, we will soon see enactment.

Today's world demands that we update our immigration policy to meet today's challenges. The flow of legal and illegal aliens into America continues at unprecedented numbers. Our population continues to grow by 1.2 percent each year—50 percent of this due to immigration. Projections show that unless we begin to stem the tide of aliens flowing into our country, our population will increase by 47 percent by the year 2000.

No one is more aware of these facts than the people of Florida. Time and time again over the past few years I have stood here and pleaded with my colleagues to address the problems my State has experienced because of the mass migration of Cubans and Haitians. I got some action as a result of my pleas but mostly I got promises. Many of these promises have not been nurtured into much of substance. I am frustrated and the people of Florida are frustrated.

Our lack of an effective immigration policy remains an abstract concern for most citizens. They have read about the Haitian situation in Florida and seen pictures of the Cuban flotilla on television. Lately, they have viewed very graphic pictures in several national magazines of Mexicans being illegally carried across the Rio Grande River into Texas, on their way to their jobs or seeking new homes. But overall, most Americans have not felt a major impact by the immigration problems facing the United States.

This is not the case with the people of Florida. Floridians have directly felt the impact and continue to feel it daily.

First, Floridians had to deal with the Mariel boatlift in 1980 and the absence of U.S. policy which allowed Castro to force us to accept over 200,000 Cubans, some of these directly out of Cuban prisons and mental hospitals. Florida's State and local governments were burdened with these thousands of jobless, homeless persons who needed food, shelter, medical care, and education. Our lack of policy resulted in turning many Cuban criminals loose into the street and violent crime skyrocketed. Miami has become the murder capital of the Nation and Florida has 6 of the top 10 crime cities in the Nation.

Soon after the boatlift, thousands of Haitians seeking refuge in the United States began to land illegally on our shores. Many came in rickety boats and rafts not fit for sea travel. Once again, the people of Florida had to pay more than their fair share to provide for this new population. The Federal Government stood by and did little to stop the influx. The INS in Florida was overwhelmed and backlogs of thousands of immigration cases appeared almost overnight. A holding facility for newly arrived aliens was set up near the Everglades in an abandoned military base know as Krome North. Krome became overcrowded almost instantly, the conditions were horrendous. Overcrowding, lack of proper sanitation, the threat of disease forced the State to file suit against the Federal Government. I supported this suit and later introduced an amendment in the Senate to remedy the situation at Krome and the threat it posed to the health and safety of south Florida. By this time, it has become clear to the people of Florida that the Federal Government simply did not care about its problems. And the terrible irony was that the State of Florida was powerless to do anything about the situation. Immigration is a Federal responsibility. Yet, the Federal Goverment failed to meet its responsibility from the onset when the mass migrations began, and then continued to respond ineffectively.

For the Florida delegation, it was a time of great frustration. Probably the only people who were most frustrated were the people of Florida and those of us in the delegation. All of us in the delegation, Senators and Congressmen alike, tried and tried to get the Federal Government to recognize its responsiblity and put the policies to work which would address the situation and prevent it from happening again. We got lots of sympathy but little support. To most of our colleagues it was not their concern or the Federal Govenment's. They considered it a State problem. But we persisted and were finally able to get some help.

We secured funding under refugee assistance and impact aid to help State and local governments in Florida in coping with the unexpected costs created by the significant increases in medical, education, and law enforcement assistance.

We persuaded the U.S. Government to open a new immigaration processing center for illegal aliens in Puerto Rico and to upgrade conditions at Krome.

We were able to push the administration to work out an agreement with the Government of Haiti to allow the Coast Guard to interdict boats filled with aliens leaving Haiti bound for the United States. Its success was immediate and has been shown as late as this week to continue to be effective. Coast Guard cutters have turned back hundreds of illegal aliens this spring who were bound for Florida. In most instances, the aliens are in such dilapidated crafts, that the Coast Guard takes them aboard and returns them to Port-au-Prince. Recently, the Coast Guard told me that since the interdiction agreement, only 10 boats, with 221 Haitians have reached Florida. This is effective—since before the agreement about 120 boats carrying some 15,000 Haitians illegally beached in Florida.

Yes, there has been progress. But the problems facing Florida are still far from being solved.

Every year I have to struggle to get Federal reimbursement for the costs incurred in providing for the aliens. And even then, Florida still has to bear a significant amount of the cost burden.

Crime continues to increase in Florida with a substantial percentage linked directly to the Mariels. Even though they make up only 7 percent of the population in south Florida, the Mariels are 16 percent of the arrest population in south Florida. Homicide is the major cause of deaths among Mariel refugees. Jails continue to be overcrowded in south Florida and there is no money to respond to court orders to improve conditions. The overcrowding is not just caused by aliens apprehended for crimes. A sheriff from northern Florida recently told me "part of the overcrowding in our jails is directly caused by the necessity to house and process illegal aliens. If we can make and enforce our new laws to curtail the volume of persons coming to our country many of our problems will be solved."

Krome North is once again at capacity. Cuban and Haitian detainees have been joined by hundreds from El Salvador, Nicaragua, and other countries.

The 11th Circuit Court ruled just recently that the U.S. Government's detention of nearly 1,800 Haitians for over a year was discriminatory. These 1,800 Haitians were earlier released on parole upon a lower court's order after being detained for a year. So, the INS is caught between the rock and the hard place. Illegal aliens are still flooding into Florida and other border States. INS still has a tremendous backlog of cases and Krome North is at capacity. Yet, the court is questioning its detention policy. In essence, INS is being pressured into releasing more illegal aliens into the community because Krome is crowded and the courts are scrutinizing INS detention policy.

Lately, a new problem has grown to great proportions in south Florida. As many as 2,000 illegal aliens a month are being smuggled into our State by professional smuggling operations. People-smuggling has become a multimillion dollar business in south Florida, Central America and the Caribbean. Persons with illegal papers or no documentation are smuggled for a price across our borders in boats and planes. These slick, very professional operations are making millions off of desperate people. Florida INS officials and border patrol have little personnel and few resources to effectively deal with the volume. Detections of such smuggling operations are often made by local law enforcement and most often by the public who cannot understand why the Government is not doing something about such an obvious offense.

I will be making more remarks on this issue later when I offer an amendment to S. 529 to stiffen the penalties against people-smuggling and expand the authority for law enforcement.

These problems have certainly not lessened the frustration of Floridians. I am still approached daily by Florida government officials, business leaders, law enforcement, community groups, and the public who are seeking an effective immigration policy. They have lived through the chaos and confusion caused by the lack of a policy. They feel shunned by their Government and are afraid—afraid of what the continued lack of policy will mean for their home State.

I am hopeful that today marks the beginning of an easing of the fear and frustration of Floridians. It will be a sure sign to them if the Congress passes a major immigration reform policy that signifies the Federal Government has a policy that meets the immigration demands of Florida and of the Nation.

I believe that Senator SIMPSON's bill goes far in this direction. S. 529 reflects the careful study and efforts which Senator SIMPSON has brought to the immigration issue.

I would like to make a few comments on the bill itself. The single most important reform it makes, and the single most important issue it deals with, is the question of illegal jobs. The problems created by illegal jobs cannot be overstated. It is estimated that there may be as many as 6 million illegal aliens in the United States. Just last week 10.4 million Americans were unemployed. The Congressional Budget Office estimates that each unemployed worker costs $7,000 in unemployment and welfare benefits. If only 1 percent of the jobs that are held by illegal aliens were held by unemployed Americans, the costs of unemployment could be reduced by over $400 million. It has been estimated by the Department of Labor that 40 million Americans compete directly with illegal aliens for jobs.

Displacement of American workers is just one of the costs of illegal immigration. Illegal aliens exist as a subclass within our society who are beyond the obligations and protections of our laws. The Supreme Court decided that illegal aliens have a constitutional right to a free public education. At this point, it is uncertain what the impact of this ruling will be on other benefits. But it is clear that illegal immigration is a costly burden to the American economy and the taxpayer.

Illegal aliens come to the United States for one reason: to work. As long as they are able to find employment in the United States, they will send the word back home for others to join them. We could try to solve the problem by increasing the border patrol. But with thousands of miles of border, no matter how many guards we hire or dogs we train, thousands of people will try to enter the United States illegally each year. Many will succeed.

S. 529 takes a direct approach and, I believe, the proper approach to curbing illegal immigration. It eliminates the magnet which draws illegal aliens to the United States the magnet of illegal American jobs. Quite simply, S. 529 closes the loophole in our present laws, and makes it a crime for an employer to knowingly hire an illegal alien. I believe this prohibition is the key to controlling illegal immigration. Unless we remove the incentive which brings illegal aliens to the United States, our other attempts to solve the problem will be futile.

S. 529 calls on the Justice Department to develop a secure worker verification system that cannot be easily counterfeited. The system is necessary to make the prohibitions against employing illegal aliens enforceable. I would protect employers from inadvertently hiring an illegal alien and would provide a method for identifying those employers who intentionally violate the law. The verification system would also protect legal American workers from discriminatory hiring practices by placing the same documentation requirements on everyone. But in order for the system to be effective, it must be designed to encourage the cooperation of the business community. In addition to being secure against fraud, the system must be sufficient and easy to use. It should only place a minimal paperwork requirement on businesses. Cracking down on those who knowingly hire illegal aliens, coupled with an effective worker verification system, will go to the source of our illegal immigration problem to give us a method for controlling illegal migration. The alternative, is do nothing, and to allow the current situation to continue, unchecked.

Another provision of S. 529 that I am glad to see is the reform of the asylum process. Our laws currently guarantee that the United States will provide asylum to any alien who is in the United States and who can prove that he has a well-founded fear of political persecution if he returns to his homeland. In the past, relatively few aliens requested asylum. Just a few years ago, there were less than 5,000 requests for asylum pending with the Immigration and Naturalization Service. Today the backlog is over 144,000 cases. This may seem like just an abstract number to some people. But I assure you that it is not an abstract problem to the people of Florida, where 200,000 Cubans and Haitians seeking political asylum entered the United States. There are currently 20,000 cases pending in Florida alone, many of those cases have been pending since 1979.

Unfortunately, when the current law was written, Congress did not account for the possibility that the United States would become a country of first asylum for thousands of refugees. Asylum cases must be decided on a case-by-case basis and there is a lengthy appeals procedure for those who receive a negative decision. This procedure proved to be cumbersome and unworkable in the face of a mass migration.

As the epitome of a free and democratic republic, the United States has a great responsibility to provide refuge to those who are fleeing persecution. But we cannot, and should not, accept every alien who arrives in the United States, and makes a claim for asylum, simply because they are here. The legal definition of refugee is very narrow and should be reserved for those who are truly victims of persecution.

If we are going to grant asylum to refugees. We must have an efficient and equitable system for deciding who qualifies. To do less is a disservice to all those who apply, whether they are eligible or not, as well as to the people of this country.

S. 529 will expedite the asylum process by giving immigration officers the authority to summarily exclude undocumented aliens who do not appear to have a legitimate basis for making an asylum claim. Only those who express fear at returning to their homeland or who specifically request political asylum would be admitted to the United States. They will receive a hearing before an immigration judge, who will be specifically trained to hear asylum cases. There will only be one appeal available to a newly created, independent immigration board, outside of the Immigration and Naturalization

Service. Asylum decisions would not be subject to judicial review.

I support this provision of S. 529. It will put us in a much stronger enforcement position in the event of another mass migration. Had the system been in place 2 years ago, we could have avoided many of the administrative delays that characterized the Cuban/Haitian crisis.

I am also pleased that S. 529 requires a new annual immigration ceiling that includes immediate relatives of U.S. citizens. Immediate relatives of American citizens is one of the fastest growing immigration categories. Between 1976 and 1980 the number of immediate relatives increased 40 percent from 114,000 to 152,000. Yet this significant source of immigration into the United States is not counted against our annual immigration quota. This gives us an unrealistic impression of the number of aliens who are being admitted to the United States each year. Our immigration cap is 270,000 but the number of legal immigrants who actually enter the United States each year is over 400,000. Refugee admissions raise the number of illegal immigrants to nearly 600,000 in an average year. I believe that the United States should be able to decide in advance exactly how many new residents we will accept each year from foreign Nations. Family reunification should be one of the primary objectives of our immigration policies. S. 529 retains that objective by allowing for unlimited entry of immediate family members of U.S. citizens but it requires that those family members be counted against our annual immigration ceiling.

Mr. President, I believe that S. 529 is a good bill and goes far toward making improvements in our immigration policy. However, there are several gaps in the bill and in our current laws which must be corrected. I believe our immigration policy could be strengthened by addressing these gaps in an effective manner.

First, current authorities and S. 529 do not provide for adequate safeguards against the kind of immigration emergencies that we experienced in Florida. The administration has developed a contingency plan which outlines the existing authorities the administration has to respond to a mass migration and the actions to be taken in such emergencies. This plan and the reforms in S. 529 will enhance our current authority to deal with such a crisis, but combined, the two proposals still do not provide the additional authorities needed to effectively respond to an immigration emergency. The administration's plan lacks the authority for the President to call for military participation during an immigration emergency. I feel this would be crucial to an effective curtailment of illegal entry. The INS would be hard pressed to stop many of the boats if a flotilla of hundreds left from the Bahamas or Cuba today. With assistance of the Armed Forces, the opportunities for effective interdiction would be far greater.

In addition, the administration's plan and current law do not provide authority for Federal startup funds during an emergency or Federal reimbursement to State and local governments for the costs incurred during a mass influx. Based on Florida's experience, this authority is crucial to assist State and local governments in assisting the aliens. Florida is still bailing out from the near $1 billion burden the mass influxes imposed upon the State. I do not think we could stand to be saddled with a load of such magnitude again, not without great jeopardy to the aliens and to the people of Florida.

I will be addressing the need for emergency powers in more detail later when I offer an amendment to authorize additional powers during a mass migration.

Another gap in S. 529 and current law is the lack of authority for the Federal Government to curtail the smuggling of aliens into the United States. As I stated earlier, there are numerous smuggling operations expanding throughout the Caribbean, South America, and south Florida. These operations are making millions off the desperate people seeking refuge in this country. Smugglers have been known to leave "clients" stranded on small islands of the Bahamas misleading them that they are in Florida. And, it is not uncommon for smugglers to shove the aliens overboard when approaching shore or when coming under surveillance. I will be introducing an amendment which expands existing law to give all Federal, State, and local law enforcement officials the authority to arrest such smugglers. In addition, my amendment proposes to stiffen the penalties against smuggling, harboring, transporting, or encouraging illegal aliens. We have to hit these smugglers and hit them hard before we can begin to put a stop to this travesty. I take great issue with these people who are making lots of money off the frantic efforts of aliens to find freedom in this country.

Mr. President, I hope today marks the start of the United States moving toward control of our borders. Never again should we be in the position of having another country dictate our immigration policy to us, as Cuba did in 1980. Hopefully, our action today will soon be joined by action in the House and we will, at long last, have succeeded in reforming our immigration policy.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I do appreciate the comments of Senator Chiles. He, along with others, has been paying such close attention to the issue for so many years. His State is the most heavily impacted with regard to the refugee issue, but also with immigration issues, and he has been very thoughtful in pursuing it.

I have appreciated the attention he has given to it over the years I have been involved in the issue.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I want to express at the outset my admiration and respect for the Senator from Wyoming, the chairman of the Subcommittee on Immigration and Refugee Policy. We are here this afternoon dealing with this important legislation solely because of the leadership and tireless work of our distinguished colleague from Wyoming.

This bill is the product of extensive study and lengthy hearings. It reflects the landmark work of the Select Commission on Immigration and Refugee Policy, upon which both Senator Simpson and I served in 1980 and 1981. It represents a blend of conflicting views and has involved some very diffcult compromises.

However, I continue to have serious reservations about this bill as presently drafted, and I will be offering a number of amendments to strengthen it and to address the concerns of many that serious discrimination may result from certain provisions in this legislation.

But first, I want to take a brief moment to note the historic significance of our undertaking.

The action we begin today continues the effort by the Senate to reform our Nation's immigration laws—the first since the major reforms of 1965, which I was honored to manage on the Senate floor. The 1965 act finally removed from our laws the discriminatory national origins quota system and the notorious Asian-Pacific triangle provisions—perhaps the two most discriminatory laws ever enacted by the U.S. Congress.

In 1978, Congress acted to lay the basis for the reforms we are considering today, when we established the Select Commission on Immigration and Refugee Policy. As the chief Senate sponsor of the legislation creating the Select Commission, I did so in the hope that it would finally bring some high-level study and review of our outdated immigration laws, which previous executive branch studies had failed to achieve, and which Congress had failed to address.

It was also clear then that immigration was becoming a controversial issue, clouded by misunderstandings and false stereotypes, and overwhelmed by the fear if illegal immigration—all to the detriment of legal immigration.

Suddenly, one of the oldest themes in our Nation's history was becoming one of our most contentious and misunderstood public policy issues.

In part, this was a product of the times—a reflection of our preoccupation with stubborn and increasingly critical domestic and international challenges. But part of the problem derives as well from our existing immigration law, which is a generation out of date.

After 2 years of work—after 12 regional hearings around the country, dozens of consultations and exhaustive research—the Select Commission, under the chairmanship of Father Ted Hesburgh of Notre Dame, filed its recommendations with the President and Congress in March 1981. These recommendations have largely formed the basis for the bill we are considering today.

To Senator Simpson's credit, following the submission of the Select Commission's recommendations, he took them and moved them forward. He initiated, along with Congressman Mazzoli, the first joint hearings between the two immigration subcommittees of the House and Senate in more than 30 years. And he launched 2 years of hearings to listen to all sides of this controversial issue.

As ranking minority member of the subcommittee I have been honored to work closely with him, in a bipartisan effort to achieve immigration reforms based upon reason, fairness, and careful study. We have attempted to review immigration policy in light of America's best interest, yet with full regard for our immigrant heritage and our humanitarian traditions.

We have rejected—as we must continue to reject—calls for harsh and discriminatory enforcement of our immigration laws, including the deputizing of local police officers to enforce our complex immigration policies.

We have rejected cruel and racist calls against immigration—against using immigrants and undocumented aliens as scapegoats for some of the problems our Nation faces today—problems that have nothing to do with immigration.

We have rejected calls to drastically reduce our annual immigration quotas or to restrict the admission of refugees—sometimes from the very people who also call for the establishment of a massive foreign temporary worker program.

And we have rejected calls that we should begin the mass deportation of undocumented aliens who have been leading productive lives in our country for many years.

We rejected all of these proposals because they are short-sighted—and because they are contrary to our national interest and humanitarian traditions.

I am confident that the Senate will also reject these proposals if and when they come to the floor.

We have come a long way toward achieving immigration reforms that many of us have advocated for many years. But, as I said at the outset, I believe we still have some distance to go.

Mr. President, although I am concerned over a number of specific provisions in this legislation, I am even more concerned over the larger issue of the migration pressures our country will encounter in the decades ahead and the need for international cooperation to deal with them.

INTERNATIONAL COOPERATION

I am concerned that this legislation is moving forward in a kind of vacuum, and that we are deluding ourselves into thinking this bill will really solve the many immigration problems our country faces. At best this bill is a band-aid to a potential hemorrhage—a very tentative step in a long-term process. And if we do not recognize this we will only be compounding the problem.

Every day it becomes clearer that the complex migration problems, which we and other countries are facing around the world, will require greater international action. Domestic laws and actions alone are no longer sufficient. Economic and developmental problems in neighboring countries—or even in countries far away—will have more impact upon migration to the United States than any combination of domestic laws or policies. And violence and conflict can produce a flow of people that only concerted international action can deal with.

There are no easy answers, but it is imperative that we understand that migration is an international issue, and not merely a domestic concern. It will require far greater international cooperation than we have undertaken to date.

In fact, one of the most important recommendations of the 1981 Select Commission on Immigration and Refugee Policy was that the United States should become more actively involved in efforts to achieve international cooperation on world migration and refugee problems.

I strongly endorsed the Commission's recommendations that the United States should expand bilateral consultations to promote cooperation on migration issues in the Western Hemisphere—especially with our neighbors, Mexico and Canada. These two nations deserve special consideration in our policies, and I commend Senator Simpson for his personal efforts to meet with the leaders of Mexico during the development of this legislation.

However, this bill is moving forward without adequate consultations by the executive branch with our neighbors. If we are to achieve genuine cooperation we must consult in advance, before changes in our immigration policies are set.

Unilateral policies, like fences, do not always make good neighbors. During our consideration of this legislation we must give greater weight to this concern and the administration must give greater evidence that they too are pursuing it.

In the "Minority Views" I filed with the committee report, I outlined several areas of specific concern to me. At the outset of this debate, I would like to review them for the record.

EMPLOYER SANCTIONS

Mr. President, a fundamental concern I have about this bill is that it must not become a vehicle for discriminatory action against Hispanic Americans and other minority groups. In too many quarters, migrants and undocumented aliens are being unfairly blamed for the current high levels of unemployment in the United States.

I believe we must be extremely cautious to avoid any legislative action that raises the level of intolerance and discrimination in our society. The employer sanctions provisions in this bill present this danger, and I regret that the committee did not accept an amendment I offered that addresses these concerns.

I have in the past supported legal sanctions against employers who knowingly hire undocumented aliens. I have done so as a matter of principle; it is wrong that the sanctions under current law fall solely on the undocumented aliens, not on employers who may be exploiting them. The Government needs stronger enforcement tools to deal with the serious problem of employers who engage in a pattern and practice of hiring and exploiting undocumented aliens.

However, throughout the Select Commission's work, as well as during the extensive hearings of the subcommittee, two central objections were raised again and again: First, that the proposed employer sanctions might result in discrimination against certain American workers, especially Hispanics and Asians; and second, that employers would be unnecessarily burdened with paperwork in implementing the sanctions.

The history of immigration legislation in recent decades is that once an immigration law is enacted, Congress does not act again for many years. To assure that Congress will not ignore any discrimination that arises in the implementation of employer sanctions, I offered two amendments in the committee to provide the following safeguards:

First, to insure that a fair and impartial study of the sanctions program is available to Congress, and that public hearings will be held on them, I felt the General Accounting Office should be explicitly required in the statute to undertake an independent study of their implementation. I am pleased the committee accepted this amendment, as well as providing additional authorization for the work of the Equal Employment Opportunity Commission, and for the enforcement activities of the Wage and Hour Division and the Office of Federal Contract Compliance in the Employment Standards Administration of the Department of Labor.

Second, I felt that employer sanctions should be sunsetted after 5 years, so that Congress will be obliged to face this issue of discrimination squarely, if it develops. If employer sanctions become a pretext for discrimination, then the authority for them should expire unless Congress enacts new legislation with additional protections. If no discrimination materializes, then under my amendment sanctions will be continued.

I regret the committee did not accept this second provision. If it is adopted, I believe minorities in our society will be given a pledge that, if a serious pattern of discrimination emerges, Congress will not ignore it. Given the significant changes proposed by this legislation, this is the minimum assurance we should be willing to provide.

LEGAL IMMIGRATION

We frequently hear today that immigration to the United States is somehow bad—that the numbers are too high, the impact is undesirable, and the consequences for the future are negative. These implications fly in the face of American history, and I reject them, as did the Select Commission on Immigration and Refugee Policy.

Illegal immigration must be controlled. But there is no evidence that the current levels of legal immigration are dangerous or contrary to our national interest. In fact, the Select Commission concluded:

> Based on its research and analysis, the Commission has found the contributions of immigrants to the U.S. society to be overwhelmingly positive. It believes that an immigrant admissions policy that facilitates the entry of qualified applicants is in the U.S. national interest. Whether measured by the number of Nobel Prize winners who have come to the United States as immigrants (30 percent of all U.S. Nobel Laureates), the introduction of new concepts in music, art and literature or the industries built by immigrant labor, immigration has been of enormous benefit to this country.

The Commission also rejected the notion that current immigration is destabilizing or somehow threatening to our national unity. Although the admission of immigrants and refugees to the United States has increased numerically over the past decade, the proportion of foreign born citizens in the United States is dramatically lower than at any previous point in our history.

Veiled reference is also frequently made to the more than 800,000 immigrants and refugees who entered the United States in 1980. But all who use that figure—often rounding it off to a neat 1 million—do so knowing it was an extraordinarily unusual year due to the admission of large numbers of Indochinese refugees and the influx of Cubans and Haitians. The numbers before and since are much lower, and present a fairer and far more accurate view of the true situation.

We must avoid scare tactics and scare statistics designed to feed false fears.

PREFERENCES FOR IMMIGRATION

The bill makes a number of unfortunate and unwise changes in the existing immigration preference system. These changes will jeopardize our country's historic commitment to family reunion as the principal goal of our immigration policy.

For the first time, this bill places the admission of the immediate relatives of U.S. citizens—spouses, children and parents—under a rigid annual ceiling. It limits second preference in an unfortunate way.

These changes are contrary to the recommendations of the Select Commission as well as to the views of every recent administration—Republican or Democratic. I agree with the Reagan administration that they compromise our traditional concern for family reunification.

Throughout our history we have never placed a ceiling on the admission of immediate relatives, and there is no valid reason for doing so now. Under the terms of the bill, immediate relatives are still given the highest priority; but if their numbers increase in the years ahead, other family reunion preferences will be cut back.

I am gratified the Judiciary Committee accepted my amendment to restore fifth preference for brothers and sisters of U.S. citizens, although limiting it in the future to unmarried brothers and sisters. I remain troubled, however, by the bill's restrictions on the second preference and inclusion of immediate relatives in an overall immigration ceiling.

JUDICIAL REVIEW OF ASYLUM CASES

Some very important reforms of the asylum adjudication process have been achieved in this legislation and I support them. However, I regret that the committee limited judicial review of the asylum process without granting full independence to the new Immigration Board, as originally proposed when the bill was introduced. As a result, the committee bill does not achieve the autonomy the asylum process needs in order to assure fair and nonpolitical adjudication of asylum claims. In this situation, the elimination of judicial review is particularly objectionable, since it has been the only avenue for challenging discriminatory decisions. Habeas corpus jurisdiction is not sufficient since the bill also limits this remedy to constitutional, not statutory, habeas corpus.

I believe the proposals adopted by the House Judiciary Committee achieve these goals, and I intend to offer them as a substitute amendment.

TEMPORARY FOREIGN WORKERS

I continue to support the unanimous vote of the Select Commission and the actions of the committee in rejecting the establishment of an expanded temporary foreign worker program. Adoption of the legalization program and implementation of the new immigration system will result in the legal admission of additional immigrants and an adjustment in the status of undocumented aliens already working here.

Until the impact of these changes is assessed, there is no valid justification for a large new temporary foreign worker program. Any such program would have serious consequences for American labor and American wages. The committee has acted responsibly in rejecting calls for a new bracero program.

The existing need for temporary workers can be met by the H-2 visa program. The committee has acted to make this program more flexible, but we must be extremely cautious not to allow these changes to undermine labor standards or to depress wages. Employers seeking H-2 workers must be required to seek American workers first, and we should plan the elimination of this program in the future, not its expansion.

FOREIGN STUDENTS

The committee bill should be amended to permit students of exceptional merit and ability—who are participating in essential academic, professional and industrial programs—to remain in this country without leaving for 2 years, or being subject to an arbitary ceiling. To do otherwise is contrary to our national interests. It also ignores the current reality that exceptionally qualified students do not return to their homes in the Third World or elsewhere; they simply move to Japan or Europe and use their skills to help those nations compete against the United States. It makes no sense, when our own faculties and firms are starved for scientific talent, for the United States to train engineers or computer specialists at MIT or Berkeley for jobs in Tokyo or Bonn.

LEGALIZATION PROGRAM

The Select Commission voted unanimously to recommend that a flexible and generous program be established to adjust the status of undocumented aliens already leading productive lives in the United States. It did so because the existence of a large undocumented/illegal migrant population should not be tolerated—and because the costs to society of permitting a large group of persons to live in illegal, second-class status are enormous. The Commission recognized that mass deportations were out of the question, for both legal and humanitarian reasons; such deportations would undermine new enforcement programs and would waste available enforcement resources.

For a legalization program to work, it must be comprehensive, it must reach out to as many undocumented aliens as possible, and it must have as few exceptions as possible.

I regret, therefore, that the Judiciary Committee did not this year adopt my amendment to make the legalization cutoff date more inclusive—moving it forward from January 1, 1980, to December 31, 1981. Even the estimates compiled by the Immigration and Naturalization Service tell us that close to two-thirds of the undocumented aliens in the United States will not be eligible for the legalization program if the cutoff date is January 1, 1980. It means that a large, subterranean, exploited class of people will be left in limbo under the terms of this bill.

Everyone who has worked on this legislation agrees that the legalization program is a critical part of the package of reforms we are considering. Yet, under the terms of the bill, legalization will not achieve its goals because the cutoff date will exclude two-thirds of those we are seeking to legalize. This makes no sense on the merits, and no political sense either. Why make a difficult political decision to legalize undocumented aliens, knowing it will not really deal with the problems?

Although the legalization program is clearly a crucial element of immigration reform, concern has been expressed over the impact it may have on State and local social service programs. According to the research of the Select Commission and others on the characteristics of the undocumented alien population, these concerns are exaggerated. Undocumented aliens are here to work, not to seek welfare; they are in many respects undocumented taxpayers contributing to the communities in which they live without the benefits of those taxes.

Despite these facts—and despite the estimates of the Congressional Budget Office—we have seen paraded before us a whole set of scare statistics which suggests that a reasonable, workable legalization program will cost billions and billions of dollars.

Those figures are pulled out of thin air, and are based upon assumptions that all the undocumented aliens who came here to work—and who are working—will suddenly all go on welfare, and that their dependency rates will equal that of refugees or our population as a whole. These assumptions fly in the face of logic and facts.

Opponents cannot have it both ways. They cannot be in favor of employer sanctions because it curtails the magnet of jobs which brings undocumented aliens to the United States and then turn around and argue we cannot legalize them because they will all be on welfare. If they are here to work on well-paying jobs, why would they go on welfare? On its face it is illogical and all available research does not support such fears.

And that is what they are, fears—false fears—raised by opponents to a humane and responsible legalization program. They have no real basis in fact, and I urge the Senate to reject them.

CONCLUSION

Mr. President, immigration is both America's past and future. It demonstrates confidence in the continuing promise of our land. It honors our traditional concern for family reunion. It strengthens the economic and cultural life of our country. And it assures that America will always be a home for the homeless.

The Select Commission and the members of the Senate Judiciary Committee understood the urgent need for immigration reform. Our current immigration laws and policies are out of date; they are inadequate to handle world migration pressures. But they also understood that these reforms must reflect our proud immigration heritage.

I look forward, as I have in the past, to working with my distinguished colleague, Senator SIMPSON, and others in continuing the bipartisan effort we have undertaken to achieve genuine immigration reforms—and not merely immigration restrictions. That is the spirit in which I will offer my amendments, and which will guide my votes on other amendments that may be offered.

Mr. MATTINGLY. Mr. President, once again we have the opportunity, as we had last year, to approve the Immigration Reform and Control Act. As I did then, I have cosponsored the measure and I rise now to encourage my colleagues to cast their votes in favor of this much needed landmark legislation.

I continue to believe that the primary concern of U.S. immigration policy, as of any national policy, should be the national interest and the well-being of our citizens. Senate bill 529 is aimed at that purpose—protecting the Nation's citizenry and its well-being.

In March 1983 alone, 107,997 apprehensions were made along the 2,000-mile southern U.S. border which extends from California to Texas. This represents an increase of 43.4 percent over those apprehended in March of last year. In the first 25 days of April this year, the border patrol caught 87,830 individuals, a figure which is 48.2 percent higher than during the same period of 1982. According to an April 26, 1983 article in the Chicago Tribune, the 585 INS agents who share the round-the-clock shift along one section of the border report that, on any typical day, they apprehend between 1,000 and 1,500 illegal aliens. The same scenario is played out daily at a number of other points along our border. Although there are no figures to document the number of illegals who are not caught, some officials believe that at least three aliens cross our borders successfully for everyone who is apprehended. And that estimate, they contend, is conservative.

An exercise in simple mathematics demonstrates clearly the magnitude of the problem. If March is representative of an illegal immigration trend, and there is no evidence that it is not, at least 300,000 illegals can be assumed to enter the United States each month. Multiply that figure by 12. The total—over 3½ million illegal aliens annually—is staggering. The economic impact on the United States, particularly in the area of employment, is devastating. Obviously, America is perceived abroad as a nation which has lost control of its borders. Unless we take decisive action, the increase in illegal immigration numbers will no doubt continue to escalate.

Time and again over the past months, this body has, in various forms, addressed itself to the issue of our Nation's unemployment problem. The immigration reform legislation we are considering today provides another opportunity to take positive steps in this area. The employer sanction section represents the centerpiece of the bill and moves toward a partial solution to the unemployment problem. The sanctions provide a method for halting the displacement of American workers by illegal aliens and serve as well as a deterrent to illegal immigration into the United States.

The easy availability of jobs is largely the cause of illegal immigration. If we remove the likelihood of obtaining employment, we make illegal immigration less attractive. We also protect American workers by reserving employment opportunities for our own citizens. The effect should be a decline in the unacceptably high unemployment rate the United States is presently experiencing. This bill in itself is a real "jobs bill."

Some have criticized the employer sanctions as being too harsh and placing an excessive burden on employers. I do not believe this is the case. As it should, the Simpson-Mazzoli bill provides fair protection for employers who in good faith endeavor to follow the law. Those who deliberately and repeatedly violate the law by hiring illegals are subject to criminal and civil prosecution. This is as it should be. Those who break our Nation's laws should be penalized. Consistent with the penalties imposed upon those who knowingly hire illegals are the felony penalties for those who aid illegals in obtaining employment through the use of fraudulent documents and for individuals who use them. I support this provision and am pleased it is included in the bill.

The legalization portion of the bill, called amnesty by some, has been criticized for sending the wrong signals to citizens of other countries and for rewarding those who have violated our laws in the past. Current law provides for the deportation of illegal aliens, yet somewhere between 3 and 6 million of these people are believed to reside in our Nation presently. They have not been deported simply because they cannot be located. This fact will not be changed with the passage of this or any other piece of legislation. I wish it were otherwise. However, the large number of illegals residing on U.S. soil will remain and they must be dealt with in a practical manner. Legalization is such a method. It does not, as some contend, automatically grant blanket amnesty to every illegal or grant automatic citizenship. Those likely to become a public charge, criminals, and those involved in activities dangerous to the security of our Nation will still be subject to deportation under the provisions of S. 529. Others, who have lived in the United States since January 1, 1977 or December 31, 1980, respectively, will be given permanent or temporary resident status.

By imposing sanctions against illegal hiring, prosecuting those who misrepresent themselves or others for the purpose of obtaining employment, providing legalization, and limiting legal immigration into the United States to 425,000 immigrants annually, the Immigration Reform and Control Act creates a reasonable and fair method of managing our Nation's immigration policy. We must get control of our immigration policy if we are to protect our citizens and those who have come to America within the boundaries of our laws. Our history as a nation has been enriched by the presence and influence of legal immigrants. I believe it will continue to be. Without controls, however, citizens and immigrants alike will suffer.

This legislation has been carefully molded and molded with compassion. Once again I urge my colleagues to support the Immigration Reform and Control Act of 1983.

Mr. THURMOND. Mr. President, S. 529—the Immigration Reform and Control Act of 1983—is the culmination of a 10-year effort to reform the immigration laws of the United States. The bill is for all significant purposes the same as S. 2222 that passed the Senate last year. A comparable bill almost succeeded in passing the House late in the 97th Congress and is currently under active consideration in the House Committee on the Judiciary. Hopefully, this long overdue measure can move quickly through the legislative process to final enactment.

Special credit must go to Senator SIMPSON as chairman of the Subcommittee on Immigration and Refugee Policy for bringing us to this point. It has been a herculean task requiring a careful balancing of the diverse interests involved.

As with most major legislation, it does not satisfy everyone. On balance, however, the bill makes major improvements in current immigration law that should significantly increase our ability to get control of the borders of this country. It is strongly supported by the administration. I urge the Senate to act promptly so that the bill can be enacted at the earliest possible time.

Mr. President, as pointed out in the committee report on this bill, no other country in the world attracts potential migrants as the United States and no other country approaches the United States in the number of legal immigrants accepted and refugees permanently resettled. Such has been the case throughout our history. It is a tradition of which we are justly proud.

On the other hand, it is common knowledge that immigration to the United States, including illegal entrants estimated to be in the millions, is out of control. In the last 7 years, total legal immigration to the United States increased from 450,000 in 1976 to 610,000 in 1981, with a peak of 800,000 in 1980 counting the Cuban and Haitian entrants during that year. During the same 7-year period, "immediate relatives" of U.S. citizens for which there is no numerical limitation, increased from 114,000 to 152,000. Refugee admissions, also not subject to a fixed ceiling, have ballooned from 5,000 in 1977 to as high as 200,000 in 1980; 161,000 in 1981; and 93,000 in 1982. Notwithstanding the 1982 decrease in refugees, the United States continues to take more immigrants and refugees for resettlement than the rest of the world combined.

In addition, hundreds of thousands of illegal entrants come into the United States every year. While the total number of illegal aliens in the country is unknown, the Select Commission on Immigration and Refugee Policy estimated the figure to be 3.5 to 6 million for 1978. The number is surely much larger today.

Mr. President, there was a time when the Nation could welcome millions of newcomers without jeopardizing the national interest. Such is not the case today in a complex industrial society with high unemployment and a need for specialized skills. This bill—while recognizing the great benefits this country obtains from new migrants—tries to come to grips with the necessity that they be limited to an appropriate number and be selected within that number based on family reunification priorities and preferences for skills needed in a highly developed country. The bill also contains major provisions to help get illegal entries into the United States under control.

The pending measure takes a number of different approaches to reform the immigration laws.

First, the bill contains provisions to increase control over illegal immigration. The primary incentive for illegal immigration is the availability of U.S. employment. This bill makes unlawful the knowing employment, or the recruitment or referral for a fee, of illegal aliens. It also provides for a system to verify work eligibility and establishes appropriate civil and criminal penalties for violations. In addition, the bill establishes new crimes for certain activities involving fraudulent documents and for bringing illegal aliens to the United States; states the sense of Congress that resources for conventional enforcement should be increased; requires the imposition of fees for use of Immigration Service border and other facilities; provides for efficient adjudication of exclusion, deportation, and asylum cases; and prohibits adjustments of status by visa abusers.

Second, the bill makes a number of reforms with respect to legal immigration. The current system of numerical limitations is revised in order to reduce the growth in the number of immigrants to the United States. It reserves limited family reunification visas for the closest family members and increases the immigration opportunity of aliens who have needed skills. The ceiling on numerically limited immigrants is 425,000 minus the number of "immediate relatives" of U.S. citizens and "special immigrants" in the prior year. By counting immediate relatives and special immigrants against the ceiling, it is expected that for at least the next 10 to 30 years the total of all new immigrants, excluding refugees, will not exceed 425,000 which is approximately the current level.

The labor certification requirement is amended to permit certification based on general labor market information, rather than only on an analysis of the impact of specific aliens in specific jobs. A reasonable training effort by employers is also required. Special immigration benefits are provided for certain children and the surviving spouse of an employee of an international organization and retired employees of such organizations who have been in the United States many years.

Third, certain improvements are directed at nonimmigrant categories. The H-2 temporary worker program is revised in order to assist agricultural employers in adjusting to the reduced availability of illegal foreign workers. Foreign students are prohibited from adjusting their status to permanent resident and from obtaining an immigrant visa or certain work-related nonimmigrant visas until they have returned home for 2 years. A pilot visa waiver program is authorised for eight countries with low rates of visa denial and exclusion.

Fourth, the bill provides a one-time legalisation program to deal with the large group of illegal aliens in this country who have been here long enough to have built up equities. It provides for legal permanent resident status for certain illegal aliens who entered prior to January 1, 1977. Legal temporary resident status would be provided for illegal aliens who entered prior to January 1, 1980, and certain "Cuban/Haitian entrants," with an opportunity to adjust to permanent status after 3 years under certain conditions. Minimum English language competence or enrollment in a program to acquire such competence are two such conditions. Such temporary residents will not be eligible for Federal financial benefits other than for old age, blindness, disability, or needed health care because of serious illness or injury.

Mr. President, this program of legalization is not something I support without reservation. If I did not believe that the only way the Federal Government can gain control over immigration and refugee policy is by way of a legalization program, I would be opposed to it.

Finally, the bill requires certain reports from the President to Congress with respect to the employer sanctions provisions, legal immigration, the legalization program, the H-2 program, and the visa waiver program.

Mr. President, this is an important bill that should be enacted as soon as possible. It will not solve all of our problems relating to immigration and refugees. It is a major step in the right direction and I hope that Congress will move expeditiously.

Mr. HUDDLESTON. Mr. President, I was a cosponsor of the original version of S. 529 when it was introduced during the last Congress, and I strongly supported passage of that bill. As we retrace our steps on this issue, the distinguished chairman of the subcommittee, Senator Simpson, still has my strong support. As one who has been working on reform of our immigration system since 1975, I am very pleased that we are this close to passing an immigration control bill.

I commend the two Immigration Subcommittee chairmen, Senator Alan Simpson and my good friend Congressman Ron Mazzoli for the time and effort they put into this issue. It has been their strong leadership on this extremely emotional and complex issue which has brought us to the point where we can anticipate final passage of this long overdue legislation. I also commend the efforts of the distinguished ranking minority member, Senator Kennedy, and the constructive contributions he has made to S. 529.

When I began speaking on this issue several years ago, you could have fit all of those interested in immigration reform into a small room. Immigration was not perceived as an important topic. Today, of course, we recognize that our inaction in past years caused many of our current problems. However, it is not too late to address the problem, and S. 529 takes us a long way in that direction.

If we look through all the political smoke that has been generated on S. 529, there is one compelling and overwhelming reason why we should pass the bill, and that is jobs.

Even though we have almost 12 million American workers out of work today in our worst recession since the Great Depression, the Federal Government as adopted a de facto policy which forces these millions of unemployed to compete with millions of unemployed for work in this country. The only conclusion that can be drawn from this is that this Government cares more about the welfare of foreign workers than it does for its own unemployed.

Former Secretary of Labor Ray Marshall stated several years ago that we could reduce unemployment in this country to below 4 percent by simply regaining control of immigration. However, 2 years later the President tells us in his 1983 Economic Report that even after recovery from the recession, the "unemployment rate will reach a plateau between 6 and 7 percent."

I believe that we should reconsider the issue of immigration control before admitting that we have to learn to live with a permanent unemployment level of up to 7 million people. Immigration control can reduce unemployment if we are willing to use it.

If there is any doubt of this, the current Under Secretary of Labor has also provided us with evidence of the impact of illegal immigration on employment. Secretary Malcolm Lovell recently reported that 40 million Americans compete directly with illegal aliens for jobs.

This is understandable when you realize that when the law begins to be enforced, jobs will immediately open up.

This is understandable when you realize that the average illegal immigrant today is working in a city in a job which pays well. For example, the average wage of an illegal alien apprehended in Denver in the last 2 years was $6 an hour.

At a time when unemployed Americans are standing in lengthening soup kitchen lines or in lines to receive a small block of free Government cheese, I do not believe that we can in good conscience continue a policy permitting almost completely open borders.

I only wish that our own Government was as concerned about its unemployed as the Mexican Government is about its unemployed. The Mexican legislature has strongly attacked the bill because it would help stem the tide of unemployed workers streaming up from Mexico.

What this really means is that many of the jobs that are available in this country will go to unemployed Mexican workers instead of to the almost 12 million unemployed Americans.

As a Member of the U.S. Senate, I believe that we should have one response to this kind of obstructionism. We should pass S. 529 immediately in order to put as many of our own unemployed back to work as quickly as possible.

The Wall Street Journal has called this immigration bill the biggest jobs program around and I agree. However, it is the kind of jobs program which has more pluses than minuses. It will not cost the Federal Government any additional money to put people to work.

In fact, it may generate more revenue for the Government because of increased tax revenue and because the billions of dollars illegal aliens send out of the country every year would remain here.

It is not a make-work jobs program because all of the jobs opened up will be in the private sector where they will contribute to overall productivity. And, there is very little timelag involved. Once the law begins to be enforced, jobs will immediately open up.

I have been one of the strongest supporters in trying to secure passage of this legislation. Even though the bill bears a strong resemblance to S. 776, which I introduced in 1981, it does relinquish more than I would have in some areas.

Nonetheless, I think that the legislation is urgently needed and there must be some compromise in order to achieve passage.

I commend the distinguished chairman, Senator SIMPSON, for the excellent work he has done in the very important area of immigration control. He has shown that he is as compassionate as he is determined and that he has the immense respect of his colleagues on both sides of the aisle.

I support a generous but controlled level of immigration admissions and I believe that S. 529 will provide us with a way to achieve this. However, if we again pass the opportunity to enact real immigration reform, we may lose whatever momentum remains for rational immigration reform for years to come.

Mr. GOLDWATER. Will the Senator yield?

Mr. SIMPSON. Yes.

Mr. GOLDWATER. Is the bill now open for amendment? I have an amendment.

The PRESIDING OFFICER (Mr. WARNER). The Chair informs the Senator from Arizona that the bill is now open for amendment.

Mr. GOLDWATER. Mr. President, I do not require action on this if the Senator wants to speed along.

Mr. SIMPSON. The Senator from Arizona may certainly proceed with his amendment.

AMENDMENT NO. 1214

(Purpose: To require the Secretary of Labor promptly to notify employers regarding their applications for labor certifications for temporary workers)

Mr. GOLDWATER. Mr. President, I have already sent this amendment to the desk, I withdrew one. I ask that the one remaining be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. GOLDWATER) proposes an amendment numbered 1214.

On page 172, between lines 18 and 19, insert the following:

"(ii) such application shall be considered to have met the requirements of paragraph (2) unless the Secretary of Labor, within seven days of the filling of such application, notifies the employer filling such application whether such application meets such requirements and, if not, states the reasons therefor and provides an opportunity for the prompt resubmission of a modified application.

On page 172, line 19, strike out "(ii)" and insert in lieu thereof "(iii)".

On page 173, line 11, strike out "(iii)" and insert in lieu thereof "(iv)".

Mr. GOLDWATER. Mr. President, all the amendment does is say that the Department of Labor shall notify an employer within 7 days, 1 week, if there is a technical error in any H-2 temporary farmworker petition, which would constitute ground for denial.

The kind of error I am talking about will usually be an innocent, bookkeeping type of mistake. Regardless of how innocent it is, the Department of Labor can hold up action on the petition until 20 days before the employer needs farmworkers and then reject the petition, leaving the employer with no time to find the help he needs, for example, to harvest perishable crops.

Mr. President, the present law states that the regional administrator of the Department of Labor shall promptly review each application for temporary workers. The Department of Labor has issued a general administrative letter which provides that promptly means 7 days after filing. This means that the regional administrator is supposed to notify the employer whether the application is unacceptable within 7 days after the employer has filed the application.

If this procedure were followed, it would give the employer an opportunity to amend the application in accordance with any objections registered by the regional administrator. Or, following denial of the application, the employer could seek administrative or judicial review of the regional administrator's action.

In practice, however, the regional administrator often has not acted promptly as required by regulations or the general administrator letter. Instead, the regional administrator has taken excessive periods of time to advise the employer of any objections to the application.

The result of this practice has been to foreclose any opportunity the employer would have to seek review of the regional administrator's denial.

Mr. President, let me give you an example from an actual case history in Arizona. During the 1980-81 harvest season, a farm employer in Glendale, Ariz., submitted an application for temporary workers on June 9, 1980. The regional administrator's response and objections were not received until July 25, which is 46 days later.

The next year, in the 1981-82 harvest season, the same employer submitted another application, this time on June 29, 1981. The employer did not receive notice of the regional administrator's objections until September 9, 1981, some 73 days after submission of the application.

Now, Mr. President, this kind of bureaucratic delay lacks any reason. It is arbitrary. It is administrative footdragging that destroys the entire purpose of the temporary worker program.

How can anyone say that a delay of 73 days is acting promptly? Since the Department of Labor and regional administrators obviously do not know the meaning of the word "promptly", I believe we must spell it out for them in the law. In fact, the 7-day notice requirement has already been made a part of the House immigration bill, H.R. 1510. I believe strongly that we should include it in the Senate version of the legislation as well.

Mr. President, the amendment is designed only to insure procedural fairness and timeliness of the temporary worker certification process, and I urge my colleagues to support it.

I ask the chairman of the subcommittee, does he have any inclination to take this amendment?

Mr. SIMPSON. Mr. President, I certainly am inclined to accept the amendment. The amendment will require the Labor Department to tell the grower within 7 days if the application for the H-2 worker is not in order. That seems like a very reasonable approach. In other words, if it is not proper, you do not just stack it up and then as the time comes to need the employee, then say, "Well, it wasn't right; we could have told you that before."

I think this is a good step. It embraces the language of the House bill, and it certainly is acceptable to this side of the aisle and I believe to the other side as well.

Mr. GOLDWATER. I thank my friend. I assure him that this will be greatly appreciated by the growers not only in the State of Arizona but in southern California where we have highly perishable crops that just cannot wait to be picked.

I thank the chairman. I thank him for the whole bill.

Mr. SIMPSON. I thank the Senator.

Mr. DECONCINI. Will the Senator yield? I should like to add my support to the amendment of my colleague. I understand the minority is willing to accept the amendment also.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that my colleague (Mr. DECONCINI) be included as a cosponsor of this amendment.

Mr. DECONCINI. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, with the two Senators from Arizona being on the floor, I must say very briefly that, indeed, these two gentleman have a serious problem with their State being a border State, especially in the soft fruit or the citrus industry. Both of them have worked very diligently not only on the bill, indicating a general support for it—I do not think I misspeak—but assuring that for agriculture an actual way to prevent destruction of business must be addressed. I appreciate both of their continuing interests.

The PRESIDING OFFICER. The question is on the amendment offered by the Senators from Arizona.

The amendment (No. 1214) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GOLDWATER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Mrs. KASSEBAUM assumed the chair.)

Mr. KENNEDY. Madam President, if there are other Senators who want to make general opening comments, I would yield to them. Otherwise, I am prepared to move ahead with an amendment.

Mr. SIMPSON. Madam President, I do not believe there are other Senators at this time. But I want to acknowledge, after those remarks of Senator Kennedy, one further thing in his generous comments about me. You have already heard mine concerning him. There are two pioneers in the field on this issue. They are Senator Ted Kennedy and Congressman Peter Rodino, the chairman of the House Judiciary Committee. Congressman Rodino placed employer sanctions before this body in 1971. Senator Kennedy chaired the subcommittee which I chair for many years, to the point where when he became chairman of the Judiciary Committee, he brought it into the full committee because of its importance to him. He deserves great credit.

The theme is there. They composed the basic piece. I have no further comments at this time.

Mr. RANDOLPH. Madam President, who has the floor?

Mr. KENNEDY. The Senator from West Virginia has the floor.

Mr. RANDOLPH. Madam President, I wish to make the briefest of comments, but my words are not just pleasantries.

I commend the two able Senators who are handling this important legislation.

Alan Simpson, of Wyoming; it is not wrong for me to say that I had the privilege of serving with his very constructive father, who was a Member of the Senate.

Also, I am delighted, of course, to serve with Senator Kennedy, of Massachusetts, as I was privileged to serve with Jack Kennedy and Bob Kennedy.

To be specific, I believe Senator Kennedy made a statement a few minutes ago in his constructive presentation which, though I may not have heard the exact words, he commended those aliens who are living productive lives, contributing to their own economy and the economy of the United States.

I wanted at that point to ask the Senator if it is not a fact that in commending the aliens who are working in this country, we are intensely interested in the process of the aliens becoming citizens of the United States of America.

Mr. KENNEDY. If the Senator will yield, the Senator, as in so many cases, has put his finger on the heart of the issue. The best estimate that we have at the present time is that we have some 6 million undocumented aliens living in the United States, and they live in what you might call a subclass because they fear being discovered and deported. They are exploited; their children are exploited. I believe that one of the prime purposes of this bill, and one purpose which I heartily endorse, is that we are going to reach out to those who, through their efforts, their enterprise, their employment, have indicated a willingness to be constructive and positive members of our society, and that we are going to legalize their status and eventually move them toward citizenship, with both the privileges and responsibilities of citizenship.

Mr. RANDOLPH. I am grateful for the further comment of the Senator. I do not want to be misunderstood. It is not my intention to indicate that the Senator's statement in any way was meant to emphasize that aliens are here and they are working, and we are not too interested in whether they become citizens of the United States. That was not the implication of the Senator and he has so stated.

But I do feel that in this country we do not have the surveillance—I hope I use the word properly of situations in which aliens supply so much of the labor, especially in our hotels and restaurants.

I have no desire to mention something that does not have a background of fact, but I have been shown from time to time information which indicate to me that some who are operating hotels, restaurants, and eating places, are really encouraging the aliens to work in their places of business. But they are not in any wise interested in these aliens becoming citizens of the United States of America. The owners and operators of these establishments are encouraging the employment of aliens and are not interested. They do not help the aliens; they do not encourage the aliens to pursue the processes of becoming actual citizens, with, as the Senator has indicated, the rights and responsibilities and, yes, the use of the American ballot. Does the Senator believe that condition exists?

Mr. KENNEDY. The Senator has correctly stated the condition in many parts of this country where employers hire undocumented aliens and exploit them in a cruel and harsh way. That, I think, is an inhumane policy.

It is part of the purpose of this legislation to deal with that problem.

Illegal immigration has the secondary impact of depressing wages for American citizens, so American citizens are also affected by this kind of exploitation.

We have the problem of what we do with the undocumented aliens who are already here, and we hope to make them legal. They are working and trying to provide for their families. When they do get arrested, they are the ones who wear the handcuffs down to the jail. The employer, who has been the exploiter here, spends the evening at home and, in many instances, goes out and tries to find another group to exploit.

Mr. RANDOLPH. Madam President, a final comment: I have been intensely interested in this subject matter for many years—not that my contributions to the development of legislation have been in any sense substantial. I do not serve on the committee that has jurisdiction over this important type of legislation.

I want again to say for the record, however, that when we had this matter before us, it seems only a few months ago, we gave very close attention to improving the immigration policies of the United States. Is that correct, I ask of the Senator from Wyoming.

Mr. SIMPSON. Let me say, Madam President, to my colleague that indeed, that was the basic reason, the issue being—just as it is now—in its most crystalized form that it is the first duty of a sovereign nation to control its borders. We do not. And second, in order to reduce the flow of illegal, undocumented workers in the United States.

The thrust of the legislation has never changed. That is the very essence of it, providing the three-legged stool of employer sanctions against those who knowingly hire aliens, fraud-resistant identification cards, which will be adopted in 3 years, and increased enforcement abilities in our Nation.

Mr. RANDOLPH. Madam President, I thank my colleague. As the record shows, I did support the legislation when it was earlier before the Senate for action. This is a further development of that legislation, is it not?

Mr. SIMPSON. Madam President, it is the very essence of the legislation which passed this body in August of 1982 by a vote of 80 to 19, with some very important additional considerations placed in the bill in full committee by Senator Kennedy, which have to do with reducing the fear of discrimination and opening up family reunification. Those changes in full committee have improved the bill.

In essence, it is, in every word, similar to that bill with those exceptions of the improving amendments of Senator Kennedy in the full committee.

Mr. RANDOLPH. Madam President, of course, from time to time in this legislation and other legislation, Members support amendments or oppose amendments, but there is always the basic thrust of legislation which I have tried to look at on each decision-making process in which I engage. Having supported the earlier legislation to which we make reference, I shall support this legislation.

It is my desire to have the Senate do as it did before by a vote of 80 to 19.

I hope that our colleagues will continue to protect American workers, and protect those who come to our shores and wish to become citizens and do become citizens of this country. We all hope there may be in this Nation an equity not only for the employer to the employee, but the employee to the employer. That must be a part of a productive America.

I thank the Senator very much.

Mr. SIMPSON. Madam President, I thank Senator Randolph. His support on any piece of legislation is cherished, because I have been on the other side on some of those questions and I remember well that I would rather be on his side. He was chairman of the Environment and Public Works Committee in my early days here. He also served with my father. Indeed, he is the epitome of kindness and courtesy in this body and I appreciate his attention to detail, as is usual here.

Equities are what we try to obtain with this legislation for those who immigrate here in the hopes of achieving citizenship and the benefits which accrue with that honor, as my colleague has already stated.

AMENDMENT NO. 1215

(Purpose: To terminate provisions relating to the unlawful employment of aliens if the Comptroller General reports that certain adverse conditions have resulted from carrying out such provisions)

Mr. KENNEDY. Madam President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Massachusetts (Mr. Kennedy) proposes an amendment numbered 1215.

Mr. KENNEDY. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

S. 529

On page 212, line 7, insert "(a)" after "Sec. 403.".

On page 213, between lines 5 and 6, insert the following:

(b)(1) The provisions of section 274A of the Immigration and Nationality Act shall terminate 30 calendar days after receipt of the last report required to be transmitted under subsection (a), if—

(A) the Comptroller General determines, and so reports in such report, that a widespread pattern of discrimination has resulted against citizens or nationals of the United States or against eligible workers seeking employment, as a result of carrying out such provisions; and

(B) the Congress, within such period of 30 calendar days, adopts a concurrent resolution stating in substance that it approves the findings of the Comptroller General contained in such report.

(2) Any concurrent resolution referred to in clause (B) of paragraph (1) shall be considered in the Senate in accordance with subsection (d).

(c) For the purpose of expediting the consideration and adoption of concurrent resolutions under subsection (b), a motion to proceed to the consideration of any such concurrent resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(d)(1) For purposes of subsection (b), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

(2) Paragraphs (3) and (4) of this subsection are enacted—

(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of concurrent resolutions referred to in subsection (b), and supersede other rules of the Senate only to the extent that such paragraphs are inconsistent therewith; and

(B) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner and to the case of any other rule of the Senate.

(3)(A) If the committee of the Senate to which has been referred a resolution relating to a certification has not reported such resolution at the end of ten calendar days after its introduction, not counting any day which is excluded under paragraph (1) of this subsection, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution introduced with respect to the same certification which has been referred to the committee, except that no motion to discharge shall be in order after the committee has reported a resolution with respect to the same certification.

(B) A motion to discharge under subparagraph (A) of this paragraph may be made only by a Senator favoring the resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution, the time to be divided equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(4) (A) A motion in the Senate to proceed to the consideration of a resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

Mr. KENNEDY. The amendment has already been printed in the Record. I shall explain it.

In this legislation, Madam President, we are setting up a whole new process of employer sanctions. It is an elaborate process. It is an attempt to try to eliminate the pattern and practice of employers who hire and exploit undocumented aliens for some of the reasons that we have outlined in our earlier exchange during the course of this debate.

There is, Madam President, I think, a genuine and, I believe, a legitimate concern among many American citizens whose skin may not be white and who, perhaps, cannot trace their ancestry to an Anglo-Saxon tradition, that they may not look "American;" therefore, when they go to get a job, they will be told that they will not receive consideration for employment because they do not have either adequate paperwork or other kinds of certification to indicate that they are, in fact, citizens.

Mr. President, over the history of our immigration laws, when there have been provisions in the immigration law that have lent themselves to the possibility of discrimination, they have been used in tragic circumstances to discriminate. We are embarked on a whole new process now to deal with undocumented aliens and to try to reach where the real problem exists. That is with the employers who are involved in a pattern and practice of exploitation of undocumented aliens.

What we have done in the earlier work of the Judiciary Committee—and I am grateful to the chairman for his willingness to consider the concerns which I have addressed—is require the General Accounting Office to report every 5 years to the Congress on whether a pattern of discrimination has developed in the implementation of employer sanctions.

We also encourage the Civil Rights Commission, which is mentioned in the report, to do a study as well and make that information available to the Senate and the House of Representatives.

It requires the Judiciary Committees to hold public hearings and to act on any GAO recommendations for remedial action. This is in the bill now.

In the committee, I offered an amendment saying that based upon these studies by the GAO and by the Civil Rights Commission, we would require the President of the United States to make a certification in 5 years that there was no pattern of discrimination. And if there was not a pattern of discrimination, then employer sanctions would remain in law. But if he could not certify that they were not being used in a discriminatory way, they would effectively be sunsetted.

Now, this body permits Presidential certification on a variety of different pieces of legislation. Most of them, agreeably, legitimately refer to foreign policy matters but most of them involve human rights violations. I have been the author of several of them. We, for example, several years ago prohibited military aid and assistance to Chile unless there was going to be a Presidential certification on the issue of human rights. We prohibited military aid and assistance to Argentina unless there was going to be a Presidential certification on human rights. We even considered and debated that issue, and that was somewhat modified, with regards to El Salvador a number of years ago.

Madam President, I believe that if this body is prepared to be sufficiently concerned about the issue of human rights and discrimination in other countries, we ought to be prepared to be interested in the human rights and discrimination of the people in this country.

I know an argument can be made: Well, if there does develop a pattern of discrimination, the Congress can always act. Perhaps they will act prior to the period of 5 years as a result of the GAO studies or the Civil Rights Commission's report.

Well, history teaches us to the contrary, Madam President, and no clearer example is the fact that we had blatantly discriminatory language in the national origin quota system for 50 years prior to 1965. We had blatantly discriminatory language in the immigration laws up to 1965 with regard to those that came from Asia, still following in what was generally defined as the "yellow peril," so to speak. That particular provision on restricting immigration from that area which is described in geography and in the legislation but includes basically Asians, that language stayed in the act for 50 years, even though many Members of this body, Republican and Democratic alike, pointed out to this membership the discriminatory aspects on the face of it.

In offering this amendment, I do not doubt for a moment the commitments that have been made by the chairman of the Immigration Subcommittee, Senator SIMPSON, whose record in this body and before coming here has stood valiantly against any form of discrimination and bigotry. He certainly has shown that in his legislative record as well as by his own personal commitment. But we are putting into law, Madam President, this language. Who knows, over the longer period of time, what will be the view of this body or the other body and what kinds of flames and passions of discrimination that—hopefully not—may arise.

Madam President, that was the amendment that I offered in the Judiciary Committee, and I have counseled with a number of my colleagues about the Presidential certification. They have indicated to me, and I think wisely so, that they felt that we might gain greater support and achieve the objectives of that amendment if we said, instead of a Presidential certification, that we would permit both Houses of the Congress to act on the recommendations of the GAO. If both Houses were to act within a 30-day period, if they were to follow the recommendations of the GAO, then this particular provison would be terminated. If not, then it would continue. If sunsetted, it would be open to the possibility of additional congressional action.

I hope, Madam President, that if we are going to embark on this step of employer sanctions, if we are going to build it into the statute—and there are real possibilities of it being used in a discriminatory way—we ought to build into the law a mechanism which can give us in the Congress, not just leave it to the President, but give us an opportunity to speak to that issue.

That basically is what this amendment does, Madam President, and I hope that the Senate will accept it.

Mr. SIMPSON. Madam President, I am always impressed by the spirit of the Senator from Massachusetts, as he speaks from great personal drive and energy on immigration issues. In fact, he and my father came to the Senate in the same year, 2 years before the turmoil on civil rights. We know, without any reference the intensity to which the Senator has always followed in his own mind and heart, those issues of discrimination. But I do not believe that this amendment is required, and I speak against it. Employer sanctions are the very keystone of immigration reform. That was the essence of the first reform, and it remains the essence of the present reform. As the keystone of immigration reform, it is the built-in mechanism for success in this measure, and sunsetting this provision only 2 years after the program has been fully implemented would not allow us to have a fair opportunity for Congress to observe or to implement these changes. The program will not be fully implemented until after the "more secure worker authorization system" has been developed within the first 3 years. Unfortunately, and I guess this is the reality of the issue of discrimination, employment discrimination does exist today in this Nation. Even without employer sanctions, that is happening. That is a reality of public life in America. Employment discrimination exists. But I have no doubt that employment discrimination will continue to exist after employer sanctions have been implemented. It will continue to exist in the hearts and minds of those who wish to discriminate and who choose to harbor those ugly dispositions in their bosom. They will continue to do so whether we have employer sanctions or whether we do not. That is a reality.

I believe we have included provisions in this law which make it most difficult for an employer to discriminate against a potential employee on the basis of race or national origin.

It will be very difficult for the GAO or anyone else, I think, to determine whether or not employer sanctions cause employment discrimination or an increase in employment discrimination. In the situation of those persons who choose to discriminate, they will find a way to do that regardless of what legislation is set upon the books.

Each of us here is concerned with employment discrimination as well as any unreasonable burdens on employers, and the committee has provided for an independent review and reports to Congress by the President and by the GAO.

The General Accounting Office will be reporting—and this is very important in order to know what we have in here already—to both the Labor Committees and the Judiciary Committees of Congress, each year, on employment discrimination. Under the bill as presently drafted, those committees will then hold hearings on the GAO reports and recommend appropriate remedial action to Congress.

If employer sanctions do result in any new discrimination, it will be quickly red-flagged by those reports. Congress can then take appropriate action.

In our report language, the committee cites the Civil Rights Commission's jurisdiction to study and report on employment discrimination, and the committee urges that Commission to perform that function.

As I say, Madam President, all of us are concerned about human rights and discrimination in this country. That is why we have provided a very carefully crafted bill: with Presidential reports every 18 months, with GAO reports every year on discrimination, with mandatory hearings, and with increased authorization for funding for the EEOC.

This bill contains more safeguards than any other employer sanctions bill previously considered in Congress, and certainly more protection than the bill that passed last summer by a sizable margin.

So, I do believe, sincerely, that this amendment will only add an unnecessary and repetitive structure to the safeguards already there and will not allow us sufficient time with the 3-year identifier system that will go in place. Two years is not enough.

Congress will be watching. I cannot imagine another area in which Congress would be watching more. Not one person here would allow that to continue if it is going to be disclosed, and the mechanisms are here to disclose it very clearly.

For those reasons, I speak against the amendment.

Mr. WILSON. Madam President, I have listened to the debate between my friend the Senator from Massachusetts and my friend the Senator from Wyoming with the greatest interest.

I think that the Senator from Wyoming, who has done a yeoman job in attempting to craft a bill that will deal with a real and urgent problem, and do so in an equitable fashion, has said some things that are true. There is no question that, under his leadership, his subcommittee has sought to address the problem of discrimination. As the Senator from Massachusetts has pointed out, there is no question as to the sincerity and the good faith of the effort evident in the leadership provided by the Senator from Wyoming. He is concerned and has demonstrated that abundantly.

I suggest, however, that notwithstanding that concern, the provisions proposed by the Senator from Massachusetts in his amendment are necessary.

There is in the bill a 3-year procedure, and the amendment offered by the Senator from Massachusetts requires that reexamination occur within 2 years of enactment of this legislation. I believe that is a wise provision. I think the procedures he has outlined afford greater protection than would be offered by the bill unamended, to guard against the kind of discrimination that the Senator from Massachusetts and the Senator from Wyoming—and presumably every other Member in this Chamber—hope to avoid. I hope they will be avoided if this legislation is enacted, but I have the most grave doubts, because the discrimination is likely to be defensive and exploited by fear of sanctions. It is likely to occur on the part of those who do not wish to break the law—small businessmen, not lawyers, not those eager to engage the services of lawyers to counsel them.

So, the most sophisticated procedures, the efforts to craft a procedure in this bill, may be unavailing in reaching the concerns and simple fears of small businessmen and businesswomen who, seeking to avoid the sanctions of the law, might do something they would not otherwise do, and that is to engage in a defensive discrimination, refusing to give employment to those who look or sound foreign—ironically, even though they are American citizens.

It seems to me that great irony mars this legislation. It is intended to protect the jobs of American citizens. It may very well wind up threatening the employment opportunities for American citizens.

I think the Kennedy amendment affords some protection—that, if indeed discrimination does result, it will be addressed early and with greater certainty than under the provisions of this legislation.

For that reason, I will support the Senator from Massachusetts in his amendment. I hope Senator SIMPSON is vindicated in his expectation that there will not be discrimination; but, frankly, I do not think we can rely on that hope. I believe we have to have certain procedures, and early procedures, to make certain that discrimination does not occur.

Mr. KENNEDY. Madam President, I thank the Senator from California for his splendid statement on this issue.

I believe many of us are aware that California is the largest agricultural State in this country. I think that for the Senator from California to speak about these needs and these concerns, with his experience, is of great value to the Members of this body.

I do not intend to take a great deal of time, but I just want to sum up very quickly what this amendment does and what it does not do.

What this amendment does is to say that if the GAO, the General Accounting Office—which I believe has the confidence of the Members of this body and of the American people, Democrats and Republicans alike—makes a finding of a widespread pattern of discrimination, the House of Representatives and the Senate of the United States cannot duck that issue. You have to vote yes or no, but you will have to vote.

I do not understand, if we are going to have that kind of finding—"widespread pattern of discrimination"—why there should be any reluctance or resistance to requiring that Members of this body make a study of those results themselves—the GAO—and vote yes or no to accept or reject them.

That is all this amendment does. What this amendment does is to say that not only the Senate of the United States but also the House of Representatives has to make a finding of widespread discrimination; and if that is true, then this provision of employer sanctions is sunsetted until there is some action by the appropriate committees. There is no other remedy, other than general oversight by the committee.

There is also the hope of increasing the authorization for the various other enforcement agencies, which I am grateful we have been able to do. We do not have much assurance that there is going to be that kind of increase in appropriations. Generally, that has not been the case.

The Fair Labor Standards Act is not generally enforced in this country in terms of minimum wage. As to the other Federal legislation, I think as a member of the Human Resources Committee I would have to say, whether it is fair labor standards or other kinds of protections for workers, they are not broadly and generally enforced in this country.

I am glad that we have an increase in the authorization in this bill. I am hopeful that we will get the money this year and in future years to see that the Labor and Justice Departments will enforce laws against discrimination.

But this is very basic; it is very fundamental. It reaches the core value of our society, and it addresses what I consider to be an extremely important need in this legislation.

Mr. SIMPSON. Madam President, in just a short time in this body the Senator from California has fastened on to this issue with great interest and great enthusiasm and a very sincere effort to come to find what it is that we are trying to do to this legislation.

I have really admired the, I am going to call it, prowess with which he has followed the issue. I have visited with him several times informally and was always very fascinated as to how quickly he came to a grasp of it. But, of course, he was a mayor of a city that is heavily, heavily impacted by illegal undocumented workers and has a heavy grower constituency. It is most difficult for any Congressperson from the State of California, as I indicated before, to support this measure, and we start with that as a given, and it is not said with a sigh of fatigue. It is just reality. They are ripped to shreds by the constituencies of their State.

I am interested in the phrase, however, and I still call the Senate's attention to the fact that we do not need this amendment. But the phrase that Senator WILSON addresses is "defensive discrimination," and I can only assure the Senate that defensive discrimination as described is much less likely to occur here when we provide the simple and reasonable procedure for the employer to determine employment eligibility. That is what the bill does.

In final response I call the Senate's attention to the bill itself, S. 529, on page 212 and ask Senators to know that this is what will happen, that we need not leave it to conjecture as to whether this issue will be pressed before Congress to be addressed, because here is what this bill does:

> (2) In the enforcement of such laws, the Attorney General should take due and deliberate actions necessary to safeguard the constitutional rights, personal safety, and human dignity of United States citizens and aliens.
>
> REPORT BY THE COMPTROLLER GENERAL
>
> SEC. 403. Beginning one year after the date of enactment of this section, and at intervals of one year thereafter for a period of five years after such date, the Comptroller General of the United States shall prepare and transmit to the Committee on the Judiciary and the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate a report describing the results of a comprehensive review of the implementation and enforcement of the provisions contained in the amendment made by section 101(a) of this Act during the preceding twelve-month period, for the purpose of determining if—
>
> (1) such provisions have been carried out satisfactorily;
>
> (2) a pattern of discrimination has resulted against citizens or nationals of the United States or against eligible workers seeking employment; and
>
> (3) an unnecessary regulatory burden has been created for employers hiring such workers.
>
> Such committees shall hold public hearings on the contents of each such report and shall submit their findings and recommendations for remedial action, if necessary, to their respective House of Congress not later than 60 days after the date of receipt of any such report.

I do not see how anything further could be developed that would more particularly force us to address an issue which even—if it were not fair—we would address as compassionate Members of a Congress, watching to see that our citizens were not discriminated against.

I speak against the amendment, the protection is there. It is already there.

Mr. THURMOND. Madam President, are we under a time limitation?

The PRESIDING OFFICER. We are not under a time limitation.

Mr. THURMOND. Madam President, the amendment offered by the distinguished Senator from Massachusetts (Mr. KENNEDY) would, in effect, sunset or terminate the provisions in the bill relating to employer sanctions if a 5-year GAO study finds that a pattern of discrimination has resulted and both Houses of Congress concur in such finding.

Mr. President, the heart of this measure to try to control illegal entry into the United States is the employer sanctions and related provisions. This should be a permanent part of the enforcement laws to force employers to minimize their reliance on illegal aliens and to utilize lawful foreign worker programs to meet their labor needs. If an unintended effect turns out to some degree of discrimination or burdensome screening during the 5-year study period, it is by no means clear that the best way to deal with such effects is to summarily terminate these employment provisions. The amendment is premised on the theory that Congress will not take seriously its responsibility to review the operation of this new program after 5 years and make appropriate corrective action, if necessary. In my judgment, the provisions in this bill are sound and should become a permanent part of the immigration laws. Only then will employers use the system and shift reliance to legal workers.

Madam President, if there is discrimination in this matter, there is a way to punish discrimination. But are we going to terminate a law simply because someone has discriminated in some way? That does not make sense.

What we are trying to do is to keep illegal aliens from coming to the United States.

And are we going to sunset the law because some individual had discriminated against some person who applied for work?

There is a way to punish those people. Let them be punished under the law. But do not punish all the people of this country by letting illegal aliens enter in violation of the law simply because some person has not conformed to the law in this matter.

Madam President, this is a very important provision. The administration and the Immigration Department are all very interested in this provision. This is the heart of the bill to keep out illegal aliens. And why should it not remain the permanent law of the land until Congress sees fit to change it?

Congress can change it if it needs changing. But do not sunset it. Let Congress act if it does not work out.

Mr. KENNEDY. Madam President, I thought that one of the basic and fundamental values of this society was to root out patterns of discrimination where they exist.

We have seen over the course of our history where we have had patterns of discrimination and Congress has been extremely slow and reluctant in addressing those problems.

What we are saying with this amendment is that when we have a 5-year documented case of a widespread pattern of discrimination, the Members of Congress should have to vote yea or nay. They cannot duck their responsibility.

We have all been around here long enough to know that Congress many times is unwilling to face its responsibility in far too many instances.

I would hope that on the issue of discrimination, after we have the GAO report with this kind of finding, we will give a guarantee to the American people that we will at least require that Congress will vote up or down on it.

Finally, Madam President, I hope that during the start of this debate we are not going to hear a lot of comments from those who opppose our amendments that "Well, you cannot afford to support this because you represent them."

I would hope that we would be beyond questioning individuals' motivations or who they stand for. I am proud to stand and receive support from Hispanics and from other groups in this society. I quite frankly feel over the period of the history of this country they have been subject to a great deal of exploitation and discrimination, and if that is going to disqualify me from voting in favor of this, Madam President, then I think we have gone a long way in terms of retreat from what we hope this body should be.

The fact of the matter is that more than 45 percent of the undocumented aliens in our country are not Hispanics. They come from other countries around the world.

This is a nationwide problem, more serious in some parts of the country than in others. But the issue of discrimination is a nationwide issue and it is a nationwide concern.

It seems difficult for me to think that in the 1980's if you have this kind of a presentation made to the Congress that this particular provision is used in a discriminatory way, that Congress would not deal with it. I am hopeful it will not be, and it may not be—and as the Senator from California stated we earnestly hope it will not be—but it may be, and we know too much about past immigration policies not to be concerned about it.

We know too much about the kinds of individuals who are involved in the exploitation of undocumented aliens, unsavory individuals who continue to exploit these individuals and who exploit children under the most desperate kinds of conditions. That is taking place in this country today.

This amendment, Madam President, is to insure that if that pattern of discrimination is found, Congress will have an opportunity to vote up or down on it. For the reasons I have outlined I hope it will be favorably acted on.

Madam President, I ask unanimous consent that Senator BINGAMAN be made a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. Hatfield), the Senator from Idaho (Mr. McClure), and the Senator from Vermont (Mr. Stafford) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "nay."

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. Biden), the Senator from Connecticut (Mr. Dodd), the Senator from Colorado (Mr. Hart), the Senator from South Carolina (Mr. Hollings), and the Senator from Louisiana (Mr. Johnston) are necessarily absent.

I further announce that the Senator from North Dakota (Mr. Burdick) is absent on official business.

The PRESIDING OFFICER (Mr. Rudman). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 40, nays 51, as follows:

[Rollcall Vote No. 64 Leg.]

YEAS—40

Bentsen
Bingaman
Boren
Boschwitz
Bradley
Chafee
Chiles
Cranston
D'Amato
DeConcini
Dixon
Domenici
Eagleton
Exon
Glenn
Hatch
Heflin
Heinz
Inouye
Jackson
Jepsen
Kennedy
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Packwood
Pell
Riegle
Sarbanes
Specter
Symms
Tower
Tsongas
Weicker
Wilson

NAYS—51

Abdnor
Andrews
Armstrong
Baker
Baucus
Bumpers
Byrd
Cochran
Cohen
Danforth
Denton
Dole
Durenberger
East
Ford
Garn
Goldwater
Gorton
Grassley
Hawkins
Hecht
Helms
Huddleston
Humphrey
Kassebaum
Kasten
Lautenberg
Laxalt
Long
Lugar
Mathias
Mattingly
Murkowski
Nickles
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Roth
Rudman
Sasser
Simpson
Stennis
Stevens
Thurmond
Trible
Wallop
Warner
Zorinsky

NOT VOTING—9

Biden
Burdick
Dodd
Hart
Hatfield
Hollings
Johnston
McClure
Stafford

So Mr. Kennedy's amendment (No. 1215) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 1216

(Purpose: to extend the period during which an alien may be eligible to be adjusted to the status of being admitted to the United States for temporary residence)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. KENNEDY. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senate is not in order. The Senator will suspend until the Senate is in order.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. The amendment has not yet been stated. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. Kennedy) proposes an amendment numbered 1216.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 184, line 20, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 187, line 7, strike out "January 1, 1980" and insert in lieu thereof "December 11, 1981".

On page 187, line 9, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 187, line 13, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 187, line 15, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 187, line 17, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 187, line 19, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 188, lines 6 and 7, strike out "January 1, 1981" and insert in lieu thereof "December 31, 1981".

On page 188, lines 9 and 10, strike out "December 31 1980" and insert in lieu thereof "December 30, 1980".

On page 188, line 20, strike out "December 31, 1980" and insert in lieu thereof "December 31, 1981".

On page 188, line 23, strike out "December 31, 1980" and insert in lieu thereof "December 30, 1981".

On page 193, line 15, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 193, line 17, strike out "January 31, 1981" and insert in lieu thereof "December 31, 1981".

On page 198, amend the item between lines 5 and 6 to read as follows:

"Sec. 245A. Adjustment of status of certain entrants before December 31, 1981, to that of person admitted for temporary or permanent residence.".

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I do not expect we will need a long time on this amendment since the subject matter was considered last year when we debated this issue. But it is, I believe, an extremely important amendment and reaches to the heart of the immigration bill. That is, what will be the date that this legislation will include in order to deal with the issue of legalization?

There seems to be, Mr. President, two fundamental pillars of this legislation. One is the enforcement provision, which we have addressed and have addressed previously. The other is what we call the legalization program, which will permit those millions of individuals who have lived here, and have been exploited over a long period of time, to adjust their status and then, over a longer period of time, move toward citizenship.

This issue has been thoroughly reviewed and discussed in the Select Commission. We spent a long time on that issue in the Select Commission.

The bill establishes as the cut-off date for legalization as January 1, 1980. That is what is now in the bill. That date is basically an arbitrary date. It was the date when the issue was raised in the Select Commission back in 1980. It was the view of the members of the Commission that if we were going to address that issue, we ought to establish a date at the time when the issue was first addressed. If we placed it prospectively, it could serve as an incentive for people to come to the United States because they would think they might be eligible for legalization. So the January 1980 date was established.

Now we have moved beyond the period of time, Mr. President, when we have not had the employer sanctions in effect. This bill passed here over a year ago, but it did not pass the House of Representatives. The number of undocumented individuals has grown.

This amendment is a simple amendment. Instead of having January 1, 1980, we have December 31, 1981.

I think, Mr. President, we would be optimistic to think that this legislation will actually be enacted by the end of this year. Maybe it will, and I am hopeful that whatever legislation is eventually accepted, it will be acted on at an early time. But, basically, what we are talking about, if we accept the amendment that I offer here, is if the individual and his family or the individual himself will have lived here in the United States for a period of 2 years, he is eligible for legalization. I think if a person has been living here for a period of 2 years, and wants to make an adjustment of his status, that is sufficient time for a judgment to be made about their productivity, about their commitment, about their involvement and ties to the community. They would be able, if this amendment is accepted, to move through the process which has been established in this legislation, which even makes them ineligible for social programs for a period of time. They will be paying their taxes, but they will be ineligible for a wide variety of social programs, so they will not be a financial drain.

What it will do, Mr. President, is put them on the track toward normalizing their status and reaching what is one of the horrendous situations in our society. that is the continued exploitation of this subclass.

Mr. President, the number of individuals who are undocumented has to be a best guess. I think we can use the best information that we do have available. That is by the Immigration Service. As of March of this year, they estimated that we have 6 million undocumented aliens in the United States at the present time. If we accept the cut-off date that is in the current bill, only one-third of those individuals will be able to adjust their status. It does not seem to me to make a lot of sense, either on the merits of the issue or even on the politics of it. If this body is going to be asked to bite the bullet on legalization, if we are going to be held accountable politically for biting the bullet and moving toward legalization, and yet not really address the issue, because only one-third of the individuals will be eligible, according to the INS, then we are getting the worst of both worlds.

If we accept the amendment that I offer, approximately two-thirds of the individuals who are in the country and are undocumented will be eligible to adjust their status.

It seems to me that that is a more realistic approach toward this problem if we are concerned, as the various studies have shown, about the exploitation of this sub-class within our society, with all of the social implications that it has and continues to have in terms of our system.

It seems to me, Mr. President, if we are moving ahead with an employer sanction program, the day this bill passes, fairness and equity would argue that we ought to move ahead with a legalization program as well on that date, if we are going to balance it. However, I know that that is unrealistic. So the figure that we have stated would be December 31, 1981, which will be in effect, probably, a 2-year period away from the time this bill is actually enacted into law and which will, I think, make a meaningful dent in the group that we intend to address with this particular provision of the legislation.

Mr. President, I ask unanimous consent that the statistics compiled for me by the INS on the undocumented aliens estimated to be covered by the various cutoff, residency dates, be printed at this point in the RECORD.

There being no objection the statistics were ordered to be printed in the RECORD, as follows:

STATISTICS

What is the estimated length of continuous residency of the general illegal alien population?

Estimates of the length of continuous residency of illegal aliens are based on surveys of small samples of the illegal alien population including both apprehended and unapprehended aliens.

It is also assumed that as may as 200,000 persons, who in the past were given some "deferred status" in which no action is taken by INS to deport them, would now come forward. For this reason, the number assumed to qualify for immediate adjustment to permanent resident alien status may appear quite high.

Length of continuous residency	Percent of total illegal population	Maximum eligible for legalization—	
		With 3.5 million estimate	With 6 million estimate
Year:			
1	80	2,800,000	4,800,000
2	60	2,100,000	3,600,000
3	45	1,575,000	2,700,000
4	30	1,050,000	1,800,000
5	20	700,000	1,200,000
6	15	525,000	900,000
7	10	350,000	600,000
8	7	245,000	420,000
9	6	210,000	360,000
10	5	175,000	300,000

Source: Immigration and Naturalization Service.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, of course, this amendment would create a more current cutoff date for legalization. It has been before us in the past, in 1982, previously addressed as January 1, 1982, and now December 31, 1981.

The Select Commission on Immigration and Refugee Policy voted 16-to-0 that the legalization cutoff date would be January 1 of 1980 in order that the discussions of legalization would not serve as a stimulus to persons abroad to migrate illegally to the United States in the hope of qualifying for it. In other words, we wanted to set a date that was prior to the date we first talked about "amnesty," and even at that time, I believe, the INS indicated a surge in illegal movement when we began to talk about legalization. That is why we have set this date.

A principal justification of the entire area of legalization is to recognize equities which are acquired by undocumented persons who have lived and worked in their communities for a significant length of time. This would not include those who have come here only in the past 18 months, as is proposed in this amendment.

Here we are attempting to assure the American people that legalization is a one-time-only program. Moving the legislation cutoff date up a year each time the bill is considered would greatly lessen that commitment. There are no firm numbers available to the committee, there never were. We deal with an illegal population. We cannot say how many will be eligible for legalization under the provisions in the bill or under the provisions of this amendment. All numbers are speculative, all are simply guesses.

The purpose of legalization—I think this is a key element—is not to include the largest number of aliens that is possible; it is to bring forward into legal status those who are most deeply entrenched in our society and who would be less likely to return home when job opportunities are no longer available. That is the key.

The legalization program is fair, reasonable, and generous. It is the most generous that has ever been offered in any nation of the Earth. I see no compelling reason to change the provisions which this body so strongly supported only 8 months ago, for the vote on that amendment, the so-called Grassley amendment, was 84-16. It is the most generous provision in the bill. It cannot be challenged on the basis of not recognizing humanitarian concerns because, without legalization, indeed, then we shall not have employer sanctions. They go together.

You either have employer sanctions and legalization or neither. You do not have one and not the other. So I would say that we have a generous proposal. I hope that this amendment will be rejected.

I yield to my colleague from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, with all due respect to the proponent of the amendment, who I know has very good intentions and is following a strong philosophical belief on this subject, I must rise in opposition to this amendment which extends the eligibility date for legalization. We should not disturb the delicately crafted compromise which we accepted last year and which is continued in this bill without some very good reason for doing it. So far, there has not been a good reason presented to extend legalization further than what we do in this compromise.

My amendment last year created the legalization procedure which is part of the bill that is up for discussion today. I believe that compromise is still very valid.

My amendment was part of a package carefully balancing the interests of many different groups. Some wanted more legalization—and others, wanted no legalization. Most were unhappy with the proposal that legalization be extended to January 1, 1982. Last year we voted strongly, by a vote of 84 to 16, to accept my compromise amendment instead of what was originally before us.

The amendment before us today is almost exactly the same as the one we defeated last year. The only difference is the date of December 31, 1981, instead of January 2, 1982.

Despite the defeat of this proposal last year, I could accept the advancement of the date for legalization if there were some very good reason for so doing, but I have heard no reason for changing the compromise we made last year. The reasons we considered during our preparation of the compromise last year are still very valid. I should like to present those reasons.

The date we selected as a final eligibility date, January 1, 1980, is still very recent. The Immigration Service estimates that 2 million illegal aliens will come forward for legalization if we use that date. We have to keep in mind that the Immigration and Naturalization Service also believes that many other illegal aliens will not come forward for legalization no matter how recent the date might be.

We selected the date of January 1, 1980, for good reasons. There is no corresponding good reason to move the date forward. We selected 1980 because it was the time at which the Select Commission on Immigration and Refugee Policy began discussing the possibility of granting amnesty to illegal aliens. Many of the aliens who entered the United States since have come because they were waiting for the promised amnesty.

We intended to grant permanent residence only to those aliens who could demonstrate some ties to their communities and to the United States, those people who more or less are integrally involved with the community and a part of the community, not people who just flocked across the border after there was talk of amnesty. Since it will be extremely difficult to determine which aliens were in the United States continuously since the cutoff date, we need to establish a reasonable cutoff date that we can be assured will be enforced. The 1980 date is sufficiently far back in time to insure that the amount of fraud and abuse in the system will be minimized. An advanced date like that suggested by this amendment, especially since aliens began planning for amnesty after 1980, would be much more difficult to enforce.

None of these reasons for selecting 1980 as the cutoff date have been changed by the failure to enact the bill last year. The only reasons given, is to include more illegal aliens in the legalization. Frankly, I do not think that that is a very good idea and consequently that is further reason the amendment of the Senator from Massachusetts should be rejected.

We do not want to grant legalization to all illegal aliens, otherwise we would have granted a far more broad amnesty in the first place. We are creating a legalization program for some illegal aliens, and the illegal aliens that fall into this class are those with long residence in the close ties to this country, the United States. This is not a blank grant of amnesty but a carefully planned balancing of generosity with wisdom about the effects of widespread illegality.

To summarize, we defeated this amendment last year by changing the bill to the compromise now in the bill. We have good resons for selecting the dates we used last year. None of those reasons have changed. No new good reasons have been offered for advancing the legalization date. Therefore, I urge my colleagues to vote against the amendment as we did last year.

Mr. SYMMS. Will the Senator yield at that point?

Mr. GRASSLEY. Yes, I will yield.

Mr. SYMMS. What is the compromise that is now in the bill?

Mr. GRASSLEY. The compromise in the bill is only the people in this country prior to January of 1977 are granted permanent resident status.

Then the people who are here between January of 1977 and January of 1980 are granted temporary resident status. All people who have come into this country since January 1 of 1980 would not be legal aliens. Their status in this country would not be legalized, and they would have to go home to the country of their lawful residence.

In addition to that portion of the program in this country, those who are temporary residents can receive no benefits in the way of food stamps, welfare, or the like that people qualify for who are otherwise legally in this country. Those who are permanent residents would have to be in this country 3 years before they would qualify for that same category.

Mr. SYMMS. If I may ask an additional question.

Mr. GRASSLEY. Let me point out that this latter issue has a lot to do with the budgetary impacts of legalizing people who are in this country.

Mr. SYMMS. If I may ask, what is the difference in the welfare benefits prior to 1977 and after 1977 and as they are presently in the bill?

Mr. GRASSLEY. Of course, now these people in no way could qualify, because they are illegally in this country, for welfare benefits. Now, that does not mean some of them might not be getting such benefits. But the bottom line is that for some, when they were given legal status under this amendment, they could immediately qualify. There was a tremendous budget impact as a result, so we wanted to limit that. But the more important reason for the compromise is that we just feel that you should have some attachment to the community, you should be a part of the economy. You probably have been contributing to that economy but that new legalized status should be reserved for people who have been in this country for a considerable length of time.

The amendment of the Senator from Massachusetts would legalize all those people present in the country prior to December 31, 1981.

Mr. SYMMS. Mr. President, I have not as yet decided which way I will vote on this amendment. Let me ask the Senator from Iowa: What would happen if one could wave a magic wand and all illegal aliens who are presently working and contributing to the economy of the United States of America—the social security trust fund, the civil service pension trust fund, the military pension trust fund, and other trust funds—would leave the country? What do you think would happen to our economy in a very short time?

Mr. GRASSLEY. I would be hypothesizing, but I would say nothing as drastic as a lot of people who are employing illegal aliens want us to believe.

Obviously there would be tremendous job openings for people who are citizens of this country and who otherwise are unemployed.

Mr. SYMMS. Mr. President, I would say to my friend from Iowa, whom I have had the pleasure of knowing and working with in the House and now in the Senate, and who has been a comrade in arms with me on many issues, and to my good friend from Wyoming: How many illegal aliens do they think are living in the United States?

Mr. GRASSLEY. I read the same testaments you do, whether they come from secondary sources of the news media or from the studied reports of the Immigration and Naturalization Service. Who knows? Possibly between 3 million and 12 million.

Mr. SYMMS. Mr. President, in my opinion, that is a very conservative estimate.

It is my understanding that 50 percent of all illegal aliens in the United States are arrested on the farms of America. Would the Senator from Iowa know if that is true?

Mr. GRASSLEY. Fifty percent of those who are arrested? I cannot comment on that.

Mr. SYMMS. According to my information, 50 percent of illegal aliens who are actually arrested by the Immigration and Naturalization Service come from the farms of America. Yet, the farms of America employ only 10 percent of the illegal aliens in the United States. So 90 percent of them are working in factories and in other employment throughout the United States. And this would indicate that illegal aliens are a much larger, much greater force in our economy than we would want to admit. Yet this bill does nothing to address the realities of the immigration problem we have in this country.

I say to my good friend that if he and I left the floor of the Senate, I could drive us in 5 minutes to a place where we could walk into a restaurant and I could pull out my Senate identification card and yell out, "Immigration!" and the kitchen would clear—any restaurant in the Washington, D.C. area. They would run for cover—they are illegals.

Yet, in this legislation we are trying to impose sanctions against employers of such people because we have a system in this country whereby you can make $8,000 tax free by not working or $10,000 by working and after taxes have a net of $8,000.

Mr. GRASSLEY. You have to make up in your own mind. Do you want to legitimize the situation in which people are illegally in this country and foster disrespect for the law, or do you want to do something about it?

Mr. SYMMS. Mr. President, that is what we would be doing with this law. You are saying it will be a little bit pregnant. The Senator from Massachusetts is saying it is OK to be a little bit pregnant after 1980 but not before 1977.

Mr. GRASSLEY. The Senator is wrong.

Mr. SYMMS. I do not know how I will vote on the amendment.

Mr. GRASSLEY. The Senator is entirely wrong.

Mr. SYMMS. Mr. President, here the Senator from Iowa and I disagree.

Mr. GRASSLEY. All the employer has to do is to have reason to believe, by documentation that is required——

Mr. SYMMS. Mr. President, the documentation requirement in the bill is next to meaningless. Any Xerox machine in any office can duplicate any documentation necessary. This legislation will create an even greater black market for bogus official papers—any papers we might care to require.

Mr. GRASSLEY. The Senator knows we are moving for a direction to develop counterfeit proof identification.

Mr. SYMMS. It is my fear that we in the Congress are dreaming when we consider such proposals. We have no idea of what is going on outside of the 7 square miles of Washington, D.C.

Mr. GRASSLEY. It boils down to the fact that the Senator from Idaho does not want to do anything about the problem of immigration. Unless you take away the economic incentive to come to this country, you are not going to stop illegal immigration.

Mr. SYMMS. Now the Senator and I agree.

Mr. GRASSLEY. The only thing is, I want to do something about it, and you do not want to.

Mr. SYMMS. Mr. President, in that regard I am no different from my colleague from Iowa. We should do something, we must do something about why people come to this country illegally.

We must deal with this almost overwhelming problem. We cannot ignore the economic problems of other countries in this hemisphere. Eighty-five percent of the illegal immigrants who come to the United States are Hispanic—the Caribbean Basin.

The President spoke on this issue during a special session of Congress last night. We are trying to do something here that—I appreciate what the Senator from Wyoming is trying to do and what the Senator from Iowa is trying to do that will prove ineffective. We are talking about putting Vaseline on a cancer with this bill. It will not solve the problem.

Mr. GRASSLEY. What has the Senator from Idaho offered as a solution to the problems caused by 3 million to 12 million illegal aliens being in this country?

Further, you are fostering disrespect for the law by allowing a situation like that to go on.

I wish to yield to the Senator from South Carolina.

Mr. SYMMS. I have the floor.

Mr. GRASSLEY. No, I have the floor.

Mr. SYMMS. I will say that a solution to this problem will not come easily, but I know that this bill is not the answer.

Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. GRASSLEY. I yield to the Senator from South Carolina.

Mr. THURMOND. I say to the distinguished Senator from Idaho: Is it not more fair to give a chance to everybody to come to this country, rather than to have those who come here illegally have a preference?

Mr. SYMMS. Mr. President, I agree with the Senator on that. But we are making a mockery of the law with this bill. We are going to say to the people who have complied with our immigration laws in the past, "You are suckers."

Mr. THURMOND. They came here illegally. They came before their country said they were entitled to come. They disobeyed their own law and our law, and they are here unlawfully.

Is it not better to follow the law and let everybody from other countries have an equal chance to come here, rather than those who come illegally, on their own, be allowed to stay here and legalize them? We have already legalized millions here.

We are arranging for a cutoff with respect to 1977. If they came before, they would be permanent residents. If they came before January 1980, they could get temporary residence.

Mr. SYMMS. Mr. President, will the Senator yield on that point?

Mr. THURMOND. I yield.

Mr. SYMMS. I want the Senator to know that he is one of the Senators in this body for whom I have great respect. But I say to the Senator that whether the date set in the bill is 1977 or 1980 is really irrelevant, because—the black market—is going to print whatever employment documents necessary under the bill that will prove that illegal aliens who can afford such documents are in this country legally under this bill.

What we should try to do is to pass a law and solve a problem. The real problem lies in the economic difference of the border between Mexico and the United States.

Mr. GRASSLEY. Do you suggest that we should reduce the standard of living in this country and raise it in Mexico?

Mr. SYMMS. Mr. President, what I would suggest is that we grant a legal permit for people to come in, do jobs that American citizens do not want. They could come in for a certain length of time to do those jobs and then return home. Then you can enforce the employer sanctions.

Mr. GRASSLEY. Why do you not ask all the Americans who are unemployed if they agree with your position? You will not find very many who will.

Mr. THURMOND. I think we have done what the Senator from Idaho wants. We have a provision in this bill that they can come in. I am in favor of that. The people in my State, the peach and vegetable growers, are in favor of that.

We have taken care of that in this bill. But what we are doing here is giving permanent residence to all who came before January 1, 1977, if they have a good record, and temporary residence to those who came after January 1, 1980.

Mr. SYMMS. All we have to do then is have the people in California, Texas, Idaho, South Dakota or wherever they print these documents change the date from 1980 to 1977 if Senator KENNEDY's amendment does not pass, and then they are going to have that permit and then the employer who hires them will say "They showed that permit." We are arguing about something that really has nothing to do with what the problem is. That is my whole point.

Mr. THURMOND. I understand the economic situation. The reason they have come here is that we have high wages and higher standards of living.

Mr. SYMMS. High wages and higher standards of living are certainly major factors.

Mr. THURMOND. There are many advantages of living in this country of freedom and opportunity, but we cannot take the whole world and we have to have a cutoff date somewhere, that is the purpose in this bill.

Senator SIMPSON held hearings and worked very hard on this. We worked with the administration. We have worked with the Immigration Service. We have conferred with the labor unions. We have conferred with the growers.

This bill is an outgrowth of conversations, discussions, and conferences with all these people. We have done the best we could to preserve what we think should be preserved.

Mr. SYMMS. Mr. President, I ask those who support this bill what happens when an American citizen of Hispanic descent walks into an employment office of a company, whatever they do, whether they produce widgets or whatever, and asks for a job?

Mr. THURMOND. The bill provides a verification for work eligibility.

Mr. SYMMS. If that Hispanic American citizen seeks employment with a company there is a very great likelihood that that Hispanic person gets discriminated against.

Mr. THURMOND. No; we do not favor any discrimination.

Mr. SYMMS. Discrimination is inherent in this process.

Mr. THURMOND. In other words, what the Senator is suggesting would deprive Hispanics, blacks, and others who are American citizens from getting jobs by letting someone from another country come here and get a job legally.

Mr. GRASSLEY. I could point out that there is not going to be any basis for discrimination——

Mr. SYMMS. Mr. President, I suggest that the basis for discrimination is inherent in this legislation.

Mr. GRASSLEY. The development of a counterfeit proof identifier, will present discrimination, and that is the whole basis of the sanctions part of the legislation.

Mr. SYMMS. Mr. President, may I ask whether a social security card is part of the ID process?

Mr. GRASSLEY. That is the whole basis for making it illegal to hire illegal aliens in the first place.

Mr. SYMMS. Let me ask the Senator a question. Is the social security card part of that?

Mr. GRASSLEY. It is to make it illegal to hire illegal aliens. That is why we are enacting this bill and then we provide the necessary tools to the employers, the identification system.

Mr. SYMMS. Will the Senator repeat that?

Mr. GRASSLEY. With the identifier we will insure a legalized work force in this country and then on the basis of that identifier how can there be any discrimination?

Mr. SYMMS. Mr. President, I would say to my dear friend that the discrimination is that if you are the employer and you are fearful that you are going to be thrown in jail if you hire an illegal alien and 35 percent of the illegal aliens in the United States of America have Hispanic heritage, so they come in, they look Hispanic, they speak Hispanic—you know he who looks like a duck, walks like a duck, talks like a duck, acts like a duck, must be a duck. If they walk in your office and you are the employer and they walk in and look Hispanic and I walk in and look Anglo-Saxon, which one are you going to hire if you are afraid you are going to go to jail because you may may be held accountable for hiring an illegal alien regardless of your intent?

Mr. GRASSLEY. In both instances there has to be documentation and from that standpoint once the employer takes note of the documentation then he is clear of any violation of law.

Mr. SYMMS. Mr. President, that highlights the futility of this provision, what is good documentation? Is the social security card good?

Mr. GRASSLEY. We have a 3-year period of time in this legislation for the development of a counterfeit proof identifier.

Mr. SYMMS. Is the social security card good? Is the driver's license good? They sell those things for $2 apiece on the corners.

Mr. GRASSLEY. If it develops that it is counterfeit proof, yes, and we have 3 years for the development of it. There is plenty of pressure upon the administration to develop that. So I have no concern about what the Senator says could happen. In 3 years we are going to have the necessary identifier and employers are going to have necessary safeguards and the employees that the Senator is concerned about are not going to have to worry about being discriminated against. Once the documentation has been examined the employers obligation is at an end and all workers will be required to present the documentation. If some are asked to present documentation and others are not the basis of a discrimination suit will lie.

Mr. SYMMS. I would say to my good friend that there is no such thing as a counterfeit proof document—certainly not one that can be adopted to general national use. If it is used generally it can and will be duplicated.

Mr. GRASSLEY. I yield the floor.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa has yielded the floor. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I note that my dear friend from Iowa was not able to answer my question. The question does not have a satisfactory answer.

But, I pose a question which I posed earlier and that is what would happen in the United States if you waved a magic wand and all of the illegal aliens left the country? I just pose that question to this body. What would happen in this country? What would happen if you went down to the local restaurants on Capitol Hill for dinner? What would happen if there were an exodus of illegal aliens from this country? What would happen as far as people aiding in the production of potatoes, apples, beets, carrots, celery, tomatoes? What would happen?

I just say to my colleagues we should be realistic in what we do here. What we are trying to do here is to pass a law and we are going to punish people who are only trying to provide for their families. That is all they are trying to do. They are human beings, on this Earth the same as we, and are trying to earn a living. So what we are going to do here is impose a law that the U.S. Government discovered the U.S. Government cannot enforce because they cannot or will not take the steps necessary to enforce our immigration laws.

My dear friend from Wyoming told me yesterday that 105,000 people were detained at the border between Mexico and the United States. That is 105,000. Was that right?

Mr. SIMPSON. Yes.

Mr. SYMMS. That was last month.

Mr. KENNEDY. The Senator would be interested that from October 1982 to March 1983, there were 443,000 apprehensions which is a 34-percent increase over a year ago, and this is usually the lowest level of entry, and they estimate that they arrest 1 in 5, I believe.

Mr. SYMMS. All right; 443,000 were detained.

Mr. KENNEDY. For one-quarter of the year there were 443,000 apprehensions, and that is a 34-percent increase over a year ago, and they estimate they only arrest 1 in 5.

Mr. SYMMS. So if there were 443,000 for 3 months, we are talking about 140,000 or 150,000 for 1 month and then 540,000-some or 550,000 in the months that were not apprehended.

If we think that we are going to grant amnesty, which is granted in this bill, to the people who have been here since 1977, 1978, 1979, 1980, whatever this comes out on this amendment, and somehow that this is going to solve the problem, we are missing the whole point.

The point is that there is a big difference between the standard of living south of the Rio Grande and north of the Rio Grande, and our concentration must be centered on where the problems are.

What we are dong, as I said earlier, is putting vaseline on a cancer, and this legislation is not going to stop the problem. It is only going to create discrimination and, Mr. President, as these people continue to come into this country with the problem we have south of the border and then other problems arise, anyone who is from a Hispanic background will then be discriminated against.

I cannot for the life of me understand why this body wishes to stampede into passing this legislation. If we want to have employer sanctions that are meaningful, then we must first provide an adequate labor supply for the people who of necessity hire aliens for employment—and here most of the problem comes in the agricultural areas. This is so even though 90 percent of the legal aliens in America are hired in nonagricultural jobs.

Fifty percent of the illegal alien apprehensions are in agricultural jobs, which means that the agricultural community is suffering undue harassment from the Immigration and Naturalization Service, because that is where the people are being arrested because the INS. can find aliens out in the fields.

All we have to do, and my good friend from Wyoming says, "Why don't you come up with a solution? Why don't you offer an alternative?" I would say to my friend if we could work together, if we could develop an approach or program in this bill toward bringing in people from wherever who need the jobs, who need to be able to provide the wherewithal for their families, where the jobs are plentiful and available for them, let them come in and work legally so they can be above ground instead of under ground; so they can have proper facilities provided for them, so they can live like human beings instead of being chased like coyotes by the INS. Why can we not do this?

I know my good friend from Wyoming says we have the H-2 program. I can say from practical experience the H-2 program does not work. What is needed is a program where people can come in and work under a specific job and then go back to their country. Without that, short of that, this system simply will not work.

So the Senator from Massachusetts is absolutely on target in terms of picking out the date. I do not know whether the Senator from Wyoming is right with 1977 or the Senator from Massachusetts is right in 1980, but we can maybe divide it in half and say 1979 or 1978 and a half and it would be about as good.

Mr. President, before I go on any further I want to ask the Senator from Massachusetts, to be sure I understand this amendment, is not the purpose of this to raise the date from 1977 for amnesty or for permission to stay in this country without harassment, I should say, if you want to work honestly and try to provide for your family, that is what we are really talking about?

Mr. KENNEDY. In response to the Senator's question, if I could just spell it out, what the provisions are in the amendment, I think it would be really more responsive to the Senator's inquiry.

Under the pending legislation those who are here prior to 1977 are eligible for permanent residency. Under the legislation that is proposed there is also the date of 1980 to qualify for temporary residency. I would move the 1980 cutoff date to 1981.

Now, what do they have to show when they are going to be eligible for temporary residency? First of all, they have to show continuous residence in the United States for 2 years; they have to show they have no criminal record, and that they are not a public charge. It means they have a job.

After 1981, if my amendment is accepted, they continue along for 2 more years and then they can apply for—excuse me, for 3 more years—and then they can apply for permanent residency in which status they will have to be for another 5 years and then they are eligible for naturalization.

Basically my amendment gives 2 more years, and I think deals more effectively with the problem of exploitation of this subclass in our society. So it is actually a very marginal step forward.

My own belief is that the date you put in the employer sanctions ought to be the date you start the legalization program. However, I do think an argument can be made to say that will attract many people here because they know the law—"That is going to be the position of the Senate, let's get in while the getting is good."

So we have to try to establish some arbitrary date in the past, and the date included in my amendment would say they have to be in the United States for at least 2 years, with no criminal record, and be in continuous residence. That would address about two-thirds of the undocumented aliens; only one-third of the undocumented aliens would be addressed under the Senate bill.

Let me just say, finally, I think the comments the Senator from Idaho makes are important for this debate as they relate to the immigration flow, and it has been a part of the issue which I tried to raise during the last session of the Congress and have touched on during the consideration of this bill in the committee.

We in this legislation will be restricting the reunification of families, of brothers and sisters, and for the first time we will be placing immediate relatives of Amercian citizens under an immigration ceiling.

There are other provisions in here which will place burdens on American families in an attempt to try to deal with the flow of people who have come to this country, not only across the Southwest borders but have come across in the Northeast, quite frankly, from our neighbor to the north, and have come in different parts of the country from different places.

I think the Senator is quite correct in drawing attention in this debate to the foreign policy implications because they are significant. If this bill becomes law and is as successful as the proponents believe it will be, I think it might make some marginal difference, but I do say that to deal effectively with this problem we are going to have to do what some of my other colleagues have stated, and that is to make Mexico the promised land so that people will want to go to Mexico, or stay in Mexico, because they realize there is the real hope and opportunity, and that will be true in other problems of the flows of migration, and quite frankly we are not even anywhere close to dealing with that. But the Senator, in terms of the long-term flow of the problem, I think, has identified what is a problem.

I think the question for some of us, even though I will vote, if this amendment is not accepted, in opposition to the bill, I think a legitimate point can be made that we cannot solve all the problems but that should not mean we do not address any of the problems. I believe that those who support this bill in the belief that it will be an effective instrument to control migration pressures. I have serious doubts that it will be. But they have studied it, they have spent a lot of time, they are people whom I respect and who differ with the position I have taken and the position of the Senator from Idaho. I also believe that the problem is of sufficient importance here that if the overwhelming number of Members of this body and in the House are convinced of that position I intend to make my position clear but I am not going to stand in their way.

Mr. SYMMS. I thank the Senator very much. But I would ask the Senator, which I have never heard any Senator comment on this question yet this afternoon: What do you hypothetically or by any stretch of the imagination think would happen in this country if all the illegal aliens—you waive a magic wand and they all return to their land?

Mr. KENNEDY. Senator, there is no definitive economic study on this. This was a matter, which the Senator from

Wyoming, I am sure, will probably want to, hopefully will, comment on; but the real economic implications of a withdrawal have never been adequately studied. Although there is some very important evidence about the impact of undocumented aliens on wages and on unemployment rates in many areas of the country. That analysis has been made particularly in a number of communities in the North. But the ultimate impact of the withdrawal of the undocumented aliens, I do not know of any economic study that has been made. That issue was brought up in the Select Commission, I think, but it was never fully addressed.

Mr. SYMMS. I thank the Senator very much. I appreciate his interest in this legislation.

I would only say to my colleagues that I have no study to back up what I am saying, but we recently in this body passed legislation, the so-called fix or healing or saving or rescuing of the so-called social security system.

Now, these illegal aliens that come into this country work and pay into this social security system that we have. The people that are working pay into it and, if they live long enough, then they can hope to get something back.

I wonder what would happen if all the illegal aliens were not paying into the social security system, how much more we would have to raise the payroll tax. I wonder how much apples from the State of Washington would cost—I see the distinguished Senator from the State of Washington in the chair. I wonder what the price of apples would be to the consumer, or the price of potatoes, or oranges and grapefruit from the State of Arizona—I see the distinguished Senator from Arizona on the floor—if we did not have willing people to voluntarily harvest those crops or do these other jobs that are available in order to harvest them.

I think we have to recognize that we are asking the small businessmen and the farmers to do something that the Federal Government has been unable to do up to this point. We are trying to ask them to enforce the law that could not otherwise be enforced by the Government. So since the Government could not do it, they cannot keep illegal aliens out, the border is open, and people naturally vote with their feet and they come north, this burden is now placed on the employer. Because of the advancement of the Marxist revolution in Central America more people are coming north. We have had a half million from El Salvador in recent years, we have a half million a month coming through the Mexican border.

So now we are going to pass a law to try to somehow say that we will punish those people in the United States of America who hire someone who wants a job and who is simply trying to provide for his or her family. We are going to punish them for that, for doing what is only a human instinct for survival—to work, to provide for their families—and then we are going to prosecute the people who give them the employment.

So now the question is, if they have been here since 1977, it is OK. If they have been here since 1980 or 1981, it is OK. So the issue really lies between whether you want to punish the employer if he hires somebody between a 3-year period.

So I happen to think that the approach which the Senator from Massachusetts takes is a little more humanitarian than that of the bill, but it is not the employee we are talking about, it is really the employer. You are talking about making it more and more difficult for people to produce the food and fiber and the other products in the United States that people want, making it more difficult by imposing this legislation.

My good friend from North Dakota wants to vote, and my good friend from Utah wants to vote.

I yield the floor.

SEVERAL SENATORS. Vote.

Mr. KENNEDY. Mr. President, I think the amendment has been explained. I hope that we can get support for it. I am prepared to vote.

Before we do vote, I wish to insert in the RECORD the Select Commission on Immigration and Refugee Policy's Final Recommendations on the legalization issue. I think it spells it out. I will take 30 seconds to read a portion of it.

> The Select Commission holds the view that the existence of a large undocumented/illegal migrant population should not be tolerated. The costs to society of permitting a large group of persons to live in illegal, second-class status are enormous. Society is harmed every time an undocumented alien is afraid to testify as a witness in a legal proceeding (which occurs even when he/she is the victim), to report an illness that may constitute a public health hazard or disclose a violation of U.S. labor laws.

Mr. President, I ask unanimous consent that the excerpt from the Select Commission on Immigration and Refugee Policy, Final Recommendations, be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT FROM THE SELECT COMMISSION OF IMMIGRATION AND REFUGEE POLICY, FINAL RECOMMENDATIONS, MARCH 1, 1981

II.C. LEGALIZATION[1]

The Select Commission recommends that a program to legalize undocumented/illegal aliens now in the United States be adopted.

The Select Commission holds the view that the existence of a large undocumented/illegal migrant population should not be tolerated. The costs to society of permitting a large group of persons to live in illegal, second-class status are enormous. Society is harmed every time an undocumented alien is afraid to testify as a witness in a legal proceeding (which occurs even when he/she is the victim), to report an illness that may constitute a public health hazard or disclose a violation of U.S. labor laws.

In seeking a solution to the problem of a large, resident undocumented alien population, the Select Commission has considered a range of programs, including massive deportation efforts, the use of existing enforcement procedures and legalization. Attempts at massive deportation would be destructive of U.S. liberties, costly, likely to be challenged in the courts and, in the end, ineffective. The only time in U.S. history when such a massive deportation effort occurred was in the mid-1950s when the Immigration and Naturalization Service (INS) expelled or repatriated more than one million aliens. This was done at tremendous cost in terms of both money and personnel, and, more importantly, violated the civil liberties of many Mexican Americans who were forcibly repatriated to Mexico. Such an effort would not be tolerated today. However carefully designed and implemented, any program to remove 3.5 to 6 million people[2] would almost certainly violate the rights of many legal residents without reaching more than a small proportion of those aliens lacking proper documentation.

As continuing to employ existing enforcement techniques merely assures the continuation of current problems, the Commission holds the view that legalization is a realistic response to the problem of resident undocumented/illegal aliens. It is of the opinion that legalization—following the institution of new, more effective enforcement measures—would be in the national interest of the United States for many reasons:

Qualified aliens would be able to contribute more to U.S. society once they came into the open. Most undocumented/illegal aliens are hardworking, productive individuals who already pay taxes and contribute their labor to this country.

No longer exploitable at the workplace because they are unwilling to avail themselves of the protection of U.S. law, legalized aliens would no longer contribute to the depression of U.S. labor standards and wages.

Legalization is an essential component of the Commission's total package of recommendations to stem the flow of undocumented/illegal migrants and will aid in the enforcement of U.S. immigration laws. It will enable INS to target its enforcement resources on new flows of undocumented/illegal aliens.

For the first time, the United States would have reliable information about the sources (specific towns, villages and provinces) of undocumented/illegal migration and the characteristics of undocumented/illegal aliens. This information will further facilitate enforcement efforts to curtail future flows. It will also enable the United States to focus bilateral or unilateral aid and investment programs in ways that might deter migration at its source.

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[1] Commission vote: Recommendation flows from the combined votes for Recommendations II.C.1. to II.C.4.

See appendix B for supplemental statements of Commissioners Hesburgh, Kennedy, Marshall, Ochi, Otero, Reynoso, Rodino, and Simpson on this issue.

[2] This number is based on estimates in a report made by Census Bureau researchers for the Select Commission.

Some Commissioners also believe that legalization would acknowledge that the United States has at least some responsibility for the presence of undocumented/illegal aliens in this country since U.S. law has explicitly exempted employers from any penalty for hiring them. Some Commissioners also argue that because of that partial responsibility, the alternative to legalization—continuing to largely ignore undocumented/illegal aliens or initiating mass deportation efforts—would, apart from being harmful to the United States, constitute unfair penalties on aliens and their families. Some of these individuals already have the qualifications to reside here legally, although they do not know it.

In developing the following legalization recommendations, the Select Commission has been guided by two major principles:

The legalization program should be consistent with U.S. interests; and

The legalization program should not encourage further undocumented migration.

The specific provisions of the Commission's recommendations, described below, are designed to implement these two goals.

II.C.1. ELIGIBILITY FOR LEGALIZATION [3]

The select Commission recommends that eligibility be determined by interrelated measurements of residence—date of entry and length of continuous residence—and by specified grounds of excludability that are appropriate to the legalization program.

The Commission recommends that eligibility be limited to undocumented migrants who illegally entered the United States or were in illegal status prior to January 1, 1980, and who, by the date of enactment of legislation, have continuously resided in the United States for a minimum period of time to be set by Congress.[4] Continuous residency does not preclude visits of short duration to an alien's country of origin.

In setting a cut-off date of January 1, 1980, the Commission has selected a date that will be near enough to the enactment of legislation to ensure that a substantial portion of the undocumented/illegal alien population will be eligible, but that predates public discussion of the likelihood of a Commission recommendation in favor of legalization. The Commission does not want to reward undocumented/illegal aliens who may have come to the United States, in part at least, because of recent discussions about legalization, nor does it want to stimulate further illegal migration by recommending a date that will follow the release of its report. On the other hand, the Commission has not chosen a very early cutoff date (such as the 1970 date incorporated in the Carter Administration's 1977 proposals) because it would permit the participation of too few undocumented/illegal aliens, leaving the United States with a substantial underclass still in illegal status and without the information that will help enforcement efforts aimed at new undocumented/illegal entries.

The number of persons eligible for a legalization program will vary as a result of the length of continuous U.S. residence required. If the residence requirement is set at two years, the Select Commission staff estimates that approximately 60 percent of those undocumented/illegal aliens now in the United States would qualify for legalization. Should the residency requirement be increased to three years, an estimated 45 percent of those with undocumented status would qualify.

It would be inadvisable, at this point, for the Commission to recommend a specific number of years that would determine the length of continuous residence required for legalization. Without knowing how quickly Congress will act in passing legislation, the Commission cannot make this decision. Many Commissioners recommend that Congress choose a period of time that balances the desire for incorporating a substantial number of undocumented/illegal aliens into U.S. society with the necessity of limiting that participation to those who have acquired some equity in this country.

The Commission also recommends that the exclusion grounds for undocumented/illegal migrants who otherwise qualify for legalization should be appropriate to the legalization program. Commissioners have expressed a range of views regarding the meaning of "appropriate." Some Commissioners believe that, undocumented/illegal aliens should be subject to the same grounds of exclusion as immigrants applying for admission except those that relate to illegal entry or presence in the United States. Other Commissioners believe that only the most serious grounds should apply. They argue that if undocumented/illegal aliens are to be persuaded to come forward, the grounds of exclusion must be limited to criminal or other such offenses. Still other Commissioners have argued that Congress should review this issue in the context of the recommended review of the overall grounds of exclusion. (See Recommendation VII.D.1.).

Previous amnesty plans, proposing changes in Section 249 of the Immigration and Nationality Act, have provided an ongoing mechanism through which undocumented/illegal aliens could establish eligibility for registration as permanent resident aliens. A drawnout mechanism for establishing eligibility for legalization, however, will only perpetuate an already serious problem. The Select Commission favors a specified, one-time only period during which applicants for legalization could come forward.

An examination of the experience of other countries may be helpful to Congress in setting the limits of the program. The time allotted for the Australian legalization program was only three months, and the period of Canadian amnesty was only 60 days. Both of these periods proved to be too short. It was impossible to gain the trust of the undocumented/illegal population or even communicate adequately the provisions of the programs within such short time spans. In the view of the Commission, a longer eligibility period, such as one year, would be more appropriate.

II.C.2. MAXIMUM PARTICIPATION IN THE LEGALIZATION PROGRAM [5]

The Select Commission recommends that voluntary agencies and community organizations be given a significant role in the legalization program.

Commission research has demonstrated that legalization programs in Canada, Europe, and Australia have all had significantly lower numbers of applicants than were expected. Unable to overcome the personal fears and suspicions of those who might have been eligible for legalization, these programs failed to attract maximum participation. The Select Commission recommends that voluntary agencies (VOLAGS) and community organizations be given a significant role in the legalization program. The Commission holds the view that such participation would encourage more eligible undocumented/illegal aliens to come forward. Most voluntary agencies have proven themselves to be highly responsible and responsive participants in the implementation of U.S. refugee policy. The Commission believes that they would be effective agents of a legalization program.

Commissioners support the following measures to encourage the maximum participation of qualified undocumented/illegal aliens in a legalization program:

Voluntary agencies should engage in outreach efforts that will advise as many undocumented/illegal aliens as possible of their eligibility for legalization.

This effort should begin as soon as possible after legislative enactment in order to minimize the likelihood of otherwise qualified applicants being apprehended and deported as the result of the immigration law enforcement that will continue during the intervening period. Extensive apprehensions of this type could raise concerns among other undocumented/illegal aliens regarding the legitimacy of the government's legalization intentions.

In order to attract as many undocumented/illegal aliens as possible, the VOLAGS must overcome the fears that these aliens have of any contact with immigration authorities. The initial processing of claims should be done by voluntary agencies and community organizations in order to assure undocumented/illegal aliens that they have a method of establishing their qualifications for legalization without subjecting themselves to immediate deportation. The Immigration and Naturalization Service would make all final determinations of eligibility.

II.C.3. LEGALIZATION AND ENFORCEMENT [6]

The Select Commission recommends that legalization begin when appropriate enforcement mechanisms have been instituted.

The Commission believes that a legalization program is a necesary part of enforcement, but it does not believe that the United States should begin the process of legalization until new enforcement measures have been instituted to make it clear that the United States is determined to curtail new flows of undocumented/illegal aliens.

Without more effective enforcement than the United States has had in the past, legalization could serve as a stimulus to further illegal entry. The Select Commission is opposed to any program that could precipitate such movement. Further, the absence of effective enforcement could lead to a low participation rate in the legalization program. Continuation and enhancement of enforcement efforts in this country should encourage many undocumented/illegal aliens to regularise their status under the legalization program. Persons found as a result of Immigration Service operations would be given the opportunity to apply for the program if they appear to be qualified.

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[3] Commission vote: Eligibility should be determined by interrelated measurement of residence. No one should be eligible who was not in the country before Jan. 1, 1980. Congress should establish a minimum period of continuous residency to further establish eligibility. Yes-16.

The exclusion grounds for undocumented/illegal migrants who otherwise qualify for legalization should be appoporiate to the legalization program. Yes-12; Pass-1; Absent-2.

[4] For visa abusers (those who entered legally but overstayed or acted in contravention of their visas), the period of continuous residency should begin at the time of visa abuse rather than at the time of entry.

[5] Commission vote: Yes—16.

[6] Commission vote: Yes—16.

II.C.4. UNQUALIFIED UNDOCUMENTED/ILLEGAL ALIENS [7]

The Select Commission recommends that those who are ineligible for a legalization program be subject to the penalties of the Immigration and Nationality Act if they come to the attention of Immigration authorities.

The Commission rejects the use of any temporary programs that would give special status to those who entered illegally or fell out of status after January 1, 1980. Even though many of these individuals might be hard-working and otherwise desirable persons, they have not established the equity in our society deemed necessary for registration as permanent resident aliens.

The Commission therefore recommends that those who are ineligible for legalization be subject to the provisions for voluntary departure or deportation in the Immigration and Nationality Act.

Some Commissioners who voted against this recommendation agrue that it is impractical and still others argue that it would create undue hardships not only for undocumented/illegal aliens but for U.S. citizens as well. They argue that as many as 2 to 3 million undocumented/illegal aliens may be ineligible for legalization and that attempts to deport this number of individuals would be costly, ineffective, and would still leave the United States with a substantial underclass population. These Commissioners believe those ineligible for legalization should be offered temporary status with the opportunity, after a few years, of qualifying for permanent residence.

Many of the Commission majority also recognise that mass deportation efforts would be inimical to the interests of the United States. They hold the view that Congress should act quickly to establish a legalization program that will include the majority of undocumented/illegal aliens currently in this country. They hope that such an action will mitigate the need for large-scale deportation without undermining the commitment to curbing illegal migration. The message of the United States regarding undocumented/illegal aliens, they argue, must be clear: This nation will offer legal permanent residence to those who illegally entered during a period of ambiguity in U.S. attitudes toward illegal migration, but it will no longer tolerate the continued entry or employment of an illegal, second-class group or residents.

Mr. KENNEDY. Mr. President, I hope that we would be consistent with those recommendations and logic and accept this amendment.

Mr. THURMOND. Mr. President, I will just take about 2 minutes.

Mr. President, I oppose this particular amendment because it expands the pool of illegal aliens residing in this country who would be eligible for temporary residence under the one-time legalization program under this bill.

Even as drafted, the pending bill in my judgment would legalize—and thereby reward—illegal aliens in the country with only margin equities due to lapse of time. January 1, 1980, as a cutoff date is indeed generous.

I have always had reservations about the rewarding of the violation of our immigration laws by legalizing the residence of illegal entrants. It was only after much thought that I concluded that, on balance, it was necessary to give the new approaches proffered by this bill a chance to work. Again, I say we think the provisions are most generous. The bill as reported by the committee is as liberal in this regard as we should go.

Now, some people are under the impression that if this bill passes seasonal workers will not be allowed to come into this country and do seasonal work. That is not true. Peach and vegetable growers in my State need these seasonal workers. Farmers in California and other States need these people seasonally. This bill allows seasonal workers to come in for as long as 8 months but not to become a permanent resident. If they can come here illegally and be legalized, then they are taking jobs of Americans. They are also depriving their own citizens back home of an equal opportunity to come to this country of opportunity and freedom.

So, from my standpoint, as we look at it, the only sensible thing to do is to do what this bill does. And I say again, it is most generous. Every qualified illegal person in this country here prior to January 1, 1977, may apply for permanent residence. Every qualified illegal person here before January 1, 1980, may apply for temporary residence. They can become permanent after a reasonable time.

How more generous can you be? Otherwise, you might as well have no immigration laws and let everybody come in and take the jobs of Americans.

Mr. President, I think that the bill we have is generous and fair. I oppose this amendment and hope the Senate will defeat it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts (Mr. KENNEDY). Does any other Senator seek recognition? If not, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. McCLURE), and the Senator from Vermont (Mr. STAFFORD), are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay".

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Connecticut (Mr. DODD), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

I further announce that the Senator from North Dakota (Mr. BURDICK) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 20, nays 70, as follows:

[Rollcall Vote No. 65 Leg.]

YEAS—20

Bingaman
Chafee
Cranston
DeConcini
Dixon
Glenn
Inouye
Jackson
Kennedy
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Moynihan
Pell
Symms
Tsongas
Wilson

NAYS—70

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Byrd
Chiles
Cochran
Cohen
D'Amato
Danforth
Denton
Dole
Domenici
Durenberger
Eagleton
East
Exon
Ford
Garn
Goldwater
Gorton
Grassley
Hatch
Hawkins
Hecht
Heflin
Heinz
Helms
Huddleston
Humphrey
Jepsen
Kassebaum
Kasten
Laxalt
Long
Lugar
Mathias
Mattingly
Mitchell
Murkowski
Nickles
Nunn
Packwood
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sasser
Simpson
Specter
Stennis
Stevens
Thurmond
Tower
Trible
Wallop
Warner
Weicker
Zorinsky

NOT VOTING—10

Biden
Burdick
Dodd
Hart
Hatfield
Hollings
Johnston
McClure
Sarbanes
Stafford

So the amendment (No. 1216) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. The majority leader will presently come before the body to propose a possible consent agreement. The next item of business with regard to this measure, after the majority leader has presented his remarks and a possible solution as to time, will be the consideration of the Huddleston amendment, then the Chiles amendment, and then the DeConcini amendment.

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[7] Commission vote: Yes-12, No-4.

See Recommendation II.D.2. for views on methods to ensure that undocumented/illegal aliens do not subject themselves to deportation while trying to establish eligibility for legalization.

The PRESIDING OFFICER. Does the Senator wish to lay the Huddleston amendment before the Senate?

Mr. SIMPSON. Yes, the Senator could lay the amendment before the Senate, but the minute the majority leader arrives in the Chamber, he wishes to present a proposed consent agreement.

Mr. HUDDLESTON. I will be glad to yield for that purpose.

AMENDMENT NO. 1217

(Purpose: To expand required report under INA)

Mr. HUDDLESTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Kentucky (Mr. Huddleston) proposes an amendment numbered 1217.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 208 strike lines 20 through 23 and insert in lieu thereof the following:

"(1) The number and classifications of aliens admitted as immediate relatives under family reunification preferences, independent or occupational preferences and other permanent residents, refugees, asylees, parolees and a reasonable estimate of the number of aliens who entered the United States without visas or who became deportable under section 241; and"

On page 208 delete lines 24 and 25 and insert in lieu thereof the following:

"(2) The impact, including reasonable projections and future estimates, of the admission or parole of such aliens on the foreign policy, economy, environmental quality, resources and population growth rate of the United States and the'

On page 209 on line [illegible] insert immediately after the period the following sentence:

"The report called for under this paragraph shall relate to total immigration during the five years prior to the report and reasonable estimates substantiated by the best available evidence, for five years into the future."

On page 209, line 3 strike "four" and insert "three".

On page 209, line 4 strike the period and insert", and every three years thereafter".

On page 208, line 19 insert after "A" the word "comprehensive".

Mr. HUDDLESTON. This amendment is being submitted on behalf of myself, Senator Kennedy, and Senator Cochran. It provides for a reporting procedure requiring that the President send to Congress a report on the levels of immigration and the impact that level of immigration is having.

For many years, we have legislated about immigration without sufficient timely information. I can recall standing here only 3 years ago, debating whether or not to place a limit on legal immigration for that fiscal year. The debate over whether or not to place such a limit was quite straightforward; there was general agreement that a limit was necessary. But, despite the efforts of Senators DeConcini, Danforth, Sarbanes, and Mathias, and telephone calls to the State Department and INS, we could not find out exactly how many people had been admitted as immigrants in either that year or the year before.

The result of this lack of information was that we legislated in ignorance. We fumbled about, trying to find a way to draft language to accomplish the task at hand in a relative, instead of an absolute, fashion.

This kind of incident is all too common in immigration. We are forever trying to get information that should have been provided to us years before. That is not the fault of the Immigration Subcommittee; they do very well to get as much information as they can to us.

But the information is not being compiled by the executive branch. The Immigration and Naturalization Service is supposed to produce an annual report each year, with current information. Unfortunately, the INS is usually years behind in publishing its reports. I am not placing all of the blame on the INS; that agency is seriously underfunded and overworked and part of the reason we are here today is because the INS has not had the resources to do its job for the last few years.

But the fact remains that we have not received the kind of information we need to legislate on this issue. It is a testament to the ability of the members of the Immigration Subcommittee, and its chairman, Senator Simpson, that they have been able to move as far as they have without the kind of full and complete data that we take for granted in many other fields.

I believe that it is time for us to require the most basic information be provided to the Congress on a timely basis. That requirement is contained in my amendment. My amendment requires the President to review periodically the level of immigration to the United States, and to report on those levels to Congress. In the House, which has adopted this mechanism in its immigration reform bills, this mechanism is called periodic review.

In 1980, with the cooperation of Senator Kennedy, we placed similar requirements in the Refugee Act of 1980. Under those requirements, Congress must be provided with certain basic information each year. That information has been most helpful, and I believe that everyone agrees that those reporting requirements have been extremely helpful. However, even they fall far short of the comprehensive information which is needed.

My amendment will require the same type of reporting be done for all immigration, not just refugees. The President would be required to send to Congress a report on the levels and impact of immigration. In the report, the President must report how many immigrants were admitted, the basis on which those immigrants were admitted, and the impact of those admissions on the United States.

The report must also estimate the number of illegal entries to the United States, and must project, to the best extent possible, what the President expects for immigration in the near future. The President is also given an opportunity to make recommendations on possible changes in the immigration laws.

Upon the receipt of the report, the Judiciary Committees of the House and the Senate must hold hearings on the report. In the refugee admissions process, Mr. President, we have found similar hearings to be invaluable sources of information for Congress.

My amendment does not require, as in the refugee admissions process, that the report be printed in the Record. It is my hope, however, that the Judiciary Committees will provide the public with the information in these reports by printing the reports in hearing records, along with any appropriate comments or supplementary information.

I am not sure that there are any valid arguments against providing this kind of minimal information on a timely basis to Congress. I have not heard any. Perhaps the INS might object to making more reports to Congress, but this information is both necessary to our work, and available to be used. The reports from the field which could be used to calculate immigration totals are now sitting in boxes in the INS headquarters. No one is using these reports now until years after they are received. We, who need this information, should put those field reports to their intended use.

This type of periodic review mechanism is and has been in the House version of the Simpson/Mazzoli bill. I understand that my amendment, or an amendment quite similar to it, will be offered in the House Judiciary Committee. A less specific amendment was already placed in the bill by the House Immigration Subcommittee.

I want to stress, Mr. President, that my amendment makes no substantive change in the legal immigration portion of this bill or in current law. My amendment only requires the reporting of information and the holding of hearings. I suggest no changes in Senator Simpson's mechanism for establishing a ceiling on legal immigration, and no changes in the allocation of the visas available. My amendment is designed solely to provide information on a timely basis to Congress.

I hope that the Senate will adopt my amendment, Mr. President. I believe that we in the Congress sorely miss having sufficient information on immigration. We would not tolerate this kind of lack of information in other areas; we should require better information on immigration. I urge the adoption of this amendment.

Mr. President, my understanding is that the report shall include: Total admissions; the number of aliens admitted by category or type of admission or acquisition of permanent residence; the number of aliens whose petitions for admission or acquisition of permanent residence were filed by, or whose visas were approved on the basis of a relationship with, a person who was not a natural-born citizen of the United States; and a reasonable estimate, substantiated by the best available evidence, of the number of aliens who entered the United States without visas or who became deportable under section 241;

Any appropriate recommendations on changes in the numerical limitation on admissions in section 201 or other provisions of this title bearing on the admission of aliens to, or the acquisition of permanent residence in, the United States;

An analysis of the impact of migration to the United States on the size and distribution of the U.S. population.

The change in the size of the labor force caused by legal and illegal migration, together with estimates of the labor market characteristics and geographical distribution of these workers compared with the characteristics and distribution of the legally resident employed and unemployed labor force.

The extent to which immigrants admitted under paragraph (1), (2), or (4) of section 203 and nonimmigrants admitted under subparagraph (H) or (L) of section 101(a)(15) have been used to meet labor needs of the United States.

The cost and benefits to the Federal Government and State and local governments of the impact of the admission of immigrants, refugees, and asylees.

Mr. SIMPSON. Yes; that is my understanding as well.

Mr. HUDDLESTON. Mr. President, I yield to the manager of the bill at this point.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, surely there are few in this body who have worked as long and hard on this issue as the Senator from Kentucky (Mr. HUDDLESTON).

I can assure the Senator that the issue he raises in his inquiry is my concern as well with regard to the entire spectrum of what will be reviewed in the report. I certainly accept that.

Mr. HUDDLESTON. I thank the distinguished Senator.

I yield to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I am very happy to join with the Senator from Kentucky in sponsoring this amendment. I want to congratulate him and also the managers of the legislation for the very diligent effort that has been made to develop a reasonable, practical, as well as comprehensive answer to many of the problems in this entire immigration issue. I think this problem that we are now trying to call attention to revolves around a need for more accurate reporting of information to the Congress by the administration. I am confident that this is going to help us make better decisions in the future with respect to quotas, the impact of immigration on jobs here in the United States, on domestic assistance programs, and many other issues. I am happy to join in this effort, and I appreciate the Senator yielding.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. We learn something in the Senate every day. I have my concerns about fixed annual immigration limits, and I offered an amendment that was very similar to this in the Senate Judiciary Committee and received one vote—mine. I am glad to be a cosponsor of the Huddleston-Cochran amendment that is now going to pass unanimously.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, the similarities were not quite that pronounced, but I certainly understand what the Senator from Massachusetts is saying. It is a good amendment and it does blend in those things indeed.

Mr. SYMMS. Will the Senator yield?

Mr. HUDDLESTON. Yes; I yield.

Mr. SYMMS. I ask the Senator, will he please go through exactly what this amendment does?

Mr. HUDDLESTON. This will require a reporting by the President on the impact of total immigration into this country on the job situation, on the environment, and several other areas.

It would require it in such a way that the Congress would have an opportunity to understand exactly what is happening in the total immigration picture.

Mr. SYMMS. That is all the amendment does?

Mr. HUDDLESTON. That is all. Congress then can take whatever action it may feel necessary.

Mr. SYMMS. So then there is no enforcement or other——

Mr. HUDDLESTON. No; this does not trigger any specific action.

Mr. SYMMS. Just strictly a study amendment?

Mr. HUDDLESTON. It is an informational report to Congress for it to use as a basis of perhaps making amendments or whatever changes it might want.

Mr. SYMMS. I thank the Senator from Kentucky very much. I asked the question earlier, and I still have yet to get what I feel to be a satisfactory answer, not from the Senator from Kentucky, just what my colleagues would think if we could wave a magic wand and remove all the illegal aliens from this country.

Mr. HUDDLESTON. I would be glad to respond to that. I should like to have this amendment adopted, because the majority leader wants to propound a unanimous-consent request, as I understand it.

The Senator need not worry about that. I think we can tell him pretty much what would happen.

Mr. SYMMS. We would probably have a depression.

Mr. HUDDLESTON. On every occasion, through the action of the INS, where there has been a revelation of numbers of illegal persons working and those persons have been apprehended, the applicants for those jobs have numbered many times more than the jobs, immediately. One very recent Secretary of Labor suggested that without illegal aliens working in the American workforce, the unemployment rate would drop perhaps 2 percent.

Unemployment costs this country about $39 billion for every 1 percent. These are things that are pretty well documented.

I recall right here in Washington, when a particular restaurant was raided and some 40 illegals were taken out, there were about 500 people at the door the next morning trying to get those jobs.

So I do not think you are going to find any great adverse impact on the employment situation, nor on the economy, if we were without illegal aliens. But this amendment has nothing to do with that.

Mr. BRADLEY. Mr. President, will the Senator add my name as a cosponsor?

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the names of Senator BRADLEY and Senator RANDOLPH be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment?

Mr. SYMMS. Mr. President, I say to my good friend from Kentucky that I hope he is correct in his analysis of what he thinks would happen.

When one looks around this country and sees the work ethic that has been revigorated in generation after generation of new immigrants who have come to this country, I truly wonder what would happen if we did not have this infusion of people who wish to work hard and produce.

The Senator may be correct. A family of four, under our present set of rules in this country, can receive $8,000 a year tax free, without working, or earn $10,000 with taxes; and I can show that we are correct in our analysis of what would happen to the unemployment figures.

I hope the Senator is correct. I am not standing here advocating that we should have more or less immigration from south of the border. I am only saying that, from a practical standpoint, the problem is much greater that what the solutions are in this bill. I think that without an opportunity for the old-time guest worker program that used to be in effect, and worked very well, we are not going to get the satisfactory solution we want with this legislation.

The **PRESIDING OFFICER.** Is there futher debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1217) was agreed to.

Mr. **HUDDLESTON.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **SIMPSON.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER.** The majority leader is recognized.

Mr. **BAKER.** Mr. President, I hope Senators will give me their attention. I am about to propound a unanimous-consent request with respect to the completion of the immigration bill. I believe that the minority leader has been consulted on this matter, through his staff, as has every other Senator in the Chamber and maybe every Member of the Senate. It is a long and complicated unanimous-consent request, and I will read it in its entirety. I hope Senators will give it their attention. I hope there will not be an objection.

If the agreement is entered into, it is not the intention of the leadership to ask the Senate to be in session tomorrow.

On Monday, the Senate will be asked to proceed to the consideration of the budget resolution. I anticipate that it will take all of next week or at least most of next week to complete action on the budget resolution. This unanimous-consent request assumes, then, that a week from next Monday we would go back to the immigration bill and finish it at a time certain on Tuesday.

With that general description, I should like to put the request at this time. I hope Members will give it their careful attention.

ORDER FOR RECESS UNTIL MONDAY

Mr. **BAKER.** Mr. President, I ask unanimous consent that at the close of business today, the Senate stand in recess until Monday next, at 12 noon.,

The **PRESIDING OFFICER.** Is there objection? The Chair hears none, and it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 529

Mr. **BAKER.** Mr. President, I ask unanimous consent that at the conclusion of business today, the Senate temporarily lay aside the pending business and that it resume consideration of the immigration bill following the disposition of Senate Concurrent Resolution 27 or House Concurrent Resolution 91, which will be the budget resolution, depending on the final action chosen by the Senate; that the Senate then resume consideration of Calendar No. 98, which is S. 529, a bill to revise and reform the Immigration and Naturalization Act; that the Immigration and Naturalization Act at that time be considered under the following agreement:

Two hours on the bill, to be equally divided between the Senator from Wyoming (Mr. SIMPSON) and the Senator from Massachusetts (Mr. KENNEDY) or their designees.

Thirty minutes on any first-degree amendments to the bill, equally divided.

Twenty minutes on all second-degree amendments, equally divided, with the proviso that second-degree amendments must be germane to the subject matter of the first-degree amendment.

Ten minutes on any debatable motion, appeal, or point of order, if it is submitted to the Senate.

I further ask unanimous consent that on an amendment to be offered by the Senator from Florida (Mrs. HAWKINS) dealing with 100-percent reimbursement for immigration emergencies, there be a time limitation of 45 minutes, equally divided.

On an amendment to be offered by the Senator from Idaho (Mr. MCCLURE) dealing with INS search warrant requirements, 30 minutes, equally divided.

On an amendment to be offered by the Senator from Texas (Mr. TOWER) dealing with the criminal sanction provisions in the bill, there be a limitation of 2 hours, equally divided.

Two hours on a DeConcini amendment dealing with transition programs for agriculture foreign workers, equally divided.

One hour on a Bumpers amendment dealing with investor preference provision, equally divided.

Mr. President, in each case, the times I will give should be equally divided.

One hour on a Bumpers amendment dealing with investor preference provision.

One hour on a Hart amendment dealing with asylum.

One hour on a Hart amendment dealing with discrimination with employer sanctions.

Mr. President, a list of amendments on which there will be a time limitation of 30 minutes equally divided is as follows:

A Kennedy amendment dealing with congressional certification of employer sanctions regarding discrimination.

Mr. **KENNEDY.** It has already been disposed of.

Mr. **BAKER.** I thank the Senator. I strike that from the request.

The second Kennedy amendment as well.

The next one would be a Kennedy amendment dealing with asylum judicial review. That would be 30 minutes, equally divided, as will be the remainder of this list until I indicate a different arrangement.

A Kennedy-Huddleston amendment dealing with periodic review of immigration ceilings.

Mr. **KENNEDY.** That has been dealt with.

Mr. **BAKER.** That has been dealt with.

I thank the Senator. I strike that from the list.

Next is a Chiles amendment on immigration emergency powers.

Mr. **SIMPSON.** That will be disposed of.

Mr. **BAKER.** Next is the Chiles amendment on antismuggling, plus local law enforcement.

May I say, Mr. President, nothing in this request will preclude the disposition of any of these amendments prior to the close of business today.

Next would be a Levin amendment, judicial review of deportation or exclusion.

Next a Levin amendment, judicial review of asylum.

Next a Levin amendment, judicial review of legalization.

Next a Levin amendment, legalization standards.

Next a Levin amendment, Government antidiscrimination activities.

Next a Cranston amendment to modify continuous residency requirement.

Next a Cranston amendment, judicial review on appeal of denial of legalization.

Next a Cranston amendment to establish procedure for discrimination complaints regarding employer sanctions.

Next a Bradley amendment dealing with reimbursement to States on expenses for implementation.

Next a Bradley amendment concerning immigration.

Next a Robert C. Byrd amendment, a sense of the Senate amendment, that the Department of Labor should reexamine the January 4 rulemaking affecting West Virginia fruitgrowers.

Mr. BYRD. Mr. President, if the distinguished majority leader will yield at that point, I wish to have the option of going the sense of the Senate route or going the amendment route.

Mr. BAKER. Very well.

Mr. President, I amend the request so that it will be either a sense of the Senate resolution or an amendment dealing with that subject matter.

Mr. BYRD. I thank the majority leader.

Mr. BAKER. I thank the minority leader.

Mr. President, next a Huddleston amendment dealing with annual reporting on the impact of immigration.

Mr. HUDDLESTON. That has been done.

Mr. BAKER. That has been done. I withdraw that from the list, Mr. President.

Next a Levin amendment to modify the H-2 program.

Next a Huddleston amendment to set a cap on refugees.

Mr. President, I further ask unanimous consent the agreement be in the usual form; provided, that the Senate reaches this measure, that is, the immigration bill, no later than 12 noon on Monday, May 9, then and in that event final passage shall occur on S. 529 no later than 6 p.m. on Tuesday, May 10, 1983.

Mr. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. BYRD. I think that is crowding the Senate with a list of amendments being as lengthy as it is here. Would the majority leader consider making that no later than, say, 10 p.m.?

Mr. BAKER. Yes.

Mr. President, I change the request to no later than 10 p.m.

Mr. BYRD. I thank the Senator.

Mr. SYMMS. Mr. President, I reserve the right to object.

Mr. BAKER. Let me finish one more line and then I will yield the floor.

Mr. SYMMS. I share the concern that is offered here by the minority leader that we are passing a bill of this magnitude by Tuesday next.

Mr. BAKER. No. Tuesday a week from this Tuesday.

Mr. SYMMS. We will debate the budget all next week?

Mr. BAKER. Yes.

Mr. SYMMS. So we would only have 2 days and then the Senator has listed a long list of amendments.

Mr. BAKER. Mr. President, I agree with the Senator that it is a very long list. But I am advised by the managers of the bill that it is possible in their opinion to deal with these.

I yield to the distinguished chairman of the subcommittee to respond to the question of the Senator from Idaho.

Mr. SIMPSON. I thank the majority leader.

Mr. President, let me say that this is the same legislation with very few exceptions, and the Senator has heard some of the exceptions today mentioned, that passed this body in August 1982 by a vote of 80 to 19.

There is not much new here. There are some very significant improvements that have come from my colleague, the ranking minority member.

The debate on this issue had a full and thorough airing in August of 1982.

The same conditions are in this bill that were in that bill then. Many of the same amendments that are being proposed again will be dealt with very carefully. We will deal with all of these amendments.

It has been our experience that as these amendments are proposed, and many of these are technical amendments, we find that as we get close to a deadline with this legislation, many of these amendments do disappear. I would say that that is adequate time: The entire day of Monday, May 9, May 10 up to 10 o'clock in the evening, and I earnestly say to my colleague from Idaho that that would seem to me very adequate time.

If the consent agreement is not agreed to, then I am prepared to remain here, and I know that he will allow me to remain here and try to enter into a rather full, complete, and thorough debate with the Senator from Idaho on into tonight, all day tomorrow, and Saturday, so that we might address his concerns and the things that cause him concern. It is a sweeping piece of legislation, but not one amendment and not one part of it has not been addressed in this body before or ever will be because the issue is that kind of an issue.

Mr. SYMMS. I say to the distinguished majority leader and the distinguished Senator from Wyoming it is not my wish to try to in any way protract the deliberations in the body, but it appears to me that the other body chose not to pass this legislation 2 years ago when it was passed here, and I somehow wonder if the country is aware that we are talking about in this bill to allow everything that has happened with respect to crossing our borders in immigration, to say that everything that happened in the past is OK, but any of you people out there, you small businessmen or farmers, who hire any illegal aliens, we are going to arrest you. The Government could not stop it. So we are going to try to make the small businessmen of America be the law enforcement officers.

I wonder if the American people realized what the magnitude of this legislation is they would want us to try to rush it through.

I do not mean to stand here and try to slow this down. I do not like the idea of trying to use the rights of those of us who are in the minority who happen to disagree with the solution that the distinguished chairman of the committee came to, but I just cannot understand why it is we are trying to rush into this time agreement.

Is there any reason why we could not delay this and not actually have a time certain until next week?

Mr. SIMPSON. Mr. President, I say to my colleague from Idaho that the House of Representatives dealt with this issue in the lameduck session in December.

Mr. SYMMS. And voted it down.

Mr. SIMPSON. At a time when there were 300 amendments proposed by one gentleman on the issues that seemed to be of greatest concern to him. As two test votes in the House of Representatives indicated, there would have been sufficient votes to pass the issue.

We have been assured by the majority floor leader of the House of Representatives that this is an issue that is of paramount concern to the American people, and that he will not be part of the delay.

Such persons that the Senator from Idaho has served with, such as Congressman MAZZOLI, Congressman LUNGREN, the chairman of and ranking minority member of the Subcommittee on Immigration in the House of Representatives, are prepared to deal with this issue.

I think the Senator should remember that on the issue of employer sanctions—and I know he has difficulty with that—the House of Representatives has passed that on each and every occasion where it has been presented, as far back as 1971 and 1972.

If there were any thought that this was a rush job, I would have to chuckle to a degree that would nearly run into a paroxysm of collapse because I can tell you that I used to weigh——

Mr. SYMMS. I would like my dear friend to try that to slow this process down. [Laughter.]

Mr. SIMPSON. If the Senator will remember my opening remarks, I said that this issue raised feelings of fear, guilt, emotionalism and racism, and that we have dealt with this issue with literally hundreds of hours of hearings and witnesses. Then you will agree when I tell you that at one time I did weigh 260 pounds and had hair, but this legislation has left me in this emaciated form that you see before you. [Laughter.]

Mr. SYMMS. I say to my good friend there is a lot left of him no matter what.

Mr. SIMPSON. There has never been an issue before this body that has had more thorough consideration, and I hope and earnestly request and honestly beseech you to agree with this agreement so that we can get on with this issue.

Mr. SYMMS. I appreciate that.

I further reserve my right to object, Mr. President, and I want to be sure I understand. We are talking about having a final vote no later than Tuesday at 10 p.m., is that correct, I ask the majority leader?

Mr. BAKER. Tuesday, May 10, which is a week from this coming Tuesday.

Mr. SYMMS. Yet the majority leader read a list of amendments which had a one-half hour time agreement, which is quite lengthy, and if quorum calls or record votes were the order of business, is there actually enough time so that if there are other amendments which come to the floor we can properly make deliberation on this matter?

Mr. BAKER. Mr. President, I will say to my friend it is a long time but it is not really as long as maybe it sounds because even if all the time taken by each of those amendments is taken it would be 7½ hours, which is doable in 1 day even with rollcalls and quorum calls.

It is true when we finish this bill we will have spent only 3 days on it if we are not in tomorrow and 4 days or 5 days if we are in tomorrow or the next day. But I believe this will work out, and I hope the Senator will not object.

Let me put the remainder of my request and then we will see how we come out. I thank the Senator for his concern.

Mr. President, I ask unanimous consent that paragraph 4 of rule XII be waived.

Mr. President, I also ask unanimous consent that any rollcall votes which are ordered on amendments on Monday, May 9, be stacked and occur in sequence starting at 4 p.m. on Tuesday, May 10.

Mr. President, there is one further request. I ask unanimous consent that on an amendment by the Senator from California (Mr. WILSON) there be 1 hour equally divided, dealing with perishable commodities.

Mr. President, I think I should say before the Chair puts the question, so that nobody will misunderstand us, we have a long list of amendments here and, of course, that will qualify them under the rule of germaneness although we have required germaneness as to second-degree amendments. But at no place have we provided that no other amendments are in order. I hope there will be no other amendments. This is a great plan, but the request does not so provide.

Mr. BYRD. Mr. President, that was a point I was going to raise. Why should we not have protection against nongermane amendments, other than those which are specified, which may or may not be germane? We are doing that on the second-degree amendments.

Mr. BAKER. I believe we automatically would have that except for those amendments which were specified, would we not?

Mr. BYRD. Has the Senator asked for the "usual form?"

Mr. BAKER. Yes, I had.

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. Yes, that is included in the request.

Mr. BYRD. I thank the Senator.

Mr. BAKER. I thank the Senator for his inquiry. Mr. President, that is the request.

Mr. BYRD. Also, Mr. President, I have a request for a 30-minute time limitation on a Moynihan amendment dealing with foreign students.

Mr. BAKER. I make that request.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Also may I ask the majority leader——

Mr. BAKER. Mr. President, I have a request now for four additional amendments. I really hope we can get on with this business because it can be an endless process.

Mr. President, I ask unanimous consent on four Helms amendments, one dealing with no amnesty, strike title III, 20 minutes, equally divided; illegal education services—freedom of States to choose to offer free education to aliens, 15 minutes equally divided; third, to eliminate the 40,000 quota ceiling and replace it with 20,000 as with all other countries, 15 minutes equally divided; and an amendment eliminating provisions of the bill allowing Mexico to use the unused quota from Canada, 30 minutes equally divided.

Mr. BYRD. Mr. President, I would have to reserve my right to object until our manager on this side of the aisle be contacted.

Mr. BAKER. I really believe those are amendments which would qualify and which are not included.

Mr. BYRD. The problem is the time. If the majority leader would like to proceed with the remainder of the request, and get that through, I would like to clear the others.

I was going to ask the majority leader, if we are going to have stacked votes on Tuesday afternoon, would it not be appropriate to have a few minutes, 5 minutes or some such, before each stacked vote so that each Senator will know what he is voting on when we start to vote at 4 o'clock?

Mr. BAKER. That is a reasonable request.

Mr. SYMMS. Mr. President, reserving the right to object, we are talking about all debate privileges terminating at 4 p.m. a week from Tuesday when we start voting, and Senator HELMS or others bring in very important amendments, whether on employer sanctions or others, and on those amendments we cannot debate them and we just vote on them, is that correct?

Mr. BAKER. That is not necessarily so. I would be amazed if we had rollcall votes on all of these amendments. If we do not use the time after the stacked votes are executed, prior to 10 p.m., that night, there would be further time for debate and for Members to offer amendments.

If the stacked votes had not been executed between 4 and 10 o'clock, and that would be 6 hours of voting, and I cannot imagine it, then, of course, the Senator is right. While you could get the amendment voted on, there would be no time for debate on the amendment.

Mr. SYMMS. If I might ask the majority and minority leaders, have all Senators who have offered these amendments all approved of this time agreement knowing they may not be able to debate their amendments?

Mr. BAKER. I will say to my friend from Idaho I really cannot say on what basis they approved of them. But I can say in each case the Member was consulted and has indicated he would not have an objection.

Mr. SYMMS. What happens if they come in and the time has expired even though maybe the agreement here says 30 minutes, but there is no way there is any time left due to whatever the reason, quorum calls or what have you?

Mr. BAKER. It really is one of the functions of the leadership to see that does not happen. While it is possible some Senator may be able to delay the Senate by quorum calls or other efforts to deprive the Senate of debate time, surely that will not happen because this is an important matter, and if that does not happen there is going to be ample time, so I hope no Senators will entertain the thought that he could consume time, valuable time, by unnecessary quorum calls or other maneuvers that would place us in that position.

If we all treat each other in good faith on that basis, there is no doubt in my mind that there will be adequate time not only to debate these matters but to vote on such of them as require rollcalls.

Before I go on, Mr. President, I am told I am authorized to do this, I withdraw for the moment the Helms requests on those four amendments.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the majority leader?

Mr. SYMMS. Reserving the right to object, Mr. President, my concern is not the tireless efforts that our distinguished colleague, the majority leader and our friend, is making to carry out and put all this thing together, but I recall very well, and I know my friend from Wyoming will affirm this for me, that in the last session when we went through this exercise on the immigration bill, our colleague from California, Senator Hayakawa, who is no longer in this body, offered an amendment on—I forget what the amendment was, as a matter of fact—it was the search warrant amendment that the Senator from California offered, and because of stacked votes it will always be this Senator's opinion—now, I may be wrong, but it will always be this Senator's opinion—that because of stacked votes the Members of this body were not here to listen to the debate when we voted a day later or something, and I just think this is too important an issue to leave in this fashion. Is there any way we can come to an agreement here without stacked votes?

So that if we wish to debate some of these amendments we could vote on them immediately following the debate and not end up putting the vote over for 2 or 3 days and people walking in who have forgotten about what the debate was all about. I would ask that question of the majority leader.

Is there any way we could arrange this unanimous-consent request not to have these votes stacked so if we are debating something like the search warrant amendment, for example, we will vote on it after the debate has cleared the floor?

Mr. BAKER. Mr. President, let me say to my friend that the only requirement in this request, if it is granted, would be that rollcalls on Monday would be stacked. Otherwise, today, or tomorrow if we are in session and I guess during all day on Tuesday, they would not be stacked. We would vote on them as they were presented and as they occurred.

I will say to the Senator that we have tried very hard to work out an arrangement that will suit the greatest number of Senators. I understand the Senator's concern, but I really would hope that we would not lose this opportunity to deal with this matter on a well organized basis.

Mr. SYMMS. Mr. President, I make a point of order that a quorum is not present.

Mr. BYRD. The Senator does not have the floor.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. SYMMS. Mr. President, I reserve the right to object. I make a point of order that a quorum is not present.

Mr. BYRD. The Senator cannot make that point of order without having the floor.

Mr. BAKER. Mr. President, I am willing for the Senator to do that. Of course, the Chair is right, it is not in order as long as I have the floor. But I have no desire to interfere with the Senator's wishes.

Agreements of this sort are perishable and amendments grow like mushrooms. If we let this thing grow much longer, there will be so many mushrooms on it we will never get it through.

I am willing to do this. I am willing to change the time that we start the stacked votes from 4 o'clock to 2 o'clock. That would give us 2 more hours and increase the likelihood that we could execute all of the stacked votes that resulted from Monday before we get to final passage at 10 o'clock on Tuesday. That would help some.

But I hope the Senator will consider that this is the best, I think, we can do with it. I hope he will not object to the request.

Mr. BYRD. Mr. President, did the distinguished majority leader ask in his request for the provision that there would be time for discussion?

Mr. BAKER. No, I did not, but I wish to do that.

Mr. President, I also ask unanimous consent that between the stacked votes there be 5 minutes of debate to be equally divided in the usual form.

Mr. BYRD. Mr. President, I am not going to say anything else now. I know what the majority leader's problems are.

The PRESIDING OFFICER. Is there objection to the request of the majority leader? Without objection, it is so ordered.

(Later the following occurred:)

Mr. STEVENS. Mr. President, I ask unanimous consent that the following amendments be included in the time agreement on S. 529:

First, a Helms amendment dealing with striking title III, on which there will be 30 minutes equally divided;

Second, a Helms amendment dealing with national policy on State public education for illegal aliens and their dependents, on which there will be 30 minutes equally divided;

Third, a Helms amendment dealing with eliminating the 40,000 quota ceiling and replacing it with a 20,000 quota ceiling, on which there will be 30 minutes equally divided;

Fourth, a Helms amendment dealing with eliminating provisions of the bill that allow Mexico to use the unused quota from Canada, on which there will be 30 minutes equally divided;

Fifth, a Danforth amendment dealing with foreign residency requirement for students, on which there will be 20 minutes equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That at the conclusion of business on Thursday, April 28, 1983, the Senate temporarily lay aside the pending business, S. 529 (Order No. 98), a bill to revise and reform the Immigration and Nationality Act, and for other purposes, and that the Senate resume consideration of S. 529 following the disposition of S. Con. Res. 27 (Order No. 99) or H. Con. Res. 91 (Order No. 91), the Budget Resolution.

Ordered further, That time on any amendment in the first degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, that time on any amendment in the second degree shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, provided that amendments in the second degree be germane to the subject matter of the amendments in the first degree, and that time on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 10 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received, with the following exceptions:

Hawkins amendment, dealing with 100 percent reimbursement for immigration emergencies, 45 minutes;

McClure amendment, dealing with INS search warrant requirements, 30 minutes;

Tower amendment, dealing with the criminal sanction provisions in the bill, 2 hours;

Wilson amendment, dealing with perishable commodities, 1 hour;

Bumpers amendment, dealing with investor preference provision, 1 hour;

Hart amendment, dealing with asylum, 1 hour;

Hart amendment, dealing with discrimination with employer sanctions, 1 hour;

Kennedy amendment, dealing with asylum judicial review, 30 minutes;

Levin amendment, dealing with judicial review of deportation or exclusion, 30 minutes;

Levin amendment, dealing with judicial review of asylum, 30 minutes;

Levin amendment, dealing with judicial review of legalization, 30 minutes;

Levin amendment, dealing with legalization standards, 30 minutes;

Levin amendment, dealing with government anti-discrimination activities, 30 minutes;

Cranston amendment, dealing with modifying continuous residency requirement, 30 minutes;

Cranston amendment, dealing with judicial review on appeal of denial of legalization; 30 minutes;

Cranston amendment, dealing with establishing procedure for discrimination complaints regarding employer sanctions, 30 minutes;

Bradley amendment, dealing with reimbursement to States on expenses for implementation, 30 minutes;

Bradley amendment, dealing with immigration, 30 minutes;

Byrd amendment, dealing with sense of the Senate that the Labor Department should re-examine a Jan. 4th rule-making affecting West Virginia fruitgrowers, 30 minutes;

Levin amendment, dealing with modifying H-2 program, 30 minutes;

Huddleston amendment, dealing with setting a cap on refugees, 30 minutes;

Moynihan amendment, dealing with foreign students, 30 minutes;

Helms amendment, dealing with striking Title III, 30 minutes;

Helms amendment, dealing with national policy on State public education for illegal aliens and dependents, 30 minutes;

Helms amendment, dealing with 40,000 quota ceiling being replaced by 20,000 ceiling, 30 minutes;

Helms amendment, dealing with eliminating transferring unused quota between Mexico and Canada, 30 minutes;

Danforth amendment, dealing with foreign residency requirement for students, 30 minutes.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Wyoming (Mr. Simpson) and the Senator from Massachusetts (Mr. Kennedy), or their designees: *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Ordered further, That providing that the Senate resumes consideration of this bill no later than 12:00 noon on Monday, May 9, 1983, the vote on final passage of this bill shall occur no later than 10:00 p.m. on Tuesday, May 10, 1983.

Ordered further, That any rollcall votes ordered on amendments on Monday, May 9, 1983, be stacked and occur in sequence starting at 2:00 p.m. on Tuesday, May 10, 1983, with 5 minutes debate to be in order between any such stacked votes, with the time to be equally divided and controlled by the mover of such amendment and the manager of the bill.

Mr. BYRD. Will the majority leader yield?

Mr. BAKER. Gladly.

Mr. BYRD. Mr. President, may I say to the distinguished Senator from Idaho who has raised a legitimate question, that the majority leader is placed in a situation by colleagues on both sides of the aisle who want to be here when the votes occur but who, for one reason or the other, cannot be here on Monday. That is exactly why the majority leader is put in that position. I have been put in that position before. It is not the best way to legislate. But the majority leader has provided some time for an explanation of each amendment before it is voted on.

I have seen these arrangements before and I have seen but few occasions in which such time agreements did not work out all right. I think the Senator from Wyoming expressed it well, that there is say, 30 minutes on an amendment and it is not even called up, in many instances. I have 30 minutes on my amendment, for example. Five minutes is fine with me. I hope that the managers will accept my amendment, which would require only 2 minutes.

So they are either not called up or in many instances the full time is not taken. The majority leader has provided for some discussion before each amendment is voted on.

While I share the Senator's concern—and I think he does a service in expressing it—I do not think these situations evolve, in the usual case, where Senators are caught in the last minute with no time to debate an amendment. It does happen sometimes, of course.

Mr. BAKER. Will the Senator yield to me?

Mr. BYRD. Yes. I believe the Senator from Tennessee has the floor.

Mr. BAKER. Mr. President, I can assure the Senator from Idaho that I am going to do my dead level best to see that the scenario he described and fears does not occur. He is absolutely right; it could occur and it is a chance which we often take, but I give him my solemn assurance that I am going to try to move this bill along so that there is adequate time for debate before the stacked votes begin and after the stacked votes begin. I am convinced we can do that.

But I want the Senator from Idaho to know that I do not disparage for one moment his concern. There are risks. But there are risks that you have to take if you are going to get a controversial piece of legislation of this sort through.

Mr. SYMMS. I thank the majority leader and the minority leader.

(Mr. KASTEN assumed the chair.)

Mr. BAKER. Mr. President, I say to the manager that I hope that a number of these amendments can be disposed of because all of us have the same fear that we have a big and imposing list here. There is still time tonight to do some of them and I hope he will continue.

Mr. BYRD. Will the majority leader yield once more?

Mr. BAKER. Yes.

Mr. BYRD. I apologize for imposing upon him. There are four amendments which were not agreed to—I believe the Helms amendments—and we are seeking on our side of the aisle to get clearance for those four.

One other thing the majority leader said which I do not believe he meant to say. In responding to the Senator from Idaho, he referred to a possible session on tomorrow. I believe we have already gotten consent to go over from tonight until Monday.

Mr. BAKER. Which was probably the worst thing I did because I robbed myself of the right to have a session tomorrow. I did not think about it until later. I do not often admit mistakes.

Mr. BYRD. The Senator does not often make mistakes.

Mr. BAKER. On the other hand, it does the soul good to say I made one. But I sat here in terror for fear I would not be permitted to change that. But now things have worked out well and I have learned a lesson.

Mr. SIMPSON. Mr. President, if the majority leader were sitting in terror, you can only imagine my trepidation.

Let me just thank the majority leader for his patience. It is an undeniable patience. I do not know how he does it. I was a majority floor leader and that is why I am not in that trade any more. I did get overly boisterous from time to time with my colleagues—impatient, if you will, unkind, pinched.

I just want to say to the minority leader that I deeply appreciate this. I assure you that I will remain here on May 9 until you hammer the box closed, until we can deal with every issue and every amendment.

I wish to thank the Senator from Idaho. I know the intensity of his feelings. He is a spirited adversary in debate and he will be right here going at it again. I understand exactly the depth of his feeling. I will work with him. I will accommodate him in every way that I possibly can.

You are seeing what has been seen throughout the decade with regard to this legislation. We have a phrase for it in Wyoming. It is like bear meat—the more you chew it, the bigger it gets. And that is what will happen.

But I will be here until the last gong is rung on Monday and Tuesday to try to accommodate every single one of these concerns, to visit with the sponsors, and to see if we cannot make accommodations. I think you will find we will expedite the process and indeed time will be yielded back again and again on it, and that is my hope.

Mr. BAKER. Mr. President, are there other amendments?

Mr. SIMPSON. We have a Chiles amendment.

AMENDMENT NO. 1218

(Purpose: To amend the Immigration and Nationality Act to provide special authorities and procedures for the control of immigration emergencies)

Mr. CHILES. Mr. President, I offer an amendment to S. 529 and send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) proposes an amendment numbered 1218.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the bottom of page 214, add the following:

TITLE V—IMMIGRATION EMERGENCY PROVISIONS RELATING TO ENTRY AND EXCLUSION

SEC. 501. (a) Chapter 4 of title II of the Immigration and Nationality Act is amended by inserting at the end thereof the following new sections:

"DECLARATION OF IMMIGRATION EMERGENCY

"Sec. 240A. (a) The President may declare an immigration emergency with respect to any specifically designated foreign country or countries or geographical area or areas, if the President determines that—

"(1) a substantial number of aliens who lack documents authorizing entry into the United States appear to be ready to embark or have already embarked for the United States, and such aliens will travel from, or are likely to travel through, such foreign country or countries or such foreign geographical area or areas; and

"(2) the normal procedures of this Act or the current resources of the Service would be inadequate to respond effectively to the influx of these aliens.

"(b) Within forty-eight hours of the declaration of any immigration emergency, the President shall inform the Speaker of the House of Representatives and the President pro tempore of the Senate of the reasons prompting the declaration. The President shall cause the declaration to be published in the Federal Register as soon as practicable. The declaration shall expire 120 days after its proclamation, unless sooner terminated by the President. The President may extend the duration of the declaration for additional periods of 120 days each by following the same procedures set forth in this subsection as are provided for the making of the declaration, if, in his judgment, the conditions listed in subsection (a) continue to exist.

"EMERGENCY POWERS AND PROCEDURES

"Sec. 240B. (a) Upon the declaration of an immigration emergency under section 240A, the President may invoke the following emergency powers and procedures with respect to a country or countries or a geographical area or areas specifically designated under section 240A:

"(1) Any United States vessel, vehicle, or aircraft, or any other vessel, vehicle, or aircraft which is owned or operated by, chartered to, or otherwise controlled by one or more citizens or residents of the United States or corporations organised under the laws of the United States or of any political subdivision thereof and which is bound directly or indirectly for such designated foreign country or foreign geographical area may be precluded from departing from the United States or may be intercepted while en route and required to return to the United States if feasible or to any other reasonable location until such time as it is feasible to return to the United States, or, if appropriate, allowed to proceed to any other reasonable location.

"(2) The arrival in the United States of any alien who lacks documents authorizing entry into the United States or who is otherwise inadmissible and is traveling, directly or indirectly, from or through such designated foreign country or foreign geographical area may be prevented by returning or requiring the return of such alien or any vessel, vehicle, or aircraft carrying any such alien to such designated country or area or to some other reasonable location.

"(3)(A) The exclusion or admission to the United States of any alien, regardless of nationality, who is traveling or has traveled to the United States, directly or indirectly, from or through such designated foreign country or foreign geographical area and who is not in possession of a visa or other entry document required for admission to the United States by statute or regulation may be determined under procedures established by the Attorney General (whether by regulation or otherwise), and no such alien shall be presented for inquiry before a special inquiry officer unless such presentation is authorized by the Attorney General pursuant to such procedures.

"(B) Notwithstanding section 208 or any other provision of law, the Attorney General may establish by regulation or otherwise a separate procedure to consider a claim for asylum advanced by an alien whose admissibility is to be determined in accordance with this paragraph.

"(C) Any alien found inadmissible to the United States pursuant to the procedures established by the Attorney General under this paragraph shall be deported to the country from whence he came. If the Attorney General determines that the alien should not or cannot practicably be removed to the country from whence the alien came, the Attorney General may deport the alien to any country described in section 243(a), without regard to the designation of the alien or the order of countries set forth in section 243(a).

"(D) Any alien admitted to the United States under this paragraph shall be admitted for such time and under such conditions as may be prescribed by the Attorney General, including the giving of a bond with sufficient surety in such sum and containing such conditions as the Attorney General shall prescribe to insure compliance with the terms and conditions of the alien's admission.

"(E) No court shall have jurisdiction to review the determination of admissibility or nonadmissibility of, or the determination of any claim for asylum with respect to, any alien who is subject to this paragraph.

"(4)(A) Every alien who is subject to the provisions of this section shall be detained pending a final determination of admissibility or pending release on parole or pending deportation if the alien is found excludable, unless an examining officer finds that the alien is clearly and beyond a doubt entitled to be admitted to the United States. Such detention shall be in any prison or other detention facility or elsewhere, whether maintained by the Federal Government or otherwise, as the Attorney General may direct. The Attorney General may at any time transfer an alien from one place of detention to another. No alien shall be released from detention pending a final determination of admissibility or pending deportation if the alien is found excludable, except in the discretion of the Attorney General and under such conditions as the Attorney General may prescribe, including release on bond.

"(B) Any alien applying for admission from a foreign contiguous territory may, in the discretion of the Attorney General, be required to remain outside of the United States pending a final determination of admissibility.

"(C) No court shall review any decision of the Attorney General made pursuant to this paragraph to detain, to transfer, or to release an alien, except that any person so detained may obtain review, in habeas corpus proceedings, on the question of whether that person falls within the category of aliens subject to detention.

"(D) Nothing in this paragraph shall relieve a carrier or any other person of any liability, duty, or consequences pertaining to the detention of aliens which may arise under any other provision of this Act or other law.

"(5)(A) The President may exempt any facility or emission source, as the case may be, of any department, agency, or instrumentality in the executive branch from applicable environmental requirements pursuant to section 313(a) of the Federal Water Pollution Control Act (33 U.S.C. 1323(a)) and section 1447(b) of the Public Health Service Act (42 U.S.C. 300j-6(b)), section 4 of the Noise Control Act of 1972 (42 U.S.C. 4903), section 6001 of the Solid Waste Disposal Act (42 U.S.C. 6961), and section 118(b) of the Clean Air Act (42 U.S.C. 7418(b)).

"(B) If the President finds, and transmits his finding to the Congress, that an exemption is necessary to respond to an immigration emergency, the President may exempt any facility or emission source of, or any action of, any department, agency, or instrumentality in the executive branch which is directly and substantially related to an immigration emergency from applicable requirements of the National Environmental Policy Act (42 U.S.C. 4331 et seq.), the Coastal Zone Management Act (16 U.S.C. 1451 et seq.), the Endangered Species Act (16 U.S.C. 1531 et seq.), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Historic Preservation Act (16 U.S.C. 470 et seq.), and from the applicable requirements of any other Federal, State, or local law which is intended principally to protect or preserve the environment, wildlife, or aspects of the history or heritage of the United States.

"(C) Except with respect to matters concerning the detention of aliens, an exemption under this paragraph shall lapse upon termination of an immigration emergency. In no event shall any exemption under this paragraph be in effect more than one year. An exemption with respect to matters concerning the detention of aliens shall be in effect until terminated by the President or the expiration of one year, whichever occurs first. During the time period in which an exemption applies the President may, in his discretion, require that a facility or emission source of any department, agency, or instrumentality of the United States nonetheless meet certain environmental standards without thereby creating a private right of action to enforce that requirement.

"(b)(1) During the existence of the immigration emergency, the President may order the closing or sealing of any harbor, port, airport, road or any other place, structure or location which may be used as a point of departure from the United States to such designated foreign country or foreign geographical area, if the President determines such action is necessary to prevent the arrival in the United States of aliens who are inadmissible and who are traveling from or in transit through such designated country or area.

"(2) No person shall cause any vessel or aircraft to depart from or beyond or enter into a closed or sealed harbor, port, airport, road, place, structure, or location during an immigration emergency, unless written permission has been obtained for such departure before the actual departure of the vessel or aircraft.

"(3) Permission for departure from or beyond or entry into a closed or sealed harbor, port, airport, road, or any other place, structure, or location shall be given only for such vessels, vehicles, aircraft which are clearly shown not to be destined for a designated foreign country, or foreign geographical area. The agency designated by the President under subsection (d) of this section shall prescribe the procedures to be followed in requesting departure permission. In the absence of such procedures, permission may be sought from any agency directly involved in the closing or sealing of the harbor, port, airport, road, or other place, structure or location. A final decision shall be made on any request for departure permission within 72 hours of the request, unless the person seeking such permission consents to a longer period. If no action is taken on the request within the requisite period, the request for departure permission shall be deemed denied.

"(4) The district courts of the United States shall have jurisdiction to review any final decision denying permission to depart under paragraph (3) of this subsection, except that review may be obtained prior to a final administrative decision with respect to any vessel, vehicle, or aircraft if irreparable injury would occur before a final administrative decision could be obtained.

"(C) The President is authorized to reimburse State and local governments for all costs incurred by such governments during and as a direct result of an immigration emergency declared under section 240A (a), including the costs of providing medical assistance, temporary housing, and other emergency assistance to aliens who entered the United States undetected or who are awaiting immigration proceeding and the cost of providing law enforcement services in connection with such aliens.

"(d) The President may not delegate the authority to initiate those emergency powers of this section which expressly require Presidential invocation, except that the President may designate one or more agencies of the Federal Government to administer the provisions of this section and of section 240C and 240D. In carrying out these provisions, such designated agency may promulgate regulations and may request assistance from any State or local agency or from any civilian Federal agency. Notwithstanding any other provision of law or any rule or regulation, the President may direct that any component of the Armed Forces of the United States, including the Army, Navy, and Air Force, provide assistance to such designated agency. Any such agency or component of the Armed Forces of the United States may assist in the actual detention, removal, and transportation of an alien to the country to which he is being deported.

"(e) Notwithstanding any other provision of law, any agency or component of the Armed Forces of the United States which is requested or directed to render assistance or services during an immigration emergency is authorized to stop, board, make arrest of persons, inspect, and seize any vessel, vehicle, or aircraft which is subject to the provisions of this section or of section 240C or 240D.

"(f) In providing assistance under this section and sections 240C and 240D, agencies shall have the same authority as such agencies have for disaster relief under section 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5149).

"(g) The provisions of paragraphs (3) and (4) of subsection (a) of this section shall continue to govern any aliens subject to those provisions, regardless of the termination of the immigration emergency.

"(h) The President may direct the enforcement of subsection (a) of this section beyond the territorial limits of the United States, including on the high seas.

"(i) Nothing in this section shall relieve any carrier or any other person of any civil or criminal liability, duty, or consequence that may arise from the transportation or the bringing of any alien to the United States.

"TRAVEL RESTRICTIONS AND LICENSING

"SEC. 240C. (a) Upon the declaration of an immigration emergency under section 240A, it shall be unlawful for any person to cause any United States vessel, vehicle, or aircraft, or any other vessel, vehicle, or aircraft which is owned by, chartered to, or otherwise controlled by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any political subdivision thereof, to travel or be transported to a foreign country or foreign geographical area designated under section 240A or to within such distance therefrom as the President may specify, unless prior approval has been obtained from an agency designated by the President.

"(b) Except as provided in subsection (c), the designated agency may by regulation grant prior approval, under such terms and conditions as it may require, for travel to or within a specified distance of a foreign country or geographical area designated under section 240A for certain classes or categories of vessels, vehicles, and aircraft. The owner or operator of any vessel, vehicle, or aircraft not authorized by regulation to travel to or within a specified distance of a designated country or area may apply to the designated agency for a license granting permission for one or more trips to that country or area. The designated agency shall establish by regulation the procedures governing the application for and the approval and revocation of such licenses. The designated agency may authorize officials of any other agency of the United States to accept and transmit applications for licenses to the designated agency or to grant or deny such licenses under standards established by the designated agency.

"(c) No travel to or within such distance as the President may specify from a designated foreign country or area shall be approved under subsection (b) if it appears that such travel may result in or contribute to a violation of any statute or regulation relating to the immigration of aliens to the United States.

"PENALTIES

"SEC. 240D. (a)(1) On or after the day following publication in the Federal Register of the declaration of an immigration emergency, any vessel, vehicle, or aircraft involved in a violation of section 240B(b)(2) or section 240C(a) shall be forfeited and the owner, operator, and any person causing such vessel, vehicle, or aircraft to be involved in such violation shall be subject to a civil fine of $10,000 for each act in violation of such section, except that such vessel, vehicle, or aircraft involved in such violation may be forfeited and the owner, operator, or any other person causing such violation may be subject to a civil fine of $10,000 for each act in violation before such date if such owner, operator, or other person had actual knowledge of the declaration of an immigration emergency.

"(2) All provisions of the customs laws relating to—

"(A) the seizure, summary and judicial forfeiture, and condemnation of property,

"(B) the disposition of such property or the proceeds from the sale thereof,

"(C) the remission or mitigation of such forfeiture, and

"(D) the compromise of claims and the award of compensation to informers in respect of such forfeitures.

shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section insofar as applicable and not inconsistent with the provisions of this section, except that duties imposed on customs officers or other persons regarding the seizure and forfeiture of property under the customs laws may be performed with respect to seizures and forfeitures carried out under the provisions of this section by such officers or persons authorized for that purpose by the Attorney General.

"(3) Whenever a conveyance is forfeited under this section the Attorney General may—

"(A) retain the conveyance for official use;

"(B) sell the conveyance and shall use the proceeds from any such sale to pay all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs, with the remaining proceeds, if any, turned over to the United States Treasury;

"(C) require that the General Services Administration, or the Federal Maritime Commission if appropriate under section 484(i) of title 40, United States Code, take custody of the conveyance and remove it for disposition in accordance with law; or

"(D) dispose of the conveyance in accordance with the terms and conditions of any petition of remission or mitigation of forfeiture granted by the Attorney General.

"(4) In all suits or actions brought for the forfeiture of any conveyance seized under this section, where the conveyance is claimed by any person, the burden of proof shall lie upon such claimant if probable cause shall be first shown for the institution of such suit or action, to be judged of by the court.

"(b) On or after the day following publication in the Federal Register of the declaration of an immigration emergency, any person who knowingly engages or attempts to engage in any conduct prohibited by the terms of section 240B(b)(2) or section 240C(a) shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding $50,000 or by imprisonment for a term not exceeding five years, or both, for each prohibited act, except that the owner, operator, or any other person causing a violation of such section shall be punished by a fine not exceeding $50,000 or by imprisonment for a term not exceeding five years, or both, for each prohibited act before such date if such owner, operator, or other person had actual knowledge of the declaration of an immigration emergency.

"(c) Any alien who willfully violates a condition of his admission under section 240B shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(d) The requirements and sanctions imposed by this section shall be in addition to those set forth by other provisions of law.

"(e) Violations of any provisions of this Act committed during the immigration emergency may be investigated by the Federal Bureau of Investigation, the Service, the Coast Guard, or any component of the Department of the Treasury. Notwithstanding any other provision of law or any rule or regulation, assistance in investigating or enforcing this section may be provided, with the approval of the Attorney General, by any agency of the United States, including the Army, Navy, and Air Force, or may be provided by any State or local agency.

"DEFINITIONS

"SEC. 240E. As used in sections 240A through 240D—

"(1) the term 'agency' includes any executive department and components thereof, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency;

"(2) the term 'aircraft' means any airplane, helicopter, glider, balloon, blimp, or other craft or structure capable of being used as a means of transportation in the air;

"(3) the term 'vehicle' means any automobile, motorcycle, bus, truck, cart, train, or other device or structure capable of being used as a means of transportation on land;

"(4) the term 'vessel' means any ship, boat, barge, submarine, raft, or other craft or structure capable of being used as a means of transportation on, under, or immediately above the water; and

"(5) the phrase 'United States vessel, vehicle, or aircraft' include any vessel, vehicle, or aircraft documented, registered, licensed, or numbered under the laws of the United States or any political subdivision thereof.".

(b) The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 240 the following new items:

"Sec. 240A. Declaration of immigration emergency.

"Sec. 240B. Emergency powers and procedures.

"Sec. 240C. Travel restrictions and licensing.

"Sec. 240D. Penalties.

"Sec. 240E. Definitions.".

UNLAWFUL BRINGING OF ALIENS INTO UNITED STATES

SEC. 502. Subsection (b) of section 273 (8 U.S.C. 1323(b)) is amended—

(1) by striking out in the first sentence "$1,000" and inserting in lieu thereof "$3,000";

(2) by striking out the last sentence; and

(3) by adding at the end thereof the following: "Such sums shall be a lien upon the vessel or aircraft involved in a violation of the provisions of subsection (a) of this section, and such vessel or aircraft may be libeled therefore in the appropriate United States court. Pending the determination of liability to the payment of such sums or while such sums remain unpaid, such vessel or aircraft may be denied clearance, or summarily seized, or both, unless a deposit is made of an amount sufficient to cover such sums or of a bond with sufficient surety to secure the payment thereof satisfactory to the Attorney General.".

INSPECTION BY IMMIGRATION OFFICERS

SEC. 503. Section 235(b) (8 U.S.C. 1225(b)) is amended to read as follows:

"(b)(1) Unless an immigration emergency has been declared, an immigration officer shall inspect each alien who is required to have documentation seeking entry to the United States and shall make a determination on each alien's admissibility.

"(2) The decision of the immigration officer on admissibility of an alien shall be final and not subject to further agency review or to judicial review, if the immigration officer determines an alien to be an alien crewman, a stowaway under section 273(d) of this Act, or an alien who does not present documentary evidence of United States citizenship, or lawful admission for permanent residence, or a visa or other entry document, or a certificate of identity issued under section 360(b) to support a claim of admissibility.

"(3) Any alien not excluded under paragraph (2) of this subsection who does not appear to the examining immigration officer to be clearly and beyond a doubt entitled to admission shall be detained for further inquiry by a special inquiry officer under section 236.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 504. There are authorized to be appropriated to the President such amounts as may be necessary to carry out the purposes of sections 240A through 240E of the Immigration and Nationality Act, including amounts necessary to reimburse State and local governments under section 240B(c). Amounts appropriated under this section are authorized to remain available until expended.

On page 3, in the table of contents, insert after the item relating to section 405, the following:

TITLE V—IMMIGRATION EMERGENCY

Sec. 501. Provisions relating to entry and exclusion.

Sec. 502. Unlawful bringing of aliens into United States.

Sec. 503. Inspection by immigration officers.

Sec. 504. Authorization of appropriations.

Mr. CHILES. Mr. President, I offer an amendment to S. 529, the Immigration Reform and Control Act of 1983 which would give explicit powers to the U.S. Government for immigration emergencies.

In 1980, my State of Florida experienced a crisis which still burdens the State and its people. This was the beginning of the influx of illegal aliens which began in 1980 with the mass migration of Cubans and the Mariel boatlift. In just the first 5 months, over 125,000 Cubans had arrived requesting political asylum in the United States. As the flotilla continued, Castro forced upon us thousands of inmates from Cuban prisons and mental hospitals. The lack of U.S. policy resulted in chaos, confusion, and the overwhelmingly burden of assisting thousands of homeless, jobless, and hungry refugees.

In 1981, the Cuban influx had slowed but an increasing number of Haitian illegal aliens began making their way to Florida. At one point, as many as 3,000 Haitians landed on a Florida beach and immediately claimed asylum. The Haitians brought many children, pregnant women, and many with contagious diseases. The impact on south Florida was critical. Overburdened by the Cuban crisis, the added responsibility of caring for the thousands of Haitians was beyond their capacity. But, once again the Federal Government was unable to respond.

Yes, Floridians called this an emergency.

Yes, Floridians called this a crisis—it was a disaster in their minds.

Hospitals suffered immensely from the overflow of patients, many with contagious diseases. One out of four births at Jackson Memorial Hospital was a Haitian entrant. Yet, many of the alien patients had no money and certainly no health insurance.

Schools were strained beyond capacity—language barriers and cultural differences were great obstacles to teachers as well as to the children. It was estimated that an additional $18 million was spent to accommodate the refugee children's needs.

The availability of low- and moderate-income housing was lacking even before the mass influx of aliens. Refugees had to resort to tent cities or several families in small apartments.

Unemployment skyrocketed—most of the refugees were jobless, many unskilled and non-English speaking. Competition for jobs with citizens grew very bitter.

Crime rose significantly—many of the undesirables Castro thrust upon us were criminals and the mentally ill. Crime rose by 25 percent. Miami was soon dubbed the crime capital of the United States. Jails, courts, and detention centers were overcrowded almost overnight.

A sudden increase in population is difficult for any community to accommodate. But when the sudden masses are jobless, homeless, ill, and bewildered, then it is a crisis.

Yet, the Federal Government felt powerless to act in many instances. There are those who would argue that the President does not need congressional authorization to declare an emergency and act during such crises. They would argue that his implied powers in the Constitution and the inherent powers of the Office allow the President to act during such critical times.

Over the years, Presidents have exercised these inherent powers to different degrees during emergency situations. A Senate report on national emergencies points out that Presidents such as Lincoln and Teddy Roosevelt believed in the extreme limit of inherent powers and took bold actions before congressional approval. Lincoln increased the military and size of the fleet and ordered a blockade before he even called a special session of the Congress.

Then there was Woodrow Wilson who sought congressional approval before almost every action he took with regards to World War I.

The State of Florida cannot afford another President of the Wilson persuasion who would hesitate to act in the face of an immigration emergency. With the implied powers of the Constitution, the inherent powers of the Office, and congressional authority, a President would not have to hesitate to respond quickly and efficiently to a mass migration. That is the purpose of my legislation—to give explicit powers to act when an immigration emergency is declared.

Specifically, my amendment allows the President to declare an immigration emergency if a substantial number of undocumented aliens are about to embark, or have embarked, for the United States, and in his judgment, additional resources and procedures are needed to respond. Within 48 hours, the President must notify the Congress about the declaration and the justification for such action.

The emergency period would be for 120 days or less if the President so determines to terminate the status. The emergency could also be extended for an additional 120 days.

The President, during the emergency, would have the authority to restrict departures of U.S. registered crafts or interdict such crafts, bound for countries or areas designated as prohibited targets in the emergency declaration. In addition, the President may order the sealing of particular harbors, ports, airports, and roads which may be used as points of departure. However, conveyances not involved in immigration trafficking, can be authorized to leave the temporary closed staging points by obtaining a permit from the appropriate agency.

The owner or operator of a vessel, vehicle, or airplane which causes the craft to leave the designated restricted areas shall be fined $10,000 and shall forfeit the craft used in the travel. Any person who knowingly participates in the prohibited activities specified in the emergency declaration shall be charged with a felony and fined up to $50,000 or a 5-year sentence, or both.

Under an emergency declaration, the President may direct all divisions of the armed services to provide assistance. Such assistance can include interdiction, inspection, and seizure of crafts and the detention, transportation, and removal of illegal aliens.

Under my amendment, any alien who arrives in the United States without proper documentation could be summarily excluded from entering if he does not appear to have legitimate asylum claim.

Any alien found to be ineligible for entry shall be deported to the country from which he came, or a third country.

Those aliens found to have claim to asylum shall be detained or paroled in accordance with directives of the Attorney General. No alien found to be excludable shall be released from detention unless the Attorney General so directs.

Finally, my amendment authorizes funding for Federal startup costs and for reimbursement for the costs incurred by State and local governments during a declared emergency.

Mr. President, I am forced to introduce this amendment again this year because I believe the need is still crucial, even after the administration has developed a contingency plan for immigration emergencies—a plan based on current law. The administration contends, and I agree, that there are specific powers needed during an immigration emergency for which there is no current authority. But they have been agreeing to this need for a long time—and agreeing is a far cry from producing.

In 1981, Attorney General Smith testifying before the Subcommittee on Immigration and Refugee Policy states that the President needed "special legal authorities in the event of a declared immigration emergency."

In 1982, INS Commissioner Nelson told the subcommittee that "supplemental legislation" is needed as the ambiguity in the existing authorities "could foster needless, time-consuming litigation and hesitation which, in some cases, might interfere with the government's taking necessary action which is believed to be authorized."

In the administration's memo presented to the Senate last year, which outlined the existing authorities for a contingency plan for immigration emergencies, the administration stated that "it is the firm judgment of the administration that there remains a serious need to provide the President with special legal authorities in the event of a delcared immigration emergency."

When the Deputy Associate General briefed me this year on the administration's contingency plan, she expressed the need for additional authorities, and for Federal startup funds.

The admissions of the administration and other legal advisers to the inadequacies of the contingency plan in several areas leaves me with great concern. As I have stated over and over again, with the warfare and economic turmoil simmering throughout Central America and the Caribbean, there is a very good possibility that a mass migration could again occur. It is true that we have one Coast Guard cutter with interdiction authorities in the windward passage of Haiti. This one cutter is going to be defenseless if a major influx occurs from the Bahamas where thousands of Haitians are camped in tent cities awaiting passage into the United States. The one cutter will be unable to stop traffic from El Salvador and Nicaragua. And, this cutter cannot detect persons leaving from Cuban ports and airports. We need a plan in place that will guarantee that the President has the authority he needs to prevent another immigration emergency.

That is why I am introducing this amendment today. I hope that my colleagues will recognize the tremendous need for legislation clarifying and defining the President's authority in the event of an immigration emergency, and that they will support my amendment.

Mr. SIMPSON. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. SIMPSON. Mr. President, the Senator speaks on a very important issue. He has proposed these amendments. He has discussed emergency powers. Perhaps in the spirit of accelerating the debate, let me share with him that I have a deep interest in the emergency powers legislation. As the Senator and I have both indicated, the administration is sending up a new proposal and we would have this proposal as well.

Let me assure the Senator that I will hold hearings on the issue of emergency powers and agree to hold a subcommittee markup on emergency powers before the August recess. We will process this legislation of the Senator and the most recent administration proposal.

Then with regard to the antismuggling issue, we could eliminate a provision or two of the "encouraging or inducing" language there. I think there is too much danger there, perhaps, of an unintentional violation. If we remove the provision for the use of local law enforcement, substituting instead a provision for the use of State law enforcement officers but only as specifically designated by the Attorney General, then that could be considered.

I would say to you that it has been a great concern of the full committee, though I do not believe it was ever addressed on the floor, that as long as we do not have municipal and county law enforcement officials involved, then we remove a great fear from those in the Hispanic community.

I assure the Senator that "specifically designated State law enforcement officers" would only be able to assist with the general antismuggling and not with the other parts of immigration enforcement. Still we have a very serious problem here, and the Senator's amendments address it very well.

Mr. CHILES. I thank the Senator for his remarks. I think he gathered I was warming up on my subject.

I agree to withdraw the amendment on emergency powers at the request of the Senator. I accept his agreement to hold hearings, if necessary, but to further mark up the emergency powers legislation sometime this spring.

I hope that the administration quickly gets their emergency powers proposal over here so that it can be considered also.

Mr. President, I will withdraw that amendment with the understanding that action will be forthcoming soon.

The **PRESIDING OFFICER**. The amendment is withdrawn.

AMENDMENT NO. 1219

(Purpose: To amend the Immigration and Nationality Act to prevent the unauthorized entry into, and the transportation to and within, the United States of illegal aliens)

Mr. CHILES. Mr. President, I offer my amendment to S. 529 which would build upon the Immigration and Naturalization Act to strengthen the law against bringing in or harboring illegal aliens. My amendment stiffens the penalties against smuggling of people into the United States, and more clearly details the criminal activities associated with smuggling. I ask for immediate consideration of that amendment.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) proposes an amendment numbered 1219.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 119 with line 11, strike out all through line 25 on page 120 and insert in lieu thereof the following:

SEC. 112. Section 274 (8 U.S.C. 1324) is amended to read as follows:

"SEC. 274. (a) Any person who, knowingly or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States in any manner whatsoever, such alien, regardless of any official action which may later be taken with respect to such alien shall, for each transaction constituting a violation of this subsection, regardless of the number of aliens involved, be guilty of a misdemeanor and upon conviction shall be punished by a mandatory fine of $2,500, the imposition of which shall not be suspended by the court, and, in the court's discretion, may be punished by an additional fine of not more than $2,500 for each such alien in respect to whom any violation of this paragraph occurs or by imprisonment for a term not exceeding one year, or both.

"(b) Whoever, under subsection (a), commits—

"(1) a second offense,

"(2) an offense done for the purpose of commercial advantage or private financial gain,

"(3) an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration official, or

"(4) an offense during which the offender or the alien with the knowledge of the offender makes any false or misleading statement or engages in any act or conduct intended to mislead any officer, agent, or employee of the United States,

shall be guilty of a felony and upon conviction shall be punished by a fine not exceeding $10,000 or by imprisonment for a term not exceeding five years, or both, for each alien in respect to whom any violation of this subsection occurs.

"(c) Any person who—

"(1) knowingly or having reason to know that a person is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien,

"(2) knowingly or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law, or

"(3) knowingly or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection such alien in any place, including any building or any means of transportation.

shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine not exceeding $10,000 or by imprisonment for a term not exceeding five years, or both, for each alien in respect to whom any violation of this subsection occurs. For the purposes of this section, employment (including the usual and normal practices incident to employment) shall not be deemed to constitute harboring.

"(d)(1) Any conveyance, including any vessel, vehicle, or aircraft, which has been, is being, or is intended to be used in the commission of a violation of subsection (a), (b), or (c) shall be seized and subject to forfeiture, except that—

"(A) no conveyance used by any person as a common carrier shall be forfeited under the provisions of this section if the offense occurs when the conveyance is being used in the business as a common carrier unless the owner, operator, or other person in charge of the conveyance at the time of the offense was a consenting party or privy to the illegal act; and

"(B) no conveyance shall be forfeited under the provisions of this section if the offense occurred while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or of any State.

"(2) Any conveyance subject to seizure under this section may be seized without a warrant if there is probable cause to believe the conveyance has been, is being, or is intended to be used in a violation of subsection (a), (b), or (c) and circumstances exist where a warrant is not constitutionally required.

"(3) All provisions of the customs laws relating to—

"(A) the seizure, summary and judicial forfeiture, and condemnation of property,

"(B) the disposition of such property or the proceeds from the sale thereof,

"(C) the remission or mitigation of such forfeiture, and

"(D) the compromise of claims and the award of compensation to informers in respect of such forfeitures,

shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section insofar as applicable and not inconsistent with the provisions of this section, except that duties imposed or customs officers or other persons regarding the seizure and forfeiture of property under the customs laws may be performed with respect to seizure and forfeitures carried out under the provisions of this section by such officers or persons authorized for that purpose by the Attorney General.

"(4) Whenever a conveyance is forfeited under this section the Attorney General may—

"(A) retain the conveyance for official use;

"(B) sell the conveyance, in which case the proceeds from any such sale shall be used to pay all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs;

"(C) require that the General Services Administration, or the Federal Maritime Commission if appropriate under section 484(i) of title 40, United States Code, take custody of the conveyance and remove it for disposition in accordance with law; or

"(D) dispose of the conveyance in accordance with the terms and conditions of any petition of remission or mitigation of forfeiture granted by the Attorney General.

"(5) In all suits or actions brought for the forfeiture of any conveyance seized under this section, where the conveyance is claimed by any person, the burden of proof shall lie upon such claimant, except that probable cause shall be first shown for the institution of such suit or action, to be judged of by the court. In determining whether probable cause exists, any of the following items of evidence shall be prima facie evidence of the presumption that an alien involved in the alleged violation had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law:

"(A) Records of any judicial or administrative proceeding in which that alien's status was an issue and in which it was determined that the alien had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law;

"(B) Official records of the Service or of the Department of State showing that the alien had not received prior authorization to come to, enter, or reside in the United States or had come to, entered, or remained in the United States in violation of law; and

"(C) Testimony, by an immigration officer having personal knowledge of the facts concerning that alien's status, that such alien had not received prior authorization to come to, enter, or reside in the United States or had come to, entered, or remained in the United States in violation of law.

"(6) Any officer or employee of the Service designated by the Attorney General, either individually or as a member of a class, and all other Federal officers whose duty it is to enforce criminal laws and those State officers whose duty it is to enforce criminal laws and who have been specifically designated by the Attorney General shall have authority to make any arrest for a violation of any provision of this section.".

Mr. CHILES. Mr. President, specifically, the legislation would charge a person bringing an illegal alien into this country with a misdemeanor punishable by a $2,500 fine per alien or a 1-year imprisonment; or both.

A person charged with a second offense, or for bringing in an alien for commercial or financial gain, would be charged with a felony, fined up to $10,000 per alien or a 5-year imprisonment, or both.

Anyone who transports, conceals, harbors or shields an illegal alien, would be charged with a felony, fined up to $10,000 per alien and receive a 5-year sentence per alien, or both.

Under my amendment, any conveyance used in the transporting of an illegal alien would be subject to seizure and forfeiture as now allowed under customs and drug enforcement law. The burden of proof would be put on the suspect to demonstrate his innocence and reclaim his vehicle, if appropriate. Under current immigration law, the INS bears the burden of proof, and must show that the person in charge of the conveyance is a consenting party in crime, before the vehicle can be forfeited. In addition, the INS currently bears the financial and administrative costs. It is my understanding that no other law enforcement agency is subject to such liability.

The final provision of my amendment is one that I feel is most crucial to an effective curtailment of smuggling. My legislation expressly gives Federal and those State law enforcement officials designated by the Attorney General as well as INS personnel the authority to arrest persons suspected of transporting or harboring an illegal alien. The current authority allowing only INS to make such arrests has impeded efforts to detect, detain and arrest those involved in the smuggling or harboring of illegal aliens. Often, it is the Coast Guard and law enforcement officers who first detect alien smugglers. Under current practice, these officials can only report such spottings to the INS under an agreement of cooperation. It is often a gamble whether or not INS officials will have the capability to follow up the detection report. We have encouraged and legislated such cooperation against drug smuggling and it has been effective. The Executive order allowing the Coast Guard to interdict boats carrying Haitians bound for the United States has also been effective. I believe that the existence of people smuggling has become so widespread that it necessitates an expanded authority for stopping the perpetrators.

Mr. President, Senator SIMPSON's bill does stengthen the current law's section regarding penalties and enforcement against the smuggling of aliens. However, I feel that section 112 of S. 529 addresses chiefly the U.S. court decision—United States against Anaya—which followed the Cuban flotilla into Florida in 1980. In Anaya the court ruled that the current immigration law only prohibits surreptitious entries. Those who assisted the Cubans into Florida during the flotilla did not attempt surreptitious entries but conveyed the Cubans in public demonstrations. Therefore, according to the court those who assisted the Cubans were not in violation of the law.

I commend Senator SIMPSON for addressing this case. However, since the days of the flotilla and Haitian influx we have witnessed the expansion of large-scale smuggling operations which bring thousands of illegal aliens into the United States by air, sea, and land. "People smuggling" has become a multimillion dollar business in South America, the Caribbean, and south Florida. At least 14 major organizations have been identified in south Florida which operate or assist in the smuggling of aliens for a substantial price. Similar operations in Central America and the Bahamas are even more profitable. The potential clients for such businesses increases daily as warfare and economic turmoil envelop Central America and the Caribbean.

Thousands seek entry into the United States daily. Those with money and influence can often gain legal entry, in time. However, the less affluent are literally spending their last dime to buy illegal papers or a place on a boat or plane bound for the United States. Many of these people are desperate and desperate people will try almost anything—no matter the cost.

Frankly, most foreign governments do not care who leave their country and state simply that it is not illegal for their people to buy passage to the United States. Unlike drug smuggling which denotes a far more serious and destructive offense, people smuggling is not viewed as all that bad, and it is not difficult to hide and disguise people. And, there is that very American sentiment that people seeking refuge and a safe home should be allowed to do so. I agree, as long as their entry is legal. But, I take great issue with those who are making millions off of other people's desperation. These people smugglers are to whom my legislation is addressed.

Mr. President, I believe that the expansion of people smuggling operations and the growing numbers of desperate people seeking entry into the United States, underscores the need for more specific laws against smuggling. I believe the restrictions and penalties must be clearly spelled out in the law so that we do not continue the ambiguities which resulted in court cases like Anaya. Our intent should be clear—assisting one or a boatload of illegal aliens into the United States is a crime.

The penalty enforcement in this amendment is directed at the smuggler, the person committing the crime of bringing illegal aliens into the United States. This amendment will allow such smugglers to be apprehended by Federal law enforcement officials and those State officials designated by the Attorney General.

The INS cannot handle this vast problem alone. They need help. This amendment will allow for more efficient enforcement and greatly strengthen the penalties.

I am delighted that the Senator from Wyoming has said that he will accept this amendment.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1219) was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DECONCINI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1220

(Purpose: To provide an agricultural labor transition program)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Arizona (Mr. DECONCINI), for himself, Mr. WILSON and Mr. GORTON, proposes an amendment numbered 1220.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 184 after line 13 add the following new section:

"Sec. 214. (a) The Attorney General, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall promulgate rules and regulations for the implementation of an agricultural labor transition program. The program shall be effective on the date of enactment of the Act and shall last three years from the effective date.

(b) During the first year of the transition program, an agricultural employer, except as provided below, may, as provided by regulation, employ up to 100 percent of his seasonal agricultural worker need with transitional workers. During the second and third years of the program, the employer may employ up to 67 percent and 33 percent respectively, of his seasonal agricultural worker needs with transitional workers.

(c) Nothing in this section shall permit transitional workers to replace available U.S. workers or legal foreign workers admitted under the Immigration and Nationality Act.

(d) All workers employed under the provisions of this section shall be fully protected by all requisite federal and state laws and regulations governing the employment of U.S. migrant and seasonal agricultural workers.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

ORDER FOR VOTE ON AMENDMENT NO. 1220 ON MONDAY, MAY 9, 1983

Mr. STEVENS. Mr. President, I ask unanimous consent that the vote just ordered on the DeConcini amendment No. 1220 be considered as having been ordered on Monday, May 9.

Mr. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I offer this amendment on behalf of the Senator from California (Mr. Wilson) and the Senator from Washington (Mr. Gorton) to the Immigration Reform and Control Act to implement a transition program to the H-2 workers' provision. My introduction of this amendment is prompted by my concern that the agricultural employers of this country, and particularly the West, will be faced with an insurmountable obstacle by passage of the bill as written currently.

First, let me say, Mr. President, that the distinguished chairman has accommodated this Senator in every possible way he could. He indeed deserves the credit from all of us, no matter how we happen to disagree on this bill or amendments brought to it, for his consideration and willingness to work with us all.

I believe that a transition program of 3 years will allow all parties to the new procedures an opportunity to learn how they can be used adequately. Without the transition time, I am afraid that neither the growers, nor the government, will be able to use the H-2 procedures and labor certification procedures to provide enough workers to harvest America's crops. If the procedures are not workable, agricultural employers will be forced to continue the use of illegal aliens, thereby subjecting themselves to potential sanctions under title I of the act. The use of illegal workers under these conditions is contrary to the interests of all of us, and, of course, contrary to what we are about today in this body. The aliens themselves will be even more vulnerable and subjected to exploitation. The employer will, for the first time, be violating the law. He may not want to, and he may resent being forced to, but he will have to or not be able to produce his crops. And those legal workers in agriculture will continue to suffer decreased job opportunity and lowered wages and working conditions. I am concerned that it will take the Department of Labor several years to sufficiently gear up to process the thousands of labor certification petitions they will receive under the new program. I am told by experts in the labor certification process, that the Department of Labor could not fulfill its responsibilities under S. 529's present H-2 procedures.

My amendment is very simple. It would require the Department of Justice in consultation with the Secretary of Labor and the Secretary of Agriculture to promulgate and regulations for the implementation of a transition program. The transition program would allow the phaseout of the use of illegal workers over a 3-year period. During the first year, an employer who has relied on illegal workers will be able to fill up to 100 percent of his need for seasonal agricultural workers with transitional workers, provided that the transitional workers do not replace available U.S. workers or legal foreign workers. During the second and third years of the transitional program, the employer could employ transitional workers to fill up to 67 percent and 33 percent, respectively, of his need for seasonal agricultural workers.

This phased-in approach will assure that our vulnerable and necessary crops are produced, and that agricultural employers will not be faced with having to go back to undocumented workers to harvest their corps.

We all want to see the jobs which would be done by H-2 and transitional workers being done by Americans. That is the intent of this bill, and my amendment is not contrary to that intent. But until that day comes we must have a workable system of admitting foreign workers. I believe this change in the bill will make the H-2 system more workable and efficient and will not harm American workers.

It has been a long struggle, Mr. President, to try to come to some agreeable resolution of this problem. It would be most disappointing to this Senator, as I think it would to most people who support this legislation, if in fact this becomes the law, this year or next year, and if, I am correct, and I believe I am, that they could not implement this H-2 program: Then we would be forcing employers, as they are forced today to some extent, to hire illegal entrants and foreign nationals. My amendment will phase the program in; it will insist that Government and the employers work together. It will insist on a total certification within 3 years.

I thank the chairman of the subcommittee for his consideration of the amendment. I shall be glad to yield to the Senator from California.

Mr. WILSON. I thank the Senator from Arizona for yielding.

Mr. President, I rise to cosponsor the amendment offered by the Senator from Arizona. This amendment, at least partially, addresses concerns that I share with him with respect to the necessity that those in the business of growing and harvesting perishable commodities be given the assurance that they will have sufficient harvest labor at the time required to guarantee that they will be able to harvest their crops in a timely fashion and not lose those crops at a tremendous cost both to them and to the consumers that they serve. The Immigration Reform and Control Act offered by the distinguished Senator from Wyoming has attempted to address these concerns. Let me set forth briefly the background of this problem.

There are many types of fruit, in particular, but other crops as well grown in the United States. these include some of the more obvious perishable crops like peaches—some of those grown in Senator Thurmond's home State, in Senator Mattingly's, in my own—pears, grapes, plums, prunes, raisins, and any number of other perishable commodities which, by virtue of their tenderness and the timeliness with which they must be harvested, require special concern. They must be picked by hand because they are too tender for mechanical harvesting. Their growing period is too difficult to predict. Weather patterns may vary and heat may accelerate their harvest time from year to year or cold could set back their harvesting time.

When these perishable crops are ripe, they must be picked immediately. The delay of a few days, or, indeed, even a few hours may result in a devastated crop, a loss that affects not only the grower, his family, his neighbors, and those with whom he does business, but ultimately, the American consumer.

The fact is, Mr. President, American workers have not been available to perform the harvest of these perishable crops, especially in the Southwestern United States. That has been the case even during periods of recession and unemployment. It is simply the fact that this task has long been performed by temporary workers from the Republic of Mexico. The current H-2 program in Senator Simpson's bill and proposed amendments to it do not yet assure that the ready supply of those temporary foreign workers will be available to guarantee timely harvest and to guarantee that these perishable commodities will not, in fact, perish.

The amendment that is offered by the distinguished Senator from Arizona is at least a partial effort to accommodate what is going to be a very difficult transition for those growing these perishable commodities, those who have these very sensitive special needs. What he is asking is, I think, quite reasonable, as far as it goes. This will allow 3 years to make that transition. It will allow an opportunity to determine whether or not the procedure indeed works in the case of those growing perishable commodities.

For that reason, I support and cosponsor this amendment, Mr. President. It is a step in the right direction. It will allow time for transition and time for testing to determine whether or not the process even works.

However, even with this amendment, Mr. President, I suggest it may still be possible that we are dangerously experimenting. What would occur, I do not hesitate to say, is that we would see devastating crop loss.

Again, I point out that the irony of this legislation may be that while it is designed to protect American jobs, without adequate safeguards, it is virtually assured of costing Americans jobs. That is certainly not the intent of its sponsor; very much to the contrary.

I am pleased to join with my colleague from Arizona on this transition amendment which is a step in the right direction. However, there may be additional steps necessary to insure that we do not see an entire industry devastated in the Southwest—with the best intentions in the world, for very good motives, but with the result that there would be innocent people seriously hurt.

Mr. SIMPSON. Mr. President, this is a serious and one of the great divisive issues of this legislation. For that reason, we spent more time trying to streamline the H-2(a) program, the agricultural temporary worker program which some opponents feel has not been workable. Indeed, the bureaucracy of it, the time delays, and the certification process have impeded its proper function.

So we had consultations with growers, employers, and unions, and really grappled with this issue.

What was, I think, even more fascinating is that we found such a great divergence of opinion among the growers. You will find divergence of opinion among the grape growers, the citrus growers, the fig growers. I learned a great deal in this process. It has been fruitful, I think would be the word.

We made provision in this bill for agricultural workers, growers, and employers, the whole works, but here is what we did with agricultural growers. It was our feeling that we had done something and Senators should know we addressed this issue seriously.

We felt that the legalization of something between 3 and 12 million—those were the figures bandied about—human beings in the United States would be a reservoir of persons to use for the transition. That was our feeling. It still is. I think there will be a great number come forward on legalization on a one-time, come-forward-into-the-light basis; you need not live in the fearful subculture any more but come forward.

So that is what we were providing for, legalization to assist in the transition program for the growers. That is in the bill.

Please understand that those employers and growers in the United States who are using illegal undocumented workers will not be affected by this legislation. In other words, new hires only. I hope that that is being heard somewhere in the land. New hires only are covered by employer sanctions. It was for the purpose of recognizing that those who are using illegal undocumented workers at the time of the enactment of the legislation may continue to do so.

Then we added the new H-2(a) worker program, thinking that would be the way to assist the transition.

I can only tell Senators that I understand the concern of growers, particularly those who produce perishable crops like soft fruits and citrus. We recognize that by those points that I have just indicated.

I have always said that we needed a transition program. We have one in the bill. At least we feel that we have one in the bill. Perhaps it is not sufficient.

I can tell Senators now that I am willing to consider a short-term transitional program for growers, but I think it must be a short-term transition program and, most importantly, it must be workable. It must be operational.

I am concerned that the amendment as it is offered may not be fully workable, but I urge the growers to work closely with the Department of Labor and the Department of Justice within this coming week that has been provided for in this unanimous-consent agreement. Now they know it is coming and we are going to deal with it in an attempt to sign a program that can be administered by the Labor Department and the Justice Department, with, hopefully, some kind of participation by the Department of Agriculture.

That seems to make sense to me. I have no desire to intrude upon the Labor Department, but it seems to me that when you are dealing with H-2(a) under an immigration bill which is solely agriculturally oriented, the Secretary of Agriculture should be there.

That is not to terrorize the Department of Labor or the Department of Justice but just makes good sense.

I should add one other thing. If Senators look at the situation with regard to agriculture, the unions, and the struggle that goes on there, they would see that the struggle is to never resort to a temporary worker program. If they do not want a guest worker program, I do not want it. I do not want a return to the bracero program. That is why we have done these things. But the union membership in agriculture is less than 5 percent, so it always does concern me when I see them resisting something which has to do with an area of their membership which is less than 5 percent.

I hope that they will begin, after reviewing this debate and what is coming with a vote on this issue on May 9 or 10, to get their heads together and see that the growers are not selfish. This has been kind of a catharsis for me. I really became convinced that the growers are not selfish exploiters of human beings.

Oh, sure, there are exceptions; I know there are some. But these people make $5 to $6 per hour. This has been, as I say, a renewal for me, to see the growers, to see their areas, visit with them, and know what they are paying these people, know what the conditions are in the majority of the locations where they work, and know that the grower's problem is a very basic one. It is very simply the fact that meteorological conditions, the weather, wind, and Sun force them to say, "I have to have these people in 7 days or I lose this place," or, "I have to pay off the mortgage and this is how I will do it."

That is a very real reason. They do not have the time to mess around with certification processes, to fight between the Labor Department and the Justice Department scanning work employment figures in New York when they are looking for the people in Arizona.

I hope that the growers and the unions and those who are tumbling around on this issue will know that the legislation as it passed the subcommittee in the House with the 3-year phase-in that the Senator from Arizona and the Senator from California are speaking about is very intriguing to me, as long as we can do that in a way which protects Americans workers and working conditions.

We need to determine what labor standards will apply and how we will keep track of these workers so that there does not become a misuse of the program. Should we answer the question—and I think we should—of including workers who have not previously been employed in agriculture? We want to look at that.

Those are some of the things which I think can be worked out in the coming days. I assure both of the sponsors that I will attempt to work closely with them to do that. I hope labor and growers will look very carefully at what has already transpired in the House and work toward a sensible solution: one which is not a precursor of a bracero program or a temporary worker program or a guest worker program; one that can be done through a type of phase-in, whether 3 years or 5 years. It must mean that we are starting to reduce our illegal undocumented work force so that we can go to a legal documented work force and avoid the problems that have already transpired.

So it is an intriguing thing.

I ask both sponsors if they might agree to a request that we withdraw the amendment at this time, with the purpose of placing it before the Senate on May 9 or May 10—temporarily lay it aside for that purpose, with this format of what we have discussed, and with the hope of some resolution going on in the meantime on the issue.

Mr. DECONCINI. I should like to be sure that my distinguished colleague from California would agree. But I would welcome an opportunity to do that. I have talked to the Senator from Massachusetts regarding this amendment. He has been working earnestly with us to find an accommodation.

I think that if we had a little more time, we might even improve on this amendment. If not, we will have a vote on it. The yeas and nays have been ordered.

With the approval of the Senator from California, I would be more than happy to ask unanimous consent that we temporarily lay aside this amendment.

Mr. WILSON. Mr. President, I join my colleague from Arizona in agreeing to the request of the distinguished Senator from Wyoming that this matter be laid aside so that it can be debated more fully after there has been an opportunity to reach the agreement which the Senator from Wyoming seeks.

I also commend the Senator from Wyoming. I think that by the remarks he has just made he has demonstrated a real sensitivity to the legitimate requirements of those growers, large and small, who are involved in the growing of perishable commodities, because there is indeed a special case, one requiring special treatment and special sensitivity of the kind which the Senator from Wyoming has demonstrated.

I assure the Senator that the efforts he has made to address those concerns are appreciated.

I do not think that the legalization comtemplated by this legislation even after a transition period, fully responds to the needs of the growers of perishable commodities. I believe the Senator will find, and any reliable research will reveal, that whatever the number of illegal immigrants presently resident in this Nation, the vast majority are residing in urban centers, and I do not think they can be looked upon to return to a life in agricultural work.

So, with all due respect to the good faith efforts that have been made by the Senator from Wyoming to address this problem, I do not think legalization alone is going to be an adequate response, because I do not think we can anticipate reasonably that those who are resident in the land, in those urban centers, are going to make themselves available for this kind of work.

Because of the unavailability of adequate domestic agricultural labor, I think the need to utilize foreign nationals will continue to exist, as long as perishable crops are harvested by hand.

I thank the Senator from Wyoming, and I join the cosponsor in the request that the matter be laid aside temporarily.

Mr. DECONCINI. Mr. President, I ask unanimous consent that this amendment be temporarily laid aside.

Mr. SYMMS. Mr. President, reserving the right to object, I wish to inquire of the distinguished floor leader of the bill how many people are allowed to come in for specific jobs where there is a demonstrated need for those workers in this legislation as it is now written. What effect does the amendment of the Senator from Arizona have on that?

Mr. SIMPSON. Mr. President, the present numbers under the H-2(a) program, I believe, are 45,000, with 18,000 to 20,000 actually in what we would describe as agriculture, the pure agriculture field—soft fruit, sugar, and so on.

Mr. DECONCINI. Mr. President, if the Senator from Wyoming will yield, the number is very difficult to know. The purpose of this amendment would be to have a transition time. So if this bill does become public law, and the amendment I have offered becomes part of that public law, there would be a transition period in which it would not be necessary for an employer to have 100 percent certification for 3 years. The transition would provide an opportunity for the program to work and for applications to be made for H-2(a) workers. The employer would not have to have all his workers certified under the Justice Department requirements.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is temporarily laid aside.

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I regret to say that apparently there are no more colleagues I can dig from their warrens to come here with their amendments. I believe there are no Senators ready to come forward with amendments at this time, having called three times in open court and no one appearing.

I do feel that I owe a response to my friend from Idaho, who asked a continuing question, and I will speak for a few moments to try to respond to his question, and those who may have amendments can bring them forward. I do not want to delay, but he is entitled to a response because he asked the question several times. I can only share with him my thoughts on this issue which I've come to in the course of much time.

I believe the question was this: If the Senator from Idaho could wave a magic wand and all illegal, undocumented aliens were to disappear in this country, what would happen in this country? That was the question honestly posed.

At one point, I was looking for a magic wand to use on you, to make you disappear. [Laughter.]

Mr. SYMMS. I doubt that that would be bad for the country.

I am trying to establish if it would be good or bad for the country if these hard-working human beings, who work and produce and pay taxes and social security, were removed from this country.

Mr. SIMPSON. Mr. President, if that were to occur, there would be some very serious impacts on the United States of America. But I can tell the Senator that there would be perhaps very positive impacts on the United States.

No. 1, about 11 million presently unemployed might be able to find work, because all the studies we have looked at in the course of 2 years disclose that the illegal, undocumented worker is not in agriculture picking sugar beets. Only 15 percent of them are in agriculture. I know that may startle people. The remainder are in everything from assembly lines to service industries. Some are engineers.

It is an extraordinary thing when you see the breakdown of those who have been apprehended as illegals and what they are doing. Many of them make $6 an hour, $8 an hour, $16 an hour.

I could not help but believe that that would have a rather salutary effect on 11 million unemployed in the United States who would then be more able to find work.

Then I think we would find that about 50 percent of the young blacks in America would find employment which they cannot find now.

One of the most serious problems of one ethnic minority is not the Hispanics with regard to jobs. It is our black citizens of the United States, especially those who are young and able to work and certainly able and willing to do the work that is performed by illegal undocumented workers.

I add one other dimension. Professor Huddle of Rice University has indicated in a study of his that 70 percent of the work force in the area of Houston in the construction trade has been displaced by illegal undocumented workers.

Let me share with the Senator a most fascinating little bit of graphics, and I am going to do that tonight because I do not want to do it when we come to our procedures next week.

This is a rather fascinating photograph. It is a picture that is familiar to us all.

I think the Senator might be very interested in it. Let me tell him what it says on the back amid other things.

> This is taken on March 9, 1983 at 9 a.m. on Pennsylvania Avenue, NW. and Third Street, Washington, D.C., exactly ironically equidistant between the front steps of the Capitol and the Unemployment Office for the District of Columbia which is across the street.

Moments after this picture was taken—and so you can understand what is taking place, a construction crew is pouring cement—agents from the Washington District Office of the Immigration and Naturalization Service arrested three illegal aliens on this crew who were assisting in pouring the cement on Pennsylvania Avenue. Two other suspected illegal aliens escaped because the local office has only 10 people who are investigators and the site could not be sufficiently contained. Those 10 agents are covering not only the district but also northern, western, and southwestern areas of Virginia. We do not ever give the INS much money in this place. At least, that is our history.

The three aliens who were arrested were earning $8.41 an hour. The foreman stated that he really did not care how much unemployment there was in America and did not care that illegal aliens were in his employ.

As the agents left the scene on the return to the office, they did notice that the line at the employment office across the street was quite visible.

That is one of the things we deal with on the issue. Yet I have never called this a jobs bill. Others do.

The Select Commission was unable to determine how many are displaced, but I have shared with the Senator some of the figures.

Just know this: When we have a country that has no control over its borders, then we have people who have made a cottage industry out of forged documents. You can buy them anywhere: You can buy passports, you can buy I-99's, you can buy nonimmigrant visa material, and you can buy social security cards. You can do quite a bit with a faked green card. You can get a valid social security card, a valid AFL-CIO card, a valid food stamp card, a valid medicare card, a valid driver's license, and valid unemployment insurance coverage.

So the issue then does not become what is in the short-term best interests of either people I love and know in Wyoming who hire these people, or growers, or unions. The issue is a very simple one. Our systems of government are being gimmicked by this kind of procedure. These systems were not set up actuarially to deal with that kind of gimmickry.

So for the first time in history, in this legislation, we provide that there will be felonies against those who choose to forge these documents. Not just a pat on the hand but 5,000 bucks and a jail sentence. Here is what they do in America, and there are millions of these, and all of them are state of the art.

So I say to all of the people who have ever been involved in this issue or who choose to get into it, and I am very much pleased that the Senator decided to get into it, and I think that is great—we need him in it—but I say to him in all honesty, What does he then provide to us as a solution to this issue that confronts a United States of America that does not control its own borders?

So I hope that I have answered the Senator's question, and now I return, Mr. President, to a question for him.

What would the Senator do to avoid that kind of gimmickry in the United States of America.

Mr. SYMMS. Mr. President, I thank my distinguished friend from Wyoming for this answer, and I would say that I think that my experience in this field comes from the fact, in the Senator's own answer, that only 10 to 15 percent of the undocumented illegal aliens who are in this country actually are involved in agricultural labor.

Yet the Immigration and Naturalization Service arrests or detains and sends back, most of whom by the committee's own report, and I quote from page 6 of the committee report:

> In the past several years a large majority of the new legal immigrants joining American citizens and permanent residents in the United States has come from Latin America, Asia, and the Caribbean area. With respect to illegal immigrants, it is estimated that Mexico is the source of at least 50-60 percent of the total, other parts of Latin America 10-15 percent, and the caribbean area 5-10 percent.

So I think if one adds that up, he comes up with somewhere between 65 to 75 or 80 percent of the people who are illegal immigrants who are in this country are from the Latin American neighbors directly in the Caribbean Basin or directly to south of our borders.

What I would recommend that we do is to try to work out some kind of a feasible, workable solution where we could in fact have a documented guest worker program that would establish who these agricultural workers are and what jobs they come in for and then address the other problems separately.

I would say to my good friend from Wyoming that at one time a personal experience I had with the Immigration and Naturalization Service was that I pointed out to some of the Immigration officers who were harassing the farmers in my area, in chasing the workers, that maybe they should go check with the Bureau of Land Management on the fire crews in southwestern Idaho and see how many people were working on BLM crews who actually undocumented illegal aliens.

Lo and behold, they found out there was a great number of them. Yet somehow the bias in this legislation is aimed toward sanctioning those employers.

I have little charity in my heart for the comments that the Senator from Wyoming stated here in the Chamber about the foreman who says he does not care where the workers come from as long as they work hard.

But I do think that somehow we are missing the point here, that we are setting the stage for an enormous resentment against people who have an Hispanic background by trying to force employer sanctions on those people.

I do not know as I have an answer. I think that the answer lies largely in what the President discussed in the other body last night in the joint session of Congress, that we have an enormous disparity of the standard of living between our friends from the south and those of us here who have enjoyed the richness of this great land and the opportunities that the free market and capitalism over a 200-year period have provided for people for the opportunity for upward mobility.

But I do not know as we can answer that with one piece of legislation, but by trying to somehow state that we are going to have employer sanctions, we are going to have a different set of investigators for agriculture than what we have for the rest of our society in term of search warrants and ability of the INS to get on the property, and so forth, somewhat does not answer the question.

What we are really doing is asking private American citizens to enforce a law that the Government somehow has not been able to enforce. What is it they are trying to enforce? They are trying to say that someone whether he works in construction in Washington, D.C. for $8 an hour or works in Wyoming blocking sugar beets or in the sugar beet harvest for $6 an hour, that somehow that person is violating some basic law of humanity, and also the person who gives them the job is somehow a felon or a violator of some kind of a law and I just think we are trying to do something here that is inconsistent with what human behavior is.

I wish I had a solution, but the only solution I can offer to my friend from Wyoming would be to liberalize the portion of the bill that allows for workers to come in under a documented status in this legislation and not try to say "Well, anything that happened in the past is OK." What we are going to simply do, Mr. President, is—and

Mr. President, I say this to you but also to my friend from Wyoming, that we are going to grant in this legislation amnesty to aliens who are in this country and, so to speak, we will say there is no penalty for anybody who has disobeyed the law in the past but now in the future anyone who comes in we are going to try to make the person who is the employer of those people be prosecuted as a felon.

My concern is that by giving this kind of power and authority and the power of the State and all of the powers that go with the whips and guns of government to enforce laws, that we are simply going to be putting people who are the enforcers of those laws in position where they can selectively pick out the employers or businesses or whatever in this country and go after them and let the other person go by.

I think it is a very difficult situation. We want equity under the law. I think that is what we all want. I know, Mr. President, that is what the Senator from Wyoming wants and that is what I want. But I think by granting this kind of authority and power to the Immigration and Naturalization Service that we simply are going to accomplish something that is just not doable.

The problem is the influx of people. The Senator from Wyoming has told me repeatedly that we catch, we detain 1 out of 5 people trying to cross that 2,000-mile border in the south of the United States from Mexico to the United States, 2,000. We detained some 100,000 people in approximately 4 months, and 500,000 or 400,000-some, is that not correct, I say to my good friend—I see him nodding his head—get through the border.

Now those people are coming in here for obvious reasons. They are seeking jobs and in many cases they are finding jobs. I know it is very popular for people who are not aware of what the problem is to say "Well, those people are working for substandard wages." I think anyone who will examine that case will find those people are not working for substandard wages. They are taking jobs, as was pointed out by the distinguished chairman of the subcommittee, high-paying jobs in this country. If that is the case maybe we should address two other problems: What is it that is causing those people to wish to come to this country, what is the cause of the problem, and not let us try to talk about the symptoms. The symptoms are the people in Mexico are voting with their feet trying to come north to the United States because the employment opportunities are better in the United States than they are in Mexico. That is one problem.

The other problem is that maybe the job opportunities in this country are better than we think. Yet we have created an environment in this country where simply stated in terms of agricultural jobs, which I would be the first to say are a minimum in terms of the total number of illegal undocumented aliens in this country working in agricultural jobs, but that is where the biggest focus of attention has been centered. Yet those jobs are going unresponded to when people request support and help from the H-2 program or whatever, simply the American workers do not go out and take those jobs.

(Mr. WILSON assumed the chair.)

Mr. SYMMS. I note the distinguished Senator who is presiding over this august body today, our new Senator from California, whom we are so happy to have with us, but in his State, the biggest agricultural producing State in the Union, there are enormous numbers of people in that State who produce perishable crops who would like to hire legitimate, legal American citizens from whatever ethnic background they come from but they simply are not available to do those jobs.

I think there could be an adequate record cited, chapter and verse, that those jobs go unasked for by American citizens, and so those people who grow those perishable crops by no choice hire whoever is available and it ends up in many cases that the people their hire, not knowing by them, because the Senator so aptly and correctly displayed the documentation that people can find in the market, in the black market, I should amend my statement when I say the market, the black market, they can buy social security cards, they can buy drivers' licenses, they can buy identification cards of various kinds, so simply stated, I just have a very, very difficult time thinking that employer sanctions are going to solve the problem.

I know that my good friend from Wyoming will tell me that that is all that has ever been able to solve the problem in other areas. But I would shudder to think that there could not be a way that we could arrive at a solution in this country to allow certain numbers of people to come into this country, free to work voluntarily under standards that are acceptable by the laws of this country, and are respected in what we consider to be fair and equitable treatment for employees for those people doing the jobs, let them come in for a period of time, do the job and go back, and take care of the seasonal problem, and then address the year-round type problem with some of the suggestions that the Senator from Wyoming has made. But that is the problem I find with this legislation. It does not allow for a broad enough and a liberal enough exclusion, so to speak, for those perishable commodities that people are trying to harvest, and I do think what will happen, and I think with the Senator's evidence he brings on the floor of the Senate, it is probably the best answer of what would happen. From a practical standpoint if this bill is passed by the Senate, if for some reason it passes the House and it is signed by the President and becomes law, then there will be a mass production of employment records to grant amnesty for people, and we will never find the end of the numbers of people who are coming in. But the problem still is at the borders, as long as the standard of living directly to the south of the United States is such a differential between the standard of living and the opportunities we find in the country to the south, in Mexico, as we have in this country, as long as we have that differential between those countries, as long as we have the threats of tyranny and the expansion of the Marxist-Leninist revolution in Central America this problem is going to get worse whether we pass this bill or not and those same people who have produced the documents that the good Senator has on the floor today will just produce more of them but they will add one more thing to them, they are going to add employment records and they can then verify that such and such has worked for 5 years or so long in the United States, and then after that time period they will be free and clear to stay here and it will go on and on and on and the problem will be compounded and will become more difficult.

I will say again to my friend I think until we address what some of the problems are that brought about the symptoms of massive immigration into this country, and you have to say it is a compliment to the intelligence of those people who are emigrating, whether legal or illegal, that they have recognized this is a better place to be than anyplace else on the face of this Earth, and that is what the problem is and my good friend from Wyoming is doing the best job, and I would say even though I do not support this legislation he is doing the best job possible to try to address the problem but it is impossible for us to pass legislation here to try to put the entire burden of enforcement on the small businessmen and farmers in America and have a successful operation.

Because what we are simply doing is we are trying to accomplish something that simply cannot be accomplished under the means that we are asking people to accomplish it. That is my whole opposition to the proposition we have here.

Now if we could have a liberalized answer—and the Senator asked me a question what would we do. I say we should allow a million undocumented workers a year to come in under the guest worker program to fulfill the responsibilities and the jobs that are asked for the perishable crops in California and in the other produce producing States in the West, in the Southeast, to fulfill those jobs that American citizens do not want, then after that we could start addressing this problem.

But the way this legislation is written—and I know the Senator is going to get up and talk about the H-2 program, but I can say from practical experience the H-2 program simply does not address the problem that the good Senator from Arizona, Senator DECONCINI, and Senator WILSON, from California, addressed, and that is how do the perishable commodities get harvested when you have to wait for the bureaucracy to grind it through the process? It simply will not work. As long as that is the case, I think we have a problem. And we will only compound the problem that confronts all of us as Americans by trying to enforce something here which will only make felons out of good, hard-working, honest taxpaying American citizens. That is what I would say back to my friend.

Mr. SIMPSON. Mr. President, I really heard seriously what my good colleague from Idaho said. It is good to see a return to that kind of debate, that kind of thoughtfulness, that kind of piercing questioning that he is extraordinarily good at. I like that kind of interchange. It is the best kind.

Let me just share this with him and then I will have nothing further unless the Senator wishes to make further inquiry about the bill.

Indeed, the issue of guest workers is one that we looked at long and hard. Should we have guest workers?

What we found in the hearings was this: Where guest workers have been utilized in the world, and particularly in Germany and France, we found that the issue was very simple. They said, "Send us a guest worker." Then the problem then came about, "we asked for a guest worker but you sent us a human being." And so those guest workers, particularly the Turks in France and Germany, raised their children in Germany and their friends were German children. Then the Germans went through unemployment, and they said, "We don't want the Turks." And the Turks said, "But we wanted to stay. We are not tied to Turkey. We came here, We have been here 10 years, 8 years, 5 years. We want to be here. This is our country now." So they did not go, and this left a real humanitarian lump of anguish for those countries.

So the Governments of Germany and France offered the Turks money to go back to Turkey. "We will give you $2500 if you will return to Turkey," but they still did not want to go. So all that we found out about guest worker programs is that they did not work.

The employer sanctions may not work either, we found, and they will never work as long as they are so weak that they just constitute the cost of doing business. So that is why we had to put on a civil penalty of $1,000 for the first offense. After a whole year of education in the United States—a 6 month education program and a 6 month warning period—then the first offense will be a $1,000 civil fine, the second offense will be a $2,000, and the third offense can lead to injuctions and a criminal penalty. That is why we think employer sanctions will work, because they are not a cost of doing business.

And I think the Senator from Idaho will be interested in some interesting statistics which surprised me because our States both used the bracero program heavily. The bracero program, when it was first used in America, actually stimulated illegal entry into the United States. During that period of time, it stimulated illegal flows to a degree we had not seen before. Then we went through a most distasteful expulsion program called "Operation Wetback," which was something I certainly would not want to be involved in, or be a part of a country that was involved in it.

Then the Senator addressed a very important thing, economic development in the Third World countries. And to this we found another extraordinary thing. If you increase the development assistance to Third World countries, you will find this phenomenon: That kind of activity will often increase emigration from that country. In other words, as they increase their productivity, their workability, their ability to earn—these same people who put together enough and then leave the country. They earn money sufficient to leave that country, whereas the poor person will stay there. He cannot move, he does not have any resources whatsoever. That was an interesting phenomenon to me.

Finally, the Senator's question about the employers. We have no desire to make the employers the policemen of the world. We labor under a curious aberration of thought that most people in the United States want to do things legally. If we ever get to the point in the United States where we find the majority of our citizens do not want to do things legally, we can shut this operation down and go back and babble about in our home communities. So we are willing to go on in that naive assumption that most of the employers in the United States will want to do the right thing and will want to follow the law.

So we put safeguards in here for them. We allow the showing of identification cards, if that is what we go to. Most importantly, we protect them by saying, "If you ask the person in front of you for their work authorization, you are off the hook." And they just check a box that says, "I asked this applicant for a new hire position for his work verification and his identifier and he presented me the following cards," and check one, yes or no, that you asked.

If he does not ask, he suffers a $500 fine. The reason for that? Just what the Senator is trying to get to, in order to avoid discrimination. Because at that point the employer is asking that not just of someone who looks foreign at the time of the new hire, but he has to ask that of a guy who is white and baldheaded like me. And that is the only way you will avoid discrimination.

And when the employer does that and he gets slipped a phony card, he is still off the hook. All he does is in good faith look at that card and say, "Well, it looks OK to me," checks a box, and if it is later proven it has been a forgery, he is off the hook. In fact, under this bill, we give him an affirmative defense in a court of law against prosecution for anything with relation to accepting a forged document. Those are interesting things. Those are in this legislation. They have been there since the beginning.

Mr. SYMMS. I appreciate the answer of the Senator from Wyoming. I want to go through this again so this is very, very clear in the deliberative record of this legislation.

In other words, if the employer properly asks the right questions and has the person seeking the job check the right boxes or at least have demonstrated that, then that would be considered a defense in a court of law? That is the intent of the chairman, who I know is a distinguished attorney and I am not? Do I understand that correctly?

Mr. SIMPSON. That is correct. That employer has an affirmative defense if he in good faith examined the document.

Mr. SYMMS. If for some reason the Justice Department chose to prosecute a certain employer, whoever it might be, and the employer could demonstrate this evidence and won the case, then who pays the legal fees?

Mr. SIMPSON. We have no provision in the legislation for the payment of legal fees for the successful or unsuccessful parties.

Mr. SYMMS. Would it be beyond the committee's acceptance to consider, at least, the proposition that if people had charges brought against them who had been charged with employing illegal aliens, that if they won the case under the regulations in this law and they were acquitted by the court, that then in fact the Federal Government would have to pay the legal fees?

Mr. SIMPSON. That has never arisen in the course of the debate.

I do not know what the cost of such a procedure would be. Especially under the legislation, there would be a grave doubt in my mind as to why a Federal prosecutor would go forward. In fact, that has been pointed out as one of the defects in the legislation, and I assure you that it is not perfect. In other words, that in itself, the prosecution issue, is not heavy enough that the U.S. attorney will not handle these kinds of cases. He will not want to become involved in that.

Again, we are talking about "who knowingly hire." That is the key. There are several keys that never leave this legislation. This is knowingly hiring an illegal undocumented worker with an affirmative defense for examining the documents. The documents are phony and he is off the hook. Good faith. That is the language of the legislation as it is proposed.

We would envision a simple form. In fact, at one time the INS prepared such a form which had various lines and the employer would write in the name of the person applying. At the top it said, "I examined the following documents." Then they put in the documents and the number.

Many people, as the Senator so ably indicates, may work under five names. They will continue to do that until the point when employer sanctions, the tough penalties for forgery, and the verification system consisting of a more secure counterfeit and tamper-resistant system goes into effect. Then the employer will finally be protected.

That is what we have intended to do in the legislation.

Mr. SYMMS. I will say one thing to the distinguished Senator. I am not on the Judiciary Committee with the Senator, but I am on the Public Works Committee with the Senator. I know that what he stated with respect to all of our wishes, whether we be conservative or liberal, Democrat or Republican, would be that we not ever allow the United States to become a country where everyone wishes to violate the law. I think that is why the Senator and I have both, on many occasions, expressed concern in our other committee over whether or not the 55-mile speed limit is encouraging Americans to comply with the law or discouraging respect for the law.

I know that in Wyoming or southern Idaho on long stretches of the road it is very difficult for someone to drive 55 miles an hour on a road engineered for 70 miles an hour. It becomes quite a problem. I think one only has to drive the Beltway around Washington, D.C., or on Highway 95 north or south of this town, and they will see that many Americans are not actually obeying the law. That is one of my concerns about this.

I am so concerned, though I know there are many safeguards in this.

I come from a State that produces 30 percent of the potatoes in America, and large amounts of hybrid sweet corn, popcorn seed, and other things that require intensive hand labor. I am concerned with what will happen with the very strict enforcement of this bill.

I can see if we pass the law there will be a compliance period that will go by and people will have to adjust to what will happen. There will be many of our friends from south of the border who are now hiding. I can see where, if they can become accepted and not have to hide from the INS and not be thrown out of the country, for a time period things may be better. What happens after that, I do not know.

I just wish to say to my colleague that I am certainly concerned about the section of the bill that has employer sanctions, and I am concerned about the fact that the Immigration and Naturalization Service seems to concentrate their law enforcement proceedings on those agriculture producers in the country. Yet, as the Senator has so aptly stated, 75 to 80 percent of the undocumented workers in the United States are not working on the farms, but most of the arrests and deportation of undocumented workers actually take place on the farms. That is my concern.

Mr. SIMPSON. I thank the Senator from Idaho very much. I very much appreciate his willingness to address his concerns. This has been very helpful to me. I thank the Senator from Idaho.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, MAY 2, 1983

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate convenes on Monday, May 2, 1983, the reading of the Journal be dispensed with; that no resolutions come over under the rule; that the call of the calendar be dispensed with; that following the time allocated to the two leaders under the standing order, the Senator from New Hampshire (Mr. RUDMAN) be recognized for not to exceed 15 minutes for a special order; that following the special order there be a period for the transaction of routine morning business not to exceed 30 minutes in length, with Senators permitted to speak therein for not to exceed 5 minutes each; and provided further, that the morning hour be deemed to have expired.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARITIME APPROPRIATIONS AUTHORIZATION ACT FOR FISCAL YEAR 1984

Mr. STEVENS. I ask unanimous consent that the Chair lay before the Senate Calendar No. 107, S. 1037.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will state the bill.

The assistant legislative clerk read as follows:

A bill (S. 1037) to authorize appropriations for the fiscal years 1984 and 1985 for certain maritime programs of the Department of Transportation, and for other purposes.

The Senate proceeded to consider the bill, which has been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Maritime Appropriation Authorization Act for fiscal year 1984".

SEC. 2. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Transportation for the fiscal year 1984, as follows:

(1) For payment of obligations incurred for operating-differential subsidy, not to exceed $401,294,000.

(2) For expenses necessary for research and development activities, not to exceed $11,500,000.

(3) For expenses necessary for operations and training activities, not to exceed $74,013,000, including not to exceed:

(A) $35,655,000 for maritime education and training expenses, including not to exceed $20,266,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $10,368,000 for financial assistance to State maritime academies, $3,000,000 for fuel oil assistance to State maritime academy training vessels, and $1,721,000 for expenses necessary for additional training;

(B) $8,048,000 for national security support capabilities, including not to exceed $6,999,000 for reserve fleet expenses, and $1,049,000 for emergency planning/operations; and

(C) $30,310,000 for other operations and training expenses.

SEC. 3. Commencing with fiscal year 1984, appropriation of funds to carry out the laws administered by the Federal Maritime Commission shall be subject to annual authorization.

SEC. 4. Funds are authorized to be appropriated in the amount of $11,324,000 for the use of the Federal Maritime Commission for fiscal year 1984.

SEC. 5. Section 1304(c)(1)(A) of the Merchant Marine Act of 1936 (46 U.S.C. 1295c(c)(1)(A)), is amended—

(1) by striking out the first sentence and inserting in lieu thereof "The Secretary shall furnish for training purposes any suitable vessels under the control of the Secre-

tary or provided under subparagrpah (B), or construct and furnish such suitable vessels if such vessels are not available to provide that each State maritime academy meeting the requirements of subsection (f)(1) shall have at least one such vessel on a full-time basis."; and

(2) by striking out clause (iv) and inserting in lieu thereof "(iv) shall be maintained in good repair by the Secretary meeting any requirements of merchant marine vessels pursuant to the laws of the United States; and".

Sec. 6. Section 1304(c)(2) of the Merchant Marine Act of 1936 (46 U.S.C. 1295c(c)(2)), is amended to read as follows:

"(2) Subject to such amounts as are provided in advance in appropriations Acts, on October 1, 1984, and at the beginning of each fiscal year thereafter, the Secretary shall pay to each State maritime academy, the amount of costs of fuel estimated by the Secretary to be consumed in the fiscal year then beginning by any training vessel furnished by the Secretary.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. STEVENS. Mr. President, on Thursday, April 21, 1983, the Commerce Committee favorably reported to the Senate, S. 1037 with amendments, with the recommendation that it pass. S. 1037 authorizes appropriations for the Maritime Administration and the Federal Maritime Commission for 1984.

This bill, in itself, is noncontroversial. It tracks the administration's proposed spending levels, and is very similar to the maritime authorization bill being considered by the House Merchant Marine and Fisheries Committee.

While the provisions in this bill and the funding levels it provides are not in dispute, there is a great deal of interest and controversy regarding other issues which have been linked to maritime authorization bills of the past.

Some would have liked to see S. 1037 include the proposal to "Build-Foreign" which were submitted by the administration in a separate draft bill which I introduced at its request as S. 1038.

On the other hand, several committee members thought the bill should include an authorization for construction differential subsidies, and should raise the ceiling on the title XI program. These were contained in yet another bill, S. 125.

Our recent hearings clearly demonstrated that considerably more work must be done before we recommend legislation in this area; and that in the process, continued opportunity will be provided for industry and administration comment, analysis, and recommendations.

Therefore, we are deferring consideration of the administration's proposals as contained in S. 1038, as well as S. 125. At a later date the subcommittee will consider those measures along with others which are intended to enhance the competitiveness of our merchant fleet and preserve our shipbuilding mobilization base.

S. 1037, as amended in Committee, differs from the administration's proposed bill, S. 1037, in two relatively minor respects.

First, it requires annual authorizations of appropriations for the Federal Maritime Commission, and authorizes a specific dollar amount for fiscal 1984.

Second, it provides additional support for the five State maritime academies in the form of fuel funding, and the availability of a ship at each academy.

OPERATING DIFFERENTIAL SUBSIDIES

Section 2 authorizes $401,294,000 to be appropriated for fiscal year 1984 for operating-differential subsidies. Operating subsidies are based upon the difference between U.S. and foreign vessel operating costs and are paid to promote the maintenance of a U.S.-flag merchant fleet capable of providing essential shipping services. Operators receiving subsidies must operate U.S.-flag vessels manned by American crews.

An estimated $439,710,000 in subsidy will be paid to U.S.-flag operators in 1984. The estimated subsidies will be financed by the appropriation of $401,294,000 and an estimated carryover of $38,416,000. Estimated payments during 1984 include $369,997,000 for liner operations, $54,713,000 for bulk carrier operations, and $15,000,000 for subsidy estimated as due for ship operations through 1983.

RESEARCH AND DEVELOPMENT ACTIVITIES

The 1984 research and development program includes projects for the development of improved and more efficient shipboard machinery, improved ship design and construction methods, and the improvement of shipboard operations and shipping systems for greater productivity and safer operations. Cost sharing and participation by industry in research and development projects assure that projects will have practical and meaningful objectives, increase potential for industry implementation, and enhance the research effort by obtaining a larger return for the Federal investment. The administration intends to emphasize such participation in 1984.

NATIONAL DEFENSE FUNCTIONS

National security support capabilities includes expenses associated with maintenance of the national defense reserve fleet, and the emergency/operations program. Each program is directly supportive of the Maritime Administration's national security responsibilities. The reserve fleet program provides for preservation, maintenance, and security of ships in the national defense reserve fleet and for administration of the ship transfer and ship disposal programs. The national defense reserve fleet provides an inventory of ships available to meet requirements for additional shipping capacity in times of national emergency. The emergency planning/operations program develops plans and procedures to insure continuity and control of maritime operations in time of national emergency, and insures seamen and private shipping against loss in time of war. The 1984 estimate reflects increased operating and maintenance costs of these programs.

MARITIME EDUCATION

The 1984 maritime education and training programs include operation of the U.S. Merchant Marine Academy, continuing assistance to six State maritime academies and additional training for eligible merchant marine personnel. Funding authorized for the Merchant Marine Academy will provide for increased maintenance and operating requirements. Funds are also authorized for the facilities modernization program at the Academy.

The bill also directs the Department of Transportation to meet certain continuing needs of the State maritime education and training academies and especially those five academies to which the Maritime Administration has loaned schoolships.

The maritime training partnerships between the Federal Government and the several States which support academies—New York, Maine, Massachusetts, California, Texas, and Michigan—constitute a close, mutually beneficial relationship.

This partnership was established many years ago and was given a formal expression in the Maritime Academy Act of 1958. The levels of support established under this act were such that the Federal Government, the State, and the student each provided approximately one-third of the individual's education.

Due to inflation, the requirement for very expensive training facilities and equipment, and the tenfold increase in the cost of oil over the past decade, the Federal share of the cost of training a State academy student today has declined approximately 10 percent.

The committee believes that a strong and healthy merchant marine is essential to our national security and that the Federal-State maritime training partnerships must be maintained if the U.S. maritime policy goals are to be achieved. Accordingly, in section 3 of the bill, the committee increased the Maritime Administration's request for the State academies by $3,000,000. These additional funds are authorized for the purpose of procuring the fuel oil which the five State academy schoolships are expected to consume while used for training purposes in fiscal year 1984. In addition, the committee included in section 6 of the bill, a direction that, subject to annual appropriations, the Secretary of Transportation is to pay the fuel costs of each State maritime academy's training vessel.

The State academy schoolships, though owned by the Federal Government, are an integral component of the academies at which they are home-ported. When these vessels are not on their annual training cruises, they serve as their academies' prime laboratories and are the sites of intensive pier-side training. Full-time, year-round availability permits the academies to periodically assign students to ship maintenance with the ships serving as classrooms on operating systems. For several decades this year-round availability has been taken into consideration in meeting the Coast Guard requirement for sea training, which at the State academies is only 6 months, as opposed to 10 months required of those institutions which do not have such available ships.

The committee believes that the Federal Government should continue to provide a suitable training vessel in good repair on a year-round basis to each State academy which requires one. The committee fears that both shoreside curriculum quality and training cruise safety may be jeopardized if a proposed "ship-sharing" system is instituted in lieu of the existing arrangement. The committee's policy on the availability of training vessels at each academy is set out in section 5 of the bill.

I wish to clarify section 5(2). The purpose of this section is to emphasize that the Secretary of Transportation is responsible for maintaining the ships in good, seaworthy repair, meeting the Coast Guard standards required of other U.S.-flagged merchant vessels, as it is presently obligated to do under section 1304(c)(1)(A)(iv) of the Merchant Marine Act of 1936.

FEDERAL MARITIME COMMISSION

Section 3 subjects the FMC to annual authorization review by the Commerce Committee.

Section 4 authorizes funding of the FMC at the level requested by the Commission and the Administration. The FMC's budget estimate of $11,324,000 provides funding for 240 total work years of employment. With provision for pay supplementals included, this figure represents a reduction of $447,000 and 38 work years from our 1983 appropriation of $11,771,000 and 278 work years.

Concern was expressed that the funding level sought by the FMC might not be adequate to enable it to continue its regulation of the domestic offshore trades at the same level as previous years if domestic deregulation legislation is not passed into law. After staff inquiries, I am satisfied that regardless of congressional action on various shipping regulatory bills, the funding level requested will be adequate to continue the current regulatory activities. Similarly, this funding level does not prejudge the issue of deregulation of our offshore domestic trades.

The Commission is responsible for the administration of the Shipping Act of 1916, and related statutes. The Commission administers an antitrust exemption for certain types of cooperative agreements among ocean common carriers and other parties subject to the Shipping Act; it is responsible for enforcing the antidiscrimination, antirebating and controlled carrier provisions of the law; it licenses independent ocean freight forwarders; provides passenger vessel certification; and certifies that vessels in U.S. waters are financially responsible for the cleanup of pollution caused by spills of oil and hazardous substances.

As a result of civil penalties, tariff-related violations and other assessments, the Commission collected and deposited directly to the Treasury approximately $3,000,000 in fees and penalties in 1982. This revenue represents 26 percent of the Commission's 1982 operating expenses. In addition, with FMC assistance, consumers were able to recover more than $127,000 directly from commercial entities. Recently, filing and service fees were increased to more accurately reflect the rising cost of providing services to the ocean shipping industry, and to reduce budgetary demand.

BUDGET ANALYSIS

At this point, I ask unanimous consent that the Congressional Budget Office cost estimate be printed in the RECORD.

There being no objection, the estimate was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, APRIL 25, 1983

1. Bill number: S. 1037.

2. Bill title: A bill to authorize appropriations for fiscal year 1984 for certain maritime programs of the Department of Transportation, and for other purposes.

3. Bill status: As ordered reported by the Senate Committee on Commerce, Science and Transportation, April 21, 1983.

4. Bill purpose: The bill authorizes the appropriation of $11.5 million for fiscal year 1984 for research and development and $74 million for operations and training activities of the Department of Transportation's Maritime Administration (MARAD) and an appropriation of $401.3 million for fiscal year 1984 for liquidation of contract authority for operating-differential subsidies. In addition, the bill states that the Federal Maritime Commission (FMC) shall be subject to annual authorizations and authorizes appropriations of $11.3 million for fiscal year 1984 for FMC activities.

The 1984 authorization levels in the bill for operating-differential subsidies, research and development activities and the FMC are those requested by the President, while the authorization for operations and training is approximately 4 percent above that requested by the President.

5. Estimated cost to the Federal Government:

[In millions of dollars]

	Fiscal years				
	1984	1985	1986	1987	1988
Authorization level	96.8				
Estimated outlays	77.1	16.8	2.9		

Including outlays from prior years' appropriations, total outlays for these programs will be $100.7 million in 1984, assuming the funding levels in this bill.

The costs of this bill fall within budget function 400.

BASIS OF ESTIMATE

All funds authorized are assumed to be appropriated. Outlays for the FMC, and the research and development and operations and training activities of MARAD were estimated using the recent historical disbursement rates of these programs.

In addition, the bill authorizes an appropriation of $401.3 million for fiscal year 1984 for liquidation of contract authority on obligations incurred for operating-differential subsidies. These amounts are not included as part of the authorization level or estimated outlays in the above cost estimate section, because the spending for this purpose is the result of previously provided contract authority.

6. Estimated cost to State and local governments: This bill provides a total of $10.7 million for financial assistance for state maritime academies, $3.0 million for fuel oil assistance to state maritime academy training vessels and $1.7 million for expenses necessary for additional training. In addition the bill directs that the Secretary of Transportation shall furnish for training purposes any suitable vessels under the control of the Secretary, and subject to annual appropriations shall pay to each state maritime academy, the amount of fuel costs necessary to run any training vessel furnished by the Secretary.

There are no additional costs to state maritime academies as a result of this bill.

7. Estimate comparison: The Administration has estimated total 1984 outlays for these programs will be $97.7 million, assuming the President's requested authorization levels.

8. Previous CBO estimate: None.

9. Estimate prepared by: Patrick J. McCann.

10. Estimate approved by:

C. G. NUCKOLS
(For James L. Blum,
Assistant Director
for Budget Analysis).

Mr. STEVENS. Mr. President, in conclusion, the committee will soon address the various elements of a maritime promotion policy which have been introduced in S. 1038 and S. 125, as well as other original ideas not yet incorporated into any bills. We have already held hearings, and it is clear that we have a difficult but necessary task ahead.

In order that the committee may direct its full attention to this task, I urge the Senate to promptly approve authorizations for our existing maritime programs as provided in S. 1037.

APPROPRIATION AUTHORIZATION ACT FOR FISCAL YEAR 1984

Mr. COHEN. Mr. President, at the outset, I would like to thank my distinguished colleagues, Senator STEVENS and Senator PACKWOOD, for their important understanding of the difficulties facing the Nation's State maritime academies which is reflected in the Maritime Authorization Act which we are considering today.

Over the years, Congress has consistently confirmed the policy that a strong and healthy merchant marine is essential to our national security and well-being. Maine Maritime Academy, and the five other State academies around the country, provide highly trained manpower for our merchant fleet each year. These graduates also serve in our Navy, our Coast Guard, the National Oceanic and Atmospheric Administration's research fleet, and in many other areas within our maritime industries.

For many years, training of these individuals has been accomplished through an arrangement whereby the State, the student, and the Federal Government each contribute approximately one-third of the costs of a cadet's education. Recently, however, the Federal commitment has been reduced to only 10 percent of the need and I am concerned that even this reduced level of commitment cannot be expected in the future given the current plans of the Maritime Administration.

Not only has the Maritime Administration failed to ask Congress for any fuel assistance funds to be applied toward the needs of the academies' training vessels this year, but plans have been formulated which would cause some of these academies to eventually lose their valuable training vessels entirely.

The recent efforts of the Commerce Committee, designed to reverse this trend, are timely and appreciated. The bill before the Senate directs the Maritime Administration to provide each State academy with moneys for fuel assistance, on an annual appropriations basis, in order to relieve the burdens imposed upon them by increasing costs and international standards for seamen. Additionally, it directs the Maritime Administration to insure that each academy will continue to be allocated a suitable training ship so that they may continue to carry out their important and successful training mission.

Again, Mr. President, I want to thank my colleagues who sit on the Commerce Committee for their help in this matter, and I urge my other colleagues in the Senate to support passage of this needed authorization bill.

Mr. MITCHELL. Mr. President, I congratulate the Committee on Commerce on the work it has done with respect to the Maritime Administration authorization legislation for fiscal year 1984. Of particular interest to me are the three sections of the measure which will affect federally supported State maritime academies.

Maine is very proud to have one of these schools at Castine. Others are located in Texas, Massachusetts, New York, California, and Michigan. These schools provide our merchant marine fleet each year with highly qualified deck officers and engineers.

The legislation which the Senate is considering today contains three important provisions which will insure that State academies will continue to supply skilled merchant marine manpower.

First, the bill authorizes $3 million in fuel oil assistance for the operation of the academies' training vessels during the 1984 fiscal year.

Second, the bill sets forth a policy in which the Federal Government is directed to assume financial responsibility for the purchase of training vessel fuel in fiscal year 1985 and subsequent years.

Last, the bill makes clear that the Maritime Administration should continue to make available to each coastal State maritime academy, on a year-round basis, a suitable training vessel in good repair.

These three provisions are urgently required. As my distinguished colleague from Alaska noted in his opening remarks, the Federal-State maritime training partnership has existed for many years and was given formal expression in the Maritime Academy Act of 1958. When this law was enacted, the individual student contributed approximately a third, the State contributed a third, and the Federal Government contributed the remaining third.

Since 1958, the cost of maritime education has increased substantially due to inflation, the increased cost of school ship fuel, and new and more stringent Coast Guard training requirements. The student and the State have been forced to pick up these increased costs virtually on their own because the Federal Government perennially has failed to make the necessary adjustments in its contribution. As a result, the Government now contributes only 10 percent of the costs of a student's State maritime education.

The three provisions adopted by the Committee on Commerce will insure that the Federal-State maritime education partnership is strengthened. I applaud the committee for taking the time to study the academies' urgent needs, and to provide the resources and policy directives necessary to adequately support State maritime training efforts. My thanks go to Senator STEVENS, the chairman of the Merchant Marine Subcommittee and Senator INOUYE, the subcommittee's ranking minority member.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading; was read the third time, and passed, as follows:

S. 1037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Maritime Appropriation Authorization Act for fiscal year 1984".

SEC. 2. Funds are authorized to be appropriated without fiscal year limitation as the Appropriation Act may provide for the use of the Department of Transportation for the fiscal year 1984, as follows:

(1) For payment of obligations incurred for operating-differential subsidy, not to exceed $410,294,000.

(2) For expenses necessary for research and development activities, not to exceed $11,500,000.

(3) For expenses necessary for operations and training activities, not to exceed $74,013,000, including not to exceed:

(A) $35,655,000 for maritime education and training expenses, including not to exceed $20,266,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $10,668,000 for financial assistance to State maritime academies, $3,000,000 for fuel oil assistance to State maritime academy training vessels, and $1,721,000 for expenses necessary for additional training;

(B) $8,048,000 for national security support capabilities, including not to exceed $6,999,000 for reserve fleet expenses, and $1,049,000 for emergency planning/operations; and

(C) $30,310,000 for other operations and training expenses.

SEC. 3. Commencing with fiscal year 1984, appropriation of funds to carry out the laws administered by the Federal Maritime Commission shall be subject to annual authorization.

SEC. 4. Funds are authorized to be appropriated in the amount of $11,324,000 for the use of the Federal Maritime Commission for fiscal year 1984.

SEC. 5. Section 1304(c)(1)(A) of the Merchant Marine Act of 1936 (46 U.S.C. 1295c(c)(1)(A)), is amended—

(1) by striking out the first sentence and inserting in lieu thereof "The Secretary shall furnish for training purposes any suitable vessels under the control of the Secretary or provided under subparagraph (B), or construct and furnish such suitable vessels if such vessels are not available to provide that each State maritime academy meeting the requirements of subsection (f)(1) shall have at least one such vessel on a full-time basis."; and

(2) by striking out clause (iv) and inserting in lieu thereof "(iv) shall be maintained in good repair by the Secretary meeting any requirements of merchant marine vessels

pursuant to the laws of the United States; and".

SEC. 6. Section 1304(c)(2) of the Merchant Marine Act of 1936 (46 U.S.C. 1295c(c)(2)), is amended to read as follows:

"(2) Subject to such amounts as are provided in advance in appropriations Acts, on October 1, 1984, and at the beginning of each fiscal year thereafter, the Secretary shall pay to each State maritime academy, the amount of costs of fuel estimated by the Secretary to be consumed in the fiscal year then beginning by any training vessel furnished by the Secretary.".

The title was amended so as to read: "A bill to authorize appropriations for fiscal year 1984 for certain maritime programs of the Department of Transportation, and for other purposes.".

Mr. STEVENS. I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT ON S. 1013 AND S. 445

Mr. STEVENS. Mr. President, during consideration of the two bankruptcy bills yesterday afternoon, I offered an amendment to both S. 1013 and S. 445. Senators DOLE and METZENBAUM agreed to the amendment, but at the time of passage, there was some question concerning the language and those Senators further agreed—during a floor colloquy—that should changes in the language be necessary, those changes could be made by unanimous consent. I have been informed by Senators DOLE and METZENBAUM that in their opinion, one such change is needed. Therefore, I propound the following unanimous-consent request:

I ask unanimous consent that the Secretary of the Senate be instructed to modify the text of printed amendment No. 1208, offered by Senator DOLE to S. 1013, by inserting the following language on page 15 of the amendment which I send to the desk.

The language referred to is as follows:

On line 26 of that page, insert the words "or the catching of fish" after the word "operations";

on line 27 of that page, insert the words "or fish" after the word "produce";

On line 29 of that page, insert the words "or United States fish processing facility" after the words "storage facility".

Mr. STEVENS. Mr. President, I further ask unanimous consent that the Secretary of the Senate be instructed to modify the text of printed amendment number 1211, offered by Senator STEVENS to S. 445, by inserting the following language at the end of the amendment, which I send to the desk.

The language referred to follows:

At page 20 of the bill—

(1) On line 18, insert the words "or the catching of fish" after the word "operations";

(2) On line 19, insert the words "or fish" after the word "produce"; and

(3) On line 21, insert "or United States fish processing facility" after the words "storage facility".

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, were the amendments adopted which Mr. STEVENS introduced?

Mr. STEVENS. It was requested that the Secretary of the Senate be directed to make those amendments.

The PRESIDING OFFICER. By unanimous consent, those amendments have been made.

DEDICATION OF GOLDEN GATE NATIONAL RECREATION AREA TO REPRESENTATIVE PHILLIP BURTON

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate turn to the consideration of H.R. 2600, a bill to dedicate the Golden Gate National Recreation Area to Congressman Phillip Burton.

The PRESIDING OFFICER. Is there objection? The clerk will state the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 2600) to dedicate the Golden Gate National Recreation Area to Representative Phillip Burton.

The Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, this will dedicate to his memory an area of California that was very dear to my former neighbor, Representative Burton. He lived next door to me and my late wife for a period of over 4 years and I know how much he worked to achieve the establishment of that area. I urge the Senate to approve this bill.

Mr. BUMPERS. Mr. President, I am pleased to support the legislation that the House has passed to dedicate the Golden Gate National Recreation Area in San Francisco to Phil Burton. I was and remain deeply saddened by his sudden death earlier this month, and I consider this to be a very fitting tribute to him.

As some of my colleagues will recall, I had the privilege to serve as the Chairman of the Senate Subcommittee on Parks, Recreation, and Renewable Resources from 1979 to 1980 during Phil's last term as chairman of the comparable subcommittee in the House. Of all the projects that Phil worked on during that time—and there were many—one could tell that he had a special feeling about the Golden Gate National Recreation Area. He knew every inch of it. He was familiar with every detail about every acquisition, development, and use associated with it. He loved that park and was proud to have had a part of preserving it for future generations of Americans to enjoy.

Mr. President, I cannot help but observe that this measure was introduced in the House on April 19. It was reported favorably from the full House Interior Committee on the 20th and was passed by the House on the 26th. It will probably be approved by the Senate today without hearings and without having been referred to committee. All of us who knew Phil Burton know that he would have loved that. That is the way he thought legislation ought to pass.

Mr. CRANSTON. Mr. President, as the Senate considers H.R. 2600, a bill to dedicate the Golden Gate National Recreation Area in California to Phillip Burton, I want to say a few words about my late friend and colleague.

As many Members of this body are aware, Phil Burton was an ardent conservationist. He also fought for peace and social justice and improved conditions for the American working people. Phil had tremendous energy and unsurpassed political skills—which he put to use in the House of Representatives where he served from 1964 on.

As a member of the House Interior and Insular Affairs Committee, Phil established an impressive record in protecting for all time and all people many of the outstanding natural and cultural areas of the Nation. He was instrumental in the establishment of the Golden Gate National Recreation Area, establishment and expansion of the Redwood National Park, protection of the Tahoe basin, creation of the Santa Monica Mountains National Recreation Area and the Channel Islands National Park. Phil was a key figure in the passage of the Alaska Lands Act, protecting over 100 million acres of land. He helped triple the size of the national trails system, nearly double the size of the wild and scenic rivers system, and more than double the wilderness acreage in the national park system. At the time of his death, he was working to double national forest wilderness in the State of California.

Given Phil Burton's leadership and numerous contributions in saving open space and wild lands, it is most fitting that the Golden Gate National Recreation Area, a magnificent urban park stretching from his congressional district of San Francisco across the Golden Gate to the Marin Headlands and up the coast to Point Reyes, be dedicated to him. I hope that my colleagues in the Senate will join me in passing H.R. 2600 to dedicate GGNRA to Phillip Burton.

Mr. JACKSON. Mr. President, I want to take just a minute to add my support for this measure to dedicate the Golden Gate National Recreation Area to Phil Burton.

Phil's contributions to park and wildland preservation are well known to most of my colleagues in the Senate and to countless thousands of Americans all across the country. It especially is fitting, however, that this park—one Phil had a deep and longstanding personal commitment to—will be dedicated to his memory.

Golden Gate is truly a "park for the people." It is the most heavily visited unit of the park system—a fact that makes it even more appropriate as a memorial to Phil Burton's dedication to the National Park System. It is fitting that his memory will be kept alive for the millions of people who visit and use this park each year.

Mr. JOHNSTON. Mr. President, at this time I would like to add my support to this bill to dedicate the Golden Gate National Recreation Area to Phillip Burton.

Phil was one of the most effective and hard-working members of the House. He devoted his public life to helping the disadvantaged, minorities, and those in our society least able to fend for themselves. One facet of this concern was evidenced by his efforts on behalf of the people of our territories in the Pacific and the Caribbean.

Phil was a tireless and vocal supporter of our Nation's park system. His contributions in this regard will prove of inestimable value to future generations. His efforts to make park and recreation opportunties available to all Americans and his dedication to the preservation of wild places are well known to all of us who have had the privilege of working and serving with him over the years.

Make no mistake about it. Phil Burton always drove a hard legislative bargain. He skillfully pursued his legislative agenda in the Congress with a zeal and gusto that few have ever matched. And yet, Congressman Phillip Burton was an honorable and forthright legislator who was driven not by thoughts of personal gain and satisfaction but by a consuming desire to honestly and effectively represent the people of his district and the Nation.

Those of us who worked on an issue with Phil could not help but be impressed with the force and conviction with which he expressed his views. This was certainly the case with regard to the Golden Gate National Recreation Area and his love and commitment to its preservation for all Americans to enjoy. The bill we are considering here today is a most fitting tribute to his memory.

The bill (H.R. 2600) was ordered to a third reading, read the third time, and passed.

Mr. STEVENS. I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MARINE SAFETY AND SEAMEN'S WELFARE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 85, S. 46.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 46) to consolidate and reenact certain of the marine safety and welfare seamen's welfare laws of the United States.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment on the nature of a substitute.

AMENDMENT NO. 1225

(Purpose: To make various technical corrections in the bill)

Mr. STEVENS. Mr. President, I send to the desk an amendment on behalf of Senators PACKWOOD and HOLLINGS and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), on behalf of Mr. PACKWOOD and Mr. HOLLINGS, purposes an amendment numbered 1225.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 232, line 3, insert "or lines" immediately after "line".

On page 239, strike lines 20 through 22, and insert in lieu thereof the following:

"Subject to section 2109 of this title, this chapter applies to every vessel, including a foreign vessel on the navigable waters of the United States.".

On page 248, line 14, insert "primarily" immediately after "adapted".

On page 248, line 16, insert "in cargo spaces" immediately after "bulk".

On page 248, strike all after "residue" on line 16 through line 22 and insert in lieu thereof a period.

On page 252, line 7, insert "(1)" immediately after "(g)".

On page 252, line 14, strike "3" and insert in lieu thereof "31".

On page 252, insert the following immediately after line 16:

"(2) An offshore supply vessel, as described in paragraph (1) of this subsection, that has not had an actual inspection by the Secretary, but which registered with the Secretary as an offshore supply vessel by January 30, 1981, shall be held to be in compliance with sections 3305 and 3306 of this title, and all rules, regulations, and standards prescribed by the Secretary pursuant to those sections, until an actual inspection is conducted or is caused to be conducted by the Secretary.

"(3) No offshore supply vessel operating on January 1, 1979, under a certificate issued by the Secretary shall be subjected to any higher standards or new inspection requirements as a result of the enactment of this title.".

On page 259, insert the following immediately after line 10:

"(f) in prescribing regulations for offshore supply vessels, the Secretary shall consider the characteristics, methods of operation, and the nature of the service of offshore supply vessels.".

On page 259, line 16, insert "or offshore supply vessel" immediately after "freight vessel".

On page 260, line 13, insert "(a)" immediately before "When".

On page 260, insert the following immediately after line 17:

"(b) The Secretary may issue a temporary certificate of inspection, which is valid for 30 days in place of a regular certificate of inspection until such a regular certificate is issued.".

On page 262, line 6, insert "operated upon a regularly established line" immediately after "vessel".

On page 265, line 15, strike "(a)".

On page 265, strike all from line 18 through line 2 on page 266.

On page 269, line 16, insert the following at the end thereof: "An offshore supply vessel that takes aboard one or more passengers in an emergency does not alter its character as an offshore supply vessel under this section.".

On page 280, strike lines 14 through 16 and insert in lieu thereof the following:

"(2) Compliance with paragraph (1) of this subsection may be delayed until June 1, 1985 for any tank vessel of less than 70,000 deadweight tons operating with dedicated clean ballast tanks.".

On page 280, line 24, strike "but less than 70,000 deadweight tons".

On page 281, strike all after "characteristics." on line 5 through line 7.

On page 284, line 12, strike "3708" and insert in lieu thereof "3706".

On page 311, strike lines 3 through 10 and insert in lieu thereof the following:

"(c) When the owner, operator, or agent of a vessel of the United States has reason to believe (because of the nonappearance of a vessel or any other circumstance) that a vessel has been lost, the owner, operator, or agent shall, as soon as it is convenient, send written notice to the Coast Guard that the vessel is lost, the probable time it was lost, the name and number (if any) of the vessel, the names of the persons on board, and any other information that the Coast Guard may request.".

On page 312, line 12, strike "or negligence" and insert in lieu thereof "unskillfulness, or willful violation of law committed".

On page 313, strike all from line 21 through line 1 on page 314, and insert the following immediately after "witnesses:" on line 20: "an owner, a licensed officer, any holder of a merchant mariner's document, or any other person whose conduct is under investigation, or any other party in interest.".

On page 318, insert the following immediately after line 20:

"(f) In classifying licensed officers under this section, the Secretary shall, where possible, establish service and other qualifying requirements appropriate to the particular service or industry in which the officers are engaged.".

On page 322, in the table of contents for chapter 73, amend the item relating to section 7310 to read as follows: "7310. Able seamen—special (offshore supply vessels).".

On page 324, line 21, strike all after "able" and insert in lieu thereof the following: "seaman—special (offshore supply vessels).".

On page 325, line 15, strike all after "Able" and insert in lieu thereof the following: "seaman—special (offshore supply vessels)".

On page 325, line 19, strike "seaman—offshore supply vessels" and insert in lieu thereof "seaman—special (offshore supply vessels)".

On page 332, strike all from line 24 through line 8 on page 333, and insert in lieu thereof the following:

"A license, certificate, or merchant mariner's document may be suspended or revoked if, when the holder is acting under the authority of a license, certificate, or document issued by the Secretary, the holder—

"(1) has violated or failed to comply with this subtitle, a regulation prescribed under this subtitle, or any other law or regulation intended to promote marine safety or to protect navigable waters; or

"(2) has committed an act of incompetence, misconduct, or negligence.".

On pages 333 and 334, lines 25 and 1, respectively, strike "revocation or suspension" and insert in lieu thereof "suspension or revocation".

On page 457, in the item relating to the Act of June 5, 1920, strike "32, 33" and insert in lieu thereof "32", and strike "988-1008" and insert in lieu thereof "988-1006".

The amendment (No. 1225) was agreed to.

Mr. PACKWOOD. Mr. President, as chairman of the committee that has jurisdiction over the maritime affairs of the United States, I am proud of the bill now being brought before the Senate and urge its passage.

This bill revises, consolidates, and reenacts those laws related to marine safety and seamen's welfare. In many ways this is a truly historic piece of legislation. Since Teddy Roosevelt first tried in 1908, numerous administrations and Congresses have attempted to reorganize and consolidate those laws in title 46 of the United States Code pertaining to vessels and seamen. Past attempts have been bogged down by controversial or substantive changes or by deleterious amendments. Therefore, it has been the intention of the sponsors of S. 46 to avoid controversial, substantive revisions which, due to opposition, endanger the bill's chances of passage.

The bill reflects a 20-year effort by this committee, in cooperation with the Coast Guard, to organize and modernize existing laws enforced by the U.S. Coast Guard governing commercial shipping and recreational boating.

Reform of the shipping laws can only come as a result of a deliberate and meticulous process. In the 105 years since the enactment of the Revised Statutes. There has been no revision of the shipping laws. The various statutes passed by Congress from time to time since 1878 have been included in title 46 of the United States Code, together with the sections of the Revised Statutes, without any attempt to consolidate or rewrite conflicting provisions. Such a revision must be the result of a multistep process. The first step of this process is a simple and noncontroversial consolidation and reorganization of existing law. S. 46 is that first step. Proposals for substantive reform will be welcome in subsequent legislation providing all members of the maritime community with an opportunity to criticize and contribute to such reform.

I. LEGISLATIVE HISTORY

The version of S. 46 being considered today is the result of a cooperative effort by all members of the maritime community and a bipartisan effort in both the Senate and House. Since its introduction as S. 2660 last summer, by myself, along with Senators STEVENS and GORTON, and a subsequent widely distributed Commerce Committee staff draft which identified the affected sections of title 46 of the United States Code and provided explanations for any revisions, this bill has been the subject of House hearings and voluminous industry and labor comment to the Coast Guard and to the Commerce Committee. The constant informational flow and highly technical nature of the analysis has produced the bill before you today. I believe that this is a very thorough product worthy of your unanimous support. If Teddy Roosevelt were here, he would tell you that this bill has taken much too long in coming.

II. PURPOSE

The purpose of S. 46 is threefold. Primarily, to reorganize certain shipping laws as they appear in title 46 of the United States Code to make them more easily understood by the affected public. S. 46 remedies the internal inconsistencies of title 46 by providing clear definitions for all terms used throughout the title, by combining widely dispersed laws into groupings by subject, and by gathering the numerous exceptions to any general rules in one place.

A second purpose of the bill is to apply these laws to the maritime community in an easier, quicker, and less expensive fashion. With the goal of regulatory reform, this bill will lead to cost savings for the Federal Government and efficiencies for the maritime industry. A streamlined title 46, whose laws are organized so that they can be easily found and understood, reduces the need to resort to litigation to define the law, and provides the potential for later delegation of responsibility to the private sector, such as has been accomplished with private inspection and documentation societies.

The third purpose of this bill is to update or repeal outmoded law. Antiquated sections of title 46 have been identified in this bill. Where they no longer serve any purpose, and do not give rise to opposition which might serve to undermine the basic effort, these sections have been repealed. Other significant, although ancient, sections have been retained and updated.

III. SCOPE AND SUBJECT MATTER OF S. 46

The bill before you has made new law only to the extent that it will add a new subtitle to title 56 of the United States Code. No substantive changes of a controversial nature were intended in its drafting. Rather, the attempt has been to modernize and reorganize the scope and format of the existing law. Three sections of the bill have no basis in preexisting legislation in sections 6302, 7702, 103201, but have been added to aid in the smooth application and implementation of this legislation. One section of the bill, section 7305, reinstates in statutory form an oath for merchant mariners which did exist in earlier laws, disappeared through congressional omission, but has continued to be applied by the Coast Guard without objection. Other examples of reforms in the existing law are the modernization of the nutritional standards for seamen, the removal of gender-based terminology, the removal of antiquated titles, such as collector of customs and board of local inspectors, and the abolishment of leg irons and bread and water as a means of punishment. We have simplified seamen's rights of appeal by bringing them in line with their current application under the Administrative Procedure Act and reorganization plan 3-46 which abolished the Bureau of Marine Inspection and Navigation and the officers and the boards thereof, and transferred all functions of the Bureau, of its officers and its boards, and of the Secretary of Commerce pertaining thereto, to the Commandant of the U.S. Coast Guard.

The following table shows those areas of the law generally covered by this bill:

Part A—General Provisions
Part B—Inspection and Regulation of Vessels
Part C—Reserved
Part D—Marine Casualties and Accidents
Part E—Licenses, Certificates, and Merchant Mariners' Documents
Part F—Manning of Vessels
Part G—Merchant Seamen Protection and Relief
Part H—Identification of Vessels
Part I—State Boating Safety Programs

In addition to S. 46, we have submitted a series of technical and conforming amendments to the bill. The purpose of these amendments is to further clarify the bill's language and to bring the bill more clearly in line with existing law. It is worth noting that by restoring the existing language regarding "parties in interest" this bill will make no attempt to resolve any existing controversy as to who are the parties in interest nor as to whether union representation as a party is or is not guaranteed by this section.

The following additions should be made to the comparative reference table for S. 46 found at the end of the committee's report No. 98-56:

33 U.S.C. 361, 362, 365: add 6102.
46 U.S.C. 65v: add 12122.
46 U.S.C. 170: add 3306(a)(5).
46 U.S.C. 215: add 8501.
46 U.S.C. 239(j): delete 6301, add 6307.
46 U.S.C. 239(i): add 6307.
46 U.S.C. 390(a): add 3101(10).
46 U.S.C. 390a(b): add 3317.
46 U.S.C. 391a: add 8502.
46 U.S.C. 391a(7): add 3704, 3705, 3706, 3707.
46 U.S.C. 391a(8)(E): 3711.
46 U.S.C. 391a(8)(C): 3711.
46 U.S.C. 391a(8)(D): 3714.
46 U.S.C. 391a(10): 7701.
46 U.S.C. 391(a)(14)c: 3718.
46 U.S.C. 526o: 2107.
46 U.S.C. 564: add 10302.
46 U.S.C. 628: delete 8411 plus
46 U.S.C. 643(l): delete 10102; add 10103.
46 U.S.C. 653: add 10907.
46 U.S.C. 672(b): add 7310,7311.
46 U.S.C. 672(h): delete 8101; add 8103.
46 U.S.C. 682: delete 10510; add 10507.
46 U.S.C. 881: add 12120.
Public Law 97-136, 3316: delete.

IV. CONCLUSION

This bill has been the subject of months of careful scrutiny and comment from the maritime community. This bill is the embodiment of a consensus that has existed for decades within the maritime community in that those laws affecting vessels and seamen were in dire need of consolidation and reform. It is a bipartisan product of the House and the Senate and is long overdue. Along with my cosponsors, Senators STEVENS, GORTON, KASTEN, and HOLLINGS, I urge its passage by unanimous consent.

The **PRESIDING OFFICER**. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The **PRESIDING OFFICER**. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 46

Be it enacted by the Senate and House of Representives of the United States of America in Congress assembled,

SUBTITLE II OF TITLE 46, UNITED STATES CODE

SECTION 1. Certain general and permanent laws of the United States, related to vessels and seamen, are revised, consolidated, and enacted as title 46, United States Code, "Shipping", as follows:

TITLE 46—SHIPPING

SUBTITLE Sec.
I. [Reserved—general] 101
II. Vessels and seamen 2101

[BALANCE OF TITLE RESERVED]

SUBTITLE II—VESSELS AND SEAMEN

PART A—GENERAL PROVISIONS

Chapter Sec.
21. General 2101
23. Operation of vessels generally 2301

PART B—INSPECTION AND REGULATION OF VESSELS

31. Definitions 3101
33. Inspection generally 3301
35. Carriage of passengers 3501
37. Carriage of liquid bulk dangerous cargoes 3701
39. Carriage of animals 3901
41. Uninspected vessels 4101
43. Recreational vessels 4301

[PART C—RESERVED FOR LOAD LINES OF VESSELS]

PART D—MARINE CASUALTIES

61. Reporting marine casualties 6101
63. Investigating marine casualties 6301

PART E—LICENSES, CERTIFICATES, AND MERCHANT MARINERS' DOCUMENTS

71. Licenses and certificates of registry 7101
73. Merchant mariners' documents 7301
75. General matters related to licenses, certificates, and documents 7501
77. Suspension and revocation 7701

PART F—MANNING OF VESSELS

81. General 8101
83. Masters and officers 8301
85. Pilots 8501
87. Unlicensed personnel 8701
89. Operators 8901
91. Manning standards 9101
93. Great Lakes pilotage 9301

PART G—MERCHANT SEAMEN PROTECTION AND RELIEF

101. General 10101
103. Foreign and intercoastal voyages 10301
105. Coastwise and nearby foreign voyages 10501
107. Effects of deceased seamen 10701
109. Proceedings on unseaworthiness 10901
111. Protection and relief 11101
113. Official logbooks 11301
115. Offenses and Penalties 11501

PART H—IDENTIFICATION OF VESSELS

121. Documentation of vessels 12101
123. Numbering of undocumented vessels 12301

PART I—STATE BOATING SAFETY PROGRAMS

131. Recreational boating safety 13101

[PART J—RESERVED FOR ADMEASUREMENT OF VESSELS]

PART A—GENERAL PROVISIONS

Chapter 21—General

Sec.
2101. General definitions.
2102. Limited definitions.
2103. Superintendence of the merchant marine.
2104. Delegation.
2105. Report.
2106. Liability in rem.
2107. Civil penalty procedures.
2108. Refund of penalties.
2109. Public vessels.
2110. Fees prohibited.
2111. Pay for overtime services.
2112. Authority to change working hours.
2113. Authority to extend application of certain laws.
2114. Authority to exempt certain vessels.
2115. Authority to suspend inspection.

§ 2101. General definitions

In this subtitle—

(1) "Boundary Line" means a line or lines established under section 2(b) of the Act of February 19, 1895 (33 U.S.C. 151).

(2) "Coast Guard" means the organization established and continued under section 1 of title 14.

(3) "consular officer" means an officer employee of the United States Government designated under regulations to grant visas.

(4) "Secretary" means the head of the department in which the Coast Guard is operating.

(5) "State" means a State of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other commonwealth, territory or possession of the United States.

(6) "United States", when used in a geographic sense, means the States of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other commonwealth, territory or possession of the United States.

(7) "vessel" has the same meaning given that term in section 3 of title 1.

§ 2102. Limited definitions

In chapters 43 and 123 of this title and part I of this subtitle—

(1) "eligible State" means a State that has a State recreational boating safety and facilities improvement program accepted by the Secretary.

(2) "Fund" means the National Recreational Boating Safety and Facilities Improvement Fund established by section 13107 of this title.

(3) "State" and "United States", in addition to their meanings under section 2101 (5) and (6) of this title, include the Trust Territory of the Pacific Islands.

(4) "State recreational boating facilities improvement program"—

(A) means a program to develop or improve public facilities that establish or add to public access to the waters of the United States to improve their suitability for recreational boating, including ancillary facilities necessary to ensure the safe use of those facilities; and

(B) includes acquiring title or an interest in riparian or submerged land, and the capital improvement of riparian or submerged land, to increase public access to the waters of the United States.

(5) "State recreational boating safety and facilities improvement program" means a State recreational boating safety program, or a State recreational boating facilities improvement program, or both.

(6) "State recreational boating safety program" means education, assistance, and enforcement activities conducted for marine casualty prevention, reduction, and reporting for recreational boating.

§ 2103. Superintendence of the merchant marine

The Secretary has general superintendence over the merchant marine of the United States and of merchant marine personnel insofar as the enforcement of this subtitle is concerned and insofar as those vessels and personnel are not subject, under other law, to the supervision of another officer of the United States Government. In the interests of marine safety and seamen's welfare, the Secretary shall enforce this subtitle and shall carry out correctly and uniformly administer this subtitle and regulations prescribed under this subtitle.

§ 2104. Delegation

(a) The Secretary may delegate the duties and powers conferred by this subtitle to any official of the Coast Guard, and may provide for the subdelegation of those duties and powers.

(b) When this subtitle authorizes an officer of the Customs Service to act in place of a Coast Guard official, the Secretary may designate that officer subject to the approval of the Secretary of the Treasury.

§ 2105. Report

The Secretary shall provide for the investigation of the operation of this subtitle and of all laws related to marine safety, and shall require that a report be made to the Secretary annually about those matters that may require improvement or amendment.

§ 2106. Liability in rem

When in this subtitle the imposition of a civil penalty makes a vessel liable in rem, the vessel may be libeled and proceeded against in a district court of the United States having jurisdiction.

§ 2107. Civil penalty procedures

(a) After notice and an opportunity for a hearing, a person found by the Secretary to have violated this subtitle or a regulation prescribed under this subtitle for which a civil penalty is provided, is liable to the United States Government for the civil penalty provided. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(b) The Secretary may compromise, modify, or remit, with or without consideration, a civil penalty under this subtitle until the assessment is referred to the Attorney General.

(c) If a person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection in an appropriate district court of the United States.

§ 2108. Refund of penalties

When a civil penalty has been collected under this subtitle, and, within 1 year from the date of payment, application has been made for refund or remission of the penalty, the Secretary, if the Secretary finds that the penalty was illegally, improperly, or excessively imposed, may authorize the refund or remission of the penalty as the Secretary considers proper.

§ 2109. Public vessels

This subtitle does not apply to a public vessel of the United States. However, this subtitle does apply to a vessel (except a Coast Guard vessel) owned or operated by the Department of Transportation or by any corporation organization or controlled by it.

§ 2110. Fees prohibited

Fees may not be charged or collected by the Secretary for services provided for in this subtitle related to the shipment and discharge of seamen, the inspection and examination of vessels, the licensing of masters, mates, pilots, and engineers, and the measurement or documentation of vessels, except when specifically provided for in this subtitle.

§ 2111. Pay for overtime services

(a) The Secretary may prescribe a reasonable rate of extra pay for overtime services of civilian employees required to remain on duty between 5 p.m. and 8 a.m., or on Sundays or holidays, to perform services related to—

(1) the inspection of vessels or their equipment;

(2) the shipment and discharge of crews of vessels;

(3) the measurement of vessels; and

(4) the documentation of vessels.

(b) Except for Sundays and holidays, the overtime rate provided under subsection (a) of this section is ½ day's additional pay for each 2 hours of overtime (or part of 2 hours of at least 1 hour). The total extra pay may be not more than 2½ day's pay for any one period from 5 p.m. to 8 a.m.

(c) The overtime rate provided under subsection (a) of this section for Sundays and holidays is 2 additional day's pay.

(d) The master, owner, or agent of the vessel shall pay the amount of the overtime pay provided under this section to the officer designated by regulation. The officer shall deposit the amount paid to the Treasury as miscellaneous receipts. Payment to the individual employees entitled to the pay shall be made from the annual appropriations for salaries and expenses of the Coast Guard.

(e) The overtime pay provided under this section shall be paid if the authorized employees have been ordered to report for duty and have reported, even if services called for were not performed.

§ 2112. Authority to change working hours

In a port at which the customary working hours begin before 8 a.m. or end after 5 p.m., the Secretary may regulate the working hours of the employees referred to in section 2111 of this title so that those hours conform to the prevailing working hours of the port. However—

(1) the total period for which overtime pay may be required under section 2111 of this title may not be more than 15 hours between any 2 periods of ordinary working hours on other than Sundays and holidays;

(2) the length of the working day for the officers or employees involved may not be changed; and

(3) the rate of overtime pay may not be changed.

§ 2113. Authority to extend application of certain laws

When the President decides the national interest requires, the President may extend sections 7302, 7304, 8701, 10306, 10311, 10502, 10503, and 10509 of this title to additional classes of vessels and waters the President may designate.

§ 2114. Authority to exempt certain vessels

If the Secretary decides that the application of a provision of part B or F of this subtitle is not necessary in performing the mission of a vessel engaged in excursions or an oceanographic research vessel (as defined in section 3101(6) of this title), the Secretary by regulation may—

(1) exempt the oceanographic research vessel from that provision under conditions the Secretary may specify; and

(2) for an excursion vessel, issue a special permit specifying the conditions of operation and equipment.

§ 2115. Authority to suspend inspection

When the President decides that the needs of foreign commerce require, the President may suspend any provision of part B of this subtitle for a foreign-built vessel registered as a vessel of the United States on conditions the President may specify.

CHAPTER 23—OPERATION OF VESSELS GENERALLY

Sec.
2301. Application.
2302. Penalties for reckless or negligent operations.
2303. Civil penalties related to whistles and lights.
2304. Penalties related to marine casualty assistance and information.
2305. Injunctions.

§ 2301. Application

Subject to section 2109 of this title, this chapter applies to every vessel, including a foreign vessel on the navigable waters of the United States.

§ 2302. Penalties for reckless or negligent operations

(a) A person using a vessel in a negligent manner that endangers the life, limb, or property of a person is liable to the United States Government for a civil penalty of not more than $1,000.

(b) A person using a vessel in a grossly negligent manner that endangers the life, limb, or property of a person shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.

(c) For a penalty imposed under this section, the vessel also is liable in rem unless it is a foreign vessel, or a vessel owned by a State or a subdivision of a State, clearly identified as used principally for a governmental purpose.

§ 2303. Civil penalties related to whistles and lights

(a) The Secretary shall prescribe regulations to prohibit useless and unnecessary use of whistles by a vessel and to prevent dangerous and improper use of lights.

(b) A person violating a regulation prescribed under subsection (a) of this section is liable to the United States Government for a civil penalty of $500.

§ 2304. Penalties related to marine casualty assistance and information

(a) When a marine casualty occurs involving a vessel, the master or operator of the vessel, so far as the master or operator can do so without serious danger to the master's or operator's vessel or individuals on board, shall render necessary assistance to each individual affected to save the individual from danger caused by the marine casualty. The master or operator also shall give the master's or operator's name and address and identification of the vessel to the master or operator of any other vessel involved, to an individual injured, and to the owner of any property damaged.

(b) An individual violating this section or a regulation prescribed under this section shall be fined not more than $1,000 or imprisoned for not more than 2 years.

(c) An individual complying with subsection (a) of this section or gratuitously and in good faith rendering assistance at the scene of a marine casualty without objection by an individual assisted, is not liable for damages as a result of rendering assistance or for an act or omission in providing or arranging salvage, towage, medical treatment, or other assistance when the individual acts as an ordinary, reasonable, and prudent individual would have acted under the circumstances.

(d) The Secretary may prescribe regulations to carry out the provisions of this section.

§ 2305. Injunctions

The district courts of the United States have jurisdiction to enjoin the negligent use of vessels prohibited by this chapter.

PART B—INSPECTION AND REGULATION OF VESSELS

CHAPTER 31—DEFINITIONS

Sec.

3101. General definitions.

§ 3101. General definitions

In this part—

(1) "associated equipment"—

(A) means—

(i) a system, accessory, component, or appurtenance of a recreational vessel; or

(ii) a marine safety article intended for use on board a recreational vessel; but

(B) does not include radio equipment.

(2) "freight vessel" means a motor vessel of more than 15 gross tons that carries freight for hire, except an oceanographic research vessel or an offshore supply vessel.

(3) "manufacturer" means a person engaged in the manufacturing, construction, assembly, or importation of recreational vessels, components, or associated equipment.

(4) "motor vessel" means a vessel propelled by machinery other than steam.

(5) "nautical school vessel" means a vessel used by or in connection with a nautical school.

(6) "oceanographic research vessel" means a vessel that the Secretary finds is being employed only in instruction in oceanography or limnology, or both, or only in oceanographic or limnological research, including those studies about the sea such as seismic, gravity meter, and magnetic exploration and other marine geophysical or geological surveys, atmospheric research, and biological research.

(7) "offshore supply vessel" means a motor vessel of more than 15 gross tons but less than 500 gross tons that regularly carries goods, supplies, or equipment in support of the offshore mineral and energy industry and is not a small passenger vessel.

(8) "passenger", on a passenger vessel, means an individual carried on a vessel except—

(A) the master; or

(B) a crewmember.

(9) "passenger", on a small passenger vessel, means an individual carried on the vessel except—

(A) the owner or representative of the owner;

(B) the master or a crewmember engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for services;

(C) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a bareboat charter;

(D) an employee of the bareboat charterer of the vessel engaged in the business of the bareboat charterer;

(E) a guest on board a vessel that is being used only for pleasure, or a guest on board a sailing school vessel, who has not contributed consideration for carriage on board;

(F) an individual on board a vessel documented and used for tugboat or towboat service of at least 50 gross tons who has not contributed consideration for carriage on board; or

(G) a sailing school instructor or sailing school student.

(10) "passenger", on an offshore supply vessel, means an individual carried on the vessel except—

(A) the owner;

(B) a representative of the owner;

(C) the master;

(D) a crewmember engaged in the business of the vessel who has not contributed consideration for carriage on board and who is paid for services on board;

(E) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner;

(F) a charterer of the vessel;

(G) a person with the same relationship to a charterer as a person in subclause (B) or (E) of this clause (10) has to an owner;

(H) a person employed in a phase of exploration, exploitation, or production of offshore mineral or energy resources served by the vessel; or

(I) a guest who has not contributed consideration for carriage on board.

(11) "passenger", on an uninspected passenger vessel, means an individual carried on the vessel except—

(A) the owner or representative of the owner;

(B) the operator;

(C) a crewmember engaged in the business of the vessel who has not contributed consideration for carriage on board and who is paid for services on board; or

(D) a guest on board a vessel that is being used only for pleasure who has not contributed consideration for carriage on board.

(12) "passenger vessel" means a vessel of at least 100 gross tons carrying at least one passenger for hire.

(13) "public vessel" means a vessel that—

(A) is owned, or bareboat chartered, and operated by the United States Government or a government of a foreign country; and

(B) is not engaged in commercial service.

(14) "recreational vessel" means a vessel—

(A) manufactured or used primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure.

(15) "sailing instruction" means teaching, research, and practical experience in operating vessels propelled primarily by sail and may include any subject related to that operation and to the sea, including seamanship, navigation, oceanography, other nautical and marine sciences, and maritime history and literature.

(16) "sailing school instructor" means an individual who is on board a sailing school vessel to provide sailing instruction, but does not include an operator or crewmember who is among those required to be on board the vessel to meet a requirement established under part F of this subtitle.

(17) "sailing school student" means an individual who is on board a sailing school vessel to receive sailing instruction.

(18) "sailing school vessel" means a vessel that is—

(A) less than 500 gross tons;

(B) carrying at least six individuals who are sailing school students or sailing school instructors;

(C) principally equipped for propulsion by sail, even if the vessel has an auxiliary means of propulsion; and

(D) owned or demise chartered and operated by an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) and exempt from tax under section 501(a) of that Code, or by a State or political subdivision of a State, during times that the vessel is operated by the organization, State, or political subdivision only for sailing instruction.

(19) "scientific personnel" means individuals on board an oceanographic research vessel only to engage in scientific research, or to instruct or receive instruction in oceanography or limnology.

(20) "seagoing barge" means a barge of at least 100 gross tons making voyages beyond the Boundary Line.

(21) "seagoing motor vessel" means a motor vessel of at least 300 gross tons making voyages beyond the Boundary Line.

(22) "small passenger vessel" means a vessel of less than 100 gross tons carrying more than six passengers (as defined in clauses (9) and (10) of this section).

(23) "steam vessel" means a vessel propelled in whole or in part by steam.

(24) "tank vessel" means a vessel that is constructed or adapted primarily to carry, or that carries, oil or hazardous material (as defined in section 3701(7) of this title), in bulk in cargo spaces as cargo or cargo residue.

(25) "uninspected passenger vessel" means an uninspected vessel carrying not more than six passengers.

(26) "uninspected vessel" means a vessel not subject to inspection under section 3301 of this title that is not a recreational vessel.

CHAPTER 33—INSPECTION GENERALLY

Sec.

3301. Vessels subject to inspection.
3302. Exemptions.
3303. Reciprocity for certain foreign vessels.
3304. Carrying individuals in addition to crew on cargo vessels.
3305. Scope and standards of inspection.
3306. Regulations.
3307. Period of inspection.
3308. Additional examinations.
3309. Certificate of inspection.
3310. Records of certification.
3311. Certificate of inspection required.
3312. Display of certificate of inspection.
3313. Compliance with certificate of inspection.
3314. Expiration of certificate of inspection.
3315. Disclosure of defects and protection of informants.
3316. Delegation to American classification society.
3317. Fees.
3318. Penalties.

§ 3301. Vessels subject to inspection

The following categories of vessels are subject to inspection under this part:

(1) steam vessels.

(2) seagoing motor vessels.

(3) tank vessels.

(4) seagoing barges.

(5) freight vessels.

(6) passenger vessels.

(7) small passenger vessels.

(8) nautical school vessels.

(9) offshore supply vessels.

(10) sailing school vessels.

§ 3302. Exemptions

(a) A vessel is not excluded from one category only because the vessel is—

(1) included in another category of section 3301 of this title; or

(2) excluded by this section from another category of section 3301 of this title.

(b) A motor vessel engaged in fishing as a regular business, including oystering, clamming, crabbing, or the kelp or sponge industry, is exempt from section 3301 (2), (5), and (6) of this title.

(c) Before January 1, 1988, a motor vessel is exempt from section 3301 (2), (5), and (6) of this title if the vessel—

(1) is not more than 500 gross tons and—

(A) is a cannery tender or a fishing tender in the salmon or crab fisheries of Oregon, Washington, and Alaska; and

(B) is engaged only in carrying cargo to or from vessels in those fisheries or to or from a facility used in processing or assembling fishery products, or transports cannery or fishing personnel to or from operating locations; or

(2) is not more than 5,000 gross tons and is used only in processing and assembling fishery products in the fisheries of Oregon, Washington, and Alaska.

(d)(1) A motor vessel of less than 150 gross tons, constructed before August 23, 1958, is not subject to inspection under section 3301(5) of this title if the vessel is owned or bareboat chartered to a cooperative or association engaged only in transporting cargo owned by at least one of its members on a nonprofit basis between places within the inland waters of—

(A) southeastern Alaska shoreward of the Boundary Line;

(B) southeastern Alaska and Prince Rupert, British Columbia; or

(C) southeastern Alaska and places within the inland waters of Washington, via sheltered waters, as defined in article I of the treaty dated December 9, 1933, between the United States and Canada defining certain waters as sheltered waters.

(2) The transportation authorized under this subsection is limited to and from places not receiving annual weekly transportation service from any part of the United States by an established water common carrier. However, the limitation does not apply to transporting cargo of a character not accepted for transportation by that carrier.

(e) A vessel laid up, dismantled, or out of commission is exempt from inspection.

(f) Section 3301 (6) and (7) of this title do not apply to an oceanographic research vessel because it is carrying scientific personnel. An oceanographic research vessel is deemed not to be engaged in trade or commerce.

(g)(1) An offshore supply vessel operating as an offshore supply vessel before January 2, 1979, or, if not in service of any kind before that date, contracted for before that date and entering service as an offshore supply vessel before October 6, 1980, is not subject to regulations or standards for major structural or major equipment requirements unless compliance with those requirements is necessary to remove an especially hazardous condition. After December 31, 1988, this subsection does not apply to an offshore supply vessel that is at least 20 years of age.

(2) An offshore supply vessel, as described in paragraph (1) of this subsection, that has not had an actual inspection by the Secretary, but which registered with the Secretary as an offshore supply vessel by January 30, 1981, shall be held to be in compliance with sections 3305 and 3306 of this title, and all rules, regulations, and standards prescribed by the Secretary pursuant to those sections, until an actual inspection is conducted or is caused to be conducted by the Secretary.

(3) No offshore supply vessel operating on January 1, 1979, under a certificate issued by the Secretary shall be subjected to any higher standards or new inspection requirements as a result of the enactment of this title.

(h)(1) The Secretary may issue a permit exempting a specific cargo-carrying vessel from any part of the requirements of this part for vessels engaged in transporting cargo, including bulk fuel, from one place in Alaska, to another place in Alaska, but only if the vessel—

(A) is not more than 300 gross tons;

(B) is in a condition that does not present an immediate threat to the safety of life or the environment; and

(C) was operating in the waters off Alaska as of June 1, 1976, or the vessel is a replacement for a vessel that was operating in the waters off Alaska as of June 1, 1976, if the vessel being replaced is no longer in service.

(2) Except in a situation declared to be an emergency by the Secretary, a vessel operating under a permit issued under this subsection may not transport cargo to or from a place if the cargo could be transported by another commercial vessel that is reasonably available and that does not require exemptions to operate legally or if the cargo could be readily transported by overland routes.

(3) A permit may be issued under this subsection for a specific voyage or for not more than 1 year. The permit may impose specific requirements about the amount or type of cargo to be carried, manning, the areas or specific routes over which the vessel may operate, or other similar matters. The duration of the permit and restrictions contained in the permit shall be at the sole discretion of the Secretary.

(4) A designated Coast Guard official who has reason to believe that a vessel issued a permit is in a condition or is used in a manner that creates an immediate threat to the safety of life or the environment or is operated in a manner that is inconsistent with the terms of the permit, may direct the operator to take immediate and reasonable steps to safeguard life and the environment, including directing the vessel to a port or other refuge.

(5) If a vessel issued a permit under this subsection creates an immediate threat to the safety of life or the environment, or is operated in a manner inconsistent with the terms of the permit or the requirements of paragraph (2) of this subsection, the permit may be revoked. The owner, master, or person in charge of a vessel issued a permit under this subsection, that willfully permits the vessel to be used, or uses the vessel, in a manner inconsistent with the terms of the permit, is liable to the United States Government for a civil penalty of not more than $1,000.

§ 3303. Reciprocity for certain foreign vessels

(a) A foreign vessel carrying passengers, sailing school students, or sailing school instructors, of a country having inspection laws and standards similar to those of the United States and that has an unexpired certificate of inspection issued by proper authority of its country, is subject only to an inspection to ensure that the condition of the vessel's propulsion equipment and lifesaving equipment are as stated in its current certificate of inspection. A foreign country is deemed to have inspection laws and standards similar to those of the United States when it is a party to an International Convention for Safety of Life at Sea to which the United States Government is currently a party. A foreign certificate of inspection may be accepted as evidence of lawful inspection only when presented by a vessel of a country that has by its laws accorded to vessels of the United States visiting that country the same privileges accorded to vessels of that country visiting the United States.

(b) The Secretary shall collect and pay to the Treasury the same fees for the inspection of foreign vessels carrying passengers from the United States that a foreign country charges vessels of the United States trading to the ports of that country. The Secretary may waive at any time the collection of the fees on notice of the proper authorities of any country concerned that the collection of fees for the inspection of vessels of the United States has been discontinued.

§ 3304. Carrying individuals in addition to crew on cargo vessels

(a) A cargo vessel documented under chapter 121 of this title (except a small passenger vessel) may carry not more than 12 individuals in addition to the crew on international voyages, or not more than 16 individuals in addition to the crew on other voyages, and shall not be deemed a passenger vessel under this subtitle or a regulation prescribed under this subtitle.

(b) Before an individual in addition to the crew is carried on a cargo vessel as permitted by this section, the owner, agent, or master first shall notify the individual of the presence on board of dangerous articles as defined by law, and of other conditions or circumstances that would constitute a risk of safety to the individual on board. If the owner, agent, or master fails to give the notice, the vessel is liable for a civil penalty of not more than $500 and is liable in rem to the United States Government for the penalty.

(c) The privilege provided by this section applies to a cargo vessel of a foreign country that affords a similar privilege to cargo vessels of the United States in trades not restricted to vessels under its own flag.

(d) This section does not apply to a small passenger vessel.

§ 3305. Scope and standards of inspection

(a) The inspection process shall ensure that a vessel—

(1) is of a structure suitable for the service in which it is to be employed;

(2) is equipped with the proper appliances for lifesaving, fire prevention, and firefighting;

(3) has suitable accommodations for the crew, sailing school students, and sailing school instructors, and for passengers on the vessel if authorized to carry passengers;

(4) is in a condition to be used with safety to life and property; and

(5) complies with applicable marine safety laws and regulations.

(b) If an inspection or examination under section 3308 of this title reveals that a life preserver or firehose is so defective as to be incapable of repair, the owner or master shall destroy the life preserver or firehose in the presence of the official conducting the inspection or examination.

(c) A nautical school vessel operated by a civilian nautical school shall be inspected as if it were a small passenger vessel or a passenger vessel, depending on its tonnage.

§ 3306. Regulations

(a) To carry out this part and to secure the safety of individuals and property on board vessels subject to inspection, the Secretary shall prescribe necessary regulations to ensure the proper execution of, and to carry out, this part in the most effective manner for—

(1) the design, construction, alteration, repair, and operation of those vessels, including superstructures, hulls, fittings, equipment, appliances, propulsion machinery, auxiliary machinery, boilers, unfired pressure vessels, piping, electric installations, and accommodations for passengers and crew, sailing school students, and sailing school instructors;

(2) lifesaving equipment and its use;

(3) firefighting equipment, its use, and precautionary measures to guard against fire;

(4) inspections and tests related to clauses (1)-(3) of this subsection; and

(5) the use of ships stores and other supplies of a dangerous nature.

(b) Equipment subject to regulation under this section may not be used on any vessel without prior approval as provided by regulation.

(c) In prescribing regulations for sailing school vessels, the Secretary shall consult with representatives of the private sector having experience in the operation of vessels likely to be certificated as sailing school vessels. The regulations shall take effect not later than April 15, 1984. The regulations shall—

(1) reflect the specialized nature of sailing school vessel operations, and the character, design, and construction of vessels operating as sailing school vessels; and

(2) include requirements for notice to sailing school students and sailing school instructors about the specialized nature of sailing school vessels and applicable safety regulations.

(d) In prescribing regulations for nautical school vessels operated by the United States Merchant Marine Academy or by a State maritime academy (as defined in section 1302(3) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295a(3))), the Secretary shall consider the function, purpose, and use of the vessels, their routes, and the number of individuals who may be carried on the vessels.

(e) When the Secretary finds it in the public interest, the Secretary may suspend or grant exemptions from the requirements of a regulation prescribed under this section related to lifesaving and firefighting equipment, muster lists, ground tackle and hawsers, and bilge systems.

(f) In prescribing regulations for offshore supply vessels, the Secretary shall consider the characteristics, methods of operation, and the nature of the service of offshore supply vessels.

§ 3307. Period of inspection

Each vessel subject to inspection under this part shall undergo an initial inspection for certification before being put into service. Thereafter, each passenger vessel and nautical school vessel shall be reinspected at least once a year. Each small passenger vessel, freight vessel or offshore supply vessel of less than 100 gross tons, and sailing school vessel shall be reinspected at least once every 3 years. All other vessels shall be reinspected at least once every 2 years.

§ 3308. Additional examinations

In addition to inspections required by section 3307 of this title, the Secretary shall examine—

(1) vessels at proper times to ensure compliance with law and regulations; and

(2) crewmember accommodations on vessels as often as necessary to ensure that the accommodations are—

(A) of the size required by law and regulations;

(B) properly ventilated and in a sanitary condition; and

(C) equipped with proper plumbing and mechanical appliances required by law and regulation, and the appliances are in good working condition.

§ 3309. Certificate of inspection

(a) When an inspection under section 3307 of this title has been made and a vessel has been found to be in compliance with the requirements of law and regulations, a certificate of inspection, in a form prescribed by the Secretary, shall be issued to the vessel.

(b) The Secretary may issue a temporary certificate of inspection, which is valid for 30 days in place of a regular certificate of inspection until such a regular certificate is issued.

§ 3310. Records of certification

The Secretary shall keep records of certificates of inspection of vessels and of all acts in the examination and inspection of vessels, whether of approval or disapproval.

§ 3311. Certificate of inspection required

A vessel subject to inspection under this part may not be operated without having on board a valid certificate of inspection issued under section 3309 of this title.

§ 3312. Display of certificate of inspection

The certificate of inspection issued to a vessel under section 3309 of this title shall be displayed, suitably framed, in a conspicuous place on the vessel. When it is not practicable to so display the certificate, it shall be carried in the manner prescribed by regulation.

§ 3313. Compliance with certificate of inspection

(a) During the term of a vessel's certificate of inspection, an inspected vessel must be in complete compliance with its conditions, unless relieved by a suspension or an exemption granted under section 3306(e) of this title.

(b) When a vessel is not in compliance with its certificate or fails to meet a standard prescribed by this part or regulation prescribed under this part—

(1) the owner, master, operator, or person in charge shall be ordered to correct the deficiencies noted;

(2) the vessel may be detained; and

(3) if necessary, the certificate shall be suspended or revoked.

(c) The vessel's certificate of inspection shall be revoked if the owner, master, operator, or person in charge fails to correct a condition unsafe to life that is ordered to be corrected under this section.

(d) The owner or master of a vessel whose certificate has been suspended or revoked shall be given written notice immediately of the suspension or revocation. The owner or master may appeal to the Secretary the suspension or revocation within 30 days of receiving the notice, as provided by regulations prescribed by the Secretary.

§ 3314. Expiration of certificate of inspection

(a) Except as provided in subsection (b) of this section, if the certificate of inspection of a vessel operated upon a regularly established line expires when the vessel is on a foreign voyage, the vessel may complete the voyage to a port of the United States within 30 days of the expiration of the certificate without incurring the penalties for navigating without a certificate of inspection.

(b) If the certificate of inspection would expire within 15 days of sailing on a foreign voyage from a United States port, the vessel shall secure a new certificate of inspection before sailing, unless the voyage is scheduled to be completed prior to the expiration date of the certificate. If a voyage scheduled to be completed in that time is not so completed, the applicable penalties may be enforced unless the failure to meet the schedule was beyond the control of the owner, master, or agent of the vessel.

(c) When the certificate of inspection of a foreign vessel carrying passengers, operated on a regularly established line, expires at sea after leaving the country to which it belongs or when the vessel is in the United States, the Secretary may permit the vessel to sail on its regular route without further inspection than would have been required had the certificate not expired. This permission applies only when the vessel will be regularly inspected and issued a certificate before the vessel's next return to the United States.

§ 3315. Disclosure of defects and protection of informants

(a) Each officer licensed under part E of this subtitle shall assist in the inspection or examination under this part of the vessel on which the officer is serving, and shall point out defects and imperfections known to the officer in matters subject to regulations and inspection. The officer also shall make known to officials designated to enforce this part, at the earliest opportunity, any marine casualty producing serious injury to the vessel, its equipment, or individuals on the vessel.

(b) An official may not disclose the name of a person providing information under this section, or the source of the information, to a person except a person authorized by the Secretary. An official violating this subsection is liable to disciplinary action under applicable law.

§ 3316. Delegation to American classification society

(a) In carrying out this part, the Secretary may rely on reports, documents, and certificates issued by the American Bureau of Shipping as long as the Bureau is maintained as an organization having no capital stock and paying no dividends. The Secretary and the Secretary of Transportation each shall appoint one representative (except when the Secretary is the Secretary of Transportation, in which case the Secretary shall appoint both representatives) who shall represent the United States Government on the executive committee of the Bureau. The Bureau shall agree that the representatives shall be accepted by it as active members of the committee. The representatives shall serve without compensation, except for necessary traveling expenses.

(b) The Secretary may delegate, to the maximum extent practicable, to the Bureau or a similar American classification society, or an agent of the Bureau or society, the original and periodic inspections or examinations (in the United States and in foreign countries) of a vessel documented or to be documented as a vessel of the United States. The Bureau, society, or agent may issue the certificate of inspection required by this part and other certificates essential to documentation.

(c) The Secretary also may make an agreement with or use the Bureau or a similar American classification society for reviewing and approving plans required for issuing a certificate of inspection.

(d) When an inspection or examination has been delegated under subsection (b) of this section, the Secretary's delegate shall—

(1) maintain in the United States complete files of all information derived from or necessarily connected with the inspection or examination for at least 2 years after the vessel ceases to be certificated; and

(2) permit access to those files at all reasonable times to any member of the Coast Guard designated—

(A) as a marine inspector and serving in a position as a marine inspector; or

(B) in writing by the Secretary to have access to those files.

(e) The Secretary shall submit an annual report to Congress in 1983, 1984, and 1985 on the implementation of subsections (b) and (c) of this section. The report shall include the views of the affected industry on the implementation of those subsections.

§ 3317. Fees

The Secretary may prescribe by regulation fees for inspecting or examining a small passenger vessel or a sailing school vessel.

§ 3318. Penalties

(a) The owner, master, operator, or person in charge of a vessel operated in violation of this part or a regulation prescribed under this part, and a person violating a regulation that applies to a small passenger vessel, freight vessel of less than 100 gross tons, or sailing school vessel, is liable to the United States Government for a civil penalty of not more than $1,000, except that when the violation involves navigation of a barge, the penalty is not more than $500. The vessel also is liable in rem for the penalty.

(b) A person that knowingly manufactures, sells, offers for sale, or possesses with intent to sell any equipment subject to this part, and the equipment is so defective as to be insufficient to accomplish the purpose for which it is intended, shall be fined not more than $10,000, imprisoned for not more than 5 years, or both.

(c) A person that employs a means or device whereby a boiler may be subjected to a pressure greater than allowed by the terms of the vessel's certificate of inspection shall be fined not more than $2,000, imprisoned for not more than 5 years, or both.

(d) A person that deranges or hinders the operation of any machinery or device employed on a vessel to denote the state of steam or water in any boiler or to give warning of approaching danger, or permits the water level of any boiler when in operation of a vessel to fall below its prescribed low-water line, shall be fined not more than $2,000, imprisoned for not more than 5 years, or both.

(e) A person that alters, defaces, obliterates, removes, or destroys any plans or specifications required by and approved under a regulation prescribed under section 3306 of this title, with intent to deceive or impede any official of the United States in the discharge of that official's duties, shall be fined not more than $2,000, imprisoned for not more than 2 years, or both.

(f) A person shall be fined not less than $1,000 but not more then $5,000, and imprisoned for not less than 2 years but not more than 5 years, if the person—

(1) forges or counterfeits with intent to make it appear genuine any mark or stamp prescribed for material to be tested and approved under section 3306 of this title or a regulation prescribed under section 3306;

(2) knowingly uses, affixes, or causes to be used or affixed, any such forged or counterfeited mark or stamp to or on material of any description;

(3) with fraudulent intent, possesses any such mark, stamp, or other device knowing it to be forged or counterfeited; or

(4) with fraudulent intent, marks or causes to be marked with the trademark or name of another, material required to be tested and approved under section 3306 of this title or a regulation prescribed under section 3306.

(g) A person shall be fined not more than $10,000, imprisoned for not more than 1 year, or both, if the person—

(1) interferes with the inspection of a nautical school vessel;

(2) violates a regulation prescribed for a nautical school vessel;

(3) is an owner of a nautical school vessel used in violation of this part; or

(4) is an officer or member of the board of directors of a school, organization, association, partnership, or corporation owning a nautical school vessel used in violation of a regulation prescribed for a nautical school vessel.

CHAPTER 35—CARRIAGE OF PASSENGERS

Sec.
3501. Number of passengers.
3502. List or count of passengers.
3503. Fire retardant materials.
3504. Notification to passengers.
3505. Prevention of departure.
3506. Copies of laws.

§3501. Number of passengers

(a) Each certificate of inspection issued to a vessel carrying passengers (except a ferryboat) shall include a statement on the number of passengers that the vessel is permitted to carry.

(b) The master or owner of a vessel, or both, are liable to a person suing them for carrying more passengers than the number of passengers permitted by the certificate of inspection in an amount equal to—

(1) passage money; and

(2) $10 for each passenger in excess of the number of passengers permitted.

(c) A master or owner knowingly violating subsection (b) of this section also shall be fined not more than $100, imprisoned for not more than 30 days, or both.

(d) The vessel also is liable in rem for a penalty under this section.

(e) An offshore supply vessel may not carry passengers except in an emergency. An offshore supply vessel that takes aboard one or more passengers in an emergency does not alter its character as an offshore supply vessel under this section.

§3502. List or count of passengers

(a) The master or operator of the following categories of vessels carrying passengers shall keep a correct list of passengers received and delivered from day to day:

(1) vessels arriving from foreign ports except vessels arriving at United States Great Lakes ports from Canadian Great Lakes ports.

(2) seagoing vessels in the coastwise trade.

(3) passenger vessels making voyages of more than 300 miles on the Great Lakes except from a Canadian to a United States port.

(b) The master of a vessel carrying passengers (except a vessel listed in subsection (a) of this section) shall keep a correct count of all passengers received and delivered.

(c) Lists and counts required under this section shall be open to the inspection of designated officials of the Coast Guard and the Customs Service at all times. The total number of passengers shall be provided to the Coast Guard when requested.

(d) This section applies to a foreign vessel arriving at a United States port.

(e) The master or operator of a passenger vessel failing to make a list or count of passengers as required by this section is liable to the United States Government for a civil penalty of not more than $100. The vessel also is liable in rem for the penalty.

§ 3503. Fire retardant materials

A passenger vessel of the United States having berth or stateroom accommodations for at least 50 passengers shall be granted a certificate of inspection only if the vessel is constructed of fire-retardant materials. Before November 1, 1988, this section does not apply to a vessel operating only on the inland rivers.

§3504. Notification to passengers

(a) A person selling passage on a foreign or domestic passenger vessel having berth or stateroom accommodations for at least 50 passengers and embarking passengers at United States ports for a coastwise or an international voyage shall notify each prospective passenger of the safety standards applicable to the vessel in a manner prescribed by regulation.

(b) All promotional literature or advertising through any medium of communication in the United States offering passage or soliciting passengers for ocean voyages anywhere in the world shall include information similar to the information described in subsection (a) of this section, and shall specify the registry of each vessel named, as a part of the advertisement or description of the voyage. Except for the inclusion of the country of registry of the vessel, this subsection does not apply to voyages by vessels meeting the safety standards prescribed by section 3505 of this title.

(c) A person violating a regulation prescribed under this section is liable to the United States Government for a civil penalty of not more than $10,000. If the violation involves the sale of tickets for passage, the owner, operator, agent, or any other person involved in each violation also is liable to the Government for a civil penalty of not more than $500 for each ticket sold. The vessel on which passage is sold also is liable in rem for a violation of this section or a regulation prescribed under this section.

§ 3505. Prevention of departure

Notwithstanding section 3303(a) of this title, a foreign or domestic vessel of more than 100 gross tons having berth or stateroom accommodations for at least 50 passengers may not depart from a United States port with passengers who are embarked at that port, if the Secretary finds that the vessel does not comply with the standards stated in the International Convention for the Safety of Life at Sea to which the United States Government is currently a party.

§ 3506. Copies of laws

A master of a passenger vessel shall keep on board a copy of this subtitle, to be provided by the Secretary at reasonable cost. If the master fails to do so, the master is liable to the United States Government for a civil penalty of not more than $200.

CHAPTER 37—CARRIAGE OF LIQUID BULK DANGEROUS CARGOES

Sec.
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ards.
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§ 3701. Definitions

In this chapter—

(1) "commercial service" includes any type of trade or business involving the transportation of goods or individuals, except service performed by a combatant vessel.

(2) "crude oil" means a liquid hydrocarbon mixture occurring naturally in the earth, whether or not treated to render it suitable for transportation, and includes crude oil from which certain distillate fractions may have been removed, and crude oil to which certain distillate fractions may have been added.

(3) "crude oil tank vessel" means a tank vessel engaged in the trade of carrying crude oil.

(4) "discharge" includes spilling, leaking, pumping, pouring, emitting, emptying, or dumping, however caused.

(5) "existing", when referring to a type of vessel to which this chapter applies, means a vessel that is not a new vessel.

(6) "foreign vessel" means a vessel of foreign registry or operated under the authority of a country other than the United States.

(7) "hazardous material" means a liquid material or substance that is—

(A) flammable or combustible;

(B) designated a hazardous substance under section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321); or

(C) designated a hazardous material under section 104 of the Hazardous Materials Transportation Act (49 U.S.C. 1803);

(8) "major conversion" means a conversion of an existing vessel that substantially changes the dimensions or carrying capacity of the vessel or changes the type of vessel or substantially prolongs its life or that otherwise so changes the vessel that it is essentially a new vessel, as decided by the Secretary.

(9) "marine environment" means—

(A) the navigable waters of the United States and the land and resources of the United States;

(B) the waters and fishery resources of an area over which the United States asserts exclusive fishery management authority;

(C) the seabed and subsoil of the Outer Continental Shelf of the United States, the resources of the Shelf, and the waters superjacent to the Shelf; and

(D) the recreational, economic, and scenic values of the waters and resources referred to in subclauses (A)-(C) of this clause (9).

(10) "new", when referring to a type of vessel to which this chapter applies, means a vessel—

(A) for which the building contract is placed after June 1, 1979;

(B) in the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction, after January 1, 1980;

(C) the delivery of which is after June 1, 1982; or

(D) that has undergone a major conversion under a contract made after June 1, 1979, or construction work that began after January 1, 1980, or was completed after June 1, 1982.

(11) "oil" includes oil of any kind or in any form, including petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes except dredged spoil.

(12) "person" means an individual (even if not a citizen or national of the United States), a corporation, partnership, association, or other entity (even if not organized or existing under the laws of a State), the United States Government, a State or local government, a government of a foreign country, or an entity of one of those governments.

(13) "product carrier" means a tank vessel engaged in the trade of carrying oil except crude oil.

(14) "State", in addition to its meaning under section 2101(5) of this title, includes the Trust Territory of the Pacific Islands.

(15) "United States", in addition to its meaning under section 2101(6) of this title, includes the Trust Territory of the Pacific Islands.

(16) "vessel of the United States" means a vessel documented or numbered under the laws of the United States.

§3702. Application

(a) Subject to subsections (b)-(e) of this section, this chapter applies to a tank vessel.

(b) This chapter does not apply to a vessel of not more than 500 gross tons documented under chapter 121 of this title that would be subject to this chapter only because of the transfer of fuel from the fuel supply tanks of the vessel to offshore drilling or production facilities in the oil industry.

(c) This chapter does not apply to a cannery tender, fishing tender, or fishing vessel of not more than 500 gross tons, used in the salmon or crab fisheries of Oregon, Washington, or Alaska, when engaged only in the fishing industry.

(d) This chapter does not apply to a vessel of not more than 5,000 gross tons used in processing and assembling fishery products of the fisheries of Oregon, Washington, and Alaska. However, a vessel carrying flammable or combustible liquid cargo in bulk is subject to regulation by the Secretary.

(e) This chapter does not apply to a public vessel.

(f) This chapter does not apply to a foreign vessel on innocent passage on the navigable waters of the United States.

§ 3703. Regulations

(a) The Secretary shall prescribe regulations for the design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels to which this chapter applies, that may be necessary for increased protection against hazards to life and property, for navigation and vessel safety, and for enhanced protection of the marine environment. The Secretary may prescribe different regulations applicable to vessels engaged in the domestic trade, and also may prescribe regulations that exceed standards set internationally. Regulations prescribed by the Secretary under this subsection are in addition to regulations prescribed under other laws that may apply to any of those vessels. Regulations prescribed under this subsection shall include requirements about—

(1) superstructures, hulls, cargo holds or tanks, fittings, equipment, appliances, propulsion machinery, auxiliary machinery, and boilers;

(2) the handling or stowage of cargo, the manner of handling or stowage of cargo, and the machinery and appliances used in the handling or stowage;

(3) equipment and appliances for lifesaving, fire protection, and prevention and mitigation of damage to the marine environment;

(4) the manning of vessels and the duties, qualifications, and training of the officers and crew;

(5) improvements in vessel maneuvering and stopping ability and other features that reduce the possibility of marine casualties;

(6) the reduction of cargo loss if a marine casualty occurs; and

(7) the reduction or elimination of discharges during ballasting, deballasting, tank cleaning, cargo handling, or other such activity.

(b) In prescribing regulations under subsection (a) of this section, the Secretary shall consider the kinds and grades of cargo permitted to be on board a tank vessel.

(c) In prescribing regulations under subsection (a) of this section, the Secretary shall establish procedures for consulting with, and receiving and considering the views of—

(1) interested departments, agencies, and instrumentalities of the United States Government;

(2) officials of State and local governments;

(3) representatives of port and harbor authorities and associations;

(4) representatives of environmental groups; and

(5) other interested parties knowledgeable or experienced in dealing with problems involving vessel safety, ports and waterways safety, and protection of the marine environment.

§ 3704. General minimum standards

(a) In prescribing regulations under this chapter, the Secretary shall require that a self-propelled vessel meet the minimum standards of this section and sections 3705-3708 of this title.

(b) A segregated ballast tank, a crude oil washing system, or an inert gas system, required by this chapter or a regulation prescribed under this chapter, on a vessel entitled to engage in the coastwise trade under section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) shall be installed in the United States (except its possessions or the Trust Territory of the Pacific Islands). A vessel failing to comply with this subsection may not engage in the coastwise trade.

§ 3705. Crude oil tank vessel minimum standards

(a) A new crude oil tank vessel of at least 20,000 deadweight tons shall be equipped with—

(1) protectively located segregated ballast tanks;

(2) a crude oil washing system; and

(3) a cargo tank protection system consisting of a fixed deck froth system and a fixed inert gas system.

(b)(1) An existing crude oil tank vessel of at least 40,000 deadweight tons shall be equipped with—

(A) segregated ballast tanks; or

(B) a crude oil washing system.

(2) Compliance with paragraph (1) of this subsection may be delayed until June 1, 1985 for any tank vessel of less than 70,000 deadweight tons operating with dedicated clean ballast tanks.

(c) An existing crude oil tank vessel of at least 20,000 deadweight tons but less than 40,000 deadweight tons, and at least 15 years of age, shall be equipped with segregated ballast tanks or a crude oil washing system before January 2, 1986, or the date on which the tank vessel reaches 15 years of age, whichever is later.

(d) An existing crude oil tank vessel of at least 20,000 deadweight tons shall be equipped with an inert gas system. However, for a crude oil tanker of less than 40,000 deadweight tons not fitted with high capacity tank washing machines, the Secretary may grant an exemption if the vessel's owner can show clearly that compliance would be unreasonable and impracticable due to the vessel's design characteristics.

(e) A crude oil tank vessel engaged in transferring oil from an offshore oil exploitation or production facility on the Outer Continental Shelf of the United States shall be equipped with segregated ballast tanks, or may operate with dedicated clean ballast tanks or special ballast arrangements. However, the tank vessel shall comply completely with other applicable minimum standards of this section.

§ 3706. Product carrier minimum standards

(a) A new product carrier of at least 30,000 deadweight tons shall be equipped with protectively located segregated ballast tanks.

(b) A new product carrier of at least 20,000 deadweight tons shall be equipped with a cargo tank protection system consisting of a fixed deck froth system and a fixed inert gas system or, if the product carrier carries dedicated products incompatible with the cargo tank protection system, an alternate protection system as authorized by the Secretary.

(c) An existing product carrier of at least 40,000 deadweight tons shall be equipped with segregated ballast tanks or may operate with dedicated clean ballast tanks.

(d) An existing product carrier of at least 20,000 deadweight tons but less than 40,000 deadweight tons, and at least 15 years of age, shall be equipped with segregated ballast tanks or may operate with dedicated clean ballast tanks before January 2, 1986, or the date on which it reaches 15 years of age, whichever is later.

(e) An existing product carrier of at least 40,000 deadweight tons, or an existing product carrier of at least 20,000 deadweight tons but less than 40,000 deadweight tons that is fitted with high-capacity tank washing machines, shall be equipped with an inert gas system.

§ 3707. Tank vessel minimum standards

(a) A new tank vessel of at least 10,000 gross tons shall be equipped with—

(1) two remote steering gear control systems operable separately from the navigating bridge;

(2) the main steering gear control in the steering gear compartment;

(3) means of communications and rudder angle indicators on the navigating bridge, a remote steering control station, and the steering gear compartment;

(4) at least two identical and adequate power units for the main steering gear;

(5) an alternative and adequate power supply, either from an emergency source of electrical power or from another independent source of power located in the steering gear compartment; and

(6) means of automatic starting and stopping of power units with attendant alarms at all steering stations.

(b) An existing tank vessel of at least 10,000 gross tons shall be equipped with—

(1) two remote steering gear control systems operable separately from the navigating bridge;

(2) the main steering gear control in the steering gear compartment; and

(3) means of communications and rudder angle indicators on the navigating bridge, a remote steering gear control station, and the steering gear compartment.

§ 3708. Self-propelled tank vessel minimum standards

A self-propelled tank vessel of at least 10,000 gross tons shall be equipped with—

(1) a dual radar system with short-range and long-range capabilities, each with true-north features;

(2) an electronic relative motion analyzer that is at least functionally equivalent to equipment complying with specifications established by the Secretary of Transportation;

(3) an electronic position-fixing device;

(4) adequate communications equipment;

(5) a sonic depth finder;

(6) a gyrocompass; and

(7) up-to-date charts.

§ 3709. Exemptions

The Secretary may exempt a vessel from the minimum requirements established by sections 3704-3706 of this title for segregated ballast, crude oil washing, and dedicated clean ballast if the Secretary decides that shore-based reception facilities are a preferred method of handling ballast and that adequate facilities are readily available.

§ 3710. Evidence of compliance by vessels of the United States

(a) A vessel of the United States to which this chapter applies that has on board oil or hazardous material in bulk as cargo or cargo residue must have a certificate of inspection issued under this part, endorsed to indicate that the vessel complies with regulations prescribed under this chapter.

(b) Each certificate endorsed under this section is valid for not more than 24 months and may be renewed as specified by the Secretary. In appropriate circumstances, the Secretary may issue a temporary certificate valid for not more than 30 days. A certificate shall be suspended or revoked if the Secretary finds that the vessel does not comply with the conditions under which the certificate was issued.

§ 3711. Evidence of compliance by foreign vessels

(a) A foreign vessel to which this chapter applies may operate on the navigable waters of the United States, or transfer oil or hazardous material in a port or place under the jurisdiction of the United States, only if the vessel has been issued a certificate of compliance by the Secretary. The Secretary may issue the certificate only after the vessel has been examined and found to be in compliance with this chapter and regulations prescribed under this chapter. The Secretary may accept any part of a certificate, endorsement, or document, issued by the government of a foreign country under a treaty, convention, or other international agreement to which the United States is a party, as a basis for issuing a certificate of compliance.

(b) A certificate issued under this section is valid for not more than 24 months and may be renewed as specified by the Secretary. In appropriate circumstances, the Secretary may issue a temporary certificate valid for not more than 30 days.

(c) A certificate shall be suspended or revoked if the Secretary finds that the vessel does not comply with the conditions under which the certificate was issued.

§ 3712. Notification of noncompliance

The Secretary shall notify the owner or agent of a vessel found not to be in compliance with a regulation prescribed under this part and state how compliance may be achieved.

§ 3713. Prohibited acts

(a) A person may not—

(1) violate this chapter or a regulation prescribed under this chapter;

(2) refuse to permit any officer, authorized by the Secretary to enforce this chapter, to board a vessel or to enter a shore area, place, or premises under a person's control to make an inspection under this chapter; or

(3) refuse to obey a lawful directive issued under this chapter.

(b) A vessel to which this chapter applies may not—

(1) operate on the navigable waters of the United States or use a port or place subject to the jurisdiction of the United States when not in compliance with this chapter or a regulation prescribed under this chapter;

(2) fail to comply with a lawful directive issued under this chapter; or

(3) carry a kind or grade of oil or hazardous material in bulk as cargo or cargo residue unless its certificate is endorsed to allow that carriage.

§ 3714. Inspection and examination

(a)(1) The Secretary shall have each vessel to which this chapter applies inspected or examined at least once each year.

(2) Each such vessel more than 10 years of age shall undergo a special and detailed inspection of structural strength and hull integrity as specified by the Secretary.

(3) The Secretary may make contracts for conducting inspections and examinations in the United States and in foreign countries. An inspector conducting an inspection and examination under contract may not issue a certificate of inspection or a certificate of compliance, but the inspector may issue a temporary certificate.

(4) The Secretary shall prescribe by regulation reasonable fees for an inspection or examination conducted under this section outside the United States, or which, when involving a foreign vessel, is conducted under a contract authorized by paragraph (3) of this subsection. The owner or operator of a vessel inspected or examined by the Secretary is liable for the fees. Amounts received as fees shall be deposited in the Treasury.

(5) The Secretary may allow provisional entry of a vessel to conduct an examination under this chapter.

(b) Each vessel to which this chapter applies shall have on board those documents the Secretary considers necessary for inspection and enforcement, including documents listing—

(1) the kind, grade, and approximate quantities of cargo on board;

(2) the shipper and consignee of the cargo;

(3) the places of origin and destination of the vessel; and

(4) the name of an agent in the United States authorized to accept service of legal process.

(c) Each vessel to which this chapter applies that operates in the United States shall have a person designated as authorized to accept service of legal process for the vessel.

§ 3715. Lightering

(a) After the effective date of regulations prescribed by the Secretary under subsection (b) of this section, a vessel may transfer oil or hazardous material in a port or place subject to the jurisdiction of the United States, if the cargo has been transferred from another vessel on the navigable waters of the United States or in the marine environment, only if—

(1) the transfer was conducted consistent with regulations prescribed by the Secretary; and

(2) both the delivering and receiving vessels had on board, at the time of transfer, a certificate of inspection or a certificate of compliance, as would have been required under section 3710 or 3711 of this title, had the transfer taken place in a port or place subject to the jurisdiction of the United States.

(b) The Secretary shall prescribe regulations for transferring oil or hazardous material on the navigable waters of the United States or in the marine environment. The regulations shall include provisions on—

(1) minimum safe operating conditions, including sea state, wave height, weather, proximity to channels or shipping lanes, and other similar factors;

(2) the prevention of spills;

(3) equipment for responding to a spill;

(4) the prevention of any unreasonable interference with navigation or other reasonable uses of the high seas, as those uses are defined by treaty, convention, or customary international law;

(5) the establishment of lightering zones; and

(6) requirements for communication and prearrival messages.

§ 3716. Tank washings

(a) A vessel may not transfer cargo in a port or place subject to the jurisdiction of the United States if, before arriving, the vessel has discharged tank washings containing oil or hazardous material in preparation for loading at that port or place in violation of the laws of the United States or in a manner or quantities inconsistent with a treaty to which the United States is a party.

(b) The Secretary shall establish effective control and supervisory measures to carry out this section.

§ 3717. Marine safety information system

(a) The Secretary shall establish a marine safety information system that shall contain information about each vessel to which this chapter applies that operates on the navigable waters of the United States, or that transfers oil or hazardous material in a port or place under the jurisdiction of the United States. In acquiring this information, the Secretary shall make full use of publicly available information. The Secretary may by regulation require the vessel to provide information that the Secretary considers necessary to carry out this subsection, including—

(1) the name of each person with an ownership interest in the vessel;

(2) details of compliance with the financial responsibility requirements of applicable laws or regulations;

(3) registration information, including all changes in the name of the vessel;

(4) the history of marine casualties and serious repair problems of the vessel; and

(5) a record of all inspections and examinations of a vessel conducted under section 3714 of this title.

(b) On written request from the Secretary, the head of each department, agency, or instrumentality of the United States Government shall provide available information that the Secretary considers necessary to confirm the information received under subsection (a) of this section.

§ 3718. Penalties

(a)(1) A person violating this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than $25,000. Each day of a continuing violation is a separate violation.

(2) Each vessel to which this chapter applies that is used in violation of this chapter or a regulation prescribed under this chapter is liable in rem for a civil penalty under this subsection.

(b) A person willfully and knowingly violating this chapter or a regulation prescribed under this chapter shall be fined not more than $50,000, imprisoned for not more than 5 years, or both.

(c) Instead of the penalties provided by subsection (b) of this section, a person willfully and knowingly violating this chapter or a regulation prescribed under this chapter, and using a dangerous weapon, or engaging in conduct that causes bodily injury or fear of imminent bodily injury to an officer authorized to enforce this chapter or a regulation prescribed under this chapter, shall be fined not more than $100,000, imprisoned for not more than 10 years, or both.

(d) The district courts of the United States have jurisdiction to restrain a violation of this chapter or a regulation prescribed under this chapter.

(e) At the request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) of a vessel the owner or operator of which is subject to a penalty under this section. Clearance may be granted on filing a bond or other surety satisfactory to the Secretary.

CHAPTER 39—CARRIAGE OF ANIMALS

Sec.
3901. Regulations for accommodations for export animals.
3902. Penalties.

§ 3901. Regulations for accommodations for export animals

The Secretary of Agriculture may prescribe regulations governing the accommodations on board vessels for cattle, horses, mules, asses, sheep, goats, and swine to be carried from the United States to a foreign country. The regulations shall prescribe standards for space, ventilation, fittings, food and water supply, and other requirements the Secretary of Agriculture considers necessary for the safe and proper transportation and humane treatment of those animals. The Secretary of Agriculture may examine any vessel the Secretary of Agriculture considers necessary to carry out this chapter.

§ 3902. Penalties

When the owner or master of a vessel carrying animals referred to in section 3901 of this title willfully violates, or causes or permits to be violated, a regulation prescribed under this chapter, the vessel may be prohibited from carrying any such animals from the United States for a period, of not more than 1 year, that the Secretary of Agriculture directs. The vessel may not be cleared from a port of the United States during that period.

CHAPTER 41—UNINSPECTED VESSELS

Sec.
4101. Application.
4102. Safety equipment.
4103. Exemptions.
4104. Regulations.
4105. Uninspected passenger vessels.
4106. Penalties.

§ 4101. Application

This chapter applies to an uninspected vessel—

(1) on the navigable waters of the United States; or

(2) owned in a State and operating on the high seas.

§ 4102. Safety equipment

(a) Each uninspected vessel propelled by machinery shall be provided with the number, type, and size of fire extinguishers, capable of promptly and effectively extinguishing burning liquid fuel, that may be prescribed by regulation. The fire extinguishers shall be kept in condition for immediate and effective use and so placed as to be readily accessible.

(b) Each uninspected vessel propelled by machinery shall carry at least one readily accessible life preserver, of the type prescribed by regulation, for each individual on board.

(c) Each uninspected vessel shall have the carburetors of each engine of the vessel (except an outboard motor) using gasoline as fuel, equipped with an efficient flame arrestor, backfire trap, or other similar device prescribed by regulation.

(d) Each uninspected vessel using a volatile liquid as fuel shall be provided with the means prescribed by regulation for properly and efficiently ventilating the bilges of the engine and fuel tank compartments, so as to remove any explosive or flammable gases.

§ 4103. Exemptions

Section 4102(a) of this title does not apply to a vessel propelled by outboard motors when competing in a race previously arranged and announced or, if the vessel is designed and intended only for racing, when engaged in navigation incidental to tuning up the vessel and its engines for the race.

§ 4104. Regulations

The Secretary shall prescribe regulations to carry out this chapter.

§ 4105. Uninspected passenger vessels

Chapter 43 of this title applies to an uninspected passenger vessel.

§ 4106. Penalties

If a vessel to which this chapter applies is operated or navigated in violation of this chapter or a regulation prescribed under this chapter, the owner or operator, or both, are liable to the United States Government for a civil penalty of $100. The vessel also is liable in rem for the penalty.

CHAPTER 43—RECREATIONAL VESSELS

Sec.
4301. Application.
4302. Regulations.
4303. Inspection and testing.
4304. Exemptions.
4305. Federal preemption.
4306. Prohibited acts.
4307. Termination of unsafe use.
4308. Investigation and reporting.
4309. Repair and replacement of defects.
4310. Penalties and injunctions.

§ 4301. Application

(a) This chapter applies to a recreational vessel and associated equipment carried in the vessel on waters subject to the jurisdiction of the United States and on the high seas for a vessel owned in the United States.

(b) Except when expressly otherwise provided, this chapter does not apply to a foreign vessel temporarily using waters subject to the jurisdiction of the United States.

(c) Until there is a final judicial decision that they are navigable waters of the United States, the following waters lying entirely in New Hampshire are declared not to be waters subject to the jurisdiction of the United States within the meaning of this section: Lake Winnisquam, Lake Winnipesaukee, parts of the Merrimack River, and their tributary and connecting waters.

§ 4302. Regulations

(a) The Secretary may prescribe regulations—

(1) establishing minimum safety standards for recreational vessels and associated equipment, and establishing procedures and tests required to measure conformance with those standards, with each standard—

(A) meeting the need for recreational vessel safety; and

(B) being stated, insofar as practicable, in terms of performance;

(2) requiring the installation, carrying, or use of associated equipment (including fuel systems, ventilation systems, electrical systems, sound-producing devices, firefighting equipment, lifesaving devices, signaling devices, ground tackle, life- and grab-rails, and navigational equipment) on recreational vessels and classes of recreational vessels subject to this chapter, and prohibiting the installation, carrying, or use of associated equipment that does not conform with safety standards established under this section; and

(3) requiring or permitting the display of seals, labels, plates, insignia, or other devices for certifying or evidencing compliance with safety regulations and standards of the United States Government for recreational vessels and associated equipment.

(b) Each regulation prescribed under this section shall specify an effective date that is not earlier than 180 days from the date the regulation was published. However, this period may not be more than 24 months for cases involving, in the discretion of the Secretary, major product design, retooling, or major changes in the manufacturing process, unless the Secretary finds that there exists a recreational vessel safety hazard so critical as to require an earlier effective date.

(c) In prescribing regulations under this section, the Secretary shall, among other things—

(1) consider the need for and the extent to which the regulations will contribute to recreational vessel safety;

(2) consider relevant available recreational vessel safety standards, statistics, and data, including public and private research, development, testing, and evaluation;

(3) not compel substantial alteration of a recretional vessel or item of associated equipment that is in existence, or the construction or manufacture of which is begun before the effective date of the regulation, but subject to that limitation may require compliance or performance, to avoid a substantial risk of personal injury to the public, that the Secretary considers appropriate in relation to the degree of hazard that the compliance will correct; and

(4) consult with the Boating Safety Advisory Council established under section 13110 of this title about the considerations referred to in clauses (1)-(3) of this subsection.

(d) Section 8901 of this title does not apply to a vessel being used for bona fide dealer demonstrations provided without fee to business invitees. However, if on the basis of substantial evidence, the Secretary decides under this section that requiring vessels so used to be under the control of licensed persons is necessary for boating safety, then the Secretary may prescribe regulations requiring the licensing of persons controlling these vessels in the same manner as provided in chapter 89 of this title for persons in control of vessels carrying passengers for hire.

§ 4303. Inspection and testing

(a) Subject to regulations, supervision, and reviews that the Secretary may prescribe, the Secretary may delegate to a person, private or public agency, or organization, or to an employee under the supervision of that person or agency, any work, business, or function related to the testing, inspection, and examination necessary for compliance enforcement and for the development of data to enable the Secretary to prescribe regulations under section 4302 of this title.

(b) The Secretary may conduct research, testing, and development necessary to carry out this chapter, including the procurement by negotiation or otherwise of experimental and other recreational vessels or associated equipment for research and testing purposes.

§ 4304. Exemptions

If the Secretary considers that recreational vessel safety will not be adversely affected, the Secretary may issue an exemption from this chapter or a regulation prescribed under this chapter.

§ 4305. Federal preemption

(a) Unless permitted by the Secretary under section 4304 of this title, a State or political subdivision of a State may not establish, continue in effect, or enforce a law or regulation establishing a recreational vessel or associated equipment performance or other safety standard or imposing a requirement for associated equipment (except insofar as the State or political subdivision may, in the absence of the Secretary's disapproval, regulate the carrying or use of marine safety articles to meet uniquely hazardous conditions or circumstances within the State) that is not identical to a regulation prescribed under section 4302 of this title.

(b) The Secretary and the Secretary of the Treasury may authorize by joint regulation the importation of nonconforming recreational vessels or associated equipment on conditions, including providing a bond, that will ensure that the recreational vessel or associated equipment will be brought into conformity with applicable safety regulations and standards of the United States Government before the vessel or equipment is used on waters subject to the jurisdiction of the United States.

§ 4306. Prohibited acts

(a) A person may not—

(1) manufacture, construct, assemble, sell or offer for sale, introduce or deliver for introduction into interstate commerce, or import into the United States, a recreational vessel, associated equipment, or component of the vessel or equipment unless—

(A) it conforms with this part; or

(B) it is intended only for export and is so labeled, tagged, or marked on the recreational vessel or equipment, including any markings on the outside of the container in which it is to be exported;

(2) affix, attach, or display a seal, label, plate, insignia, or other device indicating or suggesting compliance with standards of the United States Government on, in, or in connection with, a recreational vessel or item of associated equipment that is false or misleading; or

(3) fail to provide a notification as required by this chapter or fail to exercise reasonable diligence in carrying out the notification requirement of this chapter.

(b) A person may manufacture, construct, introduce, or deliver for introduction into interstate commerce, or import into the United States, a recreational vessel or associated equipment only if the vessel or equipment conforms to regulations or is intended only for export and is so marked.

(c) A person may not—

(1) fail to provide a notification or fail to exercise reasonable diligence in discharging the reporting duties described in this chapter; or

(2) indicate by a seal, insignia, device, or document that a recreational vessel or item of associated equipment is in compliance with standards of the United States Government when that indication is false or misleading.

(d) A person may not use a vessel in violation of this chapter or a regulation prescribed under this chapter.

§ 4307. Termination of unsafe use

If an official charged with the enforcement of this chapter observes a recreational vessel being used without sufficient lifesaving or firefighting devices or in an overloaded or other unsafe condition (as defined in regulations prescribed under this chapter) and, in the judgment of the official, the use creates an especially hazardous condition, the official may direct the operator of the recreational vessel to take immediate and reasonable steps necessary for the safety of individuals on board the vessel, including directing the operator to return to a mooring and to remain there until the situation creating the hazard is corrected or ended.

§ 4308. Investigation and reporting

(a) A manufacturer to whom this chapter applies shall establish and maintain records and reports and provide information the Secretary may require to enable the Secretary to decide whether the manufacturer has acted or is acting in compliance with this chapter and regulations prescribed under this chapter. On request of an officer, employee, or agent authorized by the Secretary, a manufacturer shall permit the officer, employee, or agent to inspect, at reasonable times, factories or other facilities, and records related to deciding whether the manufacturer has acted or is acting in compliance with this chapter and regulations prescribed under this chapter.

(b) Information reported to or otherwise obtained by the Secretary or the representative of the Secretary under this section containing or related to a trade secret or other matter referred to in section 1905 of title 18, or authorized to be exempt from public disclosure by section 552(b) of title 5, is confidential under section 1905. However, on approval of the Secretary, the information may be disclosed to other officers, employees, or agents concerned with carrying out this chapter or when it is relevant in a proceeding under this chapter.

§ 4309. Repair and replacement of defects

(a) In this section, "associated equipment" includes only items or classes of associated equipment that the Secretary shall prescribe by regulation after deciding that the application of the requirements of this section to those items or classes of associated equipment is reasonable and in furtherance of this chapter.

(b) If a recreational vessel or associated equipment has left the place of manufacture and the manufacturer discovers or acquires information that the manufacturer decides in the exercise of reasonable and prudent judgment, indicates that a recreational vessel or associated equipment subject to an applicable regulation prescribed under section 4302 of this title either fails to comply with the regulation, or contains a defect that creates a substantial risk of personal injury to the public, the manufacturer shall provide notification of the defect or failure of compliance as provided by subsections (c) and (d) of this section within a reasonable time after the manufacturer has discovered the defect.

(c)(1) The notification required by subsection (b) of this section shall be given to the following persons in the following manner:

(A) by certified mail to the first purchaser for other than resale, except that the requirement for notification of the first purchaser shall be satisfied if the manufacturer exercises reasonable diligence in establishing and maintaining a list of those purchasers and their current addresses, and sends the required notice to each person on that list at the address appearing on the list.

(B) by certified mail to subsequent purchasers if known to the manufacturer.

(C) by certified mail or other more expeditious means to the dealers or distributors of the recreational vessels or associated equipment.

(2) The notification required by subsection (b) of this section is required to be given only for a defect or failure of compliance discovered by the manufacturer within a reasonable time after the manufacturer has discovered the defect or failure, except that the manufacturer's duty of notification under paragraph (1) (A) and (B) of this subsection applies only to a defect or failure of compliance discovered by the manufacturer within one of the following appropriate periods:

(A) if a recreational vessel or associated equipment required by regulation to have a date of certification affixed, 5 years from the date of certification.

(B) if a recreational vessel or associated equipment not required by regulation to have a date of certification affixed, 5 years from the date of manufacture.

(d) The notification required by subsection (b) of this section shall contain a clear description of the defect or failure to comply, an evaluation of the hazard reasonably related to the defect or failure, a statement of the measures to correct the defect or failure, and an undertaking by the manufacturer to take those measures only at the manufacturer's cost and expense.

(e) Each manufacturer shall provide the Secretary with a copy of all notices, bulletins, or other communications to dealers and distributors of that manufacturer, or to purchasers of recreational vessels or associated equipment of that manufacturer about a defect related to safety in the recreational vessels or associated equipment, or any failure to comply with the regulation or order applicable to the recreational vessels or associated equipment. The Secretary may publish or otherwise disclose to the public information in the notices or other information the Secretary has that the Secretary considers will assist in carrying out this chapter. However, the Secretary may disclose any information that contains or relates to a trade secret only if the Secretary decides that the information is necessary to carry out this chapter.

(f) If, through testing, inspection, investigation, or examination of reports, the Secretary decides that a recreational vessel or associated equipment to which this chapter applies contains a defect related to safety or fails to comply with an applicable regulation prescribed under this chapter and notification under this chapter is appropriate, the Secretary shall notify the manufacturer of the recreational vessel or the associated equipment of the defect or failure. The notice shall contain the findings of the Secretary and shall include a synopsis of the information on which they are based. The manufacturer may then provide the notification required by this chapter to the persons designated in this chapter or dispute the Secretary's decision. If disputed, the Secretary shall provide the manufacturer with an opportunity to present views and establish that there is no such defect or failure. When the Secretary considers it to be in the public interest, the Secretary may publish notice of the proceeding in the Federal Register and provide interested persons, including the Boating Safety Advisory Council, with an opportunity to comment. If, after presentation by the manufacturer, the Secretary decides that the recreational vessel or associated equipment contains a defect related to safety or fails to comply with an applicable regulation, the Secretary may direct the manufacturer to provide the notifications specified in this chapter.

§ 4310. Penalties and injunctions

(a) A person willfully violating this chapter or a regulation prescribed under this chapter shall be fined not more than $5,000, imprisoned for not more than 1 year, or both.

(b) A person violating section 4306(b) of this title is liable to the Government for a civil penalty of not more than $2,000, except that the maximum civil penalty may be not more than $100,000 for a related series of violations. When a corporation violates section 4306(b), any director, officer, or executive employee of the corporation who knowingly and willfully ordered, or knowingly and willfully authorized, a violation is individually liable to the Government for the penalty, in addition to the corporation. However, the director, officer, or executive employee is not liable individually under this subsection if the director, officer, or executive employee can demonstrate by a preponderance of the evidence that—

(1) the order or authorization was issued on the basis of a decision, in exercising reasonable and prudent judgment, that the nonconformity with standards and regulations constituting the violation would not cause or constitute a substantial risk of personal injury to the public; and

(2) at the time of the order or authorization, the director, officer, or executive employee advised the Secretary in writing of acting under this clause and clause (1) of this subsection.

(c) A person violating any other provision of this chapter or other regulation prescribed under this chapter is liable to the Government for a civil penalty of not more than $1,000. If the violation involves the use of a vessel, the vessel also is liable in rem for the penalty.

(d) When a civil penalty of not more than $200 has been assessed under this chapter, the Secretary may refer the matter of collection of the penalty directly to the United States magistrate of the jurisdiction in which the person liable may be found for collection procedures under supervision of the district court and under an order issued by the court delegating this authority under section 636(b) of title 28.

(e) The district courts of the United States have jurisdiction to restrain a violation of this chapter, or to restrain the sale, offer for sale, introduction or delivery for introduction into interstate commerce, or importation into the United States, of a recreational vessel or associated equipment that the court decides does not conform to safety standards of the Government. A civil action under this subsection shall be brought by filing a petition by the Attorney General for the Government. When practicable, the Secretary shall give notice to a person against whom an action for injunctive relief is contemplated and provide the person with an opportunity to present views and, except for a knowing and willful violation, shall provide the person with a reasonable opportunity to achieve compliance. The failure to give notice and provide the opportunity does not preclude the granting of appropriate relief by the district court.

(f) A person is not subject to a penalty under this chapter if the person—

(1) establishes that the person did not have reason to know, in exercising reasonable care, that a recreational vessel or associated equipment does not conform with the applicable safety standards of the Government; or

(2) holds a certificate issued by the manufacturer of that recreational vessel or associated equipment to the effect that the recreational vessel or associated equipment conforms to all applicable recreational vessel safety standards of the Government, unless the person knows or reasonably should have known that the recreational vessel or associated equipment does not so conform.

(g) Compliance with this chapter or standards, regulations, or orders prescribed under this chapter does not relieve a person from liability at common law or under State law.

[PART C—RESERVED FOR LOAD LINES OF VESSELS]

PART D—MARINE CASUALTIES

CHAPTER 61—REPORTING MARINE CASUALTIES

Sec.
6101. Marine casualties and reporting.
6102. Penalty for failure to report.

§ 6101. Marine casualties and reporting

(a) The Secretary shall prescribe regulations on the marine casualties and incidents to be reported and the manner of reporting. The regulations shall include requirements on reporting the following marine casualties:

(1) death of an individual.

(2) serious injury to an individual.

(3) material loss of property.

(4) material damage affecting the seaworthiness or efficiency of the vessel.

(b) A marine casualty shall be reported as provided in this part and regulations prescribed under this part.

(c) When the owner, operator, or agent of a vessel of the United States has reason to believe (because of lack of nonappearance of a vessel or any other circumstance) that a vessel has been lost, the owner, operator, or agent shall, as soon as it is convenient, send written notice to the Coast Guard that the vessel is lost, the probable time it was lost, the name and number (if any) of the vessel, the names of the persons on board, and any other information that the Coast Guard may request.

(d) This part applies to a foreign vessel when involved in a marine casualty on the navigable waters of the United States.

(e) A marine casualty resulting in the death of an individual shall be reported in the manner prescribed by regulation.

(f) A marine casualty not resulting in the death of an individual shall be classified according to the gravity of the casualty, as prescribed by regulation, giving consideration to the extent of injuries to individuals, the extent of property damage, the dangers that the casualty creates, and the size, occupation, and means of propulsion of each vessel involved.

§ 6102. Penalty for failure to report

An owner, charterer, agent, master, operator, or person in charge of a vessel failing to report a casualty or incident as required under this part or a regulation prescribed under this part is liable to the United States Government for a civil penalty of not more than $1,000.

CHAPTER 63—INVESTIGATING MARINE CASUALTIES

Sec.
6301. Investigation of marine casualties.
6302. Public investigations.
6303. Rights of parties in interest.
6304. Subpena authority.
6305. Reports of investigations.
6306. Penalty for tampering with witnesses.
6307. Notifications to Congress.

§ 6301. Investigation of marine casualties

The Secretary shall prescribe regulations for the immediate investigation of marine casualties under this part to decide, as closely as possible—

(1) the cause of the casualty, including the cause of any death;

(2) whether an act of misconduct, incompetence, unskillfulness, or willful violation of law committed by any individual licensed, certificated, or documented under part E of this subtitle has contributed to the cause of the casualty, or to a death involved in the casualty, so that appropriate remedial action under chapter 77 of this title may be taken;

(3) whether an act of misconduct, incompetence, unskillfulness, or willful violation of law committed by a member or employee of the Coast Guard or any other person contributed to the cause of the casualty, or to a death involved in the casualty;

(4) whether there is evidence that an act subjecting the offender to a civil penalty under the laws of the United States has been committed, so that appropriate action may be undertaken to collect the penalty;

(5) whether there is evidence that a criminal act under the laws of the United States has been committed, so that the matter may be referred to appropriate authorities for prosecution; and

(6) whether there is need for new laws or regulations, or amendment or repeal of existing laws or regulations, to prevent the recurrence of the casualty.

§ 6302. Public investigations

Each investigation conducted under this chapter and regulations prescribed under this chapter shall be open to the public, except when evidence affecting the national security is to be received.

§ 6303. Rights of parties in interest

In an investigation conducted under this chapter, the following shall be allowed to be represented by counsel, to cross-examine witnesses, and to call witnesses: an owner, a licensed officer, any holder of a merchant mariner's document, or any other person whose conduct is under investigation, or any other party in interest.

§ 6304. Subpena authority

(a) In an investigation under this chapter, the attendance and testimony of witnesses, including parties in interest, and the production of any evidence may be compelled by subpena. The subpena authority granted by this section is coextensive with that of a district court of the United States, in civil matters, for the district in which the investigation is conducted.

(b) For a failure to obey a subpena issued under this section, the district court of the United States for the district in which the investigation is conducted or in which the person failing to obey is found, shall on proper application issue an order directing that person to comply with the subpena. The court may punish as contempt any disobedience of its order.

(c) A witness complying with a subpena issued under this section may be paid for actual travel and attendance at the rate provided for witnesses in the district courts of the United States.

(d) An official designated to conduct an investigation under this part may issue subpenas as provided in this section and administer oaths to witnesses.

§ 6305. Reports of investigations

(a) The Secretary shall prescribe regulations about the form and manner of reports of investigations conducted under this part.

(b) Reports of investigations conducted under this part shall be made available to the public, except to the extent that they contain information related to the national security.

§ 6306. Penalty for tampering with witnesses

A person attempting to coerce a witness, or to induce a witness, to testify falsely in connection with a marine casualty, or to coerce or to induce a witness to leave the jurisdiction of the United States, shall be fined $5,000, imprisoned for 1 year, or both.

§ 6307. Notifications to Congress

(a) The Secretary shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives of any hearing, before the hearing occurs, investigating a major marine casualty involving a death under section 6301 of this title.

(b) The Secretary shall submit to a committee referred to in subsection (a) of this section information on a major marine casualty that is requested by that committee or the chairman of the committee if the submission of that information is not prohibited by a law of the United States.

(c) The Secretary shall submit annually to Congress a summary of the marine casualties reported during the prior fiscal year, together with a brief statement of action taken concerning those casualties.

PART E—LICENSES, CERTIFICATES, AND MERCHANT MARINERS' DOCUMENTS

CHAPTER 71—LICENSES AND CERTIFICATES OF REGISTRY

Sec.
7101. Issuing and classifying licenses and certificates of registry.
7102. Citizenship of officers.
7103. Licenses for radio officers.
7104. Certificates for medical doctors and nurses.
7105. Oaths of officers.
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7108. Termination of licenses and certificates of registry.
7109. Renewal of licenses.
7110. Exhibiting licenses.
7111. Licenses for fishing vessels not subject to inspection.
7112. Licenses of masters or mates as pilots.
7113. Exemption from draft.
7114. Fees.

§ 7101. Issuing and classifying licenses and certificates of registry

(a) Licenses and certificates of registry are established for officers and operators of vessels who are required to hold licenses or certificates under this subtitle.

(b) Under regulations prescribed by the Secretary, the Secretary—

(1) issues the licenses and certificates of registry; and

(2) may classify the licenses and certificates of registry as provided in subsections (b) and (d) of this section, based on—

(A) the tonnage, means of propulsion, and horsepower of machine-propelled vessels;

(B) the waters on which vessels are to be operated; or

(C) other reasonable standards.

(c) The Secretary may issue licenses in the following classes to applicants found qualified as to age, character, habits of life, experience, professional qualifications, and physical fitness:

(1) officers, including masters, mates, and engineers.

(2) pilots.

(3) operators.

(4) radio officers.

(d) An individual may be issued a license under subsection (c)(2) of this section only if the applicant—

(1) is at least 21 years of age;

(2) is of sound health and has no physical limitations that would hinder or prevent the performance of a pilot's duties;

(3) agrees to have a thorough physical examination each year while holding such a license;

(4) demonstrates, to the satisfaction of the Secretary, that the applicant has the requisite general knowledge and skill to hold such a license;

(5) demonstrates proficiency in the use of electronic aids to navigation;

(6) maintains adequate knowledge of the waters to be navigated and knowledge of regulations for the prevention of collisions in those waters;

(7) has sufficient experience, as decided by the Secretary, to evidence ability to handle any vessel of the type and size which the applicant may be authorized to pilot; and

(8) meets any other requirement the Secretary considers reasonable and necessary.

(e) The Secretary may issue certificates of registry in the following classes to applicants found qualified as to character, knowledge, skill, and experience:

(1) pursers.

(2) medical doctors.

(3) professional nurses.

(f) In classifying licensed officers under this section, the Secretary shall, where possible, establish service and other qualifying requirements appropriate to the particular service or industry in which the officers are engaged.

§ 7102. Citizenship of officers

Licenses and certificates of registry (except licenses as operators of vessels) may be issued only to citizens of the United States.

§ 7103. Licenses for radio officers

(a) A license as radio officer may be issued only to an applicant who has a first-class or second-class radiotelegraph operator license issued by the Federal Communications Commission.

(b) Except as provided in section 7318 of this title, this part does not affect the status of radiotelegraph operators serving on board vessels operating only on the Great Lakes.

§ 7104. Certificates for medical doctors and nurses

A certificate of registry as a medical doctor or professional nurse may be issued only to an applicant who has a license as a medical doctor or registered nurse, respectively, issued by a State.

§ 7105. Oaths of officers

An applicant for a license or certificate of registry shall take, before the issuance of the license or certificate, an oath before a designated officer, without concealment or reservation, that the applicant will perform faithfully and honestly, according to the best skill and judgment of the applicant, all the duties required by law.

§ 7106. Duration of licenses

A license issued under this part is valid for 5 years. However, the validity of a license issued to a radio officer is conditioned on the continuous possession by the holder of a first-class or second-class radiotelegraph operator license issued by the Federal Communications Commission.

§ 7107. Duration of certificates of registry

A certificate of registry issued under this part is not limited in duration. However, the validity of a certificate issued to a medical doctor or professional nurse is conditioned on the continuous possession by the holder of a license as a medical doctor or registered nurse, respectively, issued by a State.

§ 7108. Termination of licenses and certificates of registry

When the holder of a license or certificate of registry, the duration of which is conditioned under section 7106 or 7107 of this title, fails to hold the license required as a condition, the license or certificate of registry issued under this part is terminated.

§ 7109. Renewal of licenses

A license issued under this part may be renewed for additional 5-year periods.

§ 7110. Exhibiting licenses

Each holder of a license issued under this part shall display, within 48 hours after employment on a vessel for which that license is required, the license in some conspicuous place on the vessel.

§ 7111. Licenses for fishing vessels not subject to inspection

Examinations for licenses of officers of fishing vessels not required to be inspected under part B of this subtitle shall be oral.

§ 7112. Licenses of masters or mates as pilots

A master or mate licensed under this part who also qualifies as a pilot is not required to hold two licenses. Instead, the qualification of the master or mate as pilot shall be endorsed on the master's or mate's license.

§ 7113. Exemption from draft

A licensed master, mate, pilot, or engineer of a vessel inspected under this subtitle, propelled by machinery or carrying hazardous liquid cargoes in bulk, is not liable to draft in time of war, except for performing duties authorized by the license. When performing those duties in the service of the United States Government, the master, mate, pilot, or engineer is entitled to the highest rate of wages paid in the merchant marine of the United States for similar services. If killed or wounded when performing those duties, the master, mate, pilot, or engineer, or the heirs or legal representatives of the master, mate, pilot, or engineer, are entitled to all the privileges under the pension laws of the United States provided to members of the Armed Forces.

§ 7114. Fees

The Secretary may prescribe by regulation reasonable fees for the issuance of a certificate, license, or permit related to small passenger vessels and sailing school vessels (as defined in section 3101 of this title).

CHAPTER 73—MERCHANT MARINERS' DOCUMENTS

Sec.

7301. General.
7302. Issuing merchant mariners' documents and continuous discharge books.
7303. Possession and description of merchant mariners' documents.
7304. Citizenship of applicants for merchant mariners' documents.
7305. Oaths for holders of merchant mariners' documents.
7306. General requirements and classifications for able seamen.
7307. Able seamen—unlimited.
7308. Able seamen—limited.
7309. Able seamen—special.
7310. Able seamen—special (offshore supply vessels).
7311. Able seamen—sail.
7312. Scale of employment.
7313. General requirements for members of engine departments.
7314. Service requirements for qualified members of engine departments.
7315. Training.
7316. Lifeboatmen.
7317. Tankermen.
7318. Other ratings.
7319. Records of merchant mariners' documents.

§ 7301. General

(a) In this chapter—

(1) "service on deck" means service in the deck department in work related to the work usually performed on board vessels by able seamen and may include service on decked fishing vessels and on public vessels of the United States;

(2) 360 days is equal to 1 year's service; and

(3) a day is equal to 8 hours of labor or duty.

(b) The Secretary may prescribe regulations to carry out this chapter.

§ 7302. Issuing merchant mariners' documents and continuous discharge books

(a) The Secretary shall issue a merchant mariner's document to an individual required to have that document under part F of this subtitle if the individual satisfies the requirements of this part. The document serves as a certificate of identification and as a certificate of service, specifying each rating in which the holder is qualified to serve on board vessels on which such a document is required under part F.

(b) The Secretary also may issue a continuous discharge book to an individual issued a merchant mariner's document if the individual requests.

§ 7303. Possession and description of merchant mariners' documents

A merchant mariner's document shall be retained by the seaman to whom issued. The document shall contain the signature, notations of nationality, age, and physical description, the photograph, the thumbprint, and the home address of the seaman. In addition, the document shall contain endorsements specifying the rate or ratings in which the seaman is qualified to serve.

§ 7304. Citizenship of applicants for merchant mariners' documents

An individual applying for a merchant mariner's document shall provide satisfactory proof that the individual is a citizen of the United States before that notation is made on the document.

§ 7305. Oaths for holders of merchant mariners' documents

An applicant for a merchant mariner's document shall take, before issuance of the document, an oath that the applicant will perform faithfully and honestly all the duties required by law, and will carry out the lawful orders of superior officers.

§ 7306. General requirements and classifications for able seamen

(a) To qualify for an endorsement as able seaman authorized by this section, an applicant must provide satisfactory proof that the applicant—

(1) is at least 18 years of age;

(2) has the sea service or training required by the applicable section of this part;

(3) is qualified professionally as demonstrated by an applicable examination; and

(4) is qualified as to sight, hearing, and physical condition to perform the seaman's duties.

(b) The classifications authorized for endorsement as able seaman are the following:

(1) able seaman—unlimited.

(2) able seaman—limited.

(3) able seaman—special.

(4) able seaman—special (offshore supply vessels).

(5) able seaman—sail.

§ 7307. Able seamen—unlimited

The required sea service or training for the endorsement of able seaman—unlimited, qualified for unlimited service on a vessel on any waters, is at least 3 years' service on deck on board vessels operating at sea or on the Great Lakes.

§ 7308. Able seamen—limited

The required service for the endorsement of able seaman—limited, qualified for limited service on a vessel on any waters, is at least 18 months' service on deck on board vessels of at least 100 gross tons operating on the oceans or navigable waters of the United States, including the Great Lakes.

§ 7309. Able seamen—special

The required service for the endorsement of able seaman—special is 12 months' service on deck on board vessels operating on the oceans or the navigable waters of the United States, including the Great Lakes.

§ 7310. Able seamen—special (offshore supply vessels)

For service on a vessel of less than 500 gross tons engaged in support of exploration, exploitation, or production of offshore mineral or energy resources, an individual may be rated as able seaman—special (offshore supply vessels) if the individual has at least 6 months' service on deck on board vessels operating on the oceans or the navigable waters of the United States, including the Great Lakes.

§ 7311. Able seamen—sail

For service on a sailing school vessel (as defined in section 3101(18) of this title) on any waters, an individual may be rated as able seaman—sail if the individual has at least 6 months' service on deck on sailing school vessels, oceanographic research vessels (as defined in section 3101(6) of this title) powered primarily by sail, or equivalent sailing vessels operating on the oceans or navigable waters of the United States, including the Great Lakes.

§ 7312. Scale of employment

(a) Individuals qualified as able seamen—unlimited under section 7307 of this title may constitute the entire complement of able seamen required on a vessel.

(b) Individuals qualified as able seamen—limited under section 7308 of this title may constitute the entire complement of able seamen required on a vessel of less than 1,600 gross tons or on a vessel operating on the Great Lakes and the Saint Lawrence River as far east as Sept Iles. Individuals qualified as able seamen—limited may constitute not more than 50 percent of the complement of able seamen required on board other vessels.

(c) Individuals qualified as able seamen—special under section 7309 of this title and able seamen—offshore supply vessels under section 7310 of this title may constitute the entire complement of able seamen required on a vessel of not more than 500 gross tons or on a seagoing barge, tug, or towboat and may constitute not more than 50 percent of the complement of able seamen required on board other vessels.

(d) When the service of able seamen—limited, able seamen—special, or able seamen—offshore supply vessels is authorized for only a part of the required complement of able seamen on board a vessel, the combined percentage of those individuals so qualified may not be greater than 50 percent of the required complement.

§ 7313. General requirements for members of engine departments

(a) Classes of endorsement as qualified members of the engine department on vessels of at least 100 gross tons (except vessels navigating on rivers or the smaller inland lakes) may be prescribed by regulation.

(b) The ratings of wiper and coal passer are entry ratings and are not ratings as qualified members of the engine department.

(c) An applicant for an endorsement as qualified member of the engine department must provide satisfactory proof that the applicant—

(1) has the sea service or training required by section 7314 of this title;

(2) is qualified professionally as demonstrated by an applicable examination; and

(3) is qualified as to sight, hearing, and physical condition to perform the member's duties.

§ 7314. Service requirements for qualified members of engine departments

To qualify for an endorsement as qualified memoer of the engine department, an applicant must provide proof that the applicant has 6 months' service in the related entry rating as described in section 7313(b) of this title.

§ 7315. Training

(a) Graduation from a nautical or marine school approved under law and regulation may be substituted for the service requirements under section 7307 or 7314 of this title.

(b) The satisfactory completion of other courses of instruction approved by the Secretary may be substituted for not more than one-third of the required service on deck at sea under sections 7307-7311 of this title.

(c) The satisfactory completion of other courses of instruction approved by the Secretary may be substituted for not more than one-half of the required service at sea under section 7314 of this title.

§ 7316. Lifeboatmen

To qualify for an endorsement as lifeboatman, an applicant must provide satisfactory proof that the applicant—

(1) has the service or training required by regulation;

(2) is qualified professionally as demonstrated by examination; and

(3) is qualified professionally by actual demonstration.

§ 7317. Tankermen

(a) The Secretary shall prescribe procedures, standards, and qualifications for the issuance of certificates or endorsements as tankerman, stating the types of oil or hazardous material that can be handled with safety to the vessel and the marine environment.

(b) An endorsement as tankerman shall indicate the grades or types of cargo the holder is qualified and authorized to handle with safety on board vessels.

§ 7318. Other ratings

(a) An endorsement on a merchant mariner's document for a rating except able seaman, qualified member of the engine department, lifeboatman, or tankerman for crewmembers of a vessel of at least 100 gross tons (except a vessel navigating on rivers and the smaller inland lakes only) may be established by regulation.

(b)(1) An endorsement on a merchant mariner's document established under subsection (a) of this section (except for a document issued to a licensed officer or registered staff officer) shall be issued without examination, but an applicant for an endorsement—

(A) in a rating authorizing the handling of food shall give proof that the applicant is free from all communicable disease; and

(B) as radiotelegraph operator on the Great Lakes only shall have a first-class or second-class radiotelegraph operator's license issued by the Federal Communications Commission.

(2) An endorsement as radiotelegraph operator on the Great Lakes only ends if the holder ceases to hold the Federal Communications Commission license required by paragraph (1)(B) of this subsection.

§ 7319. Records of merchant mariners' documents

The Secretary shall maintain records on each merchant mariner's document issued, including the name and address of the seaman to whom issued and the next of kin of the seaman. The records are not open to general or public inspection.

CHAPTER 75—GENERAL MATTERS RELATED TO LICENSES, CERTIFICATES, AND DOCUMENTS

Sec.

7501. Duplicates.

7502. Records.

7503. Narcotic drugs as grounds for denial.

§ 7501. Duplicates

(a) If a license, certificate, or document issued under this part is lost as a result of a marine casualty, the holder shall be supplied with a duplicate without cost.

(b) For any other loss, the seaman may obtain a duplicate on payment of reasonable costs prescribed by regulation by the Secretary.

§ 7502. Records

The Secretary shall maintain records on the issuances, denials, suspensions, and revocations of licenses, certificates of registry, merchant mariners' documents, and endorsements on those licenses, certificates, and documents.

§ 7503. Narcotic drugs as grounds for denial

(a) In this section, "narcotic drug" means a substance so defined under a law of the United States, and includes marihuana as defined under a law of the United States.

(b) A license, certificate, or document authorized to be issued under this part may be denied to an individual who—

(1) within 10 years before applying for the license, certificate, or document, has been convicted of violating a narcotic drug law of the United States or of a State; or

(2) when applying, has ever been a user of, or addicted to, a narcotic drug unless the individual provides satisfactory proof that the individual is cured.

CHAPTER 77—SUSPENSION AND REVOCATION

Sec.

7701. General.

7702. Administrative procedure.

7703. Bases for suspension or revocation.

7704. Narcotic drugs as grounds for revocation.

7705. Subpenas and oaths.

§ 7701. General

(a) The purpose of suspension and revocation proceedings is to promote safety at sea.

(b) Licenses, certificates of registry, and merchant mariners' documents may be suspended or revoked for acts described in section 7703 of this title.

(c) When a license, certificate of registry, or merchant mariner's document has been revoked under this chapter, the former holder may be issued a new license, certificate, or document only after it has been decided, under regulations prescribed by the Secretary, that the issuance is compatible with the requirements of good discipline and safety at sea.

(d) The Secretary may prescribe regulations to carry out this chapter.

§ 7702. Administrative procedure

(a) Sections 551-559 of title 5 apply to each hearing under this chapter about suspending or revoking a license, certificate of registry, or merchant mariners' document.

(b) The individual whose license, certificate of registry, or merchant mariner's document has been suspended or revoked under this chapter may appeal, within 30 days, the suspension or revocation to the Secretary.

§ 7703. Bases for suspension or revocation

A license, certificate, or merchant mariner's document may be suspended or revoked if, when the holder is acting under the authority of a license, certificate, or document issued by the Secretary, the holder—

(1) has violated or failed to comply with this subtitle, a regulation prescribed under this subtitle, or any other law or regulation intended to promote marine safety or to protect navigable waters; or

(2) has committed an act of incompetence, misconduct, or negligence.

§ 7704. Narcotic drugs as grounds for revocation

(a) In this section, "narcotic drug" means a substance so defined under a law of the United States, and includes marihuana as defined under a law of the United States.

(b) If it is shown at a hearing under this chapter that a holder of a license, certificate of registry, or document issued under this part, within 10 years before the beginning of the proceedings, has been convicted of violating a narcotic drug law of the United States or of a State, the license, certificate, or document shall be revoked.

(c) If it is shown that a holder at any time after July 14, 1954, has been a user of, or addicted to, narcotic drugs, the license, certificate, or document shall be revoked unless the holder provides satisfactory proof that the holder is cured.

§ 7705. Subpenas and oaths

(a) An official designated to investigate or preside at a hearing on matters that are grounds for licenses, certificates, and documents may administer oaths and issue subpenas to compel the attendance and testimony of witnesses and the production of records or other evidence during investigations and at hearings.

(b) The jurisdictional limits of a subpena issued under this section are the same as, and are enforceable in the same manner as, subpenas issued under chapter 63 of this title.

PART F—MANNING OF VESSELS

CHAPTER 81—GENERAL

Sec.
8101. Complement of officers and crews of inspected vessels.
8102. Watchmen.
8103. Citizenship of officers and crew.
8104. Watches.
8105. Regulations.

§ 8101. Complement of officers and crews of inspected vessels

(a) The certificate of inspection issued to a vessel under part B of this subtitle shall state the complement of licensed officers and crew, including lifeboatmen, considered by the Secretary to be necessary for safe navigation. A manning requirement imposed on a sailing school vessel (as defined in section 3101(18) of this title) shall consider the participation of sailing school instructors and sailing school students (as defined in section 3101 (16) and (17) of this title) in the operation of that vessel.

(b) The Secretary may modify the complement by endorsement on the certificate, for reasons of changed conditions or employment.

(c) A requirement made under this section by an authorized official may be appealed to the Secretary under prescribed regulations.

(d) A vessel to which this section applies may not be operated without having in its service the complement of officers and crew required in the certificate of inspection.

(e) When a vessel is deprived of the service of a member of its complement without the consent, fault, or collusion of the owner, charterer, agent, master, or person in charge of the vessel, the master shall ship, if obtainable, a number of members equal to the number of those of whose services the master has been deprived. The replacements must be of the same or a higher grade or rating than those whose places they fill. However, if the master finds the vessel is sufficiently manned for the voyage, and replacements are not available to fill all the vacancies, the vessel may proceed on its voyage. Within 12 hours after the vessel arrives at its destination, the master shall report in writing to the Secretary the cause of each deficiency in the crew, including the officers. A master failing to make the report is liable to the United States Government for a civil penalty of $50 for each deficiency.

(f) The owner of a vessel not manned as required by this section is liable to the Government for a civil penalty of $100, or, for a deficiency of a licensed officer, a penalty of $500. Each day of a continuing violation is a separate offense.

(g) A person may not employ an individual as, and an individual may not serve as, a master, mate, engineer, or pilot of a vessel to which this part or part B of this subtitle applies if the individual is not licensed by the Secretary. A person (including an individual) violating this subsection is liable to the Government for a civil penalty of not more than $500. Each day of a continuing violation is a separate offense.

(h) The owner of a small passenger vessel or a sailing school vessel not manned as required by this section is liable to the Government for a civil penalty of not more than $1,000. The vessel also is liable in rem for the penalty.

§ 8102. Watchmen

The owner of a vessel carrying passengers during the nighttime shall keep a suitable number of watchmen in the vicinity of the cabins or staterooms and on each deck to guard against fire or other dangers and to give alarm in case of a marine casualty or disaster. An owner failing to provide watchmen required by this section is liable to the United States Government for a civil penalty of not more than $1,000.

§ 8103. Citizenship of officers and crew

(a) Only a citizen of the United States may serve as master, chief engineer, or officer in charge of a deck watch or engineering watch on a vessel documented under chapter 121 of this title.

(b) On each departure of a vessel of the United States (except a fishing or whaling vessel or yacht) from a port of the United States, 75 percent of the crew (excluding licensed officers) must be citizens of the United States. However, if the Secretary decides that qualified citizen seamen are not available, the Secretary may reduce the percentage.

(c) On each departure from the United States of a cargo vessel for which a construction or operating differential subsidy has been granted, all of the crew and employees of the vessel must be citizens of the United States.

(d)(1) On each departure from the United States of a passenger vessel for which a construction or operating differential subsidy has been granted, at least 90 percent of the entire crew, including all licensed officers, must be citizens of the United States.

(2) An individual not required by this subsection to be a citizen of the United States may be engaged only if the individual has a valid declaration of intention (as defined in section 334(f) of the Immigration and Nationality Act (8 U.S.C. 1445(f)) to become a citizen of the United States or other evidence of admission to the United States for permanent residence. An alien may be employed only in the steward's department of the passenger vessel.

(e) If a documented vessel is deprived of the services of an individual (except the master) when on a foreign voyage and a vacancy consequently occurs, until the vessel's first return to a United States port at which a replacement who is a citizen of the United States can be obtained, an individual not a citizen of the United States may serve in—

(1) the vacancy; or

(2) a vacancy resulting from the promotion of another individual to fill the original vacancy.

(f) A person employing an individual in violation of this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of $500 for each person so employed.

(g) A deck or engineer officer employed on a vessel on which an operating differential subsidy is paid, or employed on a vessel (except a vessel of the Coast Guard) owned or operated by the Department of Transportation or by a corporation organized or controlled by the Department, if eligible, shall be a member of the Naval Reserve.

(h) The President may—

(1) suspend any part of this section during a proclaimed national emergency ; and

(2) when the needs of commerce require, suspend as far and for a period the President considers desirable, subsection (a) of this section for crews of vessels of the United States documented for foreign trade.

§ 8104. Watches

(a) A master, owner, or other person having authority may permit an officer to take charge of the deck watch on a vessel when leaving or immediately after leaving port only if the officer has been off duty for at least 6 hours off duty within the 12 hours immediately before the time of leaving.

(b) On an ocean or coastwise vessel of not more than 100 gross tons, a licensed officer may not be required to work more than 9 of 24 hours when in port, including the date of arrival, or more than 12 of 24 hours at sea, except in an emergency when life or property are endangered.

(c) On a tug documented under chapter 121 of this title (except a vessel used only for fishing or engaged in salvage operations) navigating the Great Lakes, harbors of the Great Lakes, and connecting or tributary waters between Gary, Indiana, Duluth, Minnesota, Niagara Falls, New York, and Ogdensburg, New York, a licensed officer or seaman in the deck or engine department may not be required or permitted to work more than 8 hours in 1 day, except in an emergency when life or property are endangered.

(d) On a merchant vessel of the United States of more than 100 gross tons (except a vessel navigating rivers, harbors, lakes (except the Great Lakes), bays, sounds, bayous, and canals only), a fishing or whaling vessel, yacht, or vessel engaged in salvage operations, the licensed officers and seamen in the deck or engine department shall be divided, when at sea, into at least 3 watches, and shall be kept on duty successively to perform ordinary work incident to the sailing and management of the vessel. The requirement of this subsection applies to radio officers only when at least 3 radio officers are employed. A licensed officer or seaman in the deck or engine department may not be required to work more than 8 hours in 1 day.

(e) On a vessel designated by subsections (c) and (d) of this section—

(1) a seaman may not be—

(A) shipped to work alternately in the deck and engine departments; or

(B) required to work in the engine department if shipped for deck department duty or required to work in the deck department if shipped for engine department duty;

(2) a seaman may not be required to do unnecessary work on Sundays, New Year's Day, July 4th, Labor Day, Thanksgiving Day, or Christmas Day, when the vessel is in a safe harbor, but this clause does not prevent dispatch of a vessel on a voyage; and

(3) when the vessel is in a safe harbor, 8 hours (including anchor watch) is a day's work.

(f) Subsections (d) and (e) of this section do not limit the authority of the master or other officer or the obedience of the seamen when, in the judgment of the master or other officer, any part of the crew is needed for—

(1) maneuvering, shifting the berth of, mooring, or unmooring, the vessel;

(2) performing work necessary for the safety of the vessel, or the vessel's passengers, crew, or cargo;

(3) saving life on board another vessel in jeopardy; or

(4) performing fire, lifeboat, or other drills in port or at sea.

(g) On a tug (except a tug to which subsection (c) of this section applies), an offshore supply vessel, or a barge to which this section applies, that is engaged on a voyage of less than 600 miles, the licensed officers and crewmembers (except the firemen, oilers, and watertenders) may be divided, when at sea, into at least 2 watches.

(h) On a vessel to which section 8902 of this title applies, an operator may not work a vessel when underway or perform other duties for more than 12 hours in a consecutive 24-hour period except in an emergency.

(i) A person violating subsection (a) or (b) of this section is liable to the United States Government for a civil penalty of $100.

(j) The owner of a vessel on which a violation of subsection (c), (d), or (e) of this section occurs is liable to the Government for a civil penalty of $500. The seaman is entitled to discharge from the vessel and receipt of wages earned.

§ 8105. Regulations

The Secretary may prescribe regulations to carry out this part.

CHAPTER 83—MASTERS AND OFFICERS

Sec.
8301. Minimum number of officers.
8302. Staff department.
8303. Service under licenses issued without examination.
8304. Implementing the Officers' Competency Certificates Convention, 1936.

§ 8301. Minimum number of officers

(a) Except as provided in chapter 89 of this title, each ocean and coastwise seagoing merchant vessel of the United States to which part B of this subtitle applies, and each oceangoing vessel to which part B applies that carries passengers, shall engage a minimum of licensed officers as follows:

(1) Each of those vessels shall have a licensed master.

(2) A vessel of at least 1,000 gross tons and propelled by machinery shall have 3 licensed mates. However, if the vessel is engaged on a run of less than 400 miles from port of departure to port of final destination, it shall have 2 licensed mates.

(3) A vessel of at least 200 gross tons but less than 1,000 gross tons and propelled by machinery shall have 2 licensed mates.

(4) A vessel of at least 100 gross tons but less than 200 gross tons and propelled by machinery shall have 1 licensed mate. However, if the vessel is engaged on a voyage of more than 24 hours, it shall have 2 licensed mates.

(5) A freight vessel or a passenger vessel (as defined in section 3101 of this title) of at least 300 gross tons and propelled by machinery shall have a licensed engineer.

(b) An offshore supply vessel (as defined in section 3101(7) of this title) on a voyage of less than 600 miles shall have on board and in the vessel's service 1 licensed mate. However, if the vessel is engaged on a voyage of at least 600 miles, the vessel shall have 2 licensed mates. An offshore supply vessel of more than 200 gross tons may not be navigated without a licensed engineer.

(c) Subsections (a) and (b) of this section do not apply to a fishing or whaling vessel or a yacht.

(d) The Secretary may—

(1) suspend any part of this chapter during a national emergency proclaimed by the President;

(2) when the needs of commerce require, suspend for a period the Secretary considers necessary this section for crews of vessels of the United States documented for foreign trade; and

(3) increase the number of licensed officers on a vessel to which this chapter applies if, in the Secretary's judgment, the vessel is not sufficiently manned for safe navigation.

§ 8302. Staff department

(a) This section applies to a vessel of the United States except—

(1) a fishing or whaling vessel or a yacht;

(2) a vessel operated only on bays, sounds, inland waterways, and lakes (except the Great Lakes); and

(3) a passenger ferry or car ferry on the Great Lakes.

(b) The staff department on a vessel is a separate and independent department. It consists of officers registered under section 7101 of this title, pursers, clerks, and individuals assigned to the senior registered medical doctor.

(c) The staff department is composed of a medical division and a purser's division. The officer in charge of each division is responsible only to the master. The senior registered medical doctor is in charge of the medical division. The senior registered purser is in charge of the purser's division.

(d) The officer in charge of the purser's division of the staff department on an oceangoing passenger vessel licensed to carry more than 100 passengers shall be a registered chief purser. When more than 3 persons are employed in the purser's division of that vessel, there also shall be at least 1 registered senior assistant purser and 1 registered junior assistant purser.

(e) A person may not employ an individual to serve in, and an individual may not serve in, a grade of staff officer on a vessel, when that staff officer is required by this section to be registered, if the individual does not have a certificate of registry as staff officer in that grade. A person (including an individual) violating this subsection is liable to the United States Government for a civil penalty of $100. However, if a registered staff officer is not available at the time of sailing, the vessel may sail with an unregistered staff officer or without a staff officer.

(f) A staff officer may not be included in a vessel's certificate of inspection.

(g) A registered staff officer serving under this section who is a member of the Naval Reserve may wear on the officer's uniform special distinguishing insignia prescribed by the Secretary of the Navy.

(h) The uniform stripes, decoration, or other insignia worn by a staff officer shall be of gold braid or woven gold or silver material. A member of a ship's crew (except a staff officer) may not wear any uniform with a staff officer's identifying insignia.

§ 8303. Service under licenses issued without examination

An individual issued a license without examination before October 29, 1941, to serve as master, mate, or engineer on a vessel not subject to inspection under part B of this subtitle, may not serve under authority of that license on a vessel that is subject to inspection under part B.

§ 8304. Implementing the Officers' Competency Certificates Convention, 1936

(a) In this section, "high seas" means waters seaward of the Boundary Line.

(b) This section implements the Officers' Competency Certificates Convention, 1936 (International Labor Organization Draft Convention Numbered 53, on the minimum requirement of professional capacity for masters and officers on board merchant ships), as ratified by the President on September 1, 1938, with understandings appended.

(c) This section applies to a documented vessel of the United States navigating on the high seas.

(d) This section does not apply to—

(1) a vessel of a public authority not engaged in trade;

(2) a wooden ship of primitive build, such as a dhow or junk;

(3) a non-self-propelled vessel; and

(4) a vessel of less than 200 gross tons.

(e) A person may not engage or employ an individual to serve as, and an individual may not serve as, a master, mate, or engineer on a vessel to which this section applies, if the individual does not have a license issued under section 7101 of this title authorizing service in the capacity in which the individual is to be engaged or employed.

(f) A person (including an individual) violating this section is liable to the United States Government for a civil penalty of $100. If the person violating this section is the owner, charterer, agent, master, or person in charge of the vessel, the vessel also is liable in rem for the penalty.

(g) A license issued to an individual to whom this section applies is a certificate of competency.

(h) A designated official may detain a vessel to which this section applies (by written order served on the owner, charterer, agent, master, or person in charge of the vessel) when there is reason to believe that the vessel is about to proceed from a port of the United States to the high seas in violation of this section or a provision of the convention described in subsection (b) of this section. The vessel may be detained until the vessel complies with this section. Clearance may not be granted to a vessel ordered detained under this section.

(i) A foreign vessel to which the convention described in subsection (b) of this section applies, on the navigable waters of the United States, is subject to detention under subsection (h) of this section, and to an examination that may be necessary to decide if there is compliance with the convention.

(j) The owner, charterer, agent, master, or person in charge of a vessel detained under subsection (h) or (i) of this section may appeal the order within 5 days as provided by regulation.

(k) An officer of the Customs Service may be designated to enforce this section.

CHAPTER 85—PILOTS

Sec.
8501. State regulation of pilots.
8502. Federal pilots required.

§ 8501. State regulation of pilots

(a) Except as otherwise provided in this part, pilots in the bays, rivers, harbors, and ports of the United States shall be regulated only in conformity with the laws of the States.

(b) The master of a vessel entering or leaving a port on waters that are a boundary between two States, and that is required to have a pilot under State law, may employ a pilot licensed or authorized by the laws of either of the two States.

(c) A State may not adopt a regulation or provision that discriminates in the rate of pilotage or half-pilotage between vessels sailing between the ports of one State and vessels sailing between the ports of different States, or against vessels because of their means of propulsion, or against public vessels of the United States.

(d) Any regulation or provision violating this section is void.

§ 8502. Federal pilots required

(a) A coastwise seagoing vessel (except a foreign vessel), when not sailing on register and when underway (except on the high seas), shall be under the direction and control of a pilot licensed under section 7101 of this title if the vessel is—

(1) propelled by machinery and subject to inspection under part B of this subtitle; or

(2) subject to inspection under chapter 37 of this title.

(b) The fees charged for pilotage by pilots required under this section may not be more than the customary or legally established rates in the States in which the pilotage is performed.

(c) A State or political subdivision of a State may not impose on a pilot licensed under this subtitle an obligation to procure a State or other license, or adopt any other regulation that will impede the pilot in the performance of the pilot's duties under the laws of the United States.

(d) A State or political subdivision of a State may not levy pilot charges on a vessel lawfully piloted by a pilot required under this section.

(e) The owner, charterer, agent, master, or person in charge of a vessel navigated in violation of this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of $500. The vessel also is liable in rem for the penalty.

(f) An individual serving as a pilot without having a license required by this section or a regulation prescribed under this section is liable to the Government for a civil penalty of $500.

CHAPTER 87—UNLICENSED PERSONNEL

Sec.
8701. Merchant mariners' documents required.
8702. Certain crew requirements.
8703. Tankermen on tank vessels.

§ 8701. Merchant mariners' documents required

(a) This section applies to a merchant vessel of the United States of at least 100 gross tons except—

(1) a vessel operating only on rivers and the smaller inland lakes;

(2) a non-self-propelled vessel (except a barge operating on waters seaward of the Boundary Line or a barge to which chapter 37 of this title applies);

(3) a fishing or whaling vessel or a yacht;

(4) a sailing school vessel with respect to sailing school students and sailing school instructors (as defined in section 3101 of this title); and

(5) an oceanographic research vessel with respect to scientific personnel (as defined in section 3101 of this title).

(b) A person may not engage or employ an individual, and an individual may not serve, on board a vessel to which this section applies if the individual does not have a merchant mariner's document issued to the individual under section 7302 of this title. Except for an officer required to be licensed or registered under this part, the document must authorize the service in the capacity for which the holder of the document is engaged or employed.

(c) On a vessel to which section 10306 or 10503 of this title does not apply, an individual required by this section to hold a merchant mariner's document must exhibit it to the master of the vessel before the individual may be employed.

(d) A person (including an individual) violating this section is liable to the United States Government for a civil penalty of $500.

§ 8702. Certain crew requirements

(a) This section applies to a vessel of at least 100 gross tons except—

(1) a vessel operating only on rivers and the smaller inland lakes;

(2) a non-self-propelled vessel (except a barge operating on waters seaward of the Boundary Line or a barge to which chapter 37 of this title applies);

(3) a fishing or whaling vessel or a yacht;

(4) a sailing school vessel with respect to sailing school students and sailing school instructors (as defined in section 3101 of this title); and

(5) an oceanographic research vessel with respect to scientific personnel (as defined in section 3101 of this title).

(b) A vessel may depart from a port of the United States only if at least 75 percent of the crew in each department on board is able to understand any order spoken by the officers, and at least 65 percent of the deck crew (excluding licensed officers) have merchant mariners' documents endorsed for a rating of at least able seaman. This percentage may be reduced to 50 percent on a vessel permitted under section 8104 of this title to maintain a 2-watch system.

(c) An able seaman is not required on a tug and towboat navigating bays and sounds connected directly with the seas.

(d) An individual having a rating of less than able seaman may not be permitted at the wheel in ports, harbors, and other waters subject to congested vessel traffic, or under conditions of reduced visibility, adverse weather, or other hazardous circumstances.

(e) The owner, charterer, agent, master, or person in charge of a vessel navigated in violation of this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of $500.

§ 8703. Tankermen on tank vessels

(a) A vessel of the United States to which chapter 37 of this title applies, that has on board oil or hazardous material in bulk as cargo or cargo residue, shall have a specified number of the crew certified as tankermen as required by the Secretary. This requirement shall be noted on the certificate of inspection issued to the vessel.

(b) The Secretary shall prescribe procedures, standards, and qualifications for the issuance of certificates as tankermen, stating the types of oil or hazardous material that can be handled with safety to the vessel and the marine environment.

(c) A vessel to which section 3702(b) of this title applies shall have on board as a crewmember in charge of the transfer operation an individual certified as a tankerman (qualified for the grade of fuel transferred), unless a licensed master of the vessel or a crewmember licensed as mate, pilot, engineer, or operator under chapter 71 of this title is present in charge of the transfer. If the vessel does not have on board that individual, chapter 37 of this title applies to the vessel.

CHAPTER 89—OPERATORS

Sec.
8901. Uninspected passenger vessels.
8902. Towing vessels.
8903. Exemptions.
8904. Penalty.

§ 8901. Uninspected passenger vessels

An uninspected passenger vessel (as defined in section 3101(25) of this title) may be navigated only in the charge of an individual licensed for service under an appropriate license on an uninspected passenger vessel under section 7101 of this title.

§ 8902. Towing vessels

A commercial vessel engaged in or intended to engage in the service of pulling, pushing, or hauling alongside, or any combination of pulling, pushing, or hauling alongside, that is at least 26 feet in length measured from end to end over the deck (excluding sheer), when underway, shall be under the direction and control of an individual licensed by the Secretary to operate in the particular geographic area, under prescribed regulations.

§ 8903. Exemptions

(a) Section 8901 of this title applies to a recreational vessel (as defined in section 3101(14) of this title) used in dealer demonstrations only if the Secretary decides that the application of section 8901 is necessary for recreational vessel safety under section 4302(d) of this title.

(b) Section 8902 of this title does not apply to a vessel of less than 200 gross tons engaged in the offshore mineral and oil industry if the vessel has offshore mineral and oil industry sites or equipment as its ultimate destination or place of departure.

§ 8904. Penalty

An owner, operator, or person in charge of a vessel operated in violation of this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of $1,000. The vessel also is liable in rem for the penalty.

CHAPTER 91—MANNING STANDARDS

Sec.
9101. Standards for foreign vessels.
9102. Standards for vessels of the United States.

§ 9101. Standards for foreign vessels

(a) The Secretary shall—

(1) periodically evaluate the manning, training, qualification, and watchkeeping standards prescribed by the certificating country of a foreign vessel to which chapter 37 of this title applies, that operates on the navigable waters of the United States and transfers oil or hazardous material in a port or place under the jurisdiction of the United States; and

(2) after each evaluation made under clause (1) of this subsection, decide whether the foreign country, whose system for licensing and certification of seafarers was evaluated, has standards that are equivalent to or more stringent than United States standards or international standards accepted by the United States.

(b) A foreign vessel to which chapter 37 of this title applies that has on board oil or hazardous material in bulk as cargo or cargo residue shall have a specified number of personnel certified as tankerman or equivalent, as required by the Secretary, when the vessel transfers oil or hazardous material in a port or place subject to the jurisdiction of the United States. The requirement of this subsection shall be noted in applicable terminal operating procedures. A transfer operation may take place only if the crewmember in charge is capable of clearly understanding instructions in English.

§ 9102. Standards for vessels of the United States

(a) The Secretary shall prescribe standards for the manning of each vessel of the United States to which chapter 37 of this title applies, related to the duties, qualifications, and training of the officers and crew of the vessel, including standards related to—

(1) instruction in vessel and cargo handling and vessel navigation under normal operating conditions in coastal and confined waters and on the high seas;

(2) instruction in vessel and cargo handling and vessel navigation in emergency situations and under marine casualty or potential casualty conditions;

(3) qualifications for licenses by specific type and size of vessels;

(4) qualifications for licenses by use of simulators for the practice or demonstration of marine-oriented skills;

(5) minimum health and physical fitness criteria for various grades of licenses and certificates;

(6) periodic retraining and special training for upgrading positions, changing vessel type or size, or assuming new responsibilities; and

(7) decisions about licenses and certificates, conditions of licensing or certification, and periods of licensing or certification by reference to experience, amount of training completed, and regular performance testing.

(b) The Secretary shall waive the application of criteria required by subsection (a)(5) of this section for an individual having a license or certificate (including a renewal of the license or certificate) in effect on October 17, 1978. When the waiver is granted, the Secretary may prescribe conditions for the license or certificate and its renewal, as the Secretary decides are reasonable and necessary for the safety of a vessel on which the individual may be employed.

CHAPTER 93—GREAT LAKES PILOTAGE

Sec.
9301. Definitions.
9302. Great Lakes pilots required.
9303. United States registered pilot service.
9304. Pilotage pools.
9305. Agreements with Canada.
9306. State regulation prohibited.
9307. Great Lakes Pilotage Advisory Committee.
9308. Penalties.

§ 9301. Definitions

In this chapter—

(1) "Canadian registered pilot" means an individual (except a regular crewmember of a vessel) who is registered by Canada on the same basis as an individual registered under section 9303 of this title.

(2) "Great Lakes" means Lakes Superior, Michigan, Huron, Erie, and Ontario, their connecting and tributary waters, the Saint Lawrence River as far east as Saint Regis, and adjacent port areas.

(3) "United States registered pilot" means an individual (except a regular crewmember on a vessel) who is registered under section 9303 of this title.

§ 9302. Great Lakes pilots required

(a)(1) Except as provided in subsections (d) and (e) of this section, each vessel of the United States sailing on register and each foreign vessel shall engage a United States or Canadian registered pilot for the route being navigated who shall—

(A) in waters of the Great Lakes designated by the President, direct the navigation of the vessel subject to the customary authority of the master; and

(B) in waters of the Great Lakes not designated by the President, be on board and available to direct the navigation of the vessel at the discretion of and subject to the customary authority of the master.

(2) The President shall make water designations under this subsection with regard to the public interest, the effective use of navigable waters, marine safety, and the foreign relations of the United States.

(b) A crewmember of a vessel who is licensed for navigation on the Great Lakes under section 7101 of this title, or equivalent provisions of Canadian law, and qualified for the route being navigated, may serve as the pilot required on waters not designated by the President.

(c) The authority extended under subsections (a) and (b) of this section to a Canadian registered pilot or other Canadian licensed officer to serve on certain vessels in United States waters of the Great Lakes shall continue as long as Canada extends reciprocity to United States registered pilots and other officers licensed by the United States for pilotage service in Canadian waters of the Great Lakes.

(d) A vessel may be operated on the United States waters of the Great Lakes without a United States or Canadian registered pilot when—

(1) the Secretary notifies the master that a registered pilot is not available; or

(2) the vessel or its cargo is in distress or jeopardy.

(e) A Canadian vessel regularly operating on the Great Lakes or between ports on the Great Lakes and the Saint Lawrence River, with only an occasional voyage to ports in the maritime provinces of Canada in the Canadian coastal trade, is exempt from subsections (a) and (b) of this section as long as Canada permits enrolled vessels of the United States to be navigated on Canadian waters of the Great Lakes under the direction of officers licensed under section 7101 of this title.

§ 9303. United States registered pilot service

(a) The Secretary shall prescribe by regulation standards of competency to be met by each applicant for registration under this chapter. An applicant must—

(1) have a license as master, mate, or pilot issued under section 7101 of this title;

(2) have acquired at least 24 months licensed service or equivalent experience on vessels or integrated tugs and tows of at least 4,000 gross tons, operating on the Great Lakes or oceans, with a minimum of 6 months of that service or experience having been on the Great Lakes; and

(3) agree that, if appointed as a United States registered pilot, the applicant will be available for service when required.

(b) The Secretary shall issue to each registered pilot under this chapter a certificate of registration describing the areas within which the pilot may serve. The pilot shall carry the certificate when in the service of a vessel.

(c) The Secretary shall prescribe by regulation the duration of validity of registration.

(d) The Secretary may prescribe by regulation the conditions for service by United States registered pilots, including availability for service.

(e) Subject to sections 551-559 of title 5, the Secretary may suspend or revoke a certificate of registration issued under this section if the holder fails to comply with a regulation prescribed under this chapter. Suspension or revocation of the holder's license under chapter 77 of this title includes the holder's certificate of registration.

(f) The Secretary shall prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services.

§ 9304. Pilotage pools

(a) The Secretary may authorize the formation of a pool by a voluntary association of United States registered pilots to provide for efficient dispatching of vessels and rendering of pilotage services.

(b) For pilotage pools, the Secretary may—

(1) limit the number of the pools;

(2) prescribe regulations for their operation and administration;

(3) prescribe a uniform system of accounts;

(4) perform audits and inspections; and

(5) require coordination on a reciprocal basis with similar pool arrangements authorized by the appropriate agency of Canada.

§ 9305. Agreements with Canada

To provide for a coordinated system of pilotage service on the Great Lakes, the Secretary, subject to the concurrence of the Secretary of State, may make agreements with the appropriate agency of Canada to—

(1) fix the number of pilots to be registered in each country;

(2) provide for participation on an equitable basis;

(3) prescribe joint or identical rates and charges;

(4) coordinate pool operations; and

(5) establish conditions for services by registered pilots.

§ 9306. State regulation prohibited

A State or political subdivision of a State may not regulate or impose any requirement on pilotage on the Great Lakes.

§ 9307. Great Lakes Pilotage Advisory Committee

(a) The Secretary may establish a Great Lakes Pilotage Advisory Committee. The Committee—

(1) may review proposed Great Lakes pilotage regulations and policies and make recommendations to the Secretary that the Committee considers appropriate;

(2) may make available to Congress recommendations that the Committee makes to the Secretary; and

(3) shall meet at the call of the Secretary.

(b) The Committee shall consist of 3 members appointed by the Secretary each of whom has at least 5 years practical experience in maritime operations. The term of each member is for a period of not more than 5 years, specified by the Secretary. Before filling a position on the Committee, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the Committee.

(c) When attending meetings or otherwise serving at the request of the Secretary, a member of the Committee (except a member regularly employed by the United States Government) may be paid at a rate of not more than $75 a day. When serving away from home or regular place of business, the member may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5 for individuals employed intermittently in the Government service.

§ 9308. Penalties

(a) An owner, master, or person in charge of a vessel knowingly allowing the vessel to be navigated in violation of section 9302 of this title is liable to the United States Government for a civil penalty of $500 for each day during which the vessel is in violation. The vessel also is liable in rem for the penalty.

(b) An individual who directs the navigation of a vessel in violation of section 9302 of this title is liable to the Government for a civil penalty of $500 for each day during which the violation occurs.

(c) A person violating a regulation prescribed under section 9303 of this title is liable to the Government for a civil penalty of $500.

PART G—MERCHANT SEAMEN PROTECTION AND RELIEF

CHAPTER 101—GENERAL

Sec.
10101. Definitions.
10102. Designations and duties of shipping commissioners.
10103. Reports.
10104. Regulations.

§ 10101. Definitions

In this part—

(1) "master" means the individual having command of a vessel owned by a citizen of the United States.

(2) "owner" means the person to whom the vessel belongs.

(3) "seaman" means an individual (except scientific personnel, a sailing school student, or a sailing school instructor) engaged or employed in any capacity on board a vessel owned by a citizen of the United States.

§ 10102. Designations and duties of shipping commissioners

(a) The Secretary shall designate officials to act as shipping commissioners under this part. The Secretary may designate officers of the Customs Service as shipping commissioners.

(b) The general duties of shipping commissioners are to supervise the shipment and discharge of seamen.

(c) The master of the vessel shall perform the duties of shipping commissioner when a shipping commissioner is not available.

§ 10103. Reports

(a) A master of a vessel to which chapters 103 and 105 of this title apply shall submit reports in the form, content, and manner of filing as prescribed by regulation, to ensure compliance with laws related to manning and the shipment and discharge of seamen.

(b) This section does not apply to a ferryboat or tugboat operated in connection with a ferry operation, employed only in trades other than with foreign ports, on the Great Lakes, lakes, bays, sounds, bayous, canals, or harbors.

§ 10104. Regulations

The Secretary may prescribe regulations to carry out this part.

CHAPTER 103—FOREIGN AND INTERCOASTAL VOYAGES

Sec.
10301. Application.
10302. Shipping articles agreements.
10303. Provisions.
10304. Form of agreement.
10305. Manner of signing agreement.
10306. Exhibiting merchant mariners' documents.
10307. Posting agreements.
10308. Foreign shipments.
10309. Shipping seamen to replace those lost by desertion or casualty.
10310. Discharge.
10311. Certificates of discharge.
10312. Settlements on discharge.
10313. Wages.
10314. Advances.
10315. Allotments.
10316. Trusts.
10317. Loss of lien and right to wages.
10318. Wages on discharge in foreign ports.
10319. Costs of a criminal conviction.
10320. Records of seamen.
10321. General penalty.

§ 10301. Application

(a) Except as otherwise specifically provided, this chapter applies to a vessel of the United States—

(1) engaged on a voyage between a port in the United States and a port in a foreign country (except a port in Canada, Mexico, or the West Indies); or

(2) of at least 75 gross tons engaged on a voyage between a port of the United States on the Atlantic Ocean and a port of the United States on the Pacific Ocean.

(b) This chapter does not apply to a vessel on which the seamen are entitled by custom or agreement to share in the profit or result of a voyage.

(c) Unless otherwise provided, this chapter does not apply to a foreign vessel.

§ 10302. Shipping articles agreements

(a) Before proceeding on a voyage, the master of a vessel to which this chapter applies shall make a shipping articles agreement in writing with each seaman in the crew.

(b) The agreement shall contain the following:

(1) the nature, and, as far as practicable, the duration of the intended voyage, and the port or country in which the voyage is to end.

(2) the number and description of the crew and the capacity in which each seaman is to be engaged.

(3) the time at which each seaman is to be on board to begin work.

(4) the amount of wages each seaman is to receive.

(5) regulations about conduct on board, and information on fines, short allowance of provisions, and other punishment for misconduct provided by law.

(6) a scale of the provisions that are to be provided each seaman.

(7) any stipulation in reference to advances and allotments of wages.

(8) other matters not contrary to law.

§ 10303. Provisions

(a) A seaman shall be served at least 3 meals a day that total at least 3,200 calories, including adequate water and protein, vitamins, and minerals in accordance with the current nutritional standards for daily food allowance established by the Surgeons General of the Army, Navy and Air Force.

(b) The text of subsection (a) of this section shall be included in the agreement required by section 10302 of this title. A copy of the text also shall be posted in a conspicuous place in the galley and forecastle of each vessel.

(c) This section does not apply to a fishing or whaling vessel or a yacht.

§ 10304. Form of agreement

The form of the agreement required by section 10302 of this title shall be in substance as follows:

UNITED STATES OF AMERICA

(Date and place of first signature of agreement):

It is agreed between the master and crewmembers of the   , of which   is at present master, or whoever shall go for master, now bound from the port of   to   ,   (here the voyage is to be described, and the places named at which the vessel is to touch, or if that cannot be done, the general nature and probable length of the voyage is to be stated).

The crewmembers agree to conduct themselves in an orderly, faithful, honest, and sober manner, and to be at all times diligent in their respective duties, and to be obedient to the lawful commands of the master, or of an individual who lawfully succeeds the master, and of their superior officers in everything related to the vessel, and the stores and cargo of the vessel, whether on board, in boats, or on shore. In consideration of this service by the crewmembers to be performed, the master agrees to pay the crew, as wages, the amounts beside their names respectively expressed, and to supply them with provisions according to the annexed scale.

It is agreed that any embezzlement, or willful or negligent destruction of any part of the vessel's cargo or stores, shall be made good to the owner out of the wages of the person guilty of the embezzlement or destruction.

If an individual holds himself or herself out as qualified for a duty which the individual proves incompetent to perform, the individual's wages shall be reduced in proportion to the incompetency.

It also is agreed that if a crewmember considers himself or herself to be aggrieved by any breach of this agreement or otherwise, the crewmember shall present the complaint to the master or officer in charge of the vessel, in a quiet and orderly manner, who shall take steps that the case requires.

It also is agreed that (here any other stipulations may be inserted to which the parties agree, and that are not contrary to law).

In witness whereof, the parties have subscribed their names to this agreement, on the dates beside their respective signatures.

Signed by   , master, on the   day of   , nineteen hundred and   .

Signature of crewmember ....

Birthplace ....

Age ....

Height:

Feet ....

Inches ....

Description:

Complexion ....

Hair ....

Wages each month ....

Wages each run ....

Advance wages ....

Amount of monthly payment ....

Time of service:

Months

Days

Hospital money

Whole wages

Wages due

Place and time of entry

Time at which crewmember is to be on board

In what capacity

Shipping commissioner's signature or initials

Allotment payable to

Conduct qualifications

NOTE.—In the place for signature and descriptions of individuals engaged after the first departure of the ship, the entries are to be made as above, except that the signature of the consul or vice consul, officer of customs, or witness before whom the individual is engaged, is to be entered.

§ 10305. Manner of signing agreement

(a) The agreement required by section 10302 of this title shall be signed—

(1) first by the master and dated at that time, after which each seaman shall sign; and

(2) in the presence of a shipping commissioner.

(b) When the crew is first engaged, the agreement shall be signed in duplicate. One of the copies shall be retained by the shipping commissioner. The other copy shall contain space for the description and signatures of seamen engaged subsequent to the first making of the agreement, and shall be delivered to the master.

(c) An agreement signed before a shipping commissioner shall be acknowledged and signed by the commissioner on the agreement in the manner and form prescribed by regulation. The acknowledgment and certification shall include a statement by the commissioner that the seaman—

(1) has read the agreement;

(2) is acquainted with and understands its conditions; and

(3) has signed it freely and voluntarily when sober.

§ 10306. Exhibiting merchant mariners' documents

Before signing the agreement required by section 10302 of this title, each individual required by section 8701 of this title to have a merchant mariner's document shall exhibit to the shipping commissioner a document issued to the individual, appropriately endorsed for the capacity in which the individual is to serve.

§ 10307. Posting agreements

At the beginning of a voyage, the master shall have a legible copy of the agreement required by section 10302 of this title, omitting signatures, exhibited in some part of the vessel accessible to the crew. A master violating this section is liable to the United States Government for a civil penalty of $100.

§ 10308. Foreign shipments

(a) When a seaman is shipping outside the United States, the agreement required by section 10302 of this title shall be signed in the presence of a consular officer. If a consular officer is not available at the port of shipment, the seaman may be engaged, and the agreement shall be signed in the next port at which a consular officer is available.

(b) A master engaging a seaman in violation of this section is liable to the United States Government for a civil penalty of $100. The vessel also is liable in rem for the penalty.

§ 10309. Shipping seamen to replace those lost by desertion or casualty

If a desertion or casualty results in the loss of at least one seaman, the master shall ship, if obtainable, a number equal to the number of seamen of whose services the master has been deprived. The new seaman must have at least the same grade or rating as the seaman whose place the new seaman fills. The master shall report the loss and replacement to a consular officer at the first port at which the master arrives. Failure to report renders the vessel liable in rem to the United States Government for the penalty provided by section 10321 of this title. This section does not apply to a fishing or whaling vessel or a yacht.

§ 10310. Discharge

A master shall deliver to a seaman or to a shipping commissioner, when one is utilized, a full and true account of the seaman's wages and all deductions at least 48 hours before paying off or discharging the seaman. A master failing to deliver the account is liable to the United States Government for a civil penalty of $50.

§ 10311. Certificates of discharge

(a) On discharging a seaman and paying the seaman's wages, the shipping commissioner shall provide the seaman with a certificate of discharge. The form of the certificate shall be prescribed by regulation. It shall contain—

(1) the name of the seaman;

(2) the citizenship or nationality of the seaman;

(3) the number of the seaman's merchant mariner's document;

(4) the name and official number of the vessel;

(5) the nature of the voyage (foreign, intercoastal, or coastwise);

(6) the propulsion class of the vessel;

(7) the date and place of shipment;

(8) the date and place of discharge; and

(9) the seaman's capacity on the voyage.

(b) The certificate of discharge may not contain a reference about the character or ability of the seaman. The certificate shall be signed by the master, the seaman, and the shipping commissioner as witness.

(c) A certificate of discharge may not be issued if the seaman holds a continuous discharge book. The entries shall be made in the discharge book in the same manner as the entries required by subsection (a) of this section.

(d)(1) A record of each discharge shall be maintained by the Secretary in the manner and location prescribed by regulation. The records may not be open for general or public use or inspection.

(2) A duplicate of a record of discharge shall be issued to a seaman at cost as provided by regulation.

(e) This section does not apply to a fishing or whaling vessel or a yacht.

§ 10312. Settlements on discharge

(a) When discharge and settlement are completed, the master or owner and each seaman shall sign the agreement required by section 10302 of this title. When signed, it shall serve as a mutual release of all claims for wages for the voyage.

(b) In a dispute about wages or deductions, if the parties agree in writing to submit the dispute to a shipping commissioner, the award made by the commissioner is conclusive in any subsequent legal proceeding. A document signed and sealed by a shipping commissioner purporting to be the award is prima facie evidence of the award.

(c) In a proceeding before a shipping commissioner related to the wages, claims, or discharge of a seaman, the shipping commissioner may call on the owner or agent of the owner, the master, or a crewmember to produce logbooks or other documents about a matter in question, and may summon before the commissioner and examine any person on the matter. An owner, agent, master, or crewmember failing on summons to produce a document in the possession or control of the owner, agent, master, or crewmember, or to give evidence, without reasonable cause, is liable to the United States Government for a civil penalty of $100. On application of the shipping commissioner, the owner, agent, master, or crewmember may be punished by a district court of the United States as in other cases of contempt of court.

(d) On request, a certified copy of an agreement may be provided to a party to the agreement and is admissible in evidence with the effect of the original in any subsequent proceeding.

(e) When a seaman has been discharged before a shipping commissioner, only the agreement is evidence of the release or satisfaction of any claim.

(f) If a discharge is made under this section, the shipping commissioner, at the request of the master, shall provide the master with a signed statement of the total amount of wages paid. Between the master and the employer, the statement shall be received as evidence that the master has made the payments as stated.

§ 10313. Wages

(a) A seaman's entitlement to wages and provisions begins when the seaman begins work or when specified in the agreement required by section 10302 of this title for the seaman to begin work or be present on board, whichever is earlier.

(b) Wages are not dependent on the earning of freight by the vessel. When the loss or wreck of the vessel ends the service of a seaman before the end of the period contemplated in the agreement, the seaman is entitled to wages for the period of time actually served. The seaman shall be deemed a destitute seaman under section 11104 of this title. This subsection applies to a fishing or whaling vessel but not a yacht.

(c) When a seaman who has signed an agreement is discharged improperly before the beginning of the voyage or before 1 month's wages are earned, without the seaman's consent and without the seaman's fault justifying discharge, the seaman is entitled to receive from the master or owner, in addition to wages earned, 1 month's wages as compensation.

(d) A seaman is not entitled to wages for a period during which the seaman—

(1) unlawfully failed to work when required, after the time fixed by the agreement for the seaman to begin work; or

(2) lawfully was imprisoned for an offense, unless a court hearing the case otherwise directs.

(e) After the beginning of the voyage, a seaman is entitled to receive from the master, on demand, one-half of the balance of wages earned and unpaid at each port at which the vessel loads or delivers cargo during the voyage. A demand may not be made before the expiration of 5 days from the beginning of the voyage, and not more than once in the same port on the same entry. If a master does not comply with this subsection, the seaman is released from the agreement and is entitled to payment of all wages earned. Notwithstanding a release signed by a seaman under section 10312(a) of this title, a court having jurisdiction may set aside, for good cause shown, the release and take action that justice requires. This subsection does not apply to a fishing or whaling vessel or a yacht. However, this subsection applies to a vessel taking oysters.

(f) At the end of a voyage, the master shall pay each seaman the balance of wages due the seaman within 24 hours after the cargo has been discharged or within 4 days after the seaman is discharged, whichever is earlier. When a seaman is discharged and final payment of wages is delayed for the period permitted by this subsection, the seaman is entitled at the time of discharge to one-third of the wages due the seaman.

(g) When payment is not made as provided under subsection (f) of this section without sufficient cause, the master or owner shall pay to the seaman 2 days' wages for each day payment is delayed.

(h) Subsections (f) and (g) of this section do not apply to a vessel on which the seamen are entitled to share in the profit of the voyage, to a fishing or whaling vessel, or to a yacht. However, subsections (f) and (g) apply to a vessel taking oysters.

(i) This section applies to a seaman on a foreign vessel when in harbors of the United States. The courts are available to the seaman for the enforcement of this section.

§ 10314. Advances

(a)(1) A person may not—

(A) pay a seaman wages in advance of the time when the seaman has earned the wages;

(B) pay advance wages of the seaman to another person; or

(C) make to another person an order, note, or other evidence of indebtedness of the wages, or pay another person, for the shipment of seamen when payment is deducted or to be deducted from the seaman's wage.

(2) A person violating this subsection is liable to the United States Government for a civil penalty of not more than $500. A payment made in violation of this subsection does not discharge the vessel or the master from the duty to pay all wages after they have been earned.

(b) A person demanding or receiving from a seaman or an individual seeking employment as a seaman, remuneration for providing the seaman or individual with employment, is liable to the Government for a civil penalty of not more than $500.

(c) This section applies to a foreign vessel when in parts of the United States. A master, owner, or agent of a foreign vessel violating this section is liable to the Government for the same penalty as a master, owner, or agent of a vessel of the United States for the same violation.

(d) The master, owner, or agent of a vessel seeking clearance from a port of the United States shall present the agreement required by section 10302 of this title at the office of clearance. Clearance may be granted to a vessel only if this section has been complied with.

(e) This section does not apply to a fishing or whaling vessel or a yacht. However, this section applies to a vessel taking oysters.

§ 10315. Allotments

(a) Under prescribed regulations, a seaman may stipulate as follows in the agreement required by section 10302 of this title for an allotment of any part of the wages the seaman may earn:

(1) to the seaman's grandparents, parents, spouse, sister, brother, or children;

(2) to an agency designated by the Secretary of the Treasury to handle applications for United States savings bonds, to purchase bonds for the seaman; and

(3) for deposits to be made in an account for savings or investment opened by the seaman and maintained in the seaman's name at a savings bank or a savings institution in which the accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(b) An allotment is valid only if made in writing and signed by and approved by a shipping commissioner. The shipping commissioner shall examine allotments and the parties to them to enforce compliance with the law. Stipulations for allotments made at the beginning of a voyage shall be included in the agreement and shall state the amounts and times of payment and the person to whom payments are to be made.

(c) Only an allotment complying with this section is lawful. A person falsely claiming qualification as an allottee under this section is liable to the United States Government for a civil penalty of not more than $500.

(d) The master, owner, or agent of a vessel seeking clearance from a port of the United States shall present the agreement at the office of clearance. Clearance may be granted to a vessel only if this section has been complied with.

(e) This section applies to a foreign vessel when in waters of the United States. A master, owner, or agent of a foreign vessel violating this section is liable to the Government for the same penalty as a master, owner, or agent of a vessel of the United States for the same violation.

§ 10316. Trusts

Sections 10314 and 10315 of this title do not prevent an employer from making deductions from the wages of a seaman, with the written consent of the seaman, if—

(1) the deductions are paid into a trust fund established only for the benefit of seamen employed by that employer, and the families and dependents of those seamen (or of those seamen, families, and dependents jointly with other seamen employed by other employers, and the families and dependents of the other seamen); and

(2) the payments are held in trust to provide, from principal or interest, or both, any of the following benefits for those seamen and their families and dependents:

(A) medical or hospital care, or both.

(B) pensions on retirement or death of the seaman.

(C) life insurance.

(D) unemployment benefits.

(E) compensation for illness or injuries resulting from occupational activity.

(F) sickness, accident, and disability compensation.

(G) purchasing insurance to provide any of the benefits specified in this section.

§ 10317. Loss of lien and right to wages

A master or seaman by any agreement other than one provided for in this chapter may not forfeit the master's or seaman's lien on the vessel or be deprived of a remedy to which the master or seaman otherwise would be entitled for the recovery of wages. A stipulation in an agreement inconsistent with this chapter, or a stipulation by which a seaman consents to abandon a right to wages if the vessel is lost, or to abandon a right the seaman may have or obtain in the nature of salvage, is void.

§ 10318. Wages on discharge in foreign ports

(a) When a master or seaman applies to a consular officer for the discharge of the seaman, the consular officer shall require the master to pay the seaman's wages if it appears that the seaman has carried out the agreement required by section 10302 of this title or otherwise is entitled to be discharged. Then the consular officer shall discharge the seaman. A consular officer shall require the payment of extra wages only as provided in this section or in chapter 109 of this title.

(b) When discharging a seaman, a consular officer who fails to require the payment of the wages due a seaman at the time, and of the extra wages due under subsection (a) of this section, is accountable to the United States Government for the total amount.

(c) A seaman discharged under this section with the consent of the seaman is entitled to wages up to the time of discharge, but not for any additional period.

(d) If the seaman is discharged involuntarily, and it appears that the discharge was not because of neglect of duty, incompetency, or injury incurred on the vessel, the master shall provide the seaman with employment on a vessel agreed to by the seaman or shall provide the seaman with 1 month's extra wages.

(e) If a seaman is incapacitated by illness or injury and prompt discharge is necessary, but a personal appearance of the master before a consular officer is impracticable, the master may provide transportation to the seaman to the nearest consular officer for discharge. Expenses for the maintenance and return of the ill or injured seaman to the United States shall be paid from the fund for the maintenance and transportation of destitute merchant seamen of the United States.

(f) A deduction from wages of the seaman is permitted only if the deduction appears in the account of the seaman required to be delivered under section 10310 of this title, except for matters arising after delivery of the account, in which case a supplementary account is required. During a voyage, the master shall record in the official logbook the matters about which deductions are to be made with the amounts of the deductions. The entries shall be made as the matters occur. The master shall produce the official logbook at the time of payment of wages, and also before a competent authority on the hearing of any complaint or question about the payment of wages.

§ 10319. Costs of a criminal conviction

In a proceeding about a seaman's wages, if it is shown that the seaman was convicted during the voyage of an offense by a competent tribunal and sentenced by the tribunal, the court hearing the case may direct that a part of the wages due the seaman, but not more than $15, be applied to reimburse the master for costs properly incurred in procuring the conviction and sentence.

§ 10320. Records of seamen

The Secretary may provide by regulation for reporting by a master of matters about the shipment, discharge, or service of seamen that may be needed in keeping central records of seamen.

§ 10321. General penalty

A vessel on which a seaman is carried to sea, in violation of this chapter or a regulation prescribed under this chapter, is liable in rem to the United States Government for a civil penalty of $200 for each seaman carried in violation.

CHAPTER 105—COASTWISE AND NEARBY FOREIGN VOYAGES

Sec.

10501. Application.
10502. Shipping articles agreements.
10503. Exhibiting merchant mariners' documents.
10504. Wages.
10505. Advances.
10506. Trusts.
10507. Discharge in foreign ports.
10508. Shipments by shipping commissioners.
10509. General penalties.
10510. Penalty for failing to begin voyage.

§ 10501. Application

Except for a vessel to which chapter 103 of this title applies, this chapter applies to a vessel of at least 50 gross tons engaged on a voyage—

(1) between a port in one State and a port in another State (except an adjoining State); or

(2) from a port in the United States to Canada, Mexico, or the West Indies.

§ 10502. Shipping articles agreements

(a) Before proceeding on a voyage, the master of a vessel to which this chapter applies shall make a shipping articles agreement in writing with each seaman on board, declaring the nature of the voyage or the period of time for which the seaman is engaged.

(b) The agreement shall include the date and hour on which the seaman must be on board to begin the voyage.

(c) The agreement may not contain a provision on the allotment of wages or a scale of provisions.

§ 10503. Exhibiting merchant mariners' documents

Before signing the agreement required by section 10502 of this title, a seaman required by section 8701 of this title to have a merchant mariner's document shall exhibit to the master a document issued to the seaman and appropriately endorsed for the capacity in which the seaman is to serve.

§ 10504. Wages

(a) After the beginning of a voyage, a seaman is entitled to receive from the master, on demand, one-half of the balance of wages earned and unpaid at each port at which the vessel loads or delivers cargo during the voyage. A demand may not be made before the expiration of 5 days from the beginning of the voyage, not more than once in 5 days, and not more than once in the same port on the same entry. If a master does not comply with this subsection, the seaman is released from the agreement required by section 10502 of this title and is entitled to payment of all wages earned. Notwithstanding a release signed by a seaman under section 10312 of this title, a court having jurisdiction may set aside, for good cause shown, the release and take action that justice requires. This subsection does not apply to a fishing or whaling vessel or a yacht. However, this subsection applies to a vessel taking oysters.

(b) The master shall pay a seaman the balance of wages due the seaman within 2 days after the termination of the agreement required by section 10502 of this title or when the seaman is discharged, whichever is earlier.

(c) When payment is not made as provided under subsection (b) of this section without sufficient cause, the master or owner shall pay to the seaman 2 days' wages for each day payment is delayed.

(d) Subsections (b) and (c) of this section do not apply to a vessel on which the seamen are entitled to share in the profit of the voyage, to a fishing or whaling vessel, or to a yacht. However, subsections (b) and (c) apply to a vessel taking oysters.

(e) This section applies to a seaman on a foreign vessel when in harbors of the United States. The courts are available to the seaman for the enforcement of this section.

§ 10505. Advances

(a)(1) A person may not—

(A) pay a seaman wages in advance of the time when the seaman has earned the wages;

(B) pay advance wages of the seaman to another person; or

(C) make to another person an order, note, or other evidence of indebtedness of the wages, or pay another person, for the shipment of seamen when payment is deducted or to be deducted from the seaman's wage.

(2) A person violating this subsection is liable to the United States Government for a civil penalty of not more than $100. A payment made in violation of this subsection does not discharge the vessel or the master from the duty to pay all wages after they have been earned.

(b) A person demanding or receiving from a seaman or an individual seeking employment as a seaman, remuneration for providing the seaman or individual with employment, is liable to the Government for a civil penalty of not more than $500.

(c) The master, owner, or agent of a vessel seeking clearance from a port of the United States shall present the agreement required by section 10502 of this title at the office of clearance. Clearance may be granted to a vessel only if this section has been complied with.

(d) This section does not apply to a fishing or whaling vessel or a yacht. However, this section applies to a vessel taking oysters.

§ 10506. Trusts

Section 10505 of this title does not prevent an employer from making deductions from the wages of a seaman, with the written consent of the seaman, if—

(1) the deductions are paid into a trust fund established only for the benefit of seamen employed by that employer, and the families and dependents of those seamen (or of those seamen, families, and dependents jointly with other seamen employed by other employers, and the families and dependents of the other seamen); and

(2) the payments are held in trust to provide, from principal or interest, or both, any of the following benefits for those seamen and their families and dependents:

(A) medical or hospital care, or both.

(B) pensions on retirement or death of the seaman.

(C) life insurance.

(D) unemployment benefits.

(E) compensation for illness or injuries resulting from occupational activity.

(F) sickness, accident, and disability compensation.

(G) purchasing insurance to provide any of the benefits specified in this section.

§ 10507. Discharge in foreign ports

When a seaman is discharged in a foreign port, section 10318 of this title applies.

§ 10508. Shipments by shipping commissioners

(a) At the option of the master or owner of a vessel to which this chapter applies, a shipping commissioner may ship and discharge the crew.

(b) When a crew is shipped under this section, sections 10302, 10303, 10305, 10307, 10311, 10312, 10313(b)-(f), 10321, and chapter 107 of this title apply.

§ 10509. General penalties

(a) A master who carries a seaman on a voyage without first making the agreement required by section 10502 of this title shall pay to the seaman the highest wage that was paid for a similar voyage within the 3 months before the time of shipment at the port or place at which the seaman was shipped. A seaman who has not signed an agreement is not bound by the applicable regulations, penalties, or forfeitures.

(b) A master engaging a seaman in violation of this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of $20. The vessel also is liable in rem for the penalty.

§ 10510. Penalty for failing to begin voyage

(a) A seaman who fails to be on board at the time contained in the agreement required by section 10502 of this title, without having given 24 hours' notice of inability to do so, shall forfeit, for each hour's lateness, one-half of one day's pay to be deducted from the seaman's wages if the lateness is recorded in the official logbook on the date of the violation.

(b) A seaman who does not report at all or subsequently deserts forfeits all wages.

(c) This section does not apply to a fishing or whaling vessel or a yacht.

CHAPTER 107—EFFECTS OF DECEASED SEAMEN

Sec.

10701. Application.
10702. Duties of masters.
10703. Procedures of masters.
10704. Duties of consular officers.
10705. Disposition of money, property, and wages by consular officers.
10706. Seamen dying in the United States.
10707. Delivery to district court.
10708. Sale of property.
10709. Distribution.
10710. Unclaimed money, property, and wages.
10711. Penalties.

§ 10701. Application

(a) Except as otherwise specifically provided, this chapter applies to a vessel engaged on a voyage between—

(1) a port of the United States and a port in a foreign country (except a port in Canada, Mexico, and the West Indies); and

(2) a port of the United States on the Atlantic Ocean and a port of the United States on the Pacific Ocean.

(b) This chapter does not apply to a vessel on which a seaman by custom or agreement is entitled to share in the profit or result of a voyage.

(c) This chapter does not apply to a foreign vessel.

§ 10702. Duties of masters

(a) When a seaman dies during a voyage, the master shall take charge of the seaman's money and property. An entry shall be made in the official logbook, signed by the master, the chief mate, and an unlicensed crewmember containing an inventory of the money and property and a statement of the wages due the seaman, with the total of the deductions to be made.

(b) On compliance with this chapter, the master shall obtain a written certificate of compliance from a shipping commissioner. Clearance may be granted to a foreign-bound vessel only when the certificate is received at the office of customs.

§ 10703. Procedures of masters

(a) If the vessel is proceeding to the United States when a seaman dies, the master shall deliver the seaman's money, property, and wages when the agreement required by this part is ended, as provided by regulations prescribed by the Secretary.

(b) If the vessel touches at a foreign port after the death of the seaman, the master shall report to the first available consular officer. The consular officer may require the master to deliver to the officer the money, property, and wages of the seaman. The consular officer shall give the master a receipt for the matters delivered and certify on the agreement the particulars of the delivery. When the agreement ends, the master shall deliver the receipt as prescribed by regulations.

(c) If the consular officer does not require the master to deliver the seaman's money, property, and wages, the officer shall so certify on the agreement, and the master shall dispose of the money, property, and wages as provided under subsection (a) of this section.

(d) A deduction from the account of a deceased seaman is valid only if certified by a proper entry in the official logbook.

§ 10704. Duties of consular officers

When a seaman dies outside the United States leaving money or property not on board a vessel, the consular officer nearest the place at which the money and property is located shall claim and take charge of it.

§ 10705. Disposition of money, property, and wages by consular officers

When property of a deceased seaman comes into possession of a consular officer, the officer may—

(1) sell the property and remit the proceeds and other money or wages of the seaman the officer has received, to the district court of the United States for the district in which the seaman was employed; or

(2) deliver the money, property, and wages to the district court.

§ 10706. Seamen dying in the United States

When a seaman dies in the United States and is entitled at death to claim money, property, or wages from the master or owner of a vessel on which the seaman served, the master or owner shall deliver the money, property, and wages as provided by regulations prescribed by the Secretary.

§ 10707. Delivery to district court

The Secretary shall provide for the delivery to a district court of the United States of the money, property, and wages of a deceased seaman within 1 week from the date of receipt.

§ 10708. Sale of property

A district court of the United States may direct the sale of any part of the property of a deceased seaman. Proceeds of the sale shall be held as wages of the seaman are held.

§ 10709. Distribution

(a)(1) If the money, property, and wages of a seaman, including proceeds from the sale of property, are not more then $1,500 in value, and subject to deductions it allows for expenses and at least 60 days after receiving the money, property, and wages, the court may deliver the money, property, and wages to a claimant proving to be—

(A) the seaman's surviving spouse or child;

(B) entitled to the money, property, and wages under the seaman's will or under a law or at common law; or

(C) entitled to secure probate, or take out letters of administration, although no probate or letters of administration have been issued.

(2) The court is discharged from further liability for the money, property, and wages distributed under paragraph (1) of this subsection.

(3) Instead of acting under paragraphs (1) and (2) of this subsection, the court may require probate or letters of administration to be taken out, and then deliver the money, property, and wages to the legal representative of the seaman.

(b) If the money, property, and wages are more than $1,500 in value, the court, subject to deductions for expenses, shall deliver the money, property, and wages to the legal representative of the seaman.

§ 10710. Unclaimed money, property, and wages

(a) When a claim for the money, property, or wages of a deceased seaman held by a district court of the United States has not been substantiated within 6 years after their receipt by the court, the court, if a subsequent claim is made, may allow or refuse it.

(b) If, after money, property, and wages have been held by the court for 6 years, it appears to the court that no claim will have to be satisfied, the property shall be sold. The money and wages and the proceeds from the sale shall be deposited to the Treasury in a fund established, and the amounts deposited are appropriated, for the relief of sick, disabled, and destitute merchant seamen of the United States.

§ 10711. Penalties

(a) A master violating this chapter is liable to the United States Government for a civil penalty of 3 times the value of the seaman's money, property, and wages involved or, if the value is not determined, of $200.

(b) The owner of a vessel whose master violates this chapter is liable to the Government for a civil penalty in the same amount as the master.

CHAPTER 109—PROCEEDINGS ON UNSEAWORTHINESS

Sec.
10901. Application.
10902. Complaints of unfitness.
10903. Proceedings on examination of vessel.
10904. Refusal to proceed.
10905. Complaints in foreign ports.
10906. Discharge of crew for unsuitability.
10907. Permission to make complaint.
10908. Penalty for sending unseaworthy vessel to sea.

§ 10901. Application

This chapter applies to a vessel of the United States except a fishing or whaling vessel or a yacht.

§ 10902. Complaints of unfitness

(a)(1) If the chief and second mates or a majority of the crew of a vessel ready to begin a voyage discover, before the vessel leaves harbor, that the vessel is unfit as to crew, hull, equipment, tackle, machinery, apparel, furniture, provisions of food or water, or stores to proceed on the intended voyage and require the unfitness to be inquired into, the master immediately shall apply to the district court of the United States at the place at which the vessel is located, or, if no court is being held at the place at which the vessel is located, to a judge or justice of the peace, for the appointment of surveyors. At least two complaining crewmembers shall accompany the master to the judge or justice of the peace.

(2) A master failing to comply with this subsection is liable to the United States Government for a civil penalty of $500.

(b)(1) Any three crewmembers of a vessel may complain that the provisions of food or water for the crew are, at any time, of bad quality, unfit for use, or deficient in quantity. The complaint may be made to the commanding officer of a United States naval vessel, consular officer, Coast Guard shipping commissioner, or chief officer of the Customs Service.

(2) The officer or commissioner shall examine, or have examined, the provisions of food or water. If the provisions are found to be of bad quality, unfit for use, or deficient in quantity, the person making the findings shall certify to the master of the vessel which provisions are of bad quality, unfit for use, or deficient.

(3) The officer or commissioner to whom the complaint was made shall—

(A) make an entry in the official logbook of the vessel on the results of the examination; and

(B) submit a report on the examination to the district court of the United States at which the vessel is to arrive, with the report being admissible into evidence in any legal proceeding.

(4) The master is liable to the Government for a civil penalty of not more than $100 each time the master, on receiving the certification referred to in paragraph (2) of this subsection—

(A) does not provide other proper provisions of food or water, when available, in place of the provisions certified as of bad quality or unfit for use;

(B) does not obtain sufficient provisions when the certification includes a finding of a deficiency in quantity; or

(C) uses provisions certified to be of bad quality or unfit for use.

§ 10903. Proceedings on examination of vessel

(a) On application made under section 10902(a) of this title, the judge or justice of the peace shall appoint three experienced and skilled marine surveyors to examine the vessel for the defects or insufficiencies complained of. The surveyors have the authority to receive and consider evidence necessary to evaluate the complaint. When the complaint involves provisions of food or water, one of the surveyors shall be a medical officer of the Public Health Service, if available. The surveyors shall make a report in writing, signed by at least two of them, stating whether the vessel is fit to proceed to sea or, if not, in what respect it is unfit, making appropriate recommendations about additional crewmembers, provisions, or stores, or about physical repairs, alterations, or additions necessary to make the vessel fit.

(b) On receiving the report, the judge or justice of the peace shall endorse on the report the judgment of the judge or justice on whether the vessel is fit to proceed on the voyage, and, if not, whether the vessel may proceed to another port at which the deficiencies can be corrected. The master and the crew shall comply with the judgment.

(c) The master shall pay all costs of the survey, report, and judgment. However, if the complaint of the crew appears in the report and judgment to have been without foundation, or if the complaint involved provisions of food or water, without reasonable grounds, the master or owner may deduct the amount of the costs and reasonable damages for the detention of the vessel, as determined by the judge or justice of the peace, from the wages of the complaining seamen.

(d) A master of a vessel violating this section who refuses to pay the costs and wages is liable to the United States Government for a civil penalty of $100 and is liable in damages to each person injured by the refusal.

§ 10904. Refusal to proceed

After a judgment under section 10903 of this title that a vessel is fit to proceed on the intended voyage, or after the order of a judgment to make up deficiencies is complied with, if a seaman does not proceed on the voyage, the unpaid wages of the seaman are forfeited.

§ 10905. Complaints in foreign ports

(a) When a complaint under section 10902(a) of this title is made in a foreign port, the procedures of this chapter shall be followed, with a consular officer performing the duties of the judge or justice of the peace.

(b) On review of the marine surveyors' report, the consular officer may approve and must certify any part of the report with which the officer agrees. If the consular officer dissents from any part of the report, the officer shall certify reasons for dissenting from that part.

§ 10906. Discharge of crew for unsuitability

When a survey is made at a foreign port, the surveyors shall state in the report whether, in their opinion, the vessel had been sent to sea unsuitably provided in any important particular, by neglect or design or through mistake or accident. If by neglect or design, and the consular officer approves the finding, the officer shall discharge a crewmember requesting discharge and shall require the master to pay 1 month's wages to that crewmember in addition to wages then due, or sufficient money for the return of the crewmember to the nearest and most convenient port of the United States, whichever is the greater amount.

§ 10907. Permission to make complaint

(a) A master may not refuse to permit, deny the opportunity to, or hinder a seaman who wishes to make a complaint authorized by this chapter.

(b) A master violating this section is liable to the United States Government for civil penalty of $500.

§ 10908. Penalty for sending unseaworthy vessel to sea

A person sending or attempting to send, or that is a party to sending or attempting to send, a vessel of the United States to sea, in an unseaworthy state that is likely to endanger the life of an individual, shall be fined not more than $1,000, imprisoned for not more than 5 years, or both.

CHAPTER 111—PROTECTION AND RELIEF

Sec.
11101. Accommodations for seamen.
11102. Medicine chests.
11103. Slop chests.
11104. Destitute seamen.
11105. Wages on discharge when vessel sold.
11106. Wages on justifiable complaint of seamen.
11107. Unlawful shipments void.
11108. Taxes.
11109. Attachment of wages.
11110. Seamen's clothing.
11111. Limit of amount recoverable on voyage.

§ 11101. Accommodations for seamen

(a) On a merchant vessel of the United States the construction of which began after March 4, 1915 (except a yacht, pilot boat, or vessel of less than 100 gross tons)—

(1) each place appropriated to the crew of the vessel shall have a space of at least 120 cubic feet and at least 16 square feet, measured on the floor or deck of that place, for each seaman or apprentice lodged in the vessel;

(2) each seaman shall have a separate berth and not more than one berth shall be placed one above another;

(3) the place or berth shall be securely constructed, properly lighted, drained, heated, and ventilated, properly protected from weather and sea, and, as far as practicable, properly shut off and protected from the effluvium of cargo or bilge water; and

(4) crew space shall be kept free from goods or stores that are not the personal property of the crew occupying the place in use during the voyage.

(b) In addition to the requirements of subsection (a) of this section, a merchant vessel of the United States that in the ordinary course of trade makes a voyage of more than 3 days' duration between ports and carries a crew of at least 12 seamen shall have a hospital compartment, suitably separated from other spaces. The compartment shall have at least 1 bunk for each 12 seamen constituting the crew (but not more than 6 bunks may be required).

(c) A steam vessel of the United States operating on the Mississippi River or its tributaries shall provide, under the direction and approval of the Secretary, an appropriate place for the crew that shall conform to the requirements of this section, as far as they apply to the steam vessel, by providing a properly heated sleeping room in the engine-room of the steam vessel properly protected from the cold, wind, and rain by means of suitable awnings or screens on either side of the guards or sides and forward, reaching from the boiler deck to the lower or main deck.

(d) A merchant vessel of the United States, the construction of which began after March 4, 1915, having more than 10 seamen on deck, shall have at least 1 light, clean, and properly heated and ventilated washing place. There shall be provided at least 1 washing outfit for each 2 seamen of the watch. A separate washing place shall be provided for the fireroom and engine-room crewmembers, if their number is more than 10, that shall be large enough to accommodate at least one-sixth of them at the same time, and have a hot and cold water supply and a sufficient number of washbasins, sinks, and shower baths.

(e) Forecastles shall be fumigated at intervals provided by regulations prescribed by the Secretary of Health and Human Services, with the approval of the Secretary, and shall have at least two exits, one of which may be used in emergencies.

(f) The owner, master, or other licensed officer of a vessel not complying with this section is liable to the United States Government for a civil penalty of at least $50 but not more than $500.

§ 11102. Medicine chests

(a) A vessel of the United States engaged on a voyage from a port in the United States to a foreign port (except to a Canadian port), and a vessel of the United States of at least 75 gross tons engaged on a voyage between a port of the United States on the Atlantic Ocean and Pacific Ocean, shall be provided with a medicine chest.

(b) The owner and master of a vessel not equipped as required by subsection (a) of this section or a regulation prescribed under subsection (a) are liable to the United States Government for a civil penalty of $500. If the offense was due to the fault of the owner, a master penalized under this section has the right to recover the penalty and costs from the owner.

§ 11103. Slop chests

(a) A vessel to which section 11102 of this title applies shall be provided with a slop chest containing sufficient clothing for the intended voyage for each seaman, including—

(1) boots or shoes;

(2) hats or caps;

(3) underclothing;

(4) outer clothing;

(5) foul weather clothing;

(6) everything necessary for the wear of a seaman; and

(7) a complete supply of tobacco and blankets.

(b) Merchandise in the slop chest shall be sold to a seaman desiring it, for the use of the seaman, at a profit of not more than 10 percent of the reasonable wholesale value of the merchandise at the port at which the voyage began.

(c) This section does not apply to a vessel engaged on a voyage to Canada, Bermuda, the West Indies, Mexico, or Central America, or a vessel engaged in whaling or fishing.

§ 11104. Destitute seamen

(a) A consular officer shall provide, for a destitute seaman of the United States, subsistence and passage to a port of the United States in the most reasonable manner, at the expense of the United States Government and subject to regulations prescribed by the Secretary of State. A seaman, if able, shall be required to perform duties on the vessel giving the seaman passage, in accordance with the seaman's rating.

(b) A master of a vessel of the United States bound to a port of the United States shall take a destitute seaman on board at the request of a consular officer and transport the seaman to the United States. A master refusing to transport a destitute seaman when requested is liable to the United States Government for a civil penalty of $100. The certificate signed and sealed by a consular officer is prima facie evidence of refusal. A master is not required to carry a destitute seaman if the seaman's presence would cause the number of individuals on board to exceed the number permitted in the certificate of inspection or if the seaman has a contagious disease.

(c) Compensation for the transportation of destitute seamen to the United States who are unable to work shall be agreed on by the master and the consular officer, under regulations prescribed by the Secretary of State. However, the compensation may be not more the lowest passenger rate of the vessel, or 2 cents a mile, whichever is less.

(d) When a master of a vessel of the United States takes on board a destitute seaman unable to work, from a port or place not having a consular officer, for transportation to the United States or to a port at which there is a consular officer, the master or owner of the vessel shall be compensated reasonably under regulations prescribed by the Secretary of State.

§ 11105. Wages on discharge when vessel sold

(a) When a vessel of the United States is sold in a foreign country, the master shall deliver to the consular officer a certified crew list and the agreement required by this part. The master shall pay each seaman the wages due the seaman and provide the seaman with employment on board another vessel of the United States bound for the port of original shipment of the seaman or to another port agreed on. If employment cannot be provided, the master shall—

(1) provide the seaman with the means to return to the port of original shipment;

(2) provide the seaman passage to the port of original shipment; or

(3) deposit with the consular officer an amount of money considered sufficient by the officer to provide the seaman with maintenance and passage home.

(b) The consular officer shall endorse on the agreement the particulars of the payment, provision, or deposit made under this section.

(c) An owner of a vessel is liable to the United States Government for a civil penalty of $500 if the master does not comply with this section.

§ 11106. Wages on justifiable complaint of seamen

(a) Before a seaman on a vessel of the United States is discharged in a foreign country by a consular officer on the seaman's complaint that the agreement required by this part has been breached because the vessel is badly provisioned or unseaworthy, or against the officers for cruel treatment, the officer shall inquire about the complaint. If satisfied of the justice of the complaint, the consular officer shall require the master to pay the wages due the seaman plus one month's additional wages and shall discharge the seaman. The master shall provide the seaman with employment on another vessel or provide the seaman with passage on another vessel to the port of original shipment, to the most convenient port of the United States, or to some port agreeable to the seaman.

(b) When a vessel does not have sufficient provisions for the intended voyage, and the seaman has been forced to accept a reduced ration or provisions that are bad in quality or unfit for use, the seaman is entitled to recover from the master or owner an allowance, as additional wages, that the court hearing the case considers reasonable.

(c) Subsection (b) of this section does not apply when the reduction in rations was for a period during which the seaman willfully and without sufficient cause failed to perform duties or was lawfully under confinement on board or on shore for misconduct, unless that reduction can be shown to have been unreasonable.

(d) Subsection (b) of this section does not apply to a fishing or whaling vessel or a yacht.

§ 11107. Unlawful shipments void

A shipment of a seaman contrary to a law of the United States is void. A seaman so shipped may leave the service of the vessel at any time and is entitled to recover the highest rate of wages at the port from which the seaman shipped or the amount agreed to be given the seaman at the time of shipment, whichever is higher.

§ 11108. Taxes

Wages due or accruing to a master, officer, or other seaman who is a crewmember on a vessel engaged in the foreign, coastwise, intercoastal, interstate, or noncontiguous trade or a fisherman employed on a fishing vessel may not be withheld under the tax laws of a State or a subdivision of a State. However, this section does not prohibit withholding, for payment of taxes of any State, of a part of the wages of a seaman employed in the coastwise trade between ports in the same State if the withholding is under a voluntary agreement between the seaman and the employer of the seaman.

§ 11109. Attachment of wages

(a) Wages due or accruing to a master or seaman are not subject to attachment or arrestment from any court, except for an order of a court about the payment by a master or seaman of any part of the master's or seaman's wages for the support and maintenance of the spouse or minor children of the master or seaman, or both. A payment of wages to a master or seaman is valid, notwithstanding any prior sale or assignment of wages or any attachment, encumbrance, or arrestment of the wages.

(b) An assignment or sale of wages or salvage made before the payment of wages does not bind the party making it, except allotments authorized by section 10315 of this title.

(c) This section applies to a fisherman on a fishing vessel.

§ 11110. Seamen's clothing

The clothing of a seaman is exempt from attachments and liens. A person detaining a seaman's clothing shall be fined not more than $500, imprisoned for not more than 6 months, or both.

§ 11111. Limit of amount recoverable on voyage

When a seaman is engaged on a voyage on which a written agreement is required under this part, not more than $1 is recoverable from the seaman by a person for a debt incurred by the seaman during the voyage for which the seaman is signed on until the voyage is ended.

CHAPTER 113—OFFICIAL LOGBOOKS

Sec.
11301. Logbook and entry requirements.
11302. Manner of making entries.
11303. Penalties.

§ 11301. Logbook and entry requirements

(a) A vessel of the United States engaged on a voyage between a port in the United States and a port in a foreign country, and a vessel of the United States of at least 75 gross tons engaged on a voyage between a port of the United States on the Atlantic Ocean and a port of the United States on the Pacific Ocean, shall have an official logbook.

(b) The master of the vessel shall make or have made in the official logbook the following entries:

(1) each legal conviction of a crewmember and the punishment inflicted.

(2) each offense committed by a crewmember for which it is intended to prosecute or to enforce under a forfeiture, together with statements about reading the entry and the reply made to the charge as required by section 11502 of this title.

(3) each offense for which punishment is inflicted on board and the punishment inflicted.

(4) a statement of the conduct, character, and qualifications of each crewmember or a statement that the master declines to give an opinion about that conduct, character, and qualifications.

(5) each illness of or injury to a crewmember, the nature of the illness or injury, and the medical treatment.

(6) each death on board, with the cause of death, and if a crewmember, the information required by section 10702 of this title.

(7) each birth on board, with the sex of the infant and name of the parents.

(8) each marriage on board, with the names and ages of the parties.

(9) the name of each seaman who ceases to be a crewmember (except by death), with the place, time, manner, and the cause why the seaman ceased to be a crewmember.

(10) the wages due to a seaman who dies during the voyage and the gross amount of all deductions to be made from the wages.

(11) the sale of the property of a seaman who dies during the voyage, including a statement of each article sold and the amount received for the property.

(12) when a marine casualty occurs, a statement about the casualty and the circumstances under which it occurred, made immediately after the casualty when practicable to do so.

§ 11302. Manner of making entries

Each entry made in the official logbook—

(1) shall be made as soon as possible after the occurrence;

(2) if not made on the day of the occurrence, shall be dated and state the date of the occurrence;

(3) if the entry is about an occurrence happening before the vessel's arrival at the final port of discharge, shall be made not later than 24 hours after the arrival;

(4) shall be signed by the master; and

(5) shall be signed by the chief mate or another crewmember.

§ 11303. Penalties

(a) A master failing to maintain an official logbook as required by this part is liable to the United States Government for a civil penalty of $200.

(b) A master failing to make an entry in the vessel's official logbook as required by this part is liable to the Government for a civil penalty of $200.

(c) A person is liable to the Government for a civil penalty of $150 when the person makes, procures to be made, or assists in making, an entry in the vessel's official logbook—

(1) later than 24 hours after the vessel's arrival at the final port of discharge; and

(2) that is about an occurrence that happened before that arrival.

CHAPTER 115—OFFENSES AND PENALTIES

Sec.
11501. Penalties for specified offenses.
11502. Entry of offenses in logbook.
11503. Duties of consular officers related to insubordination.
11504. Enforcement of forfeitures.
11505. Disposal of forfeitures.
11506. Carrying sheath knives.
11507. Surrender of offending officers.

§ 11501. Penalties for specified offenses

When a seaman lawfully engaged commits any of the following offenses, the seaman shall be punished as specified:

(1) For desertion, the seaman forfeits any part of the money or property the seaman leaves on board and any part of earned wages.

(2) For neglecting or refusing without reasonable cause to join the seaman's vessel or to proceed to sea in the vessel, for absence without leave within 24 hours of the vessel's sailing from a port (at the beginning or

during the voyage), or for absence without leave from duties and without sufficient reason, the seaman forfeits from the seaman's wages not more than 2 days' pay or a sufficient amount to defray expenses incurred in hiring a substitute.

(3) For quitting the vessel without leave after the vessel's arrival at the port of delivery and before the vessel is placed in security, the seaman forfeits from the seaman's wages not more than 1 month's pay.

(4) For willful disobedience to a lawful command at sea, the seaman, at the discretion of the master, may be confined until the disobedience ends, and on arrival in port forfeits from the seaman's wages not more than 4 days' pay or, at the discretion of the court, may be imprisoned for not more than 1 month.

(5) For continued willful disobedience to lawful command or continued willful neglect of duty at sea, the seaman, at the discretion of the master, may be confined, on water and 1,000 calories, with full rations every 5th day, until the disobedience ends, and on arrival in port forfeits, for each 24 hours' continuance of the disobedience or neglect, not more than 12 days' pay or, at the discretion of the court, may be imprisoned for not more than 3 months.

(6) For assaulting a master, mate, pilot, engineer, or staff officer, the seaman shall be imprisoned for not more than 2 years.

(7) For willfully damaging the vessel, or embezzling or willfully damaging any of the stores or cargo, the seaman forfeits from the seaman's wages the amount of the loss sustained and, at the discretion of the court, may be imprisoned for not more than 12 months.

(8) For smuggling for which a seaman is convicted causing loss or damage to the master or owner, the seaman is liable to the master or owner for the loss or damage, and any part of the seaman's wages may be retained to satisfy the liability. The seaman also may be imprisoned for not more than 12 months.

§ 11502. Entry of offenses in logbook

(a) When an offense listed in section 11501 of this title is committed, an entry shall be made in the vessel's official logbook—

(1) on the day of the offense;

(2) stating the details;

(3) signed by the master; and

(4) signed by the chief mate or another crewmember.

(b) Before arrival in port if the offense was committed at sea, or before departure if the offense was committed in port and the offender is still on the vessel—

(1) the entry shall be read to the offender;

(2) the offender shall be given a copy; and

(3) the offender shall be given the opportunity to reply.

(c) After subsection (b) of this section has been complied with, an entry shall be made in the official logbook—

(1) stating that the entry about the offense was read and a copy provided to the offender;

(2) stating the offender's reply;

(3) signed by the master; and

(4) signed by the chief mate or another crewmember.

(d) In a subsequent legal proceeding, if the entries required by this section are not produced or proved, the court may refuse to receive evidence of the offense.

§ 11503. Duties of consular officers related to insubordination

(a) A consular officer shall use every means to discountenance insubordination on vessels of the United States, including employing the aid of local authorities.

(b) When a seaman is accused of insubordination, a consular officer shall inquire into the facts and proceed as provided in section 11106 of this title. If the consular officer discharges the seaman, the officer shall endorse the agreement required by this part and enter in the vessel's official logbook the cause and particulars of the discharge.

§ 11504. Enforcement of forfeitures

When an offense by a seaman also is a criminal violation, it is not necessary that a criminal proceeding be brought to enforce a forfeiture.

§ 11505. Disposal of forfeitures

Money, property, and wages forfeited under this chapter for desertion may be applied to compensate the master or owner of the vessel for expenses caused by the desertion. The balance shall be paid when the voyage is completed, as prescribed by the Secretary. Within 1 month, the Secretary shall pay to the appropriate district court of the United States the balance of the wages received. If it appears to the district court that the forfeiture was imposed properly, the property may be sold in the same manner prescribed for the disposition of the property of deceased seamen. The proceeds of the sale and the balance of money and wages shall be paid by the court to the fund referred to in section 10710(b) of this title. When a master or owner fails to pay the balance of wages due, the owner or master is liable to the United States Government for a civil penalty of 2 times the amount of the wages due, recoverable by the Secretary in the same manner that a seaman's wages are recovered.

§ 11506. Carrying sheath knives

A seaman in the merchant marine may not wear a sheath knife on board a vessel without the consent of the master. The master of a vessel of the United States shall inform each seaman of this prohibition before shipment. A master failing to advise a seaman is liable to the United States Government for a civil penalty of $50.

§ 11507. Surrender of offending officers

When an officer of a vessel of the United States (except the master) has violated section 2191 of title 18, and the master has actual knowledge of the offense or if complaint is made within 3 days after reaching port, the master shall surrender the offending officer to the proper authorities. If the master fails to comply with this section and the offender escapes, the master, the owner, and the vessel are liable for damages to the individual unlawfully punished.

PART H—IDENTIFICATION OF VESSELS

CHAPTER 121—DOCUMENTATION OF VESSELS

Sec.

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§ 12101. Definitions

In this chapter—

(1) "documented vessel" means a vessel for which a certificate of documentation has been issued under this chapter.

(2) "fisheries" includes planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation at a place in the fishery conservation zone established by section 101 of the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811).

(3) "undocumented" means not having and not being required to have a document issued under this chapter.

§ 12102. Related terms in other laws

When used in a law, regulation, document ruling, or other offical act referring to the documentation of a vessel—

(1) "certificate of registry", "register", and "registry" mean a registry as provided in section 12110 of this title.

(2) "license", "enrollment and license", "license for the coastwise (or coasting) trade", and "enrollment and license for the coastwise (or coasting) trade" mean a coastwise license as provided in section 12111 of this title.

(3) "enrollment and license to engage in the foreign and coastwise (or coasting) trade on the northern, northeastern, and northwestern frontiers, otherwise than by sea" means a Great Lakes license as provided in section 12112 of this title.

(4) "license for the fisheries" and "enrollment and license for the fisheries" mean a fishery license as provided in section 12113 of this title.

(5) "yacht" means a pleasure vessel even if not documented.

§ 12103. Ports of documentation

The Secretary shall designate ports of documentation in the United States at which vessels may be documented and instruments affecting title to, or interest in, documented vessels may be recorded. The Secretary—

(1) shall specify the geographic area to be served by each designated port; and

(2) may discontinue, relocate, or designate additional ports of documentation.

§ 12104. Vessels eligible for documentation

A vessel of at least 5 net tons not registered under the laws of a foreign country is eligible for documentation if the vessel is owned by—

(1) an individual who is a citizen of the United States;

(2) an association, trust, joint venture, or other entity—

(A) all of whose members are citizens of the United States; and

(B) that is capable of holding title to a vessel under the laws of the United States or of a State;

(3) a partnership whose general partners are citizens of the United States, and the controlling interest in the partnership is owned by citizens of the United States;

(4) a corporation established under the laws of the United States or of a State, whose president or other chief executive officer and chairman of its board of directors are citizens of the United States and no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum;

(5) the United States Government; or

(6) the government of a State.

§ 12105. Home ports

(a) The port of documentation selected by an owner of a vessel and approved by the Secretary for the documentation of the vessel is the vessel's home port.

(b) Once a vessel's home port is established, it may not be changed without the approval of the Secretary.

§ 12106. Names of vessels

(a) The name of the vessel selected by the owner and approved by the Secretary for the documentation of the vessel is the vessel's name of record.

(b) Once a vessel's name of record is established, it may not be changed without the approval of the Secretary.

(c) The Secretary may prescribe by regulation a reasonable fee for changing a documented vessel's name of record.

§ 12107. Certificates of documentation

(a) On application by the owner of a vessel eligible for documentation, the Secretary shall issue a certificate of documentation of one of the types specified in sections 12110–12114 of this title.

(b) The Secretary may prescribe the form of, the manner of filing, and the information to be contained in, applications for certificates of documentation.

(c) Each certificate of documentation shall—

(1) contain the name, the home port, and a description of the vessel;

(2) identify the owner of the vessel; and

(3) contain additional information prescribed by the Secretary.

(d) The Secretary shall prescribe procedures to ensure the integrity of, and the accuracy of information contained in, certificates of documentation.

(e) The owner and master of a documented vessel shall make the vessel's certificate of documentation available for examination as the law or Secretary may require.

§ 12108. Numbers, signal letters, and identification markings

(a) The Secretary shall maintain a numbering system for the identification of a documented vessel and shall assign a number to each documented vessel.

(b) The Secretary may maintain a system of signal letters for a documented vessel.

(c) The owner of a documented vessel shall affix to the vessel and maintain in the manner prescribed by the Secretary the number assigned and any other identification markings the Secretary may require.

§ 12109. Purpose of documentation

A certificate of documentation is—

(1) conclusive evidence of nationality for international purposes, but not in a proceeding conducted under the laws of the United States;

(2) except for a pleasure vessel license, conclusive evidence of qualification to be employed in a specified trade; and

(3) not conclusive evidence of ownership in a proceeding in which ownership is in issue.

§ 12110. Registry

(a) A registry may be issued for a vessel eligible for documentation.

(b) A vessel for which a registry is issued may be employed in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

(c) On application of the owner of a vessel that qualifies for a coastwise license under section 12111 of this title, a Great Lakes license under section 12112 of this title, or a fishery license under section 12113 of this title, the Secretary may issue a registry appropriately endorsed authorizing the vessel to be employed in the coastwise trade, the Great Lakes trade, or the fisheries, as the case may be.

(d) Except as provided in sections 12111–12113 of this title, a foreign built vessel registered under this section may not engage in the coastwise trade, the Great Lakes trade, or the fisheries.

§ 12111. Coastwise licenses and registry

(a) A coastwise license or, as provided in section 12110(c) of this title, an appropriately endorsed registry, may be issued for a vessel that—

(1) is eligible for documentation;

(2)(A) was built in the United States; or

(B) if not built in the United States, was captured in war by citizens of the United States and lawfully condemned as prize, was adjudged to be forfeited for a breach of the laws of the United States, or qualified for documentation under section 4136 of the Revised Statutes (46 App. U.S.C. 14); and

(3) otherwise qualifies under laws of the United States to be employed in the coastwise trade.

(b) Subject to the laws of the United States regulating the coastwise trade and the fisheries, only a vessel for which a coastwise license or an appropriately endorsed registry is issued may be employed in—

(1) the coastwise trade; and

(2) the fisheries.

§ 12112. Great Lakes licenses and registry

(a) A Great Lakes license or, as provided in section 12110(c) of this title, an appropriately endorsed registry, may be issued for a vessel that—

(1) is eligible for documentation;

(2)(A) was built in the United States; or

(B) if not built in the United States, was captured in war by citizens of the United States and lawfully condemned as prize, was adjudged to be forfeited for a breach of the laws of the United States, or qualified for documentation under section 4136 of the Revised Statutes (46 App. U.S.C. 14); and

(3) otherwise qualifies under the laws of the United States to be employed in the coastwise trade.

(b) Subject to the laws of the United States regulating the coastwise trade, trade with Canada, and the fisheries, only a vessel for which a Great Lakes license or an appropriately endorsed registry is issued may be employed on the Great Lakes and their tributary and connecting waters in—

(1) the coastwise trade;

(2) trade with Canada; and

(3) the fisheries.

§ 12113. Fishery licenses and registry

(a) A fishery license or, as provided in section 12110(c) of this title, an appropriately endorsed registry, may be issued for a vessel that—

(1) is eligible for documentation; and

(2)(A) was built in the United States; or

(B) if not built in the United States, was captured in war by citizens of the United States and lawfully condemned as prize, was adjudged to be forfeited for a breach of the laws of the United States, or qualified for documentation under section 4136 of the Revised Statutes (46 App. U.S.C. 14); and

(3) otherwise qualifies under the laws of the United States to be employed in the fisheries.

(b) Subject to the laws of the United States regulating the fisheries, only a vessel for which a fishery license or an appropriately endorsed registry is issued may be employed in that trade.

§ 12114. Pleasure vessel licenses

(a) A pleasure vessel license may be issued for a vessel that is—

(1) eligible for documentation; and

(2) to be used only for pleasure.

(b) A licensed pleasure vessel may proceed between a port of the United States and a port of a foreign country without entering or clearing with the Customs Service.

(c) The Secretary may prescribe by regulation reasonable fees for issuing, renewing, or replacing a pleasure vessel license, or for providing any other service related to a pleasure vessel license. The fees shall be based on the costs of the service provided.

§ 12115. Limitations on uses authorized by certificates

(a) A vessel may not be employed in a trade except a trade covered by the certificate of documentation issued for that vessel. A documented pleasure vessel may be used only for pleasure. However, a certificate of documentation may be exchanged, under regulations prescribed by the Secretary, for another type of certificate of documentation or endorsed appropriately for a trade for which the vessel qualifies.

(b) A non-self-propelled vessel qualified to be employed in the coastwise trade may be employed, without being documented, in that trade in a harbor or on the rivers or inland lakes of the United States, or on the internal waters or canals of a State.

(c) When a vessel is employed in a trade not covered by the certificate of documentation issued for that vessel, or a documented pleasure vessel is used except for pleasure, the vessel and its equipment are liable to seizure by and forfeiture to the United States Government.

(d) A documented vessel may be placed under the command only of a citizen of the United States.

§ 12116. Invalidation of certificates of documentation

(a) A certificate of documentation is invalid if the vessel for which it is issued—

(1) no longer meets the requirements of this chapter and regulations prescribed under this chapter applicable to that certificate of documentation; or

(2) is placed under the command of a person not a citizen of the United States.

(b) Except as provided by section 30(O) of the Merchant Marine Act, 1920 (46 App. U.S.C. 961(a)), an invalid certificate of documentation shall be surrendered as provided by regulations prescribed by the Secretary.

§ 12117. Vessels procured outside the United States

(a) The Secretary and the Secretary of State, acting jointly, may provide for the issuance of an appropriate document for a vessel procured outside the United States meeting the ownership requirements of section 12104 of this title.

(b) Subject to limitations the Secretary may prescribe, a vessel for which an appropriate document is issued under this section may proceed to the United States and engage en route in the foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef. On the vessel's arrival in the United States, the document shall be surrendered as provided by regulations prescribed by the Secretary.

(c) A vessel for which a document is issued under this section is subject to the jursidiction and laws of the United States. However, the Secretary may suspend for a period of not more than 6 months, the application of a vessel inspection law carried out by the Secretary or regulations prescribed under that law if the Secretary considers the suspension to be in the public interest.

§ 12118. Recording of United States built vessels

The Secretary may provide for the recording and certifying of information about vessels built in the United States that the Secretary considers to be in the public interest.

§ 12119. Registration of funnel marks and house flags

The Secretary shall provide for the registration of funnel marks and house flags by owners of vessels.

§ 12120. List of documented vessels

The Secretary shall publish periodically a list of all documented vessels and information about those vessels that the Secretary considers pertinent or useful. The list shall contain a notation clearly indicating all vessels classed by the American Bureau of Shipping.

§ 12121. Reports

To ensure compliance with this chapter and laws governing the qualifications of vessels to engage in the coastwise trade and the fisheries, the Secretary may require owners and masters of documented vessels to submit reports in any reasonable form and manner the Secretary may prescribe.

§ 12122. Regulations

The Secretary may prescribe regulations to carry out this chapter.

§ 12123. Penalties

(a) A person that violates this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than $500.

(b) When the owner of a vessel knowingly falsifies or conceals a material fact, or makes a false statement or representation about the documentation of the vessel, that vessel and its equipment are liable to seizure by and forfeiture to the United States Government.

(c) When a certificate of documentation is knowingly and fraudulently used for a vessel, that vessel and its equipment are liable to seizure by and forfeiture to the Government.

CHAPTER 123—NUMBERING OF UNDOCUMENTED VESSELS

Sec.
12301. Numbering of vessels.
12302. Standard numbering system.
12303. Exemption from numbering requirements.
12304. Certificates of numbers.
12305. Displaying numbers.
12306. Safety certificates.
12307. Regulations on numbering and fees.
12308. Providing vessel numbering and registration information.
12309. Penalties.

§ 12301. Numbering of vessels

A vessel that is undocumented (as defined in section 12101 of this title) and equipped with propulsion machinery of any kind shall have a number issued by the proper issuing authority in the State in which the vessel principally is used.

§ 12302. Standard numbering system

(a) The Secretary shall prescribe by regulation a standard numbering system for vessels to which this chapter applies. On application by a State, the Secretary shall approve a State numbering system that is consistent with the standard numbering system. In carrying out its numbering system, a State shall adopt any definitions of relevant terms prescribed by regulations of the Secretary.

(b) A State with an approved numbering system is the issuing authority within the meaning of this chapter. The Secretary is the issuing authority in a State in which a State numbering system has not been approved.

(c) When a vessel is numbered in a State, it is deemed in compliance with the numbering system of a State in which it temporarily is used.

(d) When a vessel is removed to a new State of principal use, the issuing authority of that State shall recognize the validity of the number issued by the original State for 60 days.

(e) If a State has a numbering system approved after the Secretary issues a number, the State shall recognize the validity of the number issued by the Secretary for 1 year.

(f) When the Secretary decides that a State numbering system is not being carried out consistent with the standard numbering system or the State has changed the system without the Secretary's approval, the Secretary may withdraw approval after giving notice to the State, in writing, stating the reasons for the withdrawal.

§ 12303. Exemption from numbering requirements

(a) When the Secretary is the authority issuing a number under this chapter, the Secretary may exempt a vessel or class of vessels from the numbering requirements of this chapter under conditions the Secretary may prescribe.

(b) When a State is the issuing authority, it may exempt from the numbering requirements of this chapter a vessel or class of vessels exempted under subsection (a) of this section or otherwise as permitted by the Secretary.

§ 12304. Certificates of numbers

(a) A certificate of number is granted for a number issued under this chapter. The certificate shall be pocket-sized, shall be at all times available for inspection on the vessel for which issued when the vessel is in use, and may be valid for not more than 3 years. The certificate of number for a vessel less than 26 feet in length and leased or rented to another for the latter's noncommercial use of less than 7 days may be retained on shore by the vessel's owner or representative at the place from which the vessel departs or returns to the possession of the owner or the owner's representative. A vessel that does not have the certificate of number on board shall be identified when in use, and comply with requirements the issuing authority prescribes.

(b) The owner of a vessel numbered under this chapter shall provide—

(1) the issuing authority notice of the transfer of any part of the owner's interest in the vessel or of the destruction or abandonment of the vessel, within a reasonable time after the transfer, destruction, or abandonment; and

(2) notice of a change of address within a reasonable time of the change, as provided by regulation.

§ 12305. Displaying numbers

A number required by this chapter shall be painted on, or attached to, each side of the forward half of the vessel for which it was issued, and shall be the size, color, and type as may be prescribed by the Secretary. No other number may be carried on the forward half of the vessel.

§ 12306. Safety certificates

When a State is the authority issuing a number under this chapter, it may require that the operator of a numbered vessel have a valid safety certificate issued under conditions set by the issuing authority, except when the vessel is subject to manning requirements under part F of this subtitle.

§ 12307. Regulations on numbering and fees

The authority issuing a number under this chapter may prescribe regulations and establish fees to carry out the intent of this chapter. The fees shall apply equally to residents and nonresidents of the State. A State issuing authority may impose only conditions for vessel numbering that are—

(1) prescribed by this chapter or regulations of the Secretary about the standard numbering system; or

(2) related to proof of payment of State or local taxes.

§ 12308. Providing vessel numbering and registration information

A person may request from an authority issuing a number under this chapter the numbering and registration information of a vessel that is retrievable from vessel numbering system records of the issuing authority. When the issuing authority is satisfied that the request is reasonable and related to a boating safety purpose, the information shall be provided on paying the cost of retrieving and providing the information requested.

§ 12309. Penalties

(a) A person willfully violating this chapter or a regulation prescribed under this chapter shall be fined not more than $5,000, imprisoned for not more than 1 year, or both.

(b) A person violating this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than $1,000. If the violation involves the use of a vessel, the vessel also is liable in rem for the penalty.

(c) When a civil penalty of not more than $200 has been assessed under this chapter, the Secretary may refer the matter of collection of the penalty directly to the United States magistrate of the jurisdiction in which the person liable may be found for collection procedures under supervision of the district court and under an order issued by the court delegating this authority under section 636(b) of title 28.

PART I—STATE BOATING SAFETY PROGRAMS

CHAPTER 131—RECREATIONAL BOATING SAFETY

Sec.
13101. State recreational boating safety programs.
13102. Program acceptance.
13103. Allocations.
13104. Availability of allocations.
13105. Computation decisions about State amounts expended.
13106. State recreational boating safety and facilities improvement spending.
13107. National Recreational Boating Safety and Facilities Improvement Fund.

13108. Computing amounts allocated to States and State records requirements.
13109. Consultation, cooperation, and regulation.
13110. National Boating Safety Advisory Council.

§ 13101. State recreational boating safety programs

(a) To encourage greater State participation and uniformity in boating safety and facility improvement efforts, and particularly to permit the States to assume the greater share of boating safety education, assistance, and enforcement activities, the Secretary shall carry out a national recreational boating safety and facilities improvement program. Under this program, the Secretary may make contracts with, and allocate and distribute amounts to, eligible States to assist them in developing, carrying out, and financing State recreational vessels (as defined in section 3101(14) of this title) boating safety and facilities improvement programs.

(b) The Secretary shall establish guidelines and standards for the program. In doing so, the Secretary shall—

(1) consider, among other things, factors affecting recreational boating safety by contributing to overcrowding and congestion of waterways, such as the increasing number of recreational vessels (as defined in section 3101(14) of this title) using those waterways and their geographic distribution, the availability and geographic distribution of recreational boating facilities in and among applying States, and State marine casualty and fatality statistics for recreational vessels;

(2) consult with the Secretary of the Interior to minimize duplication with the purposes and expenditures of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4—460l-11) and with the guidelines developed under that Act; and

(3) maintain environmental standards consistent with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451-1464) and other laws and policies of the United States intended to safeguard the ecological and esthetic quality of the waters and wetlands of the United States.

(c) A State whose recreational boating safety and facilities improvement program has been approved by the Secretary is eligible for allocation and distribution of amounts under this chapter to assist that State in developing, carrying out, and financing its program. Matching amounts shall be allocated and distributed among eligible States by the Secretary as provided by section 13103 of this title.

§ 13102. Program acceptance

(a) The Secretary may make a contract with, and allocate and distribute amounts from the Fund established under section 13107 of this title to, a State that has an approved State recreational boating safety and facilities improvement program, if the State demonstrates to the Secretary's satisfaction that—

(1) the program submitted by that State is consistent with this chapter and chapter 123 of this title;

(2) amounts distributed will be used to develop and carry out a State recreational boating safety and facilities improvement program containing the minimum requirements of subsection (c), (d), or (f) of this section;

(3) sufficient State matching amounts are available from general revenue, undocumented vessel numbering and license fees, State marine fuels taxes, or from a fund constituted from the proceeds of such a tax and established to finance a State recreational boating safety and facilities improvement program; and

(4) the program submitted by that State designates a State lead authority or agency that will carry out or coordinate carrying the State recreational boating safety and facilities improvement program supported by financial assistance of the United States Government in that State, including the requirement that the designated State authority or agency submit required reports that are necessary and reasonable to carry out properly and efficiently the program and that are in the form prescribed by the Secretary.

(b) Amounts of the Government from sources (except sources referred to in subsection (a)(3) of this section) may not be used to provide a State's share of the costs of the program described under this section. State matching amounts committed to a program under this chapter may not be used to constitute the State's share of matching amounts required by another program of the Government.

(c) The Secretary shall approve a State recreational boating safety program, and the program is eligible to receive amounts authorized to be expended under section 13106 of this title, if the program includes—

(1) a vessel numbering system approved or carried out by the Secretary under chapter 123 of this title;

(2) a cooperative boating safety assistance program with the Coast Guard in that State;

(3) sufficient patrol and other activity to ensure adequate enforcement of applicable State boating safety laws and regulations; and

(4) an adequate State boating safety education program.

(d) The Secretary shall approve a State recreational boating facilities improvement program, and the program is eligible to receive amounts authorized to be expended under section 13106 of this title, if the program includes—

(1) a complete description of recreational boating facility improvement projects to be undertaken by the State; and

(2) consultation with State officials responsible for the statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4—460l-11) and for any program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451-1464).

(e) The Secretary's approval under this section is a contractual obligation of the Government for the payment of the proportional share of the cost of carrying out the program.

(f)(1) A State may submit a combined program to the Secretary for the improvement of recreational boating safety and the improvement of recreational boating facilities in that State. The Secretary shall approve the program if it contains the minimum requirements set forth in subsections (c) and (d) of this section.

(2) Those parts of the combined program of a State that are designed to improve recreational boating safety are eligible to receive amounts authorized to be expended for State recreational boating safety programs under section 13106 of this title. The Secretary's approval of those parts is a contractual obligation of the Government for the payment of the proportional share of the cost of carrying out the State's recreational boating safety program under this chapter.

(3) Those parts of the combined program of a State that are designed to improve recreational boating facilities are eligible to receive amounts authorized to be expended for State recreational boating facilities improvement programs under section 13106 of this title. The Secretary's approval of those parts is a contractual obligation of the Government for the payment of the proportional share of the cost of carrying out the State's recreational boating facilities program under this chapter.

§ 13103. Allocations

(a) The Secretary shall allocate amounts available for allocation and distribution under this chapter for State and recreational boating safety programs as follows:

(1) One-third shall be allocated equally each fiscal year among eligible States.

(2) One-third shall be allocated among eligible States that maintain a State vessel numbering system approved under chapter 123 of this title so that the amount allocated each fiscal year to each eligible State will be in the same ratio as the number of vessels numbered in that State bears to the number of vessels numbered in all eligible States.

(3) One-third shall be allocated so that the amount allocated each fiscal year to each eligible State will be in the same ratio as the amount of State amounts expended or obligated by the State for the State recreational boating safety program during the prior fiscal year bears to the total State amounts expended or obligated during that fiscal year by all eligible States for State recreational boating safety programs.

(b) The Secretary shall allocate the amounts available for allocation and distribution under this chapter for State recreational boating facilities improvement programs as follows:

(1) One-third shall be allocated equally each fiscal year among eligible States.

(2) One-third shall be allocated so that the amount allocated each fiscal year to each eligible State will be in the same ratio as the number of vessels numbered in that State bears to the number of vessels numbered in all eligible States.

(3) One-third shall be allocated so that the amount allocated each fiscal year to each eligible State shall be in the same ratio as the State amounts expended or obligated by the State for a recreational boating facilities improvement program approved under this chapter during the prior fiscal year bears to the total State amounts expended or obligated during that fiscal year by all eligible States for recreational boating facilities improvement programs.

(c) The amount received by a State under this section in a fiscal year may be not more than one-half of the total cost incurred by that State in developing, carrying out, and financing that State's recreational boating safety and facilities improvement program in that fiscal year.

(d) An allocation or distribution of amounts under this section may not be made to a State to maintain boating facilities under that State's approved recreational boating safety and facilities improvement program.

(e) The Secretary may allocate not more than 5 percent of the amounts available for allocation and distribution in a fiscal year for national boating safety activities of national nonprofit public service organizations.

(f) The Secretary may expend from the amounts available for allocation and distribution in a fiscal year those amounts necessary to carry out this chapter. However, the amounts expended in a fiscal year to carry out this chapter may be not more than $250,000 or 2 percent of the amounts available for allocation and distribution in that fiscal year, whichever is greater.

§ 13104. Availability of allocations

(a) Amounts allocated to a State shall be available for obligation by that State for a period of 3 years after the date of allocation. Amounts unobligated by the State at the end of the 3 years shall be withdrawn by the Secretary and shall be available with other amounts to be allocated by the Secretary during that fiscal year.

(b) Amounts available to the Secretary that have not been allocated at the end of a fiscal year shall be carried forward as part of the total allocation of amounts for the next fiscal year that may be expended under this chapter.

§ 13105. Computation decisions about State amounts expended

(a) Consistent with regulations prescribed by the Secretary, the computation by a State of amounts expended or obligated for the State recreational boating safety and facilities improvement program shall include—

(1) the acquisition, maintenance, and operating costs of land facilities, equipment, and supplies;

(2) personnel salaries and reimbursable expenses;

(3) the costs of training personnel;

(4) public boat safety education;

(5) the costs of carrying out the program; and

(6) other expenses that the Secretary considers appropriate.

(b) The Secretary shall decide an issue arising out of the computation made under subsection (a) of this section.

§ 13106. State recreational boating safety and facilities improvement spending

(a) To provide financial assistance for State recreational boating safety and facilities improvement programs, the Secretary may expend, subject to amounts provided in appropriations laws for liquidating contract authority, an amount equal to the revenues accruing each fiscal year from the taxes under section 4041(b) of the Internal Revenue Code of 1954 (26 U.S.C. 4041(b)) from special motor fuels used as fuel in motor boats and under section 4081 of that Code (26 U.S.C. 4081) from gasoline used as fuel in motor boats.

(b) Of the amounts available for allocations and distribution for recreational boating safety and facilities improvement programs, one-third shall be allocated for recreational boating safety programs and two-thirds shall be allocated for recreational boating facilities improvement programs.

(c) Amounts authorized to be expended for State recreational and boating safety improvement programs remain available until expended and are deemed to have been expended only if an amount equal to the total amounts authorized to be expended under this section for the fiscal year in question and all prior fiscal years have been obligated. Amounts previously obligated but released by payment of a final voucher or modification of a program acceptance shall be credited to the balance of unobligated funds and shall be immediately available for expenditure.

§ 13107. National Recreational Boating Safety and Facilities Improvement Fund

There is established in the Treasury a separate fund known as the National Recreational Boating Safety and Facilities Improvement Fund consisting of amounts paid into it as provided in section 209(f)(5) of the Highway Revenue Act of 1956. Amounts in the Fund are available for making expenditures as provided in section 13106 of this title.

§ 13108. Computing amounts allocated to States and State records requirements

(a) Amounts allocated and distributed under section 13103 of this title shall be computed and paid to the States as follows:

(1) During the last quarter of a fiscal year and on the basis of computations made under section 13105 of this title and submitted by the States, the Secretary shall determine the percentage of the amounts available for the next fiscal year to which each eligible State is entitled.

(2) Notice of the percentage and of the dollar amount, if it can be determined, for each State shall be provided to the States at the earliest practicable time.

(3) If the Secretary determines that an amount made available to a State for a prior fiscal year is greater or less than the amount that should have been made available to the State for the prior fiscal year, because of later or more accurate State expenditure information, the amount for the current fiscal year may be increased or decreased by the appropriate amount.

(b) The Secretary shall schedule the payment of amounts, consistent with the program purposes and applicable regulations prescribed by the Secretary of the Treasury, to minimize the time elapsing between the transfer of amounts from the Treasury and the subsequent disbursement of the amounts by a State.

(c) The Secretary shall notify a State authority or agency that further payments will be made to the State only when the program complies with the prescribed standards or a failure to comply substantially with standards is corrected if the Secretary, after reasonable notice to the designated State authority or agency, finds that—

(1) the State recreational boating safety and facilities improvement program submitted by the State and accepted by the Secretary has been so changed that it no longer complies with this chapter or standards prescribed by regulations; or

(2) in carrying out the State recreational boating safety and facilities improvement program, there has been a failure to comply substantially with the standards prescribed by regulations.

(d) The Secretary shall provide for the accounting, budgeting, and other fiscal procedures that are necessary and reasonable to carry out this section properly and efficiently. Records related to amounts allocated under this chapter shall be made available to the Secretary and the Comptroller General to conduct audits.

§ 13109. Consultation, cooperation, and regulation

(a) In carrying out responsibilities under this chapter, the Secretary may consult with State and local governments, public and private agencies, organizations and committees, private industry, and other persons having an interest in boating safety and facilities improvement.

(b) The Secretary may advise, assist, and cooperate with the States and other interested public and private agencies in planning, developing, and carrying out boating safety and facilities improvement programs. Acting under section 141 of title 14, the Secretary shall ensure the fullest cooperation between the State and United States Government authorities in promoting boating safety by making agreements and other arrangements with the State when possible. Subject to chapter 23 of title 14, the Secretary may make available, on request of a State, the services of members of the Coast Guard Auxiliary to assist the State in promoting boating safety on State waters.

(c) The Secretary may prescribe regulations to carry out this chapter.

§ 13110. National Boating Safety Advisory Council

(a) The Secretary shall establish a National Boating Safety Advisory Council. The Council shall consist of not more than 21 members appointed by the Secretary, whom the Secretary considers to have a particular expertise, knowledge, and experience in boating safety.

(b)(1) Insofar as practical and to ensure balanced representation, the Secretary shall appoint members equally from—

(A) State officials responsible for State boating safety programs;

(B) recreational vessel and associated equipment manufacturers; and

(C) boating organizations and members of the general public.

(2) Additional individuals from the sources referred to in paragraph (1) of this subsection may be appointed to panels of the Council to assist the Council in performing its duties.

(3) At least once a year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the Council.

(c) In addition to the consultation required by section 4302 of this title, the Secretary shall consult with the Council on other major boating safety matters related to this chapter. The Council may make available to Congress information, advice, and recommendations that the Council is authorized to give to the Secretary.

(d) When attending meetings of the Council, a member of the Council or a panel may be paid at a rate not more than the rate for GS-18. When serving away from home or regular place of business, the member may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5 for individuals employed intermittently in the Government service. A payment under this section does not make a member of the Council an employee or official of the United States Government for any purpose.

[PART J—RESERVED FOR ADMEASUREMENT OF VESSELS]

MISCELLANEOUS PROVISIONS

SEC. 2. (a) Laws effective after December 31, 1982, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) A reference to a law replaced by this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision of this Act.

(c) An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provision of this Act until repealed, amended, or superseded.

(d) An action taken or an offense committed under a law replaced by this Act is deemed to have been taken or committed under the corresponding provision of this Act.

(e) An inference of legislative construction is not to be drawn by reason of the caption or catch line of a provision enacted by this Act.

(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in one or more of its applications, the provision remains in effect in all valid applications that are severable from the invalid application or applications.

(g) Part B of subtitle II and sections 7306 and 7309 of title 46 (as enacted by section 1 of this Act), related to sailing school vessels (as defined in section 3101(18) of title 46, as enacted by section 1 of this Act), take effect April 15, 1984, or when regulations for sailing school vessels under part B are effective, whichever is earlier.

REPEALS

SEC. 3. (a) The repeal of a law by this Act may not be construed as a legislative implication that the provision was or was not in effect before its repeal.

(b) The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the date of enactment of this Act and except as provided by section 2 of this Act:

SCHEDULE OF LAWS REPEALED

Revised Statutes, section	Revised Statutes, section	Revised Statutes, section	Revised Statutes, section	Revised Statutes, section
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4235	4434	4480	4521	4562
4236	4437	4484	4522	4563
4237	4438	4485	4523	4564
4250	4438a	4486	4524	4565
4251	4439	4487	4525	4566
4290	4440	4488	4526	4567
4291	4441	4490	4527	4568
4292	4442	4491	4528	4569
4399	4443			4570
4400	4444	4494	4530	4571
4401	4445	4495	4535	4572
4403	4446	4496	4537	4577
4405	4447	4497	4538	4578
4406	4448	4498	4539	4580
4407	4449	4499	4540	4581
4408	4450	4500	4541	4582
4409	4451	4501	4542	4583
4410	4452	4502	4543	4585
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4417	4454	4504	4545	4587
4417a	4455	4505	4546	[illegible]
4418	4456	4506	4547	4603
4419	4457	4507	4548	4604
4420	4460	4508	4549	4605
4421	4462	4509	4550	4607
4423	4463	4510	4551	4608
4424	4464	4511	4552	4610
4425	4465	4512	4553	4611
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May 28	2565		34	204
June 11	3071		34	230
June 28	3583	4	34	551
1907				
Jan. 25	398		34	864
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Mar. 4	2929	1, 2	34	1411
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Apr. 2	123	1	35	55
May 28	212	2, 3, 4, 10, 12, 13	35	425
1909				
Mar. 2	244	1, 2	35	687
Mar. 4	321	254–267	35	1140
1910				
June 25	402		35	831
1911				
Mar. 4	237	1 (in part)	35	1229 (only the first complete paragraph on this page).
1912				
May 22	130	1	37	116
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1913				
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Mar. 3	118	1	37	732
Mar. 4	142	1 (in part)	37	785 (only the proviso in the fourth paragraph).
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May 11	194		52	345
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Mar. 29	26		53	554
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June 2	160		53	798
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July 9	93–65	6(a), 6(b)	87	151
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Sept. 10	94–406	8 (clauses (1), (2), and (3) of subsection 9 only).	90	1236
Oct. 17	94–535	2	90	2496
Oct. 18	94–550	8, 9	90	2535
1977				
Aug. 10	92–75		85	213–228
1978				
June 30	95–308	7	92	359
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Oct. 6	96–378		94	1518
Oct. 14	96–451	T. II, § 202	94	1987
Dec. 12	96–594	T. I, §§ 101–125	94	3453

The title was amended so as to read: "A bill to revise, consolidate, and enact certain laws related to vessels and seamen as subtitle II of title 46, United States Code, 'Shipping'.".

AMENDMENT OF THE UNIFORM CODE OF MILITARY JUSTICE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 79, S. 974.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 974) to amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), to improve the quality and efficiency of the military justice system, to revise the laws concerning the review of courts-martial, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1226

(Purpose: To modify the provisions relating to the time within which certain matters may be submitted to the convening authority after sentence has been adjudged in courts-martial cases)

Mr. STEVENS. Mr. President, I send to the desk an amendment on behalf of the Senator from Iowa (Mr. JEPSEN).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), on behalf of Mr. JEPSEN, proposes an amendment numbered 1226.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, beginning with line 8, strike out all down through line 16 and insert in lieu thereof the following:

"(b)(1) Within 30 days after the sentence of a general court-martial or of a special court-martial which has adjudged a bad-conduct discharge has been announced, the accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence. In the case of all other special court-martial, the accused may make such a submission to the convening authority within 20 days after the sentence is announced. In the case of all summary courts-martial the accused may make such a submission to the convening authority within seven days after the sentence is announced. If the accused shows that additional time is required to submit such matters, the convening authority or other person taking action under this section, for good cause, may extend the period—

"(A) in the case of a general court-martial or a special court-martial which has adjudged a bad-conduct discharge, for not more than an additional 20 days; and

"(B) in the case of all other courts-martial, for not more than an additional 10 days.

"(2) in a summary court-martial case the accused shall be promptly provided a copy of the record of trial for use in preparing a submission authorized by paragraph (1).

"(3) In no event shall the accused in any general or special court-martial case have less than a seven-day period after the day on which a copy of the authenticated record of trial has been given to him within which to make a submission under paragraph (1). The convening authority or other person taking action on the case, for good cause, may extend this period for up to an additional 10 days.

"(4) The accused may waive his right to make a submission to the convening authority under paragraph (1). Such a waiver must be made in writing and may not be revoked. For the purposes of subsection (c)(2), the time within which the accused may make a submission under this subsection shall be deemed to have expired upon the submission of such a waiver to the convening authority.".

Mr. JEPSEN. Mr. President, this amendment is based on concerns officially expressed by the Department of Defense to the Armed Services Committee since S. 974 was reported by that committee. The amendment is to section 5(a) of the bill, the section which completely revises Article 60 of the Uniform Code of Military Justice (UCMJ). The Department expressed concern that article 60(b) as reported—which provides a 30-day statutory period for the accused to make a post-trial submission to the convening authority—could engender unnecessary delay of expeditious post-trial action in simpler cases. More specifically, the Department felt that in cases where the sentence generally contains little or no confinement—for example, summary courts-martial; the accused would have ample opportunity to prepare a thorough post-trial submission to the convening authority in some reasonable period of time less than 30 days. In such cases, the Department stated in their letter to the committee "a delay of 30 days would lessen the effect of the corrective and deterrent purposes of the sentence."

The Armed Services Committee staff has very carefully reviewed and considered the Department's observations, agrees at least in the greater part with the concerns expressed and has recommended the amendment now before the Senate. I understand the amendment has been discussed with the ranking minority member of the Manpower and Personnel Subcommittee and that he supports the amendment. I also understand that the offices of all the other minority members of the committee have been apprised of the amendment and no objections have been interposed. With that background, let me briefly explain the amendment.

First, the amendment would revise article 60(b), as reported, to provide three different statutory time periods in which the accused may submit matter for the convening authority to consider in exercising his discretion as to the findings and sentence. The time periods vary depending on the seriousness of the case. Under the amendment the 30-day period recommended by the committee in the reported bill is retained for the most serious cases—general courts-martial and special courts-martial in which a bad conduct discharge is adjudged. In other special courts-martial the accused will have 20 days. In summary courts-martial, the accused will have 7 days.

In most cases, the matter to be submitted to the convening authority will have been previously gathered and already submitted to the court-martial during the trail, particularly during the sentencing proceeding. Thus, in many cases, it can be expected that a submission to the convening authority will be made soon after the trail. The statutory time periods contained in the amendment provide sufficient leeway to account for the events that might delay such an immediate submission. These time limits have been designed to provide the accused with adequate time in which to thoroughly prepare and make a submission. But, as in the reported bill, the amendment recognizes that there may be circumstances in which special factors preclude submission within the statutory time period. Thus, the amendment also authorizes the convening authority or other person taking action on the case to extend the opportunity to make a submission for specific time periods upon a showing of good cause. In the case of a general court-martial or a special court-martial which has adjudged a bad conduct discharge, the extension could be for not more than an additional 20 days; in the case of all other courts-martial, for not more than an additional 10 days. What constitutes good cause is left to the sound discretion of the convening authority or other person taking action on the case, but generally speaking it could encompass the need for an extension to deal with special circumstances, such as unavailability of counsel due to illness, emergency leave, or other required absence, or other special factors, such as involvement of counsel in another case of unusual complexity or an unusually heavy caseload. I would not expect the term "good cause" generally to include the need to tend to other routine, ongoing responsibilities such as the normal caseload within a jurisdiction. Requests for extension would be brought to the convening authority as soon as the counsel perceives a problem in meeting the normal deadline, and would briefly specify the basis for the delay and the number of days requested.

Second, the amendment would insure that if the accused desires to use the record of trial in preparing a submission to the convening authority, even in the simplest of cases, there will be an opportunity to do so. The amendment requires that the record in a summary court-martial be promptly provided to the accused. The summarized record in these cases is generally so brief that it should be provided within a day or two. The statutory time limit prescribed for the accused to make a submission to the convening authority, with the opportunity for a 10-day extension, should provide ample opportunity for the accused to review this record and make any submission desired. In the case of general and special courts-martial, the accused would be given no less than a 7-day period after the day on which a copy of the authenticated record of trial has been given to him to make an article 60(b) submission to the convening authority. Upon a showing of good cause, this time period may be extended for up to 10 additional days. I would expect the term "good cause" generally to be applied in the same sense as I described earlier.

In its report on S. 974, the committee recognized that the record of trial could be an important tool for many accused in the preparation of a post-trial submission to the convening authority. Therefore, the committee had required that the accused be able to gain timely access to the record and would not be penalized in terms of time if there was some delay in getting that document to him. The amendment will carry this principle into the UCMJ. This minimum time period to review the record is not expected to delay expeditious convening authority action on courts-martial. In the most serious cases, where there might be a potential for delay, the bill as reported requires that the record of trial be provided to the staff judge advocate or legal officer to be used in preparing the post-trial recommendation which is a precondition to convening authority action. Therefore, the impetus already is on the Government to promptly prepare the record in those cases.

Third, and finally, the amendment would permit the accused to make a knowing, voluntary written waiver of his right to make a submission to the convening authority under article 60(b). The filing of such a waiver would permit the convening authority to act on the case, assuming all other prerequisites to such action have been satisfied. More specifically, the waiver would not affect the requirement for a staff judge advocate recommendation or the right of the accused to respond to such a recommendation under article 60(d).

Mr. President, I believe this amendment will help meet the legitimate concerns about the potential for delay expressed by the Department of Defense. At the same time, it will provide the accused ample opportunity to prepare a thorough submission to the convening authority if the accused chooses to do so. Therefore, I strongly recommend the amendment.

The amendment (No. 1226) was agreed to.

Mr. JEPSEN. Mr. President, I rise in support of S. 974, the Military Justice Act of 1983. After many months of intense research, hearings, and debate, the Armed Services Committee on March 22, 1983, voted 16 to 0 to report the Military Justice Act of 1983 to the full Senate for its consideration.

I wish to begin by stating that in my view the military justice system, as established by the Uniform Code of Military Justice in 1950, has proven to have been a sound framework for the administration of justice and discipline in our Armed Forces. There is always, as in any system of justice, the need for review and periodic adjustment. This is especially true with an evolutionary statute, such as the Uniform Code of Military Justice.

Using S. 2521, which was introduced during the 97th Congress, as its starting point, the subcommittee members and staff conducted an exhaustive review of the military justice system. Visits to military installations were made to assess the operation of the system and to solicit the views and recommendations of operational commanders, staff judge advocates, and military trial lawyers. In the course of its deliberations, the subcommittee received briefings and heard testimony from military justice experts in the Department of Defense, the appellate judiciary, representatives of the private bar and other concerned organizations interested in, and knowledgeable about, military law.

The legislation before you is the result of this very thorough review of the code and the disciplinary system it embodies.

Each item in the bill is intended to respond to a specific problem or to address identified areas where efficiencies might be obtained in a fashion that would not adversely impact the fairness of the system. In the final analysis, the committee believes its recommendations will maintain the essential balance between the need for an effective and efficient system of military discipline on the one hand and the important goal of preserving the fundamental rights of a defendant in any system of criminal justice on the other.

At this point I would like to briefly highlight the major provisions of S. 974.

REFERRAL OF CHARGES

Current law requires the convening authority, a layman, to assess the legality of prospective general courts-martial.

The bill would require these judgments to be made by the staff judge advocate to relieve commanders of potentially burdensome tasks while fully protecting the rights of the accused. The commander retains the ultimate responsibility for deciding whether a case should go to a general court-martial.

DESIGNATION OF COURT-MARTIAL PERSONNEL

Under current case law, there is some doubt as to whether the convening authority may delegate the authority to excuse court members prior to trial. Moreover, the convening authority is required personally to detail and approve substitutions of the military judge and counsel, even though the practical responsibility for the assignment of such personnel is exercised through legal channels.

The bill permits the convening authority to delegate the power to excuse members, and authorizes the military judge to excuse members for good cause after the court-martial has been assembled. Also, the bill eliminates the requirement that the convening authority personally detail counsel and judges; instead, they will be detailed under rules governing the assignment of legal personnel to be issued by the service secretaries.

POST-TRIAL REVIEW

Under current law, the convening authority makes a legal review of the proceedings, which may involve extremely complicated appellate issues.

The bill retains the requirement that the convening authority act on the case, but emphasizes that this role primarily involves a determination as to whether the findings or sentence should be modified as a matter of command prerogative (for example, as a matter of clemency) rather than as a result of formal appellate review.

APPELLATE JURISDICTION

Under current law, every case involving a punitive discharge or confinement for 1 year or more is submitted to the Courts of Military Review for appellate review. In addition, all other general courts-martial in which there has been a conviction are automatically reviewed in the office of the Judge Advocate General. These reviews occur regardless of whether the accused wishes to appeal, even when trial defense counsel, or appellate defense counsel, and the accused all determine that there are no issues of law to submit on review.

The bill permits the accused to waive or withdraw an appeal to the Court of Military Review (except in death penalty cases) or review in the office of the Judge Advocate General. It also ends special treatment of flag and general officer cases.

INTERLOCUTORY APPEAL

Under Federal civilian law, an interlocutory ruling by the trial judge that excludes certain evidence or otherwise results in dismissal of charges generally is subject to review at the request of the Government. This is not available in military law, and results in dismissal of charges without appellate review.

The bill permits interlocutory appeal by the Government under standards similar to those applicable in Federal civilian law under title 18, United States Code, section 3731.

SUPREME COURT REVIEW

At present, there is no authority for either the Government or the accused to seek Supreme Court review of decisions by the Court of Military Appeals. The accused may attempt to mount a collateral attack at his own expense, a costly and difficult venture in view of the limited grounds for collateral review; the Government has no judicial recourse from adverse decisions. There is no other major Federal judicial body whose decisions are similarly insulated from Superme Court review.

The bill for the first time in history authorizes the military counsel and the Government to petition the Supreme Court to review decisions of the Court of Military Appeals through discretionary writs of certiorari. The concept of Supreme Court review has been endorsed by the House of Delegates of the American Bar Association, the committee on military justice and military law of the Association of the Bar of the City of New York, and the American Civil Liberties Union. It was approved without dissent by the House of Representatives in the 96th Congress, but the session ended prior to formal Senate consideration. In view of current concerns about the Supreme Court's docket, the legislation has been drafted in a manner that will limit the number of cases subject to direct Court review. Cases in which the court of Military Appeals declined to grant a petition for review are excluded, and the Supreme Court will have complete discretion to refuse to grant petitions for writs of certiorari. Control over Government petitions will be endorsed by the Department of

Justice as well as the Department of Defense.

PUNITIVE ARTICLE ON CONTROLLED SUBSTANCES

Abuse of controlled substances is one of the most significant potential disciplinary problems facing the Armed Forces. In contrast to other offenses, however, criminal use of drugs is not the subject of a special punitive article in the Uniform Code Military Justice.

The bill corrects this deficiency by establishing a specific punitive article proscribing drug abuse offenses.

COMMISSION ON MILITARY JUSTICE ISSUES

There were several proposals in S. 2521 which produced mixed testimony before the subcommittee. The most controversial of these was a provision to give military judges the exclusive sentencing authority in courts-martial, on the grounds that judge sentencing would be more consistent and uniform. Currently, if an individual is tried by a military jury, the defendant is also sentenced by that jury. In the Federal and most State systems, juries have no role in sentencing in noncapital cases.

A second major proposal contained in S. 2521 was to expand the confinement sentencing authority of the special court-martial—currently 6 months—to up to 1 year. The primary rationale here was that: First, 1 year is the traditional dividing line between misdemeanors and felonies in the civilian system; and second, because of the limits on special court-martial punishment authority, cases were being unnecessarily referred to general courts-martial.

The bill requires the Secretary of Defense to establish a seven-member commission, including three members of the public, to study and make recommendations concerning the judge sentencing and special court-martial issues. The commission also will consider whether military judges should be tenured and should have the power to suspend sentences, like civilian judges.

During the subcommittee markup on this legislation the Members present decided to delete the provision of the bill regarding the establishment of a retirement program similar to the article I tax court for the judges of the Court of Military Appeals. I have discussed the importance of establishing an appropriate retirement program for the court with interested members and shall consider incorporating a revised retirement program in the Department of Defense Authorization Act for fiscal year 1984.

Mr. President, in conclusion I express my sincere appreciation to the subcommittee counsel and staff for the long, hard work they devoted to this legislation.

Mr. EXON. Mr. President, I strongly support passage of S. 974, the Military Justice Act of 1983.

This bill represents the first major restructuring of the Uniform Code of Military Justice since 1968 and is the result of a great deal of consideration by the Senate Armed Services Committee and its Subcommittee on Manpower and Personnel. I want to commend our subcommittee chairman, Senator JEPSEN, for his leadership in bringing this issue before the Senate. I also want to express my appreciation to the majority and minority staff members who have worked so hard to make this legislation a reality.

I believe that S. 974 represents a good balance between all of the proposals and recommendations which were brought before our subcommittee. I also believe that it will streamline the military justice system while, at the same time, will continue to protect the rights of the accused in military justice proceedings.

Mr. President, the military justice system has served this Nation and our Armed Forces well over the years. For this reason, I believe that any changes to it should be approached with great caution. The system is a very important component of the ability of our military leaders to carry out their assigned tasks. We must protect and strengthen it. In my view, this bill accomplishes that goal. In composing S. 974, we reached out to all parties who have an interest in military justice matters and I believe we have accommodated their major concerns. In several cases where consensus could not be reached, we have created a commission to study certain issues and make recommendations to the Senate and House Armed Services Committees. I look forward to receiving the commission's findings next year so that the remainder of these questions can be dealt with at that time.

Mr. President, I urge passage of the legislation by the Senate and hope that the House of Representatives will act swiftly so that these changes to the military justice system can be implemented.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCES TO THE UNIFORM CODE OF MILITARY JUSTICE

SECTION 1. (a) This Act may be cited as the "Military Justice Act of 1983".

(b) Whenever in this Act (except in sections 10 and 11) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice).

DEFINITION OF "JUDGE ADVOCATE"

SEC. 2. (a) Clause 13 of section 801 (article 1(13)) is amended to read as follows:

"(13) 'Judge advocate' means—

"(A) an officer of the Judge Advocate General's Corps of the Army or the Navy;

"(B) an officer of the Air Force or the Marine Corps who is designated as a judge advocate; or

"(C) an officer of the Coast Guard who is designated as a law specialist.".

(b) The first sentence of section 806(a) (article 6(a)) is amended by striking out "and Air Force and law specialists of the" and inserting in lieu thereof "Air Force, and".

(c) Section 815(e) (article 15(e)) is amended by striking out "of the Army, Navy, Air Force, or Marine Corps, or a law specialist or lawyer of the Coast Guard or" and inserting in lieu thereof "or a lawyer of the".

(d) Section 827 (article 27) is amended—

(1) in subsection (b)(1), by striking out "of the Army, Navy, Air Force, or Marine Corps or a law specialist of the Coast Guard,"; and

(2) in subsection (c)(3), by striking out ", or a law specialist,".

(e) Section 842 (article 42) is amended—

(1) by striking out "assistant" before "defense counsel" in the first and third sentences and inserting in lieu thereof "assistant or associate"; and

(2) by striking out ", law specialist," in the first and third sentences.

(f) Section 936(a) (article 136(a)) is amended—

(1) in clause (1), by striking out "of the Army, Navy, Air Force, and Marine Corps"; and

(2) by striking out clause (2) and redesignating clauses (3) through (7) as clauses (2) through (6), respectively.

MATTERS RELATING TO THE MILITARY JUDGE, COUNSEL, AND MEMBERS OF THE COURT-MARTIAL

SEC. 3. (a) Section 816(1)(B) (article 16(1)(B)) is amended by inserting "orally on the record or" before "in writing".

(b) Section 825 (article 25) is amended by adding at the end thereof the following new subsection:

"(e) Before the court assembles for the trial of a case, the convening authority may excuse individual court members from participating in the case. The convening authority may, under regulations prescribed by the Secretary concerned, delegate his authority under this subsection to the staff judge advocate, legal officer, or other principal assistant to the convening authority.".

(c)(1) Section 826 (article 26) is amended—

(A) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) Under regulations of the Secretary concerned, a military judge shall be detailed to each general court-martial and, subject to such regulations, may be detailed to any special court-martial. The military judge shall preside over each open session of the court-martial to which he has been detailed."; and

(B) in the first sentence of subsection (c), by striking out "The military judge" and all that follows through "unless" and inserting in lieu thereof "The military judge of a general court-martial shall be designated by the Judge Advocate General, or his designee, of the armed force in which the military judge is a member for detail in accordance with the regulations prescribed under subsection (a). Unless".

(2)(A) Section 827(a) (article 27(a)) is amended by striking out the first sentence and inserting in lieu thereof the following:

"Under regulations of the Secretary concerned, trial counsel and defense counsel shall be detailed for each general and special court-martial. Such regulations shall also provide that assistant trial counsel and assistant and associate defense counsel may also be detailed to such courts-martial.".

(B) Section 827(a) (article 27(a)) is further amended by striking out "assistant" before "defense counsel" in the second sentence and inserting in lieu thereof "assistant or associate".

(d) Section 829(a) (article 29(a)) is amended by striking out "except for" and all that follows through the period and inserting in lieu thereof the following: "unless excused by the military judge as a result of a challenge or for physical disability or for other good cause, or by order of the convening authority for good cause.".

(e)(1) Section 838(b)(6) (article 38(b)(6)) is amended by striking out the second sentence and inserting in lieu thereof the following: "The individual empowered to detail counsel under section 827 of this title (article 27), in his sole discretion, may detail additional military counsel as assistant defense counsel and, if the accused is represented by military counsel of his own selection under paragraph (3)(B), may approve a request from the accused that military counsel detailed under paragraph (3)(A) act as associate defense counsel.".

(2) Paragraph (7) of section 838(b) (article 38(b)(7)) is amended by inserting after the first sentence the following new sentence: "Such definition may not prescribe any limitation based on the reasonable availability of counsel solely on the grounds that the counsel selected by the accused is from an armed force other than the one of which the accused is a member.".

(3) Section 838(c) (article 38(c)) is amended to read as follows:

"(c) In any court-martial proceeding resulting in a conviction, the defense counsel may forward for attachment to the record of proceedings a brief of such matters as he feels should be considered in behalf of the accused on review (including any objection to the contents of the record which he considers appropriate), may assist the accused in the submission of matters under section 860 of this title (article 60), and shall, subject to regulations of the President, perform other acts authorized by this chapter.".

PRETRIAL ADVICE AND REFERRAL OF CHARGES

SEC. 4. (a) The second sentence of section 834(a) is amended to read as follows: "The convening authority may not refer a specification under a charge to a general court-martial for trial unless he has been advised in writing by the staff judge advocate that—

"(1) the specification alleges an offense under this chapter,

"(2) the specification is warranted by the evidence indicated in the report of investigation, if any, and

"(3) a court-martial would have jurisdiction over the accused and the offense.".

(b) Section 834 (article 34) is further amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following new subsection (b):

"(b) The advice of the staff judge advocate required under subsection (a) shall include a written and signed statement by the staff judge advocate expressing the conclusions of the staff judge advocate with respect to each matter set forth in subsection (a) and the action the staff judge advocate recommends that the convening authority take regarding the specification. If the specification is referred for trial, the recommendation of the staff judge advocate shall accompany the specification.".

RIGHT TO APPEAL AND RELATED MATTERS

SEC. 5. (a)(1) Section 860 (article 60) is amended to read as follows:

"§ 860. Art. 60. Action by the convening authority

"(a) The findings and sentence of a court-martial shall be reported promptly to the convening authority after the announcement of the sentence.

"(b)(1) Within 30 days after the sentence of a general court-martial or of a special court-martial which has adjudged a bad-conduct discharge has been announced, the accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence. In the case of all other special courts-martial, the accused may make such a submission to the convening authority within twenty days after the sentence is announced. In the case of all summary courts-martial the accused may make such a submission to the convening authority within seven days after the sentence is announced. If the accused shows that additional time is required to submit such matters, the convening authority or other person taking action under this section, for good cause, may extend the period—

"(A) in the case of a general court-martial or a special court-martial which has adjudged a bad-conduct discharge, for not more than an additional twenty days; and

"(B) in the case of all other courts-martial, for not more than an additional ten days.

"(2) In a summary court-martial case the accused shall be promptly provided a copy of the record of trial for use in preparing a submission authorized by paragraph (1).

"(3) In no event shall the accused in any general or special court-martial case have less than a seven-day period after the day on which a copy of the authenticated record of trial has been given to him within which to make a submission under paragraph (1). The convening authority or other person taking action on the case, for good cause, may extend this period for up to an additional ten days.

"(4) The accused may waive his right to make a submission to the convening authority under paragraph (1). Such a waiver must be made in writing and may not be revoked. For the purposes of subsection (c)(2), the time within which the accused may make a submission under this subsection shall be deemed to have expired upon the submission of such a waiver to the convening authority.

"(c)(1) Exercise of the authority to modify the findings and sentence of a court-martial is a matter of command prerogative involving the sole discretion of the convening authority. Under regulations of the Secretary concerned, this discretion may be exercised by a commissioned officer commanding for the time being, a successor in command, or any person exercising general court-martial jurisdiction.

"(2) Action on the sentence of a court-martial shall be taken after consideration of any matters submitted by the accused under subsection (b) and, if applicable, under subsection (d), or after the time for submitting such matters expires, whichever is earlier, subject to regulations of the Secretary concerned. The convening authority or other person taking such action, in his sole discretion, may approve, disapprove, commute, or suspend the sentence in whole or in part.

"(3) Action on the findings of a court-martial is not required. However, the convening authority or other person taking action on the sentence may, in such person's sole discretion—

"(A) dismiss any charge or specification by setting aside a finding of guilty thereto; or

"(B) change to an appropriate lesser included offense a finding of guilty to a charge or specification.

"(d) Before acting under this section on any general court-martial case or any special court-martial case that includes a bad-conduct discharge, the convening authority or other person taking action under this section shall consider the written recommendation of his staff judge advocate or legal officer. The convening authority or other person taking action under this section shall refer the record of trial to his staff judge advocate or legal officer and the staff judge advocate or legal officer shall use such record in the preparation of his recommendation. The recommendation of the staff judge advocate or legal officer shall include such matters as the President may prescribe and shall be served on the accused, who shall have five days from the date of receipt in which to submit any matter in response. The convening authority or other person taking action under this section, for good cause, may extend that period for up to an additional twenty days. Failure to object in the response to the recommendation or to any matters attached thereto waives the right to object thereto.

"(e)(1) The convening authority or other person taking action under this section, in his sole discretion, may order proceedings in revision or a rehearing.

"(2) Proceedings in revision may be ordered when there is an apparent error or omission in the record or when the record shows improper or inconsistent action with respect to the findings or sentence that can be rectified without material prejudice to the substantial rights of the accused. In no case, however, may a proceeding in revision—

"(A) reconsider a finding of not guilty of any specification or a ruling which amounts to a finding of not guilty;

"(B) reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some article of this chapter; or

"(C) increase the severity of the sentence unless the sentence prescribed for the offense is mandatory.

"(3) A rehearing may be ordered by the convening authority or other person taking action under this section if he disapproves the findings and sentence and states the reasons for disapproval of the findings. If such person disapproves the findings and sentence and does not order a rehearing, he shall dismiss the charges. A rehearing as to the findings may not be ordered where there is a lack of sufficient evidence in the record to support the findings. A rehearing as to the sentence may be ordered if the convening authority or other person taking action under this subsection disapproves the sentence.".

(2) The item in the table of sections at the beginning of subchapter IX is amended to read as follows:

"860. 60. Action by the convening authority.".

(b)(1) Section 861 (article 61) is amended to read as follows:

"§ 861. Art. 61. Waiver or withdrawal of appeal

"(a) In each case subject to review under sections 866 (article 66) or 869(a) (article 69(a)) of this title, except a case in which the sentence as approved under section 860(c) of this title (article 60(c)) includes death, the accused may file with the convening authority a statement expressly waiving the right to appellate review. An express waiver of the right to appellate review shall be signed by the accused and defense counsel. The statement shall be filed within ten days after the action under section 860(c) of this title (article 60(c)) is served on the accused or his counsel. The convening authority, for good cause, may extend that period for not more than thirty additional days.

"(b) Except in a case in which the sentence as approved under section 860(c) of this title (article 60(c)) includes death, the accused, at any time, may withdraw an appeal.

"(c) A waiver or withdrawal of an appeal under this section bars review under section 866 (article 66) or 869(a) (article 69(a)) of this title.".

(2) The item in the table of sections at the beginning of subchapter IX is amended to read as follows:

"861. 61. Waiver or withdrawal of appeal.".

(c)(1) Section 862 (article 62) is amended to read as follows:

"§ 862. Art. 62. Appeal by the United States

"(a) In any trial by court-martial over which a military judge presides and in which a punitive discharge may be adjudged, the United States may appeal any order or ruling that terminates the proceedings with respect to a charge or specification or which excludes evidence that is substantial proof of a fact material in the proceeding, except that no such appeal shall lie from an order or ruling that is, or amounts to, a finding of not guilty. The trial counsel shall provide the military judge with written notice of appeal from an order or ruling authorized to be appealed under this section within seventy-two hours of such order or ruling. Such notice shall include a certification that the appeal is not taken for the purpose of delay and, when applicable, that the evidence is substantial proof of a fact material in the proceeding. If the United States takes an appeal under this section, appellate counsel shall diligently prosecute the appeal.

"(b) An appeal under this section shall be forwarded by an appropriate means directly to the Court of Military Review and shall, whenever practicable, have priority over all other proceedings before that court. In determining an appeal under this section, such Court of Military Review may take action only with respect to matters of law, notwithstanding section 866(c) of this title (article 66(c)).

"(c) Any period of delay resulting from an appeal under this section shall be excluded in deciding any issue regarding denial of a speedy trial, unless it is determined that the appeal was filed solely for the purpose of delay with the knowledge that it was totally frivolous and without merit.".

(2) The item in the table of sections at the beginning of subchapter IX is amended to read as follows:

"862. 62. Appeal by the United States.".

(d) Section 863 (article 63) is amended—

(1) by striking out subsection (a); and

(2) in subsection (b)—

(A) by striking out "(b)";

(B) by inserting "authorized under this chapter" after "Each rehearing"; and

(C) by inserting at the end thereof the following: "If the sentence approved after the first court-martial was in accordance with a pretrial agreement and the accused at the rehearing changes his plea with respect to the charges or specifications upon which the pretrial agreement was based, or otherwise does not comply with the pretrial agreement, the sentence as to those charges or specifications may include any punishment not in excess of that adjudged lawfully at the initial trial.".

(e) Section 871 (article 71) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) That part of a court-martial sentence providing for death may not be executed until approved by the President. In such a case, the President may commute, remit, or suspend the sentence, or any part thereof, as he sees fit. That part of the sentence providing for death may not be suspended.";

(2) in subsection (b), by striking out the first and second sentences and inserting in lieu thereof the following: "In any case in which the sentence provides for the dismissal of a commissioned officer, cadet, or midshipman, that part of the sentence providing for dismissal may not be executed until approved by the Secretary concerned or such Under Secretary or Assistant Secretary as may be designated by the Secretary concerned. In such a case, the Secretary, Under Secretary, or Assistant Secretary, as the case may be, may commute, remit, or suspend the sentence, or any part thereof, as he sees fit."; and

(3) by striking out subsections (c) and (d) and inserting in lieu thereof the following:

"(c)(1) If appellate review is not waived or withdrawn under section 861 of this title (article 61), that part of a sentence extending to death, dismissal, or a dishonorable or bad-conduct discharge may not be executed until there is a final judgment under this chapter as to the legality of the proceedings (and with respect to death or dismissal, approval under subsection (a) or (b), as appropriate). A judgment as to legality of the proceedings is final in such cases when review is completed by a Court of Military Review and—

"(A) the accused does not file a timely petition for review by the Court of Military Appeals and the case is not otherwise under review by that Court;

"(B) such a petition is rejected by the Court of Military Appeals; or

"(C) review is completed in accordance with the judgment of the Court of Military Appeals and—

"(i) a petition for a writ of certiorari is not filed within the time limits prescribed by the Supreme Court;

"(ii) such a petition is rejected by the Supreme Court; or

"(iii) review is otherwise completed in accordance with the judgment of the Supreme Court.

"(2) If appellate review is waived or withdrawn under section 861 of this title (article 61), that part of a sentence extending to dismissal or a bad-conduct or dishonorable discharge may not be executed until review and action thereon is completed under section 864 of this title (article 64). Any other part of a court-martial sentence may be ordered executed by the convening authority when approved by him.

"(d) The convening authority may suspend the execution of any sentence or part thereof, except a death sentence.".

(f) Subsection (a) of section 857 (article 57(a)) is amended to read as follows:

"(a) No forfeiture may extend to any pay or allowances accrued before the date on which the sentence is approved by the person acting under section 860(c) of this title (article 60(c)).".

(g) Section 876a (article 76a) is amended—

(1) by striking out "864 or 865 of this title (article 64 or 65) by the officer exercising general court-martial jurisdiction" and inserting in lieu thereof "860 of this title (article 60)"; and

(2) by striking out "by the officer exercising general court-martial jurisdiction" the second time it appears and inserting in lieu thereof "under section 860 of this title (article 60)".

(h)(1) The table of subchapters at the beginning of chapter 47 is amended by striking out the item relating to subchapter IX and inserting in lieu thereof the following:

"IX. Post-trial Procedure and Review of Courts-Martial .... 859 59".

(2) The subchapter heading at the beginning of subchapter IX is amended to read as follows:

"SUBCHAPTER IX.—POST-TRIAL PROCEDURE AND REVIEW OF COURTS-MARTIAL".

RECORD OF TRIAL

SEC. 6. (a) Section 801 (article 1) is amended by adding at the end thereof the following new clause:

"(14) 'Record', when used in connection with the proceedings of a court-martial, means—

"(A) an official written transcript, summary, or other writing relating to the proceedings, or

"(B) an official audiotape, videotape, or similar material from which sound or sound and visual images may be reproduced depicting the proceedings.".

(b) Subsections (d) and (f) of section 849 (article 49) are each amended by inserting after "read in evidence" the following: "or, in the case of audiotape, videotape, or similar material, may be played".

(c) Section 854 (article 54) is amended—

(1) in subsection (a), by striking out the last sentence;

(2) in subsection (b), by striking out "shall contain the matter and";

(3) by redesignating subsection (c) as subsection (d); and

(4) by inserting after subsection (b) the following new subsection:

"(c)(1) A complete record of the proceedings and testimony shall be prepared in all general court-martial cases in which the sentence adjudged includes death, a dismissal, a discharge, or, if the sentence adjudged does not include a discharge, any other punishment which exceeds that which can otherwise be adjudged by a special court-martial and in all special court-martial cases in which the sentence adjudged includes a bad-conduct discharge.

"(2) In all other cases, the record shall contain such matter as the President may prescribe.".

(d)(1) Section 865 (article 65) is amended to read as follows:

"§ 865. Art. 65. Disposition of records

"(a) In a case subject to appellate review under section 866 (article 66) or 869(a) (article 69(a)) of this title in which such review is not waived or withdrawn under section 861 of this title (article 61), the record of trial and action thereon shall be transmitted to the Judge Advocate General for appropriate action.

"(b) Except as otherwise required by this chapter, all other records of trial and related documents shall be transmitted and disposed of as the Secretary concerned may prescribe by regulation.".

(2) The item relating to section 865 in the table of sections at the beginning of subchapter IX is amended to read as follows:

"865. 65. Disposition of records.".

REVIEW OF COURTS-MARTIAL AND RELATED MATTERS

Sec. 7. (a)(1) Section 864 (article 64) is amended to read as follows:

"§ 864. Art. 64. Review by a judge advocate

"(a) Each case in which there has been a finding of guilty that is not reviewed under section 866 (article 66) or 869(a) (article 69(a)) of this title shall be reviewed by a judge advocate under regulations of the Secretary concerned. A person is not eligible to review a case under this subsection if he has acted in the same case as an accuser, investigating officer, member of the court, military judge, or counsel, or has otherwise acted on behalf of the prosecution or defense. The judge advocate's review shall be in writing and shall contain the following:

"(1) Conclusions as to whether—

"(A) the court had jurisdiction over the accused and the offense,

"(B) the charge and specification stated an offense, and

"(C) the sentence was within the limits prescribed as a matter of law.

"(2) A response to each written allegation of error made by the accused.

"(3) If the case is forwarded under subsection (b), a recommendation as to the appropriate action to be taken and an opinion as to whether corrective action is required as a matter of law.

"(b) The record of trial and related documents in cases reviewed under subsection (a) shall be transmitted for action to the officer exercising general court-martial jurisdiction over the accused at the time the court was convened (or to that officer's successor in command) when—

"(1) the judge advocate who reviewed the case recommends corrective action;

"(2) the sentence approved under section 860(c) of this title (article 60(c)) extends to dismissal, a bad-conduct or dishonorable discharge, or confinement for more than six months; or

"(3) such action is otherwise required by regulations of the Secretary concerned.

"(c)(1) The officer to whom the record of trial and related documents are transmitted under subsection (b) may—

"(A) disapprove or approve the findings or sentence, in whole or in part;

"(B) remit, commute, or suspend the sentence in whole or in part;

"(C) except where the evidence was insufficient at the trial to support the findings, order a rehearing on the findings, the sentence, or both; or

"(D) dismiss the charges.

"(2) If a rehearing is ordered but the convening authority finds a rehearing impracticable, he shall dismiss the charges.

"(3) If the judge advocate states that corrective action is required as a matter of law and the officer required to take action under subsection (c) of this section does not take action that is at least as favorable to the accused as that recommended by the judge advocate, the record of trial and action thereon shall be sent to the Judge Advocate General for review under section 869(b) of this title (article 69(b)).".

(2) The item relating to section 864 in the table of sections at the beginning of subchapter IX is amended to read as follows:

"864. 64. Review by a judge advocate.".

(b) Section 866(a) (article 66(a)) is amended by inserting after the second sentence the following new sentence: "Any decision of a panel may be reconsidered by the court sitting as a whole in accordance with such rules.".

(c) Section 866(b) (article 66(b)) is amended to read as follows:

"(b) The Judge Advocate General shall refer to a Court of Military Review the record in every case of trial by court-martial—

"(1) in which the sentence as approved, extends to death; or

"(2) in which—

"(A) the sentence, as approved, extends to dismissal of a commissioned officer, a cadet, or midshipman, dishonorable or a bad-conduct discharge, or confinement for one year or more; and

"(B) the right to appellate review has not been waived or an appeal withdrawn under section 861 of this title (article 61).".

(d) Section 867(b)(1) (article 67(b)(1)) is amended by striking out "affects a general or flag officer or".

(e)(1) The text of section 869 (article 69) is amended to read as follows:

"(a) The record of trial in each general court-martial that is not otherwise reviewed under section 866 of this title (article 66) shall be examined in the office of the Judge Advocate General if there is a finding of guilty and the accused does not waive or withdraw his right to appellate review under section 861 of this title (article 61). If any part of the findings or sentence is found to be unsupported in law or if reassessment of the sentence is appropriate, the Judge Advocate General may modify or set aside the findings or sentence or both. If the Judge Advocate General so directs, the record shall be reviewed by a Court of Military Review under section 866 of this title (article 66), but in that event there may be no further review by the Court of Military Appeals except under section 867(b)(2) of this title (article 67(b)(2)).

"(b) The findings or sentence or both in a court-martial case not reviewed under subsection (a) or under section 866 of this title (article 66) may be modified or set aside by the Judge Advocate General on the ground of newly discovered evidence, fraud on the court, lack of jurisdiction over the accused or the offense, error prejudicial to the substantial rights of the accused, or the appropriateness of the sentence. If such a case is considered upon application of the accused, the application must be filed in the office of the Judge Advocate General by the accused on or before the last day of the two-year period beginning on the date the sentence is approved under section 860(c) of this title (article 60(c)), unless the accused establishes good cause for failure to file within that time.

"(c) If the Judge Advocate General sets aside the findings or sentence, he may, except when the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If he sets aside the findings and sentence and does not order a rehearing, he shall order that the charges be dismissed. If the Judge Advocate General orders a rehearing but the convening authority finds a rehearing impractical, the convening authority shall dismiss the charges.".

(2) The two-year period specified under the second sentence of section 869(b) (article 69(b)), as amended by paragraph (1), does not apply to any application filed in the office of the Judge Advocate General of the appropriate armed force on or before October 1, 1983. The application in such a case shall be considered in the same manner and with the same effect as if such two-year period had not been enacted.

CONTROLLED SUBSTANCES

Sec. 8. Chapter 47 is amended—

(1) by inserting the following new section after section 912:

"§ 912a. Art. 112a. Controlled substances

"Any person subject to this chapter who wrongfully uses, possesses, manufactures, distributes, imports, exports, or introduces into an installation, vessel, vehicle, or aircraft used by or under the control of the armed forces opium, heroin, cocaine, amphetamine, lysergic acid diethylamide, methamphetamine, phencyclidine, barbituric acid, marijuana, or any compound or derivative thereof or any other drug or substance that is listed in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812), or in any schedule of controlled substances issued by the President, shall be punished as a court-martial may direct."; and

(2) by inserting in the table of sections at the beginning of subchapter X immediately below the item relating to section 912 the following new item:

"912a. 112a. Controlled substances.".

THE CODE COMMITTEE

Sec. 9. (a) Section 867(g) (article 67(g)) is amended—

(1) by striking out "The Court of Military Appeals and the Judge Advocates General" and by inserting in lieu thereof "A committee consisting of the Court of Military Appeals, the Judge Advocates General of the Army, Navy, and Air Force, the Chief Counsel, United States Coast Guard, the Director, Judge Advocate Division, Headquarters, United States Marine Corps, and two members of the public appointed by the Secretary of Defense";

(2) by inserting "at least" before "annually"; and

(3) by inserting at the end thereof the following new sentence: "Each public member of the committee shall be a recognized authority in military justice or criminal law and shall be appointed for a term of three years. The Federal Advisory Committee Act (5 U.S.C. App. I) shall not apply to the committee established under this subsection.".

(b)(1) The Secretary of Defense shall establish a commission to study and make recommendations concerning the following matters:

(A) Whether the sentencing authority in court-martial cases should be exercised by a military judge in all noncapital cases to which a military judge has been detailed.

(B) Whether a military judge and the Courts of Military Review should have the power to suspend sentences.

(C) Whether the jurisdiction of the special court-martial should be expanded to permit adjudgment of sentences including confinement of up to one year, and what, if any, changes should be made to current appellate jurisdiction.

(D) Whether military judges, including those presiding at special and general courts-martial and those sitting on the Courts of Military Review, should have tenure.

(E) What should be the elements of a fair and equitable retirement system for the judges of the United States Court of Military Appeals.

(2) The commission shall consist of seven members, at least three of whom shall be persons from private life who are recognized authorities in military justice or criminal law.

(3) The commission shall prepare a comprehensive report in support of its recommendations on the matters set forth in paragraph (1), and shall also include in such report its findings and comments on the following matters:

(A) The experience in the civilian sector with jury sentencing and judge-alone sentencing, with particular reference to consistency, uniformity, sentence appropriateness, efficiency in the sentencing process, and impact on the rights of the accused.

(B) The potential impact of mandatory judge-alone sentencing on the Armed Forces, with particular reference to consistency, uniformity, sentence appropriateness, efficiency in the sentencing process, impact on the rights of the accused, effect on the participation of members of the Armed Forces in the military justice system, impact on relationships between judge advocates and other members of the Armed Forces, and impact on the perception of the military justice system by members of the Armed Forces, the legal profession, and the general public.

(C) The likelihood of a reduction in the number of general court-martial cases in the event the confinement jurisdiction of the special court-martial is expanded; the additional protections that should be afforded the accused if such jurisdiction is expanded; whether the minimum number of members prescribed by law for a special court-martial should be increased; and whether the appellate review process should be modified so that a greater number of cases receive review by the military appellate courts, in lieu of legal reviews presently conducted in the offices of the Judge Advocates General and elsewhere, especially if the commission determines that the special court-martial jurisdiction should be expanded.

(D) The effectiveness of the present systems for maintaining the independence of military judges and what, if any, changes are needed in these systems to ensure maintenance of an independent military judiciary, including a term of tenure for such judges consistent with efficient management of military judicial resources.

(4) The commission shall transmit its report to the Committees on Armed Services of the Senate and the House of Representatives and to the committee established under section 867(g) (article 67(g)) of title 10, United States Code, not later than the first day of the ninth calendar month that begins after the date of enactment of this Act. Not later than the first day of the third calendar month that begins after receipt of such report, the committee established under section 867(g) (article 67(g)) of such title shall submit such comments on the report as it considers appropriate to the Committees on Armed Services of the Senate and the House of Representatives and to the Secretary of Defense, the Secretaries of the military departments, and the Secretary of Transportation.

(5) The Secretary shall ensure that the commission is provided with appropriate and adequate office space, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(6) The Secretary shall ensure that the commission has reasonable access to information relevant to the study.

SUPREME COURT REVIEW

Sec. 10. (a)(1) Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Court of Military Appeals; certiorari

"Decisions of the United States Court of Military Appeals may be reviewed by the Supreme Court by writ of certiorari in the following cases:

"(1) Cases reviewed by the Court of Military Appeals under section 867(b)(1) of title 10.

"(2) Cases certified to the Court of Military Appeals by the Judge Advocate General under section 867(b)(2) of title 10.

"(3) Cases in which the Court of Military Appeals granted a petition for review under section 867(b)(3) of title 10.

"(4) Cases, other than those described in paragraphs (1), (2), and (3) of this subsection, in which the Court of Military Appeals granted relief.".

(2) The table of sections at the beginning of chapter 81 of such title is amended by adding at the end thereof the following new item:

"1259. Court of Military Appeals; certiorari.".

(b) Section 2101 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) The time for application for a writ of certiorari to review a decision of the United States Court of Military Appeals shall be as prescribed by rules of the Supreme Court.".

(c)(1) Section 866(e) (article 66(e)) is amended by striking out "or the Court of Military Appeals" and inserting in lieu thereof "the Court of Military Appeals, or the Supreme Court".

(2) Section 867 (article 67) is amended by adding at the end thereof the following new subsection:

"(h)(1) Decisions of the Court of Military Appeals are subject to review by the Supreme Court by writ of certiorari as provided in section 1259 of title 28. The Supreme Court may not review by such writ of certiorari any action of the Court of Military Appeals in refusing to grant a petition for review.

"(2) The accused may petition the Supreme Court for a writ of certiorari without prepayment of fees and costs or security therefor and without filing the affidavit required by section 1915(a) of title 28.".

(3)(A) Section 870(b) (article 70(b)) is amended by adding at the end thereof the following new sentence: "Appellate Government counsel may represent the United States before the Supreme Court in cases arising under this chapter when requested to do so by the Attorney General.".

(B) Subsections (c) and (d) of such section are amended to read as follows:

"(c) Appellate defense counsel shall represent the accused before the Court of Military Review, the Court of Military Appeals, or the Supreme Court—

"(1) when requested by the accused;

"(2) when the United States is represented by counsel; or

"(3) when the Judge Advocate General has sent the case to the Court of Military Appeals.

"(d) The accused has the right to be represented before the Court of Military Review, the Court of Military Appeals, or the Supreme Court by civilian counsel if provided by him.".

CORRECTION OF RECORDS; DISCHARGE REVIEW

Sec. 11. (a) Section 1552 of title 10, United States Code, is amended by adding at the end thereof the following subsection:

"(f) With respect to records of courts-martial and related administrative records pertaining to court-martial cases tried after May 4, 1950, the action under subsection (a) may extend only to—

"(1) correction of a record to reflect actions taken by reviewing authorities under chapter 47 of this title; or

"(2) action on the sentence of a court-martial for purposes of clemency.".

(b) Section 1553 of such title is amended by adding at the end of subsection (a) the following new sentence: "With respect to a discharge or dismissal adjudged by a court-martial case tried after May 4, 1950, the action under this subsection may extend only to a change in the discharge or dismissal for purposes of clemency.".

EFFECTIVE DATE; CONFORMING AMENDMENT

Sec. 12. (a)(1) The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act, except that the amendments made by sections 9 and 11 shall be effective on the date of the enactment of this Act. The amendments made by section 11 shall only apply with respect to cases filed after the date of enactment of this Act with the boards established under sections 1552 and 1553 of title 10, United States Code.

(2) The amendments made by section 3(c) and 3(e) do not affect the designation or detail of a military judge or military counsel to a court-martial before the effective date of such amendments.

(3) The amendments made by section 4 shall not apply to any case in which charges were referred to trial before the effective date of such amendments, and proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.

(4) The amendments made by sections 5, 6, and 7 shall not apply to any case in which the findings and sentence were adjudged by a court-martial before the effective date of such amendments. The proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.

(5) The amendments made by section 8 shall not apply to any offense committed before the effective date of such amendments. Nothing in this provision shall be construed to invalidate the prosecution of any such offense committed before the effective date of such amendments.

(b) Section 7(b)(1) of the Military Justice Amendments of 1981 (95 Stat. 1089; 10 U.S.C. 706 note) is amended to read as follows:

"(b)(1) The amendments made by section 2 shall apply to each member whose sentence by court-martial is approved on or after January 20, 1982—

"(A) under section 864 or 865 (article 64 or 65) of title 10, United States Code, by the officer exercising general court-martial jurisdiction under the provisions of such section as it existed on the day before the effective date of the Military Justice Act of 1983; or

"(B) under section 860 (article 60) of title 10, United States Code, by the officer empowered to act on the sentence on or after the effective date of the Military Justice Act of 1983.".

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BYRD. Mr. President, reluctantly, I move to table the motion made by the Senator from Alaska.

The motion to lay on the table was agreed to.

DIRECTION FOR SENATE LEGAL COUNSEL TO REPRESENT THE SENATE PARTIES IN KLINGLER VERSUS THE EXECUTIVE BRANCH

Mr. STEVENS. Mr. President, I send to the desk a resolution on behalf of the majority and minority leaders and ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 128) to direct the Senate legal counsel to represent the Senate parties in *Harold H. Klingler, Jr. v. The Executive Branch of the Union known as the United States of America, et al,* Civil Action No. 83-V-331-N.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, the Senate Legal Counsel is representing the Senate, the President of the Senate, and the Secretary of the Senate in a number of actions by Members of the House of Representatives and by others who are seeking to invalidate the Tax Equity and Fiscal Responsibility Act of 1982. The plaintiffs in these cases contend that the act was passed in violation of the Origination Clause of the Constitution.

There is now an additional lawsuit brought by an individual plaintiff who claims that the act was passed in violation of the Origination Clause. This complaint also names Senate parties as defendants, as well as naming the legislative branch as a defendant. The following resolution will direct the Senate Legal Counsel to represent the Senate defendants in this new case. The Senate Legal Counsel will be authorized to request on behalf of the Senate that the complaint against the Senate parties and the legislative branch be dismissed.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 128) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 128

Whereas, in the case of Harold H. Klingler, Jr. v. The Executive Branch of the Union Known as the United States of America, et al., Civil Action No. 83-V-331-N, pending in the United States District Court for the Middle District of Alabama, the constitutionality of the Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97-248, has been challenged as having been enacted in violation of Article I, Section 7, Clause 1 of the United States Constitution;

Whereas, the complaint in this action names the Legislative Branch, the United States Senate, the Honorable George Herbert Walker Bush, President of the Senate, and William F. Hildenbrand, Secretary of the Senate, as parties defendants;

Whereas, pursuant to sections 703(a) and 704(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a) (Supp. V 1981), the Senate may direct its counsel to defend the Senate, its Members and officers, in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent the United States Senate, the Honorable George Herbert Walker Bush, in his capacity as President of the Senate, and William F. Hildenbrand, Secretary of the Senate, in the case of Harold H. Klingler, Jr. v. The Executive Branch of the Union Known as the United States of America, et al.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION OF TESTIMONY BY SENATOR PATRICK J. LEAHY

Mr. STEVENS. Mr. President, I send to the desk a resolution on behalf of the majority and minority leaders, and ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered. The resolution will be stated by title.

The assistant legislative clerk read as follows:

The resolution (S. Res. 129) to authorize the testimony of Senator Patrick J. Leahy.

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 129) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 129

Whereas, in the case of In Re Reuschel, No. S-45-82-CnM, pending in the Superior Court for Chittenden County in Vermont, the testimony of Senator Patrick J. Leahy has been requested concerning a prosecution he conducted as Chittenden County States Attorney;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave: Now, therefore, be it

Resolved, That Senator Patrick J. Leahy is authorized to testify in the case of In Re Reuschel, No. S-45-82-CnM, except when his attendance at the Senate is necessary for the performance of his legislative duties.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, marveling at the support that I have for such motions, I move that the motion of the Senator be laid on the table.

The motion to lay on the table was agreed to.

I am achieving a lot of victories today.

NATIONAL COUNCIL ON THE HANDICAPPED NOMINATION OF R. BUDD GOULD

Mr. STEVENS. Mr. President, as in executive session, I ask unanimous consent that the Senate proceed to the nomination of R. Budd Gould, of Montana, to be a member of the National Council on the Handicapped, reported from the Labor and Human Resources Committee today.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered. The clerk will report the nomination.

The assistant legislative clerk read as follows:

The nomination of R. Budd Gould, of Montana, to be a Member of the National Council on the Handicapped for a term expiring September 17, 1985.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. STEVENS. Mr. President, I ask unanimous consent that the President be immediately notified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I move to reconsider the vote by which the nomination was confirmed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE CALENDAR

Mr. STEVENS. Mr. President, I wonder if I might inquire from my good friend if he would agree that we might proceed with the nomination on pages 4 and 5 of the Executive Calendar.

Mr. BYRD. Mr. President, this side has cleared all nominations on page 2, page 3, and page 4, under Department of Defense but has not cleared the nominations on page 4 under New Reports. This has also cleared the nominations placed on the Secretary's desk appearing on page 5 of the Calendar.

EXECUTIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering the nominations on the Calendar, Nos. 118 and 119 on page 4, and all nominations on the Secretary's desk.

Mr. BYRD. Mr. President, for the moment, I cannot agree to proceed with Calendar No. 119.

Mr. STEVENS. Very well. Then, I ask unanimous consent that the Senate go into executive session for the purpose of considering the nomination on page 4 under Calendar No. 118 and all nominations on the Secretary's desk.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. STEVENS. Mr. President, I ask unanimous consent that the nominations referred to be considered and confirmed en bloc.

The PRESIDING OFFICER (Mr. PRESSLER). Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

Joseph H. Sherick, of Virginia, to be Inspector General, Department of Defense. (New Position)

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning John G. Aldous, and ending Lina S. Ruppel, which nominations were received by the Senate and appeared in the Congressional Record of April 12, 1983.

Army nominations beginning Edward J. F. Thomas, and ending Dallas Van Hoose, Jr., which nominations were received by the Senate and appeared in the Congressional Record of April 12, 1983.

Army nominations beginning George B. Abernathy, and ending John B. Zyznomyrsky, which nominations were received by the Senate and appeared in the Congressional Record of April 12, 1983.

Army nominations beginning Carolyn H. Cain, and ending Billie D. Sims, which nominations were received by the Senate and appeared in the Congressional Record of April 12, 1983.

Marine Corps nomination of William H. Smithmajor, which was received by the Senate and appeared in the Congressional Record of April 12, 1983.

Marine Corps nominations beginning Mark Stevens, and ending William A. Zimmerman, which nominations were received by the Senate and appeared in the Congressional Record of April 12, 1983.

Navy nominations beginning Everett Duane Beringer, and ending Sara Campbell Tolar, which nominations were received by the Senate and appeared in the Congressional Record of April 12, 1983.

Navy nominations beginning George Abitante, and ending G. R. Zuschlag, which nominations were received by the Senate and appeared in the Congressional Record of April 12, 1983.

Navy nominations beginning Clyde A. Best, Jr., and ending Dennis L. Johnson, which nominations were received by the Senate and appeared in the Congressional Record of April 12, 1983.

Navy nominations beginning Michelle R. Austin, and ending Edward J. Wood, which nominations were received by the Senate and appeared in the Congressional Record of April 12, 1983.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the nominations were agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

OUTLINE OF BUDGET AMENDMENT FOR PRENATAL MEDICAID COVERAGE

Mr. CRANSTON. Mr. President, when the budget resolution for fiscal year 1984—Senate Concurrent Resolution 27—comes before the Senate next week, I intend to offer an amendment to increase the funding levels for function 550 to provide adequate room for legislative action to correct a serious inequity that exists in the medicaid program with respect to benefits for low-income pregnant women. I am pleased to be joined in this effort by a number of my colleagues, including the Senator from Oregon (Mr. HATFIELD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from New York (Mr. MOYNIHAN), the Senator from Ohio (Mr. METZENBAUM), the Senators from Michigan (Mr. LEVIN and Mr. RIEGLE), the Senators from Hawaii (Mr. INOUYE and Mr. MATSUNAGA), the Senators from Massachusetts (Mr. KENNEDY and Mr. TSONGAS), the Senator from Connecticut (Mr. DODD), the Senator from Maryland (Mr. SARBANES), and the Senator from New Jersey (Mr. BRADLEY).

I believe that this amendment, and the underlying legislative initiative, should enjoy support from a wide spectrum of the Members of this body. A brief "Dear Colleague" letter describing our amendment was circulated yesterday. I ask unanimous consent that a copy of that letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. However, in order that all Members may be fully appraised of the purpose of this amendment and the importance of action during this Congress on this long overdue step, I wanted to take this opportunity in advance of the debate on the budget resolution to describe in full the history of this effort and the compelling case that exists in support of this amendment.

SUMMARY OF PROBLEM

Mr. President, the problem we are seeking to address lies in the medicaid program. There are an estimated 100,000 low-income pregnant women annually who are not eligible to receive medicaid assistance for maternity care for one of several reasons. First, in a number of States these women are denied medicaid coverage if this is a first pregnancy. In these States, medicaid eligibility, which is often linked to AFDC eligibility, is not available until after the child is born. If the mother in these States already has a child and receives AFDC assistance, she and the unborn child may receive medicaid assistance for until after the child is born. Second, in a number of States, if a pregnant woman is living in an intact family, regardless of her family's income she is not eligible to receive medicaid assistance. In other words, if her husband leaves, she can become eligible for medicaid, but as long as the family stays together, she remains ineligible. Finally, in some States, medicaid assistance is withheld until the woman has reached the last trimester of her pregnancy.

In each of these situations, we are referring to low-income women and families who meet all of the financial requirements for medicaid assistance. They are excluded from medicaid coverage because of one of the factors outlined above. Moreover, it is important to note that this is not the case in all States. Many States do offer full protection to all low-income pregnant women. The legislation I have introduced, S. 7, would close the gaps which exist in the remaining States so that low-income women throughout the country would be assured of uniform eligibility for these essential services. Similar provisions are contained in a measure introduced by the Senator from Connecticut (Mr. DODD), S. 572, which I have also cosponsored. Both S. 7 and S. 572 are pending before the Senate Finance Committee.

Mr. President, as I will outline in a few moments, maternal health care is an absolutely vital element in any effort to meet the health care needs of our Nation.

HISTORY OF EFFORTS

Mr. President, I would like to share with my colleagues some of the history behind this effort to close the gaps in medicaid coverage related to pregnancy—in order to help shed some light on why this situation has been tolerated for so long and why it is important that further delays not be permitted.

I first became aware of the problems surrounding inadequate coverage of certain low-income pregnant women when I began efforts in 1973 to enact legislation to help facilitate adoptive placements. Witnesses who testified about the need for Federal legislation in the adoption area noted the need to provide some financial assistance for the medical costs associated with carrying a pregnancy to term for those impoverished women who for one reason or another were excluded from medicaid coverage. In a number of cases, it was noted, these women, often teenagers, were forced either to resort to black market adoptions, facilitated by those in the business of buying and selling babies in exchange for payment of the medical costs associated with a pregnancy, or to abortions.

In response to these concerns, I included provisions in the adoption legislation I introduced in the 93d and 94th Congresses to provide for funds to help pay the medical costs of prenatal care for women who were considering placing their infants for adoption. Although the legislation made it clear that this assistance would not in any way be tied to the actual giving up of the infant for adoption, it became clear that such an approach might serve to increase the inequities faced by many pregnant women. In other words, it would be unfair to seek a remedy limited only to those women who were considering adoption; all pregnant women ought to have access to necessary prenatal care.

Thus, in 1977, I approached then Secretary of Health, Education, and Welfare, Joseph Califano, and urged that the Carter administration join with me in seeking an amendment to medicaid to insure that no low-income woman be denied the assistance critical to the outcome of her pregnancy. Secretary Califano responded affirmatively, and on August 10, 1978, I introduced on behalf of the Carter administration such a proposed amendment to the legislation introduced the previous year, S. 1392, by former Senator Abraham Ribicoff, to establish a new medicaid program—the child health assurance program, or CHAP.

Thus, Mr. President, the proposal to provide full medicaid eligibility to low-income pregnant women became—as it logically was—an integral part of the efforts to improve the medicaid program for low-income children. Unfortunately, however, when efforts to enact the CHAP program failed at the end of the 96th Congress, extended coverage of pregnancy care under medicaid also failed.

In the 97th Congress, I reintroduced my proposal as S. 667. However, it soon became apparent that action on S. 667 was unlikely at a time when substantial cuts were being made in the medicaid program itself. On January 26 of this year, I reintroduced this proposal as S. 7. In addition to S. 7, I also on January 26 introduced S. 6, legislation which would deal with coverage of pregnant women and begin on a phased basis the improvements in medicaid coverage for low-income children sought in previous CHAP proposals. I am extremely pleased to see that the House in its fiscal year 1984 budget resolution has included $350 million for enactment of legislation to extend medicaid coverage to all low-income pregnant women and to improve medicaid services to low-income children along the lines contemplated in the CHAP proposals. Unfortunately, the Senate Budget Committee did not include any such amounts in the measure reported to this body.

Mr. President, I remain fully committed to enactment of a comprehensive child health bill along the lines I have proposed in S. 6. I would very much like to see the Senate accept the full $350 million included in the House resolution, and I urge that this be done. But I believe that we cannot continue to delay enactment of the provisions related to maternity care. Enactment of legislation like S. 7 is too critical to the well-being of thousands of unborn children. We can and must during this Congress take this first step toward improving the health and quality of life of these children. Therefore, we will be offering an amendment next week to insure that sufficient amounts are included in the Senate resolution so that we can enact at least this essential legislation to extend medicaid eligibility on a uniform basis to all needy pregnant women.

THE NEED FOR PRENATAL CARE

Adequate care during pregnancy is critical in determining the outcome of a pregnancy. There is no question in the medical community about the importance of the relationship between inadequate maternity care and infant mortality and morbidity and the consequent very large societal costs resulting from the birth of children in ill health.

Medicaid coverage of prenatal, delivery, and postnatal care has proven successful in helping to lower infant mortality. According to a 1980 study of the Urban Institute, in States that do not provide medicaid coverage for first-time pregnancies, neonatal mortality rates are 2 to 5 percent higher, resulting in 28 to 107 more infant deaths per 1,000 live births, depending on race and sex.

A recent national analysis shows that publicly supported health centers, designed to increase access for those not receiving adequate care, have also had a substantial impact on reducing infant mortality rates. In one poor, rural area served by a federally funded health center, infant mortality dropped by 40 percent in the 4 years following the center's establishment. As reported by the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavorial Research in its report, "Securing Access to Health Care," in Alabama, the infant mortality rate dropped from 20 per 1,000 live births in 1976 to approximately 13 in 1981. This drop was not accompanied by a change in birthweight distribution or other demographic shifts. Experts believe that this considerable drop in infant mortality was chiefly due to a concerted effort by the State of Alabama to improve access to care for pregnant women and their newborns. Similarly, the improved medical care provided by the Indian Health Service is credited with much of the 70 percent reduction in infant mortality rates of American Indians that occurred between 1960 and 1979.

The majority of poor pregnancy outcomes occur in a minority of mothers each year. Approximately 1 in 7 pregnancies are at risk out of over 3 million births in the United States each year. About 230,000 of these infants—7 percent of all live births—weigh 2,500 grams or less at birth which is classified as low birth weight. Birth weight is a very strong predictor of illness and death in the newborn; in general, the lower the birth weight, the higher the mortality rate. According to the Surgeon General's 1980 report "Healthy People," low birth weight is the greatest single hazard for newborns, increasing their vulnerability to developmental problems and to death. These low birth weight infants have as much as a 40 times greater risk of dying in their first year of life than do newborns of normal weight. Very low birth weight infants—those who weigh less than 1,500 grams—face an especially high risk of death; although they constitute only 1 percent of all newborns, they account for almost half of all infant deaths.

Low birth weight infants are also at increased risk for serious congenital defects and impairments. Most of them are premature and the most common complication of prematurity is hyaline membrane disease, a consequence of immature lung development. Affected infants must be placed on mechanical ventilators to counteract the insufficient oxygen supply associated with this condition. Like the disorder, this treatment can also cause substantial morbidity and mortality.

Low birth weight and premature infants are at a high risk of becoming mentally retarded, due to birth complications, lowered resistance to infections, lack of fully developed nervous systems, and other factors. Low birth weight infants are about 10 times as likely to develop mental retardation as those over this weight. Also, the intraventricular hemorrhage frequently occurs in low birth weight and premature babies, and many of these small premature babies develop cerebral palsy, often associated with mental retardation.

Approximately 4 percent of all infants born in this country each year have one or more readily detectable congenital abnormalities. These abnormalities have been traced to inheritance of defective genes, as in phenylketonuria or Marfan syndrome; chromosomal abnormalities, as in Down syndrome, and environmental factors, including in utero viral infection or chemical exposure. Although many causes of birth defects have been identified, the causes for the majority of congenital abnormalities remain unknown and probably result from a complex interaction of genetic and environmental factors which we need to research further.

Clearly our success in reducing infant mortality and morbidity lies in reducing the number of high-risk infants born. The identification of potential problems in the mother as early as possible and the application of appropriate and adequate medical care to this group would have a significant beneficial effect on their pregnancy outcomes. Adequate prenatal care enables steps to be taken to prevent or reduce these risks, including arranging for the mother to give birth in a hospital equipped with resources suited to the needs of her pregnancy.

The majority of mothers at risk of having a low-birth weight and/or premature infant can be identified by present clinical and laboratory expertise. We know that women with such medical conditions as diabetes, hypertension, kidney, or heart disease, or who experience complications of pregnancy such as toxemia, or infections of the uterus, have a much greater risk of poor pregnancy outcome. Socioeconomic and demographic factors are also associated with high risk pregnancies. Those mothers who are poor, a member of a minority group, adolescent, unmarried, living in rural areas, and those over 35 years of age are more likely to be at high risk during pregnancy. For example, about 25 percent of the infants born to adolescent mothers under the age of 15 are low birth weight.

Mr. President, despite the importance of timely prenatal care, according to the HHS report, "Better Health for Our Children: A National Strategy," data from 44 States suggest that 25 percent of the women who gave birth in 1977 had no prenatal care in the first trimester. An even higher percentage may receive late or inadequate care. The percentage of women lacking adequate prenatal care is considerably greater among those groups at high risk of poor pregnancy outcome. According to data compiled by the National Center for Health Statistics in 1975, approximately twice the proportion of black as of white mothers received no or late prenatal care—the infant mortality rate of black infants in this country is nearly twice that of white infants. Furthermore, about 70 percent of expectant mothers under age 15 receive no care during the first months of pregnancy.

The need to provide prenatal, delivery, and postnatal care to those pregnant women unable to afford private care for themselves or those infants cannot be overstated. In the 96th Congress, I chaired a hearing on efforts needed to improve pregnancy outcome and reduce infant mortality. The overwhelming weight of the testimony from that hearing confirmed the recommendations of the General Accounting Office and numerous public health experts that the most important step we could take to prevent poor pregnancy outcome would be to insure that every pregnant woman received proper prenatal, delivery, and postnatal care.

Similar findings were made by the Select Panel for the Promotion of Child Health which was created by Congress to assess the status of maternal and child health and to develop a comprehensive plan to promote the health of children and pregnant women in the United States. One of the first recommendations made by that panel is to mandate medicaid eligibility for all pregnant women whose family income is at or below the federally established poverty level, including first-time pregnant women.

FINANCIAL BARRIERS TO CARE

Mr. President, experience has shown that without assurance of third-party reimbursement, many low-income women will not seek prenatal care. Instead, they arrive at the hospital emergency room when the birth of their child is imminent. This practice obviously creates a greater risk for the mother as well as for the child.

The medical expenses related to pregnancy are costly and create a real deterrent to medical care for a young woman with limited income. A sample survey conducted by the Health Insurance Association of America showed that in 1981 hospital and medical expenses for maternity care averaged about $2,046 in the United States. These costs vary tremendously in different regions of the country, and particularly between rural and urban areas. For a woman living at 55 percent of the Federal poverty level—$2,640 for an individual in 1983, these costs are insurmountable.

Moreover, the obstacles these high costs present to a low-income pregnant woman are aggravated by requirements of advance payments of cash in certain communities. In order to even begin to meet these costs, a pregnant low-income woman must face difficult and unfair choices about other necessities, such as food, clothing, and housing which also play an important role in determining the outcome of her pregnancy. The January 1980 GAO study "Better Management and Resources Needed to Strengthen Federal Efforts To Improve Pregnancy Outcome"—HRD—80-24—cites numerous other examples of economic barriers faced by low-income women in obtaining medical care.

The consequences of these barriers to care have been made even more tragically clear by the millions of Americans who have lost their health insurance coverage due to unemployment. Many of the unemployed are young couples or new parents, who, due to circumstances of being last hired, were the first fired during this recession. Because few have been able to afford to continue their health coverage after paying for their food, shelter, and other basics, and most are not eligible for medicaid, they have either relied for their care on community clinics or hospital emergency rooms. This growing number of unprotected Americans and their unmet health needs is beginning to point to the importance of adequate health care especially during pregnancy and emphasizes the critical need to make such care available.

Recently the Food Research and Action Center released a report indicating that after years of steady progress, infant mortality rates are going up once again. In seven States surveyed by the center, statewide infant mortality rates increased between 1980 and 1981. The State of Michigan, ravaged by the recession, has seen its infant mortality rate rise from 12.8 per 1,000 live births in 1980 to 13.2 per 1,000 live births in 1981—one of the greatest annual increases in the State since the early 1950's. The statistics for infant mortality are even more frightening when looking at certain urban areas where unemployment has been consistently high for the past 4 years. In Pontiac, Mich., for example, the infant mortality rate rose from an already high rate of 19.6 in 1980 to 23 in 1981. We cannot afford to ignore these threatening trends in the health status of our citizens.

For these reasons, virtually all of the witnesses testifying at the recent hearing before the Senate Finance Committee on developing a new program to provide assistance in meeting the health needs of recently unemployed workers stressed the importance of including coverage for maternal and newborn health care. I strongly support such efforts, and I also believe that the data which show the adverse impact upon infant mortality rates where unemployment rates are high and health care needs are going unmet underscore how important this protection is for all pregnant women.

INADEQUACY OF OTHER PROGRAMS TO FILL THE GAPS

Mr. President, I am sure there are some who recognize the gaps that exist in the medicaid program with respect to pregnancy coverage, but feel nevertheless that there are other health programs available to provide assistance to these women. It is true that Congress has established over the years a number of programs to help improve the health of residents of medically underserved areas. Some of these programs, like the National Health Service Corps scholarship program which supplied physicians to these areas, have essentially been terminated in the past 2 years. Others, like the maternal and child health program and the community health center program, have suffered substantial reductions in funding resulting in cutbacks in services and the number of people served.

Moreover, even before the funding reductions, these programs did not adequately serve the population we are trying to reach. In 1980, the General Accounting Office found, for example, that the former title V maternal and child health program did not provide sufficient funding to provide any prenatal or well-baby services in some areas of need and that services afforded under this program in many other areas were inadequate. The type of maternity and infant care projects established under title V that did reach this target group served relatively few communities. GAO reported that of the approximately 3,100 counties in the United States, only 242 were reportedly served by such projects in 1978. In 21 States, these projects generally served only 1 county and only 13 States reported that these projects served 4 or more counties. Substantial difficulties were reported in attempting to get services under the title V program to residents of rural areas. Moreover, GAO found that States used the title V funds for many purposes other than serving mothers and infants. They had to compete with other eligible groups for these funds. The GAO analysis of the 1978 State budgets for the title V formula grant program showed that: One, in the aggregate only a portion of the funds were available for services that most directly relate to improved pregnancy outcome; two, some States gave relatively little emphasis to activities that most directly related to this objective, and three, States spend a major portion of their MCH funds on programs or projects which serviced relatively few communities.

Mr. President, the GAO report documents similar inadequacies in the community health center program in terms of reaching needy pregnant women. The problem is basically that grant-funded programs have inherent limitations on their ability to reach all of the target population. Short of establishing maternal and child health projects in every community, the only way in our present system of health care of reaching all eligibles is through a third-party reimbursement system such as medicaid. That is the only way to be certain that no needy pregnant woman is denied access to necessary medical services.

FISCAL IMPACT

Mr. President, I know that the Members of the Senate are particularly concerned about the budget implications of any new coverage.

In 1980, the Congressional Budget Office estimated that the cost of such legislation when it was offered as an amendment to the CHAP bill would be $30 million in its first full year with estimated increments of another $30 million each subsequent year as women became aware of the coverage for prenatal care and sought medicaid reimbursement, rising to a projected cost of $140 million in fiscal year 1985.

The CBO's estimates were based on the assumption that the total population of low-income pregnant women eligible for this new coverage—100,000 annually—would not avail themselves of the coverage until fiscal year 1985. More recent CBO estimates assume a higher participation rate at the start but much lower subsequent increases. They have estimated that the cost in fiscal year 1984 would be $70 million, with increments of $5 million for each of the following 2 years. These assumptions may be based upon a reduction of other alternative care for these women and a consequent higher initial utilization rate. The higher figures also undoubtedly reflect increases in the number of women who would benefit from this provision as a result of cutbacks that have been made in the medicaid program over the past 2 years.

Mr. President, even using these higher cost projections for the first year of enactment our amendment still represents a relatively small price to pay for the health of these tens of thousands of women and their infants. These costs would be returned many times over in the savings that would be realized from a reduction in pregnancy complications and infant morbidity which result from inadequate care during pregnancy. An infant born in ill health to a low-income mother is a likely candidate to be a medicaid recipient for the majority of his or her life.

Many of the women who would be made eligible for this coverage are members of high-risk groups most likely to have low-birthweight infants that are 10 times as likely to suffer from developmental disabilities as are infants of normal birthweight. The lifetime costs of care for developmentally disabled individuals is very high. Institutional care now runs anywhere from $25,000 to $30,000 a year, to as high as $100,000 a year depending on the level of care required. When applied to a lifetime of care, estimating an average life of 40 years, the costs would run between $1 million and $4 million per individual. The costs of education are double that estimated for the average child—about $2,500 a year. And then there is the lost productive capacity, the addition to the GNP forgone, and the taxes unpaid as a result of such developmental disabilities.

A more immediate expense that can be avoided by adequate prenatal care is the expense for care provided in a neonatal intensive care unit. The costs of such care average $8,000 per episode and can likely reach $40,000 if not more. HHS, in testifying in the 95th Congress on the adolescent health services, and pregnancy prevention bill, reported that more than one-third of the 57,000 low-birthweight babies born to teenagers each year require intensive care. Roughly 6 percent of all births annually in this country require this specialized care at a staggering cost of over $2 billion.

SERIOUSLY ILL NEWBORNS AND THE PREVENTION OF HANDICAPPING CONDITIONS

Mr. President, this amendment can also be viewed from the perspective of another very sensitive and very emotionally charged issue—the issue of care for seriously ill, handicapped infants. Many of my colleagues are deeply concerned—as I am—over this issue and what role the Federal Government should play.

Our societal commitment to provide some of our most vulnerable members with the opportunity to live and thrive is dramatically illustrated by the highly specialized technology used in the neonatal intensive care unit. Such heroic efforts save many seriously ill newborns. The result can be increased complications and greater risks and long-term costs for possible life-long handicaps. Certainly, we should do everything we can to avoid what is both a painful experience for the infant and an anguishing one for parents and care givers. In sum, our policies should be designed to reduce the need for neonatal intensive care which is so economically and emotionally costly, both during the hospital stay and upon returning to the home, for families whose infants require such care.

Although it may not be medically possible to eliminate entirely the incidence of high-risk birth, there is absolutely no question that the availability of adequate care during pregnancy is critical to reducing the likelihood that a child will be born with a serious handicapping condition or life threatening condition. We ought to be doing everything possible to reduce the occurrence of these heartbreaking and tragic cases so that the number of families confronted with these situations is reduced. The Federal Government can and should close the gap in the medicaid program which forces many impoverished pregnant women to go without the medical care which can help increase the probability that their infants will be born healthy and strong.

AN ALTERNATIVE TO ABORTION

Mr. President, this amendment also has implications with respect to another issue of great concern. We have in the past year, and perhaps will soon again, be deeply divided over issues related to abortion. I believe, however, that this amendment ought to receive the strong support of those on every side of the abortion debate.

For those of my colleagues who support freedom of choice, nothing could be more central to that freedom of choice than the right of a woman to choose to carry a pregnancy to term free from economic pressures arising from the inability to pay for the costs of the medical care needed.

For those of my colleagues who oppose abortion, nothing could be more central to their concerns than efforts to develop realistic alternatives to abortion.

There should be no division among us on the issue of providing essential medical services to pregnant women. For these reasons, organizations with widely differing positions on the issue of abortion have endorsed my amendment. I ask unanimous consent that a list of the organizations in support of the amendment, and the underlying legislative proposal, S. 7, be printed in the RECORD at the conclusion of my remarks after the "Dear Colleague" letter.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 2.)

ADOPTIVE PLACEMENTS

Mr. CRANSTON. Mr. President, finally, as I stated at the outset, my initial work on closing the gap in medicaid coverage for pregnant women arose from my efforts to develop legislation to help facilitate the adoptive placement of children with special needs. Those efforts culminated several years ago in the passage of title II of Public Law 95-266, the Adoption Reform Act, and Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980. I believe that this amendment is a critical element of the efforts to make adoptive placements a realistic alternative for those women who might otherwise feel compelled by economic pressure to choose abortion, but I also strongly believe that such care should be available to all low-income women, regardless of whether they are actively contemplating an adoptive placement. Our amendment to medicaid is the most direct and fair way to eliminate any form of economic coercion associated with the inability to pay for the costs of prenatal, delivery, and postnatal care.

CONCLUSION

Mr. President, I hope that all of my colleagues will join in support of this amendment as a humane, cost-effective investment in our people.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., April 27, 1983.

DEAR COLLEAGUE: When the First Concurrent Resolution on the Budget for Fiscal Year 1984—S. Con. Res. 27—comes before the Senate, we intend to offer an amendment to increase function 550 levels by $70 million, $75 million, and $80 million in Budget Authority and Outlays for fiscal years 1984, 1985, and 1986, respectively, in order to provide for the enactment of legislation to correct a serious inequity which exists under the Medicaid program with respect to coverage for pregnant low-income women.

Under present law, in a number of states, pregnant women who otherwise meet the income and resources requirements for Medicaid are denied Medicaid coverage either because they are pregnant with their first child or because they are living in an intact family. Additionally, in some states, Medicaid coverage is not available until the third trimester of a pregnancy. To remedy this situation, many of us have sponsored legislation to provide such coverage. Two measures now pending before the Senate Finance Committee, S. 7 and S. 572, contain these provisions.

Early prenatal care is critical in determining the outcome of a pregnancy. For example, low birthweight is a major cause of infant mortality and can increase vulnerability to serious, lifelong physical and mental disabilities. Three-quarters of the risks associated with low birthweight can be evaluated in early prenatal visits, and steps can be taken to reduce such risks and increase the probability of having a healthy baby. However, if given no prenatal care, an expectant mother is three times as likely to have a low-birthweight child. Additionally, late care or no care is associated with increased prematurity rates, increased stillbirths and increased newborn mortality. For these reasons, numerous experts have said that the single most important step to reduce infant mortality and morbidity in this country would be to ensure that adequate prenatal care is made available to all pregnant women. Few services have as much potential for promoting health at crucial points in the life cycle and thereby avoiding handicapping conditions, and reducing long-term health-care costs.

The inability of many low-income women to secure adequate prenatal care has other profound implications. Lack of economic resources to pay for the medical care necessary to carry a pregnancy to term can be a factor in the decision of a pregnant woman to terminate a pregnancy. Similarly, it can precipitate black market adoptions. Those in the business of buying and selling babies are all too ready to offer to pay the full pregnancy costs in exchange for the infant. We believe that no woman should be forced because of economic pressure to resort to abortion or black-market baby sellers.

The cost of providing Medicaid coverage for prenatal services to those low-income women currently denied coverage is not great, particularly in light of the enormous social and fiscal costs of not providing such care.

Our amendment has wide support among organizations concerned with the health of mothers and children and with the strength of families. These organizations include:

National Conference of Catholic Charities.
Child Welfare League.
National Committee on Adoption.
March of Dimes.
American Citizens Concerned for Life.
Epilepsy Foundation of America.
Lutheran Council in the U.S.A.
Planned Parenthood Federation.
National Perinatal Association.
Association of Children's Hospitals.
Association for Retarded Citizens.
American Academy of Pediatrics.
American College of Obstetrics and Gynecology.
American Public Health Association.
National Organization for Women.
Association of Junior Leagues.
Family Service Association of America.
Children's Defense Fund.
American College of Osteopathic Pediatricians.

We hope you will join as a co-sponsor of this amendment. If you have any questions, or if you would like to join as a co-sponsor, please have your staff contact Susanne Martinez or Nancy Barrand at 4-3553.

With warm regards,

Cordially,

Mark O. Hatfield, Alan Cranston, Daniel Patrick Moynihan, Ernest F. Hollings, Daniel K. Inouye, Christopher J. Dodd, Donald W. Riegle, Jr., Spark M. Matsunaga, Edward M. Kennedy, Paul S. Sarbanes, Carl Levin, Howard M. Metzenbaum, Paul E. Tsongas, Bill Bradley.

EXHIBIT 2

ORGANIZATIONS SUPPORTING CRANSTON AMENDMENT TO S. CON. RES. 27 RELATING TO MEDICAID COVERAGE FOR LOW-INCOME PREGNANT WOMEN

National Conference of Catholic Charities.
Child Welfare League.
National Committee on Adoption.
March of Dimes Birth Defects Foundation.
American Citizens Concerned for Life.
Epilepsy Foundation of America.
Lutheran Council in the U.S.A.
Planned Parenthood Federation of America.
National Perinatal Association.
National Association of Children's Hospitals and Related Institutions.
United Presbyterian Church.
Association for Retarded Citizens.
American Academy of Pediatrics.
American College of Obstetrics and Gynecology.
American Public Health Association.
National Organization for Women.

Association of Junior Leagues.
Family Service Association of America.
Children's Defense Fund.
American College of Osteopathic Pediatricians.
American Medical Students Association.

THE NEED TO CUT BUDGET DEFICITS

Mr. CHAFFEE. Mr. President, it is my hope that the Senate will very shortly consider the first concurrent resolution on the budget for fiscal year 1984.

It is critical that we do so, and that we pass a budget resolution that has the effect of substantially reducing deficits, thus assuring continued economic growth and jobs.

Because reducing deficits is so very painful, requiring such difficult decisions both to raise revenues and control spending, many of us are tempted to ask whether the goal is worth the effort. Why is it so important to reduce deficits?

A recent report of six very eminent private economists who have all held high economic policymaking positions in the governments of Western Europe, Japan, and the United States, spells out the reasons.

These six, including Raymond Barre, the former Prime Minister of France; Charles Schultze, and Alan Greenspan, met under the auspices of the Brookings Institution last week to prepare a report which, I believe, merits the attention of Senators because it so succinctly describes the situation before us, and the inescapably necessary remedies we must adopt to assure economic recovery.

The six economists conclude that a sustained world ecomomic recovery must begin in the United States, but that for this recovery to occur, budget deficits must be reduced.

"The principal U.S. economic problem," they found, "is the large size of the U.S. budget defict that will occur existing laws, even under the assumption of a sustained economic recovery."

These deficits "create a climate of expectations about future inflation and short-term interest rates that have kept current long-term interest rates at historically high levels."

Such interest rates, they conclude, "threaten to slow fixed investment and cut short the domestic recovery."

Mr. President, these distinguished individals call our attention again to the need to reduce deficits. I and four other Republican Senators have presented an alternative budget that would accomplish this objective by reducing the deficit to $102 billion by 1988. The Budget Committee's resolution would reduce it to $123 billion in the same year. Other Senators have proposed plans. The important thing is now to get on with the work by beginning consideration of the budget resolution and resolving the issues of deficits, spending, and revenues that such consideration entails.

I ask unanimous consent that the report referred to be included in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

STATEMENT OF ECONOMIC POLICY

INTRODUCTION

On April 23 and 24, 1983, we met at The Brookings Institution to consider the economic prospects facing the main industrial countries, the policies that offer hope of improving these prospects, and the wider implications of these policies for the world economy. Our conclusions are set forth in the report that follows. We subscribe to these conclusions, although each of us would no doubt have suggested additional points and would have emphasized or phrased some parts of these conclusions differently.

We believe that the economic problems facing the industrial world are long-term and are structural; a sustained effort over a number of years will be required to remedy them. We hope that this report will contribute to such an effort.

Raymond Barre: Professor of Economics and Member of French National Assembly; Prime Minister of France 1976–1981

Alan Greenspan: Chairman of Townsend Greenspan; Chairman of the U.S. Council of Economic Advisers 1974–1977

Manfred Lahnstein: Member of the Bundestag; Finance Minister 1982, Federal Republic of Germany

Charles L. Schultze: Stanford University (on leave from The Brookings Institution); Chairman of the U.S. Council of Economic Advisers 1977–1981

Taroichi Yoshida: Industrial Bank of Japan; Vice Minister of Finance for International Affairs 1974–1976

Bunroku Yoshino: Advisor to the Japanese Ministry of Foreign Affairs and to Keidanren; Deputy Minister for Foreign Affairs 1974–1977

I. THE CURRENT SITUATION

Prospects for world economic recovery and growth have improved in important respects during the past year.

Inflation has been substantially reduced except in a few of the principal industrial countries. Control of inflation is now recognized to be a central policy problem by virtually all members of the OECD.[1] Lower oil prices are contributing to the decline in inflation, to a reduction of current account imbalances of oil importing countries, and to the release of resources for domestic expansion.

The United States is coming out of its prolonged recession. A moderate recovery seems to be under way and should extend into 1984 and there are signs of improved economic activity in some other countries.

The developing country debt crisis has been managed to date through an effective program of cooperation among governments, international institutions, and private lenders. Also, pressures for protectionism have been resisted, not altogether successfully but well enough to have preserved the principal elements of an open trading system.

There remain, however, formidable obstacles to a sustained and generalized recovery.

In the United States, large federal budget deficits that, under current laws, are built into the national fiscal structure create a climate of expectations about future inflation and short-term interest rates that have kept current long term interest rates at historically high levels. Continued interest rates at or near these levels threaten to slow fixed investment and cut short the domestic recovery. By leading to over-and under-valuation of exchange rates in terms of tradable goods, they contribute to trade imbalances and erratic capital movements, and restrict the ability of other industrial nations to ease monetary policies in the interest of faster growth. And they raise the risk that the international debt problem will prove to be unmanageable.

Widening fluctuations in exchange rates have introduced an additional element of instability in international economic relations.

Although the international debt problem has been kept under control, it has not yet been resolved. Deepening solvency problems, in the absence of a durable solution, could lead to a financial crisis that could disrupt international trade and choke off economic recovery.

Unemployment in the OECD countries has risen to postwar highs and, even with the recovery now in prospect, is not likely to decline in the near future.

The existence of large scale unemployment, together with difficult sectoral adjustment problems, make trade protection a continuing threat to both short and long term economic growth.

Finally, real wages, particularly in Western Europe but also to a varying extent in other countries, have been raised and kept at levels that combine with other factors to reduce the profitability of firms and inhibit private sector investment and expansion, and therefore are detrimental to restoration of higher levels of employment.

Private company balance sheets in the United States and many other industrialized countries have moved over time toward increasingly high ratios of debt to equity, and of short term to long term debt. Banks, similarly, have tended toward ratios of capital to assets that are low in relation to the potential losses in today's volatile markets. These conditions represent structural weaknesses that leave private firms and national economies vulnerable to immediate shocks and to recessions, and reduce the ability of private sector institutions to respond, as they did in the past, to expansionary measures by governments.

Everywhere, in varying degrees, government budgets are in difficulty, most often because of rapidly rising expenditures. Social welfare programs already preempt a sizable share of public spending and will tend to grow with the aging of our populations. In the United States, defense expenditures are also rising rapidly. Structural deficits in some cases are excessively large. As a result, public confidence has been eroded, and room for needed public investment and tax relief to promote private investment often is undesirably restricted.

II. POLICY ANALYSIS AND RECOMMENDATIONS

A sustained world economic recovery must begin in the United States. The United States continues to have a major impact on the world economy not only because its GNP and trade flows are the largest, but also because the U.S. dollar is used as a world currency, linking the world's capital markets. If the United States cannot solve its major economic problems, then it is difficult to see how a recovery can be sustained in the rest of the world.

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[1] Organization for Economic Cooperation and Development.

The principal U.S. economic problem, as is widely recognized, is the large size of the U.S. budget deficit that will occur under existing laws, even under the assumption of a sustained economic recovery. This prospective deficit is a key factor in explaining why U.S. long term interest rates remain so high. The fear is that either the government deficit will be monetized, leading to renewed inflation, or that the Federal Reserve will have to force up interest rates, in either case causing a premature end to the recovery.

We believe that a substantial reduction in future U.S. budget deficits, under measures enacted into law this year, would bring major benefits not only for the U.S. but for the entire world economy. In the United States, long term interest rates could be expected to decline and the Federal Reserve would be operating in an environment where it would have no reason to resist this decline. Not only would this reduction in U.S. interest rates help to sustain the recovery directly by encouraging private investment but, equally important, reduced interest rates would contribute to the restructuring of balance sheets, a restructuring that we believe is essential if stable economic growth is to be sustained over the longer run. Specifically, with lower long term rates, business firms would find it easier to refinance short term debts into longer term obligations. Lower interest rates would also be likely to lead to a further rise in the U.S. stock market, encouraging greater equity financing and thereby also contributing to a strengthening of balance sheets. And lower interest rates, through their effect on the pattern of exchange rates, would improve U.S. competitiveness, and reduce pressures for trade restrictions.

Lower U.S. interest rates would also benefit Europe and Japan because sustained growth in the United States would spill over into greater economic activity for them. Furthermore, the resulting pattern of exchange rates could help lower inflation rates in countries where currencies would then be appreciating, and thus provide room for measures to promote economic activity in a number of countries where that would then be appropriate.

Lower interest rates and sustained growth in OECD countries will be of major assistance to developing countries as well. An expansion of the world economy will lead to higher demand for LDC[3] exports, providing the only fundamental way of assuring the repayment of LDC debts. Furthermore, the prices of non-oil commodities which many developing countries rely upon for exports should reverse their two-year decline. In particular, lower U.S. interest rates would directly reduce the servicing burden of LDC debts.

III. WIDER IMPLICATIONS

So far we have analysed the prospects and problems facing the main industrial countries, and suggested policies to improve these prospects. These policies have wider implications for the world economy.

Developing Countries. Sustained non-inflationary growth is the most important contribution that the industrial nations can make to the progress of developing countries. That contribution will be enhanced if industrial nations also take other concomitant steps:

(a) IMF. The increased resources for the IMF which have been agreed upon are essential in order to assure continued successful management of the developing country debt problem. IMF loans, linked to sound stabilization programs and to continued lending by the commercial banks, can provide the bridge to a resumption of orderly growth, and avoid a default which in any circumstance would impose unacceptable costs on the defaulter through the disruption of its external economic relations. While IMF programs provide essential bridging help, the long run remedy for the debt problem lies in trade and in long term private and public investment.

(b) Trade. The developing countries have become increasingly important trading partners of the industrial nations. Both sides prosperity depends on this trade, which is the most important aspect of their economic intercourse. The industrial countries must hold open their markets to the exports of developing countries. As rapidly as their balance of payments permit, developing countries need to liberalize progressively their own often unduly restrictive import regimes.

(c) Private Investment. Under most circumstances, the best way to transfer resources and skills to developing countries is through private investment. Such investment has grown steadily and has proven mutually beneficial. The developing countries can contribute to its continuation by policies which create a congenial climate. The World Bank proposals for negotiations among industrial and developing countries looking to an agreed code of good conduct and some form of multilateral insurance against specified risks should be pursued vigorously.

(d) Official Development Assistance. Certain needs, notably for large infrastructure projects, are only likely to be met through long-term development aid. Unless this aid is increased in real terms, through the World Bank and otherwise, external resources will be lacking to achieve the growth required if the developing countries are to service their debts and play their full part in a healthy world economy.

Exchange Rates. Apparent misalignments in exchange rates are not the result of technical defects in the exchange markets, much less of deliberate intent by the countries concerned. They reflect differing economic policies and prospects, which cause free markets to assign different and changing values to currencies. We do not believe it feasible to return to a system of fixed exchange rates in the present circumstances. Misalignments can only be corrected by changing underlying national economic policies. This is what we have proposed.

Even so, there may be occasional excessive fluctuations around main trend lines, caused by speculative fever or other unusual factors. In those cases, consultation and concerted intervention by central banks may be desirable. The difficulty of predicting these events, or even identifying them when they occur—i.e., distinguishing them from foreign exchange movements that have deeper causes—suggest that rigid arrangements for handling them should be avoided.

Trade. Protectionist measures are no answer to the problems they purport to address. The policies proposed in this paper, as they take effect, should reduce the intensity of demands for supposed solutions through trade protection.

In the meantime, it will be essential to held the line—to avoid any new protectionist steps, however disguised, or whatever their apparent justification and alleged temporary character. Such measures can only reduce levels of economic well-being and increase unemployment, as in the 1930's. Indeed, economic improvement should be the occasion to roll back protectionist actions that have already been taken. We believe the governments of the major industrial countries should explicitly pledge themselves to this end. Such a "trade pledge" successfully helped to ward off protectionist measures during the recent difficult years.

The industrial nations should continue efforts launched at the recent GATT ministerial meeting to widen access to markets for both goods and services. Such an effort makes sense on its merits, and will generate a momentum that should strengthen anti-protectionist forces. But the only sure defense against these forces is sustained non-inflationary growth. We believe that the policies outlined in this paper will contribute toward achieving that growth.

AMAZING STAFF

Mr. KASTEN. Mr. President, during our extended debate on the 10-percent withholding issue, two members of my staff worked in a simply amazing manner. But then, Dawn Gifford-Martinez and Elise Paylan are both amazing people, and I salute them.

I ask unanimous consent that an article which appeared on March 20, 1983, in the Milwaukee Journal be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Milwaukee Journal, Mar. 20, 1983]

KASTEN STAFF TOOK ON SENATE'S BIG GUNS

WASHINGTON, D.C.—It was something like playing the cheerleaders against the varsity's defensive line.

Sen. Robert W. Kasten's team consisted of two young women staff members who ran interference for him last week in his struggle to score a victory against tax withholding on dividends and interest.

They were up against the Senate leadership, White House lobbyists and the Senate Finance Committee, including staff lawyers and others who combined hundreds of years of parliamentary and legislative experience.

Elise Paylan, 26, and Dawn Gifford-Martinez, 25, had about eight years of Senate experience between them, but nothing like what they faced last week.

GAINED RECOGNITION

Paylan recalled feeling somewhat intimidated by her staff opponents as they sat on couches on the Senate floor.

"They were all big, tough, serious men," she said.

The two young women, on the other hand, probably could change clothes, tie a few ribbons in their hair and be mistaken for Senate pages. In fact, early in the debate they were able to roam the Senate floor freely and eavesdrop on conversations because nobody paid any attention to them, Kasten said. Later, he said, everybody recognized them.

Yet with their help and some coaching from a few Senate veterans, Kasten held his own in the Senate's parliamentary and procedural thicket. The Wisconsin Republican eventually withdrew his amendment to repeal withholding in return for a guarantee that the Senate would consider it April 15.

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[3] Less developed countries.

But before Senate Majority Leader Howard H. Baker, Jr. worked out the agreement between Kasten and his chief opponent. Sen. Bob Dole (R-Kan.), chairman of the Finance Committee, the Senate had been tied up for a week on a $5.1 billion emergency jobs bill and a companion bill to provide states with $5 billion in unemployment compensation funds.

DEMOCRATIC COACH

Kasten came out of the tussle virtually assured that the Senate will vote on withholding repeal—something he had not been able to obtain from the leadership earlier because of Dole's opposition.

Sen. Russell Long (D-La.), a wily veteran who was chairman of the Finance Committee when the Democrats controlled the Senate, provided Kasten with a lot of coaching. In fact Kasten referred to Long several times as "my teacher." But he said he also had advice from Sens. Jake Garn (R-Utah), James McClure (R-Idaho) and Jesse Helms (R-N.C.).

But Kasten paid particular tribute to his two young staff members.

"In terms of floor strategy and the decisions we made, we kept up on every step, and in most cases we were ahead of them," he said.

"We were kidding about it this morning. It really was very intense. We got so we could communicate almost with one or two words: Elise was coordinating the outside groups, working vote counts and strategies, and making sure we kept in touch . . . Dawn and I were working the parliamentary procedure and getting amendments drawn up."

SPLIT RESPONSIBILITIES

Gifford-Martinez walked around part of the time clutching a book on Senate rules and procedures, which she took home to read at night. Paylan worked on details of the withholding issue itself, providing Kasten with points to make during new conferences and Senate debate.

Neither woman had much background for such a flight. Paylan, who describes herself as an Air force brat (her father is a retired colonel), from Fairfield, Calif., and has a undergraduate economics degree from the University of California at Davis.

After graduation in 1979, Paylan moved to Washington and went to work as a research assistant for Sen. Orrin Hatch (R-Utah). She soon transferred to the Budget Committee as Hatch's legislative assistant there and, late in 1980, took a similar job with Sen. Charles Grassley (R-Iowa).

Kasten joined the Budget Committee in early 1981 and soon offered her a job as his staff person on the committee. Paylan says she admired his conservatism on fiscal and tax policies and "to be honest, he offered me more money."

BOTH ARE CONSERVATIVES

Gifford-Martinez, who adopted her hyphenated name when she married six months ago, came to Washington from Dearborn, Mich., as a 19-year-old intern for former Sen. Robert Griffin (R-Mich.). Griffin later offered her a job as a research assistant, so she decided to stay. She already had two years at the University of Michigan and, in 1979, got her economics degree from the University of Maryland.

She left Griffin to go to work as a legislative assistant for Rep. Jack Kemp (R-N.Y.). After two years there, Kasten hired her as his legislative director.

Both women are conservatives working for a conservative senator. Paylan says, for example, that she hates women's lib. "Call me miss," she says. "Single girls have to advertise."

But both say they don't know of any senator who treats women more fairly and equally than Kasten.

"I don't know how many senators would place a young woman in the position of legislative director," Gifford-Martinez said. "He looks at your talent and what you can do and he gives you a chance."

"He's not liberated, but I don't think he has any problems," Paylan said. "I think he doesn't care whether you're a woman or a man. He cares what kind of a job you do for him."

DEPEND ON EACH OTHER

For his part, Kasten says the two women make up for their lack of experience with "hard work and just one heck of a lot of heart."

"I think they're wonderful," he said. "We've always had a lot of loyalty and a lot of, frankly, love on our staff. We really depend on each other. If people can do a job, the fact that they're young or don't have much experience is not important.

"What is important is that they're very, very bright, which they both are, and very, very hard working. So you can beat that kind of established experience with brightness and hard work. But you've got to have that spark, and they've got it."

Although Kasten is one of Washington's most eligible bachelors, he says he keeps his personal and professional lives separate, which means no romance between him and staff members. He said he had learned long ago never to date women with whom he worked.

A DIFFICULT POSITION

Kasten himself wound up better known and with his reputation enhanced in the Senate, according to most observers. He pushed hard, but also knew when to back off.

Old-timers like Sen. John Stennis (D-Miss.) said there was always a danger that a beginner like Kasten might overdo it. But, he said, "I think he's conducted himself very well."

Despite the fact that Kasten bucked President Reagan and the leadership of his own party, it probably did not hurt him politically, according to Long, who was Kasten's main adviser.

"The kind of fight, where a man has to take on his own leadership and his committee chairman puts him in a difficult position," Long said. "But in the long run people respect you because you have the courage to stand your ground."

Long is an old friend of former Wisconsin Sen. Gaylord Nelson, whom Kasten beat in 1980. Nelson said last week that nobody knew how to tie up the Senate better than Long.

Kasten himself, who was described in one article last week as looking like a choir boy, said he thought the entire experience "was clearly a big plus" for him as a senator. If nothing else, he said, it increased his recognition.

"The doormen probably won't stop me any more thinking I'm a staffer," he said.

TEACHING GIRLS TO SAY "NO"

Mr. JEPSEN. Mr. President, with the Department of Health and Human Services regulations requiring parental notification tied up in the courts, it is encouraging to see educators and parents taking a fresh look at the problem of teenage pregnancies and the necessity of developing an alternate program.

In a column in the Washington Times of April 26, 1983, Eliza Paschall reports on a group in Atlanta with an innovative method.

The campaign for responsible parenthood took a hard look at the high rate of teenage pregnancies. Recognizing that sound sex education and readily available contraceptives were not reducing that rate, these Atlantans are using a two-pronged alternate approach to help the city's minors—male and female.

The group has initiated an education series called, "Postponing Sexual Involvement," and is encouraging parents to talk to their children about religion, beliefs, and values.

I commend the Coalition for Responsible Parenthood, headed by Mayor and Mrs. Andrew Young, for their active community involvement.

I ask unanimous consent that Eliza Paschall's column entitled, "Teaching Girls To Say 'No'" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Apr. 26, 1983]

TEACHING GIRLS TO SAY "NO"

(By Eliza Paschall)

Planned Parenthood of Atlanta, along with 26 other private and public health and youth service agencies, is sponsoring a program to persuade 16-year-olds and younger teen-agers that "you ought not to be having sex at a young age" and to encourage parents to talk with their sons and daughters "about your religion, your beliefs, your values, your feelings."

The Campaign for Responsible Parenthood and its education series for "Postponing Sexual Involvement" is a program of the Teen Services of metropolitan Atlanta's large public Grady Memorial Hospital. Dr. Marion Howard, director of Grady's Teen Services Program and associate professor in Emory University's Medical School Department of Gynecology and Obstetrics, says it is a response to several facts:

1. One out of every eight girls in Georgia, including Atlanta, becomes pregnant while still under 18.
2. Atlanta's public schools for the past six years have had a sound sex program for the eighth grade.
3. Grady for the past 12 years has provided birth control information and services to teen-agers in metropolitan Atlanta.
4. Many psychologists theorize that it is very likely that under-18-year-olds have not developed the ability "to move from concrete to operational thinking, i.e., the ability to weigh alternatives and consequences and

therefore to make choices based on ability to conceive in the future".

5. Present sex education and support systems are designed to support and encourage those who are sexually active and those who do become pregnant, not those who choose to postpone sexual involvement and choose not to become pregnant.

The sum total of these facts, the doctor says, is that the expectation that knowledge about sex and the availability of contraceptives will control teen-age pregnancy has proved to be false. "The commonly proposed solutions to teen pregnancy (sex education and birth control) are already in place in Atlanta and are having whatever impact they can have . . . they are not sufficient in dealing with the problem."

Acknowledging that these solutions were not sufficient, Howard and her staff went to the Atlanta community to find out if the community was aware of the teen pregnancy rate; if the community perceived that to be a problem; what focus did the community want in programs dealing with the subject. They found out that yes, the community does perceive it as a problem and it wanted a program involving parents and focusing on postponing sexual involvement.

The Coalition for Responsible Parenthood headed by Mayor and Mrs. Andrew Young sponsored the "Let Talk" series involving parents and teen-agers, and out of that grew a second series on "Postponing Sexual Involvement," more popularly known as the series to "Learn How to Say 'No'."

Both series differ distinctly from other efforts to deal with teen-age pregnancy in two ways. The curriculum starts with a given value: "You ought not to be having sex at a young age." Everything is designed to reinforce that predetermined goal. Other sex education programs present alternatives to teenagers, with the hope they will act responsibly. "This series, 'How to Say No,' avoids the double message implicit in such programs."

The second unique feature is that the exercises are designed to have the participants in discussion groups, role playing, etc., experience social success while saying "no" to sexual involvement. Participants are not permitted to decide how their "role" shall be played. It is to be played so that "it comes out all right for the person saying 'no,' the girl doesn't lose her boyfriend, the boy isn't called "gay," both stay popular. . . .

Parental response to the programs has been unusually high. The programs can strengthen the resolve of teen-agers who have decided to postpone sex and also can support the parents in their support of the teen-agers. "It is our feeling," Howard says, "that teens who decide not to have sex get little support and few rewards from agencies and others for their behavior."

The doctor has no compunctions about using the "ought" and no apologies for taking a position in favor of postponing sexual involvement. The "Let's Talk" brochure prepared for mailing to parents of all teen-agers in the Atlanta schools says "Saying 'no' is the only 100 percent sure way of preventing pregnancy and VD. . . . Some diseases spread by sexual contact can't be cured. More and more grownups are finding they can't have a baby because of infections they got from teen sexual activity. . . . Girls and boys who become parents while teens may not finish school and may not be able to get a good job, may hurt or not take good care of their child, may have to be on welfare, may not have healthy babies."

We know the bad effects of early sex. We know the effects of smoking, but millions still smoke, Howard explains. Knowledge alone does not change behavior. Behavior reflects values. Postponing sexual involvement is a community value in Atlanta. The "Postponing Sexual Involvement" series is institutionalizing that value and making it easier to uphold.

Atlanta is not alone in rethinking its message to teen-agers about sex, judging from the interest all over the nation in these programs. A recent article in the publication of SIECUS (Sex Information and Education Council of the United States) describing the Grady programs has generated much interest. Both the "Let's Talk" and "How to Say 'No' " series are being packaged for adaptation to other communities and can be obtained from the Teen Services Program Grady Hospital, Atlanta.

The Atlanta experience is a refreshing instance of professional integrity. Howard and her associates, like their colleagues, had certain theories about teen-age pregnancy. The theories were tested and found wanting. Instead of focusing on defending the theories, they are focusing on other theories to test.

Howard has a theory that youny teenagers are called on to make decisions about sex whereas decisions in areas less important, are made for them. In sex education classes, she says, a teen-ager often will ask "Should I become sexually involved?" and is told "It depends on how you feel."

If the same young teen-ager had asked "Should I drink alcohol, should I drive a car, should I vote?" we wouldn't say "It depends on how you feel." Why should decisions about sex be so different.

IMPLEMENTATION OF THE ADOPTION ASSISTANCE AND CHILD WELFARE ACT OF 1980

Mr. CRANSTON. Mr. President, as one of the Senate authors of Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, I have been deeply concerned about the failure of this administration to commit itself to full and effective implemenation of this important law.

Initially, the Reagan administration proposed a complete repeal of Public Law 96-272. When those efforts were thwarted by strong opposition in Congress, the administration began a series of other efforts, including funding reductions, refusing to issue implementing regulations, and proposals to transform the program into a block grant. Indeed, despite the fact that Congress flatly and explicitly has refused on several occasions to go along with the block-grant proposal, the administration has acted in the past several years as if the Adoption Assistance and Child Welfare Act was a block grant. For nearly 18 months, the Department of Health and Human Services—HHS—refused to issue regulations with respect to the new program, asserting basically that the States could make their own judgment about what was required under the new law. Moreover, the Department adopted a formal policy of allowing States to self-certify that they met the requirements of the act. Not until the middle of last year was any effort made by HHS to determine if those self-certifications were valid. And those verification activities also began only after a bipartisan group of House Members requested a GAO investigation of the self-certification program and the general failure of the administration to carry out its statutory duties under Public Law 96-272. Interestingly, a number of States decertified themselves when it became apparent that some effort was going to be made by HHS to verify their claims. The GAO report on HHS compliance with the law should be released in the very near future.

PERSONNEL TRANSFERS PROPOSED

Mr. President, I recently became aware of another effort within HHS to weaken implementation of this and other children's programs. At this time, senior career employees who are knowledgeable about child welfare matters are scheduled to be transferred to other programs. Specialists in children's programs will be transferred to work on older Americans' programs and employees from other division will be transferred into their positions. According to an April 2, 1982, directive from HHS Assistant Secretary Dorcas Hardy regarding periodic reassignment of senior management employees, this proposal seems to be part of a policy of reassigning employees who have become so engrossed in the details of specific programs that they will become parochial in their approach and lose sight of the agency's overall objectives. Another way of looking at this policy is that these career employees are committed to implementing the laws which Congress enacted—a commitment which is evidently contrary to the position of this administration which has persistently sought to repeal or thwart implementation of these laws.

Mr. President, Public Law 96-272 is the law of the land, and it should be fully and vigorously enforced by HHS. The proposed personnel transfers clearly are not designed to accomplish this. I have written to the new Secretary of Health and Human Services, Margaret Heckler, asking for her to look into this matter personally. I have also requested that the General Accounting office take a look at these proposed personnel changes and comment on the potential impact such transfers will have on further delaying implementation of Public Law 96-272.

Mr. President, I ask unanimous consent that copies of my letters to Secretary Heckler and the Comptroller General be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

NECESSITY OF PRIVATE LITIGATION TO ENFORCE PUBLIC LAW 96-272

Mr. CRANSTON. Mr. President, in this connection, I want to note also the fact that a U.S. district court in Massachusetts recently issued a decision in the case of Lynch against King ordering that the State take certain steps to implement Public Law 96-272. The decision of the district court, particularly in terms of interpretation of congressional intent with respect to the specific protections to be extended to children in foster care or in danger of being placed in foster care, is a thoughtful and thorough analysis of the purposes of Public Law 96-272.

In light of the unwillingness of the current administration, as I have outlined, to carry out its responsibilities, the district court's holding that individual children have standing to bring an action to enforce the laws particularly important. From my standpoint as a principal author of Public Law 96-272, it is clear that the district court Lynch against King correctly concluded that the authority granted to the Secretary of Health and Human Services to withhold or reduce funding to a State for noncompliance was not intended to be an exclusive remedy. There is nothing inconsistent in providing the Secretary with such authority and also recognizing a right of individual children or parents or classes of children and parents to seek judicial enforcement of the protections which Congress intended to be afforded to them under the act.

Mr. President, as my statements on the Senate floor during the several years that this legislation was being developed made clear, the intended beneficiaries of Public Law 96-272 were and continue to be the children who are in foster care or are in danger of being placed in foster care. There should be no question that these children have standing to seek enforcement of this law in order to secure the benefits and protections that Congress intended they receive. The Lynch decision is an important step in bringing about the goals that Public Law 96-272 was enacted to further.

CONCLUSION

Mr. President, every year that implementation of Public Law 96-272 is delayed means that still more children will be lost in the foster-care limbo and denied the right to grow up in permanent homes. The reform of the foster-care system is long-overdue. It is sad that it takes a court order to bring that about, but that appears to be the only way to achieve faithful execution of this law under the Reagan administration.

EXHIBIT 1

U.S. SENATE,
Washington, DC, April 27, 1983.

Hon. CHARLES A. BOWSHER,
Comptroller General of the United States, General Accounting Office, Washington, DC.

DEAR CHARLES: Enclosed is a copy of a letter I recently sent to the Secretary of Health and Human Services expressing my concern over the impact of certain proposed personnel changes on the implementation of Public Law 96-272. Since your office is already deeply involved in a review of the activities of the Department of Health and Human Services with respect to implementation of this law, I would appreciate your also reviewing these personnel changes and giving me your comments on how such changes will help or hinder efforts to carry out the Department's responsibilities under Public Law 96-272.

Your assistance in this matter will be greatly appreciated.

With warm regards,
Cordially,

ALAN CRANSTON.

U.S. SENATE,
Washington, DC., April 1, 1983.

Hon. MARGARET HECKLER,
Secretary of Health and Human Services, Washington, DC.

DEAR PEGGY: I have been advised that a major personnel reorganization is about to be implemented in the Office of Human Development Services affecting primarily the Administration for Children, Youth, and Families. According to these reports, many of the staff who are knowledgeable about and responsible for implementation of the Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272, are being transferred to other programs within the Department of Health and Human Services.

As a primary Senate author of this landmark legislation, I am deeply concerned about the adverse impact any such reorganization could have on progress in achieving the reforms contemplated by Congress in enacting this legislation. As you may know, the Department's efforts to achieve repeal of Public Law 96-272 and its subseqent apparent lack of commitment to effective implementation of the Act have been the subject of considerable criticism. The proposed personnel reorganization has heightened concerns about the Department's desire and ability to enforce this law.

I would greatly appreciate your looking into this matter personally and giving me a report on the proposed reorganization, including the basis for the proposed changes and a description of the qualifications and background of those individuals who it is proposed will be assuming responsibility for implementation of Public Law 96-272 along with a comparison of the qualifications and background of those individuals who have been carrying out that responsibility.

Peggy, we have already lost a lot of time getting this program implemented, and I would hate to see further setbacks. Each year that passes means still more children get caught in the foster-care limbo. I hope that HHS, under your leadership, will begin to demonstrate a strong commitment to implementation of the long-awaited reform of the foster-care system that Public Law 96-272 provided for. Toward that end, I ask that you halt this reorganization until you have reviewed it and satisfied yourself that it is consistent with your mandate and responsibilities under the Act.

With warm regards,
Cordially,

ALAN CRANSTON.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE CONCERNING FOREIGN POLICY IN CENTRAL AMERICA—MESSAGE FROM THE PRESIDENT—PM 40

The **PRESIDING OFFICER** laid before the Senate a message from the President of the United States, received during the session of the Senate April 27, 1983, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

A number of times in past years, Members of Congress and a President have come together in meetings like this to resolve a crisis. I have asked for this meeting in the hope that we can prevent one.

It would be hard to find many Americans who are not aware of our stake in the Middle East, the Persian Gulf, or the NATO line dividing the free world from the Communist bloc. The same could be said for Asia.

But in spite of, or maybe because of, a flurry of stories about places like Nicaragua and El Salvador and, yes, some concerted propaganda, many of us find it hard to believe we have a stake in problems involving those countries. Too many have thought of Central America as a place way down below Mexico that can not possibly constitute a threat to our well being.

That is why I have asked for this session. Central America's problems do directly affect the security and well being of our own people. And Central America is much closer to the United States than many of the world trouble spots that concern us. As we work to restore our own economy, we cannot afford to lose sight of our neighbors to the South.

El Salvador is nearer to Texas than Texas is to Massachusetts. Nicaragua is just as close to Miami, San Antonio, San Diego, and Tucson as those cities are to Washington where we are gathered tonight.

But nearness on the map does not even begin to tell the strategic importance of Central America, bordering as it does on the Caribbean—our lifeline to the outside world. Two-thirds of all our foreign trade and petroleum pass through the Panama Canal and the Caribbean. In a European crisis, at least half of our supplies for NATO would go through these areas by sea. It is well to remember that in early 1942 a handful of Hitler's submarines sank more tonnage there than in all of the Atlantic Ocean. And they did this without a single naval base anywhere in the area.

Today, the situation is different. Cuba is host to a Soviet combat brigade, a submarine base capable of servicing Soviet submarines, and military air bases visited regularly by Soviet military aircraft.

Because of its importance, the Caribbean Basin is a magnet for adventurism. We are all aware of the Libyan cargo planes refueling in Brazil a few days ago on their way to deliver medical supplies to Nicaragua. Brazilian authorities discovered the so-called medical supplies were actually munitions and prevented their delivery. You may remember that last month, speaking on national television, I showed an aerial photo of an airfield being built on the island of Grenada. Well, if that airfield had been completed, those planes could have refueled there and completed their journey.

If the Nazis during World War II and the Soviets today could recognize the Caribbean and Central America as vital to our interests, should not we also?

For several years now, under two administrations, the United States has been increasing its defense of freedom in the Caribbean Basin. And I can tell you tonight, democracy is beginning to take root in El Salvador which, until a short time ago, knew only dictatorship. The new government is now delivering on its promises of democracy, reforms, and free elections. It was not easy and there was resistance to many of the attempted reforms with assassination of the reformers. Guerrilla bands and urban terrorists were portrayed in a worldwide propaganda campaign as freedom fighters representative of the people. Ten days before I came into office, the guerrillas launched what they called a "final offensive" to overthrow the government. Their radio boasted that our new Administration would be too late to prevent their victory. They learned democracy cannot be so easily defeated.

President Carter did not hesitate. He authorized arms and ammunition to El Salvador. The guerrilla offensive failed, but not America's will. Every President since this country assumed global responsibilities has known that those responsibilities could only be met if we pursued a bipartisan foreign policy.

As I said a moment ago, the government of El Salvador has been keeping its promises, like the land reform program which is making thousands of farm tenants, farm owners. In a little over 3 years, 20 percent of the arable land in El Salvador has been redistributed to more than 450,000 people. That is about one in ten Salvadorans who has directly benefited from this program.

El Salvador has continued to strive toward an orderly and democratic society. The government promised free elections. On March 28th, little more than a year ago, after months of campaigning by a variety of candidates, the suffering people of El Salvador were offered a chance to vote—to choose the kind of government they wanted. Suddenly the so-called freedom fighters in the hills were exposed for what they really are—a small minority who want power for themselves and their backers—not democracy for the people. The guerrillas threatened death to anyone who voted. They destroyed hundreds of buses and trucks to keep the people from getting to the polling places. Their slogan was brutal: "Vote today, die tonight." But on election day, an unprecedented 80 percent of the electorate braved ambush and gunfire, and trudged for miles to vote for freedom. That is truly fighting for freedom. We can never turn our backs on that.

Members of this Congress who went there as observers told me of a woman who was wounded by rifle fire on the way to the polls, who refused to leave the line to have her wound treated until after she had voted. Another woman had been told by the guerrillas she would be killed when she returned from the polls, and she told the guerrillas, "You can kill me, you can kill my family, kill my neighbors, but you can't kill us all." The real freedom fighters of El Salvador turned out to be the people of that country—the young, the old, the in-between—more than 1 million of them out of a population of less than 5 million. The world should respect this courage, not allow it to be belittled or forgotten. Again, I say in good conscience, we can never turn our backs on that.

The democratic political parties and factions in El Salvador are coming together around the common goal of seeking a political solution to their country's problems. New national elections will be held this year and they will be open to all political parties. The government has invited the guerrillas to participate in the election and is preparing an amnesty law. The people of El Salvador are earning their freedom and they deserve our moral and material support to protect it.

Yes, there are still major problems regarding human rights, the criminal justice system, and violence against non-combatants. And, like the rest of Central America, El Salvador also faces severe economic problems. But, in addition to recession-depressed prices for major agricultural exports, El Salvador's economy is being deliberately sabotaged.

Tonight in El Salvador—because of ruthless guerrilla attacks—much of the fertile land cannot be cultivated; less than half the rolling stock of the railways remains operational; bridges, water facilities, telephone and electrical systems have been destroyed and damaged. In one 22-month period, there were 5,000 interruptions of electrical power. One region was without electricity for a third of a year.

I think Secretary of State Shultz put it very well the other day: "Unable to win the free loyalty of El Salvador's people, the guerrillas are deliberately and systematically depriving them of food, water, transportation, light, sanitation, and jobs. And these are the people who claim they want to help the common people."

They do not want elections because they know they would be defeated. But, as the previous election showed, The Salvadoran people's desire for democracy will not be defeated.

The guerrillas are not embattled peasants armed with muskets. They are professionals, sometimes with better training and weaponry than the government's soldiers. The Salvadoran battalions that have received U.S. training have been conducting themselves well on the battlefield and with the civilian population. But, so far, we have only provided enough money to train one Salvadoran soldier out of ten, fewer that the number of guerrillas trained by Nicaragua and Cuba.

And let me set the record straight on Nicaragua, a country next to El Salvador. In 1979, when the new government took over in Nicaragua, after a revolution which overthrew the authoritarian rule of Somoza, everyone hoped for the growth of democracy. We in the United States did, too. By January of 1981, our emergency relief and recovery aid to Nicaragua totalled $118 million—more than provided by any other developed country. In fact, in the first 2 years of Sandinista rule, the United States directly or indirectly sent five times more aid to Nicaragua than it had in the 2 years prior to the revolution. Can anyone doubt the generosity and good faith of the American people?

These were hardly the actions of a nation implacably hostile to Nicaragua. Yet, the government of Nicaragua has treated us as an enemy. It has rejected our repeated peace efforts. It has broken its promises to us, to the Organization of American States, and, most important of all, to the people of Nicaragua.

No sooner was victory achieved than a small clique ousted others who had been part of the revolution from having any voice in government. Humberto Ortega, the Minister of Defense, declared Marxism-Leninism would be their guide, and so it is.

The government of Nicaragua has imposed a new dictatorship; it has refused to hold the elections it promised; it has seized control of most media and subjects all media to heavy prior censorship; it denied the bishops and priests of the Roman Catholic Church the right to say Mass on radio during Holy Week; it insulted and mocked the Pope; it has driven the Miskito Indians from their homelands burning their villages, destroying their crops, and forcing them into involuntary internment camps far from home; it has moved against the private sector and free labor unions; it condoned mob action against Nicaragua's independent human rights commission and drove the director of that commission into exile.

In short, after all these acts of repression by the government, is it any wonder opposition has formed? Contrary to propaganda, the opponents of the Sandinistas are not die-hard supporters of the previous Somoza regime. In fact, many are anti-Somoza heroes who fought beside the Sandinistas to bring down the Somoza government. Now they have been denied any part in the new government because they truly wanted democracy for Nicaragua and still do. Others are Miskito Indians fighting for their homes, lands, and lives.

The Sandinista revolution in Nicaragua turned out to be just an exchange of one set of autocratic rulers for another, and the people still have no freedom, no democratic rights, and more poverty. Even worse than its predecessor, it is helping Cuba and the Soviets to destabilize our hemisphere.

Meanwhile, the government of El Salvador, making every effort to guarantee democracy, free labor unions, freedom of religion, and a free press, is under attack by guerrillas dedicated to the same philosophy that prevails in Nicaragua, Cuba, and, yes, the Soviet Union. Violence has been Nicaragua's most important export to the world. It is the ultimate in hypocrisy for the unelected Nicaraguan government to charge that we seek their overthrow when they are doing everything they can to bring down the elected govenment of El Salvador. The guerrilla attacks are directed from a headquarters in Managua, the capital of Nicaragua.

But let us be clear as to the American attitude toward the government of Nicaragua. We do not seek its overthrow. Our interest is to insure that it does not infect its neighbors through the export of subversion and violence. Our purpose, in conformity with American and international law, is to prevent the flow of arms to El Salvador, Honduras, Guatemala, and Costa Rica. We have attempted to have a dialog with the government of Nicaragua but it persists in its efforts to spread violence.

We should not—and we will not—protect the Nicaraguan government from the anger of its own people. But we should, through diplomacy, offer an alternative. And, as Nicaragua ponders its options, we can and will—with all the resources of diplomacy—protect each country of Central America from the danger of war.

Even Costa Rica, Central America's oldest and strongest democracy, a government so peaceful it does not even have an army, is the object of bullying and threats from Nicaragua's dictators.

Nicaragua's neighbors know that Sandinista promises of peace, non-alliance, and non-intervention have not been kept. Some 36 new military bases have been built—there were only 13 during the Somoza years.

Nicaragua's new army numbers 25,000 men supported by a militia of 50,000. It is the largest army in Central America supplemented by 2,000 Cuban military and security advisors. It is equipped with the most modern weapons, dozens of Soviet-made tanks, 800 Soviet-bloc trucks, Soviet 152-MM howitzers, 100 anti-aircraft guns, plus planes and helicopters. There are additional thousands of civilian advisors from Cuba, the Soviet Union, East Germany, Libya, and the Palestine Liberation Organization. And we are attacked because we have 55 military trainers in El Salvador.

The goal of the professional guerrilla movements in Central America is as simple as it is sinister—to destabilize the entire region from the Panama Canal to Mexico. If you doubt me on this point, just consider what Cayetano Carpio, the now-deceased Salvadoran guerrilla leader, said earlier this month. Carpio said that after El Salvador falls, El Salvador and Nicaragua would be "arm-in-arm and struggling for the total liberation of Central America."

Nicaragua's dictatorial junta, who themselves made war and won power operating from bases in Honduras and Costa Rica, like to pretend they are today being attacked by forces based in Honduras. The fact is, it is Nicaragua's government that threatens Honduras, not the reverse.

It is Nicaragua who has moved heavy tanks close to the border, and Nicaragua who speaks of war. It was Nicaraguan radio that announced on April 8th the creation of a new, unified revolutionary coordinating board to push forward the Marxist struggle in Honduras.

Nicaragua, supported by weapons and military resources provided by the Communist bloc, represses its own people, refuses to make peace, and sponsors a guerrilla war against El Salvador.

President Truman's words are as apt today as they were in 1947, when he, too, spoke before a Joint Session of the Congress:

> At the present moment in world history nearly every nation must choose between alternative ways of life. The choice is too often not a free one.
>
> One way of life is based upon the will of the majority, and is distinguished by free institutions, representative government, free elections, guarantees of individual liberty, freedom of speech and religion, and freedom from political oppression.
>
> The second way of life is based upon the will of a minority forcibly imposed upon the majority. It relies upon terror and oppression, a controlled press and radio, fixed elections, and the suppression of personal freedoms.
>
> I believe that it must be the policy of the United States to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures.
>
> I believe that we must assist free peoples to work out their own destinies in their own way.
>
> I believe that our help should be primarily through economic and financial aid which is essential to economic stability and orderly political processes.
>
> . . . Collapse of free institutions and loss of independence would be disastrous not only for them but for the world. Discouragement and possibly failure would quickly be the lot of neighboring peoples striving to maintain their freedom and independence.

The countries of Central America are smaller than the nations that prompted President Truman's message. But the political and strategic stakes are the same. Will our response—economic, social, military—be as appropriate and successful as Mr. Truman's bold solutions to the problems of postwar Europe?

Some people have forgotten the successes of those years—and the decades of peace, prosperity, and freedom they secured.

Some people talk as though the United States were incapable of acting effectively in international affairs without risking war or damaging those we seek to help.

Are democracies required to remain passive while threats to their security and prosperity accumulate?

Must we just accept the destabilization of an entire region from the Panama Canal to Mexico on our southern border?

Must we sit by while independent nations of this hemisphere are integrated into the most aggressive empire the modern world has seen?

Must we wait while Central Americans are driven from their homes, like the more than 4 million who have sought refuge out of Afghanistan or the 1½ million who have fled Indochina or the more than 1 million Cubans who have fled Castro's Caribbean utopia? Must we, by default, leave the people of El Salvador no choice but to flee their homes, creating another tragic human exodus?

I do not believe that is a majority of the Congress or the country that counsels passivity, resignation, defeatism, in the face of this challenge to freedom and security in our hemisphere.

I do not believe there is a majority in the Congress or the country is prepared to stand by passively while the people of Central America are delivered to totalitarianism and we ourselves are left vulnerable to new dangers.

Only last week an official of the Soviet Union reiterated Breshnev's threat to station nuclear missiles in this hemisphere—five minutes from the United States. Like an echo, Nicaragua's Commandante, Daniel Ortega, confirmed that, if asked, his country would consider accepting those missiles. I understand that today they may be having second thoughts.

Now, before I go any further, let me say to those who invoke the memory of Vietnam: There is no thought of sending American combat troops to Central America; they are not needed—indeed, they have not been requested there. All our neighbors ask of us is assistance in training and arms to protect themselves while they build a better, freer life.

We must continue to encourage peace among the nations of Central America. We must support the regional efforts now underway to promote solutions to regional problems.

We cannot be certain that the Marxist-Leninist bands who believe war is an instrument of politics will be readily discouraged. It is crucial that we not become discouraged before they do. Otherwise the region's freedom will be lost and our security damaged in ways that can hardly be calculated.

If Central America were to fall, what would the consequences be for our position in Asia and Europe, and for alliances such as NATO? If the United States cannot respond to a threat near our own borders, why should Europeans or Asians believe we are seriously concerned about threats to them? If the Soviets can assume that nothing short of an actual attack on the United States will provoke an American response, which ally, which friend will trust us then?

The Congress shares both the power and the responsibility for our foreign policy.

Tonight, I ask you, the Congress, to join me in a bold, generous approach to the problems of peace and poverty, democracy and dictatorship in the region. Join me in a program that prevents Communist victory in the short run, but goes beyond to produce, for the deprived people of the area, the reality of present progress and the promise of more to come.

Let us lay the foundation for a bipartisan approach to sustain the independence and freedom of the countries of Central America. We in the Administration reach out to you in this spirit.

We will pursue four basic goals in Central America:

—First: In response to decades of inequity and indifference, we will support democracy, reform, and human freedom. This means using our assistance, our powers of persuasion, and our legitimate "leverage" to bolster humane democratic systems where they already exist and to help countries on their way to that goal complete the process as quickly as human institutions can be changed. Elections—in El Salvador and also in Nicaragua—must be open to all, fair and safe. The international community must help. We will work at human rights problems, not walk away from them.

—Second: In response to the challenge of world recession and, in the case of El Salvador, to the unrelenting campaign of economic sabotage by the guerrillas, we will support economic development. By a margin of two-to-one, our aid is economic, not military. Seventy-seven cents out of every dollar we will spend in the area this year goes for food, fertilizers, and other essentials for economic growth and development. And our economic program goes beyond traditional aid: The Caribbean Basin Initiative introduced in the House earlier today will provide powerful trade and investment incentives to help these countries achieve self-sustaining economic growth without exporting U.S. jobs. Our goal must be to focus our immense and growing technology to enhance health care, agriculture, industry; to ensure that we who inhabit this interdependent region come to know and understand each other better, retaining our diverse identities, respecting our diverse traditions and institutions.

—Third: In response to the military challenge from Cuba and Nicaragua—to their deliberate use of force to spread tyranny—we will support the security of the region's threatened nations. We do not view security assistance as an end in itself, but as a shield for democratization, economic development, and diplomacy. No amount of reform will bring peace so long as guerrillas believe they will win by force. No amount of economic help will suffice if guerrilla units can destroy roads, bridges, power stations, and crops again and again with impunity. But, with better training and material help, our neighbors can hold off the guerrillas and give democratic reform time to take root.

—Fourth: We will support dialog and negotiations—both among the countries of the region and within each country. The terms and conditions of participation in elections are negotiable. Costa Rica is a shining example of democracy. Honduras has made the move from military rule to a democratic government. Guatemala is pledged to the same course. The United States will work toward a political solution in Central America which will serve the interests of the democratic process.

To support these diplomatic goals, I offer these assurances:

—The United States will support any agreement among Central American countries for the withdrawal—under fully verifiable and reciprocal conditions—of all foreign military and security advisors and troops.

—We want to help opposition groups join the political process in all countries and compete by ballots instead of bullets.

—We will support any verifiable, reciprocal agreement among Central American countries on the renunciation of support for insurgencies on neighbors' territory.

—And, finally, we desire to help Central America end its costly arms race, and will support any verifiable, reciprocal agreements on the non-importation of offense weapons.

To move us toward these goals more rapidly, I am tonight announcing my intention to name an Ambassador-at-Large as my special envoy to Central America. He or she will report to me through the Secretary of State. The Ambassador's responsibilities will be to lend U.S. support to the efforts of regional governments to bring peace to this troubled area and to work closely with the Congress to assure the fullest possible, bipartisan coordination of our policies toward the region.

What I am asking for is prompt congressional approval for the full reprogramming of funds for key current economic and security programs so that the people of Central America can hold the line against externally-supported aggression. In addition, I am asking for prompt action on the supplemental request in there same areas to carry us through the current fiscal year, and for early and favorable congressional action on my requests for fiscal year 1984. Finally, I am asking that the bipartisan consensus, which last year acted on the trade and tax provisions of the Caribbean Basin

Initiative in the House, again take the lead to move this vital proposal to the floor of both chambers. And, as I said before, the greatest share of these requests is targeted toward economic and humanitarian aid, not military.

What the Administration is asking for on behalf of freedom in Central America is so small, so minimal—considering what is at stake. The total amount requested for aid to all of Central America in 1984 is about $600 million; that is less than one-tenth of what Americans will spend this year on coin-operated video games.

In summation, I say to you that tonight there can be no question: The national security of all the Americas is at stake in Central America. If we cannot defend ourselves there, we cannot expect to prevail elsewhere. Our credibility would collapse, our alliances would crumble, and the safety of our homeland would be put at jeopardy.

We have a vital interest, a moral duty, and a solemn responsibility.

This is not a partisan issue. It is a question of our meeting our moral responsibility to ourselves, our friends, and our posterity. It is a duty that falls to all of us—the President, the Congress, and the people. We must perform it together. Who among us would wish to bear responsibility for failing to meet our shared obligation?

RONALD REAGAN.

THE WHITE HOUSE, *April 27, 1983.*

REPORT OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES FOR THE YEAR OF 1982—MESSAGE FROM THE PRESIDENT—PM 41

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with the provisions of the National Foundation on the Arts and Humanities Act of 1965, as amended, I am pleased to transmit herewith the 17th Annual Report of the National Endowment for the Humanities covering the year 1982.

RONALD REAGAN.

THE WHITE HOUSE, *April 28, 1983.*

RADIATION CONTROL FOR HEALTH AND SAFETY REPORT FOR CALENDAR YEAR 1982—MESSAGE FROM THE PRESIDENT—PM 42

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 360D of the Public Health Service Act (42 U.S.C. 263 1), I am submitting the report of the Department of Health and Human Services regarding the administration of the Radiation Control for Health and Safety Act during calendar year 1982.

The report recommends that Section 360D of the Public Health Service Act that requires the completion of this annual report be repealed. All of the information found in this report is available to Congress on a more immediate basis through Congressional Committee oversight and budget hearings and the FDA Annual Report. This annual report serves little useful purpose and diverts Agency resources from more productive activities.

RONALD REAGAN.

THE WHITE HOUSE, *April 28, 1983.*

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that he had approved and signed the following measures:

On March 24, 1983:

S.J. Res. 35. A joint resolution designating the week beginning March 20, 1983, as "National Mental Health Counselors Week".

S.J. Res. 65. A joint resolution designating March 21, 1983, as "Afghanistan Day".

On March 28, 1983:

S. 271. An act to amend the National Trails System Act by designating additional national scenic and historic trails, and for other purposes.

On April 4, 1983:

S.J. Res. 64. A joint resolution to commemorate the two hundredth anniversary of the signing of the Treaty of Amity and Commerce between Sweden and the United States.

On April 5, 1983:

S. 926. An act to establish uniform national standards for the continued regulations, by the several States, of commercial motor vehicle width on interstate highways.

S.J. Res. 32. A joint resolution to provide for the designation of May 1983 as "National Arthritis Month".

On April 15, 1983:

S.J. Res. 52. A joint resolution to authorize and request the President to designate the week of April 10, 1983, through April 16, 1983, as "National Mental Health Week".

On April 22, 1983:

S. 89. An act to amend the Saccharin Study and Labeling Act.

On April 26, 1983:

S. 126. An act to remedy alcohol and drug abuse.

S.J. Res. 53. A joint resolution to authorize and request the President to designate the month of May 1983 as "National Physical Fitness and Sports Month".

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 4:42 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 62. A joint resolution to provide for the designation of the week beginning on May 15, 1983, as "National Parkinson's Disease Week".

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. THURMOND).

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, April 28, 1983, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 62. Joint resolution to provide for the designation of the week beginning on May 15, 1983, as "National Parkinson's Disease Week".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-946. A communication from the Acting Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice transmitting, pursuant to law, the fiscal year 1982 report of the National Advisory Committee for Juvenile Justice and Delinquency Prevention; to the Committee on the Judiciary.

EC-947. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, a report of the Office's activities during calendar year 1982 under the "Freedom of Information Act"; to the Committee on the Judiciary.

EC-948. A communication from the Attorney General transmitting the annual report of the Attorney General for fiscal year 1981; to the Committee on the Judiciary.

EC-949. A communication from the Director of the Administrative Office of the U.S. Courts transmitting, pursuant to law, the annual report on applications for court orders made to Federal and State courts to permit the interception of wire or oral communications during calendar year 1982; to the Committee on the Judiciary.

EC-950. A communication from the Governor of the Farm Credit Administration transmitting, pursuant to law, a report on the Farm Credit Administration's activities during calendar year 1982 under the Freedom of Information Act; to the Committee on the Judiciary.

EC-951. A communication from the Assistant Secretary for Civil Rights of the Department of Education transmitting, pursuant to law, a report summarizing the compliance and enforcement activities of the Office for Civil Rights covering fiscal years 1981 and 1982; to the Committee on Labor and Human Resources.

EC-952. A communication from the General Counsel of the Department of Defense transmitting a draft of proposed legislation, "to eliminate general or flag officer grade requirements from certain statutory positions, and for other purposes"; to the Committee on Armed Services.

EC-953. A communication from the Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, notice of a planned funding level augmentation for fiscal year 1983; to the Committee on Commerce, Science, and Transportation.

EC-954. A communication from the Secretary of the Interior transmitting, pursuant to law, the "Outer Continental Shelf Oil and Gas Leasing and Production Program Annual Report for Fiscal Year 1982"; to the Committee on Energy and Natural Resources.

EC-955. A communication from the Director of Congressional Relations of the U.S. Consumer Product Safety Commission transmitting, pursuant to law, a copy of the comments to the Office of Management and Budget on the proposed Confidentiality of Federal Statistical Records Act; to the Committee on Governmental Affairs.

EC-956. A communication from the Secretary of Education transmitting, pursuant to law, a report on the progress being made toward the provision of a free appropriate public education to all handicapped children; to the Committee on Labor and Human Resources.

EC-957. A communication from the Secretary of Education transmitting, a draft of proposed legislation to extend certain discretionary programs under the Education of the Handicapped Act; to the Committee on Labor and Human Resources.

EC-958. A communication from the Secretary of Labor transmitting, pursuant to law, the report for 1981 on activities under the Fair Labor Standards Act; to the Committee on Labor and Human Resources.

EC-959. A communication from the Chairman of the Federal Election Commission transmitting a request for the withdrawal of revised regulations governing communications to the public by corporations and labor organizations; to the Committee on Rules and Administration.

EC-960. A communication from the Chairman of the Federal Election Commission transmitting, pursuant to law, proposed regulations for a candidate's use of property in which his or her spouse has an interest; to the Committee on Rules and Administration.

EC-961. A communication from the Secretary of Agriculture transmitting a draft of proposed legislation to repeal the provision of law providing that 10 percent of all National forest receipts be designated for construction of roads and trails on the National forests; to the Committee on Agriculture, Nutrition, and Forestry.

EC-962. A communication from the Secretary of Agriculture transmitting a draft of proposed legislation to permit the use of firefighting forces of foreign nations and reimbursement of such forces for costs incurred in fighting wildfires throughout the United States; to the Committee on Agriculture, Nutrition, and Forestry.

EC-963. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, the supplemental summary of the fiscal year 1984 budget; jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations and the Committee on the Budget.

EC-964. A communication from the Acting General Counsel of the General Accounting Office transmitting, pursuant to law, a report on the status of certain budget authority proposed for rescission but for which a rescission bill was not passed; jointly, pursuant to the order of January 30, 1975, to the Committee on appropriations and the Committee on the Budget.

EC-965. A communication from the Assistant Secretary of the Army for Civil Works transmitting, pursuant to law, a final supplemental environmental statement on the Minnesota River at Chaska Project; to the Committee on Appropriations.

EC-966. A communication from the Executive Associate Director for Budget and Legislation, Office of Management and Budget, transmitting, pursuant to law, a list of appropriations apportioned on a deficiency basis indicated a necessity for supplemental appropriations; to the Committee on Appropriations.

EC-967. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, a report on funds contained in the "Jobs Bill" (Public Law 98-8) which cannot be rapidly and efficiently utilized; to the Committee on Appropriations.

EC-968. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "The Defense Budget: A Look at Budgetary Resources, Accomplishments, and Problems"; to the Committee on Armed Services.

EC-969. A communication from the chairman of the National Credit Union Administration transmitting, pursuant to law, the Administration's third annual report on the activities of the Depository Institutions Deregulation Committee; to the Committee on Banking, Housing, and Urban Affairs.

EC-970. A communication from the Secretary of Transportation transmitting, pursuant to law, the Urban Mass Transportation Administration report for the third quarter of fiscal year 1983; to the Committee on Banking, Housing, and Urban Affairs.

EC-971. A communication from the Director of the Administrative Office of the United States Courts transmitting, pursuant to law, his report on Applications for Delays of Notice and Customer Challenges Under Provisions of the Right to Financial Privacy Act of 1978; to the Committee on Banking, Housing, and Urban Affairs.

EC-972. A communication from the Deputy Secretary of the Treasury transmitting a draft of proposed legislation to authorize appropriations for the improvement of Mint facilities; to the Committee on Banking, Housing, and Urban Affairs.

EC-973. A communication from the Secretary of Commerce transmitting, pursuant to law, a report on the case study of critical materials requirements of the U.S. steel industry; to the Committee on Commerce, Science, and Transportation.

EC-974. A communication from the Secretary of Transportation transmitting, pursuant to law, the 1983 annual report on Highway Safety Improvement Programs; to the Committee on Commerce, Science, and Transportation.

EC-975. A communication from the Acting Administrator of the Environmental Protection Agency transmitting a draft of proposed legislation authorizing appropriations for the Agency's research and development activities through fiscal year 1985; to the Committee on Environment and Public Works.

EC-976. A communication from the Deputy Administrator of the General Services Administration transmitting, pursuant to law, 34 lease prospectuses; to the Committee on Environment and Public Works.

EC-977. A communication from the Deputy Secretary of the Treasury transmitting a draft of proposed legislation to permit free entry into the United States of personal effects, equipment, and other related articles of foreign participants, officials, and other accredited members of delegations involved in the 1984 Olympic Games; to the Committee on Finance.

EC-978. A communication from the Assistant Secretary of State for Congressional Relations transmitting, pursuant to law, the President's finding and determination that the furnishing of defense services to Algeria will strengthen U.S. security and promote world peace; to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-117. A resolution adopted by the Mendocino County, Calif., Board of Supervisors supporting Jobs with Peace and declaring the week of Sunday, April 10–Saturday, April 16, 1983 as Mendocino County Jobs with Peace Week; to the Committee on Appropriations.

POM-118. A resolution adopted by the House of Representatives of the State of Kansas; to the Committee on Commerce, Science, and Transportation.

"House Resolution No. 6031

"Whereas, The energy-saving results obtained by restricting the national maximum speed limit to fifty-five miles per hour are inconclusive; and

"Whereas, The United States Congress had already succeeded in encouraging the manufacture of motor vehicles that achieve greater fuel consumption efficiency; and

"Whereas, The American public now recognizes the need and benefits of more fuel-efficient automobiles; and

"Whereas, The present use of fuel-efficient automobiles by Kansans has ended the public benefit that was in the past derived from the national maximum speed limit set by Congress; and

"Whereas, The Kansas Highway Department is in a better position to know what maximum speed is safe for drivers on any particular Kansas highway: Now, therefore, be it

"*Resolved* by the House of Representatives of the State of Kansas: That we urge the President and the Congress of the United States to eliminate federal interference in the control of the speed limits on Kansas highways by the Kansas Legislature; and be it

"*Further resolved:* That the Chief Clerk of the House of Representatives be directed to send enrolled copies of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and each member of the Congressional delegation from the State of Kansas."

POM-119. A resolution adopted by the City Council of the City of West Miami, Fla., urging Congress to continue in effect Federal revenue sharing; to the Committee on Finance.

POM-120. A resolution adopted by the House of Representatives of the Commonwealth of Massachusetts; to the Committee on Finance.

"RESOLUTION

"Whereas, many residents of the Commonwealth of Massachusetts are currently engaged in railroad employment or have engaged in such employment in the past and look to the railroad retirement system to provide benefits when they retire; and

"Whereas, many residents of the Commonwealth of Massachusetts are currently receiving benefits under the railroad retirement system and rely on such benefits to a large extent to meet the normal costs of living; and

"Whereas, any reduction in the amount of benefits received by beneficiaries under the railroad retirement system would have a drastic effect on the ability of these beneficiaries to meet normal living expenses; and

"Whereas, projections of the financial condition of the railroad retirement system show that, unless corrective action is taken, monthly annuities will have to be reduced significantly beginning with the annuity checks to be sent out October 1, 1983, with additional reductions required in the future; and

"Whereas, a bill, H.R. 1646, the Railroad Retirement Solvency Act of 1983, was introduced in the United States House of Representatives on February 24, 1983, by Mr. Florio; and

"Whereas, H.R. 1646 would resolve the short-term and long-term financial problems of the railroad retirement system, through an even-handed approach of tax increases on railroad employers and employees and adjustments of benefits to current and future beneficiaries, thereby preserving and protecting the rights and expectations of those currently receiving benefits and those who would receive such benefits in the future; therefore be it

"*Resolved*, That it is the sense of the Massachusetts House of Representatives that the Members of Congress representing the Commonwealth should actively support and vote favorably on H.R. 1646, the Railroad Retirement Solvency Act of 1983; and be it further

"*Resolved*, That a copy of these resolutions be forwarded by the Clerk of the House of Representatives to the presiding officer of each branch of Congress and to the Members thereof from this Commonwealth."

POM-121. A resolution adopted by the House of Representatives of the State of Mississippi; to the Committee on Finance.

"HOUSE RESOLUTION NO. 23

"Whereas, many residents of the State of Mississippi are currently engaged in railroad employment or have engaged in such employment in the past and look to the Railroad Retirement System to provide benefits when they retire; and

"Whereas, many residents of the State of Mississippi are currently receiving benefits under the Railroad Retirement System and rely on such benefits to a large extent to meet the normal costs of living; and

"Whereas, any reduction in the amount of benefits received by beneficiaries under the Railroad Retirement System would have a drastic effect on the ability of these beneficiaries to meet normal living expenses; and

"Whereas, projections of the financial condition of the Railroad Retirement System show that unless corrective action is taken, monthly annuities will have to be reduced significantly beginning with the annuity checks to be sent out October 1, 1983, with additional reductions required in the future; and

"Whereas, House Resolution 1646, the Railroad Retirement Solvency Act of 1983, was introduced in the United States House of Representatives on February 24, 1983, by Mr. Florio; and

"Whereas, H.R. 1646 would resolve the short-term and long-term financial problems of the Railroad Retirement System through an even-handed approach of tax increases on railroad employers and employees and adjustments of benefits to current and future beneficiaries, thereby preserving and protecting the rights and expectations of those currently receiving benefits and those who would receive such benefits in the future: Now, therefore, be it

"*Resolved* by the House of Representatives of the State of Mississippi, That we do hereby memorialize the Congress of the United States of America to vote favorably on H.R. 1646, the Railroad Retirement Solvency Act of 1983; and be it further

"*Resolved*, That copies of this resolution be forwarded to the President of the United States, the Vice President of the United States, the Speaker of the United States House of Representatives, and to the members of Mississippi's congressional delegation."

POM-122. A resolution adopted by the Senate of the State of Kansas; to the Committee on Foreign Relations.

"SENATE RESOLUTION NO. 1843

"Whereas, approximately 2,500 American servicemen and civilians of whom forty are from Kansas are missing or otherwise unaccounted for as a result of the war in Vietnam; and

"Whereas, the conscience of every American should be troubled on behalf of the families of our prisoners of war and those still missing, who are subjected to unrelenting mental anguish and a sense of futility in their quest for information about their loved ones; and

"Whereas, it is the statutorial responsibility of the United States government to ensure the return of all prisoners of war and to account for missing personnel as well as the repatriation of remains of those who perished serving our nation; and

"Whereas, a number of eyewitness reports of Americans in captivity in Southeast Asia continues to fill the hopes of the POW/MIA families that priority effort will be made to exact a precise accounting for these men; and

"Whereas, new initiatives at every level of government should be taken to secure the safe return of these servicemen and civilians; and

"Whereas, it is appropriate that the Legislature of the State of Kansas should petition the United States Congress on behalf of our prisoners of war and those servicemen and civilians still missing to ensure that the Congress take whatever steps are necessary to obtain the fullest possible accounting; and

"Whereas, it is appropriate that the Legislature of the State of Kansas should recognize April 9, 1983, which has been established by the United States Congress and proclaimed by the President of the United States as National POW/MIA Recognition Day: Now, therefore,

"*Be it resolved by the Senate of the State of Kansas*, That we urge the Congress of the United States to take immediate action, publicly and forcefully, to obtain the identity and seek the release of our prisoners of war and the fullest possible accounting for those still missing or otherwise unaccounted for as a result of the war in Vietnam by the use of both private and public agencies, be it through national or international auspices; and

"*Be it further resolved*, That we proclaim April 9, 1983, as Kansas POW/MIA Recognition Day, and we call upon the people of Kansas to acknowledge this important day with appropriate ceremonies and activities; and

"*Be it further resolved*, That the Secretary of the Senate be directed to send enrolled copies of this resolution to the President of the United States; the President of the United States Senate; the Speaker of the United States House of Representatives; each member of the Kansas Congressional Delegation; the National League of Families of American Prisoners and Missing in Southeast Asia, 1608 K Street N.W., Washington, D.C. 20006; Mrs. Patti Sheridan, State Coordinator, National League of Families of American Prisoners and Missing in Southeast Asia, 8612 Tamarac, Wichita, Kansas 67206; and Ina Kay Zimmerman, 201 E. Santa Fe, Olathe, Kansas 66061."

POM-123. A resolution adopted by the Vancouver City Council of British Columbia, Canada, supporting and mandating the Federal Government to negotiate and implement, with other governments, the balanced steps that will lead to the earliest possible achievement of nuclear disarmament; to the Committee on Foreign Relations.

POM-124. A resolution adopted by the city of Ogden, Utah, urging Congress to take all steps necessary to include calling upon the Socialist Republic of Vietnam and the Lao Peoples Democratic Republic to end the years of uncertainty for American POW/MIA families by releasing all U.S. prisoners still held, providing all information concering the fate of U.S. servicemen and civilians still missing and repatriating all American remains which are now in their possession or may subsequently be found; to the Committee on Foreign Relations.

POM-125. A resolution adopted by the Capitol Employees Organizing Group requesting the Senate of the United States to recognize their rights and adjust their grievances, and enforce its rules against discrimination; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, with amendments:

S. 118. A bill to provide for the establishment of a Commission on the Bicentennial of the Constitution (Rept. No. 98-68).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources:

Donald Moncrief Muchmore, of California, to be a member of the National Museum Services Board for a term expiring December 6, 1987;

George Ray Ritcheson, of California, to be a member of the National Council on the Humanities for the remainder of the term expiring January 26, 1986;

R. Budd Gould, of Montana, to be a member of the National Council on the Handicapped for a term expiring September 17, 1985.

(The above nominations were reported from the Committee on Labor and Human Resources with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PERCY, from the Committee on Foreign Relations:

Helene A. von Damm, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Austria.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Helene von Damm.

Post: Ambassador to Austria.

Contributions, amount, date, donee.

1. Self: $100, 1982, Congressman James Courter (Rep. N.J. 13th C.D.); $100, 1982, Millicent Fenwick for U.S. Senate-Rep. N.J.; $1,000, 1979, Reagan for President.

2. Spouse: Byron Leeds. $1,000, 1979, Reagan for President.

3. Children and spouses: None.

4. Parents names: None.

5. Grandparents names: None.

6. Brothers and spouses names: None.

7. Sisters and spouses names: None.

(The above nomination was reported from the Committee on Foreign Relations with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. EAGLETON:

S. 1169. A bill to delay indexation of individual income taxes until the Federal deficit for any fiscal year does not exceed 2 percent of the Gross National Product for such fiscal year; to the Committee on Finance.

By Mr. PRYOR (for himself, Mr. Roth, Mr. Levin, Mr. Armstrong, Mrs. Kassebaum, Mr. Kennedy, Mr. Bumpers, Mr. Hart, Mr. Proxmire, Mr. Sarbanes, Mr. Sasser, Mr. Dixon, Mr. Bingaman, Mr. Durenberger and Mr. Cranston):

S. 1170. A bill to establish a Director of Operational Testing and Evaluation in the Department of Defense, and for other purposes.

By Mr. HEINZ (for himself, Mr. Ford, Mr. Byrd, Mr. Hatfield, Mr. Boschwitz, Mr. Heflin, Mr. Randolph, Mr. Specter, Mr. Glenn, Mr. Dixon, Mr. Danforth, Mr. Packwood, Mr. Jackson, Mr. Eagleton, Mr. Huddleston, Mr. Gorton, Mr. Sasser, Mr. Denton, and Mr. Stennis):

S. 1171. A bill to authorize and direct construction of certain navigation projects of critical national and regional importance, to provide jobs during construction, to foster and encourage economic revitalization and increased employment opportunities through provision of efficient, economical, and dependable inland waterway transportation, and to provide for coordinated use and enhancement of the Upper Mississippi River System; to the Committee on Environment and Public Works.

By Mr. NICKLES (for himself, Mr. East, Mr. Grassley, Mrs. Hawkins, Mr. Humphrey, Mr. Laxalt, Mr. Mattingly, Mr. Thurmond, Mr. Denton, Mr. Quayle, and Mr. Goldwater):

S. 1172. A bill to amend the Davis-Bacon Act; to the Committee on Labor and Human Resources.

By Mr. NICKLES:

S. 1173. A bill to amend the Federal Mine Safety and Health Act of 1977; to the Committee on Labor and Human Resources.

By Mr. D'AMATO (for himself and Mr. Johnston):

S. 1174. A bill to amend the Public Utility Holding Company Act of 1935 to simplify its administration, to ensure State regulatory access to necessary information, to remove certain regulatory restrictions on business practices where such restrictions are no longer necessary to the protection of investors and consumers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. D'AMATO:

S. 1175. A bill for the relief of Jozo Karogain and Ilana Karogain, husband and wife, and their child, Matthias Karogain; to the Committee on the Judiciary.

By Mrs. HAWKINS:

S. 1176. A bill to authorise the appropriation of funds for preventive health service programs for tuberculosis; to the Committee on Labor and Human Resources.

By Mr. MATHIAS (for himself and Mr. Warner):

S. 1177. A bill to amend title 4 of the United States Code to complete the official seal of the United States; to the Committee on Foreign Relations.

By Mr. BAUCUS:

S. 1178. A bill to better provide for the rights of third parties seeking to enforce court judgments directed against a witness relocated or protected by the Attorney General, while at the same time protecting the safety of such witnesses; to the Committee on the Judiciary.

By Mr. GARN (for himself, Mr. Metzenbaum, Mr. Roth, Mr. Stafford, Mr. Percy, Mr. Tsongas, Mr. Pell, Mr. Proxmire, Mr. Hatch, Mr. Danforth, and Mr. Mitchell):

S. 1179. A bill to repeal provisions of law concerning price support for, and marketing of, tobacco, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SYMMS (for himself, Mr. Boren, and Mr. Wallop):

S. 1180. A bill to amend the Internal Revenue Code of 1954 to provide transitional rules for estates and gift tax treatment of disclaimers of property interests created by transfers before November 15, 1958; to the Committee on Finance.

By Mr. DANFORTH (for himself, Mr. Weicker, Mr. Chiles, Mr. Nunn, Mr. Durenberger, Mr. Sarbanes, Mr. Mattingly, and Mr. Huddleston):

S. 1181. A bill entitled the "Construction Contract Payment Procedures Act of 1983"; to the Committee on Governmental Affairs.

By Mr. DOLE:

S. 1182. A bill to amend title 18 of the United States Code, and for other purposes; to the Committee on the Judiciary.

By Mr. MATSUNAGA (for himself, Mr. Long, Mr. Bentsen, Mr. Durenberger, and Mr. Grassley):

S. 1183. A bill to amend the Internal Revenue Code of 1954 to provide that certain indebtedness incurred by educational organizations in acquiring or improving real property shall not be treated as acquisition indebtedness for purposes of the tax on unrelated business taxable income; to the Committee on Finance.

By Mr. MATSUNAGA:

S. 1184. A bill to amend the Tariff Act of 1930 to increase from $250 to $1,000 the amount for informal entry of goods; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. D'Amato, and Mr. Heinz):

S.J. Res. 89. A joint resolution designating May 24, 1983, as "Brooklyn Bridge Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WALLOP (for himself, Mr. Boren, Mr. Symms, Mr. Durenberger, Mr. Grassley, Mr. Bentsen, Mr. Dole, Mr. Roth, Mr. Baucus, Mr. Abdnor, Mr. Helms, Mr. Simpson, Mr. Kasten, Mr. D'Amato, Mr. Andrews, Mr. Huddleston, and Mr. Lugar):

S. Res. 126. A resolution to express the sense of the Senate that the changes in the Federal estate tax laws made by the Economic Recovery Tax Act of 1981 should not be modified; to the Committee on Finance.

By Mr. ANDREWS (for himself, Mr. Melcher, Mr. Goldwater, Mr. Inouye, Mr. Murkowski, Mr. DeConcini, Mr. Boschwitz, Mr. Baucus, Mr. Domenici, Mr. Boren, Mr. Durenberger, Mr. Burdick, Mr. Garn, Mr. Cranston, Mr. Hatch, Mr. Hatfield, Mr. Kennedy, Mr. Helms, Mr. Levin, Mr. Pressler, Mr. Matsunaga, Mr. Stevens, Mr. Bingaman, Mr. Hecht, Mr. Dodd, Mr. Laxalt, and Mr. Hart):

S. Res. 127. A resolution to make the Select Committee on Indian Affairs a permanent Committee of the Senate; to the Committee on Rules and Administration.

By Mr. STEVENS (for Mr. Baker) (for himself and Mr. Byrd):

S. Res. 128. Resolution to direct the Senate Legal Counsel to represent the Senate parties in Harold H. Klingler, Jr. v. The Executive Branch of the Union Known as the United States of America, et al., Civil Action No. 83-V-331-N; considered and agreed to.

S. Res. 129. Resolution to authorize the testimony of Senator Patrick J. Leahy; considered and agreed to.

By Mr. HOLLINGS (for himself and Mr. Hatfield):

S. Con. Res. 29. Concurrent resolution to provide that it is the sense of the Congress that the national policy of the United States be that the Federal Government contribute to the support of education in the

United States; to the Committee on Labor and Human Resources.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EAGLETON:

S. 1169. A bill to delay indexation of individual income taxes until the Federal deficit for any fiscal year does not exceed 2 percent of the gross national product for such fiscal year; to the Committee on Finance.

(The remarks of Mr. Eagleton on this legislation appear elsewhere in today's Record.)

By Mr. PRYOR (for himself, Mr. Roth, Mr. Levin, Mr. Armstrong, Mrs. Kassebaum, Mr. Kennedy, Mr. Bumpers, Mr. Hart, Mr. Proxmire, Mr. Sarbanes, Mr. Sasser, Mr. Dixon, Mr. Bingaman, Mr. Durenberger, and Mr. Cranston):

S. 1170. A bill to establish a Director of Operational Testing and Evaluation in the Department of Defense, and for other purposes; to the Committee on Armed Services.

(The remarks of Mr. Pryor on this legislation appear elsewhere in today's Record.)

By Mr. HEINZ (for himself, Mr. Ford, Mr. Byrd, Mr. Hatfield, Mr. Boschwitz, Mr. Heflin, Mr. Randolph, Mr. Specter, Mr. Glenn, Mr. Dixon, Mr. Danforth, Mr. Packwood, Mr. Jackson, Mr. Eagleton, Mr. Huddleston, Mr. Gorton, Mr. Sasser, Mr. Denton, and Mr. Stennis):

S. 1171. A bill to authorize and direct construction of certain navigation projects of critical national and regional importance, to provide jobs during construction, to foster and encourage economic revitalization and increased employment opportunities through provision of efficient, economical, and dependable inland waterway transportation, and to provide for coordinated use and enhancement of the Upper Mississippi River system; to the Committee on Environment and Public Works.

NATIONAL INLAND WATERWAYS URGENT IMPROVEMENT ACT OF 1983

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, today, my colleague (Mr. Ford) and I and a number of cosponsors, including Senator Byrd, Senators Hatfield, Boschwitz, Heflin, Randolph, Specter, Glenn, Dixon, Danforth, Packwood, Jackson, Eagleton, Huddleston, Gorton, Sasser, Denton, and Stennis, are introducing legislation to authorize construction of seven navigation projects of critical national and regional economic importance.

As someone who believes in maintaining a Federal commitment to the most energy efficient transportation system, as well as chairman of the Senate Coal Caucus, I have long advocated sustained and adequate investment in the modernization of our inland water transportation system. This legislation would reverse the prospect of declining Federal waterway construction work over the next several years which comes at a time when our aging locks and dams require more investment, not less. I believe that this legislation is responsive to budgetary constraints by focusing on a limited number of critical projects which are of vital importance to the economies of the Southeast, Midwest, Far West, and Middle Atlantic.

Mr. President, I would like to acknowledge the strong interest and invaluable assistance of the many cosponsors of this legislation who have helped in selecting these navigation projects for prompt authorization. In particular, my good friend and eloquent colleague from Kentucky (Mr. Ford) has continued to demonstrate his leadership in matters pertaining to the coal industry and the needs for inland waterway transportation generally. I am extremely grateful for his cooperation and support as now cochairman of the Senate Coal Caucus. Indeed, Mr. President, he was the original chairman of the Coal Caucus. Had it not been for his leadership, it would not now exist.

Mr. President, no general waterway construction legislation has been enacted since 1976. Currently, the Corps of Engineers is spending about $1 billion per year on construction spending on a downward trend. At the same time, the Association of General Contractors has estimated that we will require an investment of $41.7 billion to rebuild and upgrade our existing locks and waterways over the next 20 years. Studies by the Corps of Engineers predict a 3-percent annual growth in the use of our waterways by shippers. In short, the Federal commitment to building and maintaining our inland system has been declining in real terms, while the scope of necessary construction work and the use of the system by shippers has been increasing. Unless we act, we will find ourselves accelerating toward serious, even disastrous consequences.

Over the last 150 years, the United States has invested billions upon billions of dollars in constructing and maintaining the most extensive waterway system in the world. The failure to approve authorization bills during the past 7 years has severely jeopardized our entire prior public investment. The average age of 184 principal locks on the inland system is 40 years, with 56 locks that are over 50 years old. Since the average lifespan of a lock is about 60 to 70 years, and the average construction period is 5 to 10 years, we are at a critical moment.

Mr. President, whenever the Congress turns to consideration of water project construction, we begin to hear about "pork barrel" spending, and boondoggles. I do not think that the Congress ought to apologize for investing in the waterways.

The barges on our inland system provide the only real source of price competition for railroads on bulk commodities. The reason behind congressional support for waterways has been to insure that the benefits of competition—lower costs to the consumer, and efficiency—are maintained in our transportation network.

Of all transportation modes used to transport commodities, water transportation is the cheapest and most energy efficient. A barge moves 1 ton of cargo 1 mile at an average cost of seven-tenths of 1 cent; a railroad moves the same ton the same mile at a cost of 2.6 cents. A barge travels 514 miles carrying 1 ton of cargo on 1 gallon of fuel; a railroad provides an equivalent of 59 miles. Cost differentials due to transportation are extremely important to bulk cargo competing on the international market where margins may be as thin as tenths of a penny.

If America is to expand its export markets, we must take full advantage of low cost transportation. American companies will be unable to fully meet the challenge of a changing world economy unless we maintain and upgrade our existing inland system.

Mr. President, we are all cognizant of the need to exercise restraint in the budget. In examining the many worthy projects necessary to improve our waterway system, we carefully evaluated each project, keeping in mind the need for spending restraint. As a result, this legislation targets only seven projects, and has a total pricetag of $1 billion, with outlays stretched out over the construction cycle.

I am pleased that the distinguished Senator from South Dakota (Mr. Abdnor), who chairs the Subcommittee on Water Resources, has introduced S. 947, to authorize 101 new water resource development projects, including two important navigation projects: Gallipolis and Bonneville. I commend him for his leadership in attempting to get an authorization bill to the floor.

However, because we have neglected our waterways for 7 long years, my colleagues and I who have sponsored this bill feel very strongly that several more navigation projects should also be included in the eventual authorization which the Senate will consider, hopefully, before the end of the summer.

Mr. President, my hometown, Pittsburgh, Pa., is a perfect example of how important water transportation can be to a region's economy. Built at the confluence of the Ohio, Allegheny, and Monongahela, Pittsburgh is the Nation's and the world's largest inland port. The rivers in the Pittsburgh area move over 73 million tons of cargo a year. Only 12 seaports in America exceed Pittsburgh's tonnage.

The Pittsburgh region accounts for about 1 percent of the total length of the national inland system, but, our rivers move 12 percent of the cargo shipped on the entire system. As a result, the southwestern Pennsylvania, northern West Virginia, and southeastern Ohio area has come to depend upon the low costs and energy efficiency of barge traffic. In fact, it is no exaggeration to say that the inland waterway system is the lifeblood of the regional economy.

Other segments of the inland system play largely similar roles in the economies of other regions.

Mr. President, I would like to stress that this is truly a "jobs" bill. While some employment would be generated in building and rehabilitating the seven projects authorized in this legislation, and while some jobs will be generated in the industries which supply material for construction, the real employment effect of this legislation is down the road when these projects are completed.

The completed projects will eliminate the time-consuming delays at major bottlenecks, making barge transportation more reliable and cost efficient. Lower transportation costs will make our products and commodities—chemicals, coal, grain, and steel—more competitive on the world market. That, in turn, will mean that we can sell more of our goods, and get our workers in these industries back on the job. We need to invest in America's future. Jobs building our inland transportation system will mean jobs producing American goods, grains, and minerals.

Mr. President, I urge my colleagues to support our legislation and ask that it be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1171

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—NATIONAL INLAND WATERWAYS URGENT IMPROVEMENT ACT OF 1983

SHORT TITLE

Sec. 102. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorised and directed to replace the Gallipolis locks, Ohio River mile 297.0, Ohio and West Virginia, by constructing one 110-foot by 1,200-foot lock and one 110-foot by 600-foot lock in a 1.7 mile-long canal landward of the existing lock, generally in accordance with the recommendations of the Huntington District Engineer in his report dated February, 1981, as approved by the Ohio River Division Engineer, with such modifications in the design of the replacement of such locks as the Chief of Engineers deems necessary and advisable, at an estimated cost of approximately $300,000,000.

(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to mitigate fish and wildlife habitat losses resulting from the construction authorized in subsection (a) by purchasing at full Federal expense such lands in the vicinity of Glenwood Bend, Ohio River mile 298.0, as the Chief of Engineers deems to be necessary and advisable to offset those losses. The Secretary of the Army is further authorized to transfer all right, title, and interest of the United States in such lands to the State of West Virginia for operation and maintenance in accordance with a mutually acceptable management plan.

REPLACEMENT LOCKS, BLACK WARRIOR RIVER

Sec. 103. The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct a multipurpose project consisting of a 110-foot by 600-foot lock and a dam to replace the existing William Bacon Oliver Lock and Dam, Black Warrior River, Alabama, at an estimated cost of $125,000,000. Such lock and dam shall be constructed approximately 2,700 feet downstream from the existing lock and dam.

BONNEVILLE LOCK AND DAM

Sec. 104. The authorization for the Bonneville Lock and Dam project, Oregon and Washington, contained in the first section of the Act entitled "An Act authorizing construction of certain public works on rivers and harbors, and for other purposes", approved on August 30, 1935 (49 Stat. 1028), is amended to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized to construct a new lock in accordance with the report of the Chief of Engineers, dated February 10, 1981, at an estimated cost of $167,000,000.

REPLACEMENT LOCKS, MONONGAHELA RIVER

Sec. 105. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to construct, at an estimated aggregate cost of $114,000,000—

(1) a lock and dam (to be called Gray's Landing Lock and Dam) to replace lock and dam numbered 7, Monongahela River, Pennsylvania; and

(2) a lock and abutment (to be called Point Marion Lock) to replace the lock and abutment at the lock and dam numbered 8, Monongahela River, Pennsylvania.

(b) Construction of the projects authorised under subsection (a) shall be carried out substantially in accordance with the recommendations contained in the report of the Chief of Engineers dated May 5, 1982, and approved by the Secretary of the Army on November 5, 1973.

REPLACEMENT LOCK, KANAWHA RIVER

Sec. 106. The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct a one hundred and ten foot by six hundred foot lock to replace the existing Winfield locks on the Kanawha River, West Virginia, in accordance with such plans as the Chief of Engineers shall approve.

RELATION TO OTHER LAWS

Sec. 107. Neither authorization of any of the projects authorized under this title nor construction of any thereof shall be subject to or contingent upon enactment of legislation authorizing imposition of, or imposing tolls, taxes, charges or fees, or to the imposition of any such charges under color of existing authority, upon commercial transportation by water utilizing any navigable waterway subject to the jurisdiction of the United States or any portion of any such waterway, or any lock or other facility for the use and benefit of navigation which is owned or maintained by the United States, or upon the use or sale for use of fuel consumed in such transportation, or upon the use by such transportation of any such waterway or portion thereof, or of any such lock or other facility, or upon or measured by the value of boats, barges, terminals, shipyards, repair facilities, or other property, real, personal, or mixed, used in such transportation or in connection therewith.

ENVIRONMENTAL IMPACT STATEMENTS

Sec. 108. (a) The projects authorized under this title shall be subject to such conditions as the Secretary of the Army determines to be necessary to protect the relevant environment or to minimize injury thereto. Before carrying out any such project, the Secretary of the Army shall submit to the Congress a final environmental impact statement for such project demonstrating compliance, as determined by the Chief of Engineers, with the National Environmental Policy Act of 1969, the Clean Water Act, the Fish and Wildlife Coordination Act and other statutory requirements as determined to be pertinent by the Secretary. Each such statement shall be submitted to the Congress within six months of the date of the completion of the draft environmental impact statement, which draft statement shall, in turn, be completed on an expedited basis, subject to timetables and other requirements determined by the Secretary of the Army to be necessary and reasonable. Other officials of the United States having responsibilities therewith and the governors of the affected States shall provide such data and comment as they deem appropriate in accordance with such timetables and requirements. Each project addressed by a final environmental impact statement shall be undertaken without further action under the National Environmental Policy Act of 1969, and without meeting other statutory requirements addressed in the statement unless the Congress, within sixty calendar days of its receipt of such statement, disapproves of any such statement by concurrent resolution. If the Congress does not disapprove such final environmental impact statement by concurrent resolution within such period of time, the absence of such congressional action shall be deemed to be a finding and determination by the Congress that the policies, purposes, and requirements of such statutes have been satisfied in connection with such project.

(b) Environmental impact statements for navigation projects authorized under this title and actions to carry out such projects, shall not be subject to judicial review under any law, except that—

(1) claims alleging the invalidity of this title may be brought within sixty days following its date of enactment, and

(2) claims alleging that an action to carry out navigation projects authorized by this title will deny rights under the Constitution

of the United States, or that such action is beyond the scope of authority conferred by this title, may be brought within sixty days following the date of such action.

Any complaint brought within the exception described in paragraph (1) or (2) of subsection (b) shall be filed in a United States district court for a district where the navigation project is to be located, and such court shall have exclusive jurisdiction to determine such proceedings in accordance with the procedures of subsection (c), and no other court of the United States, or any State, territory or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim whether in a proceeding instituted prior to or on or after the date of the enactment of this title.

(c) Any proceeding instituted under subsection (b) shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the district court at that time, and shall be expedited in every way by such court. Such court shall not have jurisdiction to grant any injunctive relief against any actions undertaken pursuant to this title except in conjunction with a final judgment entered in a case involving a claim filed pursuant to this title. Any review of an interlocutory or final judgment, decree, or order of such district court may be had only upon direct appeal to the Supreme Court of the United States.

AUTHORIZATION OF APPROPRIATIONS

Sec. 109. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE II—UPPER MISSISSIPPI RIVER SYSTEM MANAGEMENT ACT

SHORT TITLE

Sec. 201. This title may be cited as the "Upper Mississippi River System Management Act".

DECLARATION OF POLICY

Sec. 202. To ensure the coordinated development and enhancement of the Upper Mississippi River System the Congress declares that the purpose of this title is to recognize such System as a nationally significant ecosystem and a nationally significant commercial navigation system. The Congress further recognizes that such System provides a diversity of opportunities and experiences. Such System shall be administered and regulated in recognition of its several purposes.

DEFINITIONS

Sec. 203. For purposes of this title—

(1) the term "Master Plan" means the Comprehensive Master Plan for the Management of the Upper Mississippi River System, dated January 1, 1982, prepared by the Upper Mississippi River Basin Commission and submitted to the Congress pursuant to the Act entitled "An Act to amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax, and for other purposes", approved October 21, 1978 (92 Stat. 1693; Public Law 95-502), hereafter in this title referred to as the "Act of October 21, 1978"; and

(2) the terms "Upper Mississippi River System" and "System" mean those river reaches having commercial navigation channels on the following rivers: the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; the Black River, Wisconsin; the Saint Croix River, Minnesota and Wisconsin; the Illinois River and Waterway, Illinois; and the Kaskaskia River, Illinois.

APPROVAL OF MASTER PLAN

Sec. 204. (a) The Congress hereby approves the Master Plan as a guide for future water policy on the Upper Mississippi River System. Such approval shall not constitute authorization of any recommendation contained in the Master Plan.

(b) Section 101 of the Act of October 21, 1978 is amended by striking out the last two sentences of subsection (b) and the last sentence of subsection (j).

CONSENT TO INTERSTATE AGREEMENTS

Sec. 205. (a) The Congress hereby gives its consent to the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, or any two or more of such States, to enter into agreements, not in conflict with any law of the United States, for cooperative effort and mutual assistance in the comprehensive planning for the use, protection, growth, and development of the Upper Mississippi River System, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements.

(b) Each officer of employee of the United States responsible for management of any part of the System is authorized in accordance with such officer's or employee's legal authority to assist and participate, when requested by any agency established under subsection (a), in programs or deliberations of such agency.

AUTHORIZATION OF A SECOND LOCK

Sec. 206. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to provide for the engineering, design, and construction, at an estimated cost of $200,000,000, of a second lock at locks and dam 26, Mississippi River, Alton, Illinois and Missouri. Such second lock shall be 110 feet by 600 feet and shall be constructed at or in the vicinity of the location of the replacement lock authorized by section 102 of the Act of October 21, 1978.

(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

MONITORING OF TRAFFIC MOVEMENTS

Sec. 207. (a) The Secretary of the Army, acting in consultation with the Secretary of Transportation and the States in the System, shall monitor traffic movements on the System for the purpose of verifying lock capacity, updating traffic projections, and refining the economic evaluations so as to verify the need for future capacity expansion of the System as well as the future need for river rehabilitation and environmental enhancement.

(b) There are authorized to be appropriated to the Secretary of the Army for the first fiscal year beginning after the date of enactment of this title, and for each of nine fiscal years following thereafter, such sums as may be necessary to carry out subsection (a) of this section.

PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS

Sec. 208. (a) The Secretary of the Interior, in concert with any appropriate State agency, is authorized to undertake with respect to the Upper Mississippi River System, substantially in accordance with the recommendations of the Master Plan—

(1) a habitat rehabilitation and enhancement program to plan, construct, and evaluate projects to protect, enhance, or rehabilitate aquatic and terrestrial habitats lost or threatened as a result of man-induced activities or natural factors;

(2) the implementation of a long-term resource monitoring program; and

(3) the implementation of a computerized inventory and analysis system.

(b) For purposes of carrying out subsection (a)(1), there are authorized to be appropriated to the Secretary of the Interior not to exceed $8,200,000 for the first fiscal year beginning after the date of enactment of this title, not to exceed $12,400,000 for the second fiscal year beginning after the date of enactment of this title, and not to exceed $13,000,000 for each of the succeeding eight fiscal years.

(c) For purposes of carrying out subsection (a)(2), there are authorized to be appropriated to the Secretary of the Interior not to exceed $7,680,000 for the first fiscal year beginning after the date of enactment of this title and not to exceed $5,080,000 for each of the succeeding nine fiscal years.

(d) For purposes of carrying out subsection (a)(3), there are authorized to be appropriated to the Secretary of the Interior—

(1) not to exceed $40,000 for the first fiscal year beginning after the date of enactment of this title;

(2) not to exceed $280,000 for the second fiscal year beginning after the date of enactment of this title;

(3) not to exceed $1,220,000 for the third fiscal year beginning after the date of enactment of this title; and

(4) not to exceed $775,000 for each of the succeeding seven fiscal years.

PROGRAM OF RECREATIONAL PROJECTS; AUTHORIZATION OF APPROPRIATIONS

Sec. 209. (a) The Secretary of the Interior, in consultation with the Secretary of the Army and working through an agency, if any, established by the States for management of the System under section 205 of this title, is authorized to implement a program of recreational projects for the System and to conduct an assessment of the economic benefits generated by recreational activities in the System.

(b) For purposes of carrying out the program of recreational projects authorized in subsection (a), there are authorized to be appropriated to the Secretary of the Interior not to exceed $500,000 for each of the first ten fiscal years beginning after the date of enactment of this title and, for purposes of carrying out the assessment of the economic benefits of recreational activities as authorized in subsection (a), there are authorized to be appropriated to the Secretary of the Interior not to exceed $300,000 for the first and second fiscal years and $150,000 for the third fiscal year beginning after the computerized inventory and analysis system implemented pursuant to section 208(a)(3) of this title is fully functional.

APPLICATION OF NATIONAL ENVIRONMENTAL POLICY ACT

Sec. 210. (a) The Congress finds that there has been reasonable compliance with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in the formulation of the Master Plan and the environmental impact statement on construction of the first lock at locks and dam 26, Mississippi River, Alton, Illinois and Missouri.

(b) The actions authorized in section 206 of this title are exempt from the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

ACCOUNTING OF FUNDS

Sec. 211. None of the funds appropriated pursuant to the authorization contained in sections 208 and 209 shall be considered to be attributable to navigation.

NATIONAL INLAND WATERWAYS URGENT IMPROVEMENT ACT OF 1983

Mr. BYRD. Mr. President, it is a pleasure for me to join with my distinguished colleagues to introduce the National Inland Waterways Urgent Improvement Act of 1983. This legislation addresses some of the major problems currently impeding the flow of waterborne commerce along the Nation's inland waterways by authorizing construction at several important facilities which are in desperate need of reconstruction or rehabilitation. Their deteriorating condition is a sad testimony to the fact that we have neglected to pay adequate attention to the needs of America's inland waterway system. This legislation will serve as a first step in correcting that situation. I commend my colleague, Senator Heinz, the chairman of the Senate Coal Caucus, for his leadership on this issue which is so important not only to the coal industry, but as far as my State is concerned other basic smoke stack industries: steel, chemical, glass, and so forth. With the introduction of this legislation, the Coal Caucus is moving aggressively to address the problems of one major aspect of the Nation's coal transportation system.

This legislation authorizes construction at several lock and dam facilities along the Ohio River which are of vital economic importance to West Virginia as well as Pennsylvania, Ohio, and Kentucky. Indeed, millions of jobs in this region are directly dependent on the Ohio River and its tributaries. However, the lock and dam system, which permits the full navigational use of the Ohio River basin waterway, is in urgent need of improvement. Stated in its simplest terms, at key points along the Ohio River, the system is eroding. Consider, for example, that the average age of 20 of the 30 locks and dams on the Ohio, Allegheny, Monongahela, and Kanawha Rivers is more than 50 years.

Earlier this year the Morgantown Dominion Post reported that a "shutdown of commercial traffic on the Monongahela River is threatened within the next 2 or 3 years because of the condition of locks No. 7 and 8 near Point Marion, Pa." The story goes on to point out that these locks are the smallest of the nine locks between Fairmont and Pittsburgh, and have deteriorated to the extent that they require major rehabilitation or replacement. According to the Post story, it is estimated that the size and condition of these locks add as much as 60 percent to the price of coal that goes through them. Mr. William Lekse, president of the Waterways Association and of the Haney Barge Line, is quoted as saying that the additional cost is "one reason why Florida can buy South African coal cheaper than it can buy coal from this area."

Mr. President, I ask unanimous consent that a copy of the Morgantown Dominion Post story be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

River Shutdown Threatened

(By Tony Constantine)

A shutdown of commercial traffic on the Monongahela River is threatened within the next two or three years, because of the condition of Locks No. 7 and 8 near Pt. Marion, Pa.

These locks, the oldest and smallest of the nine locks between Fairmont and Pittsburgh, have deteriorated so badly that they need rehabilitation or replacement.

The impending shutdown looms if the federal government decides to repair the locks, because of costs instead of replacing them. Officials of companies involved in the river traffic say that if the decision is made to rehabilitate, operations on the Mon would be halted up to as long as a year.

If the federal government authorizes replacement of the locks, river traffic could be continued with little or sporadic interruption.

William Lekse, president of the Waterways Association of Pittsburgh and of the Haney Barge Line, claims replacements are needed with bigger locks.

"These old locks greatly restrict traffic," he said. "They are probably the smallest locks in the country, and the greatest bottleneck on the entire waterways system. They can handle only one jumbo barge at a time, compared, for example, to four for the Morgantown lock.

"They add a lot of dollars to the price of coal that goes through them. I'd say they increase the price about 60 percent. That's one reason why Florida can buy South African coal cheaper than it can coal from this area."

Lekse said rehabilitation of the old locks would amount to nothing more than a "band-aid" remedy. "The locks still would be outmoded and inefficient," he claimed. "They still could not handle more than one jumbo barge at a time."

John Reed, public information director for the Army Corps of Engineers in Pittsburgh, said a study is being made of the old locks to determine whether they should be repaired or replaced. "We need to make a decision one way or the other," he explained. "This is part of an overall study of the Monongahela River traffic and its effects."

Reed said a study completed in 1972 recommended replacement of the locks. The Secretary of the Army approved the proposal, but it was decided that he lacked the authority without approval by Congress. No money was appropriated for the project. That study is considered too old to serve as a basis for recommendations now.

Lekse claimed replacements of the locks then would have cost $50 million. He estimated the present cost at $150 million.

Dave Crytser, general manager of the Consolidation Coal Co. traffic division at Elizabeth, Pa., said Locks 7 and 8 exceeded some years ago their designed maximum life. They were built in 1925 to give 50 years of service.

He said about 140 companies are involved in the study on the old locks to learn how much of an impact the Mon River traffic exerts on the area.

"The impact is bigger than meets the eye, financial and operational," he suggested. "A lot of the coal shipped on the river goes to Pittsburgh power plants."

He named sewer treatment plants, pipelines, underground cables, water intakes, and recreation as all subject to the river's impact.

Cryster said any projected costs concerning the old locks would be speculative until the current study is completed, probably next year. He estimated the cost of rehabilitation as $80 million, and of replacement as $300 million.

He added that rehabilitation might get underway in 1985 and require three years. Replacement might be completed in eight years if plans are speeded up.

He estimated that rehabilitation of the locks would close river traffic from three months to a year. Of that possibility, he said, "I don't know how we'd be able to operate."

He added that Locks 7 and 8 handle five to eight million tons of traffic a year. Because of their small size, the number of lockages there are high and nearest to capacity on the river.

No. 7 is located near the State line. No. 8 is about six miles farther downriver.

Commercial traffic on the Mon River dropped during 1982, Al Rogalla of the Corps of Engineers office reported. The decrease was slight, however, because of the three-month coal strike that lowered traffic in 1981.

Damon Gordon of the same office reported last year's figures as incomplete, but that the 1981 total amounted to 32,116,533 tons for the stretch of 128.7 miles between Fairmont and Pittsburgh. This included 26 million tons of coal, 2 million tons of sand, 1.4 million tons of oil and gasoline and 1.3 million tons of iron and steel.

Rogalla said the 1979 traffic totaled more than 38 million tons, a jump of about seven million over the previous year, for the peak of the past five years.

He added that traffic at the Morgantown lock has declined steadily over the past three years. Official figures were 1.3 million tons for 1980, and 974,000 tons for 1981. The estimated total for last year is about 750,000 tons.

Mr. BYRD. Mr. President, Mr. Lekse's comment highlights an important point: The inland waterway system is a major aspect of this Nation's coal transportation system. In fact, according to the National Coal Association, coal is the second largest single commodity, and accounts for 21 percent of all tonnage moving on the Nation's inland waterways. In 1980, about 142 million tons of coal were transported on this system.

Unfortunately, many of the locks and dams along the inland waterway system are old and in need of modernization if they are to efficiently handle anticipated increases in volume. For example, all the locks and dams on the Kanawha River are obsolete by today's standards. In fact, the Winfield lock and dam on the Kanawha will have to be upgraded if the river is to accommodate the larger volumes of traffic which are expected to be moving along that waterway in the future.

The lock and dam at Gallipolis is a prime example of the problem. The Gallipolis lock and dam, located on the Ohio River about 14 miles downstream of the mouth of the Kanawha River between Ohio and West Virginia, began operation 45 years ago, in 1937.

According to the Army Corps of Engineers, the primary problem with the Gallipolis project is the relatively small size of the lock chambers compared to the other, more modern structures on the Ohio River. Gallipolis is the only navigation project on about 900 miles of the Ohio River that does not have at least one 1,200 foot lock chamber. The main lock of the Gallipolis project is 600 feet. Despite the relatively small size of the lock chamber, Gallipolis handles more traffic than any of the 13 locks and dams between Louisville, Ky., and Pittsburgh, Pa. Because the small lock chamber must handle such large volumes of traffic, the Corps of Engineers estimates that it takes an average commercial tow more than 4 hours to transit the Gallipolis locks. It takes only 1 hour at other Ohio River locks in the area.

The Corps of Engineers has projected significant increases in traffic along the Ohio River over the next several decades. Coal will account for most of the increased traffic. In 1980 about 26 million tons of coal moved through the Gallipolis lock and dam. The corps estimates that by 1990 coal tonnage will increase to 36 million tons. Indeed, by 1990, coal will account for 65 percent of all traffic moving through Gallipolis. By the year 2000, the corps estimates that 42.5 million tons of coal will be moving through Gallipolis.

Future increased traffic will further tax the capacity of the Gallipolis lock and dam and will cause unnecessary delays and additional costs to consumers. The corps estimates that, between now and the year 2000, if no modernization occurs at Gallipolis, the existing facilities would restrict traffic growth and satisfy only 45 percent of the maximum projected traffic growth.

Mr. President, the legislation which I join my colleagues in introducing today complements the Deep-Draft Navigation Act of 1983—S. 865—which several of us introduced last month to address the needs of the Nation's deep-draft commercial ports. However, the two systems are not the same. They require different approaches to effectively address the problems each system faces. Thus, it is my judgment that a policy which is based on limited user fees and cost-sharing between Federal Government and local port authorities is appropriate for the continued operation, maintenance, and improvement of our ports. But I want to emphasize that I do not think such an approach is appropriate for our inland waterway system.

The legislation which we introduce today will promote economic development of States, such as West Virginia, which depend upon the inland waterway system. It will promote the economic viability of the industries which are of central importance to West Virginia's economy, such as coal, steel, and chemicals.

Mr. GLENN. Mr. President, I am pleased today to join my colleagues in introducing legislation to speed the replacement of several outdated locks and dams on the Ohio River system.

Gallipolis, Ohio, the site of one of the bottlenecks we hope to alleviate, clearly demonstrates the importance of waterborne commerce to our Nation's economic vitality. By authorizing "fast track" expenditures to replace facilities there, Congress could help stimulate the chemical plants, steel industry and electric power sources so heavily dependent on the Gallipolis locks and dam.

The problem is acute. The locks and dam constructed in 1937 served their purpose well at the time, but almost a half-century later, they are as inappropriate as a hand-cranked Model-T. Gallipolis has become a chokepoint for traffic moving up and down the Ohio River and it is easy to understand why. Each of the other locks from the Pennsylvania to the confluence with the Mississippi River consists of at least one 1,200-foot main lock and a 600-foot auxiliary. The frequently malfunctioning Gallipolis facility, however, includes only a 600-foot main lock and a 360-foot auxiliary.

The solution proposed in this legislation is a 1,200-foot lock and a 600-foot lock in a 1.7-mile canal. The costs of construction are less than the costs of continued congestion, the problem that plagues waterborne traffic on the Ohio River.

Let my remind you that if time is money, then the delays at Gallipolis are costing producers, and ultimately consumers, dearly. Congestion has worsened since 1979, but at the time, average delay per tow transit exceeded 8 hours at a cost, according to industry estimates, of $3,000 per transit. If the 1979 traffic demand of 40 million tons reaches 64.5 to 70.8 million tons by 1990 as projected, then the delays may be computed in days, not hours. The coal industry, a major source of the Gallipolis traffic, particularly would benefit if Congress is willing to make the wise investment proposed today.

Timing is crucial. That explains why we have recommended fast-track action to permit the Corps of Engineers to begin work as soon as possible. Out-of-work Americans want the chance to earn an income mining coal, making cars, or providing electric power. At a time of such economic hardship, Congress has no more solemn obligation than to do all it can to keep commerce moving as smoothly as possible. The legislation introduced today is intended to help achieve that goal.

Mr. FORD. Mr. President, as cochairmen of the Senate Coal Caucus, today my colleague Senator HEINZ and I are introducing the "National Inland Waterways Urgent Improvement Act of 1983." It has been 7 long years since the Congress approved an authorization bill for water projects, and I submit that now is the time to pass a new one. The Nation's locks and dams are in a desperate state of neglect. Our initiative, that is designed to facilitate the flow of traffic on our inland waterway systems, would authorize the improvement of seven existing projects.

These are key installations that can either help or hinder waterborne traffic. At the moment, obsolete and undersized locks and serious congestion are deterring commercial navigation generally and the use and development of coal, America's most abundant source of energy, in particular.

The Ohio River and its upper Ohio basin tributaries, the Monongahela and Kanawha Rivers, and the Mississippi and Black Warrior Rivers are crucial to the movement of coal produced in the Eastern and Central States. These five waterways are now moving 140 to 150 million tons of coal each year. Annual coal production is forecast to increase from 820 million tons in 1982 to a level that will be one-third higher by 1990 and two-thirds higher by 1995. At a bare minimum, coal traffic demand on the inland waterways system can be expected to grow from today's volume to 250 million tons annually by the mid-1990's. It is not unreasonable to anticipate that the waterborne share of coal traffic will grow to 1 in every 4 tons produced annually.

Mr. President, the facilities covered by this bill can hardly be termed "pork barrel projects". The Secretary of the Army has recommended the replacement of Locks and Dams 7 and 8 on the Monongahela River in Pennsylvania in a report dated November 5, 1973. The Huntington District Engineer recommended in February 1981 that the Gallipolis locks on the Ohio River in West Virginia and Ohio be replaced. The Winfield locks and dam on the Kanawha River in West Virginia and the William Bacon Oliver lock and dam on the Black Warrior River in Alabama have also been designated by the Corps of Engineers as high priority projects.

A master plan submitted to Congress by the Upper Mississippi River Basin Commission on January 1, 1982, includes a recommendation that Congress authorize a second chamber at locks and dam 26 at Alton, Ill. Because construction equipment is already on site at this facility, located at the critical juncture of the Mississippi and the Missouri Rivers, and because the navigation capabilities of the Mississippi River urgently need to be improved, it makes little sense to put off a project that should be built now.

According to the Corps of Engineers, in 1980 about 85 million tons of coal moved on the Ohio River, 29 million tons on the Monongahela River, 10 million tons on the Black Warrior River, 9 million tons on the Kanawha River and 7 million tons on the upper Mississippi River. This represents 45 percent of all freight tonnage carried on these parts of our inland waterways system, a remarkable feat when you consider the decrepit condition of our locks and dams—some of which are over 70 years old—and the delays and rising accident rate that are a result of their age and inadequate size.

I have singled out coal as an example of the importance of our inland waterways to industry and commerce, but agricultural commodities and other raw materials are equally as dependent upon the system. I would also point out that these facilities serve purposes other than commerce. The pools assure water supply for local communities and industry while the locks and dams provide an essential degree of flood control along the rivers.

Last December the Congress passed major legislation to rebuild America's highways. Time is long overdue for us to turn to our other major infrastructure system, our inland waterways. I hope that the Committee on Environment and Public Works will hold hearings within the next few months on the "National Inland Waterways Urgent Improvement Act of 1983" and will send a comprehensive authorization bill to the Senate floor before the year is through.

In closing I would like to say a few words about the chairman of the Senate Coal Caucus, Senator Heinz. The coal industry has no better friend than he, and it is thanks to his good efforts and the diligence of his excellent staff that we have this important legislation before us. I look forward to continuing to work closely with the senior Senator from Pennsylvania as we try to promote America's energy resource of the future, coal.

● Mr. HUDDLESTON. Mr. President, the National Inland Waterway Urgent Improvement Act of 1983 was introduced today by my distinguished colleague, Senator Heinz from Pennsylvania. As cosponsor of this bill, I take this opportunity to thank the Senator for his initiative in this important matter and to add my strong support.

This legislation is an attempt to break through the barrier of problems and complications which has blocked the authorization of navigation project construction since 1976. The bill designates seven critically important shallow-draft navigation improvements for authorization.

These projects are broadly representative of the major inland water transportation systems of the United States. Each project is integral with the waterway system of which it is a key element. Each is a replacement or modification of an inadequate, obsolete facility which obstructs traffic growth and denies to the public the full benefits of Federal investments previously made in the same system.

Each project has been included in the summary framework of the recently published National Waterways Study prepard by the Army Corps of Engineers as directed by Congress in the Water Resources Development Act of 1976. The summary framework sets forth potential investments in the Great Lakes and inland waterways on the basis of value to the four objectives of economics, energy, exports and defense. None of these projects can be completed on or before the dates specified in the National Waterways Study as that on which, because of advanced age or obstructive congestion, the project is forecast by the study to be required.

It is urgent, therefore, that construction of each of these projects be authorized and undertaken without any unnecessary delay.

As I have stated, the authorization of construction of these seven projects should be regarded as an essential first step in implementing the recommendations of the National Waterways Study. The necessity for modernization of the inland waterway system is underscored by the findings and conclusions of the study, as follows:

> Waterborne forecasts indicate a growth of between 24 and 51 percent from 1977 to 2003. Coal and grain are the chief contributors to this growth, increasing by as much as 280 and 127 percent, respectively. The Ohio River leads in total tonnage growth based on the High Coal Export scenario.

In my State of Kentucky, both authorization and construction of the Gallipolis lock and dam modification, included in this bill, is crucial. Nearly 27 percent of all the traffic transiting the undersized Gallipolis Lock originates and terminates in Kentucky. Today that movement and others seeking to transit Gallipolis are held up 8 to 10 hours awaiting lock access. Such delays are projected to reach 32 hours by 1990, the earliest date at which completion of the locks is reasonably in prospect.

At a cost of $350 to $400 per hour per tow transit, such delays will constitute a serious barrier to traffic growth. Indeed, the Corps of Engineers estimates that, under those conditions, about 15 million tons of traffic will be driven from the river. Since there are no adequate alternative transportation facilities, the consequence [illegible] likely to be a shift to other origin and destinations resulting in grave economic loss to the Ohio River Basin community. The overage, undersized Gallipolis locks are closely analogous to a two-lane bridge in a six-lane highway.

Their enlargement is essential to the economic welfare of Kentucky. Thus, such expansion of capacity is necessary to the realization of a major increase in the movement of eastern Kentucky coal to upper Ohio Basin consumers. The resulting increments to job opportunities and accompanying improvements to the economy of this area can mean the difference between economic hardship and economic security. Favorable prospects for petrochemicals and the growing shipment of burnt lime from the vicinity of Maysville to the Pittsburgh area are likewise involved.

Low-cost receipt of essential industrial supplies such as iron, steel, and chemicals from upper Ohio Basin origins is also affected, not only with regard to the low cost of water carriage but also with regard to the effect of this mode on the competitive rates by rail or truck. The costs of congestion in the present outmoded Gallipolis locks are rising to prohibitive levels and the realization of the potentials for the economy of Kentucky awaits completion of enlarged capacity.

In terms both of the importance of the Gallipolis project to the economic future of the State and of the urgency of prompt action, the enlargement of lockage capacity at the Gallipolis site clearly occupies the highest rank of priority to the Commonwealth of Kentucky.

Mr. President, I urge most strongly that this National Inland Waterway Urgent Improvement Act of 1983 be passed by Congress and signed by the President as a vital factor in rebuilding the Nation's inland waterway transportation system and thus in the economic revitalization of America.●

By Mr. NICKLES (for himself, Mr. East, Mr. Grassley, Mrs. Hawkins, Mr. Humphrey, Mr. Laxalt, Mr. Mattingly, Mr. Thurmond, Mr. Denton, Mr. Quayle, and Mr. Goldwater):

S. 1172. A bill to amend the Davis-Bacon Act; to the Committee on Labor and Human Resources.

DAVIS-BACON ACT REFORM

Mr. NICKLES. Mr. President, today I am introducing legislation along with Senators East, Grassley, Hawkins, Humphrey, Laxalt, Mattingly, Thurmond, Denton, Quayle, and Goldwater to reform the Davis-Bacon Act.

The past 2 years have seen much activity surrounding the enforcement of the Davis-Bacon Act. The Reagan administration, to its credit, attempted to reform the procedures used to determine prevailing wages. Their efforts were designed to insure that predetermined prevailing wages were indeed those wage rates utilized on private construction projects in any given area—and not those artificially inflated, and often imported, wage rates determined by current DOL practice. We all know that the administration's efforts at Davis-Bacon reform have failed—save for one provision—because of the ruling and injunction handed down by Federal Judge Harold Green on December 23, 1982.

The Reagan administration has appealed Judge Green's order. However, precious time and tax dollars continue to waste away. Congress can, and must, put an end to this unconscionable waste. Shortly, the Senate will begin debating the budget for fiscal year 1984. The Budget Committee's own resolution allows for a deficit of some $162 billion. This is scandalous. Congress must act to cut this outrageous deficit down. I propose that we take a serious look at the potential savings that can be realized by reforming the Davis-Bacon Act now and not waiting for the appeals process to run its course.

The Congressional budget Office calculates that this proposal will save the taxpayer some $3.5 billion over the next 5 fiscal years—with savings of over $1 billion per year thereafter. copies of the CBO estimates are available from the Senate Labor Subcommittee upon request.

This legislation is designed to retain the rationale behind the Davis-Bacon Act—that prevailing wage scales and practices should not be undercut by the Federal Government's construction program. However, this proposal will bring the act back into balance by permitting and encouraging indigenous contractors to bid on Federal work—a practice frequently denied to them because the Davis-Bacon Act forces up the true prevailing wage scale in an area and/or precludes the efficient use of their work force as utilized on private sector projects. Davis-Bacon changes are long overdue and I believe that the Congress will eventually accept these statutory changes.

The legislation I am submitting today mirrors the administration's key proposed—and rejected—changes in all but one provision—the threshold level. The four changes I am proposing are:

First, for the first time a definition of "prevailing wages" would be written into the act.

The administration has been successful in dropping the notoriously inaccurate 30-percent rule and replacing it with a more defensible 50-percent rule. This is the one major change permitted by Judge Green's order. I expect final implementation of this rule shortly, and suspect that considerable savings will result down the road as the effects of the new rule are felt in the construction industry. This proposal writes the 50 percent, or majority, rule into the statute. Absent an identifiable majority rate, however, the Department of Labor must then use a weighted average.

Second, an outright ban on importing urban wage rates into rural civil subdivisions and vice versa.

Third, the addition of a helper classification would be formally written into the act. This practice is not new. For years the Department of Labor has recognized helper classifications in several States and has issued wage determinations accordingly. But this recognition needs to be expanded. The use of helpers is common in the construction industry and the Labor Department's failure to take helpers into account leads to numerous situations where indigenous contractors and their employees lose work to outside, higher priced competition.

Fourth, the current $2,000 threshold is upped to $100,000. This modest increase is long overdue and will give greater latitude to the contracting officers of the various Federal agencies in awarding small contracts more quickly and efficiently.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1172

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DAVIS-BACON AMENDMENTS

SEC. . (a) Subsection (a) of the first section of the Act of March 3, 1931, commonly known as the Davis-Bacon Act (40 U.S.C. 276a(a)), is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary of Labor shall base his determination of the wages prevailing for the corresponding classes of laborers, mechanics, and helpers under paragraph (1) on—

"(A) the wage paid to 50 per centum or more of the corresponding classes of laborers, mechanics, and helpers employed on projects of a character similar to the contract work in the urban or rural civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there; or

"(B) if the same wage is not paid to 50 per centum or more of the laborers, mechanics, and helpers in the corresponding classes, the weighted average of the wages paid to the corresponding classes of laborers, mechanics, and helpers employed on projects of a character similar to the contract work in the urban or rural civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there.".

(b) The first section of such Act is further amended by striking out "$2,000" and inserting in lieu thereof "$100,000".

(c)(1) The first section of such Act is further amended—

(A) by striking out "mechanics and/or laborers" in subsection (a)(1) and inserting in lieu thereof "laborers, mechanics, helpers, or any combination thereof";

(B) by striking out "laborers and mechanics" wherever it appears and inserting in lieu thereof "laborers, mechanics, and helpers";

(C) by striking out "mechanics and laborers" in subsection (a)(1) and inserting in lieu thereof "laborers, mechanics, and helpers"; and

(D) by striking out "laborer or mechanic" in subsection (b) and inserting in lieu thereof "laborer, mechanic, or helper".

(2) Section 2 of such Act (40 U.S.C. 276a-1) is amended by striking out "laborer or mechanic" and inserting in lieu thereof "laborer, mechanic, or helper".

(3) Section 3 of such Act (40 U.S.C. 276a-2) is amended by striking out "laborers and mechanics" wherever it appears and inserting in lieu thereof "laborers, mechanics, and helpers".

By Mr. NICKLES:

S. 1173. A bill to amend the Federal Mine Safety and Health Act of 1977; to the Committee on Labor and Human Resources.

FEDERAL MINE SAFETY AND HEALTH AMENDMENTS OF 1983

Mr. NICKLES. Mr. President, the Assistant Secretary of MSHA, Ford B. Ford, is deserving of commendation from us for his dedication to the health and safety of our Nation's miners. He has proved himself a hard-working, fair-minded and concerned individual.

Since assuming the position as head of MSHA, Mr. Ford has opened his door to all interested parties and has listened to their concerns, complaints, and suggestions. He has instituted a reorganization of MSHA field offices to insure maximum utilization of the Agency's resources. As a result of his leadership much of the adversial spirit between labor, management, and Government has been healed.

The bottom line in evaluating one's performance in the health and safety field is if the number of accidents, work-loss day injuries, disabling injuries, and fatalities declined. Under Assistant Secretary Ford's leadership there has been a decline in injuries and fatalities. In 1982 coal mining deaths declined from 153 to 122 and deaths at metal and nonmetal mining facilities declined from 84 to 66. Reportable injuries likewise declined in coal mining from 8.92 to 8.06 per 200,000 employee hours and in metal and nonmetal mine sites from 5.75 to 4.49. First quarter 1983 statistics have continued in this encouraging trend. Even though these statistics are encouraging, our goal is no injuries and no fatalities. For every injury and every fatality is more than a number, but involves people, families, and suffering.

Toward that goal I am today introducing the Federal Mine Safety and Health Amendments of 1983. I am convinced that our Assistant Secretary has greatly improved the administration of the MSHA Act. However, I am likewise convinced that to make further improvements in the work environment of American miners requires some changes in the statute itself. The MSHA statute has worked well in many respects. Yet some fine tuning will enhance the statute and allow MSHA greater flexibility in areas where needed, so that MSHA's resources can be even more effectively put to work.

My bill is not a comprehensive bill. There are other changes in MSHA I would usually support. My goal now is not a massive overhaul of MSHA but rather to make some basic reforms which will promote greater health and safety in our Nation's mines.

My bill would amend the MSHA statute in five areas:

Remove statutory requirement for two annual surface mine inspections if the mine site meets certain criteria, that is—low disabling injury rate. This will allow the Secretary to send his inspectors to where problems exist rather than just meet an arbitrary goal of two inspections.

Remove mandatory penalties for all violations, other than significant and substantial violations, if the violation is abated. There is no need to punish employers and thus employees and consumers, for minor nonwillful violations that no one could prevent and which are easily corrected when pointed out. This will serve as an incentive to all parties to fix what is wrong rather than point fingers.

Remove mandatory training hours for new surface miners, permit on-the-job training, and permit flexibility in annual retraining requirements. Today's statutory standards penalize those mines with few employees, family-owned mines, and seasonal mines. Training of new miners should be a high priority given serious attention and be specifically designed for that operations needs and not a quota to be fulfilled.

Permit MSHA to provide industry consultation and assistance visits at operating mines. Currently MSHA cannot visit a mine site at the operators request because the statute requires MSHA to issue notices and penalties, therefore an operator will not invite MSHA. This provision would work to enhance safety by promoting a team effort.

Exempt mine sites that are owned or operated by a State or political subdivision of a State. These are small mines over which States have shown competent ability to oversee. This also would free up MSHA's inspections.

With these changes, I am convinced that both Assistant Secretary Ford and future Assistant Secretarys for MSHA will have better tools at their disposal to promote safety and health in our Nation's mines.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1173

Be it enacted by the Senate and House of Representatives in Congress assembled

SHORT TITLE; GENERAL REFERENCE

SECTION 1. (a) This Act may be cited as the "Federal Mine Safety and Health Amendments of 1983".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Mine Safety and Health Act of 1977.

COVERAGE

SEC. 2. (a) Section 3(d) is amended to read as follows:

"(d) 'operator' means any owner, lessee, or other person who operates, controls, or supervises a coal or other mine or any independent contractor performing services or construction at such mine, except that such term shall not include any State or political subdivision thereof."

(b) Section 4 is amended to read as follows:

"Each coal or other mine, the products of which enter commerce, or the operations or products of which affect commerce, and each operator of such mine, and every miner in such mine shall be subject to the provisions of this Act; except that this Act shall not apply to any coal or other mine operated, controlled, or supervised by any State or political subdivision thereof."

INSPECTIONS

SEC. 3. Section 103(a) is amended by striking out the third sentence and inserting in lieu thereof the following: "In carrying out the requirements of clauses (3) and (4) of this subsection, the Secretary shall make inspections of each underground coal or other mine in its entirety at least four times a year, and shall establish criteria to determine the minimum number of inspections to be made at each surface coal or other mine. Such criteria shall require, with respect to a particular mine, consideration of appropriate factors including, but not limited to, the rate of injuries, the incidence of fatalities, the nature of the mining operation and the number of miners employed at such mine.".

NOTICES OF VIOLATION, CITATIONS, AND ORDERS

SEC. 4. (a) Section 104 is amended by—

(1) striking the first sentence of subsection (a) and inserting in lieu thereof the following: "If, upon inspection or investigation, the Secretary or his authorized representative believes that an operator of a coal or other mine subject to this Act has violated this Act, or any mandatory health or safety standard, rule, order or regulations promulgated pursuant to this Act, he shall, with reasonable promptness, issue a notice of violation to the operator, except in those cases where the Secretary or his authorized representative finds that an operator has committed a violation that could significantly and substantially contribute to the cause and effect of a coal or other mine safety and health hazard in which case the Secretary or his authorized representative shall, with reasonable promptness, issue a citation to the operator. The Secretary may establish guidelines for the issuance of a citation for any violation where such issuance would promote the health and safety of miners.";

(2) striking "citation" in the second, third and fourth sentences of subsection (a), and in subsection (b), and inserting in lieu thereof "notice of violation or citation"; and

(3) inserting in the heading thereof "NOTICES OF VIOLATION," immediately before "CITATIONS AND ORDERS".

(b) section 3 is amended by striking "and" at the end of paragraph (m), striking the periods at the end of paragraphs (n) and (o) and inserting in lieu thereof semicolons, and by adding at the end thereof the following new paragraph:

"(p) 'significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard' means a violation of this Act, or any mandatory health or safety standard, rule, order, or regulation promulgated pursuant to this Act, that based on the particular surrounding facts, constitutes a condition or practice which is reasonably likely to result in an injury or illness of a reasonably serious nature.".

(c) Section 110(b) is amended by striking "citation" and inserting in lieu thereof "notice of violation or citation".

TRAINING

SEC. 5 Section 115(a) is amended—

(a) by striking the second sentence and inserting in lieu thereof the following: Each training program shall be approved by the Secretary if the program complies with requirements which the Secretary shall establish by regulation; or the Secretary determines that the manner in which the program achieves the training purposes of this section is at least as effective as a program which complies with the established requirements.";

(b) in paragraph (2), by striking "new miners having no surface mining experience shall receive no less than 24 hours of training" and inserting in lieu thereof: "miners having no surface mining experience or its equivalent shall receive such training as the Secretary, in approving the training program, determines is necessary and appropriate for the particular tasks performed by the miners and the conditions existing at the particular mine";

(c) in paragraph (3), by striking the present text and inserting in lieu thereof: "all miners shall receive such refresher training at such intervals as the Secretary, in approving the training program, determines is necessary and appropriate for the particular tasks performed by the miners and the conditions existing at the particular mine:"; and

(d) in paragraph (5), by inserting immediately before the period at the end thereof the following: ", and may include on-the-job training conducted during actual production and under the close and continuous supervision of an experienced miner qualified to supervise such training. Regulations promulgated by the Secretary pursuant to this section shall include provisions governing such on-the-job training".

INDUSTRY CONSULTATION AND ASSISTANCE".

SEC. 6. Section 502 is amended by striking "(b)" and "(c)" and inserting in lieu thereof "(c)" and "(d)" respectively, and by inserting after subsection (a) thereof the following:

"(b)(1) The Secretary is authorized to provide consultation and assistance to any operator of a coal or other mine for the purposes of assisting the operator in meeting the requirements of this Act and in further improving the health and safety conditions and practices in such mine. Such consultation and assistance may be conducted at the initiative of the Secretary or upon the request of the operator.

"(2) Within a reasonable time following such consultation and assistance, the Secretary shall make written recommendations to the operator with respect to the elimination of any condition or practice disclosed during such visit that may constitute a violation of this Act, or any mandatory health or safety standard, rule, order or regulations promulgated pursuant to this Act.

"(3) For the purposes of subsections (a), (f) and (g)(2) of section 103, consultation and assistance provided under this subsection shall not be considered an inspection or investigation. The Secretary shall endeavor to assure that miners or their representatives have an opportunity to participate meaningfully in any such consultation and assistance effort. Further, no notice of violation, citation or order shall be issued under section 104 as a result of such activity. In all other respects, nothing in this subsection shall affect the duties and responsibilities of the Secretary under this Act, including duties and responsibilities under section 107. Advice given in the course of consultation and assistance at any mine conducted pursuant to this subsection shall not be binding on the Secretary in the event of any subsequent action with respect to such mine.

"(4) In conducting consultation and assistance pursuant to this subsection, the Secretary may utilize any appropriate personnel, including such authorized representatives as the Secretary may designate for the purpose of conducting such activities.

"(5) The Secretary is authorized to promulgate such regulations as he deems appropriate to carry out the provisions of this subsection.".

EFFECTIVE DATE

SEC. 7. Except as otherwise provided, the provisions of this Act shall take effect 60 days after the date of enactment thereof. The provisions of section 4 of this Act shall take effect 180 days after the date of enactment thereof; and any training plan approved by the Secretary prior to the effective date of section 4 shall remain in effect until any new plan that may be submitted under the provisions of that section is approved.

By Mr. D'AMATO (for himself and Mr. JOHNSTON):

S. 1174. A bill to amend the Public Utility Holding Company Act of 1935 to simplify its administration, to ensure State regulatory access to necessary information, to remove certain regulatory restrictions on business practices where such restrictions are no longer necessary to the protection of investors and consumers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

PUBLIC UTILITY HOLDING COMPANY ACT AMENDMENTS OF 1983

● Mr. D'AMATO. Mr. President, I am pleased today to be introducing with my distinguished colleague from Louisiana (Senator JOHNSTON) a single piece of legislation which reforms the Public Utility Holding Company Act of 1935 while continuing the significant protections that the act offers to investors and consumers.

In the last Congress, Senator JOHNSTON and I introduced, either individually or together, for consideration by the Congress several pieces of legislation ranging from reform of the act to its entire repeal, a position supported by the Securities and Exchange Commission. During the last Congress, the Securities Subcommittee of the Committee on Banking, Housing, and Urban Affairs held 3 days of hearings on these proposals, at which industry representatives, the SEC, State regulators, and various other groups testified. As a result of these hearings, I became convinced that repeal of the act would not be in the public interest. However, I also became convinced that meaningful reform of the act would serve the best interests of investors and consumers, the very people whom the act was designed to protect.

The legislation which I am introducing today addresses substantially all of the concerns that were raised in such hearings. As such, it reflects many of the views of those constituencies who testified last year and, therefore, represents the consensus that has emerged to date among such groups. However, should the testimony at the hearings that I intend to hold on this bill on May 25 and 26, 1983, suggest the need to revise this legislation in certain respects, I am fully prepared to consider such revisions.

Of necessity, this is a detailed proposal for reform of a very lengthy and technical statute that has remained unchanged in all material respects since its passage in 1935. However, the thrust of my bill can be summarized as follows:

SUMMARY

1. PROPOSED MODIFICATION OF PROVISIONS GOVERNING EXEMPTIONS

The bill preserves the Act's distinction between registered and exempt holding companies. Exemptions would continue to be available for a holding company, so long as its structure and operations are confined within geographic and other statutorily prescribed limits designed to ensure effective state regulation of the utility business.

Under the bill, the Act's exemptive provisions would be changed in two respects. First, an additional exemptive category would be added. This would permit a company whose utility operations are confined to the state in which it is organized and contiguous states, or a holding company that is predominantly a public utility company whose operations do not extend beyond the state in which it is organized and contiguous states, to form a holding company over its utility operations and still gain exemption from the Act. New Section 3(a)(6).

Second, the bill modifies the regulatory mechanism by which an exemption may be withheld, conditioned or revoked. New Section 3(c)-(e). Under current law, the "unless and except" clause in section 3(a) gives the SEC extraordinarily broad authority to condition or revoke retroactively a statutory exemption. Thus, management is often uncertain as to the regulatory treatment that it should expect to receive. The bill does not propose to eliminate SEC authority to withhold or revoke a statutory exemption but would confine the SEC's power to revoke a statutory exemption to those circumstances where it can be shown that consumers' interests are negatively affected. Thus, in place of the present "unless and except" clause, the bill would empower the SEC to withhold or revoke an exemption if it found upon clear and convincing evidence that the exemption materially adversely affects the system's public utility business. A revocation proceeding or a proceeding to deny an exemption could be initiated by the SEC on its own motion or at the request of any state commission having jurisdiction to regulate any utility operations of an exempt system. Such state commission would be given contemporaneous notice of an application for exemption.

2. STATE COMMISSION ACCESS TO BOOKS AND RECORDS; STATE COMMISSION MONITORING OF DIVERSIFIED ACTIVITIES

The bill would create for state commissions a new federally enforceable right to gain access to the books, records and accounts of nonutility activities of both exempt and registered companies. The provision expressly addresses a circumstance in which a state commission, in the course of a proceeding, is not satisfied that it has been granted adequate access to the books, records and accounts of a holding company or a nonutility subsidiary. In such an event the state commission is granted a right of action in United States federal district court to secure access to any records it can show to be necessary to the performance of its regulatory responsibilities. New Section 3A(a)-(b).

In addition to this authority with respect to information necessary to a specific proceeding, the bill creates general authority in the SEC to require biennial reports on the nonutility activities of both exempt and registered systems to facilitate state commission monitoring of diversified activities. State commissions are expressly provided the opportunity to apply to the SEC to require such reporting. As in the case of the access to specific books, records and accounts, conditions would be imposed to safeguard against the unwarranted public disclosure of any confidential business information. New Section 3A(c).

This proposal would create the mechanisms for state commission information gathering, backed by federal authority, that is necessary for effective state regulation of utility companies organized under a holding company structure. The authority with respect to books, records and accounts, confined to circumstances in which specific regulatory need can be demonstrated, well accommodates state regulatory purposes and the legitimate business objective of effective segregation of utility and nonutility operations.

Registered holding companies have two general objections to the regulatory scheme presently imposed under the Act: first, that all significant (and many insignificant) management decisions are subject to SEC approval; and second, that no decision or management plan may be executed until such time as the SEC, in its discretion, determines to act.

3. FINANCIAL CONTROLS AND CONTROLS ON CAPITAL STRUCTURE

Among the most troublesome of the Act's regulatory requirements are provisions which require registered companies and their subsidiaries to obtain prior SEC approval of each security issuance. The requirement that the SEC approve the specific terms of a company's financings has no parallel in the securities laws which effectively regulate the capital raising activities of other sectors of the utility industry. SEC approval has produced no demonstrable savings to customers of registered systems as compared to those of the majority of utility companies which do not submit the terms of their proposed issues to SEC review.

Though advantages are not always evident, disadvantages are clear. Delays pending SEC review result in missed market opportunities that other firms, free to respond quickly, may translate into lower capital costs. Moreover, the mechanism for review offers no certainty to lenders and investors until such time as the SEC, in its discretion, determines to act. Customers bear any costs of such delay.

The problems posed by these provisions of the Act can be substantially remedied while maintaining SEC review of new financing plans of interstate systems. The primary objective of amendments to this section is to create an automatic mechanism which places most security issues before the SEC for review, but ensures that regulatory action will occur within twenty days after submission to the SEC. The SEC could still disapprove an issue, or impose conditions on its approval, if such action is necessary to prevent an unreasonable economic risk to investors or consumers. Otherwise, the issue would be automatically approved at the end of the twenty day waiting period. New Section 7(b).

A second change of considerable significance creates a statutory opportunity to secure advance approval of a two-year financing plan. Once the plan clears SEC review a company could time the issuance of securities under the plan to respond to the dictates of the market. New Section 7(b)(3).

With respect to both individual issues subject to review and proposed financing plans, the bill preserves the existing opportunity of a state to raise before the SEC claims that the issue or plan violates state law. If such an objection is raised, the SEC could not approve the issue or the plan until it is satisfied that compliance with state law has been accomplished or will be effected. New Section 7(c).

In addition to these modifications, the bill exempts certain issues from SEC review. Nonutility subsidiary financing will be exempt, although holding company guaranties or assumptions of liability on behalf of nonutility subsidiaries would be subject to review if such guaranties aggregate more than ten percent of the book value of the holding company's securities. [Similarly, an exemption for short-term debt issues by the holding company would be provided until such debt issues aggregate ten percent of the book value of the holding company's outstanding securities.] Public utility subsidiary financings would remain fully subject to review unless approved by a jurisdictional state commission. New Section 6.

4. INTERCOMPANY FINANCING

As discussed above, the bill would not continue SEC review of securities issues by nonutility subsidiaries of registered holding companies. Nevertheless, the SEC would be authorized to protect the integrity of utility company assets and financial commitments by regulating intercompany transactions. This authority would include:

Authority to restrict the declaration of dividends by the holding company or any public utility subsidiary. New Section 12(a);

Authority to restrict extensions of credit by a public utility company to another company in the same holding company system. New Section 12(b); and

Authority to establish requirements governing any other transaction between a utility company and any affiliate or any other company in the same system. New Section 12(c).

The SEC would also be empowered to restrict sales of utility securities and assets by the holding company. New Section 12(d).

5. DIVERSIFICATION

I have proposed revisions in the Act's controls on diversification to provide both management flexibility and regulatory confidence that managers will pursue diversified activities, if at all, at a measured pace and in a prudent manner.

As presently administered, the Act's controls on diversification consist of two basic elements for registered companies: every investment must be specifically approved by the SEC, and only functionally related investment is tolerated. Our proposal provides for periodic regulatory review of holding company diversification plans.

The proposed amendments would permit registered systems, in addition to any investment already approved by the SEC, to make additional nonutility investment without SEC approval up to ten percent of the system's assets. New Section 9(a), (d).

When the ten percent threshold is reached, no further diversification could occur except with specific SEC permission or consistent with a diversification plan which itself is subject to SEC disapproval. State commissions are expressly afforded the opportunity to seek SEC disapproval of a specific investment or of the diversification plan. New Section 10(g), (h).

The bill also grants the SEC authority to require divestiture of a nonutility investment if the SEC finds upon clear and convincing evidence that the nonutility activities materially adversely affect the system's public utility business. New Section 11(b)(1)(B).

6. AFFILIATE TRANSACTIONS

The bill would retain the SEC's authority to regulate contracts for sales of goods and services between a public utility company and sister subsidiaries. This would include retention of existing authority to establish accounting rules by which the SEC determines costs to be allocated among companies for such goods and services. Under the amendments, however, the SEC would be prohibited from allocating to any public utility company any losses or earnings fairly and equitably attributable to nonutility subsidiary transactions with third parties. New Section 13(g).

Also, under this amendment, in order for a nonutility subsidiary to charge a public utility company a price for goods or services above cost, it must apply to the SEC for specific approval. New Section 13(h).

Even though one purpose of the bill is to relax present restrictions on business diversification on the part of public utility companies in holding company systems, there are certain antitrust and anticonglomerate provisions and purposes of the original act that deserve to be strengthened and that the bill will strengthen. The bill will respond to the concerns expressed by representatives of State governments and consumer organizations that repeal of, or significant amendments to, the act would remove an important shield that protects utility companies from becoming the targets of acquisition-minded and aggressive conglomerate and non-utility business.

The merits of these concerns are so persuasive that I believe it is necessary to expand the protections of the current law to provide an earlier and more effective role for the SEC and State authorities. Since 1935, the act has required prior SEC approval of an acquisition of securities of a second public utility company; but it permits a first acquisition without SEC approval. Proposed section 9(a)(3) would require prior approval by the SEC for any acquisition of securities of a public utility that would result in the acquiring company becoming a holding company, that is, to avoid the anomalous result under the present law that the SEC cannot take preventive action but is restricted to ordering divestitures and restructuring on the part of newly created holding companies that violate section 11 requirements. Such post hoc involvement has burdened the agency and worked to the detriment of shareholders, investors, and consumers and sometimes in derogation of State law. In short, the bill will on the one hand give utility companies and holding companies greater latitude than at present to diversify but on the other hand will give the SEC effective power to prevent conglomerate and other nonutility enterprises superimposing themselves on even a single public utility.

The bill would also reaffirm the close relationship between the Commission and State regulators so essential to the discharge of their respective obligations. Any approval of an acquisition of utility securities under section 10(f) of the act must rest on compliance with State laws, including State securities and corporation laws of general application as well as laws which may limit and condition changes in control of public utility companies. State laws are to be given broad scope to promote the prophylactic purposes of the act as it has existed and as it would be amended in the bill.

In closing, I would simply like to suggest that the Holding Company Act was passed by the Congress in 1935 to eliminate certain practices that were prevalent at that time. Many of such practices stemmed from the unduly complex corporate structures employed by such companies. Others involved questionable securities and accounting transactions that were addressed by Congress with the passage of the Securities Act of 1933 and the Securities Exchange Act of 1934, together with developments in accounting standards and practices. Moreover, regulation of public utilities on the State level is far more effective today than in 1935. As a result, it is clearly appropriate at this time for Congress in the interests of investors and consumers to reform the act.

Mr. President, I ask unanimous consent that my legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1174

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SHORT TITLE

Section 1. This Act may be cited as the "Public Utility Holding Company Act Amendments of 1983".

FINDINGS AND STATEMENT OF PURPOSES

Sec. 2. (a) The Congress hereby finds that—

(1) business, market, and regulatory developments over the forty-eight year history of the administration of the Public Utility Holding Company Act of 1935 have rendered certain of the original provisions of the Act—

(A) unnecessarily restrictive of business activity; or

(B) duplicative of a broad range of regulatory controls administered by State and Federal authorities under a number of other laws; and

(2) the lessening of regulatory burdens and controls imposed on holding-company systems and the reform of regulatory requirements can be accomplished under the Public Utility Holding Company Act of 1935 in a manner and to a degree entirely consistent with the protection of investors and consumers.

(b) The purposes of this Act are—

(1) to ensure that State regulatory authorities have access to information concerning the operation of holding-company systems necessary to the performance by such State regulatory authorities of the functions imposed upon them by law;

(2) to remove certain regulatory restrictions on business practices where such restrictions are no longer necessary to the protection of investors and consumers;

(3) to reduce regulatory uncertainties in the administration of the Public Utility Holding Company Act of 1935; and

(4) to simplify and allow for greater flexibility in the administration of the remaining requirements of the Act.

DEFINITIONS

Sec. 3. Section 2 of the Public Utility Holding Company Act of 1935 is amended in subsection (a)—

(1) by striking paragraph (18) and inserting in lieu thereof the following:

"(18) 'Utility assets' means the facilities, in place, of any electric utility company directly employed in, and the primary function of which is, the generation, transmission, or distribution of electric energy; or the facilities, in place, of any gas utility company directly employed in, and the primary function of which is, the distribution at retail of natural or manufactured gas."; and

(2) by adding at the end thereof the following paragraphs:

"(30) 'Issue' includes the sale, renewal, guaranty of or assumption of liability on any security.

"(31) 'Consumers' means the utility customers of a public-utility company which is an associate company in a holding-company system."

EXEMPTIONS FROM THE HOLDING COMPANY ACT

Sec. 4. Section 3 of the Public Utility Holding Company Act of 1935 is amended—

(1) In subsection (a)—

(A) by inserting "unconditionally" before "exempt any holding company" in the first sentence of such subsection;

(B) by striking "any provision or" and inserting "all" before "provisions of this title" in the first sentence of such subsection;

(C) by striking from ", unless" through "consumers" in the first sentence of such subsection and inserting in lieu thereof: "except section 3A and paragraph (2) of subsection (a) of section 9, unless and except insofar as the Commission, acting on its own motion or upon the request of a State commission having jurisdication to regulate a public-utility company in the holding-company system, shall by order determine, by specific factual findings made upon clear and convincing evidence, that the exemption materially adversely affects the public-utility business of such holding-company system";

(D) by striking in paragraph (4) "; or" and inserting in lieu thereof ";";

(E) by striking "." in paragraph (5) and inserting in lieu thereof "; or"; and

(F) by adding at the end thereof the following new paragraph:

"(6) such holding company has only one subsidiary company which is a public-utility company and the operations of such subsidiary company as such do not extend beyond the State in which it is organized and States contiguous thereto: *Provided, however*, That such public-utility company may be a holding company which qualifies for an exemption under paragraph (2).";

(2) in subsection (c)—

(A) in the last sentence of such subsection:

(i) by striking "issuance of such order" and inserting in lieu thereof "exemption"; and

(ii) by inserting after "shall"; ", unless a proceeding is pending under subsection (e),";

(B) by adding a new last sentence to read as follows: "Any finding that the exemption under subsection (a) materially adversely affects the public-utility business of a holding-company system shall be made in accordance with the procedure set forth in subsection (a)."; and

(3) by inserting a new subsection (e) to read as follows:

"(e) Whenever the Commission shall have determined that an exemption under subsection (a) materially adversely affects the public-utility business of a holding-company system, the Commission shall by order revoke the exemption: *Provided, however*, That the Commission shall permit such holding company an opportunity, in accordance with such rules and regulations or order as the Commission may deem necessary or appropriate in the public interest or for the protection of investors or consumers, to submit to the Commission a plan which, as submitted or as modified, after notice and opportunity for hearing, the Commission finds adequate to cause the exemption not to materially adversely affect the public-utility business of such holding-company system and to be fair and equitable to the persons affected by such plan. If the Commission makes such finding it shall enter an order approving such plan, and the exemption shall remain in effect. The terms and provisions of a plan approved under this subsection may be enforced in the same manner as a plan approved under subsection (e) of section 11."

STATE COMMISSION MONITORING OF AND ACCESS TO INFORMATION RESPECTING BUSINESS ACTIVITY

Sec. 5. The Public Utility Holding Company Act of 1935 is amended by adding a new section to read:

"STATE COMMISSION MONITORING OF AND ACCESS TO INFORMATION RESPECTING BUSINESS ACTIVITY

"Sec. 3A. (a) Upon the written request of a State commission having jurisdiction to regulate a public-utility company in a holding-company system, and subject to such terms and conditions as are appropriate and necessary to safeguard against unwarranted public disclosure of any confidential business information, a holding company shall produce, or cause any associate company in the holding-company system to produce, for inspection of the requesting State commission such of its books, records, and accounts with respect to its nonutility business activities as:

"(1) have been identified in reasonable detail in a pending proceeding before such State commission; and

"(2) can be shown to be necessary to the performance by the State commission of functions imposed upon it by law in connection with the pending proceeding described in paragraph (1).

"(b) The district courts of the United States, the United States District Court for the District of Columbia, and the United States Courts of any other place subject to the jurisdiction of the United States shall have exclusive jurisdiction of all actions at law or in equity brought by the State commission making a request under subsection (a), a holding company, an associate company of such holding company, or officer or director of any thereof, to construe subsection (a) or to enforce any liability, duty, or immunity created by it. No other right of action shall arise under such subsection. Any such action may be brought in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or where the defendant may be found. In any proceeding to enforce subsection (a) the State commission shall have the responsibility to demonstrate to the satisfaction of the court that the production of such books, records, and accounts is necessary to the performance by such State commission of functions imposed upon it by law. Any action brought under this subsection shall to the greatest extent practicable be expedited by the court and given precedence with respect to other matters then pending on the docket so as to permit the court to render its decision relative to such action within 60 days from the date such action is brought, unless the court determines that a longer period is necessary to satisfy requirements of the United States Constitution.

"(c) The Commission, upon its own motion or upon the application of any State commission having jurisdiction to regulate any public-utility company in a holding-company system, may, by such rules or regulations as it determines to be required in the public interest, provide for the filing, with the Commission and any such State commission, of uniform reports concerning the nonutility business activities of holding-company systems. Such rules or regulations may provide for the filing of such reports on a periodic basis, provided that such reports shall not be required more often than biennially. In determining whether to exercise its authority under this subsection and in determining the nature and level of detail in any such uniform reports, the Commission shall give due consideration to the need to avoid unnecessary duplication in reporting of information otherwise contained in public filings under the securities laws or otherwise and the need to safeguard against unwarranted public disclosure of any confidential business information.

"(d) Nothing in this section shall:

"(1) subject a holding company or any associate company thereof to the jurisdiction of a State commission, except as specifically provided herein; or

"(2) be construed to invalidate, supersede, or impair the exercise of authority by the several States under laws duly enacted by any such State respecting the compulsory production or inspection of books, records, and accounts in connection with the regulation of public-utility companies doing business in such States, except that no requirement under State law with respect to the public disclosure of information obtained pursuant to the authority of this section shall apply to require the disclosure of confidential business information in a manner inconsistent with terms and conditions applicable under subsection (a) as appropriate and necessary to safeguard against the unwarranted disclosure of such information."

TRANSACTIONS BY UNREGISTERED HOLDING COMPANIES

SEC. 6. Sections 4, 5, and 29 of the Public Utility Holding Company Act of 1935 are amended as follows:

(1) in section 4(a) by striking out "(a) After December 1, 1935, unless" and inserting "Unless";

(2) in paragraph (6) of section 4(a) by striking out ", of this subsection";

(3) by striking out subsection (b) of section 4;

(4) in section 5(a) by striking out "On or at any time after October 1, 1935, any" and inserting "Any"; and

(5) in section 29 by striking out "subsection (a) or (b) of".

REFORM OF SECURITIES ISSUANCE CONTROLS

SEC. 7. Sections 6 and 7 of the Public Utility Holding Company Act of 1935 are amended to read as follows:

"REGULATED SECURITY TRANSACTIONS BY REGISTERED HOLDING AND SUBSIDIARY COMPANIES

"SEC. 6. (a) Except in accordance with a declaration effective under section 7, it shall be unlawful for any registered holding company or subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly, to issue any security unless the issue is exempted from this subsection under subsection (b).

"(b)(1) The provisions of subsection (a) shall not apply to—

"(A) the issue of a note or draft (including the pledge of any security as collateral therefor) if such note or draft—

"(i) is not part of a public offering,

"(ii) matures or is renewed for not more than 12 months, exclusive of days of grace, after the date of such issue, and

"(iii) aggregates (together with all other then outstanding notes and drafts of a maturity of 12 months or less, exclusive of days of grace, as to which such company is primarily or secondarily liable) not more than 10 per centum of the aggregate of the capital, capital surplus and retained earnings, and the principal amount of the other securities then outstanding of the company issuing such note or draft;

"(B) the issue of a security by a subsidiary company which is a public-utility company if such issue is expressly authorized by the State commission of the State in which such subsidiary company is organized and doing business, as such;

"(C) the issue of a security by a subsidiary company which is not a public-utility company; or

"(D) the guaranty of, or assumption of liability on, a security of a subsidiary company by its registered holding company which is not itself a public-utility company, if the aggregate of the principal amount and par value of the securities then outstanding of all subsidiary companies which are the subject of all such guaranties and assumptions of liability by such registered holding company is not more than 10 per centum of the aggregate of the capital, capital surplus and retained earnings, and the principal amount of the other securities of such registered holding company then outstanding.

"(2) Notwithstanding the exemptions provided in paragraph (1), the Commission may, by rule, regulation, or order, establish such requirements with respect to the consolidated capital structure of a registered holding-company system as the Commission finds are necessary to prevent an unreasonable economic risk to investors or consumers, giving due consideration to the financial practices of public-utility companies and holding-company systems which are not subject to regulation under sections 6, 7, and 12.

"(3)(A) In addition to the exemptions provided in paragraph (1), the Commission may, by order, upon application by a registered holding company or subsidiary company thereof, exempt from the provisions of subsection (a) the issue of any security if the Commission determines that the application of subsection (a) to such issue is not necessary or appropriate in the public interest or for the protection of investors or consumers.

"(B) The order of the Commission under this paragraph granting any such exemption may impose such terms and conditions as the Commission finds are necessary to prevent an unreasonable economic risk to investors or consumers, giving due consideration to the financial practices of public-utility companies and holding-company systems which are not subject to regulation under sections 6, 7, and 12.

"(4) With respect to the issuance of any security exempted from subsection (a), the Commission shall have authority to require by rule, regulation, or order any registered holding company or any subsidiary company thereof to file, within 30 days or such later time as the Commission may prescribe, a certificate of notification of such issuance in such form and including such information as the Commission determines is necessary or appropriate in the public interest or for the protection of investors or consumers."

"DECLARATIONS BY REGISTERED HOLDING AND SUBSIDIARY COMPANIES IN RESPECT OF SECURITY TRANSACTIONS

"SEC. 7. (a) A registered holding company or subsidiary company thereof may file a declaration with the Commission regarding the issue of a security under subsection (a) of section 6, in such form and together with such information as the Commission may prescribe by rule or regulation.

"(b)(1) Except as otherwise provided in this subsection, a declaration filed under this section shall become effective on the twentieth day after the filing thereof unless the Commission prior to such effective date shall have issued a preliminary order to the declarant, together with a statement of its reasons—

"(A) disapproving such declaration, or

"(B) approving such declaration subject to terms and conditions.

"If the declarant files notice with the Commission of its acceptance of a preliminary order subject to the terms and conditions imposed by the Commission, such preliminary order shall become final without further order or proceeding or opportunity for hearing, and the declaration shall become effective pursuant to such order upon the filing of such notice.

"(2) Within a reason time after the issuance of a preliminary order under paragraph (1), and after an opportunity on the part of the declarant for hearing upon such preliminary order, unless the declarant files with the Commission notice of the withdrawal of its declaration or notice of its acceptance of such preliminary order, the Commission shall enter a final order, together with a statement of its reasons—

"(A) approving such declaration,

"(B) disapproving such declaration, or

"(C) approving such declaration subject to terms and conditions.

"(3) A declaration filed under this section may be in the form of a general plan which may provide for the issue of a security or any class or classes thereof at such times as the declarant may determine to be appropriate over, or within, a period of 24 months or such longer period as the Commission by rules and regulations or order may allow.

"(4)(A) Amendments to a declaration may be made with the consent of the Commission or upon such terms and conditions as the Commission may, by rules and regulations or order, prescribe as consistent with the purposes of this section.

"(B) If an amendment to a declaration is filed prior to the twentieth day after filing of such declaration, unless the Commission shall, at the time such amendment is filed, consent to the filing thereof, the declaration shall not become effective until the later of the twentieth day after the filing of such declaration or the fifth day after the filing of such amendment.

"(5) The commission may, by order, without requirement for an opportunity for hearing, upon application, having due regard for the public interest and the protection of investors and consumers, permit a declaration to become effective at a date earlier than the date upon which such declaration would otherwise become effective pursuant to paragraph (1) or subparagraph (B) of paragraph (4) of this subsection.

"(c) If a State commission or State securities commission having jurisdiction over any of the acts enumerated in subsection (a) of section 6 shall inform the Commission that State laws applicable to an act which is the subject of a declaration filed under this section have not been complied with, the commission shall not permit such declaration to become effective unless and until the Commission is satisfied that such compliance has been effected, except that in the case of a declaration with respect to a plan filed under paragraph (3) of subsection (b), the Commission may condition its approval of the issuance of securities under the plan upon such compliance.

"(d)(1) Except as provided in subsection (c), the Commission shall permit to become effective a declaration regarding the issue of a security unless it finds that the acts which are the subject of the declaration involve an unreasonable economic risk to investors or consumers, giving due consideration to the financial practices of public-utility companies and holding-company systems which are not subject to regulation under sections 6, 7, and 12.

"(2) If the Commission issues an order under subsection (b) disapproving a declaration regarding the issue of a security or approving such a declaration subject to terms and conditions, the order shall specify the unreasonable economic risk to investors or consumers which the Commission finds to be involved in the acts which are the subject of such declaration.

"(3) The authority of the Commission to impose terms and conditions under this section with respect to a declaration regarding the issue of a security shall be limited to those terms and conditions which it finds are necessary to prevent the unreasonable economic risk to investors or consumers set forth in the finding required by paragraph (2).

"(e) Any State commission having jurisdiction to regulate a public-utility company in a holding-company system of a registered holding company may, at any time prior to the effective date of a declaration filed in the form of a general plan under subsection (b)(3) by such registered holding company, or a subsidiary company thereof, request that the Commission extend the period for review of such declaration for an additional 20 days. If a State commission makes such a request, the declaration shall become effective on the fortieth day after the filing of such declaration unless the Commission issues an order prior to such date under subsection (b)."

PROVISIONS WITH RESPECT TO REGULATION OF CERTAIN DIVERSIFIED BUSINESS ACTIVITY

Sec. 8. The Public Utility Holding Company Act of 1935 is amended—

(1) in section 9 by striking subsection (a) and inserting in lieu thereof the following:

"Sec. 9. (a) It shall be unlawful—

"(1) for any registered holding company or any subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to acquire, directly or indirectly—

"(A) any securities of a public-utility company or a holding company or utility assets, unless such acquisition has been approved by the Commission under section 10, or

"(B) any significant interest in any business other than the public-utility business, unless there is in effect under section 10 a diversification plan for the holding-company system of which such holding company or subsidiary company is a part and such acquisition is consistent with such plan, or unless such acquisition has been expressly authorized by the Commission under section 10; or

"(2) for any person, by use of the mails or any means or instrumentality of interestate commerce, to acquire, directly or indirectly, any security of any public-utility company, if such person is an affiliate, under clause (A) of paragraph (11) of subsection (a) of section 2, of such company and of any other public-utility or holding company, or will by virtue of such acquisition become such an affiliate, unless the acquisition has been approved by the Commission under section 10; or

"(3) for any person that is not a registered holding company or subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to acquire, directly or indirectly, a security of a public-utility company if (A) the acquisition would make such person a holding company, and (B) such acquisition occurs other than pursuant to a plan initiated by such public-utility company, unless the acquisition has been approved by the Commission under section 10.";

(2) in section 9 by adding at the end thereof a new subsection to read:

"(d)(1) For the purposes of this section, the term 'significant interest' means an interest the net assets related to which as recorded on the books of the holding-company system would constitute (determined immediately after the acquisition of such interest by the holding-company system)—

"(A) 5 per centum or more of the total consolidated assets of the holding-company system; or

"(B) 10 per centum or more of the total consolidated assets of the holding-company system when taken together with the net assets as so recorded of all other interests acquired without Commission approval in any business other than the public-utility business.

"(2) For the purposes of clause (B) of paragraph (1) an interest acquired without Commission approval means an interest not—

"(A) acquired pursuant to an order under section 10 entered prior to the date of enactment of the Public Utility Holding Company Act Amendments of 1983;

"(B) acquired pursuant to a diversification plan in effect under section 10; or

"(C) expressly approved by the Commission under section 10 (including any interest not acquired by the holding-company system with the prior approval of the Commission, the acquisition of which by the holding-company system is thereafter approved by the Commission under section 10).";

(3) in section 10—

(A) by inserting after "securities" in paragraph (1) of subsection (a): "of a public-utility or holding company";

(B) by striking out in paragraph (3) of subsection (a) "other interest in any business, such information concerning such business and the interest to be acquired, and the consideration to be paid" and inserting in lieu thereof: "interest in any business other than the public-utility business, such information concerning such business and the interest acquired or to be acquired";

(C) by redesignating subsection "(b)" as paragraph "(b)(1)" and by redesignating paragraphs "(1)", "(2)", and "(3)" in paragraph (b)(1), as so redesignated, as clauses "(A)", "(B)", and "(C)", respectively;

(D) by amending as much of paragraph (b)(1), as so redesignated, as precedes clause (A), as so redesignated, to read as follows: "If the requirements of subsection (f) are satisfied, the Commission in the case of the acquisition of securities of a public-utility or holding company or utility assets shall approve the acquisition unless the Commission finds that—";

(E) by striking out in clause (b)(1)(B), as so redesignated: "in case of the acquisition of securities or utility assets,";

(F) by adding at the end of subsection (b) a new paragraph (2) to read as follows:

"(2) The Commission shall approve any application filed under this section for the acquisition of an interest in any business other than the public-utility business, unless the Commission finds that such acquisition is likely to—

"(A) result in an unnecessary and unreasonable increase in costs to consumers; or

"(B) impair the performance by any associate company which is a public-utility company of its public-utility service in a manner which is inconsistent with the service obligations of such company under applicable State law.";

(G) in paragraph (1) of subsection (c) by striking out "or utility assets, or of any other interest," and inserting in lieu thereof: "of a public-utility or holding company or utility assets';

(H) in paragraph (2) of subsection (c) by striking out "or utility assets of a public-utility or holding company" and inserting in lieu thereof: "of a public-utility or holding company or utility assets";

(I) by redesignating subsection "(e)" as paragraph "(e)(1)", by inserting after "securities" the first time it appears in paragraph (e)(1), as so redesignated, "of a public-utility or holding company", and by adding at the end of such subsection a new paragraph (2) to read as follows:

"(2) A registered holding company or any subsidiary company thereof may apply for the removal or modification of any terms and conditions prescribed in an order issued prior to the enactment of the Public Utility Holding Company Act Amendments of 1983 approving the acquisition of an interest in any business other than the public-utility business by filing an application under this subsection in such form as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers. Any such application shall be deemed approved on the sixtieth day after the filing thereof, unless the Commission, acting upon its own motion or upon the request of a State commission having jurisdiction to regulate a public-utility company in the holding-company system involved, by order issued prior to such day, shall determine that the removal or modification which is the subject of such application is likely to—

"(A) result in an unnecessary and unreasonable increase in costs to consumers; or

"(B) impair the performance by any associate company which is a public-utility company of its public-utility service in a manner which is inconsistent with the service obligations of such company under applicable State law.";

(J) by inserting after "acquisition" when it occurs the first time in subsection (f): "of securities of a public-utility or holding company or utility assets"; and

(K) by adding at the end thereof new subsections to read as follows:

"(g)(1) A registered holding company may file with the Commission a diversification plan, in such form as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers, providing information with respect to its intentions within two years from the date of such filing to diversify into businesses other than the public-utility business. Any such plan shall set forth, in addition to a statement of the intentions of the holding company with respect to diversification, statements describing the intended relationship, if any, between any such other businesses and the public-utility business of the holding-company system of such holding company, the proposed method of financing such other business interests and their acquisition, and the expected relationship between the aggregate of the investment in other business activities and investment in the public-utility business of such system. Amendments to a diversification plan may be made upon such terms and conditions as the Commission may by rules and regulations or order prescribe as consistent with the purposes of this subsection.

"(2)(A) A diversification plan filed with the Commission under this subsection shall take effect on the sixtieth day after the filing thereof, unless the Commission, acting on its own motion or upon the request of a State commission having jurisdiction to regulate a public-utility company in the holding-company system involved, prior to such effective date shall have issued an order to the registered holding company, together with a statement of its reasons, disapproving the diversification plan.

"(B) any State commission having jurisdiction to regulate a public-utility company in a holding-company system of a registered holding company may, at any time prior to the effective date of a diversification plan filed by such registered holding company, request that the Commission extend the period for review of such plan for an additional 45 days. If a State commission makes such a request, the diversification plan shall become effective on the one hundred and fifth day after the filing of such plan unless the Commission issues an order prior to such date disapproving such plan pursuant to paragraph (3).

"(3) The Commission shall permit a diversification plan filed under this subsection to become effective unless it finds that the actions or activities to be undertaken pursuant to such plan are likely to—

"(A) result in an unnecessary and unreasonable increase in costs to consumers; or

"(B) impair the performance by any associate company which is a public-utility company of its public utility service in a manner which is inconsistent with the service obligations of such company under applicable State law.

"(h) An application filed with the Commission under this section for express approval of the acquisition of an interest, acquired or to be acquired, in any business other than the public-utility business shall be deemed approved on the sixtieth day after the filing thereof, unless the Commission, acting upon its own motion or upon the request of a State commission having jurisdiction to regulate a public-utility company in the holding-company system involved, by order entered prior to such day shall determine that the acquisition which is the subject of such application is likely to—

"(1) result in an unnecessary and unreasonable increase in costs to consumers; or

"(2) impair the performance by any associate company which is a public-utility company of its public-utility service in a manner which is inconsistent with the service obligations of such company under applicable State law.";

(4) in section 11(a)—

(A) by striking out "necessary or"; and

(B) by striking out "the operations of";

(5) in section 11(b)—

(A) by striking out ", as soon as practicable after January 1, 1938";

(B) by amending paragraph (1) to read as follows:

"(1) To require by order, after notice and opportunity for hearing, that each registered holding company, and each subsidiary company thereof, shall take such action as the Commission shall find necessary to limit the operations of the holding-company system of which such company is a part to a single integrated public-utility system, and to such other businesses as are appropriate to such integrated public-utility system: *Provided, however*, That—

"(A) the Commission shall permit a registered holding company to continue to control one or more additional integrated public-utility systems, if, after notice and opportunity for hearing, it finds that—

"(i) each of such additional systems cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system;

"(ii) all of such additional systems are located in one State, or in adjoining States, or in a contiguous foreign country; and

"(iii) the continued combination of such systems under the control of such holding company is not so large (considering the state of the art and the area or region affected) as to impair the advantages of localized management, efficient operation, or the effectiveness of regulation; and

"(B) the Commission shall permit as appropriate to an integrated public-utility system the retention of an interest in any business (other than the public-utility business) unless the Commission by order shall determine, by specific factual findings made upon clear and convincing evidence, that the retention of such interest materially adversely affects the public-utility business of such system."; and

(C) by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of this title, the Commission shall permit a registered holding company to retain any combination in existence on May 1, 1981, of gas utility systems and electric utility systems unless the Commission finds, after notice and opportunity for hearing, that the combination of systems fails to satisfy the requirements of subclauses (ii) and (iii) of clause (A) of paragraph (1).";

(6) in section 11(e) by striking out ", at any time after January 1, 1936,"; and

(7) in section 11(g) by striking out "or otherwise," where it appears the second time.

TRANSACTIONS WITH ASSOCIATE COMPANIES AND AFFILIATES THEREOF

SEC. 9. Section 12 of the Public Utility Holding Company Act of 1935 is amended to read as follows:

"DIVIDENDS AND OTHER TRANSACTIONS

"SEC. 12. (a) It shall be unlawful for any registered holding company or for any subsidiary company thereof which is a public-utility company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to declare or pay any dividend on any security of such company or to acquire, retire, or redeem any security of such company, in contravention of such rules and regulations or orders as the Commission deems necessary or appropriate to protect the financial integrity of public-utility companies in holding-company systems, to safeguard the working capital of public-utility companies, to prevent the payment of dividends out of capital or unearned surplus, or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

"(b) It shall be unlawful for any registered holding company which is a public-utility company or any public-utility company which is a subsidiary company of a registered holding company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly, to lend or in any manner extend its credit to or indemnify any company in the same holding-company system or enter into any other financial transaction with any company in the same holding-company system in contravention of such rules and regulations or orders as the Commission deems necessary either to prevent an unreasonable economic risk to investors or consumers, giving due consideration to the financial practices of public-utility companies and holding-company systems which are not subject to regulation under sections 6, 7, and 12, or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

"(c) It shall be unlawful for any registered holding company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to sell any security which it owns of any public-utility company, or any utility assets, in contravention of such rules and regulations or orders regarding the consideration to be received for such sale, maintenance of competitive conditions, fees and commissions, accounts, disclosure of interest, and similar matters as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

"(d) It shall be unlawful for any affiliate or associate company of any registered holding company or any subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to negotiate, enter into, or take any step in the performance of any transaction not otherwise unlawful under this title, with any company which is a public-utility company and with which it is an affiliate, or with respect to which it is an associate company, in contravention of such rules and regulations or orders regarding reports, accounts, costs, maintenance of competitive conditions, disclosure of interest, duration of contracts, and similar matters as the Commission deems necessary for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

"(e) The Commission shall not have authority to prohibit under this section:

"(1) any sale of utility assets used or operated by a public-utility company in a holding-company system if the State commission of the State in which such assets are located expressly authorizes such sale; or

"(2) any transaction with a public-utility company expressly authorized, or deemed approved under applicable law, by the State commission of each State in which such public-utility company is doing business, as such."

SERVICE, SALES, AND CONSTRUCTION CONTRACTS

SEC. 10. Section 13 of the Public Utility Holding Company Act of 1935 is amended—

(1) in subsections (a) and (b) by striking out "After April 1, 1936, it" and inserting: "It";

(2) in subsection (g) by striking out the subsection; and

(3) by adding at the end thereof the following new subsections:

"(g) For the purposes of this title, the costs to be charged to an associate company by any subsidiary company of a registered holding company with respect to the performance of any sales, service, or construction contract shall be determined—

"(1) on the basis of the costs fairly and equitably allocated to the performance of such contract, and

"(2) without regard to any earnings or losses fairly and equitably attributable to the performance of any contract or other transaction with any person which is not an associate company of such registered holding company.

"(h) Notwithstanding any other provision of this title, the Commission may, by order, upon application by a registered holding company or any subsidiary company thereof, if it determines that such action is consistent with the public interest and the protection of investors or consumers, permit a subsidiary company of a registered holding company to perform any—

"(1) sales contract;

"(2) service contract (other than a contract for the performance of management, supervisory, accounting, legal, or financial services); or

"(3) construction contract;

for an associate company at a price (or pursuant to a method of pricing which results in a price) which may be in excess of the costs of such subsidiary company: *Provided, however,* That the Commission determines that means are available by contractual terms, or otherwise, to assure that such price will be no greater than the price of comparable contracts performed by persons who are not associate companies or, in the case of a contract for the sale of goods, not greater than the market price of such goods."

OFFICERS, DIRECTORS, AND OTHER AFFILIATES

SEC. 11. Sections 16 and 17 of the Public Utility Holding Company Act of 1935 are amended as follows:

(1) in subsection (b) of section 16 by striking out ", except as provided in section 17(b),"; and

(2) in section 17 by amending the section to read as follows:

"OFFICERS AND DIRECTORS

"SEC. 17. The Commission shall have authority by order, giving due consideration to the evolving nature of financial institutions, to prohibit any person from serving as an officer or director of a registered holding company or any associate company if such person is an officer or director of any investment banker or investment banking association, or of any bank, trust company, or banking association or firm that is authorized by law to underwrite or participate in the marketing of securities (other than commercial paper) of a public-utility company, if the Commission finds that such prohibition is essential to safeguard the interests of consumers and that means are not otherwise available to safeguard such interests."

CONFORMING CHANGE TO SECURITIES ISSUANCE PROCEDURES

SEC. 12. Subsection (c) of section 20 of the Public Utility Holding Company Act of 1935 is amended by striking out "Orders" in the last sentence and inserting in lieu thereof "Except as provided in section 7, orders".

STUDY OF PUBLIC UTILITY AND INVESTMENT COMPANIES

SEC. 13. The last sentence of section 30 of the Public Utility Holding Company Act of 1935 is repealed.

NOTICE TO STATE COMMISSIONS

SEC. 14. The Public Utility Holding Company Act of 1935 is amended by adding a new section to read:

"NOTICE TO STATE COMMISSIONS

"SEC. 34. Any holding company that files an application for exemption under section 3(a) and any registered holding company, or subsidiary company thereof, that files a declaration in the form of a general plan pursuant to section 7(b)(3), an application for approval of a diversification plan under section 10(g), or an application for approval of the acquisition of an interest in any business under section 10(h) shall, at the time of such filing, give contemporaneous notice of such application or declaration, in such form as the Commission may prescribe, to each State commission having jurisdiction to regulate a public utility company in the holding company system of such holding company or such registered holding company."●

● **Mr. JOHNSTON.** Mr. President, I am pleased to join today with Senator D'AMATO in introducing S. 1174, a bill which provides important and necessary changes in the Public Utility Holding Company Act of 1935. The statute in its present form constitutes one of the most complicated and extensive set of regulatory controls on corporate activity ever imposed under Federal law. In 1935 Congress properly saw this regulatory apparatus as necessary to eliminate the complex holding company pyramids which developed in the early part of this century and served as vehicles for stock manipulation and self-dealing.

However, in the first 20 years of the act's history, the Securities and Exchange Commission (SEC) made sweeping use of its extraordinary powers under the act to accomplish the necessary financial restructuring of the electric and gas utility industries. Today, the act's central purpose has been well and fully implemented. Nevertheless, the act remains in place, continuing to impose archaic regulatory limits on the corporate activities of utilities—limits which Congress well recognizes are not appropriate for any other regulated or unregulated sector of American industry.

It is now clear that these controls, at least in their present form, are equally unnecessary and inappropriate for the utility industry as well.

Last year, the SEC reexamined its historic role in the corporate regulation of electric and gas utility companies under the act and concluded that the Holding Company Act has outlived its usefulness. I agree with the SEC's view, and last year introduced legislation that would have repealed the act.

In the 97th Congress, the Securities Subcommittee of the Banking, Housing, and Urban Affairs Committee, under the leadership of Senator D'AMATO, began the task of reviewing this intricate statute, in light of the pervasive changes in the structure and regulation of the electric and gas utility industries since 1935. The testimony presented at these hearings confirms a number of important points recognized by the SEC:

Since the enactment of the act, other Federal securities laws—specifically the Securities Act of 1933 and the Securities Exchange Act of 1934—have matured into a comprehensive regulatory program which is the cornerstone of investor protection for all publicly traded corporations, including registered holding companies. Requirements under these laws respecting investor disclosure, standardized accounting procedures and regulation of the trading markets prevent fraudulent securities practices and insure that the securities markets will carefully scrutinize and discipline the financial practices of utilities.

Also since 1935, public utility regulators at both the State and Federal level have been granted broad regulatory powers that enable them to protect consumers against unreasonable charges in utility rates and to insure continued reliable electric and gas utility service.

Notwithstanding the changes in corporate structure and the proven effectiveness of securities laws and utility regulations, registered holding companies, that is, companies directly regulated under the act, must submit every significant business and financing decision to the SEC for approval. No other sector of American industry is so required to shape its business decisions to meet a standard of good business judgment imposed by a Federal regulatory agency.

The simplified holding company structure is now a straightforward management device commonly used to segregate the operations of various enterprises under common ownership or affiliation. Although this segregation is helpful in separating affiliated utility and nonutility operations to insure that consumers do not assume the risks or costs of nonutility businesses, many utilities do not use the structure because they understandably do not wish to become registered companies and thereby subject every phase of their utility and nonutility activity to governmental review.

The SEC does not regulate directly the greatest portion of gas and electric utility holding companies. But, although the SEC has not found regulation of these exempt companies necessary to protect the public interest, investors or consumers, these companies are nevertheless subject to broad power of the SEC to revoke the exemption, and must attempt to conduct their corporate activity within vaguely defined parameters in order to avoid revocation of their exemption.

This record, I believe, establishes a persuasive case for repeal of the act. At the least it amply demonstrates that it is encumbent upon Congress to modernize and streamline the act, and to eliminate those controls that have been overtaken by other regulation or serve no enduring public policy purpose.

In recent months, the utility companies seeking change in the act have responded to Senator D'AMATO's request to strike a compromise between the legitimate business objectives of utility companies, and the concerns of their customers and State regulatory commissioners, who are seeking confidence that substantial reform of the act can be accomplished without increasing utility rates, impairing utility service or unduly complicating the already difficult tasks of State regulators. This bill is the product of these efforts, and I think goes a long way toward addressing the stated concerns of consumers and State regulators, while still accomplishing its fundamental objective of reducing unnecessary and burdensome regulatory requirements.

I commend Senator D'AMATO for his willingness to undertake the reexamination of the Holding Company Act and for his leadership in seeking reform and modernization of this 48-year-old product of the New Deal era.●

By Mr. D'AMATO:

S. 1175. A bill for the relief of Jozo Karoglan and Ilana Karoglan, husband and wife, and their child, Matthias Karoglan; to the Committee on the Judiciary.

KAROGLAN FAMILY

● Mr. D'AMATO. Mr. President, the tradition of political asylum in the United States was established to protect all individuals who fear for their lives or liberties because of personal convictions, religious beliefs, or political affiliations. The United States has long sheltered those who have fled their native countries because of threats of persecution, torture, or even assassination. We have consistently offered the protection of our Government and have embraced those international accords which have affirmed this right of political asylum.

It is for these reasons that I am introducing a bill for the relief of a Croatian nationalist Jozo Karoglan, and his wife and child. The Yugoslav Government has consistently shown harsh treatment and persecution to Croatian nationalists; their threats extending beyond their borders.

Mr. Karoglan has left Europe with his family in the wake of pressure and coercion to cease his nationalist activities, and the eventual threat of assassination if he did not relent. It is my hope that this Congress will reaffirm its dedication to the principles of asylum and freedom of political association in approving this bill for Mr. Karoglan.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 212(a)(14) of the Immigration and Nationality Act, Jozo Karoglan and Ilana Karoglan, husband and wife, and their child, Matthias Karoglan, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas, which are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas which are made available to natives of the country of the aliens' birth under section 202 of such Act.●

By Mrs. HAWKINS:

S. 1176. A bill to authorize the appropriations of funds for preventive health service programs for tuberculosis; to the Committee on Labor and Human Resources.

TUBERCULOSIS CONTROL GRANT PROGRAM

● Mrs. HAWKINS. Mr. President, today I am introducing legislation to reauthorize the tuberculosis control grant program. Sadly, 1 year after the centennial of Koch's discovery of tubercle bacillus—a discovery that made tuberculosis a curable, even preventable disease—tuberculosis in this country is still taking its high toll in death and disability.

Since the introduction of chemotherapy in the late forties, the care of tuberculosis patients has undergone dramatic changes. Today, there is almost no surgery or even hospitalization. Nevertheless, tuberculosis is a highly communicable, infectious disease, and so its control depends upon surveillance and containment. And our eventual eradication of tuberculosis depends on both its funding method as well as the level of funding.

Mr. President, Congress is just beginning to realize the need for a stable and adequate level of Federal funding for tuberculosis control. One of the primary reasons that I am introducing this legislation well in advance of its expiration date is because of the previous lag in funding this program. Although Congress transferred the method of funding tuberculosis control well in advance of the expiration of the 314(d) block grant, there were no appropriations for tuberculosis funding for a full year. And then the level was $8 million below previous funding levels and well below the $15 million level that the American Lung Association testified was necessary to meet the Surgeon General's goal of 3 cases per 100,000 by 1990.

I believe that we need reauthorization of the categorical project grants for tuberculosis control at funding levels of $12 million for fiscal year 1985, $14 million for fiscal year 1986, and $16 million for fiscal year 1987.

We must control this life-threatening and dangerously infectious disease. Tuberculosis funding has been distributed under both the categorical and block grant methods—but far more effectively used under the categorical, or project grant, method. The categorical method is especially appropriate now, when high incidences of tuberculosis are confined to just a few States, counties, and cities. The categorical method was adopted by Congress in 1981, when it became evident the TB funding was best distributed on the basis of need. In addition, Congress grew concerned over the leveling off of the slow but steady decline in tuberculosis cases under the 314(d) block grant. Although the authorization was enacted on July 19, 1981, no funds were appropriated for the program until September 10, 1982. And then, only $1 million was appropriated out of the $9 million authorized.

These funds were distributed to 12 areas where incidence of tuberculosis was particularly severe.

In December 1982, as part of the continuing resolution for fiscal year 1983, Congress agreed to appropriate $5 million for this program, citing the need for a national commitment to reducing transmission of TB, especially in young children. I was very encouraged by Congress' support for Federal funding of tuberculosis control project grants, and I am confident that Congress will appropriate the full $11 million that was authorized for fiscal year 1984.

Project grants will be distributed to State and local health departments serving areas with special tuberculosis problems. These problems include high incidence of cases in refugees or other immigrants, evidence of transmission to children, high incidence of infectious cases, and problems with drug-resistant strains of tuberculosis.

Tuberculosis rates among newly arriving refugees is particularly alarming. The rate among Indochinese refugees is particularly alarming. The rate among Indochinese refugees is 926 per

100,000, and the rate among Haitians is 650 per 100,000. The national rate is 11.9 per 100,000. Proper treatment of these tuberculosis-infected refugees is compounded because of the language barrier, the entrants' natural suspicion of Government officials, the difficulty in following up treatment for individuals without a permanent address, and the prevalence of drug-resistant strains of tuberculosis in certain immigrant populations. Doctors report that as many as one third of the Indochinese refugees have tuberculosis organisms resistant to at least one antituberculosis drug. The reason is that Isoniazid and other tuberculosis drugs are sold over the counter and without proper supervision in many foreign countries.

The prevalence of a drug-resistant strain of TB makes treatment more difficult and more expensive, but it also points out the need for proper medical supervision and follow up therapy. To be effective, the medication must be taken for at least 9 months, sometimes as long as 2 years. Outreach workers are needed to insure that patients follow through on their medication and do not stop taking it once the outward symptoms disappear. Clearly, this demonstrates the need for a continued and steady level of funding for tuberculosis control. The Center for Disease Control plans to use the $5 million appropriated in 1982 to strengthen the operation and evaluation of tuberculosis prevention and control activities in target areas. There will be increased hiring of outreach workers, who can prevent transmission of tuberculosis in the community through first, intensified contact and patient follow-up and second the use of in the field directly administered treatment for persons unwilling or unable to complete a course of self-administered therapy. These strategies are relatively inexpensive, yet they can have a significant impact on tuberculosis control in the United States.

I urge my Senate colleagues to join me in supporting the reauthorization of this much-needed program of tuberculosis control.●

By Mr. MATHIAS (for himself and Mr. WARNER):

S. 1177. A bill to amend title 4 of the United States Code to complete the official seal of the United States; to the Committee on Foreign Relations.

THE GREAT SEAL OF THE UNITED STATES

Mr. MATHIAS. Mr. President, today I send to the desk a bill to authorize the casting of the reverse of the Great Seal of the United States. I am very pleased to be joined in this effort by the Senator from Virginia (Mr. WARNER).

I hope that the 98th Congress will act favorably on this legislation, and thus fulfill the wishes of our Founding Fathers. In 1782, the Continental Congress approved a two-sided seal to be the official seal of the United States. That seal consisted of the two images found on the back of the $1 bill today: The American eagle and the unfinished pyramid. The eagle, clutching in its talons 13 arrows and the olive branch, has been used as the official seal of our Government for 200 years. But the image of the unfinished pyramid, designed as the reverse of the seal, has never been cast.

In 1884, shortly after the seal's centennial in 1882, Congress approved legislation appropriating funds to complete the seal. But, although the obverse had been recast several times, the intent of Congress regarding the seal's reverse was again ignored.

We are nearing the end of the seal's bicentennial. It is high time that the reverse be struck and the seal's imagery completed. Careful thought and consideration went into the design of both sides of the seal; each is significant and emblematic of what our Nation stands for.

I have learned much about the seal's history, its creation and the meaning of its images, from Dr. Robert Hieronimus of Baltimore, who has written extensively on the subject. On June 20, 1982, the bicentennial of the adoption of the Great Seal, he spoke in Philadelphia about its meanings and origins. I commend his remarks on that occasion to my colleagues, and ask unanimous consent that they be printed in the RECORD along with a copy of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE BICENTENNIAL OF THE GREAT SEAL OF THE UNITED STATES

(A speech made by Dr. Robert R. Hieronimus of Md. On June 20, 1982 at Independence Hall in Philadelphia, Pa. on the Occasion of the Great Seal's bicentennial)

Two-hundred years ago today, as you may already know, was a very important day not only at Independence Hall, but for the entire nation. As Philadelphia celebrates its tricentennial America celebrates its Great Seal's bicentennial.

On July 4, 1776, Benjamin Franklin, Thomas Jefferson, and John Adams were assigned the task of designing our Country's Great Seal, whose purpose to this day validates the President's signature and signifies the United States Government. Officially our Great Seal has two sides.

We are most familiar with the Seal's Obverse, or front. It bears an eagle with shield holding thirteen arrows and an olive branch. The Reverse, known primarily from its appearance on the back of the one-dollar bill since 1935, is composed of an unfinished pyramid with an eye in a triangle suspended above it.

The combination of these two images represents what our founding fathers believed to be America's identity, purpose, and destiny.

Let's get back to July 4, 1776, the day of America's independence and the beginning of our nation's Great Seal.

Both Jefferson and Franklin suggested similar biblical themes—the Israelites escaping Pharaoh. John Adams turned to a Greek mythological motif. Much to Franklin's dismay, none of their ideas was adopted. Du Simitiere, an artist enlisted by the first committee, is credited with introducing the shield, *E Pluribus Unum*, 1776 (found in Roman numerals on the pyramid's base and the eye of providence in a triangle.

In 1780, four years later, a second committee was formed. Francis Hopkinson, a native Philadelphian, who designed the first American *flag*, contributed the red and white stripes within a blue background for the shield, a radiant constellation of thirteen stars, the bundle of arrows, and an olive branch held in the eagle's talons. Perhaps Hopkinson's most significant contribution was made indirectly through his use of an unfinished pyramid on a 1778 fifty-dollar colonial note, which was utilized by William Barton in the third committee of 1782.

Barton was enlisted by the Secretary of Congress, Charles Thomson, for the third and final committee. Barton, an artist and native Philadelphian, suggested an eagle, the unfinished pyramid, and thirteen red and white stripes on the shield. All of his ideas were accepted. Thomson substituted an American bald eagle for Barton's European species and added the two mottoes to the Seal's Reverse—*Annuit Coeptis*, which means "God prospers our undertakings," and *Novus Ordo Seclorum*, "The New Order of the Ages."

On June 20, 1782, after six years of deliberation, the design for America's Great Seal was approved by Congress.

Here we are two hundred years later! You may be asking, "What's so important about America's Great Seal?" Well, bear with me for just a moment more of history.

On Sept. 16, 1782, George Washington used the Obverse Seal on documents negotiating the exchange, subsistence and better treatment of prisoners of war. Perhaps due to expediency, a die for the Reverse was not cut.

In 1825, 1841, 1877, 1885, and 1903 dies were cut for the Obverse of the Great Seal, but the Reverse, with the pyramid and the eye in the triangle, was repeatedly neglected! To this day only half of the United States' Great Seal has been used in its official capacity as defined by the Continental Congress in 1782. Is there some important meaning in this fact?

The Obverse Seal depicts a nation capable of continual rebirth—the eagle is symbolically related to the phoenix. We are strong courageous defenders of justice (arrows), generous and humanistic (olive branch). The cluster of stars above the eagle (which was referred to as a "Crown of Glory") symbolizes the spiritual unity of all, or common purpose of the states. America's destiny is to maintain the principles carried in the eagle's beak. *E Pluribus Unum*—"Out of Many, One." The Obverse Seal thus represents our outer image—what we stand for in the world.

It is the Reverse side of the Great Seal which delineates the significance and values of America's inner strength and accord. The pyramid is symbolic for the strength and duration of matter, the physical nation. Suspended above it is the "All Seeing Eye of Providence" representing inner direction or spiritual guidance. The radiant eye illuminates and completes the unfinished apex of the pyramid. *Annuit Coeptis*, "He favors our undertaking," communicates the union of spirit and matter, a perceived blessing upon

Novus Ordo Seclorum, America, "the New Order of the Ages".

Throughout the world the pyramid, or mountain, symbolizes a place of initiation where one is introduced to the process of self-reliance. Each stone (individual) contributes to the stability of each layer (state). The interdependent, yet self-governing layers (states), comprise the whole (nation). The pyramid's solidarity depends on the integrity and method of organization used to manifest the principles which guide its construction. The Reverse Seal symbolizes America's inner self.

S. 1177

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Great Seal Act of 1983".

SEC. 2. The Congress finds that—

(1) the Continental Congress, on June 20, 1782, adopted the design of the Great Seal of the United States consisting of an obverse and reverse side, however, only a die for the obverse side was cut and has been in use since September 16, 1782;

(2) the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth eighteen hundred and eighty-five, and for other purposes", approved July 7, 1884 (23 Stat. 194, chapter 332) appropriated funds to cut dies and make appliances to make impressions for both the obverse and reverse sides of the seal, however, only a die for the obverse side was cut; and

(3) the will of the Continental Congress and the United States Congress to cut dies for the complete seal has never been fulfilled. There exists a die and appliances only for the obverse side of the seal.

SEC. 3. The Secretary of State shall cut a die and make appliances for making an impression of the reverse of the seal to complete the official Seal of the United States.

SEC. 4. Section 41 of title 4, United States Code, is amended to read as follows:

"§41. Seal of the United States.

"The obverse of the seal heretofore used by the United States in Congress assembled, together with the reverse of such seal as adopted in 1782 by the Continental Congress, is declared to be the seal of the United States."

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

By Mr. BAUCUS:

S. 1178. A bill to better provide for the rights of third parties seeking to enforce court judgments directed against a witness relocated or protected by the Attorney General, while at the same time protecting the safety of such witnesses; to the Committee on the Judiciary.

WITNESS SECURITY PROGRAM

● Mr. BAUCUS. Mr. President, the General Accounting Office (GAO), at my request, recently completed a report on the witness security program. The report is entitled "Changes Needed in Witness Security Program," (GAO/GGD-83-25; March 17, 1983). I commend this report to my colleagues who are concerned about the Federal fight against crime.

Through the witness security program, the Federal Government provides individuals with new identities and relocates them because their lives have been endangered as a result of their testimony in Federal and State prosecutions. As a result of this program, the Government has successfully prosecuted and convicted many criminals. However, this program is not without problems. Protected witnesses have committed criminal acts after being admitted to the program and have used their Government-created identities to avoid legal obligations.

GAO's most recent review of this program found that during one 6-month period, various creditors were seeking to recover over $7.3 million from 36 relocated witnesses. Included among the creditors were doctors seeking to recover money for services rendered, non-relocated parents seeking to collect child support, a woman seeking to recover a personal loan, a State brokerage firm seeking to recover money from a former employee, and Government agencies seeking to recover unpaid criminal fines and taxes.

Another tragic consequence of this program is the effect it can have on separated or divorced parents who were married to a person admitted to the witness security program. GAO identified 10 separate instances where minor children were relocated with one parent (who was a potential witness) which disrupted existing visitation and legal custody arrangements. In these cases, the non-relocated parent did not see their children for periods ranging from 2 months to 9 years.

When problems with creditors or non-relocated parents occur, the Department of Justice faces a dilemma. Should it continue to conceal a witness' identity and frustrate a third party's ability to enforce a judgment against a protected witness; or should it disclose a witness' new identity to a third party and thus potentially endanger the safety of the witness?

In the past, the Justice Department had a blanket policy of not disclosing information on protected witnesses to assist third parties. In April 1982, an internal memorandum was issued which changed this policy. The Justice Department says it will now consider disclosure on a case-by-case basis. The GAO compliments the Department of Justice for its initiative, but believes additional safeguards are needed to protect society from the unscrupulous actions of some witnesses.

I am today introducing legislation that is similar to that recommended by GAO to establish a mechanism to resolve these problems created by the program. The legislation defines the duties of the Attorney General in the resolution of these matters and creates for third parties the opportunity to seek a judicial review of any decision by the Department of Justice not to disclose information on a witness to a third party. This will promote the objective application of criteria while also providing for nondisclosure in clearly defined situations.●

By Mr. GARN (for himself, Mr. METZENBAUM, Mr. ROTH, Mr. STAFFORD, Mr. PERCY, Mr. TSONGAS, Mr. PELL, Mr. PROXMIRE, Mr. HATCH, Mr. DANFORTH, and Mr. MITCHELL):

S. 1179. A bill to repeal provisions of law concerning price support for, and marketing of, tobacco, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

TOBACCO DEREGULATION ACT OF 1983

Mr. GARN. Mr. President, today we are introducing the Tobacco Deregulation Act of 1983. This bill will eliminate the tobacco acreage allotment program, but offer protection, at no cost to the taxpayer, to those low-income individuals whose allotment income constitutes their sole source of support. The bill would also repeal the price support loan system for tobacco as well. By doing so, this legislation would get the Government out of the tobacco business, reduce Government regulation, and save the taxpayers tens of millions of dollars every year.

The Federal Government's current policy toward tobacco is an offensive paradox. We have spent some $57 million helping farmers produce tobacco (this does not include costs of processing, transportation, storage, or lost interest money), while at the same time spending more than $33 million attempting to dissuade Americans from using it. There is an irrefutable and alarming link between smoking and disease. This product was responsible for 340,000 deaths in 1982 alone. More died prematurely from smoking-related diseases in 1 year, according to the American Lung Association, than all of those who died for this country in all of the wars America has fought in the 20th century. Over $3 billion annually is spent by the Federal Government directly, through medicare, medicaid, and disability insurance, for the treatment of illnesses caused by smoking. The American Public Health Association says smoking is the single most preventable cause of death and illness in the United States, that it is our most serious and widespread drug addiction, and that it costs over $40 billion in lost productivity, lost wages, and absenteeism in the economy. The Federal excise tax on tobacco products does not begin to cover these costs to society, and in my opinion, we have no business subsidizing this crop.

Last year, Congress did pass a bill called the "No Net Cost" Tobacco Act. As many of us suspected at the time, the bill has only made cosmetic changes in the program, without addressing the real problems. The feudalistic allotments still exist; USDA expected, correctly, that the 1982 crop would cost at least $60 million in taxpayer money; and over 25 percent of the flue-cured tobacco crop has been bought by the Government as surplus, at a cost approaching $1 billion. As was argued at the time, there is little market for this tobacco at the prices needed to meet costs, and much of it may be unmarketable in the next few years. The price support system still keeps tobacco prices artificially high, and Secretary Block warned that his authority under the "no net cost" bill was not sufficient to adjust the price support level to actually realize no net cost.

Additionally, the act still provided no regular review of the tobacco price support system, as there is for nearly every other major farm commodity. In light of the particular dangers of this crop and its costs to society (both direct and indirect), I find this specialized treatment incredible and unjustifiable.

Similar legislation in the House of Representatives has been endorsed by the American Cancer Society, the American Lung Association, Action on Smoking and Health, the American Public Health Association, Public Citizen's Congress Watch, the National Taxpayers' Union, the Council for a Competitive Economy, and the United Tobacco Growers Association. Similar proposals have received substantial Senate support in the past, and we urge the support of our colleagues for this measure.

Mr. METZENBAUM. Mr. President, I am pleased to join Senators GARN, ROTH, STAFFORD, PERCY, TSONGAS, PELL, PROXMIRE, HATCH, DANFORTH, and MITCHELL today in introducing the Tobacco Deregulation Act of 1983. This bill will at long last bring to an end the anachronistic and counterproductive role of the Federal Government in the production and distribution of tobacco. Companion legislation, introduced in the House by Representative THOMAS PETRI of Wisconsin and 53 cosponsors, has been endorsed by the American Cancer Society, the American Lung Association, the American Heart Association, Action on Smoking and Health, the American Public Health Association, Public Citizen, Congress Watch, the National Taxpayers' Union, the Council for a Competitive Economy, and the United Tobacco Growers Association of North Carolina.

At one level, Mr. President, this bill is intended to eliminate the glaring inconsistency of our Government's efforts to discourage smoking on the one hand while on the other hand, subsidizing the production of tobacco.

Let us review some of what is known about smoking and health.

As a group, smokers have a 70 percent increased risk of death over nonsmokers of the same age. Heavy smokers run a 100-percent higher risk of early death.

Smokers are more frequently afflicted than nonsmokers with chronic conditions—bronchitis, emphysema, sinusitis, peptic ulcer disease.

Male smokers lose 33 percent more workdays than nonsmokers. For women, that figure is 45 percent.

Smoking clearly and unequivocally causes cancer of the lung, larynx, mouth, and esophagus.

Smoking is linked with heart disease.

Smoking by pregnant women increases the incidence of fetal death and lowers birth weights.

Smoking is one of this Nation's two or three leading public health problems.

The opponents of our bill maintain that its enactment will not discourage smoking.

We do not claim that it will. But we do say that enactment of the Tobacco Deregulation Act will make our national policy consistent.

And we also say that as a matter of principle, the Federal Government should not be in the tobacco business.

But consistency aside, the legislation is needed in order to terminate a costly, cumbersome and anticompetitive Federal program that has by any standard outlived its usefulness.

The USDA's tobacco program began in the thirties, when tobacco farmers were getting as little as 6 cents a pound for their product. Supply controls were useful at that time, but as Prof. J. A. Seagraves of North Carolina State University concluded in a recent paper entitled "The Life Cycle of the Flue-Cured Tobacco Program," the program no longer serves the interests of tobacco growers.

"Supply controls can have large benefits to producers at first," Professor Seagraves wrote, "and then 'burn themselves out' as they create incentives for other countries to expand production and for manufacturers to introduce substitutes. This happened in the case of the Flue-cured tobacco program. The U.S. share of the world's Flue-cured tobacco production has fallen from 64 percent in the late 1930's to about 18 percent today. Imports of Flue-cured tobacco, which were insignificant before 1967, now represent about one fourth of domestic consumption."

Professor Seagraves further calculates that between 1948 and 1955 the program produced a net benefit to the United States of up to $166 million per year. In the early 1980's, however, the program is responsible for a net loss of $52 million a year.

But, Mr. President, the problem goes beyond a burned-out supply control system that has steadily eroded our position in the world market. The real problem is the nature of that system.

Just because a farmer wants to produce tobacco in this country does not mean that he can do so. Tobacco may be produced without penalty only by those who hold an acreage allotment assigned more than 30 years ago. The penalty for growing tobacco over the allotment or without the allotment is a stiff one. It equals 75 percent of the previous year's average sale price of tobacco.

Those allotments are as hereditary as any feudal domain in medieval Europe.

They are vulnerable. A 200-acre farm with a 10-acre tobacco allotment is worth up to $50,000 more than an identical farm without an allotment.

Mr. President, ours is the greatest free market economy in the world—but not when it comes to tobacco.

We control crop volume.

We penalize backyard growing of tobacco without a license.

We keep mom and pop out of the marketplace unless he or she has an allotment.

Even the tobacco growers' newspaper, the Cured Tobacco Farmer, questioned the allotment program.

> The benefits of the support program appear to be migrating largely into the bank accounts of the nonproducing quota owners, with you, the actual producer, profiting at approximately the same level you could be expected to without any program at all.

The allotment system, which was designed originally to help farmers, is today a major source of income for nonfarmer holders of tobacco allotments. There are 95,000 tobacco farmers—and 500,000 holders of tobacco allotments.

About 84 percent of all family tobacco farmers must rent allotments in order to grow their crops. Rent can run over $1,000 per acre and increases the cost of production for growers by 30 to 60 percent. No wonder that last year, we imported $503 million worth of tobacco, mainly of the type grown in the United States.

Mr. President, our bill will give the free market a chance to work.

It will permit tobacco growers to get out from under the onerous allotment system.

It will give our farmers a fighting chance to recover their share of the domestic and world tobacco market.

It will protect low-income allotment holders by buying out their allotments at the fair market price as of March 8, 1983. This one-time payment to be made on a sliding scale to allotment holders with modified adjusted gross incomes up to $24,000, will be funded at no cost to the Federal Government by a levy imposed upon growers.

I believe that tobacco deregulation is long overdue and I hope that the Senate will move as quickly as possible to consideration of this legislation. I ask unanimous consent that the text of the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1179

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Tobacco Deregulation Act of 1983".

REPEAL OF PROVISIONS OF LAW CONCERNING PRICE SUPPORT FOR TOBACCO

Sec. 2. (a)(1) Section 101(a) of the Agricultural Act of 1949 (7 U.S.C. 1441(a)) is amended by striking out "tobacco (except as otherwise provided herein), corn," and inserting in lieu thereof "corn".

(2) Section 101(c) of such Act (7 U.S.C. 1441(c)) is repealed.

(3) Section 101(d)(3) of such Act (7 U.S.C. 1441(d)(3)) is amended—

(A) by striking out ", except tobacco,", and

(B) by striking out "and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;".

(b) Sections 106, 106A, and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445, 1445-1, 1445-2) are repealed.

(c) Section 408(c) of the Agricultural Act of 1949 (7 U.S.C. 1428(c)) is amended by striking out "tobacco,".

REPEAL OF PROVISIONS OF LAW CONCERNING TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

Sec. 3. (a) Section 2 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1282) is amended by striking out "tobacco,".

(b) Section 301(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

(1) in paragraph (3) by striking out subparagraph (C),

(2) in paragraph (6)(A) by striking out "tobacco,",

(3) in paragraph (7) by striking out

"Tobacco (flue-cured), July 1–June 30;

"Tobacco (other than flue-cured), October 1–September 30;",

(4) in paragraph (10) by striking out subparagraph (B),

(5) in paragraph (11)(B) by striking out "and tobacco",

(6) in paragraph (12) by striking out "tobacco,",

(7) in paragraph (14)—

(A) by striking out "(A)", and

(B) by striking out subparagraph (B),

(8) by striking out paragraph (15), and

(9) in paragraph (16) by striking out subparagraph (B).

(c) Section 303 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1303) is amended by striking out "rice, or tobacco," and inserting in lieu thereof "or rice,".

(d) Part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is repealed.

(e) Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking out "tobacco,".

(f)(1) Section 371(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371(a)) is amended by striking out "peanuts, or tobacco" and inserting in lieu thereof "or peanuts".

(2) Section 371(b) of such Act (7 U.S.C. 1371(b)) is amended by striking out "peanuts, or tobacco" and inserting in lieu thereof "or peanuts".

(g)(1) Section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended—

(A) in the first sentence—

(i) by striking out "peanuts, or tobacco, and" and inserting in lieu thereof "or peanuts, and",

(ii) by striking out "peanuts, or tobacco from" and inserting in lieu thereof "or peanuts from", and

(iii) by striking out "all persons engaged in the business of redrying, prizing, or stemming tobacco for producers,", and

(B) in the last sentence by striking out "$500;" and all that follows through the end thereof and inserting in lieu therof "$500.".

(2) Section 373(b) of such Act (7 U.S.C. 1373(b)) is amended by striking out "peanuts, or tobacco" and inserting in lieu thereof "or peanuts".

(h) Section 375(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1375(a)) is amended by striking out "peanuts, or tobacco" and inserting in lieu thereof "or peanuts".

(i) Section 378(f) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378(f)) is repealed.

(j) The Act entitled "An Act relating to burley tobacco farm acreage allotments under the Agricultural Adjustment Act of 1938, as amended", approved July 12, 1952 (7 U.S.C. 1315), is repealed.

(k) Section 4 of the Act entitled "An Act to amend the Agricultural Adjustment Act of 1938, as amended, to provide for acreage-poundage marketing quotas for tobacco, to amend the tobacco price support provisions of the Agricultural Act of 1949, as amended, and for other purposes", approved April 16, 1965 (7 U.S.C. 1314c note), is repealed.

(l) Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is repealed.

EXCLUSION OF TOBACCO FROM CONCESSIONAL EXPORT SALES PROVISIONS OF PUBLIC LAW 480

Sec. 4. The proviso to the first sentence of section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732) is amended by striking out ", and for the purposes of title II of this Act," and inserting in lieu thereof "or".

PROHIBITION AGAINST COMMODITY CREDIT CORPORATION USING POWER WITH RESPECT TO TOBACCO

Sec. 5. Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended by adding at the end the following new undesignated paragraph:

"Notwithstanding any other provision of law, the Corporation may not exercise any of the powers specified in this section or in any other provision of this Act with respect to tobacco.".

PROHIBITION AGAINST TOBACCO MARKETING ORDERS

Sec. 6. Section 8c(2) of the Agricultural Adjustment Act (7 U.S.C. 608c(2)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) by striking out "tobacco,",

(2) by inserting "tobacco," after "(B) any agricultural commodity (except honey,", and

(3) by adding at the end the following new sentence: "Notwithstanding any other provision of law, no order concerning tobacco may be issued or enforced under this Act.".

WITHDRAWAL OF CONSENT RELATING TO COMPACTS AMONG STATES FOR REGULATING TOBACCO PRODUCTION AND COMMERCE

Sec. 7. (a) The Act entitled "An Act relating to compacts and agreements among States in which tobacco is produced providing for the control of production of, or commerce in, tobacco in such States, and for other purposes", approved April 25, 1936 (7 U.S.C. 515 et seq.), commonly known as the Tobacco Control Act, is repealed.

(b) The Congress hereby withdraws its consent to any compact or agreement entered into under the Act referred to in subsection (a).

PAYMENTS TO LOW INCOME OWNERS OF FARMS WITH TERMINATED TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

Sec. 8. (a)(1) Each individual who—

(A) during the period beginning on March 8, 1983, and ending on the date of the enactment of this Act, owned all or part of a farm with respect to which a tobacco acreage allotment or marketing quota was established or assigned under part I of subtitle B of title III of the Argicultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.),

(B) had a modified adjusted gross income of not over $24,000 for the taxable year ending in 1982, and

(C) not later than December 31, 1984, files an application in such manner and in such form as the Secretary may require by rule,

shall be entitled to receive payments from the Secretary in accordance with this subsection.

(2)(A) The aggregate amount of payments which such individual shall be entitled to receive shall be equal to the product of—

(i) the percentage of the proceeds of sale such individual would have been entitled to receive if such allotment or quota had been sold on March 8, 1983, and

(ii) the portion of the fair market value of such allotment or quota which corresponds to the amount of such modified adjusted gross income in the table contained in subparagraph (B).

(B) The table referred to in subparagraph (A) is the following table:

If the amount of such modified adjusted gross income is:	The applicable portion of the fair market value of such allotment or quota is:
Not over $15,000	100 percent
Over $15,000 but not over $16,000.	90 percent.
Over $16,000 but not over $17,000.	80 percent.
Over $17,000 but not over $18,000.	70 percent.
Over $18,000 but not over $19,000.	60 percent.
Over $19,000 but not over $20,000.	50 percent.
Over $20,000 but not over $21,000.	40 percent.
Over $21,000 but not over $22,000.	30 percent.
Over $22,000 but not over $23,000.	20 percent.
Over $23,000 but not over $24,000.	10 percent.
Over $24,000	0 percent.

(3) For purposes of paragraph (2), the fair market value of such allotment or quota shall be the fair market value of such allot-

ment or quota on March 8, 1983, as determined by the Secretary. In making such determination, the Secretary shall consider studies relating to the value of tobacco acreage allotments and marketing quotas established under such part which have been conducted by unversities, colleges, and other persons.

(4) For purposes of paragraph (1)(B) and paragraph (2), the modified adjusted gross income of such individual for such taxable year shall be the adjusted gross income of such individual for such taxable year or, if such individual filed a joint return for such taxable year, the adjusted gross income of such individual and such individual's spouse for such taxable year—

(A) determined under section 62 of the Internal Revenue Code of 1954 without regard to the deductions from gross income allowable under such section for such taxable year by reason of—

(i) paragraph (7) of such section (relating to profit-sharing, annuities, and bond purchase plans of self-employed individuals),

(ii) paragraph (10) of such section (relating to retirement savings), and

(iii) paragraph (14) of such section (relating to reforestration expenses), and

(B) increased by—

(i) interest and dividends exempt from the tax imposed by chapter 1 of such Code for such taxable year, and

(ii) the items of tax preference described in section 57 of such Code (other than paragraph (9) thereof) for such taxable year.

(5) For purposes of paragraph (1)(A), an acreage allotment or marketing quota which is—

(A) established or assigned to a farm under such part, and

(B) transferred to another farm (other than after a sale of such allotment or quota),

shall not be considered established or assigned with respect to the farm to which such allotment or quota was so transferred.

(6) To the extent provided in advance by appropriations Acts, the Secretary shall make payments to which individuals are entitled under this subsection—

(A) as soon as amounts are received under subsection (b), and

(B) in as equitable, efficient, and expeditious a manner as is practicable.

(b)(1) All payments made under subsection (a) shall be made from amounts received by the Secretary as assessments under this subsection.

(2) For purposes of carrying out paragraph (1), the Secretary shall establish and impose assessments applicable to the marketing of all tobacco produced in the United States. Such assessments shall not apply with respect to tobacco of crops before the 1984 crop of tobacco. The rates of such assessments—

(A) shall generate, as soon as practicable, amounts sufficient to make such payments,

(B) shall not exceed 20 cents per pound,

(C) shall be uniform with respect to all kinds of tobacco,

(D) shall be uniform with respect to a particular crop of tobacco, and

(E) shall be as uniform as practicable with respect to all crops of tobacco with respect to which such assessments are imposed.

(3) Any person who produces tobacco with respect to which such assessments are imposed shall be liable for such assessments.

(4)(A) Except as provided in subparagraph (B), assessments imposed with respect to tobacco and owed under paragraph (3) by the producer of such tobacco shall be collected from any person who acquires, by purchase or exchange, such tobacco from such producer.

(B)(i) If tobacco with respect to which assessments are owed under paragraph (3) is marketed through a warehouseman or other agent, then such assessments shall be collected from such warehouseman or agent.

(ii) If tobacco with respect to which assessments are owed under paragraph (3) is marketed directly by the producer of such tobacco to any person outside of the United States, then such assessments shall be collected from such producer.

(5) Persons required to collect assessments under paragraph (4) shall—

(A) remit such assessments to the Secretary at such time and in such manner as the Secretary may require by rule, and

(B) maintain, and make available for inspection by the Secretary, such records as the Secretary may require, by rule, in order to ensure an accurate accounting of the collection and remittance of such assessments.

(6)(A) Any person who fails to pay, collect, or remit any assessment owed under paragraph (3) or payable under paragraph (4) and paragraph (5) may be assessed a civil penalty by the Secretary equal to the product of three and the amount of such assessment. No civil penalty may be so assessed unless such person is given notice of, and opportunity for an agency hearing on the record with respect to, such violation.

(B) Any person against whom a civil penalty is assessed under subparagraph (A) may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than 30 days after such penalty is imposed. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(C) The district courts of the United States shall have jurisdiction to review and enforce any civil penalty imposed under subparagraph (A).

(c) For purposes of this section—

(1) the term "Secretary" means the Secretary of Agriculture,

(2) the term "person" shall have the meaning given to it in section 1 of title 1, United States Code,

(3) the term "tobacco" means all kinds of tobacco listed in section 301(b)(15) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)(15)),

(4) the term "to market" means to sell or exchange in a commercial market, and

(5) the term "United States", when used in a geographical sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

EFFECTIVE DATES

Sec. 9. (a) Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act.

(b)(1) The amendments made by sections 2 through 6 shall not apply with respect to crops of tobacco before the 1984 crop of tobacco.

(2) Section 7(b) and the amendment made by section 7(a) shall take effect January 1, 1984.

(3) Section 8 shall take effect October 1, 1983.

By Mr. SYMMS (for himself, Mr. BOREN, and Mr. WALLOP):

S. 1180. A bill to amend the Internal Revenue Code of 1954 to provide transitional rules for estate and gift tax treatment of disclaimers of property interests created by transfers before November 15, 1958; to the Committee on Finance.

QUALIFIED DISCLAIMERS

● Mr. SYMMS. Mr. President, Senators BOREN, WALLOP, and I are introducing a technical piece of legislation today which will remedy an existing inequity in our tax system by providing, in general, that holders of remainder interests created before the publication of the IRS regulations in 1958 will have a period of 90 days after the enactment of this bill within which to disclaim their interests and such disclaimers would be treated as a qualified disclaimer under section 2518.

In general, a disclaimer is a renunciation or a refusal to accept the ownership of property. If a disclaimer is properly made and is deemed effective for Federal gift tax purposes, the subsequent transfer of the property will not be considered a taxable transfer by the person disclaiming. In addition, a disclaimer may result in increasing the amount of the estate tax charitable or marital deduction if the property disclaimed passes to a charity or a surviving spouse. If the disclaimer is not treated as valid for Federal gift tax purposes, it will constitute a taxable gift.

Prior to 1976, the Internal Revenue Code did not specifically address the issue of whether a disclaimer was subject to gift tax. Yet, although there was no Internal Revenue Code gift tax provision governing disclaimers, the Treasury, on November 15, 1958, issued regulations to the effect that a disclaimer could constitute a taxable gift under certain circumstances even though it was effective under applicable local law. Until that date in 1958, the law had been clear that a disclaimer was not subject to gift tax so long as it was effective under applicable local law.

Thus, prior to 1958, the Federal gift tax consequences of a disclaimer was largely dependent upon its effectiveness under local law—and although there were certain principles that were common in many of the State laws, there were also many differences. Nevertheless, the basic rationale underlying all local law as the perception that a person who had properly disclaimed was not considered to have held title to the property at any time. Some States had not enacted any statutory provisions and their disclaimer rules, if any, had been developed by the courts. Because of the differences in local laws, therefore, disclaimers made in identical situations in different States may not have received the same treatment for Federal gift tax purposes.

The 1958 regulations provided that one of the circumstances which resulted in the gift tax being applied was the situation where the disclaimer was not made within a reasonable time after knowledge of the existence of the transfer. Many of the State statutes dealing with disclaimers did not provide for a specific time period within which a disclaimer had to be made in order to be effective, although a number of States did provide that the disclaimer had to be with a reasonable time after the transfer. The language of the regulations did not immediately cause a problem because a reasonable time after the transfer was not a new concept. However, what the tax bar did not know was that the IRS was about to introduce a new concept by interpreting the word transfer to mean that point in time when the trust was created.

For many years, tax practitioners uniformly had been of the view that the proper time to disclaim a remainder interest in a trust was after the life beneficiary had died and the interest became possessory, rather than when the trust was created. This was because prior to the time when the interest became possessory, it was not fixed—the intended beneficiary could die or the assets underlying the interest could be completely consumed. However, the IRS took the opposite view and, using the language of its 1958 regulations, interpreted transfer to mean the date of creation rather than the date on which the interest became possessory.

As a result of the controversy that ensued, Congress, at the urging of the estate and trust bars, acted to end the controversy and establish definitive rules for the determination of an effective disclaimer. Section 2518 of the Internal Revenue Code was added by the Tax Reform Act of 1976 and provided definitive rules relating to disclaimers of interests created after 1976. If the requirements of the provision are satisfied, a refusal to accept the property is to be given effect for Federal estate and gift tax purposes even if the applicable local law does not technically characterize the refusal as a disclaimer.

If a qualified disclaimer is made, the Federal estate, gift, and generation skipping transfer tax provisions are to apply with respect to the property interest disclaimed as if the interest has never been transferred to the person making the disclaimer, and thus, a person making a qualified disclaimer is not to be treated as having made a gift to the person to whom the interest passes by reason for the disclaimer.

Under section 2518, a qualified disclaimer is an irrevocable and unqualified refusal to accept an interest in property that satizifies four conditions.

First, the refusal must be in writing.

Second, the written refusal must be received by the transferor of the interest, his legal representative, or the holder of the legal title to the property not later than 90 days after the day on which the transfer creating the interest is made. However, if later, the period for making a disclaimer is not to expire in any case until 9 months after the day on which the person making the disclaimer has attained age 21.

Third, the person must not have accepted the interest or any of its benefits before making the disclaimer.

Fourth, the interest must pass to a person other than the person making the disclaimer as a result of the refusal to accept the property.

Section 2518 resolved the dispute in favor of the IRS and for the first time codified the requirement that a qualified disclaimer for gift tax purposes had to be made with in a reasonable time of the creation of the interest.

However, section 2518 by its express terms applies only to the disclaimer of property interests created after December 31, 1976. Section 2518 did not change prior law as to the disclaimer of property interests created prior to January 1, 1977.

Nevertheless, the IRS position that a remainder interest in a trust must be disclaimed with a reasonable time after the creation of the trust even though the trusts were created prior to the enactment of section 2518 has prevailed. The result is that holders of remainder interests in trusts created prior to January 1, 1977, were and are now forever preempted from making effective disclaimers. Curiously, section 2518 gives the holders of remainder interests created after January 1, 1977—those created with the full knowledge of the new law—a 9-month period in which to disclaim. It could not have been the intent of Congress to grant a 9-month period to disclaim to those interests created after the law was known and at the same time to deny to those trusts already in existence the right to conform to the new standards when the beneficiaries of the trust had not received any benefit from the trust.

The inequity of the current situation is most obvious with regard to those interests created prior to the publication of the IRS regulations in 1958 and who comply with the intent of section 2518.

The purpose of the legislation that is being introduced today is to correct this inequity and I urge my colleagues to join us in supporting this legislation.●

By Mr. DANFORTH (for himself, Mr. WEICKER, Mr. CHILES, Mr. NUNN, Mr. DURENBERGER, Mr. SARBANES, Mr. MATTINGLY, and Mr. HUDDLESTON):

S. 1181. A bill entitled the "Construction Contract Payment Procedures Act of 1983"; to the Committee on Governmental Affairs.

CONSTRUCTION CONTRACT PAYMENT PROCEDURES ACT OF 1983

● Mr. DANFORTH. Mr. President, today I am introducing the "Construction Contract Payment Procedures Act of 1983," a bill designed to bring about needed improvements, and to inject some basic commonsense, into the Government's current practices regarding retainage on its construction contracts. It is essentially identical to S. 1782, which was passed by the Senate in the closing days of the 97th Congress. I am pleased to be joined in this legislation by my colleague from Connecticut, Senator WEICKER, who sponsored S. 1782, and by Senators CHILES, NUNN, DURENBERGER, SARBANES, MATTINGLY, and HUDDLESTON.

Retainage is a contract management practice which results in the Government withholding, or retaining, a percentage of the "progress payments" due to a contractor at various stages in the performance of a construction contract. These retained amounts, which under current regulations can be as high as 10 percent of the total contract price, are generally not released to the contractor until after final payment.

Proponents of retainage say that it is a longstanding and effective contract management practice that helps insure that the contractor will complete the job on time and in full conformity with the specifications and other terms of the contract. Yet, during hearings before the Subcommittee on Federal Expenditures, Research, and Rules, which I chaired, two basic findings became apparent.

First, as currently practiced by almost all Federal agencies, retainage could not possibly be an effective tool for encouraging good contractor performance. The practice belies the claim, because all contracting officers take retainage, regardless of the contractor's actual performance. Despite regulatory authority to reduce or even waive retainage if contractor performance warrants, contracting officers generally find it easier to merely deduct the retainage, and not be bothered in making judgments. Retainage is clearly the norm and few contracting officers are willing to buck the tide.

Second, witness after witness before the subcommittee recounted the economic hardships which retainage works on contractors, especially small contractors. Basically, retainage reduces cash flow, forcing many contractors to borrow to meet payrolls, to pay suppliers, to stay on the job. In some instances, the contractor may not be able to borrow adequate funds to cover the retained amounts; this adversely affects his ability to perform—the very opposite of the claimed purpose of retainage, which is to foster timely and complete contract performance. In all cases, borrowing to cover retained amounts costs money. Contractors faced with the Government's prevailing retainage practice told the subcommittee that they must increase their bid price to cover the anticipated cost of borrowing; thus, the Government pays hard cash for its inflexible retainage practice.

In order to remedy these liabilities in the Government's current practice, the "Construction Contract Payment Procedures Act" would seek to work a fundamental shift in emphasis. Under the legislation which I am proposing, the rule would be that progress payments otherwise due to a contractor must be paid in full, unless the contracting officer made a finding of untimely or unsatisfactory contractor performance. This bill would establish a true performance-based standard that requires a contracting officer to make a judgment about retainage, just as he makes a judgment concerning payment of the underlying progress payment. Basically, only poor performers would be subjected to retainage.

The Department of Defense, to its credit, has recently adopted such a retainage policy through administrative action. During the hearings, DOD's witness testified that the new policy seemed to be working, and the Department was anticipating both actual dollar savings and better relations with its contractors. In answer to a question, he acknowledged that with respect to the techniques of construction contract administration the demands of DOD contracts were essentially the same as those of the civilian agencies.

Such a flexible, performance-based approach, emphasizing the professional judgment of the contracting officer, is certainly in keeping with the administration's efforts to improve the Federal procurement system. It converts to practice some of the prescriptions of the administration's proposal for a uniform Federal procurement system, and the broad implementation offered through Executive Order 12352.

Finally, the legislation is designed to address a problem upon which all sides seem to agree: the very long delays between the date the Government accepts the construction project from the contractor and the date when any retained amounts are released. Witnesses testified that delays of between 6 and 12 months were not uncommon. To remedy this problem, the proposed legislation explicitly makes retained amounts subject to the Prompt Payment Act, once the Government has accepted the construction project.

During the 97th Congress, the administration opposed S. 1782, on the grounds that the matter was best left to an administrative resolution. During the hearings, I challenged the administration's witness to fashion such an administrative remedy that fully addressed the problems identified. On November 16, 1982, following Senate passage of S. 1782, the Office of Federal Procurement Policy issued for comment a proposed policy letter that would have established a Government-wide policy on retainage. Numerous public comments were received and substantial redrafting was done in response to those comments. The proposed text of a final policy letter, entitled "Withholding of Funds From Construction Contract Progress Payments," was prepared for approval and issuance. Mr. President, that was on January 17, 1983. Since then, nothing has come from the people in OMB who think we should not get involved in this retainage question.

My response, and that of the cosponsors of this bill, is simply this: The problem is still there and we have a solution. I urge my colleagues to give the "Construction Contract Payment Procedures Act" prompt and favorable consideration, so that the problem of the Government's current retainage practice can be turned around for the benefit of both the Government and its contractors.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1181

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Construction Contract Payment Procedures Act of 1983".

FINDINGS

Sec. 2. The Congress finds that—

(1) the present practice of retaining a portion of progress payments otherwise due to contractors performing satisfactory work on Federal construction projects places an unnecessary and unfair financial burden on such contractors, adversely affecting their financial position by restricting cash flow and often requiring otherwise unnecessary borrowing;

(2) the highly adverse effects of unnecessary retainage fall most heavily on small construction firms, restricting entry of such firms into the Federal procurement marketplace as either prime contractors or subcontractors and, thereby, reducing competition;

(3) the current retainage practice, inadequately related to the contractor's performance, represents an unnecessary burden on the Federal procurement process;

(4) other existing requirements currently applicable to Federal construction contracts provide the Government with adequate protection against the default of a contractor;

(5) the discretion accorded the contracting officer to withhold a portion of progress payments otherwise due the contractor upon making a finding of untimely or otherwise unsatisfactory performance provides adequate protection to the Government's interest; and

(6) the elimination of unnecessary retainage under the provisions of this Act will result in cost savings to the taxpayer and improved relations between the Government and its contractors.

PROGRESS PAYMENT PROCEDURES

Sec. 3. Section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255) is amended by adding at the end thereof the following new subsection:

"(d) Whenever an executive agency elects to make progress payments under a construction contract pursuant to subsection (a)(1)—

"(1) such progress payments shall be made monthly, or at such more frequent interval as is stipulated in the contract;

"(2) each such progress payment shall be made in full to the contractor without retention of any portion of the progress payment due unless the contracting officer finds and determines that the contractor is not making timely or otherwise satisfactory progress toward the completion of the contract in accordance with the terms and conditions;

"(3) if a contracting officer unilaterally finds and determines that a contractor is not making timely or otherwise satisfactory progress, the contracting officer may retain from each of one or more progress payments due such amount, not exceeding 10 per centum of such progress payment, as is necessary to protect the Government's interest in timely and satisfactory performance of the contract;

"(4) amounts retained under clause (3) may be released whenever the contracting officer finds that the contractor is making satisfactory progress; and

"(5) upon the executive agency's final acceptance of the work under the construction contract, any amount still retained under clause (3) shall be promptly paid the contractor in accordance with the terms and conditions of the contract and shall be subject to chapter 39 of title 31, United States Code.".

CONSTRUCTION SUBCONTRACT PAYMENT PROCEDURES

Sec. 4. To obtain fully the intended benefits of this Act, prime contractors are urged to make provision in their agreements with their subcontractors and material suppliers for the prompt payment in full of any progress payments otherwise due, without retainage of any part thereof, unless the prime contractor finds that the performance of the subcontractor or material supplier is untimtely or otherwise not in accordance with the terms and conditions of its agreement with the prime contractor. Similarly, such subcontractors and subcontractors below the first tier of subcontractors are urged to make provision in agreements with their subcontractors and material suppliers to accord the same fair treatment concerning prompt payment in full of any progress payments otherwise due to their subcontractors or material suppliers in accordance with the same standard.

REGULATIONS

Sec. 5. Regulations to implement this Act and the amendment made by this Act, including regulations specifying contract provisions, shall be issued and become effective within 120 days after the date of enactment of this Act.

● Mr. WEICKER. Mr. President, today I join my good friend and colleague, Senator Danforth, in reintroducing the Construction Contract Payments Procedure Act, a bill to eliminate the Federal practice of retainage under certain circumstances. This bill is virtually identical to S. 1782, which passed the Senate by unanimous consent on October 1, 1982.

I believe this to be fair and equitable legislation, which will do much to improve the cash flow position of many small construction contractors. It conditions Federal retainage practices on the timely and satisfactory performance of a contractor, rather than automatically penalizing Federal contractors by withholding up to 10 percent of their progress payments. At the same time, the bill adequately protects the Government by allowing a contracting officer to impose retainage requirements on any contractor who is behind schedule or performing work in an unsatisfactory manner.

I would like to remind my colleagues that the impact of retainage on small business construction firms is staggering. According to an industry study, small contractors must cover an average of $200,000 annually in outstanding retainages. By slowing the flow of money to those performing the work, retainage often delays construction and drives up costs due to inflation.

Contractors and subcontractors are often forced to a situation to borrow money just to cover outstanding retainages and maintain an adequate cash flow. The cost is then factored into their bids and passed along to the end user. And, as we all know, on Government jobs the end user is the American taxpayer.

In addition to saving the Government money, I believe this bill will give an additional boost to our economic recovery. By eliminating retainage, we will make more capital available to small contractors for business expansion and job creation, stimuli that are still badly needed in the construction industry.

As I indicated during floor debate last year, this bill strikes a good balance on the issue of whether or not the legislation should be extended to subcontractors. The advisory of section 4 of the bill should encourage prime contractors to treat their subcontractors in the same way that they will be treated by the Federal Government. Although this language is not mandatory, it is to be hoped that prime contractors will routinely eliminate retainage if a subcontractor is performing on time and in a satisfactory manner.

Mr. President, I see no reason to perpetuate a practice that cuts down on the capital available for small business expansion and costs the Government more in the long run. I urge expeditious consideration of the Construction Contract Payments Procedures Act.●

● Mr. MATTINGLY. Mr. President, I rise today in support of the Construction Contract Payment Procedures Act of 1983. As a cosponsor of the legislation, I urge my colleagues to join with me in seeking the measure's passage.

The Federal Government's retainage of progress payments to small businesses has had an unfavorable impact. It has not worked as an incentive for contractors to complete Federal work in a timely fashion. Instead, many believe it has worked against its original purpose. In addition, and perhaps most importantly, it has caused significant cash flow problems for small businesses which are involved in Government contracts.

It was never the intention of the Federal Government to create financial hardships for small businesses with whom it does business, particularly the already financially plagued construction industry. Last year, I cosponsored the so-called Prompt Payments Act, now Public Law 97-177, which ended the Government's practice of neglecting to pay businesses who dealt with the Government and incurring no interest costs for such delay. The Construction Contract Payment Procedures Act is similar in purpose. It represents an effort to rectify the Federal Government's method of dealing with businesses involved with Government contracts and is an important step in correcting Federal retainage procedures. Congress should move rapidly to accept this legislation because of the positive and dramatic impact its enactment will have on small business, especially contractors.

The most persuasive argument in support of the bill is that it will save money for the American taxpayer. As testimony presented at hearings on the retainage issue last year revealed, the effect of retainage has been to inflate the construction costs of Federal projects. Retainage is, in effect, a type of "withholding tax" whose true cost is borne by the average taxpayer and not the organization the Government claims to be taxing. There is no logical reason that the taxpayer should have to carry this load. As outlined in the bill, there are other, more reasonable methods to assure satisfactory performance from a contractor on a Federal project. These should be employed.

Again, I am pleased to join with the Senator from Missouri in cosponsoring this legislation and I urge my colleagues to support it.●

● Mr. NUNN. Mr. President, I am pleased to join Senator WEICKER, the chairman of the Senate Small Business Committee, and others in again introducing the Construction Contract Payment Procedure Act. This proposal has come to be known as the retainage legislation.

The legislation we are introducing today is identical to the bill which the Senate Governmental Affairs Committee, on which I also serve, reported and which the Senate passed last October. It is unfortunate that this bill was not enacted in the last Congress. It should be enacted quickly in this session.

The bill provides that where an agency determines that progress payments will be made against performance on a contract, an agency may not withhold—that is, retain—any portion of the progress payment if the contractor is performing satisfactorily on that contract.

In many cases, retainage provides duplicative protection with bonding for the Government, to the detriment of the small business contractor. In addition, the cost to the firm of not being able to receive the funds for work which it is required to pay for in advance often can put a significant strain on the financial capabilities of companies and reduce the interest and desire to contract with the Federal Government.

Mr. President, agencies are taking unilateral administrative action to minimize this practice in operation. I am pleased to join as a cosponsor of the bill that would eliminate the practice in law.●

By Mr. DOLE:

S. 1182. A bill to amend title 18 of the United States Code, and for other purposes; to the Committee on the Judiciary.

SENTENCING REFORM

Mr. DOLE. Mr. President, I am introducing today at the request of the Judicial Conference of the United States a bill on sentencing reform recommended by the Judicial Conference Committee on the Administration of the Probation system and approved by the Conference on March 16, for transmittal to the Congress. The proposal would provide for sentences imposed under guidelines established by a committee of the Judicial Conference; sentence review in the court of appeals in conjunction with the review of conviction; and parole decisions based solely on postsentencing occurrences.

Mr. President, we should express our thanks to Judge Gerald Tjoflat, chairman of the Judicial Conference Probation Committee, for the extended effort he and his committee have made to formulate and provide the views of the Judicial Conference on sentencing proposals under consideration by the Congress. I anticipate that the Committee on the Judiciary will begin hearings in the near future on the various sentencing proposals. It is important that we have the bill from the Judicial Conference and its accompanying report before us when these matters are under consideration. We look forward to working with Judge Tjoflat on this important subject.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point, to be followed by pertinent excerpts from the Probation Committee report.

There being no objection, the material was ordered to be printed in the RECORD as follows:

S. 1182

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That this Act may be cited as the "Sentencing Reform Act of 1983".

SEC. 2. (a) chapter 227 of title 18, United States Code, is amended by adding the following new sections at the end thereof:

"§ 3581. Standards for sentencing

"(a) In imposing sentence for any criminal offense, the court shall impose a sentence that accords with the applicable sentencing guideline prescribed under chapter 236 of this title unless the court finds, on the basis of the circumstances of the particular offense or information about the particular defendant, that the purposes of sentencing set forth in section 3802(a) of this title would best be served by departing from such guideline.

"(b) In the absence of an applicable sentencing guideline, the court shall impose an appropriate sentence, having due regard for its relationship to sentences prescribed by guidelines applicable to similar offenses and offenders and the purposes of sentencing set forth in section 3802(a) of this title.

"§ 3582. Sentencing procedures

"(a) When imposing sentence, the court shall, on the record, orally or in writing—

"(1) make such findings and conclusions as are necessary to determine the applicable sentencing guideline;

"(2) specify the applicable sentencing guideline;

"(3) make such other findings as are necessary to determine any material fact; and

"(4) state the specific reasons for imposition of the particular sentence.

"(b) Before imposing sentence, the court shall hold a sentencing hearing for the purposes of—

"(1) receiving information necessary to make the findings required by subsection (a) of this section;

"(2) affording the defendant and counsel the opportunity to address the court; and

"(3) otherwise assisting the court in the sentencing decision.

"(c) The report of a presentence investigation conducted pursuant to rule 32 of the Federal Rules of Criminal Procedure shall be disclosed, in accordance with rule 32, a reasonable time before the sentencing hearing.

"(d) The sentencing hearing—

"(1) shall be recorded; and

"(2) shall not be governed by the Federal Rules of Evidence except as may be specifically provided therein.

"(e) If a defendant is to be resentenced with reference to an amended guideline pursuant to a determination of the Judicial Conference of the United States under section 3801(d) of this title, the court shall consider only the effect of the guideline amendment on the sentence previously imposed, and shall not set aside findings of fact previously made, unless the court determines that the interests of justice require otherwise. The court, in its discretion, may hold a new sentencing hearing, with or without the personal presence of the defendant. The new sentence shall not be less favorable to the defendant than the original sentence and shall be entered as an amendment to or reaffirmation of the original judgment in accordance with rule 32(b)(1), Federal Rules of Criminal Procedure.".

(b) The table of sections at the beginning of chapter 227 of title 18, United States Code, is amended by adding at the end thereof the following:

"3581. Standards for sentencing.
"3582. Sentencing procedures.".

SEC. 3. (a) Section 3576 of title 18, United States Code, is repealed.

(b) Chapter 235 of title 18, United States Code, is amended by adding the following new sections:

"§ 3742. Appellate review of sentences

"(a) Either the United States or the defendant may appeal to a court of appeals from a final judgment in a criminal case on the ground that the sentence contained therein—

"(1) was imposed as a result of an incorrect application of the sentencing guidelines prescribed by the Judicial Conference of the United States pursuant to section 3801 of this title;

"(2) was imposed in violation of the procedures prescribed in section 3582 of this title; or

"(3) was otherwise imposed in violation of the Constitution or laws of the United States.

"(b) Except as provided in subsection (c) of this section, the defendant may appeal to a court of appeals from a final judgment in a criminal case on the ground that the sentence is more severe than the most severe sentence specified in the applicable sentencing guideline, or that there is no applicable sentencing guideline, and the sentence is plainly inappropriate.

"(c) The defendant shall not be entitled to review of a sentence under subsection (b) of this section if such sentence has been imposed pursuant to a plea agreement accepted by the court under the Federal Rules of Criminal Procedure and—

"(1) is not greater than the sentence that the attorney for the Government recommended or agreed not to oppose; or

"(2) is agreed to be the attorney for the Government and the defendant.

"(d) Except as provided in subsection (e) of this section, the United States may appeal to a court of appeals from a final judgment in a criminal case on the ground that the sentence is less severe than the least severe sentence specified in the applicable sentencing guideline, or that there is no applicable sentencing guideline, and the sentence is plainly inappropriate.

"(e) The United States shall not be entitled to review of a sentence under subsection (d) of this section if such sentence has been imposed pursuant to a plea agreement accepted by the court under the Federal Rules of Criminal Procedure and—

"(1) is no less severe than the sentence that the attorney for the Government recommended or agreed not to oppose; or

"(2) is agreed to by the attorney for the Government and defendant.

"(f) The United States shall not take an appeal under this section unless the Attorney General or the Solicitor General personally approves the filing of a notice of appeal.

"§ 3743. Procecure for Appellate review of sentences

"(a) An appeal in which review of a sentence is sought shall be commenced as provided in the Federal Rules of Appellate Procedure.

"(b) A party may not seek review of a sentence on any ground that was not specifically raised in a motion for reconsideration filed with the court pursuant to rule 32(b)(1), Federal Rules of Criminal Procedure.

"(c) The record on appeal in a criminal case in which review of the sentence is sought shall include any presentence report submitted to the court. The presentence report shall be kept under seal.

"(d)(1) If the court of appeals reverses a district court judgment on the basis of the sentence, the court of appeals may, in an appropriate case, resentence the defendant, or may remand the case to the trial court for resentencing.

"(2) The court of appeals shall not set aside findings of fact of the trial court unless they are clearly erroneous, and shall give due regard to the opportunity of the trial court to judge the credibility of the witnesses and observe the defendant.

"(3) The court of appeals shall state in writing the reasons for any resentencing or remand for resentencing under this subsection.

"(e) For the purposes of this section and section 3742, a term of probation shall be considered a sentence. Objections to the grant of probation or to the terms and conditions thereof may be raised in an appeal from the judgment in which probation is granted. If a sentence to imprisonment or a fine has been imposed and its execution suspended pursuant to 18 U.S.C. 3651 objections to the portion of the sentence whose execution is suspended may be raised in an appeal from a judgment revoking probation.".

(c) The table of sections at the beginning of chapter 227 of title 18, United States Code, is amended by striking out the item relating to section 3576 and inserting in lieu thereof the following:

"3576. Repealed.".

(d) The table of sections at the beginning of chapter 235 of title 18 of the United States Code is amended by adding at the end thereof the following:

"3742. Appellate review of sentences.
"3743. Procedure for appellate review of sentences.".

SEC. 4. Title 18, United States Code, is amended by adding the following new chapter after chapter 235:

"CHAPTER 236—SENTENCING GUIDELINES

"Sec.
"3801. Sentencing guidelines.
"3802. Content of sentencing guidelines.
"3803. Committee on Sentencing Guidelines.
"3804. Membership and organization of Committee on Sentencing Guidelines.
"3805. Hearings by Committee on Sentencing Guidelines.
"3806. Cooperation of Federal agencies.
"3807. Acceptance of uncompensated services.

"§ 3801. Sentencing guidelines

"(a) For the purposes of—

"(A) promoting fairness and certainty in sentencing;

"(B) Eliminating unwarranted disparity in sentencing; and

"(C) improving the administration of justice;

the Judicial Conference of the United States shall prescribe sentencing guidelines for Federal courts to use in determining the appropriate sentence for one convicted of a criminal offense.

"(2) Such sentencing guidelines shall—

"(A) be submitted to the Congress not later than May 1 of the year in which the guidelines are to take effect;

"(B) take effect 180 days after the date of such submission, unless the Congress otherwise provides by law; and

"(C) in the case of the initial guidelines, be complete and simultaneously submitted to the Congress.

"(3) If the Judicial Conference finds that the avoidance of delay in the effective date of a particular guideline (other than the initial guidelines) is necessary to prevent injustice, it may prescribe an effective date for such guideline without regard to the requirements of paragraph (2) (A) and (B) of this subsection. In that event, the Judicial Conference shall transmit the guideline to the Congress forthwith, together with a statement of the reasons for its action in prescribing an effective date.

"(b) Any sentencing guideline submitted by the Judicial Conference shall be accompanied by a statement of the expected impact of such guideline on Federal prisons, courts, and expenditures. In preparing such an impact statement, the Judicial Conference shall seek information and advice from the Administrative Office of the United States Courts, the Federal Judicial Center, the Bureau of Prisons, the United States Parole Commission, the Department of Justice, the Office of Management and Budget, the Advisory Corrections Council, and other relevant Federal agencies.

"(c) Any amendment to an existing sentencing guideline shall be prescribed and submitted and shall become effective in the manner set forth in subsections (a) and (b) of this section.

"(d) If an amendment to an existing sentencing guideline will make the guideline more favorable to any class of offenders, the Judicial Conference shall include as part of the amendment a determination whether some or all members of such class, sentenced before the effective date of such amendment and still serving their sentences on such date, shall be resentenced with reference to the amended guidelines, as provided in section 3581(a) of this title, by the courts that imposed the original sentences.

"§ 3802. Content of sentencing guidelines

"(a) The sentencing guidelines prescribed pursuant to this chapter shall be based on recognition of the need for sentences imposed—

"(1) to ensure adequate deterrence of criminal conduct;

"(2) to protect the public from further crimes by convicted offenders;

"(3) to reflect the relative seriousness of different offenses, to promote respect for law, and to provide just punishment for criminal conduct;

"(4) to provide restitution to victims of offenses; and

"(5) to provide offenders with needed educational or vocational training, medical care, and other correctional treatment in the most effective manner.

"(b) The sentencing guidelines shall provide for the imposition of the least severe measure or measures necessary to achieve the purposes set forth in subsection (a) of this section.

"(c) The sentencing guidelines shall—

"(1) take account of both the nature and circumstances of the offense and the history and characteristics of the defendant;

"(2) includes provisions governing the designation of a parole eligibility date in cases in which a term of imprisonment exceeding one year is contemplated;

"(3) include provisions governing the aggregation of fines and terms of imprisonment in cases in which a defendant is sentenced at one time for more than one offense; and

"(4) include provisions governing the use of sentences under chapter 402 of this title.

"(d) The Judicial Conference of the United States may, for appropriate offenses, prescribe guidelines indicating that imprisonment would not serve the purposes of subsection (a) of this section, without providing further guidance as to the sanction to be imposed.

"§ 3803. Committee on Sentencing Guidelines

"(a) There is established within the Judicial Conference of the United States a Committee on Sentencing Guidelines which shall—

"(1) recommend sentencing guidelines to the Judicial Conference;

"(2) recommend to the Judicial Conference standards for Federal courts to use in determining whether to accept plea agreements that have the effect of limiting the court's authority to select an appropriate sentence;

"(3) obtain and analyze on a continuing basis (A) data on the sentences imposed by Federal courts in criminal cases, including the nature and circumstances of the offenses and the relevant history and characteristics of defendants in those cases, and (B) judicial opinions of federal courts that are relevant to sentencing;

"(4) in carrying out its functions under this chapter, seek the opinions and participation of a broadly representative cross-section of persons interested in and concerned with the operation of the Federal criminal justice system, including representatives of the defense bar, the Government, and the academic community;

"(5) at least annually, make available to Federal courts and other interested persons any sentencing guidelines prescribed under this chapter and relevant information concerning patterns and practices in the sentencing of persons convicted of Federal offenses; and

"(6) not later than May 1 of each year, report to the Congress on its activities under this chapter.

"(b) The Committee on Sentencing Guidelines shall—

"(1) make available to the public any data, opinions, guidelines, and other information referred to in subsections (a) (3), (4), (5), and (6) of this section, except that information identifying specific individuals shall be withheld to the extent provided in the procedures prescribed under paragraph (2) of this subsection;

"(2) prescribe internal operating procedures to protect individuals identified in any information system maintained by, or under the authority of, the Committee on Sentencing Guidelines, including safeguards to ensure that information is accurate, current, and necessary for the purposes of this chapter; and

"(3) publish in the Federal Register, for comment, guidelines and standards proposed to be recommended to the Judicial Conference pursuant to subsection (a) (1) and (2) of this section.

"§ 3804. Membership and organization of Committee on Sentencing Guidelines

"(a) The Committee on Sentencing Guidelines shall consist of seven members appointed by the Judicial Conference of the United States, one of whom shall be designated chairman. Four members shall be judges of the United States in regular active service. Three members shall be persons who are not judges or former judges of the United States or of any State, at least one of whom shall be a person who is not a lawyer and who is qualified by academic or practical experience to serve on the Committee.

"(b) The membership of the Committee shall reflect—

"(1) a variety of backgrounds; and

"(2) participation and interest in the Federal criminal justice system.

"(c)(1) The term of a member of the Committee on Sentencing Guidelines shall be 4 years. A member of the Committee who is appointed to fill a vacancy shall be appointed for the remainder of the term involved. No member of the Committee shall serve more than 8 years.

"(2) Notwithstanding the provisions of the foregoing paragraph, the initial terms of four of the original members of the Committee, designated by the Judicial Conference, shall be 5 years, and the initial terms of the remaining original members shall be 3 years. An original member appointed to a 5-year term may serve on the Committee for not more than 9 years.

"(d) A member of the Committee on Sentencing Guidelines may be removed by the Judicial Conference for malfeasance or other good cause.

"(e)(1) A member of the Committee on Sentencing Guidelines who is a full-time officer or employee of the United States shall receive no additional pay by reason of service on the Committee.

"(2) A member of the Committee who is not a full-time officer or employee of the United States shall be—

"(A) paid the daily equivalent of the maximum annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel-time) during which such member is engaged in the performance of duties vested in the Committee;

"(B) allowed travel and transportation expenses in the manner prescribed in section 5703 of title 5, United States Code, and

"(C) deemed a 'special Government employee' within the meaning of section 202 of this title.

"§ 3805. Hearings by Committee on Sentencing Guidelines

"The Committee on Sentencing Guidelines may hold hearings and take testimony for the purpose of carrying out its functions under this chapter.

"§ 3806. Cooperation of Federal agencies

"The Committee on Sentencing Guidelines may request services, equipment, personnel, facilities, and information from any Federal agency, including the Administrative Office of the United States Courts, the Federal Judicial Center, the Bureau of Prisons, and the United States Parole Commission. Each Federal agency shall comply with such requests to the greatest practicable extent, unless otherwise prohibited by law.

"§ 3807. Acceptance of uncompensated services

"The Committee on Sentencing Guidelines shall have the authority to accept voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes of the United States (31 U.S.C. 665(b)).".

SEC. 5. (a) Chapter 309 of title 18, United States Code, is repealed.

(b) The table of chapters for part III of title 18, United States Code is amended by striking out the item relating to chapter 309 and inserting in lieu thereof the following:

"309. Repealed.".

(c) Section 4201 of title 18, United States Code, is amended by striking out in paragraph (5) thereof, "or deemed as if released on parole under section 4164 or section 4205(f)".

(d) Section 4203 of title 18, United States Code, is amended by redesignating subsection (d) as subsection (e) and by adding the following new subsection:

"(d) The Commission shall make a continuing study of the sentences imposed on offenders within its jurisdiction, and shall report at least annually to the Judicial Conference of the United States and to the Congress on the extent of disparity in the sentencing of such offenders.".

(e) Section 4205(a) of title 18, United States Code, is amended to read as follows:

"(a) When imposing a term or terms of imprisonment in excess of one year, the court shall designate in the sentence the time at which the offender shall be eligible for release on parole. An offender sentenced to a term or terms aggregating one year or less shall not be eligible for parole.".

(f) Subsections (b), (f) and (h) of section 4205 of title 18, United States Code, are repealed, and subsections (c), (d), (e), and (g) are redesignated as subsections (b), (c), (d), and (e), respectively.

(g) The first sentence of section 4205(e) of title 18, United States Code (as redesignated by the preceding subsection) is amended to read as follows:

"At any time upon motion by the Bureau of Prisons, the court in which a prisoner was sentenced may order the prisoner released on parole without regard to the parole eligibility date established pursuant to subsection (a) of this section.".

(h) Section 4206(a) of title 18, United States Code, is amended to read as follows:

"(a) If an eligible prisoner has substantially observed the rules of the institution or institutions to which he has been confined, such prisoner becomes eligible for parole.".

(i) Section 4206(d) of title 18, United States Code, is repealed.

(j) Subsections (b) and (c) of section 4206 of title 18, United States Code, are redesignated as subsections (c) and (d), respectively, and the following new subsection is added:

"(b) If the Commission finds that a prisoner is not entitled to be released pursuant to subsection (a) of this section, or if a prisoner has been released on parole and had the parole revoked, such prisoner shall be released at a time determined by the Commission pursuant to guidelines promulgated by the Commission pursuant to section 4203(a)(1) of this title.".

(k) Section 4206(d) of title 18, United States Code, as redesignated by the preceding subsection, is amended by striking "subsection (a)" and inserting in lieu thereof "subsection (b)".

(l) Section 4206 of title 18, United States Code, is amended by adding the following new subsection:

"(e) If the release date determined under this section falls on a Saturday, a Sunday, or on a Monday that is a legal holiday at the place of confinement, the prisoner may be released at the discretion of the warden or keeper on the preceding Friday. If such release date falls on a holiday that falls other than on a Saturday, Sunday, or Monday, the prisoner may be released at the discretion of the warden or keeper on the day preceding the holiday.".

(m) Section 4207 of title 18, United States Code, is amended by inserting "and" at the end of paragraph (3) thereof, striking out paragraph (4), and redesignating paragraph (5) as paragraph (4).

(n) Section 4208(a) of title 18, United States Code, is amended—

(1) by striking out "eligible for parole pursuant to subsections (a) and (b)(1) of section 4205" in the second sentence thereof;

(2) by striking out "such" in the second sentence thereof;

(3) by striking out "eligible for parole pursuant to subsection (b)(2) of section 4205 or" in the third sentence thereof; and

(4) by striking out "imprisonment or" in the third sentence thereof.

(o) Section 4209(c) of title 18, United States Code, is amended—

(1) by striking out "or release as if on parole";

(2) by striking out "reside in or" and ", or both," in paragraph (1) thereof; and

(3) by striking out the last sentence.

(p) Section 4210(b)(1) of title 18, United States Code, is amended by striking out "section 4164 (relating to mandatory release) or".

(q) Section 4214(d)(5) of title 18, United States Code, is amended by striking out "or release as if on parole".

(r) Section 4216 of title 18, United States Code, is repealed.

(s) The table of sections at the beginning of chapter 311 of title 18, United States Code, is amended by striking out the item relating to section 4216 and inserting in lieu thereof the following:

"4216. Repealed.".

Sec. 6. (a) Chapter 314 of title 18, United States Code, is repealed.

(b) The table of chapters for part III of title 18, United States Code, is amended by striking out the item related to chapter 314 and inserting in lieu thereof the following:

"314. Repealed.".

(c) Section 3656 of title 18, United States Code, is amended by adding the following paragraph at the end thereof;

"He shall have the authority to contract with any appropriate public or private agency or person for care in the community of an offender who is an addict or a drug dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201), which care may include, but shall not be limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by eliminating his dependence on addicting drugs, or by controlling his dependence, and his susceptibility to addiction. He may negotiate and award such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).".

(d) The next-to-last paragraph of section 3651 of title 18, United States Code, is amended to read as follows:

"The court may require a person who is an addict or a drug dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201), as a condition of probation, to participate in the community supervision programs authorized by section 3656 of this title for all or part of the period of probation.".

(e) Section 4209(c)(2) of title 19, United States Code, is amended to read as follows:

"(2) a parolee, who is an addict or drug dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201), to participate in the community supervision programs authorized by section 3656 of this title for all or part of the period of parole.".

Sec. 7. Chapter 402 of title 18, United States Code, is amended to read as follows:

"CHAPTER 402—FEDERAL YOUTH CORRECTIONS ACT

"Sec.
"5005. Special sentencing alternatives for young offenders.
"5006. Confinement of youth offenders sentenced to terms of imprisonment.
"5007. Certificate setting aside conviction.

"§ 5005. Special sentencing alternatives for young offenders

"In sentencing a defendant who has not attained his twenty-sixth birthday at the time the judgment of conviction is entered, the court may provide in the sentence that the defendant shall be treated as a "youth offender."

"§ 5006. Confinement of youth offenders sentenced to terms of imprisonment

"A defendant who is sentenced to a term of imprisonment as a youth offender shall be confined, insofar as practical, in an institution used only for the confinement of persons sentenced as youth offenders. The Director of the Bureau of Prisons shall make special efforts to provide rehabilitative and supportive services to offenders confined in such institutions, and shall attempt to determine and respond to individual needs of such offenders to the extent that the current state of correctional knowledge permits.

"§ 5007. Certificate setting aside conviction

"(a) If the parole of a person sentenced as a youth offender is terminated early pursuant to section 4211 of this title, the conviction of such person shall be automatically set aside and the United States Parole Commission shall issue to the offender a certificate to that effect.

"(b) When a person sentenced as a youth offender has been placed on probation by the court, the court may thereafter, in its discretion, unconditionally discharge such offender from probation prior to the expiration of the maximum period of probation theretofore fixed by the court, which discharge shall automatically set aside the conviction, and the court shall issue to the youth offender a certificate to that effect.

"(c) The fact that a conviction has been set aside pursuant to this section shall not preclude a court from considering such conviction in sentencing the youth offender for a criminal offense committed after the offense on which the set-aside conviction was based."

Sec. 8. Section 5041 of title 18, United States Code, is amended by striking out "in accordance with the provisions in section 4206 of this title".

Sec. 9. Section 3148 of title 18, United States Code, is amended—

(1) by inserting "(a)" before the first word;

(2) by striking out "or sentence review under section 3576 of this title"; and

(3) by adding new subsection (b) as follows:

"(b) Notwithstanding the provisions of subsection (a) of this section, a person who has been convicted of an offense and has filed an appeal or a petition for a writ of certiorari may be ordered to commence service of the sentence if the district court finds (1) that the validity of the conviction is not in question, and (2) that there is no appreciable possibility that the sentence ultimately imposed, even if the appeal or petition is successful, will be for less than six months' imprisonment.".

Sec. 10. (a) Rule 32(a)(2), Federal Rules of Criminal Procedure, is amended by striking out the second sentence thereof.

(b) Rule 32(b)(1), Federal Rules of Criminal Procedure, is amended to read as follows:

"(1) In General.—A judgment of conviction shall set forth the plea, the verdict or findings, and the adjudication and sentence. The judgment shall be signed by the judge and entered by the clerk. If the defendant is found not guilty or for any other reason is entitled to be discharged, judgment shall be entered accordingly. If the defendant is convicted, judgment shall be entered ten days after the announcement of sentence unless a motion for reconsideration of the sentence is filed or the court on its own motion directs reconsideration of the sentence. In such event, the judgment shall be entered at such time after the ten-day period as the court reaffirms or modifies the sentence.".

(c) Rule 35, Federal Rules of Criminal Procedure, is repealed.

Sec. 11. (a) Section 924(a) of title 18, United States Code, is amended by striking out ", and shall become eligible for parole as the Board of Parole shall determine".

(b) Subsection (g) of section 3401 of title 18, United States Code, is repealed, and subsection (h) is redesignated as subsection (i).

(c) Section 3402 of title 18, United States Code, is amended by adding the following to the first paragraph thereof:

"In such an appeal, the district judge may review any sentence that could be reviewed by the Court of Appeals pursuant to section 3742 of this title if imposed by a district judge, and shall apply the standards of review set forth in sections 3742 and 3743".

(d) Section 4105(c) of title 18, United States Code, is amended—

(1) by striking out the last two sentences of paragraph (1) thereof;

(2) by striking out paragraphs (2), (3), and (4), thereof; and

(3) by redesignating paragraph (5) thereof as paragraph (2).

(e) Section 5871 of the Internal Revenue Code of 1954 (26 U.S.C. 5871) is amended by striking out ", and shall become eligible for parole as the Board of Parole shall determine".

(f) Section 341(a) of the Public Health Service Act (42 U.S.C. 257 (a)) is amended by striking out, in the first sentence thereof, "or convicted of offenses against the United States and sentenced to treatment"; "addicts who are committed to the custody of the Attorney General pursuant to the provisions of the Federal Youth Corrections Act,"; and "and who are not sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966".

Sec. 12. (a) The provisions of section 4 of this Act shall take effect upon enactment. The initial sentencing guidelines shall be submitted to the Congress by the Judical Conference pursuant to section 3801(a)(2) of title 18, United States Code, not later than May 1 of the first year in which such date is more than two years after the date of enactment.

(b) The remaining provisions of this Act shall take effect on the effective date of the initial guidelines with respect to criminal offenses committed on and after such date. The provisions of prior law shall remain applicable to offenses committed before such date.

[Excerpt]

REPORT OF THE JUDICIAL CONFERENCE COMMITTEE ON THE ADMINISTRATION OF THE PROBATION SYSTEM

SENTENCING LEGISLATION

On September 30, 1981, the Senate, by a vote of 95 to 1, passed in the form of a "Non-germane Amendment to H.R. 3963 (Relating to Drug Aftercare)" the sentencing provisions of the Revised Federal Criminal Code that has been pending in the Senate for over a decade. This sentencing bill was referred to a Senate-House Conference Committee in December, during the "lame duck" session of the Congress, and died there when the Congress adjourned. A copy of the bill is attached to this report as Exhibit A.

This was the third time the Senate passed this sentencing bill. The bill first passed on January 30, 1978, in the 95th Congress, as part of S. 1437, the Criminal Code Reform Act of 1977, by a vote of 72 to 15. The House took no action on the House counterpart, H.R. 6869, and criminal code revision thus failed enactment. The bill was introduced again in the 96th Congress as part of S. 1722, the Criminal Code Reform Act of 1979, but the Senate adjourned without voting on the measure. On July 31, 1981, the bill was reintroduced in the 97th Congress as S. 1555, the Criminal Sentencing Reform Act of 1981; on September 17, 1981, it became part of the Criminal Code Reform Act of 1981, S. 1630. The bill was also made a part of the "Violent Crime and Drug Enforcement Improvements Act of 1982," S. 2572, H.R. 6497.

This Committee, in its September 1981 report to the Conference, commented at length on this Senate sentencing bill and the legislative history of both it and its House counterpart. The Committee stated that the bill would effect a sweeping revision of sentencing procedures in Federal courts.

First, it would establish an independent sentencing commission that would be charged with promulgating guidelines for district judges to use in determining sentences for criminal defendants. These guidelines, covering "each category of offense involving each category of defendant," would prescribe the type and extent of the sentence to be imposed in most cases. The judge would be required to select the type of sanction, i.e., imprisonment, fine, or probation, and to sentence the defendant within the maximum-minimum range specified by the commission's guidelines, unless he found "that an aggravating or mitigating circumstance exists that was not taken into consideration by the Sentencing Commission in formulating the guidelines."

Second, [the bill] would provide for appellate review in the court of appeals of sentences in all felony cases except those in which the sentence resulted from a Rule 11 plea agreement. Review would be available, however, only in those cases in which the sentence fell outside the guidelines. A defendant could appeal a sentence above the guideline range, the government could appeal a sentence falling below the guideline range. In either case, the court of appeals would determine whether the sentence was "unreasonable"; if it found the sentence to be unreasonable, the court could impose a new sentence or remand the case for resentencing.

Finally, [the bill] would invest the sentencing commission with the responsibility of monitoring the sentencing practices in the Federal courts. The commission would serve, *inter alia*, as a "clearning house and information center for the collection, preparation, and dissemination of information on Federal sentencing practices." The commission would conduct training programs, seminars, and workshops for judges and probation officers, instruct probation officers in the application of the commission's sentencing guidelines, and monitor probation officers with regard to their sentence recommendations to judges. [See attached Exhibit A, § 995(a) (8)-(22), page S 12877.]

The primary purpose of the bill was to eliminate unwarranted sentencing disparity. Though the Committee and the Conference have steadfastly endorsed this goal, the Committee recommended that the Conference disapprove the bill. The Committee noted that both it and the Criminal Law Committee had made the same recommendation to the Conference in April 1976, when the Conference considered an earlier version of this sentencing bill. These Committees, and the Conference, concluded that a sentencing commission would, needlessly, duplicate much of the work already being performed within the judicial branch and that the injustice inherent in disparate sentences could be remedied by straightforward appellate review of sentences in the court of appeals or by three-judge panels (as provided in an amendment formerly proposed to Rule 35 of the Federal Rules of Criminal Procedure).

This Committee, in its September 1981 report to the Conference, further observed that much of the work that would be undertaken by the sentencing commission prescribed by [the Senate's sentencing bill] is now being performed by the Administrative Office of the U.S. Courts and the Federal Judicial Center. The Center, in cooperation with the Administrative Office and the Probation committee, delivers a comprehensive training program to all probation officers; this training continues throughout the officers' service in the district courts. A considerable portion of this training agenda is addressed to the sentencing process. Sentencing institutes authorized by 28 U.S.C. 334 and periodic seminars and workshops sponsored by the Center and the Administrative Office further the judiciary's effort to bring a greater measure of justice to the sentencing process.

An [independent] sentencing commission would, also, duplicate the efforts, now well underway, of the Judicial Conference (operating through the Probation Committee), the Federal Judicial Center, and the Administrative Office to develop a Probation Information Management System (PIMS). The Conference, at its September 1977 meeting, authorized the development of an information system (PIMS) to achieve four goals: (1) to meet the needs of the probation officers in the day-to-day management of their work in the field; (2) to provide up-to-date information to guide judges in selecting sentences for convicted defendants; (3) to provide national statistics for budget, planning, and management control purposes; and (4) to create the data base needed by researchers seeking to improve understanding of the treatment of offenders and offenses. Since the September 1977 meeting of the Conference, the Probation Committee, the Center, and the Administrative Office have been at work designing PIMS, focusing primarily on the day-to-day needs of probation officers in the field and sentencing judges. It is anticipated that a decision whether to take PIMS to the pilot-project stage will be made jointly by the Committee, Center, and Administrative Office prior to the September 1981 meeting of the Judicial Conference. In summary, *the Committee concludes that insofar as [the Senate's sentencing bill] (1) would foster the development of an efficient information system that would promote better informed, and fairer, sentencing decisions, (2) would provide the means for comprehensive monitoring of sentencing practices in the Federal courts, and (3) would provide for the periodic training of judicial and parajudicial personnel in matters relating to sentencing, [the bill] would duplicate programs currently being implemented by the judicial branch.*

The Committee also disapproves [the bill] *because it provides for the piecemeal appellate review of sentences rather than straightforward appellate review in the court of appeals* or in three-judge panels, two methods of sentence review previously suggested by the Judicial Conference as alternatives to the type of scheme proposed by [the Senate bill]. S. 1722, [its] immediate predecessor, was actually designed to provide piecemeal sentence review in the court of appeals. *First, it provided as does* [the bill], *for the appeal of any sentence outside the prescribed sentencing commission guidelines; then, after allowing the government or the defendant subsequently to contest (within 120 days of the imposition of sentence), in a Rule 35(b)(2) motion, the sentencing judge's application of the guidelines, it gave both parties the right to petition the court of appeals to review the Rule 35(b)(2) disposition. These two mutually exclusive modes of appellate review provided by* [the bill] *were in addition to the appellate review afforded a defendant who claims under Rule 35(a) of the Federal Rules of Criminal Procedure or 28 U.S.C. 2255 that his sentence is illegal. Thus,* [the bill] *created the real possibility that in a given case a court of appeals could, for example, affirm a defendant's conviction and his above-the-guidelines sentence and later, in reviewing a Rule 35(a), Rule 35(b)(2), or 28 U.S.C. 2255 disposition, set aside the sentence because the sentencing judge applied the commission's guidelines incorrectly or otherwise constructed the defendant's sentence on illegal grounds.*

The drafters of [the bill] eliminated the right of the parties collaterally to attack, under (S. 1722's proposed) Rule 35(b)(2), the sentencing judge's application of the commission's guidelines, but they nevertheless provided for piecemeal appellate review of sentencing. The Committee reaches this conclusion by reading the provisions of S. 1555 in context with Rule 35(a) and 28 U.S.C. 2255. [The bill] would allow the immediate appeal of any sentence outside the applicable guidelines. Rule 35(a) and section 2255 would allow the defendant, at any time after sentencing, to attack his sentence on the grounds, for example, that the guidelines applied by the sentencing judge were facially illegal, were without legal foundation, or were not applicable in the defendant's case and, if unsuccessful, to seek appellate review of the merits of his attack. Consequently, the potential for the seemingly inconsistent, and piecemeal, appellate dispositions inherent in the everyday implementation of S. 1722's sentencing procedures would be present were [the bill] enacted into law. This potential, to the extent it were realized, in the Committee's view, would further erode the public's confidence in the ability of Federal judges to do justice in pronouncing sentence. In addition, the presence of multiple routes to sentence review would create substantial delay in achieving finality.

The Committee concludes that some form of review is necessary if unwarranted sentencing disparity is to be substantially reduced, if not eliminated. The Committee further concludes that review should be accomplished in one proceeding, in either the court of appeals or a panel of three district judges as the Conference recommended at its April 7, 1976, meeting. It is the Committee's judgment that the method of review should be prescribed by legislation initiated by Congress, not the rulemaking process, and that the judiciary should make specific recommendations to Congress regarding the review procedures. To this end, the Committee is prepared to request the Federal Judicial Center for research support on the practical impact the suggested methods of review would have on the operation of the Federal courts.

Finally, because the Senate may take action toward the passage of [the sentencing bill] prior to the March 1982 meeting of the Judicial Conference, the Committee seeks authorization in the interim, to monitor the progress of this legislation, and its House counterpart, if any, and to communicate to the Congress any modifications that would remove the objections to [the bill] cited in this report. [Emphasis added].

The Conference promptly "authorized the Committee to monitor the progress of (sentencing reform) legislation in the Congress and to communicate to the appropriate Congressional Committees any modifications in the legislation that would remove the objections specified in the Committee's report."

As it reported to the Conference in September 1982, the Committee, through its chairman, has provided Congressional testimony when requested, and has responded to solicitations by Members of Congress and staff for advice on drafting and amendments.

During the 97th Congress, an examination of the pending proposals as well as the extensive committee reports prepared in conjunction with the consideration of such revisions leads to the conclusion that Congress remains deeply concerned about significant occurrences of sentencing disparities in the criminal justice system and about the broad discretion reposed in the Judiciary to impose sentences upon convicted criminals. This concern is coupled with a further recognition that such discretion reposed in trial courts is largely unreviewable. "If there is one rule in the Federal criminal practice which is firmly established, it is that the appellate court has no control over a sentence which is within the limits allowed by a statute." *Dorszynski* v. *United States*, 418 U.S. 424, 440-441 (1974).

The various bills now pending in Congress propose to resolve such concerns through several alternative mechanisms which provide, among other things: (1) the creation of an independent sentencing commission or a sentencing committee within the Judiciary, either of which will be charged with the responsibility of promulgating sentencing guidelines binding upon the district courts and the courts of appeals; (2) the creation of comprehensive statutory sentencing procedures that would replace the sentencing procedures established by Rule 32 of the Federal Rules of Criminal Procedure; and (3) piecemeal review of the sentence in the court of appeals.

The Committee is aware of Congressional prerogatives to rewrite title 18 of the United States Code. Nonetheless, the Committee feels that the projected costs of proposed sentencing mechanisms must be assessed; the Judicial time to be expended in the disposition of criminal cases must be examined; and the *finality* of sentences must be preserved.

A balancing of the legislative concerns with those of the Judiciary is necessary. Once this is done, in the opinion of the Committee, several conclusions follow.

It is the unanimous view of the Committee that, if it be the will of Congress to adopt significant sentencing revision, legislation should be favored that will create simple and inexpensive sentencing procedures that will ensure finality of sentence while giving full recognition to the due process rights of convicted defendants. Accordingly, *the Committee recommends that the Judicial Conference reaffirm that the Committee continue to monitor the progress of sentencing reform proposals and also communicate past Conference positions to the Congress. It is further recommended that the Conference authorize the committee to draft for Conference consideration alternatives to those already proposed by the Congress. These alternatives would include one or more of the following concepts: (1) sentences imposed under guidelines established by a sentencing committee of the Judicial Conference; (2) sentence review in the court of appeals in conjunction with the review of conviction; and (3) parole decisions based solely on post conviction occurrences.* [Emphasis added.]

The Conference adopted this recommendation, and the Committee immediately set about the task of drafting a legislative proposal for the Conference's consideration. In drafting this proposal, the Committee has taken into account a firm Congressional consensus that emerged last fall, particularly in December as the Senate-House Conference Committee debated over the Senate bill and several House counterparts, as to the sentencing model that should be prescribed. There is a strong consensus that guideline sentencing, with a *single* appellate review in the courts of appeals, be prescribed (The Senate, through your Committee's intervention, has now abandoned the piecemeal appellate-review scheme it featured in all previous versions of its bill). The final debate has now boiled down to three points. First, who will draw the guidelines—an independent Sentencing Commission, as the Senate would prescribe (without any federal judge members), with extensive supervision and control over the sentencing judges and their probation officers, or a Judicial Conference Committee, as the House would prescribe (with at least four federal judge members). Second, will the Government, as well as the defendant, have the right to appeal. The Senate and Department of Justice say, yes; the House is divided. Third, what will become of parole. The Senate would abolish parole altogether in five years, immediately as to offenses occurring after the bill becomes fully effective. The House would restrict the Parole Commission's role to passing on post-sentencing events. All agree to eliminate the Commission's present role as resentencer.

The legislative alternative your Committee has drafted is attached to this report as Exhibit B. The Committee believes that it prescribes a much more workable sentencing model, at far less cost, than the Senate bill or any of its House counterparts. The following is a general description of the bill and a section-by-section analysis.

General description of the bill

The proposed Judicial Conference bill has three major features:

Determinacy of sentences: Under the bill, incarcerated defendants will know at the time of sentencing how long they will serve if they conform to the rules of the institutions in which they are confined.

Sentencing pursuant to guidelines: Guidelines are to be promulgated by the Judicial Conference on the advice of a Committee on Sentencing Guidelines. Sentencing judges may depart from the guidelines if they find, on the basis of circumstances of the particular offense or offender, that the purposes of sentencing are best served by departure.

Appellate review of sentences: Either the Government or the defendant may seek appellate review of a sentence on the ground that it was imposed as a result of incorrect application of the guidelines, or in violation of prescribed procedures, or otherwise in violation of the laws or Constitution. The defendant may appeal from an above-guideline sentence, and the Government from a below-guideline sentence, on the ground that the sentence is "plainly inappropriate." Government appeals will require a personal approval of the Attorney General or the Solicitor General.

The broad outlines of the bill are described in greater detail below, and section-by-section analysis follows the description.

Determinacy of sentences: The bill provides that the sentencing court shall include in the sentence, if a term of incarceration of more than a year is included, the date on which the defendant is to be released on parole if he or she abides by the rules of the institution of confinement. Hence, unless the defendant is penalized for misbehavior in prison, the release date is fully determined at the time of sentencing. The guidelines to be prescribed by the Judicial Conference are to provide guidance on both the total duration of the sentence and the release date.

Unlike the Senate-passed bill, this bill does not abolish the parole function. The Parole Commission will decide whether—and for how long—a defendant is to be penalized for misbehavior; it will also continue to have responsibility for supervising parolees and making revocation decisions. Unlike the House Judiciary Committee bill, however, the Parole Commission will no longer set parole dates based on the Commission's judgment of the severity of the offense and the offender's risk category. Under the proposed bill, it is the function of the sentencing judge, acting under the guideline system, to select the punishment for the offense, the function of the Parole Commission is to make decisions based on events that occur after sentencing.

The bill repeals the criminal provisions of the Narcotic Addict Rehabilitation Act, thus bringing addicts within the determinate sentencing scheme. It eliminates the indeterminate sentencing feature of the Youth Corrections Act, but preserves the requirement that persons sentenced under the act be confined in separate institutions and the opportunity for them to have the conviction set aside. Both the Narcotic Addict Rehabilitation Act and the Youth Corrections Act would be repealed by both the Senate and House bills.

Sentencing pursuant to guidelines: Under the bill, a sentence is to be imposed that accords with the applicable sentencing guidelines unless the court finds, on the basis of the circumstances of the particular offense or information about the particular defendant, that the purposes of sentencing are best served by departing from the guidelines.

The guidelines are to be developed by a committee of the Judicial Conference, consisting of four judges in regular active service and three members who are not, or have not been, either federal or state judges. At least one of the three members must be a nonlawyer. The guidelines are to be submitted to the Congress by the Judicial Conference, and will take effect 180 days thereafter unless Congress prevents that outcome by act of Congress.

The provisions of this bill regarding the structure for developing guidelines are closely modeled on the bill approved by the House Judiciary Committee. In contrast, the Senate-passed bill provides for the guidelines to be developed by a Sentencing Commission appointed by the President with the advice and consent of the Senate. Although earlier versions of the bill provided that some of the presidential appointees come from a list submitted by the Judicial Conference, that requirement was removed by a 1982 floor amendment. The Commission in the Senate bill is expected to be a full-time body, moreover. Although the Senate bill provides that a federal judge may serve on the Commission without resigning his or her judicial appointment, no provision is made for handling the caseload of an active judge should one be appointed to serve.

The Senate bill also contemplates that the Commission is to have its own staff, and is to develop its own data collection, research, and education capabilities. The present bill, following the model of the House bill, contemplates that staff assistance will be provided by the Federal Judicial Center and the Administrative Office.

It is believed that a part-time committee with staff assistance from the Administrative Office and the Judicial Center is much the preferable approach. While there is no doubt that the development of initial guidelines will be a substantial task, it will be far from a full-time job for the decisionmakers if the operation is skillfully staffed. Once the initial guidelines have been promulgated, moreover, there can be no conceivable need for a body of full-time commissioners as the Senate bill would provide. In addition, relying on the existing organs of the Judicial Branch ensures that unnecessary and harmful duplication will be avoided. The Administrative Office already has in place what is widely recognized as one of the best statistical reporting systems in the business; continuing efforts to improve the quality of the data received from the courts would not be aided by requiring court personnel also to provide data for another and different system maintained by a Sentencing Commission. The Federal Judicial Center already has in place a structure for providing education and training to the members of the Judiciary; use of that structure for education and training relating to guideline sentencing will permit sentencing training to be included in programs that also cover other subjects and will facilitate the resolution of potential scheduling conflicts.

Appellate review of sentences: The bill provides that either the Government or the defendant may seek appellate review of a sentence on the ground that the guidelines were incorrectly applied, that prescribed procedures were not followed, or that the sentence is otherwise illegal. It also provides for defendants' appeals of above-guidelines sentences and Government appeals of below-guidelines sentences. However, the Government may appeal only with the personal approval of the Attorney General or the Solicitor General. The bill contemplates that all issues about the sentence, we well as any challenge to the conviction, will be raised in a single appeal. The bill includes amendments to the Federal Rules of Criminal Procedure to ensure that the sentence appealed from is the final sentence of the district court.

The House Judiciary Committee's bill would permit appeals only by the defendant. In addition to appeals from above-guideline sentences, the bill authorizes a petition for leave to appeal from a within-guideline sentence on the ground that the sentence is "clearly unreasonable."

The present bill follows the Senate-passed bill in permitting a Government appeal on the personal approval of the Attorney General or the Solicitor General and in denying appeals for within-guideline sentences. However, it permits an appeal from any sentence outside guidelines, while the Senate bill permits an appeal from an outside-guideline sentence only if a felony or Class A misdemeanor (as defined in the bill) was involved.

The present bill follows both the Senate and House bills in denying an appeal from a sentence that the appealing party has accepted in a plea agreement.

The fundamental motivation for a guideline system is to reduce disparity by producing binding standards for judges' sentencing decisions. The role of appellate review in such a system is to protect that binding nature of the guidelines, permitting departures from them only for legally acceptable reasons. Restricting appeals from sentences for minor offenses would undermine the binding nature of the guidelines for such cases. Moreover, in cases in which imprisonment is imposed in an above-guideline sentence for an offense that is lower than a Class A misdemeanor, it seems anomalous to restrict the defendant's appellate rights on the ground that the offense for which he was imprisoned was too minor to warrant appellate concern.

Similarly, prohibiting appeals by the Government would undermine the binding nature of the guidelines and—to that extent—permit disparity to persist. It would deny the courts of appeals not only the ability to correct unduly lenient sentences, but also the opportunity to enunciate law about the appropriate justification of below-guideline sentences. There is no sound reason for giving a convicted offender an entitlement to the benefit of a sentence imposed in violation of standards developed by the Congress and the Committee on Sentencing Guidelines. The goal of subjecting discretion to enforceable standards would be ill served by such a rule. The requirement that Government appeals be personally approved by the Attorney General or the Solicitor General should provide ample protection against abuse of the Government's right to take an appeal under the bill.

SECTION-BY-SECTION ANALYSIS

Section 2.—Section 2 of the bill sets forth the obligations of the sentencing judge in a guideline sentencing system. It adds two new sections to chapter 227 of the Criminal Code.

The new 18 U.S.C. 3581 establishes standards for sentencing by trial judges.

Subsection (a) requires a court to impose a sentence within the guidelines unless the court finds, on the basis of the circumstances of the particular offense or information about the particular defendant, that the purposes of sentencing set forth later in the bill would best be served by a sentence outside the guidelines.

Subsection (b) provides guidance for cases in which there is no applicable sentencing guideline. It instructs the court to impose an appropriate sentence, having regard for the relationship of the sentence imposed to sentences prescribed by guidelines for similar offenses and offenders and to the purposes of sentencing set forth in the bill. This provision has been included in recognition of the likelihood that Congress will from time-to-time create new offenses without deferring their effective dates until guidelines can be promulgated, as well as the possibility that a guideline may be declared void in litigation, thus leaving a gap in the guideline system. Necessarily, the discretion of the trial court will be broader in such circumstances than in cases in which there is an applicable guideline. The court is instructed to consider guidelines applicable to similar offenses, but the conclusion that there is a guideline applicable to a similar offense does not make that guideline applicable to the present offense within the meaning of the bill; the other guideline is merely one point of reference to be used in making the sentencing decision.

The new 18 U.S.C. 3582 sets forth sentencing procedures to be followed by the court in sentencing.

Subsection (a) requires the court to make such findings and conclusions as are necessary to determine the applicable sentencing guideline, to specify the applicable guideline, to make any other findings necessary to determine any material fact, and to state the specific reasons for the sentence imposed.

Subsection (b) requires the court to hold a hearing to receive any information needed to make the findings required by subsection (a) as well as to afford the defendant and counsel the opportunity to address the court. The provision does not prescribe detailed hearing procedures, leaving them to be worked out by the courts. It is anticipated that district courts may also develop procedures for identifying disputed issues in advance of the hearing and for resolving such issues informally to the extent possible.

Subsection (c) requires that disclosure of a presentence report occur a reasonable time before the sentencing hearing. It is in essence duplicative of the pending amendment to rule 32 of the Federal Rules of Criminal Procedure, except that the "reasonable time" is calculated from the date of the sentencing hearing rather than the date of sentencing. It is contemplated that, in some cases in which material facts are at issue, the court may wish to take the matter under advisement and not sentence at the hearing.

Subsection (d) requires that the sentencing hearing be recorded and states that it shall not be governed by the Federal Rules of Evidence except as may be specifically provided therein. At the present time, Rule 1101 of the Rules of Evidence, in subsections (c) and (d), provides that rules with respect to privileges apply in sentencing proceedings but that the other rules do not. The proposed statutory language would leave to the rule-making process the question whether the Rules of Evidence should be more broadly applicable to a sentencing hearing.

Subsection (e) refers to a later provision under which, if a guideline is amended in the direction of leniency, the Judicial Conference may decide that certain classes of previously sentenced offenders should be resentenced under the amended guideline. In such cases, subsection (e) leaves it to the discretion of the court whether to hold a new sentencing hearing and, if one is held, whether the personal presence of the defendant is necessary. There will not normally be new factual issues involved, and defendants may often be incarcerated at a considerable distance from the sentencing court. Hence, greater flexibility in procedure seems warranted. It is contemplated that appeals may be taken from a resentencing under this provision in the same manner in which they would be taken from the original sentence.

Section 3.—Section 3 of the bill provides for appellate review of sentences. It repeals the present 18 U.S.C. 3576, which permits either party to seek appellate review of a sentence imposed after a proceeding regarding an increased sentence for a dangerous special offender. It adds two new sections to chapter 235 of the Criminal Code, providing rules for appellate review that apply to all sentences.

Section 3742 sets forth the circumstances in which appellate review of sentences is authorized. It may be noted that 28 U.S.C. 1291 gives the courts of appeals jurisdiction of appeals from all final decisions of the district courts. This bill neither expands nor contracts the jurisdictional grant; rather, it modifies judge-made rules about the extent to which sentencing is within the unreviewable discretion of district courts.

Subsection (a) permits either party to take an appeal on the ground that the sentence resulting from incorrect application of the guidelines, that it was imposed in violation of the prescribed sentencing procedures, or was otherwise imposed in violation of the Constitution or laws of the United States.

Subsections (b) and (d) provide that a defendant may appeal an above-guideline sentence and that the Government may appeal a below-guideline sentence. In each case, the appealing party, to prevail, must show not only that the sentence is outside the guidelines but also that it is "plainly inappropriate." Thus, considerable deference is given to the decision of the sentencing judge, and the court of appeals is not expected to make a judgment *de novo*. However, under the proposed language, the court of appeals would be expected to strike down sentences that are not supported by acceptable reasons. These subsections also permit appeals on the ground that a sentence imposed in the absence of a sentencing guideline is "plainly inappropriate."

Subsections (c) and (c) provide that a party may not seek review of a sentence that is outside the guidelines if the party has agreed to it in a plea agreement.

Subsection (f) contains the requirement that appeals by the Government and the personal approval of the Attorney General or the Solicitor General.

The proposed 18 U.S.C. 3743 provides procedures for appellate review.

Subsection (a) makes it clear that an appeal in which sentencing error is asserted is just like any other appeal. If a defendant has been convicted after trial, a single notice of appeal will initiate a single appeal in which issues about both the sentence and the conviction itself may be raised.

Subsection (b) bars a party from raising issues about the sentence for the first time at the appellate level. It requires that alleged defects be specifically called to the attention of the trial court in a motion for reconsideration.

Subsection (c) provides that the record on appeal in a criminal case in which review of the sentence is sought will include the presentence report. Since presentence reports are not available to the public, it requires that they be kept under seal.

Subsection (d) permits the court of appeals, when reversing on the basis of a sentence, either to resentence itself or to remand the case. It is contemplated that remand will be the more common procedure, but there may be cases in which time considerations suggest resentencing so that, for example, an incarcerated defendant may be released immediately without awaiting action by the trial court. Subsection (d) also makes the "clearly erroneous" test applicable to appellate review of district court fact findings relevant to sentencing. Finally, the subsection requires the court of appeals to give its reasons in writing in the case of reversal.

Subsection (e) makes it clear that a grant of probation is a sentence that may be reviewed on appeal from the judgment of conviction. However, if the trial court grants probation by imposing a fine or term of imprisonment and suspending execution thereof, the suspended portion of the sentence may be reviewed on appeal from a judgment revoking probation. Since the majority of probationers complete their terms successfully, it would be wasteful to require that a challenge to the suspended portion of a sentence be made in the absence of revocation. Moreover, under 18 U.S.C. 3653, the trial court has the power to reduce the sentence at the time of probation revocation, perhaps rendering moot a defendant's objections to the sentence originally imposed.

Section 4.—Section 4 would add a new chapter to the Criminal Code, entitled "Sentencing Guidelines."

Section 3801 instructs the Judicial Conference of the United States to prescribe sentencing guidelines and sets forth the procedures by which they will become effective.

Subsection (a) requires the Conference to prescribe guidelines for the purposes of promoting fairness and certainty in sentencing, eliminating unwarranted disparity, and improving the administration of justice. It requires that guidelines be submitted to the Congress not later than May 1 of the year in which they are to take effect, and that they will take effect 180 days after the date of submission unless Congress otherwise provides by law. The initial guidelines are to be complete and submitted to the Congress as a single package. For additional guidelines or amendments, there is a safety-valve provision that would permit the Judicial Conference to accelerate the effective date if necessary to prevent injustice. It is contemplated that this provision might be used if the Sentencing Guidelines Committee concluded that a guideline was being interpreted in a manner that they had not anticipated, and sometimes to fill gaps in the guidelines that may be created by newly enacted legislation or by court invalidation of a guideline. Under the normal procedure, if an event occurred on May 2 that was recognized as calling for a new guideline or an amendment, it would be at least 14 months before the guideline could take effect.

Subsection (b) requires the Judicial Conference to submit impact statements in connection with proposed sentencing guidelines. These statements would deal with the impact of the guidelines on federal prisons, courts, and expenditures.

Subsection (c) provides that amendments to existing guidelines will be governed by the procedures for new guidelines described above.

Subsection (d) provides that when an amendment will make the guideline more favorable to any class of offenders, the Judicial Conference shall include as part of the amendment a determination whether some or all members of the class, sentenced before the effective date of the amendment and still serving their sentences, shall be resentenced. The resentencing procedure in the district court is provided for in the proposed 18 U.S.C. 3582(e), added by section 2 of the bill. Although the language permits the Conference to require resentencing of any offender still serving a sentence, it is contemplated that the provision would rarely be used for defendants other than those still serving the imprisonment portion of sentences that include incarceration.

Section 3802 prescribes the content of sentencing guidelines.

Subsection (a) sets forth the purposes of sentencing to be considered by the Judicial Conference in developing the guidelines. In deference to the enactment of the Victim and Witness Protection Act of 1982, it includes restitution in addition to the usual litany of purposes of sentencing. It is recognized, of course, that the purposes are frequently in conflict in a particular situation. No one purpose will be paramount in all situations, and it is left to the process of guideline development to determine the balance that is appropriate for particular offenses and offenders.

Subsection (b) expresses the widely accepted view that sentences should incorporate the least restrictive alternative that will achieve the purposes of the criminal justice system.

Subsection (c) instructs the Conference to ensure that the guidelines take account of both offense and offender characteristics; that they include provisions governing the designation of a parole eligibility date as well as indicating the maximum term; that they include provisions governing the aggregation of fines and terms of imprisonment where defendants are convicted for multiple offenses; and that they include provisions governing the use of the Youth Corrections Act (which is substantially changed by section 7 of the bill).

Subsection (d) permits the Judicial Conference, in appropriate circumstances, to prescribe guidelines that indicate the inappropriateness of a prison sentence without providing further guidance. This provision is designed to obviate the need for national guidelines regarding the penalties for offenses such as speeding and parking violations. Offenses of these types present a strong case for local variation in the sanctions, which could not reasonably be handled by a national body.

Section 3803 establishes, within the Judicial Conference a Committee on Sentencing Guidelines.

Subsection (a) requires the Committee to recommend guidelines to the Judicial Conference and also to recommend to the Conference standards for courts to use in determining whether to accept plea agreements that might undercut the applicability of the guidelines. The subsection makes it a duty of the Committee to obtain and analyze, on a continuing basis, data about sentences imposed in Federal courts and judicial opinions relevant to sentencing. The Committee is enjoined to seek the opinions and participation of a broadly representative cross section of persons, to make guidelines and other relevant information available to Federal courts and other interested persons at least annually, and to make an annual report to the Congress.

Subsection (b) provides that the Committee shall observe public information and privacy requirements, including publication in the Federal Register of guidelines and standards proposed to be recommended to the Judicial Conference.

Section 3804 establishes the membership and organization of the Committee on Sentencing Guidelines.

Subsection (a) provides for a seven-member committee, of whom four members are to be judges of the United States in regular active service and three members shall be persons who are neither judges nor former judges, at least one of whom shall not be a lawyer.

Subsection (b) provides that the membership shall reflect a variety of backgrounds and participation and interest in the federal justice system.

Subsection (c) establishes four-year terms for Committee members, with maximum service of two terms. However, in order to stagger the Committee terms and ensure that all of the original members will have appointments that last through promulgation of the initial guidelines, it is provided that initial terms will be five years for some members and three years for others.

Subsection (d) provides that a member of the Committee may be removed by the Judicial Conference for malfeasance or other good cause.

Subsection (e) provides that a member of the Committee who is a full-time officer or employee of the United States shall receive no additional compensation for service on the Committee. A member who is not a full-time officer or employee of the United States shall be paid at the rate of a GS-18 when actually employed and will be reimbursed for travel expenses. This subsection also provides that a member of the Committee who is not a full-time government employee shall be deemed a "special Government employee" within the meaning of the conflict-of-interest statutes. In the absence of such a provision, 18 U.S.C. 205 would bar a member of the Committee from acting as agent or attorney in matters in which the United States is a party, and would effectively exclude a large portion of the private bar from eligibility for Committee membership.

Section 3805 authorizes the Committee on Sentencing Guidelines to hold hearings and take testimony for the purpose of carrying out its functions.

Section 3806 authorizes the Committee to request the cooperation of other Federal agencies, and directs their compliance to the greatest practical extent.

Section 3807 authorizes the Committee to accept voluntary and uncompensated services in aid of its functions.

Section 5.—Section 5 of the bill repeals the "good time" authority and makes extensive changes in the authority of the United States Parole Commission with regard to the determination of offenders' release dates. Because of the technical complexity of the parole amendments, the parole chapter of the Criminal Code—marked to show the proposed amendments—is reproduced as Exhibit C.

Subsections (a) and (b) effect the repeal of the authority for good time allowances. Under existing law, good time operates only on the mandatory release date, and does not benefit a prisoner who would in any event be released on parole before the mandatory release date. For many offenders, therefore, rewarding good behavior or penalizing unsatisfactory behavior is—insofar as it involves length of incarceration—handled by the Parole Commission rather than the Bureau of Prisons. This legislation would make it entirely a Parole Commission function, under which the Commission would have the authority to delay the date of release beyond the date established by the court in order to penalize disciplinary infractions.

Subsection (c) eliminates, in the definitions section of the parole statute, a reference to the "good time" authority and a reference to "release as if on parole" under section 4205(f), a provision that would be eliminated by subsection (f) below.

Subsection (d) imposes on the Parole Commission a new obligation to make a continuing study of the sentences imposed on offenders within its jurisdiction, and to report to the Judicial Conference and the Congress on the extent of disparity in the sentencing of such offenders.

Subsection (e) amends the basic paroling authority by instructing the court, at the time of sentencing, to designate the time of parole eligibility. The sentencing guidelines would include guidance on the appropriate parole eligibility date as mandated in the proposed section 3802(c)(2), previously discussed. Subsection (h) below provides that a prisoner who has substantially observed the rules of the institution shall be released on the date of parole eligibility. Hence, what is contemplated is that a judge shall impose a sentence pursuant to guidelines and also, pursuant to guidelines, determine the date as of which the prisoner will be released if he abides by the rules. This permits the Judicial Conference to differentiate among situations in setting, in the guidelines, the relative duration of incarceration and parole supervision. For some offenses, it may be concluded that a short period of incarceration and a long period of supervision is warranted, while for others it might be concluded that parole supervision is essentially superfluous. The Committee on Sentencing Guidelines would be free to consider such questions rather than being constrained by a fixed relationship between the duration of parole supervision and the duration of the sentence or the parole eligibility date.

Subsection (f) of the bill repeals the provisions with regard to "(b)(1)" and "(b)(2)" sentences, the provision for sentencing with "release as if on parole," and a provision referring to specific statutes that may make a prisoner ineligible for parole. It is intended that the court have the power, with respect to any offense, and subject to the duty to observe the guidelines or justify departure from them, to impose a sentence and establish a parole eligibility date if the sentence is for more than one year. The authority to provide for release "as if on parole" is eliminated because it is believed that it adds nothing of value to the options provided by a split sentence, on the one hand, and a longer sentence with a parole eligibility date on the other.

Subsection (g) provides authority for the court, upon motion by the Bureau of Prisons, to order a prisoner released on parole earlier than the parole eligibility date initially established. This is a technical modification of the language of existing authority. However, it is intended that the Bureau of Prisons employ such motions liberally to achieve humanitarian goals and to ameliorate, in appropriate cases, the rigors of determinate sentencing.

Subsection (h), as has been discussed above, provides that a prisoner is to be released on the parole eligibility date if he or she has substantially observed the rules of the institution.

Subsection (i) repeals the provision requiring the Parole Commission to release long-term offenders after two-thirds of the sentence in the absence of a specific determination.

Subsection (j) authorizes the Parole Commission to set the time of release if the prisoner is found not to have substantially complied with institutional rules or if the prisoner, having been released on parole, has had parole revoked. The Commission is to make these decisions pursuant to guidelines that it has promulgated. It is anticipated that, where release is delayed for violation of institutional rules, the guidelines will address issues such as the severity and number of disciplinary infractions, much as the Commission's current regulations about retarding a presumptive parole date. In cases of parole revocation, the Commission may reasonable consider both the behavior giving rise to the revocation and the offender's prior criminal history.

Subsection (k) makes a conforming amendment without substantive significance.

Subsection (l) incorporates into the parole chapter some language that now appears in the good time chapter, which is to be repealed. It represents no change from current law.

Subsection (m) deletes language stating that the Commission, in making determinations related to release on parole, shall consider recommendations of the sentencing judge. Under the scheme of the bill, the sentencing judge will establish the parole date on the assumption that the offender abides by institutional rules. Commission decisions about release dates will be reserved for cases in which the offender has failed to abide by the institutional rules or has been paroled and had parole revoked. In those situations, recommendations made by the judge at the time of sentencing will have no relevance.

Subsection (n) makes a number of conforming amendments that add nothing of substance to the changes already discussed.

Subsection (o) deletes the authority of the Parole Commission to require that a parolee reside in a community treatment center as a condition of parole. It is believed that the retention of such authority by the Parole Commission would be inconsistent with the determinate sentence. It is noted that no change is made in the authority of the Bureau of Prisons to place an offender in a community treatment center toward the end of his or her term of incarceration. Nor does this provision affect 18 U.S.C. 4214(d)(4), which authorizes the Parole Commission to refer a parolee to a community treatment center "for all or part of the remainder of his original sentence" upon a finding of a parole violation.

Subsections (p) and (q) contain only conforming amendments.

Subsections (r) and (s) repeal the authority with respect to young adult offenders. However, this authority is in effect reenacted in section 7 of the bill, which contains amendments to the Youth Corrections Act.

Section 6.—Section 6 of the bill repeals the criminal provisions of the Narcotic Addict Rehabilitation Act. Offenders sentenced under this act are, under existing practice of the Parole Commission, given determinate release dates very much as other offenders. The bill contemplates that they will be given determinate sentences in the same manner as other offenders.

Subsections (a) and (b) effect the repeal.

Subsections (c) reenacts as part of chapter 231 of title 18 the authority of the Director of the Administrative Office of the United States Courts, now included in the Narcotic Addict Rehabilitation Act, to contract for supervisory aftercare of narcotic addicts.

Subsections (d) and (e) are conforming amendments to accommodate the change made by subsection (c).

Section 7.—Section 7 of the bill amends the Federal Youth Corrections Act. It eliminates the indeterminate sentence and much of the language based on the medical model. Young offenders would be sentenced much like others, except that the court may provide in the sentence that the defendant shall be treated as a "youth offender." In that case, the provision allowing the sentence to be set aside is retained in substantially its present form, as is the provision that youth offenders be confined in institutions used only for youth offenders.

The proposed 18 U.S.C. 5005 permits the court to provide in the sentence that a defendant shall be treated as a "youth offender" in the case of any defendant who has not attained the age of 26. Essentially, this combines into a single authority the current Youth Corrections Act and Young Adult Offender statute. As has been noted previously, the Judicial Conference would issue guidelines for the use of this authority.

Section 5006 provides that a defendant sentenced as a youth offender shall be confined, insofar as practical, in an institution used only for confinement of persons sentenced as youth offenders. It requires the Director of the Bureau of Prisons to make special rehabilitative and supportive efforts, but at the same time recognizes the very limited ability of a correctional system, at least at our existing level of knowledge and skill, to reform the personalities of those in its charge.

Section 5007 provides for the certificate setting aside the conviction. Subsections (a) and (b) are substantially reenactments of present law. Subsection (c) provides that a conviction that has been set aside may be considered in a sentencing proceeding for a subsequent offense. This provision makes it clear that the court, in sentencing and setting parole dates, will be able to do essentially what the Parole Commission now does. The provision authorizing convictions to be set aside should not require a judge to treat someone as a first offender who has in fact been convicted previously of one or more offenses.

In the existing law, 18 U.S.C. 5025 authorizes the goverment of the District of Columbia to provide facilities and personnel for the treatment of committed youth offenders convicted of local jurisdiction crimes. A conforming amendment to the District of Columbia Code may be required to avoid inadvertent repeal of authority needed by the District government.

Section 8.—Section 8 of the bill deletes language in the Juvenile Delinquency Act that indicates that juvenile delinquents are to be released on parole under the same general criteria that are currently applied to adults. The provision that is referred to in the Juvenile Delinquency Act is substantially rewritten in section 5 above to provide for determinate sentencing. By deleting the reference to it, the bill leaves the Juvenile Delinquency Act very much as it now stands, and does not bring it into the sentencing guideline scheme. The Parole Commission is left with very broad authority to determine release dates.

Section 9.—Section 9 of the bill amends the provisions of the criminal law regarding bail on appeal. Existing law states that a convicted defendant who has filed an appeal is to be treated in accordance with the provisions governing release before trial unless the court finds that the appeal is frivolous or taken for the purpose of delay or has reason to believe that no conditions of release will reasonably assure that the defendant will not flee or pose a danger to others. The creation of an appeal from sentence will create a class of cases for which these rules are inapposite—cases in which the defendant's guilt is not in question and in which service of some prison term is virtually certain. That would be the case, for example, if a defendant who had pleaded guilty appealed a four-year sentence on the ground that the wrong guideline had been applied and the sentence should have been three years, or in a case in which the Government took an appeal to urge that the term of incarceration should be even longer than that imposed by the district judge. In such a case, there is no sound reason to delay commencement of the sentence, even though there may be no risk of flight or danger to the community. *See* American Bar Association, Standards Relating to Criminal Justice, Appellate Review of Sentences, Standard 20-2.2(iv). The bill provides that the court may order commencement of the sentence if it finds (1) that the validity of the conviction is not in question in the appeal, and (2) that there is no appreciable possibility that the sentence ultimately imposed will be for less than six months' imprisonment even if the appeal is successful. Rule 9(b) of the Federal Rules of Appellate Procedure, which requires the district court to state in writing the reasons for denying release pending appeal, would apply to decisions under the new provision.

Section 10.—Section 10 of the bill repeals rule 35 of the Federal Rules of Criminal Procedure, which gives district courts a broad authority to reduce or correct sentences within 120 days after the sentence is imposed or after the conviction is affirmed. It amends rule 32 of the Rules of Criminal Procedure to provide for an authority of more limited duration to reconsider a sentence after it has been announced.

Enactment of this bill would require a number of changes in the rules of procedure, and the bill reflects the view that on the whole such changes should be initiated by the Committee on Rules of Practice and Procedure. In view of the delayed effective date of all the provisions of the bill except for those concerned with developing the initial guidelines, there should be adequate time to follow the normal rulemaking procedure. Section 10 of the bill represents a limited departure from that principle, made because finality of sentences in the district court is so integral to the design of a system of appellate review of sentences. If sentences are to be reviewable on appeal, it is important that they not be tentative sentences. The amendments made here are designed to provide a fair but short opportunity for a party to move the trial court to reconsider a sentencing decision. After that period has passed, the sentence will not be further subject to change by the district court except in very limited circumstances (for example, upon remand or upon the granting of a motion under 28 U.S.C. 2255).

Under the bill, rule 35 is replaced with an amended rule 32(b)(1), which provides for a delay of ten days in the entry of judgment after the sentence has been announced. Within the ten-day period, either party may file a motion for reconsideration or the court may on its own motion direct reconsideration of the sentence, in which case the entry of judgment will be further delayed until the court reaffirms or modifies the sentence. Hence, either the Government or the defense will have an opportunity to make known to the trial court any alleged defects in the sentence as announced, and the trial court will have the ability to consider alleged defects before an appeal is taken. As has previously been noted, the proposed 18 U.S.C. 3743(b) would require that such defects be urged at the district court level before they may be urged in the court of appeals.

Subsection (a) of section 10 contains an amendment to rule 32(a)(2) that makes the advice a district judge is required to give about the defendant's right of appeal consistent with the new provisions about appeal of sentence. But for the fact that it was felt necessary to offer other amendments to this rule, this amendment would have been left for the Committee on Rules of Practice and Procedure.

Subsection (b) contains the amendment to rule 32(b)(1), providing the ten-day delay in entry of judgment.

Subsection (c) repeals rule 35.

Section 11.—Section 11 of the bill contains several technical and conforming amendments.

Subsection (a) repeals in indeterminate sentence provision in the firearms statute.

Subsection (b) deletes the magistrates' authority under the Youth Corrections Act on the ground that, under the bill's amendments to the Youth Corrections Act, the special problems that gave rise to a special provision for magistrates will no longer exist. Magistrates will be able to use the Youth Corrections Act just as judges will.

Subsection (c) makes it clear that, in an appeal from a magistrate to a district judge, the district judge may review the sentence to the same extent, and applying the same standards, that would apply to a court of appeals reviewing the judgment of a district court.

Subsection (d) contains some conforming amendments to the provisions about transfer of offenders serving terms of imprisonment in foreign countries. 18 U.S.C. 4106(c), which gives the Parole Commission a broad authority to determine release dates in these cases, is left intact.

Subsection (e) eliminates an indeterminate sentence provision in the Internal Revenue Code.

Subsection (f) changes some cross-references in the Public Health Service Act and is without substantive impact.

Section 12.—Section 12 provides effective dates for the new statutory provisions.

Subsection (a) makes the provisions with regard to the Committee on Sentencing Guidelines effective immediately. Initial guidelines are to be submitted to the Congress in something over two years after the enactment date, to become effective 180 days after submission.

Subsection (b) makes the substantive provisions of the act—the district court's obligations to use the guidelines as standards, the appellate review provisions, the change in the parole release authority, and related changes—effective on the effective date of the guidelines, but only for offenses committed after that effective date. It is not wholly free from doubt whether the guidelines could be constitutionally applied to offenses committed before their effective date. In view of the extensive changes made by the bill in both sentencing and parole authority, however, it seems appropriate to honor the *ex post facto* considerations without concern for determining the precise constitutional limits.

By Mr. MATSUNAGA (for himself, Mr. Long, Mr. Bentsen, Mr. Durenberger, and Mr. Grassley):

S. 1183. A bill to amend the Internal Revenue Code of 1954 to provide that certain indebtedness incurred by educational organizations in acquiring or improving real property shall not be treated as acquisition indebtedness for purposes of the tax on unrelated business taxable income; to the Committee on Finance.

DEBT-FINANCED REAL ESTATE INVESTMENT

Mr. MATSUNAGA. Mr. President, I am today introducing a bill along with Senators Long, Bentsen, Durenberger, and Grassley to correct an inequity under existing law. This inequity has hampered the endowment growth of colleges, universities, and schools; it has precluded these educational institutions from investing in debt-financed real estate.

PRESENT LAW

When a tax-exempt organization borrows money to buy real estate or any property, it may incur a tax. If the property is substantially related to the organization's exempt purpose—such as a new dormitory to house students enrolled at a college—there is no adverse tax effect. But if the property is acquired for investment, and is unrelated to the organization's exempt purpose, the organization is subject to a penalty tax.

That penalty tax is imposed on a percentage of the net investment income from the property. This percentage represents the ratio of the outstanding mortgage to the cost basis of the property. The penalty tax thus applies to property bought with borrowed funds. It also may apply to gifts and bequests of property which the tax exempt organization takes subject to an outstanding mortgage or debt under certain circumstances.

BACKGROUND OF PRESENT LAW

A variation of this penalty tax was applied to certain exempt organizations in 1950, when the tax was imposed on rental income from debt-financed real property. In 1969 Congress expanded the tax to apply to all exempt organizations and to all debt-financed property unrelated to the organization's exempt functions.

The 1969 Tax Reform Act addressed tax sham transactions. An operating business in such a transaction could convert ordinary income into long-term capital gains by way of an intermediary exempt organization. The exempt organization would eventually acquire the operating business assets with little or no payment of its own funds. In effect, the use of the exempt organization provided sufficient tax benefits to pay for the acquisition.

For example, a business would sell its operating assets to a university on a deferred payment basis. The university would be obligated to make payment only out of earnings from the assets. The university would then lease the assets to a new company formed by the original business. The company's rental payments to the university would equal the university's contract payment to the business on the deferred purchase.

As a result of this transaction, the business earnings from the operating assets would become deductible as rental payments to the university. The university would return the earnings to the business in the form of more favorably taxed, long-term capital gains, thus paying off the purchase cost of the business asset. An inflated price or an open-end price for the property would also provide the business with a significantly higher return before actual ownership passes to the university.

The 1969 Tax Reform Act ended this type of sham transaction by imposing the penalty tax on debt-financed income.

1980 EXCEPTION FOR PENSION TRUSTS

The 1969 Tax Reform Act has succeeded in controlling the acquisition of businesses by exempt organization utilizing their tax-free status. But the penalty tax also has prevented legitimate investments in debt-financed real estate, thus hampering investment diversification by exempt organizations

The Senate Finance Committee examined this restriction in 1980 and approved a special rule for tax-exempt pension plans. The 1980 Miscellaneous Revenue Act created an exception from the penalty tax for a pension plan's purchase of mortgaged real estate. To prevent the pre-1969 abuses from recurring, the legislation imposed certain safeguards:

First, the purchase price has to be a fixed amount and not open-ended.

Second, the debt payment cannot be contingent on earning from the property.

Third, the property cannot be leased back to the seller or to a party related to the seller.

Fourth, the property cannot be leased back to certain persons disqualified under the pension provisions.

Fifth, the property cannot be financed by a nonrecourse loan from a party either related to the seller or related to a person disqualified under the pension laws, if the loan is subordinate or if the loan carries less than the going interest rate.

This exception applied only to tax exempt employees' pension trusts.

PROPOSAL

Educational institutions, like pension plans earlier, have been deterred by the penalty tax from investing in debt-financed real estate. Colleges and schools have the same need to diversify their investments and maximize their investment income. That need has increased because of Federal program cuts and rising costs. But these schools are unable to buy significant real estate on a cash basis without any borrowing.

The proposed bill would extend the present exception for pension plans to educational organizations, including colleges and schools The same safeguard applicable to pension trusts would apply to foreclose abuse by educational organizations.

CONCLUSION

The proposed remedial change is one of the most important changes we can make to help colleges, universities, and private elementary and secondary schools to meet the added financial burdens imposed by the Federal Government. I urge my colleagues to consider the merits of this proposal and to lend their support.

By Mr. MATSUNAGA:

S. 1184. A bill to amend the Tariff Act of 1930 to increase from $250 to $1,000 the amount for informal entry of goods; to the Committee on Finance.

DUTY ENTRY AMOUNT

Mr. MATSUNAGA. Mr. President, I am today introducing a bill to increase the current $250 informal entry limitation for imported items to $1,000.

Under the Tariff Act of 1930, as amended, the Secretary of the Treasury may prescribe rules and regulations for the declaration and entry of merchandise when the aggregate value of the shipment does not exceed $250 in value. All other merchandise must be formally entered. This provision allows small importers to avoid the time-consuming formal declarations that are required under the law. In addition, the provision saves the Treasury Department from the time-consuming administrative process in clearing small shipments.

Since the enactment of the $250 informal entry limitation, inflation and the devaluation of the dollar, have greatly reduced the actual value of this provision. Many small importers now find themselves ensnaried by the time and paperwork necessary to process these small shipments which had previously entered under the informal entry limitation. In addition, the Treasury has expended additional time processing these small entries.

I introduced a similar bill to increase the informal entry limitation in the 96th Congress. In the 97th Congress, I reintroduced the proposal as S. 231. Both measures had the support of the Treasury Department.

However, various labor groups objected to the proposal. They argued that an increased duty entry amount would facilitate imports at a time when imports should be retarded. They also argued that the simplified entry procedure for more shipments would permit evasion of U.S. Customs laws. These groups consequently caused the Office of Management and Budget through the Commerce Department to retract the longstanding statement of administration support.

Increased customs policing is a separate matter; and I have fought—with only partial success—administration efforts to cut the Customs Service staffing and budget. The Customs Service has been reduced to such a point and its reamining personnel redirected to noncustoms duties that its performances of basic functions is open to question. As a consequence, more entries may escape customs policing due to the overworked and short staffing. Retaining formal entry for small shipments does not insure effective customs surveillance: but it does perpetutate bureaucratic paperwork and costs for businesses.

The proposal to increase the informal entry amount to $1,000 will facilitate customs clearance for importers and it realistically acknowledges the financial and staff limitations imposed on the Customs Service.

I urge the Senate to act on my bill to lessen the paperwork burden on small importers and also to save unnecessary administrative costs.

By Mr. MOYNIHAN (for himself, Mr. D'Amato, and Mr. Heinz):

S.J. Res. 89. A joint resolution designating May 24, 1983, as "Brooklyn Bridge Day"; to the Committee on the Judiciary.

BROOKLYN BRIDGE DAY

● Mr. MOYNIHAN. Mr. President, I rise today to introduce a joint resolution designating May 24, 1983, as "Brooklyn Bridge Day." A companion measure was introduced by Congressman Solarz and passed the House April 26.

The Brooklyn Bridge stands as a monument to the genious of American architecture. Constructed 100 years ago, the bridge took a full 13 years to complete. Its construction was not without cost. An investment of $15 million was required. And, tragically, at least 20 construction workers lost their lives in several accidents.

May 24 marks the 100th anniversary of the opening of the Brooklyn Bridge. I hope my colleagues will join me in paying tribute to one of the most spectacular engineering feats in American history.

Mr. President, I ask unanimous consent that the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 89

Whereas the Brooklyn Bridge opened in 1883 after 13 years of construction and at a cost of $15 million and was at the time the longest suspension bridge in the world;

Whereas the construction of the Brooklyn Bridge, using granite as a primary building material, was an unusual and extraordinary engineering feat which required, for its time, technological advancements;

Whereas construction workers on the project were placed at great risk, and the lives of at least 20 men were lost;

Whereas the roadway and the promenade invite use by both automobiles and pedestrians making the Brooklyn or "Great Bridge" truly a "Peoples Bridge";

Whereas its majesty and grandeur have inspired poets, playwrights authors, and cinematographers, giving the bridge a special place in the literary and cultural history of our Nation;

Whereas the Brooklyn Bridge unites the city of New York with the Borough of Brooklyn, its people, businesses, and cultural assets; and

Whereas May 24, 1983, is the 100th anniversary of the opening of the bridge: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 24, 1983, is designated "Brooklyn Bridge Day." The President is requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

Sec. 2. (a) The President shall transmit copies of the enrolled resolution to the Governor of the State of New York, the mayor of the city of New York, and the President of the Borough of Brooklyn of New York City.

(b) The Speaker of the House of Representatives and the President pro tempore of the Senate are authorized to appoint a delegation to attend the celebrations of the 100th anniversary of the opening of the Brooklyn Bridge to be held in New York City.●

● Mr. D'AMATO. Mr. President, today, I join my good friend and colleague, Senator Moynihan, in support of this resolution celebrating the 100th anniversary of the opening of the Brooklyn Bridge.

When the Brooklyn Bridge opened on May 24, 1883, newspapers of the day hailed it as the eighth wonder of the world. Clearly, the impact of the great bridge in our culture alone has been something of a wonder: there have been songs written about it; it has been featured in poems, novels, and plays by such noted American writers as Hart Crane, John Dos Passos, and Arthur Miller; and it has been sketched and painted by many American artists, including George

Bellows and Georgia O'Keefe. The bridge itself has always been regarded as a major American work of art.

The bridge, which took 14 years to complete, was a pioneering work in civil engineering. It measures more than 1 mile long, its main span being over 1½ times as long as any ever attempted at the time it was built. The two stone towers, each 276 feet high, were considerably taller than even the tallest buildings of the day. The towers, to this day, are supported by wooden caissons, great boxes which were driven into the river bed by the tremendous weight of the stone towers being built upon them. The boardwalk, built in the center of the bridge above the other traffic, is still the only walkway of its kind on such a major bridge.

The Brooklyn Bridge is a monument to the spirit of its designer, John Roebling, and his son, Col. Washington Roebling, who saw the bridge through to its completion. It is a testimonial to American ingenuity and symbolizes the greatness to which this country has aspired. On the anniversary of its 100th year, the Brooklyn Bridge serves as an inspiration to all Americans to aspire to such great heights again. I urge my colleagues to pass this resolution.●

ADDITIONAL COSPONSORS

S. 38

At the request of Mr. NICKLES, the name of the Senator from New Hampshire (Mr. HUMPHREY) was added as a cosponsor of S. 38, a bill entitled "The Long Shoremen's and Harbor Worker's Compensation Act."

S. 305

At the request of Mr. MATHIAS, the name of the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of S. 305, a bill to amend the National Housing Act to provide for a mortgage and loan interest reduction program, and for other purposes.

S. 399

At the request of Mr. JEPSEN, the name of the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 399, a bill to establish a Presidential Advisory Panel for Coordination of Government Debt Collection and Delinquency Prevention Activities.

S. 422

At the request of Mr. JEPSEN, the names of the Senator from Nebraska (Mr. ZORINSKY), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Nebraska (Mr. EXON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Wyoming (Mr. SIMPSON), the Senator from North Dakota (Mr. BURDICK), the Senator from Georgia (Mr. MATTINGLY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wisconsin (Mr. KASTEN), the Senator from South Dakota (Mr. PRESSLER), the Senator from Arizona (Mr. DECONCINI), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. PRYOR), the Senator from Michigan (Mr. RIEGLE), the Senator from Idaho (Mr. SYMMS), the Senator from Georgia (Mr. NUNN), the Senator from Alabama (Mr. HEFLIN), the Senator from Kansas (Mr. DOLE), the Senator from Minnesota (Mr. BOSCHWITZ), and the Senator from Indiana (Mr. QUAYLE) were added as cosponsors of S. 422, a bill to amend title 18 of the United States Code to provide a criminal penalty for robbery of a controlled substance.

S. 450

At the request of Mr. PRYOR, the name of the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 450, a bill to amend title 39, United States Code, to strengthen the investigatory and enforcement powers of the Postal Service by authorizing certain inspection authority and by providing for civil penalties for violations of orders under section 3005 of such title (pertaining to schemes for obtaining money by false representation or lotteries), and for other purposes.

S. 497

At the request of Mr. HUMPHREY, the name of the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 497, a bill to amend title 39 of the United States Code to provide that drug abuse oriented advertisements and shipments of drugs in response to drug abuse oriented advertisements shall be nonmailable matter.

S. 500

At the request of Mr. MATHIAS, the names of the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Alabama (Mr. HEFLIN) were added as cosponsors of S. 500, a bill entitled the "Christopher Columbus Quicentenary Jubilee Act."

S. 503

At the request of Mr. HUMPHREY, the name of the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 503, a bill to make it unlawful to manufacture, distribute, or possess with intent to distribute, a drug which is an imitation of a controlled substance or a drug which purports to act like a controlled substance.

S. 517

At the request of Mr. HATCH, the names of the Senator from North Carolina (Mr. HELMS), and the Senator from Minnesota (Mr. BOSCHWITZ) were added as cosponsors of S. 517, a bill for the relief of Doan Van Toai.

S. 596

At the request of Mr. PRYOR, the name of the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 596, a bill to provide surplus commodities to farmers who lost grain stored in certain insolvent warehouses.

S. 605

At the request of Mr. DANFORTH, the name of the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of S. 605, a bill to amend title 11, United States Code.

S. 663

At the request of Mr. ARMSTRONG, the name of the Senator from Nebraska (Mr. EXON) was added as a cosponsor of S. 663, a bill to prohibit the payment of certain agriculture incentives to persons who produce certain agricultural commodities on highly erodible land.

S. 771

At the request of Mr. HATCH, the names of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of S. 771, a bill to revise and extend provisions of the Public Health Service Act relating to health promotion and disease prevention, to provide for the establishment of centers for research and demonstrations concerning health promotion and disease prevention, and for other purposes.

S. 772

At the request of Mr. HATCH, the name of the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 772, a bill to promote public health by improving public awareness of the health consequences of smoking and to increase the effectiveness of Federal health officials in investigating and communicating to the public necessary health information, and for other purposes.

S. 823

At the request of Mr. JEPSEN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 823, a bill to amend the Natural Gas Policy Act of 1978 to clarify the definition of abuse, to restrain natural gas price increases by facilitating price responsiveness during periods when supplies exceed demand, to enhance competitive options for local distribution companies in purchasing the least expensive natural gas available, to repeal the incremental pricing of natural gas, and for other purposes.

S. 873

At the request of Mr. LUGAR, the name of the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 873, a bill to help insure the Nation's independent factual knowledge of the Soviet Union and Eastern European countries, to help maintain the national capability for advanced research and training on which that knowledge depends, and to provide partial financial support for national programs to serve both purposes.

S. 905

At the request of Mr. MATHIAS, the name of the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 905, a bill entitled the "National Archives and Records Administration Act of 1983".

S. 986

At the request of Mr. PRESSLER, the name of the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 986, a bill to repeal employer reporting requirements with respect to tips.

S. 994

At the request of Mr. PRYOR, the names of the Senator from Minnesota (Mr. DURENBERGER) and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of S. 994, a bill to prohibit the production of lethal binary chemical munitions by the United States and to call on the President to continue and intensify recently begun efforts in the Committee on Disarmament with the Government of the Union of Soviet Socialists Republics and other countries to achieve an agreement establishing a mutual, verifiable ban on the production and stockpiling of chemical weapons.

S. 1003

At the request of Mr. DENTON, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1003, a bill to extend and revise the provisions of the Child Abuse Prevention and Treatment Act and the Child Abuse Prevention Treatment and Adoption Reform Act of 1978.

S. 1006

At the request of Mr. SPECTER, the name of the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 1006, a bill to amend the Internal Revenue Code of 1954 to repeal the 15-percent reduction in percentage depletion for iron ore and coal.

S. 1029

At the request of Mr. SASSER, the name of the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 1029, a bill to amend the Equal Access to Justice Act to include appeals to a board of contract appeals.

S. 1036

At the request of Mr. DECONCINI, the name of the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of S. 1036, a bill to clarify the application of the antitrust laws to professional team sports leagues, to protect the public interest in maintaining the stability of professional team sports leagues, and for other purposes.

S. 1047

At the request of Mr. MELCHER, the name of the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 1047, a bill to direct the President to impose certain limitations on the amount of milk protein products that may be imported into the United States.

S. 1063

At the request of Mr. DECONCINI, the name of the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 1063, a bill to exclude from gross income any discharge of a mortgage debt on a principal residence occurring in 1982, and for other purposes.

S. 1159

At the request of Mr. HATFIELD, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1159, a bill to amend the Export Administration Act of 1979 to extend the provisions relating to the export of domestically produced crude oil.

SENATE JOINT RESOLUTION 23

At the request of Mr. DECONCINI, the name of the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of Senate Joint Resolution 23, a joint resolution proposing an amendment to the Constitution of the United States with respect to the number of terms of office which Members of the Senate and the House of Representatives may serve.

SENATE CONCURRENT RESOLUTION 23

At the request of Mr. ARMSTRONG, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of Senate Concurrent Resolution 23, a concurrent resolution to support the President's call for a more humane and ethical strategic policy.

SENATE CONCURRENT RESOLUTION 24

At the request of Mrs. HAWKINS, the names of the Senator from South Dakota (Mr. ABDNOR), and the Senator from Illinois (Mr. DIXON) were added as cosponsors of Senate Concurrent Resolution 24, a concurrent resolution expressing the sense of the Congress that the people of the United States should observe the month of May 1983 as Older Americans Month.

SENATE RESOLUTION 90

At the request of Mr. MATHIAS, the name of the Senator from New Mexico (Mr. BINGAMAN), and the Senator from Indiana (Mr. QUAYLE) were added as cosponsors of Senate Resolution 90, a resolution expressing the sense of the Senate that the Soviet Government should immediately release Anatoly Shcharansky and allow him to emigrate.

SENATE RESOLUTION 112

At the request of Mr. LUGAR, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of Senate Resolution 112, a resolution expressing the sense of the Senate with respect to the protection of refugees and civilians caught in the armed conflict on the border between Thailand and Kampuchea.

SENATE RESOLUTION 122

At the request of Mr. MOYNIHAN, the name of the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of Senate Resolution 122, a resolution expressing the sense of the Senate that the President should reduce imports of apparel so that imported apparel comprises no more than 25 percent of the American apparel market.

SENATE CONCURRENT RESOLUTION 29—RELATING TO THE FEDERAL ROLE IN EDUCATION

Mr. HOLLINGS (for himself and Mr. HATFIELD) submitted the following concurrent resolution, which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 29

Whereas, education is an essential attribute of our democratic society because an enlightened citizenry is necessary to fulfill the requirements of a Government of the people, by the people and for the people;

Whereas, all students should have access to educational programs regardless of their race, national origin, sex, economic background and handicapping conditions;

Whereas, all students should be afforded ample opportunity in the first twelve grades of school to prepare adequately for work or further vocational training or education;

Whereas, the Federal Government has the responsibility to ensure that access to such educational opportunities is not denied to anyone; and

Whereas, the Federal Government has the responsibility to protect national educational concerns and to provide for educational needs of children and youth as they affect national goals;

Resolved by the Senate (the House of Representatives concurring), That it is the national policy that the Federal Government contribute to the support of education in the United States, including—

(1) the coordination of development of national goals and priorities on the basis of national needs;

(2) the promotion of research, development and demonstration activities and the dissemination of information for the improvement of all education;

(3) the promotion of equality, equity, and accessibility to education for all;

(4) the provision of financial support for services designed to serve special populations;

(5) the provision of financial assistance to needy postsecondary students for their education;

(6) the provision of assistance to reduce the impact upon local and State educational agencies of the results of Federal policies or actions (such as energy boomtowns, refugees, and undocumented workers);

(7) the encouragement of educational programs which develop our human resources to meet economic, defense and other national needs; and

(8) the implementation of an effective Federal role in education through a Department of Education, acting as a center for the interpretation of laws, for meeting national needs, for setting priorities, and for distributing Federal support for education.

● Mr. HOLLINGS. Mr. President, on behalf of myself and Senator HATFIELD, today I am introducing a concurrent resolution expressing the sense of Congress that the Federal Government continue to contribute to the support of education. I think we can all agree that the Federal Government has a role in the education of the children and youth of our Nation, but the views on the extent of this role differ greatly. The national concern over the increasing Federal budget deficit and the search for programs to eliminate in order to reduce expenditures have brought the question of Federal involvement to the forefront. The weakened economy and increased fiscal constraints at the local and State levels have caused all of education to reexamine its priorities, but we must be careful not to destroy the vital education system this country has built over many, many years. Instead of more spending cuts in education we must rededicate ourselves to upgrading our education programs. The National Commission on Education Excellence makes this painfully clear.

Let me present a brief review of this Nation's commitment to education. It is not new. Historically, the Federal involvement in education has been extensive. The land ordinance of 1785 established a policy of Federal aid to education by providing that certain lands in each new State be set aside for public education. The Morrill Act of 1862—the land grant college act—was passed to promote education in agriculture and the mechanical arts. The Smith-Hughes Act of 1917, the forerunner to the Vocational Education Act, was enacted to promote the national interest in a population educated and able to work. In the 1940's Federal concern for the education of our returning veterans resulted in the Full Employment and Training Act of 1946—the GI bill.

As the country grew and our educational needs changed, the Federal Government continued to respond. The National Defense Education Act of 1959 was designed to promote math, science, and language instruction. In 1965, the Federal commitment to education, and our national vision of education as a means to a government by free citizens, led to the enactment of the Elementary and Secondary Education Act (ESEA). These examples exhibit much more than a passing interest in a Federal role in education. They suggest some of the critical national purposes underlying the Federal role in education ranging from economic development to national security to insuring an equitable education for all and the ability of a nation to respond to the changing needs of a growing country. This must not change. If anything, this commitment must increase. Our country must continue to grow and prosper intellectually, technologically, and economically if we are to meet the competition from abroad in the years ahead. This is only possible if we continue the path of our forefathers and meet the educational needs of our citizens.

In a country with a rich and diverse educational system, defining national objectives is difficult but we believe widespread ageement exists as to the overall goals of public education. All students should have access to a free public education regardless of sex, handicapping conditions, race, national origin, or the economic background from which they come. Students should leave school with a basic education which includes at least the basic skills of reading, writing, mathematics, and the ability to reason and solve problems; an understanding of U.S. history, and an overview of the history, geography, and culture of our countries; an understanding of science and technology; an understanding of our Government; and an appreciation of the arts and humanities. Students should have the opportunity to prepare adequately for work, further training, or additional education in institutions of higher education. The educational system should be one which provides a reasonably appropriate number of doctors, carpenters, math teachers, computer experts—a diversity of workers; is accessible to those who have left formal school early and wish to return; encourages students of all abilities to reach higher levels of achievement. The educational system must set standards, as well as encourage and recognize achievement.

Just how do we get the various governmental entities to work together to achieve these ends and at a time of increased demand for specialties yet with fewer resources? We must have a Federal Government which provides leadership and coordination of an educational system based on the awareness of national needs. The Federal Government is the most appropriate leader in this effort. It has the widest financial base, the broadest perspective on national needs, the ability to distribute resources equitably, and the responsibility to protect national concerns. The education of our citizenry is a national concern.

While the needs are great, we are all aware of our limited financial resources. Only around 7 percent of the total education dollar comes from the Federal Government. These limited resources must be allocated by the Federal Government to meet the specific needs which are not solely local and State responsibilities. In doing so, priorities must be established to aid the Federal Government in its limited involvement in education. Basically, these priorities include a concern for access and equity; support for special populations such as the disadvantaged and handicapped; promotion of research, innovation, and development; coordination of data gathering and analysis; support of human capital development; and reduction of the impact the unintended consequences to State and local education agencies of national defense, immigration, and other Federal policies.

The legislation providing Federal financial assistance to supplement efforts of States and local school districts should contain provisions which allow both SEA's and LEA's flexibility under both Federal statutes and regulations. Whenever possible, programs with a similar purpose and reaching a common population should be consolidated. The forward-funding aspect should be maintained with no rescissions or deferrals in order to meet the planning needs of States and local districts. Fiscal accountability and audit responsibilities should be clearly defined. To insure that State and local programs may be coordinated, Federal funds should flow through SEA's. And Federal mandate should provide adequate funding to SEA's and LEA's to implement the mandate.

It is very important that the Federal role in education be coordinated with the States' efforts. These efforts should be directed toward leadership in establishing education standards and by evaluating their educational programs. The States should, among other things, provide demonstration and dissemination projects, collect data, increase educational quality, provide funds to equalize educational opportunity within each State, distribute Federal funds within the State, and coordinate reporting or accounting for these funds to the Federal Government.

The role of the local school board or government is another integral part of the network. It should set education standards for its districts, operate school programs, respond to parental, student, and community concerns, provide local financial management and accountability, and provide necessary financial support for district programs. And it must provide credible leadership to maintain broad community support for and involvement in the local education system.

In order to meet our country's educational goals, each part must contribute to the whole. The local school district knows the individual needs of the area and has the responsibility to operate the schools. Using the knowledge of local needs, the State must set standards, provide leadership, technical assistance, and financial support. And finally, the Federal Government should be supportive of State and local districts by addressing national needs, providing for research and assessment, insuring access to the educational system and providing a broad base of financial support. The Federal effort should be to supplement, not supplant, the State and local role. Such a coordinated effort must be undertaken to strengthen the total educational enterprise and insure the development of an educated citizenry to meet the changing requirement of our Nation. To do otherwise would be to lessen our capacity to meet the competitive challenges from other nations.●

● Mr. HATFIELD. Mr. President, I am happy today to join with my colleague Senator HOLLINGS in introducing this resolution on national priorities in education. Education is the ultimate foundation of a free society, without which no other institution can long survive. Our national defense, our family structures, our physical environment, and our social framework are built on an inverse pyramid, with education as the lowest common denominator.

With great platitudes, people of all political and social persuasions speak of "good education" for our youth and adults. But what really constitutes good education? Does it mean separate but equal? Of course not. Does it mean that only wealthy students should receive a superior education? Not if a just society is to survive. Does it mean we neglect nontraditional students, the handicapped, minorities, older students? If we do, we are not merely short-sighted, but we turn our back on humanity itself.

We need to develop a comprehensive educational policy that looks beyond legitimate fiscal constraints of our budget process and precisely focuses on our needs for the next 20 years. I am not suggesting we abandon our traditional structure of local control of specific educational goals; far from it. I have long been an advocate for strong local school policies that reflect the wishes of parents and the community. But far too often, we view strong national policies as being automatically in conflict with local goals. This need not be the case.

We can assure equal access to education, support research and development of educational improvement technologies. We can focus on vocational training and adult basic education without destroying other programs, and without undercutting local responsibilities.

Indeed, with strong national goals and an effective Department of Education implementing a comprehensive policy, we should be able to free local school boards from the bondage of Federal purse strings. We can supply Federal dollars to our States and districts without tying their hands.

It is crystal clear that we must move forward, now, to build a new educational structure, broaden the base of the education pyramid, and elevate education to its proper place within our Government and our society.●

SENATE RESOLUTION 126—RELATING TO ESTATE TAX

Mr. WALLOP (for himself, Mr. BOREN, Mr. SYMMS, Mr. DURENBERGER, Mr. GRASSLEY, Mr. BENTSEN, Mr. DOLE, Mr. ROTH, Mr. BAUCUS, Mr. ABDNOR, Mr. HELMS, Mr. SIMPSON, Mr. KASTEN, Mr. D'AMATO, Mr. ANDREWS, Mr. HUDDLESTON, and Mr. LUGAR) submitted the following resolution, which was referred to the Committee on Finance:

S. RES. 126

Whereas the Federal estate tax laws should not interfere with the objective of the United States Government to encourage the continuation of family farms and small businesses;

Whereas the imposition of Federal estate taxes on relatively small estates which include interests in a family farm or a small business often results in the forced sale of such farm or business;

Whereas inflation has increased the dollar value of property and the transfer tax burden without increasing real wealth; and

Whereas the changes made in the Federal estate tax law by the Economic Recovery Tax Act of 1981 make it possible for families to tranfer their farms and small businesses to the next generation with sufficient financial integrity to ensure investment in, and improvement of, such farms and businesses: Now, therefore be it

Resolved, That it is the sense of the Senate that—

(1) the changes in Federal estate tax laws which were made by the Economic Recovery Tax Act of 1981 are vital to the continuation of the family farm and small business, and

(2) in order to ensure that the American people can depend on the solid community of family farms and small businesses which make up the backbone of the American economy, such changes should not be repealed or amended and allowed to run their course.

Mr. WALLOP. Mr. President, it was 2 years ago last February that I came to the floor of the Senate to offer S. 395, the Family Enterprise Estate and Gift Tax Equity Act. With the assistance of my good friends and colleagues from Oklahoma and Kansas, Senators BOREN, and DOLE and 44 other cosponsors, we saw S. 395 enacted into law as part of the Economic Recovery Tax Act of 1981. By enacting that legislation we recognized many of the inequities in the gift and estate tax laws and brought relief to many of our family-owned farms and small enterprises which were being devastated by the inevitable push of inflation on their small estates.

With the gift and estate tax changes we made in 1981, the heavy estate tax burdens which had made it harshly difficult or even impossible for farmers, ranchers, and small businessmen to pass their operations to the next generation were significantly modified. We at last recognized that when estate taxes force farmers or family-owned businesses to sell out to larger farmers or corporations, then we create a punitive Government policy which forces evil changes in the economic landscape of this Nation.

The sole policy goal of estate taxes is to "prevent the excessive accumulation of wealth from one generation to the next." We found, however, that in most instances the estate and gift taxes were primarily interfering with the transfer of small businesses and farms from one generation to the next, by promoting the transfer of wealth to corporate America.

Mr. President, we have eliminated the widow's tax by removing all limitation on the marital deduction for estate and gift tax purposes. Under the old estate tax law, a farm wife who toiled next to her husband for years and years, found that upon her husband's death, she fell victim to estate taxes. What was so totally insulting and unfair was that farm wives not only had to pay inheritance taxes on estates that they themselves had poured their sweat and blood into, but found it extremely difficult to prove to the IRS their own significant financial contribution to the operation of the ranch or farm. Thankfully, we corrected that injustice, and we recognized that it is not just an individual that owns and operates a ranch, or farm, or small business, but a family that owns it as "ours," not my husband's or my wife's.

We were also successful in making changes to the special use valuation rules for farm and ranch property. Much of the increase in the value of farmland can be attributed to the fact that outside investors found prime farmland an attractive investment and bid up the price for that land. In addition, the burden of estate taxes was forcing unwilling farmers and ranchers to sell their land, or part of it, to satisfy their estate tax obligations. The result was that more and more of our best agricultural lands were being covered by layers of asphalt and cement—so much so that it is estimated that 3 million acres of farmland each year is being converted to nonagricultural use.

Growth, almost by definition, means that open space is being converted into housing developments and shopping centers to accommodate that growth. The problem we faced in 1981 was that we had made that conversion a choice from which the American farmer who wanted his family to continue farming or ranching had no escape—it was no choice at all. The estate tax laws simply forced the sale of some of our best agricultural lands. The law we passed in 1981 draws a careful balance between the active farmer and rancher, and the so-called Wall Street cowboy, in an effort to remove the estate tax barriers to passing down the family farm to continue the farming tradition.

But Mr. President, the budget process is threatening the very progress we made with our estate tax laws. Rather than recognizing there are just some Government programs we can no longer afford, there is growing sentiment to spend even more and reduce the deficit through greater and greater taxes. While ideas for raising taxes abound, one notion which poses a very clear threat to the estate tax changes we passed just 2 years ago is the so-called freeze—freezing the scheduled tax reductions passed in 1981 to their phased-in levels as of the end of this year.

What that means is a broken promise. What that means is that the scheduled phase-in of the changes made in the unified gift and estate tax credit and the rate cut will be stopped before even half of the relief we promised our small business men and women, our ranchers, and our farmers, is put in place. If this is allowed to happen, we will be telling the very symbols of American productivity, our small businesses, ranchers, and farmers, that this Congress is more willing to break its promises to them than to reduce our seemingly unconstrained ability to spend money we simply do not have. We are more willing to put family farms and ranches into corporations or subdivisions than secure their future.

Mr. President, it is with pride that I join many of my colleagues today in introducing a "sense of the Senate" resolution which states our firm resolve that the estate tax changes we fought so hard to attain for our farmers and ranchers, our small-business entrepreneurs, and others be retained and allowed to run their course. It is my hope that by the introduction of this resolution we are sending a very strong message to our colleagues on both sides of the Hill that we simply cannot tolerate any attempt to balance the budget on the backs of those individuals who work so very hard to feed this Nation and to provide the jobs in our economy and stability in our society.

● **Mr. D'AMATO.** Mr. President, I rise today in support of the resolution which expresses the vehement opposition of this august body to the proposed freeze on tax benefits which would otherwise accrue to estates, especially family farms, and generally to bring attention to the plight of America's farm community. As a member of the Family Farm Subcommittee, I have become more aware of the vital role played by the transfer from generation to generation of the increasingly complex knowledge required to run a farm. This continuity has been instrumental in forging American leadership in agriculture. It is this continuity that is threatened by this ill-considered proposal to prevent previously legislated estate tax changes to go into effect as scheduled.

When the tax package was approved by Congress, I strongly supported the inclusion of the estate tax provisions. Freezing the reductions at the levels already realized would be a drastic action. The maximum tax rate reduction would be halved from 20 to 10 percent, leaving it at an excessively high 60 percent rate. The basic exemption would be held at $275,000, instead of being allowed to gradually rise to $600,000 by 1987. This clearly will leave the family farmer in a situation where he must compete with corporate farms that are not deprived of vast amounts of their working capital every generation. This provision, if allowed to go into effect as scheduled, will add badly needed equity to the imbalanced agricultural sector. I urge my fellow Senators to support it.

My concern for the needs of our farm community do not end with this resolution. Other concerns that I have with respect to America's agricultural community are many, but foremost among them are the inequitable dairy assessment program, the decline of exports of agricultural products, and the new funding formula for soil conservation programs. The dairy assessment is an ill-conceived and badly designed plan. It will not solve the problem of excess production; in fact, as farmers move to cover fixed costs, it will probably make that aspect of the problem much worse. That is why I have decided to press for its repeal.

The recent decline in agricultural exports is also of great personal concern to me. Were it not for these vital products, our trade picture would be hopelessly imbalanced. It is both my hope and my belief that the 98th Congress will redress the legitimate grievances held by American farmers and merchants who must compete with subsidized exports of agricultural products from other nations. Given the opportunity to compete in a free and fair market, the American farmer will prevail.

Additionally, the new funding formula for the Soil Conservation Service (SCS) is a step in the right direction, but a very awkward step. It rightfully targets funds to those areas which are suffering from significant erosion, but fails to tie that erosion directly to crop production. I believe that with such a change in direction the SCS formula could prove to be a genuine boon to American agriculture.

I thus urge my fellow Senators to adopt this resolution. It will protect the very equitable estate tax provisions which, by their original enactment, we have already signified as necessary. We should not renege on our commitment to the family farmer.●

● **Mr. ABDNOR.** Mr. President, I rise in support of the resolution being introduced today to show the Congress interest in preserving the estate tax changes enacted in 1981.

With wisdom and foresight, this body approved the estate tax provisions of the Economic Recovery Tax Act and reneging on full implementation of this law serves no useful purpose. The prime beneficiary of estate tax changes are family-owned small businesses and farms. Small enterprises are the lifeblood of our economy and they deserve protection from the heavy hand of taxation, especially at the unfortunate time of death of one of the owners of a business. It is unfortunate that many businesses have not been passed on to other family members because of Federal tax liabilities. The survival of family business from one generation to the next often hinges on estate tax planning, which in itself is a costly undertaking. The current law takes much of the sting out of inheriting a family farm or business.

Inflation has raised the value of property and businesses artificially. Much of the increase in the unified credit against estate taxes serves only to offset the effects of inflation. For that reason alone, the full implementation of the 1981 estate tax changes is justified.

Taxes are generally imposed to provide benefits for, or to improve the quality of life of, members of our society. The trend toward increased reliance on user fees is an indication of taxpayers' demands to see a greater link between the use of and payment for governmental services. Estate taxation runs counter to this philosophy. In order to pay this tax, a person must die, making it impossible for him to receive a return on his tax investment.

In my view, allowing family-owned farms and small business to remain in the family is not only good social policy, it is good economic policy as well. It is not just the members of the family who will benefit but our economy and our society as a whole. The productivity of America's family-owned farms and small businesses is renowned, and no good purpose will be served by forcing them to dissolve through confiscatory taxation.

Again, I am pleased to endorse this resolution. I join my colleagues who show their support for a law that was put into effect for good reason.●

● **Mr. GRASSLEY.** Mr. President, I am proud to join Senator WALLOP as a sponsor of this important measure to resist any escalation in the amount of the unified credit for estate and gift tax purposes.

In the Economic Recovery Tax Act of 1981, Congress enacted an increase in the unified credit from $47,000 to $192,000 over a 5-year period. The unified credit is an offset against estate tax liability; consequently, a credit of $47,000 permits the first $175,000 of an estate to pass to beneficiaries free of Federal tax. The escalating unified credit enables a $275,000 estate to pass tax free this year, a $325,000 estate to pass tax free in 1984, a $400,000 estate to pass tax free in 1985, a $500,000 estate to pass tax free in 1986, and a $600,000 estate to pass tax free in subsequent years.

Why is the achievement of a $600,000 Federal estate tax exclusion crucial to the sponsors of this bill? The average size of an Iowa farm in 1982 was 294 acres, according to the Iowa Department of Agriculture's Iowa Crop and Livestock Reporting Service. Iowa State University's Cooperative Extension Service tabulates the average value of farmland by acre. In 1981, the average per acre value of Iowa land was $2,147; in 1982, it fell to $1,801 per acre. These statistics show that the average Iowa farm in 1981 was worth $731,218 and the average Iowa farm in 1982 was worth $529,494. With an exclusion of $225,000 in 1982, the average Iowa farm had a taxable value for estate tax purposes, given no other adjustments, of $304,000.

Note, this is the average Iowa farmer and the average price per acre after a dramatic reduction in land values. These are not wealthy, investor-farmers who earn most of their income in other occupations. These are average Iowa farmers whose net farm income has declined over the past few years to dangerously low levels. Iowa's average farmer's survivors would owe the Federal Treasury $89,160 after the exclusion is applied which we added in ERTA. A tax bill approaching $90,000 is difficult to pay considering the average net farm income in 1981 in Iowa was $15,845.

To conclude, Senator Wallop's efforts in trying to preserve the escalating unified credit is of critical importance to farming families in my home State.

I urge my colleagues to join this effort and resist any change in this important estate tax change enacted in 1981.●

SENATE RESOLUTION 127—MAKING THE SELECT COMMITTEE ON INDIAN AFFAIRS A PERMANENT COMMITTEE OF THE SENATE

Mr. ANDREWS (for himself, Mr. Melcher, Mr. Goldwater, Mr. Inouye, Mr. Murkowski, Mr. DeConcini, Mr. Boschwitz, Mr. Baucus, Mr. Domenici, Mr. Boren, Mr. Durenberger, Mr. Burdick, Mr. Garn, Mr. Cranston, Mr. Hatch, Mr. Hatfield, Mr. Kennedy, Mr. Helms, Mr. Levin, Mr. Pressler, Mr. Matsunaga, Mr. Stevens, Mr. Bingaman, Mr. Hecht, Mr. Dodd, Mr. Laxalt, and Mr. Hart) submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. Res. 127

Resolved, That section 105 of Senate Resolution 4, 95th Congress, agreed to February 4 (legislative day, February 1), 1977, as amended, is amended

(1) by striking out "temporary" in subsection (a)(1); and

(2) by striking out subsection (d).

Mr. ANDREWS. Mr. President, I am pleased to submit today a resolution to establish the Select Committee on Indian Affairs as a permanent committee of the Senate.

The Indian Affairs Committee was established under Senate Resolution 4, the Committee System Reorganization Amendments of 1977, as a temporary committee of the Senate. In creating this committee, the Senate was acting on the recommendation of the American Indian Policy Review Commission which had only recently completed its work. The Policy Review Commission had been established by act of Congress in 1974 and several Members of the Senate and the House of Representatives, in addition to representations of the Indian community served on it. The Commission was authorized to study the status of Indians and Indian tribes in the United States and to make recommendations to Congress concerning Federal Indian policy. In 1977, the Commission submitted a final report which summarized its findings and made 206 recommendations to Congress for changes in the Indian policy of the United States. Among these recommendations was reestablishment of permanent Committees on Indian Affairs in both the Senate and the House of Representatives. The Senate adopted this recommendation but departed from it by making the Indian Affairs Committee a temporary, rather than permanent, committee of the Senate.

Since its creation, the Indian Affairs Committee has twice been extended by the Senate. The first extension authorized the committee to continue operations until the end of the 96th Congress. As that time drew near, the Senate Rules Committee reported out a resolution that, like the resolution I am introducing today, would have made the Indian Affairs Committee a permanent committee of the Senate. This resolution was amended on the floor, however, to provide for a 3-year extension. Under its current authority, the Indian Affairs Committee will continue to operate until January 2, 1984, at which time its responsibilities will be transferred to the Committee on Labor and Human Resources.

The establishment of the Indian Affairs Committee as a permanent committee of the Senate is compelled by a variety of factors including the breadth and complexity of the field of Indian affairs, the role of Indian tribes within the governmental structure of the United States, the specific and unique responsibilities of Congress to Indian affairs, the role of the Indian Affairs Committee within the Senate, and, most important, the best method for addressing the longstanding problems that afflict this field. Although all these factors are intertwined, I would like to address them separately to shed light on the importance of each to the resolution I am introducing.

RESPONSIBILITY OF CONGRESS IN THE FIELD OF INDIAN AFFAIRS

Mr. President, under the Constitution of the United States, the Congress is charged with primary responsibility over Indian affairs. The drafters of the Constitution provided in article I, section 8, clause 3, that Congress would have the sole authority "To regulate Commerce * * * with the Indian Tribes." The allocation of responsibility over Indian matters to Congress was quite deliberate and was accomplished against the background of difficult problems posed by a less exact allocation of authority to the Articles of Confederation government in the preconstitutional period of our country's history.

Decisions of the U.S. Supreme Court has since recognized this deliberate and broad delegation of authority to the Congress. In numerous decisions, the Court has recognized the fundamental role of Congress in Indian affairs and has broadly construed the authority contained in article I, section 8, clause 3 as investing Congress with "plenary" power in this area.

This broad grant of authority carries with it, as a necessary concommitant, a great responsibility. Since the adoption of the Constitution, Congress has, for the most part, met this responsibility. In its very first Congress, several comprehensive and important statutes ordering the relations of the United States with the Indian tribes. At least one of these statutes, the Nonintercourse Act of 1790, remains in effect in substantially the same form in which it was enacted and is considered one of the cornerstones of the field.

In the years that followed, Congress was intimately involved with the great developments and changes in the policy of the United States toward the Indian tribes. Such seminal acts as the Indian Removal Act of 1830, the Trade and Intercourse Act of 1834, the General Allotment Act of 1887, and the Indian Reorganization Act of 1934 were enacted with the deep involvement of Congress. Even the Termination Acts of the 1950's although now repudiated as a policy, were enacted by a Congress whose interest was deep and genuine and whose involvement was considerable.

The consistent theme linking all these major acts of Congress, is that, in enacting them, the Congress, and more particularly the Senate, was deeply and knowingly involved.

Today, the Select Committee on Indian Affairs discharges the historical and constitutional responsibilities of the Senate toward Indian Affairs.

Mr. President, earlier in this statement I observed that authority over Indian matters lies primarily and fundmentally with Congress and that this responsibility assumes a responsibility in Congress. In my view, this responsibility requires, at a minimum, that Congress act knowingly when acting with respect to this field. Several factors make it difficult, if not impossible, for the Senate to consistently meet this requirement without the existence of a committee of specialized expertise.

First, the series of major acts of Congress in the field of Indian affairs which I just recited do not necessarily supersede each other. On the contrary, they provide an intricate series of overlays, each related to the other. Furthermore, these broad statutes are further supplemented by statutes of special application that affect either a specific tribe or a specific policy. Understanding and interpreting this body of statutory law is one of the responsibilities of the committee.

Second, in addition to the complex body of statutory law that I have just described, Indian affairs is governed by a vastly complex body of case law developed through many decisions of the Supreme Court and the lower Federal courts. This case law has been developed over the last 150 years through the traditional process that characterizes the field of the common law. This process is as vigorous today as at any time in the past and frequently conditions or prompts further acts of Congress.

Third, under the laws of the United States, Indian tribes are separate and distinct units of government and are not subdivisions of States or counties. As a result, the problems that confront Indian tribes cover the entire spectrum of issues that face non-Indian communities. For example, these range from health care, road maintenance, law enforcement, and education to wildlife management, mineral resource development, and the attraction of private capital for long-term economic development. In addressing these issues, however, Indian tribes deal with an element that differentiates them from the non-Indian communities and that is that they must be resolved within the context of Federal action and that the legislative body of exclusive jurisdiction is the Congress of the United States.

Having set forth these characteristics of the field of Indian affairs, I would like now to turn to the role of the Indian Affairs Committee within the committee system.

ROLE OF THE INDIAN AFFAIRS COMMITTEE WITHIN THE SENATE COMMITTEE SYSTEM

At the outset I should make clear the breadth of the mandate of the Indian Affairs Committee. Under our enabling resolution, the Indian Affairs Committee is charged with examining ". . . any and all matters pertaining to problems and opportunities of Indians. . . " In meeting this mandate, the Indian Affairs Committee deals with Indian affairs in the broadest sense of the term. It would be a mistake to infer that the committee exists as an advocate for the interests of Indians and Indian tribes alone. Rather, the the Indian Affairs Committee exists as a forum for the airing of views by all those people, Indian and non-Indian, whose lives are touched by Federal Indian policy.

I have already referred to the complex body of statutory and judge-made law that governs this field and the special responsibility of Congress to it. At present, one of the great risks that faces the Indian world is the enactment of legislation of general application that has an unintended impact on Indian affairs. It will come as no news to my colleagues that Congress enacts a great deal of legislation each year. Much of this legislation should apply to Indian country but may require adjustment to insure that it does not conflict with other principles governing the field. By working with other committees of the Senate, the Indian Affairs Committee, provides the Senate with an institutional means of guarding against an unintended legislative effect on Indian affairs.

A second and equally important consideration is that, under judicially developed canons of construction, acts of Congress are frequently held to strict standards of specificity before they will be considered to apply to Indian tribes. The existence of these canons does not guarantee uniform interpretation of acts of Congress but they do insure that ambiguity will invite litigation to determine the intent of Congress. Such court tests can be expensive and, from the perspective of the Indian Affairs Committee, are often predictable. Again, by working with other committees of the Senate, the Indian Affairs Committee can insure that proposed legislation has the intended effect.

Another purpose served by the Indian Affairs Committee turns on the breadth of problems that face Indian tribes as communities. These problems, which I referred to earlier, cut across the jurisdiction of virtually every committee in the Senate. In no committee, however, would they constitute such a significant portion of that committee's jurisdiction that they would be guaranteed adequate treatment. The Indian Affairs Committee through its direct jurisdiction and in its oversight capacity has served the Senate by insuring that these problems receive individual attention. By holding proposed legislation against a uniform policy, the committee also insures that it is neither inconsistent with past acts of Congress nor conflicts with current Federal Indian policy.

It is not a slight to the other committees of Congress to state that they would be unable to give this field the attention that it has received from the Indian Affairs Committee. It is, rather, a realistic assessment of the demands placed on each committee and on the members of those committees. We are all familiar with the demands on our time and of the many interests that compete for and deserve our attention. The existence of the Indian Affairs Committee makes certain that, at least in this field where the congressional responsibility is so fundamental, the Senate is capable of giving it that attention.

Having described the role of the Select Committee on Indian Affairs within the Senate committee system, I would like now to turn to the accomplishments of the committee over the last three Congresses

ACCOMPLISHMENTS OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

Since its inception, the Indian Affairs Committee has been extremely active. One measure of that activity is simply the number of hearings that have been held by the committee. In the 95th Congress, the committee held 51 hearings. This was followed in the 96th Congress by 48 hearings and by the 97th Congress where the committee held 51 hearings.

Over the three Congresses in which it has been in existence the committee has averaged the enactment of 26 items into law in each Congress. In the Congress just passed, some 60 bills or resolutions were referred to the committee and it received 53 executive communications. In addition, the committee was very active through its oversight capacity in gaining the information necessary to approach such perennial problems as economic development on Indian reservations and improvements in the Indian Self-Determination Act.

I will only take a moment to describe some of the more significant accomplishments of the Indian Affairs Committee in the 97th Congress. Working with the Interior Appropriations Subcommittee, the Indian Affairs Committee was able to secure the enactment of an extension of 28 U.S.C. 2415, the statute of limitations governing Indian claims seeking monetary damages for tort or contract violations. Through two hearings on the subject, the committee was able to develop a process whereby the 17,000 claims that fall within this statute will be finally considered.

In addition, the committee passed legislation to resolve the water claims to the Papago Tribe of Arizona and the status of the Kickapoo Tribe of Texas. The committee pursued a vigorous investigation of allegations of oil and gas thefts on Indian lands that prompted the establishment of a Presidential commission to investigate these allegations. The recommendations of the commission, in turn, led to the introduction of legislation to overhaul of the royalty accounting system for both Indian and public domain lands. In shaping the solution to the oil and gas problem, the Indian Affairs Committee worked closely and effectively with the Senate Committee on Energy and Natural Resources.

The committee also reviewed and slowed an imperfect plan for the reorganization of the Bureau of Indian Affairs; it held extensive hearings on a proposal to resolve land claims based on alleged violations of the Trade and Intercourse Act by omnibus legislation; and enacted important legislation providing greater latitude for Indian tribes in contracting for the development of their mineral resources.

Perhaps the most important accomplishment of the Indian Affairs Committee in the 97th Congress was its examination of the entire Federal budget pertaining to Indian affairs. Until 1981, no complete report on the Federal Indian budget had ever been prepared by a committee of Congress. In that year, however, the committee prepared such an analysis and followed it, in 1982, with a thorough analysis of the Federal Indian budget that was submitted to the Budget Committee under section 301(c) of the Budget Act. Again, this year, the committee completed this report and submitted it to the Budget Committee. These reports have served as the basis for the committee's fulfillment of the authorizing function over Federal Indian programs which, in turn, is leading to a greater understanding of the impact and effectiveness of Federal programs on Indian reservations.

In the 98th Congress, the committee has already held comprehensive hearings on the Federal Indian budget which resulted in the report I just described. It has also reported legislation that would extend the Tribally Controlled Community Colleges Act and the Senate has passed four other items that the committee ordered reported in February. Last week, the committee held a hearing on legislation to improve the Federal Indian housing program and the committee is anticipating further hearings on how to attract private capital onto Indian reservations for the purpose of economic development.

THE NEED FOR A PERMANENT COMMITTEE ON INDIAN AFFAIRS

Despite the activity of the Indian Affairs Committee since its inception and the specific responsibility of Congress in the field of Indian affairs, it might still be asked why does the Senate need a permanent Indian Affairs Committee. The answer lies in the unique character of the field and of the continuing responsibility of Congress to it.

First, it bears special emphasis that a Federal role in Indian affairs is here to stay. Earlier assumptions that the Federal Government would only stay in Indian affairs as long as was necessary to instruct the Indian tribes in the ways of our society have given way to the position that Indian tribes are a permanent part of our Federal fabric. In a message on Indian affairs in 1970, President Nixon described this policy as being "* * * to strengthen the Indian's sense of autonomy without threatening his sense of community." Earlier this year, President Reagan in a major statement on Indian affairs reconfirmed the commitment of this Nation to the development of strong, self-sufficient tribal governments.

Because Indian tribes are a permanent part of the Federal governmental structure, the responsibility of both the Indian Affairs Committee and Congress extend far beyond simply addressing those problems that lacked appropriate attention in the years since the disestablishment of the Indian Affairs Committees of both Houses in 1946 or implementing the recommendations of the American Indian Policy Review Commission. The responsibility extends to making certain that the Senate is capable of bringing to this field a level of attention that is of such a quality and of such sustained duration that it will be capable of participating in the formulation, as well as the implementation, of the changes that are certain to come in Federal Indian policy.

The need for an Indian Affairs Committee becomes more apparent when one considers that the field of Indian affairs is in a great state of flux and progress. In the last 15 years, there has been a great deal of activity both within the Federal courts and here in Congress as previously undefined concepts that govern the field have received further definition. At the heart of much of this controversy has been the definition of those powers that an Indian tribe needs to determine its future in the same way that other governments within our Federal system determine their futures. This activity points to an ever-increasing role for Congress in the coming years as the United States and Indian tribes together develop a policy that will meet the tribes' need for control over their futures and will continue to honor the special trust relationship that the United States holds toward those tribes.

Mr. President, in sum, I would like to say that Indian affairs and Indian tribes are a permanent part of the American society. Congress, and the Senate, have the primary responsibility for this field under the Constitution and that this assignment of responsibility invests Congress with an obligation to act knowledgeably and consistently when dealing with the field. It also requires Congress to give the field its sustained attention and to participate in the development of solutions to the problems that now afflict it.

The Indian Affairs Committee provides the Senate with the means by which it can bring its attention to bear on Indian matters and this quality is placed greatly at risk if jurisdiction over the field is fragmented among the many committees that could claim a portion of it.

Mr. President, I take pleasure in introducing this resolution today and urge my colleagues to give their wholehearted and vigorous support.

Mr. MELCHER. Mr. President, as the ranking Democrat on the Select Committee on Indian Affairs and as a Senator from a State with seven Indian reservations and an approximate Indian population of some 40,000, I have for many years been aware, sometimes painfully so, of the serious disputes and problems which arise within Indian tribes, between tribes and between Indian and non-Indian parties. Often these are problems which can only be resolved by the Congress. After all, Congress has not only ultimate responsibility for Federal Indian policy, but also under the Constitution, Congress has plenary authority in this area. I am pleased that 26 of my colleagues recognizing this responsibility, have joined as cosponsors of this resolution establishing the Select Committee on Indian Affairs as a permanent Committee of the Senate.

To put the issue of making the Indian Affairs Committee permanent in the proper perspective, I would like to briefly summarize the historical approach to Indian Affairs by the Congress. Under the Legislative Reorganization Act of 1946, the House and Senate Committees on Indian Affairs which had been in existence since the early 1800's were abolished. Legislative and oversight jurisdiction over Indian matters were at that time vested in subcommittees of the Committees on Public Lands in the House and Senate.

Although several important pieces of legislation affecting Indians were enacted during the next 30 years, this subcommittee arrangement failed to produce a truly adequate forum for legislating appropriate solutions to problems affecting Indian people. Indian legislation could no longer be reported directly to the Senate from a full Indian Affairs Committee, and legislative jurisdiction over Indian affairs, was fragmented in a number of committees. In the Congress, there were more than 10 committees in all responsible for Indian affairs, a situation which resulted in the disjointed and haphazard treatment of Indian affairs. In the Senate, Indian affairs was for a time under the jurisdiction of a subcommittee of the Interior Committee where Indian issues generally received only perfunctory attention.

Mr. President, this situation changed dramatically in April 1977, with the establishment of the Select Committee on Indian Affairs pursuant to Senate Resolution 4.

The creation of the Select Committee on Indian Affairs at the beginning of the 95th Congress, fulfilled a primary recommendation made in the Final Report of the American Indian Policy Review Commission (AIPRC), the first comprehensive study of the Federal Government's Indian policy since 1928, and the first such study to have been conducted by Members of the Senate, House of Representatives, and Indian leaders.

The legislative record clearly shows that a committee devoted exclusively to Indian affairs is in the best interests of not only Indian people but also of all Americans and of course the U.S. Senate. The committee has proved to be excellent and versatile forum for exploring alternative ways of mediating serious conflicts which have arisen between federally connected Indian interests and other public and private interests, in ways consistent with the legal rights of Indian tribes and the overriding Federal responsibility.

As an illustration of this point, I refer to the committee's role in resolving the Maine Indian land claim dispute during the 96th Congress and the Narragansett Indian claims in Rhode Island during the 95th Congress. In each case, longstanding and extremely complicated land claims were made by Indian tribes which had a dramatic impact on hundreds if not thousands of non-Indian landowners. In each case the Select Committee on Indian Affairs assisted in settlement agreements developed by the parties to the disputes by insuring, through extensive research, that all parties were adequately represented and that the proposed legislation was legally sufficient.

This kind of legislation will be a continuing responsibility of the committee. During this Congress we expect settlement legislation of the Cayuga claim in New York and the Catawba claim in South Carolina. Additionally, there may be land claims by 12 other eastern Indian tribes for ancestral lands taken during the 18th and 19th century in violation of the Indian Trade and Intercourse Act of 1790. It is the committee's continuing responsibility to provide all parties to these disputes with a forum for satisfactory, out of court settlements through hearings which identify and refine legislative settlements. Each of these items of legislation has resulted in enormous savings in legal expenses and costs to the United States, State and local governments, Indian tribes, and private individuals.

The committee also entered the thicket of jurisdictional conflict between the States, Indian tribes, and the Federal Government by reporting and passing through the Senate, legislation which would have relaxed the Federal law governing jurisdiction in Indian country and provided necessary flexibility to States and Indian tribes to achieve solutions to jurisdictional conflicts at a local level. In addition, the committee developed a bill I introduced in the 96th Congress to strengthen the enforcement of Federal laws governing criminal conduct on Indian reservations by the establishment of a special magistrate with jurisdiction over Indian country and providing necessary enforcement authority to tribal and State police officers as well as Federal law enforcement authorities. Further consideration of the bill is awaiting broader input from Indians and non-Indians living on reservations.

In 1982, the committee conducted extensive hearings on legislation to remove one of the most serious obstacles to economic development on Indian reservations. This legislation which was enacted into law as the Indian Mineral Developement Act of 1982, is designed to provide much greater flexibility to tribes to develop mineral resources than they have had in the past. This new law, Public Law 97-382, gives tribes broad authority and flexibility to develop their mineral resources in a timely, orderly, manner. The tribes can determine, at the outset, exploration and development schedules and can negotiate their share of expected profits. Under this law tribes can proceed to negotiate joint venture, service, operating, production sharing, or other agreements for mineral development and may receive a much greater return than under the traditional royalty leases which they were bound by in the past. This act opens the way for additional energy and mineral supplies needed by the country. The Department of the Interior will continue to serve as trustee for those resources.

During the 6 years the select committee has existed, it has considered 197 bills, held 110 hearings on legislation, held 46 oversight hearings and reported 75 bills which became public law. These figures represent a notable committee achievement by any standard.

The Select Committee on Indian Affairs has an imposing agenda which includes the continuing development of Federal policy on a variety of issues affecting Indian and non-Indians ranging from jurisdiction and taxation to the protection and development of natural resources.

Mr. President, since its creation as a temporary select committee there have been two efforts, in the 95th and 96th Congresses, to make the committee permanent. In each case the Senate saw fit to extend the life of the committee rather than make it permanent.

Therefore, the Senate must once again face the question of how it is to approach Indian issues since the committee is scheduled to terminate on January 2, 1984.

Although Indian people comprise only a very small segment of the total U.S. population, this country's responsibilities in the field of Indian affairs is not a small responsibility. As an increasingly vital area of domestic affairs, Indian issues affecting Indians and non-Indians must be accorded the fair and careful treatment they deserve.

Mr. President, significant progress has been made by the Select Committee on Indian Affairs, but our major work has just begun in providing the legislative solutions necessary to laying the fundation of a sound Federal Indian policy. During the next few years, Congress will have to consider sensitive issues relating to Indian land claims, natural resources, water, and hunting and fishing rights, as well as oversight of Indian affairs agencies, and programs. A separate Committee on Indian Affairs is the best forum for reaching equitable resolutions of these questions. To restructure Senate jurisdication over Indian affairs in a standing committee beginning next year would mean a loss of untold dollars and work hours to the American taxpayers, and a loss of continuity in the steady and responsible legislative progress of this committee. For the Indian people, for the people that deal with Indians in business, education, or legal matters, the select committee's continuation is of utmost importance. For the non-Indian people who live on or near a reservation and for the States in Indian country the select committee's continuation is very important. For the Eastern and Southern States where Indian land claims have not been resolved the select committee's continuation is of great importance.

Mr. President, in the past 6 years, this committee has been the inspiration for the most thoughtful and responsible legislation on Indian matters in a very long time. After an energetic start that has led to the passage of more positive Indian legislation than this body has seen in decades, I firmly believe that the committee should continue to function in a permanent and stable manner without any question as to its future. I urge the Senate to support this resolution and act on it as expeditiously as possible.

AMENDMENTS SUBMITTED

IMMIGRATION REFORM AND CONTROL ACT OF 1983

GOLDWATER AMENDMENT NO. 1213

(Ordered to lie on the table.)

Mr. GOLDWATER submitted an amendment intended to be proposed by him to the bill (S. 529) to revise and reform the Immigration and Nationality Act, and for other purposes, as follows:

On page 171, strike out lines 23 through 25 and insert in lieu thereof the following:

"(1) the alien for whom certification is sought would replace a bona fide employee who is on strike or locked out in the course of a labor dispute; or

GOLDWATER AMENDMENT NO. 1214

Mr. GOLDWATER proposed an amendment to the bill, S. 529, supra, as follows:

On page 172, between lines 18 and 19, insert the following:

"(11) such application shall be considered to have met the requirements of paragraph (2) unless the Secretary of Labor, within seven days of the filing of such application, notifies the employer filing such application whether such application meets such requirements and, if not, states the reasons therefor and provides an opportunity for the prompt resubmission of a modified application.

On page 172, line 19, strike out "(11)" and insert in lieu thereof "(iii)".

On page 173, line 11, strike out "(iii)" and insert in lieu thereof "(iv)".

KENNEDY AMENDMENT NO. 1215

Mr. Kennedy proposed an amendment to the bill, S. 529, supra, as follows:

On page 212, line 7, insert "(a)" after "Sec. 403.".

On page 213, between lines 5 and 6, insert the following:

(b)(1) The provisions of section 274A of the Immigration and Nationality Act shall terminate 30 calendar days after receipt of the last report required to be transmitted under subsection (a), if—

(A) the Comptroller General determines, and so reports in such report, that a widespread pattern of discrimination has resulted against citizens or nationals of the United States or against eligible workers seeking employment, as a result of carrying out such provisions; and

(B) the Congress, within such period of 30 calendar days, adopts a concurrent resolution stating in substance that it approves the findings of the Comptroller General contained in such report.

(2) Any concurrent resolution referred to in clause (B) of paragraph (1) shall be considered in the Senate in accordance with subsection (d).

(c) for the purpose of expediting the consideration and adoption of concurrent resolutions under subsection (b), a motion to proceed to the consideration of any such concurrent resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(d)(1) For purposes of subsection (b), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

(2) Paragraphs (3) and (4) of this subsection are enacted—

(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of concurrent resolutions referred to in subsection (b), and supersede other rules of the Senate only to the extent that such paragraphs are inconsistent therewith; and

(b) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner and to the case of any other rule of the Senate.

(3)(A) If the committee of the Senate to which has been referred a resolution relating to a certification has not reported such resolution at the end of ten calendar days after its introduction, not counting any day which is excluded under paragraph (1) of this subsection, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution introduced with respect to the same certification which has been referred to the committee, except that no motion to discharge shall be in order after the committee has reported a resolution with respect to the same certification.

(B) A motion to discharge under subparagraph (A) of this paragraph may be made only by a Senator favoring the resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution, the time to be divided equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(4)(A) A motion in the Senate to proceed to the consideration of a resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

KENNEDY AMENDMENT NO. 1216

Mr. KENNEDY proposed an amendment to the bill, S. 529, supra, as follows:

On page 184, line 20, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 187, line 7, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 187, line 9, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 187, line 13, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 187, line 15, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 187, line 17, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 187, line 19, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 188, lines 6 and 7, strike out "January 1, 1981" and insert in lieu thereof "December 31, 1981".

On page 188, lines 9 and 10, strike out "December 31, 1980" and insert in lieu thereof "December 30, 1980".

On page 188, line 20, strike out "December 31, 1980" and insert in lieu thereof "December 31, 1981".

On page 188, line 23, strike out "December 31, 1980" and insert in lieu thereof "December 30, 1981".

On page 193, line 15, strike out "January 1, 1980" and insert in lieu thereof "December 31, 1981".

On page 193, line 17, strike out "January 1, 1981" and insert in lieu thereof "December 31, 1981".

On page 198, amend the item between lines 5 and 6 to read as follows:

"Sec. 245A. Adjustment of status of certain entrants before December 31, 1981, to that of person admitted for temporary or permanent residence.".

HUDDLESTON AMENDMENT NO. 1217

Mr. HUDDLESTON proposed an amendment to the bill, S. 529, supra, as follows:

On page 208 strike lines 20 through 23 and insert in lieu thereof the following:

"(1) The number and classifications of aliens admitted as immediate relatives under family reunification preferences, independent or occupational preferences and other permanent residents, refugees, asylees, parolees and a reasonable estimate of the number of aliens who entered the United States without visas or who became deportable under section 241; and".

On page 208 delete lines 24 through 25 and insert in lieu thereof the following:

"(2) The impact, including reasonable projections and future estimates, of the admission or parole of such aliens on the foreign policy, economy, environmental quality, resources and population growth rate of the United States and the".

On page 209 on line 2 insert immediately after the period the following sentence:

"The report called for under this paragraph shall relate to total immigration during the five years prior to the report and reasonable estimates substantiated by the best available evidence, for five years into the future."

On page 209, line 3, strike "four" and insert "three".

On page 209, line 4, strike the period and insert ", and every three years thereafter".

On page 208, line 19, insert after "A" the word "comprehensive".

CHILES AMENDMENTS NOS. 1218 AND 1219

Mr. CHILES proposed two amendments to the bill, S. 529, supra, as follows:

AMENDMENT No. 1218

At the bottom of page 214, add the following:

TITLE V—IMMIGRATION EMERGENCY

PROVISIONS RELATING TO ENTRY AND EXCLUSION

SEC. 501. (a) Chapter 4 of title II of the Immigration and Nationality Act is amended by inserting at the end thereof the following new sections:

"DECLARATION OF IMMIGRATION EMERGENCY

"SEC. 240A. (a) The President may declare an immigration emergency with respect to any specifically designated foreign country or countries or geographical area or areas, if the President determines that—

"(1) a substantial number of aliens who lack documents authorizing entry into the United States appear to be ready to embark or have already embarked for the United States, and such aliens will travel from, or are likely to travel through, such foreign country or countries or such foreign geographical area or areas; and

"(2) the normal procedures of this Act or the current resources of the Service would be inadequate to respond effectively to the influx of these aliens.

"(b) Within forty-eight hours of the declaration of any immigration emergency, the President shall inform the Speaker of the House of Representatives and the President pro tempore of the Senate of the reasons prompting the declaration. The President shall cause the declaration to be published in the Federal Register as soon as practicable. The declaration shall expire 120 days after its proclamation, unless sooner terminated by the President. The President may extend the duration of the declaration for additional periods of 120 days each by following the same procedures set forth in this subsection as are provided for the making of the declaration, if, in his judgment, the conditions listed in subsection (a) continue to exist.

"EMERGENCY POWERS AND PROCEDURES

"SEC. 240B. (a) Upon the declaration of an immigration emergency under section 240A, the President may invoke the following emergency powers and procedures with respect to a country or countries or a geographical area or areas specifically designated under section 240A:

"(1) Any United States vessel, vehicle, or aircraft, or any other vessel, vehicle, or aircraft which is owned or operated by, chartered to, or otherwise controlled by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any political subdivision thereof and which is bound directly or indirectly for such designated foreign country or foreign geographical area may be precluded from departing from the United States or may be intercepted while en route and required to return to the United States if feasible or to any other reasonable location until such time as it is feasible to return to the United States, or, if appropriate, allowed to proceed to any other reasonable location.

"(2) The arrival in the United States of any alien who lacks documents authorizing entry into the United States or who is otherwise inadmissible and is traveling, directly or indirectly, from or through such designated foreign country of foreign geographical area may be prevented by returning or requiring the return of such alien or any vessel, vehicle, or aircraft carrying any such alien to such designated country or area or to some other reasonable location.

"(3)(A) The exclusion or admission to the United States of any alien, regardless of nationality, who is traveling or has traveled to the United States, directly or indirectly, from or through such designated foreign country or foreign geographical area and who is not in possession of a visa or other entry document required for admission to the United States by statute or regulation may be determined under procedures established by the Attorney General (whether by regulation or otherwise), and no such alien shall be presented for inquiry before a special inquiry officer unless such presentation is authorized by the Attorney General pursuant to such procedures.

"(B) Notwithstanding section 208 or any other provision of law, the Attorney General may establish by regulation or otherwise a separate procedure to consider a claim for asylum advanced by an alien whoe admissibility is to be determined in accordance with this paragraph.

"(C) Any alien found inadmissible to the United States pursuant to the procedures established by the Attorney General under this paragraph shall be deported to the country from whence he came. If the Attorney General determines that the alien should not or cannot practicably be removed to the country from whence the alien came, the Attorney General may deport the alien to any country described in section 243(a), without regard to the designation of the alien or the order of countries set forth in section 243(a).

"(D) Any alien admitted to the United States under this paragraph shall be admitted for such time and under such conditions as may be prescribed by the Attorney General, including the giving of a bond with sufficient surety in such sum and containing such conditions as the Attorney General shall prescribe to insure compliance with the terms and conditions of the alien's admission.

"(E) No court shall have jurisdiction to review the determination of admissibility or nonadmissibility of, or the determination of any claim for asylum with respect to, any alien who is subject to this paragraph.

"(4)(A) Every alien who is subject to the provisions of this section shall be detained pending a final determination of admissibility or pending release on parole or pending deportation if the alien is found excludable, unless an examining officer finds that the alien is clearly and beyond a doubt entitled to be admitted to the United States. Such detention shall be in any prison or other detention facility or elsewhere, whether maintained by the Federal Government or otherwise, as the Attorney General may direct. The Attorney General may at any time transfer an alien from one place of detention to another. No alien shall be released from detention pending a final determination of admissibility or pending deportation if the alien is found excludable, except in the discretion of the Attorney General and under such conditions as the Attorney General may prescribe, including release on bond.

"(B) Any alien applying for admission from a foreign contiguous territory may, in the discretion of the Attorney General, be required to remain outside of the United States pending a final determination of admissibility.

"(C) No court shall review any decision of the Attorney General made pursuant to this paragraph to detain, to transfer, or to release an alien, except that any person so detained may obtain review, in habeas corpus proceedings, on the question of whether that person falls within the category of aliens subject to detention.

"(D) Nothing in this paragraph shall relieve a carrier or any other person of any liability, duty, or consequence pertaining to the detention of aliens which may arise under any other provision of this Act or other law.

"(5)(A) The President may exempt any facility or emission source, as the case may be, of any department, agency, or instrumentality in the executive branch from applicable environmental requirements pursuant to section 313(a) of the Federal Water Pollution Control Act (33 U.S.C. 1323(a)) and section 1447(b) of the Public Health Service Act (42 U.S.C. 300J-6(b)), section 4 of the Noise Control Act of 1972 (42 U.S.C. 4903), section 6001 of the Solid Waste Disposal Act (42 U.S.C. 6961), and section 118(b) of the Clean Air Act (42 U.S.C. 7418(b)).

"(B) If the President finds, and transmits his findings to the Congress, that an exemption is necessary to respond to an immigration emergency, the President may exempt any facility or emission source of, or any action of, any department, agency, or instrumentality in the executive branch which is directly and substantially related to an immigration emergency from applicable requirements of the National Environmental Policy Act (42 U.S.C. 4331 et seq.), the Coastal Zone Management Act (42 U.S.C. 1451 et seq.), the Endangered Species Act (46 U.S.C. 1531 et seq.), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Historic Preservation Act (16 U.S.C. 470 et seq.), and from the applicable requirements of any other Federal, State, or local law which is intended principally to protect or preserve the environment, wildlife, or aspects of the history or heritage of the United States.

"(C) Except with respect to matters concerning the detention of aliens, an exemption under this paragraph shall lapse upon termination of an immigration emergency. In no event shall any exemption under this paragraph be in effect more than one year. An exemption with respect to matters concerning the detention of aliens shall be in effect until terminated by the President or the expiration of one year, whichever occurs first. During the time period in which an exemption applies the President may, in his discretion, require that a facility or emission source of any department, agency, or instrumentality of the United States nonetheless meet certain environmental standards without thereby creating a private right of action to enforce that requirement.

"(b)(1) During the existence of the immigration emergency, the President may order the closing or sealing of any harbor, port, airport, road or any other place, structure or location which may be used as a point of departure from the United States to such designated foreign country or foreign geographical area, if the President determines such action is necessary to prevent the arrival in the United States of aliens who are inadmissible and who are traveling from or in transit through such designated country or area.

"(2) No person shall cause any vessel or aircraft to depart from or beyond or enter into a closed or sealed harbor, port, airport, road, place, structure, or location during an immigration emergency, unless written permission has been obtained for such departure before the actual departure of the vessel or aircraft.

"(3) Permission for departure from or beyond or entry into a closed or sealed harbor, port, airport, road, or any other place, structure, or location shall be given only for such vessels, vehicles, aircraft which are clearly shown not to be destined for a designated foreign country, or foreign geographical area. The agency designated by the President under subsection (d) of this section shall prescribe the procedures to be followed in requesting departure permission. In the absence of such procedures, permission may be sought from any agency directly involved in the closing or sealing of the harbor, port, airport, road, or other place, structure or location. A final decision shall be made on any request for departure permission within 72 hours of the request, unless the person seeking such permission consents to a longer period. If no action is taken on the request within the requisite period, the request for departure permission shall be deemed denied.

"(4) The district courts of the United States shall have jurisdiction to review any final decision denying permission to depart under paragraph (3) of this subsection, except that review may be obtained prior to a final administrative decision with respect to any vessel, vehicle, or aircraft if irreparable injury would occur before a final administrative decision could be obtained.

"(c) The President is authorized to reimburse State and local governments for all costs incurred by such governments during and as a direct result of an immigration emergency declared under section 240A (a), including the costs of providing medical assistance, temporary housing, and other emergency assistance to aliens who entered the United States undetected or who are awaiting immigration proceedings and the costs of providing law enforcement services in connection with such aliens.

"(d) The President may not delegate the authority to initiate those emergency powers of this section which expressly require Presidential invocation, except that the President may designate one or more agencies of the Federal Government to administer the provisions of this section and of sections 240C and 240D. In carrying out these provisions, such designated agency may promulgate regulations and may request assistance from any State or local agency or from any civilian Federal agency. Notwithstanding any other provision of law or any rule or regulation, the President may direct that any component of the Armed Forces of the United States, including the Army, Navy, and Air Force, provide assistance to such designated agency. Any such agency or component of the Armed Forces of the United States may assist in the actual detention, removal, and transportation of an alien to the country to which he is being deported.

"(e) Notwithstanding any other provision of law, any agency or component of the Armed Forces of the United States which is requested or directed to render assistance or services during an immigration emergency is authorized to stop, board, make arrest of persons, inspect, and seize any vessel, vehicle, or aircraft which is subject to the provisions of this section or of section 240C or 240D.

"(f) In providing assistance under this section and sections 240C and 240D, agencies shall have the same authority as such agencies have for disaster relief under section 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5149).

"(g) The provisions of paragraphs (3) and (4) of subsection (a) of this section shall continue to govern any aliens subject to those provisions, regardless of the termination of the immigration emergency.

"(h) The President may direct the enforcement of subsection (a) of this section beyond the territorial limits of the United States, including on the high seas.

"(i) Nothing in this section shall relieve any carrier or any other person of any civil or criminal liability, duty, or consequence that may arise from the transportation or the bringing of any alien to the United States.

"TRAVEL RESTRICTIONS AND LICENSING

"SEC. 240C. (a) Upon the declaration of an immigration emergency under section 240A, it shall be unlawful for any person to cause any United States vessel, vehicle, or aircraft, or any other vessel, vehicle, or aircraft which is owned by, chartered to, or otherwise controlled by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any political subdivision thereof, to travel or be transported to a foreign country or foreign geographical area designated under section 240A or to within such distance therefrom as the President may specify, unless prior approval has been obtained from an agency designated by the President.

"(b) Except as provided in subsection (c), the designated agency may by regulation grant prior approval, under such terms and conditions as it may require, for travel to or within a specified distance of a foreign country or geographical area designated under section 240A for certain classes or categories of vessels, vehicles, and aircraft. The owner or operator of any vessel, vehicle, or aircraft not authorized by regulation to travel to or within a specified distance of a designated country or area may apply to the designated agency for a license granting permission for one or more trips to that country or area. The designated agency shall establish by regulation the procedures governing the application for and the approval and revocation of such licenses. The designated agency may authorize officials of any other agency of the United States to accept and transmit applications for licenses to the designated agency or to grant or deny such licenses under standards established by the designated agency.

"(c) No travel to or within such distance as the President may specify from a designated foreign country or area shall be approved under subsection (b) if it appears that such travel may result in or contribute to a violation of any statute or regulation relating to the immigration of aliens to the United States.

"PENALTIES

"SEC. 240D. (a)(1) On or after the day following publication in the Federal Register of the declaration of an immigration emergency, any vessel, vehicle, or aircraft involved in a violation of section 240B(b)(2) or section 240C(a) shall be forfeited and the owner, operator, and any person causing such vessel, vehicle, or aircraft to be involved in such violation shall be subject to a civil fine of $10,000 for each act in violation of such section, except that such vessel, vehicle, or aircraft involved in such violation may be forfeited and the owner, operator, or any other person causing such violation may be subject to a civil fine of $10,000 for each act in violation before such date if such owner, operator, or other person had actual knowledge of the declaration of an immigration emergency.

"(2) All provisions of the customs laws relating to—

"(A) the seizure, summary and judicial forfeiture, and condemnation of property,

"(B) the disposition of such property or the proceeds from the sale thereof,

"(C) the remission or mitigation of such forfeiture, and

"(D) the compromise of claims and the award of compensation to informers in respect of such forfeitures,

shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section insofar as applicable and not inconsistent with the provisions of this section, except that duties imposed on customs officers or other persons regarding the seizure and forfeiture of property under the customs laws may be performed with respect to seizures and forfeitures carried out under the provisions of this section by such officers or persons authorized for that purpose by the Attorney General.

"(3) Whenever a conveyance is forfeited under this section the Attorney General may—

"(A) retain the conveyance for official use;

"(B) sell the conveyance and shall use the proceeds from any such sale to pay all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs, with the remaining proceeds, if any, turned over to the United States Treasury;

"(C) require that the General Services Administration, or the Federal Maritime Commission if appropriate under section 484(i) of title 40, United States Code, take custody of the conveyance and remove it for disposition in accordance with law; or

"(D) dispose of the conveyance in accordance with the terms and conditions of any petition of remission or mitigation of forfeiture granted by the Attorney General.

"(4) In all suits or actions brought for the forfeiture of any conveyance seized under this section, where the conveyance is claimed by any person, the burden of proof shall lie upon such claimant if probable cause shall be first shown for the institution of such suit or action, to be judged of by the court.

"(b) On or after the day following publication in the Federal Register of the declaration of an immigration emergency, any person who knowingly engages or attempts to engage in any conduct prohibited by the terms of section 240B(b)(2) or section 240C(a) shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding $50,000 or by imprisonment for a term not exceeding five years, or both, for each prohibited act, except that the owner, operator, or any other person causing a violation of such section shall be punished by a fine not exceeding $50,000 or by imprisonment for a term not exceeding five years, or both, for each prohibited act before such date if such owner, operator, or other person had actual knowledge of the declaration of an immigration emergency.

"(c) Any alien who willfully violates a condition of his admission under section 240B shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(d) The requirements and sanctions imposed by this section shall be in addition to those set forth by other provisions of law.

"(e) Violations of any provisions of this Act committed during the immigration emergency may be investigated by the Federal Bureau of Investigation, the Service, the Coast Guard, or any component of the Department of the Treasury. Notwithstanding any other provision of law or any rule or regulation, assistance in investigating or enforcing this section may be provided, with the approval of the Attorney General, by any agency of the United States, including the Army, Navy, and Air Force, or may be provided by any State or local agency.

"DEFINITIONS

"Sec. 240E. As used in sections 240A through 240D—

"(1) the term 'agency' includes any executive department and components thereof, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency;

"(2) the term 'aircraft' means any airplane, helicopter, glider, balloon, blimp, or other craft or structure capable of being used as a means of transportation in the air;

"(3) the term 'vehicle' means any automobile, motorcycle, bus, truck, cart, train, or other device or structure capable of being used as a means of transportation on land;

"(4) the term 'vessel' means any ship, boat, barge, submarine, raft, or other craft or structure capable of being used as a means of transportation on, under, or immediately above the water; and

"(5) the phrase 'United States vessel, vehicle, or aircraft' include any vessel, vehicle, or aircraft documented, registered, licensed, or numbered under the laws of the United States or any political subdivision thereof.".

(b) The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 240 the following new items:

"Sec. 240A. Declaration of immigration emergency.
"Sec. 240B. Emergency powers and procedures.
"Sec. 240C. Travel restrictions and licensing.
"Sec. 240D. Penalties.
"Sec. 240E. Definitions.".

UNLAWFUL BRINGING OF ALIENS INTO UNITED STATES

Sec. 502. Subsection (b) of section 273 (8 U.S.C. 1323(b)) is amended—

(1) by striking out in the first sentence "$1,000" and inserting in lieu thereof "$3,000";

(2) by striking out the last sentence; and

(3) by adding at the end thereof the following: "Such sums shall be a lien upon the vessel or aircraft involved in a violation of the provisions of subsection (a) of this section, and such vessel or aircraft may be libeled therefore in the appropriate United States court. Pending the determination of liability to the payment of such sums or while such sums remain unpaid, such vessel or aircraft may be denied clearance, or summarily seized, or both, unless a deposit is made of an amount sufficient to cover such sums or of a bond with sufficient surety to secure the payment thereof satisfactory to the Attorney General.".

INSPECTION BY IMMIGRATION OFFICERS

Sec. 503. Section 235(b) (8 U.S.C. 1225(b)) is amended to read as follows:

"(b)(1) Unless an immigration emergency has been declared, an immigration officer shall inspect each alien who is required to have documentation seeking entry to the United States and shall make a determination on each alien's admissibility.

"(2) The decision of the immigration officer on admissibility of an alien shall be final and not subject to further agency review or to judicial review, if the immigration officer determines an alien to be an alien crewman, a stowaway under section 273(d) of this Act, or an alien who does not present documentary evidence of United States citizenship, or lawful admission for permanent residence, or a visa or other entry document, or a certificate of identity issued under section 360(b) to support a claim of admissibility.

"(3) Any alien not excluded under paragraph (2) of this subsection who does not appear to the examining immigration officer to be clearly and beyond a doubt entitled to admission shall be detained for further inquiry by a special inquiry officer under section 236.".

AUTHORIZATION OF APPROPRIATIONS

Sec. 504. There are authorized to be appropriated to the President such amounts as may be necessary to carry out the purposes of sections 240A through 240E of the Immigration and Nationality Act, including amounts necessary to reimburse State and local governments under section 240B(c). Amounts appropriated under this section are authorized to remain available until expended.

On page 3, in the table of contents, insert after the item relating to section 405, the following:

TITLE V—IMMIGRATION EMERGENCY
Sec. 501. Provisions relating to entry and exclusion.
Sec. 502. Unlawful bringing of aliens into United States.
Sec. 503. Inspection by immigration officers.
Sec. 504. Authorization of appropriations.

AMENDMENT No. 1219

Beginning on page 119 with line 11, strike out all through line 25 on page 120 and insert in lieu thereof the following:

Sec. 112. Section 274 (8 U.S.C. 1324) is amended to read as follows:

"Sec. 274. (a) Any person who, knowingly or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States in any manner whatsoever, such alien, regardless of any official action which may later be taken with respect to such alien shall, for each transaction constituting a violation of this subsection, regardless of the number of aliens involved, be guilty of a misdemeanor and upon conviction shall be punished by a mandatory fine of $2,500, the imposition of which shall not be suspended by the court, and, in the court's discretion, may be punished by an additional fine of not more than $2,500 for each such alien in respect to whom any violation of this paragraph occurs or by imprisonment for a term not exceeding one year, or both.

"(b) Whoever, under subsection (a), commits—

"(1) a second offense,

"(2) an offense done for the purpose of commercial advantage or private financial gain,

"(3) an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration official, or

"(4) an offense during which the offender or the alien with the knowledge of the offender makes any false or misleading statement or engages in any act or conduct intended to mislead any officer, agent, or employee of the United States.

shall be guilty of a felony and upon conviction shall be punished by a fine not exceeding $10,000 or by imprisonment for a term not exceeding five years, or both, for each alien in respect to whom any violation of this subsection occurs.

"(c) Any person who—

"(1) knowingly or having reason to know that a person is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien.

"(2) knowingly or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law, or

"(3) knowingly or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection such alien in any place, including any building or any means of transportation,

shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine not exceeding $10,000 or by imprisonment for a term not exceeding five years, or both, for each alien in respect to whom any violation of this subsection occurs. For the purposes of this section, employment (including the usual and normal practices incident to employment) shall not be deemed to constitute harboring.

"(d)(1) Any conveyance, including any vessel, vehicle, or aircraft, which has been, is being, or is intended to be used in the commission of a violation of subsection (a), (b), or (c) shall be seized and subject to forfeiture, except that—

"(A) no conveyance used by any person as a common carrier shall be forfeited under the provisions of this section if the offense occurs when the conveyance is being used in the business as a common carrier unless the owner, operator, or other person in charge of the conveyance at the time of the offense was a consenting party or privy to the illegal act; and

"(B) no conveyance shall be forfeited under the provisions of this section if the offense occurred while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or of any State.

"(2) Any conveyance subject to seizure under this section may be seized without a warrant if there is probable cause to believe the conveyance has been, is being, or is intended to be used in violation of subsection (a), (b), or (c) and circumstances exist where a warrant is not constitutionally required.

"(3) All provisions of the customs laws relating to—

"(A) the seizure, summary and judicial forfeiture, and condemnation of property,

"(B) the disposition of such property or the proceeds from the sale thereof,

"(C) the remission or mitigation of such forfeiture, and

"(D) the compromise of claims and the award of compensation to informers in respect of such forfeitures,

shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section insofar as applicable and not inconsistent with the provisions of this section, except that duties imposed on customs officers or other persons regarding the seizure and forfeiture of property under the customs laws may be performed with respect to seizure and forfeitures carried out under the privisions of this section by such officers or persons authorized for that purpose by the Attorney General.

"(4) Whenever a conveyance is forfeited under this section the Attorney General may—

"(A) retain the conveyance for official use;

"(B) sell the conveyance, in which case the proceeds from any such sale shall be used to pay all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs;

"(C) require that the general Services Administration, or the Federal Maritime Commission if appropriate under section 484(i) of title 40, United States Code, take custody of the conveyance and remove it for disposition in accordance with law; or

"(D) dispose of the conveyance in accordance with the terms and conditions of any petition of remission or mitigation of forfeiture granted by the Attorney General.

"(5) In all suits or actions brought for the forfeiture of any conveyance seized under this section, where the conveyance is claimed by any person, the burden of proof shall lie upon such claimant, except that probable cause shall be first shown for the institution of such suit or action, to be judged of by the court. In determining whether probable cause exists, any of the following items of evidence shall be prima facie evidence of the presumption that an alien involved in the alleged violation has not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law:

"(A) Records of any judicial or administrative proceeding in which that alien's status was an issue and in which it was determined that the alien had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law;

"(B) Official records of the Service or of the Department of State showing that the alien had not received prior authorization to come to, enter, or reside in the United States or had come to, entered, or remained in the United States in violation of law; and

"(C) Testimony, by an immigration officer having personal knowledge of the facts concerning that alien's status, that such alien had not received prior authorization to come to, enter, or reside in the United States or had come to, entered, or remained in the United States in violation of law.

"(6) Any officer or employee of the Service designated by the Attorney General, either individually or as a member of a class, and all other Federal officers whose duty it is to enforce criminal laws and those State officers whose duty it is to enforce criminal laws and who have been specifically designated by the Attorney General shall have authority to make any arrest for a violation of any provision of this section.".

DeCONCINI AMENDMENT NO. 1220

Mr. DeCONCINI (for himself and Mr. WILSON) proposed an amendment to the bill, S. 529, supra, as follows:

On page 184 after line 13 add the following new section:

"Sec. 214. (a) The Attorney General, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall promulgate rules and regulations for the implementation of an agricultural labor transition program. The program shall be effective on the date of enactment of the Act and shall last three years from the effective date.

(b) During the first year of the transition program, an agricultural employer, except as provided below, may, as provided by regulation, employ up to 100 percent of his seasonal agricultural worker need with transitional workers. During the second and third years of the program, the employer may employ up to 67 percent and 33 percent respectively, of his seasonal agricultural worker needs with transitional workers.

(c) Nothing in this section shall permit transitional workers to replace available U.S. workers or legal foreign workers admitted under the Immigration and Nationality Act.

(d) All workers employed under the provisions of this section shall be fully protected by all requisite federal and state laws and regulations governing the employment of U.S. migrant and seasonal agricultural workers.

HELMS AMENDMENTS NO. 1221 THROUGH 1224

(Ordered to lie on the table.)

Mr. HELMS submitted four amendments intended to be proposed by him to the bill, S. 529, supra, as follows:

Amendment No. 1221

On page 150, lines 9 and 10, strike out "and aliens whose status is adjusted to permanent resident status under section 245A,".

Beginning on page 184 with line 14, strike out all through line 7 on page 207.

On page 207, line 8, strike out "TITLE IV" and insert in lieu thereof "TITLE III".

On page 207, line 10, strike out "Sec. 410." and insert in lieu thereof "Sec. 301.".

Beginning on page 210 with line 20, strike out all through line 7 on page 211.

On page 211, line 8, strike out "(f)" and insert in lieu thereof "(e)".

On page 103, strike out the item relating to title III and the items relating to sections 301 and 302.

Redesignate the item relating to title IV as the item relating to title III.

Redesignate the items relating to sections 401, 402, 403, 404, and 405 as the items relating to sections 301, 302, 303, 304, and 305, respectively.

Amendment No. 1222

At the appropriate place in the pending business, add the following:

POLICY REGARDING STATE SERVICES TO ILLEGAL ALIENS

"Sec. ——. (a) Title I, as amended by section 122, is further amended by adding at the end thereof the following:

"POLICY REGARDING STATE SERVICES TO ILLEGAL ALIENS

"Sec. 108. (a) The Congress finds and delcares that—

"(1) the illegal entry and residence of aliens within the United States have occurred in recent years at unprecedented rates and represent a threat to the national security of the United States and a burden on the Federal treasury;

"(2) the illegal entry and residence of aliens within the United States constitute a severe burden upon the States in all aspects of the enforcement of State laws and constitute a particular burden on State treasuries;

"(3) illegal aliens and their dependents do not contribute taxes sufficient to cover the cost of their presence to the States or to the United States;

"(4) insofar as the States provide free public services, especially public education, to illegal aliens and their dependents, an incentive is created for illegal immigration; and

"(5) it is the policy of the United States to discourage illegal immigration, and Federal and State welfare, educational, and other social policies should accordingly be directed to this end;

"(6) consistent with national immigration policy as made by the Congress, the States should be free to provide or not to provide, in their discretion, free public services, including public education, to illegal aliens and their dependents.

"(b) No State shall be required to provide free public services, including free public education, to illegal aliens and their dependents.".

Amendment No. 1223

On page 153, lines 4 and 5, strike out "(or the number determined under subparagraph (C))".

On page 153, line 20, insert quotation marks and a period immediately after the period.

On page 153, strike out lines 21 through 25 and on page 154 strike out lines 1 through 3.

Amendment No. 1224

On page 152, beginning on line 25 with "in any fiscal year", strike out all through "States" on page 153, line 6, and insert in lieu thereof "20,000 in any fiscal year".

On page 153, line 20, insert quotation marks and a period immediately after the period.

On page 153, strike out lines 21 through 25 and on page 154 strike out lines 1 through 3.

MARINE SAFETY AND SEAMEN'S WELFARE ACT

PACKWOOD AMENDMENT NO. 1225

Mr. STEVENS (for Mr. Packwood) (for himself and Mr. Hollings) proposed an amendment to the bill (S. 46) to consolidate and reenact certain of the marine safety and seamen's welfare laws of the United States, as follows:

On page 232, line 3, insert "or lines" immediately after "line".

On page 239, strike lines 20 through 22, and insert in lieu thereof the following:

"Subject to section 2109 of this title, this chapter applies to every vessel, including a foreign vessel on the navigable waters of the United States.".

On page 248, line 14, insert "primarily" immediately after "adapted".

On page 248, line 16, insert "in cargo spaces" immediately after "bulk".

On page 248, strike all after "residue" on line 16 through line 22 and insert in lieu thereof a period.

On page 252, line 7, insert "(1)" immediately after "(g)".

On page 252, line 14, strike "3" and insert in lieu thereof "31".

On page 252, insert the following immediately after line 16:

"(2) An offshore supply vessel, as described in paragraph (1) of this subsection, that has not had an actual inspection by the Secretary, but which registered with the Secretary as an offshore supply vessel by January 30, 1981, shall be held to be in compliance with sections 3305 and 3306 of this title, and all rules, regulations, and standards prescribed by the Secretary pursuant to those sections, until an actual inspection is conducted or is caused to be conducted by the Secretary.

"(3) No offshore supply vessel operating on January 1, 1979, under a certificate issued by the Secretary shall be subjected to any higher standards or new inspection requirements as a result of the enactment of the title.".

On page 259, insert the following immediately after line 10:

"(f) In prescribing regulations for offshore supply vessels, the Secretary shall consider the characteristics, methods of operation, and the nature of the service of offshore supply vessels.".

On page 259, line 16, insert "or offshore supply vessel" immediately after "freight vessel".

On page 260, line 13, insert "(a)" immediately before "When".

On page 260, insert the following immediately after line 17:

"(b) The Secretary may issue a temporary certificate of inspection, which is valid for 30 days in place of a regular certificate of inspection until such a regular certificate is issued.".

On page 262, line 6, insert "operated upon a regularly established line" immediately after "vessel".

On page 265, line 15, strike "(a)".

On page 265, strike all from line 18 through line 2 on page 266.

On page 269, line 16, insert the following at the end thereof: "An offshore supply vessel that takes aboard one or more passengers in an emergency does not alter its character as an offshore supply vessel under this section.".

On page 280, strike lines 14 through 16 and insert in lieu thereof the following:

"(2) Compliance with paragraph (1) of this subsection may be delayed until June 1, 1985 for any tank vessel of less than 70,000 deadweight tons operating with dedicated clean ballast tanks.".

On page 280, line 24, strike "but less than 70,000 deadweight tons".

On page 281, strike all after "characteristics." on line 5 through line 7.

On page 284, line 12, strike "3708" and insert in lieu thereof "3706".

On page 311, strike lines 3 through 10 and insert in lieu thereof the following:

"(c) When the owner, operator, or agent of a vessel of the United States has reason to believe (because of the nonappearance of a vessel or any other circumstance) that a vessel has been lost, the owner, operator, or agent shall, as soon as it is convenient, send written notice to the Coast Guard that the vessel is lost, the probable time it was lost, the name and number (if any) of the vessel, the names of the persons on board, and any other information that the Coast Guard may request.".

On page 312, line 12, strike "or negligence" and insert in lieu thereof "unskillfulness, or willful violation of law committed".

On page 313, strike all from line 21 through line 1 on page 314, and insert the following immediately after "witnesses:" on line 20: "an owner, a licensed officer, any holder of a merchant mariner's document, or any other person whose conduct is under investigation, or any other party in interest.".

On page 318, insert the following immediately after line 20:

"(f) In classifying licensed officers under this section, the Secretary shall, where possible, establish service and other qualifying requirements appropriate to the particular service or industry in which the officers are engaged.".

On page 322, in the table of contents for chapter 73, amend the item relating to section 7310 to read as follows:

"7310. Able seamen—special (offshore supply vessels).".

On page 324, line 21, strike all after "able" and insert in lieu thereof the following: "seamen—special (offshore supply vessels).".

On page 325, line 15, strike all after "Able" and insert in lieu thereof the following: "seaman—special (offshore supply vessels)".

On page 325, line 19, strike "seaman—offshore supply vessels" and insert in lieu thereof "seaman—special (offshore supply vessels)".

On page 332, strike all from line 24 through line 8 on page 333, and insert in lieu thereof the following:

"A license, certificate, or merchant mariner's document may be suspended or revoked if, when the holder is acting under the authority of a license, certificate, or document issued by the Secretary, the holder—

"(1) has violated or failed to comply with this subtitle, a regulation prescribed under this subtitle, or any other law or regulation intended to promote marine safety or to protect navigable waters; or

"(2) has committed an act of incompetence, misconduct, or negligence.".

On pages 333 and 334, lines 25 and 1, respectively, strike "revocation or suspension" and insert in lieu thereof "suspension or revocation".

On page 457, in the item relating to the Act of June 5, 1920, strike "32, 33" and insert in lieu thereof "32", and strike "988-1008" and insert in lieu thereof "988-1006".

MILITARY JUSTICE ACT OF 1983

JEPSEN AMENDMENT NO. 1226

Mr. STEVENS (for Mr. Jepsen) proposed an amendment to the bill (S. 974) to amend chapter 47 of title 10, United States Code, the Uniform Code of Military Justice, to improve the quality and efficiency of the military justice system, to revise the laws concerning review of courts-martial, and for other purposes, as follows:

On page 8, beginning with line 8, strike out all down through line 16 and insert in lieu thereof the following:

"(b)(1) Within 30 days after the sentence of a general court-martial or of a special court-martial which has adjudged a bad-conduct discharge has been announced, the accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence. In the case of all other special courts-martial, the accused may make such a submission to the convening authority within 20 days after the sentence is announced. In the case of all summary courts-martial the accused may make such a submission to the convening authority within seven days after the sentence is announced. If the accused shows that additional time is required to submit such matters, the convening authority or other person taking action under this section, for good cause, may extend the period—

"(A) in the case of a general court-martial or a special court-martial which has adjudged a bad-conduct discharge, for not more than an additional 20 days; and

"(B) in the case of all other courts-martial, for not more than an additional 10 days.

"(2) In a summary court-martial case the accused shall be promptly provided a copy of the record of trial for use in preparing a submission authorized by paragraph (1).

"(3) In no event shall the accused in any general or special court-martial case have less than a seven-day period after the day on which a copy of the authenticated record of trial has been given to him within which to make a submission under paragraph (1). The convening authority or other person taking action on the case, or good cause, may extend this period for up to an additional 10 days.

"(4) The accused may waive his right to make a submission to the convening authority under paragraph (1). Such a waiver must be made in writing and may not be revoked. For the purposes of subsection (c)(2), the time within which the accused may make a submission under this subsection shall be deemed to have expired upon the submission of such a waiver to the convening authority.".

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. **MATHIAS.** Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Monday, May 9, 1983, in SR-301, Russell Building, at 10 a.m., to receive testimony on the Senate Study Group's summary report of recommendations for change in Senate practice and procedure.

The report, coauthored by former Senators James B. Pearson and Abraham A. Ribicoff, with the assistance of the Senate Parliamentarian Emeritus and staff of the Rules Committee, is an eloquent expression of concern for that unique parliamentary body which we all revere, the U.S. Senate.

I commend the report's major findings to the thoughtful consideration of every Member of this body. I would encourage each of you to present your views on these proposals and on any other recommendation you may have for the Rules Committee's deliberations on this vital matter.

Those Senators and other persons wishing to testify should contact Anthony L. Harvey of the Rules Committee staff on 224-0291.

Mr. President, on Tuesday, May 10, 1983, at 10 a.m., in SR-301, Russell Building, the Committee on Rules and Administration will hold a hearing to receive testimony on various issues concerning the Senate media galleries. These issues include the accreditation of the Voice of America and Radio Free Europe/Radio Liberty to the Radio and Television Correspondents Gallery, rules and procedures for gallery members, space and facilities for these media galleries, outside activities of media gallery staff, and security matters relating to the galleries and their membership.

Those Senators and other interested individuals wishing to testify or to submit a statement for the record should contact Anthony L. Harvey of the Rules Committee staff on 224-0291.

COMMITTEE ON APPROPRIATIONS

Mr. **HATFIELD.** Mr. President, I wish to announce to the Senate that the Committee on Appropriations will hold 3 days of hearing next week on Senate Concurrent Resolution 26, pertaining to the MX missile and its basing mode. All hearings will be held in SD 192 at 9:30 a.m.

On Tuesday, May 3, the committee will hear testimony from outside witnesses, including Mr. McGeorge Bundy and Mr. Stansfield Turner. On Wednesday, May 4, witnesses from the State Department and the Arms Control and Disarmament Agency will appear. And on Thursday, Secretary of Defense Caspar Weinberger, Chairman of the Joint Chiefs of Staff Gen. John Vessey, and Mr. Brent Scowcroft will testify. All hearings will be open.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PREPAREDNESS

Mr. **STEVENS.** Mr. President, I ask unanimous consent that the Subcommittee on Preparedness of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, April 28, at 1 p.m., to hold a hearing to receive testimony on the readiness and operation and maintenance budgets of the U.S. Air Force and its Reserve components in review of S. 675, the fiscal year 1984 Department of Defense authorization bill.

The **PRESIDING OFFICER.** Without objection it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. **STEVENS.** Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, April 28, at 2:30 p.m., to consider S. 727, a bill relating to judgment funds of three affiliated tribes of the Fort Berthold reservation; S. 884, a bill relating to the distribution of funds of the Red Lake Bank of Chippewa Indians; S. 973, technical amendments to the Indian Self-Determination and Education Assistance Act; and for other purposes.

The **PRESIDING OFFICER.** Without objection it is so ordered.

ADDITIONAL STATEMENTS

POSTAL CONSUMER PROTECTION WEEK

● Mr. **PRYOR.** Mr. President, Sunday marked the beginning of Postal Consumer Protection Week, an annual event designed to focus the attention of the public on the problems of mail fraud and false representation. Each of us is familiar, from watching television or reading magazines and newspapers, with examples of fraudulent promotions which have victimized our fellow citizens. The number of schemes is limited only by the rather fertile imaginations of the schemers.

Postal inspectors have put a stop to fraudulent promotions involving everything from bogus worm ranches to nonexistent job opportunities, from phony advertising agencies to "miracle" cancer cures. The common thread running through all of these promotions is their callous disregard of the hopes of their victims. While only a small percentage of mail order firms falls into this category, it is enough to threaten the good reputation of the thousands of legitimate firms within the industry and to deter potential customers from doing business by mail.

The solution to the program of mail fraud is threefold: Consumer awareness, consumer self-help, and prompt enforcement activity. Institutions such as Consumer Protection Week, the day-to-day consumer education programs of the Postal Service and such organizations as the Direct Marketing Association and Better Business Bureau seek to advise the public of the currency of certain fraud schemes and the typical pitch which they present to the public. Armed with this knowledge, consumers can then exercise a healthy skepticism when deciding whether to remit payment to a particular firm and ask themselves whether the claims in the firm's advertisements are believable.

As far as enforcement is concerned, there are 1,900 postal inspectors scattered throughout the country with the authority to investigate alleged violations of the mail fraud and false representation statutes. The former punishes as a crime the use of the mails to conduct an intentional scheme to defraud. The latter is a civil statute, enforced through administrative proceedings, which can result in the issuance of a "mail stop" order, directing the post office serving the address of a suspect promotion to return all mail addressed to that promotion to the senders.

We in the Congress can measurably assist the Postal Service in the enforcement of the false representation statute by passing S. 450, the Mail Order Consumer Protection Amendments of 1983. The bill would close two loopholes in current practice by obviating the need for the Postal Service to make a time-consuming test purchase of a suspect item by mail and by authorizing a U.S. district judge to assess civil penalties for violations of "mail stop" orders.

Mr. President, I believe that we should all take this occasion to recognize the continuing efforts of the Postal Service and its law enforcement arm, the Postal Inspection Service, to protect the public from fraud and deception and to examine what we in Congress can do to make them more effective. It is my firm hope that the Senate will take up and pass S. 450 at a very early date.●

SOVIET PRISON CAMPS

Mr. **ARMSTRONG.** Mr. President, the Sunday, March 20, issue of the Ukrainian Weekly carried an open letter to President Reagan from 10 inmates of Soviet forced labor camp No. 36 in Kuchino near the city Perm in Siberia, far from their native Ukraine. The 10 were all associated with the Ukrainian Helsinki Watch Group, and were imprisoned for attempting to monitor the compliance of the Soviet Government with the promises they made when they signed the Helsinki accords in 1974. The letter describes how members of the group were persecuted for celebrating the Lord's Supper at Eastertime in 1982. The letter sheds further light on the nature of the Soviet state, and should give those Americans who are inclined to trust in the words of the Soviet leaders some pause for reflective thought.

I ask that the article, headlined "Political Prisoners seek Reagan's aid in urging inspection of Soviet Camps," be printed at this point in the Record.

The article follows:

Political Prisoners Seek Reagan's Aid in Urging Inspection of Soviet Camps

Jersey City, N.J.—Copies of an open letter to President Ronald Reagan written sometime last year by 10 Soviet political prisoners have recently reached the West, reported the External Representation of the Ukrainian Helsinki Group.

The 10, all prisoners in Camp No. 36, part of a vast penal complex in the northern city of Perm in the Russian SFSR, asked Mr. Reagan to help form an international commission to inspect Soviet labor camps.

They said that Soviet abuses of political prisoners are "so widespread that it is no longer merely a question of violations of human rights, but of premeditated inhumanity, of physical and psychological torture, of terrorizing the spirit and exhibiting moral contempt for culture."

The letter was signed by Mykola Rudenko, Oles Shevchenko, Myroslav Marynovych, Viktor Nekipelov, Alexander Ogorodnikov, Henrich Altunian, Antanas Terliatskas, Viktor Niytsoo, Norair Grygorian and Vladimir Balakhonov.

Mr. Rudenko, 62, a founding member of the Ukrainian Helsinki Group, was sentenced in 1977 to seven years in a labor camp and five years' internal exile, a form of enforced residence. Mr. Marynovych, another member of the group, was sentenced a year later to an identical sentence. The other Ukrainian, Mr. Shevchenko, was sentenced in 1980, also to 12 years' labor camp and exile.

The other prisoners come from a variety of ethnic backgrounds and were involved in different phases of the dissident movement. Mr. Ogorodnikov, 32, was sentenced in 1980 to six years in a labor camp and five years' exile for his religious activities, while Mr. Nekipelov, a 52-year-old novelist and member of the Moscow Helsinki Group, was sentenced the same year to an identical term for his writings.

Mr. Altunian, a 50-year-old electrical engineer from Kharkiv, was sentenced in 1981 to a total of 12 years' imprisonment for possessing unsanctioned literature, while Mr. Niytsoo, a 31-year-old Estonian also tried in 1981, is serving a two-year labor term to be followed by two years' exile.

Mr. Terliatskas, a 55-year-old Lithuanian, was tried in 1980 and sentenced to three years in a labor camp to be followed by five years' internal exile. Mr. Balakhonov, 48, a translator, was sentenced in 1973 to 12 years in a labor camp. Details concerning the case of Mr. Grygorian are unavailable.

In the letter, the prisoners cite numerous instances of harassment and brutality in the labor camp. The full text of the letter to the president appears below.

Mr. President. It is often difficult for a resident of the West to imagine the atmosphere of lawlessness in which the inmates of Soviet political prison camps exist today. Recently (end of 1981—first half of 1982) the conditions of our imprisonment have worsened so sharply that we feel compelled to appeal to you. It is probable that this "tightening of the screws," or, as the saying went during the Stalin years, "clamp-down," is equally the result of individual instances in which the regime has disgraced itself (Poland, Afghanistan) and of the general crisis that the system is undergoing. The invariable companions of a tyranny growing decrepit—cruelty and absurdity—today permeate all spheres of our life, all aspects of our prison existence.

On April 18, 1982, the prisoners Myroslav Marynovych, Viktor Nekipelov and Mykola Rudenko were dragged away directly from a humble prison table, at which 14 prisoners had gathered to celebrate Easter with prayer and an Easter meal, and thrown into a punishment cell ("kartser") for half a month as "organizers of a mob." Strange as it may seem, the celebration of Christ's Resurrection was regarded as a gathering of a "mob" that had to be dispersed. It is difficult for us to imagine that there can exist another prison in the world, in which the observance of a religious ritual would be punishable by incarceration in a punishment cell. Even in 1932, the authorities at Stalin's Solovky special-regime camp permitted not only the Easter service, but even the procession with a cross that precedes the Easter divine liturgy.

On February 13, 1982, Rudenko, an invalid of World War II with a severe spinal injury, was deprived of his invalid status for no known reason and thereby declared capable of performing heavy manual labor. We can only assume that this was done because a collection of his poems appeared in the West.

In March of 1982, the prisoner Vladimir Balakhonov was deprived of a visit from his daughter on completely absurd and immoral grounds, namely, his failure to fulfill his work quota. This was to have been his first visit in 10 years. The use of punishment cells as a form of persecution is becoming commonplace, a part of our everyday life. After all, anyone can be thrown there for any, even the most insignificant, reason: a button left undone, leaving the work site 10 minutes before the end of the shift (even if the prisoner has met his daily output quota), or even, as happened in the case of the prisoner Alexander Ogorodnikov already serving a term in the punishment cell, for sharing a spoonful of soup with a cellmate who was to have spent the day on bread and water under the conditions of his regime.

Just as frequently and readily we are deprived of what is most precious to us, that is, visits with our relatives. Since visits are allowed not once a week or once a month, but once a year, this constitutes a very harsh punishment indeed. Between February and April 1982, Oles Shevchenko (for celebrating Easter among other reasons), Viktor Niytsoo and others had their visits from relatives cancelled under various ridiculous "pretexts." After traveling thousands of kilometers to the camp, the relatives of Henrich Altunian, Norair Grygorian and Ogorodnikov were turned back and not permitted to meet with the prisoners. In the first instance, there was allegedly no available room for the meeting; Grygorian was placed in the punishment cell on the eve of his expected visit; and Ogorodnikov's wife was told that she could not meet with her husband, because their marriage had been registered only in church.

Repressions and privations stalk us at every step. Our correspondence is subjected to the harshest ideological censorship, our letters are shamelessly confiscated (for this to happen, it is enough for a letter to be deemed "suspicious in content") or they "disappear along the way." Not a single letter from abroad has reached the camp in the last several years. Since those who send letters themselves become "suspicious in content," in general, only letters from family members get through the censor's fine sieve.

The confiscations conducted in the camp are senseless and blasphemous: poems are confiscated from poets, written prayers from believers. The authorities confiscated the Universal Declaration of Human Rights from the prisoner Nekipelov as also "suspicious in content." It had been sent to him by his wife in a letter. The Bible and other religious literature is prohibited in the camp and they have been confiscated from prisoners. The hunt for the written word is being carried to such absurd lengths that every scrap of paper is wrenched from our hands, every handwritten line.

There are frequent instances of what might be called ideological revenge. A prisoner's independent stance and his participation in collective protests, especially signing human-rights documents and appeals which might be published in the West, leave him open to a wide range of repressions—up to and including several months of imprisonment in the camp prison or even several years in the special prison in the city of Chistopol. For example, one of the real reasons for incarcerating the prisoner Dan Arenberg in Chistopol prison in September 1981 was his attempt to send a congratulatory telegram (in a perfectly legal manner) to Prime Minister Begin of Israel on the latter's election to his post.

As far as publication abroad is concerned, at this very moment KGB officers are conducting repressions among prisoners in connection with our appeal to you, Mr. President, upon your inauguration. Antanas Terliatskas was warned that he and the other authors of this appeal might receive new prison terms for their action.

Punishments were meted out to all 16 members of the "strike of despair," which took place because the camp authorities refused to call a specialist to examine the critically ill (with acute nephritis) Nekipelov, who was failing rapidly. In the end the prisoners' demand was met and a physician arrived, but a very high cost to all involved. Ten strikers were placed in the punishment cell, from which three of them—Altunian, Ogorodnikov and Rudenko—were transferred to "cell-type premises" (PKT) in the camp. A month later, Nekipelov was also taken there directly from his hospital bed. The prisoner Yu. Fedorov was transferred back to a special-regimen camp.

The list of similar examples of lawlessness could be continued without end, Mr. President. They are so widespread that it is no longer merely a question of violations of human rights, but of premeditated inhumanity, of physical and psychological torture, of terrorizing the spirit and exhibiting moral contempt for culture.

This forces us to raise an issue which our predecessors have been raising for some 10 to 15 years now, namely, international inspection of Soviet political prison camps. An impartial commission of independent and politically unaffiliated Western humanitarians—writers and lawyers—after visiting the camps of any country, be they in Ulster, South Africa or the Soviet Union, could draw up an authoritative conclusion about the contingent of prisoners here and, consequently, about the moral right of the government of this country to condemn others for using imprisonment to suppress dissent.

Knowing of your resoluteness in the defense of freedom and humanity in the world, Mr. President, we appeal to you to support the creation of such a commission. We would like your project "Truth" to include the facts about Soviet political prison camps. By whatever means best suit you—be it the Madrid Conference or in direct talks—you could assist in ridding the world of this cruel foulness. The existence of political prisoners in our enlightened age is as anachronistic as the slave trade. The champions of the primacy of morality in the whole world have long since known that no measures or spheres of trust can be extended to a country that incarcerates in prisons and camps its political, national, religious and moral opposition.

Very respectfully yours,

Prisoners of Camp No. 36 in Kuchino: Henrich Altunian, Vladimir Balakhonov, Norair Grygorian, Myroslav Marynovych, Viktor Nekipelov, Viktor Niytsoo, Alexander Ogorodnikov, Mykola Rudenko. Antanas Terliatskas, Oles Shevchenko.

HEALTH CARE FOR UNEMPLOYED WORKERS ACT—S. 1154

● **Mr. KENNEDY.** Mr. President, yesterday I introduced S. 1154, the Health Care for Unemployed Workers Act of 1983, on behalf of myself, Mr. Riegle, Mr. Metzenbaum, Mr. Eagleton, Mr. Randolph, Mr. Pell, Mr. Matsunaga, and Mr. Dodd. I ask unanimous consent that the full text of the bill appear in the Record.

The text of the bill follows:

S. 1154

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section. 1. This Act may be cited as the "Health Care for Unemployed Workers Act of 1983".

GRANTS TO STATES FOR HEALTH INSURANCE OR HEALTH CARE BENEFITS FOR UNEMPLOYED WORKERS

Sec. 2. The Public Health Service Act is amended by adding at the end thereof the following new title:

"TITLE XXI—HEALTH INSURANCE OR HEALTH CARE BENEFITS FOR UNEMPLOYED WORKERS

"DEFINITIONS

"Sec. 2101. For purposes of this part—

"(1) the term 'Secretary' means the Secretary of Health and Human Services;

"(2) the term 'eligible unemployed worker' means an individual who—

"(A) is receiving unemployment compensation, or ceased receiving unemployment compensation within the preceding three weeks by reason of a return to employment (as determined under the applicable unemployment compensation law), or

"(B) received unemployment compensation within the previous 26-week period but ceased receiving such unemployment compensation by reason of exhaustion of any unemployment compensation available to him (other than for cause), and is unemployed (as defined with respect to hours and wages for purposes of eligibility for regular unemployment compensation under the applicable unemployment compensation law); or

"(C) received unemployment compensation within the 24-month period preceding the date on which the State establishes a health benefits program under this part, but ceased receiving such unemployment compensation by reason of exhaustion of any unemployment compensation available to him (other than for cause), and is unemployed (as defined with respect to hours and wages for purposes of eligibility for regular compensation under the applicable unemployment compensation law);

"(3) the term 'family member' means, with respect to an eligible unemployed worker, that worker's spouse, or that worker's child who is—

"(A) eighteen years of age or younger, or

"(B) twenty-two years of age or younger and a full-time student;

"(4) the term 'period of eligibility' means, with respect to an eligible unemployed worker and his family members, the period—

"(A) beginning with the later of—

"(i) the fourth week for which such worker is receiving unemployment compensation,

"(ii) the date on which such worker's coverage (if any) ceases under a group health plan paid for or contributed to by his employer at the time immediately prior to such worker becoming unemployed and becoming eligible for unemployment compensation, or

"(iii) the date on which the State establishes a health benefits program under this part; and

"(B) ending with the earlier of—

"(i) the fourth week following the week in which such worker ceases to be unemployed (as defined with respect to hours and wages for purposes of eligibility for regular compensation under the applicable unemployment compensation law),

"(ii) the first week for which such individual is eligible for health care coverage under another public health care plan (including title XVIII of the Social Security Act or a State plan under title XIX of such Act) or under an employment-related health care plan of such individual or such individual's spouse or parent paid for or contributed to by an employer, or

"(iii) the later of—

"(I) the twenty-sixth week following the week in which such worker ceased receiving unemployment compensation by reason of exhaustion of such unemployment compensation (other than for cause), or

"(II) the fifty-second week after the date on which the State establishes a health benefits program under this part;

"(5) the term 'health benefits program' means a program established by a State to provide health care, directly or through capitation payments, insurance pools or otherwise, for eligible unemployed workers and their family members during their period of eligibility, and which provides at a minimum some inpatient and some outpatient hospital services, some physician services (including primary and preventive care), and prenatal, maternity, and post partum services;

"(6) the term 'unemployment compensation' means regular, extended, or Federal supplemental compensation paid under the unemployment compensation law of a State, or any compensation paid under an unemployment compensation law of the United States, including trade readjustments allowances under the Trade Act of 1974, and compensation paid under chapter 85 of title 5, United States Code, and the Railroad Unemployment Insurance Act; and

"(7) the term 'applicable unemployment compensation law' means the provision of Federal or State law under which an individual is receiving unemployment compensation, or most recently received such compensation.

"ALLOCATION AND PAYMENT OF FUNDS

"Sec. 2102. (a) The Secretary shall allot the amount appropriated to carry out this part for each of the 6-month periods beginning on October 1 and April 1 of each fiscal year among the States as follows:

"(1) One-third of such amount shall be allotted among the States on the basis of the relative number of insured unemployed individuals who reside in each State as compared to the total number of insured unemployed individuals in all the States.

"(2) One-third of such amount shall be allotted among the States on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States. For purposes of this paragraph, the term "excess number" means the number which represents unemployed individuals in excess of 6 percent of the civilian labor force in the State.

"(3) One-third of such amount shall be allotted among the States on the basis of the relative number of individuals who have been unemployed for 26 weeks or more and who reside in each State as compared to the total number of such individuals in all the States.

An allotment for all months in fiscal year 1983 shall be made within one month after amounts are appropriated for such fiscal year.

"(b) Allotments shall be made on the basis of the most recent 6-month period, preceding the month in which the Secretary makes such allotments, for which adequate data is available.

"(c) The Secretary is authorized to reallot any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to obligate such amount within one year of allotment.

"(d) An amount, not to exceed the State's allotment determined under subsection (a), equal to the Federal percentage (as determined under subsection (e)) of the amount expended by such State for its health benefits program, less the amount of any premiums, copayments, or similar fees collected by the State, shall be paid to the State on a quarterly basis.

"(e) For purposes of this section, the Federal percentage is—

"(1) 100 percent with respect to amounts expended by the State during any month for which such State's average rate of total unemployment (as determined by the Bureau of Labor Statistics) for the period consisting of such month and the preceding 5 months is equal to or greater than 10 percent;

"(2) 95 percent with respect to amounts expended by the State during any month for which such State's average rate of total unemployment for the period consisting of such month and the preceding 5 months is equal to or greater than 8 percent but less than 10 percent;

"(3) 90 percent with respect to amounts expended by the State during any month for which such State's average rate of total unemployment for the period consisting of such month and the preceding 5 months is equal to or greater than 6 percent but less than 8 percent; and

"(4) 80 percent with respect to amounts expended by the State during any other month.

"PREMIUMS, COPAYMENTS, DEDUCTIBLES, AND SIMILAR CHARGES

"SEC. 2103. (a)(1) A State may impose a weekly premium for an individual voluntarily enrolled in the health benefits program and may impose deductibles with respect to services provided under the program, but the combination of such premium charge and deductible amounts may not exceed an amount equal to 5 percent of the amount of the unemployment compensation, if any, for which the enrollee is eligible for the week. The State may provide for the deduction of the amount of such a premium from the amount of such compensation paid to the enrollee.

"(2) The State plan may not impose any premium, enrollment fee, or similar charge, or deductible, except as provided in paragraph (1).

"(b) A State may provide for imposition of cost sharing and similar charges with respect to those services required to be included in the health benefits program by reason of section 2101(5), but such cost sharing and similar charges shall not exceed those imposed under the State plan approved under title XIX of the Social Security Act pursuant to paragraphs (2) and (3) of section 1916(b) of such Act.

"APPLICATIONS AND REQUIREMENTS

"SEC. 2104. (a)(1) Each State desiring to receive payment for any fiscal year under this part shall submit an application to the Secretary. Each such application shall be in such form as the Secretary shall require. Each such application shall contain assurances by the chief executive officer of the State that the State will meet the conditions enumerated in subsection (b).

"(2) After the expiration of the first fiscal year for which a State receives funds under this part, no funds shall be allotted to such State for any fiscal year under this part unless such State conducts public hearings with respect to the proposed use and distribution of funds to be provided under this part for such fiscal year.

"(b) As part of the annual application required by subsection (a), the chief executive officer of each State shall certify that the State agrees to—

"(1) use the funds available under this part for the purpose of carrying out health benefit programs in accordance with the requirements of this part;

"(2) conduct outreach activities designed to assure that eligible unemployed workers are made aware of the assistance provided under this part, including notification by the State agency administering the State's unemployment compensation law to every individual who becomes eligible for unemployment compensation (at the time he becomes so eligible) of the terms and conditions under which the individual may enroll in the program;

"(3) coordinate its activities under this part with similar and related programs administered by the Federal Government and such States;

"(4) provide that—

"(A) in each fiscal year, the State may use for planning and administering health benefit programs under this part an amount not to exceed 10 percent of its allotment under this part for such fiscal year; and

"(B) the State will pay from non-Federal sources the remaining costs of planning and administering the programs assisted under this part and will not use Federal funds for such remaining costs;

"(5) the program shall be secondary in payment to any other insurance or other benefit plan which provides medical assistance, and shall require each individual enrolled in the program, as a condition of enrolling in the program, to assign to the State all rights to payments under any such other insurance or benefit plan to which the individual may be entitled;

"(6) provide that such fiscal control and fund accounting procedures will be established as may be necessary to assure the proper dispersal of and accounting for Federal funds paid to the State under this part, including procedures for monitoring the assistance provided under this part, and provide that at least every year the State shall prepare an audit of its expenditures of amounts received under this part;

"(7) permit and cooperate with Federal investigations undertaken in accordance with section 2106;

"(8) provide an opportunity for a fair administrative hearing to individuals whose claims for assistance under the plan described in subsection (c) are denied or are not acted upon with reasonable promptness;

"(9) require that any individual or entity providing health care covered under the program agrees to accept the payment authorized under the program (including any deductible amount, copayment, or similar charge authorized under section 2103) as the full payment for the provision of such health care to an individual covered under the program.

"(10) provide equivalent health care benefit packages to all individuals covered under the program, and, if more than one such benefit package is available to an individual under the program, provide that the individual shall choose the benefit package in which he shall participate; and

"(11) provide that health maintenance organizations which offer group health benefits within the State shall be permitted to contract for the provision of covered services to eligible unemployed workers and family members under the program on a risk basis, so long as the health maintenance organization offers at least the same benefits as are otherwise available under the State's program at a cost that is less than or equivalent to the cost of such benefits, and the provisions of section 2103 (relating to premiums, copayments, deductibles, and similar charges) shall apply to contracts under this paragraph.

"(c)(1) As part of the annual application required in subsection (a), the chief executive officer of each State shall prepare and furnish to the Secretary a plan which contains provisions describing how the State will carry out the assurances contained in subsection (b). The chief executive officer may revise any plan prepared under this paragraph and shall furnish the revised plan to the Secretary.

"(2) Each plan prepared under paragraph (1) shall be made available for public inspection within the State involved in such a manner as will facilitate review of, and comment upon, such plan.

"(d) Each audit required by subsection (b)(5) shall be conducted by an entity independent of any agency administering activities or services carried out under this part and shall be conducted in accordance with generally accepted auditing principles. Within thirty days after the completion of each audit, the chief executive officer of the State shall submit a copy of such audit to the legislature of the State and to the Secretary.

"(e) Notwithstanding any other provision of law, the amount of any health care or payments provided to an eligible unemployed worker or family under this part shall not be considered income or resources of such worker or family for any purpose under any Federal or State law, including any law relating to taxation, food stamps, public assistance, or welfare programs.

"(f) The State shall repay to the United States amounts found not to have been expended in accordance with this part or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this part.

"(g) The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of grants under this part in order to assure that expenditures are consistent with the provisions of this part and to determine the effectiveness of the State in accomplishing the purposes of this part.

"(h) The State shall submit a report to the Secretary, not later than September 30, 1984, and each year thereafter, with respect to the accomplishments of the health benefits program in such State.

"NONDISCRIMINATION PROVISIONS

"SEC. 2105. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this part. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 also shall apply to any such program or activity.

"(b) Whenever the Secretary determines that a State which has received a payment under this part has failed to comply with subsection (a) or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable; or (3) take such other action as may be provided by law.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that the State is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

"WITHHOLDING OF FUNDS

"SEC. 2106. (a)(1) The Secretary shall, after adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State which does not utilize its allotment substantially in accordance with the provisions of this part and the assurances such State provided under section 2104.

"(2) The Secretary shall respond in an expeditious and speedy manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the provisions of this part or the assurances provided by the State under section 2104. For purposes of this paragraph, a violation of any one of the assurances contained in section 2104(b) which constitutes a disregard of such assurance shall be considered a serious complaint.

"(b)(1) The Secretary shall conduct in several States in each fiscal year investigations of the use of funds received by the States under this part in order to evaluate compliance with the provisions of this part.

"(2) Whenever the Secretary determines that there is a pattern of complaints from any State in any fiscal year, he shall conduct an investigation of the use of funds received under this part by such State in order to ensure compliance with the provisions of this part.

"(3) The Comptroller General of the United States may conduct an investigation of the use of funds received under this part by a State in order to ensure compliance with the provisions of this part.

"(c) Pursuant to an investigation conducted under subsection (b), a State shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

"(d) In conducting any investigation under subsection (b), the Secretary may not request any information not readily available to such State or require that any information be compiled, collected, or transmitted in any new form not already available.

"AUTHORIZATION

"SEC. 2107. For the purpose of carrying out the provisions of this part, there are authorized to be appropriated $900,000,000 for fiscal year 1983, and $2,700,000,000 for each of the fiscal years 1984, 1985, and 1986.

"PART B—ASSISTANCE TO PUBLIC HEALTH CARE FACILITIES SERVING THE UNEMPLOYED

"GRANTS TO HEALTH CARE FACILITIES

"SEC. 2111. (a) The Secretary of Health and Human Services shall make grants to public and not-for-profit hospitals (or to hospitals operated by a public benefit corporation) and other public and not-for-profit health care facilities meeting the requirements of subsection (b) to assist the hospitals and other facilities in providing services to persons unable to pay for such services.

"(b) A hospital or other facility is not eligible for a grant under this section unless the hospital or facility—

"(1)(A) is located in an area experiencing high unemployment (as determined by the Secretary), or

"(B) serves primarily medically underserved populations (as defined in section 330(a)(3));

"(2) serves a significantly disproportionate number of patients who have low income and who are unable to pay for hospital or other health care services;

"(3) in the case of a hospital, provides evidence, satisfactory to the Secretary, that if the hospital is required, pursuant to an assurance under title VI or XVI, to make available a reasonable volume of services to persons unable to pay therefor, the hospital has made (and is making) such a volume of services available for the period for which the assistance is sought; and

"(4) offers assurances satisfactory to the Secretary that it will use the sums provided in the grant in addition to, rather than in lieu of, existing Federal, State, and local funds currently available for the purposes described in subsection (a).

"(c)(1) No grant may be made under this section unless an application therefore is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and contain such information as the Secretary shall prescribe.

"(2) The amount of any grant under this section shall be determined by the Secretary.

"(d) The Secretary shall report to the Congress not later than December 31, 1984, on the identity and location of hospitals and other facilities provided assistance under this section and an estimate of the change in the number of individuals who are unable to pay for services and who were provided services in each of such hospitals and facilities receiving such assistance compared to the number of such individuals in the previous period.

"(e) For the purpose of making grants under this section, there are authorized to be appropriated—

"(1) $100,000,000 for fiscal year 1984,

"(2) $110,000,000 for fiscal year 1985, and

"(3) $120,000,000 for fiscal year 1986.

"PART C—EMPLOYEE'S HEALTH BENEFITS PLANS

"OPEN ENROLLMENT REQUIREMENTS

"SEC. 2121. (a) In accordance with regulations which the Secretary of Health and Human Services shall prescribe—

"(1) each employer—

"(A) which is now or hereafter required during any calendar quarter to pay its employees the minimum wage prescribed by section 6 of the Fair Labor Standards Act of 1938 (or would be required to pay its employees such wage but for section 13(a) of such Act), and

"(B) which during such calendar quarter employed an average number of employees of not less than 25, shall include in any health benefits plan, and

"(2) any State and each political subdivision thereof which during any calendar quarter employed an average number of employees of not less than 25, as a condition of payment to the State of funds under section 314(d), 317, 318, 1002, 1525, 1613, or 2102 shall include in any health benefits plan.

offered to such employees in the calendar year beginning after such calendar quarter a provision which establishes a period of open enrollment for spouses of unemployed individuals in accordance with subsection (b).

"(b)(1) A health benefits plan meets the requirements of this subsection only if it provides for an open enrollment period of at least 30 days duration for each married employee who is (or at a previous time was) eligible to enroll under the plan and whose spouse loses coverage under a group health plan due to the involuntary termination (other than for cause) of the spouse's employment. Such period shall begin on the day after (or within 7 days before) the date the spouse losses such coverage.

"(2) The terms of an enrollment during a period provided under paragraph (1) shall be the same as the terms (including any option for coverage of immediate family members) most recently offered with respect to the enrollment of that employee or (at the employer's option) to newly hired or other employees similarly situated, except that such enrollment may not require or discriminate on the basis of lack of evidence of insurability and if the employee was previously covered and only exercised the option to cover immediate family members there may be no delay in the coverage of such immediate family members.

"(c) No employer shall be required to pay more for health benefits as a result of the application of this section than would otherwise be required by any prevailing collective-bargaining agreement or other legally enforceable contract for the provision of health benefits between the employer and its employees.

"(d)(1) Any employer who knowingly does not comply with one or more of the requirements of subsection (a) or (b) shall be subject to a civil penalty of not more than $10,000. If such noncompliance continues, a civil penalty may be assessed and collected under this subsection for each thirty-day period such noncompliance continues. Such penalty may be assessed by the Secretary and collected in a civil action brought by the United States in a United States district court.

"(2) In any proceeding by the Secretary to assess a civil penalty under this subsection, no penalty shall be assessed until the employer charged shall have been given notice and an opportunity to present its views on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the Secretary shall consider the gravity of the noncompliance and the demonstrated good faith of the employer charged in attempting to achieve rapid compliance after notification by the Secretary of a noncompliance.

"(3) In any civil action brought to review the assessment of a civil penalty assessed under this subsection, the court shall, at the request of any party to such action, hold a trial de novo on the assessment of such civil penalty and in any civil action to collect such a civil penalty, the court shall, at the request of any party to such action, hold a trial de novo on the assessment of such civil penalty unless in a prior civil action to review the assessment of such penalty the court held a trial de novo on such assessment.

"(e) For purposes of this section, the term 'employer' includes the Government of the United States, the government of the District of Columbia and any territory or possession of the United States, and any agency or instrumentality (including the United States Postal Service and Postal Rate Commission) of any of the foregoing, but does not include any State or political subdivision thereof or a church, convention, or association of churches, or any organization operated, supervised, or controlled by a church, convention, or association of churches which organization is an organization described in section 501(c)(3) of the Internal Revenue Code of 1954.

"(f) If the Secretary, after reasonable notice and opportunity for hearing to a State, finds that it or any of its political subdivisions has failed to comply with one or more of the requirements of subsection (a), the Secretary shall terminate payments to such State under sections 314(d), 317, 318, 1002, 1525, 1613, and 2102 and notify the Governor of such State that further payments under such sections will not be made to the State until the Secretary is satisfied that there will no longer be any such failure to comply.".

EFFECTIVE DATES

"Sec. 3. (a) Parts A and B of title XXI of the Public Health Service Act shall become effective on the date of the enactment of this Act.

"(b) Part C of such title shall become effective on the first day of the thirteenth month beginning after the date of the enactment of this Act, but shall not apply to any employer until after the expiration of any collective bargaining agreement which included any provision for providing a health benefit plan or plans to employees and which was in effect on the date of the enactment of this Act.●

THE TRUTH ABOUT VIETNAM

● **Mr. ARMSTRONG.** Mr. President, those who are critical of President Reagan's efforts to preserve liberty and forestall the spread of communism in Central America say often that we should "heed the lessons of Vietnam."

I could not agree more. There are lessons that we must learn from Vietnam. But the lessons that Vietnam teaches are precisely the opposite of what those who are now drawing the "Vietnam parallel" seem to think. No one knows the truth about Vietnam, nor learned it more painfully, than those South Vietnamese who actively opposed the Government of South Vietnam and U.S. involvement in the Vietnam conflict. I would like to insert in the Record at this time a number of articles in which former members of the National Liberation Front share with us the bitter fruit of their experience. I ask that the articles: "Why Vietcong Flee," by Al Santoli, which appeared in Parade magazine on July 11, 1982; "The Myth of a Liberation," by Doan Van Toai, which appeared in the New York Review of Books on October 21, 1982; "A Lament for Vietnam," by Doan Van Toai, which appeared in the New York Times Magazine on March 29, 1981; ". . . and Baby Makes Three," by Doan Van Toai, which appeared in National Review on October 1, 1982; "Learning from Vietnam," by Doan Van Toai and David Chanoff, which appeared in Encounter magazine, and "Vietnam's Postwar Hell," by Ginetta Sagan, which appeared in Newsweek on May 3, 1982, be printed at this point in the Record.

[From Parade magazine, July 11, 1982]

Why Viet Cong Flee

(By Al Santoli)

Since the Americans left their country in 1975, nearly a million Vietnamese have fled by boat; an estimated half of them have died at sea. PARADE has found that a surprisingly high number—thousands, according to refugee leaders—were Viet Cong and Communist Party members. These unusual and rarely noted refugees have resettled in Thailand, Hong Kong, Malaysia, Switzerland, Paris and even Boston and San Jose, Cal. What follows is the result of interviews with high-level Viet Cong and Communist leaders we believe representative of those who have escaped. They made the following assertions about conditions in Vietnam today and the actions of the Communist government since its takeover in 1975:

Thousands of citizens—including many former Viet Cong—have been imprisoned, sent to "reeducation camps" or executed. In addition, 500,000 Vietnamese are being exported to Siberian labor camps by agreement with the Soviets.

Large amounts of Vietnam-grown rice, rubber and other raw materials are shipped to the Soviet Union, while the Vietnamese at home go hungry and the economy deteriorates.

Religious freedom has been restricted greatly, with church and temple properties confiscated or desecrated.

U.S. pilots were seen doing hard labor in North Vietnam several months after Hanoi said it had freed all POWs. These men are still there.

The once-questioned "domino theory" seems to be proving out. The Vietnamese Communists plan, after conquering Cambodia and Laos, to "liberate" Thailand.

Nguyen Tuong Lai's family and friends were lucky. After nearly a week at sea in their small boat, they arrived at a refugee camp on Bidong Island, Malaysia. Lai was given a job helping to question other former Communist soldiers and political cadre members, who continue to arrive in the Bidong camp. For two years, the family waited to emigrate. Today, in a small town in the mountains of Switzerland, Lai is learning the local language and how to drive a car.

He had been a soldier all his life. At 14, he joined the Viet Minh to fight the French in the swamps of his native Mekong Delta. After the defeat of the French at Dienbienphu, Lai was assigned to organize resistance units in the delta. By 1959, he had elite membership in the Vietnamese Communist Party. He commanded Viet Cong units in early battles and, having proven his valor, was sent to military academies in the Soviet Union and Hanoi, then home to lead a commando regiment against U.S. forces.

Lai is a huge man who stood head and shoulders above the troops in whom he had to instill fearless obedience—their work was among the most daring and bloody in the war. During the 1968 Tet Offensive, in which the Viet Cong was decimated, his troops led a suicide attack on the Bien Hoa airfield.

Lai was assigned to National Liberation Front (Viet Cong) headquarters in the hotly contested region near Cambodia and was named chief of Viet Cong intelligence and counterintelligence. For years, he lived beneath the jungles, coming out only to oversee guerrilla operations in the Saigon area until the war ended.

"After the liberation in 1975," Lai recalls, "after 21 years of fighting, I believed that peace had finally come and the new life would begin." But after North Vietnamese regiments marched into Saigon, the Communist Central Committee in Hanoi ordered Viet Cong units disbanded. The National Liberation Front flag, usually displayed in public places alongside the flag of North Vietnam, was banished by party official and forcefully removed by the army. Revolutionary leaders like Lai were demoted and integrated into "The People's Army."

The Viet Cong did not understand the attitude of the Northern Communists. Lai remembers their disillusionment: "We contributed so much during the war, and suddenly we don't have any responsibility and are not trusted by the party."

Like most Viet Cong leaders, Lai had relatives who had been officials in the defeated Southern regime. "After years of fighting," he says, "I reestablished close contact with my relatives. I had brothers, and my sister's husband, who fought in the ARVN [South Vietnamese Army], and my uncle, a landowner. I developed good relationships with them. But at party self-criticism sessions, cadre members from the North condemned Southern cadre like myself for associating with our 'capitalist' family members."

Though given a reduction in rank, Lai was named head of security and counterintelligence in southwest Vietnam. There, he found himself participating in the formation of a police state. Every citizen was suspected of being a counterrevolutionary who had to be watched or sent to prison or one of the "reeducation camps," which actually were forced-labor compounds. Among the thousands sent away were many former revolutionaries, imprisoned because they had opposed the severity of the Northern Communists and the Soviet presence in Vietnam.

Lai's disenchantment increased when he was made commander of the reeducation camp at Long Tan and ordered to draw up a stricter national surveillance policy. But what finally drove him to leave his country were the invasions of Cambodia and Laos.

"I am not afraid to die or sacrifice for my country," Lai says, "but I was against the mission in Cambodia. As a party member, I was obliged to obey orders. But many Southern members questioned the reasons and merits for going into Cambodia. Many of us felt it was because of Cambodia's alliance with China and our own party's obedience to Soviet dictates. After 21 years of war, another battle was beginning. I felt it would not be good for the reconstruction of Vietnam. So, even though I was unsure how my former enemies in the West would accept me, I decided to leave."

Truong Nhu Tang was another who emerged from Viet Cong jungle headquarters in 1975 as the last U.S. helicopters flew out of Saigon. Today, at age 59, he lives in Paris, writing his memoirs while his wife works as a pharmacist to help make ends meet. Small, white-haired, conservatively dressed, soft-spoken—Tang hardly seems the dedicated former revolutionary leader in a vicious civil war.

Yet this French-educated sugar industry executive from one of South Vietnam's most respected families was one of 60 nationalists who formed the National Liberation Front in December 1960 in a rural plantation near Bien Hoa. His revolutionary identity discovered, he was imprisoned by the South Vietnamese government and traded to the Viet Cong in 1968 for three American colonels.

He joined the Viet Cong command in the jungle. During the war, he says, his unit was "usually within 300 meters of U.S. troops, observing their movements." He adds: "Even helicopters flying at tree level couldn't spot our positions. We had at least five hours' warning on every B-52 raid. After the bombing, U.S. intelligence would say they had killed 500 Viet Cong in the area. But we had moved out before the bombers came."

Appointed justice minister of the Provisional Revolutionary Government, Tang conducted psychological warfare—which included both friendly and deadly persuasion—in the villages.

He also helped develop the NLF's "Ten-Point Plan for National Reconciliation," which was approved by Hanoi's Communist leaders and became the centerpiece of the 1973 Paris Peace Agreement. It called for a coalition government in Vietnam, free and democratic elections and no foreign interference in government affairs.

When the war ended, Tang recalls, North Vietnamese political officials went South with the conquering army. They fought among themselves, sometimes at gunpoint, to confiscate the best houses, richest plantations and luxuries of the black market—while refugees fled the country by the thousands. The economy deteriorated rapidly because of inadequate industrial planning by the Soviet-trained Northern cadre, Tang says.

"The living situation in the South has never been as bad as it is now," says Tang. "The Hanoi Communist Party has concentrated power into a small caste of corrupt and incompetent bureaucrats and brutal security forces. Current repression is far worse than during [President Nguyen Van] Thieu's regime [1967-75] and there is nothing to eat. Hanoi blames these problems on the Americans or the Chinese, but the real cause is themselves.

"For example, the damage caused by American defoliation during the war has been exaggerated to give an alibi for the catastrophic agricultural situation. But the real reason is that the farmers have adopted a form of passive resistance and protest toward the government." Farmers refused to join government cooperatives based on the Soviet model, Tang says, because of unfair compensation for their work and broken promises by the Communists, who had agreed to grant the peasants ownership of their land.

Much of the rice grown in Vietnam today, Tang notes, is shipped to the Soviet Union or goes to the army to continue the unpopular wars in Cambodia and Laos. Meanwhile, the people at home starve.

"We were betrayed by the Hanoi regime," Tang says, "because they immediately brought the Russians into the South, and today they are everywhere in Vietnam." To help pay its debts to the Soviet Union, the Vietnamese government recently agreed to export 500,000 "guest workers" for Siberian slave labor, Tang says. He estimates that most of these slaves come from the reeducation camps and jails for politicial prisoners.

Tang knew that his authority as justice minister of the revolutionary government was illusory. He had assembled a staff of legal experts, but those not approved of by the Northern cadre were sent to reeducation camps.

The policy of "reeducation" increased Tang's disaffection. Shortly after the liberation, he advised his brother, who had been a medical doctor in the ARVN, to report voluntarily to what Hanoi officials promised would be a 10-day camp. After a month, when his brother had not returned, Tang asked top government officials why nobody had been released. He recalls telling them: "This violates the reconciliation that we promised the people. Now we are strong, we have all the power in our hands. Why do we have to act as conquerors?" They gave him no answers, he says.

Tang recalls the frustration: "People would stop me on the street and demand to know what I was doing about their friends and relatives whose property was being seized, who were disappearing in reeducation camps or were forced to move to 'new economic zones.' I felt helpless. There was nothing I could do."

In protest, Tang resigned as justice minister. The government—to save face, he says—resettled him on a lush farm complete with servants and guards and offered him the ceremonial post of vice minister of food.

He says he could not accept the deal for long, and on a rainswept August night in 1979, Tang and his wife joined 62 others in a wooden boat and braved winds, waves, navy patrols and pirates. One week later, their weathered vessel was washed ashore somewhere on the Indonesian coast.

In San Jose, Cal., Nguyen Cong Hoan and other members of the Vietnamese community there have transformed an old house into a Buddhist temple. Though he works as an electronics technician and his children spend Saturday, mornings watching cartoons on TV, he seems preoccupied with his wartime days in the Buddhist peace movement, when he helped lead the opposition to the Saigon government.

"The Buddhist movement, like other opposition groups in Vietnam, was tired of the long war and only wanted peace," Hoan explains. "The U.S. had supported governments that were corrupt and had no contact with the common villagers. Our main objective was to get rid of Thieu. Many people joined the NLF only because they felt that anything would be better than Thieu. NLF propaganda promised a just unification of our society, and the Communists promised peace, justice, democracy, independence and a better life. On paper, the NLF was a coalition of many groups. We did not realize that, in reality, only one group controlled—the Communist Party."

Shortly after the "liberation," Hoan says, the Communists cracked down on all religious groups. Most prominent antiwar leaders were imprisoned, church and temple properties confiscated, pagodas and churches desecrated and the laity was prevented from going to religious services. A few temples—run, Hoan says, "by puppets of the Communists"—were allowed to remain for cosmetic purposes.

After the fall of Saigon, Hoan returned to his home in South Vietnam to teach school. He was informed that within the first days of the "liberation," 700 people were executed in his province and thousands imprisoned.

According to former intelligence chief Lai, "people's courts" were staged in public throughout the country. All tried were sentenced to death, but Communist Party policy was to kill them in secret places so the international media would not pick up the story and local populations would not be repulsed by the spectacle. Another former government official estimates that 200,000 executions took place.

In 1975, the Communists made Hoan a "legislator" in the National Assembly of the Socialist Republic of Vietnam. But, like other Southerners appointed to the assembly in Ho Chi Minh City, he was never allowed to speak or act on anything substantial, as the assembly was controlled by a dozen party members from North Vietnam. As assemblyman, Hoan took two trips to North Vietnam, where he had access to information on national objectives and government policies.

Hoan says the Vietnamese do not want to stop fighting after the conquest of Laos and Cambodia. "During the first session of the National Assembly in Hanoi," he recalls, "Tran Quynh, assistant to party secretary Le Duan, told me: 'The liberation of Thailand will be next. It is a historical necessity and a responsibility of the Vietnamese Communist Party.' At the same session, we were given a document titled Vietnam-Southeast Asia, expressing the party's drive for domination." Hoan decided to leave Vietnam, he says, to tell the outside world about conditions in his country.

Nguyen Duc Yen fled by boat from Hanoi to Hong Kong in 1979, after 20 years of membership in the Vietnamese Communist Party. During the war, he served as a propaganda minister in the prime minister's office and the Foreign Press Relations Bureau.

Today, Yen, an impeccably dressed man in his mid-40s, works as a reporter for a rural village newspaper in Switzerland, where he and his family live in the foothills of the Alps.

His job during the war was to translate Soviet propaganda and doctrine into Vietnamese. Few Westerners realize, he says, that most of the information and assertions from Hanoi at that time originated in the Soviet Union and East Germany.

As propaganda minister, Yen divided his time between Hanoi and Moscow. "In Eastern Europe and the Soviet Union," he says, "I saw the kind of poverty and misery that Marxism has caused everywhere. After the war, I saw the same thing happening in my country. To speak out against this meant prison or death, which happened to many party members, even veterans of the French war."

In June 1973, Yen says, he saw 30 or 40 American pilots still held as POWs in the highlands of North Vietnam. It was two months after the North Vietnamese government said it had released all POWs, and to this day, adds Yen, these men have not been released. "The district chief of that region told me the party's central committee in Hanoi had sent these prisoners to his region for him to take care of," says Yen. "The men were doing hard labor." Today, the fate of these Americans is still in Hanoi's hands.

Yen says that Hanoi will try to use these prisoners as bargaining chips to reestablish diplomatic relations with the U.S.—which, he says, "would be a grave mistake." He emphasizes, "It would only help them to make war with other countries and further oppress the Vietnamese people. The aid would be used to buy weapons and supply the army to invade the rest of Southeast Asia. In addition, the Soviets would like to use the Vietnamese to divide the U.S. and China.

According to Nguyen Tuong Lai, resistance to the government is increasing in Vietnam—passive resistance by civilians and organized armed resistance by former Viet Cong and ARVN members and tribespeople. In 1977, Lai says, the resistance forces blew up a major fuel storage facility at Long Binh—something the Viet Cong could never accomplish during the war. Yen adds that the resistance has been largely hidden by the government.

"My job in Hanoi was to prepare people for visits by Western media." Yen says. "When Western delegations come to visit Hanoi or other cities, the people are prepared ahead of time as to how they should act and what they should say. Even on the streets, the reality is quite different from what a journalist will be shown. The secret police are everywhere. A journalist will be taken to see only trusted party members, who will say what the party has told them to say and nothing more. When Westerners see a Vietnamese smile, they do not realize that it is a form of social dignity, not a reflection of that person's inner feelings. If a journalist reports that the Vietnamese are happy, he does not know anything about Vietnam."

(Nguyen Tuong Lai, the former Viet Cong intelligence chief who now lives in the Swiss mountains, concludes our interview: "I would like to contribute the rest of my life to the reconstruction of Vietnam into a free democratic country." It is spring, 1982.)

[From the New York Review, Oct. 21, 1982]

The Myth of a Liberation

(Among the anonymous hundreds of thousands of Vietnamese boat people are some whose stories are becoming known. And among these, there are a few special witnesses. One is Truong Nhu Tang, a founder of the NLF, minister of justice for the Viet Cong Provisional Revolutionary Government, one of the most determined adversaries of the US during the war.

There is no one whose revolutionary credentials are more secure, no one who worked harder to expel the US from Vietnam and to establish a revolutionary government. In recognition of his service, in 1976 Truong Nhu Tang was offered a cabinet position, vice-minister of nutrition, in the government of unified Vietnam, a unique honor for former NLF leaders. He is a man beyond the charge of CIA complicity. His story is a simple human tragedy, but beyond that, it provides unique historical insight into a tormenting war.

Truong Nhu Tang is fifty-seven years old and is now living in Paris, where he has recently founded the National Salvation Council (Uy Ban Cuu Nuoc) to rally his compatriots and gain support for the struggle against communist Vietnam.—Doan Van Toai and David Chanoff.)

On May 15, 1975, I was standing on the official dais reviewing the first Victory Day parade in Ho Chi Minh City (Saigon until several months earlier). The crowd marching by waved the flags of both the Democratic Republic of Vietnam (Hanoi) and the Provisional Revolutionary Government of the Republic of South Vietnam (Viet Cong). The troops, though, bore only the North's colors. I asked the four-star general standing next to me where were the famous Viet Cong Divisions 1, 5, 7, and 9. The general, Van Tien Dung, commander-in-chief of the North Vietnamese army, answered coldly that the armed forces were now "unified." At that moment I began to understand my fate and that of the NLF. In Vietnam we often said: "Take the juice of the lemon and throw away the peel." On that dais the years of communist promises and assurances revealed themselves for the propaganda they were. Victory Day celebrated no victory for the NLF, or for the South.

When I was a student in Paris in the late 1940s, I was tremendously attracted to Western liberal ideas. I studied the theory of democracy and saw at first hand something about how it worked. My own country had gone through such a different historical development: a thousand years of autocratic Chinese domination followed by an equally unenlightened French colonial regime. Ironically perhaps, I found I loved French culture and especially French political traditions. I wanted desperately for my own country nothing less than what France and other Western nations enjoyed: independence and a democratic political life. I felt elated and proud when Ho Chi Minh came to Paris to negotiate with the French, even more when the press hailed him as a hero of the Vietnamese people. I felt that I was touched by the glory reflected from this man. When I was invited to meet him I was overwhelmed by happiness. An idealistic and innocent Vietnamese youth, I became at that meeting a devoted follower of Ho.

During the late 1950s, there were not many Vietnamese intellectuals who had studied at Western schools, and I was among the few who had graduated from a French university. When I returned to Saigon in 1958, I was the controller-general of a bank and then was appointed by the South Vietnamese government director of the national sugar refinery in 1964. With this appointment I began following the path of those fortunate intellectuals who had been educated in the West and moved automatically into high government positions with secure futures. Often they were promoted to the position of minister, which they enjoyed fully. They paid great attention to their own luxuries and careers and no attention at all to what I saw as the needs of the people.

In time I came to feel that scarcely any of the top South Vietnamese leaders was a patriot and that I could not serve the country together with such corrupt generals and officials. In particular, there was no political freedom as I had seen it in the West. I became preoccupied with thoughts of my countrymen who were suffering in prisons and in the jungles for independence and for the political ideals I shared. Secretly I made contacts with these revolutionaries. Together we decided that my contribution would be most effective if I kept my position in the sugar refinery and maintained clandestine contacts with my new associates. Thereafter I began secret biweekly meetings with an agent of Huynh Tan Phat, the future prime minister of the Provisional Revolutionary Government, and I kept up these meetings for the next two years. During this entire period President Ngo Dinh Diem's police never suspected my involvement with the Viet Cong.

In December 1960, at a memorable jungle meeting, my friends suggested that we form the Provisional Committee of the NLF. Subsequently a larger meeting was set up on a rubber plantation in Bien Hoa, twenty miles northeast of Saigon. Present were about twenty people, all of them Southerners and educated in France. Our first thought was to choose a president and Tran Kim Quan, a Saigon pharmacist, was proposed. Quan had been a leader of the 1954 peace movement and seemed the ideal candidate, but he refused. The second choice was a lawyer, Nguyen Huu Tho, who at that time was under house arrest in Qui Nhon. My comrades formed a commando unit to kidnap Tho, but on their first attempt they somehow managed to make off with the wrong man. Another raid was promptly organized and this time we succeeded. Shortly afterward, in February 1962, a second organizational meeting was held near Tay Ninh in the "Green Triangle" area near the Vietnam-Cambodia border. At this meeting we decided to form a Permanent Committee of the NLF and we officially elected the newly liberated Tho as president.

Throughout this period we had close support from the North Vietnamese communists. We were in fact dependent on them for weapons, communications, and especially for our propaganda network. But almost all of us were Southerners (along with a few Northerners who had moved south years earlier) and many of us were not communists. Ours was not a communist movement and we believed that the North Vietnamese leaders, who had been fighting so resolutely against the French, would place the interests of the people and the nation above the interest of ideology.

The North Vietnamese on their part never indicated that they wanted to impose communism on the South. On the contrary, they knew, they said, that the South must have a different program altogether, one that embodied our aspirations not just for independence but also for internal political freedom. I believed, in addition, that the Northern leadership would have the wisdom to draw from the experiences—both good and bad—of other communist countries, and especially of North Vietnam, and that they could avoid the errors made elsewhere. North Vietnam was, as Ho Chi Minh often declared, a special situation in which nationalists and communists had combined their efforts. Clearly South Vietnam was no less special, and the newly constituted NLF Permanent Committee felt a certain amount of confidence in working with our Northern compatriots.

In 1964, I was arrested for the first time. I had been helping other Saigon intellectuals form the Self-Determination Movement of South Vietnam, an organization opposed to the South Vietnamese regime. For this offense, I was imprisoned for two years. In a sense, though, it was only a warning because there was no evidence at that time of my Viet Cong contacts. Unfortunately, in 1967 a Viet Cong agent, who had been arrested and tortured, disclosed my NLF identity to the Thieu-Ky police. I was arrested again and this time my imprisonment was harsher. The police used many of their favorite techniques to torture me. They forced me to drink soapy water and ran 220-volt electic shocks through my body. For a month I was held in a tiny cell less than two meters square. They forced me to confess that I was a communist (although I was not), and to describe my underground activities.

I was still in prison when the 1968 Tet offensive swept the country. At one point the police told us that if the Viet Cong got into Saigon we would all be killed. Shortly afterward the jailer orderd me to "take everything with you and follow me." The expression was ominous; I was sure I would be shot along with other Viet Cong prisoners who I knew were being executed in the streets. Two other NLF members and I were thrown into a security truck and then transferred to an American Red Cross van. To my surprise and relief there were two Americans in the van as well, and they brought us to a CIA safe house. Later I discovered that secret negotiations had been going on between the Americans and the NLF for a prisoner exchange and that I was to be traded for two American colonels.

Before I left the CIA safe house I was given a letter for the NLF authorities and pressed to accept a radio as well, which I refused, believing it to contain an electronic bug. A helicopter flew me and two other exchanged prisoners to Trang Bank, a small district about fifty miles northwest of Saigon. We were released at a soccer field where the Viet Cong security chief for Loc Ninh province (A Viet Cong-controlled area) was waiting for us. From this rendezvous we were taken by motorized tricycle deep into the jungle toward the NLF's Central Office of South Vietnam, the famous COSVN headquarters from which the entire Viet Cong war effort was directed.

Traveling by night and sleeping by day to avoid ARVN hunters and American bombardments, we took almost two weeks to get there, even though COSVN was located on the Mimot plantation near the Cambodian border, only about one hundred miles from Saigon. COSVN's nerve center was a simple enclosure built ten meters underground to shield it from B-52 attacks, although any hit within 500 meters would have been devastating. The headquarter was guarded by a single regiment, and well armed though they were, I could not help wondering at the vulnerability of the place.

The war that COSVN directed was by that time being fought by large numbers of Northern troops along with the Viet Cong guerrillas. In the early Sixties, before I was jailed, there had been quite a few North Vietnamese military cadres assisting us but not many soldiers. The great majority of our troops then were Southern resistance fighters many of whom were veterans of the French colonial wars. Others were peasants who joined us when the NLF was formed. Almost all of this latter group still lived at home. During the day they were loyal citizens of South Vietnam; at night they became Viet Cong.

For the most part these guerrillas cared nothing about Marxist-Leninism or any other ideology. But they despised the local officials who had been appointed over them by the Saigon dictatorship. Beyond this, joining the Viet Cong allowed them to stay clear of the ARVN draft and to remain near their families. They were treated as brothers by the NLF, and although Viet Cong pay was almost nonexistent, these peasant soldiers were loyal and determined fighters. Moreover, they had the support of much of the population: people in the countryside and even in the cities provided food and intelligence information and protected our cadres. Although South Vietnamese propaganda attacked us as communists and murderers, the peasants believed otherwise. To them we were not Marxist-Leninists but simply revolutionaries fighting against a hated dictatorship and foreign intervention.

Because it was a people's war, the Viet Cong cadres were trained carefully to exploit the peasants' sympathies. But our goals were in fact generally shared by the people. We were working for Southern self-determination and independence—from Hanoi as well as from Washington. While we in the Viet Cong were beholden to Hanoi for military supplies and diplomatic contacts, many of us still believed that the North Vietnamese leadership would respect and support the NLF political program, that it would be in their interest to do so.

As early as the 1968 Tet offensive, after I was released from Thieu's prisons, I protested to the communist leaders about the atrocities committed by North Vietnamese troops in Hue, where many innocent people were murdered and about a dozen American prisoners were shot. It was explained to me that these were political executions and also that a number of "errors" had been made. I managed to persuade myself then that no such "errors" would be necessary once the war was over.

Unfortunately the Tet offensive also proved catastrophic to our plans. It is a major irony of the Vietnamese war that our propaganda transformed this military debacle into a brilliant victory, giving us new leverage in our diplomatic efforts, inciting the American antiwar movement to even stronger and more optimistic resistance, and disheartening the Washington planners.

The truth was that Tet cost us half of our forces. Our losses were so immense that we were simply unable to replace them with new recruits. One consequence was that the Hanoi leadership began to move unprecedented numbers of troops into the South, giving them a new and much more dominant position in NLF deliberations. The Tet failure also retarded the organization of the Alliance of National, Democratic, and Peace Forces, an opposition coalition that had formed around thirty prominent South Vietnamese intellectuals and opinion makers. It wasn't until 1969 that we finally succeeded in bringing these disparate groups together under the leadership of Trinh Dinh Thao, a lawyer who had studied in France and had served as minister of justice for the French backed government in the 1950s, and myself. Belatedly we began working on a broad political program and even on such details as choosing an anthem and designing a national flag.

In June 1969, in response to a request by the Communist Party, which was preparing to participate in the Paris peace conference, we formed the Provisional Revolutionary Government. At first I was proposed for the interior ministry, but because of my law degree we finally concluded that I could function most effectively as minister of justice. I had about fifty officials at the Ministry of Justice in the jungle. Only a few of the PRG cabinet members were communists: Nguyen Huu Tho, president of the NLF; Huynh Tan Phat, prime minister of the PRG; General Tran Nam Trung, minister of defense; and Nguyen Thi Binh, minister of foreign affairs; and even these people were Southerners committed to the idea of a separate policy for South Vietnam. Almost all of the NLF leadership were of the same mind, as were most of our supporters from around the world.

The Hanoi leadership knew all this and orchestrated their position toward us accordingly. They accepted and supported the NLF platform at every point, and gave the firmest assurances of respect for the principle of South Vietnamese self-determination. Later, of course, we discovered that the North Vietnamese communists had engaged in a deliberate deception to achieve what had been their true goal from the start, the destruction of South Vietnam as a political or social entity in any way separate from the North. They succeeded in their deception by portraying themselves as brothers who had fought the same battles we were fighting and by exploiting our patriotism in the most cynical fashion. Nevertheless, the eventual denouncement would not have taken place except for several wholly unpredictable developments.

After the Paris peace agreement was signed in 1973, most of us were preparing to create a neutralist government, balanced between Northern leftists and Southern rightists. We hoped that America and the other signers would play an active role in protecting the agreement. Certainly no one expected Watergate and Nixon's resignation. No one expected America's easy and startlingly rapid abandonment of the country. I myself, the soon-to-be minister of justice, was preparing a reconciliation policy that specifically excluded reprisals. But the sudden collapse of the South Vietnamese regime (caused partly by the hasty departure of many top Saigon leaders) together with abandonment by the Americans left me and other "independent socialists" with no counterweight to the huge influx of Northern communists.

It is important to note that our views were not based solely on naivete. During the sixties neither the NLF leaders nor the Politburo ever hoped for total military victory against the Americans and their clients. Our entire strategy was formulated with the expectation that eventually we would be involved in some kind of coalition government. Such a government would have been immune to outright North Vietnamese domination and could have expected substantial international support.

The political climate was at that time a complex mix of three distinct factions: communist, noncommunist, and anticommunist. The silent majority, if I can use that expression, were the noncommunists. Le Duc Tho, who negotiated the Paris peace agreement with Dr. Kissinger, in his news conference in Paris in 1972, said:

"For our part we have said many times, since I returned to Paris, this is the fifth time we have declared clearly that the DRV government [Hanoi] and the PRG [Viet Cong] have never wished to force a Communist government on South Vietnam. We only want there to be in South Vietnam a National Reconciliation government having three segments, supporting peace, independence, neutrality and democracy. I can clarify for you what the three segments are: one segment belonging to patriots . . . people who don't like the US, but who also may not support the PRG and DRV; one segment belonging to the PRG; one belonging to the Saigon government. A government like this would reflect the real political situation in South Vietnam and would be a resolution in accord with the situation and with logic."

Until March 1975, no one among us, including the Politburo members, imagined the Saigon regime's collapse and the abandonment by the Americans. We were preparing for a coalition government.

Under these circumstances, a coalition government dedicated to concord and reconciliation was (and still is) the most pragmatic as well as the most humane means toward national unity. Such a government would also be in accord with the strong Vietnamese moral tradition of showing grace to the defeated and forgetting past hatred, a tradition that historically marked Vietnamese conduct even toward the Mongol and Chinese aggressors. The solemn communist promises of reconciliation without reprisals and with respect for Southern independence that were so attractive to the West and to the South Vietnamese people thus appeared to be built on a realistic assessment of the military situation, the internal political climate, and the Vietnamese character. It was our assessment as well, and it shaped our strategy for the postwar period.

Almost every Vietnamese family had ties with both communists and anticommunists. A million North Vietnamese escaped to the South in 1954, leaving millions of their relatives behind living under and working for the communist regime. Many Viet Cong guerrillas had relatives in the South Vietnamese army and throughout the war there were innumerable defections, both overt and hidden, from one side to the other. Family attachments, avarice, patriotism, and self-interest caused sympathies to shift and evolve so that the line between loyalties was rarely clear. (The three-star general Tran Van Trung, head of the psychological warfare of the Thieu regime, hid in his house his sister-in-law Mme. Duong Thi

Chi, a Viet Cong cadre, who was head of the people's uprising committee in Hue. She is now a member of the National Assembly. A four-star general, Cao Van Vien, commander-in-chief of the ARVN, hid in his villa one of his wife's nephews who was the son of a communist army general. A three-star general, Hoang Xuan Lam, hid in his house a communist commando colonel who was his relative. General Lam was once commander of the first military corps of South Vietnam.)

Unfortunately when the war did end, North Vietnamese vindictiveness and fanaticism blossomed into a ferocious exercise of power. Hundreds of thousands of former officials and army officers of the Saigon regime were imprisoned in "re-education camps." Literally millions of ordinary citizens were forced to leave their homes and settle in the so-called New Economic Zones. One month after the "reeducation" program was imposed, few of those arrested were released. I asked the communist leaders why they didn't free the people in the camps as promised. I was told that the authorities had said only that the former officials and army officers of the Saigon regime should bring with them food enough for a month. The government had never promised that the term of "re-education" would last for a month!

A rigid authoritarianism settled down over the entire country, an authoritarianism supported by the third largest Army in the world, although Vietnam is among the twenty poorest nations in the world. And where in all this are the feelings of the common people? Members of the former resistance, their sympathizers, and those who supported the Viet Cong are now filled with bitterness. These innocent people swear openly that had they another chance their choice would be a very different. One often hears sentiments such as this one: "I wouldn't give them even a grain of rice now. I would pull them out of their hiding places and denounce them to the authorities." At the same time, the myth of Ho Chi Minh, the great patriot, has dissolved to nothingness.

The radical and hidden nature of the Northern takeover resulted in the displacement of virtually every moderate and neutralist element. There was simply nothing to stop the most rapacous and destructive communist plans from being carried out. Carpetbagging Northern officials fought each other, sometimes at gunpoint, for the best offices, the most comfortable houses, the most lucrative positions.

Despite their misfortune, the people still kept their sense of humor: they frequently ridiculed the Party's slogans. Formerly Ho Chi Minh called on the population in the North to double and triple their efforts to liberate their brothers and sisters of the South. Nowadays one hears the same slogans lightly changed as follows: "Everybody should double his efforts to buy a radio and bike for the Party officials, and triple his production so that the officials can have a new house and a pretty girl friend."

Throughout the country, the people have passively resisted forced collectivization. The Party for its part tries to ascribe economic failure to natural calamities and the destruction of war, but in fact the underlying causes are social and psychological. On the one hand there is widespread popular discontent and on the other hand the failures of a totalitarian regime. Behind the facade of unanimity, the silence and resignation of the population, there is the threatening reality that the Party's daily Nhan Dan (Pravda of Vietnam) can no longer dissimulate: "Our plant and other equipment run at only 50 percent of their capacity." Theft of public goods and property is common.

There is no close cooperation between the different bureaucracies and sometimes these clash. We know what will become of the regime if this situation persists. The cadres work less because they no longer believe in their communist leaders. In June 1981, Hoang Tung, Party theoretician and editor of Nhan Dan, in a desperate effort to save the situation asked Moscow to grant a billion rubles to Vietnam to save the country from collapse, an indication of Hanoi's deep dependence on the Soviet Union. Moreover, Hanoi allowed the Soviets to build piers and other facilities to service nuclear submarines at the former U.S. supply base at Cam Ranh Bay.

Vietnam is now practically an instrument of Soviet expansionism in Southeast Asia. There are at least 10,000 Soviet advisers in Vietnam today. Since joining Comecon in June 1978, Vietnam has steadily become an integral part of the Soviet system, especially so because the leaders of Hanoi have transposed to Indochina the Soviet model of Eastern Europe. Le Duan, the secretary general of the Vietnamese Communist Party, told the Fourth Party Congress on December 26, 1976 that "the Vietnamese revolution is an integral part of the world revolution," and he firmly insisted that "the Vietnamese revolution is to fulfill the internationalist duty and the international obligation" it owes to the Soviet Union. In my talks with Party leaders, I told them: "You can make a revolution without clothes but you cannot make a revolution by hunger, repression, and building gulags." I protested that they had cheaply sold Vietnam's independence to the USSR. The Vietnamese people hated the Soviets intensely, calling them "Americans without dollars"; many Western visitors have been attacked by the children and the people because they were mistaken for Russians.

Certainly the occupation of Cambodia does not mean the end of the regime's international ambitions. Because of its consistent military and ideological involvement in the revolutionary movements in the region, and the support and military power of the Soviet Union, Hanoi has the will and also the means of exporting the revolution beyond the borders of Indochina when conditions permit. Moreover, the Soviet Union's Communist Party has assigned its Vietnamese brothers the job of training not only Laotian and Cambodian communists but also other communists in the region, particularly those of Thailand and Malaysia. This takes place in the Central School of Nationalities of Hoa Binh in North Vietnam and at the Nguyen Ai Quoc Institute (a familiar name of Ho Chi Minh), the training school of the Party leaders.

Not many people can believe these things, just as they could not believe in the past that the North would take over the South and set up a communist regime. But the truth is that for the first time in our history people have risked their lives to leave Vietnam; large numbers of Vietnamese never tried to flee their country to escape French domination or the American intervention. The refugee exodus began in earnest as the active population was systematically drafted into the protracted war against Cambodia and occupied Laos. For the first time since 1945, when famine killed two million people, Vietnam has been facing grave and widespread food shortages because fanatical leaders have sacrificed their people in order to fulfill the obligations of "internationalism."

The developing catastrophe brought back to me the memory of my father visiting me in prison in 1967 and saying: "I can't understand why you abandoned everything—a good job, a bright future, a happy family—to join the communists. In return for your sacrifice they will never give you the smallest part of what you have now. Worse, they will betray you and persecute you all your life."

I answered that he would simply have to accept the fact that he was giving one of his six children to struggle for a free and independent Vietnam. In that jail cell I felt I was fulfilling my oligation to fight against the military dictatorship that was oppressing my country. And to me it was not just an obligation, it was an honor. In my fervor I believed Ho Chi Minh's protestations that nationalists and communists could coexist in a "special" Vietnamese form of socialism.

I was tragically wrong. Like many Western intellectuals I believed that the Northern communists, who had made heroic sacrifices in their own struggle for independence, would never by choice become dependent on any superpower. With other liberals I shared the romantic notion that those who had fought so persistently against oppression would not themselves become oppressors. The truth, however, has nothing romantic about it. The North Vietnamese communists, survivors of protracted, blood-drenched campaigns against colonialism, interventionism, and human oppression, became in their turn colonialists, interventionists, and architects of one of the world's most rigid regimes, becoming at the same time dependent clients of the Soviets.

The golden opportunity to harness the energy of 55 million people to rebuild their shattered country came in April 1975 when foreign involvement ended. That was the moment to initiate a policy of national reconciliation without reprisals, to establish a representative government that would include a spectrum of political parties and pursue a foreign policy of nonalignment. That was the moment to foster a spirit of brotherhood and focus the country's attention on the task of national reconstruction.

The communists, however, chose aggrandizement rather than reconciliation. The moment of military victory was the moment they began to eliminate the NLF. Many of my friends lamented, "They buried the NLF without even a ceremony." At the simple farewell dinner we held to formally disband the NLF in 1976 neither the Party nor the government sent a representative. It was a gesture of scorn toward the nationalistic and democratic principles for which the Viet Cong had beld so copiously and which the international liberal community had sustained so faithfully.

In their incessant and predatory pursuit of concentrated power the communists have divided Vietnam instead of healing it. Their strategy has been to dislocate as much of the social fabric as possible in order to preclude the formation of coherent opposition. Even the Party itself has been kept off balance. One third of the Central Committee was purged during the Fourth Congress in 1976. Soon after, the 1.5 million Party members of 1976 were reduced to 700,000. By 1980 new members were recruited to bring the membership to about 1.7 million. Under the pretext of eiminating pro-Chinese and corrupt elements, some 300,000 members were purged during the Fifth Party Congress of 1982. Also purged were thirty three members of the Central Committee and six members of the Politburo, including General Vo Nguyen Giap, who defeated the French at Dien Bien Phu.

Political power is now being concentrated in the families of Le Duan, Ho Chi Minh's successor, and of Le Duc Tho, Kissinger's Paris adversary. Le Hong, Le Duan's son, is chief of security for the Politburo. Le Anh, another son, commands the missile defenses for the entire country. Le Duan's son-in-law is head of the air force and his brother-in-law has charge of the Party propaganda apparatus. Le Duc Tho's brother, Nguyen Duc Thuan, has become secretary general of the trade unions while another brother, Mai Chi Tho, is mayor of Ho Chi Minh City and chief of security in the South. His cousin, Nguyen Duc Tam, has been promoted to the powerful position of chief of Party organization.

I was given the opportunity to work for this government. After the communists had eliminated the NLF and imprisoned most of those they considered potential enemies, they offered me the position of vice-minister of nutrition. I refused. I could not ally myself with a regime that had proved itself inhuman and that the people hated so passionately. During the 1960s, I gave up a good job to fight for certain ideals—which are still the ideals of the Vietnamese people: independence, democracy, and social welfare. I have now to acknowledge my responsibility for the disastrous state of my country.

After refusing the government's offer, I lived on a small farm outside Saigon to escape continual surveillance. But I still had two escorts, a car, and a high salary. Finally, though, in November 1979 I managed to deceive my escorts and flee the country on a boat loaded with forty refugees.

If anything, my obligation to my countrymen is greater now because the oppression they are suffering is unparalleled in Vietnam's history. The wars against the French and Americans, grim though they were, still had a dimension of humanity to them. Today the Vietnamese in particular and the Indochinese in general are fighting against the most obdurate and persistent imperialists of the century, the Soviets. And there are no antiwar movements in Moscow.

What is worse, public opinion in the free world is not yet ready to support resistance to the Vietnamese communists or their Russian patrons. There is still a confused feeling that those who are against communism must be reactionary while those who are progressive will necessarily support the socialist regimes of this world.

But the stark lesson of Vietnamese concentration camps and Vietnamese boat people should affect even this ingrained attitude. No previous regime in my country brought such numbers of people to such desperation. Not the military dictators, not the colonialists, not even the ancient Chinese overlords. It is a lesson that my compatriots and I learned through witnessing and through suffering in our own lives the fate of our countrymen. It is a lesson that must eventually move the conscience of the world.

[From the New York Times Magazine, Mar. 29, 1981]

A Lament for Vietnam

(By Doan Van Toai)

When the Communists took over North Vietnam in 1954, a million refugees fled to the South. I personally heard stories of their incredible-suffering. But, along with other South Vietnamese, I refused to believe them. A generation later, I could not believe Solzhenitsyn's book "The Gulag Archipelago," either. I dismissed it as anti-Communist propaganda. But by 1979, I had published my own book, "The Vietnamese Gulag." Can those who have suffered the horror of Communism ever convince those who have not experienced it?

From 1945, when I was born in the village of Caivon in Vinh Long province, 100 miles south of Saigon, until I left Vietnam in May 1978, I never enjoyed peace. My family's house was burned three times in the war against the French. To escape the fighting, my parents moved from one village to another throughout my youth. Like the majority of Vietnamese patriots, they joined the resistance forces fighting the French. As I grew up, I myself saw how the peasants were oppressed by the local officials of the successive Saigon regimes, how they were victimized by the French bombardments. I learned the history of my country's thousand-year struggle against Chinese occupation and its century-long effort against Western domination. With this background, my compatriots and I grew up with a hatred of foreign intervention.

When the students at Saigon University elected me vice president of the Saigon Student Union in 1969 and 1970, I participated in the different peace efforts, leading student demonstrations against the Thieu regime and against American involvement. I published a magazine called Self-Determination, and traveled in January 1971 to California to give antiwar lectures at Berkeley and Stanford. For my activities, I was arrested and jailed many times by the Thieu Government.

During that period, I believed that I was fulfilling my commitment to peace and the independence of my country. I had faith, too, in the program of the National Liberation Front (N.L.F.), which led the revolutionary resistance in South Vietnam. I hated Saigon's rulers, men like Gen. Nguyen Van Thieu, Gen. Nguyen Cao Ky, Gen. Dang Van Quang—former soliders of the French colonial army. These were the men whom the French had recruited in the 1940's to help destroy the Vietnamese resistance. They had risen over the years to become leaders themselves, but they commanded no respect from the people. Because of their lack of popular support, they were predisposed to rely on foreign forces.

As a student leader, I felt I had to pursue the aspiration of the Vietnamese people for democracy, freedom and peace. Naively, I believed that the Hanoi regime at least had the virtue of being Vietnamese, while the Americans were foreign invaders like the French before them. Like others in the South Vietnamese opposition movements, I believed that our Communist compatriots in the North would be more amenable to compromise and easier to work with than the Americans. Moreover, I was hypnotized by the personal sacrifices and devotion the Communist leaders had demonstrated. Ton Duc Thang, former President of North Vietnam, for example, had been imprisoned for 17 years in a French jail. I was hypnotized also by the political programs advocated by the N.L.F., which included a domestic policy of national reconciliation, without risk of reprisal, and a foreign policy of nonalignment. Finally, I was influenced by progressive movements throughout the world and by the most prestigious intellectuals in the West. My impression was that during the 1960's and early 70's the leaders of the American peace movement shared my convictions.

These convictions endured through the signing of the 1973 Paris peace accords and the subsequent collapse of the South Vietnamese Government two years later. When liberation was imminent, I was the one who told friends and relatives not to flee. "Why do you want to leave?" I asked. "Why are you afraid of the Communists?" I accepted the prospect of enduring hardships to rebuild my country and I decided to stay in Vietnam and continue working as a branch manager at a Saigon bank, where I had been for more than four years, writing secret reports about the economic situation in South Vietnam for the N.L.F. (After leaving the university, I had not been drafted by the South Vietnamese Government because I was the only son in my family. And I had not joined the Vietcong because the N.L.F. felt I could serve a more useful role providing financial reports from the bank.)

Several days after Saigon fell, the Provisional Revolutionary Government, formed by the N.L.F., asked me to join the finance committee, a group of intellectuals whose job it was to advise the Government on matters of economic policy. I complied willingly, taking a pay cut of 90 percent. My first assignment was to help draw up a plan for confiscating all the private property in South Vietnam. Shocked, I proposed that we should expropriate only the property of those who had cooperated with the former regime and those who had used the war to become rich, and that we distribute it in some fashion to the poor and to the victims of the war, Communist and non-Communist alike. My proposals, of course, were rejected. I was naive enough to think that the local cadres were mistaken, that they misunderstood the good intentions of the Communist Party leaders. I had many fights with them, believing as I did Hanoi's previous statement that "the situation in the South is very special and different from that of North Vietnam." A few months before the liberation of Saigon, Le Duan, the First Secretary of the Communist Party, had said, "The South needs its own policy." in the end, I could not obey the order to help arrange the confiscation of all private property, a plan that was subsequently carried out. Such a scheme had nothing to do with fulfilling the aspirations of the South Vietnamese, and it went against my conscience. I decided to resign. But no one resigns in a Communist regime. The implication of nonconformity is intolerable to Communists. When I submitted my resignation, the chief of the finance committee warned me that my action "would only serve as propaganda to excite the people; here we never do it that way." Several days later, while I was attending a concert at the great National Theater (formerly the National Assembly Hall, which my fellow students and I had occupied so many times under the Thieu regime), I was arrested. No charges were made, no reasons were given.

After the fall of Saigon, many progressive intellectuals and former antiwar-movement leaders believed that the new Vietnamese regime would bring internal democracy and freedom from foreign domination. They believed that the new regime would pursue the best interests of the people, honoring its promise to carry out a policy of national reconciliation without fear of reprisal. Far from adhering to their promises, the Vietnamese rulers have arrested hundreds of thousands of individuals—not only those who had cooperated with the Thieu regime but even those who had not including religious leaders and former members of the N.L.F.

Vietnam today is a country without any law other than the arbitrary directives of those in power. There is no civil code. Individuals are imprisoned without charges and without trial. Once in jail, prisoners are taught that their behavior, attitude and "good will" are the key factors in determining when they may be released—whatever crimes they may have committed. As a consequence, prisoners often obey the guards blindly, hoping for an early release. In fact, they never know when they may be released—or when their sentences may be extended.

How many political prisoners are there in Vietnam today? And how many of them have died in prisons during the first six years of Communist rule? Nobody can know the exact numbers. The United States Department of State has said there are from 150,000 to 200,000 prisoners; Vietnamese refugees estimate about one million. Hoang Huu Quynh, an intellectual, a graduate of Moscow University, who served as a director of a technical school in Ho Chi Minh City (formerly Saigon), recently defected to France during his Government-sponsored tour of European countries. He told the French press: "There are at least 700,000 prisoners in Vietnam today." Another witness, Nguyen Cong Hoan, a former member of the reunified National Assembly, which was elected in 1976, who escaped by boat in 1978, said that he himself knew "about 300 cases of executions" in his own province of Phu Yen. In 1977, officials in Hanoi insisted that only 50,000 people, who posed the greatest threat to national security had been arrested. But Prime Minister Pham Van Dong said, in the French magazine Paris Match, on Sept. 32, 1978, "In over three years, I released more than one million prisoners from the camps." One wonders how it is possible to release more than a million after having arrested only 50,000.

When I was arrested, I was thrown into a three-foot-by-six-foot cell with my left hand chained to my right foot and my right hand chained to my left foot. My food was rice mixed with sand. When I complained about the sand, the guards explained that sand is added to the rice to remind prisoners of their crimes. I discovered that pouring water in the rice bowl would make the sand separate from the rice and sink to the bottom. But the water ration was only one liter a day for drinking and bathing, and I had to husband it carefully.

After two months in solitary confinement, I was transferred to a collective cell, a room 15 feet wide and 25 feet long, where at different times anywhere from 40 to 100 prisoners were crushed together. Here we had to take turns lying down to sleep, and most of the younger, stronger prisoners slept sitting up. In the sweltering heat, we also took turns snatching a few breaths of fresh air in front of the narrow opening that was the cell's only window. Every day I watched my friends die at my feet.

In March 1976, when a group of Western reporters visited my prison, the Communist officials moved out all the prisoners and substituted North Vietnamese soldiers. In front of the prisons, one sees no barbed wire, no watchtowers, only a few policemen and a large sign above the entrance that proclaims Ho Chi Minh's best-known slogan: "Nothing Is More Precious Than Liberty and Independence." Only those detained inside and those who guard them know what kind of place is hidden behind that sign. And every prisoner knows that if he is suspected of planning to escape, his fellow inmates and relatives at home will be punished rather than he himself.

We will never know precisely the number of dead prisoners, but we do know about the deaths of many well-known prisoners who, in the past, never cooperated with President Thieu or the Americans: for example, Thich Thien Minh, the strategist of all the Buddhist peace movements in Saigon, an antiwar activist who was sentenced to 10 years in jail by the Thieu regime, then released after an outpouring of protest from Vietnamese and antiwar protesters around the world. Thien Minh died in Ham Tan prison after six months of detention in 1979. Another silent death was that of the lawyer Tran van Tuyen, a leader of the opposition bloc in the Saigon Assembly under President Thieu. This well-known activist died in Communist hands in 1976, although as late as April 1977, Prime Minister Pham Van Dong was telling French reporters that Tuyen was alive and well in a re-education camp. One of the greatest losses has been that of the famous Vietnamese philosopher Ho Huu Tuong. Tuong, a classmate of Jean-Paul Sartre's in Paris in the 1930's, was perhaps the leading intellectual in South Vietnam. He died in Ham Tan prison on June 26, 1980. These men were arrested, along with many others among the most prominent and respected South Vietnamese, in order to pre-empt any possible opposition to the Communists.

Some American supporters of Hanoi have ignored or rationalized these deaths, as they have the countless other tragedies that have befallen Vietnam since 1975. It is more than likely that they will continue to maintain their silence in order to avoid the profound disillusionment that accepting the truth about Vietnam means for them. Yet if liberty and democracy are worth struggling for in the Philippines, in Chile, in South Korea or in South Africa, they are no less worth defending in Communist countries like Vietnam. Everyone remembers the numerous demonstrations protesting United States involvement in Vietnam and the war crimes of the Thieu regime. But some of those people who were then so passionately committed to democratic principles and human rights have developed a strange indifference now that these same principles are under assault in Communist Vietnam. For example, one antiwar activist, William Kunstler, refused to sign a May 1979 open letter to the Socialist Republic of Vietnam in which many former antiwar activists, including Joan Baez, protested Hanoi's violations of human rights. Kunstler said, "I don't believe in criticizing socialist governments publicly, even if there are human-rights violations," and, "The entire Baez campaign may be a C.I.A. plot." This argument reminds me of the argument used by the Thieu regime to suppress opposition: "The peace movements and the opposition activists are all the Communists' lackeys."

There are other illusions about the current regime in Vietnam about which people should be disabused. Many people believed that Ho Chi Minh was primarily a nationalist and that the Vietnamese Communists were and are independent of the Soviet Union. I believed the same before they took over South Vietnam. But portraits of Soviet leaders now adorn public buildings, schools and administrative offices throughout "independent Vietnam." In contrast, one never saw pictures of American leaders even during the so-called puppet regime of President Thieu. The degree of subordination the present Government feels toward its Soviet patron is suggested by a famous poem by the well-known Vietnamese poet To Huu a member of the Politburo and president of the Communist Party Committee of Culture. Here we have an opportunity to listen to a high-ranking Vietnamese weep on Stalin's death:

Oh, Stalin! Oh, Stalin!
The love I bear my father, my mother, my
    wife, myself
It's nothing beside the love I bear you
Oh, Stalin! Oh, Stalin!
What remains of the earth and of the sky!
Now that you are dead.

It may seem incredible that such a poem could have been written in Vietnam, which is known for the strength of its family traditions and its feeling for filial piety. Yet this poem occupied a prominent place in a major anthology of contemporary Vietnamese poetry recently published in Hanoi.

Moreover, Le Duan, First Secretary of the Communist Party, said in his political report to the reunified National Assembly in 1976: "The Vietnamese revolution is to fulfill the internationalist duty and the international obligation," and to do so, in the words of the 1971 party platform, "under the leadership of the Soviet Union." The glorification of Soviet life is, in fact, a major goal of Communist Vietnam's censorship policy.

Immediately after the fall of Saigon, the Government closed all bookshops and theaters. All books published under the former regimes were confiscated or burned. Cultural literature was not exempt, including translations of Jean-Paul Sartre, Albert Camus and Dale Carnegie, Margaret Mitchell's "Gone With the Wind" was on the list of decadent literature as well. The new regime replaced such books with literature designed to indoctrinate children and adults with the idea that the "Soviet Union is a paradise of the socialist world."

Another argument made at times by Western apologists has to do with freedom of religion in Vietnam. One article in the new Constitution of Vietnam, adopted this year, declares that "the regime respects the liberty of the believers and also the liberty of the nonbelievers." In regard to this article, Le Duan has repeatedly proclaimed: "Our present regime is a million times more democratic than any other in the world." The reality, though, is suggested by an incident involving the desecration of a Buddhist pagoda, in which a nude woman, on orders from the Government, entered the pagoda during a worship service. When Thich Man Giac, a prominent Buddhist leader, protested, the Government used the opportunity to try to discredit the Buddhists as enemies of democracy—specifically, of the freedom to disbelieve. Thich Man Giac, who had served as liaison between the Buddhists and the Communist Government, escaped Vietnam by boat in 1977 and is now living in Los Angeles.

All of those who supported the N.L.F. in its struggle should be aware of how they were betrayed and deceived. When Harrison Salisbury of The New York Times visited Hanoi in December 1966, the leaders in Hanoi told him: "The direction of the struggle in the South is by the South and not by the North." Pham Van Dong, Prime Minister, said to Salisbury: "No one in the North had this stupid, criminal idea in mind" that the North wanted to annex the South.

Yet in a victory-day celebration speech made on May 19, 1975, Le Duan said, "Our party is the unique and single leader that organized, controlled and governed the entire struggle of the Vietnamese people from the first day of the revolution." In his political report to the reunified National Assembly in Hanoi on June 26, 1976, Le Duan said:

"The strategic task of the revolution in our country in the new stage is to achieve the reunification of our home-land and to take the whole country rapidly, vigorously and steadily to socialism, and Communism."

In 1976, the Provisional Revolutionary Government formed by the N.L.F. was abolished, and South and North Vietnam were reunified under Communist rule. Today, among 17 members of the Politburo and 134 members of the Central Committee of the Vietnamese Communist Party, not a single one is from the N.L.F. (there are several members who had been North Vietnam Communist Party representatives with the N.L.F.). Even Nguyen Huu Tho, former chairman of the N.L.F., holds only the post of acting President of State, a ceremonial position that involves greeting visitors and participating in festivals. But his position will be abolished under the new Constitition.

Listen to Truong Nhu Tang, 57 years old, a founder of the N.L.F., former Justice Minister of the Provisional Revolutionary Government, more recently one of the boat people. Tang escaped in November 1979 and is now living in Paris. He told reporters of his experience in a news conference in Paris in June 1980. Twelve years earlier, he said, when he had been jailed by the Thieu regime for his Communist activities, his father came to visit. "Why," he asked Tang, "have you abandoned everything—a good job, a rich family—to join the Communists? Don't you know that the Communists will betray you and persecute you, and when you finally understand, it will be too late to wake up?" Tang, an intellectual, answered his father: "You would do better to keep quiet and accept the sacrifice of one of your sons for democracy and our country's independence. . . ."

After the Tet offensive in 1968, Tang was exchanged for three American colonels who had been prisoners of war held by the Vietcong; then he vanished into the jungle with the N.L.F. He had visited many Communist and third-world countries on behalf of the N.L.F. during the war. Tang said in his news conference: "I was well aware that the N.L.F. was a Communist-dominated national united front and I was naive enough to believe that Ho Chi Minh and his party would place national interests above ideology and would place the interest of the Vietnamese people above the party's. But the people and I were wrong."

Truong Nhu Tang told of his own knowledge of the way Communist ruling circles operate: "The Communists are expert in the arts of seduction and will go to any length to woo you over to their side, as long as they don't control the Government. But once they are in power they suddenly become harsh, ungrateful, cynical and brutal." Tang summarised current conditions in Vietnam: "The family is divided, society is divided, even the party is divided."

Looking back now on the Vietnam war, I feel nothing but sorrow for my own naivete in believing that the Communists were revolutionaries worth of support. In fact, they betrayed the Vietnamese people and deceived progressives throughout the world. The responsibility for the tragedies that have engulfed my compatriots is mine. And now I can only bear witness to this truth so that all former supporters of the Vietcong may share their responsibility with me.

While I was in jail, Mai Chi Tho, a member of the Central Committee of the Communists Party, addressed a selected group of political prisoners. He told us: "Ho Chi Minh may have been an evil man; Nixon may have been a great man. The Americans may have had the just cause; we may not have had the just cause. But we won and the Americans were defeated because we convinced the people that Ho Chi Minh is the great man, that Nixon is a murderer and the Americans are the invaders." He concluded that "the key factor is how to control people and their opinions. Only Marxism-Leninism can do that. None of you ever see resistance to the Communist regime, so don't think about it. Forget it. Between you—the bright intellectuals—and me, I tell you the truth."

And he did tell us the truth. Since 1978, the Vietnamese Communists have occupied Laos, invaded Cambodia and attacked Thailand, while the Soviet Union has invaded Afghanistan. In each of these depredations, the Communists have portrayed themselves, incredibly, as liberators, saviors and bulwarks against foreign aggression. And each time, world opinion has remained relatively quiescent.

But in Vietnam, people often remark: "Don't believe what the Communists say, look instead at what they have done." One South Vietnamese Communist, Nguyen Van Tang, who was detained 15 years by the French, eight years by Diem, six years by Thieu, and who is still in jail today, this time in a Communist prison, told me: "In order to understand the Communists, one must first live under a Communist regime." One rainy evening in Saigon's Le Van Duyet prison, he told me: "My dream now is not to be released; it is not to see my family. My dream is that I could be back in a French prison 30 years ago." This is the one wish of a 60-year-old man who has spent his entire adult life in and out of prison fighting for the freedom and the independence of his country. At this moment, he may already have died in his cell or have been executed by the new rulers.

The Vietnamese people wish to achieve the real revolution; they do not want Communism. The measure of popular hatred for the Communists is that thousands of Vietnamese have abandoned their historical attachment to the land. Under French colonial domination, throughout the long war years, even during the catastrophic famine of 1945 when two million starved to death, Vietnamese simply did not willingly leave their homeland—the land of their ancestors' graves. The recent outpouring of refugees is a direct result of the terror of the present regime. Listen to another refugee, Nguyen Cong Hoan, former N.L.F. agent and member of the new unified Assembly elected in 1976: "This current regime is the most inhuman and oppressive [Vietnam] has ever known." Hoan escaped by boat in 1977, after abandoning his position in the Communist Assembly. "The Assembly," he declared, "is a puppet, the members know only how to say yes, never how to say no."

Among the boat people who survived, including those who were raped by pirates and those who suffered in the refugee camps, nobody regrets his escape from the present regime. I am confident that the truth about Vietnam will eventually emerge. It is already available to those who wish to know it. As Solzhenitsyn has said, "Truth weighs as heavy as the world." And Vietnam is a lesson in truth.

[From the National Review, Oct. 1, 1982]

. . . And Baby Makes Three

(By Doan Van Toai)

The only noise in the streets of Saigon at 11 p.m. was the staccato voice of Radio Hanoi spitting out Communist propaganda. Otherwise the city was silent beneath a thick blanket of fear. People huddled behind closed doors each night dreading the heavyhanded knock of unkempt young men in plainclothes come to arrest those on their list. When sleep did come, it was restless and light.

On this night, Dang Giao's wife had just finished feeding their newborn son. The knock on the door, although long expected, still came as a shock. And now the second lieutenant was reading the warrant in a loud and forceful voice, his eyes riveted on the paper.

"Considering the security requirements of the Fatherland, and considering the denunciation of the people, the People's Security Command of Ho Chi Minh City hereby orders: 1) That the home of Tran Duy Cat, pen name Dang Giao, and his wife Chu Vi Thuy, daughter of the notorious reactionary Chu Tu, be searched and that all suspect objects found therein be confiscated. 2) That the two abovenamed be arrested for their many activities against the people when they served as handmaids of the American puppets on the cultural front, under the guise of reporters for the newspaper *Song Than* [The Tidal Wave]. 3) That the forenamed be tried under the law of March 1976. On the behalf of the Director Comrade."

(This was to be Dang Giao's second run-in with Communist authorities. In 1954, at the end of the French Indochinese War, he opted to leave the Communist North, settled in Saigon, and became editor of Song Than, a daily newspaper which was so critical of the Thieu government that it was closed down in 1974. A year later, when the North Vietnamese took Saigon, he refused to leave. "I would rather die in this country than live somewhere else," he told the author years later in prison camp.)

The lieutenant now puts the warrant on a table and looks at Dang Giao, trying to gauge his reaction. Already, forty-odd young people, most of them not yet 16 years old, have separated into groups, like small armies of ants, and begun to search the house. They even climb up and knock out parts of the ceiling that look as if they have been patched. They pull out the wood paneling in the sitting room and slash open the sofa and chair cushions. They go at the wrecking party with enthusiasm. Each time a knife slashes a cushion or a hammer smashes a souvenir of their life together, Chu Vi Thuy feels a stab of pain. Dang Giao consoles her gently: "We have lost a country. What are these trifles to you now?"

The officer in charge is looking over the "suspect objects" that from time to time the cadres bring out. He seems pleased with the work of his subordinates and delighted with everything they turn up, from the family album, to back issues of newspapers, to early love letters from Dang Giao to his wife.

Suddenly the lieutenant's attention is riveted by some lines scrawled in a notebook:

"1 a.m. The night is already advanced, cold and windy outside. The planes are coming back to the base one after the other. The noise keeps me up. Oh, how I miss you, wish you could be here. . .

"4:30 a.m. Fell into deep slumber, I don't know when, but suddenly woke up because the telephone rang. A flash of happiness, but it was not you, just someone dialing the wrong number. I tried to go back to sleep hoping to see you tomorrow. . ."

Holding the notebook before Dang Giao's face, the lieutenant asks suspiciously, "Now what's this? Tell me the truth."

"You've read it. What is there to ask?"

"I am questioning you. You had better give me a good answer. I am a representative of the State and of the Party, and I am not here to joke with you. You think I can't read? Let me tell you, I am a college graduate from Hanoi University, not from one of the puppet universities in Saigon, like you."

"That's my wife's diary, written ten years ago, before we were married; that is our private life."

At first Dang Giao had thought the lieutenant was asking just for the sake of asking. Now, realizing that he is serious, he can't resist saying, "I thought that being a socialist officer who defeated the Americans you would know everything. What need is there to ask a reactionary fellow like me?"

Turning grim, the lieutenant blurts out, "I am only asking to test your sincerity. As for the rest, I know everything, of course. That's not a diary. It's a coded book of signals sent to other reactionaries. Otherwise, why should you note down the hours like 1 a.m. and 4 a.m.? If you were not a reactionary why would you have a telephone? Why would you note the incoming flights? I know everything, I tell you. The Yankees had a few hundred thousand of these books, but they were never able to fool the Revolution. Every time Nixon sent his troops over, the Revolution knew it all, so don't count on fooling us."

By now Dang Giao understood has own situation and what lay in store for him. But he found it incredible that an officer of the People's Army should be so obtuse. "Better control yourself," he thinks and then says: "Well, have it your own way. You can charge me with any crime now, and I am ready for it. But I ask one favor for our newborn child. The boy is only 15 days old, his mother is still weak and sick. If you could let her stay home with the baby a few more days . . . You could arrest her later on. I will be your hostage."

"Don't give me your bourgeois feelings. The women in the North run out with guns to shoot down American planes two or three days after they have given birth, and nothing bad happens. Your wife has rested a full two weeks. Besides, at the security camp, she'll be taken care of. The State is very kind. You needn't worry. Just reform and carry out all orders." The lieutenant pauses a moment and then asks, "What's the baby's name?"

Dang Giao quickly answers, "Liberation."

The officer cannot believe his ears. "What?"

Dang Giao repeats it, but his wife interposes: "He's just a few days old, we haven't had time to name him."

The lieutenant takes out a form and starts to write. By now the search is over. A soldier carrying three thick volumes asks Chu Vi Thuy, "What kind of books are these?"

"They are dictionaries."

I asked you what kind of books."

"I said they are dictionaries."

Another soldier standing nearby comes to the aid of his friend: "What he means is, what does it say in them?"

Chu Vi Thuy laughs. "Oh, they are books that give you the meaning of French words in Vietnamese, or that translate English words into French."

The young man has made a discovery; his excitement is hard to contain: "Really!" By now the officer has finished writing. He stands up and commands: "Everyone! Everyone! Attention!" and he reads in a resonant voice:

"Considering the security requirements of the Fatherland, and considering the denunciation of the people, the People's Security Command of Ho Chi Minh City hereby orders: 1) [He repeats the denunciation he read when he first entered their house.] 2) . . . 3) That the unnamed child of the notorious reactionary writer Dang Giao and his wife also be arrested. . . . Signed."

So the problem of the baby is solved. As a special act of humanity the newborn child and his mother are not chained and manacled.

As the three are about to be led away, Dang Giao's two older boys, aged eight and six, rush at the lieutenant and try to hit him. Fighting back tears, Dang Giao tells them: "You stay at home. Tomorrow you can call Grandma to come and stay with you. Should anyone ask about your father, tell them the truth, that your father is in jail. Do you understand?"

Now it is their mother's turn to cry. Chu Vi Thuy slips to the floor, with the sleeping baby still in her arms. Two soldiers about 18 years old help her up, but with no sign of compassion. A third takes the baby. The entire group moves toward the bus.

"Daddy, why are they taking you to jail?"

"Go in and close the door now. Tomorrow morning you can call Grandma."

Outside, the first rays of the morning sun are beginning to brighten the silent streets. The communal radio speakers have been blazing since 5 a.m. The familiar voice of the regular announcer intones:

"Just as Comrade Le Duan, the First Secretary of the Party, has said, our regime is a million times more democratic than any other regime in the world and thus the State Law promulgated on March 20 by the new regime is the most democratic law there is. To arrest people or search a home, one must have a written warrant . . ."

The baby, comfortably nestled in the arms of one of the youths, suddenly cries out, alarming his mother, "Give me back my child," she says. She holds him tight to her bosom, and her tears mingle with those on his face. Resolutely, Dang Giao speaks to her: "Why are you crying? There is nothing to cry about now. Didn't we see it coming?"

"You are right, there is nothing to cry about," Chu Vi Thuy uses the hem of her dress to wipe the baby's tears, then her own.

At the Tran Hung Dao detention center, right in the heart of Saigon, 42 other journalists and writers are waiting in individual cells and detention halls. All have experienced similar moments. They are there simply because the Liberation Artists Association has drawn up a list of 44 names of "reactionaries" from the areas of art and literature. They have all been arrested under the Law of March 1976, the law which requires that arrests be made on the basis of a written warrant, even if it means one written on the spot against a 15-day-old baby.

Dang Giao, his wife, and then baby are on their way to re-education camps, the Vietnamese Gulag from which they may or may not return. Their fate and the fate of thousands like them goes unmarked by the former antiwar activists who raised their voices to denounce human-rights violations in South Vietnam. Between the genocide of Pol Pot in Cambodia and the repression in Vietnam there is a difference of degree, but the outcome is the same. The main difference is between a slow death and a quick one.

(Mr. Toai, an anti-American activist during the Vietnam War, was, despite that record, picked up by the North Vietnamese, imnprisoned for 28 months, and then released. He was never charged and never tried; no reason was ever given for his release. This account of the night Dang Giao was arrested is based on conversations between the two men in prison camp. Mr. Toai is currently at the Fletcher School of Law and Diplomacy at Tufts University.)

Learning From Viet Nam

(By Doan Van Toai and David Chanoff)

There may well be a "Viet Nam" of the 1980s. and for a while it seemed that El Salvador was well on its way. All the ingredients are there: an oppressed peasantry, an entrenched landlord class, a history of corrupt government, a pseudo-colonial past, an energetic leftist guerrilla movement and a U.S. government with the will to intervene. Domestic confrontation within the United States also appears ready to take up precisely where it was interrupted by the signing of the Paris Peace Accords.

Only nine years have passed since Viet Nam provided much of the American and European Left with the chance to define a posture vis-a-vis international intervention by the USA. In the process. Viet Nam devleoped into a moral symbol that transformed the US national debate into a drama of civil disobedience and street violence that added a heavy emotional overlay to the anti-intervention position. Although there have been a few notable defections from the Peace movement since then (Joan Baez, Bernard-Henri Levy, Jean Lacouture, and now Susan Sontag), that same emotion-charged resistance seems still to be on tap. Already Noam Chomsky has warned that "there is overwhelming opposition to US involvement in El Salvador: the popular response has been quite vocal. . . ." Even the offer to send a peace-keeping force of US Marines to the Lebanon to "help" the evacuation of the PLO evoked night-marish fears of a "Viet Nam syndrome."

Yet even so, reappraisal is in the air, and the once apparently clear "lessons of Viet Nam", both pragmatic and moral, are being subjected to review. Facing such a reappraisal is particularly unpleasant for those who once believed that the NLF/Vietcong was in fact "the sole genuine representative of the South Vietnamese people" (as Le Duc Tho so often expressed it), and that the eventual goal was "socialism in the North, democracy in the South" (Le Duan's phrase, the most popular revolutionary slogan of the early 1970s). But there appears to be a growing consensus that understanding American involvement in Viet Nam is a prerequisite to formulating a foreign policy for El Salvador or anywhere else in an endangered world that is different from the reflex strategy of escalating military entanglement or the equally reflex strategy of withdrawal. In Viet Nam, the former approach brought the USA 300,000 casualties and military failure; the latter, 500,000 refugees and political failure. No one wants to be doomed to repeat that particular history.

First among the lessons that Viet Nam teaches concerns the composition of liberation-war guerrilla movements. It is perhaps not widely remembered that the Viet Minh was born in 1941 as an anti-French "front" organisation that included nationalists, religious groups, and non-Communist Leftists, together with a tightly disciplined Communist minority that effectively, though covertly, exercised control. After Dien Bien Phu (1954), non-Communist revolutionaries were still employed in the government to continue attracting popular support, even while all anti-Communist factions were being eliminated. It was only when Ho Chi Minh had sufficiently consolidated power that the turn of the nationalists and non-Party militants came.

Exactly the same tactic was re-employed in the 1960s when the National Liberation Front was founded to rally all those who sympathised in any way with Communist goals. Later, NLF operatives created the "Alliance of National, Democratic and Peace Forces" to provide a link with the nationalist intellectuals who opposed the regime and American intervention, but were sufficiently unenchanted with the Left to keep away from the Viet Cong. Both the Alliance and the NLF served as umbrella groups until 1975 when, with the establishment of the unified government, the Communists felt comfortable enough the eliminate their former allies. Even the NLF Vietcong itself was eradicated, and its demise went unnoticed and unmarked by the same media that had formerly accorded it such lavish attention. Having used the organisation, its army, its supporters, its people, the Vietnamese Communist Party simply disposed of it, along with the load of propaganda that had depended on the appearance of NLF's "independence" and its inclusion of "moderates."

There are two points to be made here, both obvious but often overlooked. One is that Communist "Liberation War" strategy calls for the creation of guerrilla fronts representing many shades of political feeling, within which the Communists themselves are likely to be a minority. Antagonists are thus faced with an enemy which attracts diversified support and whose leadership is difficult to identify. The foreign propaganda effect alone of such an organisation is more than worth the minor risk to the Communist nucleus that it will be outmanoeuvred by some temporarily allied faction. Foreign journalists, for example, can be counted on to make a cogent case for the moderate, the liberal, and the nationalist struggle for a homeland rather than for the Communist flavour of the guerrilla movement. They will note that apparently leading figures are intellectuals or religious leaders whose standpoints may be distinctly non-communist. And over time their reportage will convey to their democratically and pluralistically inclined readers the impression of a movement that is itself "pluralistic", and to that extent representative and even democratic.

The fact is, however, that the actual layers of guerrilla control are immensely difficult to lay bare even for historians with perspective and leisure, let alone for reporters whose job requires quick insights for urgent deadlines on the basis of limited observation. Even so astute an observer as Bernard Fall could argue in his book Vietnam in the Balance (1966) that the Viet Cong, though aided and partly directed by North Viet Nam, was in fact a distinct entity that included substantial support from various politico-religious sects (among others) and that had its own programme quite separate from Hanoi's. Yet in his 19 May 1975 Victory Day speech. Le Duan let the cat out of the bag:

"Our Party [the Vietnamese Communist Party] is the unique and single leader that organised, controlled and governed the entire struggle of the Vietnamese people from the first day of the revolution."

His remarks were later echoed by Nguyen Huu Tho, the NLF's former president, who matter-of-factly commented that the organization had always been "wholly obedient to the party line" (Address on the 15th Anniversary of the NLF, 19 December 1975), while the Ho Chi Minh City party newspaper (Saigon Giai Phong) editorialized that "under the leadership of the Workers Party of Viet Nam [the Vietnamese Communist Party], the National Liberation Front was founded, and under the wise leadership of the Party, the Front gained victory after victory. . . ." If the Viet Nam experience has taught Liberation Movement organisers anything, it is the value of maintaining a reformist, nationalist, and non-aligned facade. There is no doubt that the Salvadoran movement (or indeed the Palestine liberation movement) will follow that same strategy, and that the facade will be virtually impenetrable to outside analysis.

There is also no doubt (and this is the second point) that the non-Communist elements in the guerrilla front will be destroyed as soon as feasible. Ton Duc Thang, President of North Viet Nam's Fatherland Front, succinctly characterised Communist strategy in this regard:

"Rally all forces that can be rallied, neutralise all forces that can be neutralised, eliminate all forces that can be eliminated."

Ton was referring here to the standard Communist device of shifting coalitions in order to make use of opposition forces and eventually eliminate them piecemeal. For example, to deal with three enemies, alliances are formed with two while the primary enemy is attacked. The process is then repeated until Communist power stands unopposed.

This strategy governed the creation of the Viet Minh coalitions and the employment of non-Communist revolutionaries in the Ho Chi Minh government while resources were coordinated against the French, just as it governed the elimination of those same elements once the primary enemy was defeated. The same pattern followed suit in the South where the Cao Dai and Hoa Hao sects were initially welcomed and became a substantial part of the NLF. Since the overthrow of Saigon, however, both sects have been suppressed and their leaders imprisoned or executed. They were first rallied, then neutralised, then eliminated.

In fact, none of the former non-Communist Leftists—progressive intellectuals, religious leaders, or student militants who figured so importantly in the anti-American, anti-fegime conflict—now hold any major position in the unified government. On the contrary, many of them are either jailed or dead. The former Buddhist leader, the Venerable Thich Tri Quang, whose picture appeared at one point (30 May 1966) in Newsweek and in L'Express (Paris) with the caption "The Man Who Makes America Tremble", is now under house arrest in Ho Chi Minh City as are his two chief assistants. Another major Buddhist anti-war figure, the Venerable Thich Thien Minh, who was sentenced to 15 year imprisonment by the Thieu government, survived the regime that condemned him only to die a Communist prisoner in the Ham Tan Gulag in 1979. The activist priest Father Tran Huu Thanh, responsible for organising mass movements against Thieu (most prominently "The People's Movement Against Corruption"), is presently meditating on life's ironies in a Northern re-education camp. Professor Chau Tam Luan, formerly Vice-President of the "Association of Patriotic Intellectuals", has recently escaped the homeland he fought so determinedly to liberate. The list goes on: Tran Van Tuyen (nationalist opposition leader), dead in a Communist prison in 1976; Ho Huu Tuong (Sartre' classmate and Viet Nam's leading philosopher), dead in Ham Tan in 1980; Thich Man Giac (Buddhist strategist), a refugee; Phan Ba Cam (Secretary-General of the opposition Democratic Socialist Party), dead in the Chi Hoa Gulag in 1979.

To Westerners who are not Viet Nam specialists these names evoke little or no recognition: no faces come to mind, no personal histories. But to those who are educated about the anti-fegime, anti-American period, these people and their numerous colleagues among the refugees, the imprisoned and the deceased represented the heart of the non-Communist resistance. These are the people who created and led the organizations that elicited passionate support from the American and European peace movements. They are the ones who made Le Duc Tho believable in the Paris Peace talks (1970–73) with his refrain that "We [North Viet Nam] do not want to impose Communism on South Viet Nam", and his persistent advocacy of a post-War coalition government. Today, of course, seven years after the annexation of the South, Le Duc Tho's Paris positions have long been revealed as nothing more than disingenuous rhetoric. At the time they were taken seriously, and by no one more than those who had bound their fortunes to the Communists. Truong Nhu Tang (a founder of the NLF, Minister of Justice in the Provisional Revolutionary government, now an exile in France) put it this way:

"The Communists are expert in the art of seduction and will go to any length to woo you over to their side, as long as they don't control the government. But once they are in power they suddenly become harsh, ungrateful, cynical, and destroy you without hestitation."

These two lessons from the Vietnamese primer are available to those who report the Salvadoran and other liberation movements, as well as to those who are inclined actively to support the economic and political aspirations of a dispossessed peasantry. It is not that such aspirations are unworthy; quite the opposite. It is simply that alliance with or support of a Communist front in order to achieve anything other than strictly Communist goals is suicidal. Eventually they will, in Tang's words, "destroy you without hesitation." That at least is what happened in Viet Nam, and the Viet Nam experience seems applicable to any protracted liberation movement that becomes the focus of East/West confrontation. The non-Communist Left, as well as other revolutionary factions, are simply not capable of long-term survival within a Communist-led movement.

One reason for this is that in a protracted "Liberation War", shipments of supplies and arms to guerrrilla forces must move through foreign Communist countries: military training and direction for guerrilla forces must be carried on by foreign Communist governments; and effective world-wide propaganda must be orchestrated by foreign Communist governments. The entire support system necessary to carry a modern Liberation War to a successful conclusion relies on a power-base outside the host country. Such a base is only available through the Soviet Union or one of her regional proxies. So that revolutionary groups not aligned with the Soviets are inevitably submerged by their more powerful competitors.

In Viet Nam, the Communist strategy of "rallying all those who can be rallied" in order to isolate and eliminate enemies one by one was extraordinarily successful. Unfortunately, the Saigon government was incapable of emulating that strategy and found itself operating from an increasingly narrowing popular base. The same self-defeating polarisation appears to be operating in El Salvador today with the recent setbacks to the Christian Democrats and the apparent dismantling of land reform measures. Here too the Vietnamese experience is worth reflecting on.

In Viet Nam, the hard-line right-wing orientation of successive Southern regimes often radicalised and alienated those who should have been made into allies. In many cases, the government's habitual brutality transformed a loyal opposition into Leftists, moderate Leftists into Communists, and reluctant Communists into zealots. Many students who at first only knew that they were "against the regime" learned through a term or two in prison to be confirmed revolutionaries. The regime, utilising its French-trained police, was adept at torture, but hopelessly inept at any other type of persuasion. Government leaders simply had no concept of the need to differentiate among opposition groups and to split the non-Communist elements from their deadly allies. Instead they regarded as Communists virtually all on the Left (and many in the Centre as well), and so played precisely into the hands of the Communists whose strategy was to "rally all who can be rallied." This appalling obtuseness gave additional credence to the NLF's claim to be a "true coalition" and vastly more representative of the South Vietnamese people than the government. In the long run, this claim, and the corresponding image that Diem, Ky, and Thieu established for themselves as self-seeking despots, played a significant role in the erosion of American domestic support for the war; and it was in the American domestic arena that the outcome was decided.[1]

Viet Nam was the West's first experience with a protracted war of liberation, and perhaps the single most important lesson it taught concerns the power of public dissent. That lesson is particularly ominous since it confirms that ideologised opinion-makers have become central to the West's ability to wage this sort of war, while Communist planners have no equivalent need to take into account the complex domestic role of a free press. At the same time they are highly attuned to the impact of the media among their adversaries. One of the authors of this article (Doan Van Toai) spent two-and-a-half years in the Tran Hung Dao Gulag after an earlier career as a pro Viet Cong student leader, publisher, and sometime prisoner of the Thieu regime. While in Tran Hung Dao he was part of a group of political prisoners chosen at one point to listen to an address by Mai Chi Tho (a Central Committee member and brother of Le Duc Tho). Tho told them:

"Ho Chi Minh may have been an evil man; Nixon may have been a great man. The Americans may have had the just cause; we may not have had the just cause. But we won and the Americans were defeated because we convinced the people that Ho Chi Minh is the great man, that Nixon is a murderer, and the Americans are the invaders. . . . The key factor is how to control people and their opinions. Only Marxism-Leninism can do that. . . . Between you—the bright intellectuals—and me, I tell you the truth." New York Times Magazine, 30 March 1981.

Tho was referring not only to the success of Communist propaganda within Viet Nam, but also to its world-wide impact.

One reason that the American anti-War movement is reluctant to look back at that period is not simply that the post-War history of Viet Nam has been so tragic; it is that people do not relish acknowledging their own gullibility. Harrison Salisbury, Staughton Lynd, Tom Hayden, David Schoenbrun, among others, all found themselves popularising in the West Hanoi's position on such themes as the "absence" of Northern troop infiltration into the South, the "independence" of the NLF Vietcong, and Northern innocence of plans to "annex the South." Pham Van Dong in particular developed a special adroitness in dealing with American visitors, who almost always heard remarks calculated to exploit their own predispositions.

Yet even when the full story of Communist manipulation of American opinions is known,[2] we will still need to anticipate the likely effect of media-related pressures should the United States become militarily involved in El Salvador or elsewhere. In that event we would undoubtedly witness over a period of time incidents every bit as vivid and dehumanising as those that Viet Nam still evokes for almost all of us. Children running from napalm, murder in the street, villages burning—the whole iconography of war. In a conflict where the media have access to one side and not to the other, these incidents will regularly depict the brutality of our allies and ourselves and rarely that of our enemies.

At the same time, the mechanisms our society has evolved to achieve "open government" will ensure that much of our tactics and strategy will be public knowledge and open to criticism both emotional and rational. We will know exactly the extent of our economic and military assistance to a government many feel to be unsavoury. But the truth about foreign supply and troop inflation to the guerrillas will remain conjuctural. We will have detailed reports on how our soldiers feel about fighting and dying in an alien place. But we will know little that is credible about the enemy except for his courage and perseverance. The stupidity, negligence, and failures accompanying our involvement will be spotlighted each night on television. But the same kind of information about guerrilla troubles will simply not be available. Consequently, media reportage will seem to maximise our difficulties and minimise those of the other side. Over time, such things will have a corrosive effect on even hardened patriots. That at least was the experience in Viet Nam, and it is difficult to imagine anything different coming out of another overseas engagement, in Salvador or elsewhere.

Reinforcing the predictable bias of Western news coverage is the predictable bias of editorial analysis. The function of a free press in keeping a vigilantly sceptical eye on government had the long-term effect in Viet Nam of turning the majority of American commentators against the administration. David Halberstam's letters to his daughter describe the changes even the most initially supportive observers went through when confronted with the official hypocrisy and duplicity that inevitably accompany war, and especially a prolonged and confused guerrilla war. During the Viet Nam period none of the major television commentators, other than Howard K. Smith, maintained anything vaguely resembling a pro-Administration perspective. For its part, of course, the Administration displayed disappointment and hostility toward media luminaries who failed to appreciate the government's theories of geopolitical confrontation or even to maintain, in its opinion, decent objectivity.[3]

But a balanced historical perspective is not what we should expect from the media. Their traditions are those of adversarial confrontation and investigative reporting, of scoops and hot news, not scholarly objectivity. Even though they are the conduit through which current history becomes known, they are not historians. By and large they are not equipped for the role and they are not comfortable with its demands. They didn't fulfil it well in Viet Nam, and there is no reason to believe they would be more suited to it in Latin America or the Middle East.

All this suggests that what we can be sure of in El Salvador, or any other Liberation war that attracts serious American attention, is a domestic anti-War movement that will trigger off at a fairly high level and intensify as the flow of news and analysis affects public thinking. Over time, the impact of continous war-coverage will inevitably erode popular support for U.S. involvement and will help generate a progressively more militant resistance. This effect can almost be taken as a given. After Viet Nam, political strategists have no choice but to include the media factor in their equations and to weight it more and more heavily over time.

Another given is the predilection of the American Left to embrace "national liberation movements" of every stripe as long as there is an element of anti-Americanism in them. Even the anti-regime movements of Pol Pot and the Ayatollah Khomeini attracted their share of initial support. Viet Nam however, remains the textbook case. In that conflict a pattern of domestic resistance developed around radicalised intellectuals and other public figures that can be viewed as a militant model for domestic reaction in any future engagement. In terms of the American ability to commit troops over an extended period, this resistance must be considered ominous. Its obvious continued vitality brings into relief the major problems facing American foreign policy today—the enlightenment of public opinion in the U.S. and especially the education of the adversarial culture that Viet Nam galvanised throughout the West.

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[1] See the two articles which represent the first real efforts to "learn from Viet Nam": Robert Elegant, "How to Lose a War" (Encounter, August 1981); and H. J. Kaplan, "With the American Press in Vietnam" (Commentary, May 1982, pp. 42-49).

[2] Stanley Karnow, "Viet Nam Duplicity Reconsidered", Encounter, August 1981.

[3] See Peter Braestrup, The Big Story (Westview Press, in cooperation with Freedom House, 1977).

That education has begun already with the reassessment of Viet Nam currently underway. As public understanding grows of what the North Vietnamese and Southern front objectives really were, how their military and propaganda organizations operated, and what the post-War realities in Indo-China are, it will become increasingly clear that American involvement there was supportable on both moral and geopolitical grounds.

Viet Nam, in fact, should be regarded as an object lesson for the American Left, a lesson in the manipulative stategies of Communist-led Liberation War movements and the subversion of popular aspirations for independence and economic and political reform. The flow of political prisoners within Viet Nam and the flow of refugees out of Viet Nam included large numbers of former Viet Cong freedom-fighters, socialist revolutionaries, nationalist intellectuals, and religious activists who have learned in their flesh the consequences of embracing the Communists as allies. American progressives, it is fervently hoped, will never have the opportunity to learn the same lessons in the same way. But if the Viet Nam scenario is not to be repeated, they must be encouraged to discard their studied ignorance of recent Vietnamese history.

The northern burial of the Viet Cong, whose programme was espoused by many in the domestic anti-War movement, should be the subject of detailed public examination, as should the fate of the various other anti-regime, anti-American factions. The single-minded Northern pursuit of annexation, the bloody suppression of the land redistribution under Ho Chi Minh, the campaign to smother religion and culture in unified Viet Nam, these should all be as well known in the US and Europe now as the My Lai massacre. Thieu's "tiger cages", and massive South Vietnamese corruption were then. This history is alive and can be told with best effect, not by the people perceived as conservative ideologues, but by the dissident and dispossessed Vietnamese Leftists and intelletuals who lived it, people like Nguyen Cong Hoan and Truong Nhu Tang, for whose ideas the Left committed itself and who have the standing to make themselves heard by their erstwhile supporters.

It can be said, of course that current Vietnamese history merely re-teaches the lessons of other Communist revolutions. But in certain ways Viet Nam is special. Viet Nam was the crucible of the modern American Left. It was the Viet Nam war that also radicalised much of the intelligentsia in Western Europe ("Ho-Ho-Ho-Chi-Minh" shouted the tens of thousands of APO and SDS demonstrators in the streets of Bonn and Berlin). The theme continues to provide the Left with its reference points. Almost significant is that Viet Nam was one of the few—with Castro's Cuba—contemporary forces in the Communist world that stirred deep ideological sympathy in the West. Russia has been bankrupt as a moral force for decades. China is rightly perceived as a nation more concerned with internal difficulties and security problems than with its role as champion of international Communism. Insurgent Viet Nam, on the other hand, is still lionised for its courage, its ability to face and overcome colonialism and imperialism, domestic right-wing dictators, and American militarism. It is thus a model for present and future East-West conflicts in Latin America and Africa, conflicts which can be expected to draw a great deal of American and West European support to the revolutionary side, fighting at once for homeland and radical social ideals.

But the fact is that Viet Nam is an idol with clay feet, and persistent, thorough exposure of the monumental deceit with which the war was carried on and of the cynical suppression of human rights afterwards will work to split domestic opposition. During the Viet Nam period the American Left had little concept of the role it played (along with the NLF and socalled "third force" elements) in the Communist war game, and so allowed itself to be manipulated in embarrassing fashion. But as the old anti-War leadership achieves literacy about "liberation movement" strategy, its willingness to sponsor and organise future opposition should become less reflexive. Joan Baez two years ago, and Susan Sontag recently have surely done more to provoke objectivity and self-awareness within the American Left than the most convincing conservative arguments ever could. Intensified education is in order, not to divert the Left from its social ideals, but to divorce it from its thoughtless support of Communist-led and/or Soviet-sponsored liberation movements. As trade used to follow the flag, Gulag follows "the final contest."

There is a necessary complement to education, however, and that is the creation of a Western policy for Liberation War situations that is capable of drawing support within the United States. Unfortunately, though, in this area of liberation movements the Americans and the Europeans have until now failed to furnish the Third World with its type of pro-Western revolution. They simply have not developed a coherent, positive approach to resolving the social inequities that provide the framework for present-day international competition. Our failures in this area have forced us into, at best, a defensive "containment" posture which, among other misfortunes, has led to a history of American support for the status quo defended by unpopular authoritarians. Consequences have included the identification of the United States with old-time oppression rather than change, reform, and social amelioration. We ourselves have fostered the impression that, in the Third World context, to be progressive or innovative means to be pro-Communist.

This apparent truth has had tragic effects on populations involved in "liberation wars." But the more profound catastrophe is that domestic American opinion has been so alienated that any scenario which includes a prolonged US military commitment is problematical. The chief effect of this is substantially to reduce American leverage and thus to encourage guerrilla movements in their reliance on the violence of military solutions. In Mai Chi Tho's words: "The key factor is how to control people and their opinions"; and that observation applies every bit as much to sophisticated Western opinion as it does to the "hearts and minds" of Vietnamese and Salvadoran farmers.

Given the opportunity, the American and European Left could find its natural home backing non-Communist factions in Nicaragua, El Salvador and elsewhere. But for this to happen, and for the consequent neutralisation of the general "anti-war" movement to materialise, the West must learn from the Communist strategy of gathering all the support available in order to confront the common enemy. That means a policy, undertaken within the context of regional alliances, of pressing conspicuously for reform in countries not yet embroiled, working to achieve coalitions rather than polarisation where there is already substantial guerrilla activity, and actively supporting indigenous non-Communist "people's movements" in areas where they enjoy significant popular support (in Afghanistan, for example, in Indo-China and now in the Lebanon). Appropriate support along with regional allies of such movements would have several positive effects. It would throw doubt on the commonly-held belief that Communist revolutions are irreversible. It would further drain Soviet resources, already badly extended. And it would spur development of a comprehensive Western "Third World strategy" different from the defeatist alternatives of reaction or isolation. The development of such a strategy, together with continuing public education about Viet Nam and its aftermath, will go a long way toward restoring viability to Western objectives in the developing nations.

[From Newsweek, May 3, 1983]

Vietnam's Postwar Hell

(By Ginetta Sagan)

April 30, 1982, marks the seventh anniversary of the end of American involvement in that prolonged, nightmarish event, the war in Vietnam. Few events in the twentieth century have so shaken and divided the American people. As a dark shadow of the past, it lingers in the conscience of the Congress, the media and the public. As a "lesson," it colors our lives, our perception of ourselves, and it is affecting our decision-making process in international affairs.

Americans and Vietnamese are no longer dying amid the temples of Hué or in the jungle of the Mekong Delta. But tens of thousands of Vietnamese from all professions and religious persuasions are languishing in a vast nationwide network of prisons and "re-education" camps.

Human rights in Vietnam is not a new concern to me. During the years before 1975 I met with representatives of the National Liberation Front who told me of their great concern for human rights in South Vietnam. Where are these leaders today, and where are my colleagues in the peace movement who had so strongly protested political repression by the Thieu regime? While some have continued to speak out against violence and repression in Vietnam, many have remained silent. Others have even defended repression in Vietnam as a "humane alternative" to the blood bath that was predicted by the CIA.

Takeover: But few in the peace movement believed that such a blood bath would occur with a communist takeover in South Vietnam, and many believed in the strong verbal commitment made by the NLF leaders to human rights in South Vietnam. From the time it was founded in 1960, the NLF presented itself as if its members were genuine civil libertarians arguing for the right of dissent, along with other democratic freedoms, for the South Vietnamese people.

In 1973 the Paris Peace Agreement was signed, establishing a framework for the eventual reunification of Vietnam, based on national reconciliation. Article 11 of this treaty ensured the South Vietnamese such rights as freedom of speech, press, movement and organization and freedom from reprisal for collaborating with one side or the other during the war. Article 11 was widely praised by leaders of the NLF and North Vietnam—until April 30, 1975.

Immediately upon taking control of the South at that time, the new regime proceeded to tear up Article 11 by banning all noncommunist political parties and organizations, placing severe restrictions on religious groups, launching a campaign to destroy the "neocolonialist" culture of the South and throwing hundreds of thousands of Vietnamese into re-education camps. Political prisoners in Vietnam fall into two basic categories: (1) former government officials, leaders of political parties and army officers arrested in June 1975 for having occupied positions of authority under the previous regime, and (2) writer, religious leaders, intellectuals and other dissidents who have been arrested in subsequent years. Both categories of imprisonment directly violate Article 11.

No one knows how many political prisoners there are in Vietnam today, but estimates suggest there are more than 100,000. Most of them are detained in re-education camps, which are so labeled because the inmates are subjected to mandatory "confessions," political indoctrination and forced labor. The length of their detention depends on the degree to which they reform.

During the last three years friends and I have interviewed several hundred former prisoners, read newspaper articles on the camps as well as various reports of Amnesty International, and have studied official statements from the Vietnamese Government and its press on the re-education camps. The picture that emerges is one of severe hardship, where prisoners are kept on a starvation diet, overworked and harshly punished for minor infractions of camp rules. We know of cases where prisoners have been beaten to death, confined to dark cells or in ditches dug around the perimeters of the camps and executed for attempted escape. A common form of punishment is confinement to the CONNEX boxes—airfreight containers that were left behind by the United States in 1975. The boxes vary in size; some are made of wood and others of metal. In a CONNEX box 4 feet high and 4 feet wide, for example, several prisoners would be confined with their feet shackled, and allowed only one bowl of rice and water a day. "It reminded me of the pictures I saw of Nazi camp inmates after World War II," said a physician we interviewed who witnessed the release of four prisoners who had been confined to a CONNEX box for one month. None of them survived. Prisoners condemned to such punishment have often committed suicide.

Rights: Today there is no talk in Vietnam about human rights—only about the "dictatorship of the proletariat" and the need to suppress dissidents. Today Vietnamese authorities make a false distinction between political and civil rights on the one hand and economic and social rights on the other—as if a government which denies its people the right of dissent is therefore more likely to give them more food or a better education.

Some well-meaning "friends" have told me that it is moral arrogance to criticize the Hanoi government in view of the suffering caused to the Vietnamese people by American military intervention. I disagree. When we are faced with the knowledge that innocent human beings are being destroyed in order to radically change a society, it would be immoral to remain silent.

For me, personally, to remain silent would mean betraying all of my co-workers in the resistance movement of World War II who perished in the torture rooms of the SS and the Gestapo or in the death camp of Mauthausen. It was their sacrifice which, together with the deaths of millions of Jews, Christians of all denominations and various minority groups, made possible the unanimous adoption of the United Nations Universal Declaration of Human Rights on Dec. 10, 1948.

People all over the world who campaigned for peace and human rights in Vietnam should look at Vietnam again—and consider that their task is not yet over.

(Sagan is a longtime volunteer worker in the field of human rights.)●

ARMENIAN MARTYRS DAY, APRIL 27, 1983

● Mr. DOLE. Mr. President, I wish to join Senators Levin and Riegle in observing this 68th anniversary of Armenian Martyrs Day. The 20th century, expected by many to be a century of enlightenment and progress for humanity, was marked by two horrible events during its second decade. The First World War drew the major nations of Europe into barbaric conflict. The second event was a creature of the first. Turkey, embroiled in the war on the side of the central powers, became suspicious of the loyalty of its Armenian minority. This minority, different both in ethnic background and in religion, had been attacked at least twice in the preceding half century. The first occurrence was the burning and looting of the Armenian quarter of the capital, Constantinople, in 1876–77. Nearly 20 years later, during the period 1894-96, a massacre of nearly 200,000 Armenians took place. These terrible events were only a feeble forerunner of the action to be taken by the Turkish Government commencing in 1915.

A confidential telegram from American Ambassador Henry Morgenthau in Constantinople, dated July 16, 1915, stated:

> Deporation of and excesses against peaceful Armenians is increasing and from harrowing reports of eye witnesses it appears that a campaign of race extermination is in progress under a pretext of reprisal against rebellion.

During most of that year, the New York Times carried stories of murder, rape, beatings, and forced deportation of the Armenian population. Forced out of their homes without food or adequate clothing, those who were not killed outright were sent on a death march into the deserts of Syria. More than 1 million perished of starvation, abuse and exhaustion. Despite the diplomatic protests of many nations, the genocidal actions of the Government continued. At the beginning of the war there were approximately 2½ million Armenians living in the Ottoman Empire. By the time the slaughter ceased, there were left only about 100,000 declared Armenians. Over 1½ million had perished and another 1½ million had been exiled from their homeland.

When Hitler was discussing the final solution for the Jewish people, one of his staff was reported to have raised the question of the effect of world opinion. Hitler, referring to the Armenian massacre, is reported to have asked, "Who remembers the Armenians?" The sad and unstated answer was that no one remembered the Armenians, or if they did they also remembered that no one had been able to accomplish any meaningful action to stop that horrible, deliberate action by a soverign government against part of its people. Hitler went on to deal with the Jews of Germany, and later the Jews of each conquered nation, in that same fashion.

The 1915 telegram from the American Ambassador to the State Department, describing the situation contained the following:

> I believe nothing short of actual force which obviously the United States is not in a position to exert would adequately meet the situation.

He was an astute observer. Over 20 years later it was to take actual force to end the existence and the excesses of the Nazi state.

Since World War II we have seen at least one other clear example of genocide, this time conducted by the forces of Pol Pot in Kampuchea.

A song of the sixties carried the haunting refrain, "When will we ever learn?" I wonder if we ever will learn? However, we cannot learn unless we are willing to remember the horrors of the past. For that reason it is well that we do take notice of events such as this.●

SAKHAROV'S OPEN LETTER

● Mr. ARMSTRONG. Mr. President, an article of faith among many advocates of the nuclear freeze is that what they refer to as the arms race is the product of a mutual misunderstanding between the leaders of the United States and the leaders of the Soviet Union, for which both sides are roughly equally to blame. The Soviet leaders, so this theory goes, are as eager for peace and arms reduction as we are, and will respond favorably if only we attempt to understand them better, and to take yet another "first step" toward an accommodation.

It is a testimony of sorts to the triumph of hope over experience that there are so many who have such a "Pollyanna meets Dr. Pangloss" notion of the character of the Soviet regime, despite the mute testimony of a mound of corpses nearly 10 times larger than the number of victims of the Nazi terror.

One place where this attitude is most fervently on display is the annual Pugwash Conference where scientists from around the world gather to discuss world peace, disarmament, and international human rights. The conference takes its name from the town in Canada where the first such conference was held in 1957.

One of the great men of our time, Nobel Laureate Andrei Sakharov, had a special message for the Western participants in last year's Pugwash Conference. Written from his place of exile in Gorkiy, and smuggled to the West, the Sakharov letter, dated May 7, 1982, has an important message for all of us about how to preserve peace and advance the cause of human rights.

Few men know better the terrors that a nuclear war would bring than Andrei Sakharov, the father of the Soviet hydrogen bomb. Few men have been more dedicated, more outspoken, or have suffered more for the cause of peace than Andrei Sakharov, who lives now in exile, cut off from friends, books, newspapers, and contact with the West; deprived of the opportunity to work, harassed constantly by the KGB. His is a message from the heart, prepared and sent to the West at great effort, with considerable risk to Andrei Sakharov and his family. We should pay it careful heed. I ask that Andrei Sakharov's open letter to the participants of the Pugwash Conference be printed at this point in the Record.

The letter follows:

An Open Letter From Andrei Sakharov to the Participants of the Pugwash Conference

I address myself to the Pugwash Conference for the second time—last time was in 1975. Scientists, the international contacts between scientists in the entire world, can do much towards world peace, for international confidence and security, for disarmament, for progress and the defense of human rights. I have presented my views on these subjects more than once in the past. I would like, at this time, to formulate a few points which I consider especially important.

Consideration of problems of peace and security must be conducted from positions of maximum objectivity, without prejudice, with equal standards for both of the opposing camps, taking into account their respective peculiarities, the measure of the openness of their societies, the various levels of democracy, the variation of their political-strategic theories and practices. Many Western public figures, as well as groups and organizations that speak out on the questions of peace and disarmament do, unfortunately, for many reasons (insufficient knowledge, naivete, politically fashionable trends, primacy of internal reasons that seem to outweigh political or economic considerations) take on a position that is quite different—a one-sided, prejudiced attitude that is fruitless and even dangerous. This does, to some extent, apply to the Pugwash movement as well. During the workings of the Pugwash conferences the representatives of the USSR exhibit a negative, characteristic peculiarity. On all acute questions they usually act as disciplined servants of a monolithic, giant bureaucratic machine. This obviously diminishes the meaningfullness of such contacts for the solution of difficult problems, especially if these attitudes are insufficiently recognized.

About 10-13 years ago, when the so-called "détente" was formulated, the world enjoyed a strategic equality between the West and the Soviet camp. (Even though the West was inferior to the USSR and its allies in the realm of "conventional" weapons). We could hope, at any time, that favorable conditions had been created for disarmament, for international trade, for the peaceful solution of conflicts and mutual efforts in the solution of international problems, for the more rapid development of underdeveloped countries, for the end of the dangerous closed societies in the socialist camp, and the end of the human rights violations. Unfortunately, the fears of those who felt that the Soviet Union was going to utilize détente to tip the arms balance in its own favor were justified.

A substantial increase of the Soviet army, navy, air force and missile forces has taken place, while the West (especially Europe) have been obviously weakened during the last decade. The SS-20 missiles have changed the strategic balance in Europe, even though the participants of pacifist demonstrations have not noticed this. After the Paris agreements, the armed forces of North Vietnam attacked the South, and this was followed by the genocide of adherents of Pol-Pot in Cambodia. In spite of the very important Camp David accords, the situation in Middle East continues to be very complicated and tragic for both sides. The Soviet zone of influence continues growing in the whole world—in Africa, in Latin America, in Asia. This climaxed with the intervention into Afghanistan which has resulted in a standoff and a cruel war. The attempt at a pluralist development in Poland resulted in martial law.

Soviet society remains closed. Most important decisions are reached in an anti-democratic fashion. Freedom to exchange information, freedom to hold individual beliefs and convictions, freedom to choose ones country of residence—all are suppressed. There is no possibility for the effective control of the adherence by the USSR to the undertakings and treaties it signed. Persecution of those who deviate in their thinking are on the increase.

All of the above does not mean that the principle of peaceful, compromising resolutions of conflects is at fault—on the contrary, this principle remains as the only alternative to total destruction. The problems of peace, of disarmament, of international security must have an absolute priority over most other problems, regardless of their importance. Negotiations for disarment must continue to be conducted steadily and constantly, in spite of difficulties that are encountered. There is no doubt, however, that these principles must be supplemented by a number of additional elements. I feel that what is needed is the dissemination of truth about the true situation in the world, including the points I mentioned here, as well as practical policy based on these realities.

The reestablishment of parity in the realm of conventional weapons is a must. Both sides must be secure in their invulnerability without recourse to the nuclear weapons that threaten civilization and all humanity. At present, after the exclusion of nuclear weapons from the arsenal of the West, Western forces, according to widely held beliefs, could not resist the forces of the USSR and its allied. Thus, parity in the area of conventional weapons is a prerequisite for the possibility of a mutual and total rejection of nuclear weapons and other tools of mass destruction. This rejection is an historical and urgent necessity, but any movement in this direction must be careful and gradual.

We need essential measures to stop the ever widening Soviet sphere of influence, otherwise the entire world balance will be destroyed. Measures are needed, with the mandatory participation of the Soviet Union to overcome the backwardness of developing nations. Our world that has become an integral unit in our times, cannot continue existing in the presence of such uneven development. The Soviet Union and the socialist countries have until now avoided joining the common effort of economic aid to developing countries; they preferred to achieve political gains through military, and in a certain extent, economic help to those countries that found themselves in the Soviet sphere of influence.

International efforts, efforts by all men of good will, to overcome the closed society of the USSR and other socialist countries are essential in the protection of Human Rights. This conforms to the spirit of the Helsinki Accords and to other international treaties and agreements entered into by the USSR. Soviet propaganda constantly declares that that international concern over human rights in the USSR is interference in Soviet internal affairs, but this is sheer hypocrisy.

Detente during which one of the participants is hiding his face behind a mask is very dangerous. I spoke on this point back in 1973.

I address myself to the participants of the Pugwash Conference with a request for the consideration of this letter and of the thoughts and ideas expressed in it. I appeal as well to all men of good will. I am also taking this opportunity to appeal to the participants in this important international meeting to have them intercede on behalf of prisoners of conscience. Among them are ornithologist Mart Niklus, philologists Vasil Stus and Viktoras Piatukus, jurists Ivan Kandyba and Levko Lukianeko, teacher Oleksa Tikhii, writer Anatoly Marchenko, Balis Gayauskas sentenced to 10 years of imprisonment and 5 years of exile; computer scientists Anatoloy Shcharansky sentenced to 13 years in prison, a member of Armenian Academy of Science Yuri Orlov, the reverend Gleb Yakunin, psychiatrist Anatoly Koriagin, pharmacist Viktor Nekipelov, the Kovalev family, husband and wife Rudenko and Matusevich, the brothers Podrabinek, the repeatedly sentenced musicologist Merab Kostava, and many others. The defense of our colleagues and all those who have been sentenced for their beliefs has a direct connection to the idea of freedom of information exchange, to international trust, and international cooperation.

Gorky, May 7, 1982, Andrei Sakharov, Nobel Peace Prize laureate.●

ARMENIAN MARTYRS DAY

● Mr. KENNEDY. Mr. President, this year, 1983, marks the 68th anniversary of the brutal atrocities to which the Armenian people were subjected in 1915. The tragic massacres of innocent Armenians which took place in the years before and during World War I are a matter of unchallengeable historic record, despite the Department of State's reluctance to recognize these unspeakable mass murders as genocide. All who respect the dignity of human life must condemn these killings and similar abuses without equivocation.

We must never forget these sad events, and it is fitting that they be commemorated as members of the Armenian community are doing this week across this Nation. The highest duty of leaders around the world is to insure that such atrocities never occur again and that we are liberated from the long cycle of violence to which they gave birth. Each year's observance of Armenian Martyrs Day represents an important reminder of this continuing moral responsibility.●

INTEREST WITHHOLDING

Mr. BAUCUS. Mr. President, last Thursday the Senate rejected an attempt to completely repeal the 10-percent withholding reqirement, and then accepted a compromise that would delay the imposition of the withholding requirement until 1987. This ends, at least temporarily, a debate that has bedeviled the Senate over the past 3 months. I would like to briefly address some of the primary issues addressed during that debate, and also explain why, last Thursday, I voted first to repeal withholding and then, reluctantly, to accept the compromise.

THE HISTORY OF WITHHOLDING

The issue, of course, is not new. Many different Presidential administrations have pointed out that the tax compliance rate is higher for wages—about 99 percent—than for interest and dividends—about 89 percent and 85 percent, respectively—and have proposed increasing the compliance rate for interest and dividends by imposing a withholding requirement. For many years, Congress rejected such proposals. For example, in 1980, the Carter administration proposed requiring financial institutions to withhold 15 percent of most interest and dividend payments. The Senate Finance Committee responded by favorably reporting Senate Resolution 92, which provided that "it is the sense of the Congress that the enactment of a withholding tax on interest and dividend payments would be detrimental to the economic well being of the United States."

But in 1982, things changed. Escalating deficits compelled Congress to increase revenue. And the recession compelled Congress to attempt to do so without increasing general tax rates. So Congress considered a wide variety of proposals to increase the rate of compliance with existing general tax rates. One of these proposals was a revived interest and dividend withholding requirement.

A number of the proposals, including withholding, were combined in the Tax Equity and Fiscal Responsibility Act of 1982. When this bill was considered on the Senate floor, Senator KASTEN introduced an amendment, which I supported, that would have deleted the withholding requirement. By a close vote of 50 to 47, the amendment was defeated. After that, the entire bill was adopted by the Senate, and, eventually enacted into law.

THE WITHHOLDING PROVISIONS

The withholding provisions are scheduled to take effect on June 30, 1983. They generally require financial institutions to withhold a 10 percent estimated tax from interest, dividends, and certain other payments. Exemptions exist for low-income taxpayers, elderly taxpayers, and others. Treasury Department regulations issued to implement the withholding provisions further provide that financial institutions may defer certain types of withholding until the end of the year, that financial institutions may float withheld funds and thereby recover some of their administrative costs, and that withholding may be delayed for financial institutions for which withholding creates undue hardship.

THE CURRENT WITHHOLDING DEBATE

After these complicated provisions were promulgated and publicized, the public debate intensified. For example, thousands and thousands of Montanans have called me and written me to decry the withholding requirement and demand its repeal. These calls and letters have confirmed what I thought before—withholding is a bad idea.

Withholding was adopted precipitately. The vast majority of taxpayers who receive interest and dividend payments already pay taxes on those payments. To catch the relatively few cheats who do not, the IRS first should attempt to put its own house in order by improving and expanding the matching of tax returns with the 1099 forms financial institutions use to report the interest they pay. Congress should not avoid this task by imposing a withholding requirement that shifts administrative costs from the Federal Government to taxpayers and shifts investment resources from taxpayers to the Federal Government; that would be a good deal for the Federal Government, but a bad one for taxpayers.

To emphasize this point, I would like to respond briefly to some of the incorrect charges that have been made against those who have supported the movement to repeal withholding.

The first charge is that Senators who wish to repeal withholding have succumbed to political pressure and reversed their previous positions. This charge is contradicted by the plain facts. In the past, Congress repeatedly rejected withholding proposals. In 1982, when Congress finally enacted withholding, it did so by a very slender margin: the Finance Committee approved withholding by a narrow 11 to 9 vote; the full Senate approved withholding by a narrow 50 to 47 vote; and the House never even had an opportunity to separately vote on withholding. Thus, the 1982 vote probably was aberrational, and the current movement to repeal withholding is consistent with Congress longstanding view.

The second charge is that Senators who wish to repeal withholding favor banks over people. This charge simply is untrue. For example, in my own case, I am very concerned that large banks and other large financial institutions benefit from unduly low effective tax rates. If the issue before us were whether banks should pay their fair tax share, I would agree that they should. And I welcome the chance to consider such issues. But I will do so only on the merits, not as a way of retaliating against financial institutions.

Moreover, the withholding issue turns mainly not on how we treat banks, but on how we treat ordinary taxpayers. Under withholding, ordinary taxpayers suddenly will lose the use of 10 percent of their interest and dividend payments and incur administrative burdens. Taxpayers correctly sense that this is an unwarranted imposition; that is why withholding has made them so angry.

This brings me to the third charge: that withholding is a manifestly sound public policy. This charge confuses soundness with expedience. Withholding certainly is expedient, because it would appear to increase Federal revenue.

But that does not make withholding sound. It is unclear whether, after all is said and done, withholding actually would raise much revenue. And even if it did, it is unclear whether the increase in revenue would be worth the increased paperwork, the increased intrusion into people's lives, and the creation of a disincentive to savings at a time when we need to encourage savings to promote economic recovery.

THURSDAY'S COMPROMISE

Last Thursday, as the Senate prepared to consider Senator KASTEN's legislation to repeal withholding, Senators DOLE and KASTEN divised a compromise. The compromise would delay withholding until 1987. In the meantime, the IRS would be given new administrative tools designed to increase the compliance rate without withholding. The General Accounting Office would study the results; if Congress reviewed the study and decided that the compliance rate remained too low, withholding would go into effect.

This compromise certainly was a step in the right direction. However, I was, and remain, concerned that the compromise may turn out to be less than it appears to be. The main source of this concern is my fear that the compromise will not take. The President has not accepted the compromise and some of the former supporters of withholding have not pledged to support the compromise beyond Thursday's vote. Therefore, it is possible that the compromise may just divert public attention and help stall the legislative process until after withholding goes into effect.

Given this possibility, I thought it was unwise and premature to compromise before trying, first, to completely repeal withholding. Senator LONG, the distinguished ranking minority member of the Finance Committee, apparently felt the same way; he introduced an amendment that would have completely repealed the withholding requirement. I and many of my colleagues supported Senator LONG's amendment, unfortunately, it was tabled by a vote of 55 to 40.

After that, the only reasonable alternative was the compromise. So I voted for it. It is a second-best solution, but surely better than no solution at all.

CONCLUSION

Mr. President, the issue underlying the withholding debate is not whether we should catch tax cheats. Of course we should.

The issue, instead, is whether withholding is a fair and efficient way to do so. Having heard all the arguments and read all the reports, I remain unpersuaded. The case for withholding has not been proven. Until it is, we should not put withholding into effect.

That is why I and many of my Senate colleagues voted against withholding last year. That is why I cosponsored legislation to repeal withholding and voted for the Long amendment to do the same. And that is why I finally voted for the Dole-Kasten compromise. Now, I urge the President and the Members of the House to endorse the compromise and help us quickly resolve this issue.●

SALEM NUCLEAR POWER UNIT TO START UP AGAIN

● **Mr. BIDEN.** Mr. President, on February 22 and 25, the Salem unit I nuclear powerplant in lower New Jersey, just across the Delaware River from the largest population areas of Delaware, experienced failures of the automatic safety system and its backup. The mechanical failures required plant personnel to shut down the fission reaction manually in order to avoid very serious consequences. The plant has been shut down ever since. In part because the plant was operating at very low power, the failures posed no immediate danger to the area, but the incident clearly pointed out a source of trouble or even disaster, not just for the Salem plant, but for many nuclear plants designed like it.

In the Nuclear Regulatory Commission's investigation of the incident, the cause has been attributed to a combination of human error, worn and mistreated equipment, faulty maintenance and a significant and substantial breakdown of management practices with regard to equipment maintenance, procedures of safety review, procedures of quality assurance and, it would appear, general commonsense.

Whatever the precise cause of the failures at Salem, the incident is especially troubling because it is the type of incident the overconfident nuclear industry has long told us would never happen. They have often tried to assure the public that despite whatever else might go awry in a plant, the automatic safety system would insure the final and fail-safe measure of protection. Mr. President, it is this system that failed at Salem, twice in a 3-day period.

This Tuesday, in a somewhat incongruous action, the Nuclear Regulatory Commission cleared the way to let the plant start back up. They took this action despite the fact that they still do not know the precise reason for the failure of the small mechanism involved, they still do not have a complete assessment of the larger management problems existing at the plant, they have not reviewed all safety related equipment work orders to determine if appropriate maintenance has been performed on other crucial safety systems in the past and they still do not know whether maintenance and operating manuals provided by the vendor are up to date.

Mr. President, I am, quite frankly, dismayed that the outcome of the NRC action was as it was, since three of the five Commissioners expressed opinions that the events at Salem, and the company response to correct current problems, leaves them with "nagging concerns, an uneasy feeling and a lack of confidence."

I am sure that in the 2 months since the February events the NRC has made some progress in correction deficiencies at the plant, but I see no indication that the plant's broader problems have been solved and I am not at all convinced that the plant is safe and ready for restart.

The mechanical culprits involved in this incident Mr. President were small attachments to the two-circuitbreaker mechanisms, what are called the undervoltage trip attachments. Only one of these devices needed to work in order to drop the control rods over the nuclear fuel bundles, and shut the plant down. Both, however, failed on February 22, forcing a Salem operator to shut down the sytem manually.

Incredibly, and because there was apparent confusion over other systems operating in the plant, the operating staff at Salem did not even realize that the automatic safety failure had taken place; this, despite the fact that indicator lights and a computer printout of all plant functions should have told them so. The plant was then started again the next day only to have the same safety failures happen again. The difference the second time was that the NRC found out about the problem and kept the plant closed.

As I have said Mr. President, the problem at Salem seems to have been caused by human error compounded by earlier errors and mechanical problems. The breaker mechanism that failed have had many instances of trouble, though they remain installed in plants across the country. Bulletins from the manufacturer had told Salem and other plants how to prevent most maintenance problems, but these warnings were completely ignored. Salem officials admit, in fact, that no maintenance was done at all and these warnings were completely ignored. Salem officials admit, in fact, that no maintenance was done at all on these devices for many years and when maintenance was finally performed it was improper.

The Salem operators had one major factor working in their favor in this instance: the plant was not running at full capacity when either of the mishaps occurred. Had it been operating at full power, it is uncertain what exactly would have transpired. But analysis of the many variables by the NRC has indicated that severe shocks to the nuclear system were possible and that damage to the nuclear core was not beyond the realm of possibility. I think this is especially noteworthy, Mr. President, when you put the result together with another recent NRC study which found that a major accident at the Salem reactor could endanger as many as 102,000 people in the Delaware region.

That realization has upset a lot of people in Delaware. But many more people in other parts of the country should be getting upset—because what happened at Salem could happen somewhere else, with disastrous consequences.

Mr. President, we have two basic problems here. One is the safety of the Salem plant, which as I have already stated, gives me pause to wonder whether the lives of my constituents are threatened. The second is whether we will act before this happens again.

This whole episode at Salem has raised anew troubling questions about the operation and oversight of nuclear power in this country. Accordingly, I am currently researching several legislative possibilities for dealing with problems in this area, such as imposing more rigorous operator training and staffing requirements, and giving the investigative arm of the NRC an independent and autonomous character, much like that of the agency which investigates airplane accidents.

Mr. President, in order to more completely inform my colleagues of the severe and technical issues that occurred at Salem, I ask unanimous consent that two letters I wrote the NRC requesting information be placed in the RECORD at this point, along with two recent articles from Science magazine. They both raise questions which I feel must be answered before we can assure ourselves that Salem or other plants are completely safe, and which I intend to speak to further in the coming months.

The information follows:

U.S. SENATE,
Washington, D.C., March 4, 1983.
Dr. NUNZIO PALLADINO,
Chairman, U.S. Nuclear Regulatory Commission, Washington, D.C.

DEAR DR. PALLADINO: I am writing to express my alarm and concern about the events that occurred at the Salem I nuclear generating station on February 22nd and 25th when manual shut downs of the reactor were required following the failures of the automatic safety system and its back-up. I believe the incident, while not posing any immediate hazard, demands the most exacting and severe scrutiny the Nuclear Regulatory Commission can muster prior to any restart of this plant, and in operation of nuclear plants nationwide.

Although this plant is geographically located in New Jersey, you are no doubt aware of its close proximity to the majority of the citizens of Delaware. In fact both Wilmington, Delaware and, to a lesser degree, Philadelphia, Pennsylvania sit in the shadow of the plant. I believe that this incident undermines the rather limited confidence or general uneasiness that the hundreds of thousands of people that reside in this area feel with a nuclear reactor in their back yard.

I also believe this incident demonstates the extent to which this plant and others continue to rely on fallible "human" factors of potential mismanagement, improper maintenance and operational oversight. It would also seem to refute some of the apparent blind faith the industry places in its calcuation of the laws of probability, given the extremely low probability ascribed to this type of incident.

Furthermore, I believe this incident should result in added emphasis by the Commission to propose tough standards dealing with the so-called "Anticipated Transient Without SCRAM" situation. It is very clear that the events at Salem reenforce the pressing need to resolve this decade old safety issue.

Even though I am not in a position to judge all the technical aspects of this incident, I would ask that you have the Commission respond to the following requests and/or questions:

(1) Please provide me with a complete description of the event and its safety significance;

(2) Please provide me with copies of all memoranda and internal studies that analyse this event;

(3) Before restart, we would ask that you provide as assessment of whether NRC has reason to believe that either an operator during the incident or management action during or prior to the event acted inappropriately;

(4) In this event, manual shut-down was achieved some twenty-four seconds after automatic controls and back-up failed; are there incidents of this kind where 30 seconds would not have provided for adequate public health and safety?;

(5) I am informed that this type of event was calculated in the Reactor Safety Study (WASH 1400) as having an extremely low probability. What does the NRC currently calculate the probability of this type of event? How was it that the probability of occurrence was repeated in a three day time period at Salem I?;

(6) What sequence of events would have followed the failure of a manual SCRAM, both within and outside the plant gate?;

(7) What other backup system would have been available if the manual SCRAM would have been ineffective and/or incomplete?;

(8) At the time of the event, the reactor was reported to be operating at 12% of its rated power. Of what consequence and severity would the failure of the automatic system have been had the plant been operating at near or full power? Specifically, what other problems besides core endangerment might have occurred? What differences would have been relevant in operator reaction time?

(9) Are there other initiating events (i.e., besides low steam generator water level) in which operators would have had less time to respond?;

(10) The Preliminary Notification of Event or Occurrence notes that an alert was "belatedly declared." What was the cause and effect of this delay? Given the relative urban proximity of the plant, of what consequence would this delay have been?;

(11) Please detail the history of resolution of the unresolved safety issue of Anticipated Transient Without SCRAM and state the significance of this event in its eventual resolution?;

(12) The report of this event indicates really two separate events; was the restart of the plant after the first event adequately and properly justified?;

(13) What circumstances explain how the undervoltage trip breakers which are considered "Safety Grade Components" could have been mislabeled during recent maintenance?;

(14) How is it possible that company officials were unaware of a 1974 safety circular from the vendor explaining special maintenance procedures?;

(15) What remedial steps can the Commission outline that would prevent present and future notices from vendors going unimplemented?

Finally, Mr. Chairman, I want to state categorically that my intent in this letter is not to impede your work in arriving at answers explaining the cause of this event; I am rather more interested in prompting your careful scrutiny of the event. I am also sincerely interested in providing the citizens of Delaware with answers to their expected, and well-founded concerns in the aftermath of this incident. I expect however, that my concerns and questions will be answered prior to any decision to restart the Salem plant.

I look forward to your response.

Sincerely,

JOSEPH R. BIDEN, Jr.,
U.S. Senator.

U.S. SENATE,
Washington, D.C., April 13, 1983.
Dr. NUNZIO PALLADINO,
Chairman, U.S. Nuclear Regulatory Commission,
Washington, D.C.

DEAR DR. PALLADINO: It is quite evident that when the Commission meets this Thursday, you will be evaluating whether all safety related aspects of the Salem One reactor show sufficient integrity to allow restart. Although I am not in a position to review and assess all of the extremely technical aspects that might go into such a decision—and, therefore, must defer, at least in part, to the technical expertise and collective wisdom of the NRC—I take this opportunity to review and expand upon my previous concerns.

To the extent that the Salem failures can be attributed to hardware, I remain unconvinced, based on reports, whether all safety related functions, both those that have failed and those that might fail, have been adequately checked and/or tested. It is quite disturbing in fact, based on my information to date, that the NRC has termed the reason for the failure of the trip breakers in the automatic SCRAM function as inconclusive. Furthermore, it is my understanding that review of work orders and equipment orders to date, has focused primarily on ensuring that all safety related equipment has been so designated. Although this is an important criteria to examine, if this has been the extent of the review, I remain more than apprehensive about re-starting this plant without a thorough check of all components of the safety system.

Second, and perhaps more disturbing, is the apparent multiple failure of management to respond on this and other occasions without external prodding. Earlier failures in the trip breakers should have altered a properly functioning management to the dangers inherent in faulty maintenance procedures and serious gaps in quality assurance. I have been informed in fact, that no fewer than 25 plant personnel should have had an opportunity to discover the mis-classification of the trip breaker as safety related. In like manner, perhaps as many as 10 plant personnel failed to identify the double trip breaker failure on February 22nd that appeared on the computer print-out.

I know the NRS shares my concern over the quality of this plant's management, and has taken some positive steps to work with management on their shortcomings. However, I have to wonder whether you and PSE&G have defined the scope of needed actions with sufficient breadth to avoid recurrence of management difficulties. NRC's own staff evaluation of the PSE&G response of previous external evaluations finds management response "less than expected." (see SECY-83-98C, at 27)

I read the current commitment to an external review as focusing only on the quality assurance program and the recent trip breaker failures. I seriously question whether such a narrow charge will adequately ensure public safety given the track record of failures at this plant. It would appear that some of the actions taken will do little more than apply band-aid fixes to present plant problems, and leave the possibility, indeed the probability, of more serious events in the future.

Finally, Mr. Chairman, given the NRC's charge to protect the public trust in granting a nuclear operating license and the licensee's commitment to act accordingly, I trust you will weigh all of the above points, and others, when determining the Commission's posture on the re-start of Salem. Based on the information I have so far, I remain skeptical about the wisdom of re-starting the plant at this time.

Sincerely,

Joseph R. Biden, Jr.,
U.S. Senator.

The Salem Case: A Failure of Nuclear Logic

(By Eliot Marshall)

(The "impossible" happened twice in three days when a fail-safe device failed at a New Jersey plant.)

Near the southern end of the New Jersey Turnpike, on the marsh of Alloway Creek, the Salem-1 reactor did one of those things on 22 February that a nuclear plant is not supposed to do. It refused to stop the fission reaction in its core when ordered to do so by a safety control system. An operator had to intervene, turning a manual switch to shut off the reactor. This kind of failure, the nuclear industry had long believed, has a negligible chance of occurring, on the order of once in a million reactor operating years. Yet it has happened several times already.

By official count, the incident at Salem was the third time in commercial history that this safety failure has occurred. It has happened at military reactors as well, but no one has revealed how often because the data are secret. It happened for the fourth time in commercial history on 25 February, again at Salem. It was only after the second incident that the federal government learned of the trouble.

The plant's owners, Public Service Gas and Electric of Newark, New Jersey, reported only the second failure. The reason, the company said, was that the operating staff had shut down the reactor on 22 February and restarted it a day later without understanding that there had been a safety failure. They apparently could not decipher a computer printout that recorded it. Company officials agree that, in hindsight, it is easy to spot the malfunction in the record. Indeed, Salem's staff spotted it almost immediately on the morning of 26 February when inspectors from the Nuclear Regulatory Commission (NRC) visited the control room and asked to see the printout. But they said they could not spot it before because they "weren't looking for it."

The NRC began an investigation. On 15 March, the chief of reactor regulation, Harold Denton, declared that the safety implications were "the most significant . . . that we have had since Three Mile Island." Their importance reaches beyond the problems at Salem and touches on the broader issue of how to shut down a reactor ("scram") when the safety system fails to do so during a routine anomaly in operations (a "transient") such as the one at Salem. This kind of failure is known to the experts as Anticipated Transient Without Scram (ATWS). The events at Salem show that a breakdown of the plant's electronic safety system is not so implausible as the industry has claimed in NRC proceedings on ATWS over the last decade. They also reveal, as NRC commissioner Victor Gilinsky said, an intolerable degree of carelessness.

ATWS has been studied as a hypothetical problem for more than 13 years and has been the subject of proposed regulations by NRC since 1973. The NRC staff thought it would be wise to build in extra damage-limiting equipment to prevent an ATWS from becoming an accident. No ATWS regulations have been adopted, however, because industry has opposed them, arguing that an ATWS is so unlikely to occur that no new protective measures are needed. The NRC summarized this opposition in the paper (NUREG 0460) written in 1978:

"The basic industry position is that the high reliability of reactor protection systems makes the probability of an ATWS event negligibly small and not worthy of consideration as a design basis. It is also maintained that if consideration of ATWS events is necessary in reactor safety evaluations, the requirements expressed in the staff status reports are excessively conservative. Such views were expressed in letters from individual applicants and industry groups including AIF [Atomic Industrial Forum] and EPRI [Electric Power Research Institute] . . . The industry further contended that the cost of the changes required by the staff position to mitigate ATWS events would be significant and not justified."

One vocal advocate of this view, until 1980 when the NUREG 0460 proceeding died, was Westinghouse, designer of the Salem nuclear plant.

During the first full briefing on Salem for the NRC commissioners on 15 March, staffers and commissioners spoke of careless management. Salem's owner was stung by this and responded at an NRC meeting on 24 March. The company chairman, Robert Smith, said, "We fully recognize the seriousness of the incidents . . . when a basic safety system failed to operate automatically." The NRC's findings "indicate to me and senior management of the company that there are areas which can and will be improved." However, Smith argued that other backup safety systems would have prevented any major mishap and said the hazards had been exaggerated.

Another company official said that the plant would be ready to resume operating within a few days and asked for the NRC's concurrence. The NRC did not agree. A detailed review is in progress, and it is unlikely that there will be any decision on restarting Salem before mid-April. The shutdown is costing the company $330,000 a day for makeup power alone.

While the Salem plant did not come near having an accident, it did deteriorate to a condition in which a serious accident could have occurred in different circumstances—for example, if both feedwater pumps (rather than just one) had been out, if the plant had been on full power, if the turbine had been left on, and if the emergency cooling system had failed to switch on. The operators handled the situation well, but another time they might not. This is what worries the NRC.

The risk in depending on the operators is twofold. First, they must realize within seconds that a scram is required. Second, a manual scram demands some form of active intervention—an electric impulse sent from the control room to the main shutoff switches two floors below, the physical manipulation of the downstairs switches, or the use of other plant functions to bring power under control. A loss of control room electricity would make this part of the job difficult, even if the operators knew what to do. Fortunately, on 22 February there was only a partial and temporary blackout of the control room, the reactor was running at 20 percent of capacity, and the operators responded correctly.

The reactor was shut down in both incidents within 30 seconds of the need for a scram. Clearly the operators moved quickly but not extraordinarily so when measured against the demands of an ATWS in a Westinghouse plant such as this. According to the NRC's calculations, a delay of 100 seconds could lead to serious damage.

Because the margin for error is so small, nuclear plants are wired in a "failsafe" fashion so that any major disturbance of the controls, including loss of power, is supposed to trigger an automatic shutdown. It is this automatic logic which is supposed to fail no more than once per million reactor years. But the one-in-a-million event happened twice in three days at Salem. Why?

The problem centers on a pair of huge circuit breakers which are meant to disconnect during an emergency. These Westinghouse devices, known as DB-50's, supply power to the mechanism that raises and lowers the core control rods which regulate the speed of the fission reaction. Under normal circumstances, the power flows through the DB-50's, the rods are lifted and held in the "up" position, and the core generates heat. Any of a number of danger signals can trigger an alarm in the plant's electronic logic telling the system to scram. When this happens, the electronic brain sends a message to the DB-50's telling them to break the circuit. They open, releasing the rods, which drop by gravity into the core. For added safety, DB-50's are used in pairs, wired in series, so that if one fails the chances are good that the other will work. It only takes one to break the circuit. At Salem, both DB-50's received the automatic message to scram and both failed to open. This happened on 22 February and on 25 February.

Other things happened on 22 February which are peripheral to the ATWS but revealing about the environment surrounding it. A major circuit in the control room failed, cutting off electricity to a reactor coolant pump and to the control room itself. The lights went out briefly, until emergency power came on. Some control indicators stopped working. An operator, realizing the reactor should be turned off, reached for the main "reactor trip" switch. This sends a stronger scram signal than the one from the automatic logic. (The safety logic had already sent a message, without effect.) The switch handle came off in his hand. The company explained later that the operator was new on the job and unfamiliar with the control board. It took him a few seconds to insert the handle and turn the reactor off. In the confusion, the operators never appreciated the fact that the automatic shutoff system had failed and that they had experienced an ATWS.

The second event was less chaotic, but like the first it left the operators with the impression that nothing extraordinary had happened. It was only after the plant had been shut down and the circuity checked—according to the NRC, 30 to 60 minutes later—that they realized an ATWS had occurred. Their first thought was that they had experienced a false alarm, and this is why the electricians were called in to check the circuity.

There have been several detailed reviews of Salem's troubles, two by the NRC regional office in King of Prussia, Pennsylvania, and one by the Franklin Research Center in Philadelphia, which was asked to examine the part of the DB-50 that failed. Some of the more important findings are as follows:

The fundamental fault was in a device called an undervoltage (UV) coil in the DB-50. It failed to activate the breaker when it received a message to do so from the control room. It is supposed to switch off the power not only when it receives a signal from the plant's automatic logic, but also whenever there is a sudden loss of power. As it turns out, the UV coil, the heart of the fail-safe system, has a long history of trouble.

As early as 1971, because of malfunctions in a UV coil at the H. B. Robinson plant in South Carolina, Westinghouse recognized that this device needed special attention. Westinghouse sent out a technical bulletin in December 1971 warning owners of this fact and urging them to have the device replaced with a modified version. Because of a repeated failure of a UV coil at Robinson in December 1973, Westinghouse sent out two more letters in 1974, giving important instructions on the twice-yearly cleaning and lubrication of UV coils.

On 9 December 1971 the NRC sent out its own bulletin describing how UV coils had failed on three occasions in two different plants. One of the cases involved a double failure, like Salem's, during testing. The NRC described the causes of failure as "dirt accumulation on exposed linkages," and "mechanical binding of the trip lever."

Gary Toman, senior engineer at the Franklin lab who inspected a UV coil taken from Salem (he does not know whether it was one of those that failed), identified three general faults in the device. He found mechanical binding of the trip lever, excessive wear of linkages, possibly due to poor lubrication, and uncalled-for adjustment of a spring that would tend to make the device less likely to trip off. He speculated that the adjustment may have been made because operators found that the DB-50's were shutting down the reactor on false alarms.

Maintenance of the breakers at Salem was poor. They were never listed as safety equipment, which baffled the NRC. They never got the critical attention they deserved. In addition, Salem somehow failed to get or keep the important Westinghouse bulletins on the UV coil. The company agrees that there was no maintenance of the UV coils between their installation in the 1970's and August 1982, when they began to fail repeatedly. When NCR investigators visited Salem in March, they found that the breakers had been taken out of the switchgear cabinet and that "the inside of the switchgear had a heavy layer of dust on the bottom of each breaker position."

It was difficult to verify whether or not the improved coils were installed in the breakers, for the utility had no record of this happening. However, several days after the NRC asked for evidence of this work, Salem officials turned over documents given them by Westinghouse a week earlier, indicating the work had been done in 1972. The author of the NRC report on Salem says he does not know where the failed UV coils have gone, although he knows that Westinghouse collected at least one immediately after the incident. A responsible NRC official in Washington faults the staff for its failure to preserve all the evidence, but notes that the job was complicated because the equipment had been disassembled by the time NRC inspectors arrived. He assumes that the breakers which failed were the improved version.

It is not known how frequently UV coils have failed at other plants, but the NRC found that they failed (singly) at Salem in February 1979, August 1982, and January 1983. Until January 1983, the apparent procedure for dealing with UV coil failures was to "borrow" replacement coils from other working equipment in the plant. Parts were switched so often between Salem unit 1 and unit 2 that the NRC concluded it was impossible to trace the history of the coils.

There are questions about the adequacy of the circuit breaker itself. Originally built in the 1940's for use in conventional electric plants, the DB-50 has been modified somewhat for nuclear systems. Some NRC staffers believe there ought to be a larger margin of force in the UV mechanism to insure that it will be able to break open the circuit in all circumstances. This is under study.

There were several signs of careless management. The operators were accustomed to experiencing false alarms, the NRC believes, and this may have led them to be unaware of the seriousness of the ATWS on 22 February. Some were confused about the meaning of the alarm lights in the control room, for they could not tell NRC inspectors whether a signal meant that the reactor had been tripped by the automatic logic, or ought to be tripped.

The staff was careless about the postincident analysis on 22 February. Even though there was an open disagreement about how the reactor had been shut down, no one made a thorough review of the record to find out exactly whose memory was correct. As a result, the reactor was restarted the next day—contrary to standing instructions—without a clear understanding of what had malfunctioned.

Westinghouse maintains that there were several protective systems still intact when the ATWS occurred that would have prevented an accident. Even if these had failed, Westinghouse says, the plant has a large capacity to remove heat and withstand internal pressures, enough to avoid core damage. However, the NRC staff concluded that with a few changes in the situation, the pressure limits of the primary coolant system could have been surpassed, going over 3200 pounds per square inch, since one of the pressure relief valves was blocked shut on 25 February. Had this happened, safety related valves might have been overstressed, leading to a loss of coolant, overheating, and possibly core damage.

The events at Salem have changed the NRC's outlook on ATWS. But it is not clear what the practical result will be. Earlier ATWS proposals have been smothered by industry opposition. The first policy paper in 1973 (WASH 1270) suggested a number of revisions in safety shutdown systems and proposed that a construction schedule be in place by the end of 1976. This was resisted. Instead, the NRC undertook a broader investigation in four volumes (NUREG 0460), which in 1978 came up with several alternative proposals for modifying shutdown systems. It offered data to refute arguments that the proposed changes would cost too much. It suggested that they could be made in the early 1980's. The industry voiced strong opposition to this plan as well, and as one NRC staffer puts it, the staff was "beaten into a retreat" by the highly regarded statistical analysis submitted by EPRI, showing that the likelihood of an ATWS was small. In addition, the staff coordinator of the NRC proceeding was badly injured in an accident and relieved of the ATWS assignment.

In the meantime, the utilities and reactor vendors wrote an ATWS rule of their own and, by a quirk in the law, had their idea published by the NRC as a proposed rule in the Federal Register in November 1980. The following spring, the NRC task group under a new leader came up with a new staff rule. It was a compromise between the utility rule and the proposals made in NUREG 0460. Next, the chairman of the NRC at the time, Joseph Hendrie, waded in with a proposed rule of his own. Both were published in the Federal Register in November 1981. Now, there were three official proposals for dealing with ATWS and utter confusion among the regulators.

In April 1982, the NRC pulled itself together and gave the ATWS assignment to Robert Bernero, director of the division of risk analysis in the research office. He convened a group of experts, met with industry representatives, and drafted another proposed ATWS rule. It required almost no changes at Westinghouse plants, because they were thought to have sufficient capacity to relieve the pressure surge that could occur following an ATWS. But the rule did propose significant changes in other systems. Owners have already objected that the costs would be too high. "The rule was drafted and reasonably complete," says an NRC staffer, "and then Salem came along."

Now another task force under Roger Mattson, director of the division of systems integration, has been asked to think about Salem and its implications for future NRC regulation. The Mattson and Bernero groups are supposed to collaborate and do something about ATWS.

NRC staffers who have worked on this problem are understandably eager to bring it to a conclusion. The last thing they want is another in-depth analysis, for they fear it could lead to another delay. Yet in the aftermath of the double ATWS at Salem it seems sensible to review the odds and reconsider the measures needed to prevent an ATWS. Perhaps this time, with so much experience under its belt, the NRC will be able to be both quick and comprehensive in its decision.

NRC FAULTS UTILITY, DELAYS REACTOR START-UP

(By Eliot Marshall)

No fine could have been harder on the owner of the Salem-1 nuclear plant than the action taken by the Nuclear Regulatory Commission (NRC) on 14 April. The agency refused to allow the reactor to be restarted. Salem, owned by New Jersey's Public Service Electric and Gas Company, failed to shut down twice in February when a safety circuit breaker stuck open (Science, 15 April p. 280). The plant has since been closed while the NRC investigates, costing the company about $330,000 a day.

At the meeting on 14 April, the NRC staff recommended that the utility be permitted to turn on the reactor, because improvements in managment and hardware have been made since the incident in February. But the commissioners did not agree. To the apparent dismay of company officials in the audience, the NRC decided to postpone action on Salem for at least a week.

While no formal vote was taken, three of the five commissioners—John Ahearne, James Asselstine, and Victor Gilinsky—blocked a restart when they said that questions about the fitness of the company to operate the reactor had not been fully answered. In particular, they wanted the staff to confirm that proposed changes in training had been carried out, and that top management understood the seriousness of its mistake in allowing standards to slip.

The audience stirred when Gilinsky said that if this had happened in Japan, the company's top executives would have resigned. "We need a change of style at corporate headquarters," he said. He also suggested that the NRC should consider whether or not the company was fit to hold an operating license. One utility executive muttered afterward, "It was devastating. They don't want a pound of flesh; they want 5 pounds."

The NRC staff also came in for some criticism because of its failure to secure precise evidence of what had gone wrong at Salem. It came out in the meeting that the staff never had examined the parts that actually failed. They had been shipped to the manufacturer, Westinghouse, before the NRC investigators had a chance to see them.

The majority wanted to hold up its decision on restarting the reactor until they had decided what enforcement action or fine would be imposed. Chairman Nunzio Palladino said he expected that the enforcement and restart decisions would be made within a week.●

DAIRY PRODUCTION ACT OF 1983

● Mr. LEVIN. Mr. President, I have joined my colleague from Minnesota, Mr. BOSCHWITZ, as a cosponsor of S. 1045, the Dairy Production Act of 1983. I am particularly pleased to be associated with this bill because the Michigan Milk Producers and their president, Elwood Kirkpatrick, were instrumental in creating the framework to reform the dairy program that is the foundation of S. 1045.

S. 1045 attempts to eliminate dairy surpluses by offering farmers alternatives: It rewards those farmers who decide to cut production and penalizes those who increase production. I think this is a fairer approach than simply cutting all dairy prices, regardless of efforts that individuals or dairy organizations may make to cut production and lessen our dairy surplus.

S. 1045 will complement the payment in kind (PIK) program because both of these programs reduce agricultural surpluses. Neither of them, however, will solve our long-term agricultural problems; rather they buy us time, time we must use to develop a farm program that will assure the continuation of family farms and revitalize rural economies.

Although S. 1045 will be considered by the Senate independent of other agriculture programs, it is important that dairy problems not be considered in isolation from the depression in our agricultural economy. Dairy surpluses are, at least in part, a reaction to the desperate condition of the rest of our farm economy. In Michigan, for example, many of the farmers who have recently entered the dairy business previously produced cash crops—they were forced to quit raising those crops as the disparity between their costs and commodity prices grew. They switched to dairy in an attempt to keep from going broke. Just lowering dairy prices without addressing the problems of farm credit and other commodity issues is not the answer; it penalizes all dairy producers, does not give them an opportunity to help end surpluses, and provides no incentives for any farmers to opt to produce any nondairy commodity.

My only reservation about S. 1045 is that I fear the diversion provisions, which would provide payments for those who decrease their milk production, may be too extensive. During debate on the dairy issue, I hope the diversion program is reexamined.●

MONTANA'S CARROLL COLLEGE WINS NATIONAL COMPETITION

● Mr. BAUCUS. Mr. President, I was very proud last week to learn that Carroll College in Helena, Mont., recently won first place for their entry in the 37th National Annual Discussion Contest.

Each discussion team prepared a taped discussion addressing the question: "What policy should the United States pursue in regard to genetic research?"

Carson Newman College of Tennessee placed second in the contest, Eastern Washington University—last year's winners of the contest—received third place, and the University of Illinois was ranked fourth.

The final round of competition in the discussion contest took place in Orlando, Fla., at the Southern Speech Communication Association Convention. Judging this year's tapes were the three immediate past presidents of the Southern Speech Communication Association.

As winner of the contest, the Carroll entry passed through both sectional and regional competition before it reached the finals. A total of 40 tapes prepared by colleges and universities from throughout the country were submitted in the contest.

Entries were judged on each level of competition for their originality, analysis of the topic, discussion techniques, and the quality of the decision reached.

The Carroll team was comprised of five students, each of whom is majoring in a different field. They are Jay Larson, a senior biology/premedicine major from Billings; Karen Kelly, a senior nursing major from West Hartford, Conn.; Glenn Tremper, a junior philosophy major from Missoula; Karen Gaul, a junior theology major from Corvallis; and Tom Whyte, a senior political science/business major from Idaho Falls.

The Carroll team was lauded by the judges for their unusual interdisciplinary approach to the question. Following the presentation of the tapes, the judges announced that this was the first time that anyone had taken a general, liberal arts approach in the contest. Freshley said, "Carroll really brought every area of the campus together. That was what really set Carroll's tape apart." He noted that, in his opinion, "first place clearly belonged to the Carroll entry" because it included so much diverse information.

Twohy, who had coordinated the project along with another Carroll professor, Dr. Barry Ferst, also noted that the college's entry "was special because we combined so many different areas of expertise from different major areas on campus." Twohy explained that "many schools work on this project with just communication majors, or with only members from the school forensic team. We were able to use our liberal arts background combined with a strong emphasis on ethical values on this issue to make our tape unique."

Carroll's taped discussion also received praise from Freshley for its organization and solution. Beginning with the potential harm and the fears associated with genetic research, the Carroll team worked through the topic to a suggested way of maximizing the benefits while still controlling the potential hazards of genetic research.

Their discussion concluded with a specific recommendation to formulate an interdisciplinary governing body, which would include philosophers, theologians, members of the medical professions, and political scientists. This body would formulate policy to insure that the collective good would be served by the research. Freshley noted that Carroll's solution centered on ethical considerations, which was unique to their tape.

The Carroll team had worked 4 months preparing for the discussion. They were each assisted by a professor in their major areas. In addition to Twohy and Ferst, the professors assisting with the project were Dr. Jim Manion, Dr. Phil Wittman, Dr. Terese Sullivan, Rev. Eugene Peoples, and Harry Smith. College librarian Jan Wingenroth provided a special research seminar for the topic. Studio expertise for the taping of the discussion was provided by Chuck Nelson, Carroll student and a disc jockey at KMTX radio.

This was the first year that Carroll entered the contest. When asked to comment on the team's success, Dr. Frank Kerins, president of the college, said, "It is a marvelous achievement. We are extremely proud of the students and their coach Kevin Twohy and the other faculty who participated in the project. We extend them our hearty congratulations."

As the first place team, Carroll will receive a gold-plated microphone along with the second and third place finishers.●

THE 50TH ANNIVERSARY OF INDUSTRIAL EQUIPMENT NEWS

● Mr. D'AMATO. Mr. President, Industrial Equipment News, the publication that informs American industry about innovative industrial products, celebrates its 50th anniversary this May. During the last half century, Industrial Equipment News, or IEN as it is more commonly known, has reported on the technological explosion in electronics, metals and metalworking, plastics, machinery and equipment, computers, and so forth.

U.S. industry uses this information to improve their production techniques, increase productivity, develop new industrial processes, redesign or refine current products, create new product advances, make the work environment safer, and for a limitless variety of other applications. IEN has been a leader in the field of the transfer of technological information from the industrial R&D lab to the shop floor. The 50th anniversary issue chronicles the technological advances that have made America the world's greatest industrial power.

The fortuitous timing of this publication comes during a period when so many Americans suffer from an industrial and technological inferiority complex. We have seen the vaunted American managerial and production abilities buffeted by both European and Asian competition. This negative climate pervades the U.S. business and industrial community, leading to adverse psychological repercussions.

Industrial Equipment News anniversary issue documents that the purveyors of America's competitive doom are not in the majority. Industrial Equipment News anniversary issue reports repeated examples of how American ingenuity, foresight, and planning helped develop and produce innovative products before our competition. In addition, Industrial Equipment News anniversary issue traces the origins of the industrial and technological innovations which have transformed U.S. industry and ushered in the second industrial revolution.

Mr. President, I am delighted to take this opportunity to recognize Industrial Equipment News' 50-year contribution to American industrial progress.●

SONG OF THE NARRAGANSETTS

● Mr. PELL. Mr. President, I would like to bring to the attention of my colleagues the poem, "Song of the Narragansetts,". written by Mrs. Virginia Doris of my home State, Rhode Island.

Mrs. Doris commemorates the history and tradition of the Narragansett Tribe, which just this month has achieved Federal recognition.

Mr. President, in her poem, Mrs. Doris pays rich and deserved tribute to the Narragansetts. I ask that her poem be printed in full in the Record.

The poem follows:

Song of the Narragansetts

We will speak of "First Americans" tonight,
  For what our Narragansetts did bring
Of larger floods on history's land and light,
  Surrounding these camp-fire songs to sing:

We will not drown in wordy praise
  The yesteryear thoughts which rise;
If friendship own one prideful phrase
  They read it in our eyes.

We need not subdue our admiring art
  To laud this isle of Rhodes time;
Forgive us if our o'erflow heart
  Is throbbing in present clime.

Enough for us the ceremony grasp
  That knits us hand in hand,
And they the wrist-blood radiant clasp
  That locks a brother's circling band.

Strength to their hours of tribal toil!
  Peace to their star-drift dreams!
They love alike the furrowed soil,
  The music-haunted streams!

White moons to keep forever harvest bright
  The sacred prayers upon their lips,
And ritual faith that sees the ring of light
  Round nature's heavenly candling eclipse!

Virginia Louise Doris.●

TRIBUTE TO COL. FRANK W. HAUSMANN

● Mr. LEVIN. Mr. President, I want to take this opportunity to recognize the achievements of a fellow "Michiganian," Col. Frank W. Hausmann, who tdoay retires from the U.S. Air Force, after 26 years of dedicated service to our country. In his most recent assignment as Chief of the Congressional Inquiry Division, Colonel Hausmann provided an invaluable direct service to every Member of Congress, answering over 30,000 requests yearly from congressional staffs, for information regarding individual constituent's inquiries about the Air Force. Through his efforts, injured children were aeromedically evacuated, assignments were changed, the deceased were provided appropriate military honors, and the bereaved survivors given assistance.

Born in Monroe, Mich., Colonel Hausmann graduated from the University of Michigan with a B.A. in political science in 1957 and also received an M.S. in education in 1971 from the University of Southern California and an M.S. in administration in 1979 from the George Washington University. He also completed Squadron Officers School, Air Command and Staff College, Academic Instructors School, and the Industrial College of the Armed Forces professional military education courses.

His assignments have included: Personnel Officer, Air Command and Staff College, Maxwell AFB, Ala., 1958-59; Personnel Administration Officer, 737th ACWRON, Morocco, 1960-63; Chief, Administrative Services, 7230th SUPPRON, Taranto, Italy, 1960-63; Assistant PAS, AFROTC Detachment 645, The Ohio State University, 1963-67; Administration/Personnel Officer, 1131st USAF Support Activity, MACSOG, (1st Flight), Nha Trang AB, Vietnam, 1967-68; Director of Administrative Services and Executive Officer, Headquarters European Communications Area (AFCS), Lindsey AS, Germany, 1968-72; Executive Officer to the Commander, Electronic Systems Division (AFSC), Hanscom AFB, Mass., 1972-74; Chief, Executive Services Division, Office of the Vice Chief of Staff, Headquarters USAF, 1974-78; and Deputy Chief, Congressional Inquiry Division, 1978-80.

Colonel Hausmann's awards include the Legion of Merit with two oakleaf clusters, the Meritorious Service Medal with two oakleaf clusters, the Joint Service Commendation Medal, Air Force Commendation Medal, Air Force Outstanding Unit Award, Air Force Organizational Excellence Award, Vietnam Staff Honor Medal 1st Class, Vietnam Service and champaign medals.

Colonel Hausmann is married to the former Maria (Bebe) Turo of Camp Hill, Pa., and they have two daughters, Marisa and Karim. They are justifiably proud of him.

I want to join others in commending Colonel Hausmann on a full and productive military career and wish him every success in civilian life.●

REPRESENTATIVE DORGAN ON THE FARM ECONOMY

● Mr. BAUCUS. Mr. President, the April issue of the Washington Monthly contains an article by North Dakota Representative Byron Dorgan entitled "America's Real Farm Problem: It Can Be Solved." The article is full of insights on the current depression in the farm economy and recommends actions Congress should take to improve the farmer's plight

One of the particularly timely subjects Representative Dorgan discussess in the operation of the Farmers Home Administration. FmHA was created during the Depression of the 1930's as the lender of last resort for small and beginning farmers who had a reasonable chance to survive. In 1980, however, FmHA was lending four times as much in emergency assistance as it did in limited-resource loans to truly needy farmers. Ninety percent of these emergency loans went to larger, more established farms.

The administration has tried to abolish the limited-resource loan program. Congress objected, but in 1982 the FmHA only used about half the money Congress approved for these loans. To its credit, the administration also stopped making economic emergency loans. However, these economic emergency loans should be made to small operators that truly need them. FmHA should not try to control the gushing spigot by turning it off.

The skewed lending priorities that Representative Dorgan identifies were substantiated in a recent audit done by the Inspector General at USDA. According to the audit, about one-fourth of all the loans surveyed in fiscal year 1980, worth $832 million, could have been financed by commercial banks. This news comes at a time when small, full-time farmers are having difficulty obtaining operating loans—money to plant this year's crop.

Representative DORGAN discusses more than just the troubles at FmHA. He points out that 29 percent of the benefits from Federal farm programs goes to the largest 1 percent of the Nation's farmers. He also reminds us that U.S. monetary policy, as set by the Federal Reserve, plays an important role in determining whether farmers will sink further into debt or see some relief from high interest rates.

I recommend Representative DORGAN's article to my colleagues and ask that it be printed in the RECORD.

The article follows:

[From the Washington Monthly, Apr. 1983]

AMERICA'S REAL FARM PROBLEM: IT CAN BE SOLVED

(By Representative Byron Dorgan)

Recent scenes from America's farm belt seem like a grainy film clip from the thirties. Young families putting their home and farm machinery on the auction block. Men, choked with emotion, breaking down in tears as they describe their plight. Angry farmers organizing, getting madder and madder.

It's not as bad as the thirties yet; no governor has called out the National Guard to stop the foreclosures, the way North Dakota's William "Wild Bill" Langer did in 1933. But the pain is running deep. Losing a farm is not like having a new Chevrolet or a color TV repossessed. In many cases, what's lost is land that's been in the family for generations—and a way of life that for many is the only one they've ever known or wanted.

It's not that other victims of the recession deserve less sympathy. But there's an important difference between the plight of the farmer and that of other producers. What's happening in the farm belt is a far cry from what's happening in Pittsburgh and Detroit. Nobody is berating our farmers for falling behind the foreign competition and losing their edge, like the auto and steel industries. Nobody is shoving books on Japanese management into their faces. To the contrary, American farmers are our all-star economic performers. When other countries want to find out how to improve agriculture, they don't send their delegations to Tokyo. They send them to Iowa and Kansas and the Dakotas.

And the farmers' reward? Most North Dakota wheat farmers are getting $4 for a bushel of wheat that costs them $5.50 to grow. Farmers are making less in real income today than they did in 1934. Creditors are foreclosing in record numbers; the Farmers Home Administration alone reports that at least 4,000 of its borrowers were forced out of business in 1982.

RURAL MYTHS

Agriculture is a $140 billion-a-year industry, our nation's largest, far bigger than steel, automobiles, or any other manufacturing enterprise. Farming and food-related businesses generate one out of five jobs in private industry and account for 20 percent of our GNP. Sooner or later the problems on the farm catch up with the rest of us, as the laid-off employees of International Harvester already know too well. Students of the Depression will also recall that it was long before the 1929 crash—while the market was still revving up—that farm income began falling. The troubles on the farm were a large part of the weight that ultimately dragged the entire economy down into the Depression.

If you read the editorial columns of The Wall Street Journal, you know that some people have a simple explanation for the farmers' plight. Too much production is the problem, they say, and if government would only stop subsidizing overproduction by keeping prices artificially high, the free market would work its will and weed out the inefficient producers. What's more, many conservatives and liberals alike believe farmers are only getting their just deserts, having grown fat and happy on government price supports and double-digit inflation. You've seen the caricatures on "60 Minutes"—farmers driving big Cadillacs, spending their winters in Boca Raton—and still complaining that the government doesn't pay them enough not to grow certain crops.

Those aren't farmers I know. But with less than four percent of all Americans now living on farms, it's little surprise people have so many misconceptions about our farm program. Start with the "overproduction" argument. There are children and older people in this country who still don't have enough to eat, and roughly 450 million people in the world who go hungry most of the time. That people talk about "overproduction" rather than "underdistribution" is rather telling in itself. But more to the present point: almost from the time the early settlers planted their first row, American farmers have been growing more food than the nation could consume. The tendency toward producing surpluses is a perennial problem. It hardly explains the extraordinary difficulties our farmers now face.

As for the "60 Minutes" caricatures, they are just that—caricatures. Last year the federal government paid farmers $1.5 billion in direct subsidies (it loaned another $11.4 billion that farmers must repay). Money from these federal programs came to about two percent of total receipts in 1982 for the average farmer, whose farm netted just $8,000. Add in what he and his family earned away from the farm, and his household still made less than a GS-11 civil servant and about half as much as a young lawyer on Wall Street. That's for working from morning to night and doing what many Americans no longer do—produce something the rest of us need.

But this is no blanket apology for the nation's farm policies—far from it. There are some farmers who get more than they deserve from the government, and nobody gets madder about that than the vast majority of farmers who bear no resemblance to them. Egregious abuses do exist, and it's time that representatives from the farm states (of which I'm one) begin to eliminate them. If we ignore such problems or dismiss them as inevitable, they will continue to act as lightning rods for attacks on all farm programs. Representatives of farm states must clean their own house for if they don't, I'm afraid, someone else will do it—hurting farmer and non-farmer alike.

The nation needs a federal farm program; to think otherwise in today's highly competitive international economy is self-defeating and naive. But we need the right kind of farm program, one that not only meets the test of fairness, but that promises to keep American agriculture second to none.

Unfortunately, that's not the kind of farm program we now have. Approaches that were fine in the thirties are no longer doing the job. In fact, what began as survival programs for family farmers are becoming the domain of extra-large producers who often elbow aside the very family farmers for whom these programs were originally intended. Congress must bear much of the blame for this. We continue to target most farm assistance not according to the circumstances of the individual farmer but largely according to the volume of the commodity he grows. While these federal programs have all been done in the name of the family farmer, the interests of the various commodity groups have not always been identical to those of the nation's family farmers.

This is not to criticize these groups, for everyone is entitled to his say. But it is to suggest that we in Congress have talked too much about programs for feed grains and wheat and corn and assorted "market prices" and "loan rates"—and not enough about the kind of agriculture that's best for the country. And we've done more than waste money in the process. For if our agricultural policy continues largely unchanged, I'm concerned the criticisms that now so tragically apply to the nation's automakers—that they became too big, too inflexible, and too inefficient to compete—may one day be appropriate for America's agriculture.

FARM ECONOMICS

To understand the failings of existing farm programs, it's important to understand the roots of the current farm crisis. At the heart of the problem is money—how much there is and how much it costs to borrow.

A farmer is a debtor almost by definition. In my own state, it's not unusual for a wheat farmer with 1,000 acres to owe several hundred thousand dollars for land and machinery. In addition to making payments on these loans, it's common for such a farmer to borrow about $40,000 each spring to cover fertilizer, diesel fuel, seed, and other operating expenses. The months before the harvest will be anxious ones as the farmer contemplates all the things that could bring financial hardship: bad weather, crop disease, insects, falling commodity prices. If he has a good year, the farmer can repay his loans and retain some profit; in a bad one, he can lose his whole farm.

Money thus becomes one of the farmer's biggest expenses. Most consumers can find some refuge from high interest rates by postponing large purchases like houses or cars. Farmers have no choice. In 1979, for example, farmers paid $12 billion in interest costs while earning $32 billion; last year they paid $22 billion in interest costs while earning only $20 billion. In a business in which profit margins are small, $4,000 more in interest can mean the difference between profit and loss. Since 1975, 100,000 family farms have disappeared, and while interest rates have fallen recently, they still imperil the nation's farmers.

This is why the most basic part of our nation's farm policy is its money and credit policy—which is set by Paul Volcker and the Federal Reserve Board. The Federal Reserve Board's responsibility for nearly ruining our economy is well-known. What's often overlooked is how the board's policies have taken an especially devastating toll on farmers. While high interest rates have increased farm expenses, they've also undermined the export market farmers have traditionally relied on. High interest rates, by stalling over economic engineers, have been a drag on the entire world's economy. Developing and third-world nations have been particularly hard hit; struggling just to meet interest payments on their loans from multinational banks, they have had little cash left over to buy our farm products.

Even those countries that could still afford our farm products abandoned us for other producers. Our interest rates were so high they attracted multinational bankers, corporations, and others who speculate on currencies of different countries. These speculators were willing to pay more for dollars in terms of pesos, yen, or marks because those rates guaranteed them such a substantial return.

The news commentators called the result a "strong dollar." which gave us a rush of pride. But what did this strong dollar really mean to the farmer? It meant people in other countries found themselves suddenly poorer when they went to buy something made or grown in America. In 1981, for example, West Germans paid 21 percent more for American soybeans, even though our farmers were getting 11 percent *less* for those very same soybeans than they had the previous year. Overall, our "strong dollar" has been jacking up the price of American farm exports by a full 25 percent, biting our potential foreign customers with a 25 percent surcharge the moment they start thinking of buying American. No wonder these exports have dropped for the first time in 12 years. This isn't a strong dollar, it's a big banker's dollar—and with a central bank like the Federal Reserve Board, who needs soil erosion, grasshoppers, or drought?

To be fair, interest rates aren't solely responsible for undercutting our farmers' export markets. President Carter's grain embargo did more than close the Russian market; it also drove away other foreign customers who wondered how dependable we were. Reagan has lifted the embargo, but to little avail, since he still refuses to sign a long-term grain contract with the Soviet Union. Meanwhile, our foreign competitors have quickly stepped into the breach, supporting their farmers with generous subsidies that make ours look miserly by comparison. Last September, for example, wheat from the U.S. and Common Market countries was selling for almost the same price on the international market. But while the U.S. farmer was getting about $3,40 a bushel, his Common Market counterpart received $5.37.

Both the Federal Reserve Board's market-skewing policies and the hefty subsidies that foreign agriculture receives illustrate an important point. Those who say America should go back to a "free market" in agriculture are asking our farmers to go back to something that no longer exists. In today's world there's no free market in agriculture, just as there is none in steel, automobiles, or other major industries.

We learned during the Depression that agriculture, by its very nature, requires a moderating hand to smooth out the violent cycles that otherwise could destroy even the best farmers. No other producers have to confront the sudden price shifts with which farmers regularly contend. Automakers, for example, don't have to worry that prices for their product may drop 50 percent, as wheat prices did from 1974 to 1977. This is why even that bastion of free-market orthodoxy, the Heritage Foundation, concedes the need for a government role in agriculture.

HOME-GROWN DEPRESSION

For the nation's first 150 years, there was no farm program as such. The Department of Agriculture wasn't created until 1862, and when President Lincoln proposed it to Congress he could applaud the nation's farmers as a "great interest so independent in its nature as to not have demanded and extorted more from government." For the next 70 years the department limited itself largely to statistics and research. Farmers received little in the way of subsidies; like all other consumers, they helped subsidize manufacturers through the tariffs they paid on imported goods.

Contrary to popular belief, the Depression hit our farms long before the Okies started their desperate treks across the dust bowl in their sputtering Model T's. During World War I Europe bought our food like it was going out of style. Prices rose to record heights; farmers expanded their operations and borrowed heavily to do so.

Then the war ended. Export markets quickly dried up a European countries started to rebuild their own agriculture. American farmers watched helplessly as prices plummeted, leaving many with huge debts to repay and no income with which to pay them. A rash of foreclosures followed, rehearsing a cycle that bears an eerie similarity to the current one. By 1932 farm income was less than one-third of what it had been in 1919. During this period, more than 1.5 million Americans left the farm. (The exodus was reversed during the Depression, when many returned to the farm in order to survive.)

Then, as now, the conventional economists and their camp followers in Congress and the press found little alarming in this hardship. The "invisible hand," they said, would force farmers to produce less until prices returned to normal levels. The "weak" and the "inefficient" might be cut down in the process, but that was the way the free market was supposed to work. It didn't.

Unfortunately, someone forgot to tell the nation's farmers about the economic etiquette that professors and journalists expected of them. As prices continued to fall, the farmers didn't produce less—they produced more. It's not hard to understand why. Farmers have certain set costs—such as debt—whether or not they plant a single seed. When prices dropped, many tried to produce more to make up the difference. Besides, to farm is to hope. The market may be terrible one year, but who knows what will happen next? Will there be drought in Europe? Blight in Russia? When you have to decide how much to plant in the spring, you have little idea what the market will really be in the fall. The worse things look, the more you pin your hopes on a sudden surge in prices. So you plant.

Those who put all the blame on government for today's excess production and low prices are long on theory and short on history. We produced "too much" throughout the twenties, when there was no farm program to speak of. And it wasn't the weak and the inefficient who tumbled then. It was just about everybody.

BLIND GENEROSITY

The New Dealers recognized that when it comes to agriculture, the invisible hand can end up shooting farmers in the foot. Their solution was straightforward—and effective. Remedies like the Agricultural Adjustment Act were begun to prop up the prices of certain commodities so that the farmers who grew them could count on at least a minimal return. The main approach was to link government assistance to the farmers' agreement to cut production, thus forcing prices to rise according to the laws of supply and demand.

These relief programs were not geared to the circumstances of individual farmers. They were aimed at regulating the supply and price of certain commodities. Still, the commodity approach amounted to a relief program for the family farm because there just weren't many other kinds of farms around. In 1932 one of four Americans lived on a farm, and for that reason the commodity programs were a major part of the whole New Deal relief effort.

Over the last half century, this commodity approach has remained relatively unchanged, while American agriculture has changed radically. The number of farms today is one-third what it was during the Depression, and just seven percent of these control over half the farmland and account for over half the sales. Yet while farming has become more concentrated, the government still dispenses federal aid with a blindfold on, treating a multi-thousand-acre agrifactory giant as if it were a bedraggled Okie with a handcrank tractor and a cow. As a result, 29 percent of all federal farm benefits go to the top one percent of our farmers.

The government distributes this largess in a variety of ways. Some programs amount to government-guaranteed prices. For a few crops—tobacco and peanuts, for example—the government sanctions an allotment system by which the marketing of these is strictly controlled. The government also provides crop insurance, disaster relief, and subsidized loans for such things as purchasing more farmland and meeting operating expenses.

The traditional mainstay of the farm program is the "commodity loan." Each year the government establishes a loan rate for major crops, including wheat, corn, barley, sorghum, and soybeans. The rate for wheat, for example, was $3.55 per bushel in 1982. Early in the year, a farmer must decide whether he is going to sign up for the program; if he does, he may have to agree to cut back his production to help keep surpluses down. If the eventual market price goes above the loan-rate level, the farmer simply repays the loan, takes back his wheat, and sells it on the open market. But if the market price is below the loan rate, the farmer may take the money and leave the wheat with the government. In addition to the commodity loan, there is a "deficiency payment" that supposedly helps bridge the gap between what the farmer earns in the market and what his crop costs to produce.

It's important to understand two things about this price-support program. First, a guaranteed price is not a guaranteed profit. The loan rates and deficiency payments do not necessarily return the farmer's cost of production, and in recent years they haven't. In 1982, for example, the target price for wheat was more than a dollar less than the farmer's cost of production.

More important, the way these programs work, the more you have, the more the government gives you. A wheat farmer with 250 acres producing 30 bushels per acre gets a support loan of $26,625. A farmer with 2,500 acres of similarly productive land gets approximately ten times that much. The deficiency payments work in pretty much the same way.

For deficiency payments there is a nominal $50,000 cap that in practice does not have much effect. For support loans, there is no limitation at all. Thus, while smaller farmers get a little help, the largest farms walk off with a bundle. In a recent editorial attacking all farm subsidies, The Wall Street Journal fumed about a midwestern wheat grower who received $68,760 last year from the government yet "rides around his 4,000-acre farm on a huge four-wheel-drive tractor with air conditioning and a radio."

I'll bet the editorial writers of The Wall Street Journal have air conditioning, radios, and a whole lot more in their offices; still, they do have a point. As Don Paarlburg, a conservative agricultural economist who toiled in the last three Republican administrations, has put it, the result of the present federal farm program is that "average farm income is increased by adding many dollars to those already well-off and adding little or nothing to those at the low end of the income scale."

This bias toward bigness runs through most of the federal government's farm program. One of the best illustrations is the Farmers Home Administration, a case study of how a federal program that began to help only those in need became a safety net for just about everybody else.

The FmHA ws created in the depths of the Depression as a lender of last resort for small and beginning farmers who had a reasonable chance to survive. For most of its life, the agency did serve family farmers struggling to get their operation on its feet and unable to obtain credit elsewhere. But in the 1970s, Congress tacked on something called the Economic Emergency Loan program. To qualify for this new program you didn't have to be small, or even a family farmer. You just had to be in economic trouble. Soon the "economic-emergency" loans were pushing aside the kinds of loans the FmHA was originally intended to provide. By 1980 FmHA was lending four times as much as in such "emergency" assistance as it was in the so-called "limited-resource" loans for needy farmers who were now receiving less than ten percent of the agency's total. Ninety percent of these emergency loans went to bigger, more established farms, many of which were unlikely candidates for public philanthropy. One politician and judge with a net worth of $435,000 and a non-farm income of $70,000 a year received $226,000 in such low-interest "emergency" loans.

After "60 minutes" exposed a $17 million emergency loan to a California agrifactory, an embarrassed Congress imposed a $400,000 limit on the program. Though this was an improvement, the still-generous limit enables the larger farms to eat up the bulk of FmHA's loan resources.

Showing nicely its concept of the "truly needy," the Reagan administration tried to abolish completely the limited-resource loan program that was targeted to the smaller farmers the agency was established to help in the first place. Congress wouldn't let it, so the Reaganites discovered the value of bureaucracy and gave it the red-tape treatment. Nationwide, the FmHA in 1982 managed to lend only about half the money Congress had approved for these loans—this during the worst year for farmers in half a century.

In fairness, the administration has also stopped making economic-emergency loans. But that misses the point. Those loans should be made, but only to family farmers who need them. The FmHA's recent crackdown on delinquent borrowers, moreover, has fallen most heavily upon the smaller farmers. It's a cruel irony: having lavished so much money on the largest farmers, at least some of whom could have gotten credit elsewhere, the government now has too little left for smaller farmers who have nowhere else to turn. Not surprisingly, many are going under.

Meanwhile, the Reagan administration has introduced a Payment-In-Kind program that gives farmers government surplus commodities they in turn can sell, if they agree to take acreage out of production. PIK is thus a variation on traditional New Deal programs. But while the PIK program offers many beleaguered farmers some genuine help, it also embodies the same most-for-the-biggest approach.

AGRICULTURAL BLOAT

Of course, some will argue there's nothing wrong with a farm policy that encourages bigger and bigger farms. This will only make them more efficient, so the argument goes, and past gains in agricultural productivity will continue indefinitely as farms get bigger.

To such people, a concern for the family-size farm seems a mushy and misplaced Jeffersonian nostalgia. In fact, it is anything but. Family farming is practical economics. Anyone who's looked recently at our automobile and steel industries knows that economies of scale stop beyond a certain point. When Thomas Peters and Robert Waterman examined successful American businesses for their book In Search of Excellence, what were the qualities they found? Small work units. Lean staffs. A minimum of management bureaucracy. Managers who get their hands into what they manage. Enterprises that stick to their knitting instead of using their assets to flit from one business to another.

It sounds like a profile of the American family farm. It's also a description of what we lose when we allow factory-in-the-field agglomerations to gobble up individual family farmers.

There's growing evidence to suggest that in agriculture, as in other endeavors, the old "bigger is better" saying is a myth. A decade ago the Department of Agriculture was telling Congress the optimum size for a California vegetable farm was 400 acres, though 73 percent of the state's vegetables were already produced on farms much larger than that. A 1979 USDA study found that the average U.S. farm reaches 90 percent of maximum efficiency at just 314 acres; to attain 100 percent efficiency, the average size has to quadruple to 1,157 acres. Beyond that, farms don't get any better—they just get bigger. They may even become more bureaucratic and less efficient.

Consider, for example, the matter of debt. The very largest farms are twice as debt-prone as smaller family farms. This is of little consequence when times are flush. But when trouble hits, as it has with Mr. Volcker's interest-rate policies, it's like sending a fleet of large sailing ships heading into a gale with twice the sail they normally carry.

Just as a rope of many strands is more flexible and resilient than a single strand, a diverse agriculture of many relatively small units can adjust and change. Unlike the very largest operations, family farmers don't have so much capital tied up in what they did yesterday to keep them from doing what needs to be done tomorrow. Small farmers don't have to push paper through tedious chains of command. If they see a way of doing something better, they can do it right away. This kind of flexibility is important if sudden shifts in market conditions warrant different crops or production techniques.

There's also the question of rural communities. I grew up in Regent, North Dakota, a farming community of 400 people. Family farms were and are the economic blood stream of that town. When such farms are eaten up by larger ones, towns like Regent wither, and the government finds itself with a tax-consuming social problem instead of a healthy and tax-providing community.

In short, there is a link between the way we have farmed—in traditional family-size units—and the extraordinary productivity of our agriculture as a whole. Yet our farm policies are pushing us toward a top-heavy agriculture that threatens to mimic the same problems we are facing in other areas of our economy. The high interest rates of the last two years have made the problem even worse: whether family farmers go bankrupt or simply decide to sell out, the trend toward concentrations is hastened.

Even worse, this trend feeds on itself. The alteration of the FmHA is instructive. Having helped create large farms, the government felt compelled to keep them from failing. When a small family farmer bites the dust there may be a few condolences but nobody worries much. When a multi-thousand-acre agrifactory totters, its bankers and creditors get the jitters over the millions of dollars at stake. It's a prairie twist on the maxim familiar to international bankers: "Make a small loan and you create a debtor. Make a big loan and you create a partner."

Are we encouraging farms so big that we can't afford to let them fail? I fear we are and I think it's an ominous prescription for slowly but inevitably undermining the very things that have made agriculture one of the few American industries still competitive in international markets. Despite high interest rates, agriculture still contributed more than $40 billion in export sales last year, helping defray the costs of our unhappy dependence on imported oil and automobiles.

HELP FOR THE FAMILY FARMER

What does all this mean for our farm policies? Mr. Paarlburg recommends that we eliminate the current "tilt in favor of big farms" in our federal programs, and at least keep the playing field level. I agree with that, but would go a step further. For the reasons I've discussed, I think we should retarget the current programs toward family-size units. For example, we should put a cap on the commodity price-support loans to eliminate the exorbitant amounts going to the very largest farmers, thus freeing up more for those who need it more. In 1981, for example, I proposed capping these loans at $150,000, which would have affected less than ten percent of all farmers but would have enabled us to increase the support price by about 35 cents per bushel for the rest. (This new level, incidentally, would have still been below production costs.) Farmers could become as large as they wanted—the federal government just wouldn't pay them for doing so.

We should alter the FmHA loan program in similar fashion, restoring this agency to its original purpose of providing economic opportunity to beginning and smaller farmers. In the present crisis, the money saved should be used to extend loan deferrals to family farmers who have fallen behind on their FmHA loans because of economic circumstances beyond their control. At the same time, we should alter other federal policies, such as tax laws that invite lawyers and doctors to invest in farms as tax shelters, driving up land prices to the detriment of the beginning farmer.

Of course, it would not be fair to pull the plug suddenly on these larger farm operations. Many are essentially family farmers who overextended themselves during the 1970s, with a good deal of encouragement (including subsidized loans) from the government. Some of these farms may need emergency loans; the question is the direction in which our farm program goes from here.

These are the broad outlines of a farm program that I think would dispense agricultural benefits more fairly while promoting the right kind of agriculture. But the high interest rates of the last two years should serve as a stark reminder that the best farm program in the world will not do a great deal when a Federal Reserve Board accountable to no one can unleash an interest-rate tornado that levels the economic landscape. The best thing the government can do for the nation's farmer is not to subsidize him, but to promote the kind of monetary policies that make credit available at a fair price.

Interest rates must continue to fall as they have begun to do. Rates are still too high for the average farmer, however, and powerful pressures are building to increase them again. As I write these words, on March 8, 1983, the front page of The Washington Post business section reports that a group of prominent economists called the Shadow Open Market Committee "today called for the Federal Reserve to slow sharply the recent rapid growth in the nation's money supply even though that might risk another recession sometime in 1984."

More than a century ago, President Abraham Lincoln warned us that "the money power of this country will endeavor to prolong its reign until all wealth is aggregated in a few hands and the Republic is destroyed." While its policies have moderated somewhat in recent months, the board has taken us in precisely this direction. Money and credit should serve production, not the other way around. Regaining control over them is of utmost importance not only to the family farmer, but to all independent businessmen as well—not to mention the rest of us.●

DEVELOPING AN INDUSTRIAL POLICY

● **Mr. HEINZ.** Mr. President, in the last month several articles have appeared, discussing the problems of manufacturing industries and the revitalization of American industry. As indicated by my remarks introducing S. 849, a bill which would tie relief from imports to proposals for industrial adjustment, I think that it is vital that we conduct a complete discussion of the problems of industry, and we decide upon a course for returning American industry to its preeminent world position.

A number of experts in the fields of business, trade, engineering, education, and other areas have recently spoken out on this issue. I would like to present a sample of these opinions, which identify the problems facing American industry, and proposed solutions to address the burden faced by American industry attempting to become competitive again.

In his statement before the Trade Subcommittee of the House Ways and Means Committee, Mr. Harold Lamar, a former staff member for that subcommittee, proposed changes to the Trade Act of 1974, which my bill, S. 849, also amends. Mr. Lamar spoke in favor of import restrictions, and amending the Trade Act of 1974 to give greater protection to American industries suffering from the unfair practices of other nations.

As in my industrial revitalization bill, Mr. Lamar's proposal ties import relief to proposals by American industry that would promote greater effectiveness and competitiveness by these firms and reward them for such efforts by allowing relief from subsidized imports that threaten their survival. I also approve of Mr. Lamar's suggestion that the Secretary of Commerce direct some of his efforts toward helping domestic firms become more competitive. Our industries are suffering from the effects of unfair foreign competition, and in order to allow American industry to become competitive in the world markets once again, we need to give it the opportunity to retool without facing the immediate pressure of subsidized imports.

Mr. John McDermid, of International Business-Government Counselors, in his testimony before the Trade Subcommittee of the House Ways and Means Committee, also pointed to greater use of section 201 of the Trade Act of 1974 as a way of enforcing fair trade practices among our competitors. Mr. McDermid stresses that business should be committed to reforming current practices, and that upon filing a petition under section 201, should have formulated a plan to show that the industry will be able to respond to international competition and will take positive steps to become competitive with foreign businesses upon the imposition of import relief under section 201. I cannot overemphasize the importance of this idea. It forces businesses to do what we expect them to do: React to foreign competition and become more aggressive in their attempts to meet it.

Mr. Robert McNeill, testifying before the same subcommittee proposed two tracks for relief under the Trade Act; one standard for normal economic conditions, which is represented by the current section 201 of the Trade Act, and a softer standard to be applied in times of economic recession, which would make the granting of relief easier, but require an adjustment plan similar to that proposed by my bill.

Finally, in a thought-provoking article by Prof. Simon Pollack of the University of Pennsylvania, our current industrial system is analyzed and Professor Pollack identifies the shortcomings that are causing problems for American manufacturing. Professor Pollack suggests changes in education and training, and aid for the transition that is required to keep American industry competitive, from business, labor, the Government, and our educational institutions.

These articles all present ideas and proposals for moving America out of the current industrial doldrums in which we find ourselves. Most of them also recognize that the place to begin industrial policy is in the trade area, because that is where hard-pressed industries run first for relief. Their doing so gives the Government both an opportunity and a responsibility. A responsibility to deal with the problem presented and to help the victims of economic change. An opportunity to help an industry confront all its problems, trade related or otherwise. S. 849 takes those same steps. I would urge those interested to read these articles and give them serious consideration. They add to our understanding of this most important issue and efforts to help the American economy regain its vigor.

Mr. President, I ask that the texts of these articles be printed at this point in the RECORD.

The materials referred to follow:

STATEMENT OF HAROLD T. LAMAR

Mr. Chairman, I appreciate very much the opportunity to appear before the Subcommittee on Trade of the Committee on Ways and Means. It is with a sense of deja vu that I approach testifying, it being some ten years since the Committee held similar hearings to consider recommendations to change domestic trade law in order to restore the confidence of the American business community in the government's willingness to deal with trade problems in a fair and balanced manner.

Obviously, the need to restore the confidence of the American business community in the efficacy and in the administration of U.S. trade law has returned. The amendments to the trade law of the 1974 Act and the great promise of GATT reform and new trading rules have not worked as had been hoped.

We have developed new terms or at least given new meaning to old terms in the discussion of trade policy of the last two years. Much has been spoken of the need for reciprocity and the need to deal with targeting of U.S. markets by foreign governments and exporters. In 1974 the concept of sectoral reciprocity in trade negotiations was only reluctantly accepted by our trade negotiators as language to get the 1974 Act passed but as basically an idea which wasn't needed. We have found that there is a much greater need to examine and respond to the ever evolving competitive pressures on our basic producing industries, pressures which do not represent conditions of comparative advantage nor are they intended to better allocate United States resources.

I mention this, Mr. Chairman, because I believe that an examination of the Trade Act of 1974, in the light of the proposals pending in the Congress, reveals that Congress has directed the President to act, and the President has all the authority he needs to act effectively against any unfair trade practice involving U.S. goods or services, or investment related to trade in goods or services. The question of the effectiveness lies with the discretion of the President, his willingness to use the provisions, and the adequacy of the documentation of the cases brought by U.S. interests.

Much has been said about sending our trading partner a message. It has been some time since so obvious a case for sending a message has been presented as exists in the Houdaille case. Certainly if section 103 of the 1971 Tax Act was proposed as a new piece of legislation most of us would reject it as inconsistent with both "good" trade law and "good" tax law. Nevertheless, it is on the statute books. The practices of the Government of Japan and of the cartelized Japanese machine tool producers are almost completely documented in terms of the issues addressed in the legislative history of the tax statute. With all the flexibility in the world the President can withhold the investment tax credit from the subject machine tool imports for such period of time as is necessary to obtain a response from the Japanese Government. What stronger and firmer message could the United States send than that the United States will examine the alleged practices which are contrary to our own domestic law and limit tax advantages when imported products are introduced into the United States market under such practices as those identified in the Houdaille case?

The reaction and delay in this case is typical of the inability of U.S. government agencies to make hard decisions when the decisions involve import restrictions. I have long felt that the United States has allowed itself to be forced into a false sense of embarrassment about taking trade actions which are needed domestically and which are based on recognized rights in international trade law.

To belabor the point, when a domestic industry brings a case for import relief there is great wringing of hands on all sides. The Council of Economic Advisors suddenly becomes a great friend of the consumer. The decision of whether to impose import restrictions is often judged primarily in terms of the cost of the import relief to the consumer, per worker in the affected industry. There is never any analysis of the cost of replacing the producing units, the companies, the working skills. These factors have cost, too; and in some industries their costs may be very high indeed.

This sense of moral alarm has always attached to possible action under our escape clause or import relief provisions. This ambivalent attitude toward acting under Article XIX of the GATT has been evident not only in the actions taken under the original escape clause and successor provisions, but in the various revisions which have been made in the criteria of the statute.

I do not believe that section 201 of the Trade Act of 1974 needs extensive revision. However, I would like to suggest at least three provisions where the substance of the law could be strengthened to address some of the problems areas mentioned in the Subcommittee hearing notice.

All too seldom do we consider the original intent of import relief under Article XIX of the GATT and under the escape clause. The intent was to provide relief to remedy a serious injury caused by increased imports. In our free trade/protectionist dialog on import relief cases, we invariably seem to forget that the import relief is to be temporary, and its only reason for being considered is to remedy seriouos injury from imports. We overlook the reason for taking the remedial action because each case is discussed in terms of the United States destroying the entire free trade system. The United States should not permit itself, domestically or internationally to be drawn into a discussion of whether it has the right to take temporary action to remedy serious injury to a domestic industry caused by imports. If quick action were taken in a few cases there would be fewer cases developed in which the amount of trade becomes so great as to require purely political decisions which usually result in actions little related to remedying the original serious injury.

Like import relief we have tried adjustment assistance, and just as half-heartedly. However, I believe that if we expanded the concept behind section 201(b)(5) of the Trade Act of 1974 we could improve the effectiveness of the import relief provision. I refer to the requirement that the U.S. International Trade Commission (ITC) "for the purpose of assisting the President" in making his import relief determinations under section 202 and 203 (of the Act of 1974) should investigate and report on "efforts made by firms and workers in the industry to compete more effectively with imports".

The Commission has done very little with the requirement. Some have argued that workers and firms in injured industries are in no position to plan how better to compete with imports. I believe the ITC is in a poor position to recommend relief if it has no idea of what actions the firms and workers in the industry plan in order to salvage their operations and their jobs. Moreover, the President may find it hard to muster concern for industries and workers who merely are requesting protection from imports with little notion of how they will compete after the tempory import relief has ended.

I recommend that section 201(b)(5) be amended to place a responsibility with the petitioning industry and its workers to provide the ITC with the plans of the firms and workers to more effectively compete with imports in conjunction with the import relief sought in the investigation.

As a part of this new emphasis of more effectively providing import relief as a remedy to the serious injury from imports in connection with the efforts of the firms and workers to more effectively compete, I also recommend-that the responsibilities of the Secretaries of Commerce and Labor under section 202 be directed specifically at assisting and, if appropriate, implementing economic adjustment efforts of the industry and workers toward improved competitive capabilities.

If the whole question of import relief could begin with the question of serious injury from imports and how the affected domestic producing groups can economically adjust to more effectively compete the whole purpose of import relief can be better served.

In section 202(c) of the Trade Act of 1974 there are nine categories of considerations the President is to take into account in determining whether to provide import relief and what method and amount of import relief he will provide. In the context of competition in today's market place there is another consideration that the President should take into account. In this climate of smokestack industries and high technology the President should consider if import relief is needed to maintain an adequate domestic production base for the products of the seriously injured industry. This is not a question of national security. It is, however, a very important part of the national interest question which section 202 poses for the President. In an atomosphere where targetting of industrial markets is commonplace, there should be room for the President to consider whether his action or lack thereof will determine the maintenance of an adequate production base for the products produced by the seriously injured industry. It may well be that technology and evolvement of competitive forces are such that the maintenance of an adequate domestic production base is not relevant. It could also be the case that the import relief available is insufficient to remedy the seriously injury.

I recommend that section 202 be amended to require the President to take into consideration whether an adequate production base can be maintained if import relief is not provided.

Finally, I would recommend that the President be authorized to provide emergency import relief in much the same manner he is authorized to provide emergency relief under section 22 of the Agricultural Adjustment Act. Section 201 could be amended to provide that a petitioner could request emergency action by the President, based on good cause shown regarding the emergency nature of the serious injury or threat, and with referral to the U.S. Trade Representative, the President could take temporary action pending completion of the ITC investigation. I would propose no criteria in the law other than require a showing that the serious injury or threat is imminent, requiring immediate action.

Mr. Chairman, I do not believe that the criteria for defining serious injury or industry or the causal link between increased imports and the injury need to be amended. My experience tells me that every time we have amended the criteria for injury the results have been unpredictable. What we have is consistent with the GATT and can provide the relief needed. I think that any secondary guessing by the President on injury questions because of failures of industries such as automobiles to convince the ITC of serious injury is ill-advised.

Mr. Chairman, the antidumping and countervailing duty statutes are far too technical for comment by those not following casework daily. However, I can't resist one or two comments.

My overriding memory of the Committee drafting of title VII of the Trade Agreement Act of 1979 was that we were providing far too many opportunities for judicial review of agency actions. It seems to me that one final opportunity for judicial review of agency determinations is sufficient for both provisions of law.

Secondly, the most costly investigations for all parties concerned are the cost of production investigations. It is not all that clear that relief under the antidumping provisions has improved in frequency or in quality. I think that (with the benefit of hindsight) the cost of production amendments of the 1974 Act should have been given a lot more thought then forgotten.

A final thought, Mr. Chairman. I hope your effort to provide more effectiveness in the import relief statutes will not be caught up with yet another trade reorganization. As I view it the last reorganization resulted in at least four rather than two agencies administering the antidumping and countervailing statutes, with a lot of lip service but a somewhat compromised leadership position for the U.S. Trade Representative.

There is a good deal of strength and institutional memory in the interagency trade organization. The institutional memory and experienced trade officials and negotiators are needed more and more. While it has to be recognised that Congress cannot by statute decide who the President will seek his advice from, the institution of the U.S. Trade Representative has given the Congress an effective voice in the development and administration of trade policy. The balance that was struck in 1962 and strengthened in 1974 between Congress and the Executive Branch would be seriously diminished by the one trade agency proposals.

It has been an honor for me to have this opportunity to present this Subcommittee on Trade with some of my thoughts on import relief. Thank you for all your courtesies.

Statement of John P. McDermid

EXECUTIVE SUMMARY

1. Import relief under Section 201 of the Trade Act of 1974 (the "escape clause") has frequently been unavailable to U.S. industries for two reasons: (1) the difficulty in proving that increased imports are the reason for industry losses, and (2) to Presidential reluctance to fully adopt International Trade Commission relief recommendations.

2. Contrary to the general assumption, it appears that U.S. industries would likely find it more difficult to obtain import relief under Article XIX of the General Agreement on Tariffs and Trade (GATT)—when literally interpreted—than under Section 201.

3. However, this conclusion must be placed in perspective since GATT Article XIX is widely circumvented and disregarded by GATT Signatories, with the exception on the U.S., Canada, and Australia.

4. In reforming Section 201, Congress should carefully consider:

(1) The implications, if any, of reform on this country's GATT obligations;

(2) The impact on various public and commercial U.S. interests of a relaxation in the "causation" requirement between increased imports and serious injury;

(3) Requiring that, before the ITC determines the nature of import relief, a joint and integrated business, labor and government plan is agreed upon such that the petitioning U.S. industry will actually be capable of adjusting to international competitive conditions; and

(4) Introducing additional criteria to guide the President in his assessment of policy issues.

I. INTRODUCTION

My name is John F. McDermid and I am Vice President and General Counsel for International Business-Government Counsellors, Inc. (IBGC), a private international government relations counselling firm with headquarters in Washington, D.C.

My previous experience includes: Attorney-Adviser, U.S. International Trade Commission (ITC); Attorney, Bureau of Competition, Federal Trade Commission (FTC); and Assistant General Counsel (for antitrust and international trade), National Association of Manufacturers. While at the ITC and FTC, my responsibilities included review of Section 201 proceedings.

The purpose of this statement is to provide the Subcommittee (1) some historical perspective of section 201 of the Trade Act of 1974, the "escape clause", (2) highlights of the major criticisms the business community has raised with the statute and its enforcement, (3) a comparison of Section 201 with its GATT counterpart, Article XIX, and (4) comments and recommendations regarding possible reform of the law.

The views and analysis expressed in this statement are mine and do not necessarily reflect those of IBGC or its clients.

II. ESCAPE CLAUSE—AN OVERVIEW

Historical Perspective

With the passage of the Trade Agreements Act of 1934, a new Congress and Administration sought to reverse the highly protectionist Smoot-Hawley legislation by opening-up trade. The Act authorized the President to negotiate with other countries for a reciprocal lowering of tariffs and other barriers. However, the price to be paid for freeing trade was increased imports that threatened to certain import-sensitive to U.S. industries.

Recognizing this threat, President Roosevelt's trade negotiators agreed to an "escape clause" in the 1942 bilateral trade agreement with Mexico by permitting a withdrawal of concessions if a domestic industry would be seriously injured. The escape clause first became part of U.S. trade law through passage of the Trade Agreements Extension Act of 1951. It was later revised in the Trade Expansion Act of 1962 and the Trade Act of 1974.

III. SECTION 201 OF THE TRADE ACT OF 1974—DESCRIPTION

Since its inception, the "escape clause" was designed to provide domestic industries temporary relief during which time they could adjust to import competition. The rationale for the law is that as barriers to international trade are lowered, some industries and workers face serious injury, dislocation or perhaps extinction.

A. *ITC Role.*—For relief to be granted a domestic industry, the International Trade Commission (ITC) must be petitioned by an industry or other concern (e.g. trade association, union). An investigation may also be requested by the Office of the U.S. Trade Representative (USTR), or upon a resolution of either the House Ways and Means Committee or the Senate Finance Committee. The petition must include a statement describing the specific purposes for which import relief is sought, which may include facilitating the orderly transfer of resources to alternative uses and other means of adjustment to new conditions of competition. The ITC reviews the petition, holds public hearings and, within 6 months determines whether the industry has been injured by imports. The ITC's injury findings and suggested import relief are submitted to the President for review and action.

In order to recommend import relief, the ITC must find that:

(1) Imports are increasing, either actually or relative to domestic production and the domestic producer's proportion of the market has declined;

(2) A domestic industry competing with the imported article is being seriously injured or threatened with such injury; and

(3) The causation requirement has been met; i.e. increased imports must be found to be a "substantial cause" of a serious injury or threat thereof to the domestic industry.

The 1974 Act defines "substantial cause" as one which is important and not less than any other cause". This has been interpreted to mean: (a) if any cause of injury is found to be greater than that of increased imports there is no basis for relief; (b) if increased imports are one of several equal causes of injury, relief may be granted but only if imports are found to be an "important" cause of injury. Thus, it is unlikely that imports will be considered "important" if they are one of many equal causes of injury. On the other hand, if they are one of two or three equal causes of injury, they may be deemed important.

When the increased imports, injury and causation criteria are met, the ITC may recommend: (1) increased tariffs, (2) quotas, (3) a combination tariff and quota, (4) trade adjustment assistance, or (5) any combination of these options.

B. *Presidential Role.*—If serious injury is not found by the Commission, or if the causation requirement is not met, no further action is taken. However, when the ITC makes an affirmative finding or when the Commission is evenly divided as to whether the industry is injured, the President must determine within 60 days after receiving the Commission's report what, if any, relief should be given.

The President is not obliged to follow the recommendations of the ITC: He may deny relief if he believes that it would not be in the "national economic interest," (e.g., impact on consumers and competition). However, "foreign policy reasons" may not be the basis of relief denial. The relief the President may order is identical to that of the ITC but, in addition, he may negotiate an Orderly Market Agreement (OMA).

C. *Congressional Role.*—Under the 1974 Trade Act, the President's recommendations are implemented in the event of a disagreement between the ITC and the President. However, the President is required to report his disapproval of ITC relief to Congress within 90 days of the Commission's decision. Congress may order the International Trade Commission's remedy to be put into effect if both Houses pass a concurrent resolution by a majority vote.

IV. SECTION 201 OF THE TRADE ACT—REMEDY HISTORY

As of January 1983, there were 48 escape clause investigations initiated since 1974. They encompass a wide variety of industries, from automobiles to clothespins. Most of the investigations were made between 1975 through 1977, soon after enactment of the Trade Act of 1974. There has been a substantial decline in the number of cases brought before the ITC since then, and only a trickle since 1980, following the negative automobile decision.

In nearly 50 percent of the investigations (19), the ITC recommended that no relief be granted to the petitioning industry. When relief was recommended, increased tariffs and quotas were clearly the most frequently employed relief mechanisms (see Attachment A). Tariff Rate quotas, essentially a two tiered tariff based on quantities imported, have also been employed occassionally (3 cases). Although adjustment assistance has been granted in 3 cases, the ITC considers it an ineffective form of relief and has not used it since the 1978 *Shrimp* investigation.

The President has denied industries relief in 12 of the 27 cases in which the ITC recommended relief. Various Presidents have changed the type of relief in 6 cases and has lessened the amount of relief in the 9 remaining cases. Remedies the President has favored are: adjustment assistance—(5 cases); Orderly Market Agreement—(3 cases); import duties—(3 cases); tariff increase—(2 cases); price support—(1 case) and import quota—(1 case).

V. CRITICISM OF SECTION 201

Critics of Section 201 maintain that it has not achieved its intended purpose. The following points are most frequently raised to substantiate the claim:

A. *Difficulty in obtaining relief during recession periods.* Due to the causation criteria, U.S. industries find it extremely difficult to prove that imports rather than recession is a substantial cause of serious industry injury. Recession has been deemed to be a greater cause of industry difficulties than imports in many cases. The rise in joblessness, depressed demand for an industry's products, and resulting large inventory supplies are all problems which industries suffer as a result of the recession as well as increased imports. It has been, therefore, extremely difficult for the ITC to determine whether the cause of the injury is the recession or increased imports. Many industry officials believe that it is impossible to obtain 201 relief during a recession.

Recently, however, the ITC recognised this problem. In February 1983, the ITC reached an affirmative finding for the U.S. motorcycle industry. ITC Chairman Alfred Eckes stated:

"Without a doubt the unusual length and severity of the present recession has created unique problems for the domestic motorcycle industry [however], if the Commission were to analyse the causation question in this way (in terms of recession) it would be impossible in many cases for a cyclical industry experiencing serious injury to obtain relief under section 201 during a recession. In my opinion Congress could not have intended for the Commission to interpret the law this way."

B. *Criticisms of the ITC.*—An ITC trend towards denying relief seems to have begun in January 1980. (See Attachment A). Since early January, 1983, of the 8 cases initiated, 2 were pending and 5 of the remaining 6 industries were denied relief. (Since late January, the motorcycle case has been affirmatively decided—indicating a possible shift in the Commission's record of denying relief).

However, as a result of the difficulty in proving the nexus between injury and increased imports, and what appeared to be an ITC trend of relief denial, many industries stopped petitioning the ITC for relief. This is particularly true since relief was denied in the automobile case in late 1980.

In addition, the ITC has been criticised for writing incomplete, inconsistent and inaccurate economic analyses. Some of the inherent limitations of the ITC's investigation include staff unfamiliarity with certain industries (e.g. roses), absence of data relating to industries and a relatively short time frame to investigate an injured industry. In addition, some charge underutilization of inhouse expertise.

C. *Criticisms of Presidential Decisions.*—In no case has the President concurred with the relief recommended by the ITC. Each President has either failed to grant any import relief or has altered or watered-down the ITC's recommended relief. Presidential reluctance to grant relief is undoubtedly due in part to the fact that under the GATT the U.S. must pay compensation to the principal supplying countries whose imports are impacted by the determination and in part due to the impact on consumers resulting from import relief, a factor which in the past—due to efforts to keep down inflation—has been a central theme for denial of relief.

But most important is that conviction to the ideal of free trade influences Presidential decisions not to interfere with the market. As Ambassador William E. Brock stated on July 3, 1981 in his trade policy statement before a Senate joint oversight hearing:

"Import restrictions, subsidies to domestic industries, and other market distorting measures should be avoided. A better solution to the problems associated with shifts in competitiveness is to promote positive adjustment of economies by permitting market forces to operate."

Few governments, including the U.S. wish to appear protectionist. Although most Presidents wish to be credited with protecting domestic industries, they also fear being labeled "protectionist", particularly when import relief involves consumer-related goods.

Thus, some industry and U.S. government interagency sources charge that the escape clause is ineffective because the President's decisions often appear to be made more on the basis of "political" factors than on the economic merits of the case (e.g. *Sugar* and *CB Radios*).

Moreover, unlike ITC decisions, Presidential decisions have historically not been supported with, for example, cost-benefit analysis as to why import relief would not be in the interest of U.S consumers. Similarly, although USTR requests public commentary, business is not given an opportunity to address policy issues in a public forum (e.g. informal hearing). Hence, Presidential decisions have been critized as being "made in a vacuum" and nothing more than "ritual recitals" without any substance.

C. *Congressional Override.*—Many legislators and business representatives criticize the weak Congressional role in 201 decisions. Although there is a Congressional override of Presidential decisions, the Congress has never overridden a Presidential determination, although there was significant support for doing so in the *Ferroalloy* case. Congress's involvement in escape clause cases has, therefore, been principally limited to requesting that Section 201 cases be reinvestigated by the ITC, (e.g. *Nuts, Bolts and Screws from Japan and Canada*).

D. *Adjustment Assistance as an Alternative to Import Relief.*—On occasion, Presidents have elected to grant trade adjustment assistance (TAA) to workers and firms rather than impose import relief. The worker trade adjustment assistance program, authorized in Sections 221-250 of the Trade Act of 1974 and scheduled to expire on September 30, 1983, requires the President to evaluate the extent to which trade adjustment assistance could be/or has been made available to the injured industry. In this vein, Section 224 and 264 trade adjustment assistance reports, prepared by the Secretaries of Labor and Commerce, must be submitted to the President within 15 days of the ITC determination.

However, as recognized by the ITC, TAA has failed to be an effective remedy for permitting industries to adjust. A general consensus is that although the program is important because it can ease the problems of dislocation for firms and workers it cannot, by itself, effectuate adjustment. Critics of the program have pointed out that it is extremely costly, that relocation and training programs tend to lack effective planning, and that the program may even provide a disincentive for workers to seek new employment.

E. *Time and Cost.*—Vast sums of money and much time is required in order to petition for 201 relief. Small businesses with limited resources find it particularly difficult to even apply for relief.

VI. GATT'S SECTION 201 COUNTERPART—THE "SAFEGUARD" PROVISIONS

The General Agreement on Tariff and Trade (GATT), negotiated in 1947, is the principal instrument through which the U.S. sought with it major trading allies to reverse the preferential trading practices which prevailed during the period between the two world wars. To promote trade liberalization, GATT Signatories committed themselves to the progressive reduction and elimination of tariff and nontariff trade barriers. Under the GATT, domestic industry protection was to be available as a general rule through tariffs.

However, GATT Article XIX—commonly referred to as the "Safeguard Provisions"—outlines exceptions to the general rule so that, like the escape clause, a country whose domestic industries are injured by increased imports may impose "safeguards" or temporary import relief. Under the GATT, increased tariffs, quotas, a combination tariff/quota, or an Orderly Marketing Agreement are all legitimate remedies that may be used to permit an industry time to adjust to import competition.

Article XIX, introduced at the insistence of the U.S. and unchanged since its inception, is therefore the international law analogue of the U.S. escape clause law.

1. Article XIX—Terms

A. *Criteria for Granting Relief.*—Generally under GATT Article XIX a country may impose import restrictions if it can establish that an increase in imports causes or threatens to cause serious injury to domestic producers of like or directly competitive products. Theoretically, the increase in imports must be the result of (1) unforeseen developments and (2) the effect of GATT obligations (including tariff concessions). Whether import restrictions are levied is based solely on the judgement of the importing country.

As in a 201 case, once injury is established, a GATT Contracting Party is free to suspend or modify any tariff concessions it has granted other GATT Signatories. Suspension of benefits or obligations must be limited to the imported product which caused the injury. Restrictions may continue only "to the extent and for such time as may be necessary to prevent or remedy such injury", thus reflecting the temporary theme of the Article. GATT Article I, the most favored nation provision, requires that if import restrictions are applied they must be on a non-discriminatory basis i.e. to all nations which export to the injured country rather than to selected country exporters.

Written notice must be given all Contracting Parties that relief measures are going to be imposed. The Contracting Party invoking Article XIX is obliged to consult and try to reach an agreement with all Signatory countries having a "substantial interest as exporters of the product concerned". If consultations do not produce an agreement among the interested parties (usually financial compensation), the restrictive action may still be taken or continued but, if it is, the other Contracting Parties have the right to retaliate by withdrawing equivalent trade concessions. Furthermore, while

GATT Article XIX restrictions must be imposed on a non-discriminatory basis, retaliation may be selectively applied.

Where there may be irreparable damage to the local industry unless an immediate remedy were imposed, Article XIX allows import relief to be provisionally imposed without prior consultation on the condition that consultation occur immediately afterwords. Thus, in "critical circumstances, where delay would cause damage which . . . would be difficult to repair" temporary relief measures may be imposed immediately. While this provision was originally intended to apply only to perishable agricultural products, in practice it is used in many other types of actions.

B. *Practice—Circumvention of the GATT.*—Unlike Section 201 of the Trade Act which is, for the most part adhered to by the U.S. Government, GATT Article XIX is widely disregarded or circumvented by GATT Signatories. It has been estimated that between the years 1978–1980 there was approximately $1.7 billion trade restricted through Article XIX provisions. However, an estimated $21.7 billion trade was restricted outside the GATT.

Some methods by which Safeguards are circumvented by "administrative measures" include: industry-to-industry agreements, threats of import legislation, Voluntary Restraint Agreements (VRAs) (agreements by which exporting countries are forced to reduce exports), orderly marketing agreements (OMAs), unilaterally imposed quotas, and customs inspection delays. While all of the above methods have been used, during the past ten years VRAs and OMAs have proliferated.

The reasons for GATT avoidance vary. For the most part, by the mid-1960's many nations began to believe that the 1947 GATT rules were unresponsive to the domestic economic realities they faced in the international trading system. Governments found that they either could not comply or in some cases they believed they should not comply with the rules. For example, the failure of the GATT to regulate certain nontariff barriers (NTB's) such as Voluntary Export Restraints and various product standards led nations to begin to ignore GATT regulations and seek their own "practical solutions". (See Attachment B which reflects the European Communities limited use of the GATT adjudicatory process for Safeguard cases.)

Other reasons for widespread circumvention of GATT Article XIX include: (a) a nation's desire to protect a domestic industry without proving that increased competition resulted in serious injury, (b) a desire to avoid paying the penalties of retaliation or compensation, (c) the efficiency in resolving trade disputes bilaterally rather than through a broader GATT consensus, and (d) the need to impose import barriers on a selective non-MFN basis by targeting entire country's exports.

In the 1970's, in an attempt to enforce the GATT's provisions, the U.S. initiated a wave of GATT protests against violators. (Eight protests were initiated from 1970–1972, compared with 17 brought by all nations from 1962–1972). The tactic was only moderately successful for the GATT adjudication procedures were strongly opposed by other nations. Thus, it was difficult to reach a "consensus" that nations had violated their GATT obligations.

Enforcement of Article XIX has also been hampered by the fact that the GATT regulatory structure is hardly coercive. In theory, it authorizes the use of economic counter-measures to coerce compliance with its provisions. However, in practice, the GATT has not employed these sanctions. Furthermore, the GATT adjudicatory bodies have generally avoided emphasizing the obligatory quality of the GATT's rules.

Alternatives to current dispute settlement procedures have been seriously considered at the Tokyo Round, the GATT Ministerial meeting in November, and will be discussed further in the 1983 GATT meetings. By making the dispute settlement mechanism more effective the U.S. hopes that nations will be pressured into abiding by GATT provisions.

Serious consideration has also been given to the use of full time surveillance bodies to monitor trade practices and expose GATT violations. Although the paradigm for the idea—the Textile Surveillance Body (TSB)—was very effective, full-time surveillance would be extremely costly and undoubtedly meet considerable Signatory resistance.

When Article XIX has not been avoided totally by resort to Voluntary Restraint Agreements, nations have deviated from GATT provisions by conveniently ignoring some of the article's criteria. For example, the requirement that injury result from "unforeseen developments" was defined liberally in 1950 in the United States' *Fur Hatter's* case. In that case, the United States contended that the change in ladies' hat styles was an unforeseen development which fulfilled the criteria of the safeguards provision. All the members of the GATT working party except Czechoslovakia accepted the United States argument, indicating an overall GATT consensus not to read Article XIX too literally.

In this vein, John H. Jackson has noted that the "unforeseen developments" requirement is "difficult to appraise." He has stated that "* * * not only is the causal relationship difficult to measure, but the definition of 'unforeseen development' is hazy. This term, drawn directly from United States treaty practice, was apparently little discussed in the GATT preparatory work." Due to the difficulty in defining "unforeseen developments" the requirement has been virtually ignored by most nations, especially in light of the fact that they may, theoretically, conclude that an increase in imports itself is an unforeseen development.

The causal link, requiring import increase to be a result of tariff concessions or other GATT obligation is another article XIX provision which is frequently ignored. For example, some countries have expressly rejected the need for a nexus while others have simply ignored the requirement.

GATT records indicate that the U.S., Australia and Canada are the three countries which most consistently abide by Article XIX. Of the 95 GATT Article XIX cases from 1947 to mid-1978, Australia initiated 33, the U.S. 21, and Canada 15.

Canada and Australia comply with GATT Article XIX presumably due to their stringent domestic "escape clause" legislation (similar to Section 201 of the Trade Act). Widespread deviations from the GATT's escape clause is particularly irksome for, like the U.S., it places them in the position of complying with GATT procedures such as compensation, consultation and notification while other nations do not.

Of course, like this country, Canada and Australia have also circumvented Article XIX by pressuring their trading partners to agree to Voluntary Restraint Agreements (e.g. steel, automobiles, and the Multifiber Agreement).

VII. SECTION 201 CRITERIA COMPARED TO ARTICLE XIX

A. *Literal Construction of Article XIX compared to Section 201.*—Industry officials maintain that the need for statutory change of 201 is evidenced by the current difficulty they have in obtaining import relief. Similarly, as reflected in testimony before the Subcommittee during the March 16, 1983 "trade remedy" hearings, there is an overwhelming consensus that the U.S. has the authority and right to liberalize Section 201 because GATT Article XIX's criteria are less rigorous than the U.S. escape clause.

It appears, however, that this presumption is based less on a literal reading of Article XIX and more on the fact that (a) for the vast majority of Signatories the GATT's provisions are neither enforced or strictly adhered to; and (b) under the GATT, a nation need not prove that it has complied with Article XIX, it merely has to explain the basis for its actions.

As explained more fully below, if Article XIX were to be read and enforced literally, it might be equally, if not more difficult, for an industry to prove that it is entitled to relief than under Section 201 (See Attachment C).

Although as a policy matter, it would be ludicrous for this country to be guided by a literal comparison between article XIX and Section 201 (due to widespread circumvention of the GATT Article), it is perhaps ironic that U.S. trade counsel both in and out of government literally construe other GATT Articles (for example, in trying to prove that trade-distorting performance requirements violate the GATT) and the MTN Codes negotiated during the "Tokyo Round", but fail to apply a similar interpretative mode to Article XIX.

First, the most apparent reason that the GATT standard is more stringent than 201 is that under Article XIX a petitioning industry must pass a two-prong test rather than the one-prong test of Section 201 (substantial cause). Under the GATT, injury must be "a result of unforeseen developments and the effect of the obligation incurred by a Contracting Party under the agreement. . ." Thus, under Article XIX a petitioner would fail to gain import relief unless it met both tests.

Second, in a 201 case, all factors contributing to injury only prove that increased imports were one of various important causes of injury (see substantial cause definition, supra, page 2.) Therefore, if increased imports were one of 3 factors which contributed 33 percent each to injury, relief may be granted.

On the other hand, GATT Article XIX does not have the flexibility of 201. As noted above, injury must be "a result of unforeseen developments and the effect of the obligation incurred by a contracting party . . . including tariff concessions . . ." Strictly construed, the "a result of" language requires unforeseen developments and trade concessions to be the sole and exclusive cause of 100 percent of the injury. Thus the word "substantial" in "substantial cause" may be language which enables relief to be granted by recognizing that factors other than imports may cause injury. In other words, by qualifying that imports be a "substantial" cause 201 acknowledges that increased imports may contribute less than 100 percent of the industry injury.

Third, Section 201 may be considered to be more liberal than Article XIX because Section 201 relief may be available to U.S.

industries in a wider variety of circumstances than Article XIX. The Trade Act does not require a petitioner to prove why imports have increased; it is sufficient only to demonstrate that they have increased. As a result, increased imports may result from tariff concessions, superior foreign technology, low production costs of foreign goods (and therefore lower retail prices) or any number of other reasons.

Under GATT Article XIX, however, relief is precluded if increased imports are caused by anything but trade concessions or other GATT obligations. Thus, while 201 relief from import competition may be granted when competition is the result of any variety of reasons, the GATT only permits relief from import competition resulting from GATT obligations. Superior foreign technology, low production cost of foreign goods, would not be a valid basis for relief. (The U.S. may defend imposing such import relief by pointing out that imports have increased as a result of the bound tariff rate, i.e. the lower tariff rate granted on virtually all products imported into the U.S. However, it appears that other nations which are not bound would not be able to receive relief in these situations.)

Fourth, proving that injury is a result of a "trade concession" or obligation under the Agreement rather than any other source (e.g. recession, slowed domestic production, decreased demand for a product) could be as difficult a task as proving the substantiality of injury under 201. In fact, with the reform of Section 201 introduced in the Trade Act of 1974, Congress recognized the near impossibility of linking injury to trade concessions by striking the requirement from the 1962 Act.

For the above four reasons, it would appear that the U.S. standard for obtaining import relief are not more stringent than the GATT standards when the latter is strictly and literally construed.

VIII. LEGISLATIVE REFORM: COMMENTS AND RECOMMENDATIONS

There are currently several legislative proposals aimed at reforming the "escape clause". They have one common theme; namely, to make it easier for U.S. industries to obtain import relief so that adjustment to increased imports can take place.

Although I am not in a position to recommend specific changes in the law, various general observations and recommendations are offered.

First, this statement essentially concludes that industries likely would find it more difficult to obtain import relief under Article XIX of the GATT—when literally read—than under this country's escape clause. Thus, in drafting reform of the U.S. law, Congress should seek from U.S. Government and private sector "GATT experts" advice as to whether a revised Section 201 would violate Article XIX and advice on the implications reform may have on, for example, U.S. efforts to reach agreement on a Safeguard Code.

Second, it appears that the reasons for ITC negative determinations relate not to the injury standard but rather to the difficulty industries have in meeting the causation criteria. Congress should, therefore, very carefully assess the impact whatever changes in the causation criteria may have since they would likely significantly increase the number of ITC affirmative determinations.

Third, there is little evidence that—for few industries that have received import relief under Section 201—they have been able to adjust to import competition in a way envisioned by Congress. For this reason, Congress should welcome Senator John Heinz's proposal set forth in S. 849 which generally proposes that steps be taken towards seeing that business, labor, and government collectively frame a meaningful adjustment program before relief is granted.

Fourth, Presidential review of ITC decisions appears to be cloaked in the secrecy of the interagency process and appears to be a significant factor in the business community's dissatisfaction with the way the statute is administered. Rather than simply strike the President's role from the decision making process, Congress may want to consider (1) establishing more precise criteria under which the President carries out his review, (2) requiring the President (USTR) to issue a clear and well documented statement of reasons for disapproval or modification of ITC recommendations, and (3) permitting the petitioner and other interested persons an informal hearing on the policy decisions made by the President.

More specifically, congress may consider requiring the President to include quantitative analysis, such as a cost/benefit analysis of import relief as well as a quantitative assessment of the impact compensation would likely have in the event relief were to be provided.

Similarly, Congress could provide the President more concrete guidelines as to what factors should be considered in his review. This might benefit both the overall "public interest" (consumers etc.) and petitioners as well. For example, Presidential decisions have rarely included meaningful analysis as to the impact the denial of import relief were to have, in the words of the Senate Finance Committee Report, on "taxpayers, communities and workers". Similarly, no real Presidential assessments have been made as to the impact compensation would have on U.S. industries as a result of Section 201 import relief. In this regard, before reforming the escape clause, Congress should seek from the Special Trade Representative's Office an analysis as to the history of compensation and its effect on U.S. industries under Section 201.

ATTACHMENT A.—USITC INVESTIGATIONS COMPLETED UNDER SEC. 201 OF THE TRADE ACT OF 1974

Investigation	ITC recommendations	President's actions
Birch-Door Skins (TA-201-1).	No relief	
Bolts, Nuts and Screws (TA-201-2).	No relief	
Wrapper Tobacco (TA-201-3).	No relief	
Asparagus (TA-201-4)	Import quotas	No relief (3-10-76).
Stainless and Alloy Tool Steel (TA-201-5).	Import quotas	(Orderly marketing agreement later than 6-14-76). Import quotas (3-16-78) Prog. issued (6-11-76).
Slide Fasteners (TA-201-6).	Adjustment Assistance	Adjustment Assistance.
Footwear (TA-201-7)	Rate increase (3 Comm.). Tariff rate quota (2 Comm.). Adj. Assistance (1 Comm.).	Adjustment Assistance.
Stainless Steel Flatware (TA-201-8).	Tariff quotas (4 Comm.). Adj. Assistance (2 Comm.).	Adjustment Assistance.
Gloves (TA-201-9)	No relief	
Mushrooms (TA-201-10).	Adj. Assistance (3 Comm.). Tariff rate quotas (1 Comm.).	Adjustment Assistance.
Ferricyanide and Ferrocyanide Blue Pigments (TA-201-11).	Rate increase	No relief (6-1-76).
Shrimp (TA-201-12)	Adjustment Assistance	Adjustment Assistance.
Round Stainless Steel Wire (TA-201-13).	No relief	
Honey (TA-201-14)	Tariff rate quotas	No relief
Plant Hangers (TA-201-15).	No relief	
Sugar (TA-201-16)	Import quotas	Price support (5-4-77).
Mushrooms (TA-201-17).	Tariff rate quotas (3 Comm.). Adj. Assistance (2 Comm.).	No relief (3-11-77).
Footwear (TA-201-18)	Quotas (4 Comm.). Rate increase (1 Comm.). Adj. Assistance (1 Comm.).	Marketing Agreement.
Bolts, Nuts and Large Screws (TA-201-37).	Import duties	Import duties (12-22-78).
Machine Needles (TA-201-38).	No relief	
Non-Electric Cookware (TA-201-39).	Tariff increase	Tariff increase (1-2-80).
Leather Wearing Apparel (TA-201-40).	Tariff increase	No relief (3-24-80).
Certain Fish (TA-201-41).	No relief	
Roses (TA-201-42)	No relief	
Mushrooms (TA-201-43).	Quotas	Tariff increase.
Automobiles (TA-201-44).	No relief	
Fishing Rods (TA-201-45).	No relief	
Tubeless Tire Valves (TA-201-46).	No relief	
Heavyweight Motorcycles (TA-201-47).	Pending	
Stainless Steel (TA-201-48).	Pending	

ATTACHMENT B.—EUROPEAN COMMUNITY: TRADE ACTION UNDER SAFEGUARD PROVISIONS, 1971–82 [1]

Year	Number of investigations initiated	Number of decisions leading to trade actions [2]	Nature of actions taken [3]	Countries affected by trade actions
1971				
1972				
1973	3	3	3(Q)	All sources of imports. Japan, Korea, Taiwan.
1974				
1975				
1976	2	2	6(Q)	Bulgaria, German Democratic Republic, Czechoslovakia, U.S.S.R.
1977	6	6	2(Q)	Bangladesh, India, Japan, Spain, Thailand, Yugoslavia.
1978		1	Q*	Taiwan.
1979		6	6(Q*)	Bangladesh, Bulgaria, Czechoslovakia, German Democratic Republic, India, Thailand.
1980	3	2	2Q	United States.
1981				
1982 [4]				

[1] Does not include safeguard actions taken under bilateral agreements implementing the multifiber arrangement. Also does not include measures of import surveillance.

[2] This column lists actions actually taken during a particular year, including action taken on investigations launched in previous years.

[3] Q—Quotas under safeguard action; Q*—Removal of quotas.

[4] To Apr. 14, 1982.

ATTACHMENT C.—IMPORT RELIEF UNDER THE TRADE ACT OF 1974 AND GATT ARTICLE XIX

	Trade act 1974 sec. 201	GATT article XIX
Eligibility for relief	Increased quantity of imports.	Same.
Degree of injury required	Serious injury or threat thereof.	Same.
Other factors petitioner must prove to obtain relief.	Increased imports must be a substantial cause of injury.	Injury must be a result of: (a) Unforeseen developments, and (b) Tariff concessions (or other GATT obligations).
Discrimination permitted? (i.e., may restraints be applied to selected countries).	Yes	No.
Definition of industry defined by imports.	Article like or directly competitive with the imported article.	Same.

ATTACHMENT C.—IMPORT RELIEF UNDER THE TRADE ACT OF 1974 AND GATT ARTICLE XIX—Continued

	Trade act 1974 sec. 201	GATT article XIX
Factors taken into account in making determination.	All relevant economic factors.	NA. Nations determination.
Entity responsible for determining eligibility.	ITC, President, congressional override possibility.	Contracting party.
Requirement of public hearings on relief determination?	Yes	No.
Determination deadline	6 mo for ITC, 2 mo President.	NA.
Possibility of reinvestigation.	Yes, 1 yr after previous investigation.	NA.
Duration of import relief	5 yrs, with 3 yr maximum extension.	As long as necessary.
Digressive relief provision?	Yes. If relief endures for more than 3 yr digressivity required.	Not required. Concessions may be modified, however.
Availability of compensation.	Yes, compensation authority under sec. 123 Trade Act.	Yes, required.
Is notice to importing party required?	No	Yes.
Consultation required?	No	Yes.
Retaliation permitted?	Yes	Yes.
Economic adjustment taken into account?	Yes	Not required.

TESTIMONY OF ROBERT L. MCNEILL FOR THE EMERGENCY COMMITTEE FOR AMERICAN TRADE ON SECTION 201 OF THE TRADE ACT OF 1974

SUMMARY

1. ECAT is concerned that the degree of causality required by Section 201 to demonstrate that imports are a substantial cause of serious economic injury to domestic industries might be too tough a test to be met during periods of domestic economic recession.

2. If the above concern proves to be generally valid—as it was in the Section 201 auto case—then industries and groups of workers will seek import relief via the political process rather than the administrative process in current law.

3. Congress, therefore, might consider lowering the Section 201 threshold for import relief. This, however, could lead to numerous successful Section 201 applications for import relief. A consequence would be either a demand for compensation from the United States or foreign retaliation against U.S. exports. Either alternative would be at the expense of other U.S. industries and their workers and could involve net overall costs to the U.S. economy.

4. ECAT suggests, therefore, that if the Section 201 import relief threshold is to be lowered it be through a two-track system. Track I would be the current Section 201. Track II would establish a softer threshold test available only during periods of economic recession and only on condition that a satisfactory adjustment plan be submitted, approved, and implemented by the industry receiving import protection.

5. ECAT urges conclusion of an international safeguard code so that all governments will follow the same or similar "escape-clause" rules and practices.

Mr. Chairman and members of the Ways and Means Trade Subcommittee, thank you for the opportunity to testify today on behalf of the 63 members of the Emergency Committee for American Trade. Our members have a fundamental stake in U.S. international trade policies. A measure of that interest is the $700 billion of worldwide sales that they had in 1981. ECAT members account for a substantial share of total U.S. exports and are among the largest U.S. employers and overseas investors.

Our statement today is limited to comment on Section 201 of the Trade Act of 1974, the so-called "escape-clause." Section 201 is the conforming U.S statute to Article XIX of the GATT, which authorizes the imposition of protective import measures to alleviate serious economic injury caused by competitive imports that are not subject to unfair foreign trade practices.

While we would clearly prefer to see no weakening of the current Section 201 tests for import relief, we are aware that there is a widespread domestic concern with the adequacy of Section 201 during times of economic recession. The International Trade Commission's (ITC) decision in the United Auto Worker's auto case raises the basic question of whether during times of economic downturn it can be established that imports are the "substantial cause" of serious injury. The statute defines "substantial cause" as "a cause which is important and not less than any other cause." While the ITC in the auto case recognized imports as a cause of the economic travails of the domestic automobile industry, imports were found to be a less important cause than the depressed economy. Import relief was therefore denied. It is this definition of "substantial" that raises the concern about the general adequacy of Section 201 during recession.

If the definition of "substantial cause" involved in the ITC's auto decision were to be generally applied, then it is unlikely that Section 201 can provide import relief during periods of economic recession. This poses a very serious policy dilemma which is exacerbated by a growing awareness that the U.S. criteria for providing Section 201 relief are tougher than the criteria of GATT Article XIX and tougher than the criteria used by other countries. This has engendered concern that U.S. law imposes an unfair burden on U.S. industries that seek import relief as compared with the burden borne by their foreign competitors.

The policy dilemma is an acute one. While time and an improving economy will lessen Section 201 concerns, they nevertheless will likely continue. If the Congress and the Administration fail to address them, then solutions to import problems increasingly will be sought outside the rules—as in the auto case—by industries and unions with sufficient political power to force action. Failure to act could also contribute to a lack of confidence that import problems can be managed fairly under differing economic circumstances. Failure to act would further encourage such draconian solutions as that proposed in the domestic content legislation.

The other side of the Section 201 policy dilemma concerns the severe costs that could be involved in a general lowering of the threshold for import relief. Too easy a test would result in either substantial compensation bills owed by the United States to foreign countries whose trade would be disadvantaged by Section 201 relief or in foreign retaliation against U.S. export industries if our trading partners decided against accepting compensation offered them by the United States. In either case domestic industries and workers not parties to the Section 201 process would have to pay the price for the import relief granted to others—a not appealing prospect.

As I believe members of this subcommittee well know, import restrictions imposed pursuant to Section 201 almost always modify a U.S. import concession that other countries have paid for in the form of a reciprocal lowering of their own import barriers. Since something of value has been taken from them by escape-clause restrictions, the GATT rules authorize them to right the balance by imposing restrictions of their own against a similar volume of their imports from the United States—or from any other country taking similar action—or by being compensated by the United States through the lowering of U.S. import barriers on a like volume of their exports as that affected by the Section 201 restriction.

An exception to the compensation/retaliation problem, of course, occurs in cases where Section 201 import relief is accomplished through a negotiated settlement with the trading partners whose imports are threatened to be restricted.

Another aspect of the policy dilemma raised by a prospective lowering of the threshold for import relief is that any advantages provided an industry through import relief could more than be offset by net costs to the economy as a whole. Consumers, for example, would pay higher prices than they otherwise would. The more basic the protected product, the more the higher costs would be spread throughout the economy, thereby undermining the competitiveness of other industrial sectors in both domestic and foreign markets.

Because nothing in the Section 201 process provides assurance that import relief is conditional on a plan to adjust to the import competition, lowering the threshold for protection risks increasing the number of economic sectors requiring continuing relief in some form. This is a serious risk which raises the question of whether Section 201 import relief should be conditional on an acceptable adjustment plan.

As devotees of the historic U.S. trade policy of seeking liberalization of barriers to international trade, we are hesitant to recommend Section 201 changes. But we also recognize the significant strains being imposed on that policy by rapidly increasing foreign competition—often encouraged and directed by foreign governments—and by the generally depressed state of the world economy.

If the Congress decides that the threshold for relief under Section 201 should be lowered, we in ECAT recommend that the lowered threshold should be utilized only during periods of economic stress. We further believe it important that features be incorporated that are intended to minimize the costs earlier referred to and that encourage adjustment of the affected industry to self-sustaining competitiveness.

We have considered several ways in which such a result might be accomplished. The most feasible way appears to us to be a two-track system whereby the present language and provisions of Section 201 would be preserved as Track I. An alternate system utilizing a lesser degree of import causality could be created as Track II.

Track II would be available only during periods when established critera signal the existence of a recession in the U.S. economy. The degree of causality between competitive imports and serious economic injury or the threat of serious economic injury would be less than the general "substantial" test. Whatever the adjective used, the intention should be that imports do not necessarily have to be a cause as important as or greater than any other cause. Otherwise, recession itself is likely to be considered a more important cause than imports during periods of domestic economic stagnation.

We further suggest that eligibility for recourse to Track II be conditional on submission by the applicants of an acceptable plan for adjustment to import competition. The plan should be supported by both labor and management. It should set out detailed steps for overcoming competitive disadvantages (addressing such issues as labor costs and modernizing capital stock), and should propose staging requirements in the recovery process which must be met if import protection is to continue.

ECAT believes that a strong case can be made for linking relief and adjustment in any modification of Section 201 that weakens the causal link between imports and serious economic injury. As we have noted, import relief for one industry involves costs to other industries and their workers and can involve a net cost to the U.S. economy generally. These costs can be minimized and ultimately returned if impacted industries can be restored to full competitiveness either in the impacted sector or in other sectors offering more opportunity.

Import relief confers certain benefits to the protected industries that can be roughly quantified. It would not be unreasonable to insist that net benefits be reinvested in improving competitiveness, especially under circumstances in which Track II would be applicable.

The process which we have just briefly described that would constitute Track II would encourage management and labor both to work together in facing up to their joint problems and to undertake joint efforts to improve their competitiveness as a condition for temporary import relief.

Before concluding, I would like to express ECAT's very strong support for conclusion of an international "safe-guards" code. In today's competitive world we should all march to the same drummer. To the extent possible, the same international rules should be practiced equally by all members of the international community. Many American businessmen find it frustrating that their government applies the spirit and letter of the GATT and other international rules to them whereas the governments of their foreign competitors often do not apply the same rules to their own citizens. This frustration is particularly applicable to the GATT "escape-clause" and our Section 201 implementation of it. An international safeguard code is necessary for the protection and advancement of the U.S. and the world economy.

Thank you.

[From the Philadelphia Inquirer, Apr. 19, 1983]

The Reindustrialization of America

(By Soloman R. Pollack)

The 25-year period immediately following World War II was an unprecedented period of U.S. domination of world science technology and manufacturing. Most of our industrialists were trained during this period. For the most part, our faculties were also being trained during this period, and we have trained others. Time-tested practices emerged throughout our country based upon this period.

Accounting principles evolved that were successful, the role of engineers as designers and creators was established, a lofty position for our scientists emerged within the context of basic research, and it appeared that we could lead the world's economy forever.

Such was not to be. We now are confronted with worldwide-based technology, competition for manufactured goods is fierce, and "time-tested" business practices are failing when they are applied to such a world-based technology.

In the United States, 34 percent of our machine tools are 20 years of age or older, the worst of all major industrialized nations. Only 4 percent of our machine tools are numerically controlled and only 31 percent of our machine tools are 10 years old or less compared to Japan's 61 percent. What were the time-tested principles that led to this?

Recent articles suggest that the United States is becoming a non-manufacturing country. They quote the loss of jobs, the closing of factories and the loss or diminution of certain industries in the United States. Examples include segments of the electronics industry, shipbuilding, steel, automaking, subway cars and trains, tool manufacturing and threats attacking our aircraft industry and computer industry are already credible.

One Japanese machine tool company recently put on-line an automated manufacturing plant costing $20 million that employs only 12 people. Production at equivalent volumes using conventional manufacturing methods would require 215 people.

What is more, their newest plant with a production capacity of $230 million per year employs only slightly more than 200 people compared to 2,500 people required by conventional manufacturing methods. This phenomenon is being repeated not only in Japan but in other countries as well, including the United States, but to a remarkably small degree here by comparison.

Surely, there is a challenge here to our system. How do we secure the position of U.S. companies so that we remain a major force among the world's manufacturing nations? We cannot allow our manufacturing infrastructure to deteriorate. Even our position as a pre-eminent manufacturer of military products requires a strong manufacturing base in this country.

Since the challenge is really to our system, our way of life, not just to the manufacturing companies in this country, many segments of our society should act, including universities government at all levels, industry and labor.

Universities in general and engineering schools in particular have not recognized the field of "manufacturing" as a valid discipline for training or scholarly research. The manufacturing floor has not attracted the attention of leading technologists at universities, and we have not created an environment that would attract such students.

Accordingly, universities should consider developing more active educational programs including degree programs in manufacturing systems engineering (MSE). Curricula should stress the holistic approach that integrates design, manufacturing, finance marketing, distribution and inventory.

Universities could develop faculty career paths that will reward scholarly efforts in MSE and initiate capital funds development efforts to create the physical facilities required to implement elite programs.

The federal government also should bolster the field of manufacturing. Existing agencies like the National Science Foundation, Department of Defense, National Institutes of Health, Department of Transportation, and so forth, have missions that set precedents for such federal action. In the early 1960s the United States moved to correct some of the "gaps" that were identified after Sputnik.

The federal government should develop new financial instruments for short and long-term funding of capital investments required by industry to improve productivity and to modernize manufacturing facilities and should create even greater tax incentives to promote productivity in manufacturing.

Industry must re-examine so-called "time-tested accounting procedures" dealing with entirely new levels of capital investment per worker. Long-term calculations must be made that take into account overall corporate jeopardy as well as worldwide opportunity. Relatively short-term calculations that influence return on capital assets and cost accounting procedures can lead to short-sighted decisions. New philosophical foundations are a priority.

New strategies for dealing with labor are also desirable. Added emphasis on training of employees should be the goal, and long-term job security should not be sacrificed for short-term goals.

Industry could develop corporate strategies that *require* programmed improvements in productivity and such "change" could be a factor that is built into internal reward and incentive systems.

Industry should develop open strategies to share problems and seek solutions that are generic to their industries.

Finally there are things labor can do. About 22 percent of U.S. labor is in manufacturing, but by the year 2000 economists have estimated that this number will drop to 5 percent.

Labor must develop an enlightened view toward a world-based economy.

It is important for labor to understand better the relationships among capital investment per worker, productivity, job security, profits, and salary. The confrontational basis of negotiation that so characterizes labor-management discussions should be altered. Some signs of this are already beginning to appear.

Finally, labor should become more active in lobbying for better public education systems. Local government should allocate greater resources to education especially in the fields of math, science and technology, not only for our outstanding young people but also for students with all levels of capability.●

THE SALT QUESTION—AT LAST

● Mr. EAST. Mr. President, many American peace activists seem to assume that the rulers of the Soviet Union will abide by arms control treaty, and other treaties. I wish this were so.

Unfortunately, there is a growing body of evidence demonstrating that the Soviet Government is already violating the SALT I and II treaties. I ask that an editorial entitled "The SALT Question—At Last" which appeared in today's Washington Times be printed in the Record.

The editorial follows:

The SALT Question—At Last

For the better part of his first term, Ronald Reagan made it a point to chastise the Soviets for violating chemical warfare as well as human rights treaties. Yet the White House didn't ask the logical follow-up: If the Kremlin cheats on chemical weapons in order to eliminate a few Afghan rebels, why not cheat on nuclear weapons and gain far more in strategic advantage?

Regular readers of this page are by now well-acquainted with the history of Soviet evasions on this score. It began with the replacement of older missiles with larger SS-20s and continues today with deployment of a nationwide ABM defense and the testing of a second (and maybe third) new strategic missile.

These actions violate SALT I and II and the ABM treaty. According to David S. Sullivan, arms analyst to Sen. Steve Symms, R-Idaho, 20-some breaches of this sort have enabled the Kremlin military strategists at least to double, and probably triple, the counterforce capability they would have if they had abided by the treaties.

Even so, and in spite of the 1980 Republican platform promise to "end the Carter coverup" of SALT violations, Reagan has never gone public with the evidence. Instead, he tried to convince the Soviets through private channels to explain or stop the apparent treaty violations. No go. Now, finally, he says he'll appoint a bipartisan commission to inquire into whether the Kremlin has dared to breach the most significant and sacred covenants of our time.

Before this announcement, the president had to bend over backward to avoid saying what just about everybody knows. Last year, he promised that the U.S. would abide by the unratified SALT II "as long as the Soviets continue to do so," language which suggested they had been doing so.

It reminded us of those British intelligence agents who discovered the *Bismark* under construction in 1930s. The portions above the waterline and the gun size suggested that the battleship was nearly double the weight allowed by the Big Powers naval treaty. Pressured by Parliament, senior intelligence officers decided to conclude that the clever and industrious Germans had merely succeeded in designing a flatbottomed, and thus lighter, warship that fell within the treaty's weight limits.

Reagan has always seen that the Soviets have a "Bismark" act of their own. Those who favor true arms control—the kind that applies to both sides—can only be cheered by his decision now to expose that sham—at last.●

THE GROWING SIGNIFICANCE OF ASIA IN THE GLOBAL ECONOMY

● **Mr. INOUYE.** Mr. President, I submit for the RECORD a recent article authored by S. Stanley Katz, vice president of the Asian Development Bank.

Mr. Katz' article presents several thoughtful and astute observations on the growing significance of Asia in the global economy. I believe all Senators could benefit from a close reading of this article, and I would encourage them to do so.

The article follows:

THE NEW ASIAN EQUATION: ASIA'S DRIVE TO DEVELOPMENT

(By S. Stanley Katz, Vice President, Asian Development Bank)[1]

If there isn't one already, someone should invent an old Chinese proverb that says, "What one sees depends on where one looks." Ask, for example, a European or American banker to name the most important economic developments of the past decade. He will no doubt list the two oil price shocks, the protracted global recession, high unemployment and interest rates, the turnaround of inflation, and the recent reversals of OPEC's prices and fortunes. All very important, especially from a Western perspective.

Ask an Asian banker the same question and his reply is likely to be quite different. For him, and for Asia, one development dominated all others: the continuing, and seemingly inexorable, shift in the world economy's center of gravity from West to East. After moving to Europe with the spice and silk trade, and then on to North America with the industrial revolution, the epicenter of the world economy, he will tell you, is coming home to Asia.

It is not geography or politics that accounts for this shift in specific gravity; it's economics. The region's new dynamics reflects the fact that while Asia encompasses a group of otherwise diverse nations, all are actively pursuing a single goal: economic development. In industrially-advanced Japan; in the two economic giants, China and India; in the fast-track states of Korea, Taiwan, Hong Kong, Singapore and the rest of ASEAN: in the poor but striving nations of South Asia, the drive is to development. It is without precedent; and it is succeeding.

On a country-by-country basis, Asia's performance during the 1970s and early 1980s ranges from good to excellent. Growth in income and product (GNP) of the Asian Development Bank's developing member countries, for example, averaged over 6.5 per cent a year during the past decade. In other areas of domestic economic activity—saving and investment, agricultural and manufacturing production, banking and finance—Asia's performance has been similarly strong. In international trade, a leading indicator of change, the region's record is impressive. Asia now accounts for 16 per cent of total world trade and has displaced Europe as North America's major trading partner.

Looking ahead, the tempo of Asia's development will doubtless be set by Japan. As the center of an increasingly integrated constellation of economies, Japan will act both as a model and locomotive for growth in this part of the world. At the far end of the region's economic spectrum are Asia's poorest developing countries. While they will continue to make progress in agriculture, manufacturing and trade, they will not add much strength to Asia's gathering economic momentum.

It is Asia's newly industrializing countries—Korea, Taiwan, Hong Kong, Singapore, Thailand, Indonesia, Malaysia and the Philippines (some of yesteryear's "basket-cases")—that will provide the impetus for the region's drive to development. And it is their promising future that inspires the view that tomorrow belongs to Asia.

DEVELOPMENT TOUCHSTONES

Given the divergent cultures, political systems and resource endowments of the countries that comprise this region, there can be no single touchstone for Asia's remarkable economic performance. Yet, where development has been strongest, several conditions stand out.

One is internal security. The region has learned from experience that there is nothing like the business end of an armalite for diverting attention from development to survival. In Asia, therefore, domestic security is seen not as an end in itself but as a necessary adjunct to, and condition of, development. It is also recognized as a diversion of resources from development. Asia has also learned (the hard way, as the U.S. is learning in Central America) that, where internal security is concerned, an ounce of development "prevention" is worth more—and costs much less—than a pound of military "cure". Once in progress, in fact, economic development begets internal security; and it provides, besides, a degree of immunity against imported political unrest. In the Philippines, for example, unrest seems to move with world copra and sugar prices and with the attendant rise and fall of local employment and wages. Development is seen as the way to stabilize such disruptive and costly swings. The failure of imported insurgency to take root in Southeast Asia is essentially a vote by the villages in favor of the development now in progress and against the political adventurism that has swept these areas in the past.

A second feature of the emerging Asian scene is a budding, still tentative, rethinking of development strategy in several key countries. Rapid economic progress in the region's newly industrializing nations has impressed leaders whose countries have lagged behind, and they are asking why the difference. One explanation now gaining currency is that accelerated growth can be traced in large part to greater resort to people and markets to make the myriad, simultaneously economic and financial decisions needed to move a developing economy ahead. As a result, a new generation of pragmatic government leaders has begun to question whether a highly centralized decision-making system can deliver the economic goods. In nations as diverse as Burma, Pakistan, India, and Sri Lanka, the ideological blush seems to be off the economic planning rose, and after a long exile, the marketplace and individual initiative are being rehabilitated.

A further positive factor in the new Asian economic equation is a growing recognition that the most sturdy and durable variety of economic development is home-grown. While development has been and can be materially accelerated by imported capital and technology, it is increasingly understood here that development is inherently an internal, systemic process. This change in attitude is reflected in a shift in focus from more external assistance to better internal economic and financial policies and the more cost-effective use of resources. And it has produced a new self-confident and more realistic approach to development that will pay dividends over the long term.

NON-ASIAN PARTICIPATION IN ASIAN DEVELOPMENT

Whether this is or isn't to be the New Age of Asia, the growing gravitational pull of Asia is changing the old international economic balance, and countries from outside the region would do well to consider how they and their citizens can participate in the future of this region. Since Western ignorance about Asia is as celebrated as it is appalling, most countries could well start by expanding their citizens' knowledge and understanding of this region. In the United States, for example, Asia is identified mainly with jungle warfare, dancing girls and Buddhist temples, in about that order. Few of my own countrymen know very much about the history, religions, cultures or geography—much less the economics—of this region. Even fewer can speak any of its languages. A first order of business for the West, if it is to ensure a long-term presence in Asia, is to learn more about this part of the world.

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[1] The views expressed are those of the author and not necessarily of the Asian Development Bank.

Since economic development is and will be the region's driving force; since commerce, industry and finance are by definition the mainspring of development; and since the industrialized nations have unparalleled knowledge and experience in these fields, it follows that commerce, industry and finance can provide strong links between Asia and the West. Participation in Asia's economic future therefore translates into such specifics as exports, imports, financing, capital investments, joint ventures, licenses, franchises, and the like—doing, in other words, what comes naturally for the bankers and businessmen of the industrialized world.

Governments too will have to play an active role in supporting their nations' participation in Asia's economic future. At a macro level, they can ensure that the international financial system provides the liquidity and flexibility required to support the region's development. Participation will also require government support for the capital intermediation functions performed by the international banking community. Especially to be avoided in this connection are constraints on their commercial banks' overseas financing activities which would reduce the ability of their bankers and businessmen to compete in Asia's upcoming economic olympics.

Trade is the lifeblood of Asia's developing countries, and it will be a major vehicle for non-Asian presence and participation in this region. Exports to the world's industrialized markets are vital for Asia's developing countries, and it is hard to conceive of any action more adverse to future commercial relations with this region than the imposition of barriers to Asian exports. Countries that keep their markets open to Asian products, on the other hand, will find these enlightened trade policies more than redeemed in terms of future participation in the region's development.

Asia's developing countries also need imports—capital and consumer goods, raw materials, equipment and services—and suppliers of Asian markets will link their nations to this region's economic future. Supplier-buyer relations are, of course, matters for individuals and firms. But it is no secret that governments frequently provide bricks and mortar for such arrangements—by sponsoring Asian trade and investment missions, disseminating market studies and trade information, providing embassy and bilateral aid support for their domestic industries and, importantly, by ensuring an adequate supply of competitive buyer and supplier financing for their exports.

When it comes to using the tools of commerce for pursuing long-term objectives in this region, non-regional nations could learn a great deal from Japan. It is no coincidence, for example, that when senior Japanese officials visit developing countries in Asia (frequently), they usually leave behind lines of export credits and offers of economic development assistance. When senior U.S. official visit this region (infrequently), they generally leave behind a military bases agreement or two and some offers of increased security assistance. It's not too difficult to judge which form of assistance will yield greater long-term presence in the region.

Nations outside Asia can also assure themselves of continued institutional presence in Asia through their support of the region's primary development institution, the Asian Development Bank. The ADB provides its non-regional member countries a unique form of regional presence, unique in that their financial participation in the Bank supports a highly-leveraged form of economic development in the region, and it is given full marks by the finance ministers, central bank governors and other high-level officials from the Bank's 31 regional member countries who are themselves actively involved in the ADB as Governors or Directors.

From the U.S. viewpoint, the ADB has been described as perhaps the best overseas investment since Seward bought Alaska. The Bank as an intermediator of private captial helps to overcome a long-acknowledged deficiency in the long-term international capital market; and in the process, it brings large amounts of private financial resources to work in the region's development. Since ADB lending operations are funded largely by such private capital flows, each dollar the U.S. Treasury has paid for ADB stock is leveraged by a factor of 40 in terms of the development it has generated. Besides, a substantial part of the U.S. investment in the ADB has been, and continues to be, recovered through payment to American suppliers of equipment and services for Bank-financed development projects. The same multiplier and investment returns apply proportionately to all the Bank's industrialized member countries.

A final observation. The market-oriented nations of the West have been notoriously poor in marketing what is the most efficient economic system the world has ever known—their own. Well-intentioned leaders of many developing nations have instead been lured by promises that centralized economic planning will provide all the answers to development. After more than a quarter century, it is clear that these promises cannot be kept; centralized economic planning is not working. Out of conviction, desperation, or both, many countries in Asia are beginning to open up their economies to the marketplace. In the process, they are beginning to look westward for help, guidance and inspiration. The change in economic perspective is nothing short of revolutionary and it presents industrialized nations with an unprecedented opportunity to validate and encourage the move by important Asian nations to the market-system column of the global economic ledger. How? By supporting and accelerating the region's economic development. Such a monumental opportunity doesn't come along very often, and the industrialized nations should spare no effort in bringing about this long-sought rapprochement between the developing world and the marketplace.●

PRELIMINARY NOTIFICATION OF PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on April 26, 1983.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room SD 427.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., April 26, 1983.

Dr. HANS BINNENDIJK,
Professional staff member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $50 million.

Sincerely,

WALTER B. LIGON,
Acting Director.●

IN MEMORY OF ARMENIAN MARTYRS' DAY

● Mr. HOLLINGS. Mr. President, as we take pause in memory of the victims of the Armenian massacres, we should all be chastened by the continuing presence around the world of the virus of oppression and violence by man to his fellow man.

The tragic fate of the Armenians from 1915 to 1923—and that of the Jews and Eastern Europeans in World War II, and the Ugandans, boat people, and Kampucheans in this past decade—remain as scars on the conscience of all mankind. They are also constant reminders.

This country of ours must stand ever vigilant in the conduct of its foreign policy, reaching out to protect when it can, and resisting the urge to ignore the plight of suffering peoples when that may be the easier course to follow.

We must never carelessley disregard the pursuit of a human rights policy as part of our flight against totalitarian regimes, on the left and the right. The innocent millions of men, women, and children who are victims of genocide care not under whose guns they die.

If we as Americans stand for anything, it is that all of us—all the world's peoples—should enjoy at least the basic human rights of liberty and freedom from want and repression. The grievous suffering and slaughter of the Armenians was a tragic episode in history. Let this tribute serve as a reminder that it is a lesson we will never forget.●

FALLING CORNICES

● **Mr. MOYNIHAN.** Mr. President, last night, shortly after the President departed the Capitol at the conclusion of his speech to a joint session, a piece of the west front of the Capitol fell off. Fortunately, the President did not leave by that exit, and no one was injured.

I am informed by the Architect of the Capitol that what fell off was a 5-inch thick section of the veneer of the west front. The piece had been affixed to the building during renovation work in 1892, and the wrought iron piece holding it finally corroded away.

What if that piece had lost its grip a bit over 2 years ago? Does anyone not remember that on January 20, 1981, we inaugurated our President for the first time in our history on the west front of the Capitol? And that we did so knowing that the west front was seriously dilapidated?

On December 2, 1980, I alerted the Senate to the risk of conducting the Inauguration under the deteriorated west front and suggested the Vice President be sworn in at the Library of Congress, a safe distance away. The wall held that day, but we can see now that the warning was not just kidding.

The Congress has known of the west front problem for years and has been unable to reach agreement about what to do. Just a month ago, our Commission on the west front finally voted and, to no one's surprise, reached a split decision. It is now for the appropriations committees, apparently, to decide how to proceed.

The time for contemplating this rebuilding scheme and that expansion scheme is over. The Capitol is our foremost symbol of representative democracy. If our Nation still has the capacity to do anything boldly and directly, we will agree this month, this week to restore the west front of the Capitol in place—or to shore it up by expanding—to its proper appearance and security.

I ask that a copy of my Senate statement of December 2, 1980, be printed in the RECORD.

The statement follows:

[From the Congressional Record, December 2, 1980]

THE WEST FRONT OF THE CAPITOL

Mr. MOYNIHAN. Mr. President, one of the few tenets of naval doctrine which I learned as a midshipman and have somehow retained has to do with the combat station of a ship's executive officer, the second in command. The simple rule is that he should be anywhere the captain is not.

I raise this subject in the context of the forthcoming Inauguration, and do so with frank trepidation. As is now well known, this year for the first time in history the Inauguration will take place on the West Front of the Capitol. The vista will be splendid; the immediate environs, however, hazardous to the point of peril. Put plainly, the West Front is on the verge of collapse. A coat of paint is being slapped on the scabrous exterior, but the literally rotting wooden beams that brace the sagging west walls are adequate testimony to the interior ruin.

I will not predict that the unaccustomed jostle and commotion of an Inaugural ceremony will bring the walls down and the Dome with them, but prudence prohibits that such a likelihood be dismissed.

In the course of such a catastrophe, we would lose many Members of Congress and the Supreme Court. But these can either be replaced or done without. What we cannot do without is a President, and if it be the will of the Congress that the President-elect be exposed to this unprecedented peril, and if as I fully expect he chooses not to be deterred by the knowledge of what he faces, then I propose that the Vice President be simultaneously and quietly sworn in at some suitable site at a discreet distance. The reading room of the Library of Congress comes to mind: A setting of dignity and reflection, where he and his entourage would be spared the noise and dust coming from across the way.

Mr. President, should fortune smile and the Chief Executive survive this coming January 20, may we not hope that this brush with fate will inspire us all to repair the Capitol before it falls down quite of its own. There is something beyond the eccentric in our behavior in this matter. Throughout this century we have been adding about one building a decade to our collection here on Capitol Hill.

There has been a steady declining quality. On the House side, the Longworth Building was fair, the Cannon Building bad, the Rayburn Building historically hideous. On our side, the Russell Building was, may I put it thus, not bad, the Dirksen Building merely embarrassment, but the emergent Hart Building something like a criminal enterprise. Of the Supreme Court Building, shall we simply say that it is well the Romans never saw it. Only the Jefferson Building of the Library of Congress can claim any distinction, it being a respectable example of its period. On the other hand, the new Madison Building is so irretrievably vulgar that the overall record of eight decades of architectural deficit is amply established.

Shall we not, then, shore up our one treasure, the Capitol itself? Make it sound. Keep our future Presidents safe in their brief hour with us. And resolve before high heaven to build no more buildings in this accursed century.●

THE OCCASION OF THE 300TH ANNIVERSARY OF THE FOUNDING OF SUFFOLK COUNTY

● **Mr. D'AMATO.** Mr. President, on the occasion of the 300th anniversary of the founding of Suffolk County on Long Island, N.Y., I extend special greetings and congratulations to residents as they partake in the tricentennial celebrations. As a native New Yorker, I take pride in bringing to your attention the many outstanding contributions Suffolk has made to the birth, growth, and development of the United States.

Just 50 miles east of New York City and surrounded by the Atlantic Ocean on three sides, Suffolk's strategic location made the county a vital lifeline between New York City, New England, and Europe, throughout its history.

During the Revolutionary War, famous patriots like Nathan Hale and the famed Culper espionage ring used the convenient location of Suffolk to keep General Washington informed of British activities in New York City. Brave and daring Suffolk patriots went by whale boat across Long Island Sound to Connecticut, to relay information to American forces located in Westchester. Through this system, the patriots were able to help thwart the British plan to isolate New York City from the Middle Atlantic Colonies and New England, and thus played an instrumental role in keeping all thirteen Colonies united.

Though Suffolk's fertile soil made it a natural land for farming, the county was also tied to the development of industry in the United States. In the early 19th century, Boston and New York City were rapidly emerging as New England's centers for trade and industry, and a quick mode of transportation was needed to connect them. When an engineering survey declared the Connecticut coastal route "impassable" because of the rugged hills and many rivers, Long Island, conveniently situated between the two cities, was chosen as a site for the new railroad. The Long Island Railroad linked New York City and Boston for two decades, carrying cargo from the East River off of Manhattan to Suffolk's east and where a ferry took it to Connecticut to meet the train to Boston.

Suffolk is the home of the pioneers of aviation. Strategically located between New York and Europe, cross-Atlantic aviation was established there in the early 1900's and Suffolk evolved into a major center for aircraft production. Grumman and other local aviation manufacturers have served the Nation through two World Wars, and it was these aviation giants which enabled us to put men on the Moon and explore the realms of space.

Today, Suffolk remains one of the most beautiful and unspoiled landscapes in the country. Agriculture abounds with Suffolk County boasting a multimillion-dollar duck industry, cauliflower, potatoes, and a multitude of other farm products. The county's exquisite beaches have lured lovers of the sea for decades, making Suffolk County a favorite vacation resort.

Suffolk County and its proud residents have proven over the decades to be an asset to the State of New York and our great Nation. My heartiest congratulations go to Suffolk County on this memorable occasion and I extend my sincere wishes for continued prosperity as we look to the future.●

PRESIDENT REAGAN'S ARTICLE AGAINST ABORTION

● Mr. HELMS. Mr. President, in the current issue of the Human Life Review there is an article by President Reagan setting forth in some detail his views on abortion. Entitled "Abortion and the Conscience of the Nation," the article is worthy of close attention by the public and my colleagues in Congress.

"Since 1973," the President says, "more than 15 million unborn children have had their lives snuffed out by legalized abortions. That is over 10 times the number of Americans lost in all our Nation's wars." The President also points out that the blame for this tragic situation lies with the Supreme Court and its decision in Roe against Wade:

> Make no mistake, abortion-on-demand is not a right granted by the Constitution. * * * Nowhere do the plain words of the Constitution even hint at a "right" so sweeping as to permit abortion up to the time the child is ready to be born. Yet that is what the Court ruled.

As I have said so many times on this Senate floor, we become a part of what we condone. President Reagan's article makes abundantly clear that the conscience of the United States cannot tolerate another decade of legalized killing of unborn human beings. In that regard, we in Congress bear a heavy responsibility to enact legislation to restore legal protection for the unborn.

Mr. President, I ask that "Abortion and the Conscience of the Nation" by President Ronald Reagan, appearing in the spring 1983 edition of the Human Life Review, 150 East 35th Street, New York, NY. 10016, be printed in the Record.

The article follows:

Abortion and the Conscience of the Nation

(By Ronald Reagan)

The 10th anniversary of the Supreme Court decision in *Roe* v. *Wade* is a good time for us to pause and reflect. Our nationwide policy of abortion-on-demand through all nine months of pregnancy was neither voted for by our people nor enacted by our legislators—not a single state had such unrestricted abortion before the Supreme Court decreed it to be national policy in 1973. But the consequences of this judicial decision are now obvious: since 1973, more than 15 million unborn children have had their lives snuffed out by legalized abortions. That is over ten times the number of Americans lost in all our nation's wars.

Make no mistake, abortion-on-demand is not a right granted by the Constitution. No serious scholar, including one disposed to agree with the Court's result, has argued that the framers of the Constitution intended to create such a right. Shortly after the *Roe* v. *Wade* decision, Professor John Hart Ely, now Dean of Stanford Law School, wrote that the opinion "is not constitutional law and gives almost no sense of an obligation to try to be." Nowhere do the plain words of the Constitution even hint at a "right" so sweeping as to permit abortion up to the time the child is ready to be born. Yet that is what the Court ruled.

As an act of "raw judicial power" (to use Justice White's biting phrase), the decision by the seven-man majority in *Roe* v. *Wade* has so far been made to stick. But the Court's decision has by no means settled the debate. Instead, *Roe* v. *Wade* has become a continuing prod to the conscience of the nation.

Abortion concerns not just the unborn child, it concerns every one of us. The English poet, John Donne, wrote: ". . . any man's death diminishes me, because I am involved in mankind; and therefore never send to know for whom the bell tolls; it tolls for thee."

We cannot diminish the value of one category of human life—the unborn—without diminishing the value of all human life. We saw tragic proof of this truism last year when the Indiana courts allowed the starvation death of "Baby Doe" in Bloomington because the child had Down's Syndrome.

Many of our fellow citizens grieve over the loss of life that has followed *Roe* v. *Wade*. Margaret Heckler, soon after being nominated to head the largest department of our government, Health and Human Services, told an audience that she believed abortion to be the greatest moral crisis facing our country today. And the revered Mother Teresa, who works in the streets of Calcutta ministering to dying people in her world-famous mission of mercy, has said that "the greatest misery of our time is the generalized abortion of children."

Over the first two years of my Administration I have closely followed and assisted efforts in Congress to reverse the tide of abortion—efforts of Congressmen, Senators and citizens responding to an urgent moral crisis. Regrettably, I have also seen the massive efforts of those who, under the banner of "freedom of choice," have so far blocked every effort to reverse nationwide abortion-on-demand.

Despite the formidable obstacles before us, we must not lose heart. This is not the first time our country has been divided by a Supreme Court decision that denied the value of certain human lives. The *Dred Scott* decision of 1857 was not overturned in a day, or a year, or even a decade. At first, only a minority of Americans recognized and deplored the moral crisis brought about by denying the full humanity of our black brothers and sisters; but that minority persisted in their vision and finally prevailed. They did it by appealing to the hearts and minds of their countrymen, to the truth of human dignity under God. From their example, we know that respect for the sacred value of human life is too deeply engrained in the hearts of our people to remain forever suppressed. But the great majority of the American people have not yet made their voices heard, and we cannot expect them to—any more than the public voice arose against slavery—*until* the issue is clearly framed and presented.

What, then, is the real issue? I have often said that when we talk about abortion, we are talking about two lives—the life of the mother and the life of the unborn child. Why else do we call a pregnant woman a mother? I have also said that anyone who doesn't feel sure whether we are talking about a second human life should clearly give life the benefit of the doubt. If you don't know whether a body is alive or dead, you would never bury it. I think this consideration itself should be enough for all of us to insist on protecting the unborn.

The case against abortion does not rest here, however, for medical practice confirms at every step the correctness of these moral sensibilities. Modern medicine treats the unborn child as a patient. Medical pioneers have made great breakthroughs in treating the unborn—for genetic problems, vitamin deficiencies, irregular heart rhythms, and other medical conditions. Who can forget George Will's moving account of the little boy who underwent brain surgery six times during the nine weeks before he was born? Who is the *patient* if not that tiny unborn human being who can feel pain when he or she is approached by doctors who come to kill rather than to cure?

The real question today is not when human life begins, but, *What is the value of human life?* The abortionist who reassembles the arms and legs of a tiny baby to make sure all its parts have been torn from its mother's body can hardly doubt whether it is a human being. The real question for him and for all of us is whether that tiny human life has a God-given right to be protected by the law—the same right we have.

What more dramatic confirmation could we have of the real issue than the Baby Doe case in Bloomington, Indiana? The death of that tiny infant tore at the hearts of all Americans because the child was undeniably a live human being—one lying helpless before the eyes of the doctors and the eyes of the nation. The real issue for the courts was *not* whether Baby Doe was a human being. The real issue was whether to protect the life of a human being who had Down's Syndrome, who would probably be mentally handicapped, but who needed a routine surgical procedure to unblock his esophagus and allow him to eat. A doctor testified to the presiding judge that, even with his physical problem corrected, Baby Doe would have a "non-existent" possibility for "a minimally adequate quality of life"—in other words, that retardation was the equivalent of a crime deserving the death penalty. The judge let Baby Doe starve and die, and the Indiana Supreme Court sanctioned his decision.

Federal law does not allow federally-assisted hospitals to decide that Downs Syndrome infants are not worth treating, much less to decide to starve them to death. Accordingly, I have directed the Departments of Justce and HHS to apply civil rights regulations to protect handicapped newborns. All hospitals receiving federal funds must post notices which will clearly state that failure to feed handicapped babies is prohibited by federal law. The basic issue is whether to value and protect the lives of the handicapped, whether to recognize the sanctity of human life. This is the same basic issue that underlies the question of abortion.

The 1981 Senate hearings on the beginning of human life brought out the basic issue more clearly than ever before. The many medical and scientific witnesses who testified disagreed on many things, but not on the scientific evidence that the unborn child is alive, is a distinct individual, or is a member of the human species. They did disagree over the value question, whether to give value to human life at its early and most vulnerable stages of existence.

Regrettably, we live at a time when some persons do not value all human life. They want to pick and choose which individuals have value. Some have said that only those individuals with "consciousness of self" are human beings. One such writer has followed this deadly logic and concluded that "shocking as it may seem, a newly born infant is not a human being."

A Nobel Prize winning scientist has suggested that if a handicapped child "were not declared fully human until three days after birth, then all parents could be allowed the choice." In other words, "quality control" to see if newly born human beings are up to snuff.

Obviously, some influential people want to deny that every human life has intrinsic, sacred worth. They insist that a member of the human race must have certain qualities before they accord him or her status as a "human being."

Events have borne out the editorial in a California medical journal which explained three years before *Roe* v. *Wade* that the social acceptance of abortion is a "defiance of the long-held Western ethic of intrinsic and equal value for every human life regardless of its stage, condition, or status."

Every legislator, every doctor, and every citizen needs to recognize that the real issue is whether to affirm and protect the sanctity of all human life, or to embrace a social ethic where some human lives are valued and others are not. As a nation, we must choose between the sanctity of life ethic and the "quality of life" ethic.

I have no trouble identifying the answer our nation has always given to this basic question, and the answer that I hope and pray it will give in the future. America was founded by men and women who shared a vision of the value of each and every individual. They stated this vision clearly from the very start in the Declaration of Independence, using words that every schoolboy and schoolgirl can recite:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness."

We fought a terrible war to guarantee that one category of mankind—black people in America—could not be denied the inalienable rights with which their Creator endowed them. The great champion of the sanctity of all human life in that day, Abraham Lincoln, gave us his assessment of the Declaration's purpose. Speaking of the framers of that noble document, he said:

"This was their majestic interpretation of the economy of the Universe. This was their lofty, and wise, and noble understanding of the justice of the Creator to His creatures. Yes, gentlemen, to all His creatures, to the whole great family of man. In their enlightened belief, nothing stamped with the divine image and likeness was sent into the world to be trodden on . . . They grasped not only the whole race of man then living, but they reached forward and seized upon the farthest posterity. They erected a beacon to guide their children and their children's children, and the countless myriads who should inhabit the earth in other ages."

He warned also of the danger we would face if we closed our eyes to the value of life in any category of human beings:

"I should like to know if taking this old Declaration of Independence, which declares that all men are equal upon principle and making exceptions to it where will it stop. If one man says it does not mean a Negro, why not another say it does not mean some other man?"

When Congressman John A. Bingham of Ohio drafted the Fourteenth Amendment to guarantee the rights of life, liberty, and property to all human beings, he explained that all are "entitled to the protection of American law, because its divine spirit of equality declares that all men are created equal." He said the rights guaranteed by the amendment would therefore apply to "any human being." Justice William Brennan, writing in another case decided only the year before *Roe* v. *Wade*, referred to our society as one that "strongly affirms the sanctity of life."

Another William Brennan—not the Justice—has reminded us of the terrible consequences that can follow when a nation rejects the sanctity of life ethic:

"The cultural environment for a human holocaust is present whenever any society can be misled into defining individuals as less than human and therefore devoid of value and respect."

As a nation today, we have not rejected the sanctity of human life. The American people have not had an opportunity to express their view on the sanctity of human life in the unborn. I am convinced that Americans do not want to play God with the value of human life. It is not for us to decide who is worthy to live and who is not. Even the Supreme Court's opinion in *Roe* v. *Wade* did not explicitly reject the traditional American idea of intrinsic worth and value in all human life; it simply dodged this issue.

The Congress has before it several measures that would enable our people to reaffirm the sanctity of human life, even the smallest and the youngest and the most defenseless. The Human Life Bill expressly recognizes the unborn as human beings and accordingly protects them as persons under our Constitution. This bill, first introduced by Senator Jesse Helms, provided the vehicle for the Senate hearings in 1981 which contributed so much to our understanding of the real issue of abortion.

The Respect Human Life Act, just introduced in the 98th Congress, states in its first section that the policy of the United States is "to protect innocent life, both before and after birth." This bill, sponsored by Congressman Henry Hyde and Senator Roger Jepsen, prohibits the federal government from performing abortions or assisting those who do so, except to save the life of the mother. It also addressed the pressing issue of infanticide which, as we have seen, flows inevitably from permissive abortion as another step in the denial of the inviolability of innocent human life.

I have endorsed each of these measures, as well as the more difficult route of constitutional amendment, and I will give these initiatives my full support. Each of them, in different ways, attempts to reverse the tragic policy of abortion-on-demand imposed by the Supreme Court ten years ago. Each of them is a decisive way to affirm the sanctity of human life.

We must all educate ourselves to the reality of the horrors taking place. Doctors today know that unborn children can feel a touch within the womb and that they respond to pain. But how many Americans are aware that abortion techniques are allowed today, in all 50 states, that burn the skin of a baby with a salt solution, in an agonizing death that can last for hours?

Another example: two years ago, the *Philadelphia Inquirer* ran a Sunday special supplement on "The Dreaded Complication." The "dreaded complication" referred to in the article—the complication feared by doctors who perform abortions—is the *survival* of the child despite all the painful attacks during the abortion procedure. Some unborn children *do* survive the late-term abortions the Supreme Court has made legal. Is there any question that these victims of abortion deserve our attention and protection? Is there any question that those who *don't* survive were living human beings before they were killed?

Late-term abortions, especially when the baby survives, but is then killed by starvation, neglect, or suffocation, show once again the link between abortion and infanticide. The time to stop both is now. As my Administration acts to stop infanticide, we will be fully aware of the real issue that underlies the death of babies before and soon after birth.

Our society has, fortunately, become sensitive to the rights and special needs of the handicapped, but I am shocked that physical or mental handicaps of newborns are still used to justify their extinction. This Administration has a Surgeon General, Dr. C. Everett Koop, who has done perhaps more than any other American for handicapped children, by pioneering surgical techniques to help them, by speaking out on the value of their lives, and by working with them in the context of loving families. You will not find his former patients advocating the so-called "quality-of-life" ethic.

I know that when the true issue of infanticide is placed before the American people, with all the facts openly aired, we will have no trouble deciding that a mentally or physically handicapped baby has the same intrinsic worth and right to life as the rest of us. As the New Jersey Supreme Court said two decades ago, in a decision upholding the sanctity of human life, "a child need not be perfect to have a worthwhile life."

Whether we are talking about pain suffered by unborn children, or about late-term abortions, or about infanticide, we inevitably focus on the humanity of the unborn child. Each of these issues is a potential rallying point for the sanctity of life ethic. Once we as a nation rally around any one of these issues to affirm the sanctity of life, we will see the importance of affirming this principle across the board.

Malcolm Muggeridge, the English writer, goes right to the heart of the matter: "Either life is always and in all circumstances sacred, or intrinsically of no account; it is inconceivable that it should be in some cases the one, and in some the other." The sanctity of innocent human life is a principle that Congress should proclaim at every opportunity.

It is possible that the Supreme Court itself may overturn its abortion rulings. We need only recall that in *Brown* v. *Board of Education* the court reversed its own earlier "separate-but-equal" decision. I believe if the Supreme Court took another look at *Roe* v. *Wade*, and considered the real issue between the sanctity of life ethic and the quality of life ethic, it would change its mind once again.

As we continue to work to overturn *Roe* v. *Wade*, we must also continue to lay the groundwork for a society in which abortion is not the accepted answer to unwanted pregnancy. Pro-life people have already taken heroic steps, often at great personal sacrifice, to provide for unwed mothers. I recently spoke about a young pregnant woman named Victoria, who said, "In this society we save whales, we save timber wolves and bald eagles and Coke bottles. Yet, everyone wanted me to throw away my baby." She has been helped by Sav-a-Life, a group in Dallas, which provides a way for unwed mothers to preserve the human life within them when they might otherwise be tempted to resort to abortion. I think also of House of His Creation in Coatesville, Pennsylvania, where a loving couple has taken in almost 200 young women in the past ten years. They have seen, as a fact of life, that the girls are not better off having abortions than saving their babies. I am also reminded of the remarkable Rossow family of Ellington, Connecticut, who have opened their hearts and their home to nine handicapped adopted and foster children.

The Adolescent Family Life Program, adopted by Congress at the request of Senator Jeremiah Denton, has opened new opportunities for unwed mothers to give their children life. We should not rest until our entire society echoes the tome of John Powell in the dedication of his book, *Abortion: The Silent Holocaust*, a dedication to every woman carrying an unwanted child: "Please believe that you are not alone. There are many of us that truly love you, who want to stand at your side, and help in any way we can." And we can echo the always-practical woman of faith, Mother Teresa, when she says, "If you don't want the little child, that unborn child, give him to me."We have so many families in America seeking to adopt children that the slogan "every child a wanted child" is now the emptiest of all reasons to tolerate abortion.

I have often said we need to join in prayer to bring protection to the unborn. Prayer and action are needed to uphold the sanctity of human life. I believe it will not be possible to accomplish our work, the work of saving lives, "without being a soul of prayer." The famous British Member of Parliament, William Wilberforce, prayed with his small group of influential friends, the "Clapham Sect," for *decades* to see an end to slavery in the British empire. Wilberforce led that struggle in Parliament, unflaggingly, because he believed in the sanctity of human life. He saw the fulfillment of his impossible dream when Parliament outlawed slavery just before his death.

Let his faith and perserverance be our guide. We will never recognize the true value of our own lives until we affirm the value in the life of others, a value of which Malcolm Muggeridge says: ". . . however low it flickers or fiercely burns, it is still a Divine flame which no man dare presume to put out, be his motives ever so humane and enlightened."

Abraham Lincoln recognized that we could not survive as a free land when some men could decide that others were not fit to be free and should therefore be slaves. Likewise, we cannot survive as a free nation when some men decide that others are not fit to live and should be abandoned to abortion or infanticide. My Administration is dedicated to the preservation of America as a free land, and there is no cause more important for preserving that freedom than affirming the transcendent right to life of all human beings, the right without which no other rights have any meaning.●

SOVIET JEWRY

● Mr. CHILES. Mr. President, I rise today to do my part in the congressional vigil for Soviet Jewry. As my colleagues are well aware, the plight of religious minorities in the Soviet Union is worse today than it has been at any time in recent memory. Jews in the U.S.S.R. face increased repression, and emigration has been all but cut off.

Here in the Senate, a lot of us have worked to try and make things better for these unfortunate people. Earlier this month, we approved Senate Concurrent Resolution 11, which calls on the Soviet Union to pursue a more humane emigration policy and to cease harassing its Jewish population. The legislation also urges the President to challenge Soviet officials on the issue at every appropriate opportunity. In addition, we have all written letters in support of Soviet Jewry and specific individuals. Among others, I have taken a personal interest in the refusenik family of Yakov, Maima, and Marat Mesh.

In fact, I do not remember a time when there was as much activity in the Senate on behalf of Soviet Jewry. This is both ironic and frustrating, in view of the fact that Jewish emigration from the U.S.S.R. is only 5 percent of what it was 3 years ago.

The saddest thing is that some people are beginning to give up on getting themselves out. More and more, we are hearing the call, "Save our children."

Last month, there was a rally in south Florida in support of Soviet Jewry. And this past Tuesday, a group of women appeared in my office with thousands of letters and signatures on a petition that were gathered at the rally. Most of the letters are from children who, at the age of 10 or 11, are already aware of the plight of their peers and their families in the Soviet Union. Many of these children are symbolically sharing their bar or bat mitzvah ceremonies with less fortunate young people in the U.S.S.R. That is a sobering way to come into manhood or womanhood.

These letters are addressed to President Reagan, and I have been asked to deliver them to the administration. Hopefully, they will inspire the President and his people to take new initiatives on behalf of Soviet Jewry. We are in desperate need of new ideas, new ways to convince the Kremlin of its obligations to its citizens and to the international community. It is my hope that this vigil, the first of its kind in the Senate, will also keep the plight of Soviet Jewry in the forefront of mankind's conscience.

Mr. President, almost four decades ago, the world learned the full horror of the Holocaust that was perpetrated against the Jews; 35 years ago, the State of Israel was founded, in part to insure that it would never happen again. Since then, the Jewish State has shone as a beacon of freedom and democracy. But the fact is that several million people in the Soviet Union, Jews and others, face a different brand of religious discrimination—one that seeks to destroy their religious and ethnic identity, and punishes anyone who asserts that identity.

We must continue to speak out for the Jews, and other religious minorities, in the Soviet Union.●

THE NICARAGUAN THREAT TO CENTRAL AMERICAN PEACE

● Mr. D'AMATO. Mr. President, in recent weeks, many questions have been raised concerning the administration's policies towards Nicaragua. Unfortunately, as is often the case, many people have relied upon rhetoric rather than facts as the basis for their statements. I urge my colleagues to disregard half truths and misinformation about this vital region, and base their decisions on facts. The President's speech last evening clearly spelled out the strategic importance of Central America and the steps which are necessary to insure that democratic governments in the region receive our moral and material support.

I would like to further highlight the threat posed by Nicaragua to the economic and military stability of Central America. Thomas O. Enders, Assistant Secretary of State for Inter-American Affairs, recently addressed this crucial issue when he appeared before the Senate Committee on Foreign Relations. While I support regional negotiations to reduce hostilities in Central America, we cannot and must not ignore the facts. Therefore, Mr. President, I request that the text of Mr. Enders' address be included in the Record.

The address follows:

NICARAGUA: THREAT TO PEACE IN CENTRAL AMERICA

(By Thomas O. Enders)

Since the Somoza government collapsed and the Sandinistas came to power, U.S. policy toward Nicaragua has focused on attempting to convince Nicaragua to:

Renounce support for insurgency in neighboring countries;

Abandon its pursuit of dominant military power in Central America; and

Come to terms with its own society through the creation of democratic institutions.

In July 1979, the soon-to-be governing junta of Nicaragua pledged formally to the Organization of American States (OAS) that its goals were democratic and peaceful. The United States, indeed the entire international community, accepted this pledge and embarked on programs of peaceful reconstruction that typically included substantial appropriations of assistance outside annual budget processes.

As the months passed, however, it became increasingly apparent that the Sandinistas saw themselves as the armed vanguard of an isthmus-wide movement. Nicaragua's new regular army, the Ejercito Popular Sandinista (EPS), was founded in 1979. By the end of last year, according to its commander, it had grown to be "four times as big and eight times as strong" as Somoza's Guardia Nacional.[1] The EPS reached an estimated strength of 20,000, backed up by militias and reserves 80,000 strong.

During that period Nicaragua received an estimated $125 million of military equipment and supplies from the Soviet Union alone.[2] It obtained by far the heaviest tanks in Central America, heavy artillery, antiaircraft weapons, assault helicopters, rocket launchers, and patrol boats. While military pilots and crews trained in Bulgaria and other East European locations, airfields were prepared for advanced jet fighters. More significant, large numbers of foreign military and security advisers were introduced. Currently no fewer than 2,000 Cubans, 50 Soviets, 35 East Germans, and 50 Palestine Liberation Organization (PLO) and Libyan personnel are estimated to be stationed in Nicaragua on security missions. That is roughly 1 foreign military adviser for every 1,000 Nicaraguans.

In 1980 (just as in 1978 Castro had brought the three main Sandinista factions together in Havana), Cuban agents brought five guerrilla factions from El Salvador together in Managua, worked out a unity pact among them, then set up a joint command and control apparatus in the Managua area and organised logistic and training support on Nicaraguan soil. Since that time, the great bulk of the arms and munitions used by the insurgents in El Salvador has flowed through Nicaragua.[3]

Meanwhile the Sandinistas moved to assert a monopoly of power inside Nicaragua. Elections were ridiculed and postponed. One by one the elements of the broad anti-Somoza coalition were shorn off. The famous newspaper La Prensa was censored, independent radio and TV stations curbed, the labor unions intimidated, the private sector neutralised, the Catholic Church subjected to repeated provocation and attempts at division, the Miskitos and other Nicaraguan Indian minorities persecuted.

Now, Nicaragua's southern border is 300 miles from the Panama Canal, separated only by Costa Rica, a democracy that for almost 35 years has had no army. Its northern border is 300 miles from Mexico. In between are two states, El Salvador and Guatemala, already torn by guerrilla violence, and Honduras, whose fledgling democracy is under daily pressure from Nicaragua.

It does not take very much imagination to understand how the Sandinistas' "revolution without frontiers" might spread. Nor how its spread might affect our security. Half our trade flows through the Caribbean. And we depend on the stability of our neighbors to avoid what in certain circumstances could become an unprecedented flow of refugees northward to this country. Especially now, when a troubled world economy invites unrest, we must safeguard democracy and stability in our immediate neighborhood.

COOPERATION WITH NICARAGUA FAILS

We have all seen predatory dictatorships of the right and the left. Germany under Hitler. The Soviet Union under Stalin and since. Yet, there is a school that attributes the expansionism of leftwing dictatorships to pressures from without. According to this proposition, Soviet aggressiveness is but a reaction to the creation of a network of alliances around it—Castro was made a communist by U.S. confrontation, and Vietnam was radicalized by foreign armies.

Whatever the merits or defects of these arguments, let me point out that the Nicaraguan case provides ample data to test the policy that usually flows from this proposition—that leftwing radicalization and aggressiveness can be prevented by the political support and economic assistance of the democracies.

Nicaragua is a country of some 2.5 million people. Since 1979 it has received from the democracies and multilateral agencies $1.6 billion in economic assistance or $640 for every man, woman, and child. The United States supplied $125 million. Politically, such democratic states as Mexico and the parties belonging to the Socialist International have provided consistent support.

Yet this same period marks the big buildup of the EPS, direct support for violence in El Salvador, and the consolidation of internal repression. It is clear that constructive engagement has not worked in Nicaragua.

So far, negotiation has not worked any better. There have been many efforts. Some continue to this day. I was involved in a first such effort, traveling to Managua in August 1981 to listen to Sandinista concerns. They told me that they remembered the U.S. Marine occupation in the first decades of the century, that they feared a U.S. invasion and thus needed a big army, and that we should understand that the Salvadoran guerrillas were important as a "shield" to protect Nicaragua.

So we said, OK, let's address your concerns. Let's enter into a bilateral nonaggression agreement. The United States could use its influence to encourage Nicaraguan exiles in this country to moderate their behavior. And the United States could renew its economic assistance. In return we asked the Sandinistas to stop training and supplying Salvadoran guerrillas, to give pluralism a chance in their own country—as they had promised to the OAS in 1979—and to limit their military buildup, perhaps through agreement with other Central American countries.

We made these proposals in writing. In October 1981, Managua formally rejected them as "sterile." At the same time, they lied about their ongoing arms supplies to the Salvadoran guerrillas and said they would never limit their military buildup.

A second attempt at negotiation occurred in the spring of 1982, this time at the suggestion of Mexican President Lopez Portillo. Once again we presented concrete proposals in writing, this time elaborated in eight points presented through our ambassador in Managua. Once again, there was no concrete response and no receptivity on issues. Nicaragua simply replied that, before it could respond, there would have to be a meeting at a higher level in Mexico. This time, it seemed to us, the Sandinistas wanted to appear to negotiate without actually doing so.

We decided try a third time. Under Costa Rican leadership, a group of democratic states got together in San Jose in October 1982 to work out a comprehensive set of peace proposals for Central America as a whole. Let me speak a moment about these proposals, because they continue to represent the essence of what we, like Nicaragua's democratic neighbors, are trying to do.

First, the San Jose group agreed the area should be freed from East-West competition. The way to do that, the democracies concluded, is to get all foreign military advisers and trainers out of Central America—Cuba's, the Soviet Union's, Bulgaria's, East Germany's, the PLO's, and ours.

Second, the Central American countries must find a way to live with each other without fear. To this end, the San Jose group proposed mutual and verifiable accords banning the import of heavy offensive weapons, renouncing the support for insurgency on neighbors' territory, and providing for international surveillance of frontiers.

Third, each Central American country must find a way to establish democratic institutions, open to opposition elements. Central American democrats, led by Costa Rica, are particularly clear on the need for democratization. Only in this way could they be confident they will not have to face sometime in the future an aggressive neighbor unconstrained by the limits democracy imposes.

Representing the San Jose group, Costa Rica attempted to contact Nicaragua to ask whether it would enter into a dialogue on these principles. The Sandinistas refused even to receive the proposal, arguing that they had not participated in its formulation, and so were not bound to address it.

So a fourth attempt at negotiations is now being made. In January 1983, Mexico, Colombia, Venezuela, and Panama met on the island of Contadora to propose an effort at mediation of Central American's conflict. Honduras, Costa Rica, and El Salvador responded by proposing that the five Central American countries—including Nicaragua—meet in the presence of the Contadora group. This would enable Nicaragua to take part in developing the proposals, as it had not in San Jose. And, to maximize the chances that Nicaragua would participate, they suggested that the United States not be present. That would also take care of charges that the conference would be U.S. dominated.

But still Nicaragua was not receptive. Instead, it went to the UN Security Council, claiming that it wants to meet bilaterally with the United States and with Honduras—not regionally. In effect, Nicaragua is saying it wants to discuss Nicaragua's charges against Honduras and the United States but not its neighbors' concerns about Nicaragua's militarization, dictatorship, and intervention in El Salvador.

I have described this history at some length to give you some idea of the extraordinary difficulty of dealing with the Sandinista leadership. The Sandinistas have made their contempt for genuine dialogue—for real negotiations—quite clear. A month ago, we all saw them interrupt the Pope in a calculated attempt at intimidation, and the Sandinistas followed this up by banning broadcasts of Easter services. Last week, Interior Minister Tomas Borge, in an interview for Cuban television, stressed the subjects his country would not negotiate: Nicaragua, he said, would not discuss the principles of the Sandinista revolution; it would not enter into a dialogue about the overall Central American situation; and it would not talk about "counterrevolutionaries." He might have added that the Sandinistas are afraid to deal with these issues in any kind of open way—either with their own people or with Nicaragua's increasingly concerned neighbors. So it is sad, rather than surprising, that Borge tells his Cuban TV audience that the proposed meeting of Central American Foreign Ministers is "diplomatic demagogy."

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[1] EPS Chief of Staff Joaquin Cuadra to U.S. Army Assistant Chief of Staff for Intelligence, Major General William E. Odom in November 1982.

[2] By way of comparison, El Salvador received $121 million from the United States during the same period.

[3] Nicaragua's Sandinistas aid the guerrillas in El Salvador by supplying arms, training, and financial aid and by allowing the guerrillas' command and control center to operate near Managua.

Despite this record, we are not going to give up. The Sandinistas are obviously not yet persuaded that they have to negotiate on substance with either their neighbors or their internal critics. Perhaps they still think that if they bob and weave enough, something will change—that the United States will end or weaken its support for democratic governments in Costa Rica, El Salvador, and Honduras and that the way will again be open for the "revolution without frontiers." We must convince them that that is not the case, that the United States will not abandon its friends in Central America. At the same time, we must go on probing, proposing ways to talk that overcome the old objections until the Sandinistas tell us they are ready to move to a fair and equitable dialogue.

THE ANTI-SANDINISTA INSURGENCY

Meanwhile, Nicaraguans have taken matters into their own hands. Sandinista intransigence has sparked an insurgency that the Sandinistas themselves claim is a threat. Several thousand guerrillas are now active in Nicaragua. Disillusioned Miskito Indians operate in much of their homeland in the Atlantic lowlands. In the eastern and northern border departments of Jinotega, Nueva Segovia, Madriz, Esteli, and Zelaya, significant insurgent forces are attacking government outposts and ambushing military convoys. Guerrilla activity is reported in the central coffee-growing province of Matagalpa. This month for the first time armed dissidence has been reported in the south. Wherever the opposition groups show up, they seem to attract local support, and their numbers grow.

In light of recent allegations in the media, you will ask me right off whether this insurgency has been created or supported by the United States. No American administration has ever discussed this kind of allegation—other than in the Senate and House committees created expressly for the purpose—and this one will not break precedent. But I will describe the Nicaraguan opposition movements; it should be clear to you that it has appeared and expanded in response to deep grievance against the Sandinistas.

Who are the people who have dared challenge Managua's ideologues? What do they want? Based on what we know, several things can be said. Most importantly, they are Nicaraguans to the core. There are two major groups.

Frente Demoncratico Nacional. One, the larger, is the Frente Democratico Nacional (FDN). Although its main strength is inside Nicaragua, Sandinista repression has driven most of its leaders to Honduras and Costa Rica. The FDN's directorate is made up of Lucia Salazar, the widow of Jorge Salazar, an anti-Somosa businessman murdered by the Sandinistas in 1980; Alfonso Callejas, a former vice president of Nicaragua who broke cleanly with Somosa in a 1978 attempt to oust Somosa; Edgar Chamorro, an apolitical private sector leader; Indalecio Rodrigues, former vice rector of the Central American University (UCA); Enrique Bermudez, a former National Guard colonel whom Somosa removed from Nicaragua by sending him as military attache to Washington from 1975 to 1979 (and whom the Sandinistas themselves have acknowledged played no part in Somosa regime repression); Marco Zeledon, a respected private sector leader with no ties to the Somosas; and Adolfo Calero, a life-long opponent of the Somosas who was jailed by Somosa in 1978.

They have publicly stated that their objective is to bring democracy to Nicaragua, not a return to Somocismo. Indeed, several FDN leaders were jailed for their activities against Somosa. In sociological terms, these leaders represent members of the professions and teachers, plus small businessmen and farmers. Their followers include disaffected peasants, former small farmers, Miskito Indians, and other groups displaced or simply repressed by Managua's ideologies. We estimate that the FDN's ranks include over 1,000 guerrillas. Former National Guardsmen—mostly noncommissioned officers—lead many of these guerrilla units, but most of the members are peasants and former small farmers.

FDN pronouncements repudiate the Somosa past and affirm the nationalistic and patriotic principles of Sandino. As I am sure the committee is aware, the FDN proposed a peace plan on January 13, 1983, in which they offered to cease hostilities, if among other points, the Government of Nicaragua held internationally supervised elections by September 1983, revoked the state of siege in Nicaragua, and separated public administration from partisan political and ideological activities.

Alianza Revolucionaria Democratica. The second major group, led by the anti-Somoza hero Eden Pastora, is ARDE—the Alianza Revolucionaria Democratica. ARDE's leaders include such well-known figures as former post-Somosa junta leader Alfonso Robelo, Miskito Indian leader Brooklyn Rivera, and former anti-Somosa fighter Fernando "Negro" Chamorro. Pastora, who was the original Sandinista Vice Minister of Defense, has repeatedly denounced the revolution's betrayal, which he argues was motivated by Cuban agents enforcing a sellout to the Soviet Union. Most of ARDE's statements have been issued from Costa Rica. ARDE's February 2 peace proposal calls for elections of a constituent assembly by June 1983 to fulfill the promise of the Sandinista revolution.

Caught off balance by the scope of the opposition it has brought upon itself, the Nicaraguan Government has sought to discredit its opponents as "Somocistas"—attempting to associate them with the crimes of the former government. The Sandinistas' current propaganda plan—we have seen the March 24 FSLN [Sandinista National Liberation Front] memorandum—instructs its political cadres to blame "U.S. imperialism" for the country's problems, to smear Adolfo Calero, a Democratic Conservative Party leader with whom they have negotiated, and Alfonso Robelo, a former member of their own junta, as "traitors" and to portray opposition as aimed against Nicaragua rather than against its current rulers.

Now the Comandantes have not accepted our proposals before, but I would urge them, before they get too far calling Calero of the FDN and Robelo of ARDE "traitors," to recall that last year they failed to convince their own people that Eden Pastora, a man who is still proud to call himself "a true Sandinista," could be a traitor to the Nicaraguan people or to the original ideals of the Sandinista revolution.

The Sandinistas assert that the only alternative to what they've created is "Somocismo." Nothing could be more simplistic or more false. "Somocismo" was a highly personal traditional dictatorship that died with Somosa. It could not be recreated even if one wished to do so. The Sandinistas know that most Nicaraguans want democracy, peace, and an end to Cuban influence. Indeed, that was the program promised the Nicaraguan people in 1979. And that is the program the Sandinistas are today always trying to sweep under the rug they call "Somocismo." The Nicaraguan people remember their history. So should we.

THE REGIONAL QUESTION

It is not clear what the course of the struggle in Nicaragua will be. What is certain is that, as long as Nicaragua forces legitimate dissent at home to follow violent means and persists in threatening and destabilizing its neighbors, it will never be stable—nor will Central American.

It is conceivable that Cuba or the Soviet Union could be tempted to escalate the conflict, introducing modern fighter aircraft or even Cuban combat troops. Clearly a dangerous situation would then develop, unacceptable not only to Central America but to the American nations as a whole. We have communicated to Moscow and Havana how dangerous such a move would be.

It is also conceivable that, in an effort to distract attention from their internal problems, the Sandinistas might lash out at their nieghbors, attacking Costa Rica or Honduras. For over a year, Managua has already been running terrorist operations in San Jose and infiltrating guerrillas into northern Costa Rican provinces. And there have been frequent border incidents with Honduras. Although journalists who have visited the area report no activity on the Honduran side, Nicaragua has recently reinforced military units on the border. Again, I believe the Sandinistas understand that they could not gain by attacking their neighbors. It is also important to stress that every resource of inter-American diplomacy, including, of course, that of this country, would be available to prevent such an outburst.

But there is a better way. It is through dialogue and negotiation. We ask the Sandinistas to think of the Nicaraguan people. Despite all that foreign aid, Nicaraguans in city and countryside are much less well off than before the revolution. They resent the pressures on their churches and their clergy. They distrust and dislike the Sandinista monopoly of powers; they have lived under such a system before.

We ask the Sandinistas to consider the insurgency in their own country. Despite (or is it because?) of the presence of all those armed Cubans, popular resistance is spreading. They may conclude that the dialogue they have so many times spurned is preferable to widening civil strife.

We ask the Sandinistas to consider the insurgency they are supporting in El Salvador. If it has legitimate grievances, let them be pursued through democratic institutions. The international community is willing and able to provide security and other guarantees for elections as the answer there as well.

Each element of the Centeral American problems is related to the other. No amount of land reform, or open elections or improvement in human rights will end the conflict in El Salavador if Nicaragua continues to fuel it. Democarcy will not prosper in Nicaragua's neighbors unless it is practiced in Nicaragua as well. Nicaragua will not be free of the hostility of its own people and of its neighbors until it begins to address their concerns for democracy and security.

So the answer is democratization and dialogue among neighbors. The purpose of U.S. policy in the area is to create conditions in which the area can be removed from East-West conflct, the import of offensive weapons and mutual support for insurgencies ended, and the democratic transformation of each society achieved. Negotiations among all the Central American countries and negotiations among all the Central American countries and negotiations within countries can provide the opportunity for all group to complete in the voting booth rather than one the battlefield.

ARMS SUPPLY

Arms and ammunition destined for clandestine delivery to El Salvador reach Nicaragua by ship and by direct flights from Havana to Nicaragua. The arms remain stockpiled near Managua until their use by the guerrillas.

Several "smoking guns" have revealed Nicaraguan arms shipments to El Salvador. Nicaragua's Papalonal airfield was used for direct supply flights to the Salvadoran guerrillas for the January 1981 "final offensive"; two overland shipments from Nicaragua through Honduras discovered in 1981 contained weapons orignally shipped to American units in Vietnam (similar caches of arms were discovered in Guatemala City in mid-1981, apparently destined for the Guatemalan insurgents); a captured Salvadoran guerilla leader, Lopez-Arriola, confirmed that the Sandinistas control weapons delivered from Vietnam to Nicaragua for the Salvadoran insurgents.

The Sandinistas use a variety of routes (overland, air drop, and sea) to furnish arms and, incresingly, vitally needed ammunition. In 1982, these supply operations have included increased quantities of heavier weapons, including M-60 machine guns, M-79 grenade launchers, and M-72 antitank weapons.

A Salvadoran guerrilla, Alejandro Montenagro, captured during a raid on a guerrilla safehouse in Honduras in August 1982, confirmed that Nicaragua remains the primary source of insurgent weapons and ammunition, although the guerrillas capture some weapons and ammunition from the Salvadoran military. One of the guerrillas captured with Montenegro had made five trips to Managua in 1982 to pick up arms.

TRAINING

Since mid-1980 Salvadoran guerrillas have trained in Nicaragua and Cuba in military tactics, weapons, and explosives. Cubans and other foreign advisers are involved in the training.

One Salvadoran guerrilla who defected to Honduras in September 1981 reported that he and 12 others went from Nicaragua to Cuba for extensive military training in Cuba where over 900 Salvadorans were receiving training.

Several terrorists captured in a safehouse raid in Tegucigalpa in November 1981 told authorities that the Nicaraguan Government had provided them with funds for travel and explosives.

Two weeks ago, responding to a local citizen's tip, Honduran security officials surprised a group of Salvadoran guerrillas in transit through Honduras to El Salvador from training camps in Nicaragua. They escaped after a firefight but left behind documents identifying infiltration routes.

COMMAND AND CONTROL

After 2 years of combat, the FMLN headquarters near Managua has evolved into a sophisticated command and control center which guides operations. Cuban and Nicaraguan officers are present at this headquarters. The headquarters coordinates logistical support, including clothes, money, and ammunition.

Intelligence agencies have provided a mass of classified information on arms supply, training, and command and control to the relevant congressional committees. In a report dated September 22, 1982, the House Intelligence Oversight Committee noted that "Intelligence has been able to establish beyond doubt the involvement of communist countries in the insurgency." The chairman of the committee issued a statement on March 4, 1982, stating in part that:

"The insurgents are well-trained, well-equipped with modern weapons and supplies, and rely on the use of sites in Nicaragua for command and control and for logistical support. The intelligence supporting these judgments is convincing."

There is further persuasive evidence that the Sandinista Government of Nicaragua is helping train insurgents and is transferring arms and support from and through Nicaragua to the insurgents. They are further providing the insurgents with bases of operaton in Nicaragua. Cuban involvement in providing arms is also evident.●

THE IMF JUDGED A FAILURE

● Mr. HUMPHREY. Mr. President, the efforts now underway to push through Congress an $8.5 billion bailout of the International Monetary Fund are framed with glowing praise of the Fund as a uniquely qualified intermediary in international debt management. We are asked to accept at face value the claim that IMF austerity programs, upon which their loans are contingent, are an indispensible ingredient in correcting the reckless economic course of the Third World. It seems to this Senator, Mr. President, that this claim deserves closer attention.

Today's edition of the Wall Street Journal affords us such an opportunity. Manuel F. Ayau, president of Universidad Francisco Marroquin in Guatemala, describes the devastating effects of IMF lending to that country in stark terms. The IMF has completely ignored the root cause of Guatemala's financial woes: an overvalued currency which destroys the incentive to produce exports. As Mr. Ayau notes, the IMF's version of austerity in Guatemala will lead to reduced domestic investment in productive activities, increased deficit financing, a diminished foreign exchange earning capacity, and the continued pursuit of protectionist economic policies. The IMF has indeed provided Guatemala, in Mr. Ayau's words, a "crutch that cripples."

Supporters of the IMF quota increase are asking us to accept a blank-check endorsement of the Fund's activities. I desperately urge my colleagues not to follow this course, but rather to examine the situation in Guatemala as outlined in this letter. In the view of this Senator, it would be imprudent and unwise to hand over additional valuable taxpayer-provided resources to the IMF to insure the perpetuation of such failed policies.

I ask that the letter appear in the RECORD.

The letter follows:

[From the Wall Street Journal, Apr. 28, 1983]

THE IMF: THE CRUTCH THAT CRIPPLES

(By Manuel F. Ayau)

The International Monetary Fund, in bailing out Guatemala, is promoting disaster.

Why does Guatemala need a loan from the IMF? Because at the current undevalued local (official) price of the dollar, it has become unprofitable (at the margin) to produce dollars (exports) and very profitable to spend the bargain dollars when and if they are officially available. In the black market, dollars command a 35 percent premium.

In the meantime, the increasingly unprofitable capital investment in export producing crops or manufactures is being neglected when not abandoned. Cotton plantings, for instance, a very large provider of urgently needed jobs, foreign exchange and taxes, will be about 20 percent of what they would be with a realistic exchange rate.

Ironically, the IMF bailout will temporarily improve our credit-worthiness image and allow us to go further into debt with other lenders as well. In reality, it will reduce our credit-worthiness by increasing our foreign debt, but more so by decreasing our foreign exchange earning capacity, not only now but in the future, because the capital and know-how up to now invested in export producing activities will wander to greener pastures.

By allowing Guatemala to avoid temporarily the needed exchange rate correction, the yield to investment in industrial production for export or import substitution will also continue to deteriorate, thus aggravating the problems derived from the already high unemployment, and fanning political unrest for the benefit of the guerrillas.

And finally, the bailout will permit further decrease in government revenue and more deficit financing, with its accompanying detrimental effects. We'll be on our merry way to join the club of heavily indebted countries while we destroy our productive structure.

The bailout is even more regrettable because it comes at a time when the government of Guatemala is not all of one mind. There are sincere disagreements about the proper course. The IMF's loan tilts the balance in favor of the faction that opposes free exchange and wants to maintain the overvalued exchange rate, the exchange controls, import quotas, travel restrictions, etc., and against those who want to free the exchange. Thus, it will exacerbate our difficulties when we are on the verge of correcting them.

If the IMF didn't exist, our country would be ready to face reality. We would not postpone correcting our wayward ways, and soon would be off to a promising future.●

NATIONAL CHILD ABUSE PREVENTION MONTH

● Mr. CHAFEE. Mr. President, April has been designated as "National

Child Abuse Prevention Month." This is an effort to raise the consciousness of American citizens about the occurrence of child abuse and neglect.

Child abuse comes in all forms—it include nonaccidental physical injury, physical neglect, sexual and emotional abuse. Child abuse is usually a pattern of behavior. It takes place over a period of time, and its effects add up. The longer the abuse continues, the more serious it becomes, the more serious is the injury to the child, and the more difficult it is to stop.

The effects of child abuse are devastating. Each year a million American children suffer abuse. Between 2,000 and 5,000 of these children die each year. For those who live, the hurt inflictd on them as children influences their entire lives. In Rhode Island alone there was a 435 percent increase in the number of reported cases of abuse and neglect between 1976 and 1978.

Many adult criminals, juvenile delinquents, drug addicts and prostitutes admit to having been victims of child abuse. Studies indicate that 60 percent of the prisoners incarcerated for murder were abused as children. Abused juvenile delinquents are found to be more likely to engage in hostile assaults than nonabused delinquents. In another study, nearly half of the families which were reported for child abuse had at least one child who was later taken to court as ungovernable or delinquent.

Society bears an enormous price as a result of child abuse. A recent conservative assessment estimates that $8 billion nationally would have to be spent for optimal, effective treatment of child abuse—this is a minimum of $7,000 per family. The cost of human suffering and wasted individual potential is equally enormous but immeasurable.

It is a sad irony that many abusers generally love their children, but find themselves caught in life situations beyond their control and in which they do not know how to cope. Child abusers are usually ordinary people caught in situations beyond their control. It is a myth that child abuse is confined to minorities or the poor. Child abuse cuts across all economic boundaries, races, ethnic groups, and religious faiths.

Society must begin to deal with the complex problem of child abuse. As National Child Abuse Prevention Month draws to a close, let us continue to give this serious threat to our children's lives our continued attention. Public awareness will go a long way toward preventing the problem and its subsequent human suffering.●

OMNIBUS BANKRUPTCY IMPROVEMENTS ACT OF 1983—S. 445

(The text of the Omnibus Bankruptcy Improvements Act of 1983, S. 445, as passed by the Senate yesterday, is set forth below. In the permanent Record the text of the bill as passed will be printed in the proceedings of yesterday, April 27, 1983.)

S. 445

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Bankruptcy Improvements Act of 1983".

TITLE I—BANKRUPTCY CODE AMENDMENTS

Subtitle A—Consumer Credit Amendments

Sec. 201. This subtitle may be cited as the "Consumer Debtor Bankruptcy Amendments Act of 1983".

Sec. 202. (a) Section 301 of title 11 of the United States Code, is amended—

(1) by striking out "A voluntary" and inserting in lieu thereof "(a) For a debtor who is not an individual, a voluntary"; and

(2) by adding at the end thereof the following new subsection:

"(b) With respect to an individual debtor or debtors, a voluntary case under this title is commenced by the filing with the bankruptcy court of a petition which conditionally designates a chapter under which relief is sought. The filing of such a petition shall constitute an order for relief under the provisions of the chapter conditionally designated. A final designation of the chapter under which relief is sought shall be made within the time period specified in section 521 of this title.

(b) Section 302(a) of title 11, United States Code, is amended to read as follows:

"(a) A joint case under this title is commenced by the filing, with the bankruptcy court, of a single petition pursuant to section 301(b) by an individual and such individual's spouse. The commencement of a joint case under a chapter of this title constitutes an order for relief under the chapter conditionally designated in accordance with section 301(b).".

Sec. 203. (a) Section 305 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(d)(1) Subject to the provisions of paragraph (2), the court on its own motion according to procedures established by rule, and not at the request or suggestion of any party in interest, may dismiss a case under chapter 7 of this title filed by an individual debtor if it finds that the granting of relief under such chapter would be a substantial abuse of the provisions of such chapter. In determining the question of substantial abuse, there shall be a presumption in favor of granting the relief requested by the debtor.

"(2) Prior to dismissing any chapter 7 case for substantial abuse, the court shall set forth, in writing within twenty days of the permanent designation of relief made by the debtor under the provisions of section 521(a)(3), its reasons for finding that substantial abuse would occur; and the court shall, at the same time, advise the debtor of his right to respond in writing and/or to request and secure a hearing on the court's findings. The court shall establish, by rule, time limits for the debtor's response and for the court's written findings in response thereto. No creditor or representative of a creditor may participate in judicial proceedings relating to substantial abuse except upon the request of the court.

"(3) Any dismissal of a case under chapter 7 pursuant to this subsection is a final order, and the debtor shall have the right to appeal. No creditor or representative of a creditor may appeal any judicial decision on substantial abuse. In passing upon such an appeal, the court shall accept the bankruptcy court's findings of fact unless clearly erroneous. If the appellate court holds that the ruling of substantial abuse constitutes an error of law, it shall reverse.".

(b) Section 349 of title 11 is amended by amending subsection (a) to read as follows:

"(a) Unless the court, for cause, orders otherwise, the dismissal of a case under this title does not bar the discharge, in a later case under this title, of debts that were dischargeable in the case dismissed; nor does it prejudice the debtor in any respect with regard to the filing of a subsequent petition under this title.".

Sec. 204. Section 704 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The Trustee shall";

(2) by adding after paragraph (3) a new paragraph (4) to read as follows:

"(4) counsel with individual debtors as provided in subsection (b) of this section;"

(3) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(4) by adding at the end thereof the following:

"(b)(1) In the case of an individual debtor or debtors, immediately prior to the meeting of creditors under section 341 of this title, the trustee shall provide counseling to such debtor or debtors. Such counseling shall include—

"(A) a simple explanation to the debtor of the relief available to such debtor under chapters 7 and 13 of this title;

"(B) an analysis of the debtor's estimated income and expenses, and information concerning the possibility of repayment of debts under the provisions of chapter 13;

"(C) an analysis of the debtor's position if he elects relief under chapter 7, including a statement as to debts that would be discharged under such chapter; and

"(D) a statement to the debtor that the trustee is making no recommendation as to appropriate relief under this title, and that the debtor is free to make whatever final designation of chapter relief he may deem to be in his own best interests.

"(2) The trustee shall make no recommendation as to the final designation by the debtor of the chapter under which the debtor should seek relief, nor shall the trustee influence nor advise the debtor as to what final designation of relief the debtor should make. The trustee shall not suggest how the court will dispose of the debtor's petition.

"(3) Counsel for the debtor shall be present during the counseling by the trustee required by this section: *Provided,* That the debtor may waive the attendance of counsel. No creditor may be present during the counseling provided for in this section.

"(4) The trustee may waive counseling if, after review of the debtor's statement of estimated income and expenses, the trustee determines and reports to the court that a reasonable chapter 13 plan could not be devised. Counseling shall be waived with regard to any debtor that does not have regular income.".

Sec. 205. Section 341(c) of title 11, United States Code, is amended to read as follows:

"(c) The court shall convene, and may preside at any meeting under this section. The court shall also perform such judicial duties as may be required under other provisions of this title promptly in conjunction with the meeting.".

Sec. 206. Section 506(a) of title 11, United States Code, is amended by—

(1) inserting "(1)" after "(a)",

(2) striking out the last sentence, and

(3) adding at the end thereof the following new paragraph:

"(2) The value of the creditor's interest in the estate's interest in such property shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest. The value of consumer goods which the debtor seeks to redeem pursuant to section 722 of this title or which are to be retained pursuant to section 1325(a)(5)(B)(ii) of this title shall be presumed to be the established resale market price, if such market exists, as may be determined from recognized trade publications or by comparable means. If no such market exists, or if the court determines that resale value is inappropriate in light of the proposed use or disposition of the property, the court may utilise such other methods of valuation as may be appropriate under the circumstances.".

Sec. 207. Section 521 of title 11, United States Code, is amended by—

(1) redesignating paragraphs (2), (3), and (4) as paragraphs (5), (6), and (7), respectively;

(2) amending paragraph (7), as redesignated, to read as follows:

"(7) appear at the hearing required under section 341(c) of this title.".

(3) inserting after paragraph (1) the following new paragraphs:

"(2) file, at any time prior to the first meeting of creditors, a statement of the debtor's current income and an estimate of the debtor's current expenditures for the support of himself and his dependents.

"(3) in the case of an individual debtor or debtors, make a final designation of the chapter under which relief is requested no later than ten days after the counseling provided under section 704(b) of this title. If the debtor makes a final designation for relief under a chapter other than that specified in the conditional designation filed at the commencement of the case, such final designation shall be treated as a conversion under the provisions of section 348. No costs or trustee's fees shall be assessed against the debtor upon such a conversion that would not have been assessed if the debtor had filed initially under the chapter finally designated.

"(4) if the debtor's schedule of assets and liabilities includes consumer debts which are secured by property of the estate, the debtor shall file and serve, within thirty days after the filing of a petition under chapter 7 of this title but no later than five days before the first meeting of creditors, upon each creditor holding such security and the trustee, a statement expressing the debtor's intention with respect to retention or surrender of the collateral and, if applicable, specifying that the collateral is claimed as exempt, that the debtor intends to redeem the collateral, or that the debtor intends to reaffirm debts secured by the collateral;".

(4) inserting "(a)" before "The debtor"; and

(5) adding at the end thereof the following new subsection:

"(b) At or before the conclusion of the meeting of creditors provided for by section 341 of this title, or upon such other date as the court in a specific case and in the exercise of its equitable powers may fix, the debtor shall perform his intention with regard to secured creditors, as specified by paragraph (3) of subsection (a), by surrendering such property to the creditor or the trustee; redeeming such property by paying the redemption price, or confirming his intention to pay such price pursuant to section 722(b); or by reaffirming the debt. If the debtor has not fully performed his obligations under paragraph (3) of subsection (a) and this subsection at or before the meeting of creditors, the stay imposed by section 362(a) of this title shall terminate with respect to the enforcement of liens against such property, unless the court orders otherwise.".

Sec. 208. (a)(1) That part of section 522(b) of title 11, United States Code, before the numbered paragraphs (1) and (2), is amended to read as follows:

"(b) Notwithstanding section 541 of this title, an individual debtor may elect to exempt the property in either subparagraph (1), or in the alternative, subparagraph (2). In joint cases filed under section 302, and individual cases of married debtors whose estates are consolidated, both of the debtors must elect to exempt the property in either subparagraph (1), or in the alternative, subparagraph (2). If the parties cannot agree on the alternative to be elected, they shall be deemed to elect subparagraph (1), where such election is permitted under the law of the jurisdiction where the case is filed. Such property is—".

(2) Subsection 522(m) of title 11, United States Code, is amended to read as follows:

"(m) Subject to the limitation in subsection (b), this section shall apply separately with respect to each debtor in a joint case.".

(3) Subsection 522(d)(3) of title 11, United States Code, is amended by adding "or $4,000 in aggregate value" after "item".

(4) Subsection 522(d)(5) of title 11, United States Code, is amended to read as follows:

"(5) The debtor's aggregate interest, not to exceed in value $400 plus any unused amount of the exemption provided under paragraph (1) of this subsection, not to exceed $2,000, in any property.

(b) Section 522(f) of title 11, United States Code, is amended by—

(1) striking subparagraph (A) in paragraph (2) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(2) inserting after "debtor" the second time it appears in subparagraph (A) as redesignated herein, the following: "up to an aggregate value of $1,000".

Sec. 209. (a) Section 523(a) of title 11, United States Code, is amended in paragraph (3) by striking out "section 521(1)" and inserting in lieu thereof "section 521(a)(1)".

(b) Section 523 of title 11, United States Code, shall be further amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) For purposes of subsection (a)(2) of this section, any debt which was incurred on or within forty days before the date of the filing of a petition under this title is presumed to be nondischargeable under such subsection; however, such presumption shall not apply to the extent such debts were incurred for expenses which were reasonably necessary for the support of the debtor or the debtor's dependents, and shall be rebuttable by the debtor.".

"(e) If a creditor requests a determination of dischargeability of a consumer debt under subsection (a)(2) of this section, and such debt is discharged, the court shall grant judgment in favor of the debtor for the costs of, and a reasonable attorney's fee for, the proceeding if the court finds that the position of the creditor was not substantially justified, except that the court shall not award such costs and fees if special circumstances would make the award unjust.".

Sec. 210. (a) Section 524(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking out "and" at the end thereof,

(2) in paragraph (3) by striking out the period and inserting in lieu thereof "; and", and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) does not operate as an injunction against the enforcement of a lien that has not been avoided under the provisions of this title.".

(b) Section 524(c) of title 11, United States Code, is amended—

(1) in paragraph (1) by inserting "and" at the end thereof, and

(2) by striking out paragraphs (2), (3), and (4), and inserting in lieu thereof the following new paragraph:

"(2)(A) such agreement contains a clear and conspicuous statement which advises the debtor that the agreement may be rescinded at any time prior to discharge or within sixty days after it is filed with the court, whichever occurs later, by giving a written notice of rescission to the creditor. Any reaffirmation agreement so filed with the court shall be reviewed by the court and shall be effective from the date of filing in all cases where the debtor is represented by counsel, or the date on which the court approves such agreement in the case of a debtor appearing pro se, and such agreement shall be binding according to its terms from and after such date unless the court, in the exercise of its equitable powers, and after notice and hearing, orders otherwise within sixty days after the filing of the agreement. Any payments made by the debtor prior to the expiration of sixty days after the date of the filing of the agreement shall be held by the creditor in trust for the benefit of the debtor in the event of any subsequent rescission or disallowance of the agreement effected in accordance with this section, except where the debtor has had possession and use of the collateral during the pendency of the agreement.

"(B) Subparagraph (A) of this paragraph shall not apply to a case concerning an individual, to the extent that such debt is a consumer debt secured by real property.".

(c) Section 524(d) of title 11, United States Code, is amended to read as follows:

"(d) At the meeting of creditors provided for under section 341(c) of this title, the court shall inform the debtor of the nature and effect of a discharge, and of any reaffirmation of the debt, including that any reaffirmation agreement entered into in accordance with the provisions of subsection (c) is voluntary on the part of the debtor and the legal effect and consequences of a default under such agreement.".

Sec. 211. (a) Section 547(b) of title 11, United States Code, is amended—

(1) in paragraph (4) by amending subparagraph (B) to read as follows:

"(B) between ninety days and one year before the date of the filing of the petition, if such creditor at the time of such transfer was an insider;",

(2) in paragraph (4) by striking out "and" at the end thereof; and

(3) in paragraph (5) by striking out the period at the end of the paragraph and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(6) if such creditor at the time of such transfer had reasonable cause to believe the debtor was insolvent at the time of such transfer.".

(b) Section 547 of title 11 of the United States Code is amended in subsection (c) thereof by striking subparagraph (2)(B) of such subsection, and by redesignating subparagraphs (2)(C) and (2)(D) thereof as (2)(B) and (2)(C) respectively.

Sec. 212. Section 554(c) of title 11, United States Code, is amended by striking out "section 521(1)" and inserting in lieu thereof "section 521(a)(1)".

Sec. 212A. Section 706 of title 11, United States Code, is amended by adding at the end thereof the following:

"(e) Notwithstanding subsection (a) of this section, the right to convert secured by this section shall exist in any case converted to this chapter pursuant to section 521(a)(3) of this title.".

Sec. 213. Section 722 of title 11, United States Code, is amended by—

(1) inserting "(a)" before "An", and

(2) adding at the end thereof the following new subsections:

"(b) Upon notice and hearing, the court may require a creditor to accept payments in redemption of the value of a claim secured by a nonpossessory, nonpurchase money security interest in property of a type specified in subsection (a) of this section, over a reasonable period not to exceed five years, if such tangible personal property consists of—

"(1) household furnishings, household goods, wearing apparel, appliances, books, animals, crops, musical instruments, or jewelry that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor; or

"(2) implements, professional books, or tools of the trade of the debtor or of the trade of a dependent of the debtor which have a value in excess of $1,000.

"(c) Upon notice and hearing, the court may avoid any lien, in whole or in part, of the type specified in subsection (b) if the court finds: (1) that the debtor has no reasonable ability to pay the redemption value of such property; and (2) the enforcement of such lien would impose undue hardship on the debtor.".

Sec. 214. (a) Section 1103(b) is amended—

(1) inserting "having an adverse interest" after "entity"; and

(2) adding at the end thereof the following: "Representation of one or more creditors of the same class as represented by the committee shall not per se constitute the representation of an adverse interest.".

Sec. 215. Section 1106(a)(2) of title 11, United States Code, is amended by striking out "section 521(1)" and inserting in lieu thereof "section 521(a)(1)".

Sec. 216. Section 1111(a) of title 11, United States Code, is amended by striking out "section 521(1)" and inserting in lieu thereof "section 521(a)(1)".

Sec. 217. Section 1301 of title 11, United States Code, is amended by inserting after subsection (c) the following new subsection:

"(d) A creditor who proposes to act pursuant to subsection (c) shall notify the debtor and codebtor of such intention. The debtor or codebtor shall then have ten days to file and serve a written objection to the taking of the proposed action. If the debtor or codebtor does not file and serve a timely written objection, then the creditor's action taken in accordance with the notice shall not violate this section.".

Sec. 217A. Section 1307(b) of title 11, United States Code, is amended by adding after the first sentence the following: "This right to dismiss shall exist in a case converted pursuant to section 521(a)(3) of this title.".

Sec. 218. Section 1321 of title 11, United States Code, is amended by—

(1) inserting "(a)" before "The debtor", and

(2) adding at the end thereof the following new subsection:

"(b) Unless otherwise ordered by the court, the case will be automatically dismissed unless payments under the plan commence within thirty days after the filing of the plan. The payments shall be made to the trustee, and shall be retained by the trustee until a plan is confirmed or not confirmed. If any plan is confirmed, the trustee shall then distribute the funds in accordance with the plan. If no plan is confirmed, the funds shall be returned to the debtor after deducting the costs of administration.

Sec. 219. (a) Section 1322(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking out "and" at the end thereof,

(2) by redesignating paragraph (3) as paragraph (4), and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) provide for payment, in deferred cash payments, of claims of a type specified in section 523(a) of this title; and".

(b) Section 1322(b) of title 11, United States Code, is amended by amending paragraph (1) thereof to read as follows:

"(1) designate a class or classes of unsecured claims, as provided in section 1122 of this title, but may not discriminate unfairly against any class so designated; however, such plan may treat claims which are specified in section 523(a) or involve a codebtor differently than other unsecured claims;".

(c) Section 1322(c) is amended to read as follows:

"(c) The plan may not provide for payments over a period of more than five years.".

Sec. 220. Section 1325(a) of title 11, United States Code, is amended—

(a) in paragraph (3) by inserting ", and the plan represents a bona fide effort which is consistent with the debtor's ability to repay his debts, after providing support for himself and his dependents," before the semicolon,

(b) in paragraph (C) of paragraph thereof by striking out "and",

(c) by redesignating paragraph (6) as paragraph (7), and

(d) by inserting after paragraph the following new paragraph:

"(6) the plan extends for a period of five years or the plan provides for payment of a reasonable portion of all allowed unsecured claims; and".

Sec. 221. Section 1328(a)(2) of title 11, United States Code, is amended to read as follows:

"(2) of a kind specified in section 523(a) of this title.".

Subtitle B—Agricultural Produce Bailment Amendments

Sec. 231. This subtitle may be cited as the "Agricultural Produce Bailment Bankruptcy Amendments Act of 1983".

Sec. 232. Section 109 of title 11, United States Code, is amended in subsection (e), by inserting after "commodity broker," the following: "or a person engaged in the business of operating a farm produce storage facility (with respect to the debts of that business),".

Sec. 233. Section 501 of title 11, United States Code, is amended by inserting at the end thereof the following new subsection:

"(e) A valid receipt for the storage of grain (as defined in section 557 of this title), issued by a grain storage facility (as defined in section 557 of this title) as evidence of ownership of grain stored in such facility shall be considered sufficient proof of claim of a right to receive grain, or the proceeds of grain, equal in value to the quantity, quality, and type of grain specified in such receipt. If a claimant surrenders such receipt to another person for the purpose of securing a loan, without assigning to such person any ownership interest in such receipt, then an affidavit made by such person verifying the ownership of such receipt shall be considered prima facie proof of such claim.".

Sec. 234. Section 503(b)(1)(B) of title 11, United States Code, is amended by striking out "507(a)(6)" and inserting in lieu thereof "507(a)(7)".

Sec. 235. Section 507(a) of title 11, United States Code, is amended—

(1) by adding after paragraph (4) the following:

"(5) Fifth, allowed unsecured claims of farmers or other persons engaged in farming operations or the catching of fish arising from the sale or conversion of farm produce or fish to or by a debtor engaged in the business of operating a farm produce storage facility or United States fish processing facility where such sale or conversion occurred within one hundred and eighty days before the date of the filing of the petition or before the cessation of the debtor's business, whichever was earlier, but only to the extent of $2,000 for each such individual.";

(2) by striking out " Fifth" and inserting in lieu thereof "(6) Sixth"; and

(3) by striking out "(6) Sixth" and inserting in lieu thereof "(7) Seventh".

Sec. 236. Section 546 of title 11, United States Code, is amended—

(a) In the first sentence of subsection (c) thereof, by striking out "The" and inserting in lieu thereof "Except as provided in subsection (e) of this section, the"; and

(b) By adding at the end thereof the following new subsection:

"(e) In the case of a seller who is a producer of grain sold to a grain storage facility, owned or operated by the debtor, in the ordinary course of such seller's business (as such terms are defined in section 557 of this title) or in the case of a United States fisherman who has caught fish sold to a fish processing facility owned or operated by the debtor in the ordinary course of such sellers business (as such terms are defined in section 557 of this title), the rights and powers of the trustee under sections 544(a), 545, 547, and 549 of this title are subject to any statutory or common law right of such seller to reclaim such goods if the debtor has received such goods while insolvent, but—

"(1) such producer may not reclaim any grain or fish unless such producer demands, in writing, reclamation of such grain or fish before twenty days after receipt thereof by the debtor; and

"(2) the court may deny reclamation to such a producer with a right of reclamation that has made such a demand only if the court secures such claim by a lien.".

Sec. 237. (a) Chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new section:

"§ 557. Expedited determination of interests in, and abandonment or other disposition of grain assets

"(a) This section applies only in a case concerning a debtor that owns or operates a grain storage facility and only with respect to grain and the proceeds of grain. This section does not affect the application of any other section of this title to property other than grain and proceeds of grain.

"(b) For purposes of this section—

"(1) 'grain' means wheat, corn, grain sorghum, barley, oats, rye, soybeans, other dry edible beans, or rice;

"(2) 'grain storage facility' means a site or physical structure regularly used to store grain for producers, or to store grain acquired from producers for resale;

"(3) 'grain storage facility receipt' means any document of the type routinely issued by a debtor operating a grain storage facility for the purpose of establishing a record of ownership of a quantity of grain which is stored with such facility by an owner thereof upon a contract of bailment. Such term shall include a warehouse receipt or a scale ticket, provided identification of the owner of the produce represented thereby and the type, quantity, and quality of the produce represented thereby is clearly noted upon the face of such document; and

"(4) 'producer' means an entity which engages in the growing of grain.

"(c)(1) Notwithstanding sections 362, 363, 365, and 554 of this title, on the court's own motion the court may, and on the request of the trustee or an entity that claims an interest in grain or proceeds of grain the court shall, expedite the procedures for the determination of interests in and the abandonment or other disposition of grain and proceeds of grain, by shortening to the greatest extent feasible such time periods as are otherwise applicable for such procedures and by establishing, by order, a timetable for the completion of each applicable procedure specified in subsection (d) of this section. Such time periods and such timetable may be modified by the court for cause, but in no case may the final disposition of grain or the proceeds of grain under this section occur later than 120 days after the date the petition is filed, except in accordance with subsection (f) of this section.

"(2) The court shall shorten such periods, or establish such timetable, giving due consideration to the following factors—

"(A) any need of an entity claiming an interest in such grain or proceeds of grain for a prompt determination of such interest;

"(B) any need of such entity for a prompt disposition of such grain;

"(C) the market for such grain;

"(D) the conditions under which such grain is stored;

"(E) the costs of continued storage or disposition of such grain;

"(F) the orderly administration of the estate;

"(G) the appropriate opportunity for an entity to assert an interest in such grain; and

"(H) such other considerations as are relevant to the need to expedite such procedures in the case.

"(d) The procedures that may be expedited under subsection (c) of this section include—

"(1) the filing of and response to—

"(A) a claim of ownership;

"(B) a proof of claim;

"(C) a request for abandonment;

"(D) a request for relief from the stay of action against property under section 362(a) of this title;

"(E) a request for determination of secured status;

"(F) a request for determination of whether such grain or proceeds of grain—

"(i) is property of the estate;

"(ii) must be turned over to the estate; or

"(iii) may be used, sold, or leased; and

"(G) any other request for determination of an interest in such grain or proceeds of grain;

"(2) the disposition of such grain or proceeds of grain by way of—

"(A) sale of such grain;

"(B) abandonment;

"(C) distribution; or

"(D) such other method as is equitable in the case;

"(3) subject to sections 701, 702, 703, 1104, and 1302 of this title, the appointment of a trustee or examiner and the retention and compensation of any professional person required to assist with respect to matters relevant to the determination of interests in or disposition of such grain or proceeds of grain; and

"(4) the determination of any dispute concerning a matter specified in paragraph (1), (2), or (3) of this subsection.

"(e) Any claimant's production to the court of a valid grain storage facility receipt held by that claimant as evidence of ownership of a quantity of farm produce sold by the trustee shall be sufficient to establish a right to possession in such claimant of a share of the proceeds equal in value to the quantity, quality, and type of farm produce specified in such document. In any case where a claimant has placed the original of such document on deposit with any party as collateral for a loan, without assigning ownership interests in the farm produce over to such party, an affidavit from such party verifying ownership of such receipt by the claimant shall be sufficient to establish a prima facie claim of right to possession of proceeds in such claimant.

"(f)(1) Any governmental unit that has regulatory jurisdiction over the operation or liquidation of the debtor or the debtor's business shall be given notice of any request made or order entered under subsection (c) of this section.

"(2) Any such governmental unit may raise, and may appear and be heard on, any issue relating to grain or the proceeds of grain in a case in which a request is made, or an order is entered, under subsection (c) of this section.

"(3) The trustee shall consult with such governmental unit before taking any action relating to the disposition of grain in the possession, custody, or control of the debtor or the estate.

"(g) The court may extend the period for final disposition of grain, or the proceeds of grain, under this section beyond one hundred and twenty days where the court finds that—

"(1) the interests of justice so require in light of the complexity of the case; and

"(2) the interests of those claimants entitled to distribution of grain assets or the proceeds of grain assets will not be materially injured by such additional delay.

"(h) In all cases where the quantity of a specific type of grain held by a debtor operating a grain storage facility exceeds ten thousand bushels, such grain shall be sold by the trustee and the assets thereof distributed in accordance with the provisions of this section.

"(i)(1) Unless an order establishing an expedited procedure under subsection (c) of this section, or determining any interest in or approving any disposition of grain or proceeds of grain, is stayed pending appeal—

"(A) the reversal or modification of such order on appeal does not affect the validity of any procedure, determination, or disposition that occurs before such reversal or modification, whether or not any entity knew of the pendency of the appeal; and

"(B) neither the court nor the trustee may delay, due to the appeal of such order, any proceeding in the case in which such order is issued.

"(2) A stay of orders entered pursuant to this section may be entered by the bankruptcy court under the following circumstances:

"(A) the party filing the request for a stay, except the United States, shall post a bond or other security in an amount equal to the value of grain assets or the proceeds of grain assets, distribution of which are affected by the requested stay; and the grain assets, if unliquidated, shall be liquidated by the trustee; and

"(B) the parties ultimately prevailing upon appeal shall be awarded their pro rata share of the proceeds of the liquidation, plus a sum equal to the difference in value between the awarded share and the highest intermediate value (between the date of the entry of the order of stay and the date of final order of distribution) of the produce sold which was owned by, or secured to, such parties, plus interest on the amount of any original award at the prevailing rate allowed by law upon judgments, with interest to accrue from the date of the entry of the order of stay. Interest payments and differential payments provided for herein shall be satisfied out of the bond posted by the party requesting the order of stay where that party is unsuccessful upon appeal of the distribution order, and shall be satisfied out of accrued interest on the proceeds held by the trustee in all other cases.

"(j) In effecting the distribution of grain or grain assets under this title in a case involving a grain storage facility, the court shall not diminish the total portion of grain or grain assets available for distribution to claimants who are determined to be owners of grain stored in the facility pursuant to contracts of bailment for the benefit of secured creditors of the debtor, or for the benefit of producers who have sold grain to the debtor.

"(k) In any action brought pursuant to chapter 11 of this title, the provisions of this section shall govern the abandonment of farm produce held by the trustee or debtor in possession of a farm produce storage facility business for which reorganization is sought, where such farm produce is not property of the debtor's estate, but is held by the debtor upon a contract of bailment only. The abandonment of any quantity of such produce shall take place upon the request of the owner thereof, and shall be done regardless of its effect upon any existing or proposed plan of reorganization.

"(l)(1) The trustee may recover from grain and proceeds of grain the reasonable and necessary costs and expenses allowable under section 503(b) of this title attributable to preserving or disposing of grain or proceeds of grain, but may not recover from such grain or proceeds of grain any other costs or expenses.

"(2) Notwithstanding section 326(a) of this title, the dollar amounts of money specified in such section include the value, as of the date of disposition, of any grain that the trustee distributes in kind.".

(b) The table of sections of chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new item:

"557. Expedited determination of interests in, and abandonment or other disposition of grain assets.".

Sec. 238. Section 1123(a)(1) of title 11, United States Code, is amended by striking out "or 507(a)(6)" and inserting in lieu thereof "507(a)(5) or 507(a)(7)".

Sec. 239. Section 1129(a)(9)(B) of title 11, United States Code, is amended by striking out "or 507(a)(5)" and inserting in lieu thereof "507(a)(5), or 507(a)(6)".

Sec. 240. Section 1129(a)(9)(C) of title 11, United States Code, is amended by striking out "507(a)(6)" and inserting in lieu thereof "507(a)(7)".

Subtitle C—Leasehold Management Amendments

Sec. 251. This title may be cited as the "Leasehold Management Bankruptcy Amendments Act of 1983".

Sec. 252. (a) Section 365 of title 11, United States Code, is amended by amending subsections (a), (b), (c), and (d) to read as follows:

"(a) Except as provided in sections 765 and 766 of this title and in subsections (b), (c), and (d) of this section, the trustee, subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor. The trustee shall timely perform all the obligations of the tenant arising from and after the date of the order for relief, under an unexpired nonresidential lease (including payment of the rent and other charges specified in such lease) until such nonresidential lease is assumed or rejected and notwithstanding the provisions of section 503 of this title. For cause shown, the court may extend the time for performance of any obligation of rent or other charges due upon an unexpired lease pursuant to the provisions of section 108(b) of this title. Acceptance of such performance shall not constitute a waiver or relinquishment of the lessor's rights under the lease or under this title.

"(b)(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee—

"(A) cures, or provides adequate assurance that the trustee will promptly cure, such default;

"(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

"(C) provides adequate assurance of future performance under such contract or lease.

"(2) Paragraph (1) of this subsection does not apply to a default that is a breach of a provision relating to—

"(A) the insolvency or financial condition of the debtor or the debtor's insider (excluding a credit guarantor of the debtor) at any time before the closing of the case;

"(B) the commencement of a case under this title; or

"(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement.

"(3) For the purposes of paragraph (1) of this subsection and paragraph (2)(B) of subsection (f), adequate assurance of future performance of a lease of real property in a shopping center includes adequate assurance—

"(A) of the source of rent and other consideration due under such lease, and in the case of an assignment, with an operating and financial performance, including guarantors, similar to that of the original tenant when the lease was executed;

"(B) that any percentage rent due under such lease will not decline substantially;

"(C) that assumption or assignment of such lease is subject to all the provisions thereof, including (but not limited to) provisions such as a radius, location, use, or exclusivity provision, and will not breach any such provision contained in any other lease, financing agreement, or master agreement relating to such shopping center; and

"(D) that assumption or assignment of such lease will not disrupt any tenant mix or balance in such shopping center.

"(4) Notwithstanding any other provision of this section, if there has been a default in an unexpired lease of the debtor, other than a default of a kind specified in paragraph (2) of this subsection, the trustee may not require a lessor to provide services or supplies incidental to such lease before assumption of such lease unless the lessor is compensated under the terms of such lease for any services and supplies provided under such lease before assumption of such lease.

"(c) The trustee may not assume or assign any executory contract or unexpired residential or nonresidential lease of the debtor, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties, if—

"(1)(A) applicable law excuses a party, other than the debtor, to such contract or lease from accepting performance from or rendering performance to an entity other than the debtor or the debtor in possession or an assignee of such contract or lease, by virtue of the terms of such contract or lease, whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties; and

"(B) such party does not consent to such assumption or assignment; or

"(2) such contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or to issue a security of the debtor; or

"(3) such nonresidential lease has been terminated under State law prior to the order for relief.

"(d)(1) In a case under chapter 7 of this title, if the trustee does not assume or reject an executory contract or unexpired residential lease of the debtor within sixty days after the order for relief, or within such additional time as the court, for cause, within such sixty-day period, fixes, then such contract or lease is deemed rejected.

"(2) In a case under chapter 9, 11, or 13 of this title, the trustee may assume or reject an executory contract or unexpired residential lease of the debtor at any time before the confirmation of a plan but the court, on the request of any party to such contract, may order the trustee to determine within a specified period of time whether to assume or reject such contract or lease.

"(3) In a case under any chapter of this title, if the trustee does not assume or reject an unexpired nonresidential lease of the debtor within sixty days after the date of the order for relief, or within such additional time as the court, for cause, within such sixty-day period, fixes, then such lease is deemed rejected, and in the case of a nonresidential lease of real property where the debtor is the lessee, the court shall order the premises to be vacated immediately.".

(b) Section 365 is further amended by adding at the end thereof the following new subsection:

"(l) If an unexpired lease is assigned pursuant to this section, the lessor of the property may require a deposit or other security for the performance of the obligations under the lease substantially the same as would have been required by the landlord upon the initial leasing to a similar tenant.".

Sec. 253. Section 541(b) of title 11, United States Code, is amended to read as follows:

"(b) Property of the estate does not include—

"(1) any power that the debtor may exercise solely for the benefit of an entity other than the debtor; and

"(2) the debtor's interest in property by virtue of a nonresidential lease which has expired by virtue of its own terms without regard to the bankruptcy proceedings. Notwithstanding the provisions of section 362(a) of this title, a lessor shall, without further order of the court, be entitled to enforce such lessor's rights to possession of property under a nonresidential lease which has expired by virtue of its own terms.".

Subtitle D—Amendments to Title 11, Section 523 Relating to the Discharge of Debts Incurred by Persons Driving While Intoxicated

Sec. 261. Section 523(a) of title 11, United States Code, is amended by—

(1) striking out "or" at the end of paragraph (8); and

(2) by adding the following new paragraph after such paragraph:

"(9) to any entity, to the extent that such debt arises from a judgment or consent decree entered in a court of record against the debtor wherein liability was incurred by such debtor as a result of the debtor's operation of a motor vehicle while legally intoxicated under the laws or regulations of any jurisdiction within the United States or its territories wherein such motor vehicle was operated and within which such liability was incurred; or".

Subtitle E—Referees Salary and Expense Fund

Sec. 271. This title may be cited as the "Referees Salary and Expense Fund Act of 1983".

Sec. 272. Section 403(e) of the Act of November 6, 1978 (92 Stat. 2683; Public Law 95-598), is amended to read as follows:

"(e) Notwithstanding subsection (a) of this section—

"(1) a fee may not be charged under section 40c(2)(a) of the Bankruptcy Act in a case pending under such Act after September 30, 1979, to the extent that such fee exceeds $200,000;

"(2) a fee may not be charged under section 40c(2)(b) of the Bankruptcy Act in a case in which the plan is confirmed after September 30, 1978, or in which the final determination as to the amount of such fee is made after September 30, 1979, notwithstanding an earlier confirmation date, to the extent that such fee exceeds $100,000;

"(3) after September 30, 1979, all moneys collected for payment into the referees' salary and expense fund in cases filed under the Bankruptcy Act shall be collected and paid into the general fund of the Treasury; and

"(4) any balance in the referees' salary and expense fund in the Treasury on October 1, 1979, shall be transferred to the general fund of the Treasury and the referees' salary and expense fund account shall be closed.".

Subtitle F—Amendments Regarding Repurchase Agreements

Sec. 281. Section 101 of title 11, United States Code, is amended—

(a) by redesignating paragraphs (35), (36), (37), (38), (39), (40), and (41), as paragraphs (37), (38), (39), (40), (41), (42), and (43), respectively, and

(b) by inserting after paragraph (34) the following new paragraphs:

"(35) 'repo participant' means any entity that, on any day during the period beginning 90 days before the date of the filing of the petition, has or has had one or more outstanding repurchase agreements with the debtor with an aggregate repurchase price of $100,000 or more;

"(36) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement) means any agreement, including related terms, which provides for the transfer of certificates of deposit, eligible bankers' acceptances, or securities against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, or securities with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, or securities as described above, at a date certain within two years after such transfers or on demand, against the transfer of funds;".

Sec. 282. Section 362(b) of title 11, United States Code, is amended—

(a) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively, and

(b) by inserting after paragraph (6) the following new paragraph:

"(7) under subsection (a) of this section, of the setoff by a repo participant, of any mutual debt and claim under or in connection with repurchase agreements that constitutes the setoff of a claim against the debtor for a margin payment, as defined in section 741(5) or 761(15) of this title, or settlement payment, as defined in section 741(8) of this title, arising out of repurchase agreements against cash, securities, or other property held by or due from such repo participant to margin, guarantee, secure or settle repurchase agreements;".

Sec. 283. Section 546 of title 11, United States Code, is amended by inserting after paragraph (e), as added by section 236, the following new paragraph:

"(f) Notwithstanding sections 544, 545, 547, 548(a)(2), and 548(b) of this title, the trustee may not avoid a transfer that is a margin payment, as defined in section 741(5) or 761(15) of this title, or settlement payment, as defined in section 741(8) of this title, made by or to a repo participant, in connection with a repurchase agreement and that is made before the commencement of the case, except under section 548(a)(1) of this title.".

Sec. 284. Section 548(d)(2) of title 11, United States Code, is amended by inserting after paragraph (B) the following new paragraph:

"(C) a repo participant that receives a margin payment, as defined in section 741(5) or 761(15) of this title, or settlement payment, as defined in section 741(8) of this title, in connection with a repurchase agreement, takes for value to the extent of such payment.".

Sec. 285. Section 553(b)(1) of title 11, United States Code, is amended by inserting ", 362(b)(7)," after "362(b)(6)".

Sec. 286. (a) Chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new section:

"§ 559 Contractual right to liquidate a repurchase agreement

"The exercise of a contractual right of a repo participant to cause the liquidation of a repurchase agreement because of a condition of the kind specified in section 365(e)(1) of this title shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by order of a court or administrative agency in any proceeding under this title, unless, where the debtor is a stockbroker or securities clearing agency, such order is authorized under the provisions of the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) or any statute administered by the Securities and Exchange Commission. In the event that a repo participant liquidates one or more repurchase agreements with a debtor and under the terms of one or more such agreements has agreed to deliver assets subject to repurchase agreements to the debtor, any excess of the market prices received on liquidation of such assets (or if any such assets are not disposed of on the date of liquidation of such repurchase agreements, at the prices available at the time of liquidation of such repurchase agreements from a generally recognized source or the most recent closing bid quotation from such a source) over the sum of the stated repurchase prices and all expenses in connection with the liquidation of such repurchase agreements shall be deemed property of the estate, subject to the available rights of setoff. As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw, applicable to each party to the repurchase agreement, of a national securities exchange, a national securities association, or a securities clearing agency, and a right, whether or not evidenced in writing, arising under common law, under law merchant or by reason of normal business practice.".

(b) The analysis of sections for chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following new item:

"559. Contractual right to liquidate a repurchase agreement.".

Sec. 287. The amendments made by this subtitle shall become effective upon the date of enactment: *Provided*, That they shall apply only to cases commenced on or after the date of enactment.

Subtitle G—Amendments to Title 11, Section 365 of the United States Code To Provide Adequate Protection for Timeshare Consumers

Sec. *291. Title 11, United States Code, section 101 is hereby amended by—*

(1) redesignating paragraph (43), as redesignated by section 281, as paragraph (44); and

(2) adding the following paragraph after paragraph (42), as redesignated in section 281:

"(43) 'timeshare plan' means and shall include that interest purchased in any arrangement, plan, scheme, or similar device, but not including exchange programs, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right to use agreement, or by any other means, whereby a purchaser, in exchange for consideration, receives a right to use accommodations, facilities, or recreational sites, whether improved or unimproved, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than three years. A 'timeshare interest' is that interest purchased in a timeshare plan which grants the purchaser the right to use and occupy accommodations, facilities, or recreational sites, whether improved or unimproved, pursuant to a timeshare plan.".

Sec. 292. Section 365(h)(1) of title 11, United States Code, is amended to read as follows:

"(h)(1) If the trustee rejects an unexpired lease of real property of the debtor under which the debtor is the lessor, or a timeshare interest under a timeshare plan under which the debtor is the timeshare interest seller, the lessee or timeshare interest purchaser under such lease or timeshare plan may treat such lease or timeshare plan as terminated by such rejection, where the disaffirmance by the trustee amounts to such a breach as would entitle the lessee or timeshare interest purchaser to treat such lease as terminated by virtue of its own terms, applicable nonbankruptcy law, or other agreements the lessee or timeshare interest purchaser has made with other parties; or, in the alternative, the lessee or timeshare interest purchaser may remain in possession of the leasehold or timeshare interest under any lease or timeshare plan the term of which has commenced for the balance of such term and for any renewal or extension of such term that is enforceable by such lessee or timeshare interest purchaser under applicable nonbankruptcy law.".

Sec. 293. Section 365(h)(2) of title 11, United States Code, is amended to read as follows:

"(2) If such lessee or timeshare interest purchaser remains in possession as provided in paragraph (1) of this subsection, such lessee or timeshare interest purchaser may offset against the rent reserved under such lease or moneys due for such timeshare interest for the balance of the term after the date of the rejection of such lease or timeshare interest, and any such renewal or extension thereof, any damages occurring after such date caused by the nonperformance of any obligation of the debtor under such lease or timeshare plan after such date, but such lessee or timeshare interest purchaser does not have any rights against the estate on account of any damages arising after such date from such rejection, other than such offset.".

Sec. 294. Section 365(i)(1) of title 11, United States Code, is amended to read as follows:

"(i)(1) If the trustee rejects an executory contract of the debtor for the sale of real property or for the sale of a timeshare interest under a timeshare plan, under which the purchaser is in possession, such purchaser may treat such contract as terminated, or, in the alternative, may remain in possession of such real property or timeshare interest.".

Subtitle H—Bankruptcy Oversight

Sec. 301. The Director of the Administrative Office of the United States Courts shall compile statistics in a manner to be prescribed by such Director, which shall show—

(1) the assets and liabilities of debtors in bankruptcy, including the estimated income and expenses of individuals filing for relief under the provisions of title 11, as such information may be available to the court from the petitions filed by such debtors;

(2) a summary of the amount of debt discharged in cases under each chapter of title 11, and the total amount of disbursements to creditors by the bankruptcy courts in such cases; and

(3) the average amount of time elapsed between the filing of the case and payments to creditors in cases under each chapter of title 11.

Such statistics shall be compiled for each judicial district on an annual basis.

Subtitle I—Technical Amendments to Title 11

Sec. 311. (a) Section 101(2)(D) of title 11 of the United States Code is amended by striking out "or all" after "business".

(b) Section 101(8)(B) of title 11 of the United States Code is amended by striking out the colon at the end thereof and inserting in lieu thereof a semicolon.

(c) Section 101(9)(B) of title 11 of the United States Code is amended by—

(1) inserting "348(d)," after "section"; and

(2) striking out "502(h) or 502(i)" and inserting in lieu thereof "or 502(h)".

(d) Section 101(14) of title 11 of the United States Code is amended by inserting "or" after "trust,".

(e) Section 101(24) of title 11 of the United States Code is amended by striking out "stock broker" and inserting in lieu thereof "stockbroker".

(f) Section 101(26)(B)(ii) of title 11 of the United States Code is amended by striking out "separate" each place it appears and inserting in lieu thereof "nonpartnership".

(g) Section 101(38)(B)(vi) of title 11 of the United States Code, as redesignated by section 281 of this Act, is amended by—

(1) striking out "certificate specified in clause (xii) of subparagraph (A)" and inserting in lieu thereof "certificate of a kind specified in subparagraph (A)(xii)"; and

(2) striking out "the subject of such a registration statement" and inserting in lieu thereof "required to be the subject of a registration statement".

(h) Section 101(44) of title 11 of the United States Code, as so redesignated, is amended by striking out the period and inserting in lieu thereof "; and".

(i) Section 101 of title 11 of the United States Code is amended by adding at the end thereof the following new paragraph to be numbered accordingly:

"( ) 'United States', when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States.".

(j) Section 101 of title 11 of the United States Code is amended by inserting the following new paragraphs to be listed where appropriate alphabetically and the entire list numbered correctly:

"( ) 'State' includes the District of Columbia and Puerto Rico, except for the purpose of defining who may be a debtor under chapter 9 of this title;

"( ) 'forward contract' means a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity, or product or byproduct thereof, with a maturity date more than two days after the date the contract is entered into;

"( ) 'forward contract merchant' means a person whose business consists in whole or in part of entering into forward contracts as or with merchants in commodities; and

"( ) 'financial institution' means person that is a commercial or savings bank, industrial savings bank, savings and loan association, or trust company and, when any such person is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741(7) of this title, such customer.".

Sec. 312. Section 102 of title 11 of the United States Code is amended by striking out "continued" and inserting in lieu thereof "contained" in paragraph (8).

Sec. 313. Section 103(c) of title 11 of the United States Code is amended by striking out "stockholder" and inserting in lieu thereof "stockbroker".

Sec. 313-1. Section 106 of title 11, United States Code, is amended to read as follows:

"§ 106. Waiver of sovereign immunity

"(a) The filing of a proof of claim against the estate by a governmental unit is a waiver by that governmental unit of sovereign immunity with respect to claims arising out of the same transaction or occurrence out of which such governmental unit's filed claim arose.

"(b) Where a governmental unit files a proof of claim and where such claim is allowed, the estate may offset against such allowed claim or interest any claim against such governmental unit that is property of the estate.

"(c) A provision of this title that contains "creditor," "entity," or "governmental unit" applies to governmental units, and a determination by the court of an issue arising under such a provision binds governmental units without regard to sovereign immunity.

Sec. 314. (a) Subsections (a)(1), (b)(1), and (c)(1) of section 108 of title 11 of the United States Code are each amended by striking out "and" each place it appears and inserting in lieu thereof "or".

(b) Subsections (a), (b), and (c) of section 108 of title 11 of the United States Code are each amended by inserting "nonbankruptcy" after "applicable" and after "entered in a" each place such terms appear.

(c) Section 108(a) of title 11 of the United States Code is amended by inserting ", or any person to whose rights the trustee succeeds," after "debtor".

(d) Section 108 of title 11 of the United States Code is amended—

(1) in subsection (c) by inserting after "bankruptcy court" the following: "or for taking other collection action, including levy,".

(2) by adding after subsection (c) the following:

"(d) If applicable law or an agreement suspends the period of limitation for assessing a tax liability of the debtor as of the commencement of a case under this title, such suspension shall not expire before ninety days following the earlier of—

"(1) termination or expiration of the stay under section 362 of this title, or

"(2) the date, determined under sections 362(b)(9) and 505(c) of this title, after which assessment of such tax liability is permitted.

"(e) If applicable law fixes a period for filing a petition or otherwise commencing an action in the United States Tax Court, or in a similar judicial or administrative forum under State or local law, and if any such act is stayed under section 362 of this title, such period shall not expire before sixty days after termination or expiration of the stay with respect to any such petition or action.".

Sec. 315. (a) Section 109 of title 11 of the United States Code, is amended by striking out "in the United States," the first place it appears.

(b) Section 109(b)(2) is amended by—

(1) striking out "or" before "credit union"; and

(2) inserting ", industrial bank or similar institution which is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h))" after "credit union".

(c) Section 109(a)(4) is amended by striking out "or credit union" and inserting in lieu thereof "credit union, industrial bank, or similar institution which is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h))".

(d) Section 109(c)(5)(D) of title 11 of the United States Code is amended by striking out "preference" and inserting in lieu thereof "transfer that is avoidable under section 547 of this title".

(e) Section 109(d) of title 11 of the United States Code is amended by striking out "stockholder" and inserting in lieu thereof "stockbroker".

(f) Section 109 is amended by adding at the end thereof the following new subsection:

"(f) The court shall not permit any person to file for relief under this title who, within the previous six months, (1) has sought relief under this title in a proceeding which was dismissed by the court for willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case; or (2) has voluntarily dismissed a proceeding filed under this title following the filing of a request for relief from the automatic stay provided by section 362.".

Sec. 316. Section 303(b) of title 11 of the United States Code is amended by inserting "against a person" after "involuntary case".

Sec. 317. Section 303(j)(2) of title 11 of the United States Code is amended by striking out "debtors" and inserting in lieu thereof "debtor".

Sec. 318. Section 321(b) of title 11 of the United States Code is amended by striking out "a case" and inserting in lieu thereof "the case".

Sec. 319. Section 322(b)(1) of title 11 of the United States Code is amended by inserting "required to be" after "bond".

Sec. 320. (a) Section 326(a) of title 11 of the United States Code is amended by striking out all the language beginning with "three percent" through "$50,000" the second place the latter appears and inserting in lieu thereof "three percent on any amount in excess of $3,000,".

(b) Section 326(d) of title 11 of the United States Code is amended to read as follows:

"(d) The court may deny allowance of compensation for services or reimbursement of expenses of the trustee if the trustee failed to make diligent inquiry into facts that would permit denial of allowance under section 328(c) of this title or, with knowledge of such facts, employed a professional person under section 327 of this title.".

(c) Section 327(c) of title 11 of the United States Code is amended to read as follows:

"(c) In a case under chapter 7 or 11 of this title, a person is not disqualified for employment under this section solely because of such person's employment by or representation of a creditor, unless there is objection by another creditor, in which case the court shall disapprove such employment where there is an actual conflict of interest.".

Sec. 321. Section 328(a) of title 11 of the United States Code is amended by striking out "unanticipatable" and inserting in lieu thereof "not capable of being anticipated".

Sec. 322. (a) Section 329(a) of title 11 of the United States Code is amended by striking out "and" the first place it appears and inserting in lieu thereof "or".

(b) Section 329(b)(1) of title 11 of the United States Code is amended by striking out "trustee" and inserting in lieu thereof "estate".

Sec. 323. Section 330(a) of title 11 of the United States Code is amended—

(1) by striking out "to any parties in interest and to the United States trustee"; and

(2) in paragraph (1), by striking out "time, the nature, the extent, and the value of such services" and inserting in lieu thereof "nature, the extent, the value of such services, the time spent on such services".

Sec. 324. (a) Section 330(b) of title 11 of the United States Code is amended by striking out "$20" and inserting in lieu thereof "$45".

(b) Section 330 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(c) Unless the court orders otherwise, in a case under chapter 13 of this title the compensation paid to the trustee serving in the case shall not be less than $10 per month during the administration of the plan.".

Sec. 325. (a) Section 341(b) of title 11 of the United States Code is amended to read as follows:

"(b)(1) In a case under chapter 13 of this title, the court may order a meeting of creditors.

"(2) The court may order a meeting of any equity security holders.".

Sec. 326. Section 342 of title 11 of the United States Code is amended to read as follows:

"§ 342. Notice

"There shall be given such notice as is appropriate, including notice to any holder of a community claim, of an order for relief in a case under this title.".

Sec. 327. Section 343 of title 11 of the United States Code is amended by striking out "examiner" the last place it appears and inserting in lieu thereof "examine".

Sec. 328. Section 344 of title 11 of the United States Code is amended by inserting before the period "or in accordance with such regulations as may be promulgated by the Attorney General".

Sec. 329. Section 345 of title 11 of the United States Code is amended by adding at the end thereof a new subsection (c) as follows:

"(c) All entities with which such moneys are deposited or invested are authorized to deposit or invest such moneys as may be required under this section.".

Sec. 330. (a) Section 346(c)(2) of title 11 of the United States Code is amended by striking out "operation" and inserting in lieu thereof "corporation".

(b) Section 346(f) of title 11 of the United States Code is amended by striking out "State or local".

(c) Section 346(g)(2) of title 11 of the United States Code is amended by striking out "as adjusted under subsection (j)(5) of this section,".

(d) Section 346(j) of title 11 of the United States Code is amended by striking out paragraphs (3), (4), (5), (6), and (7).

Sec. 332. Section 348(b) of title 11 of the United States Code is amended by striking out "means" and inserting in lieu thereof "refers to".

Sec. 333. Section 349(b) of title 11 of the United States Code is amended—

(1) in paragraph (1)(B), by striking out "522(i)(2)" and inserting in lieu thereof "522(h)(2)"; and

(2) in paragraph (2), by striking out "522(i)(1)" and inserting in lieu thereof "522(h)(2)".

Sec. 334. Section 350(b) of title 11 of the United States Code is amended by striking out "a" and inserting in lieu thereof "A".

Sec. 335. Section 361(1) of title 11 of the United States Code is amended by inserting "a cash payment or" after "make".

Sec. 336. (a) Section 362(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "action or" after "other";

(2) in paragraph (3), by inserting "or to exercise control over property of the estate" after "estate" the second place it appears; and

(3) in paragraph (8) by striking out "court concerning the debtor" and inserting in lieu thereof "court or similar administrative or judicial forum under State or local law, concerning the debtor".

(b) Section 362(b) of title 11 of the United States Code is amended—

(1) in paragraph (3), by inserting "or to the extent that such act is accomplished within the period provided under section 547(e)(2) of this title" after "title";

(2) in paragraph (4) by striking out "or" following "police" and inserting in lieu thereof "and";

(3) in paragraph (6), by—

(A) inserting "(or due from)" after "held by";

(B) striking out "or secure commodity contracts" and inserting in lieu thereof "secure, or settle commodity contracts", and by inserting "financial institution" after "stock broker" each time it appears.

(4) in paragraph (7), by—

(A) striking out "said" and inserting in lieu thereof "the"; and

(B) striking out "or" the last place it appears;

(5) in paragraph (8), by striking out the period and inserting in lieu thereof a semicolon; and

(6) by adding after paragraph (8) the following new paragraphs:

"(9) under subsection (a) of this section, of the filing of any continuation statement or the refiling of any notice of a Federal tax lien required by nonbankruptcy law properly filed under such law before the date of the filing of the petition; or

"(10) under subsection (a) of this section, of the presentment of a negotiable instrument and the giving of notice of and protesting dishonor of such an instrument.".

(c) Section 362(c)(2)(B) of title 11 of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

(d) Section 362(d)(2) of title 11 of the United States Code is amended—

(1) by inserting "under subsection (a) of this section" after "property" the first place it appears; and

(2) in subparagraph (B), by inserting "in a case under chapter 11 of this title or to an effective plan in a case under chapter 13 of this title, as the case may be" after "reorganization".

(e) Section 362(e) of title 11 of the United States Code is amended—

(1) in the first sentence by inserting "the conclusion of" after "pending"; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "The court shall order such stay continued in effect pending the conclusion of the final hearing under subsection (d) of this section if there is a reasonable likelihood that the party opposing relief from such stay will prevail at the conclusion of such final hearing. If the hearing under this subsection is a preliminary hearing, then such final hearing shall be commenced not later than thirty days after the conclusion of such preliminary hearing.".

(f) Section 362(f) of title 11 of the United States Code is amended by—

(1) striking out "The" and inserting in lieu thereof "Upon request of a party in interest, the"; and

(2) inserting "with or" after "court,".

Sec. 337. (a) Section 363(a) of title 11 of the United States Code is amended by—

(1) inserting "whenever acquired" after "equivalents"; and

(2) inserting "and includes the proceeds, products, offspring, rents, or profits of property subject to a security interest as provided in section 552(b) of this title whether existing before or after the commencement of a case under this title" after "interest".

(b) Section 363(b) of title 11 of the United States Code is amended by—

(1) striking out "(b)" and inserting in lieu thereof "(b)(1)"; and

(2) adding at the end thereof the following new paragraph:

"(2) If notification is required under subsection (a) of section 7A of the Clayton Act (15 U.S.C. 18a) in the case of a transaction under this subsection, then—

"(A) notwithstanding subsection (a) of such section, such notification shall be given by the trustee; and

"(B) notwithstanding subsection (b) of such section, the required waiting period shall end on the tenth day after the date of the receipt of such notification, unless the court, after notice and hearing, orders otherwise.".

(c) Section 363(e) of title 11 of the United States Code is amended by—

(1) inserting ", with or without a hearing," after "court"; and

(2) striking out the last sentence.

(d) Section 363(f)(3) of title 11 of the United States Code is amended by striking out "such interest" the second place it appears and inserting in lieu thereof "all liens on such property".

(e) Section 363(h) of title 11 of the United States Code is amended by striking out "immediately before" and inserting in lieu thereof "at the time of".

(f) Section 363(j) of title 11 of the United States Code is amended by striking out "compenation" and inserting in lieu thereof "compensation".

(g) Section 363(k) of title 11 of the United States Code is amended by striking out "if the holder" and inserting in lieu thereof "the holder of such claim may bid at such sale, and, if such holder".

(h) Section 363(l) of title 11 of the United States Code is amended by—

(1) striking out "The trustee" and inserting in lieu thereof "Subject to the provisions of section 365, the trustee";

(2) striking out "conditions" and inserting in lieu thereof "condition";

(3) striking out "a taking" and inserting in lieu thereof "or the taking"; and

(4) striking out "interests" and inserting in lieu thereof "interest".

(i) Section 363(n) of title 11 of the United States Code is amended by—

(1) striking out "void" and inserting in lieu thereof "avoid";

(2) striking out "voiding" and inserting in lieu thereof "avoiding"; and

(3) amending the last sentence to read as follows: "In addition to any recovery under the preceding sentence, the court may grant judgment for punitive damages in favor of the estate and against any such party that entered into such an agreement in willful disregard of this subsection.".

(j) Section 363 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(o) In any hearing under this section—

"(1) the trustee has the burden of proof on the issue of adequate protection; and

"(2) the entity asserting an interest in property has the burden of proof on the issue of the validity, priority, or extent of such interest.".

Sec. 338. (a) Section 365(b)(2)(A) of title 11 of the United States Code is amended by inserting "or the debtor's insider" after "condition of the debtor".

(b) Section 365(e) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "or lease" each place it appears and inserting in lieu thereof ", lease, or applicable law"; and

(2) in paragraph (2), by striking out "the trustee" and inserting in lieu thereof "an entity other than the debtor or the debtor in possession".

(c) Section 365(f)(3) of title 11 of the United States Code is amended by inserting a comma after "applicable law".

(d) Section 365(h) of the United States Code is amended by adding at the end thereof the following new paragraph:

"(3) In the event that the lessee or timeshare interest holder shall elect to treat the lease under this subsection as terminated, any sublessee, leasehold mortgagee, or similarly situated entity may elect to succeed to the right of the lessee to remain in possession.".

(e) Section 365(i)(2)(A) of title 11 of the United States Code is amended by—

(1) striking out the comma after "may";

(2) inserting "under such contract" after "debtor"; and

(3) adding the following new paragraph:

"(3) in the event that the purchaser shall elect to treat such contract under this subsection as terminated, any holder of a security interest in such purchaser's interest may elect to succeed to the right of such purchaser to remain in possession as set forth in paragraph (1) of this subsection.".

(f) Section 365(j) of title 11 of the United States Code is amended by inserting "to or for the benefit of the debtor" before the period at the end thereof.

Sec. 339. Section 366(a) of title 11 of the United States Code is amended by inserting "of the commencement of a case under this title or" after "basis".

Sec. 340. Section 501(d) of title 11 of the United States Code is amended by inserting "502(e)(2)," before "502(f)".

Sec. 341. (a) Section 502(a) of title 11 of the United States Code is amended by inserting "general" before "partner".

(b) Section 502(b) of title 11 of the United States Code is amended—

(1) by inserting "(e)(2)," after "subsections";

(2) by inserting "in lawful currency of the United States" after "claim" the second place it appears;

(3) in paragraph (1), by striking out ", and unenforceable against" and inserting in lieu thereof "and";

(4) in paragraph (2), by inserting "other than unmatured interest due to an original issue discount of less than one-half of 1 percent of the stated redemption price at maturity multiplied by the number of full years from the date of original issue to maturity" after "interest";

(5) by striking out paragraph (3) and redesignating paragraphs (4), (5), (6), (7), (8), and (9) as paragraphs (3), (4), (5), (6), (7), and (8), respectively;

(6) in paragraph (3), as redesignated by paragraph (5), by inserting "the" after "exceeds";

(7) in paragraph (5), as redesignated by paragraph (5), by—

(A) striking out "the claim" and inserting in lieu thereof "such claim",

(B) striking out the comma after "petition", and

(C) inserting "or 523(a)(6)" after "523(a)(5)";

(8) by amending paragraph (6), as redesignated by paragraph (5), to read as follows:

"(6) if such claim is the claim of a lessor for damages resulting from the termination of a lease of real property, such claim exceeds—

"(A) the greater of—

"(i) the rent reserved for the rental year during which such termination occurs; or

"(ii) 15 percent of the rent reserved for the remaining term of such lease, not to exceed the rent reserved for the three years commencing with the rental year during which such termination occurs; plus

"(B) any unpaid rent due under such lease, without acceleration, on the earlier of—

"(i) the date of the filing of the petition; or

"(ii) the date on which such lessor repossessed, or the lessee surrendered, the leased property;"; and

(9) in paragraph (7), as redesignated by paragraph (5), by—

(A) inserting "the claim of an employee" before "for damages";

(B) striking out "and" in subparagraph (A)(i) and inserting in lieu thereof "or";

(C) striking out "the" the first place it appears in subparagraph (B) and inserting in lieu thereof "any"; and

(D) inserting a comma after "such contract" in subparagraph (B).

(c) Section 502(c) of title 11 of the United States Code is amended—

(1) in paragraph (1) by—

(A) inserting "the" before "fixing"; and

(B) striking out "closing" and inserting in lieu thereof "administration"; and

(2) in paragraph (2), by—

(A) inserting "right to payment arising from a" after "any"; and

(B) striking out "if such breach gives rise to a right to payment".

(d) Section 502(d) of title 11 of the United States Code is amended by—

(1) striking out "section 542, 543, 550, or 553 of";

(2) striking out "section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of"; and

(3) striking out "section 522(i), 542, 543, 550, or 553 of".

(e) Section 502(e)(1) of title 11, United States Code, is amended—

(1) by striking out "and (b)" and inserting in lieu thereof ", (b), and (c)"; and

(2) by striking out the commas before and after "or has secured";

(3) in subparagraph (B), by inserting "or disallowance" after "allowance"; and

(4) in subparagraph (C), by—

(A) striking out "requests subrogation" and inserting in lieu thereof "asserts a right of subrogation to the rights of such creditor"; and

(B) striking out "to the rights of such creditor".

(f) Section 502(h) of title 11 of the United States Code is amended by striking out "522(i)" and inserting in lieu thereof "522".

(g) Section 502(i) of title 11 of the United States Code is amended to read as follows:

"(i) There shall be allowed a claim for any tax liability arising from payment from the estate of a claim for wages, salaries, or commissions, including vacation, severance, or sick pay, whether or not a proof of such claim is filed.".

(h) Section 502(j) of title 11 of the United States Code is amended to read as follows:

"(j) A claim that has been allowed or disallowed may be reconsidered for cause. A reconsidered claim may be allowed or disallowed according to the equities of the case. Reconsideration of a claim under this subsection does not affect the validity of any payment or transfer from the estate made to a holder of an allowed claim on account of such allowed claim that is not reconsidered, but if a reconsidered claim is allowed and is of the same class as such holder's claim, such holder may not receive any additional payment or transfer from the estate on account of such holder's allowed claim until the holder of such reconsidered and allowed claim receives payment on account of such claim proportionate in value to that already received by such other holder. This subsection does not alter or modify the trustee's right to recover from a creditor any excess payment or transfer made to such creditor.".

Sec. 342. Section 503(b) of title 11 of the United States Code is amended—

(1) by striking out the comma after "be allowed";

(2) in paragraph (1)(B)(i), by inserting "or required to be collected or withheld from another with respect to any payment made by or to the estate" after "estate";

(3) in paragraph (1)(C), by—

(A) striking out the comma after "credit"; and

(B) inserting "incurred by the estate" after "paragraph";

(4) in paragraph (2), by inserting "(a)" after "330";

(5) in paragraph (3), by inserting a comma after "paragraph (4) of this subsection";

(6) in paragraph (3)(C), by striking out the comma after "case";

(7) in paragraph (5), by striking out "and" after the semicolon;

(8) in paragraph (6), by striking out the period and inserting in lieu thereof "; and"; and

(9) by adding at the end thereof the following new paragraph:

"(7) the actual, necessary expenses, other than compensation and reimbursement specified in paragraph (2) of this subsection, incurred by a committee appointed under section 1102 of this title.".

Sec. 343. Section 505(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by—

(A) inserting "or liability of an entity for" after "or legality of"; and

(B) striking out ", whether or not paid, and whether or not contested before and adjudicated by a judicial or administrative tribunal of competent jurisdiction" and inserting in lieu thereof "or paid";

(2) in paragraph (2)(A), by—

(A) inserting "or liability of the debtor for" after "or legality of"; and

(B) striking out "or legality" the second place it appears and inserting in lieu thereof ", legality, or liability";

(3) in paragraph (2)(B)(i), by striking out "and" and inserting in lieu thereof "or"; and

(4) by adding at the end thereof a new paragraph (3) to read as follows:

"(3) Notwithstanding subparagraph (B) of this paragraph, the court may offset against a claim for, or request for payment of, a tax liability any counterclaim with respect to such tax liability for the same taxable period, event, act (or failure to act) to which the claim or request for payment relates, and may, where appropriate, order a net credit or refund to be made to the estate. The preceding sentence shall not apply if, at the commencement of the case under this title, the debtor had filed suit for refund relating to such taxable period, event, act (or failure to act), and if the stay on continuation of such suit is terminated under section 362 of this title.".

Sec. 344. (a) Section 506(a)(1) of title 11 of the United States Code, as redesignated by section 206, is amended to read as follows:

"(a)(1) An allowed claim of a creditor either secured by a lien on property in which the estate has an interest or that is subject to setoff under section 553 of this title is a secured claim to the extent of the value of such lien or to the extent of the amount subject to setoff, as the case may be, and, except to the extent that such creditor does not have recourse under any agreement or applicable nonbankruptcy law against the debtor on account of such claim, is an unsecured claim to the extent that the value of such lien or the amount so subject to setoff is less than the amount of such allowed claim.".

(b) Section 506(b) of title 11 of the United States Code is amended by inserting "for" after "provided".

(c) Paragraphs (1) and (2) of section 506(d) of title 11 of the United States Code are amended to read as follows:

"(1) such claim was disallowed only under section 502(b)(5) or 502(e) of this title; or

"(2) such claim is not an allowed secured claim due only to the failure of any entity to file a proof of such claim under section 501 of this title.".

Sec. 345. (a) Section 507(a) of title 11 of the United States Code is amended—

(1) in paragraph (3), by inserting a comma after "severance";

(2) in paragraph (4), by striking out "employee benefit plans" and inserting in lieu thereof "an employee benefit plan";

(3) in paragraph (4)(B)(i), by inserting "each" after "covered by";

(4) in paragraph (7), as redesignated in section 235, by inserting "only" after "units,";

(5) in paragraph (7)(A), as redesignated herein, by amending clauses (ii) and (iii) to read as follows:

"(ii) assessed within two hundred forty days before the date of the filing of the petition; or

"(iii) not assessed before commencement of the case, unless at such time the liability remained assessable under the applicable statute of limitations, solely because of an act or failure to act described in section 523(a)(1)(B) or 523(a)(1)(C) of this title.".

(b) Section 507(b) of title 11 of the United States Code is amended to read as follows:

"(b) Notwithstanding section 726(b) of this title, if the trustee provides, under section 362, 363, or 364 of this title, adequate protection of the interest of an entity other than the estate that has an interest in property of the estate, or if the court finds that there is adequate protection of such interest, and if, notwithstanding such protection, the holder of an interest suffers a decrease in the value of such interest such holder shall have a claim allowable under subsection (a)(1) of this section, and such holder's allowable claim shall have priority over every other claim allowable under such subsection except similar claims under this subsection.".

(c) Section 507(c) of title 11 of the United States Code is amended by striking out "shall be treated the same" and inserting in lieu thereof "has the same priority".

(d) Section 507(d) of title 11 of the United States Code is amended to read as follows:

"(d)(1) If a claim of a kind specified in paragraph (3), (4), (5), (6), or (7) of subsection (a) of this section is held by an entity other than the original holder of such claim, then such claim is entitled to priority under each such subsection, as the case may be, but only to the extent of the value actually transferred to or for the benefit of such original holder on account of the transfer of such claim by such original holder.

"(2) An entity which is a creditor because—

"(A) a consumer used a credit card as defined in section 103(k) of the Trust in Lending Act (15 U.S.C. 1602(k)), for a transaction within subsection (a)(5) involving property or services which were not delivered prior to the petition;

"(B) the debtor was advanced funds prior to the petition based on its presentation of charge slips, vouchers, or similar documents arising from said transaction; and

"(C) the person advancing the funds is unable to collect the funds from the consumer because such property or services were not delivered or provided, shall be subrogated to the consumer's claim under subsection (a)(5).".

Sec. 346. (a) Section 509(a) of title 11 of the United States Code is amended by—

(1) striking out "subsections (b) and" and inserting in lieu thereof "subsection (b) or"; and

(2) inserting "against the debtor" after "a creditor".

(b) Section 509(b)(1) of title 11 of the United States Code is amended by striking out "of a" and inserting in lieu thereof "of such".

(c) Section 509(c) of title 11 of the United States Code is amended by striking out "section 509 of this title" and inserting in lieu thereof "this section".

Sec. 347. Section 510(b) of title 11 of the United States Code is amended to read as follows:

"(b) For the purpose of distribution under this title, a claim arising from rescission of a purchase or sale of a security of the debtor or of an affiliate of the debtor or for damages arising from the purchase or sale of such a security shall be subordinated to all claims or interests that are senior to the claim or interest represented by such security.".

Sec. 348. (a) Section 521(a)(1) of title 11 of the United States Code, as redesignated herein, is amended to read as follows:

"(a)(1) file a list of creditors and, unless the court orders otherwise, a schedule of assets, liabilities, and equity interests, and a statement of the debtor's financial affairs;".

(b) Section 521(a)(5) of title 11 of the United States Code, *as redesignated in section 207*, is amended by inserting ", whether or not immunity is granted under section 344 of this title" after "estate" the second place it appears.

Sec. 349. (a) Section 522(a)(2) of title 11 of the United States Code is amended by inserting ", or with respect to property that becomes property of the estate after such date, as of the date such property becomes property of the estate" after "petition".

(b) Section 522(c) of title 11 of the United States Code is amended to read as follows:

"(c) Unless the case is dismissed, property exempted under this section is not liable during or after the case for any debt of the debtor that arose, or that is determined under section 502 of this title as if such debt had arisen, before the commencement of the case, except—

"(1) a debt of a kind specified in section 523(a)(1), 523(a)(5), or 523(a)(6) of this title; or

"(2) a debt secured by a lien that is—

"(A)(i) not avoided under subsection (f) or (g) of this section or under section 544, 545, 547, 548, 549, or 724(a) of this title; and

"(ii) not void under section 506(d) of this title; or

"(B) a tax lien, notice of which is properly filed, whether or not such lien is avoided under section 545(2) of this title.".

(c) Section 522(e) of title 11 of the United States Code is amended by—

(1) striking out "exemptions" and inserting in lieu thereof "an exemption";

(2) striking out "with respect to such claim against property that" and inserting in lieu thereof "to the extent of such claim with respect to property";

(3) striking out "or (h) of this section to avoid a transfer, under subsection (g)" and by inserting in lieu thereof ", (g), (h),"; and

(4) striking out "to exempt property, or under subsection (i) of this section to recover property or to preserve a transfer,".

(d) Section 522(g) of title 11 of the United States Code is amended to read as follows:

"(g) Notwithstanding any waiver of an exemption, the debtor may avoid a transfer or recover a setoff of property of the debtor and exempt such property under subsection (i) of this section, whether or not the trustee attempts to recover such property or avoid such transfer, if—

"(1)(A) such transfer is avoidable by the trustee under section 544, 545, 547, 548, 549, or 724(a) of this title, or recoverable by the trustee under section 553 of this title;

"(B) such transfer was not a voluntary transfer of such property by the debtor; and

"(C) the debtor did not conceal such property; or

"(2) such transfer is in satisfaction of a lien of a kind specified in subsection (f)(2) of this section.".

(e) Section 522(h) of title 11 of the United States Code is amended to read as follows:

"(h)(1) The debtor's power to avoid a transfer or recover a setoff under subsection (f) or (g) of this section is subject to the limitations of section 550 of this title to which the trustee's power to avoid such a transfer or recover such a setoff under this title is subject.

"(2) Notwithstanding section 551 of this title, a transfer avoided or property recovered by the trustee or by the debtor may be preserved for the benefit of the debtor, if—

"(A)(i) such property otherwise would be exempt under subsection (i) of this section;

"(ii) such transfer was not a voluntary transfer of such property by the debtor; and

"(iii) the debtor did not conceal such property; or

"(B) such transfer is of a kind specified in subsection (f) of this section.".

(f) Section 522(i) of title 11 of the United States Code is amended to read as follows:

"(i) The debtor may exempt under subsection (b) of this section property disencumbered or recovered under subsection (f), (g), or (h) of this section to the extent the debtor could have exempted such property under subsection (b) of this section had such property not been encumbered, transferred, or set off.".

(g) Section 522(j) of title 11 of the United States Code is amended to read as follows:

"(j) The debtor may exempt a particular kind of property under subsection (i) of this section only to the extent that such exemption, plus the debtor's already claimed exemption of the same kind of property under subsection (b) of this section, does not exceed the limitation specified for such kind of property in subsection (b) of this section.".

(h) Section 522(k) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "(g)" and inserting in lieu thereof "(i)"; and

(2) in paragraph (2), by—

(A) striking out "(h)" and inserting in lieu thereof "(g)"; and

(B) striking out "or of recovery of property under subsection (i)(1) of this section,".

(i) Section 522(l) of title 11 of the United States Code is amended by—

(1) striking out ", or may claim property as exempt from property of the estate"; and

(2) inserting after the second sentence thereof the following new sentence: "In the event of the debtor's death, a dependent of the debtor may claim property as exempt from property of the estate.".

(j) Section 522 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(n) For purposes of this section the State or local law applicable under subsection (b) of this section is the State or local law in effect upon the date of the filing of the petition.".

Sec. 350. (a) Section 523(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by—

(A) striking out "obtaining" each place it appears; and

(B) striking out "refinance of credit," and inserting in lieu thereof "refinancing of credit, to the extent obtained"; *and*

(2) in paragraph (3), by striking out "(6)" each place it appears and inserting in lieu thereof "(7)" and by striking out "521(1)" and inserting in lieu thereof "521(a)(1)".

(3) by striking out "of higher education" in paragraph, (8).

(b) Section 523(c) of title 11 of the United States Code is amended by inserting "of a kind" after "debt" the first time it appears by—

Sec. 351. Section 524(a) of title 11 of the United States Code is amended by striking out "any act" each place it appears and inserting in lieu thereof "an act".

Sec. 352. Section 525 of title 11 of the United States Code is amended by—

(1) inserting "the" before "Perishable";

(2) inserting "(a)" before "Except"; and

(3) adding a new subsection (b) as follows:

"(b) No private employer may terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under this title or a bankrupt or a debtor under the Bankruptcy Act, or any person with whom such bankrupt or debtor has been associated, solely because such bankrupt or debtor is or has been a debtor under this title or under the Bankruptcy Act, or has been insolvent before the commencement of a case under this title or during the case but before the grant or denial of a discharge; or, who has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.".

Sec. 353. (a) Section 541(a) of title 11 of the United States Code is amended—

(1) by striking out "under" the second time it appears;

(2) by inserting "and by whomever held" after "located";

(3) in paragraph (3), by inserting "329(b), 363(n)," after "section";

(4) in paragraph (5), by striking out "An" and inserting in lieu thereof "Any"; and

(5) in paragraph (6), by striking out "and" and inserting in lieu thereof "or".

(b) Section 541(c) of title 11 of the United States Code is amended—

(1) by inserting "in an agreement, transfer instrument, or applicable law" after "provision"; and

(2) in paragraph (1)(B), by—

(A) striking out "the taking" and inserting in lieu thereof "taking"; and

(B) inserting "before such commencement" after "custodian".

(c) Section 541(d) of title 11 of the United States Code is amended by inserting "(1)" after "(a)".

(d) Section 541(e) of title 11 of the United States Code is repealed.

Sec. 354. Section 542(e) of title 11 of the United States Code is amended by inserting "to turn over or" before "disclose".

Sec. 355. (a) Section 543(a) of title 11 of the United States Code is amended by inserting ", product, offspring, rents, or profits" after "proceeds".

(b) Section 543(b) of title 11 of the United States Code is amended—

(1) in paragraph (1), by—

(A) inserting "held by or" after "debtor"; and

(B) inserting ", product, offspring, rents, or profits" after "proceeds"; and

(2) in paragraph (2), by inserting ", product, offspring, rents, or profits" after "proceeds".

(c) Section 543(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "or proceeds, product, offspring, rents, or profits of such property" after "property"; and

(2) in paragraph (3), by inserting "that has been" before "approved".

(d) Section 543(d) of title 11 of the United States Code is amended to read as follows:

"(d) After notice and hearing, the bankruptcy court—

"(1) may excuse compliance with subsection (a), (b), or (c) of this section, if the interests of creditors, and, if the debtor is not insolvent, of equity security holders, would be better served by permitting a custodian to continue in possession, custody, or control of such property, and

"(2) shall excuse compliance with subsections (a) and (b)(1) of this section if the custodian is an assignee for the benefit of the debtor's creditors that was appointed or took possession more than 120 days before the date of the filing of the petition, unless compliance with such subsections is necessary to prevent fraud or injustice.".

Sec. 356. Section 544(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "such" after "obtained";

(2) in paragraph (2), by striking out "; and" and inserting in lieu thereof "; or"; and

(3) in paragraph (3), by—

(A) inserting ", other than fixtures," after "property"; and

(B) inserting "and has perfected such transfer" after "purchaser" the second place it appears.

Sec. 357. Section 545 of title 11 of the United States Code is amended—

(1) in paragraph (1)(A), by striking out "is" the first time it appears;

(2) in paragraph (1)(C), by striking out "apponted" and inserting in lieu thereof "appointed or authorized to take"; and

(3) in paragraph (2), by striking out "on the date of the filing of the petition" each place it appears and inserting in lieu thereof "at the time of the commencement of the case".

Sec. 358. (a) Section 546(a) of title 11 of the United States Code is amended in paragraph (1) by striking out "and" and inserting in lieu thereof "or".

(b) Section 546(b) of title 11 of the United States Code is amended by striking out "the trustee under section 544, 545, or" and inserting in lieu thereof "a trustee under sections 544, 545, and".

(c) Section 546(c) of title 11 of the United States Code is amended—

(1) by striking out "the trustee" and inserting in lieu thereof "a trustee";

(2) by striking out "right" the first place it appears;

(3) by inserting "of goods" after "seller" the first place it appears;

(4) by striking out "of goods" after "business," and inserting in lieu thereof "that has sold goods"; and

(5) in paragraph (2), by—

(A) inserting "the" after "if"; and

(B) striking out "an administrative expense" and inserting in lieu thereof "a claim of a kind specified in section 503(b) of this title".

(d) Section 546(d) of title 11 is amended by inserting "financial institution" after "stockbroker".

Sec. 359. (a) Section 547(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by inserting "including proceeds of such property," after "law,"; and

(2) in paragraph (4), by—

(A) striking out ", without penalty"; and

(B) inserting "without penalty" after "payable".

(b) Section 547(b) of title 11 of the United States Code is amended by striking out "of property of the debtor" and inserting in lieu thereof "of an interest of the debtor in property".

(c) Section 547(c) of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by inserting "by the debtor" after "incurred";

(2) in paragraph (3), by striking out "of" the first place it appears and inserting in lieu thereof "that creates";

(3) in paragraph (3)(B), by—

(A) inserting "on or" after "perfected"; and

(B) striking out "such security interest attaches" and inserting in lieu thereof "the debtor receives possession of such property";

(4) in paragraph (5), by—

(A) striking out "of" the first place it appears and inserting in lieu thereof "that creates"; and

(B) striking out "all security interest" and inserting in lieu thereof "all security interests";

(5) in paragraph (5)(A)(ii), by striking out "and" and inserting in lieu thereof "or";

(6) in 5(B) by striking out "or";

(7) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; or"; and

(8) by adding at the end thereof the following new paragraph:

"(7) to or for the benefit of a creditor to the extent such transfer was made to such creditor by a credit guarantor in payment of a debt evidenced by a note or bond issued by the debtor prior to the commencement of the case and in accordance with the terms of the debtor's credit guaranty agreement with the credit guarantor, and payment of which was supported from time of its issuance until such transfer by an irrevocable letter of credit, irrevocable commitment to lend funds, irrevocable note purchase agreement, or bond of indemnity issued by a credit guarantor in the ordinary course of its business.".

(d) Section 547(d) of title 11 of the United States Code is amended by—

(1) striking out "A" and inserting in lieu thereof "The";

(2) inserting "an interest in" after "transfer of";

(3) inserting "to or for the benefit of a surety" after "transferred"; and

(4) inserting "such" after "reimbursement of".

(e) Section 547(e) of title 11 of the United States Code is amended—

(1) by amending paragraph (1) to read as follows:

"(1) For the purposes of this section, a transfer of property is perfected when either a bona fide purchaser from the debtor of real property, other than fixtures, or a creditor on a simple contract, against whom applicable law permits such transfer to be perfected, cannot acquire an interest in such real property or a judicial lien on personal property that is superior to the interest of the transferee."; and

(2) in paragraph (2)(C)(i), by striking out "and" and inserting in lieu thereof "or".

(f) Section 547 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(g) For the purposes of this section, the trustee has the burden of proving the avoidability of a transfer under subsection (b) of this section, and the creditor or party in interest against whom recovery or avoidance is sought has the burden of proving the nonavoidability of a transfer under subsection (c) of this section.".

Sec. 360. (a) Section 548(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "occurred" and inserting in lieu thereof "was made"; and

(2) in paragraph (2)(B)(ii), by inserting "or a transaction" after "engaged in business".

(b) Section 548(b) of title 11 of the United States Code is amended by striking out "the debtor" each place it appears and inserting in lieu thereof "such debtor".

(c) Section 548(c) of title 11 of the United States Code is amended by—

(1) inserting "or may retain" after "lien on"; and

(2) striking out ", may retain any lien transferred,".

(d)(1) Section 548(d)(1) of title 11 of the United States Code is amended by—

(A) striking out "becomes so far" and inserting in lieu thereof "is so";

(B) striking out "such transfer could have been" and inserting in lieu thereof "applicable law permits such transfer to be"; and

(C) striking out "occurs" and inserting in lieu thereof "is made".

(2) Section 548(d)(2)(B) of title 11 is amended by inserting "financial institution" after "stockbroker".

Sec. 361. (a) Section 549(a) of title 11 of the United States Code is amended—

(1) by striking out "(b) and (c)" and inserting in lieu thereof "(b) or (c)"; and

(2) in paragraph (2)(A), by inserting "only" after "authorized".

(b) Section 549(b) of title 11 of the United States Code is amended by—

(1) inserting "the trustee may not avoid under subsection (a) of this section," after "involuntary case,";

(2) striking out "that occurs" and inserting in lieu thereof "made";

(3) striking out "is valid against the trustee to the extent of" and inserting in lieu thereof "to the extent"; and

(4) inserting "is" before "given".

(c) Section 549(c) of title 11 of the United States Code is amended to read as follows:

"(c) The trustee may not avoid under subsection (a) of this section a transfer of real property to a good faith purchaser without knowledge of the commencement of the case and for present fair equivalent value unless a copy or notice of the petition was filed, where a conveyance of such real property may be recorded to perfect such transfer, before such transfer is so perfected that a bona fide purchaser of such property, against whom applicable law permits such transfer to be perfected, could not acquire an interest that is superior to the interest of such good faith purchaser. A good faith purchaser without knowledge of the commencement of the case and for less than present fair equivalent value has a lien on the property transferred to the extent of any present value given, unless a copy or notice of the petition was so filed before such transfer was so perfected.".

(d) Section 549(d)(1) of title 11 of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

Sec. 362. (a) Section 550(a) of title 11 of the United States Code is amended—

(1) by inserting "363(n)," before "544";

(2) by inserting "553(b)," after "549,"; and

(3) in paragraph (2), by striking out "immediate or mediate transferee of" and inserting in lieu thereof "subsequent transferee of".

(b) Section 550(b)(2) of title 11 of the United States Code is amended by striking out "immediate or mediate" and inserting in lieu thereof "subsequent".

(c) Section 550(d) of title 11 of the United States Code is amended—

(1) in paragraph (1)(A), by inserting "or accruing to" after "by";

(2) in paragraph (1)(B), by striking out "value" and inserting in lieu thereof "the value such property";

(3) in paragraph (2), by striking out subparagraphs (D) and (E) and inserting in lieu thereof the following:

"(D) payment of any debt secured by a lien on such property that is superior or equal to the rights of the estate; and"; and

(4) in paragraph (2), by redesignating subparagraph (F) as subparagraph (E).

(d) Section 550(e)(1) of title 11 of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

Sec. 363. Section 551 of title 11 of the United States Code is amended by striking out "but only with respect to property of the estate".

Sec. 364. Section 552(b) of title 11 of the United States Code is amended by—

(1) inserting "522," after "506(c),";

(2) striking out "a secured party enter" and inserting in lieu thereof "an entity entered"; and

(3) striking out "except to the extent" and inserting in lieu thereof "except to any extent".

Sec. 365. Section 553(b)(1) of title 11 of the United States Code is amended by striking out "or 365(h)(1)" and inserting in lieu thereof ", 365(h)(2), or 365(i)(2)".

Sec. 366. (a) Subsections (a) and (b) of section 554 of title 11 of the United States Code are each amended by inserting "and benefit" after "value".

(b) Section 554(c) of title 11 of the United States Code is amended to read as follows:

"(c) Unless the court orders otherwise, any property scheduled under section 521(a)(1) of this title not otherwise administered at the time of the closing of a case is abandoned to the debtor and administered for purposes of section 350 of this title.".

(c) Section 554(d) of title 11 of the United States Code is amended by striking out "section (a) or (b) of".

Sec. 366A. Section 555 of title 11 is amended by inserting "financial institution" after "stockbroker".

Sec. 367. (a) Chapter 5 of title 11 of the United States Code is amended by adding at the end thereof the following new section:

"§ 558. Defenses of the estate

"The estate shall have the benefit of any defense available to the debtor as against any entity other than the estate, including statutes of limitation, statutes of frauds, usury, and other personal defenses. A waiver of any such defense by the debtor after the commencement of the case does not bind the estate.".

(b) The table of sections for chapter 5 of title 11 of the United States Code is amended by adding at the end thereof the following new item:

"558. Defenses of the estate.".

Sec. 368. The table of sections for chapter 7 of title 11 of the United States Code is amended by striking out "Succesor" in the item relating to section 703 and inserting in lieu thereof "Successor".

Sec. 369. (a) Section 702(b) of title 11 of the United States Code is amended by inserting "held" after "meeting of creditors".

(b) Section 702(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "of a kind" after "claims"; and

(2) in paragraph (2), by inserting "a" after "for".

(c) Section 702(d) of title 11 of the United States Code is amended by striking out "subsection (c) of".

Sec. 370. Section 703(b) of title 11 of the United States Code is amended by striking out "specified in section 701(a) of this title. Sections 701(b) and 701(c) of this title apply to such interim trustee" and inserting in lieu thereof "and subject to the provisions of section 701 of this title".

Sec. 371. Section 704 (a) of title 11 of the United States Code as amended by section 304 is amended—

(1) in paragraph (1), by striking out "up";

(2) in paragraph (7), by striking out "with the court and"; and

(3) by amending paragraph (8) to read as follows:

"(8) file interim reports, as circumstances justify, of the condition of the estate and make and file a final report and account of the administration of the estate with the court.".

Sec. 372. Paragraphs (1) and (2) of section 707 of title 11 of the United States Code are each amended by striking out "and" and inserting in lieu thereof "or".

Sec. 373. (a) Section 723(a) of title 11 of the United States Code is amended by striking out "title" and inserting in lieu thereof "chapter".

(b) Section 723(c) of title 11 of the United States Code is amended by—

(1) striking out "such case" each place it appears and inserting in lieu thereof "such partner's case";

(2) striking out "be property" and inserting in lieu thereof "by property";

(3) striking out "726(a)" and inserting in lieu thereof "726"; and

(4) striking out "the kind" and inserting in lieu thereof "a kind".

Sec. 374. (a) Section 724(b) of title 11 of the United States Code is amended—

(1) by striking out "and" the first place it appears and by striking out "taxes" and inserting in lieu thereof "a tax";

(2) in paragraph (1), by striking out "such tax lien" and inserting in lieu thereof "the lien securing such tax claim";

(3) in paragraph (2), by striking out "claims" and inserting in lieu thereof "any holder of a claim of a kind";

(4) in paragraph (3), by—

(A) inserting "tax" after "allowed"; and

(B) striking out "that is";

(5) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) fifth, to any holder of a claim of a kind specified in sections 507(a)(1), 507(a)(2), 507(a)(3), 507(a)(4), and 507(a)(5) of this title, to the extent that such claim is not paid under paragraph (2) of this subsection;";

(6) in paragraph (6), as redesignated by paragraph (5), by—

(A) striking out "fifth" and inserting in lieu thereof "sixth";

(B) inserting "tax" after "allowed"; and

(C) striking out "tax" after "such" the third place it appears; and

(7) in paragraph (7), as redesignated by paragraph (5), by striking out "sixth" and inserting in lieu thereof "seventh".

(b) Section 724(c) of title 11 of the United States Code is amended by—

(1) striking out "creditor" and inserting in lieu thereof "holder of a claim"; and

(2) striking out "creditors" each place it appears and inserting in lieu thereof "holders".

(c) Section 724(d) of title 11 of the United States Code is amended by—

(1) striking out "whose priority" and inserting in lieu thereof "the priority of which"; and

(2) inserting "if such lien were" after "the same as".

Sec. 375. Section 725 of title 11 of the United States Code is amended by inserting "of property of the estate" after "distribution".

Sec. 376. (a) Section 726(a) of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by—

(A) inserting ", 501(b), or 501(c)" after "501(a)"; and

(B) adding "or" after the semicolon;

(2) by striking out paragraph (2)(B) and redesignating paragraph (2)(C) as paragraph (2)(B);

(3) in paragraph (2)(B), as redesignated by paragraph (2), by inserting ", 501(b), or 501(c)" after "501(a)";

(4) in paragraph (3), by—

(A) inserting ", 501(b), or 501(c)" after "501(a)"; and

(B) striking out "(C)" and inserting in lieu thereof "(B)"; and

(5) in paragraph (5), by striking out "legal rate" and inserting in lieu thereof "contract rate where a contract exists, and if not, the legal rate".

(b) Section 726(b) of title 11 of the United States Code is amended by—

(1) striking out "a particular paragraph" and inserting in lieu thereof "each such particular paragraph"; and

(2) striking out "administrative expenses" each place it appears and inserting in lieu thereof "a claim allowed under section 503(b) of this title"; and

(3) striking out "have" and inserting in lieu thereof "has".

(c) Section 726(c) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "Administrative expenses" and inserting in lieu thereof "Claims allowed under section 503 of this title"; and

(2) in paragraph (2), by striking out "Claims other than for administrative expenses" and inserting in lieu thereof "Allowed claims, other than claims allowed under section 503 of this title,".

Sec. 377. (a) Section 727(a) of title 11 of the United States Code is amended—

(1) in paragraph (6)(C), by striking out "property" and inserting in lieu thereof "properly";

(2) in paragraph (7), by inserting ", under this title or under the Bankruptcy Act," after "another case"; and

(3) in paragraph (8), by inserting a comma after "371".

(b) Section 727(c)(1) of title 11 of the United States Code is amended by inserting "the granting of a" after "to".

(c) Section 727(e)(2)(A) of title 11 of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

Sec. 378. (a) Section 728(c) of title 11 of the United States Code is amended by striking out the comma after "taxable income".

(b) Section 728(d)(2) of title 11 of the United States Code is amended by inserting "otherwise" after "is", and by striking out "otherwise" after "partner".

Sec. 379. Section 741 of title 11 of the United States Code is amended—

(1) in paragraph (2)(A), by—

(A) striking out "the debtor" the first time it appears and inserting in lieu thereof "a person";

(B) striking out "holds" and inserting in lieu thereof "has";

(C) striking out "the debtor" the second and third time it appears and inserting in lieu thereof "such person"; and

(D) striking out "business as a stockbroker" and inserting in lieu thereof "such person's business as a stockbroker,";

(2) in paragraph (2)(B), by—

(A) striking out "holds" and inserting in lieu thereof "has";

(B) striking out "the debtor" the first place it appears and inserting in lieu thereof "a person"; and

(C) by striking out "the debtor" and inserting in lieu thereof "such person" in clause (ii);

(3) in paragraph (4)(A)(i), by striking out "and that is" and inserting in lieu thereof "from and that is the lawful";

(4) in paragraph (6)(A)(i), by—

(A) inserting a comma after "petition"; and

(B) inserting "any" after "except"; and

(5) in paragraph (7), by amending such paragraph to read as follows:

"(7) 'securities contract' means contract for the purchase, sale, or loan of a security, including an option for the purchase or sale of a security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any option entered into on a national securities exchange relating to foreign currencies, or the guarantee of any settlement of cash or securities by or to a securities clearing agency;"; and

(6) in paragraph (8) by inserting "a final settlement payment," after "settlement payment on account,".

Sec. 380. Section 745(a) of title 11 of the United States Code is amended by inserting "the debtor for" after "by".

Sec. 381. (a) Section 752(a) of title 11 of the United States Code is amended by—

(1) striking out "customers allowed" and in lieu thereof "customers' allowed";

(2) inserting "of the kind" after "except claims"; and

(3) inserting "such" before "customer property".

(b) Section 752(b)(2) of title 11 of the United States Code is amended by striking out "726(a)" and inserting in lieu thereof "726".

Sec. 382. Section 761 of title 11 of the United States Code is amended—

(1) in paragraph (10), by—

(A) striking out "and that is" in subparagraph (A)(viii) and inserting in lieu thereof "from and that is the lawful"; and

(B) striking out "based on such property" in subparagraph (B) and inserting in lieu thereof "for which such property would be liable"; and

(2) in paragraph (17), by—

(A) striking out "the aggregate of all of a customer's accounts" and inserting in lieu thereof "all accounts of a customer";

(B) striking out subparagraph (B); and

(C) redesignating subparagraph (C) as subparagraph (B).

Sec. 383. Section 763(a) of title 11 of the United States Code is amended by—

(1) inserting "the debtor for" after "by"; and

(2) striking out "deemed to be" and inserting in lieu thereof "treated as".

Sec. 384. Section 764(a) of title 11 of the United States Code is amended by inserting "by the debtor" after "any transfer".

Sec. 385. Section 765(a) of title 11 of the United States Code is amended by striking out "notice under", and inserting in lieu thereof "notice required by".

Sec. 386. (a) Section 766(a) of title 11 of the United States Code is amended by striking out "of" the first place it appears and inserting in lieu thereof "held by the debtor for".

(b) Section 766(b) of title 11 of the United States Code is amended by amending the first sentence thereof to read as follows: "If an open commodity contract is being actively traded as of the date of the filing of the petition, the trustee shall, as required by sections 765 and 766(c) of this title, transfer such commodity contract, if feasible, or close out such commodity contract on or before the last day of trading in such contract or on the first day on which notice of intent to deliver on such commodity contract may be tendered, whichever first occurs.".

(c) Section 766(j)(2) of title 11 of the United States Code is amended by striking out "726(a)" and inserting in lieu thereof "726".

Sec. 387. Section 901(a) of title 11 of the United States Code is amended by—

(1) inserting "341, 342," after "301,";

(2) striking out "547" and inserting in lieu thereof "547(a), 547(b), 547(c), 547(d), 547(e)(1), 547(e)(2), 547(f), 547(g)"; and

(3) inserting a comma after "1111(b)".

Sec. 388. Section 902(2) of title 11 of the United States Code is amended by striking out "title, legal or equitable, to real property against which has been levied a special assessment or special tax" and by inserting in lieu thereof "legal or equitable title to real property against which a special assessment or special tax has been levied".

Sec. 389. Section 903(2) of title 11 of the United States Code is amended by striking out "to" the first place it appears.

Sec. 390. Chapter 9 of title 11 of the United States Code is amended by striking out "SUBCHAPER II" and inserting in lieu thereof "SUBCHAPTER II".

Sec. 391. (a) Section 921(c) of title 11 of the United States Code is amended by—

(1) striking out "an" and inserting in lieu thereof "any"; and

(2) striking out the comma after "petition" the second place it appears.

(b) Section 921 of title 11 of the United States Code is amended by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(c) Section 921(a) is amended by striking out "109(c)" and inserting in lieu thereof "109(d)".

(d) Section 921(d) of title 11 of the United States Code, as so redesignated, is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (c)".

Sec. 392. (a) Section 922(a)(1) of title 11 of the United States Code is amended by—

(1) inserting "a" before "judicial"; and

(2) inserting "action or" before "proceeding".

(b) Section 922(b) of title 11 of the United States Code is amended by striking out "and (g)" and inserting in lieu thereof "(g), and (h)".

Sec. 393. (a) Section 927(a)(4) of title 11 of the United States Code is amended by—

(1) striking out "if" and inserting in lieu thereof "failure of"; and

(2) striking out "is not" and inserting in lieu thereof "to be".

(b) Section 927(b) of title 11 of the United States Code is amended by inserting "of a plan under this chapter" after "confirmation".

Sec. 394. Section 943(b) of title 11 of the United States Code is amended—

(1) in paragraph (4), by striking out "to be taken"; and

(2) by amending paragraph (5) to read as follows:

"(5) except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that on the effective date of the plan each holder of a claim of a kind specified in section 507(a)(1) of this title will receive on account of such claim cash equal to the allowed amount of such claim; and".

Sec. 395. Section 945(a) of title 11 of the United States Code is amended by striking out "execution" and inserting in lieu thereof "implementation".

Sec. 396. Section 1102(b)(1) of title 11 of the United States Code is amended by striking out "order for relief" and inserting in lieu thereof "commencement of the case".

Sec. 397. Section 1103(c) of title 11 of the United States Code is amended—

(1) in paragraph (3), by—

(A) striking out "recommendations" and inserting in lieu thereof "determinations"; and

(B) inserting "or rejections" after "acceptances"; and

(2) in paragraph (4), by striking out ", if a trustee or examiner, as the case may be, has not previously been appointed under this chapter in the case".

Sec. 398. Section 1105 of title 11 of the United States Code is amended by striking out "estate, and" and inserting in lieu thereof "estate and of the".

Sec. 399. Section 1106(b) of title 11 of the United States Code is amended by inserting ", except to the extent that the court orders otherwise," before "any other".

Sec. 400. Section 1107(a) of title 11 of the United States Code is amended by inserting "serving in a case" after "on a trustee".

Sec. 401. Section 1108 of title 11 of the United States Code is amended by inserting ", on request of a party in interest and after notice and a hearing," after "court".

Sec. 402. Section 1111(b) of title 11 of the United States Code is amended to read as follows:

"(b)(1) Except where property of the estate that secures a claim is sold subject to section 363(k) of this title, abandoned under sections 554 or 557 of this title, or surrendered to the holders of such claims, or is to be sold, abandoned, or surrendered under the plan—

"(A) a claim secured by such property shall be allowed or disallowed under section 502 of this title the same as if the holder of such claim had recourse against the debtor on account of such claim, whether or not such holder had such recourse, unless the class of which such claim is a part elects, by at least two-thirds in amount and more than one-half in number of allowed claims of such class, to be governed by subparagraph (B) of this paragraph; and

"(B) unless the aggregate value of the interests in such property of the holders of such claims is inconsequential, the class may elect, as provided under subparagraph (A) of this paragraph, that such claims of such class, whether or not the holders of such claims had recourse against the debtor and notwithstanding section 506(a) of this title, are secured claims to the full extent that such claims are allowed.

"(2) The provisions of paragraph (1) of this subsection are limited to the purposes of this chapter and such paragraph shall not in any other way alter, affect, or create any right or liability of or in any other entity who may be liable with the debtor on a debt to which the provisions of such paragraph apply.".

Sec. 403. (a) Section 1112(a) of title 11 of the United States Code is amended—

(1) in paragraph (2), by striking out "is an involuntary case originally commenced under this chapter" and inserting in lieu thereof "originally was commenced as an involuntary case under this chapter"; and

(2) in paragraph (3), by striking out "on other than" and inserting in lieu thereof "other than on".

(b) Section 1112(b) of title 11 of the United States Code is amended—

(1) in paragraph (5), by inserting "a request made for" before "additional"; and

(2) in paragraph (8), by striking out "and" and inserting in lieu thereof "or".

Sec. 404. (a) Section 1121(c)(3) of title 11 of the United States Code is amended by striking out "the claims or interests of which are" and inserting in lieu thereof "of claims or interests that is".

(b) Section 1121(d) of title 11 of the United States Code is amended by inserting "made within the respective periods specified in subsection (c) of this section" after "interest".

Sec. 405. (a) Section 1123(a) of title 11 of the United States Code is amended—

(1) by striking out "A" and inserting in lieu thereof "Notwithstanding any otherwise applicable nonbankruptcy law, a";

(2) in paragraph (1), by inserting commas after "classes of claims" and after "507(a)(7) of this title";

(3) in paragraph (3), by striking out "shall";

(4) in paragraph (5), by striking out "execution" and inserting in lieu thereof "implementation"; and

(5) in paragraph (5)(G), by inserting "of" after "waiving".

(b) Section 1123(b)(2) of title 11 of the United States Code is amended by—

(1) striking out "or rejection" and inserting in lieu thereof ", rejection, or assignment"; and

(2) striking out "under section 365 of this title" and inserting in lieu thereof "under such section".

Sec. 406. Section 1124 of title 11 of the United States Code is amended—

(1) by amending paragraph (2)(A) to read as follows:

"(A) cures any such default that occurred before or after the commencement of the case under this title, other than a default of a kind specified in section 365(b)(2) of this title;"; and

(2) in paragraph (3)(B)(i), by striking out "and" and inserting in lieu thereof "or".

Sec. 407. (a) Section 1125(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting ", but need not include such information about any other possible or proposed plan" after "plan";

(2) in paragraph (2)(B), by inserting "the" after "with"; and

(3) in paragraph (2)(C), by inserting "of" after "holders".

(b) Section 1125(d) of title 11 of the United States Code is amended by—

(1) inserting "required under subsection (b) of this section" after "statement" the first place it appears; and

(2) inserting ", or otherwise seek review of," after "appeal from".

(c) Section 1125(e) of title 11 of the United States Code is amended by—

(1) inserting "acceptance or rejection of a plan" after "solicits"; and

(2) inserting "solicitation of acceptance or rejection of a plan or" after "governing".

Sec. 408. (a) Section 1126(b)(2) of title 11 of the United States Code is amended by striking out "1125(a)(1)" and inserting in lieu thereof "1125(a)".

(b) Section 1126(d) of title 11 of the United States Code is amended by inserting a comma after "such interests" the first place it appears.

(c) Section 1126(f) of title 11 of the United States Code is amended by—

(1) striking out "is deemed" and inserting in lieu thereof ", and each holder of a claim or interest of such class, are deemed";

(2) striking out "solicititation" and inserting in lieu thereof "solicitation"; and

(3) striking out "interest" and inserting in lieu thereof "interests".

(d) Section 1126(g) of title 11 of the United States Code is amended by striking out "any payment or compensation" and inserting in lieu thereof "receive or retain any property".

Sec. 409. (a) Section 1127(a) of title 11 of the United States Code is amended by—

(1) inserting "of a plan" after "After the proponent"; and

(2) inserting "of such plan" after "modification".

(b) Section 1127(b) of title 11 of the United States Code is amended by striking out "the court, after notice and a hearing, confirms such plan, as modified, under section 1129 of this title, and circumstances warrant such modification" and inserting in lieu thereof "circumstances warrant such modification and the court, after notice and a hearing, confirms such plan as modified, under section 1129 of this title".

Sec. 410. (a) Section 1129(a) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "chapter." and inserting in lieu thereof "title.";

(2) in paragraph (2), by striking out "chapter." and inserting in lieu thereof "title.";

(3) by amending paragraph (4) to read as follows:

"(4) Any payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable;";

(4) in paragraph (5)(A)(ii), by striking out the period and inserting in lieu thereof "; and";

(5) in paragraph (5)(B), by striking out "The" and inserting in lieu thereof "the";

(6) in paragraph (6), by inserting "governmental" after "Any";

(7) in paragraph (7), by—

(A) inserting "of claims or interests" after "each class"; and

(B) striking out "creditor's" in subparagraph (B) and inserting in lieu thereof "holder's";

(8) in paragraph (8), by inserting "of claims or interests" after "each class";

(9) in paragraph (9)(C), by inserting "507(a)(1) that results from the sale of a capital asset, recapture of an investment tax credit, recapture of depreciation, or similar event or" after "section"; and

(10) by amending paragraph (10) to read as follows:

"(10) If a class of claims is impaired under the plan, at least one class of claims that is impaired under the plan has accepted the plan, determined without including any acceptance of the plan by any insider or any class deemed to have accepted the plan under section 1126(f) of this title.".

(b) Section 1129(b) of title 11 of the United States Code is amended—

(1) by striking out "Notwithstanding section 510(a) of this title, if" and inserting in lieu thereof "If";

(2) in paragraph (2)(A), by striking out "lien" each place it appears and inserting in lieu thereof "liens";

(3) in paragraph (2)(B)(ii), by inserting "under the plan" after "retain"; and

(4) in paragraph (2)(C)(i), by—

(A) striking out "claim" and inserting in lieu thereof "interest"; and

(B) striking out "and the value" and inserting in lieu thereof "or the value".

(c) Section 1129(d) of title 11 of the United States Code is amended by—

(1) striking out "a party in interest that is";

(2) inserting "the application of" after "avoidance of" the second place it appears; and

(3) adding at the end thereof the following new sentence: "In any hearing under this subsection, the governmental unit has the burden of proof on the issue of avoidance.".

Sec. 411. (a) Section 1141(a) of title 11 of the United States Code is amended by—

(1) striking out "Except" and inserting in lieu thereof "Notwithstanding section 510(a) of this title and except"; and

(2) striking out "any creditor or equity security holder of, or general partner in," and inserting in lieu thereof "any creditor, equity security holder, or general partner in".

(b) Section 1141(c) of title 11 of the United States Code is amended to read as follows:

"(c) Except as provided in subsections (d)(2) and (d)(3) of this section and except as otherwise provided in the plan or in the order confirming the plan, after confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors, equity security holders, and of general partners in the debtor.".

Sec. 412. (a) The heading for section 1142 of title 11 of the United States Code is amended to read as follows:

"§1142. Implementation of plan".

(b) The item relating to section 1142 in the table of sections for chapter 11 of title 11 of the United States Code is amended by striking out "Execution" and inserting in lieu thereof "Implementation".

(c) Section 1142(a) of title 11 of the United States Code is amended by striking out the comma after "plan" the second place it appears.

(d) Section 1142(b) of title 11 of the United States Code is amended by inserting "a" after "by".

Sec. 413. Section 1144 of title 11 of the United States Code is amended by inserting "if and only" after "revoke such order".

Sec. 414. (a) Section 1145(a) of title 11 of the United States Code is amended—

(1) by striking out "Except with respect to an entity that is an underwriter as defined in subsection (b) of this section, section" and inserting in lieu thereof "Section";

(2) in paragraph (3), by striking out "or an affiliate";

(3) in paragraph (3)(B)(i), by inserting "or 15(d)" after "13" and by inserting "or 78o(d)" after "78m";

(4) by amending paragraph (3)(B)(ii) to read as follows:

"(ii) in compliance with the disclosure and reporting provision of such applicable section; and";

(5) in paragraph (3)(C), by striking out "two" each place it appears and inserting in lieu thereof "one";

(6) in paragraph (3)(C)(ii), by striking out "180" each place it appears and inserting in lieu thereof "90"; and

(7) in paragraph (4), by striking out "stockholder" each place it appears and inserting in lieu thereof "stockbroker".

(b) Section 1145(b) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "and except with respect to ordinary trading transactions of an entity that is not an issuer" after "subsection";

(2) in paragraph (1)(C), by striking out "for" and inserting in lieu thereof "from";

(3) in paragraph (2)(A)(i), by striking out "combination" and inserting in lieu thereof "or combining"; and

(4) in paragraph (2)(A)(ii), by striking out "among" and inserting in lieu thereof "from or to".

(c) Section 1145(d) of title 11 of the United States Code is amended by striking out "commercial".

Sec. 415. (a) Section 1146(c) of title 11 of the United States Code is amended by striking out "State or local".

(b) Section 1146(d)(1) of title 11 of the United States Code is amended by striking out "and" and inserting in lieu thereof "or".

Sec. 416. Section 1163 of title 11 of the United States Code is amended by striking out "qualified" and inserting in lieu thereof "eligible, qualified,".

Sec. 417. Section 1166 of title 11 of the United States Code is amended by striking out "the Interstate Commerce Act (49 U.S.C. 1 et seq.)" and inserting in lieu thereof "subtitle IV of title 49".

Sec. 418. Section 1168(b) of title 11 of the United States Code is amended by inserting a comma after "approval".

Sec. 419. Section 1169(c) of title 11 of the United States Code is amended by striking out "the Interstate Commerce Act (49 U.S.C. 1 et seq.)" and inserting in lieu thereof "subtitle IV of title 49".

Sec. 420. (a) Section 1170(a) of title 11 of the United States Code is amended by inserting "of all or a portion" after "the abandonment".

(b) Section 1170(c) of title 11 of the United States Code is amended by inserting a comma after "abandonment".

(c) Section 1170(d)(2) of title 11 of the United States Code is amended by—

(1) striking out "the abandonment of a railroad line" and inserting in lieu thereof "such abandonment"; and

(2) striking out "termination" each place it appears and inserting in lieu thereof "suspension".

Sec. 421. Section 1171(b) of title 11 of the United States Code is amended by striking out "such" and inserting in lieu thereof "the same".

Sec. 422. Section 1173(a)(4) of title 11 of the United States Code is amended by striking out "compatible" and inserting in lieu thereof "consistent".

Sec. 423. (a) Section 1301(b) of title 11 of the United States Code is amended by inserting "and may protest" after "of" the first place it appears.

(b) Section 1301(c)(3) of title 11 of the United States Code is amended by inserting "continuation of" after "by".

(c) Section 1301 of title 11 of the United States Code is amended by adding the following new subsection:

"(e) The confirmation of a plan shall automatically grant relief from the stay as to any particular claim to the extent that the plan does not propose to pay any amount of that allowed claim.".

Sec. 424. (a) Section 1302(b) of title 11 of the United States Code is amended—

(1) in paragraph (2)(C), by striking out "and";

(2) by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) dispose of, under regulations issued by the Director of the Administrative Office of the United States Courts, moneys received or to be received in a case under chapter XIII of the Bankruptcy Act; and".

(b) Section 1302(e) of title 11 of the United States Code is amended—

(1) in paragraph (1), by striking out "fix" and inserting in lieu thereof "set for such individual";

(2) in paragraph (1)(A), by striking out "for such individual"; and

(3) in paragraph (2)(A), by—

(A) striking out "of" and inserting in lieu thereof "received by"; and

(B) striking out "upon all payments" and inserting in lieu thereof "of all such payments made".

Sec. 425. Section 1304(b) of title 11 of the United States Code is amended by striking out the comma after "of the debtor".

Sec. 426. (a) Section 1307(b) of title 11 of the United States Code is amended by inserting a comma after "time".

(b) Section 1307(c) of title 11 of the United States Code is amended—

(1) in paragraph (4), by inserting "a request made for" before "additional";

(2) in paragraph (6), by striking out "and" after the semicolon and inserting in lieu thereof "or"; and

(3) in paragraph (7), by inserting "other than completion of payments under the plan" after "in the plan".

Sec. 427. (a) Section 1322(a)(2) of title 11 of the United States Code is amended by inserting a comma after "payments".

(b) Section 1322(b) of title 11 of the United States Code is amended—

(1) in paragraph (2), by inserting ", or leave unaffected the rights of holders of any class of claims" before the semicolon;

(2) in paragraph (4), by inserting "other" after "claim or any";

(3) in paragraph (5), (i) by striking out "maintenance of payments" and (ii) by striking out "on any unsecured claim or secured claim" and inserting in lieu thereof "maintenance payments on any claim";

(4) in paragraph (7), by—

(A) inserting "subject to section 365 of this title," before "provide";

(B) striking out "or rejection" and inserting in lieu thereof ", rejection, or assignment"; and

(C) striking out "under section 365 of this title" and inserting in lieu thereof "under such section"; and

(5) in paragraph (8), by striking out "any".

Sec. 428. Section 1323(c) of title 11 of the United States Code is amended by striking out "the plan as modified, unless the modification provides for a change in the rights of such holder from what such rights were under the plan before modification, and" and inserting in lieu thereof "such plan as modified, unless".

Sec. 429. Section 1324 of title 11 of the United States Code is amended by striking out "the" the second place it appears.

Sec. 430. (a) Section 1325(a)(1) of title 11 of the United States Code is amended by inserting "the" before "other".

(b) Section 1325(b) of title 11 of the United States Code is amended by—

(1) striking out "After confirmation of a plan," and inserting "Upon the filing of the case,"; and

(2) striking out "any" the second place it appears.

Sec. 431. Section 1326(a)(2) of title 11 of the United States Code is amended by inserting "of this title" after "1302(d)".

Sec. 432. Section 1328(e) of title 11 of the United States Code is amended—

(1) in paragraph (1), by inserting "by the debtor" after "obtained"; and

(2) in paragraph (2), by striking out "knowledge of such fraud came to the requesting party" and inserting in lieu thereof "the requesting party did not know of such fraud until".

Sec. 433. Section 1329(a) of title 11 of the United States Code is amended—

(1) by inserting "of the plan" after "confirmation";

(2) by striking out "a plan" and inserting in lieu thereof "such plan"; and

(3) in paragraph (3), by striking out the comma.

Sec. 434. Section 15102 of title 11 of the United States Code is amended by striking out "chapter" the first place it appears and inserting in lieu thereof "title".

Sec. 435. Section 15103(f) of title 11 of the United States Code is amended by—

(1) striking out "324,";

(2) inserting "341(b)," after "326(b),";

(3) inserting "1106(a)(1), 1108," after "1105"; and

(4) inserting "1302(b)(1), 1302(b)(3)," after "1302(a),".

Sec. 436. Section 15322(b)(1) of title 11 of the United States Code is amended by—

(1) inserting "required to be" after "bond" the first place it appears;

(2) striking out "(2)"; and

(3) inserting "of this title" before the semicolon.

Sec. 437. Section 15324 of title 11 of the United States Code is amended by inserting a comma after "a trustee".

Sec. 438. Section 15330 of title 11 of the United States Code is amended by adding at the end thereof the following: "The notice required under section 330 of this title shall be given to the United States trustee.".

Sec. 439. (a) Section 15701(a) of title 11 of the United States Code is amended by striking out "trustee established" and inserting in lieu thereof "trustees established".

(b) Section 15701(b) of title 11 of the United States Code is amended by striking out "such persons" and inserting in lieu thereof "the members of such panel".

Sec. 440. (a) Section 15703(a) of title 11 of the United States Code is amended by striking out "specified in section 15701(a) of this title. Sections 701(b) and 701(c) of this title apply to such interim trustee." and by inserting in lieu thereof "and subject to the provisions of sections 701 and 15701 of this title.".

(b) Section 15703(b) of title 11 of the United States Code is amended by striking out "truste" and inserting in lieu thereof "trustee".

Sec. 441. Section 15704 of title 11 of the United States Code is amended to read as follows:

"§ 15704. Duties of trustee

"The trustee shall—

"(1) if the business of the debtor is authorized to be operated, file with the United States trustee periodic reports and summaries of the operation of such business, including a statement of receipts and disbursements; and

"(2) make and file interim reports, as circumstances justify, on the condition of the estate with the United States trustee and make and file a final report and account of the administration of the estate with the United States trustee and the court."

Sec. 442. Section 151102(b) of title 11 of the United States Code is amended by striking out "interest of" and inserting in lieu thereof "interest,".

Sec. 443. (a) Chapter 15 of title 11 of the United States Code is amended by inserting after section 151105 the following new sections:

"§ 151106. Duties of trustee and examiner

"(a) A trustee shall perform the duties specified in sections 704(2), 704(4), 704(6), and 15704 of this title.

"(b) A trustee shall transmit a copy or a summary of any statement filed under section 1106(a)(4)(A) of this title to any creditors' committee, to any indenture trustee, to the United States trustee, and to any other entity as the court designates.

"§ 151108. Authorization to operate business

"Unless the court, upon the request of a party in interest or the United States trustee if there is no creditors' committee and after notice and a hearing, orders otherwise, the trustee may operate the debtor's business.".

(b) The table of sections for chapter 15 of title 11 of the United States Code is amended by inserting after the item relating to section 151105 the following new items:

"151106. Duties of trustee and examiner.
"151108. Authorization to operate business.".

Sec. 444. (a) Section 151302(a) of title 11 of the United States Code is amended by inserting ", or shall appoint a disinterested person to serve," after "The United States trustee shall serve".

(b) Section 151302(b) of title 11 of the United States Code is amended to read as follows:

"(b) The trustee shall—

"(1) perform the duties specified in sections 704(2), 704(4), 704(6), and 15704 of this title; and

"(2) dispose of, pursuant to regulations issued by the Attorney General, moneys received or to be received in a case under chapter XIII of the Bankruptcy Act.".

Subtitle J—Miscellaneous

Sec. 445. If any provision of this Act or any amendment made by this Act, or the application thereof to any person or circumstance is held invalid, the provisions of every other part, and their application shall not be affected thereby.

Sec. 446. Except as otherwise provided in this Act the amendments made by this Act shall become effective three months after the date of enactment and shall not apply to any case pending on the date of enactment of this Act.

ADJOURNMENT UNTIL 12 NOON ON MONDAY, MAY 2, 1983

Mr. STEVENS. Mr. President, is there further business to come before the Senate?

Mr. BYRD. Mr. President, I have nothing on this side.

Mr. STEVENS. If there is no further business, I ask unanimous consent that the Senate stand in adjournment until 12 noon on Monday, May 2.

There being no objection, the Senate, at 7:12 p.m., adjourned until Monday, May 2, 1983, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate April 28, 1983:

Environmental Protection Agency

William D. Ruckelshaus, of Washington, to be Administrator of the Environmental Protection Agency, vice Anne McGill Burford, resigned.

In the Army

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. John R. Galvin, 005-28-5597, U.S. Army.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 28, 1983:

National Council on the Handicapped

R. Budd Gould, of Montana, to be a member of the National Council on the Handicapped for a term expiring September 17, 1985.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Department of Defense

Joseph H. Sherick, of Virginia, to be Inspector General, Department of Defense.

In the Air Force

Air Force nominations beginning John G. Aldous, and ending Lina S. Ruppel, which nominations were received by the Senate and appeared in the Congressional Record on April 12, 1983.

In the Army

Army nominations beginning Edward J. F. Thomas, and ending Dallas Van Hoose, Jr., which nominations were received by the Senate and appeared in the Congressional Record on April 12, 1983.

Army nominations beginning George B. Abernathy, and ending John B. Zyznomyrsky, which nominations were received by the Senate and appeared in the Congressional Record on April 12, 1983.

Army nominations beginning Carolyn H. Cain, and ending Billie D. Sims, which nominations were received by the Senate and appeared in the Congressional Record on April 12, 1983.

In the Navy

Navy nominations beginning Everett Duane Beringer, and ending Sara Campbell Tolar, which nominations were received by the Senate and appeared in the Congressional Record on April 12, 1983.

Navy nominations beginning George Abitante, and ending G. R. Zuschlag, which nominations were received by the Senate and appeared in the Congressional Record on April 12, 1983.

Navy nominations beginning Clyde A. Best, Jr., and ending Dennis L. Johnson, which nominations were received by the Senate and appeared in the Congressional Record on April 12, 1983.

Navy nominations beginning Michelle R. Austin, and ending Edward J. Wood, which nominations were received by the Senate and appeared in the Congressional Record on April 12, 1983.

In the Marine Corps

Marine Corps nomination of William H. Smith to be major, which was received by the Senate and appeared in the Congressional Record of April 12, 1983.

Marine Corps nominations beginning Mark Stevens, and ending William A. Zimmerman, which nominations were received by the Senate and appeared in the Congressional Record on April 12, 1983.

HOUSE OF REPRESENTATIVES—*Thursday, April 28, 1983*

The House met at 11 a.m.

The Reverend Barbara Trombley Fitterer, Episcopal Diocese of California, San Francisco, Calif., offered the following prayer:

Father of all nations, our refuge and strong guide.

We acknowledge the awesome gift of freedom, which You have bestowed upon us, and we give You thanks.

We remember that You are good to all people and Your tender mercies are over all Your works.

In trust we call upon Your name and seek Your aid against every peril, believing that You will preserve those who love and serve You.

As Your spirit overcomes the ambiguities and broken relationships of all our lives and holds for us hope of a higher way.

Be present for us in moments of introspection, that we may move into a future blessed by Your peace.

Forgive us our sins and restore our waiting souls by Your everlasting mercy and redemption.

You have chosen us to help in the building of Your kingdom.

Be patient with our weaknesses and reveal to us Your truth.

For the glory of Your eternal name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SUNDQUIST. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SUNDQUIST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 358, nays 21, answered "present" 5, not voting 49, as follows:

[Roll No. 69]

YEAS—358

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Barnes
Bartlett
Bates
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Britt
Brooks
Broomfield
Brown (CA)
Broyhill
Bryant
Burton
Byron
Campbell
Carney
Carper
Carr
Chandler
Cheney
Clarke
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conable
Conte
Cooper
Corcoran
Courter
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Edwards (OK)
Erdreich
Evans (IL)
Fascell
Fazio
Ferraro
Fiedler
Fish
Flippo
Florio
Foglietta
Foley
Ford (TN)
Fowler
Frank
Franklin
Frost
Fuqua
Garcia
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gore
Gradison
Gramm
Green
Gregg
Guarini
Gunderson
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harrison
Hartnett
Hatcher
Hefner
Heftel
Hertel
Hightower
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Jenkins
Johnson
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Livingston
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lungren
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mazzoli
McCain
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKernan
McNulty
Mica
Michel
Mikulski
Mineta
Minish
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Natcher
Nelson
Nichols
Nielson
Nowak
Oakar
Obey
Olin
Ortiz
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Penny
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sawyer
Schaefer
Scheuer
Schneider
Schulze
Schumer
Seiberling
Sensenbrenner
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Watkins
Weaver
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yatron
Young (FL)
Young (MO)
Zablocki
Zschau

NAYS—21

Brown (CO)
Clay
Coats
Dannemeyer
Emerson
Evans (IA)
Fields
Forsythe
Gejdenson
Goodling
Harkin
Hiler
Jacobs
Miller (OH)
Roemer
Sabo
Schroeder
Walker
Weber
Yates
Young (AK)

ANSWERED "PRESENT"—5

Breaux
Chappie
Lipinski
Oberstar
St Germain

NOT VOTING—49

Andrews (NC)
Barnard
Bateman
Bedell
Boehlert
Boggs
Chappell
Conyers
Coughlin
Coyne
Crockett
Edwards (AL)
English
Erlenborn
Feighan
Ford (MI)
Frenzel
Gaydos
Gray
Hall (IN)
Hall (OH)
Hawkins
Jones (NC)
Kogovsek
Luken
Lundine
Martinez
Mavroules
McCandless
McKinney
Miller (CA)
Mitchell
Murphy
Murtha
Myers
Neal
O'Brien
Ottinger
Paul
Pepper
Savage
Skelton
Taylor
Valentine
Vander Jagt
Washington
Waxman
Williams (MT)
Wilson

☐ 1115

Mr. DYSON changed his vote from "nay" to "yea."

Mr. JEFFORDS and Mrs. KENNELLY changed their votes from "present" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On March 24, 1983:

H.R. 1718. An act making appropriations to provide productive employment for hundreds of thousands of jobless Americans, to hasten or initiate Federal projects and construction of lasting value to the Nation and its citizens, and to provide humanitarian assistance to the indigent for fiscal year 1983, and for other purposes.

On March 29, 1983:

H.R. 2112. An act to extend by 6 months the expiration date of the Defense Production Act of 1950; and

H.R. 2369. An act to prevent the temporary termination of the Federal Supplemental Compensation Act of 1982.

On March 30, 1983:

H.R. 1936. An act to amend title 37, United States Code, to extend certain expiring enlistment and reenlistment bonuses for the Armed Forces.

On April 4, 1983:

H.J. Res. 175. Joint resolution to authorize and request the President to proclaim May 1983 as "National Amateur Baseball Month."

On April 19, 1983:

H.J. Res. 80. Joint resolution to authorize and request the President to issue a proclamation designating April 17 through 24, 1983, as "Jewish Heritage Week."

On April 20, 1983:

H.R. 1900. An act to assure the solvency of the social security trust funds, to reform the medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 33. Joint resolution designating the week of January 29, 1984, as "Clergy Appreciation Week" in the United States.

The message also announced that the Vice President, pursuant to the provisions of sections 276d-276g of title 22, United States Code, as amended, appointed Mr. McClure, Mr. Murkowski, Mr. Mattingly, Mr. Grassley, Mr. Specter, Mr. Randolph, Mr. Leahy, Mr. Sarbanes, and Mr. Baucus as members of the Senate delegation to the Canada-United States Interparliamentary Group during the first session of the 98th Congress, to be held in Kenora, Canada, on June 16-20, 1983.

HUMAN RIGHTS VIOLATIONS IN EL SALVADOR

(Ms. OAKAR asked and was given permission to address the House for 1 minute.)

Ms. OAKAR. Mr. Speaker, 70 percent of all military assistance for Latin and Central America goes to El Salvador.

We cannot just look for military solutions in this troubled region, and we cannot continue to support a military government which has violated the human rights of its own people, let alone our own American people, including two missionaries from Cleveland who were brutally slain. Where is the President's voice concerning their corrupt judicial system? Where is the President's voice concerning the thousands of Salvadoran people who have been killed or violated against by the military?

Finally, why does our President not use our superpower status for peace to bring people together in dialog, as recommended by Mexico, Venezuela, and Pope John Paul II?

Mr. Speaker, I will not support more military aid to El Salvador. The President's philosophy is an extension of the same philosophy that opposes the nuclear freeze movement.

NUCLEAR WEAPONS ISSUE CALLS FOR NEGOTIATIONS

(Mr. BOUCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOUCHER. Mr. Speaker, the patience of the American people is wearing thin. The time has come for this Congress to make a clear, unequivocal statement calling on the President to negotiate with the Soviets a halt to the further production and deployment of nuclear weapons.

This halt must be negotiated.

It must be mutual.

It must be verifiable.

But it must be accomplished.

It is acknowledged that, today, there is essential equivalence between the United States and the Soviet Union in nuclear forces.

Because we have that essential equivalence today, we have what may be a once in a lifetime opportunity to preserve the balance.

As soon as the balance is tipped, we will be locked into an unending arms race which will be a threat to world peace.

There can be no greater threat to U.S. national security than an unlimited arms race.

There can be no greater assurance of security than a bilateral and verifiable treaty halting nuclear arms production and deployment. That is what the freeze resolution calls for, and I strongly urge my colleagues to approve it.

STOP THE NONSENSE, VOTE ON NUCLEAR FREEZE

(Mr. MRAZEK asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MRAZEK. Mr. Speaker, it is time to put aside the nonsense and vote today on the nuclear freeze resolution. We have listened to 5 days of debate on this resolution on both sides, some of it inspired, some of it not so inspired.

We are today confronted with 40 additional amendments on the nuclear freeze resolution, and there is no doubt in my mind that if we continue this debate much longer, one of those amendments will say that we must not and cannot abridge the right of all Americans to keep and bear a Titan II warhead in their backyard. This is the tenor of the debate coming before us.

Mr. Speaker, it is time to take the first small, stumbling step away from the abyss of a nuclear mistake and a nuclear exchange. It is time for the greatest and most powerful nation that has ever existed on the face of this planet Earth to demonstrate in the arena of world opinion that we stand on the side of peace.

□ 1130

RESPONSE OF REPRESENTATIVE MEL LEVINE TO THE PRESIDENT

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, last night for the first time, President Reagan moderated some of his rhetoric on Central America. In calling for dialog and negotiations toward a political solution, he edged toward progress in American policy. I hope this is a signal that the President is beginning to recognize that, thus far, his policies have been tragically wrong.

To achieve a truly bipartisan policy in this area, he can and should do the following:

Consult with our Latin American neighbors, both on the selection of our Ambassador-at-large and on the process and substance of the dialog and negotiations in the region.

Test the sincerity of the guerrillas' offer to obtain a negotiated political settlement in El Salvador.

Pursue an immediate cease-fire in El Salvador so that the killing can stop.

Say to the Salvadoran Government that 200 convictions out of 30,000 murders is unacceptable and we will no longer tolerate El Salvador's abysmal record on human rights.

Mr. Speaker, the President must recognize that the problems in El Salvador and throughout Central America have arisen primarily because of economic exploitation, political repression, and social injustice. We should shape our policies accordingly.

THE NUCLEAR FREEZE—A MESSAGE TO THE PRESIDENT

(Mr. **SIMON** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **SIMON**. Mr. Speaker, I would simply like to underscore what was said by the gentleman from New York (Mr. Mrazek) a minute or two ago.

On the nuclear freeze resolution procedures, we are simply not proceeding as we ought to. Whatever your thinking on that resolution, the decision has been made, for all practical purposes. We know what is going to happen.

Let us get on with the business. Let us decide it. It is basically a message to the President. Let us send that message to the President and get on with other business of this House.

LET THE AMERICAN PEOPLE BE HEARD

(Mr. **ECKART** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **ECKART**. Mr. Speaker, as we commence this unprecedented fifth day of the debate on the nuclear freeze, I am sure that we will again witness dilatory tactics and amendments proliferating like the nuclear weapons of death that we seek to limit.

What these tactics really amount to is an attempt to gag the American people. Nineteen and a half million of our fellow citizens across this country voted on a nuclear freeze resolution this past election. Over 60 percent of them approved it; yet, we witness the use of tactics by the opponents designed exclusively to stifle the debate, to gag the American people.

Let us proceed. Let us bring this issue to the floor for a vote. Let us stop hiding behind the politics of confrontation and confusion and get to the issue.

We want the freeze. We need it now. Let the American people be heard.

ECONOMIC AND HUMANITARIAN AID VITAL TO OUR FOREIGN POLICY

(Mr. **CARPER** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **CARPER**. Mr. Speaker, most of us realize that simply pumping military assistance into Central America to prop up regressive dictatorships will do little to insure stability in that region or expedite the peace process there. I was pleased last evening to hear the President of the United States emphasize the need to send economic and humanitarian aid to the people of Central America.

I am hopeful that the President's speech will heighten the American citizen's awareness of just how vital economic and humanitarian aid is to our foreign policy, and it will build up a constituency in this country for some foreign aid, particularly in areas of the world that are critical to our national interests.

But the people of the United States are justifiably afraid of a strategy that aims for a military solution to social problems.

Military suppression with whatever justification will not create happiness, stability, of the foundation of democracy. We have learned that lesson before. We must use our might to insure that the human rights and economic well being of the people of El Salvador and the rest of Central America are recognized by their own governments.

And we must use our aid to hasten a just and enduring peaceful settlement to the conflict in El Salvador.

THE PRESIDENT HAS COME OUT OF A TIME WARP

(Mr. **SCHUMER** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **SCHUMER**. Mr. Speaker, it seems that from his speech last night, the President came out of a time warp. He arrived from 1967 and came to us today, with different names and different places, but the same exact arguments that we were hearing in the middle sixties about Vietnam.

Mr. Speaker, we would not have Sandinistas if this country did not support a Somoza.

We will have trouble in Guatemala if we support those totalitarian regimes.

To bring true democracy, we must support true democrats, not a leadership in El Salvador that allows death squads to continue to proliferate and does not support true land reform.

Mr. Speaker, I fear that the lessons of the Vietnam war have been lost upon this President.

WE NEED TRAINED MINDS

(Mr. **AuCOIN** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **AuCOIN**. Mr. Speaker, with the long-term U.S. economy in jeopardy, with America's industrial and technological strength under challenge, ultimately only our human resources can prevent national mediocrity and inferiority.

This means we need trained minds. Thus, at a time of retreat, it's now time for Congress to reaffirm its responsibility to strengthen public education so that we can produce those minds.

I am introducing today, along with my colleagues Paul Simon, Tony Coelho, and George Miller, a concurrent resolution to reaffirm Federal support and commitment for public education from the elementary through postsecondary levels.

Only 2 days ago, the National Commission on Excellence in Education released its report entitled, "A Nation at Risk." The report, which culminates nearly 2 years of study of the U.S. educational system, reached this frightening conclusion and I quote:

> The educational foundations of our society are being eroded by a rising tide of mediocrity that threatens our very future as a nation, and a people.

That conclusion is backed by disturbing facts, 23 percent of American adults are considered functionally illiterate. Scholastic aptitude test scores have declined almost every year since 1963. Average achievement on standardized tests is lower than it was 26 years ago.

These findings underscore my own conviction that there is an education gap in this country, a gap that grows deeper and more dangerous every day. We have seen it happening in many different ways. Over the last 2 years, especially, it has taken a distressing form as the administration cannibalizes public education in order to support its gigantic weapons spending.

Since 1980, the part of the budget earmarked for education has declined from 2.2 to 1.5 percent. These cuts amount to nearly a 30-percent reduction, after inflation, for most education programs. The budget savings the administration has made by emasculating education have been completely absorbed by the Department of Defense which is growing by 10 percent every year.

With this resolution, my colleagues and I want to draw the line. Here and now. I believe in committing the Nation to a series of principles which will insure the continuing vitality of public school education. The Government must make this vital investment in our future, and when it does, the investment will reap rich dividends for our children and our country.

Let us reaffirm our support for the public schools by supporting this resolution and—in partnership with State and local government—the necessary level of funding to insure that the educational needs of children and youth are provided for.

TIME FOR DECISION ON NUCLEAR FREEZE

(Mr. **WEAVER** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, the time has come now for this House of Representatives to make a decision on the nuclear freeze. Let those who are for the freeze, for a halt to the arms race, vote, and let those against a halt to the arms freeze vote for their position.

I only wish that those delaying a vote in this House on the nuclear freeze would help me delay the grain sales to the Soviet Union that are helping the Russians to arm.

Members of the opposite party who voted against my amendment to halt subsidy to the Russians to help the Soviet Union arm, would do their cause better if they made up their minds: Are we arming against the Russians, or are we—with our grain—helping them arm.

LEGISLATION TO HELP NATION MEET GROWING NEED FOR WOOD AND WOOD PRODUCTS

(Mr. WHITLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITLEY. Mr. Speaker, today Mr. EMERSON and I are introducing legislation which is intended to help our Nation meet its growing need for wood and wood products in the future. Domestic and foreign conditions are acting to place increasing demand on American agriculture to produce more and better wood products at cheaper prices. We all know how important it is to provide the American people with an adequate and inexpensive supply of timber for homebuilding, furniture construction, and heating. It is now well known that the General Accounting Office has reported to Congress that the consumption of timber products in terms of roundwood volume could double by the year 2030. The U.S. Forest Service, in the same report, projected that a timber shortage of 15.8 billion cubic feet of timber will exist by 1990. The GAO further stated that the Wholesale Price Index for timber jumped from 6.4 in 1900 to 127.4 in 1976. Thus, the rate of increase in the price of timber has been both great and increasing over the past decade. In order to provide needed wood products in the future, at affordable prices, we must now take steps to improve wood supplies and cut costs of production.

Trees in a forest take many years to reach a size at which they are ready for harvesting. The sooner we take action to correct this pressing need, the sooner we will have a chance to prevent serious wood shortages and halt price escalations of wood products. This legislation will provide the vehicle for improving the productivity of our forest lands. Appropriations are provided for much needed, and long neglected forestry research and technology transfer.

Specifically, the bill will provide new and expanded programs for research and extension. It amends the McIntire-Stennis Act to allow for specific grants to conduct research in forestry and the sciences basic to forestry. It also provides for grants to universities and schools of forestry that ordinarily do not qualify under McIntire-Stennis as a land-grant college or university. The Renewable Resources Extension Act of 1978 is amended to provide forestry extension programs in States according to the capabilities of their private forests and rangelands for production. The National Cooperative Forestry Council is created to report to the Secretary of Agriculture on the developent and utilization of the Nation's forest resources. Finally, the Secretary is given the specific duty of coordinating State forestry research with national forestry research activities. He would also establish reviewing procedures to assure that federally funded projects are properly reported and published. The Secretary would also be assigned certain reporting responsibilities for submission to the President and the Congress on the status of forestry and forest product utilization.

PRESIDENT HAS BALANCED POLICY FOR CENTRAL AMERICA

(Mr. CORRADA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CORRADA. Mr. Speaker, last night President Reagan broadly described his policy for Central America as one that will pursue four basic goals:

First, support for democracy, reform, and human freedom.

Second, support economic development. Aid to the area would be economic, not military, by a margin of 3 to 1.

Third, support the security of the region's threatened nations as a shield for democratization, economic development and diplomacy.

Fourth, support dialog and negotiation, both among the countries in the region and within each country.

Frankly speaking, this is a well balanced policy which ought to receive bipartisan support in Congress.

While there may be differing views about the specific package of economic and security assistance proposed by President Reagan I hope that American foreign policy will not be diluted by our differences of opinion and that we can substantially enact the program for which the President is asking support. If we act now on this balanced proposal we may in fact avert a major crisis in Central America.

A DECOROUS, THOUGHTFUL, BALANCED, FAR-REACHING DEBATE ON CENTRAL AMERICA

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, it is my information that a significant portion of the presumably vast audience who watched President Reagan's address to the joint session last evening stayed tuned for the special order debate which followed here in the House of Representatives.

Members of both parties participated in a decorous, thoughtful, balanced, far-reaching debate on the issues raised by the President's address on the crisis in Central America.

My friend and colleague, the gentleman from Florida (Mr. FASCELL) called last night's affair "historic," and the rest of us who took part in it would, I am sure, be pleased to think so.

It is our hope that the American people are better informed as a result of that debate and this unique and perhaps precedent-setting sample of legislative reaction to a Presidential address.

We would even hope that last night was a step toward opening wider the door for the American people to view the democracy which attempts to represent all of our citizens.

[From the Washington Times, April 26, 1983]

White House Errs, Foes Say

(By Thomas D. Brandt)

The Reagan administration "fundamentally misunderstands the causes of the conflict in Central America," Sen. Christopher Dodd, D-Conn., said last night in delivering the official Congressional Democrats' response to the president's speech.

Reaction from Republicans—conservative and moderate alike—was generally supportive of the president's message, predicting it would rally support for his policies designed to reverse the leftist drift in the area.

Dodd said "the painful truth is that many of our highest officials seem to know as little about Central America in 1983 as we knew about Indochina in 1963." His speech was broadcast immediately after the president addressed a joint session of the 98th Congress.

After the president's speech, Chief Deputy Democratic Whip William Alexander, D-Ark., arranged to have members rise and deliver their reaction from the floor. Traditionally, Congress adjourns immediately following a presidential address.

Dodd, a member of the Senate Foreign Relations Committee, warned that the president's policies risk a regionwide conflict.

He said that without solving the problems of poverty, hunger, injustice and oppression "that region will continue to seethe with revolution . . . with or without the Soviets."

Republican Leader Robert Michel of Illinois, on the other hand, said, "It was a darned good speech. . . . Not everybody (in Congress) is set in concrete on this, and it may influence people out there."

The six Republican members of the House Intelligence Committee last night asked O'Neill to convene a rare secret session of the House so classified information on the situation in Central America can be presented.

The GOP committee members also sent a separate letter to committee Chairman Edward Boland, D-Mass., asking him to delay consideration of legislation to prohibit U.S. support for military or paramilitary operations in Nicaragua until after the secret session.

Rep. Robert Edgar, D-Pa., a United Methodist minister, said, "I think we need a policy of less bullets and less moral pronouncements and more negotiations." He pointed out that the four churchwomen killed in El Salvador two years ago, and for which no one has been prosecuted, were murdered by bullets made in America.

Rep. Michael Barnes, D-Md., chairman of the House Foreign Affairs western hemisphere subcommittee, said he was "very pleased by the general thrust and tone" of the speech. But Barnes said it is regrettable that Reagan focused so much on the military situation in the region.

If all the guerrillas in El Salvador were killed, "the problems of El Salvador would not be solved," he said.

Sen. Edward Kennedy, D-Mass., welcomed the decision to appoint a special envoy but said he is "deeply concerned that the president's overall policy is a prescription for wider war."

No more American military aid should go to El Salvador unless that government agrees to enter unconditional negotiations," Kennedy said.

But Sen. Charles Mathias, R-Md., called it "a forceful speech. I think it's the right way to go."

Assistant House Republican leader Trent Lott of Mississippi predicted "Congress will now move expeditiously" to approve aid. "I think we'll have action in 10 days to two weeks, at the most," he said.

But Rep. Clement J. Zablocki, D-Wis., chairman of the House Foreign Affairs Committee, predicted few votes would change. Referring to Reagan's announcement that he would name a high-level ambassador to try to settle the civil strife in the region, Zablocki said, "His speech gave no indication that this ambassador would have a mandate to meaningfully address the real problems in the region."

Rep. Clarence Long, D-Md., chairman of the House Appropriations subcommittee on foreign operations, also said he doubted the speech changed any votes, particularly on his subcommittee.

In a rare show of support from the opposition party, House Majority Leader Jim Wright, D-Texas, said, "Fundamentally, I agree with the basic precepts set forth in the speech."

Sen. Charles Percy, R-Ill., chairman of the Senate Foreign Relations Committee said, "I thought the speech was logical, and I think it appealed to the American people." Percy added, "He has a better chance now than before the speech. I think he gained a lot of support tonight."

Sen. Orrin Hatch, R-Utah, said, "To me, it's time to quit this partisan drivel that's going on in this city and work in a bipartisan fashion."

"He made it clear that the national security of this country is involved. We need to encourage the guerrillas to come out of the forests and the woods."

Sen. Barry Goldwater, R-Ariz., chairman of the Senate intelligence Committee, said the president's speech was "excellent, right to the point. . . . He definitely changed some minds in there. . . . Congress has been listening to the lies in the newspapers and on radio and television. Now they got the truth."

[From USA Today, Apr. 20, 1983]

Reagan Speech Stirs Unique Debate

(By William Ringle)

Washington.—President Reagan made an unusual plea to Congress Wednesday—and minutes later got an unprecedented surprise response.

Democratic congressmen seized the moments after Reagan's unusual speech to a joint session of Congress Wednesday to both praise and criticize his plea for support on his Central American military and economic aid programs.

No sooner had he left the chamber—a point when the lawmakers ordinarily would adjourn and go home—than critics of his policy obtained permission from Speaker Tip O'Neill to continue the session.

Rep. Bill Richardson, D-N.M., said, "It is not accurate to bill this as a debate between those who want to turn tail and let the communists win and those who don't." He said the USA found in Vietnam, "You can't transport peace and freedom and democracy in B-52s."

Rep. Tom Harkin, D-Iowa, said Reagan's proposals are "a blueprint for more military adventurism. It is a road to more suffering by the Salvadoran people . . . a road to nowhere."

Rep. Clement J. Zablocki, D-Wis. House Foreign Affairs Committee chief: There was "little new in the president's speech . . . which will change many votes" in Congress.

House Republican Leader Robert Michel of Illinois, on the other hand, said, "It was a darned good speech . . . Not everybody (in Congress) is set in concrete on this, and it may influence people out there."

Assistant House Republican leader Trent Lott of Mississippi predicted "Congress will now move expeditiously" to approve aid, within two weeks.

Rep. Wyche Fowler Jr., D-Ga., said he had no problems with Reagan's Central America goals, "but I have serious reservations about the methods."

(In addition to these articles, the major wire services, the New York Times, the Washington Post, and other newspapers made mention of the event or quoted from its participants. The three major television networks—ABC, CBS, and NBC—covered it, as did Cable News Network (CNN) and various radio services.)

VOTE ON THE NUCLEAR FREEZE RESOLUTION

(Mr. BATES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BATES. Mr. Speaker, I call on the House of Representatives to vote today on the nuclear freeze resolution.

RIGHTWING AND LEFTWING

(Mr. DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIEL. Mr. Speaker, one of the perplexing ironies of our time is that there are those among us who can see nothing but inherent evil in rightwing dictatorships and nothing but inherent virtue in leftwing dictatorships.

Can we not see that the same forces which are arrayed against the small countries of Central America are precisely the same forces which are arrayed against our friends in the Middle East?

THE NUCLEAR FREEZE IS A PHILOSOPHICAL DOCUMENT

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, last week on this floor I stood up and talked about the fact that the nuclear freeze and the resolution was a philosophical document and that it had been slowly eroded into something people were attempting to make a practical document; but the reality is that it is a philosophical document. It is a philosophy for the future and it is the wave of the future that is going to be coming.

I would urge my colleagues today to put aside these practical attempts at doing what the President has the right to do, has the power to do, and has the obligation to do, and to vote their philosophy today.

If it fails, so be it; if it passes, so be it; but this is a philosophy that needs to be debated and heard today.

I would urge you all to allow the vote to take place.

HAUNTINGLY FAMILIAR RHETORIC

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, I would like to make two points regarding the President's speech last night concerning Central America.

Point No. 1. The rhetoric we heard from President Reagan about Central America was hauntingly similar to the rhetoric we heard preceding the Vietnam buildup: "Our vital security interests are at stake." "Our national credibility is at stake." "What will our allies think?" "What will our adversaries think?"

If this is indeed the case, then the sky is the limit on what we must be prepared to commit in order to protect our interests. The President's definition of our commitment is potentially open ended.

Point No. 2. If we state that the outcome of the current conflict in Central America is vital to our national security interest and that we cannot send in our own troops, as the President stated, then our so-called allies—the generals in El Salvador and the Somocistas in Honduras—have tremendous leverage over our country.

The President has thus put the United States in a terrible dilemma. He states that we must win, but that we cannot act for ourselves. This means that there is almost no limit as to what our allies can ask of us in terms of support, arms, and money.

Mr. Speaker, I think the President's speech sets U.S. foreign policy in Central America on an exceedingly open ended and dangerous course.

NUCLEAR FREEZE RESOLUTION

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, we have heard a number of Members address the House today asking for a vote on the nuclear freeze resolution. I, too, would like to vote on House Joint Resolution 13 as soon as possible. But most of the speakers seemed to have confessed to the weakness, the logical emptiness of the resolution that was brought before the House because they are saying now we do not need to consider what it really says, we just need to vote for a slogan.

I think the important thing that the debate has brought out over these few days is the fact that we are talking about something very serious, if it is more than a slogan, and that there is a basic fallacy and weakness in the original approach embodied in House Joint Resolution 13. The resolution is getting better as a result of the amendments and legislative history and we may be able, and I hope without dilatory amendments, to vote on it very shortly.

As far as interfering with the business on the floor of the House, even if there were other business, this is the most important issue, as the proponents have said, facing mankind. But I have not seen an overabundance of bills waiting and being held up that have not been considered. In fact it is fortunate that we have had the freeze resolution to debate for there would have been little else to do over the last 3 weeks.

I think we ought to debate this issue and I think we ought to get a vote on it very shortly. We ought to get a vote on something that is meaningful—not just a slogan. Voting on slogans is appropriate for clubs and debating clubs. It is beneath the responsibility of the House of Representatives of the United States of America in dealing with the issue of national security, freedom, and the specter of nuclear destruction of civilization.

TIMID POLICY WILL NOT WORK

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, the bottom line of what the President said last night is that without stability and a framework of democracy in El Salvador, and the rest of that region, we will have no stability and no freedom in the United States.

Two decades of Soviet and Cuban tyranny, and now Nicaraguan tyranny, have proven that a timid policy will not preserve the liberties of the people of this hemisphere.

Failing to adopt the President's initiative will only result in the downfall of El Salvador and will be felt in the near future by all Americans in the form of hundreds of thousands of refugees headed toward our border.

The President asks for a modest amount so our allies may defend themselves from this tyranny. This proposed assistance does not even begin to compare with the billions of dollars we send to the Middle East annually.

Yet this problem is closer to home.

We already have seen the results of two decades of a neglected problem in our own backyard. Let us deal with this problem before it spills more refugees, more blood, and more instability upon our own border.

BIPARTISAN SUPPORT FOR THE PRESIDENT ON FOREIGN AFFAIRS

(Mr. SUNDQUIST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SUNDQUIST. Mr. Speaker, at this time Central America stands at a crossroad in history and what direction it takes will affect the future of our country for years to come. This is no Vietnam, an ocean away, this time it is right in our own backyard. For far too long we have failed to take into account the very real danger being created by the deterioration of conditions in our region. As Ambassador Kirkpatrick stated in a speech March 21 of this year:

> We have already used up our margin for error. Nobody likes to talk about the implications of the consolidation of power by a Marxist-Leninist regime in Nicaragua and the enormous, almost incredible military buildup that is underway in Nicaragua quite apart from the weapons they send to El Salvador; the number of weapons being simply stockpiled in military installations developed in Nicaragua is very substantial. Nobody likes to talk about it but it's true.

When Fidel Castro was in Managua last summer for the first Sandinista anniversary in power, he stated, "Now there are three of us," referring to Cuba, Grenada, and Nicaragua. He went on to suggest that there were about to be 4, 5, 6, 7, 8, 9, 10 advanced Soviet bases in this hemisphere. Unfortunately, it appears that the Soviets are off to a good start. The Sandinista government itself freely admits that it is receiving Soviet supplies through East Germany and Arab countries, although it attempts to give this aid a more innocent cast than is reasonable in light of the extent and type of aid received.

I am certain that my colleagues are aware of the recent events in Brazil regarding the interception of Libyan planes bound for Nicaragua. Four Libyan transport planes carrying arms, explosives, and military spare parts landed in Brazil on Monday, and were stopped by Brazilian authorities. These Soviet-built cargo jets were searched by the Brazilian Government, and found to contain both equipment made in the Soviet Union and arms which had been taken from U.S. forces in Vietnam.

There are also reports that a ship containing arms bound for Nicaragua had been found off the coast of Costa Rica after it developed engine trouble. Incidents such as these are only the tip of the iceberg. We can no longer afford to consider standing idly by. This is a problem which will not go away by itself. This is also a problem which will not be solved by American withdrawal, but will be magnified tenfold. For the sake of our future we cannot afford to cut off funds for our involvement in our region.

Mr. Speaker, I urge this body to support our President on a bipartisan basis in foreign affairs.

THE PRESIDENT'S ADDRESS TO THE CONGRESS

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, I am certain that my colleagues will join me in commending the President for an address to Congress that was full of substance and challenge for all of us serving this great Nation. Last night, the President extended his hand to the Congress in asking for full cooperation on foreign policy issues whether it be on Central America or nuclear arms control.

I call upon the Speaker of the House to join me in saying that the time has come for a return to bipartisanship on foreign policy issues. Let us all put the interests of our country ahead of all other concerns and rally to support our current vital foreign policy objectives. We in this Congress have a shared responsibility for our Nation's foreign policy. It is my hope that all of us are willing to accept the challenge of bipartisanship and shared responsibility. Let us return to the spirit of bipartisanship—a tradition which served the best interests and goals of our Government and our country. It was a tradition begun when the Congress and President Truman worked closely together in facing the challenges that confronted our Nation in the past.

The President offered us the choice of turning our backs on our friends in Central America or accepting the challenge of helping our freedom-loving friends in that vital region. I believe that President Reagan aptly pointed out that we can no longer afford to remain an uncommitted and passive Congress during times like these when a crisis is developing on our very doorstep. As the President so clearly explained, we do have a stake in the problems involving our neighbors in Central America. Their problems do affect the security and well-being of our own people.

Central America is nearby and it is critical from a strategic point of view. If we fail to address these nearby problems, what will we do when our allies across the seas ask for our help in meeting even greater challenges? What will our allies in NATO and the Middle East think of our promises and our commitments to them if we fail to respond to threats in our own backyard?

We are all familiar with the conflicts in Central America and the efforts of the democratic governments in that region to bring democracy, reforms, and free elections to their people. I agree with the President that progress is being made in the struggle to sustain the independence and freedom of the nations in that war-torn area.

It is important for all of us to realize that the bulk of American assistance to Central America is in the form of economic assistance. The smaller security assistance portion provides the governments in that area a shield to protect their ongoing efforts to improve their economies and bring stability and peace to their countries.

I believe that all of my friends in this Chamber will join me in encouraging the administration's efforts to pursue a political solution to the conflicts in Central America through dialog and negotiations. Our Chief Executive is willing to support "any agreement" reached by Central American countries for withdrawal of all foreign troops from the region.

In pursuit of that goal, the President has given us a decision to make. Shall we take up this shared foreign policy obligation in the spirit of bipartisan cooperation, or will we say no to the challenge?

I again commend President Reagan for the tone and thrust of his address, and urge all of my colleagues to make the right choice. Let us take prompt and positive action on the requests before us.

SUPPORT ADMINISTRATION'S REQUEST FOR AID TO EL SALVADOR

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, last night the President provided us with a cogent summary of the struggle for democracy in Central America. He also spoke of the danger and adverse consequences for America should we allow totalitarian forces to succeed in their quest for domination.

No one can deny that Cuba and the Soviet Union are pouring massive amounts of military equipment into Central America. From 1962-81 Soviet security assistance to Latin America totaled almost $4 billion, compared with $1.5 billion in U.S. assistance for the same period. The Soviets and Cubans had over 50 times as many military advisers in Latin countries as the United States in 1981.

Today, Cuba's army is three times larger than it was in 1962.

Cuba not only has 40,000 troops in Africa; it has over 2,000 in Nicaragua.

Let no one doubt that the aim of the guerrillas in El Salvador is to use their armed might to destabilize all of Central America. Let me read this quote from the guerrilla leader who recently took his own life while visiting Nicaragua:

> The revolutionary process of Central America is a single process. The triumphs of one are the triumphs of the other . . . Guatemala will have its hour. Honduras its. Costa Rica, too, will have its hour of glory. The first note was heard in Nicaragua.

It is beliefs like this, backed by violence, that so concerns our friends in Central America. The people and governments in Central America have made this plain and they continue to warn us even as we debate this issue.

The ramifications of a Communist takeover in El Salvador are clear. The trend toward democratization in the region would be dealt a severe blow. Communist efforts to crush the roots of democracy in Latin America, would intensify. This would not only threaten the security of El Salvador's closest neighbors, it would threaten our security and send a clear message that the United States will no longer stand and protect its own vital interests. It would have devastating consequences for the people of El Salvador who are fighting for democracy; and if the fears of our allies in the region are realized, the security of our own borders would become uncertain. I would urge that my colleagues support the administration's request for aid to El Salvador.

AID TO EL SALVADOR

(Mr. McCAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCAIN. Mr. Speaker, I am very interested in seeing my colleagues continued references to the Vietnam war. I am particularly fascinated by the references made by those who did not seize the opportunity to serve there, nor did they choose any particular role in that conflict except to maybe visit for 2 days, as they do in Nicaragua and El Salvador for a couple of days, and come back as experts.

The subject is negotiations. Negotiations require two parties that desire to negotiate before it is possible to achieve.

Negotiations as far as El Salvador is concerned is that the rebels seem to be driven by the dictum of Chairman Mao who said "political power is the flower that blossoms from the muzzle of a gun." When we have provided sufficient military assistance, economic aid, so that it is in the best interests of the El Salvadoran rebels to negotiate, at that time I believe we can conduct meaningful negotiations and hopefully get them to join in a free and democratic election.

CENTRAL AMERICA

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, last night the Democrats in the House of Representatives, led by the deputy majority whip, the majority leader himself, and including some key House committee members, approached the President's Central American speech in a temperate, conciliatory fashion, calling for bipartisan action.

However, the official Democratic Party response immediately following the President's address by a Member of the other body, an individual who has been by far the most virulent critic of the administration's policy in that region, offered a strident attack on the President's attempts to come to grips with the problem.

This nationally televised attack virtually blamed all of the difficulty there on the President of the United States, completly avoiding that which was inherited, complete avoiding the massive interventions by Nicaragua, Cuba, the East Bloc, and the Soviet Union.

While certain House Democrats were stressing cooperation the official Democratic Party respondent chose confrontation. If the confrontation attitude prevails, the future for Central America, and indeed for this country, is bleak.

I call on responsible Democrats to repudiate that partisan approach. At this critical stage we need to stand up for what is right for all America, North, South, and Central.

ADMINISTRATION POLICY IN EL SALVADOR

(Mr. COLEMAN of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN of Missouri. Mr. Speaker, the President's speech last night should lay to rest any doubts about what our intentions are in El Salvador. For those of us who listened to the President's speech and what he actually said, it is clear that our policy in El Salvador is based upon principles which all Americans can support.

The President stated simply and straightforwardly that we support democracy, reform, and human freedom; that we will support economic development despite the obvious attempts of the leftists to sabotage it; that we will support that nation's fight against Cuban and Nicaraguan intervention; and that we support dialog and negotiations to end hostilities.

I would ask my colleagues who were so quick to criticize the President last night and today to tell us what is wrong with these basic principles. The President deserves our support in forging a bipartisan policy based upon these principles.

EL SALVADOR

(Mr. MARTIN of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTIN of North Carolina. Mr. Speaker, I rise in strong support of the President's forceful but balanced speech on the crisis in Central America.

I also rise to reject the partisan attack on the President by the official TV spokesman for the Democratic Party, and a citizen from Connecticut, in his response last evening on behalf of the Democratic Party.

National security more than any other issue demands bipartisanship.

I believe many House Democrats recognized this fundamental principle in their remarks last evening during the special order taken by the gentleman from Arkansas.

However, the Democratic Party's champion droned on about the bogeyman of the military solution which he claims is all President Reagan is after. This is false, and he knew it. We have devoted huge sums already to the social and economic problems of Central America—$118 million of this went to Nicaragua following the revolution that overthrew the Somoza regime. But there is indeed a military aspect to the problem which is probably paramount. The Marxists in the Sandanista leadership and among the guerrillas in El Salvador have made it so, much to the pleasure of Cuba and Russia.

Yet, the spokesman for the Democratic Party, and other Democrats who persist in raw partisanship, ignore this dimension and it will prove to be bad politics in the end.

In his partisan response to President Reagan, which he had to deliver because it had already been printed before the President spoke, the Democrat's TV critic quipped that the President had brought the people to their feet but not to their senses.

How ironic that the Democrat's spokesman would himself be the proof of that last claim.

IRA SAVINGS SUCCESS

(Mr. MOORE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORE. Mr. Speaker, this morning's Washington Post reports ample proof that expanded individual retirement account opportunities enacted in 1981 get Americans in the savings habit once again. Even Treasury Secretary Donald Regan admitted IRA activity far exceeded Treasury expectations.

Yesterday the Internal Revenue Service reported some 10 million Americans opened an IRA or contributed to an existing one by the standard April 15 deadline for making 1982 IRA contributions. This is triple the number of all IRA accounts existing 1 year earlier causing expansion of the Nation's savings base due to IRA activity by more than $31 billion in 1982. Nearly 1 in 5 tax returns filed for 1982 reported an IRA deposit had been made. This dramatic increase in savings, mind you, occurred during one of our worst recessions. Imagine the future increases as the economy recovers.

Econometric statements prepared at my request in 1981 and used by me in drawing the IRA improvements enacted then also substantially understated actual IRA behavior now reported. Concern was raised in 1981 that prior IRA response had been lackluster and my econometric forecasts were too rosy. Actual IRA performance is now more than double our forecast.

I suggest we use this experience to further expand the Nation's IRA savings base and thereby reduce interest rates as credit demand can be satisfied without Government borrowing crowding out private borrowing. I have introduced H.R. 2000 to allow a $2,000 annual nondeductible contribution to be made to an IRA once deductible ceilings of current IRA policy are reached. In addition, an extra lifetime nondeductible contribution of $8,000 would be permitted. This feature is especially drawn to entice those nearing retirement age who find current deductible amounts insufficient incentive to start an IRA to do so as benefits would then be large enough to make the account worth their while. Provisions in H.R. 2000 for waiver of the 10-percent withdrawal penalty when IRA funds would be used for purchase of a first home or college expenses add reasons for young taxpayers to open an IRA as well.

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LET US IMPROVE THE TRANSPORTATION FACILITIES OF THE WASHINGTON, D.C., AREA

Mr. PARRIS. Mr. Speaker, this morning at 6:30 I had the opportunity to fly with Captain Dan of WMAL Skyhawk 63. It is a marvelous and beautiful day outside as you know, the visibility was unlimited and incredible. At 7 o'clock this morning the traffic on I-95 was already heavy, but there was nobody on the express lane; at 8:35, there was a 3½-mile backup on I-66 and the HOV lanes were empty into downtown Washington. They looked like an empty bowling alley. At 10 minutes to 9 on I-95 there was a three-lane bumper-to-bumper backup from the 14th Street Bridge to Seminary Road. That is more than 5 miles and I personally counted only 15 cars and 23 buses on that total express lane length. If this does not cost the Government personnel expenses, if it does not pollute the air and burn up fuel and create energy problems then I am badly mistaken. We simply have to find a way to utilize the capacity of the express lanes and improve the transportation facilities of the Washington metropolitan area and we need to do it soon.

SUPPORT PRESIDENT REAGAN'S POLICIES ON CENTRAL AMERICA

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, I rise in strong support of President Reagan's current policies in Central America as delivered in his speech last night to a joint session of this Congress.

The countries of Central America, except Nicaragua, are working to achieve a democratic form of government. This achievement is vital to our interests both at home and abroad. If Central America fails, our security will be threatened and our allies to the south will soon become our enemies. The United States cannot stand by and let its enemies take control of these countries against the will of the people.

The citizens of Central America have proven that they desire democracy. In El Salvador, free elections were held with factions from all sides participating in these elections. In spite of extreme opposition and threats of death from the guerrillas, 80 percent of the people of El Salvador voted, and they voted for democracy. This, in itself, demonstrates the will of these people to attempt to secure freedom.

Human rights problems do exist in Central America, and improvements certainly must be made. But ask yourself this question—would there be any respect for human rights if these countries were controlled by a Communist government? I do not believe so.

The Soviets already have a much larger presence in our own hemisphere than we do. From 1946 to 1982, the United States has provided $2.2 billion in economic aid to Central America and only $296 million in military aid to this region. By contrast, the Soviet Union has provided only $50 million in economic aid and $150 billion in military aid to Nicaragua alone. Cuba, meanwhile, has received $4 billion in military aid from the Soviet Union. Clearly, the United States has invested heavily in economic aid, while the Soviets have focused on building a military presence in Central America.

The current situation in Central America has a worldwide audience. If the United States cannot meet the challenges to independence and security in our own hemisphere, then we have failed all of our allies. Our allies, worldwide, will believe that our democratic principles for freedom are no longer valuable except within our own borders.

We, the Congress, cannot turn our backs on this situation. As long as outside influences affect the people of Central America, as they do now, the United States must assure that freedom will prevail. If we ignore this challenge, the Soviet influence will continue to grow, and the United States will be faced with a crisis of greater magnitude than this one—a crisis we may be unable to control.

We have the opportunity, now, to secure democracies throughout this region through our economic aid and our military trainers and equipment. I urge this body to support President Reagan's Central American policies, and I ask that we give him our full cooperation in order to achieve freedom and peace in this region.

RESPONSIBILITY FOR SHARED OBLIGATIONS

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, last night the President set the tone for what I truly hope will be a bipartisan agreement to assist the freedom seeking people of Central America to live and prosper in a democratic environment without fear of oppression or tyranny. To do so is really in our own interest as well as theirs, for the scope of the problems facing our southern neighbors is not such that they alone should be left to bear the burden. "The national security of all the Americas is at stake in Central America," said the President.

The failure of this country to recognize that fact would, like the ostrich with his head in the sand, leave our southern flanks exposed to the worst of catastrophes. Massive floods of immigrants, increased terrorism, and even armed conflict across our own borders are inevitable if we do not lend economic assistance to those who are merely trying to protect their fragile hold on democracy. Indeed, who among us would wish to bear the responsibility for failing to meet our shared obligation?

SMALL SAVERS' TAX EXEMPTION

(Mrs. MARTIN of Illinois asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. MARTIN of Illinois. Mr. Speaker, today I am introducing a bill that will provide an incentive for the small saver. I am proposing that the first $750 of interest earned from savings be exempt from income taxes.

This step, Mr. Speaker, will reward savings and thus create a savings rate that might begin to approach that of our major competitors in the world marketplace. Japan has an 18-percent savings rate; ours is 5.1 percent. Today we discourage savings by including every dollar of interest earned in taxable income; yet we allow every dollar of interest paid to be deducted from taxable income.

This bill is not intended to offer shelter to the wealthy but to the low- and middle-income Americans who have $10,000 or less in savings. I recognize that the major discussion on this issue has been related to whether or not we should withhold tax on interest. That discussion, in my opinion, misses the point. The real question is whether we should continue to tax interest for small savers.

Mr. Speaker, the small saver deserves a real break. I urge my colleagues to join me in supporting this bill.

LACK OF BIPARTISAN APPROACH TO EL SALVADOR

(Mr. EDWARDS of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Oklahoma. Mr. Speaker, I hope that the President's speech on Central America will change the nature of the debate. I have been highly critical of the Government of El Salvador, as critical as any Democrat in the Congress. But there has been progress and the Salvadoran Government today has a far better human rights record than the Government of Nicaragua which has neither free press nor free elections. The debate is not over the Government of El Salvador, but over the possibility of Soviet domination of Central America and what that would mean to us. Thank goodness the President has ruled out U.S. support for power sharing. I am amazed to hear liberal advocates of human rights argue that people ought to be able to avoid elections and kill and burn and terrorize their way into political power. What a magnificent human rights achievement that would be.

The guerrillas say they are afraid to participate in elections. They are the ones who shot people who dared to go vote.

And Mr. Speaker, finally, I am shocked by the partisan approach the Democrats have taken to foreign policy. It does their party and the country no good and ought to be repudiated.

UNIFORM GUIDELINES OF ASSASSINATION ATTEMPTS

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. GEKAS. Mr. Speaker, 2 years after the attempted assassination of the President of the United States there still appears to be no action forthcoming on the many issues that arose from that incident.

I am introducing a bill today that will, if enacted into law, I believe, close one of the gigantic loopholes that emanated from that case.

Today, no matter what the Congress of the United States should do to act upon the insanity defense which too frivolously can do injustice in such a case, we need a bill that would create exclusive jurisdiction in the Federal courts on the question of the Presidential assassinations. Then no matter where such an attempt could be made in any one of the 50 States we can be assured that whatever principles the U.S. Congress should apply to such a case will uniformly be applied.

TOWARD FREEDOM IN CENTRAL AMERICA

(Mr. SILJANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SILJANDER. Mr. Speaker, President Reagan, here in this Chamber last night, gave a clear analysis of the situation in Central America.

It still amazes me that many of my colleagues are not aware of the threat posed by Nicaragua to freedom in Central America.

Continually examples have arisen showing Nicaragua's clear ties to Marxism and international terrorism, not only to oppress its own people but to stir up death in other nations.

A few examples point to Nicaragua's character. The intercepted arms shipment from Libya, recently discovered by Brazil; the 100 tons of explosives found yesterday by Costa Rica on the way to Nicaragua; the location of the Marxist Guerrilla El Salvador Liberation Front in Managua; the presence of 2,000 Cuban military "advisers" with an additional 5,000 civilian advisers; and the recent exchange of ambassadors between Nicaragua and Soviet-occupied Afghanistan.

But the connection which disturbs me the most, and proves once and for all that Nicaragua is dedicated to terrorism as a political tool, is its connection with the PLO.

This has been no secret. Yasir Arafat himself has been quoted as saying:

> Anyone who threatens Nicaragua will have to face Palestinian Combatants.
>
> We have connections with the rebels in Salvador and Nicaragua . . . I reiterate Salvador and elsewhere in the world.

Salvadoran rebels have met with Arafat in Managua and the PLO Fatah has promised and delivered arms for the rebels through Managua, Nicaragua.

The Salvadoran guerrilla front has met with PLO Fatah leaders in August 1980 and November 1980 in Managua and in Beirut to set up training. The PLO has stated publicly that they are training Salvadoran Marxist terrorists in Managua and in the Middle East.

And as Yasir Arafat also said:

> PLO relations with the rebels in El Salvador are relatively deep-rooted because the leader of the communist party there, Shafaik Handal is of Palestinian origin.

Shafaik Handal is now expected to succeed Carpio who died earlier this month as the leader of the El Salvador rebels.

My colleagues, let us realize that the threat is real. The crisis deep. The problem is one that will not go away. Please find the will that is traditional of Americans to stand up to international terrorism and Communist-Marxist overthrows of free and elected governments.

A NATION AT RISK

(Mr. NIELSON of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. NIELSON of Utah. Mr. Speaker, my son, who works at the Department of Education, brought me a copy of "A Nation at Risk: The Imperative for Educational Reform," produced by the National Commission on Excellence in Education. I understand that a copy of the report was delivered to each Member this morning.

At its beginning, the report warns us:

> Our Nation is at risk. Our once unchallenged preeminence in commerce, industry, science, and technological innovation is being overtaken by competitors throughout the world. * * * The educational foundations of our society are presently being eroded by a rising tide of mediocrity that threatens our very future as a Nation and a people. * * * If an unfriendly foreign power had attempted to impose on America the mediocre educational performance that exists today, we might well have viewed it as an act of war.

Nuclear disarmament is a pressing and controversial topic before this Congress, but as the report so ably points out, we have been unwittingly allowing a different kind of disarmament: "an act of unthinking, unilateral educational disarmament."

Our very place in the world depends on the quality of our education. "The world is indeed one global village," the report points out.

> We live among determined, well-educated, and strongly motivated competitors. We compete with them for international standing and markets, not only with products but also with the ideas of our laboratories and neighborhood workshops. * * * If only to keep and improve on the slim competitive edge we still retain in world markets, we must dedicate ourselves to the reform of our educational system for the benefit of all—old and young alike, affluent and poor, majority and minority.

And what of those who are "victims" of a mediocre educational system? The report tells us that

> individuals in our society who do not possess the levels of skill, literacy, and training essential to this new era will be effectively disenfranchised, not simply from the material rewards that accompany competent performance, but also from the chance to participate fully in our national life.

I had a particular interest in this report because of my long association with the Chairman of the Commission, Dr. David Pierpont Gardner. I was his religious mentor in Berkeley more than 30 years ago. I was chairman of the Budget Committee and speaker of the Utah House of Representatives during his first year as president of the University of Utah; I was Associate Commissioner of Higher Education under Dr. T. H. Bell during Dr. Gardner's later years as president. He and his group of 17 have done an excellent job of reporting the situation and in proposing viable solutions. I commend the report to you.

Dr. Gardner is leaving the University of Utah after 10 years—a period during which he helped establish the university as a national leader of research, home of the mechanical heart that served Dr. Barney Clark during his last days. He is returning to his home in Berkeley to assume the post of president of the University of California. I congratulate him for his great commitment to education, both on the Commission and at the University of Utah, and on his appointment at the University of California. I commend the State of California for its foresight in reclaiming one of its outstanding natives.●

HUMAN RIGHTS OF ALL THE AMERICAS

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, last night following the President's remarks I left my office open at Fort Lauderdale, Fla., and encouraged through the media the citizens of Broward County to call in their opinion of the remarks of the President. I am pleased to advise the House this morning by a margin of 3 to 1 they have favored the position of the President.

In doing so, I think I must point out that the people of south Florida have a very unique firsthand experience as to what loss of freedom is as we are the host city of many, many people from Cuba and from Nicaragua who have fled communism.

When we talk about human rights I think we have to put into the equation the human rights of the American people. What is the stated goal of communism? What is going to happen if we allow the Communist menace to continue to spread in Central America? It is time we be concerned about our human rights, the human rights of the American people, when we talk about our involvement in Central America.

DEMOCRATIC CRITICISM OF SPEECH ON EL SALVADOR

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, last night President Reagan gave us a comprehensive report on the crisis in Central America in all its dimensions—economic, social, and humanitarian as well as military. He deserves bipartisan support. Many of my colleagues in the House last night discussed the speech in that cooperative spirit.

But on national television the Democratic Party leadership, through the voice of Senator DODD, greeted the address with derision. The Senator's vitriolic attack on the President violates every tradition of bipartisanship in foreign policy, a tradition which, alas, is not honored very much these days. We must speak with one voice to our adversaries. Of course, some regard the President as more of an adversary than Castro or even Andropov.

The President's attempt to come to grips with the crisis to the south is not a simple military solution, as Senator DODD would have us believe. He distorts the President's address in a partisan attempt to frighten the American people. But they will not be deflected from their responsibilities. And in their efforts to take political advantage of the crisis, the Democratic Party leaders will pay the price.

ON AMERICA'S INFLUENCE IN CENTRAL AMERICA

(Mr. HARTNETT asked and was given permission to address the House for 1 minute.)

Mr. HARTNETT. Mr. Speaker, last night we heard the President of the United States stand in this Chamber and urge this country to exert its influence, if it has any left in this world, in Central America. We are engaged now in debates over military buildup and nuclear freezes, but I submit to you, Mr. Speaker, if we are incapable of exerting our will and our influence, economically or militarily in Central America, then we ought to just pack it in as far as our Western European allies are concerned, and forget about a military buildup.

A great President by the name of John Kennedy stood on the steps of this Capitol in 1961 and said to the American people:

> Let every nation know whether it wishes us ill or whether it wishes us well that we will pay any price, bear any burden, endure any hardship, oppose any foe, and aid any friend in the defense of liberty.

And I have seen a member of that great President's family sit in this Chamber on his lily-white hands and adopt the policy of communism, and retreat from our friends and our liberty. I guess he and his liberal friends are unwilling to endure the hardships.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. (Mr. BROWN of California).

The Chair would admonish the Members that the rules of the House prohibit specific reference to Members of the other body in a derogatory way.

PARLIAMENTARY INQUIRY

Mr. HARTNETT. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. HARTNETT. I have only referred to members of the former President's family. I made no specific reference to any individual, sir.

The SPEAKER pro tempore. The gentleman's explanation will appear in the RECORD.

FLAWS IN THE DEMOCRATIC PROCESS

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, we see growing signs that this House is becoming less and less of a democracy in its procedures, and more and more of a tyranny. The majority is determined to use the rules to shut down debate, to keep elected Representatives from representing their constituencies and to make a mockery of a free and open parliamentary system.

Today members of the majority party came to the floor to defend that kind of autocracy. Shut down debate they say; to debate and discuss the freeze resolution is improper. We should vote, they say, before establishing the facts and before giving all the American people a chance to be heard, power corrupts, autocracy breeds arrogance. Can there be greater arrogance than to say debate should be ended prematurely and the opposition gagged? That is what proponents of the freeze seem to be suggesting.

Their frustration indicates their problem. They are no longer able to defend their resolution so they do not want to talk about it any more.

They are no longer sure the country backs their resolution so they want to rush it to judgment, they want the issue behind them because it can no longer be sustained in a true democratic process.

Small wonder so many liberals back left wing dictators around the world; they want to practice the politics of leftwing tyranny right here in the House.

□ 1215

THE NUCLEAR FREEZE DEBATE

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, in the Baltimore Sun of Thursday, April 28, there is a quote from the gentleman from Wisconsin (Mr. ASPIN) concerning the debate that we are engaged in on the freeze.

He states: "The freeze revolves around the issue of whether you think the President is negotiating (for arms controls) in good faith."

He goes on to say, according to the Sun, that the freeze "is more symbolism than substance, and it has no chance of going beyond the House."

With these quotes, Mr. Speaker, I think perhaps it would be of interest for us to know whether the chairman of the committee that has jurisdiction on this matter, the gentleman from Wisconsin (Mr. ZABLOCKI), agrees with the other gentleman from Wisconsin that the freeze revolves around the issue of whether you think the President is negotiating in bad faith.

Mr. Speaker, are we to believe that the freeze leaders all believe that the President of the United States is negotiating in bad faith? Have we come to the point where the motivations and integrity of the President of the United States have been made the object of a congressional resolution?

These questions should be answered fully before this debate continues.

Also, Mr. Speaker, some reference has been made that somehow this side of the aisle has been dragging its feet and not allowing us a final vote on this question.

Mr. Speaker, I would ask whether this side of the aisle is in control of this schedule? Did we say that we could not discuss this on St. Patrick's Day, that we had to delay this for a Democratic fundraiser, that we had to delay it until Thursday of this week and that somehow we cannot work tomorrow?

WE SHOULD BACK THE PRESIDENT'S INITIATIVE

(Mr. PACKARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PACKARD. Mr. Speaker, President Reagan has laid the cards on the table * * *. Now let us play his hand with the aid he has requested and support the administration in our country's battle against Soviet-backed forces in Central America.

There is no question the Soviets are continuing to pursue their stated goal of world domination and suppression of human rights. They have intervened in Cuba, Angola, Ethiopia, Yemen, Cambodia, Poland, Afghanistan, and now with our neighbors in Nicaragua and El Salvador. We have stood by and watched the Soviets march into world capital after world capital and now they are in our backyard. This is not the time to say "no more aid."

The Soviets have 10,000 men in Cuba—supplies her with $4 billion a year—and has given millions of military hardware to our neighbor 90 miles away. What the Soviets have done in Central America is even more dangerous.

From the tiny island of Grenada to the jungles of Nicaragua and El Salvador—the Soviets have armed, aided, and abetted those who would overthrow our allies; and what have some of our more vocal Members of this great House been concerned with? Our 55 advisers in El Salvador. Fifty-five advisers with a few million dollars in aid versus billions of dollars and thousands of guerrillas backed by the Soviets in the region.

I believe our answer should be to back the President's initiative. It is a small price to pay for freedom and security in our hemisphere.

CENTRAL AMERICA

(Mr. McCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCOLLUM. Mr. Speaker, in light of the President's speech and the controversy surrounding aid to El Salvador, I feel compelled to speak on the importance of pursuing the President's Central American policy.

Central America is crucial to our Nation's security interests. The location of the region in relation to the United States makes the necessity of having friendly stable democratic nations in the area immediately obvious. The capital of El Salvador is closer to Washington, D.C. than San Francisco is. Two-thirds of all our foreign trade including critical resources pass through the Panama Canal and the Caribbean.

Should Central American nations such as El Salvador fall, we can expect hundreds of thousands of refugees to enter the United States. This Congress has not addressed our Nation's current immigration problem and my colleagues who represent districts on our southern border can tell you that we cannot afford to add to a problem that we already cannot handle and is frankly, out of control.

What is happening in El Salvador is clear for all who care to examine the facts. A group of Soviet and Cuban trained and supplied guerrillas operating out of Nicaragua are trying to overthrow the democratically elected Government of El Salvador. We cannot allow this to happen. These guerrillas do not have popular support in El Salvador, they could not exist without outside support and they are trying to ruin the country's economy and undermine the democratically elected Government's credibility.

Mr. Speaker, I suggest that Vietnam is not the parallel on which we should premise our actions in Central America, rather we should look at what has happened in Nicaragua and Cuba as illustrations of exactly why we must act.

THE FACTS SUPPORT THE PRESIDENT

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COUGHLIN. Mr. Speaker, I support President Reagan's basic proposals in Central America. Clearly, at this point, the movement in Central America is not a peasant uprising. It is an orchestrated effort by the same forces that deny human freedom in the Soviet Union, Poland, Afghanistan, Cuba, and Nicaragua.

Well-meaning people believed the Sandinista revolution in Nicaragua would produce a pluralist, independent government. Beginning under President Carter, we provided Nicaragua five times more aid than in the 2 years before the revolution.

Yet, the Government of Nicaragua has now imposed a new dictatorship, refused to hold elections, seized and censured the media, denied the Catholic Church the right to say mass, insulted the Pope, and slaughtered and drove the Miskito Indians into exile.

As President Reagan said, "It is the ultimate hypocrisy for the unelected Nicaraguan Government (to do) everything they can to bring down the elected Government of El Salvador."

If you were a Soviet, whom would you seek to subvert? Obviously, these countries nearest to the United States.

The facts support the President. He has proposed a realistic and reasonable course to confirm our commitment to democracy in the Americas.

LET US CONTINUE TO HELP DEMOCRATIC NATIONS OF CENTRAL AMERICA

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, President Reagan's speech last night was moderate and thoughtful. It clearly presented the importance for U.S. security interests of supporting the Government of El Salvador's quest for democracy and for economic and social reform.

He made it clear that U.S. policy toward Central America is devoted to economic development and that economic assistance has been three times greater than military assistance, that the United States has stressed that a political solution through free elections and national reconciliation are the best way to solve the internal problems of the Central American nations, and the President made clear that regional tensions must be reduced through international diplomatic efforts.

The President made it clear once again that the United States will not be sending combat troops to Central America, that we have only been asked to provide assistance and training. Our commitment is to help the democratic nations of Central America to preserve and strengthen their democratic institutions. We are committed to that policy, and I urge my colleagues to support that policy as well.

THE AMERICAN DREAM IS A UNIVERSAL DREAM

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, I believe the words of last night and the words so far this morning can be summed up in an event that happened 2 years ago in my congressional district.

It was a town meeting, about 2 hours of people coming up and talking about the President's proposed budget cuts. And then a short, young dark-haired fellow stood up and in very broken English he said, "Congressman GUNDERSON, I ask that you support our country's efforts to help El Salvador and Poland remain free, because if America does not help El Salvador and Poland to be free, who will? And I know better than anybody in this room, because I am a Vietnamese refugee."

The words of the young fellow that day said the American dream is not American at all. It is a universal dream in the hearts and the minds of people all over the world who yearn for the chance and the opportunity to chart their own destiny.

THE ISSUE OF SANCTUARY

(Mr. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON. Mr. Speaker, one of the issues that has not been addressed today is that issue of sanctuary in Nicaragua. The President has talked about interdicting the supply lines so that we will not have additional military supplies coming into Nicaragua to supply the revolution in El Salvador and the surrounding countries.

This is a real concern of mine. Recently, three Libyan planes were caught in Brazil supposedly bringing medical supplies to Nicaragua, when, in fact, they were bringing military supplies.

If we allow sanctuary, if we allow the exportation of revolution from Nicaragua, the war throughout Central America will eventually be won by the Marxist. El Salvador, along with her neighbors will be lost. The Communists and the Marxist will be successful in achieving their goal of dominating Central America and putting America one step closer to total isolation: An island in a sea of Communist dictatorships.

It is extremely important that we allow additional funding for the CIA to help those people who are trying to interdict those military supply lines. We must keep additional weapons from getting into Nicaragua, for if we do not, the sanctuary that we see in Nicaragua will be not unlike what we saw in Vietnam and that is why we lost that war.

In Vietnam we allowed the Vietcong sanctuary in Cambodia, Laos, and North Vietnam. We fought a purely defensive war: A war of attrition. It was like asking a football team to win the game but not allowing them beyond the 50-yard line. Ultimately, you can only lose.

That is what will happen in Central America if we allow the Marxist terrorists sanctuary in Nicaragua and we do not curtail the flow of war materials into their country.

If we allow sanctuary to our enemies, if we allow them to export revolution, as they did in Vietnam and come back into sanctuary whenever they are endangered, we will never be able to preserve freedom in the world.

LET US NOT MAKE THE SAME MISTAKE WITH EL SALVADOR AS WE DID WITH CUBA

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, we have historically underestimated the importance of Central and Southern America. In the early 1960's we allowed Fidel Castro to woo the hearts and minds of America's liberals. He was the toast of liberal society, and even a guest of talk shows, so we allowed him to have his way in Cuba because he was going to replace Mr. Batista.

And several years later, we found ourselves poised on the brink of nuclear war because of the mistake that we had made with regard to Mr. Castro. And it was only because of the superior strategic systems that the United States possessed at that time that John Kennedy was able to back down the Soviets from their program to implace some 40 intermediate range missiles in Cuba.

Mr. Speaker, let us not make the same mistake in El Salvador that we made with regard to Cuba. I think that any gains that are made by the Soviets in Central America, coupled with their new found strategic superiority, is going to find them very little inclined to back down or to retreat once they have gains in Central and Southern America.

THE PEOPLE WILL BE HEARD ON THE ARMS RACE

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, today we resume consideration of House Joint Resolution 13, which calls for a mutual and verifiable freeze on the nuclear arms race.

Never has this country been more concerned about the threat of nuclear war. Never have the American people been more activated to do something about this threat. Never has the call come so loudly across this country for a halt to this insane arms race.

Yet, in the face of this huge public outcry, never has the will of a majority of the House been thwarted by a minority that oppose halting the arms race.

Never have we seen such diliatory tactics in this Chamber.

Never have we seen such abuse of the process of the House.

In many cases we have had the same amendment—reworded slightly—introduced two, even three times—and rejected every time.

Opponents of this resolution have filed amendment after amendment against this resolution—not to strengthen the resolution but to weaken it, and ultimately to stall it.

If they persist in these stall tactics—I can guarantee them one thing. They will not be able to thwart the will of the people. This resolution will not be stalled. The process of the House will not be abused.

The people want the arms race stopped and we intend to make sure that their voices are heard.

A ONE-SIDED PRESENTATION ON CENTRAL AMERICA

(Mr. BONIOR of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR of Michigan. Mr. Speaker, I had not planned to say anything, but having heard some of my colleagues on the other side on the Central American issue, I would just like to say that I have never heard a more disgusting, biased, nonfactual, one-sided presentation of the issue of Central America as I heard last night.

It is a disgrace to come before this Congress, before the American people and perpetrate what the President did with respect to the facts.

How can the President ask us to spend $60 million on a government that has slaughtered 13,000 of its own citizens, that fails to take into account the prosecution of American nuns who have been slaughtered, American labor leaders who have been slaughtered, and who does not even bother to tell the American people that he is spending $20 million on covert activity in Nicaragua?

It was disgusting and I hope the American people react in a negative way and send a message to this President that we will not engage in that type of activity and that we will not find ourselves involved in a situation that will lead us into interventionist activities such as we found ourselves in Vietnam.

□ 1230

THOUGHTFUL NEGOTIATIONS ARE IN ORDER CONCERNING CENTRAL AMERICA

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, in the pursuit of truth and history, I think it would be fair to say that some of the blackest pages of American diplomatic history have been written in Central and Latin America.

There is just no doubt that the way we have related to these people in the past does not help them or us. It seems to me that if we understand anything about being poor and being oppressed, it is that the outlet is unfortunately violent.

We do not want to see violence; we do not want to see it on the part of the guerrillas or on the part of the government. But we have chosen a path that seems to me is much more militarily oriented than diplomatically oriented.

If we are worried about the Sandinistas, why were we not there with teachers and doctors, which is what the Cubans did? Why are we not there trying to help people as opposed to help governments that do oppressive things to their own people?

I believe, Mr. Speaker, that the President missed the boat last night. We need to have thoughtful negotiations that bring all parties to the table.

THE NUCLEAR FREEZE RESOLUTION

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, the House is now entering its fifth day of debate on the question of a nuclear freeze. I happen to be one of those who supports this effort. I also happen to be one of those who believes that it is now time to vote on this issue. And I hope that reasonable people on both sides of the aisle today can discuss amendments and present them; but, finally, at the end of the day, I hope we can get to a final vote on this very important question. I think that the bill has been strengthened. But I think now we are getting into amendments that are basically redundant, issues that have been presented before, and I would hope that everyone would try today to focus on those issues that have not yet been discussed and resolve this issue so that the American people can know where the House of Representatives stands on this important issue.

THE ELECTION PROCESS IS THE WAY TO DEMOCRACY

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I have listened to some interesting comments this morning, in one of which my good friend, the gentleman from New York, just indicated, that the President missed the boat last night, that we should sit down and negotiate in El Salvador.

It is my experience that negotiations usually are a reflection of the military strength of the parties to the negotiations. And when one sits down and negotiates with another party who has weapons still smoking from their recent firing, it is not going to be a very successful negotiation.

Now, if the revolutionary Communists in El Salvador want to negotiate, if the Fascists of the left are sincerely interested in democracy, which would be something historically new in Central America and the rest of the world, let them put their arms down and let them participate in the election process, which is the way democracy works.

And as to the comments this morning about dilatory tactics on the freeze, any honest reading of the RECORD indicates the proponents of the freeze have several versions of what it means. This morning we were told, "Well, it is just a philosophical statement, do not try to get practical."

They do not debate these things in Managua.

THANK YOU, MR. PRESIDENT

(Mr. PHILIP M. CRANE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PHILIP M. CRANE. Mr. Speaker, I rise in praise of the President's remarks last night before the televised joint session of Congress. The popular perception of events in strategically important Central America has benefited from the clarification which the President provided. In short, we—the people of this great country—are burying our collective heads in the sand instead of facing the less than attractive truth. That truth is that those who wish the United States ill—those Marxist-Leninist totalitarian regimes—are working feverishly to destabilize all of Central America. Their goals are in no way compatible with ours; Cuba and Nicaragua are living proof that if the forces of dissolution succeed again in El Salvador and the other Central American countries, the threat to our country will grow larger, and nearer—and more ominous.

It is time we in Congress exercise our political and moral responsibility to advance and support democratic pro-American governments. Mr. Speaker, I question no one's motives in this very necessary debate over our policy in Central America. But I do suggest, Mr. Speaker, that those who charge our President with base or sinister objectives do a disservice to this country. I call on my colleagues to conduct this debate in a responsible fashion, keeping in mind that our future, our children's future, could well hinge on our willingness to face the challenge which confronts us.

If we are to err in our judgment on these issues—and to err is human—then let us err on the side of safety and in the pursuit of objectives which enhance our security and freedom of our friends. Let us not succumb to compliance or fear, as did others while tyranny rampaged unchecked in Europe in the 1930's.

Let us face our responsibilities by taking the steps necessary to preserve free institutions for ourselves and others. Let us support our President in the quest for peace and security in this hemisphere.

A COMMUNITY OF INTEREST

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, following up on the comments of my good colleague, the gentleman from Illinois, and listening to the comments that have been made during the 1-minute period of time, I am reminded of what the President told some of us, members of the Intelligence Committee, who were privileged to sit with him just a few days ago. I wish I could remember word for word what the President said, but I think I can paraphrase it fairly accurately.

The President said he came into office with several dreams and one of them was to dispell the notion among our Central American neighbors that we the United States were some big colossus of the North. He went on to say that he felt we had never dealt with our neighbors as we should in Central America.

From what I have heard the President say, I know he is committed to building a bridge back to the Central American community in which we have such a great community of interest.

He has backed up his rhetoric and sentiments with his Caribbean initiative to help the entire region economically. That has not been the most popular thing to propose at a time of deep recession here at home, but it surely underscores the importance with which he views the area.

Time and time again we have been making the point that the problem cannot and will not be solved by military action alone.

There has to be a combination of effort and the President proposes that our economic assistance be more than double our military effort.

PRIVILEGES OF THE HOUSE—RELATING TO INVESTIGATIVE RECORDS OF SELECT COMMITTEE ON AGING

Mr. FOLEY. Mr. Speaker, I rise to a question of the privileges of the House and offer a privileged resolution (H. Res. 176), and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 176

Whereas the Constitution of the United States vests authority in the House of Representatives to protect and preserve documents and papers generated during an official and duly authorized investigation conducted by one of its committee;

Whereas article I, section 6, clause 1 of the Constitution (the speech or debate clause) prohibits the questioning of legislative actions outside the House, whether by testimony or production of documentary evidence;

Whereas article I, section 5, clause 3 of the Constitution provides that the House shall determine the portion of its proceedings which shall be public;

Whereas the House Select Committee on Aging conducted an investigation and hearing into abuses reported in the sale of medicare supplemental insurance to the elderly during 1978; and

Whereas such investigation and hearing resulted in the official publication of a committee report entitled "Abuses in the Sale of Health Insurance to the Elderly in Supplementation of Medicare: A National Scandal and a committee report "Cancer Insurance: Exploiting Fear For "Profit (An Examination of Dread Disease Insurance)" Comm. Pub. 96-202; and

Whereas certain documents were obtained or generated during the course of such investigation and hearing and in the preparation of the staff study and the committee report; and

Whereas pursuant to Rule XXXVI of the House of Representatives, the Select Committee's records were committed to the custody of the Clerk of the House whose duty it is to protect, preserve and maintain such records and to prevent their production in contravention of the aforementioned rights and privileges of the House and its Members; and

Whereas there is pending in the United States District Court for the District of Maryland a civil suit entitled George H. Benford v. American Broadcasting Companies, Inc., et al., Civil Action No. N-79-2386;

Whereas on March 22, 1982, a deposition subpoena duces tecum issued by the United States District Court for the District of Maryland issued by the United States in the foregoing action was served upon the Clerk requiring the production of documents relating to the Select Committee's investigation; and

Whereas the Clerk, pursuant to Rule L (50) of the Rules of the House, notified the Speaker of the House of the receipt of such subpoena and the Speaker of the House laid the letter of notification before the House on March 30, 1982.

Whereas the Speaker of the House, in consultation with the majority and minority leaders and whips of the House instructed the Clerk with regard to this subpoena and such instruction was laid before the House on March 31, 1982.

Whereas, on April 8, 1983, the district court refused to continue a stay of such deposition subpena and required the Clerk to produce for Plaintiff's inspection and copying all documents specified in the subpena; and

Whereas, the district court refused to allow the Select Committee to intervene to protect its interest in its investigative records in the possession of the Clerk;

Whereas pursuant to, and in compliance with, an earlier subpena issued by the United States District Court for the District of Columbia to the Clerk in this litigation, and in accordance with the provision of Rule L (50) of the Rules of the House, the Clerk has produced copies of documents constituting or reflecting nonprivileged disseminations; and therefore, be it

Resolved, That the House considers the subpena an unwarranted and unconstitutional invasion of its constitutional prerogative to determine which of its proceedings shall be made public, and in direct contravention of the constitutional protection for congressional investigative activity and be it further

Resolved, That the Clerk of the House be, and hereby is ordered and directed not to produce for inspection and copying by Plaintiff or any of his representatives, or to the Court for inspection, any of the investigative records of the Select Committee sought by the subpena and be it further

Resolved, That the counsel to the Clerk are directed to assert the rights and privileges of the House, and any and all other rights arising from applicable rules or laws, in any further proceedings in the case and to take all steps necessary to defend the House's rights, including appeal from any rulings or petitions for certiorari to the Supreme Court.

Resolved, That the Clerk of the House shall forthwith transmit a certified copy of this resolution to the United States District Court for the District of Maryland.

The SPEAKER pro tempore (Mr. BROWN of California). The gentleman from Washington (Mr. FOLEY) is recognized for 1 hour.

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I bring this privileged resolution before this body today in the belief that the circumstances of the case have now reached a point at which it is imperative that the House act to protect its own prerogatives, including the essential privilege of speech and debate.

As the resolution indicates, the case arises out of an investigation conducted by the Select Committee on Aging into certain problems connected with the sale of supplementary insurance to the aged, particularly cancer insurance.

In the course of that investigation, meetings took place with some individuals involved in the sale of this insurance which led to lawsuits being filed. In accordance with that series of lawsuits, a jury trial was had with some of the same defendants. Although the jury returned a verdict against the plaintiff and for the defendants, this plaintiff has pursued certain documents in the possession of the Clerk and the Select Committee on Aging which, in the judgment of the bipartisan committee established under rule L and headed by the Speaker, constitutes an invasion of the privileges of the House.

The House will remember that in approving this rule it gave the Speaker authority to convene such a bipartisan consultation between the respective leadership groups to advise him in his determination of which matters should involve the intervention of the House to protect its privileges.

In this case, as in others, it was agreed by the bipartisan leadership, notwithstanding some concerns about the circumstances of the original case, that the instant request for subpena is in violation of the privileges of the House and should therefore be resisted.

Because the court, in this case, the U.S. Court for Maryland, sitting in Baltimore, has declined to permit the intervention of the House in order to present issues of privilege and has insisted on the production of documents or, as has been more recently ordered, their examination at the Capitol by the plaintiff, it is felt to be imperative that the House act to instruct the Clerk not to comply with the subpena.

□ 1240

Mr. Speaker, for purposes of debate only, I yield to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, this is a matter of some seriousness, and I would hope that the leadership would pause to reflect upon some of the issues that are being posed in this particular issue and not bring this matter up today.

At the appropriate time, I intend to move to refer this resolution to the Committee on the Judiciary because I believe that that committee is best equipped to examine the issues that are posed.

Now, as I understand the circumstances that gave rise to this subpena, it is that several years ago the Select Committee on Aging decided to make an investigation into the sale of cancer insurance to elderly people in the United States; that several employees of the committee at that time got together and looked at training procedures as well as sales procedures for cancer insurance, and as a part of this investigation, the employees of this committee tipped off ABC News, which is named as a defendant in this action, and the employees, together with the ABC News cameras, went to the office of a certain insurance agent and filmed a proposed sale transaction.

One of the agents who was filmed, one George H. Benford, filed a complaint in the circuit court for Baltimore County stating that this filming activity was in violation of the Maryland antieavesdropping statute, the Maryland Courts and Judicial Procedure Act, sections 10 through 40, and that a motion for summary judgment by the defendants was denied.

There was also a second case that was filed by Glenda Brown against ABC and the same defendant, and that was the case that went to a jury trial and the jury found in favor of the defendants.

So in effect there were two cases that involved this transaction, but only the Benford case involved the allegation that the Maryland antieavesdropping statute was violated, and only the Benford case is the subject of the subpena which is presently under discussion in the House today.

There are several things that I think we ought to consider.

First of all, I am concerned that a double standard is being applied. As the Speaker and the Members of this House know, there have been a number of subpenas issued against executive branch agency officials, including former EPA Administrator Ann Gorsuch Burford and Rita Lavelle, who has resigned her position with the Environmental Protection Agency. The House itself cited Mrs. Burford for contempt of Congress during the last Congress, and I supported that motion because I believe that Mrs. Burford was wrong in declining to produce the records that had been sought by House committees. And yet, at the same time, when a gentleman who has claimed that the eavesdropping statute has been violated that was passed by the legislature of the State of Maryland, we are turning around and asserting a congressional privilege, saying that this gentleman will not be able to come to the Capitol to examine and to copy the records to present to the court for the court to determine whether he has a case.

I think that is clearly the establishment of a double standard.

Second, prior to 1979, the procedure that was employed when a Member, an officer, or an employee of the House of Representatives was subpenaed either to produce records or to appear in person was that there was an automatic bar, unless the House gave consent to that Member, officer, or employee to appear or to produce the records.

In 1979, rule L was adopted, which said that the Member should comply unless the Member made the determination that the privileges of the House were infringed upon. Well, this is the first time since rule L in its present form was adopted in 1979 that I can recall a resolution being brought before this Chamber shielding an officer, a Member or an employee from coming and supplying the appropriate records, and perhaps that is because certain former employees of the Select Committee on Aging are defendants in this action.

Mr. FOLEY. Mr. Speaker, before yielding to the majority leader, I will attempt to put this into perspective by saying that the reason this is an unusual matter to come before the House is that in previous cases we have been permitted to intervene by the court and have established the rights of the House by judicial determination. In the present case, however, the court has refused to permit intervention by the Clerk's counsel, as requested, and has barred evidence from being presented to the courts.

Mr. SENSENBRENNER. If the gentleman will yield further to me, in previous cases, even when the House has not been a party, it seems to me that the procedure that has been employed has been that the Clerk or the custodian of the records has not been allowed to give the originals of the records to the court, but that whoever wishes the production of those records can come to the Capitol or wherever the records are stored and copy them, and whoever the custodian is would certify as to their accuracy.

Mr. FOLEY. That is not correct. While that has been permitted in some cases where it has been judged to be appropriate in this instance, the court first sought the production of the documents to the plaintiff at a certain motel in Maryland.

The court's most recent order has instructed that the Clerk permit the plaintiff to examine the documents at the Capitol, but it has never been our practice that all matters of internal committee conduct are available for public inspection in the Capitol.

Mr. SENSENBRENNER. I certainly would concur with the distinguished majority whip's interpretation of this matter, but I also would point out that the speech and debate clause upon which this resolution is based has been interpreted increasingly narrowly by the courts.

The gentleman from Washington may be aware that the distinguished senior Senator from my State, Mr. PROXMIRE, gave one of his Golden Fleece Awards on the floor of the other body, but then he also got out a press release announcing the award of this alleged waste of the taxpayers' money. That case went all the way up to the Supreme Court of the United States, which held that the speech and debate clause did protect words that were actually spoken on the floor of either branch of Congress, but extracongressional activities like press releases were not protected.

Mr FOLEY. I will have to regain my time and suggest to the gentleman that the House has already turned over to the court in this case all the matters that relate to dissemination, and it is the dissemination issue which was reached in the Proxmire case. That has already been done. The court has already been given those documents.

Mr. SENSENBRENNER. The dissemination issue was reached in the Proxmire case, but the court did say that extracongressional activities off the floor, and I would say that going out and buying cancer insurance and having ABC News tape it is certainly extracongressional activity that provokes a very interesting question in light of the Proxmire case. Senator PROXMIRE ended up paying out of his own pocket a substantial settlement because he lost that case.

My point is very simple: That we should not be dealing with this matter on moment's notice without the reflection of the Committee on the Judiciary, which is a little bit more experienced in matters relating to court procedure, and I think this resolution ought to be referred there for some reflection.

I thank the gentleman for yielding.

Mr. FOLEY. Let me say again to the gentleman and distinguished member of that committee, that all the matters relating to the ABC taping have been turned over to the court.

Mr. SENSENBRENNER. If the gentleman will yield, what is the gentleman's resolution seeking to protect, then?

Mr. FOLEY. The internal memoranda of the Committee on Aging.

Mr. SENSENBRENNER. I would say that if there was a conspiracy on the part of the employees of the Committee on Aging to violate the Maryland eavesdropping statute, that is a relevant issue that ought to come out in court and a determination of whether there was that violation of this State statute made by that court.

□ 1250

Mr. FOLEY. Mr. Speaker, I would say to the gentleman that that goes to the very heart of the speech and debate clause, because if all one needed to allege was a conspiracy on the part of a Member, officer, or employee of the House to violate some right of some individual, the constitutional prerogative of the speech and debate clause would not be worth the snap of a finger.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I would like to have the opportunity to speak, if the gentleman will allow me to continue. He made an argument, and I would like to have the opportunity to respond to it.

The very heart of our privileges as Members to speak on this floor, which was deemed by one Founding Father to be of sufficient importance to be guaranteed in the Constitution, would be in serious jeopardy if any allegation of wrongdoing, be it conspiracy or otherwise, served to justify the seizure or obtaining of documents that are internal to the operation of the House of Representatives.

The gentleman, as a skilled lawyer, knows that all manner of lawsuits have been filed to probe the privileges of the House. He also knows that while the courts have, for the most part, sustained and supported the privilege of speech and debate, this has been largely due to the constant effort of the House to insure that the courts are advised of our concern about the retention of the basic rights by which this national legislature is guaranteed the ability to speak without fear on the floor.

If I could have the gentleman's attention, I think that in terms of this case it is essential to recognize the difference between the privilege of the House and criticism of the conduct of some of its employees. Indeed, the House need not in any way certify, validate, or approve of the conduct of the Committee on Aging or its employees in defending the right of the House to be free from subpena of its internal documents. The very essence of a constitutional protection is that it applies in difficult cases. If it were to apply only in those cases where Members could approve of the action, speech, debate, sentiment, investigation or conduct of the individual employee or Member, there would be no great reason to have such a privilege. The existence and protection of freedom of speech and press as with our other constitutional guarantees, are proven in difficult cases, not the easy ones. Although this is not a totally easy case, it is not less vital to the rights of the gentleman of Wisconsin and all the Members on his side of the aisle as it is myself and the Members on this side. Protection of the right to speak and to act freely in the legislation process is not a function of party affiliation.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I will yield in just a moment. The gentleman has had more time than his leadership at this juncture, and while I want to allow him to make his case, I would first like to respectfully suggest why I think his motion is incorrect and untimely.

It is incorrect because the privileges of the House do not not fall under the jurisdiction of the Committee on the Judiciary; they lie instead within the jurisdiction of the Committee on Rules.

Moreover, while there may be no particular difficulty with the Committee on the Judiciary's conducting whatever inquiry or investigation it wishes into the constitutional background issues, the fact that a subpena has already been issued to the Clerk makes time of the essence. If we were to insist on the luxury of debating the question at leisure, the Clerk would find himself unfairly exposed to this court order. It is the spirit of this resolution to provide the Clerk with instructions from the House of Representatives itself.

With great respect, I would further suggest that even if the resolution were amended to place it under the jurisdiction of the Rules Committee rather than the Committee on the Judiciary, it would still be untimely. It should be noted that the House not only adopted the present rule L on a broad basis but has supported in bipartisan fashion, with the full and distinguished cooperation of the Republican leader and whip and all their legal staffs, its continued application under the leadership of the Speaker. I would hope at this time that we would have support from the House in general.

Mr. Speaker, I will yield briefly to the gentleman from Wisconsin, for debate only.

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman from Washington for yielding.

I think that the gentleman is very eloquent in his defense of the speech and debate clause, but I think we have also got to look at why this lawsuit was filed by Mr. Benford against ABC and other named defendants. It did not have anything to do with the speech and debate clause or the investigation or the committee's right to make that investigation. What is alleged is that the Maryland eavesdropping law which grants certain rights to people in the State of Maryland was violated.

That certainly does not have anything to do with the right of a Member of Congress to fearlessly speak out on issues of the day or the right of committees of this Congress to act in investigating issues of whether cancer insurance is not being properly sold to the public. It is whether the committee staff violated the relevant law away from the Capitol that this resolution is attempting to shield from the production of documents. That is what I think is the issue here; it is not whether Congress should assert its rights to protect its internal operations; it is whether Congress is going to shield its employees from violating the law outside the Capitol for their own particular purposes, and that is why the resolution ought to be referred.

Mr. FOLEY. I will respond to the gentleman by telling him that the complaint itself alleges the investigation, and as is the case where matters of free speech and debate arise, they are seldom said to be the focus of the complaint, investigation, or inquiry. Despite the fact that they involve implicitly the protection of the internal documents as well as the speech and debate of Members, they almost always allege outside conduct or some outside harm suffered as a result of the legislative operations of the Congress. Otherwise there would not be a basis for the lawsuit.

Again, I repeat that it is not the question of approving or disapproving the conduct of the committee or its staff that we are addressing today. We are talking about an essential privilege of the House of Representatives.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the Republican leader.

Mr. MICHEL. Mr. Speaker, I thank the gentleman for yielding, and I will say that I rise in support of the resolution introduced by the gentleman.

The matter covered by this resolution has been the subject of extensive discussion by the bipartisan House leadership legal advisory group for over 2 years. It is a troublesome matter because it involves a controversial investigation which the House Committee on Aging conducted some 5 years ago, and I am not debating the manner in which that investigation was carried on. That is a separate matter, so far as I am concerned.

The committee enlisted the aid of the ABC television network in producing a news documentary film on the subject, and while I am a strong supporter of cooperation between the Congress and the media in the public interest, it is evident that the committee majority did not always act in comity with the minority in presenting its views to ABC. One of the unfortunate results of this investigation was a spate of lawsuits by insurance people against ABC and against committee staff members.

The subpena involved in the resolution before the House today is the result of one of these lawsuits. It is a civil case, as the gentleman pointed out, brought by Mr. George Benford against the American Broadcasting System and others. The gentleman from Washington has pointed out the specific status of the pleadings.

However, I would like to point out that over a year ago the Speaker, the majority leader, the minority whips, and myself joined in a letter to the then Clerk of the House, Mr. Ted Henshaw, advising him not to produce the committee files in response to the subpena. This subpena sought the delivery of the committee files to a motel in Silver Spring, Md.

The Constitution wisely vests the privilege of speech and debate in this great body. It provides a continued source of untrammeled freedom of expression and action by a free legislature. It vests in us the responsibility to carry out our duties as a check and a balance on other branches of the Government and upon powerful forces in the society. This responsibility cannot be carried out with the continual threat of public exposure of our most sensitive internal documents or confidential communications from our constituents.

That, I say to my colleagues, is, I believe, what this subpena seeks. It is so broad, it is so all encompassing and so sweeping that virtually everything within the possession of the committee would be turned over to the plaintiff in this suit.

Mr. FOLEY. Mr. Speaker, may I interject something at this point?

The Committee on Aging received letters of complaint that had been written to individual Members of Congress by their constituents, and were in turn forwarded by those Members to the committee where they repose as part of its records. They would be reached by this subpena.

□ 1300

Mr. MICHEL. As a matter of fact, I think there are better than a quarter of a million of those pieces of correspondence that would be involved.

In summary I would really like to remind the Members that the Constitution we swore to uphold on opening day is the same Constitution, frankly, that is being challenged today; so I have to agree that the resolution ought to be adopted.

Now, the gentleman from Washington, in his inquiry made reference to the Burford case, whether there is an analogy or whatever. Let me say to the gentleman, the speech and debate clause is written into the Constitution. The Burford case involved a question of executive privilege.

I see nothing in the Constitution that relates to executive privilege. That is a doctrine that has grown up over the history of the country. I guess we have never clearly defined that doctrine and that is probably one reason why we got into such a flap on the Burford case. There were those who thought we possibly could clearly define that. I do not think you can. I think it is going to vary by who is President, who is in power in the Congress, what the personalities are and all the rest.

The gentleman from Wisconsin made reference to revision of rule 50 and the shielding of employees. I think we did that last year with the Chaplain. We shielded the Chaplain from that case of Mrs. Madelyne Murray O'Hair as the House will recall.

So on those counts, I think we are on good grounds today in asking the membership to approve this resolution. I am certainly not justifying each and every method—I may want to control my adjectives in describing that kind of investigation.

I see the gentleman from California who is now the chairman of that committee, and it is my understanding it was not his responsibility nor that of our ranking Member either.

Mr. FOLEY. Well, I thank the distinguished minority leader for his comment.

On the subject of shielding staff persons, let me just say that it is my information that five members of the Committee on Aging staff were named with others as defendants in a case that, in fact, went to trial. The jury returned a verdict for the defendants. We have not attempted to shield employees. What we have tried to shield is the privilege that is so important to the conduct of the debate.

I promised earlier to yield to the distinguished gentleman from California for purposes of debate only and then I will be glad to yield to the gentleman from Illinois.

Mr. ROYBAL. Mr. Speaker, the subject matter of the resolution before us is something that I, of course, inherited as the new chairman of the committee. The truth of the matter is that hearings were held, meetings took place, and everyone on the committee is aware of the subject matter that we are discussing here today.

Nevertheless, Mr. Speaker, I rise in favor of the resolution for it protects the records and other important documents of the House Committee on Aging. These records reflect the internal and investigative records of a duly authorized investigation by the Select Committee on Aging and are protected from compelled disclosure by the search and debate clause of the U.S. Constitution.

This resolution is introduced in an effort to maintain the constitutional privilege of confidentiality that is extended to this document and papers which are produced by and for Members and their staffs in the legislative process.

Unfortunately, the committee now faces a court challenge to this constitutional principle which necessitates the resolution that is introduced today.

I believe that the process of the Congress should be inviolate, that information upon which the Congress makes its most vital judgments be secure from invasion and unwarranted disclosure. This principle, and this is a privilege that cannot be waived. The sanctity of the legislative body may well hang in the balance if this privilege is violated.

Now, Mr. Speaker, I urge my colleagues to support this resolution for I believe it is a most sacred principle that is being protected by this action.

Mr. FOLEY. Mr. Speaker, I yield to the gentleman from Illinois (Mr. PHILIP M. CRANE) for purposes of debate only.

Mr. PHILIP M. CRANE. Mr. Speaker, I thank the gentleman for yielding.

I do not have a statement to make. If I could direct a couple of questions, I am not that conversant with the specifics of this case, but in the course of the debate I certainly wholeheartedly embrace the gentleman's comments about the immunities any Member in this body enjoys. You could not, in fact, conduct a democratic process without that kind of assurance of speech and debate; but I understand that this was a duly authorized investigation by the Committee on Aging and that those people—and correct me if I have my facts wrong—those people violated the law of the State of Maryland in the process of performing this investigation.

Mr. FOLEY. That has not been established, I tell the gentleman.

Mr. PHILIP M. CRANE. That has not been established; but is the gentleman suggesting that under the speech and debate clause that this body could permit illegal actions to be taken against private citizens, that that is a part of the prerogatives of the House?

Mr. FOLEY. I am saying that under the speech and debate clause, it would be theoretically possible for a Member of Congress to commit what outside the House would be an act of criminal or civil libel and be immune in doing so. That is a hard reality of the speech and debate clause, but there is no question that if you are going to give any validity to it, you have to read the words of the Constitution, which says, "It shall not be called upon to answer in any other place."

If all Washington, Illinois, Maryland, or any other State had to do to sue a Member for what he says on the floor is to say that any remarks made anywhere in the United States that call some citizen's privacy into question shall result in a lawsuit, you would be at the end of the speech and debate clause.

The gentleman is posing a conflict that I suppose is inherent in any constitutional question.

Mr. PHILIP M. CRANE. Well, if the gentleman will yield further, this does not involve a suit addressed against any Member of this body, as I understand it; is that correct?

Mr. FOLEY. That is correct. It is a suit that seeks production of documents in the possession of the Clerk, which in our judgment includes correspondence mailed to Members of Congress, and asks that the plaintiff to be allowed to examine them.

Mr. PHILIP M. CRANE. Does the plaintiff want to examine everything in the way of documentation, is that it?

Mr. FOLEY. The subpena is very broad.

Mr. PHILIP M. CRANE. I thank the gentleman for clarifying the point.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I just want to clarify one point with the gentleman.

What is the problem with the suggestion of the gentleman from Wisconsin that we refer this to the Judiciary Committee, at least to take a look and find out what the real questions are?

Mr. FOLEY. I am sorry that I did not have the gentleman's attention when I attempted to indicate what I thought were the problems to be. Let me review them.

Mr. WALKER. I understood the gentleman to say, if he will yield further, that we have a timing problem as much as anything else. Is the timing problem so crucial that we could not have at least a cursory review by the committee of some of the issues involved here, so that the entire membership would be familiar with the issues and not just have it discussed with the leadership?

Mr. FOLEY. Let me respond to the gentleman by saying first that I am sure a number of committees could appropriately hold hearings on this question for the elucidation of members or discussion of the subject.

The Judiciary Committee, however, I say with respect, has no essential jurisdiction over the subject of privileges of Members of the House. It does have a broad jurisdiction over constitutional amendments under which it could, I suppose, consider a constitutional amendment to modify the speech and debate clause and report it to the House floor insofar as this deals with the privileges of House Members, however, the Judiciary Committee does not have any special jurisdiction; and I therefore personally do not see the relevance of referring it to that committee.

Second, there is a time problem. The Clerk is an official of neither party, he is an officer of the entire House. As such, he should not be required to make judgments in the absence of instructions from the House, yet it is he who is presently under an order to produce these documents for inspection.

To allow him to be at judicial risk for compliance with that order without some indication from the House, is, in my view, unfair.

Third, the situation was judged by the committee that addresses these problems and advises the Speaker to be urgent enough to warrant bringing this resolution forth today and asking for bipartisan support for its adoption.

□ 1310

Mr. WALKER. If the gentleman would yield further, it is my understanding that the Judiciary Committee, though, does have jurisdiction on issues of constitutional rights. It also is supposedly where the experts reside with regard to criminal law in this body.

We are dealing with an issue of constitutional rights that also relate to criminal law.

Mr. FOLEY. There is nothing, I would tell the gentleman, that could stop the committee from holding hearings. I am not suggesting it does not have some relevance of jurisdiction for informational purposes or to advise itself. However, absent a proposal to modify the Constitution, it does not in my judgment have authority to deal with this problem.

Further, I do not believe there is a likelihood that the Committee on the Judiciary would report a constitutional amendment. Certainly it would only do so after very long hearings and consideration and, to be quite frank, we have an issue here that requires more timely determination than that.

I must say to the gentleman from Wisconsin however that if we have been wrong in attempting to reach a bipartisan consensus on these cases, to advise the Speaker and to advise the Clerk, as I think we have done very successfully, perhaps the House ought to reconsider rule 50. Yet I believe that the record of judicial support for the positions taken by the House of Representatives in cases that relate to its employer relationship, to the role of the Chaplain, and very many others, has without exception reaffirmed the position taken by the Clerk, with the direction and advice of bipartisan leadership.

I would hope that the House would continue to give its confidence to its own leadership on both sides in addressing these problems. I respect the reservations of the gentleman from Wisconsin about the circumstances of the case and I agree with him that restraint and good judgment are required by every House committee and every Member in conducting their legislative affairs.

Again, however, I believe, that this is a case that goes to the very rights of the House as a body and to its privileges under the Constitution. It would be very dangerous, in my judgment, if for any reason we should speak equivocally on this subject.

Mr. WALKER. Will the gentleman yield further?

Mr. FOLEY. I yield to the gentleman.

Mr. WALKER. I thank the gentleman for yielding, because I essentially agree with the points the gentleman is making about the rights of the House.

What troubles me is that very often, in terms of public perception, the rights of the House become interpreted as special privileges that the House is granting itself to go above the law. The Members in a few minutes are probably going to be asked to vote one way or the other on this issue. We are voting almost blind. Most of us have not had an opportunity to evaluate this. It has not been before a committee where we have a committee report to refer to.

So we are likely to be casting a vote which could be interpreted differently than the way in which the gentleman describes it. It seems to me if we would have an opportunity for a committee to review it, it would give the Members a lot better kind of information on which to cast a vote in the manner the gentleman is suggesting. But, without that, we have a problem.

Mr. FOLEY. This case has been in and out of the courts for about 2 years. I will tell the gentleman that as eloquent a spokesman for the rights of the people of his district and the United States as I know him to be, he surely understands and can make a responsive public understand that the privilege of speech and debate is not a privilege of Members of the Congress; it is a privilege of the American public. It is their privilege to have the issues of their representatives discussed openly and candidly in this body. It would be, as I am sure the gentleman would agree, the death of their right to have a reasonable discussion of the issues and conduct of their affairs, if every Member would have to stand up and wonder whether he would be named in a suit or have a claim be made against him for fearlessly expressing and supporting the position he takes in the public interest.

I know the gentleman from Wisconsin believes that that free and open debate is the very heart of self-government and need feel no embarrassment here about defending the very process by which a free people govern themselves or essential privilege and right by which that is possible.

If it is not apparent on the surface that this is a case of public interest, public right and public privilege, that we are poor advocates if we are afraid to take these issues to our own constitutents and explain to them how vital it is to the very survival of free government that that principle be maintained.

Mr. LOTT. Mr. Speaker, will the gentleman yield to me?

Mr. FOLEY. I yield to the distinguished gentleman from Mississippi.

Mr. LOTT. I would just like to further address myself to the question about the opportunity for the Members to know what is involved here and have an opportunity to study it and be involved in the process for bringing this resolution to the floor. It has been around for, to my own personal knowledge, at least 2 years. We do have, for the Members on this side of the aisle, a legislative digest analysis of the bill. We do have this leadership group put together in a bipartisan way so that there is ample opportunity for us to debate it and discuss it among the leaders of both sides of the aisle and with legal counsel on both sides of the aisle, and to be able to answer questions of Members here on the floor of the House.

So I think the gentleman has a legitimate concern that we fully understand what we are talking about in this resolution, but I do think we have had that opportunity and this is part of the process of bringing it to the floor of the House for a vote today.

I want to be just very brief because I thought our minority leader expressed my feelings on the situation very adequately and certainly very clearly. I am not happy with the way this thing was handled by the staff of a committee of this House. I am not about to try to defend what was done in this investigation with this television taping, but you have to go beyond that.

I do support this resolution because I do think we are in danger of setting a precedent, of opening the floodgates, of allowing the privileges of the House to be abused.

I have before me, and I invite Members to come look at this, the list of documents that they are asking for. It is massive. It is a fishing expedition. It does get into the various life insurance policies. It certainly would involve mail letters from constituents who perhaps would very likely not want their names to be made available in this fishing expedition. It has a list of 21 documents and communications that they are asking for.

So I would urge my colleagues, with some reluctance, because of the way it was handled, but because of the privilege at stake and what could be the next case we could be looking at, to support this resolution.

Mr. FOLEY. I thank the gentleman from Mississippi for his comments.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield for purposes of debate only to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding. I want to say at the outset that I will support the motion of the gentleman from Washington. I think there is a very important point at stake here and the speech provision in the Constitution cannot be eroded no matter what the circumstances.

I might add, however, that if free and open debate is such a constitutional right, I question sometimes some of the rules that emit from our Rules Committee which seem designed to abbreviate, if not abrogate the right, the constitutional right, of free and open debate, and I intend to remind the gentleman from Washington of this point from time to time.

Mr. FOLEY. If the gentleman will yield briefly, that constitutional privilege is one that only we in the House may terminate or limit.

Mr. HYDE. I might suggest also, parenthetically, that the Judiciary Committee has a great body of expertise on surreptitious investigations and entrapment. We have had many hearings on the Abscam case. The FBI has come in for its share of severe criticism. And we have Members, chairmen of subcommittees, who are very sensitive to spying on civilians for various reasons.

So we do have a wealth of experience and background and prepossessions on this subject.

But, nonetheless, I do support what the gentleman is saying. I would hope, however, that we would cooperate with the lawsuit without waiving any privileges, but I do think employees of this body, and conceding that the committee was not a legislative committee at all, I would think that they should not be immune from the consequences of misconduct and unethical conduct if indeed there was any. I do not know that there was. But I would like us to cooperate within the spirit of the immunity clause so that we do not waive it or create any precedent but, at the same time, do not stand justifying or obstructing the legitimate processes of law that would get at overreaching or improper conduct if anyone in the House, employee or otherwise, was guilty of that.

☐ 1320

So, I will support the gentleman. I am very unhappy with the circumstances and I would urge a spirit of cooperation, if not with the plantiff's attorneys, at least with the court, to see that the perception is not that we have one standard for the executive, one standard for the Environmental Protection Agency, but we sure have a different standard for the House. And I thank the gentleman for yielding.

Mr. FOLEY. I thank the gentleman from Illinois who is certainly one of the most distinguished and able constitutional lawyers in the House. I am particularly grateful for his insightful support of this resolution.

Mr. Speaker, I do not think it is useful to continue very much longer but would like to say just two things, if I may.

First, this subpena was laid down a year and a half ago. It has been a matter pending for some time. It has not been rushed to the floor with instant action and without sufficient time for careful deliberation by those who have been charged in the House to do so.

Second, there is no attempt to shield Members or employees or staff from their alleged misconduct. As I said before, a case was actually brought against five staff persons of this committee.

Yet if we cannot distinguish questions involving the conduct of Members from those of privilege, we are in great trouble.

Mr. Speaker, I move the previous question on the resolution.

MOTION OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I offer a motion to refer.

The Clerk read as follows:

Mr. SENSENBRENNER moves to refer the resolution to the Committee on the Judiciary.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to refer.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to refer offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 21, nays 389, not voting 23, as follows:

[Roll No. 70]

YEAS—21

Archer
Barnard
Brown (CO)
Carney
Dannemeyer
DeWine
Duncan
Edwards (OK)
Gramm
Kindness
Lujan
Lungren
O'Brien
Ray
Sawyer
Schulze
Sensenbrenner
Stangeland
Sundquist
Walker
Zschau

NAYS—389

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Badham
Barnes
Bartlett
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boland
Boner
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Broyhill
Bryant
Burton
Byron
Campbell
Carper
Carr
Chandler
Chappie
Cheney
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Cooper
Corcoran
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel
Daub
Davis
de la Garza
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fowler
Frank
Franklin
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (ID)
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lundine
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NY)
Martinez
Matsui
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Penny
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Schaefer
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain

Staggers
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zablocki

NOT VOTING—23

Bateman
Boehlert
Boggs
Bonior
Chappell
Conable
Conyers
Daschle
Erlenborn
Frenzel
Hance
Hawkins
Jones (TN)
Luken
Martin (NC)
Mavroules
Owens
Paul
Pepper
Savage
Taylor
Washington
Young (MO)

☐ 1340

Mrs. ROUKEMA, and Messrs. ACKERMAN, DANIEL B. CRANE, and CHAPPIE changed their votes from "yea" to "nay."

Mr. BARNARD and Mr. LUJAN changed their votes from "nay" to "yea."

So the motion to refer was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FOLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. In accordance with the previous announcement of the Chair, the time during which this vote will be taken will be reduced to 5 minutes.

The vote was taken by electronic device, and there were—yeas 386, nays 22, not voting 25, as follows:

[Roll No. 71]

YEAS—386

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Broyhill
Burton
Byron
Campbell
Carper
Carr
Chandler
Cheney
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Cooper
Corcoran
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel
Daschle
Davis
de la Garza
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fowler
Frank
Franklin
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (ID)
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (OK)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Mineta
Minish
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Penny
Perkins
Petri
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shannon
Sharp
Shelby
Shumway
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zablocki
Zschau

NAYS—22

Brown (CO)
Carney
Chappie
Coughlin
Dannemeyer
Daub
DeWine
Edwards (OK)
Jones (NC)
Latta
Livingston
Lujan
Miller (OH)
Moore
O'Brien
Sawyer
Schaefer
Schulze
Sensenbrenner
Shaw
Smith (NJ)
Thomas (CA)

NOT VOTING—25

Bateman
Bates
Boehlert
Boggs
Bryant
Chappell
Conable
Conyers
Erlenborn
Frenzel
Hance
Hawkins
Holt
Jones (TN)
Luken
Mitchell
Owens
Paul
Pepper
Pursell
Savage
Taylor
Walgren
Washington
Young (MO)

☐ 1350

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

IT IS TIME TO VOTE ON THE NUCLEAR FREEZE

(Mr. ZABLOCKI asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ZABLOCKI. Mr. Speaker, I believe before proceeding on the days business, I would like to make a few comments.

First, it is apparent that the opponents of any resolution are only interested in avoiding a vote on the mutual and verifiable freeze resolution.

We have debated the issue for over 32 hours. Everything that needs to be said has been said. Every topic remotely connected with the subject of nuclear freeze and arms reductions has been covered.

The time has come to vote on this issue so that the House can proceed to other business.

Second, as a result of the tactics being pursued by some opponents of the resolution, the rules regarding the protection of Members' rights to debate and offer amendments is being abused and distorted. Consequently, we have a situation where a few Members are denying the majority of this House and the American people their right to an up and down vote on a matter that is of deeprooted concern to them.

Third, I intend to continue to work for passage of this resolution until hell freezes over if I have to. To do less would be to abdicate our responsibilities and duty.

Others may follow this course. I will not.

I am, therefore, advising my colleagues that if it appears that we cannot vote on House Joint Resolution

13 today, I will go to the Rules Committee and seek a rule which will afford the Members their right—that is the right to vote.

CALLING FOR A MUTUAL AND VERIFIABLE FREEZE ON AND REDUCTIONS IN NUCLEAR WEAPONS

The SPEAKER pro tempore. Pursuant to House Resolution 138 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the joint resolution, House Joint Resolution 13.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the joint resolution (H.J. Res. 13) calling for a mutual and verifiable freeze on and reductions in nuclear weapons, with Mr. McHugh in the chair.

The Clerk read the title of the joint resolution.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, April 21, 1983, pending was the committee amendment in the nature of a substitute which is considered as an original resolution for the purpose of amendment. All time for debate on the text of the resolution had expired.

Are there further amendments?

PREFERENTIAL MOTION OFFERED BY MR. AUCOIN

Mr. AuCOIN. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. AuCoin moves that the committee do now rise and report the resolution back to the House with the recommendation that the resolving clause be stricken out.

The CHAIRMAN. The gentleman form Oregon (Mr. AuCoin) is recognized for 5 minutes in support of his preferential motion.

Mr. AuCOIN. Mr. Chairman, I take this time because I think at the outset of our discussion today a few things need to be said to restore some perspective on issues that have been obscured by an unnecessarily long and only marginally useful debate so far.

For over 30 hours, by offering virtually as many amendments as missiles that they would like to build, opponents have tried to avoid the issue that the American people want us to deal with, which is stopping the arms race, an arms race, which is leading the world to war.

It is clear to me now that some opponents of the resolution will raise any red herring and will go to almost any lengths to avoid having their feet held to the fire by virtue of an up-or-down vote on the nuclear weapons freeze. They are not content to oppose the freeze. Worse, they seem to be afraid to be held publicly accountable on a straight up or down vote on the freeze.

What is wrong with that is this: The public wants to know who among us wants to stop this orgy of nuclear weapons spending by both superpowers. They not only want to know, they deserve to know. Not all opponents of the resolution are using these tactics. Many of them are genuinely sincere in the belief that a so-called reductions policy is better that a freeze. But I think this debate ought to begin to focus now on what the issue is.

There is a reason, my colleagues, that freeze supporters are adamant in getting a freeze first, and then going for reductions.

□ 1400

And that is that the use of the term, "reductions," would make room for the administration's complete multi-billion-dollar nuclear weapons spending program and would allow the Soviets to match that. The important point is what the reductions mean in the vocabulary of this administration. It means the elimination of 12,000 of our oldest warheads but the building of 17,000 new ones.

That is not a reduction. That is an increase of 5,000 weapons, and let the American public know that. Not one of those 5,000 weapons or warheads would be necessary if we could secure a treaty that freezes the arsenals of both sides, and that is what we who support the freeze are attempting to do. That is what this freeze resolution attempts to do on a mutual basis and on a verifiable basis. So let there be reductions, but let there be real reductions after a freeze.

I want to say to my colleagues that the American people are not interested in reductions of some number of our oldest weapons; they are interested in the reduction of the danger of an all-out nuclear war.

That brings me to the second issue that the freeze opponents have thus far raised. They say the freeze should exempt so-called weapons modernization programs. The trouble with the use of the term, "modernization," is that it would allow the replacement of old technological weapons with new technological weapons, not just on our side but on the other side.

This is what the arms race is made of. It has brought us to the brink, and it never stops. The history of warfare shows that no one keeps a technological edge. It is a fleeting thing. The other side ups the ante, and it never stops.

Mr. Chairman, some of my colleagues genuinely believe that the technological approach is deterrence. It is not deterrence, it is an invitation for one-upsmanship, one-upsmanship that adds ever more deadly doomsday weapons to the arsenals of both sides.

The trouble is that the history of warfare shows and has always shown that there never has been a weapon that has been kept as a bargaining chip. There has never been a weapon that has not ultimately been used. That is at the heart of the freeze debate, and I urge my colleagues to not lose sight of that.

So what we have in this debate, despite extraordinary efforts to blow smoke across the issues, is two views of deterrence. One view, supported by the opponents of the freeze, puts its trust in an endless parade of new technologies. The other side, that side which supports the freeze, says that technology itself is a part of the problem.

Finally, there is the matter of cost which distinguishes the views of both sides. The freeze opponents subscribe to the high-cost approach. The estimate over the next 6 years for the weapons systems that they think will buy us deterrence will cost $261 billion that the American Treasury does not have. The freeze, on the other hand, is free. Moreover, it buys us legitimate deterrence.

Mr. BROOMFIELD. Mr. Chairman, I rise in opposition to the preferential motion.

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the preferential motion and ask for a vote.

The CHAIRMAN. The gentleman from Wisconsin (Mr. Zablocki) is recognized for 5 minutes in opposition to the preferential motion.

Mr. BROOMFIELD. Mr. Chairman, I ask for a recorded vote on that. I think these are dilatory tactics.

The CHAIRMAN. The Chair has recognized the gentleman from Wisconsin (Mr. Zablocki).

Mr. ZABLOCKI. Mr. Chairman, I did not intend to take any time whatsoever, and I had stated at the very outset that we want to move this matter along.

As far as the gentleman from Michigan (Mr. Broomfield) is concerned, I do not intend to preempt him from opposing the preferential motion, and if he desires time, I would be delighted to yield to the gentleman.

Mr. BROOMFIELD. Yes, I do desire time, Mr. Chairman.

Mr. ZABLOCKI. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I am very sorry that this debate today is beginning in this type of tone, and particularly from a friend of mine, the chairman of the Committee on Foreign Affairs.

I do not think there is any attempt on this side to engage in dilatory tactics, and as for this idea of a threat to go to the Rules Committee to get a new rule, I say, if that is the gentleman's intent and he wants to stifle the debate on this particular issue, I would point out that we have had hardly any issues before this Congress this year and we were told time and time again that this is one of the most important issues. But the gentleman says, no, we must have a quick debate on this.

The fact that we already have adopted many amendments, and that reveals how imperfect the resolution is as reported out of our committee. I think the Members ought to know that hardly any Member of this Congress really knows what is in this resolution right now.

Mr. Chairman, I would like to hear from the gentleman from Illinois (Mr. Hyde), and I wonder if the chairman of the committee would yield to the gentleman from Illinois?

Mr. ZABLOCKI. Mr. Chairman, I will yield in a moment.

I am sure the gentleman from Michigan (Mr. Broomfield) understands the situation, and certainly I note that he has been most patient and very understanding. Does the gentleman maintain that over the 3 weeks we have debated this matter, for over 30 hours, it is not an indication that every opportunity has been given for full debate? And the gentleman from Wisconsin submits that amendments we have accepted were clarifying what was in the resolution in the first place.

Although I have commended the Members who participated in the debate for the many hours and really substantial arguments they made in debate, too often the debate was repetitive and some of it was pure nonsense in some respects.

So, Mr. Chairman, I must say to the gentleman form Michigan that what I said was not a threat. The gentleman from Michigan was advised by the gentleman from Wisconsin that that is what we will have to resort to. The gentleman from Wisconsin regrets that but feels there is no other alternative.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. Mr. Chairman, I yield back the balance of my time and ask for a vote.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Oregon (Mr. AuCoin).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BROOMFIELD. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred and two Members are present, a quorum.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Michigan (Mr. Broomfield) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 135, noes 269, not voting 29, as follows:

[Roll No. 72]

AYES—135

Andrews (TX)
Archer
Badham
Barnard
Bartlett
Bereuter
Bethune
Bevill
Bliley
Broomfield
Broyhill
Burton
Byron
Campbell
Carney
Chappie
Cheney
Coats
Conable
Cooper
Corcoran
Crane, Daniel
Crane, Philip
Daniel
Dannemeyer
Daub
DeWine
Dickinson
Dreier
Duncan
Edwards (AL)
Edwards (OK)
Emerson
Erdreich
Erlenborn
Fields
Flippo
Franklin
Gekas
Gilman
Gingrich
Gradison
Gramm
Hall, Ralph
Hall, Sam
Hammerschmidt
Hansen (ID)
Hansen (UT)
Hartnett
Hightower
Hiler
Hillis
Holt
Huckaby
Hunter
Hutto
Hyde
Ireland
Kasich
Kazen
Kemp
Kindness
Latta
Leath
Lent
Lewis (CA)
Lipinski
Livingston
Lloyd
Loeffler
Lott
Lowery (CA)
Lujan
Lungren
Mack
Madigan
Marlenee
Martin (NY)
McCain
McCandless
McCollum
McDonald
McEwen
McGrath
Michel
Molinari
Montgomery
Moore
Moorhead
Myers
Nichols
Nielson
Oxley
Packard
Parris
Patman
Porter
Quillen
Ray
Ritter
Robinson
Roemer
Rogers
Roth
Rudd
Sawyer
Schaefer
Schulze
Shaw
Shelby
Shumway
Shuster
Skeen
Skelton
Smith (NE)
Smith, Denny
Smith, Robert
Snyder
Solomon
Spence
Stenholm
Stratton
Stump
Sundquist
Tauzin
Thomas (CA)
Vucanovich
Walker
Weber
Whitehurst
Winn
Wolf
Wortley
Young (AK)
Young (FL)

NOES—269

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Annunzio
Applegate
Aspin
AuCoin
Barnes
Bates
Bedell
Beilenson
Bennett
Berman
Biaggi
Bilirakis
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Britt
Brooks
Brown (CO)
Bryant
Carper
Carr
Chandler
Clarke
Clay
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Coughlin
Courter
Coyne
Craig
Crockett
D'Amours
Daschle
Davis
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
English
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fish
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Goodling
Gore
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hamilton
Harrison
Hatcher
Hefner
Heftel
Hertel
Hopkins
Horton
Howard
Hoyer
Hubbard
Hughes
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Kastenmeier
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Leach
Lehman (CA)
Lehman (FL)
Levin
Levine
Levitas
Lewis (FL)
Long (LA)
Long (MD)
Lowry (WA)
Lundine
Markey
Martin (IL)
Martin (NC)
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McHugh
McKernan
McKinney
McNulty
Mica
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Mollohan
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Natcher
Neal
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Panetta
Pashayan
Patterson
Pease
Penny
Perkins
Petri
Pickle
Price
Pritchard
Pursell
Rahall
Rangel
Ratchford
Regula
Reid
Richardson
Ridge
Rinaldo
Roberts
Rodino
Roe
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Sensenbrenner
Shannon
Sharp
Sikorski
Siljander
Simon
Sisisky
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
St Germain
Staggers
Stangeland
Stark
Stokes
Studds
Swift
Synar
Tallon
Tauke
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
Wheat
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wirth
Wise
Wolpe
Wright
Wyden
Wylie
Yates
Yatron
Zablocki
Zachau

NOT VOTING—29

Andrews (NC)
Anthony
Bateman
Boehlert
Boggs
Breaux
Brown (CA)
Chappell
Conyers
Forsythe
Frenzel
Hance
Harkin
Hawkins
Jones (TN)
Kaptur
Leland
Luken
MacKay
Marriott
Martinez
Owens
Paul
Pepper
Savage
Taylor
Washington
Wilson
Young (MO)

☐ 1420

The Clerk announced the following pairs:

On this vote:

Mr. Taylor for, with Mr. Pepper against.

Mr. Bateman for, with Ms. Kaptur against.

Mr. Frenzel for, with Mr. Hawkins against.

Mr. Paul for, with Mr. Boehlert against.

Mr. Marriott for, with Mr. Forsythe against.

Mr. ROWLAND changed his vote from "aye" to "no."

Mr. NICHOLS and Mr. WEBER changed their votes from "no" to "aye."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

Mr. HYDE. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Does the gentleman ask unanimous consent to strike the last word?

Mr. HYDE. Mr. Chairman, I do ask unanimous consent to strike the last word.

There was no objection.

The CHAIRMAN. Without objection, the gentleman from Illinois (Mr. Hyde) is recognized.

Mr. HYDE. Mr. Chairman, as we move on into the fifth day of debate on this issue several allegations have been made that require a response.

The allegation that troubles me the most is the accusation that Republicans are guilty of dilatory tactics as we move along in the amendatory process. I would suggest to any objective observer that delays in voting on this bill have been occasioned by such events as St. Patrick's Day, a funeral of a prominent member of the Democratic Party, a Democratic fund dinner, and tomorrow's inauguration of a Democratic mayor of the city of Chicago, rather than anything that has occurred on this side of the aisle.

But I think it is important that the meaning in this "resolution of the century" be clarified. We have been told that this is one of the most significant votes we are ever going to cast.

I think it is elementary that you know what you are voting on, and it has been like pulling teeth to try and find out what the legislative intent is from the authors, from the 200 and plus cosponsors of this amendment.

□ 1430

For example, the leading Democrat, in all the world, the Speaker of this House, has said that this resolution is not legally binding but the chairman of this committee has said yes, it is legally binding. But then another gentleman on this side of the aisle said it is nonbinding and yet another gentleman on this side of the aisle from South Dakota, said we know this resolution is nonbinding and cannot force the administration to do anything. Now, we do not really know yet from listening to the authors, the people from whose imagination this resolution has sprung, just what they mean. Is it or is it not? We still are not sure. Now, we have one of the leading freeze proponents telling us that we do not want the President to have options. We want the President to have a policy which we want him to implement. "The reductions will be willingly accepted but not at the cost of having a freeze." Then we move to deployment of Pershing II, does it or does it not permit their deployment. Well, we have the chairman of this committee saying in no way would it prevent deployment of the Pershing II. Then we have the same gentleman saying at another time but the same place, a freeze would mean a stop to all activities in any weapons included in the freeze amendment. Then we have a gentleman from Colorado, another authority on what this means, a freeze will block the implementation of this program. MX and Trident II, the same gentleman says, a freeze would ban any activity, certainly testing and deployment. Then we have a leading Member from Indiana on that side of the aisle telling us, even when the freeze is in place a lot of modernization will need to continue.

For example the Trident submarine program will continue. Silos can be modernized and hardened and more survivable basing modes can be developed. Then we harken back to the gentleman from Massachusetts, who says the objective of the freeze is to preclude the necessity of any further force modernization. And then we have the chairman from Wisconsin saying, and I quote:

> Congress certainly should not prejudge what United States defense measures will be required as we seek to negotiate a mutual and verifiable freeze at START. Arms control and defense procurement should work hand-in-hand.

And then we have a gentleman from New York telling us, dual purpose delivery systems are not included and we can modernize them. Then we have the chairman taking the floor the last day we debated and give us a list, a litany of weapons and delivery systems that would be frozen. Then this morning we have a letter, a dear colleague letter from a profreeze advocating telling us we should not list things that will be frozen because then they are loopholes. We will be scurrying around to get another system that was not included in the list.

So, everything not listed should be frozen. So, I suggest to you that this is a bewildering, confusing, contradictory jumble of words and this side of the aisle feels it is a duty to understand what we are voting on and to clarify what you mean.

Now, I think it is important to point out that we have another version by the way, the gentleman from Wisconsin (Mr. Aspin) who is quoted as saying "The freeze revolves around the issue of whether you think the President is negotiating in good faith." The meaning of this resolution is significant, and objections to our attempts at clarification are an expression of the resolution's author's own embarrassed confusion.

The CHAIRMAN. The time of the gentleman has expired.

Are there further amendments to this part of the resolution?

AMENDMENT OFFERED BY MR. SILJANDER

Mr. SILJANDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Siljander:

On page 4, after line 16, strike lines 17 through 18 inclusive and insert in lieu thereof:

"(1) Pursuing the objective of negotiating an immediate, mutual and verifiable freeze.

"(2) Pursuing the objective of negotiating an immediate, mutual and verifiable reduction."

Redesignate succeeding paragraphs accordingly.

On page 4, line 23, strike the work "objective" and insert "objectives"

On page 4, line 24, after the word "freeze" strike out the comma and insert "and reduction,"

On page 5, after line 3, strike lines 4 through 8 inclusive and insert in lieu thereof;

"(4) Proceeding from this mutual and verifiable freeze and reduction, the negotiation process should emphasize and develop substantial, equitable and verifiable reductions through numerical ceilings, annual percentages, or any equally effective and verifiable means of strengthening strategic stability, in order to achieve expeditiously mutual reductions to the absolute minimum level of nuclear forces essential to deterring and finally eliminating the possibility of nuclear war."

On page 5, beginning on line 19, strike out "objective" and insert "objectives".

On page 5, line 21, after the word "freeze" strike out the comma and insert "and reduction".

On page 5, line 23, after the word "proposals" insert "including but not to exclude substantial, equitable, and verifiable reductions.".

The CHAIRMAN. The Chair will inquire of the gentleman from Michigan (Mr. Siljander) if this amendment has been printed in the Record?

Mr. SILJANDER. Yes, it has, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 5 minutes in support of his amendment.

Mr. SILJANDER. Mr. Chairman, I hope that all the Members in their offices and elsewhere are listening very carefully.

As many of the Members know, I have worked with many on the other side of the aisle attempting to come up with what we consider are rational, a practical, an honest effort to bring the two sides that have been in conflict so desperately back together again. And what my first amendment did back many, many weeks ago was to simply put the word and/or reductions after the word "freeze" each and every time.

The issue brought up in every instance was that the word "or," just the word "or" be taken out. The word "or" we cannot accept.

So, I took it out in one instance. They came back, the other side, and said "No; you have to take one more out and we might be able to agree with it."

So, we did it once again. Each and every time they came back I compromised more and more.

Mr. Chairman, with this amendment, I have taken out each and every "or," not one, not two, three or four, but all five "or's." "The dirty little or's" as they were referred to in so many instances here on the floor in private discussions.

We are attempting to reach a consensus compromise. We are attempting to reach something that, Mr. Chairman, I feel is the practical alternative to the stalemate in this freeze debate.

All I am asking for is something very, very simple and clear; that we allow freeze and then reductions, we allow freeze and reductions, or we could hit the bull's eye, target immediately and allow immediate reductions.

Twelve times during the first 13 hours of debate on this freeze resolution we heard by many of the sponsors on the other side of the aisle that they would in fact support freeze and reductions. In fact, they do support the concept of reductions along with freeze. I have a copy of the majority whip's notice back several weeks ago announcing the issue on the floor. The whip's notice said if I may read, House Joint Resolution 13 deals with and I quote, "mutual and verifiable nuclear weapons freeze and reductions."

It is nothing different than what was in the whereas clauses; it is not different from what the majority whip mentioned on his notice at one time.

□ 1440

All we are trying to do is make clear that we are not talking about strictly a freeze with no hopes of reduction.

There is a need for clarity. I am referring, Mr. Chairman, to an amendment that I believe could finally reach a consensus, finally reach an agreement, at least with the majority of Members in the Congress.

I just ask that each and every one of my colleagues at least look into yourselves. I know this issue has turned into a political one, one of perception. I have had so many on the other side come up to me and say, "Mark, I agree with the amendment. But because of the perception, I could not support it."

But I ask those who are not tied into pure political perception for one moment to please consider reality and the substance of what we are trying to do. And I ask my colleagues to please work with me in arriving at a consensus with the amendment.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. SILJANDER. I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

I commend the gentleman for his amendment and I would like to ask the gentleman does this not simply allow our negotiators to pursue the goals of reduction and freezing coequally?

Mr. SILJANDER. Yes, it does.

Mr. HUNTER. I thank the gentleman. I think it is an excellent amendment and I intend to support it.

Mr. SILJANDER. Mr. Chairman, I yield back the balance of my time.

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan (Mr. SILJANDER).

PARLIAMENTARY INQUIRY

Mr. COURTER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. COURTER. The parliamentary inquiry to the Chair is whether the gentleman can offer an amendment to the amendment if same has not been printed in the RECORD?

The CHAIRMAN. The answer to the gentleman is "Yes."

Mr. COURTER. A further parliamentary inquiry, Mr. Chairman.

What type of time now are we dealing with? I understand the proponent of the amendment utilized or yielded back his 5 minutes. Then the gentleman has an amendment to the amendment. Is he given 5 minutes and then an additional 5 minutes to those who oppose the amendment?

The CHAIRMAN. The Chair will advise the gentleman that under the limitation previously agreed to, the gentleman from Michigan (Mr. SILJANDER) in offering the amendment, since it was printed in the RECORD, had 5 minutes to support his amendment for debate purposes.

The Chair will now recognize the chairman of the committee, the gentleman from Wisconsin (Mr. ZABLOCKI) in opposition for 5 minutes.

If the gentleman from Iowa (Mr. LEACH) or someone else offers an amendment to the amendment, which is not printed in the RECORD, there is no time available for debate on that amendment.

Mr. COURTER. I thank the Chair.

The CHAIRMAN. The gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 5 minutes in opposition to the Siljander amendment.

Mr. ZABLOCKI. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. LEACH), to explain the amendment.

Mr. LEACH of Iowa. Mr. Chairman, I thank the gentleman for yielding.

The amendment to the amendment that I will be offering basically keeps much of the language that the gentleman from Michigan (Mr. SILJANDER) has proposed, but what it does in addition is keep the sequencing that is currently in the bill.

The sequencing is very, very important. Without sequencing, we will in essence be giving a full vote of confidence to the current negotiating approch.

Basically what is at stake in the resolution that is before us is a vote of no confidence in a negotiating effort that is based upon building up in order to cut back.

Einstein once said unleasing the power of the atom had changed everything except our way of thinking.

What we in the freeze community are arguing is, it is time for politicians to change our way of thinking.

Therefore, we insist that sequencing be kept in this resolution, and I would urge those who support the freeze resolution to look seriously at the amendment to the amendment which will be offered as the debate elapses, and to support the amendment to the amendment.

Mr. ZABLOCKI. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I want to compliment my colleague from Iowa (Mr. LEACH) for the amendment that he will offer that preserves the basic essence of this resolution.

Mr. Chairman, I rise in opposition to the Siljander amendment which has been voted on two previous times and in my view is just another effort to go back to undercut the basic issue that has already been debated here.

If Members favor pursuing the mutual freeze, as a primary negotiating goal, you will be supporting the Leach amendment.

Mr. ZABLOCKI. Mr. Chairman, the gentleman from Michigan introduced a similar amendment earlier in the debate, and it was defeated. This one is a modified version of that amendment which does essentially the same thing. We have had a full debate on the proposal and I urge that the amendment be defeated.

Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. LEACH OF IOWA TO THE AMENDMENT OFFERED BY MR. SILJANDER

Mr. LEACH of Iowa. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. LEACH of Iowa to the amendment offered by Mr. SILJANDER: In the first paragraph of the amendment, in the proposed new paragraph (1) of the first section of the resolution, insert "overriding" immediately before "objective": and in proposed new paragraph (2), strike out "Pursuing" and insert in lieu therof "Then pursuing".

Strike out the paragraphs proposing amendments on page 4, line 23, and on page 4, line 24.

In the amendment to page 5, proposing a new paragraph (4) to the first section of the resolution, strike out all that follows "freeze" through "substantial," and insert in lieu thereof ", the negotiating process should develop substantial,".

Strike out the paragraphs proposing amendments on page 5, beginning on line 19, and on page 5, line 21.

In the last paragraph of the amendment, in the text proposed to be inserted on page 5, line 23, strike out "but not to exclude" and insert in lieu thereof "but not limited to".

Mr. LEACH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

Mr. LEVITAS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will continue reading the amendment.

The Clerk concluded the reading of the amendment.

The CHAIRMAN. The Chair will inquire of the gentleman from Iowa (Mr. LEACH) if this amendment has been printed in the RECORD.

Mr. LEACH of Iowa. No; it has not, Mr. Chairman.

POINT OF ORDER

Mr. SILJANDER. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. SILJANDER. Mr. Chairman, I would like a ruling on the germaneness of this amendment to my amendment.

The CHAIRMAN. What is the gentleman's point of order?

Mr. SILJANDER. My point of order is that I do not feel his amendment to my amendment is germane.

The CHAIRMAN. Does the gentleman wish to state why?

Mr. SILJANDER. Mr. Chairman, it completely changes the overriding focus of the amendment. It is not consistent with the amendment in any way. It completely changes the direction of what we are attempting to do.

Mr. Chairman, I just would like a ruling on the fact that I think it is just simply going in the wrong direction.

The CHAIRMAN. Does the gentleman from Iowa (Mr. LEACH) wish to be heard on the point of order?

Mr. LEACH of Iowa. Mr. Chairman, I believe the gentleman has just made my case for me.

Mr. MARTIN of North Carolina. Mr. Chairman, I have a unanimous consent request.

Mr. Chairman, I ask unanimous consent that the gentleman from Iowa (Mr. LEACH) have 1 minute to explain his amendment.

The Chairman. The Chair will advise the gentleman that we must first dispose of the point of order raised by the gentleman from Michigan.

Mr. SILJANDER. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The gentleman withdraws his point of order.

Mr. MARTIN of North Carolina. Mr. Chairman, I ask unanimous consent that the gentleman from Iowa (Mr. LEACH) be allowed to proceed for 1 minute to explain to the House the meaning of the amendment which the gentleman has offered.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

□ 1450

Mr. LEACH of Iowa. Mr. Chairman, I would be delighted to explain.

Mr. MARTIN of North Carolina. Mr. Chairman, I would be delighted to listen.

Mr. LEACH of Iowa. Although I am perplexed by the spirit of the question, I would be delighted to explain.

What this amendment to the amendment simply does is reinsert sequencing into the amendment, to make it very clear that first we support a freeze, to be followed by reductions.

I would stress that the goal of the freeze community is reductions, but the tactics deployed of seeking an unparalled increase in the arms race in order to attain reductions do not in any sense make for a sane and safer world.

Therefore, we are saying we have to stop this arms race, stop it now, and then proceed forthcomingly with reductions.

Mr. MARTIN of North Carolina. Mr. Chairman, will the gentleman yield for a question?

Mr. LEACH of Iowa. I yield to the gentleman from North Carolina.

Mr. MARTIN of North Carolina. Mr. Chairman, it seems to me that what the gentleman is saying is that it is the underlying purpose of the freeze movement to deemphasize the reduction initiatives which President Reagan has offered, and thereby to embarrass him before our allies and our people; is that correct?

Mr. LEACH of Iowa. Mr. Chairman, if I could recapture my time, let me simply say to the gentleman that it is the goal of the freeze community to have a sane and safer world and to proceed with arms control on a reasonable and rational basis.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. LEACH) to the amendment offered by the gentleman from Michigan (Mr. SILJANDER).

The question was taken; and on a division (demanded by Mr. ZABLOCKI) there were—ayes 42, noes 44.

RECORDED VOTE

Mr. LEACH of Iowa. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 215, noes 194, not voting 24, as follows

[Roll No. 73]

AYES—215

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Barnes
Bates
Bedell
Beilenson
Berman
Biaggi
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Britt
Brooks
Brown (CA)
Bryant
Carper
Carr
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Coyne
Crockett
D'Amours
Daschle
Davis
Dellums
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edgar
Edwards (CA)
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fish
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Goodling
Gray
Green
Guarini
Gundersen
Hall (IN)
Hall (OH)
Hamilton
Harkin
Harrison
Hefner
Heftel
Hertel
Horton
Howard
Hoyer
Hughes
Jacobs
Jeffords
Jones (NC)
Kaptur
Kastenmeier
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
LaFalce
Lantos
Leach
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
MacKay
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McHugh
McKernan
McKinney
McNulty
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Mollohan
Moody
Morrison (CT)
Mrazek
Murphy
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Ottinger
Panetta
Patterson
Pease
Penny
Perkins
Pursell
Rahall
Rangel
Ratchford
Reid
Richardson
Rinaldo
Rodino
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shannon
Sharp
Sikorski
Simon
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
St Germain
Staggers
Stark
Stokes
Studds
Swift
Synar
Tallon
Tauke
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Wheat
Williams (MT)
Wise
Wolpe
Wright
Wyden
Yates
Yatron
Zablocki

NOES—194

Andrews (TX)
Archer
Badham
Barnard
Bartlett
Bennett
Bereuter
Bethune
Bevill
Bilirakis
Bliley
Broomfield
Brown (CO)
Broyhill
Burton
Byron
Campbell
Carney
Chandler
Chappie
Cheney
Clinger
Coats
Coleman (MO)
Conable
Cooper
Corcoran
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip
Daniel
Dannemeyer
Daub
de la Garza
Derrick
DeWine
Dreier
Duncan
Dyson
Edwards (AL)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Fiedler
Fields
Flippo
Forsythe
Franklin
Gekas
Gilman
Gingrich
Gradison
Gramm
Gregg
Hall, Ralph
Hall, Sam
Hammerschmidt
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Hightower
Hiler
Hillis
Holt
Hopkins
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jenkins
Johnson
Jones (OK)
Kasich
Kazen
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath
Lent
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Lott
Lowery (CA)
Lujan
Lungren
Mack
Madigan
Marlenee
Marriott
Martin (NC)
Martin (NY)
McCain
McCandless
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
Michel
Miller (OH)
Molinari
Montgomery
Moore
Moorhead
Morrison (WA)
Murtha
Myers
Nelson
Nielson
O'Brien
Ortiz

Oxley
Packard
Parris
Pashayan
Patman
Petri
Pickle
Porter
Price
Pritchard
Quillen
Ray
Regula
Ritter
Roberts
Robinson
Roemer
Rogers
Roth
Roukema
Rowland
Rudd
Sawyer
Schaefer
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Sisisky
Skeen
Skelton
Slattery
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snyder
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist
Tauzin
Thomas (CA)
Valentine
Vander Jagt
Vandergriff
Vucanovich
Walker
Watkins
Weber
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Winn
Wolf
Wortley
Wylie
Young (AK)
Young (FL)
Zschau

NOT VOTING—24

Bateman
Boehlert
Boggs
Boland
Breaux
Chappell
Conyers
Dickinson
Frenzel
Gore
Hance
Hawkins
Jones (TN)
Nichols
Owens
Paul
Pepper
Ridge
Savage
Taylor
Washington
Wilson
Wirth
Young (MO)

☐ 1500

The Clerk announced the following pairs:

On this vote:

Mr. Pepper for, with Mr. Taylor against.

Mr. Hawkins for, with Mr. Paul against.

Mr. Boland for, with Mr. Bateman against.

Mr. Conyers for, with Mr. Dickinson against.

Mr. Boehlert for, with Mr. Frenzel against.

Mr. Washington for, with Mr. Nichols against.

Mr. CAMPBELL changed his vote from "aye" to "no."

Ms. KAPTUR changed her vote from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. For what purpose does the gentleman from Maryland (Mr. MITCHELL) rise?

Mr. MITCHELL. Mr. Chairman, I ask unanimous consent to speak out of order on this point, on the issue before us.

The CHAIRMAN. Without objection, the gentleman from Maryland is recognized for 5 minutes.

Mr. BROOMFIELD. Mr. Chairman, reserving the right to objection, we ought to be entitled to know what is going on.

The CHAIRMAN. The Committee will come to order. Members will kindly take their seats and cease conversation so the gentleman can be heard.

The gentleman from Maryland (Mr. MITCHELL) has requested unanimous consent to speak out of turn for 5 minutes, and the gentleman from Michigan (Mr. BROOMFIELD) has reserved the right to object to the unanimous-consent request of the gentleman from Maryland.

PARLIAMENTARY INQUIRIES

Mr. BROOMFIELD. Mr. Chairman, I would like to state a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROOMFIELD. Mr. Chairman, what is the status right now of the pending business?

The CHAIRMAN. The pending business is the vote on the amendment offered by the gentleman from Michigan (Mr. SILJANDER) as amended by the amendment offered by the gentleman from Iowa (Mr. LEACH).

Mr. BROOMFIELD. Mr. Chairman, I think the orderly procedure would be to dispose now of the Siljander amendment, as amended, and then I will not object. But I ask for a record vote, a rollcall vote, and I will object until after the vote.

The CHAIRMAN. Objection is heard.

Mr. MITCHELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MITCHELL. Mr. Chairman, I am going to move in the spirit of compromise, but when I made my unanimous consent request, there was not timely objection, and, therefore, the Chair recognized me. Maybe that occurred because there was so much noise on the gentleman's side, but, if I may, please, in the interest of——

Mr. KRAMER. Mr. Chairman, regular order.

Mr. MITCHELL. If I may, Mr. Chairman, I want to indicate a method by means of which we may proceed.

Mr. KRAMER. Mr. Chairman, I ask for regular order. The gentleman is not posing a parliamentary inquiry.

Mr. MITCHELL. I am, Mr. Chairman, about to pose a parliamentary inquiry, if the gentleman will allow me to do it.

Mr. KRAMER. Mr. Chairman, I ask for regular order.

Mr. MITCHELL. Mr. Chairman, I insist on posing my parliamentary inquiry.

The CHAIRMAN. The Chair will only entertain the gentleman's parliamentary inquiry.

Mr. MITCHELL. I thank the Chair.

Mr. Chairman, I am willing to withdraw my unanimous-consent request at this juncture if there is understanding that I can get the time upon completion of the vote.

Mr. BROOMFIELD. Mr. Chairman, may I be heard?

The CHAIRMAN. The Chair will recognize the gentleman on his resolution under the renewed unanimous consent request.

Mr. BROOMFIELD. Mr. Chairman, I have no objection to the gentleman from Maryland having his 5 minutes, but I would like to have orderly business and have the vote occur on the Siljander amendment, as amended by the Leach amendment.

Mr. MITCHELL. Mr. Chairman, this is exactly what the gentleman is proposing, with the understanding that I might make my unanimous consent request.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

Mr. HARTNETT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The question is on the amendment offered by the gentleman from Michigan (Mr. SILJANDER) as amended.

The amendment, as amended, was rejected.

Mr. MITCHELL. Mr. Chairman, I ask unanimous consent to speak for 5 minutes out of order on the subject matter before us.

The CHAIRMAN. The gentleman from Maryland (Mr. MITCHELL) has asked unanimous consent to speak out of order for 5 minutes.

Is there objection to the request of the gentleman from Maryland?

There was no objection.

The CHAIRMAN. The gentleman from Maryland (Mr. MITCHELL) is recognized for 5 minutes.

Mr. MITCHELL. I thank the Chair for his courtesy, and I thank the chairman of the committee and the reasonable, understanding Members on that side.

I have followed this debate, Mr. Chairman, as assiduously as I could in light of the other assignments that I had to carry out. I followed it very carefully because in my opinion there is no single issue more important than resolving the matter of nuclear escalation.

I will repeat that I do not think that there is a single issue more important than resolving the insanity of a nuclear arms escalation. For some years I served on the joint defense production committee, and I followed this whole issue very carefully and I now know that America has the capacity on a first-strike to destroy one-half of the Soviet Union. The Soviets have a similar capacity on a first-strike capability to do that to us.

But far more important than this Nation that we care about and far more important than the Soviet Union is the fact that on that first-strike capability, we have the capability, we have the capacity to destroy the natural ecological balance that exists in this world between insects and trees and rivers and seas. That is what haunts me. That is what has haunted me during this debate.

I would like to have the attention of some of the Members because it is not often that I take to this well, and when I take to the well, I really want to tell the Members what is in my gut and what is in my heart.

This started out to be a simple little issue, a message from the people that we wanted a freeze. That is all that was involved, a resolution that did not mandate anybody to do anything. It was a powerless piece of legislation really, but it was a vehicle by means of which the people could speak to this Congress and to the President and to the rest of the Nation and say that we want at least a freeze.

Somehow or other, in this convoluted, complex debate, the issue has become much more complex than that—freeze and reduction, freeze now, freeze later. And I want to honestly say that I have an enormous respect for this body. I have served here for 13 years.

□ 1520

It is a magnificent body in which to serve, but that respect is diminished when I see this issue being turned around in terms of all kinds of partisan politics, when I see it almost being turned into a play acting game, where one Member knocks down another Member's amendment and then walks over and shakes hands with him and says, "I did you in that time," and the other one does the same thing and comes back.

The issue is too important for that kind of foolishness. It is too important. It is too important for any kind of charges about dilatory tactics. It is too important about any kind of charges about who comes out first in the press about being the most brilliant speaker.

The issue is the survival of this planet, this civilization, these people as we know them, our brothers and sisters, the rest of mankind.

I took the time, I know it was not the right time to do it, but I feel so constrained to articulate the absolute pain that I feel when I see this issue reduced to partisan politics, when I see it reduced to one-upsmanship, when I see it reduced to a kind of game playing, where one comes back in the cloakroom and says, "Guess what, I scored on him." How absurd.

I beg you, my colleagues, let us complete this issue with a sense of dignity, with a sense of decorum, but primarily with a sense of mission that the resolution of this issue is not really whether the Republicans win or whether the Democrats win. That is not really the resolution. The resolution is whether mankind, all of us, are going to be able to live on a planet that has existed for, lo, these hundreds of thousands of years in the kind of environment that has existed for, lo, these hundreds of thousands of years, and with the kind of decency and in the absence of fear, so that little children do not get on the television and say, "I'm scared to death. I don't know whether I'm going to be blown up."

I beg you, let us conduct ourselves in that fashion.

Mr. MARTIN of North Carolina. Mr. Chairman, I ask unanimous consent to address the House for 5 minutes and to proceed out of order.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. DICKS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MARTIN of North Carolina. Mr. Chairman, I ask for a personal privilege, if the gentleman from Maryland would ask 5 minutes for me so that I could address the House for 5 minutes.

The CHAIRMAN. The gentleman is entitled to ask unanimous consent.

AMENDMENT OFFERED BY MR. MARTIN OF NORTH CAROLINA

Mr. MARTIN of North Carolina. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MARTIN of North Carolina: Page 4, line 14, immediately after "capabilities" insert "at present and in the future".

The CHAIRMAN. The Chair will inquire of the gentleman if this amendment has been printed in the RECORD.

Mr. MARTIN of North Carolina. Would the Chair repeat the question?

The CHAIRMAN. The question is whether or not this amendment has been printed in the RECORD.

Mr. MARTIN of North Carolina. This amendment has been printed in the RECORD ever since the beginning of time tolling on this bill, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 5 minutes in support of his amendment.

Mr. MARTIN of North Carolina. Mr. Chairman, let me say, there remain many serious issues that are yet to be resolved. The bill in its present form does little more than deemphasize President Reagan's own proposals to achieve bilateral reductions in missiles and nuclear warheads and relegates that noble objective to a secondary priority.

It is curious that the House of Representatives of the United States would temporize with this objective of reductions and propose to undermine this major policy initiative of the President of the same United States. Curious, that is, unless you think that the freeze movement is really on the level.

The gentleman from Michigan (Mr. SILJANDER) and others have offered amendments to properly elevate this objective of reductions to a level of parity with the freeze. What is wrong with that?

Very oddly, the freeze sponsors have insisted on defeating this emphasis on reductions. Their only justification thus far has been their claim that somehow the word "reduction" means "increase," the exact opposite of what is meant by those words expressed by those who seek reductions as a top priority. Perhaps their use of "double speak" as prophesied by George Orwell's novel "1984" comes a year early, but it is consistent with the attempts of many freeze advocates to deny that weapons are "weapons," that delivery systems are "delivery systems," that the Soviet threat is a "threat," and that a law has any force of law.

I hope that the effort to evade, avoid, and dance around this issue of reduction will somehow be seen and captioned for what it is, a transparent attempt to embarrass the President.

Their assumption is faulty in thinking that after a quick freeze the Soviets would somehow then negotiate reductions of their brandnew intercontinental ballistic missiles. Indeed, the Soviet Defense Minister, General Ustinov, has made clear that if they get us to agree to a freeze, there will be no further negotiations.

If I may repeat, Soviet Defense Minister General Ustinov—no relation to the actor—has made clear that if they get us to agree to a freeze today, "There will be no further negotiations thereafter." They will then rely on their modern forces to outlast our older forces. Any approximate equivalence will be lost due to earlier obsolescence of our older delivery systems.

You know, Mr. Chairman, if we think about it, we are not really any longer considering enactment of an immediate freeze of all nuclear weapons in the Soviet Union and the United States; that came to an end during the last several weeks as the icy formations of the nuclear freeze proposal moved at glacial pace through hours of debate on both sides, with lengthy, chilly recesses in between, only then to be thawed by warming currents of moderation along the way.

The proposal now before us is far different from the House Joint Resolution 13 that we began to debate. For political reasons only, it still carries the name of freeze, but it is not the same. It no longer compels such a drastic change in U.S. foreign policy toward the Soviet Union. It no longer locks our strategic arms negotiators into a rigid posture of having to freeze first before examining and negotiating the consequences of such an agreement.

Certainly the Lott amendment takes care of that problem.

The earlier version would abruptly bypass the START negotiations in Geneva. It has now been changed to a concept that itself would require careful negotiations. It now places the question back on the bargaining table where it properly belongs.

So there are other issues that need to be resolved, and the purpose of this amendment, Mr. Chairman, is to deal directly with the issue of the older age of our delivery systems in the United States.

This amendment would make explicit that in negotiating any treaty with the Soviet Union to freeze nuclear weapons, the responsibility of our negotiators would be to assure that there be essential equivalence, both at present and in the future.

As a footnote to the legislative history, an earlier amendment sought to provide much of the same objective of future equivalence. It was defeated by a seven-vote margin, because it also directed negotiators to consider the relative age and rates of obsolescence. Now, those latter words, that latter clause, was what offended many colleagues, so those offending words have been dropped in this amendment, leaving only the essential operative language, to maintain essential equivalence at present and in the future.

As the Members will recall, the reason for this is that our warheads are deliverable by systems 77 percent of which are over 15 years old, while only 5 percent of the Soviet delivery systems are of an age anything like that.

Now, I have been told that some of the advocates of the freeze have an amendment to my amendment, which will not particularly change the objective of future equivalence, but it will only serve the purpose of making sure that everybody realizes that they have the votes to pass whatever they want to pass.

I would hope that my colleagues would give us a chance to vote on some occasions on amendments as they are offered, and if they are found wanting, to reject them, and if they are acceptable, to adopt them.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. Martin) has expired.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I ask unanimous consent that the gentleman from North Carolina (Mr. Martin) may proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

Mr. ZABLOCKI. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

Mr. AuCOIN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

Mr. AuCOIN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

Mr. AuCOIN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I will continue to ask, because these gentlemen know that we did not object to a similar request by the chairman of the Foreign Affairs Committee and by the gentleman from Maryland.

Mr. Chairman, I ask unanimous consent that the gentleman from North Carolina may proceed for 4 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

Mr. AuCOIN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I ask unanimous consent that the gentleman from North Carolina may proceed for 30 additional seconds.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

Mr. AuCOIN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. COURTER. Mr. Chairman, I ask unanimous consent that the gentleman from North Carolina (Mr. Martin) may proceed for an additional 45 seconds.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield to me?

Mr. MARTIN of North Carolina. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I thank the gentleman for yielding.

I concurred with the sentiments that were expressed by the gentleman from Maryland (Mr. Mitchell). I think he expressed feelings that a lot of us have in our hearts, but the gentleman misstated one point. What we are debating on the floor is not an advisory measure, not a sense of Congress resolution; we are debating a binding resolution, and that makes a considerable difference.

I would not want the Members of Congress to be left with a misleading impression about that.

I thank the gentleman for yielding.

□ 1530

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the amendment.

The gentleman from Wisconsin had objected because he asked the gentleman or was seeking to have the gentleman from North Carolina yield to the gentleman from Wisconsin because I was about prepared to accept his amendment. After hearing his explanation, I am not so sure, so I will not accept the amendment but let it go its course.

Mr. MARTIN of North Carolina. Will the gentleman yield?

Mr. ZABLOCKI. Mr. Chairman, I already promised to yield the balance of my time to the gentleman from Texas (Mr. Gonzalez) to speak out of order.

The CHAIRMAN. Without objection, the gentleman from Texas (Mr. Gonzalez) is recognized for the balance of the time of the gentleman from Wisconsin.

PARLIAMENTARY INQUIRY

Mr. GINGRICH. Mr. Chairman, reserving the right to object, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GINGRICH. Does the gentleman have the power to yield that time out of order for that purpose?

The CHAIRMAN. The Chair would advise that the gentleman may by unanimous consent yield to another Member to speak out of order.

Mr. GINGRICH. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

The gentleman from Wisconsin (Mr. Zablocki) has 4½ minutes remaining.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Oregon.

Mr. AuCOIN. I thank the gentleman for yielding. I understand the chairman of the committee is not at this point absolutely hostile to the gentleman's amendment. But some of the things the gentleman stated I think need to be clarified for the Record.

The gentleman was describing obsolesence and inferiority. I think we need to make the point once again, as we have done so many times on the floor, that it is a real mistake to make a confusion between what is new and what is modern. Some of the Soviet weapons are newer than ours but in terms of the technology they are vastly inferior. We have pointed that out time after time in the debate so far and the colloquies between myself and the gentleman in the well.

I would not want the RECORD to appear contradictory at this point. Though some of our weapons are older, the technology is so infinitely superior that they are in no way, in no way weaker than those of the Soviet Union. The submarines that we have, for example, the oldest 1962 Lafayette-class submarine is more than 10 times quieter than the newest Soviet Typhoon-type submarine.

We can go on down the list time after time after time. Do not confuse new with modern. Ours are modern. Ours are superior. And I think that needs to be in the RECORD.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Texas the balance of the time.

PARLIAMENTARY INQUIRIES

Mr. GONZALEZ. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GONZALEZ. Mr. Chairman, this request does not require unanimous consent, does it?

The CHAIRMAN. If the gentleman from Wisconsin yielded to the gentleman from Texas, no unanimous consent is required, as long as the debate relates to the pending amendment.

Mr. GONZALEZ. I thank the distinguished chairman.

Mr. GINGRICH. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GINGRICH. Is this on the amendment?

The CHAIRMAN. The gentleman from Wisconsin (Mr. ZABLOCKI) has yielded to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, this is the first opportunity I have had to speak on this even after the many hours of debate the chairman has mentioned. I want to compliment the chairman and his committee.

Mr. Chairman, nothing has been as sad as the spectacle of these last weeks in which we have seen hairs split and resplit again over a simple issue, a simple call for the Soviet Union and the United States to freeze nuclear armaments. All that this resolution does is show that we have a decent regard, a decent respect, for the opinion of mankind, that we share the expressions of concern from our own people and people all over the world, over the threat of extinction. Yet, we are beset by semantic storms and cynical misuse of the amendatory process.

The survival of humanity is not a political issue. It is an imperative. It is not the province of any political party to claim that a genuine concern over human survival is a mere political gesture. It is a concern of every living and thinking being, and it transcends the politics of the moment, of any moment. Mankind has the power to destroy all mankind, and therefore we have a responsibility to do what we can to see that that power is never used. That is what the freeze resolution is about. It is a simple statement that we do have a decent regard for the fears and concerns voiced by millions, and that we call for a genuine effort to at least stop adding more sticks of explosive to the pile that sits under every last living being.

In our pride, we have little noted that our neighbors to the south take great pride in their successful efforts to keep Latin America a nuclear free zone. That is a tremendous accomplishment, and one that the United States has encouraged, because we recognize the danger and the futility of nuclear proliferation. And yet the effort to stop proliferation, and the effort to keep as much of the world nuclear free as possible has not made anyone more secure—because the great nuclear powers have not been able to control their own armaments. Because of that failure, the byproduct of any nuclear war would be the utter destruction of all countries, belligerents, neutrals, and all in between. They know it, and it should therefore come as no surprise to us that nuclear-free countries are fearful and frustrated. Passage of the freeze resolution would, at the least, say to them that we in this House have a decent respect for their concern, and that we hope to see the day when real arms reductions can take place.

We have heard that the Russians could not be trusted to abide by any freeze. Yet, the administration is engaged in arms talks. What this plainly means is that the administration, and the opponents of this resolution know, is the truth: That we have the means to detect any significant violation of any agreement, freeze or otherwise. Lately, the administration has been talking about Russian violation of the SALT agreement—clear evidence that, yes, if there are violations of any freeze or any other arms agreement, we will be able to detect that and take appropriate action in response. Beyond that, the resolution does not call for any unilateral action; it calls specifically for a freeze that is verifiable. The resolution, in short, does not disguise or overlook reality; it sets forth the clear responsibility to keep our eyes open, no matter what kind of agreement is worked out.

A freeze resolution makes pluperfect sense, in that it gets both sides out of the semantic traps that have plagued arms control negotiations for years. It says that both sides know one fact, which is that both sides can easily destroy each other and the rest of the world, as well—so there is no point in continuing endless talk about the numbers of this or that kind of delivery system. There is no point in seeking advantage by adopting clever language that, say, controls the number of launchers but does not limit the number of warheads a launcher can carry. The resolution speaks to the central fact that there is no point in talking about numbers and throw weights, or any of the rest—the real point is to stop adding to the already-excessive nuclear armory, not to engage in never-ending moves for elusive advantages that soon vanish, or never existed in the first place.

We talk and act as if there is some possibility that a nuclear war could be limited. Yet, we know that such a thing is no possibility, no more possible than the possibility that terror bombing might have been avoided after the development of military air power. It is an illusion to think that the most terrible and irrational act of all, and that is war, can be conducted by the rules of a parlor game. It cannot, it never has been, and never will be. There is only one reason for weapons of mass destruction, and that reason is to inflict mass destruction. Nuclear warfare is the least selective of all; the language of the nuclear warrior is the language of destroying the targets that an enemy values most highly—not merely armies, not merely the command structure, but whole cities, whole regions. It is folly to assume that either side could use nuclear weapons in a European conflict, and not see atomic explosions in his own backyard. Yet there is this pretense that such a thing is possible. Commonsense says that it is not, and every act of history says that it is not—for as the power to destroy has escalated, so has the scale of destruction. No wonder, then, that opinion here and throughout the world, wherever opinion can be expressed, is that the surest hope of human survival is to somehow end what has become a mutual suicide pact. Yes, suicide pact, because the presumption on both sides is that an attack by either will end not only in one's own destruction, but the sure destruction of the other. That is what the concept of mutually assured destruction is, that is its whole basis—the idea that neither side wants to commit suicide. But a world that can spawn a Hitler, a world that can spawn cold-blooded aggressors, is hardly one that is free of madness, and MAD is a slender and terrifying idea, as bizarre in its own way as the suicide pact of the madman of Jonestown.

What this resolution says is that we realize the time has come to change the terms of arms control discussion—for there have been years of fruitless talk. It is time for a different approach. That is all this resolution says—that we care about the prospects of survival; that we recognize and have a decent respect for the fears and hopes of innocent millions here and throughout the world; and that it makes sense to at least stop adding to the danger, since the power of utter destruction has long since been attained by both sides.

Finally, let me observe to my friends who oppose this resolution that I was here when the nuclear test ban treaty was negotiated. We heard the same arguments then. Yet that treaty came into effect, and it has been abided by. It was the first sign that the great powers recognized the futility of their course. And that treaty has been respected; it worked. It did not stop the refinement of nuclear armaments, which has gone on apace, but it did at least stop the wholesale irradiation of the atmosphere, it did at least contain the worst effects of testing. It was, most of all, an act that signified some faith that there is a better way than blind arming, that there has to be some kind of way to contain the terror. The test ban treaty was a brave step, a positive step. It is time for another brave step—a call for a new approach to arms control, a call to put the issue in terms that are universally understood—just as the test ban treaty was. Surely, that is not too much to ask. How shameful it is that for weeks we have seen every manner of sophistry, every kind of delay, every kind of political hokum, raised against the freeze resolution. The resolution has the support of Americans everywhere, it speaks the hopes of human beings around the world, and it ought to be adopted.

The **CHAIRMAN.** The question is on the amendment offered by the gentleman from North Carolina (Mr. Martin).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. **MARTIN** of North Carolina. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 397, noes 0, not voting 36, as follows:

[Roll No. 74]

AYES—397

Ackerman
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton
Byron
Campbell
Carney
Carper
Carr
Chandler
Chappie
Cheney
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conable
Conte
Cooper
Corcoran
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel
Dannemeyer
Daschle
Daub
Davis
de la Garza
Dellums
DeWine
Dicks
Dingell
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fowler
Frank
Franklin
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gradison
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Leach
Leath
Lehman (CA)
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Penny
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stratton
Studds
Stump
Sundquist
Swift
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zablocki
Zschau

NOES—0

NOT VOTING—36

Addabbo
Bateman
Boehlert
Boggs
Breaux
Chappell
Conyers
Derrick
Dickinson
Dixon
Frenzel
Goodling
Gore
Hance
Hansen (ID)
Hawkins
Jones (TN)
Kindness
Latta
Lehman (FL)
Leland
Marriott
Martin (NC)
Nichols
Owens
Paul
Pepper
Rudd
Savage
Stokes
Synar
Taylor
Washington
Wilson
Yates
Young (MO)

□ 1550

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. KRAMER

Mr. **KRAMER.** Mr. Chairman, I offer an amendment, and I ask unanimous consent that the amendment be considered as read and printed in the Record.

The **CHAIRMAN.** Is there objection to the request of the gentleman from Colorado?

There was no objection.

The text of the amendment is as follows:

Amendment offered by Mr. Kramer: On page 5, line 13, insert the following:

Discussing the impact of developing comprehensive defensive systems consistent with all provisions of the Treaty on the Limitation of Anti-Ballistic Missile Systems.

Mr. **KRAMER.** Mr. Chairman, I will not take 5 minutes.

Basically this amendment just allows us to take a look at the contribution to arms control that strategic defenses might make. It is nonbinding, it does not commit our START negotiators to anything more than discussions, and it is consistent with all the provisions of the 1972 ABM Treaty.

I have discussed the amendment with both the minority and the majority and both the chairman and the ranking minority member have been kind enough to indicate acceptance.

Mr. **ZABLOCKI.** Mr. Chairman, will the gentleman yield?

Mr. **KRAMER.** I yield to the gentleman from Wisconsin.

Mr. **ZABLOCKI.** I thank the gentleman for yielding.

Since the amendment is so brief, so short, and the gentleman from Colorado had requested that the reading of the amendment be dispensed with, then I am wondering is this the amendment the gentleman has offered:

> Discussing the impact of development of comprehensive defensive systems consistent with all the provision of the Treaty on the Limitation of Antiballistic Missile Systems.

Mr. KRAMER. Yes, that is the amendment.

Mr. ZABLOCKI. Mr. Chairman, if that is the amendment we are prepared to accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. Kramer).

The amendment was agreed to.

● **Mr. LELAND.** Mr. Chairman, I rise briefly to ask that the record reflect how I would have voted on rollcall vote No. 72, to strike the resolving clause. Unfortunately, pressing business in committee kept me from the floor. Had I been present, I would have voted to defeat the motion to strike the resolving clause.

I thank the Chairman for this opportunity to set the record straight.●

● **Mr. ACKERMAN.** Mr. Chairman, I rise to emphatically oppose the substitute amendment to be offered by Mr. Broomfield (H.J. Res. 4). While reductions in the nuclear arsenals of the United States and the Soviet Union are necessary, reduction is not a logical first step.

If a schoolbus full of children were hurtling toward the edge of a cliff, would our first action be to erect a guardrail or to stop the bus? It is an analogy which is appropriate here since the life of our children and their children are at stake.

It is my sincere hope that today, in our fifth attempt since March 16 to "stop the bus," we will be successful. We must stop the insidious attempts to stall this critical nuclear arms freeze. If we have not heard the calls of our constituents, if we have not heard the pleas from religious and educational and professional groups across the land, perhaps we will hear the message of a letter sent to Congressmen earlier this month.

The specific letter I am referring to bears some very impressive signatures: George Ball, former Under Secretary of State; Clark Clifford, former Secretary of Defense; William Colby, former director of the Central Intelligence Agency; W. Averell Harriman, former Governor of New York and Under Secretary of State; and Paul Warnke, former Arms Control and Disarmament Agency Director and Chief SALT Negotiator.

Their letter states in very clear, forceful language that these distinguished signers support an immediate, bilateral, verifiable freeze. It argues further:

> We support reductions in the number of nuclear weapons; that is why we support the nuclear weapons freeze. A mutual and verifiable freeze offers the best hope of halting the nuclear arms race and providing a framework for initiating the complex process of reducing the nuclear arsenals of both superpowers. * * * A bilateral freeze is the most effective way to stop the further development of dangerous and destabilizing new nuclear weapon systems, and to reduce the risk of nuclear war.

It is a risk which we increase with each delay we allow. So, I say, let us sweep away the Broomfield substitute and resoundingly approve House Joint Resolution 13.●

● **Mr. CORCORAN.** Mr. Chairman, when the nuclear freeze was put before the Congress of the United States last year and was defeated, I voted against the immediate freeze proposal for a number of reasons. That was last August, and today I see no changes in the world situation which convince me that the freeze is any more appropriate to reduction of the nuclear threat than in August. Indeed, there is a compelling and growing list of actions taken by our chief adversary which reinforces why this approach to peace is not the proper one.

I wish to insert for the record an article published in the April 21, 1983, Washington Post by columnist George Will entitled "Blind Eye on Central America." While Mr. Will's use of Central America as a theme for United States/Soviet relations is the primary thrust of this column, his compilation of recent Soviet actions is applicable to other fronts. Certainly in the case of the nuclear freeze, many in the House have been attempting to amend the freeze resolution in order to guarantee specific protections to our own national defense and that of our allies against Soviet aggression. Our attempts at clarifying language have been largely thwarted, and I cannot help feeling that in many cases freeze proponents have adhered to the strict yet ill-defined, original freeze language in a somewhat blind allegiance to this slogan approach to nuclear arms control. Legitimate, critical issues have been brought forth by my colleagues who are unclear about what adoption of the freeze will do to our credibility as a deterrent force against Communist aggression, and to our longtime commitment to protection of the free world. These are no minor issues, but for some freeze proponents, these subjects seem minor irritations in their goal of passing the nuclear freeze language intact. I fear that politics has gotten in the way of sound judgment on this issue.

My quarrel with the freeze proposal has never been with its basic intent—that of making the world safe from nuclear war. However, I believe that in many ways the freeze promotes, rather than reduces, the chance of nuclear aggression on the part of the Soviets. They have never negotiated with us in good faith unless they have viewed us as willing to back up our beliefs through action—that is, deployment of missiles in Europe, or previously, production of new weapons systems. This is historic fact, and to believe that we as a Nation could now enter negotiations with our bargaining position predetermined and expect anything but rhetoric from the Soviets flies in the face of past experience.

The nuclear freeze movement has brought the arms control issue to the top of the President's agenda and that of Congress. It has thus served an important function. But how do we best approach the goal of reductions to the nuclear threat? History has clearly shown which nations of the world are aggressors, and as long as the United States is leader of the free world, we must use firmness and caution in dealing with the Soviet Union, not blind trust or chance. The many hours of debate have not convinced many of us that true reductions to world's nuclear threat will be served by this resolution, and it has not assuaged our concerns about the vital issues of verification, modernization of weapons, current Soviet weapons advantages, or NATO obligations.

U.S. policy has been to deter potential aggressors through our ability to respond to any threat to ourselves or our allies. This has been an extremely successful policy. The START negotiations are addressing reduction of the world's arsenals while allowing us to maintain our deterrent power. I could not in good conscience support this resolution when its ramifications to American security are unclear—the dozens of hours of debate made that crystal clear—but I do support the substitute measure which endorses the two ongoing arms reductions negotiations in Geneva toward achieving substantial, verifiable, equitable, and militarily significant reductions in the nuclear arsenals of both superpowers. I hope my colleagues will see that a vote against the freeze resolution is not a vote against peace or arms control, but rather, a vote for a cautious, rational approach to negotiated reduction of the world's nuclear arsenals. At this point I include the following editorial:

[From the Washington Post, Apr. 21, 1983]

BLIND EYE ON CENTRAL AMERICA

(By George F. Will)

To begin, a two-question quiz.

First question: since détente was codified at the Nixon-Brezhnev summit in 1973, the Soviet Union has forced a nuclear alert by threatening to intervene with troops in the October 1973 war in the Middle East (a war incited and financed by the Soviet Union); has organized and financed the destruction of the Paris accords and a U.S. ally; has intervened with Cubans and others in Angola, Ethiopia, Yemen, Cambodia, Nicaragua and El Salvador; has invaded Afghanistan; has orchestrated the crushing of Poland; has made a mockery of the Helsinki agreements; has repeatedly violated the informally agreed-to threshold test ban treaty (although we even changed the way we measure violations, in an effort to avoid the need to make protests that would dampen détente); has tried to murder the pope; is violating the terms of SALT II (an amazing feat, considering that SALT II is a tissue of loopholes and ambiguities); is funding and organizing terrorism worldwide; and is continuing an arms buildup unambiguously designed for political intimidation and military aggression. The first quiz question is: why is there a "return to the Cold War"?

Answer: President Reagan gave a speech referring to the Soviet Union as an evil empire.

Second question: the Soviet Union has an army brigade (2,600-3,000 men), 2,500 military advisers (increased 500 last year) and 6,000-8,000 civilian advisers in Cuba. It gave Cuba 66,000 metric tons of military supplies in 1981, 68,000 in 1982 (worth $1 billion). Moscow's annual economic aid to Cuba is $4 billion (more than one-quarter of Cuba's GNP). Cuba has 200 MiGs, including two squadrons of MiG-23 Floggers, at least 650 tanks, at least 90 helicopters, including MI24 attack helicopters, a Koni-class frigate, two Foxtrot attack submarines, at least 50 torpedo attack boats, two amphibious assault ships. A Grenada minister says Cuba will use Grenada's new airport when supplying Cubans in Africa. Cuba, with one-seventh of Mexico's population, has military forces twice the size of Mexico's. The Soviet Union is giving 20 times more military assistance to Cuba than the United States is giving to all of Latin America. In the newest Soviet satellite, Nicaragua, 39 percent of all males over 18 are in uniform, and the regime intends to build a 250,000-person armed force, so one in 10 Nicaraguans will soon be in the military or militia. (All of Honduras' security forces total 20,000. El Salvador's total 32,000.) Nicaragua's regime has built 36 new military bases and garrisons (the previous regime had 13.) Nicaraguan pilots and mechanics are being trained in Bulgaria. The regime has received, so far, 50 Soviet tanks, 1,000 East German trucks 100 anti-aircraft guns, Soviet 152-millimeter howitzers with a range of 17 miles. Cuba has 4,000 to 5,000 civilian advisers in Nicaragua, plus 2,000 military and security advisers. There also are East Germans, Bulgarians, North Koreans, Soviets and members of the PLO. The second quiz question is: about what in Central America does Congress seem most worried?

Answer: fifty-five U.S. trainers in El Salvador.

Events in Central America are spinning rapidly toward a decisive moment in U.S. history. None of the fictions that were used to rationalize acceptance of defeat in Vietnam can be used regarding Central America. The threat there is close, clear and indisputably communist. There the United States will show—will learn—whether it is any longer capable of asserting the will a great power requires, or whether the slide into paralysis is irreversible.

Governments such as Costa Rica's and Panama's are listening as congressional complaints mount. The complaints are against U.S. assistance to armed opponents of Nicaragua's Stalinists, and about even minimal aid for the democratically elected government of El Salvador that is under attack from forces that are extensions, through Nicaragua and Cuba, of the Soviet Union.

The conjunction of these complaints can mean, in effect, the extension of the Brezhnev doctrine in this hemisphere. That is, communist attacks on a regime leech away the regime's legitimacy, and produce pressures for negotiations aimed at "power-sharing" with Stalinists who do not believe in sharing power. But a communist regime, however freshly planted and dependent on foreign totalitarians, as in Nicaragua, must be treated as legitimate and irreversible.

There is a war raging, and if all the substantial, determined military assistance is one-way, there can be but one result. The result will be a communist Central America, and an Iran just a wade across the Rio Grande.●

● Mr. LELAND. Mr. Chairman, I rise briefly to ask that the RECORD reflect how I would have voted on rollcall No. 74, to adopt the Martin amendment. Unfortuately, pressing business in committee kept me from the floor. Had I been present, I would have voted to adopt the amendment.

I thank the chairman for this opportunity to set the record straight.●

Mr. ZABLOCKI. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MCHUGH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 13) calling for a mutual and verifiable freeze on and reductions in nuclear weapons, had come to no resolution thereon.

□ 1600

REQUEST FOR GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 13, the joint resolution just under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to ask the gentleman from Wisconsin a question with regard to a rumor that I have been hearing on the floor.

Does the gentleman intend to go to the Rules Committee yet this afternoon and ask for a rule limiting debate on the freeze resolution?

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, the rumor that the gentleman has heard is in error. If the gentleman would depend more on facts than rumor, he would be correct more often.

The gentleman from Wisconsin does not intend to go to the Rules Committee today, but he will go to the Rules Committee Monday or Tuesday—Monday.

Mr. WALKER. I thank the gentleman, and I am sorry that the gentleman tends to put these things into personal terms. I was just trying to clarify something for the Members. There are a number of us who have amendments that we regard as important. We would like to be able to know when the Rules Committee is going to meet so that we can appear before the Rules Committee.

I think it is a very reasonable question for this gentleman to be asking, and I am always sorry when the gentleman seeks to put it in those kinds of personal terms. I was just trying to clarify the matter.

I thank the gentleman for clarifying the matter for us. That is very helpful.

Mr. ZABLOCKI. If the gentleman will yield further, I did not intend in any way to be demeaning of my good friend, the gentleman from Pennsylvania, but I do now understand how there is such an understanding on the gentleman's side when it is dependent on rumors.

Mr. WALKER. Well, I thank the gentleman, but sometimes we have to depend upon rumors around here because no one ever tells us anything; so we have to try to find out what the facts are. That is what the gentleman from Pennsylvania was doing. I think we have established the fact that the gentleman is going to go before the Rules Committee on Monday and ask for a rule limiting debate, if I understand what the gentleman has told me. Is that correct?

Mr. ZABLOCKI. That is correct. And if the gentleman will yield further—and I thank him for yielding—my father always said that if I would stop talking and listen, I would hear.

Mr. BROOMFIELD. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Speaker, would the gentleman from Wisconsin (Mr. ZABLOCKI) respond to a question?

Mr. WALKER. Mr. Speaker, I would be glad to yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, I would be delighted to respond.

Mr. BROOMFIELD. Is the time set for Monday before the Rules Committee, and is the gentleman going to allow Members to appear before the Rules Committee in opposition to the gentleman's proposed rule?

Mr. ZABLOCKI. That is within the prerogatives of the Rules Committee and the way they arrange and hear the witnesses and how many witnesses there are. But whatever their consideration is, that is a question, I would submit, that the gentleman from Michigan ask of the Rules Committee chairman.

Mr. BROOMFIELD. Has the time been set for the Rules Committee on Monday?

Mr. ZABLOCKI. Not that I know of.

Mr. BROOMFIELD. Where is the chairman of the Rules Committee now? Has he set the time? Is he out of the country?

Mr. ZABLOCKI. There is an acting chairman, and he will set the time. The gentleman from Wisconsin will seek and ask that the committee be heard, that the Members desiring to finish this legislation be heard, and that a rule be considered. What rule will be considered, when the Rules Committee will meet, and when we will meet again with the resolution under a new rule will be up to the rule that we will be granted and the decision of the leadership.

Mr. BROOMFIELD. I would like to ask one further question of the Chairman.

Is this not an unusual precedent for a committee to go again before the Rules Committee and ask for a second rule, in other words, and deny the more than 50 Members who have amendments in the RECORD from an opportunity to discuss those under the rules that have been adopted by the entire membership of this House?

Mr. WALKER. Mr. Speaker, I would be glad to yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Well, an unusual development has occurred over the last 3 weeks. Never in my 35 years have I seen so much time wasted and every effort made to deny the Members the right to vote. And I think we cannot permit this. You brought it upon yourselves.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I think it would be worthwhile, I will say to the chairman, to take a look at today's RECORD. It seems to me that the dilatory tactics occurred on the gentleman's side; that in fact we offered an amendment that was aimed at getting an up or down vote on the issue of reductions. Instead, a dilatory amendment was offered by freeze proponents, and the vote was gotten by the gentleman's side.

It seems to me that if there was any stalling that took place on the House floor today, it was stalling that took place as a result of the freeze proponents being unwilling to vote on issues up and down like they are asking us to do on the freeze resolution.

That is, I think, the very decided problem for those on this side who keep being accused of dilatory tactics, and, when we go back and check the RECORD, find that it is the proponents who have spent as much time debating and as much time engaging in dilatory tactics as anyone on this side. I think that all of the amendments on this side have been substantive in nature.

I yield to the gentleman from Michigan (Mr. BROOMFIELD).

Mr. BROOMFIELD. Mr. Speaker, I think the thing that ought to be pointed out here is to look at the amount of work we had in the House this week: No business on Monday or Tuesday; Wednesday we had a little business; and today we had a little business. And now the Chairman is pulling it, and he is talking about dilatory tactics. Furthermore, the gentleman has even accepted more amendments today.

It only points out the imperfection of the resolution that was reported out of our committee, and I do not know why we cannot continue on this process when there is not any work to do and tomorrow we are not even going to be in session.

Mr. COURTER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New Jersey.

Mr. COURTER. I thank the gentleman for yielding.

Mr. Speaker, I would like, if I possibly could, to propound the question to the chairman of the committee, and I think a lot of the Members would like to know this: Could the chairman tell us or advise us or has he made a determination as to what type of a rule the chairman will be seeking on Monday when he is before the Rules Committee? Will the gentleman limit it to 1 hour of debate, 10 hours of debate? Could the gentleman enlighten us as to what the gentleman would be after at that particular time?

Mr. ZABLOCKI. If the gentleman from Pennsylvania will yield, I would hope it would be a modified open rule.

If the gentleman were not as patient as he has been in the past, I would ask for 4 hours limitation. We have had 4½ hours already. But I do not know exactly what the rule is going to be.

Mr. COURTER. I can understand that.

Mr. Speaker, if the gentleman will further yield, is the chairman in his province going to recommend or suggest a rule that protects those amendments that are now in the RECORD, or would the intent be not to protect those amendments?

Mr. ZABLOCKI. I do not know exactly what the rule will specify.

Mr. COURTER. I understand that. Does the chairman know what he is going to recommend?

Mr. ZABLOCKI. Just for the sake of giving some opinion and an advisory, if they are going to give that advisory opinion in the Rules Committee, I do not think that we can agree to a rule that would permit 100-and-some amendments that are now protected in the RECORD. I think the rule should call for no more than 12 or 15 amendments or a limitation on the number of amendments that would be in order. But that is a decision that must be made by the Rules Committee. When I go before the Rules Committee, I will make that suggestion.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Illinois (Mr. PHILIP M. CRANE).

Mr. PHILIP M. CRANE. I appreciate the gentleman yielding, and I would simply say to the distinguished chairman of the committee that, when addressing this problem of amendments and attempting to suggest that these are dilatory tactics, when one looks at the number of amendments that have already been accepted by the majority side, because of the overwhelming majority that that side possesses here, it is obvious that even in the eyes of the gentleman's majority, this bill was flawed when it came to the floor. It has obviously been improved by the process of give and take, the debate on the floor and the subsequent votes.

Frankly, I myself have a number of amendments that I had hoped to bring before this body, some of which would have stood a good chance of passage, and it just seems totally unfair to bring a bill up under a rule establishing the ground rules for consideration of the bill and then change the rules in midstream and suddenly cut us all off.

I have waited patiently for my turn. I am not on the committee. And, as a result, I was in the position of having to defer to committee members who had priority consideration of their amendments. I would appeal to the gentleman, out of a sense of fairplay, not to terminate the debate, to see this thing through; and, as the distinguished ranking minority member has said, it is not because we are overburdened with work here. The fact is, the time schedules have been such that we have reserved precious little time for consideration of this resolution. And if we had taken it up in a single week, we might have disposed of the whole thing in 1 week's time.

I thank my colleague, the gentleman from Pennsylvania, for yielding.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Oklahoma (Mr. EDWARDS).

Mr EDWARDS of Oklahoma. I thank the gentleman for yielding.

Mr. Speaker, I understand the frustration of the chairman of the Foreign Affairs Committee. It has been a long debate, there have been many amendments. But the gentleman himself and many of the Members on his side have said repeatedly that what we are debating is one of the most crucial issues ever to come to the floor of the House of Repesentatives. It is an extremely important issue. It is a matter of war and peace; it is a matter of the future survival of mankind. I think everybody agrees with that. Some of us feel that we endanger ourselves with the freeze; others think that we endanger ourselves if we do not freeze. But the gentleman has to recognize that any issue that important ought to get a full, lengthy, extensive debate in the Congress.

☐ 1610

This is not the sort of thing you just rush through because you get impatient. If it is as important as you think and I think, we have an obligation to debate every last question that comes up about it.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

Mr. ZABLOCKI. Mr. Speaker, I withdraw my unanimous consent request.

THE 17TH ANNUAL REPORT OF NATIONAL ENDOWMENT FOR THE HUMANITIES FOR 1982—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor:

(For message, see proceedings of the Senate of today, Thursday, April 28, 1983.)

RESIGNATION AS MEMBER AND APPOINTMENT AS MEMBER OF MOTOR CARRIER RATEMAKING STUDY COMMISSION

The SPEAKER laid before the House the following resignation as a member of the Motor Carrier Ratemaking Study Commission:

House of Representatives,
Washington, D.C., April 19, 1983.

Hon. Thomas P. O'Neill, Jr.,
Speaker of the House of Representatives, Washington, D.C.

Dear Mr. Speaker: I respectfully submit my resignation as a member of the Motor Carrier Ratemaking Study Commission.

As you know, you appointed me as the representative of the House Judiciary Committee to serve on this commission, which was established by the Motor Carrier Act of 1980 to study the collective ratemaking process of motor common carriers.

The Commission recently completed its examination of the ratemaking process as it pertains to the trucking industry and will soon begin a similar examination pertaining to the busing industry, pursuant to the requirement set forth in the Bus Regulatory Reform Act of 1982, PL 97-261. The President has just announced his intention to appoint four individuals to become new members of the Commission, replacing the four Presidential appointees who served on the trucking industry issue.

While I appreciated the opportunity to serve on the Commission and feel that my participation was worthwhile, I am afraid that I will not have the time necessary to devote to this assignment in the upcoming months and therefore think that now, before the Commission begins its new task, is the appropriate time for me to submit my resignation.

Sincerely,

John F. Seiberling,
Member of Congress.

The SPEAKER. Pursuant to the provisions of section 14(b) of Public Law 96-296, as amended, the Chair appoints the gentleman from Ohio, Mr. Feighan, as a member of the Motor Carrier Ratemaking Study Commission to fill the existing vacancy thereon.

REPORT OF DEPARTMENT OF HEALTH AND HUMAN SERVICES ON ADMINISTRATION OF RADIATION CONTROL FOR HEALTH AND SAFETY ACT DURING CALENDAR YEAR 1982—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of today, Thursday, April 28, 1983.)

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Washington, D.C.
April 27, 1983.

Hon. Thomas P. O'Neill, Jr.,
Speaker, House of Representatives, Washington, D.C.

Dear Mr. Speaker: This is to notify you, pursuant to Rule L (50) of the Rules of the House, that Robert McGuire, Chief of the Clerk's Office of Finance, received, by mail, two subpoena duces tecums issued by the District Court for the Eighteenth Judicial District, Sedgwick County, Kansas.

I will, in consultation with my general counsel, make the necessary determinations under Rule L (50) and will communicate those determinations to you.

Sincerely,

Benjamin J. Guthrie,
Clerk, U.S. House of Representatives.
W. Raymond Colley,
Deputy Clerk, U.S. House of Representatives.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I take this time to inquire of the distinguished majority whip the program for the balance of this week and next week.

Mr. FOLEY. Will the distinguished Republican leader yield to me?

Mr. MICHEL. I am happy to yield to the majority whip.

Mr. FOLEY. Mr. Speaker, this concludes the schedule for today and for this week.

The SPEAKER. The gentleman from Wisconsin (Mr. Zablocki) will be asking unanimous consent to bring up a Senate concurrent resolution, out of the Committee on Foreign Affairs. I understand it has the united support of the committee and that will be considered when you have finished your dialog.

Mr. FOLEY. At that point, Mr. Speaker, we will conclude the business for the day.

The SPEAKER. The gentleman is correct.

Mr. FOLEY. The House will adjourn over until Monday if a unanimous-consent request which I intend to offer is agreed to. The House will then meet at noon on Monday and we will have a pro forma session only on Monday.

On Tuesday, the House will meet at noon to consider the Private and Consent Calendars, and three suspensions on which recorded voters will be postponed until after all debate. The three bills under suspension of the rules will be:

S. 1011, Federal Deposit Insurance Act amendments;

H.R. 2144, Challenge Grant Amendments of 1983; and

H.R. 2307, Tribally Controlled Community College Assistance Act amendments.

We will also consider H.R. 1190, the Emergency Agricultural Credit Act of 1983, to complete consideration.

On Wednesday and the balance of the week, May 4, 5, and 6, the House will consider House Joint Resolution 13, mutual and verifiable nuclear weapons freeze. We hope to complete consideration.

H.R. 1983, the Emergency Housing Assistance Act of 1983, to complete consideration.

H.R. 2175, Justice Assistance Act of 1983, subject to a rule being granted.

Mr. Speaker, these announcements are made subject to the usual consideration that conference reports may be brought up at any time, and any further program will be announced later.

Mr. MICHEL. I thank the gentleman.

ADJOURNMENT FROM THURSDAY, APRIL 28, 1983, TO MONDAY, MAY 2, 1983

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

HOUR OF MEETING ON WEDNESDAY, MAY 4, 1983

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday next, it stand adjourned until 10 a.m. on Wednesday, May 4, 1983.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

POSTPONING CALL OF CONSENT CALENDAR UNTIL TUESDAY, MAY 3, 1983

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the call of the Consent Calendar on Monday next be transferred to Tuesday, May 3, 1983.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

THE 150TH ANNIVERSARY OF OPENING OF DIPLOMATIC RELATIONS BETWEEN UNITED STATES AND THAILAND

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 19) expressing the sense of the Congress on the occasion of the 150th anniversary of the opening of diplomatic relations between the United States and Thailand, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I do so to give the chairman an opportunity to discuss the resolution, but first I am pleased to give my support to this resolution (H. Con. Res. 97). I am sure that all of us in this Chamber will join me in supporting this concurrent resolution.

As all of you know, our relations with Thailand date back to the early 1800's when a treaty of amity and commerce was signed between Thailand and the United States. In those days Thailand was named Siam and it was the first Asian nation with which the United States established diplomatic relations.

Since those early days, our relationship with that republic has been excellent. It has been characterized by closeness and cooperation. The people of Thailand and Americans share a strong attachment to the ideals of individual freedom and national independence.

In recent years, Thailand has displayed a real commitment to human rights in playing a leading role in the orderly departure of Vietnamese refugees.

Thailand has been most supportive of America on the international scene and stands proudly as a member of ASEAN. As a firstline ASEAN state, Thailand is now faced with threats to her territorial integrity because of the expansionist activities of the Vietnamese Government.

For these reasons, I strongly support this resolution and extend my congratulations to His Majesty the King of Thailand and to the Thai people on this memorable occasion.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of Senate Concurrent Resolution 19, expressing the sense of the Congress on the occasion of the 150th anniversary of the opening of diplomatic relations between the United States and Thailand. This resolution simply gives important and deserved recognition to the anniversary of the first official diplomatic contacts between the United States and Thailand. It extends best wishes for long continuation of the warm and cordial relations which bind the two peoples of our respective countries.

The concurrent resolution is identical to House Concurrent Resolution 97, introduced March 24 by myself and the ranking minority member of the Foreign Affairs Committee, Mr. BROOMFIELD; and Chairman SOLARZ and ranking minority member PRITCHARD of the Subcommittee on Asian and Pacific Affairs. The Senate resolution was supported by a bipartisan group of cosponsors in the Senate and favorably reported by the Senate Foreign Relations Committee.

Formalized on March 20, 150 years ago, U.S. relations with Thailand have become particularly close in the years since World War II. In education, national economic and social development, and national security areas, the United States and Thailand have cooperated extensively. Both countries have gained in the process. Many of the institutions in Thailand owe their origins and development to our joint efforts. Such cooperation has helped Thailand become, politically and economically, a leading country in the Asian region. Our own society has been enriched particularly by the cultural contact with Thailand.

Today, Thailand faces many challenges—not the least of which are from Vietnam's forces which, in fighting in Kampuchea, have also intruded into Tahi territory. The Vietnamese actions in this regard, and in attacking women and children in refugee camps are deservedly condemned. Adoption of the resolution before us, although a modest effort, should help to reaffirm the strength of support of the American people for the people of Thailand.

Mr. Speaker, I urge the Adoption of Senate Concurrent Resolution 19.

□ 1620

Mr. BROOMFIELD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 19

Whereas March 20, 1983, marks the one hundred and fiftieth anniversary of the signing of the Treaty of Amity and Commerce between the United States and the Kingdom of Thailand, formerly named Siam;

Whereas this treaty marked the opening of formal diplomatic relations between the two countries and was the first treaty concluded between the United States and an Asian nation;

Whereas the United States and Thailand, during the past one hundred and fifty years, have developed a close, friendly, and cooperative relationship to the benefit of their nations and peoples, and

Whereas the people of the United States and the people of Thailand share a strong and abiding attachment to the ideals of individual freedom and national independence: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby recognizes the one hundred and fiftieth anniversary of the establishment of relations between the United States and Thailand.

SEC. 2. The Congress extends warm congratulations to His Majesty the King of Thailand and to the Thai people on this historic occasion, together with the best wishes for long continuation of the warm and cordial relations which bind our two peoples.

SEC. 3. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President of the United States with the request that the President transmit such copy to the Government of the Kingdom of Thailand.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate concurrent resolution just approved.

The **SPEAKER**. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

GENERAL LEAVE

Mr. **ZABLOCKI**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 13.

The **SPEAKER**. Is there objection to the request of the gentleman from Wisconsin?

There was no objection

GENERAL LEAVE

Mr. **BEDELL**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include therein extraneous material, on the subject of the special order today by the gentleman from Pennsylvania (Mr. MURPHY).

The **SPEAKER** pro tempore (Mr. GONZALEZ). Is there objection to the request of the gentleman from Iowa?

There was no objection.

REMEMBERING THE MURDERED RELIGIOUS WORKERS

(Mr. **RATCHFORD** asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. **RATCHFORD**. Mr. Speaker, one of the issues not addressed at last night's joint session was the murder of four American churchwomen in El Salvador 2½ years ago.

What has happened to this Government's sense of justice for our own people? The families of the murdered women—and I represent one of them—will tell you that this case has been ignored here as much as it has been in San Salvador.

The Secretary of State has assured us that this case will be pursued. But will the Secretary agree to the comprehensive, independent investigation that is so long overdue? Will he push the Salvadoran Government to be equally diligent? Does the State Department have assurances that the Salvadoran judge is going to accept evidence that our Government has gathered?

We cannot forget the moral responsibility we have to our own people, Mr. Speaker, and we need strong action to resolve this lingering tragedy.

At this point I include the following letter:

HOUSE OF REPRESENTATIVES,
Washington, D.C., April 26, 1983.

Hon. GEORGE P. SHULTZ,
Secretary, Department of State,
Washington, D.C.

DEAR MR. SECRETARY: In light of the action of the House Appropriations Foreign Operations Subcommittee today to reprogram $30 million for military assistance to El Salvador under certain conditions, I think a number of important issues with respect to the investigation into the murders of the four churchwomen 2½ years ago need prompt clarification.

Specifically, based on your letter to Chairman Long, do you:

Intend to limit the independent review of the evidence to that which applies to those already indicted, or do you plan to extend the investigation into the involvement of higher level officials?

Have specific actions—past and present—to support President Magana's assurance that the Salvadoran government is taking every possible step to bring all implicated persons to trial?

Have a clarification about the admissibility of evidence gathered by non-Salvadorans in a Salvadoran court of law? It is my understanding that the criminal justice system in that country does not admit evidence gathered by foreigners.

Plan to open to the independent examination all evidence and people related to the murders which are currently under the protection of the Federal Bureau of Investigation or whose whereabouts in the United States are known by the F.B.I.?

Intend to encourage the Salvadoran Government, including the fiscal general, to appoint an independent prosecutor there as well?

I think the differences in both the judicial systems and the societies as a whole require that the United States be especially vigilant in pressing for progress in this case. Frankly, neither the families of those murdered nor many of us in Congress will be satisfied if the American and Salvadoran Governments fail in pursuing the entire investigation and trial fully and sincerely. In 2½ years, the performance of our Government and those in El Salvador on this case has been very disappointing. It is my hope that we can pursue this investigation and fully resolve it without further delay.

As a Member of Congress who is interested in Central American affairs and who also represents Michael Donovan, whose sister was one of those slain in December 1980, I strongly urge the Department to leave no stone unturned in this long-overdue investigation.

Thank you for your consideration of these concerns. I eagerly await your response.

With best wishes,

Sincerely,

WILLIAM R. RATCHFORD,
Member of Congress,
Fifth District, Connecticut.

THE NUCLEAR FREEZE DEBATE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. EDWARDS) is recognized for 30 minutes.

GENERAL LEAVE

Mr. **EDWARDS** of Oklahoma. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. **EDWARDS** of Oklahoma. Mr. Speaker, I had not really intended to proceed with this special order, but the events of the last hour have convinced me that it is necessary to do so.

Last night the President of the United States in this Chamber appealed for a bipartisan response to the foreign policy obligations and decisions of this country. I think that is a reasonable request. Historically, people in both parties have responded positively to appeals from whatever President of whichever party was in the White House for a bipartisan support of foreign policy. We cannot afford to let matters of freedom and matters of war and peace dissolve into intense partisan bickering.

There has probably never been, since I have been in Congress and for a long time before that, an issue on the floor of the House as important as the issue of the nuclear freeze. Those of us who oppose the freeze believe that the Soviets have a military advantage, and that if we freeze at this point, we are locking into place that military advantage and increasing the vulnerability of this country and the prospects of war.

Those on the other side believe that there is no advantage with the Soviets, and that in order to slow the arms race, we have to freeze.

Both sides are undoubtedly sincere, but nobody in this Chamber can deny that what we are debating is one of the most important issues ever to come before the Congress in this country and one of the most important issues ever to come before the parliaments in the rest of the world. Yet we have seen today, out of frustration, the leadership of the House of Representatives moving to change the rules in the middle of this discussion, to cut off amendments that are already offered in the CONGRESSIONAL RECORD, and to back down on the rules for proceeding that have already been adopted by a majority vote of this House.

We are told that it is done because we in the minority who oppose the freeze and who believe that it is detrimental to our national security are dilatory. I will remind the chairman of the Committee on Foreign Affairs that we in the minority do not control the House. We do not set the rules, and we do not determine the schedule by which matters are brought to the floor.

This is an issue of great importance, and we have had it on the floor a number of times. The first time we had to break off this debate because of St. Patrick's Day, the second time for a reason far more significant, the death of Congressman Phil Burton, and the third time we broke off the debate because the Democrats wanted to have a fundraising dinner.

This week, when the Speaker, the chairman of the Committee on Foreign Affairs, and the chairman of the Rules Committee, concerned about the importance of this issue could have brought it to the floor on Monday, Tuesday, or Wednesday, we waited until Thursday to bring it up, and now, of course, we cannot continue it on Friday because a Democratic colleague is going to be sworn in as the mayor of Chicago.

So I would argue that it is not those of us in the minority who have been dilatory, and that it is important that we never permit this Congress, the great deliberating body of the freest nation on Earth, to get frustrated over debate on important issues and change the rules so that these issues cannot be fully considered.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think that we need to point out just how weak the case is that the other side has made about the fact that there are delaying tactics going on.

I have just been handed an article that is on the wire services today in which the Speaker of the House is talking about the delaying tactics on the House floor. He names me specifically as somebody who has been delaying things on the House floor. I would be willing to have anybody go back through the Record and find out how often I have spoken and how much time I have consumed in speaking to the resolution.

□ 1630

It is very little time. I have offered only one amendment in the whole time. That one amendment was accepted by the committee. It was an amendment that did not even get a vote on it because they accepted it as a good amendment; so this idea that somehow there are people on the House floor trying to thwart the will of the Congress is a bunch of baloney.

The trouble is, the Speaker has not spent enough time on the House floor during the time of the debate to know who has been here debating the issues. That is the problem. The Speaker has not done enough of a job of getting this place organized in a way that we can perhaps move the thing through to completion.

The problem is on their side. The problem is with their leadership. They brought a lousy bill out here to begin with. It is a bill that had to be modified on the House floor and now in their frustration at not being able to move the thing along, they now blame the opposition for the fact that they cannot get their bill finished.

I think the gentleman is absolutely on target. This is supposed to be a deliberative body and to cut off that deliberation, to me is just absolutely unconscionable.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I appreciate the gentleman yielding. I would like to commend the gentleman and simply say that according to many national commentators, it was the proponents of the freeze who were confused, who contradicted each other repeatedly. We have a list of statements a quarter of an inch thick with various statements by proponents of the freeze who contradicted not our side, they did not argue with our side, but argued with each other as to what the freeze meant.

We had to define what this freeze meant. You know, Harry Truman used to say, "The buck stops here." I think we should say in this House, "The bumper strips stops here," because that is all the freeze was, before we started to dissect it and start to discuss the real implications of the freeze.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Oklahoma. Yes, I am glad to yield to the minority whip.

Mr. LOTT. Mr. Speaker, I, too, would like to commend the gentleman for taking this time, because I think the record does need to be set straight in a number of instances.

I keep hearing charges of delay by those on this side of the aisle who are actually only trying to set the record straight, and to amend this resolution to make it what we feel it should be. All along we have been charged with delay; but—going back to day one, when this resolution was first taken up—half the time has been taken up trying to put a time limit on how long we would be able to debate it. We were not the ones trying to tie up the time with that.

I remember we had several votes and a lot of time was expended that first night trying to put a time limit on debate.

Another thing that tied up an awful lot of time in this whole process has been amendments to amendments, which are clearly intended, I think, to try to obfuscate key amendments that should have a straight up or down vote. We never have been able to get a straight vote on one of those important amendments.

Going back over the last month, there have been no fewer than 10 days when this issue could have been taken up on the floor of the House, on Mondays, on Fridays, even Tuesday, Wednesday, and Thursday of this very week. We quit early on Tuesday. We quit at 4 o'clock on Thursday. We are not going to be in session on Friday, when we had been served notice earlier that maybe we would continue the freeze on Friday.

Now what is going to happen? It looks to me like an attempted gag rule is next in order. As a member of the Rules Committee, I am going to be very interested to see what the freeze proponents will attempt to do in the Rules Committee. Is it going to be an overall limit, which could very easily cut off the opportunity of Members who have not yet had a chance to offer amendments just because they are not on the Foreign Affairs Committee?

Are they going to specify whose amendments can be offered, whose cannot? I would like to know how you are going to choose between the various amendments that have been pending in the Record for weeks now.

So I object to the way this is being handled. Charges are being made about delays, when in fact most of the delays are coming from the other side. I vigorously object to the procedure of going back to the Rules Committee and asking for a revised rule that would gag and stymie the right of this House to be heard or to consider important amendments on this issue.

Mr. EDWARDS of Oklahoma. I thank the whip. I wonder if I could ask the gentleman a question?

Could the gentleman from Mississippi confirm the latest rumor that I have heard, that in the rush to complete this issue we are going to take off next Friday because of the Kentucky Derby?

Mr. LOTT. Well, since I am not going to that event, I cannot confirm or deny it; but based on the way this thing has been handled and the reasons why we have not had sessions on other days to take up this most vital resolution, I have no doubt that that is a factor.

Mr. CARNEY. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from New York, who has taken the time to make himself an expert on this issue and has worked very hard on this issue.

Mr. CARNEY. Mr. Speaker, I think one of the problems we are faced with is in a word, momentum. I believe that the proponents of this freeze-now concept recognize the fact that the debate has brought to the American public precisely what the resolution stands for and precisely why we should not support the resolution; so in order to stymie the momentum that the opponents of the bill have managed to get behind them, they are going to the

Rules Committee to gag further debate on an issue that clearly has been defined by both sides to be the most important issue facing America today.

It brings me to thinking, though, about another kind of buzz word we have heard for 2 years, and that was Reaganomics. You do not hear them talking about it any more, becaue we see what the economic indicators are telling the American people that, indeed, the country is coming around, inflation is down, et cetera.

So what did they do? They had to go out and find another political issue. They did not care that the political issue was one that left our shores. They went into foreign policy, and that is what we are faced with today.

The issue of the freeze is a political issue designed to embarrass the administration and it is not going to happen. They recognize it and the only way they can get their irons out of the fire now is to gag the responsible minority who have been trying very, very hard, to let the American people know precisely what this means.

Mr. EDWARDS of Oklahoma. I thank the gentleman and I would like to point out how ironic it is that it is those people who consider themselves liberal, with all the good connotation that that word means to me and to many others in this country, it is those who today call themselves liberal who are so frequently ready to cut off debate and to rush through without full discussion of issues. I think that is shameful commentary on the way that that term has been abused.

Mr. PHILIP M. CRANE. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I am glad to yield to the gentleman from Illinois.

Mr. PHILIP M. CRANE. Mr. Speaker, I thank my colleague, the gentleman from Oklahoma, for yielding, and I want to congratulate him for taking this special order and for addressing this vitally important subject.

As the gentleman indicated, this is considered the world's greatest deliberative body and certainly the actions being contemplated at this time are a repudiation of that distinction that this body has earned in times past.

We have been told that it is a dilatory minority. I submit that it is a dilatory majority, as the gentleman has correctly observed, with regard to the many breaks in the consideration of this resolution; but there is something else that I think should be brought to the attention of our colleagues.

On March 16, the very first amendment that was accepted to the resolution was Lent as amended by Zablocki; so the chairman of the committee himself obviously recognized that this was a deficient piece of legislation and I am sure he was grateful for the opportunity to administer some modification and corrective to what was brought out of the committee at that time.

On that same date, another amendment introduced on the other side by the gentleman from New York (Mr. STRATTON) was amended by Zablocki. Once more, the distinguished chairman had an opportunity to perfect language in an obviously misconstructed piece of legislation.

On April 20, Broomfield was amended by Stratton. Again, their side of the aisle had the opportunity to improve this deficient legislation.

On April 20, our colleague, the gentleman from Georgia (Mr. LEVITAS) had an amendment accepted. Obviously, the majority on that side recognized once more the importance of perfecting the language.

On April 20, also, Hunter was amended by Zablocki. Once more the chairman had an opportunity to make some more constructive input upon greater reflection and on what came out of the debate here on the floor.

On April 20, also, our good friend and colleague, the gentleman from New York (Mr. STRATTON) had another amendment accepted.

That same day, the gentleman from Georgia (Mr. GINGRICH) on our side had an amendment that was amended once more by Chairman ZABLOCKI, once more perfecting the language.

Then that same day again our colleague, the gentleman from New York (Mr. STRATTON) had another amendment.

Then on the following day, April 21, our good friend and colleague, the gentleman from New York (Mr. CARNEY) had an amendment that was amended by the gentleman from New York (Mr. SOLARZ) from the other side and finally accepted.

Then that same day, again the gentleman from New York, Mr. SAM STRATTON, had an amendment that was amended by Dicks and accepted.

The reason I make a point of this is that up until today's deliberations, there were 19 amendments that were accepted; 10 of those 19 amendments came from the other side of the aisle that were accepted language.

As a result, I submit that what has been going on is in the interest of coming up with a sound piece of legislation and that nothing should be done to obstruct this deliberative process nor to choke off the opportunity for colleagues in this body who have been waiting patiently for the opportunity, as I have, to present eight amendments that I have had published and waiting for consideration, to give us the opportunity to submit them, debate them, because quite conceivably on the other side of the aisle the majority will end up accepting some of them, even though they might possibly be modified by the distinguished chairman of the Foreign Affairs Committee.

I thank the gentleman for yielding.

Mr. MARTIN of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from North Carolina.

Mr. MARTIN of North Carolina. Mr. Speaker, we are no longer considering enactment of an immediate freeze of all nuclear weapons in the Soviet Union and the United States. That came to an end during the last several weeks, as the icy formations of the nuclear freeze proposal moved at a glacial pace through hours of House debate, on both sides, with lengthy chilly recesses in between, only to be thawed by warming currents of moderation along the way.

The proposal now before us is far different from the original House Joint Resolution 13 that we began to debate. For political reasons only, it still carries the name of a freeze resolution, but it is not the same. It no longer compels such a drastic change in U.S. foreign policy toward the Soviet Union. It no longer locks our strategic arms negotiators into a rigid posture of having to freeze first, before examining and negotiating the consequences of such an agreement. The earlier version would abruptly bypass the START negotiations in Geneva but has now changed to a concept that would itself require careful negotiations. It now places the question back on the bargaining table where it properly belongs. Those freeze leaders who professed a determination to take away President Reagan's bargaining chips have been repudiated by the Stratton amendment and the Coleman amendment disclaiming any unilateral imperative.

The first day of debate disclosed many ambiguities in the diverse interpretations that were advanced by the bill's authors regarding what a quick freeze would do. From the beginning, they had the votes to pass the freeze resolution; but they did not have a clear explanation of what it was they had the votes to pass. Subsequently, two weeks later, they agreed to several important qualifying concessions, set forth in a clarifying statement by Chairman ZABLOCKI on behalf of the sponsors. Many of these qualifications have since been incorporated into amendments, thereby relieving many of the concerns that had arisen about the bill's ambiguities.

Only when we raised questions about the greater age and earlier fleet obsolescence of our Poseidon submarines—15-to-20-year-old Lafayette class—did the freeze sponsors come up with the explanation that submarines would not be frozen. They said this was because submarines were not "weapons" but were "launch platforms"; yet neither categorical term is used in the provisions of House Joint Resolution 13.

This reassurance, however, was equivocated by claims of other sponsors that the freeze would preserve the technological advantages of our older submarines. So my amendment was offered to specify that submarines were not covered by the term "other delivery systems" in the bill, and therefore not subject to the freeze. This makes clear that our able but aging fleet ballistic missile submarines may be replaced with newer designs with improved capabilities to perform their retaliatory mission and to evade detection and tracking by Soviet antisubmarine measures. In short, even under such a freeze, it is intended that modernization of submarines be permitted.

The same issue of obsolescence for other aging U.S. systems is not yet so clear. An amendment I had offered to require our negotiators to take into account the relative age and rates of obsolescence of weapons systems was defeated 204 to 211, even as freeze advocates maintained that negotiators were free to consider such factors anyway. The acceptance of the Lott amendment engraved into the bill Chairman ZABLOCKI's repeated words: "Anything the two sides do not agree to freeze would not be frozen." This covers the entire freeze concept with a newfound flexibility not previously attributed to the adamant freeze movement. It quite sensibly restores to the bargaining table the final authority for what is to be halted and what is to be permitted. That means that for each leg of the strategic triad, even modernization is no longer clearly to be prohibited, but is properly subject to negotiation.

Earlier amendments by Mr. STRATTON has sought to secure the explicit right to modernize older nuclear forces against the restraints of a freeze agreement. These had been thwarted by amendments substituting "maintenance" and "safety related improvement programs" for "modernization" in the two Stratton amendments. On the other hand, no provision yet in the bill prevents the negotiators from agreeing to mutually acceptable modernization. So, modernization is negotiable.

The issue of onsite inspection and verification would appear to be in the same negotiable status. The Lent amendment on this subject was modified by the freeze sponsors to provide only for "onsite inspections, where appropriate." Since this leaves unclear who is to determine when and where onsite inspections would be appropriate, the President is free to claim that prerogative or leave it subject to negotiation, which in turn is his prerogative.

On other questions, amendments have been agreed to permitting a 1-for-1 replacement of old systems and weapons by equivalent new ones (Coleman), and excluding from the freeze those delivery systems having dual capability for nuclear as well as conventional explosives (Courter). Under the Hyde amendment, no existing treaties to which the United States is a party could be broken by the freeze agreements.

The Carney amendment, even as amended by ZABLOCKI, would still permit production and deployment of the Pershing II and Tomahawk missiles by our NATO allies unless and until there is a Soviet/American treaty controlling them. Since such a treaty could also treat the subject of dismantling the currently deployed Soviet SS-20 missiles, NATO, with the Reagan administration, would still be free under this modified freeze to pursue its objective of moving to deploy the Pershing II until the Soviets agree to a treaty providing offsetting reductions on their side. The Carney amendment, as amended, thus nullifies any preemptive impact of House Joint Resolution 13 upon the ongoing negotiations regarding intermediate range nuclear forces (INF), or upon NATO's determination to deploy its own countervailing INF. Unless Soviet INF reductions are achieved.

The Gingrich amendment and Lungren amendment attach important qualifications to House Joint Resolution 13, providing that the freeze would also apply to improvements in antisubmarine warfare (ASW) and antiaircraft capabilities. Notwithstanding the difficulties of verification involved, these amendments make clear that we should not freeze delivery systems if we cannot freeze their countermeasures. Thus, we are not required to freeze the longer range Trident I and II submarine ballistic missiles or the B-1 or Stealth bombers unless we can verifiably freeze antisubmarine warfare measures or air defenses. Otherwise, the freeze, by not restricting such countermeasures, would be profoundly destabilizing. This problem is recognized by the new report issued by the Carnegie Endowment for International Peace, which rejects the freeze concept in part for this reason.

At that point, one of the heralds of the freeze, the gentleman from New York, (Mr. SOLARZ).

Today, we somehow adopted by a unanimous vote my amendment that has the very same legal effect as my earlier amendment which they defeated by a 7-vote margin of 204 to 211. That amendment, adopted today, finally makes clear that our negotiators must seek to maintain essential equivalence both at present and in the future. The amendment as agreed to does not mention the offending words "age" and "obsolescence", as I made clear in my statement, there is no way to assure essential equivalence in the future, without considering age and near obsolescence of our older delivery systems.

Toothless tiger—may discover on reflection that there is nothing left worth voting against.

□ 1640

Mr. EDWARDS of Oklahoma. I thank the gentleman for making it very clear why this original resolution needed to be changed the way it has been.

Mr. COURTER. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from New York.

Mr. COURTER. I thank the gentleman for yielding and I appreciate that the gentleman saw fit to take this special order.

I will not take a great deal of time but I just want to review for the gentleman and those that are tuned in basically what the parliamentary situation was. In my mind it is akin to a situation whereby the rules are decided in the beginning of a baseball game to go so many innings, 10 or 11 innings, and then the losing team, because they do not like the way the runs are being scored, or they do not like the outcome of the game, in the middle of the game attempt and threaten to change the rules. That is exactly the situation that we have here today.

I remember standing on the floor of this body, this House of Representatives, last week when I was told to be fully prepared to debate this issue late into Thursday night and, if we did not complete Thursday night, then into Friday.

What has happened from last week to this week? We have debated this for a few hours each week and I think perhaps it is the desire of the majority, a desire of the proponents of the freeze resolution, to stretch this thing out forever.

Now, when they do not like the way they score is, when they do not like obviously the tenor of some of the amendments, they are attempting and threatening to bring the matter entirely to the Rules Committee, to come back with a situation whereby even amendments that were placed in the RECORD are not protected.

I would like to mention to the gentleman who took the special order that it is my understanding, although I am not an authority on this matter, that this is something that is being done, or attempted, for the first time in over a decade. This is not something that happens every year around here, or every month around here. This is the most unusual gag step ever propounded in the last decade on what both sides will agree to be one of the most important, one of the most significant issues that we will ever face as Members of Congress.

I thank the gentleman for yielding.

□ 1650

Mr. EDWARDS of Oklahoma. The gentleman stated it very well.

Mr. Speaker, I yield to the gentleman from Iowa (Mr. Leach).

Mr. LEACH of Iowa. I appreciate the gentleman yielding.

The gentleman began this debate with reference to the President's appeal for a bipartisan foreign policy, an appeal I think is fair and reasonable. But I would hope the gentleman would also recognize there can be bipartisan differences with foreign policy as well; not everything we have heard about the freeze or about our policies in Central American are of a partisan variety.

In addition, I think it important to recognize that there can be constructive differences between a legislative body and an executive. Here one of the very positive things the President of the United States announced last night was basically concurrence with several things this Congress has been pressing for. At Congressional initiative the President announced the formation of a special envoy; at congressional initiative the President gave greater emphasis to the negotiating track to complement the military track in Central America.

With regard to the freeze resolution before us, I would acknowledge as a freeze supporter that opponents of the freeze have won some of the debates from a sophistry point of view but they have not won any single amendment that represents a change in substance.

There have been unilateral interpretations of a nonunilateral freeze but there was never any intent in this resolution to be unilateral and some of the changes that were made have simply become of a clarification perspective; nothing else.

Finally, let me conclude by noting there are a great number of philosophical issues at stake here, differing perspectives, but I am sure when the measure finally comes to be voted upon that reasonableness rather than partisan bickering will be its hallmark.

Mr. EDWARDS of Oklahoma. I yield to the gentleman from California (Mr. Lungren).

Mr. LUNGREN. Mr. Speaker, I thank the gentleman for taking this special order because I think we have an opportunity here to discuss the nature of this debate and now the problem that arises as some attempt to try to gag those of us who have some amendments. Some of us who had amendments and waiting to offer them since the second hour of the first day of debate.

One of the problems we have in saying we ought to move to a vote on this, forget about what it says, not worry about the language, is an expression I found in the paper, Baltimore Sun of today by Congressman Les Aspin, one of the supporters of the freeze.

He said, "The freeze revolves around the issue of whether you think the President is negotiating for arms control in good faith."

I would suggest that ought not to be the focus of what we are doing here, where we try to direct by virtue of this resolution as to whether or not we think the President of the United States is negotiating in good faith.

What kind of a suggestion is that to those that we are negotiating with to say that, "You do not have to worry about what it says, all it says is we do not believe the President is negotiating in good faith"?

What leverage do we have against the Soviet Union if we hand that to them?

Finally, I would suggest another statement made by one of the supporters, Mr. Aspin, in the paper, where he said, "The freeze is more symbolism than substance; it has no chance of going beyond the House."

If that is true, why are we wasting time to discuss it? If it is in fact a sincere effort to direct the President in a certain direction, ought we not to take time and be given the opportunity to precisely state what it is, the message we want to give to the President rather than by saying "The words have no meaning, we are not concerned about them."

I happen to be an attorney. I know the gentleman in the well was a professional writer and editor before he came here. We know that words have substance and meaning and we ought to be concerned as the Representatives of the people about what they truly mean and we ought not allow ourselves to be gagged just so we can short circuit a debate so we can pass some rule of symbolism.

I thank the gentleman.

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Georgia (Mr. Gingrich).

Mr. GINGRICH. I thank the gentleman.

I note in today's wire service the Speaker said "there is a small cadre of ultraconservatives trying to block the will of the House." He identifies them as Representatives Kemp, Gingrich, and Walker.

I suggest the Speaker read Mary McGrory's column today on "Games" in which she said:

> On four previous occasions, they have always had something else to do. March 16 was the day before St. Patrick's Day, which is of grave moment to many. A motion to limit debate lost, and they broke for home.
>
> On April 13, half the Democrats had to take off early the next morning for the funeral of Rep. Phillip Burton of California. On April 20, they had to adjourn because they came smack up against the need to attend the Democratic Congressional Dinner.
>
> They resumed on April 21, but that was a Thursday and they had to split because, for heaven's sake, you wouldn't want them spending Friday, a sacred day, to reduce the threat of a nuclear holocaust.

Today we quit at 4 o'clock so everyone could go to Chicago for Mayor Washington's celebration.

I think it is discouraging that the Speaker who in effect, tried to smear the minority when in fact it is he who has consciously and systemmatically acted in ways which lengthen this debate.

Mr. EDWARDS of Oklahoma. I yield to the gentleman from New York.

Mr. CARNEY. I commend the gentleman for taking this special order.

I would like to point out one thing that I think is somewhat important here, that is that every time we offered an amendment, we were denied a clear-cut "yes" or "no" vote on the amendment. I think my colleague from Illinois (Mr. Crane) read several of the amendments that have passed and almost every single one of them was amended by the proponents of the freeze resolution.

We have asked time and time again for a straight up vote on the issue of whether we should freeze at these obscenely high levels or whether we should freeze at reduced levels. That has been denied to us. I think it has been denied to us because I do not think they would win that vote.

Mr. EDWARDS of Oklahoma. I conclude by pointing out there has been much talk on the floor in recent days about human rights. There is no more important human right that we enjoy as Americans for free and open debate of the issues before us.

REPORT ON TRIP TO NICARAGUA AND EL SALVADOR

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Iowa (Mr. Bedell) is recognized for 60 minutes.

Mr. BEDELL. Thank you, Mr. Speaker.

I have asked for this time in order that Congressman Torricelli and I might be able to report to the House and people of the Nation what we found in a recent trip to El Salvador and Nicaragua.

I certainly am one of those who feels this should not be a partisan issue. I would hope in at least what the gentleman from Iowa (Mr. Bedell) is recognized for 60 minutes.

I have to say that the recent 30-minute other special order that I have heard in my opinion was far from bipartisan. I believe that this type of rhetoric does not help us. I am going to say what I believe, say what I have found, but I hope I will not be found guilty of saying what terrible people Republicans are. And I believe the way we reach the best understanding of what is to happen in this country would be if we try to eliminate the rhetoric in regard to the other party and try to work together as best be can.

I understand Mr. SEIBERLING is short of time and I have agreed to yield some time to him at this time before I start our complete report.

The **SPEAKER** pro tempore. The gentleman yields to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. I thank the gentleman from Iowa and commend him not only for taking this special order but for the time he has spent in Central America trying to understand the serious problems that are facing the people of that area and this country as well.

Last night after the President's speech, ABC television conducted a survey and the first question they asked was, "Do you feel that the conditions in Central America are a threat to the security of the United States? And if the answer was yes, you would call one number, if the answer was no, you would call another number.

And as I recall, the result was overwhelming, something like 4 or 5 to 1, feeling that the conditions there were a threat to the security of the United States and obviously they are.

Any time a country in the Western Hemisphere is threatened with revolution, involving some Communist elements, it is a possible threat to the security of the United States in some degree or another.

The question, however, is what is the proper policy to deal with that threat? ABC also conducted a survey in which they asked people whether they thought the policies of the Reagan administration in dealing with that threat were sound.

□ 1700

And some 30 percent before the President's speech thought that his policies then were sound and some 30 percent after the President's speech thought that they were sound. But about 60 percent, before the President's speech, thought that they were not and about the same percentage after the speech thought that they were not.

And so it does not seems to me that the rhetoric employed by the President was very persuasive to the people who were listening.

The position of the American people on this issue is quite clear, and it has been clear ever since this administration took office. The administration took office, you will recall, with Secretary of State Haig proclaiming that we were going to draw the line in Central America against the spread of communism and we were going to use whatever means, military or otherwise, needed to to deal with it.

And I suggest that that approach is not only wrong, but that the American people do not support it, did not support it then, do not support it now.

In my own district for the last couple of years, I have asked questions about that in my annual questionnaire mailed to all the postal patrons in my district. This year I received approximately 10,000 responses. And among the questions that were asked was this one: How do you feel about the following foreign policies of the Reagan administration. Subquestion C was: Send more weapons and military advisers to El Salvador.

The answers we got back showed that 15.6 percent of the 10,000 who responded favored the policy of sending more weapons and military advisers to El Salvador and 69.8 percent opposed it. That is better than 4-to-1 against.

And then we asked the question: How do you feel about the policy of assisting groups in neighboring countries to take military action against Nicaragua? And 14.7 percent supported it and 64 percent opposed it. Again, better than 4-to-1 against it.

Now I suggest that that does not indicate that the people in my district, any more than the people in the country, do not think there is a problem that needs to be dealt with in El Salvador and Nicaragua. But it does indicate no confidence in the policies that are currently being followed.

With respect to El Salvador, my own personal conclusion is that, until we insist that the government of El Salvador quit assassinating its own people, there is no possibility that that government is going to be able to successfully conclude its civil war.

And with respect to Nicaragua, what would we expect if we were in their shoes and the President of the United States, those in his administration, made statements indicating that they were going to resort to military force to overthrow their government, and followed it up by providing weapons and training to insurgents attempting to do just that thing.

The answer is obvious: We would take measures to obtain weapons from whatever country would supply them and we would take action to train armed forces to defend against just such a military effort to overthrow our government.

I make no apology for the leftists in Nicaragua, but there are many moderates in that government and in that country, and we are simply, by our actions and our rhetoric, weakening and embarrassing the moderates, and playing into the hands of the Communist members.

The most important thing that the President said in his speech last night was the statement that he was prepared to promote a settlement in Central America and to appoint an envoy of the United States to facilitate it. I hope that whatever envoy he selects is going to be someone who unquestionably will represent a bipartisan consensus, and that does not necessarily mean picking a Democrat. A Republican who had unquestioned stature, someone like Elliot Richardson, would be the kind of person who ought to be picked for that job. If that is done, you will see bipartisan support in the House and Senate. And if it is not done, then we will find ourselves still in the bog somewhere and floundering around trying to get out.

Again, I thank the gentleman for his profound public service in making his factfinding trip to Honduras and Nicaragua and for making this report to Congress.

Mr. BEDELL. I thank the gentleman from Ohio.

● **Mr. CONYERS.** Mr. Speaker, 24 hours before the President spoke to Congress and the Nation on the U.S. interest in Central America, the administration's own National Commission on Excellence in Education reported that "the educational foundations of our society are presently being eroded by a rising tide of mediocrity that threatens our very future as a Nation * * * we have, in effect, been committing an act of unthinking, unilateral educational disarmament."

The juxtaposition of these two developments says a great deal about what is wrong in the Nation and why current policy—foreign as well as domestic—is so destructive. The President's credentials as a spokesman for peace and development both at home and abroad are hardly impeccable.

Let us not forget that the Reagan administration has initiated the biggest peacetime military buildup in American history. In fiscal year 1984 the President called for the expenditure of $280.5 billion for military activities, and for a period of 5 years, he has asked for more than $2 trillion in military spending. In 1982 the nations of the world spent over $600 billion on weapons and armies, and again, according to the best estimates, the United States ranked at the top of military spenders. The two superpowers together, representing 11 percent of the world's population, account for more than half of the world's military expenditure, and nearly 60 percent of the arms moving in international trade. And the nations of Central America are the latest victims of this obscene arms trade.

At one and the same time the President and his administration over the past few years vastly expanded U.S. military spending and proposed significant cuts in domestic programs, including education. He has never diverged from this policy formula domestically, and in terms of foreign policy the mix between U.S. economic aid, on the one hand, and military assistance, on the other, also has become greatly skewed toward the military side. We have been witnessing in the past few years an unprecedented militarization of both American foreign and domestic policy.

Unfortunately, this context of understanding American policy was completely omitted from the President's remarks on Central America last evening. Instead, the President spoke in very moving terms about his administration's commitment to peace in Central America, to assisting the nations of Central America in their development struggles, and in protecting and even nourishing the fragile roots of political democracy and pluralism in that part of the world. I began to wonder whether the President and I inhabit the same world and are the products of the same history.

For decades the U.S. Government countenanced and supported the worst forms of tyranny in Central America. Never did we raise a finger "to help opposition groups join the political process," as the President declared is his intention the other night. The Somoza regime in Nicaragua never tolerated political opposition, and we never complained. The U.S. Government really never got involved in the internal politics of Central America, other than maintaining the status quo, until regimes arose that challenged our ideological interests—the Arbenz regime in Guatemala in 1954 and the Castro regime in 1959, among others. In the past few years the administration relaxed its human rights concerns in Guatemala and steadfastly overlooked that regime's human rights violations, yet got exercised over the regimes in Grenada and Nicaragua because of their revolutionary or socialist intentions.

In his speech on Central America, the President stated, "by January 1981, our emergency relief and recovery aid to Nicaragua totaled $118 million . . . can anyone doubt the generosity and good faith of the American people?" He omitted to state that in that year his administration suspended delivery of the balance of our 1980 aid package to that nation, cut off wheat shipments, canceled some $81 million in credits, and forced the Inter-American Development Bank to deny Nicaragua a development loan.

In his speech, the President also made invidious comparisons between the human rights and democratization efforts of nations allied to the United States such as Honduras and Guatemala, on the one hand, and the allegedly shadier record in nations that are not, such as Nicaragua. He referred to land reform in El Salvador, but failed to mention the significant land reform in Nicaragua, as well as their significant progress in advancing literacy and universal health care, two Nicaraguan programs that won the praise of the World Health Organization and UNESCO.

The President asked the Nation, at the conclusion of his remarks, to consider "there can be no question (that) the national security of all the Americas is at stake in Central America. If we cannot defend ourselves there, we cannot expect to prevail elsewhere." Exactly what is at stake in Central America? The President seems to think it is basically a question of preserving our advantage in the global struggle for power between the Soviet Union and ourselves. What about the interests of the nations of Central America themselves? Do they not have the ability to define for themselves what their destinies are? Do they not have the right to govern themselves as they choose, regardless of the kind of political and economic regime they adopt?

I am afraid that we are getting involved in—and abetting—a gathering storm of conflict in Central America that will have terrible consequences for that region, ourselves, and the rest of the world. Our posture to the nation's of the region is very reminiscent of our posture toward Southeast Asia prior to the Vietnamese war. Analogies are never perfect, of course. The circumstances may be different and the regions certainly are. Yet one cannot help thinking that our reflex action to reformist and revoluntionary changes in Central America is not unlike our reactions to changes in other parts of the world.

The United States has a terrible history to live down in its relations with Central America, and the administration's response to that history, to the conditions that have bred revolution and repression in that region, and to the forms that the conflicts have taken, I am afraid, will only make matters worse. If there were ever a time to encourage dialog and to establish mechanisms for negotiations to prevent the worst from happening in Central America, the time has come. Tragically, the administration is not promoting dialog or negotiations, but rather acting on the same old American impulse to provide arms and take ideological sides. The situation there is serious enough that Congress will have to consider doing what the President is unwilling to; namely, stop any further American military intervention until negotiations can be started.●

Mr. PHILIP M. CRANE. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Illinois.

Mr. PHILIP M. CRANE. I thank my distinguished colleague for yielding.

Mr. Speaker, I would like to ask a question of our colleague from Ohio, who made reference to the fact that the Government of El Salvador was killing its own people.

I was wondering if the gentleman could get into a specific there. I am not familiar that the Government has ordered the killing of any of the Salvadoran people. There have been human rights violations, in fact, egregious human rights violations, by people representing both sides of this conflict. But I am curious to know what information the gentleman has of the Government killing its own people.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

The record is replete with evidence of mass slaughter of civilians by the Armed Forces of the Government of El Salvador, not to mention the so-called paramilitary death squads. I can, with time, bring up case after case that has been put in the CONGRESSIONAL RECORD in the last couple of years, bringing out what has been going on down there with the Guardia Nacional, with the paramilitary people—who are often the same people only operating informally.

I have talked to American diplomats who have been stationed there, who have told us about it. I put an article in the RECORD only last week on the subject by a former Foreign Service officer, who has resigned in protest over the administration's policies there. The facts are so well known that I am astounded the gentleman could even raise the question.

Mr. PHILIP M. CRANE. If the gentleman will yield further.

Mr. BEDELL. Before I do, does the gentleman from Illinois believe that the Government of El Salvador and its military arm are not killing its own people?

Mr. PHILIP M. CRANE. I would like to ask the gentleman from Ohio first and then the gentleman from Iowa.

Does the gentleman believe President Magana has ordered killings?

Mr. BEDELL. I do not think that was the question.

The question I had was, does the gentleman from Illinois believe that the people in the Government of El Salvador, including the military, are not killing their own people.

Mr. PHILIP M. CRANE. I will concede that I think the evidence is compelling that there are elements within the military that have committed atrocities. By the same token, we have gone through that same grievous experience ourselves with the My Lai incident, but that was never Government policy here. And I am curious to know if either of the gentlemen would care to indict President Magana for having been instrumental in ordering the murder of any Salvadoran citizen.

Mr. SEIBERLING. If the gentleman will yield, I do not think either President Magana or former President Duarte would have any part of assassinations by members of the armed forces in El Salvador. But the fact is that when someone in a high position, for example an officer in the El Salvador army, presides over or orders the murder of peasants out on the highway somewhere, as far as the local population is concerned, that is the Government of El Salvador.

□ 1710

So the failure of the Salvadoran Government or the inability of the Government to get that armed force under control is defeating the very purpose of our efforts to help end the insurgency down there.

Mr. PHILIP M. CRANE. Mr. Speaker, will the gentleman yield further?

Mr. BEDELL. I yield to the gentleman from Illinois.

Mr. PHILIP M. CRANE. In that same connection, as I say, we have had not the same magnitude of problem, but it has happened. And I think the gentleman's sweeping indictment of the Government of El Salvador really misrepresents the case. And I would agree with the gentleman that they obviously do not have the control of their military there that we have of our own military, and I think when Colonel Ochoa defied his own defense minister, that that was apparent, because that would be a court-martial offense here. They do not have that kind of discipline and control within their military. But I do think it is a misstatement to attempt to indict the entire Government and, most especially, when there are many people who have had very limited experience in democracy, as the gentleman knows, who have lived under dictatorships, the overwhelming majority of the last half century or better, and who are striving to make improvements and to get away from that sort of thing. Yet I think the gentleman from Ohio leaves the impression that this is standard operating procedure, that this is policy of the government down there, and many reputable people within that government who are striving to improve those conditions.

Mr. BEDELL. If I may reclaim my time for just a minute, does the gentleman from Illinois know of any instances where those people who have committed these atrocities have been brought to justice and properly punished for what they have done?

Mr. PHILIP M. CRANE. Well, the gentleman from Iowa knows that their legal system is totally different from our own, and I am not going to make any defense of it. I find it deplorable, too. But I think it is important to recognize that the parties who are under indictment or under investigation for killing the labor union leaders, as the gentleman knows, those individuals are in an ongoing trial process, and the same is true for those individuals who have been charged with having murdered the nuns and the laywomen who accompanied those nuns. And, as I say, this is, obviously, a very imperfect and distressing judicial system that they have. I would agree with Justice Holmes that justice delayed is justice denied.

For all of that, it is not a basis for indicting the entire country, and I think that was the impression that the gentleman was creating when he was attempting to generalize about the Government of El Salvador being responsible for this.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I am not passing judgment on anybody in El Salvador, and I do not think that is our responsibility here. What we are dealing with is a situation. And if we are unable to cause the Government of El Salvador to get control over its own military, if Mr. Magana, like Mr. Duarte before him, is unable to control the military, and if there is no way we can force an end to the terrorizing of the civilian population by the armed forces and paramilitary death squads, then the situation is probably hopeless, and we are just pouring money down a rathole.

I personally talked at some length with Mr. Duarte when he was President of El Salvador. I think the gentleman was a sincere, dedicated person who really believed in democracy. But it was obvious to me, after talking with him, and after asking him to supply information about some of the atrocities which were alleged to have been committed by the army, which he was never able to supply, that he just had no effective control.

Unless we can straighten out that situation, it does not matter how high-minded the people are at the top, it is a hopeless deal.

Mr. PHILIP M. CRANE. Mr. Speaker, will the gentleman from Iowa yield further on that point?

Mr. BEDELL. I yield to the gentleman from Illinois.

Mr. PHILIP M. CRANE. Mr. Speaker, I would respond to the gentleman's expression of anguish by saying that those elements within the military that most closely correspond to the values and ideals we have are those that received the greatest amount of training by the U.S. people. As a result, if you want to address that problem, I would strongly urge that you support the President's efforts at getting more of the people within their military trained properly by our people, and that involves going along, in my judgment, with the Presidential request for the very modest amount of money that he is asking for to attempt to pursue that objective.

I agree, it is a very unprofessional military. And, in fact, I think that even in terms of tactics, they are people fundamentally trained in the conventional warfare techniques, attempting to deal with a guerrilla type of insurgency, and there are, by our military advisers' estimations, less costly ways in which you can wage that kind of conflict, both in terms of loss of life and resources and money.

I think that means, though, that we have to have, probably, I was told by some of our people, somewhere in the neighborhood of 15 to 20 more trainers instead of the 37 that we have there right now. We need about 20 more, they estimated.

In addition to that, they need training experiences, perhaps in Panama or bring some of them up here to Fort Bragg and give them training at military installations in the United States.

Mr. SEIBERLING. If the gentleman will yield for one last point, I will support granting military aid to El Salvador, but only if I am satisfied that the conditions that we placed on that aid are likely to be effective in getting the situation turned around that I have just described, and that the administration is going to see that they are carried out, as far as humanly possible.

I do not have the confidence that the administration is following such a policy at this time, and, until I do, I will not support further military aid.

Mr. SOLOMON. Will the gentleman yield on the point that the gentleman was making about the President of El Salvador?

Mr. BEDELL. What we would like to do is have an opportunity to report on our trip, but, yes, I yield to the gentleman from New York.

Mr. SOLOMON. I just got back not too many weeks ago myself. When I heard the gentleman criticize the President of El Salvador for not having control of things, to blame him and the duly elected government that is there now for past human rights violations, for all of the problems that there were in the past, is like blaming President Reagan for giving away the Panama Canal and selling Taiwan down the drain. President Reagan had nothing to do with that. That was President Carter.

Sure, now we have a different administration. Now they have a different administration in El Salvador.

I spent 5 days traveling, without the Army and traveling with our own interpreters, so that we could really get the feeling of just the plain little people, the campesinos, the farmers, the natives, the Indians. When we would go into that village alone, the people would come forward and they would say all they want is peace. And they do support that government. This is the vast, vast majority of all of those people, little people.

Even when we did travel with the army, in times past, when the army would come in, because there were human rights violations under the old regime, the little kids, the children, would run away, the women and children. But now it is just the opposite. They run up to the army and throw their arms around them, literally.

They do support that government. So to stand here and say, "Well, the President does not have control of things" just is not right. They have made tremendous strides there. The people do trust the army. And if you do not believe me, I met with the only cardinal, the only Catholic cardinal in Central America, and he said, "Jerry, we need to have support, U.S. military and economic support, for the existing present El Salvadoran Government." He not only told us that, but so did the five Catholic bishops in El Salvador. So did numerous members of the Protestant faith, those ministers who were there.

So with the misinformation that is coming out of El Salvador today, it is just a shame we cannot hear the right story. Tremendous strides have been made, and because pressure from the United States made it happen. If we can continue, if we can have free elections in December, if they can continue with amnesty, if they can continue with the Commission on Human Rights, we are going to see a change there, and we are going to have a Central America which is supportive of a democratic government like we have in this country, and that is what we are all striving for.

Mr. LEACH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. I appreciate the gentleman yielding, and I will be very brief.

Mr. Speaker, first let me commend the gentleman for his work in this area and for developing a perspective which, frankly, I share, in large measure. As the gentleman knows, there are very few Members of this body that I hold in higher regard.

I would like to respond very briefly to one aspect of the comments of the gentleman from Illinois (Mr. PHILIP M. CRANE) when he pointed out that we have certain features in our own past that are not perfect, such as the My lai incident. Fortunately, in that instance the individual involved was brought to justice. But there is a distinction between a policy that is an aberration and a policy that is a custom. In El Salvador in the last 4 years, 2 percent of the people have been killed. And of the 52,000-plus people who have been killed, between two-thirds and three-fourths are estimated to have been noncombatants.

□ 1720

Of that percentage, according to the State Department's own estimates, it appears that the majority have been killed from the right. As far as responsibility is concerned, this particular Government has been in office a year. During that year we think between 6,000 and 8,000 noncombatants have been killed. Certainly there are members of the Government in El Salvador that we all should hold in high regard, those who are fighting for their country and who have problems both with the right and the left in terms of their own personal survival, like President Magana, like the Foreign Minister, Chaves Mena. We owe them a debt of gratitude and respect.

But I would stress that there is a difference between a country where law and order is the norm and where law and order is not the norm.

Finally, on the issue of law and order, I would stress that what distinguishes the United States of America from the East bloc is our respect for the rule of law. Accordingly, one of the things that we ought to be very concerned about in our own policy is that any initiative that we undertake be based upon expanding the role of law rather than contracting it.

As we look at the situation in Nicaragua, we see a problem where the Congress of the United States unanimously passed a law—the Poland amendment—which stipulated that the Central Intelligence Agency and the Department of Defense would be precluded from any efforts to overthrow the Government of Nicaragua, and which further precluded any efforts that would lead to a border conflict between Nicaragua and Honduras. We in the Government now are arguing that even though we are supporting forces that want to overthrow the Government, that we ourselves do not have that as an intent. I think that distinction is open to question. In fact, if you believe in that distinction you can accept the existence of the tooth fairy.

But the point I would like to stress is that there is an anomaly between standing for law and order at home if you do not have a foreign policy that also reflects a concern for law and order. Whether there is good moral cause for our actions or good practical reason for these actions, we ought to subject decisionmaking to the tough test of what accords to international and domestic law.

Mr. BEDELL. I thank my colleague from Iowa. I think he knows how much I commend him for the work he has done in this area. I think it has reflected a clear, sincere desire to try to find answers to our problems rather than to have answers and try to find proof that the answers are right before we have properly looked at them.

Mr. WEAVER. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Oregon.

Mr. WEAVER. I thank the gentleman for yielding.

Mr. Speaker, last night President Reagan addressed a joint session of Congress, a Presidential privilege historically reserved for matters of grave national importance. The subject of the President's speech, the U.S. role in Central America, rightfully merits the focus of national attention. However, the President presents a highly ideological and oversimplified analysis of the situation. Rather than carefully and rationally examining what our commitment to and goals for Central America should be, the President missed an extraordinary opportunity to forge a true national consensus for a foreign policy consistent with the principles on which our Nation was founded.

I, like the President and all Americans, am committed to defending the United States. I believe our foreign policy must always place the highest importance on maintaining the security of our interests around the world. The President understands, as we all do, Central America's vital strategic value to the United States. The President is grossly incorrect, however, in thinking that massive military assistance to El Salvador, Guatemala, and Honduras can insure our interests will be protected. The problems facing Central America are far too complex for the simple military solution the administration envisions.

The instability and unrest in El Salvador, Guatemala, Honduras, and Nicaragua is deeply rooted in economic, social, and political inequities that have plagued these countries for decades. Basic human rights, so carefully protected and cherished in the United States, are denied to most Central Americans. Hunger and malnutrition are commonplace, workers are often unable to earn enough to feed their families. Education is insufficient and has become even more difficult as teachers and priests have become favorite targets of both rightist extremists and the guerrillas. In Guatemala and El Salvador the right to public worship, to say nothing of political expression, has been severely limited.

The President skirted all these fundamental issues last night. Worse, the administration's proposals contain little or nothing to confront or solve these problems.

We must address the problems facing Central America, and it is our duty as elected officials to develop solutions. The United States must set a high priority on negotiation to end the conflicts in this region, and we must do all we can to support and encourage the growth of freedom and democracy. Costa Rica, as the President pointed out last night, does not have an army of its own and its citizens enjoy far more freedom than any of their Central American neighbors. Perhaps if the President would take a closer look at Costa Rica he would see some new ways to promote democracy and America's interests. Massive military assistance and covert paramilitary operations have consistently failed to further the U.S. causes in the past—the Bay of Pigs fiasco, Vietnam, Laos, Cambodia, and Iran are glaring reminders.

The challenge facing the United States is to create a new foreign policy for Central America, one that will not repeat our past mistakes and will truly improve the quality of life for the people of the Central American nations. Only then will our neighbors to the south be able to build stable, independent governments, forming a stout bulwark in the Caribbean Basin to protect democracy and the United States.

Mr. PHILIP M. CRANE. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Illinois.

Mr. PHILIP M. CRANE. I thank the gentleman for yielding.

Mr. Speaker, I would simply remind my distinguished colleague from Iowa on this law and order question that certainly no country has historically placed any greater premium on law and order than we have here in the United States.

Yet, sad to say, in spite of that, if you look at the crime statistics here in the United States, they are way in excess of the industrialized nations of the world. For all of our commitment, we have a very sorry track record in the United States.

Mr. BEDELL. Mr. Speaker, the original purpose for which I called this special order was for the gentleman from New Jersey (Mr. TORRICELLI) and I to have the opportunity to explain in detail exactly what we saw and what we found in a recent trip that we made to Honduras and Nicaragua.

We had a great opportunity to get out among the people of those countries and, at least in my opinion, particularly in view of the President's speech last night, it is important that we report to you what we found and what our beliefs are as a result of that trip.

We started our trip by landing in San Pedro Sula in Honduras. That evening we met with some business leaders of Honduras. I would have to tell you in honesty that they were split in regard to how they felt about their government.

The next day we flew from there to the capital, Tegucigalpa, and there we first of all met with some mothers of disappeared young people. These were mothers whose children of college age had been taken by the police or security forces of the Government and had not been seen or heard of since they had been taken. Those mothers had no way to check to find out whether their young people, or children who were of college age, were being held in prison, whether they had been killed by those government forces, or what had happened.

We met then with the President of the country to whom we conveyed our concern over this particular issue, as well as others. We then met with Mr. Alvarez, the head of the military. Mr. Alvarez told us that in his opinion there was no room in Central America for Nicaragua and Honduras if Nicaragua retained a Communist-type government.

I think that is pretty disturbing, because indeed if the attitude is going to be in those countries that they cannot live together if another country has a type of government that one disapproves of, I think it is of great concern. I, for one, had great concern over what appeared, at least to me, to be a movement toward more strength of the military in Honduras and more repression of the people, as was evidenced by those mothers of disappeared people with whom we met.

We went from there down near the border where we visited a refugee camp for people who were refugees from Nicaragua. As we talked with them, a significant number of them had relatives fighting with the counterrevolutionaries whom we are indeed supporting. They came from the northern area and a significant number of Somoza's security forces who make up the leadership of these forces that we are supporting came from that area, and in many cases they were relatives of those people.

We went from there down to the border between Nicaragua and Honduras. At that time I thought our job was to try to find out whether or not the United States was truly financially supporting the counterrevolutionaries who are running these raids into Nicaragua. So that was the direction of our questions, and at least the Honduran guards there who had had contact with the counterrevolutionaries advised us that certainly in their opinion this was indeed the case.

We went from there to Nicaragua, where we met with the people in our Embassy.

I have missed that we also talked with the people in our Embassy there in the capital of Honduras.

We went to Nicaragua, where we again met with the people in our Embassy, and one of the things that they said to us which I think is of significance was that in their personal opinion, if any arms were going from Nicaragua to El Salvador at this time, they were of insignificant amounts. That was their personal opinion. That was not necessarily an administration opinion, but that was the statement that was made to us.

Probably one of the most moving days that I have had in my lifetime was the Sunday, the next day, wherein we split up and I went up to a little town of Esteli, which is about two-thirds of the way up to the border of Honduras. The first thing we did there was to meet with a group of church members in the church. There were 40 of them there. I cannot go through all of the conversations that they had, but I should repeat to you one made by an elderly lady who was a grandmother whose son had been killed by the counterrevolutionaries that we are supporting.

Her statement to us was, "We cannot understand why President Reagan wants to see our women and children killed when we do not feel we have meant to do anything to him."

It is pretty difficult, as you meet with those common citizens, and you find that a number of them have had relatives in their immediate families who have been killed by the counterrevolutionaries whom we are financing.

We went from there to the little homes where we had an opportunity to eat in their very, very primitive homes, and have some lunch. From there we went down the street, and here there was a group of citizens working on the street because the bulldozer had broken down, and on Sunday there were 40 or 50 of them with shovels and this sort of thing trying to spread the rocks out on the street in this rural area.

☐ 1730

Again it was very difficult. The same type of questions came through and the same types of conversations, and they were not mean and they were not nasty to me. They seemed to feel that this was all President Reagan that was causing all of this; but they seemed to expect that I could go back to Washington and put a stop to the killing of their women and children. It was very dificult for me as a representative of the Government to try to explain to them that I simply did not have that power.

From there we went to a home in Nicaragua. This was a home of a family which was comparatively well to do. Instead of having dirt floors, they had tile floors and they had furniture that we could sit on as we talked. They read to us in Spanish and translated a letter which this family had sent to their church at Christmas time. This family had said that, "What we would like to do as our

Christmas gift is for our family to go and pick coffee as a public service." They did not need the money. They did it as a service, and the family went out and picked coffee. While they were doing that, these counterrevolutionaries that we are supporting swept down and captured them and took them captive. The three young teenage boys who were part of the family, as well as their two parents, had managed to escape, but the mother and father had not escaped. All their clothes had been taken from them when they were captured. The mother had been made to be in a pit with no protection from the rain and the mother and father are probably dead, inasmuch as they had been advised by the counterrevolutionaries that they would have to kill them because they would be of no value to them.

It is pretty tough when you meet with a family like that when the grandmother is there in tears all the time that we are talking to realize that that is what we are supporting.

We met with a prisoner who had been taken. I do not know if he was telling us the truth or not. There were certainly a lot of reasons to question what he said; but at least his statement to us was that he had served not only to transport money from our Government to the counterrevolutionaries, but he had also transmitted information.

All I can tell you is what he said. I certainly am not here to say that that is the case, because as I said, we had many questions as to whether or not his story was true.

Well, then, we met with some of the leaders of their government. They told us that they would like very much to negotiate with our top people and our people would not negotiate with them.

I thought one of them made quite a moving statement in that he said if the United States really wants to see democracy in Nicaragua, it is hard for us to understand why they would want the people who served as Somoza's security guards to take over the Government of this country.

So that as I had the opportunity to meet with the people of that country and as we talked with others, including a group of farmers with whom I met and others, I came away with several conclusions.

The first one is that surely what we are doing in Nicaragua is morally wrong. For us to be financing raids by these counterrevolutionaries as they invade into the country and as they kidnap and murder indiscriminately common citizens in the rural area, surely that is not what America stands for.

Second, I came to the conclusion as surely what we are doing is pragmatically wrong, because it came through very clear to me that what we are doing is giving that government an enemy so that the people will support it all the more. It came through very clearly as we met with the people in the church and we asked them, "How many of you people are part of the militia?" And most all of them raised their hands, elderly ladies as well as young people, that were part of the militia and they were there to take up arms to protect themselves and their fellow citizens from counterrevolutionaries that we are financing.

I hate to tell you that I think that is counterproductive if we are concerned about some of the things that the Government of Nicaragua is doing. I am one of those who is disturbed by the things they are doing. I am disturbed by their censorship of the press, for example, and we asked them about that and they give us the excuse, the reason was that they were at war, and, indeed, I think there is reason for them to have that excuse. Even though I do not agree with it, I cannot understand why we would want to give them the excuse.

Third, surely we are pushing them more toward the Soviet Union and the Soviet bloc. Very possibly they would have gone that way anyway. Very possibly we have some reasons to be upset with them; but surely, to say we will not talk with you, what we are going to do is finance people to come into your country and indiscriminately kidnap and murder your people, cannot be productive in trying to win them over. I cannot believe anybody would think you win people over by murdering their common citizenry.

Finally, at least in my opinion, what we are doing is legally wrong as far as this Congress is concerned. My son, who is a Methodist minister, called me just a few days ago. He said: "Dad, what are you going to do about it?" I said: "What do you mean?"

He said: "Well, the President of the United States is violating the law." He said: "There is already sufficient disregard for our Government. Are you going to sit there and let him go ahead and violate the law and not do anything about it?"

I hate to say that I am about as frustrated as I was when I met with those people in the streets of Esteli in Nicaragua who thought I could do something about stopping what is happening. I believe it ought to be stopped. I believe the Government ought to have to obey the law; but I am only one person and it is very frustrating when my son calls me and thinks that I should have that power, just as those people in Nicaragua thought that indeed I should have the power in order to do that.

So that the President says what we are doing is trying to interdict arms supplies. The President says that Nicaragua and El Salvador join each other. I hope people will be aware of the map. Nicaragua and El Salvador do not join each other. This green part is all Honduras. There is a sizable segment of Honduras between Nicaragua and El Salvador. If our purpose is truly to interdict arms supplies from Nicaragua to El Salvador, if they are going there, does it not make more sense for us to go into Honduras, which is a friendly country, which has every right to stop arms supplies across its country, rather than to send armed bands into a different part of the country to raid the citizenry and kidnap and murder them?

So that at least in my opinion, I have great concern over what is being done.

In the President's speech last night he said:

> In summation I say to you that tonight there can be no question the national security of all America is at stake in Central America. If we cannot defend ourselves there, we cannot expect to prevail elsewhere. Our credibility would collapse. Our alliance would crumble, and the safety of our homeland would be put in jeopardy.

I would only ask the people to listen to that statement and see how closely it resembles exactly what we heard prior to the situation in Vietnam, where the argument was apparently made that if we do not stop the Vietnamese in Vietnam, they will again be raiding our western shores of California.

The President went further to say:

> Yet the Government of Nicaragua has treated us as an enemy. It has rejected our repeated peace efforts. It has broken its promises to us, to the Organization of American States and, most importantly of all, to the people of Nicaragua.

I can only tell you what the leaders of Nicaragua pleaded with us. They literally pleaded with us for an opportunity to have negotiations and to talk these things out. I do not know if they will be successful. I cannot understand why we would not do so.

The President says they violated the Organization of American States treaties. That may well be true. Certainly we are doing it. I do not think anybody could question but what the action we are taking is a violation of the Organization of American States treaties.

I told you, I do not agree with a lot of things about the Government of Nicaragua, but I do not believe that for some other country to break a treaty gives us any right to do the same thing, any more than if somebody else commits a crime it gives me a right to do likewise also.

The President went on further to say that—

> No amount of reform will bring peace so long as guerrillas believe they will win by force.

□ 1740

I agree with that. But then why is it that we are supporting the guerrillas that are trying to raid into Nicaragua and using force?

I agree with what the President said. I agree that we should use ballots instead of bullets. But if that is the case, then we should do it ourselves as well.

I have great problems when we say that we can justify what we are doing when it is similar.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I think the gentleman has made a tremendous contribution by his account of his experiences down there as well as by going there in the first place. I do not see how a more compelling statement could possibly be made pointing out the consequences, the dreadful consequences of the policy that is currently being followed.

Not only does it violate the law, not only is it counterproductive, not only is it resulting in innocent people being killed and their lives disrupted, it demeans our country in the eyes of the world and it causes Americans to lose faith in their own government. That is the worst aspect of all.

I guess I am old enough to remember rather vividly back in 1933 or in the early 1930's when we had a revolutionary government in Mexico. One of the things that they did was expropriate the oil that then belonged under lease and contract to various foreign oil companies. There was an effort to try to pressure the Mexican Government into not doing that and disgorging this oil that they had expropriated.

There were various lawsuits brought against it by various oil companies demanding huge sums of money.

What did President Roosevelt do when he took office in 1933? Did he adopt the policy of threats and force and intimidation, and drawing the line and saying we will have no part of revolutionary governments, we cannot tolerate them in this hemisphere? No. He pronounced the good neighbor policy and said we are going to live as good neighbors with our other friends and neighbors in this hemisphere. The result has been a good relationship between the United States and the people of Mexico ever since.

That is the way to solve these problems. If we insist that every government in Latin America adopt the same economic policy and philosophy as this country then we are headed for endless conflict. What we need to do is to simply insist that certain basic human rights are respected and that is all that we can insist upon. Certainly we have the right to also insist that our fellow American states do not use force against their neighbors or use force or supply the means of using force, and that should apply to us as well as to them.

So I just think the gentleman has made a tremendous contribution here tonight. I think if we would follow the kind of approach that he has outlined here we would see the beginning of a change in our relationships with Nicaragua and in the situation in El Salvador.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from New York.

Mr. SOLOMON. I will just be brief because I know the gentleman is sincere and I have a great deal of respect for him, too. But last night before the President spoke the gentleman from Pennsylvania, Congressman KOSTMAYER and myself were debating this issue on C-Span for an hour. I was taken by the gentleman in the well's comments about several of the families that he talked with, with one woman and another woman that became emotional.

I had a number of phone calls. This was a talk show and it went all across the country on C-Span, and we had two women in particular who called up with just the opposite story. They were crying on television.

Mr. BEDELL. Opposite story to what?

Mr. SOLOMON. An opposite story to what the gentleman told.

Mr. BEDELL. In what regard?

Mr. SOLOMON. They said the Sandinistas had come in and taken their homes away, and one had had her husband killed and the other had lost a son. It was just the opposite.

The reason I was taken by it was because when I was in El Salvador and Nicaragua and some of the other Central American countries, but particularly in El Salvador, I was worried that I would be set up either by the Government or by the army with the people that I would be interviewing there. So I broke away from them and I went by myself, with my own interpreter. That is why it just seems to me maybe the gentleman in the well was set up, and the people that were on that trip were set up.

Could I just ask was that a Government trip that the gentleman took?

Mr. BEDELL. No, sir. It was not a Government trip.

Mr. SOLOMON. Who sponsored the trip?

Mr. BEDELL. We therefore had the opportunity to go where we wanted to. It is kind of hard to believe when you go down the street and run into a group that is working on Sunday to try to repair a street with shovels that somebody set something up for you.

We went up to this town. Does the gentleman question whether the three men we met with who had escaped, who were there with their head of their church and everyone else, does the gentleman question the letter they had sent to their church and whether they had escaped or not? Does the gentleman think maybe that was not true?

Mr. SOLOMON. Let me just say this. I am a Presbyterian and I am very unhappy with the National Presbytery with some of the information they are disseminating to some of my people that belong to the Presbyterian Church. So you cannot always believe what you hear.

But I would say to the gentleman I went into the city of Berlin and the city of Berlin had been attacked by Communist guerrillas. They had burned a huge section of the city and they had destroyed the only medical supply house in the whole city. They destroyed the water supply so that people were hurt. Those were real human rights violations.

I do not hear anybody in the well or anybody on that side of the aisle saying anything about the gross human rights violations by the Communist guerrillas. It is all by the Government. Why can we not tell both sides of the story?

Mr. BEDELL. I do not think it is a question of both sides, if I may say so. I do not question whether the Sandinistas are doing everything they should in the way that they should. I do not question that for 1 minute, and I am not questioning whether the gentleman was set up or not.

I am telling the gentleman that this is what we saw. This is what we were doing. And this is what we are doing. I believe we have a responsibility for what we do. I have already said that I do not believe the fact that somebody else violates a treaty gives us the right to do so, nor do I personally believe that because somebody else may indiscriminately kill people that we should be funding other people to indiscriminately kill people.

If that is the gentleman's belief, I just have to tell him that we have a complete disagreement in that regard.

Finally, I do not believe in it because of the fact that it was obvious to me how counterproductive it was as we talked to everybody in trying to reach our objectives. There might be some who would say it was fine to go ahead and murder people who had gone up to pick coffee and to kidnap them and this sort of thing because it was such a noble effort and it was worth it. How can we possibly say that it is the thing to do if it is driving those people more toward a government which that gentleman does not particularly approve of and I do not particularly approve of? How can we possibly say that it is fine to go ahead and kidnap and fund the kidnaping and murdering of people if it is going to be counterproductive for what we would think would be our aim in the end?

Mr. SOLOMON. Let me say to the gentleman I think we both believe in the same thing. I do not believe the gentleman in any way supports the Communist movement in the world, and I know that he does not. We just want to go about it, I think, in a different way.

Mr. BEDELL. How would the gentleman go about it? Would he go about it by saying we ought to fund raiding parties to go into a country and kidnap and murder the people who have gone up to pick coffee as a public service?

Is that the way the gentleman would try do it?

Mr. SOLOMON. Absolutely not. But the gentleman knows all of the weapons that are flowing into El Salvador today and into the hands of the Communist guerrillas are coming from the Soviet bloc, from Cuba, through Nicaragua, from Libya, and we have every right to stop it.

Mr. BEDELL. If I can reclaim my time, we are not talking about that. We are talking about what we are doing in Nicaragua at this time.

I would ask the gentleman another question. Does the gentleman think somehow that might somehow be an effort to interdict arms supplies from Nicaragua into El Salvador?

Mr. SOLOMON. I think that any covert actions we are doing are within the law. Certainly nobody is going to violate the law intentionally. All we are going to do is to try to stop the flow of arms from going into El Salvador, as the other South American countries are trying to do, and as the other pro-Western countries are trying to do.

Could I get back, because I only rose to speak to ask the gentleman a question, and that is who sponsored your trip?

Mr. BEDELL. If I might, it is my time, and I think I should have an opportunity to get an answer to a question. The question I am asking is does the gentleman believe that the raiding parties we are putting into Nicaragua in the central mountainous area of Nicaragua are raiding parties to try, that they are there to try to interdict arms movements from Nicaragua into El Salvador?

Mr. SOLOMON. In the first place, there are no American troops there. We are not putting any parties into anywhere.

Mr. BEDELL. The efforts we are funding, does the gentleman believe—this is very important—does the gentleman believe that those efforts that we are funding, which are moving raiding parties into the central mountainous area of Nicaragua and kidnapping and killing people, does he believe that those efforts are directed toward interdicting arms movement from Nicaragua to El Salvador?

Mr. SOLOMON. Let me say this: I am a member of the Foreign Affairs Committee and I do not know what committee the gentleman belongs to, but I know of no such raiding parties that we are asking to go in and do that. We would in no way be a part to overthrowing any government, although I would personally like to see the Sandinistas overthrown by anybody, because it would be better than what is there.

□ 1750

Mr. BEDELL. So does the gentleman believe that we are not funding those efforts?

Mr. SOLOMON. I do not believe that we are funding those efforts to overthrow any government.

Mr. BEDELL. That is not my question. The gentleman in the well should have an opportunity to ask a question. If you do not want to answer it, that is fine.

Mr. SOLOMON. The answer is "No." Would the gentleman answer my question. Who sponsored and paid for his trip to Nicaragua and Honduras?

Mr. BEDELL. It was the Commission on the United States Central American Relations.

I want to be sure of an answer: Does the gentleman believe that the efforts that we are not funding efforts by raiding parties to go into central Nicaragua?

Mr. SOLOMON. No, I do not believe that we are funding efforts to go into Nicaragua.

Mr. BEDELL. So the gentleman does not believe that we are funding those efforts that are taking place by the counterrevolutionaries?

Mr. SOLOMON. That is correct.

Mr. BEDELL. OK. I should tell the gentleman that nobody has denied it, at least to us, in any of the contacts we had with our Government officials. And certainly if the gentleman believes it, I can tell you this, there was nobody with whom we met in Nicaragua that did not believe it, no matter who they were.

So, that in my opinion——

Mr. SOLOMON. Did the gentleman ask the revolutionaries who deserted the Sandinistas who used to be a part of it because they thought there was going to be a legitimate revolution in Nicaragua and it turns out that now they do not have free elections, that they do not have freedom of religion, that they insult the Pope and go on with all of these murders and human rights violations? Ask those revolutionaries who deserted the Sandinistas and are now leading a revolution of their own.

Mr. BEDELL. We did.

Mr. SOLOMON. You did?

Mr. BEDELL. I did meet with one of them, and indeed he said we were funding them. But that is not the point.

The gentleman does not believe we are doing it. If indeed he is right and everybody else down there is wrong, and if indeed that is correct, when the administration refuses to deny it, that is fine. I cannot imagine the administration denying it. I yield to the gentleman from Oregon.

Mr. WEAVER. I just want to say that I thank you, BERKLEY BEDELL, for bringing this home to us, you have contributed so much. I now—you have pierced my heart very deeply and given me cause to continue to fight with you in the House for these things. You have brought compassion and sanity into this debate and I appreciate your efforts.

Mr. BEDELL. I thank the gentleman very much.

I would hope this does not become a partisan issue. I would hope this would become an issue, as the President said should be a nonpartisan issue, but I would hope we would have the freedom to properly debate what is right; and just as the gentleman from New York may feel one way and I may feel another way, it seems to me we should have the right to debate those issues and to try to bring them before the people.

I yield to the gentleman from New York (Mr. WEISS).

Mr. WEISS. I thank the gentleman for yielding.

I very much appreciate the gentleman yielding to me. I want to commend him and the gentleman from New Jersey (Mr. TORRICELLI) for the trip that they took, as I think great risk to themselves and the commitment that they made to come back and report to this House, what in fact they witnessed and the conversations that they had and what in their judgment in fact is happening in Central America.

I am pleased to rise today to join them and my other colleagues in responding to some extent to the address by the President yesterday evening on American policy in Central America.

There were as the gentleman in the well has said, many admirable sentiments expressed in President Reagan's speech. He spoke of the right of the peoples of Central America to determine their own affairs. He spoke of the commitment of our own country to human rights, and to assisting the governments of other countries to secure those rights for their citizens. He spoke of our country's willingness to support peaceful negotiations and political solutions to the problems of the nations of Central America that was something new for him. And he spoke of our country's commitment to provide economic development assistance to the countries of Central America to assist them in meeting the human needs of their citizens.

Yet at the heart of the President's policy remains a fundamental misconception about the nature of the problems in Central America and the role of the United States in helping to solve those problems.

Our country's interests in Central America are not based on the need to meet some real or imagined Soviet threat there. The problems in El Salvador, Nicaragua, and the other nations of Central America are of their own making, deeply based in political and economic history. If we shape American policy to respond to some perceived threat of Soviet influence, rather than to the indigenous economic and political problems of the region, we are bound to fail. Such a failure will be a detriment to ourselves and to the peoples of Central America.

The solution to the problems of El Salvador is not more military assistance. It is a mistake to think there are good guys and bad guys competing for control of that country. It is perverse for the President to say, as he did in his speech yesterday evening, that the Government in El Salvador is delivering on its promises of democracy, reforms, and free elections. We all know what is happening in El Salvador. We are all aware of the wanton killings taking place there, primarily at the hands of the Government forces. Our only role should be to encourage some kind of negotiated, political resolution of the conflict, and to provide economic assistance to rebuild the country. Continued military assistance can only embroil our country in a conflict without clear resolution and unlikely to produce a just settlement of El Salvador's problems.

Comparable points can be made about the situation in Nicaragua. The Sandinista government has not, in many respects, followed the course we had hoped for after it overthrew the oppressive Somoza regime.

I should say in passing, however, I found the dialog between the gentleman in the well and the gentleman from New York (Mr. SOLOMON) quite instructive. Suddenly the gentleman from New York and people who think like him have found some of the Nicaraguan revolutionaries, the Sandinista revolutionaries, appealing and supportable, because they now oppose the incumbent Sandinista government. They did not find them so appealing at the time they were engaging in the revolution against Somoza or immediately after they took power. Indeed, whatever assistance this country gave to that country's government that was significant was done over the objections of the people such as the gentleman from New York.

However, for our country to engage in alleged covert activities to overthrow that Government is illegal, against our long-term interests, and morally reprehensible. Our only appropriate role can be to encourage the Government of Nicaragua to broaden its base of support and allow access to power to all groups in the country. It is not for us to determine who should rule there, least of all if our support is for a rightwing dictatorship already rejected by the people of Nicaragua.

Our country is strong and our foreign policy effective only when we remain true to the ideals on which our country was built. Our policy in Central America must be to assist the countries of the region to meet the human needs of their peoples and to achieve their own aspirations for self-determination and freedom.

Mr. BEDELL. I thank the gentleman for his statement.

REPORT ON TRIP TO NICARAGUA AND EL SALVADOR

The SPEAKER pro tempore. Under a previous order of the House the gentleman from New Jersey (Mr. TORRICELLI) is recognized for 60 minutes.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. TORRICELLI. I yield to the gentleman.

Mr. BEDELL. I thank the gentleman.

I want to say what a pleasure it was to be with him on the trip. He certainly worked hard all the time and at least in my opinion the whole group was really trying very hard to find out everything we could in as factual a manner as possible.

□ 1800

Mr. TORRICELLI. I thank the gentleman for his kind words and also want to add what a pleasure it was, and what an opportunity it was for me, as a new Member of Congress, to be with the gentleman from Iowa (Mr. BEDELL) in Nicaragua and Honduras and how very much I learned from that experience.

I wanted today to reflect on the comments of the President of the United States in this Chamber last evening. He addressed himself and expressed his vision of the crisis in Central America.

Today it is time for people of the United States, Members of this Congress, to offer a different view. Today it is time to pause and reflect the President's statement.

I recognize that the time in Central America is late, 50,000 have already died in El Salvador. An army of 5,000 has entered Nicaragua intent on overthrowing the Government of that nation.

Before the rush to conflict and the call to arms denies us a better perspective perhaps now we should take advantage of this moment for a broader view of the crisis engulfing that region.

There is a tide rising in Latin America, a wave is quickly approaching the Central American Republics. Riding the crest of that wave is hope, opportunity, and a quest for dignity among nations that for too long have known little. People struggle for their governments against the oligarchs, against the military dictatorships that have dominated them for too long.

It is of no surprise to the people of Central America that their oppressors would resist change. What is an unfortunate and unwelcome surprise is that the United States, the greatest symbol of hope and opportunity in the world, would stand against the forces of change.

The challenge to the United States today is not whether we can arm more Latin Americans against each other than the Soviet Union. Our challenge is whether we can appeal to the best, whether we can be identified with the aspirations of these struggling people.

Twenty years ago, following the rise of Castro in Communist Cuba, we met a similar challenge. Twenty years ago, revolutionary movements, the Communist world, began throughout Latin America. We met that challenge, not with more arms, not with more invasions, but with an alliance for progress. It was a challenge not only met, but won.

Two weeks ago I had an opportunity to visit Honduras and Nicaragua with the gentleman from Iowa (Mr. BEDELL), to see how we were meeting this new challenge, to see whether we were repeating the success of 20 years ago in appealing to the best, the people of Latin America. I sought to find whether challenges to American security were real, whether merely perceived or whether as the President asserted here last night, America's security interests were in the balance.

I found none. I found instead, as the President again asserted last night, continuing challenges to American security that in my judgment are not real.

Upon my return from Nicaragua, I was so concerned the American people were being misled into believing that the Soviet Union was about to repeat its tragic errors of 1962 and place strategic missiles in Nicaragua, that I wrote a letter to the Secretary of State of the United States, informing Mr. Shultz of the reaction of the Sandinista government. At which point they stated that under no circumstances would they ever move forward and allow the Soviet Union or any other nation to dominate their resolution and place offensive weapons in their country.

On April 13 that message was sent to the Secretary of State. The next week in a hearing with Assistant Secretary Enders, I again repeated comments of the Sandinista government. Once again stating that that government would never permit offensive missiles to be placed in Nicaragua.

I must tell you how distressing it was, after never getting a reply from the Secretary of State, never having the Assistant Secretary of State accept my offer to repeat the wishes of the people of Nicaragua, to have the President of the United States stand here and again make those same baseless charges, charges that I can only conclude are made in order to find justification for an aggressive policy in Central America, made without the basis of any facts.

I do not ask that the people of the United States of this Government ignore the potential dangers of a revolutionary force in Central America or that we close our eyes to the disappointments of the Sandinista regime. We have every reason to be disappointed. The promises of the Sandinistas for freedom of the press, and of religion, have been broken. Promises of free elections have proven illusionary. These things should meet our disappointment, but they should not meet our armed resistance. They do not, in and of themselves because they disappoint us, constitute a threat to the security of our Nation.

But I add this too: There is something more to be feared here than the potential of the Sandinista revolution. I fear far more a challenge in our own country.

Last December, the Congress spoke unanimously that our country would not engage in an armed invasion of Nicaragua with the intent of overthrowing the Government of that sovereign nation. It is a law that has been broken by all accounts.

Our country, the taxpayers of our Nation, are now engaged in an illegal effort. Let us at least be honest with ourselves if we cannot with others. The evidence is truly overwhelming. Weapons captured by the Sandinistas still bear the markings of the U.S. Army. Mothers in refugee camps in Honduras speak with pride that their children have been trained and armed by the United States to enter Nicaragua.

Only here do we debate whether it is true. There it is accepted as fact.

And I ask this: If we are to misunderstand the revolutionary movement in Central America, if we are to violate the laws of our own country, let us at least not try to panic the people of the United States with false evidence that their security is jeopardized. Let us at least not in this late moment of the spiral toward war in Latin America present false witness that somehow our homes and families are in jeopardy.

I regret that this message rings with a partisan tone. It is not intended to be so, but it is an unfortunate fact that our long bipartisan commitment to reasonable and fair and peaceful foreign policy may in some respects be jeopardized by this administration. And if partisanship has come to mean speaking the causes of peace in Central America and here today in terms of strategic arms for nuclear freeze, then I for one have never been more partisan.

And I ask that in this day after the President's remarks in this Chamber, Members of this Congress speak boldly, that the American people speak boldly, for we will either speak boldly now or with regret later.

Mr. Speaker, I am including my letter to Secretary of State George Shultz on the possibility of Soviet missiles being deployed in Nicaragua.

The letter follows:

House of Representatives,
Washington, D.C., April 13, 1983.

Hon. George P. Shultz,
Secretary of State,
Department of State,
Washington, D.C.

Dear Mr. Secretary: Upon our return from Nicaragua two days ago, we were disturbed to discover that the American people are being led to believe that there is a possible threat of Soviet missiles being placed in Nicaragua. Since we have just concluded several days of discussions with the Sandinista leadership, we thought that it might be helpful to share Nicaraguan reaction on this issue.

Several points were expressed by the Sandinistas. In order to gain the proper perspective, however, you should know that it was difficult to get them to take the issue seriously. The subject of missile deployment in Nicaragua had never been discussed internally. Such a deployment was apparently never suggested by the Soviet Union and appeared so patently absurd that the Sandinistas were reluctant to engage in serious discussion until we convinced them the Reagan Administration might raise the question.

First, we were reminded that Nicaragua is a signatory of the Treaty of Tlatelolco which prohibits the introduction of such weapons in Latin America. The Sandinista Government, we were assured, has always intended to honor the commitment.

Second, the non-aligned status of Nicaragua was made clear. They conveyed to us, in the strongest possible terms, that 50,000 people died to establish Nicaraguan sovereignty and those sacrifices were not made for the purpose of replacing one foreign influence for another. They cherish their non-aligned status and reminded us that the acceptance of any Soviet missiles would jeopardize this foundation of the revolution and be a contradiction to their hope for peace in the region.

We want to also report our distress that some Administration representatives would so deliberately mislead the American people on such a critical matter without any evidence. The people of our country deserve to not be frightened by false issues and baseless charges which promote tension, confusion and fear. The fact remains that this Administration has never inquired about Sandinista intentions with regard to this question but chose instead to create concern as a justification for current policy. There is an awkward twist of logic at work here. Facts are being sought in justification for policy. There is no policy based on facts.

If you require any further explanation of these discussions or seek the benefit of our hours of consultation, then we are, of course, at your disposal.

Sincerely,

Berkley Bedell.
Robert G. Torricelli.

□ 1810

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. TORRICELLI. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Speaker, I think it should also be pointed out that we have written to the President of the United States, requesting an opportunity to brief him on what we saw and what we found when we were there, and, at least as far as I know, we have had no reply to that letter.

Mr. TORRICELLI. I thank the gentleman from Iowa for his additional remarks. That is in fact accurate.

And equally distressing, Mr. Speaker, is the fact that two Members of Congress, sincerely trying to get answers to these questions, since the administration for a year has never had face-to-face meetings with the Sandinista leadership, no discussions have taken place. We have had an opportunity to meet with that leadership, offered the communication from the Sandinistas, their comments, to the Secretary of State, the Assistant Secretary of State, and, as the gentleman from Iowa (Mr. Bedell) has wisely now advised me, also the President of the United States, and we have never had that offer accepted. It is in fact distressing news.

● Mr. GARCIA. Mr. Speaker, the United States is the greatest democracy in the world. We have our faults, but I am convinced that they are far outweighted by our virtues. Our greatest export is our Democratic tradition and our good will. I am deeply concerned that we are undermining both by our actions in Central America.

Our policy toward El Salvador immediately comes to mind. But it is our policy toward Nicaragua that will, perhaps, have even more far-reaching consequences. Our support of those groups and movements whose expressed purpose it is to overthrow the Nicaraguan Government is not only disturbing, it is destabilizing to the whole region.

As an American of Hispanic heritage, I am particularly aware of the sensitivity that Central American nations have toward threats, covert or otherwise, from the United States. An editorial from the Colombian newspaper El Tiempo put it clearly, when it stated that the long history of U.S. intervention in the region "leaps to mind when the Reagan administration promotes invasions against Nicaragua."

The President has said that he has no intention of supporting the overthrow of the Nicaraguan Government. He also mentioned that he felt the

United States had been supportive of the Nicaraguan Government during the first 2 years of its existence. I do not see things quite that way.

From the beginning, this administration has maintained an aggressive attitude toward Nicaragua. It cut off a loan made by the Carter administration. In 1981, it authorized $19 million for a plan to create a preliminary force to undermine the Nicaraguan Government.

Another tact being used by the administration has been to increase military and economic support funds for Honduras. The increased militarization of Honduras threatens the fragile democratic government of President Cordova. The concentration of military as well as political power in the hands of General Alvarez is a clear indication of this threat.

The excuse for this dramatic increase in aid is the threat that Nicaragua poses to Honduras and the entire region. The problem with this is that there is so much exaggeration of this alleged threat that any truth is lost in the grandiosity of the administration's remarks.

What is the President trying to do? I agree that we have to guard our strategic interests, but we are not going to achieve this through covert operations. The region's problems are far more complex than the White House seems to believe.

In his speech last night, the President suggested that he was open to negotiations. I hope this includes negotiations with Nicaragua. We missed a perfect opportunity with the Mexican-Venezuelan initiative.

A statement from the Chilean magazine Hoy sums up the frustration that many Latin American nations have regarding this situation: "In this climate of agitated militarization where information is difficult to distinguish from paranoia, all peace initiatives have failed. It could not have been otherwise."

I believe it can be otherwise, if the President would only take a longer, harder look at what is best for both the United States and Central America.●

CHILD ABUSE PREVENTION MONTH

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MURPHY) is recognized for 60 minutes.

● Mr. MURPHY. Mr. Speaker, April has been declared Child Abuse Prevention Month. As chairman of the Subcommittee on Select Education, which has jurisdiction over child abuse issues, I am proud to participate with so many of my colleagues today in an effort to call attention to a problem many overlook.

It disturbs me to watch the network news report on a Cheyenne, Wyo., teenage brother and sister case where these two youngsters reported their father's abuse, and no action was taken to correct the situation. Tragically, the father was fatally shot, and both children are facing trials. Furthermore, various studies have shown that child abuse cases increase as unemployment increases. For example, over half of the cases of abused and neglected children referred to the Michigan Protective Services Division have come from the four counties where major automobile plants supply the jobs for that area (Wayne, Macomb, Oakland, and Genesee). In Wisconsin, the 10 counties with the highest unemployment increases from 1979 to 1981 report abuse cases increased by 69 percent, compared with a 12-percent rise in the 10 counties with the lowest increases in unemployment. In my own State of Pennsylvania, 45 children died from abuse in 1981, a 55-percent increase over the 29 abuse-related deaths in 1980. And the list grows with similar statistics from across the country.

I introduced H.R. 1904, the Re-Authorization of the Child Abuse, Prevention, Treatment, and Adoption Opportunities Act which increases funding for child abuse programs, sexual exploitation programs, and adoption opportunities programs. The legislation further defines sexual abuse and child neglect. Within these areas, the bill prevents the starvation of at-risk infants with life-threatening congenital impairments under the treatment and judgment of the attending physician. These infants who are saved but are unwanted by their families can now benefit from an increase in funding of adoption opportunities programs, thus being placed in foster care facilities. H.R. 1904 is a good bill which addresses many of the problems currently existing throughout the country. The lives and welfare of many children are at stake today. H.R. 1904 will help those who have been abused as well as provide a mechanism to prevent abuse.

Federal legislation is not the only answer, however. What is most important, perhaps, is a recognition and awareness by individuals and communities that child abuse occurs everywhere. It exists in all socioeconomic income levels, in all communities, in every State. Child abuse affects all parts of our society, and must be recognized by all sectors of our society so that it can be eliminated before it perpetuates. Almost 90 percent of all prison inmates have been abused. The pattern of abused children is to abuse their own children or other children when they have become adults. A national awareness, which this month of April is designed to do, must alert Americans of this problem. To do less may have tragic repercussions throughout our society. I urge my colleagues and all Americans to address the abuse problems of their local areas and to work together to eliminate child abuse altogether.●

● Mr. PEPPER. Mr. Speaker, it would greatly please me if you would allow me to join with my colleagues in bringing to the public's attention the critical problem of child abuse.

The statistics relating to child abuse are very disturbing and call out to everyone that something must be done to prevent, or at least reduce, this national disgrace. It is estimated that as many as 10,000 children are severely beaten each year, 50,000 to 70,000 are sexually abused, 100,000 are emotionally neglected, and another 100,000 are physically, morally, and educationally neglected; and these are conservative estimates. In total, approximately 350,000 to 1.1 million children are abused in our Nation each year.

We have within our capacity the ability to confront this problem directly and help the children of our Nation. The first step in curing this problem is to make the public aware of its pervasive character throughout our Nation cutting across all social and socioeconomic strata. An educated population can provide the foundation for a solution. However, until the public is made aware of the magnitude of this problem, in my opinion, our Nation will not begin to devote the needed resources to establish the special programs needed to work with current and potential child abusers.

Children, our most precious resource, represent the future of our country and we must do everything we possibly can to insure that they grow up in a healthy environment and not the victims of child abuse.●

● Mr. AuCOIN. Mr. Speaker, one of the most distressing aspects of our existence as a people is that over 2 million of our children are victims annually of child abuse. Of them, nearly 5,000 die. Just in the years between 1976 and 1981, we have experienced a 106-percent increase in child abuse and neglect.

That is why we are participating in this special order today. We are here to acknowledge the devastating problem of child abuse and neglect. I commend my colleague from Pennsylvania, Congressman AUSTIN MURPHY, for taking the time to organize a special order. He has recognized the severity of this problem.

We, as a nation, must be committed to stopping these awful acts—acts which destroy children, emotionally and physically.

Congress has taken steps to stop the problem. It has provided funding for child abuse prevention programs. It has also designated April as "National Child Abuse Prevention Month," a time to recognize many individuals who are dedicated to this cause.

Two organizations, Parents Anonymous and the Oregon Chapter of the National Committee for the Prevention of Child Abuse and Neglect, have made tremendous progress toward the prevention of child abuse and neglect.

Parents Anonymous is a national organization serving approximately 25,000 families each year. It sponsors self-help groups with the goal of improving the emotional well-being of parents who have abused a child, or who fear they might.

In my own State, Parents Anonymous of Oregon serves 20 communities with weekly self-help chapters, a 24-hour Parent Help-Line, and community education. They also provide group services to children who have lived in abusive families. It is important that we help these youth learn skills which allow them to be nonabusive parents. Without these services, we run the risk of allowing abuse to continue through one more generation.

Parents Anonymous is effective in helping parents break the cycle of child abuse which has been passed from generation to generation. While they help today's parent to gain control of their abusive behavior, they, at the same time, are helping tomorrow's parent learn healthier parenting skills.

Parents Anonymous has also demonstrated the power of voluntarism in child abuse prevention. In Oregon, the State office of Parents Anonymous has calculated the dollar value of volunteer contributions. For every dollar expanded in this effort, volunteers generate $2 worth of service to the community. Not only is the prevention of child abuse an important savings in dollars and human costs; volunteer efforts contribute to community services.

The Oregon Chapter of the National Committee for the Prevention of Child Abuse also uses the skills of volunteers to improve the lives of children.

This year, the Oregon Chapter hosted a gathering of teachers and public school personnel to educate children in the prevention of sexual abuse. These programs help children understand that sexual abuse need not continue. They also teach that the community has resources and understanding adults to help them.

The many programs and volunteers working to prevent child abuse in our country deserve our recognition and appreciation as we mark National Child Abuse Prevention Month. Their efforts give us reason for hope about our future and our greatest resource—our children.●

● Mr. PASHAYAN. Mr. Speaker, child abuse takes many forms, but perhaps the most depraved is child pornography, and particularly the use of children as models in the production of films and photos depicting the basest acts. This sick trade is believed to involve annually some 1 million youngsters ranging in age from a few months to the teens.

Every child in this country is a potential victim of this tragic form of child abuse, as kidnap victims, as runaways enticed into posing for pornographic films and photos, as innocent victims of persons in positions of trust, and even, in some cases, as victims of their depraved parents.

The efforts of law enforcement officers and prosecutors working to attack the trade in child pornography were boosted last year when the U.S. Supreme Court upheld a New York State law that eliminated the need to prove that materials depicting children involved in certain acts were obscene (New York against Ferber). Some 15 other States have similar statutes, and 47 States have statutes specifically directed at the production of child pornography.

Earlier this year I introduced H.R. 2106, the Child Protection Act of 1983. The purpose of this legislation is to extend the Ferber approach to the Federal statutes that deal with the movement of child pornography in interstate commerce. Under H.R. 2106, the mere fact that children are depicted in sexual situations would be grounds enough for prosecution.

H.R. 2106 would also remove a requirement in Federal law limiting prosecution to persons who sell such materials. This feature of H.R. 2106 recognizes the fact that a significant amount of child pornography is traded or given away, rather than sold, and would allow prosecution of persons who trade or give away these materials, in addition to those who sell them.

Mr. Speaker, increasing awareness of the problem of child pornography is evidenced by articles in national publications, and by several other measures dealing with this subject that have been introduced by other Members of the House and the Senate of the United States. I should hope that we can work together on these and other measures dealing with the tragic problem of child pornography and with the other forms of child abuse, and achieve legislation that will reduce the terrible toll taken on society's most tragic and defenseless victims, the children. Thank you.●

● Mr. ANDERSON. Mr. Speaker, child abuse is one of the most misunderstood tragedies affecting the social and moral welfare of our families and of society today. Each year more than 1 million children are abused or neglected; for at least 1,000 of them, the abuse is fatal. Another estimated 44,000 children annually are abused sexually.

Upon learning of an incident of child abuse, many people incorrectly conclude that a parent who would abuse his or her child must not love that child. Nothing could be further from the truth. Parents who abuse their children generally do love them; they do not want to hurt the child, and they desperately need help.

In order to properly treat child abuse, as a society we must first strive for a consummate understanding of the nature of child abuse. To do so requires knowing the profile of the parent who is likely to abuse a child, for he or she often was a victim of child abuse. In fact, it is now known that most parents who abuse their children were themselves abused by their parents. The abusing parent also commonly suffers from feelings of loneliness or a deep-seated desire to feel needed, or is experiencing some other form of stress.

It is much more difficult to summarize the characteristics commonly ascribed to abused children. Oftentimes children who are abused seem, by everyday standards, normal. And while many such children suffer from depression or may be loners, others evince aggressive, sometimes violent, behavioral traits. The abused child also is not without love for the parent.

The act of abusing a child seldom is intentional. Most parents cannot even recall having caused harm to the child, and almost always suffer immediate feelings of remorse. Child abuse occurs when a parent, during a bout with severe depression or in a fit of anger, is inadvertently provoked by the child. Drug or alcohol dependency exacerbates both the intensity of such an act and the likelihood that it will occur and recur. We should also keep in mind the fact that child abuse scars families of every cultural, economic, religious, and ethnic background.

Mr. Speaker, I would like to share with our colleagues the names of some of the organizations located in my district which are treating—or helping to treat—victims of child abuse. They include Academia Quinto Sol, Cedar House, Family Services of Long Beach, Memorial Hospital, the YWCA Women's Shelter, the Hawaiian Gardens Child Guidance Center, Harbor General, and the Long Beach Police Department. We are all deeply indebted to these organizations, and others like them, for their sensitivity and concern.●

● Mr. PEASE. Mr. Speaker, each year we learn more about the tragic brutality that occurs in cases of child abuse. As a result we are reminded again that existing laws to protect abused children are deplorably weak and ineffective.

Recently several of my constituents brought to my attention a disturbing problem concerning the difficulty that State courts and child protective agencies have in obtaining sufficient information on previous offenders to protect children from recurring abuse. This problem occurs in cases in which parents with previous child abuse records relocate to a new State. If they commit a subsequent offense in the new State, the court treats them as first offenders. As a result, I have spent considerable effort in searching for ways that the Federal Government might play a role in protecting the interests of these children.

I have researched legislation seeking to create an interstate clearinghouse, operated by the National Center on Child Abuse and Neglect, to make available to the courts necessary information about parents' previous child abuse records, in the hope that appropriate protection for these abused children would result.

Earlier this month I circulated copies of this legislation for comment to several experts in this field. I received several replies that contained very sound arguments against the national clearinghouse concept. For example, Congress has been unwilling in the past to fund the National Center on Child Abuse and Neglect to the degree necessary for it to operate up to its highest potential. Therefore, it would be impractical to charge this organization with further responsibilities.

Opinions were also expressed that the National Center on Child Abuse and Neglect does not have sufficient expertise to operate a massive clearinghouse as I originally proposed. Also, no guarantee exists that States would provide the necessary information.

Therefore, I have concluded that a more viable alternative would be to strengthen our State laws to promote interstate cooperation to protect these children from recurring abuse. A model State law requiring more complete cooperation among courts, law enforcement officials, and child protection agencies might be a more practical and efficient approach. This legislation would require also that State and local law enforcement officers check with the State registries where suspected offenders have had previous contact.

I am optimistic that this concept might provide a workable solution to the difficulties that State courts are experiencing in obtaining necessary information on previous parental child abuse records. It is my hope that such an approach will result in better protection for abused children. I plan to continue researching a model State bill soon; any comments and/or suggestions from persons working in this field would be most welcome.●

● Mr. ROE. Mr. Speaker, I rise today to join my colleagues in focusing attention on the problem of child abuse, which, according to some reports is becoming an epidemic in this country.

It is a subject which many Americans would prefer not to discuss, since it strikes at the very moral fiber of our society. But we cannot kid ourselves that this problem does not exist. As repellent a subject as the physical or sexual abuse of a child is, it must be discussed in the public forum.

I was most proud to be a cosponsor of legislation declaring April 1983 as "National Child Abuse Prevention Month."

Because of its very nature, child abuse cases, in most instances, are never prosecuted. A child, motivated by feelings of fear, loyalty, and love toward a family member or family friend will often refuse to name that individual as a perpetrator of the abuse. Also, since these attacks on the child often take place within the confines of the home, there are rarely witnesses to the crime.

It has been estimated that thousands of cases of child abuse take place in this Nation yearly. Some are so severe that they lead to the death of the child involved. Naturally it is impossible to determine immediately what the long-range psychological ramifications of these attacks will be.

I pray that this new national awareness of the problem of child abuse will help convince those who are afflicted with psychological problems that might lead to child abuse to seek professional help before another child is hurt.●

● Mr. GREEN. Mr. Speaker, child abuse is one of the most significant social problems we face as a nation today. It threatens the very fabric of our society, the family. Unfortunately, the number of child abuse incidents continues to grow. Many social service organizations contend that there is an inverse relationship between the economic prosperity of a nation and the number of child abuse cases reported. As our unemployment figures rage high so do our statistics of child abuse incidents. Over 2 million children each year are victims of child abuse and at least 5,000 are fatally injured. Incredibly, many of these children are under the youthful age of 3.

A major step to help combat this devastating problem is awareness. I have, therefore, been an advocate of both "National Child Abuse Prevention Week," which passed in the last Congress, and "National Child Abuse Prevention Month," which has been enacted in the present Congress. April has been selected as the month to raise our level of consciousness. It is, however, only a first step in attempting to eradicate this serious malady of society.●

● Mr. MILLER of California. Mr. Speaker, a tragic consequence of our Nation's prolonged recession and high unemployment has been the sharp increase in child abuse incidents and in the numbers of deaths of children caused by abuse.

Today, at the first hearing of the Select Committee on Children, Youth, and Families, which I have the honor to chair, witnesses told us of the stress American families are suffering because of economic pressures.

The most recent survey we have of reports of abused children nationally, gathered this year by the National Committee for Prevention of Child Abuse, shows the following information:

The reported incidence of child abuse in 1982 climbed in States across the Nation by over 10 percent, and in some States the rate was considerably higher.

In many States the death rate as the result of child abuse increased by over 40 percent.

More than one in four States reported an increase in child abuse deaths.

Forty-five States reported significant increases in the number of abused and neglected children compared to the previous year. More than 30 States reported more severe cases.

Some States are redefining abuse and neglect, investigating only the severest cases.

The rise in reports of child abuse comes at a time when Federal support for children and families has declined. In 1982, Federal child abuse money was reduced from $22.9 million to $16.2 million. The administration proposes cutting the child abuse program further in 1984 to $6.7 million.

Significant reductions have also been made in other Federal support programs for families: Title XX—the major program of aid to States for social services; maternal and child health; care for women and infants; foster care and adoption.

The administration's continued attempts to make further cuts in these and other programs have been rejected overwhelmingly by the House.

The combination of funding cuts and the pressures of unemployment and the depressed economy, touching many of the Nation's families, raises the question of how changes in support for social and health services are affecting our response to child abuse.

We must continue to insist on adequate levels of funding for these vital programs.

Following is the information collected in two surveys by the National Committee for Prevention of Child Abuse, one conducted in the fall of 1982, and the other completed in January 1983:

INCIDENCE OF CHILD ABUSE CLIMBING—SURVEY BY THE NATIONAL COMMITTEE FOR PREVENTION OF CHILD ABUSE

Concerned about the impact of federal cutbacks on state child protection programs, the National Committee for Prevention of Child Abuse (NCPCA) conducted two telephone surveys of all 50 states: In the Fall

1982 survey, a variety of information was obtained concerning the effect of these cutbacks from persons officially designated as the "child abuse specialist" in each state. This survey sought opinion rather than numerical evidence and confidentiality was guaranteed. In the January 1983 telephone survey, statistics on the number of reports and the number of deaths in 1980, 1981, and 1982 were obtained. Some states did not have official records prepared on their state statistics and estimates were received. Results of these surveys are summarized here.

In response to the question, "Do you think that the amount of child abuse in your state has increased in the past year?" only five states said no. Seven states suggested that while child abuse is on the rise, the increase is not being reflected in the state's statistics. The remaining states saw an increase in reported cases of abuse. Fifteen said that the number of substantiated cases is rising; 33 volunteered that they are seeing more serious cases than ever before; and 14 reported more deaths by abuse. Coupled with this worsening in the severity of abuse is the overwhelming experience (of 35 states) that the amount of reported sexual abuse is increasing dramatically.

Twenty-nine states had official child abuse reporting statistics for 1981 and 1982 available. Among these states, 21 show an increase in child abuse, with an average increase of close to 12 percent. This represents an increase of about 50,000 reports in those 21 states. When taking into account those states which saw a decrease in number of reports, a rise of at least 6 percent nationwide in reports is apparent.

Statistics on the number of deaths due to child abuse and neglect between 1980 and 1981 were based on the 31 states that had official data. There was a 27 percent increase among the 18 states that showed increases in deaths. In the states where data was available on the number of deaths related to child abuse and neglect between 1981 and 1982 (27), approximately half saw increases. Another 7 states estimated that deaths were on the rise. Many of those surveyed volunteered that they felt that the number of deaths was not reflected in the statistics, but was considerably higher. There are thousands of children who die mysteriously or disappear and it is thought that many of these children die from abuse and neglect. No official records are kept on these children.

EFFECTS ON PUBLIC AGENCIES

When asked, "Have there been any noticeable cutbacks in the size of your state's child abuse program?" 32 states said yes. Of these, 25 indicated that both staff and service dollars have been cut back. Seventeen states asserted that there were no cutbacks, explaining that because child abuse is a priority in their state, the state maintains a certain level of support for the abuse program. Three states have actually seen an increase in the size of their child abuse program in the past year.

Workers' case load size, often cited as an important measure of the quality of service provided to abusive families, has increased in most states. Twenty-eight states reported bigger case loads, with comments like "often higher than policy calls for" or "an increase of 12 percent last year." For those 18 states where case loads have stayed the same, remarks were made such as, "Stayed the same—so far!"; "Workers spend all their time on investigations"; and "We just use a lot of unskilled workers on investigations."

Only 10 states have noticed no reduction in services offered to abusive parents. Of these, several pointed out, "We didn't have many to begin with" or "There never were enough." Others said, "We haven't noticed any effects yet." On a positive note, one department maintained, "We just do a better job now of monitoring what services we offer, and we don't give them for longer than necessary.

Cutbacks in staff size appear to be important in explaining why fewer services are being offered to abusive parents. Also of significance for the majority of states (30) has been a decrease in the availability of community services to which parents were referred in the past. A few forward-thinking states added that they were "trying to increase the number of Parents Anonymous groups,: or "looking for more preventive services."

It was of interest to know if the state reporting and investigation laws were being interpreted any differently while reports of child abuse were increasing and availability of services was decreasing. About half the states (23) reported no change in the interpretation of the state reporting laws. "We haven't yet, but may need to soon if the cuts continue," said one state. "Our counties may be screening calls, but we don't know about it." said another. Four states reported that efforts are under way to narrow the law, and 26 acknowledged that reporting laws are not strictly adhered to.

Twelve states said that the law is being interpreted more narrowly than in the past: "We're only investigating really serious-sounding cases": "Only reports of children age 12 or under are being accepted" "Only really serious cases are opened for treatment." In 14 states investigations of reports are being handled differently. "We're not as thorough as we used to be"; "We do more selective screening over the phone before deciding what to investigate." In only a few instances were political movements rather than funding cuts cited as the reason for changes in response to state laws.

In addition to answering the survey questions, more than half the states volunteered the following concerns: present funding cuts are difficult, but future cuts will have an even worse impact on protective services; the trend in investigations is to be more and more limited in terms of what is investigated; and cuts in other social services have dramatically affected families' well-being.

In summary, it was learned from the survey that state child protective services around the country have been significantly affected by budget cuts in federal and state funds. These cuts are resulting in layoffs of staff and reductions in services for abused children and their parents. In addition, the individual worker's case load size is increasing. States are also receiving more reports of child abuse. In some states children now appear to be abused more severely, and the number of abuse-related deaths is higher.

In many states that face reductions in staff and increases in abuse reports, the laws are not being strictly followed, and attention to children has become dependent on the severity of the abuse. Many of the persons interviewed expressed concern that continuing unemployment and cuts in other support programs will result in a further rise in child abuse.

Table I.—Finding From First 50-State Telephone Survey of Impact of Federal Cuts on State Child Abuse Programing

Has the amount of child abuse in State increased over the past year?

No, 5.

Yes, but it's not being reported, 7.

Yes, and we can see it in increased statistics, 13.

Yes, some are not being reported and some are reflected in our statistics, 25.

Yes, and we're substantiating more cases, 15.

Yes, and we're seeing more severe cases, 33.

Yes, and we're seeing more deaths, 14.

Yes, and we're seeing more sexual abuse cases, 35.

Has there been any noticeable cutback in the size of State's child abuse program?

No, it is the same, 14.

No, it has gotten bigger (e.g., more money, more staff), 3.

Yes, fewer service dollars only, 6.

Yes, fewer staff only, 1.

Yes, both fewer service dollars and fewer staff, 25.

Don't know, 1.

What has happend to workers case load sizes over the past year?

Gotten bigger, 28.

Gotten smaller, 1.

Stayed the same, 18.

Don't know, 3.

Has there been any noticeable cutback in the services offered to abusive parents?

No, 10.

Yes, the number of our staff serving parents has been cut, 16.

Yes, the case load of our staff serving parents is greater, 20.

Yes, the number of community services which we refer parents to has decreased, 30.

Have there been any changes in the interpretations of the State reporting laws?

No, 23.

There are efforts underway to narrow it, 4.

Yes, the law is being more narrowly interpreted or changes in the way cases are being investigated or opened for treatment, 26.

Table II.—Findings From Second 50-State Telephone Survey on Statistics of Child Abuse Reports and Related Deaths From 1981 to 1982

DEATHS

1981-1982 Statistics are based on the 27 states that had official data: 13 of these states showed an increase in deaths. There was a 44 percent increase among those states. They include: Colorado, Connecticut, Delaware, Georgia, Indiana, Kentucky, Maryland, New Jersey, North Carolina, Oklahoma, South Dakota, Utah, and Wisconsin.

Seven states estimate a death increase between 1981 and 1982.

REPORTS

1981-1982 Statistics are based on the 29 states that had official data: 21 of these states showed an increase in the number of reports. There was an overall increase of about 12 percent among the 21 states. They include:

State:	*Percent of increase*
Arizona	47
Arkansas	2
Delaware	6
Florida	4
Georgia	10
Illinois	13
Iowa	1
Kentucky	7
Missouri	7
Montana	11
Nevada	13
New Mexico	29

New York	10
North Dakota	15
Oklahoma	25
Oregon	25
Rhode Island	7
South Dakota	9
Texas	11
Virginia	7
West Virginia	1

Total number of reports in the 21 states with increases:

1981: 448,473; 1982: 498,750; Difference (plus): 50,277.●

● Mr. **PORTER.** Mr. Speaker, the proclamation of April as "National Child Abuse Month" offers me the opportunity to comment on the enormous progress made in the area of child abuse in this country and on the need for our continued vigilance in this area.

Historians acknowledge that child abuse is an age-long phenomenon. Parents have traditionally viewed their small children as chattel and have often subjected them to various degrees of violence and traumatization albeit in the name of discipline.

Because this behavior occurs within the privacy of the family, it has been extremely difficult to detect. Most parents are terrified that their child will be taken away or fear the stigma of being a child abuser. Although child abuse laws which require mandatory reporting now exist in 50 States, it is estimated that thousands of cases go unreported each year due to outsiders' reluctance to intervene and the possibility of civil suits against them if they do.

In the early 1960's C. Henry Kempe, M.D., and his colleagues at the University of Colorado School of Medicine, formally recognized child abuse as an observable clinical condition—the battered child syndrome. They determined that child abuse is most likely to occur when adults have the potential to abuse—often having been abused themselves, view their child as being different from other children, and are overwhelmed by a crisis or series of crises. The importance of Dr. Kempe's and his colleagues' findings is that they laid the groundwork for predicting potential child abusers and for the development of effective methods of treatment intervention for the entire family so that the abused child can be left safely in the home.

The problem is certainly large enough to deserve our serious attention. Over 2 million children each year are victims of child abuse and at least 5,000 die as a result. Many, if not the majority involve children who are under 3 years of age. Experts say that these incidents are widespread and on the rise. According to the National Committee for the Prevention of Child Abuse in Chicago, reports of child abuse have increased more than 100 percent over the past 5 years.

Experience has shown that this is not a problem that can be prevented solely through legislation. Progress can be made only through an increased awareness of the problem, a willingness to look beyond the proscribed boundaries of familial privacy, and a compassion toward the victims of this battered child syndrome—both the abused and their abusers.●

● Mr. **GOODLING.** Mr. Speaker, I joined my colleagues today in calling attention to one of the most haunting problems of today's society—child abuse. Child abuse and neglect comes in many forms—verbal, physical, and sexual.

As we increase public awareness on this subject, we take a positive step toward the prevention of its occurrence, we become more capable of stopping abusive patterns and saving the families in which they occur.

Mr. Speaker, child abuse is not a new phenomenon of the modern world. It has been with society since recorded time. However, as society became more and more civilized, children's rights were recognized and laws were created against the abuse of children. Unfortunately, these laws did not make the problem go away—nor have our modern laws.

To cure the illness of child abuse, we need to dramatically increase public knowledge in this area. We have to begin at the beginning—with prevention.

Child abuse is a cyclical problem. It is passed on from generation to generation. Research indicates beyond a reasonable doubt that abused children more often than not become abusive parents. They know no other way of parenting. This is where the steps toward prevention should take place.

As individuals coming in contact with new parents increase their awareness of signs of potential child abuse, the possibility of early, successful intervention increases. If there is poor mother/child bonding or if either of the parents came from an abusive family, there is an overwhelming indication that they will become abusive parents. With proper support and friendly, expert instruction in parenting made available to these parents, the trend can be reversed.

Mr. Speaker, last year in my own congressional district there was a case that outraged my constituents. A little girl died. Her mother's boyfriend abused her and her mother did not stop him. They are both serving prison terms—he a life sentence—but this cannot bring back the child and can in no way diminish the grief of the rest of her family.

In the last 3 months, father/daughter incest in my district has increased at an alarming rate.

Child abuse is not going away, and it will not go away until we do something about it, until we are able to recognize it and prevent it before it inflicts permanent injury, both mental and physical, on the children of our society.

Our prisons are full of abused children who became abusive adults. Adolph Hitler was an abused child who placed very little value on life. Unless we take action now, we take the chance of history repeating itself.

Mr. Speaker, we can no longer hide child abuse in a closet. We must air our dirty laundry and wash it clean, so the children of today can grow up to become stable, healthy individuals and the loving, nurturing parents of generations to come.●

● Mrs. **COLLINS.** Mr. Speaker, I commend my colleague, Congressman MURPHY for inviting Members to participate in this special order concerning child abuse. I share Mr. MURPHY's belief that public awareness is the key to combating child abuse—a very serious problem and disruptive force affecting families.

Sadly, it should come as no surprise to any of us in Congress that child abuse incidents are on the rise. Sociologists are quick to point out the direct correlation between the dramatic increase in unemployment and cutbacks in social services and mental health funding and the increase in the abuse of children by frustrated adults. Of course, the Reagan administration's cure for this has been to seek a substantial decrease in funding for the Child Abuse Prevention and Treatment Act, a program specifically enacted to provide Federal financial assistance for the prevention and treatment of child abuse and neglect.

I have the utmost concern for civil rights, especially when it pertains to traumatizing young, helpless children. Picture for a moment, a young child, battered and beaten sitting in a corner without any hope of escape. Picture the type of confused and angry person responsible for depriving that youngster of a promising and relatively carefree childhood. As this practice continues, a bit more of our future—one that has invested heavily in our children—becomes more corrupted.

But, we as lawmakers have the means on hand to prevent some of the estimated 1 million child abuse cases. I firmly believe we cannot lessen our commitment to deal with the complex problem of child abuse. Indeed, my belief has grown even stronger after finding out that the constituents in my district consider this issue a major problem requiring more attention by the Government.

However, thanks to the insensitive Reagan administration, dwindling funds are facing brutal cutbacks in the Federal program charged with dealing with child abuse. President Reagan is requesting $9 million for fiscal year 1984 for the Child Abuse Prevention and Treatment Act—money which would be given to States in the form of grants. H.R. 1904 reauthorizes this program to the tune of $23 million for fiscal year 1984 with 5 percent increases from fiscal years 1985-87.

Given that family violence experts are far from understanding all the causes or cures for child abuse, it behooves us in Congress not to turn our backs on such a serious and escalating problem. Consequently, I call upon my colleagues to fully support H.R. 1904 when it comes to the floor for a vote and ask that we not forget the pain and agony suffered by abused children.●

● Mr. ACKERMAN. Mr. Speaker, I rise today to talk about a subject which hurts all of us. But, unfortunately, the ones who suffer most are children.

Children whose entire lives may be haunted by frightful memories of abuse. Children who may always harbor an inner feeling that they are bad or somehow inferior. Children who may carry a private fear that one day they may harm their own children.

Child abuse is often a family tradition. So often, parents who were abused themselves when they were young, may find themselves in a terribly stressful moment, experiencing the pressures and frustrations of their personal lives. Out of control for a moment, in the privacy of their own home, a parent may lash out at their child, beginning a destructive cycle of abuse.

It is such a complicated matter—the way our parents treated us, the intensity of the pressure of our daily lives, feelings of personal failure, and prolonged unemployment can precipitate in child abuse.

We must help those people before they go too far—before the damage is done to themselves and the child.

Reports of abuse across the Nation have increased during the years of high unemployment and inflation. The economy is increasing the stress families experience and this can lead someone who is abuse prone to cross over the line from control to abuse.

In New York City in 1980, 32,078 cases of suspected child abuse were investigated. In 1981 the number had grown to 43,014—over 100 a day. The reports for 1982 were close to 50,000.

Better reporting may have swelled the numbers, but professionals feel that the danger is growing amidst cramped apartments, the stress of joblessness, and inflation.

Beverly Sanders, the director of the Queensboro Society for the Prevention of Child Abuse described the difficult and painful questions a caseworker must answer.

Is the child in imminent danger? Can a positive, supportive relationship develop between the child and parent if the child remains at home? By removing the child from the family environment, will the root of the problem ever be solved? How can we best help the child feel loved, worthy, and healed?

We must strengthen the Nation's preventive investment in youth and cushion the harsh impact from the economic downturn for which the child too often suffers.

Let us not add to the hurt. Let us be sure to continue to supply funds to prevent and care for families which live in the shadow of child abuse.●

● Mr. HILER. Mr. Speaker, I want to thank my colleague, the distinguished gentleman from Pennsylvania, for his leadership in arranging this special order.

It was an honor to have his support and the support of 237 of our colleagues as cosponsors of House Joint Resolution 21, designating April as National Child Abuse Prevention Month. I was very proud to have been the House sponsor of this bill.

Having taken an active interest in child abuse, particularly in support of self-help organizations such as Parents Anonymous, the National Exchange Club for the Prevention of Child Abuse, and other outstanding, largely volunteer organizations, I wanted to take a moment to let my colleagues know of some event that have been held this month as a result of our legislation.

On April 6, Parents Anonymous and my office sponsored a conference on Child Abuse Awareness in the eighties, attended by about 350 dedicated individuals from 45 States and 3 countries. The conference, held in South Bend, Ind., was very successful in improving child abuse awareness and exploring new ways to end this national tragedy.

In North Dakota, Parents Anonymous has planned a variety of activities, including little peoples concerts featuring day care and elementary schoolchildren, along with a variety of other local promotions, such as library displays and tree plantings.

In the gentleman's own State of Pennsylvania, Governor Thornburgh and the State legislature have taken the lead in our efforts to create more awareness of the problem and the remedies available. In Pennsylvania, the department of public welfare maintains a child abuse hotline, known as Childline. The Governor joined us in declaring April as Child Abuse Prevention Month, and the legislature, under Representative William Klingaman's leadership, is considering a resolution calling attention to the alarming number of occurences of child abuse and neglect.

Here in the District of Columbia, Giant Food Stores have promoted child abuse awareness on its milk cartons by printing the telephone number and address to get information or help about child abuse.

Other States which have been extremely active and effective this month in the effort to prevent child abuse include Arizona, where much has been done particularly with Indian reservations; Virginia; Minnesota; Connecticut; and New York. Those are only the States which I personally know are conducting active child abuse prevention campaigns—I am sure there are many, many more.

Mr. Speaker, many of the innovations in child abuse treatment and prevention are coming from largely volunteer, self-help organizations such as Parents Anonymous. For example, at the South Bend conference earlier this month, a panel of teenagers who have been sexual abuse victims talked openly with conference attendees about their experiences. These same teenagers are now counseling their peers who are being victimized. This has never been done before.

Mr. Speaker, I believe that our best hope to end child abuse rests with these volunteer, self-help groups like Parents Anonymous. In little more than a decade, they have grown to become the Nation's largest child abuse treatment program and now operate in several continents. They have over 1,300 chapters in nearly every State. Over 100,000 families will call one of the Parents Anonymous hotlines this year seeking help in preventing or treating a child abuse problem. And they are able to serve a family with a child abuse problem at an average cost of about $75, compared to the $1,500 cost incurred by public welfare agencies.

The key to their success—our success—rests with the self-help concept. All of us are keenly aware of our budgetary problems. We have taxed our citizens to the limit. We have a $200 billion deficit staring at us with a multitude of deserving programs that many Americans feel are underfunded. Our challenge, therefore, is to find new ways of providing resources to meet our Nation's social needs without high deficits and high taxes.

For all of Parents Anonymous' success, they are able to operate on a $350,000 annual grant from the Department of Health and Human Services. This grant provides them with the resources necessary to collect private resources, recruit and train volunteers, and achieve considerable success in the effort to curb child abuse.

Their success, Mr. Speaker, is why I advocate a national policy in support of self-help. Self-help works not just because it is cost effective, but because it employs our Nation's greatest and most untapped resource—volunteers. It works because Americans are compassionate. Its success proves that we, in Congress, do not have to raise taxes to fund some social causes when people, on their own, are willing to give of their time and resources freely without a great deal of help or coaxing from Washington.

Again, I thank the gentleman from Pennsylvania for this opportunity.●

● Mr. HATCHER. Mr. Speaker, I would like to take this opportunity to acknowledge and to express my appreciation to the many private citizens working toward solutions to one of the most acute problems facing this country, child abuse. It is time to shine the lights of scrutiny on this problem that has remained in the darkness for too long.

Child abuse is an insidious problem in that it remains with the victim long after the initial act. It can be seen in the faces of troubled students and in the faces of men who are today behind bars. It often remains for generations.

The actual incidence of child abuse is difficult to determine. We can at best estimate a conservative figure and those grim numbers reveal that 10,000 children are severely battered every year and another 100,000 are physically, morally, or educationally neglected. This does not even take into account those children who are sexually abused or emotionally neglected. When all forms of abuse and neglect are totaled, we can reasonably assume that over 2 million children suffer each year and that 5,000 die as a result. The more tragic aspect is that so many of these children are under 3 years of age.

The only way to deal with any kind of problem is to first recognize it. For this reason, I think we have taken a positive first step in proclaiming April 1983 as National Child Abuse Month. This is a time not only to make a new commitment toward addressing this problem, but for showing our appreciation to those who combat on a daily basis, this serious threat to the American family.●

● Mr. GUARINI. Mr. Speaker, I am pleased to have the opportunity to join my colleagues today in focusing national attention on the tragic contemporary problem of child abuse and on the contributions of the volunteers and professionals who work to correct the problem.

According to official reports, over 2 million children were victims of some form of child abuse last year. It is estimated that 5,000 children were killed by their parents or other "responsible" adult during that same period. These innocent children are often unable to speak up for their rights or defend themselves from the abuse, which sometimes spans years. And unfortunately, many of these children learn by example and become abusive parents when they are grown.

It has been said that children are this country's most precious natural resource, and I agree. Efforts toward increasing awareness of the painful problem of child abuse and exploring its remedies are being undertaken by a number of agencies and organizations staffed by professionals and volunteers. Health care and social service professionals, educators, child care providers, law enforcement officials, and dedicated volunteers are often involved in the identification and treatment of child abuse victims and in the prevention of continued patterns of abuse. Their efforts to address this tragedy and stem its increase are vitally important, and deserve to be acknowledged and commended during National Child Abuse Prevention Month.●

● Ms. FIEDLER. Mr. Speaker, with over 1 million children abused each year, it is apparent that violence in the family is a much more serious problem than many realized or were willing to admit. The statistics and long-term consequences are frightening and appalling. While the family is the most loving and supportive of human groups, it can also be one of the most violent groups.

Studies show that children who witness violent acts between their parents or who are victims of child abuse often grow up to become the child abusers of their generation. It is generally a learned pattern of behavior. In addition, these children often become runaways, delinquents, and criminals. Breaking this chain of violence from one generation to the next will have to involve efforts to help abusers as well as the abused.

The cost in human suffering is beyond estimation and the tax dollars that pay for the law enforcement, court, medical, mental health, and special educational services necessitate action on all levels to combat this destructive and prevalent violence.

I am deeply grateful for the work of the National Center on Child Abuse and Neglect and the many private organizations that provide information, psychological support, clinical treatment, prevention programs, hotlines, child-abuse reporting lines among other valuable programs and services.

With April being National Child Awareness Month, it is a good time for us to speak out for the protection of our children.●

● Mr. DAUB. Mr. Speaker, child abuse is one of the most difficult problems facing our families. The detection, prevention, and correction of child abuse cases are all important in the resolution of this problem—and all present their separate difficulties. In addition, each case presents its aspects which must be dealt with individually.

I commend the private groups, organizations, and individuals who have taken the initiative in dealing with the critical child abuse problem. The efforts these people are making to alleviate child abuse are extremely helpful and worthwhile. Efforts such as these to help detect, prevent, and correct child abuse will go a long way toward resolving this critical problem, and these citizens deserve a special thanks for getting involved.

The number of reported child abuse cases has increased over the last few years. This is a particularly serious problem at this time because of the difficult problems of the economy during the last 3 years. We must continue to work toward strengthening our economy so that some of the most aggravating problems a family faces—economic ones—will be alleviated. This should help reduce the incidence of child abuse.

Again, I commend those who have worked to alleviate this problem. This is an issue in which everyone should be more interested.●

● Mr. BIAGGI. Mr. Speaker, I am pleased to participate in this special order to discuss the ongoing national tragedy of child abuse and neglect in the United States. We conduct this special order the week before the House Education and Labor Committee, where I am a senior member, will complete action on the legislation to reauthorize and extend provisions of the Child Abuse Prevention and Treatment Act for 4 years.

As we evaluate the problems associated with child abuse, we find that the problem looms larger than it did when the child abuse legislation became law in 1974. In fact, a survey of all 50 States and the District of Columbia in the fall of 1982 reported that 39 States had seen an increase in reported cases of abuse in the past year. Fifteen States said the number of confirmed reports was also increasing. Fourteen States said they were seeing more deaths due to abuse, and 33 States reported seeing more serious abuse (Children's Defense Fund, 1983). Overall, official reports of child abuse and neglect have increased 106 percent from 1976 to 1981 (American Humane Assn., 1982). Child homicide rates have increased sixfold since 1925 (Morbidity and Mortality Weekly Report, June 1982). All of these increases indicate that not enough is being done to protect the lives of children in this country.

The Child Abuse Prevention and Treatment Act will observe its 10th anniversary next year. Yet, the program has not matured to the extent that I, as an original cosponsor, had envisioned. We have appropriated approximately $150 million during the years this program has been in effect. This figure stands in sharp contrast to the $2 trillion that the present administration has asked for defense spending over the next 7 years. Suffice it to say that $150 million is woefully inadequate to stem the tide of rising reports of child battering.

As we approach the reauthorization of the Child Abuse Prevention and

Treatment Act, we must make an honest assessment of the law including a critical examination of its strengths and its weaknesses. Clearly, one of its failings is inadequate funding. I plan to address this issue at this time of reauthorization. It is inappropriate for us to try and tax the already limited resources of the act by adding additional requirements without providing sufficient and responsible funding levels. In addition, we must work to bolster the training provisions as well as continue to conduct comprehensive examinations into the causes of child abuse.

Child abuse and neglect prevention has been a longstanding commitment of mine spanning my entire 14 years in the Congress. My own awareness of the reality of child abuse and neglect actually began during my 23 years in the New York City Police Department. In fact, one of my first bills upon arriving in Congress was the introduction of the National Child Abuse Act of 1969. This bill, preceded the Child Abuse Prevention and Treatment Act which is now being considered for reauthorization.

Clearly, the problem of child battering is not new. As I noted in the CONGRESSIONAL RECORD on May 22, 1969:

> The hideous spectre of child abuse has assumed many guises throughout history. For centuries the physical maltreatment of children had been justified on grounds which have ranged from expelling evil spirits and pleasing certain gods, to transmitting educational ideals and maintaining descipline. Modern man, however, is repelled by the savagery of these ancient beliefs, and is reluctant to admit that such cruelty could be practiced today.

Tragically, these words are as apt today as they were over a decade ago.

A problem related to the lack of awareness of many professionals is the inadequate training of medical personnel, law enforcement officers, educators, and social service workers mandated under the 1974 statute to report suspected cases of child abuse and neglect. Under the law, training is required for State assistance and is necessary for mandated reporting sources in the fulfillment of their responsibilities however, training is not mandatory as the language currently reads. Thus, I will be proposing an amendment to the statute next week that mandates training for all professionals who are charged by law to report suspected cases of child abuse and neglect. I believe that awareness of the problem of child abuse and neglect must begin with the professionals who have daily contact with children.

One of the known causes of child abuse and neglect is financial stress. Various studies have shown that the incidents of child abuse appear more frequently in families under economic stress. However, there has been virtually no comprehensive examination of the relationship between lack of child support payments and the increased likelihood of child abuse and neglect. Yet, we know that the problem of nonpayment of court ordered and voluntary child support affects 8.4 million women with over 13 million dependent children. Moreover, of the 4 million women awarded child support payments in 1982 only 1.9 million received the full amount; 1 million received partial payment and 1.1 million did not receive any payment at all. To be awarded child support payments and not be able to collect them places untold stress on the single parent. These children are then "at risk" for child abuse and neglect because of the increased and inequitable financial stress that female head of household is forced to bear. Moreover, it can be said that these children themselves are suffering from financial neglect that will most assuredly affect virtually every phase of their lives from medical care to educational opportunities.

To bring this issue to both public and professional awareness I am proposing that the National Center on Child Abuse and Neglect conduct a comprehensive study on the contribution of the lack of child support payments to systemic family stress and ultimately to incidences of child abuse and neglect.

Let me end here by repeating what I said 14 years ago about the need for public awareness. "The unwillingness of normal human beings to face the brutal facts of child abuse is understandable, but it must not be permitted to blunt the force of our concern. The incidence of child abuse is neither isolated nor accidental but occurs with terrible regularity."●

SHOULD JUDGES HAVE LIFETIME TENURE?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes.

● Mr. CORCORAN. Mr. Speaker, today I have introduced legislation which would amend the U.S. Constitution to provide that all Federal judges of both the Supreme and lower courts must be either reconfirmed or replaced every 10 years.

Regarding judges' tenure, the U.S. Constitution states that judges of both the Supreme and lower courts "shall hold their offices during good behaviour." Essentially, a lifetime term is guaranteed, barring voluntary retirement or impeachment.

The intent of the Founding Fathers was to isolate the judiciary from partisan political alliances and prejudices. However, lifetime tenure also isolates the judiciary from reevaluation by the Congress and the people of the United States as well. Just as we, as Members of Congress, are subject to review and accountability, so should members of the judiciary be subject to periodic accountability and review by the people's elected representatives.

The text of the resolution follows my statement. I urge my colleagues to consider joining me in this effort by cosponsoring and supporting this legislation to amend the U.S. Constitution.

H.J. RES. 252

Joint resolution proposing an amendment to the Constitution relating to the continuance in office of judges of the Supreme Court and of inferior courts

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of final passage of this joint resolution:

"ARTICLE —

"SECTION 1. Notwithstanding section 1 of article III of this Constitution, unless the President nominates and the Senate consents to the continuance in office of a judge of the Supreme Court or of an inferior court ordained and established by Congress, that judge may not hold office for more than ten years after—

"(1) he took office,

"(2) the Senate last consented to his continuance in office, or

"(3) the ratification of this article,

whichever last occurs.

"SECTION 2. Section 1 of this article shall not apply to a judge who has retired from active judicial service.".●

THE COOPERATIVE FORESTRY RESEARCH AND EXTENSION AMENDMENTS OF 1983

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. EMERSON) is recognized for 30 minutes.

● Mr. EMERSON. Mr. Speaker, today I am joining Chairman WHITLEY of the Subcommittee on Forests, Family Farms, and Energy of the House Committee on Agriculture to introduce the Cooperative Forestry Research and Extension Amendments of 1983, a revision of H.R. 566, a bill on the same subject I introduced in the House on January 6, 1983.

The bill Chairman WHITLEY and I are introducing today make several important changes to the bill I introduced earlier. The most significant change is to drop the indexing provisions for funding these programs H.R. 566 would have mandated. This bill provides instead for straight authorizing provisions to upgrade the McIntire-Stennis Act, which provides for forestry research at schools of forestry in our State land-grant colleges and universities, and for straight authorizing provisions to fund the State forestry and rangeland extension under the Renewable Resources Extension Act of 1968. These authorizing provisions would expand forestry research in our

State forestry schools above the $12.5 million level appropriated in fiscal year 1983, by authorizing funding for the McIntire-Stennis Act in fiscal year 1985 at $20 million and expanding it $2.5 million each fiscal year for 5 years through fiscal year 1989, when $30 million would be authorized for State forestry research. By the same token State renewable resources extension under the Renewable Resources Extension Act, which was funded for only $2 million in fiscal year 1983, by authorizing funding for this act in fiscal year 1985 at $5 million and expanding it $2.5 million each fiscal year for 5 years through fiscal year 1989 when $15 million would be authorized for State renewable resources extension.

It is interesting to note, Mr. Speaker, that these new authorizing provisions do not increase authorization now provided in either of these two acts. But this bill, by setting specific year-by-year authorizing levels, does clearly set forth Congress position to the executive branch that this Nation needs to systematically expand Federal funding for forestry research and forestry and rangeland extension at the State level.

It is the purpose of this bill to bring about substantially increased forest productivity together with maintenance and enhancement of the forest environment through new and expanded initiatives in research and technology transfer conducted in the Nation's forestry schools at State universities. The reasons for these expanded initiatives are as follows:

First. Forests cover one-third of the land area of the United States and are essential for the material well-being and the quality of life of the Nation's citizens. It is also true that the United States has a comparative advantage amongst nations in its forest land base and its potential for productivity—but that potential is not being realized.

It is apparent that large increases in demand for wood, which is expected to double by 2030 because of population growth and world demand, will not be readily met nor will opportunities for export markets be realized unless productivity is substantially enhanced. In a similar manner demands for other values of forests are also increasing, for example, water catchment influences, wildlife and fishery habitat, and recreation opportunities.

It is recognized amongst renewable resource specialists in the broad field of agriculture, that forestry is an arena with great potential for increase in productivity but which is underfunded in support for research and development.

Second. Basic and applied research in forestry, from which new forest technologies are developed needs to be more fully supported with public funds in the university sector.

As was identified by a national task force established jointly by the U.S. Forest Service and the Nation's forestry schools:

> Forestry is truly living not only on "borrowed time," but on borrowed resources. We are spending the principal at a faster pace than the interest is accruing. The scientific foundations for future applied research and management decisions are not being adequately replenished. Should this situation continue, we will inevitably confront decreased forest productivity, decreased wood utilization efficiency, deteriorating timber, water, and wildlife conditions, and drastically limited opportunities for recreation opportunities and esthetic experiences. All these translate directly into a deteriorated quality of life.

A need therefore exists to substantially strengthen basic and applied research in forestry in the following specific areas: First, in biology, including molecular biology and genetic engineering. Second, in ecological processes particularly in the nutrient energy and water transfer systems, interaction between the Earth's chemical climate and forests. Third, in engineering and material science, as applied to wood which comprise the most abundant natural polymers on Earth, fourth, in economic and social sciences, particularly in relation to intangible values and their protection, and fifth, in managerial sciences applied to complex natural resource management systems.

Third. Increasing the productivity of the Nation's nonindustrial private forests, woodlots, and forest-related rangelands remains the greatest challenge in the development of the Nation's forestry resources. Augmented research and technology transfer are major keys to meeting this challenge.

The Nation's nonindustrial private forest and woodlots constitute 58 percent of the Nation's commercial forests, are owned by over 7 million people, and are recognized throughout the forestry community as being a critically important source of future wood and fiber supplies to meet the growing demands of the future. Yet it is this land which shows, in general, the lowest productivity. Less than one-half of its potential productivity, is realized in terms of current nonintensive forest management technology.

With current technology and costs, it has been estimated that an annual expenditure of $100 million would be needed for the next 50 years to bring these woodlands up to productive capacity. New and economically feasible management systems are needed together with a greatly expanded renewable resources extension program to accelerate changes in this massive portion of the Nation's forest lands.

Fourth. A cost effective system for undertaking the new and expanded research and technology transfer initiatives is to complement the service activities of the State forestry agencies through the existing network of forestry school, of State universities and the State cooperative extension services, which are closest to the local and regional needs and which are located in an environment of scientific discovery.

Over the last decade, Federal Government research expenditures on forestry have been tenfold that of Federal support of forestry research to the States under the McIntire-Stennis Act, which is currently at the annual level of $12 million.

Yet the very ecological diversity and situational differences in forest resources throughout the United States call for strengthened State and regional approaches to increasing productivity. A decentralized, but coordinated State and regional research and technology transfer system, is needed to complement and balance the Federal forestry program and to better serve the State forestry and associated natural resource agencies in their research needs. The soundness of this combination of strong decentralized State research and extension approach to complement federally conducted research programs is well documented in the success of agricultural commodity production. The current situation at the State university level is that the subspecialities of forestry are frequently only one scientist deep, in contrast with the research team concept we find supporting other agricultural commodities, which permit a critical mass of scientists in different and sufficient scientific disciplines to assemble and economically operate to attach a critical agricultural commodity problem.

Additionally, Mr. Speaker, this bill adds a provision setting forth the duties of the Secretary of Agriculture with respect to getting more involved to improve and enhance the productivity, utilization, and maintenance of the Nation's public and private forest and related rangelands; to effect coordination of Federal and State forestry research, renewable resources extension, and other State forestry programs; and to establish pertinent review programs to assure that there is interchange of these programs; and to submit annual reports to the Congress and the President of the progress of these programs.

I might add, Mr. Speaker, that the new initiatives and changes in the bill Chairman WHITLEY and I are introducing today meets the objections to H.R. 566 by the U.S. Forest Service, the Cooperative State Research Service, and the Extension Service of the Department of Agriculture; the forestry deans of the State forestry schools and the private universities; the State extension director; the State forester's associations; and the various sectors of the forest products industries.

Chairman Whitley and I look forward to early hearings, subcommittee and committee markup, and passage of this bill by this House this year.

We shall shortly submit a dear colleagues letter to each of you and we urge you to cosponsor and support this bill, which is necessary to increase forest and forest-related rangeland productivity and enhance our forest environment and thus benefit those involved in forestry and all Americans who are consumers of forestry products.●

THE UNFORTUNATE VICTIMS OF THE RECESSION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. de la Garza) is recognized for 5 minutes.

● Mr. de la GARZA. Mr. Speaker, I submit to you the following article from the Houston Post, Houston, Tex., in a column called "Espejo" by Richard Vara concerning the tragic plight of three families who are poor and unfortunate victims of the recession. The implications of their condition should raise serious concern in all of us. I submit this so that my colleagues in Congress are aware of these special circumstances:

> For Antonio Garza and his wife; for Margaret Saenz and her children, Leroy, 5, Junior, 4, and Sonya, 3; for 3-year-old Chalcedany Morgan there is no more indignity or pain in being poor.
>
> Garza, 53, shot his wife, Kay, in their car in San Antonio last year. With an empty wallet, bankruptcy papers and an empty fuel tank, Garza then turned a highpowered rifle on himself and ended his life, a life that had once included success in an Ohio aerial mapping business.
>
> Chalcedany died in Oberlin, Ohio, from starvation. Her parents did not believe in taking public assistance. Her mother and father were working on a temporary house-painting job and found her dead when they checked on their five children who were living in a station wagon.
>
> Last Christmas, the Saenz family was living in a tent after the father lost a job and could not afford rent. A small portable heater ignited the tent and only the father and an 18-month-old son survived.
>
> They are the casualties in a recession that seemed relentless and is now beginning to recede. When the recession ends, it may leave some important, if bitterly learned, lessons.
>
> During the flush, full employment times, it was the collective wisdom that the unemployed and those on welfare were there because of laziness, lack of ambition, a parasitical disdain and a deformed propensity for leeching.
>
> Badmouthing food stamps and welfare checks was a common enough practice for the middle and upper class.
>
> Things have changed now. The unemployment lines have grown classier with the presence of engineers, accountants, secretaries, craftamen and others who thought they had secure, lifelong employment.
>
> Not only was the lesson brought home of how it felt to be without a job, but how it felt to be without prospects of one.
>
> This new class of unemployed found that a good work record, technical skills, education and even a desperate desire for any kind of work resulted in nothing.
>
> For a hardworking man like Garza, it was too much to bear. After all, it was the collective wisdom that held that if a man was poor and out of work, it was his fault.
>
> "Just look at those want ads in the paper. If a man really wants to work he can find a job even if its just washing cars," goes the standard line. Perhaps those folks should explain it all to the Garzas' survivors.
>
> For Chalcedany's parent, going on welfare and seeking assistance was too much to bear. After all, collective wisdom held that the people on the dole were lazy insolent dolts.
>
> The Saenz family case seems amazingly familiar to that of Houston's Tent City. Except that no one probably wants to ask Saenz if he really wanted to work or whether he really couldn't have found another homesite.
>
> About the only things that Texans can expect to result from Tent City is a law that will prohibit such embarrassments from happening again.
>
> No one advocates a blind, Alice-in-Wonderland approach to assisting the needy. But neither is there room for a begrudging, mean-spirited, cynical approach to helping those who need assistance.
>
> Yes, stories about the unprincipled who steal from public assistance are horrible. But the only thing more horrible is the mindless stories of bureaucrats following inane, nit-picking rules that deny help to the poor, the aged, the retarded, the newly widowed.
>
> If the public learns that being poor is no disgrace; that public assistance is not a disgrace reserved for bums, but a responsibility worthy of any honest, principled nation; that mechanisms for allocating to the poor should not be degrading, destructive and dehumanizing; then the deaths of the Garzas, Chalcedany and the Saenzes will not be meaningless.
>
> If this nation did not learn that, then the dead were the lucky ones.●

STATEMENT ON INTRODUCTION OF A BILL TO AMEND SECTION 162 OF THE INTERNAL REVENUE CODE OF 1954 WITH RESPECT TO ALLOWING A DEDUCTION FOR ADDITIONS TO RESERVES ESTABLISHED FOR DECOMMISSIONING COSTS ASSOCIATED WITH NUCLEAR POWERPLANTS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Gibbons) is recognized for 5 minutes.

● Mr. GIBBONS. Mr. Speaker, today I am introducing legislation to amend section 162 of the Internal Revenue Code of 1954 with respect to allowing a deduction for additions to reserves established for decommissioning costs associated with nuclear powerplants.

Under present law, a taxpayer cannot deduct amounts added to a reserve for future expenses at the time the amounts are added to the reserve unless the Internal Revenue Code specifically allows such a deduction. This is true even if the additions to the reserve are required by a regulatory commission and would be treated as current deductions for financial accounting purposes.

Many regulatory commissions require or permit public utilities within their jurisdictions to establish reserves for expenses to be incurred for the decommissioning of nuclear powerplants. Failure to allow a current deduction for amounts added to these reserves over the life of the nuclear plant results in higher charges to utility customers because the reserve must be accumulated out of after-tax dollars.

The bill permits a regulated public utility to deduct currently amounts added to reserves for the costs to be incurred in connection with the decommissioning (or "retirement") of a nuclear powerplant. The deductions are limited to the amounts which the regulatory commission with jurisdiction over the utility permits it to add to reserves in its regulated books of account and to include in its costs of service for ratemaking purposes. Any reserve amounts that are in excess of what is necessary for decommissioning cost are added back to income when the excess is determined by the regulatory commission. The bill would apply to taxable years beginning after December 31, 1982.●

IMPROVING CASUALTY LOSSES FOR DISASTER VICTIMS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California (Mr. Panetta) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, today I am reintroducing legislation I sponsored in the 97th Congress which seeks to address a situation which I consider a grave inequity facing residents in the Love Creek area of Santa Cruz County, Calif., in my congressional district. Many residents were forced last year to vacate and demolish their homes following the tremendous disaster which hit this area in January 1982. Following this disaster, the Army Corps of Engineers completed a study of this area and concluded that this area was unsafe because of its close proximity to an area where slide activity occurred and the threat of further slide activity. The county government, acting under provisions of its uniform code, proceeded to issue abatement notices to residents requiring relocation or the demolishing of existing structures. The homeowners of this area experienced the unfortunate occurrence of having their homes—ranging in value from $100,000 to over $400,000—become economically invaluable.

Following the development of this dreadful situation, a request was made to the Internal Revenue Service to determine whether the affected residents were eligible for deductions for casualty losses as a result of their being forced to remove their homes. In a response, the IRS concluded that under current regulations, these residents were not entitled to a casualty loss deduction. The IRS indicated that this decision was reached because it found no proximate relationship between the occurence of the disaster and the loss sustained by the residents because of the abatement order.

Mr. Speaker, the fact is that if these residents would have suffered any kind of physical damage to their homes as a result of the disaster, they would be eligible for casualty loss deductions. This fact was clearly pointed out to me in a meeting I held with IRS officials discussing this situation. Furthermore, a ruling by the IRS in a similar case was successfully challenged in court. Like homeowners who experience physical damage to their residences, the residents in the Love Creek area have suffered a tremendous economic devastation. They have experienced a virtual total economic loss. Because of the absence of physical damage, I do not feel that in this situation, these residents should be prevented from applying for a casualty loss deduction.

The legislation I am reintroducing today would allow residents who, as a result of a disaster, are issued an order by a local government requiring homeowners in the area affected by the disaster to remove or demolish their home, to be eligible to apply for a casualty loss deduction. I think that in such a unique situation, these residents should be provided relief made available to other taxpayers who experience similar economic loss.

The situation which has developed in Love Creek has proven to be a test case for our disaster assistance program in may areas. So far, the unique circumstances which are evident in this area have found Federal disaster aid lacking. I think appropriate changes are necessary to meet the unique situation which has occurred in the Love Creek area. I would hope that in this instance the taxpayers and homeowners of Love Creek who have been forced to abandon their homes will find Federal policies available to meet their needs.

Following is the text of this legislation:

H.R. 2831

A bill to amend the Internal Revenue Code of 1954 to allow a disaster loss deduction with respect to a taxpayer's residence for losses which occur where the taxpayer is ordered to demolish mudslides, earthslides, or flooding

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISASTER LOSS DEDUCTION ALLOWED FOR RESIDENCES IN DISASTER AREAS WHERE TAXPAYER ORDERED TO DEMOLISH OR RELOCATE RESIDENCE BECAUSE OF DANGER OF MUDSLIDES, EARTHSLIDES, OR FLOODING.

(a) GENERAL RULE.—Section 165 of the Internal Revenue Code of 1954 (relating to losses) is amended—

(1) by redesignating subsection (k) as subsection (l), and

(2) by adding after subsection (j) the following:

"(k) TREATMENT AS DISASTER LOSS WHERE TAXPAYER'S RESIDENCE IS IN DISASTER AREA AND TAXPAYER, BECAUSE OF DANGER OF MUDSLIDES, EARTHSLIDES, OR FLOODING, IS ORDERED TO DEMOLISH OR RELOCATE SUCH RESIDENCE.—

"(1) IN GENERAL.—In the case of a taxpayer whose residence is located in an area which has been determined by the President of the United States to warrant assistance by the Federal Government under the Disaster Relief Act of 1974, if—

"(A) within 120 days after the date of such determination, the taxpayer is ordered, by the government of the State or any political subdivision thereof in which such residence is located, to demolish or relocate such residence, and

"(B) such order is based on a determination that there is a danger of mudslides, earthslides, or flooding,

then any loss attributable to such order shall be treated as a loss described in subsection (i)."

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply to taxable years beginning after December 31, 1981, with respect to residences in areas determined by the President of the United States, after such date, to warrant assistance by the Federal Government under the Disaster Relief Act of 1974.●

HEALTH CARE FOR UNEMPLOYED ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. FORD) is recognized for 5 minutes.

● Mr. FORD of Tennessee. Mr. Speaker, the outrageously high rate of unemployment in this country is at a crisis level. Not only are the unemployed faced with the inability to earn a paycheck, but they are also faced with other far-reaching problems of equal magnitude.

One of the most debilitating effects of unemployment is the loss of job-related health insurance. Fourteen million unemployed workers and family members are without health care coverage, including 4 million children.

The critical need for health insurance for jobless families is evident in statistics which show that the unemployed are much more susceptible to health problems than those of us who are working. Yet, they are without health care coverage at a time when they need it most.

That is why I am cosponsoring H.R. 2552, the Health Care for the Unemployed Act. This legislation would make basic health benefits available to unemployed workers and their families who have no other health insurance coverage.

The unemployed-uninsured are in a situation which they did not create, and over which they have no control. H.R. 2552 is crucial to easing their access to health care while they await jobs to become available.

I urge my colleagues to join with me in a commitment to the unemployed by supporting H.R. 2552.

The following is a copy of my testimony submitted at a recent hearing of the Energy and Commerce Subcommittee on Health and the Environment.

TESTIMONY OF CONGRESSMAN HAROLD FORD

HEALTH CARE FOR THE UNEMPLOYED ACT

Mr. Chairman, and distinguished members of the Subcommittee on Health and the Environment; as a cosponsor of H.R. 2552, the Health Care for the Unemployed Act, I am pleased this morning to have the opportunity to testify on behalf of this legislation.

We are all acutely aware that unemployment in this country is at a post-depression high of 10.3 percent. This represents 11.4 million Americans who are out of work. Another 1.8 million workers have lost their jobs but are not in the official unemployment count because they have become discouraged and have stopped looking for work.

The Federal Supplemental Compensation (FSC) program, under the jurisdiction of the Committee on Ways and Means' Subcommittee on Public Assistance and Unemployment Compensation which I chair, was enacted to offset some of the impact of the administration's cuts in extended unemployment benefits. But even with FSC, over 300,000 unemployed workers are exhausting their unemployment benefits each month.

The human tragedy behind these statistics lies not only in the inability of jobless individuals to earn a paycheck, but in other far-reaching and debilitating effects.

One of the most oppressive ripple effects of unemployment is the loss of job-related health insurance. The Congressional Budget Office estimates that there were 14 million unemployed workers and family members without health coverage in February—including 4 million children.

I was shocked by the April 20 Washington Post article which quoted the president of the American Medical Association (AMA) telling President Reagan that "the problem of providing health care for the unemployed is being met by private physicians."

Contrary to what the administration and the A.M.A. would have us believe, the need for this legislation for health care for the unemployed is paramount. The private sector is not going to pick up the tab for the health care needs of the 14 million unemployed Americans who are without health insurance.

It is obvious that the A.M.A. has not spoken to Mr. John Powderly, an unemployed steelworker from Pittsburgh, Pa., who testified before my subcommittee only 2 months ago. At that time, Mr. Powderly told me that he hoped that no one in his family became ill because he could not afford to pay for a doctor, and his doctor would not provide his family with free medical care.

It is also obvious that the A.M.A. has not been to my district of Memphis lately, where hundreds of poor people from Mississippi and Arkansas are being forced to come to Memphis to receive charity care from the City of Memphis Hospital, because the private physicians in their home towns will not treat those who cannot pay.

The loss of health insurance for the unemployed comes at a time when they need it most. The stress factor alone, caused by unemployment, makes jobless individuals and their families more vulnerable and susceptible to health problems.

Recent statistics show that for every 1 percent rise in unemployment, there is a 2 percent increase in the mortality rate, about a 2 percent increase in cardiovascular deaths, a 5 percent to 6 percent increase in homicides, a 3 percent increase in first admissions to mental hospitals, and about a 5 percent increase in infant mortality.

These statistics help us to understand the staggering correlation between unemployment and the health of the individual. These statistics also make it clear that the unemployed population need health insurance even more than those of us who are working.

The public hospitals, traditionally the lifeline to health care for the poor and medically needy, are being forced to turn away many patients who are uninsured and who cannot otherwise afford to pay. This condition, caused increasing costs, decreasing revenues, and declining support by this administration, makes hopeless an already desperate situation for the unemployed and uninsured.

The unemployed who lose employer-based health insurance protection are generally unable to obtain coverage under other existing public health care programs. In some instances, unemployed families can gain health insurance through medicaid. But in 27 States, medicaid does not cover either impoverished unemployed two-parent families or their children.

I would like to share with you a recent case cited by the Children's Defense Fund which describes the plight of the unemployed-uninsured and how families are affected by the dilemma of this double-edged sword.

"A young woman in Alabama, pregnant for the first time, had been getting prenatal care from a private doctor and had made arrangements to have her baby delivered at the local hospital. Her care was covered by the health insurance her husband received as a steelworker. About halfway through her pregnancy, he was laid off and lost his health insurance benefits. Though they were now indigent, because both she and her husband lived at home, under Alabama's medicaid program she could not qualify for medicaid to pay for the rest of her prenatal care and delivery costs.

"Her doctor told her not to come back since she had no way to pay the bills. She went 6 weeks without prenatal care. Finally, in desperation, her husband left home. Because she was now a single low-income prospective parent, Alabama's medicaid program would cover her, and she again received prenatal care."

The bill before you today would make basic health benefits available to unemployed workers and their dependents who have no private health insurance coverage and who are not eligible for medicaid.

The health insurance coverage would extend to those receiving unemployment compensation benefits, as well as to those jobless individuals who exhausted their unemployment benefits within the last 2 years. Those who are receiving benefits would remain eligible for 6 months after receiving their last benefit check. Those individuals who received unemployment compensation within the last 2 years but are no longer receiving benefits would be covered for a 12-month period.

Benefits would be limited to 9 days of inpatient hospital care and 10 physician and outpatient visits per year, except that these limits would not apply to care related to pregnancy and well-baby care.

I have already recounted the financial hardships that the public hospitals are experiencing and the debilitating effect this is having on individuals who are not able to pay for health care. This bill would authorize a program of direct Federal grants to public general hospitals serving disproportionate numbers of unemployed and other low-income patients who do not have the ability to pay for health care.

As Chairman Waxman pointed out when he introduced this legislation, the medical coverage provided in this bill is very limited. It does not provide the degree of coverage that I would like and which our unemployed citizens deserve. It will, however, go a long way in easing the hardships faced by the unemployed.

I ask that my fellow colleagues join with me in a commitment to the health care needs of the unemployed by expediting the passage of H.R. 2552, the Health Care for the Unemployed Act.

I wish to thank you for the privilege of testifying before you this morning.●

EXCHANGE FOR PEACE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 5 minutes.

● Mr. UDALL. Mr. Speaker, I rise today for the purpose of introducing the United States-Soviet Exchange for Peace Resolution, a measure that I hope will promote world peace and improve United States-Soviet relations. Under its terms, qualified young people between the ages of 15 and 20 would have an opportunity to study, work and live in the other country for 1 year. Let me explain further.

One of the most important programs initiated in the past quarter century was President Kennedy's Peace Corps. This exciting program has promoted American interests and furthered third world understanding of the United States more than any other single aid program. And it has realized those benefits at a very low cost to the taxpayer.

How much of an impact has the Peace Corps had? Jean Lujan worked as a Peace Corps volunteer in Latin America during the sixties. Later she returned. She says:

> I once went to a town that I had left 10 years before. I thought the people would hardly remember me. But when I got there, a bunch of families were at the bus station to greet me. It was as though I had left only last week.

Lujan's statement reflects something all too easily forgotten today: the easiest path to understanding is knowing people on a personal, one-to-one basis.

In recent weeks there has been considerable debate on this floor about the nuclear arms race. And arms control, of course, is very important. We all recognize that. But we must seek other methods of deterring nuclear war. We need to establish a broader web of relationships with the Soviet people. We can do that through wider commercial, cultural, athletic, and educational contacts with the U.S.S.R. We already have had joint space missions, exchanges of ballet and dance companies. But we need more such bridges of understanding.

We are, after all, sharing this planet with the Soviets and should work together to keep it a safe world. We can start by recognizing our common interest and bonds. I remember Lyndon Johnson found a way to get through to Kosygin at the Glassboro Summit: they talked about their children and grandchildren. And when the talks between Begin and Sadat began to break down at Camp David, Jimmy Carter talked about their children and their stake in peace. It was diplomacy in human terms. And it worked.

The resolution that I am introducing today calls for the creation of a United States-Soviet youth exchange program. It would be administered by a joint United States-Soviet Student Exchange for Peace Commission to be composed of civic, educational, and cultural leaders from both countries. It would be financed by both Government and private contributions. The resolution calls for an initial participation of 2,000 young people from both countries. Half of these students should come from the families of prominent civic, cultural, military, and political leaders. Finally, the program participants should be widely dispersed, so they can reach out to more people and have greater impact.

This is not a program that will show dramatic results in 1 or 2 years. But as these young people grow up and begin to take their place in society, we will have a generation of people who have a better understanding of the other country. They will know their counterparts as people—not stereotypes.

Will such a program stop a nuclear war? Maybe not. But it may make one a little less likely. It is, I think, a small but important step toward a genuine and lasting peace between the United States and the U.S.S.R. I urge my colleagues to support it.●

SUFFERING AND DISTRESS IN AREAS OF ACUTE NEED

The **SPEAKER** pro tempore (Mr. TORRICELLI). Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 30 minutes.

Mr. GONZALEZ. Mr. Speaker, I am impelled, to rise and speak by the sheer responsibility of being faithful to a trust, as chairman of the Housing Subcommittee of this great body and the author, one of the many cosponsors of the Emergency Home Foreclosure Assistance Act and the act for the rural homeowners, as well as urban, and the Emergency Relief Act for shelter provisions for those who are absolutely homeless in our country, and the fact that we must be true witnesses to what the constituents throughout the country are telling us. The President and his apologists to the contrary notwithstanding, Mr. Speaker, there is a great suffering and distress in our country in the very great areas of acute need. It is serious. It is of a critical nature. It was only after we had comprehensive hearings and solicited and did elicit testimony from every geographical center of the country, every geographical section of the country, rural and urban, that, as soon as we could, we had a bill approved under emergency circumstances the moment the subcommittee was formed in the initial stages of this new Congress.

I am speaking of a bill that has been scheduled off and on for consideration by the full House and one which was ready for presentation to the full House since before the Easter break.

And if I am impelled to rise at this late hour, it is only because of the absolute need. Just yesterday I received this mail from Colorado, strictly spontaneous. I do not know who these good people may be. But I think that the message is clear and the urgency of the need for our legislation, which, just yesterday, continued to face the solid obstruction, the solid opposition of the administration, Mr. Stockman, and, unfortunately, on a partisan basis, by the minority.

This package came in yesterday afternoon in the third mail delivery that we get. It is addressed to me. And it says:

> DEAR CONGRESSMAN: Pueblo, Colorado, is a steel mill town. About 3,000 people out of 5,000 are laid off from the Colorado Fuel and Iron Corporation. Pueblo has a population of about 125,000. There are 100 foreclosures a month here now.
>
> United States Organization is a nonprofit self-help group of unemployed steelworkers and families. Steelworkers here are facing the same things that Pittsburgh steelworkers have been facing longer. All of us awaken each day with a knot in our stomachs. The uncertainty of the future is destroying families and homes. The ability to live happily within are the concrete foundations of this country.
>
> We watched the televised debate on H.R. 1983 last Tuesday—

That is, the day before yesterday.

> Thank you, Sir, and all you fellow Representatives who support this bill.

And, of course, reference is to the Emergency Home Foreclosure Relief Assistance Act on which we had preliminary debate last Tuesday, Tuesday before last, and we were awaiting markup and final completion, consideration, of the bill yesterday, but which now will be passed over for next week.

> Enclosed with this letter is an additional message addressed to the ladies and gentleman of the house of Representatives dated April 26, 1983.
>
> We, the distressed homeowners of America plead with you to consider the emergency legislation H.R. 1983. Please don't allow any more American families to become homeless, heartbroken, totally alienated from a system which appears to have forsaken us. This is a scar we will carry the rest of our lives. Please don't destroy what little hope we have left. Distressed homeowners of Pueblo, Colorado, and our supporters, with this additional attached petition whose preface reads, "Petition to begin some type of emergency legislation for a homeowners' emergency mortgage assistance program."

The purpose of the legislation is to establish an emergency assistance program to prevent mortgage foreclosures which result from default caused by circumstances beyond a homeowner's control.

> During these times of economic crisis in areas of high unemployment, it is critical that homeowners and their families not be forced out of their homes.

I count in excess of 3,000 signatures, probably the 3,000 signatures of the 3,000 out of the 5,000 in that steel town of Pueblo, Colo.

Mr. Speaker, I ask unanimous consent at this point to insert the petition's prefatory addressed to us in the Congress, and I will see to it that the formal signatures are filed with the Clerk of the House of Representatives, since that is the request of this gentleman.

☐ 1820

I should say that the original intention for my seeking this special order was to include a point-by-point rebuttal of everything that has been offered, either in debate or brought to our attention outside of debate by those who are opposed to this legislation.

I will insert this point-by-point rebuttal into the RECORD, plus a summary of the substitute that I will be offering as soon as the subcommittee is recognized on the bill next week.

The rebuttal and substitute follow:

AMENDMENTS TO BE INCLUDED IN THE GONZALEZ SUBSTITUTE

ASSETS TEST

Amendment to impose an asset test on individuals seeking mortgage assistance under the bill whose aggregate income over the previous three years exceeded an average of $20,000 per year for a family of four (HUD would promulgate regualitions establishing when to impose the asset test for different size families). The asset test would prohibit assistance for individuals with more than $10,000 in assets, excluding the value of the property secured by the mortgage, one automobile, household goods and personal effects with an aggregate value of less than $5,000, health aids, pensions, professional books and tools, and other items which HUD determines are necessary to the individual's means of self-support.

BASIS FOR UNEMPLOYMENT

Amendment to provide mortgage assistance for individuals whose unemployment is voluntary or a result of their willful misconduct.

COOPERATION WITH LENDER

Amendment to require that before seeking mortgage assistance provided under the bill a homeowner must cooperate with the lender to devise an alternative plan for making mortgage payment to correct mortgage delinquencies.

HIGH UNEMPLOYMENT AREAS

Amendment instructing HUD to assure a reasonable distribution of funds provided by the bill among different areas of the country and consider both the rates of mortgage foreclosures and unemployment in allocating assistance, giving particular attention to communities facing unemployment rates higher than the national average.

EXCLUSION FROM HOUSING EXPENSES

Amendment to exclude from total monthly housing expenses, which are used to calculate mortgage assistance provided, 50 percent of the costs of maintaining a golf course, the grounds, riding stables, a sauna, private recreational facilities, of providing cleaning services, heating a swimming pool or jacuzzi, or lighting a tennis court. The effect of this amendment would be to lower the amount of assistance available under the bill for homeowners with these amenities.

REBUTTABLE PRESUMPTION

Amendment to delete rebuttable presumption that homeowner has a reasonable prospect of resuming full mortgage payments within three years and can pay mortgage in full by its maturity date or later date agreed to by lender and homeowner.

Mr. GONZALEZ. Therefore, I just merely want to add this, because I think it ought to be on the record at this point. The opponents of this bill argue first, and this is the reason that I say that up to now, even during the hearings, even during the markup proceedings, and there is nobody at any time who has challenged either with a charge or arbitrariness or closing out improperly any Member or any other outside member of the committee from fully testifying and presenting his or her views, or in the amendatory process, the markup process, any Member especially not being given the opportunity to fully participate.

Yet the opponents now, at no time, ever were either present during the comprehensive hearings or subsequently offered any of the amendments that they have now filed in the RECORD, amounting to over a dozen. But I have taken each one of those, plus the good-willed Members who do not belong to the committee and who, upon approval of the committee, then have offered what are obviously bona fide, well intended, honest suggestions that I believe are an improvement. There is no such thing as a perfect bill ever being devised by any one man, one legislator, or a combination of legislators, or a whole legislative body. It is always susceptible to improvements.

Opponents of this bill argue first that there is no need for it now because the economy is picking up. I just read to you the message now, presently, confronting an important section of our country, the great city of Pueblo, Colo. We have had testimony from Pennsylvania, Ohio, Wisconsin, very recently; the Northeast, Michigan, even in the Southwest, all more or less reflecting, in maybe different words, what this citizen in Colorado has written.

These same opponents say, "Well, what is the use of this. The economy is turning around," and they, themselves, turn around and say that there is no need for it because the program could not be put in place in time to help those who are in the greatest need of time. Meanwhile, they do everything they can to stop it, kill it. Or they say that whole industries are dead or dying and, therefore, there is no hope that displaced workers are ever going to find a job; therefore, to enact this program will be to throw good money after bad.

They cannot attack us on what has been a favorite tactic, and that is that it is going to bust the budget or that it is not within the budget, because we cleared this through the Budget Committee, and we have a letter from the Budget Committee and its chairman in which it is stated categorically that this authorization contained in this bill is wholly within the budgetary limits. So they cannot use that against us.

Inflationary impact? We have an inflationary impact in this bill.

So this whole trite thing that has been rolled out every time we try to do something in the last 2 years, they cannot use it, so they fetch these other arguments. They contradict themselves in such an abominable way that I think it is irresponsible.

This other argument that whole industries are dying, these employees will never find a job; therefore, they cannot pay it back.

The other thing that can be said about it is that this is not an entitlement program. This is a loan program, to be paid back with interest at 10 percent. Now, that was not my choice. I am an eternal enemy of high interest rates, and high interest rates to me is anything over 6 percent. So 10 percent to me is even extortion, but nevertheless, realistic in view of the fact that this is a loan program. It is patterned upon precedent, experience, among other things, although not identical, to the Home Owners Loan Corporation of the Depression that enabled hundreds of thousands of American families to keep their homes. And yet, when it closed out its books, it made over $250 million profit for the taxpayers of the United States.

I have no doubt in my mind that this will be the experience if it is faithfully, honestly, with good intentions, administered. Now, that brings the other argument we get. This we get from some of my fellow party members. "Well, the administration is against this. What good would it do for us to pass it; they will not administer it."

Look what is happening to the TMAP. That is the Temporary Mortgage Assistance Program that we put in place in 1980 that has been in the courts. It is true; it has been in the court. In fact, a Chicago judge ruled week before last that the reason the program has not worked was because of the malicious bad faith, administration's obstructing the obviously expressed intent and will of the Congress.

Well, we cannot be faulted for that. We are not administrators. I am going to take the good faith of the administrator. In fact, we had the Secretary of HUD, who opposes this in our hearing. I asked him precisely that, and he said,

> Yes, I am against it. However, I will pledge to you that if the Congress sees fit to pass it, we will do the best to administer it.

I am going to take him at his word until he proves otherwise. There is nothing we, as legislators, can do about that. If that is the case, then we ought to close doors and not legislate anything because we fear that what we pass as laws, to be administered by the executive branch of the Government, will not be complied with under the plain terms and wording of the Constitution, which says the executive branch shall faithfully execute the laws of the country; that is, the laws passed by this policymaking body which is the Congress.

So these are the three main arguments. I have outlined every single one. I have summarized the contents of what we will offer as our substitute next week, which incorporates every one of the significant perfecting amendments that have been brought to our attention, which ought to show that from the first, we have intended and maintained our enmity of any obscure legislation, any jiggery-pokery in legislation.

I have, and I will, on May 1, this Sunday, have an anniversary of a sort—30 years of elective public office in what I call legislative advocacy, beginning with the local legislative body, the State legislative body, the State Senate, and 21½ years in the U.S. legislative body known as the Congress and the House of Representatives.

At no time in that history of experience has anybody ever truthfully either accused or charged me with fast government, trying to pull the wool over anybody's eyes, including sleeper clauses in any legislation. I am a sworn enemy of that.

□ 1830

This bill is straightforward, simply putting in clear, coherent language exactly what the intent is, and that is to help our fellow Americans in the most vital area of need, which is to enable an American and his family trying to keep their home, to enable them to keep it until such time as he can do something about something that he cannot control, which is involuntary unemployment or some involuntary restriction on his source of income over which he has no temporary control.

I have the faith and the credit, unlike the critics who say, "Oh, this will be abused." Our perfecting amendments will reduce to a minimum whatever human ability anybody would have, administrator or legislator, to reduce the possibility of abuse to a barest minimum.

I think it is a shining insult when at the same time that the administration opposes any kind of program, they are not picking on this because of this, that or the other, but just the fact that on almost an ideological basis they are against any kind of a program, not any attempt to try to help and relieve the situation, but to say that there is no need for it and we do not want any kind of a program.

Also because gentlemen like Mr. Stockman feel that it is an improper diversion or allocation of the financial resources of the country, who have the gall to come to us and pressure us into voting almost $10 billion for the International Monetary Fund to bail out some of our principal banks that have been profligate, that have run an orgy of speculation for greedy purposes and have got caught in a situation that is endangering the whole structure of international finance, as well as our own economy.

Yet they look at this moat in our eyes, with hopeful intentions to try to relieve the distress in the most significant areas of Americans, and they overlook the beam in their eye, for the relief of what, with the hope of what? That those countries, including the "Com-econ" area, that is the Communist economy area, where these same banking institutions poured more money, more banking resources between 1970 and 1977 than we ever gave under the Marshall plan by way of credit allocation and money to the Western countries, even allowing for inflation—with the hope of what? Here we are told that our American workers who might be able to qualify, that we better not do it because they will never be able to pay it back, because they will not be able to find employment.

Being asked to give almost $10 billion of credit on the will-of-the-wisp premise maybe some of these countries that have not even been able to meet their interest payments will pay.

I say charity begins at home and I ask my fellow Members to make sure that they consider all the issues and give careful consideration to what I have here today included in this special order.

Let me say, no matter chance—no doubt there is a chance—that some people who receive this mortgage assistance will be unable to repay it. But there will be a vastly larger number who will find jobs, who will overcome their difficulties, and who will repay their debt. In an emergency, there is no reasonable act but to provide help for the victim. That victim may drown, but who among us would refuse to throw out a line? Yet, that is exactly what the opponents of this bill have argued—that we should not provide any help if there is a chance that some few of the victims of this recession may not recover.

Then the opponents of the bill advance exactly the opposite argument—that the economy is coming back and therefore unemployment will drop so fast that there will be no need for this kind of emergency help. But that begs the fact that there are 11 million unemployed people today. It ignores the reality that not a single economic forecast suggests we will return to anything like full employment for years—not months, years. It ignores the reality that whatever recovery we are having is fragile and shallow. It ignores the fact that a mortgage being foreclosed today, this very moment, is not going to be helped by a recovery that is 1 year, 2 years or even 6 months away. They are arguing that if the shoreline appears close, then surely all those drowning people out there will make it to shore alive. They are spectators on the beach, debating how far out to sea the drowning victim is, when the only humane and prudent act is to launch the lifeboats.

Then the opponents of the bill argue that it will take a long and complex process to put this emergency program in place. Too long to do any good. These are the people from the party that claims it will bring efficiency into Government, the party that claims it knows how to get things done. They argue that their own administration does not have the competence to launch a lifeboat, so why bother? But the Secretary of Housing and Urban Development told the Housing Subcommittee that they could and would carryout the program if this bill is enacted. Further, there is not a Member in this Chamber who believes that starting up this program would be as complex and drawn out as the opponents of this bill have claimed. Every Member knows that if the administration chooses to move quickly on this program, it can have mortgage assistance flowing in a matter of weeks. Not months, weeks. They are simply claiming that the administration lacks either the competence or the will to carry out the program prescribed in H.R. 1983. They are like spectators on the beach who say that there is no point in calling out the lifeguards, since there is a chance that the lifeguards will not be interested in helping the drowning victim, or might not arrive in time.

Are people drowning in the whirlpools, to tides and the undertows of recession? Clearly they are. H.R. 1983 proposes to send rescue to the drowning victims. But some opponents say that if there is a chance that some few of the victims will drown anyway, there is no point in throwing them a lifeline; they are saying, "since some of the victims will drown, it isn't worthwhile to waste our energy and lifeline. It's their problem, not ours." And so they would walk away down the beach, letting the victims drown, without making any effort at a rescue. And some say that the storms may be abating, so there is no need to rescue anybody. They are like spectators on the beach, arguing that a drowning victim may be able to make the shore, so there is no need to launch a rescue boat. Finally, there are those who say that the lifeguards may not be interested in making a rescue, or that the lifeguards may not be interested or competent, so why call them?

There is no merit in arguments of that kind. The clear fact is that when people are in trouble, the only reasonable course is to seek help. That is what this bill does. It is sheer sophistry to argue that it isn't needed. It is hypocrisy to say that it could not work. And it is the idle brutality of the comfortable spectator to say that it is too far, too uncertain, too difficult, to lend a helping hand. Let us have done with that kind of argument. This bill is needed, it will work, and it can be put in place quickly. It would be delayed only if the administration refused faithfully to carry out the law according to the requirements of the Constitution.

We have heard opponents of this bill claim that it creates a new entitlement program, that it would cost a vast amount of money for that reason. Other opponents claim that it would not help enough people to make any difference. They are wrong on both counts. H.R. 1983 clearly does not create an entitlement; the only way that it can be expanded is through an enactment of the Congress. As for those who argue the opposite side—that this bill would not help enough people to make any difference—why then do they not offer a bigger program?

We have heard opponents of this program claim that all the help that is needed is already available—that all we have to do is to encourage lenders to be forbearing is the answer, why did we have an all-time record number of foreclosures last year, and why are foreclosures growing apace this year? It is simple: the lenders are either unable or unwilling to go further than they have. The lenders that are least able to offer forbearance are also the lenders in the hardest hit communities. In other words, the forbearance that opponents of this bill talk about works in a perverse kind of way—it is most likely to be feasible for a lender in a prosperous community, and it is least likely to be feasible for a lender in a depressed community. Certainly, I hope that lenders are going to help their customers in every way that they possibly can. This bill presupposes and assumes that lenders will do all in their power to help distressed borrowers. But we recognize that there are going to be situations in which a lender simply cannot go along any further. There are going to be situations in which only some kind of outside intervention will do any good. That intervention is provided for in this bill.

Then there are those who argue that borrowers who are having problems ought to be required to take bankruptcy before they would qualify for help. I ask them—would any one of them volunteer for bankruptcy, or would they rather go on and do the best they can? Would any one of them want to make bankruptcy mandatory? They misunderstand the whole concept of the particular form of bankruptcy that they advocate—it is supposed to be voluntary, the very last ditch. Yet they would make bankruptcy mandatory, and put the people who want to fight hardest into the last ditch, from which they may never emerge. This would be as unreasonable as a physician treating a drowning victim by throwing the victim into a deep pool.

Some of my colleagues are opposed to this bill because they say that those who are in greatest need won't get the benefit of the emergency loan program. They claim that there is no definition of what constitutes a "significant loss of income." In fact, there can be no reasonable doubt as to the fact that this bill is designed to reach only those people who are of ordinary means. The bill provides relief only in cases where the mortgage is within FHA loan limits—plainly not mortgages that would buy homes in high-income neighborhoods. It is equally plain that a significant loss of income means a loss of income that makes it impossible for the borrower to keep up mortgage payments. But to make doubly sure that the program is not misconstrued, my colleague from Massachusetts (Mr. FRANK) is offering language to establish a reasonable test of the applicant's financial means. I will accept that amendment, because it makes more clear the already plain intention of this bill. I cannot and do not, however, accept the premise that this program is only going to benefit sharpsters, nor do I believe that the mortgage bankers, who would have to be in conscious league with those who would abuse this program, are all as base-minded as the opponents argue. Bear in mind, after all, that these mortgage bankers are also the same people that my colleagues on the other side claim are people with hearts of gold. They use whatever language suits their argument—at one time saying the mortgage bankers are all good folks who will help everyone as much as anyone needs help, and at the same time claiming that the mortgage bankers are going to join hands with every would-be chiseler who would misuse this program in any way. For let us remember: An applicant for help must go through his lender, and I do not believe that every lender in this country is going to join hands with the owners of fancy beach houses and fancy automobiles, to milk this program, at the expense of other customers who are honestly in need of help. Those who are against this bill simply do not want to extend help, under any conditions; they are not, in fact, concerned about the meaning of "significant loss of income," plain as that term is, nor are they in fact worried about potential abuse. They are simply against extending help.

I want to reiterate that this is a simple and sensible bill. It is not unprecedented. It does not require a huge bureaucracy, and it could be put in place quickly and easily.

What this bill does, plainly and simply, is to say to the bankers, "do all that you can to keep from foreclosing on a loan." It then says to the borrowers, "if you can't work something out with your banker, apply for assistance." A borrower who is facing foreclosure goes to the lender and fills out an application. This application shows what his income is, what the obligations are, and what the maximum feasible payment is. The applicant seeks a loan to bring the loan up to date, plus an amount sufficient to bridge the gap between what the applicant can reasonably pay, and what the payment is. The applicant has to provide 38 percent of income to cover mortgage service, and the bridge loan covers the difference. The loan is at 10 percent or current Treasury rates, whichever is less, and it is secured by a lien against the applicant's property. The emergency loan covers 18 months, or as much as 36 months at the discretion of the Secretary of Housing and Urban Development. As soon as that applicant is able to resume payments, he does so. As soon as that loan can be repaid, repayment commences. And if the house is ever sold with the loan still outstanding, the Federal Government has a good lien against it.

What is so complicated about this? Nothing. What is so wrong about this? Nothing. It is a simple helping hand to people who are in financial trouble through no fault of their own. That's right. To hear the opposition speak, you would think that these loans are destined for layabouts—when in fact there is no way that an irresponsible person could qualify. You would think that these are gifts, but they are in fact interest-bearing loans, secured by a valid lien instrument. To hear those who are against this bill tell it, this is a radical idea. In fact, it is a program closely akin to Federal efforts of 50 years ago—efforts that ended up turning an actual profit for the taxpayers.

Good sense tells us that we should help our neighbors who are in distress. This program provides a way to do that. The only question that faces us is this: Do we want to help Americans who are in financial distress because of the recession? Those who are against providing help speak no differently today than they would have 50 years ago. They deny that there is a problem by telling you that prosperity is just around the corner. They try to say that helping people who are hurt by economic forces will undermine the moral fiber of the country. They debate about how much better it is for the drowning man to swim to the beach unaided, and miss the reality that such an argument is the epitome of callous indifference. They stand reason on its head, they wriggle and squirm, but the issue comes down to this: When our fellow citizens are in trouble, do we help or do we not? It is that simple.

The arguments against this bill were all heard 50 years ago. They were wrong then and they are wrong today. I urge your support of the Emergency Mortgage Assistance Act—a sensible and humane way to provide help to people who have never asked for anything before, who do not want to take the dubious and self-defeating route of personal bankruptcy, who want to preserve their homes, and who believe they will be able to get back on their feet again. I want to help people who want to help themselves. That is what this bill is about. That is why it merits your support.

LEGISLATION TO ESTABLISH THE FOUNDATION FOR THE ADVANCEMENT OF MILITARY MEDICINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. STRATTON) is recognized for 5 minutes.

● Mr. STRATTON. Mr. Speaker, today I am pleased to introduce legislation to establish a Foundation for the Advancement of Military Medicine. This bill is identical to that sponsored by the senior Senator from the State of Washington, which passed in the other body on March 23.

In 1972 Congress created the Uniformed Services University of the Health Sciences to train medical officers for our Armed Forces. The university had limited authority, however, to accept donations and gifts. The bill I am introducing today would remove that limitation, and would thereby promote the advancement of the study of military medicine without additional Federal money.

I have been a supporter of the Uniformed Services University since its inception, and was therefore pleased to have had brought to my attention the remarks by one of the first graduates of that institution on the value of his studies at USUHS. Lt. Stanton K. Wesson, Medical Corps, U.S. Navy is currently a general medical officer in the 2d Marine Division of the Fleet Marine Force. Lieutenant Wesson recently returned from a tour in Lebanon where he served as the only U.S. medical officer ashore with the marines in Beirut.

At the fourth annual dining-out military dinner at the USUHS, on April 9, Lieutenant Wesson described his experience in Beirut, and the value and importance of his specialized and unique training at the Uniformed Services University. At this time, I ask unanimous consent that Lieutenant Wesson's remarks be submitted in the RECORD, and commend them to my colleagues.

> I want to tell you that it is an honor and a real pleasure to be back at the Uniformed Services University tonight. As part of my remarks, I'd like to share with you all the recent experiences that I've had as a general medical officer with the Fleet Marine Force. And, more specifically, I think I'd share with you a little bit of what it was like to be on the "firing line" (as it were) in Beirut, Lebanon as the only American medical officer ashore. Although there were no real shots fired in anger against U.S. forces, it certainly was not a training exercise by any stretch of the imagination. In fact, it was certainly a contingent operation by anybody's definition.
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> I'll start by saying that I has some strong feelings when I first found out that I was not going to continue my graduate medical training, but in fact, was going to be assigned to the fleet somewhere. However, I began to look forward to the upcoming Marine operational experience. I began to say to myself I am going to go at this with the same kind of enthusiasm that I went at trying to get into medical school at the Uniformed Services University in the first place. I was more than sure that it was going to turn out OK. A number of other people came to me and said: "Stan, you paid your dues. It's a shame you have to go out there and do those things." I let that roll off my back and said, "Don't worry about it, it may be a blessing in disguise. I am going to go out and give it my best." That is pre-

cisely what I feel like I did. And fortunately for me, and for I think everybody else, that's exactly what happened. I was put in some very interesting situations with the Marines and in Beirut that allowed me to test both what occurred to me in my transition from a medical student at the University here into an intern. Over a period of time, I can now look back on the deployment as a very neatly circumscribed final examination for a USUHS Medical School graduate in Lebanon. I can really say that looking back on it now—of course, it is always fun to look back on things rather than in the middle of them—I'd say the experience was worth the effort. It has proved the worth of having a Uniformed Services University with its unique curriculum.

I'll try to get down to some of the nuts and bolts, and answer some of your questions like "What did you really do?" "What was it really like?" "What did you do at USUHS that made you any better than anybody else that came down the pike to go into an operational environment? I think it's clear as I look over my experiences here at USUHS that there were certain subjects in our first and second years that made us different from all other medical students in the United States, and that training continues to set us apart now as military physicians. These additional things were preventive now as military physicians. These additional things were preventive medicine, preventive medicine, preventive medicine. And I thought at the time that's an awful lot of emphasis in one subject area. What's all this preventive medicine and why do we need it? At the time I thought it must be important, but how important can it be to continue to emphasize it in both the first year and the second year. Moreover, I recall the University's Commandant and resident medical history expert, Colonel Robert Joy, telling me about military history and the effects of poor medical leadership in an army as opposed to good medical leadership in an army. I recall as a student wondering what's it all going to mean. I almost concluded that the USUHS training was stuff I'll probably never have to use, because I'll probably go through at the Naval Hospital, and not in the field. I was wrong. Nothing really was more important than hearing those USUHS lecturers talk about military history, military medicine and operational deployments. Wrong. Nothing really was more important than hearing those USUHS lecturers talk about military history, military medicine and operational deployments.

Before we arrived in Beirut, we were preceded for a short period of time by another Marine amphibious unit. They understandably took the basic approach that the Americans were only going to be there thirty days and then they would depart. They correctly took the view that we don't have to improve this place very much for human use and military operations, and they didn't. We actually walked into a place that seriously needed some sanitizing. That is where you may find yourself as a military physician if you are in either an operational contingent operation such as Beirut or if you even go into a disaster area as part of a disaster relief team. The lessons have to be learned beforehand and the things that are stressed are exactly the same. And that is, what do you do when the water supply has been interrupted? Second, what do you do as a physician when you learn effective public sanitation has been interrupted? The local population had not been without medical care, because in the Beirut area the medical care is relatively sophisticated. There are good people and good things there. But what was interrupted where the other services that we all take for granted. These include the veterinarian examining the foods assuring the meat is clean and edible, and the public health sanitation people insecting food preparation. These are things that you heard about in your first and second year courses at USUHS which aren't offered anywhere else in the country. These concerns all come to mind as soon as I knew I was going to Beirut: "I'm going to be the only medical officer ashore that I know of, and I am going to be advising the MAU commander, who is the senior commander there. Here I am just a Lieutenant one year out of internship and they are going to expect me to do all this stuff."

So I sat there and started writing a list and notes to myself of all of things that I had to do. Then I got to thinking about the real nuts and bolts of field sanitation, and all those other practical matters that I can't imagine many civilian medical schools giving even the vaguest idea to their students that those things are important. As I sat down and worked with the hospital corps chief and the staff officers from the MAU, we all worked out what I felt was a reasonable plan to approach those nuts and bolts subjects, knowing full well that not many improvements were going to be in place before we got there. And, as I said, when we got to Beirut, we were met with pretty much what we thought we were going to be met with: A Big Mess.

We proceeded to obtain materiel and inform individual unit commanders who were close to the troops how best to maintain their health in that sort of skaky environment. Our military studies at USUHS helped prepare me to deal with that problem. You learn it's not the kind of thing that you put in a memo and send to the MAU commander and and immediately expect results. It's something that you find gets done when you repeatedly address it to all levels over and over again. Ultimately, over a period of 6 to 8 weeks, you see the results from perserving and continually stressing those points—the same points the medical students learn here at USUHS. I can't stress enough that one of the main things with which I walked out of USUHS was a sense of what to expect in terms of prevention of disease, rather than what to do when somebody is already sick. This is important because once you've got one fourth of a 1,200-man group sick on the beach, you aren't going to be nearly as effective as you would have been if you had kept that one fourth from getting sick and only had the other minor problems to take care of. That was by far the most important thing to keep in mind in terms of my specific job as a staff officer with the Marine Amphibious Unit and with the Battalion Landing Team because I did wear both hats.

Another bit of my USUHS training also helped in terms of engendering a confidence within both the troops that I served and the hospital people who worked for me, and also stimulating a sense of confidence amongst the commanders, was a little bit of knowledge of military history. They really appreciate it if you know something about what they are doing, and what is their history and tradition. If you know nothing, it doesn't really hurt you much; but you will go up a couple of notches in their esteem if you know what they're about. And that's something that I think graduates of USUHS also walk away with, i.e., a historical sense of knowing the people they serve. You don't approach your job as living with a bunch of Marine "grunts". I don't know how many grunts we have here in this room or how many started in the military as grunts here besides LCDR Arnold from the Commandant's office. You former Marines know that an appreciation what a nineteen year old private is living through can really make a difference. And I think that's another thing that graduates from USUHS come away with, they are military officers who happen to have extensive medical training. Believe me, Marines certainly know and appreciate the difference. There is nothing that really can make you feel much better than having a Marine lance corporal walk up to you and say, "doc, there's not very many people like you around and we're really glad to have you with us. We like you and we're sorry you're going back home." And I had a Marine lieutenant come over and say essentially the same thing. Those were the kinds of nice things, the nice pats on the back a physician likes to receive, and you don't get very many pats on the back in the Fleet Marine Force. And those weren't pats on my back all by myself. Those were pats on everybody's back here at USUHS. So you all get a pat on the back, and a bravo zulu for a job well done.

One of the things I enjoyed more than anything else was having the responsibility to maintain what I felt was an appropriate training program for hospital corpsmen. That's where I learned I like to teach more than I thought I did. Even as a fourth year medical student I thought it's okay to teach, but that is not the kind of thing I would really do very much. But as I got involved in the unit to which I was assigned, and as I began to understand some of the problems of both previous medical officers—what they had and had not provided to the corpsmen stationed there—I concluded we had to sit down and work out a better training program for the corpsmen for several reasons. One is selfish: I am unable to see all these patients with minor complaints. They stack up too deep. Your corpsmen have got to start carrying a little bit heavier load. And so I proceeded to work out a reasonable set of guidelines. I remembered back to the USUHS Emergency Medicine course and the kind of algorithms and the discussions that we had about running a combat zone hospital. I remembered the USUHS course director's warning when he said, "you're going to find out that you just can't administratively handle everything that walks in the door, and what you better do is learn how to delegate those things and teach your people what you want them to do." The USUHS curriculum has a tremendous practical underpinning on which contingency operations can be based. So I sat down and looked through some of those algorithms or guidelines and planned out some training programs for the corpsmen, and I implemented them. It was fun to see the interest of the corpsmen go from dull to mediocre to pretty excited about what they were doing. I like seeing a corpsman who was a mediocre, fair, passable, sick-call-corpsman turn into somebody who could really tell me what was going on when he got a patient. When he got a patient with a complaint, and I asked him what was going on, he could tell me in words that he understood and that I also understood so that I could use my time more efficiently than I would have been able to otherwise.

After looking over the whole military medical school experience at USUHS, and combining that with the experience I had as a general medical officer, I feel that the two tied together quite neatly in terms of preventive medicine, military history, and how the medical officer interfaces with the line officer. Under the demands of my Beirut experience, it was those USUHS experiences that I found I could look back on and say they really helped me. They made a difference in the way I was able to interact with line officers. I found myself thinking, "gee, it was really good the USUHS faculty and administrators thought about telling me that information because it made me look a heck of a lot better than I would have looked otherwise." You find out there's really no opportunity to learn at the "front"—you have to apply what you've already been taught. And the whole experience in Beirut and the earlier NATO exercise really turned out to be exactly what I thought it was going to be in the first place—a neat rolled up final exam for a USUHS graduate. I got to meet a lot of nice people, and I got to come up here and talk to you at USUHS. I feel like I've done something that maybe everybody would like to do as a military physician. I'll say something very honest: it's neat as a young military physician to see some of the places in the world, and to get involved with some of the things that are happening in the news. I'm thankful I was trained here at USUHS to meet that challenge.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. Clarke) is recognized for 5 minutes.

● Mr. CLARKE. Mr. Speaker, on April 27, 1983, I was necessarily absent for the first three recorded votes. I would like to make clear my position on those measures considered by the House.

On ordering the previous question to House Resolution 158, rollcall No. 64, I would have voted "yea."

On the motion to approve House Resolution 158, rollcall No. 65, I would have voted "yea."

On tabling the motion to reconsider House Resolution 158, rollcall No. 66, I would have voted "yea."

Mr. Speaker, I appreciate having this opportunity to make my position known for the Record.●

ANOTHER VIEW OF NICARAGUA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. Livingston) is recognized for 30 minutes.

Mr. LIVINGSTON. Mr. Speaker, I was not going to speak this evening until I overheard the comments of the gentleman from New York (Mr. Weiss) and the gentleman from New Jersey (Mr. Torricelli) about their experience while they were very briefly in the country of Nicaragua in the last couple of weeks. It struck me that it was important that I should bring to the attention of this body and for the completion of the record an incident which occurred in my office within the last couple weeks, at which time an individual, a constituent of mine, an expatriated Nicaraguan citizen by the name of Dr. Donald J. Gordillo came to my office and pled with me to speak with other expatriated Nicaraguan citizens to get their side of what was going on in Nicaragua today. I did so.

I spoke with all three of the gentlemen recommended to me by Dr. Gordillo. I think that it is important that their comments, or a summary of their comments, be included in the Record tonight as an attempt to contrast their feelings with those of my colleagues who preceded me.

Each of the gentlemen with whom I spoke, including Dr. Gordillo, were native Nicaraguans until the Sandinista movement took over Nicaragua. Some lasted longer in Nicaragua than others.

What I have here is a series of comments recorded by me in a telephone conversation through notes, not electronic recordation, on which I would like to comment at this time.

Mr. Enrico Pereira spoke with me only about 4 or 5 days ago. He is a private businessman. He has never been involved in politics. When Somoza was in power, he was never alined with Somoza, although he lived all his life in Nicaragua. He considered himself to be a totally independent businessman. He did want to change the conditions under Somoza. He was not happy with the dictatorship of that gentleman. He was never a Somoza follower, but he did, indeed, become very prosperous under that regime. He had a company in Nicaragua which was virtually nationalized by the Sandinistas when they took over. Even though his name remained on the company's doors, he had no control of the operation of the company and he had no share in the profits of that company.

Mr. Pereira claims that the Somoza government was imperfect, but it was far less imperfect than the present regime.

He said that the Somoza government was modeled, at least, after a democratic state. It was imperfect and it was corrupt. He felt that Somoza himself was corrupt, but he believed that Somoza had a respect for most individuals in his country. He said he never received anything from Somoza, nor did he ever give anything to Somoza. He claims that the situation today in Nicaragua is that that country is being occupied in essence by the Soviet Government, who are calling all the shots. He says that the Sandinistas, financed and operated by Cubans and Soviets, exploit misery of the people of Nicaragua.

He says they came to office because of political instability as a result of the dissatisfaction with the Somoza government. The Sandinistas exploited their dissatisfaction; but offered only oppression for the people which oppression only enhances the political instability that previously existed.

He says that it is a grave mistake to leave the Sandinistas alone. He claims that they are agents of Russia.

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He goes on to say that the liberals blame the problems of Nicaragua on misery and inequality. But there has never been more inequality, according to Mr. Pereira, than today. He says a man by the name of Thomas Borje, a Sandinista leader, owns 10 Mercedez and 10 houses. He is the real power and the new Somoza. He has replaced Somoza in the position of dictator.

Businesses are still in Nicaragua, but they are becoming more and more dependent upon the Sandinistas. The private sector is still better than the government, but it is increasingly a farce.

Any money that goes from this country to assist private industry, according to Mr. Pereira, is really helping the Sandinistas simply solidify their power and pay for the inequities in their balance of payments.

An organization by the name of the FDN was formed by some independent people who want to rebuild that country. They do not want Somoza back.

The gentleman, Mr. Pereira, claims that they want a democratic country with freedom of the press, freedom of human rights, and true liberty for the people of that country, and he claims that those liberties do not exist today under the Sandinista government. He points out that the Sandinistas as have not yet called for an election to justify its presence and does not intend to.

He claims that the FDN would like to make Nicaragua an independent, free enterprise democracy and says this cannot be done with the Sandinistas in power.

He says that the insurgents in Nicaragua who are there today will be successful if they are not tied with the rope by the U.S. Congress. He says they have friends and freedom-loving countries in the North, Central, and South America.

In a second conversation I spoke with Dr. Edward de Montealegne who apparently is the president of a private initiative in exile in Nicaragua. He was the founder of a large bank in that country prior to the takeover by the Sandinistas. He, like the others, has expressed a desire to come to Capitol Hill and testify about his knowledge of Nicaragua. He was the president of the largest Central American bank in Nicaragua. He says when Somoza was faced with problems and dissatisfactions from the people who claims that they wanted Somoza to leave. Apparently he was closer to Somoza than was Dr. Pereira. But he wanted Somoza to leave without problems and instability for the government, but unfortunately he did not have his way.

Dr. Montealegne says he is in touch with the business people currently in Nicaragua. He says he feels that it was a mistake to overthrow Somoza. The Sandinistas are Communists, not Somoza supporters.

Many of the current guerrillas were independent national guardsmen under Somoza. They recognized that Somoza was on his way out and he says that the Somoza army was not defeated, they were simply demoralized. Many of them went to Honduras without weapons, planes, or helicopters, and the army was not destroyed, it was simply shattered and quit.

He claims that the population in Nicaragua is not in favor of the Sandinistas. That they did hope for a great deal, but that their hopes were dashed and they have now become disillusioned. He says everything in economics has failed, particularly production. He claims the educational system is sheerly a propaganda device put up by the Sandinistas.

He claims that the leaders of the Sandinistas are not truthful and that there are grave social problems, repression and lack of liberty in Nicaragua.

He says that the guerrillas have a shot in the long term. They are good people, that they represent public opinion in Nicaragua; that the people are indeed against the Sandinistas and that if given the opportunity they will win. But he says that without U.S. help it would be very difficult for them to continue the fight.

A third conversation with Dr. Alex Bolanos reflects that he left Nicaragua in 1978 but that he is in constant contact with relatives in that country. He keeps documents and videotapes of the events that happen in Nicaragua. He keeps newspaper accounts and slides.

Dr. Bolanos is an historian and an expert on United States-Nicaraguan history and relationships. He does not know about the fighting or the current situation there, but he claims that he is not a Somoza follower and that he is not and was not active in politics, although he says that today he would sympathize with Somoza and not the Sandinistas.

He claims there is tremendous Communist involvement in Nicaragua which started in Cuba. He recognizes that while various nuns took part in the revolution on the side of the Sandinistas, now he says the Catholic Church, as represented by the Catholic bishops, are united against the Sandinista guerrillas. He said that Somoza was denied all help from outside and that is why he collapsed, but that the Sandinistas have been adequately supported by the Communists from Cuba and Russia.

He claims that the Sandinistas are totally Marxist in economic thought, political thought, military thought, and even religion. He says that the internal security and the army and the police are all Marxist, that the State Department, the Vice President, and the Secretary positions are all Marxist.

He points out that there are no elections, have been none, and apparently will be none, and that all nominations for officeholders in the future are controlled by Marxists.

He says that the American people should be convinced that at this time the Communist government in Nicaragua is simply not our friend and will not be.

He says the Sandinistas are not supported by the Nicaraguan people but that they control everything and that the people cannot do anything about it.

He says the guerrillas have no hope to get to the urban centers, and that the Sandinistas have more than 100,000 men in arms and that the insurgents cannot prevail without outside help.

He points out that the Libyan plane that landed in Manaus, Brazil, a couple of weeks ago with supplies marked "medical supplies" which actually turned out to be armaments, was not the first shipment of that kind, and that other such shipments have been discovered, but they simply have not made it in the media.

He says that this was not the first time that similar arms have been shipped as medicine, that it has been going on for a long time. Again he points out that the insurgents in Nicaragua will have no chance without support from external countries.

I thought that it was important simply to relay those conversations. I am not taking advantage of any confidences. All of the men that I have mentioned have pleaded with me to arrange it, if at all possible, for them to come to Capitol Hill and for them to testify about their knowledge about what goes on in Nicaragua.

While I have never been to that country, and the gentlemen that spoke and preceded me have, my knowledge of these events must really be strictly confined to my conversations with the gentlemen and I have related.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. At this time I will be delighted to yield.

Mr. BEDELL. First of all I would like to commend the gentleman very much. I appreciate the attention and the interest he has shown in this issue and certainly the only way we get answers is by such interest in those issues.

The gentleman indicated that some of the people with whom he talked thought indeed the insurgents had a good chance of being successful. Is that correct?

Mr. LIVINGSTON. I think the general tenor of their comments was to the effect that they could be successful if given outside help, that it was not likely that they would be successful on their own, but that the sympathies of the Nicaraguan people, according to them, were on the side of the insurgents, not the Sandinistas.

Mr. BEDELL. And successful in what regard; did they indicate that, how they thought they would be successful?

Mr. LIVINGSTON. Only in accomplishing whatever goals happened to be in the heads of those who happened to be fighting in Nicaragua.

Mr. BEDELL. And what were those goals?

Mr. LIVINGSTON. They did not state them.

Mr. BEDELL. What does the gentleman think those goals were?

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Mr. LIVINGSTON. I really could not say. I have not spoken with any of the guerrillas.

Mr. BEDELL. So that the people came and talked with him and told him that they thought that they would be successful, if we continued to give them arms, but the indication by the gentleman that it was not for overthrowing the Government or taking over the Government; I take it he thought they had some other purpose in their fighting other than that.

Mr. LIVINGSTON. Actually they confined their comments to whether or not the insurgents had the support of the Nicaraguan people. That was basically the aim of my own questions, to try to ascertain whether or not that was true.

At no time, frankly, in my conversations with any of these gentlemen did they express that they had intimate knowledge of the objectives of the guerrillas, or of their methods of financing or equipping.

Mr. BEDELL. Does the gentleman feel that they indicated they needed external support in order to be successful, if I understand the gentleman?

Mr. LIVINGSTON. They certainly indicated that.

Mr. BEDELL. Does the gentleman believe that we probably should give them that external support without knowing what their objectives may be?

Mr. LIVINGSTON. I do not think that my purpose is coming here today is really to make a comment one way or the other as to whether or not we should support those people. I know that the gentleman is aware of the Boland amendment which restricts in some way the United States from participating in Nicaragua. The exact legal interpretation of the Boland amendment has yet to be determined. I am sure that that has been determined by some circles in this country.

But from what the comments of Dr. Enrique Pereira amounted to, he indicated that the insurgents in Nicaragua have friends in freedom-loving countries in North, Central, and South America. Now that is a direct quote from him.

So, I would assume that that would indicate that any support they are getting is coming from friends of theirs, either here or in other parts of the Americas and not necessarily from our Government.

Mr. BEDELL. But if the gentleman will yield, I assume the gentleman would agree, if we were to give financial support for their efforts, it would be proper to know what those efforts are directed toward accomplishing, I assume the gentleman would agree would he not?

Mr. LIVINGSTON. I think that is a fair statement.

Mr. BEDELL. I want to thank the gentleman for his interest in this issue. I think it would be only fair to say I speak for Mr. TORRICELLI and myself in saying we do not agree with all of the things we see happening in Nicaragua or with everything the Sandinista government is doing. I think it is at least this person's opinion that our policy should be directed at looking at what would seem to be at least to some extent in our best national interest and I suppose the gentleman agrees with that?

Mr. LIVINGSTON. Certainly, I absolutely agree.

I think the gentleman's comments are well taken. I appreciate his genuine concern for what goes on in the South. I also know that the gentleman's concern led him to go down there and personally witness events in Nicaragua, a trip that I have not taken. I would hope to do that sometime soon. But I commend him for his interest and for his efforts.

But, of course, there are various perspectives, and I simply meant to complete the record with the perspective of the people who had lived in Nicaragua most of their lives and were not there now. Obviously good men are going to differ on the conclusions that they draw from conversations, wherever those conversations might take place or with whom they might take place.

I think though for the completion of the record it is important to note that this House is very, very concerned about what is happening in terms of human rights in El Salvador. I think that is a genuinely well motivated concern.

But I would suggest, for the record, that that concern should also apply to Nicaragua. And having personally witnessed the elections that took place in March 1982 in El Salvador, and watching the emotional outpouring of support of some 80 percent of the electorate when they trooped to the polls to cast their ballots in their attempt to determine their own destinies, I just have to ask why such elections have not taken place in Nicaragua. I urge anyone who is concerned about El Salvador to also express such concern about Nicaragua. After all, if we are going to resolve the human rights issue in both countries and uplift the standard of living and remove the various people of El Salvador and Nicaragua from the yoke of oppression and tyranny, why then it is important that we pay equal attention to the oppression in both countries. And again, my comments are made because I thought the record should be complete. I appreciate the gentleman's comments. I yield back the balance of my time.

SOUTHFIELD, MICH., CELEBRATES ITS 25TH ANNIVERSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. LEVIN) is recognized for 5 minutes.

● Mr. LEVIN of Michigan. Mr. Speaker, I rise to call attention and pay tribute to the citizens of the city in which I reside, for they will be celebrating their 25th anniversary April 28.

This city is Southfield, Mich.

I am proud of Southfield for many reasons: For its attractive neighborhoods and its modern corporate complexes, for its outstanding public education system and for its exemplary government services. The list is endless.

However, the one characteristic that transcends all others and with which I take the most pride is—the spirit of cooperation that exists amongst the people who live and work in this great city.

While too many of this country's cities are locked into confrontation, Southfield has had enormous success in developing working partnerships. These partnerships are between the leaders of business and labor, and government and education, who work together striving for an ideal community.

It was in this spirit of cooperation that the formation of the Southfield 2001 Committee took place. This city-sponsored group of over 200 community leaders has investigated Southfield's long range goals and needs in areas such as: Economic development, transportation, energy, and environment, communications, and much more.

It is no wonder that, in 1979, Southfield was 1 of 11 of the Nation's cities to be designated an "All American City."

Southfield has taken the lead toward progress; let us hope that it serves as a useful example for others in the Nation to follow.●

CONGRESSIONAL BUDGET PROCESS

(Mr. DINGELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DINGELL. Mr. Speaker, yesterday my good friends and colleagues, Congressman PERKINS, ST GERMAIN, FORD, and HOWARD and I are introducing legislation which we believe will address widely recognized problems in the congressional budget process, while strengthening and enhancing it.

All of us have been participants in that process over the decade since its original enactment, and all of us are firm believers in it. The goal of our bill is simply to rationalize the process, and to enable the Congress to adopt budget resolutions, authorization bills and appropriations bills in a smoother and more timely fashion.

Perhaps the most important change is moving up the date for adoption of the first budget resolution, in order to provide more time for orderly adoption of authorization and appropriations bills. All Members of this House are well aware of the difficulties we have had in recent years in completing the appropriations process, thus necessitating the adoption of continuing resolutions, usually on a crisis basis.

The proposed changes fall into several broad categories:

1. TIMETABLE

The budget process is compressed into the beginning and the end of each session, leaving the middle open for action on authorization and appropriations bills.

2. TREATMENT OF "ANNUAL" VERSUS "PERMANENT" SPENDING

Over the past several years, changes in permanent spending and entitlement programs have been enacted through reconciliation, a procedure intended primarily to control annual appropriations. Reconciliation has forced major programmatic changes over very short periods, creating confusion for Federal, State, and local administrators and for individuals affected by the programs. The proposed budget process attempts to address this problem by establishing two budget cycles: an annual cycle for programs traditionally receiving annual appropriations; a biennial cycle for adjustments to entitlements, other permanent direct spending, and revenues.

3. RECONCILIATION

The proposed budget process provides a more realistic reconciliation process than currently exists. It is reached using two new procedures: First, an automatic continuing appropriation effective October 1; bills which are not agreed to by August 7;

and second, deferred enrollment of all spending and revenue bills. The automatic continuing appropriation would be at current funding levels. This would establish proposed total congressional spending so that reconciliation to adjust that spending would be possible. The deferred enrollment provision would make all spending and revenue bills available for reconsideration during reconciliation.

4. CONTINUED FUNDING OF THE FEDERAL GOVERNMENT

Over the past several years we have witnessed a crisis atmosphere in Federal agencies as the new fiscal year approached. Uncounted hours of work has been lost as employees prepared to "shut down" the Federal Government. To interject reality into the functioning of Federal agencies each fall, the proposed budget process provides automatic funding to allow the Federal Government to continue to operate while the President and the Congress work out differences which may exist.

5. MEMBERSHIP OF THE BUDGET COMMITTEE

To insure that standing committees of the House are adequately represented in this process, the method for selecting members of the Budget Committee would be changed. Membership from the majority party would consist of five appointments by the Speaker, the majority leader, and two members each from the Ways and Means and Appropriations Committees. In addition, there would be one member appointed from each of the standing committees as designated by the committee chairman. The minority party would be allotted the number of seats necessary to reflect the House ratio.

A section-by-section analysis follows:

SECTION-BY-SECTION ANALYSIS

INTRODUCTION

The bill contains four titles. Title I amends title III of the Congressional Budget Act of 1974. Title II contains technical and substantive amendments to the Congressional Budget and Impoundment Control Act of 1974. Title III contains technical and substantive amendments to the Rules of the House of Representatives. Title IV contains a sense of the Congress provision and an effective date for the amendments made by the bill.

TITLE I—CONGRESSIONAL BUDGET PROCESS

Section 101 of the bill strikes all of title III of the Congressional Budget Act of 1974 (hereinafter referred to as the "Budget Act") and inserts in lieu thereof a new title III which sets forth the congressional budget process.

TIMETABLE

The new section 300 sets forth the timetable for the congressional budget process. The process commences on the first Monday after January 1, the date by which the President is to submit his annual budget, and concludes on October 1 of such year, the date upon which the new fiscal year commences.

ADOPTION OF CONCURRENT RESOLUTION

Section 301 relates to the adoption of the annual concurrent resolution on the budget.

Subsection (a) of section 301 requires that Congress complete action on the concurrent resolution on the budget for a fiscal year by April 15 of the calendar year during which the fiscal year commences. It further requires that the concurrent resolution set forth in its first title the following:

(1) the appropriate level of total budget outlays and total new budget authority;

(2) the amount of surplus or deficit in the budget;

(3) the level of Federal revenues;

(4) the level of the public debt; and

(5) if required, the calendar year in which the goals for reducing unemployment set forth in the Employment Act of 1946 should be achieved.

This subsection further provides that the concurrent resolution on the budget may contain a second title the contents of which will vary depending upon the session of Congress in which the concurrent resolution is considered. During the first session of any Congress, the second title may contain recommended adjustments to spending authority, permanent budget authority (other than the automatic continuing appropriation described in section 309), and revenues for the fiscal year beginning on October 1 of the next calendar year. During the second session of any Congress, the second title may reaffirm or revise the recommended adjustments set forth in the second title, if any, of the concurrent resolution adopted in the first session of the same Congress. Upon adoption, these recommended adjustments become binding directives to the committees of legislative jurisdiction. Congress is required to complete action on such directives by August 7. Enrollment of any legislation carrying out these directives is to be deferred pursuant to subsection (b). If a committee fails to meet its directive, the Committee on the Budget may request that amendments be made in order to achieve the amount of savings or revenues required by the directive.

The concurrent resolution on the budget may contain a third title which revises the level of total outlays and total new budget authority, the amount of the surplus or deficit, the level of Federal revenues, and the level of the public debt for the current fiscal year.

Subsection (b) of section 301 provides that no bill or resolution providing new budget authority or new spending authority or increasing or decreasing revenues for the fiscal year beginning October 1 shall be enrolled until Congress completes action on the reconciliation resolution, if any, or October 1, whichever occurs first.

Subsection (c) of section 301 contains three major requirements. First, by February 15 of each year, all standing committees and joint committees are required to submit to the Budget Committees their views and estimates with regard to all matters set forth in subsection (a) which relate to their jurisdiction. Second, the Joint Economic Committee is required to submit to both Budget Committees a report which contains its recommendations with respect to the fiscal policy appropriate to the goals of the Employment Act of 1946. Third, by March 1 of each year, the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate are required to report to their respective Budget Committees their views on the most recent report of the Board of Governors of the Federal Reserve System under section 2A of the Federal Reserve Act. These reports may also include matters relating to monetary policy which the committees recommend be included in the concurrent resolution on the budget for the fiscal year. The subsection further requires that the concurrent resolution, as reported, contain (without substantive change) these matters relating to monetary policy.

Subsection (d) of section 301 contains requirements with respect to hearings, consultations, and the report of the Committees on the Budget on the concurrent resolution.

Each Budget Committee is required to hold hearings and receive testimony from Members of Congress and others with respect to the concurrent resolution on the budget for each fiscal year. Not later than March 1 of each year, each Budget Committee must prepare and submit to the standing committees of its House all options under consideration with respect to the appropriate level of total budget outlays and total new budget authority, the amount of surplus or deficit, the level of Federal revenues, the level of the public debt, and the economic, technical, and program assumptions upon which such options are predicated. By March 7 of each year, the Budget Committee of each House is required to consult with the standing committees of its House with respect to the items set forth in the preceding sentence and the spending allocation levels for each such committee to be included in the report accompanying the concurrent resolution. This subsection further requires that each Budget Committee report the concurrent resolution on the budget to its House by March 15.

The report must contain the following items:

(1) A comparison of revenues estimated by the committee with those estimated in the President's budget.

(2) A comparison of total budget outlays and total new budget authority as set forth in the concurrent resolution with those set forth in the President's budget.

(3) The economic assumptions and objectives which underlie each matter set forth in the concurrent resolution and any alternative economic assumptions and objectives which the committee considered.

(4) Projections of the estimated level of total budget outlays, total new budget outlays, total new budget authority, revenues, surplus or deficit, and tax expenditures for a period of five fiscal years beginning with such fiscal year.

(5) A statement of significant changes in proposed levels of assistance to State and local governments.

(6) A discussion of the bases upon which the committee determined each of the matters set forth in the concurrent resolution.

(7) An estimated allocation of total budget outlays and new budget authority among each committee of its House.

(8) An explanation of differences between the Budget Committee's recommendations and the views and estimates of the standing committees of its House.

(9) A discussion and assessment of national budget priorities.

Subsection (e) of section 301 describes the manner in which the concurrent resolution on the budget may set forth goals for reducing unemployment pursuant to the Employment Act of 1946.

JOINT STATEMENT OF MANAGERS

Section 302 requires, for scorekeeping purposes only, that spending allocations be included in the joint statement of managers which accompanies the conference report on each concurrent resolution on the budget. Each such allocation shall be determined after consultation with the appropriate committees of legislative jurisdiction and shall be predicated upon the appropriate levels of total budget outlays and total new budget authority contained in the most recently agreed to concurrent resolution.

CONSIDERATION OF SPENDING, REVENUE, OR PUBLIC DEBT LEGISLATION

Subsection (a) of Section 303 of the bill establishes a point of order in the House or Senate against consideration of any bill or resolution (including amendments) which provides new budget authority, an increase or decrease in revenues or in the public debt, or new entitlement authority during a fiscal year until the concurrent resolution on the budget for such year has been agreed to or April 15 of the calendar year during which the fiscal year commences, whichever occurs first.

Subsection (b) of section 303 exempts from the point of order any bill or resolution which (1) provides new budget authority or which (2) increases or decreases revenues for the second (or a subsequent) fiscal year following the fiscal year in which the bill or resolution is to be considered. This subsection also exempts bills or resolutions which, as reported, would not be in violation of subsection (a).

Subsection (c) of section 303 provides for a waiver of such point of order in the Senate.

COMPLETION OF ACTION ON BILLS PROVIDING AUTHORIZATIONS, NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, AND REVENUES

Section 304 expresses the sense of Congress that by August 7 of each year Congress should complete action on all bills and resolutions providing new budget authority (other than supplemental, deficiency, and continuing appropriations and the reconciliation resolution), providing new spending authority, authorizing the enactment of new budget authority, or providing an increase or decrease in revenues for the fiscal year beginning on October 1 of such year.

CONSIDERATION OF CONCURRENT RESOLUTION ON THE BUDGET AND RECONCILIATION RESOLUTION

Subsection (a) of section 305 provides that consideration in the House of Representatives of any reconciliation resolution or concurrent resolution on the budget (including amendments and conference reports) shall be governed by the Rules of the House applicable to other resolutions, amendments, and conference reports.

Subsections (b) and (c) of section 305 set forth the procedure for floor consideration of concurrent resolutions on the budget (including conference reports) in the Senate.

Subsection (d) of section 305 requires that, if the conferees on a concurrent resolution on the budget are unable to reach agreement with respect to all matters in disagreement between the two Houses at the end of 7 days (excluding Saturdays, Sundays, and legal holidays) after the conferees have been appointed, then the conferees shall submit to their respective Houses a conference report recommending those matters on which they have agreed and reporting in disagreement those matters on which they have not agreed or a conference report in disagreement.

Subsection (e) of section 305 establishes a point of order in the Senate against voting on the question of agreeing to a concurrent resolution on the budget or a conference report on a concurrent resolution unless the figures contained therein are mathematically consistent.

LEGISLATION DEALING WITH CONGRESSIONAL BUDGET MUST BE HANDLED BY BUDGET COMMITTEES

Section 306 states that any bill or resolution or amendment thereto dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House may only be considered in that House if it is a bill or resolution which has been reported by the Committee on the Budget of that House or an amendment to such a bill or resolution.

REPORTS ON PROPOSED CONGRESSIONAL SPENDING AND REVENUES

Section 307 requires that, not later than August 15 of each year, the Committee on the Budget of each House submit a report to its House which compares proposed congressional spending and revenue actions with the level of total budget outlays and total new budget authority set forth in the concurrent resolution on the budget for the fiscal year beginning on October 1 of such year and any revised levels predicated upon changed technical and economic assumptions. It further requires that revised levels and assumptions be determined only after consultation with the other standing committees of its House.

REPORTS, SUMMARIES, AND PROJECTIONS OF CONGRESSIONAL BUDGET ACTIONS

Subsection (a) of section 308 provides that whenever a committee of either House reports a bill or resolution providing new budget authority (other than continuing appropriations) or new or increased tax expenditures for a fiscal year, the report accompanying the bill or resolution must contain a statement, prepared after consultation with the Director of CBO, detailing the following: In the case of a bill or resolution providing new budget authority, a comparison of such new budget authority with the new budget authority set forth in the most recently agreed to concurrent resolution on the budget for the fiscal year, a 5-year projection of budget outlays, and the new budget authority and outlays provided by the bill or resolution for financial assistance to State and local governments. In the case of a bill or resolution providing new or increased tax expenditures, how such tax expenditures will affect the levels of tax expenditures under existing law as set forth in the report accompanying the concurrent resolution on the budget for the fiscal year and a 5-year projection.

Subsection (b) of section 308 requires the Director of CBO to issue periodic reports detailing the progress of congressional action on bills and resolutions providing new budget authority and changing revenues and the public debt limit for a fiscal year. The subsection sets forth, in detail, items to be included in these reports.

Subsection (c) of section 308 requires the Director of CBO, as soon as practicable after the beginning of each fiscal year, to issue a 5-year projection of total new budget authority and outlays, revenues, and tax expenditures for each fiscal year during the 5 years.

Subsection (d) of section 308 requires the Director of CBO to issue an economic forecast report on February 1 of each year which shall include a projection of estimated levels of total budget authority, outlays, revenues, the surplus or deficit in the budget, rates of unemployment and interest, and a comparison of the economic factors and program assumptions included in the budget submitted by the President. This is to be done after consultation with the Board of Governors of the Federal Reserve System.

Subsection (e) of section 308 requires that the Director of CBO issue scorekeeping reports to the Committees of the House and Senate on the 1st and 15th days of each month. These reports must tabulate how proposed congressional action on bills and resolutions providing new budget authority, new spending authority, and an increase or decrease in revenues compares to the estimated allocation of such amounts among the appropriate committees of the House and Senate as set forth in the conference report on the most recently agreed to concurrent resolution on the budget for the fiscal year.

AUTOMATIC CONTINUING APPROPRIATION

Subsection (a) of section 309 provides, subject to certain exceptions, that for any fiscal year such sums are appropriated as may be necessary for any program, project, or activity to continue for the fiscal year if by October 1 of such year no sums have been appropriated for such program, project, or activity or if by August 7 of such year the House and Senate have not agreed to any measure which would appropriate sums for such program, project, or activity. Except for entitlements, funding for any such program, project, or activity shall be continued at the rate provided during the previous year.

Subsection (b) of section 309 sets forth two exceptions to the general rule contained in subsection (a). Sums are not appropriated under the automatic continuing appropriation with respect to any program, project, or activity if a regular or supplemental appropriation for the fiscal year is enacted into law which covers the program, project, or activity, or if the appropriation measure for the fiscal year which contains the program, project, or activity is enacted into law without providing funds for such program, project, or activity.

RECONCILIATION RESOLUTION

Subsection (a) of section 310 directs the Committee on the Budget of each House to determine by September 7 of each year whether bills, resolutions, amendments, and conference reports providing new budget authority or new spending authority, or reducing revenues for the fiscal year beginning on October 1 of such year would violate the levels of budget authority, outlays, or revenues set forth in the most recently agreed to concurrent resolution for the fiscal year.

Subsection (b) of section 310 provides that, in certain instances, the annual concurrent resolution on the budget becomes an automatic binding resolution on October 1. If the Committees on the Budget determine that proposed congressional spending and revenue legislation would not violate levels set forth in the most recently agreed to concurrent resolution on the budget for the fiscal year, then, for purposes of section 311(a), the levels set forth in the concurrent resolution become binding upon the Congress. These levels may be modified by either House if the Committee on the Budget of that House certifies in writing, after consultation with the committees of its House, that revised levels of total budget outlays, budget authority, or revenues are necessary to reflect changed technical and economic assumptions.

Subsection (c) of section 310 provides, that if the Committees on the Budget determine that proposed congressional spending and revenues would violate levels set forth in the most recently agreed to concurrent resolution on the budget for the fiscal year, then each Budget Committee may report to its House a reconciliation resolution. The reconciliation resolution could revise the concurrent resolution for the fiscal year or direct the Secretary of the Senate or Clerk of the House, or both, to make changes in particular bills or resolutions, or do both.

Subsection (d) of section 310 sets forth additional related matters with respect to the reconciliation resolution. First, it provides that the Committee on the Budget may not report any reconciliation resolution until it has consulted with each standing committee of its House with legislative jurisdiction over any measure with respect to which a change is directed to be made by the reconciliation resolution. Second, it provides that a reconciliation resolution shall contain, without substantive change, the matters relating to monetary policy set forth in the report of the Banking Committee of its House, which report has been transmitted to the Budget Committee by August 15. Third, the subsection gives the Banking Committee of each House authority to make the report referred to in the preceding sentence. Fourth, the subsection provides that no reconciliation resolution shall include directives to make changes in authorization levels or programs or directives to change spending levels for fiscal years which begin after the ensuing fiscal year.

Subsection (e) of section 310 provides for sequential referral, upon request, to any committee of the House or Senate of any reconciliation resolution which directs the Clerk of the House or Secretary of the Senate, as the case may be, to change any bill or resolution over which that committee has legislative jurisdiction. The referral shall be made to any such committee with instructions to report it within 3 legislative days beginning with the day after the day on which it is referred. If any such committee fails to report the resolution within the 3-day period, it shall automatically be discharged from further consideration thereof.

Subsection (f) of section 310 states that Congress shall complete action on the reconciliation resolution, if any, not later than September 25 of each calendar year.

Subsection (g) of section 310 contains procedures for consideration of reconciliation resolutions in the Senate.

Subsection (h) of section 310 establishes a point of order in either House against consideration of a resolution providing for adjournment sine die unless action has been completed on the reconciliation resolution, if any, for the fiscal year.

LEGISLATION MUST CONFORM TO THE CONCURRENT RESOLUTION ON THE BUDGET

Subsection (a) of section 311 establishes a point of order in either House which operates on or after October 1 of each calendar year against consideration of any bill, resolution, amendment, or conference report providing additional new budget authority, new spending authority, or reducing revenues for the fiscal year if enactment of such legislation would violate spending and revenue levels set forth in the most recently agreed to concurrent resolution on the budget for the fiscal year.

Subsection (b) of section 311 provides that the determination of outlays shall be based on estimates made jointly by the Committee on the Budget and the Committee on Appropriations and the determination of revenues on estimates made jointly by the Committee on Ways and Means and the Committee on the Budget in the case of the House of Representatives or by the Committee on the Budget in the case of the Senate.

TITLE II—MISCELLANEOUS AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

This title of the bill contains a series of technical and substantive amendments to the Congressional Budget and Impoundment Control Act of 1974 (hereinafter referred to as the "Budget Act").

DEFINITION

Section 201 of the bill redefines the term "concurrent resolution on the budget" by amending paragraph (4) of section 3 of the Budget Act to reflect the deletion of the requirement for a mandatory second concurrent resolution on the budget for each fiscal year.

CONGRESSIONAL BUDGET OFFICE

Section 202 of the bill amends section 201(a)(2) of the Budget Act to require that the Director of CBO be appointed after consideration is given to recommendations from any committees of the House or Senate that wish to offer such recommendations.

LEGISLATION PROVIDING ENTITLEMENT AUTHORITY

Subsection (a) of section 203 of the bill amends section 401(a) of the Budget Act to provide that the point of order contained in such section against consideration of legislation which provides contract or borrowing authority shall be against a bill or resolution as reported, and not as introduced (which has heretofore been the case).

Subsection (b) of section 203 amends section 401(b) of the Budget Act to eliminate the sequential referral to the Committee on Appropriations whenever any bill or resolution provides new entitlement authority which exceeds the appropriate allocation of new budget authority among committees in connection with the most recently agreed to concurrent resolution on the budget for the fiscal year.

STUDY OF SPENDING AUTHORITY AND PERMANENT APPROPRIATIONS

Section 204 of the bill amends section 402 of the Budget Act to eliminate the May 15 required reporting date for bills and resolutions which authorize the enactment of new budget authority for a fiscal year. The section inserts in lieu thereof a requirement that the Committees on Appropriations of the House of Representatives and Senate conduct a study of laws which provide spending authority or permanent budget authority. Each such Committee is required to report to its House before the close of the 99th Congress on its findings, conclusion, and recommendations, including recommendations for terminating or modifying such laws.

STUDY OF OFF-BUDGET AGENCIES

Section 205 of the bill amends section 606 of the Budget Act to require that the Committee on Rules of the House of Representatives in lieu of the Committee on the Budget of that House conduct an ongoing study of off-budget agencies.

CONTINUING STUDY OF ADDITIONAL BUDGET REFORM PROPOSALS

Subsection (a) of section 206 of the bill amends section 703(a) of the Budget Act to require that the Committee on Rules of the House of Representatives in lieu of the Committee on the Budget of that House conduct an ongoing study of specified budget reform proposals. In addition, the subsection amends that section of the Budget Act to require the following items to be studied on an ongoing basis: multiyear budgeting, credit budgeting, capital budgeting, and the treatment of off-budget items, tax expenditures, and loans and loan guarantees.

Subsection (b) of section 206 further amends section 703 of the Budget Act to instruct the Committee on Rules of the House of Representatives to study, on a continuing basis, the operation of the congressional budget process and recommend to the House improvements in the process.

CHANGES IN FUNCTIONAL CATEGORIES

Section 207 of the bill amends section 802 of the Budget Act to provide that changes in functional categories set forth in the Budget of the United States Government may only occur after consultation with the Budget Committees and the standing committees of the House of Representatives and Senate which have authorizing or spending jurisdiction over programs contained in functional categories with respect to which changes are being proposed.

DEFERRAL OF BUDGET AUTHORITY

Section 208 contains sense of the Congress language that a withholding or delaying of the obligation or expenditure of budget authority provided for projects or activities for more than 90 calendar days is deemed to be a rescission of budget authority for purposes of title X of the Budget Act.

TABLE OF CONTENTS

Section 209 of the bill amends the table of contents set forth in section 1(b) of the Budget Act to reflect the changes made to title III of such Act by title I of this bill.

TITLE III—AMENDMENTS TO THE RULES OF THE HOUSE OF REPRESENTATIVES

JURISDICTION OF COMMITTEE ON APPROPRIATIONS

Subsections (a) and (b) of section 301 of the bill are conforming amendments to rule X of the Rules of the House of Representatives which repeal the jurisdiction of the Committee on Appropriations over bills or resolutions which provide new spending authority which exceeds the appropriate allocations of new budget authority in connection with the most recently agreed to concurrent resolution on the budget for the fiscal year.

MEMBERSHIP OF COMMITTEE ON THE BUDGET

Section 302 of the bill amends paragraph (e)(1) of clause 1 of rule X of the Rules of the House of Representatives to change the membership of the Committee on the Budget. As so amended, it will consist of majority party members as follows:

(1) Five Members designated by the Speaker.

(2) Two Members from the Committee on Appropriations, two Members from the Committee on Ways and Means, and one Member from each other standing committee (except the Committee on Standards of Official Conduct), each to be designated by the Chairman of the standing committee from which the Member is appointed.

(3) One Member from the leadership of the majority party.

Minority members will include one Member from the leadership of the minority party and additional Members as necessary to reflect the ratio of the House.

FURTHER TECHNICAL AND CONFORMING AMENDMENTS

Section 303 of the bill contains technical and conforming amendments to the Rules of the House of Representatives.

UNIFORM RULES OF BUDGET SCOREKEEPING

Section 304 of the bill amends clause 4 of rule X of the Rules of the House of Representatives to require the Committee on the Budget and the Committee on Appropriations to jointly develop, by March 1 of the first session of each Congress, uniform rules of budget scorekeeping for that Congress. The rules shall be reviewed and revised as necessary and shall apply to all committees of the House.

UNAUTHORIZED APPROPRIATIONS

Subsections (a) and (b) of section 305 of the bill amend rule XXI of the Rules of the House of Representatives to require that whenever the Committee on Appropriations reports a measure which provides unauthorized new budget authority or authorizes the enactment of new budget authority, then the measure shall be referred to the committee having legislative jurisdiction over the subject matter with instructions to report it, with the committee's recommendations, within 5 legislative days beginning with the day following the day on which it is so referred. If the committee fails to report the measure within the 5-day period, it shall automatically be discharged from further consideration thereof.

Subsection (c) of section 305 amends clause 2 of rule XXI of the Rules of the House of Representatives, which rule relates to unauthorized appropriations and legislation on general appropriation bills. The amendment broadens the prohibition contained in such clause to cover all bills and joint resolutions of a public character containing an appropriation and any amendments reported back from conference in disagreement for any expenditure not previously authorized by law.

TITLE IV—ADDITIONAL PROVISIONS

SENSE OF CONGRESS

Section 401 of the bill states that it is the sense of Congress that the President shall submit his budget to Congress not later than the first Monday after the first day of January of each calendar year and that the President's budget justification documents shall be submitted to Congress within 2 weeks thereafter.

EFFECTIVE DATE

Section 402 of the bill provides that it shall take effect at noon, January 31, 1985.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. LIVINGSTON, for 30 minutes, today.

(The following Members (at the request of Mr. BEDELL) to revise and extend their remarks and include extraneous material:)

Mr. DE LA GARZA, for 5 minutes, today.

Mr. GIBBONS, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. FORD of Tennessee, for 5 minutes, today.

Mr. UDALL, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. STRATTON, for 5 minutes, today.

Mr. CLARKE, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. LEVITAS, for 5 minutes, today.

Mr. LEVIN of Michigan, for 5 minutes, today.

Mr. PEASE, for 5 minutes, today.

(The following Members (at the request of Mr. CARNEY) to revise and extend their remarks and include extraneous material:)

Mr. CORCORAN, for 5 minutes, today.

Mr. EMERSON, for 30 minutes, today.

Mr. MARTIN of North Carolina, for 60 minutes, today.

Mr. CARNEY, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ERLENBORN, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,328.25.

(The following Members (at the request of Mr. BEDELL) and to include extraneous matter:)

Mr. SMITH of Iowa.
Mr. SKELTON.
Mr. DOWNEY of New York.
Mr. CORRADA.
Mr. SOLARZ.
Mr. SCHUMER.
Mr. TRAXLER.
Ms. MIKULSKI.
Mr. MATSUI.
Mr. BREAUX.
Mr. AUCOIN in three instances.
Mr. DONNELLY in two instances.
Mr. WEAVER.
Mr. EDGAR in two instances.
Mr. SABO.
Mr. DYMALLY in two instances.
Mr. WIRTH.
Mr. FLORIO.
Mr. WILLIAMS of Montana.
Mr. WAXMAN.
Mr. YATES.
Mr. MACKAY.
Mr. UDALL.
Mr. HAMILTON.
Mr. BOLAND in two instances.
Mr. CONYERS in two instances.
Mr. COYNE.
Mr. HEFTEL of Hawaii.
Mr. GEPHARDT.
Mr. LAFALCE.
Mr. MOAKLEY.
Mr. RANGEL.
Mr. PEPPER in four instances.
Mr. PATTERSON.
Mr. KILDEE.
Mr. LEVITAS.
Mrs. HALL of Indiana.

(The following Members (at the request of Mr. CARNEY) and to include extraneous matter:)

Mr. GILMAN in two instances.
Mr. FORSYTHE in two instances.
Mr. PURSELL.
Mr. CORCORAN.
Mr. CONTE.
Mr. WHITEHURST.
Mr. GOODLING.
Mr. PHILIP M. CRANE.
Mr. CLINGER in two instances.
Mr. PARRIS.
Mr. HILER.
Mr. BROOMFIELD in two instances.
Mr. STUMP.
Mr. PORTER in three instances.
Mr. LOTT.
Mr. YOUNG of Alaska.
Mr. LOWERY of California in two instances.
Mr. SOLOMON.
Mr. MCDADE.
Mr. SMITH of New Jersey.
Mr. FIELDS.
Mr. DAUB.
Mr. RINALDO in two instances.
Mr. KEMP.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 33. Joint resolution designating the week of January 29, 1984, as "Clergy Appreciation Week" in the United States; to the Committee on Post Office and Civil Service.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 62. Joint resolution to provide for the designation of the week beginning on May 15, 1983, as "National Parkinson's Disease Week."

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on April 27, 1983, present to the President, for his approval, a joint resolution of the House of the following title:

H.J. Res 245. Joint resolution to correct Public Law 98-8 due to errors in the enrollment of H.R. 1718.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 56 minutes p.m.), under its previous order, the House adjourned until Monday, May 2, 1983, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1023. A letter from the Acting Assistant Secretary of Defense (Comptroller), transmitting contract award reports for the period May 1, 1983, to June 30, 1983, pursuant to section 139 of title 10, United States Code; to the Committee on Armed Services.

1024. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to repeal the Community Services Block Grant Act, and for other purposes; to the Committee on Education and Labor.

1025. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during March 1983, pursuant to section 234 of the Legislative Reorganization Act of 1970, as amended; to the Committee on Government Operations.

1026. A letter from the Director of Manpower Planning and Analysis, transmitting the actuarial report on the military retirement system for the fiscal year 1982, pursuant to Public Law 95-595; to the Committee on Government Operations.

1027. A letter from the Chief Justice of the United States, transmitting amendments to the Rules of Civil Procedure for the U.S. District Courts, adopted by the Supreme Court pursuant to 28 U.S.C. 2072, together with the report of the Judicial Conference of the United States submitted to the Court pursuant to 28 U.S.C. 331 (H. Doc. No. 98-54); to the Committee on the Judiciary and ordered to be printed.

1028. A letter from the Chief Justice of the United States, transmitting amendments to the Rules of Criminal Procedure for the U.S. District Courts, adopted by the Supreme Court pursuant to 18 U.S.C. 3771 and 3772, together with the report of the Judicial Conference of the United States submitted to the Court pursuant to 28 U.S.C. 331 (H. Doc. No. 98-55); to the Committee on the Judiciary and ordered to be printed.

1029. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to provide for the orderly termination of Federal management of the Pribilof Islands, Alaska; to the Committee on Merchant Marine and Fisheries.

1030. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Social Services Block Grant Act, to authorize consolidation of certain block grants to Indian tribes, and for other purposes; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PERKINS: Committee on Education and Labor. H.R. 2145. A bill to delay the effective date for the denial of Federal educational assistance to students who have failed to comply with registration requirements under the Military Selective Service Act from July 1, 1983, to February 1, 1984, and for other purposes; with amendments (Rept. No. 98-74, Pt. I). Ordered to be printed.

Mr. PERKINS: Committee on Education and Labor. H.R. 601. A bill to help insure the Nation's independent factual knowledge of the Soviet Union and Eastern European countries, to help maintain the national capability for advanced research and training on which the knowledge depends, and to provide partial financial support for national programs to serve both purposes; with an amendment (Rept. No. 98-75, Pt. I). Ordered to be printed.

Mr. PERKINS: Committee on Education and Labor. H.R. 2144. A bill to amend part C of title III of the Higher Education Act of 1965 to establish an endowment program for developing institutions, and for other purposes; with an amendment (Rept. No. 98-76). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 2307. A bill to amend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes; with an amendment (Rept. No. 98-77). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 2806. A bill to amend title XVIII of the Social Security Act respecting the use of certain toxic materials in new nursing home construction; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. BIAGGI (for himself and Mr. Rinaldo):

H.R. 2807. A bill to increase to the level of funds authorized to be appropriated for the fiscal years 1982, 1983, and 1984 to permit adequate reimbursement for meals served under the Older Americans Act of 1965; to the Committee on Education and Labor.

H.R. 2808. A bill to increase to the level of appropriations to permit adequate reimbursement for meals served during fiscal year 1982 under the Older Americans Act of 1965; jointly, to the Committees on Appropriations and Education and Labor.

By Mr. BREAUX (for himself, Mr. Forsythe, Mr. Seiberling, Mr. Udall, Mr. Dicks, Mr. Roybal, Mr. Ford of Michigan, Mr. AuCoin, Mr. Long of Maryland, and Mr. Yates):

H.R. 2809. A bill to establish a U.S. Fish and Wildlife Foundation; to the Committee on Merchant Marine and Fisheries.

By Mr. BROYHILL:

H.R. 2810. A bill to amend and extend the Toxic Substances Control Act, as amended, for 3 years; to the Committee on Energy and Commerce.

By Mr. CHAPPIE (for himself, and Mr. Madigan):

H.R. 2811. A bill to improve the effectiveness and efficiency of agricultural price support and production stabilization programs, to increase market opportunities for farmers, and to expedite economic recovery for agriculture; to the Committee on Agriculture.

By Mr. CLINGER:

H.R. 2812. A bill to amend the Agricultural Act of 1949 to modify the dairy price support program, and for other purposes; to the Committee on Agriculture.

By Mr. CONABLE (for himself, Mr. Guarini, and Mr. Lundine):

H.R. 2813. A bill to amend the Internal Revenue Code of 1954 to provide transitional rules for estate and gift tax treatment of disclaimers of property interests created by transfers before November 15, 1958; to the Committee on Ways and Means.

By Mr. CONTE (for himself, Mr. Shannon, and Mr. Frank):

H.R. 2814. A bill to suspend periodic reviews of disability beneficiaries having mental impairments pending regulatory reform of the social security disability determination process; jointly, to the Committees on Ways and Means and Rules.

By Mr. DIXON (for himself, Mr. Beilenson, Mr. Waxman, Mr. Frank, Mr. Weiss, Mr. Barnes, Mr. Conyers, Mr. Dellums, Mr. Fauntroy, Mr. Fazio, Mr. Garcia, Mr. Green, Mr. Lowry of Washington, Mr. McKinney, Ms. Mikulski, Mr. Mitchell, Mr. Ottinger, Mr. Sabo, Mr. Stark, Mr. Studds, Mr. Pritchard, Mr. Gray, Mr. Yates, Mr. Edwards of California, Mr. Foglietta, Mr. Edgar, Mr. Leland, Mr. Towns, Mr. Clay, Mr. Owens, Mr. Berman, Mr. Levine of California, Mr. Crockett, Mrs. Boxer, Mr. Washington, and Mr. Morrison of Connecticut):

H.R. 2815. A bill to amend the Immigration and Nationality Act to repeal the provision excluding admission of aliens on the sole ground of sexual deviation; to the Committee on the Judiciary.

By Mr. DONNELLY:

H.R. 2816. A bill entitled: "Longshoremen's and Harbor Workers' Compensation Act Amendments of 1981"; to the Committee on Education and Labor.

By Mr. DYSON:

H.R. 2817. A bill to amend the Federal Water Pollution Control Act to provide for the enhanced water quality of the Chesapeake and Narragansett Bays, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. GEKAS:

H.R. 2818. A bill to expand coverage under the Presidential assassination statute to former Presidents, to mandate Federal jurisdiction under that statute, and for other purposes; to the Committee on the Judiciary.

By Mr. GEPHARDT:

H.R. 2819. A bill to promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin region; to the Committee on Ways and Means.

By Mr. GIBBONS (for himself, Mr. Matsui, Mr. Vander Jagt, Mr. Schulze, Mr. Thomas of California, Mr. Fazio, Mr. Frenzel, and Mr. Conable):

H.R. 2820. A bill to amend section 162 of the Internal Revenue Code of 1954 with respect to allowing a deduction for additions to reserves established for decommissioning costs associated with nuclear powerplants; to the Committee on Ways and Means.

By Mrs. HALL of Indiana:

H.R. 2821. A bill to amend the act of November 5, 1966, providing for the establishment of the Indiana Dunes National Lakeshore to authorize the appropriation of an additional $576,000 for development of the Paul H. Douglas Environmental Education Center; to the Committee on Interior and Insular Affairs.

By Mr. HARKIN (for himself, Mr. Jeffords, Mr. Volkmer, Mr. Stenholm, Mr. Penny, Mr. Daschle, Mr. Skeen, Mr. Gunderson, Mr. Akaka, Mr. Aspin, and Mr. Traxler):

H.R. 2822. A bill to stabilize a temporary imbalance in the supply and demand for dairy products, and to enable milk producers to establish, finance, and carry out a coordinated program of dairy product promotion to improve, maintain, and develop markets for dairy products, and for other purposes; to the Committee on Agriculture.

By Mr. KOGOVSEK:

H.R. 2823. A bill to amend title I of the Reclamation Project Authorization Act of 1972 in order to provide for the establishment of the Russell Lakes Waterfowl Management Area as a replacement for the authorized Mishak National Wildlife Refuge, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. McDADE:

H.R. 2824. A bill to repeal the recently enacted provisions of law which subject Federal employees to the medicare tax under chapter 21 of the Internal Revenue Code of 1954 and provide medicare coverage based on Federal employment under titles II and XVIII of the Social Security Act; to the Committee on Ways and Means.

By Mr. MARLENEE:

H.R. 2825. A bill to amend title 28, United States Code, regarding venue, and for other purposes; to the Committee on the Judiciary.

H.R. 2826. A bill to repeal section 154 of title 23 of the United States Code relating to the national maximum speed limit; to the Committee on Public Works and Transportation.

H.R. 2827. A bill to amend title II of the Social Security Act to provide that a beneficiary who dies shall (if otherwise qualified) be entitled to a prorated benefit for the month of his death; to the Committee on Ways and Means.

H.R. 2828. A bill to exempt limited amounts of oil production by independent producers from the windfall profits tax and for other purposes; to the Committee on Ways and Means.

H.R. 2829. A bill to reduce interest rates by limiting the rate of interest which the U.S. Government may pay on debt obligations issued by the United States and by establishing a national indexed usury ceiling; jointly, to the Committees on Banking, Finance and Urban Affairs and Ways and Means.

By Mrs. MARTIN of Illinois (for herself, Mr. Nielson of Utah, and Mr. Dreier of California):

H.R. 2830. A bill to amend the Internal Revenue Code of 1954 to exclude from the gross income of each individual up to $750 of interest; to the Committee on Ways and Means.

By Mr. PANETTA:

H.R. 2831. A bill to amend the Internal Revenue Code of 1954 to allow a disaster loss deduction with respect to a taxpayer's residence for losses which occur where the taxpayer is ordered to demolish or relocate such residence because of the danger of mudslides, earthslides, or flooding; to the Committee on Ways and Means.

Mr. PATTERSON (for himself, Mr. Bereuter, Mr. LaFalce, Ms. Oakar, Mr. Lowry of Washington, Mr. Garcia, Mr. Levin of Michigan, and Mr. Torres):

H.R. 2832. A bill to provide for increased participation by the United States in the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PEASE:

H.R. 2833. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for political contributions to candidates for Congress which is more limited than the existing credit for such contributions; to the Committee on Ways and Means.

By Mr. RUSSO:

H.R. 2834. A bill to amend title 18 of the United States Code to provide that the street value of drugs seized in certain cases involving controlled substances violations shall be the presumptive minimum bail; to the Committee on the Judiciary.

By Mr. SABO:

H.R. 2835. A bill to provide Federal assistance to States to establish a program for coverage of catastrophic health care expenses; to the Committee on Energy and Commerce.

By Mr. STRATTON:

H.R. 2836. A bill to amend title 10, United States Code, to establish a Foundation for the Advancement of Military Medicine, and for other purposes; to the Committee on Armed Services.

By Mr. UDALL (for himself, Mr. Lujan, and Mr. Bereuter):

H.R. 2837. A bill to establish a National Outdoor Recreation Resource Review Commission to study and recommend appropriate policies and activities for government agencies at the Federal, State, and local levels and for the private sector, to assure the continued availability of quality outdoor recreation experiences in America to the year 2000, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WEAVER:

H.R. 2838. A bill to authorize the Secretaries of Interior and Agriculture to provide assistance to groups and organizations volunteering to plant tree seedlings on public lands, and for other purposes; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. WHITLEY (for himself and Mr. Emerson):

H.R. 2839. A bill to augment and expand forestry research and renewable resources extension through cooperative State forestry research and cooperative State renewable research extension programs in order to enhance productivity of the Nation's forests through new initiatives in coordinated basic and applied research and technology transfer programs, and for other purposes; to the Committee on Agriculture.

By Mr. YOUNG of Alaska:

H.R. 2840. A bill to provide for the orderly termination of Federal management of the Pribilof Islands, Alaska; to the Committee on Merchant Marine and Fisheries.

By Ms. MIKULSKI (for herself, Mr. Long of Maryland, Mr. Mitchell, Mr. Pepper, and Mr. Wyden):

H.R. 2841. A bill to amend title XVIII of the Social Security Act to retain the option of direct reimbursement for all providers under the medicare program; to the Committee on Ways and Means.

By Mr. NEAL (for himself, Mr. St Germain, Mr. Lundine, Mr. Barnard, Mr. Patterson, Mr. LaFalce, Mr. Lowry of Washington, Mr. Coyne, Mr. Roemer, Mr. Lehman of California, Ms. Kaptur, Mr. Cooper, Mr. Levin of Michigan, and Mr. Leach of Iowa):

H.R. 2842. A bill to amend the Export-Import Bank Act of 1945 to establish the Competitive Tied Aid Fund, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CORCORAN:

H.J. Res. 252. Joint resolution proposing an amendment to the Constitution relating to the continuance in office of judges of the Supreme Court and of inferior courts; to the Committee on the Judiciary.

By Mr. DONNELLY:

H.J. Res. 253. Joint resolution designating the period of May 6 through May 13, 1984, as National Tuberous Sclerosis Week; to the Committee on Post Office and Civil Service.

By Mr. UDALL (for himself, Mr. Moakley, Mr. Lowry of Washington, Mr. Dwyer of New Jersey, Mr. Hoyer, Mr. Beilenson, Mr. Markey, Mr. Williams of Montana, Mr. Crockett, Mr. Edwards of California, Mr. Stokes, Mr. Lehman of Florida, Mr. Ottinger, Mr. Lantos, Mr. Bedell, Mr. Pritchard, Mr. Mitchell, Mr. de Lugo, Mr. Weiss, Mr. Simon, Mr. Oberstar, Mr. McHugh, Mr. Wolpe, Mr. Barnes, Mr. Roybal, Mr. Neal, Mr. Conte, Mr. Morrison of Connecticut, Mr. Torricelli, Mr. Fazio, Mr. Washington, Mr. Clarke, Ms. Kaptur, Mr. McNulty, Mr. Ratchford, Mr. Garcia, Mr. Edgar Mr. Richardson, Mr. Brown of California, Mr. Chandler, Mrs. Schroeder, Mr. Spratt, Mr. Conyers, Mr. Panetta, Mr. Wheat, Mr. Hughes, Mr. Stark, Mr. Bates, and Mr. Green):

H.J. Res. 254. Joint resolution requesting the President to negotiate the creation of a United States-Soviet student exchange for peace program; to the Committee on Foreign Affairs.

By Mr. AuCOIN (for himself, Mr. Simon, Mr. Coelho, and Mr. Miller of California):

H. Con. Res. 118. Concurrent resolution to provide that it is the sense of the Congress that the national policy of the United States be that the Federal Government contribute to the support of education in the United States; to the Committee on Education and Labor.

By Mr. FORSYTHE (for himself, Mr. Jones of North Carolina, and Mr. Breaux):

H. Con. Res. 119. Concurrent resolution expressing the sense of Congress with respect to the declaration and observance of National Fishing Week; to the Committee on Post Office and Civil Service.

By Mr. KEMP (for himself, Mr. Lott, Mr. Lagomarsino, Mr. Bereuter, and Mr. Solomon):

H. Con. Res. 120. Concurrent resolution expressing the sense of the Congress that the support provided by the United States to the Asian Development Bank will be terminated if the Republic of China is denied full membership in the Asian Development Bank; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FOLEY:

H. Res. 176. Resolution relating to the privilege of the House of Representatives; considered and agreed to.

By Mr. YATES:

H. Res. 177. Resolution to disapprove the energy conservation deferral; to the Committee on Appropriations.

H. Res. 178. Resolution to disapprove the fossil energy research and development deferral; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of California:

H.R. 2843. A bill for the relief of Jenny Adriana Diaz; to the Committee on the Judiciary.

By Mr. GREEN:

H.R. 2844. A bill relating to the mitigating of any liquidated damages or penalties due on certain scenery imported for the use of the American Ballet Theatre, New York, N.Y., to the level of the duty that otherwise would have been due had the scenery been entered for consumption on dates of entry in 1980; to the Committee on the Judiciary.

By Mr. UDALL:

H.R. 2845. A bill for the relief of Josephine Graff, to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[Omitted from the Record of April 27, 1983]

H.R. 1358: Mr. Gramm.

[Submitted April 28, 1983]

H.R. 74: Mr. Ackerman.

H.R. 132: Mr. Gingrich, Mr. Panetta, Mr. McKinney, and Mr. Downey of New York.

H.R. 223: Mr. Sensenbrenner.

H.R. 408: Mr. Rangel, Mr. Patman, Mr. Vandergriff, and Mr. Daub.

H.R. 555: Mr. Garcia, Mr. Nielson of Utah, Mr. Kostmayer, Mr. Leland, Mr. Washington, and Mr. Roberts.

H.R. 618: Mr. Daub, Mr. Petri, Mr. Hunter, Mr. Snyder, and Mr. Roe.

H.R. 765: Mr. D'Amours, Mr. Hyde, and Mr. Roemer.

H.R. 797: Mr. Gilman.

H.R. 1049: Mr. Mavroules.

H.R. 1083: Mr. Lehman of California, Mr. Dwyer of New Jersey, Mr. Jacobs, Mr. Kastenmeier, and Mr. Williams of Montana.

H.R. 1092: Mr. Murphy.

H.R. 1146: Mr. Coelho.

H.R. 1176: Mr. Ireland, Mr. Lewis of California, and Mr. Vandergriff.

H.R. 1196: Mr. Thomas of Georgia.

H.R. 1203: Mr. Sabo.

H.R. 1244: Mr. Dwyer of New Jersey, Ms. Ferraro, Mr. Kindness, Mr. Lipinski, Mr. McEwen, Mr. Nielson of Utah, Mr. Roe, Mr. Ottinger, Mr. Washington, and Mr. Williams of Montana.

H.R. 1255: Mr. Rowland, Mr. McEwen, Mrs. Holt, Mr. Clinger, Mr. Stump, Mr. Brown of Colorado, Mr. Hopkins, Mr. Kramer, Mr. McCollum, and Mr. Cooper.

H.R. 1285: Mr. Sikorski and Mr. Coyne.

H.R. 1315: Mrs. Boxer, Mr. Chandler, Mr. Dreier of California, Mr. Edgar, Mr. Fazio, Ms. Ferraro, Mr. Glickman, Mr. Goodling, Mrs. Johnson, Mr. Kogovsek, Mr. McGrath, Mr. Oxley, Mr. Porter, Mr. Ratchford, Mr. Shumway, Mr. Skeen, Mr. Studds, Mr. Tauke, Mr. Whitley, Mr. Wilson, Mr. Wortley, and Mr. Yates.

H.R. 1373: Mr. Ratchford, Mr. McEwen, Mr. Rodino, Mr. Frank, Mr. Lagomarsino, Mr. Fazio, Mr. Dellums, Mr. Stokes, Mr. Ford of Tennessee, Mr. Wilson, Mr. Ottinger, Mr. Ackerman, Mr. Dwyer of New Jersey, Ms. Mikulski, Mrs. Boxer, Mr. Fish, Mr. Washington, Mr. Weiss, Mr. Goodling, and Mr. Towns.

H.R. 1379: Mr. Solomon.

H.R. 1400: Mr. Hopkins and Mrs. Byron.

H.R. 1452: Mr. Akaka and Ms. Oakar.

H.R. 1494: Mr. Denny, Smith, Mr. Edgar, and Mr. Erdreich.

H.R. 1543: Mr. Zablocki, Mr. Mitchell, and Mr. Bonior of Michigan.

H.R. 1599: Mr. D'Amours, Mr. Jeffords, Mr. Williams of Montana, Ms. Kaptur, Mr. Washington, Mr. Edgar, and Mr. Hughes.

H.R. 1607: Mr. Hance.

H.R. 1609: Mr. Thomas of California and Mr. Hance.

H.R. 1730: Mr. Rinaldo, Mr. Lagomarsino, Mr. O'Brien, and Mr. Guarini.

H.R. 1876: Mr. Goodling.

H.R. 1885: Mr. Coleman of Missouri.

H.R. 1894: Mr. Russo.

H.R. 1905: Mr. Vandergriff, Mr. Gore, Mr. Shelby, Mr. O'Brien, and Mr. Fazio.

H.R. 1918: Mr. Hightower and Mr. Goodling.

H.R. 1929: Mr. Hunter.

H.R. 1961: Mr. McNulty, Mr. Mica, and Mr. Hunter.

H.R. 1978: Mr. Porter, Mrs. Hall of Indiana, Mr. Hyde, Mr. Chandler, Mr. Traxler, and Mr. Hughes.

H.R. 1991: Mr. Heftel of Hawaii.

H.R. 2073: Mr. Montgomery, Mr. Denny Smith, and Mr. Hiler.

H.R. 2124: Mr. Horton, Mr. Wortley, Mr. Oxley, Mr. Dyson, Mr. Marriott, Mr. Weber, Mr. Fazio, Mr. Roe, Mr. Daub, Mr. Huckaby, Mr. Synar, Mr. Martin of New York, Mr. Bonker, Mr. Pashayan, Mr. Swift, Mr. Rahall, Mr. Bosco, Mr. Pritchard, Mr. Gilman, Mr. Dreier of California, Mr. Kostmayer, Mr. Florio, and Mr. Nowak.

H.R. 2154: Mr. Berman, Mr. Annunzio, Mr. Stark, Mr. D'Amours, Mr. Torres, Mr. Morrison of Connecticut, Mr. Zablocki, Ms. Oakar, Mr. Torricelli, Mr. Dymally, Mr. Gray, Mr. Fish, Mr. Rahall, Mr. Penny, Mr. Stokes, Mr. Washington, Mr. Dwyer of New Jersey, Mr. Feighan, Mr. Eckart, Mr. Kostmayer, Mr. Martinez, Mr. Hughes, and Mr. Pursell.

H.R. 2193: Mr. Gingrich, Mr. Neal, and Mrs. Schroeder.

H.R. 2204: Mr. Carney, Mr. Frost, Mr. Dellums, Mr. Wilson, Mr. Dwyer of New Jersey, Mr. Ackerman, Mr. Leland, Mr. Studds, Mr. Addabbo, Mr. Feighan, and Mr. Martinez.

H.R. 2225: Mr. Oxley and Mr. Campbell.

H.R. 2250: Mr. Dannemeyer, Mr. Ford of Tennessee, Mr. Chappie, Ms. Fiedler, Mr. Lagomarsino, Mr. McNulty, Mr. Forsythe, Mr. Dreier of California, Mr. Fields, Mr. Edgar, Mr. Smith of Florida, Mr. Cheney, Mr. Badham, Mr. Gejdenson, Mr. Edwards of Oklahoma, Mr. Thomas of California, and Mr. Hughes.

H.R. 2288: Mr. Pursell.

H.R. 2289: Mr. Fascell.

H.R. 2306: Mr. Foglietta, Mr. McCloskey, Mr. Bedell, Mr. Mitchell, Mr. Feighan, Mr. Addabbo, Mr. Seiberling, and Mr. Washington.

H.R. 2347: Mr. Torricelli.

H.R. 2382: Mr. McKernan, Mr. Young of Alaska, Mr. Sam B. Hall, Jr., Mr. Broomfield, Mr. Loeffler, Mr. Horton, Mr. Applegate, Mr. Derrick, Mr. Perkins, Mr. Campbell, Mr. Archer, Mr. Stump, Mr. Roth, Mr. Vandergriff, Mr. Jeffords, Mr. Hubbard, Mr. Rowland, Mr. Hopkins, Mr. Roberts, Mr. Rogers, Mr. Paul, Mr. Jenkins, Mr. Bartlett, and Mr. Whittaker.

H.R. 2412: Mr. McCain, Mr. Skeen, and Mr. Davis.

H.R. 2413: Mr. McCain, Mr. Oberstar, and Mr. Davis.

H.R. 2419: Mr. Edgar, Mr. Eckart, Mr. Goodling, and Mr. McEwen.

H.R. 2490: Mr. Borski, Mr. Zablocki, Mr. AuCoin, and Mr. Roe.

H.R. 2497: Mr. Morrison of Connecticut, Mr. Gejdenson, Mr. Whitehurst, Mr. Jeffords, Mr. Forsythe, Mr. Walker, Mr. Beilenson, Mr. Ackerman, Mr. McKinney, and Mr. Frank.

H.R. 2552: Ms. Kaptur, Ms. Mikulski, Mrs. Collins, Mr. Wise, Mr. Moakley, Mr. Rodino, Mr. Dellums, Mr. Roybal, Mr. Stark, Mr. Coyne, Mr. Sikorski, Mr. Torres, Mr. Downey of New York, Mr. Kostmayer, Mr. D'Amours, Mrs. Schroeder, Mr. Washington, Mr. Ackerman, Ms. Ferraro, Mr. Fascell, Mr. Dwyer of New Jersey, Mrs. Boxer, Mr. Smith of Florida, Mr. Gray, Mr. Hughes, Mr. Brown of California, Mr. Levin of Michigan, Mr. Solarz, Mr. Corrada, Mr. Harrison, Mr. Ford of Michigan, and Mr. Ottinger.

H.R. 2567: Mr. Shumway, Mr. Chappell, Mr. Hammerschmidt, and Mr. Brown of Colorado.

H.J. Res. 33: Mr. Corcoran.

H.J. Res. 51: Mr. Daub, Mr. de la Garza, Mrs. Holt, Mr. Hughes, Mr. Skeen, and Mr. Wheat.

H.J. Res. 73: Mr. D'Amours and Mr. DeWine.

H.J. Res. 113: Mr. Clinger, Mr. Sikorski, Mr. Forsythe, Mr. Jeffords, Mr. Edgar, Mr. Porter, Mr. Solarz, and Mr. Chandler.

H.J. Res. 168: Mr. Hatcher, Mr. Sawyer, Mr. Cheney, Mr. Emerson, Mr. McNulty, Mr. Scheuer, Mr. Fascell, Mr. Walgren, Mr. Coats, Mr. Spratt, Mr. Solomon, Mr. Natcher, Mr. Gregg, Mr. Hamilton, Mr. Porter, Mr. Daniel, Mr. Siljander, Mrs. Holt, Mr. Taylor, Mr. Skeen, Mr. Olin, Mr. Bateman, Mr. Lujan, and Mrs. Boggs.

H.J. Res. 225: Mr. Addabbo, Mr. Annunzio, Mr. Bevill, Mr. Beilenson, Mr. Corrada, Mr. D'Amours, Mr. Dannemeyer, Mr. de la Garza, Mr. Donnelly, Mr. Downey of New York, Mr. Fauntroy, Mr. Flippo, Mr. Ford of Tennessee, Mr. Forsythe, Mr. Green, Mr. Guarini, Mr. Sam B. Hall, Jr., Mr. Hammerschmidt, Mr. Hefner, Mr. Horton, Mr. Hutto, Mr. Jeffords, Mr. Kindness, Mr. Lantos, Mr. Lehman of Florida, Mr. McGrath, Mr. Markey, Mr. Marriott, Ms. Mikulski, Mr. Natcher, Mr. Oberstar, Mr. Perkins, Mr. Roe, Mr. Russo, Mr. Shelby, Mr. Sunia, Mr. Weaver, Mr. Wilson, Mr. Winn, and Mr. Yatron.

H.J. Res. 229: Mr. Vander Jagt, Mr. Swift, Mr. Lowery of California, Mr. Fish, Mr. Walgren, Mr. Dyson, Mr. Boland, Mr. Andrews of Texas, Mr. Valentine, Mr. Stangeland, Mr. Bereuter, and Mr. Reid.

H.J. Res. 234: Mr. Donnelly, Mr. Wolf, Mr. Jacobs, Ms. Oakar, Mr. Stenholm, Mr. Ratchford, Mr. Frost, Mr. Richardson, Mr. Scheuer, Ms. Kaptur, Mr. Kemp, Mr. Leland, Mr. Lent, Mr. Dwyer of New Jersey, Mr. Dyson, Mr. Evans of Iowa, Mr. Lagomarsino, Mr. Weiss, Mr. Sunia, Mr. Hiler, Mr. Roe, Mr. Savage, Mr. Sawyer, Mr. Snyder, Mr. Stokes, Mr. Vandergriff, Mr. Gramm, Mrs. Hall of Indiana, Mr. Hammerschmidt, Mr. Durbin, Mr. Dymally, Mr. Edwards of Oklahoma, Mr. Vento, Mr. Oberstar, Mr. Owens, Mr. Price, Mr. Pritchard, Mr. Neal, Mr. Ackerman, Mr. Roemer, Mr. Rodino, Mr. Ford of Tennessee, Mr. Reid, Mr. Lewis of California, Mr. Pepper, Mr. Simon, Mr. Winn, Mr. Waxman, Mr. Walgren, Mr. Whitten, Mr. Williams of Ohio, Mr. Won Pat, Mr. Rowland, Mr. Stratton, Mr. Barnes, Mr. Vander Jagt, Mr. Towns, Mr. Fish, Mr. Roberts, Mr. Gradison, Mr. Forsythe, Mr. Edgar, Mr.

Yatron, Mr. Mavroules, Mr. Murphy, Mr. Patterson, Mr. English, Mr. Siljander, Mr. Skeen, Mr. Horton, Mr. Fazio, Mr. Corrada, Mr. Tallon, Mr. Stangeland, Mr. Torricelli, Mr. Russo, Ms. Mikulski, Mr. Chandler, Mr. Daub, Mr. Hatcher, Mr. Sundquist, Mr. O'Brien, Mr. Carney, Mr. Whittaker, Mr. Kasich, Mrs. Kennelly, Mr. Berman, Mr. Jones of Tennessee, Mr. Duncan, Mr. Leach of Iowa, Mr. Conte, Mr. Corrada, Mr. Porter, Mr. Boner of Tennessee, Mr. McGrath, Mr. Hughes, Mr. Guarini, and Mr. Philip M. Crane.

H.J. Res. 243: Mr. Bliley, Mr. Chandler, Mr. Chappell, Mr. Coats, Mr. Daub, Mr. Edwards of Oklahoma, Mr. Emerson, Mr. Erdreich, Mr. Fields, Mr. Goodling, Mr. Oxley, Mr. Petri, Mr. Ritter, and Mr. Winn.

H. Con. Res. 39: Mr. Anthony, Mr. Conte, Mr. Dellums, Mr. Dixon, Mr. Gaydos, Mrs. Holt, Mr. Reid, Ms. Snowe, Mrs. Vucanovich, Mr. Weaver, Mr. Wilson, and Mr. Wirth.

H. Con. Res. 98: Mr. Craig.

H. Con. Res. 101: Mr. Britt, Mr. Burton, Mr. Dyson, Mr. Brooks, Mr. Gilman, Mr. Gramm, Mr. Bilirakis, Mr. Lehman of Florida, Mr. Coleman of Missouri, Mr. Lipinski, Mr. Solomon, Mr. McCain, Mr. Quillen, Mr. Rowland, Mr. Shelby, Mr. de la Garza, Mr. Smith of New Jersey, Mr. Tallon, Mr. Kolter, Ms. Snowe, Mr. Hansen of Utah, Mrs. Roukema, Mr. Denny Smith, Mr. Ritter, Mr. McGrath, Mr. DeWine, Mr. Packard, Mr. Skeen, Mr. Spence, Mr. Chappie, Mr. Zschau, Mr. Walker, Mr. Moorhead, Mr. Brown of Colorado, Mr. Gekas, Mr. Fish, Mr. Regula, Mr. Martin of North Carolina, Mr. Davis, Mr. Carney, Mr. Bliley, Mr. Shaw, Mr. McCandless, Mr. Cheney, Mr. Gregg, Mr. Clarke, Mr. Michel, and Mr. Emerson.

H. Con. Res. 107: Mr. Barnes and Mr. Matsui.

H. Con. Res. 115: Mr. McCain, Mr. Walker, and Mr. Whitehurst.

H. Res. 150: Mr. Guarini, Mr. Berman, Mr. D'Amours, Mr. Rinaldo, Mr. Washington, Mr. Harkin, Mr. Towns, Mr. Lundine, Mr. Martin of New York, Mr. Stratton, Mr. Nowak, and Mr. LaFalce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1983

By Mr. WYLIE:

Amendment in the nature of a substitute. —Strike all after the enacting clause and insert in lieu thereof the following:

"SHORT TITLE

"Sec. 1. This Act may be cited as the 'Emergency Housing Assistance Act of 1983.'

"ACTIONS BY FEDERAL SUPERVISORY AGENCIES

"Sec. 2. (a) Each Federal supervisory agency, with respect to financial institutions subject to its jurisdiction, and the Secretary, with respect to other approved mortgagees, shall, not later than 14 days following the date of the enactment of the Emergency Housing Assistance Act of 1983—

"(1) communicate in writing with each such institution or mortgagee encouraging them to exercise forbearance (including the acceptance of partial payment), to the maximum extent possible, with respect to residential mortgage foreclosures;

"(2) waive or relax limitations pertaining to the operations of such institutions or mortgagees with respect to mortgage delinquencies, to the extent the waiving or relaxing of such limitations is not inconsistent with laws relating to the safety and soundness of such institutions or mortgagees; and

"(b)(1) In considering applications for advances, the Federal home loan banks shall give special consideration to those institutions that have exercised forbearance in residential mortgage foreclosures as a result of actions taken pursuant to this section.

"(2) In considering applications for advances or discounts, the Federal Reserve banks shall give special consideration to those depository institutions and other borrowers that have exercised forbearance in residential mortgage foreclosures as a result of actions taken pursuant to this section.

"(3) In considering applications for extensions of credit, the National Credit Union Administration Board, on behalf of the National Credit Union Central Liquidity Facility, shall give special consideration to members that have exercised forbearance in residential mortgage foreclosures as a result of actions taken pursuant to this section.

"ACTION BY SECRETARY OF AGRICULTURE

"Sec. 3. Section 505 of the Housing Act of 1949 is amended—

"(1) by adding after 'the Secretary is authorized' the following: 'and encouraged to take all reasonable steps,'; and

"(2) by adding at the end thereof the following new sentences: 'The Secretary shall ensure that each delinquent borrower under this title is provided notice, in a timely and meaningful manner, of the assistance available under this section. The Secretary shall, to the extent necessary, provide technical assistance to each such borrower in applying for such assistance. The Secretary may, before or after any period of moratorium under this section, reamortize the accrued debt of any delinquent borrower under this title for a new period equal to the original amortization period, if such reamortization is likely to result in the resumption of periodic payments by such borrower.'."

EMERGENCY SHELTER ASSISTANCE

Sec. 4. (a) Section 107(a) of the Housing and Community Development Act of 1974 is amended by inserting after the first sentence thereof the following new sentence: "In addition to such amounts authorized to be set aside for grants under subsection (b), there is authorized to be appropriated $100,000,000 for fiscal year 1984 to carry out the provisions of subsection (d).".

(b) Section 107(c) of the Housing and Community Development Act of 1974 is amended by inserting ", or appropriated for use under subsection (d)," after "subsection (b)".

(c) Section 107 of the Housing and Community Development Act of 1974 is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following new subsection:

"(d) The Secretary shall, to the extent approved in appropriation Acts, make grants to States, units of general local government and Indian tribes for the provision of shelter and essential services for individuals and families who are subject to life-threatening situations because of their lack of housing, except that in the case of a grant to a State, the Secretary shall first certify that the purposes of this subsection will be more effectively carried out by making a grant to such State that has an existing program that serves such individuals and families. Such grants shall be awarded on the basis of the need for emergency housing in the area where the project is or will be located, shall take into account regional variations in the cost of providing shelter, and shall consider the extent to which units of general local government and nonprofit organizations are currently providing shelter and assistance. Such grants may be used by such units of general local government or by local nonprofit organizations to rehabilitate existing structures in order to provide basic shelter, to maintain structures providing such shelter, to pay for utilities and the furnishing of such shelters, to provide for any necessary health and safety measures that are required to protect the individuals using such shelter, and for other purposes described in section 105(a) that are consistent with the purpose of this program. In the case of a structure that is rehabilitated with assistance under this subsection, such structure shall be used for emergency housing, after such rehabilitation, for a period of not less than 3 years. In providing grants under this subsection, the Secretary shall take into consideration the special needs of families and single women. The Secretary shall ensure that grants provided under this subsection are used solely to provide additional shelter capacity and essential services and are not used to replace amounts currently expended in the provision of such shelter and services. The restriction contained in the preceding sentence shall not apply to applicants under this subsection that, pursuant to a State constitutional mandate, have provided shelter to any person who presents himself or herself for shelter.".

H.R. 1190

By Mr. CRAIG:

—Page 29, after line 23, insert the following new section:

Sec. 19. The Secretary of Agriculture, at the request of the borrower, shall release such borrower (without payment of any consideration or penalty) from personal liability on any outstanding loan insured or guaranteed under the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961 note) before the effective date of this Act if such borrower transfers the property securing such loan to another person who—

(1) satisfies the conditions of eligibility specified in section 202 of the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961 note), as in effect on September 29, 1982.

(2) agrees to assume the full amount of the outstanding indebtedness and the obligations of such borrower under the terms of such loan (including the payment of interest in accordance with the provisions of such loan in effect immediately before such transfer); and

(3) is reasonably likely to repay such indebtedness and to fulfill such obligations considering the financial condition of such person.

H.J. Res. 13

By Mr. CARNEY:

(Amendment to the amendment in the nature of a substitute of Mr. AuCoin.)

—After the last line of the first section of the amendment in the nature of a substitute insert the following new section and redesignate the subsequent sections:

Sec. 2. Nothing in this resolution is intended to prevent the United States from carrying out its responsibilities under the December 1979 North Atlantic Treaty Organization decision regarding intermediate range nuclear forces unless an agreement is reached with the Soviet Union, after consultation with our NATO allies, establishing a mutual and verifiable freeze which includes such forces and corresponding Soviet forces.

By Mr. COURTER:

(Amendment to the amendment in the nature of a substitute of Mr. AuCoin.)

—After the last line of the amendment in the nature of a substitute insert the following new sections:

Sec. . Nothing in this joint resolution shall be construed—

(1) to prevent, during any negotiations pursuant to this resolution, or

(2) to require that, in any negotiations pursuant to this resolution, the United States agree to a provision which would prevent such modernization and deployment of United States new or improved dual capable delivery systems as the United States may determine is required to maintain the capability of the United States defense posture.

By Mr. LOTT:

(Amendment to the amendment in the nature of a substitute of Mr. AuCoin.)

—After the last line of the amendment in the nature of a substitute insert the following new sections:

Sec. . Any item both sides do not agree to freeze would not be frozen.

By Mr. LUNGREN:

(Amendment to the amendment in the nature of a substitute of Mr. AuCoin.)

—Strike out the period at the end of subsection (2) of the first section of the amendment in the nature of a substitute and insert the following: "and systems which would threaten the viability of sea-based nuclear deterrent forces, and to include all air defense systems designed to stop nuclear bombers."

—After the last line, add a new section numbered "4" and add the following:

"Consistent with the treaty-making powers of the President under the Constitution, nothing in this resolution shall be construed to be binding on the President or his negotiators in the formulation of strategy, instructions or positions in the conduct of the Strategic Arms Reduction Talks (START).".

By Mr. MARTIN of North Carolina:

(Amendment to the amendment in the nature of a substitute of Mr. AuCoin.)

—At the end of subsection (2) of the first section of the amendment in the nature of a substitute insert the following new sentence: "Submarines are not delivery systems as used herein.".

By Mr. STRATTON:

(Amendment to the amendment in the nature of a substitute of Mr. AuCoin.)

—After the last line of the amendment in the nature of a substitute insert the following new section:

Sec. . Consistent with Public Law 88-186, as amended, no action shall be taken under this Act that will obligate the United States to disarm or to reduce or to limit the armed forces or armaments of the United States, except pursuant to the treaty making power of the President under the Constitution or unless authorized by further affirmative legislation by the Congress of the United States.

—After the last line of the amendment in the nature of a substitute insert the following new sections:

Sec. . Consistent with the provisions of Public Law 92-448, as amended, negotiations undertaken pursuant to this Act shall provide for the maintenance of a vigorous research, development, and safety-related improvement modernization program to assure that the United States would not be limited to levels of nuclear deterrent forces inferior to the force levels of the Soviet Union. Further, such negotiations should recognize the difficulty of maintaining essential equivalence and a stable balance in nuclear deterrent capabilities in a period of rapidly developing technology, and that any future arms control agreements should promote a stable international balance and enhance the survivability of U.S. nuclear deterrent forces.

—After the last line of the amendment in the nature of a substitute insert the following new section:

Sec. . Until such time as the final instrument embodying the objectives set forth in Section 1 has been fully ratified by both the Soviet Union and the United States, nothing in this joint resolution shall be construed to prevent whatever modernization and deployment of United States weapons may be required to maintain the credibility of the United States nuclear deterrent.

EXTENSIONS OF REMARKS

THE LONG ISLAND SOUND HERITAGE ENDOWMENT

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. MRAZEK. Mr. Speaker, to those of us who have grown up on its shores and known its allure, Long Island Sound represents many things.

The sound is a giver of food and life—witness the fishermen and lobstermen who have culled its depths, and the variety of wildlife which habitate its shores.

It is a provider of inspiration and enjoyment. Walt Whitman and many others have walked its shores and drawn from its beauty. Thousands upon thousands have sought it out as a refuge from the pace of everyday life as they journey to sail upon its waters and bask on its beaches.

It is a carrier of commerce and trade, a vital passage to the sealanes of the world from the ports of Long Island and Connecticut.

The sound has given much to those of us who populate its shores. In return, too often we have given little in the form of gratitude. Indeed, in exchange for its gifts we have offered little more than pollution and shortsighted planning, and this must change.

Mr. Speaker, I am happy to announce today that an organization has taken shape in my district to help implement the necessary changes to preserve and protect this unparalleled resource. The Long Island Sound Heritage Endowment of the Sierra Club Foundation will assume this task and will employ the talents of members from both New York and Connecticut. Through the exemplary efforts of one of my constituents, Myron Blumenfeld of Port Washington, a $50,000 trust has been established to fund projects which promote the goals of the endowment.

The impetus behind the formation of the endowment came from legislation sponsored in 1977 and 1979 by former Senator Abraham Ribicoff of Connecticut and one of my predecessors, former Congressman Lester Wolff. The legislation to establish a Long Island Sound Heritage committee was introduced on the recommendation of the New England River Basins Commission. The commission had been empowered by Congress to conduct a comprehensive study of Long Island Sound.

That analysis, a 1975 report entitled "The Long Island Sound Study," cited the haphazard development along the sound which had resulted in widespread pollution of the sound's waters and shoreline. The study recommended several steps to relieve the deterioration of the sound, including the purchase of shoreline property for public-access parks and recreation areas, protection of remaining open space along the shore, reduction of the numbers of oil ports on the sound from 18 to 5, and creation of a major ferry system between New Haven, Conn. and Wading River, Long Island, alleviating the need for a cross-sound bridge. To this date, Congress has taken no action on the proposed legislation.

One of the first projects to be undertaken by the endowment is the creation of a Long Island Sound collection at the Port Washington Public Library in my district. The collection will comprise existing documentary materials concerning the sound, its development and efforts to protect and enhance it. Compilations of new materials on the sound will be added in time. The collection will serve as a focal point for the public on the history and the future of the sound, and the projects of the endowment. Also, steps are being taken by Port Washington Public Library director Edward de Sciora to establish a Long Island Sound Heritage Endowment scholarship at a local library sciences graduate school. The scholarship would enable an interested student to develop and maintain the collection and to work with the endowment and the public to protect and enhance the sound.

Trustees of the endowment include Ellen Lang and James Severson of Connecticut; Paul Agresta, Kenneth Robinson and James Warfield from New York State; Les King III of the Northeast Regional Conservation Council of the Sierra Club; and Myron Blumenfeld of Port Washington. The organizational meeting of the endowment was held on February 5 at the Port Washington Public Library.

A cross section of the community was represented at the first meeting, including Whitney Tilt, executive director of the Long Island Sound Task Force; Richard Deneau of the American Littoral Society; and local divers and sailors. Representatives of my office also attended, along with aides for New York State Assemblywoman May Newberger.

The organizational meeting developed a consensus for the future direction of the endowment. It was determined that the endowment ideally would serve as a funding source for the educational, environmental, and planning efforts of individuals and groups interested in preservation of the sound and consistent with The Long Island Sound study and the endowment's bylaws.

Mr. Speaker, the people of the Third Congressional District and other districts surrounding the sound have shown a keen awareness of the responsibility they hold to protect and enhance Long Island Sound. The endowment is a welcome addition to this cause and to the region's environmental community. I plan to work closely with the endowment to lend advice and assistance on preserving the sound. During the coming years, I hope to be able to report to my colleagues the progress we have made in meeting our goals, and to my constituents the cooperation that Congress has extended to our efforts.●

HOW GUAM CAN BECOME AMERICA'S HONG KONG

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. WON PAT. Mr. Speaker, I am pleased to insert into the CONGRESSIONAL RECORD a study recently conducted by the Asian Studies Center of the Heritage Foundation entitled "How Guam Can Become America's Hong Kong."

Although I have reservations about some aspects of the study, in general it is timely, provocative, and should be a good source material as we consider our future Federal-territorial relations with our flag territories. I recommend this study, not only for Federal officials who are concerned with territorial matters, but also to my friends and officials on Guam. Thank you.

[From the Asian Studies Center Backgrounder, Apr. 19, 1983]

HOW GUAM CAN BECOME AMERICA'S HONG KONG

(By Stuart M. Butler, Ph. D., Director of Domestic Studies)

A dark shadow looms over the future of Hong Kong, the bulwark of capitalism nestling precariously on the coast of the People's Republic of China. The 1997 expiration of Britain's lease on the New Territories and Beijing's (Peking) refusal to accept the validity of either the lease or British sovereignty over the rest of Hong Kong, has

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

made investors increasingly edgy and eroded the formerly solid property market. London has very little room for maneuvering. If China were to decide to move against Hong Kong, there would be no prospect of a Falklands-style liberation.

Other trading centers in South-East Asia already are competing for Hong Kong's mantle as the safest and freest market in the area by offering tax incentives and easing residence requirements for investors. The Philippines, Singapore, and even Thailand last year passed measures to woo businessmen from the troubled crown colony. Not in the running yet, but endowed with the assets that could make it Hong Kong's successor, is an island on the edge of Asia that flies the stars and stripes: the U.S. territory of Guam. It occupies a pivotal position in the western Pacific, only three hours' flying time from Hong Kong, Tokyo, Seoul, and Manila, and is secure. While the long-term political future of Hong Kong, the Philippines, South Korea and even Taiwan may be in doubt, Guam enjoys the stability associated with the American flag, and the protection afforded by the U.S. Air Force and the Seventh Fleet. All that Guam needs is a green light from Washington.

So far, however, U.S. regulations and taxes have turned what should be a booming center of trade into a costly dependency. By ignoring Guam's potential as a key business center, successive administrations in Washington have denied this obvious forward base on American soil to U.S. companies seeking to penetrate the Asian market. The Reagan Administration particularly should appreciate the importance of fighting protectionism and Asian imports with aggressive open trade, rather than retreat behind tariff walls.

There is some indication that Washington at last is beginning to appreciate the opportunity afforded by Guam. The Reagan Administration has changed some of the rules which have stifled the island's entrepreneurs and prevented them from competing with other business centers. But these steps have been modest. Still needed is a bold package of administrative and legislative changes to let Guam redesign its tax and regulatory system to fit the reality of Asia and become the next powerhouse of trade in the region.

BACKGROUND

Guam has been an important U.S. naval installation since 1898, and this American military presence has had significant implications for the island. Throughout this century, and particularly since the Second World War (during which Guam was occupied by the Japanese), military requirements have dominated the island's development. The federal government now owns one third of the territory's 215 square miles, while 20 percent of Guam's 110,000 residents are U.S. military personnel or dependents.

In 1950, Guamanians became U.S. citizens and were allowed to form their own civilian government, even though the island remained under the direct control of the Navy. Guam has a non-voting representative in the House of Representatives, and has elected its own governor since 1970.

The tax system in Guam mirrors the U.S. Code. The only difference is that residents and corporations file returns and pay taxes to the territory, which relieves them of obligation to the federal government. Guam does receive an appropriation from the federal government for welfare and other programs enacted by the Congress.

THE ECONOMIC POTENTIAL OF GUAM

Guam has great potential for becoming a major Asian trading center. It has plenty of available building land and political stability. As a result, investment in the island is far more secure than in any country in the region.

Logistically the island is very attractive. It is in the same time zone as Tokyo and Sydney, and closer to Japan's capital than are Hong Kong or most of the other major business centers of South-East Asia. Guamanians speak English and the education system is based on the U.S. model, making the workforce particularly suitable for American companies. There are no residence or work permit restrictions on American citizens from the mainland, so there can be a free flow of American technical staff.

As a duty-free island and showcase for American goods, Guam is a magnet for young and middle-class Japanese tourists (Guamanian hotels even carry Japanese television "soaps" so that guests will not miss any vital episodes). Tourism has been expanding and is Guam's most important industry. More than 300,000 people visit the island each year, three-quarters of them from Japan.

The tax system has attractions. Unlike many tax havens in the region, Guam's tax incentives (albeit modest by Asian standards) are not subject to fickle tax treaty agreements with the United States. With political uncertainty driving capital from many Asian countries, Guam is now being examined by international companies as a shelter for assets.

Guam's duty-free status not only stimulates the tourist trade, but the "Headnote 3a" program of the U.S. Customs Code allows duty-free import into the U.S. of most Guam goods, provided that at least 51 percent of the value originates in the island. A foreign manufacturer thus can locate a processing facility in Guam and avoid duty, and in most cases, quota requirements. Although a U.S. territory, Guam has been included as a beneficiary of the Generalized System of Preferences (GSP). Under GSP agreement, Japan, Australia, and New Zealand, among other countries, give preferential duties and quotas to developing countries.

The cost of doing business in Guam is low compared with other Asian centers. According to Guamanian officials, office space rents for as little as 20 percent of equivalent space in Tokyo. And recent estimates by the Hong Kong Chamber of Commerce put the total annual cost of posting a representative in Guam, including housing, utilities, and tax equalization, at less than $13,000. The same representative would cost nearly $70,000 a year in Hong Kong.

THE PROBLEMS

Considering Guam's attractive features, the island should be bustling. It is not—particularly not in manufacturing and commerce. Investors from Hong Kong and elsewhere may praise the considerable benefits of a Guam location, but are quick to point out the major obstacles erected by Washington and, to a lesser extent, the Guam government. Unless steps are taken to unleash the commercial potential of the island, it is destined to remain a sleepy Pacific dependency instead of a thriving entrepot.

The burgeoning Government sector

One problem is the huge public sector. More than 40 percent of all workers are employed by the federal or territorial governments (compared with about 15 percent on the U.S. mainland), and a high proportion of those in the private sector are employed in providing goods and services to the island's military base. Only 3 percent of the workforce is employed in manufacturing. Not surprisingly, the public sector has tended to be viewed by the Guamanian government and population as the only hope for economic development and only avenue of opportunity for the educated. This cozy dependency on government has frustrated attempts to build a future base on the risk taking associated with free enterprise.

The Tax Code

Guam theoretically has the power to redesign its taxes so that the effective burden on individuals and corporations can compete with nearby tax havens. Yet Guam's tax rebates, given by the Guam Economic Development Authority, are often complicated by regulations and restrictions. So Guam lacks the simplicity and consistency in its tax code needed to encourage significant foreign investment. Hong Kong, for example, levies a simple flat tax of 15 percent on individuals and 16.5 percent on corporations. The British colony's taxation department recognizes that a low, flat tax rate can increase tax revenues considerably; indeed, they swelled fourfold under the flat rate from 1976 to 1981. Yet the importance of a low, simple tax system for economic investment and growth is still not fully appreciated by many politicians in Guam—or in the U.S. Congress.

Investors on Guam, moreover, are subject to every change in the tax law enacted by Congress and every tax ruling issued by the Treasury Department—even though no Guam revenues go to the U.S. Treasury. Meanwhile, many of the tax treaties between the U.S. government and other countries, designed to balance the effective corporate tax rate, do not apply to Guam.

As a result, Guam's tax system is keeping investors at a distance. Foreign investors, entrepreneurial local businessmen, and many Guamanian political leaders recognize that until the straitjacket of the mirror tax system is removed, Guam will not rival other business centers of Asia.

Labor issues

Businesses and workers in Guam compete with Hong Kong and the Philippines, not with Detroit and New York. Yet the federal government applies labor legislation to the island which systematically discourages employment creation and often discriminates against U.S. firms on their own territory. The 1941 Defense Base Act (DBA), for instance, requires American companies engaged in federal contracts outside the United States to provide specially designed and costly workman's compensation insurance in addition to any locally mandated insurance. Foreign companies who hire workers only from their home country, on the other hand, need not carry DBA insurance. Consequently, they can enjoy a decisive edge over American companies in competing for federal contracts. This advantage has been decisive: a 1976 study, for instance, found that $57 million out of $60 million in contracts that year went to alien contractors.

In 1977, the Department of Labor established new rules for wage rates payable to construction workers. Known as the Adverse Effect Wage Rate, it forced Guam employers to pay higher wage rates to alien (temporary H-2 visa) workers in the industry. This was supposed to help local residents find work in the construction industry. By raising wages to mainland levels over two years, the department believed it would improve the fortunes of local companies and workers.

The results of this program, like most protectionist measures, proved to be catastrophic for the building and tourist industry. Between 1977 and 1981, the annual number of construction permits fell by 55 percent; the real value of new construction fell by two thirds. Bankruptcies in the industry soared, and thousands of jobs were lost as the boost in construction costs undercut demand. Meanwhile, a thriving illegal, but lower-cost, industry emerged using undocumented workers and substandard building techniques. By requiring the legitimate construction industry to base its wage rates on U.S. scales, rather than Asia levels, the Department of Labor achieved the opposite effect to the intended.

The Adverse Wage Rate program had a particularly damaging effect on the tourist industry, the one booming segment of the island's economy. Hotel construction stopped dead in its tracks because of increased labor costs, and Japanese investors began to shun the island and look for alternatives, despite Guam's continued popularity among tourists. In addition, the rule dealt yet another crippling blow to attempts to draw new major companies to the island, since low-cost office space is essential to an emerging business center, to compensate for the shortcomings of an immature economy.

The Adverse Effect Wage Rate simply compounded the problems of the Fair Labor Standards Act, which applies the minimum wage and other labor rules to Guam. Like many of the other rules imposed on Guam by virtue of its U.S. flag status, this well-meaning law and its attendant regulations do not take into account the Asian business and employment climate. The minimum wage has priced Guam labor out of the region's market, discouraged labor-intensive industries, stifled manufacturing, processing and private enterprise in general, and further encouraged dependency on public employment or welfare.

Regulation

Guamanians express the same frustration and irritation with federal regulation as most Americans. The residents of Guam face the added problem that the rules are often even less appropriate to Asian conditions than they are to local conditions within the United States. They undermine the island's competitive economic position with its immediate neighbors.

Among the most burdensome rules are:

Communications: The Federal Communications Commission (FCC) defines Guam as an "overseas" rather than a domestic location, and regulates the rates and form of service accordingly. This means much higher costs for long distance telephone calls, telex, and satellite links.

Pollution standards: The U.S. Environmental Protection Agency has informed the Guam Power Authority that it must install $20 million worth of scrubbers to its Cabras facility ($200 for every resident of the island), despite the fact that the prevailing winds blow the smoke over 1,500 miles of open water. Guamanian officials estimate that this decision alone will add more than 8 percent to the cost of electricity.

Shipping rules: Guam falls under the Jones Act and other controls designed to protect the U.S. shipping industry. By requiring an American hull on all vessels serving more than one U.S. port, even if the vessel makes a round trip to the same port, the law discourages fishing and the charter business by forcing firms to use expensive American-made ships rather that cheaper Asian ships. This law, plus immigration rules governing the temporary debarkation of foreign crewmen, seriously weakens the island's potential as an entrepot and processing center for Asian goods destined for the American market.

Visa rules: Since Guam is a flag territory and its citizens are citizens of the United States, immigration and entry rules fall under the control of the U.S. Immigration and Naturalization Service. Yet visitors entering the U.S. from Guam are still required to go through formal immigration processing (or passport control if they are U.S. citizens). Gaining entry to Guam thus involves the same restrictions and visa requirements as entering the United States. There is no "open door" between Guam and the mainland. Entry rules into Guam could be relaxed without opening the back door for illegal immigration to the U.S. mainland. In Hong Kong, for example, the typical resident is a British subject but not a British citizen. There thus is no automatic right to enter the United Kingdom. As a result, Hong Kong provides relaxed entry, immigration, and citizenship requirements for the colony without affecting entry into Britain.

U.S. immigration law now places heavy constraints on tourism and investment. On a recent reconnaissance trip to the island, a group of Hong Kong businessmen cited entry restriction on key workers as one of Guam's most serious drawbacks. Another drawback is that visitors to Guam—unlike those to Hong Kong or most other Asian business centers—must obtain a visa. This visa requirement makes it difficult for Guam to expand tourism from Japan.

TURNING GUAM INTO THE NEXT HONG KONG

The Reagan Administration has taken important steps to change the business climate in Guam. In April 1982, the White House and Interior's Office of Territorial and International Affairs (OTIA) hosted meetings in Washington where a group of Guam business leaders outlined the barriers to enterprise. OTIA then began working within the Administration and on Capitol Hill to remove obstacles to development.

As a result of these efforts, the Department of Labor has waived the Defense Base Act and the Adverse Effect Wage Rate as they apply to Guam. The latter has been replaced with a local wage council. These changes should help revive the collapsed Guam construction industry and give a much needed boost to local contractors by putting them on an equal footing when competing for federal contracts.

The Immigration and Naturalization Service has delegated the authority for labor certification to the Guam Employment Service. It now will be somewhat easier for island authorities to admit temporary or immigrant workers. Legislation is needed, however, to change the visa requirement. The Immigration Reform and Control Bill (H.R. 1510), introduced by Representative Romano Mazzoli (D-KY), would waive the visa requirement for businessmen or tourists visiting Guam for up to fifteen days. This could enormously aid Guam's attempts to draw potential investors to the island.

The Treasury Department, however, has moved to restrict the tax haven attractiveness of Guam, much to the irritation of Guamanian officials, for several major U.S. corporations had planned to set up operations in Guam because of tax-saving potentials.

While the Treasury has been determined to prevent Guam becoming a tax haven, it has been amenable to proposals to change the basic structure of the territory's tax system. In January 1983, the Interior department proposed three options for the island's tax code. The first was continuation of the status quo. The second was unification of the tax code with the federal system. This would shift the responsibility for administration and collection back to the federal IRS, while keeping the federal code in force. Taxes would, in effect, be sent to the mainland and then remitted back to the territory. The third option was to separate the island's tax system from the federal code, so that after an agreed date, Guam could amend its code at will. This option would enable Guam to compete with the other tax systems in the region. It could, for instance, institute a simple flat tax similar to that in Hong Kong.

Guam Governor Ricardo Bordallo and the local business community generally prefer the third option. For this to take effect requires an amendment to the Organic Act of 1950, which sets down the relationship between Guam and the United States. Discussions on this are planned between Guam and the Administration.

The Administration additionally plans to establish a business assistance center in Guam to provide technical assistance to budding entrepreneurs. Interior is taking the lead in examining the possibilities for a development bank to cover Guam, the neighboring Northern Marianas Islands, and American Samoa. On the other hand, the Federal Communication Commission has not reclassified Guam as a domestic location—a vital change if the territory is to provide the sophisticated communications services essential for a business center. Nor has there been any indication that the Administration intends to tackle the maritime restrictions on Guam's development.

While many Asian countries are moving swiftly to create favorable conditions for trade and investment, the U.S. government is in danger of losing the opportunity to create a major international business center on American soil. To grab the initiative, several steps must be taken quicky:

(1) *Taxation.*—The Administration should request a change in the Organic Act to allow Guam to design a simplified tax code which could compete for international investment and trade.

(2) *Communications.*—The FCC should reclassify Guam as a domestic location to encourage competition in services. The Administration should also press Congress to exempt Guam from the provisions of the Jones Act, thereby allowing more use of less expensive foreign made vessels for local business and greater utilization of Guam for the processing and shipment of Asian goods destined for the U.S. mainland.

(3) *Regulations.*—The Task Force on the Territories should overhaul the burdensome regulations that now apply to Guam and recommend changes that would turn the island into an international trading center. The Administration should continue in its efforts to secure a congressional exemption from those provisions of the Clean Air Act that impose an enormous cost on power generation on the island with minimal effect on the environment.

(4) *Immigration.*—The removal of a visa requirement for visits of no more than 15 days, as contained in the Mazzoli bill, would

be helpful. This change would stimulate tourism and essential business contacts. Consideration should also be given to creating special entry and residency requirements for Guam to encourage both temporary and permanent residence by people with the skills and capital needed for business development. This new visitor and residency status would apply only to Guam and would not give the holder any right of entry into the United States. If the U.S. residency law pertaining to Guam were amended, with control vested in the government of Guam, it could lead to a truly international and bustling trading community on the island.

CONCLUSION

Guam is a strategically important, but economically dependent, U.S. territory within reach of Asia. At the same time, nervous investors and corporations in the region are seaching for a secure base of operations, and many American businessmen are looking for a stable location from which they can launch trading ventures into Japan and other Asian countries.

If the federal government were to act quickly to remove the current obstacles to the island's development, it could unlock Guam's considerable potential and transform the territory into a new hub of trade and a platform and showcase for Americn companies seeking to do business in the Orient. By taking the initiative in this way, Congress and the Administration would be signaling an aggressive trading challenge to Japan based on free competition, instead of retreating deeper into the mire of protectionism. In short, Guam could emerge as a Hong Kong on American soil.●

THE 175TH ANNIVERSARY OF MOUNT ST. MARY'S COLLEGE

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mrs. BYRON. Mr. Speaker, 1983 marks the 175th anniversary of Mount St. Mary's College in Emmitsburg, Md. Founded in 1808 by Father John Dubois, a French priest, the Mount is the oldest independent Catholic college in the United States. In 1830, Mount St. Mary's received its first charter from the Maryland State Legislature.

During its 175 years of existence, Mount St. Mary's College has been an invaluable contributor to the development of education in America. More than 30 major colleges and universities have been founded by alumni of the Mount—including Fordham, St. John's, and Seton Hall. Over 40 graduates have been elevated to the Catholic hierarchy, including the first native American Cardinal. Other alumni include artist John LaFarge, former Supreme Court Justice Edward White, and former Mexican President Francisco Madero. The Mount currently boasts the NCAA decathlon champion, and has a long tradition of success in many sports.

Mount St. Mary's College has played an important role in the development of higher education in the United States. I hope my colleagues will join me in congratulating it on its 175th anniversary, and extending best wishes for the future.●

THE FORMER PRISONERS OF WAR COMPENSATION ACT

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. MURPHY. Mr. Speaker, the problems faced by former American prisoners of war were officially recognized by the U.S. Congress in 1978. On October 18 of that year, Congress enacted Public Law 95-479 which directed the Administration of Veterans Affairs, in consideration with the Secretary of Defense, to carry out a comprehensive study of the disability compensation awarded to and the health-care needs of veterans who were former POW's.

The report that ensued illustrated a situation that required major legislation to correct. The study stated:

> The environment of POW captivity combines a potent blend of physical hardship and deprivation, on one hand, and the psychological stress and trauma on the other. It would be foolhardy indeed to distinguish the relative impact of each of these factors on the postcaptivity health status of repatriates, but it is clear in any case the survivors of the POW experience are at risk for a staggering range of physical disabilities and psychological symptoms that can be described to the overall captivity episode.

The report also indicated a significantly higher death rate among former POW's at an earlier age than their non-POW counterparts, and that there will be premature aging among the ex-POW's.

The result of this report was the enactment of Public Law 97-88, the Former Prisoners of War Benefits Act of 1981. This law recognized the need for compensation and thus established provisions and methods for the qualifications of former POW's to receive disability compensation. Under this law, an ex-POW must provide medical records or repatriation records relating his or her physical or psychological disability to the internment experience. This law expanded the list of presumptive service-connected conditions to include the anxiety states, psychoses, and post-traumatic-stress disorder. It also expanded health care benefits to all former POW's with the need to establish service-connected status.

The shortcoming of this legislation was the failure to address all of the pertinent issues raised by the VA study. Among the findings of that study was the conclusion that Veterans' Administration adjudication was hampered by a lack of proper medical evidence due to poor or nonexistent repatriation examinations. An analysis of the repatriation procedures established for the prisoners of war of World War II, Korea, and Vietnam found that the proposed procedures were generally thorough and comprehensive, but that for the vast majority of former POW's, these repatriation procedures were never fully implemented. Significant numbers of former POW's from all fields of service and all theaters of operation received no physical or psychiatric examination at the time of their repatriation. For those POW's who were fortunate enough to receive an examination, many have since discovered that the examination contained little medical evidence of probative value for the establishment of a claim for service connection. The adjudication of a claim without this crucial evidence places the former POW at a serious disadvantage. Without specific military medical records, the establishment of service connection becomes a matter of proving treatment for the claimed disability soon after discharge with a showing of continuity of that treatment until the date of claim.

The lack of complete repatriation examinations, coupled with a difficulty many older former prisoners of war face in obtaining private medical reports from physicians who may have treated them in the late 1940's or early 1950's, makes the development of service connection nearly impossible. In many instances, the physicians are no longer practicing medicine and have disposed of their records or are now deceased.

Another administrative problem faced by former POW's and one that is also recognized in the recent VA study is the lack of standardized protocol for disability compensation examinations for former POW's. Generally, a compensation examination by a VA physician is limited to the specific condition claimed by the veteran to be service connected. Often, the examining physician is unaware of the special circumstances related to the internment experience or to the possible residual effects of long-term imprisonment and deprivation.

For the above stated reasons, the requirements that former prisoners of war prove service incurrence and continuity of treatment for nonpresumptive conditions is extremely difficult, and in essence, former POW's are being penalized for the Government's failure to implement its own repatriation procedure.

And so, Mr. Speaker, in light of the inadequacies of all previous legislation, I am proposing the Former Prisoners of War Compensation Act. This bill establishes a rate of disability compensation based on the length of time and the place of internment. The following is the classification for categories of compensation:

Period the veteran was detained or interned	*Per centum of disability*
Asian internment:	
36 mo or more	50
24 mo or more but less than 36 mo	40
18 mo or more but less than 24 mo	20
Less than 18 mo	10
Non-Asian internment:	
36 mo or more	30
24 mo or more but less than 36 mo	20
Less than 24 mo	10

This section shall not apply in the case of a veteran who is otherwise entitled to a higher per centum of disability than that which would be applicable to the veteran under this section.

The bill also states that when a veteran who is a former prisoner of war dies, the disability rating to which the veteran is entitled under section 316 of this title or under any other provision of chapter 11 of this title is in excess of 50 per centum, the Administrator shall pay benefits under this chapter to the veteran's surviving spouse, if such surviving spouse was married to such veteran for not less than 2 years immediately preceding such veteran's death, and to such veteran's children, in the same manner as if the veteran's death were service connected.

This legislation will resolve the problems of verification of often nonexistent records by generally categorizing all POW's as disabled. This will eliminate the unfair burden of proof of service relation to apparent disabilities that the POW must bear.

This bill also solves the problem of discrimination of former POW's who were, through no fault of their own, not properly repatriated.

By enacting Public Laws 95-479 and 97-88, the U.S. Congress has recognized the serious need for disability compensation for former prisoners of war. These laws, while representing positive steps toward much needed and deserved compensation, do not adequately satisfy the needs of these men and women who suffered grave personal losses in the defense of this country.

By enacting this legislation, the complete compensation needs of all American former prisoners of war can finally be satisfied.●

TRUTH VERSUS FUNDRAISING

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. HUBBARD. Mr. Speaker, I received a February 15, 1983, letter from one of my constituents, Carl H. Bryant, of Earlington, Ky., relative to fundraising efforts for social security. I believe my colleagues will be interested in some of Mr. Bryant's comments, and excerpts of the letter follow:

EARLINGTON, KY., *February 15, 1983.*

DEAR CONGRESSMAN HUBBARD: I am in receipt of a letter from a Florida colleague of yours requesting a contribution for the "Campaign for Fair Social Security." As a registered Democrat for fifty years and also a recipient of Social Security benefits, I would like to give you my reply.

From what I have read in the newspapers and news magazines lately, there is no person trying to destroy Social Security as his letter indicates. The Florida congressman talks about drastic cutbacks. I do not think it is drastic to hold up a cost-of-living increase for six months. Neither do I agree that gradually increasing the retirement age from 65 to 66 to be a cut in benefits.

Congress does not seem to realize that the Social Security system is in real financial trouble. The Social Security Commission made some recommendations that should be adopted for the present, and I believe more is going to be required to keep the system solvent.

You need to put your efforts into making the system solvent and in doing this you will be doing me and the other senior citizens the greatest favor you could do for us.

So, ask your colleague to put his energies into efforts to strengthen the Social Security system instead of flooding the old people with newspaper ads, telephone hotlines and direct mail-alerts. Why not tell them the real truth about the financial condition of the system?

Very sincerely,

CARL H. BRYANT.●

IN DEALING WITH THE SOVIETS

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. RITTER. Mr. Speaker, I am enclosing for the benefit of my colleagues an editorial that appeared in this week's edition of Ukrainian Weekly. The Ukrainian Weekly is an excellent source for information on human rights issues, coverage of the Soviet Union, and foreign affairs in general.

The editorial goes right to the heart of the question: Do the Soviets uphold their treaty commitments? With the nuclear freeze question still before the Congress, the article is extremely useful, as it brings to light information not widely known. There is no doubt that the Soviets have been giving the media in the West some of the best propaganda in a long time. Yet, despite all their preaching about peace and depicting our President as a warmonger, they have rejected outright every American peace initiative.

The Soviets want peace, but "peace" as they define it. I would hope that my colleagues take the time to read this stimulating editorial.

[From the Ukrainian Weekly, Apr. 24, 1983]

SOVIET TREATY TREACHERY

A recent interagency committee report outlining numerous and egregious Soviet violations of a host of arms-limitation agreements has become something of a political hot potato in Washington. Conservative leaders have urged President Ronald Reagan to make the findings public, arguing quite rightly that hard evidence of Soviet contraventions will do much to counter Moscow's extensive campaign for public opinion in the West. Others have counseled caution, urging the president not to make any public charges that could jeopardize ongoing arms agreement talks.

The committee has found "a fairly long list" of violations under the 1979 strategic arms agreement, the 1972 Antiballistic Missile Treaty, the 1974 Threshhold Test Ban Treaty and the 1976 Treaty of Peaceful Nuclear Exchange. The alleged infractions include concealed deployment of the banned mobile SS-16 missile, testing of a new mobile, air defense system as part of a nationwide ABM defense system forbidden by the 1972 treaty, evidence of a direct attack on an American intelligence satellite with laser radiation in violation of the agreement banning weapons from space, the development of two types of ICBMs, and numerous other transgressions.

These are indeed extremely serious violations, and we see little sense in keeping the details from the public. Thus far, much of the administration's contention that the Soviets have ignored existing weapons treaties while building up their nuclear capability has been based on putative evidence. Disclosing particulars of the violations would give the president's assertions more credibility.

Perhaps more importantly, it would offset a carefully calculated and slick public-relations drive by Soviet officials aimed at convincing the American people that their president is a closet war-monger while they, the Soviets, are peace-loving innocents with an earnest desire for serious arms control.

The Soviet campaign, or peace offensive, has been spearheaded by a host of Soviet officials, among them Georgi Arbatov, a seasoned professional apparatchik and head of the Soviet Institute of the United States and Canada, who has recently hit the TV and lecture circuit in the guise of a semi-private individual, avoiding mention of the caveat that his views are not his own but the Kremlin's. An expert in the fine art of casuistry, Mr. Arbatov specializes in ad hominem pronouncements about his country's peaceful intentions, rife with importunate pleadings about the need for nuclear sanity. The cynical pitch, fine-tuned to appeal to the legitimate anxieties of the American people, carefully circumvents such issues as Soviet nuclear superiority in Europe, Soviet violations of chemical and biological weapons treaties, not to mention accords on human rights. More significantly, it excludes such facts as the Kremlin's categorical rejection of U.S. peace initiatives, most notably President Reagan's so-called "zero option" and the subsequent offer of cutting back the number of U.S. missiles to be deployed in Europe. (It should be noted that American officials have not been allowed to present the U.S. position to the Soviet people.)

Despite the blatantly self-serving aspect of the Soviet campaign, it has had its effect. Only the politically uninitiated would argue that such unctuous talk has had absolutely no impact on encouraging the nuclear freeze movement and the anti-nuclear movement in Europe.

Clearly, their can be little doubt that documented evidence of Soviet violations of several nuclear weapons treaties would go a long way in silencing the Soviet propagandists. It should also have a sobering effect on those who may have been swayed by their empty rhetoric.●

SCIENTIFIC ADVANCES IN ENDOSCOPY

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. DUNCAN. Mr. Speaker, during last week in May in Washington, D.C., over 4,000 physicians will be gathering for their annual meetings regarding digestive diseases research and care.

One of the groups that will be coming to Washington is the American Society of Gastrointestinal Endoscopy, which has in its membership over 3,000 physicians trained in the use of endoscopic equipment. The society has as a major purpose the establishment of training guidelines and the improvement of the quality of care of patients.

On May 24, between 4 and 6 p.m., in room S-207 of the Capitol Building, I will be pleased to consponsor a reception at which the history of gastrointestinal endoscopy will be shown through the use of instrumentation. I am pleased to say that this program will be cosponsored by Senator HOWARD BAKER, the majority leader of the Senate.

Dr. Bergein F. Overholt, president-elect of the society, who comes from Knoxville, Tenn., will be host at this affair.

I feel that this will be an excellent opportunity for Members of the Congress and their staffs to see what has become known as a revolution in modern American medical techniques. During the last decade, especially due to the new uses of fiberoptic materials, the opportunities for endoscopic use in the digestive system have quite simply exploded. Displayed will be the instruments that were used in the earliest days of such equipment, through to the present time. A number of new and experimental pieces of endoscopic equipment will be made available to Members to handle and manipulate, to get a better understanding of what is now currently available. Also, there will be a videotaped program showing the visualization now available of interior parts of the digestive tract by means of the new instrumentation. Dr. Overholt, in his testimony before the Senate and House Appropriations Committees, has pointed out a number of remarkable advances that have occurred in the field of endoscopy. Some of the advances he has pointed out include the following:

First, one important recent contribution of endoscopy is in the treatment of upper gastrointestinal hemorrhage and endoscopy, which makes it possible to find the source of bleeding in most patients, permitting more rapid care.

Second, recent improvements in endoscopic therapy, including lasers, electrocoagulation, and heater probes have, in preliminary studies, shown a reduction in length of stay of patients in hospitals, reduction in transfusion requirements, costs, and mortality.

A third advance is the control of acute bleeding from esophageal varices and cirrhosis. This new technique, sclerotherapy, essentially involves injecting a clotting/thrombosing agent into the bleeding varix through an endoscope producing a clot in the vein which prevents further bleeding. and it seems likely that this new technique holds greater promise as a means to prevent death from hemorrhage from esophageal varices and cirrhosis.

The National Institutes of Health is actively involved in endoscopic research, and currently miniature probes are being developed which can be passed through endoscopes to measure the acidity and alkalinity of intestinal secretions. Modifications of these probes will allow, in the patient, direct measurement of blood flow, biomedical reactions, secretions and motility.

The National Institute on Arthritis, Diabetes, and Digestive and Kidney Diseases is supporting much of this work. It seems clear that small probes will in the future be inserted through the endoscope into the organs and samples of pure pancreatic and bile fluids will be obtained for the study of normal and disease states, such as chronic pancreatitis and gallstones. This is an important advance, as previously physicians were unable to obtain samples of pure secretions. Also through these probes, X-ray dyes can be injected, and also special cutting wires incise and open the bile duct to allow removal of common duct stones.

Also, as these interior portions of the body are visualized, advances have now permitted the attachment of television devices to record the actual interior of the digestive tract onto videotape, both for later examination and also as a record of the patient's progress.

One other remarkable advance that is occurring is improvements in the diagnosis and treatment of diverticulosis, polyps, and cancer of the colon. The endoscopic removal of colon polyps, which are thought to be a prescursor of colon cancer, is a dramatic advance in patient care and has resulted in marked reduction in hospital stays.

Mr. Speaker, these are only a few of the remarkable advances, and I find it of interest to note that in this month's issue of Scientific American, a very widely read scientific magazine, it is noted that 100 years ago in April 1883, Dr. Roswell Park of Chicago described the most recent applications of electric light for surgical purposes.

So that we can see how far we have come, I insert now this very short commentary from the April 1883 Scientific American:

> Dr. Roswell Park of Chicago describes the most recent applications of the electric light for surgical purposes. One form of these new instruments, called the gastroscope, is an instrument for the examination of the stomach. It consists of a bent tube with a window at one end, electric wires and tubes for the introduction of a water circulation to keep the tube cool while the electric light is burning. The tube is also equipped with reflector prisms and lenses for directing the light through it. A variety of other instruments have been made. For example, we have the laryngoscope, for examination of all parts of the throat; the oesophagoscope, for the gullet; the otoscope, for the ears; the urethroscope, for the bladder; the cystoscope, etc. They promise to be of utility and importance for the medical profession, for by their use many parts of the human system heretofore hidden from the eye may not be brilliantly lighted and examined and their condition in disease and health ascertained.

Finally, Mr. Speaker, I urge all those who are interested in the rapid technological advancement in scientific equipment to come to this demonstration.●

HAPPY BIRTHDAY DAYTON BALLET COMPANY, HAPPY BIRTHDAY MISS JO

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. HALL of Ohio. Mr. Speaker, in 1937, Josephine and Hermene Schwarz began the Experimental Group for Young Dancers in Dayton, Ohio. This year the group, now known as the Dayton Ballet Company, has just completed its 45th anniversary season as the second oldest regional ballet company in the Nation.

The Dayton Ballet Company is truly one of Dayton's great treasures. It is ranked among America's top regional dance companies and is widely acclaimed for its quality of performance and diverse repertoire. It is consistently awarded major company status by the National Association for Regional Ballet and has performed widely in the United States and Canada.

The ballet is a valuable community asset which has entertained, enriched, and instructed two generations of Daytonians. During 14 regular performances in its past season, it reached a total audience of over 20,000. In addition, the ballet gave lecture demonstrations to schoolchildren, free performances to senior citizen groups, and other special programs.

The ballet also serves as a cultural ambassador of Dayton. During the last year, it performed before 30,000 in 19 touring appearances in the Midwestern and Eastern States.

Behind all of the ballet's success is founder and guiding light Josephine Schwarz, or "Miss Jo" as she is known in the dance world. A knee injury forced her to turn from performance to helping others perform through teaching, choreographing, and directing. She is a founding member of the National Association for Regional Ballet and served as the first chairman of the Ohio Arts Council Dance Advisory Panel and as a member of the dance panel of the National Endowment for the Arts.

Since she began teaching ballet at the age of 14 when she charged 10 cents a lesson, she estimates she has worked with "thousands of students." They are now scattered around the country, many ballet stars in their own right.

Though she celebrated her 75th birthday only last week, Miss Jo remains actively committed to dance. She still teaches 6 days a week in her downtown studio above the old Victory Theatre. She still works with the Dayton Ballet Co., serving as artistic adviser. Even yesterday she journeyed to Washington to testify before the Appropriations Subcommittee on the Interior in support of funding for the National Endowment for the Arts.

I wish a happy anniversary to the Dayton Ballet Co. and a happy birthday to Miss Jo.●

HAWAII RIVERS AND HARBORS ACT OF 1983

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. AKAKA. Mr. Speaker, today I am introducing the Hawaii Rivers and Harbors Act of 1983, a bill to authorize the Corps of Engineers to construct projects which would respond to the special flood control and navigation needs of the State of Hawaii.

I have included in my bill construction authority for hydropower production along the Wailua River on the island of Kauai, Hawaii. The energy problems of the island of Kauai are typical of many insular locations. Kauai lacks energy-efficient utility networks and access to inexpensive fuels with petroleum fuels as their major source of electrical energy. This oil dependency may be substantially reduced by tapping the abundant water resources of the island.

To harness this resource, my bill authorizes the construction of a small hydropower facility located in the Wailua River basin, as recommended by the Army Corps of Engineers. This facility would utilize a renewable energy source to provide an additional 11.28 million kilowatts of energy to serve the equivalent of 2,300 households on Kauai.

This bill would also authorize several projects on the island of Hawaii. First, my bill addresses the special flood control needs for Alenaio Stream. The Alenaio Stream flows through the city of Hilo, the Big Island's largest city and county seat. In 1966, 1979, and again in 1980, the city of Hilo experienced major floodings directly resulting from the poor channeling of floodwaters through the Alenaio Stream. On these three occasions, floodwaters caused extensive property damage to the downtown Hilo area.

The Army Corps of Engineers has developed project recommendations for channel construction to prevent further flooding of the Alenaio Stream. These recommendations are fully supported by the county government and the local community. The proposed floodproofing of the Alenaio Stream would substantially enhance urban planning and development, as well as providing for the economic stability of downtown Hilo.

In addition, this bill would authorize construction of lava-control barriers to provide emergency protection for Hilo residents from eruptions of the active volcanic mountain, Mauna Loa. A rift line along the slope of Mauna Loa extends northeast to the city of Hilo. Because lava flows generally originate from points along the rift, an eruption of Mauna Loa poses a potential threat to Hilo and its residents.

Since 1843, there have been seven major eruptions in Mauna Loa's northeast rift zone. Lava from four of these eruptions advanced to within 7 miles of Hilo, and lava from one eruption advanced to within 1.5 miles of Hilo Bay. The Corps of Engineers has recommended the construction of earthen diversion barriers to direct future lava flows away from Hilo's inhabited areas. This recommendation is part of an emergency reaction plan to be implemented only if volcanic activity poses a significant threat to life and property.

Finally, I have proposed project authority for the modification of the Hilo Harbor facility. Harbors are the foundation of my State's well-being, with 98 percent of all the goods and materials we receive arriving by ship. Hawaii is geographically isolated and consequently is far more dependent upon shipping than is the continental United States. With no effective alternative to shipping, the ocean constitutes our "highway" for transportation of the necessities of life.

Like the highways on the continental United States, our "highway," in particular the Hilo Harbor exit, is in need of repair. The harbor's existing channels are inadequate to serve Hilo's shipping needs. The shallow depths of Hilo Harbor are an obstacle to navigation, preventing larger ships from traversing through and maneuvering within the harbor channels. The hazards to navigation present a substantial impairment to the efficient movement of cargo. In responding to these deep-draft navigation needs of the Hilo Harbor facility, I have proposed in my bill the deepening of this harbor to promote vessel safety and more efficient shipping operations.

Mr. Speaker, I urge the Committee on Public Works and Transportation to give swift consideration to this bill.●

A PARLIAMENTARY REFERENCE GUIDE TO THE BUDGET ACT—PART II

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. MICHEL. Mr. Speaker, I am inserting in the CONGRESSIONAL RECORD a chart on title X of the Congressional Budget and Impoundment Control Act (Public Law 93-344). I hope this material will be of assistance to anyone wanting to better understand our budget procedures. Members may wish to preserve this for ready reference as well as the parliamentary guide to title III which I assembled earlier this year (RECORD, Jan. 25, 1983, pp. 303-304).

PARLIAMENTARY REFERENCE GUIDE TO THE BUDGET ACT (TITLE X OF PUBLIC LAW 93-344)

	Impoundment control—Rescissions, requires action by both Houses of Congress and signed by the President								
					Passed		Conference report agreed to in—		
Proper vehicle	Title	Special messages and communications	Referred to committee (House and Senate)	Reported or discharged (House and Senate, 25-day limit)	House (2-hr debate)	Senate (10-hr debate, special recommit)	House (Governed by rules of the House)	Senate (2-hr debate)	Congress completes action (deadline 45-calendar days after message)
H.R. (or) H.J. Res.	Consideration of proposed rescissions.	Of President. Of date (sec. 1012). Of Comptroller General. Of date (sec. 1014; 1015).	Sec. 1017, (a)	Sec. 1017, (b), (1)(2), [1011 (5)].	Sec. 1017, (c)	Sec. 1017, (d), (1)(2)(3).	Sec. 1017 (c)(5).	Sec. 1017, (d), (4)(5), (6)(7).	Sec. 1011 (3) and (5).

	Deferrals—Requires action by either House of Congress					
Proper vehicle	Title	Special messages and communications	Referred to House committee (or Senate)	Reported (or discharged) in House (or Senate)	Passed House (2-hr debate)	Passed Senate (10-hr debate)
H. Res. (or) S. Res.	Impoundment resolution (disapproval of proposed deferrals).	Of President. Of date. Of Comptroller General. Of date (sec. 1013; 1014; 1015).	Sec. 1017(a)	Sec. 1017(b), [1011(5)]	Sec. 1017(c)	Sec. 1017(d), (1).

Note.—Sec. 1011(5) states in part that the continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 45-day . . . and the 25-day periods. Bracketed citations refer to sections which have partial application.●

A MOVING EULOGY FOR OUR VICTIMS OF TERRORISM

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. **BOLAND**. Mr. Speaker, yesterday, I attended a memorial service in the Washington National Cathedral for all those slain in the terrorist bombing of our Embassy in Beirut. The service was crowded to overflowing. It was short and very simple. All who attended clearly were moved by the numbers of relatives of those who were slain in what the program so optly termed "this senseless act of violence." The price of peace is indeed a heavy one for these grieving Americans. The whole Nation mourns with them.

Mr. Speaker, the moving address of Kenneth Dam, the Deputy Secretary of State, speaks to us all as we struggle to deal with this terrible killing. I append at this point Mr. Dam's memorial remarks as well as the program of the memorial service.

MEMORIAL SERVICE FOR VICTIMS OF TERRORISM AT THE EMBASSY OF THE UNITED STATES IN BEIRUT, APRIL 18, 1983, AT NOON IN WASHINGTON CATHEDRAL, APRIL 26, 1983

The Right Reverend John T. Walker, Bishop of Washington.

The Reverend Provost Charles A. Perry.

The Reverend William Lori.

WE COME TO HONOR

Those who died

Abul-Massih, Riyad.
Al-Halabi, Abdallah.
Ames, Roert C.
Assaran, Mohamedain Hassan.
Atallah, Elias.
Bathiard, Cesar.
Blacka, Thomas R.
Dakkash, Antoine.
Dandan, Mounir.
Fanous, Farouk.
Faraci, Phyliss N.
Gilden, Terry Lee.
Hass, Kenneth E.
Hixon, Deborah M.
Iskanderani, Raja.
Johnston, Frank J.
Juraydini, Nazih.
Karam, Antoine.
Khairy, Edgard.
Khouri, Hafez.
Lewis, James F.
Lewis, Monique.
Maakaroun, Amal.
Maxwell, Staff Sgt. Ben.
McIntyre, William R.
McMaugh, Cpl. Robert.
Metni, Mary.
Najja, Mohammed.
Rahhal, Nabil.
Sahyoun, Roudana.
Salameh, Fouad.
Salazar, Staff Sgt. Mark.
Setrakian, Shane.
Sheil, William.
Srouh, Souad.
Stevens, Janet Lee.
Twine, Master Sgt. Richard.
Votaw, Albert.

Those who are still missing and are presumed dead

Al-Hashim, Yolla.
Eid, Rafic.
Haidar-Ahmad, Hussein.
Hassan, Mohammed.
Ibrahim, Hohammed.
Kabbout, Ghazi.
Karbour, Raymond.
Nahhas, Kamal.
Ra'i Dariniche.
Yatim, Khalil.

And those others who died in this senseless act of violence

ORDER OF SERVICE

Page numbers refer to the Book of Common Prayer.

Prelude: The United States Marine Band Brass Quintet.

Toward the end of the prelude, all stand as the procession of choir and participants led by the cross and torches and the flags of Lebanon, Tunisia and the United States enters the crossing from the north transept.

Opening sentences.

Psalm 121, page 779—Chant: Richard Dirksen.

First lesson: Wisdom 3: 1-5,9.

All stand and read responsively. The people's responses are in *italic*

Psalm 23:

The Lord is my shepherd; I shall not want.

He maketh me to lie down in green pastures: He leadeth me beside the still waters.

He restoreth my soul; he leadeth me in the paths of righteousness for his Name's sake.

Yea, though I walk through the valley of the shadow of death, I will fear no evil: for Thou art with me; Thy rod and Thy staff They comfort me.

Thou preparest a table before me in the presence of mine enemies: thou anointest my head with oil; my cup runneth over.

Surely goodness and mercy shall follow me all the days of my life: and I will dwell in the house of the Lord for ever.

Glory to the Father, and to the Son, and to the Holy Spirit; as it was in the beginning, is now, and will be for ever. Amen.

Second Lesson: Revelation 21:2-7.

Hymn: Ein feste Burg."

A mighty fortress is our God,
A bulwark never failing;
Our helper he amid the flood
  Of mortal ills prevailing:
For still our ancient foe
Doth seek to work us woe;
His craft and power are great,
And, armed with cruel hate,
  On earth is not his equal.
Did we in our own strength confide,
  Our striving would be losing;
Were not the right man on our side,
  The man of God's own choosing:
Dost ask who that may be?
Christ Jesus, it is he;
Lord Sabaoth his Name,
From age to age the same,
  And he must win the battle.

Memorial remarks: The Honorable Kenneth W. Dam, *Acting Secretary of State.*

The Apostles' Creed, *page 66.*

Prayers and commendation.

Hymn: *H. Walford Davies.*

God be in my head, and in my understanding;
God be in mine eyes, and in my looking,
God be in my mouth, and in my speaking;
God be in my heart, and in my thinking;
God be at mine end, and at my departing.

Sarum Primer (1558)

The blessing.

Recessional Hymn: "St. Anne."

O God, our help in ages past,
Our hope for years to come,
Our shelter from the stormy blast,
And our eternal home:

Under the shadow of thy throne
Thy saints have dwelt secure;
Sufficient is thine arm alone,
And our deference is sure.

Before the hills in order stood,
Or earth received her frame,
From everlasting thou are God,
To endless years the same.

A thousand ages in thy sight
Are like an evening gone;
Short as the watch that tends the night
Before the rising sun.

Time, like an everrolling stream,
Bears all its sons away:
They fly, forgotten, as a dream
Dies at the opening day.

O God, our help in ages past,
Our hope for years to come,
Be thou our guide while life shall last,
And our eternal home. Amen.

ISAAC WATTS, 1719; *based on Psalm 90*

Postlude: Marine Brass Quintet.

REMARKS BY KENNETH W. DAM, ACTING SECRETARY OF STATE AT THE MEMORIAL SERVICE FOR BEIRUT VICTIMS, NATIONAL CATHEDRAL, APRIL 26, 1983

We mourn today the Americans and the foreign nationals who died in the bombing of the Embassy in Beirut. They dedicated themselves to public service and gave their lives in that service. We yearn to comfort their families and their loved ones. And we say to them: your loss is deeper than any words can express.

We can only hope your grief is somewhat lessened by the knowledge that so many share it. This tragedy is a loss to each of us who had a friend, or a colleague, among those who perished in Beirut. It has diminished our lives as well.

And it is a collective loss—a loss to the United States, to the people of Lebanon, and to all who desire peace.

Of those who died, 17 were Americans. They represented us; they were among the best of us; and it was because they worked for us to bring peace to others that they were the target of this cowardly act.

These Americans so loved their country that they served it bravely in conditions of hardship and danger. They were good Americans, among the thousands of dedicated men and women who, whatever their risk, are on the front lines in our pursuit of peace in the world.

Their lives will remind us always that patriotism, honor, and service still endure. If we fall into the trap of cynicism, their example of devotion to duty will free us. If we grow tired in our pursuit of peace, their courage and their perseverance will inspire us. And if we become callous in the face of suffering, their sacrifice will humble us.

We are honored to be a part of a government and a nation that they served so well. With this honor comes the burden and, at times like today, the pain.

We Americans have always believed that our nation exists not for itself alone. Ours is a grand experiment in freedom, which offers hope to all mankind. Let it therefore be known that we will not be deterred by the cowardly acts of terrorists. Peace cannot be killed by killing the peacemakers. The work of our colleagues will be carried on and peace will be restored to a troubled land.

Mr. Justice Holmes said:

"* * * we cannot live on dreams. We are lucky enough if we can give a sample of our best and if we can know in our hearts it was nobly done."

Those we mourn today gave us their best. And it was nobly done.●

FIFTH PRECINCT COMMUNITY COUNCIL OF NEW YORK CITY PRESENTS "COP-OF-THE-YEAR" AWARD

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. GREEN. Mr. Speaker, I rise to honor two distinguished and outstanding citizens of New York City: Police Officer John Brennan and Detective Rocco Pascarella. These dedicated men will receive the Cop-of-the-Year Award to be presented this evening by the Fifth Precinct Community Council of New York City.

This year marks the fourth time the community council has presented the award and the first time the award was even shared by two recipients in 1 year. Each month of the year, one police officer is chosen for performing a courageous deed or for displaying remarkable leadership qualities; at the end of the year, a committee chooses the Cop-of-the-Year from the pool of 12 candidates. I understand that this year's decision was extremely difficult and that two officers were chosen instead of one.

These gentlemen have certainly earned such favorable recognition. Police Officer Brennan, a member of the force for 12 years, distinguished himself this year by convincing a dangerous man with a gun to give himself up. The man Brennan pursued locked himself in a room in an apartment after shooting his girlfriend and her daughter. After a tense and trying exchange of words, Brennan was able to take the man, preventing any further injury to those at the scene. Brennan's ability to take risks and to act decisively in this situation is quite impressive.

Detective Rocco Pascarella, a member of the force for 14 years, displayed amazing courage by inspecting police headquarters in the midst of a frightening bomb scare. After the explosion of two bombs, Pascarella did not hesitate to search for any remaining explosives planted in the building. He discovered another bomb during his search and, unfortunately, it exploded causing him serious bodily injury. Pascarella's unselfish willingness to risk his life is a commendable feature of his character.

Brennan and Pascarella are fine examples of individuals who make their community a strong, healthy, and safe environment in which to live. These two men are assets to their community both as keepers of the peace and as leaders of outstanding character whose courageous contributions serve as an inspiration to all of us.●

SIMPLIFIED PASSENGER INSPECTION

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. BONER of Tennessee. Mr. Speaker, today I am introducing a resolution which will require the agencies which comprise the Federal inspection system to give equal emphasis to both law enforcement and the facilitation of passengers and cargo through our international airports. The resolution also requires the appropriate agencies to develop and jointly implement a national plan to consolidate their functions prior to the 1984 summer Olympics in Los Angeles.

It is imperative that we move forward in our efforts to improve our outdated inspection system at U.S. gateway airports. Laws and regulations affecting the inspection of visitors and cargo today were originally enacted in the early days of steamship travel and as a result now impede the flow of international air commerce.

With passage of the Tourism Policy Act, the Congress mandated the stimulation of travel to the United States through the encouragement of free and welcome entry of individuals traveling to the United States, consistent with current law. Nevertheless, little has been done to modernize the inspection process at U.S. airports of entry.

The time has come for us to take advantage of the many economic benefits of increased international travel and trade. We can no longer ignore the demonstrated employment and tax revenue generating potential of the tourism industry which provides employment for 4.6 million Americans at every level of skill; or the $19 billion in Federal, State, and local tax income generated from travel related spending. For every 54 additional travelers to the United States one job is created in travel-related businesses. An improved inspection system will help to make the United States a more attractive travel destination, therefore, creating more jobs and increasing revenue for the Treasury.

Changes are badly needed at our airports of entry to relieve congestion and long delays for the traveling and shipping public. This resolution will initiate action which will not only focus attention on the issue, but will also create the opportunity to find needed solutions to an ongoing problem. This measure will not require the appropriation of any funds, nor will it intrude upon the jurisdictional authority of any committee. For these reasons, I urge your support for the resolution.●

APRIL 1983 CARNEGIE REPORT CRITICIZES NUCLEAR FREEZE

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. MARTIN of North Carolina. Mr. Speaker, I wish to call to the attention of my colleagues the new report of the Carnegie Endowment for International Peace, "Challenges for U.S. National Security."

A prestigious panel of Carnegie experts sharply criticizes the nuclear freeze as damaging to crisis stability and virtually too complicated to negotiate. They ask, "Why not spend that time and political capital on negotiating stabilizing measures and reductions?" Exactly the position of the Reagan Administration. They also warn that the deceptively simple freeze idea is really simplistic or might not be verifiable. "In either case," they note, "the public could come to feel deceived and withdraw its support."

Following is the section of the report on the nuclear freeze. I commend it to my colleagues.

Other Approaches to Nuclear Arms Control

It is only realistic to assume that if there is progress in the current reductions negotiations, it is likely to fall within the general areas defined by the proposals for the two negotiating parties. But looking further into the future, it is useful to consider other approaches to arms control. Some of the new approaches presented below are, in a sense, alternatives to the current proposals, while others might follow or blend into the present U.S. negotiating stance. We do not provide an exhaustive assessment. Rather, we present them to help the reader evaluate some of the alternatives for strategic arms control. Comparison of the various alternatives can be made by examining Table 4.

NUCLEAR FREEZES

The most widely publicized alternative is the proposal for a nuclear freeze. Its essence is to stop nuclear competition across the board, and then to turn to reductions. The idea of freezes is not new to arms control. There have been numerous proposals for a moratoria on nuclear testing and for freezes applying to selected weapons systems. Even the SALT I agreement of 1972 freezes the number of ICBM silo launchers. But many current freeze proposals go well beyond such limited versions and demand a mutual and verifiable comprehensive freeze on production, deployment, and testing of nuclear weapons and delivery systems.

Many freeze proponents argue that the principal source of danger that a nuclear war will occur is the arms race, the process of building nuclear weapons and delivery means. This is because:

The technological advances in nuclear weaponry over the past decade (MIRVs, accurate ICBMs) and developments expected in the near future (including accurate sea-based ballistic missiles and depressed trajectory SLBMs) have decreased, and will continue to decrease, crisis stability;

The effort to make the last move—to offset the other side's perceived advantages—is an endless process. This process makes serious agreement to limit or reduce the size of arsenals virtually impossible;

The strategic competition itself is a source of conflict: it arouses suspicions and concern in the other side and, to justify the huge costs involved, the governments on both sides must exaggerate the threat and stir up political conflict;

On both sides the programs for continuing the arms race create vested economic and bureaucratic interests that block any real changes in the pattern; and

Even if the threat to deterrence posed by technical vulnerabilities is a disputable proposition, stratgic deployments expected over the next decade promise to increase that threat to deterrence.

In sum, it is argued, deterrence is secure and stable enough today that any disadvantages incurred from freezing now would be outweighed by the benefits, namely, avoiding a new round of significantly destabilizing deployments, if both sides would stop all production, testing, and deployment of nuclear weapons, an important set of independent dangers (those arising from the arms race as a process) would be removed, and the obstacles to big reductions and eventual elimination of nuclear weapons would, at the very least, be greatly lowered.

By suggesting an apparently simply first step towards ending the arms race, the freeze movement has generated a sharp revival of public interest in the complex subject of arms control. But a comprehensive freeze as a negotiated result is either not as simple as it seems or might not be verifiable. In either case, the public could come to feel deceived and withdraw its support.[1]

Moreover, even those who believe that a rough parity exists in the U.S.-Soviet nuclear balance have questions about the freeze proposal. Would it improve crisis stability? A key arms control objective is to ensure that neither side is tempted to strike first in a deep crisis. Stopping all technological change does not ensure crisis stability. Technology is a two-edged sword: some changes threaten crisis stability, but some force modernizations can improve it. For example, a freeze in 1959 would have stopped deployment of our invulnerable Polaris submarine-based missiles. On the other hand, a freeze in 1969 might have avoided the instability that was caused by the introduction of MIRVs on missiles in the 1970s. There is room for serious disagreement on whether a freeze today would enhance crisis stability or not. Some threatening systems would be stopped, but a freeze could also prevent such developments as the stealth bomber (a second-strike weapon that will preserve one leg of the U.S. triad), or a new small, single-warhead land-based missile that many experts believe is the best way to remedy the current problems created by the vulnerability of ICBMs—i.e., by de-MIRV-ing.

Moreover, what is to be frozen? Production of some nuclear materials and weapons is difficult to monitor; testing and deployment less so. But ambiguities exist even for deployment. Should we freeze certain delivery systems if we cannot freeze their countermeasures? For example, should we prohibit longer-range submarine missiles or stealth aircraft if we cannot verifiably freeze antisubmarine warfare or air defenses? What would that do to strategic stability now and in the future? At best, the ambitious list of difficult issues will mean slow negotiations.

If negotiations for a freeze are going to be slow and complex, a question arises: Why not spend that time and political capital on negotiating stabilizing measures and reductions? Alternatively, if we negotiate a freeze that stops new U.S. programs that may threaten Soviet land-based missiles in the future, what incentives will the Soviets have to respond to our efforts in the START negotiations to reduce their current threat to our land-based missiles?●

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[1] National Opinion polls show two-thirds of the public supporting a freeze, although this number drops dramatically if the respondents feel that a freeze would allow the Soviets somewhat greater nuclear strength than the United States or to cheat undetected.

LEGISLATION ON WOMEN AND SOCIAL SECURITY

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. ROYBAL. Mr. Speaker, I call my colleagues' attention to the important legislative package introduced yesterday by Congresswoman OAKAR, myself, and 32 other cosponsors to alleviate some of the inequities toward women in the social security system. The gentlelady from Ohio, Ms. OAKAR, has proven herself to be a tireless and effective advocate of well-conceived reform of the social security system. The eight bills introduced yesterday, are largely attributable to the expertise and evidence Ms. OAKAR has developed during her tenure as chair of the Aging Committee's Task Force on Social Security and Women. I was happy to reappoint her to chair that task force again in this Congress.

The recent social security amendments include some limited provisions which improve coverage and benefit protection for selected groups of women but there are structural questions of equity in the system which we still must face.

Since the turn of this century, the demographic trend has been toward an increase in the older population, especially among women. Persons aged 55 and over, who constituted only 10 percent of the total population in 1900, made up over 20 percent by 1980. Only 50 years ago there were approximately equal numbers of males and females in the post-65 age groups. By 1980, however, the proportion of females had grown to almost 60 percent of the total population over age 65 and 75 percent of the population over age 75.

The bills which we introduced are not new concepts. The ideas have been recommended by several social security advisory councils, special study groups, and social security experts.

Perhaps the most comprehensive changes we are proposing would allow the total earnings of both spouses to be credited equally to each spouse when benefits are claimed or, in the case of a divorce, at the time of divorce. A companion bill would allow the surviving spouse to inherit the work credits of the other spouse. These reforms will provide more equitable treatment between spouses and fairer protection for displaced homemakers who often choose the noncompensated work of a homemaker which, in divorce, leaves them with less attractive job market skills and no social security coverage.

In addition to the push for gradual comprehensive earnings sharing reform, we are also putting forth five specific proposals which should be considered for full and immediate implementation. We propose child care credits to allow a parent to be given work credits for up to 10 years of caring for children under 6 years of age, if that parent also has other paid work credits under social security. We also seek to restore the minimum social security benefits, which were eliminated in the Omnibus Budget Reconciliation Act of 1981.

Other provisions pay benefits to a surviving spouse for the 4 months following the death of a worker and to disabled widows and widowers under age 60. We would also repeal the new law which reduces social security spousal benefits due to the receipt of a Government pension.

Now that the financial crisis in social security has passed, we need to focus on how to eliminate the sex-based inequities in the law. Such reforms, as those introduced with Ms. OAKAR's leadership, will have benefits for both men and women. They will assure that each dollar of taxes paid by a woman will buy the same level of protection for her male spouse and children as a dollar of taxes paid by a man. They will require that woman be given equal credit for the financial well-being of the family even if she chooses to forego paid compensation for the equally important, though noncompensated, work of a homemaker and full-time parent. They will assure that men who predecease their wives will pass on to their widows their full rights to social security benefits.

All of these concepts are laudable goals to which this new legislation gives concrete form. I urge my colleagues to support not only these goals but also this legislative package.●

PUBLIC PENSION PARITY ACT OF 1983

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. VENTO. Mr. Speaker, today I am introducing a bill to amend the Internal Revenue Code of 1954 to provide an exclusion from gross income for that portion of a governmental pension received by an individual which does not exceed the maximum benefits payable under title II of the Social Security Act which could have been excluded from income for the taxable year. In short, this bill attempts to treat the pension income of public employees in the same manner as the social security income of retirees from employment in the private sector.

Prior to the recent passage of H.R. 1900, the Social Security Act Amendments of 1983, social security retirement benefits were completely excluded from Federal income tax. In contrast, however, the pensions received by public employees who were not covered by the Social Security Act were fully taxable at prevailing tax rates. It is important to note that public pensions take the place of social security benefits for noncovered employees. Under the legislation recently passed and signed by the President, social security benefits will be taxed for the first time only for recipients whose taxable income—excluding social security—plus one-half of their social security benefits and any interest received on tax-exempt bonds exceeds an established base amount. The base amount for an individual is $25,000; the base amount for a married couple filing a joint return is $32,000. For a married couple filing separately, the base amount is zero. These base amounts will remain fixed under the new law and will not be indexed to any changes in the rate of inflation. These new base amounts will also apply to tier I—the so-called social security portion—of railroad retirement benefits.

Under this legislation, a public employee could deduct that portion of their governmental pension up to the maximum social security retirement benefit for an individual from their gross income.

It is fundamentally unfair to continue to tax the retirement benefits of public employees differently than the social security retirement benefits of private employees, especially in light of the fact that public employees had no choice as to whether their employers—a Federal, State, or local unit of government—participated in the social security system or established a public employees pension plan. The recent passage of the Social Security Act Amendments of 1983 affords us an opportunity to address this inequity in our tax laws and to establish parity in the tax treatment of public and private retirement benefits. I hope that Members will join me in cosponsoring this legislation in the interest of fairness to public employees.●

BUCHENWALD HORROR RECALLED

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. UDALL. Mr. Speaker, a few days ago Washington, D.C., was a host to a gathering of the survivors of the Holocaust. For the many who participated it was an emotional reunion as they sought to reestablish contact with other survivors. In joining together, they recalled the horror of this great human tragedy and recounted the losses of loved ones.

It is important that we not forget this dark chapter in human history. One who will not forget is William Malsh, who was the first U.S. Army officer to enter Buchenwald 38 years ago. Now a lawyer in Tucson, Ariz., Mr. Malsh recently wrote a news article recounting memories that are for him "all too vivid."

At this point in the RECORD, I would like to insert that article, which appeared in the Arizona Daily Star on April 12, 1983, the 38th anniversary of his experience at Buchenwald.

BUCHENWALD HORROR STILL VIVID TO LIBERATOR

(By William R. Malsh)

Sometimes you can't forget; sometimes you don't want to forget. There are times when the past is all too vivid. It was 38 years ago and I can still remember.

The homicidal horror of death and depravity hung over the camp like naked arms of a dead tree that is still part of the soil but which has become only the pitiful image of its life-bearing brother. Just as the cruelty of nature had reduced its green life to black bark, so the cruelty of humans had destroyed the spirit and souls of the thousands of inmates and had left only the physical shell to exist as a symbol of the New Order on which the modern thousand-year Grail had been erected. Hobnailed boots triumphed over reason; rifle butts crushed faiths; mailed fists battered down intellect. Your head spun with thoughts like these April 12, 1945, the day you led American troops through the gates of Buchenwald Concentration Camp in Germany. Thirty eight years later the nightmare is still with you.

We stared at tyranny carried to its macabre apex. Here, Americans could dimly discern their own heritage of tolerance and liberty that had sent them across the globe, their precious patrimony of law and human rights that had so often remained mere words to them in their own country.

Here, in the heart of Europe, in the 20th century, was the Inferno—the concentric pit of perversity that devoured the bodies and souls of men more fiendishly than a whirlpool draws a stick of lifeless wood into its bottomless bowels.

Here, in Buchenwald, was the sordid symbol of a dictatorship, the almost inexplorable result of a regime in which a small group elevated itself above the law, where the dignity of the individual was doomed to be submerged in a sea of pompous power and lascivious lawlessness.

Sometimes you can't forget. Perhaps you shouldn't. Remembering the horror could prevent it from ever happening again.

Those still alive in the camp represented at once the spiritual and intellectual elite of Europe and the lowest outcasts of society, with the criminals, as scum on the surface of a liquid, forming the crest. The thief, the murderer, the procurer were in command over the scholar, the priest, the scientist; parasite ruled host; the lash and crematory were the law and counsel of the wretched.

The green triangle on the prisoner's striped jacket told of crimes committed, the red patch proclaimed political beliefs, the black insignia spoke of service to God. Never before had the colors of nature so cried out in degradation and despair.

It was a long time ago. And yet the horror of it all seems like it was only yesterday.

It all had come to an end when the first jeeps and trucks began creeping cautiously up the winding road from Weimar to Buchenwald.

The steel tracks of Sherman tanks rolled and rumbled over the clean concrete, dotted here and there with sprawling, black-uniformed remnants of the Praetorian Guard. For them, masters in slow and sadistic murder, death had come swiftly.

When the guns that were liberty and freedom reached the camp, the gates were open—the iron gates on which were inscribed the words: "Labor Makes Free."

Those who lived went free. Some are alive today. Like you, they struggle to forget. Maybe they shouldn't. For them the Buchenwald Horror was much worse.●

THE FOREIGN LANGUAGE MARKETPLACE: THE FEDERAL ROLE

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. GOODLING. Mr. Speaker, I wish to draw the attention of my honorable colleagues to a piece of legislation introduced on this floor last week by Mr. Simon of Illinois—H.R. 2078, the Foreign Language Assistance for National Security Act, of which I and my fellow Republican, Mr. Coleman of Missouri, are original cosponsors.

I would first like to note that the bill that my colleague from across the aisle has introduced is a much strengthened version of a similar effort initiated last session, but which was never considered on the floor. I could not lend my support to that earlier effort because I felt that the funding was too extravagant for these times of budget trimming, and the bill's impact too dispersed to be truly effective.

I know that Mr. Simon has very high goals for the language education of our Nation, but I believe that unless there is an underlying economic necessity for multilingualism on a massive scale in this country, I am afraid that no amount of money—whether $50 million or $500 million—will bring about the kind of language diversity that my colleague seeks. While it is true that facility in more than one language can be enriching and its own reward for some, the majority of Americans simply do not need or desire the mastery of a second language. I fear, then, that a great deal of effort and money could be spent in a futile effort to teach those who would rather not be taught.

H.R. 2078, in paring down its funding requisites over 25 percent and in better targeting its resources, is a more sound attempt to promote language education in this country by providing incentives and opportunities to those most likely to benefit immediately. Mr. Simon's overall goals remain exceptionally high, but with this rewrite of last session's legislation we begin on a more reasonable scale to tackle those areas in which we can hope to have real impact—teacher institutes, special study programs here and abroad for students, and rewards to higher learning institutions that require foreign langauge facility upon entrance or graduation. The "carrot and stick" approach that we take in this legislation will serve to attract those individuals and institutions willing to shoulder the prime responsibility for their foreign langauge programs. Thus, rather than force-feeding foreign languages to students, we have merely provided opportunities and incentives for pursuing them. And pursue them they will, if, as I said earlier, there is ample reason. With more and more incentive for the United States to compete aggressively in the world marketplace, we shall very likely see such ample reason in the form of many jobs requiring foreign languages—perhaps the most compelling incentive of all.

Thus, while I applaud my colleague's active interest in this vital area of our educational process, I do believe that we must limit ourselves to what can reasonably be accomplished on the Federal level—H.R. 2078 is a fine starting point.●

IMPORTANCE OF BILINGUALISM

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. CORRADA. Mr. Speaker, the concept of bilingualism is often misunderstood or brings some concerns to those who have been only exposed to a monolingual society. Whereas up until now discussion has centered principally around the appropriateness of bilingual education in our public school systems, we are beginning to grasp the importance that bilingualism plays in our economic system.

Florida Governor, Bob Graham, recently traveled to Canada to promote orange juice sales, and in the process made some very astute observations about the dual-language community in his State. I would encourage my colleagues to ponder the significance of his statements, as reported in the April 6, 1983, Miami Herald:

The statements follow:

[From the Miami Herald, Apr. 6, 1983]

Governor Graham Advises Canada on Bilingualism

(By John D. Harbron)

Toronto.—When Gov. Bob Graham was in Canada recently to promote the lagging sales of Florida orange justice in its largest export market, he took time out to express optimism about the future of bilingualism in his state.

That's a risky view to take in a country where the differences over bilingualism have not been solved in two centuries, and also where a tough, separatist government in Quebec is imposing fines on companies and institutions that do not knuckle under to its all-French language-usage law.

But Governor Graham gave some positive reasons why he feels the English-Spanish conflict will be solved in Florida before the much older English-French one here.

His reasoning is based on the oldest and best reason to learn a second language: the need to speak it to earn a living or run a business. Miami's ever-growing world of Spanish-speaking communities and businesses makes this clear.

As Governor Graham put it, "Because Miami is now the international gateway to Latin America, a change is needed in the attitude to the language of immigrants than was the case in the past.

"The earlier generations of refugees has moved from European societies to an American continental one," he continued. "The ones who come now live in a global economy in which Miami is an international city.

"We have to get the people [of Florida] to look upon linguistics not as an issue of self-pride and national patriotism, but of pragmatism and good sense."

Graham says the permanent place of Spanish in business, retailing, and tourism must extend to Europeans, Middle Eastern, and Japanese executives who are doing business in Miami or whose parent corporations have established their Latin American headquarters in Coral Gables.

The latter development took off, during the 1970s, when mainly U.S. multinational firms moved their hemispheric operations to Coral Gables to escape the growing threats throughout Latin America from nationalization decrees, terrorist attacks, and executive kidnappings.

As Governor Graham told me, ". . . most jobs in Miami are now international-commerce related today, where they were once tourist related."

Behind the governor's thoughts is the fact that, unique to all American cities, Miami's Immigrant flow of mainly entrepreneurial Cubans who fled Castro's Marxist economy, plus the city's burgeoning banking and international-business ties with Latin America, have made Spanish equal to English as the language of trade and commerce.

At the same time the affable governor, who is not Spanish-speaking, understands what he terms "the reluctance and a very personally felt experience against coping with Spanish in shops, banks, and buses" by another important generational group in our mixed population . . . the elderly and retirees."

Yet downtown Miami's shops, restaurants; banks, and municipal-government offices have had to become bilingual, he says.

"It's not a matter of ethnic or linguistic separatism with them, but of dollars and cents. The management of shopping centers like Omni have to meet the broadest language needs of the customers because a good part of them now speak a language other than English."

If all this sounds chilling to Anglo-Floridians who say "No" to bilingualism, look at Canada. Many of its largest companies, many of which also operate in Florida, have had to move their head offices and personnel to English-speaking Toronto from Montreal, the largest French-speaking city outside of France.

Their main reason, which has brought a big slump to Montreal's economy, was to escape Bill 101. That's the tough, all-French-language act that has been imposed on Quebec-based industries by Premier Rene Levesque's provincial separatist government.

Clearly Governor Graham's pragmatism about parity for Spanish will be more workable for Florida than Premier Levesque's forced French-language law has been for Quebec.

(Herald Canadian correspondent John D. Harbron speaks English, French, and Spanish.)●

MX MISSILE

HON. NEAL SMITH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. SMITH of Iowa. Mr. Speaker, one of the decisions before Congress at this time is the question of what to do about the proposed production and deployment of the MX missile. In arriving at this decision, I think it is important to take into consideration not only the testimony of defense experts on both sides of the issue but also nonmilitary and other considerations. In its lead editorial of April 16, 1983, the Des Moines Register cites some of these points regarding the MX proposal that I believe merit the consideration of Congress and others involved in this issue.

The editorial is as follows:

[From the Des Moines Register, Apr. 16, 1983]

Time To Stop a Mistake

Once the Soviets gained the ability to destroy land-based nuclear missiles, the United States needed to come up with a bigger, more accurate and more survivable missile—or so went the thinking of those who believed in the "window of vulnerability."

Many did not believe. These said it was extremely unlikely that the Soviets could wipe out all the U.S. Minuteman missiles and, even if they could, the weapons remaining in the air and sea legs of the American triad could still demolish Russia.

To those who bought the window of vulnerability, however—and they prevailed—it was essential that the United States come up with a weapon that could somehow survive this new Soviet capability.

Well, the engineers came up with a bigger, more accurate missile, all right—the most powerful American weapon ever built, each one bristling with 10 warheads, each warhead 17 times more destructive than the bomb that destroyed Hiroshima. What they couldn't do was make it survivable. They tried 35 basing schemes over the last 15 years, without success.

Finally, this week, a bipartisan committee gave up on the fancy basing schemes and recommended putting the MX in the same old, vulnerable Minuteman silos, an idea rejected by Congress 16 months ago. This time, the commission reassured the doubters with words that were new and surprising, given the history of the MX: You should not worry so much about the window of vulnerability, they said, the other legs of the triad are doing fine.

The recommendation leaves members of Congress with quite a choice:

Vote for a missile whose purpose was to close a window of vulnerability, even though it is as vulnerable as the one it is meant to replace, but that's OK, because people were worrying too much about the window of vulnerability, anyhow;

Recall the purpose of the experiment, see that it failed, take comfort in the fact that, as it turns out, the need wasn't so great, and vote against it once and for all.

Those who make the first choice will be opting for more than a soon-to-be-outdated boondoggle. They will be buying a weapon whose own first-strike capability will further shake the precarious stability under which the world is living; the Soviets will have good reason to match the new weapon.

Those who vote the other way will be stopping a costly mistake.●

THE PERILOUS NUCLEAR FREEZE

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. MARTIN of North Carolina. Mr. Speaker, I am inserting in the Record an article on the freeze debate which appeared recently in that outstanding British newspaper, the Daily Telegraph.

The author, John O'Sullivan, editor of Policy Review and a leading conservative writer, brings a foreign perspective to our momentous deliberations.

[From the Daily Telegraph (London), Apr. 11, 1983]

Unilateralism in Drag

(By John O'Sullivan)

When the United States House of Representatives votes this Wednesday on the resolution to adopt a "mutual and verifiable freeze" on nuclear weapons, many Congressmen who do not believe that such a freeze is at all desirable will nonetheless vote for it in the belief that their constituents passionately support it. Indeed, I myself reluctantly accepted that the freeze movement was sweeping America until I arrived at Princeton University last week.

Mr. Christopher Hitchens, formerly of the New Statesman, and now with its American counterpart, the Nation, and I were there to appear before the concerned students of that ancient university and to give a Pat and Mike variety cross-talk act on nuclear war.

The universities are alleged to be especially freeze-minded. And on the way from the airport, our student host, Mr. James Lavelle, had predicted a large and passionately antinuclear audience. So it was in much the same spirit as Christian missionaries once set foot among unknown heathens that I, cast as a missionary from the Pentagon, entered the hall. They might be cannibals; they might not. Time would tell.

I was at once reassured. The hall looked as though a small neutron bomb had been exploded there ten minutes beforehand. The furniture was completely intact, but there were no people present.

Some students did drop by later, and Mr. Hitchens and I dutifully set about each other. To paraphrase freely he argued that it would be terribly sad if the world were to be blown up. I agreed with this, adding the reservation that his solution of unilateral nuclear disarmament by America was not the sole alternative to instant Armageddon.

And perhaps because we were faced by a small but serious-minded audience rather than a howling mob of pacifists, an intelligent and restrained discussion took place. This episode brought another modest advantage. In preparing for the debate, I was compelled to bring myself up to date on the various arguments for and against a nuclear freeze.

Admittedly, I did not study the question from an altogether unbiased standpoint. The freeze had always struck me as unilateralism in drag. Although its advocates ritualistically stress the word "mutual" in the resolution, every one of their practical proposals would involve the sacrifice of an American or western weapons system irrespective of what the Russians did.

Thus, at its national convention in February, the Nuclear Weapons Freeze Campaign voted to urge Congress "to suspend funding for the testing, production and deployment of U.S. nuclear weapons." But it also rejected a motion to make United States actions "contingent upon" a Soviet response.

It similarly voted against the stationing of Pershing and Cruise missiles in Europe, but modestly called only for "reductions" in the 600 Soviet missiles already in place. So much for the "mutual."

When I began ploughing through documents on the freeze, I discovered to my surprise that none was more revealing that the Congressional Records report of the first freeze debate in March, as it happens. Congressional debates neither attract the attention nor have the political "ripple effect," of Parliamentary debates in London.

The final vote, if it concerns a major matter of policy, will be reported. But there are no Parliamentary sketch writers or detailed newspaper reports to convey the arguments, atmosphere, personalities or rhetorical victories in the course of debates.

If they had been present in March, the debate would have set the freeze movement back 10 years. For its advocates, though a majority, took a rhetorical hammering—and deservedly so. With few exceptions, their speeches combined ignorance of the issues nervous looking over their shoulders at pro-freeze majorities in opinion polls, and windy moral self-congratulation.

Congressman Mitchell of Maryland, for instance, would be a sketch-writer's star turn at a circus. The body of his speech grandly dismissed any serious consideration of anything as complicated as arms control: "I have no great concern about strategic balances. I do not want to get caught up in arguments about numerical ceilings and annual percentage rate reductions."

But he really excelled himself in his peroration. It was a song—a song, in fact, by John Lennon. Not his greatest song, you may think, but I would have paid Covent Garden prices to hear it delivered on the Floor of Congress:

Imagine no possessions
I wonder if you can
No need for greed or hunger
A brotherhood of man
Imagine all the people
Sharing all the world
You may say that I'm a dreamer
But I'm not the only one
And maybe someday you'll join us
And the world will be as one.

I think I hear a faint shout of "encore" from the general direction of the Kremlin.

In contrast the freeze's Republican critics presented a formidably logical case. They pointed out that the United States deterrent forces was aging rapidly. Seventy five percent of American strategic weapons were more than 15 years old, while seventy five per cent of Soviet strategic weapons were less than five years old. The freeze, by preventing the modernization of the United States deterrent, would gradually render it obsolete.

While there may be rough equivalence today," said Congressman Martin of North Carolina in an impressively lucid speech, "there will not be in the future unless we modernize our forces."

Some Congressmen, of course, may be less impressed by the strategic dangers than by opinion polls which show Americans supporting the freeze by 75 to 25 per cent. But look more closely. In 1982 a Louis Harris poll put before people the following statement: "The United States should not produce any new war weapons even if the Russians continue to produce them."

"When presented with this view, which is the real policy of the freeze movement, the percentages were exactly reversed: 76 per cent opposed such a freeze and 24 per cent supported it. Which means the Congressmen will not need all that much courage to follow the courage of their convictions.●

FRANK MANKIEWICZ RETIRES AS PRESIDENT OF NATIONAL PUBLIC RADIO

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. DOWNEY of New York. Mr. Speaker, I was sorry to learn of Frank Mankiewicz's decision to resign as President of National Public Radio. The impact he has made on American communications has been tremendous, and I am sure he will continue to be an influence in his future endeavors.

Before joining NPR in 1977, Mr. Mankiewicz was the press secretary for Senator Robert Kennedy during the 1968 Presidential campaign and later was national presidential campaign director for George McGovern. Following these political experiences, he wrote books on the Presidency and contributed numerous columns to newspapers and periodicals.

Mr. Mankiewicz brought his valuable background to NPR and placed a new focus on public radio. Under his able leadership, the size of the news department was increased, network salaries became comparable to those of journalists, and Congress was persuaded to provide increased funding for public radio. As a result of his efforts, NPR was able to offer greater program variety, and the network audience more than doubled to the present number of 7.7 million.

I understand the challenges that public broadcasting is facing with severe budget reductions and requests by the current administration to rescind funds. As chairman of the Congressional Arts Caucus, I will continue to support the strong foundation established by Frank Mankiewicz to insure the independence, stability, and survival of this vital communications system.●

A NATION AT RISK: THE IMPERATIVE FOR EDUCATIONAL REFORM

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. GOODLING. Mr. Speaker, I do not know how many people were actually surprised by the report released this week by the National Commission on Excellence in Education, but I definitely was not. In fact, I am hard put to understand why we had to establish a commission to tell us something that all the test results have already demonstrated. If, however, the release of this report brings about the needed changes in our Nation's educational system to enrich the lives of our youth, and to insure a brighter future for the perpetuation of America's greatness, then it was a very worthwhile effort.

Having been personally involved in all elements of education, as a teacher, principal, superintendent of schools, a member of the Education and Labor Committee, and last, and definitely not least, as a parent, I view what has happened to our educational system with deep sadness and sometimes disgust.

Every piece of State and Federal legislation dealing with education during that time has made it increasingly difficult for educators to provide leadership in their areas of training and experience. Education has taken on what I consider to be the evil genius of special-interest groups, targeting funds for each end of the spectrum and leaving the vast majority in the middle of mediocrity.

I would like to call your attention to a recent occurrence in a rather affluent county. When achievement tests results were finalized, Southeast Asian students received the highest scores. The parents of these high-scoring students, wanting to assure their children the opportunity to excel in their new homeland, insist on good study habits and supervised homework periods.

We are a government of the people, for the people, and by the people, so I guess it will take a public outcry to improve the system. I just hope it will not take several more studies to determine the best way to do it; and then by the time the conclusions—probably all contradictory—are reached, the issue is reduced to a quiet mumble by the public. The special-interest groups would then be able to use the opportunity to put even more weight on the opposite ends of the spectrum.

I would like to take this opportunity to insert an interesting commentary on the report, written by syndicated columnist William Raspberry, which appeared in today's Washington Post. The point being made is: let us not make excuses; let us not issue disclaimers; and let us take care of our children.

SO WHAT IF THE TESTS ARE BIASED?

(By William Raspberry)

There's a lot we don't know about educating our children, particularly disadvantaged children. That's a failure of information, which is bad enough.

But we know a lot more than we are willing to act on. That is a failure of guts, which is worse.

We know, for instance, that the erosion of standards of academic performance and discipline have made our schools far less effective than they could be. But we have not found the courage to insist on tough standards, enunciated by the schools and supported by the parents. When it comes to minority children particularly, we would rather feel sorry for them than to educate them.

We know that a lot of our teachers aren't as good as they ought to be. But we—and here I mean specifically the civil rights leadership—balk at weeding out incompetent teachers, particularly if they are minorities. We'd rather feel sorry for them, as victims of society, than hold them to standards that would improve the quality of the schools for our children.

Art Harris reported in The Post yesterday that blacks and other minorities are failing teacher-competency tests at an extraordinary rate. The reaction of black leaders and educators? The tests are racist. "The test is killing future black teachers," one professor told Harris. "It's an academic electric chair."

It must be said that no one has yet come up with a Standardized test that is an accurate measure of teaching ability, teaching being as much art as science. Standardized tests cannot measure patience, love of children and of learning, the ability to maintain order and a hundred other things that make up teacher competency. But the tests can measure whether a teacher has learned the basics of pedagogic technique (which we consider important, else why would we mandate education courses for teachers?) and whether a teacher has a solid grasp of the material to be taught. A lot of prospective teachers, including a disproportionate number of minorities, are failing tests that measure precisely these things. And our leadership attacks the tests.

I assume the tests are culturally biased. But if they are biased in favor of the culture in which our children will have to operate, is that unreasonable? I assume that one of the reasons minority applicants fare worse on the tests than whites is that they themselves are the victims of inferior schooling. But is that any reason to perpetuate the disadvantage by putting victims in charge of the classrooms?

Minority children, who already face a huge disadvantage in the labor market, need better teachers of whatever ethnicity. They won't get them unless we do what we can to weed out the incompetents already in the classrooms and screen out the prospective incompetents before they ever get there. If the incompetents thus eliminated are disproportionately black or Hispanic, I'm sorry for them, but I don't want them teaching my children.

The NAACP is about to launch a commendable program designed to help minority high school seniors score higher on college entrance examinations. It may take more courage than that august body can muster to insist that the teachers charged with preparing our children to pass standardized tests be able to pass the tests themselves. Not many organizations are prepared to foster standards that would put large numbers of their members out of work.

But until we can develop that sort of courage, we are kidding ourselves when we demand that the schools do a better job of preparing our children for the technological age that is upon us.

We can have well-educated children or ignorant teachers. We cannot have both.●

HONOR THE CITY OF BRAWLEY, CALIF.

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. HUNTER. Mr. Speaker, I would like to honor the city of Brawley, Calif., which is celebrating its 75th year of cityhood in 1983. Brawley became a city on April 2, 1908, when it was little more than a hamlet of tents and dirt streets in the Imperial Valley desert. The first settlers arrived in 1902, but it was not until several years later when water was diverted from the Colorado River, that Brawley and the Imperial Valley came to life. The arid desert was quickly transformed into lush agricultural farmland and Brawley rapidly prospered and grew.

As Brawley observes its diamond jubilee, it has grown into a city of nearly 18,000 residents. The tents and dirt streets have given way to a network of buildings and highways characteristic of a modern city. Agribusiness has flourished as the main component of the city's output, with railroads, highways, and two airports providing access to major markets. Industry is prevalent and on the rise as the "Airport Industrial Park" rapidly expands with new construction reaching an all-time high in 1982. The geothermal industry is exemplary of such growth with two electricity producing plants in the area. It is evident that the vision, strength, and determination of the founders, which helped the city survive drought, floods, and depressions, has continued in the residents today who continue to strive to maintain and strengthen their city.

Residents of Brawley pride themselves in the city's friendliness and this is reflected by the large and increasing number of visitors that flock to this southern California city. This friendliness, as well as the Sun which blesses the desert city and entices tourists is captured in their motto "Where every day is a Sun day."

Mr. Speaker, I am glad to have this opportunity to pay tribute to Brawley and all of its citizens. The founders had a vision of what the city would become and thanks to the community's hard work, it is easy to see continued growth and prosperity for Brawley.●

THE CALL TO CONSCIENCE VIGIL FOR THE CHERNOBILSKY FAMILY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. SOLARZ. Mr. Speaker, it is with both hope and sadness that I rise to speak in this year's "Call to Conscience Vigil" on behalf of Soviet Jews—hope that by renewing and fortifying our efforts in support of Soviet Prisoners of Conscience and others forced to suffer the intolerable human rights situation in the Soviet Union, we can reverse the fortunes of these brave people, and sadness because another year has passed in which they have had to suffer repeated and unrelenting injustices.

Among the most significant accomplishments of man is the conscious creation of different and independently meaningful histories, religions, and cultures. In the United States all citizens customarily rejoice in the richness and satisfaction this brings to their lives In the Soviet Union, citizens must necessarily take a plunge into a long, dark tunnel if they care to create a life for themselves and their families, which includes these most human of all phenomena, which Americans accept as a matter of right.

The pursuit of religious beliefs and cultural traditions has resulted in cruel and vindictive acts by the Soviet authorities against Soviet Jews. Knowing full well that any attempt to practice their religion will be harshly repressed by the Government, many Soviet Jews have chosen to emigrate to countries which will allow free expression of their culture and religion.

To try to do so, however, is to invite additional acts of reprisal. In the slim hope that the Soviet Government will grant an exit visa, these people submit to the well-known tactics of dismissals from their jobs, intimidating raids and arrests by the KGB, psychologically debilitating ostracism, and the possibility of jail sentences for dissident activities.

For a time, the light at the end of this tunnel was a beacon. In recent years it has been almost extinguished. Emigration totals from the Soviet Union have dropped 95 percent in the last 3 years from an all-time high of 51,000 in 1979. The Kremlin's anti-Semitic campaign has intensified as evidenced by the recent formation of an "Anti-Zionist Committee of the Soviet Public" which threateningly declared any Soviet Jew who openly strives to emigrate an enemy of the state, and other measures designed to isolate Soviet Jews from the world Jewish community and their historic, cultural, and religious roots.

Despite this growing pattern of anti-Semitism and only a slight ray of hope that an emigration visa will be granted, Soviet Jews have persisted in their quest for religious freedom. One brave individual who has endured repeated harassment yet has refused to abandon his struggle is Boris Chernobilsky.

Boris Chernobilsky and his family applied to leave the Soviet Union in May 1975. One year later he was notified that this request was refused. He subsequently lost his job as a radio engineer. From then on he had to suffer through intermittent periods of unemployment, occasionally securing an odd job to help support his family.

The Chernobilsky's refused to be deterred from their goals. Mrs. Chernobilsky continued to teach Hebrew, and together they organized a kindergarten for small children. During a peaceful protest demonstration in 1976, Boris was arrested and charged with "striking members of the Soviet militia and hooliganism."

After his release from prison, Boris resumed his activities on behalf of Soviet Jews and was again arrested, this time at an activists' gathering just outside of Moscow. Facing fabricated charges against him, Boris declined to appear at his trial but was nonetheless convicted and sent to prison in November of 1981.

By February of this year, Boris had returned to Moscow after his release from prison. In spite of the intensification of anti-Semitic activities on the part of the Kremlin and two separate prison terms, Boris has resumed his efforts to keep Jewish culture alive in the Soviet Union and to win the right to emigrate.

Confronted with increasing hardships, uncertainties, and threats of reprisals, the Chernobilsky's, like so many other Soviet Jews, have not abandoned their pursuit of the rights guaranteed them in the 1975 Helsinki accords. I am sure my colleagues share with me a deep respect and admiration for these courageous refuseniks, and inspired by their example will intensify our own efforts to secure for them some measure of relief from the repression to which they are continually subjected.●

ISN'T ANYONE THINKING?

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. PORTER. Mr. Speaker, the administration, many Republicans and some Democrats say we must increase defense spending by $1.6 trillion over 5 years, in effect giving the Pentagon a blank check to draw on the U.S. Treasury for every item on their long wish list.

The vast majority of Democrats and some Republicans say we must protect and increase social spending and provide expensive jobs programs regardless of the cost.

The defense advocates want to take from the social programs and the social spending advocates want to take from defense.

Isn't anyone thinking? We have a $200 billion deficit and we have an economy recovery in the delivery room that will be stillborn unless we can cut that deficit—now and in the future—and hold down interest rates. Both sides should be looking not at what they can take from the other, but what they can reasonably give to control the deficit, spur the recovery and get unemployed Americans back to work.●

REBUTTAL TO WILLIAM COLBY

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. MARTIN of North Carolina. Mr. Speaker, on April 19 the Washington Post published a cogent article in favor of the nuclear freeze by William Colby, former director of the CIA.

I am surprised and quite disappointed that our Capital's leading newspaper has not seen fit to publish the contrary viewpoint on its op-ed page during the lengthy deliberations in Congress.

Following is my point-by-point refutation of Mr. Colby's argument.

REBUTTAL TO COLBY ARTICLE

COLBY. Without a freeze, both sides will deploy new ICBM's with greater accuracy, giving them a first-strike capability and forcing each into a hair-trigger launch-on-warning posture.

REBUTTAL. The Soviets already have this capability or will have it shortly. The MX Commission Report, at page 4, states:

"While Soviet operational missile performance in wartime may be somewhat less accurate than performance on the test range, the Soviets nevertheless now probably possess the necessary combination of ICBM numbers, reliability, accuracy, and warhead yield to destroy almost all of the 1047 U.S. ICBM silos, using only a portion of their own ICBM force."

"The U.S. ICBM force . . . is inadequate to put at serious risk more than a small share of the many hardened targets in the Soviet Union."

Under the freeze the Soviets could further improve the accuracy of their ICBM's, adding to their first-strike capacity. Our improvements would not be as likely to give us the hard-target capability because our warheads are fewer (on ICBM's) and less powerful, and under the freeze we could not change these. Thus, present trends, coupled to a freeze, will force us into the launch on warning posture Colby decries, but not the Soviets.

Even with 100 new MX missiles, our ICBM force would not threaten more than a small portion of the Soviet ICBM's. Their 638 SS-18's and SS-19's, which are comparable to the MX in counter-silo capability, threaten our entire force, however.

COLBY. A freeze would bar the development of cruise missile armadas, which would further endanger U.S. security.

REBUTTAL. The Soviets already have a substantial number of short-range cruise missiles (range of 600 kilometers or less), aboard subs and surface ships. While these are deployed as anti-ship weapons, they could be fired at our cities from the Atlantic, Pacific or Caribbean. We cannot threaten the USSR with a comparable number at present because of the country's relative isolation from the open seas. Thus, the freeze would leave us worse off in this area.

COLBY. Freeze would bar development of new Soviet air force threat, Blackjack bomber.

REBUTTAL. The freeze would also kill the air leg of our triad, on which we are much more dependent than the Soviets are on theirs. Our B-52's are increasingly obsolete and incapable of penetrating massive, up-to-date Soviet air defenses. Witness several B-52 fatal crashes, one on April 12.

B-52's carry 28 percent of our warheads, Soviets' Bears and Bisons only 5 percent of theirs.

Soviets also have 200 Backfire bombers, averaging 5 years old, that could bomb U.S. if re-fueled.

So freeze would leave us without airborne deterrent and Soviets would have 200 new bombers to destroy the U.S. They wouldn't need Blackjack.

COLBY. The freeze would bar the development of the D5 SLBM (Trident II) which could destroy Soviet silos, thereby giving us a first-strike capability.

REBUTTAL. We need the D5 to answer the first-strike capability the Soviets already have with their 638 SS-18 and SS-19 MX-like missiles. Without the D5, we won't be able to deter the Soviets from attacking our ICBM silos in a first-strike, because we'd only be able to respond by attacking their cities and other soft targets with our less accurate C-3 and C-4 SLBM's (now deployed). This may not be a credible deterrent because if we responded with such attacks, the Soviets could then destroy our cities in a counter-strike. Thus the Soviets would have incentive to make a limited attack against our ICBM's. We need the D5 to deter a Soviet attempt to hold our cities hostage, a capability they now have, according to the MX Commission.

COLBY. Soviets are not superior today and have a conservative foreign policy.

REBUTTAL. We are now witnessing the Soviet effort to use their nuclear advantage for political extortion. NATO is in its greatest crisis over deployment of Pershing II and cruise missiles because of European fears of greater Soviet power. The U.S. commitment to NATO has been founded for over 30 years on the belief that the Europeans are safe under our nuclear umbrella. They are now doubtful about that commitment precisely because of the enormous growth of Soviet Strategic and conventional power relative to the U.S. This is the underlying cause of the peace movement's growth and explains the Soviet's aggressive use of the missile issue to divide the U.S. from Europe.

The recent Soviet threats to deploy intermediate range missiles near the U.S. in response to the Pershing II (Cuba? Nicaragua?) may be the start of an overt effort, unseen since the Cuban crisis, to reverse the world power balance.

The Soviets have been more aggressive as a result of their nuclear and conventional power. The freeze, by maintaining Soviet advantages would further embolden them and lead to more world tension.

COBLY. The freeze would be verifiable.

REBUTTAL. No, it would not. We cannot verify Soviet production lines. With their capability to re-fire ICBM's from silos (cold-launch, which we cannot) they could have more SS-18's in reserve for re-firing and we might not know that. Do you want to risk our country this way? We'd need on-site inspection which they have never permitted. We also cannot verify how many SS-16's they have in storage. Under SALT II they promised not to deploy this mobile missile, which, by adding a stage to the SS-20, makes it an ICBM threatening the U.S.

COLBY. The Freeze would benefit the U.S. because it would prevent the Soviets from developing new weapons to threaten us.

REBUTTAL. The freeze would leave us in an increasingly vulnerable position: loss of air leg of triad, ever-worsening danger of 1st strike attack against our ICBM's and mounting dangers to our submarine force as Soviets can concentrate their efforts on anti-submarine warfare (ASW). It would doom us to unilateral attrition, as 77 percent of our warheads are on missiles, submarines and bombers more than 15 years old, whereas 77 percent of their warheads are on missiles, submarines and bombers 5 years old or less.

COLBY MISSES THE MAIN POINT

If Congress passes a freeze resolution and the President went along, freeze negotiations would drag on for years, just have all other arms talks. This would be in the Soviets' interests, because they know our freeze movement, despite Mr. Zablocki's position, would in the meantime fight all our new programs: MX, Trident II, B-1, Pershing II, cruise missiles, etc. and the arguments would be familiar: Why spend the money if the weapons will be frozen out, and if we deploy the weapons, it will jeopardize the freeze talks. Meanwhile, the Soviets, unencumbered by their own freeze movement (any vocal supporters of which would be in their own freeze, in Siberia), would be moving ahead with their 4 new ICBM's under development, Blackjack bomber and other new weapons.

The practical effect of passing the freeze would bring the same dire consequences Mr. Colby talks about with regard to new, more powerful weapons, but the Soviets would have them and we would not.●

THE WEATHER SATELLITE "SELL-OUT"

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. SKELTON. Mr. Speaker, I was very pleased yesterday to vote for the NASA Authorization Act of 1984 on the House floor. I was especially relieved to support an amendment to this bill that will prohibit the sale of any of our satellites) including our weather satellites, without congressional approval. I feel quite certain, Mr. Speaker, that the sale of our four weather satellites, as the administration has proposed, would not receive congressional support.

What the administration has proposed, selling off our weather satellites (called "Metsat," short for meteorological satellites) is nothing more than a package deal whereby a private company takes over the Landsat program and gets the Metsat program as a "sweetener." Even though Landsat provides us with invaluable information about the Earth's surface, it, unlike Metsat, costs more to operate and maintain than it generates.

So, when the Office of Management and Budget (OMB) cut any future land-sensing satellites from the Federal budget, in hopes that private companies would buy the system, there were no takers. In order to sweeten the pot, the Government offered to sell the four weather satellites along with the land satellite. Since the Government is currently the only real customer for the raw weather data, the contract would include a Federal guarantee to buy hundreds of millions of dollar's worth of weather data each year from the company, for 10 to 15 years. This means that the taxpayers, who have already paid for the initial $1.6 billion worth of research and development, will now have to subsidize private companies to take over the program.

Of equal, if not more, importance is the risk we run of jeopardizing our disaster preparedness and our national security. We rely heavily on early warnings from our local broadcasters via the National Weather Service in times of natural disasters such as floods, tornadoes, hurricanes, and fires. The implication of losing this kind of vital information would be particularly far reaching for our farmers and would directly affect our agriculture production. National security could be endangered since the weather satellites are used to back up our defense weather satellites.

If the administration is as determined as it seems to be on selling off our weather satellites, then it is quite possible another tactic may be used by the Commerce Department. It is called "contracting out" and it comes from an OMB directive encouraging the replacement of some Government jobs by private companies when a study shows that it can be done more cheaply by that company. If used wisely, "contracting out" could mean savings for taxpayers, but it could also be used as a tool to hand over our weather satellite system to private industry through the back door.

The legislation passed by the House yesterday, which is very similar to a bill I offered earlier this month, requires the administration to submit a statement to the Congress of the policies, procedures, conditions, and limitations of any proposed satellite sale. Furthermore, the bill prohibits the "transfer of management of any civil land, meteorological, or ocean remote sensing space satellite system and associated ground system equipment." This language is intended to prevent the contracting out of management-level positions within the agencies of the National Oceanic and Atmospheric Administration (NOAA), charged with the functions of the satellites.

I look forward to similar legislation from the Senate to insure that our satellite programs are handled in a way that reflects the wishes of the people we represent.●

ASSISTANCE FOR EL SALVADOR

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. STUMP. Mr. Speaker, the United States has a vital and continuing interest in assisting El Salvador to achieve both political and economic stability—a political stability that insures the continued legitimacy of an elected government; and an economic stability that permits a judiciously paced implementation of the long sought for land reform and agricultural development. The United States recognizes, however, that the social unrest which is both a catalyst for and a byproduct of an economic modernization program, is a prime target for exploitation by Cuba and the U.S.S.R. El Salvador, in particular, is threatened by the emergence of the leftist pro-Cuban regime in Nicaragua.

Within El Salvador itself, Cuban-backed leftist elements continue to inflict heavy military and economic costs on the current government. To compensate for these losses and to encourage stability, the U.S. Government has sustained El Salvador with additional economic and military aid. This is not to be construed as proposing a military solution as the only solution to El Salvador's problems. There is general consensus that direct large-scale overt military involvement would harm U.S. interests within El Salvador and throughout the hemisphere. Rather, a political solution is probably the desired goal.

The United States has not abandoned this pursuit. Since July 1979, the United States has attempted to build constructive relations with the Sandinista government of Nicaragua. The United States supplied Nicaragua with over $118 million of economic assistance between July 1979 and April 1981. We made significant bilateral diplomatic proposals in August 1981 and April 1982, which were spurned by the Sandinistas.

By 1980, the Sandinistas turned to the U.S.S.R. and Cuba for military assistance and training. The Sandinista army has 22,000 men, backed up by at least 40,000 reserves and militia. About 2,000 Cuban military and security advisers came to Nicaragua at the same time. The army now has Soviet heavy battle tanks, multiple rocket launchers, heavy artillery, and helicopters. This astounding military buildup began well before this administration took office.

The Sandinistas continue to provide arms, training, and command and control facilities to the Salvadoran guerrillas. We consistently have told the Sandinistas that they must end their export of revolution if they desire improved relations with the United States.

The recent discovery in Brazil of arms in a supposed Libya medical supply shipment to Nicaragua underlines Nicaragua's ties to the Soviet bloc.

The vast majority of Nicaraguans collaborated to overthrow Somoza. The Sandinistas promised these people, as well as the OAS, to hold free elections, to support pluralism and a mixed economy, and to institute a nonaligned foreign policy. They have betrayed all these promises. They have censored the press, outlawed strikes, muzzled the opposition political parties, and attempted to divide the Catholic Church hierarchy. Prominent Nicaraguans, ranging from conservatives to Sandinista hero Eden Pastora, have denounced the Sandinista betrayal and have gone into exile. We should not confuse the extent of the popular opposition to Somoza with the quite lower level of support today for the Sandinistas.

We believe that Nicaragua and its Central American neighbors should address their common problems in regional discussions. Such discussions should deal with the problems of foreign support for guerrilla groups, the level of foreign military advisers, arms purchasers, increased economic cooperation, and support for democratic institutions within each country of the region.

The United States must, however, commit itself to a broad-based program of assisting the agrarian-based economy, of continuing military aid to curtail arms supplies from Nicaragua and Cuba, and of encouraging the current government within El Salvador to maintain order and democracy if there is to be any progress toward the development of the more stable and prosperous country.●

IDA NUDEL'S BIRTHDAY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. GOODLING. Mr. Speaker, today is the 52d birthday of Ida Nudel. This lady of remarkable courage and fortitude has spent the last 12 years attempting to leave the Soviet Union for Israel. In that time she has been harrassed by the KGB, imprisoned on utterly ridiculous charges of hooliganism. When her sentence was up and she returned to Moscow, where she owns an apartment, she was denied the required residence permit and for months was forced to wander from town to town, province to province, in search of a community that would allow her to stay. Often her only place of rest was a train station. Despite the fact that her health was seriously compromised, she was denied any medical treatment. All of this simply because she is a Jew who wishes to go to Israel.

Rather than give in to despair, Ida has, on the contrary, become a figure of hope and comfort to many of her fellow refuseniks. She has corresponded with many fellow refuseniks offering them words of hope and comfort, helping them to maintain their self-respect and dignity as individuals in the face of a government that tries its best to dehumanize and degrade any individual. For this she has come to be known as the "Guardian Angel of Soviet Jewish Prisoners of Conscience." Even the KGB has referred to her as an "Esther to the Jews." Esther, Angel, or Saint, Ida is now an individual in desperate need of help. Suffering from a chronic heart condition, she is forced to live in extremely primitive conditions in a Moldavian backwater. Birthdays are usually times of joy and happiness, but today is for Ida just another reminder of the senseless brutality of the Soviet Government.

Let us remember Ida today, not because it is her birthday, but because she is a human being who is forced to suffer because she was born Jewish. Let us remember her not only today, but tomorrow, and the next day, and the next. Let us continue to urge the Soviets to honor the human rights provisions of the Helsinki accords, and allow Ida Nudel to join her sister in Israel so that her next birthday may indeed be a happy one.●

RCA ASTRO-ELECTRONICS: 25 YEARS OF VALUABLE SERVICE

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. SMITH of New Jersey. Mr. Speaker, I rise this afternoon to congratulate RCA on the 25th anniversary of RCA Astro-Electronics in Princeton, N.J.

After the Soviet Union launched Sputnik I in 1958, there was a growing consensus that our country must meet the Soviet technological challenge. RCA helped meet that challenge by committing itself to a major role in America's newborn space program through the establishment of RCA Astro-Electronics.

Since 1958, RCA Astro-Electronics has successfully designed and built more than 100 satellites and subsystems which have logged more than 183 billion miles and circled the Earth more than 6 million times.

Additionally, the facility in the Princeton area has been responsible for the design and manufacture of all of our Nation's polar-orbiting meteorological satellites. Their outstanding work with navigational and communications satellites has played a major role in the communications field for television, telephone, and data relay.

I had the opportunity to visit the RCA Astro-Electronics facility in March of last year. I could not help but be impressed with the commitment, expertise, and enthusiasm of the fine team of scientists, managers, and skilled technicians working there.

Just as our Nation owes so much to the pioneers and inventors of past American generations, we also owe a debt of gratitude to those individuals and firms that are on the cutting edge of technologies of the future. To cite just one of many possible examples, the RCA Astro-Electronics facility has just won a competitive contract for a new communication service, the direct broadcast satellite. As with previous achievements, this will provide for additional employment, better our lives, and pave the way for even more advanced technology.

Mr. Speaker, we can all be justly proud of RCA Astro-Electronics for 26 years of distinguished scientific accomplishments. Their many contributions to communications, satellite, and defense technology have benefited both our Nation's economy and its national security. I wish them continued success in the years ahead.●

CURRENT EMOTIONAL CONTROVERSY ABOUT LENDING POLICIES OF THE U.S. DEPARTMENT OF AGRICULTURE

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. MADIGAN. Mr. Speaker, I commend to my colleagues' attention an article in the April 21 Wall Street Journal titled: "Audit Says Farmers Home Administration Is Too Lenient, Borrowers Say It's Too Harsh."

The article, written by Jeffrey H. Birnbaum, puts into clear perspective the current emotional controversy about lending policies of the U.S. Department of Agriculture. This newspaper article will help bring a balanced view of the issue to Members who soon will consider it when the Emergency Agricultural Credit Act of 1983 reaches the House floor.

Birnbaum reports that the American Farm Bureau Federation and the American Bankers Association take a conservative position. They oppose a moratorium on encumbered debt because it "gives FmHA borrowers an unfair advantage over farmers who use private banks for credit."

On the other hand, he says, critics like the "liberal National Farmers Union," say "If a farmer can prove that he's trying, then they should stick with him; that's why FmHA was established."

Birnbaum describes the Farmers Home Administration as a "tightrope walk in the arena of public policy."

No one disputes that many farmers are in a tough financial situation. The combination of multiyears of unfavorable weather such as drought and flood, falling land prices as inflation is wrung out of their inflated values, higher production costs, and low commodity prices have taken their toll.

The question facing the Congress is: Do we go for the quick fix—throw more money at the problem? Or do we continue to emphasize the need for a fiscally sound approach on a case-by-case basis?

Mr. Speaker, I believe a careful reading of the Birnbaum article will prove helpful to my colleagues in making this decision. I ask that the article be printed in the Record.

The article follows:

[From the Wall Street Journal, Apr. 21, 1983]

Audit Says Farmers Home Administration Is Too Lenient, Borrowers Say It's Too Harsh

(By Jeffrey H. Birnbaum)

Washington.—The Farmers Home Administration is a tightrope walker in the arena of public policy.

"It is awfully easy to fall off," says Frank Naylor Jr., the Agriculture Department undersecretary who oversees the FmHA. "Some would say we probably have."

As the rural lender of last resort, the agency is trying to balance two goals: firm management of nearly $60 billion in loans and maintenance of its good samaritan role to farmer-borrowers during hard times. That dual policy is under debate as different critics contend that the agency has gone too far in both directions.

The Agriculture Department's inspector general, in two recent audits, charges that the agency in recent years has lent millions of dollars that might never be recovered or that rural residents could have gotten from private sources.

In one case cited in the audit's report, the federal government lent $8.8 million to a company whose officers include a convicted bank swindler; the officer disappeared, and the projected loss is more than $8 million. In another case, a Georgia borrower owes the U.S. more than $1 million and is delinquent by $290,000, but the agency extended him additional funds on the strength of his previous year's earnings. That income, however, resulted from the unauthorized sale of collateral on the original loans.

The reports paint a picture of an often-inefficient and understaffed agency that is more interested in keeping farmers afloat than in managing taxpayers' dollars. "It is reasonable to assume that delinquencies will continue to increase under this liberalized policy," a report says.

Many farm groups and farm-state lawmakers, on the other hand, want to make the FmHA more generous. The House and Senate Agriculture Committees have voted to sharply expand the agency's lending and to postpone foreclosures on many troubled farmers as long as they have a reasonable chance to repay eventually.

The Reagan administration wants to hold down the agency's lending and opposes any mandatory moratorium on foreclosures as an irresponsible, and expensive, measure. Conservative farm and banking groups encourage the administration in its efforts to curtail explosive lending growth.

Such groups as the American Farm Bureau Federation and the American Bankers Association believe that keeping farmers solvent when they should go bust prolongs the farmers' pain, uses resources inefficiently and adds to the crop-surplus problem. These groups also say that special treatment gives FmHA borrowers an unfair advantage over farmers who use private banks for credit.

The debate may come to a head soon in Congress. The FmHA is grappling with the problem of providing farm-operating funds in 17 states where such funds, which are vital for spring planning, have run out. So although the agency doesn't want additional lending authority, it may have to ask Congress for more money. On its own, a House appropriations subcommittee last week voted $600 million in new loan money for the 17 states and endorsed a ban on certain FmHA foreclosures.

To try to head off this effort, the Agriculture Department says it will reallocate $400 million from other FmHA programs without giving any additional protection from foreclosures.

Aside from this debate, some farm groups say the agency is too hard on its existing borrowers, particularly on farmers who are having a tough time coping with high interest rates and low commodity prices. Militant opposition to foreclosures is on the rise. In the past year, at least 13 foreclosure auctions or meetings have been disrupted by organized protests. A growing number of farm-state lawmakers believe that the FmHA has a policy to force a certain number of farmers out of business—a charge the agency vigorously denies.

Such critics as the liberal National Farmers Union say that the agency isn't doing all that it can to assist distressed farmers. "I'm not saying that all the loans are correct," but "we don't consider (the agency) to be overlenient at all," says Robert Mullins, the group's chief lobbyist. "If a farmer can prove that he's trying, then they should stick with him; that's why the FmHA was established."

The Center for Rural Affairs, a pro-family-farm group based in Walthill, Neb., accuses the FmHA of favoring big farms over small ones. The agency already has shown this bias, a center spokesman adds, by failing last year to disperse its full allotment of loans to farmers of limited means.

Agency officials deny that they favor big farms. They also say the FmHA has delayed foreclosures on thousands of delinquent borrowers in order to do everything possible for any farmer it believes has a chance to make a go of it.

The agency says that even though fiscal 1982 marked the third consecutive year of declining farm income, only 8,000 or 3 percent, of its 270,000 farm borrowers went out of business and only 844 of those were forced foreclosures. Though the FmHA carries only about 12 percent of the nation's farm debt, some of its loans are, by definition, among the riskiest.

Lenient treatment of borrowers, though, doesn't come without a price. About one-quarter of the agency's farm borrowers were delinquent on their payments at the end of 1982, up from 17 percent the year before and double the percentage of 1979. On Feb. 28, 1983, 38 percent of farmer borrowers were in arrears, though that number has since been declining.

The inspector general's audits criticize the agency for its lending practices. In a report that examines FmHA loans granted in fiscal 1980, nearly $2 billion in loans to rural residents are called questionable or improper. The bulk of the dubious loans were given to individuals who earned enough to turn elsewhere for their loans. In addition, $714 million in loans was dispensed without accurate or complete financial data from farmers, and another $417 million could have been lent at higher interest rates or for shorter terms, the report contends.

The second report concerns emergency loans dispersed in fiscal 1982 during natural disasters. The audit concludes that $1.12 billion in loans that were in arrears weren't completely secured by collateral, and that $887.9 million in collateral was sold without permission from the lender. Other delinquent loans were given to farmers who aren't likely to repay them, the report states.

FmHA officials argue that many of the complaints are more technical than significant and that special safeguards have been introduced to prevent the problems from recurring. In addition, officials say employee training has been improved. Officials add, though, that rural loan-making is something less than a science.

"You cannot apply many of the normal business tests that you do on commercial loans," the agency's Mr. Naylor says. "A lot of agricultural lending, I know, is made by looking you in the eye and knowing whether or not you have the capacity to do the job as a farmer. We asked our people to do that and they did the best darn job they knew how to. Most assuredly we made some mistakes."

Mr. Naylor believes, however, that few of the mistakes will cost the taxpayer money. "The farming community at large has over its history built a reputation of which it is very proud," he says. "It pays its debts."●

WITHHOLDING REQUIREMENT: A BAD IDEA

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● **Mr. FIELDS.** Mr. Speaker, 2 years ago, I introduced my first piece of legislation in this body known as the Comprehensive Savings Incentive Act of 1981.

The purpose of this bill was to provide individuals with additional incentives to save rather than spend their hard-earned income.

At the time of introduction, I noted that our tax system was replete with provisions that discouraged savings and that our Nation had the lowest rate of individual savings in the entire industrialized world.

While I am pleased several of my ideas were included within the Economic Recovery Tax Act and that our savings rate has improved, our current rate of 5.4 percent, nevertheless, remains far behind other industrial nations. In fact, this savings rate is approximately one-half of that enjoyed by Canada, 11.6 percent, and only about one-third of the rate experienced by both the United Kingdom, 13.7 percent, France, 14.8 percent, and West Germany, 15.2 percent.

Clearly, these changes were only the first steps in our battle to eliminate the inherent fundamental bias in our Internal Revenue Code against individual savings. A bias which continues to encourage citizens to spend their discretionary income by heavily penalizing savers through a system of double taxation.

Mr. Speaker, at a time when we should be encouraging savings and investment, it is incomprehensible to me that Congress would approve a 10-percent withholding requirement on interest and dividend income.

Yet, we all know that on July 1 of this year, unless we act to repeal this onerous provision, the American people will again be shackled with another major disincentive to savings.

Mr. Speaker, our Nation's savings rate is a critical component of our economy. Without the equity capital, which is raised when individuals place their money in passbook savings accounts, stocks, bonds, and other savings instruments, our industries will continue to lack access to the necessary capital which is required to revitalize our economy. Without this capital, industries cannot expand their facilities or their inventory and cannot create those jobs which are desperately needed in our economy.

I believe we have a historic opportunity to help insure long-term economic growth by immediately repealing withholding and by instead enacting additional savings incentives. According to the Department of the Treasury, for each 1 percent increase in the individual savings rate, our industries gain access to about $20 billion in new equity capital.

Conversely, however, if we fail to repeal withholding, we will cost consumers $1.5 billion per year in lost interest. We will cost savings institutions over $1.5 billion to establish withholding and over $1 billion to maintain and it will drain roughly $30 billion per year from private investments needed to increase American productivity.

Mr. Speaker, I urge my colleagues to join with me now in an effort to represent the views of our constituents by immediatly repealing the 10-percent withholding requirement.

Thank you, Mr. Speaker.●

FREEZE SHOULD BE LIMITED TO 18 MONTHS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. PORTER. Mr. Speaker, no issue is of greater concern to the American people than the danger of nuclear annihilation. The question we face soon in voting on the nuclear freeze resolution is therefore of vital importance.

One must wonder why, when Congress has no constitutional authority over foreign affairs, that a resolution is proposed that requires the President's signature, a joint resolution—rather than one that simply expresses the sense of the Congress.

Beyond that, I have great difficulty with the resolution calling a nuclear freeze our "overriding objective."

It is not. At best it is a logical step on the way to our real goal: mutual, verifiable nuclear arms reductions.

I will offer an amendment that insures that a freeze will not replace reductions as our overriding objective by limiting any freeze to a period not exceeding 18 months during which nuclear arms reductions can be negotiated by the parties.

I ask the support of my colleagues for this sound and sensible approach.●

EXPORT-IMPORT BANK LEGISLATION

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. FRENZEL. Mr. Speaker, below are two statements on exchange rate policy and Eximbank reform which were submitted by a friend and fellow Minnesotan, William B. Faulkner, vice president, American Hoist & Derrick Co., St. Paul, Minn., before the Senate Banking Subcommittee on International Finance and Monetary Policy.

The statement on exchange rate policy echoes the deep concern that leaders of the business community feel toward the strength of the dollar against other currencies.

I would invite my colleagues to review the statement on Eximbank reform and the need to make the bank more competitive. Mr. Faulkner's company, has had extensive dealings with the Bank, and I believe his suggestions in this area make sense.

The statement follows:

STATEMENT OF WILLIAM B. FAULKNER, VICE PRESIDENT, AMERICAN HOIST & DERRICK CO. ON BEHALF OF AMERICAN LEAGUE FOR EXPORTS AND SECURITY ASSISTANCE, INC.

Mr. Chairman, members of the committee, we greatly appreciate the opportunity to testify before this Subcommittee with respect to the charter of the Export-Import Bank and its level of funding for fiscal year 1984. I am William Faulkner, Vice President and Assistant to the Chairman of American Hoist and Derrick Company of St. Paul, Minnesota. I am speaking on behalf of the American League for Exports and Security Assistance, an organization which currently represents 34 corporations and five labor unions. These companies and unions all have in common a commitment to promoting U.S. exports, thereby increasing American jobs and economic activity. My colleague, Mr. John Morgan, of the Communications Workers of America, AFL-CIO, will make a few additional comments following my statement.

Five years ago I also had the privilege of testifying on behalf of adequate funding levels for the Exim Bank before this very Subcommittee. At that time supporters of the Exim Bank were somewhat on the defensive, with at least some members of the Administration having identified the Bank as one place where major cuts were possible as part of an overall budget-trimming effort. I am most pleased to note that there has been a shift in attitude over the past two years. President Reagan's endorsement of "adequate export financing to sell American products overseas" is certainly symbolic of that shift.

I believe that this change in climate comes from a greater awareness of how important exports are to the economic health of our country. This realization has perhaps been brought about by the difficult international economic situation of the last two years. Increasingly, our political leadership and the general public realize that over the past few years the majority of new industrial jobs have been generated by industries which are export oriented. In the case of many of these industries, technology has become so specialized, and the costs of producing it so great, that it becomes economically feasible for companies to engage in such activities only if they are geared to a worldwide market. Thus, the generation of new jobs in industry, and the viability of new high technology industry itself, are both inextricably linked to a dynamic export market.

Ideally, a company's success in the international market should depend on its ability to make a quality product at a competitive price. In the past, American firms were able to do both considerably better than their competition. As industry in other countries has improved its performance, often subsidized by its home governments, differences in quality and price between American products and foreign competition have decreased. As they do, factors, such as exchange rate fluctuations and the availability and terms of credit have become increasingly important factors in who gets the sale. Today, many U.S. exporters contend that the single most important factor affecting the sale of their products is the government financing available to their customers.

This is not the occasion to discuss exchange rates in depth. However, I would note that during a period such as we have been experiencing recently in which the strength of the dollar seems far more related to capital flows and high domestic interest rates than to trade balances, credit becomes all the more important. It does us in industry no good to be told that if we wait two or three years market forces will ultimately bring about more realistic exchange rates. During that period we see our export sales decrease, imports increase, and foreign competition take over market shares which may take us years to recapture—or perhaps loose forever—assuming we are still in business to make the effort. If we are not in a position to deal with the problem of exchange rates, we can at least somewhat offset their negative effects through government-sponsored Exim Bank credits.

Even when exchange rates are not a major problem, the question of the availability of export credit, and the terms of its availability are all-important factors which a potential buyer will weigh in determining from whom to make a purchase. Our export-competing countries fully recognize this, and have much more comprehensive official export programs than our own. Japan's Exim Bank, France's Coface Bank and West Germany's Hermes Bank do not hesitate to mix foreign aid with foreign trade to gain a financing advantage.

Let me turn for a moment from generalities to specifics. The ultimate question for a businessman is whether he makes a deal or he doesn't. I've pulled together the information I could on six contracts which could have been won by U.S. companies, but which were lost in the last eighteen months primarily because my company or other nearby firms couldn't match foreign credit terms. In each case the loans offered by Exim Bank simply weren't competitive, and roughly $40 million in contracts went to other countries.

Export-Import Bank Terms Compared to Competition:

[Dollar amounts in millions]

Product	Amount	Interest rate (term)	Country
4 cranes	$4.5	United States 19 (8 yr); Hermes 11	Brazil.
2 cranes	2.75	United States ¹ 14 (5 yr); Hermes 8.93 (9 yr).	Argentina.
2 cranes	2.75	United States 15; Miti 9¼; United Kingdom 10; Hermes 8½.	Egypt.

¹ Variable rate.
² Fixed rate.

Now, having discussed the problem, let us turn to the question of what should be done, particularly with respect to possible modifications in the Exim Bank's charter. The ideal way to deal with the foreign subsidy issue would, of course, be to obtain agreement among all major supplier nations to terminate subsidized credits. The new improvements in the International Arrangements on Export Credits is certainly a step in that direction. Further actions are necessary:

The interest floors need to be automatically adjusted with changes in world commercial rates.

Some of the more advanced developing countries must be brought into the arrangement.

Floors need to be negotiated in the aircraft and nuclear sectors.

The issue of mixed credits needs to be dealt with head on (i.e., a U.S. "war chest" to discourage predatory terms by trading companies.

The above issues involve the most obvious forms of credit subsidization and are issues on which the Administration intends to seek international agreement. Until such accords are reached, however, we would hope that the Exim Bank would be as aggressive as the competition. For example, the Bank should make a greater effort to match the mixed credit programs of other exporters. The Agency for International Development (AID) has already participated in such loans in Egypt, but the funds it has at its disposal for such programs are limited to a few countries. To broaden such a program, there would need to be a statutory shift in AID's mandate.

Competitiveness is not just a matter of matching interest rates. A key issue in the months ahead may well center on the question of availability of credit. A number of developing countries which have historically been critical markets for industrial country exports are facing major debt problems, which make them considerably less attractive for commercial lenders. If there is a continued slide in oil prices, several oil-exporting countries may become increasingly poor commercial risks. Exim Bank and other industrial country credit mechanisms will have to deal with the question of how readily they will provide credit guarantees.

Finally, the competitive issue is not limited to interest rates and country coverage. We must also look to the sectors and companies which have access to Exim programs. The Bank has been criticized at times for being somewhat unresponsive to the particular needs of small to medium-size businesses. Obviously, dealing with such companies tends to be more costly than handling large projects.

Often these companies are less familiar with exporting in general and Exim Bank programs in particular—hence, more staff time is involved. Even if this is not the case, the relative cost of staff time to the overall size of a loan is likely to increase as the size of a loan decreases.

Finally, ALESA urges the Congress to take a new look at the Exim policy of not providing credit or guarantees for the export of defense-related articles or services. This would include a review of the statutory prohibitions against such activity with respect to the developing countries, as well as the Bank's own policy with regard to industrial countries. This is clearly a sensitive subject. Nonetheless, several points bear consideration:

The United States Government and private industry have made enormous investments in the design and production of defense-related equipment. We produce clearly competitive items in this area.

Exports of defense equipment provide the same domestic employment and economic benefits as exports of civilian goods. In addition, insofar as increased sales lower unit costs, the U.S. taxpayer can benefit through lower costs of items to the U.S. military.

The U.S. Foreign Military Sales program is designed to assist countries to purchase defense articles to help them meet their own security needs, when such assistance is seen as supportive of U.S. security interests. This is a security program—not a commercial promotional scheme.

There are a number of friendly developing countries, particularly in this Hemisphere, where there is no FMS program. We, therefore, have no mechanism to compete for sales with other exporting countries.

There are also no means to compete on credit terms for sales to NATO and other friendly industrial countries.

There are a great many non-lethal, often dual-use products, which the Exim Bank can finance if they are being exported to a civilian purchaser, but not to a military one. This can present particular problems when a country is interested in standardizing certain purchases, or when the military performs services or operates institutions which are civilian-owned or operated in other countries.

We suggest these considerations would at least justify, as part of the charter extension process, some kind of legislative or executive look at whether some modifications in policy and statute might eventually make sense. At a minimum, we believe it would be helpful to have an unbiased look at the degree to which U.S. defense-related exports are put at a disadvantage because of the official credit programs of competing nations.

To conclude, Mr. Chairman, I would hope that Congress in renewing the Exim Bank's charter would make some modest statutory alterations and lay down a clear legislative history which would clearly establish the primacy of competitiveness in the Bank's mandate. The Bank should be competitive with respect to credit terms and country coverage, and it should make its services available to all U.S. firms with a serious interest in exports. We also believe the Congress should encourage a cautious reappraisal of the flat prohibition in dealing in any way with defense-related exports.

As for Fiscal 1984, we urge that the Congress accept the Administration's recommendation for a $10 billion program of guarantees, and fund the direct credit program at least to last year's level—and perhaps as high as $5 billion. We should note, after all, that the Exim Bank will only make direct loans when there is a serious demand. If, as some predict, interest rates will stay at levels near or below those of the direct credit floor, then Exim will not need to use its full authority, and no harm will be done. If, on the other hand, there should be a requirement for a larger direct credit program, it would be most unfortunate to see export sales and related jobs lost while supplemental authorizations and appropriations bills worked their way through the legislative process—particularly when no direct funds from the Treasury are involved in any case.

Mr. Chairman, I would close simply by reiterating our strong support for the Exim Bank, which has proved to be cost effective in promoting jobs and business. U.S. exporters can compete against the price and quality of foreign goods, but we must have the Exim Bank to help combat predatory foreign financing.

Thank you, Mr. Chairman, for this opportunity to appear and present this testimony.

ADDITIONAL STATEMENT OF WILLIAM B. FAULKNER

Mr. Chairman, thank you for this brief additional time to present the views of American Hoist & Derrick Company (not necessarily those of the American League for Exports and Security Assistance) on a subject of vital interest to United States exporters. I believe that it is imperative to face a major problem confronting U.S. producers and their competitiveness in overseas markets.

We have not dealt with this problem in the past and therefore, I outline it for you and suggest a remedy as follows:

As a generality, the strength of any given country's currency in relation to other currencies, is based on the strength of the balance of trade. If it imports more than it exports over an extended period, the currency will devalue, making its exports cheaper and imports more expensive and bringing the two back into balance. This is a very simplified statement of what affects relative currency values, but the balance of trade and the competitiveness of that country's exports have been historically the primary determining factors in the value of the currency.

A country which is highly productive can continue to have a positive balance of trade with strong competitive exports and have the currency strengthening and the standard of living in the country improving if that country is more productive and, therefore, stays competitive in exports.

This pattern is generally true for most nations today, but it is not true for the United States. Certainly the U.S. dollar did not rise 30 to 40 percent in value during the last 18 months on the strength of our balance of trade. The U.S. dollar is no longer a U.S. currency. It is a world currency. There are three times as many dollars in circulation outside the country as there are in the country. The value of the dollar is based on the supply and demand for dollars, and our trade balance is becoming an insignificant factor in the demand for dollars. The U.S.

dollar as a world currency is looked upon as a stable place to keep your wealth, and as a relative economic and political security of any nation deteriorates relative to the U.S., funds flow into the U.S. and U.S. dollars are therefore in greater demand. As an example, when Mexico appeared to be a booming, highly secure, high return-on-investment country, funds flowed into Mexico.

When oil prices dropped and Mexico became overextended, funds poured from pesos back into dollars, strengthening the dollar.

Another factor affecting the U.S. dollar is the real interest rate available in dollars. Over the last couple of years tight U.S. monetary policy has resulted in interest rates that substantially exceeded inflation, therefore making real interest rates in the U.S. higher than in other countries and higher than in historical times, making U.S. investment attractive. These last two factors have made the U.S. dollar very strong and raised its value by 30 to 40 percent, while our balance of trade has been very weak. There is no way that U.S. businesses can improve their productivity by 30 to 40 percent in 18 months to offset the impact of the dollar. It is not only the strength of the dollar that is hurting the U.S exports, but also its volatility. You cannot plan major investments when more than your entire profit margin can be eaten up by changes in the value of the currency vs. your foreign competitors.

American business cannot wait out a long-term easing of the dollar. With a 30 percent change in your competitiveness you have to react and react quickly even if it means disruption and expensive relocation of facilities. As two examples, Caterpillar has moved all of its forklift production out of the United States and Atari has recently announced closing of two factories and relocation of production to the Far East.

The sudden interest in local content regulations, increased tariffs, import quotas, etc., is an effort by individual industries and unions to offset the impact of the over valued dollar, which makes companies noncompetitive on a worldwide basis, even when improvements are being made in U.S. productivity. But this is a piecemeal approach, with protection given to specific industries. This in turn, is often based on political influence, not efficiency or competitiveness. This can simply add new distortions to the economy.

What's the solution? One approach would be to devise a system to offset through trade pricing the currency fluctuations in the dollar which are more related to capital flows than to trade flows. The federal government, or perhaps the international monetary fund, could devise a formula to calculate a "trade dollar" exchange rate which would be based on comparative pricing of goods in various countries. All goods and services crossing the U.S. border could have their actual prices translated into "trade dollar" prices, with an across-the-board duty on imports and credit on exports imposed to make up the difference between nominal prices and "trade dollar" prices. Duties collected on the import side could be used to finance the subsidy on the export side.

Ideally, such a system could be imposed with the cooperation of our major trading partners. Such a broad based system would be less distortive to our own economy and to the economies of others than a situation in which the U.S. Congress and executive branch reacts, on a case by case basis, to the individual complaints of each industry. As noted, this process is far less predictable and reflective of real economic factors than it is of political power. If multilateral cooperation proves impossible, however, the U.S. might have to implement such a system unilaterally, at least on a temporary basis.

Such a system would allow our export economy to operate under conditions more similar to our competitor trading nations which do not have to deal in an "international currency." This system would stabilize the competitiveness of our goods and services, our ability to compete would change based on our productivity and change slowly with trends in world business, not dramatically because of a drop in oil prices and instability in other countries. The stability that would result in our export economy would permit planned long-term investments which today can be made useless by sharp fluctuations in currency values.

None of our prime competitors in Japan and Europe suffer the handicap of having their currency act as a world currency. Their currencies do fluctuate with the relative strength and weakness of their economy and the relative competitiveness of their goods and services. Why shouldn't we be on equal footing.

Statement of John Morgan, Assistant to the Executive Vice President, Legislative-Governmental Agencies, Communications Workers of America, AFL-CIO on Behalf of American League for Exports and Security Assistance, Inc.

Mr. Chairman, members of this committee, while on May issues I would be sitting on the opposite side of the table from industry representatives, we find ourselves taking similar positions on the Export-Import Bank. On behalf of the Communications Workers of America I wish to underscore the words of my industry colleague. Communications Workers of America, also a member of ALESA, has a strong interest in promoting exports.

The United States has been suffering from a very deep recession. Unemployment is at its highest level in half a century and Congress has just passed legislation in an effort to help alleviate this situation.

But a federal jobs program is clearly going to be expensive. Until the economy really turns around and growth is re-established, the federal budget will have to accomodate large outlays for unemployment compensation and for job creation. This situation certainly seems to argue in favor of a dynamic Export-Import Bank. Here is an institution which does not need direct funding from the Treasury. It keeps people employed and contributing taxes to the Treasury. And it protects well-paying jobs in high technology industries and stimulates the creation of new ones.

Unions have themselves tried to respond to these difficult economic times. In recent months, in negotiation after negotiation unions have made major sacrifices in salaries, benefits, and job rules. It has made these sacrifices in order that American industry can get back on its feet. Nothing appears more discouraging to union members who have tried to do their part than to see their efforts offset because U.S. industry cannot compete on the issue of export credit. We can help increase productivity and the quality of our products, so that American goods are competitive in quality and price terms. But labor and industy cannot by themselves compete with the financing provided by other governments.

Another major issue for this Congress will be the question of how to respond to the growing flood of imports in some sectors. While this is not the occasion to discuss legislative initiatives such as reciprocity and local content, I think one factor which will affect the discussions of such legislation will be the health and dynamism of our export industries, and therefore the degree to which new jobs are being generated by them. In that sense there is a relationship between programs which stimulate exports, and those which are designed to give other industries a breathing space from the onslaught of imports.

I should make clear that over the long run most unions are not fond of export subsidy programs. There are many other uses for tax revenues and credit guarantees. But we believe that such programs are a necessary tool to help with the current economic situation, and to convince our competitors that it makes sense to reach accord on limiting export subsidy practices.

Just as the unions have not believed that a nation can negotiate arms limitations or disarmament questions with the Soviet Union from a position of weakness, we don't believe we can negotiate fair trade practices and common export policies with the French, the Japanese, or other major trading countries from a position of weakness. We would eventually like to see tighter restraints on official export credit practices. We think the way to get there is to prove that our Export-Import Bank will be able to match the competition, or out match it.

In summary, Mr. Chairman, we believe that an adequately funded, aggressively competitive Export-Import Bank is essential. In the short run the Bank should assure that when American labor and industry produce a quality product at a competitive price, we are not disadvantaged because of the official credit practices of others. In the longer run, we believe a dynamic Bank is the best way to convince other trading countries that it makes more sense to work together to limit export credit subsidy practices, than to compete with each other to see who can use more taxpayers' resources to provide such subsidies.

I would hope, therefore, that your Subcommittee and the Congress would produce legislation to extend the Bank's charter with modifications that stress its competitive nature, and provide authorization levels which will assure that it has the resources to carry out that competitive mandate.●

TRADE LAWS NEED IMPROVEMENT TO PROTECT INTELLECTUAL PROPERTY RIGHTS

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 27, 1983

● Mr. SCHULZE. Mr. Speaker, I am, today, introducing H.R. 2795, a bill to amend section 301 of the Trade Act of 1974 to define unreasonable foreign acts, policies, and practices as they affect U.S. rights in the field of international trade.

Recent years have shown an increase in the incidence of belligerant trade actions by our trading partners. We have heard much in recent days of the targeting practices of foreign governments, and of outright discriminatory laws masquerading under the guise of mere nationalism.

Not all foreign laws and policies are discriminatory on their face. Some apply equally to both domestic and foreign entrants into the trading markets abroad.

However, the fact that laws are written to apply to all does not mean that the laws are fair in their application. Our American trade laws have not been able to deal with this problem adequately. Accordingly, I have proposed H.R. 2795 which will improve our trade laws in response to the actions of foreign governments in recent years, particularly as they impact on the pharmaceutical industry.

As we know, intellectual property property rights, such as patents, represent the lifeblood of a pharmaceutical company. Thus, I have become particularly concerned about compulsory licensing practices of foreign countries, including Canada, which require U.S. pharmaceutical patent holders to license products to a firm in that country for an unconscionably low royalty. For example, the Canadian law requires both domestic and foreign patent holders to license their pharmaceutical products to Canadian firms for a 4-percent royalty; in effect, this forces the company to give away the right to produce the drug.

Under section 301 of the Trade Act of 1974, as amended, the President has the authority to retaliate against any act, policy, or practice of a foreign country which is "unjustifiable, unreasonable, or discriminatory and burdens or restricts U.S. commerce." The President may take any action otherwise within his authority.

The application of the section 301 test to compulsory licensing provisions is unclear, particularly where, as in Canada, the compulsory licensing law is applied to domestic and foreign firms. For this reason, section 301, in its present form, does not provide an effective tool for dealing with this most important problem.

During the current and previous Congresses, we have been considering legislation proposed to strengthen our trade laws. I believe that the bill I introduce today will be an important improvement to our trade laws, and clearly within the spirit of the reciprocity proposals that have surfaced of late.

H.R. 2795 addresses the definition of "unreasonable" as that term relates to the threshhold test under section 301. The change would add a new subsection (d)(3) to section 301, making it clear that unfair compulsory licensing laws, such as Canada's are within the scope of section 301 and a proper subject for remedial action by the President.

I solicit the support of my colleagues for my bill. I request that the text of H.R. 2795 be printed in the Record to accompany these remarks.

H.R. 2795

A bill to amend section 301 of the Trade Act of 1974 to define unreasonable foreign acts, policies, and practices as they affect United States rights

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301(d) of the Trade Act of 1974 (19 U.S.C. 2411(d)) is amended by adding at the end thereof the following new paragraph:

"(3) Definition of unreasonable.—For purposes of this section, the term 'unreasonable' means any act, policy, or practice which, while not necessarily in violation of or inconsistent with the international legal rights of the United States, is otherwise deemed to be unfair and inequitable. The term includes, but is not limited to, any act, policy, or practice which denies fair and equitable—

"(A) market opportunities;

"(B) opportunities for the establishment of an enterprise; or

"(C) provision of adequate protection of intellectual property rights.".●

THE ATTACK ON DEFENSE

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. FIELDS. Mr. Speaker, following the President's address to the Nation concerning national defense and the announced major change in nuclear strategic policy toward a defense against nuclear weapons, numerous articles appeared in a wide array of publications.

I am inserting into the Record today an article from the Intellectual Activist which is important not so much for what it says about the President's proposals, but rather for its observations on what other writers said, particularly some employed by the New York Times. The deserved critical judgments passed on the Times can be applied to all too many in the mass media. The practice of misrepresenting some news and political events relative to a journalist's personal ideology is dangerous to the liberties and pluralism of a society. I urge my colleagues to read this article for its succinct examination of the problem of media bias.

The Attack on Defense

Opposition to any real defense against nuclear attack has been the dominant attitude of America's strategic planners. Those who find it hard to believe how broadly and how seriously this view is held, particularly among the news media, need only look at the reaction to President Reagan's televised March 24th address on defense. In his presentation, disparagingly dubbed the "Star Wars" speech, Mr. Reagan endorsed a major change in military policy. In place of passively accepting our vulnerability and hoping a Soviet attack will be deterred by our threat of retaliation, he proposed that the U.S. try to defend itself. He advocated a long-term research effort on the feasibility of a weapons system that could immobilize incoming missiles.

This sensible, long-overdue strategy of actually attempting to *protect* America against nuclear bombs was widely greeted with skepticism and hostility. *The New York Times,* for example, in addition to the main story on Mr. Reagan's proposal, ran several related pieces. All of them, accepting the premise that arms-control is a strategic and moral imperative and that the introduction of new weapons, therefore, only invites war, focused totally on the speech's alleged deficiencies and dangers. The unmistakable impression conveyed was that of a hairbrained scheme hatched by a reckless President.

One story, for instance, was headlined "Scientists Dubious Over Missile Plan," with a subhead of: "Some Consider It Technically Unworkable—Others View It as Strategic Danger." Although this clearly promises an assessment of the scientific feasibility of the antimissile idea, the entire criticism consists of such phrases as: "spiritually troubling," "endanger the prospects for nuclear arms-control agreement," "extremely dangerous and destabilizing [because] any success in developing antimissile defenses would undermine deterrence of nuclear war, lead to a stepped-up arms race and eventually to pre-emptive warfare in space to destroy the proposed defensive platforms there," and "either side would have to shoot down what the other had in space—it would be the beginning of a nuclear war."

There is not a single criticism in the article of the plan's technical workability. What was billed as a dispassionately scientific analysis of antimissile weaponry turned out to contain nothing but tactical and ideological objections—objections applying only to a system actually installed and functioning. No one said why, or even that, the idea of shooting down attacking missiles couldn't work. To compound the misrepresentation, the reporter concludes with this observation: "Even the critical scientists said they approved of past and continuing research and development efforts to explore ballistic missile defense and space-based military applications so as to prevent 'technological surprise' by the Soviet Union." So they all explicitly agree we should try to develop this technology (in case the Soviets do so first), and that there are no insurmountable physical obstacles to a comprehensive antiballistic system—but that it is perilously destabilizing, according to these "scientists," for America to deploy it. The article deceptively uses the authority of science to present one side of the political question of how to deal with the Soviet Union—of whether arms control is beneficial, whether nuclear "balance" is desirable, whether we can best preserve freedom and peace through military might or diplomatic negotiation. The Times could easily—and more accurately—have re-headlined this story: "Reagan Plan Deemed Scientifically Feasible Even by His Political Critics."

Then there was the article "Aides Urged Reagan to Postpone Antimissile Idea for More Study." This plainly implies that Mr. Reagan may have acted rashly in announcing his plan, at least according to some of his officials, and that important issues were not sufficiently examined. But the article is devoid of any facts to support this. Not only is there no statement from these aides naming any item for which "more study" was supposedly needed, but there is indication that anyone—other than the reporter himself—believed there were in fact any issues insufficiently studied.

Here is all of the reporter's so-called evidence: "Mr. Reagan's longstanding interest in ideas for defense against nuclear attack was reignited six weeks ago when the subject came up at a meeting with the Joint Chiefs of Staff. But because of the White House's desire to keep this element of the President's speech a surprise, strategic experts within the Administration were not given an opportunity to review the proposal before he made his speech, a number of officials said." This matter-of-fact, non-critical remark by a few officials that the White House's desire for secrecy kept some experts—who may well have been previously consulted on the essential issues—from reviewing advance copies of the President's text, is the sole basis for the article's contention that "aides suggested that the idea had not been carefully studied." Nowhere, though, is there any suggestion by the aides of inadequate deliberation. And the headline writer's statement about their urging Mr. Reagan to delay his plan is a total fabrication, twice removed: the article itself, even as it reports nonexistent accusations against the proposal, says not a word about the aides' wanting a delay.

While there are no unscrutinized issues cited by the allegedly complaining aides, the reporter himself proceeds to raise three questions, intimating that the Administration, in its imprudent haste, failed to ponder these sufficiently. He writes: "[These aides] did not pretend to have answers to fundamental questions [such as]: Will the proposed strategy violate existing arms limitations treaties, in particular the 1972 agreement limiting Soviet and United States antimissile systems and their development? Can a defensive system be devised that cannot be overcome by the offense? Will deterrence be enhanced or undermined by such a system, which would allow one side to strike first and limit the effects of a retaliatory blow?"

The implication of these questions is as spurious as all the other allegations in the article. The question about the effectiveness of the system is indeed one which has no—which can have no—answer at present--because the very purpose of the years or decades of intended research is to discover whether such weaponry can be actually developed. This is not a matter that was overlooked by the White House—it is the very object of the proposed massive study. Now, the other questions are more legitimate, and do require answers now—but the Administration has them. On the first one: "There is no violation of the treaty involved in the study, the research, the development of that, and the best evidence of that is that the Soviets themselves are doing it," said Defense Secretary Caspar Weinberger—in a Times story on the very next page. And on the last question, which comes down to the issue of whether our safety lies primarily in arms or in arms-control, the Administration stated its view openly: "There have been a lot of people who have said we should not even look at the possiblity of ballistic missile defense because it is destabilizing, a theory to which I have never subscribed," said Mr. Weinberger in that same Times story, adding that the system offers "one of the greatest hopes of mankind if it can be realized."

So the problem is not—as the article implies—that the Administration hasn't studied the issues, but that this reporter does not agree with its conclusions. Under the guise of presenting factual flaws, he is—as is the writer of the other story—actually attacking the Administration's ideology. If the unobfuscated facts still warrant a story, the appropriate headline would be something like: "Text of Long-Contemplated Strategy To Protect America Not Seen in Advance by Some Experts; No Laxity Evident." Or maybe: "Times Urged to Postpone Anti-Antimissile Story for More Study."

The theme of irresponsibility on the part of the President pervades all the Times articles. The story on Mr. Weinberger has him saying: research into antimissile defenses is no violation of the ABM treaty (which prohibits only actual deployment); Moscow is engaged in the same type of effort; such weapons could finally eliminate the risk of nuclear devastation; if and when such weapons are ready for actual use the ABM treaty will need revision. But the headline on all this is: "Weinberger Says ABM Pact May Ultimately Need Amending" (which the Times—unlike TIA—obviously regards as an indictment). Similarly, another story deals with Moscow's assertion that future deployment of the new system would abrogate the ABM accord. But the headline reads: "Soviet Sees a Treaty Violation in Arms Proposal by Reagan."

Taken together, we have four articles about the Reagan initiative noting that scientists are dubious, White House aides want more deliberation, the Defense Secretary says an arms control treaty in its current form will have to be scrapped, and Russia feels threatened by our violation of that treaty. This adds up to a portrait of an impulsive President, bent on nuclear confrontation, resisting the sober counsel of his aides. It is a much different picture from the one that would have emerged had the stories instead been: scientists agree that the plan is workable, Administration officials support it, the Defense Secretary says it offers great hope to mankind and does not now violate any treaties, and Moscow is indignantly posturing about a research project on which it already spends three to five times as much as we plan to.

This notion that protecting America from attack is dangerous should be challenged by letters-to-the-editor where appropriate. The real danger here lies in the fact that less than half of one percent of the military budget goes for research and development of antimissile defense.●

ARMENIAN GENOCIDE

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1983

● Mr. FORSYTHE. Mr. Speaker, I would like to join my colleagues in commemorating Armenian Martyrs Day which marks the occurrence of the Armenian genocide, 68 years ago. This was the first, but unfortunately not the last, genocide of the 20th century; this act has only been rivaled in horror by Hitler's campaign against the European Jews. The Congress has memorialized the Armenian tragedy for the past 14 years in the hope of preventing any such violation of human rights from happening again. We, as a nation, must work harder to spread our freedoms and liberties, which we all too often take for granted. To ignore this responsibility, is to dishonor the more than 1½ million Armenians who died at the hands of the Turkish Government. I urge the Members of this Congress and all my fellow Americans to hold fast to the memory of this tragedy, thus preventing the reoccurrence of any such acts of inhumanity.●

TRIBUTE TO EBERHARD BARG

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. DYMALLY. Mr. Speaker, I wish to take this occasion to commend the American Political Science Association Congressional Fellow program for the excellent individuals the program makes available to congressional offices. For the past 6 months my office has been privileged to make use of the talents of Mr. Eberhard Barg, a lawyer with a background in chemistry who is completing work on his Ph. D. in political science at the Freie Universität Berlin. Eberhard, a citizen of West Berlin, and an active member of the Social Democratic Party (SPD) of West Germany, is an authority on United States-German relations, and is a specialist in the area of defense burden sharing between the United States and its European allies. His fellowship is sponsored by the German Marshall Fund. Eberhard is the first German ever to participate in the American Political Science Congressional Fellow program.

I have made it a practice to open my office to fellows of those societies sponsoring congressional programs because my staff and I grow through our association with the fellows. Eberhard has contributed a great deal to me and to my staff. As a member of the Foreign Affairs Committee, I occasionally had contact with European and Middle Eastern affairs when such matters reached the full committee level. But my main knowledge and expertise had been in Asian and Pacific affairs. Eberhard, through his intimate association with political processes in Europe and through the scholarly depth of his understanding of United States-European affairs gave me an enhanced perspective on Europe that, I think it safe to say, I would not have had without him. The interest in European affairs he provoked in me played no small part in my decision to become a member of the Europe and Middle East Subcommittee.

Because Eberhard is active in the German political process, I had the unique experience of meeting with Hans Jochen Vogel, SPD candidate for Chancellor of West Germany during the recent German elections. Vogel is now opposition leader in the Bundestag. My meeting with him allowed me an insight on the nuances of West German domestic politics that few Members of Congress are privileged to obtain.

I feel sometimes that what my office has to give in return for the expertise of fellows such as Eberhard is somewhat less than what we gain from them. Nevertheless, Eberhard was active in preparing briefs for me on various foreign affairs matters. He also was able to accompany me to California for a firsthand view of district level politics. Eberhard may long remember the experience of assisting me at a town hall meeting where we fielded constituent questions about impending changes in the social security system.

The most valuable aspect of associations such as that established between Eberhard and my office, however, is that we have the chance to deal with our friends and counterparts from other countries on a human level. The significance of events which take place in other countries often escapes us as Americans unless those events have a direct effect on us. My perspective on and interest in international events deepens whenever I can associate a human being, a friend, with that country. In his 6 months with us, Eberhard has become a lasting friend to my staff and to me. We wish him every success as he returns to Germany. And we express to him our thanks for the time he has spent with us and for the deeper understanding of world affairs with which he has left us.●

REAGAN MUST FIGHT CONGRESS ON CENTRAL AMERICA

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. WHITEHURST. Mr. Speaker, the Viewpoint Column by Morton M. Kondracke which appeared in the April 28, 1983, issue of the Wall Street Journal merits the close attention of all of my colleagues. Mr. Kondracke is executive editor of the New Republic, and he has clearly and correctly outlined the problems which face us in Central America.

I urge my colleagues to pay heed to Mr. Kondracke's warnings, and to do so without delay, else it will be too late. If Central America goes Communist, the American people will have the right to ask of us, "Who lost Central America?" I ask each of my colleagues to search his or her conscience and decide what that answer will be.

The article follows:

[From the Wall Street Journal, Apr. 28, 1983]

REAGAN MUST FIGHT CONGRESS ON CENTRAL AMERICA

(By Morton M. Kondracke)

Sometimes a president ought to conciliate in order to build a national consensus for his policies and sometimes he has to confront. I think President Reagan is missing an opportunity for conciliation on defense policy, but I'm afraid that a confrontation of sorts was the only way for him to go on Central America.

Actually, a national consensus is forming on how much to spend on defense, only President Reagan and his defense secretary aren't part of it. From the bipartisan appeal group headed by six former cabinet officers to the Center for National Policy to the Senate Republican leadership to the White House staff, there is an agreement that the U.S. should increase defense spending 5 percent to 7 percent per year over the next several years.

President Reagan and Secretary Weinberger are holding out for 10 percent. On the other side, House Democrats have voted for an increase nominally put at 4 percent, but estimated by some analysts to be just 2 percent.

A congressional compromise may come out at 5 percent or 6 percent, but that guarantees nothing about future budgets. If Congress votes defense cuts next year or the year after, the big-ticket weapons authorized last year will go forward, and savings will be sought once again by cutting training, maintenance and personnel, which need new money the most.

So as part of whatever deal he works out on the fiscal 1984 budget, the president ought to do as he did when Social Security and the MX missile were caught in a lethal political crossfire—appoint a bipartisan commission to draw up a long-term defense program that will survive the 1984 election.

The commission ought to be charged with studying not just how much to spend, but what to spend it on. It's widely agreed that the Weinberger strategy of preparing to fight simultaneous wars all over the world is unrealistic. The commission ought to look into returning to John F. Kennedy's "two-and-a-half war" doctrine, Sen. Sam Nunn's proposal of a strategy to attack Soviet military communication and transportation lines (rather than Soviet forces directly) and other alternatives.

The commission also ought to study the much-criticized defense procurement system, proposals to reform the top military command structure, allegations that U.S. weapons are over-technologized and recommendations that the U.S. switch from "static war" to "mobile war" doctrine. It also ought to draw up a believable assessment of the Soviet threat and recommend fair and realistic burden-sharing arrangements for America's allies.

With Sen. Howard Baker retiring from office and having little to do while preparing for the 1988 presidential race, I nominate him for chairman.

Commissions and conciliation won't work, however, with Central American policy. The president doesn't need to confront his opponents in the sense of blaming them or threatening them, but his views on the threat and the means of meeting it are so different from those of his liberal adversaries that only an intellectual and political squaring-off seems likely to resolve the dispute.

Whatever the effect of the president's speech last night, a speech did need to be delivered.

As a liberal, I hope Mr. Reagan succeeds in winning military aid increases for El Salvador and defeats efforts in Congress to cut off assistance to anti-Sandinista guerrillas in Nicaragua.

Opponents of U.S. efforts in Central America say they are trying to avoid "another Vietnam," but it is precisely the example of Vietnam which suggests that Mr. Reagan's policy is basically right. Eight years ago President Ford appealed to Congress for $700 million to save South Vietnam from collapse. It was just money, but it was refused.

We liberals cannot avert our eyes from what ensued: three million murders in Cambodia, total deprivation of human rights in Vietnam (and corruption at least as bad as in President Thieu's time) and a falling of dominoes. North Vietnam has taken over South Vietnam, Laos and Cambodia; now it is shelling Thailand.

It's now known—the legendary Gen. Vo Nguyen Giap revealed it on French television—that North Vietnam began planning to take over Indochina as early as 1959, long before American troops arrived on the scene and supposedly disrupted the region's history.

We are under warning about Central America now. The Sandinistas in Nicaragua openly proclaim that they are part of a "revolution without frontiers." In 1980, the late Savaldoran communist chief Cayetano Carpio asserted that "the revoluntary process in Central America is a single process. The triumphs of one are the triumphs of the other. Guatemala will have its hour. Honduras its. Costa Rica, too, will have its hour of glory. The first note was heard in Nicaragua."

Liberals should note the designs on democractic Costa Rica, a country without an army—and also note Costa Rica's recent explusion of Nicaraguan diplomats identified by a terrorist as having furnished him bombs and money. Costa Rican officials have complained about armed incursions from Nicaragua, too.

Central America is more ethnically homogeneous than Indochina, so the dominoes there may fall faster.

And Central America is close to our borders. If many American communities objected to the arrival of Vietnamese refugees and if Florida became divided over the arrival of 125,000 Cubans in 1980, we might well quake at the consequences here if hundreds of thousands of Central Americans begin streaming toward the U.S.

If Mexico, too, becomes unstable, the numbers could be in the millions, resulting in an internal security-civil liberties nightmare, not to mention job competiton and ethnic frictions. To defend a hostile southern border and a threatened Panama Canal and U.S. coastline would swell the defense budget, at a cost to domestic programs.

President Reagan is asking for only money for Central America, and it's worth spending to avoid the necessity of some day sending in U.S. troops. Direct American involvement didn't work 10,000 miles away in Vietnam, but it has worked before in Central America and is an option in the future if money fails.

Opponents of the Reagan policy object that our money is being spent the wrong way—that negotiation, economic development, human rights and reform are our only hope and that financing military solutions will fail as in Vietnam.

The opponents are right to the extent that the U.S. cannot succeed if its only policy is military, but Mr. Reagan is correct in saying that there can be no reform or democracy in Central America without U.S. military aid. There is also little hope of persuading Nicaragua to stop spreading communist revolution unless the U.S. aids groups applying pressure on the Sandinistas.

The possibility exists of building a national consensus around a policy that combines military aid, regional negotiations and internal reform, but such a consensus cannot form unless President Reagan wins his fight in Congress.

If he loses, and if Central America goes communist, it will be liberal values that lose the most.●

PERSONAL EXPLANATION

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. PORTER. Mr. Speaker, when the votes on the Walker amendment to and final passage of the Oregon Wilderness Act, H.R. 1149, where taken on March 21, I was meeting at the White House with President Reagan. Had I been present and able to vote, I would have voted against the Walker amendment, rollcall No. 37, and in favor of final passage, rollcall No. 38, of the Oregon wilderness legislation.●

TERRORISTS MEET UNDER U.N. AUSPICES

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. SOLOMON. Mr. Speaker, this month is the 38th anniversary of the drafting of the U.N. Charter in San Francisco, of which article 2, paragraph 4 states: "All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other matter inconsistent with the purposes of the United Nations."

This month also there is underway in Paris a terrorist conference financed, arranged, and stage managed by the Soviet empire propaganda machine working through the U.N. General Assembly, which the Soviet bloc now controls.

I refer to the so-called "International Conference in Support of the Struggle of the Namibian People for Independence" being held at the UNESCO headquarters in Paris.

Last year, the Senate Subcommittee on Security and Terrorism held hearings which established conclusively that the South West African People's Organization, commonly known as SWAPO, is a Soviet-supported terrorist group operating under the guise of aiding the struggle for national liberation of the Namibian people. The report of this subcommittee establishes that the original purposes of SWAPO have been subverted, and that the Soviets and their allies have achieved alarmingly effective control over SWAPO.

Since 1976, the U.N. General Assembly has accorded SWAPO the status as ". . . the sole and legitimate representative of the people of Namibia," which is in direct violation of the U.N. Charter.

The Conference now underway in Paris, under the sponsorship of the United Nations and convened in the headquarters of the U.N. Education and Scientific Council, gives SWAPO the same status, even going so far as to provide that a representative of SWAPO shall be seated on the drafting committee and will prepare the final report of the conference. None of the other Namibian political parties have even been invited to attend the conference, and some who tried to attend as observers have been expelled. According to testimony of Assistant Secretary of State Chester Crocker, in the terrorist subcommittee hearings, SWAPO receives about 90 percent of its military support and 60 percent of its overall support from Communist sources.

SWAPO is a terrorist organization, relying on a systematic campaign of murder, mutilation, sabotage, and intimidation of political opponents in its campaign to seize control of South West Africa/Namibia. Operating from bases in the southern part of Marxist Angola, SWAPO terrorists lay Soviet landmines on roads traveled by local civilians in northern Namibia, killing and maiming those who are associated with rival political parties, and kidnaping young people to press into their ranks, where they are systematically indoctrinated with the Marxist-Leninist program.

I am told the Paris Conference is costing over $1 million, and, of course, U.S. taxpayers are again footing the bill for United Nations support of pro-Soviet terrorists. After all, U.S. taxpayers put up 25 percent of the total annual U.N. budget of more than $1 billion. I am pleased to note that the Congress has already seen fit to pass Public Law 97-377 which President Reagan signed last year, requiring that none of the funds provided for the international organizations and programs account of the Department of State shall be available for the U.S. proportionate share of the cost of any U.N. programs for SWAPO and other terrorist groups.

I think it will be appropriate for the Congress now to take action to assure that the U.S. tax dollars cannot be used by the United Nations to support such false and wasteful exercises as the present International Conference in Support of the Struggle of the Namibian People for Independence, which turns out to be simply another pro-Soviet front engineered by SWAPO to spread disinformation, misinformation, and outright falsehoods about the efforts of the United States and its colleagues of the Contact Group (Canada, England, France, and West Germany) to achieve independence for Namibia in a fair and free election under U.N Resolution 435, provided Cuban soldiers and SWAPO bases are first removed from Angola, and the United Nations ends its favoritism for SWAPO and demonstrates its genuine impartiality and ability to hold a fair election.●

MICHIGAN TOWN LOVES CANADIANS

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. PURSELL. Mr. Speaker, Canadians are a welcome bunch in my hometown of Plymouth, Mich. Red maple leaf flags will greet them when they arrive as more than 70 merchants, hotels and restaurants in Plymouth have agreed to begin honoring Canadian money at par value.

Plymouth is rolling out the red carpet in its effort to attract Canadian shoppers to our "unique, quaint, New England town" which is located southwest of the juncture of freeways I-275 and I-96 about 30 miles west of the Canadian border at Windsor. The program was initiated by Scott Lorenz, general manager of the Mayflower Hotel and a member of the Plymouth Chamber of Commerce. Lorenz has been accepting Canadian money at par in his hotel for the past 6 months and getting a good response so he encouraged other merchants to join in. Plymouth Chamber President Tom Bohlander, Plymouth Mayor Bud Martin, and City Manager Henry Graper have been blitzing the Canadian Provinces aboard Plymouth's double decker bus to promote the program.

It will bring new customers and new money to our town and, although the merchants may be losing some money now, in the long term it will pay off. When the dollars eventually sort themselves out Plymouth will have built a long-term friendship with Canadians.●

SOVIET PEACE ACTIVIST ON TRIAL

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. FASCELL. Mr. Speaker, I am sure that the many Americans who believe in peace and the movement to reduce the nuclear threat throughout the world were heartened to learn of the formation of an independent peace movement in the Soviet Union in July of last year. The "Group To Establish Trust Between the U.S.S.R. and the U.S.A." is an independent, unofficial, public organization devoted to promoting mutual understanding between the peoples of two great nations as a basic element in the efforts of the Soviet and American Governments to remove the threat of nuclear war from our planet.

The Moscow "Group To Establish Trust," with its branches in Leningrad, Odessa, and Novosibirsk, is not a dissent group per se. It does not challenge Soviet authority nor contradict stated Soviet Foreign policy. Its members merely seek to act as an independent force, along the lines of peace groups in the West, by making proposals—to both sides, I should add—aimed at the achievement of genuine peace and nuclear nonproliferation.

Unfortunately, the Kremlin has not taken kindly to this unorchestrated expression of popular concern. To the best of our knowledge, none of the original 17 members of the Moscow group has managed to avoid persecution by the police and the KGB. House arrests, interrogations, telephone disconnections, and loss of employment have become a usual occurrence for the Soviet peace activists. Two of its members, respected academics, spent 2 weeks in jail on trumped-up disorderly conduct charges. Group member Oleg Radzinsky has been in a pyschiatric hospital since October 1982.

Now comes word from the wife of peace group supporter Aleksandr Shatravka in Moscow, that her husband has been charged with "anti-Soviet slander" and was scheduled to go on trial yesterday in the Siberian city of Sovetsky.

Last summer, Aleksandr Shatravka and a coworker, Vladimir Mishchenko, had been collecting signatures on petitions containing proposals for peace from their coworkers in the Soviet region of Tyumen. They were arrested, transferred to Moscow's Serbsky Institute for psychiatric examination, and then sent back to Siberia. Now we have learned that Shatravka, and quite probably Mishchenko, faces a sentence of up to 3 years labor camp for his activities. Shatravka's wife, Anna Gordienko, has also been harassed by police authorities in connection with her husband's case. Unable to find employment since the couple, along with Shatravka's adopted son, applied to emigrate in May 1982, her material situation has been described as desperate.

Mr. Speaker, the Moscow "Group for the Establishment of Trust Between the U.S.S.R. and the U.S.A." has published a document describing the efforts of Aleksandr Shatravka on behalf of the Soviet peace movement, and his subsequent fate at the hands of Soviet authorities. So that our colleagues and the many supporters of the unofficial Soviet peace movement might become aware of Aleksandr Shatravka's circumstances, I submit this document for inclusion into the RECORD at this time.

The document follows:

After much delay, we recently learned of an attempt to organize an independent peace movement in Siberia and of the circumstances surrounding the fate of Aleksandr Shatravka, the independent peace movement activist from Moscow who disappeared in Tyumen in the summer of this year.

Aleksandr Shatravka, a 23-year-old worker, was a very active participant of the independent peace movement in Moscow from its inception. In May 1982, Shatravka left Moscow for Tyumen, Siberia. In Tyumen, while working on the harvest of pine tar (in the village of Vanegan, at the industrial complex Khimpodsochka Yuzhnaya) he attempted to establish a peace movement among workers in Siberia. Together with Vladimir Mishchenko, Aleksandr Shatravka collected workers' signatures on a peace document calling upon the citizens and governments of the USSR and the USA to enter into a dialogue on disarmament; to consistently reduce and completely eliminate nuclear arms; to establish trust between peoples. (This document was based on the Moscow Group to Promote Trust appeal to the governments and peoples of the USSR and USA. This Moscow document also contained such proposals as the conduct of negotiations between political leaders in which average citizens of both countries would participate, an exchange of publications of materials on disarmament and a proposal for mutual arms control.)

Shatravka had intended to return to Moscow for the arrival of the International Peace March. He did not, however, return to Moscow. Only now have we learned of his subsequent fate, from friends who worked with him in Tyumen. On July 13, Shatravka and Mishchenko, having finished their work in the taiga, arrived at the Vanyegan Lumber Products Complex, from where they intended to embark for Moscow. On July 13, they collected 15 signatures from the workers at the Lumber Products Complex, having explained to them in detail the essence of the peace document. On July 14, they were detained and searched by the local police when they were about to leave the village of Vanyegan. During the search, the text of the peace document with the workers' signatures was found in their suitcase.

Shatravka and Mishchenko were arrested immediately and remanded to the Raion center, the city of Sovetsky. There, Shatravka and Mishchenko were charged with "anti-Soviet slander" (Art 190-1 RSFSR Criminal Code). The peace document formed the "basis" for the charges. Shatravka and Mishchenko were taken under guard, and then sent to the city of Tobolsk for a court-ordered medical exam. (The case is being handled by Investigator Mikheenko and Prosecuting Attorney Kopelman, city of Sovetsky.) At the same time, Shatravka's Moscow apartment was searched twice. Security agents refused to tell his wife, Anna Gordienko, anything about her husband's fate other than that he had been arrested on charges of "anti-Soviet slander." The official purpose of the search was to confiscate anti-Soviet materials, although, not surprisingly, no anti-Soviet materials were found.

Soon after Shatravka's and Mishchenko's arrest, a major from the security services arrived at the village of Vanyegan. The workers who signed the peace document were interrogated, after which many workers rescinded their signatures. But far from all of them did this. (According to our information, during a second visit by the major to the village, the worker Aleksandr Petrenko was arrested for refusing to rescind his signature and for reiterating his approval of the peace document. when Petrenko showed up for a discussion with the security agent, the latter suddenly put handcuffs on him, and took him off to Sovetsky. Although Petrenko was threatened with jail, he categorically refused to remove his signature. After interrogation, Petrenko was released toward the end of the day. We are not yet certain that Petrenko was in fact arrested.)

In October, the investigator told one of Shatravka's friends that the trial of Shatravka and Mishchenko would take place in Sovetsky in 2-3 months. On November 16, Shatravka and Mishchenko were transferred to the Moscow Serbsky Institute of Forensic Psychiatry (Shatravka is in the second section, Mishchenko in the fourth). They are being threatened with three-year sentences.

Aleksandr Shatravka, 32 years old, has come to the West's attention in the past as a political prisoner. In 1974, he crossed the Soviet-Finnish border. Although he had travelled far into Finnish territory, Shatravka was detained by Finnish authorities and returned to the USSR. As a result, Shatravka spend five years in prisons and in the Dnepropetrovsk Special Psychiatric Hospital. He was released in 1979.

In May 1982, Shatravka, his wife and adopted son submitted papers for emigration to the United States at the invitation of his close friend, David Satter, former Moscow correspondent for the English newspaper, The Financial Times. After Shatravka's arrest, security agents suggested to Shatravka's wife that she and her son emigrate. She refused, and the family was immediately refused a visa.●

A TRIBUTE TO MR. O'NIEL TURNER

HON. W. G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. HEFNER. Mr. Speaker, it is with great pleasure that I recognize a patriot from my district who has dedicated the past 10 years of his life to the service of veterans in Cabarrus County, N.C. O'Niel Turner, the retiring Cabarrus County Veterans' Service Officer, is a former U.S. Marine and a Vietnam veteran. He has devoted long hours to insure that veterans receive fair and honorable treatment for placing their lives on the line in defense of our great country.

I have worked closely with O'Niel during my tenure in Congress and have seen firsthand his sincere concern for the individuals he has served. His fortitude, diligence, and dedication to duty will long serve as a guide to those who follow in his office. His decision to leave the Cabarrus County Veteran's Service Office is a great loss, not only to veterans and their families, but to the entire county. I commend O'Niel Turner for the high quality of his past service, and I am confident that he will continue to excel in his new post with the North Carolina Division of Veterans' Affairs.●

SOCIAL SECURITY DISABILITY REFORM

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. CONTE. Mr. Speaker, I rise today to bring to the attention of my colleagues a situation regarding the Social Security Administration. As you know, in 1981, the Social Security Administration began a disability review process for all disability recipients. This policy can be traced back to the Social Security Disability Amendments of 1980 and the Bellmon amendment, which provided for own-motion review by the Secretary of Health and Human Services of disability cases. Today, I would like to discuss some of the injustices and oversights of this review process with reference to 1983.

The U.S. General Accounting Office recently conducted a thorough investigation of the SSA's decisionmaking process in reviewing the disability of persons with mental impairments. They were concerned that individuals who were not found to qualify by meeting specific medical criteria were not being afforded a realistic evaluation of their capacity for work. The GAO reviewed a total of 159 mental disability cases that had been recently adjudicated by the SSA. These cases were selected at random from various disability determination services around the Nation. Of the 159 cases reviewed, 40 denials or terminations were examined in detail by GAO clinical psychologists and mental health advisers. Out of the 40 cases reviewed, the clinical psychologist concluded that in 27 of the cases, the individuals could not function in their daily lives without support and could not work in a competitive or stressful environment. In the remaining 13 cases, the examiner concluded that more medical or psychosocial information or trial work experiences were needed to make an "informed decision." Obviously, an informed decision is necessary for the disability recipient to receive a just decision. If you are wondering if these could be isolated examples, the report also concluded that "our work and evidence strongly indicates that what we found is happening across the Nation."

In addition to the above case studies, the GAO examined the SSA's files. They discovered that, of the cases involving the mentally impaired who were terminated in June 1981, 72 percent of the individuals that appealed their cases were reinstated. According to the GAO, of 1,400 cases appealed, 91 percent of the terminations of mentally disabled persons have been overturned by administrative law judges.

The evidence is clear: Thousands of mentally impaired disability recipients are being unjustly cut off. In an attempt to rectify the situation, I am today introducing a bill providing for a moratorium on all reviews of mentally impaired individuals pending regulatory reform of the social security disability determination process. I urge you to join me in helping to enact this legislation that would require the Social Security Administration to treat mentally disabled persons more fairly in the upcoming months before a comprehensive reform package can be introduced. Thank you for your consideration and attention.●

RCA ASTRO-ELECTRONICS: 25 YEARS OF VALUABLE SERVICE

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. SMITH of New Jersey. Mr. Speaker, I rise this afternoon to congratulate RCA on the 25th anniversary of RCA Astro-Electronics in Princeton, N.J.

After the Soviet Union launched Sputnik I in 1958, there was a growing consensus that our country must meet the Soviet technological challenge. RCA helped meet that challenge by committing itself to a major role in America's newborn space program through the establishment of RCA Astro-Electronics.

Since 1958, RCA Astro-Electronics has successfully designed and built more than 100 satellites and subsystems which have logged more than 183 billion miles and circled the Earth more than 6 million times.

Additionally, the facility in the Princeton area has been responsible for the design and manufacture of all of our Nation's polar-orbiting meteorological satellites. Their outstanding work with navigational and communications satellites has played a major role in the communications field for television, telephone, and data relay.

I had the opportunity to visit the RCA Astro-Electronics facility in March of last year. I could not help but be impressed with the commitment, expertise, and enthusiasm of the fine team of scientists, managers, and skilled technicians working there.

Just as our Nation owes so much to the pioneers and inventors of past American generations, we also owe a debt of gratitude to those individuals and firms that are on the cutting edge of technologies of the future. To cite just one of many possible examples, the RCA Astro-Electronics facility has just won a competitive contract for a new communication service, the direct broadcast satellite. As with previous achievements, this will provide for additional employment, better our lives, and pave the way for even more advanced technology.

Mr. Speaker, we can all be justly proud of RCA Astro-Electronics for 25 years of distinguished scientific accomplishments. Their many contributions to communications, satellite, and defense technology have benefited both our Nation's economy and its national security. I wish them continued success in the years ahead.●

LONGSHOREMAN ACT AMENDMENTS

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. DONNELLY. Mr. Speaker, today, I have introduced legislation which would correct a glaring omission in our present Longshoreman and Harborworkers Compensation Act. A National Cancer Institute study has stated that shipyard employment is to blame for a number of forms of respiratory cancer due to the exposure to asbestos which has been widely used in ships for the covering of pipes and insulation. This study shows that the risk of cancer was increased eighteenfold for career shipyard workers and that the latency period for asbestosis can be up to 15 years.

Present law allows workers filing a claim a 1-year statute of limitation on any shipyard injury or disease. Under this law a worker could be barred from compensation if he did not file a claim within 1 year of the time he became aware of the disease. Due to the long latency period a majority of individuals do not make claims until the disease effects their ability to live a normal life.

The legislation which I am introducing would waive the statute of limitations when the failure to file for benefits is the result of a mistaken impression as to the workers health. This proposal would also require an impartial hearing prior to the termination of voluntarily paid benefits. This legislation will simply protect those workers who deserve and need benefits but are ineligible due to medical or legal misunderstandings.●

THE MX MISSILE

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. FORSYTHE. Mr. Speaker, as you know, we will soon be deciding the future of the MX missile. I would like to take this opportunity to call to the attention of my colleagues a letter I received from the Union of Concerned Scientists signed by a number of other groups, which makes an excellent case for the termination of this costly and unnecessary weapons system. The scope of the signatories of this letter demonstrates that opposition to the MX cuts across many lines.

The text of the letter follows:

April 11, 1983.

Dear Member of Congress: We are writing to express our opposition to inclusion of the MX missile in the Administration's new strategic package, as proposed by the Scowcroft Commission. We oppose the production of this first-strike, destabilizing weapon, and urge you to vote against procurement of the MX.

The overwhelming December House vote against DensePack was an historic occasion, representing, as it did, the first time that the Congress rejected a major weapons program requested by a sitting President. We are convinced that the opportunity is here to resolve the MX debate once and for all, but by terminating the program, not by including missile production in an overall strategic package.

The MX is not essential either to our national security or to the survival of the triad. None of the 35 different basing modes studied in the last decade have been able to guarantee missile survivability. MX missiles based in existing silos would be no more—or less—invulnerable than the Minuteman missiles already deloyed in those silos, and they would, unfortunately, comprise more lucrative targets than the Minuteman.

As Defense Secretary Weinberger stated in January 1981, "simply putting [the MX missile] in existing silos would not answer two of three of the concerns that I have; namely, that these are well-known and are not hardened sufficiently, nor could they be, to be of sufficient strategic value to count as a strategic improvement of our force." Taking this vulnerability into account, it is obvious that the MX could only be useful as a first-strike weapon since, by the Pentagon's own estimates, it would not survive for use in a second-strike.

In addition, production of both the MX and the new "Midgetman" small ICBM as envisioned in the strategic package, might violate the SALT II Treaty in at least four areas:

The flight testing of two new missiles would violate Article IV, Clause 9.

A reloadable small ICBM launcher, which has been proposed by at least one potential contractor, would violate Article IV, Clause 5(c).

Procurement of large numbers of small ICBMs would exceed the numerical limitations contained in Article III.

Expansion of the silos, needed to accommodate the MX and to obtain an increase in hardening to 5,000 psi, might violate provisions on silo construction and modification contained in both SALT I and II.

We would like to draw your attention to the attached material. The first factsheet contains quotes from Administration officials on the earlier proposal to base MX missile in Minuteman silos—a plan which was rejected by the Congress. The second factsheet includes quotes in opposition to that earlier MX-Minuteman basing plan from U.S. Senators and Representatives, including Senate Armed Services Committee Chairman John Tower.

We are opposed to any kind of strategic weapons proposal that includes the MX. Procurement of this first-strike, destabilizing weapon would be a major blow to the cause of nuclear arms control. We urge you to vote against the authorization of, as well as the appropriation of funds for, production of the MX.

Sincerely,

David Cortright, Director, SANE; Henry W. Kendall, Chairman, Union of Concerned Scientists; Rafe Pomerance, President, Friends of the Earth; Leon Shull, Director, Americans for Democratic Action; Elizabeth Davenport, Coordinator, Environmental Action; Gretchen Eick, Policy Advocate, United Church of Christ; Irwin Redlener, M.D., Chair, Executive Committee, Physicians for Social Responsibility; Richard Healey, Director, Coalition for a New Foreign and Military Policy.

Sanford Gottlieb, Executive Director, United Campuses to Prevent Nuclear War; Edward F. Snyder, Executive Secretary, Friends Committee on National Legislation; David McTaggart, Chairman, Greenpeace International; Robert W. Tiller, Director, Gov'tal Relations, American Baptist Churches, USA; Nancy Sylvester, Director, NETWORK—Catholic Social Justice Lobby; Robert Z. Alpern, Director, Washington Office, Unitarian Universalist Assn. of Churches; Jerome Grossman, President, Council for a Livable World; Richard Deats, Executive Secretary, Fellowship of Reconciliation.

Rev. Jesse Jackson, President, P.U.S.H.; Linda Tarr-Whelan, Director, Gov'tal Relations, National Education Association; Michael McCloskey, Executive Director, Sierra Club; Mary Jane Patterson, Washington Office, United Presbytarian Church; Louise C. Dunlap, Director, Environmental Policy Center; Carl Marcy, Co-Director, American Committee on East-West Accord; William L. Weiler, Director, Washington Office, Episcopal Church; Kapple Spencer, Legislative Chair, American Association of University Women.

Joyce Hamlin, Office of Public Policy Womens Division, United Methodist Church; Thomas W. Fassett, Associate General Secretary, Gen'l Board of Church & Society, United Methodist Church; John McNamer, Chairperson, Western Solidarity; Rev. Robert E. Thomas, Executive Director, Wyoming Church Coalition; Kathy Flaccus, Chairperson, Wyoming Nuclear Weapons Freeze Coalition; Janet Lowenthal, Director, Nuclear Information and Resource Service; Sister Francis Russell, Coordinator, Tri-State Coalition; David Gold, Director, Military Research, Council on Economic Priorities.

Cora Weiss, Mike Clark, Riverside Church Disarmament Program; Judy Schnidman, Chairperson, Student Alliance for an Immediate Freeze; Lance Compa, Washington Representative, United Electrical Workers; Janice Fine, President, U.S. Student Alliance; Christine Torgrimson, State Coordinator, Citizens for an MX-Free Montana; Dianne Aronson, Executive Director, Womens Action for Nuclear Disarmament; Michele Gimarin, Coordinator, Washington Peace Center, William J. Price, Director, World Peacemakers; John Stencel, President, Rocky Mountain Farmers Union, Terry Murphy, President, Montana Farmers' Union.

Abby Johnson, Coordinator, Citizens Alert (Nevada); Janet Gordon, Director, Citizens' Call; JoAnne Cagiwaga, Director, International Affairs, Christian Church (Church of Christ); David Saperstein, Co-Director, Religious Action Center, Union of American Hebrew Congregations; Al Beitler, Director, Friends Peace Committee; Jim Rice, Peace Ministry Staff, Sojourners; Andrea Coolidge, Coordinator, World Peacemakers; Peter Henriot, S. J., Director, Center for Concern.

Jo Uehara, Washington Representative, National Board, YWCA of USA; Ruth Fitzpatrick, Washington Representatives National Assembly of Religious Women; Susan Rees, Legislative Assistant, National Association of Social Workers; Ralph Williams, Legislative Associate, Washington Office, Church of the Brethren; Rev. John Gessell, National Chairman, Episcopal Peace Fellowship; Father Robert Johnson, National Federation of Priests' Councils; Joe Griggs, JoAnne Garrett, Coordinators, Great Basin MX Alliance.●

SUPPORT REAGAN ON EL SALVADOR

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. CORCORAN. Mr. Speaker, President Reagan's address to the joint session of Congress last night provided compelling reasons for our support of his economic and military aid requests for the nations of Central America. Who can doubt that the threat to democracy in that region is real, or that outside, pro-Marxist governments actively seek the overthrow of legitimately elected governments there?

I visited El Salvador in January of this year, and returned convinced that we must not leave this small nation to struggle alone against well-financed and armed guerrillas whose goal is to violently ascend to power. Surely there are human rights problems in El Salvador, but will human rights be improved by out abandonment of its elected government? Look at Nicaragua, and you will see what happens to human rights after such an overthrow.

The President has clearly presented the situation and has proposed basic goals for U.S. policy in Central America. I believe he has shown flexibility in his approach—indicating support for dialog and negotiations regionally and within individual countries, and announcing his intention to appoint a special Ambassador-at-Large to focus on bringing peace to the region. He has also assured us that no American combat troops will be sent to Central America.

The security of our hemisphere should certainly not be a partisan issue, and I hope that the Congress will respond constructively to the challenge of democracy in Central America.●

JAMES Y. WILSON HAS SERVED WELL

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. FUQUA. Mr. Speaker, James Y. Wilson of Lake City, Fla., is one of the most dedicated public spirited citizens I have ever known.

A man of great organizational ability, he has been successful in business and then taken the time to be of service to others.

Particularly do I want to recognize his leadership as national president of the University of Florida Alumni Association. In this position, he charted new courses for others to follow and it would be impossible to fully recognize his contributions in this one area of service.

The Lake City Reporter, on April 12, 1983, wrote an excellent editorial honoring my close personal friend and I wanted to share those comments as a tribute to Jim personally, and as another example of those men and women who give of themselves in service to others.

J. Y. WILSON

Perhaps one of the least recognized assets of Columbia County is Lake City Community College, and of that asset, perhaps one of the key individuals in helping making the college what it is today is Lake City's J. Y. Wilson.

Wilson has been a part of Lake City Community College and its forerunner, Columbia Forestry School, for almost 36 years now, dating back to July 1, 1947.

In that time, Wilson has served as a member of the board of directors for the Forestry School until Lake City Community College evolved in 1962, and since the inception of the community college, he has served untiring as a member of the board of trustees.

In 1972, Wilson was one of the organizers for the Lake City Community College Foundation, an organization utilized to raise money for scholarships and also to maintain the student housing on campus, housing that makes Lake City unique among community colleges.

Wilson served as chairman of the foundation during its first two years of existence and is again currently the chairman of the group.

In addition, Wilson is a member of the University of Florida foundation and brings much needed knowledge, business experience and political savy to the benefit of Lake City Community College.

For over three decades, J. Y. Wilson has given of himself—all without pay—so that our community can reap the advantages of an institution of higher education.

We are all much richer for his dedication and sacrifice to make Lake City and Columbia County just a little bit better place to live.●

ENTREPRENEURS ARE CONTRIBUTING TO ECONOMIC GROWTH

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. WIRTH. Mr. Speaker, as all of us in Government seek ways to make sure economic recovery can be sustained for the long-term, it is important that we realize Government alone cannot solve all of the country's problems. While decisions we make here in the Congress have a vital impact on the economy as a whole, the way private managers make their decisions are also very important.

One of our country's traditional problems in both business and Government has been our difficulty in thinking ahead. Just as we in Congress have long been preoccupied with this month's crisis, private managers have often been concerned mostly about this quarter's bottom line. Planning for the long-term has been inadequate, and that is part of why we find ourselves in such difficult straits today. We all need to adopt a longer term perspective in the decisions we make.

Among the most impressive things about some of the new entrepreneurs in our society is that they are finding new ways of doing business, and focusing more on the longer term, and on quality above quick return. We in Government have a special obligation to make policies which will allow them to succeed in these enterprises. We must realize that many of the new high technology firms in our country which are contributing to growth and creating new jobs are very different in their structure and in their needs from the equally important basic industries in our country.

The following article, from the Colorado Business magazine, profiles how some of these emerging industries work, and why. I commend it to my colleagues.

[From Colorado Business magazine, March 1983]

STANDARDS OF INDUSTRIAL MEASUREMENT CHANGE AS SUNRISE INDUSTRIES MOVE AHEAD

(By Glenn Meyers)

The American view of industry is shifting gears as it rolls into the 80's. New metaphors have been struck to fit the new companies—companies that are on the fast track. Emerging industries. Sunrise industries. Call them what you will. Standards of American industrial measurement no longer fit the case.

The creation of the Information Age has not been gradual—the effect has been closer to that of a runaway steamroller, leaving the remnants of the Industrial Age in its wake. With the Information Age have resulted new products and new ideas that set new examples of how quickly a company and its investors can make money. In the meantime, the traditional industries of America—rubber, automobile, steel and garment—have taken the back seat, in terms of both investment interest and growth potential.

Generally, sunrise industries have relied heavily on this nation's increased dependence on computer-based technologies—and far less on man hours spent per product. The list includes office and communication product industries, micro-electronic and computer-related industries, and many national defense industries. Not too long ago, the companies dotting this list played only minor roles in American industry. But today, not only have they created new metaphors, they have also created new hope about a continuing American role in changing and more competitive world markets.

At Data Resources inc., (DRI) the largest private sector economic data base in the nation, projections for the remainder of this decade show that all U.S. manufacturing industries will increase at an average rate of four to five percent per year. That is an average however. At the top of this list are the sunrise industries, with growth rates averaging around eight percent per year, while traditional heavy machinery industries are projected at rates of two percent or less per year. There is a predictable anomaly, of course. Engines, turbines and heavy equipment—ranked #50 on DRI's growth list, ranked #17 in terms of investment required. "In older industries, they have to invest a little more just to keep up," points out Robert Gough, senior vice-president of U.S. forecasting at DRI.

That same problem plagues other traditional industries. These industries which have spurred national growth for almost three-quarters of this century are now being described with different words—sunset industries, smokestack industries, even dinosaurs by some educators. The automotive and steel industries, for instance, have suffered severely over the last five years due to foreign competition and recession, and at the same time have required massive capital investment for modernization. Apple Computer, on the other hand, was started with little capital, has grown dramatically, and has been comparatively untouched by recession.

Investors, who can provide much of this capital investment, have, in the meantime, turned more attention to these newer industries. Growth and investment may be risky, but when and if it comes, it's staggering.

Some older industries have already begun searching and diversifying into emerging growth markets, leaving the original business to flounder in the marketplace—a serious mistake according to some economists.

Sears recently entered the small computer market, as well as real estate and investment areas. Yet it has demonstrated little in reorganizing its basic retail outlets. According to DRI's growth list, the decision makes sense. The first six growth industries for the 80's are: office equipment and components, electrical components and accessories, computer services, computer equipment, ordinance and accessories (defense), and miscellaneous consumer oriented services (banking and real estate).

In the office equipment and component industry, NBI, Inc., of Boulder, projects its annual growth at over 40 percent—well above DRI's 8½ percent annual growth projection. In 1973, though, NBI had 12 employees. Now it has over $100 million in annual sales, and since 1979, has increased earnings at an average of 283 percent per year. The company has become one of the most attractive offerings on the New York Stock Exchange. And with such companies to set the example, it is increasingly tricky to tell investors of long-term money in more traditional industries, especially when the growth projections for the industry itself don't match up.

"Sunrise industries are fast-track, high potential industries," says Gough, "but they're also high risk industries. Look at NBI. One thing that's characteristic of these industries is that they've found a niche in the market and are trying to exploit that."

Yet Gough also sees two completely different managing styles between older industries and the newer ones: "They are less concerned about the bottom line, and more concerned about producing a good product."

By contrast, he points to older companies which operate, for the most part, by portfolio style management, subject to quarterly dividends and the constraints of Wall Street. "They are influenced by implications of activity on Wall Street," says Gough. "It's a very unfortunate constraint, while the sunrise industries are operating for the longer term."

Such older industries are losing ground to both foreign competitors and to sunrise industries. According to many economists and forecasters, management of these companies needs to undergo a reawakening for the long term horizon—not just quarterly profits—if America is to regain its vitality in the world industrial market.

Paul Harris, director of communications at NBI, points out that industries such as his have suffered far less through recession for two reasons: the information business has become a natural priority, and because of this, the industry is also continually supplying new product activity enhancers. He also agrees that the management operates differently than older companies, and is also more creative as a result. Says Harris: "Not paying quarterly dividends allows you to put your money back in the organization. I don't know what GM did in its infancy—the nature of capital requirements as a direct line contributor to end results is very difficult to compare, though. Look at the Apple example."

Harris points out that as any company gets older, it becomes more institutionalized, and therefore, less dynamic and more reactionary in the marketplace. Pointing out how rapidly the Information Age has happened, he adds, "The institutional approach to this marketplace fails as often as it succeeds, simply because of the speed at which things move."

Will the NBIs become institutionalized in the same way by the end of the 80's? Harris knows it is a serious concern. "We are very conscious of the fact that every day we grow, that possibility becomes more and more real. Everyday it is something we fight against."

Valleylab, in Boulder, is another such company which has realized tremendous growth in a relatively short period of time. Started in 1967 as a dealer for medical equipment, the company began marketing electrosurgical devices in 1970—now the biggest part of the business. The company was sold in the first week of February for $125 million to Phizer, Inc., which does $3.5 billion in business.

Robert Anderson, president of Valleylab, believes the way his company achieved such tremendous growth was because of innovation and management—bureaucratic stumbling blocks for many larger companies. He believes today's sunrise industries will face similar problems as they grow. "That's a given," he says. "It's not a particular problem at Valleylab, but as you grow, you develop some sort of bureaucracy, as the large companies have.

"It's easy to see how they got there. We're at 700 people now. When we were at 10 people, we didn't have any problems communicating. We knew where everybody was and what they were doing, and we didn't have any set policy because we could sit down and talk about it. As we became a company with lots of people, we couldn't do that. I'm not saying that's bad, that's just how you develop a large entity.

"I would say we are just as aggressive as when we first started," observes Anderson. "As you grow, however, you go through tremendous pressure to lean and to hold onto the things that make you great."

In all corners, increasing attention is being given to such high technology industries. Commerce Secretary Malcolm Baldrige said recently that, while he did not want to see the so-called smokestack industries—with high labor costs and outmoded production lines—shut down, as the government and private sector put all emphasis on new techniques, that it was still essential for this nation's high technology to keep pace with the rest of the world. In doing so, he stated he would support lower capital gains taxes on business investments aiding high technology industries.

Too much attention on high technology may serve to harm a diversified economy, though. Steve Stern, executive director of the Center for Business and Economic Forecasting at the University of Denver, expressed this concern: "There is an awful lot of attention being paid to high technology in Colorado right now. But it can't be paid at the expense of the foundation industries of economies—in Colorado, industries like agriculture and tourism. One must maintain perspective of a diversified economy."

Even those within the industry concur with Stern's observation. Referring to Megatrends, by John Naisbitt, which depicts the society's transition from an industrial to an information-based society. Valleylab's Anderson says: "I wonder what we are going to eat when we have stopped plowing and manufacturing."

The investment community, however, sees the emerging growth companies as the bright stars of tomorrow. Smith Barney Harris Upham & Co., of New York has actively underwritten such companies in the last few years. While the company's definition of emerging growth also stretches to include oil and gas companies or other promising businesses, it has primarily stayed with high technology. Colorado underwritings have included Valleylab, Cobe Labs and Storage Technology—all based in the Denver area.

Chad Weiss, director of corporate finance for the Rocky Mountain region, points out that while his company has not had much activity over the last year because of a soft market, there is still active venture capital interest in such emerging growth companies. In such cases, even if an underwriting isn't issued, Smith Barney will simply buy a block of stock in a company, expecting it to be an investment in the future.

Rob Anderson, a securities analyst for Boettcher and Company in Denver, puts it this way: "Investment is moving away from old smokestack companies." He believes these companies will have to start looking for ways to become diversified into other areas of growth because they will not diminish the disadvantage of foreign competition. That is, unless a protectionist type of environment is established, which he feels will create a bad situation.

Sounding a more frequently heard theme, Anderson adds, "Instead of worrying about that, let's start looking toward success." Anderson feels the traditional U.S. industries might find more innovative ways of competing in world markets. His example is a tentative agreement between General Motors and Toyota for joint manufacturing. "That is moving in the direction to compete on a worldwide basis. Instead of being adversaries perhaps they will have to be associates. For these companies to make such capital investment they make may have to be like what GM is doing."

For Colorado, economic forecasts for 1983 were almost unanimous on high technology representing one of the state's strongest industries. Much of the rest of the list closely paralleled that of DRI. And at the bottom of the list, the more traditional industries (though they play less of a role in the state) and agriculture.

CF&I Steel, in Pueblo, is one of the state's traditional industries, and has been dramatically affected by foreign competition and recession. The company is traded on the Pacific Stock Exchange, but is primarily owned by the Crane Company, with 97.2 percent of the stock. Although CF&I just recorded quarterly losses, and has had to lay off most of its workers, the similarity with other steel companies of America may stop at this point, according to manager of communications, Mel Harmon.

The company only accounts for 1 percent of the nation's steel manufacturing, but a $500 million capital investment has been made since 1969 in moderizing plant facilities. "We picture ourselves as being a very aggressive steel company," says Harmon. "We have forgone a great many dividends for capital investment in the plant."

Indeed, the long term investment sounds closer to that of an emerging growth company, and will pay off, Harmon believes. Right now, he points out that CF&I is competitive with anyone in the world, providing the competition is fair.●

GERARD F. JOYCE NAMED EDUCATOR OF THE YEAR

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. McDADE. Mr. Speaker, in a week when the National Commission on Excellence in Education warned that a "rising tide of mediocrity" threatens American education, I can bring this House some good news: Gerard F. Joyce is on the job in Scranton, Pa. Gerard Joyce has been shaping young minds in Scranton for the last 36 years. Tomorrow evening, the local chapter of the Phi Delta Kappa will honor Mr. Joyce as its Educator of the Year.

In truth, this great honor merely confirms what members of the Scranton education community have known since Mr. Joyce returned from naval duty in World War II to begin his teaching career. Over the next three decades, Mr. Joyce served as a teacher, a guidance counselor, department chairman, vice principal, and in his current position as director of secondary and continuing education for the Scranton school district. But this model educator also proved to be a model citizen, taking time to serve in the Korean war, reaching the rank of lieutenant commander in the Naval Reserve, and continuing his own education at such institutions as Marywood College, the Pennsylvania State University, and Harvard University.

I am proud and encouraged to have Gerard Joyce on the job in this time, a great challenge for American education. Henry Adams said, "A teacher affects eternity; he can never tell where his influence stops." With Educator of the Year Gerard F. Joyce at work in the Scranton school district, eternity is in good shape.●

CENTRAL AMERICAN POLICY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. ACKERMAN. Mr. Speaker, I welcome this opportunity to discuss the U.S. policy in El Salvador, and the President's speech to us in this Hall last night.

I believe that none of us can doubt the strategic importance of Central America to our Nation. I second the President's call for the Congress to protect the U.S. security interests in the Caribbean. I welcome, also, his support for dialog and negotiations * * * within each country in Central America beset by internal strife. And I am sure we all applaud his pledge to the American people that there is no thought of sending American combat troops to Central America; they are not needed.

Mr. Speaker, none of us wants El Salvador to become a strategic liability for the United States. But just as American soldiers are not needed there, as the President so eloquently reminded us last night, neither is additional American military assistance necessary for the protection of our interests in the region, or for the installation of a truly democratic government, representative of the needs and desires of the Salvadoran people.

It is a jump in logic to assume that the only way to insure the security of the United States is to pump dollar after dollar after dollar—$110 million more this year, $86 million more next year, and countless millions more in future years—into the repressive authoritarian Government of El Salvador. Indeed, such action on our part could well be counterproductive.

Just last week, the New York Times reported that, in the opinion of top military commanders of the United States, stepped-up aid will not help the Salvadoran Government defeat the guerrillas. These American generals concluded that additional dollars and even troops from this country will not win the war for the Salvadoran Government.

This is the same type of military advice that was offered and tragically ignored two decades ago in Vietnam, as the Pentagon Papers, and other documents revealed.

Mr. Speaker, despite the President's assurances to us that El Salvador will not become another Vietnam, there is reason to fear that these millions of dollars that the administration has requested will make the Pan American Highway seem indistinguishable from the Ho Chi Minh Trail.

As our Vietnam experience should have proven to us, the way to win the hearts and minds of a people is not to prop up a regime that has murdered 30,000 of its citizens. As the fall of Saigon should have shown us, the way to convince a nation of the benefits and values of a democratic society is not to reward the indifference that has been shown by the San Salvador prosecutors to the murders of four American nuns.

No, Mr. Speaker, the way to prevent the people of El Salvador from falling into the Soviet bloc is to show them that we care about their concerns; that we want to promote agrarian reform; that we want to see truly free and open elections; that we want to help mediate a political solution to the strife in Central America. The way to lose the support and alliance of the people of El Salvador—perhaps forever—is to spend millions and millions of dollars in a futile attempt to prop up the repressive government in that country.

Mr. Speaker, our policy should be geared to the human needs of El Salvador, not to the military thirst of the government. With a rational, compassionate Central American policy, we can preserve our security more than we ever could by a transfusion of guns and armaments.●

A BILL TO PROVIDE FOR THE ORDERLY TERMINATION OF FEDERAL MANAGEMENT OF THE PRIBILOF ISLANDS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. YOUNG of Alaska. Mr. Speaker, I have introduced today a bill which will help end the Federal role on the Pribilof Islands and thereby allow the Aleut residents of those islands to attain economic self-sufficiency.

For those Members who are not familiar with this part of the great State of Alaska, let me provide a little history. The Pribilof Islands are a series of small areas in the Bering Sea which have been called the Galapagos of the Arctic. Although they are small, they are rich in natural resources, inlcuding many species of birds, plants, and wildlife. Of the latter, the most significant are the North Pacific fur seals which travel to the Pribilofs every year to breed. The importance of the fur seal population has long been recognized, both for its commercial value and for its esthetic value. The fur seal population was one of the factors influencing the purchase of the Alaska territory from Russia in 1867. The later decline of that population due to unrestricted pelagic sealing led to the signing of a treaty in 1912 between the United States, Canada, Japan, and Russia that has served as a model conservation document. Indeed, the treaty has directly led to the growth of the fur seal population from a low of 300,000 seals in 1911 to the current population of approximately 1.7 million seals.

Unfortunately, the human residents of the Pribilofs have not fared as well as the seals and birds. The first residents were Aleuts brought to the Pribilofs in virtual slavery by the Russian owners of Alaska in the 18th century. They were settled on the islands of St. George and St. Paul to harvest the fur seals. When the United States purchased the Alaska territory in 1867, there were some improvements in living conditions but no improvement in the amount of freedom granted the Aleuts. When the U.S. Government took direct control of the islands following the signing of the fur seal treaty, the Aleuts became wards of the

U.S. Government. Workers were denied civil service benefits; Aleuts who moved to St. Paul Island from St. George had their houses burned so they could not return to St. George. During World War II, the Aleuts were moved off the islands into resettlement camps similar to those which housed Japanese Americans. Nearly 25 percent of the Aleut population died due to disease and malnutrition. No economic activity was allowed other than the harvest of fur seals. As late as 1964, an Aleut campaigning for the State legislature was denied access to the islands. All of this at the hands of the U.S. Government.

In recent years, conditions have improved and the Aleuts have been treated as full U.S. citizens. At the same time, the U.S. Government has indicated a desire to end its social responsibilities on the Pribilofs. This poses a problem for the Aleuts, as they have no background in economic activity other than harvesting fur seals for the U.S. Government.

As a result of Federal desires to end social welfare programs and Aleut desires to broaden their economic base, negotiations were conducted between the Department of Commerce, representatives of St. Paul and St. George, and the State of Alaska. The result of these negotiations was a bill that I am introducing today. The bill would end most Federal participation on the islands, would terminate the need for annual appropriations to the Pribilof program, and would establish a non-Profit corporation funded by a Federal grant that would allow the Aleuts to attain economic self-sufficiency. The U.S. obligation under the fur seal treaty would continue to exist.

Although this bill will need refinements through the committee hearing and markup process, I think that it should be put before the Congress so that we can expedite the termination of the Federal responsibility and allow the Aleut people to become less dependent on the Federal Government and more dependent on their own resources.●

NATIONAL TUBEROUS SCLEROSIS WEEK

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. DONNELLY. Mr. Speaker, today I am introducing legislation to proclaim the week of May 6 to 13, 1984, as "National Tuberous Sclerosis Week."

Tuberous sclerosis is a genetic disorder first identified in the late 1800's by Bourneville, a French physician. Despite being known for over 100 years and being one of the more common genetic disorders, it remains poorly understood and frequently misdiagnosed. Individuals afflicted with this disorder are born with it, but since the clinical signs may be subtle and full symptoms may take considerable time to develop, it is frequently unrecognized for many years. The disease is generally characterized by one or more of the following conditions:

Convulsive seizures, mental retardation, white skin spots, tumors, physical handicaps, developmental delay, characteristic skin rash.

In any individual, these features may range from mild to extremely severe. In its severest form, tuberous sclerosis can be devastating, rendering its victim completely helpless and dependent. Tuberous sclerosis is more common than cystic fibrosis—1 per 6,000 of general population—and Duchenne's muscular dystrophy—1 per 100,000 of the general population—yet little meaningful or sustained research has been conducted on this tragic disease.

Tuberous sclerosis brings great devastation to its victims and their families. Since 1977, the Tuberous Sclerosis Association of America, Inc., a grassroots association, founded in Rockland, Mass., has helped victims and their families to cope with the tragedies that surround this disease. TSAA, Inc., is comprised of parents, physicians, and friends of TS patients, and in addition to aiding victims and their families, TSAA, Inc., has set out a number of worthwhile goals and objectives for themselves as a national association, they include: Public and physician education awareness; case finding; earliest identification; and genetic research and counseling.

Mr. Speaker, I am honored to be a member of the TSAA, Inc.'s Board of Directors, and feel that the declaration of May 6 to 13, 1984, as "National Tuberous Sclerosis Week" will help to increase national awareness of the disease, stimulating the interest and concern of the American people, and leading to increased research and eventually to the discovery of a cure for this horrifying disease.●

FAULTY FOUNDATIONS OF SOCIAL SECURITY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. PHILIP M. CRANE. Mr. Speaker, it is a sad fact of political life that the electorate—the people for whom we work—has a short memory. Less than 2 months have passed since congressional offices were inundated with correspondence and telephone calls concerning the impending vote on saving the social security system. The lopsided House approval of an alleged rescue plan has poured oil on the disturbed political seas. The collective sigh heard in and around the Capitol heralded the passing into history of a piece of singularly unstatesmanlike legislation. The Social Security Act Amendments of 1983 merely pass the buck to a future Congress. Unwilling to face the tough questions, unwilling to provide the leadership our constituents seek, unwilling to provide the necessary reforms, Congress ducked the issue. I opposed the measures in the Ways and Means Committee and on the floor of the House of Representatives. The American public has once again been lured into believing that another tax increase will restore the solvency. Given the disappointing record of how past Congresses have acted, the superficiality of the current bailout is depressing.

The following op-ed article by Doug Bandow, which appeared in the Wall Street Journal on April 25, 1983, cogently points up the weaknesses of past superficial actions and points to the need for serious, qualitative, long-lasting reform. I commend the article to your attention.

[From the Wall Street Journal, April 25, 1983]

THE FAULTY FOUNDATIONS OF SOCIAL SECURITY

(By Doug Bandow)

People just haven't been able to say enough good things about our leaders since they acted to "save" the Social Security System. President Reagan signed the bail-out tax bill last week (it contains some modest benefit cutbacks, but is primarily a multifaceted tax increase), and said the legislation proved "our system can still work when men and women of good will join together to make it work." Democratic Rep. Dan Rostenkowski modestly remarked that "we have reason to be very proud of ourselves." And Republican Sen Slade Gorton happily called it "something of a triumph of the system."

Amid this fulsome praise were assurances the legislation had secured the program—though no one's sure for quite how long. The president said the bill "demonstrates for all time our nation's ironclad commitment to Social Security." U.S. News & World Report finds virtually all congressmen are confident the system is sound for "the next 75 years or more." Speaker Tip O'Neill claims "25 or 30 years." And the Washington Post simply concludes "for many years to come."

This sounds all too familiar. In 1977 Congress passed a $227 billion tax increase and, according to David Broder, "congratulated itself on having dealt with" the system's "threatened bankruptcy." The venerable Claude Pepper then said that tax increase would "strengthen the Social Security System, not just for the immediate future, but far into the next century" (he says "75 years" this time). And the trustees of the Social Security Trust fund flatly declared that the program was sound till the year 2030.

PROMISES REMAIN THE SAME

Nor was 1977 the first time the politicians have justified tax increases on the basis of saving the system. In 1958 then Rep. Wilbur Mills pushed through a tax measure "to get the program back to a sound actuarial basis." The players change; the promises remain the same.

So does the system. It is merely a legal Ponzi scheme, where taxes collected are immediately paid out in benefits, not invested as are contributions in actuarially sound pension programs.

But the president's bipartisan commission and the politicians consciously avoided even talking about the faulty underpinnings. This refusal has left all the basic problems in place. Though an actuarially sound pension program cannot guarantee a specific rate of return, it can guarantee a large accumulation irrespective of economic, demographic and political change. A pay-as-you-go system, in contrast, is vulnerable to the slightest blip.

The latest superficial bailout chosen does not alter the growth trend of benefits even though it is benefit growth, not inadequate taxes, that has nearly bankrupted the system. During the 1970s wages doubled, but Social Security benefits tripled and Social Security taxes quadrupled. The maximum tax any worker paid even in 1970 was just $372.40. It is $2,391.90 this year, and will reach $4,360.50 in 1990. As a result, the real after-tax income of Social Security recipients has increased nearly five times that of workers since 1967.

The latest tax hike ($165 billion through 1989) merely postpones the inevitable collapse of the system, as did the one in 1977. The Congressional Budget Office estimated that the 1977 tax hike cost 500,000 jobs, cutting tax collections sharply. Data Resources Inc. estimates that the job loss through 1989 caused by the newest tax increase will be nearly twice that; the U.S. Chamber of Commerce puts the likely loss at as much as 2.2 million. The jobs destroyed may even increase in the 1990s when the system is supposed to be accumulating large surpluses for use in the next century.

Indeed, it is our inability to predict the future accurately that makes the politicians' claims of financial soundness particulary ludicrous. The Social Security Administration is relying on mid-range predictions of 1.5% annual real wage growth and a 5.0% unemployment rate after 1995 (its pessimistic assumptions are 1.0% real growth and 6.0% unemployment). Yet the record of the past 15 years has averaged out to a slight annual decline in real wages, and the unemployment rate hasn't been below 5% since 1973. The recession of 1974-1975 that led to the 1977 crisis was overlooked by 31 of 32 major econometric forecasting models, and the horrible economic performance of the late 1970s that led to the 1983 crisis was unexpectedly severe. Lest anyone believe any projection for even next year, consider the administration's prediction of the real economic growth for 1983—it grew to 2.9% from 1.4% over a three-month span.

The second incalculable is demographics: the number of people paying taxes to support each beneficiary. The number was 16.5 in 1950 and four in 1965, and is 3.2 today. It will probably hit two around the turn of the century. The Social Security Administration has various estimates for both birth rates and life expectancies; only one month after the commission released its report last January the SSA publicly disagreed with its birth-rate projections and increased the estimated deficit. The only thing we are sure of is that the government's most pessimistic estimates have consistently been far too optimistic since Social Security was established.

Finally, perhaps the most important reason the latest claims shouldn't be believed is that Social Security remains a political system. Over the years benefits have been constantly increased or expanded; virtually every worker in America has now been added to the system; and new programs, including disability and Medicare (which has a long-term deficit problem worse than the retirement program), have been added. A Congress that could increase benefits 20% in 1972 is fully capable of increasing benefits, retracting changes in the retirement age, and advancing cost-of-living allowances in the future.

Thus, we will go through this agony again—probably within a decade. A. Haeworth Robertson, the SSA's chief actuary from 1975 to 1978, testified that "10 years from now, as we frantically search for solutions to this 'surprise crisis,' we . . . will resort, one more time, to hastily designed compromises."

The only hope is that the politicians will sit down—now—and totally restructure the system. There are a number of proposals to choose from. Peter Ferrara and the Cato Institute have proposed to phase younger workers out of the system entirely and allow them to invest more freely in IRAs or other pension plans; Michael Boskin of Stanford would allow workers to choose between Social Security and IRAs. In fact, a few years back Ronald Reagan endorsed ending the payroll tax and allowing workers to invest in private pension plans (that, alas, was before he was elected president)

THE REST OF US WILL PAY

Only fundamental reform will guarantee the elderly their benefits in the face of a workers' revolt in the next century, when people may be paying a fifth or more of their wages to support retirees. It is also the only way to guarantee fairness to young workers, who now will likely receive a negative return on their "investment." (Mr. Boskin estimates that those born before 1943 have enjoyed or will enjoy large windfalls at the expense of succeeding generations, while those born after 1952 will be the massive losers.)

We can't afford to be taken in any longer by self-serving and ignorant political promises. In 1936 the SSA solemnly promised the workers that three cents on each dollar earned up to $3,000 was "the most you will ever pay." "Of course," the Washington Post recently dryly noted, "it didn't work out that way." No, it didn't. And the 75-year solution of today will work no better than did the 50-year solution of six years ago.

Unfortunately, our political leaders seem to lack both the courage and foresight to save us from ever-increasing generational strife in the years to come. They either don't understand the real issues—or they don't care. After all, in 10 years Claude Pepper, Tip O'Neill and Ronald Reagan won't be in office. They've satisfied their constituencies and protected their political Achilles' heels. It's the rest of us who will pay.●

PARRIS DISCUSSES CENTRAL AMERICA

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. PARRIS. Mr. Speaker, I want to take this opportunity to express my support for the President's speech last night on Central America and to select a few key points which I believe are important to the entire concept of U.S. foreign aid.

The President stressed that the greatest share of financial assistance requests will be targeted toward economic and humanitarian aid, not military. This is of significant importance when one considers that to truly aid a country, the needs that must first be met are the basic ones, those of food and shelter. By stenghtening a nation's people in this regard, the citizens will be better able to help themselves, enabling them to pursue those precious goals of freedom and democracy.

In addition, I concur with the President that the price the administration is asking us to pay for freedom in Central America is small in comparison to the price being paid by the men, women, and children of Central America, who are wrestling for the same freedom we take for granted in this country.

And on that point I believe we must all stop and think about the last remarks President Reagan expressed last night.

> * * * there can be no question. The national security of all the Americas is at stake in Central America. If we cannot defend ourselves there, we cannot expect to prevail elsewhere. Our credibility would collapse, our alliances would crumble, and the safety of our homeland would be put at jeopardy.

Let us strive to protect our freedom and peace by assisting Central America in the same endeavors.●

CATASTROPHIC HEALTH INSURANCE

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. SABO. Mr. Speaker, a recent study by the Congressional Budget Office focusing upon expensive illness among the "nonpoor" and "nonelderly" cited the need for insurance protection against such occurrences. After looking at a group of 53 million families with a working breadwinner and no medicare or medicaid eligibility, the study concluded:

> In the absence of such insurance, high-cost illnesses impose large and often unman-

ageable costs on affected families or, through the bad debt mechanism, on other individuals.

Today I have introduced a bill which would offer all Americans access to catastrophic health coverage if their health costs should exceed a specified percentage of their household income. The bill establishes a State-Federal program of catastrophic health coverage. State participation would be optional. After an individual had exhausted existing private insurance or medicare/medicaid, the program would pay 90 percent of medical costs exceeding $2,500 or 30 percent of household income up to $15,000; 40 percent of income over $15,000 and less than $25,000; and 50 percent of income over $25,000, whichever is higher. Claimants would not be required to sell their homes, businesses, or other assets to receive benefits.

This bill insures that any citizen, no matter what his condition, will not be devastated by a severely expensive illness. It will insure that a person will not face liquidation of the bulk of his assets to pay for a catastrophic illness. Yet the standards of coverage of $2,500 or the 30 percent plus of income threshold for payment will make certain that only truly catastrophic illnesses are covered. Catastrophic coverage is not a substitute for conventional insurance, and the high thresholds in this bill insure that adequate incentive for purchases of comprehensive insurance remain.

The Federal Government would pay 75 percent of the costs of the catastrophic program, with a maximum of $2 times the population of the State involved. The maximum Federal cost would be about $460 million with a minimum State match of approximately $154 million. Based on the actual experience of the State-administrated and State-financed program in Minnesota, this funding level should be more than adequate to meet the needs of eligible cases.

Catastrophic illness is tragic enough for both victims and their families without intensifying its effects by the constant worry over ability to pay for needed medical care. The required contribution by the claimants will be a heavy burden. However, with the help of catastrophic insurance, they will not be left destitute and will have something from which to rebuild their lives after recovery.●

"YOUTH AND THE SEARCH FOR WORLD PEACE": AN ADDRESS BY FORMER U.N. SECRETARY GENERAL DR. KURT WALDHEIM

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. DYMALLY. Mr. Speaker, recently, former U.N. Secretary General Kurt Waldheim delivered an address at Sidwell Friends School here in Washington. His message struck me as being of deep significance. The sense of balance which his comments display is a testament to those diplomatic qualities which earned for him the respect of the world during his distinguished tenure as Secretary General of the United Nations. I consider his remarks to be a contribution to the cause of world peace. That is why I wished my colleagues to have the benefit of his words.

The address follows:

YOUTH AND THE SEARCH FOR WORLD PEACE

Ladies and Gentlemen, the longing for peace is as old as mankind. Never before, however, has humanity been faced with such a dramatic challenge to peace as in our time. Relations between East and West have once again become severely strained. The arms race, especially the competition in nuclear weapons, continues unabated, representing not only a severe risk to human survival, but also a tremendous waste of human and other vital resources. A number of regional disputes dangerously interconnected with the fragile structure of world peace remain unresolved and continue to give rise to violence and frustration. The effort to devise global economic solutions suitable to present realities remains deadlocked, while poverty and economic disaster threaten large segments of the world's population. Violence and various forms of terrorism have taken an increasing toll.

This is a dark picture. Indeed there is no shortage of proposed solutions. It is evident, however, that we are still far from reconciling our differences as to the approaches to be used and the solutions to be chosen, especially since these problems are usually tied to severe conflicts of interest which require the most intensive efforts of creative statesmanship if they are to be overcome.

There are many aspects of the international situation which give cause for great anxiety. Mistrust and suspicion rather than confidence determine one side's analysis of the motivations of the other side. Therefore, the arms race goes on unabated. Although recognizing the deterrent effect of nuclear weapons, we should never forget the lesson of history: Whatever weapons mankind produced, they were used sooner or later and therein lies the danger. Whether started purposely or by accident, the disastrous consequences of a nuclear war for mankind are obvious.

The paramount concern of all of us today, therefore, must be to prevent a nuclear holocaust. We cannot assume that we are safe because nuclear weapons have not been used since 1945. The constant build-up and qualitative improvements in the nuclear arsenals cannot create conditions of stability or security for either side or for the rest of the world.

Obviously, the young generation is getting more and more concerned with this development because they fully realize that what we decide now may have disastrous consequences for their future. The public expression of concern should not be under-estimated. It would be too simple to say that the many demonstrations against the armaments race are inspired by one or the other power. The fact is that even religious groups are getting more and more involved in this movement and the controversy is spreading far beyond the original groups of the peace movement in different parts of the world.

In view of this situation, every effort will have to be made to stop the arms race or at least to limit the production of such deadly weapons. But all this would require a new international climate which does not prevail at present. As I said, one of the reasons for this development is a deep-seated mistrust between the super-powers and between East and West in general. The Middle East, Poland, Afghanistan, Cambodia and Southern Africa are ample proof of this situation.

There is much talk these days about the new leadership in Moscow and the possibility of a "raprochment" between Washington and Moscow. A lot of guesswork is done in this regard and very seldom have I seen so many controversial statements and analyses of the situation. However, let me say this: Moscow is certainly interested in re-establishing good and friendly relations with the United States. To my knowledge, this is one of their top priorities in foreign affairs. However, we should not expect quick and sudden changes just because a new man has taken power in Moscow. The Russians will not change their policy overnight. And incidentally, Mr. Andropov has certainly already played an important role in the decision-making process of Moscow in the past years. Obviously, they consider Eastern Europe as part of their zone of influence, agreed upon with the Western Power in Yalta at the end of World War II. Therefore, we should not expect them to make concessions in this regard. It may be different in regard to Afghanistan and other troublespots, but for this a new approach is necessary which enables both sides to save face.

There is another development which deserves our attention. I am talking about the Soviet-Chinese relations. It looks as if Moscow is playing the China card in order to counter the deteriorating relations with Washington. On the other hand, Peking seems to be more interested now in normalizing its relations with Moscow, becoming more and more uneasy about the American cooperation with Taiwan. In other words, for different reasons the two giants in the east are getting closer to each other, creating a completely new situation in the international power game. However, it would be a mistake to overestimate this development. I believe that the differences between the two Communist powers are still much too great to lead to a closer cooperation in the near future. Needless to say, the attitude and policy of Washington towards these two powers will play a key role in this regard.

Ladies and Gentlemen, regional conflicts definitely pose a serioius threat to world peace. One interesting phenomenon is that governments and people get used to certain conflicts and apparently underestimate their threat to international peace and security. The continuing conflict in the Middle East, the unresolved problems and growing tension in Southern Africa, the crisis over Afghanistan and Cambodia demonstrate only too clearly the threat of these problems to world peace and international security. Despite all the efforts undertaken by individual governments and the United Nations to find solutions to these problems, I remain skeptical about the outcome of these efforts. I consider it an illusion to believe that the path to a stable Lebanon is now open. We have seen in the past few months how difficult it is to get all the foreign troops out of the country. Habib and Draper are doing their best but neither the Israelis nor the Syrians and Palestinians have shown any sign of willingness to withdraw.

Concerning the Middle East in general, I hope that after the tragic events in Lebanon a new beginning will be made. The proposals put forward by President Reagan in this regard deserve most serious consideration. They contain a number of very interesting and important elements which may help to move the negotiating process forward.

The issues which I have mentioned are enough to make clear to us the dangers to peace and stability which darken the international scene. The problems confronting governments and international organizations are so vast and complex that we have to deal with them in a cooperative way.

That brings me to the North-South relationship and its relevance to world peace. There should be no doubt that the fate of the countries in the Third World cannot be ignored and that more equitable economic and social living conditions must be created for these people. However, this is not only a moral but also a highly practical issue in an interdependent world in which we are living today. The industrial North cannot solve its problems alone. Those countries produce more or less the same manufactured articles and face serious problems in selling them. They need new and equal trading partners and these can only be the countries of the Third World. Therefore, the self-interest of the industrialized countries alone will lead them to understand the need for a positive approach to the economic and social problems of the developing nations. They need help to stabilize their economies. Only then will they be able to buy the products of the North and in return, will get stable prices for their raw materials.

The tremendous debts accumulated by some of the more important countries of the Third World like Mexico, Brazil and Argentina give ample proof of the serious troubles many of these countries are in. I consider it imperative to help them in solving their problems because otherwise their economies will break down and with them the international monetary system. The collapse of some systems of global economic management like Bretton Woods has let the world economy in a precarious situation. Currency values are unstable, trade is suffering as governments—especially of the stronger developed economies—are trying to protect domestic producers. Growth rates have slowed, unemployment is at record levels and all this is not because the world is incapable of producing enough for its growing population or has run out of raw materials, but simply because countries have not been able to agree on a fair system of managing the world's economy.

The single most important problem confronting the world trading system today is protectionism, in other words measures by developed countries to protect their industries and markets from foreign competition. Similar measures taken in the 1930's led to the "Great Depression" and the breakdown of the international economic system.

Ladies and Gentlemen, a major purpose of the United Nations is the development of cooperative approaches to the global problems of our time. Not to speak of earlier generations, even the fathers of the United Nations Charter could hardly anticipate that the organization would serve as a common forum for the international community to develop plans of action on such problems as population; food; the environment; energy; outer space; the law of the sea; the rights of women; the status of the disabled, children and the elderly, just to give a few examples. I am fully aware of the shortcomings and failures of the U.N. However, we should never forget what has been achieved since its inception 37 years ago. The world today would be a different place if we had not had this kind of international cooperation. What is disquieting—and that obviously reflects on the U.N.—is a tendency away from internationalism and back to nationalism and sometimes even showing signs of chauvinism. Needless to say, this complicates the work of the U.N. What is highly regrettable is the fact that governments or parties in conflict do not bring problems before the world organization at all or if the Security Council makes a decision which they do not like, they ignore it. This attitude of member-states is one of the main reasons for the weakness of the organization and the ensuing criticism.

Looking toward the future, I believe that besides the day-to-day efforts to restore and maintain peace through constructive international cooperation, a breakthrough in the efforts to halt and reverse the arms race and a global effort for the accelerated development of the Third World countries are the cardinal imperatives of our age.

Ladies and Gentlemen, I have tried to convey to you some of my feelings about the need for organizing a world community if we are to solve the difficult issues that face us today. To meet the historical challenges of our time requires a combination of idealism and a strong sense of realities. It is by combining devotion to ideals with a pragmatic approach that we can help build a world truly worthy of humanity's highest aspirations.●

FIRE SAFETY STANDARDS IN NURSING HOMES STILL JEOPARDIZING RESIDENTS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. BIAGGI. Mr. Speaker, today I am introducing legislation that has a direct bearing upon the 1 million seniors who reside in nursing homes today. My bill directly addresses a small, but significant omission in the safety standards which govern medicaid and medicare eligible nursing facilities.

On October 4 of last year, the Subcommittee on Human Services of the Select Committee on Aging conducting a hearing on fire toxicity in nursing homes. Simply put, many materials common to the construction of nursing home, such as carpet padding, bedding and materials located within the walls, when exposed to fire or intense levels of heat, emit deadly toxic fumes which can both kill or seriously hurt occupants of such buildings. Nursing home residents, many of whom are frail elderly who lack mobility, are most vulnerable to such fumes in the presence of fire or heat.

Sadly, no Federal standards are presently set for many of the interiors of such facilities—or other such public facilities. The most recent, and dramatic impact of the lack of such standards was the fire in the Biloxi, Miss., jail which killed over 20 inmates who were exposed to toxic fumes that resulted from heat in padded jail cells. This jail padding was primarily composed of the substance PVC—which is common not only to nursing homes, but also to subways and many other public buildings. The Stouffer Hotel fire in New York 2 years ago also resulted in the deaths of 26 people—all from deadly smoke inhalation.

Mr. Speaker, my bill would simply require the Department of Health and Human Services to put forth toxicity standards for nursing home facilities certified for medicaid. We require a number of other safety standards yet the Federal Government has neglected to advocate standards in this area as well. Medicaid now pays for almost 50 percent of nursing home care and medicare contributes an additional 2 percent—which runs well over $6 billion annually. If we are spending vast amounts of Federal resources to provide nursing home care for our elderly citizens, we can do no less than to also insure their health and safety in these facilities as well.●

EDITORIAL ON JUDICIAL QUOTAS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. PEPPER. Mr. Speaker, I appreciate this opportunity to bring to your attention and that of our distinguished colleagues an editorial that was recently sent me by an old and valued friend who served with distinction under President Franklin Delano Roosevelt.

This editorial addresses a disturbing trend under this administration to make decisions based on numbers and simplistic calculations rather than choosing as the foundation of national policy the well being of all those individual human beings who make up our country and without whom there can be no nation. It disturbs me deeply to know of quotas imposed on judges who rule on the eligibility for aid of persons who may otherwise be unable to make a living and support themselves due to injury or disease. Many of the disabled have rendered outstanding service to their country in the workplace, on the battlefield, as mothers, wives, and in many other capacities.

Now the judges are being deterred from enabling relief to be granted to those who fall under a number exceeding an arbitrary percentage. This makes no sense and runs counter to every humane respect for the right to a decent life of people who are not numbers but feeling human beings with pains and disabilities to which, one day, we may all be subject in our lives as people just like them.

[From the Hendersonville (N.C.) Times-News, Feb. 14, 1983]

PRESSURE ON JUDGES

A story out of Washington is typical of events that bring into question the sincerity of the Reagan administration in its stewardship of services to the public. The Associated Press reported two weeks ago that 500 administrative law judges have filed suit to halt harassment by the Social Security Administration of judges who decide disability cases for the government.

One judge told newsmen he was told "there would be no peace in his office" until more rulings were made in the government's favor. Another was told his reversal rate against the government was unacceptable. Another claimed his rulings against the government led to a request that he attend "peer counseling" sessions.

The Association of Administrative Law Judges Inc. says in its suit that the Reagan Administration is trying to strip its members of their independence guaranteed by law. The association says a judge's performance is considered unacceptable if he "had decided more than 66.6 percent of his cases in favor of the claimant."

Currently 55.2 percent of the appeals are decided in favor of claimants, according to both Social Security and the judges.

Social Security has denied the charge.

More than four million Americans draw disability through Social Security or Supplemental Security Income, a welfare program. The average payment for the regular disability program is $442 a month, while the average SSI payment is $202 monthly.

Henderson County lawyers report an upsurge in the number of appeals they are having to take to court after Social Security officials turn down persons with disabilities. The lawyers also report that even some of the administrative law judges are refusing claims, forcing lawyers to take cases to federal district court where the claims rate is nearly 100 percent in favor of the claimants.

The Reagan administration is targeting what it calls fraud and waste in the program, but in its action it actually is damaging those who through one physical problem or another have a claim that entitles them to receive benefits under Social Security.

This newspaper knows of persons with heart conditions who have been denied claims by Social Security officials because it was felt they could work. Administrative law judges approved the same claim only to have the claim overturned, forcing the claimant to hire a lawyer to fight the case in a higher court.

This is wrong.

In the first place, it must be assumed that a person isn't going to file a claim for benefits unless the person has a doctor's certification of illness and disability. Once obtained, this should be the ticket for disability since only a doctor has the judgment to tell whether a patient can work or not work, depending on the medication and actual physical and mental condition. A judge's role is that of validating the claim through professional certification. The role of Social Security is to accept the judge's decision if all the papers are in order.

Social Security officials may have a different concept of disability but the accepted notion is one that prevents a person from working at the same effort as when he was striken.

It is wrong to put a quota on illness, saying only 66.6 percent may claim disability at any one time. It is also wrong to set criteria that do not accept a doctor's report or evaluation of a patient's situation.

It sounds like the Reagan administration has decided to cut Social Security claims by 33 percent by tossing out one-third of the claims as not being valid in an effort to make the fund more solvent or at least to stay within bounds.

If government intends to aid those with physical disabilities based on illness, then it should treat all person equal. If it doesn't believe in the concept then it should end all disability aid. But to do what it is doing now is not only legally, but morally, wrong. A judge is exactly that. A person versed in law who makes a fair judgment based on his or her understanding of the law in relation to the facts in the case.

Thus, pressure on a judge is wrong, terribly wrong and the public should rise up to let it be known that tampering with the judicial system by threats is the same as fixing a jury.

Social Security would be horrified if it were accused of fixing a jury. Putting pressure on an administrative law judge is the same.●

MILK PRODUCERS EQUITY ACT OF 1983

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. CLINGER. Mr. Speaker, today I am pleased to introduce the Milk Producers Equity Act of 1983. Senator SPECTER will introduce a companion measure in the near future. The Milk Producers Equity Act of 1983 is designed to provide a temporary production/reduction program to reestablish the proper balance between supply and demand in our dairy industry by rewarding farmers who reduce production and penalizing farmers who increase production. Once the goal for production is met, a permanent program would be implemented to maintain the balance between supply and demand by indexing the support price to Commodity Credit Corporation (CCC) purchases.

The U.S. Department of Agriculture recently announced that U.S. milk production during the 1982-83 season is expected to post another 1-percent to 3-percent gain above last season's record 135.8 billion pounds. Importantly, this estimate is based on the imposition of the first 50-cent-per-hundredweight milk production assessment which went into effect April 16.

Forecasting only a slight rise in commercial demand, Government purchases of dairy products under the price support program are projected to rise to 14.3 billion pounds, milk equivalent, up from 13.8 billion pounds in 1981-82.

It is obvious that the current supply demand imbalance is a costly national problem, but it is just as obvious from talking to dairy farmers that the two 50-cent-per-hundredweight deductions under the current dairy program will not work. In fact, the current deductions will do nothing but increase production, hurt the small dairy farmer and force highly leveraged young farmers out of business.

Virtually everyone agrees that we must decrease the cost of the dairy program to the Government. The Milk Equity Act provides a financial incentive for dairy producers to participate. Most importantly, it will have the result of substantially reducing the amount of surplus dairy products the CCC will have to purchase. In fact, a goal of 4 billion pounds of CCC purchases has been set forth in the bill, which will assure a reasonable supply of dairy products to meet current needs.

Once the production reduction goal has been achieved, an automatic indexing plan would be implemented to maintain a fair price and prevent future imbalances. Under this plan, the support level should be adjusted on an annual basis by the Secretary of Agriculture based upon CCC purchases of dairy stocks for the coming 12 months.

I hope that my colleagues will join me in cosponsoring this legislation. We need to reduce the amount of milk produced in the country and by providing an incentive, we accomplish this. Otherwise, all we will accomplish is reducing the number of dairy farmers, but not slow down milk production.

In conclusion, I would like to thank Senator SPECTER and the Pennsylvania Farmers Association for their untiring efforts in helping draft this important legislation.●

DYING ETHIOPIAN JEWS

CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. SCHUMER. Mr. Speaker, I am enclosing in today's CONGRESSIONAL RECORD a copy of an article entitled "Dying Ethiopian Jews," written by Simcha Jacobovici. The article appeared in the New York Times on Sat-

urday, April 23, 1983, and portrays the desperate plight of the Ethiopian Jews and the urgent need for world action on their behalf. Mr. Jacobovici provides important insight into a long overlooked issue, and I commend his article to the attention of my colleagues.

DYING ETHIOPIAN JEWS

(By Simcha Jacobovici)

TORONTO.—Hundreds of black Ethiopian Jews, mostly children, died last year in refugee camps just outside Ethiopia's border. Activists on their behalf charge that the Israeli Government and the worldwide Jewish community could have saved them and did not. They are right.

A political storm on the issue is gathering in Israel. The Public Committee for Ethiopian Jews has called for an independent commission of inquiry similar to the one that investigated the Shatila and Sabra refugee camp massacres in Beirut.

The ongoing Arab-Israeli conflict, prejudice, indifference, defensiveness about past inertia and bureaucratism have converged to keep the Ethiopian Jews' tragedy low on the Israeli and world Jewish agendas.

Ethiopian Jews, members of one of the oldest and most devout diaspora communities, have lived for more than 2,000 years as second-class landless residents of Ethiopia, where they are known as Falashas. In Amharic, "Falasha" means "stranger" or "one who does not own land." Data are hard to come by, but it is estimated that there are 15,000 to 25,000 still in Ethiopia. Some 2,000 are in refugee camps outside Ethiopia's borders. About 2,500 live in Israel.

Under Haile Selassie's feudalism, they were physically, culturally and economically oppressed. During the civil war that followed the Marxist military coup of 1974, counter-revolutionaries massacred Jews, fearing they would join the revolution, while revolutionaries oppressed them for refusing to trade their religion for the new Communist creed. The Government has effectively crushed most opposition. It hopes that new land-distribution laws will entice the landless Jews into the Communist fold. Local peasant associations, however, refuse to give land to Jews, whom they consider "evil eyes." Poor rainfall has produced serious famine. Hundreds of thousands of Ethiopians face starvation. Since Jews are still denied the right to grow their own crops, they are being hit hard.

Inhabitants of Gondar Province, where most Jews live, are terrified of its governor, Maj. Melaku Teffera. According to the London-based Anti-Slavery Society, he has sent thousands of people to forced-labor camps. Although the Government has ended counter-revolutionary programs, Major Melaku's local forces deal ruthlessly with Jews they intercept trying to flee Ethiopia. I interviewed several people who said his men tortured them. Two young boys, accused of being "Zionist and C.I.A. agents," were forced to walk barefoot across broken glass. One woman was hung upside-down for hours while being brutally beaten across the soles of her feet. Major Melaku has also embarked on a policy of forced cultural assimilation of Jews. Since Judaism is not recognized by the state, Jewish schools have been closed, Jewish children forced into state schools and the community has been quarantined to limit contact with Westerners.

Despite such obstacles, thousands of Jews flee to neighboring Sudan, Djibouti and Somalia in hopes of eventually reaching Israel. Hundreds, mostly women and children, die en route as a result of banditry, disease, hunger and thirst. Those who cross the border are placed in refugee camps, where they find little safety. Terrified of anti-Semitic Ethiopian refugees, they pretend to be Christians. Those identified as Jews are often beaten or killed. One refugee told me that a Jew was dismembered and his limbs scattered in fields. One man was left for dead after his arms, legs and skull were crushed. In the camps, the Jews face police forces hostile to Israel.

A worldwide campaign on behalf of saving Ethiopian Jews is spearheaded by Zionists who claim that Israel and the world Jewish community have lost sight of Zionist and Judaic ideals. Such organizations as the American Association for Ethiopian Jews say, correctly, that for at least six years all major Jewish organizations, uncharacteristically adhering to Israel's line on a diaspora matter, have suppressed information about the Falashas' plight and have refused to undertake major initiatives to save them.

The Israeli Government maintains that a public human rights campaign has not been pursued to permit an ongoing policy of "quiet diplomacy." High-ranking officials, including Menachem Begin and Yitzhak Rabin, the former Prime Minister, have dismissed critics by asserting that everything is being done to save all the remnants of Ethiopian Jews. In fact, one Knesset member and three intelligence agents (one of whom was in charge of Israel's Falasha-rescue program in 1981, carried out by Mossad, the secret service) told me in December that the Government has pursued a policy of "controlled immigration"—in practice, a kind of triage in which only a limited number are allowed in.

Just over a year ago, at a closed meeting, Gen. Ephraim Poran, then military adviser to Mr. Begin, said: "Of course, we could save thousands of these Jews in a single 24-hour period, but we believe that a limited operation will yield greater results in the long run." These "limited" efforts, however, have not produced significant results. In 1982, the Government rescued only 817 Ethiopians. Two Mossad operative told me the meager results refected the low priority placed on the issue and that the Government is "using the security argument to cover up its own inactivity."

It now seems that some elements in the Ethiopian Government are sensitive to Western public opinion. The other day, Girma Haile-Giorgis, second secretary of the Ethiopian mission to the United Nations, suggested that Ethiopia might allow the Falashas to emigrate to Israel. Pro-Falasha activists are encouraging Israel and the world Jewish community not to miss this possible opportunity.●

HONORING A CORPORATE LEADER

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. WAXMAN. Mr. Speaker, I would like to commend Abe Plough, founder of Plough, Inc., and former chairman of Schering-Plough Corp., for his efforts in the development of child resistant packaging. He is being honored today by the U.S. Consumer Product Safety Commission for bringing to market the first safety cap for children's products.

Over 25 years ago, Mr. Plough introduced a safety cap for St. Joseph's Aspirin for Children. At the time, other companies showed little interest in such caps. Most feared that protective packaging would be rejected by parents as inconvenient. However, Mr. Plough recognized that the orange flavor of his aspirin increased not only their appeal to children but also increased the possibility of accidental ingestions. Although not required to do so by law, he distributed the aspirin with safety caps. His was the forerunner of the child-resistant packaging which now prevents hundreds of deaths and thousands of poisonings each year.

Twelve years ago, such packaging became required by law. But Mr. Plough's conduct, offering it 25 years ago, exemplifies responsible corporate leadership. He saw a potential problem and sought to remedy it. He didn't wait until children were hurt or a law was passed. He provided safety caps even though many in his industry considered it risky. For his leadership and sense of responsibility in providing child resistant caps, I commend Abe Plough.●

ARIZONA STATE CHAMPION DRILL TEAM

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. STUMP. Mr. Speaker, I would like to take this opportunity to congratulate, and bring to the attention of my colleagues, the 1983 Arizona State champion, male and female drill team, MCJROTC, from Tolleson Union High School, Tolleson, Ariz.

In this year's "Black Jack" Pershing Meet at Arizona State University, the Tolleson Male and Female Drill Team won the sweepstakes trophies for competition with and without arms. Their outstanding performances topped those of 25 other teams. They have been State champions for 7 of the past 10 years, and are in the top 10 of naval honor schools. Recently, they were invited to compete in the National High School Drill Team Championship, 1983, in Orlando, Fla.

Their success is not only a reflection of their abilities, but also a reflection of the dedication of their instructor, and their community. I take great pride in the interest and abilities the drill team has shown, and highly commend the students, their instructors, and the parents alike.

Active participation in American traditions and institutions is a good habit which needs nurturing early in life, because the freedoms all Americans cherish demand the dedicated spirit of each new generation. These young men and women exemplify what I believe is the great majority of American youth, a group which is rarely recognized by the media. They are demonstrating a desire to participate which their generation will need to take on the duties and responsibilities that accompany freedom. That is why we should congratulate and encourage their efforts today.

I am certain my colleagues will join me in honoring these patriotic young people and encouraging their continued expression of that patriotism.

Thank you, Mr. Speaker.●

SONG PRAISING SACRAMENTO

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. MATSUI. Mr. Speaker, recently, Ms. Anne B. Currier, a resident of my district of Sacramento, Calif., composed a song praising the natural beauty of the city. I would like to share it with you and other Members of the Congress.

In Sacramento, I chanced along one day,
In Sacramento, camelias bent to pray,
And in the valley, the sunshine warm and free,
O Sacramento, you gave your heart to me.

There came a gentle breeze along the river,
The Sacramento flowing out to sea,
The rows and rows of green in irrigation,
And miles and miles of golden fruited trees.

In Sacramento, a summer day in spring,
In Sacramento, the mocking birds will sing,
Within the border is where I've come to stay,
O Sacramento, you chased the blues away.●

THE MX: WALKING THE LAST MILE

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. YATES. Mr. Speaker, the House is in the preliminary stages of yet another debate on the MX missile and the policies associated with this strange product of the Defense Establishment. The April 8 issue of the Chicago Tribune carried an excellent article by Stephen Chapman that summarizes in a very rational and reasonable way the arguments against the development of this weapons system. I ask that the article be printed in the RECORD at this point.

The article follows:

[From the Chicago Tribune, Apr. 17, 1983]

THE MX: WALKING THE LAST MILE

(By Stephen Chapman)

In its effort to rescue the MX missile, the Presidential Commission on Strategic Forces may have dealt it a fatal blow. Nothing charged by its critics could be more damning than what was said by these friends. Their report was meant to pave the way for deployment of the MX, but it ought to mark the end of the road.

The commission made hash of the President's main strategic assumption—the "window of vulnerability." He argues that the growing accuracy of Soviet ICBMs poses a serious threat to our own land-based missiles. Hence we need not only a new missile to match the enemy's capability, but also a basing scheme to render it secure from attack—such as the "dense-pack" plan offered last year and rejected by Congress.

Reagan's critics disagree. However accurate the Soviet missiles might be in theory, they argue, there is no guarantee they will work so well in practice. That uncertainty will restrain the Soviets from trying to knock out our ICBMs—because the price of failure would be annihilation.

The commission was appointed by Reagan, and there wasn't a dove in the group. (Among the members: Alexander Haig, Richard Helms, Henry Kissinger, Melvin Laird, James Schlesinger.) Yet they agreed with Reagan's critics. An enemy first strike, the commission insisted, is highly unlikely given the "range of operational uncertainties that the Soviets would have to consider in planning such aggression."

In other words, forget about the window of vulnerability. "The vulnerability of such (ICMB) silos in the near term, viewed in isolation, is not a sufficiently dominant part of the overall problem of ICBM modernization to warrant other immediate steps being taken, such as closely spacing new silos or ABM defense of those silos," the commission said.

The only consolidation for Reagan was its recommendation that 100 MX missiles be deployed at the earliest possible date. But the commission also urged that a shift from multiple-warhead to single-warhead missiles.

That idea was first proposed by Democratic Rep. Albert Gore, Jr. of Tennessee. Its virtue is that, given negotiated limits on warheads, it would make our ICBMs less attractive targets.

If the Soviet missiles are as accurate as assumed, two of their warheads can destroy the three warheads on each Minuteman III. But if those three warheads were in three different silos, the Soviets would have to expend six of their warheads to knock them out. If the two sides had roughly equal numbers of warheads on single-warhead missiles, a disabling first strike by either would be impossible.

Having noted that this change would enhance nuclear stability—neither side could disarm the other by launching their missiles first, so neither would have an incentive to start a nuclear war—the commission then contradicted its own reasoning by recommending that the MX be deployed in the interim. Not only that, but it said the missile should be put in existing silos.

But the MX makes the nuclear balance even less stable than it is now. There are two reasons. The first is that it is designed to destroy Soviet missiles in their silos. When combined with the Trident II submarine-launched ballistic missiles and the Pershing II intermediate-range missiles that the U.S. plans to deploy, the MX gives the U.S. a first-strike capacity. And that gives the Soviets a compelling reason, in a crisis, to launch their missiles first—i.e., to "use them or lose them."

The second is that the MX, because it carries 10 warheads, is a more tempting target than our existing Minuteman missiles. As McGeorge Bundy, former presidential national security aide, wrote recently in the New York Review of Books, "It is itself less survivable, warhead for warhead than they are."

Putting the MX in unprotected Minuteman silos, unlike the previous basing proposals, reinforces its image as a first-strike weapon. A weapon needs to be protected from attack only if it is meant for retaliation. If you plan to use if first, its vulnerability doesn't matter.

The problem with the MX is that it is designed for fighting a nuclear war, not deterring one. By the commission's own logic, it is exactly the opposite of what is needed to enhance strategic stability. That logic, and not the commission's preferences, is what should guide Congress in deciding the fate of this missile. The commission came to praise the MX, but it may have buried it.●

DON'T FORGET POLAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. BIAGGI. Mr. Speaker, in this morning's New York Times a very important article appeared entitled "Don't Forget Poland," which I wish to place in the RECORD for the close consideration of my colleagues.

In our current preoccupation with the threats in Central America—there is a growing perception that we have abandoned our concern about and commitment to the struggles of the people of Poland. We must not forget that for the past 16 months, the people of Poland have lived under the yoke of martial law imposed by the Soviet puppet regime led by Gen. Wojciech Jaruzelski. This has included massive denials of basic civil and human rights against those who are taking courageous stands on behalf of freedom. How many more times will Lech Walesa be seized from his home and dragged off to police interrogations before we as a nation resume our concern and opposition to these policies.

As the author of the article Mr. Zygmunt Nagorski contends:

> A new initiative from Washington is urgently needed * * *. The United States should make it known to the Soviet Union that arms limitation negotiations in Geneva will be directly linked to a resolution of the Polish problem.

On Sunday, this Nation and the world will observe Law Day. On this occasion we not only focus and express appreciation for those nations in the world which respect law and afford their citizens basic rights—we also focus on where the rights of law are not extended. We look to Poland as an example of a nation whose citizens are fighting for basic freedoms including basic legal rights—while the Government of Poland mistakes law for repression. It has always struck me as the height of irony that at the same time the democratic world observes Law Day—the Soviet Union observes May Day. On Law Day we display the very foundation of our democracy—our system of law and justice. The Soviets display their military hardware—in their traditional May Day parade through Red Square—these are their symbols—which show the world about the bankruptcy of Communism, a system which neither acknowledges nor respects law.

On May 1 there will be demonstrations in Poland which will once again provide in graphic form for the world to see the stark differences between what life is in Poland versus the way people would prefer it to be. The United States on the occasion of Law Day should reiterate its support for the freedom struggle in Poland and work in solidarity with those brave Poles who are working for peace and freedom.

[From the New York Times, April 28, 1983]

DON'T FORGET POLAND

(By Zygmunt Nagorski)

In the last 16 months, since Gen. Wojciech Jaruzelski imposed martial law, Poland has slowly disappeared from the American foreign policy agenda. It is time to restore it, near the top of that list—and to communicate our concern to the Soviet Union.

In recent months, the United States and the rest of the Western world have been watching events in Poland with remarkable detachment. The initial excitement following the imposition of martial law has subsided, as has the early, seemingly firm, resolution to make policy toward Poland one of the pillars of the West's response to the Soviet Union. The sanctions that Washington imposed against the Polish Government and then against Western Europeans who continued to deal with the Soviet Union have misfired, and have done next to nothing to ease tensions in Polish cities or enable Solidarity to operate more freely.

The results of this passivity are all too obvious. The Jaruzelski junta, confronted with nothing more serious than disapproving world opinion, has been able to carry out widespread arrests and coercion with impunity.

Yet the internal Polish struggle continues. Demonstrations are being planned for May Day; a few brave souls have kept up the fight against all odds and in the face of terrible risks. Lech Walesa remains a symbolic figure, despite his long incarceration and attempts to break his spirit, and he is now gradually shedding his post-prison caution. Cardinal Joseph Glemp has moved the Roman Catholic Church closer to Solidarity, virtually endorsing Mr. Walesa's determination to continue opposing the regime.

Clearly, the Polish cry for freedom has not been silenced. It may be softer, more subdued—but it cannot be ignored by the West. Washington, in particular, has a stake in the outcome of events, for although Poland has little strategic significance for the United States, as long as a flicker of light remains visible on the Polish plains, continued American passivity will be seen as acquiescence in the Soviet-backed repression there. And that perception can only further damage America's already much eroded international credibility.

A new initiative from Washington is urgently needed—not more rhetoric or polemical gestures but a genuine effort to influence the Polish regime by pressing its backers in Moscow. The United States should make it known to the Soviet Union that arms limitation negotiations in Geneva will be directly linked to a resolution of the Polish problem. (We would not threaten to cut off negotiations but rather would hold out further progress as an incentive to the Soviet Union.) If necessary, we should also be prepared to restrict other channels of American-Soviet relations—cultural and commercial—unless Moscow indicates to Warsaw that the Kremlin would tolerate the restoration of independent unions and professional organizations as long as they did not threaten Poland's links to the Soviet Union.

Why should we press the Soviet Union rather than talking directly to Warsaw? Moscow's influence on Poland is paramount. Soviet advisers occupy key posts in the most important Warsaw ministries, and the Soviet military has a say in most Polish Government's decisions about defense, foreign policy and domestic security—an arrangement justified by Warsaw Pact military agreements.

Would Moscow listen? It might. The Soviet Union is in a position of strength today. The unrest in Poland has been largely contained and no longer risks spreading to other Eastern European countries, so a gesture toward the Polish people would earn Moscow some good will at very little cost. Easing the tension in Poland would also bring quiet to the Russian's Western front. And while General Jaruzelski might initially fear that Soviet encouragement to relax domestic control would endanger his regime, in the end, he too would benefit from economic normalization (except for coal-mining, industrial production is still badly lagging) and a restoration of genuine order. Ending the successive waves of Government repression, allowing the church to resume its role as mediator between workers and Government, creating a more relaxed and normal climate for the Papal visit planned for June—such measures would be more likely to stabilize the situation in Poland than to push the country to the brink of crisis.

Any such American initiative would be an important signal to Moscow, but to be most effective it should be done in a style very different from the pipeline reprisals, the trade embargo and the simplistic fundamentalist preaching that the Administration has pursued in the last year. Washington must secure broad Western support for its initiative—which should be considered less a threat than an offer to resume constructive relations with the Soviet Union.●

MONTANA STUDENT PERFORMERS

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. WILLIAMS of Montana. Mr. Speaker, I would like to call to the attention of my colleagues a dance performance, by a group of students from my district, at the Kennedy Center.

The dance piece was choreographed by Mark Magruder, a faculty member at the University of Montana and will be performed by UM students: Suzanne Benson, Karla Booth, Wilson Burnham, Michael Cassidy, Albi Fiegler, Julie Marsh, Timothy Morin, Mary Roesler, and Marianne Smith.

Titled "Menagerie," the piece was selected for performance at the prestigious National American College Dance Festival, which features the top collegiate dancing groups in the Nation. "Menagerie" is one of only 19 collegiate dance groups from among 200 across the United States that will participate in the festival.

Music for "Menagerie" was composed by Dartanyan Brown, guest jazz artist at the university. The music was taped with Brown playing bass, guitar, and singing, and Magruder providing saxophone, bass, and vocals.●

FISH AND WILDLIFE FOUNDATION

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1933

● Mr. BREAUX. Mr. Speaker, I have today introduced, along with a number of cosponsors, legislation to establish a Fish and Wildlife Foundation. The impetus for this legislation is the generosity of Ted Gianoutsos, an employee of the Department of the Interior, and his wife, Francoise, who have offered to provide the initial funding to establish the foundation.

The legislation is modeled after similar legislation for the Park Service Foundation and would establish a charitable and nonprofit corporation which accepts and administers gifts from private citizens for the purposes of fish and wildlife conservation.

The foundation would have a board of nine members, all appointed by the Secretary of the Interior, who would serve 6-year terms. The terms of the initial board are to be staggered and the legislation requires that the board represent diverse points of view relating to fish and wildlife conservation. At least three of the members must be educated and experienced in the principles of fish and wildlife conservation.

Mr. Speaker, I hope this legislation will encourage citizens participation in our wildlife conservation programs. The responsibilities of the Fish and Wildlife Service are great and, like most agencies, they face tight budget requirements. Wildlife habitat acquisition, public education about wildlife, endangered species recovery, hunter ethics, and a number of other programs enjoy broad public support but limited funding.

The foundation will provide a means for those concerned with wildlife conservation to lend a hand in a direct and meaningful way. I urge my colleagues to join me in supporting this legislation.●

AS HOMEMADE AS APPLE PIE

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. CLINGER. Mr. Speaker, "You deserve a break today," because "when it rains, it pours," and it's sometimes hard to "have it your way" especially when "it's the real thing." These catchy jingles have become inbedded in the American mind, yours and mine, and inspire thousands each day to invest in certain products. Advertising, we must realize, touches all our lives in a very important way. It can be a great persuader.

Recently, I received a poster from a company in my district which launches their new and exciting advertising campaign. The campaign, entitled "Homemade," is the new advertising technique being employed by the Zippo Manufacturing Co. The reason I bring forth "Homemade" is because I do not consider this simply a publicity project, but rather it seems this is the kind of campaign we need today to arouse the pride and enthusiasm of the American consumer. For, as a leading psychoanalytic marketing consultant said:

> * * * Because our technological development has been so good and so fast, the fact is that almost all our products are uniformly good. * * * What people actually spend their money on are the psychological differences, brand images. * * * We have reached * * * a psychoeconomic era.

Thus it is important that we realize how crucial advertising could be.

In this time of economic distress, perhaps we should use this important medium, advertising, to work for us, not against us. For too long it seems that we have stood back, almost inviting the present situation of foreign dominance in our marketplaces. Perhaps Zippo, with their ad illustrating an apple pie and a Zippo lighter—both made completely from American raw materials, has struck upon a unique concept that will spark new interest in the "Made in U.S.A." product. Recognition of this innovative promotion could be the beginning of a more genuine advertising effort toward American made products.

The objective, provoking a renewed national pride that will affect both the producer, inducing him to make the best possible product; and the consumer, who realises not only that he is supporting his country, but also buying the best possible product available, is an important starting point as we work toward a total economic recovery.

I hope that the "Homemade" campaign can serve as a catalyst for all manufacturers in the United States of America. Perhaps if we follow Zippo's initiative and conviction, we can achieve a revived interest in the union label and become another "Pepsi Generation." "Homemade," such a timely concept, should take its place along side all the great advertising statements in history.●

THE CONGRESSIONAL CLEARINGHOUSE ON THE FUTURE

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. EDGAR. Mr. Speaker, Ned Pattison, formerly our colleague here in the House of Representatives and now an attorney in Troy, N.Y., has always attempted to bring more foresight into our work and our lives. We in Congress, and indeed the Nation have benefited from Ned Pattison's thoughtful and perceptive analysis over the years.

When he was in Congress, Ned was very much involved in the work of the Congressional Clearinghouse on the Future. As my colleagues know, the Congressional Clearinghouse on the Future is an organization of about 60 Members of the House and the Senate which looks at future consequences of decisions made today, helps congressional committees incorporate foresight into their proceedings, and provides Congress with information about emerging issues. Ned Pattison is now chairman of the board of the Congressional Institute for the Future. Recently having assumed the chair of the Clearinghouse on the Future, I have benefited a great deal from Ned's advice.

This year Ned is in charge of a panel discussion on the occasion of the 30-year reunion of his Cornell University graduating class. I recently came across the working paper he prepared for that panel discussion. Typically, Ned is looking ahead to identify emerging issues and is considering ways to deal with them constructively. In the paper he considers developing changes in education, employment, and international affairs. I recommend his intriguing discussion to my colleagues:

> When the members of the Class of 1953 came into existence in the very early 1930's, about 35% of the workforce was engaged in agriculture; today, about 3% is so engaged, producing food and fiber for a more than doubled population and exporting the produce from one out of three acres. In the 1930's, about 55% of the workforce worked in factories; today that has shrunk to about 23% and is falling steadily toward a possible low of 10 or 15% in the next generation.
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> With 3% on the farm and 23% in the factory, the remaining 74% is said to be engaged in the service industry. But that categorization is so broad as to be of little use for analysis. If you define "services" more narrowly to encompass the kind of work performed by janitors, fast-food workers, bus drivers and similar activities requiring minimal mental effort, it turns out that approximately 15% of the workforce is so occupied. The rest, roughly 50-60% of the workforce, the lawyers, bankers, teachers, librarians, doctors, secretaries, scientists, engineers, managers, and just about every other occupation you can think of, are in the knowledge/information business. That is, viewed functionally, if a person spends the majority of his/her time acquiring, manipulating, creating, transmitting, or otherwise dealing in knowledge and information, that person is in the knowledge/information business, regardless of what other name or title is customarily attached to the particular occupation.
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> In short, the present arrangement is that a relatively small percentage of the population is producing all of the essential material goods needed for survival and comfort that in most of previous history took virtually the entire collective efforts of every person in all prior societies.
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> Obviously, that has come about as a result of technology. First the muscle enhancing technology of the industrial revolution, accompanied by the social technology of the modern bureaucratic state and the corporation as its organizing tools; more recently, the mind enhancing communications/computation revolution following on the heels of the transportation revolution.
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> From 1946 to 1960, the number of computers went from zero to ten thousand. From 1960 to 1980, from ten thousand to ten million. Today, an automobile assembly worker earns $16.00 per hour while the robot which is replacing him costs $4.00 per hour; and it is possible that that may fall to $1.00 per hour by 1990.
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> The implications of the foregoing will undoubtedly be profound. The way we live, work, play, educate, govern, distribute income, regulate, and deal with other nations of the world, will all be modified as a result in changes in social technologies reflecting the demands of the scientific and engineering technologies that are already in place and those that have yet to emerge.
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> In the sophmore year of the Class of 1953, Al Capp introduced the Schmoo.
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> It will be recalled that this little animal gave milk in convenient cartons and butter in neatly wrapped sticks; when looked at hungrily by a human, it keeled over in ecstacy fully prepared for cooking; broiled it was sirloin steak, fried it was chicken; for every Schmoo so eaten, two automatically appeared; it even enjoyed being kicked by angry or frustrated humans, eliminating the basic cause of child and wife abuse as well as most neighborhood crime. In short, the Schmoo was apparently the answer to mankind's historic quest for universal material well being.
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> The result, according to Capp, was international war.
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> The point is this. Although the fruits of modern technology may not be exactly equivalent to the Schmoo (the Schmoo's benefits were not accompanied by undesirable waste products, and it was presumably not a finite resource), the industrial societies of the Western world are at least closer to universal material wellbeing than any society has ever been.

In a rarely quoted passage from John Maynard Keynes in the 1930's, he foresaw some of the problems when he said,

"If the economic struggle is solved (meaning the production of sufficient goods for man's comfortable existence) mankind will be deprived of his traditional purpose. For the first time since creation, man will be faced with his real, his permanent problem—how to use his freedom from economic cares. No society can look forward to an age of leisure and abundance without a dread. It is a fearful problem."

So we now attempt to examine the impacts on our society of this age of abundance brought about by the cumulative forces of 150 years of technological revolution starting with the mechanical and industrial, proceeding with transportation, communications and computation, and now entering the biological, genetic, and yet to be thought of, technologies.

We speculate about those impacts because not to do so would be foolish and imprudent; more to the point, not to do so would deny the genius of the human intellect to evolve and adapt to ever more complexity that is the very nature of the world. It is only by such speculation that the inevitable changes can be woven into the fabric of society with as little pain, disruption and destabilization as possible.

The issues, more than can be addressed in this seminar, include the following:

EDUCATION

The educational system of every society reflects its own particular needs and requirements. In the times when almost all citizens spent their entire efforts in the production of their own food, clothing and shelter, education was provided primarily by the family. As industrialism evolved with the advance of technology, the need for elementary reading, writing and computing skills gave rise to a more formal educational system. More significantly, the gathering of many workers in one place in factories, required that the value of promptness, obedience, and respect for authority be inculcated. This was the so called "hidden agenda" of the public school system. Get to the bus on time, walk on the right side of the hall, raise your hand for permission to speak or go to the bathroom, respond appropriately to bells, etc.

That system produced the kind of workforce essential to industrial society. The ability to think, analyze and decide individually was essential only for the entrepreneurs, and generally undesirable for the factory hands.

But in a society in which information, not labor, capital land, or energy, is the principle resource, the educational requirements radically change. The marshalling of land, capital, labor, and energy for industrial society is necessarily done through centrally directed hierarchical, bureaucratic structures. Information however, is a resource with peculiar characteristics. Other resources are most valuable when they are first put in use. Over time, the more they are used, the less valuable they become, i.e. they rust and wear out. Information on the other hand, has its lowest value when first created. It only become valuable when used—and the more it is used, the more valuable it gets. It never wears out, it is never used up; it can be enhanced and added to, but never subtracted from. When you sell a material resource, the buyer gets it and the seller gives it up. Information can be sold, but in order to do so, the seller must first disclose it to the buyer who then has it before payment and thus no longer needs to buy it; and after it is sold, the seller still retains it. By their very nature, information intensive enterprises resist centralized, hierarchical, organizational structures; they tend to be organizationally flat and decentralized; information enterprises require most participants to independently think, analyze, decide and continually learn and adjust. Organizational goals and directions are achieved by communication, consultation and consensus, rather than by command and control exercised through a chain of command.

The present educational system still follows the model constructed for the industrial era. It isn't likely to serve the needs of post-industrial society.

Further, in an industrial society, you can train the factory worker for most of the essentials he will ever need, in the years prior to work. In a society where technological change is blindingly rapid, continuous learning and retraining becomes essential throughout life. The present educational system still follows the industrial model by making its facilities available only to those in the first quarter of their lives. Clearly that will have to change in a post-industrial society.

Finally, in a world where geographical barriers have become irrelevant due to the jet airplane and the communications satellite, providing an education that fails to result in the ability to speak or understand other languages, that fails to provide an understanding of the other civilizations, and cultures of the rest of the globe, not to speak of one that fails to provide the majority of its students with a basic understanding of the principles of science and mathematics, clearly will not adequately serve the post-industrial society.

WORK, LEISURE AND RETIREMENT

In pre-industrial society, life tended to be a continuum. In the extended family of which everyone was a part, people began as children to perform simple tasks as soon as they were able, moved on with age and experience to the central tasks involved in producing food, clothing, shelter, and mutual defense during their adult lives, and, as age took its toll, finished their years accomplishing such tasks as their health and strength permitted.

The industrial era brought specialization. It required formal education in the early years, uniform physical health and agility for the working years, and retirement when that health and agility was eroded by age. Life moved away from the preindustrial continuum and become segmented; education, work, retirement. The family became nuclear.

Studies by Metropolitan Life and the U.S. Labor Department reveal in almost identical findings that in 1900, an American worker could be expected to live 48 years. Aggregating all the living hours into years and dividing the years into three categories of (1) sleep, (2) work, and (3) everything else (education, play, travel, eating, gardening, watching sports, etc., etc.), the result was (1) sleep, 16.1 years; (2) work, 11.4 years; and (3) all else, 20.7 years.

By 1975, that had changed to (1) sleep 23.3 years, (2) work 9.3 years, and (3) all else 37.4 years. In other words, today only 14 percent of all our living hours are spent at work. And that percentage will continue to decline as we increase productivity and extend life.

And where industrial society segregated life, post-industrial society will once again tend to make life a continuum as centralized industrial organization and physical, as opposed to mental, ability becomes more obsolete. Universal retirement, meaning the cessation or work, will disappear as a social technology as rapidly as it emerged. It was invented by industrialism, it will be discarded as no longer useful.

If that is even close to an accurate prediction, just how will a post-industrial society divide up the work, the leisure, the "everything else" among its citizens. Perhaps the academic device of the sabbatical will become generally used by everyone. Perhaps the years presently consumed by retirement at the end of life will be made available for mini retirements throughout life. How should social security and pensions be modified to meet the flexible needs of such a society?

DISTRIBUTION OF WEALTH AND INCOME

Every economic system addresses not only the production of goods and services, but also their distribution.

During the industrial era, the principal measure of distribution has been work. In a less technologically oriented society, work is a relatively useful, reasonably fair, and easily understandable measure of who gets what. But the more complicated work gets, the more removed it is from direct production, the more difficult it becomes as an acceptable measure. It is easy to accept that a laborer who digs 10 feet of ditch should get twice as much as the one who digs only 5. But it is infinitely harder to compare the value of two middle managers in the same firm whose output is measured by subjective evaluations of different supervisors.

And in an abundant society where technology has replaced "work hard" with "work smart", how are goods and services to be distributed to those who are not mentally equipped to be particularly useful? It is difficult enough to deal with that problem when it is of a temporary nature due to technological displacement. For those, we can provide retraining and relocation with some hope of success, assuming that the associated political and fiscal obstacles can be overcome. As Margaret Mead has put it, "The unadorned truth is that we do not need now, and will not need later, much of the marginal labor of the very young, the very old, the very uneducated, and the very stupid."

The irony is that the very technology which has provided industrial society with its greatest material benefits, threatens to deprive many of its citizens of the ability to perform useful, appreciated, and self-rewarding work. That is known as the "failure of success".

INTERNATIONAL ARRANGEMENTS

In our youth, the nation of "one world" was just beginning to be enunciated. That was before the jet airplane, the satellite, international direct dialing, and the computer. Today, even the far right acknowledges that the world is totally interdependent. International banking, money, communication and management have all but destroyed the idea of separate national economies as a useful model.

Those technologies have additionally made possible the truly global, multinational corporation, and with it, the obsolescence of the idea of the war profiteering munitions maker egging on its own nation to war. Today the bombs that it sells to nation X will be dropped on its own factories in nation Y. And war's age-old objective of conquest and booty have become pure nonsense in a nuclear age. The geographic barriers that were institutionalised as national boundries have been largely rendered irrelevant by today's technology.

The question to be resolved is what social technologies will evolve to insure international stability? That would be more answerable if the world had developed industrially and socially in a uniform world-wide fashion. But, in a world in which whole regions are still in the same primitive condition that they were in 2000 years ago, in which more than half of the population of the world lives, the answers will be a good deal harder to come by.

The nations of the world are currently struggling with questions involving the world's monetary systems, international competition, trade imbalances, transfer of technology, protection of national industries, unemployment, and immigration. Those debates are conducted within the political and social framework established during and as a response to the industrial and colonial era, a framework inadequate to today's and tomorrow's requirements. The shape of some new framework has yet to evolve with any clarity.

OTHER AREAS FOR POSSIBLE DISCUSSION

The above are just a few of the possible impacts of the transition from an industrial to a post-industrial society. They seem to be the most obvious ones. There are others dealing with the world's environment, population, resources, and systems of governance, as well as other equally important subject which have not yet even appeared on the public agenda.

Each panelist should select the issue or issues he/she consideres the most salient/intractable/solvable/interesting/or whatever.

At our 60th reunion, those of us who survive will review today's discussion to see if anything useful was said.●

NATIONAL CONSUMER WEEK POSTER CONTEST

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. HEFTEL of Hawaii. Mr. Speaker, I am very pleased and proud to commend Anissa Yoshimatsu and John Hull, two national winners from Hawaii in the National Consumers Week poster contest sponsored by the Coalition for Consumer Education. Forty States participated in the contest which was held in recognition of National Consumers Week, April 24-30.

Anissa is a 13-year-old eighth grader at Stevenson Intermediate School in Honolulu and won the first place national award in the intermediate—grades 4-8—division of the contest. Her poster, entitled "Wise Consumers Get More for Le$$," is an artfully done paper collage. I was pleased to learn that her poster design is under consideration for a commemorative stamp honoring National Consumers Week to be used next year. As a first place winner, Anissa received a $100 savings bond and won a trip to Washington, D.C.

John is a 16-year-old sophomore at Kailua High School on Oahu and received the second place national award in the high school division of the contest. John was awarded $75 for his creative poster design of a graph depicting the gross national product.

I wholeheartedly applaud the efforts of Anissa and John to promote consumer awareness and the importance of consumer education. Such efforts will go a long way in educating consumers about their rights and responsibilities. Once again, my heartiest congratulations to Anissa and John.●

THE PIONEER VALLEY CENTRAL LABOR COUNCIL HOLDS ITS 22D ANNUAL CONFERENCE

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. BOLAND. Mr. Speaker, on Saturday, April 23, I had an opportunity to participate in the 22d Annual Conference of the Pioneer Valley Central Labor Council of the AFL-CIO.

This conference has earned a reputation as a forum for a full and frank discussion of issues which concern working men and women in Massachusetts and throughout the country. This year was no exception. Conferees debated and adopted resolutions on a number of items of importance to organized labor including the subminimum wage, the Davis-Bacon Act, the Occupational Safety and Health Administration, and the detection of chemical and toxic materials in the workplace. The exceptional record of participation in the political and economic affairs of our Nation, which has been the tradition of organized labor, is due in no small part to the efforts of labor leaders to educate their members on the issues which affect them. Conferences like the one conducted annually by the Pioneer Valley Central Labor Council are an important part of the educational process.

I want to congratulate all of the members of the labor council, particularly the executive officers: President Charles E. Thompson; first vice president Ronald McCarthy; second vice president Paul Winslow; third vice president Richard Abdow; fourth vice president John Fenton; financial secretary-treasurer Richard Higgins; and recording secretary Normand Belisle, for all the hard work that went in to making this year's conference a success. In addition, I would like to insert at this point in the Record, the remarks I gave at the opening session of the conference.

I am pleased to be back with my friends in the Pioneer Valley Central Labor Council as you begin your annual conference. I see by your agenda that you have a number of important items to discuss, and a number of speakers to hear from, and I appreciate your giving me the time to make some brief remarks.

When this conference convened last year, our economy was mired in the deepest recession since the Great Depression.

This year, we meet at a time when it is possible to have some optimism about the immediate future. There have been some encouraging signs in recent weeks that seem to indicate that the long-promised recovery is finally underway. One of the most welcome pieces of news was the announcement by the Commerce Department on Wednesday that the nation's gross national product for the first quarter of 1983 was up by 3.1 percent, the best gain in two years. While this is undeniably good news, it does not mean we are out of the woods—the Administration, after all, had predicted a first quarter GNP increase of 4 percent.

Other economic indicators, most notably the unemployment rate, have not shown much improvement. For the 11 million Americans, including almost 240,000 residents of Massachusetts, who were out of work last month, the knowledge that unemployment is a "lagging" indicator is small comfort. Until unemployment declines, most working Americans are not going to join in the euphoria currently gripping the investors on Wall Street, and make the kind of consumer spending decisions necessary to fuel a robust recovery.

The members of this organization served notice on democratic presidential aspirants a few weeks ago that your number one economic priority is jobs. You want to see programs designed to expand, rather than depress, employment opportunities, and you want an end to an economic policy that uses unemployment and recession as the chief weapons in the fight against inflation. I can tell you that your message was heard—loud and clear!

To begin to put people back to work and to insure a meaningful recovery, interest rates simply have to come down and stay down. That means that the federal budget deficit has to be brought under control. Unless something is done to reduce spending or raise revenues, we face a series of deficits in excess of $200 billion stretching as far into the future as the eye can see. By way of comparison, the largest federal deficit ever faced in the period before President Reagan was inaugurated was a $66 billion deficit in 1976. This was a recession deficit, coming at a time when the economy was in poor condition with reduced revenues and higher spending as the result. Estimates indicate that unless the direction of the last two years is changed, the federal deficit in 1988 (when the economy should be healthy and unemployment down to about 7%) will be over $300 billion. Deficits of that size will throttle any recovery by forcing up interest rates. High interest rates are going to produce high unemployment by stifling consumer demand for "big ticket" items like cars and appliances, discouraging businesses from expanding, and maintaining an overvalued dollar with its harmful impact on the prices of U.S. exports.

The House of Representatives recently adopted a budget which charts a course for lower deficits. While cutting projected deficits by more than $100 billion below the amounts estimated by the President for the next five years, the House budget restores some of the important domestic programs emasculated over the last two years. It recognizes that the security of the United States rests on more than its military might; it rests on the ability of our people to get an education, find a job, buy a home, provide for their families, and be secure in their old age. The budget adopted by the House ignores neither our need for a strong national defense, nor our need to insure that all of our people have the chance to enjoy some benefits of our society.

The federal government has an undeniable responsibility to be a positive force in our economic problems. Congress has begun to reassert the role of the federal government as an actor rather than a spectator in economic matters by passing legislation like last year's highway bill and this year's jobs bill, which should provide job opportunities for 800,000 Americans and hopefully lessen some of the devastating impacts of the recession. Much more, however, needs to be done. The recession has taught some hard lessons about our economy. It has shown that we must increase our efforts to provide people with the skills necessary to take advantage of the employment opportunities provided by new or expanding industries. It has shown that we have to better assist in the retraining of workers who lose their jobs, and in sustaining those workers and their families while that retraining is in progress. It has shown that we have to develop economic and trade policies which insure that our exports are price competitive and that our domestic markets are not unfairly targeted by the products of other nations. It has shown that we can not allow workers, and the families of workers, who have lost their jobs to become medically indigent through the termination of health insurance benefits. The challenge before the Congress is to respond to these lessons while at the same time fashioning policies which will reduce the likelihood of the occurrence of another severe economic downturn.

Organized labor has an important role to play in this process. You know that the road to economic justice does not lie in the dismantling of gains already made like the minimum wage law, the Davis-Bacon Act, or the Occupational Safety and Health Act. The way to preserve that which you have won, and to influence the important economic decisions to be made in the future is through active participation in the political process. This organization has a proud tradition of that kind of participation. I doubt that there has been a time in the recent history of our country when it has been more important for organized labor to be active in the development of responses to the ways in which our economy, and the economy of the world, is changing. I know that in the crucial weeks and months ahead, the AFL-CIO will, as it has so many times in the past, be at the forefront of efforts to insure that those responses are fair to the people whose labor is the foundation for this country.●

FLORIDA GOVERNOR SUPPORTS MacKAY BILL TO DEAUTHORIZE CROSS-FLORIDA BARGE CANAL

HON. BUDDY MacKAY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. MACKAY. Mr. Speaker, I would like to take this opportunity to share with my colleagues the text of a letter I have received from the Honorable Bob Graham, Governor of Florida.

The Governor shares my belief that the time has come for the Congress to deauthorize the Cross-Florida Barge Canal and permit the State law passed in 1979 with respect to the disposition of canal assets to take effect.

I would point out that each of the past three Florida Governors has shared Governor Graham's belief that the canal should be deauthorized.

I insert the text of the Governor's letter at this point in the RECORD.

OFFICE OF GOVERNOR BOB GRAHAM,
Florida, April 26, 1983.

Hon. KENNETH H. MACKAY,
Cannon House Office Building,
Washington, D.C.

DEAR BUDDY: I fully support federal legislation to deauthorize the Cross-Florida Barge Canal project. I am pleased that you and Senator Lawton Chiles recently have introduced such legislation, with bipartisan support expressed by a number of Florida's other Congressional members.

The case for federal deauthorization of the canal has been compellingly made on both economic and environmental grounds. The Florida legislature enacted legislation in 1979 to provide the mechanism for the disposition of State-held canal properties and return of tax money to the six counties along the canal route whose tax revenues financed the original acquisition of canal lands. However, federal deauthorization legislation must be enacted before this can occur. The time is at hand for Congress to recognize the widespread public opposition to further construction of this project and to enact needed deauthorization legislation so this land can be restored to productive public purposes.

I urge your active support for passage of this legislation on behalf of the citizens of Florida.

Sincerely,

BOB, *Governor.*●

PROPOSED PUBLIC HOUSING TENANTS' BILL OF RIGHTS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. RANGEL. Mr. Speaker, I will soon be introducing the Public Housing Tenants' Bill of Rights, and invite the Members of the this body to join me as original cosponsors.

This proposed resolution is made necessary by this administration's callous public housing policy, a policy dedicated to the eventual dismantling of our public housing system, a system which even now is insufficient. The resolution sets forth a list of measures necessary to insure the economic and social survival of public housing tenants. The text follows:

PUBLIC HOUSING TENANTS' BILL OF RIGHTS

Whereas any housing policy which depends on the eventual sale, demolition or other disposal of publicly assisted housing is contrary to the intent of Congress; and

Whereas the policies pursued by this administration are not in the best interest of those tenants in greatest need of assisted housing programs: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) The lease and grievance procedure should not be weakened;

(2) Tenant rent contribution should be rolled back from 30 to 25 percent, and that in no case should any increases take place;

(3) That there be an immediate moratorium on the sale, demolition or other disposal of publicly assisted housing;

(4) That utility costs should be frozen at their present level; and

(5) That the operating budget is restored to 100 percent.●

LAND OF OPPORTUNITY

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. WEAVER. Mr. Speaker, America is blessed with resources like no other nation in the world. Our wealth has made us the "land of opportunity." Yet today, we seem bent on squandering one of our most valuable resources. This resource is not oil, nor gold, nor iron ore, but a resource that has far more value than all of those combined—that resource is education.

Quality education provides us with the best insurance for a brighter future. We all realize this, yet for some, support for quality education does not come easily. Many educational institutions have reached a point where their very survival is at stake.

The gloomy economy has forced us to make many hard choices. Some of the most regrettable decisions have led to devastating cuts in higher education programs. Some institutions have been able to weather these cuts better than others. Successful institutions are surviving only because of their resourceful and dedicated staffs. However, these same institutions have been pushed by budget cuts to the point where success can no longer be assured. This is exactly the situation facing my State's system of higher education, and my alma mater, the University of Oregon. The situation now facing the University of Oregon, is the same situation facing most of our institutions of higher learning. A closer examination of this university's situation is instructive.

Tales of austerity and making-do are common around the University of Oregon, for the institution is in the midst of what some have identified as the longest-running budget crisis in the history of public education. In the past 10 years, the university has been forced to absorb funding cuts amounting to a 25-percent budget reduction. During the same period, inflation has further eroded the university's spending capabilities by an additional 56 percent. In a recent survey comparing levels of State supported funding, the University of Oregon is ranked a dismal 101 out of the 105 surveyed. The inescapable conclusion is that the University of Oregon is grossly underfunded relative to all public universities of comparable mission and stature. The university president, Paul Olum has said "we've been cut very severely" leaving the institution looking at a very bleak future.

Reductions have cut deep into essential programs and services. During the last 3 years, for example, the university has been unable to purchase any new, sophisticated scientific instruments. As a result, they are finding it more difficult to bid competitively for state-of-the-art research projects and grants. Work-study moneys have faced such deep paring from the budget knife that top graduate candidates are thinking twice about seeking admission to the University of Oregon graduate school. The university's library in 1963 ranked 67th out of 110 leading North American universities in the acquisition of new library materials. Today, they are at the bottom of the list of schools in their ability to purchase new materials. Budget shortfalls have forced undergraduate tuition to the highest level of any State university in the Western United States. These financial pressures are bringing the university to the breaking point.

The one bright spot at the University of Oregon is its unusually high-quality faculty. While facing severe economic pressures both from within the institution as well as in their personal lives, many of the university's talented people are still offering exemplary programs.

The University of Oregon can boast one of the finest schools of science in the country. Among the Nation's 105 leading public universities and colleges, the University of Oregon chemistry department ranks 16th, in molecular biology they rank 5th, and 9th in biochemistry.

Unlike some schools, all faculty at the University of Oregon teach classes sharing the tremendous wealth of their knowledge and research with students. Students enrolled in science courses benefit from the work of such people as Ed Herbert, George Streisinger, Peter von Hipple, and Karen Sprague.

Ed Herbert has been investigating hormones produced by the pituitary gland. It is hoped that someday this research will help find the answer to eliminate the need for artificial pain killers. What a day it would be that we were free of addictive drugs used to surpress pain from cancer or major surgery.

The optic system of a zebra fish may hold the key to eliminating birth defects in newborn children. George Streisinger's work on these fish is producing new understandings of gene mutation. His efforts may someday lead to a method for preventing gene mutation.

In somewhat related research, Peter von Hipple and Karen Sprague are looking into what is called gene expression. They are trying to discover the mechanism responsible for activating certain genes within the DNA molecule. Again, these efforts could lead to answers that will help us combat such ills of mankind as cancer and birth defects.

In the field of education, Dr. Tom Bellamy, professor of special education, has successfully instituted a program that prepares severely retarded adults to become income-producing citizens, citizens who now contribute to the local economy. Dr. Bellamy's program trains retarded adults to manufacture circuit boards and chainsaw sprockets for local businesses. Just a few years ago, institutionalization provided the only option for most of these adults. Now, thanks to Professor Bellamy and his associates, adults who in the past would have cost the State $25,000 per year for institutional care, can reside in shelter homes and be productive, contributing members of our community. Not only has this program been cost-effective, but in human terms, the service has been invaluable.

This university can boast of many fine individuals whose efforts have enriched the lives of students, added to the community's well-being, and contributed to our Nation's resource base. Individuals like Ed Herbert, George Streisinger, Peter von Hipple, Karen Sprague, and Tom Bellamey, have helped give the University of Oregon its national recognition. The university has been able to keep its talented staff because of the fine academic environment provided by the school and the community. We cannot reasonably expect these intrinsic rewards to perpetually hold this staff together.

Industry representatives have made offers that are most difficult for struggling professors to turn down. Without greater financial support, this university, like most universities, will be unable to maintain programs of excellence. As a resource, higher education provides a greater return on the dollar than almost any other investment opportunity. Basic university research has, for example, resulted in a thirteenfold reduction in medical clinic costs to our Federal Government. With continued cuts, it is easy to see who loses. It is not just the universities who lose, we all suffer. For the future of our country rests in our youth and their ability to meet the challenges ahead.

I urge my colleagues to renew their commitment to education. We must not squander this essential resource. Now is not the time to cut these investments for, if we do, we can only expect a future that will offer less than we now enjoy, and far less than we can dream. Quality education will provide a brighter tomorrow for our generation, and for the generations that will follow. As a resource to the community and the Nation, and a leader among the Nation's institutions of higher education, I am most proud of the University of Oregon. Our institutions of higher education are struggling to survive. They deserve our recognition and support.●

VICE PRESIDENT MONDALE ON U.S. FOREIGN POLICY: THE WAY IT OUGHT TO BE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. SOLARZ. Mr. Speaker, on April 26, 1983, the American Newspaper Publishers Association, meeting in convention in New York, was treated to a preceptive and progressive description of U.S. foreign policy by former Vice President Walter Mondale

His analysis regarding the frequent and painful missteps by the current administration in our policies regarding arms control, in our relations with our European allies, and defense spending was powerful and persuasive. And, his prescriptions for a fresh start in these important areas constitute, in my judgment, recommendations which would serve well the foreign policy interests of this Nation.

As always, Walter Mondale has revealed himself to be an important American spokesman for freedom, for a strong and secure America, and certainly a man of peace. His remarks are well worth reading. They are printed below for my colleagues to read, ponder and, hopefully, support.

(New York City, April 26—Following is the test of a speech prepared for delivery by Walter F. Mondale to the 97th annual convention of the American Newspaper Publishers Association at the Waldorf-Astoria Hotel here this afternoon.)

Today I want to speak about our national security. I speak as a Presidential candidate and as an American.

I believe that a bipartisan consensus exists on first principles. All Americans treasure freedom. All Americans recoil from the prospect of war. All Americans insist on unquestionable defenses. All Americans accept the link between strength and peace.

And all Americans recognize the threat posed by the Soviet Union. We do not believe that the Soviets are the misunderstood friends of freedom. We do not believe that Yuri Andropov is the chairman of the Moscow branch of the United Way.

We all know that Soviet leaders are cynical, ruthless, and dangerous. They repress their citizens. They maintain their Pact by force. In Poland, they destroy trade unions. In Afghanistan, they murder. In the Middle East, they sabotage peace. From Angola to Central America, their proxies exploit instability. Their relentless military build-up—well beyond defensive needs—directly challenges Western security.

Let Moscow make no mistake: on the issues of survival and security, Americans do not divide.

For a President, that consensus is priceless. It gives him a mandate. He can use it to support needed military growth. He can mobilize it to back arms control negotiations. He can call on it to promote our interests around the world. He can use it—in short—to strengthen America.

Today, that consensus is unraveling. Ironically, tragically, inadvertently but unmistakably, President Reagan is weakening America.

At home, he has squandered the mandate for a strong, sensible defense. Abroad, he has undermined confidence that our strength will be used responsibly.

I could go into the whole catalog of missteps: the loose talk about nuclear warning shots and winnable nuclear war; the Adelman fiasco; the Nitze rebuke; the Rowney memo; the pipeline disaster; the "Star Wars" speech; the botched diplomacy with China; a defense budget so out of line his own Republican Party won't go near it.

But instead of describing the symptoms, I want to diagnose the disease. To put it bluntly, I believe that Mr. Reagan operates from fundamentally flawed premises about preventing war and keeping peace.

The Reagan argument, in brief, is this: Russia is strong. America is weak. Arms control traps us into remaining weak. An arms race would serve our interest and prove our toughness. To disagree with all this is to weaken America.

In my opinion, to stay that course is to weaken America. Let me explain why.

First, the fallacy of American weakness.

In the nuclear age, the perception of strength is part of our arsenal. Yet Mr. Reagan persists in telling the world we're weak. Every time he unveils a new chart to prove American military inferiority, he undermines our confidence, frightens our friends, and tempts our adversaries. Every time he says we're weak, he literally weakens us.

Mr. Reagan ought to learn the facts about our military strength. I sat for four years on the National Security Council. I saw all the papers, worked with all our defense and intelligence agencies, and took part in every military decision. I can say without doubt that today our defenses are second to none.

It is true that the Soviets have more and bigger land-based missiles than we do. But in every other measure of strategic power, we are ahead.

We have more warheads. We have more missiles at sea and in the air. Our nuclear submarines are less vulnerable and more reliable. Our anti-submarine techniques are better. Our strategic bomber force is superior and getting better. We have weapons like cruise missiles to which they yet have no effective response.

When General John Vessey, Chairman of the Joint Chiefs of Staff, was asked in Congress whether he would trade places with his Soviet counterpart, he replied, "Not on your life." Every American commander I know would agree—and so should the Commander-in-Chief.

Of course we have problems. We must improve our forces across the board. And we must address the vulnerability of our land-based missiles. But as the President's Commission on Strategic Forces said, no one should believe that the Soviets could profit from a surprise attack on our land-based missiles. No one should infer from the theoretical vulnerability of part of our triad that our overall deterrent is weak.

When Mr. Reagan was campaigning for President, he talked recklessly about a "window of vulnerability." Now his own Commission has slammed that window shut.

Second, the fallacy that arms control is weakness.

If Ronald Reagan is right, then every other President since the dawn of the nuclear age is wrong. He has opposed every nuclear arms control agreement negotiated by every President of both political parties—Kennedy, Nixon, Ford, and Carter. They and their military advisers knew that arms control enhances our security.

If Ronald Reagan is right, SALT enables the Soviets to build weapons which they could not have built without SALT. The fact is, it's the other way around. SALT I and II limited Soviet ABM deployment, curbed the number of ICBMs and MIRVed ICBMs, and improved verification. Meanwhile, not one of our essential modernization programs was stopped by SALT.

Mutual, verifiable arms control strengthens our security. It stabilizes the arms race. It limits the arsenals. It helps us predict what the other side will do. It allows us to use our resources for conventional strength. Arms control is not a gift to the Russians. It is profoundly in our own security interest and that of our allies. And it is time for this President to stop treating arms control as a public relations problem.

Third, the fallacy that we can win an arms race, and that we should try to.

We must not assume that the Russians will permit us to overwhelm them—just as we will never let them beat us. Russia is a police state. Its leaders do not seek popular approval for defense budgets. They can give absolute priority to their to their military demands, no matter what civilian hardship that imposes. A nuclear arms race can never be won.

Nor can it be ended by a technological miracle. Even if Mr. Reagan's satellite missile defense scheme can work—and there is serious doubt about that—it is still generations away. To elevate it into a crucial national goal today only confuses our friends and diverts us from the real tasks of deterrence and arms control.

The only thing an arms race can do is make us less secure. Let me give you an example that bears an uncanny resemblance to the choices we now confront.

In 1969, when I was a young Senator, the Nixon Administration was on the verge of deploying MIRVed ICBMs. Secretary Laird and other officials argued that MIRVs would give us superiority and promote arms control by improving our negotiating position.

A few of us fought that idea. We took to the Senate floor and argued that MIRVs would force the Russians to respond in kind, increasing the vulnerability of our land-based missiles and initiating a new round of the arms race. And we introduced a resolution calling for a mutual moratorium on MIRV flight-testing while we sought broader arms control agreements.

For months, Ed Brooke and I and the others lobbied. We twisted arms. We made speeches. Nearly a year later, we got that resolution passed. But by then it was too late. We deployed our MIRVs; the Soviets tested and deployed theirs; our defense became much more difficult; and today the world is vastly more dangerous.

To look back at the Reagan Administration's record, one would conclude that the President's top priority has been to prove our toughness to the world.

And so two years of foreign policy efforts have gone into solving the wrong problem. The world doesn't doubt our power. What it doubts is our stewardship of that power.

A few months ago, when Mr. Rostow was fired, he warned that an American failure to demonstrate sincere commitment to arms control could do irreparable damage to our Alliance. I am afraid his words are proving to be prophetic.

Today, by all rights, world outrage about Soviet military adventurism should be strengthening the Western Alliance. Instead, world anxiety about winnable nuclear wars is straining NATO.

By all rights, the young people of Europe should be marching against the Soviet SS-20s pointed at them. Instead, they're marching against an American Administration which drags its feet on arms control.

This nation, was founded with "a decent respect for the opinions of mankind." But today, Mr. Reagan's policies have ceded the moral high ground to the Russians—a position they richly do not deserve. Mr. Reagan thinks national security requires us to prove our manhood—when in truth it demands we demonstrate our maturity.

Today I want to lay out what I believe that mature strategy should be.

The overriding goals of our defense policy must be to maintain our strength—and to prevent war. To pursue that requires four fundamental commitments.

First, we must reaffirm the doctrine of deterrence, which for two generations has prevented nuclear war. Deterrence enhances stability. We should be strengthening our deterrent, and we should measure every new weapon proposed against that standard.

The recent report of the Scowcroft Commission is a superb contribution to national understanding of our strategic forces. I agree with its rejection of the so-called "window of vulnerability" and its emphasis on long-term deterrence and the mutual survivability of forces. I also agree with its recommendation of programs like the long-range D-5 submarine missile; the small, single-warhead, land-based missile; and a new, smaller submarine. But on the question of deploying the MX missile in existing silos, I must respectfully disagree.

I believe the argument for putting the MX in vulnerable silos has four basic flaws. First, it is destabilizing. Deploying a valuable new target in a vulnerable mode weakens deterrence.

Second, to say that the MX is a useful bargaining chip makes no sense. There is no evidence that the Administration regards the MX as negotiable. And if bargaining chips are wanted, there are plenty available.

Third, the MX is not needed to demonstrate national will. We are doing that right now by modernising every element of our strategic deterrent. I fear that the MX would retard our capacity to sustain a sound modernization program and manage it effectively.

Fourth, as the Commission itself said, we should be moving away from MIRVing. Dr. Kissinger has come around to this view. Just when a consensus is beginning to emerge on this question, it is important not to choose a weapon which goes the other way and could well hinder future arms control agreements.

Next, we must have a defense budget based on a coherent strategy and growing at a supportable, sustainable rate.

Today, we have neither. Instead, we have a program that makes no choices; lacks an underlying strategy; emphasizes hardware over readiness; duplicates systems; and strains our ability to manage defense procurement. As a consequence, we are buying tanks that break down every four hours, anti-aircraft guns that don't fire, and personnel-carriers that burn when hit.

All this arouses skepticism, erodes public trust, and undermines the essential consensus for defense growth. Without that consensus, we cannot sustain the strong defense effort we need to deter nuclear war.

I believe we must proceed with programs such as the Midgetman, Cruise missiles, the Trident submarine, an accelerated D-5 submarine missile, a new small submarine, Stealth bombers, and accuracy improvements on our Minuteman ICBMs. And as I will point out in a moment, I also urge that all those weapons be subject to arms control, including a mutual verifiable freeze. In my view, recent House and Senate Budget Committee actions furnish a reasonable foundation for this program.

Third, we must raise the nuclear threshold. We must do everything we can to strengthen weapons that are not nuclear—so that we will never have to resort to weapons that are.

That means modernizing conventional forces; improving training, readiness, and mobility; paying servicemen and women enough to retain skilled personnel; and providing better equipment for our Reserves and National Guard.

That also means strengthening our alliances. Not long ago, NATO agreed to 3 percent real growth in defenses each year. The Reagan Administration—with its disastrous economic policies and alarming defense pronouncements—has helped unravel that agreement. We must all return to it. We must all reaffirm that "Fortress America" is unacceptable, and that Western security is indivisible.

Fourth, we must pursue serious arms control agreements. I take second place to no one in my lifelong commitment to arms control.

I believe we should revise and resubmit SALT II, a good agreement that took seven years to negotiate.

We should coordinate our negotiations on intermediate nuclear forces and strategic forces to facilitate a comprehensive agreement; count warheads instead of launchers in those talks; create incentives to more away from MIRVing; put experienced people in charge of those talks; and empower them to negotiate seriously.

We must resume efforts for a comprehensive test ban treaty; reaffirm the ABM treaty; reimpose restraints on the distribution of weapons-grade material; rejoin the fight against nuclear proliferation; and negotiate a mutual and verifiable freeze.

I fear that President Reagan's intransigence in arms control may not give way to a cosmetic agreement, if any at all. In my view, there are tests which any arms control agreement must pass. It must enhance deterrence and stability, and reduce first-strike incentives. It must halt the growth of nuclear arsenals and pave the way to substantial reductions. It must provide for overall equality. It must be verifiable. And it must be in the interest of both sides.

I also believe it is time for a summit with the Soviet Union—and for regular summits thereafter. Talking is not weakness. I believe we are strong enough to talk with our Russian adversaries. And I would hope that our delegation will be headed by a President who takes charge, masters the details, makes the tough choices, and ensures that meaningful negotiations occur.

Everyone wants a strong America. The issue is how to get there. Today, our arms negotiations are stalled; our alliance is strained; our defense consensus is dissolving.

For permitting that weakness, the President must be held accountable. For restoring our strength, anyone seeking the Presidency must propose a safer course. Nothing is more important for our future.

Thank you very much.●

ANDRE PREVIN

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. COYNE. Mr. Speaker, Andre Previn, the distinguished conductor of the Pittsburgh Symphony, is the recipient this year of the Pennsylvania Council for the Arts Theodore L. Hazlett Award for excellence in the arts in music.

This award honors Mr. Previn as he honors the city of Pittsburgh and the Commonwealth of Pennsylvania. His contributions to music reflect his talent and imagination as well as the world around him. Entered at age 6 as a student in the Berlin Conservatory of Music, he was expelled in 1938 for being Jewish. His parents fled Nazi Germany shortly thereafter, settling finally in America in 1939.

Germany's tragic loss was, as in the case of many eminent scientists, historians, and artists, America's gain. Andre Previn came of age in the United States, practiced piano for 6 hours a day in his teenage years, arranged music for his high school show, and played in, and sometimes conducted, the California Youth Symphony.

Andre Previn's contribution to jazz and modern conducting are well-known. His easy comaraderie with musicians in his orchestra challenges any stereotype of an autocratic and aloof conductor.

A nominee in many instances, and a winner several times of Academy Awards for movie scores, Andre Previn is one of the genuine stars of modern music. It is said that he sleeps only 5 hours per day, with 19 hours thus available for his many pursuits. Few people awake 24 hours a day could equal his accomplishments. I commend the Pennsylvania Council on the Art for recognizing Mr. Previn's contribution.●

SENATOR DODD OFFERS AN ALTERNATIVE

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. EDGAR. Mr. Speaker, last night, after the President's speech to Congress on Central America, Senator Chris Dodd of Connecticut provided an alternative perspective on America's role and responsibilities in that region. While he strongly renounced Cuban and Soviet adventurism in the area, he correctly pointed out that the problems in Central America are based in social and economic inequity. While we have poured endless dollars into military aid to El Salvador, for example, killing by El Salvador's security forces continues and the land reform program has come to a virtual halt.

Mr. Speaker, the President clearly does not see or understand the underlying problems in Central America which have led to widespread poverty, inequality, and finally, to resistance to oppression. American dollars cannot buy military success in Central America; we must make positive contributions to peace and justice if we are to end the fighting and bring democracy to these troubled countries. Specifically, we must use our power and influence to bring about an end to the fighting in El Salvador and Nicaragua. Furthermore, we must be willing to work for negotiated political settlements to the region's problems. Killing should not be an end, as the President said; it should also not be a means. Finally, we must regain our position as a beacon of hope and change in Central America. We should provide aid to governments which help their people become educated, make sure they have enough to eat, and which respect their citizens' human rights.

Mr. Speaker, at this point I would like to insert Senator Dodd's speech into the Record. I wholeheartedly endorse his view of the problems of and solutions to the conflict in Central America.

The speech follows:

Senator Dodd Offers an Alternative

Good evening. Unfortunately, tonight the President gave a speech intended to bring people to their feet, not to their senses. In the months and years that follow this evening, after the applause has faded and the ringing phrases are forgotten, Americans will have to live with the choices we make in this fateful time of decision.

In the past, we as a nation have learned painfully that the truth is never as simple as some would paint it. Charts and statistics can be used or misused to prove any side of a case. And speeches can sound very good without being very right.

So first of all, let me state clearly that on some very important things, all Americans stand in agreement.

We will oppose the establishment of Marxist states in Central America.

We will not accept the creation of Soviet military bases in Central America.

And, we will not tolerate the placement of Soviet offensive missiles in Central America—or anywhere in this hemisphere.

READY TO FIGHT

Finally, we are fully prepared to defend our security and the security of the Americas, if necessary, by military means.

All patriotic Americans share these goals. But many of us in Congress, Democrats and Republicans alike, disagree with the President because we believe the means he has chosen will not fulfill them.

Those of us who oppose the President's policy believe that he is mistaken in critical ways. To begin with, we believe the Administration fundamentally misunderstands the causes of the conflict in Central America. We cannot afford to found so important a policy on ignorance—and the painful truth is that many of our highest officials seem to know as little about Central America in 1983 as we knew about Indochina in 1963.

I've lived with the people in this region. Let me share some facts with you about Central America.

POVERTY AND DEPRIVATION

Most of the people there are appallingly poor. They can't afford to feed their families when they're hungry. They can't find a doctor for them when they're sick. They live in rural shacks with dirt floors or city slums without plumbing or clean water. The majority can't read or write; many of them don't even know how to count.

It takes all five Spanish-speaking countries of Central America more than a year to produce what this nation does in less than three days. Virtually none of even that meager amount ever reaches the bulk of the people. In short, a very few live in isolated spendor while the very many suffer in shantytown squalor. In country after country, dictatorship or military dominance has stifled democracy and destroyed human rights.

If Central America were not racked with poverty, there would be no revolution. If Central America were not racked with hunger, there would be no revolution. If Central America were not racked with injustices, there would be no revolution. In short, there would be nothing for the Soviets to exploit. But unless those oppressive conditions change, that region will continue to seethe with revolution—with or without the Soviets.

A DARK TUNNEL

Instead of trying to do something about the factors which breed revolution, this Administration has turned to massive military buildups at a cost of hundreds of millions of dollars. its policy is ever-increasing military assistance, endless military training, even hiring our own paramilitary guerrillas. This is a formula for failure. And it is a proven prescription for picking a loser. The American people know that we have been down this road before—and that it only leads to a dark tunnel of endless intervention.

Tonight the President himself told us that things were not going well in Central America. But for this the President cannot blame Congress. We have given him what he has asked. Seven hundred million in economic and military assistance has been delivered or is on its way to El Salvador since Ronald Reagan came to office, all at his request and all with Congressional approval. One of every five Salvadoran soldiers fighting for its government was trained right here in the United States. American soldiers are there now training Salvadoran army units which are employing modern weapons built in American factories.

Now the President asks for an even greater commitment. His requests for El Salvador alone will bring the total aid to that country during his term to more than $1 billion.

One billion dollars to counter a rebel army that, according to all reports, does not exceed 7,000 guerrillas.

That means you are paying $140,000 in hard-earned tax dollars for each one of those guerrillas we are trying to defeat.

While your tax dollars have been pouring into El Salvador, the money skimmed off by that nation's rich is leaving the country. For every dollar we've sent in, more than a dollar has gone out—to numbered accounts in Zurich or to buy stocks on Wall Street. It raises the question of why we should invest in the future of El Salvador when the weathiest citizens of that country are investing in Swiss banks.

What return have we achieved for all we have spent? The army in El Salvador has been reluctant to fight—and it is led by an officer corps working a nine-to-five shift with weekends off. Land reform has been abandoned. At least 30,000 civilians have been killed and the majority of them have been victims of the Government's own security forces. American nuns and labor advisors have been murdered—and the judicial system is so intimidated that it cannot even being accused murderers to trial.

For those 30,000 murders, confirmed by our own, Embassy, there have been fewer than 200 convictions.

FOLLY, PURE AND SIMPLE

American dollars alone cannot buy military victory—that is the lesson of the painful past and of this newest conflict in Central America. If we continue down that road, if we continue to ally ourselves with repression, we will not only deny our own most basic values, we will also find ourselves once again on the losing side. It is folly, pure and simple, to pursue a course which is wrong in principle—in order to wage a conflict which cannot be won.

After 30,000 deaths, after hundreds of millions of dollars, with the ante going up, with no end in sight, with no hope for any real change, the time has come for a different approach. Yes, we are fully prepared to be involved in Central America. But the question is the nature and quality of our involvement. We must offer an alternative policy that can work.

First, we should use the power and influence of the United States to achieve an immediate cessation of hostilities in both El Salvador and Nicaragua. Already in both those countries too many people have died. It is time for the killing to stop.

Second, the United States should use all its power and influence to work for negotiated political settlements in Central America.

OFFER TO NEGOTIATE

In El Salvador, the rebels have offered to negotiate unconditionally. Let us test their sincerity. We certainly have the leverage to move the Government to the bargaining table. On his recent trip to that very Catholic region, the Pope lent the moral force of his office to such a step. It is practical and realistic to expect that if we support it, these talks can get underway. And every major ally of ours in the region—Mexico, Panama, Venezuela, and Colombia—is anxious for such a step to be taken and has offered to make the arrangements.

Those same nations have volunteered to bring Nicaragua into negotiations—and Nicaragua has agreed to talk. Instead, as we know from press accounts, this Administration is conducting a not-so-secret war inside that country.

No one in this Congress or this country is under the delusion that the Sandinista government is a model democracy or a force for stability. But the insurgents we have supported are the remnants of the old Somoza regime—a regime whose corruption, graft, torture, and despotism made it universally despised in Nicaragua. The Sandinistas may not be winners, but right now we are backing sure losers. We are doing for the Sandinista Marxists what they could not do for themselves. We are weakening the very groups inside Nicaragua which believe in a free and democratic society. And that is the sad irony of this Administration's policy.

Third, we must restore America's role as a source of hope and a force for progress in Central America. We must help governments only if they will help their own people. We must hear the cry for bread, schools, work, and opportunity that comes from campesinos everywhere in this hemisphere. We must make violent revolution preventable by making peaceful revolution possible.

THE TIDE OF HISTORY

Most important, this approach would permit the United States to move with the tide of history rather than stand against it.

For us, the stakes are diplomatic, political, and strategic. But for the people of El Salvador, life itself is on the line.

I have been to that country and I know about the morticians who travel the streets each morning to collect the bodies of those summarily dispatched the night before by Salvadoran security forces—gangland-style—the victim on bended knee, thumbs wired behind the back, a bullet through the brain.

We recoil at such an image, for our association with criminals such as these is not America's tradition. In other, brighter days we have stood for the aspirations of all the people who are part of the Americans. Two centuries ago, our nation raised the light of liberty before the world—and all of this hemisphere looked to us as an example and an inspiration. In this Capitol building, from which I speak tonight, men like Daniel Webster, Henry Clay, and Abraham Lincoln once spoke of an America leading the way to human progress and human rights—and people everywhere listened with hope.

There is no greater or larger ideal than the one which was forged here in the early days of this Republic. That ideal of liberty is our greatest strength as a nation; it is a powerful and peaceful weapon against tyranny of any kind anywhere in this hemisphere.

We can take the road of military escalation. But we really don't know what the next step will be, where it will lead or how much it will cost.

This much, however, we do know. It will mean greater violence. It will mean greater bloodshed. It will mean greater hostilities.

And, inevitably, the day will come when it will mean a regional conflict in Central America.

When that day comes—when the "dogs of war" are loose in Central America, when the cheering has stopped—we will know where the President's appeal for more American money and a deeper American commitment has taken us.●

EXPULSION OF HANS LIPSCHIS

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. SCHUMER. Mr. Speaker, the Justice Department, acting through its Office of Special Investigations, achieved a few days ago a success it had been pursuing for over 10 years, and which some Americans had been pursuing since the end of World War II.

The success to which I refer is the permanent mandatory expulsion from the United States of Hans Lipschis, who was charged with engaging in Nazi persecution during World War II. He is one of many people who conceals his crimes to gain entry into our country.

Through the admirable efforts of the House Judiciary Committee over the past decade, and the Justice Department's Office of Special Investigation, which was created in response to the committee's work, a competent team of lawyers, paralegals, and historians are now beginning to achieve real success in many of the nearly 300 active investigation cases.

Though it has not been an easy task to ferret out those who committed atrocities so many years ago, and gained refuge on our soil through false pretenses, the funds have been provided and the work is now being done in the name of justice.

Some may say that there are better purposes to which the U.S. Government and people should put their resources than to go chasing Nazi's from a long-ago war, and though I agree that the 1940's are beginning to grow distant, the nature of the crimes committed then do not, and must not, quickly fade from our conscience. At the very least, we must pledge that as long as this country is home to both those who suffered punishment without guilt and those who suffer guilt without punishment, as a result of the perverse atrocities of World War II, we shall seek to give justice to both.●

THE 90TH ANNIVERSARY OF LOCAL NO. 7, I.B.E.W.

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. BOLAND. Mr. Speaker, on April 23, the members of Local No. 7 of the International Brotherhood of Electrical Workers in Springfield, Mass., celebrated their union's 90th anniversary.

The year 1893 found electrical workers laboring in jobs that were dangerous, in which pay was low, and in which benefits were nonexistent. The founding of Local No. 7, however was part of a movement begun on a national scale 2 years earlier, to change all of that. The achievements of the International Brotherhood of Electrical Workers in the negotiation of wage rates, working conditions, health and welfare plans, apprenticeship training programs, and pension programs have been among the most significant in the trade union movement. Local No. 7, because of the leadership of its officers and the support of its members, has been an active participant in those achievements. It is a local with a proud history and a challenging future, and I want to salute its members on their important anniversary.

At this point in the RECORD, I would like to insert the remarks I made at the anniversary celebration held in Springfield last Saturday evening.

Mayor Ted Dimauro, Second District International Vice President John Flynn, contractors, friends and members of Local No. 7 of the International Brotherhood of Electrical Workers, I am pleased and I am honored to join with you on this your 90th anniversary.

I would like to reflect for a moment on what life was life in 1893 when Frank Wyatt, Thomas Flood, Richard Grace, James Murray and the other charter members of Local No. 7, established this organization. It was a year, in which the opening of the Chicago's World's Fair began an international exposition that would give the world such innovations as the ferris wheel, Pabst Blue Ribbon beer, and a new dance—the "Hootchy-Kootchy." It was a year that would see such important scientific and technological advances, as the world's first open heart surgery, the road testing of the first Ford motorcar, the commercial adaptation of alternating current, and the construction of the first movie studio. It was a year in which a Democrat in the White House, Grover Cleveland, struggled with an economic crisis caused by inflation. (So what's new!). It was a year, when Samuel Gompers wrote "What does labor want? . . more schoolhouses and less jails—more books and less guns—more learning and less vice—more leisure and less greed—more justice and less revenge!"

It was the year that saw the birth of Local No. 7. In fact—the life of this local has mirrored the life of the International Brotherhood of Electrical Workers itself. For it was only two years after the National Brotherhood of Electrical Workers was founded, that Local No. 7 was born. No union has been more responsive to its membership, provided better leadership, or extended greater benefits to its members, than the International Brotherhood of Electrical Workers. Today, the I.B.E.W. stands more than 1,000,000 members strong; united across this nation and Canada by more than 1,500 local unions. It is the fifth largest union in the world, with wages and working conditions second to none. The I.B.E.W. and Local No. 7 have succeeded, because strong, intelligent, and steadfast men and women, have created, protected and cared for this union. You care about what happens to you, and to your families, and you remain loyal to this magnificent organization which has given you protection and strength. Each of you can point with pride to the progress which has been made possible by the unity—and the spirit of cooperation—shown by the officers, representatives, and members of the brotherhood.

I am particularly grateful to the members of this local for the support they have given me in public life. Willow Street, the home of the building trades, enjoys a special place in my political life. It is a great source of strength, for a person who serves in public life to know that he has the support and the friendship of those of you who are here this evening.

I extend my personal congratulations on this historic occasion to your officers: President John J. Collins, Vice President Douglas Bodman, Recording Secretary James Swotchak, Treasurer Thomas O'Connor, and Business Manager Robert Illig—and to all the members of Local No. 7. In addition, I extend the greetings of the government of the United States of America.●

ARMENIAN GENOCIDE

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1983

● Mr. LOWERY of California. Mr. Speaker, I would like to thank my distinguished friend and colleague from California, Mr. PASHAYAN, for requesting this special order marking the anniversary of the most unfortunate Armenian genocide. In addition, I would like to thank both him and Mr. WAXMAN for introducing House Resolution 171 commemorating this deplorable event in human history. I am proud to be a cosponsor of House Resolution 171 and look forward to its early passage.

During the World War I era, approximately 1.5 million Armenian men, women, and children were put to death by the Ottoman Empire; 25 years later, Adolf Hitler used this Turkish atrocity to justify his crusade to exterminate the Jews. To prevent such bloodshed in the future, we must recognize these crimes of the past before time allows us to forget.

To the many thousands of Armenian Americans and, indeed, to Armenians around the world, I offer my sincere condolences for the tragedies commencing on April 24, 1915. I am pleased to learn that the U.S. Holocaust Memorial Council has unanimously resolved to include the Armenian genocide in its museum and educational programs. This is an important step in educating all Americans as to what abominations man is capable of performing. We must not forget; we must not be silent.●

A TRIBUTE TO M. RALPH BAGNAL, JR.

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. SPENCE. Mr. Speaker, I would like to draw the attention of my colleagues to a resolution by the Builders Association of the Midlands, a professional association in my district, and to an article from the State newspaper, both recounting the civic, social, and professional contributions of Mr. M. Ralph Bagnal, Jr.

Throughout his life and until his recent death, Mr. Bagnal distinguished himself and enriched family, friends, and neighbors through unstinting service to his church, his community, and to the homebuilding industry of Columbia and the Midlands. In recognition of the sterling example he set, the compassion he extended to those less fortunate and those in need, and the Christian principles he demonstrated in the living of his life, I ask that these items be included in the RECORD so that all may know of our high regard and respect for the memory of M. Ralph Bagnal, Jr.

A RESOLUTION IN MEMORY OF M. RALPH BAGNAL, JR., 1921-83

(Honoring the memory of M. Ralph Bagnal, Jr., a member of the Builders Association of the Midlands from the beginning, until his death, February 20, 1983 at the age of 61, and known to his many friends as "Mr. Ralph", we, the members of the Builders Association of the Midlands, desire to recognise the worth of his life and influence among us.)

Whereas, Ralph was born September 6, 1921 in Columbia, South Carolina. He was educated in the public schools of Richland County and was a graduate of The Citadel, where he was a member of the Summerall Guards, and was a veteran of World War II; and

Whereas, he was married to the former Mary Jane Hollingsworth, and was blessed with two lovely daughters, Mrs. Albert Sidney (Mary Katherine) Miller, II of Columbia and Mrs. Robert Thomas (Sandra) Veasey, Jr. of Florence; and

Whereas, Ralph joined the family firm in 1946 and was President of Bagnal Builders Supply Company, and Vice President of Trenholm Building Company; and

Whereas, Ralph gave of himself in service to his community, through participation in many activities. He was a member and Chairman of the Board of Deacons of the First Baptist Church, Columbia. He was Chairman of the Finance Committee, the Pulpit Committee and Co-Chairman of the Long Range Planning Committee for the construction of a new sanctuary. He served two terms as a member of the Board of Trustees of Carolina Children's Home and the Columbia Chamber of Commerce. He also served as a Director and Vice President of the State Chamber of Commerce. He had also served as Chairman and a member of the Board of Trustees of the Garden City Chapel at Garden City Beach; and

Whereas, he was a member and past president of the Columbia Rotary Club with 35½ years of perfect attendance and a Paul Harris Fellow; and

Whereas, Ralph was a charter member of the advisory board of Builders Mart of America and a member of the Richland County Planning Commission for five years. He was a member of the board of directors of the National Bank of South Carolina and was past president of the Carolina Lumber Dealers Association and for eight years he served on the board of directors of the National Lumber and Building Material Dealers Association; and

Whereas, he was serving as chairman of the South Carolina State Housing Authority at the time of his death; and

Whereas, Ralph helped to organize the Home Builders Association of Greater Columbia and provided invaluable service to its growth by serving on the board of directors in 1966, vice president and chairman of the first Home Show in 1967, 1st vice president in 1968, president and Builder of the Year in 1969, immediate past president in 1970, director in 1976, treasurer in 1978, director in 1982 and 1983; and

Whereas, he was the recipient of the Gordon A. Harrison Award in 1982 given to the home builder who best demonstrates the high ethics and professional standards we all strive for as members of the Builders Association of the Midlands; and

Whereas, Ralph Bagnal is remembered by us for his genuine friendship, leadership and for his kindness to those with whom he came in contact. The life he lived among us presents to us a challenge for living and for his high ideals, sterling character and christian principles, now

Therefore be it resolved, that the Builders Association of the Midlands shall and hereby does note in its records on this date its tribute to M. Ralph Bagnal, Jr., and our appreciation of the truly outstanding service that he rendered to the home building industry and to his fellow man, and

Be it further resolved, that a copy of this resolution be attached to the minutes of the Builders Association of the Midlands and copies be sent to his survivors and to the office of Congressman Floyd D. Spence so that it may be placed in the Congressional Record in order that all may know of our high regard, our genuine sympathy, and our deep respect for the memory of M. Ralph Bagnal, Jr.

Respectfully submitted,

BOARD OF DIRECTORS,
BUILDERS ASSOCIATION
OF THE MIDLANDS:

Charles B. Newman, Jr., President; G. Martin Langston, 1st Vice President; John H. Wright, III. 2nd Vice President; William H. Peters, Assoc. Vice President; Mack A. Windham, Treasurer; Dorothy H. Lafitte, Secretary; James W. Johnson, Immed. Past President; Earl E. McLeod, Jr., Executive Director; Wick Byars, Director; William D. Holbrook, Director; Don Litchford, Director; Carol O. Lucas, Director; Thurman Sauls, Director; J. Allen Shumaker, Director; E. D. Sturkie, Director; J. Watson Wharton, Director; and Dick Wells, Director.

[From the Columbia Record, Feb. 21, 1983]

M. RALPH BAGNAL JR., BUSINESSMAN, CHURCH CIVIC LEADER, RITES TOMORROW

Funeral services for Mallard Ralph Bagnal Jr., will be held tomorrow at noon at the First Baptist Church, conducted by the Rev. Dr. J. Marshall Edwards and the Rev. Harold Norton. Burial will be in Greenlawn Memorial Park.

Pallbearers will be James D. Reynolds, Charles T. Smith III, Benjamin Franklin Newell, Allan E. Fulmer Sr., Dr. C. Warren Irvin, Robert Evander McNair, Cecil K. Sturkie and Sen. Ernest F. Hollings.

Mr. Bagnal, 61, of 2827 Spann St., died yesterday at Baptist Medical Center.

Born in Columbia, he was a son of the late Mallard Ralph Sr. and Jessie Rideoutte Bagnal.

Mr. Bagnal was a graduate of The Citadel, where he was a member of the Summerall Guards, and was a veteran of World War II. He joined the family firm in 1946 and was president of Bagnal Builders Supply Co., and vice president of Trenholm Building Co.

Mr. Bagnal was a member and chairman of board of deacons of the First Baptist Church. He was chairman of the finance committee, the pulpit committee and was presently serving as co-chairman of the long-range planning committee for the construction of a new sanctuary.

He served two terms as a member of the board of trustees of Carolina Children's Home and the Columbia Chamber of Commerce. He also served as a director and vice president of the State Chamber of Commerce.

Mr. Bagnal was past president of the Carolina Lumber Dealers Association and a life member of their board of directors. For eight years he served on the board of directors of the National Lumber and Building Material Dealer Association and was past president of the Home Builders Association of the Midlands. He was recently a recipient of the Gordon Harris award.

He was a charter member of the advisory board of Builders Mart of America and a member of the Richland County Planning Commission for five years. Mr. Bagnal was a member of the board of directors of the National Bank of South Carolina and a senior director of the Lumber Mutual Fire Insurance Co. of Boston. He had also served as chairman and a member of the board of trustees of the Garden City Chapel at Garden City Beach.

Presently he was serving as chairman of the State Housing Authority.

He was a member of the Camellia Ball, the Quadrille Club, the Summit Club and Forest Lake Club.

Mr. Bagnal was a member and past president of the Columbia Rotary Club with 35½ years of perfect attendance and a Paul Harris Fellow.

Surviving are his wife, Mrs. Mary Jane Hollingsworth Bagnal; two daughters, Mrs. Albert Sidney (Mary Katherine) Miller II of Columbia and Mrs. Robert Thomas (Sandra) Veasey Jr. of Florence; a brother, Thomas B. Bagnal Sr. of Columbia; a sister, Mrs. Robert R. Rigby of Columbia; and a grandson.

Memorials may be made to Garden City Chapel, Garden City Beach, and Carolina Children's Home.

Dunbar Funeral Home, Gervais Street Chapel, is in charge.●

CONGRESSIONAL VIGIL ON SOVIET JEWRY

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. LEVITAS. Mr. Speaker, I rise today to speak on behalf of Iosif Begun, a prominent Soviet Jewish activist, who has been imprisoned twice already for Jewish activities, and who has been arrested again on charges of anti-Soviet agitation and propaganda. His recent arrest coincided with the reopening of the Madrid hearings, which began on November 9, 1982.

Begun first applied to emigrate from the Soviet Union to Israel in 1971, and has been harassed since that time by the KGB. He was arrested in March of 1977 for parasitism and sentenced to 2 years internal exile; whereupon he was sent to Siberia. On early release from exile in Siberia, Begun returned to Moscow on March 5, 1978, where he had lived most of his life. However, the authorities refused to grant him permission to re-register in the capitol. Barely 10 weeks after his release, he was again arrested and was accused of violating residence regulations.

At a second trial, which was held on June 28, 1978, Begun was sentenced to 3 years' exile.

Bernard Levin, the renowned journalist, wrote on February 27, 1980, as follows—from Jews in the USSR—volume XI—No. 42.

> From the moment of Begun's first application for an exit visa, he has been continually harassed. . ."
>
> Throughout all this, Iosif Begun has displayed a fortitude in adversity and a courage in resisting oppression that mark him as a truly exceptional being; to read through, as I have done, a complete collection of the appeals, protests, statements, he has sent to various individuals, journals and organizations in his own country and abroad is to catch a glimpse of the best that humanity can do and be. Again and again, it is not his own case he is pleading, but that of some fellow-sufferer or his persecuted people as a whole.

At this moment, Begun is being held strictly incommunicado in Vladimir prison, but evidence of his spirit is contained in a request he gave the authorities recently. He asked that his next parcel, due a few days later, should include the Shapiro-Hebrew dictionary and a Yiddish study book. His message to the authorities is clear, "It is not illegal to study either Yiddish or Hebrew, and whatever you do to me, I will insist on my rights."

I implore the Soviet authorities to release Iosif Begun from prison and allow him to peacefully and expiditiously emigrate to Israel. That is all he is asking. He simply wants to live in peace.

I ask you, "How can we continue to tolerate the conduct of the Government of the Soviet Union against its own people"? Once before, we saw this happen; the entire structure of a government was set in motion to one end; the persecution and death of one segment of its population, the Jews, and earlier this month, we observed in Washington the meeting of the survivors of the Holocaust that resulted. During those few days that the survivors were in Washington, we came face to face again with what happened in Nazi Germany.

Are we going to continue to accept the fact that innocent victims of prejudice and malice are going to be harassed, arrested, imprisoned, exiled, confined to mental institutions; all in the name of the state?

Will I, or will you, wait until it is too late and then ask ourselves and the world, "Why didn't we do something"? I ask the Members of this great body of Government, the House of Representatives of the United States, to join with me in not only speaking out from the floor of the House, but to join with me in speaking out from any forum that presents itself, and to call attention to the cause of the Soviet Jews.

We cannot tolerate the inhuman treatment that the Jews and other religious groups are receiving at the hands of the Soviet authorities.

We say again: "Let our people go".●

A REFLECTION ON AMERICAN VALUES

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. CONYERS. Mr. Speaker, 24 hours before the President spoke to Congress and the Nation on the national interest in Central America, the administration's own National Commission on Excellence in Education reported that—

> The educational foundations of our society are presently being eroded by a rising tide of mediocrity that threatens our very future as a nation. . . . What war unimaginable a generation ago has begun to occur—others are matching and surpassing our educational attainments. If an unfriendly foreign power had attempted to impose on America the mediocre educational performance that exists today, we might well have viewed it as an act of war. As it stands, we have allowed this to happen to ourselves. . . We have, in effect, been committing an act of unthinking, unilateral educational disarmament.

The Commission report included the following: Some 23 million American adults are functionally illiterate; About 13 percent of all 17-year-olds can be considered functionally illiterate, and among minority youth, as many as 40 percent; Average achievement of high school students on most standardized tests is now lower than it was 26 years ago, before Sputnik; Nearly 40 percent of 17-year-olds cannot reason adequately from written material; Between 1963 and 1980 average verbal scores on scholastic aptitude tests fell over 50 points and average math scores fell 40 points; and International comparisons of student achievements, reveal that on 19 academic tests American students were never first or second, and were last on 7 tests.

The President of the United States did not address a joint session of Congress the other evening on the dangerous state of American education. He never spoke on such a solemn occasion to either Congress or the Nation on the crisis of unemployment. Instead, he used only the ninth such Presidential occasion to address Congress and the Nation on the conflicts in Central America and America's ostensible interest in them. The Nation's vital security is on the line in Central America, the President informed the Nation. What about the Nation's security down the road as a result of its decaying educational system?

The President likes to remind the Nation that the problems and crises in America can only be solved through private efforts and free-market mechanisms. The 15 to 20 million unemployed, underemployed, and discouraged workers simply have to wait their turn. The 10 percent of the population that is functionally illiterate also will have to wait its turn. So will the poor of the land, the children who are underfed, the families whose heating was cut off this past winter, and the elderly who cannot afford the medical care they require.

The President made a speech on Central America the other night, not on education, health care, and unemployment. And the speech he delivered so solemnly was not even on Central America. His passing references to land reform, democratization, social reform in that region were thoroughly overshadowed by the ideological battle he is waging—and wants the Nation to wage—against "radical" regimes in Central America and against any further Cuban or Soviet influence in the region. His speech last night was not about the people of Central America, but about Central America as a chessboard of superpower rivalry.

The President warned the Nation that Nicaragua is closer to Texas than Texas is to Washington. That may be true geographically. He failed to warn the Nation that closer still is the link between our educational, employment, and health systems and our quality of life, and that their present condition is, indeed, endangering our future.●

ARMENIAN MARTYRS' DAY

HON. KATIE HALL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21 1983

● Mrs. HALL of Indiana. Mr. Speaker, I join with my colleagues to commemorate Armenian Martyrs' Day in remembrance of the 1½ million Armenian men, women, and children against whom genocide was perpetrated from 1915 to 1923, and the hundreds of thousands massacred in the two previous decades. I also speak in remembrance of the one-half of a million Armenians exiled from their homes and homeland during that same period of the Ottoman Empire.

This well documented, systematic pattern of persecution and genocide was recently called into question by administration officials who at best are ill-informed. I, along with many of my colleagues in the House of Representatives, have let it be known to this administration, and particularly Secretary of State Shultz, that we demand a more informed and sensitive concern for historical fact and the plight of the Armenian people.

As an educator and teacher of history I feel it is imperative that the sad lessons of history not be shunted aside and forgotten. For those who do not learn well the lessons of history are doomed to repeat it. And genocide under any noble banner is wrong; it is evil; and it is not to be tolerated.●

RAISIN WEEK

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. PASHAYAN. Mr. Speaker, I and my colleagues from California's raisin producing area, Representatives BILL THOMAS, RICHARD LEHMAN, and TONY COELHO, should like to call to the attention of all Members of Congress that National Raisin Week will be celebrated this year from May 1 through May 7.

The recent National Invitation Tournament basketball tournament won by the Fresno State University Bulldogs in the "Big Apple," New York City, helped focus new national attention of the "Big Raisin," Fresno and California's central San Joaquin Valley area that produces all the U.S. raisin supply and nearly one-third of the world supply.

The California raisin industry, the world's largest, will be highlighted during the May 1 through May 7 observance of National Raisin Week.

An average of more than 250,000 tons of raisins are produced in a normal crop year within a radius of 125 miles of Fresno, and production can exceed 300,000 tons in a big crop year.

The success of the raisin industry is of great significance to the economic welfare of many thousands of U.S. residents involved in the production, processing, and marketing of this product that is purchased by millions of consumers for eating out-of-hand, in bakery products, for cooking, in cereals, and many other uses.

The healthful characteristics of California raisins are emphasized by the recognition accorded this high-energy product by the President's Council on Physical Fitness and Sports.

The California raisin industry, like many other U.S. industries, is battling to expand its domestic markets and offset some of the losses of its export markets to subsidized international competitiors.

Special recognition is being given to the California Raisin Advisory Board (Calrab) for its aggressive advertising, promotion and research activities.

Utilizing funds provided by participating producer and processor members, Calrab carries on its program of advertising and promotion both in the United States and in 17 countries throughout the world, all in cooperation with the U.S. Department of Agriculture's Foreign Agricultural Service.

High commendation is due also to the Raisin Bargaining Association, which has brought growers and packers together in a concerted and successful effort to give them a better voice in marketing.

All other raisin growers and packers also deserve a great deal of credit for their efforts on behalf of this vital industry.

Also meriting special commendation in the raisin industry is the work of the Federal Raisin Advisory Board and the Federal Raisin Administrative Committee, who operate under Federal marketing order which have done so much to bring about the orderly marketing of raisin crops and have been highly instrumental in development of export markets.

The raisin industry, which effectively utilizes the self-help tools of sales promotion and advertising in the best American tradition, deserves a special salute during National Raisin Week.●

TOWARD A BIPARTISAN CENTRAL AMERICAN POLICY

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. LOWERY of California. Mr. Speaker, as President Reagan so eloquently stated before us last night, the issue of Central America is truly nonpartisan. Nowhere is this spirit better conveyed than in Morton Kondracke's brilliant article appearing in today's Wall Street Journal (April 28, 1983). I hope my colleagues will take the time to read the thoughtful remarks of one of America's leading "liberal" thinkers:

REAGAN MUST FIGHT CONGRESS ON CENTRAL AMERICA

(By Morton M. Kondracke)

Sometimes a president ought to conciliate in order to build a national consensus for his policies and sometimes he has to confront. I think President Reagan is missing an opportunity for conciliation on defense policy, but I'm afraid that a confrontation of sorts was the only way for him to go on Central America.

Actually, a national consensus is forming on how much to spend on defense, only President Reagan and his defense secretary aren't part of it. From the bipartisan appeal group headed by six former cabinet officers to the Center for National Policy to the Senate Republican leadership to the White House staff, there is an agreement that the U.S. should increase defense spending 5 percent to 7 percent per year over the next several years.

President Reagan and Secretary Weinberger are holding out for 10 percent. On the other side, House Democrats have voted for an increase nominally put at 4 percent, but estimated by some analysts to be just 2 percent.

A congressional compromise may come out at 5 percent or 6 percent, but that guarantees nothing about future budgets. If Congress votes defense cuts next year or the year after, the big-ticket weapons authorized last year will go forward, and savings will be sought once again by cutting training, maintenance and personnel, which need new money the most.

So as part of whatever deal he works out on the fiscal 1984 budget, the president ought to do as he did when Social Security and the MX missile were caught in a lethal political crossfire—appoint a bipartisan commission to draw up a long-term defense program that will survive the 1984 election.

The commission ought to be charged with studying not just how much to spend, but what to spend it on. It's widely agreed that the Weinberger strategy of preparing to fight simultaneous wars all over the world is unrealistic. The commission ought to look into returning to John F. Kennedy's "two-and-a-half war" doctrine, Sen. Sam Nunn's proposal of a strategy to attack Soviet military communication and transportation lines (rather than Soviet forces directly) and other alternatives.

The commission also ought to study the much-criticized defense procurement system, proposals to reform the top military command structure, allegations that U.S. weapons are over-technologized and recommendations that the U.S. switch from "static war" to "mobile war" doctrine. It also ought to draw up a believable assessment of the Soviet threat and recommend fair and realistic burden-sharing arrangements for America's allies.

With Sen. Howard Baker retiring from office and having little to do while preparing for the 1988 presidential race, I nominate him for chairman.

Commissions and conciliation won't work, however, with Central American policy. The president doesn't need to confront his opponents in the sense of blaming them or threatening them, but his views on the threat and the means of meeting it are so different from those of his liberal adversaries that only an intellectual and political squaring-off seems likely to resolve the dispute.

Whatever the effect of the president's speech last night, a speech did need to be delivered.

As a liberal, I hope Mr. Reagan succeeds in winning military aid increases for El Salvador and defeats efforts in Congress to cut off assistance to anti-Sandinista guerrillas in Nicaragua.

Opponents of U.S. efforts in Central America say they are trying to avoid "another Vietnam," but it is precisely the example of Vietnam which suggests that Mr. Reagan's policy is basically right. Eight years ago President Ford appealed to Congress for $700 million to save South Vietnam from collapse. It was just money, but it was refused.

We liberals cannot avert our eyes from what ensued: three million murders in Cambodia, total deprivation of human rights in Vietnam (and corruption at least as bad as in President Thieu's time) and a falling of dominoes. North Vietnam has taken over South Vietnam, Laos and Cambodia; now it is shelling Thailand.

It's now known—the legendary Gen. Vo Nguyen Giap revealed it on French television—that North Vietnam began planning to take over Indochina as early as 1959, long before American troops arrived on the scene and supposedly disrupted the region's history.

We are under warning about Central America now. The Sandinistas in Nicaragua openly proclaim that they are part of a "revolution without frontiers." In 1980, the late Salvadoran communist chief Cayetano Carpio asserted that "the revolutionary process in Central America is a single process. The triumphs of one are the triumphs of the other. Guatemala will have its hour. Honduras its. Costa Rica, too, will have its hour of glory. The first note was heard in Nicaragua."

Liberals should note the designs on democratic Costa Rica, a country without an army—and also note Costa Rica's recent expulsion of Nicaraguan diplomats identified by a terrorist as having furnished him bombs and money. Costa Rican officials have complained about armed incursions from Nicaragua, too.

Central America is more ethnically homogeneous than Indochina, so the dominoes there may fall faster.

And Central America is close to our borders. If many American communities objected to the arrival of Vietnamese refugees and if Florida became divided over the arrival of 125,000 Cubans in 1980, we might well quake at the consequences here if hundreds of thousands of Central Americans begin streaming toward the U.S.

If Mexico, too, becomes unstable, the numbers could be in the millions, resulting in an internal security-civil liberties nightmare, not to mention job competition and ethnic frictions. To defend a hostile southern border and a threatened Panama Canal and U.S. coastline would swell the defense budget, at a cost to domestic programs.

President Reagan is asking for only money for Central America, and it's worth spending to avoid the necessity of some day sending in U.S. troops. Direct American involvement didn't work 10,000 miles away in Vietnam, but it has worked before in Central America and is an option in the future if money fails.

Opponents of the Reagan policy object that our money is being spent the wrong way—that negotiation, economic development, human rights and reform are our only hope and that financing military solutions will fail as in Vietnam.

The opponents are right to the extent that the U.S. cannot succeed if its only policy is military, but Mr. Reagan is correct in saying that there can be no reform or democracy in Central America without U.S. Military aid. There is also little hope of persuading Nicaragua to stop spreading communist revolution unless the U.S. aids groups applying pressure on the Sandinistas.

The possibility exist of building a national consensus around a policy that combines military aid, regional negotiations and internal reform, but such a consensus cannot form unless President Reagan wins his fight in Congress.

If he loses, and if Central America goes communist, it will be liberal values that lose the most.

(Mr. Kondracke is executive editor of the New Republic.)●

SUCH GOOD GUYS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. OTTINGER. Mr. Speaker, I would like to call to the attention of my colleagues an excellent article by Tom Wicker that appeared in the New York Times on April 26. Mr. Wicker accurately outlines the cause of the situation currently taking place in El Salvador. The message of this essay is especially important given the proposals made by President Reagan in his address to the Congress Wednesday night.

The opportunities for the United States to head off the civil war in El Salvador have passed. The people of that nation are not fighting to promote communism, rather, they are fighting to overthrow a repressive regime—one that is full of promises, but lacking in its commitment to democratic reforms. If the United States is truly concerned with promoting our own interests as well as those of the people of El Salvador, we should as Mr. Wicker points out, learn from the lessons of the past and concern ourselves with advancing freedom and human rights in El Salvador.

The article follows:

SUCH GOOD GUYS

(By Tom Wicker)

During the 1980 campaign, someone sent me a cartoon of Ronald Reagan, drawn by Francis Brennan. Mr. Reagan is saying, "Now here's what I think about this world thing. . ." while pointing to a handsome fellow in a white hat labeled "Us" and a villianous chap in a black hat called "Them."

That's sharp and simple and perhaps unfair, as most good political cartoons are. Just such cartoon-like qualities infuse Jeane Kirkpatrick's declaration that in Central America the United States is "supporting the good guys in every sense of the word." Maybe the next shipment of military aid will include a consignment of white hats.

Mrs. Kirkpatrick is not, however, a cartoonist. She is the chief United States representative at the United Nations, and was recently described to Leslie Gelb of the New York Times (in a survey of White House, State and Defense Department officials) as the "central intellectual force" behind the Reagan Administration's policy in Central America.

She had a good reason for including the Government of El Salvador and presumably its armed forces among the "good guys" and for lumping that country with Costa Rica and Honduras among the region's "democracies." It's the same reason that led the Secretary of State, George Shultz, to declare that the United States has a "moral" obligation to support in El Salvador what he suggested were the "ideals" of "freedom and human rights" that the Salvadoran Government is defending.

Behind these claims is the Reagan Administration's search for public and Congressional support for its request for $110 million in additional military aid to the corrupt, often murderous Salvadoran armed forces. The same desire to whip up the public's juices has produced references by both Mrs. Kirkpatrick and Mr. Shultz to a supposed Soviet threat to deploy nuclear missiles in the Caribbean.

Actually, vague Soviet hints on that score appear to be a response to the idea of American missiles in Europe, rather than a serious proposal for a move into Central America. But politics is often a cartoon-like business, and it's standard Washington practice to use the Soviet bogeyman to shore up failing enterprises. All too often it works; but even if Congress should provide the requested $110 million, it's unlikely that freedom and human rights will therefore be advanced in El Salvador.

For one thing, senior United States military commanders studied the situation in El Salvador two years ago and concluded (in a report so tightly held that only a few members of Congress have seen it) that even with increased United States military assistance the Government forces could not defeat the insurgents. Why? Because its officers—some of Mrs. Kirkpatrick's "good guys"—are too clannishly loyal to one another, too inept, too corrupt, and are responsible for most of El Salvador's routine violence against civilians.

The last point is crucial, according to Samuel Popkin of the University of California at San Diego, one of the best-informed students of the American pacification effort in Vietnam. One of its lessons, he wrote in an article for the Washington Post, was that "the control of violence" in the countryside was more important than any reform.

But the two main sources of "indiscriminate killing" in El Salvador, he pointed out, were the regular military and "quasi-official death squads" acting on behalf of the military or the landowners. In his view, Washington's belated desire to build a "political center" around democratic reforms cannot succeed while such officially tolerated violence continues.

"The price of any further aid to the Government of El Salvador must be its readiness to deal ruthlessly with indiscriminate killing," Mr. Popkin wrote. There is not the slightest indication that that Government is ready to do any such thing.

Besides, if the United States had wanted to support the ideals of freedom and human rights in Central America, it could and should have done so long ago—in El Salvador, in Nicaragua, in Guatemala—with pressures on repressive regimes that were too long supported, and with generous efforts to help achieve needed reforms, higher standards of living and democratically chosen governments.

Now the opportunity is lost for Washington to help bring about peaceful change. Salvadoran guerrillas predictably are seeking change through violence, and with any help they can get. The Salvadoran government, still dominated by landowners and the military, the old repressive ruling elements, promises reform but does little.

Mr. Reagan may think there's a case for staking the United States' "national interest" on that Government's survival. But there surely is no "moral" obligation for Americans to provide guns and bombs to those Mrs. Kirkpatrick calls "good guys" so that they can resist the insurgency their own repression brought about. By that or any other name, their concern for freedom and human rights is measured in body counts.●

ARMENIAN GENOCIDE

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1983

● Mr. STUDDS. Mr. Speaker, I wish to take this opportunity to memorialize the innocent victims of the Turkish genocide of Armenians from 1915 to 1923.

April 24 marks the 68th anniversary of the beginning of the deliberate and systematic murder of 1,500,000 Armenian citizens of the Ottoman Empire, and the deportation of 500,000 Armenians from their homeland. These men, women, and children were all victims of a pattern of Turkish persecution that ultimately resulted in an unprecedented horror. Sixty-eight years later we must remember and learn from their experience.

The Turkish Government's outrageous denial of these savage acts galls the world and the American conscience. Yet our own State Department refuses to take a firm stand on the occurrence of the Armenian genocide and the guilt of the Ottoman Turks. This policy mocks not only the truth, but also the values of our American society, and cannot be tolerated.

My purpose is not to condemn the present Government of Turkey, but to implore them to recognize the realities of their past, and to prevent the recurrence of such a horrible event. We cannot reverse history, but neither can we dismiss it. Today we can only honor the heroism and courage of the martyred Armenian people, and hope that our remembrance will shape our future.●

SENATOR HATCH SPEAKS ON OCCUPATIONAL DISEASE

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. ERLENBORN. Mr. Speaker, Senator ORRIN HATCH, chairman of the Labor and Human Resources Committee, delivered an address April 7 before the annual meeting of the National Council of Compensation Insurers. The NCCI is the licensed ratemaking body for workers' compensation insurance in over 30 States.

Senator HATCH's speech discussed the current problems with occupational disease litigation and compensation, particularly for asbestos, the perception in Congress of occupational disease, whether Congress could respond fairly and justly, and finally, the responsibility of the insurance industry. His remarks offered not only perspective to a complex issue but also a warning for any who believes Congress has been so shamed it could never embark on another black lung-type program.

I am a firm supporter of State workers' compensation, even more so given the black lung experience, and know that State laws have improved markedly over the past decade in the wake of the report by the National Commission on State Workmen's Compensation Laws. Still, there are continual charges that State workers' compensation laws are deficient, particularly in accommodating occupational diseases. Senator HATCH expressed his concern about such charges and the response by employers and insurers:

> I am not entirely sure that the situation at the State level is all that satisfactory. Nor am I sure that the insurance industry and employers are doing what is necessary to improve at least the State workers' compensation system.

Employers and insurers, including the self-insured community, should take Senator HATCH's words to heart. It is important for insurers, along with the business community, to assess honestly and accurately the quality of State workers' compensation laws and their capacity to accommodate occupational diseases. Where barriers exist to the filing and adjudication of claims justifiably in the workers' compensation system, they should be repealed. If benefit levels are outdated, they should be upgraded. Employers and insurers should understand that there is no escaping the costs of occupational disease. What is not channeled through State workers' compensation will find its way either through the tort system in third party product liability actions or suits against employers, or worse still, some scheme foisted on them by the Federal Government which gives all of us familiar with the black lung experience a disturbing sense of deja vu.

Senator HATCH's speech sets the correct tone, and I recommend his remarks to my colleagues.

SENATOR ORRIN HATCH'S ADDRESS

Ladies and gentlemen, I appreciate very much having the opportunity to speak at the National Council of Compensation Insurers annual meeting. NCCI is no stranger to the Congress, but rather in the past has provided invaluable assistance to the Labor and Human Resources Committee. Most recently, your organization helped develop useful cost data as the Committee wrestled with the 1981 Black Lung Benefits Act. And it is gratifying to see that NCCI, as a theme in this year's meeting, is now focusing on the growing problem of compensatory victims of occupational disease.

As you all are aware, the Congress in recent years has devoted sporadic attention to the problems of occupational disease and of compensation for occupational disease victims. There is the infamous Black Lung Benefits Act, originally enacted in 1969 and thrice amended since then. It dealt with the specific problem of coal miners' pneumoconiosis. Throughout the decade of the 70's the Senate Labor Committee under the joint leadership of Pete Williams and Jake Javits sought to federalize state workers' compensation through minimum standards regulation. In the last several Congresses, legislation has been introduced to deal with other specific diseases—cotton dust, radiation, asbestos.

I thought it might be useful today to share with you some of my thoughts and concerns as to how I see the issue of occupational disease compensation shaping up in the near future. I must be honest to admit I do not have any easy answers as yet. But I see a dynamics at work that can set the course and shape the ultimate solution.

I would like to develop the topic along these lines. First, I will briefly outline the manifold problems the nation is confronting over occupational disease litigation. Second, I would like to give you a sense of how the problem is being perceived by Congress. Thirdly, I will ask you to speculate with me whether the Congress can indeed respond adequately to the problem. Can it devise a fair, just, and equitable means of compensating occupational disease victims? Finally, I would like to review what I see are your options as an affected industry in helping to devise a fair resolution of the problem. In the end, I would like to issue a challenge to your industry to take an active, positive role.

Let us review briefly the factors that have pyramided together to create the current crisis. These are factors that you are all familiar with. You have seen them first-hand. You have heard them repeated throughout the debates.

The most fundamental problem is that diseases, whether of occupational or environmental origin, often have long latency periods between the time of exposure or ingestion and the manifestation of injury or disability. Perhaps the most typical example cited today is asbestos. It has taken three to four decades for shipyard workers employed during World War II to develop symptoms of asbestosis, or, worse, mesothelioma.

Moreover, we often find our medical knowledge too primitive to determine the exact relationship between intensity of exposure and risk of disease. And, while certain disease conditions are readily identifiable in origin, other occupational illnesses are clinically indistinguishable from the aging process. Nor in some instances can they be distinguished from other nonoccupational illnesses.

Compounding these problems is our inability often to sort out the multiple causes of disease found among workers. We now believe that the interaction of smoking and certain industrial hazards, such as asbestos, have a synergistic effect, rather than a simple additive effect, in producing cancer. It is of course difficult, if not impossible, to keep track of the myriad of personal habits of individual workers—whether it be smoking, or exploring abandoned uranium mines as a hobby—that affect their health. Thus, gathering the information which links employment history and medical diagnostic records is no easy task. In the end, it becomes very difficult to isolate precisely the cause and effect relationship between a work place environs and a disease.

The twofold medical problems of latency and causation in turn have proved almost too much of a challenge to our legal system—our second main problem area. Tort law and workers' compensation law have experienced enormous stresses and strains, as judges and lawyers attempt to guarantee a remedy for every loss. The litany of charges against the workers' compensation system can practically be recited by rote. It is a system devised to deal with traumatic injuries, and ill-equipped conceptually and structurally to handle occupational diseases. It contains too many barriers to awarding compensation, a principal one being overly restrictive limitations statutes. Because employers dispute most occupational disease claims, claimants encounter long delays before receiving benefits. Once benefits are awarded, they may be based on earnings at the time of last exposure. If the latency period is decades long, the benefits will be relatively modest, or "wholly inadequate" in the eyes of the critics. The long latency can also work to deprive a victim of compensation benefits if in the intervening years a self-insured employer closes his business and literally moves away with all the assets. Because of the foregoing reasons and others, it is commonly alleged by Representative George Miller and others, that only 5% of workers totally disabled by job-related diseases get workers' compensation benefits.

Faced with these obstacles, lawyers representing workers and former employees have joined with consumer lawyers in radically transforming tort law. It used to be a universally accepted canon that losses were allocated on the basis of proven fault—a plaintiff had to prove the existence and the breach of a legal duty owed by the defendant; and, the plaintiff had to prove that the breach was the proximate cause of the harm. But in the products liability area these rules have increasingly given way to social policy notions that injured or disabled victims should not go uncompensated, and that costs and risks should be externalized and borne broadly by industry or society. Today liability may be imposed on manufacturers without proof of the identity of the manufacturer whose product caused the injury or damage. In short, manufacturers and employers have become insurers.

Making the situation much worse is that these rules of absolute liability have been given retroactive application to products manufactured or sold decades ago. From the standpoint of employers and their insurers, history has begotten this unfair and urgent burden: Manufacturers, suppliers, users and employers did in retrospect expose persons to health hazards over a period of time when there was inadequate medical knowledge of the injurious nature of the hazards. Early legal doctrines were more restrictive and imposed far less liability. Consequently, businesses and their insurers over the years did not anticipate the extent of liability now imposed by modern law. They did not create the reserves to pay for such liability.

This unrelenting pressure to have employers, manufacturers and their insurers underwrite tremendous costs unfortunately has hurt all involved—the plaintiffs, the defendants, and the court system itself.

A survey of the Nation's court dockets shows that there are pending 11,000 asbestos-related cases involving over 16,000 plaintiffs. There are 600 DES-related suits. (DES is a synthetic estrogen prescribed from 1941 until 1971 for use by pregnant mothers to prevent miscarriages; it is now being linked to cancers in adolescent females whose mothers took DES). There are an estimated 400-700 formaldehyde-related cases. Toxic shock syndrome cases total 400. There are approximately 2.4 million plaintiffs in the "Agent Orange" class action pending in New York. And of the number of benzene-related cases is said to be substantial.

Furthermore, the litigation continues to grow "like Topsy." In the case of asbestos alone, cases are being filed at a rate of 425 every month. As you all know, Manville Corporation last year sought the protection of the bankruptcy court. Its decision was predicated in part on its estimate that by the year 2009 there will be an additional 138,000 asbestos victims and that it would face 32,000 new claims. With current claims costing an average of $40,000 each, the present value of the prospective liability to Manville approaches $2 billion.

The byproducts of this burgeoning litigation are alarming and troublesome. Court dockets become overcrowded. Litigants must wait 3 to 4 years before a case is settled or goes to trial. For individuals suffering with mesothelioma this exceeds their life expectancy. The transaction costs—the moneys to go for defense and plaintiff lawyers, for court costs, for witnesses and investigations—are exorbitantly disproportionate. By one estimate, out of each dollar spent in connection with a litigated case, 80 cents goes for transaction costs and the remaining 20 cents goes to the claimant.

Because of the high stakes, it is also common to see ancillary disputes arise over questions of apportionment among insurers and between employers and third-party defendants. You are more familiar than I am with all the disputes raging among insurance companies over coverage of policies sold to manufacturers from the 1930's through the present.

Finally, as more attention is focused on the disposition of these cases, it has become popular to criticise the lack of uniformity and the uncertainty of recovery. The law reports show, as between persons suffering similar respiratory afflictions, that some recover not one penny against Manville but others may be awarded $350,000 in compensatory damages and $500,000 in punitive damages. The criticism seems to proceed from the notion that all persons who suffer a harm must be compensated and done so equally. It thus seems to be a corollary to the idea stated earlier that those with the deepest pocket—whether it be a business, an entire industry, or even the Federal Government (i.e. society)—should bear the costs.

Having outlined briefly the facets of the occupational disease controversy, I would like to review some of the recent reactions in Congress.

Because the problem has many dimensions, the response in Congress has cut across many committees. It has also reached across the political spectrum.

First, we have the Federal Uniform Products Liability bill (S. 44), which Senator Kasten has reintroduced (and which I joined in cosponsoring). This bill has been referred to the Commerce Committee. As its title suggests, this legislation would preempt state laws and establish a uniform law for adjudicating product liability claims. It would define the respective responsibility of manufacturers and product sellers. It would revise the rules with respect to product construction and design and product warnings and instructions. It embraces the concept of comparative responsibility and addresses various affirmative defensive issues, such as misuse, alternative, and contributory negligence. Very significantly, as a means of both shifting the cost burden and reducing transaction costs, it redefines the relationship between the tort system and the workers' compensation system: A claimant will have to look to the workers' comp system for part of his recovery. In turn, neither employers nor their insurers will have rights of subrogation, contribution, or indemnity against manufacturers or sellers. In short, the proposal is intended to reinforce the fault basis of the tort system; it is not intended to be a compensation system.

It is probably fair to say that the Kasten bill is an outgrowth of the whole products liability controversy, of which occupational disease is a relatively small part. Hence, the bill is not intended to deal comprehensively with the occupational disease problem.

A second proposal, however, establishes a model for a more comprehensive solution. This is Rep. George Miller's compensation bill for asbestos, cotton dust and uranium diseases. This bill was introduced in the last Congress (H.R. 5735). I understand that it is undergoing revision and Mr. MILLER may be soon reintroducing it.

His earlier bill provided for payment of permanent disability benefits, death benefits, and medical benefits. Employers who expose their employees to asbestos would be liable either directly through workers' compensation or indirectly through an assessment, with contributions allocated to 50 State funds which State insurance commissioners would administer. Asbestos manufacturers would also contribute to the funds in exchange for immunity to third-party product liability suits. Claims would be processed by DOL's Office of Workers' Compensation Programs and adjudicated under existing procedures of the Longshore Act. There would be an array of rebuttable and irrebuttable presumptions, for establishing the causal link between the disease and employment.

Mr. Miller's bill, and others like it, of course, are of prime concern to your companies as workers' compensation insurers. However, I do want to mention briefly just two other proposals. I do this to give you a fuller picture of congressional perception of the extent of the occupational disease problem.

A third bill is my own proposal to compensate persons who contracted radiation-induced cancer as a result of atmospheric nuclear tests (S. 921). This bill has been referred to the Judiciary Committee. As you know, the Federal Government conducted such atomic bomb tests between 1951 and 1962 in Nevada. The hearing record developed over the last two Congresses demonstrates, beyond doubt I believe, that the Federal Government negligently failed to protect downwind citizens from radiation exposure. The hearings also established the inadequacy of existing legal remedies. Under the bill, the Federal Government would compensate eligible victims based on the novel use of radioepidemiological tables to measure both probability of causation and the corresponding amount of damages.

A fourth bill which I want to note was quietly introduced the day before the Easter recess. This is Senator Stafford's so-called "toxic torts" bill (S. 917) to compensate victims of hazardous wastes and other toxic substances. It was referred to the Environment and Public Works Committee, which Bob Stafford chairs. The bill creates both a federal cause of action and a "no fault" compensation system under the Superfund created by the 1980 Comprehensive Environmental Response, Compensation and Liability Act. A wide array of economic losses would be recoverable under the bill. In addition, it provides a liberalised statute of limitations, running for 6 years from discovery of the injury. And once again we see the use of presumptions to relax the proof burdens on claimants to establish liability. To fund the compensation scheme, the taxes under current law are extended for 5 years to raise an additional $1.6 billion.

It is noteworthy that in his introductory statement Senator Stafford alluded to several pertinent examples of the hazardous wastes and toxic chemicals taking their toll on Vietnam veterans exposed to Agent Orange, shipyard workers felled by asbestos, and citizens of the Southwest who received the fallout from nuclear testing. Similarly, Bob was quoted in January to the effect that "it makes 'no sense' to set up different compensation mechanisms for dump sites, asbestos, Agent Orange, and uranium radiation."

What do all these measures signify in terms of Congress' perception? It clearly shows, I believe, a recognition that this Nation is facing a serious problem with hazardous chemicals and products; that a multitude of people are suffering harm and going uncompensated; and that our traditional rules of liability, plus the newer judge-made rules, may well be inadequate. More significantly, these bills show that it is not just Democrats or liberals who feel the need for legislation. Republicans and conservatives find that current state of affairs unsatisfactory.

Moreover, the sponsors of each of these bills is in a position to press for action on the bills: Senator Kasten succeeded in reporting his bill out of Committee last year. And I suspect he will do it again. Bob Stafford chairs the Commerce Committee, which did endorse the victim compensation idea only to see it dropped in the 1980 Superfund conference report. George Miller chairs the Labor Standards Subcommittee and I know that he is giving higher priority to his asbestos bill. I also need not tell you how liberal the House Labor Committee is. Finally, as a member of the Judiciary Committee, I expect to do all I can to get the radiation bill out of Committee.

Moreover, I think that Congress' perception will be reinforced as the public's consciousness becomes more aroused. Not a week passes that does not thrust up a new revelation. Yesterday it was Love Canal. Today it is Times Beach, Missouri. Just this past weekend thousands fled their homes in Denver because a railroad accident polluted the air with deadly nitrous oxide. Meanwhile, the public's confidence in the EPA reaches new lows because EPA may be too cosy with the chemical giants. All in all, I see diverse, but related forces coming together to move Congress off dead center.

A key question thus occurs: Can Congress respond in a just and fair way? It is hard, of course, to predict which direction Congress will take. The political pressure made yield enactment of any one or combination of several proposals before the momentum dissipates. But, for you in the property and casualty insurance industry, George Miller's bill and others like it must be viewed with considerable alarm.

In short, I believe history may well repeat itself: Congress may fall into the trap of enacting another Black Lung program.

Perhaps some of you have heard ad nauseam about the horrors of the Black Lung program, or you know it personally. But that history is well worth reviewing, briefly. Many may not recall that as originally enacted in 1969, it was intended to be a "one-shot" program. It was to terminate in 1976, and cost no more than $350 million. Today, after amendments in 1972, 1977, and 1981, it is a permanent program. It is costing almost $2 billion a year.

From the beginning, it has covered not just complicated pneumoconiosis, which is disabling, but simple pneumoconiosis, which medically is not disabling.

—Its evidentiary presumptions have obviated the need to proffer adequate medical evidence of the disease, disability, and occupational causality. Indeed, the GAO twice has reported that over 85 percent of approved cases surveyed were lacking in adequate medical data. Yet, it found that almost all these cases were in conformity with the eligibility rules.

—Its funding requirements was so ill-thought out, that between 1978 and 1981 its industry-funded trust fund was literally bankrupt. It required a doubling of the coal tax to reverse the trend. And even then the indebtedness will not be paid for over a decade.

—Lastly, but most important, the program vividly demonstrates how an originally noble idea can be completely subverted by political expediency. When the number of denials became unacceptably high, they were literally resurrected and reviewed under liberalizing amendments in 1972 and again in 1978. Repeatedly, Congress thus succumbed to the crass political pressure of a powerful few, who were bent on turning the program into a pension program.

That, ladies and gentlemen, is what I fear may happen with any general occupational disease compensation program of the future. The risks are great that it will fall prey to political demagoguery. Legitimate restrictions that protect the integrity of a program and its financial solvency will be cast to the wind. And those who speak out in defense of those values will be tarred as calloused curmudgeons.

If this is indeed what the future holds, what is your responsibility in the Democratic process? I pose this last question in my remarks as a challenge to you as an industry. As I see it, you have one of three roads to follows:

First, you can join forces with asbestos manufacturers and others in federalizing occupational disease compensation. In other words, remove it from the state workers' compensation system. At first blush, the Miller proposal does seem to have some attractive features. It seeks to reduce transaction costs by eliminating much of the litigation and by reducing disputes as to benefit entitlements through use of broad presumptions. Secondly, the Miller bill last Congress contained an exclusive remedy provision which eliminated costly 3rd party actions seeking contribution and indemnification. Also, the bill relieved insurers of any obligation to fund that portion of the benefits substituting for present tort liability.

But I doubt frankly whether these "advantages" outweigh the dangers. As I indicated a few moments ago, I think the Black Lung Act is dramatic testimony to what can go wrong. Loose or nonexistent definitions of disability, of the covered disease, and of the protected class, together with liberal evidentiary presumptions will sweep large numbers of unmeritorious claims into the system. Costs will skyrocket, I fear.

Moreover, I believe that wholesale federal coverage of occupational diseases may well lead to the dismantling of state workers' compensation. The AFL–CIO has never retreated from this ultimate objective.

A second course open to you is aptly reflected in an old story about the gentleman who was turning his business over to his son. He called him in and said, "Son, I give you the key. I want to tell you, you know the business form A to Z. There is one thing you don't know anything about, and that is public relations. There will be people in here who want to raise funds for a new school or church or playground or something else. My advice to you is always favor the objective and be sympathetic toward it, but fight the damn location."

In other words, you can stonewall changes at both the federal and state level. I've noted that when in the federal forum, opponents to federal legislation generally adopt two tacks. First, they argue that the estimates on the extent of occupational illnesses in this country are grossly overstated. The universe of injured persons is supposedly too small to justify federal intervention. Then, they insist that the current systems—both the workers' compensation system and the tort system—are doing an adequate job of compensating job related disease cases.

Yet, I am not entirely sure that the situation at the state level is all satisfactory. Nor am I sure that the insurance industry and employers are doing what is necessary to improve at least the state workers' compensation system. I say this not on the basis of the arguments of George Miller or the discredited statistics of Dr. Selikoff. My reservations, rather, are grounded on public statements of representatives of the insurance industry. For example. A government affairs officer of a leading casualty company just two months ago stated the following before a conference of casualty agents:

"Our view is that unless we move to correct, where they occur, the deficiencies of workers' compensation systems in handling occupational disease claims, the continuation of these deficiencies will become the political rationale for 'reform' legislation that will eventually federalise the entire state-administered system from its occupational disease tail forward. We do not believe that we can credibly sustain the argument that workers' compensation can, in all States, compensate occupational disease claimants, in the teeth of restrictive statutes of limitation, recency of exposure rules, in-state exposure requirements, disease schedules, and the like. We think the industry must, in cooperation with its business customers, address these deficiencies in the interest of making the system as effective in occupational disease cases as it is in traumatic injury cases." (Leslie Check, Crum & Forster Insurance Co., Nat'l Assoc. of Cas. & Surety Agents Legis. Conf. 2/7/83)

To me, this suggests that the insurance industry does see shortcomings in the current State compensation systems. And it raises a question of whether the insurance industry and its customers are offering passive resistance to change, hoping that the monentum for federal intervention will dissipate.

I hope this is not the case. I would rather think that the industry is opting for a third cause of action—to press aggressively for changes in the state systems.

—Statutes of limitations need revision to take account of the long latency of diseases.

—Benefit levels need to be upgraded.

—More sophisticated medical standards are needed for more accurate determinations of compensability.

I realise that this latter route may mean higher costs to the current system. Customers may complain and may be puzzled as to your motives. But I honestly believe that in the long run any cost increases will pale compared to what is in store if Congress is driven to act. In a real sense, you hold the destiny of the workers' compensation in your hands. The choice is yours whether you will take the positive action necessary to preserve and modernise it.●

TRIBUTE TO ETHEL SHERMAN

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. PEPPER. Mr. Speaker, through my many years as a public servant I have had the opportunity to serve many remarkable and outstanding constituents. One who is constantly being praised for her skills as an educator and her fine qualities as a person is Mrs. Ethel Sherman.

Ethel is retiring this year after 28 years as a teacher/director of the kindergarten program at the Rader Memorial United Methodist Church. Through her 28 years of dedication and unyielding loyalty she has had an everlasting impact on the community and the formation of many outstanding personalities. Ethel's caring fashion and devotion to the children she has taught will never be forgotten or go unappreciated.

It is a great privilege for me to join with the many friends and pupils in extending my warm commendations and wishes for her many more useful years of activity and involvement in our community.●

PRESIDENT REAGAN REMINDS US OF THE CRISIS AND CHALLENGE IN CENTRAL AMERICA

HON. JACK KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. KEMP. Mr. Speaker, listening to President Reagan last night, I was reminded of another President speaking to another joint session of Congress, announcing a plan to counter Soviet-sponsored subversion of our allies in southern Europe. Thirty-six years ago, President Truman spoke from the same rostrum to announce the Truman doctrine, which declared that wherever aggression, direct or indirect, threatened the peace, the security of the United States was involved.

For me, President Reagan's words were a reminder of the truths spoken that night:

> The free peoples of the world look to us for support in maintaining their freedoms. If we falter in our leadership, we may endanger the peace of the world—and we shall surely endanger the welfare of our own nation.

Congress that night heard the President, and they responded with legislation approving extensive military and economic assistance to Greece and Turkey. Were it not for that aid, those two NATO allies could not long have withstood the totalitarian insurgents working for their overthrow.

It is my fervent hope that Congress has again heard the President, and will again prove worthy of the task of meeting the grave challenges before us and our allies.

If anything, the crisis that President Reagan has described is more critical than that of Truman's day, for the countries at risk are on our immediate southern tier, and their control by an unfriendly power would pose a direct strategic danger to the United States. The Soviet Union's threats to emplace SS-20 missiles in Cuba and Nicaragua—5 minutes from our soil—are a case in point. Clearly our commitment to the independence and political integrity of the Western Hemisphere is an inalienable part of America's history and future, for this is our home and the free nations of this hemisphere our natural allies.

As the President said, it is now clear that the Soviet Union, through its regional surrogates Cuba and Nicaragua, has embarked on the express objective of destabilizing as many governments in the Caribbean and Central America as possible, with a view toward spreading violence and expanding pro-Soviet regimes and Soviet power in this hemisphere.

Cuba's exportation of revolution has persisted over the past two decades, entailing support for insurgents in at least 13 Latin American countries. These terrorists operations are designed to disrupt public life, to weaken economic and industrial infrastructures, to undercut confidence in personal security, and in the ability of existing governments to afford protection against guerrilla actions.

We should not overlook the fact that the terrorists' victims include people, as well as governments. Their tactics of fomenting guerrilla warfare and strife, if unchecked, will surely generate a stream of refugees seeking to escape violence and looking for a life that offers some promise of well-being. This was true in Cuba following Castro's takeover in 1959, and the flow of Cuban refugees continues today. Marxist totalitarian successes in Latin America not only would bring yet further tragic losses and human suffering, but the ability of the United States and other nations in this hemisphere to absorb such refugees would be severely taxed.

Some in the Congress have suggested that economic assistance alone would suffice to meet the needs of our friends in Central America. But this is not the case. Unfortunately, the nations of Central America do not have the luxury of choosing between guns and butter; they need both. Without the military assistance the United States has provided to El Salvador, with the support of Congress, there would have been no elections there last year. The democratically elected Government in San Salvador would have fallen long ago to the guns and rockets the Libyans call medical supplies.

I am proud of the support we have given our neighbors. But more needs to be done.

I am confident that no Member of this Congress, and no American, wants to see El Salvador become another Nicaragua, where the totalitarian Sandanista regime has suppressed its people and engaged in massive violations of human rights. Our support for the Government of El Salvador and other governments in the region does not imply any judgment of perfection, or unqualified support for their policies; but it does signify our judgment that the alternative is so much worse—for them, and for ourselves.

I must register my deep disappointment at the official Democratic response to the President's address, delivered last night by Senator Christopher Dodd. Senator Dodd placed the tragic violence and instability in Central America on the doorstep of the administration, and characterized the President's policy as one of massive military buildups. He failed to mention that the Soviet Union spends 20 times more on military supplies for Cuba alone than the United States is spending in all of Latin America, or that the 8,000 Cubans in Nicaragua, plus assorted East Germans, Bulgarians, North Koreans, Soviets, and members of the PLO dwarf our 55 military advisers in El Salvador.

How is it that the liberal/left in our country refuses to see the dangers from the spread of totalitarianism on our own continent? Is it the very closeness of Central America that makes the presence of Soviet influence and power so very difficult for them to acknowledge?

Perhaps sadder still is the unsettling premise that seems to underlie their world view: A loss of faith in the moral and rational superiority of democracy over tyranny. A party elite that believes that American power in Central America is the primary cause of conflict there, and that reserves its deepest wrath for the governments that allow free elections instead of those that espouse Marxist oppression, is in danger of losing its bonds with America's proud role as leader of the free world.

As Americans, I believe that our foreign policy must be rooted in our support for the institutions and political philosophy that has made our Nation great and our people materially and spiritually privileged. It seems to me that we have a moral imperative to lend our support and assistance to sustaining and encouraging the growth of democratic capitalism wherever and whenever we can. We need to do this, not so much in a spirit of altruism, but in the recognition that as a free people, we are more secure and more prosperous as others share our democratic heritage.

If the call to make the world safe for democracy has proved beyond our ability to fulfill, at least we can see to it that democracy can find a safe haven in our own hemisphere. That is all that the President is asking: Are these nations, and their free institutions, worthy of survival? To this question, there can be only one answer.●

LEGION COMMANDER NEAFSEY IS OUTSTANDING CITIZEN

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. FLORIO. Mr. Speaker, I would like to take this opportunity to join the Fairview American Legion Post No. 71 and the Camden County Committee in their testimonial to Department Commander John M. Neafsey of 823 Bergen Street, Gloucester City, N.J.

I have had the pleasure of knowing John personally for many years and, having worked closely with him on issues important to the veteran, I can attest to his dedication and commitment. John is certainly a shining example of the true meaning of citizen activism. He has compiled an extensive record of service not only to the American Legion but to the community as well.

I can think of no man more worthy of the tribute that will be paid to him on Saturday, April 30. I invite my colleagues to join me in commending John for his efforts and applauding him for jobs well done.●

THE NUCLEAR FREEZE: SYMBOL OR SUBSTANCE?

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. LOWERY of California. Mr. Speaker, as the vote on the nuclear freeze approaches, I would like to call my colleagues' attention to a thoughtful reminder of just what is at stake in this serious debate. A San Diego Union editorial entitled "They Don't Understand," April 19, 1983, lucidly reminds us that we are not engaged in some sort of symbolic exercise. Instead, our actions will have far-reaching implications for meaningful arms reduction negotiations, irrespective of Senate or White House consideration. I hope my colleagues will not dismiss the freeze as merely symbolic when, in fact, its impact will be truly substantive.

The article follows:

[From the San Diego Union, Apr. 19, 1983]

THEY DON'T UNDERSTAND

House Speaker Thomas P. (Tip) O'Neill and a number of other advocates of the nuclear freeze resolution, apparently unmindful of its awesome liabilities, continue to argue that it only expresses the sentiment of Congress and would have no binding effect. This is sheer nonsense.

Even if what Mr. O'Neill says were true, the freeze should still be defeated by the House of Representatives where debate on the measure resumes today. To adopt the resolution calling for a mutual and verifiable freeze of United States and Soviet Union nuclear arsenals at current levels would be national folly. A freeze would perpetuate the Soviets' overwhelming nuclear superiority.

But Mr. O'Neill and others, who assert the freeze would not be binding, are dead wrong. The freeze resolution was introduced as a joint resolution of Congress, and such measures have the force of law.

If the freeze resolution had been introduced as a concurrent resolution, Mr. O'Neill would be correct inasmuch as a concurrent resolution expresses the opinion of Congress. As a joint resolution, however, the freeze is treated as a bill that would have to be signed, or vetoed by the President, or become law without his signature.

In other words, if, by unfortunate happenstance, the freeze resolution became law, the President would be compelled to stop negotiating with the Soviet Union for reductions in nuclear arms. instead, the President would have to seek an immediate freeze that would condemn the United States to permanent nuclear inferiority to the Soviet Union and to an inferior status in world affairs that would inevitably result.

No wonder there is vast confusion over the legal status of the freeze resolution. The House backers of the measure can't even agree among themselves about exactly what the freeze would do.

Before Congress recessed for an Easter holiday, the freeze backers had to call off debate because they could not answer numerous pertinent questions. For example, would the freeze preclude development of the B-1 bomber to replace the nation's obsolescent B-52s? Would it prevent production of submarines that carry nuclear weapons? Last week, the resolution's sponsors had some answers of sorts. An aging B-52 could be replaced by a new B-32 but not by a B-1; current weapons would have to be replaced on a one-for-one basis. But apparently no one knows for sure.

Indeed, these and other complex questions are simply not addressed by the simplistic language of the freeze resolution. There is nothing whatsoever in the resolution that comprehends the complexities of modern weapon systems and their advanced technologies.

Certainly, the resolution's simplicity appears to offer an appealing way out of the race to stockpile terrifying nuclear arms. But the U.S. supply of nuclear warheads already has been shrinking. The United States unilaterally removed 2,000 tactical weapons from Europe during the last few years. The total number of American nuclear warheads reached an all-time high in 1967 when the supply was nearly a third higher than in 1980. The average yield per nuclear warhead peaked in 1957, and the level of megatonnage in 1960 was four times greater than in 1980.

Now, President Reagan wants a reduction in both U.S. and Soviet nuclear arms. Considering the size of the arsenals on both sides, reductions surely offer greater hope for peace and safety than a freeze at current levels.

The American Catholic bishops, after a careful examination of the arms issue, have concluded that negotiated reductions are the best hope for peace. The bishops, who once were ready to vote on a pastoral letter endorsing the freeze, obviously have more confidence in Mr. Reagan's efforts to negotiate arms control agreements than House backers of the freeze. Not only did the bishops remove from their document anything that could be remotely interpreted as endorsing the freeze, they, like the President, seek deep bilateral reductions in nuclear arms.

Curiously, House supporters of the freeze, including Rep. Jim Bates, (D-San Diego), refuse to vote for amendments to the resolution that would encourage arms reduction initiatives. Freeze advocates last week rejected an amendment calling on each nation to demolish two nuclear warheads before deploying a more modern one. They also defeated an amendment that would have emphasized the importance of a reduction in nuclear weapons.

Moreover, the freeze advocates have yet to explain how the United States can be sure of verifying Soviet compliance with a freeze. The Kremlin last week refused even to talk further about tightening verification provisions of two unratified treaties that limit underground nuclear tests. With the Soviets historically refusing on-site inspections, the United States has relied on seismic measurements that have indicated the

Russian tests exceed the megatonnage limits established in the two treaties.

Although the House resolution would freeze the testing, production, and deployment of nuclear weapons, it would not prohibit weapons research. But pressure undoubtedly would be exerted by the freeze movement for the United States to curtail unilaterally, or end its weapons research, while the Russians would not be bound by any such constraints.

Enactment of the nuclear freeze resolution would undermine U.S. efforts to achieve meaningful, bilateral nuclear arms reductions, and would permanently cripple the nation's security. The freeze resolution has a good chance of passing because Rep. Bates and other House supporters of the freeze do not seem to realize what it means.●

DIRECT PAYMENT UNDER THE MEDICARE PROGRAM

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Ms. MIKULSKI. Mr. Speaker, today I am introducing legislation to amend title XVIII of the Social Security Act in order to retain the option of direct reimbursement for health care providers under the medicare program.

The Health Care Financing Administration currently offers providers of health services the right to choose between having their medicare claims processed either by a designated intermediary or directly by the Government through HCFA's Office of Direct Reimbursement. This legislation will mandate that choice be continued.

There are compelling reasons why this option should be preserved:

HCFA, which already has established an efficient and cost-effective computer and claims processing inhouse capability, should continue this operation so that it can better evaluate the state of the art, and the comparative costs and performance of private contractors;

By preserving the right of choice for providers, the Government will maximise competition and encourage efficiency among the contracting intermediaries;

Terminating the direct reimbursement operation will destroy the most comprehensive and accurate home health data base in the country which can be used to determine home health policy and reimbursement procedures and benefits;

Terminating the direct reimbursement operation will limit patients' benefits to the arbitrary decision of a regional intermediary. Thus, patients will be at the mercy of monopolistic intermediaries whose behavior in processing claims will be subject to no external check or balance;

The Government will lose the one operating office in HCFA that could provide for experimentation in reducing claims processing costs and thereby reducing the administrative expenses involved in the medicare program.

At a time when spiraling medicare program expenses are of national concern, the Federal Government should continue its efforts to find innovative ways to reduce the administrative burden. By continuing its Office of Direct Reimbursement, HCFA will maintain its capability to stimulate competition in the private sector, and to provide a testing ground for cost-efficient methods. This is no time for the Federal Government to back away from its commitment to solving the problem of escalating medicare costs. This legislation will insure that Federal commitment.●

ELDERLY NUTRITION PROGRAM

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. RINALDO. Mr. Speaker, every weekday, hundreds of thousands of senior citizens across the country take advantage of the elderly nutrition program at senior centers, schools, churches, in their own homes if infirm, and other locations in their own communities. This program is administered by the Department of Health and Human Services, Administration on Aging, through State and local area agencies on aging, and receives the bulk of its funding through title IIIC (1) and (2) of the Older Americans Act of 1965, as amended (42 U.S.C. 3001 et seq). State units on aging are also reimbursed on a per-meal-served basis under a separate authorization and appropriation through the Agriculture Department's commodities/cash in lieu of commodities program (section 311 of the Older Americans Act).

The Older Americans Act Amendments of 1981 (Public Law 97-115) mandated authorization ceilings for the commodities/cash in lieu of commodities provision, but these ceilings have proven unrealistically low. While the Department of Agriculture initially thought it could satisfy all the States' reimbursement requests of 51.50 cents per meal with the fiscal year 1982 appropriation of $93.2 million, additional funds of slightly over $2.6 million are needed. In my own State of New Jersey, the New Jersey Division on Aging reports that the equivalent of 18,000 meals could be lost if reimbursement is not forthcoming. For fiscal year 1983, the Agriculture Department projects that $16 million more than this year's $100 million authorization and appropriation level will be needed.

To address this shortfall, Congressman MARIO BIAGGI, chairman of the Select Committee on Aging's Subcommittee on Human Services and an original member of the committee, has joined with me today to introduce legislation to authorize an additional $3 million in funds for fiscal year 1982 and to amend the authorization ceilings for fiscal years 1983 and 1984 in order to accommodate estimated increases in reimbursement requests by the States, based on the number of meals that they are able to serve the elderly.

Section 311 provides an incentive for nutrition providers to seek supplemental, non-Federal support for their programs, as well as encouraging financial efficiency. But without these additional funds, the intent and purpose of section 311—maximizing the number of meals with the least amount of Federal dollars—will be frustrated, and State units on aging may lose up to 8 million meals for the elderly at a time when need has never been greater.

As ranking minority member of the Select Committee on Aging, I urge my colleagues to join Representative BIAGGI and me in working for this legislation. Our Nation's elderly are counting on us.●

REV. FREDERICK G. SAMPSON, PASTOR, DETROIT'S TABERNACLE MISSIONARY BAPTIST CHURCH

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. CONYERS. Mr. Speaker, Dr. Frederick G. Sampson is pastor of the Tabernacle Missionary Baptist Church in the city of Detroit, one of the city's leading congregations. He grew up in Louisville, Ky., where his father was a minister. He excelled in theological study, earning degrees at Howard University and his doctorate in divinity from the Virginia Theological Seminary. A national and international scholar and lecturer at numerous colleges and universities, Dr. Sampson recently published a book entitled, "The Romance of Theology in the Black Experience."

Reverend Sampson exemplifies many extraordinary traits of intellect and character. He is devoted to his congregation, the community in which he lives and works, and the city of Detroit, where he serves on a number of boards and commissions. He is down to earth and always accessible. He also is an orator of the first rank. But even beyond these qualities, I consider his greatest strength the sense of mission and commitment he has brought to his church in applying the Gospel to everyday life and to the solution of human and community problems. Under his guidance the Tabernacle

Missionary Baptist Church has become involved in every pressing social issue. His church has reached out to young people and found them work; joined with community groups to improve the quality of housing and public services; and has come to the assistance of families in need.

For his extraordinary leadership and service in the community and the Nation, the Detroit branch of the National Association of Colored Women's Clubs will honor Dr. Sampson this Saturday, April 30, 1983, with a luncheon in Detroit. On that occasion, a proclamation of commendation will be given him, a copy of which I have included in this statement. I am also pleased that Reverend Sampson has been chosen by the Speaker of the U.S. House of Representatives to serve as a guest chaplain, an occasion I look forward to with great satisfaction. I can think of few other human beings and leaders who so deserve the honors accorded them.

PROCLAMATION OF COMMENDATION

Whereas Dr. Frederick G. Sampson, Pastor of the Tabernacle Missionary Baptist Church located in Detroit, Michigan, is one of our nation's foremost Baptist Ministers, and

Whereas Dr. Sampson is highly respected by his peers throughout the nation and the world for his devotion, leadership, and intellectual achievements: He received his Doctorate of Ministry and Divinity from the Virginia Theological Seminary and a Divinity Degree from Howard University; And, he recently published a book entitled, "The Romance of Theology in the Black Experience;" And, he lectures at several universities and colleges annually, and

Whereas Dr. Sampson has given of himself tirelessly and unstintingly to bring hope, justice, equality, and peace through his active leadership in the Detroit community, the national community, and the international community: He is a Past-President of the Detroit Branch of the NAACP; And, a member of the State of Michigan Civil Rights Commission; And, he serves on the Commission for the International Year of the Child; And, he serves as a member of the Board of Directors of numerous community organizations, and

Whereas The Current Topic Study Club, the Detroit Branch of the National Association of Colored Women's Clubs, has convened this luncheon on Saturday, April 30, 1983, to honor Dr. Sampson: Therefore be it

Resolved, That Dr. Frederick G. Sampson be awarded this Proclamation of Commendation in recognition of his extraordinary service to promote Humanitarianism, Peace and Goodwill to all the peoples of the world.●

CARIBBEAN BASIN INITIATIVE PROPOSAL

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. GEPHARDT. Mr. Speaker, I am today introducing a Caribbean Basin Initiative proposal that reflects an extensive examination of the plan resubmitted earlier this year by the Reagan administration. My purpose in this action is to present an alternative path to regional growth and security. It is important that there be more discussion about this issue than there has been in the past. While this proposal will undoubtedly be modified by the Congress, I hope that my colleagues will pay close attention to the approach of this bill, especially the guarantees and protections that it offers to citizens of both the United States and the Caribbean Basin.

It is our primary duty in any such initiative to help assure human rights and to consider and protect existing jobs of workers of all concerned nations—including the United States—and the great need to create new job opportunities with decent workplace conditions through increased trade. My proposal is designed to correct those glaring omissions in the administration's bill. Congress will have oversight responsibility in specified situations of the administrative process of granting a country beneficiary status.

The bill contains two titles. The first will extend for 6 years duty-free status to articles from eligible beneficiary countries. Unlike the administration's proposal, Cuba is not listed as a country eligible for such status. There are exceptions for import sensitive products voted by the House of Representatives last year such as textiles and apparel articles; footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not currently eligible for duty-free treatment under the generalized system of preferences; tuna; and petroleum products.

In addition, my bill exempts other import-senstive manufactured products and components of products not currently eligible for duty-free treatment under the generalized system of preferences, such as watches, electronic articles, certain steel articles, semimanufactured and manufactured glass products—the administration's proposal fails to carry over current law exemptions for such products from duty-free treatment. In addition, duty-free treatment is not allowed for products or parts of products that are the subject of bilateral restraints between the United States and other countries or that are subject to voluntary export restraints by any foreign country to the United States or that receive nonreciprocal treatment by the beneficiary country. Findings of injury under U.S. fair and unfair trade statutes will also preclude duty-free treatment. These protections will safeguard those presently endangered U.S. industries against additional injury from duty-free imports. For example, the Japanese would not be able to use the region as a funnel for duty-free U.S. imports of auto parts.

Title I contains eligibility requirements for beneficiary status in addition to those contained in the administration's proposal. For example, there are requirements for basic human rights; safety in the workplace and the right to organize and bargain collectively. Congress is provided with oversight responsibility to assure that no administration may treat such preconditions as mere rhethoric. In addition, current law requirements contained in the generalized system of preferences denying countries eligibility status if they fail to cooperate with the United States to prevent drug traffickers from using us as a market for their unlawful activities is incorporated in my proposal; also incorporated is the GSP prohibition against countries that aid, abet, or grant sanctuary to international terrorists. It mystifies me that such minimal requirements were never included in the administration's bill.

Title I also contains a local content provision that protects U.S. industries from assaults from multinational imports and instead is specifically targeted to benefiting the economies of the Caribbean. It provides that 35 percent of the appraised value of the article imported from a beneficiary country to the United States must have been produced in such beneficiary country; at the end of 2 years that sum phases up from 35 percent to 50 percent. This content requirement, modest as it is, assures that the people of the Caribbean Basin become the chief beneficiaries of development by expanded job opportunities created through internal market growth rather than minor assembly and sophisticated passthrough arrangements.

Last year, Ambassador William Brock told the House Subcommittee on International Trade of the House Ways and Means Committee that a basis for the administration's proposal is because "there is uncertainty and fear in the Caribbean Basin about the future of the GSP progam." The 98th Congress must come to grips with the future of that program since it is due to expire next year. In the meantime, in order to assure that Caribbean countries are major beneficiaries of my bill, it contains a provision that certain GSP countries be graduated from duty-free treatment. These countries are now strong, self-sufficient trading partners and can trade on the same terms as all other nations. Thus, the special preference that has given them a special added benefit is no longer needed. This action will provide the Caribbean Basin nations with an added opportunity to develop their trading capability.

The bill provides that: Effective September 30, 1983, Taiwan, Korea, Hong Kong, Mexico, and Brazil shall be graduated from the list of eligible countries for purposes of duty-free

U.S. imports. Collectively, those five countries received a total share of about 64 percent of all GSP benefits in 1982. In addition, the bill provides for graduation of Singapore, Israel, India, Yugoslavia, and Argentina effective September 30, 1985—that group of countries received over 16 percent of all GSP benefits in 1982; finally, Thailand, Chile, the Philippines, Peru, and Portugal will be graduated the following year—they received almost 8 percent of total GSP benefits in 1982. By graduating the 15 industrialized countries that historically have monopolized the benefits derived from duty-free treatment under the generalized system of preferences, the bill affords the countries of the Caribbean Basin an opportunity to compete for the lion's share of the benefits derived from preferential trade with the United States. By phasing in this graduation process over a 3-year period, Congress is still afforded the opportunity to review the GSP program and take such additional corrective measures as it deems necessary in light of past and present domestic industry conditions in the United States. At the least, this provision of the bill will lay to rest some of the uncertainty and fear in the Caribbean Basin about the GSP program since it will give them a stronger foothold to advantage themselves of the U.S. market.

The bill carries over from GSP the competitive need limitations on preferential treatment. This means that any beneficiary country that exports to the United States in a given year a quantity of an eligible article having an appraised value in excess of an amount which bears the same ratio to $25 million as the GNP of the United States for the preceding year, as determined by the Commerce Department, bears to GNP for 1974, or has exported to the United States 50 percent of the value of total imports of such article during any calendar year, then such country shall not receive duty-free treatment for such article unless the President certifies certain conditions have been met.

Title II incorporates a tax provision contained in the administration's bill that will rebate all rum excise taxes collected to Puerto Rico and the U.S. Virgin Islands. The elimination of duties on certain rum imported from Caribbean Basin countries under title I may reduce the U.S. sales of rum produced in Puerto Rico and the U.S. Virgin Islands. This provision assures that the benefits to Caribbean countries on increased sales of rum to the United States, will not be at the expense of Puerto Rico and the U.S. Virgin Islands. However, I have omitted from my bill a new administration provision for business expense deductions for conventions in beneficiary countries. I have done this because I am convinced that further expansion of the current law definition of "North American area" for purposes of such a deduction will only serve to weaken the U.S. tourist industry.

Mr. Speaker, this legislation is being introduced as an alternative to the administration's bill. I hope many of my colleagues will join with me in cosponsoring my proposal.●

A TRIBUTE TO THE CLARION LEDGER

HON. WAYNE DOWDY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. DOWDY of Mississippi. Mr. Speaker, I received some good news recently which I wanted to call to the attention of my colleagues. A newspaper in Jackson, Miss., the Clarion Ledger, has been named the winner of one of the most distinguished awards for excellence in journalism, the coveted Pulitzer Prize.

We, in Mississippi, take special pride in this achievement because the award-winning series chronicled a very positive event in our State—the development and passage of a landmark educational improvement package.

In years to come, our schoolchildren will hopefully enjoy the rewards of a higher quality of education because our community—parents, educators, local and State officials—recognized the need for change and persevered in finding a solution to the problems plaguing our public school system. Throughout this process, the Clarion Ledger did a superb job in analyzing the issue and in offering editorial support for the community's efforts. We are grateful for their role in providing an open forum for the exchange of ideas as the educational reform issue developed.

In securing a Pulitzer Prize, the team of journalists at the Clarion Ledger has won national recognition as the very best that their profession has to offer.

I know that you join me today in extending our congratulations to the staff of the Clarion Ledger—the executive editor, Charles Overby; the State editor, Lee Cearnal; the editorial director, David Hardin; and the talented young reporters who dedicated their energies to the series: Nancy Weaver, Fred Ankiam, and Cliff Treyens. We send our best wishes for their continued success.●

TO ESTABLISH A NATIONAL OUTDOOR RECREATION COMMISSION

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. UDALL. Mr. Speaker, today I am introducing a bill to establish a National Outdoor Recreation Resources Review Commission. This Commission would be charged with the job of performing a comprehensive analysis of the outdoor recreation activities and needs of our citizens, making projections of future trends in outdoor recreation, and most importantly, providing recommendations for how local, State, and Federal policies might be improved and strengthened to meet these challenges.

This measure has been stimulated by the excellent work of a group put together by Mr. Laurence S. Rockefeller, whom I have known and respected for many years. His panel, calling itself the Outdoor Recreation Resources Review Commission, performed an initial survey of recreation issues and problems. Chaired by Mr. Henry Diamond, the group consisted of Dr. Emery Castle, president of Resources for the Future, Mr. Sheldon Coleman, chairman of the Coleman Co., Mr. William Penn Mott, president of the California State Parks Foundation, Mr. Patrick Noonan, president of Conservation Resources, Inc., and Mr. William Reilly, president of the Conservation Foundation.

Their reconnaissance led them to several important conclusions. They found that there have been enormous changes in how and where Americans live, work, and recreate over the past 20 years. Although recreation is probably more important to us as a people than it ever has been before, outdoor recreation policies have changed little to reflect either the increasing need for or the changing nature of recreation. The panel found that government at all levels and the private sector as well need to do more, and to coordinate their activities to a higher degree, than ever before, and that this could be done without massive new public expenditures.

To translate these areas of inquiry into more specific and solid areas of knowledge and expertise for use in the formulation of new policy initiatives, Mr. Rockefeller's panel recommended the creation of a blue-ribbon commission very much like the one proposed by the legislation I am introducing today.

And I cannot emphasize too much an issue which must be a major focus of the commission and which concerns me greatly. That issue is the American land and its waters. There are few countries in the world that can match America's attachment to her lands and waters and even more importantly her vision in preserving and conserving them. When we say "outdoor recreation" in this country of course we speak of sports and exercise and leisure. But we also speak as few other people can of the need to just be in the outdoors, the great American outdoors, experiencing its landscapes, its natural areas, its wildlife and geology and plant life. It is his experience on the natural world, our ability to renew ourselves time and time again, generation after generation, to see and understand man's place in the natural world, that is such an important part of outdoor recreation in America. Indeed, it is one of the things that elevates the importance of recreation in America beyond the question of how we have fun.

It has taken men and women of action to translate this vision into a living reality. More than 20 years ago, Laurence Rockefeller led just such a group with great distinction when he was appointed by President Eisenhower to chair the original Outdoor Recreation Resources Review Commission. The success and vision of that commission cannot be understated. As a direct result of their work, the Congress subsequently erected the very framework of Federal outdoor recreation policies and programs that have guided us for two decades. We have come to take these things for granted today, I am afraid. But where would this country be without the Land and Water Conservation Fund, which is responsible not only for the addition of untold acres to our Federal parks system, but also for the creation of innumerable local parks, ballfields, golf courses, public pools and other facilities in every State, indeed in almost every community across the Nation? Where would we be without the National Wild and Scenic Rivers System, the National Trails System, the National Wilderness Preservation System, and the programs and research fostered by the old Bureau of Outdoor Recreation? All of these irreplaceable legacies owe much to that original commission, which articulated and promoted them to the Congress and to the country.

But it has been more than 20 years since that landmark panel looked at America, and America has changed dramatically since then. Today, some of these ideas are under attack and others are not working to meet current needs. Population has grown and shifted. The technology of recreation has improved, giving us popular forms of recreation hardly known 20 years ago, such as hang gliding and sailboarding. The recreation and tourism industries have developed extensively and are far more sophisticated than ever before. The efforts of for-profit and not-for-profit institutions are overlapping everywhere, yet there has been not enough cogent thought as to how and how not they should overlap and what opportunities for cooperation and coordination are passing us by.

Most importantly, I sense that our lands and our waters are slipping away from us. Our magnificent parks are assaulted by development and pressures well outside their borders and the scenery and wildlife we worked so hard to protect are threatened again. In a time of limited public dollars, we are not acquiring parklands fast enough and local open space needs are fast outpacing our ability to pay for them. We hear talk all the time about alternatives to public purchase of undeveloped lands, yet I have yet to see any coherent strategy for creating a real and workable framework of law and policy to carry this out. Report after report speaks urgently of the rapid diminishment of wildlife habitat and breeding grounds. I could go on and on with the recitation of how troubled the American land is, and how great are the dangers it faces in the coming decades.

The commission we are proposing today would address these and other questions. It would be comprised of knowledgeable private citizens and Members of Congress, to strengthen our belief in the great advantages of the public and private sectors working together. The commission would complete its work within 18 months and would go out of business 6 months after presenting its report and recommendations for action.

Mr. Speaker, this legislation will provide a valuable and constructive basis for recreation policy decisions that the Congress must face in the future. This is a bipartisan bill—or more properly, a nonpartisan bill—that has been developed by Representatives from both sides of the aisle and, indeed, from both sides of Capitol Hill. I am pleased to note that Senator Wallop had introduced the identical bill with numerous cosponsors. I look forward to the broad, bipartisan support of my colleagues in the House and to prompt and favorable consideration of this bill in committee.●

MX MISSILES IN MINUTEMAN SILOS? OR WHAT ADMINISTRATION OFFICIALS, CONSERVATIVE SENATORS, AND OTHERS SAY ABOUT MX IN MINUTEMAN SILOS

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. AuCOIN. Mr. Speaker, I would like to insert for the Record an excellent compilation of quotes on what administration officials, some distinguished Senators, and other experts have had to say about putting MX missiles in Minuteman silos. This compilation was done by the Council for a Livable World and I commend it to the attention of my colleagues as we embark on our debate over the recommendations of the Scowcroft Commission:

What Administration Officials, Conservative Senators, and Others Say About MX in Minuteman Silos

In October 1981, President Reagan announced his intention to base between 18 and 100 MX missiles in "superhardened" Titan and Minuteman silos on a temporary basis while proceeding with research on three other basing modes. The plan drew criticism from many quarters. Within months the superhardening plan was junked and the idea of using Titan silos was dropped; by the middle of the following year, the whole plan had been quietly shelved.

On December 2, 1981, the Senate approved by a 90-4 margin an amendment to the fiscal year 1982 Defense Appropriations Bill sponsored by Senators Cohen, Quayle, Mattingly, Rudman and Nunn that redirected the use of MX research and development funds, $354 million, away from the plan of deploying the MX in existing hardened Minuteman and Titan silos toward a more permanent solution. The purpose of the amendment, according to its sponsors, was to "send a strong signal to DOD" that deployment of the MX in Minuteman silos was the "wrong direction to go in."

In March 1982, the Senate Armed Services Committee unanimously refused to approve the first $1.5 billion for MX missile procurement on the grounds that interim deployment in Minuteman silos was unacceptable. The Committee used very strong language to criticize the idea of placing the MX in Minuteman silos. The full Senate went along with that decision without dissent, although a later compromise with the House Armed Services Committee restored the funds.

Below is a series of statements by Reagan Administration officials, conservative Senators and Representatives, ex-government officials and others, who at various times strongly criticized the idea of placing the MX in Minuteman or Titan silos.

These statements should be examined in light of the latest Reagan Administration MX plan—which is in fact a return to the discarded October 1981 proposal for an interim MX deployment in existing silos.

Senator John Tower, November 2, 1981.—"By stuffing the MX's into fixed silos, we're creating just so many more sitting ducks for the Russians to shoot at. . . True, the MX missile itself will be more powerful, more accurate—and we need that kind of weapon. But it's of little use to us unless the Soviets are convinced that it can survive an attack. Without that, the Russians will have no incentive to start serious arms-control talks."

Caspar Weinberger, Secretary of Defense, January 6, 1981.—"I would feel that simply putting it [the MX] into existing silos would not answer two or three of the concerns that I have: namely, that [the location of] these are well known and are not hardened sufficiently, nor could they be, to be of sufficient strategic value to count as a strategic improvement of our forces."

Senator Henry Jackson, October 5, 1981.—"My main criticism—and I criticized the Carter administration—is that in the 1980's Minuteman and Titan are vulnerable in those silos. I think you and others properly have criticized that deployment. Then after 8 months we come back here; we have looked at all these other things supposedly, but it took 8 months to do that, and we end up with what we have now . . . We have given the Soviets a better target to shoot at."

Senate Armed Services Committee report on the fiscal year 1983 defense authorization bill, April 13, 1982.—"The planned interim basing of MX does not redress the problem fo the vulnerability of the land-based ICBM force . . . The $715 million requested for research and development on interim basing of the MX is denied. No further work is to be undertaken in support of fixed-point silo basing of MX."

Senator William Cohen, December 16, 1982.—"The reason Sam Nunn and I proposed our amendment a year ago was that we were frustrated with what we perceived to be an intention to move forward with an interim basing mode—placing the initial missiles in superhardened silos—that was not survivable, but was costly and probably in violation of the terms of SALT I and II. We specified that the MX funds could not be used for that purpose . . ."

Representative Melvin Price, October 6, 1981.—"What is to be gained by deploying just 36 MX missiles in existing silos? If 4,600 silos of the MPS mode would be too vulnerable to proliferation of Soviet ICBMs, how are 36 or even 100 MXs in fixed silos to be more survivable? What technical knowledge do we have now as to the feasibility of deep silos basing?"

William Perry, former Undersecretary of Defense, November 13, 1981.—"My concern is that if we had this very accurate, very threatening missile in unprotected silos, and if they do not go to a survivable system themselves . . . that simply increases the hair trigger . . . on both sides."

"I agonized over that and said on balance I would not go ahead with that [MX in silos] because I don't believe we will come up with a survivable basing mode that is acceptable.

"Since I am pessimistic that we will get a basing mode that is both survivable and acceptable, I am opposed to putting a weapon that lethal in an unsurvivable mode, for reasons I have described in terms of hair triggering the alert."

Senate Strategic and Theater Nuclear Forces Subcommittee Report on fiscal year 1983 Defense Authorization Bill, March 24, 1982 (endorsed by Senators Thurmond, Goldwater, Cohen, Quayle, Jackson, Nunn, Hart, and Exon).—"The number of additional warheads that would survive an attack upon MX missiles so deployed [in Minuteman silos] does not appear to justify the costs—assessed at $2.6 billion over the next five years—associated with this basing scheme. The Committee also is concerned that the possibility may exist that strategic deterrence and crisis-stability could be jeopardized, rather than enhanced, by the deployment of high-value, militarily important weapons in so small a number of relatively easily destroyed shelters."

Gen. Lew Allen, Chief of Staff, U.S. Air Force, January 29, 1981.—". . . an essential feature of the MX deployment is that the basing mode be survivable. One does not obtain that through placing it in Minuteman silos. Therefore, I do not favor such a deployment."

Dr. James P. Wade, Principal Deputy Undersecretary of Defense, October 27, 1981.—". . . if you focus just on the survivability aspect of the value gained by placing the MX in a hardened silo . . . the value is at best marginal."

Harold Brown, former Secretary of Defense, November 13, 1981.—"The Oct. 2 decision adopts an admittedly very vulnerable basing system, and indicates an intention to continue to explore other possibilities for some time in the future. . . . There is talk of further hardening of existing silos for a much-truncated MX force, but since the MX will not be available until 1986, that further hardening, if it is at all feasible, will not be available before the Soviets can install a new generation of guidance systems. The Soviets, using technology that they have already developed, will surely be able by that time to improve the accuracy of their ICBMs further, so that in the case of a nuclear war the hardened MX silos will find themselves in the fireball and in the crater left by the nuclear explosion of Soviet warheads; the silos would not survive such an experience."

Senator Sam Nunn, December 2, 1981.—"The experts who have testified before the Armed Services Committee, and I am sure other committees have had similar testimony, agree that the Soviets today have the combination of yield and accuracy necessary to overcome the levels of hardness contemplated. The MX simply is not survivable in existing silos, whether they are hardened or unhardened. This fact is confirmed by every expert witness who has testified, and it includes also not only governmental witnesses but also knowledgeable outside witnesses, including the Air Force and our intelligence community."

Representative William Dickinson, October 6, 1981.—"From my understanding of the physics of the problem, it is almost impossible to guarantee a respectable level of survivability with missiles encased in a silo of ICBM's. In other words, we are trying to address our so-called window of vulnerability, and I am concerned that we are not closing that window of vulnerability but simply pulling down the shade."

Senator William Cohen, December 2, 1981.—"If you believe in the window of vulnerability, then putting those missiles [the MX] in unprotected immobile silos is a very dangerous move. It's inviting of the very kind of Russian strike that we fear . . .

It also, I think can be agreed upon that the hardening of missile silos, as has been recommended by the administration on an interim basis, does very little to improve missile survivability, and that such hardening does not reduce the threat of nuclear conflict or strengthen nuclear deterrence . . .

I think inherently in any decision about having fixed silos, we must deal with the question as to whether or not, by putting these new, bigger, more destructive missiles in a fixed mode we thereby lower that threshold and make them much more targetable, much more attractive for the Soviets to attack in a moment of strategic error, miscalculation, and madness."

Dr. Richard DeLauer, Undersecretary of Defense for Research and Engineering, March 11, 1982.—"The reason that I did not relate interim basing [of the MX missile in Minuteman silos] to the survivability problem is that the resulting survivability will be no better than it is now."

Caspar Weinberger, Secretary of Defense, October 5, 1981.—"I don't think they [Minuteman silos] can be hardened enough on a permanent basis to warrant putting [MX missiles] in fixed and known silos. I think they can be hardened enough to give added strength for a few years."

Lt. Gen. Kelly Burke, Deputy Chief of Staff, U.S. Air Force, March 15, 1982.—". . . I testified earlier that the Air Force had recommended, irrespective of congressional action, that superhardening was not worth the cost. It had some value. It also had a very big price tag and our recommendation was not to do that."

Senator Dennis DeConcini, December 3, 1981.—"By placing our most advanced strategic weapon—the MX—in silos which belong to an earlier era of nuclear technology, the President has reduced—perhaps even eliminated—the usefulness of the MX. Hardened existing silos would make a nice target for Soviet planners; it might even encourage them to contemplate a pre-emptive attack because the payoff—America's MX missile—would be so attractive."

Senator Dan Quayle, December 3, 1981.—"The primary justification for a new land-based missile must be that it is relatively invulnerable to a Soviet first strike. If it is not, it will lose its deterrent value, which is the position we are facing with our Minuteman missiles.

"It continues to distress me that, despite years of discussion and debate, we still lack an acceptable basing mode for the MX."

Senator James Exon, December 3, 1981.—"Probably the most serious of all is the ill-conceived placing of the 10-warhead MX missile in place of the 3-warhead Minuteman III missile or the single-warhead Minuteman II and Titan missiles which would contribute to the unstable "launch-on-warning" doctrine we should instead be trying to avoid. It makes no sense to this Senator to place a more vulnerable weapon such as the MX in silos which are becoming more vulnerable with each passing month. During time of tension or warning of actual Soviet missile launch there will be a greater tendency to "use them or lose them" rather than having our land-based missiles attempt to "ride out" an attack and then retaliate. This situation does not contribute to crisis stability—one of the administration's own properly stated goals."

Gen. David Jones, then Joint Chiefs of Staff, October 5 1981.—"In my own view, I consider the MX in a very survivable mode to be extremely important to the security of the Nation. I remain to be convinced there is a survivable mode other than MPS. So, if forced with the difficult choice, B-1, ATB, and MX, I would put MX last under the current program slice."

Senator Sam Nunn, December 2, 1981.—"There is considerable doubt in my mind about the wisdom of proceeding with an MX program at all if we cannot, at some point, come up with a reasonable opportunity for survivability of the missile."

Conference report on the fiscal year 1977 Defense Department Authorization Bill, June 1976.—"The rationale behind the development of a new missile system (MX) is to provide a land based survivable strategic force. The development of an alternate basing mode as opposed to a fixed or silo based mode is the key element in insuring this survivable force. The conferees are in agreement that providing a survivable system should not be constrained for silo basing; that none of this program's funds shall be expended in fixed or silo basing for MX; and that none of the program reduction shall reduce the Department's proposed investigations of mobile deployment."

Senator John Warner, March 24, 1982.—"The MX would be too vulnerable to a Soviet first strike under that arrangement [MX in existing silos] and the Subcommittee saw no point in building the missiles until the permanent basing decision was made."

Senator John Tower, October 2, 1981.—"I am enormously skeptical to the point of feeling that this plan [MX in Minuteman silos] doesn't give us enough added capability for the money involved and leaves us with a highly vulnerable land-based system."

Senator Mark Andrews, December 2, 1981.—"If we spend over $300 million to harden a bunch of silos, to put a 10-warhead missile in a fixed point because we are afraid that the Russians are targeting 3-warhead missiles in a fixed point all we do is step up the opportunity for them to take out 10 warheads at a time instead of 3 warheads at a time."

Senator Alan Dixon, December 2, 1981.—"I support the MX missile. I think hardening of the silos in permanent basing modes, as presently contemplated, invites disaster and is a terrible mistake."

Adm. Stansfield Turner, former Director of the C.I.A., March 13, 1983.—"For several years now, the immediate problem with the MX has been how to base it. Placed in existing silos, it would be vulnerable to surprise attack by the Soviet Union's beefed-up strategic forces—just as vulnerable as our present generation of land-based missiles."

Gen. Ellis, then Commander-in-Chief of the Strategic Air Command, February 18, 1981.—"We must correct our vulnerability by deploying the MX in a mobile basing configuration. . . .

Senator, if we had the mobility in the Minuteman force that we are building into the MX force we wouldn't need an MX force."●

JAMES B. MacDONALD RETIRES FROM ORANGE COUNTY JUVENILE JUSTICE SYSTEM

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. PATTERSON. Mr. Speaker, I invite my colleagues to join me in commending a constituent who has been a major positive influence in the juvenile justice system of Orange County.

James B. Macdonald is retiring on May 7, 1983 as the Orange County Juvenile Justice Commissioner after two terms, culminating 8 years of distinguished and unselfish service. Mr. Macdonald's dedicated efforts on behalf of the youth of Orange County have earned him the highest respect from all of those who have had the pleasure of working with him.

James B. Macdonald was appointed to the Orange County Juvenile Justice Commission on May 1, 1975. Since that time, Mr. Macdonald has served a term as chairman, and two terms as vice chairman. In his capacity as juvenile justice commissioner, Macdonald has also made significant contributions as chairman of the juvenile hall investigation team, the citizen inquiry committee, and the nominating committee.

For his outstanding dedication on behalf of the youth of Orange County, James B. Macdonald is to be commended. Mr. Speaker, it is with pride that I ask my colleagues to join me and my community in honoring James B. Macdonald for his years of dedicated service.●

BAN ON SPACE ARMS

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. MOAKLEY. Mr. Speaker, it was reported in this morning's newspapers that Soviet leader Yuriy Andropov has called for an international agreement to ban the use of space weapons. The Soviet leader's declaration was contained in a reply to a telegram he had received from a group of American scientists and scholars.

It would seem that the Soviets have taken the initiative in seeking a peaceful resolution to a potentially monumental problem of an arms race in space. However, we certainly must be cautious; the Soviet pronouncement may be nothing more than a propaganda ploy. But the way to determine their earnestness is to agree to go the negotiating table.

Mr. Speaker, the United States and the U.S.S.R. are on the verge of a needless, costly and destabilizing arms race in space. I think it is imperative that we at least give negotiations a chance before we rush headlong into weaponizing space.

I call upon the President to take up the Soviet challenge.

Mr. Speaker, for the benefit of my colleagues, I would like to submit in the Record an article which appeared in today's New York Times dealing with Andropov's statement.

[From the New York Times, Apr. 28, 1983]

Andropov Offers Ban on Space Arms

(By John F. Burns)

Moscow.—Yuri V. Andropov said today that the United States and the Soviet Union were approaching a crucial time when failure to negotiate a ban on weapons in outer space would make an extension of the arms race inevitable.

The Soviet leader made the comment in a reply to a group of American scientists who have been campaigning for a ban on space weapons. The scientists had sent a cablegram to Mr. Andropov as part of an appeal addressed to both the United States and the Soviet Union.

Mr. Andropov, in his reply, made public by the press agency Tass, spoke of the extremely dangerous consequences of saturating space with deadly weapons." He noted that the Soviet Union had submitted a draft treaty on the subject to the United Nations in 1981, and that progress had been blocked by the United States and its allies.

"Moreover," he said, "recent developments have demonstrated that the use of space-based military technology is being assigned an ever greater role in the United States strategic plans, including those announced by the top United States leadership.

"Now a crucial moment is really coming: Either the interested states will sit down at the negotiating table without delay to begin drawing up a treaty prohibiting the placement in space of weapons of any kind, or the arms race will spill over into space."

Mr. Andropov did not elaborate on his allusion to high-level American pronouncements, but President Reagan last month called for a United States research and development effort aimed at producing high-technology space systems capable of destroying offensive missiles before they reach the United States.

Mr. Reagan's announcement focused attention on the potential of laser technology and particle beams, which some scientists believe could be developed into an effective antimissile defense. United States officials contend that the Soviet Union already has a program under way on such defensive weapons.

The appeal to Mr. Andropov and Mr. Reagan was signed by scientists working in physics, space research and astronomy.

They included Hans A. Bethe and Isidor I. Rabi, Nobel Prize winners in physics; Carl Sagan, astronomer; Christopher C. Kraft, former director of the Johnson Space Center in Houston; Lee A. Dubridge, honorary president of the California Institute of Technolgy; Wolfgang Panofsky, George W. Rathjens, Herbert F. York, former weapon development or arms control officials, and two retired naval officers, Adm. Noel Gayler and Vice Adm. John Lee.

In his reply to the scientists, Mr. Andropov called the effort to prevent the militarization of space "one of the priority tasks facing mankind." He depicted the Soviet Union as unreservedly in favor of accords to that end, saying that it had initiated all the agreements now in force seeking to insure that space be used only for peaceful purposes.

"As scientists and specialists, you are well aware of the extremely dangerous consequences of saturating space with deadly weapons," the Soviet leader wrote. "Statesmen, politicians and scientists really ought already today to do everything possible to prevent the use of the achievements of the human intellect, the accelerating progress of science and technology, to the detriment of the people."

The Soviet leader said the draft treaty submitted to the United Nations would have ended the threat by banning weapons of any kind from space. He said the draft had been supported by a vote of "an overwhelming majority" of member states, but the Disarmament Committee had been barred from starting work because of Western opposition.●

THE COMMUNISTS' GREATEST FEAR: IDEAS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. PORTER. Mr. Speaker, recently Romanian commissars have banned the possession or use of a typewriter by those in Romania who pose "a danger to public order and state security." The members of the Congressional Human Rights Caucus and freedom lovers everywhere deplore this frontal assault on freedom of the press and the free expression of ideas.

The Romanian Communists are only following the instincts of totalitarian regimes from both the right and left throughout history—the most dangerous weapon to the continued existence of state control is not the gun, but the idea.

But we enjoy the liberties of a free society—and too often take them for granted—must not allow these assaults of oppression on the free expression of ideas to pass unnoticed. We must draw them to the attention of people everywhere over and over again until the true nature of the Communist system is clearly exposed and understood.●

STATUS OF THE LEBANESE ARMY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues a report by the Congressional Research Service on the status of efforts to rebuild and reequip the Lebanese Army and to have it play an expanding role in that country and the perspective of the Department of State on the same subject.

One reason for the differing assessments of the CRS and the State Department is that the CRS comments were published in March 1983, and based on data available well prior to then, and the State Department comments are based on more recent information, coming after extensive U.S. retraining of some units of the army.

The CRS study and the State Department comments follow:

U.S. DEPARTMENT OF STATE,
Washington, D.C., April 26, 1983.
Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: I am replying on behalf of Secretary Shultz to your letter of March 29, 1983 concerning a recent assessment by the Congressional Research Service (CRS) of the capabilities of the Lebanese army. We appreciate the opportunity to comment on the CRS study, particularly in view of the importance of the Lebanese army to stability and peace in Lebanon.

In direct contradiction to the conclusion of the CRS study that the Lebanese army "exists mostly on paper at the present time," it is the U.S. government assessment, based on continuing liaison with the Lebanese Armed Forces (LAF) and on-the-ground monitoring of the Lebanese Army Modernization Program (LAMP), that the LAF is now capable of performing basic security missions in the areas to be vacated by the withdrawal of external forces. The accomplishments of the army since the visit of a U.S. survey team in October 1982 have been impressive. In particular, the LAF now asserts government control throughout Beirut and is capable of extending that control by deploying the bulk of four brigades into areas of the country currently occupied by Syrian, PLO and Israeli forces.

As far as the ability of the Lebanese army to maintain security in the south is concerned, it is our assessment that the Lebanese Army is able and eager to meet its security responsibilities and to implement agreed security arrangements in southern Lebanon. There is growing popular support for the Lebanese army which will, of course, make the army's tasks easier as it continues to increase its capabilities. It is also important to note that a growing Lebanese national consensus exists to support the government and acts to prevent the return of external forces to Lebanon. In addition, the threat to northern Israel has dramatically diminished as a result of the PLO's resounding military defeat in Lebanon and its removal from the south and Beirut. The threat will diminish even further when the Syrians and remaining PLO withdraw from the Bekaa and northern Lebanon.

With local popular support and in the absence of outside interference, the LAF should, therefore, be able to maintain internal peace. There obviously will be problems as the army tests itself in new roles, but we believe that the LAF has the ability to enforce governmental control. Of course, the LAF is not a match for the forces of neighboring nations, but Lebanon has relied upon its army for internal use, eschewing a deterrent role as unrealistic. In sum, we do not agree with the assertion that "it will take two years to train and equip five brigades of the LAF which would be the minimum size force that could effectively police the country," as stated in the CRS report.

There is no doubt that only several months ago, there was little more than the outward trappings of a Lebanese army, a situation which had persisted since 1976. Now, there is a Lebanese army, worthy of respect. The LAF is responsible for order in a unified Beirut and controls the key port area of the capital, long the source of revenues for the Christian militia known as the "Lebanese Forces". The enlarged LAF enabled President Gemayel to negotiate the withdrawal of the Lebanese forces from East Beirut, which would have been impossible six months ago. The LAF is developing each day, and can be expected to do so at an inceasing pace as growing pains subside and military espirit increases.

Random acts of senseless violence, such as the recent tragic bombing of the American Embassy, continue to occur in Lebanon, as they do elsewhere. Our task to rebuild the Lebanese army is made even more urgent by the terrorism which continues to plague Lebanon.

We do not look for miracles, yet there is every reason to believe that the goals we have set for U.S. assistance are being met by the Lebanese army. Moreover, the leadership in Lebanon, including the President and the Commander of the army, are dedicated to bringing the LAF to full strength to meet the challenges ahead.

I hope this information clarifies some of the inconsistencies between the CRS study and testimony provided to the Congress. We would be pleased to elaborate on these points in closed briefings if you desire.

With cordial regards,
Sincerely,
POWELL A. MOORE,
Assistant Secretary for Congressional Relations.

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 29, 1983.
Hon. GEORGE P. SHULTZ,
Secretary, Department of State, Washington, D.C.

DEAR MR. SECRETARY: Attached is a recent publication of the Congressional Research Service dealing with the situation in Lebanon and an assessment of the Lebanese National Army.

I would like the comments of the Department of State on this short study and its assessments, given the fact that some of its conclusions regarding the capabilities of the Lebanese Army are in contradiction with testimony provided to the Congress.

I appreciate your prompt consideration of this matter.

With best regards,
Sincerely yours,
LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

EXPANDING U.S. INVOLVEMENT IN LEBANON

(Prepared by the Foreign Affairs and National Defense Division, Congressional Research Service, Library of Congress)

ISSUE

Efforts to negotiate terms for the withdrawal of Israeli, PLO and Syrian troops from Lebanon are complicated by the absence of a national Lebanese force capable of maintaining internal security in the wake of the departure of foreign forces. The U.S. is involved as a mediator in the withdrawal talks, as a member of the multi-national peacekeeping force that is now playing a peacekeeping role in Beirut, and as a source of aid for the rebuilding of the Lebanese Armed Forces (LAF). Pending the rebuilding of the LAF to the extent that they can maintain internal security within Lebanon, pressures will continue to mount for the U.S. to play an expanded role as the guarantor of Lebanon's internal security, through our membership in the MNF and our equipping and training of the LAF. U.S. interests in resolution of the Lebanese conflict transcend Lebanon, however. Evidence is mounting that continued failure to reach agreement on foreign troop withdrawals (mainly Israeli and Syrian) could impede further progress of the Reagan plan for resolution of the Palestinian conflict.

The Reagan Administration submitted to Congress, on January 31, 1983 the first phase of the proposal for aid to the Lebanese army. The Lebanon aid package provides Congress with an opportunity to explore the Administration strategies and options in Lebanon, and more specifically the degree of our military involvement there. The following questions are illustrative of the concerns that Members might wish to raise.

1. *How long will it take before the LAF will be sufficiently strong, relative to the country's militias, to maintain internal order?*

Discussion

The government plans to follow a 1978 U.S. plan designed to build an Army of seven brigades totaling about 43,000 men. The task of rebuilding the LAF goes beyond material and weapons. The army is in very poor condition after the long civil war and exists mostly on paper at the present time. There are 20,000 on the rolls now, but most have been in their barracks or "at home" for the last several years and the actual number of active troops is much less, perhaps as low as 11,000. Aware of this, the United States has made shipment of military aid contingent on Lebanon's being able to recruit soldiers and train them in pace with receipt of the equipment. That may delay deliveries significantly if the Lebanese Government holds to its promise to maintain a more equitable balance between Christians and Moslems in the army. Historically, Moslems have dominated the enlisted ranks while Christian officers outnumber Moslems and hold most of the key positions. Efforts to recruit Christian soldiers in recent months have been largely unsuccessful while Moslems are available in large numbers to come into the service. There has never been an official census in Lebanon, but a 1980 UN estimate placed the population at about 2.65 million with Moslems outnumbering Christians by about 300,000. In 1982, there were, in addition, about 239,000 registered Palestinian refugees and probably another 150,000 Palestinians unregistered. It is difficult to guess how these figures were changed by the Israeli invasion and the subsequent pull out of the PLO militia from Beirut.

Equipment needs are more easily met. Most items are routine light infantry weapons and support equipment such as armored personnel carriers, medium artillery, radios, and crew served weapons, which the United States can take out of stocks or normal production without harming U.S. readiness.

Most observers estimate that it will take two years to train and equip five brigades of the LAF which would be the minimum size force that could effectively police the country. It will be more difficult to restore morale and raise the army's credibility among the Lebanese people who have never trusted, nor demonstrably wanted to strengthen the central military; religious communities in Lebanon have traditionally survived by relying on their own resources for safety and security rather than by trusting a central government. Over the years, bitter militia fighting has left a deep sense of distrust which will be hard to overcome.

The greatest challenge to the LAF will continue to be the militias of Lebanon's feuding factions. Several of the militias are considerably stronger than the regular army and even the smaller ones are better equipped. For a description of the many forces see CRS Report: "Armed Forces in Lebanon," March 15, 1983. There is little hope of persuading any one group to lay down its arms as long as it believes others will keep theirs. These fears were heightened when, after the PLO evacuated West Beirut, the Army searched Moslem held areas and confiscated weapons but did nothing to take arms from the Christian forces in East Beirut or elsewhere. Before he was assassinated, President-Elect Bashir Gemayel had suggested merging the Christian Lebanese Forces (about 30,000 men) into the regular army. For the government to have done so without bringing in the Moslem militias, however, would have hardened Moslem opposition to the National Government and the Army.

2. *Should the United States consider bringing the various political factions and their militias into the bargaining process?*

One reason the factional militias exist is because the Army is too weak to force them to put down their arms or protect them if they did. And yet, the militias siphon off resources that are needed if the army buildup is to succeed. The PLO and other leftist militias are also very bitter about the Army's alleged complicity in the Sabra and Shatilla massacres.

Some observers suggest that it would be better for the United States to try to persuade the Lebanese Government to begin integrating both Christian and Moslem militias into the LAF before trying to set a date for the departure of foreign troops. Such a strategy would clearly prolong the process of negotiations and might turn out to be impossible to achieve. If it were successful, however, the Lebanese government would have a stronger bargaining position in its negotiations with Israel and Syria. Integrating the militias into the Army would, moreover, improve the government's chances of maintaining order after the areas are cleared of foreign troops.

3. *In light of the obstacles to a rapid rebuilding of the LAF, what is the likely role of the United States and function of the MNF in the event of a U.S.-mediated withdrawal of Israeli, PLO and Syrian forces from Lebanon? Discussion:*

The United States supports the Government of Lebanon in wanting to get all foreign forces out of the country. Removal of those forces, however, seems unlikely until a reliable peacekeeping force is available to fill the vacuum that their departure would produce. If the LAF cannot do the job, an expanded MNF seems to be the only immediately available alternative. The idea of a regional intra-Arab force lacks support because a prototype failed to stop the fighting in 1978, leading to the present impasse. Expanding the existing UN contingent (UNIFIL) seems unlikely because it has been ineffective in the past. And it is doubtful that Israel would accept either approach.

President Amin Gemayel has already asked for a substantial increase in the size of the MNF (present makeup; France 2,000 men, the U.S. 1,200 and Italy 1,200 and the UK 80.) France has already expanded its force and Italy appears willing to do so if the U.S. will do likewise, but President Reagan has not yet responded to the request. The Administration will be under heavy pressure, in its mediating role, to commit the U.S. to playing an expanded peacekeeping role within the MNF in order to get an Israeli-Syrian-PLO troop withdrawal agreement. The size of the U.S. force, the extent of its responsibility, and the likely duration of its presence in Lebanon would all be issues of great concern to Congress.

4. *In the event of an expansion of the role or mission of the U.S. in the MNF, would the Administration report to Congress under the terms of the War Powers resolution?*
Discussion

Thus far, President Reagan has avoided citing the applicable provisions of the War Powers Resolution that could limit the duration of U.S. military involvement in Lebanon on grounds that the mission of U.S. forces is not a risky one. There is little doubt, however, that if the size or the mission of the MNF is expanded, the prospects of its being involved in hostilities will increase. The War Powers Resolution might also be invoked if the present force were fired upon or otherwise threatened by any of the opposing factions in Lebanon or by the Israeli Defense forces. That has not happened so far, but any militia could precipitate such an incident if it suited purposes or U.S. forces could be drawn into violence by accident. There have already been highly publicized accounts of confrontations between U.S. Marines and Israeli troops in recent weeks around Beirut.

5. *To what extent might U.S. aid be constrained by legislative prohibitions against aid for police actions?*
Discussion:

There are restrictions on the transfer of U.S. military equipment for use in purely police functions. Lebanon has a paramilitary force called the Internal Security Force (ISF) with a strength of about 7,000 men which is under the Ministry of the Interior and not part of the army under the Ministry of Defense. During the 1975-76 civil war the ISF often acted in a military capacity and may have more credibility than the regular Army. The Administration's current plan calls for avoiding possible conflict with legislation by directing aid only to the LAF. This may be an unduly restrictive interpretation of the legislation, however, and an unnecessarily slow development of credible internal security forces. A further consequence of non-support for the ISF could be the development of conflict between a western trained and supplied LAF and a more indigenously-based ISF. Thus, it may be appropriate to explore means of assuring support for the ISF, whether from the U.S. or from other sources.

6. *To what extent might Israel be expected to support U.S. efforts to maintain internal security through or an enhanced LAF?*
Discussion:

In recent years PLO infiltration into Israel increased from bases in southern Lebanon. The Israel Defense Forces used a variety of tactics to hinder PLO movement including arming and supporting a surrogate force of about 1500-2000 ex-Lebanese soldiers under the command of a renegade Lebanese army office, Major Sad Haddad.

The Begin government is now demanding a 45-kilometer wide "security zone" in southern Lebanon to be patrolled by Haddad's Christian militia force and some combination of Lebanese and Israeli troops to guarantee that the PLO cannot move heavy weapons within artillery range of northern Israel. Israelis may be split on the issue of occupying additional Arab territory, but no Israeli group questions the fundamental need for secure national borders. The Begin government does not believe that the Gemayel government and the Lebanese army can do the job alone and Israel has consistently refused to accept the UN in that role. The Begin government has also rejected the suggestion that the MNF should be the sole peacekeeper for many of the same reasons. More recently, it reacted negatively to President Reagan's proposal that the United States would "guarantee" security in southern Lebanon if Israel would consent to early withdrawal.

Yet, there are many in Israel who are concerned that the continued presence of Syrian and PLO forces along with the Israeli army in Lebanon keeps the potential for confrontation at a dangerously high level. Some fear another war of attrition similar to the prolonged fighting along the Suez Canal in 1968-70. In any case, Israeli public opinion remains sensitive to the possibility of the loss of Israeli soldiers that might be associated with continued occupation.

Yet, the Gemayel government must show success in Southern Lebanon in order to get any movement on the other fronts. The Lebanese Prime Minister has stated clearly that his government has obtained written assurances from the Syrians and the PLO that they will pull their troops out on the date set by Lebanon "once Israel is ready to withdraw." Assistant Secretary of State for the Near East and South Asian Affairs

Nicholas Veliotes testified before a House Subcommittee on March 9, 1983 that both Syria and the PLO have "reconfirmed their willingness to withdraw when Lebanon can lay an Israeli agreement on the table."

If the United States continues to insist that peacekeeping responsibility in Lebanon be turned over exclusively to the LAF, especially in the south near the border between the two countries, the Administration could find itself at loggerheads with the Begin Government over yet another issue.

7. *How would the Administration assess the prospects of a slower, phased withdrawal by Israeli and Syrian forces from Lebanon? Discussion:*

The Administration is strongly opposed to any foreign troops remaining in Lebanon; but the realities of the situation may force accommodation to a slower, more methodical withdrawal. Pressures can be expected to mount within Syria and Israel to get their forces out of Lebanon; but, it is doubtful that any of the parties, including the PLO, will chance an incautious exit that might result in an advantage for its adversary. Each will want to be certain that the others leave also and that its place is taken by a reasonably trustworthy force.

The danger is that the present unsteady truce among internal Lebanese militias and the LAF not survive a hasty or premature withdrawal by the occupying forces. The United States could then face the alternatives of committing more troops for an extended stay under dangerous, if not hostile circumstances, or witnessing renewed violence and bloodshed in Lebanon. Thus, the possibility of a phased agreement whereby Israeli and Syrian troops would progressively turn over control of Lebanese territory to the LAF, might be of interest if a practical formula could be devised.●

FIFTEEN QUESTIONS FOR YOUR NUCLEAR-FREEZE FRIENDS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. BROOMFIELD. Mr. Speaker, we are often urged to learn from the past, and I believe this advice would serve us well as we continue with this important debate on nuclear weapons reductions and a nuclear freeze.

The May Reader's Digest has condensed an article by Mr. Greg Fossedal which originally appeared in the Dartmouth Review. In the Reader's Digest article, 15 points are raised for those who support a nuclear freeze to consider. The points raised draw our attention to past Soviet behavior, and asks legitimate questions as to how much we can really trust Soviet intentions and willingness to keep their part of a freeze agreement as proposed by House Joint Resolution 13.

Mr. Speaker, I believe it would be well for all of us to review these 15 points as we come to a vote on the nuclear freeze question, and so, I am entering the Reader's Digest article at this point in the CONGRESSIONAL RECORD.

[From the Reader's Digest, May 1983]

FIFTEEN QUESTIONS FOR YOUR NUCLEAR-FREEZE FRIENDS

It was interesting, for a week or two, to contemplate the negotiation of a joint and verifiable (emphasis on the latter) freeze of nuclear-weapons deployment along with our friends in Moscow. You knew the Russians would never agree to vertification anyway, so you relaxed and indulged the impulse to daydream.

But now it's time to politely change the subject. If you find yourself getting bogged down in the freeze debate, pop one of these 15 questions:

1. Describe in 100 words or less the Soviet monument to détente that stands in Berlin.

2. Name the last three arms-control treaties upheld by the Soviet Union. (This is a trick question.)

3. Estimate the total number of deaths in Soviet prisons from 1917 to 1923. (Hint: up to five million.)

4. Illuminate the vigor of the Soviet election system by comparing it with such "fascist" American allies as El Salvador, Chile and Guatemala.

5. Outline the many differences between now and 1963, when the United States unilaterally pulled its nuclear missiles out of Turkey, Italy and Britain—but the Soviets neither cut back nor froze, but expanded.

6. Give the total number of Soviet citizens murdered in the Gulag Archipelago from 1936 to 1950. (Hint: some 16 million.)

7. Compare the military budget of the U.S.S.R., a mere 13 percent of Soviet gross national product, with that of the NATO countries, a provocative and militaristic 4 percent of GNP, and of the United States, a whopping 6 percent of GNP.

8. State the Soviet bill of rights.

9. Outline the many differences between now and 1976, when the United States began unilateral disengagement of its anti-ballistic-missile program—but the Russians neither cut back nor froze, but expanded.

10. Narrate the stunning success of the Soviet "Chemicals for Peace" program in Afghanistan, Cambodia and Laos.

11. Place a check by each country in which the Soviets established a military presence in recent years: a. Mozambique, b. Nicaragua, c. Iraq, d. Angola, e. Ethiopia, f. All of the above, and more.

12. Review the Russian policy of providing support for world peacemakers, such as Muammar el-Qaddafi, Fidel Castro, Yasir Arafat.

13. Relate the progress of Soviet good-will missions to Poland, Czechoslovakia, Hungary, Angola and South Yemen.

14. Examine America's aggressive, jingoistic withdrawal from the Panama Canal as a contributing factor in defensive Soviet actions in Nicaragua and El Salvador.

15. Trace the development of Russia's nuclear-freeze movement, including the many protest marches, pamphlets, Soviet TV specials advocating a nuclear freeze. (Another trick question.)

That should provide you with enough ammunition to blow up your friends' world 15 times over. We might as well stop there and see if the other side will reciprocate—i.e., stop talking about a nonsense freeze and come back to the earth on which there lies a Soviet Union.●

A NEWSPAPER'S COMMITMENT

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. LAFALCE. Mr. Speaker, I have the privilege of presenting to our colleagues today an insightful commentary on the local newspaper and its commitment to one community, that of Lockport, N.Y.

On Monday, April 25, an outstanding journalist, Daniel Kane, began work as the new editor of Lockport, N.Y. daily Union-Sun & Journal. A friend of many years and a highly respected member of his profession, Dan Kane exemplifies the type of public service and intellectual honesty that America's newspaper readers deserve.

On the first day at his new post, the Union-Sun & Journal published a short editorial succinctly explaining the duties of a newspaper to its community. The charge which this newspaper has given itself, the commitment it has publicly given to its community, is a reflection of its leadership and its staff. This commentary ought also to serve as a guide for other newspapers, whether large or small, in their pursuit of excellence.

I commend this outstanding editorial to my colleagues, Mr. Speaker, and hope its message reaches the desk of editors across the Nation.

The editorial follows:

[An editorial from the Union-Sun & Journal (Lockport, N.Y.), Apr. 25, 1983]

NEWSPAPER IS BEACON OF THE COMMUNITY

The Union-Sun and Journal has a long and proud tradition of serving Lockport and the surrounding community.

And today, as a new managing editor joins our ranks, we feel it is appropriate to pause to reaffirm some guiding principles we espouse as your community newspaper.

First and foremost, we are here to serve you, our cherished readers.

Our job is to bring you the news, especially on the local level, in the most accurate, relevant and professional way possible.

This goal, of course, includes reporting on local people, organizations, institutions and activities, and preventing it to you in a fair, thorough and understandable fashion. The intended result is to have a well-informed, intelligence citizenry.

A newspaper may be privately owned, but it is a semi-public institution with definite responsibilities to help the people, organizations and general welfare of the area it serves.

We should continually ask ourselves: "What can and should be done to make our community and area a better place in which to live and raise a family? Is our newspaper doing enough to help in these things? Is it a positive, constructive force?"

One of the special responsibilities of the press has always been to keep people informed about their government, from city hall to the school board room. In this a newspaper should be the watchdog that protects the community interest.

"It should be a friendly watchdog much of the time that wags its tail," maintains a prominent publisher and educator, Ken Byerly, "but one that will growl and bite when need be."

In reporting the news, however, we must always strive to avoid sensationalism, which is counterproductive and serves no useful purpose. The power of the printed word is awesome, and our greatest responsibility is never to abuse it.

In addition to being accurate and thorough, our writing should be clean, crisp and clear, so our readers can understand the message being conveyed. If our presentation is confusing and cluttered, we fail in our responsibility and objective. Clarity, then, is paramount.

And, equally important, we must be accessible.

We will continually strive for a free flow of information and opinion that will enhance and protect your right to know the complete truth of any given situation, which is as fundamental as apple pie.

So, we promise to keep the door of communication wide open in order to maintain and encourage a candid and productive dialogue with our readers and public servants.

We are primarily here as a good neighbor, not as an adversary.

We in the news business have a delicate relationship with people. We are frequently telling them things they might not necessarily want to hear, and invading their lives.

And when we are criticized for sins, real or imagined, we have a pat response: "We don't make the news, we just report it."

But that response just doesn't wash. And to people who feel they have a grievance with us, it must seem disdainful and smug.

The people know we don't just report the news. They know we find it, shape it, package it and decide just what is put in and what is left out, where it starts and where it stops. But that is our job and our responsibility.

Our goal is to always do this job as fairly and honestly as possible . . . and to that end we pledge our best efforts.●

MX MISSILE

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. AuCOIN. Mr. Speaker, I commend to the attention of my colleagues a recent letter signed by 19 strategic experts, urging Congress to reject the newest plan for the MX missile—placing it in existing Minuteman silos which are vulnerable to Soviet attack. It further notes the importance of not buying into the argument that the plan for the MX and the Scowcroft Commission's other recommendations on Midgetman and arms control are two parts of an indivisible whole. Indeed, the MX should be debated on its merits, and then we should consider the other recommendations made by the Scowcroft panel as endorsed by the President.

APRIL 12, 1983.

The recent Scowcroft Commission recommendation that the United States should both procure the MX missile and proceed with research and development on a new, single-warhead missile, the so-called Midgetman, is based upon an assertion that these two weapons are linked into a complete and indivisible strategic whole. This assertion is untenable. The MX and the Midgetman are not inevitably wedded together and should not be considered as a package. We urge the Congress to examine and debate these two missile programs as individual proposals, and to decide upon the fate of each without reference to the other.

The proposal to build a new, single-warhead intercontinental ballistic missile has many interesting aspects—the idea should be examined at length and in depth. In the end, the final value of such missile may be found less in its technical characteristics, and more in the number of missiles procured, the basing system(s) selected, and the arms control context under which it is deployed. In any case, research into the Midgetman should not be held hostage to a decision to procure the MX.

The MX has been debated at length for several years—it should now be possible for the Congress to resolve the issues of whether the MX should be procured and how it should be based solely on that weapon's technical merits. The Commission's proposal to permanently base the MX in existing silos which the Reagan Administration has repeatedly stated are vulnerable to Soviet attack certainly raises grave questions on the value the missile will add to the U.S. deterrent force. The potential vulnerability of fixed land-based missiles suggests that the MX is intended for use as a first-strike weapon since its survival for second-strike use cannot be assumed.

We believe that placing the MX missile in fixed silos will detract from, not add to, our strategic deterrent. We urge the Congress to reject the production of the MX missile while considering the rest of the "strategic package."

Dr. J. Edward Anderson, Professor and Director, Industrial Engineering Division, University of Minnesota, former missile guidance engineer; Dr. Hans Bethe, Professor Emeritus, Physics, Cornell University, Nobel Physics winner, 1967; Jonathan Bingham, former Member of Congress; Rear Admiral Eugene Carroll, Jr., USN, Retired; Dr. Arthur Macy Cox, former analyst, Central Intelligence Agency;

Maj. Gen. William T. Fairbourn, USMC, Retired; Dr. Richard L. Garwin, IBM T.J. Watson Research Center; Dr. Henry Kendall, Chairman, Union of Concerned Scientists; Dr. Betty Goetz Lall, Director, Urban Affairs and Public Policy, Cornell University—New York State School of Industrial and Labor Relations.

Vice Admiral John M. Lee, former Assistant Director, Arms Control and Disarmament Agency; Dr. Philip Morrison, Institute Professor, Massachusetts Institute of Technology; Dr. George W. Rathjens, Professor of Political Science, Massachusetts Institute of Technology; Dr. Herbert Scoville, Jr., former Deputy Director, Central Intelligence Agency; Prof. Marshall Shulman, Director, W. Averell Harriman Institute for Advanced Studies of the Soviet Union, Columbia University; Ambassador Gerard C. Smith, Consultant; Dr. Frank von Hippel, Senior Research Physicist, Princeton University; Dr. George Wald, Professor Emeritus of Biology, Harvard University; Hon. Paul C. Warnke, Chief U.S. Negotiator, SALT II; Dr. Victor Weisskopf, Institute Professor Emeritus, Massachusetts Institute of Technology, Member, Pontifical Academy of Science, Vatican City.●

DOWN WITH CONTINUING RESOLUTIONS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. PORTER. Mr. Speaker, the pernicious practice of continuing resolutions are a horrible abuse of the legislative process. And it is indefensible that continuing resolutions have, in fact, become continuous.

Evidence shows that over the past 20 years 85 percent of the appropriations bills for Federal departments and agencies were enacted after the start of the fiscal year, necessitating continuing resolutions. While it is true that the Congressional Budget and Impoundment Control Act of 1974 brought a brief reform, it is equally true that the appropriation process set by that act was not followed during the last session of Congress. In fact, only one appropriation, that for military construction, passed the Congress prior to the start of the present fiscal year. All others were delayed and, sad to say, almost half of the bills are under continuing resolutions for the entire 1983 fiscal year.

Mr. Speaker, the facts are compelling. This is the time, early in this session, to denounce the use of continuing resolutions. I call upon you, as leader of the House, to take every possible step to avoid a continuing resolution and to adhere to the timetable set up by the 1974 Budget Act.●

THE ACCESS ACT

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. LOTT. Mr. Speaker, a year and a half ago, the Supreme Court, in the case of Widmar against Vincent, held that a public university could not discriminate against voluntary religious groups in the conduct of extracurricular activities. Whenever a public university makes time and space available for voluntary political, civic, and social groups, the university has a constitutional obligation to make equal access available to voluntary religious groups. These principles of religious liberty and nondiscrimination are in the best traditions of our American system of government.

In order to enforce the guarantees of the Widmar case and to extend its benefits throughout our public school system, I have this week introduced H.R. 2732, the Equal Access Act. I have been joined in this effort by the gentleman from New York, Mr. Kemp; the gentleman from California, Mr. Dannemeyer; and the gentleman from Illinois, Mr. Hyde. Our bill would prohibit all public schools receiving Federal aid from discriminating against voluntary religious groups. Similar bills have been introduced in the other body by Senator Denton and Senator Hatfield.

I am pleased to report that this concept has already been endorsed by President Reagan. Moreover, the Secretary of Education, Terrel Bell, today lent his endorsement to the concept in hearings before the Senate Judiciary Committee. I believe that his remarks will be of great interest to the House, and I ask unanimous consent that they be included at this point in the Record.

Remarks of Terrel Bell

Good morning, Mr. Chairman, I appreciate the opportunity to appear before your Committee to discuss the equal access concept. With me today are Gary Jones, the Under Secretary, and Gary Bauer, the Deputy Under Secretary, both colleagues from the Department of Education. As the committee knows, this Administration has been very concerned about a series of Court decisions beginning in 1963 that have served to limit the freedom of speech and free exercise rights of students in America's schools. This concern led the President to submit and Senator Thurmond to introduce a proposed school prayer amendment, S.J. Res. 73.

President Reagan has expressed his support not only for the school prayer amendment, but for the concept of the proposed equal access legislation. As the President recently remarked:

"Such legislation could go far to restore freedom of religious speech for public school students. And I hope the Congress considers these bills quickly. And with your help, I think it's possible we could also get the constitutional amendment through the Congress this year.

As an educator, I am struck by certain principles that underlie the concept before this day. The "Equal Access" legislation introduced in both Houses of the Congress would merely put voluntary religious activity on an equal footing with other extracurricular activities permitted on public school premises. If that appears "dramatic" it is only because we have drifted so far from the standards of liberty established by the founders. If a public school allows students to meet before or after school to discuss or engage in politics, social activism, or athletics, why should the rule change just because the students happen to be religious? The present policy which the President is committed to reforming, institutionalizes invidious discrimination and second class treatment for one part of this nation's children. That is wrong!

The policy of giving religious as well as secular groups equal access to school premises for extracurricular activities accords with the principles laid down by the U.S. Supreme Court *Widmar* v. *Vincent*, 102 S. Ct. 269 (1981). In the *Widmar* case, the Supreme Court struck down a state university's policy which opened the university's facilities to secular student groups but prohibited a religious group from meeting in those facilities for prayer or Bible reading. The Court held that the university's policy was unconstitutional under the First Amendment's free speech clause because it "violate[d] the fundamental principle that a state regulation of speech should be content-neutral." (102 S. Ct. at 278). In other words, the university could not discriminate against the religious group solely because of the religious content of that group's speech.

The concept we are considering today would simply ensure that the public schools of this nation abide by the constitutional principle articulated in *Widmar*. It would protect the exercise of the First Amendment freedoms of speech, association, and religion, without which our democracy could not exist. Neither students nor teachers shed their constitutional rights to freedom of speech or expression at the school house gate.

Indeed, since the schools represent the marketplace of ideas in which our future leaders are trained, vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools. As Mr. Justice Jackson observed in *West Virginia State Board of Education* v. *Barnette*, 319 U.S. 624, 637 (1943):

> That [boards of education] are educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes.

Having spent most of my professional life in the public school domain, I am acutely aware that students are never looked upon solely as intellectual entities. Rather, it is necessary that the total person be considered in the educational process. This process is one which takes into account the fact that students at whatever age are indeed emerging adults with deep and overlapping intellectual, emotional, social and spiritual features to their personhood and characters.

In order to respond to the many and varied needs of its student body, public schools offer a wide assortment of experiences in addition to instructional opportunities. Each is offered to allow the development of the 'total' person. Such activities include offerings in drama, athletics, politics, music, home economics, and photography, to name but a few. Each activity is designed for only a particular segment of the total student population in a given school. Each of these non-compulsory offerings is initiated by either the administration, faculty, or students as a way to address the diverse needs and interests of the student population. For example, while not all pupils are inclined toward athletics, neither are all students motivated to join the chess club. Neither activity is compulsory, but rather offered only to add another feature to what would otherwise be a bland diet of only academic rigor. Stated another way, such non-compulsory activities are necessary components to the growth and development of a whole person in our public school setting. In this light, it would seem reasonable that we not hinder students from the opportunity to engage in voluntary religious activities on school grounds.

Character is the bedrock upon which our nation rests. If students initiate religious meetings designed to foster their own character development, why should the schools thwart such efforts? By so doing, they are discriminating against those students who possess a spiritual awareness and who desire to express and develop it in a manner not unlike persons developing their skills in journalism or drama during non-instructional hours.

Opponents of voluntary student groups argue that some social pressure may be exerted upon those pupils not so inclined.

As one deeply engaged with public education for years I must register my dismay over this charge. When students meet in political clubs, do these critics cry that other students are being intimidated? When teachers wore black armbands to protest the Vietnam war, didn't the civil liberties union defend their right of expression against any charge that these teachers were manipulating children? Polls indicate that parents would welcome the influence upon the student body of pupils seeking to develop their characters through involvement in religious activities in the public school setting. Is this then the type of social influence that schools should outlaw?

Not only does the availability of a spiritual outlet enhance the overall development of those students who choose to participate, but the allowance of choice also aids the maturation process. Making choices is an important feature of growing up. All of us are faced with such vital decisions as to what vocation to pursue, whom to marry, and where to live. A school should not insulate a student from making choices, but should teach him to make the most responsible and constructive choices possible. Likewise, decisions about religion should be made in as responsible manner as possible. By permitting uncoerced religious activities during extracurricular hours, the schools will be broadening the scope of choices available to its students.

Obviously these concerns are related to what I regard as the best way to provide a meaningful education for our youth.

Is the difference between a Bible club and a chess club significant enough to warrant federal intrusion into this matter? The answer, in part, comes from the very foundation of our society.

Legislation to implement the equal access concept would serve to highlight our Nation's appreciation for and dedication to its wonderfully rich and varied cultural heritage. As a melting pot for immigrants from every corner of the world, America has been a haven for persons from disparate social backgrounds, cultural experiences and religious beliefs. Indeed, this diversity has contributed to the creation of a distinctively unique American tradition rooted in the twin notions of unity and diversity.

We are first and foremost a nation of Americans, whether we be of African, European, Asian or Latin descent. Our commonality rests in our underlying unity as citizens in a free society. Yet this unity does not exist at the expense of our diversity but rather exists in harmony with it. Such an outlook allows us as Americans truly to express who we are in all of our rich diversity but without endangering what it means to be fully American. We are rugged individualists with a particular disdain for conformity and a penchant for creativity and freedom of expression.

Our public schools should mirror American pluralism. By allowing students to initiate voluntary religious activities during non-instructional periods we reaffirm an important feature of the American character.

Conversely, by totally eliminating religious activities from public schools, society singles religion out and undermines it, thus destroying an important feature of our diversity. Targeting religious speech for censorship, actually constitutes hostility toward it.

The historian James Hitchcock argued that the separation of religion from public schools does not reflect neutrality, but rather an anti-religious bias. He states:

> If the schools are regarded as helping to shape the child's total world, then the exclusion of religion cannot help but shape a religionless world. At the most formative period of their lives, children are in effect taught that religion is unimportant or even perhaps false. They are habituated in modes of thinking and feeling in which religion plays no part. . . . The very exclusion itself has major symbolic importance.

J. Hitchcock, Church, State and Moral Values: The Limits of American Pluralism, 44 J. of Law and Contemp. Prob. 1, 13 (1981).

Sir Walter Moberly has similarly observed in the context of the debate over the role of religion in the English public universities that:

> On the fundamental religious issue [the existence of God], the modern university . . . supposes it is neutral, but it is not. Certainly it neither inculcates nor expressly repudiates belief in God. But it does what is far more deadly than open rejection; it ignores Him. . . . If in your organization, your curriculum, and your customs and ways of life, you leave God out, you teach with tremendous force that, for most people and at most times, He does not count. . . . It is a fallacy to suppose that by omitting a subject you teach nothing about it. On the contrary you teach that it is to be omitted . . . And you teach this not openly and explicitly, which would invite criticism, you simply take it for granted and thereby insinuate it silently, insidiously, and all but irresistibly. . . .

Moberly, The Crisis in the University, quoted in William Ball, "Religious Liberty: New Issues and Past Decisions," in A Blueprint for Judicial Reform 343 (1981).

Hostility or silence toward religion in our public schools was never mandated by the framers of our Constitution. Religious activities are not chosen by everyone, and the legislation must recognise the right of those who want to ignore such activities or seek them out in other places. But the legislation must protect the right of those who want to engage in religious activities during their extracurricular hours at school.

Mr Chairman, I realise that there are currently three equal access bills pending in the Senate, and one in the House. The Administration has not had an opportunity to compare them in depth nor to discuss their relative merits. We do believe that there may be a number of issues that may require further examination. The Administration would welcome the opportunity to work with you in developing the best bill. In my opinion as an educator, this equal access concept will enhance the scope of educational opportunities for our youth.

Thank you.●

FLINT CENTRAL HIGH SCHOOL WINS MICHIGAN BASKETBALL CHAMPIONSHIP

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. KILDEE. Mr. Speaker, it is with great pride that I bring to the attention of my colleagues in the Congress the outstanding accomplishments of Flint Central High School's basketball team in Flint, Mich. This year the Flint Central Indians won the State Class A boys' basketball championship for a record-tying third straight year. A special community appreciation dinner is to be held May 2 in Flint for the players and coaches and the many others who worked so hard to bring about this latest championship. I would like to share the tribute printed up for the team in the dinner program book, which follows:

THREE IN '83

The young Indian basketball team began the season with a goal to "Make It Three In '83." Carrying the pressure of two previous State Championships, they began the season with eight consecutive wins, including a one point victory over highly regarded Saginaw High and an eleven point victory over highly rated Lansing Everett. Central's 24 game winning streak, that had started in the middle of the last season, led many Indian followers to think that maybe this edition of the "running Indians" could break the record of 37 consecutive wins set by the 1982 Indians.

Central, however, was to follow the same pattern as it had in the previous basketball season. They lost two games, to Saginaw and to Northwestern, in a relatively short space of time near mid-season. Like the '82 Tribe, they began another victory string, but unlike the previous team, the '83 Indians stumbled late in the season to Lansing Eastern. Many doubted that the two-time defending State Champions would survive the tournaments.

The determined Indians mounted a wave of enthusiasm in March that would carry them to center court at Crisler to claim the Class A Championship Trophy. On the stretch drive through the tournaments, this team secured an identity of its own. In the 65 years that the Michigan High School Athletic Association has conducted a State Tournament, only one Class A school—Kalamazoo Central in 1949-51—had won three crowns in succession. Central carved a niche in the Michigan High School Record Books by becoming the second Class A team to claim that honor. They also established a new class A Tournament Record by extending Central's tournament win streak to 24 consecutive wins.

This team, which set team records, was not destined to set individual records. Only one individual record was set as Darryl Johnson scored 602 points and broke Eric Turner's single season scoring mark of 599 points.

The team concept was never better exemplified than by the '83 Indians. Ken Bowie, Terence Greene, Darryl Johnson and Ervin Leavy averaged double figures in scoring for the year. Bowie, Greene, Ed Greer and Tyronne Williams took care of the rebounding. Other members of this year's team that contributed to its success were Randy Levels, Reggie Person, Micah Shamly, Jon Beaubien and Doug Kennedy. Jeff Massey and Daryl Gilliam were brought up from the junior varsity for the tournaments.

Johnson was accorded All American, All State, All valley and All City honors. Bowie and Greene were on various All State Teams. Johnson, Leavy and Greene made the All Final Tournament Team.

The City of Flint and the State of Michigan are proud of the accomplishments of this fine Central High School basketball team. Basketball fans everywhere await next season to see if the Indians can "Make It Four in '84."●

THE 1982 CONTRIBUTIONS TO THE U.N. DRUG FUND

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. GILMAN. Mr. Speaker, through the cooperation of Dr. Guiseppe di Gennaro, the dedicated Executive Director of the United Nations Fund for Drug Abuse Control (UNFDAC), I have recently received a status report of cash contributions that have been pledged or received to UNFDAC for 1982, which I would like to share with my colleagues.

Last year, 42 nations, or 13 percent of the 157 member nations comprising the United Nations, contributed a paltry $6,719,229 or an average of nearly $200,000 per nation; private contributions amounted to $581,929 for a grand total of $7,301,158. Only nine nations—Australia, Canada, France, the Federal Republic of Germany, Italy, Japan, Norway, Sweden, and the United States—contributed $100,000 or more to the U.N. Drug Fund for 1982.

From 1971 when UNFDAC was established, through 1982, nations comprising the international community contributed $63,563,801 or an average of slightly less than $5.3 million per year; total contributions consisting of interest and private contributions amounted to $66,665,159 for this 12-year period.

Mr. Speaker, if the international community is serious about waging "war" on drug abuse, then surely it must contribute more than a few million dollars annually to wage a global assault against drug trafficking and drug abuse. A handful of nations cannot be expected to single handedly undertake this global herculean task that adversely affects the health of all of our citizens.

In December 1981, the U.N. General Assembly approved resolution 36/168, adopting the International Drug Control Strategy and Program of Action. Just as the United Nations Charter provides for combating threats to the peace, breaches of the peace and acts of aggression, so too, member states of the United Nations must realise that the illicit production, trafficking and consumption of drugs represent a clear and present danger to all mankind. In order for the recently adopted international drug strategy to be effective, member states must realize that it is in their interest to pool their resources, funds, personnel, and expertise to combat this deadly menace that undermines our political, economic and social institutions. Unless we take collective action by backing up our well intended words with deed, then I am fearful that mankind will lose the "war" against the drug traffickers and that our global society will be reduced to a citizenry paralyzed by drugs.

Mr. Speaker, in an effort to share with my colleagues the level of contributions to the U.N. Drug Fund, I am inserting at this point in the Record a status report of cash contributions pledged or received by UNFDAC as of December 31, 1982, and I urge my colleagues to continue to support the work of this worthwhile international drug agency.

UNITED NATIONS FUND FOR DRUG ABUSE CONTROL—STATUS OF CASH CONTRIBUTIONS PLEDGED OR RECEIVED AS OF DECEMBER 31, 1982

[Contributions in U.S. dollars]

	1971-81	1982	Total 1971-82
Algeria	7,995		7,995
Argentina	60,818	7,882	68,700
Australia	1,843,351	141,509	1,984,860
Austria	337,210	93,221	430,431
Bahamas	3,000	1,000	4,000
Bangladesh	1,250	500	1,750
Belgium	124,908		124,908
[illegible]		1,067	1,067
Bolivia	4,000	2,000	6,000
Brazil	38,000	5,000	43,000
Canada	1,686,653	194,311	1,880,964
Chile	17,500	5,000	22,500
Cyprus	6,502		6,502
Denmark	773,159	16,547	789,706
Egypt	2,000	1,000	3,000
Finland	146,121		146,121
France	1,094,267	130,860	1,225,127
Germany, Federal Republic of	5,029,145	2,480,890	7,510,035
Greece	19,882	2,000	21,882
Guyana	487		487
Holy See	1,000		1,000
Hong Kong	140,954	17,129	158,083
Iceland	20,400		20,400
India	21,000	14,000	35,000
Indonesia	4,000		4,000
Iran	39,715	4,000	43,715
Iraq	20,032		20,032
Ireland	15,000		15,000
Israel	4,500		4,500
Italy	567,798	103,806	671,604
Ivory Coast	1,767		1,767
Jamaica	6,080	562	6,642
Japan	2,110,717	300,000	2,410,717
Jordan	2,000		2,000
Kenya	15,800	4,615	20,415
Kuwait	25,000		25,000
Libyan Arab Jamahiriya	16,400		16,400
Liechtenstein	5,000		5,000
Luxembourg	1,000		1,000
Madagascar	4,000		4,000
[illegible]	540	474	1,014
Malaysia	8,000	5,000	13,000
[illegible]	1,816	506	2,322
[illegible]	2,987		2,987
[illegible]	5,037	4,000	9,037
[illegible]	25,275	3,000	28,275
New Zealand	280,951	28,219	309,170
Nigeria	14,778		14,778
Norway	6,987,241	166,814	7,154,055
Oman	997		997
Pakistan	4,027		4,027
Philippines	13,102	4,000	17,102
Portugal	14,000		14,000
Qatar	42,000	20,000	62,000
Republic of Korea	9,500	2,000	11,500
Rwanda	1,066		1,066
San Marino	1,500		1,500
Saudi Arabia	407,000	50,000	457,000
Senegal	6,204		6,204
Singapore	2,000	1,000	3,000
South Africa	38,921	4,397	43,318
Spain	20,000		20,000
Sri Lanka	500		500
Sudan	1,000		1,000
Suriname	2,000		2,000
Sweden	2,492,922	717,396	3,210,318
Switzerland	211,988	40,909	252,897
Thailand	9,000		9,000
Togo	652		652
Trinidad and Tobago	1,000		1,000
Tunisia	12,876	2,711	15,587
Turkey	9,781	20,000	29,781
United Arab Emirates	12,000		12,000
United Kingdom	696,647	88,500	785,147
United Republic of Cameroon	2,125	2,801	4,926
United States of America	31,270,000	2,000,000	33,270,000
Uruguay	1,000		1,000
Venezuela	14,000		14,000
Vietnam	1,000		1,000
Yugoslavia	49,288		49,288
Total	56,844,572	6,719,229	63,563,801
Interest income (Dec. 31, 1981)	2,813,862		2,813,862
Private contributions	1,705,567	581,929	2,287,496
Total	61,364,001	7,301,158	[1] 68,665,159

[1] Includes unpaid written pledges totalling U.S. dollars 7,000,970.

Note: (a) The 1982 figures include pledges made in the amount of U.S. dollars 2,252,901 at the U.N. Pledging Conference for Development Activities held on November 3–4, 1982. (b) For the period 1971–1981, the total countries' contributions as reflected in UNFDAC Report E/CN.7/1983/14 to the Commission on Narcotic Drugs, amounted to U.S. dollars 57,236,474. The difference of U.S. dollars 391,902 with the figure provided in this tabulation can be explained by adjustments reflecting changes that took place between the time pledges were made and paid for specific projects.

Status of private contributions received in 1982

[Amount in U.S. dollars]

Norwegian church aid	$500,000
Brot für die Welt	50,000
UNICEF	28,279
McNeal Pharmaceutical Co.	2,500
Other private contributions	1,150
Total	581,929●

BURNED AGAIN BY THE SAUDIS, THE ULTIMATE REJECTIONISTS

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. TRAXLER. Mr. Speaker, appearing in today's Wall Street Journal is an article by Amos Perlmutter, editor of the Journal for Strategic Studies. I concur with his conclusions. I offer this article for my colleagues' careful consideration. The article follows:

[From the Wall Street Journal, Apr. 28, 1983]

BURNED AGAIN BY THE SAUDIS, THE ULTIMATE REJECTIONISTS

(By Amos Perlmutter)

Quite a few State Department officials must be tasting ashes in the wake of the failed talks between PLO leader Yasser Arafat and King Hussein of Jordan.

The bitterness in the voices of official Washington, including that of Secretary of State George Shultz, stems not merely from anger at the PLO and disappointment with the futility of Jordan's efforts, but from a real sense of betrayal. The Arab linchpin for the success of the Reagan plan, the ally the administration had been courting with aid and protection, had remained dumb and silent, had in fact played a key part in undermining the talks between Arafat and King Hussein, which might have resulted in PLO participation in West Bank talks or Jordan acting as a Palestinian negotiator.

Saudi Arabia, championed as a key "moderate" state by the White House, had once again, at a critical moment, become one of the principal roadblocks to progress toward Middle East peace.

This was as clear, and one would hope sobering, an indication as the administration could want that Saudi Arabia is fundamentally opposed to the Reagan plan, that as a nation and a regime, it is a thin, weak and unreliable reed upon which to base U.S. policy.

The surprise is that the Reagan administration, and the Carter administration before it, played the Saudi card for so long with so little in return.

For a decade, Saudi Arabia has made a mockery of the peace initiatives of U.S. presidents. Earlier, it did everything it could to undermine the Camp David negotiations process, leading the effort to ostracize Egypt economically and politically from the Arab world.

In the United Nations, Saudi Arabia's record vis-a-vis U.S. interests is enlightening and dismal. On 64 percent of 204 resolutions in 1982, the Saudis voted with the Soviet Union; on only 36 percent, with the U.S. Moreover, on the 20 votes the State Department regards as critical—such as on arms control, Latin America and the Mideast—the Saudis voted against the U.S. every time. By contrast, Israel supported the U.S. on all.

It is in the matters of peace in Lebanon and the Reagan plan where Saudi obstructionism and confusion, as well as a consistent record of playing both ends against the middle, are most evident and ominous.

In Lebanon, even Mr. Shultz, who has pursued the Saudi connection with ardor that is second only to that of Defense Secretary Caspar Weinberger, has begun to see that things aren't going as well as they should, partly because of Saudi obstinacy. (Although, in the wake of the attack on the American Embassy in Beirut, the President persuaded Mr. Shultz, against his better judgment, that it was necessary to go to the Middle East and raise the flag again.)

At the same time, the Saudis have been of no help in pressuring Syria, which occupies the northern half of Lebanon, to leave. In recent years, Saudi Arabia has used oil money to shore up its relationship with Syria and President Assad. The so-called Arab Defense Forces (meaning Syria) fought last year in Lebanon with a full complement of tanks, SAM missiles, planes and heavy artillery, fully financed by the Saudis and bought from the Soviet Union, which is Syria's principal protector and ally. The arsenal, which is even now being replenished by the Soviets as they make a renewed bid for influence and prestige in the Middle East, comes to an estimated $3 billion or more yearly, with the Saudis shelling out the bulk without hesitation and Libya also a major contributor.

In the same way, the Saudis, and other Arab nations, have helped suppy the PLO with modern weaponry, including rockets.

This ought to raise warning signs in the U.S. because it puts the Saudis, vehement public anti-communists, in the curious position of supplying Soviet client states and organisations with the means to gain a huge and modern arsenal.

In Lebanon, the Saudis are impeding U.S. efforts at every turn, mostly by pinching the Lebanese with threats of not delivering aid.

The Saudis, acting through Lebanese politician Saab Salam, have blocked every effort toward a separate Lebanese-Israeli arrangement, and sabotaged the American-Lebanese-Israeli agreement that would have ended in normalisation of relations between Lebanon and Israel.

One frustrated Lebanese negotiator made it clear: "The Saudis have told us explicitly that we can give Israel whatever we want on security, but we can not give in on normalisation." The message: There were to be no more breaks in the ranks a la Sadat.

It is also clear now that the Saudis misled the U.S. on the Reagan plan in spite of previous assurances. The Saudi-owned paper Al-Watan Al-Arabi, published in Paris, said April 15, "Saudi Arabia was not enthusiastic about an agreement with Jordan and the PLO and preferred that such an agreeement would take place within a pan-Arab framework." Before the ill-fated Fez conference, the U.S. had received solid assurance from the Saudis that they would modify the Fahd plan and would support the administration's peace initiative. The result of the Fez conference was that the Fahd plan was brought forth with its impossible condition of an independent Palestinian state with Jerusalem as its capital, and that the PLO had a renewed mandate to be the sole representative of the Palestinian people.

Even while giving vague assurances that they would consider the Reagan plan, the Saudis all along acted to undermine it in a repetition of an old pattern. When President Carter, for instance, promised F-15s to Saudi Arabia, he thought he would get Saudi help in getting Jordan into camp David. What he got was Saudi rejectionism.

When President Reagan staked his political reputation on the AWACS sale, he assumed he would get help from the Saudis in drawing the PLO into the negotiations process.

In a sense, the Saudi responses to U.S. overtures have been amazingly consistent. They do not, as might be assumed, stem just from the innate hostility to the U.S. and the West, although obviously there are vast differences in values and traditions. Most of the Saudi actions, or non-actions, stem from committed self-interest and have their roots in old rivalries. Although the Saudis can be considered highly ideological and implacably opposed to the very presence of Israel, they act from what is at base fear, vulnerability and insecurity.

The kingdom was brought into being at the expense of Arab rivals, sustained itself through war and rivalry, and flourished with the oil weapon. But fundamentally, Saudi Arabia is a weak nation, with not enough political stability and military power to protect itself from its neighbors. Ever since Nasser strode like a potential giant across the Arab political world and threatened to dominate it, and undermine Saudi Arabia in the process, the Saudis have done everything possible to ensure that there would be no dominating power in the Middle East. Hence, Saudi Arabia's often confusing series of entanglements: its support of Syria, which it considers a "middle power" and a check against Egypt; its fear of North and South Yemen; its hostility to the ambitions of Saddam Hussein in Iraq and its subsequent support of him when fundamentalist Iran loomed as a bigger threat than Iraq.

Likewise, although it yearns for Jerusalem, its opposition and hostility toward Israel are based partly on *realpolitik* because it fears Israel as a major power in the Middle East.

Saudi Arabia's major weapons have been oil and money, not prestige. Even among its Arab neighbors, Saudi Arabia is viewed with a certain amount of contempt. It does not dictate policy, but instead tries to buy it, playing off one country against another.

Thus, many of Saudi Arabia's actions and policies rise plainly out of fear and perceived weakness. It will do anything to preserve itself, and on that score, its interests run directly counter to those of the U.S.●

CENTRAL AMERICA

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. McCOLLUM. Mr. Speaker, although far too many people fail to realize it, the situation in Cental America is at a turning point. Either we act with resolve and provide El Salvador with the aid it now needs to defeat the guerrillas, or we face the prospect of not being able to remove the Soviet threat from the region unless we use U.S. military force.

For those who feel that the establishment of Soviet/Cuban puppet states in Central America is of no concern to us, a few facts might be instructive. First of all, the proximity of the region in relation to the United States makes the necessity of having friendly, stable democratic nations in the area obvious. The capital of El Salvador is closer to Washington, D.C., than San Francisco is. A tremendous percentage of our foreign trade passes through the area. As the President said in his speech before the joint session of Congress, "(t)wo-thirds of all our foreign trade and petroleum pass through the Panama Canal and the Caribbean." In a European war, 65 percent of our mobilization requirements would go by sea from gulf ports through the Florida Straits to Europe. Its proximity and importance as a trade route make this region a crucial security link for the United States.

In addition to the security risk, we must also be aware of another concern. Should Central American nations such as El Salvador fall, we can expect hundreds of thousands of refugees to enter the United States. This Congress has not addressed our Nation's current immigration problem and my colleagues on our southern border will attest to the fact that we cannot afford to add to a problem that we already cannot handle and is, frankly, out of control.

We all know what has happened in Cuba. Cuba now harbors a Soviet combat brigade, a submarine base capable of servicing Soviet submarines, and airbases which the Soviets use regularly. We also know of the violation of human rights, and the fact that we have taken in thousands of Cuban refugees. Nicaragua has now gone the way of Cuba. We have seen how the promises of reform and a free society made by the Nicaraguan revolutionaries who overthrew Somoza have been forgotten. We know of the repression that this new regime has practiced on its people. And as with Cuba, we have seen hundreds of refugees fleeing the country to neighboring nations.

Most importantly, what we also know is that a group of Soviet/Cuban trained and supplied guerrillas operating out of Nicaragua are trying to overthrow the democratically elected Government of El Salvador in an effort to create another Nicaragua. We must not let this happen.

The guerrillas do not have popular support in El Salvador. Indeed, the 1982 elections demonstrated this plainly and the fact that the guerrillas will apparently refuse to participate in the free elections in December of this year also indicate the guerrillas obviously cannot gain power through the election process. To gain power the guerrillas must use force. They have systematically destroyed communication, transportation, and electrical systems at the expense of the very people they claim to be liberating and are willing to do anything to undermine the credibility of the current government. Without the support of the Soviets, Cubans, and Nicaraguans, the guerrillas would not be able to exist.

We must act now and provide El Salvador with the relatively modest aid and training that country needs to stop the guerrillas. We must act now and display to the Soviets our resolve not to allow them to create more Nicaraguas in Central America.

Some have suggested that we should not act because of what happened in Vietnam. These people feel that military and economic aid will lead to sending U.S. troops to El Salvador. The fact is we must take these steps now to avoid another Vietnam. If we do not provide El Salvador with the aid it needs now, we will certainly be faced with a Vietnam situation in the future, where we must either send in U.S. troops or abandon the region and its people—and this is one region we can never abandon.●

HOUSE OF REPRESENTATIVES—*Monday, May 2, 1983*

The House met at 12 o'clock noon, and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C., *April 29, 1983.*

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Monday, May 2, 1983.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May the glory of a new day ever brighten our hearts, O God, our Creator and Sustainer. Help us to sense beauty in the seemingly ordinary things of life, to see opportunity at times of difficulty, and in spite of the necessary details of living, may we not lose sight of Your purposes for us. May the testimony of our lives and the good works we seek to do, ever speak of Your presence in our world and in our hearts. Bless all who labor in this place, we pray. Amen.

THE JOURNAL

The **SPEAKER** pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WALKER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The **SPEAKER** pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

So the Journal was approved.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Saunders, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 2600. An act to dedicate the Golden Gate National Recreation Area to Congressman Phillip Burton.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1037. An act to authorize appropriations for fiscal year 1984 for certain maritime programs of the Department of Transportation, and for other purposes.

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The **SPEAKER** pro tempore laid before the House the following resignation from the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, D.C., April 28, 1983.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I herewith tender my resignation as a Member of the Ninety-Eighth Congress, to take effect on Saturday, April 30, 1983 at Two O'Clock P.M. Central Daylight Savings time.

I have this day, by separate letter, officially notified the Governor of Illinois of my resignation.

Yours most respectfully,
HAROLD WASHINGTON,
Member of Congress, 1st Congressional District, State of Illinois.

HOUSE OF REPRESENTATIVES,
Washington, D.C., April 28, 1983.

Hon. JAMES R. THOMPSON,
Governor, State of Illinois, Springfield, Ill.

DEAR GOVERNOR THOMPSON: For the past twenty-nine months, I have had the privilege of serving the people of the First Congressional District of Illinois in the United States House of Representatives. However, upon assuming the Office of Mayor of the great City of Chicago, I cannot continue to serve in this capacity.

Therefore, I am hereby tendering to you my resignation as the United States Representative for the First Congressional District of the State of Illinois, effective Saturday, April 30, 1983 at Two O'Clock P.M., Central Daylight Savings time.

With best regards,
HAROLD WASHINGTON,
Member of Congress, 1st Congressional District, State of Illinois.

KILL THE COPPERHEAD

(Mr. McCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCURDY. Mr. Speaker, after weeks of debate, it appears that the real growth in this year's defense budget will be somewhere near 5 percent. But an equally important debate is just beginning. Our very difficult task now is to decide how the money should be spent.

Can we afford the expensive redundancy of three different types of close air support systems and seven different types of tactical aircraft? In the past the answer was yes. When we hit a budget snag, we simply worked at the margins by reducing quantities or stretching out programs. Rarely have we made the tough decision to cancel programs. But, a $200 billion deficit demands that we be more responsive as legislators.

Just one example where the Congress has the opportunity to take decisive action is the controversial Copperhead artillery shell. The Copperhead's unit cost has risen 117 percent during the past year. The Army has tried to kill it. Yet, the Secretary of Defense has kept the misguided program alive over the Army's objections.

The time has come to make decisions that prudently protect the taxpayers' dollars and judiciously use the resources we now have to build a strong national defense. The question before this Congress is, Will we have the courage to kill programs that are wasteful and clearly out of control?

SEEKING CLARIFICATIONS OF THE SCOWCROFT COMMISSION REPORT

(Mr. GORE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GORE. Mr. Speaker, the report by the President's Commission on Strategic Forces, also known as the Scowcroft Commission, offers the Congress a chance to reconstruct a bipartisan approach to strategic policy.

However, in the wake of the Commission's report, many questions have been raised about the nature of the President's commitment to the arms control portion of the report and the nature of the Pentagon's commitment to the recommendation that we move forward with a single-warhead missile. I am, therefore, urging my colleagues to be very cautious in their reactions to this report and seek additional assurances as to what the position of the

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

administration is likely to be with respect to arms control.

Specifically, I have been concerned by statements on the part of the President, the Secretary of Defense, and the Secretary of State that our current position in Geneva is perfectly consistent with the recommendations of the Scowcroft Commission when in fact they are not consistent at all.

Additionally, I am concerned by statements out of the Pentagon that they view the principal virtue of the report as its recommendation to go forward with the MX missile, and that they regard the single-warhead missile as a tentative concept.

Mr. Speaker, I would hope that the Congress will receive additional clarifications on all these matters before it decides on the resolution triggered by the Scowcroft Commission.

TWO GEORGIANS AWARDED PULITZER PRIZES

(Mr. FOWLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOWLER. Mr. Speaker, the Stevie Wonder epigraph in Alice Walker's novel "The Color Purple," "Show me how to do like you, Show me how to do it," was certainly an appropriate choice, for Ms. Walker has shown all of us how to do it with this special story about two sisters recently awarded the Pulitzer Prize for fiction.

I am particularly proud that Ms. Walker, a fellow Georgian from Eatonton, is the first black woman to win the award for fiction. An active participant in the civil rights movement, Alice Walker has written several works about this turbulent period in our Nation's history, including the novel "Meridian."

Another important figure from the civil rights movement—and also a native Atlantan—received a Pulitzer for news commentary. Claude Sitton, who covered the South for the New York Times during the difficult years of the sixties, was recognized for the excellence of weekly column on national and international issues and politics. Mr. Sitton is currently the editor of the News & Observer in Raleigh, N.C., which covers most of the eastern part of the State.

I am delighted by the accomplishments of these two native Georgians, and I extend my congratulations to them on receipt of this outstanding honor. They bring honor to our region by bringing honor to themselves.

TRIBUTE TO THE LATE LOWELL DAVIES, PROMINENT SAN DIEGAN

(Mr. BATES asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BATES. Mr. Speaker, I call on my colleagues in the House of Representatives to take a few moments to note the death of a prominent San Diego attorney and a long-time leader of the Shakespearean Old Globe Theatre. He died Friday, April 29, at the age of 86.

Mr. Lowell Davies, who was honored as "Mr. San Diego" in 1979 by the San Diego Rotary Club, served on the Old Globe's board of directors for 43 years, 31 of them as president. He became chairman of the Globe's board of directors in 1976 and honorary life chairman in January of this year.

Though confined to a wheel chair, he greeted Queen Elizabeth II when she visited the Old Globe in February. It was one of the highlights of his life.

Our former colleague, Mr. Clair Burgener, said that Davies "was a giant of a man who made the Old Globe Theatre what it is today."

Mr. Speaker, to his wife, Darlene, his sons, Thomas and John, and his daughter, Estelle, and other family members, let me extend our heartfelt sympathy for your loss and the loss to San Diego and America.

□ 1210

SUPPORT TO SCOWCROFT REPORT

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, I want to compliment my colleague, the gentleman from Tennessee, who just a few minutes ago suggested that all of us should take time to carefully review the Scowcroft Commission report on the MX, arms control, and the future of a small single warhead missile.

I, too, hope that our country can come to a bipartisan consensus on what we should do about our future strategic posture; but I think it is absolutely critical in achieving that bipartisan concensus that we have from this administration a commitment to go forward with a new START proposal and a new proposal to start the R&D on the Midgetman missile. Only if the entire Scowcroft Commission report goes together as a package can we achieve a bipartisan consensus that I think the country desperately needs the arms control and strategic forces issue.

THE NUCLEAR FREEZE RESOLUTION

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, as the majority party goes to the Rules Committee today to get a gag rule to shut off debate on the nuclear freeze resolution, I wonder what it is that they do not want to debate.

It seems to me that one of the things they may not want to debate is the real intent of the resolution. This has been a problem since the beginning of the discussion of this bill. What is the real intent of the bill?

I had planned to offer an amendment to say that the resolution is an expression of concern over the threat of nuclear war and as such shall not be regarded as having the force of law. That would be language perfectly consistent with what the proponents have said on the floor that their resolution is all about.

For example, Representative PANETTA of California has said, "The resolution is not a treaty, it is not an agreement . . . it does not bind our negotiators . . . it does not bind friend or foe . . . it is an expression of concern."

Representative DICKS of Washington said, "It is an expression of concern about the arms race."

Chairman ZABLOCKI has said, "House Joint Resolution 13 sets out objectives and does not bind the President."

The Speaker of this House has said, "It only expresses the will of the Congress and does not bind the President."

Why should we not have a discussion as to whether or not that kind of language should get into the resolution?

But if we have a gag rule, as the majority party is proposing today, we will not get that kind of discussion. That is what they are trying to shut down. That is what is wrong with the action that they are taking.

REPRESENTATIVE CLAUDE PEPPER DID US ALL PROUD AT INTERPARLIAMENTARY UNION SPRING CONFERENCE

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, I have just returned from Helsinki where it was my privilege to serve as a member of the U.S. delegation to the Interparliamentary Union Spring Conference.

Since our delegation, which consisted of bipartisan representation from the House and Senate, will shortly provide Congress with a full and detailed report on the Conference, I will not preempt my colleagues.

What I do wish to do, however, is to report to you all on the truly magnificent manner in which our distinguished delegation chairman, CLAUDE PEPPER of Florida, led us and represented the United States at this international meeting.

Senator PEPPER did us all proud. He was an effective leader, but most of all, he was an Ambassador at Large who spread good will for the United States of America every minute of every day.

When he talked, people listened. Parliamentarians from around the world sought him out for discussion on important issues involving the future of the world.

Never once did he miss an opportunity to put our Nation's best foot forward. Never once did he let go by a chance to talk about our value system and our high standards and our interest in peace, in equality, in justice, and in opportunity, not just for ourselves, but for all mankind.

CLAUDE PEPPER did us all proud. We could not have been better led or better represented.

TAX FREEDOM DAY

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERTS. Mr. Speaker, today, May 2, is Tax Freedom Day, the day we can stop working for the Government and start keeping what we earn. Today, every American must work more than 4 months of every year just to pay for Government. The good news is that Tax Freedom Day is 1 day earlier this year. The bad news is that if the spending trend embodied in the 1984 budget becomes a reality, Tax Freedom Day will continue its march through the calendar.

The writers, pundits, and economists who get paid well to look in their crystal balls warn of a new populism that is aimed primarily at high taxes. There are some ominous signals. When Congress proposed withholding of 10 percent of interest and dividends, the volume of grassroots protest actually halted postal service in parts of Washington. In my view, the 10-percent withholding issue was not as important as the genuine concern and frustration and outright anger behind it. Washington was again sent a strong signal that people are fed up with big government and Federal interference in their daily lives and pocketbooks.

Let us consider of a moment the size and scope of the tax iceburg. In 1959, some 24 years ago, the median family income was $5,661. That family paid $475 in Federal income taxes—8.4 percent of their earnings. In 1970, approximately 10 years later, that median family income was $9,750 and the average tax bill for Uncle Sam was $939—or 9.6 percent of earnings. In 1980, only a decade later, the U.S. median income was $21,000, but the tax bite had increased to $2,197—or 10.5 percent.

Now, if you add the cost of social security, which is climbing faster and higher than any other tax, and that median American family today pays nearly 17 percent of its gross income in Federal taxes. That is a 50 percent jump since 1959.

Some may say 17 percent is not too much to ask if you consider all of the benefits Government provides, the need to assist those who are disadvantaged, to provide for the national defense and to pay for all of those entitlement programs Americans have become accustomed to and upon which many depend. But, if you throw in all taxes—State, county, and so forth—the average working American is now at the point where taxes take nearly 40 cents of every dollar he earns.

The real sobering thought is what will happen down the road if something is not done. That same average family will be in the 50-percent bracket by the year 2000. Now that is not the rich, not those other folks who hire the lawyers to find the loopholes, that is our children and grandchildren paying Government 50 cents of every dollar they earn.

We are apparently entitled to a great many Federal programs, but we are also entitled to pay for the cost—and the cost that the next generation will pay will be over half of their income going to some form of tax. When we reach that point, I submit to you we will have lost the most previous entitlement of all—our individual freedoms.

To stem that vicious tide, President Reagan in 1981 proposed and Congress passed a major tax reform bill. First, we cut taxes over 3 years—a total of 23 percent. Then, beginning next year, we adopted indexing which will prevent taxpayers from being pushed into higher brackets by inflation. And, as I have indicated, we adopted several other long-needed reforms, including estate tax changes that make it possible to pass along our small businesses and family farms to our children and grandchildren.

Those of us who worked hard for these reforms did so in the belief that allowing people to keep more of each dollar they earn benefits everyone, including the tax collector. There is strong evidence that we were right. We hear a lot about so-called tax cuts for the rich. Collections from high income taxpayers have increased, not decreased because they have been encouraged to save and invest—the incentive was there.

The budget just passed in the House and now being considered in the Senate presumes repealing most of the reforms in effect including the third year of the tax cut, indexing and estate tax reform. Mr. Speaker, it is time to dispel the myths that have given rise to this budget.

MYTH NO. 1

Myth No. 1 is that we have to repeal the 1981 tax reforms because they are responsible for our estimated $200 billion deficit. The tax reforms did not cause our deficit. Even without the reforms, we would have a $144 billion deficit at the end of this year. And that assumes that all of the money left in the pockets of taxpayers throughout the Nation would have gone to reduce the deficit. If you believe Congress would have applied this revenue to reduce the deficit—and not on pet programs—you are like the missionary who invited himself to a cannibal's barbecue.

MYTH NO. 2

Myth No. 2 is that President Reagan and Republicans in the Congress slashed the taxes of the rich at the expense of the poor. Let us look at the facts.

Before 1981, people with annual incomes of $50,000 or more earned 16 percent of all taxable income and paid 30 percent of all income taxes paid in this country. After the tax reforms are fully in place, they still will be paying at least 30 percent of all taxes. Probably more.

Seventy-two percent of the benefits of the third year of the tax cut will go to people earning under $50,000.

Repealing the third year of the tax cut and indexing would result in a 36-percent increase in the taxes for families earning $10,000, a 17.6-percent increase in taxes by families earning $25,000, but only a 16.9-percent increase in taxes for families earning $100,000.

MYTH NO. 3

Myth No. 3 is that repeal of indexing would not really matter to people. Tax indexing is the opposite of wage indexing which automatically increases worker's pay with the rate of inflation. The simple act of indexing represented the most fundamental tax reform, in my opinion, in decades. To understand why, just look at the history of Federal spending increases. Taxes were not raised to pay for all of the new programs that have come on board since the inception of the so-called Great Society of the 1960's. The money came from more taxes paid by middle income taxpayers pushed into higher and higher brackets. It became a politician's dream and a working person's nightmare; an automatic increase in revenue to spend on pet programs. The upshot was that taxes and Federal spending both rose faster than inflation during the 1970's.

Indexing is nothing more than truth in spending. It will force Congress to go "cold turkey" on its spending habits. No more automatic increases in the amount of money available to spend. New or expanded programs will require passage of higher taxes to pay for them. Indexing promotes honesty. It does not lower taxes. It simply forces Congress and the President to choose openly between spending cuts, higher taxes or continued deficits.

MYTH NO. 4

Myth No. 4 is that America is a great and good and healthy country and we can afford to pay more taxes to support programs that are truly needed. Do we, as Americans, want to follow the example of Sweden where citizens pay over 50 percent of their gross income to Government, or perhaps, France where they pay more than 40 percent?

Down through the years, economists have warned that 25 percent was the maximum tax any people could bear without open rebellion. May I remind you rebellion comes in different ways. Consider this: The best estimates are that the Federal Government now collects only 85 percent of the tax due because more people are cheating. That revenue is coming out of your pocket and mine.

If the Government is going to take 20 percent of your income, cheating is not worth the risk. But, if the Government proposes to take 50 percent, an increasing number of citizens may find ways to join what is called the underground economy.

Let me stress that cheating and nonpayment of taxes cannot be tolerated. But, I wonder at what point does Government effort to force tax compliance become ineffective in the fact of soaring taxes? We are obviously reaching the point of drastically diminished return.

Once we have exposed these myths for what they are and once we have alerted our citizens to the fact we are very close to business as usual in the Congress, more taxing and more spending, what can be done?

The answer is that for some the deficit crisis applies only when it is time to derail the President's so-called tax cuts and the defense buildup. If the deficit crisis is really as dark as has been painted—and I believe it is—the solution is obvious. Based on a below average economic recovery estimated by the Congressional Budget Office, a 2-year spending freeze would balance the budget in 1986. Spending could then resume its rise and the budget, according to CBO, would remain in balance.

If a spending freeze across the board is simply not palatable, a modified freeze that would allow a 6-percent annual increase in real defense spending would balance the budget in 4 years. If the economy experiences a more robust recovery, spending could increase more or the deficit could be balanced sooner. But, the sad truth of it is some lack the political courage to make those hard choices. The truth is there is no budget crisis that Congress cannot solve by at least temporarily controlling spending.

I know it is fashionable today to say that such a thing is impossible—that we have a structural deficit, if you will, and that to even suggest we should balance the budget is simplistic and counterproductive. May I ask what is so impossible about the Federal Government getting along on the same amount of money for 2 years in a row? Where is it written in stone that we must increase spending by more than $200 billion in the red for the next 5 years?

However, budget proposals that would have called for various forms of a spending freeze were simply passed over. This at the time the skyrocketing Federal deficit has reached a record $130 billion only halfway through the current fiscal year! This at the time when total spending is up 12.3 percent, some $406 billion.

In recommending a budget freeze, I want to stress that I am not talking about cutting any Federal program. I am not talking about reductions in the needed programs for those who are disadvantaged and those experiencing hardship during these difficult times. I am simply talking about freezing spending at current levels.

I am also talking about incentive. The "American Dream" is not that everyone be leveled with everyone else, but that each of us has the freedom and incentive to climb as high on that ladder of opportunity as possible. We will not achieve fruition of the "American Dream" by going back down the road to everincreasing taxes and Government. We will not achieve it by taxing our productive citizens to the point that we all become equal—in the 50-percent tax bracket.

ANNUAL REPORT FOR 1982 OF FEDERAL COUNCIL ON AGING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. KILDEE) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

(For message, see proceedings of the Senate of today, Monday, May 2, 1983.)

CURRENT REPORT ON DEVELOPMENTS CONCERNING NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore. laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs:

(For message, see proceeding of the Senate of today, Monday, May 2, 1983.)

□ 1220

EMERGENCY HOUSING ASSISTANCE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I again rise because of the impelling reason to do so with respect to what I consider to be a critical bit of legislation, overdue for at least not less than 1½ years entitled the Emergency Housing Assistance Act, known as H.R. 1983, that provides in the first section for mortgage foreclosure prevention assistance and the only lifeline that a struggling American family, which through no fault of its own, is confronted with the loss of its homeownership.

The second section has to do with a program that would provide the help to those entities throughout our country that are endeavoring to set up adequate shelter programs for homeless Americans.

Both of these sections are the result of very extensive hearings where we had testimony from every single section of the country, urban, rural, the dense areas, the not-so-dense areas. But for the first time, even when we had an emergency hearing during the "lameduck" session in the last week of that session this past December, it was one of the most trying and sad and tragic experiences that I have confronted, even as I recall—and I am old enough to do so—the sad and dreary Depression era. In fact, it is so evocative of it that it is with a great deal of sadness that I notice the resistance, almost identical in words on the part mostly and on a partisan basis, though some few of the Members of the majority party that I belong to have been up to now succumbing to very, very misguided, incorrect, and in some instances I cannot help but think malicious attacks on this program, even impugning the professional ability and the efficiency with which our subcommittee and its professional staff have worked.

There cannot be, I do not think, I know in my case I cannot think of any more tragic and quite unnecessary event than to see two things: one, a young, able-bodied American, male or female, with all of the hope in their breast that the average American entertains in our country and has in these later generations where the fear and the hag-riding prospect of a depression is only something read about in the history books, if at all, and therefore a generation that has not suffered.

To see them in my office, whether here or in the district in San Antonio, seeking, having sought for months, employment opportunity and finding none, this is a terrible commentary of any society, but much more ours and us having to fight for the last 2 years with our main opponent, bringing the President in power and his administration and advisers trying to go back and reestablish a debate on a fundamental principle that I thought had been resolved for decades, in fact, from the beginning of our Government, and that is the need for governmental intervention in some areas.

These gentlemen talk as if that has never happened. The issue is not whether or not the Government has the right or it is proper for it to intervene. That was settled from its inception in the establishment of the wilderness areas, in the first setting up of the public owned lands into sections and providing for its distribution by the Government, in the wholesale delegation of not only property but eminent domain rights to those vast enterprises that built and constructed the railroads and could not have done it if they had not had Government aid.

Then to come here now and resurrect that when the real issue is not—the real issue always is and continues to be the nature of the intervention and in whose behalf. These same forces are asking us to massively intervene right now; the pressure is on us to the tune of almost $10 billion, to what? To bail out, to intervene in behalf of the biggest oligarchic powerful banking interests not only in our country but in the whole world. The same voices are turning around and out of the other side of their mouths saying, "But you have a horrible bill here where you are trying to go out and help an American family that without any fault on its part is about to lose its home. That is wrong. That is socialistic. That is improper. You are creating an administrative nightmare."

When the truth is that this is the most carefully thought out and devised bit of legislation. There are no hidden clauses. It is straightforward, thought out on the basis of the experience during the Depression of the Home Owners Loan Corporation, the HOLC, which was really direct Government intervention because the Government came in and actually acquired the mortgage.

We are not asking that now. All we are asking is a little helping hand in the nature of a loan, not a grant, not a gift, a loan to be paid back with interest—in my opinion extortionate interest—but every one of us has to compromise in this lawmaking process.

If I had my druthers, the rate of interest would not exceed in this bill 6 percent, but I cannot have my druthers.

But at least a little bit of recognition of the anguish, the suffering that is going throughout our land in the face of a President that, like King Canute, wants to order the waves to stop and says, "Oh, you press, why are you reporting sad and dreary things? Report only the the happy things."

□ 1230

Just last week, after we had had just the first debate, general debate on the bill, with the threat of what? Just blanket opposition, unreasoning opposition by Members who had every opportunity to have participation in the structuring of this bill for their members of the committee and subcommittee. And what did they do? First, they never showed up for the meetings or even the hearings.

Second, they never offered any constructive amendments of any kind. Rather, deferring vaguely to some future time, in case, as they said, we could get it out of the subcommittee and full committee for some event during the House debate. During that debate Americans listening throughout the land responded.

I have letters from 17 States, citizens of 17 States, but the most tragic, sad thing was a petition signed by 3,000 Americans in Pueblo, Colo., with a message directed to me, asking me to turn this petition over to the House of Representatives. And it is the most pathetic message any Congressman has ever or could ever receive, because they are saying, and these are the words, "Thank you, Congressmen, who are for this bill." Three thousand out of five thousand workers in the steel mill that makes up Pueblo, Colo.'s main economic activity are unemployed and we are under the threat that the other 2,000 might go out and this mill will shut.

In the meanwhile we get up in the morning with a knot in our stomach, not knowing what is going to happen and facing now over 100 distress sales or foreclosures of our homes a month. In America, while we are shipping out bales over bales of dollars to foreign potentates who are exploiting their own people.

What has caused that? What has happened to us in America, in the face of the miserable charges here, up to now? So, I am impelled to rise and at least keep the record straight so that no colleague, when the time of the truth comes to take a vote on this, and I hope we will be given the privilege of asking for a vote up and down—up and down where it will go on record and we will be able to see there who is responsive to what is happening now and not be deluded by the cry that all is well and that recovery is upon us, or if it is not it is well on its way.

We have got to report truthfully, not because we want to appease a floundering administration, floundering in the effects of its own unwise economic policies, diplomatic policies, domestic policies, as well as international policies. And I say that we have a greater responsibility to our own, first and foremost. And that if we are going to bail out the banks, who are the ones that are not going to hold back from foreclosing, if they have no alternative—all we are saying is, since when is it the policy of a Congress and the representatives of its people to turn its back on the crying needs that cannot be met alone and individually by a citizen or a family?

Last year, there were more home foreclosures than at any time, and at one point higher than the highest rate during the Depression.

That trend is continuing this year. And right now, as I am talking to you, hundreds of thousands of Americans are not able to make their mortgage payments. Some are able to work out some kind of an arrangement, but for too many lenders there are no longer any means whatsoever to do so. And they cannot persuade the mortgagee to forbear, and so those foreclosures and distress sales are taking place everywhere but particularly in areas of great distress. In Beaver County, Pa., with 23.5 percent unemployment; Loring County, where we had the sheriff come in December and tell us that by this point he would be confronted with the need of facing distress sales in over 1,200 cases, just in that county.

Now, when a home is foreclosed, it means that a family has lost its biggest investment. And as I have said repeatedly, the one big, indissoluable tie that an American has with his soil and his country, we destroy that. What are we talking about in family preservation if we allow this destruction to take place? It means in all likelihood that they have lost all their savings; it means financial and personal devastation. The Emergency Housing Assistance Act, H.R. 1983, is intended to mitigate this tragedy by the simple means of extending emergency loans to homeowners whose incomes have been cut by the consequences of economic recession and depression.

There has been an enormous amount of misinformation about this bill. It is important that Members of the House know the true facts before it is considered, hopefully later this week. Again, if we had had our druthers—we passed this out of the subcommittee and committee and Rules Committee under an emergency situation—I would have loved to have had it brought up before the Easter recess. We could not; it is not in our power to decide that. So, here we are trying, trying desperately to do something against a great lobbying of the Bankers Association, the American Bankers Association, the board of realtors, of all people, and the savings league, of all people.

And there are reasons for that, but I just want to point out the unjust, incongruous situation, where the bankers are coming in and asking us to pass out almost $10 billion to the International Monetary Fund to bail out these big banks that have been in an orgy of speculation throughout the world and are therefore facing, themselves, financial crises, call on you, the taxpayer, to bail them out. They are the ones that are telling us that is OK, but it is wrong if you want to do anything for this American.

There is the argument that emergency loans would go to wealthy people. Well this simply is not true. Even if it were possible for wealthy persons to take advantage of the program, it would be most unlikely that any administrator, even the one now in power, would permit them to do so, since the funding is limited. But to make absolutely certain of this I have prepared and have appended an amendment in the nature of a substitute specifying that no person can receive emergency assistance unless the family income for a family of four is below—mind you, below—$20,000 or whose assets outside of the residence, family, automobile, tools of trade, do not exceed $10,000 plus $5,000 in household goods. And this we did just merely to show that the congressional intent is clear and, lucidly so, as to who it is we intend to be helping.

☐ 1240

Opponents of this bill claim that lending institutions, oh, they will forbear and foreclose. They are doing that now.

The fact is that the lenders in the hardest hit areas are the least able to forbear on loan collections and our evidence so showed during our hearings. I repeat: This legislation is not the result of an individual Member's imagination; it is the result of many and comprehensive hearings and testimony from every single geographic section of this great land.

Further, if interest rates fall, it becomes easier to sell repossessed property so that it will become much more attractive for lenders to foreclose as they have already. And this testimony clearly showed us in individual specific cases brought to our attention. As a matter of fact, if interest rates had been lower in recent months the rate of foreclosure would have been even higher than they are now. But many lenders have held off on foreclosures because they did not want unsaleable property on their hands. It has been better from their point of view to keep homes occupied and maintained under those circumstances, but only under those circumstances.

Clearly, however, if market conditions for repossessed homes improves, the rate of foreclosure will shoot even further. There are signs, and we have evidence to this effect, that it is happening in a mounting number of cases. There are claims that H.R. 1983 will actually encourage lenders to foreclose so that they can quickly improve their financial position. That certainly is not true. H.R. 1983 requires lenders to demonstrate that they have given at least equal or great forbearance to applicants for emergency help as they have given to anyone else. There are claims that the Wylie substitute, named after the ranking minority member of the committee—not the subcommittee, but the committee—by calling on lenders to forbear.

This is also the identical phraseology to that part of the bill that the chairman of the full committee, the gentleman from Rhode Island (Mr. St Germain) was responsible for, but Mr. Wylie has incorporated and keeps only that and preserves only that and the reason we have it is that we had joint hearings of the subcommittee that I chair, which is the Subcommittee on Housing and Urban Affairs, and the subcommittee that the distinguished chairman of the full committee chairs, which has jurisdiction on the lending institutions. But that plainly is not enough; it is just a sense of Congress saying to the boys, "You lenders, try to be nice. Try to keep on being nice. See how much longer you can forbear. We would like for you to forbear." And that is about all it does.

It is not a question of good will. Ultimately the financial issues have to be addressed and people with real financial problems must have real financial help. There are charges that this bill would reward people who simply quit work or decide to quit paying their mortgage. This is flatly untrue. Only those who are involuntarily unemployed, who left their jobs on good terms; that is, because they had no job or whose income has been cut because of economic reasons, only they can qualify.

There are claims that this bill creates an entitlement program. Well, that is no malicious because the first thing we did was make sure we were in conformity and we ran our bill through the Budget Committee and we got a letter of clearance with the Budget Committee. It is all within the restrictive, constructive limits of our budget outlays and commitments. I have a letter from the Budget Committee to that effect on this bill. The same thing with respect to inflationary impact. We have an inflationary impact statement appended to this bill.

The bill contemplates that assistance will be limited, that the programs cannot be expanded without specific and further action on the part of the Congress.

There are claims that the emergency mortgage assistance program would be an administrative monstrosity that would take months to put into place. Yet, ironically, these charges come from the same critics who demand all manner of safeguards, each one of which creates greater administrative complexity.

The Secretary of Housing and Urban Development, who does not favor this bill, told the Housing Subcommittee and myself that he would faithfully administer it as he is charged so under the Constitution if the Congress approves this legislation. It may be true that administrators can make even the divinely simple matters quite complex beyond belief, but it is also true that we are legislators and not administrators, and there is nothing ever the Congress has been able to do that except through oversight.

At the proper time, as I said and repeat, we will have an amendment in the nature of a substitute in response to every single question herein before raised with respect to this bill. We had marvelous contributions by nonmembers of the committee. The substitute will reflect their concern and their constructive suggestions for improvement of the bill. There never has been and there never will be a perfectly written bill by any human being or collection of beings. Only in the process of time and debate and experience does one know wherein to conscientiously and constructively improve on any bill.

For the information of my colleagues I have prepared information about the Emergency Housing Assistance Act in question and answer form. I am confident that once the facts are known the majority of the House will agree that H.R. 1983 is the best and the most effective way of meeting a most grievious, a truly devastating national problem. And I include in the Record at this point questions and answers in that regard and in that form.

The questions and answers follow:

Questions and Answers on H.R. 1983, the Emergency Housing Assistance Act

1. Who is eligible for the assistance?

Only homeowners who are involuntarily unemployed, or whose loss of income render them unable to make full mortgage payments, who have received notice of foreclosure or are at least 3 months in default and whose homes are covered by a VA or conventional mortgage. FHA homeowners are already eligible for assistance from the FHA assignment program which has less stringent eligibility requirements. In addition, a homeowner's income may not exceed $20,000 for a family of four or a homeowner's assets (with certain exclusions) may not exceed $10,000. The HUD Secretary must determine the assistance is necessary to avoid foreclosure and that there is a reasonable prospect that the homeowner can resume full mortgage payments within 36 months.

2. How will the program help unemployed homeowners?

An eligible unemployed homeowner may receive assistance for an 18- to 36-months period to cover any delinquency and the difference between what the homeowner can afford to pay on his mortgage and the actual payments due on the mortgage, taxes and insurance. The assistance will be in the form of a loan secured by the property and repayable with interest to the federal government beginning as soon as the homeowner becomes financially able.

3. Is there an assets test so rich people who own substantial property may not qualify for assistance?

Yes, a bipartisan amendment to be offered on the House floor will limit the assistance to unemployed familes whose income does not exceed $20,000 for a family of four or whose assets (excluding the family residence, car, $5,000 of household goods, and job-related equipment) cannot exceed $10,000. This amendment would exclude families who own vacation homes, investment property, large stock portfolios and other assets of substantial value.

4. Is the program needed, if the economy is improving?

Yes. Dropping interest rates might help some people to buy homes but will not help families who are about to lose the homes they already own. In fact, as interest rates drop and more families can afford to buy homes lenders will be less likely to forbear because it will be easier to sell foreclosed properties. President Reagan's budget forecasts a 9.9 percent national unemployment rate in FY 1984 and the duration of unemployment is continuing to rise which means more people are falling into default. Even if the economy expands, there is a substantial lag between an upturn in economic indicators and actual reemployment. H.R. 1983 provides temporary loan assistance for 18 to 36 months to help unemployed homeowners in the interim as the economy improves.

5. Will this program encourage lenders to foreclose?

No. A homeowner may not apply for assistance unless the lender certifies that it has extended to the homeowner involved the same or greater forbearance opportunities than were extended to similar borrowers for the 4-month period prior to March 31, 1983.

6. Is the program an entitlement program?

No. Assistance will be available only to the extent funds are authorized and appropriated. Like all federal loan programs, assistance will be provided only subject to the availability of funds.

7. How will the program be administered?

HUD will inform lenders when the program is available. Lenders must assist eligible defaulting homeowners to submit an application. The homeowners must establish in the application that they meet eligibility requirements and their present income is insufficient to make full mortgage payments. Application if forwarded to HUD which must make a determination of eligibility within 45 days, after which assistance is provided or a lender may proceed to foreclosure.

8. Are funds for this program included in the First Budget Resolution?

Yes. The budget resolution approved by the House included $760 million for this program which would assist approximately 100,000 unemployed families facing foreclosure.

9. Is the Wylie substitute sufficient to meet the needs of unemployed homeowners?

No. Both H.R. 1983 and the Wylie substitute encourage lenders to voluntarily forbear, relax regulatory requirements pertaining to mortgage delinquencies and give special consideration to forbearing institutions applying for advances. But these provisions cannot provide sufficient long-term assistance to unemployed families. Last year, between 175,000-200,000 homes were in foreclosure, clearly indicating that financial institutions cannot offer enough forbearance to assist needy unemployed families. Few lending institutions can afford to forbear and fail to receive mortgage principal and interest payments for periods longer than 3 to 6 months. Unemployed families, particularly in high unemployed areas, may not be able to find work and resume mortgage payments within that short period of forbearance.

ALZHEIMER'S DISEASE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentlewoman from Maine (Ms. Snowe) is recognized for 5 minutes.

● Ms. SNOWE. Mr. Speaker, today I am introducing a bill that will assist our medical research community in its relatively new struggle against the debilitating and crippling illness, Alzheimer's disease. This measure would create an Interagency Task Force on Alzheimer's Disease Research to review the adequacy of Alzheimer's disease research programs, develop a research strategy, and develop a plan for increased funding for research. In addition, $4 million in HHS funding will be appropriated, specifically earmarked for Alzheimer's disease basic science research.

Alzheimer's disease is an irreversible, degenerative mental disorder that victimizes approximately 1.5 million Americans. It is the fourth leading killer in the United States behind heart disease, cancer, and strokes. One in six of us will get the disease—16 percent of the older population over 65. It begins with forgetfulness and causes a progressive loss of intellectual and physical capabilities.

Often victims undergo severe personality changes resulting in violent and irrational behavior. Eventually, the patient loses total control of physical functions as well as mental. It is not a natural result of aging as it once was thought as thousands are first affected in their forties and fifties.

There is no known cure for the disease. It causes the brain to shrivel and fill with bubbles and granules. Because of current professional ignorance, Alzheimer's disease is difficult to diagnose, is incurable and, to date, is untreatable at any stage. Illnesses last from 3 to 10 years before an inevitable, grimly welcome death. Most of the final years are under custodial care, but medicare and medicaid programs do not cover such care as the victims are untreatable and not necessarily poor.

Alzheimer's disease was first described in 1906 by a Dr. Alois Alzheimer. Since then, however, sufferers have been often misdiagnosed as mental cases, being senile, or as stroke victims. The medical professionals are only now becoming sensitive to the pervasiveness and magnitude of the disease in its many, progressively debilitating stages. In fact, until 5 years ago, there were no statistics on victims under 65; there still is no definitive estimate because of the lack of research funding.

Senator Metzenbaum, who is also keenly aware of the seriousness and ramifications of Alzheimer's disease, introduced a similar measure in the Senate as an amendment to the fiscal year 1984 Department of Health and Human Services authorizing bill. I am hopeful that as the House acts on its fiscal year 1984 authorizing and appropriating measures during the coming weeks, the legislation will be adopted in this Chamber as well.

Mr. Speaker, I sincerely believe this bill can provide a unique opportunity for our medical community, in tandem with Government medical planners, to creatively develop an integral research program which will result in concrete evidence identifying the cause and perhaps an early cure for this most cruel affliction which affects so many Americans. The outrageous effects of Alzheimer's disease on its victims—and their families—cannot adequately be described until personally endured. It is clear, however, to those of us who have witnessed those effects, we have an obligation to attack the illness as soon as possible.●

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 171

Mr. COLEMAN of Texas. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 171.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

THE NUCLEAR FREEZE DEBATE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Walker) is recognized for 60 minutes.

Mr. WALKER Mr. Speaker, I would like to take a few minutes today to talk a little bit about the issue that will be debated at some length later on today before the Rules Committee of this House. And that is the issue of whether or not this House should be gagged from further consideration of the nuclear freeze resolution.

It is a very important question because as many of the proponents of that legislation said when it came to the floor, it is an extremely crucial type of thing that this House is considering as we consider that resolution.

The distinguished gentleman from New Jersey (Mr. RODINO) told us when that bill came to the floor just a few weeks ago, "The issue before us dwarfs all others in its urgency and magnitude. There is simply no more important question for us."

The gentleman from New York (Mr. WEISS) told us at that time, "This is probably the most significant issue that this body will be considering this year, perhaps this Congress."

They were right. It is an extremely crucial question that we have been debating, yes, for some time. There has been a long debate on the issue. It has been a valuable debate, it has been a useful debate, and I think it is tragic that some would now shut it down.

But you know, it is not unusual that they attempt to shut it down because they have tried to shut down the debate, that is, the proponents of the resolution, since the very beginning of that debate. On the initial day of debate becoming frustrated with the questions that they had to answer and could not answer, they tried to shut down debate and were defeated by a vote of the House.

Consistently throughout they have either tried to limit debate or shut down debate rather than continue with it.

The reasons for that have become plain as the debate has gone on. They cannot reasonably and coherently explain their resolution, so they do not want to talk about it.

□ 1250

And if you want the proof that they cannot reasonably explain it coherently, it is in the fact that they have ended up taking a lot of amendments that have been offered in order to try to make it more coherent. Amendment after amendment has been offered that they decided to accept in order to clean up their resolution. In other words, what they have admitted was that the resolution that they brought to the floor was not a good document, that it was a document in need of amendments, and that some of those amendments are valuable and that is the reason why they have been accepted.

But, meantime, as they have seen those amendments cause them more and more frustration, as they have seen the debate cause them more and more frustration, they have tried to seek new ways to do what the House refused to do early on—shut down the debate, gag the House.

So they have begun a program of what can be best labeled, I think, a program of disinformation. What they are saying is that the opponents of the legislation are attempting to filibuster with extended debate.

No doubt, some of the debate has been repetitive. When you go back through and examine the RECORD, there have been a lot of the same questions asked over and over again, because there have been attempts repeatedly to get rational explanations of what it is that we are doing. And every time, it seems, we get a little different version of what it is we are doing; and so, therefore, the questions continue to occur.

When we have gotten explanations, some of us who have reservations about the initial resolution as it came to the House have attempted to reduce those explanations to amendment form, to say "OK, this is what you have told us your resolution does, now here is an amendment that says that and puts it into the resolution. That way we are assured that the resolution is saying the same thing that the proponents of it are saying."

Then we have run into problems, because then, for instance, when you want to pin them down on whether or not their resolution would allow reductions in nuclear weapons, then all of a sudden they have got a different version and they come out and try to amend the amendment in a way that makes it so that the House is not really forced to vote on whether or not we have something to reduce nuclear weapons rather than just freeze nuclear weapons.

They really do not want a vote on what they say it is they believe, because they are not really sure where the American people stand on some of these issues. You see, what they did was, they brought to the floor a slogan. It was a nice slogan. It had gotten a lot of poll results that were very favorable to it, it had won some referendums around the country, and it expressed something that is absolutely true, and that is that the American people are horrified by the prospects of nuclear war and they want to do something to stop it.

But the question is: What is it that the American people want to do about nuclear war? Do they simply want to freeze the present level of nuclear terror into place? Or are they likely for reductions of those weapons? Would they be likely to vote, also in a poll or a referendum, for something that says, "reduce the number of nuclear weapons?"

I am for a program to reduce the number of nuclear weapons in the world. My guess is that that would win even more overwhelmingly than some of the freeze resolutions won. And that has been an issue at debate on this floor, and we really have not satisfactorily resolved it. And to gag the debate now will be to say that we may never resolve whether or not we are acting in the best interest of the American people.

Well, all of that has taken some time. There is no doubt about it. The question, I guess, is whether or not too much time has been taken. Has too much time been taken on the most significant issue that we will debate this year? Well, the proponents say yes. They say, "Let us not talk about the issue any more, let us vote and get the whole thing out of the way."

It reminds me of the kind of thing that just a few years ago many of the liberals in this body were concerned about. In fact, the Speaker of the House at one point is quoted as saying: "There should be no one among us who is not willing to go on record on the vital issues of the day."

I could not agree more. I could not agree more that that is the exact issue that is involved in this particular debate. And what I find rather disturbing about reading that quote of the Speaker of the House made in 1970 is: he is dangerously close to becoming what he deplored only 12 years ago as he participated in trying to gag the House in this most important debate.

You see, any amendment now is regarded as a delaying tactic. It does not matter about the substance of the amendment. It is a delaying tactic just to bring it up. "Do not think about what it is we are voting on, just vote. Let us not amend it."

And they tried, then, to extend that a little bit further and say that any attempts to amend, no matter how justified, and no matter what the point of the amendment, that they are just a deliberate attempt to stall. And last week we finally got the real explanation. Last week the Speaker finally fingered the culprits in all of this. The Speaker said who it is who have been trying to delay the House, purposely trying to stall this debate. He singled out the gentleman from New York (Mr. KEMP), the gentleman from Georgia (Mr. GINGRICH), and the gentleman from Pennsylvania, yours truly. He said that we were the culprits who were trying to stall a vote on this issue.

Well, the gentleman from Pennsylvania is rather used to the Speaker fingering him whenever he wants a villian. I do find it somewhat disturbing that my distinguished colleagues, the gentleman from New York and the gentleman from Georgia, found themselves a part of his wrath. But the important thing is that in so doing, what he showed was how phony the issue is that the debate is being stalled.

Over the weekend, I had my staff take a look at the record of this debate, and what I find is that it is not the opponents of the debate that have taken extended periods of time in order to draw the debate out, it is some of the proponents; and I just juxtaposed my participation in the debate alongside another nonmember of the Foreign Affairs Committee who has participated in it from the proponents' side.

I, for example, during the debate have consumed in time, out of 1,955 minutes of debate, a total of 17 minutes.

Now, the Speaker calls that an attempt to delay.

On the other hand, the gentleman from Oregon (Mr. AuCoin), who is a proponent of this particular measure, has consumed 50 percent more time than I have. In fact, the gentleman from Oregon (Mr. AuCoin) has consumed more time then I have, than Mr. Kemp has, or than Mr. Gingrich has—this one gentleman—and yet he was not singled out in the Speaker's remarks.

Maybe what they were talking about is the fact that maybe we are offering too many amendments. Well, this gentleman from Pennsylvania has offered one amendment in the course of the consideration, and that amendment was so rational, was so reasonable, that the committee accepted it. I did not even use my full debate time on it. The chairman of the committee accepted the amendment.

The gentleman from Georgia has also offered one amendment.

The chairman of the committee himself, the gentleman from Wisconsin (Mr. Zablocki), has offered four amendments. He has offered twice as many as Mr. Gingrich, Mr. Kemp, and Mr. Walker combined.

How about the number of votes requested? Maybe what we have been doing is delaying the House be requesting a lot of votes. Well, among the three of us—Gingrich, Kemp, and Walker—we have requested a total of four votes. That is the same number that the chairman of the committee himself has requested. He has requested exactly the same number as all of us combined.

What I am saying is, we have got some sort of phony star chamber proceedings going on here. What kind of star chamber proceeding are we conducting, where we identify false villains and then try to get the House to stop them?

It seems to me that we are behaving not unlike totalitarians in their behavior around the world. You know, one of the things you find when tyranny is being imposed is that it often begins with a slogan. It begins with a slogan, and then the slogan in operation becomes indefensible, and when they cannot defend it, they resort to disinformation of some sort in order to try to present a better light on that which is indefensible, and then when disinformation does not work, they resort, then, to brute force to put forth their point of view.

What we are seeing happening in the House today is the resorting to brute force. We are seeing the attempt of the majority to use their power to go to the Rules Committee and simply shut down the debate, simply say, "We cannot discuss this any more with you, so we will not discuss it any more. We cannot defend this proposition before the House, so therefore we choose to gag the House."

Mr. Speaker, that is a tawdry performance which the American people should understand is a prime example of the arrogance of power that pervades this House. It is something which disturbs me, because I think very carefully about the fact that the rules that we are using on this House floor, even today, were drafted by Thomas Jefferson many years ago. And if any of you will take time to go down and look at the Jefferson Memorial, the words which ring the top of the Memorial say this.

> I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man.

What we see happening in the House all too often these days, and particularly in this instance, is the imposition of tyranny in a parliamentary body. It is a shame. It is a terrible shame.

□ 1259

BANKRUPTCY CODE AMENDMENTS ARE NEEDED TO ASSURE CONTINUED USE OF REPURCHASE AGREEMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. Glickman) is recognized for 15 minutes.

● Mr. GLICKMAN. Mr. Speaker, I am introducing legislation today which I think is critically needed for the financial markets of this country and which also should be noncontroversial. My legislation would amend the Bankruptcy Code to exempt from its automatic stay requirements certain repurchase agreements. The legislation parallels action taken by the last Congress which resulted in Public Law 97-222. That legislation was intended to prevent the insolvency of one commodities or securities firm from spreading to other firms and possibly damaging the stability of the affected market. Particularly in the aftermath of a bench decision in the Lombard-Wall case from the Bankruptcy Court in the Southern District of New York last August, it has become evident that further legislation is necessary to clarify the status of repurchase agreements under the Bankruptcy Code.

Repurchase agreements, as you may know, are agreements which involve two separate acts in one transaction. Under these agreements securities are sold by one party to another with a simultaneous agreement that the first party will repurchase the same or substituted securities on a day certain for a price certain reflecting an interest payment. The agreements also, of course, commit the second party to resell the securities under the same terms.

These agreements are very important to our financial markets and serve a number of functions of particular significance to governments, Federal, State, and local. Let me run through them briefly:

First, the Federal Reserve Board, through its Open Market Committee and its Open Market Desk at the Federal Reserve Bank of New York, uses repurchase agreements to execute domestic monetary policy. By selling securities in the repurchase of repo market, the Fed is able to drain reserves temporarily. Conversely, by buying securities in the repo market, the Fed can inject reserves into the banking system. This is very important to smoothing out interest rate fluctuations and has been used extensively to that end. In fact, last year a total of over $220 billion of such transactions in Treasury and Federal agency issues and bankers' acceptances were carried out to deal with these temporary reserve imbalances. Beyond that, $90 billion in repurchase agreements were carried out on behalf of foreign official accounts with the Fed. In a single day, this activity may total in excess of $5 billion, and routinely it is in the $3 to $4 billion range.

Second, dealers in Government securities use the repo market to acquire funds to finance new issue underwriting. This can be particularly important to the Government in terms of holding down the cost of financing the national debt. We all know that we have an important responsibility in that area to minimize these financing costs. Failure to enact corrective legislation will only add to those costs.

Third, institutional investors invest literally billions of dollars in the repo market. Those investments provide them considerable liquidity and, traditionally, security. As a result, it has been possible for mutual funds, pension funds, State and local governments, commercial banks, thrifts, corporations and other securities dealers to invest surplus cash for short times. This allows funds available for short time periods to accrue interest which is obviously of great benefit to those organizations and institutions. In fact, in my own State of Kansas, in fiscal year 1982, an average of $71 million in repurchase agreements were in effect daily, and they meant over $10 million in interest earnings to the State treasury. Of course, municipal governments around the State also benefited from the use of this mechanism.

Fourth, conversely, institutional investors and Government securities dealers are able to provide securities in the repo markets while continuing to realise a yield on their original investments. Likewise, those investors and dealers are able to use the repo markets to cover short positions in their securities trading.

Clearly, these repurchase agreements serve a multitude of purposes very effectively. Unfortunately, however, the decision in the Lombard case which held that the automatic stay against creditor action prevented the holder of securities acquired under a repurchase agreement from liquidating those securities and closing out its transaction with the debtor has left a cloud over this important short-term investment device. The fact that these repurchase agreements are unique because of both their yields and liquidity has been key to their value across the board. Locking them in under an automatic stay leaves serious problems that would definitely hinder their use. The implications are already being felt. For example, last September, Standard & Poors announced that it would not rate structured municipal issues which permit investment of proceeds in repurchase agreements with Government securities dealers not rated by Standard & Poors. Following that action, HUD issued a ruling precluding public housing authorities and FHA-approved mortgages for multifamily projects from investing in repos. And, last November, an internal SEC memorandum tightened up on evaluation of creditworthiness of brokers and dealers handling repos.

Thus far, the market has sustained very little ill-effect as a result of the Lombard ruling; however, many participants are staying in the repo market on the assumption that corrective action will be taken by the Congress relatively quickly. Still, there has been a drop in the proportion of repurchase agreement transactions involving State and local governments and public authorities, as well as pension funds, which have significant fiduciary responsibilities.

Failure to act would in all likelihood worsen the problems that are beginning to surface. Furthermore, the liquidity of longer term Government securities would be thrown into question, and the cost of financing the national debt would increase significantly.

The Senate has now acted on this question. I hope we will do so quickly. To that end, I am introducing legislation proposed by Federal Reserve Board Chairman Volcker with only minor modifications to which the Fed has agreed.

I ask unanimous consent that a section-by-section analysis of the bill be printed at the conclusion of my remarks. Hopefully, that information will assure my colleagues that this important legislation is indeed noncontroversial as well.

The analysis follows:

SECTION-BY-SECTION ANALYSIS

DEFINITIONS

Section 1(a) makes conforming redesignations of subsequent definitions.

Section 1(b) provides a new definition for "repo participant" in section 101. "Repo participant" includes any entity that, on any day during the period beginning 90 days before the date of the filing of the petition, has one or more outstanding repurchase agreements with the debtor. The 90 day period is based on the preference period set forth in section 547 of the Code. This definition is intended to include an entity acting for its own account or for the account of one or more other entities (whether as custodian, trustee, fiduciary, agent or in any other capacity).

It is not intended by the provisions of this definition to affect the status of repurchase agreements under other provisions of the Code, such as those, for example, protecting securities contracts and forward contracts.

Section 1(c) provides a new definition for "repurchase agreement" in section 101. "Repurchase agreement" means any agreement which provides for the transfer of certificates of deposit, eligible bankers' acceptances, or securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, or securities with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, or securities as described above, at a date certain within one year after such transfers or on demand (regardless of by whom made), against the transfer of funds. This definition also applies to a reverse repurchase agreement. It also covers any related terms in a repurchase agreement (such as mark-to-market provisions). For purposes of this definition an "eligible bankers' acceptance" is either (i) an acceptance by any institution of a draft or bill of exchange drawn on itself which, if drawn on a member bank, would be eligible for acceptance under the criteria established in subparagraph (A) of the seventh paragraph of section 13 of the Federal Reserve Act, 12 U.S.C. § 372, or (ii) an acceptance which, on the date the repurchase agreement is entered into, is eligible for purchase under the rules of the Federal Open Market Committee.

While repurchase agreements may be open to various kinds of characterizations and are characterised in market practice under various legal relationships, it is intended by this section that any agreement that meets the terms of the definition of repurchase agreement shall receive the treatment in bankruptcy that is provided for in this subtitle.

The definition does not require (or prevent) the original and reverse transfers to be provided for in separate agreements or confirmations. A repurchase agreement may be either written or oral.

In accordance with market practice, some repurchase agreements permit certain substitutions of the assets subject to the repurchase agreement. Accordingly, under agreements covered by this definition, the transferor may make certain substitutions of assets, but only assets of at least equal market value to those originally transferred and falling within the same one of the three enumerated categories (i.e, certificates of deposit, eligible bankers' acceptances or U.S. government and Federal agency issued or guaranteed securities). The transferee may return only assets that are the same in all material respects as those last transfered or substituted by the transferor.

Repurchase agreements for only certificates of deposit eligible bankers' acceptances, and U.S. government and Federal agency issued or guaranteed obligations are afforded the amendment's treatment under the Code. As provided in section 102(5) of title II, United States Code, the enumeration of the underlying types of property in the alternative is not exclusive; a repurchase agreement can involve the transfer or re-transfer of a combination of the enumerated kinds of property. It is not intended by the enumeration in this definition to affect in any way the status of repurchase agreements for any item, whether or not covered by the definition, under other provisions of the Code, such as those, for example, protecting securities contracts and forward contracts.

In particular, a repurchase agreement as defined in this subtitle, insofar as it applies to a security, would continue to be a securities contract as defined in the Code and thus also would be subject to the Code provisions pertaining to securities contracts. Similarly, insofar as a repurchase agreement as defined in this subtitle applies to a commodity, it would continue to be a forward contract for purposes of the Code and would be subject to the forward contract provisions of the Code.

The reference to "direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or any agency of the United States" is based on section 14(b) of the Federal Reserve Act, 12 U.S.C. § 355, and is intended to include all obligations of, or that are fully guaranteed as to principal and interest by, any entity whose obligations are determined by the Board of Governors of the Federal Reserve System to be eligible for purchase by Federal Reserve banks under the similar lanaguage of section 14(b) of the Federal Reserve Act.

AUTOMATIC STAY

Section 2(a) makes conforming redesignations of subsequent paragraphs.

Section 2(b) is intended to clarify that, despite the automatic stay of section 362(a), a repo participant may set off a claim for a margin or settlement payment arising out of repurchase agreements against the repo participant's obligations to the debtor in respect of cash, securities or other property that the repo participant is holding, or that is due to the debtor, to margin, guarantee, secure or settle repurchase agreements, notwithstanding the bankruptcy of the party for whose accounts such cash, securities, or property is held. This provision is essentially parallel to the one in existing Code section 362(b)(6).

This section refers to settlement payments as defined in section 741(8). It is intended for purposes of this section and the other provisions added by this subtitle that any amount paid or payable with respect to any interest, dividend or other distribution in respect of the certificate of deposit, eligible bankers' acceptance, or security that is the subject of the repurchase agreement and any amount paid or payable with respect to any interest, rebate or other fee in respect of the repurchase agreement, regardless of whether the amount is paid or payable on a settlement date or a different date, constitute a settlement payment within the meaning of that term as defined in section 741(8). Such items serve the same function as other, more conventional types of settlement payment and are commonly used in the securities trade. This assures consistency of treatment, since it is understood that similar amounts paid or payable with respect to securities contracts likewise come within the definition of settlement payment as defined in section 741(8) for purposes of the Code provisions relating to securities contracts.

AVOIDING POWERS

Section 3 creates a new subsection to section 546 which, together with provisions of section 548, clarifies that a trustee is prohibited from avoiding a transfer that is a margin payment or settlement payment made by or to a repo participant in connection with a repurchase agreement, except where the transfer was made with actual intent to hinder, delay or defraud other creditors and the property transferred was not taken in good faith. This prohibition is parallel to the one in existing Code section 546(d).

Section 4 creates a new subsection to section 548(d)(2) to clarify that all margin or settlement payments made in connection with a repurchase agreement was taken for value to the full extent of such margin payments. This new provision is parallel to the one in existing Code section 548(d)(2)(B).

SETOFFS

Section 5 makes a conforming change.

PROTECTION FOR LIQUIDATION OF A REPURCHASE AGREEMENT

Section 6(a) adds a new section to the end of Chapter 5 of title 11 to clarify that the exercise of a contractual right of a repo participant to cause the liquidation of a repurchase agreement, because of a condition of the kind specified in section 365(e)(1) of title 11, shall not be stayed, avoided or otherwise limited in any proceeding under title 11 by a court or administrative agency, unless, where the debtor is a stockbroker or securities clearing agency, such order is authorized under the provisions of the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) or any statute administered by the Securities and Exchange Commission. This provision would confirm that the liquidation would terminate any right of the debtor's trustee to affirm an executory contract in respect of a repurchase agreement. The prompt liquidation of an insolvent's position is generally desirable to minimize the potentially massive losses and chain reaction of insolvencies that could occur if the market were to move sharply in the wrong direction. This provision is parallel to the one in existing Code section 555.

The amendment also contains an excess proceeds provision applicable in the event that a repro participant liquidates one or more repurchase agreements with a debtor and under the terms of one or more such agreements has agreed to deliver assets subject to such agreement or agreements to the debtor. In such an event any excess of the market prices received on liquidation of such assets (or if any such assets are not disposed of on the date of liquidation of such repurchase agreements, at the prices available at the time of liquidation of such repurchase agreements from a generally recognized source or the most recent closing bid quotation from such a source) over the sum of the stated repurchase prices and all expenses (including such items as brokerage fees, bank charges or fees for legal services) in connection with the liquidation of such repurchase agreements shall be deemed property of the estate, subject to the available rights of setoff. It is intended that the rights of setoff and other remedies permitted elsewhere in the Bankruptcy Code and under other law are not to be limited by this provision.

The new section includes a definition of the term "contractual right" in respect of repurchase agreements to make explicit that this term includes rights arising under common law, under law merchant or by reason of normal business practice whether or not evidenced in writing, as well as a right set forth in a rule or bylaw, of a national securities exchange, a national securities association, or a securities clearing agency that is applicable to each party to the repurchase agreement. It is understood and intended that such a rule or bylaw would be applicable to each party to the repurchase agreement only if each of them is a member of the exchange, association or agency promulgating the rule or bylaw or has agreed to be bound by such rule or bylaw.

Section 6(b) makes a conforming change.

EFFECTIVE DATE

Section 7 provides that these amendments shall become effective on the date of enactment but shall not apply to cases commenced before the date of enactment.●

VA SALUTES NURSES DURING SPECIAL WEEK

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. Montgomery) is recognized for 5 minutes.

● Mr. **MONTGOMERY.** Mr. Speaker, this week the Veterans' Administration is saluting its 60,000 nurses, licensed practical nurses and nursing assistants during National Nurses Week.

I know my colleagues are aware of the tremendous and profound contribution these individuals make to VA's health care delivery system. In every State of the Nation, these dedicated professionals help America's veterans regain health, live with chronic disease and disability, or die with dignity. They are truly the heart of VA health care.

Nationwide, VA nurses care for 1.2 million hospital patients and over 18 million outpatients. Besides staffing hospitals and clinics, VA nurses also work in 98 nursing homes and 16 domiciliaries.

Mr. Speaker, the Congress has made every effort over the years to give the VA not only the facilities it needs, but also to insure that those facilities are staffed by medical professionals of the highest quality.

Public Law 96-330 has enhanced significantly the recruitment and retention of quality health care professionals in the VA hospital system by providing more adequate and comparable pay rate adjustments in order to stay competitive with the private sector. Additionally, the law established the Veterans' Administration health professional scholarship program, under which VA provides tuition and support for medical and nursing students in exchange for an equal number of years service within the VA medical system. Now well into its second year, we are beginning to see very positive results from the program.

Ceremonies for this week's salute are set for this Friday, May 6, in many of VA's hospitals and clinics. I urge my colleagues to show their gratitude and appreciation for this most dedicated personnel.●

NATIONAL OCEANS POLICY COMMISSION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. Jones) is recognized for 5 minutes.

● Mr. **JONES** of North Carolina. Mr. Speaker, together with my colleagues on the Committee on Merchant Marine and Fisheries and the Committee on Foreign Affairs, I am introducing today a bill to establish a National Oceans Policy Commission to examine certain long-term oceans policy issues that now face the United States. This legislation would establish a 15-member, blue-ribbon panel of distinguished decisionmakers from a wide range of ocean interests representing commerical and nonprofit organizations, the gubernatorial leadership of coastal States, the Federal Executive, and academia. It would charge the Commission with developing recommendations on a comprehensive national oceans policy encompassing both international and domestic issues. The recommendations would serve as a critically objective base on which to review and evaluate our ocean programs to maintain U.S. leadership in the seas into the next century.

U.S. oceans policy is now in a period of fundamental transition. Internationally, the decision of the United States to terminate further direct U.S. participation in the Convention on the Law of the Sea has generated a wide range of international marine issues directly affecting important national strategic and resource interests. The importance of unimpaired navigation through, over, and under the world's oceans needs no elaboration. Development of marine resources continues to hold enormous promise for the United States. Fisheries, oil and gas, ocean minerals, and other marine resources will continue to play important roles in sustaining American growth.

While the Presidential proclamation of an exclusive economic zone on March 10, 1983, capsulized the basic jurisdiction of the United States, many specific issues relating to navigation, fishing, marine pollution, marine scientific research, vessel source pollution, and the Continental Shelf remain. Moreover, these issues are interrelated from an international perspective because of the "package deal" negotiations which led to the Convention on the Law of the Sea. A thorough and studied examination of these issues is thus essential to insure that the overall interests of the United States remain protected.

The central domestic issue facing the United States concerns continued U.S. leadership in the oceans for the 1980's and 1990's. The general assumptions about expanding Federal roles and the pace of marine development that underlay the marine policies of the 1970's require revision. Increasing competition for marine resources, increasing pressure on those resources and the marine environment, and increasing complexities of marine technological development demand major research and regulatory efforts which must be sustained if the United States is to retain its traditional leadership in the oceans. At the same time, however, the broad-brush approach to Federal involvement in the past is clearly giving way to a leaner, more sharply focused Federal role. The resolution of these seemingly incompatible, but unavoidable trends constitutes the central task for long-term U.S. marine policy.

Further, increasing problems between Federal and State decisionmaking, which continue to cost all parties enormous sums, suggest that the present allocation of responsibilities requires serious review. What roles should State and local governments occupy in resource decisionmaking; what types of administrative responsibilities are properly located at the State and local levels; and how should the fiscal burdens for research, management, and development be divided between various levels of the public sector and the private sector?

Because of the complexity of the issues involved and the merits of an independent, comprehensive review of them, I believe that this proposal deserves our serious attention. The Commission would serve to refocus U.S. marine policies during what is unquestionably an important period for our international and domestic interests. It would serve to build a constructive, high profile consensus on marine policy and avoid the divisions and legislative stalemates that may otherwise ensue. Its unified structure would allow for a comprehensive review of the international issues facing the United States, thereby avoiding the piecemeal, compartmentalized perspectives of executive agencies and, indeed, of congressional committees. Its representation of Federal and State governments, industry, and academia would provide a secure basis for formulating recommendations on domestic issues that will directly affect each sector. Additionally, by involving high-level Federal, State, and private sector representatives, it could serve to defuse the protracted conflicts over marine development at enormous financial savings to all sectors, public and private.

Finally, I would emphasize to my colleagues the positive, constructive approach embodied in this initiative and the importance of broad, bipartisan support for it within Congress and the administration. I therefore urge your support for the establishment of a National Oceans Policy Commission.●

NATIONAL EMPLOYMENT PRIORITIES ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. FORD), is recognized for 5 minutes.

● Mr. FORD of Michigan. Mr. Speaker, today, joined by 32 cosponsors, I have introduced legislation which addresses one of the most serious problems facing the American economy—the dislocations caused by plant closings and permanent layoffs. Every State and region of the country is suffering from the effects of massive, sudden plant closings which wipe out hundreds or thousands of jobs in a single blow, leaving communities and workers unprepared for unemployment and unable to adjust. Not just the Northeast and Midwest, but the entire Nation is experiencing the wrenching dislocation which major shifts of capital and jobs can cause. In fact, according to the Bureau of National Affairs, more plant closings occurred in the Southeast than in any other region in 1982, and North Carolina was the State most heavily affected. Even California, for decades a dynamo of economic growth and prosperity, has lost hundreds of thousands of jobs in the past few years, most of them in the manufacturing sector, as businesses have closed or relocated facilities, often shifting their investment to overseas operations in order to exploit cheaper wages.

Nationwide, the number of jobs lost to plant closings in the last few years is staggering. A study conducted by the Brookings Institution and the Small Business Administration indicates that 4.8 million jobs were eliminated during the first 2 years of the current recession when businesses shut down facilities of all kinds—factories, mines, retail stores, and offices. Most of those shutdowns were in very small facilities, but many involved hundreds or thousands of employees and severely disrupted the social and economic fabric of the communities where they occurred.

In the past, certain economists have argued that plant closings and relocations are good for the economy—are, in fact, an essential part of a dynamic and growing economy. These economists argued that any governmental action to restrict such closings would lead to inefficiency and would weaken our economy. They claimed that, ultimately, everyone benefited from unrestricted business mobility, since it meant cheaper goods, higher profits, and efficient production.

That argument was always wrong, but it had a certain plausibility when unemployment was low, our work force was growing, and our manufacturing sector was the world's unchallenged leader. Today, with 11.3 million Americans unemployed and millions more forced to work part time, a stagnant manufacturing sector, and growing import competition, the argument is no longer plausible. Today, when multinational corporations such as General Electric, North American Phillips and Warner Communications, Inc., close facilities and move to Singapore, Mexico, or Taiwan, they leave behind workers and families with no prospect of finding equivalent work or, sometimes, any work. And the number of these dislocated workers is growing.

Governments at every level, business leaders and their organizations, and academics have all become aware—belatedly—of the problems that these shifts in investment have created. They are beginning to realize that the impoverishment of millions of formerly productive workers creates dangers for our economy and our democracy.

A recent meeting in Pittsburgh, entitled the National Conference on the Dislocated Worker, highlighted the need for more active governmental intervention to prevent or minimize the adverse effects of plant closings. Speaker after speaker pointed out the need for advance notice of shutdowns to permit local adjustment programs to go into effect and to allow workers an opportunity to begin searching for new employment before their termination. Nearly every speaker at this conference—which was sponsored by the National Alliance of Business, the National Association of Manufacturers, and the Chamber of Commerce—agreed that current Federal retraining efforts are inadequate and should be expanded. And, as the National Alliance of Business reports, the conference participants agreed that "dislocation can be prevented by early communication between management and labor, enabling them to examine options. It can also be eased through severance pay, extension of health benefits, early retirement, and outplacement services."

I agree with these conclusions, but the fact of the matter is that only Federal regulation will cause the great majority of businesses to provide prenotification of plant shutdowns, to extend health benefits, or to provide adequate severance pay. Voluntarism has failed, and the result is sudden layoffs, such as the recent termination of 600 Atari employees, with less than 1 day's notice, even though Atari's management began planning their relocation to Taiwan nearly 1 year earlier.

For nearly a decade, the Trade Act of 1974 has encouraged employers to provide advance notice of overseas relocations and to help relocate their employees to other locations where employment opportunities exist. Section 2934 of title 19 of the United States Code provides that:

> Before moving productive facilities from the United States to a foreign country, every firm should—
>
> (1) provide notice of the move to its employees who are likely to be totally or partially separated as a result of the move at least 60 days before the date of such move, and
>
> (2) provide notice of the move to the Secretary of Labor and the Secretary of Commerce on the same day it notifies employees under paragraph (1).
>
> (b) It is the sense of the Congress that every such firm should—
>
> (1) apply for and use all adjustment assistance for which it is eligible under this subchapter,
>
> (2) offer employment opportunities in the United States, if any exist, to its employees who are totally or partially separated workers as a result of the move, and
>
> (3) assist in relocating employees to other locations in the United States where employment opportunities exist.

When I checked with the Labor Department and the Commerce Department recently, I was told that no firm had ever provided them with the notice called for by the law.

If businesses will not voluntarily give advance notice of a shutdown, how likely are they to provide adequate severance pay, share financial information with their employees, extend health benefits coverage, or provide early retirement or outplacement services? Experience shows that all of these actions which could ease the adjustment of workers and their communities are rarely undertaken, even by unionized companies.

The need for these forms of assistance is critical because plant closings and large scale layoffs differ from normal unemployment. Plant closings are usually a crisis for the workers and communities they affect, and their consequences can be more devastating than the floods and other natural disasters for which the Federal Government provides emergency aid. Numerous congressional hearings, agency reports, and academic studies have documented these adverse effects, which include:

SEVERE UNEMPLOYMENT

Whereas the median duration of unemployment in the United States is 10 weeks, studies have found that 40 percent of workers laid off in major plant closings are unemployed for 40-60 weeks and a quarter are unemployed for more than 1 year. During a recession or where unemployment in an area is already high, the duration of unemployment can be even greater.

HEALTH EFFECTS

Victims of plant closings typically suffer from hypertension, abnormally high cholesterol and blood sugar levels, a higher incidence of ulcers, respiratory diseases, unduly high propensities to gout and diabetes, and hyperallergic reactions. The mental health effects can be even more critical: Depression, anxiety, substance abuse and aggressive feelings frequently translate into spouse abuse, child abuse, crime, or suicide.

INCOME LOSS

Not only do workers lose their jobs in a plant closing, along with health benefits, pensions, and other fringe benefits, but the new jobs they eventually get do not provide as much income or status. Careful long-term studies show that 6 years after a plant closing, workers in the automobile, steel, meat packing, and aerospace industries still earn an average 12.5 to 18.1 percent less than before the shutdown. Over a lifetime, this income loss can total $40,000 or more per worker.

COMMUNITY EFFECTS

When a major business closes, a wave of income loss and job loss usually sweeps through the community. Supplier firms lose contracts, retail stores lose customers, local governments and school systems lose tax revenues and lay off employees. A seemingly private decision eventually affects nearly everyone in town. The indirect job loss, or employment multiplier, can be as high as two jobs for every direct job loss. The U.S. Department of Transportation has found that for every 100 automobile jobs lost directly, another 140 to 200 jobs would be destroyed in industries ranging from iron ore mining to advertising. And just when social services are most needed, payroll, property, and income tax revenue losses undermine the ability of local governments to respond.

The causes of plant shutdowns vary, from bankruptcy or a desire to abandon an unprofitable operation to a desire to thwart unionization, to relocate a profitable location to a more profitable location, or to milk a cash cow and exploit the tax advantages of paper losses. Nearly all of them, however, have several things in common. They occur with little or no warning to the affected workers and communities—and with no input from them in the decision—they put a burden on the taxpayers for public assistance and social services; and they leave behind families who have no health insurance or pension and no immediate prospect of finding alternative employment.

The National Employment Priorities Act is intended to prevent or minimize each of these problems. In summary, the legislation, has four purposes:

First, to provide Federal financial assistance to businesses, communities or workers to prevent business failure and plant closings that can be avoided. Years of study have proven that many plant closings are economically unnecessary or avoidable and that access to sufficient loan capital will often be enough to prevent major dislocations. Firms ranging in size from the Chrysler Corp. down to a 50-employee sporting goods firm have been saved by Federal loans, loan guarantees, and technical assistance.

Second, to require that businesses provide enough advance notice of plant closings and major layoffs and sufficient financial information to allow local governments, employees, and small businesses to plan for and adjust to the loss of tax revenues, employment, and business which will occur. Firms would be required to give 6-months notice before permanently displacing 100 or fewer employees, and 1 year before displacing more than 100.

Third, to protect employees from dislocation and discourage unnecessary closings by requiring businesses to make severance payments, to continue health and welfare benefits and to provide transfer rights to other facilities to workers laid off in plant closings.

Fourth, to expand Federal assistance to dislocated workers and their communities. The bill makes retraining available to all dislocated workers and authorizes emergency assistance to local governments to fund social services, school systems, and employment projects when a major plant closing severely reduces local tax revenues and the employment base.

I also want to make it perfectly clear what the legislation will not do. It does not give any agency of government the power to prevent a plant closing or relocation. Rather, it only allows the Government to delay a shutdown for 6 months or 1 year, depending on the number of employees affected.

Nor will this bill restrict in any way the operations of small businesses. More than 90 percent of the Nation's businesses, those which do not employ 50 or more workers at a single facility, are excluded from coverage. If anything, these small companies will benefit, as will all citizens, from the advance notice they will receive of major shutdowns in their community that might affect their business.

Legislation similar to the National Employment Priorities Act has worked well for many years in Germany, Sweden, and other European countries. With unemployment in the United States climbing to levels unimaginable just 5 years ago and the number of dislocated workers growing every day, the time for us to act is here. Our Nation needs a just, rational, and effective mechanism to help our communities adjust to economic dislocation. I believe that the National Employment Priorities Act provides such a mechanism.●

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted to:

Mr. NEAL (at the request of Mr. WRIGHT) from March 23 through April 27, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. GONZALEZ, for 30 minutes, today.

Mr. GONZALEZ, for 30 minutes, Tuesday, May 3, 1983.

Mr. GONZALEZ, for 30 minutes, Wednesday, May 4, 1983.

(The following Members (at the request of Mr. BARTLETT) to revise and extend their remarks and include extraneous material:)

Ms. SNOWE, for 5 minutes today.

Mr. WALKER, for 60 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GLICKMAN, for 15 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BARTLETT) and to include extraneous matter:)

Mr. GILMAN.

Mr. FIELDS.

Mr. BOEHLERT.

Mr. RITTER.

Mr. WHITEHURST.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mrs. LLOYD in five instances.

Mr. HAMILTON in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. AUCOIN.

Mr. WEAVER.

Mr. BATES.

Mrs. SCHROEDER.

Mr. ZABLOCKI.

Mr. BENNETT in two instances.

Mr. GARCIA in two instances.

Mr. BARNES.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1037. An act to authorize appropriations for fiscal year 1984 for certain maritime programs of the Department of Transportation, and for other purposes; to the Committee on Merchant Marine and Fisheries.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock p.m.), the House adjourned until tomorrow, Tuesday, May 3, 1983, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1031. A letter from the Speaker, transmitting a report to the U.S. House of Representatives (H. Doc. No. 98-56); and ordered to be printed.

1032. A letter from the Executive Associate Director, Office of Management and Budget, Executive Office of the President, transmitting a report listing appropriations that have been apportioned on a basis that indicates a necessity for supplemental appropriations for fiscal year 1983, which deficiency apportionments are required for pay and the Government's share of medicare costs for Federal workers, pursuant to section 3679(e)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

1033. A letter from the General Counsel of Department of Defense, transmitting a draft of proposed legislation to freeze the rates of variable housing allowance payable in fiscal year 1984 at the rates in effect during fiscal year 1983; to the Committee on Armed Services.

1034. A letter from the Chairman, National Credit Union Administration, transmitting the third annual report on the Depository Institutions Deregulation Committee, pursuant to section 206 of Public Law 96-221; to the Committee on Banking, Finance and Urban Affairs.

1035. A letter from the Secretary of Education, transmitting a final report entitled, "A Nation At Risk: The Imperative for Educational Reform" submitted by the National Commission on Excellence in Education, appointed by the Secretary in 1981; to the Committee on Education and Labor.

1036. A letter from the Secretary of Health and Human Services, transmitting the fourth annual report on the Implementation of the Age Discrimination Act of 1975 by departments and agencies which administer programs of Federal financial assistance, pursuant to section 308(b) of the act, as amended; to the Committee on Education and Labor.

1037. A letter from the Chairman, National Commission on Libraries and Information Science, transmitting the 11th annual report of the Commission, pursuant to section 5(a)(7) of Public Law 91-345, as amended; to the Committee on Education and Labor.

1038. A letter from the Deputy Assistant Secretary of Education for Vocational and Adult Education, transmitting the annual report of the Community Education Advisory Council for calendar year 1982; to the Committee on Education and Labor.

1039. A letter from the Secretary of Health and Human Services, transmitting a report on State compliance with the medicaid utilization control requirements, for the quarter ending December 31, 1982, pursuant to section 1903(g)(6) of the Social Security Act, as amended; to the Committee on Energy and Commerce.

1040. A letter from the Secretary of Health and Human Services, transmitting the 1982 report of the Director, National Cancer Institute, and the annual plan for fiscal years 1984-88 of the national cancer program, pursuant to section 404(a)(9) of the Public Health Service Act, as amended; to the Committee on Energy and Commerce.

1041. A letter from the General Counsel, Department of Energy, transmitting notice of a meeting relating to the international energy program to be held on May 5, 1983 through May 31, 1983, in Paris, France; to the Committee on Energy and Commerce.

1042. A letter from the Chairman, Department of Justice (Foreign Claims Settlement Commission), transmitting the Commission's annual report for the period January 1, 1982 through December 31, 1982, pursuant to Public Law 89-348; to the Committee on Foreign Affairs.

1043. A letter from the General Counsel, Legal Services Corporation, transmitting a report on the Corporation's activities under the Freedom of Information Act for the calendar year 1982, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

1044. A letter from the Chairman, Federal Home Loan Bank Board, transmitting a report on the Board's activities under the Government in the Sunshine Act covering calendar year 1982, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

1045. A letter from the Staff Director, U.S. Commission on Civil Rights, transmitting a report on the Commission's activities under the Government in the Sunshine Act covering calendar year 1982, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

1046. A letter from the Assistant Attorney General, Department of Justice, transmitting the annual report on the activities of the Public Integrity Section, Criminal Division for the calendar year 1982, pursuant to section 529 of title 28, United States Code; to the Committee on the Judiciary.

1047. A letter from the Assistant Attorney General, Antitrust Division, transmitting a report on competition in the coal industry, pursuant to 30 U.S.C. 208(2); to the Committee on Interior and Insular Affairs.

1048. A letter from the Assistant Secretary of the Interior for Territorial and International Affairs, transmitting the Governor's plan to eliminate Guam's general fund deficit pursuant to section 601(b) of Public Law 96-597; to the Committee on Interior and Insular Affairs.

1049. A letter from the Personnel Appeals Board, U.S. General Accounting Office, transmitting the second annual report on the Board's activities for the period October 1, 1981, through December 31, 1982, pursuant to Public Law 96-191; to the Committee on Post Office and Civil Service.

1050. A letter from the Secretary of Commerce, transmitting the annual report on the activities of the national climate program for fiscal year 1981, pursuant to section 7 of Public Law 95-367; to the Committee on Science and Technology.

1051. A letter from the Director of the Office of Management and Budget, transmitting a draft of proposed legislation to amend the Inspector General Act of 1978 to include the Offices of Inspector General of the Department of Energy and the Department of Health and Human Services, and for other purposes; jointly, to the Committees on Government Operations and Post Office and Civil Service.

1052. A letter from the Secretary of the Interior, transmitting the Outer Continental Shelf oil and gas leasing and production annual report for fiscal year 1982, pursuant to sections 14(l) and 22(g) of Public Law 95-372; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

1053. A letter from the Comptroller General of the United States, transmitting a report on the Department of Defense budget; jointly, to the Committees on Government Operations, Armed Services, and Appropriations.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PATMAN:

H.R. 2846. A bill to provide that a certain amount of the revenues received by the United States under leases on the Outer Continental Shelf shall be used to acquire strategic and critical materials for the national defense stockpile; jointly, to the Committees on Interior and Insular Affairs and Rules.

By Mr. FORD of Michigan (for himself, Mr. Oberstar, Mr. Vento, Mr. Roe, Mr. Gaydos, Mr. Clay, Mr. Ford of Tennessee, Mr. Fauntroy, Mr. Zablocki, Mr. Rodino, Mr. Kildee, Mr. Corrada, Mr. Edwards of California, Mr. Perkins, Mr. Sabo, Mr. Brown of California, Mr. Russo, Mr. Stokes, Mr. Simon, Mr. Rahall, Mr. Williams of Montana, Mr. Dellums, Mr. Solarz, Mr. Carr, Mr. Bonior of Michigan, Mr. Crockett, Mr. Guarini, Mr. Seiberling, Mr. Traxler, Mr. Levin of Michigan, Mr. Hawkins, and Mr. Hertel of Michigan):

H.R. 2847. A bill to facilitate economic adjustment of communities, businesses, and workers; to require business concerns to give advance notice of plant closings and permanent layoffs; to provide assistance, including retraining, to dislocated workers; and for other purposes; jointly, to the Committees on Education and Labor and Banking, Finance and Urban Affairs.

By Mr. FLORIO (for himself, Mr. Dingell, Mr. Lent, Ms. Mikulski, Mr. Richardson, and Mr. Tauzin):

H.R. 2848. A bill to establish a service industries development program, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BENNETT:

H.R. 2849. A bill to amend the Contract Disputes Act of 1965 to require that claims by Government contractors be submitted within 3 years; to the Committee on the Judiciary.

By Mr. FAUNTROY:

H.R. 2850. A bill to amend the Federal Reserve Act to provide flexibility in the issuance of Federal Reserve notes in order to assure that the Nation will have an adequate supply of currency; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FRANK:

H.R. 2851. A bill relating to the duty on certain knives (commonly known as snap blade tools) having movable blades; to the Committee on Ways and Means.

By Mr. GLICKMAN:

H.R. 2352. A bill to amend the Bankruptcy Code to exempt certain repurchase agreements from automatic stay provisions of the act; to the Committee on the Judiciary.

By Mr. JONES of North Carolina (for himself, Mr. Zablocki, Mr. Forsythe, Mr. Breaux, Mr. Studds, Mr. D'Amours, Mr. Young of Alaska, Mr. Pritchard, Mr. Gilman, Mr. Hubbard, Mr. Leach of Iowa, Mr. Yatron, Mr. Hughes, Mr. Bonker, and Mrs. Schneider):

H.R. 2853: A bill to establish a National Oceans Policy Commission to make recommendations to Congress and the President on a comprehensive national oceans policy; jointly, to the Committees on Foreign Affairs and Merchant Marine and Fisheries.

By Mr. ROYBAL:

H.R. 2854. A bill to amend the Food Stamp Act of 1977 to permit individuals who are elderly or disabled and who live in certain types of group living arrangements to be treated as individual households; to the Committee on Agriculture.

H.R. 2855. A bill to provide that individuals residing in shared-housing arrangements shall not be subject to the loss of supplemental security income benefits as a result of such residence; to the Committee on Ways and Means.

H.R. 2856. A bill to amend the Internal Revenue Code of 1954 to provide that participating in certain shared-housing arrangements does not make an individual ineligible for the one-time exclusion of gain from the sale of principal residence by individuals who have attained age 55; to the Committee on Ways and Means.

By Ms. SNOWE:

H.R. 2857. A bill to require the Secretary of Health and Human Services to establish an Interagency Task Force on Alzheimer's Disease, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TORRICELLI:

H.R. 2858. A bill to amend title XVIII of the Social Security Act to provide medicare coverage of wigs and hair pieces for individuals with alopecia that resulted from treatment of malignant disease; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. FORD of Tennessee (for himself, Mr. Sundquist, Mr. Boner of Tennessee, Mr. Jones of Tennessee, Mr. Cooper, Mrs. Lloyd, Mr. Gore, Mr. Duncan, Mr. Quillen, Mr. Alexander, Mr. Dowdy of Mississippi, and Mr. Whitten):

H.J. Res. 255. Joint resolution designating September 5, 1983, as "National Beale Street, Home-of-the-Blues Day" to commemorate the redevelopment of the historic area where W. C. Handy, originator of the famous music form known as the "Blues," composed the "Memphis Blues" some 70 years ago; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

99. By the SPEAKER: Memorial of the Senate of the Commonwealth of Pennsylvania, relative to the regulation of gas prices; to the Committee on Energy and Commerce.

100. Also, memorial of the Senate of the Commonwealth of Pennsylvania, relative to the Federal general revenue sharing program; to the Committee on Government Operations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BOEHLERT:

H.R. 2859. A bill for the relief of John Brima Charles; to the Committee on the Judiciary.

By Mr. TORRICELLI:

H.R. 2860. A bill for the relief of SSC International, Inc., of Hackensack, N.J.; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 282: Mr. Guarini.

H.R. 567: Mr. Kindness.

H.R. 1050: Mr. Patterson and Mr. Paul.

H.R. 1179: Mr. Clinger, Mr. Daniel B. Crane, Mr. Edwards of Alabama, Mr. Goodling, Mr. Howard, Mr. Hughes, Mr. Hyde, Mr. Lagomarsino, Mr. Loeffler, Mr. McKinney, Mr. McNulty, Mr. O'Brien, Mr. Sensenbrenner, Mr. Simon, Mr. Spratt, Mr. Taylor, Mr. Vander Jagt, and Mr. Wilson.

H.R. 1386: Mr. Wolpe.

H.R. 1436: Mr. Long of Louisiana.

H.R. 1624: Mr. Barnard.

H.R. 1646: Mr. Bonker and Ms. Kaptur.

H.R. 1937: Mr. Tauke and Mr. McCloskey.

H.R. 2090: Mr. Gingrich, Mr. Lewis of Florida, Mr. Thomas of California, and Mr. Bosco.

H.R. 2372: Mr. Won Pat, Mr. Sunia, Mr. Chappell, Mr. Stokes, Mr. Akaka, Mr. Frenzel, Mr. Dymally, Mr. Bevill, Mr. Quillen, Mr. Fazio, Mr. Gore, Mr. Frost, Mr. Whitehurst, Mr. Torres, Mr. de la Garza, Mr. Leland, and Mr. Jones of Tennessee.

H.R. 2449: Mr. Dwyer of New Jersey, Mr. Evans of Illinois, Mr. Flippo, Mr. Jacobs, Mr. Kogovsek, Mr. Lehman of California, Mr. Lehman of Florida, Mr. Rinaldo, Mr. Sikorski, Mr. Smith of Florida, Mr. LaFalce, Mr. McCurdy, Mr. Sabo, Mr. Stokes, and Mr. Mitchell.

H.R. 2732: Mr. Smith of New Jersey, Mr. Sensenbrenner, Mr. Kindness, Mr. Gingrich, Mr. McCain, Mr. Walker, Mr. Duncan, Mr. Hutto, and Mr. McDonald.

H.R. 2747: Mr. Shaw.

H.J. Res. 51: Mr. Daniel, Mr. Franklin, Mr. Frenzel, and Mr. Waxman.

H.J. Res. 220: Mr. Stratton, Mr. Brooks, Mr. Snyder, Mr. Kemp, Mr. Harrison, and Mr. Feighan.

H. Con. Res. 115: Mr. Hiler, Mr. Vander Jagt, Mr. Kemp, Mr. Schaefer, and Mr. McDonald.

H. Res. 15: Mr. Aspin, Mr. Bereuter, Mrs. Boggs, Mr. Britt, Mr. Broomfield, Mr. Bryant, Mr. Chandler, Mr. Clay, Mrs. Collins, Mr. Conte, Mr. Edwards of California, Mr. Feighan, Mr. Fish, Mr. Forsythe, Mr. Gejdenson, Mr. Gingrich, Mr. Guarini, Mrs. Hall of Indiana, Mr. Hall of Ohio, Mr. Hance, Mr. Harkin, Mr. Jeffords, Mr. Jones of North Carolina, Mr. Kostmayer, Mr. Lagomarsino, Mr. Lantos, Mr. Madigan, Mr. Martinez, Mr. Moody, Mr. O'Brien, Mr. Ortiz, Mr. Parris, Mr. Pease, Mr. Penny, Mr. Pritchard, Mr. Richardson, Mr. Roth, Mr. Schaefer, Mrs. Schneider, Mr. Schumer, Mr. Siljander, Mr. Solarz, Mr. Stark, Mr. Tallon, Mr. Valentine, Mr. Vento, Mr. Wheat, Mr. Winn, Mr. Wirth, Mr. Wylie, Mr. Yates, and Mr. Yatron.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 171: Mr. Coleman of Texas.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

82. By the SPEAKER: Petition of the City Council of New York, N.Y., relative to an emigration visa for Boris Gorenstein; to the Committee on Foreign Affairs.

83. Also, petition of the City Council, New York, N.Y., relative to an emigration visa for Boris Klotz; to the Committee on Foreign Affairs.

84. Also, petition of the City Council, New York, N.Y., relative to an emigration visa for Aleksandre Letichevsky; to the Committee on Foreign Affairs.

85. Also, petition of the City Council, New York, N.Y., relative to an emigration visa for the Volvovsky family; to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.J. Res. 13

By Mr. LEVITAS:

(Amendment to the amendment in the nature of a substitute by Mr. AuCoin.)

—After the last line of the amendment in the nature of a substitute insert the following new section:

Sec. . The Congress proposes that the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations study measures relating to reductions pursuant to the first section, and relating to concurrent and complementary arms control proposals pursuant to section 2, especially those aimed at progressive reductions in the number of destabilizing weapons through a mutual "build down" or other verifiable process.

By Mr. MARTIN of North Carolina:

(Amendment to the amendment in the nature of a substitute by Mr. AuCoin.)

—After the word "capabilities" the first time it appears and before the comma insert the following: "at present and in the future".

—After the last line of the amendment in the nature of a substitute insert the following new section:

Sec. . Nothing in this resolution shall be construed to commit the United States, in pursuit of the negotiating objectives set forth in this resolution, to any steps in the authorization or appropriation process suspending, deferring or deciding against research and development, testing, production, or deployment of nuclear warheads, missiles or delivery systems, unless agreed upon in negotiations with the Soviet Union.

SENATE—*Monday, May 2, 1983*

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

*Holy, holy, holy, Lord God Almighty, which was, and is and is to come * * *. Thou art worthy, O Lord, to receive glory and honor and power: for thou hast created all things, and for thy pleasure they are and were created.*—Revelation 4: 8, 11.

God of creation, Lord of life, we thank Thee that we are alive. There are those who went to sleep last night who did not awaken this morning. We thank Thee that we are here with work to do. There are those who awakened today with no job to go to and no prospect of getting one. We thank Thee that we are whole physically and mentally. There are those who, through some tragedy, have been disabled this past week. We thank Thee for our spouses and children. There are those who have lost loved ones recently. Forgive us Lord for presuming upon life and so seldom thanking Thee for the common benefits which we enjoy so routinely.

We pray for those who are unemployed—for those who have been disabled or who have lost loved ones. Grant to them today Thy peace and comfort. In Jesus name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

EVERYDAY THINGS

Mr. BAKER. Mr. President, this week's poem was written by Debora Greger, and is entitled "Everyday Things." I ask unanimous consent that it be printed in the RECORD.

EVERYDAY THINGS

Think of the swimming
that does for flight in dreams—feet
dragging through leaves, you watch

yourself climb through a stagy light,
like this afternoon's, doubly lit
by lamps and weaker sun. How can you

not believe the merely visible?
A boy struggles into costume
over a harness that's half the magic

of theatrical flying. Like humans,
ducks are slipping on the river,
feet out from under them

across the ice. Tossed from a window,
the carrier pigeon charts a course
as long as the night stays clear,

leaving me, armchaired, to imagine
a message worth wingbeats per mile
as ground traversed brings closer

nothing but dawn. The chair's
upholstered wings shelter, stiffly;
maybe the painter was right about

a floating world: chair not resting on
but hovering just above the floor,
everyday wings keeping us

from collisions that are touch
without will. I want to be a book—
pages riffling with pinions,

coverts, underwings, primary
and secondary feathers of flight,
its wings fall open in your hands.

—DEBORA GREGER.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, under the order previously entered, the Senate stood in adjournment until this moment with the provisions that the reading of the Journal be dispensed with, no resolutions to come over under the rule, the call of the calendar dispensed with, and the morning hour deemed to have expired. Notwithstanding, a provision has been made for the transaction of routine morning business of not to exceed 30 minutes in which Senators may speak for not more than 5 minutes each to begin after the expiration of the time allocated to the two leaders under the standing order and the time provided for the distinguished Senator from New Hampshire (Mr. RUDMAN) on special order.

THE BUDGET RESOLUTION

Mr. BAKER. Mr. President, after the expiration of the period for the transaction of routine morning business, it is the intention of the leadership on this side to ask the Senate to turn to the consideration of Senate Concurrent Resolution 27 or House Concurrent Resolution 91, both of which deal with the congressional budget resolutions. The immigration bill has been temporarily laid aside in order to provide for action on the budget resolution.

Mr. President, I had the privilege of talking this morning with the minority leader on the telephone, that I am now about to say will be only slightly different than what I shared with him informally earlier.

There will be a Republican conference of Senators this afternoon at 5 p.m. on the budget, and while that is not an official act of the Senate, it is, as we all acknowledge and agree, a vehicle that usually leads to more prompt resolution of difficulties or at least clearer definitions of conflicts.

Therefore, I will not ask the Senate to remain much past the hour of 5 p.m. today.

However, I urge Senators to consider that it is urgent, and imperative that we get on with the business of passing this budget resolution, and I am prepared to ask the Senate to come in early and stay late this week in order to try to finish the measure resolution by the close of business on Saturday.

Having uttered those words, I hope no one has gone into immediate cardiac arrest. I should point out that while there are 50 hours provided by statute on the resolution, other measures do not count against those 50 hours. Indeed, last year it took us 2 weeks to use less than 40 hours. I hope we can do better than that this year because we have the budget resolution to deal with and we have Appropriations Committee markups that are in progress. They certainly need to know what the budget marks are even if they are just Senate budget marks.

Moreover, I am advised by the Secretary of the Treasury that we are going to have to pass an extension of the debt limit by May 26, and that will take a significant amount of time.

So we have a series of important and highly controversial issues before us; it should thus come as no surprise to anyone that I must ask the Senate to come in early and remain late this week in order to try to complete the budget resolution as quickly as possible.

If it is not possible to finish the resolution by the end of this week, Mr. President, then we will, of course, go into next week. If we do that I will be beseeching the minority leader and others to consider modification of the unanimous-consent agreement in respect to the immigration bill which provided for a time certain for final passage of that measure but only if we can reach the immigration bill by noon on Monday, a week from today.

I suppose the immigration bill is not as important in the relative scheme of things as the budget resolution, but it is my desire to try to pass it nevertheless. I will talk later with the minority leader about a possible modification of that unanimous-consent agreement to provide that the time certain would occur perhaps 2 days after we resume the consideration of the immigration bill.

I do not now make that request but so other Senators who may be listening in their offices will be aware of it, I will probably discuss that with the minority leader sometime in the course of this day.

Mr. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. BYRD. Would that mean Wednesday instead of Tuesday for the votes?

Mr. BAKER. If we did not finish the budget resolution until Monday, it would mean Wednesday instead of Tuesday, yes.

Mr. BYRD. I thank the Senator.

Mr. BAKER. Mr. President, these are unhappy tidings and I regret to bring them, but I shared them with the minority leader this morning who afterward discretely inquired if I had any good news.

Mr. President, on a lighter note, it has been brought to my attention that James Joyce, one of the great novelists and writers of our time, who was, of course, responsible for such famous tomes as "Ulysses" and "A Portrait of the Artist, as a Young Man," heard his wife say to him 43 years ago today, "Well, Jim, I have not read any of your books, but some day I will have to, considering how well they sell."

With that in mind, Mr. President, I express my apologies to the wife of the distinguished Senator from New Mexico, Nancy Domenici. Nancy is a distinguished lady in her own right and the wife of the chairman of the Budget Committee. I think Nancy Domenici must feel sort of the same way that Nora Joyce did because she has heard a great deal about her husband's work during the last several weeks I have taken a lot of the chairman's time at night and on weekends throughout this time and he has stayed away from his family late into the evening to work on the budget.

I rather suspect that Nancy Domenici, like Joy Baker and others, do not know an awful lot of what is in this budget, but to tell you the truth, I do not know a lot of what is in that budget myself, because it is an extensive document. Yet one of these days, this will all be over, and when it is, then maybe they will all want to see what it was we finally did.

In the meantime, Mr. President, I do not think it amiss for me to stand here and apologize to Mrs. Domenici, Mrs. Chiles, who is the wife of the ranking minority member or the committee and to the wives and families of members who are going to be inconvenienced by the announcement I made just a few moments ago. They have borne the brunt of that sacrifice while the budget has been in preparation, and will no doubt continue to do so.

I know firsthand how inconvenient that can be and how dislocating it often is.

I know the plaintive wails that will go up, about how the leadership must be able to find a better way to arrange the affairs of the Senate than to keep their husbands and wives late into the evening. I know that because I have said those things, but I also know, Mr. President, that sometimes it is absolutely necessary to address the business of the country, and for the Senate to undertake its responsibilities with diligence and sacrifice.

So to Nancy Domenici, to Mrs. Lawton Chiles, and to all the other wives and husbands and families who will have to sacrifice because of the schedule that I have just discussed, I send my deepest apologies.

Mr. BYRD. Now that the majority leader has apologized, would it be appropriate for me to stop apologizing in my own household?

Mr. BAKER. Mr. President, I expect the minority leader has had to apologize to his wife more than anybody in this Chamber except me.

Mr. BYRD. I thank the majority leader.

May I ask a question: The majority leader made reference to a conference of Members on his side of the aisle today at 5 o'clock. Does this mean we are going to have a budget rewritten by the distinguished majority leader and his colleagues which will see the light of day in a day or so? Why do we debate the budget today if there is going to be a new one written in a closed meeting of the Republican Party without participation by Democrats who helped get the budget out of the committee?

Mr. BAKER. Indeed this is partly facetious and partly serious. That is the problem. The resolution reported out was the Democratic budget.

Mr. BYRD. And the Republicans would not have gotten any out without the aid of Democrats.

Mr. BAKER. I have a feeling that I have not had my turn yet.

Mr. BYRD. So the majority leader is admitting or perhaps he is announcing that had it not been for the Democrats there probably would have been no budget emerging from the committee.

Mr. BAKER. That is a distinct possibility. I acknowledge that freely. Were it not for the understanding between the chairman (Senator DOMENICI) and the ranking minority member (Senator CHILES), that they owed the obligation to the Senate to get something to the floor for consideration, there might have been no budget, and had there been no budget resolution I think there would have been a great threat to the budget process. So, yes, I freely acknowledge that.

Mr. BYRD. I hope the majority leader will not feel that I am amiss when asking again do we expect to see a new budget written now by the majority party without any participation by the minority party which will be the budget that will be discussed on the floor?

Mr. BAKER. Mr. President, of course the Senate is the final dispositor of proposals and the most my weary Republican colleagues can do is make proposals which will go to the Senate, of course, to decide what final disposition to make. That is, whether to accept the Democratic budget which was reported from committee or amendments or even a substitute by Republicans.

I mentioned to the minority leader on the phone today, and I will repeat now that as far as I am concerned I have no present intention in beginning debate by offering a substitute, which was done last year. I do think since there is so much conflict and disagreement even within our respective parties on this subject that we ought to let the Senate work in its usual way. That does not mean that at some point I may not offer a substitute but I have no intention of doing that out of hand as soon as the resolution is brought to the floor. I expect there will be a number of votes on amendments, some to raise funding levels, some to reduce them, and at some point that will have to come to an end, with or without substitute. I do not plan to do that now. What I do anticipate is that it is a likelihood you will have the Budget Committee resolution before the Senate. You may or may not have a Republican alternative to it or we may have a series of amendments. Those are the things that have not been fully decided. But the Senate will work its will, as it always does, and I feel that the Republican Caucus this afternoon will help clarify that situation.

Mr. BYRD. In other words, I am to understand that the Republican Caucus will be for the purpose of either developing an alternative by which 51 Republicans can stand or there may be alternatives here and there that may be in the form of amendments discussed, and so on.

Mr. BAKER. Yes.

Mr. BYRD. I think the majority leader certainly has answered the question as far as he can go at this moment and we will look with great anticipation to the product of the Republican conference today.

Mr. BAKER. It will not be an overstatement to say so will I.

ORDER FOR ROUTINE MORNING BUSINESS MODIFIED

Mr. BAKER. Mr. President, the order for morning business provides that each Senator—that Senators may speak for not more than 5 minutes each. If the minority leader has no objection, I ask unanimous consent that that be changed to not more than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I am confident there is no more time remaining to me under the standing order and I apologize to the minority leader and others for taking more than my just share but I now yield the floor.

EDUCATION FOR TOMORROW'S ECONOMY

Mr. BYRD. Mr. President, the National Commission on Educational Excellence issued its report last week. The Commission's report speaks eloquently of the steady decline in the quality of American education during the last 20 years and warns that "our very future as a nation and as a people" is threatened as a result. The Commission found a "nation at risk." The report laid out a goal which will serve us well:

> All, regardless of race or class or economic status, are entitled to a fair chance and to the tools for developing their individual powers of mind and spirit to the utmost. This promise means that all children by virtue of their own efforts, competently guided, can hope to attain the mature and informed judgment needed to secure gainful employment and to manage their own lives, thereby serving not only their own interests but also the progress of society itself.

We must recognize that the economic world has changed. The United States no longer dominates the world's economy. Foreign competition, which 20 years ago was restricted to low-wage products, now engages U.S. industry across a broad spectrum of goods and services.

The economic transformation means that a significant fraction of American workers compete with workers from other countries for the world's good jobs. Our workers will lose in that competition unless they are well equipped with knowledge, skills, and equipment.

Two hundred years ago, in "The Wealth of Nations," Adam Smith wrote:

> The skill, dexterity, and knowledge of a nation's people is the most powerful engine of its economic growth.

For most Americans, these same traits—skill, dexterity, and knowledge—are the most powerful determinants of personal growth. Many of us have struggled to obtain an education, working after school and going to school after work. We have also struggled to provide a good education for our children and grandchildren. Our lives are testimony to the value of education. We know it is the key to opportunity, to economic success, and to human dignity.

I am concerned about the education young Americans are receiving. I am especially concerned over the skills, dexterity, and knowledge that count in international competition. Mathematics and science skills are needed to develop, produce, and utilize high-technology products. Our workers need the dexterity to operate and maintain tomorrow's equipment—whether it be numerically controlled machine tools, robots, or word processors. We all need more knowledge of the world beyond our borders. Management, labor, and Government must be aware of what our trading partners are doing and of the potential in foreign markets.

We are not doing well enough:

There is a shortage of math and science skills. Although the decline in scholastic aptitude test scores has generally halted, the slide in verbal and math scores over the last 20 years is dramatic and there has been no improvement in higher level problem solving skills.

Japanese high school students ranked 1st while ours ranked 15th in a recent study of science and mathematics excellence. The typical Japanese high school student take 6 years of science and math, including a year of calculus—the average Russian takes twice as much. By contrast, less than half of American high school graduates take any math or science after the 10th grade. In a typical group of 100 students, only 8 take any calculus, only 19 take a year of physics, and only 37 take a year of chemistry.

International comparisons of student achievement, completed a decade ago, reveal that on 19 academic tests American students were never first or second and, in comparison with other industrialized nations, were last 7 times.

Over half the population of gifted students do not match their tested ability with comparable achievement in school. Both the number and proportion of students demonstrating superior achievement on the scholastic aptitude tests, that is, those with scores of 650 or higher, have dramatically declined.

About 13 percent of all 17-year-olds in the United States can be considered functionally illiterate. Functional illiteracy among minority youth may run as high as 40 percent.

Between 1975 and 1980, remedial mathematics courses in public 4-year colleges increased by 72 percent and now constitute one-quarter of all mathematics courses taught in those institutions.

The failure of American students to acquire science and math skills reflects a lack of good teachers, a lack of an engaging curriculum, a shortage of laboratory and computer equipment and, most likely, a lack of motivation.

The teacher problem is the most serious because teachers and principals are the key to educational excellence and because improving teacher quality is difficult.

The last 10 years have not been good ones for teacher quality. Alternative opportunities for women increased so that the school system no longer has a captive labor force of bright educated females with few other places to go. Teacher salaries have fallen relative to those of other jobs, especially in the math and science areas. A typical math graduate who starts as a computer programer this June will be offered a salary of $18,000.

The average salary after 12 years of teaching is $17,000. As a result, 43 States report a shortage of math teachers and 22 percent of secondary school math teaching positions are either unfilled or filled by teachers uncertified to teach math. Generally, the education departments receive students who score in the lowest quarter of the SAT tests for college entrants.

The problem may be even more critical in the Nation's engineering colleges. The Japanese—with half our population—are graduating more engineers than the United States.

Between 1963 and 1980 the number of science and engineering teaching jobs held by new PH. D.'s dropped by nearly 50 percent. As a result 20 percent of our undergraduate engineering faculty posts are unfilled or filled by temporary instructors. Almost half or 49 percent of the doctoral degrees awarded in engineering by American universities in 1981 went to citizens of other countries.

The dexterity gap is as evident as the math and science skill shortage. The comparisons of quality between some American products and their foreign competitors are embarrassing and are costing us jobs. Some of these problems are the fault of management, some of incentive systems, and some of a training and vocational education system that cannot keep up with changing requirements.

According to some projections, new employment for almost 5 million workers can be expected in fields where few people now work—in robots, computers, bio-electronics, lasers, hazardous waste management, and similar fields. Neither the instructors nor the equipment on which to learn is available in sufficient quantities to the vocational education system.

In addition to the shortages of skills and dexterity there is a gap in our knowledge of the rest of the world. When it comes to foreign languages we are still a provincial country. There are more Chinese learning English than there are Americans speaking English. The Japanese are more aware of our activities than we are of theirs.

As a result, American business, labor, and Government frequently are surprised. Witness the energy situation of the last decade. Just recently, the chief operating officer of Bethlehem Steel was quoted as saying:

> We didn't recognize soon enough the drastic changes occurring in the world import situation.

We cannot compete effectively unless we know what the competition is doing. The knowledge, moreover, must be shared by those who influence design, prices, wages, regulation, and the other factors that ultimately determine our position in international markets.

Some of these concerns are familiar. We faced them in 1957 when the Russian success with Sputnik made us realize our vulnerability to Russian challenges in military and space technology. Congress reacted with the National Defense Education Act (NDEA) which provided:

Loans to students preparing to enter careers in areas of scarcity;

Grants for purchases of equipment;

Foreign language development; and

Scholarships for sicence and math teachers.

At the same time NSF provided funds for curriculum design in science and math. The NDEA experience will be instructive now and many of the same tools will be useful. We should, however, keep in mind the difference between our current challenge and that of a quarter century ago. The challenge is primarily economic, not military. It is a challenge from many countries and in many fields and one that is unlikely to go away. Training and education will be a lifelong experience requiring adult education and retraining. About 75 percent of the Nation's work force in the year 2000 are now working adults. The aging of the population, coupled with the more rapid pace of change, means that the country must retrain or grow obsolete.

Fortunately, the tools, institutions and willingness to meet the challenge have also increased in the last 25 years. New educational technologies such as computer-based education provides an opportunity to extend the capacity of current teachers. Major firms such as Bank America, General Motors, IBM, Wang, and Digital Equipment Corp. are embracing computer and videodisc technology as part of the solution to the training and retraining challenge. Digital expects to save $40 million annually in reduced delivery, travel, and expense cost.

The junior and community college system has expanded enormously since NDEA. Last fall almost 5 million students signed up for college credit courses in 2-year institutions and 4.3 million for noncredit courses. These institutions are in a position to provide the convenience, flexibility, and low-cost delivery needed to meet the training requirements of small and medium-sized firms.

Finally the business community appears more willing to participate in the educational effort. Business understands their stake in the outcome. Some, like the computer manufacturers and the publishers have a commercial interest in selling their goods and services. The others recognize the need to have a trained work force. Business involvement includes such things as providing part time employment to math and science teachers, providing time for technical employees to teach, and lending executive capacity to efforts such as the Private Industry Councils.

What is needed, therefore, is not a repeat of NDEA but a new effort to meet the new challenge. The National Commission on Excellence in Education recommends a goal of creating a "leading society." Their suggested reforms include a tougher curriculum, more rigorous and measurable standards and higher expectations for academic performance and student conduct. Senators GLENN, DODD, PELL, KENNEDY, HART, TSONGAS, CHILES, and HUDDLESTON have submitted bills to improve science, math, and foreign language instruction. Other bills will surely be forthcoming in vocational education and in training and retraining. From these the Congress will have to fashion a comprehensive approach to the educational challenge. It is a challenge we must not fail to meet.

I ask unanimous consent that I may reserve my time under the order for a little while—a little while meaning 15 or 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR RUDMAN

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire (Mr. RUDMAN) is recognized for not to exceed 15 minutes.

S. 1185—CONGRESSIONAL CAMPAIGN CONTRIBUTION AND EXPENDITURE ACT OF 1983

Mr. RUDMAN. Mr. President, during my 1980 campaign for the senatorial office I now hold, I accepted no contributions from national political action committees. I still accept no such contributions. This is not so much action based on a belief that PAC's should be banned completely; rather, it is my view that the current system which allows a candidate for office to accept and spend an unlimited amount of PAC contributions will inevitably lead to a perversion of our political process. Although there may be other reasons for the decline in importance of individuals and national parties in our political process, I am convinced that political action committees have played a major role in that decline. I am certainly not alone in making this observation; it is difficult to find a week that passes without someone addressing the issue in a national forum. However, neither hand-wringing nor doctrinaire proposals will solve the problem.

What is called for is a realistic approach which recognizes both the constitutional rights of candidates and those giving to them to unfettered political expression and the right of society as a whole to be protected from perversions that unlimited free expression can cause in a democracy such as ours. Just as we do not permit an individual in the exercise of his right of free expression to shout "fire" in a crowded theater, so should we not allow the unlimited use of political action committee funds to pervert the right of individuals to band together for political expression.

That this is the time to act is clear. Last year, some 3,400 PAC's representing both industry and labor interests spent $183 million on congressional campaigns, a 37.6-percent increase over contributions in 1980. It is not only the money that bothers me. It is the special targeting that is possible under the PAC system that eventually perverts the political process.

Political action committees representing seven major industries regulated under the Clean Air Act contributed over $767,000 to all 42 members of the House Energy and Commerce Committee which has been considering amendments to the Clean Air Act which would stem polluting emissions from factories in the Midwest. It is this willingness to give vast sums of money to individuals regardless of political party in order to influence what, in totality, must be considered a small, special interest which I feel is a preversion of the political process envisioned by our Founding Fathers. Without PAC's, individuals and parties contribute to those who represent a general political philosophy, leaders who are entrusted to act with judgment in accordance with the words of Edmund Burke: "Your representative owes you, not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion."

While I do not say that Members of Congress are for sale, I do say that political action committees are not attempting to buy our judgment, they wish to buy our votes for their opinions alone. This is the preversion that must be stemmed.

Unlike many, I am not so naive as to think that the problem can be solved by setting dollar limits on the amounts that PAC's can contribute to individual candidates. I am not even sure that such an approach is wise under the philosophy that is the cornerstone of our democracy. However, I do believe it is fair to reemphasize the importance of individual voters and the national parties which represent broad philosophical spectrums. To this end, I am today introducing the Congressional Campaign Contribution and Expenditure Act of 1983. The major provisions of the legislation are as follows:

First. The amount of individual contributions allowed by law would be raised from $1,000 to $2,500 per election. The cap on individual contributions was set at $1,000 in 1974 as part of the Federal Election Campaign Act and has not been raised since.

Second. The maximum allowable contributions for an individual during any calendar year would be raised from the current $25,000 to $30,000. This represents the ceiling on the total amount of money that any individual may contribute to all political candidates, political parties, or political action committees during any calendar year. Again, the cap was established in 1974 as part of the FECA and inflation alone dictates an increase in the limit.

Third. There would be no dollar limitation on the amount a candidate might spend for any election with certain exceptions relating to permissible ratios of expenditures relating to party and PAC contributions to total expenditures.

Fourth. With respect to PAC contributions, a candidate would be allowed to spend the greater of 25 cents multiplied by the voting age population of his or her State or congressional district—depending on whether it were a senatorial or a congressional election—or 20 percent of all funds expended by the candidate for the election in question. The provision would provide for preelection campaign planning in that, assuming PAC money were available to the candidate, he or she would know the minimum amount of such money that could be expended. Individual voters would regain their importance in that a candidate might spend more PAC money if he or she were successful in individual fundraising efforts. Interestingly enough, in the 1980 congressional elections, PAC contributions represented 29 percent of all contributions received by House candidates and 21 percent of all contributions received by Senate candidates.

Fifth. The same 25-cent-per-voter minimum would apply with respect to party contributions; provided, however, that 30 percent of a candidate's total expenditures for any election could come from party contributions.

Sixth. There would be no limit on the amount of his or her own funds that a candidate could spend in any one election; provided, however, that those funds could not be used for the purposes of calculating the amount of PAC or party contributions that could ultimately be expended in that election. Any funds borrowed by the candidate would be considered to be personal funds.

Seventh. There would be no limit on the amount of money a candidate could receive from either party or political action committees.

Unexpended funds would be held for subsequent use as governed by existing law, with the added provision that if the funds were used for a subsequent election, they would be subject to the same 20- or 30-percent formula for use as when originally received.

Eighth. Finally, any candidate expending more in political action committee or party contributions than permitted by law would be fined an amount equal to three times the excess amount expended. The fine would be assessed by, and be payable to, the Federal Election Commission, and no person upon whom such a fine was assessed could be a candidate for Federal elective office until the fine were paid.

In addition, if the fine were paid with funds attributable to contributions from either political action committees or a political party, the amount of the fine would be counted as a contribution for the purposes of computing permissible expenditures in any subsequent election.

I believe that the legislation that I have introduced today is a realistic attempt to deal with a serious problem. I have tried to balance the rights of all parties involved in what can only be termed a growing controversy. I urge my colleagues to examine this legislation carefully and to apply the formulas it contains to their own election experiences. I believe that examination of this sort will convince many of the fairness of the concept embodied in the Congressional Campaign Contribution and Expenditure Act of 1983. It is clear that action is called for; however, unless we act soon, we may lose the objectivity that presumably gives us the right to act at all.

Mr. President, I ask unanimous consent that the bill as filed at the desk be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a (a)) is amended—

(1) in paragraph (1) (A) by striking out "$1,000" and inserting in lieu thereof "$2,500"; and

(2) in paragraph (3) by striking out "$25,000" and inserting in lieu thereof "$30,000".

Sec. 2. Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended—

(1) by redesignating subsections (b) through (h) as subsections (c) through (i), respectively;

(2) by inserting after subsection (a) the following new subsection:

"(b)(1) No candidate for nomination for election, or for election, to the United States House of Representatives or the United States Senate may make expenditures for any such election other than as follows:

"(A) with respect to contributions of a candidate's own funds, an unlimited amount;

"(B) with respect to contributions from persons as provided for in subsection (a)(1)(A), an unlimited amount;

"(C) with respect to contributions from multicandidate political committees as provided for in subsection (a)(2)(A), an amount which does not exceed the greater of 25 cents multiplied by the voting age population of the State (or of the congressional district in the case of nomination for election, or for election, to the House of Representatives) (as certified under subsection (f) of this section) or 20 percent expended by the candidate for any such election; and

"(D) with respect to contributions from political committees established and maintained by a national party, which are not the authorized political committee of the candidate, an amount which does not exceed the greater of 25 cents multiplied by the voting age population of the State (or of the congressional district in the case of nomination for election, or for election, to the House of Representatives) (as certified under subsection (f) of this section) or 30 percent of all funds expended by the candidate for any such election.

"(2) For the purposes of this subsection—

"(A) funds contributed by a candidate to his or her own campaign shall include amounts borrowed by the candidate;

"(B) funds contributed by a candidate to his or her campaign for any election in excess of the amount permitted by subsection (a)(1)(A), whether or not expended, shall not be considered for the purposes of determining the percentage limitations imposed by subparagraphs (C) and (D) of subsection (b)(1);

"(C) for the purpose of computing the percentage limitation contained in paragraph (1)(D) of this subsection, there shall be included in the amount of expenditures any amount contributed by the Republican or Democratic Senatorial Campaign Committee, any similar House of Representatives campaign committee, or the national committee of a political party, or any combination of such committees; and

"(D) any unexpended contributions from multicandidate political committees or political committees established and maintained by a national party may be retained by the candidate in accordance with laws governing their subsequent use, except that if such contributions are to be expended by the candidate for any election governed by this subsection, the expenditure of such contributions shall be subject to the limitations contained in subparagraphs (C) and (D) of paragraph (1), as applicable; and

"(E) an expenditure is made by a candidate if it is made by the candidate directly or on behalf of the candidate by—

"(i) any authorized committee or any other agent of the candidate for purposes of making any expenditure; or

"(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.".

(3) in subsection (c)(1)(A) (as redesignated herein) by striking out "(e)" and inserting in lieu thereof "(f)";

(4) in subsection (d)(1) (as redesignated herein) by striking out "Each limitation established by subsection (b) of this section and subsection (d)" and inserting in lieu

thereof "Each dollar limitation established by subsections (a), (b) and (c)";

(5) in subsection (e) (as redesignated herein) by striking out paragraph (3); and

(6) by amending subsection (i) (as redesignated herein) to read as follows:

"(i) Any candidate subject to the provisions of either subsection (b) or (c) who shall expend, or on whose behalf expenditures are made in amounts greater than those permitted under the applicable section shall be fined an amount equal to three times the excess amount expended. The fine shall be assessed by and payable to the Federal Election Commission and no person upon whom such a fine has been assessed may be a candidate for Federal elective office until such fine has been paid. If such fine has been paid with funds attributable to contributions from either a multicandidate political committee or a political committee established and maintained by a national party, such amount shall be counted as a contribution for the purpose of computing permissible expenditures in any subsequent election. If such fine was paid from any other source, such amount shall not be counted for any purpose for any subsequent election.".

The provisions of this act shall be applicable to all elections for nomination for election, or for election, to the United States House of Representatives or the United States Senate to be held after December 31, 1984.

Mr. RUDMAN. Mr. President, I thank the Chair and I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. PRESSLER). Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes with statements therein limited to 10 minutes each.

THE MX MISSILE SYSTEM

Mr. COHEN. Mr. President, we recently began the latest chapter in the rather long and tortuous history of the MX missile system. There is an interesting new character in this chapter—the President's Commission on Strategic Forces—which has injected some positive elements into this story.

The Commission, composed of distinguished experts from a number of administrations, studied the MX question in its broadest terms and made recommendations which reflect an understanding that weapons planning and arms control efforts must be intricately related. The Commission concluded not only that U.S. strategic forces must be modernized, but also that the United States "should seek to use arms control agreements to reduce instabilities and to channel both sides' strategic modernization toward stabilizing developments, deployments, and reductions."

These objectives require farsighted planning—a long term framework which combines weapons modernization with arms control. The Scowcroft Commission report provides a basis for movement in this direction, and the current national debate provides an opportunity for forging a broad consensus around such a framework.

The seemingly endless controversy over the MX missile system has engendered much ill will in this country among people who share the objective of reducing the risk of nuclear war. The MX missile has become a symbol in this debate, with the focus on that weapon alone, rather than on broader questions of national and international security. I believe if we are to move toward meaningful arms control, we must expand our perspective to encompass the entire weapons modernization question, including the opportunities for significant arms reductions.

Senator PERCY, Senator NUNN, and I are concerned that the administration is not focusing on the larger implications of the Scowcroft Commission report. We believe that before we can address a decision on the MX missile system, we must satisfy ourselves that it will fit into a framework which promises significant weapons reductions, enhancement of stability, and flexibility if deployments turn out to be unnecessary.

We recently sent the President a letter describing our concerns and outlining a durable framework which combines modernization and arms control. It calls for a reformulation of the U.S. START position, a proposal to the Soviet Union that the sides immediately implement the build down formula for arms reductions, and a firm commitment—despite probable defense budget constraints—to research and development of a new, small, single-warhead ICBM. In addition, we recommend the establishment of a Scowcroft-type commission on arms control policy to help insure continuity in U.S. arms control policy.

In his statement on the Scowcroft Commission report, President Reagan noted that:

> Preserving the peace requires more than wishful thinking and vague good intentions. Concrete, positive action is required to free the world from the spectre of nuclear conflict.

I agree with this conclusion. The program outlined by Senator PERCY, Senator NUNN, and me provides an immediate means of taking such action. We have made clear to the President that an expression of his view on this approach is necessary before we reach a decision on the critical question of opening the production line for the MX missile. I must state that, in the absence of a clear commitment to a program such as the one we have outlined, I would be unable to vote in favor of proceeding on the MX system.

Mr. President, I ask unanimous consent that the letter that was sent to the President last week be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., April 29, 1983.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We have carefully studied the report of your Commission on Strategic Forces and find it to be a valuable contribution to the national debate on U.S. strategic force posture and arms control policy. Your establishment of this bi-partisan Commission and your decision to endorse its recommendations reflect your sincere and continuing commitment to a strong national defense.

We believe the Commission's report contains the elements necessary to move the United States toward a posture in which force modernization and arms control can produce a more stable world. In particular, we see much merit in the Commission's recommendations to work vigorously toward development and deployment of systems which are collectively more survivable and individually less valuable as targets for a would-be attacker. We fully agree with the Commission's emphasis on a new direction in arms control as an essential component in its recommended program.

We are concerned, however, that the Administration has not responded more fully to the arms control recommendations put forward by the Commission. General Scowcroft has testified that the current U.S. START proposal is "not fully compatible" with the Commission's recommendations. Noting that the U.S. proposal would, if accepted, increase rather than decrease the existing warheads-to-launcher ratio, General Scowcroft has called on the Administration to eliminate its proposed ceiling on ICBM and SLBM launchers, as well as the associated sub-limits on specific ICBM types. However, the Administration has yet to indicate what, if any, modifications will be made in our START proposal.

The present debate in the United States provides an opportunity to develop a widely supported, long-term framework for arms control and weapons modernization—a policy that would put the United States in a position to move forward resolutely on strategic force improvements, while giving the Soviet Union strong incentives to bargain earnestly in ongoing arms reduction negotiations.

Toward this end, we recommend that you announce a firm commitment to the following:

A reformulation of the U.S. START position to incorporate the recommendations of the Scowcroft Commission.

A proposal in the appropriate arms control context that the Soviet Union and the United States should adhere to the principle of a guaranteed mutual build-down of nuclear forces in which each country would eliminate from its operational inventory two nuclear warheads for each one newly deployed. This agreement would ultimately be linked to warhead ceilings established in the relevant negotiations, and would be subject to mutually agreed procedures and verification.

An immediate start on research and development of a new, small, single-warhead ICBM, with an assurance that the program will retain a high priority despite probable constraints in the overall defense budget.

In accordance with your request in your April 19, 1983, statement that General Scowcroft have a continuing role in shaping arms control policy, we also urge you to consider establishing a new, bi-partisan arms control panel to advise you on implementing the Commission's arms control recommendations. Establishing such a body would confirm your commitment to the formulation and maintenance of a durable framework for U.S. policy in this area. It would also underscore to our allies and adversaries the continuity of U.S. arms control policy beyond any one Administration.

These proposals would meet the essential concerns and recommendations of the Scowcroft Commission. Revising the U.S. START position and proposing the build-down concept as a mechanism for early arms reductions could give impetus to U.S. arms control efforts and would constitute evidence of U.S. resolve to encourage stability in weapons modernization decisions. The Commission indicates in its report that the build-down concept is consistent with its recommendations. The build-down concept has attracted support from such experts as: Lt. General Kelly Burke, who headed the MX development program as Air Force Deputy Chief of Staff for Research and Development in your Administration; General David Jones, former Chairman of the Joint Chiefs of Staff; and the present and previous Under Secretaries of Defense for Research and Engineering, Dr. Richard DeLauer and Dr. William Perry. In addition, a resolution supporting the build-down concept has already attracted 45 co-sponsors in the Senate.

Mr. President, the Scowcroft Commission Report and testimony before the Armed Services Committee make clear that, without effective arms control to restrain the threat, there is no satisfactory solution to the problem of land-based missile vulnerability. Unless we achieve steady progress toward reducing the number of ballistic missile warheads on both sides, the survivability of MX and the single-warhead missile will remain in doubt. For that reason, we believe that explorations should begin at once to determine whether there is any reasonable prospect of agreement with the Soviets to move toward the kind of long-term posture outlined in your Commission's report.

Soviet reaction to the build-down proposal would provide a crucial indication of their willingness to scale down total warhead inventories to levels compatible with ICBM survivability. At the same time, continuing research and development on an upgraded Minuteman III force would provide useful flexibility should developments in these talks make it unnecessary or unwise to field the full MX component.

In sum, Mr. President, our proposed approach would provide a means of immediately implementing the recommendations of the Scowcroft Commission. We believe it would attract wide bi-partisan Congressional and public support for a strong national defense and a viable arms reduction policy.

Before we reach a decision on the critical question of opening the production line for the MX missile, we would like an expression of your opinion on the approach we have outlined. If Congress decides to proceed with MX production, it is our opinion that the eventual number of MX missiles to be deployed should be contingent on arms control developments.

After you have had an opportunity to review our recommendations, we would like to meet with you personally to discuss these suggestions.

Sincerely,

William S. Cohen.
Sam Nunn.
Charles H. Percy.

Mr. NUNN. Mr. President, first let me congratulate my colleague and friend from Maine for his outstanding leadership in this crucial area of both strategic weapons programs and arms control and particularly his emphasis on the relationship between the two.

MX—THE NEED FOR CLARIFICATION

Mr. President, since the report of the President's Commission on Strategic Forces, there has been a considerable amount of attention on their recommendations and President Reagan's subsequent actions.

The Senate Armed Services Committee has conducted many detailed hearings with both administration and Commission witnesses as well as outside experts. Many of us have spent a great deal of time in these hearings as well as in individual meetings going into these issues in depth.

Throughout all this, there are two recurring themes:

First. The Commission's recommendations for procuring and deploying the MX are linked to arms control proposals and programs whose long-term purpose is a stable strategic posture.

Second. The administration's current strategic arms control (START) proposal and long-term arms control policies are not fully compatible with the Commission's recommendations.

Significant changes are going to have to be made if our arms control policies are going to follow the outline advocated in the Scowcroft Commission report.

Mr. President, there are some apparent inconsistencies between these points and the administration approach that, in my judgment, needs clarification before any final judgments can be rendered on the MX.

For example, General Scowcroft has testified that the current START proposal is "not fully compatible" with the Commission's recommendations and has recommended elimination of the proposed ceiling on ICBM and SLBM launchers. Dr. Bill Perry has testified that: "I would not support an MX program in the absence of an arms control approach."

Interestingly enough, Dr. Perry was on the Scowcroft panel, and his qualification regarding arms control, I think, is very important because it reflects not only his view but that of a number of people on that panel and their views in which they endorse the MX based on their overall approach in arms control.

The administration, however, has not acknowledged any specific changes to START or other long-term arms control policies to incorporate the Commission's recommendations, although I understand that they are studying this matter carefully.

For example, the Commission and many other witnesses were unanimous in their support of research and development of a small, land-based ICBM which would be necessary to shift over time to the kinds of systems which are more survivable and individually less valuable as targets. However, the administration witnesses have been less than clear on how this initiative fits into the overall strategic modernization program. In fact, the committee has not yet received any specific budgetary documents requesting the changes needed to accommodate the small missile development.

Again in fairness, my understanding is some work is being done on this.

In light of these important factors, I am joining my colleagues from Maine, Senator Cohen, and Illinois, Senator Percy, in sending a letter to President Reagan in the hopes of obtaining some clarification in these areas before we have to decide the important question of MX funding.

I am certain that at the conclusion of our remarks, a unanimous-consent request will be made to have the letter to President Reagan printed in the Record.

Specifically, we are asking the President's views on the following recommendations:

A reformulation of the U.S. START position to incorporate the recommendations of the Scowcroft Commission.

A proposal in the appropriate arms control context that the Soviet Union and the United States should adhere to the principle of a guaranteed mutual builddown of nuclear forces in which each country would eliminate from its operational inventory two nuclear warheads for each one newly deployed. This agreement would ultimately be linked to warhead ceilings established in the relevant negotiations, and would be subject to mutually agreed procedures and verification.

An immediate start on research and development of a new, small, single-warhead ICBM, with an assurance that the program will retain a high priority despite constraints in the overall defense budget, which I think are inevitable.

We also suggest that the President consider establishing a bipartisan Commission on Arms Control similar to the Scowcroft Commission on Strategic Forces.

This has been a pet project of mine for a long time, and I am delighted that it is beginning to receive more and more support.

This Commission would advise the President on implementing the Scowcroft Commission's arms control recommendations and would help establish continuity in U.S. arms control policies beyond any one administration, whether it is a Republican administration or a Democratic administration.

In my view, one of the most important features of negotiations is to have continuity, and I must say over the last decades, with one Democratic administration and three Republican administrations, we have not had continuity in arms control. We have had a huge turnover of advisers. We have had a huge turnover of negotiators. We have very little corporate memory. We have three treaties that have been signed by three American Presidents, one by President Nixon, one by President Ford, and one by President Carter, none of which have been ratified by the U.S. Senate. In my view, there will be little, if any, progress in arms control if the Soviets are convinced that the current arms control policies and the new changes that hopefully the President will make in light of the Scowcroft report, if the Soviets are convinced that these proposals will be changed by the next administration, whoever that administration may be composed of.

The Soviets have little incentive to negotiate earnestly if they think a "wait and see" policy will result in what they consider to be a better deal.

Mr. President, on this overall subject of arms control, the MX, deMIRV'ing, moving to a most stable nuclear posture, I have discussed these issues with Congressman Gore and other Members of the House. It is my understanding that Congressman Gore and Congressman Norm Dicks, and others on both sides of the aisle, have similar sentiments, although not identical sentiments. They are moving in the same general direction.

It is also my understanding that they will be communicating with the administration and expressing their concern in trying our strategic program, particularly the MX proposal, to the arms control policies which were recommended by the Scowcroft Commission. I would hope that we would be able to establish a working relationship in close communication with the Members of the House who have similar views, as well as many Members of this body who have similar views.

Mr. President, if the only result of the Scowcroft Commission is the deployment of 100 MX missiles in vulnerable silos, then we have done little in terms of the strategic balance of power in the world rather than to create a more destabilizing situation, which could even be viewed by some as more destabilizing.

Mr. President, we must recognize that no deployment scheme for ICBM's on the land is going to guarantee us invulnerability unless it is tied to a limitation on warheads on both sides. That was an apparent fact in the SALT II negotiations, though many people will dispute it. That is also even more apparent today. We will have done little to change our thrust and emphasis in either our strategic programs or our long-term arms control policies to a more stable posture unless we tie the deployment of the MX missile, if it is approved by Congress, to the other recommendations of the Scowcroft Commission which would move us toward a less dangerous world and a more stable environment.

Therefore, I will not make a final decision on the MX program until we have obtained the President's full and complete response to the letter that Senator Cohen, Senator Percy, and I have forwarded to the administration and which we will insert into the Record today.

Mr. PERCY. Mr. President, I would like to say first to my colleagues, Senator Cohen and Senator Nunn, that through the years I have had occasion to work with them on many different projects. I considered each of them an important project and the way we have worked together to be one of the more satisfying aspects of our work in the Senate. We have always accomplished our end objective.

I think in this particular case we are dealing with the most important single problem faced by mankind.

This is the important issue, and it has taken years for people to realize how important it is.

Now we have people all over the world—a movement in Europe, a movement in the United States—that no one of us can overlook.

We do not have to go out and try to convince people that this is important; they recognize it before we even start to talk about the subject. From that standpoint, it is gratifying.

It is gratifying also that many people have taken positions. Here we shall have tomorrow, meeting in Chicago, the full group of bishops under Cardinal Bernardin on a report, now in its third draft, that has been highly controversial, within the church and between churches, but I think is performing a valuable service, because they have looked upon this as one of the great moral issues facing mankind. And they are not ducking the issue. I commend them on it. I do not agree with every conclusion they have come to, by all odds, but they are performing a marvelous service.

Certainly, Mr. President, many times, we have had issues that involve the Foreign Relations Committee and the Committee on Armed Services. In some countries such as Israel, they have seen fit to combine those two committees. They have a chairman and a ranking member of an Armed Services and Foreign Relations Committee. In the wisdom of the Senate, we have decided to keep those functions separate; but we have certainly had close cooperation. No chairman could ask for closer cooperation and no ranking member—Senator Pell—could ask for closer cooperation between them and the chairman, John Tower of Texas, and the ranking minority member, John Stennis, who, through his years as chairman, always worked closely with the Foreign Relations Committee in seeing that we had a defense posture that would back up and support the foreign policy of this country.

You cannot have a foreign policy, Mr. President, unless you have a strong defense standing behind it. Now, as we move into this area of arms control, finding a way to lessen the level of terror—when we take into account that there are 18 countries on Earth that either have nuclear weapon capability or are striving to get it, we must recognize that the Soviet Union and the United States, with a preponderance of those weapons today, have a tremendous responsibility to move toward a program of arms control.

So, Mr. President, I welcome very much indeed the initiative taken by Senators Cohen and Nunn in the build-down proposal that they have made. I think it is an ingenious approach, one that deserves a tremendous amount of attention. I have personally brought it to the attention of the Bernardin Commission and shall follow through in every way I can in espousing this cause because I believe, from the standpoint of practical, pragmatic approaches, it offers one of the greatest hopes for the future that any proposal can offer.

Mr. President, the report of the President's Commission on Strategic Forces, headed by General Scowcroft, deserves strong bipartisan support from Congress and the American public.

Gen. Brent Scowcroft and the distinguished members of his Commission have outlined a positive program for achieving a stable and far less threatening nuclear balance with the Soviet Union. By integrating prudent weapons modernization recommendations with an imaginative proposal for a new direction in U.S. arms control policy, the Commission has established the foundation for an enduring consensus on the prerequisites of strategic deterrence.

It is especially noteworthy that the Commission report was endorsed by all members of the panel and all of its senior counselors, including former Secretaries of State Haig and Kissinger and former Secretaries of Defense Brown, Rumsfeld, Schlesinger, and Laird. In this respect, the report can be said to represent the best thinking of the main architects of the last two decades of U.S. national security policy. As one who has been concerned by the lack of continuity between successive administrations, I commend the panel and its counselors for reconciling their differences and arriving at a common position on these crucial issues.

In testimony before various congressional committees, members of the Commission have emphasized one central theme of their report: The proposals for modernizing the ICBM leg of our stategic triad cannot be separated from the panel's proposals on arms control.

Mr. President, here is the most important part of the Commission's report. The latitude the President gave them to take into account not just one particular basing mode or one particular method but also to take into account its impact and effect on arms control was very wise on the President's part and certainly well executed by the Commission and particularly by its Chairman, General Scowcroft.

Without a new direction in arms control, neither deploying the MX in existing silos nor developing a new, small, single-warhead ICBM make sense. Conversely, without the incentives presented to the Soviet Union by the deployment of the MX, it is unlikely that we can achieve agreement on moving toward an arms control regime in which the role of multiple-warhead missiles is severely restricted or perhaps eliminated altogether. As one panel member testified on April 18, "the three elements are inseparable; taken separately, they fail."

Mr. President, the crucial question facing Congress as we assess the Commission's recommendations is the extent to which the administration has, in endorsing it, embraced each of its three main proposals. There can be no doubt that the administration intends to proceed at once with the development of the MX if Congress so approves. I also expect that the Defense Department will structure a comprehensive and prudently paced program for developing the small ICBM option. However, I am concerned that the administration has not yet responded more fully to the Commission's proposal for a new direction in arms control. Although administration officials have welcomed the general thrust of the arms control recommendations, they have not indicated what, if any, modifications will be made in our current START proposal.

Certainly, I shall make this a very high order of priority for the new ACDA Director that we did confirm, Ambassador Ken Adelman.

Last week, an administration task force began to study this question. In time, I hope that the task force will complete its work and recommend affirmative steps to implement all of the Commission's arms control recommendations. Unfortunately, we in Congress do not have much time before we shall be asked to decide the future of the MX. The Senate will most likely vote before Memorial Day on a resolution lifting the restrictions imposed in the fiscal year 1983 Defense Appropriations Act on MX flight testing and development of its basing mode. If Congress is to make an informed decision on MX, it must know how, specifically, the administration plans to proceed from here on arms control.

Mr. President, the letter which Senator COHEN, Senator NUNN, and I sent to President Reagan on Friday recommends a dynamic and far-reaching program for immediately implementing the recommendations of the Scowcroft Commission. We believe this approach would attract wide, bipartisan support for a strong national defense and a viable arms reduction policy. Knowing of the President's deep commitment to these paramount national objectives, I look forward to receiving a constructive, forward-looking reply at the earliest possible time.

Mr. STENNIS. Mr. President, I shall be very brief. I understand that this part of the program today will be cut off at 1:15 p.m. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STENNIS. I shall be brief. I know the Senator from Wisconsin has been here almost as long as I have. I commend the three Senators who have just spoken on this far-reaching problem. There is no question that they have made a contribution here.

Just before President Reagan was sworn in, I had a chance to tell him that I thought the biggest problem before him and his entire administration would be the matter of handling the problem of arms control.

EXTENSION OF TIME FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

(The following proceedings occurred during the foregoing colloquy:)

Mr. BAKER. Mr. President, there are still a number of Senators who wish to speak in morning business. After conferring with the minority leader, I think it would be appropriate to extend the time for morning business. I ask that the time for morning business be extended to not past the hour of 1:15 p.m. today under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL GUARD AND RESERVE FORCES

Mr. STENNIS. Mr. President, I am today briefly calling attention to another part of the military program, a major part, which relates to Reserves and National Guard and preparedness. They are able to add to our overall picture if they are really given the necessary small items of ammunition, hand weapons, things out in the field, in proper proportion to their responsibilities, which have increased greatly, most of us will remember, in 1971.

Mr. President, I commend the men and women who serve in the Reserve Forces of our country—the National Guard and the Reserve components. They are a truly dedicated and able group who spend long hours training to fulfill their assigned responsibilities. These persons make a vital contribution to our national security. In my opinion, and that of many of our military leaders, the capability of our Guard and Reserves today is better than any time since the end of World War II.

I am certain that the average citizen is fully aware of the many changes in recent years that have been made in the mission and responsibilities of the Reserve Forces—or in the state of readiness that is required and dictated by the ever-present threat.

The total force policy was implemented in 1971 whereby the most advantageous mix of Active Forces and Reserves were to be relied upon to support the national strategic policy. In many instances today, Guard and Reserve Forces are assigned missions that dictate early deployment and the need to be ready for immediate use in combat. The driving force behind this decision in 1971—and still true today—is that the Reserves are a bargain. When we consider the lower sustaining cost of Reserve Force units, as compared with active duty units, this results in a larger total force for a given Defense budget. For less than 5 percent of the Defense budget, the Guard and Reserves provide the following:

Between 40 and 50 percent of the Army and Air Force combat capability in the initial stages of a mobilization.

Eight of the 24 combat divisions in the total Army.

Forty-six percent of the total Army combat units and 37 percent of the support forces.

Sixty-five percent of the air defense force, 57 percent of our tactical reconnaissance, 27 percent of our tactical fighter force, 30 percent of tactical airlift and 17 percent of the Air Force's strategic air refueling capability.

The key fact to remember is that these missions and many more are provided by our Guard and Reserve forces for less than 5 percent of the Defense budget.

The weakest link in assuring that our Guard and Reserves are fully combat ready has been the obsolescence, compatibility, and shortages of equipment. In every major conflict, our Armed Forces have had to fight with the arms and equipment on hand when the conflict started. Future wars will be no different, and our National Guard and Reserves have been neglected over the years. This has continued even under the total force concept.

Combat readiness is certainly inhibited by the pervasive equipment problems. But, in addition, the obsolete and incompatible equipment increases the cost and complexity of maintenance and has a serious negative effect on personnel recruitment and retention. It is estimated that the shortfall required to fill the authorized wartime equipment needs is $15 to $17 billion. The Army National Guard alone is short an estimated $4 billion of their wartime equipment requirements.

I have advocated for a number of years that a long-term plan and additional funds are required to assure that essential equipment is provided to our Reserve Forces. This is the only way that our total force requirements can be met in these claims of constrained fiscal resources.

In 1982, I introduced an amendment to the defense authorization bill to require an annual report by the Secretary of Defense on the equipment needs of the Guard and Reserves. This amendment was adopted and is section 902 of Public Law 97-86. This legislation has been a good start in insuring that the equipment needs of the Guard and Reserve receive adequate consideration commensurate with their assigned responsibilities.

I have also been successful in my amendments to provide additional funds dedicated strictly for equipment for the National Guard and Reserves. They received $50 million in fiscal year 1982 and $125 million in fiscal year 1983. The dedicated appropriation is important as it is a down payment on the long-neglected needs of common, everyday equipment that it takes to make a combat-ready unit function.

I am disappointed that no funds have been requested by the President for this separate, dedicated appropriation in fiscal year 1984. The need remains and grows more important as our Reserve Forces are assigned missions of increased responsibility.

Mr. President, I have reviewed the day-to-day equipment needs of our Reserve Forces and it is most important that the plan that has been set in motion in recent years be continued. It is my intention to propose an amendment to the fiscal year 1984 defense authorization bill when it is considered by the Armed Services Committee which will add $100 million for equipment for the Army National Guard and $50 million for the Air National Guard. In addition, I will propose an amendment to increase the average strength of the Army National Guard by 6,000. This will provide an average strength of 424,400 for fiscal year 1984, an increase of 8,800 above the fiscal year 1983 level. The National Guard has made a strong case that well-qualified personnel are being turned away each day from serving their country. This is occurring at a time when many National Guard combat units are below their authorized mobilization strength. I submit that we must provide the National Guard with sufficient authorization to accept qualified personnel while we are in a period of depressed economic conditions. We also have to face the fact that the supply of prime enlistment age males will continue to decline through the year 1996.

Mr. President, I believe my amendments will continue the momentum we have gained in the past few years toward providing the Guard and Reserve Forces with the equipment and personnel to meet their assigned responsibilities. I have great faith in the leadership of our Guard and Reserves and the dedicated men and women who serve in the various units around the country.

ORDER OF BUSINESS

Mr. STENNIS. Mr. President, I will yield the floor now, in order that the Senator from Wisconsin may have such time as he may wish to use.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. I thank the distinguished Senator from Mississippi for his graciousness.

THE CATHOLIC CHURCH TAKES ON OUR NUCLEAR DILEMMA

Mr. PROXMIRE. Mr. President, as U.S. Senators, we must make crucial and agonizing decisions on the policies this country should follow in authorizing and appropriating money for research, production, and deployment of nuclear weapons. Our options range all the way from working to stop any further funding of any nuclear weapons to an all-out, top-priority push for clear and decisive nuclear superiority. Should we adopt a "no-first-strike" policy? If we opt for a no-first-strike policy, should we favor negotiating a freeze now? Or should we postpone, delay, drag out negotiations with the Soviet Union, while we catch up, to the satisfaction of all or almost all? Should we work for options that seek a middle road in all these choices? How do we make these terrible decisions? All of us want peace. All of us want to avoid a nuclear war. All of us recognize what an absolute final catastrophe a nuclear war would represent for this country we love and for all of civilization.

So where do we look for guidance? About 2 years ago, the National Conference of Catholic Bishops began working on a pastoral letter. The purpose of that letter: to develop "a theology of peace suited to a civilization poised on the brink of self destruction." Today that paper will be given its final consideration at a special meeting in Chicago. Does this theological expression provide us with any useful guidance in this agonizing dilemma we face?

For the answer to that, Mr. President, I go not to a theologian, not to a Catholic, but to a man who has a long, hard, practical association with the Soviet Union as one of our most distinguished American Ambassadors to Russia, a man who understands the practical necessities of foreign policy and has devoted his life to thinking and writing about how we achieve peace in the modern world. Most recently, he wrote an excellent book on the subject: "The Nuclear Delusion." Of course I am talking about George Kennan. Here is what Kennan, writing yesterday in the New York Times, called the pastoral letter which will be considered at the Catholic conference today and tomorrow.

> The most profound and searching inquiry yet conducted by any responsible collective body into the relations of nuclear weaponry, and indeed modern war in general, to moral philosophy, to politics, and to the conscience of the national state.

Mr. President, that is a great commendation and recommendation by George Kennan, particularly since George Kennan speaks, obviously, as a layman and as an expert of this expression by these distinguished religious people who represent the Catholic Church.

Mr. President, as George Kennan points out, the letter carries the following answers to these questions:

First. Can there be circumstances in which the State would be justified in waging war? The Bishops' reply: Yes. But the conditions and circumstances are narrowly circumscribed.

Second. Under what conditions can war be waged? Answer: The cause must be just. Resort to the force of arms must be a last resort.

Third. What is the key principle for waging a just war—as a last resort? Answer: Proportionality. That means the damage to be inflicted and the costs incurred by war must be proportionate to the good expected by taking up arms.

Fourth. Are there any circumstances that would justify starting a nuclear war? Answer: None.

Fifth. May a nation possess nuclear weapons and threaten to use them to prevent a nuclear war? Yes. But only as a step toward progressive disarmament.

Sixth. What steps do the Catholic bishops recommend to achieve peace? Answer: A series of arms control measures, a general stop to the arms race, deep bilateral cuts in arsenals, a comprehensive test ban treaty, removal of short range weapons.

Seventh. Are arms control agreements enough? Answer: No. We need vigorous parallel efforts to reduce political tensions.

Mr. President, I think this is a most fascinating, useful, and historic action which the Catholic bishops are taking, and this analysis by Mr. Kennan is particularly helpful.

I ask unanimous consent that the remarkable article by Mr. Kennan, which appeared in yesterday's New York Times, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 1, 1983]

THE BISHOPS' LETTER

(By George F. Kennan)

PRINCETON, N.J.—The results of the two world wars of this century, representing setbacks for European civilization, already began to draw a veil of doubt over the validity, in this modern age, of most of the theoretical principles worked out in earlier centuries to relate the use of the armed power of the state to politics and morals. But the development of the nuclear weapon, bringing the power of existing arsenals to a point that made their use in warfare suicidal and threatening to the very intactness of civilization, heightened the significance of these questions many times over, presenting dilemmas to which the wisdom of the past provided no sure answers, and raising the demand for a fundamental rethinking of the role of armed force in the strategy and the moral philosophy of the modern state.

Numbers of individuals have struggled, over the years, with this challenge and have published their findings. Many conferences of scholars and individual officials have been devoted to it. But these efforts involved no collective discipline, and they departed from no unified, accepted platform of moral philosophy.

Nearly two years ago, a committee, set up at the instance of Archbishop John R. Roach, president of the National Conference of Catholic Bishops, undertook the drafting of a pastoral letter designed to develop and to perfect, as the authors of the letter described it, "a theology of peace suited to a civilization poised on the brink of self-destruction." The paper went through two preliminary drafts. These came, repeatedly, before the membership of the Conference. They were reviewed in international ecclesiastical gatherings held under Vatican auspices. They were discussed at length with senior officials of the present, and previous, American Administrations. The third and final draft, reflecting the results of all these consultations, has now been completed and is to be given final consideration at a special meeting of the Conference in Chicago tomorrow and Tuesday.

This paper, which is now available to the public, may fairly be described as the most profound and searching inquiry yet conducted by any responsible collective body into the relations of nuclear weaponry, and indeed of modern war in general, to moral philosophy, to politics and to the conscience of the national state. Not all of the paper is directed to a non-Roman Catholic readership; the final and fourth part, dealing with "The Pastoral Challenge and Response," is addressed directly to members of the faith. But most of the remainder represents an effort "to share the moral wisdom of the Catholic tradition with the larger society . . . and to participate in a common effort with all men and women of good will who seek to reverse the arms race and secure the peace of the world."

Whatever else may be said of this paper, no one can say that its authors made it easy for themselves. They confronted, without flinching, the challenges that nuclear weapons present, not just to all previous Catholic teachings on the relationships of war to morals and politics but to Western public philosophy on these questions generally. Both tone and language of the document bear witness to the earnestness that this effort involved.

The entire question of war, as a legitimate recourse of the national state, is re-examined here with relation to the conditions of this present age. Is there still such a thing as a "just war" in the traditional sense? Can there, in other words, be circumstances in which the state would be justified in waging war? Yes, reply the authors, there can be, but the conditions in which war might be legitimately resorted to are narrowly curcumscribed, and the manner in which warfare can then properly be waged is subject to a whole series of restrictions. The cause must be just. The authority that takes the responsibility of launching hostilities must be competent. Resort to the force of arms must be a last resort: all other alternatives must have been previously explored and tested. Above all, the principle of "proportionality" must be observed: The damage to be inflicted and the costs incurred by war must, that is, "be proportionate to the good expected by taking up arms." And the action must be discriminate. The security of noncombatants must be respected. War must be directed "against unjust aggressors, not against innocent people caught up in a war of their making." There must, in particular, be no aiming of any act of war at the destruction of entire cities or of extensive areas along with their populations.

Are there, in the light of these principles, any circumstances in which the inauguration of nuclear warfare would be justifiable? No, say the authors, there are none. Nuclear weapons are too indiscriminate; even if they are not launched with the aim of destroying innocent civilian life, they inevitably subject it to a wholly unacceptable jeopardy.

But how about "deterrence"? "May a nation threaten what it may never do? May it possess what it may never use?" And is nuclear deterrence, then, a justifiable concept? Yes, say the authors, it is—but not as a purpose in itself—only as a step toward progressive disarmament. It can be invoked as a means of preventing others from using nuclear weapons; but concept that run to "prevailing" in nuclear war must be seen as going unacceptably far beyond that, as does any attempt to achieve nuclear superiority, as distinct from sufficiency.

In support of these principles, the letter recommends a whole series of arms control measures, including in effect a general stop to the arms race, deep bilateral cuts in arsenals, a comprehensive test ban treaty, and removal of the short-range weapons "which multiply dangers disproportionate to their deterrent value." It recognizes, however, that arms control agreements alone are insufficient if not accompanied by vigorous parallel efforts to reduce political tensions.

The authors avoid the mistake of allowing it to be inferred that if only the nuclear danger were overcome, all would be well. They recognize the wholly unacceptable destructiveness of even the so-called conventional weapons in this modern age. They quote Pope John Paul II to the effect that "the scale and the horror of modern warfare—whether nuclear or not—makes it totally unacceptable as a means of settling differences between nations." They reject the suggestion that to remove the possibility of nuclear war would be to enhance the probability of a non-nuclear one. Means must be found of defending peoples, they insist, that "do not depend upon the threat of annihilation." The authors do not rule out the possibility that there might have to be a strengthening of Western conventional forces to fill whatever gap might be created, at least psychologically, by the removal of the nuclear option; but they prefer to see the emphasis placed on a new and more determined effort to achieve mutual reductions in conventional forces with a view to disarming both the real possibilities and the public fears of a conventional conflict.

That these propositions meet with the hearty approval of this writer will be evident. But my purpose is not to point that out, but rather to emphasize that the beauty of the pastoral letter lies precisely in the limitations it defines—in the moral perimeters it establishes for the use of force in international affairs.

The paper is firm in its insistence that military values, even when they legitimately exist, must never be treated as absolutes and hence carried to self-defeating extremes—that they must rather be seen, invariably, as relative and conditional: relative to the fundamental need of civilization for survival, conditional on the observance of those elementary moral scruples beyond which horror becomes unlimited, and hope impossible. There is surely no lesson that this generation of Americans needs more to learn.

(George F. Kennan is professor emeritus at the Institute for Advanced Study and author, most recently, of "The Nuclear Delusion.")

THE HOLOCAUST: BEYOND THE REACH OF ART?

Mr. PROXMIRE. Mr. President, the New York Times recently published an article which is notable for both its insights and admonitions. The article, written by Elie Wiesel who is chairman of the U.S. Holocaust Memorial Council, examines the shortcomings that Wiesel believes accompany attempts to portray the Holocaust in films, dramas, and other art forms.

Wiesel, who is a survivor of the Holocaust, argues that artistic recreations of the Holocaust experience are necessarily inadequate. He contends that the Nazi genocide of the Jews lies beyond the abilities of art to render to audiences the truth of the Holocaust. Artistic expressions, while compelling in their own right, cannot transmit the sheer intensity of the horror which prevailed at the death camps. So unimaginable was this terror that Wiesel submits that the Holocaust escapes even the language used to explain it. He observes:

* * * I no longer recognize myself in the person I was, over there, long ago. I see

myself even less in others' fictional characters. The situations in their books and films and plays seem distorted to me. It's not their fault. They don't know. Those who never lived that time of death will never be able to grasp its magnitude of horror. Only survivors of Auschwitz know what it meant to be in Auschwitz.

Despite the movies, plays, and novels about the Holocaust, Wiesel believes that it still remains an event that cannot be accurately retold. Yet, while it may be impossible to relate the despair, anguish and rage of the Holocaust, Wiesel insists we must not forget its occurrence even if we cannot convey the dimensions of its tragedy. Although survivors of the concentration camps are also limited by language in their efforts to tell what happened, Wiesel states that they must be responsible for never letting the world forget their testimony.

Wiesel admits that to simultaneously remember the 6 million murdered while being unable to adequately explain the horror of the murders presents a troubling inconsistency, if not a paradox. Nonetheless, he warns:

> For the sake of our children and yours, we invoke the past so as to save the future. We recall ultimate violence so as to prevent its reoccurrence. Ours then is a twofold commitment: To life and truth.

It may not be possible for us to know what Auschwitz was, but Wiesel rightly warns that if we are to forget what Auschwitz has come to symbolize we may someday repeat the catastrophe in the form of a Holocaust of our own.

Mr. President, Elie Wiesel writes in defense of human life for today and all times. His experiences as a prisoner in the Nazi concentration camps give him a unique appreciation of the value of human life. I urge my colleagues to show their willingness to prevent future Holocausts by giving their advice and consent to the Genocide Convention. By ratifying this treaty we can make a positive step toward assuring the human rights of all people around the world.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Wilson). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAPITOL PAGE SCHOOL HONOR ROLL

Mr. BYRD. Mr. President, the Capitol Page School has just issued a list of those pages who have achieved first and second honors for the third advisory period of the school year. A total of 17 Senate pages have achieved a place on the honor roll.

All of us who serve in the Senate are aware of the daily duties and responsibilities of our pages. They are present during all Senate sessions and serve as important links between the various offices in the Senate and House complex. It is demanding and tiring work, and the days can be extremely lengthy.

Many people outside of the Senate may not be aware that pages must be at the Library of Congress for classes every day at 6 a.m. Achieving grades which place them on the honor roll is a special tribute to the ability of our 17 pages to manage a full school and workload.

I congratulate all 17 pages and ask unanimous consent that a list of the honor roll be placed in the Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

Public Schools of the District of Columbia, Capitol Page School, Library of Congress

HONOR ROLL: FIRST HONORS

Seniors: Ruth Stern.

Juniors: Elizabeth Laszlo.

HONOR ROLL: SECOND HONORS

Seniors: Brian Bean, John DeGroote, Nancy Dynan, William Lanham, Diane Lee.

Juniors: Angela Ayres, Roger Berg, Carol Hartigan, Heidi Hustedt, Katherine Koh, Laura Nelson, Joseph Setting, Jennifer Small.

Sophomores: Aidan Myhre.

Freshmen: Farra Bishop.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, we had anticipated that we would be on the budget resolution by this time. However, the chairman of the Budget Committee is still in conference. It is expected that that conference will continue for another 30 minutes.

EXTENSION OF TIME FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS UNTIL 2 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended until not later than 2 p.m. under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BRONZE SCULPTURE AT THE JAMES MADISON BUILDING

Mr. STEVENS. Mr. President, last Thursday, April 28, the distinguished chairman of the Legislative Branch Appropriations Subcommittee, Mr. D'Amato, and I took testimony from the Architect of the Capitol on his fiscal year 1984 budget requests. During that testimony, I asked Mr. White why he had failed to respond to the objections of the employees of the Library of Congress and the Librarian on his desire to install a huge bronze sculpture on the front of the James Madison Building.

Mr. President, he did not have an adequate answer, except to say that the Senate Office Building Commission, House Office Building Commission, and the Joint Commission on the Library authorized this project.

I doubt if these committees know how strongly the employees object to this structure. It will cover much of the only available common window space on the front of the James Madison Building.

The building is fine, Mr. President, without this art work, but even if we did want to use it, it should not be installed on a portion of the building where some of the little available window space is located.

Senator D'Amato and I made a request to the Architect that he delay installation of this sculpture until we can carefully consider these legitimate and important concerns.

If the Architect does not delay this project, then the Senate may seek a way to stop this project, with legislation, if necessary, until this matter can be more fully considered.

Mr. President, at this point I ask unanimous consent that the article entitled "Falling Books Block Fading Light," from the March 1, 1983, issue of Creativity, the newsletter of the Congressional Research Employees Association, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Creativity, Mar. 1, 1983]

Falling Books Block Fading Light

(By David C. Huckabee)

If the Architect of the Capitol gets his way, approximately 20 percent of the total window area of the Madison Building will soon be covered by the long-planned, long-delayed, 40,000 pound, "falling book sculpture."

No, the "falling book sculpture" is not a myth. The "bronze decorative screen", as it is referred to in official documents, is scheduled to begin cascading over the heads of unsuspecting visitors to the Madison Building in April, when it is to be installed over the one large window at the front entrance of the building.

Most Library employees had erroneously assumed that the "falling book sculpture" had been eliminated from the building plans because (1) it was a bad idea; (2) the Librarian was thought to be opposed to it; and (3) the architecture critics had panned it. (Wolf Von Eckardt in 1980, described the "decorative frieze" as the "book-hater's revenge for the cost of the Library . . . dimming the only sizable source of natural light in this entire 1.2 million square foot box.")

The "falling book sculpture" will not only substantially eliminate natural light from the entrance lobby of the building, but it will directly affect employees working on the third through fifth floors of the building. Employees affected will include the Government Division of CRS which will lose the only "common access" window in the division; the Copyright Public Information Office; and the Subject Cataloging Division Office.

After CREA learned in October 1982 that the Architect intended to go ahead and install the sculpture, President Brown, acting on behest of a number of concerned Government Division employees, contacted staff members of the Senate Environment and Public Works Committee. In September 1982, the Committee had been referred a bill (H.R. 6666) that provided an additional $8,140,000 to complete the James Madison Building. Included in the report on H.R. 6666 was a justification for $2,187 for "additional support work—bronze decorative screen." (As best as can be determined from the legislative history of Madison Building funding, at least $50,000 has been previously authorized for this matter.)

Environment and Public Works Committee staff members expressed interest in recommending an amendment to H.R. 6666, to prohibit the installation of the screen in front of any window in the building, authorizing instead that it be installed on any of the many blank walls of the building. H.R. 6666 died at the end of the 97th Congress. Thus, a Madison Building authorization bill will have to be reintroduced this Congress.

Although the time is late, it still may be possible to save the only substantial source of natural light for employees working on the first five floors of the building. CREA urges those who are concerned to write their Senators and Representatives about this matter.

JUDGE EDWARD R. BECKER

Mr. SPECTER. Mr. President, today, in conjunction with the celebration of Law Day, I wish to pay tribute to the Federal judiciary which has done so much for the rule of law in the United States and to one of its members, Judge Edward R. Becker, who on the celebration of his 50th birthday this week, exemplifies our fine Federal judiciary.

In citing Judge Becker as a representative of the Federal Judiciary, I do so for personal as well as professional reasons. Judge Becker and I attended the University of Pennsylvania together, the Yale Law School together, and were debate colleagues together. It was with great pleasure and pride that I joined in his induction ceremony on December 10, 1970, as judge of the U.S. District Court for the Eastern District of Pennsylvania and again on January 22, 1983, when he was sworn in as judge of the U.S. Court of Appeals for the Third Circuit.

With most of his judicial career still ahead of him at the age of 50, Judge Becker has already served with great distinction on the Federal judiciary for the past 12½ years. He represents the finest example of judicial qualities for scholarship, temperament, literary ability, decisiveness, and fairness. We are privileged to live in a nation which enjoys the reputation and reality of justice afforded the Federal judiciary and men like Judge Edward R. Becker.

CONCLUSION OF MORNING BUSINESS

Mr. BAKER. Mr. President, there are 2 minutes remaining in the maximum time allocated for the transaction of routine morning business. Will the Chair inquire whether there is further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

FIRST CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1984

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Concurrent Resolution 27, Calendar No. 99.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 27) revising the congressional budget for the United States Government for the fiscal year 1983 and setting forth the congressional budget for the United States Government for the fiscal years 1984, 1985, and 1986.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. Time is under control.

Who yields time?

Mr. BAKER. Mr. President, first may I ask the Chair to state the conditions as to time and the control of time provided by statute.

The PRESIDING OFFICER. The time is limited to 50 hours, and it is under the control of the two leaders.

Mr. BAKER. Mr. President, I thank the Chair.

Mr. President, I yield control of the time, and I designate the distinguished chairman of the Budget Committee, the Senator from New Mexico (Mr. DOMENICI) to control the time on this side.

Mr. BYRD. Mr. President, I designate the distinguished Senator from Florida (Mr. CHILES) to control the time on this side.

Mr. BAKER. Mr. President, will the Senator from New Mexico yield me 1 minute?

Mr. DOMENICI. I yield 1 minute to the distinguished majority leader.

Mr. BAKER. I thank the Senator.

Mr. President, as I indicated earlier, it is the hope of the leadership that we can continue the debate on this matter until approximately 5 p.m. today.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the Senate completes its business today, it stand in recess until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I will make one inquiry to the minority leader that I meant to mention to him privately and I did not and neglected it. I will not make a request now, but since we are planning to come in early and perhaps stay late this week to try to do the budget resolution, we are going to inevitably discommode a number of committees unless we make some special provision.

I ask the minority leader if he would be willing to consider the possibility of an order for this week only that would permit all committees to meet until 2 p.m. notwithstanding the time at which the Senate convenes.

Mr. BYRD. Mr. President, I wish to take that under advisement. I personally have no objection. I wish to check that out with our ranking minority committee people.

Mr. BAKER. I appreciate as much. If the Senator could let me know later I would be grateful.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, first, I send to the desk a list of staff members and ask unanimous consent that persons named therein be granted privileges of the floor during the consideration of Senate Concurrent Resolution 27.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list of staff members follows:

REGULAR FLOOR PRIVILEGES FOR SENATE BUDGET COMMITTEE STAFF

MAJORITY STAFF

Rich Bartholomew, Steve Bell, Sid Brown, Michael Carozza, Gail Cowper, Becky Davies, Pete Davis, Marcy Edwards, Beth Farcht, Charles Flickner, Gail Shelp Fosler, Tom Foxwell, Bob Fulton, Laurie Greene, Russell Hedge, Paul Heilig, Bill Hoagland, David Hooker, Ann Houck, Jan Grassmuck Lilja, Terrence Lyons, Jeff Malashock, S. Anthony McCann, Carole Baker McGuire, Nancy Moore, David Nummy, Deborah

Paul, Mary Neil Payne, Joyce Purcell, Robin Seiler, Deborah Swartz Lipman, Alan Struthers, C. G. Nuckols, and Paul Van de Water.

MINORITY STAFF

Dennis Beal, Rick Brandon, Ron Chiodo, Kathy Deignan, Ken Erickson, Lisa Faulkner, Rick Koskella, Bentley Lipscomb, Gary Schinasi, and Jim Stasny.

FIFTEEN MINUTE FLOOR PRIVILEGES FOR BUDGET COMMITTEE STAFF

MAJORITY STAFF

Tim Baade, Judee Klepec, Patricia Hameister, Kathryn Hamilton, Margaret Janowski, Gina Knoll Mellen, Anne Miller, Ronald Newlin, Susan Yurko, Scott Fifer, Linda Crowl, and Jennifer Manthorpe.

MINORITY STAFF

Beth Clark, Julie Coffren, and Tricia Tate.

REGULAR FLOOR PRIVILEGES FOR STAFF OF MAJORITY MEMBERS

Paul Mueller on behalf of Senator Armstrong.

Brian Waldmann on behalf of Senator Armstrong.

Guy Clough on behalf of Senator Kassebaum.

Dave Bartel on behalf of Senator Kassebaum.

Robert Orr on behalf of Senator Boschwitz.

Gary Russell on behalf of Senator Boschwitz.

Hayden Bryan on behalf of Senator Hatch.

Bobbi Dunne on behalf of Senator Hatch.

Fred McClure on behalf of Senator Tower.

French Hill on behalf of Senator Tower.

Diane Tebelius on behalf of Senator Andrews.

Dave Sullivan on behalf of Senator Symms.

Anne Canfield on behalf of Senator Symms.

Kris Kolesnik on behalf of Senator Grassley.

Charles Jarvis on behalf of Senator Grassley.

Elise Paylan on behalf of Senator Kasten.

Dawn Gifford on behalf of Senator Kasten.

Barbara McLennon on behalf of Senator Quayle.

Jim Wolfe on behalf of Senator Quayle.

Bob Thomas on behalf of Senator Gorton.

John Wills on behalf of Senator Gorton.

REGULAR FLOOR PRIVILEGES FOR STAFF OF MINORITY MEMBERS

Rick Brandon on behalf of Senator Chiles.

John Nelson on behalf of Senator Hollings.

Bob Sneed on behalf of Senator Hollings.

Dick Andrews on behalf of Senator Biden.

Laura Hudson on behalf of Senator Johnston.

Lance Simmens on behalf of Senator Sasser.

Bob Hamrin on behalf of Senator Hart.

James Wagoner on behalf of Senator Metzenbaum.

David Krawitz on behalf of Senator Riegle.

Susan Slater on behalf of Senator Moynihan.

Jon Oberg on behalf of Senator Exon.

Mr. DOMENICI. Let me state for the record that has been checked with the minority.

Mr. President, I ask unanimous consent that the presence and use of small electronic calculators be permitted on the floor of the Senate during the consideration of Senate Concurrent Resolution 27.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. That, too, has been cleared with the minority and it has been traditional since the budget process began.

Mr. President, I yield myself as much time as is necessary for my opening remarks.

The first concurrent budget resolution for fiscal year 1984 stands as a remarkable document for three reasons: First, it reflects the entire range of divisive fiscal and policy debate engaged in by Congress during the past 30 months; second, it attempts to produce, apart from its tax recommendation, a steady-state budget so critical in economic times as uncertain as those now afflicting both America and the rest of the world; and, third, it continues the policy of fiscal restraint across the board that has characterized the budget resolutions of the past 2 years.

That this resolution exists at all is a tribute to the persistence of the bipartisan tradition that has been the hallmark of the Budget Committee. This tradition continues despite the most enormous pressures against the budget process itself and deep divisions on fundamental policy questions among members of the committee.

I might state at this point, Mr. President, that I do not really believe the difficulties which I have just expressed come from the budget process or are inherent in a budget resolution. These difficulties exist because the realities of these times, as they impact on fiscal policies and especially on tax policy are indeed complex and difficult. It is the complexity of the circumstances that produces the enormous pressures which are sometimes reflected in threats to the budget process itself and in divisions on fundamental policy questions among Members of the committee and of the Senate, as a whole.

On a personal note, I must thank all Members for the time they have devoted to the lengthy debate in the committee at great length on this resolution, including those who supported it and those who could not.

While this resolution cannot resolve, as no legislative vehicle can resolve, the basic ideological differences now splitting the committee, the committee was able nonetheless to do its basic duty—present to the full Senate a proposed blueprint for fiscal policy for the next 3 years.

I support the basic spending policy outlined in this resolution.

While I have some difference of opinion with reference to some of them and indeed might be a part of attempting to change some of them, I basically support the spending side of this budget resolution. To the greatest extent possible, the committee has squeezed out spending growth and supported cost-reducing reforms, while providing adequate resources to meet basic governmental responsibilities in the areas of national defense, education, science, health, law enforcement, and basic physical facilities.

Whatever has been said about the budget resolution, the committee was able to hold the line on spending despite great pressures from all areas for very large increases. For example, the House-approved budget is nearly $30 billion higher in domestic spending budget authority in fiscal year 1984 than the resolution we present to the Senate now.

During the past 6 months, there have been many pressures for more spending as the economy faltered. The administration's request for $11 billion in fiscal year 1983 supplemental spending is incorporated in this resolution, as in the spending created by the passage of the multibillion dollars Surface Transportation Act. which we all understand was passed, accompanied by the 5-cent gasoline tax. That legislation was supposed to do two things: Begin the repair, maintenance, and completion of our surface transportation system, and aid and assist the mass transit system of this country. That bill was signed into law in late 1982 by our President.

We have incorporated the spending and revenue effects of that bill in their entirety, consistent with the way it was promoted and promulgated here in the Senate and ultimately in Congress as a whole.

The resolution incorporates the impact of the emergency jobs spending passed by Congress, and that is an additional $5 billion. That also was signed into law earlier this year by our President.

The total impact of these actions, over which the comnmittee had no control and which exceeded the committee's spending recommendations of last year, has been to add significantly in terms of billions of dollars to the projected 1984 deficit.

While there are some who might have concluded that we could ignore those realities, act as if they did not exist, or change them substantially in the resolution, it was the rather unanimous view of the budget Committee that we had to take the facts as they are, and thus we have those programs continued in the projected numbers for 1984 and the outyears.

After adjusting for these actions of Congress and the administration and after taking into account economic changes during the past year, the resolution we have produced is only marginally higher than the fiscal year 1984 spending level recommended last year in the fiscal year 1983 budget approved by Congress.

(Mr. JEPSEN assumed the chair.)

Mr. DOMENICI. In short, considering the times we live in, the nature of the confrontations and ideological differences, and, yes, indeed, the great difference of opinion among economists and other experts, I think the product of the committee's labor is a good one with respect to Federal spending.

In short, this is a fiscally restrained budget. Unfortunately from this Senator's standpoint, the budget contains one prominent flaw—one item with which I disagree. This comes as no shock to my distinguished friend, who is managing the bill for the minority. The resolution asks for increases of more than $30 billion in 1984 and nearly $40 billion in 1985 in taxes. I do not state that case in any way intended to prejudice the issue. I call them tax increases because those words are consistent with budget language. They are increases over the baseline, which assumes current policy or current law.

So it is in that regard that I call them $30 billion and $40 billion in tax increases.

I firmly believe that while these are difficult and uncertain times in terms of knowing what the risks of various policy approaches are, I conclude that this is bad policy. If one wants to speak of it in terms of risks there are many risks. But I think it is an extremely high risk to suggest a policy in the middle of or the beginning of this economic recovery that asks for that much in tax increases in 1984 and 1985.

These increases would occur just as we hope the economy will be struggling to prolong what has been a modest recovery to date. Make no mistake about it, we are not witnessing a typical postrecession recovery. The first quarter GNP data show the economy grew at an annualized rate of 3.1 percent in real terms. We are all very happy with that when contrasted with practically no real growth in 4 years in this country. That is one of the things we must put on the positive side of the ledger.

Nonetheless it is about half the average first-year growth experienced as America emerged from previous recessions that have occurred since World War II.

While many factors, including substantial international economic uncertainty, combine to lower our economic expectations at this point, economists are unanimous in one conclusion: The recovery will be fragile and its extent uncertain. In this context substantial new taxes would be counterproductive. The $30 billion 1984 tax increase would lower by 33 percent the anticipated new disposable personal income in fiscal year 1984. In addition, it would lower anticipated GNP growth by at least 0.7 of 1 percent or $11 billion.

My judgment is that in 1984 we need the lowest possible tax burden if we are to have a broad-based consumer-led recovery.

Therefore, as I indicated publicly in committee, after a great deal of bipartisan effort on the spending side of this budget and successfully restraining it as I have already explained, I intend to do my best on the floor of the Senate to see to it that those taxes that I have just described do not leave the floor of the Senate as the recommendation or as reconciliation instructions contained in a budget passed by the Senate.

As a final note on spending, I would encourage careful consideration of the resolution's recommendations on defense. The committee, led by a bipartisan group, has been the driving force since 1978 for higher defense spending. In an effort to overcome serious neglect of our national defense forces during most of 1970, the committee has advocated real growth of between 3 and 8 percent for each of the past 5 years. We have reported a budget resolution to the Senate that continues that effort.

The 1984 recommendation would yield 5 percent real growth for national defense for that year and for the entire 5-year period. However, I am reminded in this regard that the House Budget Committee has an extremely low number in terms of real growth in resources of defense. As I indicated when I voted for final passage of this resolution in committee in spite of its tax numbers, which I have described, I had some concern about the defense number, especially in light of the extremely low, in my opinion, real growth defense number in the House-passed budget resolution.

Combined with actions advocated by the President and approved by Congress during the past 26 months, the previous defense growth, plus what we have added in this particular budget, would mean about a 40-percent real growth in defense spending in less than 4 years. This is unprecedented peacetime growth, and would continue through 1986 if the resolution was basically followed.

Approval of our recommendation would give the administration about $1.64 trillion of the $1.76 trillion it has sought for defense.

I personally can support a slightly higher defense level. I stated before and I repeat that, if it is the will of the Senate during the debate on this resolution that the defense number increase, I will join in that effort. However, we cannot avoid subjecting defense spending to the same scrutiny as that given other spending areas within the budget. The committee showed during extensive debate on this subject that it is deeply concerned about many of the issues that surround the defense budget. My view is that defense spending must become more efficient and less wasteful if the consensus for rebuilding our arms forces is to be sustained over a long period of time by our country at large.

Finally, I would like to point out to everyone concerned with the large budget deficits, both in the President's budget and in this budget, that we must take action that will bring out-year deficits down further than now expected. I agree with those who say that only modest progress can be made in 1983 and 1984.

Early in 1982 many on the committee warned that failure to change entitlement spending and the 1981 congressional decision to cut taxes a great deal more than the administration had originally requested, would lead to deficits, large ones, and this has turned out to be accurate.

Now the Federal budget contains deficits larger than any of us desire. These, combined with modest recovery, make the work of Congress extremely difficult, as I indicated earlier. Nonetheless, I believe caution must be the byword during the next 2 years as we attempt to reach what I choose to call a steady state budget.

I believe the resolution approximates that, other than in the tax area where I have just indicated that I believe that the risks are too large to include tax increases of the size and at the times recommended by the budget resolution that is pending before us.

Mr. President, my closing observation is directed again to this question: Is this a steady state budget, even with respect to domestic spending?

I am informed that for 1984 nondefense/noninterest portion of the budget would be growing at a negative 3.1 percent in real terms. This means that the domestic budget is not growing even as fast as the very low rate of inflation now projected.

I think that, while some will criticize it here on the floor, some will offer to decrease it substantially, others will ask to increase it substantially, this resolution contains a pretty good definition of a steady state domestic spending budget for these times.

In the remainder of this opening statement I intend to discuss briefly the economic and fiscal conditions the Congress must confront in acting on this budget resolution and then summarize the policies the Budget Committee recommends.

Before I get into the discussion of those matters, however, I want to comment briefly on the difficult and time-consuming path which this resolution has had to travel before it was ready for consideration by the full Senate.

BRIEF HISTORY OF SENATE CONCURRENT RESOLUTION 27

My colleagues will recall that the majority and minority leaders, committee chairmen and ranking Members, and indeed most Members of the Senate were hopeful earlier this year that the Senate could move its 1983 work on a fast track. Originally, we had hoped to complete initial Senate action on this budget resolution in late March—before the Easter recess. Our goal at that time was to complete the conference with the House and have final Senate and House votes on the budget resolution by April 15—a full month ahead of the May 15 target date established by the Budget Act.

I regret that it has not proven possible to move the budget resolution through the Senate on the expedited timetable we originally sought. The reason is simple: This budget resolution brings into sharp focus some of the most difficult, most sensitive, most divisive issues this Congress will confront. It takes time for a great deliberative body like the Senate to sort through complex, immensely important issues such as those which are brought to the fore in this budget resolution. It is not an easy matter for the Senate to determine its will and then work its will on issues such as those we will debate starting today. Even the framing of the issues—which is one of the major roles of the Budget Committee—takes a great deal of time.

There were two major interruptions in the progress of Senate Concurrent Resolution 27 between March 9—the day the Budget Committee began markup—and today, May 2, the day on which the full Senate begins consideration of the resolution:

On March 15, the Budget Committee suspended work on the budget resolution at the request of President Reagan. The President made this request personally to me as chairman and then to Senator CHILES, the ranking minority member of the committee. The President stated that he needed more time for reevaluating the administration's budget request for national defense needs and indicated that the administration might find some flexibility and some basis for accommodation to congressional concerns about the levels of defense spending the administration had requested. The administration did in fact revise its defense request downward somewhat in early April.

The first interruption of the Budget Committee's work ended on April 6, when the committee resumed its markup sessions.

The Budget Committee's meetings on the resolution were suspended again after it deadlocked on April 14, on the issue of revenue increases.

There then was a period of over a week during which many private discussions took place among Senators and with Representatives of the House of Representatives and the administration regarding possible solutions to the impasse over revenues.

This hiatus ended on April 21, when the Budget Committee met, voted its approval of the revenue numbers included in Senate Concurrent Resolution 27 and then voted to report this resolution to the full Senate.

RESERVATIONS AND CONCERNS

I want now to turn again briefly to the other preliminary matter I want to discuss—the reservations and concerns I have about the content of Senate Concurrent Resolution 27.

First, let me say I doubt that any Budget Committee chairman has ever been totally satisfied with any of the budget resolutions the Congress has produced since it began implementing the budget process in 1975. Chairmen—and usually ranking minority members too—have normally swallowed hard and come here on the Senate floor and fought to hold the resolution together. I have done that myself during the past 2 years—even though I always would have written the resolution somewhat differently had I been in a position to do so. The defense on the floor of a committee's product is what is normally expected of a chairman.

Before the final vote in the Budget Committee on revenues and before the vote to report this resolution, I notified members of the committee that I was casting my votes with reservations. I further told the committee that I expected to support floor amendments to the resolution in at least two areas—revenues and defense spending.

I believed then, and I believe now, that the revenue increases proposed for fiscal years 1984 and 1985 by Senate Concurrent Resolution 27 are much too high. I much prefer the much smaller increases proposed by the President.

Likewise, I believe the compromise struck by the Budget Committee on national defense spending may have left the fiscal year 1984 numbers somewhat below where they need to be.

I have already made clear that I expect to be a cosponsor of a floor amendment which will improve Senate Concurrent Resolution 27 with respect to revenues. As I also said earlier, I am prepared to support some increase in national defense spending.

I believe my colleagues will agree that I have ample grounds for working here on the floor to modify the resolution produced by the Budget Committee. These are very tough and very controversial issues. The Budget Committee cannot be the final decisionmaker on these issues. The committee has done all it could to narrow the debate and to frame the issues for consideration here on the floor. The full Senate must now work its will.

THE ECONOMIC SITUATION

When it has completed work on this budget resolution Congress will have drawn a fiscal policy blueprint for the Nation. This blueprint can and will be changed somewhat in the future, but it is going to be a reasonably good indicator of the likely course of congressional decisionmaking in the months ahead. The budget resolution will thus provide a lot of important signals to the Federal Reserve Board, to other nations, to private financial markets, to State and local governments, and indeed to the American people.

These signals will influence behavior by others, and will thus affect the economic progress the Nation makes in the coming months and years.

In order to build appropriate fiscal policies, it is essential that Congress assess the current economic picture and the outlook for the economy. The Budget Committee has spent much time in hearing testimony about the economy from outside experts, the administration's representatives and the Director of the Congressional Budget Office. We have received and reviewed a comprehensive report from the Joint Economic Committee as well as the annual economic report of the President.

The committee's basic conclusion is that an economic recovery is now underway and that the continuation and duration of this recovery are heavily dependent on adoption of appropriate Federal fiscal policies.

For a period of more than 4 years, the American economy has been essentially flat—with no net growth in the real—inflation-adjusted—gross national product. This lack of economic growth has caused a tremendous loss of economic resources. It has also reduced estimates of Federal revenues over the 5 years from fiscal year 1982 through 1986 by nearly one-half trillion dollars below the cumulative levels expected in 1981.

The Nation still has an unemployment rate over 10 percent. It has much unutilized industrial capacity; it has a high failure rate among small businesses.

Most experts believe the long-awaited economic recovery is now underway. We could have a real economic boom just ahead of us. There are, however, major uncertainties in the economic outlook. Real interest rates are still very high by historical standards, although nominal interest rates have come down substantially in recent months. There is an ever-present concern that as the economic recovery proceeds, growing private borrowing needs may collide with large Federal borrowing and force interest rates even higher. This in turn could cut short the economic recovery and bring back "stagflation."

The committee has concluded, therefore, that the prudent course is to build the budget resolution on the assumption that the economic recovery, now underway, will be more moderate than past recoveries. For example, the average real growth rate for past postwar recoveries is about 4.7 percent compared to real GNP growth of 3.7 percent assumed in the forecast used in preparing this budget resolution. In fact, the average growth in the economy during the first year of a postwar recovery is typically 6 percent compared to the 4 percent assumed in the budget resolution.

There are a number of good reasons for assuming more modest growth than we have had in the past.

The budget resolution assumes 3.7 percent growth in the first quarter. GNP data to date, including the revisions for the fourth quarter of 1982, suggest that the budget resolution assumptions for economic growth are right on target.

The economic recovery appears quite moderate so far. First quarter real GNP growth was 3.1 percent which is about half of the postwar average for the first quarter of a recovery.

Other indicators are also rising moderately. In the first quarter of 1983, industrial production increased at an annual rate of 8.2 percent. Historically, industrial production has increased about 14 percent in the first quarter of recovery.

We have been disappointed during the past 2 years by setting our expectations for economic growth too high. We expected the economy to grow in 1982, and it declined. Last year, we expected the economy to grow 4.5 percent in 1983, and instead, we have only about half that much growth.

Mr. President, I ask unanimous consent that the table printed on page 29 of the Budget Committee's report, showing the economic projections used by the committee, be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 2.—ECONOMIC ASSUMPTIONS

[Calendar years]

	Actual 1982 [1]	1983	1984	1985	1986	1987	1988
GNP (in billions of dollars)	3,057.5	3,265.6	3,579.5	3,903.2	4,220.7	4,540.4	4,878.2
Percent change, annual	4.1	6.8	9.6	9.0	8.1	7.6	7.4
Real GNP: Percent change, annual	−1.8	2.1	4.7	4.1	3.7	3.5	3.5
GNP deflator: Percent change, annual	6.0	4.6	4.7	4.7	4.3	3.9	3.8
CPI: Percent change, annual	6.1	4.5	5.0	4.7	4.1	3.9	3.7
Unemployment rate [2] annual average	9.7	10.6	9.8	9.0	8.4	8.0	7.5
3-month T-bill rate, annual average	10.7	6.8	7.4	7.2	6.6	6.1	5.9

[1] Does not include fourth quarter revisions.

[2] All civilian workers.

Mr. DOMENICI. I also ask unanimous consent, Mr. President, that a table be printed in the RECORD at this point comparing the fiscal year 1983-86 economic forecasts used by the committee with the latest administration forecast and with a so-called consensus forecast which averages the forecasts of a number of outside economists.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARISON OF ECONOMIC FORECASTS

[Calendar year, percent]

	Year to year				4th quarter to 4th quarter or 4th quarter level	
	1983	1984	1985	1986	1983	1984
Nominal gross national product:						
Budget resolution	6.8	9.6	9.0	9.1	8.9	9.6
Administration (Mar. 23, 1983)	7.4	9.4	9.1	8.8	9.3	9.2
Consensus (Apr. 27, 1983)	7.2	10.1	10.1	NA	NA	NA
Real gross national product:						
Budget resolution	2.1	4.7	4.1	3.7	4.0	4.7
Administration	2.9	4.3	4.0	4.0	4.7	4.0
Consensus	2.7	4.6	4.2	NA	NA	NA
Gross national product deflator:						
Budget resolution	4.6	4.7	4.7	4.3	4.7	4.6
Administration	4.4	4.8	4.9	4.6	4.5	5.0
Consensus	4.4	5.2	5.7	NA	NA	NA
Consumer Price Index:						
Budget resolution	4.5	5.0	4.7	4.1	4.8	4.8
Administration	2.9	4.1	4.6	4.6	2.5	4.4
Consensus	3.1	4.0	5.7	NA	NA	NA
Unemployment rate:						
Budget resolution	10.6	9.8	9.0	8.4	10.4	9.6
Administration	10.0	9.1	8.4	7.7	9.7	8.8
Consensus	10.1	9.4	8.6	NA	NA	NA
Interest rate (3 month T-bill):						
Budget resolution	6.8	7.4	7.2	6.6	7.0	7.6
Administration	8.0	7.9	7.4	6.8	8.0	7.8
Consensus	7.8	8.1	8.6	NA	NA	NA

RECOMMENDED FISCAL POLICIES

Mr. DOMENICI. Mr. President, all Members of the Senate, I am sure, are very much concerned about Federal budget deficits. A record budget deficit of $110.6 billion was experienced in fiscal year 1982. The Federal deficit in fiscal year 1983 has already reached nearly $130 billion and we are only a litle more than halfway through the year. Baseline deficits as calculated by CBO range from $200.9 billion in fiscal year 1984 to $267.5 billion in fiscal year 1988. Moreover, the Federal Government is faced with large "structural deficits" such that even with a healthy economy and/or big drop in the unemployment rate, the gap between spending and revenues would still be in the range of $200 billion per year for the next several years—4 to 5 percent of GNP.

These large deficits exert upward pressure on interest rates, which are still quite high in real terms and which threaten to rise in the coming months unless the Federal deficits now projected can be reduced substantially. High interest rates have severe economic effects in fields such as agriculture, housing construction, automobiles, and other types of interest-sensitive businesses. Indeed, high interest rates dampen economic activity in all fields, as businesses cannot borrow to expand their operations when the return on investment is extremely small in relation to the cost of capital and consumers borrow less and therefore buy fewer automobiles, houses, appliances, and other goods and services.

What the American economy needs most is a strong and durable economic recovery. And what most threatens a strong and sustained economic recovery is the prospect of high real interest rates. The Budget Committee believes that high and rising deficits threaten recovery, and it has therefore reported a resolution providing for substantially lowered deficits.

The plan reflected in Senate Concurrent Resolution 27 consists of the following elements:

First. Spending Restraint. The resolution encompasses spending reductions totaling $60.9 billion in the 3 fiscal years 1984-86. Projecting the recommended policies forward an additional 2 years raises the total outlay savings to $146.5 billion below the baseline projections during fiscal years 1984 through 1988.

Second. Increased Revenues. The committee recommends that, along with the recommended spending reductions, Congress enact changes in law to achieve revenue increases of $121.2 billion during the 3 years from fiscal year 1984 through 1986 and $266.8 billion over the next 5 years. These increases would be in addition to the $48.6 billion in revenue increases already achieved by the new social security legislation.

Mr. President, I ask unanimous consent that a table showing the changes from the baseline recommended by the committee be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 4.—SUMMARY OF CHANGES FROM BASELINE REFLECTED IN PROPOSED BUDGET RESOLUTION

[By fiscal years, in billions of dollars]

	1984	1985	1986	1987	1988	5-year total
Revenues:						
Baseline	653.9	717.0	773.5	827.1	882.4	
Enacted legislation and technical reestimates	1.5	5.7	5.4	6.9	17.4	36.9
Revenue increases	30.2	39.1	51.9	65.6	80.0	266.8
Committee recommendation	685.6	762.6	830.8	899.6	979.8	
Outlays:						
Baseline	854.8	928.4	1,000.2	1,073.8	1,149.9	
Defense	−.6	−7.0	−10.0	−1.5	5.6	−13.5
Medicare and medicaid	−.8	−1.5	−4.2	−7.3	−9.0	−22.8
Social security	−3.7	−4.1	−4.3	−4.6	−5.0	−21.7
Other entitlements and mandatory items	−1.8	−.5	−1.6	−.5	−.9	−5.3
Nondefense discretionary programs	3.2	.6	−3.2	−4.9	−8.5	−12.8
Civilian agency pay raises	−1.1	−1.4	−1.8	−2.2	−2.6	−9.1
Offsetting receipts	−.5	−.1	−.7	−1.3	−2.1	−4.7
Net interest	−.7	−4.8	−10.4	−16.8	−24.1	−56.8
Total outlay savings	−5.9	−18.8	−36.2	−39.1	−46.5	−146.5
Committee recommendation	848.9	909.6	964.0	1,034.7	1,103.4	
Deficit:						
Baseline	200.9	210.5	226.7	246.7	267.5	
Proposed change	−37.6	−63.6	−93.5	−111.6	−143.9	−450.2
Committee recommendation	163.3	147.0	133.2	135.1	123.6	

Mr. DOMENICI. Mr. President, I want to clarify one point about this table, which is also printed on pages 7 and 8 of the committee report. It contains a line showing "social security" outlay savings. This is not a suggestion that there be outlay reductions in social security beyond those already achieved in the recent social security bill. Rather, the presentation of the social security savings on this table simply reflects the fact that the baseline used by the Budget Committee was calculated as of the beginning of this Congress, so we have shown as changes from the baseline the spending and revenue effects of social security legislation and other legislation enacted so far this year.

The spending restraint proposed in this resolution comes on top of substantial policy changes in the past 2 years and the actions earlier this year on the social security bill. These actions have already reduced Federal nondefense spending by more than $60 billion per year below where it otherwise would have been.

The further spending restraint in this resolution includes the following highlights:

First. It holds nondefense, noninterest outlay growth in fiscal year 1984 to a total of only $6.9 billion over fiscal year 1983. This is growth in nominal dollar terms of only 1.4 percent. It is a decline of 3.1 percent in real terms compared to the fiscal year 1983 outlay level now expected. In fact, the budget targets included in the resolution would provide negative real growth in nondefense, noninterest outlays for fiscal years 1984-86 and real growth of less than 2.5 percent per year in fiscal year 1987 and fiscal year 1988.

Second. Achieves 5-year entitlement savings of $49.8 billion including savings already achieved through the social security bill. The entitlement restraint includes:

Historic steps to limit the growth of health care for a total savings of $22.8 billion in medicare and medicaid over the 5-year period.

Provides for moving all cost-of-living adjustments (COLA's) for Federal retirement and disability programs to January 1—with substantial savings beyond those achieved by the COLA changes included in the social security legislation.

Provides for additional savings to be achieved in agriculture price supports, unemployment compensation, and child support enforcement.

Third. Restrains discretionary, nondefense programs so as to produce savings of $12.8 billion over the 5-year budget period.

Fourth. Holds outlays for national defense $88.4 billion below those requested by the President and $13.5 billion below the CBO baseline during the next 5 years.

Fifth. In addition, the committee's recommendations will achieve savings in interest costs totaling $56.8 billion during the fiscal year 1984-88 period.

Mr. President, I ask unanimous consent that another table from pages 9, 10, and 11 of the committee's report, be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 5.—FIRST BUDGET RESOLUTION FOR FISCAL YEAR 1984 AS REPORTED BY THE SENATE BUDGET COMMITTEE

[In billions of dollars]

Function		Fiscal year— 1983	1984	1985	1986	1987	1988
050: National Defense	BA	244.1	267.0	299.5	334.8	372.1	410.4
	O	214.3	241.5	270.7	300.0	331.5	363.6
150: International Affairs	BA	24.9	18.2	16.5	15.9	16.9	17.7
	O	11.5	12.7	12.8	12.8	12.7	12.4
250: General Science, Space, and Technology	BA	7.9	8.5	8.5	8.4	8.4	8.5
	O	7.7	8.2	8.5	8.4	8.4	8.4
270: Energy	BA	4.0	3.9	3.6	3.2	3.1	3.5
	O	4.6	4.1	2.9	2.7	2.9	3.0
300: Natural Resources and Environment	BA	12.5	12.0	12.2	12.5	12.8	13.0
	O	12.8	12.5	12.6	12.2	12.1	12.3
350: Agriculture	BA	24.2	11.6	14.0	13.2	13.7	14.0
	O	24.0	11.4	12.3	13.1	13.6	13.9
370: Commerce and Housing Credit	BA	5.2	5.9	6.5	6.5	8.0	8.3
	O	2.7	1.8		−0.3	1.2	1.7
400: Transportation	BA	26.8	27.7	28.4	29.2	29.8	30.3
	O	22.1	25.9	26.9	27.8	28.6	28.6
450: Community and Regional Development	BA	8.3	6.6	7.1	7.1	7.1	7.1
	O	7.9	8.1	8.2	7.6	7.5	7.4
500: Education, Training, Employment, and Social Services	BA	28.0	30.8	27.5	27.5	27.4	27.4
	O	26.8	27.0	27.4	27.4	27.3	27.5
550: Health	BA	25.1	31.8	35.0	37.8	40.9	44.3
	O	29.6	31.8	34.5	37.2	40.1	43.3
570: Medical Insurance	BA	46.1	61.4	68.4	79.1	87.4	95.2
	O	53.1	60.3	68.3	75.6	85.7	97.1
600: Income Security	BA	121.7	126.0	127.5	131.4	135.5	140.1
	O	110.2	104.1	105.5	108.6	112.1	116.3
650: Social Security	BA	184.1	174.9	194.7	211.0	226.7	256.7
	O	187.6	177.1	188.4	200.8	213.7	227.8
700: Veterans Benefits and Services	BA	25.2	25.7	26.8	27.3	27.8	28.2
	O	24.5	25.7	26.4	26.7	27.2	27.6
750: Administration of Justice	BA	5.2	6.0	5.8	5.9	6.7	6.5
	O	5.1	6.0	5.9	5.8	6.6	6.4
800: General Government	BA	5.6	5.7	6.0	6.2	6.3	6.3
	O	5.7	5.7	5.8	5.9	6.0	6.2
850: General Purpose Fiscal Assistance	BA	6.4	7.1	7.2	7.5	7.9	8.2
	O	6.4	7.0	7.1	7.5	7.8	8.1
900: Net Interest	BA	87.6	95.3	102.1	104.3	106.8	107.6
	O	87.6	95.3	102.1	104.3	106.8	107.6
920: Allowances	BA	0.8	0.6	1.9	3.2	4.6	6.0
	O	0.9	0.6	2.0	3.4	4.9	6.4
950: Undistributed Offsetting Receipts	BA	−18.0	−17.9	−18.7	−23.5	−22.0	−22.2
	O	−18.0	−17.9	−18.7	−23.5	−22.0	−22.2
Total spending	BA	875.7	908.8	981.5	1,048.5	1,127.9	1,217.1
	O	807.1	848.9	909.6	964.0	1,034.7	1,103.4
Revenues:							
Social security		148.5	166.5	187.7	204.4	219.5	246.5
Medical insurance		35.9	39.7	44.2	50.9	55.6	60.0
Other receipts		418.7	479.4	530.7	575.5	624.5	673.3
Total revenues		603.1	685.6	762.6	830.8	899.6	979.8
Deficit		204.0	163.3	147.0	133.2	135.1	123.6
Public debt		1,383.9	1,591.1	1,788.8	1,978.6	2,177.1	2,375.7

Mr. DOMENICI. This table shows the spending, revenue deficit, and public debt totals provided for by Senate Concurrent Resolution 27, for the 6 fiscal years from fiscal year 1983 through fiscal year 1988. I want to make clear that the fiscal years 1987 and 1988 numbers do not appear as targets in Senate Concurrent Resolution 27, but are projections of the policies recommended for the earlier years.

This table shows the spending levels, both budget authority and outlays, broken down by budget functions. It also subdivides revenues into three categories: Social security, medical insurance, and other receipts.

BUDGETARY TREATMENT OF SOCIAL SECURITY AND MEDICAL INSURANCE

The foregoing table reflects the decision Congress made in enacting Public Law 98-21, the Social Security Amendments of 1983, that the disbursements and receipts of social security and medical insurance trust funds should be presented separately in the congressional budget, beginning with the budget for fiscal year 1984. Consistent with Public Law 98-21, the committee has included in this resolution a new budget function for social security, identified as function 650, and another new function for medical insurance, function 570. The committee has further implemented Public Law 98-21 by separately identifying in Senate Concurrent Resolution 27 the estimated receipts of the social security and medical insurance trust funds.

REVISION OF SECOND BUDGET 27 RESOLUTION FOR FISCAL YEAR 1983

Senate Concurrent Resolution 27 revises the aggregate and functional totals provided in the second budget resolution for fiscal year 1983. The second budget resolution for fiscal year 1983 took effect automatically on October 1, 1982, as a result of a provision in the first budget resolution for fiscal year 1983. Section 7 of that resolution (S. Con. Res. 92) provided that if Congress had not, by October 1, explicitly adopted a second budget resolution for fiscal year 1983, the first budget resolution would be converted automatically to a second resolution. Implementation of the automatic second resolution provision was, in fact, the course followed by Congress in the fall of 1982.

Many changes have occurred in the budget outlook since the first resolution for fiscal year 1983 was adopted. This resolution updates the spending and revenue estimates and provides for the spending levels which the committee believes necessary in fiscal year 1983. Adoption of the conference report on the first concurrent resolution for fiscal year 1984 will supersede Senate Concurrent Resolution 92.

RECONCILIATION

A significant portion of the spending reductions proposed in Senate Concurrent Resolution 27 will be implemented through the reconciliation process. The resolution contains reconciliation instructions directing committees of Congress to take actions that will change existing laws in order to reduce outlays and increase revenues. Without reconciliation, the committee believes and I believe that the budget plan would not have credibility in the financial markets and with the general public. If this were the case, expectations about the future of the economy would be less positive and the benefits of the budget plan would be delayed or negated.

I remind the Senate that reconciliation is well established as an effective means to reduce Federal deficits. The first budget resolution for fiscal year 1981, 1982, and 1983 each included reconciliation instructions.

The resolution includes instructions addressed to five Senate committees and their House counterparts to recommend changes in laws within their jurisdiction to reduce spending.

Mr. President, I ask unanimous consent that a table showing the major program reductions which the Budget Committee assumes will be made in implementing these instructions be printed in the RECORD. This table is also printed on page 14 of the committee report. I want to emphasize that these assumptions are shown for information purposes only. The committees which receive the instructions will be required to achieve spending reductions totaling the amounts specified, but they may choose to achieve the savings in ways different than assumed by the Budget Committee.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 6.—RECONCILIATION SPENDING SUMMARY

[By fiscal years, in millions of dollars]

Committees/programs in which savings are assumed	1984		1985		1986	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
(1) Agriculture: Milk price supports	−1,243	−1,243	1,332	1,332	1,327	1,327
(2) Finance:						
Medicare		−809		−995		−1,572
Medicaid		−7		−543		−407
Child support enforcement		−40		−116		−139
Unemployment compensation				−370		−366
Subtotal finance		−856		−2,024		−2,484
(3) Governmental Affairs:						
COLA-Civil Service Retirement		−273		−462		−841
COLA-Military and Public Health Service Retirement (Armed Services)[1]	−253	−253	−360	−360	−621	−621
COLA-Coast Guard Retirement (Commerce)[1]	−5	−5	−8	−8	−15	−15
COLA-Foreign Service Retirement (Foreign Relations)[1]		−3		−4		−9
Subtotal Governmental Affairs	−258	−534	−368	−834	−636	−1,486
(4) Small Business: SBA disaster loans	−139	−287	−555	−466	−544	−443
(5) Veterans Affairs: COLA-Veterans compensation	−202	−201	−117	−115	−118	−118
Total	−1,842	−3,121	−2,372	−4,771	−2,625	−5,858

[1] The spending reductions indicated will be achieved automatically in these programs if the COLA for civil service retirement is amended as assumed.

Mr. DOMENICI. As is indicated in the foregoing table, the assumed legislative action by the Governmental Affairs Committee on cost-of-living adjustments (COLA's) will result in savings in programs outside of the Governmental Affairs Committee's jurisdiction. These savings will occur because existing laws link COLA's in military, Public Health Service, Coast Guard, and Foreign Service retirement to the COLA's in civil service retirement. Therefore, it is not necessary for the Senate Committees on Armed Services, Commerce, Science, and Transportation, and Foreign Relations to report legislation in order to achieve the assumed savings.

PUBLIC DEBT

Senate Concurrent Resolution 27 provides for increases in the public debt subject to limit of $93.7 billion, $207.2 billion, $197.7 billion, and $190.8 billion in fiscal year 1983, fiscal year 1984, fiscal year 1985, and fiscal year 1986, respectively.

CREDIT

This resolution continues to reflect the Budget Committee's concern about the credit activities of the Federal Government. It contains a number of provisions dealing with credit activities including recommended totals by function for new direct loan obligations and new loan guarantee commitments, language calling for allocation of credit totals among committees and subcommittees, and sense-of-the-Congress language calling for limitations on credit activity and consideration of legislation to institute improved budgetary treatment of Federal financing bank lending. These credit provisions are consistent with the recommendations of the Temporary Subcommittee on Federal Credit which submitted its report to the full Budget Committee in December 1982.

DETAILS OF COMMITTEE RECOMMENDATIONS

Mr. President, I ask unanimous consent that there be printed in the RECORD a summary of the committee's recommendations on revenues, on each of the budget spending functions and on the credit provisions included in Senate Concurrent Resolution 27.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

REVENUES

The Budget Committee recommendation would raise revenues by $30.2 billion in FY 1984 and by $121.1 billion over FY 1983-1986.[1]

The recommendation makes no assumption as to how these revenues would be raised.

One way of raising these revenues would be to repeal the third year tax cut scheduled to begin July 1, 1983 and to repeal tax indexing which would go into effect January 1, 1985.

It is entirely feasible to raise these revenues through tax increases which do not involve repeal of the third year or tax indexing. The President's contingency tax raises comparable revenues with a 5 percent income tax surcharge and a $5 per barrel oil excise.

Other means of raising these revenues include excise tax and user fee increases, improvements in taxpayer compliance, and tax expenditure reductions.

Tax expenditures total $327.5 billion in FY 1984. A ten percent reduction in tax expenditures would yield the committee recommendation for increased revenues.

FUNCTION 050: NATIONAL DEFENSE

The Committee recommends $267.0 billion in budget authority and $241.5 billion in outlays for the national defense function.

The Committee recommendation is $22.9 billion in budget authority and $27.2 billion in outlays above the currently enacted levels for FY 1983.

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[1] The committee recommendation also assumes additional revenue changes for the effects of the PIK program (P.L. 98-4) and the social security amendments (P.L. 98-21) plus additional technical reestimates from the Congressional Budget Office.

The recommendation provides for 5 percent real growth in FY 1984 and 5 percent over the FY 1984-1988 period. This compares to 10 percent in FY 1984 and 6 percent over the five year period contained in the President's request.

The committee recommendation provides 94 percent of the spending requested by the President over the five year period FY 1984-1988.

It allows continuation of the strategic modernization and readiness improvement initiatives currently in progress.

It provides $3.2 billion more budget authority and $6.1 billion more outlays than the House passed resolution for FY 1984.

The Committee recommendation saves $88.4 billion in outlays over the period FY 1984-1988 compared to the President's request.

FUNCTION 150: INTERNATIONAL AFFAIRS

The overall numbers for this function in FY 1984 are the same as the President's request, re-estimated by CBO. However, in some areas of this function, the Committee's assumptions are somewhat different from the President's request.

In the case of direct credits (in practice, grants) for Israel, the Committee does not assume the reduction of $200 million proposed by the Administration.

For diplomatic and foreign information activities, the Committee recommendation allows for expected inflation, but it does not accommodate the 10 percent real growth requested by the President for FY 1984.

The Committee recommendation does accept the President's estimate for direct loan activity by the Export-Import Bank ($3.8 billion in FY 1984), with the understanding that a supplemental described in the FY 1984 budget may be submitted later (see Report, p. 99).

The $8.5 billion supplemental for the International Monetary Fund can be accommodated by the Committee recommendation for FY 1983.

The Committee recommends making room for the IMF funding for the sole purpose of sustaining international trade and export-related American jobs, not for a bank bail-out.

The Committee position on the IMF funding is supportive of the Banking Committee's efforts to require private banks to more fully disclose bad loans abroad.

The Committee recommendation is less than the House-passed FY 1984 level by $0.6 billion in budget authority and $0.5 billion in outlays.

FUNCTION 250: GENERAL SCIENCE, SPACE AND TECHNOLOGY

S. Con. Res. 27 recommends $8.5 billion in budget authority and $8.2 billion in outlays for this function in FY 1984.

S. Con. Res. 27 would provide 2 percent real growth for programs in this function. Within that increase, basic research of the National Science Foundation and Department of Energy would increase by 15 percent.

Under S. Con. Res. 27, the National Science Foundation could provide increased support for a new program designed to improve and recognize quality mathematics and science education in secondary schools, upgrade outdated university research facilities and instrumentation, and increase research grants and graduate student support.

Funding provided for the Department of Energy under S. Con. Res. 27, would allow for the upgrading of several accelerator facilities and for initiating the construction of the Stanford Linear Collider, as proposed by the administration.

NASA could continue operation of the existing two shuttle orbiters and could maintain the current production schedule of the remaining two orbiters scheduled for delivery in late 1984.

NASA would also be able to initiate two new space science initiatives, the Venus Radar Mapper and the Extreme Ultraviolet Explorer Satellite.

FUNCTION 270: ENERGY

The Senate Budget Committee mark for function 270 provides for a higher level of funding for Strategic Petroleum Reserve Facilities Construction than the level assumed by the President.

Spending for both the low-income weatherization and the schools and hospitals conservation programs would increase over FY 1983 levels.

All Energy Rerearch and Development activities would be provided for at a level equal to FY 1983.

All non-nuclear Energy Research and Development, including fossil, solar, conservation, and renewables, are provided for levels considerably above those proposed by the President.

FUNCTION 300: NATURAL RESOURCES AND ENVIRONMENT

S. Con. Res. 27 recommends $12.0 billion in budget authority and $12.5 billion in outlays for this function in FY 1984.

The Committee recommendation increases funding for critical areas of national concerns including: emergency cleanup of hazardous waste sites which threaten public health, environmental research and development, and implementation the emergency jobs bill.

S. Con. Res. 27 does not assume savings from user fees. Implementation of user fees requires authorizing legislation, which has been proposed for the past two years, and has not been enacted by Congress. To assume savings from user fees without the necessary Congressional support is unrealistic.

S. Con. Res. 27 would continue programs at the FY 83 level which have been repeatedly proposed for elimination by the President but continued to be funded by Congress: Historic Preservation programs, and recreational Land acquisition under the Land and Water Conservation Fund.

S. Con. Res. 27 would freeze water project construction of the Corps of Engineers, Bureau of Reclamation and Soil Conservation Service at the FY 1983 appropriated level.

FUNCTION 350: AGRICULTURE

The Committee recommendation for agriculture is $11.6 billion in budget authority and $11.4 billion in outlays in FY 1984.

The Committee recommendation assumes a freeze in funding at the baseline levels, after adjustments for recent payment-in-kind (PIK) sign-up reestimates and the Emergency Jobs Act. The Committee recommendation assumes no legislative savings as proposed in the President's budget, such as a freeze on commodity target prices.

Function 350 is a highly volatile function. Over 90 percent of the spending in this function is associated with the entitlement programs operated by the Commodity Credit Corporation (CCC). Those programs provide income and price support to farmers. The outlays for the programs are heavily influenced by such variables as weather, crop diseases, world-wide demand and production, and farmer participation in government programs.

This volatility is evident between FY 1983 and FY 1984. Without any legislated policy changes, outlays will decrease from nearly $24.0 billion in FY 1983 to $11.4 billion in FY 1984, a 53 percent reduction.

The Committee recommendation reaffirms actions taken through the Omnibus Reconciliation Act of 1982, that would reduce funding for the dairy price support program. There remains a great deal of uncertainty in the savings that will be achieved from that Act. Therefore, the Committee has reconciled the Agriculture Committee for $1.2 billion in savings in FY 1984, and $1.3 in both FY 1985 and 1986, to insure savings within the Agriculture Committee's jurisdiction.

FUNCTION 370: COMMERCE AND HOUSING CREDIT

The Committee recommendation assumes sufficient funds in this function in FY 1983 to accommodate the emergency jobs appropriations bill.

The reported resolution also assumes an additional $0.1 billion in budget authority and outlays in both FY 1983 and FY 1984 for Small Business Administration (SBA) purchases of guaranteed loans that are expected to be in default. The government has no choice but to make these purchases, and the money to pay for them is essentially mandatory.

In fiscal year 1984 through 1988, the Committee recommendation generally assumes that discretionary programs in this function will be frozen at the FY 1983 appropriated level provided before enactment of the jobs bill.

The freeze rejects the President's proposals to virtually eliminate Farmers Home rural housing loans, terminate SBA business loans, reduce elderly and handicapped housing loans, and reduce funds for postal rate subsidies by one-half.

All these programs have been reduced in recent years. The further large reductions proposed by the President are unrealistic, and the Committee recommendation rejects them in favor of a general freeze on spending.

The reported resolution assumes that the revenue foregone appropriation to the Postal Service, which funds subsidized postal rates, will be $760 million in FY 1984. This is nearly double the level requested by the President and is the amount recommended by the Senate Appropriations Committee in March.

Some Senators may be concerned that the assumed revenue foregone figure would not be enough to keep subsidized postal rates at current levels in FY 1984. The amount assumed by the Committee is not binding and each Senator will be free to advocate a higher level, within overall budgetary constraints during the appropriations process.

FUNCTION 400: TRANSPORTATION

The Committee recommends $27.7 billion in budget authority and $25.9 billion for transportation programs in FY 1984. The recommended level provides for 2 percent nominal growth in budget authority for discretionary programs in FY 1984.

Spending resulting from the Emergency Jobs Act is accommodated by the recommended mark. Over the five year period, FY 1983-1988, this Act will add $0.7 billion in outlays for transportation programs.

The Committee recommends that spending for contract authority programs, such as Federal-aid highways, airport improvement grants, and mass transit capital grants increase to the fully authorized levels contained in the 1982 Surface Transportation Assistance Act and the Airport and Airway Improvement Act. The Committee mark assumes that FY 1984 outlays will grow in comparison to FY 1983 by 40 percent for highways and 80 percent for airport grants, including spending provided by the Emergency Jobs Act.

The Committee adopted current policy funding for urban mass transit. The recommended mark assumes the continuation of transit operating assistance authorized by the Surface Transportation Assistance Act, rather than phasing out operating assistance as proposed by the administration.

FUNCTION 450: COMMUNITY AND REGIONAL DEVELOPMENT

The Committee recommends $6.6 billion in budget authority and $8.1 billion in outlays for this function in FY 1984.

The Committee recommendation assumes baseline funding for Farmers Home Administration (FmHA) rural development programs and Bureau of Indian Affairs (BIA) Indian programs.

The recommendation incorporates spending resulting from the Emergency Jobs Act, including $1.0 billion in additional budget authority for the community development block grant (CDBG) program in FY 1983.

Funding for CDBG in FY 1984 and beyond would be frozen at the FY 1983 level, excluding the Emergency Jobs Act funding.

No additional budget authority is assumed for the SBA disaster loan program in FY 1984. Large unobligated balances and loan repayments are expected to provide sufficient funding for this program.

The Committee also expects reauthorization of the SBA disaster loan provision requiring that agriculture disaster loans be operated through FmHA.

Termination of the Economic Development Administration (EDA) and Appalachian Regional Commission (ARC) is assumed in the Committee recommendation.

All other discretionary programs within Function 450 would be held to their FY 1983 appropriated levels.

FUNCTION 500: EDUCATION, TRAINING, EMPLOYMENT, AND SOCIAL SERVICES

The Budget Committee recommends $30.8 billion in budget authority and $27.0 billion in outlays in FY 1984 for function 500, education, training, employment, and social services programs.

The recommendation is above the President's request by $5.4 billion in budget authority and $1.5 billion in outlays for FY 1984.

The Budget Committee recommendation assumes the President's requested increase of $215 million for the dislocated worker program, Title III of the Job Training Partnership Act. These funds will allow states to establish programs for job counseling, training, and relocation assistance for dislocated workers. There individuals have little chance of regaining their old jobs as the economy moves into recovery and deserve assistance as they adjust to the changing economy.

The recommendation also assumes increases above last year's level of $60 million for vocational education and $100 million for compensatory education for disadvantaged children. These programs have demonstrated effectiveness in preparing young people for the workplace and in improving achievement test scores. An additional investment in these programs is justified to sustain a long-term economic recovery.

The function 500 recommendation assumes funding of $230 million for a new math and science education initiative. Congressional concern over the quality of math and science instruction in our nation's elementary, secondary, and post-secondary schools is great. Legislation is likely to be enacted this year.

This recommendation assumes a one-time increase in budget authority for the Job Training Partnership Act and the employment service to place these programs on an advance funding cycle consistent with other education programs.

Other discretionary programs are funded at the FY 1983 baseline budget authority level. No changes or savings are assumed for any entitlement programs in this function.

FUNCTION 550: HEALTH

The Committee recommendation continues needed funding for health service programs such as maternal and child health, migrant health, preventive health, and community health centers. Each of these programs is assumed to be funded at a level higher than that needed to cover inflation.

The Committee rejected the President's proposal to freeze funding for the health block grants.

In medicaid, the Committee assumed a continuation of the present growth targets and penalties enacted in the 1981 Reconciliation Act. The penalties would be reduced, however, as proposed by the President.

The Committee did not assume the President's proposal for mandatory medicaid copayments. A voluntary system for the states to decide on copayments is currently in effect.

The Committee assumed current policy levels for health research.

The National Institutes of Health would receive a $200 million increase over its FY 1983 appropriation under the Committee recommendation.

The Committee assumed a freeze in health education and consumer and occupational health at the FY 1983 level.

The Committee incorporated the effects of the emergency jobs appropriation bill in this function—$260 million in FY 1983 budget authority.

FUNCTION 570: MEDICAL INSURANCE

This new function was created to comply with the requirements in the Social Security Amendments of 1983 that medicare receipts and disbursements be displayed separately in the budget.

The Committee recommendation recognizes the permanent reduction in hospital reimbursements enacted in the Social Security Amendments. These savings represent a $10.3 billion reduction over the next five years.

The Committee would freeze physician fees for those doctors who charge higher rates than those set by medicare. It also assumes that provisions will be enacted to insure that reimbursement reductions will not be passed on to beneficiaries.

The Committee recommendation assumes that most beneficiaries would continue to pay 25 percent of the medical insurance program costs through premiums.

The Committee assumes that high-income individuals would pay a higher premium for medical insurance. The Committee's recommendation would cost couples with incomes over $32,000 and individuals over $25,000 approximately $8 per month in 1984. It would affect only 7-8 percent of the medicare population.

These changes will reduce the federal general fund subsidy payment to medical insurance from a 16.3 percent growth rate in the baseline to 13.3 percent.

Without action by Congress, medicare will grow at a 14.4 percent rate during 1983-88. During this period, outlays could almost double.

The Committee rejected the Administration's across-the-board increase in premiums, deductibles, and copayments.

FUNCTION 600: INCOME SECURITY

The Committee recommendation incorporates action already taken by Congress on the emergency jobs appropriation. It increased funding for the supplemental feeding program for women, infants, and children (WIC), charitable food distribution, and benefits for unemployed rail workers.

The Committee recommendation incorporates action already taken by Congress in the Social Security Amendments of 1983. This legislation extends benefits for the long-term unemployed and increases benefit levels in the supplemental security income program.

The Committee assumes a delay, as early as possible, to January for cost-of-living adjustments in federal civilian and military retirement and several smaller retirement and disability programs. (Social security COLAs are already scheduled for a delay until January as a result of the Social Security Amendments of 1983.) This change would put all of the retirement programs on an equal basis.

The Committee recommendation also assumes funding levels that ensure the solvency of the railroad retirement program. Without such action, railroad retirement benefits will be cut beginning October 1, 1983. The Committee recommendation does not include the deeper benefit reductions now proposed by the Administration. The Committee further assumes that windfall benefits will be paid in full.

The Committee enactment of modifications to improve the child support enforcement program. These changes would enhance the financial security of women and children in families with an absent parent, increase the financial responsibility of absent parents to support their children, and improve program performance.

The Committee recommendation assumes modifications of the unemployment system after the economy has recovered. It assumes that the basic unemployment program would use the same eligibility standards that are already in place for the extended benefits programs. This would strengthen the state unemployment system which is in massive debt.

The Committee assumes that spending for discretionary programs will be held to the fiscal year 1983 current law levels. However, it allows room for increased funding for the supplemental feeding program for women, infants, and children (WIC).

The Committee also assumes a $100 million increase in funding for child nutrition programs. This proposal has bipartisan support in the Committee and is only half of the House-passed increase.

The Committee recommendation assumes that funding for subsidized and public housing will be frozen at fiscal year 1983 levels in fiscal year 1984 and future years. The assumed level of funding would provide assistance for about 97,000 additional rental units for low-income families.

FUNCTION 650: SOCIAL SECURITY

Function 650, Social Security, is a new function. It was created to comply with P.L. 98-21, the Social Security Amendments of 1983. It reflects the decision of Congress to separately identify the social security trust funds within the federal budget.

The Committee recommendation incorporates the changes enacted by the Congress in the Social Security Amendments of 1983. These provisions ensure the solvency of the social security program through a combination of revenue increases, slower outlay growth, and general fund transfers.

FUNCTION 700: VETERANS BENEFITS AND SERVICES

The First Budget Resolution provides a generous budget for veterans programs, even while it restrains the growth of entitlement programs.

The President and the Committee have upheld their traditional commitment to our Nation's 28.5 million veterans by providing a record $25.7 billion budget for veterans benefits and services.

In these times of high unemployment, the Budget Resolution addresses the needs of veterans by including $150 million for a new readjustment benefits initiative recommended by the Senate Veterans' Affairs Committee.

The Resolution accommodates the President's increases for important VA hospital and medical care programs. FY 1984 funding for these programs is 8 percent above the FY 1983 level.

This commitment will help the VA meet the anticipated needs of over 11 million aging World War II veterans, most of whom will reach age 65 by the end of this decade.

The resolution also assumes $0.3 billion in FY 1983 supplemental funding to accommodate expected congressional action to accelerate the construction of VA facilities that were included in the President's FY 1984 budget.

The Budget Resolution provides equitable restraint in entitlement programs through a six-month delay in the FY 1984 cost-of-living increases for veterans compensation and pension programs, just as it does for social security.

Veterans and other federal benefit recipients are asked by the President and the Congress to make a one-time sacrifice to do their fair share in combatting escalating federal deficits.

In addition, the Resolution assumes that all COLA changes will shift to January so that federal beneficiaries will get COLAs at about the same time.

FUNCTION 750: ADMINISTRATION OF JUSTICE

The Committee recommends $6.0 billion in budget authority and outlays for this function in FY 1984.

The resolution incorporates funding for the 1983 emergency jobs appropriation bill—$0.1 billion in this function in FY 1983 budget authority.

The Committee assumes an additional $600 million for federal law enforcement programs to address the national priorities of preventing crime and organized drug trafficking. This is approximately $300 million more than requested by the President and $600 million more than assumed in the House-passed resolution.

Additional funding has also been included in anticipation of the passage of comprehensive immigration reform legislation which should cost approximately $4.0 billion over the next five years.

The Committee assumes continuation of the Legal Services Corporation and juvenile justice and delinquency prevention programs at their current appropriation level of $241 million and $70 million respectively. The President proposed to eliminate these programs.

All other programs in this function, such as the Judiciary, are assumed to be funded at current policy levels.

FUNCTION 800. GENERAL GOVERNMENT

The Committee recommends $5.7 billion in budget authority and outlays for this function in FY 1984.

This resolution incorporates funding for the 1983 emergency jobs appropriation bill—$0.1 billion in this function in 1983 budget authority.

The Committee assumes increased funding for the Internal Revenue Service to carry out provisions of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). TEFRA and other compliance measures are expected to increase receipts to the Treasury by approximately $9 billion in FY 1984.

The Committee assumes normal spending levels for the federal buildings fund and current law spending for all other programs in this function.

FUNCTION 850: GENERAL PURPOSE FISCAL ASSISTANCE

The Committee recommends $7.1 billion in budget authority and $7.0 billion in outlays for this function.

The Committee assumes a continuation of the general revenue sharing program. This assumption will assure local governments of a steady source of fiscal assistance in spite of a difficult federal situation.

The Committee recommendation could accommodate funding for a federal-state infrastructure program. All other programs are assumed to hold at the current level including the Payments-in-Lieu-of-Taxes program, payments to states from forest service receipts and the Mineral Leasing Act, and federal land management activities.

FUNCTION 900: NET INTEREST

The Committee recommendation assumes reductions in net interest costs consistent with the deficit reductions from the baseline that are contained in the recommended budget.

FUNCTION 920: ALLOWANCES

The Committee recommendation assumes a six-month freeze on pay raises for federal civilian agency employees, followed by 4 percent pay raises in April 1984, April 1985, and April 1986.

FUNCTION 950: UNDISTRIBUTED OFFSETTING RECEIPTS

The Committee recommendation assumes amounts for the employer share of employee retirement that are consistent with decisions made in other functions.

The Committee recommendation assumes increased levels of OCS receipts based on the latest available information.

CREDIT BUDGET

The reported resolution accommodates the credit budget impact of the fiscal year 1983 emergency jobs appropriations bill.

For fiscal year 1984 through 1988, the Committee recommendation generally assumes that the appropriation act limitations on credit programs enacted in fiscal year 1983 will be continued.

This "freeze" on discretionary credit programs rejects the reductions proposed by the President in Foreign Military Sales, agriculture, rural housing, rural development and small business loans. The "freeze" also rejects the Administration's cuts in REA loan guarantees, FHA mortgage insurance, and Ginnie Mae mortgage-backed securities.

CONCLUSION

Mr. DOMENICI. Mr. President, the development of Senate Concurrent Resolution 27 is an extremely difficult but important challenge. I am gratified that the committee has been able to produce a budget resolution which received strong bipartisan support inside the committee. It is time now for the full Senate to work its will.

I yield the floor at this point.

Mr. CHILES. Mr. President, I yield myself such time as I shall need to make my opening statement.

Mr. President, the first concurrent budget resolution is on the Senate floor today because the Senate Budget Committee felt the most important thing was to get a deficit reduction plan in place.

It is important to understand that, but let us not have any illusions about the debate ahead. The chairman of our committee has made it clear he will oppose certain elements of this resolution, even though he supported them in committee. So, we will have a full discussion on the big three issues. We will talk about defense spending, domestic spending, and revenue levels. Those are all at the core of this resolution.

But they are not the central question this debate must deal with. The central issue before the Senate in this budget debate is interest rates. That is right—interest rates. The life of the economic recovery is tied to them. The ability of Americans to find work depends on interest rates: how low we can get them, and how many jobs will be produced as a result. Business, industry, the person on Main Street, and the investors on Wall Street rely on interest rates to gage their level of economic activity—what they buy, what they sell, what they invest.

So, while we will talk about lots of issues in the days ahead, they will all come back to interest rates, and what we can do to bring them down and keep them down.

Every Senator in this Chamber knows what we need to do. We have to cut Federal deficits, and we will debate how to do that.

I can tell you right now how we can bring those deficits down. We can do it by adopting the budget resolution reported by the Senate Budget Committee.

The President of the United States does not care much for the budget resolution now before us. To me, that is a little ironic, because this resolution is an attack on deficits, and I have always thought those were important to him. At least they were still important when he spoke to the Mortgage

Bankers' Association this February. He brooded then about the deficits, saying that unless something is done about them, they "will continue to absorb increasing amounts of credit that the private sector sorely needs to insure economic recovery."

He was alluding to deficits, but he was really talking about interest rates. And that is what we must talk about in this debate.

I will tell you it is not easy to keep the public's mind on the extent of the problem we face since we keep reading and hearing about the new records the stock market is setting. Over 1,200 last week, and another sign that recovery seems to be underway. Well, maybe it is a recovery, and maybe it is only a low rebound. Maybe it is just a wild bounce after 2 years of recession.

Whatever it is, we have to be careful we just do not lean back and say, "boy, I'm glad that's over, so let's forget about it." With that kind of attitude, it really will be "over"—all over.

I think we need to be realistic. We have still got plenty of work ahead. And if what we are seeing really is recovery, we will have to work hard to keep it. Nothing will kill the recovery quicker than interest rates going up. And nothing will keep those rates higher than huge Federal deficits.

Let us look at what this budget resolution does to attack those deficits. The deficits in this resolution are high; they are very high. In fiscal 1984, the deficit will be $163 billion; in fiscal 1965, it will be $147 billion; and in fiscal 1986, the deficit will be $133 billion. Those are the deficits we will have if we pass the resolution reported by the Budget Committee.

But what would those deficits be if, instead of the Senate budget proposal, we went with the President's proposals? In fiscal 1984, the deficit would be $179 billion. In fiscal 1986, under the President's proposal, the deficit would be $149 billion. Those kind of deficits would absorb 96 percent of all net private savings in the country.

In every case, in each year, the deficits in the Senate budget resolution are substantially lower than the President's. That is the key virture of the Senate proposal. The deficits are still way too high, but they are a lot lower each year than the President's, and on a steady downward path year to year. If we pass the budget we have reported, we will knock off $32 billion in interest payments on the national debt alone—$32 billion, Mr. President. That is how much less we will pay in a period of 5 years under Senate Concurrent Resolution 27 than we would pay under the President's budget. That, by itself, ought to be a strong signal to the credit markets that we are serious about cutting deficits and interest rates.

Compared to the President's proposal, this budget resolution will reduce Federal deficits by $131 billion over the next 5 years. That is $131 billion more that will be available for private borrowing.

That is $131 billion less Federal pressure on interest rates. That is $131 billion that we will not have to borrow, money we will not have to take away from the private sector.

That is what this resolution will do. What we will debate is how the resolution does it. I suppose the best place to start is with revenues, since it looks like that will be a big sticking point.

There is no question we have a revenue problem that translates into a giant-sized deficit problem. Early this year, the Congressional Budget Office described it as a "long-term mismatch between Federal spending and taxing." CBO went on to warn that—

> * * * the American economy faces unprecedented risks in the years ahead unless the Federal Government takes measures to narrow the gap between tax revenues and spending.

Well, they have certainly got that right. The sorry part is that the administration has had it wrong, but will not do what is necessary to correct its mistakes. The President's budget would have added virtually no revenues to the budget until 1986. The President said that was an insurance policy. Well, we all know what it takes to collect on an insurance policy.

Mr. President, it takes a calamity—it takes a fire, it takes death, it takes a theft. What we need is some preventive medicine right now before we lose the patient.

Two years ago, Congress accepted the President's plan for a 3-year, 25-percent tax cut. Fifteen percent of that tax cut is already in place. If the taxpayer really has not felt it much in his savings account, he can sure feel it in the size of his interest payments. The tax cuts were paid out of money we did not have. It was like a giant revolving charge that made things seem OK for the present. But I think we can see now the bill collector's at the door and he wants his money. We have run up nearly $200 billion in extra debt, largely because of the tax cuts.

The White House hears those arguments, too. But they are ignoring them. I am afraid we have been ignoring something, as well. The White House talks about the stimulus of tax cuts, but they do not ever seem to talk about the fact that the tax cuts are permanent. If the third year of the tax cut remains in place, it will mean we have permanently cut 25 percent out of the tax base.

You can preach all you want about the virtues of tax cuts, but as long as we keep cutting taxes, we will never reach the day when the deficits can be reduced significantly.

The Senate Budget Committee's resolution includes the Democratic proposal to increase revenues over the baseline by $30 billion in fiscal 1984, growing to $80 billion in fiscal 1988. While these technically show as increases to the base, they are the amounts we could save by forgoing the third year of the tax cut and repealing indexing. That is, we do not have to raise taxes. We just have to hold off from any more "red ink" tax cuts.

Specific legislative changes are not the province of this budget resolution. But the revenues prescribed in Senate Concurrent Resolution 27 are essential, and ways must be found to get them. When the President hears that hard truth, he often reverts to calling this resolution a tax-and-spend budget. Well, it is not. This resolution will lead to a tax burden of 20.4 percent of the gross national product by 1988. The President's budget in January would have actually produced a tax burden of 20.6 percent. So the tax levels in this resolution are actually lower than the President's as a percentage of GNP by 1988.

Mr. President, we always talk about how we do not want any tax increases. Certainly no politician likes to talk about increases in taxes. But in this resolution both sides are talking about increasing taxes. The President is talking about a major tax increase. The President says we should wait until 1986 to make that increase, and the Senate budget resolution says begin to get some of that revenue in 1984. Do not wait until 1986. Do not let those deficits get higher and higher and higher, allowing the interest rates to accumulate and compound so that we will have this ever-increasing deficit.

You can see from the figures I have just given, we are both talking about a tax burden, the President of 20.6 percent and the Senate budget resolution of 20.4 percent. The question simply is: What year?

So we need to do something about revenues. I admit we cannot look at the size of the Federal budget without concluding a large part of our problem comes from big spending. But neither can we look at the size of our annual deficits without concluding a large part of the problem comes from big and permanent tax cuts.

Mr. President, let me repeat that no one likes to oppose tax cuts, but to have tax cuts of the size that we have had—when they have all been written with red ink—that is our problem. The huge tax cuts were ever larger than the dramatic spending cuts we have made. Yet, it was decided that we would buy this great theory that says you can write people a tax cut with red ink and that would stimulate the economy.

We have seen what it has stimulated: One of the biggest recessions we have ever had and the biggest deficits we have ever faced in the history of this country.

We have to keep that in mind as we move through the spending levels in this budget. For fiscal 1984, the pending resolution is essentially a hold-the-line budget.

This is something that the chairman of the Budget Committee and I and Members agree on.

It provides no substantial increases, but it rejects virtually all of the President's proposed cuts. For most domestic programs, no inflation adjustments are assumed for 5 years. However, most needs-tested programs for low-income people are entitlements, and they are covered for inflation and caseload costs.

Let me give you a couple of precise examples. For education and training, programs are basically frozen at fiscal 1983 levels. There is a small increase for education, but it still falls about $600 million short of what it would take to cover inflation, let alone paying for new initiatives.

The resolution makes some cuts in medicare and medicaid which add up to about $21 billion over 5 years. That is about half what the President proposed. Frankly, I hope we can restore more money for those programs here on the floor. People using these programs are among the deeply needed.

So let us not get into that argument about the need for further domestic cuts. We still spend a lot on domestic programs, but those programs have contributed more to spending cuts than any other in the budget. So I am not buying the argument that cutting the deficits is an either/or proposition. It is not a case of "either cutting domestic spending" or "cutting domestic spending." We have to proceed with a more equitable and better balanced program of spending containment and adequate revenues get those deficits down. We have not had that so far, and figures from the Congressional Budget Office make it clear. Up to now, according to CBO, Congress has already cut domestic spending by $387 billion spread out over the next 5 years.

In case anybody wants to see the CBO table, you can just look at page 174 of the report that goes along with this budget resolution. We have actually reduced Federal deficits by $387 billion as a result of domestic spending cuts.

On that same page, you will see that we have added—added—$860 billion to the deficit by reason of the tax cuts. That means that if you just look at tax cuts versus spending cuts, we have added $473 billion to the deficits because of previous action. Now let us be frank. Those extra deficits are not there because we did not cut domestic spending enough; we have huge deficits because taxes have been cut too deeply.

You are going to hear in the debate about how awful we are, talking about adding $30 billion revenues in 1984 and $267 billion over 5 years. These numbers sound big, but they are just a fraction of what we have given away, and we do not have to add any new taxes, we just have to stop cutting them.

If anybody thinks we can cut domestic spending to make up the deficits caused by the tax cut, it will mean chopping whole programs like medicare and housing and education and veterans' programs.

I do not think, Mr. President, we are going to do this. I do not think this Senate on either side of the aisle is going to. We are not going to do that, and everybody in the Congress knows why. Those programs are a large section of the safety net even the administration has pledged to defend.

The tax cuts are way out of proportion to the dramatic cuts already made in spending. But those two parts of the budget are not the only issues before us. The other issue is national defense.

Back in January when the President delivered his state of the Union address, he told us we could expect to find $55 billion in defense spending restraint in his new budget. So I expected it. I did not find it. And the reason it was not found is becuase it was not there. What the President actually proposed was an $81 billion increase.

We found out in the budget committee how that happened. The President decided that he would not be bound by the actions enacted last summer that lowered what we would spend on defense.

Mr. President, those were actions that were initiated by the Republican majority in the Budget Committee.

So his restraint of $55 billion was calculated from the figure he wanted, not the figure signed into law.

Let me put to rest any suggestion that the Senate budget resolution in any way cuts defense spending. It does not. This resolution actually increases defense spending at a real rate of 5 percent, fiscal 1984 over fiscal 1983. That comes on top of the 36-percent real growth in defense spending over the last 3 years. Under the terms of this resolution, the United States will actually spend $214 billion next year based on $244 billion in budget authority contained in this measure.

That's big money. And it's necessary money. The Soviet Union is building weapons at a rapid pace. There are any number of trouble spots around the world at risk because of Soviet adventure. If we are tested, we had better be ready.

This resolution makes it clear we are ready. We are ready to maintain a strong defense, and determined to make our economy strong enough to build it.

I am not going to pretend the pending resolution is appealing to everyone. Of course it is not. Some of us would like to see the deficits cut still further. A few want to spend more on defense and a lot less on domestic programs. Others want to cut domestic spending without raising any more revenues. We will have some long talks on each of those opinions in the days ahead.

But I ask the Senate to keep its eye on the goal in all this. The goal is reducing interest rates so that we can achieve a solid economic recovery. We have got to convince investors and business that we are serious about cutting Federal deficits and getting the Federal Government out of the credit markets. We have got to show the individual American that we want to lower interest rates enough so that he or she can get back into the marketplace.

Interest rates are corrosive. They chew up economic growth. They chew up tax cuts and leave the taxpayer with some relief on April 15, but a year-round interest rate hole in his pocket.

Again, I point out that the committee-passed budget resolution will reduce interest rates by $32 billion that the Government will have to pay over the next 5 years over the President's budget.

Senate Concurrent Resolution 27, the First Concurrent Resolution, is a serious attempt to sustain economic recovery. And it is up to us; it is up to the Federal Reserve, and up to the private sector to join hands to keep the recovery going. We did not get the recovery started because of tax cuts. Recovery began after last year's tax increase, and after the Federal Reserve loosened up on monetary policy.

Mr. President, maybe it is wrong for me to use that term, "tax increases," for last year because it was not called tax increases last year. It was called revenue enhancement. I notice the distinguished chairman of the Committee on the Budget said he was using a technical term, that he was not going to prejudice the debate in any way. I appreciate his concern in that. I do notice that last year in the committee report we subtitled it "increased revenues." About one-fourth, it was said, of the deficit-reduction new revenues can be raised by a variety of means which would not require that the scheduled individual income tax reduction be changed from $20 billion the first year, $35 billion the second year, and $40 billion the third year. So we had $95 billion in increased revenues, but it was not called a tax increase then. Now it is tax increases. Technically I think that is very good.

The point I want to make, Mr. President, is the recovery started when we sent the signal out that we were going to try to lower this deficit. After we did that, the Federal Reserve loosened up some on its monetary policy. That was the genesis of this recovery.

Mr. DOMENICI. Mr. President, would the Senator yield before he changes the subject?

Mr. CHILES. I am happy to yield.

Mr. DOMENICI. I agree with the Senator. Last year, we called it increased revenue in the budget resolution, but when we got to the floor, it was called what it was, a tax increase. Frankly, I did not see any reason to go back to the old approach because I would just be explaining the difference between increased revenues and tax increases. So I decided that I had better call it what it was, because it did not get by last year in spite of what we called it.

Mr. CHILES. I think it has been said a rose by any other name is still a rose. I agree with that. I think it depends on who is doing the goring whether we are going to call it an ox or not.

Mr. President, we probably all remember the story about Ben Franklin and the constitutional convention. As Franklin stepped from the hall in Philadelphia, someone asked him what kind of new government we had. "A Republic", said Franklin, "if you can keep it."

I would paraphrase that to say what we have today is a recovery—if we can keep it. I think the coming debate will be over how we keep it. I think one of the ways to keep it is to reduce interest rates. That, I think, means that we have to push deficits as low as we possibly can.

I ask my Senate colleagues to join me in supporting Senate Concurrent Resolution 27. It is just the kind of sensible, fair restraint we need to keep economic recovery going.

Mr. President, I ask unanimous consent that a series of statements and explanatory material related to Senate Concurrent Resolution 27 be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HIGHLIGHTS OF THE REPORTED FIRST BUDGET RESOLUTION

Economic Policy: The basic policy of this Budget Resolution is to reduce the threat of high real interest rates by enacting policies to greatly lower the projected federal deficits. Democrats believe that the Federal Reserve's monetary policy should actively support strong economic growth in coordination with fiscal policy. This Resolution does not contain Sense of the Congress language on monetary policy, but it will be offered on the floor. The experience of the last two years has shown that big red-ink tax cuts—coupled with tight monetary policy—produce high interest rates and recession, not the economic growth promised. The present recovery began last fall when Congress passed a Reconciliation bill which moderated the tax cuts and the Federal Reserve loosened monetary policy.

Deficits: The Resolution provides a 1984 deficit of $163 billion, which is $11 billion below the House and $22 billion below the President. The deficits decline to $133 billion by 1983 and $123 billion by 1988.

DEFICITS

[By fiscal years, in billions of dollars]

	1984	1985	1986
Senate reported resolution	163	147	133
House-passed	175	147	136
President	185	179	149
Current policy baseline	201	211	227

Because the deficits are so much lower than the President's, interest costs are $32 billion below his for the five-year period.

Defense: The Resolution provides for 5 percent real growth in Budget Authority, an increase of $23 billion over the fiscal year 1983 level. An average of 5 percent a year real growth is provided for 1984 through 1988; this is on top of a 36 percent real growth over the last three years. Defense outlays for 1984-88 are $88 billion below the President's request, but only $13 billion below the multi-year program in last year's budget resolution.

Domestic spending: For Fiscal Year 1984, the Resolution is essentially a hold-the-line budget. It provides no substantial increases, as the House does, but it rejects virtually all of the President's proposed cuts. Small increases in some areas like Law Enforcement are offset by small cuts in others, like Community and Regional Development. However, no inflation adjustments are assumed for five years for most domestic programs. A freeze would squeeze real service capacity by 20-25 percent. Most needs-tested programs for low-income people are entitlements and are covered for inflation and caseload costs.

Revenues: The Committee accepted the Democratic proposal to increase revenues over the baseline by $30 billion in fiscal year 1984, growing to $80 billion in fiscal year 1988. While these technically show as "increases" to the base, they are the amounts which would be saved by failing to cut taxes further by foregoing the 3rd round 10 percent cut and foregoing indexing. No revenues are raised in the current year (1983).

There are no specific assumptions made as to how to achieve these revenue targets; in place of repealing the third year, Congress could limit its benefits to low and middle income taxpayers, could impose a temporary surcharge, or take other action.

While the President will call this a "tax-and-spend" budget, that is not correct. There is no new spending provided in the targets. The 1988 tax burden is limited to 20.4 percent of GNP. In the President's January budget, he proposed a tax burden of 20.6 percent of GNP. The difference is that we avoid revenue loss in 1984 and 1985, rather than letting tax cuts go into effect, then repealing them in 1986.

SUMMARY OF THE BUDGET RESOLUTION FOR FISCAL YEAR 1984 AS REPORTED BY THE SENATE BUDGET COMMITTEE

EXPLANATION OF CBO CURRENT POLICY BASELINE

The baseline was prepared by the Congressional Budget Office (CBO) using the economic forecast contained in the CBO annual report to the Budget Committees and CBO's technical estimating methodology. The baseline is the level that would occur if programs and policies that were enacted as of the end of the 97th Congress were continued unchanged through the projection period with all programs adjusted for inflation so that existing real levels of activity are maintained. In the case of national defense programs, the baseline is the level contained in the First Budget Resolution for FY 1983, adopted by Congress in June 1982, extended through FY 1988.

The baseline does not include actions already completed by the Congress during the present session, such as the emergency jobs supplemental appropriation bill and the social security act amendments. These actions are reflected in the functional totals. The baseline does not include recent reestimates by CBO of the effect of the existing PIK and dairy price support programs in Function 350, agriculture. These recent reestimates are also reflected in the function totals.

COMPARISON OF COMMITTEE ACTIONS

[By fiscal years, in billions of dollars]

	1983	1984	1985	1986	1987	1988	5-yr total
Current policy baseline:¹							
Budget authority	839.7	907.7	998.8	1,068.5	1,140	1,215.3	5,330.3
Outlays	800.9	854.8	928.4	1,000.2	1,073.8	1,149.9	5,007.1
Revenues	606.3	653.9	717.8	773.5	827.1	882.4	3,854.7
Deficit	194.6	200.9	210.5	226.7	246.7	267.5	1,152.3
Public debt	1,348.8	1,572.7	1,811.8	2,070.7	2,349	2,644.9	10,449.1
President's budget reestimated:²							
Budget authority	873.0	902.0	994.0	1,064.9	1,142.7	1,224.8	5,328.4
Outlays	807.3	842.6	907.7	973.9	1,045.3	1,113.6	4,883.1
Revenues	603.1	657.7	728.9	824.6	884.7	954.2	4,050.1
Deficit	204.2	184.9	178.8	149.3	160.6	159.4	833.0
Public debt	NA	NA	NA	NA	NA	NA	NA
Reported budget resolution:³							
Budget authority	875.7	908.8	981.5	1,048.5	1,127.9	1,217.1	5,283.8
Outlays	807.1	848.9	909.6	964	1,034.7	1,103.4	4,860.6
Revenues	603.1	685.6	762.6	830.8	899.6	979.8	4,158.4

COMPARISON OF COMMITTEE ACTIONS—Continued

[By fiscal years, in billions of dollars]

	1983	1984	1985	1986	1987	1988	5-yr total
Deficit	204.0	163.3	147.0	133.2	135.1	123.6	702.2
Public debt	1,383.9	1,501.1	1,700.8	1,979.6	2,177.1	2,375.7	9,912.3

[1] Baseline used by Senate Budget Committee during markup, current policy levels.
[2] April update of the President's request reestimated by CBO.
[3] Senate Budget Committee mark from first concurrent resolution (FCR).

COMPARISON OF COMMITTEE ACTIONS

[By fiscal years, in billions of dollars]

	1983	1984	1985	1986	1987	1988	5-year total
President compared to baseline:							
Budget authority	33.3	−5.7	−4.8	−3.6	2.7	9.5	−1.9
Outlays	6.4	−12.2	−20.7	−26.3	−28.5	−36.3	−124
Revenues	−3.2	3.8	11.1	51.1	57.6	71.8	195.4
Deficit	9.6	−16	−31.7	−77.4	−86.1	−108.1	−319.3
Public Debt	NA	NA	NA	NA	NA	NA	NA
Resolution compared to baseline:							
Budget authority	36	1.1	−17.3	−20.0	−12.1	1.8	−46.5
Outlays	6.2	−5.9	−18.8	−36.2	−39.1	−46.5	−146.5
Revenues	−3.2	31.7	44.8	57.3	72.5	97.4	303.7
Deficit	9.4	−37.6	−63.5	−93.5	−111.6	−143.9	−450.1
Public Debt	35.1	18.4	−23.0	−91.1	−171.9	−280.2	−536.8
Resolution compared to President:							
Budget authority	2.7	6.8	−12.5	−16.4	−14.8	−7.7	−44.6
Outlays	−.2	6.3	1.9	−9.9	−10.6	−10.2	−22.5
Revenues	0	27.9	33.7	6.2	14.9	25.6	108.3
Deficit	−.2	−21.6	−31.8	−16.1	−25.5	−35.8	−130.8
Public Debt	NA	NA	NA	NA	NA	NA	NA

ACTIONS AS A PERCENT OF GNP

[By fiscal years]

	1983	1984	1985	1986	1987	1988
Current policy baseline: [1]						
Outlays	25.1	24.4	24.3	24.1	24.1	24.0
Revenues	19.0	18.7	18.8	18.7	18.5	18.4
Deficit	6.1	5.7	5.5	5.5	5.5	5.6
President's budget reestimated: [2]						
Outlays	25.3	24.1	23.8	23.5	23.4	23.2
Revenues	18.9	18.8	19.1	19.9	19.8	19.9
Deficit	6.4	5.3	4.7	3.6	3.6	3.3
Reported budget resolution: [3]						
Outlays	25.2	24.3	23.8	23.3	23.2	23.0
Revenues	18.9	19.6	20.0	20.1	20.2	20.4
Deficit	6.4	4.7	3.8	3.2	3.0	2.6

[1] Baseline used by Senate Budget Committee during markup, current policy levels.
[2] April update of the President's request reestimated by CBO.
[3] Senate Budget Committee mark from first concurrent resolution (FCR).

BUDGET COMPONENTS AS A SHARE OF GNP

[By fiscal years, in percent]

	1983	1984	1985	1986	1987	1988	Change, 1983-88
National defense: Outlays	6.7	6.9	7.1	7.2	7.4	7.6	+0.9
Nondefense discretionary: Outlays	4.6	4.5	4.2	3.9	3.8	3.6	−1.0
Entitlements: Outlays	12.0	11.0	10.7	10.5	10.4	10.4	−1.6
Revenues	18.9	19.6	20.0	20.0	20.2	20.4	+1.5

RECONCILIATION SPENDING SUMMARY

[By fiscal years, in millions of dollars]

Committees/programs in which savings are assumed	1984		1985		1986	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Agriculture: Milk price supports	−1,243	−1,243	−1,332	−1,332	−1,327	−1,327
(2) Finance:						
Medicare		−809		−995		−1,572
Medicaid		−7		−543		−407
Child support enforcement		−40		−116		−139
Unemployment compensation				−370		−366
Subtotal, Finance		−856		2,024		2,484
(3) Governmental Affairs:						
COLA—Civil service retirement		−273		−462		−841
COLA—Military and Public Health Service retirement (Armed Services) [1]	−253	−253	−360	−360	−621	−621
COLA—Coast Guard retirement (Commerce) [1]	−5	−5	−8	−8	−15	−15
COLA—Foreign Service retirement (Foreign Relations) [1]		−3		−4		−9
Subtotal, Governmental Affairs	−258	−534	−368	−834	−636	−1,486

RECONCILIATION SPENDING SUMMARY—Continued

[By fiscal years, in millions of dollars]

Committees/programs in which savings are assumed	1984		1985		1986	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
(4) Small Business: SBA disaster loans	−139	−287	−555	−466	−544	−443
(5) Veterans Affairs: COLA—Veterans compensation	−202	−201	−117	−115	−118	−118
Total	−1,842	−3,121	−2,372	−4,771	−2,625	−5,858

[1] The spending reductions indicated will be achieved automatically in these programs if the COLA for civil service retirement is amended as assumed.

RECONCILIATION SPENDING ASSUMPTIONS BY FUNCTION

[By fiscal years, in millions of dollars]

	1984	1985	1986
Reconciliation spending assumptions by function:			
050: National defense:			
Budget authority	−252	−358	−617
Outlays	−252	−358	−617
350: Agriculture:			
Budget authority	−1,243	−1,332	−1,327
Outlays	−1,243	−1,332	−1,327
400: Transportation:			
Budget authority	−5	−8	−15
Outlays	−5	−8	−15
450: Community and regional development:			
Budget authority	−139	−555	−544
Outlays	−287	−466	−443
550: Health:			
Budget authority	−1	−2	−4
Outlays	−8	−545	−411
570: Medical insurance:			
Budget authority			
Outlays	−809	−995	−1,572
600: Income security:			
Budget authority			
Outlays	−316	−952	−1,355
700: Veterans benefits and services:			
Budget authority	−202	−117	−118
Outlays	−201	−115	−118
Total:			
Budget authority	−1,842	−2,372	−2,625
Outlays	−3,121	−4,771	−5,858
Reconciliation assumptions for revenue: Revenue increases (in billions)	30.2	39.1	51.9

ECONOMIC ASSUMPTIONS IN THE BUDGET RESOLUTION

The economic assumptions underlying the markup baseline estimates of spending and revenue are presented in the attached table. They are the CBO-baseline projections for the period 1983–88. By all standards, the short-term assumptions portray a relatively modest recovery in economic activity, with growth in real GNP of only 2.1 percent in 1983, followed by 4.7 percent growth in 1984. Over this same time period, the rate of unemployment declines slowly to 9.8 percent, and the rate of price inflation remains in the 4½ to 5 percent range. The short-term rate of interest on 90-day treasury bills falls dramatically in 1983 to 6.8 percent but then rises in 1984. Despite these lower nominal interest rates, real interest rates (nominal interest rates adjusted for inflation) remain very high by all historical standards.

Over the longer-term, real GNP growth remains moderate as inflation, the rate of unemployment, and interest rates continue to decline. By 1988, GNP growth is 3.5 percent, accompanied by a 7.0 percent unemployment rate, inflation in the 3½ to 4 percent range, and an interest rate of about 6 percent.

MARKUP BASELINE

	Calendar year—						
	1982	1983	1984	1985	1986	1987	1988
GNP (billions)[1]	$3,057.5	$3,265.6	$3,580.5	$3,903.2	$4,220.7	$4,540.4	$4,878.2
Percent change, annual	4.1	6.8	9.6	9.0	8.1	7.6	7.4
Real GNP: Percent change, annual	−1.8	2.1	4.7	4.1	3.7	3.5	3.5
GNP deflator: Percent change, annual	6.0	4.6	4.7	4.7	4.3	3.9	3.8
CPI: Percent change, annual	6.1	4.5	5.0	4.7	4.1	3.9	3.7
Unemployment rate,[2] annual average	9.7	10.6	9.8	9.0	8.4	8.0	7.5
3 mos. T-bill rate, annual average	10.7	6.8	7.4	7.2	6.6	6.1	5.9

[1] These baseline economic assumptions do not reflect 4th quarter GNP revisions.

[2] All civilian workers.

FUNCTION 050: NATIONAL DEFENSE—FILE REPORT—FIRST RESOLUTION MARKUP 1983

	Fiscal year—						5-yr. total
	1983	1984	1985	1986	1987	1988	
Change to baseline:							
BA	0.2	−11.3	−22.9	−15.2	−0.9	+12.4	−37.9
O	.1	−.7	−7.0	−10.0	−1.5	5.6	−13.5
Change from President:							
BA	−.9	−13.2	−29.9	−29.5	−24.3	−21.7	−118.6
O	0	−3.2	−11.5	−21.5	−26.0	−26.2	−88.4
New function level:							
BA	244.1	267.0	290.5	334.8	372.1	410.4	1,683.8
O	214.3	241.5	270.7	300.0	331.5	363.6	1,507.3

The Resolution provides a five-percent real growth, over inflation, in defense spending for Fiscal Year 1984 and 5 percent on an annual average basis for the five-year period 1984 to 1988.

FUNCTION 150: INTERNATIONAL AFFAIRS—FILE REPORT—FIRST RESOLUTION MARKUP 1983

	Fiscal year—						5-yr total
	1983	1984	1985	1986	1987	1988	
Change from baseline:							
BA	+0.8	−0.1	−0.8	−1.3	−1.7	−2.1	−6.0
O	+.3	+.3		−.3	−.6	−.9	−1.5
Change from President:							
BA				+.2	+.3	+.2	+.6
O							0
Tentative mark:							
BA	24.9	18.2	16.5	15.9	16.9	17.7	85.2
O	11.5	12.7	12.8	12.8	12.7	12.4	63.4

Foreign Economic and Financial Assistance: Rejects proposed cuts in President's budget from FY83 for humanitarian aid restoring spending to baseline levels for United Nations and Refugee Assistance. PL 480 food assistance is continued at the FY83 level. Accepts President's request for increased funding to IMF (or the FY83 supplemental) and International Development Association.

International Security Assistance: Assumes the overall level of Security Assistance requested by the President's budget, but with different assumptions. For the Middle East, it rejects the President's proposed $200 million cut in Foreign Military Sales credit to Israel from the FY83 level, and would allow an increase in FMS Credit and Economic support for the Middle East over the FY83 level.

Diplomatic Operations and foreign info activities: Assumes baseline level of spending, which would not allow major expansion in Department of State or USIA activities, such as Project Democracy.

Export Import Bank: Assumes a credit limit for direct loans which is lower than FY83 in light of current recession and projection of continued low export demand. Committee adopted report language supporting supplemental funding if necessary to meet predatory financing practices or additional demand for funds.

FUNCTION 250: GENERAL SCIENCE, SPACE, AND TECHNOLOGY—FILE REPORT—FIRST RESOLUTION MARKUP 1983

	Fiscal year						5-yr total
	1983	1984	1985	1986	1987	1988	
Change to baseline adopted:							
BA		+0.4	+0.4	+0.2	−0.1	−0.3	+0.6
O		+.3	+.4	+.2	+.1	−.3	+.7
Change from President:							
BA			+.1	+.7	+.7	+1.6	+3.1
O			+.1	+.5	+.7	+1.4	+2.7
New function total:							
BA	7.9	8.5	8.5	8.4	8.4	8.5	+42.3
O	7.7	8.2	8.5	8.4	8.4	8.4	+41.9

This recommendation assumes that funding for programs in this function will be increased by 7 percent over FY 1983 levels. Within this increase, funding for the NSF and DOE basic research would increase by 19 percent. NASA's civilian space programs would be increased by 4 percent.

This mark differs from the President's proposed mark in that it would increase R&D each year, while the President would freeze the NSF budget after FY 1984. For FY 1986–88, there could be 5 percent real growth in funding for basic research and engineering programs, including NSF, DOE's basic science research and the space sciences, and other NASA programs. It assumes baseline funding for the Shuttle, but includes some increase in offsetting receipts, since NASA will be receiving increased reimbursement payments because of a new pricing policy on commercial satellite launches by the Shuttle. However, since the President's estimates of these receipts may be too optimistic, the Committee mark assumes only half the President's estimate. This accounts for the large differences between the Committee mark and the President's budget in the years 1986–88. The remaining programs are held to the baseline.

FUNCTION 270: ENERGY—FILE REPORT—FIRST RESOLUTION MARKUP 1983

	Fiscal year						5-year total
	1983	1984	1985	1986	1987	1988	
Change from baseline adopted:							
BA	+0.1	−0.2	−0.5	−0.7	−1.1	−1.6	−4.1
O	+.1		−.4	−.8	−1.1	−1.4	−3.7
Change from President:							
BA	+.1	+.7	+.2		−.3	−.4	+.2
O	+.3	+.2		−.2	0	−.2	−.2
New Function Total:							
BA	4.0	3.9	3.6	3.2	3.1	3.5	17.3
O	4.6	4.1	2.9	2.7	2.9	3.0	15.6

Major Assumptions: This freezes BA at FY83 levels, for FY84–88. It allows no growth in discretionary spending for R&D, in construction facilities for the Strategic Petroleum Reserve, or in energy conservation programs. The Committee rejected the President's proposals for large spending cuts throughout this function.

FUNCTION 300: NATURAL RESOURCES AND ENVIRONMENT—FILE REPORT—FIRST RESOLUTION MARKUP 1983

	Fiscal year—						5-yr total
	1983	1984	1985	1986	1987	1988	
Change from baseline adopted:							
BA	+1.0	+0.3	+0.4	+0.3	+0.4	+0.2	+1.6
O	+.4	+.8	+.4	+.2	+.3	+.2	+1.9
Change from President:							
BA	+.3	+2.8	+2.7	+3.0	+3.4	+3.5	+15.4
O	+.5	+2.0	+2.5	+2.3	+2.6	+2.7	+12.1

FUNCTION 300: NATURAL RESOURCES AND ENVIRONMENT—FILE REPORT—FIRST RESOLUTION MARKUP 1983—Continued

	Fiscal year—						5-yr total
	1983	1984	1985	1986	1987	1988	
New function total:							
BA	12.5	12.0	12.2	12.5	12.8	13.0	62.5
O	12.8	12.5	12.6	12.2	12.1	12.3	61.7

The Administration called for large cuts in this function—from $2.3 billion to $3.2 billion in BA, from FY84-88. EPA abatement and enforcement would be reduced by 20 percent from FY83 levels under the President's request. Funding for Bureau of Reclamation water resource projects (construction) would increase by 21 percent. The House recommendation for BA is +$0.10, −$0.40 and −$0.75 billion dollars relative to the mark, for FY84-86.

Major assumptions

The mark accepted by the Committee calls for additional funding for the Superfund ($0.1 billion in BA above the baseline) for FY84. It also freezes water projects construction at FY83 level through FY88, thereby rejecting the President's proposal for large increases in funding for the Bureau of Reclamation. No additional user fees are assumed. Funding for the American Conservation Corps at $0.3 billion is also assumed in the mark.

FUNCTION 350: AGRICULTURE—FILE REPORT—FIRST RESOLUTION MARKUP 1983

	Fiscal year—						5-yr. total
	1983	1984	1985	1986	1987	1988	
Change from baseline:							
BA	+3.0	−2.1	−1.0	−1.1	−1.1	−1.3	−6.6
O	+2.9	−2.1	−1.0	−1.1	−1.1	−1.4	−6.7
Change from President:							
BA	0	+.5	+1.2	+2.1	+2.4	+2.3	+8.5
O	+.1	+.6	+1.3	+2.0	+2.3	+2.2	8.4
New function total:							
BA	24.2	11.6	14.0	13.2	13.7	14.0	66.5
O	24.0	11.4	12.3	13.1	13.6	13.9	64.3

Substantial savings from the PIK (payment-in-kind) program are included in the baseline, for FY83 and FY84, as are the first and second 50 cent per hundred weight dairy assessments, under CCC program.

Major assumptions

Continues funding at the CBO baseline level from FY83-88. The mark does not require savings from a freeze in farm target prices, as in the President's mark. The Committee recommendation could allow for some increased FMHA credit assistance to farmers facing loan forfeitures, if offsetting reductions were made in other agricultural support programs. The Committee mark assumes baseline funding for agricultural research and extension services, and 5% real growth in basic research.

Recent Administrative action by USDA had delayed the implementation of the first of two 50 cent per hundred weight assessments on dairy producers. These two assessments are part of the compromise reached in the Omnibus Reconciliation Act of 1982. They are to provide the U.S. some receipts to offset the more than $2.3 billion in federal outlays for the CCC dairy price support program. The delay by the Administration means that the dairy savings of $1.2 billion assumed in the Committee recommendation probably will not be realized. As a result, either Congress must make changes in the CCC dairy program to yield these savings, or other programs in 350 would have to be cut to generate these savings, to stay within the Committee's funding recommendation for Agriculture. The Resolution includes a Reconciliation instruction to the Agriculture Committee to restore these savings.

FUNCTION 370: COMMERCE AND HOUSING CREDIT—FILE REPORT—FIRST RESOLUTION MARKUP 1983

	Fiscal year—						5-year total
	1983	1984	1985	1986	1987	1988	
Change to baseline:							
BA	+0.4	....	−0.1	−0.3	−0.5	−0.7	−1.6
O	+.4	+0.1	−.1	−.2	−.4	−.5	−1.1
Change from President:							
BA	−.1	−1.9	+.6	+1.7	+3.2	+3.8	+7.4
O	−.6	+.5	+1.7	+1.7	+2.6	+3.5	+10.0
New function total:							
BA	5.2	5.9	6.5	6.5	8.0	8.3	35.2
O	2.7	1.8	....	−.3	1.2	1.7	4.4

The mark is at the CBO baseline level of funding in FY84, and $1.6 billion below the CBO baseline in BA, and $1.1 billion below the baseline in outlays for the period, FY84-88. It is $10.7 billion above the President in BA, and $14.2 billion above the President in outlays.

The President proposed to reduce rural housing loans in function 370 and substitute a state block grant in function 600. He also proposed lower loans for elderly and handicapped housing and for small business, mortgage insurance and purchases, and significantly reduced postal rate subsidies. The House calls for $0.20 billion in BA, +$0.60 billion in outlays, in FY84; −$0.35 and +$0.25 billion in FY85; and −$0.40 and −$0.25 billion in FY86, relative to the baseline level of funding.

Major assumptions

The mark assumes that BA and outlays for non-discretionary programs within 370 are to be continued at the baseline level of funding. These include FHA mortgage insurance, GNMA, the FSLIC, and FDIC programs. Discretionary programs such as RHIF (Rural Housing Insurance Fund), the SBA's Business Loan Investment Fund, and the nonprofit mail subsidy are to be held to current law levels of funding, plus a 2 percent increase in FY84 only. The recommendation also includes maintaining the nonprofit mail subsidy at the FY83 current law level. The Emergency Jobs Appropriations (P.L. 98-8) is assumed.

Funding for the housing for the elderly or handicapped fund is at the baseline level. Finally, $116 million in FY83, and $118 million FY84 (above the 2 percent increase noted above) for the Small Business Loan and Investment Fund (BLIF) is also included.

FUNCTION 400: TRANSPORTATION—FILE REPORT—FIRST RESOLUTION MARKUP 1983

	Fiscal year—						5-yr. total
	1983	1984	1985	1986	1987	1988	
Change from baseline:							
BA	+0.2	-0.2	-0.6	-1.0	-1.3	-1.7	-4.8
O	+0.2	+0.1	-0.2	-0.5	-0.9	-1.6	-3.1
Change from President:							
BA	-0.1	0.0	+0.1		+0.8	+0.8	+1.7
O	+0.1	+0.8	+1.0	+0.9	+1.0	+0.5	+4.2
New function total:							
BA	+26.8	+27.7	+28.4	+29.2	+29.8	+30.3	145.4
O	+22.1	+25.9	+26.9	+27.8	+28.6	+28.6	137.8

On Tuesday, April 12, 1983, the Committee discussed Function 400 and developed a consensus that included the following elements:

1. increase 1984 discretionary budget authority by 2 percent and freeze discretionary spending at that level through 1988;

2. restore transit spending (BA) back to the baseline (+0.1 billion);

3. provide increases for Federal Aviation Administration to levels requested by the Administration for the National Air Space System plan improvements (+0.4 billion in 1984 increasing to +0.9 billion in 1988);

4. provide increases (+0.3 billion) to continue the Coast Guard law enforcement initiatives;

5. room for spending provided by the Jobs bill and 1983 mandatory supplementals;

6. in order to keep the totals below the baseline and to permit direct spending programs to share in the overall restraint, it was also suggested that the highway spending ceiling be frozen at $12,375 billion. Because this last item was left out of the mark, it was larger than expected (+0.6 BA; +0.3 O in FY84) and the mark was defeated by a vote of 7 to 9.

The mark freezes all discretionary spending and does include the necessary room for the Jobs bill.

On Thursday, April 22, 1983, by general consent +0.2 billion in spending authority was added back for Transit spending. While Transit programs would still be $0.2 billion below authorized levels, funding for operating assistance is included.

The final mark does not include the needed $0.4 billion to permit the Administration to proceed at requested levels with the program to modernize the National Air Space System. Nor does it permit Coast Guard expansion. The general freeze on discretionary spending cuts an additional $0.2 billion of inflationary program growth which would impact most notably on Coast Guard and Federal Aviation Administration operations.

FUNCTION 450: COMMUNITY AND REGIONAL DEVELOPMENT—FILE REPORT—FIRST RESOLUTION MARKUP 1983

	Fiscal year—						5-yr. total
	1983	1984	1985	1985	1987	1988	
Change to baseline:							
BA	+1.5	-0.6	-1.3	-1.5	-1.8	-2.0	-7.2
O	+0.2	+0.2	+(*)	-0.9	-1.2	-1.4	-3.3
Change from President:							
BA	-0.4	+0.5	+0.5	+0.5	+0.6	+0.6	+2.7
O	+0.1	+0.1	-0.0	+0.3	+0.6	?	+1.7
New function total:							
BA	8.3	6.6	7.1	7.1	7.1	7.1	35.0
O	7.9	8.1	8.2	7.6	7.5	7.4	38.8

This proposal assumes the implementation of the Emergency Jobs bill which provides an additional $1.0 billion in Budget Authority for the Community Development Block Grant program (CDBG) in fiscal year 1983 and specifically rejects the Administration's proposed deferral of the UDAG program in fiscal year 1984. The mark also assumes baseline levels for both the Rural Development Insurance Fund and BIA's Operation of Indian Programs beginning in fiscal year 1984. The mark would freeze CDBGs at the $3.5 billion Budget Authority level beginning in fiscal year 1984 and would also freeze the UDAG program over the next five fiscal years. An allowance is also made for new housing construction as an eligible activity under the proposal as is the possible creation of a demonstration block grant program for Indian tribes. No new budget authority is provided for the SBA disaster loan program and three programs, the Appalachian Regional Commission, the Appalachian Regional Development programs and the Economic Development Administration are to be terminated under this mark. The remainder of the programs in Function 450 would be continued at current law levels.

FUNCTION 500: EDUCATION, TRAINING, EMPLOYMENT AND SOCIAL SERVICES—FILE REPORT—FIRST RESOLUTION MARKUP 1983

	Fiscal year—						5-yr. total
	1983	1984	1985	1986	1987	1988	
Change from baseline adopted:							
BA	+.7	-.4	-1.6	-2.7	-3.8	-5.0	-13.5
O	+.3	+(*)	-.8	-1.8	-2.9	-4.0	-9.5
Change from President:							
BA	+1.3	+5.4	+2.7	+2.8	+2.8	+2.8	+16.5
O	-0.3	+1.5	+2.6	+2.8	+2.8	+2.9	+12.6
New function total:							
BA	28	30.8	27.5	27.5	27.4	27.4	140.6
O	26.8	27.0	27.4	27.4	27.3	27.5	136.6

Elementary and secondary education: Remove discretionary increases that compensate for inflation (BA -$322 million, outlays -$52 million in FY84). Increase funding above last year's level for Chapter I, compensatory education (BA +$100 million, outlays +$7 million in FY84); and vocational education (BA +$60 million, outlays +6 million in FY84). Establish a new program for science and math education (BA $230 million, outlays $+37 million in FY84; no increases in out-years). Added $0.2 billion of BA in FY84 to allow forward funding of Impact Aid.

Post-secondary education: Remove discretionary increases that compensate for inflation (BA -$180 million, outlays -$31 million in FY84). No savings are assumed for the guaranteed student loan program.

Job training: Remove discretionary increases that compensate for inflation (BA-$0.5 billion, outlays -$0.2 billion in FY84). Provide the full nine month advance funding for the Job Training Partnership Act. Increase funding for the displaced worker program (BA +0.2 billion, outlays +0.1 billion in FY84), no funds for inflation or new initiatives in job training for youth, disadvantaged.

Social Services: Remove discretionary increases that compensate for inflation (BA-$0.2 billion, outlays -$0.1 billion in FY 84). Fund the social services block grant (Title XX) and the foster care program at full entitlement levels.

All other: Remove discretionary increases that compensate for inflation (BA -$43 million, outlays (-$29 million in FY84).

Health: Functions 550 and 570

A provision of the recent social security bill required that medicare expenditures be shown as a separate budget function, which now is designated "Function 570." Medicaid and all discretionary health service and research programs remain in Function 550. Since the President's budget did not provide a separate function for medicare, comparison's with his budget are only available on a combined basis.

	Fiscal year—						5-year total
	1983	1984	1985	1986	1987	1988	
Change from baseline adopted:							
BA	3.7	0.3	0.3	0.2	−0.1	−0.8	−0.1
O	.2	−.6	−1.5	−4.3	−7.5	−9.2	−23.1
Change from President:							
BA	.2	1.2	3.2	4.5	5.6	7	21.5
O	.0	1.8	3.3	4.9	6.4	8.4	24.8
New function total:							
BA	71.2	93.2	104.4	116.9	128.3	139.5	582.3
O	82.7	92.1	102.8	112.8	125.8	140.4	573.9

The Committee recommendation was adopted on a 10 to 8 vote, after rejecting Democratic marks that required less savings in both medicare, medicaid, and discretionary programs.

FUNCTION 550: HEALTH

	Fiscal year—						5-year total
	1983	1984	1985	1986	1987	1988	
Change to baseline:							
Medicaid [1]							
BA	−(1)	−0.1	−0.6	−0.6	−0.8	−0.8	−2.9
O	−(1)	−.1	−.6	−.6	−.8	−.8	−2.9
Discretionary:							
BA	+.3	+.1	+.1	+(1)	−(1)	−.1	+.1
O	+.2	+.2	+.1	+.1	+(1)	(1)	+.3
Change from President [2]							
BA	+.1	+1.3	+2.7	+3.1	+3.8	+4.4	+15.3
O	+.1	+.7	+.8	+2.5	+3.0	+3.5	+11.4
New Function 550 Total:							
BA	25.1	31.8	35.0	37.8	40.9	44.3	189.8
O	29.6	31.8	34.5	37.2	40.1	43.3	186.9

[1] Includes medicaid effects of already-passed legislation: +$35 million in fiscal year 1984 outlays, +$304 million over 5-year period.

[2] Change from President figures are preliminary Budget Committee minority staff estimates, based on President's April reestimates. The President's budget has not been adjusted yet by OMB or CBO to reflect the separation of medicare into a new Function 570.

Major program assumptions in mark adopted

Medicaid: Caps on Federal matching amounts enacted 2 years ago under the Omnibus Budget Reconciliation Act would continue through 1988 (−$0.5 billion in fiscal year 1988 outlays, −$2.0 billion over 5-year period). The President's proposed regulatory savings and legislative proposal to require other third-party payors to assume payment responsibility before medicare were also assumed (−$0.1 billion in fiscal year 1984 outlays, $0.8 billion over 5-year period). The President's proposal for mandatory co-payments was not assumed. Provision had not been made in the mark for either new medicaid coverage for low-income pregnant women, or a program of health insurance for the unemployed, as is provided for in the House budget resolution.

Discretionary programs: The mark includes a little under half of the jobs bill increases for health block grant programs (+$103 million) through fiscal year 1988, with small additional amounts for maternal and child health, Indian health, primary care, and preventive health programs. Research would be funded at current policy baseline levels, but all education and training and other programs would be frozen at fiscal year 1983 levels, as recommended by the President. Because of the jobs bill action already taken by Congress, under this mark all discretionary programs will, in effect, be cut in fiscal year 1984 and beyond.

FUNCTION 570: MEDICAL INSURANCE (MEDICARE)

	Fiscal year—						
	1983	1984	1985	1986	1987	1988	5-year total
Change to baseline:							
Already-enacted medicare savings:							
O	+0.1	+0.1	+(*)	−2.2	−4.2	−4.7	−11.0
New medicare savings:							
O	−(*)	−.8	−1.0	−1.6	−2.5	−3.6	−9.6
New function 570 total:							
BA	46.1	61.4	69.4	79.1	87.4	95.2	392.5
O	53.1	60.3	68.3	75.6	85.7	97.1	387.0

Major program assumptions in mark adopted

Physician fees would be frozen for 1 year for those not accepting assignment (−$0.7 billion in fiscal year 1984 outlays, −$4.9 billion over 5 years). Part B (outpatient and physician services) premiums would remain at 25 percent of program costs for all enrollees after 1985, when this increase which was enacted last year would be terminated under current law. Premiums for those enrollees with incomes above $25,000 a year ($32,000 for a couple) would increase to 40 percent of program costs in fiscal year 1984, however. (Net effect of two premium increase provisions: −$0.1 billion in fiscal year 1984 outlays, −$4.3 billion over 5 years). Already-enacted provisions from the social security bill are included in the mark (+$0.1 billion in fiscal year 1984 outlays, −$10.8 billion over 5 years). Additional savings are assumed from continued hospital utilization review and continuation of the recently enacted hospice benefit.

New medicare savings included in the mark, in addition to social security bill provisions, amount to $0.8 billion in fiscal year 1984, and $9.6 billion over 5 years. The total medicare savings are about half those proposed by the President. While they do not require the drastic beneficiary cost-sharing in the President's budget, they approach the borderline of what can be achieved by strong provider cost control. If the assumed linkage of Part B premiums to income were adopted, it would be the first time a means-test concept has been used in medicare. Reconciliation assumptions to the Finance Committee for medicare assume −$0.8 billion in fiscal year 1984 outlays, −$3.4 billion in cumulative outlays over the 3-year fiscal year 1984 to fiscal year 1986 period.

FUNCTION 600: INCOME SECURITY—FILE REPORT—FIRST RESOLUTION MARKUP 1983

	Fiscal year—						5-yr. total
	1983	1984	1985	1986	1987	1988	
Change in baseline:							
BA	+23.4	+16.4	+15.2	+13.9	+16.2	+29.1	+90.8
O	+.8	−3.2	−3.8	−5.5	−5.4	−6.8	−24.7
Change from President:							
BA	+2.0	+11.7	+8.4	+2.9	−3.6	+.7	+20.1
O	−.1	+2.4	+3.0	+1.9	+3.0	+2.8	+13.1
Total mark:							
BA	305.8	300.9	322.2	342.4	362.2	396.8	1,724.5
O	277.8	281.2	293.9	309.4	325.8	344.1	1,554.4

The mark was accepted as a compromise. Other marks were put on the board but not voted on.

Major assumptions reflected in funding totals (5-year outlay changes in parentheses):

1. Changes resulting from Social Security Amendments (−18.3 billion).

2. Changes resulting from jobs bill (negligible).

3. No cuts were made in AFDC, Food Stamps or assistance to refugees and entrants. The president had proposed about $5 billion in Food Stamp cuts over 5 years and about $1.5 billion in AFDC cuts over the same period.

4. Increased funding for WIC and child nutrition programs, relative to the baseline, of $200 million and $100 million respectively (−1.5 billion). The President has proposed a freeze for WIC spending at FY83 levels, resulting in $250 million less each year than in the Committee-adopted Budget Resolution, and $1.3 billion less over 5 years. The President also has proposed cuts in Child Nutrition programs totalling $1.8 billion over 5 years; relative to the baseline.

5. A COLA delay for Civil Service, military and other retirees and disability benefit recipients to January of each fiscal year. The change first would occur in FY84 (−3.5 billion). The Committee rejected other drastic reforms proposed by the President.

6. A requirement for unemployment individuals to have worked 20 weeks or more before they qualify for unemployment benefits (−1.5 billion).

7. Provision of strong incentives for state program efficiency in the Child Support Enforcement program and a requirement to use several cost-effective collection procedures (−.6 billion). These changes were recommended by the President.

8. Achievement of sovency in the railroad retirement fund (−2.9 billion). The President had recommended the automatic benefit cuts that occur under current law whenever the trust fund is low. The Committee's Budget Resolution made no reductions in the Federal windfall subsidy.

9. A funding freeze at FY83 was assumed for all other discretionary programs. Providing full inflation adjustments for new and existing low-income housing programs and for Low Income Energy Assistance would have required increases of Budget Authority totalling $8.3 billion over five years. The Committee's freeze would also result in $2.0 billion in lower outlays for administrative expenses for the Social Security Administration (relative to the baseline).

10. The Committee's Budget Resolution repeats language from the previous two years which would allow the Agriculture Committee to achieve its reconciliation savings by making cuts in either entitlement programs or in programs subject to appropriation or both. Food Stamps is the largest program under the Committee's jurisdiction which is subject to appropriation. This year, the Budget Committee voted to make no further cuts in Food Stamps. For this reason, the repetition of the same language for the Agriculture Committee this year's resolution would be problematic. This problem needs to be corrected with a technical amendment on the Senate floor.

NOTE.—The recent Social Security bill requires spending for the Social Security Old Age, Survivors and Disability programs to appear as a separate function, and they appear as Function 650 in the Resolution and the Committee Report. Since the Committee recommended no funding changes other than those already enacted, we have not shown them separately.

FUNCTION 700: VETERANS BENEFITS—FILE REPORT—FIRST RESOLUTION MARKUP 1983

	Fiscal year—						
	1983	1984	1985	1986	1987	1988	5-Year total
Change from baseline:							
BA	+0.3	−(*)	+0.8	+0.9	+1.1	+1.2	+4.0
O	+(*)	+.2	+.6	+.6	+.9	+.9	+3.2
Change from President:							
BA	+.3	−.2	+.5	+.4	+.4	+.3	+1.4
O	+.0	+.3	+.5	+.3	+.4	+.1	+1.6
New Function Total:							
BA	25.2	25.7	26.8	27.3	27.8	28.2	135.8
O	24.5	25.7	26.4	26.7	27.2	27.6	133.6

The mark is $0.3 billion in BA above the baseline for fiscal year 1983 and fiscal year 1984 combined, and $4.0 billion above the baseline in BA, and $3.2 billion above the baseline in outlays over the 5-year period. The mark is also above the President's (+$1.4 billion in BA over 5 years) and the House Budget Committee (+$0.9 billion in BA over 5 years).

Major assumptions

The mark moved was the Veteran's Affairs Committee recommendation with adjustments for the jobs bill (+$75 million in BA in fiscal year 1983), Social Security Bill, and an anticipated fiscal year 1983 supplemental request to transfer $0.3 billion in BA for medical construction from fiscal year 1984 to fiscal year 1983. (The medical construction increases were requested in the President's fiscal year 1984 budget.)

Pension COLA's were assumed to be delayed 6 months which was achieved in the Social Security bill. Compensation COLA's were assumed to be delayed 6 months in the first year (fiscal year 1984) but in order to put them on January to January schedule beginning in fiscal year 1985 they were delayed three months each year thereafter, roughly reducing the out-year savings by one-half. (The January to January schedule was incorporated into the mark.)

The mark rejected the President's proposal to base compensation COLA's in fiscal year 1985 and beyond on a sliding scale related to degree of disability.

The mark also included the Veterans Affairs Committee recommendation for $150 million additional in fiscal year 1984 BA and outlays for a readjustment initiative. This was not included in the House or the President's recommendations.

The President's requested increases in medical services and construction were approved, with two-thirds of the fiscal year 1984 BA increase of $440 million shifted to fiscal year 1983, as noted above.

FUNCTION 750: ADMINISTRATION OF JUSTICE—FILE REPORT—FIRST RESOLUTION MARKUP 1983

	Fiscal year—						5-year total
	1983	1984	1985	1986	1987	1988	
Change from baseline:							
BA	+0.1	+0.6	+0.3	+0.3	+1.0	+0.7	+2.9
O	+(*)	+.6	+.4	+.3	+1.0	+.7	+3.0
Change from President:							
BA	+0	+.5	+.3	+.5	+1.2	+.8	+3.3
O	+0	+.5	+.4	+.3	+1.1	+.8	+3.1
New function total:							
BA	5.2	6.0	5.8	5.9	6.7	6.5	30.9
O	5.1	6.0	5.9	5.8	6.6	6.4	30.7

The mark assumes implementation of the emergency jobs bill as well as real growth increases for law enforcement programs beginning in fiscal year 1984. The mark would continue the Legal Services Corporation and the Office of Juvenile Justice Delinquency Prevention [OJJDP] at current law levels to insure they are not terminated, as was proposed by the President. The mark also includes funds for the anticipated passage of immigration reform legislation, and for criminal justice assistance and emergency aid to State and local governments. No other mark was offered during the Committee's debate on function 750.

FUNCTION 800: GENERAL GOVERNMENT—FILE REPORT—FIRST RESOLUTION MARKUP 1983

	Fiscal year—						5-yr total
	1983	1984	1985	1986	1987	1988	
Change to baseline recommendation:							
BA	+0.1	+0.2	+0.2	+0.2	+0.1		+0.7
O		+.3	+.2	+.2	+.1		+.8
Change from President:							
BA	−.2	−.2	−.3	−.2	−.2	−0.3	−1.2
O	−.2	−.2	−.2	−.2	−.2	−.3	−1.1
New function total:							
BA	5.6	5.7	6.0	6.2	6.3	6.3	30.5
O	5.7	5.7	5.8	5.9	6.0	6.2	29.6

The mark assumes implementation of the emergency jobs bill in which $100 million in budget authority was provided for the repair and alteration of Federal buildings. The mark also includes the President's requested increases for the Internal Revenue Service (+0.2 billion BA, +0.2 billion outlays in fiscal year 1984) to enhance its tax collection, investigation and taxpayer services. The mark would fund the Federal buildings fund at baseline levels and would continue the rest of the programs in the function at current law levels through fiscal year 1988. During consideration of the proposal, a compromise was reached to include funds for the National Science and Technology Advancement Act of 1983 in this mark.

FUNCTION 850: GENERAL PURPOSE FISCAL ASSISTANCE—FILE REPORT—FIRST RESOLUTION MARKUP 1983

	Fiscal Year—						5-yr total
	1983	1984	1985	1986	1987	1988	
Change from baseline:							
BA							
O							
Change from President:							
BA		+0.3	+0.7	+0.9	+1.2	+1.4	+4.5
O		+.2	+.6	+.9	+1.1	+1.3	+4.1
Committee Recommendation:							
BA	6.4	7.1	7.2	7.5	7.9	8.2	37.9
O	6.4	7.0	7.1	7.5	7.8	8.1	37.5

On April 13, the Senate Budget Committee adopted baseline levels for the general purpose fiscal assistance function (850). The levels were agreed to without objection and no specific assumptions were made for either general revenue sharing or other programs in this function.

Under the President's proposal for this function, the general revenue sharing program would be continued at current law levels, which include several built-in increases; receipts from the Mineral Leasing Act would be transferred to fund the payment in lieu of taxes (PILT) program and the District of Columbia's borrowing requirements would be transferred to the tax-exempt private market. The President also recommended that all other programs in function 850 be funded at baseline levels through fiscal year 1988. Neither this nor any additional marks were offered during the committee's consideration of this function.

FUNCTION 900: NET INTEREST—FILE REPORT—FIRST RESOLUTION MARKUP 1983

	Fiscal year—						5-yr total
	1983	1984	1985	1986	1987	1988	
Change from baseline:							
BA	+0.3	−0.7	−4.8	−10.4	−16.8	−24.1	−56.8
O	+.3	−.7	−4.8	−10.4	−16.8	−24.1	−56.8

FUNCTION 900: NET INTEREST—FILE REPORT—FIRST RESOLUTION MARKUP 1983—Continued

	Fiscal year						5 yr total
	1983	1984	1985	1986	1987	1988	
Change from President							
BA	0	1.9	4.5	6.9	8.7	10.2	32.2
O	0	1.9	4.5	6.9	8.7	10.2	32.2
New function							
BA	87.6	95.3	102.1	104.3	106.8	107.6	516.1
O	87.6	95.3	102.1	104.3	106.8	107.6	516.1

Thus function contains the net effect of all spending and revenue changes consistent with the Committee's marks. There are no other policy implications associated with the changes. The large changes come from reducing the deficit and thereby reducing interest on the national debt. Had the Committee adopted the President's revenue levels, interest costs would have been $25.3 billion higher over the 5 years.

FUNCTION 920: ALLOWANCES—ACTION COMPLETED—WEDNESDAY, APRIL 13, 1983

	Fiscal year						5 yr Total
	1983	1984	1985	1986	1987	1988	
Change from baseline adopted							
BA		1.0	1.3	1.7	2.0	2.5	8.6
O		1.1	1.4	1.8	2.2	2.6	9.1
Change from President							
BA	+.8	.3	2.0	2.9	3.6	4.4	13.2
O	+.9	.4	2.0	2.9	3.7	4.5	13.5
New function total							
BA	.8	.6	1.9	3.2	4.6	6.0	16.3
O	.9	.6	2.0	3.4	4.9	6.4	17.3

Major assumptions

Mark proposed a six-month pay freeze, and then a 4 percent increase in April 1984. The six-month delay would result in a permanent shift of the effective date of the pay increase from October to April. The Committee recommendation also assumes the President's fiscal year 1983 pay supplemental request. This requires 50 percent absorption of the costs associated with the October 1982 pay raise for agencies other than the Department of Defense. The President's request assumed no October 1983 pay raise for federal civilian employees. Annual pay raises would resume in October 1984.

FUNCTION 950: UNDISTRIBUTED OFFSETTING RECEIPTS—ACTION COMPLETED—FILE REPORT—FIRST RESOLUTION MARKUP 1983

	Fiscal year						5 yr total
	1983	1984	1985	1986	1987	1988	
Change from baseline adopted							
BA		0.5	+0.1	+0.1	+0.2	+0.2	+0.1
O		.5	+.1	+.1	+.2	+.2	+.1
Change from President							
BA	+0.2	+1.0	+3.1	+3.2	+3.4	+3.5	+14.2
O	+.2	+1.0	+3.1	+3.2	+3.4	+3.5	+14.2
New function total							
BA	18.0	17.9	18.7	23.5	22.0	22.2	104.3
O	18.0	17.9	18.7	23.5	22.0	22.2	104.3

The Senate Budget Committee mark has $14.2 billion less savings than the President in BA and outlays, FY 84 to 88. This function includes the so-called employer's share of employee retirement, and receipts (rents and royalties) from Outer Continental Shelf oil and natural gas leasing. The House recommendation is slightly above the CBO baseline level of receipts.

Major assumptions

The Committee adopted the CBO baseline estimates for BA and outlays with two slight modifications: first, $0.6 billion more receipts (rents and royalties) from OCS lease sales than the CBO estimate; and second, $0.1 billion fewer receipts because of reduced employer contributions to employee retirement funds caused by the pay recommendation for federal civilian employees, in Function 920.

ADDITIONAL VIEWS OF SENATOR LAWTON CHILES

We have reported a budget resolution.

It was a struggle. But it was a struggle of good will rather than bad faith, and accomplished within the framework of a maturing congressional budget process. With persistence, we believe we can convert this bipartisan agreement into a bicameral budget, a joint program of both parties and two Houses pursuing the one goal of a renewed American economy.

This resolution is reported just as economic recovery appears to have begun despite administration policy over the last few years. But, the recovery is an infant, new and fragile. High interest rates threaten it. Had we been unable to adopt a budget resolution, a strong signal would have been sent to the credit markets that deficits as usual were acceptable to this Congress. Growing deficits would have fueled a resurgence of interest rates and aborted the recovery.

If we are not firm in defending the work of the Committee to reduce the 1984 and 1985 deficits, a credit crunch could occur as private borrowing for houses, autos and business picks up in the coming years. Therefore, it is important that we keep in place the revenues this resolution will generate, not revenues born of new tax increases, but revenues reclaimed by avoiding further tax cuts.

While our economic problems remain severe, the congressional budget process had helped head-off "what might have been"—still higher deficits, substantial inequity, and an eventual slide into one-party executive budgeting. We believe that Democrats have helped prevent those things through active involvement in this year's budget process after two years of exclusion.

Democrats were successful this year in making two critical points prevail in the Budget Committee. First, there is simply no way we can continue paying for tax cuts with money we don't have. Those tax cut-dollars become deficit-dollars the instant they are approved.

This year, there was basic bipartisan agreement that we could not cut domestic programs any further than we already had without imperiling the well-being of millions of needy people. That left us with two ways to cut the deficit: restrain defense spending, and find more revenues. Democrats made it clear from the beginning we were determined to cut the deficit regardless of the administration's willingness to defend it. The Democratic position prevailed in the Senate Budget Committee. This budget resolution, therefore, is a step forward. But it is not without imperfections.

The most serious shortcoming is a Federal deficit that's still too high.

Under the terms of this resolution, the deficit in Fiscal 1984 will be $163.3 billion, almost $11 billion below the House-passed resolution. Yet, the President's budget contained a Fiscal 1984 budget deficit of $185 billion. The President's budget also included deficits of $179 billion in Fiscal 1985; $149 billion in Fiscal 1986; $161 billion in Fiscal 1987; and, $160 billion in Fiscal 1988.

The budget resolution reported by the Senate Budget Committee contains deficits of $147.0 billion in Fiscal 1985; $133.2 billion in Fiscal 1986; $135.1 billion in Fiscal 1987, and; $123.6 billion in Fiscal 1988.

The deficits in this resolution are still high, but lower than those projected by the White House, and on a definite downward slope in each succeeding year. In fact, the deficits in this resolution are lower in every year than those recommended by the President: $37.1 billion lower in Fiscal 1984; $32.1 billion lower in Fiscal 1985; $16.0 billion lower in Fiscal 1986; $25.9 billion lower in Fiscal 1987, and; $36.7 billion lower in 1988. That's $148 billion less in red ink over the next five years.

This is the resolution's key virtue. It should be a clear indication that this Committee and the Congress, generally, recognize that federal deficits which remain high will continue to push interest rates higher. And, as long as interest rates are high, they will tax the American worker every time he or she buys anything on credit. With that kind of drag on the national economy, we may have economic rebounds, but we will never achieve durable economic recovery. Thus, while we cannot excuse the size of the deficits, we believe their downward path is essential for the long-range health of the economy.

The following table illustrates as percentages of the Gross National Product, the impact of this resolution in the major areas of the budget. Even after restraining real growth to 5 percent, outlays for national defense will *rise* from 6.7 percent of GNP in Fiscal 1983 to 7.6 percent in Fiscal 1988. Outlays for nondefense discretionary spending *decline* from 4.6 of GNP in Fiscal 1983 to 3.6 percent of GNP in Fiscal 1988. Entitlement spending *declines* from 12.0 of GNP to 10.4 in Fiscal 1988. Since by 1988 each 1 percent of GNP equals about $50 billion, this is substantial restraint. The overall effect of this resolution is to dampen spending to the extent that outlays for interest on the national debt will be *reduced* by nearly $57 billion by 1988.

MAJOR COMPONENTS OF THE BUDGET AS A PERCENT OF GROSS NATIONAL PRODUCT

	Fiscal year—						Change
	1983	1984	1985	1986	1987	1988	
National defense:							
Outlays	6.7	6.9	7.1	7.2	7.4	7.6	+0.9
Nondefense discretionary:							
Outlays	4.6	4.5	4.2	3.9	3.8	3.6	−1.0+
Entitlements:							
Outlays	12.0	11.0	10.7	10.5	10.4	10.4	−1.6
Revenues	18.9	19.6	20.0	20.0	20.2	20.4	+1.5

DEFENSE

The First Concurrent Budget resolution approved by this Committee includes some major choices. It reflects, first of all, a pervasive bipartisan conviction that our national defense needs to be strengthened. It, therefore, provides for a real five percent growth in spending for our military. In Fiscal 1984, the budget resolution allows for $267.0 billion in budget authority, an increase of $22.9 billion over 1983 and enough to add new and needed muscle to our defense readiness capability.

The defense choices assumed by this Committee combine the notion that we need a strong defense with the view that we need an economy strong enough to build it. Every member of this Committee felt the pressure to increase defense spending to the higher level sought by the White House. Yet many of us were, and remain, skeptical about the capacity of American industry to absorb those larger annual outlays. Moreover, at a time when every sector of the economy has had to accept some measure of restraint, we believe immunizing the defense sector would have jeopardized public support for the necessary defense improvement.

The Democrats on the Senate Budget Committee believe, therefore, that the defense numbers in this resolution are consistent with a steady modernization of our armed forces, and a national belief that we must do what is reasonable in a troubled world to defend our country.

REVENUES

On the question of revenues, the choices before the Committee were no less difficult. Democrats found no wisdom in the arguments of those who insisted that we should cut taxes more in the teeth of huge Federal deficits. Virtually nobody argues that two years of massive tax cuts have prompted the current recovery. Recovery began as a result of last year's tax increase, coupled with a more accommodating monetary policy.

Through long days of budget discussion—in full Committee, and, informed by public hearings with the Nation's most noted economic experts—we sought revenues adequate to hold back the growth of deficits. At least five different proposals were put to a vote in Committee before we arrived at a revenue number that provides both equity and deficit reduction. The key was the last revenue vote taken when the Committee endorsed the Democratic proposal to head off another $148 billion deficit expansion between Fiscal 1984 and 1988. While the adopted revenue number seems large, it is less than a fifth of the amount by which tax cuts have exceeded spending cuts. The Committee agreement made it clear that deficits must be cut this year, and in each of the years ahead.

There can be no doubt that the structural deficit so often mentioned during this year's budget debate rises largely from earlier tax cut action. As the following table illustrates, previously enacted tax changes raised the Federal deficit by $859 billion between 1982 and 1988. The table also shows that previously enacted cuts in non-defense spending reduced the deficit by $387 billion. Democrats believed it was necessary to attack the deficit at its source. Since the largest source of the deficit was revenue policy, we adjusted that policy. Democrats proposed that approach and the Committee endorsed it by a margin of three to one.

The table below shows the situation that existed prior to adoption of the Budget Resolution by the Committee. As a result of the Committee's action, the revenue increases are only a fraction of the $757 billion by which the tax cuts exceed the spending cuts.

INCREASE IN THE DEFICIT ATTRIBUTABLE TO CONGRESSIONAL POLICY ACTION

[Fiscal years, billions of dollars]

	1982	1983	1984	1985	1986	1987	1988	Total
Tax reduction	38	68	93	121	154	178	207	+860
Defense spending increases	1	15	27	47	65	65	65	+285
Nondefense spending cuts	−42	47	56	−59	−61	−61	−61	−387
Net change in deficit due to policy action	3	36	64	109	158	182	211	+757

Source: CBO baseline budget projections for fiscal years 1984 and to 1988.

If the size of the deficit generated by the tax cut concerned us—and it did—the lack of equity in tax policy under the Reagan administration concerned us just as much. That concern is graphically demonstrated by information supplied by the non-partisan Congressional Budget Office (CBO).

The CBO analysis found that households with less than $10,000 in annual income actually lost $320 as a result of the earlier tax cuts. For those with annual incomes between $20,000 and $40,000, the gain added up to just $710. However, households with annual incomes over $80,000 actually gained an average of $14,000. Moreover, the net cost to the Treasury—the net increase in the deficit and net extra cost to the other taxpayers earning less than $80,000 annually—was nearly $21 billion a year.

While there are any number of ways to find necessary revenues under this budget resolution, Democrats believe that a spirit of equity requires a modification to protect low and middle income people.

DOMESTIC SPENDING

As much as Democrats are aware of the need to restore adequate revenues in the fight to shrink budget deficits, we also appreciate the need for continued restraint in domestic spending. While we acknowledge that restraint must go on, the nation is still faced with the need for long-term investments in programs like education and science training. We need a long-term commitment to the basic scientific research which feeds industrial technology. We need an increased commitment to our "domestic defense" to fight crime. And we see the necessity for extending the programs that defend the deeply needy from the pain of the recession.

For those reasons, this budget resolution accommodates the Social Security reform package approved with bipartisan backing by the full Senate. The resolution also makes room for an essential jobs program to aid those who have been out of work so long as a result of the recession.

Each addition represents a necessary expenditure focused on those who need help the most. We will state, candidly, we wish the amounts could have been higher because the need is indisputable. But, in an era of limits, we have done the best that could be done while still keeping an eye on the general benefit that will flow to the working force from an economy restored to an even feel. We hope that some of the necessary funds can be restored in the full Senate or in conference to help repair the cuts in Medicare, for example, which were too deep.

Overall, we believe some general conclusions can be drawn from this first concurrent budget resolution and the process that created it:

Recovery is occurring in spite of what administration policy has done to the economy in the last two years. Democrats believe we must take the prudent steps required to contain federal deficits as a means of sustaining the recovery.

It is the belief among the Democrats on the Budget Committee that the resolution affirms the worth of the Congressional Budget process. It underscores the need for bipartisan involvement in a budget process too often dominated by the executive branch. And, if the congressional budget process seems to have occupied an inordinate share of our time, it is only because the economy itself had demanded so much of our attention.

Democrats aren't completely satisfied with this budget resolution. Yet, Democratic actions in this year's process make it clear we stand for certain core beliefs, including: economic recovery and low interest rates through reduced federal deficits; a restrained fiscal policy coordinated with a less rigid monetary policy; equity, especially for those who have suffered the longest with the recession at its deepest; fairness, such that no sector of the economy is immune to the contribution necessary for strong recovery, and; jobs.

We reaffirm the need for modernization of the American defense force at a rate consistent with the overall economic health of the nation.

We reassert the belief that the Federal reserve must be an active partner in achieving economic growth.

Finally, Democrats recognize that the preliminaries are over. This budget resolution is only round one in a prudent and disciplined policy of economic restoration already delayed too long. There is much work to do. There may even be changes when this resolution reaches the floor of the Senate. Yet, one fundamental change has already been made, and that is the fact that both parties have, at last, had a voice in the budget process.

There should be no illusion about the conditions that produced this resolution. The Republican members of this committee were, by their own admission, deadlocked among themselves over revenue levels. Democrats on the Committee were united in the belief that federal deficits are so corrosive that adequate revenues—in addition to restraint of defense and domestic spending—were required to cut the deficits before they knocked the economy off its hinges.

It is to be expected that this resolution will be tested on the Senate floor by those who believe high federal deficits are tolerable. Nevertheless, Democrats are convinced that the deficit reduction measures in this resolution are essential, and we will continue to do all we can in the pursuit of a realistic and effective budget.

Mr. DOMENICI. Mr. President, I yield to the distinguished junior Senator from Washington (Mr. GORTON) as much time as he desires.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. I thank the Chair.

Mr. President, the opening statements by each of the previous speakers, the chairman and the ranking minority member of the Senate Committee on the Budget, have certainly outlined the difficult questions with which the Senate is going to have to struggle for the balance of this week. Perhaps in aid of shedding slightly more light on those difficult questions, it might be well to begin this discussion with the question of what a budget or a budget resolution actually does, what it is designed to accomplish.

First, of course, it outlines, at least in general terms, what we are going to devote to the national security of the United States not just for 1 year of the future but, to a certain extent, at least, for the next 5 years.

Second, it provides an outline of the scope of the social services which are going to be provided by the Government of the United States to and for the people of the United States. Some of these are a fundamental part of the national consensus on the role of the Federal Government in our lives. Others of those services, or course, are highly controversial and are not a part of any national consensus whatsoever.

The budget resolution results in a redistribution of income earned by some people in this society to other elements in the society, again based on a number of commonly accepted premises or perceptions of fairness in the conduct of our national lives together.

Next, the budget resolution outlines or determines what share of the gross national product or the produce of the entire American economy we wish to devote to the services provided by the Government of the United States.

Finally, of course, the budget resolution provides guidelines for what proportion of these services we wish to pay for directly, now, through the tax system, and how much of what we are buying today we intend to leave to our successors to pay, either directly or indirectly, through inflation. A reflection of that latter set of choices is that one of the two or three largest elements in the Federal budget which we are adopting this year is interest on the national debt, which, of course, represents the bill for goods and services purchased by our predecessors, but not paid for by them.

Because this resolution and these decisions are so central to the very purposes of the Government of the United States, it is surprising, not that there is so much disagreement over an appropriate course of action, but that there is a certain degree of fundamental agreement about the directions which we should be pursuing. The most fundamental element of that agreement, which is reflected eloquently in the statements of both the Senator from New Mexico and the Senator from Florida, is that all projections at the present time call for budget deficits which are far too large and which, somehow or other, should be reduced. That common perception was a thread which followed through all the deliberations of the Budget Committee in arriving at the resolution which is on the floor here today.

In comparison with my 2 previous years on the budget committee, there has been relatively little pressure for substantial increases in Federal spending programs. Everyone recognized that there had to be restraint in those programs, although our views of what programs to refrain are different. All recognized the necessity for some spending increases in national defense; but, almost without exception, all recognized that those increases should be smaller than those asked by the administration.

In a sense, this is a very encouraging element in this year's debate. It should not be allowed, however, to disguise disagreements—not only between the two major political parties represented in this body, but also within and among the individual Members of those political parties who are Members of the U.S. Senate.

All of us pay at least lipservice—and most of us very serious service—to the proposition that budget deficits should be lessened; but all of us have certain caveats about just how those deficits are to be lowered. To many Members of this body, the preservation not simply of a social services safety net but also the preservation, for all practical purposes, of every existing social service program at its present level and growth rate, are more important than reductions in the deficit, at least in the short run.

Others have the same feeling about capital investment in the infrastructure of the United States. Still other Members, pointing out that the primary duty of any political entity is its own self-preservation, feel that no matter what the impact of expenditures for national defense on the deficit, this duty must be met to the fullest degree possible.

Finally, there are other Members of this body who, while they abhor budget deficits, abhor even more any necessity to raise taxes above their present levels.

When one adds up all these caveats about how to reduce budget deficits, perhaps it is not surprising that we face a deficit of close to $200 billion in fiscal year 1984 and, unfortunately, equally large deficits as far as the eye can see. This will occur unless a majority of us enter into some kind of compromise on these other priorities.

I suspect that we should also ask ourselves the question as to what the effect of budget deficits is.

I think that very few Members of the U.S. Senate would be overwhelmingly concerned even with these huge budget deficits if they felt that, somehow or other, they were consistent with strong economic recovery; if they felt that, somehow or other, we could have 4 to 6 percent real growth in the economy of the United States in spite of $200 billion deficits; if they felt that we could have that kind of growth with a relatively low rate of inflation—perhaps at its present level—or if they felt that, somehow or other, in spite of those huge deficits this year and in future years, we could persuade interest rates to continue to go down.

That is to say, if all the good things we hope result from responsible government and from an intelligent and hard-working citizenry—lack of inflation, predictability of our monetary system, and real growth and improved job opportunities for our citizens—if all these things could take place, faced with deficits we see under present spending and taxing programs, then we would be willing to accept those deficits. But if there is another subject on which almost every Member of the Senate is united, it would be that those large deficits and economic recovery are inconsistent.

The fact is that $200 billion deficits during the course of the next 5 years are not consistent with noninflationary economic growth spurred by relatively low interest rates. We may disagree on what the primary impact of those deficits will be. Will it be double-digit inflation within the next year or 2 years? Will it be a return to 20 or 21 percent prime interest rates? Or will it be simply a stagnation in our economy; no growth or very little growth, a growth rate too small to return the more than 10 percent of our work force which is now unemployed to constructive, worthy, and secure employment?

We may not all be able to predict which of those consequences will result from $200 billion deficits. But all of us are quite certain that at least one of those untoward consequences will result; and many of us fear that all of them will result at precisely the same time.

In summary, we seek lower budget deficits not as an end in themselves but as a means to another end—the goal of a healthy economy, which all of us share.

At the same time, I suppose we must all admit that we do not know as much about our economy or the international economy as we would like. We have seen substantial recovery in the course of the last 6 months in a number of areas in our country. We have seen only modest recovery in others, and we are very worried about the economic indicators in still other elements in our economy. So we must start this process with a certain degree of humility about our ability to predict the consequences of what we do.

I should like to point back to the very difficult process through which we went last year, a year in which we did end up providing some significant restraints on spending growth and some fairly substantial increases in taxes and other forms of revenue. Once our action was completed late in the summer, it was promptly followed by substantially lower interest rates and by at least the beginning of an economic recovery.

By the same token, we must admit that although impetus was gained by the action of last year, last year's action is not likely to have further positive effects unless we are able to make similar choices this year.

Having made that statement, I should also state that this year's budget resolution differs from those of at least the last 2 years in another respect, and that respect is a matter which reflects great credit on both the chairman of the Budget Committee and the ranking minority member. The willingness of members of the committee to work together, to share a common goal, even when they did not share views on means to that goal, was personally very rewarding to me and I think to other members of the committee as well.

Both the position of chairman and the position of ranking minority member on the Budget Committee are difficult and fraught with not only many challenges but many pulls in different directions at the same time. In some respects, as close as I am in friendship to the chairman, I think that it may be even more difficult for the ranking minority member to try to get his party's members to determine how much they are willing to cooperate with the majority, how far they can bury some of their own ideas and the ideas of other people and work toward a constructive solution, and how much they simply need to follow their own personal or collective philosophies. These are struggles to which there are no certain answers and perhaps not even any ultimately correct answers, but they are nonetheless very, very difficult.

With that, how does this resolution before us today measure up to these choices? It has come out of the committee with a bipartisan majority, but with a shifting majority. There were different majorities behind different elements within the resolution. What therefore is the resolution likely to accomplish as we look forward to the future of our economy?

Remarkably enough, all of the budget proposals which have been seriously considered do lower the budget deficits. As much as I dislike the House budget resolution, one can at least project somewhat lower deficits from it than would be the case if we did nothing at all.

Certainly, the Senate Budget Committee resolution has that attribute. So does the proposal which was made to us originally by the President, as well as that which represents a more recent view of the White House itself, so does the most conservative proposed resolution, with which we will deal during the next few days. How each of these resolutions would affect the economy, however, is likely to be very, very different.

Some depend on cutting way back on the growth in our national security apparatus, without providing the same degree of discipline in other spending programs. Others are more balanced from a spending interest point of view. Others are very conservative from a spending point of view and see the need for little if any new revenue, and some depend for their success in reducing deficits largely on increases in taxation.

In my view, the resolution which is before us right now takes an appropriate attitude toward the needs for a strong national defense. It does so in two ways. First, it calls for a reasonable increase in the percentage of our economy which goes to national defense. Second, it subjects the defense budget to responsible discipline. This means that we can continue any needed increase over an extended period of time, rather than vacillating between huge increases in a 1- or 2-year period, followed by a public reaction against the Defense Establishment, which results in no increases at all, or decreases, subsequently.

It is perhaps unfortunate that much of the debate over the national defense budget has revolved around percentage numbers. Are we going to increase the national defense budget by 10 percent in real dollars, by 7.5 percent, by 5 percent, by 2.5 percent, or whatever? Those who speak most eloquently for a national defense point out that we should indeed spend whatever is necessary to preserve and protect the security of the United States and of its allies. And that argument is hard to square with specific percentage numbers.

In my view, perhaps the strongest element supporting the resolution, as reported by the Budget Committee, is that it was not based on a specific percentage number, but rather on a certain perception of need put together by the staff of the Senate Budget Committee itself, a clear and cogent direction for the future of national defense.

We describe the resolution for shorthand purposes, as calling for a 5-percent real increase in each of the next 5 years, though in fact the actual percentage varies, above and below that line, and is based on a specific concept of a strong national defense.

The budget resolution itself, of course, cannot answer some of the more serious and fundamental questions about our national Defense Establishment. How do we divide limited amounts of money between new weapon systems and the readiness of our present forces? What number of men and women do we need in our armed services? How do we develop a better ability to predict what national defense is going to cost in the future? How do we establish better and more realistic contracting provisions? And so on.

I believe, however, that though the budget resolution cannot answer those questions, this resolution presents both the Department of Defense and the Armed Services Committees in the Senate and in the House of Representatives with a strong incentive not only to ask those questions but to come up with realistic and responsible answers to those questions.

It is not a resolution which is going to allow each of the members on those committees, and the Department of Defense itself, to do whatever it wishes to do, or perhaps even whatever it feels is necessary to do. It is going to require the setting of a number of priorities in this respect.

As all of us know, there may be a proposal to raise the dollar number for national defense in the course of this next week. For all I know, there may also be proposals to cut it somewhat. Because I feel that the proposal of the Senate Budget Committee is very, very close to where we should be at the end of the budget process, I may, with some reluctance, vote a somewhat higher figure as a part of an overall resolution. This would be in order ultimately to reach the spending figure the Senate Budget Committee has reached, after conference with the House. On the other hand, I think it equally responsible to vote precisely for the proposal of the Senate Budget Committee though, that may make it somewhat more difficult for those who feel that that is the appropriate spending level to carry the day in conference.

Next, we get to nondefense spending, both for the huge entitlement programs, and for discretionary domestic spending programs, which have taken a smaller and smaller share of the overall budget during the last several years. In the field of domestic spending this budget resolution is a more dramatic example of compromise among the members of the committee, and between the two parties, than is any other element in the budget resolution.

I must say that I would prefer a greater degree of spending restraint in a significant number of programs than is present in this budget resolution.

At the same time, this resolution represents, for many Members of this body, very difficult elements of restraint for which to vote.

It continues the process of reform—we hope constructive reform—of the medicare system. Medicare is very likely to run up huge deficits in the next few years, unless we take decisive action right now. This resolution does not, on the other hand, significantly reform many other entitlement programs which show very worrisome trends as we look at their future.

In the discretionary areas, this resolution provides certain modest increases in child nutrition spending and in the WIC program, and in other discretionary health service spending programs. It provides some modest increases in compensatory education and for vocational education. It allows for new initiatives in improving science and mathematics education, and thus enhances the ability of the U.S. economy to grow and prosper in an increasingly competitive world. It increases research and development in environmental fields and for basic research.

All in all, it represents a responsible, middle-of-the-road approach toward spending priorities.

It might be advisable for the Senate to adopt a somewhat more conservative domestic spending program, if only to try to reach the reasonable level of this Senate budget resolution in a conference with the House. The House has seen fit to cancel most of the domestic spending restraint initiatives of the past 2 years.

Finally, of course, we get to the approach of this budget resolution toward taxes and other revenues. Both the chairman and the ranking minority member have been widely quoted as stating that, in connection with taxes, this resolution represents the proposal of the distinguished Senator from Florida. This is an approach toward taxes which is not greatly different from that of the House of Representatives.

It represents a point of view with which the chairman and I, and other Republican members of the Budget Committee disagree, even though we voted for it in the Senate Budget Committee. We voted for the resolution as a vehicle by which we could transfer the debate over these policies from that committee to the floor of the U.S. Senate.

I find much which is appealing and persuasive in the statement of the distinguished Senator from Florida in this respect. I am convinced that, as we look down the road toward the necessity of lower budget deficits, we are almost certain to require a revenue base which is greater than that which the present Tax Code will supply.

I am also very much concerned about significant changes in those tax laws in a year which marks the beginning, and at this point still a rather delicate, not tremendously healthy beginning, of economic recovery. The third year of the individual tax cut is now so profoundly a part of economic expectations during the course of the next year that its cancellation at this late date would, in my view, be very likely to cause an economic relapse.

Perhaps the greatest disagreement I have with my friend from Florida, however, is not over the third year of the tax cut but over what we might call the fourth year of the tax cut, using that statement in its broadest possible sense. That is the indexing provisions which were included in the 1981 tax bill. Mr. President, I believe that those indexing provisions are even more vital to our long-term economic health, and to the fiscal responsibility of the Congress of the United States, than the third year of the tax cuts. Despite extended debate on this issue at the time of its original passage, even here in Congress there are a number of Members who do not appreciate the importance of indexing, not only for fairness, but also for the health of our economy itself.

When the tax-indexing provision was passed, the arguments most frequently advanced in its favor were that, first, it was a provision which benefited the most the low- and moderate-income taxpayers; and, second, that it was defensible on the ground of pure responsible policymaking.

That second argument is particularly important. Tax indexing avoids the kind of backdoor tax increases which occurred consistently in the 1960's and 1970's as inflation pushed people into ever-higher tax brackets without increasing the real value of their incomes.

Both reasons are still good reasons for supporting indexing. Indexing is of no value to those paying the highest tax rate. They are not subject to bracket creep no matter how high the rate of inflation. Indexing, on the other hand, protects those who are in lower tax brackets and those taxpayers who take a standard deduction rather than itemize deductions.

The repeal of indexing will certainly have the effect of shifting some of the tax burden from high-income persons to low- and moderate-income individuals and families. So those original reasons for supporting indexing remain valid. But there is a third reason for its retention. This third reason is less frequently advanced but, in my opinion, is of equal importance.

Mr. President, the elimination of the tax-indexing provisions would be a clear signal to financial markets, to the business and industrial community of the United States, that the Federal Government is not serious about fighting inflation. The termination of tax indexing produces additional revenues only if, and precisely to the extent that, the economy is subject to inflation. Why fight to eliminate tax indexing if you believe we are entering a noninflationary period of time?

Under those circumstances, no additional revenues will be raised. No changes will take place in tax rates or receipts. The only rationale for fighting to eliminate tax indexing is the belief that inflation will continue or will accelerate.

I must hasten to add that I do not believe that my colleagues who seek to repeal indexing do so as a part of a conscious plan to raise taxes systematically through the back door. Nor do I fear that the Treasury and Federal Reserve Board will conspire to produce more Government revenues, certainly not as long as Mr. Volcker or a similar successor sits as Chairman of the Federal Reserve Board. But I do fear that the expression of pessimism that repeal of indexing will send to the economy in general will be very, very serious. We all know the high price we have paid to stop inflation. It has been a costly battle. But now that inflation has subsided greatly, and with it there has been some reduction in interest rates, now that victory appears to be within our grasp, we should not throw it away.

If we vote for a budget resolution which is predicated upon a repeal of tax indexing, much less voting for an actual bill which does so, the financial community will read it as a sign that we, in Congress, are not serious about fighting inflation.

Financial and business analysts will point out, quite correctly, that Congress is planning on future revenues which can be realized only through inflation. And if Congress is planning on inflation, we will certainly get just exactly that.

As a consequence, Mr. President, I believe that the most responsible course of action at this time in connection with this budget resolution is to provide for modest increases at best in revenues for the next few years, increases which will largely be an indirect result of other choices designed toward other goals.

The President's revenue proposals in connection with taxation of medical insurance expenditures, while they will produce additional revenues, are primarily designed to lower the all-too-high rate of inflation in medical costs. Therefore, they will have not only the impact of slightly increasing revenues, but also of greatly reducing the impact of increases in the cost of medical services, both on the Federal budget itself and on the private sector individuals and businesses which are so greatly and so adversely affected by that particular form of inflation.

Personally, I would prefer that we sound a very certain trumpet for as long as 5 years in the future about just what we are going to do and are going to accomplish in the future. Realistically, however, we are a Congress, like all predecessor Congresses, with a limited mandate. Our mandate in this body ends at the end of 1984. New Members to the House of Representatives and to the Senate of the United States will be elected in 1984. We will have a Presidential election in that year, and in one sense, I suppose it is appropriate to say, "sufficient unto the day is the evil thereof." If we are able here, in the course of debating this budget resolution, to make responsible decisions in national defense spending, in the reform of entitlements, in discretionary spending, and in revenue loss, decisions which will nurture and help the economic recovery which has just begun, then we will have accomplished a great deal. More indeed, than many predecessor Congresses have accomplished.

The solution to all of these problems is going to be left to this Congress in 1984, and to Congresses which are elected hereafter. It is for that reason that I especially want to congratulate my very distinguished chairman, the Senator from New Mexico, on his devotion to the process, on his success in making the progress a success to this point in this debate, and for his constant and unflagging attempts to see to it that we gain two things out of this week: First, we must have a budget resolution which is responsible in and of itself, which will at the very least not harm our economic recovery and, I hope, will promote it. Second, we need a budget resolution with which we can go to conference with a very, very irresponsible resolution from the House. The House resolution is the kind of budget resolution which, in my view, gave us 12- to 14-percent inflation and 20-percent interest rates as recently as 2 or 3 years ago. We must be able to come out of conference with a thoughtful and middle-ground resolution. We need a resolution to which not only the chairman will contribute, but also to which the ranking minority member may contribute so much that he regards it, by the end of that conference, as that which he has been struggling for since he assumed his most significant position.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wish to thank my good friend from Washington, Senator GORTON, for his very eloquent and precise, yet all-encompassing, remarks. His analysis of where we are, what the problems are, and the diverse views and the choices has, in my opinion, been one of the best I have heard, not only regarding the budget process but really the status of matters fiscal, matters that concern themselves with taxation, and the overall economic situation.

I compliment him for them and thank him for the kind remarks that he included in them with reference to the Senator from New Mexico.

Mr. CHILES. If the Senator will yield, I just wanted to join in his statement. I think the Senator from Washington has been one of the most valuable Members that we have had on the Budget Committee. I certainly appreciate the spirit in which he worked in the committee and I appreciated very much the kind remarks that he attributed both to the chairman and the ranking member on the floor.

I think that his statement today is the kind of debate I would like to see on this resolution; those kinds of items that sort of add light and not heat. I think it was a very thoughtful statement and I thank him for his participation.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum and suggest, unless the minority manager has any objection, that it be charged equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The acting assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECORD OPEN UNTIL 5 P.M.

Mr. BAKER. Mr. President, it is 4:20 p.m. or a little past that. I do not think there are other Senators who wish to speak this afternoon. I am reluctant, however, to go out at this hour considering the fact that we have 50 hours to devote to this issue.

I wonder if the minority leader would be in a position to agree with a unanimous-consent request that I would put, which would charge the time equally to the two sides between now and 5 p.m. and further that the RECORD remain open until 5 p.m. for Senators to insert statements in respect to the budget resolution.

Mr. BYRD. I have no objection. I understand that is agreeable to the manager on this side, Mr. CHILES.

Mr. BAKER. Mr. President, I put that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the minority leader and all Senators.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I now ask unanimous consent that there be a period for the transaction of routine morning business to extend not past the hour of 4:30 p.m. in which Senators may speak.

Mr. BYRD. 4:25.

Mr. BAKER. Mr. President, I put the request for 1 minute of morning business.

The PRESIDING OFFICER. Without objection it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT—PM 43

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Pursuant to Section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. Section 1703(c), I hereby report to the Congress with respect to developments between my last report of November 1, 1982, and mid-April, 1983, concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979.

1. The Iran-United States Claims Tribunal, established at The Hague pursuant to the Claims Settlement Agreement of January 19, 1981, is now making significant progress in arbitrating the 3,730 claims before it. Having resolved the initial interpretive disputes described in my last report, the Tribunal is giving primary attention to individual claims. As of April 1, it had held 84 prehearing conferences and 44 hearings on the merits and had rendered 35 decisions. Twenty-five of these decisions were awards in favor of American claimants. Of the awards, 17 approve and authorize the payment of settlements negotiated by the parties; eight were adjudicated. (Total payments to American claimants stood at just over $37 million, as of mid-April.) Of the remaining 10 decisions, seven dismissed claims for lack of jurisdiction, and three dismissed claims on the merits; all but one of the claims dismissed had been brought by Iran.

2. The Department of State, with the assistance of the Departments of the Treasury and Justice and other concerned government agencies, continues to coordinate the presentation of U.S. claims against Iran, as well as the U.S. response to claims brought by Iran. In the last six months, the United States has filed requests for clarification of the Tribunal's jurisdiction with respect to Iranian claims against U.S. nationals based on standby letters of credit and other bank claims. There remain pending 18 United States Government claims against Iran arising out of contracts for the provision of goods and services. Last October, Iran filed a major interpretive claim against the United States, alleging 18 separate violations of the Algiers Accords. On March 21, the United States filed the first in a series of responses to these allegations. It has also responded to all of the 60 official contract claims filed by Iran. While the Tribunal has now received pleadings from both sides in a large number of official claims, it does not appear to be close to deciding any of them on the merits.

3. Since my last report, the Tribunal has rendered a number of interlocutory decisions on jurisdictional and procedural matters which are significant for claimants generally. Last November, it decided that claims arising under contracts specifically designating Iranian courts as the sole forum dispute settlement were not within its jurisdiction. This decision was based on exclusionary language in the Claims Settlement Agreement and was contrary to the interpretation urged by the United States. Nevertheless, it leaves U.S. claimants having such contract clauses with the possibility of establishing Tribunal jurisdiction on non-contractual grounds not subject to the exclusion. Other decisions have set clear and workable standards for demonstrating United States nationality by corporations and precedents for the award of interest and attorneys' fees. The Tribunal has also found that its jurisdiction over matters assigned to it by the Claims Settlement Agreement is not exclusive, and that under some circumstances other bodies may hear disputes which could be brought before it. The practical effects of this decision cannot be assessed at the present time.

4. In the last six months, the Tribunal has taken steps to arbitrate the 2,742 claims for less than $250,000 each presented by the United States Government on behalf of U.S. nationals. All of these claims have been served on Iran, and the Tribunal has recently authorized the hiring of three additional staff members to help prepare the claims for arbitration.

5. The United States and Iran are presently engaged in seeking a successor to Judge Pierre Bellet, a third-party arbitrator who will be leaving the Tribunal on August 1. The Iranian and American arbitrators have met a number of times in the past several months in an effort to select a replacement, but no agreement has been forthcoming. As a result, on March 1, the United States asked the Appointing Authority previously selected by the two countries to name a successor to Judge Bellet. It is hoped that a candidate will soon emerge who will prove acceptable to both parties.

6. The January 19, 1981 agreements with Iran also provided for direct negotiations between U.S. banks and Bank Markazi concerning the payment of nonsyndicated debt claims of U.S. banks against Iran from the $1.418 billion escrow account presently held by the Bank of England. As of mid-April, 1983, eight settlements, totaling approximately $171 million, have been reached and paid to U.S. banks from the escrow account. Each bank settlement also provides for the settlement of Iran's claims, if any, for interest on any deposits held by that U.S. bank. Iran has filed claims against the United States in the Tribunal for interest and other damages in connection with the same deposits that are the subject of these settlements. The Department of the Treasury, in December 1982, amended the Iranian Assets Control Regulations. According to this amendment, if the Tribunal determines that a rate of in-

terest higher than the rate of interest agreed on between a U.S. bank and Iran should be paid to Iran under the January 1981 agreements, the higher rate will be the "commercially reasonable rate" which the bank is required to transfer under the Regulations. The *Federal Register* notice of this amendment dated January 4, 1983 is attached.

7. Also in December 1982, the Department of the Treasury extended for one year, through December 31, 1983, the revocation of any authorization for the permanent disposition, by means of a final judicial judgment or order, of interests of Iran in any standby letter of credit or similar instrument. The *Federal Register* notice of this extension dated December 10, 1982 is attached.

8. Several financial and diplomatic aspects of the relationship with Iran have not yet been resolved and continue to present an unusual challenge to the national security and foreign policy of the United States. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

Ronald Reagan.

The White House, *May 2, 1983.*

ANNUAL REPORT OF THE FEDERAL COUNCIL ON AGING—MESSAGE FROM THE PRESIDENT—PM 44

The **PRESIDING OFFICER** laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 204(f) of the Older Americans Act of 1965, as amended, I hereby transmit the Annual Report for 1982 of the Federal Council on the Aging. The report reflects the Council's views in its role of examining programs serving older Americans.

Ronald Reagan.

The White House, *May 2, 1983.*

FISHERY AGREEMENT BETWEEN THE UNITED STATES AND THE GERMAN DEMOCRATIC REPUBLIC—MESSAGE FROM THE PRESIDENT—PM 45

The **PRESIDING OFFICER** laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to Public Law 94-265 was referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94-265; 16 USC 1801), I transmit herewith a governing international fishery agreement between the United States and the German Democratic Republic signed at Washington on April 13, 1983.

This agreement is one of a series to be renegotiated in accordance with that legislation to replace existing bilateral fishery agreements. I urge that the Congress give favorable consideration to this agreement at an early date.

Ronald Reagan.

The White House, *May 2, 1983.*

MESSAGES FROM THE HOUSE

At 12:15 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 19. Concurrent resolution expressing the sense of the Congress on the occasion of the 150th anniversary of the opening of diplomatic relations between the United States and Thailand.

The message also announced that pursuant to the provisions of section 14(b) of Public Law 96-296, as amended, the Speaker appoints Mr. Feighan as a member of the Motor Carrier Ratemaking Study Commission, vice Mr. Seiberling, resigned.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 216. A bill to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic, and other products with intent to cause personal injury, death, or other harm (Rept. No. 98-69).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

James H. Burnley, IV, of North Carolina, to be General Counsel of the Department of Transportation.

(The above nomination was reported from the Committee on Commerce, Science, and Transportation with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. THURMOND, from the Committee on the Judiciary:

Edward S. G. Dennis, Jr., of Pennsylvania, to be U.S. attorney for the Eastern District of Pennsylvania for the term of 4 years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. RUDMAN:

S. 1185. A bill to amend the Federal Election Campaign Act of 1971 relating to the limits on contributions and expenditures in congressional elections; to the Committee on Rules and Administration.

S. 1186. A bill to clear certain impediments to the licensing of the yacht *Dad's Pad* for employment in the coastwise trade; to the Committee on Commerce, Science, and Transportation.

By Mr. THURMOND (for himself and Mr. Randolph):

S. 1187. A bill to amend title 38 of the United States Code to provide increased awards of service-connected compensation to certain blinded veterans who are suffering from additional hearing disabilities; to the Committee on Veterans' Affairs.

By Mr. THURMOND (for himself and Mr. Simpson):

S. 1188. A bill to relieve the General Accounting Office of duplicative audit requirements with respect to the Disabled American Veterans; to the Committee on Governmental Affairs.

By Mr. THURMOND (by request):

S. 1189. A bill to amend the Civil Rights Act of 1957 to extend the life of the Commission on Civil Rights, and for other purposes; to the Committee on the Judiciary.

By Mr. BAUCUS:

S. 1190. A bill to provide for payments in lieu of taxes to appropriate units of local government within the Federal Columbia River Power System; to the Committee on Energy and Natural Resources.

By Mr. THURMOND (for himself and Mr. Biden) (by request):

S. 1191. A bill to authorize the Department of Justice to conduct certain activities and make certain expenditures; to the Committee on the Judiciary.

S. 1192. A bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1984 and for other purposes; to the Committee on the Judiciary.

By Mr. THURMOND (for himself and Mr. Goldwater):

S.J. Res. 90. A joint resolution to provide for the erection of an appropriate statue or other memorial on the main approach to the Arlington National Cemetery to honor individuals who were combat glider pilots during World War II; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BAUCUS (for himself, Mr. Byrd, Mr. Bentsen, Mr. Bingaman, Mr. Bradley, Mr. Chiles, Mr. Exon, Mr. Glenn, Mr. Johnston, Mr. Kennedy, Mr. Lautenberg, Mr. Levin, Mr. Matsunaga, Mr. Metzenbaum, Mr. Mitchell, Mr. Moynihan, and Mr. Pryor):

S. Con. Res. 30. Concurrent resolution to reject the medicare cuts contained in the President's fiscal year 1984 budget; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RUDMAN:

S. 1185. A bill to amend the Federal Election Campaign Act of 1971 relating to the limits on contributions and expenditures in congressional elections; to the Committee on Rules and Administration.

(The remarks of Mr. Rudman on this legislation appear earlier in today's Record.)

By Mr. THURMOND (for himself and Mr. Randolph):

S. 1187. A bill to amend title 38 of the United States Code to provide awards of service-connected compensation to certain blinded veterans who are suffering from additional hearing disabilities; to the Committee on Veterans' Affairs.

AMENDMENT OF DISABILITY RATING SCHEDULE RELATING TO BLINDNESS IN COMBINATION WITH HEARING LOSS

Mr. THURMOND. Mr. President, today I am introducing legislation that would amend title 38 of the United States Code to increase the amount of compensation payable to certain blinded veterans who also suffer from hearing disabilities. I am pleased that Senator Randolph has joined me in sponsoring this legislation.

Mr. President, this legislation addresses a serious shortcoming of the veterans' disability rating schedule. Because of this shortcoming, the hearing loss of a blinded veteran who is suffering from a 20 to 30 percent bilateral hearing loss is rated the same as a sighted veteran who is suffering from the identical hearing loss. It is clear, however, that the sense of hearing is a primary avenue of information for a blinded veteran and that any hearing loss represents a far greater disability to a blinded veteran than a sighted veteran. The veterans' disablility rating schedule fails to recognize these important factors.

Because of the severe difficulties that even a minor hearing loss presents to a blinded veteran in adjusting to his or her environment, I am introducing this legislation to provide that service-connected blinded veterans with a 20-percent or greater disabling hearing loss and blinded veterans who have total deafness in one ear receive the maximum compensation allowable under title 38.

Mr. President, by enacting this legislation. Congress can insure that the veterans' compensation rating schedule adequately recognizes that blindness in combination with hearing loss compounds the problems already encountered by blinded veterans in their daily living and vocational pursuits. I urge the support of my colleagues for this highly meritorious initiative.

By Mr. THURMOND (for himself and Mr. Simpson):

S. 1188. A bill to relieve the General Accounting Office of duplicative audit requirements with respect to the Disabled American Veterans; to the Committee on Governmental Affairs.

DISABLED AMERICAN VETERANS' AUDITS

Mr. THURMOND. Mr. President, I rise today to introduce legislation which would repeal section 90i(b) of title 36, United States Code, which requires the Comptroller General to conduct an annual audit of the Disabled American Veterans. I am pleased that Senator Simpson has joined me in sponsoring this legislation.

Currently, under section 1102 of title 36, United States Code, the accounts of all private corporations established under Federal law, including all federally chartered veterans' organizations, are required to be audited annually by independent certified public accountants. These audits are required to be submitted to Congress not later than 6 months following the close of the fiscal year for which the audit was made. As a matter of practice, these reports are forwarded by the House Committee on the Judiciary to the Government Accounting Office (GAO) for review to determine if they meet the requirements of law and the audit standards of the accounting profession.

In 1967, Public Law 90-208 amended title 36 by requiring GAO to conduct an annual audit of the accounts of the Disabled American Veterans at the DAV's expense. This law was codified in section 90i(b) of title 36, and is clearly duplicative of the provision in section 1102 of title 36. Public Law 90-208 was enacted at the request of the DAV, which desired to be relieved of the burden of having to comply with divergent State and local laws applicable to DAV's nationwide fund raising activities. The DAV, however, is no longer faced with this need and supports the termination of the requirements of section 90i(b). Additionally, GAO has also recommended to Congress on several occasions that this requirement be eliminated as duplicative and unnecessary.

Mr. President, I call upon my colleagues to support this legislation, and urge its early enactment.

By Mr. THURMOND (by request):

S. 1189. A bill to amend the Civil Rights Act of 1957 to extend the life of the Commission on Civil Rights, and for other purposes; to the Committee on the Judiciary.

COMMISSION ON CIVIL RIGHTS

Mr. THURMOND. Mr. President, the Civil Rights Commission was established in 1957 by the Civil Rights Act as an independent bipartisan agency with a specified purpose. The Commission is authorized to investigate allegations of fraud and discrimination. It, also, is mandated to "study and collect information concerning legal developments constituting discrimination or a denial of equal protection" and to "appraise" Federal policies relating thereto. Further, the Commission is to submit reports, findings, and recommendations to the President and the Congress. This specific jurisdiction has been clarified, not expanded, several times over the 16 year existence of the Commission.

The Civil Rights Act intended for the Commission to be an agency of limited duration. As the original and subsequent expiration dates approached, the act has been periodically amended to extend its life. Under the current law, the Commission will expire at the end of this fiscal year.

Today, at the request of the administration, I am introducing a bill to amend the Civil Rights Act of 1957 to extend the life of the Commission on Civil Rights for an additional 20-year period, through the fiscal year 2003. This legislation would also provide that future members be appointed for specified terms, a procedure followed by similar agencies. Finally, appropriations for fiscal year 1984 are being requested for the operation of the Commission.

I ask unanimous consent that a copy of the bill, the communication from the President to the Congress, and a section-by-section analysis be printed in the Congressional Record following my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Commission Reauthorization Act of 1983".

ESTABLISHMENT OF TERMS FOR MEMBERS OF THE COMMISSION

Sec. 2. Section 101 of the Civil Rights Act of 1957 (42 U.S.C. 1975) is amended by adding at the end thereof the following new subsection:

"(*f*)(1) Upon vacancies in the Commission occurring after the date of enactment of this subsection, members of the Commission shall be appointed for a term of six years except—

"(A) for the members first appointed—

"(i) two of such members, not affiliated with the same political party, shall be appointed for a term of two years;

"(ii) two of such members, not affiliated with the same political party, shall be appointed for a term of four years; and "(iii) two of such members, not affiliated with the same political party, shall be appointed for a term of six years; and

"(B) any member to fill a vacancy shall serve for the remainder of the term for which the member's predecessor was appointed.

EXTENDING THE LIFE OF THE COMMISSION

SEC. 3. Section 104(c) of the Civil Rights Act of 1957 (42 U.S.C. 1975c(c)) is amended by striking out "1983" and inserting in lieu thereof "2003".

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. Section 106 of the Civil Rights Act of 1957 (42 U.S.C. 1975e) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 106. There are authorized to be appropriated $12,180,000 to carry out the provisions of this Act for the fiscal year 1984, and such sums as may be necessary for each of the succeeding fiscal years ending prior to October 1, 2003.".

To the Congress of the United States:

I am transmitting herewith the "Civil Rights Commission Reauthorization Act of 1983".

We Americans have come to share a vision of the Nation we want to be: A Nation in which sex, race, religion, color, national origin, age, or condition of disability do not determine an individual's worth. We can be justly proud both of the progress we have made toward realizing that ideal—and of our recognition that progress remains to be made.

In my State of the Union Address on January 25 of this year, I emphasized the important role the Commission can play in assuring that we, as a Nation, keep our statutory commitments to fairness and equity for all Americans—and the necessity that the Commission not be allowed to expire, as current law provides, at the end of 1983. In recognition of these goals, the legislation I am transmitting would continue the Commission's important work through 2003.

The twenty-year extension I propose today would be the longest in the Commission's history. I believe we must assure the continuity of the Commission's mission, while preserving the original Congressional intent that the Commission have a specified purpose and duration.

I am also proposing that future members of the Commission be appointed for specified terms, as is currently the case with the Equal Employment Opportunity Commission and similar agencies. This will assure that the Commission's membership is reviewed at specified intervals and provide for the introduction of new perspectives to the Commission's work.

Finally, I am proposing that the Commission's current authorities and procedures be continued intact. Since the Commission's founding, the existing statutory provisions have enabled the Commission to fulfill its unique function while avoiding duplication of activities performed by the EEOC, Department of Justice, and other line agencies.

I ask that this legislation be adopted quickly to avoid any uncertainty regarding the Commission's status and any resulting disruption in its important work.

Ronald Reagan.

THE WHITE HOUSE, *April 6, 1983.*

SECTION-BY-SECTION ANALYSIS

Section 1 gives the short title of the proposed legislation, "Civil Rights Commission Reauthorization Act of 1983".

ESTABLISHMENT OF TERMS FOR MEMBERS OF THE COMMISSION

Section 2 would further amend section 101 of the Civil Rights Act of 1957, as amended (42 U.S.C. 1975), to add a new subsection at the conclusion of the section. New subsection (f) would provide for staggered terms of six years for members of the Commission appointed upon vacancies occurring after the effective date of the subsection. To initiate the staggered terms, the first six appointments after the effective date of this subsection would be made in three pairs. One member pair would be appointed to two-year terms, another to four-year terms, and a third member pair to six-year terms. Each pair of appointments would be of persons "not affiliated with the same political party" (the Civil Rights Act of 1957 requires that no more than 3 members of the commission be members of the same political party). Thereafter, all appointments would be to six-year terms (or where an appointee is succeeding or replacing a member whose term has not expired, to the remainder of the term in question).

EXTENDING THE LIFE OF THE COMMISSION

Section 3 would extend the life of the commission by twenty years by further amending Section 104(c) of the Civil Rights Act of 1957, as amended (42 U.S.C. 1975c(c)), to provide that the Commission will submit its final report to Congress and the President in 2003 rather than 1983.

AUTHORIZATION OF APPROPRIATIONS

Section 4 would further amend Section 106 of the Civil Rights Act of 1957, as amended (42 U.S.C. 1975e.), to authorize the appropriation of $12,180,000 for fiscal year 1984 and such sums as may be necessary for each of the following nineteen fiscal years. This period coincides with the period of extension of the Commission's life in Section 3.

EFFECTIVE DATE

Section 5 states that the effective date of the subsection added by Section 2 of this Act shall be the date of enactment of this Act.

By Mr. BAUCUS:

S. 1190. A bill to provide for payments in lieu of taxes to appropriate units of local government within the Federal Columbia River Power System; to the Committee on Energy and Natural Resources.

FEDERAL COLUMBIA RIVER POWER SYSTEM

● Mr. BAUCUS. Mr. President, I am pleased to introduce today S. 1190, a bill to require the Bonneville Power Administration to make payments in lieu of taxes to local governments for major transmission facilities located within their jurisdictions.

This bill would require Bonneville to make annual payments to the counties through which it builds its transmission lines in an amount equal to the local property taxes that Bonneville would have to pay if it were a private company.

COLSTRIP POWER LINES IN WESTERN MONTANA

BPA is building powerlines through western Montana on behalf of, and for the benefit of, a consortium of private utilities. The powerlines are being built to carry power from Colstrip 3 and 4, two 700 megawatt coal-fired generating plants that are being constructed in eastern Montana by the consortium.

At the time the companies applied for State approval of the plants and the associated powerlines, the understanding was that these private companies would build the powerlines.

At that time, opposition to the powerlines was mollified by arguments that the counties through which the lines would pass would receive substantial property tax revenues from utilities.

In 1976, the Montana Board of Natural Resources gave the Colstrip consortium its approval of the project.

It was only after that approval was obtained that Bonneville made an agreement with the utilities to build the Colstrip powerlines for them from Townsend, Mont., west.

The Colstrip project was sold to Montanans with the understanding that the counties affected by the powerlines would be compensated by greatly increased tax revenues.

It is unfair for Bonneville, as a nontaxable Federal agency, to step in for the utilities and take away this revenue from the counties.

Moreover, the power these lines will carry is not needed in Montana. If the promised revenues are not paid to the counties, these people will receive no benefit whatsoever from the construction of these lines.

On the other hand, the damages they suffer will be great.

Many of the people of western Montana have chosen to live there because of its natural beauty. Bonneville's lines will cut through some of the wildest, most scenic territory in the region.

And these are no ordinary, unobtrusive powerlines. They are double-circuit 500 Kv lines supported by 175 foot steel towers that will be highly visible across the mountainsides. The lines will require four or five of these enormous towers for every mile. A 125-foot right-of-way and countless miles of access roads will be cut through the forests.

Payments to the local govenments cannot fully compensate for the loss of forests, agricultural land and unspoiled beauty. But it is the only compensation these Montanans can receive for these intrusive powerlines.

CURRENT LAW

Under the Regional Power Act as it is now written, Bonneville does have authority to grant impact aid payments to affected local governments. Unfortunately, the agency is asking for excessive documentation from the local governments, and it has interpreted its authority so narrowly that this provision of the Regional Act will provide little relief.

Because of BPA's approach to impact aid payments, I believe it is necessary to enact this legislation.

Bonneville has abused its discretion. It is not faithfully carrying out Congress intent in the Regional Act to adequately compensate the communities through which BPA's transmission facilities are built.

Adequate compensation, particularly in the case of the Colstrip lines, requires payments equivalent to the taxes that a private entity would have to pay.

It is for these reasons that I am introducing this legislation to remove Bonneville's discretion to make impact aid payments and to require it, instead, to make payments in lieu of taxes to local governments for transmission facilities constructed within their jurisdictions.

Mr. President, I request that the text of S. 1190 be made a part of the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1190

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (m) of section 7 of the Pacific Northwest Electric Power Planning and Conservation Act (Public Law 96-501) is amended to read as follows:

"(m)(1) Beginning with the fiscal year after the date of enactment of this subsection, the Administrator shall make annual payments in lieu of taxes to each appropriate local government within the region, for major transmission facilities, as defined in section 3(c) of the Federal Columbia River Transmission Act, that are located with the jurisdictional boundary of such local government; such payments in lieu of taxes shall be in an amount equivalent to the amount of taxes that a private entity that owned and operated the transmission facilities would be required to pay to such local government;

"(2) Payments made pursuant to this subsection shall be made solely from the fund established by section 11 of the Federal Columbia River Transmission System Act. The provisions of section 13 of such Act, and any appropriations provided to the Administrator under any law, shall not be available for such payments. The authorization of payments under this subsection shall not be construed as an obligation of the United States.".●

By Mr. THURMOND (for himself and Mr. BIDEN) (by request):

S. 1191. A bill to authorize the Department of Justice to conduct certain activities and make certain expenditures; to the Committee on the Judiciary.

S. 1192. A bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1984, and for other purposes; to the Committee on the Judiciary.

DEPARTMENT OF JUSTICE AUTHORIZATION LEGISLATION

Mr. THURMOND. Mr. President, at the request of the administration, and on behalf of myself and the ranking minority member of the Judiciary Committee, Senator BIDEN, I am introducing today two bills relating to the activities of the Department of Justice. The first bill primarily authorizes appropriations for fiscal year 1984. The second would provide permanent authority for certain operations of the Department.

The bill authorizing appropriations for the Department reflects the Reagan administration's budget request for fiscal year 1984. Happily, it includes a substantial increase for Federal law enforcement activities, particularly in connection with the initiative of the administration against organized crime and drug trafficking. For the first time, authorized appropriations for the Federal Bureau of Investigation will exceed $1 billion. This request by the administration reflects the view firmly held by many of us in the Congress that our Federal law enforcement agencies must be adequately financed if they are to effectively provide for the internal security of this Nation.

The second bill would enact into the United States Code various authorities which traditionally have been part of the annual authorization bill, such as those relating to the purchase of vehicles and firearms, and some new provisions. The request by the administration for this change in approach stems from its serious concern that authorizing legislation for the Department has not been enacted since fiscal year 1980, except on a continuing basis. Last year, there was a period during which the continuing authorization provisions expired, with consequent confusion and disruption.

Mr. President, many of my colleagues and I share the consternation of the Department over the fact that, in recent years, its activities have not been authorized in a regular, orderly manner. For this reason, the Committee on the Judiciary will take a serious look at the proposal to extend the authorization for some or all of the activities of the Department to a period exceeding 1 fiscal year. It is our goal to appropriately balance the need for serious oversight of the activities and policies of the Department, with practical consideration for smooth and efficient operations.

The importance of this process cannot be underestimated. We have recently witnessed the passage of a first concurrent budget resolution by the other body which would divert sorely needed resources from our law enforcement agencies into other activities. Fortunately, in a bipartisan effort, the Budget Committee of this body endorsed funding levels which reflected the request of the administration and the recommendations of the Committee on the Judiciary in this area. I am hopeful that we will be able to successfully process authorization legislation along those same lines which will communicate our determination to preserve adequate Federal resources for fighting crime, terrorism, and illegal immigration.

Mr. President, I ask unanimous consent that a copy of each of the bills which I am introducing, the letter of transmittal from the Department of Justice, and section-by-section analysis of the second bill be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Part II of title 28, United States Code, is amended by inserting after chapter 37 the following new chapter:

"CHAPTER 38—GENERAL AUTHORIZATIONS—DEPARTMENT OF JUSTICE

"Sec.
"576. General authorizations.
"577. Evaluations.

"§ 576. General authorizations

"(a) The Attorney General or his designee is authorized to make payments from Department of Justice appropriations for:

"(1) the hire of passenger motor vehicles;

"(2) miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Deputy Attorney General, or the Associate Attorney General, or the Assistant Attorney General for Administration;

"(3) benefits authorized under section 901(3)(5)(6)(a)(8)(9) and section 904 of the Foreign Service Act of 1980 (22 U.S.C. 4081(3)(5)(6)(a)(8)(9) and 22 U.S.C. 4084), and under the regulations issued by the Secretary of State;

"(4) the purchase of insurance for motor vehicles and aircraft operated in official government business in foreign countries;

"(5) services as authorized by section 3109 of title 5 of the United States Code;

"(6) official reception and representation expenses in accordance with distributions, procedures, and regulations issued by the Attorney General;

"(7) per diem allowances for an employee who serves in a law enforcement capacity and/or transportation expenses for members of his immediate family in accordance with regulations prescribed under § 5707 of title 5, United States Code, by the Administrator of GSA or his designee, when necessarily occupying temporary living accommodations at or away from the employee's designated post of duty because of a threat to life or property or because law enforcement or investigative interests may be compromised;

"(8) attendance at meetings to be expended for such purposes in accordance with the regulations issued by the Attorney General;

"(9) anti-terrorism training for dependents of Department of Justice personnel who will be stationed abroad on the same basis as Department of State personnel;

"(10) the travel expenses of newly appointed Special Agents within the various agencies of the Department of Justice and the transportation expense of their families and household goods and personal effects from place of residence at time of selection to first duty station to the extent authorized by section 5723 of title 5; and

"(11) assistance to individuals under section 501(c) of the Refugee Education Assistance Act (P.L. 96-422) who meet the definition of 'Cuban and Haitian entrant' under section 501(e) of said Act but for the application of paragraph (2)(B) thereof.

"(b) Travel advances issued to Special Agents of the Department of Justice engaged in undercover activities shall be deemed to be government funds within the meaning of 31 U.S.C. 3527.

"(c) The Offices, Divisions and subdivisions included in the General Legal Activities area of the annual appropriation of the Department of Justice are authorized to make payments from their appropriations for:

"(1) the hire of passenger motor vehicles;

"(2) miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Deputy Attorney General, or the Associate Attorney General, or the Assistant Attorney General for Administration;

"(3) expenses for collecting evidence, to be expanded under the direction of the Attorney General and accounted for on the certificate of the Attorney General or the Deputy Attorney General;

"(4) advance of public moneys under section 3324 of title 31, United States Code;

"(5) necessary accommodations in the District of Columbia for conferences and training activities;

"(6) for necessary dues and expenses for the membership of the United States in the International Criminal Police Organization (INTERPOL), as authorized by title 22, United States Code, 263(a);

"(7) expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (P.L. 96-422).

"(d) The Fees and Witness activity of the annual appropriation of the Department of Justice is authorized to make payment from its appropriation for:

"(1) expenses, mileage, compensation, and per diem of witnesses in lieu of subsistance, as authorized by law;

"(2) contracting for expert witnesses according to the procedure similar to that authorized by section 904 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 544); and

"(3) advances of public moneys. No sums authorized to be appropriated shall be used to pay any witness more than one attendence fee for any one calendar day.

"(e) The Community Relations Service of the Department of Justice is authorized to make payments from its appropriation to pay for the hire of passenger motor vehicles and make payments in advance for grants, contracts, and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (P.L. 96-422) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants to remain available until expended.

"§ 577. Evaluations

"(a) The Attorney General shall perform periodic evaluations of the overall efficiency and effectiveness of the Department of Justice programs and any supporting activities funded by appropriations authorized and annual specific program evaluations of selected subordinate organizations' programs, as determined by the priorities set by the Attorney General.

"(b) Subordinate Department of Justice organizations and their officials shall provide all the necessary assistance and cooperation in the conduct of evaluations, including full access to all information, documentation, and cognizant personnel, as required."

SEC. 2. Section 106 of the Act of March 14, 1980, 94 Stat. 97 (22 United States Code § 1622(f)) is amended to read as follows: "§ 106. Administrative support and services to Foreign Claims Settlement Commission of the United States by the Attorney General.

"(a) The Attorney General shall provide necessary administrative support and services to the Commission. The Chairman shall prepare the budget requests, authorization documents, and legislative proposals for the Commission within the procedures established by the Department of Justice, and the Attorney General shall submit these items to the Director of the Office of Management and Budget as proposed by the Chairman.

"(b) The Commission is authorized to make payments from its appropriation for:

"(1) services as authorized by section 3109 of title 5, United States Code;

"(2) expenses of packing, shipping, and storing personal effects of personnel assigned abroad

"(3) rental or lease, for such periods as may be necessary, of office space and living quarters for personnel assigned abroad;

"(4) maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties;

"(5) advances of funds abroad;

"(6) advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission;

"(7) the hire of motor vehicles for field use only; and

"(8) the employment of aliens."

SEC. 3. (a) Section 568 of title 28, United States Code, is amended to read as follows:

"§ 568. General authorizations

"Appropriations for the United States Attorneys and Marshals are available for:

"(a) the purchase of firearms and ammunition and the attendance at firearms matches;

"(b) the lease and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year including acquisition of vehicles seized and forfeited to the U.S. Government for official use;

"(c) the supervision of the United States prisoners in non-federal institutions;

"(d) the bringing to the United States from foreign countries persons charged with crime;

"(e) the acquisition, lease, maintenance, and operation of aircraft; and

"(f) the payment of rewards and the purchase of evidence and payments for information."

(b) Section 1921 of title 28, United States Code, is amended to read as follows:

"§ 1921. United States marshal's fees

"(a)(1) The United States marshals or deputies shall routinely collect, and a court may tax as costs, fees for the following:

"(A) serving a writ of possession, partition, execution, attachment in rem, or libel in admiralty, warrant, attachment, summons, capias, or any other writ, order or process in any case or proceeding;

"(B) serving a subpoena or summons for a witness or appraiser;

"(C) forwarding any writ order, or process to another judicial district for service;

"(D) the preparation of any notice of sale, proclamation in admiralty, or other public notice or bill of sale;

"(E) the keeping of attached property (including boats, vessels, or other property attached or libeled), actual expenses incurred, such as storage, moving, boat hire, or other special transportation, watchmen's or keepers' fees, insurance, and an hourly rate including overtime for each deputy marshal required for special services, such as guarding, inventorying, and moving;

"(F) copies of writs or other papers furnished at the request of any party;

"(G) necessary travel in serving or endeavoring to serve any process, writ, or order, except in the District of Columbia, with mileage to be computed from the place where service is returnable to the place of service or endeavor; and

"(H) overtime expenses incurred by deputy marshals in the course of serving or executing civil process.

"(2) The marshals shall collect, in advance, a deposit to cover the initial expenses for special services required under subparagraph (E), and periodically thereafter such amounts as may be necessary to pay such expenses until the litigation is concluded. This paragraph applies to all private litigants, including seamen proceeding pursuant to section 1916 of this title.

"(3) For purposes of subparagraph (G), if two or more services or endeavors, or if an endeavor and a service, are made in behalf of the same party in the same case on the same trip, mileage shall be computed to the place of service or endeavor which is most remote from the place where service is returnable, adding any additional mileage traveled in serving or endeavoring to serve in behalf of that party. If two or more writs of any kind, required to be served in behalf of the same party on the same person in the same case or proceeding, may be served at the same time, mileage on only one such writ shall be collected.

"(b) The Attorney General shall prescribe from time to time regulations for the fees to be collected and taxed under subsection (a).

"(c)(1) For seizing or levying on property (including seizures in admiralty), disposing of such property by sale, setoff, or otherwise and receiving and paying over money, the United States marshals or deputies shall collect commissions of 3 per centum of the first $1,000 collected and 1½ per centum on the excess of any sum over $1,000, except that the amount of the commission shall be within the range set by the Attorney General. If the property is not disposed of by marshal's sale, the commission shall be in such amount, within the range set by the Attorney General, as may be allowed by the court. In any case in which the vessel or other property is sold by a public auctioneer, or by some party other than the marshal or his deputy, the commission authorized under this subsection shall be reduced by the amount paid to such auctioneer or other party. This subsection applies to judicially ordered sales and execution sales, without regard to whether the judicial order of sale constitutes a seizure or levy within the meaning of State law.

"(2) The Attorney General shall prescribe from time to time regulations which establish a minimum and maximum amount for the commissions collected under paragraph (1).

"(d) The United States marshals may require a deposit to cover any of the fees and expenses prescribed under this section.

"(e) Without regard to the provisions of sections 3302 and 9701 of title 31 of the United States Code, the United States Marshals Service is authorized to credit amounts from fees and expenses collected (including amounts for overtime expenses) for the service of civil process, including complaints, summonses, subpoenas, and similar process performed by the Marshals to its current appropriation account for the purpose, only, of carrying out those activities."

(c) Section 569(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the United States marshals shall execute all lawful writs, process and orders issued under authority of the United States, and command all necessary assistance to execute their duties.

"(2) Service of complaints, summonses, and subpoenas by a United States marshal may not be required by any party, other than the United States or an officer or agency of the United States, unless performed pursuant to—

"(A) section 1915 or 1916 of this title, or

"(B) an order issued by the court stating that service of a complaint, summons or a subpoena should be made by a United States marshal in order to properly effect service."

(d) Rule 45 of the Federal Rules of Civil Procedure is amended by inserting after the first sentence and before the second sentence of subsection (c) the following sentence: "A party other than the United States or an officer or agency of the United States, may not require service of a subpoena by a marshal, or his deputy, unless the service is (1) on behalf of a party authorized to proceed in forma pauperis pursuant to Title 28, U.S.C § 1915, or of a seaman authorized to proceed under Title 28, U.S.C. § 1916 or (2) pursuant to an order issued by the court stating that a marshal, or his deputy, is required to serve the subpoena in order that service is properly effected."

(e) Rule 4 of the Federal Rules of Civil Procedure is amended by—

(1) striking the last sentence in subsection (c)(2)(C)(ii) and inserting in lieu thereof the following sentence—

"Service of a summons and complaint pursuant to this subdivision of this rule is deemed complete on the date a written acknowledgment of receipt of summons is executed, if such acknowledgment is thereafter returned to the sender."

(2) by inserting immediately before the period at the end of subsection (c)(2)(D) the following: "mailed to such person pursuant to subdivision (c)(2)(C)(ii) of this rule.".

(f) Section 546 of title 28, United States Code, is amended to read as follows:

"§ 546. Vacancies

"(a) In the case of a vacancy in the office of United States attorney, the Attorney General may designate a United States attorney to serve until the end of the next session of the Senate of the United States, or until the person nominated by the President as United States attorney, or appointed by the President as United States attorney under a recess appointment under Article II, Section 2, Paragraph 3 of the Constitution of the United States, qualifies, whichever period is shorter.

"(b) The Attorney General may not designate the United States attorney a person whose nomination by the President to that office was rejected by the Senate. If the Senate rejects the nomination of a person designated by the Attorney General to serve as United States attorney, the person shall cease to serve as United States attorney upon such rejection.".

(g) Section 565 of title 28, United States Code, is amended to read as follows:

"§ 565. Vacancies

"(a) In the case of a vacancy in the office of United States marshal, the Attorney General may designate a United States marshal to serve until the end of the next session of the Senate of the United States, or until the person nominated by the President as United States marshal, or appointed by the President as United States marshal under a recess appointment under Article II, Section 2, Paragraph 3 of the Constitution of the United States, qualifies, whichever period is shorter.

"(b) The Attorney General may not designate as United States marshal a person whose nomination by the President to that office was rejected by the Senate. If the Senate rejects the nomination of a person designated by the Attorney General to serve as United States marshal, the person shall cease to serve as United States marshal upon such rejection.".

(h) Section 548 of title 28, United States Code, is amended to read as follows:

"§ 548. Salaries

"Subject to sections 5215-5317 of title 5, United States Code, the Attorney General shall fix the annual salaries of United States attorneys, assistant United States attorneys, and attorneys appointed under section 543 of this title at rates of compensation not in excess of the rate of basic compensation provided for Executive Level IV of the Executive Schedule set forth in section 5315 of title 5, United States Code."

Sec. 4. Chapter 301 of title 18, United States Code, is amended by inserting after section 4011 the following new section:

"§ 4012. Support for United States prisoners in non-federal institutions

"The Attorney General or his designee is authorized to make payments from the support for United States prisoners in non-federal institutions appropriation for:

"(a) the necessary clothing, medical aid, and payment of rewards;

"(b) entering into contracts or cooperative agreements for only the reasonable and actual cost to assist the government of any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, and the acquisition of equipment, supplies, or materials, required to improve conditions of confinement and services of any facility which confines Federal detainees, in accordance with regulations to be issued by the Attorney General and which are comparable to the regulations issued under section 4006 of this chapter."

Sec. 5. Chapter 33 of title 28, United States Code, is amended by inserting after section 537 the following new sections.

"§ 538. General Authorizations

"The Federal Bureau of Investigation is authorized to make payments from its appropriation for:

"(a) expenses necessary for the detection and prosecution of crimes against the United States;

"(b) protection of the person of the President of the United States and the person of the Attorney General;

"(c) acquisition, collection, classification and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies.

"(d) such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General;

"(e) purchase for police-type use without regard to the general purchase price limitation for a current fiscal year and the hire of passenger motor vehicles;

"(f) acquisition, lease, maintenance, and operation of aircraft;

"(g) purchase of firearms and ammunition and attendance at firearms matches;

"(h) payment of rewards;

"(i) expenses to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and to be accounted for on the certificate of the Attorney General or the Deputy Attorney General;

"(j) payment of travel and related expenses for immediate family members of employees, including costs of expenses incurred for specialized training and orientation in connection with a transfer to Puerto Rico, other territories and possessions of the United States, and assignment in a legal attaché post outside the territory of the United States; and

"(k) classification of arson as a Part I crime in its Uniform Crime Reports.

None of the sums authorized to be appropriated for the Federal Bureau of Investigation shall be used to pay the compensation of any employee in the competitive service.

"§ 539. Fees for furnishing identification services

"The Federal Bureau of Investigation may establish and collect fees for the processing of noncriminal employment and licensing fingerprint cards. Such fee is to represent the cost of furnishing the service. The funds collected shall be credited to the appropriation of the Federal Bureau of Investigation without regard to other existing statutory limitations, e.g.; title 31, United States Code, sections 3302 and 9701; and may be used to pay for salaries and other expenses incurred in operating the FBI Identification Division, and such funds may be carried over from fiscal year to fiscal year for such purposes. There will be no fee assessed in connection with the processing of requests for criminal history records by criminal justice agencies for criminal justice purposes or for employment in criminal justice agencies. 'Criminal justice agency' is defined in title 28, Code of Federal Regulations, sections 20.3 (c) and (d)."

Sec. 6. Section 6 of the Act of July 28, 1950, 64 Stat. 380, (8 United States Code § 1555) is amended to read as follows:

"§ 6. Immigration and Naturalization Service general authorities

"The Immigration and Naturalization Service is authorized to make payments from its appropriation for:

"(a) advance of cash to aliens for meals and lodging while enroute;

"(b) payment of allowances to aliens, while held in custody under the immigration laws, for work performed;

"(c) payment of expenses and allowances incurred in tracking lost persons as required by public exigencies in aid of State or local law enforcement agencies;

"(d) payment of rewards and purchases of evidence and payments for information;

"(e) expenses to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for on the certificate of the Attorney General or the Deputy Attorney General;

"(f) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles;

"(g) acqusition, lease, maintenance, and operation of aircraft;

"(h) payment for firearms and ammunition and attendance at firearms matches;

"(i) planning, acquisition of sites and construction of new facilities and construction, operation, maintenance, remodeling and repair of buildings and the purchase of equipment incident thereto and to remain available until expended;

"(j) refunds of maintenance bills, immigration fines and other items properly returnable except deposits of aliens who become public charges and deposits to secure payment of fines and passage money;

"(k) payment of interpreters and translators who are not citizens of the United States and distribution of citizenship textbooks to aliens without cost to such aliens;

"(l) acquisition of land as sites for enforcement fences, and construction incident to such fences;

"(m) research related to immigration enforcement which shall remain available until expended;

"(n) payment of expenses related to the purchase and/or lease of privately owned horses;

"(o) payment of expenses necessary under Section 501(c) of the Refugee Education Assistance Act of 1980, (Public Law 96-422) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants to remain available until expended; and

"(p) the emergency replacement of aircraft upon the certificate of the Attorney General.

SEC. 7. Authority for the Immigration and Naturalization Service to accept gifts, donations, or bequests:

(a) The Commission of the Immigration and Naturalization Service is authorized to accept unconditional gifts, donations or bequests of real, personal, or other property for use in the operations and functions of the Immigration and Naturalization Service and the Immigration and Naturalization Service is authorized to retain horses received as donations prior to January 1, 1982. For the purpose of Federal income, estate and gift taxes, property that is accepted under this section is considered as a gift or bequest, to or for the use of the United States.

(b) Notwithstanding the provisions of title 31, United States Code, section 1342, the Commissioner of the Immigration and Naturalization Service is authorized to accept voluntary and uncompensated services to assist the Service in information services to the public. Persons providing voluntary services shall not be used to displace any federal employee and shall not be considered federal employees for any purpose except for the purposes of chapter 81 of title 5, United States Code, (relating to compensation for injury) and sections 2671 through 2680 of title 28, United States Code, (relating to tort claims).

SEC. 8. Drug Enforcement Administration general authorizations:

The Drug Enforcement Administration is authorized to make payments from its appropriation for:

(a) the hire and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year;

(b) payment in advance for special tests and studies by contract;

(c) payment in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement and regulatory agencies while engaged in cooperative enforcement and regulatory activities in accordance with section 503a(2) of the Controlled Substances Act (21 U.S.C. 873(a)(2));

(d) expenses to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General, and to be accounted for on the certificate of the Attorney General or the Deputy Attorney General;

(e) payment of rewards, and the purchase of evidence and payment for information;

(f) publication of technical and informational material in professional and trade journals and purchase of chemicals, apparatus, and scientific equipment;

(g) necessary accommodations in the District of Columbia for conferences and training activities;

(h) acquisition, lease, maintenance, and operation of aircraft;

(i) contracting with individuals for personal services abroad, and such individuals shall be not regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management;

(j) payment for firearms and ammunition and attendance at firearms matches;

(k) payment for tort claims when such claims arise in Foreign Countries in connection with Drug Enforcement Administration operations abroad; and

(l) research related to enforcement and drug control to remain available until expended.

SEC. 9. (a) Without regard to the provisions of section 3302 of title 31 of the United States Code, the Drug Enforcement Administration is authorized to set aside 25 per centum of the net amount of money realized from the forfeiture of assets seized by it under any provision of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.), to be available in amounts as specified in appropriations Acts for obligation and expenditure only for the purpose of paying awards of compensation with respect to such forfeiture; and to pay, totally within its discretion, such awards to any entity not an agency or instrumentality of the United States, or to any person not an officer or employee of the United States or of any State or local government, that provides information or assistance which leads to a forfeiture referred to in subsection (a). Such awards can be made in any amount up to 25 per centum of the amount realized from the forfeiture, or $150,000, whichever is lesser, in any case, except that no awards shall be made based on the value of the contraband. The authority of the Administrator of the Drug Enforcement Administration to pay an award of $10,000 or more shall not be delegated.

(b) The amounts credited under this section shall be made available for obligations until September 30, 1985.

(c) The remaining 75 per centum of the net amount of money realized from the forfeitures referred to in subsection (a) shall be paid to the miscellaneous receipts of the Treasury.

Provided, that the authority furnished by this section shall remain available until September 30, 1985, at which time any amount of the unobligated balances remaining in this account, accumulated before September 30, 1984, shall be paid to the miscellaneous receipts of the Treasury: and provided further, that the Drug Enforcement Administration shall conduct detailed financial audits, semi-annually, of the expenditure of funds from this account and—

(1) report the results of each audit, in writing, to the Department of Justice; and

(2) report annually to Congress concerning these audits.

SEC. 10. Chapter 303 of title 18, United States Code, is amended by inserting after section 4042 the following new section:

"§ 4043. General authorizations

"The Bureau of Prisons is authorized to make payments from its appropriation for:

"(a) the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions, and for inmate legal services within the system;

"(b) purchase and hire of law enforcement and passenger motor vehicles;

"(c) compilation of statistics relating to prisoners in Federal penal and correctional institutions;

"(d) assistance to State and local governments to improve their correctional systems;

"(e) purchase of firearms and ammunition and medals and other awards;

"(f) payment of rewards;

"(g) purchase and exchange of farm products and livestock;

"(h) construction of buildings at prison camps and acquisition of land as authorized by section 4010 of title 18 of the United States Code;

"(i) entering into contracts with governmental or private organizations or entities for the safekeeping, care and subsistence of persons held under any Congressional authority;

"(j) Federal Prison Industries, Incorporated, to make such expenditures, within the limits of funds and borrowing authority, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase and hire of passenger motor vehicles;

"(k) planning, acquisition of sites and construction of new facilities, and constructing, remodeling and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, to remain available until expended, and the labor of United States prisoners may be used for work performed with sums authorized to be appropriated by this subsection; and

"(l) carrying out the provisions of sections 4351 through 4353 of this title relating to a

National Institute of Corrections, to remain available until expended."

Sec. 11. Section 4204(b) of title 18, United States Code, is amended by adding at the end thereof the following new paragraph:

"(9) make payment from the appropriation for the Commission to hire passenger motor vehicles."

Sec. 12. Part II of title 28, United States Code, is amended by inserting after chapter 37 the following new chapter:

"CHAPTER 40—UNDERCOVER INVESTIGATIVE OPERATIONS

"Sec.
"599. Federal Bureau of Investigation undercover operations.".
"600. Drug Enforcement Administration undercover operations.".

"§599. Federal Bureau of Investigation undercover operations.

"(a) Notwithstanding any other provisions of law, the Federal Bureau of Investigation is authorized with respect to any undercover investigative operation which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence:

"(1) to purchase property, buildings, or other facilities and to lease space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 1341 of title 31, United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31, United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254(a) and (c));

"(2) to establish or to acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to the provisions of section 9102 of title 31, United States Code;

"(3) to deposit appropriated funds and the proceeds from such undercover operations in banks or other financial institutions without regard to the provisions of section 648 of title 18 of the United States Code, and section 3302 of title 31, United States Code; and

"(4) to use proceeds from such undercover operations to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3302 of title 31, United States Code;

only upon the written certification of the Director of the Federal Bureau of Investigation or his designee with prompt notification to the Attorney General or his designee thereafter, that any action authorized by this section is necessary for the conduct of such investigative operation. Such certification shall continue for the duration of the undercover operation without regard to the fiscal years.

"(b) As soon as the net proceeds from an undercover investigative operation authorized under this section are no longer necessary for the conduct of such operation, such proceeds shall be deposited into the Treasury of the United States as miscellaneous receipts.

"(c) If a corporation or business entity established or acquired as part of an undercover operation under paragraph (2) of subsection (a) with a net value of over $150,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation, as much in advance as the Director or his designee determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(d)(1) Upon completion of an undercover investigative operation authorized by this section and as soon as practicable, the Federal Bureau of Investigation shall conduct detailed financial audits of these operations and—

"(A) report the results of each audit in writing to the Department of Justice, and

"(B) report annually to Congress concerning these audits.

"(2) For the purposes of paragraph (1), "undercover operation" means any undercover operation of the Federal Bureau of Investigation, other than a foreign counterintelligence undercover operation—

"(A) in which the gross receipts exceed $150,000; and

"(B) which is exempted from sections 3302 or 9102 of title 31, United States Code.

"§600. Drug Enforcement Administration undercover operations

"(a) Notwithstanding any other provisions of law, the Drug Enforcement Administration, with respect to any undercover investigative operation which is necessary to carry out its function, is authorized to:

"(1) Purchase property, buildings, or other facilities and to lease space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 1341 of title 31, United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31, United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));

"(2) Establish or to acquire proprietary corporations or business entities as part of an undercover operation and to operate such corporations or business entities on a commercial basis, without regard to the provisions of section 9102 of title 31, United States Code;

"(3) To deposit appropriated funds and the proceeds from such undercover operations in banks or other financial institutions without regard to the provisions of section 648 of title 18 of the United States Code, and section 3302 of title 31, United States Code; and

"(4) To use proceeds from such undercover operations to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3302 of title 31, United States Code;

only upon the written certification of the Administrator of the Drug Enforcement Administration (or by a person designated to act for the Administrator in his absence) with prompt notification of the Attorney General or his designee thereafter, that any action authorized by this section is necessary for the conduct of such investigative operation. Such certification shall continue for the duration of the undercover operation without regard to the fiscal years.

"(b) As soon as the net proceeds from an undercover investigative operation authorized under this section are no longer necessary for the conduct of such operation, such proceeds shall be deposited into the Treasury as miscellaneous receipts.

"(c) If a corporation or business entity established or acquired as part of an undercover operation under paragraph (2) of subsection (a) with a net value over $150,000 is to be liquidated, sold or otherwise disposed of, the Administrator of the Drug Enforcement Administration, as much in advance as the Administrator or his designee determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury as miscellaneous receipts.

"(d)(1) Upon completion of an undercover investigative operation authorized by this section, the Administrator of the Drug Enforcement Administration shall conduct detailed financial audits of these operations, and—

"(A) report the results of each audit in writing to the Department of Justice; and

"(B) report annually to the Congress concerning these audits.

"(2) for the purposes of paragraph (1), 'undercover operation' means any undercover operation of the Drug Enforcement Administration—

"(A) in which the gross receipts exceed $150,000, and

"(B) which is exempted from sections 3302 or 9102 of title 31, United States Code."

TECHNICAL CONFORMING AMENDMENTS

Sec. 13. The table of chapters for part II of title 28, United States Code, is amended by inserting after the item relating to chapter 37 the following new item:

"38. General authorizations .... 576.".

and by inserting after the item relating to chapter 39 the following new item:

"40. Undercover investigative operations .... 599.".

Sec. 14. The table of sections for chapter 37 of title 28, United States Code, is amended by amending the item relating to section 568 to read as follows:

"§568. General authorizations.".

Sec. 15. The table of sections for chapter 301 of title 18, United States Code, is amended by inserting after the item relating to section 4011 the following new item:

"§4012. Support for United States prisoners in non-federal institutions.".

Sec. 16. The table of sections for chapter 33 of title 28, United States Code, is amended by inserting after the item relating to section 537 the following new items:

"§538. General authorizations.".
"§539. Fees for furnishing identification services.".

Sec. 17. The table of sections for chapter 303 of title 18, United States Code, is amended by inserting after the item relating to section 4042 the following new item:

"4043. General authorizations."

S. 1192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this

Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Year 1984."

Sec. 2. There are authorized to be appropriated for the fiscal year ending September 30, 1984, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof) the following sums:

(1) For General Administration: $56,364,000 of which $797,000 shall remain available until expended for the Federal Justice Research program;

(2) For the United States Parole Commission: $7,836,000.

(3) For General Legal activities including not to exceed $50,000 which may be transferred from the "Alien Property Funds, World War II," for the general administrative expenses of alien property activities, including rent of private or Government owned space in the District of Columbia, and for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi War Criminals: $160,440,000.

(4) For the Foreign Claims Settlement Commission: $954,000.

(5) For the Antitrust Division: $45,791,000.

(6) For the United States Attorneys and Marshals: $362,707,000.

(7) For the Support of United States Prisoners in non-Federal institutions: $44,768,000: *Provided*, That amounts available will be available for the reimbursement to Saint Elizabeths Hospital and to other appropriate health care providers for the care, diagnosis and treatment of United States Prisoners and persons adjudicated in Federal courts as not guilty by reason of insanity at rates that in the aggregate do not exceed the full cost of the services: *Provided, further*, That amounts made available for constructing any local jail facility shall not exceed the cost of constructing space for the average Federal prisoner population for that facility as projected by the Attorney General: *Provided, further*, That following agreement on or completion of any federally assisted jail construction, the availability of such space shall be assured and the per diem rate charged for housing Federal prisoners at that facility shall not exceed direct operating costs for the period of time specified in the cooperative agreement.

(8) For Fees and Expenses of Witnesses: $38,266,000.

(9) For the Community Relations Service: $32,969,000 of which $26,655,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c), the Refugee Education Assistance Act of 1980, Public Law 96-422, for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants.

(10) For Organized Crime Drug Enforcement for the detection, investigation, prosecution and incarceration of individuals involved in organized criminal drug trafficking not otherwise provided for: $89,949,000 of which $2,500,000 is for the Presidential Commission on Organized Crime are to remain available until expended and of which $14,000,000 for the purchase of automated data processing and telecommunications equipment and $9,619,000 for undercover operations shall remain available until September 30, 1985, and, notwithstanding any other provision in law, there is authorized payment in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement and regulatory agencies while engaged in cooperative organized criminal drug enforcement and regulatory activities.

(11) For the Federal Bureau of Investigation: $1,055,690,000 of which not to exceed $52,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations and $10,000,000 for the relocation within the District of Columbia of the Washington field office shall remain available until September 30, 1985: *Provided*, That notwithstanding the provisions section 3302 and 9701 of title 31, United States Code the Director of the FBI may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes and credit not more than $13,500,000 of such fees to the FBI's appropriation to be used for salaries and other expenses incurred in providing these services.

(12) For the Drug Enforcement Administration: $275,623,000 of which not to exceed $1,200,000 for research shall remain available until expended and $1,700,000 for purchase of evidence and payments for information shall remain available until September 30, 1985. For the purpose of section 709(b) of the Controlled Substances Act (21 U.S.C. 904(b)), such sums shall be deemed to be authorized by section 709(a) of such Act for the fiscal year ending September 30, 1984."

(13) For the Immigration and Naturalization Service: $539,261,000 of which $400,000 shall remain available for research until expended and of which not to exceed $10,090,000 is authorized to be appropriated to establish a National Records Center and $11,134,000 is authorized to be appropriated to implement a long-range automated data processing plan, each amount to remain available until September 30, 1985.

(14) For the Federal Prison System: $481,070,000;

Sec. 3. Section 709(a) of the Controlled Substances Act (21 U.S.C. 904) is amended—

(1) by striking out "and" after "1982", and

(2) by inserting after "1983", the following: "and $275,623,000 for the fiscal year ending September 30, 1984."

Sec. 4. There are authorized to be appropriated for the fiscal year ending September 30, 1984, such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

Sec. 5. Notwithstanding any other provision of law, funds appropriated to the Department of Justice may be expended for assistance to individuals under section 501(c) of the Refugee Education Assistance Act of 1980, Public Law 96-422 who meet the definition of "Cuban and Haitian entrant" under section 501(e) said Act but for the application of paragraph (2)(B) thereof.

Sec. 6. Section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (Public Law 93-415, as amended by Public Law 94-503, Public Law 95-115, and Public Law 96-509) is amended by inserting "and" after "September 30, 1982," inserting a period after "1983", and striking "and September 1984".

A Bill To Authorize the Department of Justice To Conduct Certain Activities and Make Certain Expenditures

SECTION-BY-SECTION ANALYSIS—S. 1191

Section I. This language amends title 28 United States Code by creating a new Chapter 38 which would provide general authorizations for the Department of Justice especially the General Administration area.

Proposed Section 576(a)(1) the hire of passenger motor vehicles.

This provision allows the Department of Justice to lease automobiles and general purpose vehicles from the General Services Administration for the purpose of providing necessary transportation for the Attorney General and other high level staff in the Washington, D.C. area.

Proposed Section 576(a)(2) miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Deputy Attorney General, or the Associate Attorney General, or the Assistant Attorney General for Administration.

This provision allows the Attorney General to respond to unforeseen circumstances where a demonstrated need for action is clear but is not considered a normal cost of administration. Examples of these expenses include the Department's response to the Miami Civil disturbances, the Atlanta mass homicide situation, and the influx of the Cuban boatlift entrants. Another situation which required the use of this emergency authority was the Department's initial involvement at Wounded Knee, South Dakota.

Proposed Section 576(a)(3) benefits authorized under section 901 (3)(5)(6a)(8)(9) and section 904 of the Foreign Service Act of 1980 (22 U.S.C. 4081 (3)(5)(6a)(8)(9) and 22 U.S.C. 4084), and under the regulations issued by the Secretary of State.

The Foreign Service Act of 1946 was the basic statutory source for providing medical treatment and health care facilities for Department of Justice employees serving overseas. The Foreign Service Act of 1946 was replaced by the Foreign Service Act of 1980 (P.L. 96-465) on October 17, 1980. The new language conforms the FY 1984 Authorization bill with certain benefits included in the Foreign Service Act of 1980.

Proposed Section 576(a)(4) the purchase of insurance for motor vehicles and aircraft operated in official government business in foreign countries.

A number of overseas employees in the Department of Justice, in particular the Immigration and Naturalization Service, the Federal Bureau of Investigation, and the Drug Enforcement Administration are required to operate motor vehicles or aircraft in the scope of their employment. In addition, a number of offices stationed in the United States at points along the borders use automobiles to enter Canada and Mexico in the performance of their official duties. This provision authorizes the Department to pay the premiums or fees for contracts of indemnification or insurance of officers, employees and agents for their liability or that of the Untied States.

If an employee of the Department, while operating a motor vehicle or aircraft on official business in a foreign country becomes involved in a collision which causes personal injury or property damage, then this section provides a basis for payment of damages to a third party. Failure by the United States to assume responsibility for these third party claims conceivably could result in international incidents, especially in those countries with compulsory insurance laws. This provision protects employees and permits them to comply with the laws of countries where they operate vehicles and aircraft on official business and, at the same time, avoids embarrassment or unfavorable publicity for the United States.

Proposed Section 576(a)(5) services as authorized by section 3109 of title 5 of the United States Code.

This provision allows the Department flexibility in its hiring practices, and maximizes managerial efficiency. Section 3109 of Title 5 indicates the use of temporary or intermittent services must be authorized by an appropriation or other statute.

Proposed Section 576(a)(6) official reception and representation expenses in accordance with distributions, procedures, and regulations issued by the Attorney General.

This language authorizes the use of funds to cover the expenses of Department of Justice senior employees whose official positions entail the responsibilities for establishing and maintaining relationships of value to the Department.

Proposed Section 576(a)(17) per diem allowances for an employee who serves in a law enforcement capacity and/or transportation expenses for members of his immediate family in accordance with the regulations prescribed under Section 5707 of title 5, United States Code, by the Administrator of GSA or his designee when necessarily occupying temporary living accommodations at or away from the employee's designated post of duty because of a threat to life or property or because law enforcement or investigative interests may be compromised;

Authority is proposed to provide per diem allowances for law enforcement employees and transportation expenses for their families in emergency situations, primarily because of threat to life or property. Primarily, the adjustment amends the current travel regulations to permit temporary living accommodations.

Proposed Section 576(a)(8) attendance at meetings to be expended for such purposes in accordance with the regulations issued by the Attorney General;

This provision ensures that funds for attendance at meetings are expended in the legally required manner, thus reducing cost or deliberate abuse.

Proposed Section 576(a)(9) anti-terrorism training for dependents of Department of Justice personnel who will be stationed abroad on the same basis as Department of State personnel;

This would provide virtually identical training opportunities to dependents of the Department of Justice personnel assigned to foreign posts that are available to dependents of the U.S. Foreign Service authorized by Chapter 7 of the Foreign Service Act of 1980. The training provides classes primarily in safety precautions.

Proposed Section 576(a)(10) the travel expense of newly appointed Special Agents within the various agencies of the Department of Justice and the transportation expense of household goods and personal effects from place of residence at time of selection to first duty station to the extent authorized by section 5723 of title 5.

This provision would permit the payment of travel expenses of newly appointed Special Agents within the Department of Justice and the transportation expenses of their families and household goods and personal effects, from the place of residence at the time of selection to the first duty station following training. Such authorization would eliminate the need for new Special Agents to spend six months in the field office that recruited them and would give the Department of Justice the staffing flexibility needed to effectively and efficiently discharge the duties of Federal law enforcement.

Proposed Section 576(a)(11) assistance to individuals under section 501(c) of the Refugee Education Assistance Act (P.L. 96-422) who meet the definition of "Cuban and Haitian entrant" under section 501(e) of said Act but for the application of paragraph (2)(B) thereof.

Title V of the Refugee Education Assistance Act of 1980 (Public Law 96-422) was added primarily to provide federal reimbursement for State and local government expenditure for Cuban and Haitian entrants. However, because of the way 501(e) of the Act defines Cuban and Haitian entrants, funds provided for this program cannot be applied to Cuban and Haitian entrants who are under "final, nonappealable, and legally enforceable orders of deportation or exclusion." Since Cuba will not accept these individuals, this language will authorize the Department of Justice to carry out the processing, care and maintenance activities associated with Title V for all Cuban and Haitian entrants notwithstanding the restricting clause. This language was previously enacted by the FY 1983 Continuing Resolution on Appropriations P.L. 97-377.

Proposed Section 576(b) Travel advances issued to Special Agents of the Department of Justice engaged in undercover activities shall be deemed to be government funds within the meaning of 31 U.S.C. 3527.

This legislation would relieve the agents of liability for loss of travel advances when there is no fault or negligence of the agents in consonance with the standards set forth in 31 U.S.C. 3527.

The inherently dangerous nature of law enforcement should entitle DOJ agents, and their estates to be afforded some protection from the potential liability for non-negligent loss of travel advance funds.

Proposed Section 576. This section addresses authorization for those organizations, within the General Legal Activities area. The General Legal Activities includes the Office of the Solicitor General, the Tax Division, the Criminal Division, the Civil Division, the Land and Natural Resources Division, the Office of Legal Counsel, the Civil Rights Division and U.S. National Central Bureau—INTERPOL.

Proposed Section 576(c)(1) the hire of passenger motor vehicles.

The Department of Justice leases automobiles and general purpose vehicles for the purpose of providing necessary transportation for high level staff in the Washington, D.C. area.

Proposed Section 576(c)(2) miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Deputy Attorney General, or the Associate Attorney General, or the Assistant Attorney General for Administration.

The language authorizes the use of funds for activities such as a special prosecutor or special counsel.

Proposed Section 576(c)(3) expenses for collecting evidence, to be expended under the direction of the Attorney General and accounted for on the certificate of the Attorney General or the Deputy Attorney General.

Funds authorized by this provision are used primarily by the Criminal Division to collect information.

Proposed Section 576(c)(4) advance of public moneys under section 3324 of Title 31 United States Code.

Occasional advances have been made to State and local governments when the latter cannot legally begin performance on a contract until it receives partial payment in advance. Section 529, Title 31, United States Code, prohibits the advance of public moneys unless authorized by the appropriation or other law.

Proposed Section 576(c)(5) necessary accommodations in the District of Columbia for conferences and training activities.

This language provides the authority to pay for accommodations and training facilities for Department attorneys.

Proposed Section 576(c)(6) for necessary dues and expenses for the membership of the United States in the International Criminal Police Organization (INTERPOL), as authorized by title 22, United States Code, 263(a).

This section would authorize the further payment of United States dues and expenses for U.S. membership in the International Criminal Police Organization (INTERPOL) from the funds of the INTERPOL appropriation.

Proposed Section 576(c)(7) expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (P.L. 96-422).

Executive Order 12341 dated January 29, 1982 transferred this program to the Department of Justice. The Criminal Division executes the duties and administration of the Attorney General's Review Panel which screens Cuban entrants currently housed in the Atlanta Federal penitentiary for possible parole.

Proposed Section 576(d) This section addresses certain authorizations for the Fees and Expenses of Witnesses area.

Proposed Section 576(d)(1) expenses, mileage, compensation, and per diem of witnesses in lieu of subsistence, as authorized by law.

The protection of witnesses activity provides financial security for government witnesses and potential government witnesses, and their families, in legal proceedings against persons alleged to be involved in organized criminal activity. Subsistence and relocation costs are paid from this appropriation.

Proposed Section 576(d)(2) contracting for expert witnesses according to the procedure similar to that authorized by section 904 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 544).

This language will permit the Department of Justice to award contracts for expert witnesses on a basis of demonstrated competence and qualifications at fair and reasonable prices but not based entirely on price competition. Current statute provides that expert witness services may be procured without regard to the bid advertising statutes. However, current law does not permit the selection of an expert witness purely on the basis of experience and qualifications. Under existing regulations expert witnesses should be procured through the traditional competitive negotiations. This requires that an incremental value analysis be done in order to justify the payment of a premium (the difference in price between the low acceptable witness and the superior witness) before awarding a contract to the superior witness. Selection of expert witnesses must be made primarily on a basis of technical merit; that is, qualification, experience, and professional reputation. The court opponent of the Department is not required to select witnesses based on price and other factors. The Department can thus be put at a decided disadvantage if not permitted to procure witnesses on the same basis as its opponent. A selection process not based entirely on the lowest cost is a small price to pay when considering the economic consequences of losing important cases. Accordingly this language will provide authority to negotiate contracts for expert witness services on the basis of demonstrated competence and qualifications at fair and reasonable prices but not at prices based entirely on price competition.

Proposed Section 576(d)(3) advances of public moneys.

Advances of fees and expenses are often necessary to ensure appearance of those witnesses who could not otherwise afford to appear. Section 529 Title 31 United States Code prohibits the advance of public moneys unless authorized by the appropriation or otherwise.

Proposed Section 576(d). No sums authorized to be appropriated by this Act shall be used to pay any witness more than one attendance fee for any one calender day.

The limitation of one attendance fee reduces the possibility of excess payments to witnesses who testify more than once on any given calendar day.

Section 576(e). This section provides certain authority for the Community Relations Service of the Department of Justice.

Proposed Section 576(e) hire of passenger motor vehicles.

Automobiles are leased from the General Service Administration for the purpose of providing necessary transportation for key personnel in carrying out their proper assignments.

Proposed Section 576(e) and make payments in advance for grants, contracts, and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (P.L. 96-422) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants to remain available until expended.

On January 21, 1982, the President, by Executive Order 12341, transferred from the Department of Health and Human Services (HHS) to the Department of Justice the responsibility and funding for the Cuban/Haitian entrant processing and care activities mandated by Section 501(c), Title V of the Refugee Education Assistance Act of 1980. This transfer of responsibility has been ratified by the Congress in past appropriation actions. The Department of Justice, with the concurrence of the Office of Management and Budget, has decided to consolidate the major activities related to the 501(c) program within the Community Relations Service (CRS). It was decided that since the President had vested the responsibility and the funding for this program in the Department of Justice, the personnel carrying out the program's principal activities would also be vested in the Department of Justice.

The consolidation of these activities required the transfer of personnel associated with the 501(c) Cuban/Haitian entrant related activities currently situated in the Office of Refugee Resettlement, HHS to CRS. Since a considerable portion of the activities within this program is conducted through funding of grants or entering into contracts with qualified Voluntary agencies or other qualified individuals to resettle or place Cuban Haitian entrants, appropriate statutory language is required for CRS. Furthermore, during the initial transfer of responsibility in January 1982, appropriation language authorizing the carryover of unobligated funds under Section 501(c) of the Act was inadvertently omitted. The appropriation language would rectify this error by authorizing the carryover to subsequent fiscal years of unobligated funds to cover expenses necessary under Section 501(c) of the Refugee Education Assistance Act of 1980, as was originally intended in that Act.

Proposed Section 577. This section includes a generic authority to conduct evaluations of Department programs.

Section 577(a). The Attorney General shall perform periodic evaluations of the overall efficiency and effectiveness of the Department of Justice programs and any supporting activities funded by appropriations authorized and annual specific program evaluations of selected subordinate organizations programs, as determined by priorities set by the Attorney General.

(b) Subordinate Department of Justice organizations and their officials shall provide all the necessary assistance and cooperation in the conduct of evaluations, including full access to all information, documentation, and cognizant personnel, as required.

A similar provision was included in most of the past Department of Justice Appropriation Authorization Acts. It was again proposed by the Department for fiscal year 1983 and is being reinitiated by the Department in an effort to continue to improve its management capabilities and to work with Congress to increase the overall efficiency and effectiveness of the Department's programs.

Proposed Section 2. This language amends Section 106 of title 22, United States Code, and provide certain authorizations for the Foreign Claims Settlement Commission.

Section 106(a). The Attorney General shall provide necessary administrative support and services to the Commission. The Chairman shall prepare the budget requests, authorization documents, and legislative proposals for the Commission within the procedures established by the Department of Justice, and the Attorney General shall submit these items to the Director of the Office of Management and Budget as proposed by the Chairman.

This language delineates certain responsibilities.

Proposed Section 106(b). The Commission is authorized to make payments from its appropriation for:

Proposed Section 106(b)(1) services as authorized by section 3109 of title 5, United States Code.

This provision permits the Commission to employ the services of experts, if necessary, to assist in its international claims work.

Proposed Section 106(b)(2) expenses of packing, shipping, and storing personal effects of personnel assigned abroad.

This provision facilitates the transfer of personnel to assignments abroad, while minimizing the financial burden on the individual employee. These benefits are consistent with those provided by other Federal agencies with personnel abroad.

Proposed Section 106(b)(3) rental or lease, for such periods as may be necessary, of office space and living quarters for personnel assigned abroad.

This provision authorizes the Commission to use funds to maintain necessary facilities in foreign countries. During previous programs the Commission has maintained field offices abroad. The Secretary of State has similar authority under 22 U.S.C. 2670(h).

Proposed Section 106(b)(4) maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties.

This provision authorizes the Commission to use funds to maintain necessary facilities in foreign countries. During previous programs the Commission has maintained field offices abroad. The Secretary of State has similar authority under 22 U.S.C. 2670(i).

Proposed Section 106(b)(5) advances of funds abroad.

There have been instances in previous programs where the Commission was required to advance funds to foreign governments as part of leasing arrangements or contracts abroad. Federal law prohibits the advance of funds unless authorized by the appropriation or other law.

Proposed Section 106(b)(6) advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission.

It is often more cost effective and efficient for the Commission to use the facilities and services of other Government agencies, rather than to arrange for lease or services on a separate basis. The Commission has had reimbursable agreements with other agencies during previous programs.

Proposed Section 106(b)(7) the hire of motor vehicles for field use only.

Motor vehicles are used from time to time for the field work of the Commission.

Proposed Section 106(b)(8) and the employment of aliens.

Aliens have been employed abroad during previous programs to assist the Commission in fulfilling its mission.

Section 3. This section amends Section 568 of Title 28, United States Code, to provide certain authorization for United States Attorneys and Marshals.

Proposed Section 568 Appropriations for the United States Attorneys and Marshals are available for.

Proposed Section 568(a) the purchase of firearms and ammunition and the attendance at firearms matches.

The marshals and their deputies perform hazardous law enforcement duties which require expertise in handling weapons. These duties range from providing personal protection to judges and witnesses, to arresting and transporting felons. Attendance at firearms matches increases the expertise in the use of firearms and is a significant factor in boosting agent morale. This authority is identical to the authority requested and previously enacted for other organizations in the Department.

Proposed Section 568(b) the lease and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year including the acquisition of vehicles seized and forfeited to the United States Government for official use.

Personnel require passenger motor vehicles to perform their routine duties such as service of government process, movement of prisoners, and the transportation of protected witnesses. In addition, this language would allow the retention of seized vehicles for official use on a limited basis, primarily for undercover work in the warrants program where an unknown vehicle is required for surveillance. This authorization would mitigate the need for short term leases for such surveillance work.

Proposed Section 568(c) the supervision of United States prisoners in non-federal institutions.

This clause provides for the safekeeping of United States prisoners in non-federal institutions. Minimum standards for health and general welfare for the United States prisoners are required when contracting with non-federal institutions for housing such prisoners.

Proposed Section 568(d) the bringing to the United States from foreign countries persons charged with crime.

Extradition involves the return of fugitives ordered surrendered by a foreign government pursuant to a request by the United States.

Proposed Section 568(e) the acquisition, lease, maintenance, and operation of aircraft.

Aircraft is used to transport United States prisoners in the custody of the U.S. Marshals Service. This authority will be utilized only if it will result in a cost savings. The U.S. Marshals Service does not intend to acquire a large number of aircraft.

Proposed Section 568(f) the payment of rewards and the purchase of evidence and payments for information.

This language provides for payments to informants or other persons aiding the Government in the arrest of suspects, federal law violators and their prosecution.

Subsection 3(b). This subsection would amend section 1921 of title 28, United States Code, as follows:

"(a)(1) The United States marshals or deputies shall routinely collect, and a court may tax as costs, the fees for the following:

"(A) Serving a writ of possession, partition, execution, attachment in rem, or libel in admiralty, warrant, attachments, summons, capias, or any other writ, order or process in any case or proceeding.

"(B) serving a subpoena or summons for a witness or appraiser;

"(C) forwarding any writ order, or process to another judicial district for service;

"(D) the preparation of any notice of sale, proclamation in admiralty, or other public notice or bill of sale;

"(E) the keeping of attached property (including boats, vessels, or other property attached or libeled), actual expenses incurred, such as storage, moving, boat hire, or other special transportation, watchmen's or keepers' fees, insurance, and an hourly rate including overtime for each deputy marshal required for special services, such as guarding, inventorying, and moving;

"(F) copies of writs or other papers furnished at the request of any party;

"(G) necessary travel in serving or endeavoring to serve any process, writ, or order, except in the District of Columbia, with mileage to be computed from the place where service is returnable to the place of service or endeavor; and

"(H) overtime expenses incurred by deputy marshals in the course of serving or executing civil process.

"(2) The marshals shall collect, in advance, a deposit to cover the initial expenses for special services required under subparagraph (E), and periodically thereafter such amounts as may be necessary to pay such expenses until the litigation is concluded. This paragraph applies to all private litigants, including seamen proceeding pursuant to section 1916 of this title.

"(3) For purposes of subparagraph (G), if two or more services or endeavors, or if an endeavor and a service, are made or endeavor which is most remote from the place where service is returnable, adding any additional mileage traveled in serving or endeavoring to serve in behalf of that party. If two or more writs of any kind, required to be served in behalf of the same party on the same person in the same case or proceeding, may be served at the same time, mileage on only one such writ shall be collected.

"(b) The Attorney General shall prescribe from time to time regulations for the fees to be collected and taxed under subsection (a).

"(c)(1) For seizing or levying on property (including seizures in admiralty), disposing of such property by sale, setoff, or otherwise and receiving and paying over money, the United States marshals or deputies shall collect commissions of 3 per centum of the first $1,000 collected and 1½ per centum on the excess of any sum over $1,000 except that the amount of the commission shall be within the range set by the Attorney General. If the property is not disposed of by marshal's sale, the commission shall be in such amount, within the range set by the Attorney General, as may be allowed by the court. In any case in which the vessel or other property is sold by a public auctioneer, or by some party other than the marshal or his deputy, the commission authorized under this subsection shall be reduced by the amount paid to such autioneer or other party. This subsection applies to judicially ordered sales and execution sales, without regard to whether the judicial order of sale constitutes a seizure or levy within the meaning of State law.

"(2) The Attorney General shall prescribe from time to time regulations which establish a minimum and maximum amount for the commissions collected under paragraph (1).

"(d) The United States marshals may require a deposit to cover any of the fees and expenses prescribed under this section.

"(e) Without regard to the provisions of section 3302 and 9701 of 31 U.S.C., the U.S. Marshals Service is authorized to credit amounts from fees and expenses collected (including amounts for overtime expenses) for the service of civil process, including complaints, summonses, subpoenas, and similar process performed by the marshals to its current appropriation account for the purpose, only, if carrying out those activities.

The language would permit the Attorney General to set fees for the service of process commensurate with the costs incurred to serve such process. The receipts from such fees are to be credited to the U.S. Marshals Service's appropriation. The language is included in the FY 1984 Authorization since there is no assurance that either the FY 1983 Authorization or the separate bill will be enacted.

Subsections 3(c)(d)(e). These subsections would amend section 569(b) of title 28, United States Code, to include certain technical adjustments required due to the enactment of P.L. 97-462, an Act amending the Federal Rules of Civil Procedure with respect to certain service of process by mail. The language is as follows:

"(b)(1) Except as provided in paragraph (2), the United States marshals shall execute all lawful writs, process and orders issued under authority of the United States, and command all necessary assistance to execute their duties.

"(2) Service of complaints, summonses, and subpoenas by a United States marshal may not be required by any party, other than the United States or an officer or agency of the United States, unless performed pursuant to—

"(A) section 1915 or 1916 of this title, or

"(B) an order issued by the court stating that service of a complaint, summons or a subpoena should be made by a United States marshal in order to properly effect service."

(d) Rule 45 of the Federal Rules of Civil Procedure is amended by inserting after the first sentence and before the second sentence of subsection (c) the following sentence: "A party, other than the United States or an officer or agency of the United States, may not require service of a subpoena by a marshal, or his deputy, unless the service is (1) on behalf of a party authorized to proceed in forma pauperis pursuant to Title 28, U.S.C. § 1915, or of a seaman authorized to proceed under Title 28, U.S.C. § 1916 or (2) pursuant to an order issued by the Court stating that a marshal, or his deputy, is required to serve the subpoena in order that service is properly effected."

(e) Rule 4 of the Federal Rules of Civil Procedure is amended by—

(1) striking the last sentence in subsection (c)(2)(C)(ii) and inserting in lieu thereof the following sentence: "Service of a summons and complaint pursuant to this subdivision of this rule is deemed complete on the date a written acknowledgment of receipt of summons is executed, if such acknowledgment is thereafter returned to the sender."

(2) by inserting immediately before the period at the end of subsection (c)(2)(D) the following: "mailed to such person pursuant to subdivision (c)(2)(C)(ii) of this rule.".

These are amendments flowing from the enactment of Public Law 97-462, an Act "to amend the Federal Rules of Civil Procedure with respect to certain service of process by mail, and for other purposes." P.L. 97-462 amended Rule 4(c) of the Federal Rules of Civil Procedure to relieve effectively the United States Marshals Service of the duty of routinely serving summonses and complaints for private parties in civil actions. There was no corresponding change in 28, United States Code, section 569(b), which requires the Marshals to serve civil process. As the later statutory enactment, the provisions of P.L. 97-462 take precedence. Nevertheless, conforming section 569(b) to Rule 4 would prevent unnecessary confusion. Accordingly, subsection 3(c) amends 28, United States Code, section 569(b) to conform to the provisions of Rule 4(c). In addition, subsection 3(d) amends Rule 45(c) of the Federal Rules of Civil Procedure, dealing with service of subpoenas, so as to conform that provision with Rule 4(c) and to clarify when the Marshals are required to serve subpoenas.

Subsection 3(e) contains proposed amendments to Rule 4 of the Federal Rules of Civil Procedure to eliminate potential questions arising under the language in Rule 4(c)(2)(C)(ii) as amended by P.L. 97-462 which states—

If no acknowledgment of service under this subdivision of this rule is *received* by the sender within 20 days after the date of mailing, service of such summons and complaint *shall* be made under subparagraph (A) or (B) of this paragraph in the manner prescribed by subdivision (d)(1) or (d)(3). (Emphasis supplied.)

If interpreted literally, this language would require a sender to make personal service whenever the acknowledgment form is received after the 20th day. Under a similar California statute, Cal. Code Civ. Proc. § 415.30, the service is complete on the date the acknowledgment is executed as long as it is eventually received by the sender. The sender has the option of waiting longer than 20 days for the acknowledgment, if desired, or can make service by delivery and request that the defendant be taxed with the costs of the delay.

The proposed language would make Rule 4(c)(2) closer to the California practice. Additional technical amendments to (c)(2)(D) and (c)(2)(E) are also proposed.

Subsections 3 (f) and (g) would amend sections 546 and 565 of title 28, United States Code to include a provision for the Interim Appointment of U.S. Attorneys and U.S. Marshals. The amended sections read as follows:

"§ 546. Vacancies

"(a) In the case of a vacancy in the office of United States attorney, the Attorney General may designate a United States attorney to serve until the end of the next session of the Senate of the United States, or until the person nominated by the President as United States attorney, or appointed by the President as United States attorney under a recess appointment under Article II, Section 2, Paragraph 3 of the Constitution of the United States, qualified, whichever period is shorter.

"(b) The Attorney General may not designate as United States attorney a person whose nomination by the President to that office was rejected by the Senate. If the Senate rejects the nomination of a person designated by the Attorney General to serve as United States attorney, the person shall cease to serve as United States attorney upon such rejection.".

(g) Section 565 of title 28, United States Code, is amended to read as follows:

§565. Vacancies

"(a) In the case of a vacancy in the office of United States marshal, the Attorney General may designate a United States marshal to serve until the end of the next session of the Senate of the United States, or until the person nominated by the President as United States marshal, or appointed by the President as United States marshal under a recess appointment under Article II, Section 2, Paragraph 3 of the Constitution of the United States, qualifies, whichever period is shorter.

"(b) The Attorney General may not designate as United States marshal a person whose nomination by the President to that office was rejected by the Senate. If the Senate rejects the nomination of a person designated by the Attorney General to serve as United States marshal, the person shall cease to serve as United States marshal upon such rejection.".

The interim appointment authority which resides primarily in the District Court, pursuant to 28 U.S.C. 546 and 565, has created difficulties and delays in some instances, due to differences of opinion among members of the court and local political circumstances. United States attorneys and marshals are directly accountable to the Attorney General, and it is felt that the Attorney General should have the authority to fill vacancies on a short-term basis until the President's nominee can be confirmed.

Subsection 3(h), pertaining to United States Attorney and related salaries, would amend section 548 of title 28, United States Code, to read as follows:

"§ 548. Salaries

"Subject to sections 5315-5317 of title 5, United States Code, the Attorney General shall fix the annual salaries of United States attorneys, assistant United States attorneys, and attorneys appointed under section 543 of this title at rates of compensation not in excess of the rate of basic compensation provided for Executive Level IV of the Executive Schedule set forth in section 5315 of title 5, United States Code."

Subsection (h) would amend 28 U.S.C. 548 to raise the salaries for United States Attorneys, Assistant United States Attorneys (AUSAs) and attorneys appointed under 18 U.S.C. 543, to rates which are comparable to salary levels for members of the Senior Executive Service (SES). At the present time, approximately 68 supervisory AUSA positions in 30 United States Attorneys' offices are "equivalent positions" within the definition of the SES. However these positions have been indefinitely administratively exempted from the SES. Subsection (h) would provide pay comparability for United States Attorneys with non-career SES members. Section 548 of Title 28 U.S.C. presently limits United States Attorneys and AUSAs' salaries to the maximum rate allowable for a GS-18 of the General Schedule, as set forth in 5 U.S.C. 5332. Since the salary ceiling for SES members was recently lifted, United States Attorneys and senior AUSAs have been more adversely affected monetarily.

Section 4. This section would amend Chapter 301 of title 18, United States Code, by inserting a new section after section 4011 providing certain authorization for the Support of United States Prisoners appropriation.

Proposed Section 4012(a) the necessary clothing, medical aid.

The contracts with non-Federal institutions provide funds to these institutions to confine, clothe and provide medical care for certain unsentenced Federal inmates, for certain sentenced Federal prisoners awaiting transportation to permanent incarceration facilities, and for certain Federal prisoners called to non-Federal facilities for judicial purposes.

Proposed Section 4012(a) and payment of rewards.

This authority is required to allow the U.S. Marshals Service to pay rewards for the capture of escaped Federal prisoners who were in the custody of the U.S. Marshals Service at the time of escape.

(b) entering into contracts or cooperative agreements for only the reasonable and actual cost to assist the government of any State, territory or political subdivision thereof, for the necessary construction or physical renovation, and the acquisition of equipment, supplies, or materials required to improve conditions of confinement and services of any facility which confines Federal detainees, in accordance with regulations to be issued by the Attorney General, and which are comparable to regulations issued under section 4006 of title 18, United States Code.

This language would provide the Department with statutory authority to use the "Support of United States prisoners" appropriation for the purpose of improving local jail facilities and conditions.

Section 5. This section would amend Chapter 33 of title 28, United States Code, by adding a new section 538 which would authorize certain activities of the Federal Bureau of Investigation.

Proposed Section 538(a) expenses necessary for the detection and prosecution of crimes against the United States.

Authorization for appropriations for the detection and prosecution of crimes against the United States includes the expenses necessary for the FBI to conduct investigations of those violations of Federal law for which the FBI has responsibility. In addition to national priority areas of organized crime, foreign counterintelligence, terrorism, and white-collar crime, the FBI has primary jurisdiction over numerous other Federal statutes concentrating on such areas as interstate crimes, forcible crimes against banking institutions, civil rights, and fugitive investigations. Typical expenses include personnel compensation and benefits, travel and transportation of persons and property, rent, communications and utilities, capital and noncapital equipment, and supplies.

Proposed Section 538(b) protection of the person of the President of the United States and the person of the Attorney General.

Appropriations are utilized for the purposes of assuring the security of the President, and of the Attorney General, when so requested by the Department of Justice. Typical expenses include personnel compensation and travel costs.

Proposed Section 538(c) acquisition, collection, classification and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies.

Authorization for appropriations for the collection and preservation of identification and other records and their exchange with authorized officials includes expenses for the maintenance at FBI Headquarters of the Central Records System, consisting of over six million investigative, personnel, applicant, administrative, and general case files, and for the maintenance of fingerprint identification records submitted by over 20,000 authorized agencies. In addition, this authorization for appropriations includes expenses of providing information contained in FBI records to other Federal agencies in compliance with Executive Order 10450 and to authorized officials of States, cities, and other institutions.

Proposed Section 538(d) such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General.

This language would permit the expenditure of funds at the direction of the Attorney General for other investigations regarding official matters as determined by the Attorney General.

Proposed Section 538(e) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles.

Authorization for appropriations for motor vehicles includes the expenses associated with the purchase and hire of motor vehicles utilized by investigative and support personnel in the performance of their official duties.

Proposed Section 538(f) acquisition, lease, maintenance and operation of aircraft.

Authorization for appropriations for aircraft includes the expenses of acquisition, lease, maintenance and operation of aircraft strategically located in various field offices of the Federal Bureau of Investigation.

Proposed Section 538(g) purchase of firearms and ammunition and attendance at firearms matches.

Authorization for appropriations for firearms and ammunitions includes the expenses of acquisition and maintenance of firearms and implementation of FBI firearm training programs utilized by employees in the performance of their official duties.

A provision has been added to allow FBI agents to also attend certain organized firearms matches. Participation in competitive matches with other law enforcement agencies improves firearms proficiency and improves the morale of the agents. Other entities in the Department of Justice currently have authority to permit their agents to attend firearms matches.

Proposed Section 538(h) payment of rewards.

Authorization for appropriations for payment of rewards is utilized on a selective basis for information which results in the identification and apprehension of individuals being sought by the Federal Bureau of Investigation.

Proposed Section 538(i) expenses to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and to be accounted for on the certificate of the Attorney General or the Deputy Attorney General.

The word "solely" has been dropped from the phrase "solely on the certification of the Attorney General." The word "solely" restricts the certification process by providing that only the Attorney General is permitted to approve the use of funds for such purposes. Removing the word "solely" and adding the Deputy Attorney General permits expeditious certification by either the Attorney General or the Deputy Attorney General.

Proposed Section 538(j) payment of travel and related expenses for immediate family members of employees, including costs of expenses incurred for specialized training and orientation in connection with a transfer to Puerto Rico, other territories and possessions of the United States, and assignment in a legal attache post outside the territory of the United States; and.

This provision would allow family members of agents under transfer to Puerto Rico, other territories and possessions of the United States and legal attache posts outside U.S. territories, travel and per diem allowances. These expenses would be incurred when receiving orientation training prior to the agent's departure to a new assignment. Family success in adjusting to life in a new environment depends largely upon language ability, attitude and cultural awareness prior to arrival. Training and orientation will be coordinated by the FBI Academy and the State Department's Foreign Service Institute.

Proposed Section 538(k) classification of arson as a Part I crime in its Uniform Crime Reports.

The Director of the Federal Bureau of Investigation is authorized and directed to classify the offense of arson as a Part I crime in its Uniform Crime Reports. In addition, the Director of the Federal Bureau of Investigation is authorized and directed to develop and prepare a special statistical report in cooperation with the National Fire Data Center for the crime of arson, and shall make public the results of that report.

Proposed Section 538 none of the sums authorized to be appropriated by this Act for the Federal Bureau of Investigation shall be used to pay the compensation of any employee in the competitive service.

All positions in the Federal Bureau of Investigation are excepted from the competitive service and the incumbents of such positions occupy positions in the excepted service.

Proposed Section 539 this section would authorize the setting of fees for services rendered by the FBI's identification division. It reads:

The Federal Bureau of Investigation may establish and collect fees for the processing of noncriminal employment and licensing fingerprint cards. Such fee is to represent the cost of furnishing the service. The funds collected shall be credited to the appropriation of the Federal Bureau of Investigation without regard to other existing statutory limitations, e.g., title 31, United States Code, section 3302 and section 9701; and may be used to pay for salaries and other expenses incurred in operating the FBI Identification Division, and such funds may be carried over from fiscal year to fiscal year for such purposes. There will be no fee assessed in connection with the processing of requests for criminal history records by criminal justice agencies for criminal justice purposes or for employment in criminal justice agencies.

This language allows the FBI to set fees for services rendered by the Identification Division permits the receipts from these fees to be utilized in paying for the operation of the FBI's Identification Division.

Section 6. This section would amend title 8 United States Code, Section 1555 to provide authorization for certain activities for the Immigration and Naturalization Service.

Proposed Section 6(a)(b) advance of cash to aliens for meals and lodging while enroute and payment of allowances to aliens, while held in custody under the immigration laws, for work performed.

Payment of allowances to aliens held in custody is for work such as serving meals and cleaning. Such expenses are incurred by the Detention and Deportation function. Title 31 United States Code Section 529 prohibits the advances of public moneys unless authorized by appropriation or other law.

Proposed Section 6(c) payment of expenses and allowances incurred in tracking lost persons as required by public exigencies in aid of State or local law enforcement agencies.

Local law enforcement agencies often request Border Patrol agents to participate in searches for lost persons. Without the proposed language, there is no authority to pay officers while on a regular tour of duty or on an overtime basis. This authorization is also necessary to clarify employee rights to benefits if killed or injured while conducting searches.

Proposed Section 6(d) payment of rewards and purchases of evidence and payments for information.

Such expenses are incurred by the border and interior enforcement program activities of the Service. Payment of rewards is used for purposes of a confidential nature such as informant development, infiltration, and information or evidence in civil or criminal prosecution.

Authority is included also for the Immigration and Naturalization Service (INS) to use funds for the purchase of evidence and to make payments for information. The nature of investigative operations carried out by INS requires the use of certain amounts of money for the purchase of evidence and for the payment for information. This provision would permit the use of appropriated funds for these purposes. The use of these funds is particularly critical to the anti-smuggling program.

Proposed Section 6(e) expenses to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for on the certificate of the Attorney General or the Deputy Attorney General.

These expenses are often necessary to protect the identity of informants.

The word "solely" has been dropped from the phrase "solely on the certificate of the Attorney General." The provision permits the expenditure of funds for the collection of evidence and information of a confidential nature. The word "solely" restricts the certification process by providing that only the Attorney General is permitted to approve the use of funds for such purposes. Removing the word "solely" and adding the Deputy Attorney General permits expeditious certification by either the Attorney General or the Deputy Attorney General.

Proposed Section 6(f) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire passenger motor vehicles.

Motor vehicles are a necessary enforcement tool of the Service for pursuit of individuals in violation of the immigration laws, transportation of aliens in custody, travel status situations, and case investigation.

Proposed Section 6(g) acquisition, lease, maintenance, and operation of aircraft.

Aircraft are used in the Service by the Border and Interior Enforcement Program Activities. These aircraft are an effective method of detecting the presence of persons attempting or completing unlawful entry into the United States, while providing further assistance in the containment and apprehension of these individuals.

Proposed Section 6(h) payment for firearms and ammunition and attendance at firearms matches.

Firearms and ammunition are provided primarily to Border Patrol and Investigative Agents of the Service for use in emergency situations only. Firearms matches are conducted to develop the expertise and safe use of these weapons.

Proposed Section 6(i) planning, acquisition of sites and construction of new facilities and construction, operation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto and to remain available until expended.

These buildings and associated equipment are used primarily for purposes of alien detention, inspections and border patrol facilities and in some cases, living quarters for officers assigned to remote locations.

Language has been added to refine the authority INS has to construct facilities. INS believes that additional language for planning, site acquisition and construction is required to clarify INS' authority to construct facilities.

Proposed Section 6(j) refunds of maintenance bills, immigration fines, and other items properly returnable except deposits of aliens who become public charges and deposits to secure payment of fines and passage money.

Occasionally it is necessary to refund immigration fines collected from carrier when it is determined, through adjudication, that such fines were improperly imposed and other items properly refundable.

Proposed Section 6(k) payment of interpreters and translators who are not citizens of the United States and distribution of citizenship textbooks to aliens without cost to such aliens.

Translators and interpreters are necessary to facilitate communications between Service personnel and persons not speaking or writing the English language. While protecting the interests of the non-English speaking people, translators and interpreters are primarily used during deportation proceedings and other legal hearings. The textbooks provide clear instruction in citizenship responsibilities to applicants for naturalization.

Proposed Section 6(1) acquisition of land as sites for enforcement fences, and construction incident to such fences.

Enforcement fences are utilized by the Service in certain border areas as part of its prevention strategy, and are useful for the purposes of controlling the flow of unlawful entrants into areas where apprehension is most assured.

Proposed Section 6(m) research related to immigration enforcement which shall remain available until expended.

This research included the evaluaion of new technology for its applicability to Service programs, such as communications systems and detection services. Research and development projects have, for example, been directed toward new capabilities in wide area surveillance through infrared and radar devices, in automatic inspections of large vehicles and rooms through heartbeat detector techniques, and in selected enforcement and public service acitivites through satellite and digital communications techniques.

Proposed Section 6(n) payment of expenses related to the purchase and/or lease of privately owned horses.

This language would allow INS to use horses in its routine activities under the Border Patrol program. Remote areas accessible by motor vehicle require the use of such horses to accomplish routine patrol.

Proposed Section 6(o) payment of expenses necessary under Section 501(c) of the Refugee Education Assistance Act of 1980 (P.L. 96-422) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants to remain available until expended.

Authority is included to expend funds commensurate with the transfer of functions to process, care, maintain, secure, transport and resettle Cubans and Haitians from the Department of Health and Human Services to the Department of Justice.

Proposed Section 6(p) the emergency replacement of aircraft upon the certificate of the Attorney General.

This language authorizes the Immigration and Naturalization Service to quickly replace aircraft, on an emergency basis, in order to avoid an undue interruption of the enforcement function.

Proposed Section 7. This section would provide authority for the Immigration and Naturalization Service to accept gifts, donations and bequests.

(a) the Commissioner of the Immigration and Naturalization Service is authorized to accept unconditional gifts, donations or bequests of real, personal, or other property for use in the operations and functions of the Immigration and Naturalization Service and Immigration and Naturalization Service is authorized to retain horses received as donations prior to January 1, 1982. For the purposes of Federal income, estate and gift taxes, property that is accepted under this section is considered as a gift or bequest, to or for the use of the United States.

(b) Notwithstanding the provisions of Title 31, United States Code Section 1342, the Commissioner of the Immigration and Naturalization Service is authorized to accept voluntary and uncompensated services to assist the Service in information services to the public. Persons providing voluntary services shall not be used to displace any federal employee and shall not be considered a federal employee for any purpose except for the purpose of Chapter 81 of Title 5 United States Code, (relating to the compensation for injury) and sections 2671 through 2680 of title 28, United States Code, (relating to tort Claims).

This language would authorize the Commissioner of INS to accept gifts, donations or bequests, which would assist in the operation of INS and accept voluntary services to assist in the information services activities of INS. The need for the former was raised recently by a donation to INS, in 1981, of eight Morgan horses. Since then, additional offers to donate horses to INS have been made. The general gift authority is similar to that of other agencies (Administrative Conference of the United States, 5 U.S.C. 575; Treasury Department, 31 U.S.C. 901; the Smithsonian Institution, 20 U.S.C. 55; the Commerce Department, 15 U.S.C. 1522). The authority to use voluntary services without compensation in the information service function of INS would remove the restriction in 31 U.S.C. 1342 for the acceptance of such services. This provision will enable voluntary agencies to operate "ask immigration" tape libraries in conjunction with INS and to maintain roving information representatives in INS' waiting rooms.

Section 8. This section would provide authority for certain of the Drug Enforcement Administration's activities.

Proposed Section 8(a) the hire and acquistion of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year.

This provision authorizes passenger motor vehicles to give special agents the capability to operate in a clandestine mode to carry out surveillance and other enforcement techniques in enforcing the drug abuse laws. The vehicles must appear to be the same as those found in the environment in which the agents carry out their mission, with no identification to indicate that the vehicles are government-owned. Vehicles purchased for law enforcement use typically cost more than fleet-type vehicles.

DEA's operations, such as special investigative matters and regulatory and training activities, are most effectively and, from a cost basis, most efficiently carried out through use of passenger motor vehicles hired or leased from private organizations and from GSA.

Proposed Section 8(b) payment in advance for special tests and studies by contract.

This section provides for payment in advance for research contracts and projects. Advance payment is the most efficient financing mechanism. These projects maximize the effectiveness of DEA's operations by development of new or improved techniques and procedures and increase the quantity and quality of investigative evidence. Federal statute prohibits advance payments unless specifically authorized by the appropriation or other law.

Proposed Section 8(c) payment in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement and regulatory agencies while engaged in cooperative enforcement and regulatory activities in accordance with section 503a(2) of the Controlled Substances Act (21 U.S.C. 873(a)(2)).

This section provides for the funding of contracts, cooperative or reimbursable agreements, executed for the purpose of supporting cooperative law enforcement activities with State and local law enforcement, and with controlled substances regulatory agencies. These agreements aid in suppressing the abuse of controlled substances through the institution and prosecution of cases in courts and before licensing boards. It is often necessary to advance funds to accomplish this activity.

Section 8(d) expenses to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General, and to be accounted for on the certificate of the Attorney General or the Deputy Attorney General.

These expenses are necessary for the purchase or procurement of information or evidence from individuals whose identity must be protected and remain confidential, to meet emergency situations threatening the personal safety of Government agents, informants, or their families, and for emergency situations in which disclosure of the expenditures would jeopardize investigative operations. The above language was included previously in the appropriation for DEA since 1974. It has also been included in the appropriation of predecessor agencies from 1966.

The word "solely" has been dropped from the phrase "solely on the certificate of the Attorney General." The provision permits the expenditure of funds for the collection of evidence and information of a confidential nature. The word "solely" restricts the certification process by providing that only the Attorney General is permitted to approve the use of funds for such purposes. Removing the word "solely" and adding the Deputy Attorney General permits expeditious certification by either the Attorney General or the Deputy Attorney General.

Section 8(e) payment of rewards.

This language provides for payments to informants or other persons aiding the Government in the arrest of suspects, seizure of drugs, or prosecution of violators.

Section 8(e) and the purchase of evidence and payment for information (PE/PI).

PE/PI funds are used to purchase drugs and controlled substances in undercover operations, and to pay informants. The nature of these transactions is such that the PE/PI accounts are unique—expenditures are not predictable and controllable in the customary sense. Under a one year authority and appropriation medium and long-range operations must often be terminated at the end of a fiscal year and started again after the new year. Many operations must come to a temporary halt at the beginning of the year because of the time it takes to distribute PE/PI allowances to the field. The use of PE/PI in large amounts must be curtailed at the end of the year because, if the funds cannot be recovered, there are no funds in reserve to make up the loss—putting the agency in a deficiency position.

Section 8(f) publication of technical and informational material in professional and trade journals, and purchase of chemicals, apparatus, and scientific equipment.

This section provides for the publication of materials which help to develop an awareness of Federal drug enforcement and drug industry regulatory activities. The DEA laboratories perform analyses of drug evidence and provide expert scientific testimony for prosecutorial purposes. In-depth ballistics examinations are performed to help determine sources of drugs. Research capability is maintained in the areas of forensic science and advanced technological development.

Section 8(g) necessary accommodations in the District of Columbia for conferences and training activities.

This language provides authority to house basic and advanced trainees in quarters close to the National Training Institute classrooms in Washington, D.C. This capability to conduct conferences pertaining to enforcement, regulatory and technical programs gives DEA greater flexibility in its management affairs.

Section 8(h) acquisition, lease, maintenance, and operation of aircraft.

This provision authorizes aviation support for DEA operations. Aircraft is needed by DEA to detect and interdict narcotics traffic primarily through air to ground surveillance, overwater surveillance, and undercover operations. The use of aircraft by drug traffickers is well documented. The use of aircraft for surveillance activities can often replace complex or impossible ground surveillance.

Section 8(i) contracting with individuals for personal services abroad, and such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management;

The authority to employ aliens and U.S. Citizens, by contract, abroad, is necesary to hire investigative assistants, translators, clerical and other personnel in foreign offices. Staffing clerical positions with personnel hired in the U.S. is difficult in many foreign offices and impossible in others due to remote locations and adverse living conditions. Recruitment of personnel from the U.S., even if successful, is generally met with extended delays in the selectee's actual arrival at post. Hence, without this authority, the office will be without clerical assistance for extended periods of time.

There are dependents of State Department Foreign Service Officers, U.S. Military personnel and other U.S. citizens at all posts where DEA has an office who are available for temporary employment.

Section 8(j) payment for firearms and ammunition and attendance at firearms matches.

This section provides authorization for appropriations for firearms and ammunition including the expense of acquisition and maintenance of firearms utilized by employees in the performance of their official duties. These duties include participating in firearms matches to develop the expertise and safe use of weapons.

Section 8(k) payment for tort claims when such claims arise in Foreign Countries in connection with Drug Enforcement Administration operations abroad; and

This authority provides for payment by the United States Government to persons injured in a foreign country as a result of actions of DEA employees acting within the scope of their employment.

Section 8(1) research related to enforcement and drug control to remain available until expended.

This language provides for a Research and Engineering program covering the following elements: search and surveillance; communications; command and control; regulatory support; forensic sciences; operational support; and special studies.

Section 9. This section would provide discretionary authority to make certain award payments.

Without regard to the provisions of section 3302 of title 31 of the United States Code, the Drug Enforcement Administration is authorized to set aside 25 per centum of the net amount of money realized from the forfeiture of assets seized by it under any provision of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.), to be available in amounts as specified in appropriation acts for obligation and expenditure only for the purpose of paying awards of compensation with respect to such forfeiture; and to pay, totally within its discretion, such awards to any entity not an agency or instrumentality of the United States, or to any person not an officer or employee of the United States or of any State or local government, that provides information or assistance with leads to a forfeiture referred to in subsection (a). Such awards can be made in any amount up to 25 per centum of the amount realized from the forfeiture, or $150,000, whichever is lesser, in any case, except that no awards shall be made based on the value of the contraband. The authority of the Administrator of the Drug Enforcement Administration to pay on award of $10,000 or more shall not be delegated.

(b) the amounts credited under this section shall be made available for obligations until September 30, 1985; and

(c) the remaining 75 per centum of the net amount of money realized from the forfeitures referred to in subsection (a) shall be paid to the miscellaneous receipts of the Treasury.

Provided, that the authority furnished by this section shall remain available until September 30, 1985, at which time any amount of the unobligated balances remaining in this account, accumulated before September 30, 1984, shall be paid to the miscellaneous receipts of the Treasury: and provided further, that the Drug Enforcement Administration shall conduct detailed financial audits, semi-annually, or the expenditures of funds from this account and—

(1) report the results of each audit, in writing, to the Department of Justice; and

(2) report annually to Congress concerning these audits.

The proposed authority provides discretionary authority to make award payments of up to 25 percent of the net value of seized assets. Section 9 of the 1982 Authorization Act (S-951) contained a request for authority to make moiety payments to informants in narcotic cases. Section 9 of S-2567, the 1983 DOJ Authorization Act, contained language similar to this proposed revision as a refinement of that authority and reflects the need for a more flexible and effective enforcement mechanism that would be provided by the moiety authority. In addition this language is a necessary and logical reaction to the recent trend of drug traffickers to utilize large amounts of currency and assets, expensive aircraft, vessels, and vehicles to facilitate their drug trafficking. In November of 1978, Congress saw fit to make assets of drug traffickers used in exchange for drugs or to facilitate drug activities forfeitable. The proposed provisions give DEA the practical tool of being able to pay informants meaningful rewards from the assets and property of the drug traffickers.

Section 10. This section would amend Chapter 303 of title 18 United States Code by inserting a new section 4043 authorizing certain activities by the Bureau of Prisons.

Proposed Section 4043(a) the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States Prisoners in non-federal institutions, not to exceed $100,000 for inmate legal services within the system.

The Bureau locates and contracts with appropriate non-Federal agencies for facilities to board, certain types of Federal offenders and detainees. These facilities are used for the following reasons:

(1) to relieve overcrowding in Federal institutions,

(2) to offer protection to Federal offenders who would be in danger in Federal institutions,

(3) to help keep inmates near to their home communities,

(4) to provide programs not generally available in Federal institutions, and

(5) to place juvenile offenders in residential facilities.

Provision is also made to make available certain funds for inmate legal services, such as assisting programs where law students represent inmates on selected matters.

Proposed Section 4043(b) purchase and hire of law enforcement and passenger motor vehicles.

Hire of passenger motor vehicles are often necessary for personnel in travel status. Law enforcement and passenger vehicles are used for transporting offenders and for routine functions in the daily operations of Bureau of Prison facilities.

Proposed Section 4043(c) compilation of statistics relating to prisoners in Federal penal and correctional institutions.

Administrative services perform up-to-the-minute locator and status information on all individuals in the custody of the Attorney General; population counts and statistics; and inter-agency, inter-facility and intra-institution population movement schedules, notices, statistics, and computation and update of sentences.

Proposed Section 4043(d) assistance to State and local governments to improve their correctional systems.

Technical assistance to State and local governments is provided by a variety of means such as staff training and education, facility inspection, and consultation for manual writing. Prior to contracts with non-Federal facilities, the Bureau ensures that the contracting facilities meet the Bureau standards for the housing and care of offenders. Contracts are monitored throughout the contract period to ensure compliance.

Proposed Section 4043(e) purchase of firearms and ammunition and medals and other awards.

Expenses are incurred for the purchase of firearms and ammunition necessary to ensure the security of Bureau facilities and to respond to emergency situations. Correctional officers must undergo weapons familiarization as a routine part of their training activities. Medals and other awards are offered to staff personnel for recognition of superior service.

Proposed Section 4043(f) payment of rewards.

Rewards are offered for information leading to the capture of those who escape from Federal penal or correctional institutions.

Proposed Section 4043(g) purchase and exchange of farm products and livestock.

The farm program uses available land resources to produce food products that will be used by Federal Correctional Institutions. Farm productivity provides a primary hedge against inflation and spiraling food costs. The effective use of equipment, supplies, and manpower is used to achieve maximum use of the available land resources.

Proposed Section 4043(h) construction of buildings at prison camps.

Projects of $100,000 or less may be charged to the Salaries and Expenses appropriation of the Bureau of Prisons. Projects in excess of $100,000 are funded from the Buildings and Facilities appropriation with the specific line items being approved by

Congress. The nature of construction at prison camps involves housing and administrative facilities for staff and inmates at the prison camp.

Proposed Section 4043(h) and acquisition of land as authorized by section 4010 of title 18, of the United States Code.

Acquisition of land relates primarily to perimeter security and camp expansions. As correctional programs expand, the necessity for renovation or expansion of existing facilities often requires the acquisition of additional acreage. Section 4010 of 18 U.S.C. indicates the Attorney General may acquire land, if authorized by law.

Proposed Section 4043(i) entering into contracts with governmental or private organizations or entities for the safekeeping, care and subsistence of persons held under any Congressional authority; and.

The Bureau of Prisons has general authority, 18 U.S.C. 4042, to "provide for the safekeeping, care, and subsistence of all persons charged with or convicted of offenses against the United States, or held as witnesses or otherwise." A place of confinement may be "any available, suitable, and appropriate institution, whether maintained by the Federal government or otherwise" (18 U.S.C. 4082). With expanding prison populations, and special needs for some offenders, this authorization recognizes the desirability of looking to a variety of agencies, public and private, for the custody and care of federal offenders and others who are in lawful federal custody. It provides specific authority to enter contracts, wherever the appropriate contract source may be found, for the care of such persons. This concept of contractural placement of offenders in the facilities of another jurisdiction or agency is recognized in 18 U.S.C. 4002 (placing federal offenders in state institutions), and in 18 U.S.C. 5003 (contracting to receive state offenders in federal institutions).

Proposed Section 4043(j) provides authorization language for the Federal Prison Industries, Incorporated.

Federal Prison Industries, Incorporated, to make such expenditures, within the limits of funds and borrowing authority, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation.

Federal Prison Industries, Inc. (FPI) was created by Congress in 1934 and is a wholly-owned Government corporation. Its mission is to employ and train Federal inmates through a diversified program providing products with a minimum of competition to private industry and labor. Employment provides inmates with work, develops occupational knowledge and skills, and earns money for personal expenses and family assistance.

Proposed Section 4043(j) including purchase and hire of passenger motor vehicles.

Passenger motor vehicles are often necessary for personnel in travel status. Purchase of passenger motor vehicles is required for routine functions in the day-to-day operation of the factories at Bureau facilities.

Proposed Section 4043(k). This language provides authority for the Buildings and Facilities activities of the Bureau of Prisons.

Proposed Section 4043(k) for planning, acquisition of sites and construction of new facilities and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account.

This language authorizes appropriations for planning, acquisition of sites, constructing, remodeling, equipping of penal and correctional institutions. The purposes of the site acquisition and planning process are to identify and locate suitable sites for construction of new correctional facilities, and to design these facilities in a manner consistent with security, program requirements, and architectural innovation. Construction is completed within a specific timetable, within budgeted costs, and with the highest degree of quality. Rehabilitation and renovation of buildings is made to effect repairs at existing facilities and make modifications to accommodate new correctional programs.

Proposed Section 4043(k) to remain available until expended.

A no-year appropriation allows for the efficient and effective implementation of construction funds. Construction schedules are approximately two years for the warmer climates and two and a half years for the colder climates.

Proposed Section 4043(k) and the labor of United States prisoners may be used for work performed with sums authorized to be appropriated by this subsection and,

The use of inmate labor contributes to lower construction costs and provides inmates with vocational training opportunites.

Proposed Section 4043(m) For carrying out the provisions of sections 4351 through 4353 of title 18 United States Code, relating to a National Institute of Corrections, to remain available until expended.

This provision authorizes appropriations for the National Institute of Corrections. It also removes the limitation for the fiscal year. This language has been enacted in numerous authorization and appropriation bills in the past.

Proposed Section 11. This section would amend Section 4204(b) of the title 18 United States Code by adding a new paragraph at the end for United States Parole Commission.

Proposed Section 4204(b)(9) make payment from the appropriation for the Commission to hire passenger motor vehicles.

Passenger motor vehicles are necessary for transporting hearing examiners to hearing locations. This language would authorize the hire of such vehicles.

Proposed Section 12. This section would amend Part II of Title 28, United States Code by inserting a new chapter 40 which would provide authorization for certain activities of the FBI.

Proposed Section 599(a) Notwithstanding any other provisions of law, the Federal Bureau of Investigation is authorized with respect to any undercover investigative operation which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence:

(1) to puchase property, buildings, or other facilities and to lease space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 1341 of title 31, United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 U.S.C. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31, United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254(a) and (c));

(2) to establish or to acquire proprietary corporations or business entities as part of an undercover operation and to operate such corporations or business entities on a commercial basis, without regard to the provisions of section 9102 of title 31, United States Code;

(3) to deposit appropriated funds and the proceeds from such undercover operations in banks or other financial institutions without regard to the provisions of section 648 of title 18 of the United States Code, and section 3302 of title 31, United States Code; and

(4) to use proceeds from such undercover operations to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3302 of title 31, United States Code;

only upon the written certification of the Director of the Federal Bureau of Investigation or his designee with prompt notification to the Attorney General or his designee thereafter, that any action authorized by this section is necessary for the conduct of such investigative operation. Such certification shall continue for the duration of the undercover operation without regard to the fiscal years.

(b) as soon as the net proceeds from an undercover investigative operation authorized under this section are no longer necessary for the conduct of such operation, such proceeds shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) if a corporation or business entity established or acquired as part of a undercover operation under paragraph (2) of subsection (a) with a net value of over $150,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation, as much in advance as the Director or his designee determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(d)(1) upon completion of an undercover investigative operation authorized by this section and as soon as practicable, the Federal Bureau of Investigation shall conduct detailed financial audits of these operations and—

(A) report the results of each audit in writing to the Department of Justice, and

(B) report annually to Congress concerning these audits.

(2) For the purposes of paragraph (1), "undercover operation" means any undercover operation of the Federal Bureau of Investigation, other than a foreign counterintelligence undercover operation—

(A) in which the gross receipts exceed $150,000; and

(B) which is exempted from sections 3302 or 9102 of title 31, United States Code.

This language addresses certain problems faced by the Department of Justice and the Federal Bureau of Investigation in connection with the utilization and implementation of the undercover technique in all areas of investigative responsibilities. This provision contains certain legislative exemptions which would authorize the conduct of undercover operations in an efficient and effective manner. The proposal also includes numerous safeguards to be certain that these undercover operations do not exceed their proper and intended purposes.

The funding provisions for the FBI's undercover activities have been adjusted. Primarily, the citations have been changed since some of the revised statutes that were referenced in the section have been codified recently. In addition, the notification process has been simplified to reflect "prompt" notification of the Attorney General "or his designee" that such action is required. Previously, simultaneous approval by both the Director of the FBI and the Attorney General was necessary. Also, notification on completed audits will be to the "Department of Justice" rather to the "Attorney General." This will permit more readily the delegation of the audit review responsibility to other appropriate senior Department of Justice officials. Both of these items were approved for the FY 1983 authorization cycle but Congress did not enact them.

Proposed Section 600(a): Notwithstanding any other provisions of law, the Drug Enforcement Administration, with respect to any undercover investigative operation which is necessary to carry out its function, is authorized to—

(1) purchase property, buildings, or other facilities and to lease space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 1341 of title 31, United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31, United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));

(2) establish or to acquire proprietary corporations or business entities as part of an undercover operation and to operate such corporations or business entities on a commercial basis, without regard to the provisions of section 9102 of title 31, United States Code;

(3) to deposit appropriated funds and the proceeds from such undercover operations in banks or other financial institutions without regard to the provisions of section 648 of title 18 of the United States Code, and section 3302 of title 31, United States Code; and

(4) to use proceeds from such undercover operations to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3302 of title 31, United States Code;

only upon the written certification of the Administrator of the Drug Enforcement Administration (or by a person designated to act for the Administrator in his absence) with prompt notification of the Attorney General or his designee thereafter, that any action authorized by this section is necessary for the conduct of such investigative operation. Such certification shall continue for the duration of the undercover operation without regard to the fiscal years.

(b) As soon as the net proceeds from an undercover investigative operation authorized under this section are no longer necessary for the conduct of such operation, such proceeds shall be deposited into the Treasury as miscellaneous receipts.

(c) If a corporation or business entity established or acquired as part of an undercover operation under paragraph (2) of subsection (a) with a net value over $150,000 is to be liquidated, sold or otherwise disposed of, the Administrator of the Drug Enforcement Administration, as much in advance as the Administrator or his designee determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury as miscellaneous receipts.

(d)(1) Upon completion of an undercover investigative operation authorized by this section, the Administrator of the Drug Enforcement Administration shall conduct detailed financial audits of these operations, and—

(A) report the results of each audit in writing to the Department of Justice; and

(B) report annually to the Congress concerning these audits.

(2) For the purposes of paragraph (1), "undercover operation" means any undercover operation of the Drug Enforcement Administration—

(A) in which the gross receipts exceed $150,000, and

(B) which is exempted from sections 3302 or 9102 of title 31, United States Code.

This section creates new authority which will provide for DEA's proprietary undercover operations and excepts these operations from the general statutory restrictions on the use of Government funds and property. These are identical to the exceptions now in effect for the FBI's proprietary operations and their passage will greatly facilitate the use of "sting"-type drug investigations which have proven so effective over the past several years by DEA, although they were used sparingly because of the statutory restriction from which DEA now seeks relief.

Department of Justice,
Office of Legislative Affairs,
Washington, D.C., April 11, 1983.

The Vice President,
U.S. Senate,
Washington, D.C.

Dear Mr. Vice President: There are transmitted herewith two legislative proposals to meet the requirements of the Fiscal Year 1984 appropriations authorization process for the Department of Justice. One proposal would incorporate much of the general authorization language previously contained in this Department's annual appropriations authorization bill within Title 28 and other Titles of the United States Code. (See Tab A.) This would take most of the funding related authorities out of the annual authorization cycle. The second proposal is drafted to satisfy the statutory requirement of submitting to the Congress an annual funding level authorization request for the Department. (See Tab B.) The second proposal addresses only very specific funding levels.

We have taken the approach of drafting two separate legislative proposals because of our serious concern regarding the current authorization process. The Department's 1981, 1982 and 1983 authorization bills were not passed and action on continuing our authorities seems to always be in doubt.

It is critical that this Department be provided a reasonable expectation of continuity for its basic programs. The current authorization process does not provide this expectation. On the contrary, it has created an environment which makes planning and program implementation most difficult; hence, the need for legislation which would take many basic, noncontroversial authorities out of the annual authorization cycle.

The annual authorization bill requests resource levels identical with the President's FY 1984 appropriation request. The "permanent" authorization version requests most of the same general provisions the Department included in its FY 1983 authorization, e.g., an undercover provision for the Federal Bureau of Investigation (FBI), authority to use confidential funds, authority to pay rewards.

However, both authorization bills do include some changes. The most pertinent changes in the permanent authorization version are as follows:

"In proposed section 576(a)(9) (p. 2) language has been added to provide training opportunities to dependents of Department personnel assigned to foreign posts. Virtually identical opportunities are currently available to dependents of U.S. Foreign Service personnel. The training concentrates on safety precautions to combat terrorist situations.

"Proposed section 576(a)(10) (p. 2) would authorize the payment of travel expenses of newly appointed Special Agents within the Department and the transportation expenses of household goods and personal effects from the place of residence at the time of selection to the first duty station. Such authorization is necessary to provide adequate staffing flexibility.

"Proposed section 576(b) (p. 3) would relieve Special Agents of the Department of Justice of liability for the loss of travel advances when there is no fault or negligence of the agents in consonance with the standards set forth in 31 U.S.C. 3527. The inherently dangerous nature of undercover enforcement operations should provide some protection for our agents and their estates from the potential liability for non-negligent loss of travel advance funds.

In proposed section 576(c)(3) (p. 3) the word "solely" has been dropped from the phrase "solely on the certificate of the Attorney General." The provision permits the expenditure of funds for the collection of evidence and information of a confidential nature. The word "solely" restricts the certification process by providing that only the Attorney General is permitted to approve the use of funds for such purposes. Removing the word "solely" and adding the Deputy Attorney General permits expeditious certification by either the Attorney General or the Deputy Attorney General. Identical changes have been made to this provision within the FBI (section 5 proposed section 538(i) (p. 14)), the Drug Enforcement Administration (DEA) (section 8(d) (p. 20)) and the Immigration and Naturalization Service (section 6(e) (p. 18)) portions of the bill.

"Proposed section 576(c)(6) (p. 3) would provide authorization for the timely payment of dues and expenses for U.S. membership in the International Criminal Police Organization from the funds of the U.S. National Central Bureau—INTERPOL.

"Proposed section 576(c)(7) (p. 3) allows the Criminal Division to pay for the expenses related to the Attorney General's Panel Review process associated with the Cuban/Haitian entrant program.

"Proposed section 576(e) (p. 4) adds language to permit the Community Relations Service (CRS) to administer the Cuban/Haitian entrant function. The administration of that function was recently transferred from the Department of Health and Human Services to the Department of Justice. The transfer is consistent with the President's Executive Order 12341, dated January 21, 1982, which earlier had transferred the responsibility for the Cuban/Haitian entrant program to the Department of Justice.

"In proposed subsections 568(a)(b) and (f) (p. 6) several new items have been added to permit the U.S. Marshals Service to function more effectively. The U.S. Marshals will be allowed to attend firearms matches as do other agents in the Department of Justice. Also, the Marshals will be permitted to retain seized vehicles for official use, primarily, for undercover work in the warrants program when an unobtrusive vehicle is required for surveillance. In addition, language has been provided that allows for payments to informants or other persons aiding the U.S. Marshals in their law enforcement activities.

"The interim appointment authority which resides primarily in the District Court, pursuant to 28 U.S.C. 546 and 565, has created difficulties and delays in some instances, due to differences of opinion among members of the court and local political circumstances. United States attorneys and marshals are directly accountable to the Attorney General, and it is felt that the Attorney General should have the authority to fill vacancies on a short-term basis until the President's nominee can be confirmed. Legislation to effect this reform is set forth in subsection 3(f) and (g) (p. 11-12).

"Subsection 3(h) (p. 12-13) would amend 28 U.S.C. 548 to raise the salaries for United States Attorneys, Assistant United States Attorneys (AUSAs) and attorneys appointed under 18 U.S.C. 543, to rates which are comparable to salary levels for members of the Senior Executive Service (SES). At the present time, approximately 68 supervisory AUSA positions in 30 United States Attorneys' offices are "equivalent positions" within the definition of the SES. However, these positions have been indefinitely administratively exempted from the SES. Subsection (h) would provide pay comparability for United States Attorneys with noncareer SES members. Section 548 of Title 28 U.S.C. presently limits United States Attorneys and AUSAs' salaries to the maximum rate allowable for a GS-18 of the General Schedule, as set forth in 5 U.S.C. 5332. Since the salary ceiling for SES members was recently lifted, United States Attorneys and senior AUSAs have been more adversely effected monetarily.

"In proposed section 538(g) (p. 14) a provision has been added to allow FBI agents to also attend certain organized firearms matches. As in the case of the U.S. Marshals, participation in competitive matches with other law enforcement agencies improves firearms proficiency and improves the morale of the agents.

"In section 6(d) of the draft bill (p. 15) authority is included for the Immigration and Naturalization Service (INS) to use funds for the purchase of evidence and to make payments for information. The nature of investigative operations carried out by the INS requires the use of certain amounts of money for the purchase of evidence and for the payment for information. This provision would permit the use of appropriated funds for these purposes. The authority is identical to that requested for other organizations within the Department such as DEA and the U.S. Marshals Service.

"Section 6(i) of the draft bill (p. 16) adds language to refine the authority the INS has to construct facilities. Additional language for planning, site acquisition and construction is required to clarify the INS' authority to construct facilities.

"Section 7 of the draft bill (p. 17-18) would authorize the Commissioner of the INS to accept gifts, donations or bequests, which would assist in the operation of the INS and accept voluntary services to assist in the information services activities of the INS. The need for the former was raised recently by a donation to the INS, in 1981, of eight Morgan horses. Since then, additional offers to donate horses to the INS have been made. The general gift authority is similar to that of other agencies (Administrative Conference of the United States, 5 U.S.C. 575; Treasury Department, 31 U.S.C. 901; the Smithsonian Institution, 20 U.S.C. 55; the Commerce Department, 15 U.S.C. 1522). The authority to use voluntary services without compensation in the information service function of INS would remove the restriction in 31 U.S.C. 1342 for the acceptance of such services. This provision will enable voluntary agencies to operate "ask immigration" tape libraries in conjunction with INS and to maintain roving information representatives in the INS' waiting rooms.

"Proposed section 599(a)(1)(3)(4) (p. 22-23) and (d)(1) (p. 24-25) adjusts the funding provisions for the FBI's undercover activities. Primarily, the citations have been changed since some of the revised statutes that were referenced in the section have been codified recently. In addition, the notification process has been simplified to reflect "prompt" notification of the Attorney General "or his designee" that such action is required. Previously, simultaneous approval by both the Director of the FBI and the Attorney General was necessary. Also, notification on completed audits will be to the "Department of Justice" rather than to the "Attorney General." This will permit more readily the delegation of the audit review responsibility to other appropriate senior Department of Justice officials.

"Proposed section 600 (p. 25-27) provides the DEA with exceptions from certain general statutory restrictions on the use of government funds and the use of property in pursuit of undercover operations. The exemptions are identical to those now in effect for the FBI and their passage will facilitate greatly such undercover drug investigations which have proven effective, although they were used sparingly by DEA because of the current statutory restrictions."

In the annual authorization version the most pertinent change is in section 2(10) which contains language to accommodate the new anti-organized criminal drug trafficking activities. Also, language is included to permit the advance of funds to State and local law enforcement entities which engage in cooperative enforcement efforts within this program.

We are confident the overall approach contained in the two attached legislative proposals will adequately address the needs of the Congress to carry out its legislative mandate and its oversight function while, at the same time, providing for the Department's continuity needs.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of these legislative proposals to the Congress and that their enactment would be in accord with the program of the President.

Sincerely,

ROBERT A. MCCONNELL,
Assistant Attorney General.

By Mr. THURMOND (for himself and Mr. GOLDWATER):

S.J. Res. 90. Joint resolution to provide for the erection of an appropriate statute or other memorial on the main approach to the Arlington National Cemetery to honor individuals who were combat glider pilots during World War II; to the Committee on Rules and Administration.

WORLD WAR II COMBAT GLIDER PILOTS

Mr. THURMOND. I rise to introduce a joint resolution to provide for the erection of an appropriate statue or other memorial outside Arlington National Cemetery to honor individuals who were combat glider pilots during World War II. I am pleased that Senator GOLDWATER has joined me in sponsoring this legislation.

Mr. President, today there are approximately 1,500 survivors of the 6,000 combat glider pilots trained for action during World War II. Gliders were used to land men and material behind enemy lines during the airborne invasions of Sicily, Burma, Normandy, southern France, Holland, Luzon, and Wessel, Germany. Gliders were also used to resupply the surrounded 101st Airborne Division during that division's gallant defense of Bastogne. The casualty rate among these glider pilots was approximately 35 percent. The use of gliders in the Bastogne operation was one of the best kept secrets of World War II.

Therefore, I think it is appropriate that a memorial of some type be established along the approach of the Arlington National Cemetery. The memorial need not be an expensive one, but merely one which pays proper tribute to these pilots and to the contributions and sacrifices they made for our Nation.

Under the provisions of this bill, the design, plans, and location of the statue or other memorial authorized shall be subject to the approval of the American Battle Monuments Commission and the National Commission on Fine Arts. The maintenance and care of the memorial erected under the provisions of this joint resolution, would be the responsibility of the Secretary of the Interior.

Mr. President, I urge that the Senate give this resolution early consideration.

ADDITIONAL COSPONSORS

S. 117

At the request of Mr. CHILES, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 117, a bill to improve the effectiveness and efficiency of Federal law enforcement efforts.

S. 137

At the request of Mr. Roth, the name of the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. 137, a bill to amend the Internal Revenue Code of 1954 to continue to allow mortgage bonds to be issued.

S. 216

At the request of Mr. Thurmond, the name of the Senator from California (Mr. Wilson) was added as a cosponsor of S. 216, a bill to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic, and other products with intent to cause personal injury, death, or other harm.

S. 499

At the request of Mr. Weicker, the name of the Senator from Louisiana (Mr. Johnston) was added as a cosponsor of S. 499, a bill to require the usage of tax-exempt financing in connection with the Small Business Administration section 503 loan program.

S. 530

At the request of Mr. Pell, the name of the Senator from Arizona (Mr. DeConcini) was added as a cosponsor of S. 530, a bill to provide for a program of financial assistance to States in order to strengthen instruction in mathematics, science, computer education, foreign languages, and vocational education, and for other purposes.

S. 744

At the request of Mr. Nunn, the name of the Senator from Pennsylvania (Mr. Heinz) was added as a cosponsor of S. 744, A bill to amend the Small Business Act to increase the program level for funding 301(d) small business investment companies, and for other purposes.

S. 772

At the request of Mr. Hatch, the name of the Senator from Pennsylvania (Mr. Heinz) was added as a cosponsor of S. 772, A bill to promote public health by improving public awareness of the health consequences of smoking and to increase the effectiveness of Federal health officials in investigating and communicating to the public necessary health information, and for other purposes.

S. 948

At the request of Mr. Biden, the name of the Senator from Florida (Mr. Chiles), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Carolina (Mr. Hollings), the Senator from Florida (Mrs. Hawkins), the Senator from North Dakota (Mr. Andrews), the Senator from Utah (Mr. Garn), the Senator from Mississippi (Mr. Cochran), and the Senator from Pennsylvania (Mr. Heinz) were added as cosponsors of S. 948, A bill to reform Federal criminal and civil forfeiture.

S. 971

At the request of Mr. Moynihan, the name of the Senator from New York (Mr. D'Amato) was added as a cosponsor of S. 971, A bill to authorize the Secretary of Health and Human Services to expedite research on a disease or disorder which constitutes a public health emergency.

S. 1120

At the request of Mr. Garn, the name of the Senator from Wisconsin (Mr. Proxmire) was added as a cosponsor of S. 1120, a bill to authorize printing of the back side of U.S. paper money of the denomination of $1 by a method other than the intaglio process.

S. 1144

At the request of Mr. Heinz, the names of the Senator from Illinois (Mr. Dixon), and the Senator from Rhode Island (Mr. Pell) were added as cosponsors of S. 1144, a bill to suspend periodic reviews of disability beneficiaries having mental impairments pending regulatory reform of the disability determination process.

SENATE JOINT RESOLUTION 3

At the request of Mr. Hatch, the names of the Senator from Louisiana (Mr. Johnston) and the Senator from Louisiana (Mr. Long) were added as cosponsors of Senate Joint Resolution 3, a joint resolution to amend the Constitution to establish legislative authority in Congress and the States with respect to abortion.

SENATE JOINT RESOLUTION 75

At the request of Mr. Symms, the names of the Senator from Alabama (Mr. Heflin), the Senator from Idaho (Mr. McClure), the Senator from Illinois (Mr. Dixon), the Senator from Iowa (Mr. Jepsen), and the Senator from Arizona (Mr. Goldwater) were added as cosponsors of Senate Joint Resolution 75, a joint resolution to provide for the designation of June 12 through June 18, 1983, as "National Scleroderma Week".

SENATE JOINT RESOLUTION 85

At the request of Mr. Thurmond, the names of the Senator from Georgia (Mr. Mattingly), the Senator from Ohio (Mr. Glenn), the Senator from Georgia (Mr. Nunn), the Senator from New York (Mr. D'Amato), the Senator from Colorado (Mr. Hart), the Senator from Louisiana (Mr. Long), the Senator from Pennsylvania (Mr. Heinz), and the Senator from North Carolina (Mr. Helms) were added as cosponsors of Senate Joint Resolution 85, a joint resolution to designate September 21, 1983, as "National Historically Black Colleges Day".

SENATE CONCURRENT RESOLUTION 14

At the request of Mr. Lugar, the names of the Senator from Missouri (Mr. Danforth), and the Senator from South Carolina (Mr. Thurmond) were added as cosponsors of Senate Concurrent Resolution 14, a concurrent resolution in commemoration of the bicentennial of the birth of Simon Bolivar, hero of the independence of the Americas.

SENATE CONCURRENT RESOLUTION 24

At the request of Mrs. Hawkins, the name of the Senator from New York (Mr. D'Amato) was added as a cosponsor of Senate Concurrent Resolution 24, a concurrent resolution expressing the sense of the Congress that the people of the United States should observe the month of May 1983 as Older Americans Month.

SENATE RESOLUTION 66

At the request of Mr. Baker, the names of the Senator from Washington (Mr. Gorton), the Senator from Virginia (Mr. Trible), and the Senator from California (Mr. Wilson) were added as cosponsors of Senate Resolution 66, a resolution to establish regulations to implement television and radio coverage of proceedings of the Senate.

SENATE CONCURRENT RESOLUTION 30—REJECTING THE MEDICARE CUTS IN THE PRESIDENT'S FISCAL YEAR 1984 BUDGET

Mr. BAUCUS (for himself, Mr. Byrd, Mr. Bentsen, Mr. Bingaman, Mr. Bradley, Mr. Chiles, Mr. Exon, Mr. Glenn, Mr. Johnston, Mr. Kennedy, Mr. Lautenberg, Mr. Levin, Mr. Matsunaga, Mr. Metzenbaum, Mr. Mitchell, Mr. Moynihan, and Mr. Pryor) submitted the following concurrent resolution, which was referred to the Committee on Finance:

S. Con. Res. 30

Whereas, the Medicare program is a fundamental component of the Social Security system, and represents a commitment by the government to meeting the medical care needs of the nation's elderly and disabled citizens; it currently provides benefits to more than 26 million elderly and 3 million disabled Americans;

Whereas, President Reagan's 1984 Budget calls for $1.8 billion in Medicare cuts in Fiscal Year 1984 alone, and for $37.9 billion in Medicare cuts cumulatively for Fiscal Years 1984 through 1988;

Whereas, approximately 75 percent of these projected savings in Fiscal Year 1984 will be realized by shifting the burden to Medicare beneficiaries;

Whereas, these new proposed cuts come on top of the $800 million in Medicare reductions in fiscal year 1983 made by the Reconciliation Act of 1981, 84 percent of which was taken from the pockets of Medicare beneficiaries;

Whereas, Medicare now covers only 45 percent of the medical expenses of elderly and disabled beneficiaries;

Whereas, the serious problems facing Medicare's Hospital Insurance Trust Fund are not caused by inadequate contributions by elderly and disabled beneficiaries, but are caused principally by the inexorable escalation of health care costs, which are increasing at an annual average rate of 15.2 percent, far beyond the rate of inflation in the remainder of the economy;

Whereas, consequently, any solution to the Trust Fund's problems must address the root problem of skyrocketing medical care costs;

Whereas, in order to be acceptable, any solution to the problem of increasing Medicare costs and restoring the Medicare Trust Fund must be fair, workable, and lasting;

Whereas, cutting Medicare benefits further before Congress can consider a solution that will provide long-term stability for the program will not solve Medicare's problems, but may harm beneficiaries needlessly, erode public confidence in the program, and circumscribe options for long-term solution that are available to the Congress: Now, therefore, be it

Resolved, That the Congress rejects President Reagan's proposals for Medicare cuts contained in his 1984 Budget because they put an unfair burden on beneficiaries, and be it further

Resolved, That the committees with purview in both the Senate and the House of Representatives should study and make recommendations to the Congress concerning how the long-term solvency and strength of the Medicare program can be assured by constraining escalating medical care costs and making other fair and balanced changes affecting the program.

UNFAIR MEDICARE CUTS

Mr. BAUCUS. Mr. President, I am introducing a resolution today that expresses the sense of the Senate that the Congress should reject President Reagan's proposals for medicare cuts contained in his 1984 budget because they put an unfair burden on beneficiaries. The resolution also calls on the committees with purview in both Houses to study and make recommendations concerning how the long-term solvency and strength of the medicare program can be assured by constraining escalating medical care costs and making other fair and balanced changes affecting the program.

I am joined by the following Senators in offering this resolution: Senators BYRD, BENTSEN, BINGAMAN, BRADLEY, CHILES, EXON, GLENN, JOHNSTON, KENNEDY, LAUTENBERG, LEVIN, MATSUNAGA, METZENBAUM, MITCHELL, MOYNIHAN, and PRYOR.

We believe President Reagan's proposals are unfair to America's elderly and disabled.

We believe these proposals will not solve the fundamental problem facing medicare in this decade: the enormous cost of getting sick.

We believe these proposals would profoundly alter the availability and cost of health care for Americans.

Today, we are spending more for health care and getting less. In the last 12 months, the Consumer Price Index tumbled from 13 percent to 5 percent. Meanwhile, in 1982, hospital costs went up three times the inflation rate. The cost of medicare rose 21.5 percent last year.

All of us agree on the problem: Health care cost inflation threatens to bankrupt medicare. But we disagree on the solution.

The administration's solution is to put the burden on the backs of the elderly. If you're a social security beneficiary and get sick, you will pay more.

The Reagan administration budget calls for some $2 billion in cuts in fiscal year 1984. Between 1984 and 1986, the total cuts will add up to $12.25 billion.

Three-quarters of that total will come from the elderly. This comes on top of the 1981 Reconciliation Act in which 84 percent of the cuts came from the elderly.

President Reagan says he is protecting medicare. But he doesn't say he is doing it by taking more out of the pockets of the elderly who rely on medicare to pay for their health care.

The biggest cost-saver in the President's budget is catastrophic insurance for elderly in hospitals. All of us are afraid of being bankrupted by high cost hospital care.

But the administration would have us pay a high price for such protection. Only one-half of 1 percent of medicare patients would receive any benefit from the castastrophic plan.

The other 99.5 percent would pay $2.2 billion more than they do now.

The administration would have seniors pay more for doctor bills as well. These are just several examples of the unfairness of the plan.

We do not believe that beneficiaries should shoulder an unfair burden in our effort to make medicare financially sound.

PRESIDENT REAGAN'S MEDICARE CUTS IN BENEFITS TO BENEFICIARIES MUST BE REJECTED

Mr. BYRD. Mr. President, in his 1981 budget, President Reagan called for drastic and precipitous slashing of social security benefits for elderly and disabled recipients. On May 19 of that year, the Senate Democratic caucus unanimously adopted a resolution rejecting the President's proposals. The Senator from New York (Senator MOYNIHAN) and I introduced the resolution in the Senate the following day, where, after slight modifications by the Senator from Kansas (Senator DOLE), it passed by a vote of 96 to 0.

It was passage of that resolution—making clear that the Congress would not accept any so-called solution to the problems of social security which so unfairly penalized the Nation's elderly and disabled citizens—which set in motion the development of an acceptable, bipartisan solution to the problems facing the social security system. Ultimately, of course, this resulted in passage of compromise legislation based on the recommendations of the National Commission on Social Security Reform.

This year, President Reagan has returned with another proposal that will have a similarly harmful effect on the elderly and disabled of this Nation. His 1984 budget calls for $37.9 billion in new cuts in the medicare program over the next 5 years. The vast majority of those cuts would come directly out of the pockets of elderly and disabled beneficiaries.

On Tuesday of last week (April 26), the Senate Democratic Conference agreed unanimously to a resolution by Senator BAUCUS to reject President Reagan's proposals, and to fight any efforts to enact piecemeal reductions in medicare benefits until a proposal that would fairly distribute the burden of producing long term stability in the medicare program can be developed and considered by the Congress.

We hope that by this action we can once again start down a road that will lead to a lasting bipartisan solution, just as our similar action nearly 2 years ago led to such a solution for social security.

Let us be clear about the facts. It is true that the medicare hospital insurance trust fund faces serious difficulties in the latter part of this decade. But these problems are not the result of medicare participants paying too little out of their pockets for their medical care. On the contrary, medicare now pays only approximately 45 percent of the medical expenses of the elderly. And that percentage is likely to erode significantly unless we do something to control skyrocketing medical care costs.

And that is precisely the fundamental problem with which we must grapple: Medical care costs are out of control. This is true not just for medicare participants, but also for all Americans. Last year, those costs increased at the astounding annual rate of 15.2 percent—far beyond the rate of inflation in the economy as a whole. And this was not a 1-year aberration. Medical care cost consistently have escalated at a rate far above the rate of general inflation.

We cannot solve the problems facing medicare and its hospital insurance trust fund by continuing to slash away at benefits. We will only find ourselves the next year, and the year after that, facing the same impossible budget situation while medical care costs soar. If we embark upon that path, we will be cutting benefits left and right every year, until there is no medicare program left.

The resolution being introduced today by the Senator from Montana (Senator BAUCUS), which I am pleased to cosponsor, states clearly that we intended to do what we can to prevent that from happening. Medicare is a basic program upon which the elderly and disabled of this Nation have come to depend. We must protect medicare, and we must resist firmly any attempts to reduce its benefits or shift costs it now bears to elderly or disabled beneficiaries. We have made a commitment to those who have labored through their lives and to those whom fate has left unable to provide for themselves—and we must defend that commitment.

There is only one way in which we can fairly resolve the problem of increasing medicare costs. We must devise a long-term solution which has as its principal component a means of controlling runaway medical care costs for all our citizens—and which encompasses and addresses not just medicare beneficiaries but also all significant actors in the medical care system.

I am pleased to be a principal cosponsor of this resolution. I urge all Senators of both parties who care for the elderly and disabled of this Nation, and who support the Nation's commitment through medicare to share their burden for medical care expenses, to join in supporting this resolution and resisting President Reagan's proposed precipitous medicare cuts in benefits to beneficiaries.

● Mr. GLENN. Mr. President, I am pleased to join other Senate Democrats in cosponsoring and supporting the medicare resolution being introduced today.

The resolution rejects the medicare benefit cuts contained in the President's fiscal year 1984 budget. Since the average stay in a hospital for someone over age 65 is about 11 days, enactment of the President's budget cuts would almost double the out-of-pocket payments of the average medicare beneficiary hospitalized next year. Under current law, the 11-day stay would cost an older person $350, while under the Reagan plan it would rise to $630.

Simply requiring larger out-of-pocket payments from medicare beneficiaries is not a promising solution to the financing problems of the medicare program and it is not an appropriate response to those problems. In rejecting the President's proposed budget cuts, the resolution states that health care cost inflation is a major factor behind medicare's financing problems. It states that any solvency solution for medicare must address this root issue of medical care inflation.

Before we act to increase revenue into the medicare program through changes in the benefit structure or other measures, we clearly want to explore all options for reducing escalating medical cost inflation. At the same time, we must exercise caution against concentrating all our national health care cost-containment goals on medicare alone.

In exploring solutions to health care cost-inflation, we must also remember that the elderly and disabled Americans served by the medicare program represent an unusually vulnerable group of citizens. A large majority live on fixed incomes and a disproportionate number suffer from chronic diseases. These Americans are not typical in their health care needs, resources, or concerns.

Mr. President, I urge other Senators to cosponsor the resolution being introduced today.●

● Mr. BINGAMAN. Mr. President, I would like to compliment my distinguished colleagues, Senator BAUCUS and Senator BYRD, for their efforts to lift some of the financial burdens of medical costs from the shoulders of our senior citizens. I am referring to their resolution which would reject the medicare cuts contained in the President's fiscal year 1984 budget and ask committees with purview in both Houses of Congress to study and make recommendations to the Congress on the long-term solvency and strength of the medicare program. I would like to join my colleagues in a cosponsorship of that resolution.

Statistics tell us that the cost of health care is rising faster than the national debt in this country. Last year, Americans paid out an amount equal to 10 percent of the national debt for medical bills—older Americans paid a substantial portion of those medical bills. It has been said that senior citizens now pay proportionately as much of their own income for health care as they did in 1965 when medicare was enacted. Over 29 million people rely on medicare for their health care needs. The Reagan administration would propose that they pay more out-of-the-pocket funds.

Clearly, older Americans already are being asked to sacrifice this year. The social security reform package will delay the cost-of-living benefits to the elderly at a cost of $4.2 billion in benefits in fiscal year 1984. Older Americans will be taxed on social security benefits they receive to the tune of $1.1 billion in 1984. The Reagan administration proposes that they give more.

In 1981, the administration cut medicare by almost $3 billion over 3 years; over 80 percent of these cuts were borne by medicare recipients. The Reagan administration proposed cutting medicare by almost $2 billion in 1983, but Congress has thus far rejected the Reagan plan and moderated the beneficiary cuts. For the 1984 budget, the Reagan administration proposes another $2 billion cut in medicare with 75 percent of these cuts to be shouldered by medicare recipients—and under the plan, by 1986, older Americans will be contributing an even greater percentage into medicare.

In my opinion, the administration has consistently advocated taking action which would seriously undermine the medicare health insurance policy. Two big cost-savers for medicare proposed this year are: first, to link catastrophic insurance to additional benficiary cost-sharing for hospital benefits (saving $710 million in fiscal year 1984). This catastrophic protection, however, gives protection to only one-half to 1 percent of the medicare beneficiaries. The other 99½ percent of the beneficiaries would be required to pay $2.2 billion more than under the current law; and second, to freeze physicals' fees for 1 year (saving $700 million in fiscal year 1984). One-half of the savings affects physicians and one-half affects beneficiaries. This means that beneficiaries will have to pay an additional $350 million for their physicians health insurance policy (medicare part B). This assumes that current physician "assignment rates" would not deteriorate further (currently 50 percent of claims are assigned).

Mr. President, all Americans are being asked to give more and more to reduce the growing Federal deficit, yet older Americans, many on fixed incomes are being asked to shoulder more than their share. Cuts in any one program may not be significant, but when you add all the little pieces together, the elderly as a group have been affected unfairly and disproportionately. They have been left confused from the 2 years of budget battles at siege at every juncture. They are wondering where the administration will look to cut more, not knowing how they will survive. The chaff is gone. Any additional cuts would be dealing with the wheat. They know that the idea that saving from their medicare programs would help reduce the deficit is "absurd." It would be a blueprint for disaster.

Old age is a time when individuals look for and plan for stability. Yet due to prolonged high inflation, cuts in programs, and a general insensitivity to the problems of advancing age, senior citizens have been inundated with unrealistic cuts in the very programs they look to for survival. We have to begin to focus on the problems experienced by the elderly, particularly the effect of recent budgets cuts. Congress needs to review these issues with these points in mind. I believe the Baucus/Byrd resolution is a good beginning.

I am most pleased to join with my distinguished colleagues, the minority leader, and the Senator from Montana who have both provided much leadership in this area in consponsoring this truly needed resolution.●

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, the Senate Committee on Governmental Affairs will hold a budget hearing on the Federal Budget Reform Act on Thursday, May 5, at 10 a.m. in room

SD 342 of the Dirksen Senate Office Building. For further information, please contact Ms. Mary Lewis at 224-4751.

Mr. President, the Senate Committee on Governmental Affairs will hold a continuation of hearings on trade reorganization on Wednesday, May 11, at 10 a.m. in room SD 342 of the Dirksen Senate Office Building and on Thursday, May 12, at 10 a.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact Mr. Michael Mitchell at 224-4751.

SUBCOMMITTEE ON WATER RESOURCES

Mr ABDNOR. Mr. President, the Subcommittee on Water Resources has scheduled a hearing for 2 p.m. on May 17, 1983. That hearing will focus on a variety of bills, many of them noncontroversial, that could be included in an omnibus water resources bill.

Mr. President, this list is quite long. The subcommittee will try to accommodate all requests to provide oral testimony at the hearing, but appearances may have to be quite limited in time in an effort to accommodate everyone. I would urge my colleagues to contact the committee as soon as possible if they would like to testify, or if they have constituents who would like to testify on these proposals.

The committee will accept written testimony for the record until May 27, 1983. Such written testimony will, of course, be reviewed fully and carefully by the committee.

The list of bills for the May 17 hearing is as follows:

S. 196—Kalihi Channel at Honolulu Harbor Hawaii Deauthorization.

S. 207—Trust Territory of the Pacific and Northern Mariana Islands Studies.

S. 433—Christina River, Delaware dredge disposal site relocation.

S. 455—Lynnhaven Inlet, Virginia.

S. 456—Chesapeake Bay Erosion Control Projects.

S. 635—River Ice Control Measures.

S. 674—Milton, Pennsylvania.

S. 812—Albuquerque, New Mexico Flood Control.

S. 850—Coosa River Erosion Control, Alabama.

S. 878—Moundville, Alabama Erosion Control.

S. 912—Richard B. Russell Dam project modifications.

S. 987—Corps of Engineers Recreation Fees.

S. 1028—Cowlitz River, Washington Navigation and Flood Control.

S. 1073—Aquatic Plant Control.

S. 1075—Abiquiu Dam, New Mexico.

S. 1112—Tacoma Harbor, Washington.

S. 1131—Cross-Florida Barge Canal Deauthorization.

Mr. President, the subcommittee will also meet on May 18 to discuss issues relating to cost-sharing on water resource development, as previously announced.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of public hearings before the Subcommittee on Public Lands and Reserved Water. On Monday, May 9, beginning at 3 p.m. in room SD-366 of the Dirksen Senate Office Building, the subcommittee will receive testimony on S. 916 and S. 848, to provide for the orderly termination, extension, or modification of certain contracts for the sale of Federal timber, and for other purposes. The number of witnesses will be limited and those testifying will be arranged in panels. Witnesses are requested to limit their oral testimony to 5 minutes.

On Tuesday, May 17, beginning at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building, the subcommittee will receive testimony on S. 285, to designate the Bisti Badlands Wilderness in the State of New Mexico; S. 626, to designate the Aravaipa Canyon Wilderness in the State of Arizona; S. 862, to amend the act of May 31, 1962 (76 Stat. 89); and S. 1042, to convey certain lands in Lane County, Oreg.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Public Lands and Reserved Water, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510.

For further information regarding these hearings you may wish to contract Mr. Tony Bevinetto of the subcommittee staff at 224-5161.

In addition, public hearings have been scheduled before the subcommittee to consider S. 837, to designate certain national forest system lands in the State of Washington for inclusion in the national wilderness preservation system, and for other purposes. The first day of hearings will be held on Thursday, June 2, beginning at 8 a.m. in the Spokane City Council Chambers located at W. 808 Spokane Falls Boulevard, Spokane, Wash.; the second day of hearings will be held on Friday, June 3, beginning at 9 a.m. in the new Federal Building, South Auditorium, 4th floor, 915 Second Avenue, Seattle, Wash.

Oral testimony will be limited to no more than 5 minutes and possibly less, depending on the number of witnesses wishing to testify. Witnesses will be placed in panels. Those wishing to testify must sign up in advance—no later than Wednesday, May 25—as follows: For the June 2 hearing—office of Senator JACKSON, room 576, U.S. Courthouse, W. 920 Riverside, Spokane, Wash., 99201, telephone: 509-456-4530. For the June 3 hearing—office of Senator GORTON, 2988 Federal Building, 915 Second Avenue, Seattle, Wash., 98174, telephone: 206-442-5545. Because of the number of witnesses expected to testify, individuals are requested to choose which day of hearings they would like to present their testimony.

For further information regarding these hearings please contract Senator JACKSON's or Senator GORTON's office at the above-listed numbers or Mr. Tony Bevinetto of the subcommittee staff at 202-224-5161.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON STRATEGIC AND THEATER NUCLEAR FORCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Strategic and Theater Nuclear Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on Monday, May 2, at 2 p.m., to hold a hearing on Space Defense.

The PRESIDING OFFICER. Without objection it is so ordered.

FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, May 2, at 4:30 p.m., to hold an executive session briefing on Center for Strategic and International Studies, Georgetown University (CSIS) Soviet project.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, May 4, in order to receive testimony concerning the nomination of Mr. Moody R. Tidwell III, of Virginia, to be a judge of the U.S. Claims Court.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, May 3, at 2 p.m. to complete markup of the 1984 Intelligence Authorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE EVER WORSENING PLIGHT OF JEWS IN THE SOVIET UNION

● Mr. D'AMATO. Mr. President, I rise today to call attention to the ever worsening plight of Jews in the Soviet Union. Despite the rights enumerated in the Soviet Constitution, the U.N.

Universal Declaration on Human Rights and the Helsinki accords, there has been an increase in the systematic harassment of Jews, coupled with emigration restrictions which eliminate the possiblity of leaving the Soviet Union for most members of the Jewish community. In 1982, only 2,670 Jews were allowed to emigrate, compared with 51,000 only 3 years prior. The projected figures for 1983 are even more distressing—less than 1,000 Jews will be allowed to emigrate this year if the current trend continues. The recent Soviet campaign to harass "refusenik" leaders and Hebrew teachers has resulted in prohibition of Jewish self-education and holiday celebrations.

With the assistance of the student Coalition for Soviet Jewry, I have "adopted" two Soviet refuseniks—Yuli Mikhailovich Kosharovsky and Boris Dekhovich. Boris Dekhovich is a construction engineer who worked at the Vinnitsa radia tube plant prior to his application to emigrate. Fired from the plant because of his desire to emigrate he now works from time to time at menial jobs. He has been threatened with criminal charges of "parasitism." When he complained before the labor committee about losing his job at the plant, he was told that he forefeited his right to work as an engineer when he applied for a visa. Boris complained to the Procurator and was told that he should not be regarded as a parasite, however, he is still being threatened by the police.

In August 1975, his parents and two sisters finally received permission to leave for Israel, but Boris was denied a visa, because of "alleged" access to secret material while in the Red army. Boris' father is an invalid, and his parents are very anxious to be reunited with him. In a letter dated June 26, 1976, his mother writes:

> Our family consists of us, the parents, our son, and two daughters, who submitted an application to leave for Israel on March 13, 1975. Having waited for three and one-half months and having sold our apartment in anticipation of getting visas, we were refused on June 27, 1975. We tried to find out the reason for our refusal, but we heard only "regime." Shortly before this we both left our jobs and our oldest daughter voluntarily stopped her studies at the technical school. Only our son continued to work, and he had to bear the persecution of the authorities and the people with whom he worked. Our family had no way out—neither an apartment or means of subsistence. We regularly appealed to different organizations, including the government, and each time they reviewed our case we were refused. At last we found out why we were refused—our son's army service, but he did not have any secrets and he did not sign any documents about his refusing to leave. At the beginning of August all of us received permission except our son, but only if we promised to do nothing for his departure from the U.S.S.R. We had no other way out and agreed to accept their conditions. On August 11, 1975, we left.

Boris continues to try to secure permission to emigrate but only gets refusals without any promise of a visa or estimate of waiting time.

A recent tourist to Vinnitsa explains that Boris is the central figure in the Vinnitsa refusenik community. He is very humble and unassuming, and is well liked and respected. His knowledge of Israel and Judaism is amazing for a man who lives in an isolated Soviet community. He thirsts for Jewish knowledge, and is not only interested in Israel, but in Judaism as well.

Boris wants mail desperately, and is very anxious to have contacts and support in the West. Our pressure can surely help Boris win his dreamed of freedom.

The most recent incidents of harassment directed against Boris consist of:

On December 5, 1979, Boris was called in by the KGB and warned that his meetings with foreigners could cause him a great deal of trouble, even though the only information available to him were those publications openly available in stores or libraries. He was told that he should not expect a visa for some time.

In May 1981, recently, a few Americans visited Boris after being cut off from any visitors for 2½ years. They reported that he looked pale, tired, and sick. Having very little time to spend with the visitors, Boris managed to say, "Tell the world what you saw here. Tell them."

In January 1982, Boris protested to the Procurator General of the Vinnitsa region that Mikhail Furman, who served with him in the same unit, was allowed to leave while he had to remain. Again, no result.

Yuli Kosharovsky is a radio electronics engineer originally from Sverdlovsk, a town in the Urals located 1,200 miles from Moscow. As one of the early leaders of the Soviet Jewry movement, he made his way to Moscow, where he now lives and where he continues to speak out for freedom of emigration. The KGB has threatened, harassed, and arrested him many times since 1970. In 1976, he was imprisoned for 15 days. This arrest occurred during the widespread arrests and beatings in Moscow when a number of Jews staged sit-ins at the Supreme Soviet. Despite all the harassment, Yuli persisted in hosting scientific seminars for unemployed refusenik scientists for more than 4 years. In addition, he was one of the 250 Soviet Jews who signed an appeal to the Knesset and all Jewish communities throughout the world, describing the situation for Jews in the Soviet Union. Yuli is denied the right to work in his field, so he spends his time teaching Hebrew. However, he is constantly under threat of arrest for "parasitism," since the Soviets refuse to recognize the teaching of Hebrew as an official job.

In January 1977, Yuli's name and address were flashed on an anti-Semitic television documentary aired in Moscow, "Traders of Souls." He pressed for legal charges about this slander, along with Vladimir Slepak, Yosef Begun, and Anatoly Shcharansky, basing his complaints on article 7 of the Soviet civil code, but the suit was rejected. In December 1977, Yuli was placed under house arrest and deprived of needed medical care, in order to keep him from the refusenik-organized symposium on Jewish culture.

On November 5, 1979 at 9 in the evening, when Yuli was not at home, a divisional inspector of police, accompanied by two volunteer special police in civilian clothing, called at Yuli's apartment. His wife, baby, and mother were there. The policemen stated that they had received complaints from the neighbors that drunken orgies were taking place there, and people, including foreign visitors, were disturbing them. The police inspector said that he was obliged to take measures to stop this. On November 11, in reply to a summons, Inna and Yuli went to the inspectors office. Yuli complained about the intimidation of his wife, and the inspector smilingly said that he had come only for the purpose of getting acquainted.

The Kosharovskys want only to move to Israel and to continue their lives there. As Yuli, an accomplished Hebrew speaker, told friends in 1980:

> I already live an Israeli life. I conduct half of my life in Hebrew. I wish that I could conduct my entire life in Hebrew, but I still am forced to use some Russian. I want to go to Israel and proceed with my life. I feel as if I am stagnating here.

Yuli serves as one of the leading Hebrew teachers in Moscow. He himself has about 50 Hebrew students, and he also organizes weekly seminars for the Moscow Hebrew teachers. He helps to disseminate educational materials and to train new teachers. His interest in Hebrew has led him to begin to research linguistic issues related to Hebrew and Russian, and to work on a paper about the teaching of the Hebrew language in the U.S.S.R. Besides Hebrew, which Yuli speaks with an Israeli accent, he also knows English and Arabic.

The most recent incidents of harassment against Yuli consist of:

In June 1980, the Kosharovsky's were again refused exit visas. Although Yuli's "security" classification has finally been lifted, the family was refused on the grounds that its invitation from Israel was not from a "first-degree" relative.

In September 1980, about 100 (unofficial) Hebrew teachers gathered in a small Crimean coastal town for an unofficial seminar. Native inhabitants of the town were warned "to be careful of holiday makers of Jewish origin." Attempts of intimidation and night assaults soon began. On September 15, Yuli was jogging on the beach when a man broke into a run, heading toward Yuli, and dropped a bottle of wine. The bottle broke. Howling, "Damned Jewish mug!" the man attacked Yuli. The beach was empty, but two "witnesses" came into sight from nowhere. Yuli was detained and taken to a prison cell 40 miles from where he was staying. After a short trial, he was sentenced to 13 days imprisonment for "violation of public order." This meant that he was forced to spend Yom Kippur in prison, as well as to miss the remainder of the teachers' seminar.

It seems clear that Yuli was "framed" in this way because he is an organizer and leader of the Hebrew teachers. In the past, he has been imprisoned for 15-day periods on similar charges and on "hooliganism" charges.

In January 1981, the KGB disrupted Yuli's Hebrew classes and warned him that he may face arrest if he continues to teach Hebrew.

On March 13, 1981, Yuli was among the few refuseniks who were warned by the KGB not to give Hebrew classes, or to attend scientific seminars. He has also been receiving threatening anonymous telephone calls. When asked why the KGB were focusing their attention on the teaching of Hebrew, the KGB did not give a direct answer. Says Yuli:

> They seemed certain that if they picked off a few leading Hebrew teachers, the whole movement for aliyah would soon collapse.

On March 27, 1981, Yuli was summoned by the KGB and was told to stop teaching Hebrew, and to cooperate by writing a confession admitting that his past activities were "improper behavior." He was warned that if he refused to follow their advice, "his fate would be similar to Brailovsky's." Yuli has stopped teaching one of his Hebrew classes. The second one is attended by only half of his regular students.

In December 1981, Yuli was again refused for emigration. Also, he has been interviewed several times by the KGB in connection with the Sverdlovsk case. Instead of being treated like a witness, he has been treated as a codefendant.

In January 1982, the apartments of Yuli and two other Hebrew teachers were searched. Confiscated were not only Hebrew and English-Jewish cultural materials, which had already passed postal inspection, but also tape recorders, radios, and books.

The treatment of these individuals contravenes the U.N. Charter, the Universal Declaration for Human Rights, and the Helsinki Final Act, to which the Soviet Union is a signatory. I urge my colleagues to keep these repeated blatant violations in mind when considering legislation pertaining to the Soviet Union.●

THE 75TH ANNIVERSARY OF THE AMERICAN FEED MANUFACTURERS ASSOCIATION

● Mr. DOLE. Mr. President, the American Feed Manufacturers Association is celebrating its 75th anniversary convention this week with a diamond jubilee meeting in Kansas City. The feed manufacturer is a vital—though sometimes forgotten—link in that complex chain of getting food from our Nation's farms to the consumers' tables. AFMA deserves recognition for serving as the national trade association for an industry that has made incredible progress applying state-of-the-art scientific developments to the manufacture of nutritious, healthful animal feed products.

AFMA began in 1909 as a handful of companies doing business locally. Today, membership in AFMA is nearly 700 companies doing business in every State in the Union, and represents over 70 percent of the primary formula feed fed to livestock and poultry in the United States. The feed industry represents a potent economic force, generating nearly $17 billion a year in primary feed products, purchasing up to $14 billion in feed ingredients, mostly agricultural products and byproducts, and employing 125,000 Americans in all phases of the industy. Of the ingredients purchased by the feed industry, many are byproducts of other industries, such as cotton, rice, flour milling, meat packing, alcohol production, to name a few. A substantial number of these would have little if any value if they were not used for animal feed manufacturing. Some would create significant environmental problems were it not for the processing technology that allows the feed industry to use them safely as animal feed components.

Feed represents 50 to 75 percent of the cost of producing meat, milk, and eggs at the farm level. It is not difficult to imagine that without an efficient feed manufacturing industry, the supply of meat, milk, and eggs available to consumers would be greatly reduced and at substantially higher prices than today. Animal health problems would be increased without the feed industry's technical advancement and applications, resulting in less nutritious food products for consumers.

NUTRITION AWARDS

Nutrition is the backbone of the U.S. feed manufacturing industry. AFMA sponsors four annual nutrition research awards through its nutrition council. These cash awards are presented to the American Society of Animal Science, the American Dairy Science Association, the Poultry Science Association, and the American Veterinary Medical Association, which in turn choose the individual recipients of each award.

A LINK BETWEEN SCIENCE AND PRODUCTION

Economical, nutritionally balanced animal feeds are important in the efficient production of high quality food products of animal origin. The feed manufacturing industry provides the animal feeder with such products by translating all available pertinent information into practical animal feeds. The industry serves as a bridge between the scientific research community and the feeder. The feed manufacturing industry is an integral part of the food chain and makes a significant contribution to the Nation's standard of living.●

LIMITING PAC CONTRIBUTIONS

● Mr. CHILES. Mr. President, recently I introduced legislation (S. 911) that addresses the growing influence of political action committees on the electoral and legislative process. Senators PROXMIRE, INOUYE, and MATSUNAGA have joined in sponsoring this measure. S. 911 responds to the mounting concern about PAC money while recognizing the complex issues involved in campaign finance reform and the lack of consensus in the Congress on how best to approach this problem. Passage of this bill would put the Congress on record as supporting a limit on the role of PAC's in financing Federal elections and establish a short-term statutory commission to develop recommendations for achieving that goal.

The underlying rationale for this proposal is a recognition that there is a mood for reform in the Congress but no clear sentiment for the direction that reform should take. I believe this assessment is borne out by the results of a recent survey by the Center for Responsive Politics, an organization concerned with improving public confidence in the legislative branch.

Based on responses from 140 Members of the House and Senate, this survey indicated that over three-fourths of the respondents found current campaign finance laws to be unsatisfactory and two-thirds favored limiting total PAC contributions. However, opinion was less clear cut on the questions of capping campaign expenditures, raising individual contribution limits, and Federal financing of congressional elections. In short, the Congress is concerned with the present system of financing elections but unresolved on the most appropriate means for improving the situation.

The message I take from the survey is that this Congress wants change and we shall miss an important opportunity if we fail to promptly set in motion a process toward reform.

Mr. President, I ask that the survey results and an article from the New York Times be included at this point in the Record.

The material follows:

Center for Responsive Politics Survey on Campaign Finance

1. Campaign Finance Laws: 29 satisfactory (21%), 107 change needed (76%), 4 no opinion (3%).

2. Increasing Contributions from Political Parties: 93 favor, (66%), 39 oppose, (28%), 8 no opinion, (6%).

3. Limit on PAC Contributions: 92 favor, (66%), 44 oppose, (31%), 4 no opinion, (3%).

4. Set a Cap on Campaign Expenditures: 82 favor, (59%), 54 oppose, (39%), 4 no opinion, (3%).

5. Raise the Limit on Individual Contributions: 81 favor, (58%), 51 oppose, (36%), 8 no opinion, (6%).

6. Some Form of Federal Financing of Congressional Elections: 71 favor, (51%), 60 oppose, (43%), 9 no opinion, (6%).

7. Free Time to Targets of Independent Expenditures: 84 favor, (60%), 40 oppose, (29%), 16 no opinion, (11%).

PAC Limits Backed

Members of Congress tend to favor further limits on the amount of money that political action committees can invest in their campaigns but are uncertain whether Federal financing of those campaigns is a good idea, according to a survey by the Center for Responsive Politics.

The center, a new bipartisan group aimed at raising public confidence in Congress, has compiled answers from a quarter of the members of the Senate and House to a preliminary questionnaire on campaign finance. The responses show that 78 percent want the present campaign law changed compared with 20 percent who are satisfied, but the kind of reform the first group supports is less clear at this point.

The sample of lawmakers voted, 66 to 31 percent, in favor of limiting contributions from political action committees, known as PAC's, but divided, 49 to 45 percent, in support of providing Federal subsidies for Senate and House races like those now in effect for Presidential candidates. They favored, 67 to 27 percent, raising the various ceilings imposed on state and national party contributions to candidates, but were less enthusiastic, 59 to 35 percent, about increasing the $2,000 limit on contributions by individuals.

Phil Gailey.
Warren Weaver, Jr.●

THE SUFFERING OF THE ARMENIAN PEOPLE

● Mr. **LUGAR.** Mr. President, several weeks ago, I introduced a resolution expressing the Senate's concern about Vietnamese policy on the Thai-Cambodian border. In introducing this resolution, which passed the Senate on April 21, 1983, I likened the recent history of Cambodia to the Holocaust experienced by European Jews during the Second World War.

Since that time, the U.S. Government has officially dedicated a new Holocaust memorial in Washington, D.C. We have done so because remembrance is a vital aspect of America's long-standing support for human rights and freedoms around the world. It is offered as a principle that we should never forget events of the magnitude of the Holocaust. I subscribe to that principle.

I would like to take this occasion to call to mind the suffering which the Armenian people experienced in the early part of this century. Regrettably, they have been but the first of many victims throughout this century, ranging from the heart of Europe to Southeast Asia.

Mr. President, I offer these thoughts in the certainty that reflection on the tragic events of Armenian history early in this century will be constructive and will deepen our positive commitment to defend and support human rights throughout the world.●

ICM DIRECTOR ON WORLD MIGRATION ISSUES

● Mr. **KENNEDY.** Mr. President, a few days ago, the distinguished Director of the Intergovernmental Committee for Migration, James Carlin, delivered an important address to the Sixth Annual National Conference on Immigration and Refugee Policy sponsored by the Center for Migration Studies.

As director of the leading international organization responsible for migration issues, Mr. Carlin spoke from a special vantage point and with an important understanding of the complex migration issues developing around the world. As he noted at the outset of his address:

> The world's economic and political situation are producing massive flows of asylum-seekers, refugees, overstayers, and undocumented aliens. While distinctions and definitions become more and more difficult to make, both developed and developing countries are confronted with the human suffering and socio-economic disruptions caused by such influxes and are finding it difficult to come to satisfactory solutions.

Recently, ICM sponsored the first international symposium on the problems of undocumented aliens—called at the request of several Latin American members of ICM. This underscores once again, as Jim Carlin noted in his address, that the problem of undocumented aliens is not an American problem alone. This and other migration issues are confronting countries around the world, both developed and developing alike.

Mr. President, Mr. Carlin's address also underscores the point I raised last week during the Senate debate on the pending immigration bill—that migration problems, which are growing around the world, will require far greater international action in the future than they have been given in the past.

Every day is becomes clearer that economic and developmental problems in neighboring countries, or even in countries far away, will have more impact upon migration to the United States than any combination of domestic laws or policies, such as those contained in the pending immigration bill. And violence and conflict can produce a flow of people that no single nation can handle—that only concerted and coordinated international action can cope with.

Mr. President, I commend to the Senate the thoughtful address of ICM's Director, Jim Carlin, and ask that it be printed at this point in the Record.

The statement follows:

Statement by ICM Director James L. Carlin

At the outset, I wish to say that it is both a privilege and pleasure for me to participate in CMS' Annual Conference on Immigration and Refugee Policy.

Since we are in a period of great change with respect to attitudes, both public and private, on refugee resettlement and migration issues, the timing of your Conference seems particularly appropriate.

As all of you are well aware, the vagaries of the world's economic and political situation are producing massive flows of asylum-seekers, refugees, overstayers, and undocumented migrants. While distinctions and definitions become more and more difficult to make, both developed and developing countries are confronted with the human suffering and socio-economic disruptions caused by such influxes and are finding it difficult to come to satisfactory solutions. You here in Washington know better than I the degree to which the continuing debate on the Simpson/Mazzoli Bill illustrates the complexity of the issues as well as the widely divergent points of view in the U.S. Similar deliberations are taking place in countries throughout the world.

While the problem continues on a massive scale—indeed, the term "mass exoduses" has recently been added to our lexicon—the traditional solutions, which have applied over the last four decades, are no longer adequate nor do they enjoy the public support that once was the case. Even Switzerland is finding it difficult to cope currently with some 7,000 asylum-seekers. In that small country, a liberal law on asylum was passed in 1981. Only eighteen months later, in March 1983, amendments to that law of a more restrictive character have been submitted to the Swiss Parliament.

Less generous immigration policies and more stringent application of regulations and laws governing the granting of asylum are affecting the throngs of unsettled throughout the world.

Consequently, with resettlement opportunities considerably reduced, the concept of keeping routes of asylum open is no longer in particular favor. The idea of a warm welcome and safe haven in asylum areas is no longer fashionable. The spectacle of a handcuffed Romanian refugee being placed on an airliner headed for Bucharest in London in late March of this year illustrates rather vividly the changing attitude. It has become increasingly apparent that the notion of resettlement as a solution is being given lower priority.

As the Director of an International Organization concerned with resettlement, I am keenly aware of what is happening in this respect. In 1980, some 280,000 refugees were resettled under ICM's auspices. In 1981, the number was 201,000 and in 1982, the number resettled dropped to 136,300.

In these circumstances, your theme "New International Initiatives in Responding to Refugees" is indeed an important and even compelling subject for discussion. There is a clear need for this kind of focus at both the national and international level. Hopefully this and other similar fora will serve to influence policies and actions and at the same time help to preserve at least some of the high standards of humanitarian consideration which have governed our work in the past. Clearly there is a compelling need for a reaffirmation of international responsibility and of the essential role of international governmental and non-governmental organizations such as UNHCR, ICRC, ICM and the Voluntary Agencies.

ICM's activities are expanding but not in terms of volume of persons moved. While the number of refugees assisted in their resettlement is on the decline, other assistance measures are intensifying. New emphasis is being given to the better preparation of refugees and migrants in the area of orientation and language training prior to their actual movement to a country of resettlement. Such activities are particularly important in assuring the speedy integration of the refugee in his new homeland and reducing the potential for his becoming a social burden. You are, of course, familiar with the US ESL (English as a Second Language) programme which is conducted by various Voluntary Agencies at the two Refugee Processing Centers on the islands of Bataan and Galang. ICM has recently been requested to assume responsibility for a similar programme for refugees accepted by the Federal Republic of Germany. ICM has had long experience in this particular field of assistance to refugees and migrants. Our programmes of language training in Austria, Germany and Italy are in the process of expansion. We have been conducting smaller classes in Greece and Portugal for a number of years. Along with this, we are augmenting cultural orientation programming. For example, at the request of the U.S. Government, we have recently assumed responsibility for the distribution of orientation material to refugees being accepted by U.S. authorities in Western Europe.

At the same time, ICM is strengthening its medical services to ensure the most efficient and effective screening of refugees prior to movement and to provide the documentation and coordination necessary for adequate medical care upon arrival in the new country. This is not only a humanitarian gesture but a practical necessity to reduce the potential burdens and anxieties of receiving countries whose concern for rising social service costs due to refugees and the resulting resentment of the refugee have been intensifying. For refugees going to the U.S., in addition to administering a complete schedule of immunizations, ICM provides treatment for persons found to be suffering from Tuberculosis and Venereal Disease in accordance with guidelines and procedures developed in collaboration with the U.S. Centers for Disease Control in Atlanta.

To avoid the accumulation in first-asylum countries of physically or mentally disabled refugees, ICM, in cooperation with UNHCR, has established a programme to promote the resettlement of handicapped refugees. This programme provides for the systematic identification and screening of family units with handicapped members by an experienced professional team comprised of a rehabilitation and integration specialist, a medical doctor, a psychiatrist and necessary para-medical personnel. Comprehensive dossiers are compiled for each case, containing specific recommendations for the rehabilitation of the handicapped individual and integration of the family as a whole. These informative dossiers are used for submission to countries where the resettlement of handicapped refugees is a possibility.

Another initiative worthy of mention is ICM's special effort in the Federal Republic of Germany to arrange for the resettlement or repatriation of would-be refugees—that is to say, individuals who sought asylum, but were not found eligible for refugee status in the legal sense of the term. The acronym for this special effort is REAG, or the Program for the Emigration and Reintegration of asylum-seekers in Germany. It was started in 1979 as a combined effort with the Federal and State authorities in Germany to promote the onward migration or re-integration into their country of origin of persons who were in the process of seeking asylum and refugee status. There was a need to cope with the massive influx of mala fide asylum-seekers who if remaining in this legal category would both clog the queue for bona fide political refugees and require considerable financial and social support at public expense. Some 5,000 such cases were processed and moved from the Federal Republic of Germany in 1982, and we project the movement of at least 10,000 in the current year.

Several countries of Western Europe have a problem similar to that found in Germany, Belgium, France, Italy, Sweden and the United Kingdom to name some. We have just entered into discussions with the Belgian Government to determine if a similar programme could be initiated in Belgium. Moreover, we are about to conclude an arrangement with the Government of Greece for the opening of an Information and Counselling Center in Athens to benefit returning Greek migrant workers and exiles with regard to such things as job placement, training, social benefits, resettlement, etc.

Another relatively new area of activity for ICM is our Return of Talent programme—a programme aimed at reversing the Brain Drain by identifying qualified nationals of Developing Countries residing in Industrialized Countries and arranging suitable placement opportunities for them in their homeland, or in the general region of their homeland. Our efforts with such programming in recent years have focussed principally on Latin American nationals for the Latin American region. To date we have arranged the return and placement of some 2,600 highly qualified Latin Americans.

Encouraged by our relative success with Return of Talent programming for the Latin American region, ICM's Governing Bodies have approved the extension of such activity to Africa and we are currently taking measures to introduce Return of Talent programming in that region. I can happily report that the European Economic Community (EEC) in Brussels has provided an initial grant of $3.3 million to ICM in support of such programming for Africa.

In addition to responding to the resettlement needs of refugee populations in first-asylum countries, there is growing emphasis these days on programmes for orderly departure as an alternative to illegal flight. ICM has played a large role in implementing the best known ODP programme on behalf of refugees from Vietnam accepted by Australia, Canada, France and the United States. Similarly, in recent years ICM has been called upon as a non-political, operational agent for the processing and movement of political detainees allowed to depart directly from their countries of origin in Latin America. Beginning in 1982, former Polish Solidarity detainees numbering over 1,000 persons were processed through an ICM-administered center outside Frankfurt.

While ICM is essentially an operational organization, it has also acted as a forum for scholarly exchange and policy debate in recent years through a series of international seminars on various aspects of migration. In doing so it has drawn together experts and representatives from a broad range of governments, and governmental and non-governmental institutions from around the world. ICM's Sixth Seminar, which concluded its deliberations just a week ago was aimed at advancing the process toward finding solutions to the problems caused by undocumented or irregular migration.

The Seminar concentrated on the specific motivations and underlying causes of irregular migration, the rights and obligations of irregular migrants in receiving countries, the preservation of their human rights, the regularization of their status—that is to say, legalization, the term currently being used in the U.S.—the effects of irregular migration both for the countries and individuals concerned, and the possible remedies and solutions.

Some 40 information and experts' papers contributed to the intensive debate of the 250 participants from more than 50 countries. Among the several important guests were Congressmen Peter Rodino and Hamilton Fish, the Minister of Immigration from Sweden, Anita Gradin, and the United Nations High Commissioner for Refugees, Poul Hartling.

One of the most striking conclusions was the degree to which the actual nature of these irregular movements is still not sufficiently understood or documented. Participants recognized through their discussions broadly differing points of view respecting the applicability of international instruments to irregular migration and the complexities of the problems and difficulties in finding simple answers and ready-made solutions.

The follow-up to the Seminar will require concerted international cooperation. The current tendency on the part of governments is toward unilateral or bilateral actions. Yet the masses of people throughout the world—whether taking it upon themselves to move or being forced by circumstance to seek resettlement assistance—represent an issue which must be tackled as an international responsibility.

It is on a note of hope that I would like to conclude my remarks. I feel confident that when we take a good look, in the present international environment, at who becomes a refugee and why, and at who has been trying to help, for what motivation and in which forms, we shall find patterns which whether resembling the past or differing from it help dictate the solutions and remedies to be attempted.

Perhaps the biggest single error for those of us genuinely concerned about humanitarian remedies for personal and social problems caused by peoples displaced from their homes, however their situation is defined, would be to assume and act as if the present-day predicament were an organically single global problem for which a single global remedy can somehow be found.

We have to ask ourselves firmly—bearing in mind that no government or international organization or private entity has unlimited resources—what groups of people or categories of circumstance deserve priority and action according to our respective values and affinities and which can and will be handled by others. It is, I submit, specific affinities—be they personal, ethnic, religious, national, ideological or political—which have virtually always motivated concern and action whether by individuals, voluntary groups of governments singly or through some international framework.

I have dwelt at some length on new initiatives taken by ICM and anticipated by my organization for the future. ICM does stand apart from national, racial, religious or political differences and is uniquely capable in its operational capacity to undertake specific activities related to orderly departure, resettlement, and assisted return or repatriation. But my aim has been to lay out for you in a less parochial fashion some basic principles and criteria which must be kept in mind in developing new international initiatives in general in responding to refugees. The remedial machinery to be used will depend on each circumstance. I welcome the reactions and comments from this assembly to develop these ideas further.

Thank you.●

THE DISNEY CHANNEL: A NEW ERA IN CABLE BROADCASTING

● Mr. D'AMATO. Mr. President, I wish to call to your attention the latest creative endeavor designed to bring happiness and enchantment to the American public. Debuting in 43 of our 50 States on Monday, April 18, the Disney Channel continues the Disney tradition of quality and responsible entertainment, represented by definitive, alternative programing for the family.

Since 1923, the imagination of Walter Elias Disney has captivated the world through the heart and soul of Mickey Mouse. Walt Disney believed in quality, family entertainment and believed the American public embraced the virtues upon which our Nation was founded. Times have changed, and Walt Disney Productions has grown. But, the Disney name, which has become synonymous throughout six decades with happiness and laughter, has become a pioneer in premium cable television by providing educational programing and positive ethical values for all family members.

Whether through such animated classic features as "Peter Pan," "Snow White and the Seven Dwarfs," and "Pinocchio," or theme wonderlands like Disneyland, Walt Disney World, and the extraordinary EPCOT Center, Disney whisks youngsters ages 8 through 80 on a journey into the realm of imagination. The American family has consistently come to Disney to "wish upon a star" and experience a "believable world of dreams." Now, through the advent of cable television technology, Disney is offering 16 hours daily of original dramatic and comedy series, interactive programing techniques for parents and preschoolers, magazine-format shows brimming with positive news stories, wildlife and nature series, miniseries, and the vast Disney library of quality theatrical and television product.

From their first venture into the early medium of television in 1950 to their entry into the burgeoning cable television market, I commend the Disney organization for maintaining a policy of public responsibility and unparalled excellence in family entertainment.

I ask that the remarks delivered by James P. Jimirro, president of the Disney Channel, be printed in the RECORD.

The remarks follow:

TELEVISION PIONEERING CONTINUES WITH THE DISNEY CHANNEL

Disney and television! It's hard to imagine one without the other. For twenty-nine consecutive seasons, Disney's weekly presence on network television has been a staple of family viewing. Aside from having the longest running primetime television series, Disney contributed greatly to the growth of the medium by introducing the first anthology; the first mini-series; and by pioneering educational programming and the use of color. With the debut of The Disney Channel, an exciting new pay TV service for the entire family, the tradition of innovation continues.

A wide variety of new programming for all ages as well as motion pictures and television shows from the Disney library will be on view sixteen hours a day through The Disney Channel. Treasures from the archives include cartoons (many not seen in more than thirty years) and nostalgic television favorites ("The Mickey Mouse Club," "Davy Crockett," and "Zorro"). New shows provide quality family entertainment and opportunities for participatory viewing by way of The Disney Channel Magazine.

Walt Disney's long association with television began in 1950. While other motion picture producers and studios regarded the infant medium as an enemy, Disney considered it an ally. On December 25, 1950, NBC aired "One Hour In Wonderland," a holiday special featuring favorite Disney characters and a scene from the forthcoming "Alice In Wonderland" animated feature. The following year, CBS presented a sequel entitled "The Walt Disney Christmas Show."

On October 27, 1954, Disney entered television on a regular weekly basis with the ABC anthology program "Disneyland." Using the same high standards applied to film production, the studio created product specifically for television with story themes structured around Frontierland, Adventureland, Fantasyland and Tomorrowland. In its first year "Disneyland" won an Emmy Award for "Best Variety Series for 1954." Two additional Emmys went to "Operation Underseas," a promotional episode for "20,000 Leagues Under the Sea."

In December 1954, Disney introduced the now common miniseries concept by way of a three-part dramatization of the life of frontiersman "Davy Crockett." Ninety million viewers tuned in to the first airing and a new hero was created overnight.

Disney's involvement with TV education increased with the premiere of "The Mickey Mouse Club" in 1955. This enormously popular daily variety show featured newsreels, vocational studies, and animated lectures by Jiminy Cricket on safety, biology and wildlife.

Disney's finest educational effort for TV was a series of programs featuring live action and animation on space travel and exploration, directed by veteran animator Ward Kimball. These "Tomorrowland" shows combined education and entertainment in a new and sophisticated manner. Their enthusiastic acceptance encouraged the government's own ambitious space program.

In 1957, a third Disney-produced series called "Zorro" made its debut. This popular series departed from the conventional by experimenting with longer forms of narrative stretched over several episodes.

The Disney anthology series changed names and networks from:

September 12, 1958: "Walt Disney Presents" (ABC).

September 24, 1961: "Walt Disney's Wonderful World of Color" (NBC).

September 14, 1969: "The Wonderful World of Disney" (NBC).

September 9, 1979: "Disney's Wonderful World" (NBC).

September 26, 1981: "Walt Disney" (CBS).

The move to NBC in 1961 brought with it a changeover to color broadcasting. Disney's expertise and ability to use color to portray character and emotion added greatly to the show's appeal and hastened the acceptance of color TV as the new standard. This also allowed such lavish programming as "Hans Brinker," "The Prince and the Pauper," and "The Magnificent Rebel."

Although 1983 signals the end of the "Walt Disney" anthology series, it heralds a new frontier for Walt Disney Productions. The Disney Channel is unique—and much of its exclusivity relates to our three basic programming elements: selections from the Disney library of films and television productions; acquired films of a quality consistent with the Disney image; and, most important, new programs produced especially for the Channel.

Initially, the most familiar programs on the Channel will be those derived from the Disney library. Over the years, we will draw on over 160 feature films from "Tron" to "Dumbo" to "Mary Poppins" to "Treasure Island." The vast majority of these films are timeless in nature and will be just as entertaining in 1990 as they were in 1980 or 1960.

Over the decades, the Studio has produced almost 450 cartoon shorts. Many have won Academy Awards. All feature full Disney animation and the world's most beloved characters.

Disney also has over 200 hours of television productions, never syndicated and rarely seen on the networks. There are 561 episodes of "The Mickey Mouse Club" and 78 episodes of "Zorro." And, there are educational classics like "Donald in Mathmagicland" and truelife adventures like "White Wilderness."

In sum, Disney has nearly thirty years of television shows and sixty years of film production to draw from for the Channel. While the library does provide a solid anchor for our service, it accounts for less than 50 percent of our program hours.

The evolving major program element is original production for The Disney Channel. Our April/May schedule calls for twelve new series, the most ambitious opening production slate of any of the pay television services. Let me tell you about just some of these exciting shows.

"YOU AND ME, KID"

We're extremely excited about this show, because it really showcases what The Disney Channel is all about: interaction between our viewers and our television shows.

We believe that family television should bring families closer together . . . and "You and Me, Kid" is a perfect example of the kind of programming that's going to distinguish The Disney Channel from traditional network fare.

"DISNEY STUDIO SHOWCASE"

This show provides a television forum for the creative talents to the Disney Feature Film Division. It's a weekly, hour show . . . and we're keeping it experimental, unpredictable, and highly inventive. We'll be using both new and established writers and directors, one such example is John Culhane. And we'll be offering filmmakers an opportunity to use experimental production techniques to develop shows that are fresh, original and entertaining for viewers of all ages.

Some of the shows in the works now are "Where Your Money Goes," a look at how the money we put in video games is dispensed, and a documentary look at the never-before-filmed Ringling Brothers, Barnum & Bailey's College of the Clowns.

"WELCOME TO POOH CORNER"

Children love Winnie the Pooh, to be sure. But even the little ones are in for a big surprise on this one. Lifesize electronically-controlled puppets have been invented by the Disney magicians for this show . . . and they are something to behold. This series for pre-schoolers takes a gentle look at themes close to the heart of all young children . . . from making friends to being truthful to building self-confidence.

And there's a rousing sing-along and an outstanding musical score to accompany every show. We're sure preschoolers won't want to miss a single episode in this colorful daily half-hour storybook adventure.

"THE SCHEME OF THINGS"

There's not a person alive who doesn't want to know the whys and hows of everything in his or her world. Jules Power, distinguished producer of such award-winning children's shows as "Discovery" and "Watch Mr. Wizard," has outdone himself with this daily excursion into the astounding world around us. This series is lively, truly educational and wildly entertaining.

"WISH UPON A STAR"

All young people watching "Wish Upon a Star" will be invited to write in with the hopes of having their most secret, most fervent, most longed-for wishes come true.

Of course, it will be highly entertaining to watch a young boy go through basic training with the marines, or a twelve-year-old girl fulfill her dream to be a fashion model, or become head chef at Los Angeles' trendiest restaurant, but this show will work its magic on other levels too: every youngster watching at home will know that if it happened to the kid on TV, well, it could happen to them as well.

And it's this added dimension—the notion that anything's possible if you want it enough—that's going to strike such a resounding emotional chord in "Wish Upon A Star's" young viewers.

"NEW! ANIMAL WORLD"

Through extraordinary animal footage and a provocative, fun-filled quiz at the end of each show, this wonderful Bill Burrud production is aimed at changing the way most of us perceive nature.

Every segment will be a constant reminder that we must learn not only to get along with each other, but with the other species as well . . . and the questions at the end will stimulate some thoughtful moments of sharing for the entire family.

"EPCOT MAGAZINE"

We wanted to create a show that reflected the electricity and the energy, the innovation and the excitement of our new Epcot Center. "Epcot Magazine" will do just that—by utilizing the endless potential and breathtaking resources of our project. With Epcot Center pavilions for a backdrop, the show will be a curious, fascinating mix of segments that often focus on how the new technology will affect our life-styles, homes and attitudes in the future.

There will be international gourmet cooking lessons from our World Showcase Restaurants, interviews with visiting celebrities and even interactive personality tests designed and administered by Dr. Joyce Brothers.

This series will appear in three formats throughout the week—a one-hour midday edition, a half-hour evening edition, and a one-hour weekend edition.

"EPCOT AMERICA! AMERICA!"

"Epcot America! America!" is a magazine show that takes a look at the lifestyles, trends, opinions, people, and ideas that make up today's America. This show includes on-the-road visits with people who have become living legends, results of Epcot Future Choice Polls reflecting what America is thinking today, person-on-the-street interviews and more. "Epcot America! America!" will highlight the best of our country from its smallest delights to its most important issues.

"MOUSETERPIECE THEATER"

Walt Disney handed the world a legacy of unparalled cartoon gems. These little eight-minute comedy masterpieces showcase some of the best storytelling, most awesome animation and creative gag sequences in the history of motion pictures.

George Plimpton hosts this affectionate send-up of the popular BBC series, "Masterpiece Theatre," from his seat in an overstuffed armchair in a dignified den. Just about everybody who's ever been touched by the art of Disney animation will enjoy this nightly roster of classic cartoons and the fascinating anecdotes about how they were created.

"MOUSERCISE"

First thing in the morning, there's a lively aerobics class especially designed to keep kids in shape and to motivate them to want that for themselves.

Parents will be encouraged to join their youngsters in working out at the Mickey Mouse Health Club. And we feel that by getting parents and their children to share daily physical exercise, we'll be able to open up all kinds of possibilities in developing a positive, health-conscious environment within our viewers' homes.

Of course, we have several other series in development, but these I've just mentioned are those you will see during our preview months.

As we launch The Disney Channel, we become the first major differentiated pay service. It carries the most popular name in family entertainment, but above all, it carries the tradition of excellence and quality long associated with Walt Disney.

We are proud of our commitment to bringing happiness and joy to the American public, and look forward to bringing yet another generation the magic and inspiration of Mickey and his friends in the years ahead.●

PROBLEMS OF CONTINUOUS MODIFICATION OF THE INTERNAL REVENUE CODE

● Mr. ARMSTRONG. Mr. President, recently the Colorado Society of Public Accountants pointed out in forceful terms serious unsettling effects on the business economy caused by continual tax law changes. The Colorado Society's Federal Tax Committee prepared a very thoughtful background paper which I commend to the attention of all of my colleagues.

The paper follows:

To: Colorado Members of Congress.
From: Colorado Society of CPA's Federal Taxation Committee.
Subject: Problems of continuous modification of the Internal Revenue Code.

BACKGROUND

During the thirty-year period from 1939 to 1969, tax legislation was essentially limited to the Internal Revenue Code of 1939, the Internal Revenue Code of 1954, and the Tax Reform Act of 1969, with no other major or significant pieces of legislation. The past decade has seen a tremendous increase in tax legislation with passage of:

The Employment Retirement Income and Security Act of 1974.

The Tax Reduction Act of 1975.

The Tax Reform Act of 1976.

The Tax Reduction and Simplification Act of 1977.

The Revenue Act of 1978.

The Energy Act of 1978.

The Crude Oil Windfall Profits Tax Act of 1980.

The Economic Recovery Tax Act of 1981.

The Tax Equity and Fiscal Responsibility Act of 1982.

In addition, many technical corrections acts and other less significant tax legislation have been enacted during this same period.

This volume of legislation has created an enormous backlog in the regulation writing process, as there were approximately 450 projects waiting completion at the Department of Treasury as of December 31, 1982. The regulation writing process is further slowed by the lack of a group specifically assigned to and engaged only in regulation writing within the Treasury Department.

The legislation as well as its attendant problems of implementation has resulted from attempts to cope with the changing budgetary, political and social goals of the 1970's and 1980's. However, the continuing tax law changes have an unsettling effect on today's business environment and foster the perception that the existing tax system lacks stability and fairness. Many taxpayers find it increasingly difficult to engage in long-range planning because the associated tax consequences are unpredictable. Because of the increasing technical complexities created by constant revisions of the Internal Revenue Code, professional tax advisors find it more difficult to provide tax advice in a form which can be understood and used by their clients in connection with their financial and business planning. A few recent examples of this are:

The Accelerated Cost Recovery System (ACRS) enacted by ERTA was signed into law in August, 1981, yet was effective for assets placed in service after December 31, 1980. Many fiscal year taxpayers had closed their books, updated their property and equipment ledgers and filed their Federal income tax returns. The passage of ERTA created the need for these taxpayers to amend their income tax returns, thereby incurring additional expense as well as taking time away from their daily operations.

The recently enacted Tax Equity and Fiscal Responsibility Act of 1982 contains 23 different effective dates, 14 of which are effective for periods either beginning or ending before the date of enactment.

As a result of the complexity of present law and the interaction of various code sections, technical corrections acts are required almost immediately after new legislation is passed to correct for unintended results. For example, the use of fiscal years by some newly formed "S" Corporations had to be eliminated from the Subchapter S Revision Act of 1982 by the most recent Technical Corrections Act.

Many have voiced the opinion that the present system be abolished in favor of a "flat rate" tax. The "flat rate" tax proposal is to some extent a result of the increased complexity of present tax law and the belief that the assessment of income taxes should be simpler. A flat rate tax would basically put all taxpayers in the same tax bracket. In its purest form, no deductions or credits would be allowed and all income would be subject to the same tax rate. It would be equivalent to a national sales tax that probably could be filed on a "postcard" return. The original United States income tax law enacted in 1913 was basically a flat rate tax system.

Proposals for the flat rate tax have varied from its purest form to modified versions which include personal exemptions, deductions for such items as charitable contributions and mortgage interest, and surtax charges. There has been a wide range of tax rates and surtax charges proposed, including rates somewhere between 10 and 20 percent and proposals to structure the flat rate tax as an alternative method of tax computation.

RECOMMENDATIONS

On the problem of adverse effects to taxpayers resulting from continuous modification of the Internal Revenue Code, the Federal Taxation Committee of the Colorado Society of Certified Public Accountants reached the following conclusions:

The process of formulation of proposed legislation amending the Internal Revenue Code should be modified, as necessary, to incorporate the following:

(a) Procedures be established whereby proponents of amendments to the Internal Revenue Code (whose principal purpose is to promote a particular social objective, or respond to a political interest) be required to demonstrate that other alternatives to amending the Code have been considered and provide an explanation in the form of a report to Congress of why such other alternatives are not appropriate to accomplish the objectives of the proposed law changes;

(b) Proponents of amendments to the Internal Revenue Code be required to show the contribution of the proposed changes to simplification of the Code, simplification of related compliance (i.e. tax return reporting) and enforcement; and

(c) Establish requirements that Committee Reports which accompany new tax legislation reflect the deliberations which have occurred on the matters outlined in (a) and (b).

If a "flat rate tax" system is considered, it should first be the subject of extensive study on whether this system will accomplish its objective of tax simplification, and whether a satisfactory definition of "income" subject to a "flat rate tax" can be developed.

If additional Federal revenues are required, they be raised by adjusting present tax rates. Adjusting tax rates versus making technical changes to the Internal Revenue Code as means of raising additional revenue will contribute to increased confidence of taxpayers that their current financial decisions will have predictable future tax consequences.

In its discussions on regulation writing by the Treasury Department, the committee reached the following recommendation:

The Department of Treasury establish a permanent group responsible for promulgating regulations. This group should not be available for other activities. In addition to Treasury Department personnel, the group should comprise representatives of industries or taxpayers affected by the Regulations, at the earliest possible stage in the process of their formulation.●

THE COMPOUND 1080 FIASCO

● Mr. WALLOP. Mr. President, recently the Environmental Protection Agency revoked a special permit which allowed the U.S. Fish and Wildlife Service to use compound 1080 (sodium fluoroacetate) for experimental purposes. True, this decision will have little actual effect. The permit allowed the USFWS to use small doses of 1080. Use would be limited to a combined total area of 150 acres in a three-State area. What concerns me is that while EPA's action, by itself, is of little immediate significance, it is part of the larger controversy over the use of compound 1080.

In 1972, EPA totally banned the use of 1080, a decision which was based, not on the facts of the case, but rather on the emotional pressure which was brought to bear by a small minority which successfully obscured the scientific evidence of the issue. This ban is still in effect.

In March 1982, formal administrative judicial hearings were begun to review this ban in light of new information which is now available on compound 1080. During these hearings, testimony was heard and evidence was presented by both opponents and proponents of 1080. Judge Spencer T. Nissen examined all the facts and found that substantial new evidence had become available since EPA issued its initial ban in 1972. Last October, on the basis of this information, Judge Nissen rendered what I consider to be a correct decision: Compound 1080 can be used to control certain predators, if certain reasonable precautions are taken. We in the West, as well as many others, were heartened by Judge Nissen's courage, and the thoughtful and impartial review of the issue.

I would hope that as soon as Mr. William D. Ruckelshaus is confirmed by the Senate, he will make it a priority to review this decision and to expeditiously affirm Judge Nissen's recommendation.

I would highly recommend to Mr. Ruckelshaus and those of my colleagues desiring to gain a new understanding of the issue, the following article by Dr. Walter E. Howard, professor and vertebrate ecologist at the University of California at Davis who has devoted years to researching and writing about the subject of 1080. His article is not steeped in the emotionalism which surrounds this issue. Rather, it is a persuasive, well-documented research piece which describes and analyzes the issues before reaching a conclusion.

Mr. President, I ask that Dr. Howard's article be printed in the RECORD.

The article follows:

THE COYOTE-1080 CONSPIRACY: AN ABORTED ATTEMPT TO DRIVE LIVESTOCK OFF FEDERAL LANDS

(By Walter E. Howard)

Compound 1080, a toxicant that was used for many years to poison coyotes, was banned for this purpose by the Environmental Protection Agency (EPA) in 1973, and this is one example where the press failed to investigate government irregularities that many people reported at that time. The great coyote-1080 conspiracy that was perpetrated during the "Coyotegate Years" of 1971-73 still continues today. Perhaps the press was too involved in Watergate matters to take notice of the conspiracy. Anyway, it has taken an extensive PH. D. thesis (Angus A. MacIntyre, "The politics of nonincremental domestic change: major reform in federal pesticide and predator control policy," University of California, Davis, 876 pp., 1982) to fully document how this conspiracy was orchestrated primarily by one individual in the President's Council on Environmental Quality (CEQ). His principal collaborator was the assistant secretary of the Department of the Interior (USDI). This well-documented and scholarly thesis provides fascinating reading on how the Environmental Protection Agency (EPA) and President Nixon also were tricked into assisting in the conspiracy.

I think the main reason EPA foolishly joined in the conspiracy was, as biology officials in EPA told me (3/21/73), they reasoned that since the U.S. could import all the livestock products needed from Argentina, Australia and New Zealand, why protect them from coyotes on federal lands in the West? There was a movement at that time to remove livestock from all government lands. They overlooked or didn't care, that sheep and cattle are also grazed on private lands, that coyotes do not recognize property boundaries, and that these lands have been designated by Congress for multiple use, including grazing.

Many innocent people and organizations, including the White House staff, EPA, and Congressional leaders, became entrapped in the conspiracy, and the general public and scientific community were equally fooled by the hoax that Compound 1080 was such a terrible poison. Even though EPA's hearings (FIFRA Docket No. 502) held March 30 to August 6, 1982 (which probably cost several million dollars) clearly proved that the earlier claims against 1080 were not true, the politics have not ended. It is going to be interesting to see if EPA can make a clean break from the conspiracy in its 1983 decisions.

The central question at issue is do coyotes have to be controlled? All sides now seem to agree in the affirmative. Next, are poisons still necessary? For those who have studied the matter, the answer, unfortunately, is clearly yes. There are many coyotes that cannot be controlled by any other means. Then, if poisons are still required, is 1080 the best toxicant to use, except for cyanide in the M-44 devices? The following is an attempt to clear the air on these matters.

As a faculty member of the University of California and a highly concerned resource person, environmentalist, and conservationist, I have been researching 1080 (sodium monofluoroacetate) for the control of rodents for 35 years and the control of coyotes for a decade; but, of course, I speak for myself and not for the University of California.

As my more than 300 research papers and reports will testify, my research goal, i.e., the applied aspects of my research, is to develop the most selective, safest, efficacious, humane, and environmentally desirable way of controlling wildlife that are pests to homeowners, farmers, ranchers and foresters, and I consider poisons a last resort. It is a pity that we can't all work together to benefit the environment by developing better alternative control methods. I take great pride in having probably saved more nontarget wildlife in nature than most environmental organizations, for they must create money-soliciting bonfires directed toward "anti" control legislation rather than seek better alternative solutions, which is the constructive approach that is needed.

The general public has been hoodwinked, bamboozled, duped, tricked, deluded or what have you, especially since the early 1970s, into thinking 1080, when used to control coyotes, then kills everything. When did all this start? Compound 1080 was first field tested in 1945 at the U.S. Forest Service's San Joaquin Experimental Range in California. It proved to be a highly effective rodenticide to use against the California ground squirrel to increase food production during World War II. However, since it was also selective for dogs, an obvious problem existed. Too many people want to poison their neighbor's dog. Also, no one wanted 1080 to get the bad name thallium sulfate had acquired in its effect on dogs. But since EPA did not exist at that time, it looked like it was not going to be an easy matter to get 1080 restricted so that only trained officials could use it. Therefore, the best way to achieve this restriction seemed to be to make 1080 look so dangerous that untrained people would not want to use it (personal communication with the five government and state officials who conducted the tests). The technique worked, and everyone was sufficiently frightened so that the only officials who wanted to use 1080 for rodent or predator control for many years were those who had no other toxicant available that would do the job so effectively and with so few environmental problems.

Later, when individuals and organizations began to object to the killing of any animal, it was only natural that they chose 1080 as a logical target, since the Fish and Wildlife Service (FWS) of USDI had already frightened most of its own personnel about 1080. And for the last 30 years or so, Interior has not permitted their own animal control research branch, the Denver Wildlife Research Center (DWRC), to carry out research on how to use 1080 for rodent and predator control in a more efficacious and safe way. The only research on 1080 that Interior has permitted is its use in the "toxic collar," a device placed on sheep to control coyotes. The reason for this is that the assistant secretary of USDI responsible for animal control is also in charge of National Parks, a hopeless conflict of interest.

The controversy about 1080 continued to smolder, with the Washington office of USDI never permitting the DWRC to keep the public properly informed about this toxicant, so it became a natural target for "anti" groups to exploit when the ecology movement started with the establishment of the National Environmental Protection Act of 1969 (NEPA), signed in 1970.

Actually in the late '60s and early '70s, few people really understood the true ecology of coyote control with 1080, and most of those who did were in the FWS and not allowed to speak out. In the late '60s and early '70s, it became politically possible for a new breed of environmental lawyers to maneuver public view—with intrigue and tacit actions from some officials in CEQ, USDI, and EPA—so that the public, including most biologists and conservationists were convinced that 1080 was an uncontrollable control, an indiscriminate toxicant that concentrates in food chains, causes mass secondary and direct slaughtering of nontarget species, and that it is one of the most toxic chemicals known to man, thus posing a serious human hazard. None of this is true.

The primary orchestration of this conspiracy occurred in CEQ (MacIntyre 1982). It was so successful that without justification Administrator William D. Ruckelshaus banned 1080, claiming that imminent hazards were so great there was not time to hold a public hearing which, of course, would not have supported CEQ's claims. Why this sudden urgency? Compound 1080 had been in used for about 27 years. Compound 1080 and other predacides were banned on the basis of two emotional petitions by environmental groups playing the advocacy game, but these petitions contained no objective evidence against 1080. EPA stated the decision was also based on recommendations of the Cain Report (Predator Control—1971. S. A. Cain, et al., Report to CEQ and USDI, 1972, 207 pp.). It is now known that the 15 "Recommendations" in the Cain Report were not written or approved by the distinguished authors of the report. Also, the National Academy of Sciences—National Research Council withdrew joint sponsorship of the Cain Report study because the key individual in CEQ insisted on selecting the participants.

By EPA regulations it was impossible to appeal the decision after 30 days unless overwhelming new information could be developed. Most of us did not know about the appeal limitations, and so little 1080 was used in predator control that the manufacturers of 1080 were not about to pay the expenses of the appeal process. The Animal Damage Control (ADC) people in USDI were muzzled by their assistant secretary boss in Washington.

Let's take a look at the "evidence" EPA used to justify its highly irregular and indiscreet cancellation of all registrations of poisons (predacides) for the control of coyotes and, in particular, 1080. EPA was the final conspirator, for its cancellation of 1080 was clearly unjust and done without adequate or proper analysis and by not insisting that the USDI assistant secretary release the environmental impact statement concerning 1080 and coyote control. All the incriminating evidence against 1080 used by the EPA Administrator has proved to have been false or based only on hearsay without direct evidence.

It was claimed that 1080 had no antidote. This is true. Almost all acute vertebrate toxicants are without good antidotes, yet dogs poisoned with 1080 are frequently successfully treated symptomatically by veterinarians. Hazard—not toxicity—is the important consideration when evaluating environmental consequences of poisons. Compound 1080 is not the most toxic chemical known. Some of the most toxic pesticides, such as warfarin—which in the pure form is as or more toxic than 1080—may be actually one of the safest rodenticides as used. Since 1080 is used in such small amounts, after the powder is dissolved in water and diluted, its hazard, especially in baits, is then even less than many other pesticides used to control vertebrate pests.

Many claim, but do not document, that 1080 is an indiscriminate toxicant that magnifies or concentrates in the environment like DDT, and that its use has slaughtered large numbers of nontarget species and endangered species by either direct or secondary poisoning. It is possible to cause secondary poisoning with many toxicants, but there is no bona fide evidence of endangered species being killed by 1080, yet congressmen were falsely told by personnel from CEQ and USDI that 1080 had even exterminated a number of species in the U.S. (personal communication, Congressman John Dingell, 3/21/73).

Depending on how 1080 was used, there have been some other carnivores (but not populations) killed from eating 1080 bait. When all civilians in an Asian country had to use 1080 each year in rat campaigns, many dogs and cats were killed as a result of inexperienced homeowners using 1080. The hazard of 1080, when used as a rodenticide or predacide, is minor with birds, as they are much more resistant to 1080 than the target mammals. No endangered bald eagles have been killed by 1080, but eagles have been killed with thallium sulfate. It is practically impossible for another animal to be killed by feeding on the carcass of a coyote killed with 1080 unless it is another coyote cannibalizing it. In the proposed uses of 1080 it is very unlikely that any coyote could ingest so much 1080 that it would vomit, with the vomitus then being hazardous to another animal that might eat it.

The claim was made that continued use of 1080 would result in irremediable and incorrectable losses, particularly of endangered species. No evidence was offered as to how this might happen. Of course, with high enough concentrations of 1080, it is possible to kill anything. The point is that, as used for coyote control, this claim cannot be substantiated. EPA's 1982 hearings exposed the falseness of the many charges against 1080.

Another statement against 1080 was that its use "conferred only ill-defined and speculative benefits." In 1971 and 1972, many in USDI and CEQ were inferring that most coyotes would not kill sheep, claiming they were only scavengers of sheep that had died from other causes. It has now been clearly shown that the coyote has put many livestock operators out of business and that coyote depredations are a serious economic problem (estimated at costing California alone nearly $75 million a year).

Livestock operators favor the protection of wildlife but they cannot afford economic ruin of their livelihood by wild animals. They are just like the homeowners who do not tolerate wildlife living in their attics and garages or destroying their landscaping and gardens. If given free rein, native mammals would completely ruin our city parks and home gardens, because they are largely composed of exotic plants that have not evolved so as to coexist with many of our native mammals.

Many different methods of coyote control are needed because of the great diversity in coyotes and in the physical environment. The ecology of coyote depredations to livestock is highly variable in different situations. Control methods that do offer varying degrees of predator protection include herders, improved husbandry techniques, guard dogs, llamas, repellants, frightening devices, aversive conditioning with lithium chloride or other agents, electric fencing, gassing pups in dens, trapping, shooting, shooting from the ground or aircraft, hunting with dogs, snaring, and M-44s that eject cyanide. So far, at least in many parts of the west, no single or combination of these methods have been able to adequately protect livestock from coyotes (Dale A. Wade, "Impact, incidence, and control of predation on livestock in the United States, with particular reference to predation by coyotes." Council for Agricultural Science and Technology (CAST), Special Publ. 10, 20 pp. 1982). It is in these situations where 1080 is still biologically the most desirable approach because it can be used without adversely affecting the environment or creating much hazard to man and other nontarget species.

Dogs are the principal nontarget hazard that must be considered when using 1080 to control coyotes, but other carnivores such as badgers, skunks, and foxes, are vulnerable to 1080, so care must be exercised Nontarget animals are largely protected by the way baits are formulated, lure used, season, and the manner in which baits are exposed in the field.

Why are coyotes a problem? They are fruitful and multiply, like to eat, and evolved as a predator that likes to attack fleeing prey, like a running sheep. Coyotes can cohabit—live together—in some areas with large numbers of people, unlike species such as grizzly bears, wolves, or herds of bison. One reason the coyote is often a pest is because it can adapt so well to these altered environments, even living as a commensal (living with man) predator and feeding on garbage, cats and small dogs.

During the last century, coyotes have greatly increased in total numbers and extended their geographic range from just western United States to all contiguous 48 states, north through Canada to Alaska, and south through Mexico and Central America to Costa Rica. The diet of the coyote is highly variable and includes rodents, rabbits, deer, berries, melons, etc.; however, many coyotes are also very effective predators of man's possessions. They often also readily kill cats, dogs, sheep, goats, poultry, cattle, etc.

The way coyotes attack the throat of sheep and cause them to suffocate is an innate, not learned, behavior. Coyotes have evolved as a predator that naturally attacks living prey. Coyotes kill and eat livestock in a very inhumane way, as do most predators, and sometimes get into a killing frenzy and kill far beyond their needs (surplus killing). Research has shown that it takes coyotes an average of 13 minutes, depending upon the amount of experience, to kill sheep after they attack them in the throat, and that they often eat the entrails before the sheep is dead. It is easy to verify coyote kills of sheep by characteristic canine puncture wounds and evidence of hemorrhaging present on the neck of the dead sheep. Thus, claims that ranchers cannot usually distinguish between coyote predation and the scavenging of a dead carcass are not true. Most coyotes cannot be successfully conditioned (aversive conditioning) so they will not kill sheep (or other species) by using lithium chloride or other aversive agents on a bait.

Since coyotes are high up on the food-web pyramid, they are not very significant ecologically. The primary producers and first layer of consumers are the important key to adequate recycling of resources in the environment. The convictions homeowners and livestock operators have regarding the beneficial or detrimental value of coyotes, and other wild animals, seem to be determined by the manner in which these animals affect them.

If you do not agree that poisons are needed to control coyotes, there is no point in discussing 1080 (sodium monofluoroacetate). But if you, like me, recognize that some coyotes still have to be poisoned, then let's constructively analyze the pros and cons of using 1080.

When Compound 1080 is ingested by coyotes, it is primarily absorbed through the gastrointestinal tract. The consumed monofluoroacetate, that is not eliminated in urine, is converted into fluorocitrate, the lethal synthesis that inhibits citrate metabolism. Some fluorocitrate is also eliminated in urine. That which remains in the body ultimately blocks the citric acid or Krebs cycle and can cause death. Applied vertebrate ecologists classify 1080 as a slow-acting toxicant in contrast to strychnine and especially cyanide.

In coyotes and other carnivores death from 1080 typically results from central nervous system disorders, with the animal presumably being unconscious prior to death since they often run blindly into walls and fences. Extreme pain has never been reported as a symptom in the many human suicides in Asia from drinking 1080 rat poison, but pain in animals, unfortunately, cannot be measured. Just because 1080 is slow in taking effect does not mean it is less humane than faster-acting poisons. And, of course, in nature, no animal has a nice death, including the sheep disemboweled by coyotes.

Both 1080 and fluorocitrate are highly stable but decompose fairly rapidly in the soil. There are no really good antidotes for 1080 or any of the poisons used to control wildlife, except for anticoagulant rodenticides where vitamin K1 is effective. However, since 1080 is slow acting, veterinarians have been able to save many dogs poisoned with 1080 with symptomatic treatment.

No one knowledgeable about 1080 denies that if it is used carelessly, 1080 can become lethal to all species, but there are no data that show that the proposed future uses of 1080 to control coyotes pose any significant effects on the environment, other than removing individual and highly localized populations of troublesome coyotes. There is no field evidence indicating that animals which consume a sublethal dose of 1080 may suffer deleterious effects such as occurred with thallium sulfate, which is now banned.

Many of the charges about the killing of nontarget species when poisoning coyotes with 1080 are biological impossibilities. Some people fail to recognize that the very principles of natural survival in wildlife populations, which enable them to escape the numerous dangers they constantly encounter, would make even their intentional control very difficult. Even if the objective was to poison all these other species, it couldn't be done. There are no recent data whatsoever the incriminating current animal damage methodologies of causing mass slaughtering of beneficial wildlife. Improper live-trapping and other research problems have probably killed more rare or endangered wildlife than the combination of all recent animal damage control practices.

If a chemical is to be used for coyote control, I contend that 1080 is by far the best chemical to use from the point of view of the welfare of the environment and safety. To oppose the consideration of new registrations of 1080, with adequate use restrictions that will be required before registration is granted, means you may be encouraging increased use of less-selective poisons to protect livestock. If anyone has reliable evidence of significant secondary poisoning by 1080, please share it with me. Also, if you know of a poison that is more desirable than 1080 for controlling coyotes, I would sure like to learn about it. Better yet, do you know of an effective nonlethal approach that has not been tested that could make poisons unnecessary?●

THE BRADLEY FIGHTING VEHICLE

● Mr. **WILSON**. Mr. President, recently the California magazine wrote an article critical of the Army's new Bradley fighting vehicle. That article does an injustice to the American serviceman, who may be called upon to fight in the Bradley, to the people of San Jose, Calif., involved in building the Bradley, and to the taxpayer who is being told that his money is being wasted.

I submit for the Record the following documents:

The California article entitled, "The $13 Billion Dud";

A letter from Senator John Tower to the publisher of California rebutting the article;

A letter from Hon. James R. Ambrose, Under Secretary of the Army, rebutting the article; and

A detailed point-by-point rebuttal to the article.

Mr. President, Senator Tower is right:

> The primary task that we in public office must pursue is to protect the national security of our Nation. If we are adequately prepared to defend our national interests, war may never come. If we are not adequately prepared—if we do not have systems that can fight and survive on the battlefield—we increase the likelihood that we will be sending our young men and women into battle with their hands tied behind them. We will repeat the lessons of the past where we traded American lives for time—time to produce the weapons systems that we needed, I do not want to send my children or my grandchildren to fight a dedicated, so-

phisticated enemy with less than the best that we can afford to produce.

The material follows:

U.S. Senate,
Committee on Armed Services,
Washington, D.C., March 2, 1983.
Mr. Ted Siff,
President, California Magazine,
Los Angeles, Calif.

Dear Mr. Siff: I welcome your invitation to respond to the article on the Bradley Fighting Vehicle contained in the February 1983 edition of California magazine. I trust you will give your readers the opportunity to read my response.

This article does a serious injustice to the American taxpayer. The author shows little regard for facts. He has chosen instead to weave a most incredible mosaic of innuendo, suggestion and outright errors in constructing an article to achieve a preconceived purpose. He shows little inclination to understand the need for, or their capabilities of the Bradley Fighting Vehicle. Let me cite just a few examples to demonstrate my point.

A. The Bradley is not primarily a troop carrier. It is a fighting vehicle designed to fight and survive on tomorrow's battlefield. In making comparisons with the M113 personnel carrier, the author demonstrates his fundamental lack of understanding of military systems.

B. The article charges that the Bradley Fighting Vehicle does not work and is plagued with mechanical problems. Seven production models of the Bradley are undergoing testing at Aberdeen Proving Ground, Maryland, and have completed nearly 25,000 test miles of 80% of the total planned test. The vehicle is exceeding reliability requirements in all major categories. The required standard is 240 miles between failures and to date, the Bradley is testing out at 386 miles between failures. In other words, the vehicle is exceeding its required standards by over 50%.

C. The author also portrays the Bradley as a vehicle that will risk the lives of soldiers. He alleges, "aluminum armor will help kill the soldiers it is supposed to protect." This is erroneous. The armor system of the Bradley is the spaced laminate type. It is comprised of two layers of high hardness steel separated by one inch and mounted approximately three inches outside the aluminum hull structure, which itself is one inch thick aluminum armor plate. The Bradley armor system is designed to withstand approximately 90% of the weapons likely to be encountered in battle. However, there are some rounds in the enemy's inventory—including some High Energy Antitank rounds (HEAT)—that can penetrate the Bradley's armor; but the nature of the spaced laminate system (dissimilar materials separated by specific distances) significantly reduces the casualty producing effects of HEAT weapons compared to the single layer construction of the M113.

We will never be able to design armor that cannot be penetrated. In light of this reality, the challenge is to select and to provide an optimum level of armor protection which makes an appropriate contribution to the achievement of survivability. The Bradley Fighting Vehicle is designed to do that.

Let me give you a specific example. The RPG 7 is a relatively small caliber, shaped-charge weapon which, although able to penetrate most of the armor arrays on current armored vehicles including tanks, is not large enough to generate the catastrophic effects described by the author. Shaped charges of this approximate size have been fired at the Bradley Fighting Vehicle during field tests. The test results have shown that the additional casualty producing effect of aluminum as compared to steel armor is virtually non-existent. If the Bradley is struck by a very large, shaped-charge warhead, such as a wire-guided Soviet Sagger missile, all vehicle personnel would probably become casualties, regardless of any vaporific effects. This would happen in any armored vehicle, including main battle tanks. The fact is, pound for pound, the Bradley's combination steel and aluminum armor system provides the best all-around ballistic protection possible for a fighting vehicle.

D. The author claims that in Fiscal Year 1978 the Army shrugged off the complaints of the Senate Armed Services Committee—the Committee which I now chair. After the Fiscal Year 1978 hearings, another intensive re-evaluation of the specific requirements for the Fighting Vehicle and its design concepts was conducted and each point of congressional concern was explored in detail. We have reviewed this program in excruciating detail each year since then and the Bradley vehicle now being produced represents the best collective judgment of both the Congress and the Administration of what we should be producing. We will continue to refine and improve this vehicle in the future to take advantage of technological advances in materials and components.

The above are but a few examples of the most flagrant errors contained in the article. If the author had chosen to engage in responsible journalism and to accurately report all the facts, he would have discovered that this new vehicle was carefully designed to meet specific requirements and to provide maximum survivability.

It is unfortunate that articles such as the one published in your magazine have a tendency to take on a life of the their own, whether or not they have any basis in fact. Your magazine has contributed to the misleading information that is all too often accepted by the public as fact simply because it is published or broadcast on electronic media in the United States.

The primary task that we in public office must pursue is to protect the national security of our nation. If we are adequately prepared to defend our national interests, war may never come. If we are not adequately prepared—if we do not have systems that can fight and survive on the battlefield—we increase the likelihood that we will be sending our young men and women into battle with their hands tied behind them. We will repeat the lessons of the past where we traded American lives for time—time to produce the weapons systems that we needed. I do not want to send my children or my grandchildren to fight a dedicated, sophisticated enemy with less than the best that we can afford to produce.

Sincerely,

John Tower.

Department of the Army,
Office of the Under Secretary,
Washington, D.C.
Hon. John G. Tower,
Chairman, Committee on Armed Services, Senate, Washington, D.C.

Dear Mr. Chairman: The Bradley Fighting Vehicle came under attack in early February in the California magazine and more recently in the 7 March 1983 issue of Time. Since the press may again touch upon some of the issues in these articles, I believe you should be aware of the Army's thoughts on these subjects.

I have enclosed my personal views on some of the key issues raised in the California article and enclosed a staff paper which addresses the remaining issues.

Hopefully, this information on the Bradley will be helpful to you in understanding the Army's position on these critical issues.

Sincerely,

James R. Ambrose,
Under Secretary of the Army.

Enclosures.

Bradley Fighting Vehicle

The article "13 Billion Dud" seems to have these points which deserve serious comment:

(1). The Bradley Fighting Vehicle (BFV) is not suitable nor survivable for infantry use on today's battlefield (Illogically, it also argues that the M113 or AIFV, which are less survivable, should be used because they are cheaper).

(2). The Soviets and other countries are doubtful about the "future" of the infantry fighting vehicle.

(3). BFV is more expensive than it need be, and its cost is a result of massive overrun.

(4). The BFV is "too tall", "too fat", and "too small."

(5). The use of aluminum in the BFV is unsuitable because it "burns" or "explodes" and creates extra overpressure, intense light, and nitrogen oxide when struck by high-explosive antitank weapons.

(6). The Army and FMC (a) "have conducted . . . tests that show . . . the murderous, explosion amplifying effects of aluminum armor" and (b) ". . . they've continued not to find it out. They've tested the Bradley armor against machineguns . . . but they will not fire a shaped-charge into it . . ."!

The pertinent facts which describe BMP, M113, AIFV, and BFV are set forth in an attached table and fact sheet. Reference should be made to it for specific vehicle details.

Survivability and Tactics: The ideal battlefield fighting vehicle would be survivable against all weapons; light enough to be air transportable in most cargo airplanes; carry at least a squad of infantry; highly mobile; capable of attacking all enemy weapon systems, tanks, et al.; operate day or night in any environment, etc. Neither the US nor any other country knows how to achieve this ideal. All battlefield fighting vehicles attempt to balance these competing requirements to serve one or the other characteristic more effectively. The inevitable and universal result is a multiplicity of vehicle types ranging from very light armored personnel carriers with small caliber weapons to heavily armored, large caliber weapon main battle tanks. The equally inevitable result is a multiplicity of tactics and doctrine to utilize these varied vehicles, taking into account both advantages and disadvantages of the compromises that have gone into the particular vehicle.

It has been amply shown that tanks cannot survive alone on the modern battlefield, but that supporting infantry is required as well. The problem has been, and continues to be, how to get troops to the proper place. The tank has no room (but at times infantry have ridden on top at considerable peril from artillery fragments) to carry a squad. The older personnel carriers (such as the M113 or the BMP) have both limited survivability and offensive capability.

The BFV represents an effort to upgrade in a major way both survivability and offensive capability. But that does not mean that it has the characteristics of a main battle tank. It complements the tank. It has to be employed with due regard for both its purpose of bringing infantry near the tank battlefield with increased survivability and its purpose as a fighting vehicle adjacent to the tank battlefield and in other arenas where tanks are not present (including those situations where their weight precludes their presence). The multiple purposes of mechanized infantry include:

Mounted Tasks: Move under fire w/combined arms team, close with the enemy mounted, suppress while moving or stationary, destroy infantry, destroy lightly armored vehicles, destroy tanks, and negotiate water obstacles.

Dismounted Tasks: Observation, security, patrolling, fire and maneuver dismounted, destroy, capture personnel, operate in built-up areas, breach and emplace obstacles, destroy lightly armored vehicles, and destroy tanks.

The BFV is not intended for use in a side-by-side role with tanks. Rather, it will be employed to complement tank fires at long ranges, provide overwatch suppression of antiarmor systems, bring infantry forward and provide fire support to them in their dismounted role, and engage counterpart infantry fighting vehicles. The BFV needs mobility comparable to that of the tank to maintain its deployment capability in cover, overwatch, and defilade positions related to the tank battle—not to "run" with the tanks.

There is no doubt that the BFV can be defeated by being hit by antitank weapons. This statement, however, needs to be taken in the context of these considerations:

The BFV's long-range weapons and superior turret and fire control system give it a high probability of firing first and effectively.

Both the 7.62 machinegun and the 25mm cannon are very lethal defenses against the use of short-range antitank weapons (e.g., RPG-7).

Both the M1 and M2 have been specifically designed to operate together in the movement to contact. The M1, with its superior frontal armor and stabilized 105mm cannon, leads the formation. The M2, with its stabilized 25mm cannon, 7.62 machinegun, and infantry-operated firing port weapons, following behind to provide suppressive fire and security for the M1. The element operating in the overwatch position also plays an important role, and again, the M1 and M2 were specifically designed to accomplish this mission. The M2 can destroy and suppress enemy tanks, infantry fighting vehicles, and personnel at long ranges with its TOW missile system, 25mm cannon, and 7.62 machinegun, thus allowing the maneuver team to close with the enemy. The infantry normally dismounts from the M2 at the overwatch position to provide local security. The integrated sight unit on the M2 allows these fires from the overwatch position to be effective through enemy or friendly obscurants and at night.

Once the enemy has been located in the movement to contact, the actions of the maneuver element depend on the type and effectiveness of the enemy fire. If the enemy is not returning effective antiarmor fire, the team would continue to maneuver toward the enemy position while suppressing them with stabilized fire from the M1 105mm cannon, artillery, and air assets. The M2 allows the infantry for the first time to contribute to this suppressive fire with its stabilized 25mm cannon, 7.62 machinegun, and infantry firing ports. Should effective antiarmor fire not be encountered, the maneuver element would move over the objective. The M2 allows the infantry for the first time to operate under enemy or friendly overhead artillery bursts and smoke while effectively firing all weapons.

Should the maneuver element encounter effective antiarmor fire, it would find hull defilade positions to return suppressive fire. Neither the M1 nor the M2 can maneuver against effective antiarmor fire. If artillery and air assets could not destroy these antiarmor positions and they could not be bypassed, then the infantry would dismount from the M2 to destroy them. After they had used a covered and concealed route to close with and destroy these antiarmor positions, the infantry would rejoin the M1 and M2 maneuver element and continue mounted along the route.

A key consideration is dismounting the infantry at the proper time. There is no doubt that staying too long in the armored infantry vehicle and deploying the vehicle adjacent to tanks are errors that have been committed in recent warfare by all participants. The answer lies in proper training and tactics, not in abandoning the concept of armored infantry vehicles.

HISTORY AND FUTURE OF FIGHTING VEHICLES

Prior to and during the development of the BFV, considerable study was devoted to comparative analyses of BFVs, M113s, ITVs, and other foreign vehicles in a search for the most effective combination of design parameters, tactics, and cost. The conclusion reached was that increased protection (at a price of increased weight), capability to fight at night, and greatly increased firepower via a turret, 25mm cannon, and TOW missiles warranted the development and production of a new vehicle, the Bradley Fighting Vehicle. These analyses showed that the improvement in combat effectiveness ranged from 6 to 121 percent in 18 of 19 combat scenarios. Despite many critical attacks on this vehicle, every high-level study group reached the same conclusion—with it you win, without it you lose.

The Soviet Union assessment seems to parallel that of the US. Potential Warsaw Pact adversaries have Infantry Fighting Vehicles in great numbers. The BMP is the primary Russian fighting vehicle—they also have a variety of related or derivative vehicles in the BMP "family."

Our BFV is superior to the BMP in virtually every category. The BMP's "full squad" is a crew of 3 and 6 infantry in the back. The "antitank missile" (Sagger) has less range and is "flown" by hand versus our optically tracked, wire-guided TOW missile. The BMP's "light armor-piercing cannon" is a 73mm gun which is a low-muzzle-velocity, relatively short-range gun. The BFV 25mm gun is a high-performance (high-muzzle-velocity) weapon which can defeat the BMP at ranges far in excess of the BMP's 73mm gun. The BMP's "night sight" is actually an infrared searchlight which gives off the position of the BMP. The thermal imaging sight of our BFV gives off no telltale signature.

The "low sleek lines" belie the fact that the BMP's relatively low gun depression capability means that it must expose more target area than the BFV when operating from a defilade (hidden by terrain) position.

The "low sleek lines" also mean that the average-size person is extremely cramped riding in the BMP. Those who have ridden over rough terrain in both the Russian BMP and our BFV can attest to the difference in ride handling which directly affects the soldier's readiness to fight.

Imitation is the highest form of flattery. We know that the Russians are trying to improve their BMP by incorporating features of the BFV. According to the February 1982 International Defense Digest: "A new version of the Russian BMP made an appearance at the November 6, 1982, parade in Moscow. The vehicle has a new turret with what appears to be a 23mm cannon, although some sources suggest that it is larger, and an AT-5 Spigot antitank missile launcher replacing the Sagger missile launcher. On BMP-1's and BMP-2's, the Sagger launcher was mounted atop the main armament. The Spigot launcher is mounted on the turret roof. The box beneath the launcher is the missile's optical trackers. The new turret has a two-man crew and is larger than its predecessor. This has meant a reduction in the size of the rear compartment, which now carries four men and not six—there are now only four firing ports in the rear of the vehicle. Also, the spaced-armor skirt plates have been added to protect the running gear."

COST OF BRADLEY FIGHTING VEHICLES

The basis of the $1.94 million unit cost is the $13.4 billion program reported in the December 1981 SAR. The cost shown in the December 1982 SAR has been reduced to $11.8 billion due to inflation decreases, reduction in program scope, reduced spare requirements, and good management. This translates to a program unit cost of $1.71 million.

The article compares program unit costs for the Bradley to a figure of $179,000 for an M113A2. The latter figure represents only hardware procurement costs, and on a like basis, the Bradley cost is $1.14 million (rollaway cost in FY84 constant dollars) or about 6 times as much. The difference between 1.71 and 1.14 is due to ammunition, test and training equipment, initial spares, gun systems, construction of ranges and depot facilities.

Not only is the cost comparison misleading, it also diregards the increased capability which the Bradley brings to the Army—increased survivability to mines, overhead artillery, and 14.5mm weapons; firepower to defeat tanks at 3750 meters and a stabilized 25mm gun which can defeat BMP; a coaxial machinegun and firing port weapons to suppress antitank fires; the ability to see the enemy at night and through fog and smoke; and the mobility to keep up with the M1 tank.

The M113A2 possesses none of these features. Adding the BFV turret and fire control equipment to the M113 would raise the cost to $500,000. If up-armored to the same level of protection, which requires a new engine, transmission, and suspension system, it is estimated to cost over $750,000, and it would not have the same mobility.

DESIGN OF ARMORED VEHICLES

The technical design of armored vehicles is always a series of trade-offs which seek to achieve the optimum combination of size and weight. Survivability dictates increased weight for armor protection, but mobility and transportability require reducing weight. Firing from defilade requires a high gun station with the ability to depress the gun. Adding ground clearance for mobility and room to seat soldiers comfortably also means adding height, but transportability and the need to maintain smallest target area possible says reduce the height. The key is to recognise how a vehicle design has been optimised and to insure that soldier training employs the vehicle's strong points.

SUSTAINABILITY OF ALUMINUM ARMOR

The assertion that a self-sustaining "burn" can be induced in aluminum plate by a high-explosive antitank round is nonsense. There is no reported instance of the armor plate of an aluminum-hulled vehicle burning despite their use as tank fire practice targets for many years, extensive combat experience, and testing of the Ballistics Research Laboratory. The Ballistics Research Laboratory report (ARBRL-MR-03004) provides test data on diesel fuel fires resulting from shaped charge detonation on armored vehicles. Although some localized melting of the thin-walled fuel cells did occur, even these fuel fires would not create self-sustaining burning of aluminum plate.

Allegations that this could happen go back 20 years or more. No such event has ever been found.

The explanation for fires in these vehicles is quite different. The fires occur when the fuel tank is ruptured and leaking or spraying fuel contacts hot metal. Examination of vehicles which have experienced such fires has shown in some cases, melting of aluminum in the vicinity of the fire, but not burning of appreciable quantities or self-sustained aluminum fires. These fires were most common and severe in M113's equipped with gasoline engines. Replacement of the gasoline engine with a diesel engine sharply reduced the likelihood of fires.

Installation of a fast-reacting "halon" fire-extinguishing system has also contributed to marked reduction in probability of fire. The Army has now developed, in conjunction with Southwest Research Institute, a diesel fuel additive which promises to eliminate such fires altogether. This additive has been tested by firing incendiary munitions into fuel tanks. The result is a minor flash with the remainder of the fuel spilling out of the tank without ignition. Although this additive duplicates the function of the halon fire extinguishers and thus may not be required for the Bradley, the Army is investing the logistical aspects of its use in other vehicles.

An antiarmor HEAT round operates by producing a jet of very hot gas and metal. The shaped charged jet subjects the armor to local pressures of millions of pounds per square inch. Regardless of its strength or chemical composition, the target material flows both plastically and elastically in all directions from the point of jet contact. The jet produces a "bubble" of rapidly expanding metal which eventually bursts in an expanding, conical spray which flies across the vehicle in less than one millisecond. The combined effect of a cloud of hypervelocity fragments, their attached shock waves, and the thermally generated overpressures of the oxidation process is what constitutes "vaporifics." Although alumnium oxidation produces more energy than steel oxidation, both metals may produce significant "post" armor effects.

ALUMINUM ARMOR

Aluminum armor for the Bradley resulted from a careful design trade-off of all vehicle requirements. From an armor standpoint, aluminum provides better protection from fragmentation munitions and small arms than an equivalent weight of steel armor. Performance against shaped charge (HEAT) munitions is somewhat less than steel due to the higher oxidation rate of aluminum, but the lethality efforts of these munitions that are independent of the target material far outweigh any additional effects based solely upon the choice of aluminum versus steel armor.

VEHICLE COMPARISON TABLE

	BFV	M113	BMP	AIFV
Physical dimensions:				
Length (inches)	254	192	264	207
Height (inches)	117	98	85	110
Width (inches)	126	106	116	111
Road clearance (inches).	18	17	13	17
Weight (tons)	24.5	12.0	12.5	15
Mobility:				
Range (cross-country) (miles).	300	365	310	305
Speed (cross-country) (miles per hour).	31	18.2	18.1	18
Acceleration (0 to 30 miles per hour) (sec.).	18.1	25	25	23.1
Firepower:				
Primary	25mm (2000m range).	12.7	73mm (900m range).	25mm
Secondary	7.62mm	None	7.62mm	7.62mm
Vision	Thermal	IR [1]	I [2]	I [2]
Fire control	7.62mm	None	Manual	Manual
Turret	2-man	1-man	1-man	1-man
Protection:				
Armor type	Al and Fe	Al	Fe	Al and Fe
Resistance	14.5mm	7.62mm	7.62mm	14.5mm
Cost: fiscal year 1983 dollars	1.1M	180K	Classified	650K
Troop capacity:				
Crew (IFV/CFV)	3/3	1	2	2
Squad (IFV/CFV)	[3] 7/2	10	[2] 9	8

[1] Driver only.

[2] Some variation by model.

[3] IFV dismount element may vary depending on mission.

M113

The US Army currently has 16,116 M113s. This compares with an authorized acquisition objective (AAO) of 19,605. The Army is considering procuring additional M113s in future years toward satisfaction of this AAO. This versatile vehicle, which is also used in large quantities (including AIFV versions) by other countries (including Israel), is used for many purposes ranging from troop carrier to weapons platform to ambulance. Far from being abandoned, it will see increasing usage in the future.

The Army currently plans to acquire 6882 Bradley Fighting Vehicles (BFV) compared to an AAO of 16,636. The vehicle will be acquired in two versions—an infantry fighting vehicle capable of carrying a 10-man squad consisting of a 3-man crew and a 7-man dismounted element and a cavalry fighting vehicle (CFV) carrying a crew of 3 and 2 scouts.

CALIFORNIA MAGAZINE EXCERPTS

Claim: According to one munitions expert, each one could be knocked out with an M42 grenade—price $2. p. 62.

Facts: The M42, capable of penetrating 4 inches of RHA, is a shaped charge bomblet, not a hand grenade. It is delivered in a cluster from artillery or aircraft. An artillery projectile (155 Improved Conventional Munition) contains 88 grenades and costs about $493.

Claim: There is the "too fat" problem. p. 65.

Facts: The Army decision on vehicle width was deliberate. Increased crew protection and better tactical mobility outweighed the need to take off side armor for C-141 transport. The armor was designed to be removable to permit the use of C-141 aircraft to provide strategic mobility. After the suspension has been "snubbed" to reduce vehicle height for loading, the Bradley can still be driven under its own power. It is winched aboard; winching is standard procedure for loading heavy cargo aboard the C-141 to prevent damage to the aircraft. It takes only about one hour to prepare the vehicle for loading. The Bradley has been successfully loaded and unloaded from the C-141. It is fully transportable by this aircraft.

Claim: There is even a "too small" problem. . . . there is only enough room for six soldiers—half a squad. p. 65.

Facts: The present squad mounted in the M113 includes 11 soldiers. The 10-man squad, as a part of the Division 86 organization, was determined to be optimum. The Bradley carries a 10-man squad. During Operational Test II, the Bradley was successfully tested with 10- and 11-man seating configurations. Though the 11-man squad is not optimum, it has been demonstrated as feasible, if required.

Claim: Apparently, the Bradley is putting in all those miles with its chain gun locked up in storage. p. 66.

Facts: The 25mm gun is always installed in the vehicle during Initial Production Testing (IPT) at Aberdeen Proving Ground. The Army requires that a key operating component on the gun be removed from the weapon when it is outside a secure storage area. The bolt and track assembly, therefore, is removed from the weapon except during live-fire exercises.

Claim: The Bradley can deliver on most of its promises only part of the time. p. 66.

Facts: During the ongoing IPT at Aberdeen, the Bradley is exceeding its reliability requirements by more than 50 percent. While performance tests are not yet complete, the Bradley is expected to meet or exceed all requirements.

Claim: The armor provides protection at the expense of your field of view. p. 67.

Facts: Although the driver cannot see to his right with his hatch closed, the vehicle commander (buttoned up) has full 360 vision of the battlefield. It is Army practice for the commander to control the vehicle whenever it turns or backs up.

Claim: Army spokesmen admit that the rifle-firing ports in back have more psychological than combat value. p. 67.

Facts: The firing port weapons are intended for area suppression. Firing of full tracer ammunition assists in achieving this capability. The vision blocks allow the mechanized infantryman to maintain his terrain orientation, and to be aware of the nature of the battle prior to dismounting. Tests (Operational Test II) have shown that trained crews can employ the weapons effectively. While mounted, their high volume of fire is particularly useful in suppressing close-range threat weapons.

Claim: Among the troop carriers of the world, ours are virtually the only ones made out of aluminum. p. 127.

Facts: Other countries that have chosen aluminum for their infantry vehicles include Great Britain (MCV-80), Belgium and the Netherlands (AIFV), and France (AMX).

Claim: In Vietnam, the Yom Kippur War, and Lebanon, commanders have been absolutely unable to make their troops ride inside M113s. p. 127.

Facts: During normal operations, when not under fire, it is more comfortable to ride on top of an M113 in a hot climate. During intensive combat, many crews in Vietnam reacted by getting inside the M113s. If one wants to fire a weapon to the rear or flanks of an M113, then he must get above the deck, which is unlike that needed for the Bradley's Firing Port Weapons. During artillery mortar and rocket attacks in Vietnam, crews got inside the M113 and closed the hatches.

Claim: In Vietnam, the M113 proved so vulnerable to homemade land mines that drivers resorted to lying on top of the roof and manipulating the controls with sticks. p. 128.

Facts: Initial deployment of M113s to Vietnam did result in the type of actions described. As a result of the vulnerability to mines, drivers' compartments were sandbagged. This significantly reduced mine blast injury, and drivers no longer went to the extremes stated in the article. The lesson learned was carried back to TACOM, and a steel mine plate was fabricated and applied to M113s in Vietnam. These plates successfully defeated all but the largest mines encountered, though they did not defeat RPGs used as mines. The IFV has an applique steel mine plate to defend against mines. The lesson learned in Vietnam was not ignored.

Claim: The Bradley has thicker armor than the M113, probably about twice as thick. p. 127. (See below for response to this and the next six claims).

Claim: Both FMC and the Army have conducted classified tests that show the murderous, explosion-amplifying effects of aluminum armor. p. 62.

Claim: They've tested the Bradley armor against machine guns, mines, and artillery, but they will not fire a shaped charge into it. I think they've decided that's too fraught with danger to the whole program. p. 127

Claim: The main point remains—the Army has no data on how the Bradley armor will stand up against the weapons most likely to be used against it. ". . . the Army doesn't expect to encounter HEAT where it's going to use the vehicle." p. 128.

Claim: The Army has not tested the Bradley armor against the HEAT round, nor does it have any immediate plans to do so. p. 127.

Claim: The vehicle's armor is made of aluminum, a metal whose chemical energy when oxidized is ten times greater than that of TNT. p. 62.

Claim: With aluminum, this displaced metal forms spall at the edges but vaporized in the center. This vapor literally becomes chemical fuel for the explosion, intensifying the deadly effects of the blast. p. 127.

Facts: The group of statements (above) in their aggregate constitutes an attack on aluminum as a choice of armor for the Bradley Fighting Vehicle and a distorted picture of behind-the-armor effects of shaped charge penetration of armor. The Bradley aluminum armor is not thicker than the M113 armor. The Bradley side armor is 1.47 inches thick; the M113 side armor is 1.75 inches thick. Further, the Bradley armor is not all aluminum. It is composed of two layers of steel (total of .47 inches) and a single 1.0-inch aluminum wall. Each layer is separated by 1 to 3.5 inches of space. This "space-laminate" armor design is especially effective because such succeeding layer "catches" some of the spall (fragments of the armor), thus reducing the size of the "cone of destruction" actually penetrating the vehicle interior. The Bradley armor design specifications were based in part upon an analysis of threat weaponry, their density on the battlefield, and their effectiveness. The Bradley has been tested against each design specification. Shaped charges have been tested on both the M113 and the Bradley. Although an RPG-7-sized shaped charge warhead will penetrate both vehicles, tests (Development Test II) have shown that the additional casualty-producing effect of aluminum to be virtually nonexistent. A simple comparison of the oxidation rates of aluminum and TNT is distorted since once initiated, TNT oxidizes completely, but only aluminum surfaces oxidize due to formation of inhibiting aluminum oxides. The rate of aluminum oxidation is more than 13 times (not 10 times) that of TNT, but complete oxidation will only occur when aluminum is in a fine/powdered or vaporized state. To create substantial aluminum in this state requires a very large warhead. The oxidation of aluminum in this event is of secondary importance to other effects of the warhead. Vaporific effects can be created with steel armor also. Aluminum armor has been proven to be better than steel armor on a weight basis for protection against fragmentation-type landmines and artillery bursts. Against kinetic energy rounds, aluminum is better. Against shaped charges, some increases in pressure and temperature due to the aluminum material do occur, but these increases are negligible.

Claim: . . . aluminum armor helps kill soldiers three ways. First blast overpressure from an anti-tank-size round is twice as high behind aluminum as it is behind steel, reaching levels that would be expected to kill a man by rupturing his lungs. Second, a fireball develops with an associated blinding flux of light (the equivalent of several hundred flashbulbs), causing localized third-degree burns. Third, the extreme temperatures and pressures inside the chamber produce concentrations of oxides of nitrogen thousands of times higher than those encountered during the Los Angeles smog alert. p. 127.

Facts: The vaporific effects cited are possible to achieve, but only for very large shaped charge warheads. Not stated is the fact that the same effects will be observed regardless of the type of armor material used.●

RECESS UNTIL TOMORROW, TUESDAY, MAY 3, 1983, AT 10 A.M.

Mr. BAKER. Mr. President, I believe there is no further business I have to transact. Does the minority leader have any business he wishes to transact?

Mr. BYRD. I have nothing, Mr. President.

Mr. BAKER. Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 a.m. tomorrow morning.

The motion was agreed to; and, at 4:26 p.m., the Senate recessed until tomorrow, May 3, 1983, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate May 2, 1983:

DEPARTMENT OF STATE

Robert Brendon Keating, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of the Comoros.

Ambassador

James J. Needham, of New York, for the rank of Ambassador during the tenure of his service as Commissioner General of the United States Exhibition for the International Exposition, Tsukuba, Japan, 1985.

DEPARTMENT OF AGRICULTURE

Daniel G. Amstutz, of New York, to be Under Secretary of Agriculture for International Affairs and Commodity Programs, vice Seeley Lodwick, resigned.

DEPARTMENT OF EDUCATION

Madeleine C. Will, of Maryland, to be Assistant Secretary for Special Education and Rehabilitative Services, Department of Education, vice Jean Tufts, deceased.

THE JUDICIARY

Bobby Ray Baldock, of New Mexico, to be U.S. district judge for the District of New Mexico vice Edwin L. Mechem, retired.

DEPARTMENT OF JUSTICE

George Washington Proctor, of Arkansas, to be U.S. attorney for the Eastern District of Arkansas for the term of 4 years. (Reappointment)

IN THE AIR FORCE

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Arnold W. Braswell, 438-22-3743FR, U.S. Air Force.

IN THE ARMY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. James M. Thompson, 519-16-9499, (age 55), U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. John B. Blount, 038-12-7463, U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. John W. McEnery, 520-44-2282, (age 57), U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Robert L. Schweitzer, 319-20-1756, U.S. Army.

IN THE ARMY

The following-named officers for permanent promotion in the U.S. Army, and appointment into the Regular Army as appropriate, in accordance with the appropriate provisions of title 10, United States Code.

MEDICAL CORPS

To be colonel

Lewis, Ronald J., 510-42-1715

ARMY

To be lieutenant colonel

Beam, Kenneth M., 546-62-7195
Burruss, Lewis H., Jr., 462-72-8176
Clay, James E., 449-68-2093
Ey, Bruce N., 225-64-3726
Hess, Robert W., 224-58-1420
Kotouch, James H., 278-36-7244
Vasile, Robert C., 267-76-9864
Woolever, Ronald J., 056-32-9899

DENTAL CORPS

To be lieutenant colonel

Moulding, Danny L., 529-58-7204

VETERINARY CORPS

To be lieutenant colonel

Goodwin, Bradford S., Jr., 005-42-5214

MEDICAL CORPS

To be major

Caballero, Jose R., 583-52-0725
Jackson, John H., 257-70-9594
Mansour, Richard P., 438-86-2555
Matheke, Edward Y., 275-52-8895
Tucker, William T., IV, 294-42-0165

DENTAL CORPS

To be major

Fretwell, Lincoln D., 417-60-7004

MEDICAL SERVICE CORPS

To be major

Cage, Lee E., Jr., 036-28-8234
Cornett, Jesse R., 406-56-0770

ARMY MEDICAL SPECIALIST CORPS

To be major

Satterfield, Margaret J., 239-82-7038

VETERINARY CORPS

To be major

Mentes, William R., 140-40-7674

ARMY NURSE CORPS

To be major

Locke, Linda C., 215-58-1222

IN THE ARMY

The following-named cadets, graduating class of 1983, U.S. Military Academy, for appointment in the Regular Army of the United States in the grade indicated below, under the provisions of title 10, United States Code, sections 531 and 4353:

To be second lieutenant

Abear, Pamela J., 002-56-6908
Adams, Rex M., 321-48-6536
Adams, Robert F., 422-96-6833
Agostini, John J., 198-44-3502
Ahn, Soong B., 463-31-5483
Alberto, Ronald P., 519-64-4096
Alexander, William E., Jr., 285-52-8150
Allen, William T., 114-60-4547
Alumbaugh, John B., Jr., 333-62-1679
Amberger, David R., 231-11-4805
Ames, Randal R., 005-66-9868
Anderson, David P., 067-48-5476
Anderson, Harold G., 532-68-9442
Anderson, Keith A., 378-76-0315
Andrews, Gerald R., Jr., 573-27-5020
Ansalone, John E., 434-78-2061
Aperfine, Joseph P., Jr., 300-68-8819
Argyros, Gregory J., 171-56-4661
Armstrong, McKinley J., II, 579-86-9647
Arnold, Todd W., 198-42-6313
Arrington, Edward D., 145-52-6253
Audino, Ernest C., 017-44-3886
Avery, Alan W., 256-17-3038
Ayers, Mark H., 226-02-2699
Babbitt, Bruce A., 538-76-5800
Babers, Charles R., 465-19-5872
Baker, Brian N., 418-84-6565
Baker, David J., 003-54-8660
Baker, David P., 386-46-1117
Balfe, Brain K., 062-56-3674
Barker, Kurt R., 520-70-7363
Barkley, Douglas R., 267-63-9639
Barnhill, Jeter S., 556-35-2516
Barone, Laureen M., 086-48-9656
Barringer, James E., 564-29-7618
Barsotti, Ercole P., 385-68-0941
Barth, Thomas H., 133-48-1115
Barts, Deborah A., 343-56-6603
Bassil, Joseph M., 083-56-5666
Battaglia, Philip F., 079-58-9789
Batule, Kevin M., 114-58-3486
Baty, Brent T., 458-33-5520
Bauer, Christopher W., 090-52-8538
Bauer, William F., Jr., 089-56-0276
Bear, Bryan L., 205-52-8865
Bearden, David B., 256-29-0821
Beaver, Philip F., 570-94-0604
Bedard, Jeffrey M., 154-64-6126
Bedingfield, James L., 264-79-0398
Beisel, Larry D., 443-70-0202
Bell, Jonathon A., 456-29-0769
Bell, Michael S., 255-06-6193
Belles, Jeffrey A., 188-52-8111
Bennett, Henry W., 398-76-4989
Benning, John J., 515-70-2856
Benway, Charles R., 264-47-4420
Berger, Daniel W., 086-58-1381
Bernier, Laurel J., 014-48-4245
Besick, Christian J., 179-54-0807
Biacan, David L., 576-76-3824
Bilas, Roger B., 299-64-2564
Black, John R., 137-68-2923
Blanchard, Carlos, 264-65-8525
Blanco, Joseph M., 462-35-6685
Bland, William S., 212-80-4948
Blatz, Robert G., 094-40-5620
Bobroske, Martin G., 048-60-6004
Bock, John H., 375-68-9674
Bohr, Michael W., 378-62-8519
Boland, Edward H., 227-82-9631
Bonrud, Neal E., 539-68-7520
Bonville, Kenneth J., 237-29-4622
Boone, Thomas H., 246-17-1300
Bort, Barry C., 148-56-6992
Boslego, David, 162-48-0756
Boulegeris, Michael G., 135-38-0605
Bowe, Thomas T., 211-52-9194
Bowman, Michael P., 573-35-9185
Boyle, Brian T., 114-54-9507
Boyle, Charles G., 234-08-0465
Brand, Matthew L., 543-52-7255
Brandt, Curt R., 210-40-4838
Brantley, Jeffrey R., 012-38-0049
Brasil, Donna M., 134-54-6379
Bredehoft, Brent B., 523-17-5958
Breitenbach, William J., 297-62-7554
Brennan, Michael F., 585-40-4969
Bridgford, Robert S., 488-74-2506
Bristow, William J., 151-40-7570
Broadhurst, Franklin P., 254-13-0141
Brolin, Gerald G., 024-54-1537
Brooks, Robert A., 096-58-0219
Brouillette, Gregory A., 226-08-9930
Brouse, Elizabeth L., 547-17-9047
Brown, Clayton E., 213-78-1359
Brown, Gregory R., 317-80-1121
Brown, Mark A., 375-78-0284
Brual, Peter K., 265-98-7017
Bruegmann, Mark C., 476-76-2351
Bryson, Michael E., 203-52-6242
Burnette, Otto C., 412-19-3819
Buss, John C., 002-50-6390
Butcher, Brian J., 517-90-3967
Byrd, Mark I., 272-68-3294
Campano, Joseph A., 146-54-0129
Campbell, Jennifer A., 028-56-9729
Canales, Gerard O., 499-37-1937
Cannizzaro, John F., 068-60-3453
Capria, Michael A., 229-70-4370
Carbone, Ralph J., 058-44-1802
Carella, Peter T., 113-44-6647
Carlsen, Calvin T., 254-76-9962
Carlson, Christian R., 220-46-1708
Carman, Robert D., 453-31-0472
Carr, Courtney P., 360-58-1074
Carver, Curtis A., 257-15-8177
Castile, Anthony W., 524-88-1025
Cavanaugh, Joanne F., 029-56-2186
Cesari, David J., 073-46-1762
Chambers, Christopher M., 013-58-1963
Charron, Thomas W., 523-02-3411
Cheshire, Walter R., 489-76-3338
Chew, James E., 038-34-0534
Ching, Robert J., 576-52-0774
Chinn, Jeffrey K., 064-40-3095
Chlapowski, Albert G., 015-54-1646
Chu, Constance R., 565-33-7762
Cino, Paul V., 001-60-1417
Clarke, Anthony J., 298-72-1790
Clarke, Robert T., 095-60-4085
Clawson, James R., 476-80-5455
Clough, Phillip A., 227-11-9016
Clowes, William B., 270-52-0969
Coates, John S., Jr., 409-13-6581
Cody, John D., Jr., 001-46-6194
Cody, Robert F., Jr., 083-60-5504
Coldren, John F., 486-76-0417
Cole, John V., 192-48-8412
Cole, Robert G., 483-82-5636
Collazzo, Edward C., 032-36-2452
Collette, Frank S., 417-84-9954
Collins, Steven N., 221-42-2213
Combs, James A., 118-58-1953
Connors, Mark, 001-50-3795
Cook, James W., 251-88-5657
Cook, Judson A., 462-21-3579
Cook, Richard P., 574-58-6802
Cooksey, Jennings B., 266-61-9058
Coote, Peter J., 435-31-9638
Coover, David D., II, 182-40-9708
Copeland, Anthony E., 256-13-9663
Coppess, Kelly D., 526-29-1637
Coppola, Richard A., 383-78-6375
Cordelli, Bruce A., 183-56-2789
Corsini, Maria L., 130-52-6771
Costella, Ronald G., 058-56-3550
Costello, Mary J., 184-52-6247
Cotter, Michael B., 036-48-1306
Couch, David C., 404-11-0353
Cowan, Joseph B., 141-56-2457
Cowan, Thomas H., Jr., 453-11-4486
Crofford, Clifford D., 227-84-8374
Crompton, George H., 174-52-6857
Croskrey, Nathan R., 532-72-9618
Crowley, Shayne P., 079-56-0883
Crowley, William J., 559-70-6571
Crumlin, Michael A., 219-82-7685
Crutcher, Charlie W., III, 442-70-1046
Cummings, Daniel J., 547-31-4118
Cummings, Michael P., 500-74-9778
Cummings, Terrence, 218-82-8832
Curl, Jefferson M., 496-76-7175
Curran, Kelley R., 267-63-4214
Cutting, Paul J., 229-90-7070
Daluga, John R., 025-48-1061
Daniel, Jeffrey A., 408-27-5811
Darragh, Sean J., 013-56-7168
Dauch, Richard F., 383-54-5179
Daun, Jeffry B., 477-78-2845
Davies, David G., 202-44-4880
Davis, Albert M., 453-37-7466
Davis, Alfrazier, 263-51-7774
Davis, Eric C., 238-04-7699
Davis, Grant M., 466-35-7376
Davis, James L., 225-90-4335
Davis, Jeffrey H., 414-76-9861
Davis, Jimmy D., 263-31-9280
Davis, Mark A., 265-45-6266
Day, Kelly M., 071-50-0881
Dean, Charles E., 009-58-3365
Dean, Timothy J., 468-90-9278
Decoteau, Mark F., 004-70-1789

Dedekind, Charles H., 153-54-0692
Dee, Kim M., 559-33-6996
Del, Rosario M., 456-33-6780
Demith, Frank R., 321-54-6413
Dempsey, Bruce W., 013-42-4013
Derrick, Charles E., 234-06-8561
Detwiler, Wayne L., 159-54-9622
Devereaux, Michael G., 039-34-8444
Devine, James T., 149-52-8626
Dewillie, Glen R., 387-44-7857
Dilks, Merrell D., 445-66-6161
Dispoto, William A., 149-58-0741
Divis, Monica A., 455-31-4559
Dodson, Michael K., 382-66-5472
Doescher, Curt W., 103-60-1395
Dolan, Michael J., 180-56-9553
Dombkowski, Robert J., 053-40-5047
Donaldson, Gary R., 569-49-3021
Donnelly, John J., 585-02-8953
Donovan, Gery W., 415-27-4206
Dougherty, Kevin J., 225-78-7074
Downey, Chris R., 480-84-9603
Doyle, David M., 560-43-9511
Drago, James P., 051-56-2996
Dreyer, Vincent M., 563-47-0720
Dribben, Douglas A., 509-72-3513
Driscoll, John W., 026-54-0113
Drummond, James E., Jr., 447-52-2238
Dube, John A., 530-64-1999
Duell, Christopher J., 092-52-2213
Duemling, Brian T., 394-78-1585
Dumoulin, John E., Jr., 064-60-7502
Dunlap, Mark L., 452-06-6494
Dwyer, Michael K., 145-64-5917
Eastman, Kally L., 101-44-2331
Ecklund, James M., 287-66-4093
Egan, William D., 102-46-5846
Eichelberger, Randall S., 195-54-7226
Elliott, Jon L., 271-70-7917
Elrod, Bradley S., 251-13-2095
Engert, Lisa M., 076-60-4219
Entner, Mark D., 297-60-0026
Espanto, Frank D., Jr., 565-49-5712
Espey, Tanner J., 441-66-5531
Estes, William J., 561-37-2529
Evans, James A., 478-86-9030
Fabish, Douglas A., 093-60-0486
Farrell, Robert J., 575-98-9225
Farris, Billy D., II., 511-74-0276
Fasana, Kenton G., 561-45-8403
Fauth, Philip A., 193-56-8362
Fechner, Melvin P., 463-37-4165
Feige, Eric P., 123-60-9704
Fennimore, Harold J., 139-48-2674
Ferguson, James B., 587-96-9595
Fernan, Jude C., 144-46-0538
Fewin, Scott H., 456-08-6439
Ficke, James R., 522-86-1366
Figliola, Francis F., 101-54-1713
Finch, Mary M., 526-92-9396
Finkenaur, Robert G., 027-54-3524
Fischer, Hugo J., 060-54-4792
Fischer, Robert J., 401-98-5967
Fish, Thomas E., 065-60-3238
Fisher, Charles H., Jr., 414-19-3809
Fitzgerald, Gregory S., 143-56-8612
Fitzhenry, Joseph P., 078-40-5754
Fitzpatrick, John L., Jr., 135-66-8288
Flavia, Vincent T., 263-49-4379
Flewelling, Raymond T., 485-92-7683
Florey, Ross H., 465-31-4158
Flynn, Louis D., Jr., 029-54-9709
Follett, Scott D., 367-78-3879
Fontana, John L., 386-80-7279
Forgach, Jeffrey M., 284-37-1714
Foster, Steven P., 014-53-3659
Fotsch, Sara L., 397-54-8901
Fouser, Douglas N., 494-66-0366
Fraasch, Steven J., 473-78-0600
Francis, Louir J., 319-86-5087
Fredette, Andre N., 036-42-7336
Freedman, David H., 199-54-2259
Friesen, Bodo H., 455-37-6934
Fritsch, Michael A., 535-70-0144
Fugarino, Charles E., 409-21-4792
Fulco, Anthony F., 329-56-8225
Gabs, James E., Jr., 585-62-9218
Galvin, James J., 012-56-9025
Gant, Dean A., 244-06-3159
Garcia, Tracy A., 537-70-7555
Garrison, Joseph R., Jr., 102-46-2410
Garrity, Martin M., 137-56-6247
Gates, Robert E., 571-31-1530
Gates, Willie E., 555-43-6590
Gayagas, Clarence L., 217-92-5847
Geczy, George III, 513-74-5530
Gemberling, Dean F., 083-54-7749
George, Marc C., 262-53-1300
Geraci, Jeffrey S., 094-50-3158
Gerard, Dianne E., 160-58-9426
Gesing, Richard G., 288-62-4693
Gibbon, Joy A., 307-66-2133
Gilbert, Benjamin N., 213-82-0537
Gilewitch, Daniel A., 462-06-0930
Gillespie, Wayne L., 261-51-8923
Gillette, Mark W., 987-50-1814
Gilligan, Cheryl A., 417-02-9114
Gilman, Derek., 054-48-1455
Giordano, Francis J., 115-52-2300
Gnatowski, Bruce, 220-80-9195
Goetz, Joseph A., 397-74-9377
Gongaware, Gregory J., 491-74-7692
Good, Lori L., 585-17-7735
Gorczynski, David T., 091-56-8617
Gordon, Christopher M., 535-68-4921
Gorske, James A., 393-54-5663
Gorske, John C., 393-54-5662
Graham, David M., 045-54-5447
Gray, Jo A., 006-64-8999
Greenwell, James C., III, 269-70-9373
Grenchus, Charles P., 102-56-0655
Gricoski, Stephen, 177-56-8216
Griffis, Fletcher H., III, 264-78-7937
Griffith, Rease L., 226-76-7101
Groeger, William G., 154-60-9017
Grosskruger, Paul L., 481-90-4392
Gruchacz, Joseph R., 144-60-8469
Gulla, Gregory P., 068-38-4215
Gully, Edward C., 254-29-8172
Guyant, Glenn E., 579-70-5830
Gwynn, David W., Jr., 147-58-9485
Hadad, Mitchell E., II, 107-58-5907
Haddock, Ralph W., 511-58-9833
Haines, Kelley, 527-63-8844
Hains, John P., 463-15-1271
Hall, Donald L., 128-56-8016
Hall, John D., 423-94-5289
Hall, Richard A., 458-21-5781
Hall, William R., 221-58-9376
Hamill, Paul J., 260-13-5481
Hamilton, Marcus K., 263-79-5551
Hampton, Joseph M., 570-31-3030
Hancock, Ronald B., 362-78-0306
Hann, Todd A., 255-21-8122
Harper, David L., 374-72-3616
Harre, John C., Jr., 129-50-7928
Harrington, Denis L., 114-54-1719
Harrington, Richard T., 014-54-7530
Harris, Edwin H., III, 228-02-8537
Harris, Guy N., 083-60-8509
Harris, Robert M., 231-98-3234
Harrison, Stuart G., 212-82-4432
Hawkey, Blake E., 250-31-3877
Hayes, Morris G., 240-25-1806
Hayne, Grant W., 317-56-0921
Haynes, Carl D., 431-21-0386
Healy, Mark W., 114-54-4426
Hefty, Mark T., 252-25-8460
Heidenberg, Alex J., 155-62-5178
Heithcock, Keith D., 415-23-4356
Heller, Kevin P., 109-54-1227
Henry, John J., 109-54-2666
Hensley, Bert C., 247-98-4352
Henson, Kenneth C., 075-60-0256
Hernon, David M., 547-08-6051
Higgins, Thomas E., 128-60-6468
Hill, Timothy P., 181-42-6451
Hilmes, Bruce W., 106-58-4326
Hoellerer, Joseph E., 264-61-4738
Holden, Christopher M., 051-60-6208
Holley, Ross E., 442-74-7402
Holt, Roger B., 456-15-6718
Holzman, Simon L., 018-48-9566
Homa, Joseph R., 160-58-9196
Homas, Dallas W., 281-64-8527
Hood, Robin S., 474-80-1500
Hook, Charles R., 513-74-4234
Hoover, Reynold N., 047-62-9679
Hopkins, James R., 264-25-3735
Hoppe, William C., 219-70-2788
Howard, Jerusalem T., 201-44-4436
Howard, Lara A., 552-47-5742
Hruby, Dale E., II, 215-82-0421
Huggins, William D., Jr., 250-31-6906
Hull, Allen III., 532-72-2500
Hummer, James D., 178-56-1636
Humphries, Kenneth J., 526-29-6392
Hunter, Diane M., 054-42-1036
Hunter, Shawn, 461-39-2025
Husar, Paul F., 056-54-6343
Husted, Donald W., 098-52-3266
Hyslop, Nicholas D., 338-60-9702
Jackson, Harry G., 052-60-6563
Jackson, Jerry D., Jr., 261-55-6877
Jackson, Julius H., 532-64-3568
Jackson, Libby A., 123-58-9841
Jackson, Matthew W., 071-58-8295
Jackson, Michele T., 473-82-6262
Jackson, Richard L., 225-11-6142
Jarabek, Jeffrey W., 133-60-7492
Johnson, Brice H., 504-64-6091
Johnson, Christine M., 415-13-8875
Johnson, David H., 558-84-4668
Johnson, James M., 010-54-2522
Johnson, Joel M., 146-48-4821
Johnstone, Mark A., 366-70-7549
Jolley, Michael A., 267-55-7154
Joly, Loran S., 472-86-0205
Jones, Brian D., 197-48-9841
Jones, Dallas L., 541-84-9002
Jones, Raymond D., 560-45-0220
Jones, Rebecca W., 215-78-3073
Jones, Robert L., 175-56-2460
Jones, Steven W., 406-94-0835
Jones, William G., 450-23-0689
Jordan, Tod N., 377-70-4358
Jorns, Byron G., 224-90-8188
Judy, James M., 225-06-0145
Julian, Brad L., 397-68-8938
Jungerheld, Hal D., 399-74-2870
Kaiser, William J., 045-52-9183
Kamish, Mark E., 477-86-8998
Kapral, Gregory G., 042-64-3354
Kearns, James M., 389-76-2559
Keefe, Daniel J., 109-50-8491
Kellas, Daniel B., 231-15-4934
Kelleher, John H., Jr., 132-52-7664
Kelly, Patrick J., 067-54-7439
Kemp, Richard W., 539-68-4354
Kenney, James P., 338-58-1824
Kerr, Ronald D., 263-25-0969
Kerski, Christopher D., 398-70-1203
Kessler, Daniel A., 203-48-5081
Keville, Kurt L., 017-52-7874
Kiehnau, Michael D., 395-70-1680
Kilmer, Thomas A., 182-50-2137
Kim, Christopher K., 224-96-3443
Kim, Hyo C., 028-54-4368
Kinde, Lawrence J., 476-80-2167
King, Chris A., 267-33-0147
King, Dion J., 534-74-7557
Kirkland, Thomas R., 258-04-8712
Klei, Howard W., 043-40-1605
Klynsma, Steven L., 485-84-4553
Knapp, Robert D., 046-62-0506
Knight, James E., II, 532-80-9601
Knott, Michael R., 370-78-3932
Knowlton, Carl F., 002-56-6950
Kock, Robert J., 518-88-4308
Koenig, Timothy G., 271-68-3426
Kolbo, Lee G., 507-60-3598
Kolvek, David A., 297-66-5870

Korevec, John W., 398-58-5185
Kozak, Christopher A., 284-72-7469
Kralowetz, Jeffrey A., 185-50-0005
Kramer, Kenneth D., 318-64-0141
Kressin, Richard G., 524-04-0434
Kreuzmann, Cynthia L., 299-48-6062
Kugler, Mitchel B., 113-58-0013
Kuklo, Timothy R., 278-64-5383
Kulik, Todd A., 094-58-1871
Kunzweiler, George II, 158-60-4845
Kwan, Alexander F., 504-92-6134
Lail, Charlie J., 257-02-4077
Laing, Gary A., 470-82-2249
Lamarra, Michael C., 159-52-9581
Landry, Leonard A., 002-50-3398
Laneri, Margaret C., 048-60-7395
Lang, William L., 227-70-7916
Langford, Gary D., 247-19-7877
Larsen, Christopher J., 517-70-2359
Larson, Creighton A., 561-04-8467
Laseter, Larry J., 257-11-9517
Lash, Donald J., Jr., 167-56-1450
Lau, Jeffrey D., 478-88-9196
Lavergne, Steven E., 460-43-3665
Lavery, David C., 309-78-2559
Lavine, Nils D., 579-62-6864
Lee, Michael E., 358-62-0993
Leek, Monte W., 524-94-0827
Legenza, Thomas, 300-52-4952
Lehto, Michael L., 376-72-2834
Lembke, Roy K., 517-72-6624
Lemelin, David J., Jr., 374-70-7855
Lennon, John R., 150-46-6050
Lerario, Michael P., 212-78-0708
Lesieur, Lorraine A., 133-52-8067
Levine, John G., 068-60-6144
Lewis, Chipper M., 255-31-4587
Liberto, Joel V., 022-38-8090
Lighthall, Donnell, 354-56-4118
Little, David W., 245-21-2190
Little Gregory H., 216-88-8605
Lochard, Dennis P., 521-98-6132
Loebs, Peter M., 555-41-3546
Longo, Michael E., 415-11-2199
Loomis, Edward S., 475-60-6721
Loper, Thomas C., 218-50-1802
Loucks, Timothy P., 137-60-8872
Love, William S., 249-11-9766
Low, Stephen J., 007-64-1872
Lucci, Edward B., 180-58-4636
Lukert, Paul T., 404-90-7835
Lund, Gregory J., 264-04-6505
Lunde, William S., 652-08-1465
Lyons, Michael J., 063-56-6888
Macchiavelli, Anthony J., 178-38-2387
Macdonald, Brian J., 424-98-0445
Macdonald, Bruce R., 424-98-2127
Macon, William A., Jr., 220-80-2043
Maddalena, William J., 010-54-2897
Maier, Amy S., 267-71-0065
Maier, Robert E., 158-48-8066
Malapit, Jeffrey E., 577-86-3745
Malchow, Randall J., 396-66-4316
Markley, James C., 213-84-2427
Martin, Bruce A., 248-80-4878
Martin, Christopher W., 458-19-3037
Martin, Michael D., 416-82-8497
Martin, Michael P., 515-54-5063
Martin, Peter J., 109-52-5868
Martin, Theodore D., 137-40-0257
Martins, Mark S., 214-80-6526
Maruna, Robert E., 570-37-4619
Massey, Kenneth J., 466-15-1444
Massie, Robert L., 495-80-3171
Matthews, Michele M., 032-36-9282
Maurer, Jill A., 195-56-9549
Mayer, Eric V., 230-74-2678
McAndrews, Gary M., 306-68-4174
McArdle, Richard W., Jr., 096-60-6330
McAree, James P., 382-82-2363
McConkey, Mark S., 263-69-3568
McConnell, Gregory S., 224-90-6317
McDonald, Richard E., 050-56-6607
McDonald, Roger L., 257-17-7217
McDonald, Timothy M., 135-66-4053
McFadden, Willie J., 463-08-1793
McGavisk, Harry I., 064-44-1380
McGould, Charles H., 144-60-7772
McGuiness, John J., 219-88-3788
McHargue, Mike K., 563-47-4828
McIntyre, James C., 234-02-5491
McKenzie, Joseph R., 442-68-2788
McKiddie, Richard G., 566-19-7426
McManigal, Michael S., 127-60-5036
McNallan, David M., 538-66-4047
McQuail, William H., 511-48-5549
McWherter, Leonard S., 252-31-0799
Medaris, Kathleen L., 216-88-3219
Meek, Marvin L., 510-78-2454
Meinhardt, Hans N., 578-80-2196
Merrill, Will G., III, 470-88-8004
Meyer, Jerry C., 354-60-2196
Miller, Austin S., 230-11-6695
Miller, James F., III, 459-23-8439
Miller, Norman L., 305-80-7808
Miller, Timothy J., 147-52-9747
Mills, Michael M., 316-68-8507
Mizusawa, Rudi T., 228-02-2020
Moeller, John C., 454-43-1761
Molera, Manuel E., 526-55-9955
Monacci, William T., 106-44-2367
Mongan, Paul D., 389-64-6995
Monk, John W., 571-39-3139
Moody, Patrick L., 214-72-2312
Moon, Robert J., 338-64-4021
Moore, Robert J., 312-50-6838
Moravits, Mark L., 465-19-7250
Morehouse, Mark W., 516-70-8842
Morgan, Thomas, Jr., 463-35-5832
Morningstar, James K., 219-84-0689
Morrow, Mark R., 282-60-3394
Moschell, Scott D., 216-70-3170
Moulds, Douglas J., 482-86-1665
Mozina, Christopher W., 393-60-9065
Mueller, Brian J., 393-80-8501
Mulholland, Eileen T., 087-50-3656
Mulligan, Charles R., Jr., 249-80-0088
Murphy, Gregory, 034-52-0961
Murphy, Kevin P., 185-56-2935
Murphy, Thomas J., 554-41-2668
Murray, Stephen E., 151-54-4768
Murtagh, Mark C., 035-40-8348
Myers, John B., 093-50-4379
Myers, Laura J., 381-70-6501
Myles, Lee E., 523-80-8736
Naessens, William D., 156-54-2370
Nash, David A., 262-73-9875
Nelson, Raymond C., 266-67-1089
Neumann, Dale E., 516-86-2540
Newkirk, Bryan T., 225-04-9822
Newman, Edward C., III, 218-82-6256
Nickolenko, Peter P., 267-39-0582
Nikolich, Dimitrije, 355-60-5071
Nikonchuk, Vincent, A., 001-60-6977
Nilles, Victoria L., 514-72-1507
Nogueira, Ruben A., 455-33-5083
North, James A., 080-52-3381
Nutbrown, Curtis H., 063-56-5278
Oakes, Patrick B., 542-86-8068
Oaks, David M., 546-76-2914
O'Brien, John L., 548-72-6500
O'Brien, Marianne, 215-80-1634
Ochsner, Brian L., 518-76-8054
O'Connell, Daniel P., 557-39-5063
O'Connell, Joseph L., 084-54-7854
O'Connor, Jane K., 104-54-4888
O'Donnell, Cristina E., 149-48-3959
Ogden, Robert J., Jr., 041-64-6125
Olsen, Michael J., 255-25-0033
Olsen, Steven E., 374-82-0273
O'Neil, Daniel A., 470-62-5489
Orchard, James P., 109-54-3675
Ordonez, Ruben, 457-31-3972
Ortiz, Lionel V., 261-67-9481
O'Shea, Brendan J., 074-56-1739
Ottens, Michael J., 356-62-7041
Overcash, Darrell R., 249-17-6525
Overstreet, Gerald E., 032-54-6608
Painter, David E., 121-52-9950
Pak, Yeongmtae, 107-52-4296
Panerio, Robert M., 566-80-1468
Parker, Charles E., 001-58-2628
Parker, Starr, III, 262-61-2337
Parris, Frank R., Jr., 259-92-1151
Pasierb, Jerome J., 354-42-3467
Patricelli, Anthony J., 539-70-3001
Paul, Kathryn A., 398-74-6521
Paulo, Daniel L., 553-37-8210
Payne, Stephen D., 345-60-7435
Peck, Daniel W., 034-60-3032
Perez, Charles O., 262-79-1571
Perez, Joseph F., 100-60-0821
Perry, Steven M., 263-21-1966
Peterson, Russell A., 290-56-9228
Phelan, John E., 503-60-0262
Phelps, Steven C., 262-81-6129
Phillips, Alan B., 010-46-7523
Phoenik, Sally M., 180-54-3423
Pieringer, Gary J., 158-48-2426
Pierson, John A., 047-46-8311
Pinoci, Sofia, 155-52-3276
Pisko, Mark T., 532-72-7502
Pittman, Robert J., 131-56-5244
Pitts, Gregory S., 264-55-0875
Plagens, Ray A., Jr., 477-82-7685
Plummer, Robert J., 237-19-3928
Pokorny, Christopher D., 274-66-3997
Polak, Keith A., 077-60-9382
Polak, Kevin G., 077-60-8358
Polaski, Dennis A., 133-44-6086
Pompe, Shawn D., 393-72-3643
Portalupi, Norman A., 008-46-7086
Porter, Kevin S., 330-52-2979
Pothin, John L., 047-54-6207
Powell, Richard A., 223-06-4003
Powell, Stacy A., 553-23-5581
Prentiss, William H., 574-30-1963
Prep, Donna A., 060-58-3460
Pribble, Lon L., 514-62-3015
Proulx, Anthony G., 421-04-6946
Provine, Charles W., 587-86-6185
Provins, Byron A., 283-60-3606
Pruitt, Larry H., 165-54-2470
Putko, Christopher J., 053-62-9299
Pyne, Robert M., 043-62-6178
Pyskir, Bohdan M., 391-78-2088
Quinlan, Douglas J., 505-92-7057
Quint, Bruce A., 507-88-8791
Rabena, William S., 216-86-9069
Radovich, Rory R., 527-73-3616
Rangitsch, Joseph F., 079-52-5721
Rathje, Kenneth W., Jr., 383-58-3999
Rawlings, Joseph W., 252-92-8046
Raymond, William M., Jr., 559-11-3696
Reardon, Sharon E., 023-52-2274
Reas, John O., 277-66-3671
Reasor, George F., 224-11-8847
Redmann, Terence J., 073-56-7188
Redzikowski, Robert J., 104-50-5855
Reece, William B., 418-02-6273
Regan, Jeanette, M., 175-58-6665
Reid, Brad D., 255-88-4052
Reid, Robert S., 508-90-6776
Reily, Patrick A., 462-37-7285
Reinert, David M., 585-06-5833
Renner, Donald A., 573-92-4409
Reval, Scott A., 011-46-7539
Rey, Todd A., 386-70-0730
Richardson, Wayne G., 108-40-4119
Riddle, Duane H., 430-31-8355
Riddle, Wesley A., 456-31-6696
Riddle, William I., 555-96-1357
Riley, James G., 378-64-5536
Ringer, Jeffrey H., 192-52-2854
Roberts, Brian J., 079-58-9977
Roberts, Michael L., 585-04-4787
Robertson, Patrick W., 351-44-5832
Robinson, Dean M., 133-58-8789
Robles, Maldonado J., 265-73-5416
Rodriguez, Anthony P., 062-56-1509
Rodriguez, Rand A., 366-72-7750
Roeder, David B., 229-86-4317

Rogers, Kyle J., 552-88-0587
Rohlfing, Robert G., 188-56-0465
Roka, William B., 050-62-1460
Root, Steven M., 127-52-5135
Rossi, John G., 121-50-1780
Rountree, Hugh W., 252-15-5406
Roy, Michael H., 504-92-0722
Royalty, Arlen R., 436-17-2559
Rubens, Randy J., 567-92-0954
Rugenstein, Edgar K., 458-11-4464
Ruiscalderon, Antonio J., 583-17-1351
Rusbarsky, Joseph M., 494-76-7135
Rushatz, Timothy J., 076-58-5837
Ryan, Albert E., 011-42-2518
Ryon, David S., 401-82-9828
Sabarese, Stephen, 152-56-0553
Sachs, David J., 062-50-6764
Sajer, Scott M., 207-52-4014
Salata, Gregory J., 374-74-9052
Salisbury, Harry L., 003-52-9938
Salter, Timothy L., 292-64-8253
Samuels, Keith J., 545-37-5969
Sanderson, Kent S., 386-48-4782
Santens, Michael G., 559-41-9327
Sauer, Edward K., Jr., 147-64-7867
Saufley, John L., 191-46-1732
Scheffer, Peter R., 149-54-1855
Schenkelberg, Frederick M., 536-70-5868
Scheu, Thomas R., 338-64-1354
Schleiden, Russell R., 306-52-3442
Schleifer, Kirk R., 497-72-6625
Schless, James M., 560-06-5386
Schmidt, Karl M., 296-52-4395
Schmidt, Kathleen A., 042-42-3463
Schmits, Gerald J., 475-86-7002
Scholtes, Thomas G., 522-04-5237
Schonsheck, Kathleen K., 369-50-1184
Schrader, Steven M., 265-63-7915
Schuls, Robert R., 084-54-2318
Schumacher, Henry J., 227-80-6516
Schumer, William M., 528-96-4351
Seiman, Edwin W., 316-76-8656
Seng, Matthew M., 190-52-8839
Shablom, Harold C., Jr., 095-54-7973
Shannon, William E., 123-58-2316
Shaw, Gerard J., 357-42-5858
Shiflet, Robert G., Jr., 134-58-9532
Short, Christopher W., 272-60-4013
Sierra, Marc D., 264-63-5388
Simoneau, Craig L., 038-42-7546
Sine, Eric D., 267-71-6661
Skawski, Glenn M., 203-58-6758
Slafkosky, Thomas P., 224-13-2225
Slifer, Gordon G., 065-56-7389
Smidt, John E., 220-72-6999
Smith, Bruce G., 041-52-4884
Smith, Jeffrey D., 554-33-4072
Smith, Richard W., 379-50-9543
Smith, Robert P., 569-33-6063
Smith, Steven B., 537-76-0406
Smith, Wayne R., 231-15-8740
Snider, David B., 556-25-8947
Snodgrass, Joseph W., 481-84-3315
Snow, Jeffrey J., 003-52-7711
Snyder, William M., 468-54-2514
Sobeck, Edward J., 339-58-8619
Soucek, Steven M., 262-61-1432
Spenny, Linda A., 312-68-1920
Spurrier, John F., 293-52-9747
Stacey, Michael A., 558-27-7745
Stachura, Bruce W., 036-32-5305
Stall, Thomas P., 280-58-6593
Stefanelli, Martin J., 303-68-5932
Stehlik, Michael J., 527-66-9063
Stevens, James E., 587-90-1559
Stevens, Kenneth A., 121-50-7868
Stewart, Brian R., 337-62-8594
Stieber, Eric G., 180-56-4616
Stockel, Eugene F., 001-30-0658
Stoll, Daniel J., 561-39-9848
Stoll, Donald J., 563-39-0296
Stratton, William B., 225-88-6615
Streeter, Mark B., 132-42-2481
Strope, Barry T., 517-56-9073
Sullivan, Kevin M., 201-52-8176
Sullivan, Michael E., 537-80-6648
Sullivan, Shawn J., 074-60-1762
Sussman, Lori L., 155-54-4511
Sutter, David S., 363-80-9756
Svoboda, Margaret A., 267-35-4304
Swanton, Thomas P., 098-52-1466
Swicord, Paul, 107-60-7339
Swift, Dwight P., 356-44-5341
Tanner, Billy Jr., 261-51-8495
Tarpey, John A., 060-58-6801
Telk, Kenneth S., 532-74-9967
Tenuta, Joachim J., 273-50-0665
Thalken, Curtis L., 506-90-1434
Thames, William D., 228-08-1318
Thiede, David M., 228-96-7511
Thimm, Peter H., 060-42-6296
Thomas, Johnny F., 263-63-2462
Thomas, Stanley, 112-58-0599
Thompson, James A., 573-35-9730
Thompson, Michael K., 576-64-5858
Thompson, William W., 264-49-3315
Tibbetts, John R., 259-13-5676
Tiede, Jan A., 240-19-4824
Timmer, James J., 357-52-0304
Titus, Gregory R., 373-74-0808
Tolley, Neil H., 051-54-6054
Tomasevich, Kerry J., 167-48-0098
Tomaszewski, Michael J., 364-62-6244
Toth, Adorjan T., 136-68-8273
Tovo, Kenneth E., 066-42-9327
Trainor, Timothy E., 070-58-5890
Traurig, Robert E., 482-78-3265
Troutman, Mark D., 179-46-3088
Trueblood, Brian G., 462-29-9316
Tryon, Stephen P., 565-66-2090
Tucker, David R., 230-06-9368
Tullis, Steven A., 253-04-1680
Tuquero, Allan E., 576-92-8552
Turbyfill, Alan R., 408-06-6831
Turner, Richard A., 460-29-2618
Turner, Robert M., 535-66-5510
Uberti, John, 132-56-1020
Valenzuela, Banjamin D., 551-31-8590
Valenzuela, Lorenzo J., 526-11-5607
Vandusen, Gorden W., 384-76-6234
Vankirk, Steven R., 336-42-4675
Vanmeter, Thomas E., 228-02-9735
Vaughn, John K., 095-52-3598
Verser, Joseph M., 521-11-7731
Vess, Patrick A., 524-90-0171
Villandre, Alan J., 546-31-4503
Vontersch, Eric J., 252-27-3040
Voss, Mark G., 390-46-6837
Waeltz, Linda K., 357-56-4837
Wagner, Lewis G., 514-72-9789
Waldorff, Warren R., 099-54-4840
Walker, Gerald J., 248-25-8755
Wallace, James W., 306-72-5560
Walsh, James E., 102-48-4552
Walsh, Patrick D., 506-88-1573
Walter, Jon C., 432-31-6851
Wangenheim, Kurt P., 223-82-9239
Ward, Teresa D., 031-58-1644
Waverek, Joseph A., 475-72-9357
Weddall, Robert C., 014-56-7752
Weikert, Thomas P., 460-29-9732
Weissman, Jeffrey S., 112-58-4552
Welcer, Stephen A., 267-55-7946
Welch, Gordon E., 384-76-6849
Wendt, Todd R., 267-77-3303
Werner, Paul D., 577-94-0943
Wertin, Andrew B., 548-33-8129
Westhusing, Theodore S., 446-70-9664
Wheelock, Douglas H., 109-50-9841
White, Michael G., 067-40-1695
White, Nathan T., 565-94-8758
White, Rachel, 265-71-5510
White, Stanley D., 265-71-5967
Wiant, Shawn E., 524-11-1565
Widmer, Robert W., 136-58-4965
Wiley, Daniel J., 266-94-8333
Wilkinson, John R., 109-44-3949
Williams, Cardell, 213-82-0916
Williams, Eric S., 109-40-9178
Williams, Michael K., 231-90-8745
Willoughby, William F., 433-98-3424
Wiltse, Mark E., 547-43-5589
Wittekind, Gary W., 423-88-9042
Wittpenn, Glenn P., 140-56-3801
Wohlwender, Edward R., 274-64-7723
Wojta, Michael L., 397-56-9642
Won, Jefferson K., 576-60-6674
Wood, Robert A., 570-51-5463
Woodruff, Michael D., 466-29-6336
Woods, Michael P., 510-66-7351
Wright, Charles M., 263-49-0248
Wright, John S., 119-50-3561
Wright, Kevin W., 511-66-2874
Wyman, Steven G., 023-40-1179
Yee, Andrew C., 101-56-6649
Zegler, Scott D., 123-40-5853
Zellmer, Joseph F., 442-58-3024
Ziek, Thomas G., 103-54-7226
Zimmerman, Paul C., 344-64-5068
Zydanowicz, David H., 044-62-1262
Zywicki, Cheryl M., 318-60-9121

IN THE NAVY

The following-named U.S. Naval Reserve officer, to be appointed permanent commander in the Line of the U.S. Navy, subject to qualifications therefor as provided by law:

To be commander

Wiita, Marlin Dale

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant commander, in the Line of the U.S. Navy, subject to qualifications therefor as provided by law:

To be lieutenant commander

Adamson, James Aubrey
Athow, Karl J.
Bach, Ronald Clayton
Coppotelli, Lawrence
Cox, Henri Edwin
Cranney, Steven Joseph
Flannery, Peter Andrew
Franklin, James C.
Graham, Gerold W
Green, Melvin Curtis
Grover, James C.
Herzog, Martin Douglas
Holmes, Richard Nelson
Howard, Arthur Francis
Hunt, Jefferson Milo
Lariviere, Faith Mary
Montesano, Frank William
Murray, Billy Dennis
Paine, Richard Charles
Rich, Brian C.
Scott, Roderick Gibbs
Waas, John Glynn
Yerigan, Rand Gordon

The following named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Line of the U.S. Navy subject to qualification therefor as provided by law:

Adams, Robert Keith, Jr.
Alles, James Richard
Anderson, Warren Robert
Andrews, Michael Lloyd
Annis, James Brent
Arnold, Bramwell Baker, Jr.
Aroney, Michael Joseph
Arvonen, George Mark
Ash, William Edward
Ashley, Robert Lowell
Bach, Byron Theodore, Jr.
Bach, Daniel Thomas
Baile, Douglas James
Ball, Bryan King
Barber, Hope Love
Barcus, Richard Scott
Barkee, Jon Leonard
Barnett, David Edward

Basciani, James Michael
Bass, Rhonda Shaffer
Bayer, Kent Michael
Beauchamp, Harry James
Belcher, Frank Lee
Benham, Timothy Lane
Bennett, George Berkley
Bennett, Jan
Berg, Paul Douglas
Bergjohnsen, Jon F.
Beyda, Kenneth James
Bigley, Michael Joseph
Birkemose, Richard James
Blackstone, John William
Blasczyk, William Michael
Blout, Robert Paul
Blum, Douglas Glenn
Bodenstab, Mark Harold
Bond, William George
Bonnington, Stephen Curtis
Bosowski, Stephen NMN
Bowman, James Leo
Boyce, John Conlin
Boyer, Michael Francis
Braun, James Henry, Jr.
Braunstein, Eric
Brennan, Kevin Patrick
Brock, Johnie Phillip
Brock, William Clarence, Jr.
Brockriede, Thomas Wayne
Bromley, Vernon L.
Brooks, Philip Wayne
Broska, Dennis NMN
Brostrom, John Chester
Brown, Andrew Bennett
Brown, Michael William
Brown, William Jay
Brubaker, Craig Whitney
Brummage, Kenneth Gerald
Buechner, John Stephen
Buesser, Frederick Martin
Burke, Larry Deane
Burns, Dennis James
Burns, Eugene Clayton
Caffey, Troy Ray
Call, Kevin Bruce
Carnahan, William Grady
Casey, James Joseph
Casey, Michael Scott
Cerutti, William James
Cheney, Larry Glenn
Chisolm, Walton Buckley
Chmay, Peter Joseph, Jr.
Clark, Elizabeth Randolph
Clark, John Timothy
Clark, Kevin Joseph
Clemons, Williams Lawrence
Clingan, Cary Edward
Coburn, Brocks Allen
Cohen, James Michael
Coley, William James
Colmer, Philip Henry
Colvard, James Swafford
Compton, Stephen Hart
Conrad, Donald Charles
Cook, Anthony Lynn
Cook, Clarence Glenn, Jr.
Cook, Barry Thomas
Cordt, Rodney Jay
Cottey, Susan Ann
Courter, Craig Earle
Crawford, Nila Joy
Crawford, Stephen Michael
Creveling, Robert, Scott
Crews, Edward Lee, Jr.
Cronk, David John
Cullen, Mary Miller
Culp, John Dewitt, III
Cush, Terrance Albert
Daffer, Wayne Alan
Dailey, Edward Vincent, Jr.
Dalton, Joseph Michael
Daly, John Joseph
Daniel, Timothy Allen
Dargan, James Kerry
Davis, Lawrence Mark
Davis, Martin Neil
Decosta, Daniel Lee
Denard, Louis Francis
Deutsch, Kenneth William
Dickerson, Mark Steven
Diefenbach, Andrew Lawrence
Dishart, Gregory Stephen
Dobbs, Thomas Vincent, Jr.
Dodson, Richard Glazier
Drake, John Eric
Duncan, Leonard W. H.
Earnshaw, Paul Freeman
Easter, Christopher Curtis
Edmonds, Frank Thomas, III
Engel, Kurt Richard
Erickson, James Howard
Erisman, Alan Edwin
Erwin, Clarke Marvin
Fairbanks, Joel Kent
Filippell, Michael Edmund
Fisher, Horace Fred, Jr.
Fitzhenry, Jane M.
Fleming, Keith Edward
Forehand, Michael Lee
Fornarotto, Joseph Robert
Foss, James Harold, Jr.
Foster, William Larry
Fredrickson, Robert Alan
Freeman, Gregory Allen
Freeman, Mary Susan
Freeman, Timothy Garnet
Fullhart, Charles David
Gagin, Stephen Robert
Gallagher, Michael James
Gallisath, David John
Garner, Robert Wiley
Garrison, Powell Dunbar, III
Geletzke, Gerald William
Gerlock, James Edward Jr.
Gilbert, Jeffrey Alan
Glotzbach, James Conrad
Goodwin, Stephen Earl
Graham, Timothy Matthews
Grandau, Frank Joseph
Guy, Darrell George
Hass, Paul Sheldon
Hampton, Gary Wayne
Hancock, Arthur Wayne
Hankins, William Blake, Jr.
Harding, David Murrell
Hargrave, Bobby P.
Harkey, Deon Austin
Harrell, Cherie Michele Stev
Harris, James Patrick
Hart, Leo Herman, III
Hartshorne, Steven Joseph
Hawkins, James Murdock
Heard, Jeffrey Milton
Hedstrom, William George
Henderson, Sara Kim
Hendrix, Stephen Lynn
Hestle, Thomas Martin
Hettermann, Kurt Jon
High, Edward Jack
Hill, Kevin Eldon
Hill, Ronald Coley
Hinson, Reid Garrett
Hins, Eric Stacy
Hise, Anthony Dean
Hoagland, John Gary
Hogue, Gregory Paul
Hollinger, Michael Keith
Holyfield, Freddie Lee
Horn, Howard Robert, Jr.
Hostomsky, Jeremiah Patrick
Houy, Paul Bruce
Hoza, Christopher Mark
Huber, Ronald Scott
Hursey, Sidney Brian
Ives, Howard Charles, III
James, Michael Lee
Jancaeski, David Pierre
Jaunich, Joseph Charles
Jedrey, Patricia Anne
Joh, Leopold Frederick
Johnshoy, David Michael
Johnson, Jan Arthur
Johnson, Peter Alexander
Johnson, Richard Flernoy
Johnson, Steven Richard
Jones, Bradley William
Kachmar, Thomas Anthony
Kaiser, John Robert
Kalland, Paul Leonard
Kalpaxis, Arion Athanasics
Kaplan, David Elliot
Kasler, James Fredrick
Kast, Paul Anton
Keller, Tracy Neal
Kent, Vaughan Horatio
Kesner, John Cletus
Kiepe, Steven A.
Kimberlain, Danny Roger, Jr.
King, William Wyman, III
Kirkley, Mark Luke
Knutsen, Robert Roy
Koch, Andrew James
Kohler, Melvin Richard
Konrad, Nancy Ellen
Kreitlein, Harold Chris
Krupanski, James Louis
Kuehnle, Donald W.
Lamphere, Howard William, III
Leake, Robert Ellsworth, III
Lewis, Charles Dwight
Lilly, Craig Douglas
Linthicum, Richard C.
Littleton, Steven Taylor
Logan, Kenneth Joseph
Lowe, Eric Jospeh
Luce, Steven Eugene
Lyles, Kevin Sean
Lyon, David Samuel
Mabie, Kevin Ted
MacCrossen, John Edwin
MacDonald, Bruce Alastair
MacDougall, Robert Whittier
Machin, Mark Abbott
Maglott, Lisa Eleanor
Magnusson, John Swanholm, Jr.
Mahaffey, Patrick David
Maher, Mark Allen
Majoher, Clement Mark
Manna, Timothy John
Marks, Kenneth Allen
Martinez, Roberto Miguel
Mase, Ronald Ray
Mashburn, James Franklin
Mason, Danny Lee
Mastrangelo, Joseph Anthony
Mattonen, Jay Kevin
Maule, Kirk Edward
Mayabb, Carl Martin
Mayes, Douglas Frank
McCray, Linell Roberta
McDonald, Michael Scott
McDonough, Timothy Ryan
McDowell, Julian Virgil
McGirt, Ralph Ricky
McKenzie, Mark Francis
Mehling, Mark Alan
Metcalf, Lynnette Carol
Milaszewski, Michael James
Miller, Steve Don
Millette, Kenneth Gorman
Mindzak, John Robert
Mitchell, Chauncey Lawrence
Molnar, Wayne Eugene
Munsees, Hal Oris
Moore, Michael David
Morin, John Patrick
Moser, Carl James
Munn, Laurence Adelbert, Jr.
Munroe, Stephen Richard
Neary, Gregory Donald
Neubarth, Joseph Allan

Newman, Lawrence Gregory
Norgart, Bradley Alan
North, Louis Arthur, Jr.
Nutter, Christopher Glenn
O'Brien, William Joseph, III
O'Connor, Patrick Edward
O'Connor, Peter John
Offutt, Paul Curtis
O'Laughlin, Patrick Kelly
O'Leary, John Joseph, III
Olson, Byron Wesley
Orr, Bonnif Anne
Oster, Stephen Bruce
Oyster, Karl H., Jr.
Paddock, James William, Jr.
Panessiti, Dominic Anthony, Jr.
Paris, Patrick Ryan
Parker, Kerry Wayne
Parnell, Nancy Lynn
Parsons, Betty Luann
Perlberg, Miriam F.
Perry, Timothy Randolph
Peters, Aaron David
Peters, Terry Eugene
Petty, Kenneth Wayne
Pfundstein, Mark Joseph
Phillips, James Otto, II
Plank, Robert John
Pluff, Frederic Littlefield
Podenak, Gary Lawrence
Polizzi, Theodore Raymond
Pollock, William Dana
Potter, Meredith Austin
Powers, John NMN
Pratt, Joseph Hyde, III
Pruitt, John Montese, Jr.
Pugliese, Paul Andrew
Pye, William Raymond
Rackley, Kim Alan
Ralston, David Knight
Reed, James Noel
Regts, David H.
Reichl, John Richard
Reist, Charles Joseph
Reitmeyer, Thomas NMN
Remick, Bruce Donald
Richardson, Zachary Methe
Rickest, Gary Steven
Riner, Frank George
Ristvedt, Victor Gore, Jr.
Roach, Stephen Henry
Robinson, John Walton
Rockey, John Elion, Jr.
Rogers, Douglas Arthur
Rogers, Richard Wayne
Rojek, Fredric Walter
Ross, John William
Roth, Stephen Vincent
Rudolph, Robert Howard, Jr.
Ruppert, Ralph Scott
Ruskey, Robert Allen
Russe, Jeffery Scott
Russell, Todd Walter
Ruth, Douglas Alan
Ryan, Joseph Anthony
Ryan, William Raymond
Rystrom, Jon Alvin
Sainten, Eduardo Roberto
Sandelli, Richard William
Sanders, Scott Charles
Sapp, James Benjamin
Saunders, Richard Scott
Savage, Daniel Walter
Schlichter, William Anderson
Schmidt, Bruce Allen
Schmidt, Wallace Craig
Schneider, James Eugene
Schroeder, Mark Alan
Scolese, Christopher Jon
Seeley, Neil Robert
Seveney, James Arthur
Shay, Richard Franklin
Shearer, Oliver Vassar, III
Sherman, Scott Allen
Shipley, Graham Thomas
Shogpen, Paul Leon
Simmons, Louis Crispin
Simpson, David Myles
Slaven, Walter Brian
Smith, Daniel Joseph
Smith, Michael Alan
Smith, Selven Layne
Snarr, James William, II
Snopkowski, Brian Douglas
Snyder, Eric Sidler
Solkshinitz, Stephen Edward
Sorrell, Larry Wayne
Spence, William Douglas
Spitser, Lawrence Andrew
Springs, William Anthony
Staab, Gerald Adrian
Steed, George William, III
Steiger, Keith Edward
Steinbuechler, Erick Rudolf
Stephan, John Audley
Stephens, Fredric Milo
Stewart, William Guy
Stites, Ronald Paul
St. John, Guy Files
Stokes, Charles Stevens
Stottlemyer, Karen Lee
Straw, Thomas Wayne
Streit, Gregory Gustav
Sullivan, Steve Joseph
Summers, Stephen Chris
Sutton, Michael Stuart
Swoish, Douglas Raymond
Taylor, James
Taylor, Richard Roy
Teommey, Henry Charles
Teppen, Lynn Gene
Thomas, Christopher Lee
Thompson, Roberta Lynn
Tignor, Malcolm Dewey, Jr.
Tillerson, William Eugene, Jr.
Timon, Charles Ann, Jr.
Tobia, Michael NMN
Todd, Richard Boyd
Tomko, Edward Wayne
Tournas, Alexander William
Tritt, Gregory Eugene
Tweed, Jay M.
Tsitsura, Vasle Thomas
Vanderence, Dirk Gennit
Vaneendernburg, John NMN
Vanfossan, John Christopher
Vantol, Jan Maarten,
Verlin, Thomas Patrick
Wade, Marvin Otis, Jr.
Wagner, John Jay
Waindle, Kathleen Mary
Walden, Heather Jeanine
Wallace, Trek C.
Wamble, Carl Defilis
Ward, Larry W.
Ward, Peter Mark
Ward, Robert Orville
Ware, Alan Frederick
Webb, Michael Anthony
Wells, William Gregory
Wenceslad, Daniel Lathrop
Whetsel, Gary Lynn
White, Blake Ellis
White, Jeffrey Taft
White, Larry Mitchell
Wiff, Robert Allen
Wilcox, William George, Jr.
Williams, Kirk Gregory
Williams, Wayne Leslie
Williamson, Mark Kevin
Willis, David Lee
Wjorenna, Ricky Lavern
Young, Allen Charles
Young, Charles Merritt, III
Young, Robert Eugene
Yurchak, John Marshall
Zacharias, Robert Paul
Zavoy, Mark Andrew
Zumbach, Larry Laverne

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

To be lieutenant (junior grade)

Abel, Vicki Sue
Adams, Michael Ward
Adams, Rose Marie Theresa
Allaire, Burt S.
Allen, Charlotte Iona
Allen, Patrick Eugene
Altman, Michelle Rose
Amberger, Dale Wendell
Amelon, Jimmie Jane
Amer Mohamed Youssef
Ammann, Joann Marie
Andrews, Douglas Martin
Armstrong, Charles Robert
Arnold, John Joseph
Arnold, Thomas Edward
Ashby, Steven Burnett
Ashcroft, Lacinda Renee Bolh
Athey, Daniel Dee
Backstrom, Sharon Elizabeth
Bainbridge, Amalie Ruth
Baker, Ronald Alan
Baldwin, Clifton Vern
Banker, Joe Dan
Bardin, Barbaragail
Barrett, Brian Odem
Bartlett, Jon Scott
Bass, Robert Ness, Jr.
Bateman, Sara Ann
Bauer, Cletus Pall, Jr.
Baxter, William Michael
Beck, Sharon Rae
Bell, Donna Jean
Berry, China Mae
Bettle, Jerome Ord
Bewley, Jon Norris
Bickerton, James Allen
Bilicki, Celeste Ann
Boldt, Charles Jerome, Jr.
Boudah, Peregrine Susannah
Bourgeois, Stephen Willard
Boylan, Timothy James
Boyles, Kent Donald
Bradford, Shawn Lynn
Brailiar, Robert Batson
Branch, Richard Rae
Brandon, Mary Leslie
Bremseth, Loren Richard
Brickner, Terfsa Behnke
Browning, Randy Orval
Brust, Carl Joseph, Jr.
Budacki, Veronica Eva
Bundrick, Samuel Snyder, Jr.
Burgess, Eric Clyde, Jr.
Burgess, Mary Elizabeth
Burnette, Gerald Thomas
Butler, Mary Frances
Cain, Monica Mathern
Calder, Alexander Walcott
Calomeni, Carolyn Ann
Campbell, Bonita Irene
Campbell, Larry Pat
Canaday, Denise Joy
Canfield, Gwendolyn May, Stru
Cardona, David Alan
Carmody, Dana Warren
Cerchio, Patricia Ann
Chamberlain, Carl Nelson
Chester, David William
Christensen, Daniel K.
Clow, Teri Lynn
Coffey, Kimberly Ann
Coleman, Sean J.
Comstock, Amy Stewart
Cook, Edward Anthony
Cook, William Phillip
Cooper, Garrat Emmanuel

Cooper, Marjorie Helen
Cornell, Jean McCullough
Coyle, Sandra Getman
Crain, Neil Edward
Cross, David Michael
Culbertsonsession, Carrie La
Cupp, James W., Jr.
Curry, Michael James
Curtin, Lisa Ane
Dalpian, Margaret P.
Darnell, Suzanne
Davidson, Robin Alana
Davis, Charles William
Defenbaugh, Denise Lee
Delacruz, Ross Joyce
Delpiano, Mark D.
Delvecchio, William Adam
Desrosiers, Laura Lea
Dietrich, King Hastings
Dietrich, Susan Shearer
Dietrich, Virginia Ann
Dinkla, Walter Gerrit
Dipietro, Carol
Dobbins, Laura Content
Dobbins, William Lyle
Doersam, Rebecca Sue
Donaldson, Debra Lynn
Doss, Nancy Ann
Dougherty, Peter James
Dupre, Norman Bernard
Dwyer, Nancy McCarthy
Eagen, Michael Martin
Edmunson, Gary Everett
Egner, Elizabeth Anne
Eiseif, Mary Celeste
Eldard, William Alan
Elders, Karen Machiko
Engel, Nancy Ann
Erskine, Donald Kim
Eschbach, Alan E.
Espirito, Rita Villapando
Esquina, Thomas
Everett, John Alexander
Ewen, Laura
Farakias, Nicholas Gregory
Farmer, Alan Carl
Faust, Robert Wayne
Ferguson, Brian Eugene
Finn, Michael Paul
Fischer, Michael Jeffery
Fite, Denise Dillon
Fontenot, Paul Richard
Ford, Alvin NMN
Ford, Robert Lee
Fraser, Steven Ray
Freeman, Dennis Bradley
Freeman, Susan Diane
Fuplong, Ronald Lee
Furse, Peter William
Gabriel, Marilyn Kay
Gallagher, John Joseph
Garrett, Randall Bartholomew
Garrow, Mark Robert
Gates, Stephanie Gail
Gentry, Martha Lynn
Giffin, Christopher Kyle
Gillette, Martha Carol
Gladyszewski, Joseph Casimir
Glender, Caplos ILG
Goss, Gordon Wesley
Gough, Theresa Digiovanni
Gray, Kathryn Teresa
Gray, Rosanna Louis
Griffith, Charlotte Marie
Grimes, Michael R.
Grube, Virginia Ruth
Growell, Gregg Robert
Guerrero, Joseph, Sr.
Hackney, Roberta McCorkle
Halloway, Kenneth Edward, III
Haney, Warren Joseph, Jr.
Hanna, Deborah Gail
Hanson, William David
Hardison, Milton Wayne
Harrington, Steven Richard
Harsacky, Frank Joseph Jr.
Hart, Sam Dudley, Jr.
Hartsfield, William R.
Haskell, Emery Lloyd
Haug, Catherine Helen
Hauge, Richard Lee
Hawley, Alex Lynn
Hayman, Marie Catherine
Hebner, Edward Scott
Heishman, John Loren
Hennings, Tracy Anne
Herlihy, Thomas Philip
Higgins, John Philip
Higgins, Michael Martin
Hill, Christopher Thomas
Hines, Kathleen M.
Hizenski, Amy Linda
Hooker, Diana L.
Hopkins, Mark Gregory
Horner, Randy Alan
Hosler, Florence Mary Dugan
Howell, Abigail Susan
Hubble, Rebecca Jo
Hummer, Scott Raymond
Hunter, Sheilah Lakay
Huss, Marvin Clinton
Ichinaga, Ellen Shizu
Ignaczak, William Robert
Iverson, Jonathan Carey
Jackson, Debora Marie
Jacobs, Nancy Ann
James, Steven David
Jaszkowski, Monica Smith
Jenkins, Elizabeth Ross
Jenkins, Nancy Kathleen
Johnson, Kurt Randall
Johnson, Melanie Munro
Johnson, Vanessa Olivia Hall
Johnston, Marcia Lynn
Jordan, Brenda Mathias
Jorgensen, Pamela Anne
Juergens, Robert James
Keefer, Brian David
Keeter, James Wilson
Kelley, Anne Elizabeth
Kelly, Stephen David
Kempf, Cathy Lynn Williams
Klages, Mark Kenneth
Klepper, Tommy David
Knedler, Gary Lee
Knight, Lendall Stone
Korosec, Barbara Marie
Kunberger, Paul E.
Lacavera, Tara Lynn
Laflam, Scott W.
Landau, Harry Edward
Larson, Victoria Magdalene
Lasko, Phyllis Ann
Leathen, Elizabeth Kathleen
Leblanc, Lynne Marie
Ledbetter, Charles Stephen
Legates, Jean Florence
Lemon, Mark Hugh
Leonard, Wanda Faye
Levy, Lisa Ann
Lewallen, Tepry Wayne
Libner, Annette Eileene
Lienard, David Edward
Lilly, Dorothy Joan
Lincoln, Robert Rufus
Lindgren, Edwin David
Lloyd, Robbin Gray
Lockley, Wayne Terrence
Lokker, David Bruce
Long, Edwin Thomas
Long, Marilyn Hand
Lott, Gill Warren
Louie, Renata Pacla Yochum
Lowell, Malorie A.
Lowry, Kevin S.
Lundquist, Stephen William
Mabrey, Betty Jean Hunter
MacCall, Robert Arthur
MacFarland, Barbara Jean
Mahoney, Timothy Joseph
Malchow, Larry Paul
Martin, Stephen Edward
McCabe, Laurence Leigh
McCann, Brian Thomas
McChesney, Robert Newman, Jr.
McClure, Andrew Wilson
McConnel, Mark Shannon
McDaniel, Laurie Ann
McDaniel, Linda Eileen
McDonald, James Lloyd
McDonnell, Jeanne M.
McDonnell, Peter David
McIver, Jon Edward
McKay, Leondard Walter
McKenzie, Janet Denise
McKenzie, Judith Burleson
McManus, Janet Lee
McMillan, James Roland, Jr.
McNally, Patricia Ann
McNamara, Joseph Kevin
McNamee, Edward Patrick, III
Meade, Erik Roger
Melasky, Joan Manette
Mettlach, Theodore Robert
Miller, Mark Mitchell
Milliken, Alice Frances
Minner, Steven Franklin
Mitchell, Dennis Ellis
Mitchell, Sandra Lynn
Montera, Peter P., Jr.
Montgomery, David Leo
Montgomery, Susan Ledith
Moore, Lester Larue, Jr.
Moore, Robert Miles
Moore, Timothy Richard
Morgan, Frederick Nathan
Morgiewicz, Daniel Joseph
Mounce, James Granville, III
Muhammad, Ayesha Ruthie Muni
Muniz, Joe Louis, Jr.
Murnan, Cynthia Ann
Navori, Cornel Gabriel
Neil, Larry Keith
Nelson, Bruce Edward
Nichols, Gary L.
Niemeyer, John Peter
Nylander, Jon Natan
O'Brien, Kathleen Marie
O'Brien, Peter Alexander
Olivier, Donald Andrew, Jr.
Olone, Daniel James
O'Neill, Carol Brown
Orban, Mary Margaret
Orlando, Richard A.
Oswald, Donald, Jr.
Otto, Christopher Charles
Overall, Karen Marie
Overholt, Gail Ann
Pagel, Karen Ann
Painchaud, Lesley Jeanne
Palmatier, Christina Lynn
Palmer, Karen Inez
Parker, Joni Lynn
Patton, Bruce Wayne
Patton, James Wallace
Pennington, Terry Lee
Perez, Cynthia Ann
Peterson, Anne Louise
Petrarca, Dana Paul
Pierce, Leeann Kathleen
Pierson, Porsche
Poffenberger, Debra Lynn
Policastro, Josephine
Pomrantz, Cheri Annette
Portner, Steven Edward
Price, Cecilia Annette
Prisley, Frederic Arnett
Puckett, Timothy W.
Rahn, Harold Alexander
Ramirez, Richard Paul
Ramsey, William Brann
Rawls, Robert Lee

Ray, Teresa Lynn
Reed, Stanley Allen
Reiske, William Francis
Ries, Harry John, Jr.
Roberts, John William
Roberts, Kathleen Anne
Rodrigues, Geronimo
Rogers, Cathy Anne
Rogers, Kevin Dale
Rollins, Carla Ann
Romano, Lorraine Jay
Rosinger, Kent Vernon
Roper, Benjamin Frank
Ross, William Gordon II
Rossignol, Roy Richard
Routzahn, Karl Douglas
Royer, Kenneth George
Rumble, Robin Kathleen
Samari, Ja Gary Allen
Savage, Carolyn Rose
Sayles, Jeffrey Cameron
Scaringello, Frank
Schaff[illegible]ary Ray
Schendel, Cynthia Joyce
Schnur, Jack Karl
Sharma, Rajiv Kumar
Shaver, Trenton Douglas
Shepherd, Steven Ronald
Siedlecki, James William
Smale, Daniel Alan
Smith, Arlene Mitchell
Smith, James Lee
Smith, Jane Hollander
Smith, Jr., Lee Earl
Smith, Robert Nelson
Smith, Russell Calvin, Jr.
Smith, Timothy Mark
Snow, Cindy Rae
Snyder, Brent Elton
Sorrell, Kathy Louise
Sovereign, Bruce Gerald
Sprayberry, Sharon Ann
Springman, II, Charles Duane
Starski, Roger Paul
Stedman, James Robert II
Steedly, Wendell Melvin
Stiffenhoffer, Charles Scott
Stille, Mark Everett
Swisher, Armand Tipton Jr.
Tagariello, Stephen William
Tarby, Todd Peter
Thompson, Steven Clark
Tiedemann, Catherine Fisher
Tillotson, Marylou Katherine
Tinsley, Michael Ray
Traceski, James Paul
Trukken, Susan Jane
Tugman, James Edward
Tyler, Anne Kathleen
Uglow, Loyd Michael
Ulissey, Elinor Alexandra
Vacca, David Peter
Vaneendenburg, Reinetta
Vanhook, Gordon Evans
Vetter, Linda Joan
Vinson, Andrew Jay
Wadman, Elizabeth Tuddenham
Wagner, Luann Dorothy
Wagner, Michael Edward
Walker, Betty Darlene
Walker Kathy Jo
Walsh, John Michael
Ward, Robert Joseph
Warren, James Lee
Watley, Geral Galin
Watson, Patricia Ann
Welch, David Edward
Wemyss, Betsy Ann
Westwood, George Edward, III
Whitaker, Fiona Carolyn
White, Robert Michael
Whitlock, Patricia Jane
Wikel, Peter Igor
Williams, Michael Gerard
Williams, Nerissa
Williams, Robert Gary
Wilson, David Cables
Wilson, Ward Taylor
Winter, Deborah Kovacich
Wittry, Melissa Kay
Wolf, Jeffrey Guy
Wood, Gloria Darline
Wood, Michael P.
Wood, Thomas Clinton
Wright, Cynthia June Parsons
Zarem, Mary Luanne
Zelinger, Joan Annette
Zincarelli, Teresa Elizabeth
Zumbro, Derek Stephen

The following-named U.S. Naval Reserve officers to be appointed permanent ensign in the Line of the U.S. Navy, subject to qualifications therefor as provided by law:

LINE

To be ensign

Adams, Glenn Dean
Beard, Clenn Burnham
Blose, Robert Anthony
Bourne, Paul Carl
Branch, Kathleen Joanne
Brisson, Bruce William
Bruner, Barry L.
Bruns, John Edward
Buchele, Paul Scott
Calfa, Jeffrey Paul
Calhoun, Rory James
Cereola, Joseph
Chesky, Jay Wicker
Chew, Robert Edmund
Chiasson, Leo Ernest, Jr.
Ching, Nathan Shang Peng
Clark, James Leslie
Coberly, David Blake
Cole, James Brian
Conroy, Stephen Bernard
Coppa, Anthony Joseph
Cree, Robert Edward
Davis, Gail L.
Deangfiis, Marc Santuccio
Devany, Daniel Lewis
Domeshek, Stuart Carter
Dutour, William Joseph
Easton, Randolph Lloyd
Edmondson, Charles Andre
Elsey, Michael Albert
Ervin, Russell Ross
Faircloth, Joseph Anthony
Ferris, Edward, Jr.
Fitzmorris, Gerald Neil
Frey, Norman Walter
Funk, Daniel Lee
Giroir, Harold Joe, Jr.
Gormley, Robert Pershing, Jr.
Graham, Darryl Blaine
Greatwood, Christopher Holme
Guinn, Keith Vincent
Hardage, David Harrell
Harris, Alan James
Hawkins, David Ray
Hayden, John Doxey
Haynes, Frederick Ralph
Hilbrandt, Fredrick Joseph J.
Hood, Don Norman
Howell, Robert Gene
Jackson, Patricia Anne
Jensen, Blaik C.
Jones, Robert Frederick
Kreger, John Marshall
Lewis, David Albert
Lipsky, Jerold David
MacKanic, Jeffrey Glenn
MacPherson, David Leonard
Major, Dorothy M.
Marincic, John Wesley
McWhirter, Jon David
Mensella, Vito Michael
Morris, Wayne Blair
Mouser, John Wesley
Murphy, Mary C.
Myers, Mark Robert
Nakahata, Djane Takaki
Newberry, Ronald Charles
Nunnally, Bruce Wayne
Paschall, David Fred
Pelland, Wayne David
Pennypacker, Francis David
Pinkston, Michael Brian
Prevette, Steven Scott
Quigley, John Michael, Jr.
Rachal, Joel Pastor
Ramsey, Donald Ray
Ronning, John Lawrence
Rummel, Thomas Ernest
Sainsbury, Robin John
Sauer, Peter Michael
Schwenk, Gregory William
Scottmcknight, Charlotte Ver
Shuey, Malcolm Baird
Sibley, Raymond Howard
Sites, Martin Gregg
Sprague, Bryan Grant
Sullivan, James Thomas
Summers, How Robert Edward
Swan, Kenneth Allan
Taylor, Andrew Charles
Thompson, Tevin Ray
Torcolini, Kevin Michael
Townsend, James John
Wilkinson, Kenneth Patrick
Wilt, Brian Lee
Wright, Paul Charles
Wunder, George F.

The following-named U.S. Naval Reserve officer, to be appointed permanent captain in the Medical Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

MEDICAL CORPS

To be captain

Legan, John Keith

The following-named U.S. Naval Reserve officers, to be appointed permanent commander in the medical corps of the U.S. Navy, subject to qualifications therefor as provided by law:

To be commander

Dofort, Robert Thomas
Emery, Jefferson Craig
Firth, Harriet Jane and
Hargett, Newell A.
Holmes Christopher Ken
Moser Paul Henry
Rayl David Lefoy
Shodhan Pragna Ramesh

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant commander, in the Medical Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

To be lieutenant commander

Angrabanes, Jose Cic
Blacharski, Paul Alexan
Blankenship, Charles L.
Block, Robert
Brawley, Robert L.
Brook, Itzhak
Bulbsan, Emedic B.
Cassidy, Scott
Chinnery, Martha Steele
Choplin, Neil Todd
Cusack, John Robert
Dias, Carlos Ricardo
Duvalarnould, Bertrand
Engler, Renata, J.
Gudboldt, Anthony
Graves, James F., Jr.
Gray, Charles Glenn
Hilaman, Brad L.
Howard, Douglas Chapman
Jones, Bluett Emery

Ley, Carl E.
Lytle, Gary Scott
Mangalindan, Ernesto GA
Mateczun, John Matthew
Maxwell, James Houston
McCance, David Michael
Miller, William I.
Phillips, Richard B.
Simkovich, Joan
Taggart Richard E., Jr.
Thompson, Craig Bernie
Wilshire, Larry Brent
Wolov, Robert Bruce
Yacavone, David William

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Medical Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

To be lieutenant

Applebaum, Jay
Bagley, Peter Hartwell
Cote, Peter C.
Edwards, Russell Philip
Filak, Michael Andrew
Giannandrea, Paul F.
Haney, Barry D.
Leicht, Craig Howard
Marchand, Gregory NMI
Marsh, Michael Steven
McDonald, Wilbur E.
Mitchell, Benjamin Sanf
Nowacki, Michael Richard
Oswalt, Kenneth E.
Roberts, William L.
Rosequist, Robert Bruce
Saylor, Michael Joseph
Sheprod, Theresa T.
Simmons, George Haskel
Warren, Richard Clinton
Whelan, Thomas V.
Zimmerman, Lisa Marie

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Supply Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

SUPPLY CORPS

To be lieutenant

Berry, Vance D.
Camp, John W.
Cowart, James Steven
Degeorge, John Foster
Ekwall, Bengt Steven
Hewett, Coy Davis
Hickman, John Randall
Jensen, Ward Douglas
Laughlin, Larry M.
McCurry, Patrick T.
McGaughey, William Kenneth
Neubeck, Bruce Philip
Payne, Dirk William
Snyder, Robert Claude
Sweeney, Douglas John
Watkins, Bruce Field
Westmoreland, Allan Lamar
Woodcock, Charles John
Zengilowski, John Joseph

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the Supply Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

To be lieutenant

Alberto, Ricardo Teodoro
Andrews, Lorena Dale
Barclift, Steven C.
Barnwell, William Manigault
Becker, John Rhodes
Benson, Charles Wrandall
Bobbitt, Jimmy Rodges
Bolke, Richard Edward
Bratton, Thomas Andrew
Brewster, John Daniel, Jr.
Buck, Wolfgang Joseph
Burrell, Gilbert Ashton
Catalano, James Anthony, Jr.
Cook, George Ellis, Jr.
Cravy, Darrell Lynn
Cusmina, Thomas Alexander
Davidson, Stephen Lynn
Djdolevitch, Robert Francis
Dussault, Kathleen Mary
England, David Calvin
Felicitas, Rolando Presto
Fifer, William Wesley
Ford, Karen Elizabeth
Francom, Gerald Lee
Garbarini, Virginia Ann
Gebhart, John Loup
Glas, Ray Allan
Glisson, Gary Wayne
Grabars, Christopher Martin
Graham, Ruth
Hajek, James Anthony
Harris, Steven John
Hennelly, Patrick Joseph, III
Hitson, Robert Lamar
Horst, Daniel Cushing
Hurley, James Joseph
Kalita, Walter Joseph, II
King, Arthur William III
Kovalchik, Andrew John
Lamb, Timothy Brian
Langenberg, Suzanne
Lentz, Melvin Keenan, Jr.
Mahaffey, Vance Gordon
Martin, Gregory
Martin, Michael Paul
McFadden, Brian Patrick
McNeeley, Donald Carson, Jr.
Moore, Robert Christopher
Morgan, Michael Lynn
Morris, John Irvin
Myhre, Edwin Erickson
Naber, James Pryce
Napanjo, Edward
Nash, Vincent Manning
Newman, Richard Raymond
Pair, David MacDonald
Pieri, Kenneth Allan
Pisano, Nicholas Daniel
Rackliffe, John Alden
Robida, Robert Raymond
Rodrigues, Libertad
Roscoe, James Charles
Schade, Don Franklin
Scott, Roger Dale
Skinner, Howard Lee, Jr.
Spangler, Suzanne Kay
Startt, Patrick Glenn
Turner, Charles Lloyd
Vaughan, David D.
Victoriano, Edwin Arnold
Vulliet, Gary Dale
Whelan, Paul Richard
Whitley, Thomas Alva, Jr.
Wilson, Dennis Edwin
Young, John Henry, III

The following-named U.S. Naval Reserve Officers, to be appointed permanent lieutenant commaner in the Chaplain Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

CHAPLAIN CORPS

To be lieutenant commander

Clough, William R.
Shea, Joseph F.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Chaplain Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

To be lieutenant

Buchmiller, Ronald Joseph
Harwood, James G.
Ladmirault, Ralph Anthony
Martin, Bruce Alan
McNabb, Jerry Elvin
Pollitt, Gary Rex
Slomovitz, Albert Isaac
Spilker, Kurt H.
Stanfield, Edwin Douglas
Teske, Paul N. E.

The following-named U.S. Naval Reserve officer, to be appointed permanent lieutenant commander in the Civil Engineer Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

CIVIL ENGINEER CORPS

To be lieutenant commander

Hall, William Michael

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Civil Engineer Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

To be lieutenant

Bond, Timothy James
Carvel, Douglas D.
Claussen, Mark D.
Cowan, Robert James
Dell, James P.
Gravely, Harry A.
Henderson, Gary Ray
Hill, Michael L.
Krug, Paul Frederick
Mathews, Peter
Mikula, Kevin E.
Nielsen, Thomas William
Pedrick, Merritt Wesley, III
Rakel, Jerome P.
Roman, Kenneth M.
Schenk, Robert Eugene, Jr.
Strickland, Stanley R.
Walker, Dale Mee Wah
Wall, Richard A.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the Civil Engineer Corps of the U.S. Navy, subject to qualifications therefore as provided by law:

To be lieutenant (junior grade)

Butrym, Kenneth Patrick
Cantwell, Frank A.
Finley, Allan M.
Ghizzoni, Jeffrey Allen
Hoodenpyle, Donald O.
Ingalls, Jon W.
Jackson, Gary Wayne
Matthews, George Charles III
Peek, Michael A.
Power, James E.
Romagnoli, Gerard Anthony
Thackston, Russell C.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Judge Advocate Generals Corps of the U.S. Navy, subject to qualifications therefore as provided by law:

JUDGE ADVOCATE GENERALS CORPS

To be lieutenant

Connelly, Darlene Marie
Crisalli, Donna Marie
Edwards, Jonathan Philip
Elkins, Debra Rae
Ford, Frank David
Harrington, Neil James
Lueker, William Kent
Pearlstein, Mark Steven
Price, David Paul
Rowe, Larry Wayne
Swartz, Marc Leonard
Trgovich, Robert Nichol
Wedan, Robert Warren Jr.
White, Robert J.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant commander in the Dental Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

DENTAL CORPS

To be lieutenant commander

Kiselica, Lawrence C.
Mayhall, Clyde Wesley
Morris, Hubert Elmer
Walker, Dana Langdon

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Dental Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

To be lieutenant

Barnett, Joseph D.
Bond, John Sullivan
Donsell, Diedra Barnes
Emrich, Steven Christop
Garrett, Wanda Faye
Glynn, David William
Gray, Edward Wyatt
Haas, Stephen Beckley
Hightower, William Clay
Hudson, Thomas Clay
Lapetoda, Wayne B.
Martino, John P.
McMaster, Dana Robert
Spencer, Craig Winsop
Toomey, Kevin Francis
Winegard, Elaine Ruth

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Medical Service Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

MEDICAL SERVICE CORPS

To be lieutenant

Bally, Ralph Edward
Clever, Linda Gail
Crymes, Frank Linwood
Defrancis, Paul Charles
Dewar, John Alexander
Dilorenso, Cynthia Anne
DiPaolo, Joseph
Edwards, Roger Dean
Eyraud, Micheline Yvonn
Fox, Arthur William
Frank, William Peter
Greenauer, Michael Arth
Guido, Anthony Robert
Hooker, Tommy Lee
Kelleher, Dennis Lucas
Lilienthal, Michael Gab
Lundgren, Richard Erick
Macaraeg, Elenor Galvez
Mather, David B.
McCullough, William L.
McDonnold, Coy Ray
Nelson, Alan Lee
Passaglia, Gary
Sharp, Robert Allan
Smith, Donald Noran
Snyder, Daniel James
Staton, Bobby Gerald, Jr.
Stevenson, Hugh Robert
Ulmer, Jerald Leonard
Wong, Wellman, Chew
Zuckerman, Gary Wayne

The following named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the medical service corps of the U.S. Navy, subject to qualifications therefor as provided by law:

To be lieutenant (junior grade)

Anderson, Andrew E., Jr.
Anderson, David Mark
Blackshire, Gary Lee
Brannman, Pamela Shayn
Henson, Trena Janiece
Kolar, Roy Dean
Moshier, Patrick Michael
Coker, Kenneth Robert
Scott, Francine Patricia

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant commander in the Nurse Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

NURSE CORPS

To be lieutenant commander

Butcher, Carol M.
Glenn, Judy Jean
Harayda, Eileen M.
Hiles, Lisa Diann
Longuet, Karen Lee
Theriault, Jeannette

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Nurse Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

To be lieutenant

Allen, William Edward
Andrade, Rosemarie
Arn, Debra Jane
Banaszek, Mary Ellen
Barnard, Paula Kathleen
Barrow, Glenda Ann
Beasley, Kathryn M.
Beyer, Jane Marie
Braddy, Robert Miller
Burgess, Julia Dwiggins
Burns, Eileen Stanton
Campbell, James Van
Carrio, Jan Marie
Companion, Lydia
Condon, Doris Evelyn
Cox, Rita A.
Crull, Lisa Marie
Delisle, John Marc
Denman, Terry Lou
Diring, Rosa Ubregon
Dunkle, Lavon Marie
Ericson, Ronald Lawrence
Ervin, Richard Keith
Felsburg, Regina Claire
Ferguson, Christopher C.
Foeste, Shari Ann
Foster, Raymond John
Gallant, Sharon Nancy
Groeneveld, Gergory Lor
Guthridge, Debra Dale
Hill, Karen Sandra
Jordan, Kathy Ann
Kahl, Jacqueline Jean
Kent, Heidi Ellen
Kihlstadius, Diana L.
Kusmierek, Maureen Ann
Lynch, Kathleen Toohey
Madden, Susan Carol
Maddoxcaceres, Linda Sue
Maher, Karen
Mahon, Maura Margaret
Major, Cheryl Ann
McClain, Dennis Raymond
McGrath, Mary Cecilia
Menenberg, Sonia Risa
Mitchell, Jacqueline Ann
Monson, Ricki Jon
Moore, Cynthia Ann
Murphy, Rosanne
Ofallon, Patricia Tagga
Pare, Kathy Ann
Parker, Nancy Jo
Pickard, Mary Claire
Pierce, Kathryn Joan
Piwowarczyk, John Edward
Presley, Charlene
Price, Robert Allen, Jr.
Rehm, Timothy Allen
Repair, Janelle Ruth
Richardson, Susan Still
Riederer, Irene Ann
Riosplaza, Nelson Juan
Russell, Ann Julia
Shealy, James Lance
Sileven, Teresa Ann
Smith, Ardis Allen
Smith Deborah Lynne
Sutton, Gisela Sanford
Vanderhoof, Linda Rene
Wells, Tommy Everett
Wesley, Shirley Ann
Westerfield, Susan Cathy
Whiting, David Robert
Woznick, Martha Josephine

The following named U.S. Naval Reserve Officers, to be appointed permanent lieutenant (junior grade) in the Nurse Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

To be lieutentant (junior grade)

Campatelli, Mary Margaret
Chapar, Peri Mary
Cronin, Deirdre Gage
Davis, Richard Lee
Ehlen, Mary E.
Eldridge, Mitzi Denise
Fehrenbach, Elizabeth R.
Floyd, Debra Susan
Habel, Mark Stephen
Harden, Maureen Anne
Huffman, Kenneth Lee, II
Krau, Stephen Douglas
Kress, Allen Franklin
McCarthy, David Raymond
McCormack, Sherri R.
McKinsey, Karen Teresa
Moulden, Micheal Louis
Normand, Annette Lucie
Seaberg, Beverly Ann
Senzig, Marie Sue
Sumner, Kevin P.
Young, Margaret V.

The following-named temporary limited duty officer, to be reappointed permanent lieutenant in the supply corps of the U.S. Navy, subject to qualifications therefor as provided by law:

SUPPLY CORPS

To be lieutenant

Pettaway, Henry Edward

The following-named limited duty officer to be reappointed permanent lieutenant commander as a regular officer in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

LINE

To be lieutenant commander

Free, James Rodgers, Jr.

The following-named temporary limited duty officers, to be appointed permanent lieutenant in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

To be lieutenant

Fitzgerald, William C.
Kindegan, Walter B.
Risko, Georgi W.

The following-named temporary limited duty officers, to be appointed permanent lieutenant (junior grade) in the line of the U.S. Navy subject to qualifications therefor as provided by law:

To be lieutenant (junior grade)

Johnston, John P.
Weir, Robert C.
Wright, Wayne A.

The following-named temporary chief warrant officers to be appointed permanent chief warrant officers (CWO4) of the U.S. Navy, subject to qualifications therefor as provided by law:

To be chief warrant officers (CWO4)

Favaloro, Francis Albert
Speir, William Franklin

The following-named temporary chief warrant officers to be appointed permanent chief warrant officers (CWO3) of the U.S. Navy, subject to qualifications therefor as provided by law:

To be chief warrant officers (CWO3)

Hamilton, Wesley Elbert
Rohrbacher, Richard Kenneth
Schmehl, Robert Louis

The following-named temporary U.S. Naval Reserve chief warrant officers to be appointed permanent chief warrant officers (CWO2) of the U.S. Navy, subject to qualifications therefor as provided by law:

To be chief warrant officers (CWO2)

Babb, Gary W.
Clark, Stephen R.
Goldstein, Dennis Robert
Jones, James H.
Kussmar, Thaddeus John
Meeker, William Henry
Sellers, Gary Thomas
Snyder, Leonard William
Zink, John W.

In the Navy

The following-named Air Force Cadets to be permanent ensign in the line of the U.S. Navy, subject to qualification therefor as provided by law:

Bullock, Jay P.
Losey, Brian L.
Moore, Scott P.

John R. Powell, Naval Reserve Officers Training Corps candidate, to be appointed a permanent ensign in the line of the U.S. Navy, subject to qualification therefor as provided by law.

The following-named Navy officers to be appointed permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Malstrom, Robert H.
Smith, Michael L.

In the Navy

The following-named candidates in the Navy enlisted commissioning program to be appointed permanent ensign in the line or staff corps of the U.S. Navy, subject to qualification therefor as provided by law:

ENLISTED COMMISSIONING PROGRAM

To be ensign

Allison, Todd M.
Anderson, Weston J.
Antonetti, Ricardo
Armstrong, Jeffrey M.
Authur, Kenneth E.
Awai, Herman T. K.
Baseden, Steven T.
Beets, Raymond D.
Bennett, William E.
Benson, Timothy A.
Beu, Richard J.
Blake Christopher, Jr.
Bogan, David L.
Bolles, Gary L.
Bostic, Fred, W., III
Boykin, Timothy R.
Boyle, John M.
Brown, Jeffrey P.
Callahan, Thomas M.
Castell, Curtis R.
Caulfield, Christopher J.
Chamberlain, Richard J.
Chambers, Ronald L.
Charbonneau, Lauren J.
Charters, Martin R.
Chicoine, Robert J.
Colbert, Russell G.
Cortez, Louis A.
Crist, Steven L.
Cunningham, Bruce A.
Dagostino, Anthony F.
Daniel Bradford, R.
Dargel, Thomas K.
Dean, Michael R.
Derenski, Bruce A.
Fazenbaker, Robert E.
Frank, Terry L.
Gardiner, Jo E.
Gillette, Duane L.
Gilmartin, Gary M.
Glander, Matthew J.
Goldapple, Robert S.
Grant, Michael R.
Gromada, Robert L.
Grouns, Rodney M.
Hafer, Dennis A.
Haggard, Don E.
Hamman, Kurt D.
Hastings, Douglas G.
Hayes, Gregory A.
Heizler, Arthur R.
Herres, Scott W.
Hiller, Kathleen M.
Hixenbaugh, Franklin D.
Holmes Edward
Howard, Roderick M.
Howe, Carol L.
Howman, Gary L.
Jenkins, Preston L.
Johnston, Jennifer S. A.
Johnson, Matthew L.
Johnson, Tommy J.
Jones, Lloyd H.
Kinney, Robert L.
Koon, Johnnie A.
Lavine, Joseph T.
Lawson, Richard A.
Lennartz, Jay A.
Lial, Allan D.
Lillyman, Nancy J.
Logsdon, Patrick B.
Lynch, William M.
Mahoney, Jeffery J.
Malench, Thomas R.
Maurasse, Patrick J.
Mayfield, Robert D.
McCarthy, Clinton C.
McDonald, Prentis, M.
Melchiorre, Kenneth J
Melin, Grant E.
Mikkelson, Dennis M
Mitchell, Judy A.
Moore, Joseph K.
Moreno, Francisco, Jr.
Morgan, Jeffrey G.
Moriarty, Thomas J.
Morice, Donald J.
Neely, David, S.
Nepomuceno Juanito D.
Neuenschwander, David L.
Noe, Gregory B.
Nufer, Anthomy L.
Ocampo, Robert S.
Parcell, Mark A.
Parke, Matthew C.
Patrick, Johnny O.
Poyer, Jason M.
Preston, James M.
Provost, Robert E.
Puett, Ronnie D.
Puyau, Stephen F.
Quintanilla, Humerto L.
Rawls, Dwight G.
Ray, Paul G.
Recker, Douglas L.
Reith, Loren N.
Rook, Elizateth B.
Rosario, Roderick F.
Ross, Christopher M.
Sampson, Danny C.
Sarver, Shawn A.
Saunders, Harold T.
Sieber, Josh S.
Smith, Claude D.
Smith, Jonathan C.
Smith, Robert L.
Smith, Steven M.
Snyder, Bernard F.
Solis, John R., II
Squalls, Ernest J.
Steckler, Larry J.
Stone, Henry J.
Swayze, William E.
Swindle, Edward A.
Szlosek, Edward
Tagart, Charles W., III
Tatro, David P.
Taubitz, James E.
Teachout, Douglas B.
Tinsley, Randall E.
Tornes, Norbert W.
Tvrdy, Ellen M.
Vencill, John O.
Waldron, Linda S.
Ward, Jeffery J.
Ward, Teresa M.
Warren, William R.
Washington, Wilson J.
Watson, Richard P.
Watson, William D.
Webb, Charles R.
Welch, David A.
Wellington, Charles H., Jr.
Wetzel, Lothar M.
Whitfield, Paul M.
Williams, Michael A.
Willmore, Simon K.
Wischhusen, John R.
Wynne, Marcus B.
Yost, Mark J.
Zuckerman, Gregory L.

The following named U.S. Navy officers to be appointed permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

MEDICAL CORPS

To be commander

Bernhardi, Louis A., III
Lee, Jong K.
Martin, Port R.
Powell, Randall W.

The following-named U.S. Navy officers to be appointed permanent captain in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

MEDICAL CORPS

To be captain

Weaver, Joseph W.

In the Marine Corps

Lt. Col. John R. Bourgeois, U.S. Marine Corps, for appointment to the grade of colonel, pursuant to title 10, U.S. Code, section 6222.

In the Marine Corps

The following-named U.S. Naval Academy graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, U.S. Code, section 531, subject to the qualifications therefor as provided by law:

To be second lieutenant

Adams, Philip K., 1975
Anderson, Kurk P., 5375
Arnold, Manfred F., 6713
Beall, Michael H., 2658
Bigger, Bryan W., 2397
Blankemeyer, Francis J., Jr., 9115
Bliesner, David M., 2088
Blundetto, Francis, R., 8403
Boracchia, Stephen J., 4474
Bressler, Iric B., 6423
Caldwell, Anderson C., 8087
Carter, George R., III, 1389
Casmey, Danny L., 9428
Chavez, Michael E., 8212
Cheamitru, Thomas N., 8835
Chromczak, Michael J., 9537
Cianella, Brian, 0185
Clark, Jerome A., 9792
Connally, Thomas J., 1503
Coronado, Patrick A., 6849
Dace, John D., 1885
Davidson, Richard K., 3252
Deberry, Dennis, 5043
Dellatto, Michael C., 1007
Dickenson, Dennis R., 4422
Diorio, Dwight M., 0515
Ditullio, Peter C., 8026
Dobbratz, W. K., 1929
DuPont, George Jr., 7653
Edmondson, Michael J., 8606
Eikenberg, Bruce R., 8789
Evans, James A., 8418
Evans, Todd D., 4192
Fancher, Kenneth W., 6615
Fears, George M., 0691
Ferris, William E., 5308
Finley, Julian G., 3139
Flannery, William J., 0807
Fletcher, Jeffrey E., 6238
Foley, Michael J., 4218
Forti, John G. Jr., 0306
Frank, Harry A., 9519
Free, Frank, III., 1853
Freeman, Sean M., 7086
Genco, Victor M. Jr., 7180
Gogue, Jessy C., 9490
Gray, Aaron L., III., 0644
Green, Matthew E., 4773
Gregorich, Mildred M., 7229
Guthrie, John W., 0428
Haas, Donald J., Jr., 8793
Hahne, Daniel C., 5755
Hallin, Jeffrey N., 1905
Halling, Dale R., 3627
Halliwell, Francis E., 5732
Herndon, Timothy A., 7287
Herzog, Karl R., 5065
Hicks, Bret A., 3920
Hiester, Scott R., 6707
Hille, James R., 2686
Hinkley, Laura A., 9549
Hinton, Michael D., 2084
Hodges, Brian F., 7793
Hofley, Andrew M., II, 3088
Holland, John A., 7321
Holland, Peter J., 3557
Hooks, James D., 9271
Hopkins, David M., 8391
Horine, Pamela A., 1660
Hull, Michael P., 3894
Hymers, Kevin M., 8320
Hymes, Kirk W., 9297
Ingerson, Nancy L., 4508

Jackson, Eric K., 4640
Jensen, Andrew F., III, 4534
Johnson, Carl J., 6644
Johnson, Kevin L., 0566
Jones, William D., 4580
Kalmbach, Mark R., 7366
Kamyszek, Mark E., 9740
Keith, Terry W., 1363
Kelin, David L., 6802
Koval, Michael J., 4203
Kraft, Timothy P., 0832
Krall, Daniel J., 7394
Laney, Angus M., 6359
Larson, William J., 5199
Lemay, Malcolm B., 5228
Lietzau, William K., 7994
Linnekin, Richard B., Jr., 3158
Logue, Edward A., 6366
Loper, James H., III, 5042
Lucas, Craig E., 5374
Magness, David A., 2420
Mangan, Alan F., 8595
Mangilcmot, Alan P., 1065
Manley, Gary J., 6176
Martin, Robert C., 8181
Mathews, Henry B., II, 4075
Mauro, Michael T., 0252
Mayo, Gilbert W., Jr., 0092
McCombs, Lawrence K., 3410
McDonald, Craig S., 4226
McGeorge, Bruce P., 4774
McKinley, James E., Jr., 4016
McLoughlin, John R., 8136
McNeil, Franklin N., Jr., 5095
Melillo, Michael R., 8100
Messer, Shawn K., 2140
Miller, James B., 6866
Miller, John P., 8871
Miller, Kevin L., 6570
Mokris, Joseph A., 4516
Monahan, John P., Jr., 1646
Montgomery, Darrell B., 8045
Moran, Robert B., 2347
Muna Antonio J., 4803
Murch, Christopher H., 9206
Murphy, Joseph A., III, 0039
Murray, John T., 8814
Ockerman, Steve B., 7235
Oleary, John F., 4193
Ortega, Mike R., 2665
Ott, Michael, 5886
Papp, Keve K., 0507
Peterson, Kevin C., 4591
Peterson, Thomas E., 3774
Powell, Lewis R., 2285
Powell, Mark L., 0355
Rector, James P., 1811
Reich, John P., 9293
Renner, Donald C., 7881
Resnick, Michael D., 6528
Richeson, Allen K., 1150
Ricketts, Eric V., 1491
Riegel, Bryan V., 2296
Riegel, James D., 9157
Robinson, Russell L., 8415
Ross, John L., 8290
Ruiz, Jeddy M., 0517
Rupp, John, 5379
Russak, Christopher N., 6778
Ryder, Erica L., 0830
Sagerholm, Mark C., 8953
Sanchez, Anthony J., 9714
Scanlan, John M., 4090
Schieke, Richard W., Jr., 7764
Schlaepfer, Andrew H., 3778
Schmidt, Gary C., 5608
Schott, Richard A., 8329
Schurman, Holbrook J., 1552
Scissum, Adolph C., 7927
Seaver, Michael A., 2494
Sherman, Tina R., 2639
Shoemake, Jeffrey D., 3463
Simkins, Caroline A., 2559
Simmons, David E., 7833
Skalniak, Phillip J., Jr., 8465
Smith, Joseph G., 4170
Smith, Kevin L., 2414
Sneddon, David E., 2593
Soto, Joseph W., 3168
Stewart, James C., 9932
St. George, Christopher J., 1501
Sweeney, James R., II, 5332
Switzer, Kendall S., 6406
Taylor, Richard A., 7780
Toyooka, John A., 3461
Treadwell, Michael I., 0132
Wadsworth, Douglas J., 9633
Wauters, Keith B., 1545
Weis, Jeffrey S., 7992
Whitbeck, George S., 4377
Wileman, Richard T., 2193
Woodhouse, Mark T., 7887
Woolley, James L., 9421
Wrice, Jesse E., Jr., 5687
Wu, Stephen Q., 7036
Yourkowski, Joel, 1939
Zotti, Steven M., 8126

EXTENSIONS OF REMARKS

PROTECTING OUR VITAL INTERESTS IN CENTRAL AMERICA

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 2, 1983

● Mr. WHITEHURST. Mr. Speaker, in the past several weeks and months I have spent a great deal of time reviewing our country's position and actions in Central America. I believe that it is time for every Member of the House to consider what the long-range implications are for the United States if we do nothing in Central America to stop the spread of Marxist subversion. The Sandinistas—by their own definition—are certainly a Marxist regime. From Moscow and Managua they have announced their principles. "We guide ourselves by the scientific doctrines of the revolution, by Marxism/Leninism," Minister of Defense Roberto Ortega has explained. Marxism/Leninism is a fundamental part of the Sandinista's ideology.

While it causes me great concern that there is a Marxist regime that close to our own borders in Central America, what disturbs me even more is a Marxist ideology's reliance on Leninism as a blueprint or their action implementation plan.

The Cuban/Soviet influenced countries intend to spread guerrilla activity and promote instability throughout the entire region. In my judgment, conditions in Nicaragua are not substantially different from what they were under the late dictator Anastasio Somosa. We have all the proof that we need that the guerrilla Marxist movement in El Salvador is supplied by Nicaragua with arms that have originated in the Soviet Union and come through Cuba or Soviet-bloc countries.

Conversations with representatives of other Central American States, including Honduras and Costa Rica, reflect on their part great fears about what will occur if America does nothing and permits the Marxist, and more importantly, Cuban-influenced government backed by Nicaragua to create havoc in El Salvador. They feel that subversion will take place in their countries next. When Nicaragua fell to the Sandinistas, the waning insurgent movements of El Salvador and Guatemala came alive again. If those countries should fall to the left, it is probable that frail Honduras, with its indefensible borders, and Costa Rica, with a defensible border but no army of its own to defend it, would be next on the guerrilla hit list. Who is to say that feudal peasant holdings of southern Mexico would not tempt the Guatemalan-based, Soviet-influenced guerrillas. It is no surprise that the United States should be tempted to try to douse the fires of a revolution two doors down—next to two of America's most essential strategic interests.

If one is concerned about the rightness of the American position or whether our position is morally justifiable, I think one only need to look to the improvements in El Salvador with respect to humanitarian issues. The number of Salvadoran citizens murdered was reduced by more than half last year—and Americans can claim credit for this. Mr. Shultz, the Secretary of State, has been outspoken in reiterating the link between American aid and Salvadoran respect for human rights. On my recent trip to Central America, we made no bones about it—aid is linked to continuing improvement in El Salvador's record on human rights and its successful efforts at democratic government. El Salvador is following its general election a year ago with a Presidential election at the end of the year. Its peace commission may come up with a respectable offer of amnesty for guerrillas later this week.

Those who object that America is intervening in the internal affairs of another country should take a close look at the presence of Cubans, East Germans, Bulgarians, North Koreans, Soviets, and members of the PLO in Nicaragua. And let us not forget Nicaragua's assistance in providing arms to the Salvadoran guerrillas.

I agree that the United States should distinguish between groups of antigovernment forces in that we do not always have to have an immediate quid pro quo from any particular group we support in Central America; however, we must in some manner link our expectations of acts to stabilize a country or a region with our willingness to provide assistance. We must be prepared to reward efforts at stabilizing democratizing countries in Central America with additional commitments of support to long-term stability.

It has only been recently, partially due to our continued support of El Salvador and our efforts to interdict arms supplies from Nicaragua and to force the Nicaraguans to turn internally and seek solutions to their own problems, that we have been successful in communicating to the Nicaraguans that we are serious about our commitment to support stable, peaceful governments in the region. What kind of signal are we sending to the rest of the world when we do not support to the maximum extent possible a Salvadoran Army which is endeavoring to bring stability and democratic government to a troubled region? And, on the other hand, we cannot muster the will or the resolve to make our point that Soviet/Cuban-influenced governments will not be allowed to operate freely in imposing their will upon other countries.

The loss of El Salvador could, and would most certainly be, a lethal foreign policy blow for the United States in its own hemisphere orchestrated by its own people. It could bring the sounds of guns uncomfortably closer to Mexico, and at that point the United States would have to withdraw to a new front line, perhaps leaving Guatemala and vulnerable Honduras to other fates—digging in behind more defensible borders in Mexico and Costa Rica. The implications of that are so far reaching that I do not think anyone in this Congress, or very few people who are criticizing the President, have really thought that far.

If Marxist rebellion takes root in Mexico, and the conditions in the border area are ripe, given the severe economic conditions, we will face foreign policy problems in our own hemisphere which we never thought possible—a torrent of refugees flood into our country, making the numbers of the boat people who came to our shores from Cuba seem like a mere trickle. At what point will the United States feel compelled to use its own military forces? Therefore, it seems to me that one-half ounce of prevention that this administration is trying to administer is a policy that everyone should be supporting. It used to be said that political bickering ended near water's edge and that we could muster enough support for a united foreign policy position.

I believe it is a grave mistake for us to profess such a narrow, legalistic outlook as is being seen in the House of Representatives, and to a degree, in the Senate. I am very disturbed about this development, and I applaud this administration for its effort not only to protect our vital interests but also to insure the integrity of those nations friendly to us and as yet untouched by Marxist/Cuban subversion.●

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

CEREBRAL PALSY AWARD

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 2, 1983

● **Mr. BENNETT. Mr. Speaker, Gregory Albin of Jacksonville, Fla., was named the national competitor of Goodwill Industries. Being so named, he was chosen as the most outstanding among 180 Goodwill offices throughout the country. This is certainly a great honor for him and I am pleased as his Congressman to make this note of it in the CONGRESSIONAL RECORD. He is a great inspiration to us all. I enclose an article from the Florida Times-Union.**

[From the Florida Times-Union, Jacksonville, Apr. 22, 1983]

GRADUATE OF YEAR NAMED BY GOODWILL INDUSTRIES

(By William E. Marden)

Gregory Albin is a sports nut. Baseball. Football. You name it, he's a fan.

Albin, 31, was born with cerebral palsy, which prevents him from physically running the bases or hitting a home run.

But in terms of life and drive and courage, the slender, brunette has made the major leauges.

Albin recently was chosen as Goodwill Industries of America's 1983 Graduate of the Year from candidates nominated by the 180 Goodwill offices around the country.

Dave Roberts, local Goodwill Director of Rehabilitation, said Albin was recognized for the challenges he has overcome and what he is doing.

Albin entered a Goodwill vocational rehabilitation and employment assistance program in June 1981 and completed it in January 1982. He has worked as a mail clerk for Florida National Bank since March 1982, and Goodwill officials said he has received outstanding evaluations from his superiors. He can drive a car but uses a cane to walk.

"Graduates such as Greg Albin demonstrate in the best way that disabled people need vocational rehabilitation and employment services such as those provided by Goodwill Industries," said David Cooney, President of Goodwill Industries of America.

Local Goodwill officials noted that for the second time in three years a graduate from the Jacksonville program has been named national Graduate of the Year. Another local graduate was a runner up.

Albin will receive a trophy, an all-expenses-paid trip to Washington, D.C. that will include attending a Baltimore Orioles baseball game, and will be honored at the annual Goodwill Industries Delegate Assembly to be held in Baltimore in July.

Roberts said the local Goodwill, which does not have a sheltered workshop where Goodwill itself could employ the handicapped, helps its graduates seek employment in private business.

A Goodwill worker made 54 contacts in Albin's behalf with area businesses before he got a job with Florida National Bank, Roberts said.

"The main thing it [the rehabilitation course] did for me was give me self-confidence," Albin said. "I like myself again. I was feeling sorry for myself."

Albin said he needs to work to support himself. He is single and lives with his mother and stepfather but hopes to get his own apartment.

"I want to work," he said. "You take pride in yourself if you're working. The thing I wanted most was a good job, an opportunity just like other people. First I had to learn that I was capable of this before Goodwill could help me get that good job."●

EL SALVADOR AND THE U.S. CONGRESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 2, 1983

● **Mr. HAMILTON. Mr. Speaker, I would like to insert my Foreign Affairs Newsletter for April 1983 into the CONGRESSIONAL RECORD:**

EL SALVADOR AND THE U.S. CONGRESS

President Reagan's policies in El Savador are being challenged in the Congress, and a test will come soon on his request for more funds. Most members agree that the situation in El Salvador has not improved in recent months and may well be deteriorating.

The Salvadoran government is not winning the war. After the March 1982 election there was a brief lull in the hostilities. But the guerrillas are stronger today than they were two years ago. It is true that they do not currently have the military capability to defeat the government. But neither does the government seem to have the military capability to defeat the guerrillas.

There has not been any real improvement in the human rights record. Frustration about this runs high in the Congress. The number of political murders by the security forces may have gone down, though the figures are hard to substantiate. But the underlying problems remain the same, including most importantly the failure of the Salvadoran judicial system to bring offenders to justice. The investigations of the deaths in El Salvador of eight Americans have not made significant progress. The land reform program is continuing, but not in the geographical areas under military dispute. It has developed centrist support, and land titles are being issued reasonably fast. Also, there has been no real dialogue between the government and the left.

The President has requested $136 million military and $231 million economic assistance for 1983. This is up from $268 million total for 1982, and $139 million for 1981. It is clear that El Salvador is becoming a major financial burden on the United States. Several alternatives are being discused for congressional action.

Some urge Congress to cut off all military assistance to the Salvadoran government. My judgment is that in the short run this would lead to the takeover of the government by the extreme right, and in the long run to the military victory of the armed left, all accompanied by higher levels of bloodshed. Outside sources of military aid for the left are not going to dry up just because of unilateral action by the United States.

Others urge us to increase military assistance to the point where the Salvadoran government does have the military capability to win the war, or at least achieve significant advantage. I do not see broad support for this approach in the Congress—because of doubt about the present capabilities of the Salvadoran army, and concern about the costs—but it remains the basic view of the President.

There are at least three other kinds of congressional pressure under consideration to change the situation. We can press for a negotiated settlement, we can push human rights by tightening the conditions attached to military assistance, and we can prevent the further involvement of the United States' military.

The first of these is the most important. The Salvadoran government, backed by President Reagan, has refused to start "power-sharing" negotiations. As Secretary Shultz has said, the United States opposes the guerrillas "shooting their way into power," or carving up the power "behind the people's backs." But the parties on the left have refused to enter negotiations confined to election arrangements. In order to agree to participate in elections, they would have to have free access to the press, credible guarantees of personal security, and most significantly, some guarantee that they would be allowed to win if they got the votes. These all involve some form of power-sharing.

Historical analogies may be helpful. In the Dominican Republic in 1965 the United States first characterized the left as communist, and supported the government militarily. It then sponsored negotiations which ended successfully with a moderate interim president who came to office in elections supervised by members of the Organization of American States. In the Salvadoran case, it may be that no government guarantee of non-harassment would be credible to the left. If the case of Rhodesia/Zimbabwe is a guide, a government-held election will not attract the opposition during a civil war. If so, then an internationally supervised election is the best alternative. But the Congress should not have exaggerated expectations about what can be accomplished through negotiations. We simply do not know whether the left—or some part of it—is serious about a political process.

The second congressional option is to tighten all conditions that the President must certify have been met by the Salvadoran government before it can receive U.S. military assistance. There is one difficulty with this approach. The Salvadoran government is not likely to move much further by the next certification date. The underlying problems will take longer than six months to cure. The effect of tightening the certification conditions therefore is either to force the administration to certify the uncertifiable, or to provide an excuse to cut off military assistance.

Finally, there is the option of preventing the further involvement of the United States' military. The Congress can specify a limit of fifty-five advisers and specify that they be restricted to non-combat duties.

My judgment is that we should make continued military assistance contingent on the actual opening of negotiations with all major parties to achieve a cease fire and an equitable political solution, one element of which would be internationally supervised elections at a time to be determined in the negotiations, and which would involve provisions to assure the physical security of all participating political groups before, during and after elections. If the left can be shown to be unwilling to complete unconditionally in such negotiations, no suspension of assistance would be required. The Congress should also specify that the Salvadoran government should establish an effective and independent judiciary to try persons accused of abuse of human rights.●

MAN OF THE YEAR AWARD TO TOM D'ALTRUI

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, May 2, 1983

● Mr. RINALDO. Mr. Speaker, it is all too often in these hectic times in which we live that the achievements and contributions of some of our outstanding citizens are overlooked.

It is with this in mind, that I am prompted to bring to the attention of my colleagues the selection by the Standardbred Breeders & Owners Association of New Jersey (SBOANJ) of Thomas D'Altrui of Union, N.J., as the organization's "1983 Man of the Year." It is fitting and appropriate that this award go to such a deserving individual, who has devoted a large part of his life to the standardbred industry in New Jersey.

He has been a director of the SBOANJ for the past 10 years and has been helpful in effecting improvements in programs that benefit those associated with the standardbred industry in the State. These changes have meant higher purses for horsemen, better insurance and pension programs, and improved backstretch conditions. Horse breeders, owners, trainers, drivers, and grooms have all benefited from these changes.

One of Tom D'Altrui's greatest successes has been the annual yearling sales held at the Meadowlands. For the past 5 years he has worked as chairman of the Super Sales, and under his stewardship the sale has grown to become one of the most prestigious and important events of the standardbred season. When the sale was started in 1977, 150 horses were sold. Last year, 282 yearlings were auctioned off at an average price of $7,500. Besides serving as a director of the association and chairman of the Super Sales, Tom has also found time to serve on various SBOANJ committees, including the executive, owners, public relations, finance, and pension committees.

Tom's service to the SBOANJ has been in addition to his considerable duties as president of a New Jersey manufacturing company and as owner of a standardbred breeding farm. He is president of D'Altrui Industries of Elizabeth, N.J., which manufactures storage racks and is one of the largest distributors of casters and wheels in the New York/New Jersey metropolitan area. He became president in 1956 after having served as a manufacturing supervisor, general manager and vice president. Mr. D'Altrui has been granted 16 patents for devices he invented and was awarded a certificate in recognition of his professional abilities and contributions by the International Material Management Society.

Since 1969 Tom has owned and operated DI Farms in Belle Mead, N.J., in conjunction with his son, Thomas A. D'Altrui. DI Farms is a 275-acre breeding farm and has to its credit several standardbreds which have gone on to become champions, both in New Jersey and nationally.

As might be expected of a man of Tom D'Altrui's ability and dedication, he has also won recognition for his service to his fellow citizens. For 2 consecutive years he was the recipient of the Community Service Award given by the Summit & Elizabeth Trust Co. to an outstanding individual. Another honor he enjoyed was being picked by the U.S. Trotting Association to serve as director in district 12.

It is because of the dedication and leadership of people like Tom D'Altrui that standardbred breeding and racing in New Jersey has grown from its early days into the major, multimillion dollar industry it is today. His purposeful involvement and dogged spirit has helped the SBOANJ grow to an organization of 4,000 members. His selection as the association's "Man of the Year" is one way for the people in the sport to accord him the tribute he so richly deserves.●

TAX FREEDOM DAY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 2, 1983

● Mr. FIELDS. Mr. Speaker, I am pleased to join with my colleagues in celebrating the arrival this year of Tax Freedom Day.

As my colleagues know, this day commemorates the fact that the American people have now paid in full for 1983 their Federal, State, and local tax burden.

From this day forward, our citizens can breath easier knowing that they are now working for themselves and their families and that they will be able to enjoy the benefits of their labors.

While it is regrettable that Tax Freedom Day has arrived just 1 day earlier than last year, the trend is certainly in the right direction. In fact, since the enactment of the Economic Recovery Tax Act of 1981, the American people have enjoyed 5 new tax free days.

Mr. Speaker, it has been my consistent and unwavering view that the best way to insure long-term economic prosperity in our country is to allow citizens to keep a greater share of their hard earned income.

For this reason, I will oppose any attempt to increase the tax burden by repealing the July tax reductions and will oppose any effort to make the American people work even 1 more day next year for the Federal Government and not themselves.

Thank you, Mr. Speaker.●

RECOGNITION OF NATIONAL LAW DAY AND NATIONAL POLICE WEEK

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 2, 1983

● Mr. CHAPPELL. Mr. Speaker, it is fitting at this point in time to reflect upon National Law Day which was celebrated on May 1, 1983, and National Police Week, which will be celebrated throughout the United States during the week of May 15 to 21, 1983.

Here in Congress we create the laws. In our judicial system, those laws are interpreted and applied in the courtrooms of America. However, it is in the streets of our Nation that these laws are enforced. It is proper during a month in which we celebrate both Law Day and National Police Week that we express appreciation and provide all law enforcement personnel with deserved and fitting recognition.

I consider the task of law enforcement to be a profession in the strictest sense of the term. Today I wish to honor members of that profession at the Federal, State, county, and local levels. Men and women who dedicate their lives to the preservation of peace. Men and women who serve their fellow citizens, placing their lives at risk, in order that we might live in a more safe and sane environment. Nothing better epitomizes their profession than their own code of ethics which reads as follows:

LAW ENFORCEMENT OFFICERS CODE OF ETHICS

As a Law Enforcement Officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception; the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality, and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in observing the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature, or that is confided to me in my official capacity, will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and with relentless

> prosecution of criminals, I will enforce the law courteously and appropriately without force or violence and never accepting gratuities.
>
> I recognize the badge of my office as symbolic of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession—Law Enforcement.

Traditionally, we Members of the Congress of the United States have been quick to respond to heroism. In our recognition of the law enforcement officer at this time let us take note of the fact that these men and women are living shields protecting our lives and our welfare. Oftentimes, police units are underfunded at local levels, frequently understaffed, and all too often unheralded.

In Florida's Fourth Congressional District, eight heroes have given up their lives in this decade of the 1980's, in service above and beyond the call of duty. By their commitment to their fellow Americans, and out of deep respect to their surviving families, their fellow officers, their friends and associates, it is fitting that this honor roll be read into the RECORD:

Officer Sam Etheredge, Daytona Beach Police Department; killed in an ambush while answering a shooting call on Christmas Day, 1980.

Officer Greg Joseph Sorrenson, Daytona Beach Police Department; injured when he was dragged by a speeding car while assisting in a disturbance call on March 27, 1981, subsequently expiring of injuries, July 26, 1982.

Deputy Frank Genovese, a former Daytona Beach police officer serving with the Palm Beach Sheriff's Office swat team, killed by a gunman who was "holed-up" in a building on June 3, 1982.

Deputy Steve Saboda, Volusia County Sheriff's Office, shot and killed in Deland, Fla., while working with a swat team attempting to move in on a subject who was fortified in a private residence, on November 6, 1982.

Officer Thomas Joseph Szafranski, Jacksonville Sheriff's Office, was killed when ambushed on a routine patrol in the early morning hours of May 23, 1981.

Cpl. C. L. Thomlinson, Trooper M. J. Cox and Trooper R. L. Pruitt, of the Florida Highway Patrol were killed when their plane crashed in St. Augustine, Fla., while searching the area for several escaped prisoners on July 13, 1981.

To these eight brave men who gave their lives in the line of duty and to all law enforcement heroes present, past and future, let us honor them by paying tribute to their courageous performance.

Let us be evermindful that between we who make the laws and those who break the laws exists the shield of honor, the badge over the heart of every man and woman serving in law enforcement throughout this great American precinct. A beat covered 24 hours, each and every day, at so many different levels, by men and women who are willing to lay down their lives for our loved ones, us, or for the millions of citizens whom they so unselfishly serve.

May God bless the law enforcement professionals throughout America.●

TIME FOR MEDICARE REVIEW

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 2, 1983

● Mr. MURTHA. Mr. Speaker, one of the great success stories of American Government programs is medicare.

Millions of older Americans are living longer, healthier lives because of medicare. In addition, many younger people can help their parents more because health care costs are met by the medicare program.

But some recent headlines have been disturbing. The Congressional Budget Office estimates the medicare hospital trust fund will be depleted by 1987 or 1988 unless changes are made in the law.

The good news of that report is that Congress has time to act. No older citizen need be concerned that his or her health care needs are not going to be met for the next few years. The bad news is that it is clear Congress must act so this does not become a crisis situation.

In 1965, senior citizens spent 20 percent of their income on health care. Today, even with the benefit of medicare, senior citizens are spending almost the same 20 percent of their income for health needs. What that shows is that the medicare reform challenge facing Congress has many parts: One, the system must be made financially sound; two, the financing must be firm so we do not lurch from crisis to crisis; three, a reevaluation is needed of benefits under the program, including suggestions I have endorsed for expansion in certain key areas such as forms of preventive health care; four, the medicare reforms must be seen as part of an overall effort to deal with the reemerging problem of health care costs in the United States.

Several proposals have been made for bipartisan commissions to review the situation and recommend solutions. Let me urge that Congress adopt an approach that uses the subcommittee in Congress with jurisdiction, with the input of an extra commission set up to review all options and get the ball rolling toward solutions.

The medicare program works. It is essential to millions of older Americans. Congress will not let it die, anymore than we would have let social security be destroyed. We will act; we need to do so without a crisis, and in time so we reassure Americans that medicare will survive and continue to improve.●

GOP ABC's

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 2, 1983

● Mrs. SCHROEDER. Mr. Speaker, the recent report by the National Commission on Excellence in Education about the problems in America was praised by President Reagan, who said the findings were consistent with the task of redefining the Federal role in education. Mr. Reagan's Education Secretary, T. H. Bell, said that to solve the problems mentioned in the report, "schools should not look to Washington for more aid, but to their State legislatures and local governments."

The same day the Commission's work was reported in Denver newspapers, another story appeared that the House GOP Caucus in the Republican-controlled Colorado State Legislature reduced State aid to Colorado's 181 State school districts to $659 million, down from the proposed budget of $680 million.

The Colorado House GOP does not share the same vision of their Washington brethren.●

OREGON STATE SENATE MEMORIALIZES U.S. GOVERNMENT TO STOP MILITARY AID TO EL SALVADOR

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, May 2, 1983

● Mr. WEAVER. Mr. Speaker, the President's recent announcement that the United States is supporting antigovernment guerrillas in Nicaragua has added fuel to the already vigorous debate underway about the U.S. current foreign policy in Central America. The American people are questioning the Reagan administration's support for repressive, authoritarian governments which do not respect their people's basic human rights. Ordinary Americans, who often see issues far more clearly than their elected leaders, are rightly wondering whether current U.S. policy is in the best interest of our country, or if it is consistent with the moral principles on which our Nation was founded.

I believe the people of Oregon have reached a consensus about continued U.S. assistance to one country in the region, El Salvador. On Wednesday, April 6, the senate of the State of Oregon voted 29 to 1 to send a joint memorial to the President of the United States and the U.S. Congress, calling for an end to all military aid to El Salvador. I ask unanimous consent that this memorial be included in the RECORD.

[62d Oregon Legislative Assembly—1983 Regular Session]

SENATE JOINT MEMORIAL 6

To the Honorable President of the United States and to the Senate and House of Representatives of the United States of America, in Congress assembled:

We, your memorialists, the Sixty-second Legislative Assembly of the State of Oregon, in legislative session assembled, respectfully represent as follows:

Whereas continued military assistance to the ruling junta in El Salvador in the form of military training, military equipment and military supplies, in the words of the late Archbishop of El Salvador who was nominated for a Nobel Peace Prize after his assassination in December 1980, "will without a doubt, sharpen the injustice and repression against the organizations of the people which have ceaselessly struggled to gain respect for their most fundamental human rights"; and

Whereas Amnesty International, Americas Watch, the Council on Hemispheric Affairs and the American Civil Liberties Union have estimated that between 6,000 and 9,000 civilians in El Salvador have been killed by governmental, paramilitary and right-wing groups in 1982; and

Whereas United States military assistance to El Salvador has increased dramatically from $5.9 million in FY 1979 to $116 million in FY 1982 (for a combined total of $311 million in military and economic aid in 1982). And further, that the Reagan Administration has requested $205 million in military aid to El Salvador in a worldwide assistance program for the current year; and

Whereas the United Nations General Assembly resoundingly adopted on December 17, 1982, a resolution condemning the recent human rights record of El Salvador and together with Amnesty International, Americas Watch, the American Civil Liberties Union, the National Conference of Catholic Bishops, the National Council of Churches of Christ, the United States Catholic Conference, the United Church Board for World Ministries, the Union of American Hebrew Congregations, the Archdiocese of San Salvador and 80 members of the House of Representatives of the United States of American have held that the human rights conditions in El Salvador have not significantly improved; and

Whereas the United General Assembly, the above human rights groups and the above mentioned clergy groups specifically call upon the governments of the world to refrain from selling arms to the government of El Salvador; and

Whereas we ought to recognize that it is not possible to force a solution on El Salvador by supporting an unpopular military government and that the consequence of trying to do so is immeasurable suffering for ordinary people in that country, and the eventual escalation of the conflict to region-wide proportions or worse; and

Whereas with the severe economic difficulties faced by the United States and the deep cuts in both state and federal programs, the moneys spent on military aid to El Salvador can be better spent supporting jobs programs in this country; now, therefore.

Be It Resolved by the Legislative Assembly of the State of Oregon:

(1) The government of the United States of America is memorialized to stop all further military aid to the government of El Salvador, until such a time as there is substantial and widely verifiable proof that the present policy of violent suppression of fundamental civil liberties and human rights has been terminated.

(2) A copy of this memorial shall be transmitted to the President of the United States, to the Secretary of State, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to the Chairman of the Senate Foreign Relations Committee and to each member of the Oregon Congressional delegation.●

HENRY DARTIGALONGUE

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 2, 1983

● Mr. BENNETT. Mr. Speaker, Henry Dartigalongue, an outstanding civic leader in Jacksonville, Fla., will retire today from the Southern Bell Co. after more than 52 years with the company. If you were talking with him now you would not feel he is even 52 years of age because he is such a vital person so interested not only in the company for which he has worked so long but in every civic endeavor to help his community and mankind.

Dartigalongue began his career at the age of 14 in 1931 as a $35 a month mail clerk in New Orleans. He attended Loyola University while working and in 1943 took a leave of absence to serve in the U.S. Navy as a lieutenant. He is retired as a lieutenant commander from the U.S. Navy Reserve.

After his active duty military tour, Dartigalongue transferred to Jacksonville in 1948 as a commercial department supervisor. His career path led to Miami in 1951 where he was promoted to district manager for Bell's north Miami district.

In 1959, Dartigalongue returned to Jacksonville with a promotion to north Florida division commercial manager of the Bell Co. Dartigalongue has been deeply involved in civic and charitable activities. He has served as president or chairman of 18 community organizations and held positions of leadership in an additional 19 organizations. Included in community posts held are: president of the South Jacksonville Rotary Club, president of the Jacksonville Convention and Visitors Bureau, president of the Gator Bowl Association, president of the Kiwanis Club and Kiwanis Charities. He has also served as president of the Navy League of the United States—Jacksonville Council, Arthritis Foundation, and the San Jose Country Club.

Dartigalongue has served as cochairman of the United Way campaign and as a member of the executive committee of the organization. He has served in numerous capacities with the Jacksonville Chamber of Commerce, including member of the board of governors, vice chairman, membership chairman and executive committee member of the Committee of 100. He also served as the chamber's chairman of the Committee of 100 research committee and out-of-town committee.

In addition to serving as president of the Gator Bowl Association, Dartigalongue served as chairman of the selection committee and as a member of the selection committee for 15 years. He served as chairman of ticket sales for the American Professional Football Conference and as a member of the Jacksonville Quarterback Club.

Dartigalongue's community involvement led to appointments by Florida Governors to the board of the American Bicentennial Commission of Jacksonville and more recently to the Governor's Council of Sports and Physical Fitness.

He has served as vice president of the Jacksonville Symphony Association and Jacksonville University Council. He is a past president and past member of the board of governors of the San Jose Country Club.

In 1981, on his 50th anniversary with Southern Bell, Dartigalongue was honored by Mayor Jake Godbold's proclamation of "Henry Dartigalongue Day" in recognition of his community involvement. Dartigalongue has also been recipient of the Florida Telephone Association's Community Service Award.

Dartigalongue recalls that at the start of his career dial telephone service was just beginning to expand rapidly, and charges for an overseas call from New York to London had just dropped from $45 to $30 for 3 minutes. He has seen Jacksonville's telephones in-service quantity climb from 63,000 when he arrived for his first tour in 1948 to approximately a half million today.

His career with Southern Bell has been a tribute to himself and also to the Bell Co. because they have encouraged him in the tremendous civic activity and community involvement which I have outlined. Both he and the company are to be congratulated.●

AMENDMENTS TO THE BILINGUAL EDUCATION ACT

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 2, 1983

● Mr. GARCIA. Mr. Speaker, the administration has introduced their proposed legislative amendments to the

Bilingual Education Act. As chairman of the Congressional Hispanic Caucus and as a Member of Congress firmly committed to an educational system fostering opportunities for language minority students, I am very concerned about the consequences of these proposed amendments. Therefore, I would like to submit an analysis of this proposal prepared by the National Association for Bilingual Education.

The text of the analysis:

ANALYSIS OF ADMINISTRATION'S PROPOSED AMENDMENTS TO THE BILINGUAL EDUCATION ACT (ESEA Title VII), MARCH 22, 1983

Last week, the Education Department sent to Congress proposed legislative amendments to the Bilingual Education Act. The new amendments encompass most of the provisions included in S. 2412, which was introduced in the Senate last year on behalf of the Administration by former Senator S. I. Hayakawa. Although hearings were held on S. 2412 in April 1982, neither the House nor the Senate acted on the Administration's Title VII proposals in the 97th Congress.

The Administration's proposed Title VII amendments are drastic; they would fundamentally alter the purpose of the Bilingual Education Act and the operation of programs funded under Title VII. The impact of the Department's proposals on limited-English-proficient students and local school districts is explained in the following analysis of the proposed legislation's major provisions.

I. ELIMINATION OF NATIVE LANGUAGE INSTRUCTION

The proposed legislation would eliminate the current requirement that Title VII programs provide instruction in "the native language of the children of limited English proficiency" "to the extent necessary to allow a child to achieve competence in the English language. . . ." This flexible requirement is the heart of the Bilingual Education Act.

Historically, language-minority students in the United States have received unequal and inferior educational opportunities. The instruction they have received has too often been linguistically unintelligible, culturally insensitive, and educationally ineffective.

Although chronically underfunded, the Title VII program has helped to remedy this legacy of discrimination and neglect by promoting programs of Transitional Bilingual Education (TBE). As an educational approach, TBE has proven effective. It has successfully helped language-minority students to achieve English language competency and, at the same time, to acquire the subject matter skills imparted to other students.

In Secretary Bell's words, the proposed amendments would allow the Department "to fund whatever educational approach a school district believes warranted so long as that approach is designed to meet the special educational needs of the population and can be justified as appropriate by the school district." The draft legislation, however, does not provide measurable, objective standards which the Department could use to determine whether a school district's proposed educational approach is educationally "appropriate" and deserving of Federal support under Title VII.

Elimination of the current flexible requirement concerning the use of a child's "native language" is likely to result in Federal support for ineffective education programs, such as English language "submersion" programs, which have proven harmful to the academic achievement of language-minority students. Moreover, the absence of measurable, objective program standards in the Administration's legislative proposal would create new uncertainty for local school officials and is likely to result in inconsistent evaluations of competing Title VII applications.

II. "USUAL LANGUAGE" TARGETING CRITERIA

The proposed legislation would establish a "funding priority" for programs serving students whose "usual" language is other than English. Given the limited appropriations for Title VII (which currently support services to fewer than one-in-ten LEP students), this "funding priority" would be tantamount to an eligibility requirement.

In support of this new provision, the Administration has argued that "in a period of limited Federal resources, the new provision is needed to focus the program more specifically on those children of limited English proficiency who have the greatest immediate need for services." Nevertheless, the Administration has offered no pedagogical evidence, either theoretical or empirical, that this provision would actually target assistance on the LEP students most in need of Title VII services.

In fact, the Administration's proposed "funding priority" is pedagogically unsound in that it has no relationship to whether students are LEP, and therefore, in need of special instructional programs designed to remedy language skill deficiencies. The Administration's educationally invalid "targeting criteria" would have a cruel impact on LEP students and the schools they attend. The proposed "funding priority" would virtually preclude half of the LEP student population from receiving Title VII assistance and effectively bar an unknown number of schools from aid under the program.

Enactment of the Administration's proposed "funding priority" would conflict with the special provisions of the Bilingual Education Act which ensure that American Indian and Native Alaskan students receive Title VII services. Although most of these students do not "usually" speak a language other than English, many of these students are so limited in their English language proficiency that they cannot succeed in school without special language instruction. Nevertheless, the Administration's new "funding priority" would channel funds away from programs serving American Indian and Native Alaska students.

Another problem with the proposed "funding priority" is that it could not be implemented in a practical and uniform manner. What language a child "usually" speaks is difficult to assess and is without standards in any event. It is not surprising, therefore, that the Administration's amendments fail to define what is meant by the "usual" language "funding priority". Even if the proposed legislation included such a definition, implementation of the provision would generate pedagogically-irrelevant paperwork for school officials.

Enactment of the proposed "usual" language "funding priority" would assist the Administration in its continuing efforts to cut Title VII funding. Enactment of the "funding priority" would permit the Administration to claim that the Title VII "target" population is much smaller than the total LEP population which, according to a 1982 Department report, was estimated at 3.6 million students. Because the proposed "funding priority" is not related to educational need, population estimates based on the "funding priority" could be cited by the Administration as justifying further cutbacks in title VII programs.

III. REDUCTION OF AUTHORIZED FUNDS

The current authorization for Title VII alone, is $139.9 million. This figure, set by the Omnibus Budget Reconciliation Act of 1981, represents a drastic decrease of the amount of aid authorized by the 1978 Bilingual Education Amendments—over $400 million authorized for FY 1983.

For the last two years, the Reagan Administration has sought to cut Title VII appropriations to $94.5 million. Congress rejected the Administration's Title VII budget cuts last year and is likely to do so this year.

Having failed to secure cuts in the Title VII program through the appropriations process, the Administration is now proposing to cut the level at which funds are authorized to be appropriated under Title VII for FY 1984 to $94.5 million—the same level already rejected by Congress. Enactment of the proposed reduced authorization would have a devastating impact on thousands of LEP students and the financially hard-pressed schools they attend.

IV. DURATION OF TITLE VII ASSISTANCE

The Administration's proposed amendments would impose an absolute 5-year limitation on a school district's participation in the Title VII basic grant program. This time limitation would be in addition to the current limitation of three years on the duration of a basic grant which would be retained in the Act. According to the Administration, the 5-year limitation is needed to ensure that basic grants are focused on capacity-building.

Enactment of this provision would jeopardize the ability of many school districts to develop their capacity to serve LEP students. Because the limitation is absolute, it ignores changes in the size of a school district's LEP population or in the number of language-groups served by a school district.

Previous Administrations have also recommended a limitation on the duration of Title VII assistance. They have included in their proposals, however, a provision mandating waiver of the time limitation if the district could demonstrate that it was making satisfactory progress under its grant and that: it had continuing needs which could not be met through local resources; it had "experienced a recent substantial increase in the number of [LEP] students"; or that it was under an obligation to provide bilingual education pursuant to a court order or a Title VI plan.

The Reagan Administration's proposed limitation ignores all factors relating to the need for Title VII assistance. Because the limitation is predicated on a static concept of both service demand and service capacity, it will result in the denial of necessary Title VII assistance to local school districts, especially those districts which are impacted by substantial and often sudden growth in the size and diversity of their LEP student enrollment.

V. GRANTS TO SEAS

The Administration's bill would replace the current program of grants to State education agencies (SEAs) with a new, ill-defined, expensive "New Federalism" experiment. This experiment would change the purpose of the present SEA grant program, confuse the respective roles and authority of the Federal and State governments, and increase the program's cost.

Under the current law, States may receive grants "for the coordination by such State agency of technical assistance to programs of bilingual education in such State assisted under (Title VII)." The Administration's bill would change the purpose of SEA grants from technical assistance to program evaluation and review. To receive a grant under the Administration's bill, a SEA would have to "enter into [an] agreement . . . to carry out activities for reviewing and evaluating programs of bilingual education assisted under this title in such State."

Moreover, under the proposed agreements, the SEA would surrender virtually all authority to the Federal Education Department. The Administration's proposal provides:

> Each State that enters into such an agreement shall review and evaluate programs of bilingual education assisted or proposed for assistance under this title in such State, *in accordance with any standards that the Secretary may prescribe by regulations.* (Emphasis added)

State education agencies which refused to enter into these open-ended, one-sided agreements would not receive grants under Title VII.

The Administration's proposal to eliminate the current Title VII SEA grant program in favor of an experiment in "New Federalism" involves added expenditures of limited funds for administrative as opposed to instructional services. To entice State Education Agencies to sign the proposed agreements, the Administration proposes to raise the ceiling on the percentage of funds a SEA can receive under Title VII. SEA grants are currently limited to not more than 5 percent of the funds received in the previous year by LEAs in the State under the basic and demonstration grant programs. The Administration's proposal would increase the current SEA grant ceiling to 10 percent. This doubling of the cost of the SEA grant program would result in a reduction of funds to LEAs for the development of vitally-needed service capacity.

VI. BILINGUAL VOCATIONAL EDUCATION

The Administration's proposed Title VII amendments would add a new section to the statute authorizing the Secretary to conduct vocational programs. Although the new section appears innocuous, it is unclear whether the new section is meant to supplement or to supercede the authorization set out in Part B of the Vocational Education Act. What is clear is that the new section would not constitute an adequate substitute for the Vocational Education Act's comprehensive provisions concerning Bilingual Vocational Training.●

TED DUCKWORTH: A TRUE HUMAN BEING

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday May 2, 1983

● Mr. GILMAN. Mr. Speaker, it is rare that one meets an individual whose generous kind deeds and whose concern for humanity are remembered year after year. But Ted Duckworth, a British citizen, is such a person whose humane deeds of the 1940's are so remembered by one of my constituents, Lorraine Erlanger of New City.

Lorraine was a young woman during the Holocaust years of the 1940's. Between the ages of 13 and 16, she spent 3 years in five different concentration camps. The sole survivor of both her family and her home community, Lorraine was truly alone in the world.

It was at the time of liberation that Lorraine met Ted Duckworth, an RAF soldier, who, along with another young soldier, cared for Lorraine for a long time. Ted made certain that Lorraine was properly cared for, that she received adequate food, clothing, and shelter. Ted "went beyond the call of duty" in seeing to Lorraine's welfare, and even called upon his own family to send clothing and other necessities. Until Lorraine left for Frankfurt, and then to the United States, her life was in his hands.

Lorraine has kept in touch with Ted Duckworth over the last 38 years, never forgetting his gentle kindness to her. A call at Christmas time, to wish each other well, was the tie that continued to bind them together.

Many times Lorraine asked Ted what she could to do repay him for giving her back her life, and the answer was always—nothing. This selfless man only did what he thought to be the right thing, Mr. Speaker, yet in the face of the events of those years, what Ted did was truly to be admired. After many attempts, Lorraine has persuaded Ted to come to the United States, and on May 10, at the New City Jewish Center, their reunion after so many years will be celebrated, along with Ted's birthday. Other joyous events commemorated that day will include Lorraine's birthday and that of her son.

Out of the ashes of the Holocaust comes life. Lorraine and her son's, might very well not be with us today had Ted Duckworth not been there.

We all know that the righteous exist in this world, and all too often they want no recognition for their actions. Ted is one such man, to whom we owe our gratitude, because it is written, "he who has saved one life, saves the world."

Mr. Speaker, for his generous kindness, for his concern for humanity, Ted Duckworth is deserving of special recognition by all of us in this body, and particularly by all those who so vividly recall the inhumanity of the Holocaust.●

THE PRICE OF IMPERIALISM

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 2, 1983

● Mr. RITTER. Mr. Speaker, I am enclosing a recent editorial by noted columnist Georgia Anne Geyer of the Washington Times on the continuing tragedy in Afghanistan which I urge my colleagues to read. Ms. Geyer questions the validity of statements made by the Soviets about a possible withdrawal from the Afghanistan.

Afghanistan has not been too easy for the Soviets. Not only has their sophisticated war machine been challenged by irregulars, but they have lost credibility with the Third World. To offset this rebuke, the Soviets have been spreading rumors and dropping hints at the recent Non-Aligned Conference in New Delhi that they want out of Afghanistan. This is not the first time such sentiment has been heard. If the Soviets clearly want to end the war and allow the Afghans to rebuild their country, then all efforts must be used to get the Soviets out of Afghanistan and have it respected as a sovereign nation.

Knowing past Soviet behavior, I cannot help but share Ms. Geyer's concern. While the Soviets are dropping hints about withdrawing from Afghanistan, they continue to drop bombs and chemicals on the people of Afghanistan. I urge my colleagues and our representatives to the United Nations to encourage the Soviets to get out of Afghanistan.

The editorial follows:

THE CRUCIFIXION OF AFGHANISTAN GOES ON

(By Georgie Anne Geyer)

ISLAMABAD, PAKISTAN.—Could the Soviet Union possibly be ready to withdraw from Afghanistan? From the Khyber Pass to New Delhi, that is the ever-more-compelling whisper in the corridors of the subcontinent.

Here in Pakistan, military President Mohammed Ziaul-Haq repeatedly has voiced that hope and conviction. Talks are again underway in Geneva between Pakistan and the Babrak Karmal puppet regime in Kabul. The Soviets finally have begun covering the Afghan war on Soviet television, giving rise to speculation they are preparing the population for a withdrawal. And American observers increasingly are confused by what they see as often contradictory signals.

"There is a certain new sense of accommodation in Moscow," a highly placed Pakistani official told me. Like everyone else discussing this delicate subject, he did not want to be identified. "The mediation of the United Nations is proving far more hopeful than we expected. The Russians have been dropping hints." Then he paused. "Whether this is a policy change or a smoke screen . . ." His voice trailed off.

What the Russians have been telling everyone from President Zia to the Indians to U.N. officials is that they genuinely want to withdrawn from Afghanistan if there could be a "positively neutral" government that would not be hostile to them. (The fact that they had one for 50 years before they invaded the country is not mentioned).

But even if this is believed, how is it possible for the Soviets to have a "positively neutral" relationship with a people they have bombed and killed? Or is there possibly something else here?

The Third World argument, put forward hesitantly by Pakistan, is that the Russians are ready to cut a deal; that party chief Yuri Andropov realizes the U.S.S.R. has gotten stuck in the wildness of the Afghan mountains.

His KGB, after all, was not in favor of the Afghan invasion. The Soviets have become so mired in their colonial war that they couldn't even support the Palestine Liberation Organization in Beirut.

So the reasoning goes.

After observing the situation, and after talking with leaders in several countries of the subcontinent, I have come up with a cynical interpretation of the drama—or should we say charade?

The Russians are doing poorly in Afghanistan—that much we know. But the talk of withdrawal is basically a smoke screen designed to hide and confuse certain important elements.

Leading participants at the recent nonaligned movement summit in New Delhi, where the Soviets for the first time came under real criticism from the Third World, point out that the final communiques would have been far more critical of the Soviets had the Russians not cunningly put forward their gestures about withdrawal and "positive neutrality." The Soviets bought off the conference, so to speak, with fancy talk and quick action.

But they are also buying off criticism from the deeply troubled Pakistanis, who understandably want to believe in the Soviets' change of heart.

In many discussions here with high-level officials I have found that they begin by saying that, yes, the Soviets are showing a new spirit of "accommodation" over Afghanistan. Didn't Andropov convincingly tell Zia that he wanted a reasonable "out" of Afghanistan? Didn't he say the same things to the Indians, to the United Nations? Wasn't the invasion hurting the Soviets everywhere, particularly in the Third World? Weren't they taking unacceptable losses in Afghanistan?

All this is asked, said, confirmed—and then suddenly the mood changes. In all the talks, at the end the person acknowledges that, no, the Soviets really have no intention of withdrawing, but what can a threatened country like Pakistan do?

Pakistan is deeply threatened by the destabilizing effects of the war in Afghanistan. Pakistan has Afghani Mujhadin waging attacks on Afghanistan from Pakistani territory. The fear that the Russians might begin "hot pursuit" tactics inside Pakistan or provide even further support to anti-Zia political opposition leaders here.

Pakistan has to talk with the Soviets. It must even engage in admittedly fruitless talks with their puppet, Karmal, in order to reduce pressures internally and on the troubled frontier.

But a solution to the situation in Afghanistan? No. After several weeks in the area, I am convinced that it is just not in the cards, despite the superficially optimistic talk all over the subcontinent about a Russian withdrawal.

What we are seeing on all sides are attempts to buy time. Meanwhile the crucifixion of Afghanistan goes on.●

IT'S TIME TO BAN, NOT PRODUCE, NEW CHEMICAL WEAPONS

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 2, 1983

● Mr. ZABLOCKI. Mr. Speaker, last year the House expressed overwhelming support for the pursuit of chemical weapons arms control agreement, instead of a chemical arms race, when it adopted by a vote of 251 to 159 an amendment to prohibit binary chemical weapons production, which I offered with our colleague from Arkansas, Hon. ED BETHUNE.

Despite the Congress clear rejection of the binary chemical weapons production program last year, the Reagan administration is again seeking, in its fiscal year 1984 military budget request, funds for the production of these weapons. It is my expectation that the Congress will again choose chemical arms control over a chemical arms race, and I urge the Reagan administration to bear this point in mind as it considers in the weeks ahead ways to cut the fiscal year 1984 military budget.

Mr. Speaker, shortly before the House debate on the binary chemical weapons program last July, the Subcommittee on International Security and Scientific Affairs, which I chair, held hearings on the foreign policy and arms control implications of chemical weapons. During these hearings, a variety of defense and security experts examined the relationship between the proposed binary chemical weapons program and the pursuit of U.S. foreign policy and arms control interests.

One witness in particular, Hon. Charles C. Flowerree, the former chief negotiator in the bilateral chemical weapons negotiations, contributed significantly to the subcommittee's understanding of the progress that was achieved during the past bilateral chemical weapons negotiations, the political problems with our NATO allies posed by binary chemical weapons, and the need for bilateral negotiations in order to achieve a comprehensive, verifiable chemical weapons ban.

Ambassador Flowerree's expertise is again evident in a recent article entitled "Chemical Weapons: A Case Study in Verification", which appears in the April 1983 issue of Arms Control Today.

In this article, Ambassador Flowerree examines the implications of alleged chemical weapons use by the Soviets or Soviet allies for future chemical arms control efforts. In addition to articulating the need for improvements in the existing 1925 Geneva Protocol and the 1972 Biological Weapons Convention, Ambassador Flowerree again underscores the importance of resuming United States-Soviet negotiations.

In light of the possibility of another major debate in the Congress on a chemical arms buildup versus pursuit of a chemical arms ban, I urge my colleagues to examine Ambassador Flowerree's article, which appears below:

[From Arms Control Today, Vol. 13, No. 3, April 1983]

CHEMICAL WEAPONS: A CASE STUDY IN VERIFICATION

(By Charles C. Flowerree)

On December 1, 1982 a group of experts appointed by the UN Secretary General submitted to the General Assembly a final report on its investigation into the use of chemical weapons in Southeast Asia and Afghanistan. The report formally concluded the first international fact-finding effort ever organized on a question of compliance with a multilateral agreement limiting armaments. The report and the events leading up to it provide a graphic illustration of the current problems and prospects of multilateral arms control of chemical and biological weapons.

BACKGROUND

Reports and eyewitness accounts of the use of toxic chemicals against the H'Mong people of Laos first began to emerge within a year after the U.S. withdrawal from Vietnam and similar reports soon began to come from Kampuchea (Cambodia). Following the Soviet invasion of Afghanistan, there were also reports that various types of chemical weapons had been used against the Mujahidian guerillas. By late 1978 the United States had initiated actions through diplomatic channels. The U.S. first expressed its concern to the Lao government and later to the governments of Vietnam and the Soviet Union. In addition State Department representatives and a Defense Department medical team were dispatched to Thailand to interview H'Mong refugees claiming to have knowledge of chemical attacks.

As the evidence grew, the Carter Administration decided to press for an impartial investigation of the use of chemical weapons in Laos, Kampuchea and Afghanistan. In August 1980, the United States circulated a compendium of reports and other relevant information to UN member states. That same month, the Committee on Disarmament in Geneva decided to include language in its annual report to the UN on the need for an impartial international investigation of the problem of chemical weapons use.

At the General Assembly in the fall of 1980 New Zealand introduced a resolution requesting the U.N. Secretary General to undertake an investigation of the reported use of chemical weapons in Southeast Asia and Afghanistan, with the assistance of qualified medical and technical experts. This resolution, which was encouraged by the United States and supported by Western delegations and a handful of nonaligned, provoked a vigorous and sometimes heated debate. It was adopted in its final form by the General Assembly, despite all-out Soviet opposition, by a substantial margin of 78 in favor of 17 opposed, with 36 abstentions. The vote, however, did not reflect the drama of the fight for the resolution's passage, which involved numerous procedural struggles and several attempts to amend it radically. Moreover, adoption of the resolution was merely the first hurdle that the investigation had to clear.

Difficulties in finding qualified experts who were able to serve and numerous other organizational problems caused the U.N. Group of Experts to get off to a late start. In fact, when the next General Assembly session was well under way, at the end of October 1981, the group was just making its first visit to Thailand. It had not yet completed arrangements for visiting Pakistan and had no prospects for visits to Loas, Kampuchea or Afghanistan.

The inability of experts to complete their task necessitated a new resolution extending their mandate. Again the Soviets and their supporters made a vigorous effort to defeat the resolution; but it was adopted by a slightly larger vote than that of the previous year.

The extension allowed the Group of Experts to accomplish enough work to present a reasonably detailed report to the 37th General Assembly in 1982. The investigation, however, fell far short of fulfilling the optimum objectives. The experts were not permitted to visit any of the areas where chemical attacks were alleged to have occurred. Great difficulties were encountered in handling and transporting samples of alleged toxic substances, blood and tissue that the experts had acquired in their visit to Thailand. Even more frustrating was the task of arranging to have these specimens analyzed by qualified laboratories. Logistic and scheduling difficulties also hampered their work in Pakistan and Thailand. Several pages of the final report are devoted to a description of the Group's bizarre negotiations with Kampuchean authorities for permission to visit the site of a reported attack, negotiations which ended in total frustration. Likewise the report contains a long account of the experts' misadventures in trying to nail down a laboratory to examine the samples acquired in Thailand. They eventually succeeded but the long delay contributed to the degrading of the usefulness of the laboratory results. Under the circumstances, and given the fact that they were dealing with a political hot potato, it is remarkable that the experts accomplished as much as they did.

The experts did not find a smoking gun, i.e., they did not find direct evidence to prove that chemical or toxin weapons had been used. On the other hand, the experts said they could not disregard the circumstantial evidence suggesting the possible use of "some sort of toxic chemical substance in some instances." These findings were cited as support for their positions by both the suspected perpetrators of chemical warfare (the Soviet Union and its Vietnamese allies) and those who had brought the charges before the court of world opinion (the Western allies and some non-aligned nations). One UN official privately characterized this as a happy outcome since it gave a measure of satisfaction to both sides. But clearly this result was not satisfactory from the point of view of effective implementation of arms control agreements.

THE COMPLIANCE PROBLEM

The UN investigation of the possible use of chemical and toxin weapons illustrates the key problem of the existing multilateral agreements on these weapons: the lack of the mechanism to ensure compliance. Even if the Group of Experts had come up with an absolutely clear-cut finding that toxic substances had been used, the Group had no mandate even to make recommendations on follow-up steps. The only compliance mechanism provided for in the 1975 Biological Weapons Convention (BWC) is for a nation with evidence of violations of the convention to raise the matter with the Security Council. For the U.S. to do so in the case of Soviet or Vietnamese actions would simply invite a Soviet veto. (This dilemma also arose in connection with the still unresolved mystery of what happened at Sverdlovsk in April 1979. After a series of unsatisfactory consultations with the Soviet Union, the United States found itself stymied unless it wanted to bring the Sverdlovsk case, which was based on ambiguous evidence, to the Security Council.)

At bottom, all multilateral treaties relating to arms control and disarmament rely on the self-interest of the contracting parties and on the restraining effects of world opinion on would-be violaters. Unfortunately, as the chemical weapons controversy shows these restraints are not always sufficient. For many countries, some outside the Iron Curtain as well as those behind it, the opprobrium of world opinion—even backed by heavy votes in the UN—has little effect if the condemned country believes its high national interests are at stake. This is not to say that world opinion is meaningless. But its effect is, at best, hard to measure and is certainly not immediate.

The ultimate sanction is, of course, withdrawal from the treaty. But in a democracy, only a clear and present danger to national security would make withdrawal politically acceptable. The situation will usually be much more ambiguous.

The Group of Experts' experience in Southeast Asia and Afghanistan illustrates these limitations on the international community's ability to deal with compliance problems. Whether one is convinced or not about the accuracy of the charges or about the use of chemical weapons (and for the record the author is persuaded that toxic substances have been used in hostilities in Southeast Asia and Afghanistan) the adamant refusal of the governments of Laos, Kampuchea and Afghanistan—all closely linked to the Soviet Union—to permit neutral investigations on their soil has left the atmosphere still clouded. As long as this situation remains unchanged the doubts will linger.

Unfortunately, the weaknesses of the Geneva Protocol and the Biological Weapons Convention are not unique. Multilateral treaties governing certain forms of military activity on the seabed, in Antarctica, and in outer space are equally deficient on the matter of verification. Fortunately no suspicion of violation of these treaties has arisen thus far. The 1978 Environmental Modification Treaty which prohibits such things as rain making and creating artificial tidal waves for hostile purposes, took a small step forward by adding a provision for a Consultative Committee of Experts to act as a fact finding body, but the procedures for convening the Committee are cumbersome and the terms of reference imprecise.

MAKING IMPROVEMENTS

How then can confidence be increased in the effectiveness of the 1925 Geneva Protocol and treaties like the Biological Weapons Convention? Clearly new procedures need to be developed, but there is no consensus on the forms they might take. This question was addressed with regard to both these treaties at the most recent General Assembly.

In an attempt to strengthen the Geneva Protocol, and to avoid the problems the Group of Experts suffered in Southeast Asia, a resolution (37/98D) was adopted requesting the Secretary General to:

(a) Undertake investigations of any reports of violations of the Protocol;

(b) Draw up a list of qualified experts who could be regularly available to conduct investigations;

(c) Designate laboratories which would have the capability of analyzing samples;

(d) Appoint a committee of experts to study the question of procedures for conducting investigations of reported violations of the Protocol.

This resolution was adopted by a vote of 86 in favor, 19 against and 33 abstentions. The "no" votes included all of the Eastern European countries as well as Afghanistan, Vietnam and Laos.

Another resolution (37/98C) recommended that the parties to the BWC holds a special conference to strengthen its compliance provisions.

While these are welcome developments, the possibility of a great leap forward in the near future is remote. The mechanics of modifying a multilateral treaty or of establishing new institutions to enforce any existing agreement are of themselves daunting. Somehow all of the parties must be brought to accept both the need for change and the form it is to take. Not all countries are agreed that new compliance provisions are needed. The vote on the resolution pertaining to the Biological Weapons Convention was 126 to 15 with one abstention. Again, "no votes were cast by the Soviet Union, and its client states.

While the actions of the Soviets and their clients is a matter for serious concern, the picture is not entirely bleak. The support of the majority of nations voting in the General Assembly for more effective verification is encouraging. This general support needs to be harnessed to practical measures similar to those which have been developed in the many arms control negotiations that have been conducted over the last two decades. The Standing Consultative Commission (SCC) established to consider compliance problems arising out of the SALT I and ABM Treaties has considerable relevance to compliance mechanisms for multilateral treaties. The techniques being investigated by a group of seismic experts, under the aegis of the Committee on Disarmament, for the international exchange of seismic data and the effort by ACDA and the IAEA to develop a remote sensing system to monitor peaceful nuclear installations (Project Recover) show what can be done in the way of international cooperation in verification. A group of chemical experts has been meeting under the auspices of the Committee on Disarmament to work on technical problems relating to the effective functioning of a future treaty banning chemical weapons. The Soviet Union and other communist countries have been participating in all these efforts. Granted that cooperation in more or less theoretical exercises is not the same as cooperating in an investigation when violation of an agreement is at issue, still the signs point to the fact that the Soviets are not oblivious to the importance of being seen to be cooperative in these areas of arms control.

There is another aspect of Soviet behavior that is highly relevant to the question of how to ensure compliance with international agreements. They have repeatedly demonstrated a preference for arrangements negotiated in confidence on a bilateral basis to those in which the whole world is involved.

In the still unratified U.S.-Soviet treaty governing peaceful nuclear explosions, for example, they agreed to some rather elaborate procedures for verifying the location and size of such explosions. It is unlikely that they would have accepted similar provisions in a treaty negotiated multilaterally.

In the field of chemical weapons, the United States and the Soviet Union negotiated intensively for more than three years up through the summer of 1980 on a treaty banning the development, production and stockpiling of lethal and highly toxic chemical weapons. (The Geneva Protocol applies only to use, not to possession of chemical weapons). These bilateral negotiations, which have been suspended since then, did not achieve agreement on the problem of verification but did resolve some other issues on this complex subject. In fact the Committee on Disarmament, which has been considering the CW problem for some time and is now charged with drafting a treaty, has drawn heavily on the joint U.S.-Soviet progress report submitted to the Committee in August 1980.

It is a fact of life, although not always enthusiastically embraced by the non-aligned nations, that the sine qua non for progress on multilateral treaties in the field of arms control and disarmament is prior agreement by the United States and the Soviet Union on its major provisions. While the fact that the Committee on Disarmament (CD) has now entered full scale negotiations on a CW treaty is a welcome development (Vice President Bush stated U.S. support for this effort when he spoke before the Committee on February 4 and the U.S. delegation has tabled detailed views on the contents of a chemical weapons ban), the prospects for success of these negotiations are tied to the ability of the U.S. and Soviets to work out mutually acceptable vertification procedures regarding the destruction of stockpiles and the non-production of prohibited chemicals.

A realistic assessment would not rate the chances of early agreement as being very high. The kinds of activities involved will require verification measures that are highly intrusive. On this point the Soviet position in the bilaterals was rather rigid, but their position does not enjoy general approbation as shown by the discussions in the Committee on Disarmament. Nearly all the non-aligned countries as well as the Western delegations have come down on this side of some sort of international inspection mechanism which the Soviets have resisted. The Soviet position has been made less comfortable by the evidence that they have been providing chemical weapons to be used against people in under-developed countries. Thus the pressure is on them to move toward a position that will make an agreement banning chemical weapons possible, an agreement that is overwhelmingly desired by the world community.

In these circumstances a renewal of private discussions between the U.S. and Soviets is both necessary and inevitable. Such discussions need not be in the form of formal negotiations but they should be conducted in a manner which could lead to an agreement. The United States, with the backing of its allies and many other influential countries, would be in a strong position in such negotiations. If the Soviets were not willing to show some give, this would soon become apparent. If there were no progress at the bilateral level, the reason would be well understood by the rest of the countries involved in the multilateral negotiations.

Eliminating the scourge of chemical warfare is as difficult a test as any the world faces in the realm of arms control. Success is by no means a certainty, but if it is to be achieved, a broad range of actions will be required. The United States and other countries, such as Thailand, which have undertaken independent investigations of chemical weapons use will have to make their case more effectively in order to generate the kind of pressure that might produce a change in the actions and attitudes of the governments implicated by the evidence. More resources will have to be devoted in the United States and elsewhere to the search for better verification techniques relating to the destruction and nonproduction of chemical weapons.

Finally, United States policies will have to be geared to take advantage of the synergistic relationship between multilateral negotiations in the CD and bilateral negotiations with the Soviet Union as a way of trying to break the deadlock on verification which stands as the main obstacle to the achievement of a satisfactory agreement on the prohibition of chemical weapons.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, May 3, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 4

9:00 a.m.
Armed Services
Sea Power and Force Projection Subcommittee
Closed business meeting, to mark up certain provisions of S. 675, authorizing funds for fiscal year 1984 for military programs of the Department of Defense.
SR-222

9:30 a.m.
Appropriations
To continue hearings on Senate Concurrent Resolution 26, approving the obligation and expenditure of funds for MX missile procurement and full-scale engineering development of a basing mode.
SD-192

Labor and Human Resources
Business meeting, to mark up S. 1008, to revise provisions for financial assistance to meet the special educational needs of disadvantaged children, and consolidation of Federal programs for elementary and secondary education, S. 1091, to authorize funds for fiscal years 1984-87 to develop and improve math and science education programs, S. 530, to provide Federal assistance to upgrade instruction in mathematics, science, computer technology and foreign languages in the Nation's institutions, and to provide assistance for employment-based vocational training programs, and S. 1087, to authorize funds for fiscal year 1984 for the National Science Foundation.
SD-430

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings to review the current state of and competition within the financial services industry.
SD-538

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

*Environment and Public Works
To continue hearings on the nomination of William D. Ruckelshaus, of Washington, to be Administrator of the Environmental Protection Agency.
SD-106

Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings to examine allegations of fraud and misapplication of Government funds in the shipbuilding industry.
SD-342

Judiciary
Criminal Law Subcommittee
To hold hearings on S. 829, proposed Comprehensive Crime Control Act.
SD-226

Joint Economic
To hold hearings to examine certain aspects of the proposed Federal budget.
SD-124

10:30 a.m.
Judiciary
Separation of Powers Subcommittee
To resume hearings to explore certain Federal court procedures relating to the exclusionary rule, habeas corpus, and related matters.
SR-418

2:00 p.m.
*Appropriations
Defense Subcommittee
To hold hearings on the supplemental budget request for fiscal year ending September 30, 1983, for the defense establishment.
SD-138

Armed Services
Preparedness Subcommittee
Closed business meeting, to mark up certain provisions of S. 675, authorizing funds for fiscal year 1984 for military programs of the Department of Defense.
SR-222

Judiciary
To hold hearings on pending nominations.
SD-226

*Labor and Human Resources
To hold hearings on proposed legislation authorizing funds for the Legal Services Corporation.
SD-430

MAY 5

9:30 a.m.
Appropriations
To continue hearings on Senate Concurrent Resolution 26, approving the obligation and expenditure of funds for MX missile procurement and full-scale engineering development of a basing mode.
SD-192

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings to review certain secondary market and mortgage foreclosure issues.
SD-538

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings to examine the effects of coal slurry pipelines on the rail industry, shippers, and consumers.
SR-253

Labor and Human Resources
To hold hearings on S. 772, to establish an Interagency Committee on Smoking and Health to coordinate Federal and private activities to educate the public about the health hazards of smoking.
SD-430

10:00 a.m.
Armed Services
Manpower and Personnel Subcommittee
Closed business meeting, to mark up certain provisions of S. 675, authorizing funds for fiscal year 1984 for military programs of the Department of Defense, and S. 989, proposed Omnibus Military Personnel Act.
SR-232A

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

*Environment and Public Works
To continue hearings on the nomination of William D. Ruckelshaus, of Washington, to be Administrator of the Environmental Protection Agency.
SD-106

Foreign Relations
Business meeting, to resume mark up of S. 637, authorizing funds for fiscal years 1984 and 1985 for international security and developing assistance programs, S. 638, authorizing supplemental funds for fiscal year ending September 30, 1983, for international security assistance, S. 701, authorizing funds for fiscal years 1984 and 1985 for the Peace Corps, and S. 714, authorizing funds for fiscal years 1984 and 1985 for the Inter-American Foundation.
SD-419

Governmental Affairs
To hold hearings on S. 20, to provide for a 2-year budget process.
SD-342

11:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Office of Revenue Sharing (New York City loan program), Federal Home Loan Bank Board, National Credit Union Administration, and the Environmental Protection Agency.
SD-124

2:00 p.m.
Armed Services
Tactical Warfare Subcommittee
Closed business meeting, to mark up certain provisions of S. 675, authorizing funds for fiscal year 1984 for military programs of the Department of Defense.
SR-222

Foreign Relations
Business meeting, to resume markup of S. 637, authorizing funds for fiscal years 1984 and 1985 for international security and development assistance programs, S. 638, authorizing supplemental funds for fiscal year ending September 30, 1983, for international security assistance, S. 701, authorizing funds for fiscal years 1984 and 1985 for the Peace Corps, and S. 714, authorizing funds for fiscal years 1984 and 1985 for the Inter-American Foundation.
SD-419

3:00 p.m.
Judiciary
Juvenile Justice Subcommittee
Business meeting, to mark up S. 53, to establish an Office of Justice Assistance to assist local law enforcement officials in fighting crime, and S. 57, to increase penalties for the sexual exploitation of children.
SD-226

MAY 6

9:00 a.m.
Armed Services
Military Construction Subcommittee
Closed business meeting, to mark up S. 720, authorizing funds for fiscal year 1984 for military construction programs of the Department of Defense.
SR-222

9:30 a.m.
Joint Economic
To hold hearings on the employment-unemployment situation for the month of April.
SD-106

10:00 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To hold oversight hearings on the strategic petroleum reserve to review financing mechanisms, interim storage, fill capacity, and other related issues.
SD-366

Governmental Affairs
Information Management and Regulatory Affairs Subcommittee
To hold oversight hearings on the implementation of the Paperwork Reduction Act of 1980.
SD-342

MAY 9

8:30 a.m.
Armed Services
Strategic and Theater Nuclear Forces Subcommittee
Closed business meeting, to mark up certain provisions of S. 675, authorizing funds for fiscal year 1984 for military programs of the Department of Defense, S. 1106, authorizing funds for the fiscal year ending September 30, 1983, for national security programs of the Department of Energy, and S. 1107, authorizing funds for fiscal years 1984 and 1985 for national security programs of the Department of Energy.
SR-222

9:30 a.m.
Finance
Health Subcommittee
To hold hearings on the administration's budget proposals for fiscal year 1984 to revise beneficiary cost-sharing requirements under the medicare and medicaid programs.
SD-215

Labor and Human Resources
Handicapped Subcommittee
To hold hearings on proposed legislation authorizing funds for the Education for the Handicapped Act, and proposed legislation authorizing funds for the Rehabilitation Act.
SD-430

10:00 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To resume hearings on S. 811, proposed Health Care for Displaced Workers Act.
SD-628

Rules and Administration
To hold hearings to review recommendations of the Senate study group on U.S. Senate practice and procedure.
SR-301

3:00 p.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To resume hearings on S. 916 and S. 846, bills to provide for the orderly termination, extension, or modification of certain contracts for the sale of Federal timber.
SD-366

MAY 10

8:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs of the Departments of Labor, Health and Human Services, Education, and Related Agencies.
SD-116

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of E. Pendleton James, of California, to be a Member of the Board of Directors of the Communications Satellite Corporation.
SR-232A

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 999, proposed International Telecommunications Act.
SR-253

10:00 a.m.
Appropriations
Defense Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1984 for certain defense related programs, focus-

ing on arms control and military strategy.
SD-192

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

Foreign Relations
Business meeting, to consider pending calendar business.
SD-419

Judiciary
Business meeting, to consider pending calendar business.
SD-226

Rules and Administration
To hold hearings on certain matters relating to the Senate media galleries, including membership, rules and procedures, outside activities of gallery staff, space and facilities, and security clearances for gallery members.
SR-301

2:00 p.m.
Foreign Relations
Business meeting, to consider pending calendar business.
SD-419

Governmental Affairs
Intergovernmental Relations Subcommittee
To hold hearings on proposed legislation to transfer authority for the Catalogue of Federal Domestic Assistance from the Office of Management and Budget to the General Services Administration.
SD-342

MAY 11

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To continue hearings on S. 999, proposed International Telecommunications Act.
SR-232A

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

10:00 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on oil pipeline deregulation.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
To resume hearings on S. 121, to establish a U.S. Department of Trade as an executive department of the Federal Government.
SD-342

Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To hold hearings on the District of Columbia school system's career oriented curriculum.
SD-124

Judiciary
Criminal Law Subcommittee
To resume hearings on S. 829, proposed Comprehensive Crime Control Act.
SD-226

Veterans Affairs
Business meeting, to mark up S. 992 and S. 1033, bills to provide emergency job training and employment programs for veterans.
SR-418

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

MAY 12

9:30 a.m.
Judiciary
Juvenile Justice Subcommittee
To hold hearings on certain tragedies involving children.
SD-562

Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on computerization of criminal history.
SD-226

Labor and Human Resources
To resume hearings on S. 772, to establish an Interagency Committee on Smoking and Health to coordinate Federal and private activities to educate the public about the health hazards of smoking.
SD-430

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Department of Housing and Urban Development.
SD-124

Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

Governmental Affairs
To continune hearings on S. 121, to establish a U.S. Department of Trade as an executive department of the Federal Government.
SD-342

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for territorial affairs.
SD-192

Governmental Affairs
To hold hearings on the nomination of David H. Martin, of Maryland, to be Director of the Office of Government Ethics.
SD-342

Judiciary
Constitution Subcommittee
To resume hearings on S. 81 and S. 141, bills to revise current law relating to civil actions for the deprivation of rights.
SD-226

MAY 13

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 137, to permit the continued issuance of mortgage revenue bonds after December 31, 1983, and S. 1061, to revise certain IRS provisions relating to the tax treatment of bonds that are guaranteed by certain Federal agencies.
SD-215

Labor and Human Resources
Business meeting, to mark up S. 772, to establish an Interagency Committee on Smoking and Health to coordinate Federal and private activities to educate the public about the health hazards of smoking.
SD-430

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
To hold hearings to examine fire safety matters.
SD-430

10:30 a.m.
Judiciary
Separation of Powers Subcommittee
To resume hearings to explore certain Federal court procedures relating to the exclusionary rule, habeas corpus, and related matters.
SD-226

MAY 16

10:00 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To resume hearings to examine the effects of coal slurry pipelines on the rail industry, shippers, and consumers.
SR-253

Labor and Human Resources
Aging Subcommittee
To hold hearing to discuss the progress made in the treatment of Alzheimer's disease.
SD-430

2:00 p.m.
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on patent term restoration.
SD-226

MAY 17

9:30 a.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on S. 285, to designate certain lands in New Mexico as the Bisti Badlands Wilderness, S. 626, to designate certain lands in Arizona as the Aravaipa Canyon Wilderness, S. 862, revising certain provisions of the Omitted Lands Act of 1962 with respect to omitted lands along the Snake River in Idaho, and S. 1042, to convey certain lands in Lane County, Oregon.
SD-366

Rules and Administration
To hold hearings on S. 85, to provide for public financing of U.S. Senate general election campaigns, S. 151, to limit contributions to U.S. Senate campaigns by certain multicandidate political committees, S. 732, to increase individual and party participation, to provide for the adjustment of contribution limits, and to allow candidates to control expenditures made on their behalf, S. 810, to provide for certain adjustments in campaign contribution limits, and other pending legislation.
SR-301

10:00 a.m.
Judiciary
Business meeting, to consider pending calendar business.
SD-226

2:00 p.m.
Environment and Public Works
Water Resources Subcommittee
To hold hearings on S. 1031, S. 970, and S. 865, bills to provide for the operation, maintenance, and construction of national waterways.
SD-406

Governmenal Affairs
To hold hearings on the nomination of Stephen F. Eilperin, to be an associate judge of the Superior Court of the District of Columbia.
SD-342

MAY 18

9:30 a.m.
Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To resume hearings on the status of emergency preparedness in the Washington, D.C., metropolitan area.
SD-562

Labor and Human Resources
To hold oversight hearings on activities of the Equal Employment Opportunity Commission.
SD-430

10:00 a.m.
Judiciary
Criminal Law Subcommittee
To resume hearings on S. 829, proposed Comprehensive Crime Control Act.
SD-226

Veterans Affairs
To hold oversight hearings to review adverse health effects from exposure to agent orange, and other related matters.
SD-628

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

Veterans Affairs
To continue oversight hearings to review adverse health effects from exposure to agent orange, and other related matters.
SD-628

MAY 19

9:30 a.m.
Commerce, Science, and Transportation
To resume hearings on S. 372, to promote interstate commerce by prohibiting discrimination in the writing and selling of insurance contracts.
SR-253

Governmental Affairs
To resume oversight hearings on the management policies of the Department of Defense, focusing on the implementation of cost accounting standards.
SD-342

Judiciary
Criminal Law Subcommittee
To continue hearings on S. 829, proposed Comprehensive Crime Control Act.
SD-226

Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on computer chips protection.
SD-226

9:45 a.m.
*Labor and Human Resources
To hold hearings on health care cost.
SD-430

10:00 a.m.
Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on S. 696, to provide for the ratification of the memorandum of agreement between the U.S. Department of the Interior and the State of Texas for the management of the Matagorda Island State Park and Wildlife Management Area a unit of the national wildlife refuge system in Calhoun County, Tex.
SD-406

*Judiciary
Courts Subcommittee
To hold hearings to discuss bankruptcy matters relating to the Manville Corp. in Denver, Colo.
SR-418

10:30 a.m.
Energy and Natural Resources
To hold oversight hearings on the geopolitics of strategic and critical minerals.
SD-366

2:00 p.m.
Judiciary
Immigration and Refugee Policy Subcommittee
To consult with administration officials on the midyear refugee numbers
SD-226

MAY 20

10:00 a.m.
Judiciary
To resume oversight hearings on organized crime in the United States.
SD-226

MAY 23

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs under the subcommittee's jurisdiction.
SD-124

*Judiciary
To resume hearings on S. 610, to encourage college student-athletes to complete their undergraduate education before becoming professional athletes.
SD-226

MAY 24

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold oversight hearings on the Employee Retirement Income Security Act (ERISA).
SD-430

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs under the subcommittee's jurisdiction.
SD-124

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to investigate the use of offshore banks, trusts, and companies to facilitate criminal activity in the United States.
SD-342

Judiciary
Business meeting, to consider pending calendar business.
SD-226

MAY 25

9:30 a.m.
Judiciary
Juvenile Justice Subcommittee
To hold hearings on the problem of parental kidnapping.
SD-226

Labor and Human Resources
To continue hearings on health care cost.
SD-430

10:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings to investigate the use of offshore banks, trusts, and companies to facilitate criminal activity in the United States.
SD-342

Governmental Affairs
Energy, Nuclear Proliferation, and Government Processes Subcommittee
To hold oversight hearings to review Federal debt collection policy.
Room to be announced

10:30 a.m.
Judiciary
Separation of Powers Subcommittee
To resume hearings to explore certain Federal court procedures relating to the exclusionary rule, habeas corpus, and related matters.
SD-628

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

MAY 26

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on the constitutionality of private lobby with public funds.
SD-226

2:00 p.m.
Judiciary
To hold hearings on plea bargaining matters.
SD-226

MAY 27

9:30 a.m.
Judiciary
*Constitution Subcommittee
To hold hearings on S.J. Res. 10, proposing an amendment to the Constitution of the United States relative to equal rights for women and men, and on related measures.
SD-562

10:00 a.m.
Judiciary
Separation of Powers Subcommittee
To resume hearings to explore certain Federal court procedures relating to

the exclusionary rule, habeas corpus, and related matters.
SD-226

JUNE 7

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on the proposed Single Employer Pension Plan Termination Insurance Improvements Act.
SD-430

JUNE 8

9:30 a.m.
Labor and Human Resources
To hold hearings on food safety.
SD-430

10:00 a.m.
Veterans Affairs
To hold hearings on proposed legislation providing for certain veterans' compensation.
SR-418

JUNE 9

9:30 a.m.
Labor and Human Resources
To continue hearings on food safety.
SD-430

JUNE 10

9:30 a.m.
Labor and Human Resources
To continue hearings on food safety.
SD-430

JUNE 13

9:30 a.m.
Finance
To hold hearings to examine the tax structure applicable to property and casualty insurance companies.
SD-215

*Labor and Human Resources
To hold hearings on home health care services.
SD-430

JUNE 14

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on proposed legislation revising certain provisions of the Labor-Management Reporting and Disclosure Act (Landrum-Griffin Act).
SD-430

JUNE 15

9:30 a.m.
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To resume oversight hearings on activities of the Patent and Trademark Office, Department of Commerce.
SD-226

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on the proposed Alien Education Assistance Act.
SD-430

Veterans Affairs
To hold oversight hearings to review certain health care and other services provided Vietnam veterans.
SR-418

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

JUNE 16

9:30 a.m.
Judiciary
Juvenile Justice Subcommittee
To hold hearings on the deinstitutionalization of certain status offenders.
SD-226

Labor and Human Resources
Labor Subcommittee
To resume hearings on proposed legislation revising certain provisions of the Labor-Management Reporting and Disclosure Act (Landrum-Griffin Act).
SD-430

JUNE 20

9:30 a.m.
Finance
To hold hearings on S. 19 and S. 888, bills to revise current Federal pension law with respect to the rights and benefits of working and nonworking women.
SD-215

10:00 a.m.
Judiciary
Immigration and Refugee Policy Subcommittee
To hold hearings on proposed authorizations for refugee programs.
SD-226

JUNE 21

9:30 a.m.
Finance
To continue hearings on S. 19 and S. 888, bills to revise current Federal pension law with respect to the rights and benefits of working and nonworking women.
SD-215

JUNE 22

9:30 a.m.
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on patent term restoration.
SD-226

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

10:00 a.m.
Labor and Human Resources
Family and Human Services Subcommittee
To resume oversight hearings on the breakdown of the traditional family unit, focusing on causes and remedies.
SD-430

Veterans' Affairs
To hold oversight hearings on certain health care services for veterans.
SR-418

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

JUNE 23

10:00 a.m.
Labor and Human Resources
Family and Human Services Subcommittee
To continue oversight hearings on the breakdown of the traditional family unit, focusing on the role of Federal policy.
SD-430

JUNE 27

10:00 a.m.
Judiciary
Immigration and Refugee Policy Subcommittee
To resume hearings on proposed authorizations for refugee programs.
SD-226

JUNE 28

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 1173, proposed Federal Mine Safety and Health Amendments.
SD-430

JUNE 29

9:30 a.m.
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on Federal Government patent policy.
SD-226

10:00 a.m.
Veterans Affairs
Business meeting, to consider proposed legislation providing for certain veterans' compensation.
SR-418

JUNE 30

9:30 a.m.
Judiciary
Juvenile Justice Subcommittee
To hold hearings on juvenile offenders of serious and violent crimes.
SD-226

JULY 6

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

JULY 13

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

JULY 20

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

JULY 27

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

SEPTEMBER 20

11:00 a.m.

Veterans Affairs

To hold hearings to receive legislative recommendations for fiscal year 1984 from the American Legion.

SR-325

CANCELLATIONS

MAY 3

10:00 a.m.

Joint Economic

Economic Goals and Intergovernmental Policy Subcommittee

To hold hearings on international comparisions of student achievement, and to examine the shortage of teachers in the math and science fields.

SR-232A

MAY 4

10:00 a.m.

Appropriations

District of Columbia Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1984 for the government of the District of Columbia.

SD-138

MAY 5

10:00 a.m.

Appropriations

District of Columbia Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1984 for the government of the District of Columbia.

SD-138

MAY 20

9:30 a.m.

Labor and Human Resources

To hold hearings on the effects of chemotherapy in the treatment of cancer.

SD-430

SENATE—*Tuesday, May 3, 1983*

(Legislative day of Monday, May 2, 1983)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable WILLIAM L. ARMSTRONG, a Senator from the State of Colorado.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

God of all comfort, we remember in prayer those of our Senate family who are hurting. We pray for Mark Lacovara, his sisters, and their family in the loss of their father. May Thy peace fill their hearts. We are grateful for the good news concerning Diane Lee and commend her to Thy loving care, praying for her rapid and total recovery. For any others who may be experiencing difficulties, grant relief in their situation. Help us to love one another, to care for and be sensitive to one another's needs.

Our Father, we pray for the pages as they approach the end of their school year and graduation. Thank Thee for their efficient and faithful service.

As the Senate takes up the complex and controversial issue of the budget, we pray, Heavenly Father, for special dispensation: Wisdom and patience for the leadership, the chairmen, and members of the committees. Guide the Senators through debate to consensus and resolution. In Jesus' name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 3, 1983.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM L. ARMSTRONG, a Senator from the State of Colorado, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. ARMSTRONG thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. The acting majority leader is recognized.

Mr. STEVENS. I thank the Chair.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, has there been an order entered for the transaction of routine morning business following the time for the two leaders?

The **ACTING PRESIDENT** pro tempore. There has not.

Mr. STEVENS. Mr. President, I ask unanimous consent that following the time for the two leaders there be a period for the transaction of routine morning business not to extend beyond 11 a.m. during which Senators may speak for 5 minutes each.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

THE BUDGET RESOLUTION

Mr. STEVENS. Mr. President, today the Senate is going to continue consideration of the Senate Concurrent Resolution 27, the first concurrent budget resolution for the fiscal year 1984. It is imperative that the Senate dedicate itself to completion of this critical stage of the budget process. Many of the committees in the House and the Senate must await the outcome of the consideration of this budget resolution.

As a member of the Appropriations Committee, I can assure the Senate that that committee would welcome the achievement of the first concurrent budget resolution. It would help the appropriations process tremendously. Congress has the opportunity this year to complete all of the appropriations bills before the end of the fiscal year if this budget resolution is approved in sufficient time to permit that.

Mr. President, the majority leader is at the White House conferring with the President and his staff. He may have a further announcement later today regarding the schedule for today and the remainder of the week.

I ask unanimous consent that a place be reserved in the RECORD for that statement should he wish to file it or make it.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS TODAY FROM 12 NOON TO 2 P.M.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess today between 12 noon and 2 p.m.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

Mr. BYRD. Mr. President, the Senator reserved his time. What is the next order?

The **ACTING PRESIDENT** pro tempore. Under the standing order, the minority leader is recognized.

Mr. BYRD. I thank the Chair.

SHIFTING OF RURAL WATER AND WASTE DISPOSAL FUNDS

Mr. BYRD. Mr. President, I was disturbed to learn recently that the Department of Agriculture and the Office of Management and Budget had decided to shift half of the rural water and waste disposal program grant and loan funds that Congress approved last month in the Emergency Jobs Authorization Act to the farm operating loan program under the provisions of the interchange authority approved in 1944. I am told that this reprograming will transfer $75 million in grant funds and $225 million in loan funds from the rural water and waste disposal program to the farm operating loan program on an emergency basis.

The purpose of that transfer is to provide operating credit for the farmers in 20 States, States in which funds from the farm operating loan program are exhausted for loan assistance needed to plant this year's crops.

I can well understand, and I agree with the need for timely action to assure adequate loan assistance to farmers for spring planting. They cannot wait until August or September to do their spring planting, so it is obvious that the need existed for such funds. But I find it difficult to understand why the farm operating loan program reached such dire straits before emergency action was taken to shore it up. Surely the Farmers Home Loan Administration officials must have known that adequate resources were dwindling from that program at the time they testified before both Senate and House committees a few weeks ago. And surely they knew that available loan funds would fall far short of that required for the spring planting season; yet apparently they did not mention the problem. As a result, no opportunity was provided to take care of the current emergency in a more orderly and reasonable fashion.

Further, I cannot understand why the needed funding for the farm operating loan program was taken from the rural water and waste disposal program and not from the emergency loan program.

The emergency loan program is an open-ended funding resource. I am talking about the fund that is provided for disasters. It would appear to have been a better source from which to take the needed money, and it would have left the emergency jobs measure funds intact for use as intended by the Congress and would not have adversely affected any other Agriculture Department program.

Unfortunately, because of the transfer of those funds, all 50 States and eligible territories will be penalized counter to the intent of Congress. Congress approved those funds the month before last to create and maintain jobs for Americans in rural areas, and to provide assistance for basic human amenities, to alleviate health hazards, and to promote stability and growth in those same rural areas.

In my home State of West Virginia, unemployment has reached more than 21 percent. Under the rural water and waste disposal funding program as contained in the Emergency Jobs Appropriations Act, West Virginia had anticipated receiving $10 million: $3 million for grants and $7 million for loans. These anticipated figures were based on earlier rough calculations by the Farmers Home Loan Administration officials. But I was told last week that West Virginia's share of the rural water and waste disposal money from the jobs bill subsequent to reprograming will be only $1.153 million for grant allocation and $3.487 million for the loan program.

So what we see is the administration giving with one hand and taking away with the other, clearly in circumvention as to the intent of Congress when it passed the jobs bill.

West Virginia has no remaining grant funds from its regular fiscal year 1983 rural water and waste disposal allotment and only $3.5 million in its loan program. Current West Virginia rural water and waste disposal grant and loan applications total $19.7 million. At the national level, I am told there are rural water and waste disposal applications pending for funding amounting to $1.5 billion.

I have discussed this matter twice with the Director of the Office of Management and Budget, who seems to show no inclination to budge. I have written to the Secretary of Agriculture to express my concern about this transfer and to find out what action may be anticipated in the future to restore the transfer of the funds.

To date, I have received no satisfactory answer to my question from either Mr. Stockman or the Secretary of Agriculture.

I do hope this money can be restored through the appropriations process. I think the will of Congress should be carried out. What has happened in this instance, if carried to further ends, could mean that the other jobs programs which Congress thought it was funding will come up short of money because of reprograming.

I call on my colleagues in the Senate to join in supporting an effort to restore those funds that have been transferred from the rural water and waste disposal program and to do so through the next appropriate vehicle, which I assume would be the supplemental appropriations bill, and which is expected to be considered in a few weeks, because I believe this is a matter of concern to many, if not most, Senators. I am not certain that they are aware of what has been done. Senator EAGLETON, I believe, spoke on this subject a few days ago.

I think it is a sort of sleight-of-hand operation, in dealing from the bottom of the deck, when Congress appropriates money for jobs and for waste and water systems and then that money is reprogramed, granted for a very good cause. I maintain that the moneys could have been obtained elsewhere.

I also maintain, as I have said in my speech, that the Farmers Home Loan Administration officials should have alerted Congress to the dire emergency which faces farmers, when that agency appeared before Appropriations Committees earlier.

Mr. President, I yield the floor. If I have any time remaining, I yield it to the acting Republican leader.

Mr. STEVENS. I thank my good friend.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business to extend not beyond 11 a.m. in which Senators may speak for not to exceed 5 minutes.

MR. PRESIDENT, WHY NOT A SUMMIT, NOW?

Mr. PROXMIRE. Mr. President, James Reston, the veteran columnist of the New York Times is one of the wisest as well as one of the fairest observers on the Washington scene. Reston rarely calls on a President to act unless this wise man—with many years of experience in observing action at the top levels of our Government—has become convinced that we face a genuine emergency.

In his column yesterday, Mr. Reston wrote:

> The U.S.-Soviet nuclear arms talks in Geneva have reached an impasse which is likely to develop into a crisis before the end of the year unless both sides make some strenuous new effort to avoid it.

What is Reston talking about? How serious is this crisis he talks about? Mr. Reston is not referring alone to the dismal prospect that the nuclear arms race will go on and on until sometime in the future when some kind of mistake in this increasingly instant-trigger technology sets off Armageddon. Reston is referring to a sequence of events that could lead directly to a confrontation not at some time in the vague future, but at the end of this year, by December 31, 1983.

Here is why: The U.S. and U.S.S.R. negotiators at Geneva seem most unlikely to reach any agreement. So why is this important? Because if they reach no agreement, we will deploy our Pershing II nuclear missiles in Britain and West Germany. Then what happens? Then the Soviets have indicated their intention of putting intermediate range missiles within striking distance of the United States. Does that mean Cuba? Or Nicaragua?

As Reston writes:

> Nobody who remembers the Cuban missile crisis during the Kennedy administration will underestimate the importance of avoiding another such confrontation.

So what does Reston suggest we do about this situation? He suggests wisely that it is time for a Reagan-Andropov summit to reach a better understanding on both sides. Would such a meeting reach an agreement on the deployment of nuclear arms? Maybe not. Probably not. But it might. And it would certainly improve the understanding on both sides and provide for further progress.

In this connection, Reston makes two additional points: First, the history of meetings between our President and the top Soviet leaders in the past have led to greater understandings in virtually every case. Both President Ford and President Carter found their meetings with Brezhenev useful even when they did not settle anything. They eased tensions. They moved both nations a little closer to accommodation.

Second, the President has been meeting with just about every other leader of virtually every other country in the world except the Soviet Union. He sends Secretary Shultz to the Middle East although the hope of an agreement there is very slim. At least he is trying for an agreement to achieve the peace in the Middle East and that is certainly to the credit of the President and the Secretary.

In the same spirit, President Reagan, give it a try. Give it a nudge. No issue is nearly as important as preventing a nuclear war. However remote the prospects of reaching an agreement based on a summit meeting may seem, let us try it.

Mr. President, I ask unanimous consent that the article to which I have referred from the New York Times be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, May 2, 1983]

Why Not a Summit?

(By James Reston)

Washington, April 30.—The U.S.-Soviet nuclear arms talks in Geneva have reached an impasse, which is likely to develop into a crisis before the end of the year unless both sides make some strenuous new effort to avoid it.

The United States is committed to begin deploying its new cruise and Pershing 2 nuclear missiles in Britain, West Germany and Italy at the end of the year, within reach of the Soviet Union, unless an agreement is reached by then to reduce or eliminate the Soviet intermediate missiles now targeted on Europe. Both governments have rejected the other's proposals, and already time is short for a serious reappraisal.

In fact, the danger increases, not only because the passage of time adds more missiles to the arsenals of the two major nuclear nations, but because Soviet officials have recently been threatening, if we emplace new missiles in Europe, to put intermediate Soviet nuclear missiles within striking distance of the United States. Nobody who remembers the Cuban missile crisis during the Kennedy Administration will underestimate the importance of avoiding another such confrontation.

The chances are that this alarming prospect will not be removed by officials at Geneva arguing about "who's ahead" in the arms race, but will have to be discussed as the presiding political issue of world affairs of President Reagan and General Secretary Andropov. Chancellor Kohl of West Germany proposed such a summit meeting when he was here the other day, and other allied leaders are likely to urge President Reagan to give it serious consideration when they meet with him at Williamsburg, Va., at the end of May.

The purpose of a summit at the present time and under present circumstances is not only to reach some kind of accommodation on the control of nuclear weapons but also to appraise the wider relations between the United States and the Soviet Union and their policies in relation to the other nations of the world.

In fact, unless there is a better understanding between Washington and Moscow on a broad range of issues that now threaten the peace and order of the world, the chances are that they will not be able to negotiate an acceptable nuclear accommodation.

There is, of course, a popular view in the United States that two nations that hold such fundamentally incompatible views of history, of the nature of society and the individual's place in it cannot hope to reach a general agreement, and that the Soviet Union wouldn't be faithful to its promises if they did.

However, former Presidents Ford and Carter, who were the last to meet a Soviet leader personally, do not agree, nor do they accept the idea that personal summits are meaningless.

Mr. Ford testifies that his long talks with Leonid Brezhnev at Vladivostok, while they didn't settle anything, were highly useful. Mr. Carter met Mr. Brezhnev in Vienna near the end of his Administration for the signing of the SALT II treaty and thought their general talk on U.S.-Soviet relations was hopeful.

But by that time, Mr. Brezhnev was very ill. Zbigniew Brzezinski, Mr. Carter's national security adviser, has said that "the greatest foreign policy mistake we made was that we did not meet Brezhnev early in the Carter Administration and make clear to him what the United States could do to improve relations, and what it could not tolerate in defense of its national interests."

In President Reagan's case, there are even domestic political arguments for a summit meeting. His foreign policy is not going well in the Middle East, Central America or even in Europe. As a result, the Congress is challenging his conduct of foreign affairs, and sometimes adding to the confusion in the process. Nobody doubts that a summit meeting with Mr. Andropov would command the attention of the world and even of the Congress.

For the time being, Mr. Reagan is scrambling from one crisis to another, reacting to other people's leads, emphasizing El Salvador in a major speech to a joint session of Congress and sending Secretary of State George Shultz to the Middle East. The Secretary vows to remain for weeks if necessary to get the foreign troops out of Lebanon and, against the odds, try to persuade the Israelis to accept the Reagan plan for Palestinian "autonomy" in the West Bank and Gaza.

It's hard to understand these priorities. The President finds time to deal with the leaders of almost every government in the world except the Soviet Union, but even with a nuclear crisis coming on, neither Mr. Reagan nor Mr. Andropov is making any move to talk things over.

The President sent Secretary Shultz to the Middle East not because he had an agreement or even much hope of one but because he wanted to demonstrate that he was willing to do everything possible to keep the peace process going.

The same argument applies to a Reagan-Andropov summit. It might not get anywhere, but history and the American voters are not likely to blame President Reagan for trying.

SALVADOR

Mr. PROXMIRE. Mr. President, one of America's foremost essayists, Joan Didion, has recently published a book about her experiences in El Salvador. Her book is entitled "Salvador," and in it Didion draws on her 10 years spent observing life in El Salvador to assemble a compelling report on one of the world's most troubled and least understood nations.

Didion is a concise, lucid writer with an eye for the grimly ironic. Through her report we receive an eye-opening look at a region fraught with violence. We learn of the oppression, the death squads, and the body dumps which abound in this tiny Central American country. Didion saw one of these body dumps near a national tourist center. She notes that the magazine of the national airline of El Salvador described this area in their April-June 1982 issue as "offering excellent subjects for color photography." Over the course of her book we learn that such bizarre ironies are a fact of life—a way of life—in Salvador.

Didion does not attempt to pass judgments or offer correctives for the existing conditions in El Salvador. Instead, she brings the country to life through her own observations of the social and political landscapes as she experienced them. After reading just a few chapters of her book, it becomes all too apparent that killings and human rights violations are commonplace. Didion implies that one of the worst aspects of these conditions is this commonness; the citizens of El Salvador are so inured to the death and terror around them they no longer recognize it.

Mr. President, through her thought-provoking insights, Joan Didion presents a unique account of life and death in El Salvador. Her report reveals a country where human rights are not protected and where indiscriminate killings occur daily.

While genocide is not presently occurring in El Salvador, the frequency of human rights abuses there warrants our notice. In other places at other times, patterns of violence similar to those in El Salvador have led to tragedies involving genocide. From news reports, agency issues, and books such as Ms. Didion's, we hear the warnings of impending tragedy in El Salvador.

I urge my colleagues to give to their advice and consent to a treaty that would make genocide an international, punishable crime. Through the ratification of the Genocide Convention, the United States can lend a strong voice in the fight to eliminate human rights violations and thereby remove the specter of death which is so visible in a number of regions around the world.

SENATOR JOHN TOWER

Mr. COHEN. Mr. President, last week a reporter for the New York Times informed me that his paper was going to do a profile of Senator JOHN TOWER. My views were solicited and I was more than willing to contribute to a story about a man that I consider to be a close friend.

Anything that I might say about JOHN TOWER would be the same whether on or off the record. I chose to go on the record. I was asked about his strong points, his weaknesses—as if each of us can be summed up like a balance sheet of debits and credits.

I spoke of JOHN TOWER's intelligence and integrity. I referred to his skill as a consummate negotiator during conference committee action on the defense authorization bills, his delegation of total responsibility to his subcommittee chairman, and his unflagging support for their decisions even if opposed by the Pentagon.

I was asked whether he had a temper. Yes, he has a temper. He is an intense man, but he is not a vindictive one. And, I noted, like our former colleague Senator Edmund Muskie, he could use controlled anger deliberately and skillfully during the course of debate.

I thought I had expressed some positive views which I genuinely hold about JOHN TOWER and, therefore, was surprised to see a quote in bold type attributed to me in the April 29 issue of the Times. "He has been saying the same things for 20 years." The tone of the quote appeared pejorative, the implication negative.

Did I say those words? Indeed, I did. But they were said in response to a question: "Isn't JOHN TOWER out of step with the public mood of the country on defense spending?" Perhaps so, but JOHN TOWER has been saying the same thing for 20 years, that we have to rebuild and modernize our defenses. He is not someone who holds his ear to the ground to sound out in which direction the public mood may be running. Churchill told us it was very hard for anyone to look up to a leader who assumed that awkward posture. He has been consistent despite any shift in the public opinion polls. That is to his credit.

That is a rough, if not exact, paraphrase of my words on JOHN TOWER. Now I know the author of the column to be an excellent and fairminded reporter who is no doubt limited by space considerations, and, I suspect, the sharpness of editorial scissors. So I cast no criticisms.

I take the floor today solely for the purpose of pointing out that each one of us in public office has been the subject of profiles which either profess to plumb the depths—or catch the essence—of our personalities. Often we are more than appear to the public eye, occasionally, far less. Each of us has character flaws and fallibilities.

But I know that JOHN TOWER is more than a man that wears pinstriped suits to enhance his height. He is more than a man afflicted with an obsession that the Russians are coming.

As a sketch, the story on JOHN TOWER may have hit its mark. But as a portrait, it missed the man.

THE ADMINISTRATION'S COMMITMENT TO FEDERALISM

Mr. BAKER. Mr. President, Richard S. Williamson, Assistant to President Reagan for Intergovernmental Affairs, has written an insightful account of the Reagan administration's commitment to federalism, and I ask unanimous consent that the article, which appeared in the publication American Education, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ADMINISTRATION'S COMMITMENT TO FEDERALISM

(By Richard S. Williamson)

This nation has never fully debated the fact that over the past forty years federalism—one of the most essential and underlying principles of our Constitution—has nearly disappeared as a guiding force in American politics and government. My Administration intends to initiate such a debate.—President Reagan, in an address to the National Conference of State Legislatures, July 1981.

The following January, in his first State of the Union Message, the President presented a major Federalism Initiative to sort out our responsibilities among the various units of government, and the issue was joined. The media dubbed it "New Federalism" and the topic moved to the forefront of public debate.

To understand President Reagan's commitment to federalism, it is necessary to recognize how it is woven into the fabric of the American policy. While the debate often focuses on organizational principles, a vibrant federalism has importance beyond its service as an instrumentality. It is integral to social accord, and thus preserves our democracy.

In a recent thesis prepared for the American Enterprise Institute, Daniel J. Elazar maintained that American federalism can be traced to the Mayflower Compact of 1620. Because the Pilgrims were about to settle in an area outside the jurisdiction of their patent-issuing company, they drew up an aboardship agreement to preserve order through rule of law sanctioned by themselves. It was patterned after their church convenant which vested religious authority in the congregation. Thus, the Mayflower Compact was an agreement by parties seeking to unite for a common purpose while preserving their respective integrities.

FEDERALISM IS A CORNERSTONE OF OUR GOVERNMENT'S FOUNDATION

The Articles of Confederation and the Constitution were preceded by innumerable compacts, covenants, and constitutions to create churches, trading companies, towns, and colonies. In toto they established the roots of federalism as the political, economic, social, and religious dimensions of America society.

Federalism fosters social harmony because it reduces government to a manageable scale and makes citizen participation more readily accessible. Decentralization allows individual and communal interests to be balanced, avoiding collectivism and potential disintegration into anarchy. Federalism thus bonds the character of our society because people can unite with one another to accomplish a common purpose without losing their individuality.

Federalism promotes civic responsibility by fostering citizen participation. Community members serve on city councils, zoning boards, advisory committees, and other similar organizations. Most states and localities provide for ballot initiatives and referenda to decide at least some public policy issues. Advisory votes are also common at the state and local level. All states have some form of open meeting laws, and most have open records laws. Most states also require local budget hearings. As a consequence of citizens participating in and learning about the workings of government, civic responsibility is deeply embedded in society and allowed to flourish. This mitigates the dangers of a permanent ruling class entrenched in a distant bureaucracy.

Federalism helps secure individual rights by providing multiple avenues of redress. Indeed, our republic was founded because a distant and monopolistic government in England was denying or trespassing rights. By dividing government into units—each deriving its authority from the same people, yet acting autonomously—competition for public preference in the delivery of services is encouraged. Each unit serves as a protection from the tyranny of the other.

Federalism provides diversity and allows for local considerations in problem solving. In 1932, Supreme Court Justice Louis Brandeis, in a dissenting opinion in *New State Ice Co.* v. *Liebmann*, wrote:

"It is one of the happy incidents of the federal system that a single, courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country."

States can learn from one another's experiments. Under a federal framework, a problem solved in one manner at a given time and place may be solved differently in another period and setting. States and localities have flexibility to adjust for differing social customs, demographics, and climate. In the area of welfare, for example, it is impractical to design one program which will serve the diverse needs of the urban poor in New York City, the refugees in Miami, and the rural poor in Appalachia.

Federalism fosters accountability because state and local officials are more accessible to the people. By decentralizing the public policy forum, decisions that directly affect the lives of average citizens are made by the unit of government closest to them. People know whom to blame when services go sour, and they have recourse in the voting booth. Also, local officials are fulltime citizens of the community and are available in the neighborhood on a daily basis.

Federalism is efficient because responsibilities are sorted out. With a national government focusing on national problems, and state and local governments handling their own local problems, the system does not become overloaded and congested. Flexibility and workability are maintained because resources can be targeted. Conversely, monolithic governments are wasteful—their bureaucratic overhead diverts funds from real services, and programs may be designed which are not really needed in certain jurisdictions.

The qualities of a federal system can be summarized as the law of comparative advantage for governments: Let each unit do what it does best and most cost-efficiently. It is a division of labor as fundamentally prudent in government as it is in industry, organizations, and the home.

NEW FEDERALISM REPRESENTS PRESIDENT'S COMMITMENT TO CHANGE

From the outset of his Administration, the President emphasized that there was to be a dramatic change in the attitude of the federal establishment. A fifty year trend of power centralization in Washington was to be reversed. The Federalism Initiative was a major step, but it was just part of a multifaceted program to restore a proper Constitutional balance of power in our system of government.

He asked his Cabinet members to ensure that a high-level person be assigned responsibility for intergovernmental affairs in each department or agency. He instructed the Cabinet to conduct "early and genuine consultation" with state and local officials concerning programs and policy changes. And he called on them to monitor programs carefully to ensure that they did not have unintended and undesirable effects on state and local governments. The spending reductions reordered priorities to enable the national budget to address truly national needs.

Fifty-seven narrow and restrictive categorical grant-in-aid programs were consolidated into nine broad block grants. This response to the call for flexibility from state and local officials allows them to achieve better services by targeting funds to local needs. It also reduced paperwork for states and localities by 5.4 million manhours (83%) in fiscal year 1982. The Elementary and Secondary Education Block Grant, for example, consolidated numerous federal activities and programs.[1] It enabled Secretary Bell to eliminate 118 pages in the *Federal Register*. Savings of $1.5 million resulted from reducing grant application requirements, and $215,000 from easing programmatic and financial reporting burdens.

DEREGULATION SAVES TAXPAYERS DOLLARS

The President established a Task Force on Regulatory Relief chaired by Vice President Bush. To date, 119 reviews have been undertaken, 35 of which relate directly to state and local governments. This alone will save taxpayers roughly $2 billion locally in annually recurring costs, and between $4 and $6 billion locally in total investment costs. This is just the start of deregulation for state and local governments, as the President recognizes that there is much more that can and must be done in these areas.

On an ad hoc basis, the Administration opposed new restrictions on state and local governments, such as recent Congressional proposals for regulation of state and local employee pension plans.

Undeniably, Congress has not given the President everything he wanted in returning power and authority to states and localities; and movement on his "Federalism Initiative" has not been as swift as he would like. But like a dog walking on hind legs, it's not important whether it's done gracefully, it's just extraordinary that it's happening at all.

The federal establishment has begun the politically unnatural act of relinquishing power and restoring traditional responsibilities to state and local governments. The rush to a monolithic federal establishment has been halted. Now the debate is not only what government should finance, but which unit of government should be responsible for given programs.

In essence, all the President's federalism efforts have grass roots origins. They are what the people have long been asking of their governors, state legislators, and municipal and county officials, and in turn what state and local officials have been asking of Washington.

Ronald Reagan has been speaking out for twenty years about the virtues of federalism—as private citizen, as Governor of California, and as a Presidential candidate. His landslide election was correctly reported as an eruption in the American body politic; but it was not without its seismographic warnings. The relentless gravitation of power of Washington during the 1960s and 1970s had long been producing discord in our system of government.

Social harmony was not being fostered, because individual rights and local priorities were being suppressed. Civic responsibility was not being promoted, because government was becoming more distant from the people. Diversity and accountability were being stifled because Washington was constricting options, and government had become profligate and inefficient.

Frustrated at losing control of their governance and by the failure of the liberal programs to solve social and economic problems, the voters staged a revolt. The Congressional elections of 1978 and 1980 produced a distinctly more conservative Congress. Such tax limitation ballot initiatives as Proposition 13 in California, and Proposition 2½ in Massachusetts demonstrated unequivocally that the voters were demanding that fewer dollars go to the public sector. In addition, the people were sending a clarion message that government should come home to the state and local level. This was amply reaffirmed in a Harris Poll taken shortly after the President's announcement of his Federalism Initiative. It showed that, by a 2-to-1 margin, the American people approved of the major components of this proposal.

The new formula for American government is thus diversity and decentralization. This will achieve better services from shrinking resources, restore faith in our system, and make government work again.

(EDITOR'S NOTE: The Federalism concept and final proposal are still being defined and deliberated among Federal and state government leaders. Many specific points outlined in these articles are subject to change as the debate continues. American Education presents these discussions of Federalism—one from the viewpoint of an Administration official and the other from a U.S. Senator—as part of our continuing effort to bring to our readers current thought on topical issues in education. We welcome your response to these and other articles in American Education.)

PROGRAMS CONSOLIDATED UNDER EDUCATION BLOCK GRANT/CHAPTER 2

Civil Rights Technical Assistance and Training.
Teacher Centers.
Alcohol and Drug Abuse Education Program.
Follow Through.
Strengthening State Educational Agency Management.
Teacher Corps—Operations and Training.
Emergency School Aid Act—Basic Grants to Local Education Agencies.
Emergency School Aid Act—Grants to Non-Profit Organizations.
Emergency School Aid Act—Educational TV and Radio.
Educational Television and Radio Programming.
Use of Technology in Basic Skills Instruction.
Ethnic Heritage Studies Program.
National Diffusion Program.
Career Education.
Education for the Use of the Metric System of Measurement.
Education for Gifted and Talented Children and Youth (State Administered and Discretionary Programs).
Community Education.
Consumers' Education.
Elementary and Secondary School Education in the Arts.
Instructional Material and School Library Resources.
Improvement in Local Educational Practice.
International Understanding Program.
Emergency School Aid Act—Magnet Schools, Univeristy/Business Cooperation and Neutral Site Planning.
Career Education State Allotment Program.
Basic Skills Improvement.
Emergency School Aid Act—Planning Grants.
Emergency School Aid Act—Pre-Implementation Assistance Grants.
Emergency School Aid Act—Out-of-Cycle Grants.
Emergency School Aid Act—Special Discretionary Assistance Grants.
Emergency School Aid Act—State Agency Grants.
Emergency School Aid Act—Grants for the Arts
Biomedical Sciences for Talented Disadvantaged Secondary Students.
Pre-College Teacher Development in Science Programs.
Secretary's Discretionary Program.
Law-Related Education.
Cities in Schools.
PUSH for Excellence.
Emergency School Aid Act—Evaluation Contracts.

The following categorical programs were authorized in 1981 but never funded. They are authorized in Chapter 2 of the 1982 Education Block Grant:

Preschool Partnership Program.
Youth Employment Program.
Environmental Education.
Health Education.
Correction Education.
Population Education.
Dissemination of Information.
Educational Proficiency Standards.
Special Grants for Safe Schools.

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[1] For complete list of programs consolidated under Chapter 2 of the Education Block Grant, see the following list.

ANOTHER SUCCESSFUL ESOP COMPANY

Mr. LONG. Mr. President, I am sure that my colleagues have noticed that employee stock ownership is catching on in the United States. The legislation that we have enacted over the past 10 years has been successful in encouraging more than 5,000 companies to share ownership with their employees through employee stock ownership plans (ESOP's).

I am convinced that the growth of employee stock onwership is one of the most beneficial changes that we have brought about in the U.S. economy in many years. By broadening the opportunities for working Americans to gain an ownership stake in the companies for which they work, we have begun to build a firm foundation for future economic growth that will be more equitably shared. Although there is much yet to be done, it is gratifying to find that the legislation that we have enacted thus far has resulted in such widespread success.

As an example of that success, Mr. President, I will ask unanimous consent that a recently published profile of an ESOP company be printed in the Record. This profile was compiled by the Employee Stock Ownership Association of America, a trade organization representing the interests of companies which share an interest in ESOP's. This profile is the latest in a continuing series of studies undertaken by the association, studies which prove time and again the many benefits of legislation favoring the use of employee stock ownership as a technique of corporate finance.

ESOP's provide companies with a flexible financing tool with which they can achieve a variety of corporate purposes while, in the process, insuring that their employees have an opportunity to share in a piece of the action.

Although we have recently placed increased national emphasis on the financing of such "hard" factors as capital investment and research and development, thus far we continue to overlook those "soft" factors that can have such an important impact on productivity and profitability—the motivation, commitment, and dedication of our work force. Incentives for employee stock ownership provide a way to link these two factors, and to end the costly mismatch between our national goal of improved productivity and our system of incentives and rewards.

I ask unanimous consent that the profile to which I referred earlier be printed in the Record.

There being no objection, the profile was ordered to be printed in the Record, as follows:

THE CANTERBURY PRESS ESOP

The Canterbury Printing Company was founded in 1950 in a small garage on Canterbury Hill near Rome in Upstate New York. Since those days of one-man operation, this innovative company has expanded its markets and updated its equipment and processes to become one of the region's leading commercial lithographers. Today, nearly 75% of the Canterbury effort is devoted to periodicals, specializing in the medical-pharmaceutical field.

The company has grown to a vibrant business now employing more than 60 people. Sales in 1982 climbed 17% over the previous year, to approximately $4 million. Canterbury Press has been one of the pioneers of the four-day work week. And, it has added another important dimension to its leadership with its employees: Ownership.

The Canterbury Press Employee Stock Ownership Plan was established in 1975 by the then-owner, Ward West, as a means of divesting his 100% ownership of the firm. As is often the case, Mr. West was looking for a way to reward his many loyal employees who might otherwise have lost their positions by a sale to another entity. After investigating the recently-enacted provisions of the Employee Retirement Income Security Act (ERISA), he decided on an ESOP buyout of his interest in the company. The ESOP now owns 100% of Canterbury Press stock, making it one of a growing number of completely employee-owned companies.

CANTERBURY'S ESOP SETUP

The Canterbury Press ESOP was started with no conversion of other benefit plans. The banks were not involved and there were no compensating wage or benefit reductions. A small-scale participatory profit sharing plan and a saving plan were terminated, with the proceeds distributed to the participants either in cash or rolled over into annuities.

The corporation has contributed 15% of eligible payroll each year. These cash contributions have been used to gradually purchase all of the stock. At the time of Ward West's retirement in 1981, the corporation loaned the ESOP trust $350,000 to permit purchase of the balance of shares held by Mr. West. This loan is steadily being offset by corporate contributions, and will be paid off by the end of 1983.

The Canterbury stock is currently valued in excess of $1.5 million. An outside appraiser makes an annual valuation of the stock since it is not publicly traded. An outside bank trustee is also utilized. A reduction for closely-held stock was taken until Mr. West divested in 1981. The ESOP has been audited by the IRS on various occasions with no problems. No TRASOP or PAYSOP variations have been utilized thus far.

Most of the cash has been used for stock purchases, so there is little balance at the present time to cover the firm's repurchase liabilities. The Canterbury workforce is still relatively young and turnover is minimal, so stock distribution should not be a problem in the immediate future. The company is planning ahead to meet these needs by investing future corporate contributions to cover obligations to departing employee-owners. The feasibility of insurance coverage is also under investigation.

Since mid-1981, the company has invested well over $1 million in new plant and equipment. Avenues of financing have included the New York State Job Development Authority, the Oneida County and City of Rome Industrial Development Corporations, as well as local banks.

Participation in the ESOP at Canterbury Press is based on a few eligibility requirements. Quite simply, all full-time employees join the Plan on their twenty-fifth birthday. Employees who work less than one thousand hours during any calendar year do not participate. ESOP contributions are based on employees' regular compensation, excluding overtime.

ESOP participation continues until an employee leaves due to death, retirement or a break of the 1000 hours requirement. Distribution of account balances takes place upon reaching retirement age, death or total disability. Employees are given the option of lump sum or installment distribution of their ESOP holdings, and a "put" option for their stock is mandatory.

An open shop contract is in effect with the Graphic Arts International Union, which has jurisdiction in camera, stripping, plating and printing press areas. The ESOP is not involved in the contract and union membership has no bearing on ESOP participation. Employees also enjoy complete company-paid health care benefits and life insurance.

Canterbury Press boasts the first four-day work week in Central New York. Company president Don McLoughlin explains that such a schedule actually allows for more production time. The printing presses can run for 10-11 hours daily before being shutdown. Longer and more complex jobs can be completed sooner, and costly start-up and cleaning of the machines is minimized.

IMPROVED QUALITY VIA COMMUNICATION

The ESOP was not universally understood and embraced by the employees at the outset. However, according to McLoughlin, each year of operation under the ESOP creates more believers. Regular employee meetings in both large and small groups work toward stimulating discussion among the stockholders. Even at these meetings, though, it has not been easy to involve everyone as much as management would like.

The Canterbury Press ESOP Committee, which consists of president Don McLoughlin along with the company's secretary-treasurer and a representative from the shop, maintains an open door policy for comments and questions about the ESOP and about company operations in general. This approach provides valuable input from employees.

Management shares some corporate information at plant-wide meetings called Reports to Stockholders. Detailed financial information is not distributed, but general discussions of profitability, growth plans, equipment purchases, etc., are included.

As a closely-held stock corporation, Canterbury Press has no voting pass-through of ESOP stock. The company issues special annual reports and stock certificates to let the ESOP participants know the successful status of their plan. However, Canterbury Press avoids declaring and passing-through dividends on the ESOP stock because they are not tax-deductible.

McLoughlin explains the effect of the ESOP: "Since the advent of ESOP, we have really seen an increase in quality." And, in an industry where the quality of the workmanship is its most important feature, this is one of the most important benefits of the ESOP. "It is now common to hear someone on the shop floor say, 'Be careful with that—it's my company, you know!' "

The future is very bright for Canterbury Press. Employment is expected to continue to grow and sales are projected to increase. Likewise, the outlook for the ESOP is very good. Its original objective of purchasing the company from its sole owner has been met and its future is financially secure.

Management is now putting more emphasis on the employee communication and participation aspects of the ESOP, working toward an even better understanding of what it means to be a Canterbury Press employee-owner.

Says McLoughlin, "The idea of actual company ownership, along with the four day work week in effect at Canterbury for the past 11 years, ensures us of top talent as openings occur." When pressed for one thing that would improve the operation of the ESOP and the company, he adds, "If we were granted one wish, it would be that we be permitted to pay dividends as a corporate deduction."

TESTIMONY BEFORE APPROPRIATIONS COMMITTEE ON MX MISSILE

Mr. HATFIELD. Mr. President, this morning the Appropriations Committee began 3 days of hearings on Senate Concurrent Resolution 26, relating to the MX missile and its basing mode. Our witnesses this morning were Mr. McGeorge Bundy and Mr. Stansfield Turner. So that their views might be available to all Senators, I ask unanimous consent that material they submitted to the committee to be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATFIELD. Tomorrow the committee hearings will continue with testimony from Mr. Kenneth W. Dam, Deputy Secretary of State; Rear Adm. Jonathan T. Howe, Director of the Bureau of Political-Military Affairs, Department of State, Mr. Richard Perle, Assistant Secretary for International Security Policy, Department of Defense; and Lt. Gen. Brent Scowcroft, Chairman of the President's Commission on Strategic Forces.

EXHIBIT 1

STATEMENT OF MCGEORGE BUNDY, SENATE COMMITTEE ON APPROPRIATIONS

Mr. Chairman, I have accepted your invitation to testify before your Committee because I believe that the most important decision Congress will take this year on nuclear weapons is the decision whether to accept or reject or postpone the President's recommendation for building 100 MX missiles to be based in Minuteman silos. The recommendation follows the report by the Scowcroft Commission, and in two earlier papers I have strongly criticized the reasoning of that report. I attach those papers for whatever value they may have to Members of the Committee, but today I shall try to go beyond the relatively narrow framework of the Commission report and examine in some detail the three principal arguments that are pertinent to the question of deploying MX-in-Minuteman.

I offer these comments without any intent of suggesting that I know all the answers to the hard questions of strategic stability and arms control. I do share with General Scowcroft the strong conviction that we are at a major turning point in our ways and means of dealing with nuclear danger, and I believe that it would be the height of irresponsibility to take the very large step of approving MX-in-Minuteman before Congress and the country take a good hard look.

For let us make no mistake. A deliberate decision to build a major new weapon system which contributes nothing to the overall survivability of our strategic forces would be a very large new step indeed. Whatever else we do about it, we should not sweep it under the rug.

THREE ARGUMENTS FOR BUILDING MX REVIEWED

First, it was said that we need a new system because Minuteman is increasingly vulnerable.

This argument has now been withdrawn because no sufficiently survivable system is acceptable to both Congress and the White House. But it was the best single argument for MX, and it is not merely a debating point to note its disappearance. A system that is vulnerable to surprise attack, or survivable only with a launch-on-warning policy—and MX-in-Minuteman is precisely such a system—has a wholly different and lesser value than one that is survivable. Based in Minuteman silos MX does not meet the very first purpose for which four Presidents have put it forward. It is a mistake to pretend that this shift is a small matter. Its contribution to overall survivability is indeed the most important single test of the value of any strategic nuclear weapons system. That criterion has now been abandoned in the case of MX-in-Minuteman. The other reasons for building it should therefore be very strong indeed, because a system which is not survivable is in some degree (depending on its size and importance, and on the posture of others) dangerous and destabilizing. The outright abandonment of this primary argument for MX is a very large reason for questioning the value of MX-in-Minuteman.

Second, it is said that we need MX-in-Minuteman to correct the imbalance between the United States and the Soviet Union in the size and quality of ICBM forces.

This imbalance certainly exists. But it is important to correct it only if—

(a) there are no other balancing elements between the two strategic nuclear arsenals, or

(b) there is some special advantage for the Russians in this specific imbalance.

Neither condition holds:

(a) The Soviet advantage in ICBMs is balanced generally by our commanding qualitative and quantitative superiority both in submarine-based forces and in strategic aircraft. In overall terms our our forces are more survivable than Soviet forces—more of their warheads than of ours are vulnerable to a first strike. Both sides have many times the number of survivable warheads necessary for overall deterrence. Both sides are are still adding more, and most of ours are not going to be in MX missiles.

(b) The Soviets do have one specific superiority in a particular kind of ability to destroy hard targets. Overall we have a more varied and survivable capability of this sort than they do, but only a relatively small part of our force can be ordered to make extremely rapid missile attacks. Our submarines are hard to reach for instant commands, and our bombers take eight hours, not 30 minutes, to arrive. So the Soviets, with three-quarters of their force in ICBMs, do have superiority in the field of prompt hard-target kill capability. But it is important to ask what advantage this superiority confers. Let us distinguish two cases—that of capability which deters full-scale nuclear war and that of more limited capability which might have some more specific deterrent effect. As to full-scale war, the only sane course for both sides is to avoid it, and the general guarantee of that is the survivability of very large forces on both sides in the face of any kind of attack. The Soviet advantage in prompt hard-target kill capability is of no value in this case as long as overall deterrence is maintained, and moreover if we think about the balance of hard-target kill capability that would exist in all-out war it is important to remember the overwhelming deterrent value of the large and growing second-strike hard-target kill capability of our bombers and submarines.

Any special advantage of Soviet prompt hard-target killers must therefore be sought elsewhere: in less-than-general war or in peacetime perceptions. But for less-than-general war we have excellent prompt hard-target killers of our own. (When and where it would ever be wise to use them is a different question.) There are 900 modern Mark 12-A warheads in our Minuteman force today, each with high accuracy (which can be further improved if we choose)—a force acclaimed by leaders in and out of uniform over recent years precisely for its outstanding prompt hard-target kill capability. I submit that 900 warheads are many times more than enough for any kind of "limited" prompt action against hard targets that may never seem necessary to any President in any situation short of all-out war. Let us remind ourselves that every warhead in this force has a destruction power ten times as great as that of the bomb that hit Hiroshima. Can it be argued seriously that such a capability for prompt hard-target attack, backed up by thousands of additional hard-target killers in submarines and on bombers only hours away, is inadequate for "lower" levels of nuclear war? It seems obvious that we have enough hard-target killers, prompt and less prompt, for any capability we can conceive of for the deterrence of either general or "limited" nuclear war.

What remains is the question of political perceptions. This specific and narrow imbalance, it is asserted, can weigh heavily on the political scales. Even though it confers no usable superiority in any conceivable form of nuclear war, we hear that its very existence may make for political "blackmail." But an imbalance that has no real military meaning can have no real political meaning, at least not if we think straight and talk straight.

Closely examined, MX-in-Minuteman gives us literally nothing that we now need for military balance. It does not add to survivability, and its additional contribution to our large existing hard-target kill capabilities is not needed in any conceivable scenario of either limited or general war. The asserted perception of a politically usable advantage on the Soviet side has no basis in reality, and if any such perception exists, it can be removed at low cost by a single Presidential speech.

Third and finally, it is asserted that we need MX-in-Minuteman because it will help us to get a positive Soviet response in the strategic arms reduction negotiations (START). This may be the deepest hope of the members of the Scowcroft Commission.

Let us begin by agreeing that the Russians will certainly refuse to give something for nothing in any arms control negotiation. Refusal to recognize this reality is what has condemned our opening position in START to failure. The objective of that proposal is the same as that of the Scowcroft Commission: to reduce the size of the Soviet MIRVed ICBM force. But so far there is no sign of any readiness on our side for balancing reductions in the areas where we are ahead. It is not surprising that there has so far been no real START negotiation at all. Our unrealistic proposal has received an unrealistic Soviet response, and there is no current prospect for significant change on either side.

Would 100 MX-in-Minuteman change that prospect? There is no evidence whatever that they would; I know of no dissent among students of Soviet behavior to the estimate that the Soviet response to MX-in-Minuteman will be a new Soviet "MX," already well along in its development and testing. The contention that building relatively small numbers of an admittedly vulnerable missile will of itself produce a real start in START is wholly unpersuasive. The absence of MX-in-Minuteman is not the real cause of the emptiness of START.

When we examine more closely the value of MX-in-Minuteman for arms control negotiations we encounter three large difficulties.

It is wrong to suggest that we can somehow use a force not yet built to encourage the Russians to move away from a much larger set of forces already bought and paid for. What makes us think that they would react that way? Would we? Would we scrap our bombers or our quiet submarines merely to prevent the Russians from building their own?

But if in fact we build 100 MX-in Minuteman, would we then be ready to dismantle them quickly? If we build them, will it not be primarily the consequence of an understandable reluctance to go against the overwhelming commitment of our own Air Force to this system? Can we expect that the honest but mistaken devotion of the Air Force to MX will disappear with its construction? If there was ever a system that will be held off the bargaining table by the intense attachment of its possessors, it is this one. Already one can find Air Force officers explaining that MX must never be traded against a parallel number of Soviet MIRV's, because this system is more valuable to us than a counterpart is to them.

Finally, we really do not have the one option that might at least in theory lead to an eventual bargain: we cannot and will not build several hundred of these things and then trade them out. It would be enormously expensive, but what is worse is that it would be intensely dangerous. The very worst way to deal with the Soviet ICBM force would be to duplicate it. Let us simply consider how unstable the balance of terror would be today if our present strategic forces were the same as those of the Soviet Union. The existence of two large vulnerable MIRVed and ICBM forces, each on a hair trigger, would be much more dangerous than the relatively stable balance we have today. It is important to make it completely clear, in this current process of decision, that we have no such intention.

I conclude that MX-in-Minuteman has no large-scale value for the encouragement of arms control. Yet its value is not zero, and there is no need to cancel the program entirely without seeking a trade of some sort. A single limited system cannot in itself produce any large shift in Soviet behavior, but before it is canceled entirely it would be worthwhile to seek a bargain in which both sides might agree to build no new MIRVed ICBMs. This would in fact be a good first step in the general direction recommended by the Scowcroft Commission, and it has the considerable advantage that it is a step on which we might get Soviet agreement. Once we build 100 MX-in-Minuteman, they will become too precious to trade at any price the Russians would accept, and above all we must never build hundreds more.

MORE GENERAL CONSIDERATIONS

Our objective, in strategic modernization and arms control alike, should be stability. The single most important element in stability is the overall survivability of our forces, which already have the required variety of capabilities necessary to deter and respond to nuclear attack at all levels. Usable nuclear superiority is now wholly beyond the reach of both sides. To pursue it would be expensive and unsuccessful folly, and what does not exist confers no political advantage. We need only what we need, as President Eisenhower used to say, and what we need is a varied and survivable force with varied and survivable capabilities. Except for MX-in-Minuteman, all our existing modernization programs contribute to that basic requirement. Quite without MX-in-Minuteman those programs are more than adequate. If they all belonged to the United States Air Force, I think literally no one would now be advocating MX-in-Minuteman.

Our central arms control objective is the same: stability. For that purpose we do indeed need to encourage movement away from large vulnerable MIRVed ICBMs. How can we do it? Only by readiness to bargain in a way that meets Soviet concerns as well as our own. What worries us most may be the SS-18, but what worries the Soviets is the prospect of a losing race in technology or a terrible new vulnerability to accurate missiles on close-in submarines (a possibility which should concern us too). There is much matter here for negotiation, and a bargain good for both sides is not hard to imagine. The much harder task is to get past the suspicion and fear and eagerness for one-sided advantage that have marked both governments so often in the nuclear age.

Aside from its foolish and foreordained support for MX-in-Minuteman, the Scowcroft Commission has done good work in this direction. But the special and painful case of MX is not the right centerpiece for a balanced review of what we need for stability. No such review has yet been offered by this Administration or required by Congress. An indefinite postponement of MX-in-Minuteman might well provide just the right stimulus to serious thought and responsible communication.

STATEMENT OF MCGEORGE BUNDY—SUBCOMMITTEE ON STRATEGIC AND NUCLEAR FORCES, SENATE COMMITTEE ON ARMED SERVICES

I am honored by your invitation to appear before your Committee. I come to question the current proposal to deploy 100 MX missiles in Minuteman silos. Unless a far better case is made in these and other hearings, I believe that Congress should reject this recommendation and should instead insist on a much more searching and comprehensive analysis of what is now required for strategic stability and overall deterrence, both in modernization and in arms control policy. Because the Scowcroft Commission was created and selected by men whose overriding objective was simply to save the MX missile, its membership was not broad enough to encompass the full range of relevant judgments. My most urgent specific recommendation is that the Subcommittee should seek out the views of many other Americans whose assessments have equal claims to respect.

My general appraisal of the Commission report is contained in a short article initially prepared at the invitation of the *New York Times*, and I attach this paper. It notes a number of constructive contributions of the Commission's report, but it also raises a number of questions. In this statement I develop further a number of responses to the major arguments of the Commission.

First: I believe that the deployment of MX-in-Minuteman could open the way to a most dangerous competition in destabilizing, vulnerable, first-strike weapons. Over the last generation we have left it to the Russians to deploy such weapons, correctly preferring to build only survivable systems. But the only thing more dangerous than for one side to rely on vulnerable first-strike systems would be for both sides to do so. Aware of this danger, the Scowcroft Commision asserts that MX-in-Minuteman should "encourage" the Russians to move away from their big MIRVed ICBMs. But will it? Unless I am misinformed, the preponderance of opinion among close students of Soviet behavior is that the Soviet answer to MX-in-Minuteman will be the deployment of their own similar system, which is already being tested. The Commission strongly hints that we should then reply by enlarging our own deployment of MX. But if we should build two hundred MX-in-Minuteman with two thousand warheads, we would be creating a highly unstable situation of mutual first-strike vulnerability between ICBM forces on both sides. Even the deployment presently proposed would be highly uncomfortable in any grave crisis.

Let me make this point another way. If our country today had the very same strategic deployment that the Soviet Union has, relying primarily on vulnerable MIRVed ICBMs, the world would be an enormously more dangerous place than it is, because in that case each side might persuade itself, much more plausibly than either one can today, of the possible advantages of a preemptive attack. The last thing Americans should want is a major competition in this kind of threatening and vulnerable weaponry.

I recognize that the Commission itself is wary, in parts of its report, of building forces that could threaten the whole Soviet ICBM force, and I also recognize that Congress and the country are quite unlikely to support any second or third deployment of MX-in-Minuteman. But is not that simply another way of saying that the only good thing about the Commission's desire to convert the Russians by the threat of a continuing MX competition is that this threat will not be executed?

Second: MX-in-Minuteman will not contribute to the progress of strategic arms control unless there is a drastic modification of the Administration's approach to the START negotiations, a modification of which there is at present no sign. So far the Administration has rigorously insisted on unbalanced Soviet concessions which do not seem to be negotiable, and there is much language in the Commission's report that can be used to reinforce this stance. But the only possible use of MX-in-Minuteman as an element in arms control policy would be as a program to be traded out, together with the emerging Soviet MX, in some kind of no-new-MIRV agreement. I recognize that it will not be easy for Congress to encourage the Administration in this direction, but this possibility is the only one that I can see for using MX now to make a constructive contribution to national security.

Third: We do not need MX-in-Minuteman either to prove our mettle to the Russians or to fill in an asserted gap in our range of deterrent capabilities. The Commission makes two claims here. The first is that if we now cancel the MX the Russians will doubt our "national will and cohesion." But the Russians know as well as we do that we have half a dozen other programs of strategic modernization in hand, and they do not forget what Administration spokesmen constantly pass over—the commanding U.S. lead in strategic systems other than ICBMs. The Commission itself specifically recognizes the growing role of the submarine force, and it recommends no change in the probably redundant program of bomber modernization. We have so many good programs in hand that we have no need to impress the Russians with a bad one.

Nor is the Commission's more technical argument persuasive. It tells us, more by assertion than by careful argument, that MX-in-Minuteman is needed to repair an imbalance in prompt hard-target kill capability. But neither the Commission nor anyone else has explained why this need is now so ovewhelming that we should deploy the admittedly vulnerable MX-in-Minuteman when we have four other serviceable hard-target killers on hand and on order—900 Mark 12A warheads already in Minuteman IIIs, thousands of missiles deployed or programmed for bombers, cruise missiles in attack submarines, and the D-5 missile that will be in Trident submarines. All these systems are more survivable, warhead for warhead, than MX-in-Minuteman. I have no doubt that strategic planners can produce "requirements" for MX too; experience shows that there is no limit to that process. But for deterrence, rather than for exotic and unreal scenarios, our strategic forces are more than ample today, and for deterrence the weapon that arrives in hours is just as impressive to political leaders as the one that arrives in minutes.

Fourth: We do not need MX-in-Minuteman to prove ourselves to our allies. The Commission asserts that we require this deployment "to assure our allies that we have the capability and will to stand with them." This assertion should be compared with the real opinion of Europeans, and last week there were two important statements on the point. One came from an outstanding American observer, Flora Lewis, and the other from one of the most respected of British conservatives, Lord Carrington.

Ms. Lewis reported from Rome that in a meeting of the Trilateral Commission,

". . . West Germans were astonished to find an American politician wondering whether failure to deploy the MX missile would be taken as a sign of United States weakness, whether it would reinforce the arguments of West Germans opposed to Pershing 2's. Would they say that if Americans don't install bigger missiles why should they?

"The situation is just the opposite, the West Germans explained. 'What we're afraid of isn't American weakness,' was the politely truncated answer, leaving implicit that the real fear is of stumbling into war." (New York Times, April 22, 1983, p. 31.)

What Lord Carrington said is still more trenchant. His comments are not directed at the specific issues of MX, but who can doubt that he has some people in Washington in mind when he calls for more confidence in the powerful present deterrent strength of the West and tells us all not to be "hagridden by fear of military inferiority?" It is not Europeans, but overzealous Americans, who contend that MX is a poultice for the Alliance.

Fifth: The assertion that the Scowcroft Commission embodies a general bipartisan consensus of experts is quite unjustified. While no one should question the sincerity of the Commissioners and the "Senior Counselors" who have endorsed their work, it is no secret that both the Commission's members and its counselors were screened in advance with support for MX as a requirement. There are persons of at least equal experience and judgment who have other views on these matters, and I suggest that this Committee should ask for their comments on the issue, either by testimony or in writing.

It is not for me to say who should be consulted, but for illustrative purposes let me simply note a number of people who have expressed themselves on these problems over the last year or two and who have responsible experience in the past. (In most cases I do not know their opinion of the current proposal to put MX in Minuteman silos.) Among former Secretaries of State I note Dean Rusk, Cyrus Vance, and Edmund Muskie; among former Secretaries of Defense, Robert McNamara, Clark Clifford, and Elliot Richardson; among former assistants to Presidents on these matters, Andrew Goodpaster; among former Directors of the CIA, William Colby and Stansfield Turner; among other military professionals Maxwell Taylor and Elmo Zumwalt; among former Arms Control negotiators, Averell Harriman, William Foster, Gerard Smith and Paul Warnke; among Science Advisers to Presidents, James Killian, Jerome Wiesner, and Frank Press.

Sixth: In the face of the obvious need for major reductions in the Administration's defense budget, MX-in-Minuteman becomes a strong candidate for elimination. Even though it makes no significant contribution to overall deterrence, it carries a price tag conservatively estimated at $15 billion over the next five years. Yet almost everyone except Secretary Weinberger now recognizes that reductions very much larger than $15 billion are now imperative. If our government does not make any hard choices among big-ticket items, it is predictable that what will get shortchanged is precisely what is most needed: things like spare parts, training, and general operational readiness—the very things that matter most in the real world.

The long and unhappy history of this ill-fated weapon system has lessons for us all, and some but not all are sketched in the Scowcroft Commission's report. It is indeed time to think again about the relation between arms control and stable deterrence. We should indeed concentrate our attention more on warheads and less on launchers. We also need to look further ahead than is our habit, not simply to our own favorite new weapons, but to the situation we will face as the Soviet Union makes its own new choices. Our mistakes with MX can help us do better, but only if we lift our eyes from the single, narrow, short-term objective of deployment of MX at any cost in any available space, and examine the future dangers of the nuclear weapons competition considered as a whole.

[From the New York Times, Ap 7, 1983]

MX Paper: Appealing, But Mostly Appalling

(By McGeorge Bundy)

Last week the Scowcroft commission published what is at once one of the best and worst state papers of the nuclear age. Unfortunately, it seems possible that the best parts will be less appealing to President Reagan than the worst. It is obvious from the elaborate White House orchestration that the report has been constructed with built-in Presidential approval and that at its core it is a selling job for the wrong missiles in the wrong place—100 MX missiles in Minuteman silos. This solution has been repeatedly reviewed and rejected both by Congress and by the executive branch over the last 10 years.

But let us begin with the good parts. First, the report deliberately and correctly destroys one of the principal myths on which Mr. Reagan campaigned in 1980—the myth of the "window of vulnerability," or the threat of a Soviet first strike on Minuteman silos. Growing Soviet missile forces with growing accuracy, it was said, would allow the Russians to knock out nearly all those silos early in the 1980's and the President would not dare respond because our cities would still be hostage. It was an unreal but chilling scenario, and until last week no one around Mr. Reagan had ever questioned it in public. Now the commission has given it a fitting burial. The commission observes that a "massive surprise attack" on our 1,000 Minuteman silos would be a very special case and concludes: "To deter such surprise attacks we can reasonably rely both on our other strategic forces and on the range of operational uncertainties that the Soviets would have to consider in planning such aggression." Thus, the window of vulnerability is slammed shut on the fearful fingers of the Committee on the Present Danger.

The commission puts one condition on this conclusion, and again it is a good one. The vulnerability of the Minuteman, considered alone, is real if uncertain, and it does raise a serious long-range question, because our bombers and submarines may not always be as survivable as they are now. If we can buy "long-term ICBM survivability" for a sensible price, we should indeed have it, and the most promising possibility is a smaller single-warhead missile, as thoughtful students have been saying for quite a while. The recommendation for careful research and development on such a new missile deserves full support.

A third good basic recommendation is allied to the first two: It is that we should seek to shift the counting rules of strategic-arms control from launchers toward warheads. This good idea is a belated but entirely sensible effort to deal with the destabilizing effects of MIRV's (multiple independently targetable re-entry vehicles)—that is, many warheads on one missile. MIRV's are the United States's worst single contribution to the nuclear arms race. What they did, as many warned at the time, was to give the attack an advantage over the defense, because a multiple-warhead missile can "kill" several opposing missiles in one shot, while it takes at least two single-warhead missiles to "kill" even one similar weapon with assurance.

SALT, for reasons of verification and habit, counted mostly launchers, not warheads. This way of counting strengthened attachment to MIRV's on both sides, because if you can have only so many missiles under an agreement, why not pack them with as many warheads as you can? We were firstest with MIRV's, but the Russians have been mostest, and the commission is right: It is time to go to work to change the counting rules. The commission is also right when it notes that some of Mr. Reagan's proposals in the strategic arms talks in Geneva move in the wrong direction on this score.

So far so good. What is wrong? Only the centerpiece of the report. It goes in exactly the opposite direction by placing the first-strike multiple-warhead MX in Minuteman silos, right where Soviet MIRV's could knock it out if ever the Kremlin thought we were about to use it. Because the MX has 10 warheads, not the two that is the average in the Minuteman force, it will be five times as vulnerable, warhead for warhead, as Minuteman itself. It violates the fundamental rule first laid down in the Eisenhower Administration: The object of any new strategic system is to deter, and to deter safety it must be able to survive.

If there was ever a "use it or lose it" system, ill-designed for stability in crisis, it is this one. Yet it comes to us from a commission that elsewhere tells us that "stability should be the primary objective." A system of this kind is open to only one protective device, a capacity for launch-on-warning—for rapid firing on possibly fallible electronic notice of an incoming attack. But on this critical point, the commission is alarmingly silent. It would have done better to recognize more candidly its deliberate abandonment of our most important single standard for strategic force planning.

The arguments offered directly for this strange choice are thin. We need it to induce Soviet acceptance of new arms control limits, says the commission. But as the commissioners recognize, the Russians are already testing their own MX and their own single-warhead missile. The Soviet answer to new programs will be new programs, not new concessions. If the commission wants a no-new-MIRV agreement, which would make good sense, it should propose just that. It should not pretend that the MX in Minuteman silos is arms control in disguise. Nor should it compare this problem with that of the antiballistic missile defense treaty. The Russians joined us in curbing ABM systems precisely to insure the deterrent effectiveness of their land-based missiles. They are not going to be driven to sea by MX. The whale will not convert the elephant by imitation.

Most of the commission's other direct arguments are thinner still. If we do not deploy MX, it says, the Russians will doubt our "national will and cohesion." Is honest disagreement on hard choices a sign of weakness? A commission of Americans should know better. But our existing land-based intercontinental missile force is aging, says the commission. So it is, but as the commissioners recognize in the very next sentence, the necessary programs for keeping this force effective are already in train. But, they argue, we need a hedge against possible Soviet antiballistic missiles. Is the commission suggesting that our existing 10,000 warheads could not be programmed for this task? But, it says, we need a new booster as a backup for the space shuttles. Well, if we do, we do. But is this a serious argument for 1,000 new first-strike thermonuclear warheads?

The real purpose is different, but the commission wraps it in jargon. The main reason for this recommendation is that a commanding majority of its authors wants these first-strike weapons because the Soviet Union has them. Never mind their contribution to instability in crisis; never mind what the Russians will build in reply; never mind what else you could do with $15 billion; never mind the fact that the Russians do not have a true first-strike capability because the window of vulnerability was never open; never mind that Soviet advantages on land are fully matched by our superiority in the air and under water. Because the Russians do have weapons that can strike first at hard targets, the commission concludes that we must have them, too. When you disentangle all the reports's complex language, that is all there is, and the commissioners neglect to tell us that we have plenty of weapons already that can strike hard targets second—our bomber force may be the best system in the world for this legitimate purpose.

For almost 30 years, we have made survivable second-strike strength our central strategic standard. Are we now to move, in a cloud of consensus prose and good intentions, to a nonsurvivable first-strike system?

At the very least Congress should dig deeper than the commission or its sponsor. It might begin by seeking counsel from all quarters—there are many outstanding students in its own ranks. It should not rely on a report written by a panel carefully selected to include only tested friends of MX. It might well find that the Scowcroft commission has almost everything right except the recommendation that was preplanned by the White House. In spite of the commission's unexplained insistence that all its ideas make a single package, Congress has every right and duty to take only what it finds truly needed.

[From the Los Angeles Times, Apr. 8, 1983]

The Eagle Force Can Fly as an Alternative to MX

(By Stansfield Turner)

For four months, a presidential commission headed by retired Air Force Lt. Gen. Brent Scowcroft has been laboring on an unenviable task, and the results are due any day now, recommendations for basing the MX, the new intercontinental missile that President Reagan is eager to deploy and that Congress is determined to scrap.

As the impasse hardens, and as national security needs intensify, this might be the time to reconsider a concept that once was examined and rejected as an alternative to the MX. That is the so-called Eagle Force of aircraft armed with nuclear missiles. It would serve the aims of the Administration and Congress. It also would be a better addition to our strategic nuclear forces than a ground-based MX system.

The Eagle Force would be built around the Air Force's F-15 Eagle fighter aircraft. With the support of 200 aerial tankers, 500 F-15s dispersed at military and civilian fields around the country could easily reach targets in the Soviet Union.

The Eagle Force would be more secure than 100 MXs or 100 B-1 bombers or both. Every day, some aircraft would staff to fields that were unoccupied the day before. It would be a prodigious task for the Soviets to keep track of them and to attack them all at once. The Eagle Force would not be invulnerable, but for the Soviets to knock it out would involve a massive attack and still leave them with great uncertainty as to the probability of success.

The F-15s would be modified to carry five air-launched cruise missiles each, which generally would be launched from outside the Soviets' anti-aircraft defense perimeter. The total destructive power of such an attack by the Eagle Force would be greater than that of 100 MXs or 100 B-1s, and it would cost less than the MXs and about the same as the B-1s.

We could field this force even more quickly than the MX. This would serve the President's wish to strengthen our nuclear forces as soon as possible.

With all Eagle Force components under the Air Force's wing, there would be none of the resistance that it had about being replaced by the Navy as the predominant service in nuclear defense if the MX and/or the B-1 were canceled.

One reason for the demise of the MX has been the strenuous objection from areas where it would be based. The only corresponding objection to the Eagle Force would be the periodic presence of aircraft with nuclear weapons on civilian airfields. However, the American public has become sufficiently sophisticated about nuclear weapons to understand that there is almost no probability of an accidental detonation.

Funds for the Eagle Force would be spent across many of the 48 contiguous states, so this solution would have a better reception in Congress than would any of the others that would help our economy less and only in a few geographical sectors.

Beyond all this, the Eagle Force would answer more than one of our military establishment's needs. In 1980, President Jimmy Carter said that, if necessary, the United States would use military force to protect its interest in the Persian Gulf region. In 1981, President Reagan reaffirmed this in even stronger terms. Yet the U.S. military is not prepared to do that today on the scale that these Presidents envisioned. We just haven't been able to afford it while strengthening our nuclear forces and our forces for the defense of Europe as well. Within the Eagle Force, however, the 200 tanker/cargo aircraft could be of great value in transporting the Rapid Deployment Force to the Persian Gulf area, and the F-15s would be valuable in such circumstances, either for air combat or for launching non-nuclear cruise missiles at ground targets. Of course, there would be limits on how many tankers or F-15s could be taken off nuclear alert, but submarines and B-52s could be repositioned temporarily in alert status to compensate.

The one strong point of the MX that the Eagle Force could not match is its capability for rapid retaliation response. To assemble the force, refuel it in the air and deliver it to its launch points would take quite a few hours, whereas the MX would take 30 minutes or so to reach the Soviet Union once the launch button was pushed.

The desire for quick response is rooted in the military tradition of counterattacking an aggressor's forces as rapidly as possible so as to weaken those forces before they can consolidate their position and do more damage. This traditional response is not appropriate in the non-traditional sphere of nuclear warfare. Not even a 30-minute response would catch the Soviets without their still having the option of launching another wave of missiles at us before ours arrived to destroy them. Since we have always built our nuclear forces around retaliation, a slow Eagle Force would be just as useful as a fast MX force for our purposes. In fact, a slow force would be preferable because it would permit more time for deliberation and negotiation, and our objective should be de-escalation and termination of hostilities on terms acceptable to us—not "victory," which could only be pyrrhic.

Whatever decision is made, it must take into account the issues of past presidential commitments, international reaction to whatever we do, military inter-service politics and domestic economic and political considerations. With all that, the solution must make sense militarily.

When all these diverse factors are joined, the Eagle Force comes out way ahead of all other possibilities.

[From the New York Times Magazine, Mar. 13, 1983]

THE "FOLLY" OF THE MX MISSILE

(By Stansfield Turner)

The United States has reached a watershed in its nuclear defense strategy. President Reagan and Congress are trying to decide what to do about the MX, the new intercontinental ballistic missile that is larger, more expensive, more powerful and more accurate than anything in our military arsenal. The issue, however, goes beyond the costs and proficiency of a new weapons system. The question is whether deploying the MX would enhance our security or detract from it.

For several years now, the immediate problem with the MX has been how to base it. Placed in existing silos, it would be vulnerable to surprise attack by the Soviet Union's beefed-up strategic forces—just as vulnerable as our present generation of land-based missiles. There have been various schemes for making the MX less vulnerable, including the ingenious "dense pack" notion of placing them so close together that incoming Soviet missiles would knock each other out. These proposals have all been fended off or left in abeyance, largely on the instinct, shared by Congress and the public, that the ideas made little sense.

Yet it is unlikely that anyone will be able to find a basing scheme any more acceptable than dense pack, not even the special commission of experts appointed by the President to study the problem. Only two weeks age, several alternative basing schemes that seem to be no more practical than dense pack were offered by the congressional Research Service, an agency specializing in analysis for Capitol Hill. One of these was to place the missiles in planes that can remain airborne for long periods. Another was to dump the missiles into the oceans in cannisters at times of tension, and to trigger them by remote control.

It is apparent that any basing solution for this large a missile is going to require highly unusual procedures and will be highly controversial. In this circumstance, it is only natural to ask whether the MX missile is essential to our national security. Are there no alternatives? Reaching a judgment on this life-or-death issue, it seems to me, involves two basic questions:

(1) What kind of nuclear capability do we need? Do we want an ability to retaliate against Soviet cities? Or do we seek the capacity to destroy the Soviet Union's principal military targets?

(2) How large a nuclear force do we require? Must it be bigger than the Soviet Union's, or about the same, or can it be smaller and still suffice?

How our leaders answer these questions will determine whether we proceed toward greater stability in the "balance of terror" between the United States and the Soviet Union or toward heightened instability, with all the new dangers that would entail.

There are, as we know, four types of delivery systems in our nuclear-weapons arsenal.

First, there are the intercontinental ballistic missiles (ICBM's)—large, landbased, relatively immobile missiles that travel to their targets by leaving the earth's atmosphere and re-entering it on a precalculated trajectory.

Then there are the submarine-launched ballistic missiles (SLBM's), which follow the same trajectory as the ICBM's but are based in specially designed, nuclear-powered submarines.

Third, we have the bombers—traditional, large, long-range aircraft, such as the B-52's, the core of our bomber force—carrying nuclear bombs.

Finally, there are those recent additions to our inventory, the cruise missiles—unmanned small aircraft that are transported to their launch points on bombers, submarines or trucks and that fly at a very low altitude.

Of these four systems, the land-based missiles are the most vulnerable to a Soviet attack and the submarines the least vulnerable. We should understand that there will never be a perfectly invulnerable weapons system, and trying to achieve one will be progressively difficult in the future. We must, instead, count on making it so complicated for the Russians to knock out all our nuclear forces in a short period of time that they will never feel confident of their ability to do it.

The way to increase survivability is to emphasize mobility, numbers of weapons and concealment. Bombers are mobile, and reasonably safe from attack when on airborne alert. Submarines are mobile and readily concealed at sea. Even if there should be a breakthrough in submarine detection—and no such breakthrough is foreseeable at present—submarines will certainly remain more difficult to locate than ICBM's or bombers. Cruise missiles are mobile, and small enough to be concealed, and we could have large numbers of them. Thus, for assurance that we won't be knocked out by surprise, our intercontinental nuclear forces should be built around these three systems.

What I am proposing, therefore, is a shift of emphasis in our mix of nuclear weapons—a shift away from large ICBM's, like our present land-based missiles and the projected MX, to small, multibased cruise missiles.

Such a move would not only make our deterrent forces more survivable but would serve to reduce the elements of instability in the American-Soviet nuclear confrontation. For the more we rely on ICBM's, the more nervous we will be about the threat of a surprise attack on them; our finger will have to be on the trigger. And because the MX—added to the capability of our existing ICBM's—would give us the potential for a surprise attack on Soviet ICBM's, it would make the Russians nervous; their finger, too, would have to be on the trigger. Cruise missiles, on the other hand, are too slow to threaten a surprise attack and too small to be targeted in a surprise attack by the Russians. Hence, if the United States shifted away from ICBM's and toward cruise missiles, both sides would relax somewhat and the nuclear balance would be stabilized.

The same combination would also give us as much assurance as possible that our weapons would penetrate any Soviet defense. The Russians would have to construct both ballistic missile defenses (against our submarine-launched missiles) and antiaircraft defenses (against bombers and cruise missiles traveling in the atmosphere). Both sets of defenses would have to be nearly impregnable.

It is true that because cruise missiles are small and easily concealed, it would be very difficult to verify the number of these weapons deployed by each side. Because of this, it is sometimes argued that shifting to cruise missiles would kill the chances for a new strategic arms-control agreement and thus increase tensions. But that is a specious argument.

The key objective of arms control is not control of the number of weapons but a lessening of the likelihood of anyone starting a nuclear war, either deliberately or accidentally. The critical step toward that goal is a reduction of the number of weapons that put people on edge by posing the threat of a surprise attack—and those weapons, by and large, are the ICBM's. There is no reason why ICBM's cannot be controlled by agreement—and bombers and submarines as well—even if cruise missiles cannot be counted.

The fundamental choice, then is not between weapons of greater or lesser potency but between greater stability or less. The so-called nuclear experts, however, are finding it difficult to shed conventional military thinking, which sees advantages in "superiority" in weapons and holds that defeating the enemy's military forces is the end objective if war should break out.

Such emphasis on the power and number of weapons is misplaced. The levels of damage in intercontinental nuclear war are likely to be so high that most of the weapons we and the Russians possess will exceed any conceivable usefulness. A common nuclear weapon today has an explosive power about 40 times greater than the bomb that killed 100,000 people in Hiroshima. The United States and the Soviet Union each has about 270 urban areas with a population of more than 100,000. Imagine what several hundred such warheads could do to either country.

The United States has about 9,500 nuclear warheads and the Soviet Union about 8,000, all capable of being delivered over intercontinental distances. Some of these warheads are powerful and accurate enough to destroy "hard" targets, like ICBM silos, which are built of reinforced concrete. The remainder of these warheads are only capable of destroying "sort" targets, like cities, industries and basic military facilities. Some of the systems could hit their targets very quickly, because their time of flight to the Soviet Union is quite short and because the communications link to them is swift and sure. Others either have relatively long flight times or, in the case of submarines, are not always within reach of quick communications.

The advantage of the large land-based missiles is that they cannot only hit "hard" targets but get there fast. Bombers and cruise missiles, while also capable of destroying "hard" targets, would take longer to reach their objectives. And we cannot be sure how long it will take for our nuclear-armed submarines to receive instructions and carry them out; furthermore, submarine-launched missiles are not accurate enough to be effective against "hard" targets. By about 1990, however, the undersea system will become as accurate as the other three, and the principal distinction between the four systems, in terms of their striking power, will be that bombers and cruise missiles will take longer to get there and submarine-based missiles may take longer to be launched. What difference will that make?

The question is of fundamental importance. For the answer determines which of two basic nuclear doctrines or strategies we adopt.

The first is the doctrine of retaliation. The two premises here are that we can deter the Russians from attacking us with nuclear weapons by the threat of a devastating nuclear counterblow against their urban and industrial centers; and that if, against all rational expectations, deterrence fails, we require only a limited capability to fight an intercontinental nuclear war.

The second is the doctrine of nuclear-war fighting. The premises here are that we can deter the Russians only if we are capable of waging and "prevailing" in a nuclear war; and that we require a capability to outlast the Russians in protracted nuclear war if deterrence fails.

The most critical point in deciding between these different approaches is which is the more likely to prevent the outbreak of intercontinental nuclear hostilities.

For many years, the United States relied on the first doctrine—that an assured capability to retaliate with nuclear weapons provided adequate deterrence. This view rested on the enormous destructiveness of nuclear weapons and the very high probability that they would penetrate enemy defenses. Today, there is no meaningful defense against ballistic missiles and little against cruise missiles; only bombers are vulnerable to serious attrition. Defenses will improve in the future, but since only a few nuclear weapons need arrive on target to do high levels of damage, defense will continue to be a difficult proposition.

What this means is that any Soviet leader contemplating initiating nuclear war must do more than estimate whether his nuclear forces could do greater damage to the United States than ours could do to the Soviet Union, or whether he could destroy all American nuclear forces and still have some of his own left. He must ask what might be the absolute level of damage to the Soviet Union. There would be little satisfaction to him in doing more damage to the United States or eliminating our nuclear strength if the damage suffered by the Soviet Union were unbearable.

This kind of calculation—that a preponderance of nuclear force is meaningless if the opponent retains the capacity for massive retaliation—is, of course, an entirely new way of looking at wars, and it is probably because of its newness that it came under challenge in the United States some years ago. As one critic, Colin S. Gray, put the argument in an article last fall, "Deterrence cannot be simply based upon the ability to bring on a holocaust." "For a threat to be believeable, and thus an effective deterrent," he wrote, "it has to posit purposive military actions, and those actions have to be directed against targets that are of very high value to Soviet leaders."

More specifically, Mr. Gray and others of his persuasion worry about what would happen if the Soviet leaders were to unleash a nuclear attack aimed not at America's cities but at its nuclear forces. Their contention is that no American President would be likely to implement the longstanding doctrine of retaliation against Soviet cities, because he would know that this would invite the devastation of American cities by the Soviet Union's remaining store of missiles. Out of such reasoning the war-fighting doctrine was born.

This doctrine says we need nuclear forces powerful enough not only to devastate the Soviet Union's cities but to destroy its intercontinental nuclear forces, however long it takes. Such a capability, it is argued, would place the Soviet leaders in the position of knowing that they could not "prevail" if they were to start a nuclear war with the United States.

In my view, the doctrine of nuclear war-fighting is wrong in denying the credibility of the threat of retaliation against Soviet cities and industry. The argument, to repeat, rests on the contention that the Soviet leaders might well order a strike at our nuclear forces in the belief that the American President was not likely to retaliate with a blow against Soviet cities. What this overlooks is the great uncertainty as to how anyone would react in such a situation. There is no precedent on which to base a judgment.

Can anyone say with any certainty that a President would not launch all the weapons we have if the Russians were to launch even a limited attack on our nuclear weapons sites? Rationality may not prevail in such circumstances; or the President may react before it is clear that the attack is of a limited nature; or he may act in the belief that the Russians had launched a full-scale attack; or he may believe that any nuclear war is bound to escalate, and that our best move is to go all-out right away and hope to limit the Russians' ability to strike a second time.

Beyond guessing how the President might react, the Russians would have to worry about a complete breakdown in our chain of command. What would the commanders of our nuclear submarines do if, knowing that the United States had been attacked, they lost all contact with headquarters? Just half a dozen submarines could place almost 1,000 nuclear warheads on the Soviet Union.

In short, any neat calculation as to how the United States might respond could be wrong in so many ways that no Soviet leader could feel confident of the outcome of his launching even a small-scale nuclear attack on our country. Even gamblers grow cautious as the stakes rise, and a Soviet leader contemplating a nuclear attack on the United States would know that he would be gambling the very survival of his society. In my view, only if we were to push the Soviet Union into a desperate situation threatening its existence as a Communist state could a Soviet leader conceivably decide on the gamble of a nuclear attack on the United States.

The war-fighting school also argues that the Russians are going ahead on their own to build a nuclear war-fighting capability; that this makes nuclear war a likely eventuality; and that the Russians can be deterred from initiating such a war only if we demonstrate to them that we have the same kind of capability and could successfully outfight them in such a conflict.

There is ample evidence that the Russians are making very substantial investments in intercontinental nuclear forces, and that they are paying attention to all the components of a war-fighting capability. There is a world of difference, however, between preparing for the possibility of nuclear war and preparing deliberately to start one. Nothing I have seen persuades me that the Soviet leaders' intention in building their nuclear war machine is to use it offensively.

In any case, we don't have to go beyond a strategy of retaliation to be able to wage war against the Soviet Union's nuclear forces, if forced to. We already have a considerable capacity to engage in that kind of conflict. As I have noted, all of our four nuclear weapons systems are either capable of striking hard military targets or will acquire that capability before long. A President, then, could choose to retaliate only against cities, or only against hardened targets, or against both.

What he could not do with the bombers, cruise missiles and submarine-based missiles is to strike back rapidly. The key difference between the war-fighting concept and the retaliatory strategy hinges on whether we need an ability to retaliate quickly. If we do, ICBM's are clearly essential and cannot be replaced by cruise missiles. In my view, rapid response, in the event that deterrence breaks down, is not essential, and is even dangerous.

It is a natural military instinct to want to counterattack as rapidly as possible, in the hope of slowing the enemy's offensive. In nuclear war, however, a rapid response would have the opposite effect. If the Russians were to launch a nuclear attack against us, they would certainly be on the alert for our response. If we were to strike back at their nuclear forces, especially their vulnerable land-based missiles, they would have the option of launching those missiles while our attacking force was still in flight.

It would make no difference whether we counterattacked with ICBM's that could get to their targets in 30 minutes or with cruise missiles that took as long as 12 hours (including the time it took to transport them to within launching distance). The Russians would see us coming and have ample time to launch their missiles while ours were on the way. There is no way to gain surprise once the nuclear genie is out of the bottle.

By setting an objective of attacking the Soviet Union's remaining nuclear weapons after a Soviet surprise attack, the war-fighting school would confront the Russians with the alternative of launching those remaining weapons quickly or seeing them destroyed. Yet the last thing we would want to do in that kind of situation is force the Russians to launch even more weapons against us. Instead, our objective should be to retaliate not by going after just their remaining missiles but by hitting both military and civilian targets intensively enough to demonstrate that continuing this war would lead to escalation and disaster.

The object of our counterattack would be to persuade the Soviet leaders to absorb the blow and negotiate. That would not be an easy decision for them to make. It would be more difficult to make in the 30 minutes' warning they would have of an attack by our ICBM's than in the four to 12 hours it would take our cruise missiles to reach their targets.

Thus, it would be preferable to conduct such a counterattack with "slow" cruise missiles or bombers and give the Russians as much time as possible to make their decision. In fact, we would want to use that time to let the Russians know exactly what we were doing—that a counterattack of the same proportion as their attack on us was irretrievably on the way; that we hoped they would absorb it and then negotiate; and that if they fired one more missile at the United States, our entire remaining arsenal would be immediately launched in a devastating blow. This would provide more margin for reason to reassert itself than would the momentum of a war-fighting strategy, which would propel us both into successive rounds of nuclear exchanges and would probably lead to mutual, if not global, destruction.

It is folly to talk, as the warfighters do, of prolonging intercontinental nuclear exchanges until the Soviet side was exhausted. Of what value would it be to us to have some nuclear forces left after 8,000 nuclear warheads have been fired in each direction? Neither nation would be thinking of "victory" after sustaining 8,000 nuclear blasts, each 10 to 100 times more powerful than the one at Hiroshima. In fact, long before anything like 8,000 weapons had been exploded, a nuclear war would become entirely unmanageable. It is interesting to note that prior to his recent retirement as chairman of the Joint Chiefs of Staff, Gen. David C. Jones said publicly that he did not consider protracted nuclear war feasible. It is largely civilian nuclear theologians like Colin Gray who do.

There is another line of reasoning put forward by the war-fighing school that may be paraphrased as follows:

"The forces of NATO and the Warsaw Pact that face each other in Europe are armed with conventional weapons, and our side has always been outgunned. We have tried to compensate by placing short-range 'tactical,' or battlefield, nuclear weapons behind our conventional forces, in case we needed to make a special effort to turn the tide of battle. In turn, we have always backed up these tactical nuclear forces with the threat that our ICBM's in the United States would enter the fray, if necessary. Hence, these intercontinental forces of last resort must be capable of war-fighting, including quick response."

The argument is pure sophistry. If, in the event of a nuclear attack against the United States, the President's readiness to retaliate against Soviet cities lacks credibility, as the war-fighters contend, what makes them believe that the President would attack the Soviet Union with nuclear weapons in retaliation for a conventional attack on Western Europe? The United States certainly should not and would not expose its own cities to nuclear devastation in order to compensate for NATO's weaknesses in conventional forces. It should be clear that if the West's conventional defenses in Europe ever reach the point where they cannot stand on their own, the Russians will soon detect that, and we can expect troubles that a "nuclear war-fighting capability" could not counter.

This examination of our strategic problems leads, I suggest, to the following conclusions:

We need weapons with a high degree of invulnerability to enemy attack, so that a large part of our deterrent can be depended on to survive a Soviet strike of no matter what intensity. These weapons should be able to retaliate in a deliberate, preferably slow, manner against either hard military targets or soft targets, including ordinary military installations, as well as cities and industries. We should have enough of these weapons to be certain of being able to inflict an unacceptable level of damage on the Soviet Union, but not necessarily to match the Russians weapon by weapon.

In other words, we must recommit ourselves to a doctrine of assured retaliation, relying principally on submarine-based missiles, bombers and cruise missiles, and rejecting the MX as unsuited to our needs. And we must reject the nuclear war-fighting doctrine as misconceived and dangerous to our security.

It may seem curious that a war-fighting theory with such lapses in logic should have gained such credence in the United States, and that, as a result, we are on the brink of going ahead with the MX missiles at great financial cost and at great risk of nuclear instability. Yet the reasons are not hard to identify.

Perhaps the main reason is that war-fighting theorems are in accord with normal military reflexes in war, which are to strike quickly at the enemy's military forces. Another explanation lies in interservice politics: The Air Force sees the MX missile as a means of preventing its predominance in the intercontinental-nuclear field slipping away to the Navy. And there are, undoubtedly, the usual pressures from the military-industrial community to continue production of weapons under contract today.

Another factor, in my view, is that, over the years, the uniformed military in our country have virtually abdicated the formulation of nuclear doctrine to civilians. After all, military men cannot claim any particular operational expertise with nuclear weapons that has been denied to civilian specialists. It is good to have civilians thinking in all areas of military endeavor, but that there should be so few military men who can hold their own in debate on these matters is disturbing. Unrealistic concepts like that of nuclear war-fighting are a direct consequence of this lack.

Finally, the war-fighting doctrine has made inroads into official policies because it has not had to stand the test of full-scale public scrutiny and debate. This deficiency is being corrected: The American public displayed considerable skepticism over the dense-pack scheme, and the Congress, properly responsive to the public's views, voted in December to postpone any decision on the MX. Now, with the subject coming up for resolution, a still more difficult test of our democratic process is at hand.

It is doubly important for the public to involve itself in the final judgment on whether we need the MX missile. Of course, there are many technical details and some secret matters that must be left to the experts, but the broad purposes of acquiring or foregoing specific nuclear weapons like the MX are quite within the public's ability to comprehend. In no other area today is it more important for the principle of public control over public officials to be exercised.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PRESSLER). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business?

If not, morning business is closed.

FIRST CONCURRENT BUDGET RESOLUTION—FISCAL YEAR 1984

The PRESIDING OFFICER. The Senate will resume consideration of the pending question, which the clerk will state.

The legislative clerk read as follows:

A Senate concurrent resolution (S. Con. Res. 27) revising the congressional budget for the U.S. Government for the fiscal year 1983 and setting forth the congressional budget for the U.S. Government for the fiscal years 1984, 1985, and 1986.

The Senate resumed consideration of the concurrent resolution.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be charged equally to each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 2 p.m.

Thereupon, the Senate, at 12:01 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LUGAR).

The PRESIDING OFFICER. The majority leader is recognized

Mr. BAKER. Mr. President, the principals in the management of the budget resolution are on their way to the floor. I have not cleared the request I am about to make with the minority leader, but I trust he will have no objection. If he does, I assure him, if he is listening, that we shall rescind the request and restate the time.

I ask unanimous consent that I may be permitted to suggest the absence of a quorum, with the time consumed by that call to be charged equally to both sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I understand that the distinguished Senator from Utah (Mr. HATCH) is prepared to offer an amendment. I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 1227

Mr. HATCH. Mr. President, I offer an amendment in the nature of a substitute for Senate Concurrent Resolution 27 and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an amendment numbered 1227.

Mr. HATCH. I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

Strike all after the resolving clause and insert in lieu thereof the following: That the Congress hereby determine and declares that the concurrent resolution on the budget for fiscal year 1983 is hereby revised, the first concurrent resolution on the budget for fiscal year 1984 is hereby established, and the appropriate budgetary levels for fiscal years 1985 and 1986 are hereby set forth:

(a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1982, October 1, 1983, October 1, 1984, and October 1, 1985:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1983: $604,500,000.
Fiscal year 1984: $675,600,000.
Fiscal year 1985: $753,300,000.
Fiscal year 1986: $817,400,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1983: $874,630,000,000.
Fiscal year 1984: $886,203,000,000.
Fiscal year 1985: $953,034,000,000.
Fiscal year 1986: $1,015,694,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1983: $805,490,000,000.
Fiscal year 1984: $824,783,000,000.
Fiscal year 1985: $870,044,000,000.
Fiscal year 1986: $917,944,000,000.

(4) The amounts of the deficits in the budget which are appropriate in the light of economic conditions and all other relevant factors are as follows:

Fiscal year 1983: $200,890,000,000.
Fiscal year 1984: $149,183,000,000.
Fiscal year 1985: $117,544,000,000.
Fiscal year 1986: $100,544,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1983: $1,380,890,013,000.
Fiscal year 1984: $1,576,364,000,000.
Fiscal year 1985: $1,762,164,000,000.
Fiscal year 1986: $1,944,713,000,000.

and the amounts by which the temporary statutory limits on such debt should be accordingly increased are as follows:

Fiscal year 1983: $90,690,013,000.
Fiscal year 1984: $195,473,987,000.
Fiscal year 1985: $185,800,000,000.
Fiscal year 1986: $182,549,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1982, October 1, 1983, October 1, 1984, and October 1, 1985, are as follows:

Fiscal year 1983:
(A) New direct loan obligations, $55,400,000,000.
(B) New loan guarantee commitments, $94,500,000,000.

Fiscal year 1984:
(A) New direct loan obligations, $48,200,000,000.
(B) New loan guarantee commitments, $94,500,000,000.

Fiscal year 1985:
(A) New direct loan obligations, $48,100,000,000.
(B) New loan guarantee commitments, $97,400,000,000.

Fiscal year 1986:
(A) New direct loan obligations, $48,700,000,000.
(B) New loan guarantee commitments, $101,000,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new loan guarantee commitments for fiscal years 1983 through 1986 for each major functional category are:

(1) National Defense (050):

Fiscal year 1983:
(A) New budget authority, $243,900,000,000.
(B) Outlays, $214,200,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.

Fiscal year 1984:
(A) New budget authority, $274,900,000,000.
(B) Outlays, $243,200,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.

Fiscal year 1985:
(A) New budget authority, $310,000,000,000.
(B) Outlays, $276,100,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.

Fiscal year 1986:
(A) New budget authority, $346,400,000,000.
(B) Outlays, $308,000,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.

(2) International Affairs (150): Commitments,

Fiscal year 1983:
(A) New budget authority, $24,070,000,000.
(B) Outlays, $11,270,000,000.
(C) New direct loan obligations, $11,700,000,000.
(D) New loan guarantee commitments, $9,200,000,000.

Fiscal year 1984:
(A) New budget authority, $15,570,000,000.
(B) Outlays, $11,200,000,000.
(C) New direct loan obligations, $11,200,000,000.
(D) New loan guarantee commitments, $10,300,000,000.

Fiscal year 1985:
(A) New budget authority, $16,230,000,000.
(B) Outlays, $11,530,000,000.
(C) New direct loan obligations, $11,500,000,000.
(D) New loan guarantee commitments, $10,300,000,000.

Fiscal year 1986:
(A) New budget authority, $14,660,000,000.
(B) Outlays, $11,450,000,000.
(C) New direct loan obligations, $11,600,000,000.
(D) New loan guarantee commitments, $10,300,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1983:
(A) New budget authority, $7,890,000,000.
(B) Outlays, $7,680,000,000.
(C) New direct loan obligations, $200,000,000.
(D) New loan guarantee commitments, $0.

Fiscal year 1984:
(A) New budget authority, $8,060,000,000.
(B) Outlays, $7,940,000,000.
(C) New direct loan obligations, $37,000,000.
(D) New loan guarantee commitments, $0.

Fiscal year 1985:
(A) New budget authority, $7,830,000,000.
(B) Outlays, $7,830,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.

Fiscal year 1986:
(A) New budget authority, $7,060,000,000.
(B) Outlays, $7,220,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1983:
(A) New budget authority, $3,880,000,000.
(B) Outlays, $4,330,000,000.
(C) New direct loan obligations, $13,100,000,000.
(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1984:
(A) New budget authority, $3,220,000,000.
(B) Outlays, $3,900,000,000.
(C) New direct loan obligations, $13,900,000,000.
(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1985:
(A) New budget authority, $3,650,000,000.
(B) Outlays, $2,790,000,000.
(C) New direct loan obligations, $14,300,000,000.
(D) New loan guarantee commitments, $0.

Fiscal year 1986:
(A) New budget authority, $2,390,000,000.
(B) Outlays, $2,450,000,000.
(C) New direct loan obligations, $14,400,000,000.
(D) New loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1983:
(A) New budget authority, $12,220,000,000.
(B) Outlays, $12,300,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New loan guarantee commitments, $0.

Fiscal year 1984:
(A) New budget authority, $9,350,000,000.
(B) Outlays, $10,580,000,000.
(C) New direct loan obligations, $27,000,000,000.
(D) New loan guarantee commitments, $0.

Fiscal year 1985:
(A) New budget authority, $9,630,000,000.
(B) Outlays, $10,360,000,000.
(C) New direct loan obligations, $27,000,000.
(D) New loan guarantee commitments, $0.

Fiscal year 1986:
(A) New budget authority, $9,330,000,000.
(B) Outlays, $9,850,000,000.
(C) New direct loan obligations, $27,000,000.
(D) New loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1983:
(A) New budget authority, $24,180,000,000.
(B) Outlays, $23,970,000,000.
(C) New direct loan obligations, $18,600,000,000.
(D) New loan guarantee commitments, $5,500,000,000.

Fiscal year 1984:
(A) New budget authority, $10,900,000,000.
(B) Outlays, $10,820,000,000.
(C) New direct loan obligations, $12,100,000,000.
(D) New loan guarantee commitments, $3,800,000,000.

Fiscal year 1985:
(A) New budget authority, $12,580,000,000.
(B) Outlays, $10,880,000,000.

(C) New direct loan obligations, $11,700,000,000.

(D) New loan guarantee commitments, $3,800,000,000.

Fiscal year 1986:

(A) New budget authority, $11,070,000,000.

(B) Outlays, $11,000,000,000.

(C) New direct loan obligations, $12,200,000,000.

(D) New loan guarantee commitments, $3,800,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1983:

(A) New budget authority, $5,300,000,000.

(B) Outlays, $3,340,000,000.

(C) New direct loan obligations, $6,500,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1984:

(A) New budget authority, $7,289,000,000.

(B) Outlays, $31,000,000.

(C) New direct loan obligations, $6,400,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1985:

(A) New budget authority, $5,164,000,000.

(B) Outlays, $924,000,000.

(C) New direct loan obligations, $6,300,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1986:

(A) New budget authority, $4,065,000,000.

(B) Outlays, $1,465,000,000.

(C) New direct loan obligations, $6,300,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

(8) Transportation (400):

Fiscal year 1983:

(A) New budget authority, $26,860,000,000.

(B) Outlays, $22,040,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New loan guarantee commitments, $1,100,000,000.

Fiscal year 1984:

(A) New budget authority, $27,280,000.

(B) Outlays, $25,090,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $600,000,000.

Fiscal year 1985:

(A) New budget authority, $27,930,000,000.

(B) Outlays, $25,760,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $400,000,000.

Fiscal year 1986:

(A) New budget authority, $28,680,000,000.

(B) Outlays, $26,830,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $300,000,000.

(9) Community and Regional Development (450):

Fiscal year 1983:

(A) New budget authority, $8,630,000,000.

(B) Outlays, $7,810,000,000.

(C) New direct loan obligations, $2,100,000,000.

(D) New loan guarantee commitments, $500,000,000.

Fiscal year 1984:

(A) New budget authority, $6,080,000,000.

(B) Outlays, $8,000,000,000.

(C) New direct loan obligations, $1,700,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1985:

(A) New budget authority, $6,940,000,000.

(B) Outlays, $8,320,000,000.

(C) New direct loan obligations, $1,800,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1986:

(A) New budget authority, $6,200,000,000.

(B) Outlays, $7,440,000,000.

(C) New direct loan obligations, $1,800,000,000.

(D) New loan guarantee commitments, $400,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1983:

(A) New budget authority, $27,570,000,000.

(B) Outlays $27,060,000,000.

(C) New direct loan obligations, $600,000,000.

(D) New loan guarantee commitments, $6,500,000,000.

Fiscal year 1984:

(A) New budget authority, $25,980,000,000.

(B) Outlays, $25,630,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New loan guarantee commitments, $6,600,000,000.

Fiscal year 1985:

(A) New budget authority, $24,980,000,000.

(B) Outlays, $25,070,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New loan guarantee commitments, $6,600,000,000.

Fiscal year 1986:

(A) New budget authority, $24,720,000,000.

(B) Outlays, $24,830,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New loan guarantee commitments, $6,600,000,000.

(11) Health (550):

Fiscal year 1983:

(A) New budget authority, $25,050,000,000.

(B) Outlays, $29,550,000,000.

(C) New direct loan obligations, $47,000,000.

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1984:

(A) New budget authority, $30,670,000,000.

(B) Outlays, $31,210,000,000.

(C) New direct loan obligations, $29,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1985:

(A) New budget authority, $33,150,000,000.

(B) Outlays, $33,370,000,000.

(C) New direct loan obligations, $28,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1986:

(A) New budget authority, $35,210,000,000.

(B) Outlays, $35,240,000,000.

(C) New direct loan obligations, $28,000,000.

(D) New loan guarantee commitments, $300,000,000.

(12) Medical Insurance (570):

Fiscal year 1983:

(A) New budget authority, $46,210,000,000.

(B) Outlays, $53,120,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $63,064,000,000.

(B) Outlays, $59,304,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $70,650,000,000.

(B) Outlays, $66,340,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $84,269,000,000.

(B) Outlays, $74,909,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1983:

(A) New budget authority, $121,420,000,000.

(B) Outlays, $108,930,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New loan guarantee commitments, $14,600,000,000.

Fiscal year 1984:

(A) New budget authority, $110,670,000,000.

(B) Outlays, $97,270,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New loan guarantee commitments, $14,700,000,000.

Fiscal year 1985.

(A) New budget authority, $113,740,000,000.

(B) Outlays, $97,390,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New loan guarantee commitments, $16,500,000,000.

Fiscal year 1986:

(A) New budget authority, $122,430,000,000.

(B) Outlays, $99,440,000,000.

(C) New direct loan obligations, $500,000,000.

(D) New loan guarantee commitments, $18,100,000,000.

(14) Social Security (650):

Fiscal year 1983:

(A) New budget authority, $184,570,000,000.

(B) Outlays, $167,270,000,000.

(C) New direct loan obligations, $.0.

(D) New loan guarantee commitments, $.0.

Fiscal year 1984:

(A) New budget authority, $177,740,000,000.

(B) Outlays, $175,570,000,000.

(C) New direct loan obligations, $.0.

(D) New loan guarantee commitments, $.0.

Fiscal year 1985:

(A) New budget authority, $199,170,000,000.

(B) Outlays, $186,610,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $217,380,000,000.

(B) Outlays, $199,310,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

(A) New budget authority, $24,930,000,000.

(B) Outlays, $24,530,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New loan guarantee commitments, $8,000,000,000.

Fiscal year 1984:

(A) New budget authority, $25,860,000,000.

(B) Outlays, $25,390,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New loan guarantee commitments, $9,000,000,000.

Fiscal year 1985:

(A) New budget authority, $26,320,000,000.

(B) Outlays, $25,860,000,000.

(C) New direct loan obligations, $600,000,000.

(D) New loan guarantee commitments, $10,500,000,000.

Fiscal year 1986:

(A) New budget authority, $26,910,000,000.

(B) Outlays, $26,400,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New loan guarantee commitments, $12,500,000,000.

(16) Administration and Justice (750):

Fiscal year 1983:

(A) New budget authority, $5,180,000,000.

(B) Outlays, $5,120,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $4,780,000,000.

(B) Outlays, $4,900,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $4,910,000,000.

(B) Outlays, $4,920,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $4,860,000,000.

(B) Outlays, $4,900,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1983:

(A) New budget authority, $5,640,000,000.

(B) Outlays, $5,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $5,500,000,000.

(B) Outlays, $5,490,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $5,800,000,000.

(B) Outlays, $5,550,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $5,770,000,000.

(B) Outlays, $5,560,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(18) General Purpose Fiscal Assistance (850):

Fiscal year 1983:

(A) New budget authority, $6,400,000,000.

(B) Outlays, $6,420,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $7,050,000,000.

(B) Outlays, $7,000,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $7,030,000,000.

(B) Outlays, $6,990,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $4,760,000,000.

(B) Outlays, $5,360,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

(19) Net Interest (900):

Fiscal year 1983:

(A) New budget authority, $88,160,000,000.

(B) Outlays, $88,160,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $91,680,000,000.

(B) Outlays, $91,680,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $88,010,000,000.

(B) Outlays, $88,010,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $84,760,000,000.

(B) Outlays, $84,760,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(20) Allowances (920):

Fiscal year 1983:

(A) New budget authority, $790,000,000.

(B) Outlays, $900,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $860,000,000.

(B) Outlays, $940,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $2,150,000,000.

(B) Outlays, $2,130,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $2,210,000,000.

(B) Outlays, $2,210,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(21) Undistributed Offsetting Receipts (950):

Fiscal year 1983:

(A) New budget authority, $18,230,000,000.

(B) Outlays, $18,230,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $20,300,000,000.

(B) Outlays, $20,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $22,830,000,000.

(B) Outlays, $22,830,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $27,440,000,000.

(B) Outlays, $27,440,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

RECONCILIATION

SEC. 2. (a) Not later than June 6, 1983, the Senate committees named in subsections (b) through (i) of this section shall submit their recommendations to the Senate Committee on the Budget and not later than June 6, 1983, the House committees named in subsections (j) through (s) of this section shall submit their recommendations to the House Committee on the Budget. After receiving those recommendations, the Committee on the Budget shall report to the House and Senate a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

SENATE COMMITTEES

(b) The Senate Committee on Agriculture, Nutrition, and Forestry shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority and outlays as follows: $1,587,000,000 in budget authority and $1,579,000,000 in outlays in fiscal year 1984; $2,328,000,000 in budget authority and $2,328,000,000 in outlays in fiscal year 1985; and $3,129,000,000 budget authority and $3,129,000,000 in outlays in fiscal year 1986.

(c) The Senate Committee on Commerce, Science, and Transportation shall report changes in laws within the jurisdiction of that committee sufficient to reduce budget authority and outlays as follows: $600,000,000 in budget authority and $600,000,000 in outlays in fiscal year 1984; $700,000,000 in budget authority and $700,000,000 in outlays in fiscal year 1985; and $800,000,000 in budget authority and $800,000,000 in outlays in fiscal year 1986.

(d) The Senate Committee on Environment and Public Works shall report changes in laws within the jurisdiction of that committee sufficient to reduce budget authority and outlays as follows: $500,000,000 in budget authority and $500,000,000 in outlays in fiscal year 1984; $500,000,000 in budget authority and $500,000,000 in outlays in fiscal year 1985; and $500,000,000 in budget authority and $500,000,000 in outlays in fiscal year 1986.

(e)(1) The Senate Committee on Finance shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $2,681,000,000 in fiscal year 1984; to reduce outlays by $4,478,000,000 in fiscal year 1985; and to reduce outlays by $10,031,000,000 in fiscal year 1986.

(2) The Senate Committee on Finance shall report changes in laws within the jurisdiction of that committee sufficient to increase revenues as follows: $2,600,000,000 in fiscal year 1984; $4,800,000,000 in fiscal year 1985; and $9,400,000,000 in fiscal year 1986.

(f) The Senate Committee on Foreign Relations shall report changes in laws within the jurisdiction of that committee sufficient to reduce budget authority and outlays as follows: $41,000,000 in budget authority and $3,000,000 in outlays in fiscal year 1984; and $51,000,000 in budget authority and $8,000,000 in outlays in fiscal year 1985; and $51,000,000 in budget authority and $9,000,000 in outlays in fiscal year 1986.

(g)(1) The Senate Committee on Governmental Affairs shall report changes in laws within the jurisdiction of that committee to require reductions in appropriations for programs authorized by that committee so as to achieve savings in budget authority and outlays as follows: $741,000,000 in budget authority and $741,000,000 in outlays in fiscal year 1984; and $1,006,000,000 in budget authority and $1,006,000,000 in outlays in fiscal year 1985; and $855,000,000 in budget authority and $855,000,000 in outlays in fiscal year 1986.

(2) The Senate Committee on Governmental Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $482,000,000 in fiscal year 1984; to reduce budget authority by $3,000,000 and $1,020,000,000 in outlays in fiscal year 1985; and to reduce budget authority by $3,000,000 and outlays by $2,113,000,000 in fiscal year 1986.

(3) The Senate Committee on Governmental Affairs shall report changes in laws within the jurisdiction of that committee sufficient to reduce revenues as follows: $1,200,000,000 in fiscal year 1984;

$2,500,000,000 in fiscal year 1985; and $2,500,000,000 in fiscal year 1986.

(h) The Senate Committee on Labor and Human Resources shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $167,000,000 and outlays by $147,000,000 in fiscal year 1984; to reduce budget authority by $330,000,000 and outlays by $310,000,000 in fiscal year 1985; to reduce budget authority by $281,000,000 and outlays by $271,000,000 in fiscal year 1986.

(i) The Senate Committee on Veterans' Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $221,000,000 and outlays by $220,000,000 in fiscal year 1984; to reduce budget authority by $238,000,000 and outlays by $237,000,000 in fiscal year 1985; and to reduce budget authority by $243,000,000 and outlays by $240,000,000 in fiscal year 1986.

HOUSE COMMITTEES

(j) The House Committee on Agriculture shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public law 93-344, sufficent to reduce budget authority and outlays as follows: $1,587,000,000 in budget authority and $1,579,000,000 in outlays in fiscal year 1984; $2,328,000,000 in budget authority and $2,328,000,000 in outlays in fiscal year 1985; and $3,129,000,000 in budget authority and $3,129,000,000; in outlays in fiscal year 1986.

(k) The House Committee on Education and Labor shall report changes in laws within jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority and outlays as follows: $167,000,000 in budget authority and $147,000,000 in outlays in fiscal year 1984; $330,000,000 in budget authority and $310,000,000 in outlays in fiscal year 1985; $281,000,000 in budget authority and $271,000,000 in outlays in fiscal year 1986.

(l) The House Committee on Energy and Commerce shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $169,000,000 in fiscal year 1984; to reduce outlays by $701,000,000 in fiscal year 1985; and to reduce outlays by $533,000,000 in fiscal year 1986.

(m) The House Committee on Foreign Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $41,000,000 and outlays by $3,000,000 in fiscal year 1984; to reduce budget authority by $51,000,000 and outlays by $8,000,000 in fiscal year 1985; to reduce budget authority by $51,000,000 and outlays by $9,000,000 in fiscal year 1986.

(n) The House Committee on Merchant Marine and Fisheries shall report changes in laws within the jurisdiction of that committee to require reductions in appropriations for programs authorized by that committee so as to achieve savings in budget authority and outlays as follows: $600,000,000 in budget authority and $600,000,000 in outlays in fiscal year 1984; $600,000,000 in budget authority and $600,000,000 in outlays in fiscal year 1985; and $600,000,000 in budget authority and $600,000,000 in outlays in fiscal year 1986.

(o)(1) The House Committee on Post Office and Civil Service shall report changes in laws within the jurisidction of that committee to require reductions in appropriations for programs authorized by that committee so as to achieve savings in budget authority and outlays as follows: $741,000,000 in budget authority and $741,000,000 in outlays in fiscal year 1984; $1,006,000,000 in budget authority and $1,006,000,000 in outlays in fiscal year 1985; $855,000,000 in budget authority and $855,000,000 in outlays in fiscal year 1986.

(2) The House Committee on Post Office and Civil Service shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined by section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $491,000,000 and outlays by $615,000,000 in fiscal year 1984; to reduce budget authority by $787,000,000 and outlays by $1,217,000,000 in fiscal year 1985; and to reduce budget authority by $1,045,000,000 and outlays by $2,655,000,000 in fiscal year 1986.

(3) The House Committee on Post Office and Civil Service shall report changes in laws sufficient to increase revenues as follows: $1,200,000,000 in fiscal year 1984; $2,500,000,000 in fiscal year 1985; and $2,500,000,000 in fiscal year 1986.

(p) The House Committee on Public Works and Transportation shall report changes in laws within the jurisdiction of that committee to require reductions in appropriations for programs authorized by that committee so as to achieve savings in budget authority and outlays as follows: $500,000,000 in budget authority and $500,000,000 in outlays in fiscal year 1984; $500,000,000 in budget authority and $500,000,000 in outlays in fiscal year 1985; and $500,000,000 in budget authority and $500,000,000 in outlays in fiscal year 1986.

(q) The House Committee on Science and Technology shall report changes in laws within the jurisdiction of that committee to require reductions in appropriations for programs authorized by that committee so as to achieve savings in budget authority and outlays as follows: $100,000,000 in budget authority and $100,000,000 in outlays in fiscal year 1985; and $200,000,000 in budget authority and $200,000,000 in outlays in fiscal year 1986.

(r) The House Committee on Ways and Means shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $2,379,000,000 in fiscal year 1984; to reduce outlays by $3,580,000,000 in fiscal year 1985; and to reduce outlays by $8,956,000,000 in fiscal year 1986.

(s) The House Committee on Veterans' Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $221,000,000 and outlays by $220,000,000 in fiscal year 1984 to reduce budget authority by $238,000,000 and outlays by $237,000,000 in fiscal year 1985; and to reduce budget authority by $243,000,000 and outlays by $240,000,000 in fiscal year 1986.

MISCELLANEOUS PROVISIONS

Sec. 3. It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution, or amendment thereto, providing—

(1) new budget authority for fiscal year 1984; or

(2) new spending authority described in section 401(c)(2)(C) of the Budget Act first effective in fiscal year 1984,

within the jurisdiction of any of its committees unless and until such committee makes the allocations or subdivisions required by section 302(b) of the Budget Act, in connection with the most recently agreed to concurrent resolution on the budget.

Sec. 4. It is the sense of the Congress that the President and the Congress, through the appropriations process, should limit the on-budget new direct loan obligations of the Federal Government to an amount not to exceed $37,600,000,000 in fiscal year 1983 and $29,300,000,000 in fiscal year 1984; off-budget new direct loan obligations to an amount not to exceed $17,800,000,000 in fiscal year 1983 and $18,900,000,000 in fiscal year 1984; and new loan guarantee commitments to an amount not to exceed $94,500,000,000 in fiscal year 1983 and $94,500,000,000 in fiscal year 1984. It is further the sense of the Congress that the President and the Congress should limit total Federal Financing Bank origination of direct loans guaranteed by other Federal agencies to $16,200,000,000 in fiscal year 1983 and $17,300,000,000 in fiscal year 1984, and Federal Bank purchases of certificates of beneficial ownership from Federal agencies to $11,500,000,000 in fiscal year 1983 and $13,200,000,000 in fiscal year 1984. It is further the sense of the Congress that direct borrowing transactions of Federal agencies should be, to the maximum extent possible, restricted to the Federal Financing Bank.

Sec. 5. (a) The joint explanatory statement accompanying the conference report on this resolution shall include an estimated allocation, based upon the first section of this resolution as recommended in such conference report, of the appropriate levels of total new direct loan obligations and new loan guarantee commitments for fiscal year 1983 and fiscal year 1984, among each committee of the House of Representatives and the Senate which has jurisdiction over bills and resolutions providing such new obligations and commitments.

(b) As soon as practicable after this resolution is agreed to, every committee of each House, after consulting with the committee or committees of the other House to which all or part of the allocation has been made, shall subdivide among its subcommittees the allocation of new direct loan obligations and new loan guarantee commitments for fiscal year 1983 and fiscal year 1984, allocated to it in the joint explanatory statement accompanying the conference report on this resolution.

Sec. 6. It is the sense of the Congress that the budgets of Federal agencies initiating Federal Financing Bank purchases of certificates of beneficial ownership and originations of guaranteed loans should include the budget authority and outlays resulting from the transactions. The Congress recommends that the committees with jurisdiction over the Federal Financing Bank Act of 1973 consider expeditiously legislation to require that the budgetary impact of such Federal Financing Bank transactions be included in the budgets of the initiating agencies beginning with the fiscal year 1985 budget.

The PRESIDING OFFICER. There is a 2-hour time limitation on this amendment.

Mr. HATCH. Mr. President, my budget plan promises real relief from the excessive burden of Government spending which is stifling our Nation's economy. This plan will balance the budget. It will balance the budget without raising taxes. And, this proposal gives us the hope of balancing the budget by the 200th anniversary of the Constitution, by 1989. It is a realistic plan. It is a responsible plan for restrained growth across-the-board in Federal programs.

By avoiding tax increases, this budget removes a huge temptation for Congress to spend more money. This plan imposes a modified freeze on major areas of domestic spending, including the open-ended spending programs. It calls for an adequate, but not excessive, level of defense spending. Social security is left unchanged and none of the recently enacted social security reforms are altered in the slightest, even though I doubt that these reforms are truly sufficient to insure these funds' solvency in the outyears.

In the past, the greatest stumbling block to cutting Federal spending was the objection from one special interest group or another that cuts fell unfairly, that they would have to bear greater cuts than some other group. This plan avoids this fairness problem. This plan calls for a shared freeze. Everyone will share the burden of cutting back excessive Government spending.

We must do this, in my opinion; we must cut spending, if we are ever to overcome the economic mess we have created for ourselves by decades of fiscal mismanagement. We must do this if we are to allow the economic recovery, which is just beginning, to turn into long-term, noninflationary growth. Only this approach to solving our economic problems will create real jobs for the young and the disadvantaged who require a stable and healthy economy. Only this approach will preserve the standard of living of those on fixed incomes.

Mr. President, we must not approve anything similar, in my opinion, to the proposed House budget. We must reduce the massive Federal deficits. These deficits sap the economic strength of our whole economy. But we must reduce these deficits without once again increasing the burden of taxes on the American citizen.

Raising taxes only tempts Congress to spend more and to pander to a variety of carefully cultivated spending constituencies. Raising taxes has failed to balance the budget in the past. It has failed to eliminate deficits in the past. There is no reason to believe that raising taxes is going to accomplish either of those in the future.

Eliminating excessive Government spending is the only sure way to reduce and eliminate the deficits. We must meet this challenge of cutting Federal spending, tough as it may be. We must meet this challenge if we are to restore our Nation to health after decades of increasingly more severe economic crises.

Today's budgetary crisis is not new. It has been building for a long time. Several decades of massive Federal spending and the resultant burgeoning deficits have burdened our economy with too much Government. This has created insistent special-interest pressure groups in favor of ever more Government. We have probably gone too far in creating and encouraging these groups and in making promises that we just plain cannot keep.

We should have learned that the more Government there is, the worse it is for the economy. A comparison of the 1950's with the 1970's shows how much worse off we are today with more Government.

During the 1950's, inflation averaged 2.1 percent per year. During the 1970's, this inflation rate tripled. We should note that, in the 1970's, Government took advantage of the increased tax revenues that came from higher inflation forcing taxpayers into higher tax brackets. With the higher inflation of the 1970's, this bracket creep forced taxpayers to hand over approximately an extra $127 billion in Federal income taxes.

Or, take what has happened to the prime interest rate with more Government: The prime rate averaged 3.3 percent in the 1950's. Over the last 10 years, it has more than doubled.

Or, take unemployment: In the 1950's, it averaged 4.7 percent. But unemployment has doubled over the last 10 years. The unfortunate trend is for each recession to push the unemployment rate to a new, higher level. The level that we have "accepted" as each cycle of recession fades has been progressively higher. This should not and need not be the case if we get rid of excessive Government.

Or, look at what has happened to productivity with more government: During the 1950's, productivity increased, on the average, 3.25 percent per year. After 20 years of Government spending, productivity was cut in half.

Even if Congress adopted all of the spending restraints that the President's budget requested, Federal spending in 1984 would still be excessive. It would still consume a larger bite of our economy than at any time since the Second World War. The Federal budget ate a fifth of the Nation's product in the Carter years. It now consumes more than a quarter. Government at all levels—Federal, State, and local—eats up more than one-third of our Nation's total product. That is a pretty hefty bite.

Government has thus come to constitute a larger and larger proportion of our lives. But that has not been beneficial and productive, contrary to the claims of those who for so long touted stimulative deficits. Deficits, particularly deficits of the massive size we are now experiencing, are, in fact, counterproductive.

As only commonsense would tell us, for any given amount of money in the society, there can be only so much spending, no matter who does it. Government spending and the resultant deficits replace or crowd out private spending. Government purchase of goods and services uses up a larger proportion of that stock of money, thereby shifting resources from the private to the public sector. Government spending and deficits crowd out the availability of capital for investment and the creation of new jobs. The reduction of resources available for use by the private sector, as a result of increased Government spending, is nothing but a tax.

The total cost of this expenditure tax, of Government spending, is even higher than the simple amount of reduced resources available to the private sector. The key to calculating this extra hidden cost is a comparison of the productivity of the Government's use of resources with their use in the private sector. Do we not know only too well the low, or even negative, productivity of many Government programs. This limited productivity is the result of the few incentives for efficiency and the vast and costly mechanisms for redistributing income and subsidizing consumption that characterize Government programs.

It is crucial that we eliminate these deficits which draw resources from the more productive private sector and which channel them into projects of questionable value in the public sphere. Adopting a budget with such mammoth deficits during a phase in the business cycle when expansion is already beginning to occur will certainly stifle that economic recovery. Such a budget will drain away resources sorely needed by the private sector, where productive and lasting employment could actually develop.

Against these priorities of reducing excessive Federal spending and eliminating counterproductive deficits, let us look at what the House budget would do. That budget destroys most of the hard-fought spending and tax reforms that the President and we in Congress achieved in the last 2 years.

The House wants to raise taxes. Congress has already raised taxes three times in the last 8 months. Nevertheless, the House adds another $265 billion in new taxes over the next 5 years. We enacted $214 billion in taxes in TEFRA, $21 billion in the Highway Gas Tax Act, and the $48.6 billion in new social security taxes. Think of it, the House budget wants to add another $265 billion in taxes to the $285 billion in new taxes we have just recently enacted.

I do not know who can say that we are not increasing taxes. The problem is we are increasing spending at the same time.

I might add that in spite of all this, the House adds another $265 billion in new taxes over the next 5 years and $315 billion over the next 6 years. This is $285 billion above the tax increases already enacted in the last 8 months, above the $214 billion in TEFRA, the $21 billion in the Highway Gas Tax Act, and the $49 billion in new social security taxes.

And we still have high deficits. We have virtually wiped out all of the President's tax cuts and they still want to tax more.

The House budget also intends to spend lots more of the taxpayer's hard-earned money. They obviously want to bring back the big spender's paradise days of the Carter administration and prior administrations. They want to increase domestic spending almost $200 billion above the President's requested levels over the next 5 years. With this huge increase, they would eliminate all but a scant 3 percent of the hard-won savings achieved in social welfare programs over the last 2 years.

The House budget would also drastically prune our national defense effort to a meager 2.3 percent growth in fiscal year 1984. The House cloaks this irresponsible cut in the charge that defense spending is to blame for the overall increase in Government spending. They blame defense spending for our massive deficits. This charge is dead wrong.

As a percentage of the total Federal budget, spending on defense has declined drastically from its 1962 level and it has never recovered. In 1962, national defense spending amounted to 46 percent of all Federal spending. By 1983, however, national defense spending constituted only 29 percent of all Federal spending. The increases that we now need in defense spending simply repair years of budgetary neglect.

I would prefer to see us spend more on our national defense. Only by preserving our national security can we preserve the whole complex of our liberties and benefits as American citizens. But, in a time of economic crisis, when all Federal programs must bear their fair share of cuts, defense spending, too, must be moderated. But we must not be irresponsible in making defense spending cuts, as has been the House.

The fact is if the House is right, they are going to save us some tax dollars. But if President Reagan is right, he is going to save us our freedom, and I think that is pretty important.

Contrary to the claims of the House, it is domestic spending, not defense spending, which has mushroomed and produced our massive Federal deficits. As a result, it is domestic spending which must bear the greater burden of the restraint in Federal spending growth. This restraint in the growth of Federal spending must occur despite the fact that all of us, myself included, believe many programs worthy of support and funding. Within this group, the major culprit producing ballooning Federal spending and huge deficits is the open-ended spending programs. These programs require payment of benefits to all recipients qualifying under the law regardless of the total dollars involved. We must restrain their excessive growth.

Mr. President, we must reject the House budget and any budget proposals like it. In contrast to the proposed House budget and any like it, the plan I have offered faces up to our real economic needs. This proposed budget is simple and it is fair.

It refuses to raises taxes. It restrains defense spending growth to the minimum consistent with our basic national security. And it imposes a modified freeze across the board on major areas of domestic spending so that all groups and spending constituencies will shoulder their fair share of this burden.

My plan deserves to be enacted. Our economic health demands it.

I might add that this particular approach is not a total freeze. If we had a total freeze, we would balance the budget in 2 years. We are not in a budget crisis, therefore, and nobody is asking for this, for a total freeze.

If we had a low-growth path, it would be in 3 years, thus we would balance the budget if we had a straight freeze across the board. I might add, ours is not a straight freeze; it is a modified freeze.

I can say we take into consideration the needs of the people of this country even though some of the restraint of growth in spending is going to be difficult and would be difficult for all of us as Members of Congress.

SPENDING FREEZE-BALANCED BUDGET PLAN

Growing budget deficits and repeated threats to raise taxes will jeopardize the economic recovery and reverse our progress on inflation and interest rates. While the Nation and the Congress are deeply divided over possible ways to deal with the deficit, there is considerable support in the country for an overall spending freeze.

The spending freeze-balanced budget plan demonstrates clearly that a modified spending freeze could serve as a basis for resolving our fiscal year 1984 budget crisis and for moving the Federal Government to a balanced budget under Congressional Budget Office (CBO) high-growth projections by the end of the decade. With a modified spending freeze and with the preservation of the third year of the individual income tax cut and indexing, the budget can be balanced in fiscal year 1989, the target year for the implementation of the Balanced Budget Amendment to the Constitution and the 200th anniversary of the founding of the Republic—an ideal bicentennial gift for all Americans.

The spending freeze-balanced budget plan calls for a basis freeze in the dollar level of spending for nondefense discretionary programs. Real outlays for entitlements, other than social security, farm price supports, and unemployment compensation are frozen at fiscal year 1983 levels, limiting the growth in entitlement spending to the inflation rate. Pay for nonuniform Federal employees is frozen at 1983 levels as are target and loan prices under the farm program. The freeze is applied for 3 years with constrained growth thereafter.

Defense spending authority is frozen at the levels specified in the fiscal year 1983 budget outyears, which provides for real growth in defense of 7.5 percent in fiscal year 1984, 7.0 percent in fiscal year 1985, and 6.0 percent in fiscal year 1986. The savings accruing from the spending freeze and limitations on defense growth are supplemented by the deficit reductions achieved in the enacted social security package; in the President's proposals to increase offsetting receipts and treat excessive health insurance coverage as ordinary income; and by the savings to be achieved from partial implementation of previously proposed user fees.

Beginning with the spending freeze concept and real and nominal constraints on spending growth in the outyears, the deficit can be reduced sharply in fiscal year 1984 and, under the CBO high-growth path, balanced in fiscal year 1989.

The spending freeze-balanced budget plan preserves the third year of the individual income tax cut and indexing. It sets into place a long-term deficit reduction program by freezing spending in the short term and constraining spending growth over the remainder of the decade. Within the constraints imposed by limits on the growth in Federal spending, Congress can allocate funds to balance spending priorities within the overall binding budget. The deficit reductions achieved in the spending freeze—balanced budget plan will continue to exert downward pressure on interest rates, assuring a strong economic recovery and enhancing private job creation.

Mr. President, I yield at this time to the distinguished Senator from Kansas.

The PRESIDING OFFICER (Mr. ANDREWS). The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I thank the distinguished Senator for yielding. I should like to take just a few minutes to indicate my support for the proposal submitted by the distinguished Senator from Utah.

Mr. President, the purpose of the budget process is to set out a fiscal policy that is consistent with noninflationary economic growth. As the budget resolution is considered today, we must be particularly sensitive to the current state of the economy. Thankfully, our economy is recovering. Here are some figures that are just as important as forecasts of revenues and deficits:

Gross national product rose 3.1 percent in the first quarter.

Industrial output was up 1.1 percent in March, the third consecutive monthly gain.

New housing starts are running at an annual rate of 1.6 million, up 75 percent from 1 year ago.

The leading indicators jumped 1.5 percent in March, a broad-based gain that points to a faster paced recovery in the second half. At the same time the concurrent indicators rose 0.7 percent, showing current improvement in the economy.

Prices continue to stabilize as they have since President Reagan took office. The annual rate of inflation, as measured by the Consumer Price Index is just 0.4 percent so far in 1983.

In the most important economic category, jobs, the unemployment rate is down 0.5 percent since January, and manufacturing and construction employment is starting to pick up. More good news is expected when the Labor Department issues its April unemployment report.

It seems to this Senator that our No. 1 budget priority should be not to get in the way of the recovery, and I think that is something we have to guard against. Everybody has their own agenda; everybody has a plan. The recovery is underway. I think it must be our top priority not to stand in the way of that recovery but to try to help it along, make it stronger, and hopefully it will last.

We should produce a budget that will allow the expansion to become firmly established. The way to insure this is to avoid a revenue target that would endanger the July tax cut or tax indexing. That is one reason why I support the Hatch substitute.

The revenue line reported out of the Budget Committee would endanger both the third installment of the individual rate reduction and the recovery. It calls for $30 billion in revenues next year and $121 billion over 3 years. As a practical matter, Mr. President, there is simply no way to raise that kind of revenue in fiscal year 1984 without scaling back or eliminating the July tax cut. But that would be precisely the wrong move at the wrong time.

While the recovery clearly is underway, it remains somewhat fragile. Virtually all economists agree that rising consumer spending is needed to keep the expansion going. Without increased consumer demand, businesses might find their inventories rising again. The July tax cut will increase consumer's spendable income and give a boost to retail sales—just the tonic that I believe is needed.

There are other reasons why the third year of the tax cut is important. Due to bracket creep and rising payroll taxes, this will bring the first real marginal rate reductions for the average taxpayer.

I support the budget plan offered by Senator HATCH. It combines three basic budget elements which would do the most to promote economic recovery: It holds the line on new taxes, restrains spending, and produces lower deficits. The attraction of this budget plan is that its lower deficits result from reduced spending, rather than an increased tax burden on an economy that is in the early, fragile stages of recovery.

The Hatch proposal would reduce nondefense outlays by approximately $12 billion in fiscal year 1984, more than the Senate Budget Committee plan. The Hatch substitute would freeze discretionary spending for the next 3 years and allow only inflation adjustments for entitlement programs. In addition there would be a pay freeze for Federal employees and a freeze on farm price supports.

I must say, coming from a farm State, a wheat State, that this is not an easy decision to make. Mr. President, I find in visiting with Kansas farmers that for the most part they would much prefer to have a sustained and lasting recovery than more money paid from the Federal Government for what they may grow, or what they may not grow, in the form of a target price or other price support programs. And I would also add, that I believe that most farmers would be willing to give some on price supports, so-called target prices, the very generous PIK program, a very expensive program, which was implemented early this year by the President and by the Secretary of Agriculture.

These budget totals would require tough choices, but I believe most Senators agree that when we face deficits of over $200 billion we need spending cuts of more than the $3 billion proposed by the Senate Budget Committee for fiscal year 1984. Clearly, the American taxpayer deserves that we make every effort to restrain spending before we even consider raising his or her taxes. And let us not forget that the House budget raises nondefense spending about $15 billion in fiscal year 1984. In order to get a reasonable budget out of conference, we will need to come in low on the spending side.

The Hatch substitute would hold the line on taxes, adding only about $4 billion in revenues in fiscal year 1984 and $7 billion in fiscal year 1985 through increased user fees and the President's proposals for employer health insurance contributions. This is just the cautious approach that is called for in our current economic situation. We cannot afford to shock the economy off its expansion path by major tax increases. Above all the July income tax cut and indexing must be preserved.

SPENDING

On the spending side, the Hatch plan calls for some important reductions in entitlement spending. I want to make it clear that, while such cuts are difficult, the Finance Committee stands ready to do its share to help bring down the deficit. In fact, the record will show that the Finance Committee has done more than its share to control spending in the last 2 years.

As this Senator pointed out to the distinguished Senator from Utah just yesterday, this plan, as I review it, would mean that the Senate Finance Committee would have about 50 to 55 percent of the total responsibility. But that is satisfactory because we have a big deficit, and we have a lot of jurisdiction in our committee. We have a lot of responsibility in our committee to restrain spending.

In 1981, Finance Committee programs accounted for savings of $28 billion over 3 years, including $8.1 billion in social security and $4.4 billion in medicare. Last year, TEFRA reduced Finance Committee spending by $17 billion over 3 years, mainly through savings in the medicare program of $13 billion. In addition, we have already passed legislation this year which will lower social security outlays by $10.4 billion over the next 3 fiscal years. So let the record show that the Finance Committee has already achieved significant entitlement reform, with major savings for the Federal budget. Despite the savings we have achieved, we will continue to look for savings in these programs, both in the health area and income security.

MEDICARE COST SAVINGS ARE NECESSARY AND POSSIBLE

In 1983, medicare and medicaid will consume $76.7 billion in Federal funds. The medicare program alone accounts for about $57 billion. It is a program which has grown at an alarming rate since its creation 17 years ago. The original program cost estimates done in 1965 showed a projected cost in 1990 of $8.8 billion. The current projected cost for 1990 is in excess of $100 billion, more than 11 times the original estimate.

In this regard, I ask unanimous consent to have a table printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

[In billions of dollars]

Hospital insurance benefit cost projections	Estimate of costs		
	1970	1975	1990
Actuarial estimate made in 1965	3.1	4.3	8.8
Actuarial estimate made in 1967	4.4	5.8	10.8
Current estimate (1982)	[1] 5.3	[1] 11.6	96.8

[1] Actual program costs.

Mr. DOLE. Mr. President, the medicare trust fund is rapidly approaching a period of time in which it will no longer have sufficient funds to finance program expenditures. Under current assumptions, the program will reach this point in 1987 or 1988 unless something is done to moderate its growth.

Clearly, in looking at potential changes in medicare, we will look to all aspects of the program and all participants, including physicians, hospitals, and beneficiaries. We will want to continue to try to balance the results of any changes among all parties.

No single change is likely to be enough to solve the financing problem. However, some limited additional reductions in the rate of growth are absolutely critical at this time.

Additional reductions in the rate of growth are possible. If we are unable to face the dismay of some in achieving the savings required by this resolution, I fail to understand how we can face the disappointment of many if we elect to do absolutely nothing about medicare costs and the approaching deficits—deficits which mean no hospital care, no doctor care, and no home health care.

The medicaid program will account for approximately $19.3 billion in Federal spending in fiscal year 1983. This is an increase of 17 percent. Certainly we can look for some small, additional savings.

I agree that a great deal has already been taken from medicaid and that the program, during a period of high unemployment, may well have to provide services to a greater number of people. However, continued attempts to at least moderate its growth in some reasonable fashion should be considered.

We have an obligation and a responsibility to monitor these programs, whether they be agriculture, defense, health, or anything else, if we are really concerned about deficits.

The Hatch recommendations include an assumed medicare savings that may be somewhat higher than we would have liked, but remember the House budget assumes no savings in this area or in the area of medicaid. I think that is a point that cannot be lost on those of us in the Senate. I have been around here long enough to know that we are not going to come back from conference with the Hatch numbers. If we go into conference with what I consider a weak resolution reported by the Budget Committee on the spending side, and a very strong resolution on the tax side, we are liable to come back with all tax increases and very little spending reduction.

I say this knowing the difficulties in the Budget Committee: We are all going to have difficulties in our committees. I certainly commend the chairman of the Budget Committee, Senator DOMENICI, and the ranking minority of that committee, Senator CHILES.

Everyone in this Chamber thinks the deficits are too large, and nearly everyone has a program that is different from that of someone seated on his right or on his left. It makes it very difficult for the Budget Committee, and I stand ready to support the Budget Committee in every effort they make.

We must provide our Budget Committee some flexibility in conference so they can return to us a budget that includes some responsible reductions in spending growth. To go into conference with the number we believe is adequate will likely mean leaving conference with something less.

INCOME SECURITY PROGRAMS

The Hatch substitute anticipates relatively small savings in the income maintenance programs under the jurisdiction of the Senate Finance Committee. For fiscal year 1984, the committee would be required to achieve $338 million in savings; for fiscal year 1985 the savings would rise to $660 million, and in fiscal year 1986, savings of $2.049 billion would be assumed. These are savings which are possible, especially in light of the fact that expenditures for the income maintenance programs total some $40 billion per year. I believe that these are deficit reduction figures which can be accomplished without jeopardizing the basic welfare and unemployment programs or the recipients of benefits under those programs.

The growth rate of social spending slowed during the 97th Congress. Significant changes were made in the Aid to Families With Dependent Children (AFDC) program and in the unemployment insurance program. In the 1981 Omnibus Reconciliation Act, a large number of important reforms were enacted in those two programs which have reduced spending by several billions of dollars. The impact on the States and their administration of these programs was also substantial. The early returns from the States indicate that they have held up well under the new requirements and program developments.

In fact, in many States they finally made reforms, particularly in the employment area, which should have been made years ago and which were not made because the Federal Government was picking up the tab in too many cases. We now find many States reforming their unemployment compensation programs, and I think we want to continue to encourage cost-saving at the State level.

I am convinced that additional improvements and modifications can be made in a compassionate, responsible manner. The Finance Committee will consider the President's fiscal year 1984 budget recommendations, as well as recommendations from private industry and public advocacy groups. The Congress has a duty to examine all Federal programs on a continuing basis in a critical fashion. The exploding Federal deficit will permit us to do no less.

WE CANNOT AFFORD A MAJOR TAX INCREASE NOW

The level of revenue increase envisioned by the Hatch compromise would seem to be both within an acceptable range of what the economy can stand in the near term and also a level that can be reached without enacting significant new taxes or repealing tax relief we enacted in the last Congress.

1981 LEGISLATION

Some commentators who have recently been advocating substantial tax increases to reduce the budget deficit have forgotten the major concerns over "stagflation" which seemed to be unbeatable just a short time ago. As I indicated earlier, the economy has made substantial progress since then. Back in 1981, Congress recognized, quite rightly, that we could not expect the economy to recover without providing enough capital to the private sector to reverse the economic malaise.

This effort included a reexamination of many Federal spending programs which preempted capital from the private sector as well as broad-based tax reduction, but the tax reduction was needed and it looks like it is showing results. The combination of rate cuts and expansion of the IRS provisions have significantly increased the funds available in financial institutions and, indeed, have caused many of these institutions to emphasize individual savings as a source of funds.

This is a real and beneficial change in the habits of our citizens. They are becoming relatively more interested in savings than in increasing consumption. Massive tax increases in the near term could destroy this beneficial change by taking the money which could be saved by our citizens before they see it, let alone decide what to do with it.

I know how easy it is to say that we will do away with the third year of the tax cut, or do away with the indexing, because we have not gotten that yet and no one will miss it. That way, we will bring down deficits and interest rates and bring about sustained recovery. I am not at all certain that is the case.

It seems to me that we need the third year of the tax cut. And if we talk about indexing, that is a basic change in tax policy that benefits the workingmen and workingwomen of this country. It says, in effect, that when you get a cost-of-living adjustment, you are not going to be pushed into a higher tax bracket and have it taken away.

In my view, indexing was the soundest provision in the 1981 tax act, even though there were many other good provisions. Indexing, which takes effect in January 1985, is highly desirable and is one provision with which Congress should stick, in the view of this Senator.

Living in the real world, as we in Congress do—although some may not believe it is the real world—we must recognize that we must conference with a Democratic budget resolution, passed by the House Democrats. It is a political document. They have a 101- or 102-vote margin. There are no coalitions that can overcome this margin.

It seems to me that if we are really concerned about deficits and are really concerned about spending restraint, we cannot go along with a budget resolution that takes away 42 percent of the tax cuts—as the House resolution does—raising taxes by $342 billion over a 5-year period, and adds about $181 billion in new spending.

Mr. President, it seems to me that we can indicate to everyone in this country that we are sincere in our efforts to reduce the budget deficits, that we understand the need for a strong recovery, that we understand the need to get people back to work, and that we understand that that can be done without raising taxes.

The Senator from Utah has made clear that his assumptions may be based on specific items, but we are voting for numbers. The Senate Finance Committee is not bound by anything someone may suggest, that if you are going to get the revenue increases, it has to be A, B, or C. We believe we can best make those decisions in our committee.

There is no mandatory direction on how we would take care of the spending reductions. We believe we have some plans that we may achieve in our committee and reach these figures.

1982 LEGISLATION

In considering the revenue line proposed in the Hatch budget, we ought to keep in mind the need for caution when it comes to increasing the share of our national product that goes to taxes, and remember that last year we took substantial steps to improve tax equity and tax compliance that will bring in additional revenue.

When we enacted the Tax Equity and Fiscal Responsibility Act in 1982, we did so under a mandate from the Congress as expressed in the budget resolution—and we did so in the conviction that clear, decisive action to reduce the budget deficit was absolutely essential to both recovery and long-term economic stability. The President supported that effort, and through hard work and a willingness to make difficult decisions in an election year we reached agreement on nearly $100 billion over 3 years in new revenues. We raised those revenues, however, by and large, by cutting back on existing tax preferences and providing additional tools to improve compliance with the existing tax laws.

I underscore my commitment: If we are asked to raise additional taxes, it is my view that base-broadening is the way we should go. We should look at compliance and all the $296 billion in tax expenditures. Before we take away anyone's tax cut, we should make certain that everybody pays the taxes they owe. I suggest that we have taken responsible action and will continue in this direction.

With reference to 1982, I also credit the Senate Budget Committee, because without their direction and mandate, we could not have passed the tax bill. We would still be arguing that bill on the Senate floor.

In the view of this Senator, base-broadening is the way we always ought to go, when revenues are needed—but everyone acknowledges the difficulty of forging a political consensus in favor of such measures year after year.

Mr. President, the point is that we have taken responsible action on revenues by following the 1981 tax cut with the 1982 compliance measures and equity improvements. After TEFRA, taxes are expected to rise to about 19 percent of gross national product by 1985. That is slightly higher than the average during the 1970's and the 1960's, and contrasts with the 21 percent of GNP taken by taxes in 1981: A record high for peacetime. In addition, we should not forget that one reason revenues have declined, and may grow rather slowly, is the impact of the recession, which proved more severe than many of us hoped or expected. TEFRA brings revenues in line with recent history, plus a bit more—that is responsible policy. The Hatch budget recognizes this, and minimizes the possibility of enacting more TEFRA-type measures as recovery proceeds, in the interest of sound tax policy. Caution on revenues is what we need now, though.

Other Members may not agree. But remember this: When spending is running at a record 25 percent of GNP, and taxes at a rate consistent with the recent past, the burden of proof ought to be on those who defend present spending levels, not on those who defend the revenue line. The Hatch budget puts that burden of proof where it belongs—and while we are prepared to work out our differences, let us keep that overriding truth in mind.

TAXPAYER COMPLIANCE

Mr. President, last year the efforts to improve taxpayer compliance formed the centerpiece for the Tax Equity and Fiscal Responsibility Act of 1982. That effort raised nearly $30 billion over the next 3 years. Although elements of that package have proved controversial, there remains strong support for the proposition that we should collect more of the taxes owed before we raise taxes for honest taxpayers. There is support for that view because it is fundamentally unfair to allow taxpayers to cheat their way into lower taxes. There may be disagreement over the means to improve taxpayer compliance—I understand that some of my colleagues may not be enthusiastic about efforts to expand mandatory withholding, particularly to interest and dividend income—but it is not necessary to go that far to achieve significant improvements in taxpayer compliance. Generally, there is strong support for additional compliance measures.

Mr. President, that support makes sense because the compliance gap remains enormous. Even after TEFRA, we will lose about $100 billion annually over the next several years.

The compliance gap arises principally out of underreported income. That is taxpayers who file tax returns underreport their income. We lose about $70 billion annually that way. Overstated deductions cost us $10 to $15 billion annually. Unreported, illegal source income costs $8 billion annually. Nonfilers—those 5 to 6 million taxpayers who owe returns but fail to file—cost about $5 billion. Corporate noncompliance costs about $4 billion annually. These are large losses, even by the standards of this body.

While we can never achieve total compliance with our tax laws, we can do considerably better than we are doing now, without allocating excessive resources to the IRS or unnecessarily intruding into taxpayers' privacy. The Senator from Utah has recognized the need for improving compliance. Rather than increasing taxes, this amendment would increase compliance. That is a direction this Senator wants to go in, too.

Even though we lost on withholding on dividend and interest income at the source. We were able to work out some compromise that still picks up most of the revenue.

Not that I believe that is good policy, but we simply did not have the votes to retain withholding.

So, Mr. President, this Senator, as chairman of the Senate Finance Committee, is willing to pledge to his colleagues on both sides of the aisle that we believe there still are opportunities to pick up revenue in tax compliance areas. We believe, at least the chairman believes, there are a number of areas in that $296 billion in tax expenditures that should be looked at to make certain they are still proper and still should be part of the Tax Code; that they are not loopholes or overly generous. I am prepared to suggest if in fact the revenue numbers are realistic, and by realistic I mean low in 1984, 1985, and 1986, that we can achieve spending reductions and produce a budget that will send the right signal to the financial markets. Then we will see a reduction in long-term interest rates. Financial markets will be much more impressed by real spending restraint than by tax increases.

So I conclude by complimenting the distinguished Senator from Utah. I know he has worked long and hard on this effort. I know other Members on this side and perhaps some on the other side of the aisle have been consulted about this. It is my hope that, Mr. President, we might not have a vote on this proposal until tomorrow, because some of us are necessarily absent for the remainder of the day. But I am not certain what the chairman has in mind in that regard. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Will the Senator from Utah yield the floor to me? I do not want to use your time.

Might I ask while Senator Dole is here and Senator Chiles, how much additional time might you desire on your amendment?

Mr. HATCH. As I understand it, we will debate it a while today and then continue in the morning, and we are hoping perhaps we can vote somewhere near at noon tomorrow or at least put it to a vote at that time.

Mr. DOMENICI. Mr. President, that may very well be the case. That was not my understanding. That is what I wanted to talk about.

Mr. CHILES. I will say to the distinguished chairman it was not my understanding either. My understanding was we were going to have a vote on that tonight and a vote on one of our amendments.

Mr. HATCH. I am not prepared to do that. This will be debated, go right to it in the morning and have a vote at such time. I think it will take a little more time. There are a number of people who have indicated they want to speak, and I think there are a number of people out of town who are interested in this.

Mr. DOMENICI. Mr. President, as the Senator knows, I have commended him regularly for this effort, and have been working as best I could to accommodate him and to provide whatever I could by way of encouraging the CBO and others to help draft it. But I really had never understood we would put it off until tomorrow. I understood that if it did not go too long tonight we would vote, and I thought that might occur.

Mr. HATCH. That never was my understanding. With every conversation I have had on this I said I was not prepared to vote tonight. I am sorry—if the Senator would like, I would be happy to withdraw it now and bring it up again tomorrow.

Mr. DOMENICI. What does the distinguished Senator from Florida think?

Mr. CHILES. I would just say I have been listening to what I heard from your side and that was we would take a vote on Senator Hatch's amendment and that would be the first amendment up. We waited, we did not present an amendment because that was the amendment that was going to be presented first. We have been 2 days now on the budget. We have not had a lick at it yet, and then we were going to have an amendment up from our side and we are prepared to do that.

Mr. DOMENICI. Senator, I understand you have an amendment ready on medicare, is that correct?

Mr. CHILES. We were going to have one after the conclusion of this vote.

Mr. DOMENICI. I would be more than willing, if the Senator from Florida would accommodate, to continue this for 10 or 15 minutes, pull it and offer the Baucus amendment, and we will vote on the Hatch amendment at a time that you and I can agree on right now that is accommodating to the distinguished Senator.

Mr. DOLE. Will the Senator yield?

Mr. DOMENICI. I would be pleased to yield.

Mr. DOLE. The Senator from Kansas may be part of the problem so I do not want the Senator from Utah to be unduly criticized. The Senator from Kansas has a longstanding commitment outside of Washington and that is why I suggested if possible if we could work it out and have the vote tomorrow. It is unfortunate, and I am not gone very often around here, but many of the amendments that come up are dealing with Finance Committee jurisdiction and I assume one of them coming up will deal with your jurisdiction.

Mr. CHILES. It does.

Mr. DOLE. I hope it is possible to accommodate the Senator from Kansas. I never made a request for that before. It just happens it is a longstanding commitment I could not extricate myself from. In fact, I am being called right now to move.

Mr. HATCH. If the Senator will yield, it is my understanding, I never said I was going to go to a vote today on this amendment. It was my understanding that we would call it up, get most of the debate out of the way today, although there may be a little bit more debate tomorrow, and then go to a vote. But I never said I would be willing to go to vote today. This will take a little more time and I am willing to fulfill that time agreement today. It is frankly difficult for me to come here at 3 o'clock and be prepared to go on this because we just got the figures, and I have not had a chance to look those up and I have been trying to accommodate the Senate and my colleagues and I think it is a way of getting this disposed of. But I suggest we continue with this, I have laid it down as the pending business, and then come in in the morning at which time we will be through and that would be the propitious time. Certainly it would accommodate the distinguished Senator from Kansas who will be necessarily absent.

Mr. DOMENICI. Let me suggest to the distinguished Senator from Florida, so he will understand, it was never my understanding that we would wait until tomorrow. That does not mean that Senator Hatch might not have thought that and might not have spoken to some people about it. He might have even spoken to the leader about it. I have just been unaware of it. So I thought we would proceed to at least get two votes done today. So I had told you we would take up this amendment, and then another one. But obviously I am going to try very hard to accommodate the distinguished Senator from Kansas who has indicated he does not do this very often and has asked us to accommodate him.

Mr. CHILES. The Senator from Kansas many times accommodates people on this side of the aisle as well and, of course, we would certainly want to return the courtesy.

Mr. DOMENICI. I would suggest this, if it is not too much of a burden on the Senator and his people: If Senator Hatch wants to continue for another 15 minutes, then we would set his aside and you can take up Senator Baucus'——

Mr. CHILES. I think it would only be fair, Mr. President, if somebody on our side had a chance to speak on this, too, before the Sun goes down today.

Mr. DOMENICI. Of course.

Mr. HATCH. Will the Senator yield?

Mr. DOMENICI. I was laying the framework for doing two things. I have no objection to anyone who wants to speak to the amendment. I thought we could agree—and Senator Metzenbaum has indicated he does.

Mr. HATCH. Senator SYMMS, also.

Mr. DOMENICI. We agree we would do that and then call up the Baucus amendment, debate it, and we could get the leader and agree on a time certain for both those votes tomorrow and get a vote on Hatch first and then vote on Baucus and leave sometime——

Mr. CHILES. I think Senator BAUCUS, who had the amendment on our side, is amenable to laying it down this afternoon and have it be the pending business tomorrow. He does not want to debate it today and carry it over until tomorrow. So under those circumstances we can do that. But I think if we are going to go forward with this, I think our side should have a chance to speak on Hatch today.

Mr. DOMENICI. Of course.

Mr. CHILES. I assume nothing has changed the order that this amendment is subject to a motion to table, as all amendments are subject to a motion to table?

Mr. DOMENICI. I have not asked for any privileges with reference to it and I note that the distinguished Senator from Utah has not. You are referring to his substitute?

Mr. CHILES. Yes.

Mr. DOMENICI. Whatever the available votes are.

Mr. HATCH. Everybody has a right to table. I was hoping they would not table.

Mr. CHILES. I just want to make sure what the rules are here. They seem to get changes as we go along.

Mr. DOMENICI. So, as I understand the distinguished Senator from Florida, we will proceed as long as is necessary in debating the Hatch amendment and then it will be set aside for Senator BAUCUS to lay his amendment down.

Mr. CHILES. As long as Senator BAUCUS' amendment would be the pending business when we come in tomorrow and we take it up and dispose of it first and then go back to Hatch.

Mr. HATCH. That is not my understanding. We covered this with the majority leader and with staff. It was to lay this down and it is the pending business, go to the morning and proceed with others as well. I am willing to be accommodating because I understand there are Senators here who thought the same as the distinguished Senator, the chairman of the Budget Committee. But I thought it was covered. I do not know that I chatted with you, Senator DOMENICI.

Mr. DOMENICI. I say to the Senator from Florida that I think the only matter in disagreement between him—between what I have said and what he has said is that if Baucus is laid down tonight, debated tomorrow, he has suggested that it be voted on before the Hatch amendment. Is there any compelling reason for that? Otherwise we can certainly work out a unanimous-consent agreement on that.

Mr. CHILES. Well, the only thing I think is Senator BAUCUS was asking that his be debated and voted on in sequence; that this not be debated, then put aside, further debate on the Hatch amendment, a vote on the Hatch amendment, and go back to the Baucus amendment. He is just asking if he is ready to do his today and have his vote today.

Mr. HATCH. Will the Senator yield?

Mr. DOMENICI. I am pleased to.

Mr. HATCH. I would have no objection. Let us debate this for a little while. I will finish my statement and Senator SYMMS will finish. As I understand, Senator METZENBAUM wants to make his statement of this amendment. Then we will temporarily set my amendment aside.

Mr. CHILES. I will have something to say on the amendment, too.

Mr. HATCH. Sure, whoever does. Then we can set this one aside temporarily. I will not agree to a vote certain at this time until after Senator BAUCUS has proceeded.

As I understand, the distinguished chairman of the Budget Committee is willing to give me some time.

Mr. DOMENICI. I will indicate that, with all the time we have, I am willing to give the Senator time off the bill on the amendment. That certainly does not mean indefinitely. Another half hour or an hour. I am more than willing to accommodate. I am sure we are all right. If we proceed on that basis, Senator CHILES and I can work out with the leadership a consent agreement on Baucus which would mean it would not only be laid down but debated tomorrow and voted on in sequence. Then we would return to Hatch for some additional debate and a vote.

Mr. HATCH. Can we have some idea how long Senator BAUCUS wants on his amendment?

Mr. DOMENICI. Tomorrow.

Mr. CHILES. Yes.

Mr. HATCH. So there are at least 2 hours.

Mr. CHILES. Yes.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. Mr. President, I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise at this time to address myself not only to the Hatch amendment but to the sorry condition of the budget, where we are, and how we got there. Let us not kid ourselves. We know where the responsibility lies. It lies at the doorstep of the President of the United States.

I think everybody in this Senate remembers the claims that were made by the administration for supply-side economics. They told us that tax cuts for the rich would stimulate investment. They had curves drawn on the back of cocktail napkins to prove it.

Well, we know that that did not work. Investment was not stimulated, as indicated by the charts that stand behind me. As a matter of fact, the gross national product went down in 1982. As a matter of fact, capacity utilization has continued down. In 1979, 1980, and 1981 the figures were pretty good, but then when we got to 1982 and 1983 it went down to 69 percent. We know that business expenditures in new plant and equipment, according to the President, were going to be stimulated by this great new program of supply-side economics. But the facts are that expenditures on new plant and equipment, after making adjustments for inflation, still went down in 1982 and 1983 to a far lower figure than anything that had been the case in 1979, 1980, and 1981.

When we look at after-tax corporate profits, they absolutley were decimated in 1982. They went down in 1981 from 1980, and down in 1980 from their 1979 level.

When we find the only place on the chart where there are great increases, we find it is in the area of business failures, which, in 1982, went up to 25,340 from a figure of 16,000 in 1981, and 11,000 in 1980.

Supply-side economics has been a great program.

Indeed, Senator HATCH now comes to us with some suggestions along the same line. As a matter of fact, the President, who unquestionably is recognized by all of us as the Nation's greatest communicator, constantly goes on the TV tube and says:

> I am against new taxes. No new taxes. This administration will not stand for new taxes. I am opposed to new taxes; I will veto a bill if it has new taxes.

The President has a short memory, because the President has already signed legislation into effect that does place new and substantially higher taxes on the people of this country. When you look at those taxes, you will see that they are not on his friends, they are not on the rich, and they are not on the corporate community. Oh, no.

The cigarette taxes—we doubled those from 8 cents to 16 cents. The President seems to forget that that is a new tax, or at least the doubling of an old tax. It is a tax that will take from people in this country about $6.6 billion over a 3-year period.

(Mr. SPECTER assumed the chair.)

Mr. HATCH. Mr. President, will the Senator from Ohio yield just a second on that?

Mr. METZENBAUM. No; I shall be ready to yield in about an hour.

When we look at what the President has done about increasing taxes, he has increased telephone taxes from 1 to 3 percent. But that does not bother him, because those are just ordinary people who are going to pay the extra

$3.3 billion over a period of 3 years. Nor does he want to be reminded, when he is talking about new taxes, about the gasoline tax that under his leadership was increased by the Congress—$11.6 billion over a period of 3 years—1983, 1984, and 1985.

Then the President found another way to raise some money. That is by limiting some medical deductions that average people might have on their tax returns. He does not consider that a new tax; it is just a way of getting new taxes from the average people of this country. That picks up $3.7 billion over a period of 3 years. Then he limited the casualty deduction. That picks up $1.4 billion in the years 1984 and 1985.

My good friend from Utah, and he is indeed my good friend, talks about raising some money in this new U.S. Chamber of Commerce budget that he is trying to sell in the U.S. Senate. Again, what would he do? He would pick up more in consumption taxes by extending them. The cigarette tax would be continued at 16 cents per pack beyond September 30, 1985; the telephone tax would be extended beyond 1985 at 3 percent; the employee health benefits tax, which would be a new tax on health benefits in excess of $175 a month. Then he would raise user fees by $5.4 billion over a 5-year period.

What a wonderful approach we have here: the President of the United States, my good friend from Utah, and the U.S. Chamber of Commerce unwilling to address themselves to the revenue side of why we have deficits and why we do not have a balanced budget, but willing to look a little more at taking more from the consumer. They are not willing to look at the real substance of the problem. We shall discuss that before the afternoon is over.

The President, in his state of the Union message, said, "Nor is the deficit, as some would have it, rooted in tax cuts." I want you to know, Mr. President, in case you do not know it, that that is exactly the reason we have a deficit. There are not two reasons, or three reasons, or four reasons. That is exactly the reason that we have a deficit. If you look at that chart back there, and there is one on every Senator's desk in case your eyes are not that good, you will find if we had not passed the 1981 tax law and the 1982 amendment, if we had gone back to the days before the tax law, if we had done all the things we are doing in this budget having to do with expenditures and other programs, we would have a $97 billion deficit for 1984, a $56 billion deficit for 1985, a $14 billion deficit for 1986 and, lo and behold, we would have a $2 billion surplus for 1987, and a surplus for 1988 of $37 billion.

So when the President says, "Nor is the deficit, as some would have it, rooted in tax cuts," he just does not know the figures. Because if he knew the figures, he would be able to understand easily that if it had not been for the tax cuts that we in Congress enacted—and I must confess that I was taken in—we would not be facing these enormous budget deficit. I voted for the tax bill and I am sorry that I did. But if we had not voted for that tax bill, we could be looking at a surplus by 1987 and a big surplus by 1988. Instead of that, under the marvelous and magnificent leadership of the President, who did so well as a campaigner in saying that he would balance the budget, his budget would give us a deficit of $185 billion in 1984, $179 billion in 1985, $149 billion in 1986, $160 billion in 1987, and $159.4 billion in 1988. The fact is that, right in this fiscal year, we are already experiencing a $129 billon deficit in the first 6 months and that means, in my opinion, that the $210 billion deficit that has been projected for this fiscal year is totally out of kilter and will be substantially higher.

Let us take a look at what has occurred. In 1981, we enacted the Economic Recovery Tax Act, and we lost $1.135 trillion through fiscal year 1988. Last year, we recognized our mistake and we recouped $275 billion through fiscal year 1988 by enacting the Tax Equity and Fiscal Responsibility Act and the Highway Revenue Act. The net loss to the Treasury from the President's program from fiscal year 1981 to fiscal year 1988 is $860 billion. That is the root of the problem of continued deficits, and when the President learns that and tries to do something about it and provides his leadership to this Congress, then we are going to be able to move toward balancing the budget.

The President's fiscal year 1982 budget, which included the President's tax cut proposal, has failed to deliver on other promises. The fiscal year 1982 budget promises that revenues as a percentage of GNP would not fall below 19.3 percent; 19.3 percent is just a number, but the fact is that we are talking about the percentage of gross national product that is paid as taxes to the Federal Government. So when you say that the percentage of gross national product will not fall below 19.3 percent, you are really talking as a businessman would talk about the kind of income you have as against the expenses that you have.

The facts are that, in 1983, they will be below the 19.3 percent; they will be at a 19-percent figure in 1983, in 1984, 18.7; in 1985, 18.8; in 1986, 18.7; in 1987, 18.5; in 1988, 18.5. When you are talking about a fall-off of 1 point of the GNP, you are talking about big billions of dollars.

The fiscal year 1982 budget promised that revenues would increase through fiscal year 1986, reaching $940 billion. What are the facts? I will state the facts. The facts are that under current law, revenues will total not $940 billion, they will total only $773.5 billion by fiscal year 1986. That is $170 billion shortfall in 1 year.

As I previously mentioned, this year's deficit will be far greater than anybody has projeced, because we are running at a $129 billion deficit in the first 6 months and we were talking about a $210 billion projection, but it will obviously be substantially higher than that.

I say to Members of the Senate, it is clear that the President's tax cut program went too far, that it is in fact largely responsible for our mammoth budget deficits. If we had not adopted the President's tax program, if we had not enacted the 1981 tax cut and the 1982 tax increases, we would be looking at a surplus for 1987 and 1988.

Unless this administration has the temerity, has the courage, has the willingness to address the revenue side of the ledger, we are going to continue to experience unacceptably high budget deficits. The Hatch amendment totally fails to address itself to that part of the problem. Instead, it would attempt to take more out of the mouths of the people of this country, take away from those who do not have able lobbyists, make it difficult for more people to go to college, to feed their families, to provide help for senior citizens, and cut, cut, cut. What kind of an America would we have?

I believe we can reduce the budget deficits by taking a look at the revenue side, by correcting some of the inequities in our tax laws. It is clear, Mr. President, who is benefiting from this administration's tax and spending policies. It is also clear who is not. For 1982, 1983, and 1984, including bracket creep and social security increases, Americans who earned $30,000 or less when the 1981 tax cut bill was passed will pay a greater share of their income in Federal taxes than they did in 1980. For those taxpayers with incomes between $10,000 and $15,000, the tax increases will average 9 percent. For taxpayers earning under $10,000, the increase will be 28 percent.

The President says the people are unfair when they point their finger at him and say that he has been generous to the rich and cruel and inhumane to the poor and middle class Americans.

Let me point out to him that although those earning less than $30,000 a year will be paying a greater share of the tax burden, the fortunate few Americans who earn more than $200,000 a year will receive a $58,000 tax cut through 1984, a $58,000 windfall that comes after adjusting for bracket creep and social security tax increases.

Now, how did all of this come about? In 1978, during the Carter administration, the maximum effective tax on capital gains was 48 percent. In the Carter administration that figure was cut to 28 percent. Today, after the Reagan tax cut, it is down to 20 percent.

I point out to you, Mr. President, that that 20 percent figure is less than the marginal rate paid by a family of four earning just $15,000 a year. If you make your money in the stock market, you pay a lower rate than the marginal rate paid by a family of four earning just $15,000 a year.

But do you know what that change cost as far as revenues to the Government is concerned? That one change alone costs $9.8 billion between 1983 and 1987.

Now, then, I have heard a lot of people say taxes are too high. I know that people always think that taxes are too high, but I have never really heard the dead complaining too much about taxes being too high because their voices have been muted. But in spite of the fact that they were not there to make their case, the Federal estate tax was cut and cut substantially, drastically, in a Draconian manner. The Federal estate tax will be eliminated on all but three-tenths of 1 percent of all estates. That really will help middle Americans. Fat chance.

The Economic Recovery Tax Act of 1981, increased the unified credit from $47,000 for estates of individuals dying in 1981, to $79,300 for estates of individuals dying in 1983. In 1981, the credit enabled estates of up to $175,625 to be transferred tax free.

This year estates of up to $275,000 can escape the estate tax. The credit continues to grow through 1987, when it will exempt all estates valued at less than $600,000. In addition, maximum estate tax rates are to be reduced from 60 percent in 1983 to 55 percent in 1984 and to 50 percent in subsequent years. These provisions alone will cost the Treasury about $15 billion through fiscal year 1986.

Now, who benefits? Working people do not have estates of that size. Middle-income people do not have estates of that size. Very few farmers have estates of that size. Overwhelmingly, the gains go to the wealthiest 3 percent of American families. The President seems to continue to have a concern about them and very little about middle income and poor Americans.

Prior to ERTA, U.S. citizens working abroad were permitted to deduct the excess costs of living abroad. It seemed to be a reasonable kind of approach. But ERTA changed all of that. It repealed the deduction for excess living expenses and replaced it with a provision excluding foreign-earned income up to a statutory limit. In 1982, you could earn $75,000 and pay no tax on it if you worked overseas. That amount increases by $5,000 each year until it reaches $95,000 in 1986.

Now, who benefits? It is not the employees who benefit. The people who really benefit are the corporations, the large multinational corporations who can take into account the fact that you do not have to pay any taxes on those overseas-paid wages when they set their wages.

That provision will cost $2.5 billion between 1982 and 1986.

I am frank to tell you, Mr. President, it will not help any of those unemployed workers in Ohio, or Pennsylvania, or Indiana, or Texas, but it will help those who are making $95,000 overseas.

Today, taxpayers may not claim medical deductions until expenses exceed 5 percent of income instead of the previous 3 percent level. That will cost middle income taxpayers $3.7 billion in 1983, 1984, and 1985. Who will suffer? Those who suffer the most will be the elderly and those afflicted with catastrophic illnesses.

Mr. President, they tell us that tax rates have been cut across the board, that helps everyone. And the President speaks loud and clear about being against new taxes, but the facts are that he is advocating a standby tax of $5 a barrel which amounts to an additional 12 cents a gallon on gasoline over and above the 5 cents a gallon that was added in 1982. Again we find the President and this administration totally concerned about protecting those who are rich, who do not have to worry about their taxes. What does he do? He wants to put 12 cents a gallon on the average working American who drives his or her car to work. What kind of logic is that? What reasonableness can there be? What kind of fairness can there be?

The Reagan tax cut program is not a tax cut at all. It is a tax shift in which middle and lower income working families are paying more and wealthy taxpayers are paying much less.

What about the corporate world? For all practical purposes, large corporations pay next to nothing. The Reagan administration's tax policy virtually wipes out the corporate tax. The 1981 act will reduce the corporate share of Federal revenues from 20 cents of every dollar collected in 1980, exclusive of social security taxes, to 12 cents by 1983. I want to repeat that. The 1981 act will reduce the corporate share of Federal revenues from 20 cents of every dollar collected in 1980 to 12 cents by 1983.

In the first 6 months of this fiscal year, the Treasury has collected $24.9 billion in corporate income taxes, but it has paid out $12.6 billion in refunds. The result is a net collection of $12.3 billion, which is 46 percent less than collected at this time last year. Is it not understandable why we cannot balance the budget?

The Wall Street Journal on April 26, 1983, put their finger right on the problem. "U.S. budget gap grew in March to $26.04 billion," said the Wall Street Journal. "Last month's figure topped year ago's $18.26 billion, February's $25.34 billion." Reading from the Wall Street Journal:

> The Federal Government's budget deficit widened in March to $26.04 billion from $18.26 billion a year earlier, the Treasury said.
>
> The Reagan administration predicts that the deficit for all fiscal 1983 will total a record $210 billion, almost double the previous record deficit of $110 billion last year.

But that is not where the problem is. The reports show that receipts for the first 6 months of the current fiscal year total $276 billion, down from $289 billion in the first half of fiscal 1982.

Now hear this: Almost all the decline was in corporate income tax collections, which totaled $12.29 billion in the first half of the current fiscal year, compared with $22.91 billion a year earlier.

In other words, the reason why the revenues are not there is that the corporate world is paying that much less. In October, November, and February, refunds actually exceeded receipts. The Treasury says that they believe that refunds will reach a record high of $22 billion this year.

Corporate taxes in this administration, under this President's leadership, have gone to the point where we are giving the corporations back more than we are taking from them.

Even members of the President's own party have expressed shock at this prospect, at the prospect that corporations are not paying their fair share of the taxes. Sixteen of the U.S. Senators who came here on the wave of conservatism and new rightism in 1980 wrote to the President of the United States after the 1981 tax bill was passed and said:

> Mr. President, we are gravely concerned that by 1985, as many as half of the corporations may be paying no corporation taxes at all.

That letter was signed not by Democrats but by 16 of those Senators elected in 1980 on the wave of conservatism. Even they were concerned that 50 percent of the corporations in this country will be paying no taxes by 1985.

They were Senators ABDNOR, ANDREWS, DENTON, GORTON, HAWKINS, KASTEN, MURKOWSKI, QUAYLE, SPECTER, D'AMATO, EAST, GRASSLEY, MATTINGLY, NICKLES, RUDMAN, and SYMMS.

What we are talking about today is how we are going to balance the budget. We cannot balance the budget, my good friends on the Republican side, if you are not willing to take a look at the revenue side. You wrote the letter to the President. You told the President that 50 percent of the corporations will not be paying any taxes by 1985. Where are your voices now, when it is time to do something about the problem?

I do not believe it is wrong to provide tax relief for American industry. But to spend billions of dollars in revenue in an unbalanced manner and at a time when this Nation faces ballooning budget deficits, and then not concern yourself about bringing in enough money to balance the budget—that is irresponsible. That is closing your ears and your eyes and just being unwilling to face up to the reality of why we have a budget deficit.

I point out again: If there had been no tax law changes enacted in 1981 and 1982, we would have a surplus in 1986 and 1987.

Let me point out that the corporate tax cuts did not benefit small businesses. About 80 percent of the new depreciation tax cuts will go to the largest 1,700 firms. Oil and gas companies, some of the most profitable corporations in America, will receive an estimated $60 billion in tax savings over the next decade.

When we talk about closing tax loopholes, there are some who say, "We have heard that before." You have heard it before. You will hear it again. And you will continue to hear it until you do something about it.

The new tax laws have exacerbated the problem.

They have opened new and expensive giveaways, loopholes to special interests who know how to work the Halls of Congress. And does the President address himself to this problem? Not one single word.

Do the Hatch amendment and the U.S. Chamber of Commerce address themselves to that problem? Not one single word.

The 1981 act made possible safe-harbor leasing. That was like a program of food stamps for corporations of this country. The provision permitted profitable companies which were unable to use all their newly won tax breaks to sell them to companies that could and millions and millions of dollars were traded between the corporate giants before Congress, prodded by news accounts of abuses in a $30 billion price tag over 5 years, took steps to eliminate or to move toward eliminating that tax bonanza.

But the fact is that those safe-harbor leases are still impacting revenues while they are being phased out and provide another reason that we cannot balance the budget.

Many loopholes remain and it is a rather sad commentary that now we find cities of this country, the colleges of this country, and the nonprofit corporations of this country working out special kinds of sales and leasebacks for what purpose? To take advantage of the Federal tax laws to gut the revenues of the Federal tax system in order that they may pick up that additional revenue. A college wants to sell all of its property or lease all of it and then lease it back so that tax gimmicks may be used. Cities are talking about selling much of their major facilities and leasing them back so that tax gimmicks may be used.

The Navy leases ships so that tax gimmicks may be used. And because they are concerned that the tax gimmicks may not hold up, they even provide a guarantee and indemnification that if the tax gimmick does not work they will not only indemnify the corporation for the loss of that revenue but they will indemnify them for the cost of their legal fees in trying to maintain the tax gimmicks.

The 1981 tax bill repealed about 15 percent of the windfall profit tax at a cost to the Treasury of $33 billion during the 1980's. That money has got to come from somewhere and it comes in the deficits that this Nation is experiencing.

Mr. President, and I now address myself to the President of the United States, when are you going to accept your responsibility to balance the budget as you promised you would do when you were a candidate for the Presidency?

It is one thing to go around the country and say that the Democrats want to increase taxes. But the fact is you are the one who has increased taxes. You have already done that. I do not know of one Democrat, including the one who is speaking at the moment, who wants to increase taxes.

But there is a whale of a difference between increasing taxes and eliminating some of the tax cuts that should not have been put in place in the first instance and should not be put in place in the future.

ITT, Texas Instruments, and other multinationals in that tax bill of 1981 sought and won extra foreign tax credits, something special. And high technology companies got a new 25-percent tax credit for added spending on research and development. It is likely to become the tax shelter promoters' favorite items of the eighties and maybe into the nineties. The list goes on and on and on and on.

At the same time that the administration is proposing and supporting new loopholes, the old ones continue to subsidize special interests.

My good friend from Utah, the U.S. Chamber of Commerce, and President Ronald Reagan, do nothing at all about the loopholes. It does not bother them that some do not pay their fair share of taxes. Any time they look at the tax revenue side they look only at the American people, the consumer, middle-class Americans and poor Americans, but not the corporate world, and not wealthy Americans, and not those who die and leave very substantial estates.

Let me give you some examples of some of those loopholes.

Since 1951 there has been an excess bad-debt deduction that financial institutions have. No other businesses have it. But the financial institutions, those great bankers who were in here lobbying so hard on the withholding provision, they have an artificial figure that they set up for bad-debt reserve. No other business has that right. They set up a bad-debt reserve based upon the probability of how much they are going to lose in bad debts. Bankers get a special kind of consideration.

Banks and other financial institutions, as a consequence, are permitted to compute and deduct amounts far in excess of their actual experience. What does that cost the Federal Treasury? Well, not much. That single item only cost $4.2 billion through fiscal year 1988. Yet the administration's 1981 tax bill extended that loophole and last year the Finance Committee reported a tax bill to the Senate floor which would have expanded it further.

I am happy to report in that respect that some of us objected and the Finance Committee position did not prevail.

In 1943, the timber interests in this country proved not that they were such great growers of timber, which I assume that they were and I have respect for their ability in that regard, but they proved that they were something far better—they were great lobbyists; they knew how to get special provisions in the tax laws of the United States.

They came to Washington and left with a special tax provision that treats income from the sale of timber as a capital gain. That means that instead of paying a tax rate as high as 46 percent, they need pay only on the basis of capital gains.

Frankly, the farmers of my State when they grow corn, or wheat, or soybeans, or those farmers who grow cotton or tobacco, or those who grow any kinds of products, tomatoes, or cabbage, or whatever, they all pay taxes at normal rates. But those who grow timber, which is planted in the same manner as other crops, are allowed to treat their profits as a capital gain. This special interest provision will cost the Treasury $3.1 billion through fiscal year 1988.

Every other taxpayer may deduct the cost of acquiring or improving an asset over its useful life. But the oil companies had their lobbyists here, and back in 1961 they successfully were able to put into the law a special provision for oil and gas companies and, as a consequence, they have been able to write off immediately the cost of acquiring or improving an asset.

In other words, they can write it off in the first year. No other business can do that. And the expenses that are permitted this special tax treatment include excavating, grading, land clearing expenses, and the nonsalvageable cost of constructing derricks, tanks, pipelines, and other structures. We are talking about a whale of a lot of money. But the Hatch amendment would not address itself to that. Oh, no, we must not step on the toes of the oil and gas companies, and the President of the United States does not address himself to that kind of a loophole. Oh, no. Oh, no. But the facts are that we could save $19.3 billion through fiscal year 1988 if the President would only provide the leadership and Senator HATCH would include it in his amendment.

Replacing the percentage depletion allowance for oil and gas with cost depreciation, changing the depreciation period for oil refinery property from 5 to 10 years, which is certainly reasonable, and eliminating the intangible drilling cost deductions, if we had the guts to stand up to the oil companies and their political action committees, we could pick up $32.2 billion over the next 5 years. But do we do it? Do we talk about it? Do we make any effort to do it? Oh, no, that crowd is sacred, that crowd is protected, and the President is not going to step on their toes even if it would mean helping to balance the budget.

We have heard what the President's advisers think about tax reform—may I have order in the Senate, Mr. President?

The PRESIDING OFFICER. Yes; the Senate will be in order.

Mr. METZENBAUM. Ed Meese says the progressive tax system is immoral. And on Thanksgiving Day the press reported that the administration was considering a new tax. What is that new tax? Fully taxing unemployment benefits. Secretary Regan has said that perhaps the consumer interest deduction should be curbed or eliminated. I tell you that this crowd in the White House is not to be believed. The President himself came up with a great idea——

The PRESIDING OFFICER. The Senate will be in order. The Senator from Ohio is entitled to be heard.

Mr. METZENBAUM. I do not want any of you to miss the great idea that the President had because none of you have even gone this far, but maybe you will think it is such a great idea that you will come up with a proposal to go even beyond what the Economic Recovery Tax Act of 1981 did. Do not forget it was the President of the United States who recently said that the corporate income tax should be repealed. That is a quote, "the corporate income tax should be repealed." "The income tax should not be progressive," Mr. Meese.

What tax changes does the President request in his budget? Taxation of employer-provided health insurance premiums. There is a good one. That shows how fair the President wants to be. Or $5 a barrel oil excise taxes. That is a great one. That will not step on the toes of his friends. A 5-percent income tax surcharge. If you already are not paying any tax, a 5-percent income tax surcharge does not affect you at all. A total of $150 billion over 5 years of unfair new taxes.

The interesting thing is that the President's budget even with these new taxes, these consumer, middle-income taxes, would add $833 billion to the national debt. The committee resolution calls for $270 billion in additional revenue over the next 5 years. Even with that amount of additional revenue, the next 5 years will add $702 billion to the national debt. The theme is a familiar one: Stay the course with a program that does not and cannot work for the vast majority of Americans.

I say to my colleagues across the aisle until such time as you are prepared to look at the root of the problem as to why there is a budget deficit, until you are prepared to look at the fact that taxes have been slashed to such an extent that you cannot possibly balance the budget, the Hatch amendment will not solve the problem, and we will continue to have deficits that exceed anything in any person's imagination prior to this administration taking office.

Do not forget this President ran for office and promised us we would have a balanced budget when he took office. We will, in his 4 years of office, have deficits greater than we accumulated in the entire history of the United States. And there is one root cause. Contrary to what the President says, there is one root cause. He may have told us in his state of the Union message "Nor is the deficit," said he, "as some would have it, rooted in tax cuts." I say to you that it is unequivocally rooted in tax cuts, and it is also rooted in the fact that this President's programs have brought on a deep recession for the people of this Nation.

Sure, the market went up, but unemployment did not come down. Gross national product did not go up, but bankruptcies did. And all of these can be laid on the doorstep of this administration's economic leadership.

The President can make 10 more speeches on the national television, but when all is said and done the people in my State who are unemployed want to know how they get a job back. They get a job back by bringing down interest rates and making it possible for small businesses to expand and hire more people, and you cannot bring down interest rates unless you balance the budget and you cannot balance the budget until you are prepared to take a hard look at the revenue side of the budget. You cannot just do it by trying to cut and cut and cut more.

(Mr. HATCH addressed the Chair.)

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I listened to the remarks of the distinguished Senator from Ohio and I have to admit that if taxes are so important, then let us look at the real tax on the economy. I might add the level of Federal spending, because that is what real taxes really are. The Senate Budget Committee recommends in 1984, $849 billion in spending; in 1985, $909 billion; and 1986, $904 billion. We are now spending around 25 percent of the gross national product and that is what I call a tax. We used to spend something like 20 to 22 percent and that was supposed to be high. If we keep going the way we are going, it will be almost 26 percent in fiscal year 1984 and probably 1985. I might add, if we do not reduce that spending burden, we are never going to be able to reduce the deficits. We will have such sluggish growth, it will be awful.

I have heard the distinguished Senator continue to talk about the chamber of commerce budget. Well, I admit the chamber of commerce is one of many organizations that supports this budget but it is only one. The National Association of Manufacturers supports it, the National Tax Limitation Committee, the National Taxpayers Legal Fund, the National Taxpayers Union, the National Association of Wholesale Distributors, Coalition for America, the American Business Conference, the National Lumber Materials Dealers Association, Independent Bakers Association—I can go on and on. In fact, if we had the time to get to most of the organizations in this country, I think most of them would support it because most of them want this country to survive. Unfortunately, we are spending this country right into bankruptcy.

Mr. JOHNSTON. Will the Senator yield?

Mr. HATCH. I would be happy to yield to my colleague.

Mr. JOHNSTON. I have a couple of questions to ask my distinguished colleague. I had gotten his previous version——

Mr. HATCH. Will the Senator withhold because I have only a few minutes, and what I would like to do is, let me just finish, and then I would like to yield to the distinguished Senator from Idaho and then I will be happy to answer questions afterward and we will probably have to ask for time from the floor. Let me just finish this: I think raising taxes, I made the point before that the distinguished Senator from Ohio does not like to raise taxes either but we have raised $285 billion, and I have to admit both sides have done it. I might add I think raising taxes is a worthless method of trying to bring down the deficit. The whole point of the deficits—in 1981 insuring fair play—was increasing the pressure to control Federal spending. They amassed an amount of spending programs we have had in existence. If the third year tax cut would have been taken away, all that pressure to cut spending would be removed. Raising taxes, it seems to me, makes spending easier. Higher taxes have failed to balance the budget. I made the point it failed in the past, and I do not see any reason why we would think it would help us in the future. Between fiscal 1977 and 1982, in that 5-year period, total taxes increased nearly $262 billion. In the last 8 months, they have increased $284 billion but in that same 5-year period, 1977 to 1982, total spending increased more than $328 billion and the Government ran deficits of $350 billion.

It does not take any brains to realize that this spending practice here is running out of control and the American people are the losers. Yet that is all I hear from the Budget Committees of both the House and the Senate.

For those who believe that the deficits are a problem, let me assure them that Federal spending is, not tax cuts. Federal spending is the cause of the burgeoning deficits. When Federal spending is increased as a percentage of the GNP, the deficit is also increased as a percentage of GNP. Yet at the same time, the burden of taxation has not declined. It has remained stable or even increased a bit as a percentage of the gross national product.

Consider the volume. Between 1965 and 1969, Federal spending was 19.7 percent of GNP, and the deficit was 0.2 percent. In that period, the burden of taxation was 18.8 percent of GNP. From 1975 to 1979, Federal spending grew to equal 22 percent from the 18.7 percent of GNP. The deficit ballooned from 0.2 percent to 3.1 percent of GNP. Even so, the tax burden on the American people was not reduced. It remained steady at 19 percent of GNP. Between 1980 and 1982, Federal spending rose to 3.3 percent of GNP from 3.1 percent. The American taxpayer did not have this burden lessened again. Instead, the tax burden grew to 20.5 percent of GNP. Really, all that is left of the tax cuts in 1983 will only return the tax burden on the American people to its historic rate of about 19 percent of GNP. Yet Federal spending and deficits as a percentage of GNP will rise, Federal spending to about 25 percent and the deficit from 3.3 percent to almost 7 percent of the gross national product.

I would have to say tax cuts are not the culprit. Tax increases are not the solution to deficits. Cutting wasteful Federal spending is the solution.

That is what we are trying to do here and we are trying to do it in a reasonable way by having what we call a modified spending freeze balanced budget with no tax increases. The three goals we are trying to achieve are these:

No. 1, we do not want to have major tax increases. We think the American people are tax-burdened to death.

No. 2, we want to have reasonable military figures so that the national security interests of this country are protected.

No. 3, we want to restrain the growth of Federal spending.

Even under our approach, the growth of Federal spending goes up in every category, in fact, and where we set aggregates, it is up to the Congress of the United States to live within those aggregates and they can adjust those aggregates any way they want to. It is a reasonable approach. It is one that can get this country to a balanced budget in 1989. It is not easy for any of us but at least some of us have the guts to put it out here and quit demagoging about the issue.

I think it is just the plain time that we face the responsibilities that we have as Members of Congress.

I yield to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. I thank the distinguished Senator for yielding. I would say to my distinguished colleagues, I appreciate the work that he and countless other Americans did in trying to bring this budget resolution before this body. This may not be a perfect budget, which the learned Senator from Utah and the distinguished Congressman from Texas, PHIL GRAMM, worked out with the support of vast numbers of people in the private sector. It may not be a perfect budget. There may be things about it that many of us will find we have some difficulties with. For example, the revenue numbers are only numbers, and the Finance Committee will have to decide where to raise the taxes specifically. I do not necessarily accept the assumption that they would all be user's fees. They might, but they might not. But the Hatch-Gramm spending freeze-balanced budget which I think we can be proud to be following, and points us toward balancing the budget by 1987 or 1988 or 1989.

The Senator had a chart showing the Hatch-Gramm proposal would be a bicentennial balanced budget. That is using the CBO high growth assumption. By 1989, the outlays and revenues lines converge, and we would have a balanced budget.

I think it does at least start us in the right direction.

I sat here in the Chamber and listened to my friend from Ohio make a great many statements. I know that he is a successful businessman, so I know that he also knows that business collects taxes and pays them to Government. People are paying all the taxes, whether you have businesses out there that are producing potatoes, or businesses that are producing automobiles, or businesses that are running parking lots, whatever. The price of the product or the service that the business provides has to reflect what the cost of doing business is. So in many instances, businesses collect taxes and people always end up paying them.

I know my good friend from Ohio knows that, no matter what he may say about certain kinds of tax breaks that go to this business or that business, or what he says about oil and gas PAC's.

I read an article the other day in the paper which said that the price of oil has been reduced greatly and, in fact, much of the political action committee money does not really go to the Republicans, despite what my friend and colleague from Ohio suggested.

I think that we did do some very good things in the 1981 Economic Recovery Tax Act. I think that those things that were done with respect to the estate taxes and other things are matters that this body can be very proud of.

I know that my friend from Ohio also knows that it is small business which provides most of the jobs for most of the Americans, that most working people are actually employed by small business. It is small business that will enjoy most of the benefits of the estate and gift tax changes that were put into the 1981 Recovery Act. That will be very helpful to employment and helpful to the future growth of the country.

I want to support with a great deal of enthusiasm the amendment offered by my good friend from the State of Utah, Senator HATCH.

Mr. President, I would like to say that it has always been interesting to me, in the deliberations and debate on the budget, that every time the subject comes up with respect to balancing the budget, there are two subjects during the debate about which we hear a great hue and cry. One subject is defense spending. Then my good friend from Ohio and others make a big thing about balancing the budget.

The other subject is raising taxes.

But if one looks at the history of revenues, historical data, I would only point out that we can read off what the actual revenues have been. This comes from some of our Budget Committee material. The total revenues of the Federal Government from fiscal year 1976 are as follows: Fiscal year 1976, $298.1 billion; fiscal year 1977, $355.6 billion; fiscal year 1978, $399.6 billion; fiscal year 1979, $463.3 billion; fiscal year 1980, $517.1 billion; fiscal year 1981, $599.3 billion; fiscal year 1982, $617.8 billion. It is projected to be $606.3 billion in fiscal year 1983, but that year is not over yet so we do not know how that will be. It is projected in fiscal year 1984 to be $653.9 billion; in fiscal year 1985, $717.8 billion; fiscal year 1986, $773.5 billion; in fiscal year 1987, $827.1 billion; and in fiscal year 1988, $882.4 billion.

I think if you got outside of this area called Washington, D.C., and went to any other place in the United States, Mr. President, you would find that the people out in the country would say it appears to them that all through the historical trendline the revenues to the Federal Treasury have been increasing consistently year after year after year. So revenues have continued to go up steadily, despite the tax cuts of 1981. Those tax cuts are not the cause of the deficits. On the contrary, they are the cause of the economic recovery which is pulling in increased revenues.

With the passage of some of the Reagan tax proposals, I think the percentages of the gross national product in total taxation to the Federal Government have been somewhat reduced so we may be sliding back in the direction of 19 percent or slightly less—18.7 percent, I believe is the percentage of the GNP which will actually be taken by the Federal revenue raisers for revenue to the Federal Treasury. The problem is that the spending side of the equation has outstripped the revenue side.

I think that that is the point that should be made. Mr. President, many economists will say we can either borrow this money the Federal Government spends, we can print the money the Federal Government spends, or we can raise taxes for the money that the Federal Government spends. I think despite all of the eloquence that was just displayed by our friend from Ohio, where the premise he is talking from misses the point is that Federal spending is continuing to go up as a percentage of the GNP and the Federal revenues have also been going up, but the Federal spending has been outstripping it. Spending is going up at a faster rate than revenues.

I think that the Economic Recovery Act really has little to do with the large deficit numbers. All one has to do is examine where the dollars are going with respect to the budget and one will find that the big dollar expenditures in the Federal budget are going out in the nondefense spending areas. More specifically, the big dollar outlays have been going in the people programs.

I also would like to make another point that the Senator from Ohio was talking about. He would leave the impression in this Chamber that somehow the Republicans are only concerned about the rich and the Democrats are concerned about the common man. If the third year of the tax cut is repealed, I just want to point this out—I hope my good friend from Ohio is on the floor to hear this because I know he would not want to leave the mistaken impression he leaves. That is that, somehow, President Ronald Reagan's 25-percent across-the-board tax cut to all working Americans only benefits the rich and does nothing for the middle class, the working people of the country, or those who are economically disadvantaged. I know the Senator from Ohio would not like to leave that impression here with his colleagues, because it is not true. The Reagan tax cuts help those with the lowest incomes more than they help those with the highest incomes.

To set the record straight, it is true that in the 1981 Economic Recovery Tax Act, the overall tax burden was lowered, the top level of the tax, from 70 to 50 percent. That is something that this Senator, as a Republican, did support. But I might mention the fact that if we go back and examine the legislative record, we will find that the lowering of the taxes from 70 to 50 percent was actually a Democratic amendment. It was first suggested by the House Ways and Means Committee and became part of ERTA through the efforts of the Democrats on the committee with the support of some Republicans.

I happen to think it was the right thing to do for the country. I think it has increased savings and enhanced potential for economic growth.

Let us go back and look at a proposal such as the Senator from Ohio is talking about and supportive of, where we would actually do away with the third year of the tax cut. What would happen is that the change in the tax liability due to repealing the third year of the tax cut, for these people who earn less than $10,000 a year, it would raise their taxes 13.9 percent. For the person earning from $10,000 to $15,000 a year, it would raise their taxes 10.8 percent; for those earning $15,000 to $20,000 a year, it would raise theirs 11.3 percent. Coming up to the person earning from $50,000 to $100,000, it would increase theirs by 11.4 percent; for those earning $200,000 and over it would only raise their taxes 2.7 percent. So in sum, the attached table indicates that the effects of repealing the third year tax cut will increase taxes greatly for low-income people.

So let us understand that the third year of the tax cut, that President Reagan is supportive of and has said that he would veto any effort to change that by Congress. And there are 36 Senators, of which this Senator is one, who signed a letter to the President saying they would be supportive of his veto of any repeal of the third year tax cut. That 10 percent largely goes to the working people of this country. This is where they will first feel the benefits and will first enjoy at least keeping their heads above water with respect to the reduction that was intended earlier on.

REAGAN TAX CUTS ONLY UNMASK FEDERAL SPENDING GROWTH

All the Reagan tax cuts did was attempt to restrain the growth in the tax rate and the tax burden on the American citizen. These cuts only reduced the burden of taxes on the economy from its historic high of 20.1 percent of GNP at the end of the Carter administration and returned it to its traditional level of approximately 18.5 percent by fiscal year 1983.

In 1980, total Federal spending equaled 23 percent of GNP. Even with the Reagan administration's attempts to restrain it, Federal spending is estimated to climb to a whopping 25.7 percent of GNP by the end of 1983.

Thus, all the Reagan across-the-board tax cuts, restoring the tax rate to its historic lower level, did was to unmask, and attempt to constrain, the accelerating growth in Federal spending.

I agree with this policy. Unless we prevent continued growth in revenues, we will never constrain the Federal spending, which is the real cause of our deficits.

PROGRESSIVE EFFECTS OF ECONOMIC RECOVERY TAX ACT

The Economic Tax Act of 1981 shifted the burden that the various income groups bear in a progressive direction. The lower income groups will bear a slightly smaller proportion of the total personal income tax burden in the country, and the highest income groups will bear a slightly higher burden.

For example, before Economic Recovery Tax Act of 1981 those earning less than $10,000 paid 2.2 percent of all taxes. Under the 1981 Tax Act they received 2.6 percent of the tax cut. Since this was a slightly larger share of the tax cut than their share of the total burden, their share of the total tax burden went down as a result of the act. The highest income group, those earning $200,000 and above, paid 6.7 percent of all taxes before ERTA. Since they received only 5.4 percent of the tax cut, they will as a consequence, bear a larger share of the total personal income tax burden than before.

Not only have the burdens for the various income groups shifted, but, in addition, there is a likelihood that the effect of lowering the maximum tax from 70 to 50 percent will lead to some desheltering activity by higher income groups; that is, to some leaving of tax shelters. This will render more of higher groups' income liable to taxes.

The Senator from Ohio also made many outlandish statements with respect to trying to lay the entire blame for the economic problems of the country at the doorstep of President Reagan. I think the good Senator from Ohio, as a successful businessman, knows there is plenty of blame to go around for everyone who has been in Congress and past administrations for the economic problems of this country. I think the problem very succinctly could be stated that the Federal Government spends too much money. That is why I would support the Hatch budget. It does not make all the cuts in the places I would like to make them; there are some places I would like to make some adjustments; but at least it points us in the direction I would be proud to follow.

Mr. President, growing budget deficits and repeated threats to raise taxes will jeopardize the economic recovery and reverse our progress on inflation and interest rates. While the Nation and the Congress are divided over possible ways to deal with the deficit, there is considerable support in the country for an overall spending freeze.

The spending freeze-balanced budget plan demonstrates clearly that a modified spending freeze could serve as a basis for resolving our fiscal year 1984 budget crisis and for moving the Federal Government to a balanced budget under Congressional Budget Office (CBO) high-growth projections by the end of the decade. With a modified spending freeze and with the preservation of the third year of the individual income tax cut and indexing, the budget can be balanced in fiscal year 1989, the target year for the implementation of the balanced budget amendment to the Constitution and the 200th anniversary of the founding of the Republic—an ideal bicentennial gift for all Americans.

The spending freeze-balanced budget plan calls for a basic freeze in the dollar level of spending for nondefense discretionary programs. Real outlays for entitlements, other than social security, farm price supports, and unemployment compensation are frozen at fiscal year 1983 levels, limiting the growth in entitlement spending to the inflation rate. Pay for nonmilitary Federal employees is frozen at 1983 levels as are target and loan prices under the farm program. The freeze is applied for 3 years with constrained growth thereafter.

Defense spending authority is frozen at the levels specified in the fiscal year 1983 budget outyears, which provides for real growth in defense of 7.5 percent in fiscal year 1984, 7 percent fiscal year 1985, and 6 percent in fiscal year 1986. The savings accruing from the spending freeze and limitations on defense growth are supplemented by the deficit reductions achieved in the enacted social security package, in the President's proposals to increase offsetting receipts and treat excessive health insurance coverage as ordinary income, and by the savings to be achieved from partial implementation of previously proposed user fees.

Beginning with the spending freeze concept and real and nominal constraints on spending growth in the outyears, the deficit can be reduced sharply in fiscal year 1984 and, under the CBO high-growth path, balanced in fiscal year 1989.

The spending freeze-balanced budget plan preserves the third year of the individual income tax cut and indexing. It sets into place a long-term deficit reduction program by freezing spending in the short term and constraining spending growth over the remainder of the decade. Within the constraints imposed by limits on the growth in Federal spending, Congress can allocate funds to balance spending priorities within the overall binding budget. The deficit reductions achieved in the spending freeze-balanced budget plan will continue to exert downward pressure on interest rates, assuring a strong economic recovery and enhancing private job creation.

Mr. President, I see the distinguished majority leader is on the floor. I ask unanimous consent to print in the RECORD certain data with regard to figures I used in my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HISTORICAL DATA

[By fiscal years, in billions of dollars]

Source	Actual						
	1976	1977	1978	1979	1980	1981	1982
Individual income taxes	131.6	157.6	181.0	217.8	244.1	285.9	297.7
Corporation income taxes	41.4	54.9	60.0	65.7	64.6	61.1	49.2
Social insurance taxes and contributions	90.8	106.5	121.0	138.9	157.8	182.7	201.5
Excise taxes							
Windfall profit tax					6.0	23.3	18.9
Other	17.0	17.5	18.4	18.7	18.3	17.5	17.4
Estate and gift taxes	5.2	7.3	5.3	5.4	6.4	6.8	8.0
Custom duties	4.1	5.7	6.6	7.4	7.2	8.1	8.9
Miscellaneous receipts	8.0	6.5	7.4	9.3	12.7	13.8	16.2
Total revenues	298.1	355.6	399.6	463.3	517.1	599.3	617.8
Nominal growth (percent)	7	19	12	16	12	16	3
Real growth (percent)	6	12	5	7	3	6	4

PROJECTIONS

[By fiscal years, in billions of dollars]

Source	Baseline					
	1983	1984	1985	1986	1987	1988
Individual income taxes	285.8	295.2	320.8	345.4	371.6	400.0
Corporation income taxes	40.3	55.8	65.7	74.0	83.1	87.7
Social insurance taxes and contributions	212.1	232.1	260.8	288.6	308.3	330.2
Excise taxes						
Windfall profit tax	14.4	13.5	12.2	10.3	9.5	9.0
Other	21.4	28.4	29.6	26.3	26.2	27.1
Estate and gift taxes	6.1	5.9	5.6	5.0	4.6	4.3
Custom duties	9.2	9.6	10.0	10.3	10.6	10.8
Miscellaneous receipts	14.9	13.4	11.6	13.5	13.2	13.3
Total revenues	606.3	653.9	717.8	773.5	827.1	882.4
Nominal growth (percent)	2	8	10	8	7	7
Real growth (percent)	6	3	5	3	3	3

TABLE 3.—THE EFFECT OF REPEALING THE 3D-YR TAX CUT DISTRIBUTED BY ADJUSTED GROSS INCOME CLASS

[1981 levels, 1984 law]

Adjusted gross income class (thousands)	Tax liability under 1984 law (millions)	Change in tax liability due to repealing the 3d-yr tax cut: Amount (millions)	Change in tax liability due to repealing the 3d-yr tax cut: Percent
Less than $10	$4,518	$628	13.9
$10 to $15	12,742	1,372	10.8
$15 to $20	17,780	2,018	11.3
$20 to $30	45,579	5,489	12.0
$30 to $50	65,901	7,618	11.6
$50 to $100	39,018	4,466	11.4
$100 to $200	18,899	1,706	9.0
$200 and over	15,619	420	2.7
Total	220,057	23,717	10.8

Note.—Details may not add to totals due to rounding.

Source: Office of the Secretary of the Treasury, Office of Tax Analysis, Apr 29, 1983.

ORDER OF PROCEDURE ON BUDGET RESOLUTION

The PRESIDING OFFICER (Mr. EAST). The majority leader.

Mr. BAKER. Mr. President, will the distinguished manager of the bill yield to me?

Mr. DOMENICI. I am happy to yield.

Mr. BAKER. I thank the Senator.

Mr. President, I see the minority leader is on the floor and I thought it might be well at this time to have a colloquy with him on the plans of the Senate for tonight, tomorrow, the rest of the week, and perhaps next week. I think I know the answers to the questions I am going to put because, as usual, he and I have met privately off the floor.

I indicated earlier through our cloakroom hot-line facilities that, at approximately 4 p.m., I would propound a unanimous-consent request to establish a time certain for passage of the budget resolution. I did not do that. It became clear in the course of our negotiations that that request would not be granted at this time. I inquire of the minority leader, if I may at this point, if I am correct in assuming that he would be obligated to object on behalf of other Senators if such a request were put to him.

Mr. BYRD. Mr. President, I would be constrained to object on behalf of other Senators. As to the time for a vote at Wednesday noon, I ran into one problem. A Senator who is very much involved in this, in several of the amendments, will not be here. I cannot agree to that. He would be receptive to an agreement that would put a final vote late on Tuesday.

On the other hand, there are those who are a little concerned at this stage that if we set a final time for a vote, they will not have an opportunity to call up their amendments. So I think at this particular stage, we shall not be able to make an agreement.

However, I think that if the majority leader and I continue to watch the situation, see how things go, and consult with our managers and Senators on both sides, it may be that as time moves forward, there will be some votes on amendments that will indicate that there would be time for amendments to be called up and disposed of in a proper manner.

I encourage the majority leader to keep trying. I do not know if we can do anything about it today. I shall do likewise. I have not talked to my own manager on this side of the aisle.

But I believe at this point I could not encourage the majority leader that a request would be granted today.

Mr. BAKER. Mr. President, I thank the minority leader, and I understand that. I understand the difficulty of arranging schedules to meet not only the maximum convenience but the convenience of every Senator. And that, of course, is implicit in any unanimous-consent agreement of this sort. I, too, hope that later we can get such an agreement. I think, for my part, we probably could clear Tuesday night instead of Wednesday noon, but I understand the minority leader to say that might not be agreeable on the basis of concern that Members might not have time to offer their amendments.

I regret to say what I am about to say, and the minority leader will understand that I do not say it in any way acrimoniously or even in direct response to anything he said, but I have no other choice except to say that, absent an agreement, I do not think we can do anything except plow ahead. I know the minority leader has been in the same position when he occupied this chair and that he perhaps more than anybody else except me understands how it is difficult sometimes to arrange unanimous-consent agreements and how it is necessary sometimes to discommode the Senate Members, their families, and schedules and plans that are already laid and made, but that has to happen.

If we could agree to a time certain on final passage, it had been our hope that we could go out at normal hours this week, maybe even not be in on Friday, certainly not on Saturday, and get final passage Tuesday night or Wednesday. That would protect Members I think on debate and protect me on the matter of seeing that the Senate addressed the issue in a timely way. But absent that, I really have no choice except to say what I am about to say now, and that is that I expect we will be in tonight until about 7. We will be in much later tomorrow night and Thursday night. We will be in session on Friday. There will be votes on Friday. We will reserve judgment on how well we do before we make an announcement on Saturday, but Members should assume that there will be a session on Saturday.

Even so, it will take us up into next week to consume the 50 hours, judging by our past experience, because last year, if my memory serves me, it took us 2 weeks to use 40 hours. The minority leader and I last year had agreed to reduce that time from 50 hours to 40 hours, so even on that basis it is going to take a long time to use up the time that we have.

Once again, I do not say that in any way as a threatening gesture but simply as a statement of what I conceive my responsibility is to manage the affairs of the Senate. So, once again, I hope that when we finish debate on the Hatch amendment—I believe the managers and opponents want to vote on that tomorrow instead of tonight and that is all right with me—if there is no objection, we can temporarily lay aside the Hatch amendment and set a time under the circumstances to vote on that tomorrow and go to some other amendment. The managers themselves, of course, will determine that.

I understand there is a Specter amendment that may be available, also that there is a requirement, I believe, that a Baucus amendment would be either pending when we first return tomorrow or make pending tonight with debate and a vote to occur tomorrow. That is fine with me, too. But after we finish the debate on the Hatch amendment, I would like to see us, if consent is given, temporarily lay aside that amendment, set a time for, say, 15 minutes of debate tomorrow and then a vote but then tonight yet go to the Specter amendment.

Once again, if we want to set the vote on the Specter amendment tomorrow, that is all right with me. That is up to the managers. But we ought to have full debate and finish it tonight? Then we can try to arrange an orderly sequence of amendments tomorrow that would carry us to perhaps 10 or 11 a.m.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Tomorrow, I would hope, Mr. President—and this is in no way a request but it is an expression of preference—that the two managers could arrange a list of amendments alternating between Republicans and Democrats so that there would be ample opportunity for everyone to have their turn at bat and to calculate how many it would require to take up the time between approximately 10:30 a.m., when we shall be back on the resolution, until about 9:30 or 10 tomorrow night.

Mr. DOMENICI. Will the distinguished leader yield?

Mr. BAKER Yes; I yield.

Mr. DOMENICI. I do not know what my good friend Senator CHILES has discovered on his side, but to this point I am not aware of a lot of amendments on our side that people are asking us to put into some sequence. I hope they are listening and that they will present those to me, because I need that if I am going to comply with any kind of list.

I should also like to ask if the distinguished junior Senator from Pennsylvania would be ready, assuming we could agree here, to lay down and debate his amendment tonight? We would eventually put off the vote until tomorrow and either agree to a time certain or stack it in some way.

Mr. SPECTER. I am prepared to proceed.

Mr. DOMENICI. I thank the distinguished Senator.

Will the Senator from Florida enlighten us on his end?

Mr. CHILES. Mr. President, I think on this side we have had people mention amendments, 8 to 10 amendments. If the process works the way it usually does, it will grow.

Mr. BAKER. It almost always does.

Mr. CHILES. But as of now, I probably have heard of about 8 or 10 amendments.

Mr. DOMENICI. At this point, we are aware of no more than four. I agree with my friend from Florida that that could certainly turn into many more before we are finished. But I wonder, while the majority and minority leaders, the minority manager of the bill and Senator HATCH are here, if we might attempt a unanimous-consent agreement with reference to the rest of the evening and the sequencing of amendments and votes in the morning.

Mr. BAKER. Yes. Mr. President, I am agreeable to that if the minority leader is prepared to consider it.

Mr. BYRD. Yes.

Mr. President, while the colloquy was going on, Mr. JOHNSTON indicated that he would like to call up an amendment fairly early in the sequence. I do not think the amendment he——

Mr. CHILES. Senator HOLLINGS has suggested he would like to call up his amendment early tomorrow. It is a freeze amendment.

Mr. BYRD. I do not believe that the amendment that Mr. JOHNSTON is talking about is—I think the Senator has two amendments, does he not?

Mr. JOHNSTON. Mr. President, I have one.

Mr. BYRD. The Senator has one.

Mr. DOMENICI. Might I say to the distinguished minority leader——

Mr. BYRD. Mr. President, I think such a sequence can be arranged at least for tonight and part of tomorrow.

Mr. BAKER. Good.

Mr. BYRD. I certainly do not fault the majority leader for taking the position that we might have to run late on some days. He is doing what he has a responsibility to do. He does not cherish these actions that he has to take any more than anyone else does. So we will continue to work on our side, and we will try to be helpful in working out a sequence.

UNANIMOUS-CONSENT REQUEST

Mr. BAKER. Perhaps I could put a unanimous-consent request now to try to arrange the rest of this day and the beginning of tomorrow. Let me try it. I have not yet discussed this either with the managers or the minority leader, so let me state it carefully.

Mr. President, I ask unanimous consent that when debate is completed this evening on the Hatch amendment, it be temporarily laid aside; that the Senate then proceed to the consideration of an amendment by the distinguished junior Senator from Pennsylvania.

I ask unanimous consent that after the time for debate has expired on the Specter amendment, the vote on that amendment be postponed until 15 minutes after the Senate resumes consideration of the pending resolution on tomorrow. After the disposition of the Specter amendment on tomorrow, I ask unanimous consent that the Senate resume consideration of the Hatch amendment; that there be a time limitation of 15 minutes equally divided providing the assurance of a vote on the Hatch amendment.

Mr. CHILES. That is too short.

Mr. BAKER. Is that too short?

Mr. CHILES. Yes.

Mr. BAKER. What does the Senator want?

Mr. DOMENICI. Thirty minutes.

Mr. CHILES. Thirty minutes.

Mr. BAKER. Thirty minutes, fifteen minutes on a side.

Mr. BYRD. I think the manager on this side is talking about an hour divided.

Mr. CHILES. I think we need 30 minutes on a side.

Mr. BAKER. All right, Mr. President, an hour, 30 minutes each on a side, on the Hatch amendment.

Mr. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. BYRD. Mr. BAUCUS has an amendment he would like to call up at a rather early moment tomorrow, and Mr. JOHNSTON would like to have the next amendment on our side, and Mr. HOLLINGS would be the next one on our side.

Mr. BAKER. Is the Baucus amendment to be next after the Hatch amendment? Do I correctly understand that to be the preference?

Mr. DOMENICI. That was our understanding.

Mr. BYRD. Mr. BAUCUS had wanted to call up his amendment tonight.

Mr. BAKER. We can do that.

Mr. President, I ask unanimous consent that after disposition of the Hatch amendment tomorrow, the Senate then proceed to the amendment of the Senator from Montana (Mr. BAUCUS). That would complete the sequencing. How we interchange them would be a question the managers can examine tomorrow before we proceed further.

Mr. DOMENICI. I think we could go to the Johnston amendment, in terms of fairness. I just wonder what the Johnston amendment is, generally speaking.

Mr. JOHNSTON. I say to my colleague that the Johnston-Nunn-Exon-Boren-Proxmire amendment will be a substitute which will get us to a balanced budget by 1988.

Mr. DOMENICI. I have no objection to proceeding next—if Senator CHILES has no objection—to the Johnston amendment, and then we will have four sequenced.

Mr. BAKER. Mr. President, I have a request that after the disposition of the Baucus amendment, the Senate proceed next to an amendment by the distinguished junior Senator from Louisiana (Mr. JOHNSTON), as described.

Further, I ask unanimous consent that all the provisions of the Budget Act regarding floor consideration of amendments shall remain in full force and effect with respect to amendments so specified.

Mr. BYRD. Will the majority leader say that again?

Mr. BAKER. That all provisions of the Budget Act regarding floor consideration of amendments shall remain in full force and effect. Perhaps the minority leader would want to think about that.

The PRESIDING OFFICER. That preserves the germaneness requirement.

Mr. BAKER. Mr. President, to review the request so far, it is that at the conclusion of debate tomorrow on the Hatch amendment, it be temporarily laid aside; that the Senate then proceed to the consideration of the Specter amendment; that at the conclusion of the time for debate on the Specter amendment, the vote on that amendment will be postponed until tomorrow.

Mr. SPECTER. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. SPECTER. In light of postponing the vote to tomorrow, will the majority leader include a brief time for debate tomorrow morning—15 minutes equally divided?

Mr. BAKER. After the Senate convenes tomorrow at 10 a.m., which has been ordered, I ask unanimous consent, as well, that the Senate proceed to the consideration of the budget resolution at 10:30 a.m. tomorrow; that the Senate then resume consideration of the Hatch amendment, on which there will be 1 hour of further debate, to be equally divided; that after the disposition of the Hatch amendment, the Senate resume consideration of the Specter amendment, at which time there will be 15 minutes of debate equally divided; that after the disposition of the Specter amendment, the Senate proceed to the Baucus amendment; that after the disposition of the Baucus amendment, the Senate proceed next to the consideration of the Johnston amendment, and that the request in respect to the provisions of the Budget Act regarding floor consideration of amendments is to remain in effect, as reiterated.

Mr. BYRD. Mr. President, I ask the majority leader to leave out that part until I have studied it a little more.

Mr. BAKER. Mr. President, let me not put the request. I do not want to specify the amendments until we can do that.

I wonder if the Senator would like to put in a quorum call so that we have a chance to think about that. I do not want to put the request until we have that part of it.

Mr. DOMENICI. I say to the distinguished minority leader that whenever we have made unanimous-consent requests as to amendments without having them tendered at the desk, we have used that language, so that we are not agreeing to the submission of an amendment that is in derogation of the germaneness rule under the Budget Act.

Mr. BYRD. I thank the Senator. My suggestion would be that we not have a quorum call, that the Senate proceed while I give a little thought to this.

Mr. BAKER. Mr. President, the Parliamentarian might use that time to reduce to writing the several meanderings of this request as we put it together.

I withdraw the request temporarily, and I yield the floor.

AMENDMENT NO. 1227

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, since I intend to speak in opposition to the amendment of the distinguished Senator from Utah, may I have a few minutes from my counterpart?

Mr. CHILES. I yield to the Senator from Washington such time as he may require.

Mr. GORTON. I thank my distinguished colleague.

Yesterday, Mr. President, in my initial statement on the budget resolution, I pointed out the difficulties faced by all Members in dealing with this bebate. I pointed out that, for all practical purposes, every Member of this body feels that the budget deficits which are projected in a current services budget—that is to say, if we make no changes in policy—are unsupportable; that they will have an adverse impact on the economy; that they are not something we can view with equanimity or, for that matter, at all; and that we must at least lower them and begin to get on a path toward a balanced budget at some foreseeable point in the future.

At that time, I also pointed out that each Member of this body has other values which conflict with that desire for lower budget deficits and that often that conflict is won by one of those other values.

Some feel that as important as lower deficits are, we must protect one or a large number of vitally important social or capital investment spending programs. Others feel that the national defense is the prime duty of any nation and that we must treat requests for national defense appropriations or budget authority liberally, whatever the impact on deficits.

Others feel that a low tax structure is the most important single value, whatever impact that may have on the deficit.

So some feel that we should get to lower deficits by striking reductions in spending. Some feel that we should reach it by increases in taxes. We are at this point far from a conclusion to that debate.

The distinguished Senator from Utah, who is the sponsor of this amendment, takes a principled approach toward the fiscal problems which face the country today. His budget proposal shows just how difficult it is to reconcile these conflicting values. As a matter of fact, it may show that, at least in the foreseeable future, it is impossible to meet several very high values and get to a balanced budget. When push comes to shove, it seems to me that the Senator from Utah is saying that while budget deficits are very important, while their reduction is a vital necessity, they are not important enough to increase revenues substantially or to raise taxes.

If my figures are correct, even at the end of the third year of this budget proposal with CBO projections of the economy, we will be faced with a budget deficit of $155 billion, a mind-boggling number. Based on our histories and even if we have a so-called period of very high growth, the deficit will barely go below $100 billion to some $98 billion. In addition to this subject is the question of the reality of proposed cuts in spending programs.

In that respect, Thomas Jefferson once became so upset by what he considered to be slanderous attacks upon him in the Federalist press that he suggested that the editors divide their newspapers into four plainly labeled sections: First, truth; second, probability; third, possibility; and fourth, fiction. The third and fourth categories, he said: should be for those readers who would rather have fiction for their money than the blank paper they would occupy.

So, too, in budgeting it seems to me our sad experience with possible savings in previous resolutions should alert us to the fact that some proposed savings are at best possibilities and some at worst plain fiction. The plain truth is that savings without mandatory reconciliation are likely to be lost in the appropriations process.

I suggest that we adopt Thomas Jefferson's suggestion for newspapers instead for our budget proposals. I suggest that we plainly label four sections of each proposal into: First, true savings which we can clearly count on being made after they are included in a budget resolution; second, probable savings which experience has shown that we have been capable of making in the past; third, possible savings which while conceivable are really not likely to occur on a 50-50 possibility; and fourth, fiction-proposed savings that any Senator knows by experience just are not going to happen, or have already taken place so that credit is improperly claimed in a budget resolution.

I would like to apply these four categories to the proposal which is now on the floor at the present time but I am willing, as a matter of fact, anxious, to have it applied to all proposals including the budget which I have already proposed and others which will come before us during the course of the next week.

The evolution of the proposal before us now is fascinating. It has gone through three, perhaps four, separate stages that I am aware of and perhaps others of which I am not aware.

The fourth revision is before us right now. It is stated to be simply a recalculation of No. 3, so I will label it 3-B.

I appreciate the forces which are at work for change when one tries to develop a budget proposal and which is a difficult process at best since I have tried several myself.

The first thing that meets the eye when considering this proposal is that it includes clear category 4 items. For example, this budget contains as a cost-saving item the social security savings previously enacted by Congress and already part of the law of the land. Clearly this at least invites misinterpretation that this proposal is more powerful than it in fact is. The enacted social security savings should be subtracted from the baseline deficit. In addition, the jobs bill and subsequent offsets also fall into category 4. The baseline is supposed to represent current policy and the jobs bill and the social security reform are now current policy. So adding these two items to the baseline will provide us a better picture of the true impact of this amendment rather than including them as savings which are to be accomplished by it.

A comparison of the three-plus evolutionary budget proposals reveals that the sponsors of this proposal are now willing to tolerate larger deficits than was the case a week or so ago. Building a budget is a sobering educational process. The 3-year total deficit suggested in the first version of this amendment was $428 billion. The second version's total had declined to $406 billion. Several of their original estimates of savings had upon further investigation proved not to save as much as had been expected, and other revisions were substituted for them. That is the second lesson in budgeting—one's hopes for savings are always too optimistic at the beginning.

The second version of this budget made up for these reductions by reintroducing into the budget process that hoary old standby—management savings—or as the fiscal year 1983 budget resolution called it, management initiatives. Now our recent experience has demonstrated, if it has taught us anything, that management initiatives are clearly no better than a category 3—a possibility and probably a category 4, a fiction. I was pleased to discover that in version 3-B of this budget proposal—the one that is in front of us today—management initiatives have been reduced from $10 billion to $2 billion which in my opinion is $8 billion less a fiction. Unfortunately, the 3-year deficit for the current proposal version 3-B, is also $88 billion higher at $494 billion than was the second version.

So much for the antecedents of this budget proposal. Clearly the sponsors of this proposal know a great deal about the facts of life of budgeting in a short time. They know, as all of us do, that the current budget problems are not amenable to quick, easy solutions.

Let us consider the individual items that are now contained in this amendment to deal with the threatened $200 billion-plus deficits which face us over the next 3 years.

This amendment allows for the real growth in defense of 7.5 percent for next year, 7 percent for 1985, and 6 percent for 1986, which is not much in the way of savings there, in fact less than the resolution passed by the Senate Budget Committee, but clearly these elements, these estimates are in the realm of possibility. Let us put them in category 2, a probability if we should adopt this amendment and the consequent resolution.

There are good reasons, however, why we should not pay this much for defense.

The analysis prepared by the Senate Budget Committee staff demonstrates that essential programs can be carried out at the 5.3-percent rate of increase provided for in the committee resolution. Every point added above that figure simply serves to delay the Defense Department's need to make the hard choices it must make about spending priorities, strategy, methods of contracting, and so forth. By increasing the number of programs undertaken, by increasing the amount of our investment, and by placing at risk the fragile consensus which exists for the strengthening of our defenses, a delay in the day of reckoning for the Defense Department simply serves to increase the adverse consequences to our national security when those decisions inevitably are made.

The second item in this proposal is a nonsocial security entitlement freeze. The sponsors' definition of a freeze is to hold entitlement spending constant in real terms and to allow the total to rise only with the rate of inflation. This clearly would imply cuts in the expected rate of spending for medicare several times greater than that enacted in the social security package. What that would entail includes an increase in medicare premiums, copayments, and reduced levels of hospital reimbursements at the very least. The required changes in medicare in the proposal are substantially those recommended by the President, and I have, I regret to say, not found a great deal of enthusiasm among my colleagues for that proposal.

Furthermore, holding the rate of growth of entitlements to the rate of inflation makes no particular sense. The rate of growth in this area is controlled by the rate of growth of the eligible population, that is to say, the number of new persons who each year become entitled times the rate of growth of the inflator, which in some cases is the cost-of-living index. This amendment would result in real cuts in entitlement spending per person entitled if the rate of growth of newly entitled people exceeded the rate of inflation. This may or may not be the will of Congress. Certainly some more up-front way of dealing with entitlement spending which provides more predictable consequences of legislative action would be preferable. I would suggest that the entitlement section of this amendment rates no better than a category 3 in Jefferson's lexicon.

Perhaps, since the proposal of the Senator from Utah is unclear to me and my staff on what is intended, the Senator at some time during the course of this debate will give us more details of his medicare proposal.

The largest item on the amendment in terms of savings is the proposed freeze in nondefense discretionary spending. The proposal is to freeze spending in this category at current levels. This part of the proposal has a familiar ring. I included it in my own budget. But we should be very clear about what is entailed if we accept such a proposition. Discretionary spending has in the past already been severely cut. It would entail nothing less than another round of cuts. We have done this in the past and probably could do it again if the situation warranted—let us give it a category 2—a probability if we accepted this budget proposal, but we should be forewarned by what happened to the savings contained in last year's resolution when it came around to the appropriations process many of the unreconciled savings were lost.

We can, I feel, lump together the next two items contained in this proposal, as dissimilar as they are, for I feel the probabilities of Congress accepting a 3-year pay freeze for Federal employees and a freeze of the target prices for farm price supports to be of the same magnitude—a real longshot. Let us put them both in category 3 and grant that a possibility exists, but little more than a possibility.

I would also place the expected offsetting receipts and the user fee package in the same doubtful category. In the former the framers of this proposal have placed the $2 billion in management initiatives and the acceptance of the President's proposal to raise the contributions of both employer and employee toward civil service retirement. As needed as reform of civil service retirement is—and it is—does anyone see this Congress squarely facing up to that issue? The Presiding Officer will remember that in the Senate we failed to face up even to the very modest proposals in that respect included in the social security reform package and were saved only by the conference committee with the House.

The user fee proposal, as laudable as it is, does not face up to reality. Congress has had mixed success in enacting user fee legislation. This proposal requires that we increase user fees roughly 40 percent over current levels and eliminate subsidies for a number of programs such as patents and trademarks, postal services, tax rulings, and so forth. That seems to me unlikely whatever its merits.

Finally, this amendment suggests that we repeal much of the current tax deduction for health insurance costs. I believe that there is much to recommend in such a change over and above the revenue that it will bring into the Treasury. Such a repeal would not doubt stimulate market forces and competition in the health care industry and do much to reduce the horrendous rate of growth in health care costs. I hope that the Finance Committee would look closely at this measure no matter what the ultimate budget that we in the Senate adopt—but at best this savings is a No. 2.

Let us now recapitulate the results of our truth in budgeting proposal: Of the nine actual deficit reduction measures contained in this budget proposal, none are found in category 1, three were placed in category 2 as probable if we adopt this budget and the rest were placed in category 3 as possibilities only. It should be noted that perhaps some of those in category 3 really belong in category 4.

The conclusion is inescapable: This amendment is unrealistic. If we did adopt it, Congress would not enact its provisions. The budget resolution and the budget process is not a magic chain that can bind Congress against its will. We have seen time and time again over the last 2 years that when the budget resolution gets in the way of congressional will, it is the budget resolution that gives way. For that reason, if no other, the resolution we are fashioning on this floor is superior to the substitute under consideration now.

I must emphasize once again that this resolution, though it may be denominated a balanced budget resolution, can scarcely get us to a deficit of $100 billion 3 years from now even if we have a higher growth rate in the economy than we are willing to predict as of this day in May 1983.

But that analysis is not the most important reason for my unwillingness and inability to accept this amendment. In fact, it may be necessary, if we are to control the fiscal policy of the Federal Government, for Congress to adopt a budget that at this moment looks unrealistic. The Congress in its actions does follow the will of the people. If a majority of the people require us to deal effectively with the huge budget deficits facing us, I am sure that we will do so.

I am equally certain that the American people will not rally behind this amendment for the simple reason that it is basically unfair. If we are to reduce the hugh deficits in order to insure the continued fall in interest rates and the continuation of the recovery, it will require budget deficit reductions even greater than proposed in this amendment. Such reductions in the size of future deficits will require substantial sacrifices by the American people.

If these sacrifices are to be accepted by the American people, they must view these sacrifices as fairly shared among all groups and classes of our society. This proposal is basically unfair because it asks the poor, the elderly, the farmer, the Government worker, the student, the railroad and Federal retiree, and the working class American to pay their share, but it does not ask the businessman or the upper middle class or the defense contractor to share in the burden. Indeed those best able to sacrifice are not asked to give at all. No. If all are to benefit, all should share in the sacrifice.

In closing, let me say to the sponsors of this amendment I regret that I cannot support their efforts. There is much that is good in this proposal. In fact, much of it bears a close resemblance to the one I proposed a few months back except for the recognition of a need for revenues fairness. But, so much water has gone under the bridge since then, that I am afraid that I believe that this amendment like mine, would be if it were to be proposed, simply out of touch with reality.

Nevertheless, I do not consider this a wasted effort, exactly as I do not consider mine to have been a wasted effort. Both played a valuable part in educating our colleagues and the public about the difficulties that this country faces in controlling the huge budget deficits that we face this year, next year, and as far in the future as we can see.

Mr. CHILES. Mr. President, I yield myself such time as I might need.

I want to say to the distinguished Senator from Washington, I certainly enjoyed his remarks. I am afraid if Jefferson was here though he might have to add one more category to take in the change, he was talking about being misquoted I believe at the time, and maybe there needs to be a category 5 that he would have to put in about his quotes in the way they were used but it is a delightful addition of Jefferson and perhaps it was brought up to date in a modern lexicon which he could use.

Mr. President, I want to take just a moment tonight on two subjects: One is the high-growth option that we are seeing proposed in this particular amendment. We see that every time that facts kind of push economic policy into a corner we see a high-growth option being talked about, and one of the things the Budget Committee has attempted to do this year, and I am delighted to see that under the chairmanship of Senator DOMENICI of New Mexico, is to use the CBO figures and to use what they say are their midline figures or what are sort of reasonable figures, not the low side or the high side but what their best judgment is should be the figures in the middle. It is always tempting to try to take different growth figures because they make the budgets look better and if we wanted to use high growth we ought to have apples and apples in order to compare these things, if we wanted to use high-growth figures that figures that came out of the committee, the budget deficits that came out of the committee, would look greatly better.

They would look more in the line like we could talk about ourselves as being $138 billion in 1984, declining to $37 billion in 1988. That would be reducing it down to where we would be roughly about less than 1 percent of GNP. That would sound so good to the markets, that would sound so good to the public, sound so good to the taxpayers. Only one problem with it, it is not credible. Only problem with it is we have time after time fed to the public overoptimistic figures. And not simply this President. President Carter did that. He attempted to use more optimistic figures; President Ford did that; Nixon did that before him. It is always easier to sort of juggle the growth figures, or what you say the assumptions are going to be, to make your picture look rosy and it does not always turn out to be that rosy.

So I think we would be much better off here if we were using apples and apples. In that we are working from a budget resolution that uses the CBO figures, if you look at those figures you see that the deficits that we are talking about in this amendment would be a $175 billion deficit in 1984. That is $12 billion more than the committee deficit; $161 billion in 1985, again over the committee; $152 in 1986; $160 billion in 1987; $158 billion in 1988, as compared to the committee resolution of $124 billion.

This new package that we have been waiting on so many days—first it was going to be presented in the Budget Committee. At that time, I heard it was called the chamber of commerce balanced budget amendment. And it was spoken about for days in the Budget Committee. And we were waiting on the chamber of commerce balanced budget amendment. Now, lo and behold, we find this budget and it is not a balanced budget amendment. No, sir, Mr. President, when you look at these kinds of deficits, it is considerably higher than the committee deficit. The committee deficit is way below this all the way across.

So why is it here? I guess it is here to see that you are not going to have any new taxes. I guess it is here to see that there is not going to be any new revenues. So the balance-the-budget amendment becomes the protect-all-tax-cuts amendment to see that you have no new revenue.

And the distinguished Senator from Utah has made much of his argument about the taxes and what has occurred in taxes and how taxes continue to grow. But it is interesting, if you will just kind of look at the chart that we have in the back here, we see that tax reductions from 1982 to 1988 following the path that we have right now, we have $860 billion in tax cuts over those years and we would have defense spending increases of $285 billion, nondefense spending cuts—not this tremendous growth that we keep talking about, but cuts—of $387 billion off of what the baseline would be.

So the net change in the deficit that is due to policy action and that is due to tax cut action is $757 billion. So $757 billion of our deficit is because of our tax cuts. And this amendment that we thought was going to be the balanced budget amendment is now going to kind of take care of those tax cuts and also, Mr. President, take care of that deficit figure. Because what it really takes care of is seeing that the deficit figure is going to be higher than we are going to have on that chart because we are adding now to the deficit by this proposal or it is going to add over what the Senate Budget Committee had put out.

It seems kind of strange to me that we would see a proposal that actually comes out and adds to the deficit and hear that that proposal is somehow going to help this economy. What I see as the problem our economy is having today is, very simply, interest rates. The recovery that we are having today is because of a tax increase that was passed by the Republican side of this aisle 1 year ago that added the taxes. From that tax increase, there was a slight change in monetary policy and interest rates came down and the recovery started.

Well, that recovery, I think, will continue as long as those interest rates stay down. But I do not think those interest rates are going to stay down in the face of larger deficits. I fear the President's plan because it has larger deficits. I fear the committee plan, to tell you the truth, because the deficits are too large in that. But they do come down to 2.6 percent of the GNP and they would be over $20 billion even in the last year and across the total years over $100 billion less than this plan that was labeled the so-called balance-the-budget plan.

It seems to me that if we have any attempt at recovery, it is going to have to be on the basis that we are having projections that have the deficits coming down; that we are going to want those money managers to look at the budget or the work that we do and see that in the outyears, in 1986, in 1987, and 1988, that we have budgets that are declining and that are coming down.

I do not see that when I look at this plan. I see deficits that get down to $152 billion under the CBO figures in 1986. They go back to $160 billion in 1987. They go to $158 billion in 1988. It looks like to me you have got a nice level $160 billion deficit going out. And I do not know that is going to help turn this recovery around.

I say to my friend from Utah that with his high growth figures then he gets his deficit down to $71 billion, but if you wanted to use those same figures on the committee deficit, we get ours down to $37 billion. But we decided that that would not be credible, it would not be reasonable, it would not be something that we could get the money managers to buy, because they have learned to kind of look and see whether you are phonying up the figures, whether you are taking advantage of your assumptions, and that they would not buy those.

So, Mr. President, I hope that tomorrow, when we get a chance to vote on this, we would see that it has been through phase 3(a) or 3(b). As the distinguished Senator from Washington says, it needs to go through a couple of more phases. It needs to get something done to it to bring it back toward the balance-the-budget amendment that we thought it was going to be to start with, if we are going to have any opportunity to say that this is a proposal that will help in the fight that we have.

I think that when we just recognize that this really adds to our deficits rather than takes away, that of course it adds to the probability that this recovery, that we all hope is starting now, will not continue, will not be strong, and will not be able to get our unemployment down and get this country back to work and get the kind of recovery that we all desperately must have.

Mr. DOMENICI. Mr. President, might I inquire now of the distinguished sponsor of the measure if my understanding is correct that he would not now want to debate the matter any longer but, presuming we could get a unanimous-consent agreement later, we would set it aside and debate it further tomorrow.

Mr. HATCH. With the understanding that it would be satisfactory to the Senator from Pennsylvania so that he may present his amendment but that we will resume on my amendment, I take it, at 10:30 in the morning. I understand that the vote on the amendment of the distinguished Senator from Pennsylvania would come up after this one, although I would not have any qualms if the vote on his amendment came up before mine, either way.

Mr. DOMENICI. I thank the Senator.

Mr. President. I ask unanimous consent that the pending amendment of the distinguished junior Senator from Utah be temporarily laid aside and that we proceed now to take up an amendment to be offered by the distinguished Senator from Pennsylvania, Senator SPECTER; that it be debated this evening; that the Hatch amendment become the pending business when we return to the resolution in the morning; and that there be 1 hour, equally divided, to debate the Hatch amendment, to be followed by the disposition of the Hatch amendment, to be then followed by the disposition of the Specter amendment.

Mr. SPECTER. Will the distinguished chairman yield?

Mr. DOMENICI. I yield.

Mr. SPECTER. In the unanimous-consent agreement propounded by the majority leader, at my suggestion he had agreed that there be 15 minutes of debate on the Specter amendment before a rollcall vote.

Mr. DOMENICI. I add that to my request.

Mr. CHILES. Reserving the right to object, I would have no objection to laying aside Senator HATCH's amendment to take up Senator SPECTER's amendment. I need to get some clearance before I can say that we are locking the Hatch amendment tomorrow into 1 hour. I think it is pretty good but I would need a little time on that.

Mr. DOMENICI. I wonder if we want to have a quorum call while the Senator does that.

Mr. CHILES. If you want to take half of that and lay it aside.

Mr. DOMENICI. Let us do that much. I ask unanimous consent that the Hatch amendment be temporarily laid aside and that we now proceed to the consideration of the Specter amendment.

The PRESIDING OFFICER. Is there objection? Hearing none——

Mr. SPECTER. If the Budget Committee chairman will yield, I would add the additional proviso that there is not expected to be a vote on my amendment this evening, but at the conclusion of debate tonight, we will return to the Hatch amendment for whatever time it takes to complete action thereon, and upon completing action on the Hatch amendment, we will return to the Specter amendment for 15 minutes of debate, equally divided, before a vote on the Specter amendment.

Mr. DOMENICI. I might say to my good friend from Pennsylvania that I had just heard from Senator CHILES that he had not cleared all of that. I have no doubt that we will clear it soon. Therefore, I wanted to set this amendment aside with the Senator from Pennsylvania proceeding, hoping that very, very shortly, we would be able to add the remaining part of it. I can assure the Senator we will not vote tonight or vote until we have given him time tomorrow. We will have time on the bill to do that.

Mr. SPECTER. I thank the Senator.

Mr. DOMENICI. Will the Chair rule on my unanimous-consent request to temporarily set aside the Hatch amendment and proceed with the junior Senator from Pennsylvania?

The PRESIDING OFFICER (Mr. RUDMAN). Without objection, it is so ordered.

AMENDMENT NO. 1228

(Purpose: To add additional funds for law enforcement and the construction of prisons)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER) proposes an amendment numbered 1228.

Mr. SPECTER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 13, increase the figure by $700,000,000.

On page 3, line 19, increase the figure by $100,000,000.

On page 3, line 20, increase the figure by $300,000,000.

On page 3, line 21, increase the figure by $300,000,000.

On page 4, line 1, increase the figure by $100,000,000.

On page 4, line 2, increase the figure by $300,000,000.

On page 4, line 3, increase the figure by $300,000,000.

On page 4, line 7, increase the figure by $100,000,000.

On page 4, line 8, increase the figure by $400,000,000.

On page 4, line 9, increase the figure by $700,000,000.

On page 4, line 14, increase the figure by $100,000,000.

On page 4, line 15, increase the figure by $300,000,000.

On page 4, line 16, increase the figure by $300,000,000.

On page 22, line 19, increase the figure by $700,000,000.

On page 22, line 20, increase the figure by $100,000,000.

On page 22, line 25, increase the figure by $300,000,000.

On page 23, line 5, increase the figure by $300,000,000.

Mr. SPECTER. Mr. President, I am offering an amendment to the budget resolution to allocate a total of $650 million for the construction and operation of Federal prisons for violent offenders sentenced under State habitual criminal statutes. I propose that $100 million be expended in fiscal 1984, $300 million in fiscal year 1985, and the balance, or $300 million, to be expended in 1986. I urge support of this measure, a measure which would begin to redress the principal cause of the breakdown in the American criminal justice system: The lack of adequate prison space for dangerous convicts.

In the 97th Congress, I introduced Senate bill 1689 to authorize the Federal prisons to use available space to incarcerate State inmates sentenced to life imprisonment as habitual offenders, without cost to the States.

At that time, Federal maximum security prisons had excess capacity. That is no longer true. Reducing the highest violent crime rate in the world surely requires that upon a third or fourth conviction for a major felony that a violent offender be removed from society and incarcerated.

Although in some 44 States statutes provide for life sentences, or at least greatly increased sentences in cases involving habitual offenders, those statutes are seldom used, primarily because of already overcrowed State prisons.

Because of the overriding importance of this problem, I reintroduced S. 1689 in the 98th Congress, now designated Senate bill 58. This amendment would start to provide the funds necessary to carry out this program.

Federal financial assistance, in my judgment, is essential to solving the problem. The States alone simply do not have sufficient resources for the kind of rapid construction program that is needed. Building one secure prison cell costs in the range of $50,000 to $70,000. Obviously, operating costs are also significant.

In August 1981, the Attorney General's Violent Crime Task Force reported its recommendation that the Federal Government provide $500 million per year to the States for prison construction, noting: "Almost all States are in a crisis situation." In fact, 39 States were then under court order to lessen overcrowding, or were involved in litigation that could lead to such orders.

In February 1982, the National Governors' Association Criminal Justice and Public Protection Committee called prison construction the No. 1 criminal justice priority, concluding: "States and localities must have adequate prison and jail space to confine offenders who are deemed to be a serious risk to the public."

Today the problem is much worse and even more money is needed than the $500 million suggested by the task force in 1981.

On April 24, 1983, the National Institute of Justice reported that the national prison population had increased by a record 42,915 in 1982, to a record high of 412,303.

Mr. President, the statistics on overcrowding of prisons are appalling.

At this point I ask unanimous consent that a factsheet be printed in the RECORD with the following statistics culled from the Bureau of Justice Statistics Bulletin, entitled "Prisoners in 1982," published in April 1983.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

STATE PRISON OVERCROWDING

At the end of 1982, there were 412,303 inmates in state and federal prisons. Since 1970, the total population has more than doubled—from about 200,000 to more than 400,000. The vast majority of the 412,303 inmates are in state prisons.

During 1982 the combined population rose 42,915, the highest annual increase in any year since such statistics became available in 1925. The precentage increase from 1981-1982 was 11.6%, the largest for any year, except the 12.2% increase from 1980-1981.

Despite extensive construction programs in many states, the growth in population has greatly exceeded the growth in capacity. Consequently, in most states, prisons are severely overcrowded. For example, Pennsylvania is confining 10,400 inmates in facilities with a "rated capacity" of 8,630, according to testimony from its prison Director.

As of the end of 1982, 31 states were operating under court orders to remedy overcrowding. Another 9 states were involved in litigation that could lead to such orders. To comply with these orders, emergency release mechanisms were adopted by Iowa and Michigan in 1981, and by Connecticut, Georgia, Ohio and Oklahoma in 1982.

Provision was made for "intensively supervised" probation for offenders who in the past would have been incarcerated in Georgia, New York, Ohio and Texas. In addition, to relieve state prison overcrowding, 17 states shifted 8,217 inmates to county jails. These local facilities are often unsuitable from the standpoint of security for inmates convicted of violent or serious offenses and in addition are often overcrowded themselves.

During 1982 prison populations increased in 47 states and the District of Columbia. The largest increases occurred in the 5 largest prison systems—California, Texas, Florida, Ohio and New York. The largest percentage increases, ranging from 20-28%, however, were experienced in North Dakota, Alaska, Delaware, New Mexico, and Oklahoma.

There are indications that overcrowding will become even worse. In the last few years, 37 states have passed mandatory sentencing laws. Many have also adopted determinate sentencing. In addition, many states have adopted new parole policies that raise the requirements for parole, or limited to the discretion of the parole board, extending the time actually served, and in 10 states the paroling authority has been eliminated.

In addition, 43% of the prisoners are being housed in facilities built before 1925 and 70% in facilities that do not meet federal standards for square footage of cells, according to the Attorney General's Violent Crime Task Force Report (August, 1981, p. 77). States had begun construction by 1980 of more than 60 institutions or additions costing in excess of $700 million and between July 1979 and July 1980 had opened 23 new institutions at a cost of over $100 million (Id., at 76)

Source: Except where otherwise noted, all statistics are from the Bureau of Justice Statistics Bulletin, "Prisoners in 1982," April 1983.

Mr. SPECTER. Mr. President, at a time when crime is an overwhelming problem in this country, when it is universally recognized that the critical component of violent crime is the repeat offender, when repeat offenders commit approximately 17 percent of all robberies and burglaries, when repeat offenders commit as many as two, three, or more robberies and burglaries in one 24-hour period, it is absurd that there are not sufficient prisons to hold such repeat offenders once they are convicted.

Last year we appropriated some $240 billion for national defense, at a time when fatalities from foreign enemies was zero, and at the same time some 23,000 Americans were murdered on the streets of this country. We have turned our back on solving the problem of violent crime in any significant way.

In submitting this amendment to the budget resolution, I am well aware of the fact that the allocation of these funds would not, without appropriate authorization, accomplish the objective which I seek. But I believe that it is vitally important that we begin the task of providing appropriate Federal funding for the problem of violent crime in this country.

On March 23, I introduced a comprehensive bill which would attack violent crime in the United States by appropriating 1 percent of our national budget for that purpose, or in the range of $10 billion a year for the next 10 years. In introducing that bill, I realized that it would require a long-range effort to secure the kind of public backing necessary to obtain such extensive funding, but I believe that it must be undertaken.

In offering this amendment today, I do so in an attempt to focus attention on this problem, to urge my colleagues in this body to take this small step forward with $650 million, and to thereby indicate a Senate awareness of the extent of the problem, to take a vital step in providing jail space for career criminals, and to provide the incentive for State court judges to sentence career criminals under habitual offender statutes to life imprisonments or enhanced sentences.

In preliminary discussions on this bill with the distinguished chairman of the Committee on the Budget, he informed me that, as much as he favored the principle of funding for such an important objective, budget constraints precluded his support for this amendment. He suggested that I introduce authorizing legislation and that he would be glad to cosponsor it. It was at that juncture, after he had made the offer, that I informed him that I had already introduced authorizing legislation in the form of Senate bill 58, and obtained his agreement to cosponsor that legislation.

Similarly, I discussed this legislation with the distinguished ranking minority member of the Budget Committee, the senior Senator from Florida (Mr. CHILES), who informed me that he could not agree to or cosponsor an add-on at this time, because of the steps he had already taken for additional funding for the criminal justice system. When inquiries were made about funding within the existing budget system, it was determined that some $27 million were available for renovations, and that there was no funding available for any prison construction.

Mr. CHILES. Will the Senator yield on that point?

Mr. SPECTER. I do yield.

Mr. CHILES. Mr. President, I had been informed—and I did not want to misinform the Senator—but I have been informed that that was correct, what was in the bill itself. I do want to point out to the Senator from Pennsylvania that there are $80 million in the jobs bill for rehabilitation, or it could be used for construction. So there was a number there.

The other thing I point out to him is that much of the increase, $600 million of the increase, that I added on is in function 750. So it is, because we cannot line-item in the Budget Committee what happens to this money, in the wisdom of the Committee on Appropriations, that money or part of it could be used for prison construction, just as I was trying to use it to upgrade other law enforcement agencies.

Mr. SPECTER. I thank the distinguished Senator from Florida for that addition. I intend to press within the Judiciary Committee, which has the authorizing function, to see if we cannot use some of the money for prison construction.

In addition, there is in the budget, as I understand it, $100 million for justice assistance, which could conceivably go through the States for prison construction, as well as other purposes. All of the funds we have been talking about up until the present time are so minimal as to not really begin this very important project.

Mr. President, that is the essence of the case as I see it. As I understand it, there will be 15 minutes equally divided before there is a rollcall vote. At this time, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Mr. President, I yield the floor.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, with the time to be charged equally against the parties.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, earlier, I described a unanimous-consent agreement which I did not ask the Chair to put. It has now been reduced to writing with one modification. I have shown it to the minority leader and to the managers. I should like to state the request now for the consideration of the minority leader and the managers and other Senators.

I ask unanimous consent that tomorrow, Wednesday, May 4, when the Senate resumes consideration of Senate Concurrent Resolution 27, the question recur on the amendment No. 1227, offered by the Senator from Utah (Mr. HATCH), with the time on the amendment limited to 60 minutes, to be equally divided and controlled in the usual form; that upon the disposition of the Hatch amendment, the Senate resume the consideration of the amendment No. 1228 of the Senator from Pennsylvania (Mr. SPECTER), with the time to be limited to 15 minutes, to be equally divided and controlled in the usual form; and that, following the disposition of the Specter amendment, the Senate proceed to the amendment to be offered by the Senator from Louisiana (Mr. JOHNSTON): Provided that all provisions of the Budget Act regarding floor consideration of the aforementioned amendments shall remain in full force and effect.

Before the Chair puts the request, Mr. President, the effect of this would be to provide for the orderly disposition of the Hatch amendment, the Specter amendment, and a Johnston amendment as I have described it. It does not deal with the Baucus amendment which we dealt with earlier, and it is anticipated that tomorrow there may be a further request in respect to a Baucus amendment or amendments. It is also anticipated that the two managers may be able to arrange for us a further list of amendments approximately interlacing Republican and Democratic opportunities to provide amendments. That, of course, is not binding, but it is the hope of this Senator that that can be done to the maximum extent. It would contemplate that we would finish action on the Specter amendment tonight with the exception of 15 minutes of debate tomorrow. That is the effect of the request, and I now put that request.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I will not object, but for the record may I say that it is the hope—and the majority leader has alluded to it already—that we can, upon the disposition of the amendment by Mr. JOHNSTON, sequence two amendments by Mr. BAUCUS back to back. That cannot be agreed to tonight, but it is our hope that overnight the majority leader and the manager on the other side will be able to touch the appropriate bases so as to allow Mr. BAUCUS to call two amendments up back to back. It might even be that the other side of the aisle would want to intersperse an amendment between Mr. JOHNSTON and Mr. BAUCUS, but at some point, hopefully fairly early tomorrow, Mr. BAUCUS will have the opportunity to call up those amendments back to back. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I wonder if the Senator from Pennsylvania and the managers wish to continue the debate on this amendment or if they are prepared to go out?

Mr. DOMENICI. Mr. President, I have no more than 3 or 4 minutes. I would be delighted to use those 3 or 4 minutes to explain my reasons for opposing the amendment. While I am very laudatory of its goals and purposes, I must oppose it. But I would do that tomorrow during the 15 minutes since 7½ minutes would be for the opposition. Therefore, I have nothing to say this evening.

Mr. BAKER. Very well.

Mr. President, may I inquire of the minority leader and the distinguished minority manager of the resolution if they have any further need to debate the matter tonight? Otherwise, I am prepared to ask the Senate to stand in recess until tomorrow.

Mr. CHILES. Mr. President, that suits me.

Mr. BAKER. Very well.

Mr. President, I have been reminded that earlier I suggested that we might provide by order for the Senate to resume consideration of the pending resolution at 10:30 tomorrow. If the minority leader will not object, I am going to add to that request.

ORDER FOR ROUTINE MORNING BUSINESS AND RESUMPTION OF CONSIDERATION OF SENATE CONCURRENT RESOLUTION 27 TOMORROW

Mr. BAKER. I now ask unanimous consent, Mr. President, that after the recognition of the two leaders under the standing order there be a period for the transaction of routine morning business to extend not past 10:30 a.m. in which Senators may speak for not more than 2 minutes each; that at 10:30 a.m. the Senate resume consideration of the pending resolution, Senate Concurrent Resolution 27.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, I say to the minority leader that I am prepared to ask the Senate to go into executive session for the purpose of considering certain nominations on today's Executive Calendar. I am referring specifically to Calendar Order No. 109 under the heading "Navy" at the bottom of page 3, all of those nominations on page 4, and the nominations on page 5. Is the minority leader prepared to clear all or any part of those nominations as just described for action at this time by unanimous consent?

Mr. BYRD. Mr. President, there is no objection on this side.

Mr. BAKER. I thank the Senator.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, in view of that, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the nominations just identified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominations just identified be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be admiral

Vice Adm. Steven A. White, 569-34-1856/1120, U.S. Navy.

CORPORATION FOR PUBLIC BROADCASTING

Harry O'Connor, of California, to be a member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 1, 1984.

DEPARTMENT OF EDUCATION

Donald Moncrief Muchmore, of California, to be a Member of the National Museum Services Board for a term expiring December 6, 1987.

NATIONAL COUNCIL ON THE HUMANITIES

Charles Ray Ritcheson, of California, to be a member of the National Council on the Humanities for the remainder of the term expiring January 20, 1986.

DEPARTMENT OF STATE

Helene A. von Damm, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Austria.

DEPARTMENT OF TRANSPORTATION

James H. Burnley IV, of North Carolina, to be General Counsel of the Department of Transportation.

DEPARTMENT OF JUSTICE

Edward S. G. Dennis, Jr., of Pennsylvania, to be U.S. attorney for the eastern district of Pennsylvania for the term of 4 years.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominations were confirmed en bloc.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

FISHERY AGREEMENT BETWEEN THE UNITED STATES AND POLAND—MESSAGE FROM THE PRESIDENT—PM 46

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which, pursuant to Public Law 94-265, was referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94-265; 16 USC 1801), I transmit herewith an exchange of Diplomatic Notes, together with the present agreement, extending the governing international fishery agreement between the United States and Poland, signed at Washington on August 2, 1976 until July 1, 1984. The exchange of notes together with the present agreement constitute a governing international fishery agreement within the requirements of Section 201(c) of the Act.

Several U.S. fishing interests have urged prompt consideration of this agreement. In view of the July 1 expiration date of the current agreement, I therefore urge that the Congress give favorable consideration to this extension at an early date.

RONALD REAGAN.

THE WHITE HOUSE, *May 3, 1983.*

FISHERY AGREEMENT BETWEEN THE UNITED STATES AND THE SOVIET UNION—MESSAGE FROM THE PRESIDENT—PM 47

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which, pursuant to Public Law 94-265, was referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94-265;

16 USC 1801), I transmit herewith an exchange of Diplomatic Notes, together with the present agreement, extending the governing international fishery agreement between the United States and the Soviet Union, signed at Washington on November 26, 1976, until July 1, 1984. The exchange of notes together with the present agreement constitute a governing international fishery agreement within the requirements of Section 201(c) of the Act.

Several U.S. fishing interests have urged prompt consideration of this agreement. In view of the July 1 expiration date of the current agreement, I therefore urge that the Congress give favorable consideration to this extension at an early date.

RONALD REAGAN.

THE WHITE HOUSE, *May 3, 1983.*

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 2:16 p.m., a message from the House of Representatives delivered by Mr. Berry, one of it reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2600. An act to dedicate the Golden Gate National Recreation Area to Congressman Phillip Burton.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 106: A resolution to commemorate the 10th anniversary of the U.S. Product Safety Commission by designating the week of May 8, 1983, through May 14, 1983, as "National Product Safety Week."

S.J. Res. 66: A joint resolution to authorize and request the President to designate May 6, 1983, as "National Nurse Recognition Day."

S.J. Res. 67: A joint resolution to designate the week of September 25, 1983, through October 1, 1983, as "National Respiratory Therapy Week."

S.J. Res. 68: A joint resolution to authorize and request the President to designate July 16, 1983, as "National Atomic Veterans' Day."

S.J. Res. 83: A bill to recognize Senior Center Week during Senior Citizen Month as proclaimed by the President.

S. Con. Res. 14: A concurrent resolution in commemoration of the bicentennial of the birth of Simon Bolivar, hero of the independence of the Americas.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Joel M. Flaum, of Illinois, to be U.S. Circuit Judge for the Seventh Circuit;

Richardo H. Hinojosa, of Texas, to be U.S. District Judge for the Southern District of Texas;

Alfred S. Regnery, of Virginia, to be Administrator of the Office of Juvenile Justice and Delinquency Prevention;

Rudolph W. Giuliani, of New York, to be U.S. Attorney for the Southern District of New York for the term of 4 years.

By Mr. ROTH, from the Committee on Governmental Affairs:

Mary F. Wieseman, of Maryland, to be Inspector General, Small Business Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SYMMS (for himself and Mr. MCCLURE):

S. 1193. A bill to amend the Internal Revenue Code of 1954 to treat certain heating of phosphate rock as mining for purposes of percentage depletion; to the Committee on Finance.

By Mr. DANFORTH:

S. 1194. A bill to amend the Internal Revenue Code of 1954 to encourage the contribution of scientific equipment to elementary and secondary schools and institutions of higher education and to foster university research and scientific training; to the Committee on Finance.

By Mr. BENTSEN (for himself and Mr. CHAFEE):

S. 1195. A bill to amend the Internal Revenue Code of 1954 to promote the contribution of scientific equipment to elementary and secondary schools and universities and to foster university research and scientific training; to the Committee on Finance.

By Mr. DECONCINI:

S. 1196. A bill to confer jurisdiction on the United States Claims Court with respect to certain claims of the Navajo Indian Tribe; to the Committee on the Judiciary.

By Mr. STEVENS:

S. 1197. A bill to admit certain passenger vessels to the coastwise trade; to the Committee on Commerce, Science, and Transportation.

By Mr. MURKOWSKI:

S.J. Res. 91. Joint resolution designating May 3, 1983, as "Polish Constitution Day"; to the Committee on the Judiciary.

By Mrs. HAWKINS:

S.J. Res. 92. Joint resolution designating the week beginning May 8, 1983, as "Municipal Clerk's Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SYMMS (for himself and Mr. MCCLURE):

S. 1193. A bill to amend the Internal Revenue Code of 1954 to treat certain heating of phosphate rock as mining for purposes of percentage depletion; to the Committee on Finance.

PHOSPHATE INDUSTRY

Mr. SYMMS. Mr. President, the legislation that I am introducing today will correct an error contained in Revenue Ruling 74-519 that is detrimental to the phosphate industry.

Briefly, the phosphate ore that the phosphate industry mines in States other than Florida contains more impurities than the ores commonly mined in Florida, where 80 percent of the U.S. phosphate production currently takes place. Unlike Florida ores, the higher levels of impurities in the ores found in Idaho, Montana, Wyoming, Utah, and North Carolina require a decarbonization step as part of the mining process of concentrating the ore to bring it to shipping grade and form. Decarbonization involves the application of heat to remove organic hydrocarbon impurities and free water from the phosphate ore before it can be used for subsequent manufacture, primarily into phosphate fertilizers.

Under section 613 of the Internal Revenue Code, decarbonization is properly a mining process for which percentage depletion should be applicable. Unfortunately, in Revenue Ruling 74-519, the IRS misunderstood the nature of this process and concluded that decarbonization is not a mining process, which has the effect of disallowing the tax deductions for percentage depletion on such process. The IRS concluded that this heat process was not a concentrating process, but a thermal process, which is a nonmining step.

This conclusion is incorrect. While substantial amounts of impurities are removed, the physical and chemical identity of the phosphate mineral remains unchanged by decarbonization. Moreover, decarbonization is undertaken to produce phosphate rock that is equivalent to that produced in Florida where this step is unnecessary.

In fact, decarbonization is a concentrating—mining—process which is defined, in pertinent part, in the Treasury regulations as:

> . . . the process of eliminating substantial amounts of the impurities or foreign matter associated with the ores or minerals in their natural state . . . without changing the physical or chemical identities of the ores or minerals." 26 CFR 1.613.4(f)(3)(i).

As a concentrating process, percentage depletion should be applicable to the decarbonization of phosphate ore. Correction of the IRS' interpretation would protect American agricultural interests by assuring the domestic production of adequate levels of phosphate rock, as well as promoting the development of this vital resource in States such as Idaho, Montana, Wyoming, North Carolina, and Utah. Moreover, correction is clearly consistent with the intent of Congress expressed in the Internal Revenue Code, and with the Treasury regulations issued in implementation of the Code provisions.

Mr. President I would like to request that the contents of the bill be printed as follows, and that a more technical explanation of the issue be included in the RECORD as well.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

S. 1193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (4) of section 613(c) of the Internal Revenue Code of 1954 (relating to treatment processes considered as mining) is amended—

(1) by redesignating subparagraph (I) as subparagraph (J),

(2) by striking out "and" at the end of subparagraph (H), and

(3) by inserting after subparagraph (H) the following new subparagraph:

"(I) in the case of phosphate rock, heating to any temperature below 850 degrees Celsius, and".

(b) The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

I. PREFACE

A. Internal Revenue Service position

The Internal Revenue Service has misconstrued the process of decarbonization of phosphate ore and treats it as a non-mining, thermal action process. In actuality, it is a concentration process and, accordingly, is a mining process for purposes of calculating percentage depletion.

B. Decarbonization of phosphate

Decarbonization of phosphate ore is conducted to eliminate substantial amounts of impurities associated with certain varieties of the ore in its natural state. This process is a concentration process which makes no chemical change in the ore and does not make a final, finished product, but rather concentrates the raw material so that it is usable for the subsequent manufacture into finished products. As such, decarbonization is simply a concentration process required to bring the ore to shipping grade and form.

II. PHOSPHATE ROCK MINING IN THE UNITED STATES

A. In general

Phosphate rock is mined principally in Florida, North Carolina, and in the Western states of Idaho, Montana, Wyoming and Utah. In 1980, 54.4 million metric tons of phosphate rock were produced in the United States. Of this total, Florida produced 80 percent; North Carolina, 7 percent; the Western states, 10 percent; and Tennessee, 3 percent.[1]

In Florida and North Carolina, phosphate rock is found in sedimentary deposits. The overburden and the ore, known locally as matrix, is consolidated material and is mined by the open pit method. The overburden is stripped and the matrix is extracted from the ground by large draglines. After extraction from the ground, the matrix is slurried with water and pumped, usually three to five miles, to a beneficiation plant where various concentrating steps are performed.

In the Western states, the phosphate rock is found in hard rock as well as in sedimentary deposits. Mining is also by the open pit method. The overburden and the ore are drilled and blasted with explosives to loosen them. Scrapers and trucks remove the overburden and extract the ore. The ore is then transported by trucks or railcars to a beneficiation plant where concentrating takes place. Because of the nature of the Western deposits, crushing and grinding of the ore often precede the concentrating steps.

The mining processes used to concentrate a specific phosphate ore deposit to bring it to shipping grade and form are dependent upon the impurities or gangue material in the particular ore body and upon the intended use of the resulting concentrated rock. In the United States, approximately 26 percent of all phosphate rock is exported. Of the rock used domestically, 84 percent is used to produce phosphoric acid by the wet process method, the acid in turn being used to produce chemical fertilizers. Another 4 percent is used directly in the production of fertilizers. The production of elemental phosphorus uses 10 percent of the phosphate rock and 1 percent is defluorinated for use in the production of animal feed.[2]

The principal phosphate mineral in the United States is fluorapatite, which is found with various gangue materials such as clays, silica, carbonates and hydrocarbons. The concentration of the ore to remove these impurities typically includes one or more of the following beneficiation processes: (1) scrubbing, washing, and size classification either mechanically or hydraulically to remove clays and coarse trash, (2) both anionic and cationic flotation to remove silica sand and/or carbonates, and (3) decarbonization to remove organic hydrocarbon material.

The degree of concentration of the phosphate content varies from step to step through the process as a result of the degree of impurity removal. It is also a function of the actual impurity levels, which vary significantly from one ore deposit to another. For example, the washing, scrubbing and classification steps are generally a series of sizing operations. Each one of these operations may increase the phosphate level by 5 to 18 percent, but in total generally increases the concentration on the order of 25 to 50 percent. Likewise, flotation is commonly conducted in a multi-step process, the first step of which may concentrate phosphate values by 40 to 70 percent, and the last by 8 to 10 percent or less. The decarbonization of the ore typically concentrates the phosphate level by 7 to 9 percent and is always the last concentrating step because it also drys the product for shipping. Any one or more of these mining treatment processes, as well as sintering or nodulizing and drying, may be necessary to reach a product of commercially acceptable shipping grade and form.

The phosphate ores in Florida typically require only the washing and flotation concentrating steps. The rock which requires only washing is called pebble product, while the phosphate product requiring both washing and flotation is called concentrate. While organic hydrocarbon material is present in both of these products, it is sufficiently low in content so that the decarbonizing concentrating process is not required to bring the Florida product to shipping grade and form. However, the organic hydrocarbon content of North Carolina and Western ores is sufficiently high that further concentration is necessary to bring the product to shipping grade and form, particularly for the manufacture of wet-process acid.

While washing, flotation, sintering or nodulizing, and drying have been allowed as mining processes under Section 613(c) of the Code and Section 1.613-4(f) of the Income Tax Regulations, the decarbonizing concentrating process has been incorrectly disallowed in Revenue Ruling 74-519. Apparently, this was due to a misunderstanding of the nature of this process.

The most economical method of removing the organic hydrocarbon impurities in phosphate ore is through a heat treatment process. This method has the added advantage that free water is also removed simultaneously, thereby eliminating a separate drying step. Such a drying process is considered as a mining process for purposes of percentage depletion. While decarbonization is a heat treatment process, it is neither a thermal action process as described in § 1.613-4(g)(6)(viii) of the Regulations, nor a calcination process as described in § 1.613-4(g)(6)(i) of the Regulations. At all times, the operating temperature is maintained at significantly lower levels than in thermal action treatment or in calcining. Moreover, the resultant decarbonization of phosphate rock does not alter the physical or chemical identity of the fluoropatite mineral.

B. Background and specific application of Internal Revenue Code provisions

1. Background

a. Prior to 1971

Phosphate was added, along with trona, to the list of minerals qualifying for percentage depletion in 1947.[3] The decarbonization of phosphate was considered a part of mining as an ordinary treatment process normally applied by mine owners or operators to obtain a marketable mineral product. In 1960, the term mining was changed to include treatment processes considered as mining.[4] During the hearings of the 1960 Act, the Treasury Department spokesman stated that the decarbonation of trona would be treated as a treatment process considered as mining.[5] The Treasury Department in keeping with its statement and the Code treated the decarbonation of trona and the decarbonization of phosphate as mining processes.

b. Trona

In 1971, the Treasury Department announced, in connection with finalizing regulations dealing with the 1960 amendments, that the decarbonation of trona would no longer be considered a mining process for percentage depletion purposes. The Treasury action resulted in Congressional consideration of the classification of decarbonation of trona.

In 1974, Congress found that decarbonation of trona eliminated impurities (water and carbon dioxide) and was merely a concentration process.[6] Additionally, Congress amended section 613(c)(4)(E) of the Code specifically to provide that decarbonation of trona is a mining process (and thereby completely end any disputes with the Internal Revenue Service.)[7] The statutory modification should not have been necessary in view of the Congressional finding that decarbonation of trona is a concentration process, i.e., the amendment to the Code was unnecessary because section 613(c)(4)(C) already provided that "in the case of * * * minerals which are customarily sold in the form of a crude mineral product—concentrating" is a treatment process considered as mining for purposes of calculating percentage depletion. Thus, the 1974 amendment served the sole purpose of forcing the Treasury, immediately, to accept that decarbonation of trona is a concentration process and accordingly a mining process. Obviously, legislative consideration would have been unnecessary if the Treasury had continued to maintain the correct construction of the statute as it had from 1960 to 1970.

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[1] Mineral Industry Surveys, Phosphate Rock 1980, U.S. Department of Interior, Bureau of Mines.

[2] Ibid.

[3] Section 15(b) of Termination of Wartime Provisions Act, Pub. L. No. 80-384, 61 Stat. 917 (1947); (Int. Rev. Code 1939, § 114(b)(4)).

[4] Public Debt and Tax Rate Extension Act of 1960, Pub. L. No. 86-564, § 613:1 (1960).

[5] "Mineral Treatment Processes for Percentage Depletion: Hearings Before the Committee on Ways and Means," 86th Cong., 1st Sess. 47 (1959).

[6] S. Rep. No. 1059, 94th Cong., 2d. Sess. 6231 (1974).

[7] Pub. L. No. 93-499, 88 Stat. 1549 (1974).

2. Application of Internal Revenue Code to Phosphate

In order to apply properly the Code, one must first understand the process for the decarbonization of phosphate. The development of ores containing higher levels of hydrocarbon impurities than found in Florida ores requires decarbonization. The process removes organic or carbonaceous materials from the rock by the application of heat because other beneficiation processes which remove other impurities are not sufficient to remove these materials. The process only removes the impurities and makes no chemical change in the phosphate rock. Without this process, the phosphate rock is not in shipping grade and form.

Section 613(c)(4)(C) of the Code provides that, in the case of an ore (such as phosphate) which is customarily sold in the form of a crude mineral product[8], sorting and concentrating are mining processes. Section 1.613-4(f)(3)(i) of the Regulations provides: "as used in section 613(c)(4)(C) * * * the terms 'sorting' and 'concentrating' mean the process of eliminating substantial amounts of the impurities or foreign matter associated with the ores or minerals in their natural state, * * * *without changing the physical or chemical identities of the ores or minerals.*"[9] [Emphasis added]

This definition precisely describes the decarbonization of phosphate ore, whereby substantial impurities are removed from phosphate ore without changing the physical or chemical identities of the phosphate rock. The Code and Regulations are clear and one would assume there could be no questions as to it being a mining process. However, as was the case with trona, the Internal Revenue Service has maintained an incorrect position.

3. Current Internal Revenue Service Position on Phosphate

The 1971 change of position by the Treasury with respect to the decarbonation of trona raised questions regarding decarbonization of phosphate. In 1972, the Service issued Revenue Ruling 72-473,[10] which determined whether certain treatment processes applied to extracted phosphate rock are mining processes for purposes of computing percentage depletion. It correctly held that the calcining of phosphate rock to produce defluorinated phosphate rock for use in manufacturing food additives in not a mining process. As the ruling points out, calcining of phosphate rock to eliminate flourine chemically alters the rock and is, accordingly, a calcining or manufacturing process.

In 1974, the Internal Revenue Service issued Revenue Ruling 74-519[11] holding that the burning of carbonaceous material contained in phosphate rock is thermal action and therefore not mining for purposes of computation of percentage depletion. This ruling is based on the proposition that the decarbonization of phosphate takes place after all mining and concentration processes have been completed and is necessary to subsequent manufacturing processes. The Service's conclusion that this was a thermal action process is factually incorrect.

4. Internal Revenue Service Position Is Incorrect

There is no justification for the conclusions reached in Rev. Rul. 74-519. The Ruling properly states the definition of "concentrating", but arbitrarily fails to apply or even discuss it. Inappropriately, the Ruling attempts to define decarbonization of phosphate as "thermal action" which is defined in § 1.613-4(g)(6)(viii) of the Regulations as: "processes which involve the application of artificial heat to ores or minerals such as, for example, the burning of bricks, the coking of coal, the expansion or popping of perlite, the exfoliation of vermiculite, the heat treatment of garnet, and the hearing of shale, clay or slate to produce lightweight aggregates. The term does not include drying to remove free water."[12]

Clearly the enumerated examples are not processes to remove impurities. They are rather processes applied to minerals (where the impurities have already been removed) in order to obtain an end product. For example, as applied in the above definition, the burning or firing of bricks is part of a manufacturing process in which the raw materials are first crushed, mixed, ground, tempered and formed, dried and then fired. During the firing process, mechanically and chemically combined water is driven off and iron, sulfur, and organic impurities are oxidized. The desired mineral transformations and volume changes are a part of the manufacturing process to produce bricks for particular uses and are not a concentration process. In the coking of coal, the thermal action is used to convert low volatile hydrocarbons to elemental carbon. In both the expansion or popping of perlite and the exfoliation of vermiculite, the thermal action on the mined and concentrated mineral serves to vaporize both the combined and entrapped water. This rapid vaporization shatters the mineral form, resulting in its desired physical change, but effects no mineral concentration. The thermal treatment of garnet improves its abrasive qualities, not through improving its inherent hardness, but by removing minute amounts of surface impurities, which, if not removed, interfere with its later processing to give proper adhesion for bonding. Also in the pyro-processing of shale, clay, or slate to produce lightweight aggregate, the purpose of the thermal action is not to concentrate the mineral, but to reduce its density for use in manufacturing low density brick or other construction materials. Clearly these are not processes to remove impurities. They are rather processes applied to minerals from which the gangue impurities have already been removed in order to obtain an end product. It should thus be equally clear that Reg. § 1.613-4(g)(6)(viii) is not applicable to the particular application of heat to phosphate.

The Ruling also refers to "refining" which is defined by § 1.613-4(g)(6)(iii) of the Regulation as: "processes * * * used to eliminate impurities or foreign matter from smeltered or partially processed metallic and nonmetallic ores and minerals, as, for example, the refining of blister copper. In general, a refining process is designated to achieve a high degree of purity by removing relatively small amounts of impurities or foreign matter from smeltered or partially processed ores or minerals."[13]

The foregoing definition does not apply to decarbonization of phosphate. The phosphate rock has not been smeltered or partially processed; it has only undergone mining processes. Decarbonization, like other beneficiation processes, is required as a mining process in order to obtain a raw material which can be used in the manufacture of wet-process acid. Decarbonization is required as a mining process in order to obtain a raw material in shipping grade and form.

In similar manner, the term "calcination" was initially intended to cover the processing of limestone (calcium carbonate) through roasting (volatilization of the chemically combined carbon dioxide) to produce lime (calcium oxide). Limestone is typically mined in a comparatively pure form. Chemical grade limestone contains only small amounts of impurities such as iron, magnesium and clay minerals and little or no concentration is needed prior to its thermal refining to produce lime.

The equipment and heat flow technology used in the limestone to lime process have become known as "calciners" and "calcining", respectively. The utilization of this type of equipment or technology to the heat treatment of other ores has sometimes led to the inappropriate use of these terms as a classification matter when similar equipment is used without a consequent chemical change. This is particularly true with respect to phosphate rock. The term calcining has frequently been used to describe both the process of defluorinating phosphate rock and the process of decarbonization of phosphate ore. The term is correctly used in the former case as heat is used to effect a chemical change, i.e., the volatilization of fluorine from the phosphate mineral, fluorapatite. It is incorrectly used in the latter case, where concentration of the ore takes place by volatization of the organic hydrocarbon impurities and no physical or chemical change of the phosphate mineral occurs.

Thermal action and calcining have correctly been disallowed as part of the mining process since they change the chemical nature of the mineral processed, and are applied after all mining concentration processes have been completed. The heat treatment of phosphate ore to decarbonize, however, does not affect the phosphate mineral form. Rather, it merely concentrates the ore to shipping grade and form.

Both nodulizing and sintering of phosphate ore are allowed as mining processes for the purpose of calculating percentage depletion. Nodulizing and sintering are high temperature (2000-2500 degrees F) processes conducted to produce a phosphate raw material suitable for feed to an electric furnace for elemental phosphorus production. In these processes, the ore is concentrated by removal of volatile and combustible impurities which are not tolerable for efficient operation of the furnace. Both physical and chemical changes occur in the ore: the physical change is the fusing and melting that occurs at high temperature, while the chemical change is the decomposition of the impurities present, such as calcium carbonate, and the expulsion of fluorine from the fluorapatite, resulting in the formation of tricalcium phosphate and lime. In addition, the same hydrocarbons that are eliminated in the phosphate decarbonization process are also removed. Nodulizing and sintering are thus concentration processes which also fuse the phosphate rock to produce a more efficient furnace feed. The physical change that occurs significantly increases the size of the phosphate particles by fusing them together.

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[8] Phosphate is clearly such a mineral with the Code meaning and under § 1.613-4(f)(3)(iv).

[9] The same definition is contained in Rev. Proc. 78-19, 1978-2 C.B. 491, Sec. 5.09.

[10] 1972-2 C.B. 284.

[11] 1974-2 C.B. 182.

[12] The same definition is contained in Rev. Proc. 78-19, 1978-2 C.B. 491, Sec. 5.61.

[13] The same definition is contained in Rev. Proc. 78-19, 1978-2 C.B. 491, Sec. 5.45.

The decarbonization of phosphate rock is analagous in its concentration effect to sintering, but it is even clearer that it is a mining process, since it is deliberately conducted at lower temperatures (1200-1430 degrees F) to avoid alteration of the apatite mineral. In particular, fusing or changes in chemical composition are avoided. Consequently there is no chemical or physical transformation of the fluorapatite in the decarbonization process.

The decarbonation of trona is also allowed as a mining process for calculating percentage depletion. In processing trona ore into soda ash, decarbonation is a necessary concentration and chemical treatment process. Decarbonation of trona is a thermal process in which the sodium bicarbonate content of the trona mineral is decomposed to sodium carbonate with the concurrent volatilization of carbon dioxide and moisture. The decarbonated trona ore is further concentrated in subsequent processing to remove other impurities. The decarbonation step is analagous to decarbonization of phosphate ore in that it is necessary to produce a product of shipping grade and form, but it is not analagous in that the process of decarbonation effects a chemical change by the decomposition of the ore to sodium carbonate and carbon dioxide in a reaction similar to the calcining of limestone in which the latter is decomposed to lime and carbon dioxide. As opposed to high temperature treatment to effect a chemical change, the major desired constituent in phosphate ore, fluorapatite, remains unchanged both chemically and physically during its decarbonization.

III. SUMMARY

Phosphate ores contain many impurities which must be removed by various mining processes before the product is in shipping grade and form. Eighty percent of the ore produced in the United States only needs to be washed and floated in order to be concentrated sufficiently for use in wet-process phosphoric acid production or as electric furnace feed. If the phosphate product from these concentration steps is too fine, it must be sintered or nodulized before it can be used as electric furnace feed. Phosphate ore mined in the Western states and in North Carolina, however, must undergo the further concentrating step of decarbonization before it can be used in wet-process phosphoric acid production. The phosphate mineral undergoes no physical or chemical change in this process. The sintering or nodulizing of Western and North Carolina ores concentrates these ores through decarbonization while simultaneously, the phosphate mineral is undergoing physical and chemical changes necessary to provide a product suitable for feed to an electric furnace. All phosphate ore mined in Tennessee is used in electric furnaces for elemental phosphorus production and therefore undergoes the decarbonization process during sintering or nodulizing.

It is apparent that the disallowance of decarbonization of phosphate ores as a mining process has been due to a misunderstanding of the nature of the process. In the past, it has mistakenly been assumed to be a disallowed process such as calcining, thermal action, or refining. In fact, decarbonization of phosphate ore is a concentration process which uses heat, but which does not change the physical or chemical nature of the phosphate mineral.

It is difficult to understand why the Internal Revenue Service has attempted to stretch definitions that are clearly not intended to apply to the process of decarbonization of phosphate ore. This is particularly true where the definition of "concentrating" is clearly applicable to the decarbonization process. As in the case with trona, the Internal Revenue Service has mistakenly determined to disallow decarbonization of phosphate as a mining process, despite a clear statute and regulations.

However, since the Internal Revenue Service apparently would like legislative direction on this matter, I am hopeful that my colleagues will join me in proceeding with corrective legislation.

By Mr. DANFORTH:

S. 1194. A bill to amend the Internal Revenue Code of 1954 to encourage the contribution of scientific equipment to elementary and secondary schools and institutions of higher education and to foster university research and scientific training; to the Committee on Finance.

TECHNOLOGY EDUCATION ASSISTANCE AND DEVELOPMENT ACT OF 1983

● Mr. DANFORTH. Mr. President, for some time now we have been talking on this floor about the serious decline in the quality of education in this country, particularly science and math education. There have been numerous bills introduced in the last two Congresses, several by me, with the purpose of addressing this problem. So far, none of this proposed legislation has made any progress in the Senate.

On Tuesday of last week, the National Commission on Excellence in Education released its report, "A Nation at Risk," on the problems facing our educational system. Not surprisingly, this report concludes that we are in serious trouble. What is the cause of the decline in educational achievements? The commission cites several factors, including lack of emphasis on basic courses, the lowering of expectations and standards, too much vacation time and the lack of qualified teachers, coupled with underpayment of those teachers who are qualified. The commission calls the shortage of adequately trained math and science teachers "particularly severe."

Mr. President, what are the consequences to our country and its citizens of inadequate education in math and science? I believe that the very future of our economy and our position in the world are at stake. To quote the commission once again:

> Our once unchallenged preeminence in commerce, industry, science and technological innovation is being overtaken by competitors throughout the world * * * what was unimaginable a generation ago has begun to occur—others are matching and surpassing our educational attainments.

If we are to maintain our leadership in the world, if we hope to continue to offer the highest standard of living in the world, we must reverse that trend. A strong economy depends on our ability to achieve real growth in national income, without falling prey to destructive inflationary spirals. To do so, we must achieve real increases in productivity. One of the major steps in realizing productivity growth is to provide the country's most valuable resources—our students—with every opportunity to acquire the knowledge and develop the skills that will lead to the development of new technologies, on which we depend for productivity growth.

Mr. President, our country's performance in technology education over the last 20 years provides little to cheer about. Japan, with less than half the population of the United States, graduates more electrical engineers than we do. Japan, West Germany, and the Soviet Union have all devoted more resources, as a percentage of GNP, to research and development in the past 20 years than the United States, and have all experienced much higher rates of growth in productivity—466 percent for Japan, for example, compared to 69 percent for the United States.

The shortages in qualified teachers and facilities for math and science education are acute. In 1981, 38 States reported shortages of chemistry teachers; 43 States reported shortages of mathematics teachers; and 42 States reported shortages of physics teachers. Through the 1970's, the average number of new science teachers produced by our colleges dropped by 64 percent; new math teachers dropped by 78 percent. The appalling result is that half of all new science and math teachers hired by high schools are unqualified to teach their subjects.

These factors can be traced to the inability of our institutions of higher education to provide education to students who want to enter these fields. For example, there are now approximately 2,000 vacancies in higher education engineering faculties. Similar shortages exist for mathematics and other science disciplines as well. It is not so much a question of not having enough interested students. Rather, it is the inability of our schools to provide for the "hordes"—in the words of the Wall Street Journal—who want to become computer scientists, engineers, and mathematicians.

It is not just a shortage of faculty that prevents our universities from producing adequate numbers of science and math graduates. The lack of up-to-date equipment on which to learn and do research is also a desperate problem. A recent article in the Washington Post, on the discovery in Europe of the elusive "W" particle, noted that, as we have allowed the advancement of the instrumentation of our universities to decline, the most talented researchers, including Americans, have gone to Europe to do their work.

In addition to the problems we face in training sufficient numbers of mathematicians, scientists, and engineers to form an adequate supply from which to draw teachers of math and science, our elementary and secondary schools are unable to provide access to the latest in technology for their students. The commission's report recommends requiring computer science courses for every student before they graduate from high school. Only by developing in the students of today the ability to adapt to and utilize the rapidly expanding and changing presence of computers will we, as a country, be able to compete successfully in the world market of tomorrow. Yet budget restraints prevent our schools from acquiring this kind of equipment.

Mr. President, I am today introducing a bill which is aimed at alleviating these problems by encouraging a partnership between the Federal Government and private industry to provide funding and equipment to colleges, universities, secondary, and elementary schools.

This bill, for which I have a technical description to place in the Record, has two basic parts. The first part of the bill is designed to encourage the contribution of scientific equipment to schools for use in direct student or teacher education. Such contributions are encouraged by allowing them to be treated the same as contributions of scientific equipment to colleges and universities for use in research and experimentation under current law. This provision would apply, in the case of contributions to precollege education, to contributions of computers, educational software, ancillary computer equipment, and repair and maintenance services.

In the case of institutions of higher education, the provisions would apply to contributions of any scientific or technical equipment or apparatus—including, of course, computers and related equipment—which are used for the direct education of students or faculty, research, or research training, in mathematics, the physical or biological/biomedical sciences, computer science or engineering.

The second part of the bill deals with an expansion of the R&D credit for basic research performed by colleges and universities which is funded by corporations. Under this provision, any amounts paid to universities or other qualified organizations for basic research would not be included in the taxpayer's base-year research for purposes of determining whether the taxpayer has increased its R&D activity. In addition, this part of the bill makes amounts paid by corporations to fund faculty salaries, scholarships, or loans in the sciences, math, or engineering qualify as contract research expenses for purposes of the R&D credit.

Mr. President, the Commission's report calls for the Federal Government to support improvements in these and other areas, but calls for this assistance to be provided with a minimum of administrative burden and intrusiveness. My bill, though in the works long before the Commission released its report, is designed specifically with that in mind.

By encouraging this assistance through Government/industry partnerships, the bill accomplishes two objectives: First, it provides our schools with many times the benefits in dollar value that a direct expenditure of the same amount of Federal funds would provide, and second, it does so with virtually no additional bureaucracy.

Mr. President, this bill will address an extremely important need faced by our country's education system. It is supported by the Association of American Universities, the Association of State Universities & Land Grant Colleges, the National Association of Independent Colleges & Universities, the National Association of Secondary School Principals—the largest group of school administrators in the country—the National Association of Elementary School Principals, and the American Electronics Association, which has over 2,000 members involved in all aspects of the electronics industry.

Mr. President, I ask unanimous consent that the text of the bill and the technical description of the bill be printed in the Record.

There being no objection, the matter was ordered to be printed in the Record, as follows:

S. 1194

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Technology Education Assistance and Development Act of 1983".

SEC. 2. DEDUCTION FOR CONTRIBUTIONS OF SCIENTIFIC AND TECHNICAL PROPERTY FOR USE IN TECHNOLOGY EDUCATION DEVELOPMENT.

The Internal Revenue Code of 1954 is hereby amended by striking paragraph (4) of subsection (e) of section 170, and is further amended by adding to part VI of subchapter B of chapter 1, as a new section 174A, the following:

"SEC. 174A. CONTRIBUTIONS OF SCIENTIFIC AND TECHNICAL PROPERTY USED FOR EDUCATION AND RESEARCH.

"(a) Allowance of Deduction.—There shall be allowed as a deduction any qualified education or research contribution (as defined in subsection (b)), which is made within the taxable year.

"(b) Qualified Education or Research Contribution.—For purposes of this section, the term 'qualified education or research contribution' means a transfer, made without consideration, by a corporation of—

"(1) in the case of a transfer to an educational organization which is described in section 170(b)(1)(A)(ii) and that is an institution of higher education (as defined in section 3304(f), (or to an association, substantially all of whose members are educational organizations described in section 170(b)(1)(A)(ii) that are institutions of higher education) qualified scientific property or qualified services;

"(2) in the case of a transfer—

"(A) to an educational organization that (i) is described in section 170(b)(1)(A)(ii) and (ii) is not an institution of higher education (as defined in section 3304(f)),

"(B) to a school operated as an activity of an organization described in section 501(c)(3) and exempt from income tax under section 501(a), if such school (i) normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, and (ii) is not an institution of higher education (as defined in section 3304(f)), or

"(C) to a museum, library or correctional institution which is exempt from income tax under section 501(a) and which (i) is operated by section 170(c)(1) governmental unit, or (ii) is operated as an activity of a section 501(c)(3) organization,

qualified computer equipment property or qualified services.

"(c) Qualified Contributions.—

"(1) Qualified computer equipment property.—For purposes of this section, 'qualified computer equipment property' means personal property described in paragraph (1) of section 1221, which is transferred to an organization described in subsection (b)(2), but only if—

"(A) such transfer is made through the governing body of the recipient,

"(B) such transfer is of computer equipment property which, for purposes of this section, means any of the following:

"(i) a data processor which—

"(I) is suitable for educational use,

"(II) will support at least 3 computer languages,

"(III) has a random access memory with a capacity for at least 16,000 bytes, expandable to at least 48,000 bytes, and

"(IV) is accompanied by a screen for visual display of data;

"(ii) ancillary computer equipment which is transferred for use in connection with a data processor described in clause (i) which is contributed by the taxpayer or which is already owned by the recipient. For this purpose, ancillary computer equipment shall mean a display screen, a printer, or a disc drive;

"(iii) any installation equipment or replacement parts for equipment described in clauses (i) or (ii); or "(iv) computer software which is suitable for use in instructional applications in the educational environment in which the data processor is to be used,

"(C) such transfer of computer equipment is accompanied by the same warranty or warranties normally provided by the taxpayer in connection with a sale of equipment of the same kind,

"(D) in the case of the transfer of property described in subparagraph (B)(i), (ii), or (iii), such transfer is of property which is assembled by the taxpayer, and the taxpayer is regularly engaged in the business of assembling and selling or leasing computer equipment of the same kind as such property,

"(E) such transfer is made—

"(i) not later than 6 months after the date upon which the assembly of the property is substantially completed, and

"(ii) during the 5-year period beginning on the effective date of this Act,

"(F) such transfer is made pursuant to a written plan under which there will be diversity in the distribution of the taxpayer's contributions of qualified computer equipment property on a geographical basis and on the basis of the relative economic status of the students of the recipients,

"(G) the original use of the computer equipment is by the recipient,

"(H) substantially all of the use of the transferred property by the recipient will be at its institution(s) directly in the education of students or teachers in the United States,

"(I) the transferred property is not retransferred by the recipient in exchange for money, other property, or services, during the ACRS life of the property,

"(J) the taxpayer receives from the governing body of the recipient a written statement, executed under penalties of perjury, representing that the use and disposition of the property by the recipient will be in accordance with the provisions of subparagraphs (H) and (I); further, in the case of a transfer of software described in subsection (c)(1)(B)(iv), the statement must represent that such software is compatible with data processors owned by the recipient and that it is suitable for use in educational programs of the recipient; in the case of transfers of ancillary computer equipment, the statement must represent that such equipment is compatible with data processors contributed by the taxpayer or already owned by the recipient.

"(K) the taxpayer, at no cost to the recipient or its employees, provides sufficient orientation to one or more individuals employed by the recipient, to make at least one such individual per data processor transferred by the taxpayer, proficient in the operation of the property in the direct education of students or teachers. Such orientation program shall—

"(i) be conducted by employees of the taxpayer or by any other competent person authorized by the taxpayer pursuant to an agreement between the taxpayer and such person.

"(ii) be provided at a location that is determined pursuant to an agreement between the taxpayer and the recipient.

The determination of what is 'sufficient orientation' for purposes of this subparagraph shall be pursuant to an agreement between the taxpayer and the recipient; however, except in the circumstances described below, the orientation program must provide at least three hours of orientation per data processor transferred. This minimum shall not apply where, at the determination of the governing body of the recipient, employees of the recipient have knowledge of an experience with the transferred property sufficient to justify less that three hours orientation per data processor. In such case, the statement required under subsection (c)(1)(J) shall include a representation that such lesser amount is sufficient.

"(2) Qualified scientific property.—For purposes of this section, the term 'qualified scientific property' shall mean computer software or tangible personal property that is described in paragraph (1) of section 1221 or that is property used in the taxpayer's trade business (as defined in section 1231(b)) and which is transferred (either directly or through the clearinghouse for used scientific property) to an organization described in subsection (b)(1), but only if—

"(A) such transfer is made through the governing body of the recipient,

"(B) such property is scientific or technical equipment or apparatus, or replacement parts therefor, substantially all of the use of which by the recipient is for direct education of students or faculty, for research and experimentation (within the meaning of section 174), or for research training, in the United States, in mathematics, the physical or biological/biomedical sciences, engineering, computer science, or the following categories of vocational education:

"(i) Computer and information services,

"(ii) Science technology

"(iii) Engineering and engineering-related technologies, or

"(iv) Precision production—drafting and precision metalwork,

"(C) such transfer is made—

"(i) in the case of personal property described in paragraph (1) of section 1221, not later than 6 months after the date upon which the assembly of the property is substantially completed, or

"(ii) in the case of tangible personal property used in a taxpayer's trade or business (as defined in section 1231 (b)), not more than 3 years after the property is first placed in service,

"(D) in the case of a transfer of tangible personal property that is described in paragraph (1) of section 1221, such transfer is of property which is assembled by the taxpayer, and the taxpayer is regularly engaged in the business of assembling and selling or leasing scientific or technical equipment or apparatus of the same kind as such property,

"(E) in the case of a transfer of tangible personal property that is described in paragraph (1) of section 1221, in original use of such property is by the recipient,

"(F) the transferred property is not retransferred by the recipient in exchange for money, other property, or services during the ACRS life of the property,

"(G) the taxpayer receives from the governing body of the recipient a written statement, executed under penalties of perjury, representing that the use and disposition of the property by the recipient will be in accordance with the provisions of subparagraphs (B) and (F),

"(H) the retail value of a single unit of the property transferred equals or exceeds $500 (except in the case of computer software, which must have a retail value of at least $250 per unit, or in the case of replacement parts).

"(I) such transferred property is accompanied by the same warranty or warranties normally provided by the manufacturer in connection with a sale of the equipment or apparatus transferred, and

"(J) in the case of a transfer of property that is used in the taxpayer's trade or business (as defined in section 1231(b)), the property is functional and useable in the condition in which it is transferred for the purposes described in subsection (c)(2)(B), without the necessity of any repair, reconditioning, or other investment by the recipient, and the statement required under subsection (c)(2)(G) also represents that the property meets this requirement.

"(3) Qualified services.—For purposes of this section, the term 'qualified service' shall mean any standard contract between the taxpayer and any recipient described in subsection (b)(1) or (b)(2), in connection with any transfer of qualified computer equipment property or qualified scientific property, for maintenance, repair, reconditioning, or any other similar services normally made available by the taxpayer to its customers in connection with the sale or lease of property of the same kind.

"(d) Amount of Allowable Deduction.—The amount of the deduction allowable under subsection (a) shall be—

"(1) in the case of tangible personal property that is described in paragraph (1) of section 1221, the fair market value of the property, limited to the lesser of (A) the sum of the taxpayer's basis in the property and one-half of the amount of gain which would not have been long-term capital gain if the property had been sold by the taxpayer at its fair market value (determined at the time of such transfer), or (B) twice the taxpayer's basis in the property;

"(2) in the case of tangible personal property that is used in the taxpayer's trade or business (as defined in section 1231(b)), 150 percent of the taxpayer's basis in the property (without regard to adjustments under section 1016(a);

"(3) in the case of qualified services, the lesser of (i) the fair market value of such services (as determined by the amount normally paid by customers of the taxpayers for such services) or (ii) 150 percent of the direct cost of the taxpayer in providing such services;

"(4) in the case of orientation provided pursuant to subsection (c)(1)(K), the direct cost incurred by the taxpayer in providing such orientation shall be included in the basis of qualified computer equipment property for purposes of the deduction allowable under paragraph (1) of this subsection; and

"(5) in the case of computer software—

"(A) which has been purchased by the taxpayer prior to the transfer, the fair market value (determined at the time of such transfer),

"(B) which has been developed by the taxpayer, one-half of the fair market value (determined at the time of such transfer).

"(e) Limitations on Allowable Deduction.—The deduction otherwise allowable under subsection (a) of this section—

"(1) shall not exceed, for any taxable year, 10 percent of the taxpayer's taxable income computed without regard to—

"(A) any deduction under this section,

"(B) section 170,

"(C) part VIII of subchapter B (except section 248),

"(D) any net operating loss carryback to the taxable year under section 172, and

"(E) any capital loss carryback to the taxable year under section 1212(a)(1),

less the taxpayer's total deductions under section 170(a) for the taxable year. Amounts exceeding this limitation may be carried forward in the same manner as a deduction under section 170.

"(2) shall not be allowed in the case of a contribution of otherwise qualified computer equipment property or qualified scientific property (excluding property used in the taxpayer's trade or business), where the taxpayer's total qualified education or research contributions of such property under this section in the taxable year, as determined on a product-by-product basis, exceed 20 percent of the number of units of such product sold by the taxpayer in the ordinary course of its business in that taxable year.

"(f) Definitions.—For purposes of this section—

"(1) the term 'substantially all' shall mean at least 80 percent;

"(2) the term 'corporation' shall not include—

"(A) an electing small business corporation (as defined in section 1371(b),

"(B) a personal holding company (as defined in section 542), or

"(C) a service organization (as defined in section 414(m)(3).

"(3) the term 'clearinghouse for used scientific property' shall mean a clearinghouse to be established and administered by the National Technical Information Service of the Department of Commerce. This clearinghouse will accept from corporations the description of used scientific property which is qualified scientific property and which the corporations wishes to contribute under this section. The clearinghouse shall publish this information, not less frequently than once per month, in the Federal Register, for the purpose of assisting qualifying recipients (described in subsection (b)(1)) of such equipment in identifying potential sources of equipment which is needed by the recipients for the purposes described in subsection (c)(2)(B).

"Where qualifying used scientific equipment is so listed with the clearinghouse not more than three years after it is first placed in service, if it is transferred to a qualifying recipient by the taxpayer as a result of having listed the equpment with the clearinghouse, not more than six months after so listing, the property shall be deemed to have met the requirement of subsection (c)(2)(C)(ii).".

SEC. 3. EXPANSION OF CREDIT FOR UNIVERSITY RESEARCH AND RELATED ACTIVITIES.

Subsection (e) of section 44F of the Internal Revenue Code of 1954 is amended to read as follows:

"(e) Credit Available With Respect to Certain Basic Research or Education Expenditures by Colleges, Universities, and Certain Research Organizations.—

"(1) In general.—65 percent of any amount paid or incurred in any taxable year by a corporation to any qualified organization for basic research or scientific education to be performed by such organization shall be treated as contract research expenses paid or incurred in carrying on a trade or business of the taxpayer in that taxable year (without regard to the provisions of subsection (b)(3)(B)). The preceding sentence shall apply only if the amount is paid or incurred pursuant to a written agreement between the corporation and the qualified organization.

"(2) Not included in base year expenses.—For purposes of determining the amount of the credit allowed under this section for any taxable year, any amount treated as contract research expenses under subsection (e)(1) shall not be included in the computation of base period research expenses under subsection (a)(2).

"(3) Qualified organization.—For purposes of this subsection, the term 'qualified organization' means—

"(A) any educational organization which is described in section 170(b)(1)(A)(ii) and which is an institution of higher education (as defined in section 3304(f)),

"(B) any other organization which—

"(i) is described in section 501(c)(3) and is exempt from tax under section 501(a),

"(ii) is organized and operated primarily to conduct scientific research, and

"(iii) is not a private foundation, or

"(C) any organization which—

"(i) is described in section 501(c) (3) or (6) and is exempt from tax under section 501(a),

"(ii) is organized and operated primarily to promote scientific research or scientific education by qualified organizations (within the meaning of subsection (e)(3)(A) or (B)) pursuant to written research agreements, and

"(iii) expends on a current basis substantially all of its funds through grants or contracts for basic research or scientific education by a qualified organization (within the meaning of subsection (e)(3) (A) or (B)).

"(4) Basic research.—The term 'basic research' means any original investigation for the advancement of scientific knowledge not having a specific commercial objective, except that such term shall not include—

"(A) basic research conducted outside of the United States, and

"(B) basic research in the social sciences or humanities.

"(5) Scientific education.—The term 'scientific education' means the education of students and faculty at an institution described in paragraph (3)(A) in mathematics, engineering, computer science and the physical and biological/biomedical sciences.

"(6) Limitation on scientific education amounts.—Any amount paid or incurred by a corporation for scientific education in any taxable year shall be treated as contract research expenses only to the extent—

"(A) such amounts are used by the recipient—

"(i) for the payment of wages (within the meaning of section 3401(a)) to any individual directly engaged in providing such scientific education or

"(ii) to fund scholarships or loans for students attending such qualified organization (within the meaning of paragraph (3)(A)) who possess a bachelor's degree or its equivalent and are engaged in post-graduate study in mathematics, the physical or biological/biomedical sciences, engineering, or computer science;

"(B) amounts described in clause (i) are paid pursuant to a written agreement between the corporation and the recipient which obligates the corporation to render a like or greater amount to the recipient in each of not less than 3 consecutive taxable years; and

"(C) such amounts exceed an amount equal to the average of amounts paid by the taxpayer to all institutions of higher education (described in paragraph (3)(A)), for which a deduction is allowable under section 170 and which are not designated by the taxpayer to be used for the purposes described in subsection (e)(6)(A)(i) or (ii), during the three taxable years immediately preceeding the taxable year.

"(7) Special rules for grants to certain research funds.—

"(A) In general.—For purposes of this subsection, a qualified fund shall be treated as a qualified organization and the requirements of paragraph (1) that the basic research be performed by the qualified organization shall not apply.

"(B) Qualified fund.—For purposes of subparagraph (A), the term 'qualified fund' means any organization which—

"(i) is described in section 501(c)(3) and exempt from tax under section 501(a) and is not a private foundation,

"(ii) is established and maintained by an organization established before July 10, 1981, which meets the requirements of clause (i);

"(iii) is organized and operated exclusively for purposes of making grants pursuant to written research agreements to organizations described in paragraph (3)(A) for purposes of basic research, and

"(iv) makes an election under this paragraph.

"(C) Effect of elections.—

"(i) In general.—Any organization which makes an election under this paragraph shall be treated as a private foundation for purposes of this title (other than section 4940, relating to excise tax based on investment income).

"(ii) Election revocable only with consent.—An election under this paragraph, once made, may be revoked only with the consent of the Secretary.

"(8) Certain corporations not eligible.—For purposes of this subsection, the term 'corporation' shall not include—

"(A) an electing small business corporation (as defined in section 1371(b)),

"(B) a personal holding company (as defined in section 542), and

"(C) a service organization (as defined in section 414(m) (3)).".

SEC. 4. CLARIFICATION OF EXCLUSION FROM GROSS INCOME OF SCHOLARSHIPS, GRANTS, AND LOAN FORGIVENESS.

The Internal Revenue Code of 1954 is hereby amended by adding to part III of subchapter B of chapter 1 as a new section 117A the following:

"SEC. 117A. SCHOLARSHIPS, FELLOWSHIP GRANTS, AND STUDENT LOAN FORGIVENESS RECEIVED BY CERTAIN GRADUATE SCIENCE STUDENTS.

"(a) General Rule.—In the case of a qualified individual, gross income does not include—

"(1) any amount received—

"(A) as a scholarship,

"(B) as a fellowship grant, or

"(C) as qualified student loan forgiveness,

including the value of contributed services and accomodations; and

"(2) any amount received to cover expenses for—

"(A) travel,

"(B) research,

"(C) clerical help, or

"(D) equipment

which are incidental to such a scholarship or to a fellowship grant, but only to the extent that the amount is so expended by the recipient.

"(b) Qualified Individual.—For the purposes of this section, the term 'qualified individual' shall mean a student who is attending a qualified educational organization, who possesses a bachelor's degree or its equivalent, and who is enagaged in postgraduate study as a degree candidate in mathematics, engineering, computer science, or the physical or biological/biomedical sciences.

"(c) Qualified Educational Organization.—For purposes of this section, the term 'qualified educational organizational' shall mean an educational institution which—

"(1) is described in section 170(b)(1)(A)(ii),

"(2) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate,

"(3) is legally authorized within such State to provide a program of education beyond high school, and

"(4) provides an educational program for which it awards a bachelor's or higher degree.

"(d) **Qualified Student Loan Forgiveness.**—For purposes of this section, the term 'qualified student loan forgiveness' shall mean the foregiveness of a loan received by a qualified individual (as defined in subsection (b)) for the purpose of financing his post-graduate course of study in mathematics, engineering, or the physical or biological sciences, but only to the extent that—

"(1) the amount represented by the loan was so expended, and

"(2) such student is required in a written loan agreement, as a condition of receiving such forgiveness of the loan, to perform teaching services for a qualified educational organization upon completion of his post-graduate course of study.

"(e) **Limitation.**—In the case of a qualified individual, subsection (a) shall not apply to that portion of any amount received which represents payment for teaching, research, or other services in the nature of part-time employment required as a condition to receiving the scholarship, the fellowship grant, or qualified student loan. If teaching, research, or other services are required of all candidates (whether or not recipients of scholarships or fellowship grants) for a particular degree at a qualified educational organization as a condition to receiving such degree, such teaching, research, or other services shall not be regarded as part-time employment within the meaning of this paragraph.

"(f) **Scholarships, Fellowship Grants, and Qualified Student Loan Forgiveness Not Includable Merely Because There Is a Requirement of Future Service in Teaching or Research.**—

"(1) **In general.**—If—

"(A) an amount received by a qualified individual would be excludable under subsections (a) and (e) as a scholarship, fellowship grant, or qualified student loan forgiveness but for the fact that such individual is required to perform teaching services for a qualified educational organization upon completion of his post-graduate course of study, and

"(B) the individual establishes that, in accordance with the terms of the scholarship, grant, or qualified student loan, such amount was used for qualified tuition and related expenses,

gross income shall not include such amount.

"(2) **Qualified tuition and related expenses defined.**—For purposes of this subsection, the term 'qualified tuition and related expenses' shall mean—

"(A) tuition and fees required for the enrollment or attendance of a qualified individual as a student at a qualified educational organization, and

"(B) fees, books, supplies, and equipment required for courses of instruction at a qualified educational organization.".

SEC. 5. EFFECTIVE DATE.

The amendments made by sections 2, 3, and 4 shall apply to taxable years beginning after the date of enactment of this Act.

TECHNOLOGY EDUCATION ASSISTANCE AND DEVELOPMENT ACT OF 1983, TECHNICAL DESCRIPTION

SUMMARY

Current law provisions governing the charitable contribution of items of inventory of a taxpayer generally limit the taxpayer's deduction to the taxpayer's basis in the property, regardless of the value of the property. Exceptions apply in limited cases, such as contributions of certain property for the care of the ill, or contributions of scientific equipment to universities for use in research.

In the case of donations of property which has been used in the taxpayer's trade or business (section 1231 property) current law requires the taxpayer to reduce its deduction for any depreciation recapture which would be recognized if the property were sold at a gain.

Under the bill, corporations would be encouraged to give specific types of property to qualifying organizations for educational use. Under new Internal Revenue Code section 174A, contributions of qualified computer equipment to pre-college schools and certain other organizations which use the equipment for educational purposes, would qualify for a deduction equal to the fair market value of the property, limited to the lesser of (1) the corporation's basis in the property plus 50% of its markup or (2) twice its basis in the property.

The same treatment would be available for contributions of scientific equipment to institutions of higher education for use in direct education or in research or research training in the fields of mathematics, engineering, computer science, the physical or biological/biomedical sciences, and certain vocational education programs.

This treatment is identical to the current law exceptions for donations of inventory noted above.

Further, the bill provides incentives for contributions of used scientific equipment to institutions of higher education for the uses described above. Under this provision, a corporation making a contribution of used property may take a deduction equal to 150% of the taxpayer's original basis in the property, less accumulated depreciation. Qualifying property would be scientific equipment which is not more than three years old when contributed, and which will not require the recipient to invest any funds in repair or reconditioning of the property in order to make it functional.

The second part of the bill amends the current law provisions governing the R&D credit for research activities which corporations contract with universities to perform.

First, the bill removes such amounts from the computation of base period research expenditures for purposes of the determination of whether the taxpayer has increased its research and experimentation activities. This removes the bias of current law which discourages contracting with universities of R&D activities, and has the purpose of increasing the funding of university-based research.

Second, the bill expands the definition of payments to universities which will be treated as contract research expenses for purposes of the R&D credit. Under these provisions, amounts paid to fund faculty salaries, or to fund scholarships, grants, or loans for graduate students in mathematics, engineering, or science would be treated as contract research expenses.

The third part of the bill clarifies the tax treatment of students receiving scholarships, grants, or loan forgiveness under this bill. A new code section, 117A, provides that such amounts will be excluded from income even if the student is required to provide teaching or research services as a condition for receiving the amount. In the case of loan forgiveness, the amount would be excluded from income only if the student is required to teach in an institution of higher education after completion of his graduate study.

The provisions of the bill will apply to taxable years beginning after the date of enactment.

DETAILED DESCRIPTION

Deduction for equipment donations

Under section 170(e) of current law, deduction for contributions of property which have a value in excess of the taxpayer's basis in the property must be reduced by the amount of gain which would be ordinary income if the property were sold. Thus, in the case of inventory, the taxpayer's deduction is reduced by the full amount of the value in excess of basis, so that the deduction is limited to basis. For example, if the maker of a microscope with a value of $800 and a basis of $200 gives the microscope to a college for its biology classes, the taxpayer is limited in its deduction to $200. In the case of property used in the taxpayer's trade or business (section 1231 property), the deduction must be reduced by the amount of the depreciation recapture which would be recognized if the property were sold.

Under section 170(e) (3) and (4), there are limited exceptions for contributions of inventory. Under section 170(e)(3), taxpayers may deduct the fair market value of inventory which is contributed to charitable organizations which use the property solely for the care of the ill, the needy, or infants. However, the fair market value deduction is limited to the lesser of (1) basis plus one-half of the taxpayer's markup on the property, or (2) twice basis.

Under section 170(e)(4), the same exception applies to contributions of scientific property to institutions of higher education for use in research or research training. Thus, in the example above, if the recipient used the microscope for research purposes, the taxpayer would be entitled to a deduction of $400 (the lesser of basis, $200, plus one-half of markup, $300, =$500, or twice basis, $400).

This bill adds a new Code section, 174A, which provides for the deduction for donations of scientific equipment to higher education and of computer equipment to pre-college education. Current law section 170(e)(4), described above, would be made a part of this new section, and the same treatment as applies under that provision would apply to the additional categories of equipment donations.

Computer Equipment for Pre-College Education.—The first category of equipment donations is for transfers of qualifying computer equipment to pre-college schools or to museums, libraries, or correctional institutions which use the equipment for educational purposes. Qualifying computer equipment is defined to include:

(1) Data processors which can support at least three computer languages, have RAM capacity of at least 16,000 bytes (and can be

expanded to at least 48,000) and which are accompanied by a display screen;

(2) Ancillary computer equipment, which includes display screens, printers, or disc drives which are compatible with data processors owned by the recipient (or transferred to the recipient in conjunction with the transfer of the ancillary equipment):

(3) Installation equipment or replacement parts;

(4) Educational software.

In addition, to qualify, the transfer of this property must meet the following requirements:

(1) It must be covered by the same warranty that the taxpayer would provide in the sale of such equipment;

(2) Except in the case of software, the property must be assembled by the taxpayer, who must be in the business of assembling and selling such equipment;

(3) The property must be transferred to the recipient not more than six months after it is assembled;

(4) The property must be new;

(5) The taxpayer must have a written plan for these transfers under which there will be diversity in the distribution of the equipment on a geographical basis and on the basis of the relative economic status of the students of the recipient;

(6) At least 80% of the use of the property must be in the direct education of students or teachers;

(7) The recipient may not dispose of the property in exchange for other property or services during the ACRS life of the property;

(8) The taxpayer must provide sufficient orientation to make at least one employee of the recipient per data processor transferred proficient in the operation of the equipment. This must be provided at no cost to the recipient or its employees;

(9) The transfer must be made through the governing body (e.g., school board) of the recipient;

(10) The governing body must provide a statement to the taxpayer, under penalties of perjury, representing that the property will be used and disposed of in accordance with requirements (6) and (7); in the case of software, the statement must represent that the softwear is compatible with data processors of the recipient and that it is suitable for the educational programs of the recipient; and, in the case of ancillary computer equipment, the statement must represent that it is compatible with data processors being transferred by the taxpayer or already owned by the recipient.

This provision will apply to transfers of qualified computer equipment during the 5-year period beginning on the date of enactment.

Scientific Equipment for Higher Education.—The second category of equipment donation which will qualify for the exception to the general rule limiting deductions to basis is for transfers of qualified scientific equipment to institutions of higher education. This provision applies to transfers of scientific or technical equipment (or replacement parts therefor) which is inventory of the taxpayer, or which is used in the taxpayer's trade or business (used scientific equipment).

In order to qualify, the transfer must meet the following requirements:

(1) In the case of new property, the property must be covered by the same warranty that the taxpayer would provide in the sale of such equipment;

(2) Except in the case of software or used scientific equipment, the equipment must be assembled by the taxpayer, who must be in the business of assembling and selling such equipment;

(3) In the case of inventory of the taxpayer, the equipment must be new and must be transferred to the recipient not more than six months after it is assembled; in the case of used scientific equipment, the equipment must be transferred not more than three years after the property is placed in service;

(4) At least 80% of the use of the equipment must be in direct education of students or faculty, or in research and experimentation (as defined under section 174) or research training, in mathematics, the physical or biological/biomedical sciences, engineering, computer science, or the following categories of vocational education: computer and information services; science technology; engineering and engineering-related technologies; precision production drafting; and precision metal work;

(5) The recipient may not dispose of the equipment in exchange for other property or services during the ACRS life of the property;

(6) The transfer must be made through the governing body (e.g., board of trustees) of the recipient;

(7) The governing body must provide a statement to the taxpayer, under penalties of perjury, representing that the equipment will be used and disposed of in accordance with requirements (4) and (5);

(8) The retail value of a single unit of the property must be at least $500 (except in the case of computer software which must have a retail value of at least $250, or in the case of replacement parts);

(9) In the case of used scientific equipment, the property must be functional and ready to use in the condition in which it is transferred, without the incurrence of any cost of the recipient for repairs or reconditioning.

In the case of transfers of qualified computer equipment property or qualified scientific property which is new inventory, qualified services may also be given. For this purpose, "qualified services" means any standard contract for maintenance, repairs, or similar services normally made available by the taxpayer to customers in connection with the sale of such property, which contract is transferred to the recipient in connection with the transfer of qualified property.

Amount of Deduction.—The amount of the deduction for qualifying transfers depends upon whether the property transferred is new inventory or used scientific equipment.

In the case of new inventory, the amount of the deduction allowed is the fair market value of the property, limited to the lesser of (1) the taxpayer's basis in the property plus one-half of the taxpayer's markup or (2) twice the taxpayer's basis. For example, assume the taxpayer contributes qualifying property with a basis of $400, and that the taxpayer's markup on the property is $600, so that the value of the property is $1,000. In this case, the allowable deduction is $700 which is the basis plus one-half of the markup ($400 plus $300), and which is less than twice basis ($800).

Where orientation is provided in connection with the transfer of qualified computer equipment property to pre-college schools, the direct cost incurred by the taxpayer in providing such orientation is included in the basis of the property for purposes of determining the allowable deduction.

In the case of used scientific equipment, the deduction allowed is 150 percent of the taxpayer's original cost in the equipment, reduced by the total depreciation deductions taken by the taxpayer in connection with the equipment. Under this provision, a taxpayer could deduct no more than 150 percent of its cost, taking into account both the deduction under this provision and depreciation deductions. Because the property must be transferred no later then three years after it is placed in service, in many cases there will be a partial recapture of the investment tax credit on the equipment. This provision eliminates disputes over the value of the used equipment, which can be very difficult in cases of used property.

In the case of qualified services, the allowable deduction is the lesser of (1) the fair market value of the services or (2) 150 percent of the taxpayer's direct costs incurred in providing the services.

Finally, in the case of computer software, the allowable deduction is, in the case of software purchased by the taxpayer prior to transfer, the fair market value of the software, and, in the case of software which is developed by the taxpayer, one-half the fair market value of the software.

Limitations on Deductions.—There are two limitations on deductions under this provision—one a percentage of the taxpayer's taxable income, the other a limit on the number of units of property which may qualify for the deduction.

First, the deduction allowable under the new section 174A may not exceed 10 percent of the taxpayer's taxable income, computed in the same manner as the limitation under section 170, and without regard to any deduction under this provision, less the taxpayer's total deductions under section 170. Amounts exceeding this limit may be carried forward in the same manner as a deduction under section 170.

Second, in the case of a transfer of qualifying computer equipment property or qualifying scientific property (excluding used scientific equipment), the taxpayer may take into account, for purposes of this provision, up to the number of units of property transferred equal to 20 percent of the number of units of the same type of property which the taxpayer sells in the ordinary course of its business during the taxable year. Thus, for example, if a taxpayer sells 500 units of a particular mass spectrometer during a taxable year, it may take into account no more than 100 of such spectrometers transferred to qualifying institutions of higher education during that taxable year, for purposes of this provision. This limitation prevents the transfer of property which the taxpayer is unable to sell from qualifying for the treatment of this provision.

Clearinghouse for Used Scientific Equipment.—Finally, in order to assist institutions of higher education locate potential sources of used scientific equipment which the school needs for qualifying uses, the National Technical Information Service of the Department of Commerce is to establish and administer a clearinghouse for used scientific equipment.

The clearinghouse will collect information from corporations about used scientific property which qualifies under this bill and which the corporation wishes to transfer to a qualifying institution of higher education. The clearinghouse will publish this information in the Federal Register, not less often than monthly, for the purpose of allowing qualified recipients of the equipment to identify sources of needed equipment.

If a taxpayer lists used scientific equipment with the clearinghouse not more than three years after the equipment was placed in service, and if it is transferred to a qualified recipient as a result of this listing not more than six months after it is so listed, the property will be treated as having been transferred not more than three years after being placed in service.

Expansion of R&D credit for university basic research and scientific education

Under current law, in order to qualify for the R&D credit, the taxpayer must increase its R&D expenditures over its base year research expenses. The base year research expense is the average of the taxpayer's qualified research expenses for the three years preceding the current year. Qualified research expenses include both research which the taxpayer performs on its own account and research for which it contracts (contract research). Included in contract research is 65 percent of amounts paid to universities to perform basic research.

Elimination of University R&D from Base Period Research.—Under current law, payments to universities for the performance of basic research is discouraged, since the inclusion of such payments in the base year research expense computation make it more difficult to qualify for the credit in subsequent years. This is compounded by the fact that payments to universities for basic research are much less likely to result in a return to the taxpayer, since, by definition, basic research is for the advancement of scientific knowledge, *not* having a specific commercial objective.

In order to remove this impediment, and thus encourage more payments to universities for basic research, this bill eliminates such payments from the computation of base period research expenses. This can be illustrated using an example comparing current law to the provisions of this bill.

	Current law	This bill
Third previous year:		
Nonuniversity R&D	$1,000	$1,000
University basic research	200	200
Second previous year:		
Nonuniversity R&D	1,200	1,200
University basic research	800	800
First previous year:		
Nonuniversity R&D	1,000	1,000
University basic research	1,000	1,000
Base period research expense	1,733	1,067
Current year R&D:		
Nonuniversity R&D	800	800
University basic research	1,200	1,200
Current year R&D subject to credit	267	933

Expansion of Credit to Scientific Education.—While current law allows 65 percent of payments for basic research to be treated as contract research expenses, this bill adds two additional categories of payments which will be so treated.

First, payments by taxpayers to fund faculty salaries in mathematics, engineering, computer science, or the physical or biological/biomedical sciences in higher education would qualify. However, in order to qualify, the taxpayer must be obligated under a binding agreement to make the same or greater payment for at least three consecutive years.

Second, contract research expense will include amounts paid to fund scholarships, grants, or loans to graduate students in those academic disciplines.

In order to qualify as contract research expenses for a year, the sum of the amounts paid by the taxpayer to fund faculty salaries, scholarships, grants, and loans under this provision, must exceed a base period contribution amount. The base period contribution amount is the average, for the preceding three taxable years, of all payments made by the taxpayer to institutions of higher education which qualify for a deduction under section 170, and which were not designated by the taxpayer to be used for faculty salaries or for graduate student scholarships, grants, or loans.

Expansion of Qualifying Research Organizations.—Current law allows payments to universities for basic research to be treated as contract research expenses, and also allows payments to certain other organizations to be so treated. In order to qualify, an organization must be described in section 501(c)(3), and be exempt from tax under section 501(a); it must be organized and operated primarily to conduct scientific research; and it must not be a private foundation.

This bill adds a new category of organization, payments to which will qualify as contract research expenses for purposes of the R&D credit. Under the bill, in order to qualify as such an organization, it must be described in section 501(c) (3) or (6) and be exempt from tax under section 501(a); it must be organized and operated primarily to promote scientific research or scientific education by universities of other organizations which qualify under current law; and, it must expend, on a current basis, substantially all of its funds, through grants or contracts for basic research or scientific education (within the meaning of new section 174A) by universities or other qualified research organizations described above.

Exclusion from gross income of certain scholarships, grants, or loan forgiveness

New section 117A is added to the Code to provide for the tax treatment of amounts received by graduate students in mathematics, the physical or biological/biomedical sciences, computer science, or engineering, in the form of scholarships, grants, or loan forgiveness. Such amounts will be excluded from the student's income, in the case of scholarships and grants, even though the student may be required to provide teaching or research services for the institution as a condition of receiving the amount. In the case of loan forgiveness, such amounts will be excluded from the student's income *only* if the student is required to provide teaching services to an institution of higher education as a condition of receiving the loan forgiveness.

Effective date

The amendments made by the bill apply to taxable years beginning after the date of enactment.●

By Mr. BENTSEN (for himself and Mr. CHAFEE):

S. 1195. A bill to amend the Internal Revenue Code of 1954 to promote the contribution of scientific equipment to elementary and secondary schools and universities and to foster university research and scientific training; to the Committee on Finance.

HIGH TECHNOLOGY RESEARCH AND EDUCATIONAL DEVELOPMENT ACT OF 1983

● Mr. BENTSEN. Mr. President, I am introducing legislation with Senator CHAFEE which is designed to halt our Nation's slide in basic research and development. Our bill, the High Technology Research and Education Development Act, provides enhanced incentives for the private sector to take a number of steps to boost basic R&D expenditures, to ease the shortage of scarce engineering professors at our colleges and universities, and to boost the quantity and quality of equipment being used for teaching purposes there and in vocational schools.

This legislation has been developed with the close cooperation of the American Electronics Association, the American Association of Universities, and the American Vocational Association. They share with me a vital concern with our grim R&D picture and a desire to see the Federal Government help rather than hinder an expansion in our Nation's commitment to research and development and in her technical base.

THE ROLE OF R&D

A substantial body of literature exists providing justification for Federal intervention to stimulate R&D spending. Prof. Kenneth Arrow, for example, has noted that capital markets discourage invention by forcing inventors to bear unwarranted risks. Yet, the role of R&D itself in enhancing the ability of our society to provide a rewarding and bountiful life is frequently overlooked. It plays that role in two major ways.

R&D AND JOBS

First, R&D has a fundamental influence on the process of job creation. For example, from 1972 to 1978, the value of all U.S. manufacturing shipments rose at an annual average rate of 3.2 percent. Forty-four SIC four-digit industries grew at a rate at least twice as high, however, and the marketing of new products was critical to that above average performance in over 75 percent of these high-growth industries. Indeed, the creation and capture of foreign markets, in particular, by such industries as computers and semiconductor equipment was critical in this growth process.

The capture of foreign markets and the establishment of new product lines and the jobs they create arise directly and explicitly from R&D expenditures. Some argue that technology transfer from abroad is a shortcut to the development of new products—that R&D spending itself is inefficient. But such technology transfer is only a short-term alternative to R&D spending. Purchasers of foreign technology will always be behind the learning curve for new technologies and products and subject to abrupt loss of markets as their more innovative foreign competitors introduce new or more efficient products. That fundamental reality explains the market shift over the past 15 years, for example, in which the Japanese Government has pursued policies to move that notion from clever imitator to innovator.

R&D AND PRODUCTIVITY

The second fundamental impact of R&D is to boost productivity—to enhance a nation's ability to produce more bountifully while providing greater leisure time to its citizens. That influence was acknowledged in 1981 by Congress when it enhanced the stimulus provided in our tax laws to encourage private sector R&D spending. Along with incentives for additional saving and investment, an enhanced tax credit for such R&D was the centerpiece of steps provided in the Economic Recovery and Tax Act to boost national productivity.

The beneficial impact of R&D spending on productivity directly influences a nation's ability to achieve full employment without inflation. My colleagues here are familiar with the so-called Phillip's curve tradeoff between unemployment and inflation. The economic principle portrayed by this curve is that macroeconomic fiscal or monetary policies designed to remedy either unemployment or inflation invariably magnifies the other. It was fashionable several years ago to argue that this Phillip's curve tradeoff was dead. But the experience of the last several years has shown that these wishful pronouncements were premature—that the tradeoff is alive and well. Indeed, over 10 million unemployed Americans are mute testimony to that curve's continued validity. R&D activity—by boosting productivity—is one key and effective way to break that curve—to avoid the economic policy tradeoff between inflation and unemployment.

In fact, substantial R&D spending may well be the most efficient way for any nation to simultaneously achieve low unemployment and low inflation.

There is abundant evidence showing that our decline in productivity growth over the last decade has paralleled our declining pattern of national R&D spending. For example, annual U.S. productivity growth averaged about 3 percent from 1948 to 1973, but fell to a scant 0.8 of 1 percent thereafter. Total U.S. R&D spending in real inflation-adjusted dollars peaked in 1968 before declining through 1976. Since then, it has exceeded the 1968 level, but the long leadtime for most R&D activity means that we face years still of relatively poor productivity.

A more comprehensive measure of U.S. R&D activity is R&D spending as a share of GNP. Those data are discouraging, as well. The most recent data are for 1981 when R&D spending stood at 2.39 percent of GNP—a level below that attained during the 1960's and early 1970's. In fact, from 1964 to 1978, the share of our GNP being devoted to R&D plunged fairly steadily to 2.24 percent from almost 3 percent, and that share has recovered very little since then.

NATIONAL AND INTERNATIONAL R&D TRENDS

These data suggest that a strong link exists between productivity and R&D spending. But it reveals, as well, the dismaying trend in national R&D spending generally. For example, as a share of GNP, R&D outlays have risen slightly since 1978. Yet, we are still devoting some 20 percent less to R&D today as a share of GNP than we did in the 1960's.

At the same time, our foreign competitors, led by Japan and West Germany have stepped up their own R&D efforts. In West Germany, R&D spending as a share of GNP in the 1970's rose some 15 percent above the rate maintained in the 1960's. For some years in the 1970's, in fact, their share of GNP devoted to R&D spending exceeded our own. The Japanese pattern has been even more pronounced. In recent years, their share of GNP devoted to R&D has been fully one third above the levels they maintained during the 1960's. Their commitment has grown while ours has shrunk.

Due to our heavy Federal defense and space R&D efforts, even these international data on national R&D spending give a rosier perspective than is warranted. A comparison of purely civilian R&D spending trends here and in Japan and West Germany should ring alarm bells all across Washington. Every year since 1968, West Germany has devoted a larger share of its GNP to civilian R&D than has our Nation. In fact, that R&D gap has grown enormously, with Germany now spending 2.15 percent of its GNP on civilian R&D in 1980, compared to only 1.66 percent of our own GNP during 1980, excluding capital expenditures. This gap was not always present. Indeed, in the early 1960's, civilian R&D as a share of GNP here exceeded that share in Germany. Yet, while civilian R&D in West Germany as a share of GNP almost doubled over the past two decades, it rose a scant 33 percent here.

The rise in Japanese civilian R&D as a share of GNP over that period has not been as dramatic as West Germany's record. But it too stands at close to 2 percent of that island nation's GNP—almost one-quarter greater than our own level of 1.66 percent of GNP devoted to civilian R&D.

Our lagging civilian R&D spending is offset to some extent by spillover from the robust Federal space and defense R&D program. But that spillover can scarcely be expected to close the civilian R&D gap between ourselves and Japan or West Germany. And offsetting any such spillover impact is the efficiency with which at least Japan appears to apply her R&D dollars. Both Japan and the European Community (EC) have long favored a rationalization of R&D efforts between civilian firms to avoid wasteful duplication of effort. And Japan has become a pronounced world leader in encouraging collusion between erstwhile competitors on especially long term R&D projects—projects with a high risk of failure but with commensurately high benefits if they yield technological advances which evolve into major new industries of the future. The EC is seemingly seeking to adopt that approach, as well, with its new $300 million to $1 billion R&D effort in microelectronics and automation, featuring collaboration between international competitors.

Both the EC and Japan utilize an extensive array of tax incentives to spur private R&D. And they provide other assistance as well which critically enhances the ability of their firms to innovate effectively. Trade barriers have commonly been adopted, especially by Japan, to force technology transfers by U.S. firms eager to gain footholds in the robust Japanese market. And while such transfers have occurred only as a last resort in many cases, they have occasionally involved the sacrifice of proprietary information with potentially harmful long term affects on the international competitive situation of the U.S. firms. In addition, both Japan and the EC have aggressively promoted technical education at a time when engineering schools here face great difficulty in recruiting and keeping faculty and modernizing equipment used in the classroom.

A CIVILIAN BASIC R&D PROMOTION PROGRAM

Federal funds have been and must continue to be a significant source of funding for civilian R&D. But the paperwork requirements associated with Federal funding, its inflexible focus on traditional areas of research, its year-to-year fluctuations in funding availability, its compartmentalization, and a heavy reliance on peer review may discourage as much truly innovative R&D as it encourages. To insure that our Nation can continue to remain at the forefront of technological change and the jobs it creates, civilian R&D efforts here should more closely match those abroad. Specifically, we should seek to stimulate sufficient private sector civilian R&D that it compares favorably with the relative commitment in our major trading competitors of Japan and West Germany—a level comparable to about 2 percent of GNP.

An increased R&D commitment is necessary, but particular focus must be given to basic R&D rather than applied R&D. Basic research is risky, expensive, and can take years to generate a payoff. Soaring interest rates, lagging profits, and poor sales have hit especially hard at civilian basic research. U.S. industry, for example, now spends only 3.6 percent of every research dollar on basic R&D, down from 7 percent in the mid-1960's. University R&D has been a major casualty of our declining focus on civilian basic R&D because 60 percent of all basic R&D is done at universities. Industry today is the source of a scant 3 percent of scientific funding at universities, down from 11 percent in the 1950's. As a result, less than 15 percent of all R&D is done at universities now, compared to 20 percent in Japan which has a commenserately much higher priority on basic R&D.

The R&D tax credit changes enacted in 1981 were a start toward reversing our sagging focus on basic R&D. But it has proven to be an inadequate stimulus, bound up too heavily in caveats and redtape. IBM, for example, testified last year that the strings associated with the 1981 tax law changes were such that they provided no special incentive to seek out the collaboration of universities. And Dr. Paul Grey, president of MIT, reported last spring that his school was negotiating only one research agreement as a consequence of the R&D tax credit provisions added in 1981.

To insure that basic R&D research receives the boost it needs, I believe we need to further build on the 1981 changes.

EXPLANATION OF LEGISLATION

The Bentsen-Chafee High Technology Research and Education Development Act will enhance our national R&D effort in two broad ways. First, it will encourage greater participation and collaboration on R&D projects by private firms with universities. Our colleges and universities are the entities most concerned with basic R&D—the type of fundamental R&D which is risky but necessary to insure that our Nation continues to achieve scientific breakthroughs and maintain its technological superiority. Our international competitors are increasingly focusing their national resources on basic R&D, and I believe we must answer these challenges by encouraging greater basic R&D here involving the private sector and public education.

The second way our legislation will enhance our national R&D effort is by improving our technical education base. The specific components of our bill are outlined in the attached factsheet. In brief, this legislation has four major components:

I. FACULTY SHORTAGES

I introduced S. 2474, the Scientific Research and Education Act, last year specifically to address our engineering faculty shortage. That legislation and provisions of the legislation being introduced today are similar in intent: to substantially increase the number of engineers being graduated by our some 280 engineering schools.

Such an increase is necessary to enhance our Nation's technological base. Let me quote the remarks on this point which I made less than 1 year ago in introducing S. 2474:

> My colleagues are aware of the giant strides made by Japan in carving out markets abroad at our expense. Less well understood are the complex forces at work responsible for their success. Price competitiveness is one facet. But increasingly, our international marketers are encountering Japanese items which are at least as advanced technically and qualitatively as those made anywhere else in the world. Indeed, in some technical product lines, Japanese technology is the cutting edge.
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> This technological expertise has not been developed by accident. It is the explicit result of an aggressive Japanese national policy to upgrade their society's technical base by stressing engineering undergraduate education—a policy which sees Japan, with only half our population, produce substantially more electrical engineers, for example, than we do. Dr. F. Karl Willenbrock, who is Cecil H. Green, Professor of Engineering at Dallas' Southern Methodist University, testified before the Joint Economic Committee last year on behalf of the American Electronics Association. He noted that Japan produces 163 engineering graduates per million population and the Soviets 260 per million, while we produce only 63 per million, down even from the 88 per million rate scored here as recently as 1970. As a result, Japan graduates 4,000 more bachelor degree electronic engineers annually than we do. The number and quality of engineers we produce will have a major and long-term impact on our Nation's ability to conduct R&D, to retain world markets, and, above all, to boost productivity. In turn, it will have a dramatic impact on the growth in real per capita income and efforts to trim unemployment while holding inflation and interest rates down. And, in light of our need to strengthen the defense sector, the urgency to ensure that adequate numbers of engineers are being graduated from our some 280 engineering colleges has never been greater.
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> The private sector reflects this urgency. Private employers, for example, contend they will need as many has 50,000 new computer and electrical engineers in 1985 alone while only some 15,000 are graduated annually now. The American Electronics Association has projected a demand for 199,000 new electrical and computer science engineers over the 1980-85 period—almost three times higher than the number which will be graduated in that same period. Including the impact of retirements and deaths, well over 35,000 engineering slots will go unfilled each year through 1985 in this Nation. Our engineering schools would need to triple enrollment overnight to meet this demand—a very unlikely event and one which would scarcely dent the 6:1 lead enjoyed by the Soviets today in the number of college graduates majoring in technical areas.
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> These demand shortfall projections are enormous. Yet, the surge in R&D in these fields and in the number of firms able to carve out market shares and new products suggest that these estimates may prove accurate or even be low. Hewlett-Packard, for example, derived three-quarters of its sales in 1980 from products not even available five years earlier. And the pace of competition is quickening daily.
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> The rising demand and salaries of engineers has sparked a resurgence in student interest in engineering. It is the second most favored career choice now of high school seniors. Undergraduate engineering enrollment is rising 7 to 8 percent a year and doubled during the 1970's, placing substantial pressure on both engineering faculty and teaching equipment. Yet, despite the anticipated decline in overall college enrollements as the baby boom enters their twenties, engineering schools have not even been able to keep pace with surging student demand. Indeed, at least 10 percent, or 2,000, engineering faculty slots sit empty nationwide according to the American Electronics Association, with computer-related faculty vacancies as high as 50 percent at some universities.
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> The cause of these faculty shortages is straightforward. Engineering colleges and universities cannot successfully compete for graduate engineers with private industry. They are last in the salary sweepstakes and are falling further behind each academic year. Ten years ago, for example, about one-half of the new Stanford University engineering Ph. D.'s chose teaching. Last year, a scant 24 percent did.
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> The result of limited faculty is a winnowing process among engineering school applicants not unlike that with our medical schools. Georgia Tech can accept only 1,700 of the 7,000 applications it receives. Students must score in the very high 97th percentile on entrance exams to gain admission to the University of Illinois engineering program at Champaign-Urbana. An incredible 20 percent of all undergraduates at the University of California (San Diego) are engineering students now, and economics writer Robert Samuelson reported recently that due to overcrowding, some students can only get computer time there in the wee hours of the morning. San Jose State has 1,000 students holding in other curricula waiting like birds of prey for an engineering school slot to open up.
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> Engineering schools do not have the flexibility to meet this surging demand for two reasons: (1) difficulty in stretching tight budgets to meet the soaring salaries being offered graduate-level engineers when total college enrollment is declining and tenured faculty in other disciplines must be retained; and (2) difficulty in providing adequate equipment for the training of growing student engineer populations.
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> Filling the curent faculty gap is an immediate requirement. But a longer term solution is needed, as well. Engineering faculty are drawn from the national pool of specialists with engineering graduate degrees. That pool has been shrinking noticeably as promising engineering bachelor graduates from every engineering school increasingly flock to high paying industry jobs. Data from the American Association of Engineering Societies, for example, show that the number of master degrees awarded in electrical engineering was down 12 percent in 1980 compared to 1970. The number of Ph.D. degrees in that field was off an incredible 40 percent.
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> Even these alarming numbers underestimate the decline, however. U.S. engineering schools have truly become world universities. In 1980, over 46 percent of their engineering graduate students were foreign students, many of whom will not work or teach here upon graduation. An unbelievable 66 percent of the Ph.D.'s awarded in electrical engineering during 1980 were to foreign students. These students are certainly welcomed here, particularly since their school spaces are not sought by our own college

graduates. Yet, many will or must return home abroad upon graduation, further depleting our national stock of engineers qualified to teach.

The University of California at Davis evaluated the impact of the grim engineering graduate student picture in light of expanding engineering school enrollments. Their study concluded that a net shortage of about 500 faculty slots a year will exist throughout this entire decade. Adding the current faculty shortage of 2,000 slots means a net minimum engineering faculty shortage in the 1980's of some 6,000 to 7,000 highly trained men and women—comparable to one-third of our Nation's existing engineering faculty pool.

Private industry is reacting to the shortage of graduate engineering students. The U.S. Semiconductor Industry Association, for example, is budgeting up to $6 million this year, and perhaps double that next year, for university engineering research and assistance to graduate students. Despite such efforts, the engineering faculty shortage will become worse. Bounties are being offered now by firms for the referral of possible engineering employees even though we are in the midst of our most severe postwar recession with industry operating at less than 71 percent of capacity. And it takes little imagination to picture the drain from our engineering faculties and graduate classes which will accompany any return to robust economic growth and the looming defense buildup.

Mr. President, since I presented these introductory remarks last year, additional evidence has come to light regarding our engineering faculty shortage. Last year, Iowa State had 24 engineering faculty vacancies out of 275 slots. The University of Rhode Island was short 12 slots out of a total of 71. The University of Minnesota's engineering school was seeking to fill 20 slots out of a faculty of 174. Oregon State was looking without success to fill nine engineering faculty slots to round out an 88-person faculty. The University of Colorado was short 15 faculty positions out of a budgeted 157. And Penn State had 30 empty engineering slots out of 248.

Our colleges and universities have not stood helplessly by as these faculty shortages have grown. Indeed, well over one-half have initiated devices over the last year to pay their engineering faculty more than faculty in other disciplines. But these steps will not fill vacancies. At best, they will only stem the drain and prevent them growing even larger.

To help fill these critical faculty vacancies, the Bentsen-Chafee bill makes payments by firms to supplement faculty and graduate student salaries in engineering and other technical areas eligible for the R&D tax credit.

2. R&D FUNDING

The current R&D tax credit should be enhanced to increase the lure of basic R&D spending by private firms in collaboration with universities and other nonprofit research entities. Research grants to universities must compete with the bewildering variety of other legitimate corporate needs, from new capital investment to inventory to advertising. Yet, because basic university R&D can have substantial social effects on productivity and employment, research grants from private firms and collaborative university/private sector efforts should be further encouraged. Our legislation will do that by: First, altering the current R&D tax credit applicable to research and the new education grants to universities by eliminating the tax credit's so-called rolling base, and, second, by broadening the credit to cover grants which are made to private nonprofit organizations conducting basic R&D.

3. DONATION OF EQUIPMENT AND COMPUTERS FOR TEACHING PURPOSES

The third component of our legislation deals with technical equipment used to teach technical vocational education subjects: math, computer science, engineering, and other scientific subjects. The engineers being turned out by our colleges and universities are no better than the equipment used in their training. And the age of that equipment is a public scandal. Indeed, a recent survey by the Wall Street Journal of equipment used for teaching at our engineering schools found most of it to be 20 or 30 years old, actually predating the integrated circuit era.

Outdated equipment is the norm across the education spectrum, in fact, from vocational high schools to community colleges to 4 year colleges, universities, and graduate schools. The shortage of contemporary equipment for use in the classroom is especially alarming at our engineering schools. A survey by the American Electronics Association found that merely replacing existing outdated equipment at such schools would cost hundreds of millions of dollars. Some examples:

The University of Colorado needs $4 million to update existing equipment at its Boulder, Denver, and Colorado Springs campuses.

The University of Kansas needs $1.5 million to upgrade existing teaching equipment.

Penn State needs $8.25 million to renovate its current teaching equipment.

The University of Minnesota needs $2.75 million to modernize existing equipment.

The University of Idaho needs $2 million to replace existing equipment.

The University of Wyoming needs $3.3 million to update existing teaching equipment.

Iowa State needs $5.1 million over the next five years to upgrade existing equipment.

The University of Rhode Island needs $1 million to replace outdated equipment.

Oregon State needs $750,000 to replace aging equipment, while Portland State needs $1.35 million to modernize teaching equipment.

These outlays to replace existing outdated equipment used to teach engineering and computer science courses are enormous. But they are only the tip of the iceberg. Equipment needed to accommodate the expansion of engineering school enrollments to meet rising student demand are astronomical. Iowa State's engineering school alone, for example, estimates that it will need $22.1 million in new equipment just for their expanded electrical engineering, mechanical engineering, and computer science curriculums.

The need for new vocational education equipment in our secondary and community colleges is even worse. Yet, equipment budgets there and at our engineering schools are woefully inadequate. The University of Kansas' engineering school, for example, has an annual capital budget of a scant $52,000. The University of Iowa's equipment purchase budget is but $40,000 annually.

The grim state of equipment in our vocational school curriculums and postsecondary schools is not a new problem. As I noted last year in introducing my Scientific and Technical Equipment Act:

> The results of a survey by the American Vocational Association in the spring of 1981 reveals in stark detail the dated status of equipment used in our vocational training and education entities. Some 227 schools participated in the survey. Over half were not using computer-assisted design or manufacturing technology in their curriculums at all. Almost 20 percent had no fiber optics technology available for students. And 74 percent had not acquired robotic or laser technology equipment. In the technical area generally, 44 percent of their tools and equipment were over 10 years old. In the technical and industrial curriculums, 52 percent of the tools and equipment were over 10 years old.

In light of the budget crunch at State and local levels, the poor state of teaching equipment in our vocational education programs, community colleges, and colleges and universities will not soon be remedied. Yet, the dismal state of that equipment seriously undermines the quality of technical education being received by student paraprofessionals and engineering students across the board in our education system.

Our bill seeks to close this education equipment gap. It will provide fabricators of technical equipment with a charitable tax deduction for scientific and technical equipment, computer software and equipment replacement parts donated to first, secondary school vocational education programs of a technical nature, second, 1- and 2-year postsecondary schools, and third, to all 4-year colleges and universities. To insure that only contemporary equipment will be donated to such schools, donations must be no more than 3 years old. And recipients of donated equipment must certify that the equipment is being used in order for donors to be eligible for the charitable tax deduction. The donated equipment must be used for student instruction or for the instruction of faculty. My legislation will provide comparable treatment for service contracts, and for equipment needed to service technical equipment, as well, when donated to eligible institutions.

The need to provide contemporary high technology equipment for our vocational education schools and colleges is matched by the need to build a strong computer literacy base in our youths. For that reason, the bill also provides computer fabricators with an incentive tax deduction for donations to elementary and secondary schools. This provision is similar in intent to the so-called Apple bill introduced last year by my good colleague, Senator DANFORTH.

This provision provides for tax deductions based on the cost of providing ancillary equipment for donated computers, for software, and for the servicing of such equipment, as well. Since most schools typically do not have trained computer experts on their faculty, all computer donations must be accompanied by orientation services. Donors of computers must insure that at least one faculty member is proficient in the use of the donated hardware at no cost to the recipient school.

4. GRADUATE STUDENT ASSISTANCE

To enhance the impact of grants to boost graduate student incomes made under the act, the bill contains a provision to exclude such grants from student gross incomes. Such exclusion will be permitted whether the grants are in the form of scholarships, direct grants or loan forgiveness received by graduate students in math, engineering, and the physical and biological sciences, where the student is required to perform future teaching services at his or her college.

Mr. President, I have a fact sheet covering the many details of the legislation and I ask for unanimous consent for that factsheet and for the bill itself to appear at this point in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FACTSHEET—THE HIGH TECHNOLOGY RESEARCH AND EDUCATIONAL DEVELOPMENT ACT OF 1983

SUMMARY

A. ENHANCED EQUIPMENT DONATION DEDUCTION

The Act provides an enhanced deduction to corporate contributors of:

(1) Computer equipment, software, and related orientation, maintenance and repair services, given to elementary and secondary schools for use in education;

(2) Scientific and technical equipment and apparatus and computer software, given to colleges, universities, junior colleges and vocational schools for use in education, research, and research training.

B. EXPANSION OF CURRENT R&D CREDIT FOR UNIVERSITY BASIC RESEARCH TO INCLUDE SCIENTIFIC EDUCATION

(1) Makes eligible for the credit amounts paid for scientific education used to fund faculty salaries of scholarships and loans to graduate students in the sciences.

(2) Eliminates from the corporate taxpayer's base year research expenses for R&D credit purposes any amounts paid to universities or other qualified organizations for basic research or scientific education.

I. ENHANCED EQUIPMENT DONATION DEDUCTION (SECTION 2 OF THE ACT)

A. Qualified contribution of computer equipment to elementary and secondary schools

(1) Eligible equipment

New data processor with screen,

New ancillary equipment for use in connection with a compatible data processor of the school: display screen, printer, disc drive, computer software suitable for educational applications, any necessary installation equipment, and replacement parts.

(2) Eligible services

Maintenance, repair, reconditioning, or similar services normally offered by the contributor in connection with the sale or lease of such computer equipment or software.

Orientation services which must be provided as a condition of the deduction, without cost to the school or teachers, in accordance with an agreement between the contributor and the school, to one or more teachers so as to make at least one teacher per data processor proficient in the use of the donated computer equipment. Such training may be provided by the contributor's employees or by another competent person under an agreement with the contributor. Such training costs are included in the basis of the donated property for deduction purposes.

B. Qualified contribution of scientific equipment to colleges, universities, junior colleges, and vocational schools

(1) Eligible equipment

Scientific or technical equipment or apparatus that is newly manufactured or has been used in the taxpayer's business for 3 years or less;

Computer software developed or purchased by the contributor;

Installation equipment and replacement parts.

(2) Eligible uses

Direct education of students and faculty, research, or research training, in the United States in mathematics, engineering, computer science and applications, the physical or biological sciences, and in comparable courses at vocational education entities.

(3) Eligible services

Maintenance, repair, reconditioning, or similar services ordinarily provided by the contributor in a commercial sale or lease of such property.

C. Amount of the allowable deduction

(1) New scientific equipment and computer hardware

Fair market value, limited to the lesser of (A) the sum of basis plus one-half of the ordinary income gain that would have been realized by the contributor had the new inventory property instead been sold or (B) twice basis.

(2) Used scientific equipment

150 percent of original cost less accumulated depreciation.

(3) Computer software

Purchased by taxpayer prior to contribution: Fair market value.

Developed by taxpayer: One-half of fair market value.

(4) Maintenance and repair services

Lesser of (A) fair market value of such services (as determined by the amount normally paid by customers for such services) or (B) 150 percent of the costs of the taxpayer in providing such services.

II. EXPANDED R&D CREDIT FOR UNIVERSITY BASIC RESEARCH TO INCLUDE SCIENTIFIC EDUCATION (SECTION 3 OF THE ACT)

A. Expansion of credit to include faculty salaries and scholarships and loans to graduate students in the sciences

65 percent of corporate payments to universities and other qualified organizations for (a) "scientific education" to fund faculty salaries in colleges and vocational schools and scholarships and loans to graduate students in mathematics, engineering, or the physical or biological sciences, and for (b) university basic research, are eligible for the R&D credit.

Corporate payments for faculty salaries must be made pursuant to a 3-year commitment by the contributor.

B. Elimination of payments for qualified basic research and scientific education from base period research expenses

Corporate payments to a university or other qualified organization for basic research or scientific education are not included in the contributor's base period research expenses for purposes of computing the incremental R&D credit for subsequent taxable years.

C. Additional qualified organization

Adds to the list of qualified organizations to whom corporate payments for basic research and scientific education are eligible for the R&D credit any organization exempt under section 501(c)(6) or section 501(c)(3) and operated primarily to promote basic scientific research or scientific education via grants to or contracts with universities.

CLARIFICATION OF THE EXCLUSION FROM INCOME OF SCHOLARSHIPS, GRANTS, AND LOAN FORGIVENESS RECEIVED BY GRADUATE STUDENTS UNDER THE EXPANDED R&D CREDIT (SECTION 4 OF THE ACT)

Clarifies that amounts received in the form of scholarships, grants, and loan forgiveness, by a graduate student in the physical biological sciences, mathematics, or engineering under the expanded R&D credit for university basic research and scientific education are excluded from such student's gross income, where he or she is required to perform future teaching services for the university or college as a condition of receiving such scholarships, grants, or loan forgiveness.

EFFECTIVE DATE OF THE BILL (SECTION 5 OF THE ACT)

The amendments made by the Act are to apply to taxable years beginning after the date of enactment.

S. 1195

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "High Technology Research and Educational Development Act of 1983".

SEC. 2. DEDUCTION FOR CONTRIBUTIONS OF SCIENTIFIC AND TECHNICAL PROPERTY FOR USE IN HIGH TECHNOLOGY EDUCATION.

The Internal Revenue Code of 1954 is hereby amended by striking paragraph (4) of subsection (e) of section 170 and is further amended by adding to part VI of subchapter B of chapter I as a new section 174A the following:

"SEC. 174A. CONTRIBUTIONS OF SCIENTIFIC AND TECHNICAL PROPERTY USED FOR EDUCATION AND RESEARCH.—

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction any qualified education or research transfer (as defined in subsection (b)), which is made within the taxable year.

"(b) QUALIFIED EDUCATION OR RESEARCH TRANSFER.—For purposes of this section, the term 'education or research transfer' means a transfer without consideration by a corporation of—

"(1) qualified scientific property or qualified services to an educational organization that is described in section 170(b)(1)(A)(ii) and that is an institution of higher education (as defined in section 3304(f)), a secondary school offering vocational education programs, or an area vocational school (as defined in Public Law 94-482);

"(2) qualified computer equipment property or qualified services to an educational organization that (i) is described in section 170(b)(1)(A)(ii) and (ii) is not an institution of higher education (as defined in section 3304(f)); or

"(3) qualified computer equipment property or qualified services to a school operated as an activity of an organization described in section 501(c)(3) and exempt from income tax under section 501(a) if such school (i) normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, and (ii) is not an institution of higher education (as defined in section 3304(f)).

"(c) QUALIFIED PROPERTY.—

"(1) QUALIFIED COMPUTER EQUIPMENT PROPERTY.—For purposes of this section, 'qualified computer equipment property' means tangible personal property described in paragraph (1) of section 1221 which is transferred to an educational organization described in subsection (b)(2) or a school described in subsection (b)(3), but only if——

"(A) such transfer is made through the governing body of the qualified educational organization or school,

"(B) such transfer is of computer equipment which, for purposes of this section, means any of the following:

"(i) a data processor which—

"(I) is suitable for educational use,

"(II) will support at least 3 computer languages,

"(III) has a random access memory with a capacity for at least 16,000 bytes, expandable to at least 48,000 bytes, and

"(IV) is accompanied by a screen for visual display of the data,

"(ii) ancillary computer equipment transferred for use in connection with a data processor described in clause (i) which is contributed by the taxpayer or which already is owned by the recipient, but only upon a written finding by the governing body of the recipient that such ancillary computer equipment is compatible with data processors which the recipient holds. For this purpose ancillary computer equipment shall mean a display screen, a printer, a disc drive, and computer software which is suitable for use in instructional applications in the educational environment in which the data processor is to be used;

"(iii) any installation equipment or replacement parts for equipment described in clauses (i) or (ii).

"(C) such transfer of computer equipment is accompanied by the same warranty or warranties normally provided by the manufacturer in connection with a sale of the equipment contributed,

"(D) in the case of property other than computer software, such transfer is of property at least 50 percent of which is assembled by the taxpayer, and the taxpayer is regularly engaged in the business of assembling and selling computer equipment of the same kind as such property.

"(E) such transfer is made—

"(i) not later than 6 months after the date upon which the assembly of the property is substantially completed, and

"(ii) during the 5-year period beginning on the effective date of this Act,

"(F) such transfer is made pursuant to a written plan of the taxpayer under which there will be no undue concentration of the taxpayer's transfers of qualified property either on a geographical basis or upon the basis of the relative economic status of the students of the recipients,

"(G) the original use of the computer equipment is by the recipient educational organization or school,

"(H) substantially all of the use of the transferred property by the recipient will be at its institution(s) directly in the education of students in the United States,

"(I) the transferred property is not retransferred by the recipient in exchange for money, other property, or services,

"(J) the taxpayer receives from the governing body of the recipient of the transferred property a written statement executed under penalties of perjury representing that the use and disposition of the property by the recipient will be in accordance with the provisions of clauses (H) and (I),

"(K) except in the case of property described in subparagraph (1)(B)(iii) of this subsection, the value of the property transferred exceeds $250, and

"(L) the taxpayer, at no cost to the recipient or its participating teachers, provides sufficient orientation, as determined by an agreement between the taxpayer and the recipient, to one or more teachers employed by recipient to make at least one teacher per data processor proficient in the operation and use of the transferred property in the direct education of student. Such program shall—

"(i) be conducted by employees of the taxpayer or by any other competent person authorized by the taxpayer pursuant to an agreement between the taxpayer and such person, and

"(ii) be provided at a location as determined pursuant to the agreement between the taxpayer and the recipient.

"(2) QUALIFIED SCIENTIFIC PROPERTY.—For purposes of this section the term 'qualified scientific property' shall mean computer software and tangible personal property that is described in paragraph (1) of section 1221 or that is property used in the taxpayer's trade or business (as defined in section 1231(b)) and which is transferred to an educational organization described in subsection (b)(1), but only if—

"(A) such transfer is made through the governing body of the qualified educational organization,

"(B) such property is scientific or technical equipment, or other property, apparatus, or replacement parts therefor, substantially all of the use of which by the recipient is for direct education of students or faculty, for research and experimentation (within the meaning of section 174), or for research training, in the United States in the physical, computer and biological sciences or technologies, engineering and engineering technologies, mathematics and electronic and automated industrial, medical and agricultural equipment and instrumentation operation,

"(C) such transfer is made—

"(i) in the case of tangible personal property described in paragraph (1) of section 1221, not later than 6 months after the date upon which the assembly of the property is substantially completed, or

"(ii) in the case of tangible personal property used in a taxpayer's trade or business (as defined in section 1231(b)), not more than 3 years after the property is first placed in service by the taxpayer,

"(D) in the case of a transfer of tangible personal property that is described in paragraph (1) of section 1221, such transfer is of property at least 50 percent of which is assembled by the taxpayer, and the taxpayer is regularly engaged in the business of assembling and selling scientific or technical equipment or apparatus of the same kind as such property,

"(E) in the case of a transfer of tangible personal property that is described in paragraph (1) of section 1221, the original use of such property is by the recipient educational organization,

"(F) the transferred property is not retransferred by the recipient educational organization within 5 years of the date of the original transfer to recipient in exchange for money, other property, or services,

"(G) the taxpayer receives from the governing body of the recipient educational organization a written statement executed under penalties of perjury representing that the use and disposition of the property by the recipient will be in accordance with the provisions of subparagraphs (B) and (F),

"(H) except in the case of property that is computer software or replacement parts (within the meaning of subparagraph (2)(B)), the value of the property transferred exceeds $250,

"(I) such transferred property is accompanied by the same warranty or warranties normally provided by the manufacturer in connection with a sale of the equipment or apparatus transferred and

"(J) in the case of a transfer of property that is used in the taxpayer's trade or business (as defined in section 1231(b)), the property is functional and usable in the condition in which it is transferred for the purpose of direct education of students or faculty, research or experimentation, or research training without the necessity of any repair, reconditioning, or other investment by the recipient educational organization, and the taxpayer and the recipient so agree in writing.

"(3) QUALIFIED SERVICES.—For purposes of this section, the term 'qualified services' shall mean any standard contract between the taxpayer and any qualified recipient (within the meaning of subsection (b)(1), (b)(2), or (b)(3) of this section) in connection with any transfer of qualified computer equipment property or qualified scientific property for maintenance, repair, reconditioning, or any other similar services normally made available by the taxpayer to its customers in connection with the sale or lease of such property.

"(e) Amount of allowable deduction.—The amount of the deduction allowable under subsection (a) shall be—

"(1) in the case of tangible personal property that is described in paragraph (1) of section 1221, fair market value, limited to the lesser of (A) the sum of basis and one-half of the amount of gain which would not have been long-term capital gain if the property transferred had been sold by the taxpayer at its fair market value (determined at the time of such transfer), or (B) twice the basis of such property;

"(2) in the case of tangible personal property that is used in the taxpayer's trade or business (as defined in section 1231(b)), 150 percent of basis (without regard to adjustments under section 1016) less any adjustments under section 1016(a);

"(3) in the case of qualified services the lesser of (i) the fair market value of such services (as determined by the amount normally paid by customers for such services) or (ii) 150 percent of the costs of the taxpayer in providing such services;

"(4) in the case of computer software—

"(A) which has been purchased by the taxpayer prior to the transfer, fair market value (determined at the time of

"(B) which has been developed by the taxpayer, one-half of fair market value (determined at the time of such transfer);

In the case of training services provided pursuant to subsection (c)(1)(L), the costs incurred by the taxpayer in providing such services shall be included in the basis of the qualified computer equipment property for purposes of computation of the deduction allowable under subparagraph (1) of this subsection.

"(f) Limitations on allowable deduction.—The deduction otherwise allowable under subsection (a) of this section—

"(1) shall not exceed for any taxable year 10 percent of the taxpayer's taxable income computed without regard to—

"(A) section 170,

"(B) part VIII of subchapter B (except section 248),

"(C) any net operating loss carryback to the taxable year under section 172, and

"(D) any capital loss carryback to the taxable year under section 1212(a)(1),

less the taxpayer's total deductions under section 170(a) for the taxable year. Amounts exceeding this limitation may be carried forward in the same manner as a deduction under section 170.

"(2) shall not be allowed in the case of a transfer of otherwise qualified computer equipment property or qualified scientific property, where the taxpayer's total qualified education or research transfers of such property in the taxable year, as determined on a product-by-product basis, exceed 20 percent of the number of units of such product sold by the taxpayer in the ordinary course of its business in that taxable year.

"(g) Definitions.—For purposes of this section—

"(1) the term 'substantially all' shall mean at least 80 percent;

"(2) the term 'corporation' shall not include—

"(i) an electing small business corporation (as defined in section 1371(b)),

"(ii) a personal holding company (as defined in section 542), and

"(iii) a service organization (as defined in section 414(m)(3)).".

SEC. 3. EXPANSION OF CREDIT FOR UNIVERSITY RESEARCH AND RELATED ACTIVITIES.

Subsection (e) of section 44F of the Internal Revenue Code of 1954 is amended to read as follows:

"(e) Credit available with respect to certain basic research or education expenditures by colleges, universities and certain research organizations.—

"(1) In general.—65 percent of any amount paid or incurred in any taxable year by a corporation to any qualified organization for basic research or scienfific education to be performed by such organization shall be treated as contract research expenses paid or incurred in carrying on any trade or business of the taxpayer in that taxable year (without regard to the provisions of subsection (b)(3)(B)). The preceding sentence shall apply only if the amount is paid or incurred pursuant to a written agreement between the corporation and the qualified organization.

"(2) Not included in base year expenses.—For purposes of determining the amount of the credit allowed under this section for any taxable year, any amount treated as contract research expenses under subsection (a)(1) shall not be included in the qualified research expenses for any year in the base period.

"(3) Qualified organization.—For purposes of this subsection, the term 'qualified organization' means—

"(A) any educational organization which is described in section 170(b)(1)(A)(ii) and which is an institution of higher education (as defined in section 3304 (f)) or an area vocational education school (as defined in Public Law 94-482),

"(B) any other organization which—

"(i) is described in section 501(c)(3) and exempt from tax under section 501(a),

"(ii) is organized and operated primarily to conduct scientific research, and

"(iii) is not a private foundation, or

"(C) any organization which—

"(i) is described in section 501(c)(6) or 501(c)(3) and is exempt from tax under section 501(a),

"(ii) is organized and operated primarily to promote scientific research or scientific education by qualified organizations (within the meaning of subsection (e)(3) of this section) pursuant to written agreements, and

"(iii) expends on a current basis substantially all of its funds through grants or contracts for basic research or scientific education by a qualified organization (within the meaning of subsection (e)(3) of this section.

"(4) Basic research.—The term 'basic research' means any original investigation for the advancement of scientific knowledge not having a specific commercial objective, except that such term shall not include—

"(A) basic research conducted outside of the United States, and

"(B) basic research in the social sciences or humanities.

"(5) Scientific education.—The term "scientific education" means the education of students and faculty at an institution described in paragraph (3)(A) in engineering or engineering technologies, the physical, biological and computer sciences or technologies, mathematics, and electronic and automated medical, industrial and agricultural equipment and instrumentation operation.

"(6) Limitation on scientific education amounts.—Any amount paid or incurred by a corporation for scientific education in any taxable year shall be treated as contract research expenses only to the extent such amounts are used by the recipient—

"(A) for the payment of wages (within the meaning of section 3401(a)) to any individual directly engaged in providing such scientific education or

"(B) to fund scholarships and loans for students attending such qualified organization (within the meaning of paragraph (e)(A)) who possess a bachelor's degree or its equivalent and are engaged in post-graduate study in mathematics, computer science and applications, engineering, or the physical or biological sciences; and

Provided, however, That the amounts described in subparagraph (A) are paid or incurred pursuant to a written agreement between the corporation or qualified organization (within the meaning of subsection (e)(3)) and the recipient which obligates the corporation or qualified organization to render a like amount to the recipient in each of not less than 3 consecutive taxable years.

"(7) Special rules for grants to certain research funds.—

"(A) In general.—For purposes of this subsection, a qualified fund shall be treated as a qualified organization and the requirements of paragraph (1) that the basic research be performed by the qualified organization shall not apply.

"(B) Qualified fund.—For purposes of subparagraph (A), the term "qualified fund" means any organization which—

"(i) is described in section 501(c)(3) and exempt from tax under section 501(a) and is not a private foundation,

"(ii) is established and maintained by an organization established before July 10, 1981, which meets the requirements of clause (i);

"(iii) is organized and operated exclusively for purposes of making grants pursuant to written research agreements to organizations described in paragraph (3)(A) for purposes of basic research, and

"(iv) makes an election under this paragraph.

"(C) Effect of election.—

"(i) In general.—Any organization which makes an election under this paragraph shall be treated as a private foundation for purposes of this title (other than section 4940), relating to excise tax based on investment income).

"(ii) Election revocable only with consent.—An election under this paragraph, once made, may be revoked only with the consent of the Secretary.

"(8) Certain corporations not eligible.—For purposes of this subsection, the term 'corporation' shall not include—

"(A) an electing small business corporation (as defined in section 1371(b)),

"(B) a personal holding company (as defined in section 542), and

"(C) a service organization (as defined in section 414(m)(3)).".

SEC. 4. CLARIFICATION OF EXCLUSION FROM GROSS INCOME OF SCHOLARSHIPS, GRANTS, AND LOAN FORGIVENESS.

The Internal Revenue Code of 1954 is hereby amended by adding to part III of subchapter B of chapter I as a new section 117A the following:

"Sec. 117A. Scholarships, Fellowship Grants, and Student Loan Forgiveness Received by Certain Graduate Science Students.—

"(a) General rule.—In the case of a qualified individual, gross income does not include—

"(1) any amount received—

"(A) as a scholarship,

"(B) as a fellowship grant, or

"(C) as qualified student loan forgiveness,

including the value of contributed services and accommodations; and

"(2) any amount received to cover expenses for—

"(A) travel,

"(B) research,

"(C) clerical help, or

"(D) equipment

which are incidental to such a scholarship or to a fellowship grant, but only to the extent that the amount is so expended by the recipient.

"(b) QUALIFIED INDIVIDUAL.—For the purposes of this section, the term 'qualified individual' shall mean a student who is attending a qualified educational organization, who possesses a bachelor's degree or its equivalent, and who is engaged in postgraduate study as a degree candidate in mathematics, computer science and applications engineering, or the physical or biological sciences;

"(c) QUALIFIED EDUCATIONAL ORGANIZATION.—For purposes of this section, the term 'qualified education organization' shall mean an educational institution which—

"(1) is described in section 170(b)(1)(A)(ii),

"(2) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate,

"(3) is legally authorized within such State to provide a program of education beyond high school, and

"(4) provides an educational program for which it awards a bachelor's or higher degree.

"(d) QUALIFIED STUDENT LOAN FORGIVENESS.—For purposes of this section, the term 'qualified student loan forgiveness' shall mean the forgiveness of a loan received by a qualified individual (as defined in subsection (b)) for the purpose of financing his postgraduate course of study in mathematics, computer science and application engineering, or the physical or biological sciences, but only to the extent that—

"(1) the amount represented by the loan was so expended, and

"(2) such student is required in a written loan agreement, as a condition of receiving such forgiveness of the loan, to perform teaching services for a qualified educational organization upon completion of his postgraduate course of study.

"(e) LIMITATION.—In the case of a qualified individual, subsection (a) shall not apply to that portion of any amount received which represents payment for teaching, research, or other services in the nature of part-time employment required as a condition to receiving the scholarship, the fellowship grant, or qualified student loan. If teaching, research, or other services are required of all candidates (whether or not recipients of scholarships or fellowship grants) for a particular degree at a qualified educational organizational organization as a condition to receiving such degree, such teaching, research, or other services shall not be regarded as part-time employment within the meaning of this paragraph.

"(f) SCHOLARSHIPS, FELLOWSHIP GRANTS, AND QUALIFIED STUDENT LOAN FORGIVENESS NOT INCLUDABLE MERELY BECAUSE THERE IS A REQUIREMENT OF FUTURE SERVICE IN TEACHING OR RESEARCH.—

"(1) IN GENERAL.—If—

"(A) an amount received by a qualified individual would be excludable under subsections (a) and (e) as a scholarship, fellowship grant, or qualified student loan forgiveness but for the fact that such individual is required to perform teaching services for a qualified educational organization upon completion of his post-graduate course of study, and

"(B) the individual establishes that, in accordance with the terms of the scholarship, grant, or qualified student loan, such amount was used for qualified tuition and related expenses,

gross income shall not include such amount.

"(2) QUALIFIED TUITION AND RELATED EXPENSES DEFINED.—For purposes of this subsection, the term 'qualified tuition and related expenses' shall mean—

"(A) tuition and fees required for the enrollment or attendance of a qualified individual as a student at a qualified educational organization, and

"(B) fees, books, supplies, and equipment required for courses of instruction at a qualified educational organization.".

SEC. 5. EFFECTIVE DATE.

The amendments made by sections 2, 3, and 4 shall apply to taxable years beginning after the date of enactment of this Act.●

By Mr. DeCONCINI:

S. 1196. A bill to confer jurisdiction on the U.S. Claims Court with respect to certain claims of the Navajo Indian Tribe; to the Committee on the Judiciary.

NAVAJO INDIAN TRIBE CLAIMS

● Mr. DeCONCINI. Mr. President, the proposed legislation that I am introducing will require the U.S. Court of Claims to hear the merits of a group of claims against the United States filed in 1950 by the Navajo Tribe. These claims were filed pursuant to the Indian Claims Commission Act of 1946, alleging that the United States breached its legal and treaty obligations, as well as its general responsibility to deal fairly and honorably with the Navajo Tribe. The Navajo claims include allegations of mismanagement of tribal resources and specific breaches of the treaty. Jurisdiction over the claims was accepted when they were filed in 1950, reaffirmed by the Indian Claims Commission in 1975, and at the trial level of the Court of Claims in 1978, following their transfer to that court under Public Law 95-69. Ultimately, the claims were dismissed on a further appeal by the Government, without reaching trial on the merits, when the Court of Claims in May 1979 decided on purely technical grounds that its jurisdiction was barred.

The technical dismissal was based on the purported withdrawal in 1969 of seven claims by a former claims attorney for the tribe. Even if the withdrawal occurred, its validity is questionable because neither the Navajo Tribal Council nor the Secretary of the Interior approved it, which was a requirement in the claims attorney contract.

The Indian Claims Commission in 1975 permitted the seven claims to be put back in the petition by the present claims counsel because the factual allegations "which were the substance of those claims" had never been withdrawn. After the case was transferred to the Court of Claims, the trial judge to whom it was referred upheld the action by the Commission.

However, on June 13, 1979, the Court of Claims overturned the two previous decisions and held that the tribe was bound by its former counsel's "voluntary dismissal" of the seven claims 10 years previously.

The primary purpose of the Indian Claims Commission Act was to provide a forum where old claims by Indian tribes could be heard on their merits without regard to technical legal restrictions or jurisdiction. The Department of the Interior in recommending passage of the act urged that if those claims were ever to be put to rest, the act must confer jurisdiction broad enough to avoid the "lack of finality attending dismissal of a case by the Court of Claims on technical legal grounds without consideration of the claim on its merit." The Department therefore urged passage of the act to "overcome the defect in the present system under which many of the claims of the Indians are precluded from a hearing on the merits, on technical legal grounds, even though the claims may be such as would challenge the conscience of a Court of Equity."

The Navajo Tribe was forced to wait nearly 100 years to present its claims to the Indian Claims Commission for a fair hearing. Now after 30 years of litigation, a fair hearing on a group of those claims has been denied. This bill merely carries out the intent of the Indian Claims Commission Act by insuring that these duly filed claims, like those of other Indian tribes, will have the hearing contemplated by the act.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1196

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 2401 and 2501 of title 28, United States Code, or section 12 of the Act of August 13, 1946 (60 Stat. 1052; 25 U.S.C. 70k), or any other provision of law, jurisdiction is hereby conferred upon the United States Claims Court to hear, determine, and render judgment on the claims of the Navajo Indian Tribe against the United States which (a) arose before August 13, 1946, (b) were timely presented under section 2 of the Act of August 13, 1946 (60 Stat. 1050; 25 U.S.C. 70a), (c) were withdrawn without required approval by the Tribe and the Secretary of the Interior, and (d) were held by the Court of Claims in *Navajo Tribe* *of Indians* v. *United States*, Docket No. 69, on June 13, 1979, to have been voluntarily dismissed by the Tribe before being considered or decided on their merits, and which are no longer pending before the United States Claims Court and have not been previously determined on the merits by the United States Court of Claims. Such claims must be filed within six months after this Act shall have become law.●

By Mr. STEVENS:

S. 1197. A bill to admit certain passenger vessels to the coastwise trade; to the Committee on Commerce, Science, and Transportation.

STATUS OF CERTAIN PASSENGER VESSELS

Mr. STEVENS. Mr. President, today I am introducing a bill which would admit certain passenger vessels to the coastwise trade. The passenger cruise vessels the *Cunard Princess* and *Cunard Countess* currently operate under a Bahamian flag and British flag, respectively, and would be reflagged in the United States and owned and operated by Cruise America Line, Inc., a U.S. corporation.

Mr. President, I believe this could prove to be an important first step in revitalizing a domestic industry for large passenger cruise vessels which has fallen completely to the domain of foreign-flagged vessels. We currently have over 80 large passenger vessel operating, principally between U.S. mainland and Alaska and foreign ports, none of which are U.S. flagged. The United States has been unable to maintain a passenger carriage fleet due to the prohibitive cost of building such vessels in a U.S. shipyard.

There is now pending before the Secretary of Defense a request to grant a waiver for these vessels to enter the domestic trade. I hope that Secretary Weinberger will grant the waiver soon, and my action today is intended to focus on the need for the waiver. In the event that an administrative waiver is not forthcoming, we will take up the Cunard line request in the Merchant Marine Subcommittee. Action is needed in the near future to address the continuing decline of the U.S.-flag passenger fleet. This legislation is one step in the right direction to address that need.

Mr. President, there are many reasons why it is important to rebuild this U.S.-flag service. They include creating jobs for sea and shore personnel, generating approximately $80 million annually per vessel in indirect services, development of the U.S. tourism industry, and further strenghtening sealift capacity under the U.S. flag operable in times of a national emergency as auxiliary troop transports or hospital ships, all at no cost to the Government.

This legislation would simply enable these vessels to operate in the coastwise trade under the U.S. flag, and no special privileges will be granted these vessels. Several restrictions will apply following passage of this bill. The vessels will be limited to carriage of passengers solely, while including their accompanying baggage and personal property. The ownership requirements that exist in the U.S. law will be maintained, which means that the vessel will conform to the U.S. ownership standards of the Jones Act. All overhaul and maintenance work will be performed in U.S. shipyards. In short, these vessels would comply with all U.S. requirements with respect to safety, ownership, and crewing.

Mr. President, the 1.5 million passengers that embark on foreign passenger vessels each year from U.S. ports to foreign destinations will, after enactment of this legislation, have the option of seeing their own country's flag on a cruise ship.

For the above reasons, I urge all my colleagues to join me today in support of this legislation and work toward its enactment.

By Mr. MURKOWSKI:

S.J. Res. 91. Joint resolution designating May 3, 1983, as "Polish Constitution Day"; to the Committee on the Judiciary.

POLISH CONSTITUTION DAY

Mr. MURKOWSKI. Mr. President, today I am introducing a joint resolution establishing May 3 as "Polish Constitution Day," in commemoration of the promulgation of the Polish Constitution of 1791. A companion resolution has been introduced in the House by California Congressman PANETTA.

Mr. President, 1791 was a year that saw so many events of historical significance that I cannot begin to describe them here. France and the United States were in the throes of revolutionary changes; Austria, Prussia, and Russia were engaged in a war with Turkey; Polish patriots took advantage of their enemies' preoccupation elsewhere to seize their national independence from the Russian bear.

From late 1790 through the early part of 1791 they held secret meetings with King Stanislaus Augustus to draft a constitution. On the night of May 3, it was presented to a Diet packed with people who shouted their acceptance.

That constitution did away with the old medieval system of government and replaced it with a modern parliamentary system based on the principles and practices of the English, French, and American forms of government. King Stanislaus Augustus and his fellow patriots were deeply moved by the ideal of egalitarianism that flowered in the French and American revolutions. Their constitution gave judicial autonomy to the bourgeoisie, legal protection to the peasants for the first time, and allowed the slow process of breaking down the economic and social barriers between the classes which is essential for democracy to begin.

Implementation of the principles of this constitution would have brought Poland out of the "Dark Ages" and made it strong enough to assure independence. But a strong independent Poland was unacceptable to Russia, just as it is unacceptable to Russia now. In 1793, the Russians invaded Poland and in 3 months the Polish Army under Josef Poniatowski and Tadeusz Kosciuszko was defeated. In September 1793, Poland was partitioned—for the second time—between Prussia and Russia.

The Russians did not invade Poland in 1981—they did not have to because the threat of Soviet troops massed on the border reminded the Poles only too painfully of past Russian intervention.

When the constitution was approved by the Polish people in 1791, Edmund Burke, the great British statesman, said, "Humanity must rejoice and glory when it considers the change in Poland."

Humanity can only bewail the recurrent oppression of the Polish people by their Russian neighbors and their own Communist minority.

It is to commemorate the courage that the Polish people demonstrated 200 years ago that I introduce this legislation today. Let it serve to underscore not just the continuous aggression of the Russians but also the constance of the Polish people in their struggle for freedom.

By Mrs. HAWKINS:

S.J. Res. 92. Joint resolution designating the week beginning May 8, 1983, as "Municipal Clerk's Week"; to the Committee on the Judiciary.

MUNICIPAL CLERK'S WEEK

● Mrs. HAWKINS. Mr. President, today I am introducing a joint resolution designating the week of May 8, 1983, as "Municipal Clerk's Week."

For centuries, city clerks have been indispensable participants in local governments across the world. Even the cities of ancient Greece each had a city secretary who read aloud official documents. Records indicate that the city clerk was an established figure in York, England, in the 1300's. In this country, one of the first elected officials was the city clerk in New York City, N.Y., in the 1630's.

During the life of this Nation, town and municipal clerks have been responsible for many essential local government operations. A list of their duties includes the care and custody of private property records, the recording of births, deaths, and legal documents, town finances, licensing, as well as the registration of voters.

Municipal clerks continue to be the backbone of local government. Some municipal clerks' responsibilities have grown tenfold as their cities have expanded beyond all expectations. This is the case in Florida where our urban population grew by 48 percent between 1970 and 1980. Yet, whether a municipal clerk is serving the community of Tavistock, N.Y.—population 12 people—or New York City, N.Y.—population 3 million, the quality of work done by these dedicated public servants is consistently excellent.

The International Institute of Municipal Clerks is the professional association for 6,500 city, village, town, and township clerks in the United States, Canada, and several other countries. Its members hail from places as far away as the North Pole, Alaska, and Hobart, Tasmania, Australia. This group strongly supports passage of this resolution.

While "Municipal Clerk's Week" has been recognized annually by many State and local governments, it has not been recognized on the national level. It is time that we make this observance to call attention to the historical importance of municipal clerks to our democratic form of government. I ask all my colleagues to assist me in this effort.●

ADDITIONAL COSPONSORS

S. 58

At the request of Mr. Specter, the name of the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of S. 58, a bill to authorize incarceration in Federal prisons of convicts sentenced to life imprisonment under the habitual criminal statute of a State.

S. 212

At the request of Mr. Pressler, the name of the Senator fron New Mexico (Mr. Bingaman) was added as a cosponsor of S. 212, a bill to authorize funds for the U.S. Travel and Tourism Administration.

S. 230

At the request of Mr. Heinz, the name of the Senator from Pennsylvania (Mr. Specter) was added as a cosponsor of S. 230, a bill to amend the Tariff Schedules of the United States to establish equal and equitable classification and duty rates for various cordage products of virtually identical characteristics.

S. 444

At the request of Mr. Durenberger, the name of the Senator from Ohio (Mr. Glenn) was added as a cosponsor of S. 444, a bill to provide that registration and polling places for Federal elections be accessible to handicapped and elderly individuals, and for other purposes.

S. 480

At the request of Mr. Pressler, the name of the Senator from West Virginia (Mr. Randolph) was added as a cosponsor of S. 480, a bill relating to the transfer of civil land remote-sensing space satellite systems and meteorological satellite systems to the private sector.

S. 689

At the request of Mr. Heinz, the names of the Senator from Massachusetts (Mr. Tsongas) and the Senator from New York (Mr. D'Amato) were added as cosponsors of S. 689, a bill entitled the "Natural Gas Policy Act Amendments of 1983."

S. 869

At the request of Mr. Heinz, the names of the Senator from Hawaii (Mr. Inouye), the Senator from Iowa (Mr. Grassley), and the Senator from South Dakota (Mr. Abdnor) were added as cosponsors of S. 869, a bill to amend the Export-Import Bank Act of 1945.

S. 872

At the request of Mr. Hollings, the name of the Senator from Connecticut (Mr. Weicker) was added as a cosponsor of S. 872, a bill to establish an ocean and coastal resources management fund from which coastal States shall receive grants, and for other purposes.

S. 888

At the request of Mr. Durenberger, the name of the Senator from Arizona (Mr. DeConcini) was added as a cosponsor of S. 888, a bill entitled "The Economic Equity Act."

S. 1061

At the request of Mr. Dole, the name of the Senator from Idaho (Mr. Symms) was added as a cosponsor of S. 1061, a bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of bonds that are guaranteed by certain Federal agencies.

S. 1063

At the request of Mr. DeConcini, the names of the Senator from Utah (Mr. Garn), and the Senator from Hawaii (Mr. Inouye) were added as cosponsors of S. 1063, a bill to exclude from gross income any discharge of a mortgage debt on a principal residence occurring in 1982, and for other purposes.

SENATE JOINT RESOLUTION 3

At the request of Mr. Hatch, the name of the Senator from Louisiana (Mr. Long) was withdrawn as a cosponsor of Senate Joint Resolution 3, a joint resolution to amend the Constitution to establish legislative authority in Congress and the States with respect to abortion.

SENATE JOINT RESOLUTION 23

At the request of Mr. DeConcini, the name of the Senator from Utah (Mr. Garn) was added as a cosponsor of Senate Joint Resolution 23, a joint resolution proposing an amendment to the Constitution of the United States with respect to the number of terms of office which Members of the Senate and the House of Representatives may serve.

SENATE JOINT RESOLUTION 39

At the request of Mr. Boren, the name of the Senator from Oklahoma (Mr. Nickles) was added as a cosponsor of Senate Joint Resolution 39, a joint resolution proposing an amendment to the Constitution of the United States to establish a 10-year term of office for Federal judges.

SENATE JOINT RESOLUTION 81

At the request of Mr. Heinz, the name of the Senator from Indiana (Mr. Lugar) was added as a cosponsor of Senate Joint Resolution 81, a joint resolution to authorize and request the President to designate October 16, 1983, as "World Food Day."

SENATE CONCURRENT RESOLUTION 24

At the request of Mrs. Hawkins, the names of the Senator from Rhode Island (Mr. Pell), the Senator from Minnesota (Mr. Boschwitz), and the Senator from Alaska (Mr. Stevens) were added as cosponsors of Senate Concurrent Resolution 24, a concurrent resolution expressing the sense of the Congress that the people of the United States should observe the month of May 1983 as Older Americans Month.

SENATE CONCURRENT RESOLUTION 29

At the request of Mr. Hollings, the name of the Senator from Florida (Mr. Chiles) was added as a cosponsor of Senate Concurrent Resolution 29, a concurrent resolution to provide that it is the sense of the Congress that the national policy of the United States be that the Federal Government contribute to the support of education in the United States.

SENATE RESOLUTION 72

At the request of Mr. Heinz, the name of the Senator from Minnesota (Mr. Durenberger) was added as a cosponsor of Senate Resolution 72, a resolution to assure Israel's security, to oppose advance arms sales to Jordan, and to further peace in the Middle East.

SENATE RESOLUTION 100

At the request of Mr. Wallop, the names of the Senator from North Carolina (Mr. East) and the Senator from Nevada (Mr. Hecht) were added as cosponsors of Senate Resolution 100, a resolution relating to the building of weapons for deployment in space.

SENATE RESOLUTION 118

At the request of Mr. Hollings, the name of the Senator from Maryland (Mr. Sarbanes) was added as a cosponsor of Senate Resolution 118, a resolution to express the sense of the Senate in support of continued integrity of the National Oceanic and Atmospheric Administration.

SENATE RESOLUTION 119

At the request of Mr. D'AMATO, the names of the Senator from Kentucky (Mr. HUDDLESTON) and the Senator from Tennessee (Mr. SASSER) were added as cosponsors of Senate Resolution 119, a resolution expressing the sense of the Senate that the United States should proceed with the sale and delivery of F-16 aircraft to Israel.

AMENDMENTS SUBMITTED

FIRST CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1984

HATCH AMENDMENT NO. 1227

Mr HATCH proposed an amendment to the concurrent resolution (S. Con. Res. 27) revising the congressional budget for the U.S. Government for the fiscal year 1983 and setting forth the congressional budget for the U.S. Government for the fiscal years 1984, 1985, and 1986, as follows:

Strike all after the resolving clause and insert in lieu thereof the following:

That the Congress hereby determines and declares that the concurrent resolution on the budget for fiscal year 1983 is hereby revised, the first concurrent resolution on the budget for fiscal year 1984 is hereby established, and the appropriate budgetary levels for fiscal years 1985 and 1986 are hereby set forth:

(a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1982, October 1, 1983, October 1, 1984, and October 1, 1985:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1983: $604,500,000;

Fiscal year 1984: $675,600,000;

Fiscal year 1985: $753,300,000;

Fiscal year 1986: $817,400,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1983: $874,630,000,000;

Fiscal year 1984: $886,203,000,000;

Fiscal year 1985: $953,034,000,000;

Fiscal year 1986: $1,015,694,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1983: $805,490,000,000;

Fiscal year 1984: $825,783,000,000;

Fiscal year 1985: $870,044,000,000;

Fiscal year 1986: $917,944,000,000.

(4) The amounts of the deficits in the budget which are appropriate in the light of economic conditions and all other relevant factors are as follows:

Fiscal year 1983: $200,990,000,000;

Fiscal year 1984: $149,183,000,000;

Fiscal year 1985: $117,544,000,000;

Fiscal year 1986: $100,544,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1983: $1,380,890,013,000;

Fiscal year 1984: $1,576,364,000,000;

Fiscal year 1985: $1,762,164,000,000;

Fiscal year 1986: $1,944,713,000,000;

and the amounts by which the temporary statutory limits on such debt should be accordingly increased are as follows:

Fiscal year 1983: $90,690,013,000;

Fiscal year 1984: $195,473,987,000;

Fiscal year 1985: $185,800,000,000;

Fiscal year 1986: $182,549,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1982, October 1, 1983, October 1, 1984, and October 1, 1985, are as follows:

Fiscal year 1983:

(A) New direct loan obligations, $55,400,000,000;

(B) New loan guarantee commitments, $94,500,000,000.

Fiscal year 1984:

(A) New direct loan obligations, $48,200,000,000;

(B) New loan guarantee commitments, $94,500,000,000.

Fiscal year 1985:

(A) New direct loan obligations, $48,100,000,000;

(B) New loan guarantee commitments, $97,400,000,000.

Fiscal year 1986:

(A) New direct loan obligations, $48,700,000,000;

(B) New loan guarantee commitments, $101,000,000,000.

(b) The Congress hereby determined and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new loan guarantee commitments for fiscal years 1983 through 1986 for each major functional category are:

(1) National Defense (050):

(A) New budget authority, $243,900,000,000;

(B) Outlays, $214,200,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $274,900,000,000;

(B) Outlays, $243,200,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $310,000,000,000;

(B) Outlays, $276,100,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $346,400,000,000;

(B) Outlays, $308,000,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1983:

(A) New budget authority, $24,070,000,000;

(B) Outlays, $11,270,000,000;

(C) New direct loan obligations, $11,700,000,000;

(D) New loan guarantee commitments, $9,200,000,000.

Fiscal year 1984:

(A) New budget authority, $15,570,000,000;

(B) Outlays, $11,200,000,000;

(C) New direct loan obligations, $11,200,000,000;

(D) New loan guarantee commitments, $10,300,000,000.

Fiscal year 1985:

(A) New budget authority, $16,230,000,000;

(B) Outlays, $11,530,000,000;

(C) New direct loan obligations, $11,500,000,000;

(D) New loan guarantee commitments, $10,300,000,000.

Fiscal year 1986:

(A) New budget authority, $14,660,000,000;

(B) Outlays, $11,450,000,000;

(C) New direct loan obligations, $11,600,000,000;

(D) New loan guarantee commitments, $10,300,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1983:

(A) New budget authority, $7,890,000,000;

(B) Outlays, $7,690,000,000;

(C) New direct loan obligations, $200,000,000;

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $8,060,000,000;

(B) Outlays, $7,940,000,000;

(C) New direct loan obligations, $37,000,000;

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $7,830,000,000;

(B) Outlays, $7,830,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $7,060,000,000;

(B) Outlays, $7,220,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1983:

(A) New budget authority, $3,880,000,000;

(B) Outlays, $4,330,000,000;

(C) New direct loan obligations, $13,100,000,000;

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1984:

(A) New budget authority, $3,220,000,000;

(B) Outlays, $3,900,000,000;

(C) New direct loan obligations, $13,900,000,000;

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1985:

(A) New budget authority, $3,650,000,000;

(B) Outlays, $2,790,000,000;

(C) New direct loan obligations, $14,300,000,000;

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $2,390,000,000;

(B) Outlays, $2,450,000,000;

(C) New direct loan obligations, $14,450,000,000;

(D) New loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1983:

(A) New budget authority, $12,220,000,000;

(B) Outlays, $12,310,000,000;

(C) New direct loan obligations, $100,000,000;

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $9,350,000,000;

(B) Outlays, $10,580,000,000;

(C) New direct loan obligations, $27,000,000,000;

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $9,630,000,000;

(B) Outlays, $10,360,000,000;

(C) New direct loan obligations, $27,000,000;

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $9,330,000,000;

(B) Outlays, $9,850,000,000;

(C) New direct loan obligations, $27,000,000;

(D) New loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1983:

(A) New budget authority, $24,180,000,000;

(B) Outlays, $23,970,000,000;

(C) New direct loan obligations, $18,600,000,000;

(D) New loan guarantee commitments, $5,500,000,000.

Fiscal year 1984:

(A) New budget authority, $10,900,000,000;

(B) Outlays, $10,820,000,000;

(C) New direct loan obligations, $12,100,000,000;

(D) New loan guarantee commitments, $3,800,000,000.

Fiscal year 1985:

(A) New budget authority, $12,580,000,000;

(B) Outlays $10,480,000,000;

(C) New direct loan obligations, $11,700,000,000;

(D) New loan guarantee commitments, $3,800,000,000.

Fiscal year 1986:

(A) New budget authority, $11,070,000,000;

(B) Outlays, $11,000,000,000;

(C) New direct loan obligations, $12,200,000,000;

(D) New loan guarantee commitments, $3,800,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1983:

(A) New budget authority, $5,300,000,000;

(B) Outlays, $3,340,000,000;

(C) New direct loan obligations, $6,500,000,000;

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1984:

(A) New budget authority, $7,289,000,000;

(B) Outlays, −$31,000,000;

(C) New direct loan obligations, $6,400,000,000;

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1985:

(A) New budget authority, $5,164,000,000;

(B) Outlays, −$924,000,000;

(C) New direct loan obligations, $6,300,000,000;

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1986:

(A) New budget authority, $4,065,000,000;

(B) Outlays, −$1,465,000,000;

(C) New direct loan obligations, $6,300,000,000;

(D) New loan guarantee commitments, $48,700,000,000.

(8) Transportation (400):

Fiscal year 1983:

(A) New budget authority, $26,860,000,000;

(B) Outlays, $22,040,000,000;

(C) New direct loan obligations, $200,000,000;

(D) New loan guarantee commitments, $1,100,000,000.

Fiscal year 1984:

(A) New budget authority, $27,280,000;

(B) Outlays, $25,090,000,000;

(C) New direct loan obligations, $100,000,000;

(D) New loan guarantee commitments, $600,000,000.

Fiscal year 1985:

(A) New budget authority, $27,930,000,000;

(B) Outlays, $25,760,000,000;

(C) New direct loan obligations, $100,000,000;

(D) New loan guarantee commitments, $400,000,000.

Fiscal year 1986:

(A) New budget authority, $28,680,000,000;

(B) Outlays, $26,830,000,000;

(C) New direct loan obligations, $100,000,000;

(D) New loan guarantee commitments, $300,000,000.

(9) Community and Regional Development (450):

Fiscal year 1983:

(A) New budget authority, $8,630,000,000;

(B) Outlays, $7,810,000,000;

(C) New direct loan obligations, $2,100,000,000;

(D) New loan guarantee commitments, $500,000,000.

Fiscal year 1984:

(A) New budget authority, $6,080,000,000;

(B) Outlays, $8,000,000,000;

(C) New direct loan obligations, $1,700,000,000;

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1985:

(A) New budget authority, $6,940,000,000;

(B) Outlays, $8,320,000,000;

(C) New direct loan obligations, $1,800,000,000;

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1986:

(A) New budget authority, $6,200,000,000;

(B) Outlays, $7,440,000,000;

(C) New direct loan obligations, $1,800,000,000;

(D) New loan guarantee commitments, $400,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1983:

(A) New budget authority, $27,570,000,000;

(B) Outlays, $27,060,000,000;

(C) New direct loan obligations, $600,000,000;

(D) New loan guarantee commitments, $6,500,000,000.

Fiscal year 1984:

(A) New budget authority, $25,980,000,000;

(B) Outlays, $25,630,000,000;

(C) New direct loan obligations, $700,000,000;

(D) New loan guarantee commitments, $6,600,000,000.

Fiscal year 1985:

(A) New budget authority, $24,980,000,000;

(B) Outlays, $25,070,000,000;

(C) New direct loan obligations, $700,000,000;

(D) New loan guarantee commitments, $6,600,000,000.

Fiscal year 1986:

(A) New budget authority, $24,720,000,000;

(B) Outlays, $24,830,000,000;

(C) New direct loan obligations, $800,000,000;

(D) New loan guarantee commitments, $6,600,000,000.

(11) Health (550):

Fiscal year 1983:

(A) New budget authority, $25,050,000,000;

(B) Outlays, $29,550,000,000;

(C) New direct loan obligations, $47,000,000;

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1984:

(A) New budget authority, $30,670,000,000;

(B) Outlays, $31,210,000,000;

(C) New direct loan obligations, $29,000,000;

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1985:

(A) New budget authority, $33,150,000,000;

(B) Outlays, $33,370,000,000;

(C) New direct loan obligations, $28,000,000;

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1986:

(A) New budget authority, $35,210,000,000;

(B) Outlays, $35,240,000,000;

(C) New direct loan obligations, $28,000,000;

(D) New loan guarantee commitments, $300,000,000.

(12) Medical Insurance (570):

Fiscal year 1983:

(A) New budget authority, $46,210,000,000;

(B) Outlays, $53,120,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $63,064,000,000;

(B) Outlays, $59,304,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $70,650,000,000;

(B) Outlays, $66,340,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $84,269,000,000;

(B) Outlays, $74,909,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1983:

(A) New budget authority, $121,420,000,000;

(B) Outlays, $108,930,000,000;

(C) New direct loan obligations $1,000,000,000;

(D) New loan guarantee commitments, $14,600,000,000.

Fiscal year 1984:

(A) New budget authority, $110,670,000,000;

(B) Outlays, $97,270,000,000;

(C) New direct loan obligations $1,000,000,000;

(D) New loan guarantee commitments, $14,700,000,000.

Fiscal year 1985:

(A) New budget authority, $113,740,000,000;

(B) Outlays, $97,390,000,000;

(C) New direct loan obligations $800,000,000;

(D) New loan guarantee commitments, $16,500,000,000.

Fiscal year 1986:

(A) New budget authority, $122,430,000,000;

(B) Outlays, $99,440,000,000;

(C) New direct loan obligations $500,000,000;

(D) New loan guarantee commitments, $18,100,000,000.

(14) Social Security (650):

Fiscal year 1983:

(A) New budget authority, $184,570,000,000;

(B) Outlays, $167,270,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $177,740,000,000;

(B) Outlays, $175,570,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $199,170,000,000;

(B) Outlays, $186,610,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $217,380,000,000;

(B) Outlays, $199,310,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

(A) New budget authority, $24,930,000,000;

(B) Outlays, $24,530,000,000;

(C) New direct loan obligations, $1,000,000,000;

(D) New loan guarantee commitments, $8,000,000,000.

Fiscal year 1984:

(A) New budget authority, $25,860,000,000;

(B) Outlays, $25,390,000,000;

(C) New direct loan obligations, $800,000,000;

(D) New loan guarantee commitments, $9,000,000,000.

Fiscal year 1985:

(A) New budget authority, $26,320,000,000;

(B) Outlays, $25,860,000,000;

(C) New direct loan obligations, $600,000,000;

(D) New loan guarantee commitments, $10,500,000,000.

Fiscal year 1986:

(A) New budget authority, $26,910,000,000;

(B) Outlays, $26,400,000,000;

(C) New direct loan obligations, $700,000,000;

(D) New loan guarantee commitments, $12,500,000,000.

(16) Administration and Justice (750):

Fiscal year 1983:

(A) New budget authority, $5,180,000,000;

(B) Outlays, $5.120,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $4,780,000,000;

(B) Outlays, $4,900,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $4,910,000,000;

(B) Outlays, $4,920,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $4,860,000,000;

(B) Outlays, $4,900,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1983:

(A) New budget authority, $5,640,000,000;

(B) Outlays, $5,700,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $5,500,000,000;

(B) Outlays, $5,490,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $5,800,000,000;

(B) Outlays, $5,550,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $5,770,000,000;

(B) Outlays, $5,560,000,000;

(C) New direct loan obligations. $0;

(D) New loan guarantee commitments, $0.

(18) General Purpose Fiscal Assistance (850):

Fiscal year 1983:

(A) New budget authority, $6,400,000,000;

(B) Outlays, $6,420,000,000;

(C) New direct loan obligations, $300,000,000;

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $7,050,000,000;

(B) Outlays, $7,000,000,000;

(C) New direct loan obligations, $300,000,000;

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $7,030,000,000;

(B) Outlays, $6,990,000,000;

(C) New direct loan obligations, $300,000,000;

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $4,760,000,000;

(B) Outlays, $5,360,000,000;

(C) New direct loan obligations, $300,000,000;

(D) New loan guarantee commitments, $0.

(19) Net Interest (900):

Fiscal year 1983:

(A) New budget authority, $88,160,000,000;

(B) Outlays, $88,160,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $91,680,000,000;

(B) Outlays, $91,680,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $88,010,000,000;

(B) Outlays, $88,010,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $84,760,000,000;

(B) Outlays, $84,760,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

(20) Allowances (920):

Fiscal year 1983:

(A) New budget authority, $790,000,000;

(B) Outlays, $900,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $860,000,000;

(B) Outlays, $940,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $2,150,000,000;

(B) Outlays, $2,130,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $2,210,000,000;

(B) Outlays, $2,210,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

(21) Undistributed Offsetting Receipts (950):

Fiscal year 1983:

(A) New budget authority, −$18,230,000,000;

(B) Outlays, −$18,230,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, −$20,300,000,000;

(B) Outlays, −$20,300,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, −$122,830,000,000;

(B) Outlays, −$22,830,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, −$27,440,000,000;

(B) Outlays, −$27,440,000,000;

(C) New direct loan obligations, $0;

(D) New loan guarantee commitments, $0.

RECONCILIATION

SEC. 2. (a) Not later than June 6, 1983, the Senate committee named in subsections (b) through (i) of this section shall submit their recommendations to the Senate Committee on the Budget and not later than June 6, 1983, the House committees named in subsections (j) through (s) of this section shall submit their recommendations to the House Committee on the Budget. After receiving those recommendations, the Committees on the Budget shall report to the House and Senate a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

SENATE COMMITTEES

(b) The Senate Committee on Agriculture, Nutrition, and Forestry shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority and outlays as follows: $1,587,000,000 in budget authority and $1,579,000,000 in outlays in fiscal year 1984; $2,328,000,000 in budget authority and $2,328,000,000 in outlays in fiscal year 1985; and $3,129,000,000 budget authority and $3,129,000,000 in outlays in fiscal year 1986.

(c) The Senate Committee on Commerce, Science, and Transportation shall report changes in laws within the jurisdiction of that committee sufficient to reduce budget authority and outlays as follows: $600,000,000 in budget authority and $600,000,000 in outlays in fiscal year 1984; $700,000,000 in budget authority and $700,000,000 in outlays in fiscal year 1985; and $800,000,000 in budget authority and $800,000,000 in outlays in fiscal year 1986.

(d) The Senate Committee on Environment and Public Works shall report changes in laws within the jurisdiction of that committee sufficient to reduce budget authority and outlays as follows: $500,000,000 in budget authority and $500,000,000 in outlays in fiscal year 1984; $500,000,000 in budget authority and $500,000,000 in outlays in fiscal year 1985; and $500,000,000 in budget authority and $500,000,000 in outlays in fiscal year 1986.

(e)(1) The Senate Committee on Finance shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $2,681,000,000 in fiscal year 1984; to reduce outlays by $4,478,000,000 in fiscal year 1985; and to reduce outlays by $10,031,000,000 in fiscal year 1986.

(2) The Senate Committee on Finance shall report changes in laws within the jurisdiction of that committee sufficient to increase revenues as follows: $2,600,000,000 in fiscal year 1984; $4,800,000,000 in fiscal year 1985; and $9,400,000,000 in fiscal year 1986.

(f) The Senate Committee on Foreign Relations shall report changes in laws within the jurisdiction of that committee sufficient to reduce budget authority and outlays as follows: $41,000,000 in budget authority and $3,000,000 in outlays in fiscal year 1984; and $51,000,000 in budget authority and $8,000,000 in outlays in fiscal year 1985; and $51,000,000 in budget authority and $9,000,000 in outlays in fiscal year 1986.

(g)(1) The Senate Committee on Governmental Affairs shall report changes in laws within the jurisdiction of that committee to require reductions in appropriations for programs authorized by that committee so as to achieve savings in budget authority and outlays as follows: $741,000,000 in budget authority and $741,000,000 in outlays in fiscal year 1984; and $1,006,000,000 in budget authority and $1,006,000,000 in outlays in fiscal year 1985; and $855,000,000 in budget authority and $855,000,000 in outlays in fiscal year 1986.

(2) The Senate Committee on Governmental Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $482,000,000 in fiscal year 1984; to reduce budget authority by $3,000,000 and $1,020,000,000 in outlays in fiscal year 1985; and to reduce budget authority by $3,000,000 and outlays by $2,113,000,000 in fiscal year 1986.

(3) The Senate Committee on Governmental Affairs shall report changes in laws within the jurisdiction of that committee sufficient to reduce revenues as follows: $1,200,000,000 if fiscal year 1984; $2,500,000,000 in fiscal year 1985; and $2,500,000,000 in fiscal year 1986.

(h) The Senate Committee on Labor and Human Resources shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $167,000,000 and outlays by $147,000,000 in fiscal year 1984; to reduce budget authority by $330,000,000 and outlays by $310,000,000 in fiscal year 1985; to reduce budget authority by $281,000,000 and outlays by $271,000,000 in fiscal year 1986.

(i) The Senate Committee on Veterans' Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $221,000,000 and outlays by $220,000,000 in fiscal year 1984; to reduce budget authority by $238,000,000 and outlays by $237,000,000 in fiscal year 1985; and to reduce budget authority by $243,000,000 and outlays by $240,000,000 in fiscal year 1986.

HOUSE COMMITTEES

(j) The House Committee on Agriculture shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority and outlays as follows: $1,587,000,000 in budget authority and $1,579,000,000 in outlays in fiscal year 1984; $2,328,000,000 in budget authority and $2,328,000,000 in outlays in fiscal year 1985; and $3,129,000,000 in budget authority and $3,129,000,000; in outlays in fiscal year 1986.

(k) The House Committee on Education and Labor shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority and outlays as follows; $167,000,000 in budget authority and $147,000,000 in outlays in fiscal year 1984; $330,000,000 in budget authority and $310,000,000 in outlays in fiscal year 1985; $281,000,000 in budget authority and $271,000,000 in outlays in fiscal year 1986.

(l) The House Committee on Energy and Commerce shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $169,000,000 in fiscal year 1984; to reduce outlays by $701,000,000 in fiscal year 1985; and to reduce outlays by $533,000,000 in fiscal year 1986.

(m) The House Committee on Foreign Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $41,000,000 and outlays by $3,000,000 in fiscal year 1984; to reduce budget authority by $51,000,000 and outlays by $8,000,000 in fiscal year 1985; to reduce budget authority by $51,000,000 and outlays by $9,000,000 in fiscal year 1986.

(n) The House Committee on Merchant Marine and Fisheries shall report changes in laws within the jurisdiction of that committee to require reductions in appropriations for programs authorized by that committee so as to achieve savings in budget authority and outlays as follows: $600,000,000 in budget authority and $600,000,000 in outlays in fiscal year 1984; $600,000,000 in budget authority and $600,000,000 in outlays in fiscal year 1985; and $600,000,000 in budget authority and $600,000,000 in outlays in fiscal year 1986.

(o)(1) The House Committee on Post Office and Civil Service shall report changes in laws within the jurisdiction of that committee to require reductions in appropriations for programs authorized by that Committee so as to achieve savings in budget authority and outlays as follows: $741,000,000 in budget authority and $741,000,000 in outlays in fiscal year 1984; $1,006,000,000 in budget authority and $1,006,000,000 in outlays in fiscal year 1985; $855,000,000 in budget authority and $855,000,000 in outlays in fiscal year 1986.

(2) The House Committee on Post Office and Civil Service shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined by section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $491,000,000 and outlays by $615,000,000 in fiscal year 1984; to reduce budget authority by $787,000,000 and outlays by $1,217,000,000 in fiscal year 1985; and to reduce budget authority by $1,045,000,000 and outlays by $2,655,000,000 in fiscal year 1986.

(3) The House Committee on Post Office and Civil Service shall report changes in laws sufficient to increase revenues as follows: $1,200,000,000 in fiscal year 1984; $2,500,000,000 in fiscal year 1985; and $2,500,000,000 in fiscal year 1986.

(p) The House Committee on Public Works and Transportation shall report changes in laws within the jurisdiction of that committee to require reductions in appropriations for programs authorized by that committee so as to achieve savings in budget authority and outlays as follows: $500,000,000 in budget authority and $500,000,000 in outlays in fiscal year 1984; $500,000,000 in budget authority and $500,000,000 in outlays in fiscal year 1985; and $500,000,000 in budget authority and $500,000,000 in outlays in fiscal year 1986.

(q) The House Committee on Science and Technology shall report changes in laws within the jurisdiction of that committee to require reductions in appropriations for programs authorized by that committee so as to achieve savings in budget authority and outlays as follows: $100,000,000 in budget authority and $100,000,000 in outlays in fiscal year 1985; and $200,000,000 in budget authority and $200,000,000 in outlays in fiscal year 1986.

(r) The House Committee on Ways and Means shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $2,379,000,000 in fiscal year 1984; to reduce outlays by $3,580,000,000 in fiscal year 1985; and to reduce outlays by $8,956,000,000 in fiscal year 1986.

(s) The House Committee on Veterans' Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $221,000,000 and outlays by $220,000,000 in fiscal year 1984; to reduce budget authority by $238,000,000 and outlays by $237,000,000 in fiscal year 1985; and to reduce budget authority by $243,000,000 and outlays by $240,000,000 in fiscal year 1986.

MISCELLANEOUS PROVISIONS

SEC. 3. It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution, or amendment thereto, providing—

(1) new budget authority for fiscal year 1984; or

(2) new spending authority described in section 401(c)(2)(C) of the Budget Act first effective in fiscal year 1984,

within the jurisdiction of any of its committees unless and until such committee makes the allocations or subdivisions required by section 302(b) of the Budget Act, in connection with the most recently agreed to concurrent resolution on the budget.

SEC. 4. It is the sense of the Congress that the President and the Congress, through the appropriations process, should limit the on-budget new direct loan obligations of the Federal Government to an amount not to exceed $37,600,000,000 in fiscal year 1983 and $29,300,000,000 in fiscal year 1984; off-budget new direct loan obligations to an amount not to exceed $17,800,000,000 in fiscal year 1983 and $18,900,000,000 in fiscal year 1984; and new loan guarantee commitments to an amount not to exceed $94,500,000,000 in fiscal year 1983 and $94,500,000,000 in fiscal year 1984. It is further the sense of the Congress that the President and the Congress should limit total Federal Financing Bank origination of direct loans guaranteed by other Federal agencies to $16,200,000,000 in fiscal year 1983 and $17,300,000,000 in fiscal year 1984, and Federal Financing Bank purchases of certificates of beneficial ownership from Federal agencies to $11,500,000,000 in fiscal year 1983 and $13,200,000,000 in fiscal year 1984. It is further the sense of the Congress that direct borrowing transactions of Federal agencies should be, to the maximum extent possible, restricted to the Federal Financing Bank.

SEC. 5. (a) The joint explanatory statement accompanying the conference report on this resolution shall include an estimated allocation, based upon the first section of this resolution as recommended in such conference report, of the appropriate levels of total new direct loan obligations and new loan guarantee commitments for fiscal year 1983 and fiscal year 1984, among each committee of the House of Representatives and the Senate which has jurisdiction over bills and resolutions providing such new obligations and commitments.

(b) As soon as practicable after this resolution is agreed to, every committee of each House, after consulting with the committee or committees of the other House to which all or part of the allocation has been made, shall subdivide among its subcommittees the allocation of new direct loan obligations and new loan guarantee commitments for fiscal year 1983 and fiscal year 1984, allocated to it in the joint explanatory statement accompanying the conference report on this resolution.

SEC. 6. It is the sense of the Congress that the budgets of Federal agencies initiating Federal Financing Bank purchases of certificates of beneficial ownership and originations of guaranteed loans should include the budget authority and outlays resulting from the transactions. The Congress recommends that the committees with jurisdiction over the Federal Financing Bank Act of 1973 consider expeditiously legislation to require that the budgetary impact of such Federal Financing Bank transactions be included in the budgets of the initiating agencies beginning with the fiscal year 1985 budget.

SPECTER AMENDMENT NO. 1228

Mr. SPECTER proposed an amendment to the concurrent resolution, Senate Congressional Resolution 27, supra, as follows:

On page 3, line 13, increase the figure by $700,000,000.

On page 3, line 19, increase the figure by $100,000,000.

On page 3, line 20, increase the figure by $300,000,000.

On page 3, line 21, increase the figure by $300,000,000.

On page 4, line 1, increase the figure by $100,000,000.

On page 4, line 2, increase the figure by $300,000,000.

On page 4, line 3, increase the figure by $300,000,000.

On page 4, line 7, increase the figure by $100,000,000.

On page 4, line 8, increase the figure by $400,000,000.

On page 4, line 9, increase the figure by $700,000,000.

On page 4, line 14, increase the figure by $100,000,000.

On page 4, line 15, increase the figure by $300,000,000.

On page 4, line 16, increase the figure by $300,000,000.

On page 22, line 19, increase the figure by $700,000,000.

On page 22, line 20, increase the figure by $100,000,000.

On page 22, line 25, increase the figure by $300,000,000.

On page 23, line 5, increase the figure by $300,000,000.

NOTICES OF HEARINGS

SUBCOMMITTEE ON LABOR

Mr. NICKLES. Mr. President, the Subcommittee on Labor will hold a hearing on June 28, 1983, at 9:30 a.m., in room SD-430 of the Dirksen Senate Office Building to discuss S. 1173, the Federal Mine Safety and Health Amendments of 1983. Persons desiring to testify should submit written requests to Hon. DON NICKLES, chairman, Subcommittee on Labor, Washington, D.C. 20510. Requests to testify must be submitted no later than June 7, 1983. If you have questions concerning the hearing, please contact Steve South at 224-5754.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, May 4, at 2 p.m., to hold a hearing on the reauthorization of the Legal Services Corporation.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Energy and Mineral Resources, of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Friday, May 6, at 10 a.m., to hold an oversight hearing on the strategic petroleum reserve—to review financing mechanisms, interim storage, fill capacity, et al.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON INFORMATION MANAGEMENT

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Information Management of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Friday, May 6, at 10 a.m., to hold an oversight hearing on the oversight of the paperwork reduction of 1980.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Intergovernmental Relations, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, May 10, at 2 p.m., to hold a hearing to consider transferring authorization for the Catalog of Federal Domestic Assistance.

The PRESIDING OFFICER. Without objection it is so ordered.

ADDITIONAL STATEMENTS

A BRITISH VIEW OF THE BANK BAILOUT

● Mr. HUMPHREY. Mr. President, a recent edition of the Financial Times of London contained an editorial discussing the roles played by central banks and commercial banks in making loans to foreign borrowers, loans which we in Congress and being asked to prop up by expanding the resources of the International Monetary Fund.

The Times editorial emphasizes two important points which I would like to bring to the attention of my colleagues. The first is that, in conjunction with appropriate actions on the part of central bankers, it would be economically healthy to force bankers to give honest treatment to their bad foreign loans. Second, it is pointed out that actions taken by central bankers to encourage still greater foreign lending by commercial banks can only lead to economic instability and depression of the financial markets.

Mr. President, the Senate Banking Committee has already marked up IMF bailout legislation, and the House Banking Committee will do so today. Before this ill-conceived and faulty piece of legislation arrives on the Senate floor, I ask my colleagues to reject the notion of bailing out the IMF and the banks, thereby forcing the banks to do what any profit-seeking enterprise must when a poor decision is made, and supporting a sustained economic recovery here at home which we can share with our trading partners the world over.

I ask that the Times article appear in the RECORD.

The article follows:

[From Financial Times, Apr. 26, 1983]

TWO WAYS WITH BANK CLAIMS

The International banking lifeboat, a combined operation of central banks, the Bank for International Settlements and the IMF was launched last summer to be greeted with general applause and relief; but as it wallows towards the last quarter of its first year of operation, there are growing signs of dissent even among the lifeboat crew.

Recently Dr. Fritz Leutwiler, head of the Swiss national bank and chairman of the BIS board, expressed his disquiet at the activities of some of his fellow central bankers—a very rare event in this normally most discreet of clubs. He singled out as imprudent the pressure being brought on commercial banks to renew and extend their international interbank lines.

This week the belated publication in England of the full text of a memorandum to the Senate banking committee of a distinguished group led by Dr. Karl Brunner makes a more general assault on banking baleouts. Arguing that bad loans mean losses which ought to fall on those whose judgment was at fault, the report takes a robust attitude to defaults; they should be survivable. Central banks should limit their intervention to vigorous lender-of-last-resort support for banks suffering a loss of deposits, and avoid arranging unrealistic reschedulings or refinancing of questionable loans at taxpayers' expense.

As if to illustrate this thesis, the news of the proposed takeover of Seafirst by BankAmerica Corporation has emerged on the day of publication of the Brunner memorandum. Seafirst's troubles arose from its unwise support of the wildly inflated lending operations of the Penn Square bank in energy development. The Federal Reserve allowed Penn Square to fail, and provided no protection for its interbank depositors. Seafirst was kept afloat by its lenders of last resort, but the management went, and now the shareholders are offered less than book value.

This approach meets the Brunner criteria perfectly; it has been non-inflationary, and has cost the U.S. taxpayer nothing. Bank depositors, except in the interbank market, have been fully protected throughout, but bankers have learned a sharp lesson in prudence. Alert prudence is a better way of keeping credit growth in check than high interest rates, and this and similar episodes should help to reduce rates. A fall in rates, in turn, is easily the most effective way of turning other questionable loans into sound and serviceable ones.

By contrast, a general effort to reschedule all existing loans, sound and unsound, in many ways actually hampers the recovery which would equally help to solve the problem. Banking spreads rise to cover enhanced risk, and banks must bid for larger deposits to finance the inevitable growth of loans to borrowers who cannot find the interest on their debts. The expansion of bank balances tends to be reflected in unruly money supply figures, arousing fears of future inflation and adding to the pressure for high rates. Finally, large government borrowings to finance IMF expansion will in due course depress the bond market.

When it is stated in these terms, the case for severity—or at least for a fairly harsh realism—looks unanswerable. Unfortunately, though, it is easier to preach such realism for the Euromarkets than to put it into practice. Sovereign borrowers can hardly be forced into bankruptcy like a failing commercial enterprise, leaving the assets available for new management; this is a political as well as a banking question. Lender-of-last resort facilities can also be difficult to provide where the central bank concerned had to borrow foreign currency to support its own banks.

However, there are steps which could sensibly be taken towards greater realism. Other central banks could more energetically follow the example of the U.S. Comptroller of the Currency in insisting on adequate and uniform provision in bank balance sheets against questionable loans. Such a writing-down of inflated values might reduce the resistance of the banks to proposals for the radical reconstruction of some irrecoverable short-term debt into medium-term loans, to be sold on where possible in the bond market.

Dr. Leutwiler also has a sound point: the interbank market proved to be an engine of illusion, in which depositing banks foresaw no difficulty in calling their money in, while lending banks assumed that they could always refinance short loans which were rolled over into long ones. This market certainly needs no official approval and underwriting. And as Mr. Stanislas Yassunkovich argues in a current article, commercial banks should have no long-term role in sovereign lending, where they have no effective sanctions. The guiding principle for central bank operations should surely be that the aim is not to revive the Euroloan market as we knew it, but to cut it down to size in an orderly way.●

SENATOR BILL BRADLEY

● Mr. KENNEDY. Mr. President, throughout his life, Bill Bradley has excelled in virtually all he has done. In his college days, Bill was both a superb athlete and an exceptional student.

Bill's academic excellence was rewarded with the highest honor that a student athlete can be awarded—a Rhodes scholarship. And it is only fitting that his excellence on the basketball court while a member of the New York Knicks should now be rewarded by the highest honor attainable in that profession—induction into the Naismith Memorial Basketball Hall of Fame.

Ira Berkow wrote of Bill Bradley and his career in the NBA in last Sunday's New York Times, May 1, 1983. The story revealed Bill's sense of humor and perspective, and his deep caring for others. He compares working with his colleagues in the Senate to his years with his teammates in the NBA. Of course, someday we will have to persuade Bill to tell us who is the Bill Russell of the Senate, or the Wilt Chamberlain. I recommend the article to my colleagues, and I request that it be printed in the Record.

Congratulations, Bill. We are honored to serve with you in the U.S. Senate. Your contribution to our country will be as exceptional as your achievements in basketball.

The article follows:

[From the New York Times, May 1, 1983]

BRADLEY USES OLD LESSONS IN NEW ARENA

(By Ira Berkow)

In Senator Bill Bradley's large new white office with high ceilings and high windows, there is an echo. "Listen," he says. And the sound of the word is faintly reheard.

The Democratic United States Senator from New Jersey is standing near the center of the room, a yellow pencil behind his ear, a blue lightweight suit casually worn, his vaulted left eyebrow raised, and he laughs in his throaty manner at the sound. That, too, reverberates lightly.

There are others echoes in the room, these silent. They depict what the Senator, with characteristic irony, refers to as his "past life."

A desk plaque, a kind of inside joke, reads "Senator Bill Bradley," then right below it "Former New York Knick."

And on the floor against the wall—he has been in this office in the Hart Building for only a month, so papers and photographs are piled around the room awaiting shelves and carpenters—can be seen, amid pictures of sober civilian scenes, two enlarged black-and-white photos of him in a Knicks basketball jersey and shorts.

One picture shows him racing across the basketball court, arms pumping in triumph, just after the Knicks had beaten Los Angeles to win the 1970 National Basketball Association championship.

In the other photo he has leaped into the broad arms of Willis Reed, the former Knick center. Bradley, his legs wrapped around Reed's waist, is facing the camera and his mouth is open with a yelp of glee. The Knicks had just won the 1973 N.B.A. title.

Senator Bradley walks behind his desk and eases his 6-foot-5-inch body into a plain, hardback chair.

"A back injury from my playing days—I couldn't take sitting in a big leather chair for long," he explains. He smiles. "That's the way it is with us old jocks."

Senator Bradley was named recently to the Naismith Memorial Basketball Hall of Fame. The Senator, along with Dave DeBusschere, the other starting forward on the Knicks' two championship teams, his former roommate and still a close friend, will be among six men inducted tomorrow into the hall at Springfield, Mass.

"I think I'm a Senator today as much because I had the experience of playing professional basketball for 10 years on the road in America as for any other college experience or for anything I studied," he said.

Senator Bradley, by his own estimation, had grown up relatively sheltered in Crystal City, Mo., a suburb of St. Louis.

The only child of Warren Bradley, a well-to-do banker, and Susan Crowe Bradley, a former junior high school teacher, Bill Bradley enrolled at Princeton, became an all-America basketball player, was a starter on the United States Olympic championship team in 1964, then a Rhodes Scholar at Oxford in England, played for the Knicks from 1967 to 1977, and, at age 35, won election to the Senate in 1978. Now 39—he will be 40 on July 28—he is one of the youngest Senators and, by most accounts, one of the most capable on Capitol Hill. "I played with a team—the Knicks—at a time when the people on it were not only great basketball players, but good people," he said, "so the experience for me was remarkable, living and traveling with them 100 days of the year and getting to know them." Blacks and whites, men from all over the country, from a variety of backgrounds. DeBusschere from working-class family in Detroit; Reed a black from the rural south; Walt Frazier a black from Atlanta. Earl Monroe was a black from Philadelphia, and Phil Jackson a white man from Montana.

"I remember one night when I had been in the Senate for only about four or five months," said Senator Bradley. "It was about 11 o'clock and the Senate was still in session. I was sitting around the Democratic cloak room, which is just off the Senate floor, and a lot of Senators were there.

"I looked around and saw one guy joking, another guy was quiet, another one was talking. And it occurred to me that this wasn't a lot different from the Knicks' locker room, in that it really was a matter of people getting along together in a small space, each of whom has his own individual agendas but who must subsume that individual agenda in a broader, more general context—if they're actually going to get anything accomplished.

"That process still fascinates me—how to get people with different backgrounds, different experiences, different personal agendas to agree on a shared goal and work toward it."

As a professional, he had a career average of 12.4 points per game and made one mid-season all-star team, but he was the ultimate role player. Never the most gifted athlete—most of the N.B.A. players could run faster and jump higher—he understood that he needed constant motion to frustrate his defender, he developed an uncanny ability to get open for a shot off a screen, and he was deadly with a jump shot. If need be, he might hold another player's jersey or step on his toe, when the referee's vision was blocked.

It was suggested that he was the least talented, grabbiest and smartest player in the N.B.A., and each of those explained the other.

"None of that's true," Senator Bradley said with a laugh.

"A reporter called me after I had been named for the Hall of Fame and asked me what I thought had been my contributions to the game," he said. "I had never prior to that question ever thought that I had made a contribution to the game, not like somebody who breaks the DNA code or makes a contribution to medicine.

"I think my whole orientation was to view myself only as a part of a larger whole, which was the team. And while you always looked at individual stats, you didn't really pay that much attention to them.

"But of course I was flattered and pleased that an honor like this would happen to me. And I'm especially glad to go in with DeBusschere. I figured that for six years I walked behind him and carried his bag, I might as well walk behind him and carry his bag into the Hall of Fame."

But playing well wasn't the only thing. Winning was essential.

"Certainly winning is important," the Senator said. "If you didn't win, you wouldn't have proved anything by the way you played. It was winning by playing the way you did that was the key. In amateur sports you could take a lot of satisfaction from your efforts. You could tell a grade school or high school student—as I tell my daughter, Theresa Anne, who's 6—'Go out and play and do something just as well as you possibly can, as well as your ability will allow, and then be satisfied with your performance, regardless of whether you won or lost.'

"But not in professional sports, because the nature of it, the reason you're playing is to win. Now, there were other levels of the game for me, obviously, in addition to winning—such as playing in a certain manner." He meant the humanness of the experience; not only knowing where your teammate was going to go to be open for a pass, but being congenial to even discussing personal problems with him off the court.

"But winning justifies your success," he said. "Some people justify their success if they don't win by their individual achievements. I didn't."

But is there not an overemphasis on winning in America that has influenced it greatly?

"Some of that has been exaggerated," he said. "There is a flip side to winning, of course, and that's losing.

"And part of personal growth is being able to deal with that. Losing has a flavor, a taste all its own. And in some sense it is as much responsible for the personal growth component in sport as is winning. And simply because you emphasize winning doesn't mean that you don't have a healthy respect for the personal growth potential in losing, and coping with that."

Bradley, too, "lost." With Princeton in 1965, he went to the semifinals of the National Collegiate Athletic Association and lost to Michigan. He struggled in his rookie year with the Knicks—the highest-paid player in the game at the time—and made bad plays at the end of several games that contributed to Knick losses. And he was disappointed in not winning four straight championships with the Knicks. He thought they might have.

"I still think that sports are overwhelmingly positive," he said. "I think that elements such as commercialism and overemphasis in certain segments has become like many of the areas of our life. And the problems associated with those areas are part of sports as well. But I think that still the dominant motive for playing and the dominant experience of the game is positive.

"And the motive is to excel, and the experience provides the range from discipline to dedication to community to what else that it always had when you are with the right group of people at the right time.

"And I always said that I think sports as a model for other things—as a metaphor—is limited. That's why I have to be pushed by a writer to even draw a parallel to my own experiences. But the parallel I've chosen to draw is a very personal one. Not what sports means for America, but what sports meant for me, and how that related to what I do now.

"The practice really did establish habits for me that carry over into what I do now.

"I work very hard now." He often puts in 16 to 18 hours of work. "And I work because I want to be the best Senator I can be. In a way it's like when I started practicing basketball four or five hours a day when I was 13. I wanted to be the very best basketball player I could be."

The Senator no longer plays basketball. "I just don't have the time," he said. He also has said that much of the fun would be gone for him when he would want to make a move he once made, and now could not. "I haven't really shot since 1977, when I walked off the court in Detroit in Cobo Arena. An odd thing is, the last shot I took was a jump shot which I hit from the left base line. It was kind of symmetry because that was the first jump shot against the same team, the first shot I took as a pro in 1967. So 10 years later, the same team, the same shot.

"The only time I touch a ball now is when I'm visiting a high school and someone throws me a ball and says, 'shoot.' Sometimes I'll be campaigning for a Democratic candidate and we'll have a meeting in the high school. We may be discussing the military budget or the health of the economy and it never makes the local news. But if a free-throw shooting contest is arranged, that's always covered. So the candidates want me to do that, and so I do. That's the extent to which I do any playing at all."

Bradley has recently lost about 30 pounds. He now weighs 212, about three pounds fewer than when he played with the Knicks.

"Basically, I lost the weight by not eating," he said. He was once an aficionado of junk foods. "I try to jog a few times a week for about 30 minutes a time. Or I'll ride an exercise bicycle. My athletic experience now is no different from about 80 million other Americans who are in sports to try to flatten their stomachs and widen their arteries."

His interest in pro basketball remains, but on a sedentary level.

"I watch the playoffs when they get down to the end," he said. "It's then that you really see the psychology of the game. You see the team that has gotten to know each other will do in a period of stress. And more times than not that team will win over the team that has really not been through the pressure cooker."

It was mentioned that Larry Bird of the Celtics plays in a manner reminiscent of Bradley.

"The most distinguishing characteristics of Bird, " he said, "is that he always moves and the ball doesn't stay in his hands very long. And obviously those are the two things I can identify with as a player."

For the most part, Bradley has downplayed his participation in sports, though he says he remains very proud of it. "But I wanted to prove myself in a different field—in the Senate—and I had to prove myself by the standards of the institution." So he refused to rely on his celebrity status from basketball as a crutch.

"But I am still often referred to in newspaper stories, as 'Senator Bill Bradley, the former New York Knick.' I laugh about that, but I have the feeling it will be with me the rest of my life."

Senator Bradley, like some intensely hardworking people, uses humor as a release—at times, a zany sense of humor.

Once, when he was with the Knicks, he went to a party dressed in a priest's frock, and supposedly heard confessions.

He was also known for his unconcerned sartorial style of dress. Walt Frazier remembers Bradley's raincoat, for example. When it wasn't raining, he would roll it into a ball and carry it under his arm.

He was also known as "Dollar Bill," because of his frugality. Rumor had it that he had kept first dollar he ever made.

He seemed to enjoy the ribbing and attention of the other players in regard to his unusual habits. It made the boy from the suburbs feel a part of the team.

It was mentioned to him that when he played on the all-star team, he had said to Pistol Pete Maravich "to do something crazy when you get in the game."

"Did I say 'crazy'?'" asked Bradley. "Maybe I did. Or maybe I said, 'Do something different.'

"You can't take yourself too seriously. And that episode illustrates that not only did I feel that as a player, I feel that in this job. You have to have a sense of humor about who you are and what you do. You maintain a personal stability that way. It relieves tension, to recognize that you can't always do everything, and that you do the best you can for as long as you can. And recognizing that you alone are not responsible for things happening on the court, or in the Senate. Ultimately, it's the recognition that the institution goes on. When you see yourself that way, it's hard to take yourself too seriously—though you can take what you're doing seriously."

Looking at the photo of him jumping into Reed's arms, he was asked if he has had such a moment of elation since.

"That's a feeling that's never been duplicated," he said. "It's a clear-cut victory, sometimes that rarely happens in life. We had established ourselves as the best in the world. But it's like anything. It lasts about 24 hours. But the moment is intense."

What's the closest he has come to it since?

"Haven't."

He thought for a moment. "Afterward you experience a whole range of satisfactions and achievements and series of accomplishments," he said. "The point is, the moment depicted in that photo was a peak in that narrow category of experience—basketball. Then life goes on." ●

THE GENOCIDE OF ARMENIANS

● Mr. HELMS. Mr. President, it is fitting that the Senate recognize the fate of the 1.5 million Armenians who died in the first genocide of the 20th century—and in recognition of the leading role played by the United States in attempting to prevent this tragedy and in leading the humanitarian relief effort for those who survived. I join my colleagues and the Armenian-American community in commemorating the 68th anniversary of the Armenian genocide.

The records of the world contain abundant information about this dark chapter in human history. The book, "Mt. Ararat," by Elgin Groseclose, a distinguished citizen of Washington, D.C., who died early this month, has acquainted millions of Americans with this event.

The U.S. Archives are replete with material documenting the massacres and documenting this Nation's diplomatic and aid programs. On July 16, 1915, the U.S. Ambassador to the Ottoman Empire, Henry Morgenthau, stated in a telegram to the Secretary of State, "Deportation of and excesses against peaceful Armenians is increasing and from harrowing reports of eye witnesses it appears that a campaign of race extermination is in progress under a pretext of reprisal against rebellion."

The Archives also demonstrate that the American people, through an organization known as Near East Relief chartered by an act of Congress, contributed some $113 million between 1915 and 1930 to aid the Armenian genocide survivors. In addition, 132,000 orphans became foster children of the American people and owe their lives to this effort.

Mr. President, we pause to remember this crime against humanity in hopes that there will be no reoccurrence. In spite of the fact that we have seen other genocides—the attempted extermination of the Jews under Hitler's totalitarian regime, and the murder of millions of Cambodians under the Communist regime there—the outrage against these and the Armenian genocide may help prevent another in the future.●

SENATOR JENNINGS RANDOLPH

● **Mr. HEINZ.** Mr. President, as many of my Senate colleagues know only too well, we will soon mark the end of an era as we bid farewell to a close friend and devoted statesman, JENNINGS RANDOLPH. A recent Pittsburgh Post-Gazette article highlighted his illustrious career of public service, and I believe that it would serve us well to read and reflect upon this man who has given so much to his colleagues, his constituents, and his country.

I ask that the text of the article entitled "Randolph: Going Strong at 81" be printed in the RECORD.

The article follows:

[From the Pittsburgh Post-Gazette, Apr. 22, 1983]

RANDOLPH: GOING STRONG AT 81

(By Frank M. Matthews)

U.S. Sen. Jennings Randolph, the West Virginia Democrat who was in the first class of New Dealers in Congress in 1933, plans to retire when his present term expires at the end of 1984. But Randolph says he won't go out with a whimper.

"You still will be hearing from me. I'll be around," he said during a recent stopover at Greater Pittsburgh International Airport. At 81, the indefatigable air traveler and raconteur was en route to speaking appearances in Ohio and Michigan.

Randolph, who lives in Elkins, W.Va., has spent congressional time under nine presidents. He was in the House from 1933 until the end of 1946, when he was the victim of a Democratic massacre at the polls. In the 1958 election, he made a comeback in the Senate as the successor to the late Sen. Matthew M. Neely and has been re-elected without interruption ever since.

His elections have spanned half a century, and he is the oldest member around in terms of service. Only two members of the 98th Congress are chronologically older: Sen. John Stennis, D-Miss., who will be 82 in August, and U.S. Rep. Claude Pepper, D-Fla., who is 82.

Randolph is the sole survivor in Congress of the traumatic First Hundred Days of the administration of Franklin D. Roosevelt.

"The president at that time was sworn in on the 4th of March, and the House of Representatives came in on the 9th of March. He had the vision of what must be done; he used unorthodox methods, but he never destroyed orthodox institutions. He was reviled for what he was doing."

On March 9, Randolph recalled, Roosevelt laid out for Congress a program for immediate action to deal with the Depression. "We passed the Emergency Banking Act, not a vote against it in the House of Representatives; a vote of 73 to 7 in the Senate. Four years later, in 1936, [Roosevelt] traveled across West Virginia by train, from Parkersburg to Harpers Ferry, speaking from the rear platform, and he read a letter from the secretary of the treasury. It said in essence: 'Mr. President, there has not been a bank failure in this nation in 12 months. This is the first time this has ever happened, in 55 years.'

"Was he an enemy of the financial structure of this country? He was the savior, this Democratic president. He couldn't walk, but he put America on its feet.

"Roosevelt often called in members of Congress to talk to them during those First Hundred Days.

"That night there were seven of us in the group. It was rainy and cold and dreary. We were escorted to the second floor of the White House. A huge wood fire crackled in the grate; the president sat behind a massive desk. He rolled himself up closer to shake hands as we walked by.

"One of our number—after the president had talked we had asked questions—said, 'Mr. President, I am for your programs but you're trying to do too much. You are talking about a hundred days with all of that legislation down the road. I don't think the American people can digest this in the allotted time. I feel your program in part will fail.'

"He didn't answer at once. But in about five minutes he removed his pince nez and said, 'By acting now we will assuredly make mistakes, but if we do not act now I am afraid just a little later we will not have the opportunity to make the mistakes.'

"Now you might wonder, as we sit here today, why he was right," Randolph said. "You must remember that in 1932 there were not the two parties. There was the Democratic ticket, and the Republican ticket, and alongside these two there was the Communist Party of America, with Earl Browder for president. He received more than 1.1 million votes. The people who voted for him, they were not Communists. They were desperate and they were groping, so the promises he made had an appeal."

These days, Randolph is the ranking minority member of the Committee on Environment and Public Works and a member of its subcommittee on transportation. But for 14 years he was chairman when it was the Committee on Public Works—the key pork barrel committee—and a committed believer in delivering money for projects in various states, as long as their senators voted shares to West Virginia.

Randolph also is a member of the Committee on Labor and Human Resources and its subcommittees on education, labor, and arts and humanities. Finally, he is on the Committee on Veterans Affairs.

It was Randolph who first proposed 18-year-old voting in the House in 1942 and finally got the constitutional amendment in 1971, one of the accomplishments in Congress of which he is most proud.

Randolph is vice chairman of the Senate Steel Caucus and a member of the coal, export, tourism and wood energy caucuses. Over the years he has been recognized with honorary degrees from 20 colleges and universities, including the University of Pittsburgh and West Virginia University.

An annual speaker at the Amen Corner dinner here, he will address this year's gathering Tuesday at the William Penn Hotel.

So why give up this power, and affection in which he revels, in a courtly sort of way? Well, he says, it would not be right to run for another six-year term which he would begin at the age of 83. Too, he was appalled by the cost of campaigning in 1978, when he had professional help for the first time and spent $684,605 in comparison to a campaign cost of $133,670 in 1972. In the latter election, he scraped through with a majority of less than 5,000 over Republican Arch A. Moore in a vote in which Randolph's age had become a factor.

Born in Salem, W.Va., about 20 miles from Clarksburg, Randolph came naturally to politics. In the late 1880s his grandfather was the first mayor of the town.

"His first act was to fine himself. His horse got out of the mud and got onto the planked street and that was a $2 fine," Randolph recounted. "He was a member of the state Legislature, also. And he was chairman of the board of trustees of Salem College for 16 years, having been the principal among several founders.

While at Salem College, Randolph was a reporter for the Clarksburg Telegram, where he was the only Democrat on an otherwise Republican staff. It was in Clarksburg in 1924 that Randolph got his first insight into the shifts of power in politics that shape the destiny of man and party.

He waited through 103 ballots with John W. Davis, a native of Clarksburg, former ambassador to Great Britain and adviser to President Wilson, before the Democratic National Convention in New York finally nominated Davis for president. Davis was defeated soundly by Republican Calvin Coolidge. Randolph moved in 1926 to Elkins, the county seat of Randolph County—a coincidence of names, he says—to teach public speaking and journalism as well as to direct athletics at Davis and Elkins College.

There, Randolph found himself in a West Virginia seat of political clout. Henry Gassaway Davis (not related to John W. Davis) and Stephen Benton Elkins, the founders of Davis and Elkins, were politicians as well as men of wealth: Davis, a Democrat who in 1904 was his party's candidate for vice president, and Elkins, a Republican. They were partners in business and both were U.S. senators.

There is a town named for the Gassaway family in Braxton County, a Davis in Tucker County, and a town named for the Henry family just over the border in Western Maryland. Elkins, of course, derives from the Elkins family.

"Now here is an interesting story," Randolph said. "Henry Gassaway Davis had a daughter, a beautiful young woman whose name was Hallie, a beautiful dowager after she grew to womanhood.

"So, she was the daughter of a United States senator. She married Stephen B. Elkins, who was much younger than Davis, and thereby became the wife of a U.S. Senator.

"After marrying Elkins, one of their three sons, Davis Elkins, was serving in World War I and was elected to the U.S. Senate. Now, she was the only woman in the history of this country who was the daughter of a U.S. senator, the wife of a U.S. senator and the mother of a U.S. senator."

"Wonderful people come out of those hills and hollers, achieving people."●

INDIANAPOLIS NATIONAL CHESS CHAMPIONS

● Mr. QUAYLE. Mr. President, I should like to congratulate a group of Indianapolis national chess champions and share with my colleagues an article that appeared in the May 2, 1983, Indianapolis Star.

These dozen elementary school chess champions have brought a great distinction to themselves, their school and the city of Indianapolis.

I ask that an article in this connection be printed in the RECORD.

The article follows:

P.S. 27 WINS U.S. CHESS TITLE

A dozen chess masters from Indianapolis Public School 27 return from Memphis, Tenn., today with a National Elementary School Chess Championship under their collective belts.

The chess team won the tournament Sunday afternoon by defeating the defending national champions from New York by a half point.

Team coach and fifth grade teacher Bob Cotter telephoned principal John L. Patterson late Sunday evening with the good news.

"I imagine we'll have something," an elated Patterson said when asked if a celebration is planned for the school at 545 E. 19th St.

Mayor William H. Hudnut, who played team member Thomas Petty Wednesday and lost after a 40-minute match, said he was equally pleased with the team's success.

"I'm just as proud as I can be of these kids. I think it is a wonderful achievement for them and a great thing for Indianapolis."

On April 9 in Terre Haute, the team won the state chess championship for elementary schools—the team's first in its three-year history—and one more step on the road to Memphis and the national tournament.

For the team's coach it was a return to the tournament. He took a team from a closed grade school to the national championship several years back and that team placed 16th, Patterson said.

Cotter came to School 27 in September 1980 and from a group of 9-year-old boys he built a championship team almost "from scratch."

Cotter and co-coach Len Wallace planned to pay the $1,500 in expenses for the trip themselves but the Indianapolis Recorder and Citizens Forum agreed to pay for the trip following a column by The Star's Tom Keating.●

68TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

● Mr. GLENN. Mr. President, 68 years ago, in the shadow of Mount Ararat, one of the greatest, most tragic injustices in all of recorded history took place. In what has been called the death warrant to a whole race, 1½ million innocent Armenians—men, women, and children—were put to death. They had committed no crime. They were struck down only for their longstanding resolve to live as free Armenians, embracing Christian beliefs. Even today, there are still many who do not know of 1915—and they must be told, so that it may never be repeated.

History displays many tragedies—the Armenian genocide, Stalin's cruel purges, the Nazi death camps, Pol Pot's systematic murders—yet, these examples of inhumanity are too often expelled from our memories. If they happened once, they may happen again. Thus, they must be held up as a warning for future generations, for world leaders yet unborn.

In 1915, the United States played an important role in attempting to halt this tragedy and in aiding the helpless victims. In this decade, we must now encourage Americans with an Armenian ancestry to involve themselves with, and be heard in, the councils of government. We must remind all Americans, our allies, the entire free world, and those who stand outside the Western tradition of democracy, of the 68-year-old nightmare. Churchill once said: "The whole history of the world is summed up in the fact that, when nations are strong they are not always just." That, we know all too well, is true. Strong nations can be unjust. Yet, Churchill also believed in the ultimate strength of justness, of principled values, of human rights. Human rights are given a chance to flourish when they are inspired by principled leadership; recognizing universal human rights is the prerequisite for helping combat unjustness around the world. But as we embrace the sacred value of human rights, we also must remember its abuses.

I join those around the world who honored Armenian Martyrs Day on April 27.●

SENATOR BILL BRADLEY INDUCTED INTO BASKETBALL HALL OF FAME

● Mr. LAUTENBERG. Mr. President, I take this opportunity to inform the Senate of an honor accorded to one of our colleagues, my fellow Senator from New Jersey.

BILL BRADLEY on Monday was inducted into the Basketball Hall of Fame in Springfield, Mass.

The record books note that BILL BRADLEY played 10 years in the National Basketball Association, and averaged 12.4 points a game. The fans know he was the moving force that helped shape league championships in 1969 and 1973 for the New York Knicks.

At the induction ceremony, in front of friends and family, BILL BRADLEY's remarks were demonstrative of his unselfish outlook toward achievement, whether within sports or outside of sports. He noted:

> . . . only if you pull together can you succeed; only if you realize that who scores isn't important, but who wins is, and how they win is most important of all.

I ask that a news article from the Newark Star-Ledger be printed in the RECORD.

The article follows:

BRADLEY AND DEBUSSCHERE TEAM ANEW AS HALL OF FAMERS

(By Robert Cohen)

SPRINGFIELD, MASS.—Sen. Bill Bradley (D-N.J.), former New York Knicks teammate Dave DeBusschere and four others were inducted into the Basketball Hall of Fame yesterday.

Bradley, a two-time All-America at Princeton University and 10-year veteran of the National Basketball Association (NBA), attributed his success as a professional athlete to long hours of practice and teamwork.

"The key was we all agreed to work hard and depend on each other," said Bradley, referring to his days with the Knicks. "Individual achievement was maximized if the team succeeded. That was the key to our championships."

Bradley, accompanied by his wife, his mother and a number of close friends, said he was proud of his basketball days and what he accomplished.

The New Jersey senator said he was most proud if his contribution "reaffirmed the old truth that only if you pull together can you succeed; only if you realize that who scores isn't important, but who wins is, and how they win is most important of all."

DeBurschere said the 1970 and 1973 New York Knick's championships were "precious moments." Now the executive vice president of the Knicks, DeBusschere said he vividly remembers how the team "ignited the city."

In addition to Bradley and DeBusschere, the Hall of Fame inducted Jack Twyman, who played for the Cincinnati Royals; Dean Smith, a long-time basketball coach at the University of North Carolina; the late Lou Wilke, the former president of the Amateur Athletic Association; and the late Lloyd Leith, a widely respected basketball referee for more than 25 years.

Smith, who has compiled a 77 percent winning percentage as a college coach, said he was extremely pleased to be inducted with "team-oriented" players like Bradley, DeBusschere and Twyman. He also thanked the lettermen who played for him and made the honor possible.

During his Princeton days, Bradley was the star of a team that finished third in the National Collegiate Athletic Association tournament in 1965. The same year he was named college player of the year by the National Association of Basketball Coaches and he received the Amateur Athletic Association's Sullivan Award as the outstanding athlete.

In 1964, Bradley was a member of the U.S. basketball team that won the Olympic gold medal in Tokyo.

After two years as a Rhodes Scholar in England, Bradley joined the New York Knicks and averaged 12.4 points per game during his 10-year career.

During those years, he played small forward, was known as the ultimate role player and made an art of crisp passes and constant movement on the court. His natural talents were complemented by hard work and almost an academic knowledge of his opponents' strengths and weaknesses.

Yesterday's events included a luncheon, a ceremony where the plaques of the inductees were unveiled and a dinner in honor of the Hall-of-Famers.

Bradley's plaque was dedicated by another former pro teammate, Jerry Lucas, while former Knick great Willis Reed made the presentation to DeBusschere.●

THE FUTURE OF AMERICAN FINANCIAL SERVICES INSTITUTIONS

● Mr. GARN. Mr. President, since the American Assembly was established by Dwight D. Eisenhower in 1950 as an affiliate of Columbia University, 64 assemblies have been conducted on issues of vital public interest.

The Sixty-Fourth American Assembly was held last month at Arden House, Harriman, N.Y., on the issue of "The Future of American Financial Services Institutions."

While I was not a participant in either the assembly discussions or the drafting of its recommendations, I did have the opportunity to address the assembly.

The timing and subject of this American Assembly complements hearings now underway in the Banking Committee on "the condition and structure of, and competition within, the financial services industry."

In an opening statement at the beginning of these hearings, I noted that continuing changes in the configuration of the financial services industry call for careful review and analysis, with a view toward determining what legislative changes, if any, the Congress should be considering.

The Sixty-Fourth American Assembly made an important contribution to this review and analysis.

So that my fellow colleagues in the Senate may have the benefit of this contribution, I ask that the "Final Report of the Sixty-Fourth American Assembly" be printed in the RECORD along with a preface by William H. Sullivan, president of the American Assembly.

The material follows:

FINAL REPORT OF THE SIXTY-FOURTH AMERICAN ASSEMBLY

At the close of their discussions the participants in the Sixty-fourth American Assembly, on *The Future of American Financial Services Institutions*, at Arden House, Harriman, New York, April 7-10, 1983, reviewed as a group the following statement. This statement represents general agreement; however, no one was asked to sign it. Furthermore, it should not be assumed that every participant subscribes to every recommendation.

PREAMBLE

The proposals contained in this report should be viewed as goals of public policy. The participants have not attempted to draft a legislative and regulatory program which, *in toto*, could or should be implemented immediately. Although it is important to initiate changes as soon as possible, it is obvious that a package of reforms of this magnitude will require time so that an orderly transition can be achieved.

Types of financial services and the way they are provided have changed considerably over the past several years. Even greater changes are likely to occur in the near future. Several factors are responsible for this development. Among the most important are a dramatically expanded demand for a diversity of financial services to meet changing customer needs and the increasingly competitive spirit among financial service suppliers fueled by high market interest rates and the increasing use of cost-reducing technology, which has lowered transactions costs and permitted new definitions of convenience other than proximity. These factors have resulted in an influx of new suppliers and changes in the operations of the present suppliers.

Historically, legislation encouraged, and depression-era legislation in particular furthered, a high degree of specialization in the provision of financial services—thrift institutions made mortgages and took in savings; commercial banks made commercial and consumer loans and mortgages, accepted demand deposits, took in savings, and provided fiduciary services; broker-dealers underwrote and brokered corporate and municipal securities and provided investment advice; insurance companies underwrote insurance and made mortgages and long-term investments in corporations; mutual funds offered pooled equity accounts; credit unions accepted savings and made consumer loan; finance companies, retail stores, and manufacturers advanced consumer credit. Each tended to offer separate and distinct products and services through different networks with individual salespeople dealing personally with customers. Interest payments were prohibited on transaction deposits and were limited by regulation on commercial bank savings deposits.

As market interest rates increased above the ceilings, enterprises not subject to the ceilings attracted customers' funds. Money market mutual funds grew rapidly. Brokerage firms developed money management accounts that have many of the characteristics of demand deposits except that they provide interest, and thrift institutions developed negotiable order of withdrawal (NOW) accounts. Thus, the distinctions among the institutions and the products offered increasingly blurred under the pressure of new suppliers, technology, and changed consumer demands. Now many financial services are sold by nationwide advertising and handled electronically.

Given these environmental and institutional changes, many restrictions designed for a different era are no longer serving their original purposes; indeed, in some cases they prevent financial institutions from serving the public as well as would be possible without them. It is time for these restrictive and inconsistent laws and regulations to be changed where appropriate, to eliminate those premised on purposes no longer applicable, and to update those premised on purposes that continue to be important. The changes we suggest are based on the following assessment of the goals of regulating financial services.

GOALS OF REGULATION

1. Both individuals and organizations must have access to an efficient and innovative supply of financial services to enhance domestic productivity and international competitiveness. This goal is best achieved by permitting full and vigorous competition among suppliers of financial services to achieve the broadest range of services at the lowest possible price.

2. The integrity and stability of the overall system of financial intermediation must be assured. While individual institutions may fail, the safety of deposits must be protected. Deposit insurance is an integral means of preventing losses to depositors and an impairment of public confidence in the financial system. Since deposit insurance shifts the cost of failures to the insurers and healthy institutions, the insurers have reason to be concerned with the way insured depository institutions are managed.

3. Preventing excessive concentrations of power within financial markets is a continuing objective. This can be accomplished by consistent enforcement of existing antitrust laws and ease of entry of new competitors.

4. Equitable treatment of consumers and financial institutions is another goal of regulation. Individuals should not be treated unfairly, and they should have access to competitive financial service suppliers and adequate information to make informed decisions among competing financial products. Measures to ensure fair treatment of customers should be cost-effective in their application, and suppliers of financial services should be regulated and taxed equitably.

Considering these goals, we make the following policy recommendations.

RECOMMENDATIONS

Entry into the market for and limits on the provision of financial services

1. Institutions that accept governmentally insured deposits should not be able to provide directly, or through affiliates, services other than financial services and services closely related thereto. Conversely, institutions that provide nonfinancially related services or products, directly or through affiliates, should not be able to own or control institutions that accept governmentally insured deposits.

2. There should be no restrictions on which other firms can offer financial services to the public, except for reasonable standards of capital, competency, and probity. A governmental or regulatory determination of "needs and convenience" should not be an entry-limiting consideration.

3. In particular, the restrictions requiring the separation of commercial banking and investment banking contained in the Glass-Steagall Act should be replaced with appropriate provisions addressing the problems of undue concentration of power and conflicts of interest in all financial services and for the fair and equitable access to all financial markets.

4. Interstate and intrastate branching and, except as required by Recommendation 1, holding company affiliation by depository institutions should not be restricted. These institutions should not be legally prohibited by federal or state laws from conducting business and establishing offices wherever

the institutions believe there is public demand. (A minority of the participants disagreed with this recommendation.)

5. Governmentally insured institutions may invest in whatever assets they deem appropriate, including passive investments in debt and equities, subject only to reasonable regulation to protect the deposit insurance agencies.

Deposit insurance

6. Government insurance, approved private insurance, or some combination thereof, should be required for demand transaction accounts that are not fully backed by liquid assets and for savings and time deposits. (A minority of the participants would not require deposit insurance.) Such insurance should cover each type of deposit up to an established level. The insurer should have the right to protect its interest by such means as examining and supervising the institution, requiring it to maintain a specified amount of capital, and being assured that it does not employ incompetent or dishonest managers. This supervision should extend to all related interests of the institutions to the extent necessary to protect the insurer from loss, and may include the requirement that specialized activities be conducted in specialized subsidiaries. The supervisory authority should rest only in the insurer. The authority of the government agency would include the right to close the institution before the insured deposits were impaired, regardless of the source of the institution's charter.

7. Market-type disciplines should be made part of the deposit insurance system. The rate charged for deposit insurance preferably should vary with the risk imposed on the insurer. In addition, the federal insurer may require private coinsurance and/or additional capital as a means of reducing its risk.

Failures of and mergers among financial institutions

8. Like all other businesses, financial institutions should be permitted to fail. Depositors are protected by deposit insurance; the risk of failure should be borne by the shareholders, uninsured depositors, other creditors, and the managers of the institutions.

9. The antitrust laws should be applied to financial institutions as they are applied to other enterprises. Antitrust matters should not be within the province of the financial regulators.

10. There should be no restrictions on mergers among thrift institutions and commercial banks in their own or in other communities, within or across state lines, other than for considerations of antitrust and safety and soundness.

11. Depository institutions should be chartered, but not supervised, by federal and state authorities, as they now are. A choice among several chartering agencies is desirable from the standpoint of the public.

12. Supervision and regulation should be according to types of financial products or along other functional lines. For example, securities underwriting, as well as dealing and brokerage, should be subject to common statutes and a common regulator, as should money management and investment advisory activities, whether conducted in trust, agency, or pooled forms.

13. Regulation of diversified entities by the various regulators should be harmonized to reduce overlapping jurisdictions and the number of regulators to which any given institution is subject.

The regulatory role of the Federal Reserve

14. A comprehensive and efficient payment system can best be produced by competition between private entities and the Federal Reserve. The Federal Reserve's prices for these services should not be subsidized by its other activities.

15. Reserves may not be required for the conduct of monetary policy. However, if reserves continue to be mandatory, interest should be paid on them. With this reduction of an implicit tax, other aspects of the taxation of depository institutions should be reviewed to assure that the net effect on them is equitable with respect to other suppliers of similar services.

16. The Federal Reserve should not be directly involved in the supervision of depository institutions, except as necessary to protect its ability to conduct monetary policy and act as lender of last resort. (A minority of the participants believed that the Federal Reserve should not have any direct supervisory authority.)

Controls on interest rates paid and charged

17. There should be no ceilings or other restrictions on the interest rates or other terms of deposits. In particular, the prohibition of interest payments on corporate and individual demand deposits and Regulation Q restrictions on savings and time deposits should be repealed and rescinded.

18. Usury laws should be repealed. They restrict the availability of credit for all in times of high interest rates and to the less affluent in other times.

Disclosure and consumer protection

19. The provision of financial services in a deregulated environment requires sufficiently clear and adequate disclosure that allows all customers to make reasonable decisions.

20. The financial reports of institutions providing financial services should reflect their present financial conditions, taking into account yields, maturities, and asset qualities, so that an assessment can be made of the adequacy of their capital and the risk they present to the public.

21. All consumer protection legislation should be reviewed on a cost-benefit basis to ensure that it does not indirectly adversely affect consumers to a greater extent than it benefits them. Also, the government should regulate in this area by providing general rules, not be mandating detailed procedures. The government should encourage such processes as arbitration by which consumers may pursue adequate protection without recourse to litigation.●

BARCLAY WARBURTON'S "TALL SHIPS" LEGACY

● Mr. **PELL**. Mr. President, I would like to share with my colleagues the sad news of the death of Barclay Warburton—a man whose legacy to the Nation includes the unforgettable sight of Tall Ships parading en masse through our harbors.

The seagoing community of the world has lost an inspiring leader and experienced sailor and my home State of Rhode Island has lost a citizen with a national reputation and worldwide experience. He brought luster and distinction to our area.

It was he who founded the American Sail Training Association with its emphasis on developing the character, intelligence, and sailing potential of young people by giving them experience before the mast.

It was his vision and hard work that led to the 1976 Bicentennial Tall Ships visit and, subsequently, to the return of the Tall Ships to Newport, R.I., last summer—visits that made the term "Tall Ships" part of our Nation's vocabulary.

Some of the attraction of these ships and the lure of deep water sailing is captured in the opening verse of John Masefield's "Sea Fever."

I must go down to the seas again, to the lonely sea and the sky,
And all I ask is a tall ship and a star to steer her by;
And the wheel's kick and the wind's song and the white sail's shaking
And a gray mist on the sea's face and a gray dawn breaking.

That poem captures some of the sea fever that we all shared during the visits of the Tall Ships and recaptures some of the beauty.

Barclay Warburton, however, brought the Nation more than the unforgettable vision of these majestic sailing ships. He brought sailors from many nations together to share both the challenge of deepwater sailing and the love of the sea.

He owned and sailed the hermaphrodite brig *Black Pearl*, which he recently donated to the American Sail Training Association. His stepfather was William K. Vanderbilt, who sailed around the world on the yacht *Alva*, and his stepfather's brother, Harold, defended the America's Cup three times during the 1930's

As a young man, Barclay Warburton learned to love Newport, "the city by the sea." He returned there in 1967 and opened the Black Pearl restaurant. Within less than a decade of his return, he brought the Tall Ships to Newport.

Newport, R.I., and the Nation all owe him a debt of thanks for his vision and his hard work. The legacy he left extends beyond our memories of majestic sailing ships and will continue as long as men of good will join to share the joy of deepwater sailing.

He was a dear friend to many of us in Rhode Island and I know that I express my own, my wife's, and my community's sympathy to his family at his death.

Mr. President, at this point I ask that his obituary from the Providence Journal of May 3, 1983, be printed in the RECORD.

The obituary follows:

[From the Providence (R.I.) Journal, May 3, 1983]

BARCLAY WARBURTON; FOUNDED AMERICAN SAIL TRAINING ASSOCIATION

NEWPORT.—Barclay H. Warburton III, 61, of 35 Green St., whose founding of the American Sail Training Association brought Tall Ships enjoyment to millions, died Sunday at home.

Mr. Warburton, a popular restaurateur and yachtsman, sailed his hermaphrodite brig Black Pearl across the Altantic to participate in the 1972 International Sail Training Races which took the ships from Cowes, England, to Kiel, Germany, in honor of that year's Munich Olympiad.

The experience convinced him of the need for an American group similar to the international one headquartered in Great Britian which had organized the races since 1956. When he returned to Newport, he founded the American Sail Training Association, which produced the 1976 bicentennial Tall Ships visits, as well as last summer's return of the Tall Ships to Newport. His yacht, the Black Pearl, was recently donated to the ASTA.

Mr. Warburton was born on Feb. 5, 1922, to Barclay Warburton Jr. and Rosamond (Lancaster) Warburton. His great grandfather was John Wanamaker, who founded the Philadelphia store of that name. His grandfather was an Army major who commanded the Philadelphia City troop that stormed San Juan Hill in the Spanish-American War in Cuba.

Mr. Warburton's father was a lieutenant colonel in the Army Air Service during World War I, and later, an aviation enthusiast.

Mr. Warburton graduated from St. Mark's School, Southboro, Mass., in 1938 and then went to the Pennsylvania Schoolships Training program and the Merchant Marine Academy at King's Point, N.Y., from which he graduated in 1942. He then received a Naval Reserve commission and was on active duty in World War II in the Pacific Theater.

After the war, he entered Harvard, and graduated with a degree in political science. From 1947 to 1959, he operated a 200-acre dairy farm in Ispwich, Mass., as a pioneer organic farming project. He also served in the Massachusetts legislature between 1954 and 1960.

In 1949, Mr. Warburton married Margarett McKean Reed of Beverly Farms, Mass., the daughter of John Quincy Adams Shaw McKean and Margarett Sargent. Their five children include Barclay H. Warburton IV of Washington, D.C., Margarett Rosamond Warburton of Los Angeles, Miranda Warburton of Pullman, Wash., Rosemary Warburton Hardisty and Peter Lancaster Warburton, both of Newport.

In 1967, Mr. Warburton returned to Newport, a city he had long loved, and which he knew as a young man. His stepfather was William K. Vanderbilt, who sailed around the world on his yacht Alva. William's brother Harold, defended the America's Cup three times during the 1930s.

Mr. Warburton opened the Black Pearl restaurant in 1967, and became active in sail training. In 1970, he married Lore Maria Paught.

Other survivors include a stepdaughter, Elan Paught, and five grandchildren.

A memorial service will be Friday at Trinity Church where Mr. Warburton was a parishioner.

Early Saturday morning his ashes will be taken aboard the Black Pearl and scattered at sea.●

STRENGTH AND PREPAREDNESS—FOR PEACE AND FREEDOM

● Mr. HATCH. Mr. President, today I should like to bring to the attention of the Senate a speech, "Strength and preparedness—For Peace and Freedom," given by the Honorable Joseph Verner Reed, our Ambassador to the Kingdom of Morocco. This speech was given onboard America's newest warship, the U.S.S. *Carl Vinson*, near the city of Casablanca. It is my feeling that all Americans can benefit from the inspiration and direction that Ambassador Reed has given in this address.

For months, this body has heard many differing views concerning what our Nation's posture should be in regard to national defense. I feel that it would be appropriate for the Senate to consider and review the views of Ambassador Reed, especially at this time when we are preparing to make important decisions concerning our national defense, which will affect our generation and those yet to come.

The speech follows:

SPEECH OF HON. JOSEPH VERNER REED

It is a great honor, as President Reagan's envoy to the Kingdom of Morocco, to welcome America's newest and most powerful warship, the USS Carl Vinson, on her maiden voyage to America's oldest friend, the Kingdom of Morocco, and this great city of Casablanca.

On March 15, 1980, America named a warship for a living American for the first time: Congressman Carl Vinson. Before he retired in 1964, he had served thirty-two years as Chairman of a Congressional Committee and for over fifty years in the House of Representatives, both longer than any other person.

Mr. Vinson was guided throughout his full half century of devoted public service by an unswerving belief that the first responsibility of a Government is defense. I am proud to associate myself with that creed.

Fleet Admiral William Leahy said that President Roosevelt and Representative Vinson did more than any others to develop a two-ocean navy and provide America with the readiness for essential naval operations on several fronts simultaneously during World War II.

The Kingdom of Morocco, at the gateway to the Mediterranean, has two great coasts: the Mediterranean Sea and the Atlantic Ocean. America's two other largest aircraft carriers, the USS Nimitz and the USS Dwight D. Eisenhower, together with four powerful guided missile cruisers, including the USS Texas, visited Tangier on the north coast of Morocco last year. It was the greatest concentration of nuclear powered warships in the history of the world. Now the Vinson and the Texas are visiting the Atlantic coast of Morocco, symbolizing America's equal interest in this most strategic region of world real estate.

President Reagan has had long and detailed discussions with His Majesty King Hassan II in the United States on matters of common concern. As a result, and as a clear demonstration of America's resolve to be at the side of this Nation, President Reagan personally directed that the USS Carl Vinson make its first visit outside the United States to the Kingdom of Morocco.

America and Morocco seek a just and lasting peace in the Middle East, and both great nations are making major and tireless efforts to achieve that goal. Closer at hand, we praise the progress that His Majesty has made toward the peaceful resolution of events in the Western Sahara. His creative foresight, courage, his comprehensive understanding of regional questions and recent meaningful consultations with the leadership of Morocco's largest neighbor, Algeria, have already shown positive and fruitful results. The strengthening of understanding and mutual respect and cooperation among the three great nations of the Maghreb: the Kingdom of Morocco, Algeria, and Tunisia, free from the interference, intrigue, and infamy emanating from an aggressor which has experienced the deadly sting of America's Navy, will be a welcome blessing.

This city of Casablanca, the second largest metropolis in Africa and the industrial, commercial, and banking center of this great and ancient land, is very familiar to Americans. During World War II on November 8, 1942, 34,000 Americans (of the 3rd and 9th Infantry and the Second Armored Divisions) came ashore in this area, led by General George Patton under the overall command of General Dwight Eisenhower, to launch the famous "Operation Torch" that would light the long, tortuous, tumultuous march to victory in Europe. That victory, which began on these very shores at the cost of one thousand brave Americans, over forces which sought to extinguish liberty, is very much in my mind today.

Then as now, it is certainly true that vigilance and preparedness are necessary as the first line of defense against any aggression. One would have to be very naive, indeed, to believe that peace and freedom can be sustained solely on blind trust in the good intentions of others. Peace and freedom are expensive, and the development, maintenance, and exercise of quality defense systems and the dedicated commitment of all members of our valiant armed forces are essential.

In many parts of the world these days, there has been a tendency by some to become mesmerized by well-meaning, but misdirected, thinking. The theme is that unilateral disarmament, letting down our guard, trusting to the goodwill of potential adversaries with so—called "freeze" proposals, will ease tensions and ensure a safe future. Experience has shown, time and again, such thinking to be sad folly. Appeasement and apathy stimulate greedy aggressors.

President Reagan has very recently stressed that we are determined to achieve real arms control with "reliable agreements that will stand the test of time—that should seek significant reductions on both sides . . . that are equal and balanced . . . (and) . . . effectively verifiable . . . as a vital part of a broad policy to stengthen peace and stability."

In some quarters there seems to be almost a paralysis of will, a weakening of determination. Some say it is because America has never suffered a foreign war on its shores, and does not comprehend the terror, but, we have been witnesses to history.

Our brave military have defended freedom all over this globe. The call for withdrawal from reality is sometimes heard from some quarters in western Europe, a region that has certainly seen too much suffering from aggression. Must we re-learn hard lessons every other generation?

Just think about the past events following World War II—the conflict, aggrandizement, domination, cruelty, and misery unleashed by one large country which has smothered freedom in so many lands, and crushed any attempt to break out from under that dark shroud of tyranny and oppression. I say that those who do not learn from history—will live to suffer for it. Surely it is only those who are prepared to defend themselves who can contribute to reducing the risk of conflict.

Some nations only understand strength, as they dominate their own people, by the heavy hand of brutality and even consignment to internal exile or mental hospitals on the premise that dissent is insanity. Aggressive Marxism-Leninism sees timidity and weakness as a signal: a failure of resolve—and the apparent underlying disarray—as an invitation to interfere—a blank check for conquest. A determined defense is a deterrent to such temptation.

I have given much thought to the dilemma. I believe those who call for the phasing down of America's long-range defense preparedness or withdrawal from the responsibility to cooperate in the sound development of a credible defense in combined, harmonious and mutual cooperation with our allies and friends, engage in self-delusion.

I am convinced that the continued upgrading and modernization of our defensive capabilities are essential to match those already in existence in the hands of a potential adversary. It is the right course. We have a responsibility to future generations. Freedom—our destiny—depends on our correct and deliberate decisions concerning defense.

We must shake off this paralysis of will—and harden our resolve. We must not be taken in by the lies and efforts at disharmony and disinformation spread by others.

They work hard at spreading what President Reagan has recently called "The focus of evil in the modern world"—around the clock. The radio of our principal adversary has thirty-seven up-to-date five hundred kilowatt transmitters available, broadcasting in eighty-two languages, while the Voice of America has but six of similar power to send America's reliable message of freedom in forty-eight languages to those who thirst for the truth. Yet, no matter in how many languages, or how many kilowatt power units blare at the weary ears of the world from the radio of the enemies of freedom, it can never drown out the cry for liberty, whether in a tortured Afghanistan or a tragic Poland.

President Reagan reminded us of a sage and irrefutable statement by our first President, George Washington: ". . . To be prepared for war is the most effectual means of preserving peace."

President Reagan then stressed that, "It is precisely because we are committed to peace that we have a moral obligation to ensure Amrica's defense credibility." This beautiful, powerful, and awesome aircraft carrier, the U.S.S. Carl Vinson, is a crowning example of that credibility.●

OPENING OF HONDA'S AUTO PLANT IN MARYSVILLE, OHIO

● Mr. GLENN. Mr. President, I want to extend my congratulations to the management and workers of American Honda on the official opening of their new auto production facility in Marysville, Ohio. Honda has been one of my corporate constitutents since 1979, when they opened their motorcycle production plant in Marysville.

Honda's auto plant is a welcome addition to Ohio's manufacturing base. It represents an investment of $250 million, will provide employment for 2,000 American workers, and will be a customer for products from 43 American suppliers. More importantly, this investment represents a good faith commitment by Honda to the principles of reciprocal trade and investment. It recognizes the productivity of American workers and the quality of American products. It demonstrates that foreign companies can best enjoy the advantages of our open market by investing, producing, and hiring in the United States.

I commend Honda for its commitment to the principles of fair trade and investment and congratulate the workers and community of Marysville for their efforts in attracting Honda's investment to Ohio.●

PROGRAM

Mr. BAKER. Mr. President, on tomorrow the Senate will convene at 10 a.m. After the recognition of the two leaders under the standing order, there will be a period for the transaction of routine morning business in which Senators may speak for not more than 2 minutes each and to extend not past 10:30 a.m.

At 10:30 a.m., the Senate will resume consideration of the pending business, which is Senate Concurrent Resolution 27. At that time, Mr. President, the Senate will resume consideration of amendment No. 1227 offered by the Senator from Utah (Mr. HATCH) on which there will be a further time limitation of 60 minutes to be equally divided and controlled in the usual form. On the disposition of the Hatch amendment, the Senate will resume consideration of the amendment of the Senator from Pennsylvania (Mr. SPECTER) on which there will be further debate of 15 minutes to be equally divided and controlled in the usual form.

Following the disposition of the Specter amendment, the Senate will proceed to the consideration of an amendment to be offered by the Senator from Louisiana (Mr. JOHNSTON) provided that all of the provisions of the Budget Act regarding floor consideration of the aforementioned amendments shall remain in full force and effect.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, if no Senator is seeking recognition—and I see the minority leader on the floor indicating by the nod of his head that he does not see anyone—I move in accordance with the order previously entered that the Senate stand in recess until 10 a.m. tomorrow.

The motion was agreed to; and, at 6:27 p.m., the Senate recessed until Wednesday May 4, 1983, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 3, 1983:

Department of Education

Donald Moncrief Muchmore, of California, to be a member of the National Museum Services Board for a term expiring December 6, 1987.

Corporation for Public Broadcasting

Harry O'Connor, of California, to be a member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 1, 1984.

National Council on the Humanities

Charles Ray Ritcheson, of California, to be a member of the National Council on the Humanities for the remainder of the term expiring January 26, 1986.

Department of State

Helene A. von Damm, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Austria.

Department of Transportation

James H. Burnley IV, of North Carolina, to be General Counsel of the Department of Transportation.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Department of Justice

Edward S. G. Dennis, Jr., of Pennsylvania, to be U.S. attorney for the eastern district of Pennsylvania for the term of 4 years.

In the Navy

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be admiral

Vice Adm. Steven A. White, 569-34-1856/1120, U.S. Navy.

HOUSE OF REPRESENTATIVES—*Tuesday, May 3, 1983*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God, You have blessed us as a people and as a nation and we have known the bounty of harvest and the richness of freedom. As we have received these gifts, our lives have been made whole by the many spiritual blessings that You freely made available to us. Help us to use these gifts—of prayer and intercession, of good deeds and acts of charity, of reconciliation and peace—in ways that strengthen us and those in our community and world. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 974. An act to amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), to improve the quality and efficiency of the military justice system, to revise the laws concerning review of courts-martial, and for other purposes.

PRIVATE CALENDAR

The SPEAKER. This is the day for the call of the Private Calendar. The Clerk will call the first bill on the Private Calendar.

MARSHA D. CHRISTOPHER

The Clerk called the bill (H.R. 723) for the relief of Marsha D. Christopher.

There being no objection, the Clerk read the bill, as follows:

H.R. 723

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of sections 8131 and 8132 of title 5, United States Code, shall not apply with respect to injuries incurred by Marsha D. Christopher of Romulus, Michigan, as a result of an attack by a dog on August 9, 1979, while Marsha D. Christopher was performing her duties as a letter carrier for the United States Postal Service.

SEC. 2. (a) The Secretary of the Treasury shall pay, out of any funds in the Treasury not otherwise appropriated, to Marsha D. Christopher, an amount equal to the sum of—

(1) any amount of compensation for the injuries referred to in the first section of this Act, refunded, under section 8132 of title 5, United States Code, to the United States by Marsha D. Christopher, or on her behalf, before the date of the enactment of this Act; and

(2) any amount of reduction in compensation payable to Marsha D. Christopher under chapter 81 of title 5, United States Code, for the injuries referred to in the first section of this Act, made under section 8132 of such title before the date of the enactment of this Act.

(b) It shall be unlawful for any amount of the payment referred to in subsection (a) to be paid to, delivered to, or received by any agent of attorney in consideration for services rendered in connection with such payment. Any person who violates this subsection shall be fined not more than $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JAMES A. FERGUSON

The Clerk called the bill (H.R. 726) for the relief of James A. Ferguson.

There being no objection, the Clerk read the bill, as follows:

H.R. 726

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That James A. Ferguson of San Antonio, Texas, is relieved of all liability to the United States in the amount of $1,912.16 which represents the amount claimed to be overpaid to him when, because he was misinformed by the United States Air Force concerning the limitation on federally compensable moving expenditures contained in the last sentence of section 5724(b) of title 5, United States Code, he expended sums from his travel advance in excess of that limitation to cover the costs of commercially transporting his mobile home to his new permanent duty station in 1978.

SEC. 2. (a) The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to James A. Ferguson an amount equal to the aggregate of the amounts paid by him, or withheld from sums otherwise due him, in complete or partial satisfaction of the liability to the United States specified in the first section.

(b) No more than 10 per centum of the amount appropriated in subsection (a) shall be paid to or received by any agent or attorney on account of services rendered in connection with the liability dealt with in this Act. Any person violating the provisions of this subsection shall be fined not more than $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RONALD GOLDSTOCK AND AUGUSTUS M. STATHAM

The Clerk called the bill (H.R. 730) for the relief of Ronald Goldstock and Augustus M. Statham.

There being no objection, the Clerk read the bill, as follows:

H.R. 730

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Ronald Goldstock of Larchmont, New York, a former employee of the Department of Labor, the sum of $6,176.05 in full settlement of all his claims against the United States for certain expenses he incurred at the time of his relocation in 1979 from Ithaca, New York to Washington, District of Columbia; the expenses, which failed to qualify for reimbursement, were incurred in good-faith reliance on assurances by the Department of Labor that his real estate expenses and the expenses of his dependents were authorized at Government expense.

(b) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Augustus M. Statham of Great Falls, Virginia, an employee of the Department of Labor, the sum of $11,725.95 in full settlement of all his claims against the United States for certain expenses he incurred at the time of his relocation in 1979 from San Francisco, California to Washington, District of Columbia; these expenses were incurred in good-faith reliance on the assurances of Department of Labor officials that such relocation costs were reimbursable by the Government.

SEC. 2. No part of the amount appropriated in this subsection (a) or (b) of the first section of this Act in excess of 10 per centum thereof shall be directly or indirectly paid to or received by any agent or attorney in connection with the claims referred to in the first section of the Act, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of this section shall be considered a misdemeanor and any person convicted thereof shall be fined not more than $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GREGORY B. DYMOND, SAMUEL K. GIBBONS, JACK C. KEAN, JAMES D. NICHOLS, AND ROY A. REDMOND

The Clerk called the bill (H.R. 732) for the relief of Gregory B. Dymond, Samuel K. Gibbons, Jack C. Kean, James D. Nichols, and Roy A. Redmond.

There being no objection, the Clerk read the bill, as follows:

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

H.R. 732

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Gregory B. Dymond of Gladstone, Missouri, is relieved of all liability for repayment to the United States of the sum of $8,832.70 plus accrued interest which represents the amount that Mr. Dymond is indebted to the Department of Labor for payments received for travel and relocation expenses arising from his relocation from Fenton, Missouri, to accept employment with the Department of Labor in Kansas City, Missouri.

(b) Samuel K. Gibbons of Walnut Creek, California, is relieved of all liability for repayment to the United States of the sum of $2,165 plus accrued for indebtedness to the Department of Labor with represents the amount that Mr. Gibbons is indebted to the Department of Labor for payments received for relocation and travel expenses arising from his relocation from Saint Louis, Missouri, to accept employment with the Department of Labor in Kansas City, Missouri.

(c) Jack C. Kean of Garland, Texas, is relieved of all liability for repayment to the United States of the sum of $7,929.06 plus accrued interest which represents the amount that Mr. Kean is indebted to the Department of Labor for payment received for travel and relocation expenses arising from his relocation from Saint Louis, Missouri, to accept employment with the Department of Labor in Dallas, Texas.

(d) James. D. Nichols of Manassas, Virginia, is relieved of all liability for repayment to the United States of the sum of $8,082.13 plus accrued interest which represents the amount that Mr. Nichols is indebted to the Department of Labor for payments received for travel and relocation expenses arising from his relocation from Saint Louis, Missouri, to accept employment with the Department of Labor in Denver, Colorado.

(e) Roy A. Redmond of Manassas, Virginia, is relieved of all liability for repayment to the United States of the sum of $6,025.79 plus accrued interest which represents the amount that Mr. Redmond is indebted to the Department of Labor for payments received for expenses arising from his relocation from Virginia Beach, Virginia, to accept employment with the Department of Labor in Philadelphia, Pennsylvania.

These expenses, which failed to qualify for reimbursement, were incurred in good-faith reliance on assurances of the Department of Labor that the travel and relocation expenses of these presons and those of their dependents were authorized at Government expense.

Sec. 2. In addition to the relief provided in subsection (b) of the previous section of this Act, the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Samuel K. Gibbons the sum of $4,015.15 in full settlement of all his claims against the United States for certain real estate, travel, and relocation expenses he and and his family incurred at the time of his relocation in 1979 from Saint Louis, Missouri, to Kansas City, Missouri; these expenses were incurred in good-faith reliance on assurances of the Department of Labor that travel and relocation expense for himself and his family were authorized at Government expense.

Sec. 3. No part of the amount appropriated in section 2 of this act in excess of 10 per centum thereof shall be directly paid to or received by any agent or attorney in connection with the claims referred to in section 2 of this Act, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of this section shall be considered a misdemeanor and any person convicted thereof shall be fined not more than $1,000.

AMENDMENT OFFERED BY MR. BOUCHER

Mr. BOUCHER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Boucher: On page 2, line 7, insert "interest" following "accrued".

The SPEAKER. The question is on the amendment offered by the gentleman from Virginia (Mr. Boucher).

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

STEPHEN C. RUKS

The Clerk called the bill (H.R. 745) for the relief of Stephen C. Ruks.

There being no objection, the Clerk read the bill, as follows:

H.R. 745

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Transportation shall pay, out of any money available for such purpose, the sum of $9,700 to Stephen C. Ruks of Cordova, Alaska, a member of the Alaska Civil Air Patrol, for damage to his airplane incurred while engaged in a rescue mission which he undertook on behalf of the Coast Guard. Acceptance of such sum by Stephen C. Ruks shall constitute full satisfaction of all claims against the United States by Stephen C. Ruks arising out of the incident described in the preceding sentence.

Sec. 2. No amount in excess of 10 per centum of the sum appropriated by the first section of this Act shall be paid to or received by any agent or attorney in consideration for services rendered in connection with the claim described in such section. Any violation of this section shall be a misdemeanor and any person convicted thereof shall be fined not more than $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APOLONIO P. TUMAMAO AND OTHERS

The Clerk called the bill (H.R. 1750) for the relief of Apolonio P. Tumamao and others.

There being no objection, the Clerk read the bill, as follows:

H.R. 1750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each of the following-named persons is relieved of all liability to repay the United States and is entitled to a refund of the amount which appears beside his name:

	Indebtedness
Apolonio P. Tumamao	$1,137.50
Milton M. Ikawa	2,032.50
Malcolm B. Shin	2,032.50
Mamerto A. Garma	1,938.00
John B. MacKinnon	2,028.75
Kenneth A. Grigsby	2,032.50

The amounts represent overpayments of per diem allowances as a result of administrative failures by officials of the United States Government in implementing a regulatory change in the per diem rate in the case of the above-named civilian employees of the Department of the Navy who were performing extended temporary duty training assignments during the period May 1977 to January 1980. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for the amount of payments made pursuant to this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Private Calendar.

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar. The Clerk will call the first bill on the Consent Calendar.

AUTHORIZING SECRETARY OF COMMERCE TO SETTLE CERTAIN CLAIMS FOR DAMAGES RELATING TO RESPONSIBILITY OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The Clerk called the bill (H.R. 594) to amend section 1 of the Act of June 5, 1920, as amended, to authorize the Secretary of Commerce to settle claims for damages of less than $2,500 arising by reason of acts for which the National Oceanic and Atmospheric Administration is responsible.

There being no objection, the Clerk read the bill, as follows:

H.R. 594

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of June 5, 1920, as amended (41 Stat. 929, as amended; 33 U.S.C. 853), is further amended to read as follows: "The Secretary of Commerce is authorized to consider, ascertain, adjust, and determine all claims for damages, where the amount of the claim does not exceed $2,500, occasioned, subsequent to June 5, 1920, by acts for which the National Oceanic and Atmospheric Administration is responsible.".

● Mr. SAM B. HALL, JR. Mr. Speaker, the purpose of the proposed legislation is to amend section 1 of the act of June 5, 1920, as amended, to authorize the Secretary of Commerce to settle claims for damages of less than $2,500 arising by reason of acts for which the National Oceanic and Atmospheric Administration is responsible.

The bill, H.R. 594, was introduced as recommended by the Department of Commerce in a communication to the Congress dated July 6, 1977, and is identical to the bill H.R. 234, in the

96th Congress, which was the subject of a favorable report by the Department to the committee dated June 9, 1980. In the 97th Congress an identical bill, H.R. 1029 was favorably reported and passed the House.

Under existing law, the Secretary of Commerce has the authority, under 33 U.S.C. 853, to settle claims up to $500 arising by reason of acts for which the National Ocean Survey, an agency of the National Oceanic and Atmospheric Administration of the Department of Commerce shall be found to be responsible. This authority does not extend to a negligent or wrongful act or omission of a Government employee acting within the scope of his employment which would already be covered under the Federal Tort Claims Act (28 U.S.C. 2671-80). The purpose of H.R. 594 is twofold: First, it would make clear that 33 U.S.C. 853 is applicable to all NOAA activities not merely to those of the National Ocean Survey. Second, it would increase the maximum dollar amount for authorized settlements from $500 to $2,500.

The bill, in increasing the dollar amount for authorized settlements from $500 to $2,500 will provide the authority to settle claims arising from the many diversified scientific endeavors and experiments of that Administration. As it pointed out in the material submitted to the committee by the Department, the settlements can be made where the claim arose from damage clearly caused by activities of the National Oceanic and Atmospheric Administration and the Government has a moral obligation to compensate the injury even though there may be an absence of negligence. The examples of such activities as described in the report of the Department of Commerce include weather instrument operations such as the radiosonde. This is a plastic-cased instrument weighting about 3 pounds that is sent into the atmosphere by balloon which, after reaching 5 or 6 miles in altitude, is returned to the ground by parachute. In most instances, the instrument reaches the surface without incident, and many of them are recovered. As a free-falling object, however, there is a possibility that the instrument could frighten domestic animals, or have other effects such as colliding with vehicles.

It was also pointed out that during marine surveys, coastal hydrographic ships operate in areas where fishing occurs and, despite precautions, fishing nets, lobster pots, or other fishing gear may be damaged.

The National Earth Satellite Service of NOAA has command and data acquisition stations at Gilmore Creek, Alaska, and Wallops Island, Va. The launching of satellites for atmospheric observations from these stations is accomplished in collaboration with the National Aeronautics and Space Administration (NASA). However, NOAA personnel, facilities, and equipment are involved. Satellite launchings always have the potential for damaging their operational sites and contiguous area.

In addition to the foregoing, there may be damage to private property by triangulation and survey field parties. Most of the work of such parties involves using privately owned land to which access is obtained by established procedures. A site may be used for several months and it is possible that damage could be done to the land and its appurtenances.

The committee recognizes that the existing language in section 853 of title 33 of the United States Code presently providing for the settlement of claims up to $500 has performed a valuable function over the years since enactment in 1920 to provide compensation to persons injured from activities similar to those outlined above. The increase of that authority to the amount of $2,500 is a realistic increase in view of current costs which can be expected in the event of damage claims. Further, the activities of the National Oceanic and Atmospheric Administration as outlined in this report and in the material appended to the report submitted by the Department, are of a unique nature and would give rise to claims which could be settled expeditiously under the authority provided in this bill.

It is recommended that the bill be considered favorably.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TRANSFERRING RESPONSIBILITY FOR FURNISHING CERTIFIED COPIES OF MILLER ACT PAYMENT BONDS

The Clerk called the bill (H.R. 596) to transfer responsibility for furnishing certified copies of Miller Act payment bonds from the Comptroller General to the officer that awarded the contract for which the bond was given.

There being no objection, the Clerk read the bill, as follows:

H.R. 596

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 3 of the Act of August 24, 1935 (49 Stat. 794; 40 U.S.C. 270c), as amended by the Act of August 4, 1959 (73 Stat. 279; 40 U.S.C. 270c), is amended by striking out "Comptroller General" and inserting in lieu thereof "department secretary or agency head of the contracting agency." The second sentence of section 3 of the Act is amended by striking out "Comptroller General" and inserting in lieu thereof "department secretary or agency head of the contracting agency."

● **Mr. SAM B. HALL, JR.** Mr. Speaker, the purpose of the proposed legislation is to amend section 3 of the Miller Act to provide that the department secretary or agency head of a contracting agency is to have the responsibility for providing certified copies of bonds required under that act.

The bill, H.R. 596, was introduced as recommended by the Comptroller General to the Committee on the Judiciary in a letter dated April 22, 1978.

As was stated in the recommendation of the Comptroller General, the Miller Act establishes performance and payment bonding requirements for most Federal construction contracts. Section 3 of the act requires the Comptroller General to furnish a certified copy of a bond and the contract for which it was given to any person who submits an affidavit that: First, he has supplied labor or materials for the construction, alteration, or repair of any public buildings or public work of the United States, and payment therefor has not been made; or; that, second, he is being sued on a bond.

Prior to an amendment in 1959, the Comptroller General had the responsibility for fixing dates on which the period of limitation for filing suits against Miller Act payment bonds commenced to run. In 1959, the act was amended to eliminate this function on the part of the Comptroller General. The amendment, which was made on August 4, 1959, by Public Law 86-135, provided that suit must be commenced within 1 year after the date on which the last labor was performed or material was supplied by the person initiating the law suit.

The amendment provided for in this bill would relieve the Comptroller General of the duty of furnishing certified copies of bonds and contracts. This was a function which actually was related to the duties of the Comptroller General prior to 1959 when the General Accounting Office was required to determine and certify the final settlement date of contracts. Since the General Accounting Office is presently not so involved, it must obtain the copies of the original bonds and contracts from the contracting department or agency when a subcontractor or materialman requests certified copies of these documents under the law. The committee agrees that a more logical and expeditious way of handling such requests would be to require that the agency that awards the contracts should supply the copy of the bond and the contract. As recommended by the Comptroller General, this merely requires that the words "department secretary or agency head of the contracting agency" be substituted for "Comptroller General" in the first and second sentences of section 3 of the Miller Act.

The committee agrees that the change recommended by the Comptroller General should be made to the Miller Act and recommends that the bill be considered favorably.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYSON. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks on H.R. 594 and H.R. 596, the two bills just passed.

The SPEAKER. Is there objection of the request of the gentleman from Maryland?

There was no objection.

PROVIDING FOR MEMBERSHIP OF COMMANDANT OF THE MARINE CORPS IN THE ARMED FORCES POLICY COUNCIL

The Clerk called the bill (H.R. 1692) to amend section 171 of title 10, United States Code, to provide that the Commandant of the Marine Corps shall be a member of the Armed Forces Policy Council.

There being no objection, the Clerk read the bill, as follows:

H.R. 1692

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 171(a) of title 10, United States Code, relating to the membership of the Armed Forces Policy Council, is amended—

(1) by striking out "and" at the end of clause (9);

(2) by striking out the period at the end of clause (10) and inserting in lieu thereof "; and"; and

(3) by adding after clause (10) the following new clause:

"(11) the Commandant of the Marine Corps.".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Consent Calendar.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT ON TODAY, TOMORROW, AND THURSDAY OF THIS WEEK DURING PROCEEDINGS UNDER THE 5-MINUTE RULE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit today, May 3; tomorrow, May 4; and Thursday, May 5, during proceedings of the House under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, we have been advised that the House will be debating what has been described as the most important vote that we will ever cast during our service in the Congress, that is, the nuclear freeze resolution tomorrow and perhaps on Thursday, and I am wondering why the gentleman from Kentucky is attempting to take the members of the Committee on the Judiciary away from this most important debate, as has been explained to us by Members on his side of the aisle?

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I am delighted to yield to my friend, the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I thank my friend, the gentleman from Wisconsin, for yielding.

Let me say that I would leave it for other Members on my side to array in priority the votes we might cast in this Congress. I can only speak to the bill before the Committee on the Judiciary, of which the gentleman from Wisconsin is a distinguished member, and that bill has been the subject of quite considerable attention on the part of the full committee and the subcommittee for the better part of the last 2½ years. It is a bill which has been materially improved since the last time. It is a bill which, because of the budget deadline, contains certain budget authorizations, and it should be heard and should be reported to the floor by May 15.

I would on that basis suggest that if the committee were permitted to work and some Members would be attending the debate here on the floor and coming back in a sort of a circular process, I think we could accomplish the best of all worlds, which is to have a bill reported and at the same time to have the Members aware of what is happening here on the freeze issue.

Mr. SENSENBRENNER. Mr. Speaker, further reserving the right to object, is the gentleman from Kentucky telling us that his priorities are a little bit different than the priorities of those Members on his side who have advised us that the freeze vote is the most important vote we will ever cast?

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield further?

Mr. SENSENBRENNER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I thank my friend for yielding.

I think I said something to the effect that each gentleman and gentlewoman in the House makes certain priorities, and in my case, because we have a very limited and dwindling time between now and May 15, during which we have to move the immigration bill, for my part, I find my duty requires me to be in the position of being the floor manager from the committee of the bill.

Mr. SENSENBRENNER. Mr. Speaker, further reserving the right to object, I guess that the gentleman from Kentucky has got his window of vulnerability, to use the nuclear arms language, and because of my great respect for him, I withdraw my reservation of objection.

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. CONYERS. Mr. Speaker, reserving the right to object, might I ask the gentleman from Kentucky, what is there in this bill that precludes it from being taken up in the regular order of business in the Committee on the Judiciary between now and May 15?

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I think the regular order does consider taking up our bill, and I think, therefore, since it is an active part of the agenda before our committee, it would be in the spirit of the regular order to take it up, and so I simply at this point make the request.

Mr. CONYERS. Mr. Speaker, let me ask the gentleman, why can we not meet when the House is not in session?

Mr. MAZZOLI. Well, of course, the gentleman from Kentucky has had experience in being on the floor at 1 o'clock in the morning on this very bill, so I would be the first one to tell the gentleman that my work habits and sleep habits could conform to new circadian rhythms such that I can be here at any time. But I believe that most Members of the House feel that when their workday stretches after a reasonable period at night, it makes it difficult for them to concentrate.

Mr. CONYERS. Mr. Speaker, if the gentleman will yield, he will recall that I was the gentleman who objected to its being brought up in the middle of the might. Maybe the gentleman did, too. But I am not suggesting that we have to stay up until the middle of the night on the Judiciary Committee to work the bill through the process of the full committee.

So, Mr. Speaker, for that reason, I am very sorry to tell the gentleman that I am going to object, and I do object.

Mr. MAZZOLI. Mr. Speaker, I think the gentleman would understand that——

Mr. CONYERS. Regular order, Mr. Speaker.

Mr. MAZZOLI. Mr. Speaker, I did not ask——

Mr. CONYERS. Regular order, Mr. Speaker.

The SPEAKER. The Chair has heard an objection.

There not being 10 objections, the request is granted.

PERMISSION FOR PERMANENT SELECT COMMITTEE ON INTELLIGENCE TO SIT TODAY DURING PROCEEDINGS OF THE HOUSE

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the Permanent Select Committee on Intelligence be permitted to sit during the proceedings of the House on today, May 3, 1983.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

The Chair hears none.

The Chair recognizes the gentleman from Florida (Mr. Pepper).

Mr. FISH. Mr. Speaker, may I have the attention of the Chair?

The SPEAKER. The Chair is well aware of the fact that the gentleman from New York (Mr. Fish) did not rise at the proper time, but apparently one of the minority floor staff was attempting to get his attention. In view of that, the Chair will ask that the request by the gentleman from Massachusetts (Mr. Boland) be restated, if he is still on the floor.

In view of the fact that the gentleman from Massachusetts (Mr. Boland) is not on the floor, the Chair cannot restate the question.

The Chair sees that the gentleman from Massachusetts (Mr. Boland) is now here and will ask the gentleman to restate his request.

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the Permanent Select Committee on Intelligence be permitted to sit this afternoon, on May 3, 1983.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. FISH. Mr. Speaker, reserving the right to object, I take this time only for the purpose of asking the chairman of the committee if this has been cleared with minority members of the committee?

Mr. BOLAND. Mr. Speaker, if the gentleman will yield, the minority leader is here, and this has been cleared by the minority members of the Permanent Select Committee Intelligence. Yes, it has been cleared.

Mr. FISH. Mr. Speaker, I thank the gentleman from Massachusetts, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

REPORT ON RESOLUTION PROVIDING ADDITIONAL PROCEDURES DURING CONSIDERATION OF HOUSE JOINT RESOLUTION 13, CALLING FOR A MUTUAL AND VERIFIABLE FREEZE ON AND REDUCTIONS IN NUCLEAR WEAPONS

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 98-78) on the resolution (H. Res. 179) providing additional procedures during the consideration of the joint resolution (H.J. Res. 13) calling for a mutual and verifiable freeze on and reductions in nuclear weapons, which was referred to the House Calendar and ordered to be printed.

PRESIDENT REAGAN SHOULD TELL NRA ABOUT "COP KILLER BULLETS"

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, this Friday, President Reagan will be speaking to the National Rifle Association. Coming just 8 days before the start of National Police Week, it would be a most opportune occasion for President Reagan to address an issue of special concern to both police and the NRA—banning the so-called cop killer bullets that can penetrate the bulletproof vests worn by police.

President Reagan has already proposed a mandatory 5-year prison sentence for criminals who use cop killer bullets. The Justice Department has said they will push for a ban on these bullets once they complete a study on the issue later this summer.

Long considered a friend of police, the NRA has chosen to actively oppose the effort to ban cop killer bullets—an effort designed solely to save police lives. Not only are they the lone dissenter to this commonsense proposal, but the bullets that would be banned are not used for legitimate purposes.

As one who was wounded 10 times during my 23 years as a New York City police officer, I have joined leading police officials in urging the NRA to reconsider their stance. I hope President Reagan will do the same on Friday.

NATIONAL AGRICULTURAL RESEARCH FAIR

(Mr. de la GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. de la GARZA. Mr. Speaker, recently, the ranking minority member of the Agriculture Committee, Congressman Edward Madigan, and I sent a letter to each of our colleagues in the Congress inviting them to attend the National Agricultural Research Fair to be held in the Cannon caucus room tomorrow afternoon and evening.

The fair is the first national exhibition to display some of the more outstanding research projects currently being conducted by scientists in the U.S. Department of Agriculture and the various State agricultural experiment stations.

Recent exciting advancements in agricultural research include the cloning of trees to speed their growth and yield, controlling reproduction in swine—called planned piggyhood—to provide more pigs per sow, fewer reproductive problems and improved pork production efficiency, and multicropping on the same land to provide more food for the consumer while enhancing the income of the farmer. Agricultural scientists will be present at the fair to discuss their research efforts in these areas in addition to those involving genetic engineering of plants, remote sensing and land use, biotechnology, integrated pest management, soil erosion, human nutrition, water use efficiency and a variety of other research projects.

The congressional reception for the fair begins at 5:30 p.m., tomorrow in the Cannon caucus room and I want to invite you again to stop by and review the research exhibits and sample some of the many fine domestic wines and cheeses being provided by a number of the States. I am sure you will be impressed with the quality of the research on display.

□ 1215

SAGE ADVICE TO THE CONGRESS

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, since the President addressed the Nation last week before a joint session of Congress assembled, great leaders have come forth with sage advice to the Congress and to the American people. Among them are former Ambassador Larry Pezzullo, who served as Ambassador to Nicaragua during the 1980 revolution and former Ambassador to the Organization of American States, Sol Linowitz. In "America at the Crossroads," a recent report of the Inter-American Dialog, also known as the Linowitz Commission, we are told, "Authoritarian regimes which impose harsh discipline upon their people lose their legitimacy and ultimately their authority."

The Commission sets forth principles for moderation that can easily be followed by this Congress in the formulation of foreign policy toward Latin America.

Mr. Speaker, it seems to me the time is ripe to adopt a peace plan in Latin America which would include a hemispheric conference which could lead to a ceased fire, a cessation of arms shipments and an international peace force—followed by hemispheric reform and an economic development plan that would raise the hopes of the Latin American peoples.

Tomorrow I will take a special order to discuss my proposal for a five-point peace plan.

A TRIBUTE TO GEORGE BALANCHINE, CHOREOGRAPHER

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, I would like to take this opportunity to pay tribute to the greatest mentor and foremost choreographer of the 20th century, George Balanchine, who died earlier this week at the age of 79. While this diverse genius will truly be missed, the curtains will continue to rise and the audiences will continue to applaud the legacy of ballets, operas, films, and musicals created by this master.

It is hard to think of anyone who has had such a tremendous impact on such a wide variety of artistic disciplines. There are few people who have not been touched by the beauty of his works ranging from the "Nutcracker Suite" through "Slaughter on Tenth Avenue."

Because he believed that art is not just form but an ideal, Balanchine bridged the gap between popular and classical genres. Indeed his collaborators have included composers such as Igor Stravinsky, George Gershwin, and Cole Porter.

But even more than a master of dance, Balanchine was a spokesman and diplomat for all the arts. It is Balanchine who taught us to consider alternative perspectives on life by having us "see the music and hear the dance." I hope that these lessons on art and life will continue to make audiences think and feel for years to come.

AN UNNECESSARY WITHHOLDING SCHEME

(Mr. D'AMOURS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. D'AMOURS. Mr. Speaker, I would like to alert my colleagues to the fact that it is now time to face reality with regard to the unwanted and unnecessary attempt to impose a withholding scheme on interest and dividends earnings. More than 300 Members of this body are on record as being opposed to this unwanted, unnecessary scheme. There is only one way that we can repeal it before it goes into effect July 1 and that is to sign discharge petition No. 1, which is pending at the desk.

I would like to call the attention of those people who are on record as opposed to this scheme to the fact that by signing this discharge petition No. 1, we can bring about a timely vote on the question.

The Senate has already voted 91 to 5 for repeal. This House has not yet been given an opportunity to do so, and without going the discharge route, which we tried very much to avoid and we hoped we could avoid, we cannot bring this matter to a vote in the House until it is too late.

So again I would like to ask you to join the Members who have already signed the discharge petition. We are going to get it out soon. I would like to ask you to get on record on the discharge petition to see to it that we can vote in a timely manner on this terribly unnecessary withholding scheme.

URGING QUICK ACTION ON BILL TO ESTABLISH OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT FUND

(Mr. CARPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARPER. Mr. Speaker, I would like to take this opportunity to urge my colleagues to move quickly and adopt H.R. 5, a bill to establish an ocean and coastal resources management and development fund. This legislation is vital not only for Delaware's maritime community, but for coastal regions throughout the country.

I am proud, Mr. Speaker, of the quick action taken on this bill by my colleagues on the Merchant Marine and Fisheries Committee. Chairman JONES, in particular, should be congratulated for assiduously guiding this legislation through our committee, where it was overwhelmingly adopted last week.

It should be emphasized that this bill is virtually identical to legislation passed a year ago by this body. Briefly, it would establish a block grant program to fund various coastal and ocean resource activities from a percentage of Outer Continental Shelf oil and gas revenues.

In my judgment, one of the best features of the bill is its commitment of 10 to 20 percent of this new source of funding to the sea grant program. Sea grant is a good program that has enormously benefited my State and our Nation. Passage of H.R. 5 will properly reassert Congress intent to support rational development of our ocean and coastal resources.

A TRIBUTE TO THE LATE HONORABLE KATHERINE ST. GEORGE

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, it is my sad duty to inform the House of the passing away, late yesterday, of our distinguished former colleague and my good friend, the gentlewoman from New York, Mrs. Katherine St. George.

Congresswoman St. George's distinguished career in this body, as a Representative of New York's 28th Congressional District, extended over an 18-year period, from her initial election in 1946 through her retirement in 1964. During that lengthy tenure, Mrs. St. George gained a well-earned reputation for her dedication, for her industriousness, and her political competence.

Congresswoman St. George served on the House Post Office and Civil Service Committee, the Armed Services Committee, and as the Speaker has pointed out, she was the first woman in history to serve as a member of the House Rules Committee.

Mrs. St. George was also the first woman to be designated as a parliamentarian at a Republican National Convention, serving in that capacity in 1956.

Incidentally, this dedicated Republican legislator happened to be the first cousin of the late President, Franklin Delano Roosevelt.

Mrs. St. George was a staunch advocate of human rights and worked throughout the 1950's and 1960's as the major sponsor of an equal rights amendment to the Constitution. Although ERA did not pass Congress until after she left us, she is credited with being the first to convince this body to take ERA seriously. It was through her efforts that the first hearings were held on ERA and she is credited with laying the foundation for the eventual passage of that amendment by this House.

Mr. Speaker, I ask my colleagues to join with me in paying tribute to one of the truly great Members of the House and one of the outstanding women of the 20th century, former Congresswoman Katherine St. George.

I will be attending the funeral services for Mrs. St. George at St. Mary's Episcopal Church in Tuxedo Park, N.Y., at noon on Friday, May 6, and I invite my colleagues to accompany me.

Mr. O'NEILL. Will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the distinguished Speaker.

Mr. O'NEILL. I had the pleasure of serving for many years on the Rules Committee with Katherine St. George. She was, indeed, a beautiful, able, and talented person. She was a very dear friend through the years.

My wife, Millie, and I express our sympathy to the family.

Mr. GILMAN. I thank the Speaker for his kind remarks.

NATIONAL AGRICULTURAL RESEARCH FAIR

(Mr. MADIGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MADIGAN. Mr. Speaker, I rise to join my chairman, E (Kika) de la Garza, in inviting each Member of the House to attend the first National Agricultural Research Fair ever to be conducted in our country. A special viewing of the fair and reception for Members will take place tomorrow evening from 5:30 p.m. to 8 p.m. in the caucus room, Cannon House Office Building.

The 25 research projects to be exhibited from over 30 States at the fair tomorrow represent only a small sample of the innovative work in progress at our State agricultural experiment stations and our Federal agricultural research facilities. I believe, however, you will find the exhibits exciting and well worth your time. Particularly, I believe, our urban and suburban colleagues will gain new knowledge about American agriculture and why we all need to support food, fiber, and forest products research. Moreover, I also believe the Members who do not represent farm districts will find it rewarding to know that low-income consumers benefit most from agricultural research of the type to be shown at this fair.

Finally, I also want to urge our colleagues to encourage their personal staff persons to visit the fair during the public showing from 1 p.m. to 4 p.m. tomorrow in the caucus room.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The **SPEAKER** pro tempore (Mr. Kildee) laid before the House the following communication from the Clerk of the House of Representatives:

Hon. Thomas P. O'Neill, Jr.,
The Speaker, House of Representatives,
Washington, D.C.

Dear Mr. Speaker: Pursuant to the permission granted in Clause 5, Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from The White House at 3:00 p.m. on Monday, May 2, 1983 and said to contain a message from the President wherein he transmits an International Fishery agreement between the U.S.A. and the German Democratic Republic.

With kind regards, I am,
Sincerely,
Benjamin J. Guthrie,
Clerk, House of Representatives.

INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND THE GERMAN DEMOCRATIC REPUBLIC—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 98-57)

The **SPEAKER** pro tempore laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed.

(For message, see proceedings of the Senate of yesterday, Monday, May 2, 1983, at page 10613.)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken today after debate has been concluded on all motions to suspend the rules.

FEDERAL DEPOSIT INSURANCE ACT AMENDMENTS

Mr. ST GERMAIN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1011) to amend the Federal Deposit Insurance Act to provide for the issuance of income capital certificates.

The Clerk read as follows:

S. 1011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 13(i)(1)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(1)(D)) is amended by adding at the end thereof the following: "Issuance of net worth certificates in accordance with this subsection shall not constitute a default under the terms of any debt obligations subordinated to the claims of general creditors which were outstanding when such net worth certificates were issued.".

(b) The amendment made by subsection (a) shall be deemed to have taken effect on the date of enactment of the Garn-St Germain Depository Institutions Act of 1982.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. WYLIE. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Rhode Island (Mr. St Germain) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. Wylie) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Rhode Island (Mr. St Germain).

☐ 1230

Mr. ST GERMAIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation before the House today is basically a technical change in the Net Worth Certificate Act—title II of the Garn/St Germain Act. That title authorized the Federal Deposit Insurance Corporation to establish a program to buttress the net worth or capital of qualifying insured banks, especially mutual savings banks which have experienced severe erosion of their net worth as a result of the recession. If an institution qualifies for the program, the FDIC would purchase net worth certificates from the institution. However, when the agency makes such a purchase it must have preferential standing in the event of a liquidation with respect to any outstanding subordinated debt. An unanticipated problem has arisen in the administration of this program. There are a few institutions which have outstanding subordinated debt which is held by a large number of individuals and that debt cannot be subordinate to any other obligation. In order to assure that these institutions receive the assistance they need in a timely fashion, this bill would amend the Net Worth Certificate Act to provide that issuance of net worth certificates by a qualifying institution would not constitute a default under the terms of any outstanding subordinated debt issue. This change in no way changes the requirement that FDIC must have priority over outstanding subordinated debt issues. As you know, this bill originated in the Senate and was passed by voice vote. In that regard, I would like to have placed in the Record at this point a letter from the Honorable Mark O. Hatfield, the senior Senator from the State of Oregon, requesting our favorable consideration of this bill.

Washington, D.C.,
April 22, 1983.

Hon. Fernand J. St Germain,
Chairman, House Banking, Finance and Urban Affairs Committee, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

Dear Mr. Chairman: As you may know, on April 15, the Senate passed S. 1011 by unanimous consent, and the measure is now pending in the House of Representatives. This legislation, sponsored by Senator Packwood and myself, is extremely important to the banking industry and its depositors in the State of Orgeon.

The legislation ensures that the FDIC will have priority over subordinated debentures that are outstanding when the federal government issues net worth capital assistance certificates. Because the legislation is consistent with the intent of the Net Worth Assistance Act and because of its importance to a competitive banking community in Oregon, I wanted to convey personally to you the significance of this legislation. I hope that you will be able to support the expedited consideration of S. 1011 on the suspension calendar of the House of Representatives.

Kind regards.

Sincerely,

Mark O. Hatfield,
U.S. Senator.

Mr. Speaker, I now yield such time as he may consume to the distinguished gentleman from Oregon (Mr. AuCoin), who also has been very assiduous in the pursuit of this legislation.

Mr. AuCOIN. Mr. Speaker, I rise in support of the legislation and I would like at this time to express my appreciation to the distinguished chairman of the Banking Committee and the ranking minority member for giving this measure their prompt and favorable consideration. There is a final point of clarification on which I would like to elicit the opinion of the distinguished chairman of the House Banking Committee. As you know, subsection (b) of this legislation provides for an effective date which coincides with the original enactment date of the Garn/St German Act. I understand this subsection will permit affected institutions to receive net worth certificates for the quarter ending December 31, 1982, and thereby be treated the same as other institutions which have been able to participate in the program since the FDIC began implementing it. Does the gentleman share my view of how this subsection should be interpreted?

Mr. ST GERMAIN. The gentleman is correct.

Mr. AuCOIN. Mr. Speaker, I appreciate the gentleman's help and the expeditious manner in which he has brought this legislation to the House.

Mr. WYLIE. Mr. Speaker, I will yield myself 2 minutes.

Mr. Speaker, I rise in support of S. 1011, which represents a minor amendment to the Garn-St Germain Act of 1982. It remedies an unanticipated problem which has arisen since the enactment of this bill and is designed to enable a few thrift institutions to receive assistance from the FDIC retroactive to the date of enactment of the Garn-St Germain bill which was October 15, 1982.

As matters stand now, a loan debenture provision entered into before passage of the Garn-St. Germain Act would preclude these institutions from receiving assistance without violating the provisions of the Garn-St. Germain Act which requires the FDIC to have priority over other creditors.

This bill will give the management of these institutions the same opportunity to preserve their institutions that other thrift institutions, savings banks, and others have under the capital assistance provisions of the Garn-St Germain bill as administered by the FDIC.

It is my understanding that the restoration of the health of these institutions will redound to the benefit of the debtholders as well.

Therefore, the action we are taking today should not be construed as a precedent for the sacrifice of the interests of debtholders in the furtherance of Federal policy.

I am glad to work with the chairman of the full committee, the gentleman from Rhode Island (Mr. St Germain), the gentleman from Oregon (Mr. AuCoin), and the gentleman from Oregon (Mr. Smith), in bringing this bill to the House floor today for passage, and I do indeed urge its passage.

Mr. Speaker, I now yield 5 minutes to the gentleman from New York (Mr. Wortley).

Mr. WORTLEY. Mr. Speaker, when I first came to Congress, a seasoned veteran of many legislative battles gave me some very good advice. He said that the two words designed to chill the heart of any conscientious legislator are "technical corrections."

The previous Congress devoted a great deal of time and attention to the very real problems confronting the Nation's thrift industry. In so doing, various avenues of assistance and nonassistance were explored. A consensus was reached eventually—the Nation's thrifts were worth saving. The enactment of the Depository Institutions Act of 1982 gave the industry the tools it needs to see it through some difficult times. I supported the concept then and I support it now.

Buried deep within title II of that act is a provision dealing with the issuance of income capital certificates and subordinated debentures. For those who were not Members of the 97th Congress, income capital certificates are paper transfers designed to bring up the net worth of troubled institutions to a specified level. Income capital certificates do not become real money unless an institution receiving such help goes into receivership.

I know that this provision is in the law because I offered an amendment stating that the U.S. Government comes ahead of stockholders, subordinated debt holders, and secured creditors should a financial institution receiving Federal assistance in the form of net worth guarantees fail.

Before too many eyes start to glaze over, I will explain why I feel it is necessary for me to speak out on what most Members must consider to be an arcane subject.

If one reads the debate in the other body on S. 1011, one might come away with the impression that the Garn-St Germain Depository Institutions Act of 1982 is inherently flawed. Supporters of this legislation believe that the bill is a necessary response to some unintended effects of language on income capital certificates and subordinated debt. I do not agree with that thesis.

Supporters of this legislation have told us that there are several institutions around the country that would be eligible for income capital certificates except that they have outstanding debt instruments that contain a clause stating that the holders of these instruments shall be paid ahead of everyone else should the worst occur.

The existing law precludes the FDIC from granting these savings banks income capital certificates. Yet the institutions seeking a change in the law made a commitment to their debt holders freely and clearly several years ago. That commitment has turned out to be most inconvenient for institutions seeking Federal assistance. Thus, they have petitioned Congress to have it overturned.

The troubled institutions contend that if they do not receive the certificates, their net worth will be eroded further and their chances for survival as independent entities are diminished.

The bill we are discussing manages to handle the debenture issue in a most artful way. It retains the FDIC's primacy in the case of default. I applaud that aspect of the legislation because I believe it is good public policy to protect the insurance fund's integrity. Unfortunately, there are tradeoffs. It is this aspect of the legislation that I would like to call to my colleagues' attention.

In order to preserve the FDIC's position, the bill provides for Federal preemption of the automatic default clause written into the outstanding subordinated debentures. While the bill is intended to remedy what some believe to be an unintended consequence of existing law, a precedent is likely to be established.

People who now hold bonds with subordinated debt clauses may find that their bonds are being unloaded from trading portfolios. It is unlikely that the securities industry as a whole will be hurt by such a change in the law but bondholders could be in for an unpleasant surprise.

We talk a lot about accountability in this body. Accountability is a virtue much admired in the abstract. We exhort its practice by one and all but what we are considering now would actually make financial institutions a little less accountable to their debt holders.

Institutions currently seeking net worth certificates must contact their debenture holders and inform them that their interests will be subordinated in order to obtain net worth certificates. It appears, however, that the way in which this bill is written, that step can be disregarded.

Mr. Speaker, I will not belabor the point. This bill is not as simple as it seems. As such, I would be remiss if I did not bring a few of the legislation's more interesting features to my colleagues' attention.

Mr. ST GERMAIN. Mr. Speaker, will my colleague yield to me?

Mr. WORTLEY. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. I would just say to the gentleman I certainly appreciate his concerns. But I want the gentleman to know that this Member and his staff also went over all of these concerns.

The SPEAKER pro tempore. The time of the gentleman from New York (Mr. WORTLEY) has expired.

Mr. ST GERMAIN. Mr. Speaker, I yield the gentleman from New York 2 additional minutes.

Mr. WORTLEY. I yield to the gentleman.

Mr. ST GERMAIN. I might say to the gentleman that I weighed the equities and I appreciate the fact the gentleman is stating his concern but is doing it in a moderate fashion because it could well be in the near future or the far future the gentleman will have some type of problem within the grand State of New York that also will require a little assistance.

I want to assure the gentleman that I will remember his compassion today at the time that he approaches me for assistance for somebody in the State of New York.

Mr. WORTLEY. The gentleman's point is well taken.

I have more faith in the Garn-St Germain Act perhaps than the chairman has. But I hate to see us nickel and dime it to death.

Mr. ST GERMAIN. I appreciate that faith. But I would say to the gentleman I have found over the years that it is virtually impossible when we legislate to be able to foresee everything hyphen, semicolon, dash, and exclamation point.

So, again, with gratitude for the gentleman's faith in this legislation. I am the first to admit that we will probably find some other flaws in it as we go along as well.

Mr. WORTLEY. I thank the gentleman. I am sure he will be understanding and sympathetic to my banks in New York if they have a capital problem.

Mr. ST GERMAIN. That is the message that I am trying to give the gentleman.

Mr. WORTLEY. I thank the chairman.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

I want to thank the gentleman from New York for his contribution. He has had a very, very active and strong interest in this subject and I believe the gentleman is to be commended for making the issue clear as far as the record is concerned here today.

Mr. Speaker, I now yield 3 minutes to the gentleman from Oregon (Mr. ROBERT F. SMITH).

Mr. ROBERT F. SMITH. Mr. Speaker, I am very grateful to the distinguished chairman as well as the ranking minority member from the State of Ohio, as well as the gentleman from Oregon, Mr. AUCOIN, for all of their assistance in this effort and in achieving an agreement early on on a very technical change to the Garn-St Germain Depository Insurance Act.

I want to join with the chairman and all of those who have spoken in favor of this legislation today.

As the distinguished chairman has so accurately advised as to the specifics of the problem within the last year's bill, I would simply add my support for the approval of this legislation. It is imperative, I think, that we insure: First, that intended financial institutions can benefit from the provisions in last year's legislation; and second, that when the Federal Goverment comes to the aid of any institutions through the Federal Deposit Insurance Corporation, the Federal Government does have priority over other creditors.

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This legislation will insure each of those intended actions and we hope they will be achieved. So, I therefore support my colleagues in this legislation and just add one thing, Mr. Speaker, to the discussion. The gentleman from New York (Mr. WORTLEY), is concerned about the bondholders with respect to this legislation and I suggest the very purpose in passing this amendment is for those creditors of those institutions that may be assisted in surviving. So this is, in fact, assisting the bondholders of these institutions. That is its purpose.

Mr. Speaker, I would like to take this opportunity to summarize the need for the technical legislation we are considering as S. 1011.

The Federal Deposit Insurance Act of 1982 (Public Law 320) initiated a program which authorizes the FSLIC and FDIC to provide capital assistance to qualified institutions—federally insured savings and loan associations, mutual savings banks, or commercial banks—through the purchase of income capital certificates (ICC's). In exchange for an ICC, the FSLIC or FDIC provides a promissory note to the qualified institution. The note is treated as an asset by the participating institution. The act forbids providing capital assistance after September 30, 1984. The intent of the act is to bolster the net worth of these thrift insitutions, enabling them to remain competitive and recover from the impact of high interest rates and inflation.

The act assigned priority to repayment of ICC's over other debt obligations in the event of liquidation or reorganization. An unanticipated problem resulted from this requirement because some thrift institutions had previously issued debt obligations to certain creditors, preventing the institutions from granting creditor priority to anyone—including FDIC and FSLIC—other than those holding the debt obligations.

This bill insures that if the Federal Government assists these institutions it has priority over other creditors. Also, because this program already has been in effect for two quarters, this legislation is retroactive to the date of enactment of the previous legislation.

It is imperative that the House approve this technical legislation to: First, insure that intended financial institutions are eligible to participate as recipients of net worth capital assistance; and, second, insure that intended financial institutions can benefit from the provisions in the Garn-St Germain Depository Institutions Act.

Timely consideration of this bill is critical. We must act promptly in order for the net worth assistance to be truly effective for banks now unable to qualify.

I urge my colleagues to act favorably on this technical legislation.

Mr. ST GERMAIN. Will the gentleman yield?

Mr. ROBERT F. SMITH. I yield to the gentleman.

Mr. ST GERMAIN. I thank the gentleman.

Very definitely, the gentleman's point is well taken. The Garn-St Germain Act also provides, actually it was in the legislation originally that went from the House to the Senate, it provides that the insuring corporation has to assure itself of the fact that this assistance, capital assistance, you know, will mean survival for the institution. We are not just throwing this money around. The whole purpose of it is for the institution to survive. And with the experience the insuring agency had in the past few years, there is no doubt in my mind that the agency is not about to assist even with this amendment, unless it is convinced that the institution is going to survive.

Absent that, as the gentleman so well states, were the institution not to get this assistance, the institution not to survive, query: What percentage of those bonds would be repaid to the bondholders? So I think this is exercising compassion and concern for both sides of the issue.

Mr. WORTLEY. Mr. Speaker, will the gentleman yield?

Mr. ROBERT F. SMITH. I yield to the gentleman.

Mr. WORTLEY. I thank the gentleman.

In the interest of establishing some legislative history——

The SPEAKER pro tempore. The time of the gentleman from Oregon has expired.

Mr. WYLIE. Mr. Speaker, I yield 1 additional minute to the gentleman from Oregon.

Mr. WORTLEY. Mr. Speaker, will the gentleman yield?

Mr. ROBERT F. SMITH. I yield to the gentleman.

Mr. WORTLEY. I thank the gentleman.

In the interest of establishing a legislative history on this, is it your understanding that the Federal preemption that takes place in this new amendment, will the preemption of subordinated debt be valid only in the case where an FDIC or an FLIC loan is involved?

Mr. ROBERT F. SMITH. Yes.

Mr. WORTLEY. I do not want to upset the entire bond market in this country.

Mr. ROBERT F. SMITH. I agree that is exactly the case.

Mr. WORTLEY. Only where a regulatory agency is providing an infusion certificate.

Mr. ROBERT F. SMITH. Only when a regulatory agency is providing what is in this case called a net worth certificate.

Mr. WORTLEY. I thank the gentleman for yielding.

Mr. ROBERT F. SMITH. Mr. Speaker, will the gentleman yield further.

Mr. WYLIE. Mr. Speaker, I yield 1 more minute to the gentleman from Oregon.

Mr. ROBERT F. SMITH. I thank the gentleman.

Mr. Speaker, I appreciate the chairman's emphasis of this point.

May I interject in the RECORD as well, a letter from the FDIC dated May 3 to Mr. Jim Butera, National Association of Mutual Savings Banks. It is only one sentence. It says, "Dear Mr. Butera: In conjunction with our telephone conversation of this date, this is to confirm that as a practical matter only two mutual savings banks would be eligible for assistance under the provisions of S. 1011, 98th Congress."

I would like to submit that in the RECORD:

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, D.C., May 3, 1983.

MR. JIM BUTERA,
National Association of Mutual Savings Banks, Washington, D.C.

DEAR MR. BUTERA: In conjunction with our telephone conversation of this date, this is to confirm that as a practical matter only two mutual savings banks would be eligible for assistance under the provisions of S. 1011, 98th Congress.

Sincerely,

GRAHAM T. NORTHUP,
Director.

Mr. WYLIE. Mr. Speaker, I yield myself 1 additional minute. I thank the gentleman from Oregon for his contribution. The chairman commended the gentleman from Oregon (Mr. AuCOIN) for his assiduousness. May I suggest that the gentleman from Oregon (Mr. ROBERT F. SMITH) has also been persistent and determined on this issue. And we compliment the two of them for their efforts.

Mr. AuCOIN. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman.

Mr. AuCOIN. I appreciate the gentleman yielding.

Mr. Speaker, I wanted to state how appreciative I am of the hard work on the part of my new colleague from the State of Oregon who has worked very strongly, on a bipartisan basis to get this through.

I want to repeat my thanks to both the minority member and chairman of this committee. For the 6 years that I served on the committee, they were helpful, we always managed to work in concert to get things done and are helpful again today.

So, for the whole of the Oregon delegation, I thank the gentleman.

Mr. WYLIE. Thank you. On that happy note, I have no further requests for time and I yield back the balance of my time.

Mr. ST GERMAIN. Mr. Speaker, I yield myself 2 additional minutes.

I would ask the gentleman from Oregon, what is the State flower? Is it a rose?

Mr. AuCOIN. I think it is the Oregon grape, as a matter of fact.

Mr. ST GERMAIN. I just want to say that Mr. WYLIE, our ranking minority Member and I, are going to arrange to have a basketful of grapes sent to both the two gentlemen from Oregon for their efforts on this legislation.

Mr. Speaker, I have no further requests for time.

Mr. ROBERT F. SMITH. Mr. Speaker, will the chairman yield?

Mr. ST GERMAIN. I yield to the gentleman.

Mr. ROBERT F. SMITH. And in return for those kind words, Mr. Chairman, we will send you our State bird.

Mr. ST GERMAIN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Rhode Island (Mr. ST GERMAIN) that the House suspend the rules and pass the Senate bill, S. 1011.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, S. 1011, was passed.

A motion to reconsider was laid on the table.

TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT AMENDMENTS

Mr. SIMON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2307) to amend the Tribally Controlled Community College Assistance Act of 1978, and for other purpose.

The Clerk read as follows:

H.R. 2307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The matter preceding title I of the Tribally Controlled Community College Assistance Act of 1978 (92 Stat. 1325) (hereafter in this Act referred to as the "Act") is amended—

(1) by striking out "DEFINITIONS" and inserting in lieu thereof the following:

"DEFINITIONS

"SEC. 2. (a) For purposes of this Act, the term—";

(2) by striking out "and is eligible to receive services from the Secretary of the Interior" in paragraph (1);

(3) by inserting before the semicolon at the end of paragraph (5) thereof the following: "and the reference to Secretary in clause (5)(A) of such section shall be deemed to refer to the Secretary of the Interior"; and

(4) by striking out paragraph (7) and inserting in lieu thereof the following:

"(7) 'Indian student count' means a number equal to the total number of Indian students enrolled in each tribally controlled community college, determined in a manner consistent with subsection (b) of this section on the basis of the quotient of the sum of the credit hours of all Indian students so enrolled, divided by twelve.

"(b) For the purpose of determining the Indian student count pursuant to paragraph (7) of subsection (a), such number shall be calculated on the basis of the registrations of Indian students as in effect at the conclusion of the third week of each academic term. Credits earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term. Indian students earning credits in any continuing education program of a tribally controlled community college shall be included in determining the sum of all credit hours. For such purposes, credits earned in a continuing education program shall be converted to a credit-hour basis in accordance with the tribally controlled community college's system for providing credit for participation in such program.".

SEC. 2. Section 101 of the Act is amended by inserting immediately before the period at the end thereof the following: ", and to allow for the improvement and expansion of the physical resources of such institutions".

SEC. 3. (a) Section 102 of the Act is amended—

(1) by striking out "is authorized to" in subsection (a) and inserting in lieu thereof "shall, subject to appropriations,"; and

(2) by striking out "to defray the expense of activities related to education programs for Indian students" in subsection (b) and inserting in lieu thereof "to defray, at the determination of the tribally controlled community college, expenditures for academic, educational, and administrative pur-

poses and for the operation and maintenance of the college".

(b) Section 106(a) of the Act is amended by inserting after the second sentence the following new sentence: "Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this Act which will allow the Secretary to audit and monitor programs conducted with such funds.".

Sec. 4. (a) The Act is amended—

(1) by redesignating sections 104 through 114 as sections 105 through 115, respectively; and

(2) by inserting after section 103 the following new section:

"PLANNING GRANTS

"Sec. 104. (a) The Secretary shall establish a program in accordance with this section to make grants to tribes and tribal entities to conduct planning activities for the purpose of developing proposals for the establishment of tribally controlled community colleges, or to determine the need and potential for the establishment of such colleges.

"(b) The Secretary shall establish, by regulation, procedures for the submission and review of applications for grants under this section.

"(c) From the amount appropriated to carry out this title for any fiscal year (exclusive of sums appropriated for section 105), the Secretary shall reserve (and expend) an amount necessary to make grants to five applicants under this section of not more than $15,000 each, or an amount necessary to make grants in that amount to each of the approved applicants, if less than five apply and are approved.".

(b) The Act is further amended—

(1) by striking out "section 106" in section 106 (as redesignated by subsection (a)(1)) and inserting in lieu thereof "section 107";

(2) by striking out "section 105" in section 107 (as so redesignated) and inserting in lieu thereof "section 106"; and

(3) by striking out "section 106(a)" in section 111 (as so redesignated) and inserting in lieu thereof "section 107(a)".

Sec. 5. Section 105 of the Act (as redesignated by section 4(a)(1)) is amended—

(1) by inserting "from a tribally controlled community college which is receiving funds under section 108" after "upon request" in the first sentence thereof; and

(2) by striking out "to tribally controlled community colleges" in such sentence.

Sec. 6. (a) Section 106 of the Act (as redesignated by section 4(a)(1) of this Act) is amended—

(1) by striking out "FEASIBILITY" in the heading of such section and inserting in lieu thereof "ELIGIBILITY";

(2) by striking out "feasibility" each place it appears in such section and inserting in lieu thereof "eligibility";

(3) by striking out "Assistant Secretary of Education of the Department of Health, Education, and Welfare" in subsection (a) and inserting in lieu thereof "Secretary of Education";

(4) by inserting at the end of subsection (b) the following new sentence: "Such a positive determination shall be effective for the fiscal year succeeding the fiscal year in which such determination is made."; and

(5) by striking out "10 per centum" in subsection (c)(2) and inserting in lieu thereof "5 per centum".

(b) Section 107 of the Act (as redesignated by section 4(a)(1) of this Act) is amended—

(1) by striking out "feasibility" in subsection (a) and inserting in lieu thereof "eligibility", and

(2) by striking out "Assistant Secretary of Education of the Department of Health, Education, and Welfare" in subsection (b) and inserting in lieu thereof "Secretary of Education".

Sec. 7. Section 108(a) of the Act (as redesignated by section 4(a)(1) of this Act) is amended to read as follows:

"Sec. 108. (a) Except as provided in section 111, the Secretary shall, subject to appropriations, grant for each academic year to each tribally controlled community college having an application approved by him an amount equal to the product of—

"(1) the Indian student count at such college during such academic year, as determined by the Secretary in accordance with section 2(a)(7) of this Act; and

"(2)(A) $4,000 for fiscal year 1983,

"(B) $4,000 for fiscal year 1984,

"(C) $5,025 for fiscal year 1985,

"(D) $5,415 for fiscal year 1986, and

"(E) $5,820 for fiscal year 1987,

except that no grant shall exceed the total cost of the education program provided by such college.".

Sec. 8. Section 109 of the Act (as redesignated by section 4(a)(1) of this Act) is amended—

(1) by inserting "(a)" immediately after the section designation; and

(2) by adding at the end thereof the following new subsections:

"(b)(1) The amount of any grant for which tribally controlled community colleges are eligible under section 108 shall not be altered because of funds allocated to any such colleges from funds appropriated under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13).

"(2) No tribally controlled community college shall be denied funds appropriated under such Act of November 2, 1921, because of the funds it receives under this Act.

"(c) For the purposes of section 312(2)(A)(i) and 322(a)(2)(A)(i) of the Higher Education Act of 1965, any Indian student who receives a student assistance grant from the Bureau of Indian Affairs for postsecondary education shall be deemed to have received such assistance under subpart 1 of part A of title IV of such Act.".

Sec. 9. (a) Section 110 of the Act (as redesignated by section 4(a)(1) of this Act) is amended to read as follows:

"APPROPRIATION AUTHORIZATION

"Sec. 110. (a)(1) There is authorized to be appropriated, for carrying out section 105, $3,200,000 for each of the fiscal years 1985, 1986, and 1987.

"(2) There is authorized to be appropriated for carrying out section 107, $30,000,000 for each of such fiscal years.

"(3) There are authorized to be appropriated such sums as may be necessary to carry out sections 112(b) and 113 for each of such fiscal years.

"(b)(1) For the purpose of affording adequate notice of funding available under this Act, amounts appropriated in an appropriation Act for any fiscal year to carry out this Act shall become available for obligation on July 1 of that fiscal year and shall remain available until September 30 of the succeeding fiscal year.

"(2) In order to effect a transition to the forward funding method of timing appropriation action described in paragraph (1), there are authorized to be appropriated, in an appropriation Act or Acts for the same fiscal year, two separate appropriations to carry out this Act, the first of which shall not be subject to paragraph (1).".

Sec. 10. Section 111 of the Act (as redesignated by section 4(a)(1) of this Act) is amended by redesignating subsection (b) as subsection (c) and by striking out subsection (a) and inserting in lieu thereof the following:

"Sec. 111. (a)(1) If the sums appropriated for any fiscal year pursuant to section 110(a)(2) for grants under section 107 are not sufficient to pay in full the total amount which approved applicants are eligible to receive under such section for such fiscal year—

"(A) the Secretary shall first allocate to each such applicant which received funds under section 107 for the preceding fiscal year an amount equal to the product of (i) the per capita payment for the preceding fiscal year, and (ii) such applicant's Indian student count for the current fiscal year;

"(B) the Secretary shall next allocate an amount equal to the product described in subparagraph (A) to applicants who did not receive funds under such section for the preceding fiscal year, in the order in which such applicants have qualified for assistance in accordance with such section, and no amount shall be allocated to a later qualified applicant until each earlier qualified applicant is allocated an amount equal to such product; and

"(C) if additional funds remain after making the allocations required by subparagraphs (A) and (B) the Secretary shall allocate such funds by ratably increasing the amounts of the grant determined under such subparagraphs.

"(2) For purposes of paragraph (1) of this subsection, the term 'per capita payment' for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled community colleges under section 107 for such fiscal year by the sum of the Indian student counts of such colleges for such fiscal year. The Secretary shall, on the basis of the most satisfactory data available, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this title.

"(b)(1) If the sums appropriated for any fiscal year for grants under section 107 are not sufficient to pay in full the total amount of the grants determined pursuant to subsection (a)(1)(A) the amount which applicants described in such subsection are eligible to receive under section 107 for such fiscal year shall be ratably reduced.

"(2) If any additional funds become available for making payments under section 107 for any fiscal year to which subsection (a) or paragraph (1) of this subsection applies, such additional amounts shall be allocated by first increasing grants reduced under paragraph (1) of this subsection on the same basis as they were reduced and by then allocating the remainder in accordance with subsection (a). Sums appropriated in excess of the amount necessary to pay in full the total amounts for which applicants are eligible under section 107 shall be allocated by ratably increasing such total amounts.

"(3) References in this subsection and subsection (a) to section 107 shall, with respect to fiscal year 1982, be deemed to refer to section 106 as in effect at the beginning of such fiscal year.".

Sec. 11. Section 112 of the Act (as redesignated by section 4(a)(1) of this Act) is amended to read as follows:

"REPORT ON FACILITIES

"SEC. 112. (a) The Administrator of General Services shall provide for the conduct of a study of facilities available for use by tribally controlled community colleges. Such study shall consider the condition of currently existing Bureau of Indian Affairs facilities which are vacant or underutilized and shall consider available alternatives for renovation, alteration, repair, and reconstruction of such facilities (including renovation, alteration, repair, and reconstruction necessary to bring such facilities into compliance with local building codes). Such study shall also identify the need for new construction. A report on the results of such study shall be submitted to the Congress not later than September 30, 1984. Such report shall also include an identification of property (1) on which structurally sound buildings suitable for use as educational facilities are located, and (2) which is available for use by tribally controlled community colleges under section 202(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(a)(2)) and under the Act of August 6, 1956 (70 Stat. 1057; 25 U.S.C. 443a).

"(b) The Administrator of General Services, in consultation with the Bureau of Indian Affairs, shall initiate a program to conduct necessary renovations, alterations, repairs, and reconstruction identified pursuant to subsection (a) of this section.

"(c) For the purposes of this section, the term 'reconstruction' has the meaning provided in the first sentence of subparagraph (B) of section 742(2) of the Higher Education Act of 1965 (20 U.S.C. 1132e-1(2)(B)).".

SEC. 12. Section 113 of the Act (as redesignated by section 4(a)(1) of this Act) is amended to read as follows:

"CONSTRUCTION OF NEW FACILITIES

"SEC. 113. (a) With respect to any tribally controlled community college for which the report of the Administrator of General Services under section 112(a) of this Act identifies a need for new construction, the Secretary shall, subject to appropriations and on the basis of an application submitted in accordance with such requirements as the Secretary may prescribe by regulation, provide grants for such construction in accordance with this section.

"(b) In order to be eligible for a grant under this section, a tribally controlled community college (1) must be a current recipient of grants under section 105 or 107, and (2) must be accredited by a nationally recognized accrediting agency listed by the Secretary of Education pursuant to the last sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), except that such requirement may be waived if the Secretary determines that there is a reasonable expectation that such college will be fully accredited within eighteen months. In any case where such a waiver is granted, grants under this section shall be available only for planning and development of proposals for construction.

"(c)(1) Except as provided in paragraph (2), grants for construction under this section shall not exceed 80 per centum of the cost of such construction, except that no tribally controlled community college shall be required to expend more than $400,000 in fulfillment of the remaining 20 per centum. For the purpose of providing its required portion of the cost of such construction, a tribally controlled community college may use funds provided under the Act of November 2, 1921 (25 U.S.C. 13), popularly referred to as the Snyder Act.

"(2) The Secretary may waive, in whole or in part, the requirements of paragraph (1) in the case of any tribally controlled community college which demonstrates that neither such college nor the tribal government with which it is affiliated have sufficient resources to comply with such requirements. The Secretary shall base a decision on whether to grant such a waiver solely on the basis of the following factors: (A) tribal population; (B) potential student population; (C) the rate of unemployment among tribal members; (D) tribal financial resources; and (E) other factors alleged by the college to have a bearing on the availability of resources for compliance with the requirements of paragraph (1) and which may include the educational attainment of tribal members.

"(d) If, within twenty years after completion of construction of a facility which has been constructed in whole or in part with a grant made available under this section—

"(1) the applicant ceases or fails to be a public or nonprofit institution,

"(2) the facility ceases to be used by the applicant as an academic facility, unless the Secretary determines that there is good cause for releasing the institution from this obligation, and

"(3) the tribe with which the applicant is affiliated fails to use the facility for a public purpose approved by the tribal government in furtherance of the general welfare of the community served by the tribal government,

the United States shall be entitled to recover from such applicant (or its successor in title or possession) an amount which bears the same ratio to the value of the facility at the time as the amount of the grant under this section bore to the cost of the facility constructed with the aid of such grant. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is located.

"(e) No construction assisted with funds under this section shall be used for religious worship or a sectarian activity or for a school or department of divinity.

"(f) For the purposes of this section, the Secretary shall have the authority granted to the Secretary of Education pursuant to section 732(b) of the Higher Education Act of 1965 (20 U.S.C. 1132d-1) with respect to construction under title VII of such Act.

"(g) For the purposes of this section—

"(1) the term 'construction' includes reconstruction or renovation (as such terms are defined in the first sentence of subparagraph (B) of section 742(2) of the Higher Education Act of 1965 (20 U.S.C. 1132e-1(2)(B))); and

"(2) the term 'academic facilities' has the meaning provided such term under section 742(1) of the Higher Education Act of 1965 (20 U.S.C. 1132e-1(1)).".

SEC. 13. The Act is further amended by adding at the end thereof the following new title:

"TITLE III—TRIBALLY CONTROLLED COMMUNITY COLLEGE ENDOWMENT PROGRAM

"PURPOSE

"SEC. 301. It is the purpose of this title to provide grants for the encouragement of endowment funds for the operation and improvement of tribally controlled community colleges.

"ESTABLISHMENT OF PROGRAM; PROGRAM AGREEMENTS

"SEC. 302. (a) From the amount appropriated pursuant to section 306, the Secretary shall establish a program of making endowment grants to tribally controlled community colleges which are current recipients of assistance under section 107 of this Act or under section 3 of the Navajo Community College Act. No such college shall be ineligible for such a grant for a fiscal year by reason of the receipt of such a grant for a preceding fiscal year.

"(b) No grant for the establishment of an endowment fund by a tribally controlled community college shall be made unless such college enters into an agreement with the Secretary which—

"(1) provides for the establishment and maintenance of a trust fund at a federally insured banking or savings institution;

"(2) provides for the deposit in such trust fund of—

"(A) any Federal capital contributions made from funds appropriated under section 306;

"(B) a capital contribution by such college in an amount equal to the amount of each Federal capital contribution; and

"(C) any earnings of the funds so deposited;

"(3) provides that such funds will be deposited in such a manner as to insure the accumulation of interest thereon at a rate not less than that generally available for similar funds deposited at the same banking or savings institution for the same period or periods of time;

"(4) provides that, if at any time such college withdraws any capital contribution made by that college, an equal amount of Federal capital contribution shall be withdrawn and returned to the Secretary for reallocation to other colleges;

"(5) provides that no part of the net earnings of such trust fund will inure to the benefit of any private person; and

"(6) includes such other provisions as may be necessary to protect the financial interest of the United States and promote the purpose of this title and as are agreed to by the Secretary and the college, including a description of recordkeeping procedures for the expenditure of accumulated interest which will allow the Secretary to audit and monitor programs and activities conducted with such interest.

"USE OF FUNDS

"SEC. 303. Interest deposited, pursuant to section 302(b)(2)(C), in the trust fund of any tribally controlled community college may be periodically withdrawn and used, at the discretion of such college, to defray any expenses associated with the operation of such college, including expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

"COMPLIANCE WITH MATCHING REQUIREMENT

"SEC. 304. For the purpose of complying with the contribution requirement of section 302(b)(2)(B), a tribally controlled community college may use funds which are available from any private or tribal source.

"ALLOCATION OF FUNDS

"SEC. 305. (a) From the amount appropriated pursuant to section 306, the Secretary shall allocate to each tribally controlled community college which is eligible for an endowment grant under this title an amount for a Federal capital contribution equal to the amount which such college demonstrates has been placed within the control of, or irrevocably committed to the use of, the college and is available for deposit as a capital contribution of that college in accordance with section 302(b)(2)(B), except that the maximum amount which may be so allocated to any such college for any fiscal year shall not exceed $350,000.

"(b) If for any fiscal year the amount appropriated pursuant to section 306 is not sufficient to allocate to each tribally controlled community college an amount equal to the amount demonstrated by such college pursuant to subsection (a), then the amount of the allocation to each such college shall be ratably reduced.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 306. (a) There is authorized to be appropriated $5,000,000 for each of the fiscal years 1985, 1986, and 1987 to carry out this title.

"(b) Any funds appropriated pursuant to subsection (a) are authorized to remain available until expended.".

Sec. 14. Section 5(a)(1) of the Navajo Community College Act is amended by striking out "October 1, 1979" and inserting in lieu thereof "October 1, 1984".

Sec. 15. In promulgating any regulations to implement the amendments made by this Act, the Secretary of the Interior shall consult with tribally controlled community colleges.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois (Mr. Simon) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. Erlenborn) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. Simon).

Mr. SIMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is the bill which reauthorizes the assistance to the tribally controlled colleges of this Nation, colleges that are making progress, that should be encouraged to strengthen themselves.

We are in a little bit of an unusual situation here, real candidly. This is a bill that was reported out of committee by unanimous vote.

This is a bill that was vetoed by the President in the waning hours of the last session or just following the last session, on which he had two principal objections. One was that we included language of a trust responsibility regarding education and the second was the legislative veto provision. So, in order to get a bill passed I took out those two provisions, thinking then there would be no difficulty. And I had no contact from anyone, to my knowledge, in the administration indicating concern with the bill from that point on.

I learned last night that the administration says it is opposed to the bill.

I hope, despite that opposition—it will carry. Incidentally, that opposition is based on a false premise. It is opposition which says that this bill "mandates" certain construction to take place. That is simply not the case. It permits it if the GSA recommends it, and the Appropriations Committee approves it. And that is the sum and substance of it.

I cannot imagine a bill that is less controversial and less innocuous and more substantial in helping a group of people to whom we ought to be indebted in this Nation, to whom we owe a special debt for our heritage and I would hope we would go ahead.

It is virtually identical to a bill that is probably going to be approved today in the other body with one minor technical difference between the two.

Mr. Speaker, that is basically the story. We have the communities and the colleges moving in the right direction. They are frequently not well financed. They need what little support they receive from the Federal Government.

We are in this measure not asking for a higher authorization level except for the "such sums" provision on construction and the small amount that would be permitted under the endowment provision.

At the present time 4 of the 18 colleges funded under this program are fully accredited and 10 are candidates for accreditation, 4 are in the precandidacy stage. We are talking about Americans who frankly need the kind of assistance we can provide, not a dole but with some assistance for opportunity in the field of education. That is what we are doing. I think it is noncontroversial enough that I hope it receives overwhelming support and then I hope the administration can take another look at it and I hope it will support it. I thank the Speaker. I reserve the balance of my time.

Mr. ERLENBORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 2307, a bill to reauthorize the Tribally Controlled Community College Assistance Act.

This reauthorization would also provide for two new programs of grants to Indian community colleges beginning in fiscal year 1985. One new program would allow Federal grants of up to $1.6 million to eligible schools to be used for construction or renovation of college facilities. The authorization for this program is open-ended. Conceivably, all 18 Indian community colleges could receive grants for construction, resulting in a fairly significant expenditure of Federal funds.

The other new program established by H.R. 2307 is a program of endowment grants to Indian community colleges. Each college could receive up to $350,000 of Federal funds per year to create an endowment. Not only do I oppose the expenditure of $5 million for this program, but I also oppose the designation of a class of colleges to be the beneficiaries of a federally financed endowment fund. In addition, endowments have traditionally been the responsibility of the private sector, and the Federal Government should not become involved in this area.

The Office of Management and Budget has stated its opposition to these provisions in H.R. 2307. I urge my colleagues not to pass this reauthorization which would double Federal expenditures for Indian community colleges and lead to a higher deficit.

Mr. Speaker, I reserve the balance of my time.

Mr. SIMON. I yield 1 minute to the gentleman from Arizona (Mr. Udall).

Mr. UDALL. Mr. Speaker, I commend the gentleman from Illinois on the hard work he and his subcommittee and full committee have done on this issue. I know of no sector in our society more needy for educational assistance of the kind provided in this legislation. I am delighted that you are taking the leadership here in renewing this law. I strongly support it.

Mr. SIMON. I thank my colleague from Arizona. I would like to respond very briefly to a couple of statements by my colleague from Illinois for whom I have great respect.

□ 1300

First, on the construction end of things there is no specific amount, there is no mandate, there is a GSA study that is taking place right now, and we are simply saying if the GSA study says some things ought to be done, then the Appropriations Committee could act. We are not locking the Appropriations Committee so that they cannot act.

Second, on the endowment provision. There is no secret that these colleagues are in very shaky status financially. And so this provides that there would be a small amount available, $350,000, if it is approved by the Appropriations Committee, to be matched by private donations. So that we put these colleges, not in good shape, but help them a little bit.

The alternative to this kind of assistance is keeping people on the dole. If you like welfare, then absolutely vote against this bill. If you want to keep Indians on welfare, defeat this bill. If you want to help them move in the right direction, then this bill ought to be passed.

Then finally, my distinguished opponent on this matter refers to a doubling of the costs. There is no doubling of the costs. We are talking about the identical authorization with the exception of such sums under construction and the small amount on the endowment.

I might expect some criticism that we are being too parsimonious, but not that we are spending money wildly.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico (Mr. Richardson).

Mr. RICHARDSON. Mr. Speaker, first of all, I want to commend the gentleman from Illinois (Mr. Simon) for his leadership on this bill.

Mr. Speaker, I rise in support of H.R. 2307, a bill to amend and extend the Tribally Controlled Community College Act of 1978. I am priviledged to represent the Navajo Nation, the largest Indian nation in the United States. The Navajo Nation numbers 150,000, stretches over an area the size of the State of West Virginia, and represents the finest attributes of self-help and educational aspiration to be found among any group in the United States.

Beginning with tribal funds in 1969, the Navajos founded the first tribally controlled community college and secured separate authorizing legislation for it in 1971. Working with little more than determination and the will of their people, the Navajos built their institution into a fully accredited college program serving the entire community. This aspect of reaching out to meet the educational, vocational, and human needs of all its people is particularly important on the Navajo reservation, where geographic isolation and high unemployment are critical factors.

Navajo Community College serves as a source of hope and a pool of resources for the entire Four Corners area. H.R. 2307 will guarantee that it continues to meet its full promise in the future.

Again, Mr. Speaker, I wish to commend my colleague from Illinois (Mr. Simon) for his landmark piece of legislation.

Mr. SIMON. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. Dorgan).

Mr. DORGAN. Mr. Speaker, as a cosponsor of the Tribally Controlled Community Colleges Act of 1983, I rise in strong support of the bill.

The bill reauthorizes and strengthens the existing law, which has given birth to some 18 Indians community colleges and which enjoys wide support in both Congress and in Indian communities. A reauthorization bill cleared both the House and the Senate late in the 97th Congress, only to be vetoed by the President on dubious grounds.

The current reauthorization bill deletes the major sections to which the President objected. However, it still retains the needed framework and funding levels to insure that the Indian community colleges can keep serving isolated Indian reservations in North Dakota and several other States.

In only 10 years, all four Indian community colleges serving North Dakota reservations—Turtle Mountain Community College, Standing Rock Community College, Little Hoop Community College, and Fort Berthold Community College—have made outstanding academic progress and achieved candidacy status for accreditation. Many Indian high school graduates never would have received college training without these growing institutions.

Not only have the schools achieved success, but so have their graduates. The unemployment rate on Indian reservations runs as high as 90 percent. But strikingly, the employment rate of Indian community college graduates remains about 85 percent.

In fact, President Gerald "Carty" Monette of Turtle Mountain has testified that 100 percent of its graduates through 1981 have full-time jobs. Many have professional or skilled positions in business, education, and government—the best alternative to welfare dependency we could hope for.

Similarly, Standing Rock's President, Wayne Stein, recently testified before the House Appropriations Committee about the high success rate of tribal college graduates in 4-year, non-Indian higher education institutions. Mr. Stein indicated that a recent university study showed that the overall dropout rate for Indian students at such schools is about 90 percent. Yet remarkably, there is an 80 percent completion rate at 4-year schools for graduates of 2-year tribal colleges.

Tribal colleges have also made impressive contributions to the preservation of Indian culture and enrichment of reservation life. The colleges have played a leading role in the teaching of tribal languages and worked closely with tribal governments on economic planning and development.

In sum, the Indian community colleges in North Dakota have demonstrated that, through the Tribally Controlled Community Colleges Act, Congress has made some wise investments in Indian education, cultural preservation, and economic growth. So I strongly believe that we should continue this trust commitment by passing the reauthorization act today. It is a wise investment for Indian people and our Nation as well.

Mr. SIMON. Mr. Speaker, I yield 4 minutes to the gentleman from Montana (Mr. Williams).

Mr. WILLIAMS of Montana. Mr. Speaker, of all Americans, Indians have the lowest level of education and the highest unemployment rate—now as high as 80-90 percent on some Indian reservations. Despite years of scant attention to their education needs, the mechanisms have finally been put in place to begin a turning toward decent education of Indian people.

Indian student dropout rates finally are decreasing, the numbers of Indian youth attending college and secondary educational facilities have increased; the numbers of Indian teachers and lawyers have increased; schools are beginning to meet the needs of Indian children. The dawn is coming. We are awakening the talents and potential of an entire race of stifled Americans. The task is not completed. It is not time to stop those efforts.

H.R. 2307 reauthorizes the Tribally Controlled Community College Assistance Act and makes important adjustments which will lend stability to this successful educational effort. Let me spend just a few minutes to share with you the success of this act.

Since the inception of Public Law 95-471, there have been 1,231 graduates of tribally controlled community colleges. If we add the expected 600 graduates this spring we have a total of 1,831 graduates of these colleges by the end of this school year.

Studies have shown that for those Indian students who complete a 2-year program at tribally controlled community colleges and transfer to 4-year academic programs, there is an 85-percent completion rate. This is a statistic of which we can be proud.

In Montana, we now have five tribal colleges. In the first district, which I represent, there is the Salish and Kootenai Community College at the Flathead Reservation, and the Blackfeet Community College at the Blackfeet Reservation. At the Salish-Kootenai College there have been 82 graduates to date, with another 35 who will graduate this spring for a total of 117. One of their graduates is now the director of the tribal forestry program; another is assistant director of the Job Corps center at Flathead. The Blackfeet Community College has graduated 269 students, with 70 more expected to receive degrees or certificates this spring for a total of 339. One of the graduates is currently the director of the developmentally disabled program at the Blackfeet College, and an approximate 95 percent of the graduates of the Blackfeet Community College are employed or continuing their education.

We need to accommodate the success of these colleges. H.R. 2307 does this. The important amendments to Public Law 95-471 have already been explained. I urge my colleagues to support this important legislation so that these successful educational efforts for American Indian students may continue.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. WILLIAMS of Montana. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, I rise in support of H.R. 2307, the tribally controlled community college amendments.

This bill reauthorizes the Tribally Controlled Community Colleges Assistance Act of 1978 through fiscal year 1987. In addition, the bill provides:

First, simplification of the student count for purposes of the funding formula;

Second, authorization for renovation of unused facilities and construction as needs and availability are identified by a General Services Administration study, with a 25-percent match of funds by the tribe or college;

Third, an endowment program to assist the colleges to establish a firm financial base. Endowment grants must be matched dollar for dollar by the college or tribe; and

Fourth, an orderly process for including new schools as they become eligible, to halt the erosion of support funds to existing schools, and to avoid disruption and instability in the ongoing programs of these schools.

Much praise goes to Congressman Simon, chairman of the Postsecondary Education Subcommittee, for his hard work in developing this legislation, and to Congressman Kildee and Congressman Pat Williams who have lent their strong support and their expertise in this effort.

The tribally controlled community college assistance program was initiated in 1978 with Public Law 95-471, and currently supports the operation of 18 community colleges for Native Americans. This program has shown outstanding results over the short period of time the program has been in operation. Studies in the early seventies indicated a dismal future for Indian students seeking postsecondary education at traditional, non-Indian colleges and universities.

A 1977 study by the General Accounting Office indicated that almost 90 percent of Indian students who entered college as freshmen dropped out before graduating. Culture shock, family obligations, travel distance and expense, poor institutional counselling, and many other factors contributed to the failure of the traditional institutions to serve the educational needs of Native Americans.

Public Law 95-471 was enacted to assist Indian tribes to take control of their educational future, to develop programs and institutions responsive to the needs of their reservation communities. Geographic proximity, realistic curriculum development, responsiveness to cultural and employment realities on reservations have become the hallmark of these young developing institutions.

The colleges supported by the tribally controlled college assistance program have made a strong beginning toward turning the disastrous statistics of the early seventies around. Testimony received by the subcommittee on postsecondary education indicates a strong beginning and a brighter future for higher education for Native Americans.

Four of these tribally controlled colleges are now fully accredited. Another expects full accreditation shortly. All of the other colleges are progressing toward accreditation.

Now is the time to move forward with this effort. This has been a lean and efficient program. In fiscal year 1983, an appropriation of $10,239,000 supports 2,887 full-time equivalent students at 18 tribally controlled colleges. This amount includes technical assistance and feasibility studies. Three more Indian tribes are looking into the possibility of developing colleges on their reservations.

Similar legislation was passed by the House and Senate last year but the President failed to sign it into law. In drafting this bill, H.R. 2307, the cosponsors and the Education and Labor Committee have made every effort to meet the objections of the administration without sacrificing the provisions absolutely necessary if continued growth and progress are to be encouraged in this program. We have deleted the language referring to the Federal Government's trust responsibility as it relates to education for Indian students. We delete this reference at the behest of the administration, in an effort to be cooperative. However, this change in language in no way indicates a change in the position of the Education and Labor Committee:

> Education is and continues to be a trust responsibility of the Federal Government toward Indian students. Programs legislated by the Congress must continue to be administered according to the highest standard of care. When it comes to education of Indian students, the highest standard of care should be the minimum requirement.

In addition, we have deleted the provision which would have placed this program within the authority of section 431(d) of the General Education Provisions Act, which authorizes congressional review of education regulations. Again, we have made this change in an effort to accommodate the objections of the administration. This is in no way a retreat from our position that Congress has the right to disapprove regulations, if authorized by legislation.

The official report of the Department of the Interior, Bureau of Indian Affairs on the tribally controlled community college program, dated April 6, 1983, makes the following statement:

> The need for stable funding levels, the need for the support of Federal and tribal governments, and the need for improved physical facilities reported in prior years continue to be major concerns of tribal colleges.

Late Friday, a communication was received indicating objection to another provision—facilities improvement and construction provision. It made vague reference that other objections may be voiced in the future. Sadly, this is the type of action we have come to expect on educational issues. We must move forward now to reauthorize this valuable, successful, and efficient program. We have done our best to cooperate with the requirements of the administration now we must do our best to meet the educational needs of our native American citizens.

Mr. ERLENBORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just reiterate that this is a reauthorization of the existing authority for the Tribally Controlled Community College Act and to emphasize that the authorization is not expiring and I know of no one who is objecting to a reauthorization, except for the fact that the bill before us does authorize two new spending programs that will add substantially many millions of dollars to the total authorization.

It is because of that that the administration has expressed their opposition to the bill, not to the underlying extension of the authorization of the act.

And I hope that the body today in voting on the bill would vote not to pass this under suspension and then maybe the differences can be worked out.

Mr. SIMON. Mr. Speaker, I would hope we would approve this. This is a modest bill. I think our colleague from North Dakota put it well when he said this is an investment.

We have the opportunity time after time here of deciding whether we are going to keep people on welfare or whether we are going to give them an opportunity to lift themselves.

There is no ethnic group in our society that has a higher dropout rate, I regret; a lower rate of people attending colleges than the native Americans.

And here we say, "Let's give them a chance," and reauthorize and the only two things that have been added to a reauthorization at the present level are the construction thing that will follow the GSA study where we simply say, "such sums," and we leave it up to the Appropriations Committee. If the GSA comes in and says there are some needs that have to be met, we do not bind the hands of the Appropriations Committee in any way. And the very modest endowment provision is added, so that these schools can get on their feet in a more solid way.

I hope this body overwhelmingly approves this piece of legislation.

Mr. RUDD. Mr. Speaker, the one aspect of this bill I would like to address is the reauthorization of the Navajo Community College Act of 1971. I support the extension of the 1971 law, so that we may continue the community college programs offered by our Nation's largest native Indian tribe.

The concept of a community college for the Navajo Indians goes back to the late sixties when the tribe made use of an unoccupied high school in Many Farms, Ariz., as a makeshift campus. While conducting classes with borrowed facilities, the college, and its many supporters throughout our State, convinced Congress to pass the Navajo Community College Act in 1971.

The original act provided for construction grants plus an annual sum for operation and maintenance of the college. Shortly thereafter, groundbreaking ceremonies were held at the college's centrally located site at Tsaile, Ariz., where today there sits a $20,000,000 facility which represents this tribes major link to higher education in our country.

Navajo community college is a 2-year college, similar to other community colleges in its regional orientation with the nearby Indian community, which graduates students with associate of arts and associate of science degrees. Many of the short-term students learn special skills and training to go directly into the job market, others have received their diplomas and moved on to universities.

As a tribally owned college, tribal leaders are able to run their own institution, address their own needs, and provide the type of training which fits into regional economies and cultural aspirations of the Navajo people. As a fully accredited community college on the 16,000-square-mile Navajo Reservation, its role in helping this tribe help itself, and provide for its own future, can only benefit the goal of self-determination for our Nation's native peoples.

The authors of the legislation before us today included, as an addition to the changes asked for in the tribally controlled community college assistance programs, a simple extension of the ongoing programs created in the Navajo Community College Act, for fiscal years 1984-87, with the annual grants to be subject to the appropriation process. This act was last authorized in 1978 through 1982, and I am pleased that the committee took the effort to include this extension in the bill today.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. Simon) that the House suspend the rules and pass the bill, H.R. 2307, as amended.

The question was taken.

Mr. ERLENBORN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

DECLARING SUPPORT OF U.S. GOVERNMENT FOR U.S. SOCCER FEDERATION

Mr. FLORIO. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 219), declaring the support of the U.S. Government for efforts of the U.S. Soccer Federation to bring the World Cup to the United States in 1986, designating the Secretary of Commerce as the official representative of the U.S. Government to the Federation Internationale de Football Association, and for other purposes, as amended.

The Clerk read as follows:

H.J. Res. 219

Joint resolution declaring the support of the United States Government for efforts of the United States Soccer Federation to bring the World Cup to the United States in 1986, designating the Secretary of Commerce as the official representative of the United States Government to the Federation Internationale de Football Association, and for other purposes

Whereas the direct involvement and support of the government of the host country is essential to the successful organization of the World Cup;

Whereas bringing the World Cup to the United States would serve as a tremendous impetus to national and international tourism;

Whereas the United States is already capable of meeting all the requirements imposed on a host country;

Whereas hosting the World Cup would encourage the continued development of professional soccer and ensure the growth of soccer at all levels in the United States;

Whereas soccer is the world's most popular sport; and

Whereas the World Cup is the most popular professional sporting event in the world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Government declares its support for the efforts of the United States Soccer Federation to bring the World Cup to the United States in 1986, and encourages the Federation Internationale de Football Association to visit the United States and actively consider the United States' application to host the World Cup.

Sec. 2. The Secretary of Commerce is designated as the official representative of the United States Government in any discussions with the Federation Internationale de Football Association, with the authority to delegate that responsibility to the Under Secretary of Commerce for Travel and Tourism.

The SPEAKER pro tempore. Is a second demanded?

Mr. LENT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. Florio) will be recognized for 20 minutes, and the gentleman from New York (Mr. Lent) will be recognized for 20 minutes.

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The Chair recognizes the gentleman from New Jersey (Mr. Florio).

Mr. FLORIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution declares the support of the U.S. Government for the efforts of the U.S. Soccer Federation (USSF) to have the United States chosen as the host country for the 1986 World Cup Soccer Championship. It encourages the international governing body of the World Cup, the Federation Internationale de Football Association (FIFA), to visit the United States and actively consider the U.S. application to host the World Cup. It also designates the Secretary of Commerce as the official representative of the United States in any discussions with FIFA. Under the resolution, the Secretary has the authority to delegate his responsibility as representative to the Under Secretary of Commerce for Travel and Tourism.

On April 7, 1983, the Subcommittee on Commerce, Transportation, and Tourism conducted a hearing on the resolution, receiving testimony from international soccer players and representatives of the USSF and the North American Soccer League. As the hearing record demonstrates, the United States is ready, in terms of both its facilities and its soccer players, to host the World Cup.

The World Cup is the world's most popular professional sporting event. If the United States is chosen as the host country, the U.S. tourism industry is expected to benefit. It is estimated that between 100,000 and 200,000 foreign tourists will visit this country for the World Cup games. Spending by these foreign visitors will greatly stimulate the tourism industries of at least 12 U.S. cities, the sites of the first round of games.

In addition, hosting the World Cup is expected to give an enormous boost to U.S. professional soccer. The publicity about the World Cup will focus the attention of U.S. sports fans on Team America, a soccer team formed to play in the World Cup comprised exclusively of U.S. citizens. This increased visibility of U.S. soccer should generate support for it at the professional level.

President Reagan has already indicated his support for the efforts to host the World Cup. These efforts are also being supported by former Secretaries of State Kissinger and Vance.

This resolution will provide an important additional indication that the United States is serious in its efforts to host the World Cup, and therefore, will greatly enhance the chances for the success of those efforts. I urge the Members of the House to support it.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from New York.

Mr. KEMP. I appreciate the gentleman's yielding.

Mr. Speaker, did I hear the word "football" mentioned with regard to the World Cup?

Mr. FLORIO. The international organization is regarded as a football association. It really has not anything to do with football, as we know it.

Mr. KEMP. I would appreciate that distinction being made. For those of us who have a love for football, with due respect for soccer, it is important that the American people know that this is not football, that it is soccer.

I wanted to ask the gentleman how much it would cost to promote the World Cup being held in the United States.

Mr. FLORIO. The gentleman's point is a very important one, and the answer is that it will not cost anything, that what this signifies is our interest in having these facilities, these games, conducted here, and what we are holding ourselves out to do is to deal with visa waivers and other customs problems, all of those types of things that are normally associated with any foreign event being conducted. We are clearly qualified to do those things because, as the gentleman undoubtedly knows, the 1984 International Olympics are going to be conducted in this Nation. So there is no cost associated with this resolution.

Mr. KEMP. Before I make my 11-year-old son mad at me for giving the impression that I may be against it, let me announce that I am for holding the cup in the United States.

Mr. FLORIO. The Members of the House are relieved.

Mr. KEMP. I think the benefits would be quite extensive.

But I want to make sure, as a very, very old football player, that we do nothing that would show support by the Government for one sport as opposed to the other, because as far as I am concerned—I say this with some tongue in cheek—football is football; soccer is soccer. Soccer does not have a quarterback; only football has a quarterback.

And I was deeply upset when I heard read from this body the idea that we were going to support—what is it?—the Internationale de Football Association (FIFA). I wish they would change their name and stop confusing all of those young boys and maybe some young girls who think of football as football, and they think that the Super Bowl is the world's greatest spectator event, with all due respect to soccer and baseball. It seems to me that we should not let it go unnoticed that the Super Bowl is becoming in the world equal to the World Cup, and some of us think it will surpass it.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, I remind the gentleman from New York that this football that the gentleman from New Jersey is talking about is spelled "fut," futball, and that is the name in all Latin America. Soccer is their futball and not the football that the gentleman was so excellent at.

But let me ask the gentleman in the well, I thought that Mexico had bid for holding the cup in Mexico. Am I correct?

Mr. FLORIO. The decision has not been made. There was a lower level committee recommendation that Mexico was the preferred site of that lower level screening committee. It is my understanding that the United States, Canada, and Mexico are in the final round of evaluation, that at one point there was some question as to whether the international organization was going to review the other two sites. I am pleased to report to the Members that, I think in large measure as a result of some of this activity that the committee and, hopefully, the Congress will take, there is going to be a review of facilities in this country, and the decision will not be made until the latter part of May as to a final site for the World Cup in the United States.

Mr. KAZEN. Let me tell the gentleman this: I feel otherwise. Mexico has been at this game for many, many, many years. We are newcomers to it. I think that Mexico is entitled to it if they want it, and I do not think that we as a government and as a Congress ought to come in and, by just the sheer strength of the Government of the United States, bring that tournament to the United States. I think it rightfully belongs in Mexico this coming year.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from New York.

Mr. KEMP. I appreciate my friend from Texas making the distinction between football and futball. I was not casting any aspersions on anybody's pronunciation. But in the resolution it is spelled f-o-o-t, football, and I think it is important that for all of those young people out there, who some day hope to play real football, where you throw it and kick it and run with it and put it in your hands, a distinction should be made that football is democratic, capitalism, whereas soccer is a European socialist—I am going to have to revise and extend my remarks. I do not think I want to leave this on the RECORD. I get a kick out of the comments of the gentleman from Texas. I do not think you have to worry that the U.S. Government is going to force the International Association to hold the World Cup in this country. With all due respect, there is competition.

Mr. FLORIO. On that point, if I could just reclaim my time——

Mr. KEMP. I was going to support the gentleman.

Mr. FLORIO. This is a manifestation of support.

Mr. KEMP. Yes.

Mr. FLORIO. And it is part of the normal application process for all of the contending locations.

Mr. KEMP. Just one last second to clear that up for myself, anyway.

I was going to support the gentleman's contention that Mexico is in competition with the United States. We are not going to bludgeon the international authorities into holding it in our country. I think it would be a healthy competition with Mexico, and they should not feel that they were compromised by what the Congress does. So I am going to support it. But I want to do so with the full understanding that someday I hope to see a full distinction in this country between football and soccer.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield briefly?

Mr. FLORIO. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, I want to make sure that the record is clear, and that is that the United States is not trying to wade in and take anything that belongs to anyone. In fact, the United States—and Mexico, for that matter—is attempting to assist in this area because Colombia had originally been awarded the World Cup and is now unable to perform those duties, so that we are offering ourselves, along with several other nations. I think it is entirely appropriate that the United States offer itself, based upon the surge that soccer or football has had in this country.

In addition, it is my understanding that Mexico was host to the World Cup in the last decade. It is a prestigious event. It certainly ought to move around the world. But Mexico had it in the seventies.

Mr. FLORIO. The gentleman is correct on all counts of all of the points that he has made.

Mr. THOMAS of California. I think it is entirely appropriate that the resolution be offered and that the United States let the rest of the world know that not only are we going to be able to host a World Cup soccer, but we may very well be in the finals.

Mr. STUDDS. Mr. Speaker, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Speaker, I just stumbled innocently onto this debate, and I am somewhat confused. I do not understand. Is this the subject on which I saw Mr. Kissinger's picture on the front page of the paper recently? Is he behind this somehow?

Mr. FLORIO. He is associated with the effort, as is Secretary Vance.

Mr. STUDDS. To bring a socialist game to the United States?

Mr. FLORIO. I suspect we will not read that in the CONGRESSIONAL RECORD tomorrow.

Mr. STUDDS. I am sorry to hear that. I thought that was an extraordinary analysis of the situation.

Does the gentleman think that we may find a resolution next week, if we were to pass this, from the Mexican assembly asking that the World Series of baseball be held in Vera Cruz?

Mr. FLORIO. I am not a member of the Foreign Affairs Committee, so I would not purport to have any expertise in that area.

Mr. STUDDS. I thank the gentleman.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 219, and I want to commend the gentleman from New Jersey (Mr. FLORIO), the chairman of the Subcommittee on Commerce, Transportation and Tourism, for his leadership with this resolution.

Over the past 15 years, the sport of soccer has experienced an enormous surge of popularity in the United States. There are more youngsters playing organized soccer in this country than baseball. More of our colleges and universities have intercollegiate soccer teams than gridiron football teams. The ultimate expression of this tremendous growth in the popularity of soccer in this country would be our hosting of the 1986 World Cup.

The World Cup is the world's most popular sporting event. The 1982 games in Spain were attended by a record number of fans and over $60 million in gross profits were realized from ticket sales, television, and publications. Millions more were spent on hotel accommodations and restaurants. The championship game in 1982 was viewed on television by more than 1.3 billion people, over one-quarter of the world's population.

The U.S. Soccer Federation is seeking Federal support in its efforts to host the World Cup, without requesting any Federal funds. House Joint Resolution 219, which is before us today, expresses that support. The Federation's effort also has the strong backing of President Reagan as well as other leading public officials in this Nation.

Twelve sites around the country have been recommended as host cities and meetings have already taken place between USSF officials and representatives of the Governors' and mayors' offices, chambers of commerce, tourist, and convention bureaus, stadium authorities, and corporate sponsors. Chief executives of such companies as Ford, Pepsico, and R. J. Reynolds have joined the organizing committee. It is clear, therefore, Mr. Speaker, that the United States is ready to host this event.

Convincing the Federation Internationale de Football Association, or FIFA, to consider the United States as a host country will not be easy. Yesterday's edition of the New York Times told of the efforts in this regard of two former Secretaries of State, Henry Kissinger and Cyrus Vance.

□ 1330

Dr. Kissinger testified last month before our Subcommittee on Commerce, Transportation and Tourism on the importance of this resolution if these efforts are to be successful

Therefore, I would urge my colleagues to support House Joint Resolution 219. The benefits that will be derived from increased international good will and valuable cultural exchange, not to mention the boost to our tourism industry, demands such a vote.

I would point out very respectfully to my colleague from Massachusetts who characterized soccer as a Socialist sport that nothing could be further from the truth, because soccer is a sport which knows no politics. It is played all over the world. It is played in Europe. It is played in Asia. It is played in Africa and South America, as well as in North America, so certainly it knows no politics.

Mr. STUDDS. Mr. Speaker, will the gentleman yield?

Mr. LENT. I would be happy to yield to the gentleman from Massachusetts.

Mr. STUDDS. I thank the gentleman for yielding.

Mr. Speaker, not only was that not my characterization, I was expressing my abject disbelief that the gentleman from New York (Mr. KEMP) had defined football as, what did he say, "Democratic capitalism," and soccer, which is, of course, an older sport, from which we stole the European word "football," as "socialism." I found that a challenging intellectual concept and that is why I was referring back to it again.

Is the gentleman going to offer an amendment on behalf of the gentleman from Massachusetts (Mr. BOLAND) to suggest that we not wrest this from Mexico by covert means?

Mr. LENT. I had not heard of the amendment by the gentleman from Massachusetts.

I thank the gentleman for his contribution, and I am glad we won him over, as I believe we won over the gentleman from New York (Mr. KEMP) as well.

● Mr. RITTER. Mr. Speaker, I support House Joint Resolution 219 the World Cup Soccer resolution. I am a cosponsor of this legislation and voted for it when it was before the House Energy and Commerce Committee. This resolution is necessary because the Federation Internationale de Football Association, the international governing body of the World cup, will not consider the United States as host country for the 1986 World Soccer Championship without a declaration of support by the U.S. Government. House Joint Resolution 219 is a nonbinding resolution committing no tax dollars to any program—it simply designates the Secretary of the Department of Commerce to assist in discussions with the Federation Internationale de Football Association.

In 1981, the travel and tourism industry, if viewed as a single retail industry, was the second largest retail industry in the country. The U.S. hosting of the World Cup Soccer Championship will generate a great deal of domestic and international tourism trade. As a member of the House Energy and Commerce Subcommittee on Commerce, Transportation and Tourism and as a member of the steering committee of the Tourism Caucus, I am acutely aware of the growing importance of the tourism industry to our Nation's economy. I remain committed to efforts to promote tourism and urge my colleagues to support this worthy resolution.●

Mr. LENT. Mr. Speaker, if there are no other requests, I yield back the balance of my time.

Mr. FLORIO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO) that the House suspend the rules and pass the joint resolution, House Joint Resolution 219 as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on the motion on which further proceedings were postponed.

TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT AMENDMENTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2307, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. **Simon**) that the House suspend the rules and pass the bill, H.R. 2307, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 255, nays 148, not voting 29, as follows:

[Roll No. 75]

YEAS—255

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Anthony
Applegate
Aspin
AuCoin
Barnes
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bevill
Biaggi
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Britt
Brooks
Brown (CA)
Bryant
Carper
Carr
Chandler
Clarke
Clay
Coleman (MO)
Coleman (TX)
Conyers
Cooper
Coyne
Crockett
D'Amours
Davis
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
English
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gilman
Glickman
Gonzalez
Gore
Gray
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Harkin
Harrison
Hawkins
Hefner
Heftel
Hertel
Hightower
Horton
Howard
Hoyer
Huckaby
Hughes
Hunter
Jacobs
Jeffords
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
LaFalce
Leach
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Levitas
Lipinski
Long (LA)
Long (MD)
Lowry (WA)
Lujan
Luken
MacKay
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McKernan
McNulty
Mica
Mikulski
Mineta
Minish
Mitchell
Moakley
Mollohan
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Panetta
Patterson
Pease
Penny
Pepper
Perkins
Pickle
Porter
Price
Rahall
Rangel
Ratchford
Reid
Richardson
Rodino
Roe
Rose
Rostenkowski
Rowland
Roybal
Rudd
Russo
Sabo
Sawyer
Scheuer
Schneider
Schroeder
Seiberling
Shannon
Sharp
Sikorski
Simon
Sisisky
Skeen
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Smith, Robert
Spratt
St Germain
Staggers
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Valentine
Vandergriff
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
Wheat
Whitley
Williams (MT)
Williams (OH)
Winn
Wise
Wolf
Wolpe
Wright
Wyden
Yates
Yatron
Young (MO)
Zablocki

NAYS—148

Archer
Badham
Bartlett
Bateman
Bethune
Bilirakis
Bliley
Breaux
Broomfield
Brown (CO)
Broyhill
Burton
Byron
Carney
Chappie
Cheney
Clinger
Coats
Conable
Conte
Corcoran
Coughlin
Courter
Craig
Crane, Daniel
Daniel
Dannemeyer
Daub
DeWine
Dickinson
Dreier
Duncan
Edwards (OK)
Emerson
Erlenborn
Evans (IA)
Fiedler
Fields
Fish
Forsythe
Franklin
Frenzel
Gekas
Gibbons
Gingrich
Gradison
Gramm
Green
Gregg
Hall, Sam
Hance
Hansen (UT)
Hartnett
Hiler
Hillis
Holt
Hopkins
Hubbard
Hutto
Hyde
Ireland
Jenkins
Kasich
Kemp
Kramer
Lagomarsino
Latta
Leath
Lent
Lewis (CA)
Lewis (FL)
Livingston
Lloyd
Loeffler
Lungren
Mack
Madigan
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
McCandless
McCollum
McDade
McDonald
McEwen
McGrath
Michel
Miller (OH)
Molinari
Montgomery
Moore
Moorhead
Myers
O'Brien
Oxley
Packard
Parris
Pashayan
Patman
Paul
Petri
Pritchard
Pursell
Quillen
Ray
Regula
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roemer
Rogers
Roth
Roukema
Schaefer
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Skelton
Smith (NE)
Smith, Denny
Snowe
Snyder
Solomon
Spence
Stangeland
Stenholm
Stump
Sundquist
Tauke
Thomas (CA)
Vucanovich
Walker
Weber
Whitehurst
Whittaker
Whitten
Wortley
Wylie
Young (AK)
Young (FL)
Zschau

NOT VOTING—29

Annunzio
Barnard
Campbell
Chappell
Coelho
Collins
Crane, Philip
Daschle
Goodling
Hall (IN)
Hansen (ID)
Hatcher
Johnson
Kindness
Lantos
Lott
Lowery (CA)
Lundine
McCain
McKinney
Miller (CA)
Nielson
Savage
Schumer
Solarz
Towns
Vander Jagt
Wilson
Wirth

☐ 1340

The Clerk announced the following pairs:

On this vote:

Mr. Annunzio and Mr. Wirth for, with Mr. Philip M. Crane against.

Mrs. ROUKEMA and Mr. MARRIOTT changed their votes from "yea" to "nay."

Messrs. DOWDY of Mississippi, MORRISON of Washington, and MARLENEE changed their votes from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

☐ 1350

EMERGENCY AGRICULTURAL CREDIT ACT OF 1983

The SPEAKER pro tempore. Pursuant to House Resolution 158 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1190.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1190) to provide emergency credit assistance to farmers, and for other purposes, with Mr. **Flippo** in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, April 27, 1983, an amendment striking the text of section 2 had been agreed to.

The Clerk will designate section 3.

The text of section 3 reads as follows:

WATER AND WASTE FACILITIES

Sec. 3. (a) Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended by—

(1) adding at the end of paragraph (2) the following: "The Secretary shall fix the grant rate for each project in conformity with regulations promulgated by the Secretary which shall provide for a graduated scale of grant rates establishing higher rates for projects in communities having lower community population and income levels which are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing rates and terms in the community in or near which the applicant is located for loans for similar purposes and periods of time: *Provided*, That the grant rate shall be the maximum rate permitted under this paragraph for projects in communities having a population of fifteen hundred or less and a median community income level below 80 per centum of the statewide nonmetropolitan median family income, if the community is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, talking into consideration prevailing rates and terms in the community in or near which the applicant is located for loans for similar purposes and periods of time."; and

(2) adding at the end thereof the following new paragraphs (16), (17), (18), and (19):

"(16) In providing financial assistance for water and waste disposal facilities under this section, the Secretary shall utilize a project selection system to determine which of the applicants for assistance meeting the basic requirements of this section shall be selected to receive assistance. Such project selection system shall provide for the objective and uniform comparison of requests for assistance (in the form of preapplications) on the basis of relative need as reflected by (A) low community median income; (B) low population; and (C) severity of health hazards resulting from inadequate provision for the reliable supply of potable water or from inadequate means of disposing of waste. For purposes of the project selection system, each of these three factors shall be weighted equally.

"(17)(A) The Secretary may make payments to associations described in paragraph (1) of this subsection which are reasonably likely to receive financial assistance under paragraph (1) or paragraph (2) of this subsection for community water and waste disposal facilities, for predevelopment costs incurred in connection with the planning and design of such facilities. Such costs may include the costs of drilling test wells and of preparing alternative engineering designs to determine the most feasible and economical method to improve the water supply or waste disposal system of the community involved.

"(B)(i) The amount of any payment received under subparagraph (A) with respect to a project by an association which receives, before the expiration of the five-year period beginning on the date of such payment is received, a loan under paragraph (1) or a grant under paragraph (2) of this subsection to finance such project shall be treated as part of the amount of such loan or the amount of such grant, as the case may be; and

"(ii) The amount of any payment received under subparagraph (A) with respect to a project by an association which does not receive, before the expiration of the five-year period beginning on the date of such payment is received, a loan under paragraph (1) or a grant under paragraph (2) of this subsection to finance such project shall be repaid to the Secretary as if such payment were a loan made under paragraph (1) unless the Secretary waives the repayment requirement with respect to all or part of such amount.

"(C) The total of payments made by the Secretary under this paragraph for any fiscal year shall not be less than 5 per centum of any funds provided in appropriation acts to carry out paragraph (2) of this subsection for the fiscal year unless the applications for payments received by the Secretary from eligible associations for the fiscal year total less than 5 per centum of such amount.

"(D) For purposes of section 346, each payment made under subparagraph (A) shall be deemed to be a loan unless and until such payment is offset against a grant or the Secretary waives the repayment of such payment.

"(18)(A) The Secretary may make grants to private nonprofit organizations for the purpose of enabling them to provide to associations described in paragraph (17) of this subsection technical assistance and training—

"(i) to identify, and evaluate alternative solutions to, problems relating to the development, storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas;

"(ii) to prepare applications to receive financial assistance for any purpose specified in paragraph (2) of this subsection from any public or private source; and

"(iii) to improve the operation and maintenance practices at any existing works for the storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas.

"(B) In selecting recipients of grants to be made under subparagraph (A), the Secretary shall give priority to private nonprofit organizations which have experience in providing the technical assistance and training described in such subparagraph to such associations serving rural areas in which residents have low incomes and in which water supply systems or waste facilities are unhealthful.

"(C) The total of grants made by the Secretary under this paragraph for any fiscal year shall not be less than 2 per centum of any funds provided in appropriation acts to carry out paragraph (2) of this subsection for the fiscal year unless the applications for grants received by the Secretary from eligible associations for the fiscal year total less than 2 per centum of such amount.

"(19) In the case of water and waste disposal projects serving more than one separate rural community, the Secretary shall utilize the median population level and the median community income level of all the separate communities to be served in applying the formulas provided in sections 306(a)(2), 306(a)(16), and 307(a)(3)(A).".

(b) Section 307(a)(3)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927) is amended by—

(1) striking out "the poverty line prescribed by the Office of Management and Budget as adjusted under section 624 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d)" and inserting in lieu thereof "80 per centum of the statewide nonmetropolitan median family income"; and

(2) inserting before the period at the end thereof the following: "; and not in excess of 7 per centum per annum on loans for such facilities which do not qualify for the 5 per centum per annum interest rate but are located in areas where the median family income of the persons to be served by the facilities does not exceed 100 per centum of the statewide nonmetropolitan median family income".

(c) The amendments made by section 3 of this Act shall become effective on October 1, 1983, and shall apply to any association described in section 306(a)(1)(B) of the Consolidated Farm and Rural Development Act without regard to whether the application for the loan or grants involved was made by such association before such effective date.

The CHAIRMAN. Are there amendments to section 3?

AMENDMENTS OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. DE LA GARZA: On page 3, line 15, strike out "paragraphs (16), (17), (18) and (19):" and insert in lieu thereof "paragraphs (16), (17), (18) and (19), and (20):"

On page 7, on line 17, strike out the quotation mark and the second period, and insert after line 17 the following:

"(20) In providing financial assistance for essential community facilities under this section, the Secretary shall utilize a project selection system to determine which of the applicants for assistance meeting the basic requirements of this section shall be selected to receive assistance. Such project selection system shall provide for the objective and uniform comparison of requests for assistance (in the form of pre-applications) on the basis of the factors of (A) a community median family income level below 80 per centum of the Statewide median family income, (B) a community rate of unemployment and underemployment that takes account of individuals employed on a part-time or seasonal basis, or both, and individuals not participating in the work force because of continued inability to find employment (commonly referred to as 'discouraged workers'), which exceeds the national nonmetropolitan average rate thereof by at least 10 per centum of such rate, and (C) a sudden economic dislocation the community has experienced or is about to experience resulting in a loss of jobs that is significant, both in terms of the number of jobs eliminated and the effect on the unemployment rate of the community. For purposes of the project selection system, each of the factors described in clauses (A), (B) and (C) of the preceding sentence shall be weighted equally.

On page 8—

(A) line 17, strike out "(a)" following "Section 310B";

(B) line 20, insert "of subsection (a)" after "sentence"; and

(C) line 24, strike out "and" following the semicolon.

On page 9—

(A) line 1, strike out "thereof" and insert in lieu thereof "of subsection (a)";

(B) line 3, strike out the second period and insert in lieu thereof "; and"; and

(C) insert after line 3 the following:

"(3) inserting after subsection (d) the following new subsection and redesignating subsection (e) as subsection (f):

"(e)(1) In providing financial assistance under this section, the Secretary shall utilize a selection system to determine which of the applicants for assistance meeting the basic requirements of this section shall be selected to receive assistance. Such selection system shall provide for the objective and uniform comparison of requests for assistance (in the form of pre-applications) on the basis of the factors (in the rural area in which the applicant, or the borrower in the case of guaranteed loans, is located) of (A) a median family income level below 80 per centum of the Statewide median family income, (B) a rate of unemployment and underemployment that takes account of individuals empolyed on a part-time or seasonal basis, or both, and individuals not participating in the work force because of continued inability to find employment (commonly referrerd to as 'discouraged workers'), which exceeds the national nonmetropolitan average rate thereof by at least 10 per centum of such rate, and (C) a sudden economic dislocation the rural area has experienced or is about to experience resulting in a loss of jobs that is significant, both in terms of the number of jobs eliminated and the effect on the unemployment rate of the rural area. For purposes of the selection system, each of the factors described in clauses (A), (B) and (C) of the preceding sentence shall be weighted equally.".

"(2) The Secretary shall, from among the applicants and borrowers selected under the selection system in paragraph (1) to receive assistance, give preference, in making financial assistance available, to applicants or borrowers that will most effectively assist in the creation of long-term employment opportunities for individuals residing in the rural area.

"(3) The Secretary may make grants, not to exceed $20,000,000 in the aggregate annually, in rural areas for the purpose of training unemployed or underemployed individuals to enable them to fill employment opportunities that will be created as a result of such financial assistance having been made available.

"(4) In preparing and administering the selection systems provided for in this subsection and in section 306(a)(20), the Secretary shall consult with the Secretary of Labor. If the statistics necessary for carry-

ing out the selection systems are not readily available from Federal sources, the Secretary may utilize statistics that are compiled by State or local governmental units in accordance with methodology consistent with Federal standards.

"(5) The Secretary shall prepare and implement, not later than 120 days after the date of enactment of the Emergency Agricultural Credit Act of 1983, a comprehensive plan for employing the programs authorized under this title to assist rural areas to reduce rates of unemployment and underemployment exceeding national levels. The plan shall identify specific activities to be carried out by Department agencies to achieve the objective of this paragraph. The Secretary shall submit such plan to the Committee on Agriculture of the House and the Committee on Agriculture, Nutrition, and Forestry of the Senate at least 30 calendar days before the date the plan is to be implemented.".

Mr. de la GARZA (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. de la GARZA. Mr. Chairman, I also ask unanimous consent that the amendments be considered en bloc, inasmuch as, although they relate to one subject matter, they encompass section 3 and section 4.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. de la GARZA. Mr. Chairman, this amendment is offered for the purpose of trying to assist the people in rural America. We have recently passed what we call a jobs bill. This is an attempt, within Department of Agriculture programs, to assist the Secretary in establishing a selection system to determine which applicants for loans or borrowers under guarantees would receive financial assistance under the community facility and business and industrial loan programs.

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The criteria for selection, each to be weighted equally, would be low community or area family income, less than 80 percent of the statewide median family income; high unemployment, and underemployment, including individuals who work part time or at seasonal jobs, or individuals, discouraged workers, who no longer participate in the job market, exceeding the national rate by at least 10 percent; and sudden economic dislocation causing significant job loss, in this case as part maybe from the payment in kind program in rural areas.

The Secretary would be authorized to make grants up to $20 million annually to be used for training unemployed or underemployed persons, to enable them to fill jobs to be created by enterprises receiving financial assistance.

The Secretary would be required to prepare and implement a comprehensive plan to use Farmers Home programs to assist rural Americans in reducing excessive levels of unemployment and underemployment.

Basically, Mr. Chairman, this is to direct the Department to take a very close look at the gap which exists between urban and rural America and to help close this gap.

My amendment would authorize grants of the $20 million as I have stated. I think there is an urgent need, for a general plan under which we might direct assistance toward that area in which it is badly needed.

This is an innovative idea, I would attest, but it is a very, very modest step. We have found that under the jobs legislation, even as it was targeted, Mr. Chairman, the areas that have been covered for accelerated projects, or the areas that have been covered for development through the system that we passed here, we do not have many of these areas in rural America. Only in very few rural areas would we have the major public works, the buildings, or anything of that sort.

So this is a very modest attempt at trying to aim a little bit of money to that area of rural America.

We are painfully aware of the current financial crisis in agriculture. We are ordinarily less aware of the job crisis as it afflicts our nonurban areas.

As I have indicated, the Farmers Home Administration operates programs of financial assistance for essential rural community facilities and for rural business and industries. These programs, especially the so-called B&I (business and industrial) program, have been very effective in creating jobs. I believe it is time to target this assistance to areas suffering most acutely from lack of employment opportunities.

To the extent that it is necessary for the agency to choose among applicants for assistance whose needs exceed available funds, my amendment would require the Secretary to develop and objective selection system. The system would be based on three factors affecting the rural communities and areas involved: First, low income; second, high unemployment and underemployment; and, third, sudden economic dislocations adversely affecting employment.

Let me briefly explain these selection factors. The first targets assistance to rural areas or communities with widespread poverty—those having a median income below 80 percent of statewide median income. Experience has shown that there is a high correlation between rural poverty and high rural unemployment. For similar purposes, some proposals would use as a basic guideline a percentage of statewide nonmetropolitan income. However, this standard tends to limit aid to too few areas and it can result in sharp disparities in treatment among poorer areas of the various States. Other proposals would use a percentage of a national income guidelines. But it has a characteristic of spreading aid too broadly in lower income States. My proposal uses a moderate or middle-ground—that is, a percentage of the statewide median income.

The second factor used by my amendment is the area's rate of unemployment and underemployment—those having a rate which is at least 10 percent above the national nonmetropolitan rate—for example, a local rate of 11 percent or more if the national rate is 10 percent. I want to emphasize underemployment. According to the U.S. Department of Agriculture's recent report to Congress entitled "Better Country: A Strategy for Rural Development in the 1980's, " the lack of job opportunities remains the greates single problem in rural America. I quote:

> Many rural regions suffer unemployment rates substantially higher than the national average. Since 1978, the disparity between rural and urban unemployment has been growing—and not in rural America's favor.

Mr. Chairman, the report goes on to say that the official rate of unemployment is not designed to represent true levels of distress, underemployment, and underutilization of rural America's workers; nor do the official unemployment figures adequately take into account chronic rural poverty. Therefore, my second measure or criterion is a departure from the more traditional unemployment measure we so often see—that is, the so-called rate of unemployment. It is my considered judgment that the commonly used standard of measuring unemployment in rural areas grossly underestimates employment problems. My second criterion is designed to address this problem.

It is drawn from a number of proposals discussed in various committees during their consideration of legislative proposals to address rural economic problems. Since it is not the familiar standard, it will require a degree of ingenuity and resourcefulness on the part of the Secretaries of Labor and Agriculture working cooperatively—perhaps along with State and local governmental units—to devise effective measurement techniques. It is, however, a challenge they should boldly accept to address so pressing a problem. We must begin to get a handle on the true dimensions of the underuse of our human resources in rural areas.

Let me illustrate more specifically the thrust of these provisions. Throughout rural America—but to a greater degree in some areas than others—large numbers of people work at part-time, sporadic, or seasonal jobs. They do so not by choice, but because regular, stable, full-time jobs are not available. Many rural workers live on farms; if their jobs in town are lost, they continue to farm part time. Further, years of obvious futility in seeking work results in large pools of discouraged workers who are not even considered to be in the job market. The people I have described are not included as unemployed by the traditional measurements. The measurements I propose would take account of them and would, perhaps for the first time on any meaningful basis, recognize their plight and make some movement to address it.

The third factor or criterion I propose provides a degree of flexibility in meeting new threats to jobs as they arise. It emphasizes the effect on workers of sudden shifts in local economic conditions, and permits early action to deal with those conditions before their impact becomes devastating. For example, it would allow appropriate consideration for prospective plant closing which can have terrible effects on employment in small rural areas. And it also would accommodate conditions suddenly arising from policy shifts like the payment-in-kind program that may well have substantial adverse consequences on small-town businesses in farming areas.

In addition, with respect to the B&I program, the amendment provides that, from among the applicants selected under the criteria that I have described, the Secretary will give preference to those which will most effectively assist in the creation of long-term employment opportunities in their rural areas.

Even if my amendment achieves the objectives that I expect of it, it will not be fully successful unless the rural businesses and industries which are created have a trained work force available. As I have said, the chronic underemployment in many areas creates a need for upgrading the skills of those the job market has passed by. To help close this gap, my amendment authorizes grants of $20 million in any fiscal year for the purpose of training unemployed or underemployed individuals to enable them to fill the jobs that are created.

In addition to the specific activities that I have referred to, I think there is an urgent need for a general plan under which the various financial assistance activities operated by the Farmers Home Administration will be carried out in a manner designed to help reduce unacceptably high rates of unemployment and underemployment. The amendment would direct the Secretary to prepare such a plan and implement it after having given prior notice to the committees of jurisdiction of the Congress.

I ask your support for what I believe is a modest but badly needed first step in targeting certain Farmers Home rural development programs to those areas suffering most acutely from a lack of jobs. It is an innovative step, in that it would be one of the first efforts to reach what has been, for all too long, a large but largely unrecognized group in our rural areas—those who do not appear in the unemployment statistics but who, in the most real sense, suffer greatly from the absence of job opportunities.

Mr. MADIGAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have only one question about the amendment if the gentleman from Texas would be willing to respond. My question would be, Is it the intent of the gentleman from Texas to target this money to areas that are utilizing migrant workers such as the fruit-producing areas?

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Texas.

Mr. de la GARZA. That is one of the areas that would be assisted but it is not necessarily aimed at areas where there are migrant dislocations. But I would submit to the gentleman that it would be a major area.

Mr. MADIGAN. But that is not the gentleman's sole purpose in offering the amendment?

Mr. de la GARZA. No; definitely not. When I say rural America I mean all of us who live in that area of this great country.

Mr. MADIGAN. I thank the gentleman and yield back the balance of my time.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Texas (Mr. de la Garza).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. MADIGAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendments were agreed to.

AMENDMENT OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Smith of Iowa:

Page 7, line 25, strike out "and".

Page 8, line 8, strike out the period and insert in lieu thereof "; and ".

Page 8, immediately after line 8, insert the following:

"(3) adding at the end thereof the following: 'The interest rate on loans for water and waste disposal facilities shall be the lower of (i) the rate in effect at the time of the loan approval, or (ii) the rate in effect at the time of the loan closing.'."

Mr. SMITH of Iowa. Mr. Chairman, we have a rather unusual situation right now that I do not think has occurred prior to this time. In the case of water and sewer loans, some of these loans were approved a year ago or so when the interest rate, which is cost to the Government, was higher than it is at the present time. In fact, it was about 11 percent. Some of these loans have not been closed yet, and the cost of money to the Government has gone down to around 9 percent. This amendment would establish that the rate to be in effect on such a loan would be the rate at the time of closing, at the time of closing rather than at the time of approval if it is lower at the time of closing.

In these cases no money has been distributed and if they were loans to an individual FmHA borrower rather than a sewer or water district, the rate would be handled this way. This amendment makes it clear that in the case of water sewer loans, the interest rate will be either the rate at the time of approval or the rate in effect at the time of closing, whichever is lower.

I would hope that no one would object to this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. Smith).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MADIGAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 399, noes 1, not voting 32, as follows

[Roll No. 76]

AYES—399

Ackerman
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Anthony
Applegate
Archer
AuCoin
Badham
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bryant
Burton
Byron
Carney
Carper
Carr
Chandler
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coleman (MO)
Coleman (TX)
Collins
Conable
Conte
Conyers
Cooper
Corcoran
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel
Dannemeyer
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell

Fazio
Feighan
Ferraro
Fiedler
Fields
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fowler
Frank
Franklin
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harrison
Hartnett
Hawkins
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKernan
McNulty
Mica
Michel
Mikulski
Miller (OH)
Mineta
Minish
Mitchell
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Valentine
Vandergriff
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Williams (MT)
Williams (OH)
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki

NOES—1

Zschau

NOT VOTING—32

Addabbo
Annunzio
Aspin
Barnard
Broyhill
Campbell
Chappie
Coelho
Daschle
Edwards (AL)
Fish
Hall (IN)
Harkin
Hatcher
Johnson
Kindness
Kogovsek
Lantos
Long (MD)
McCain
McKinney
Miller (CA)
Moakley
Owens
Schumer
Solarz
Towns
Vander Jagt
Vento
Waxman
Whitten
Wilson

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Mr. FRENZEL changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to section 3? If not, the Clerk will designate section 4.

The text of section 4 reads as follows:

BUSINESS AND INDUSTRIAL LOAN LIMITS; ELIGIBLE LENDERS

SEC. 4. Section 310B(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)) is amended by—

(1) in the third sentence, inserting after "other lenders" the following "(including commercial banks, trust companies, cooperative lending agencies, mortgage banking firms, insurance companies, and other firms and agencies authorized by law to lend money)"; and

(2) adding at the end thereof "No loan may be made, insured, or guaranteed under this subsection which exceeds $25,000,000 in principal amount.".

AMENDMENT OFFERED BY MR. WATKINS

Mr. WATKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WATKINS: Page 8, line 17, insert "(a)" after "SEC. 4.".

Page 9, after line 3, insert the following new subsections:

"(f)(1) The Secretary shall make grants under this subsection to nonprofit institutions for the purpose of enabling such institutions to establish and operate centers of rural technology development.

"(2) Any nonprofit institution seeking a grant under paragraph (1) shall submit to the Secretary an application containing a plan for the establishment and operation by such institution of a center for rural technology development. The Secretary may approve such application if such plan contains the following:

"(A) A provision that such center will be located in a rural area in the United States.

"(B) A provision that the primary objective of such center will be to improve the economic condition of rural areas by promoting the development (through technological innovation and adaptation of existing technology) and commercialization of—

"(i) new products which can be produced in rural areas; and

"(ii) new processes which can be utilized in the production of products in rural areas.

"(C) A description of the activities which such center will carry out to accomplish such objective. Such activities may include the following:

"(i) Programs for technology search, investigations, and basic feasibility studies in any field or discipline for the purpose of generating principles, facts, technical knowledge, new technology, and other information which may be useful to rural industries, agribusinesses, and other persons, in rural areas in the development and commercialization of new products and processes.

"(ii) Programs for the collection, interpretation, and dissemination of existing principles, facts, technical knowledge, new technology, and other information which may be useful to rural industries, agribusinesses, and other persons, in rural areas in the development and commercialization of new products and processes.

"(iii) Programs providing training and instruction for individuals residing in rural areas with respect to the development (through technological innovation and adaptation existing technology) and commercialization of new products and processes.

"(iv) Programs providing loans and grants to individuals in rural areas and to small businesses in rural areas for purposes of generating, evaluating, developing, and commercializing new products and processes.

"(v) Programs providing technical assistance and advisory services to individuals, small businesses, and industries, in rural areas for purposes of developing and commercializing new products and processes.

"(D) A description of the contributions which such activities are likely to make to the improvement of the economic condition of the rural area in which such center is to be located.

"(E) Provisions that such center, in carrying out such activities will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the Federal Government, and State and local governments.

"(F) Provisions that such center—

"(i) will consult with any college or university administering any program under title V of the Rural Development Act of 1972 (7 U.S.C. 2661 et seq.) in the State in which such center is located; and

"(ii) will cooperate with such college or university in the coordination of such activities and such program.

"(G) Provisions that such center will take all practicable steps to develop continuing sources of financial support for such center, particularly from sources in the private sector.

"(H) Provisions for—

"(i) the monitoring and evaluation of such activities by the institution operating such center; and

"(ii) the accounting of money received by such institution under this section.

"(3) Grants made under paragraph (1) shall be made on a competitive basis. In making grants under paragraph (1), the Secretary shall give preference to grant applications providing for the establishment of centers for rural technology development which—

"(A) will be located in rural areas which have—

"(i) few rural industries and agribusinesses;

"(ii) high levels of unemployment;

"(iii) high rates of migration of people, businesses, and industries; and

"(iv) low levels of per capita income; and

"(B) will contribute the most to the improvement of economic conditions of rural areas.

"(4) As used in this subsection—

"(A) the term 'nonprofit institution' means any organization or institution, including any accredited institution of higher education, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

"(B) the term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.".

(c) The amendment made by subsection (b) shall take effect October 1, 1983.

Mr. WATKINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. WATKINS. Mr. Chairman, I think it goes without a whole lot of explanation that in rural America and the life in agriculture we have more economic problems today than we have had for a number of years. In fact, something that has not been expressed and should be repeated on this floor is that approximately 25 years ago, the United States had something like one-third of the people in this country involved in the production of agriculture. Today, Mr. Chairman, we have less than 3 percent of the people involved in the production of agriculture.

What we have had is an erosion of our people away from the family farms, away from agricultural production into different and diversified areas of the economy, mainly in larger urban areas.

Mr. Chairman, one of the things that I would like to point out as we look at this particular piece of legislation that in agriculture the last 3 years we have had declining farm income. In other words, the last 3 years our farmers have lost money.

Mr. Chairman, also one of the other things they have experienced for the first time in rural America on our family farms and in agriculture is a loss of equity. Much of our farmland has not grown in real value.

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Farmers have not had the actual growth in equity in their equipment. Mr. Chairman, our farm people, our agricultural production people, have lost the equity of their equipment, have lost the equity of their land and, therefore, have a tremendous problem in refinancing and keeping adequate farm income to be able to stay on the farm. In fact, Mr. Chairman, in 1950, for each dollar of income, the family farmer had a dollar's worth of credit. In 1960 for each $1 of income, the farmer had $1.35 in credit that he had to repay. And in 1982, the American farmer finds that for each dollar of income, he is confronted with over $13 of credit that he is trying to repay.

I think the fact that really highlights the problems in rural America, in the small rural communities and the family farmers, is that this past year two-thirds of the income of the American farmers throughout this Nation came from off the farm, not from production on the farm. Two-thirds of their income had to come from another source other than agriculture. Mr. Chairman, this particular amendment is trying to provide, in mainly the depressed rural areas or economically decayed areas of America, an opportunity to work with new technologies, to establish centers of rural technology development in order to try to build those jobs in depressed rural areas where the Fortune 500 are not going to move. Where the chief executive officers will not be moving plants. But we can work with new technologies and try to develop new products and processes from that technology to establish new businesses and new industries in those areas in order to try to build private sector jobs.

I think that most of our people will take that challenge. They will take the challenge of trying to help themselves by working with ideas for new products and processes and trying to increase the economic level of those people in the depressed rural areas where we have spent billions of dollars but have not put the mechanism there to help produce the jobs.

So I would like to plead with my colleagues on both sides of the aisle to accept this amendment to expand section 4, under B and I, to be able to establish those centers for rural technology development.

Mr. DURBIN. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Chairman, I rise in support of this amendment offered by the gentleman from Oklahoma (Mr. WATKINS).

I think that the watchwords in our economy today are "high technology." Often agriculture is overlooked. In fact, it is the technology and productivity that has brought American agriculture to the point that the gentleman has described, where a very, very small percentage of our population can feed not only the United States, but can feed almost 40 percent of the world.

I think that the gentleman's amendment really focuses attention on a much-needed aspect of American agriculture, and that is the fact that it is on the cutting edge of new technology. Bringing together that technology with the productive capacity we have in this country cannot only put people to work in rural America but can create jobs through that whole food chain, as it does today.

I commend the gentleman for his amendment, I stand in support of it, and I recommend it to my colleagues as well.

Mr. WATKINS. I thank the gentleman for his support and his words of wisdom, and I think the gentleman is certainly right. The new technologies are there. But we have not made them available. Only in agriculture itself have we seen an area of technology transfer, but we have utilized such technology only in the production of agriculture and not in the rural business and industrial development.

Mr. MADIGAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would seek recognition only briefly to ask the gentleman from Oklahoma (Mr. WATKINS) if his amendment authorizes the expenditure of any new or additional money by the Department of Agriculture.

Mr. WATKINS. If the gentleman will yield, no, it does not. I appreciate the question. It does not. It provides in that particular section being able to work within the amount of money available.

Mr. MADIGAN. I thank the gentleman for his answer.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words, and I do so to engage in a colloquy with the distinguished gentleman from Oklahoma (Mr. WATKINS).

I have had some concern expressed to me in relation to the gentleman's proposal, which I think is meritorious, as to what impact it will have on existing agricultural programs in higher institutions like the land-grant colleges or universities, our experiment stations, and such. How does the gentleman contemplate his amendment working into that system?

Mr. WATKINS. If the chairman will yield, I appreciate his question because basically this does not affect those funds that go to the institutions of higher learning for the experimental research and demonstration moneys in order to try to provide the new expertise or the new research in agricultural production or in agricultural hybrid feeds, or whatever, in that area. This is additional. It is different. It is different from the standpoint that we are working with the technologies from that research. In many areas, yes, in agriculture the technologies developed in ARS, the technologies developed in NASA, the technologies developed in the Corps of Engineers, the technologies that are developed in all of the Federal laboratories across the country, in order to try to take that research and, from that technology, transfer, get the technology developed in order to produce the low technology and high technology out in the rural communities and many areas that will not have any way to provide the opportunity of building new businesses and industries or building jobs unless something like this happens.

Mr. DE LA GARZA. May I further ask the gentleman, in the initial section of his amendment he stipulates that any nonprofit institution seeking a grant, et cetera, does that mean that we are looking at existing nonprofit institutions?

Mr. WATKINS. If the chairman will yield, it could mean those who have the expertise in doing that technology transfer or using that technology transfer. It does not mean that there is just a blank check there. And that is the reason why we have said the nonprofit institutions also, because it will allow those that do have expertise already developed, those who have the kinds of skills there of working in technology transfer to be able to utilize this program.

Mr. DE LA GRAZA. Then we could take it to mean that a nonprofit institution could be an educational institution or a vocational community college or technical training institute that would be nonprofit?

Mr. WATKINS. If the gentleman will yield, yes; it could be. And I think that the broadness of the language would allow those who submit the proper applications and could focus on a particular outline or thrust that would allow us to transfer technology for new products, the potential for new businesses and industries, that would develop jobs in those areas. I think that broadness and depth of meaning could be definitely interpreted.

Mr. DE LA GARZA. I hope that it would not—and I ask the gentleman respectfully—mean that three or four people can, say, get together and form a nonprofit institution to apply for a grant, having no knowledge or expertise but may be just a way to get a grant to begin something. Is that what is intended in this amendment?

Mr. WATKINS. If the chairman will yield, I can assure the gentleman that I think that if it is like most grants, there will be careful scrutiny by the USDA, especially in the B & I area of USDA, and without a professional application, an application allowing the professionalism and expertise to be there, I would not make one of these grants to a nonprofit institution or an educational institution unless they provided a program of work showing how it could lead to the establishment of new product development and new businesses and new industries in a particular area.

Mr. DE LA GARZA. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. WATKINS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MADIGAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 383, noes 8, not voting 41, as follows:

[Roll No. 77]

AYES—383

Ackerman
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Berman
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton
Byron
Carney
Carper
Carr
Chandler
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coelho
Coleman (TX)
Collins
Conable
Conte
Conyers
Cooper
Corcoran
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel
Dannemeyer
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Frost
Fuqua
Garcia
Gejdenson
Gekas
Gephardt
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (UT)
Harrison
Hartnett
Hawkins
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kolter
Kostmayer
Kramer
Lagomarsino
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Packard
Panetta
Parris
Pashayan
Patman
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Ritter
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Spence
Spratt
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Valentine
Vandergriff
Volkmer
Vucanovich
Watkins
Weaver
Weber
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zschau

NOES—8

Chappie
Dreier
Lewis (CA)
McCandless
McDonald
Paul
Vento
Weiss

NOT VOTING—41

Addabbo
Annunzio
Barnard
Bereuter
Boggs
Campbell
Coleman (MO)
Dicks
Edwards (AL)
Erlenborn
Ford (MI)
Forsythe
Gaydos
Gibbons
Hall (IN)
Hansen (ID)
Harkin
Hatcher
Ireland
Johnson
LaFalce
Lantos
McCain
McKinney
Moakley
Molinari
Mrazek
Owens
Oxley
Patterson
Rinaldo
Roberts
Schumer
Solarz
St Germain
Towns
Vander Jagt
Walgren
Walker
Waxman
Yatron

□ 1450

Mr. PARRIS changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. FOLEY) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

The **SPEAKER** pro tempore. The Committee will resume its sitting.

EMERGENCY AGRICULTURAL CREDIT ACT OF 1983

The **CHAIRMAN**. The Chair recognizes the gentleman from Tennessee (Mr. Jones).

Mr. DE LA **GARZA**. Mr. Chairman, I would ask as a parliamentary inquiry, can we reconsider the vote?

The **CHAIRMAN**. The gentleman from Tennessee (Mr. Jones) has been seeking recognition, and the Chair recognizes the gentleman.

Mr. **JONES** of Tennessee. Mr. Chairman, I ask unanimous consent that I may have 5 minutes to speak out of order, and that I may use that time for a colloquy with my good friend, the gentleman from Michigan (Mr. Albosta) on section 3 of this bill.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Tennessee?

Mr. **ST GERMAIN**. Mr. Chairman, reserving the right to object, a great number of us came into the Chamber for this vote. The clock downstairs obviously was in error, as well as the clocks on our TV screens. We are wondering if there is an opportunity for us to move to reconsider the vote?

The **CHAIRMAN**. The Chair will state that there is no motion to reconsider in the Committee of the Whole.

Mr. **ST GERMAIN**. Mr. Chairman, can we ask unanimous consent to do that?

The **CHAIRMAN**. Does the gentleman ask unanimous consent to vacate the vote?

Mr. **GIBBONS**. No, Mr. Chairman, we ask to be allowed to be recorded as voting. We were all here.

The **CHAIRMAN**. The Chair cannot entertain that request following the final announcement of the vote.

Mr. **ST GERMAIN**. Mr. Chairman, how about a request to vacate the vote? What would be the implications of that?

The **CHAIRMAN**. In that event the House could have a new 15-minute vote.

Mr. **ST GERMAIN**. And the Members would have a chance to vote again?

Mr. **GIBBONS**. Mr. Chairman, there must have been a dozen of us who did not have the opportunity to vote.

The **CHAIRMAN**. The gentleman will restate his question to the Chair.

Mr. **ST GERMAIN**. Further reserving the right to object, Mr. Chairman, the gentleman from Rhode Island, on behalf of a great number of Members, would like to know if there is a parliamentary procedure for those Members who were diligent in an effort to be here on time but were misled by one of the clocks that was obviously in error to have themselves recorded on the vote that just preceded this colloquy.

Mr. Chairman, I yield to the gentleman from Texas (Mr. de la Garza).

The **CHAIRMAN**. Does the gentleman from Texas (Mr. de la Garza) have a unanimous-consent request?

Mr. DE LA **GARZA**. Yes, Mr. Chairman.

Mr. Chairman, I ask unanimous consent that the preceding vote be vacated and that a new vote be taken on the same amendment at this time.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Texas that the vote be vacated and that there be a new recorded vote on the Watkins amendment?

There was no objection.

The **CHAIRMAN**. The question is on the amendment offered by the gentleman from Oklahoma (Mr. Watkins).

Those Members in favor will vote "aye," and those opposed will vote "no."

The vote will be taken by electronic device.

The vote was taken by electronic device, and there were—ayes 398, noes 3, not voting 31, as follows:

[Roll No. 78]

AYES—398

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton
Byron
Carney
Carper
Chandler
Chappell
Chapple
Cheney
Clarke
Clay
Clinger
Coleman (MO)
Coleman (TX)
Collins
Conable
Conte
Conyers
Cooper
Corcoran
Courter
Coyne
Craig
Crane, Philip
Crockett
D'Amours
Daniel
Dannemeyer
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fowler
Frank
Franklin
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hawkins
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lungren
Mack
MacKay
Madigan
Markey
Marriott
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
Mica
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Traxler
Udall
Valentine
Vandergriff
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zschau

NOES—3

McDonald
Paul
Vento

NOT VOTING—31

Annunzio
Barnard
Campbell
Carr
Coats
Coelho
Coughlin
Crane, Daniel
Edwards (AL)
Hall (IN)
Hall (OH)
Hansen (ID)
Johnson
Lantos
Lundine
Marlenee
Martin (IL)
McCain
McKinney
McNulty
Michel
Moakley
Mrazek
Roberts
Schumer
Solarz
Torres
Towns
Vander Jagt
Wortley
Wright

☐ 1510

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to advise the Members that working with diligence, under the art of the possible, and with very diligent work of staff and the Members, we seem to have reached some semblance of agreement on three of the proposed items that have been in controversy in the legislation.

There are a couple of other amendments that I do not anticipate would require recorded votes. So I would ask Members to bear with us. I know of no amendment on which I would call for a recorded vote or anyone on this side would. I would hope such would be the case on the other side. So I would like to advise the Members that we are proceeding working toward a final conclusion of this legislation hopefully within the hour, and, if not, maybe a little bit more time, but not anticipating at this point any further recorded votes.

I yield back the balance of my time.

☐ 1520

Mr. JONES of Tennessee. Mr. Chairman, I move to strike the requisite number of words.

Mr. ALBOSTA. Mr. Chairman, will the gentleman yield?

Mr. JONES of Tennessee. I yield to the gentleman from Michigan for a colloquy.

Mr. ALBOSTA. I thank the gentleman for yielding.

Mr. Chairman, I have one question which I would like to ask at this time to clarify a problem that exists in my own State of Michigan concerning the Farmers Home Administration's water and wastewater grant and loan program.

Currently, there are many communities in Michigan not eligible for Farmers Home grants to build water and/or wastewater treatment systems because of the FmHA regulation which states that communities with a median family income greater than 85 percent of the statewide nonmetropolitan median family income are not eligible for any grant assistance under this FmHA program.

As a result, it has become too expensive for many communities in Michigan to participate in this Farmers Home program. The debt service levels are just too high to make many of these projects feasible. For example, in Michigan, 85 percent of the statewide nonmetropolitan median family income is about $14,700. Under this rule, only 26 percent of the rural communities are eligible for grant assistance to build needed water and wastewater systems.

Therefore my question, Mr. Chairman, is whether the language in this bill, H.R. 1190 and on pages 14 and 15 of accompanying House Report 98-48, will permit a graduated scale of grant assistance to communities so that no longer will any needy community be ineligible for grant assistance based on their median family income?

Mr. JONES of Tennessee. Yes, the gentleman from Michigan is absolutely correct. H.R. 1190 and the accompanying language in House Report 98-48 establishes a sliding scale of grant assistance to eligible rural communities and will correct the problem in Michigan with the current Farmers Home regulations requiring communities to have a median family income to 85 percent or less of the statewide nonmetropolitan median family income in order to be eligible for any grant assistance under this FmHA program.

Mr. ALBOSTA. Furthermore is it the intent of the House Agriculture Committee and the full House that Farmers Home follow the guidelines set down in the language in House Report 98-48 in issuing regulations for the water and wastewater program?

Mr. JONES of Tennessee. We expect FmHA to use the language contained in the bill and the committee report in promulgating the regulations to govern this program.

Mr. ALBOSTA. I thank the distinguished chairman of the Conservation, Credit and Rural Development Subcommittee for taking the time to clarify the rules under which the FmHA water and wastewater grant program will operate under H.R. 1190. This is a matter of great concern to many rural communities in Michigan and I believe the changes contained in H.R. 1190 and as clarified by the distinguished gentleman from Tennessee will make this program operate more effectively in Michigan. The gentleman from Tennessee deserves a great deal of recognition for bringing the Emergency Agricultural Credit Act to the floor. His leadership on issues of concern to rural America is appreciated by those of us representing rural districts in Congress.

Mr. Chairman, again I thank the gentleman.

Mr. JONES of Tennessee. Mr. Chairman, I thank the gentleman from Michigan (Mr. ALBOSTA), and I yield back the balance of my time.

AMENDMENTS OFFERED BY MR. DORGAN

Mr. DORGAN. Mr. Chairman, I offer amendments.

The CHAIRMAN. The Clerk read as follows:

Amendments offered by Mr. DORGAN: On page 8—

(A) line 17, strike out "(a)" following "Section 310B";

(B) line 20, insert "of subsection (a)" after "sentence"; and

(C) line 24, strike out "and" following the semicolon.

On page 9—

(A) line 1, strike out "thereof" and insert in lieu thereof "of subsection (a)";

(B) line 3, strike out the second period and insert in lieu thereof "; and"; and

(C) insert after line 3 the following:

"(3) inserting after subsection (e) the following new subsection:

"(f) Notwithstanding any other provisions of this title or any other law, during the period beginning with the date of enactment of the Emergency Agricultural Credit Act of 1983 and ending on September 30, 1984—

"(1) The Secretary shall make and insure loans to small businesses that are located in rural areas and that (i) are engaged in furnishing farmers and ranchers machinery, supplies, and services directly related to the production of commodities that are eligible for payment-in-kind land diversion programs carried out by the Secretary, and (ii) establish by substantial evidence that they are experiencing severe economic hardship directly attributable to the operation of such program. Loans shall be made under this subsection for the purpose of assisting eligible borrowers to continue to operate their businesses during the period of such economic hardship.

"(2) No loan may be made or insured under this subsection which exceeds $50,000 in principal amount.

"(3) The period of repayment of loans made or insured under this subsection shall be 12 months.

"(4) The rate of interest on loans made or insured under this subsection shall be the rate of interest applicable to operating loans under section 316(a)(1), reduced by 3 per centum.

"(5) Not less than 10 per centum of the funds that may be used for industrial development loans under the Act of December 18, 1982 (Public Law 97-370, 96 Stat. 1799) during fiscal year 1983 shall be made available for loans made or insured under this subsection to the extent needed to meet applications filed by small business that are eligible for such loans.

"(6) The Secretary shall issue regulations implementing this subsection not later than sixty days after the date of enactment of the Emergency Agricultural Credit Act of 1983.".

On page 26, after line 24, insert the following: "during the fiscal year ending September 30, 1984, not less than 10 per centum of the funds that may be used for industrial development loans shall be made available for loans made or insured under section 310B(f) to the extent needed to meet applications filed by small businesses that are eligible for such loans."

Mr. DORGAN (during the reading). I ask unanimous consent the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

Mr. DORGAN. I ask unanimous consent to offer these amendments en bloc to H.R. 1190. The amendments would amend not only section 4 but section 15 of the bill as they relate to one subject.

The CHAIRMAN. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

Mr. DORGAN. Mr. Chairman, the amendment I have sent to the desk would add to the Emergency Agricultural Credit Act a section designed to offer emergency credit to farm supply and service businesses which have been adversely affected by the payment-in-kind program.

Mr. Chairman, this Congress and the administration have embarked on a PIK program (payment-in-kind). Most of us on this floor believe that it is a unique and creative approach, to address the farm problem and we hope very much that it will work to reduce the surplus grain that we have in this country and, therefore, work to increase farm prices.

The farmers have done their part. The farmers of America have agreed to participate in PIK, in large numbers.

But the participation in the PIK program is not equal across all States. For example, the State of North Dakota has a very, very heavy participation. Nationally farmers have agreed to remove about 82 million acres from production that are normally planted to wheat, to corn, to cotton, and to rice.

As I said in North Dakota the rate of participation was very substantial. In North Dakota 43 percent of the total base acreage will be idled, and in Minnesota 43 percent of the total base acreage will be idled.

My concern is that now that we have embarked on the PIK program in which we try to get farmers to decrease their production, there are going to be some independent, small businesses on the main streets of the towns in rural America whose business is principally to supply products and services to family farmers and who will experience some very significant reductions in their business this year.

The USDA estimates in the seed business a 12- to 15-percent decline this year, in the fertilizer business, a 12- to 14-percent decline this year, pesticides, 12- to 15-percent decline this year.

Statistics that relate directly to States such as North Dakota and Minnesota which have a much higher participation in PIK would show a higher decline in sales for some of these main street business people.

My point is as we proceed down the road with the PIK program, if we have areas in which the sale of fertilizer or chemicals will be reduced by 40 percent this year for small businesses who have already suffered perhaps a 15- or 20-percent decrease last year, it seems to me we ought to try to analyze what we can do with the Farmers Home Administration programs to try to give some of those folks a chance to survive until the PIK programs kicks in an starts working.

What I have done in this amendment, Mr. Chairman, is to provide a method by which small businesses who have suffered severe financial hardship and can demonstrate that they have suffered that hardship as a result of the PIK program would be eligible for an operating loan from the business and industry loan program in the Farmers Home Administration.

The maximum amount of the loan would be $50,000. The rate would be the same rate as the operating loan under the limited resource program. The guidelines for the loan program would be developed by the Secretary of Agriculture.

Mr. Chairman, this is not asking for new money to be appropriated or authorized. This simply frames part of the business and industry loan program in the Farmers Home Administration and says that what we would like to do is create a method by which small businesses that would suffer severe financial hardship as a result of this acreage being taken out of production would be able to get an emergency operating loan for a 12-month period.

I think it makes eminent good sense to try to give some protection to some good small businesses on the main streets of rural American towns who might not otherwise survive while the PIK program has a chance to work and to kick in.

We support efforts to increase prices and give family farmers a chance to make it. All of us support that. At the same time let us support a method by which we use existing funds in the B&I program to give small businesses on those main streets that work with those family farms the same chance to survive during the next 12 months while all of us hope the PIK program kicks in and starts working for the family farmer.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. DORGAN. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, I thank the gentleman for yielding.

I want to compliment the gentleman on his amendment. I think it is an excellent amendment.

I have a couple of questions to perhaps bring out a little more facts surrounding the amendment.

I understand the gentleman is earmarking 10 percent?

Mr. DORGAN. That is correct. The amendment provides no less than 10 percent of the existing money in the B&I loan program. Currently there exists $300 million in the B&I loan program.

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As I indicated the Secretary of Agriculture would be in this amendment required to develop the rules and regulations and guidelines.

The 10 percent is the minimum. The Secretary of Agriculture, if the need exists, could go much above that.

Mr. HARKIN. I understand. And second, the criteria that these businesses would have to meet again would be the same criteria that they would have to meet for the regular B&I loan plus what other things would they then have to show?

Mr. DORGAN. The basic criteria is simply that a small business would be required to demonstrate to the Farmers Home Administration, under guidelines proposed by the Secretary, that they have suffered severe financial hardship and that it is the result of the PIK program.

The CHAIRMAN. The time of the gentleman from North Dakota (Mr. DORGAN) has expired.

(By unanimous consent, Mr. DORGAN was allowed to proceed for 2 additional minutes.)

Mr. DORGAN. And I think that it will not be difficult to demonstrate that on the main street of a community in which the surrounding farmers have taken a dramatic amount of cropland out of production and there has been a precipitous drop of, let us say, chemical sales, or fertilizer sales, or equipment sales. I think that financial hardship can be demonstrated quite readily.

Mr. HARKIN. I thank the gentleman for again clarifying it one more time and I do support the gentleman's amendment.

I am quite aware of many small rural businesses in my own district where they have been operating well in the past, but because of this 1-year PIK program they could be in such straits that they would not be able to survive beyond this year. But given some infusion of money like through the B&I loan program would get them past this year, they will be good family-owned businesses and they will be able to survive beyond this year.

Mr. DORGAN. That is precisely the point of the amendment. And here is an example. A fellow from my home State has a small fertilizer company. He points out that the decrease in his business is dramatic enough so that he simply will not make it through this year unless he has some small amount of emergency help. And a small operating loan from the B&I loan program might give this person enough breathing room so that when farmers become economically healthy once again through this PIK program, if that is the result of it and all of us hope it is, then this fellow will benefit as well.

But it finally comes down to individual cases. We are trying to protect and give some economic support to some family businesses who might otherwise fail.

Mr. HARKIN. It is a very good amendment and I compliment the gentleman.

Mr. DORGAN. I thank the gentleman.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. DORGAN. I yield to the gentleman from Iowa.

Mr. BEDELL. I thank the gentleman for yielding.

I also want to compliment the gentleman on his amendment. I have had letters from my district which indicate that there are a number of businesses in exactly the same situation that the gentleman describes here and I certainly support his amendment.

Mr. DORGAN. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from North Dakota (Mr. DORGAN) has expired.

(At the request of Mr. MADIGAN and by unanimous consent, Mr. DORGAN was allowed to proceed for 3 additional minutes.)

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. DORGAN. I yield to the gentleman from Illinois.

Mr. MADIGAN. I thank the gentleman for yielding.

Because I do not have a copy of the gentleman's amendment, I am not quite sure what it is the gentleman is asking for. But I understand that $1 billion was authorized for the B&I program, but only $300 million was appropriated.

The gentleman is asking for 10 percent. Is the gentleman asking for 10 percent of the authorized amount or the appropriated amount?

Mr. DORGAN. Well, the budget authority that was passed by Congress for the B&I loan program is $300 million, so the 10 percent would relate to the $300 million.

Mr. MADIGAN. So what the gentleman is asking for is $30 million?

Mr. DORGAN. To simply fence, no less than 10 percent of the B&I loan program, and make it available under guidelines published and developed by the Secretary of Agriculture to small businesses who could qualify under the amendment. That is correct.

Mr. MADIGAN. I think the gentleman has a very good amendment. I think it is a timely amendment and I am going to support it and would urge that all the Members of the House support the amendment of the gentleman from North Dakota.

Mr. DORGAN. I appreciate the support of the gentleman from Illinois.

Mr. DAUB. Mr. Chairman, I wish to indicate my wholehearted support for the amendment of my colleague from North Dakota, to H.R. 1190, which would require the Department of Agriculture to extend and insure loans to rural small businesses which furnish farmers and ranchers with machinery, supplies, and services.

I have received numerous letters from constituents in recent months indicating that the payment-in-kind program, while sorely needed, is having adverse impact on the agribusiness community.

With up to one-third of our national cropland base effectively idled, the suppliers of machinery, seed, and other farm services stand to suffer a great reduction in their business activity. Many of these suppliers have, on hand, stocks which were ordered and received prior to the announcement of the payment-in-kind program.

While the eventual stability rendered by PIK may help these types of businesses in the long term, many of these businesses may not be able to hold on long enough to benefit from eventual stability in the farm community.

A subcommittee of the Small Business Committee, of which I serve, already has reported legislation having the same impact as my colleagues' amendment. I was pleased to see that my colleagues on the Small Business Committee recognize the importance to our country of a healthy agricultural sector, producer and supplier alike. I would hope that my colleagues in the full House would have the same understanding.

I applaud my colleague for his introduction of the amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from North Dakota (Mr. DORGAN).

The amendments were agreed to.

The CHAIRMAN. Are there further amendments to section 4?

If not, the Clerk will designate section 5.

The text of section 5 reads as follows:

OPERATING LOAN LIMITS

SEC. 5. Section 313 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1943) is amended by striking out "$100,000, or, in the case of a loan guaranteed by the Secretary, $200,000" and inserting in lieu thereof "$200,000, or, in the case of a loan guaranteed by the Secretary, $400,000".

AMENDMENT OFFERED BY MR. BEDELL

Mr. BEDELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEDELL: On page 9, line 5, strike section 5.

Mr. BEDELL. Mr. Chairman, this amendment is very similar to the amendment which we passed by a vote of 284 to 121 previously. The previous amendment had to do with the ownership loans. This has to do with operating loans.

The amendment would simply keep the individual limit at the same amount as it is at this time rather than to increase those individual limits at a time when we do not have adequate money available.

I think it is self-explanatory. The amount is $100,000. This would keep the amount at $100,000.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. BEDELL).

The amendment was agreed to.

The CHAIRMAN. The Clerk will designate section 6.

The text of section 6 reads as follows:

CONSOLIDATION AND RESCHEDULING OF OPERATING LOANS

SEC. 6. Section 316 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946) is amended by—

(1) in subsection (b)—

(A) in the second sentence, striking out "seven years" and inserting in lieu thereof "fifteen years"; and

(B) amending the fifth sentence to read as follows: "The interest rate on such consolidated or rescheduled loans, other than guaranteed loans, shall be the lower of (1) the rate charged under the prior loans so consolidated or rescheduled, or (2) the rate being charged for loans made under this subtitle at the time of the consolidation or rescheduling."; and

(2) adding at the end thereof the following new subsection:

"(c) The Secretary shall allow a borrower who has an outstanding loan made under this subtitle to use proceeds from the sale of property securing the loan to make prospective scheduled payments on the loan, if after such sale the borrower has adequate security to protect the loan: *Provided*, That the Secretary determines that such sale does not impair the borrower's ability to continue the borrower's operation.".

The CHAIRMAN. Are there amendments to section 6?

If not, the Clerk will designate section 7.

The text of section 7 reads as follows:

ELIGIBILITY FOR EMERGENCY LOANS

SEC. 7. Section 329 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1970) is amended by adding at the end thereof the following new sentence: "Eligibility of an applicant for assistance under this subtitle based upon production losses shall be determined solely on the basis of the factors designated in this section and shall not be affected by the Secretary's designation of, or failure to designate, a county or counties for emergency loan purposes.".

The CHAIRMAN. Are there amendments to section 7?

AMENDMENT OFFERED BY MR. MADIGAN

Mr. MADIGAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MADIGAN:

On page 10—

(1) line 19 strike "designation of, or" and line 20 strike the comma, and

(2) line 20 insert after the word "purposes", the following: "except that the applicant must establish to the satisfaction of the Secretary that such losses were sustained as a result of such disaster", and

(3) line 20 immediately before the ending quotation mark insert the following sentence:

The determinations of the Secretary under this section shall be final unless found by a court of competent jurisdiction, on the basis of the administrative record, to have been arbitrary, capricious, or otherwise not in accordance with law or the regulations issued in accordance with law.

Mr. MADIGAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MADIGAN. Mr. Chairman, this is the first of three amendments that form the framework for a compromise on H.R. 1190 that has been reached between the majority and the minority and I want to say at the outset how very much I appreciate the cooperation of the distinguished gentleman from Texas, the chairman of the committee (Mr. DE LA GARZA) and the distinguished gentleman from Tennessee, the chairman of the subcommittee (Mr. JONES), in enabling us to be able to come to terms that form a compromise which will make it possible for us to go ahead and I hope pass this bill with the unanimous vote of the House of Representatives this afternoon.

This particular amendment deals with that portion of the bill that would have allowed a farmer to require or to at least request of the Secretary of Agriculture that his farm be designated on an individual basis as having been a disaster area for the purpose of obtaining financial assistance under the disaster provisions of the existing law.

And essentially what the amendment that I am offering does is to clarify that the Secretary has the discretion to determine that a disaster actually has occurred and that the losses sustained by the individual farmer are a result of that weather disaster or natural disaster, whatever the case might have been.

I think it is a beneficial amendment and it really does what I am sure the committee intended to do in the beginning and I would hope that the committee would be able to support the amendment.

Mr. COLEMAN of Missouri. Mr. Chairman, would the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Missouri, whose assistance in working out this compromise I certainly also want to acknowledge.

Mr. COLEMAN of Missouri. I thank the gentleman for yielding and to clarify the gentleman's intention, then the Secretary might designate a county for disaster purposes based upon a percentage of production loss if he so desired, but if the Secretary fails to designate a county a farmer still might be eligible for a disaster loan; is that correct?

Mr. MADIGAN. That is correct, but the farmer would have the responsibility of providing to the satisfaction of the Secretary that the disaster had actually occurred. It would not have to be a disaster of the same proportions across the country as is required by the present law.

Mr. COLEMAN of Missouri. I think the gentleman's amendment then goes in the right direction, although I think perhaps the reason that we had to get to the position of working out this compromise was a result of perhaps inflexibility on the Department's part in failing to follow present law, which I think is pretty clear on the record, but I congratulate the gentleman for coming up with this compromise, and again, it requires that the Secretary makes this decision, but he cannot be arbitrary and capricious which I think is very important from the farmers' standpoint.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I am happy to yield to my colleague and friend from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

I repeat the gentleman's mention that this is one of three amendments that has been worked out in a split of compromise.

As far as I am able to ascertain, we have no objection on this side.

I thank the gentleman for his cooperation and understanding.

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Hopefully, this and the other two amendments will enhance our position in order to finally enact this legislation. Then, working together with the Department of Agriculture, we might be able to assure that the intent of the Congress in trying to assist those in need in rural America, the final aim is of this legislation, is realized.

I thank the gentleman for his consideration of our suggested compromise, and we accept this suggested compromise on our side.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for his contribution.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MADIGAN).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 7?

If not, the Clerk will designate section 8.

The text of section 8 reads as follows:

EXTENSION OF TIME FOR ADDITIONAL EMERGENCY LOANS

SEC. 8. Section 330 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1971) is amended by—

(1) inserting the designation "(a)" after the section designation; and

(2) adding at the end thereof the following new subsections:

"(b) Notwithstanding the provisions of subsection (a), subsequent loans to continue a farming, ranching, or aquaculture operation may be made under this subtitle on an annual basis—

"(1) in the case of borrowers who have outstanding loans approved by the Secretary under this subtitle after December 15, 1979, and before October 1, 1981, for not to exceed four additional years; and

"(2) in the case of borrowers who have outstanding loans approved by the Secretary under this subtitle after September 30, 1981, and before October 1, 1982, for not to exceed three additional years.

"(c) Subsequent loans made pursuant to the authority of subsection (b) shall be subject to the limits on loans and rates of interest established under section 324 (a)(2)(C) and (b) respectively.".

The CHAIRMAN. Are there amendments to section 8?

If not, the Clerk will designate section 9.

The text of section 9 reads as follows:

AUTHORITY TO MODIFY CLAIMS

SEC. 9. Section 331(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(d)) is amended by—

(1) striking out "$25,000" and inserting in lieu thereof "$50,000"; and

(2) amending subparagraph (4) to read as follows:

"(4) any claim which is due and payable and where the debtor (i) has no assets or no apparent future debt-paying ability from which the claim could be collected, or (ii) is decreased and has left no estate, or (iii) has no known assets from which the claim can be collected and the debtor's whereabouts cannot be ascertained without undue expense, may be charged off or released by the Secretary upon a report and favorable recommendation of the county committee and of the employee having charge of the claim, except that any claim involving a principal balance not referable to the Department of Justice, as provided in the Federal Claims Collection Act of 1966 (Public Law 89-508; 80 Stat. 308), may be charged off or released whenever it appears to the Secretary that further collection efforts would be ineffectual or likely to prove uneconomical; and".

The CHAIRMAN. Are there amendments to section 9?

If not, the Clerk will designate section 10.

The text of section 10 reads as follows:

LOAN DEFERRALS

SEC. 10. (a) Section 331A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981a) is amended by—

(1) inserting the designation "(a)" after the section designation;

(2) in the second sentence, striking out "section" and inserting in lieu thereof "subsection"; and

(3) adding at the end thereof the following new subsections:

"(b)(1) During the period beginning on the date of enactment of this subsection and ending on September 30, 1984, upon request by a borrower that the Secretary (A) forgo foreclosure on, (B) consolidate, reschedule, or reamortize, or (C) defer payment of principal and interest on, an outstanding loan made, insured, or held by the Secretary for farm ownership purposes under subtitle A of this title, farm operating purposes under subtitle B of this title, disaster emergency purposes under subtitle C of this title, or economic emergency purposes under the Emergency Agricultural Credit Adjustment Act of 1978, the Secretary shall comply with the requirements of paragraphs (2) and (3).

"(2) If the borrower establishes by substantial evidence that (A) the borrower has followed good management practices but has suffered production losses or economic losses related to farming operations caused by economic or natural conditions beyond the control of the borrower, and (B) the borrower is unable to repay the loan in accordance with the terms and conditions applicable to the loan at the time of the request, based upon a comprehensive statement of the farm and financial situation, the Secretary shall forgo foreclosure and make available to the borrower a consolidated, rescheduled, or reamortized loan providing for equitable repayment terms consistent with the borrower's farm and financial situation.

"(3) If the borrower further establishes by substantial evidence that (A) the borrower is unable to repay the loan in accordance with the new terms made available by the Secretary under paragraph (2), based upon such comprehensive statement of the farm and financial situation, and (B) following the period of deferral, there is a reasonable probability that the borrower can pay installments on the loan in full under terms consistent with the borrower's farm and financial situation that would apply upon expiration of the deferral period if normal economic and natural conditions exist, the Secretary shall approve the deferral, for a one-year period beginning on the date such deferral is approved, of payment of principal and interest on any such loan and forgo foreclosure for the period of deferral. Interest that accrues during the deferral period on any loan deferred under the provisions of this subparagraph shall bear no interest during or after such period. No borrower may obtain more than one deferral under this subparagraph with respect to any one loan.

"(4) The provisions of this subsection shall be applicable only to borrowers who own or operate family-size farms, as determined by the county committee.

"(c) Upon the expiration of any period of deferral of payment of principal and interest and forgoing of foreclosure by the Secretary under subsection (b)(3), the Secretary shall make available to the borrower, at the borrower's request, procedures whereby the loan may be consolidated, rescheduled, or reamortized to provide equitable repayment terms consistent with the borrower's farm and financial situation, and any loan so consolidated, rescheduled, or reamortized, as well as any loan consolidated, rescheduled, or reamortized under subsection (b)(2), shall bear interest at a rate that is the lower of (1) the rate charged on the loan so consolidated, rescheduled, or reamortized, or (2) the rate being charged under the applicable subtitle of this title or under the Emergency Agricultural Credit Adjustment Act of 1978, as the case may be, at the time of the consolidation, rescheduling, or reamortization.

"(d) The Secretary shall promulgate regulations that provide (1) for notification of all borrowers who are obligated to repay loans of the types described in subsection (b) of the provisions of this section and all other servicing alternatives offered by the Secretary, (2) clear procedures by which borrowers may petition the Secretary for relief under such provisions and alternatives and (3) for appeal within the Department of Agriculture for a decision that denies relief under such provisions and alternatives.

"(e) Any farm loan deferred, consolidated, rescheduled, or reamortized under any authority of the Secretary under this title other than under subsections (b) and (c) of this section shall, notwithstanding any other provision of this title, bear interest on the balance of the original loan, and for the term of the original loan at a rate that is the lower of (1) the rate charged on the original loan, or (2) the rate being charged under the applicable subtitle of this title at the time of the deferral, consolidation, rescheduling, or reamortization.

"(f) The county committee shall make the initial appeal determination as to whether the borrower has met the criteria for relief specified in subsections (a) and (b) of this section.".

(b) The provisions of section 331A(f) of the Consolidated Farm and Rural Development Act, as added by this section, shall become effective on January 1, 1984.

(c) Notwithstanding any other provision of law, the Secretary shall issue regulations implementing the amendments made by this section not later than sixty days after the effective date of this Act.

AMENDMENT OFFERED BY MR. COLEMAN OF MISSOURI

Mr. COLEMAN of Missouri. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLEMAN of Missouri: Page 14, line 20, insert the following new sentence after "deferral."

Interest shall accrue during the deferral period and shall become part of the total of principal and interest to be repaid.

Mr. COLEMAN of Missouri. Mr. Chairman, there was brought up in general debate a question of whether or not a person who receives a deferral would have to pay interest during the period of time that his loan was being deferred. In order to clarify that indeed he does have to pay that interest, I offer this amendment.

If there are any questions. I will try to respond to them.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I want to congratulate the gentleman on the amendment. I think it is an important addition to the bill and it does respond to the concerns that have been expressed to me by many Members of the House. I want to congratulate the gentleman for offering the amendment and assure him of my support.

Mr. COLEMAN of Missouri. I thank the gentleman.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, we see no objection to accepting on this side the amendment offered by the gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN of Missouri. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. COLEMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MADIGAN

Mr. MADIGAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MADIGAN: Page 14, line 7, immediately after "establishes," insert "to the satisfaction of the Secretary."

Page 14, insert the following at the end of line 24: "During any period of deferral under this paragraph, the borrower shall meet periodically with the Secretary, at the request of the Secretary, for the purpose of reviewing the borrower's farm and financial situation. If the Secretary determines that the borrower has become able to resume making loan payments in accordance with the original terms of the loan or on the basis of new terms made available by the Secretary under paragraph (2), the period of deferral shall then be terminated by the Secretary.".

Page 15, after line 3, insert the following: "(5) The determinations of the Secretary under paragraphs (2) and (3) shall be final unless found by a court of competent jurisdiction, on the basis of the administrative record, to have been arbitrary, capricious, or otherwise not in accordance with law or regulations issued in accordance with law.".

Mr. MADIGAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MADIGAN. Mr. Chairman, there are actually three parts to this amendment, part of it occurring on page 14 at line 7, part at line 24 on page 14, and part on page 15 after line 3. The purpose of this three-part amendment is to deal with the deferral section of the bill which has been the most controversial section of the bill from the onset.

Effectively, what the amendment does, the three-part amendment, is to establish that the request for the deferral must be justified to the satisfaction of the Secretary of the Department of Agriculture, that the person receiving the deferral must meet periodically with the Secretary, and at the request of the Secretary review his farm or financial situation. Then, if the Secretary determines that the borrower has become able to resume making his or her loan payments in accordance with the original terms of the loan, the Secretary may require that the repayment begin.

Finally, the third part of the amendment simply states that the decisions of the Secretary shall be final unless found by a court of competent jurisdiction, on the basis of the administrative record, to have been arbitrary, capricious or otherwise not in accordance with law or regulations issued in accordance with the law.

I think that this three-part amendment addresses the concerns that many Members of the House have had with regard to the deferral provisions in the bill and makes it possible for people to support the bill who would have liked to support the bill from the very beginning.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I appreciate the gentleman's yielding, and I would say to the gentleman that this provision generally parallels the present law under the graduation system under which the Secretary continues working with a borrower and if he finds sufficient cause, he graduates him to a private lender. A similar approach would apply under the deferral. If the borrower is determined, during the deferral period, to be able to repay, he would have to repay under either a rescheduling or under the original loan terms.

So I see no objection, as it in part generally reflects the present law on other Farmers' Home loans. I would support and accept the amendment offered by the gentleman from Illinois (Mr. MADIGAN).

Mr. MADIGAN. I thank the gentleman for his support.

Mr. DURBIN. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to my colleague and neighbor, the gentleman from Illinois.

Mr. DURBIN. Mr. Chairman, I would like to ask the gentleman, in reference to his amendment—and I have no objection to the second part; I think it is a very valuable addition to the bill—by inserting the language "to the satisfaction of the Secretary," do we not make this whole deferral process in the discretion of the Secretary?

Mr. MADIGAN. No, I do not believe so; but I do believe that we give the Secretary a greater degree of authority than I thought was the case in the language of the bill as it was reported by the committee.

I might say that the supporters of the bill did not feel that the extent to which the Secretary's authority was diminished was as great as I thought that it was.

The inserting of this language, "to the satisfaction of the Secretary," makes the language of the bill consistent, in my judgment, with what the supporters of the bill have said from the very beginning was their intent. And I am merely inserting this language with their agreement, to assure that the bill is in the form that they intended it to be.

Mr. DURBIN. It was my understanding, in the course of the testimony in the committee, that we were seeking to establish objective standards where a borrower could go before the Farmers Home Administration and seek a loan deferral and, under those circumstances, once the borrower had met his burden of proof, the Secretary would then be compelled to defer the loan under those circumstances.

I take it, from the addition of the language, by this amendment, that we have now added on top of the process the fact that it has to be to the satisfaction of the Secretary, notwithstanding whatever burden the borrower thinks he has met.

Mr. MADIGAN. Mr. Chairman, I would say to the gentleman that I think it makes clear where the burden of proof is or where the burden lies. In my judgment, there was not sufficient burden upon the borrower to show to the satisfaction of the Secretary that the deferral was justified.

I think by inserting this language, the borrower comes forward requesting the deferral with the clear understanding that the case that he or she might make in requesting the deferral is going to have to be strong enough to satisfy the Secretary that it is warranted.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. MADIGAN) has expired.

(By unanimous consent, Mr. MADIGAN was allowed to proceed for 2 additional minutes.)

Mr. MADIGAN. The third part of the paragraph insures that the Secretary's decision in denying the deferral, should he do that, cannot be arbitrary or capricious.

Mr. DURBIN. If the gentleman will continue to yield for a short period, it is my understanding, though, that if the borrower should question whether or not the Secretary has imposed a greater standard than the law specifies, the borrower must prove in court, by the administrative record, that the Secretary's decision is arbitrary and capricious, which is a rather high standard under the law; is that not correct?

Mr. MADIGAN. Or otherwise not in accordance with law or regulations issued in accordance with the law. I would say to the gentleman that, practically, what the borrower must do is to show that to the satisfaction of the county committee, which is made up of his or her colleagues in the farming business in the county in which the borrower resides.

Mr. DURBIN. I thank the gentleman.

□ 1550

Mr. OLIN. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I would be happy to yield to my colleague from Virginia.

Mr. OLIN. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask the gentleman from Illinois if he recalls the discussion at some length on this subject both in the subcommittee and in the full committee and in meetings over a long weekend. My recollection is that it was our intention in selecting the wording that was selected, which basically puts the burden of proof on the borrower and requires the borrower in each case to establish by substantial evidence his position, or the condition of his farm, that we had selected the most desirable language with regard to the position of the Secretary, and the most desirable language to accomplish what we were trying to accomplish, which was, of course, to keep the borrower paying if it is at all possible, and allow the Secretary only to defer when the borrower filed his proof.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. MADIGAN) has expired.

(On request of Mr. COLEMAN of Missouri and by unanimous consent, Mr. MADIGAN was allowed to proceed for 3 additional minutes.)

Mr. OLIN. Could the gentleman from Illinois respond to that?

Mr. MADIGAN. If the gentleman is asking me if I thought that the combination of the Olin amendment and the language that had been inserted by the gentleman from Missouri (Mr. COLEMAN) was adequate, my response would be no.

The gentleman may recall that I supported his amendment and stated that I thought his amendment improved the bill considerably from my perspective. But I did not think that it went far enough.

I would also remind the gentleman that there was quite a bit of confusion within the committee as to exactly what his amendment did.

Mr. OLIN. If the gentleman will yield further, I believe that confusion disappeared on the second day of our discussion on the subject.

Mr. MADIGAN. The gentleman may recall that the gentleman from Illinois was not there for the second day.

Mr. OLIN. That is correct.

Mr. Chairman, I would make the point to the gentleman that I think the language in the bill is fully sufficient to reach the objectives that he seeks to reach, and I would question whether it would be advisable to change the wording.

Section 10 of this bill has been the subject of a great deal of misunderstanding. As a member of the Agriculture Committee who successfully offered an amendment to this part of the bill, I thought it might be helpful if I took a few minutes to describe what this provision calls for, how much it really costs, and how we got to this point.

When this bill was brought before the full Agriculture Committee this section basically said that if a Farmers Home Administration borrower met certain tests, the Secretary would have to grant him a 1-year deferral on his loan payments.

I did not think that it made any sense for us to be telling these borrowers that they did not have to try to pay off their loans if they met the conditions in the bill. Maybe a borrower could not make full payments on his loan, but he could pay 75 percent of the loan payment or some other partial payment. The way I look at it, if a person takes on a debt, he should be required to pay off that debt to the maximum extent that he can. The bill brought to the full committee did not hold with the philosophy so I amended it.

What did my amendment say? Basically it says that if a borrower meets the conditions in the bill, the Secretary will work with him to renegotiate his loan so that he will be able to continue making payments on his loans.

Under my amendment, only if a person can demonstrate that he can not make his payments even with a renegotiated loan, but there is a reasonable probability that he will be able to in a year, does the borrower get a deferral.

My amendment was adopted by the Agriculture Committee and this is the language before us today. I cannot stress strongly enough how much my amendment changed the very nature of this section of the bill. This is not a deferral provision, it is a repayment provision. My amendment saves the Government at least $1.45 billion compared to the bill before my amendment. That is the estimate of the Congressional Budget Office. With my amendment, this section results in saving of $850 million from what is allowed under the House-passed budget resolution. That is $850 million we can take off the deficit.

The administration has been passing around some highly misleading information on the cost of this section of the bill. They have been saying that it will cost at least $2.6 billion. Let me tell you what they are talking about. If all eligible loans were deferred for 1 year, the lost loan repayment revenues would be about $2.6 billion. CBO, however, understands that this does not happen under the bill before us today. In its estimates, CBO recognizes that whether we have this bill or not, FmHA is going to defer some loan repayments. CBO estimates this will reduce the potential cost to $2.3 billion if everyone who was not going to otherwise get a deferral was now granted one. However, CBO also recognized that everyone was not going to be granted a deferral since this provision does not call for that. Instead, CBO estimates that the remaining eligible FmHA borrowers would have their loans renegotiated. This would drop the combined costs of this section in fiscal years 1983 and 1984 to $850 million. According to CBO the remainder of the borrowers would not meet the eligibility tests contained in this section and no action would be taken to change their repayment schedules.

So we are not talking about a cost of $2.6 billion, instead we are looking at a potential cost of $850 million while the budget resolution allows $1.7 billion.

I might also add that I think it is not entirely accurate to estimate the cost of this section at $850 million. That figure assumes that FmHA would not be renegotiating loans absent this section. The past history of the Farmers Home Administration shows that that is not a valid assumption. FmHA is renegotiating loans and some of those would get new loan terms under this section would have gotten them anyway. Therefore, the true cost of this section is probably much lower than even the $850 million estimate.

Who is eligible for the assistance provided in this part of the bill? The bill sets up a number of tests which are reasonable and which makes this assistance available only to "good risk" borrowers. First, to be eligible the borrower must demonstrate that he follows good management practices. Second, he must demonstrate that he has suffered farm production losses through no fault of his own from natural or economic forces beyond his control. Third, he must present a comprehensive statement of his farm and financial situation which demonstrates that he is unable to repay his loan under its current conditions. If he is granted a deferral under this section, he must also demonstrate that there is a reasonable probability that he will be able to make his payments at the end of the deferral period. We are not giving this assistance to farmers who would are bad managers or who will not be able to make future payments no matter what we do for him. Under this bill, the Secretary does not have to do anything for a borrower who does not meet all of these tests. The Secretary can go ahead and foreclose on any borrower who is not eligible for the assistance under this part of this bill.

This is not a blanket mandatory deferral provision. It is a selective "good managers" loan repayment provision. If my amendment had not been adopted by the Agriculture Committee, I would be leading the attack on this bill. However, the bill with my amendment is a very different animal from that being described by the administration. If you think that a person should not be required to pay off his debts to the maximum extent that he can, then maybe you should vote against this measure. However, if you want to make sure that the Farmers Home Administration works with its borrowers to get maximum loan repayment, then I would suggest that you support this section of the bill.

I urge my colleague to read this section of the bill. If you do not and rely instead on what the administration is pushing you may be making a big mistake.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I would be happy to yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. I thank the gentleman for yielding.

Mr. Chairman, I congratulate the gentleman for pursuing a compromise position on the very section that we are on here, on section 10. It is the cornerstone of this piece of legislation, and I want to point out to those or us who support the deferral section that I do not believe that we have overly compromised any more than the gentleman from Illinois has overly compromised. It is a good compromise.

The Secretary still, and now within his own satisfaction, must make, shall make—and the shall approve—is still in the language, the deferral, if the objective criteria are established by substantial evidence by the farmer. So from that standpoint we have kept the deferral section there, but the desire of the gentleman from Illinois to go forward and in a spirit of compromise offering this amendment, I think, is very, very healthy and very good.

We do, however, understand that sometimes we need protections, and that is why he has provided the third part of his amendment, which again limits the Secretary's actions to only those that are not arbitrary or capricious. This is important language which we have put in several of these amendments to insure that farmers are going to get a fair shake, and we are not talking about the Secretary of Agriculture. What we are really talking about is the local county supervisor who represents the Secretary in the administration of these various proposals.

So I support the amendment, congratulate the gentleman for the spirit of compromise in structuring this amendment, and hope it will be approved.

Mr. MADIGAN. I thank the gentleman for his contribution.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MADIGAN).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 10?

Mr. BETHUNE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and members of the committee: I take this time to speak about a general problem and the framework in which we find ourselves as we consider this particular bill. I had a number of specific amendments to the bill and I can sense that there is a spirit of compromise here and a certain degree of euphoria at the prospect of getting this bill on out of the House and go into conference.

But I want to call to the attention of the gentleman from Illinois and the chairman of the committee a concern that I have that I think is well founded. If you would indulge me and let me proceed for about 3 minutes here, then I would like to propound some questions to each of you on the general proposition of Federal credit assistance programs.

As both gentlemen know, for 3 years now I have sought to try to develop some process for dealing with Federal credit assistance programs. We have nothing in our budget system now that makes for an enforceable, sensible way to make relative judgments about whether we ought to increase credit assistance for agriculture, decrease it for housing, increase it for Federal shipbuilding, or whatever the case may be.

We have an advisory credit budget in our budget process, but there are no teeth in that. Consequently, one of the most dramatic statistics that can be found in this city today is that Federal lending programs are growing faster than Federal spending programs.

I always say this twice: Federal lending programs are growing faster than Federal spending programs. What has happened is that we have generated a good deal of public support for the idea of holding down Federal spending, and as we have held down Federal spending, or tried to, and as we have begun to close the spending window, the lending window is coming up, and you can see it here on the floor of the House in the last couple of weeks.

We have a bill in here to pay the house payments for those who have fallen out of work, which is credit assistance. We have a bill out in the Banking Committee right now which would provide credit assistance to those hard-pressed defense subcontractors who cannot seem to get along on the $2 or $3 trillion that we are going to be spending on defense. Here we have more credit assistance for the farm industry.

The point I want to make is that we are dealing with all of these problems on an ad hoc basis. This bill was considered in a vacuum by the Committee on Agriculture, and you have brought it here to the floor. The housing bill was considered in a vacuum by the Banking Committee, and it is being brought to the floor.

The problem is that when we start adding all of these bills up, we realize that Federal credit assistance programs are growing faster than Federal spending programs. We have got to make sense out of that. We have got to understand what we are doing in this areas, because as we increase the amount of Federal credit assistance programs we in essence are allocating the credit that is available in the marketplace. And as we make those allocations, and even go so far in many instances as to price the credit, we are confounding the effort that the Federal Reserve makes to establish a base of credit for the country through their monetary policy.

This is a very serious problem. There are ideas floating around here to create a National Industrial Development Bank. There are ideas to reinvent the Reconstruction Finance Corporation. There may be merit in these ideas. There may be merit in the idea that you have before us here today. But we are making a real mistake when we treat these problems on an ad hoc basis and then simply total them up when we get through, only to discover that we have created a new monster in this city, and that is Federal lending programs.

I am not going to disrupt the proceedings here today, because what I speak of is a larger problem. We are not going to correct it by simply making some minor change to your bill today or by me putting everyone through the rigor and ordeal of coming to the floor and voting on a series of amendments.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

(By unanimous consent, Mr. BETHUNE was allowed to proceed for 2 additional minutes.)

☐ 1600

Mr. BETHUNE. Mr. Chairman, I urge the distinguished leaders of this particular committee to consider the point that I have made here today and to reach out to the other committees, the Housing, Banking, and Defense Committees and others that are passing out credit assistance pellmell, and agree that we need to make sense out of all this because we are very quickly coming to the time when we are going to regret what we are doing here today.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the chairman of the committee.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to state to the gentleman that I share his concern. This committee, as a committee shares his concern, and I would like to inform the gentleman that I think we have been responsible, quite responsible, in this area. As a matter of fact, I would state to the gentleman that this committee has in the budget items probably reduced more than any other committee as far as budget expenditures and outlays are concerned.

I would also like to tell the gentleman that this legislation on which we work today is within or below the budget as approved by the House. Further, in the areas where we deal in loans and lending guarantees, some of the items are lower and some are higher than in past legislation. In the end they come out about even.

We are not just throwing money at the problem, as we have stated for so long.

I would assure the gentleman that our committee will continue with diligence to look at the concerns of the gentleman, and any time we come to the floor of this House we will consider the same concerns that the gentleman has, that we do not create a monster and that we do not just go and throw money at what seems to be a problem.

Again, Mr. Chairman, I say that I share the gentleman's concern, but I think that within the limitations in the appropriations process, within the limitations that we have from OMB, within the limitations that have been very explicitly shown on this legislation, with the reservations of the administration, and within our groups, there is practically no area where we could just go wild. Of that I assure the gentleman.

Mr. Chairman, again I thank the gentleman for his concern, and I assure him of our cooperation and willingness to work with him and with others of like mind.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding.

I want to assure the gentleman also that I am concerned about the phenomenon to which he refers. In fact, maybe 4 or 5 years ago there was a point where it appeared that the off-budget activity of the Department of Agriculture within a fiscal year was going to exceed its on-budget activity, and that ought to be the point at which we all become concerned about what is going on.

But with regard to the Farmers Home Administration program, which is what we are talking about here today, there are approximately 277,000 agricultural borrowers. Some 40,000 of those have already been given some kind of deferral or rescheduling or some sort of activity like that by the Secretary to help them over the difficult period in which they find themselves. The Congress feels impelled to speak to the issue of how that is being doing because some Members of Congress feel that it is not being done evenly in every county and in every State and some people are getting stretchout assistance and some are not.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. BETHUNE) has again expired.

(On request of Mr. MADIGAN, and by unanimous consent, Mr. BETHUNE was allowed to proceed for 3 additional minutes.)

Mr. MADIGAN. Mr. Chairman, if the gentleman will yield further to me, what we are doing here is not empowering the Secretary to do anything that he does not have the ability to do and that in 40,000 cases he has not already done. What we are doing here is speaking to the manner in which it is done by local offices, and my input has been to try to keep as much discretionary power in the hands of the Secretary as possible and still allow our colleagues who are upset about injustices that they believe to exist in one part of the country or the other to have some opportunity to speak to those injustices in a legislative manner.

But in no way are we expanding upon the possibility of more farm credit being extended to more people or extended upon more favorable terms, because there are already 277,000 borrowers out there, and 40,000 are already getting some special assistance under existing law.

Mr. Chairman, I thank the gentleman for yielding.

Mr. GREGG. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from New Hampshire.

Mr. GREGG. Mr. Chairman, I would just like to ask the gentleman a question.

I believe the gentleman has addressed what I believe to be one of the most critical issues facing us during this period when we are trying to not only nurture but expand the recovery that this country is beginning to feel after 2 years of severe recession, and that is the allocation of credit in the marketplace.

It seems to me that in a marketplace atmosphere we have historically seen that the housing industry leads us out of most recessionary periods, and the expansion of the housing activity is the key to leading us out of recessionary periods. But yet, as the Federal Government begins to reallocate finances throughout the country, do we not in a sense show the effect of the housing industry to be competitive in expanding and generating the type of capital it needs in order to bring us to recovery?

Mr. BETHUNE. Mr. Chairman, the housing industry right now receives about 55 percent of the various credit assistance programs that the Government has invented over the last 30 to 40 years. It is 54 percent to be exact. So they are getting a substantial subsidy, a substantial incentive, and substantial encouragement that other sectors are not getting.

The real trouble with this is that it is a political decision that we have made that they should get that sort of allocation. When we allocate that much to them, then it takes that much out of the credit market that other applicants might compete for.

I am not sure right now and I do not think this Congress is sure whether we have done the right thing in all of the allocations that we made, and that is my central point. I cannot answer the gentleman's question because Congress has never stepped back from the lending problem and asked itself whether or not we have made wise choices as we have allocated money to housing, as we have allocated it to agriculture, as we have allocated it to shipbuilding financing, as we have allocated it to Chrysler, as we have allocated it to New York City, as we have allocated it to synfuels, and on and on.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. BETHUNE) has again expired.

(By unanimous consent, Mr. BETHUNE was allowed to proceed for 2 additional minutes.)

Mr. BETHUNE. So, Mr. Chairman, I can only state the general thesis in this way: That I am convinced that we here very frequently do not make really good economic decisions. We make good political decisions, and in the long run we may be doing something that would be disruptive of the economy or the natural forces that are working. I wish that we had some system whereby we could understand better what we are doing and make relative judgments in a larger sense rather than make them on an ad hoc basis.

Mr. Chairman, I have tried to answer the gentleman's question.

Mr. GREGG. Mr. Chairman, if the gentleman will yield further, to follow up on his point, are we not essentially moving in a arbitrary manner at a time when what we need to do is move in a more coherent manner?

Specifically, when we are coming out of a recessionary period, should we not be allowing the marketplace to settle where the funds are going to go to revitalize the economy rather than having the Government, in what is essentially an arbitrary and spotty manner, make decisions in that area?

Mr. BETHUNE. Mr. Chairman, I would say this: I would rather trust the forces that work in the marketplace and the choices that are made there than trust the mess that we have created here, which is an "adhocracy." We need to do something if we are going to be in the business of allocating credit so that we can understand the big picture.

Mr. JONES of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Tennessee.

Mr. JONES of Tennessee. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, as chairman of the subcommittee that has the oversight of the House over the Farmers Home Administration, I want to say to the gentleman that we have constantly had oversight hearings. We have watched the situation very closely, as the chairman of the full committee said. The fact is that we are not overbudgeted. We try to do our best to stay within our means and we have tried to be very responsible as far as the Department of Agriculture is concerned in lending to the farm people out there who need help that amount that they do need to keep going and not overdo the job.

Now, we are not responsible, of course, for some of the bad years that they have had or that we have just experienced in the last several years. If they had not had those bad years, I think we would see the Farmers Home Administration in a much better situation than it is in today.

Mr. Chairman, I thank the gentleman for bringing these matters to our attention.

Mr. BETHUNE. Mr. Chairman, I thank the gentleman from Tennessee (Mr. JONES) for his contribution.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

□ 1610

The CHAIRMAN. Are there further amendments to section 10?

If not, the Clerk will designate section 11.

The text of section 11 reads as follows:

COUNTY COMMITTEES

SEC. 11. Section 332 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1982) is amended by—

(1) amending subsection (a) to read as follows:

"(a)(1) In each county or area in which activities are carried out under this title, there shall be a county committee composed of either five members or three members, as determined by the Secretary after taking into consideration the volume of loans outstanding under this title in the county or area, the number of persons who are borrowers having such loans in the county or area, and such other factors as the Secretary may deem appropriate.

"(2)(A) If the county committee is composed of five members—

"(i) three of the members shall be elected, from among their number, by farmers who reside within the county or area and who either are borrowers having farm-type loans made under this title or the Emergency Agricultural Credit Adjustment Act of 1978 or are eligible to vote in elections of local committees as provided in section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)). At the first election of county committee members under this subsection, one member shall be elected for a term of one year, one member shall be elected for a term of two years, and one member shall be elected for a term of three years. Thereafter, on an annual basis, one member of the county committee shall be elected for a term of three years.

"(ii) Two of the members of the county committee shall be appointed by the Secretary. Of the members first appointed under this subsection, one member shall be appointed for a term of one year and one member shall be appointed for a term of two years. Thereafter, appointed members of the county committee shall be appointed for terms of three years. One of such members shall be elected from among individuals who are familiar with both agricultural and financial conditions in the county or area and who reside in the county or area, except that if none of the elected members of the county committee is a present or former borrower on loans made under this title or the Emergency Agricultural Credit Adjustment Act of 1975, such appointed member shall be appointed from among such borrowers, and one of such members shall be selected from individuals who represent Federal land bank associations and production credit associations organized under the Farm Credit Act of 1971 (12 U.S.C. 2001 note) or private lending institutions serving the county or area and, insofar as practicable, who reside in such county or area.

"(B) If the county committee is composed of three members—

"(i) Two members shall be elected, from among their number, by farmers who reside within the county or area and who either are borrowers having farm-type loans made under this title or the Emergency Agricultural Credit Adjustment Act of 1978 or are eligible to vote in elections of local committees as provided in section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)). At the first election of county committee members under this subsection, one member shall be elected for a term of one year and one member shall be elected for a term of two years. Thereafter, elected members of the county committee shall be elected for a term of three years.

"(ii) One member of the county committee shall be appointed by the Secretary for a term of three years. Such member shall be selected from among individuals who represent Federal land bank associations and production credit associations organized under the Farm Credit Act of 1971 (12 U.S.C. 2001 note), private lending institutions serving the county or area, or present or former borrowers on loans made under this title or the Emergency Agricultural Credit Adjustment Act of 1978 and, insofar as practicable, who reside in such county or area.

"(3) Elections held under this subsection shall be held in conjunction with regularly scheduled elections for local committees under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)). No elected member of the county committee may serve for more than three consecutive terms exclusive of the term to which such member is elected at the first election of county committee members under this subsection. The Secretary may appoint an alternate for each member of the county committee. Appointed and alternate members of the county committee shall be removable by the Secretary for cause. The Secretary shall issue such regulations as are necessary relating to the election and appointment of members and alternate members of the county committees.".

(2) in subsection (b), after "Secretary" inserting ", except that the Secretary shall set the rates of compensation at a level which fairly represents the value of the service rendered and the time devoted to the business of the county committee by its members"; and

(3) in subsection (c), striking out the second sentence and inserting in lieu thereof "If the committee is composed of five members, three members shall constitute a quorum; if the committee is composed of three members, two members shall constitute a quorum.".

The CHAIRMAN. Are there amendments to section 11?

If not, the Clerk will designate section 12.

The text of section 12 reads as follows:

PROCEEDS FROM MINERALS

SEC. 12. Section 333 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983) is amended by—

(1) in subsection (d), striking out "and" at the end thereof;

(2) in subsection (e), striking out the period at the end thereof, and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following new subsection:

"(f) that a borrower having an outstanding loan made, insured or held by the Secretary for farm ownership purposes under subtitle A, farm operating purposes under subtitle B, disaster emergency purposes under subtitle C, or economic emergency purposes under the Emergency Agricultural Credit Adjustment Act of 1978, be permitted to use the proceeds from the sale or lease of oil, gas, or other minerals and the proceeds from royalties generated from leases of oil or gas located under the property securing the loan to make prospective scheduled payments on the loan. Unless the appraised value of the rights to oil, gas, or other minerals is specifically included as part of the appraised value of property securing a farm ownership loan, the rights to oil, gas or other minerals located under the property shall not be considered part of the collateral securing the loan.".

Mr. DE LA GARZA. Mr. Chairman, I ask unanimous consent that the remainder of the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The text of the remainder of the bill, H.R. 1190, reads as follows:

NOTICE TO BORROWERS OF AVAILABILITY OF PROTECTIVE ADVANCES; DISPOSITION OF PROPERTY

SEC. 13. Section 335 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985) is amended by—

(1) adding at the end of subsection (a) "The Secretary shall, in writing, inform all borrowers who receive notice of foreclosure or are denied additional credit under this title or under any other programs administered by the Farmers Home Administration of the circumstances under which the Secretary may make advances under this subsection."; and

(2) amending subsection (c) to read as follows:

"(c) The Secretary shall determine whether real property administered under this title or the Emergency Agricultural Credit Adjustment Act of 1978 is suitable for disposition to persons eligible for assistance under the provisions of any law administered by the Farmers Home Administration. Real property shall be determined to be suitable for disposition to such eligible persons if it has been used, or is currently being used, for the production of food, fiber or other agricultural products, unless agriculture is not a permissible use of the property under currently applicable local land use ordinances and regulations. Any property which the Secretary determines to be suitable for such purposes shall be sold by the Secretary as expeditiously as possible to such eligible persons in a manner consistent with such provisions: *Provided*, That, if real property thus offered for sale has not been purchased by such eligible persons within two years after the date of acquisition, the Secretary shall offer such real property for sale to units of State and local government, and to private nonprofit organizations described in section 170(c)(2) of the Internal Revenue Code, if such units of government or private organizations agree to continue the agricultural use of the real property and to reconvey it to persons eligible for assistance under this chapter at the earliest practicable opportunity. Real property which is not determined suitable for sale to such eligible persons or which has not been purchased by such persons or a unit of State or local government or private nonprofit organization in accordance with the foregoing provision, within three years from the date of acquisition, shall be sold by the Secretary after public notice at public sale and, if no acceptable bid is received, then by negotiated sale, at the best price obtainable for cash or on secured credit without regard to the laws governing the disposition of excess or surplus property of the United States. The terms of such sale shall require an initial downpayment and the remainder of the sales price payable in installments with interest on unpaid balance at the rate determined by the Secretary, but not in any event at rates and terms more favorable than those legally permissible for eligible borrowers. Any conveyances under this section shall include all of the interest of the United States including mineral rights.".

DEFINITION OF OWNER-OPERATOR

SEC. 14. Section 343(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(3)) is amended by striking out "in the State of Hawaii".

REAUTHORIZATION

SEC. 15. Section 346 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994) is amended by adding at the end thereof the following new subsections:

"(e) Notwithstanding any other provision of law, there are hereby authorized to be insured, or made to be sold and insured, from the Agricultural Credit Insurance Fund during fiscal year 1983, insured operating loans in an aggregate amount of $1,600,000,000. Of that amount, not less than $200,000,000 shall be available for new borrowers. As used in the preceding sentence, the phrase 'new borrowers' means agricultural producers who did not receive any farm operating credit from the Farmers Home Administration during fiscal year 1982 or that part of fiscal year 1983 ending on the date of enactment of this subsection.

"(f)(1) Notwithstanding any other provision of law, not less than 20 per centum of the funds that may be used for insured loans for farm ownership purposes, and not less than 20 per centum of funds that may be used for insured loans for farm operating purposes during fiscal year 1983 shall be made available for loans to low-income, limited-resources applicants to the extent needed to meet applications filed by such farmers who are eligible for such loans.

"(2) The Secretary shall provide written notification to all farm borrowers and applicants for farm loans under this title, as soon as practicable after the date of enactment of the Emergency Agricultural Credit Act of 1983, of the provisions of this title relating to low-income, limited-resource farmers and the procedures by which persons may apply for loans under the low-income, limited-resource farmer program.

"(g) Notwithstanding the provisions of subsection (a) of this section—

"(1) loans for each of the fiscal years 1984, 1985, and 1986 are authorized to be insured, or made to be sold and insured, or guaranteed under the Agricultural Credit Insurance Fund as follows:

"(A) real estate loans, $1,000,000,000;

"(B) operating loans, $1,860,000,000; and

"(C) emergency loans in amounts necessary to meet the needs from natural disasters.

Not less than 20 per centum of the funds that may be used for insured loans for farm ownership purposes and not less than 20 per centum of the funds that may be used for insured loans for farm operating purposes shall be made available for loans to low-income, limited-resource applicants to the extent needed to meet applications filed by such farmers who are eligible for such loans. The Secretary shall inform in writing all applicants for loans for farm ownership and farm operating purposes of the availability of the loan program for low-income, limited-resource borrowers and the general nature of the program.

"(2) loans for each of the fiscal years 1984, 1985, and 1986 are authorized to be insured, or made to be sold and insured, or guaranteed under the Rural Development Insurance Fund as follows:

"(A) insured water and sewer facility loans, $500,000,000;

"(B) industrial development loans, $1,000,000,000; and

"(C) insured community facility loans, $300,000,000.".

RESIDENT ALIENS

Sec. 16. Section 348 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1996) is amended by inserting before the period at the end thereof: ": *Provided further*, That the Secretary shall, notwithstanding any other provision of law, publish such regulations in the Federal Register not later than sixty days after enactment of the Emergency Agricultural Credit Act of 1983".

ADMINISTRATION OF GUARANTEED FARM LOAN PROGRAMS

Sec. 17. (a) The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 note) is amended by adding at the end thereof the following new section:

"Sec. 349. Notwithstanding any other provision of this title:

"(a) The Secretary shall establish, in each State office of the Farmers Home Administration organized by the Secretary under the authority of section 331(a) of this title, a Guaranteed Farm Loan Program Unit (referred to in this section as 'the Unit'). The Unit shall operate and administer within the area for which the State office is responsible the programs for guarantees of farm-type loans for farm ownership purposes under subtitle A, farm operating purposes under subtitle B, and disaster emergency purposes under subtitle C of this title, and economic emergency purposes under the Emergency Agricultural Credit Adjustment Act of 1978. Such programs may not be operated or administered by county or district offices of the Farmers Home Administration.

"(b) The Secretary shall ensure—

"(1) that each Unit has sufficient staff to carry out its responsibilities promptly, efficiently, and effectively;

"(2) within the limits of authorizations therefor, that each Unit has funds adequate to meet the demands in the area for which it is responsible for loan guarantee for each of the purposes enumerated in section (a) of this section; and

"(3) that the Unit informs all private agricultural lenders in the area for which it is responsible of the existence of such loan guarantees and how they may be utilized by lenders and borrowers.".

(b) The Secretary shall issue regulations to implement the provisions of subsection (a) of this section which shall include adjustments of the administrative structure of the Farmers Home Administration necessary to accommodate such provisions.

(c) The provisions of subsection (a) of this section shall become effective ninety days after enactment of this Act and shall apply to applications for guarantees filed and guarantee commitments made on and after such effective date.

ECONOMIC EMERGENCY LOAN PROGRAM

Sec. 18. The Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961 note) is amended by—

(1) In section 202, striking out "The Secretary of Agriculture may" and inserting in lieu thereof "The Secretary of Agriculture shall";

(2) In the first sentence of section 206, after "interest", inserting ", but that is not excessive for such purpose"; and

(3) In section 211—

(A) striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1984"; and

(B) immediately after "$600,000,000," inserting ", except that, in fiscal year 1983, such $600,000,000 shall be in addition to the total amount of money borrowed under contracts of guarantee entered into under the authorization provided in the Act of December 18, 1982 (Public Law 97-370; 96 Stat. 1799)".

EFFECTIVE DATE

Sec. 19. Except as otherwise provided herein, the provisions of this Act shall become effective upon enactment.

The CHAIRMAN. Are there further amendments to the bill?

Mr. WATKINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if I might, I think the other side has talked to the ranking Members and talked to the gentleman from Tennessee (Mr. Jones). The gentleman from Arkansas, Mr. John Paul Hammerschmidt, had an amendment a while ago to section 3.

If it would be in order, I ask unanimous consent to open up section 3 only for the purpose of allowing the amendment on the community services section, which is an amendment exactly like the one offered by the gentleman from Iowa, Mr. Neal Smith, that allowed the acceptance on water and sewer at the lowest possible interest rates. This one would do the same thing on the community services.

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Texas.

Mr. de la GARZA. Mr. Chairman, in the spirit of cooperation, we would have no objection to the gentleman making the appropriate unanimous-consent request and then allowing the House to work its will.

Mr. WATKINS. Mr. Chairman, I ask unanimous consent to reopen section 3 only for the purpose of adopting an amendment which I will offer.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

AMENDMENT OFFERED BY MR. WATKINS

Mr. WATKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Watkins:

Page 8, immediately after line 8, insert the following:

"(3) adding at the end thereof the following: 'The interest rate on loans for essential community facilities shall be the lower of (i) the rate in effect at the time of the loan approval, or (ii) the rate in effect at the time of the loan closing.'."

Mr. WATKINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. WATKINS. Mr. Chairman, I think both sides of the aisle are very familiar with this particular amendment in which the gentleman from Arkansas (Mr. Hammerschmidt) and myself are interested in. It does the same thing as the gentleman from Iowa did on the water and sewer section, that would allow them to accept the lowest rates possible on the community service loans.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, I want to commend the gentleman for offering this amendment and for his continuous work for the rural areas of this country.

Mr. WATKINS. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. WATKINS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

I yield to the gentleman from Minnesota.

Mr. PENNY. Mr. Chairman, I rise in support of the Emergency Agricultural Credit Act. It is imperative that the Farmers Home Administration be directed to respond positively to the needs of farmers who have been devastated by economic circumstances beyond their control. It is also necessary that the Farmers Home Administration be provided sufficient funding authority to respond to the needs of these farmers. This bill accomplishes both these objectives.

Additional farmers will be seeking loans from the Farmers Home Administration for this growing season. This measure provides authority to meet that demand through operating loans and emergency loans.

Some current Farmers Home borrowers who have been good managers are experiencing difficulty repaying loans. This measure directs the Farmers Home Administration to offer rescheduling, or in some cases deferrals, to keep these good managers in business and to provide them a better opportunity to get back on track in paying off their loans.

Mr. Chairman, I want to encourage the U.S. Department of Agriculture and Farmers Home Administration officials to administer this law with concern and sensitivity. The agricultural community needs help. Farmers need help. The Emergency Agricultural Credit Act of 1983, which I have coauthored, will help farmers through this growing season.

I urge a favorable vote.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman for his contribution. I appreciate very much the effort which the gentleman dedicates to our committee and the workings of our committee and commend the gentleman for the diligent work that he is doing in behalf of agriculture and rural America.

AMENDMENT OFFERED BY MR. MADIGAN

Mr. MADIGAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MADIGAN:

On page 29 strike the quoted material on lines 18 through line 23 and insert in lieu thereof, the following: ", except that, in fiscal year 1983, the total amount authorized shall be $300,000,000, of which not less than $150,000,000 shall be for insured loans, and except that, in fiscal year 1984, not less than $300,000,000 shall be for insured loans."

Mr. MADIGAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MADIGAN. Mr. Chairman, this is the third part of the agreement reached between the principals working toward a resolution of the conflicts about this bill and it merely reduces the figure for fiscal year 1983 from $1.2 billion to $300 million and then further states that $150 million of that shall be for insured loans and the other $150 million for guaranteed loans.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. Yes; I am happy to yield.

Mr. DE LA GARZA. Again, Mr. Chairman, as I stated on the two previous amendments offered by the distinguished gentleman from Illinois, in the spirit of compromise we are prepared to accept this amendment.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for his contribution and for his cooperation and, most importantly, for his friendship.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MADIGAN).

The amendment was agreed to.

● **Mr. DASCHLE.** Mr. Chairman, yesterday the Department of Agriculture issued a statement of its objections to H.R. 1190, the Emergency Agricultural Credit Act of 1983. The inaccuracies contained in this statement must be addressed.

First, the administration continues to characterize the deferral provision of H.R. 1190 as a moratorium. Categorically, the deferral provision is not a moratorium. The deferral provision provides directed assistance to only those borrowers who are in need of assistance. Additionally, need is not the only qualifying criteria. To be eligible, the borrower must meet the following requirements: Prove he has followed good management practices, prove he has suffered losses relating to his farming operation due to natural and economic conditions which are beyond his control, prove he is unable to repay the loan in question in accordance with the terms and conditions of the loan, and submit a comprehensive statement of his financial condition. To suggest, as the administration has done, not once, but repeatedly, that any Farmers Home Administration borrower can and will simply decide to demand and receive a deferral on the payment of interest and principal on his loan, is to be less than remotely familiar with the deferral provisions contained in this measure. Additionally, as the Department of Agriculture should understand, other loan servicing alternatives must be considered before a deferral can be granted. If a deferral is granted, the repayment obligation of the borrower is not forgiven or erased, the loan repayments are merely delayed temporarily. The obligation to repay the loan is not eliminated.

The administration has also characterized the Emergency Agricultural Credit Act of 1983 as unneeded legislation. The Committee on Agriculture approved and reported this legislation to the House by a vote of 35 to 3 based on the need for this legislation. The fact that the percentage of Farmers Home Administration farm loan program borrowers who are delinquent has increased from 26 percent in 1979 to 52 percent this year underscores the need for the passage of the Emergency Agricultural Credit Act of 1983 and the degree of financial stress in our Nation's agricultural economy to which this legislation responds. The provision of credit alone will not restore profitability to our agricultural economy, but credit must be made available to our Nation's food and fiber producers if they are to continue to satisfy the needs of the American people and consumers throughout the world.●

● **Mr. GILMAN.** Mr. Chairman, I rise in support of this proposed emergency agricultural credit legislation, and wish to associate myself with the sentiments so articulately stated by the sponsors of this legislation.

Mr. Chairman, what we have heard during this floor debate is accurate: The agricultural community in our Nation, the breadbasket of the United States, has again become the forgotten segment of our society, even though one of the most important.

In 1896, William Jennings Bryan stated that, if our cities were leveled but our farms left intact, "the cities would spring up again as if by magic," but destroy the farms and leave the cities untouched, "and grass will grow in the streets of a thousand cities and towns."

Our farms are slowly but surely being destroyed—being destroyed by governmental apathy, and by the speculation of an unfair economic system.

I am a distressed witness to this destruction, for my own 22d Congressional District is the home of the Orange County "black-dirt" area—where 45 percent of all onions consumed east of the Mississippi are grown, where a large percentage of our celery, our lettuce, our carrots, and other truck vegetables are grown.

During my 10 years in Congress, I have seen too many of our vegetable growers driven into bankruptcy. I have seen some of our choicest farmland sold at public auction because the growers could not keep up with the debts arising from natural disasters and from depressed markets. I have seen floodwaters time and time again sweep newly planted vegetable seedlings downstream, and have seen growers cry because they were at their debt limit and did not have the capital to replant.

Two weeks ago, our black-dirt farmlands flooded again. The Wallkill River overflows its banks regularly, but from time to time—in 1955, in 1972, and in 1983—the flooding was especially severe, coming at a time when newly planted crops and fertilizer were destroyed.

The flooding of April 1983 resulted in immediate physical damages of over $3 million. The 1983 onion crop is now somewhere in the Atlantic Ocean. We will not know until after the flood waters recede—and they have not yet begun to recede—what the total production losses for 1983 will be. It is possible that the growers may not be able to produce any crops or income this year.

From the hour that the floodwaters hit, I was on hand with the growers, listening to their tales of despair. The FmHA was on hand immediately, and was prompt with its disaster declaration. But the aid which will be forthcoming to repair physical damage may prove to be too little and too late if the growers do not receive sufficient relief from their burdensome outstanding debts.

The legislation before the House provides significant assistance to our distressed farmers by extending the maximum repayment period for consolidated or rescheduled farm operation loans from 7 to 15 years. Our growers need and will welcome such realistic relief. It adjusts the interest rate to the rate of their earlier loan, or the current rate, whichever is lower. It establishes a 5-percent interest rate for low-income areas, but provides a maximum of no more than 7 percent if a growers median family income is not above the statewide nonurban income.

Perhaps the most welcome provision of the proposed legislation, however, is the two-step loan deferral process, which will require USDA to forgo foreclosure on and consolidate, reschedule, or reamortize any loans to reflect the borrower's financial situation.

For the growers in New York's 22d Congressional District, and throughout the Nation, who have lived through the horror of seeing their friends and neighbors forced into foreclosure proceedings, this bill is a welcome ray of hope at the end of the tunnel. After years of wondering, will I be next?, our growers now will know that they have a friend in the Federal Government.

This bill is a bill of rights for our agricultural interests, who have for too long been the forgotten stepchildren of our society.

Mr. Chairman, on behalf of the vegetable growers of New York, and on behalf of the agricultural interest of our Nation, I support this legislation and urge my colleagues to do likewise.●

The CHAIRMAN. Are there further amendments to the bill? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. NATCHER) having assumed the chair, Mr. FLIPPO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1190) to provide emergency credit assistance to farmers, and for other purposes, pursuant to House Resolution 158, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. COLEMAN of Missouri. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 378, nays 35, not voting 19, as follows:

[Roll No. 79]

YEAS—378

Ackerman
Addabbo
Akaka
Albosta
Alexander
Andrews (NC)
Andrews (TX)
Anthony
Applegate
Aspin
AuCoin
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton
Byron
Carney
Carper
Carr
Chandler
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Corcoran
Coughlin
Courter
Coyne
Crockett
D'Amours
Daniel
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fowler
Frank
Franklin
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Guarini
Gunderson
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Harkin
Harrison
Hartnett
Hatcher
Hawkins
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Madigan
Markey
Marlenee
Marriott
Martin (NC)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McNulty
Mica
Michel
Mikulski
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shaw
Shelby
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert
Snowe
Snyder
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland

Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Valentine
Vandergriff
Vento
Volkmer
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki

NAYS—35

Anderson
Archer
Badham
Bethune
Chappie
Conable
Craig
Crane, Daniel
Crane, Philip
Dannemeyer
Dreier
Fields
Gregg
Hall (OH)
Hansen (UT)
Holt
Lungren
Mack
MacKay
Martin (IL)
McDonald
Nielson
Ottinger
Packard
Paul
Reid
Rudd
Schaefer
Schneider
Shumway
Smith, Denny
Stark
Stump
Vucanovich
Zschau

NOT VOTING—19

Annunzio
Barnard
Campbell
Daschle
Eckart
Hall (IN)
Johnson
Lantos
Martin (NY)
McCain
McKinney
Miller (CA)
Schumer
Solarz
Stratton
Taylor
Towns
Vander Jagt
Wright

□ 1630

Messrs. DANIEL B. CRANE, CHAPPIE, REID, CRAIG, and PACKARD changed their votes from "yea" to "nay."

Messrs. MOORE, LUKEN, and LIVINGSTON changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ECKART. Mr. Chairman, on rollcall No. 79 I was detained on official business and arrived in the Chamber moments after the vote was concluded. Had I been present, I would have voted "aye."

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1190, EMERGENCY AGRICULTURAL CREDIT ACT OF 1983

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1190, the Clerk be authorized to correct section numbers, punctuation marks, and cross references, and to delete the section headings on page 2, line 5 and on page 9, line 4.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1640

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1190, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. DASCHLE. Mr. Speaker, on the vote on final passsage of H.R. 1190, I was present and on the floor. Inexplicably, my vote was not recorded. Had it been recorded, I would be recorded as voting "aye."

REQUEST FOR PERMISSION TO EXPUNGE ROLLCALL 77

Mr. FOLEY. Mr. Speaker, in the Committee of the Whole during the consideration of H.R. 1190, the Committee of the Whole by unanimous consent vacated the recorded vote, No. 77, on the Watkins amendment and ordered a new recorded vote, No. 78.

While the Committee of the Whole may by unanimous consent vacate proceedings had therein, it may not without the permission of the House expunge a record vote from the RECORD.

I, therefore, now ask unanimous consent that rollcall 77 be expunged from the RECORD and Journal and that any Members recorded on rollcall 77, but not on rollcall 78, be recorded as if they had voted on the second recorded vote.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. THOMAS of California. Mr. Speaker, reserving the right to object, I would request a response from the distinguished majority leader. This Member was on the floor at the time that that unanimous-consent request was made and he did not object.

Does the majority leader agree that this was probably not the most propitious parliamentary solution to the problem?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding.

First, humility requires me to state that I am a simple, humble majority whip, and the servant of the majority leader.

Mr. THOMAS of California. Excuse me, I anticipated.

Mr. FOLEY. Mr. Speaker, I would like to say in response to the gentleman's question there were unusual circumstances in which a number of Members arrived on the floor, having believed they were still in time to record a vote that they thought was then pending. Inferentially, this group was about roughly half Republicans and half Democratic. It was balanced politically. And they arrived on the floor and found to their surprise that the rollcall had been concluded.

It was then determined that a request for unanimous consent to vacate the previous rollcall should be requested, and permission was granted and a new rollcall was held.

The problem is that on that second rollcall a few Members recorded on the first rollcall were not recorded on the second and those Members were thus disadvantaged by the repetition of the vote on the second rollcall.

This request is to vacate that first rollcall, No. 77, and substitute all those who voted on either rollcall on the RECORD on rollcall 78 so everyone is protected, and yes, I will tell the gentleman it is an unusual circumstance that I hope is not necessary to repeat.

Mr. THOMAS of California. Further reserving the right to object, would the current majority whip agree that this is in no way a precedent for this type of procedure and that other parliamentary remedies are available and should be used in the future.

Mr. FOLEY. I would tell the gentleman that it is certainly no precedent for any future action and as a unanimous-consent request any Member is entitled to block this request or any similar one in the future, and I hope that the situation does not arise again. I agree with the gentleman.

Mr. THOMAS of California. Further reserving the right to object would the current majority whip agree with me then that if this current situation arises in the future, if I am on the floor, I will object, and if he is on the floor, he will object to a unanimous consent?

Mr. FOLEY. I would hope that the gentleman would not attempt to bind my objection. If he is on the floor, he certainly can exercise his right to object. I would prefer to say that I hope the circumstances do not arise again.

All Members, however, have a commendable zeal in carrying out their duties to wish to be recorded on votes. And I think we have to take into effect that that is what we are allowing Members to do, to record the vote that they cast on one of these two occasions and to be so recorded in the RECORD.

I hope the gentleman does not object. I hope this can be accepted. I hope it does not occur again.

Mr. THOMAS of California. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Washington (Mr. Foley)?

Mr. COURTER. Mr. Speaker, reserving the right to object, I do so to ask the distinguished gentleman, the majority whip, a couple of questions.

In the majority whip's recollection, when was the last time that this type of a unanimous-consent request was made, does the gentleman know?

Mr. FOLEY. Well, I can recall a condition where one of our Members, very recently deceased, asked that a vote be vacated on a bill in order that a rollcall be had. The vote was taken by voice, and the Member requested that the vote be vacated so that a rollcall vote could be taken.

I cannot recall any circumstance precisely similar to the ones that are involved here, but I again would suggest to the gentleman that what we are doing is simply reflecting in one rollcall vote what occurred in two and allowing every Member who voted on either one of those rollcalls to be recorded in the Record and to expunge the first vote.

Mr. COURTER. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from California (Mr. Lungren).

Mr. LUNGREN. Mr. Speaker, if I could address the distinguished majority whip, it is my understanding that at least one if not more than one Member voted one way on one vote and another way on the other.

And my question is, If that is the case, how are we going to count this out? I mean this is an extremely extraordinary situation we have.

The **SPEAKER** pro tempore. The Chair would like to advise the gentleman from California (Mr. Lungren) that he is advised that there are no changed votes involved.

Mr. FOLEY. I would say to the gentleman that that is my understanding, that there are no changed votes. If there were any, I would suggest that the last vote control.

Mr. de la GARZA. Mr. Speaker, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from Texas.

Mr. de la GARZA. I thank the gentleman for yielding.

Mr. Speaker, I would like to tell the gentleman that managing the bill under quite difficult circumstances as we were working very diligently to strike a compromise in what can be technically complicated legislation, one of the votes that was taken was asked by a Member to really allow some time for the conclusion of the agreement.

Then I was informed as there were about 20 or 25 Members in the well of the House that the clock in the committee room was not working properly, and that that was the reason for their coming a few seconds beyond the time that the vote was finalized.

The **SPEAKER** pro tempore. The Chair would like to advise the Members of the House and especially the gentleman from California (Mr. Lungren) that there was at least one changed vote. The Chair has since been advised that there was a changed vote.

The Chair advised the gentleman from California (Mr. Lungren) that there were no changed votes.

The Chair has been advised that there is a changed vote.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. COURTER. Further reserving the right to object, I yield to the gentleman from Washington, the majority whip.

Mr. FOLEY. Mr. Speaker, although I had been advised there are no changed votes, I would like to say for the Record that I am requesting unanimous consent that anyone who voted on rollcall Nos. 77 or 78 be recorded on rollcall 78 and that 77 be expunged from the Record and the Journal.

In the event that a Member voted on both such rollcalls it shall be conclusive that his vote on 78 will be included as the final vote of that particular amendment.

So in the event there are any such differences, the rollcall on 78 will in all cases control for a Member who voted on rollcall 78.

□ 1650

Only in the case where a Member voted on rollcall No. 77 and not on rollcall No. 78 will we be transferring a vote from one rollcall to another.

Mr. de la GARZA. Mr. Speaker, will the gentleman yield?

Mr. COURTER. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Texas.

Mr. de la GARZA. I appreciate the gentleman's yielding.

Mr. Speaker, just to conclude the reasoning behind the request, as I stated to the gentleman, there were 20 or 25 Members, one of whom expressed concern that the clock in the committee room did not work and that they were timing themselves accordingly. Were it just a matter of one Member being here late, I would not have done so. Therefore, in the spirit of compromise that permeated what we were doing with the substance of the legislation, I felt that I would do to others as I would have them do unto me. It was for that reason that I made the motion to vacate the vote at the time.

I feel some responsibility for the concern of the gentleman, but I want to assure him and the gentleman from California that I certainly would not make the same motion again; but under the circumstances at the time, the way that the legislation was progressing and in the spirit that we were working, I felt it appropriate, even though it was an extraordinary motion, and that was the main reason behind making the motion. No objection was heard at the time.

Mr. COURTER. Further reserving the right to object, how would the chairman respond to the problem: I have been assured that, according to the recollection of people on the floor, this has never been done before, and I am sure, also, that if we do it today, if it is permitted today, there is going to be a compatible reason tomorrow or next week, there is going to be perhaps 30 Members here late and they are going to attempt to gain this type of recognition for this type of unanimous-consent request.

I would like either one of the two gentlemen to respond to the question as to what type of precedent this is going to set.

Now, you can say it is not going to, but I submit that it is obviously going to.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. COURTER. Further reserving the right to object, Mr. Speaker, I yield to the majority whip, the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I would say to the gentleman that I think this has been a difficult experience for everybody on the floor, and I think, because of that, we are not going to have any repetition of the request or the agreement of the request to take an additional vote.

That is what led to this problem. The gentleman from Texas was acting in very good faith as the bill mananger.

Now, having done so, there are some Members who voted on the first rollcall who were not present on the second. Our only hope is to protect those Members from being disadvantaged by expunging the Record on rollcall No. 77 and allowing their vote to be attached to rollcall No. 78. They are, to some extent, those who are the unfortunate bystanders, so to speak, of this process, who would be disadvantaged a bit by what has happened.

But because the gentleman raises the question about this procedure, I think it is clear that we are not going to have it, for just this reason, as a precedent or as a pattern for any kind of future action. I would hope that we could get this one permission, with the understanding that all of us on both sides of the aisle—and I will make the undertaking that the gentleman from California asked me to undertake—and I will try to prevent such an occurrence from happening again if I am on the floor.

Mr. COURTER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Texas (Mr. de la Garza).

Mr. de la GARZA. Mr. Speaker, I just wanted to further assure the gentleman that, as far as precedent is concerned, under this type of situation there is no precedent set as long as there is always on the floor one of like mind of the gentleman. I assure the gentleman that, because of the experience today and the emphasis which the gentleman has placed on the procedure, one of like mind of the gentleman will conceivably be present on every occurrence of a similar nature. So we set no precedent but only take care of the immediate situation.

Mr. COURTER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from North Carolina (Mr. Martin).

Mr. MARTIN of North Carolina. I thank the gentleman for yielding.

Mr. Speaker, I would hope that the gentleman would reconsider his unanimous-consent request. I appreciate the motivation that he has in wanting to make the record of votes that were taken today reflect the way that Members would like for the record to reflect the votes rather than what actually happened. But the fact is that there were two votes taken, one of which was vacated by unanimous-consent request, which itself was a bad precedent, but two votes were taken. To then say that we are going to combine those votes in a way that would make it appear in the record that only one such vote was taken would seem to me to be a very serious mistake for the House of Representatives. It would compound the error of having allowed the first unanimous-consent request to go unchallenged.

The House has always allowed Members to put in the record an explanation of the circumstances that against their wishes had prevented them from being on the House floor in order to take a vote. Members can still do that. They can still put in the record by unanimous-consent request why they were unable to be present for a vote. But we have never before allowed them to change the record of a vote to show something different from the way it was actually cast.

Now, a question has been raised as to whether some Members voted one way on rollcall No. 77 and another way on rollcall No. 78. I have been advised by floor staff that indeed that did occur in at least two instances where a Member voted one way on one of the votes, and then after it was vacated and a second vote was taken, they voted the opposite way. Now, they may prefer for the record to show one way. That is certainly understandable. But the record is that they voted two different ways, and that should be the record of the House of Representatives. It should be what actually happened on a vote and not what Members wish had happened.

So I hope that the Chair will sustain the gentleman's objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington (Mr. Foley)?

Mr. COURTER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REQUEST THAT ROLLCALL NO. 77 BE EXPUNGED FROM THE RECORD AND THE JOURNAL

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that rollcall No. 77 be expunged from the Record and from the Journal.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. COURTER. Mr. Speaker, reserving the right to object, under my reservation I wonder if the majority whip would explain the difference between that unanimous-consent request and the one he just made.

Mr. FOLEY. In the request I previously made I asked that anyone who was recorded on rollcall No. 77 be included in rollcall No. 78 if he did not record a vote on rollcall No. 78, and that all of those who recorded a vote on both be recorded as finally having voted on rollcall No. 78 and that rollcall No. 77 be expunged from the Record and the Journal.

Now I am just requesting that rollcall No. 77 be expunged from the Record and the Journal, which leaves rollcall No. 78 as the final vote, which does not in any way move one vote from one rollcall to another.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. MARTIN of North Carolina. Mr. Speaker, reserving the right to object, I am sorry that I am here, in a way, but I do feel constrained to object to this.

Again, the vote was taken on rollcall No. 77. There are some who were not here, just as there were some who were not for rollcall No. 78. It seems to me that the vote was vacated, and so it has no effect. But it should not be expunged from the Record, and so I do object.

The SPEAKER pro tempore. Objection is heard.

TAX FREEDOM DAY

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BETHUNE. Mr. Speaker, the Arkansas Gazette recently made note that May 1 was Tax Freedom Day. That is the day when Americans have worked long enough to pay off their taxes for the year, and they can finally begin working for themselves.

Meanwhile, liberals in the tax-and-spend crowd are working hard to increase taxes and move Tax Freedom Day to later in the year. If the third year of the individual tax cut and indexing are repealed, it will not be long until Tax Freedom Day will take place after July 1. Of course that will not be much of a celebration since the people will be working half a year or longer just to pay off the taxman.

Mr. Speaker, I do not think the people agree with the tax-and-spend crowd. The people, I believe, want to keep the third year of the tax cut and indexing and there are at least three good reasons why they do:

First reason: The people are smart enough to know that if the third year of the tax cut is repealed, that Congress would not use the revenue to reduce the deficit; Congress would simply spend their money as it has in the past. If anyone doubts that, they should look at the budget which was drafted by the liberals who control the House of Representatives, which was titled, "A Democratic Plan for Economic Recovery." In that document, the tax-spend-and-elect crowd called for $35 billion in new revenues for next year by repealing the third year, as well as raising other taxes, and they did not use it to reduce the deficit. They predictably increased runaway social spending that we have worked so hard to hold down over the past 2 years.

Second reason: The people also know that this is not a question of giving up a tax cut. Taxes have not been cut, and the average worker knows that. Taxes are going up. The tax changes that have been made in the last 2 years merely neutralized increases that were going to occur under our progressive tax system. When you consider the bracket creep that made people pay a higher percentage of tax as they were pushed into higher brackets by inflation, and when you consider the social security payroll tax increases and other taxes that have been laid on the people in the last few years, it is ludicrous to suggest that repeal of the third year is nothing more than cancellation of a tax cut. It is a tax increase, and it is a big one. In fact, if the big spenders and liberals are successful in the repeal of this third year of the tax cut, the average Arkansas family will pay $1,729 more in new taxes over the next 5 years. Most people just got through digging deep into their pockets to pay their Federal income tax, and I am quite sure they know that they cannot afford to pay $1,729 more to Uncle Sam so that Congress can poop it away by continuing the spending

binge that is the real driving force behind the Federal deficit.

The increased taxes that would be required for giving up indexing in addition to the tax cut are even more outrageous. The average Arkansas family would pay $2,706 more each year should the tax-and-spend crowd prevail.

Third reason: No respected economist or close observer of budget and economic conditions has suggested that we should raise income taxes on the people just as we are coming out of a recession. To the contrary, almost everyone agrees that we should wait and see how the economy develops before we make any decisions on the revenue side. Who ever heard of raising taxes on people when they are just beginning to have a chance to work, save, produce, and invest—thus creating the growth that will do more to reduce budget deficits than anything else.

The tax-and-spend policies of Jimmy Carter and TIP O'NEILL got us into this economic mess and a return to those policies will put us right back where we were. Some here in Washington may want to keep on raising taxes so they can keep on spending, but the people do not, and that is why they do not want to repeal the third year of the tax cut and indexing.

PERMISSION FOR SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY AND TRADE OF COMMITTEE ON FOREIGN AFFAIRS TO MEET TOMORROW, MAY 4, 1983

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the Subcommittee on International Economic Policy and Trade of the Committee on Foreign Affairs be permitted to meet tomorrow, Wednesday, May 4, 1983, for purposes of completing the markup on legislation renewing the Export Administration Act of 1979.

Mr. Speaker, this unanimous-consent request has been cleared with the minority on the Committee on Foreign Affairs.

Mr. SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1700

EXTENSION OF INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND THE SOVIET UNION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 98-59)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed.

(For message, see proceedings of the Senate of today, Tuesday, May 3, 1983.)

EXTENSION OF INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND POLAND—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 98-60)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed.

(For message, see proceedings of the Senate of today, Tuesday, May 3, 1983.)

POLISH CONSTITUTION DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. LIPINSKI) is recognized for 60 minutes.

GENERAL LEAVE

Mr. LIPINSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on my special order today on Polish Constitution Day.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. LIPINSKI. Mr. Speaker, my esteemed colleague from Pennsylvania, the Honorable ROBERT BORSKI, had planned to call this special order commemorating Polish Constitution Day, and I was to participate with Mr. BORSKI in this special order. Because Mr. BORSKI cannot be with us on the floor today, the honor falls upon me to join with people of Polish ancestry all over the world to celebrate the 192d anniversary of the signing of the May 3 Polish Constitution.

The Polish Constitution of 1791 was based on our Declaration of Independence of 1776 and was the first of its kind in Europe.

While the May 3 Polish Constitution was a significant event in Polish history, the accomplishments of our Polish ancestors have been going on for a long time.

Recorded Polish history began in the year 966 under Duke Mieszko, who first began the unification of Poland.

In the 14th century, Casimir the Great united all the Polish people into one kingdom. At the same time Nicholas Copernicus, the father of modern astronomy, was responsible for the start of the scientific revolution.

Later in the history of Poland, King John Sobieski and the Austrians defeated the Turks and saved Christianity in Europe at the Battle of Vienna in 1683.

Women of Poland made their mark in history when Madame Marie Sklodowska Curie, with her husband, jointly received the Nobel Prize in physics in 1903 for their work with radioactivity.

Poland's contribution to America began at the very birth of our Republic, during the Revolutionary War. Brig. Gen. Casimir Pulaski, a calvary officer, was a hero of the Battles of Brandywine and Savannah. Brig. Gen. Thaddeus Kosciuszko distinguished himself at the Battle of New York and in the Carolinas. As a colonel of engineers, Kosciuszko built the fortifications at West Point. Thaddeus Kosciuszko also declared for and fought for the May 3, 1791, Polish Constitution. He is, perhaps, the greatest freedom fighter for democracy Europe and America had ever shared.

I would be remiss if I did not mention the names of Ignace Paderewski and Joseph Pilsudski, who recreated Poland in 1918 and helped Poland in the only period of freedom it had in the last 200 years.

The list of prominent Poles and Polish Americans goes on and on—Chopin, Stan Musial, Zigmunt Brzenski, Carl Yastremski, Edmund Muskie, Dan Rostenkowski, and the list continues on. Lech Walesa, the leader of Solidarity. A man who believes in religion, family, freedom, and dignity. A man in the spirit of Thaddeus Kosciuszko, a man with a spirit that cannot be crushed. A man that has become an international symbol of mankind's eternal fight for freedom and dignity.

And finally, the leader of the Roman Catholic Church, Pope John Paul II, the worldwide leader for peace and brotherhood. The millions who turned out to celebrate Mass with the Pope when he returned home to Poland demonstrated the strength of the Polish spirit. As Polish Americans, we can be proud to have the same roots and traditions as Pope John Paul II.

On this day, let us remember the thousands of Poles who came to this land of liberty who never made the history books but helped to build this Nation with their work in the coal mines, on the railroads, in the stockyards, and in the steel mills.

Yes, today we celebrate the anniversary of the May 3 Polish Constitution, but, more importantly, I believe, we should celebrate and take great pride in the contributions of the Poles and the Polish-American people to the development of civilization and mankind.

Poles and Polish Americans are proud, hardworking, persistent, and patriotic people. That is why their contribution has been so great.

Thank you. Stolat.

□ 1710

Mr. BETHUNE. Mr. Speaker, will the gentleman yield to me?

Mr. LIPINSKI. I yield the balance of my time to the gentleman.

Mr. BETHUNE. Mr. Speaker, I appreciate the gentleman yielding.

Recently, the gentleman from Wisconsin (Mr. OBEY) and five others, including myself, had the occasion to go to Poland. We were the first congressional delegation in there after martial law was declared.

I was provoked upon hearing the gentleman's comments this afternoon to come and make a small contribution. I am not a Pole. I have no Poles in my ancestry that I know of, but I am inspired, anytime I hear the story of the Polish people and what is going on in that country today, to make the point that I discovered when I went to Poland last year and that is that the Polish people are possessed of an indestructible spirit that has been growing for some 200 years, going back to the days of the Messianic poets, who used to write that the Poles were destined to prove to the world that freedom would prevail over totalitarian rule.

When we were there—we had occasion to have a half-hour audience with the Pope when we came out of Poland—we confirmed that that is the truth. The Polish people love freedom. They love America. They love Americans. You can sense this everywhere you go. They are engaged in a real battle as they struggle for this freedom.

I was particularly struck by the fact that they sit around their homes in the wintertime and paint little wooden eggs in different colors, depending on which region of the country they are from. This egg, of course, symbolizes the new life that came to them as a part of their culture and heritage from the Orthodox religions of the East. It says in one symbol everything that you need to know about the Polish people. They are a people of hope. They are determined to prove that freedom will prevail over totalitarian rule.

I think the gentleman is so right to come here today and make these points and to realize we have so many Polish people in this country. I am pleased to just be able to work with the gentleman this afternoon to communicate this point.

Perhaps everyone that is listening out there will have some better understanding of the Polish people as a result.

I thank the gentleman for yielding to me.

Mr. LIPINSKI. I thank the gentleman very much for his contribution to Polish Constitution Day. I certainly appreciate it. I am certain that the millions of Poles in the United States also appreciate it.

● Mr. BIAGGI. Mr. Speaker, I am honored to join in this special order observing the 193d anniversary of Polish Constitution Day. It is an occasion when the people of Poland remember and renew their unswerving dedication to the principles of freedom, justice, equality, and individual liberty.

Unfortunately this year's observance like so many others in the past is conducted under the continued domination of the Polish people by the Soviet Union. The people of Poland were reminded just 2 days ago about how receptive the Soviets are to efforts by the citizens of Poland to march and demonstrate for basic human freedoms. The sight of policemen and soldiers clubbing and teargassing people at will shows in graphic form that the only way the Soviet philosophy will ever be accepted is through extreme coercion.

Yet the May Day demonstrations also pointed out to the world that the spirit of the Polish people is not and will not be broken. The leadership of the Solidarity Party and their inspired head Lech Walesa has renewed hopes in the hearts and minds not only of the working people of Poland but of all who seek an end to the yoke of Communist oppression in that land.

The people of Poland wait with great anticipation for the upcoming visit of the greatest Pole in the world today—Pope John Paul II—a man who has demonstrated in his own unique way his commitment to the cause of peace and freedom for all. His visit promises to be one which the world will not soon forget nor will the Soviet Union or their puppet government in Poland.

It is appropriate on this day to pay tribute not only to the history and traditions of Poland but also to the extensive Polish American community in this Nation which may be as many as 6 million strong. They are a vital part of our Nation—and the Polish American community has made significant and regular contributions to all facets of our society—from politics to the arts to the professions to sports.

The history of Poland is one which has always shown periods of tremendous personal courage by her people in times of tyranny, from the Warsaw ghetto uprising—to the demonstrations at Gdansk—it was the same spirit of love of freedom and liberty captured on that glorious day in 1791 that emerges once again. I am fortunate enough to represent the city of Yonkers in New York which has a most distinguished Polish community and with whom I have a close and working dialog. For my Polish friends in Yonkers and for the entire Polish American community of this Nation let me extend my warmest best wishes on this Polish Constitution Day.●

● Mr. BORSKI. Mr. Speaker, I appreciate the opportunity to participate in this special order with my good friend, the gentleman from Illinois. I would like to take this opportunity to insert in the RECORD remarks that I gave on Sunday, May 1, 1983, before the Polish American Congress, the eastern Pennsylvania chapter at the Shrine of our Lady of Czestochowa in Doylestown, Pa.:

POLISH CONSTITUTION DAY REMARKS, SUNDAY, MAY 1, 1983

Thank you very much.

It gives me great pleasure to be with you today. I would like to thank the officers and members of the Polish American Congress for inviting me to join you in celebrating Polish Constitution Day.

This day commemorates that special moment in history when Poland established itself as a free, sovereign state. The Third of May Constitution is one of the greatest achievements in Polish history. It is one of the world's greatest documents of political freedom and religious toleration.

Poland was one of the first pioneers of freedom. The Third of May Constitution was the most liberal documents in all of Europe—years ahead of its time. It was only the second written constitution in history; second only to the Constitution of the United States. When word reached America that Poland had adopted a constitution our own George Washington wrote to a friend: "Poland by the public papers appears to have made large and unexpected strides toward freedom."

The authors of the Polish Constitution were influenced by the American experience. At first glance, it seems remarkable that two nations, so diverse in their history, culture, language, and heritage could arrive at so similar a goal.

Yet, it is really not so remarkable when we recognize that both documents—the Polish Constitution and the American Constitution—are expressions of mankind's inevitable destiny—to be free.

Through nearly two centuries, the spirit embodied in the Polish Constitution has never died in the hearts of the Polish people. Today, we see Poles striving again for national renewal and for freedom.

Although Poland is clamped in the grip of bondage, the Polish people persist in their efforts to ease the oppression imposed on them by the Communist government. And the Polish people will one day throw off this bondage. One day, freedom of speech, freedom of press, freedom of government, will be theirs.

Our fathers and grandfathers left their native land in search of a place where freedom rules, democracy lives, and equality prospers. Their dream has been realized in America.

But for Poland, the struggle for liberty continues.

As Polish Americans, we have a special obligation to act as the voices of our brothers and our sisters across the ocean. We cannot let the forces of darkness suppress the spirit of the Polish people to live free and unafraid. We cannot abandon them to domination by a harsh Communist system. Polish Americans have a special responsibility—a sacred responsibility—to speak out against this tyranny.

Many Poles—at great risk to themselves and their families—continue to call for a relaxation of restrictions on personal freedom. Can we do less? Can we do less than speak out for their cause for all the world to hear?

Last month, the Committee in Support of Solidarity sent a report to the House of Representatives Foreign Affairs Committee. The substance of that report disturbs me deeply because it underscores the growing repression of civil right in Poland. Since November of 1982, the Solidarity Committee reports that the Polish regime has forcibly conscripted thousands of Polish people into penal camps. Twenty such penal camps now exist. Most are located in forest areas, but the exact locations are not known. Those individuals incarcerated in these camps are persons previously interned by the Polish authorities and later released. Those suspected of being active Solidarity members are among the prisoners. Camp conditions are deplorable. Individuals live in densely crowded and poorly heated buildings. Their food is inedible. Their books and private papers have been confiscated. And they are not even permitted family visits. One escapee from a penal camp has alleged that the authorities in the camps—the Polish People's Army—have tortured conscripts.

The current regime in Poland is clearly violating human rights and fundamental freedoms which is Government pledged to observe.

I intend to ask the Congress to investigate these charges. What can we—as Polish Americans—do to aid the struggle for liberty?

We can support organizations such as the Polish American Congress and its charitable efforts. We can teach our children about their heritage, so that they learn the lessons of Polish history. We can encourage our children to strive for excellence in everything they do, to get the best possible education they can, to be moral, thinking Americans who can assume leadership roles in our national life.

And we must become active in government at all levels, and demand accountability from those who serve us. Believe me, the only way to force government to reflect the values and principles we believe in is to become active. Write to your legislators about issues that concern you and affect you. Do not shrink from your right to express your beliefs just because you feel that public policy issues belong only to the experts. Polish Americans must learn what other ethnic groups have discovered—that citizen lobbyists have a quality of understanding from which the experts can learn.

Our culture is one with a deep respect for God and church, for character and virtue, for family and home. Speak out for these values and work actively in their behalf. As a community, we must strive to promote the best interests of our heritage.

One hundred and ninety-two years ago, Poland adopted a constitution that swept away the past and asserted its hopes for freedom. This historic document abolished class distinction, established absolute religious toleration, and declared the equality of all citizens under the law.

Let us pledge to continue to work together so the cause of freedom—a cause that is so much a part of us today—does not die. Let us pray for peace—here and in Poland. And let us take action and speak out for our beliefs. Thank you.●

A TRIBUTE TO THE HONORABLE HENRY B. GONZALEZ

The Speaker pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Brooks) is recognized for 60 minutes.

Mr. BROOKS. Mr. Speaker, today I pay tribute to my friend and colleague, the distinguished Representative from the 20th Congressional District of Texas, Henry B. Gonzalez, on the 30th anniversary of his first election to public office.

As dean of the Texas delegation, I have had the privilege to serve with men and women of great integrity and distinction. Henry B. Gonzalez' work in Congress and his dedication to his constituents place him in this category.

There are Members elected to this body who have left it frustrated by the legislative process, or lured away by other offers. Henry's outstanding 30-year record of public service demonstrates his deep commitment to public service and his thorough knowledge of House procedure.

Prior to his election to the U.S. House of Representatives in 1961, Henry served his native San Antonio as a member of the city council, and as the city's mayor pro tem. He was subsequently elected to the Texas State Senate where he is remembered as a champion of those less fortunate, and for his filibusters against legislation which sought to uphold or to facilitate the principles of segregation.

When Henry came to Washington in 1961, he brought these concerns and more. His legislative agenda included housing, the need for lower interest rates, education, water, adequate energy supply at a reasonable price, more industry for San Antonio, minimum wage standards, and a host of other issues.

An ambitious agenda to be certain, but Henry has always been ready to expend the effort it takes to get the job done.

We are all well aware of Henry's fine work as the chairman of the House Banking Subcommittee on Housing and Community Development. Long before he ran for public office, Henry had been interested in housing. He became active in the movement to bring public housing to San Antonio while still in college. In the Texas State Senate, he sponsored the enabling legislation to provide for urban renewal and slum clearance in the State of Texas. This work and dedication to insure equal housing opportunity for all people is reflected in his legislative record. Since 1962, through his efforts on the Housing Subcommittee, he has been instrumental in the passage of every major new housing bill at the national level.

Democratic Members of the House are also well aware of Henry's efforts on behalf of the Democratic Party. Henry has been an articulate spokesman in Presidential politics since 1960, when he served as the national cochairman of the "Viva Kennedy" campaigns. Today he is 1 of 20 Democratic whips responsible for polling Members of the Texas delegation.

Mr. Speaker, we honor a man who has worked to improve the quality of life for all men and women. The House of Representatives is fortunate to have Members like Henry B. Gonzalez; individuals who do not hesitate to fight and work for what they believe in.

I know that Henry's wife, Bertha, and his 8 children and 13 grandchildren are proud of his many accomplishments. It is a pleasure and a honor to pay tribute to Henry's outstanding record on the 30th anniversary of his election to public office, and to extend him many happy returns on May 3, his 67th birthday.

Mr. de la GARZA. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Texas.

Mr. de la GARZA. Mr. Speaker, I thank the gentleman for yielding.

I want to commend our distinguished leader of the Texas delegation for securing the time today to extend our best wishes to our colleague, the gentleman from Texas (Mr. Henry Gonzalez).

My career goes back almost to the beginning or our colleague's entry into the political arena. I would like to say that as a probation officer, juvenile probation officer in San Antonio, as a councilman, later serving in the State senate at the time that I had the privilege of serving in the State house, we were able to work together in many of the causes which he espoused.

The name of Henry Gonzalez is admired and revered throughout this Nation and beyond for the things in which he has become involved in the political arena, in the civic and the cultural life of his community and in our country.

I would like to state something that I cannot forget or pass by as we honor Henry Gonzalez, that in some very difficult years in the State senate I remember then State Senator Gonzalez like the voice crying in the wilderness in the middle of the night, speaking for decency, for equality, for people having the right to enjoy the privileges, the God-given privileges, that we have as creatures of God and those guaranteed by our Constitution, when there were but very few in Texas or in any of the adjoining States raising their voices in this endeavor.

□ 1720

For that he has the respect and admiration of all of the people of Texas, but he had the courage at the time to espouse a cause that now has become more in the exact nature of the law of the land.

So I join my other colleagues in extending my commendation and my sincere best wishes to our colleague for all that he has done in behalf of humanity and in behalf of the people in his congressional district which jointly enabled him to in his own time be revered as a legend.

I thank the gentleman for yielding.

Mr. BROOKS. I now yield to the gentleman from Texas (Mr. HIGHTOWER).

Mr. HIGHTOWER. I thank the gentleman for yielding.

Mr. Speaker, a long time ago a wise man said that if one would be great he must first be good. I think this certainly applies to HENRY GONZALEZ, because if we are to talk about those fine qualities that we know that HENRY demonstrates so well, we would say first of all that he is a good man. He is a good friend and a good associate, a good colleague, a good man to work with, somebody that you can trust and know that he is going to be there when you need him.

Yet he has some additional qualities I think that could best be defined as part of being great. He has demonstrated so many times his tenacious qualities and he can be tenacious. If a man is to do an effective job as a legislator, as he has done for so many years in representing the people of Bexar County, he has demonstrated many times that he can be tenacious. When he gets on to a project where he knows that he is right, he does not turn loose and we praise him for it. Those who know him well know that he is that.

He is also a brave man because he does not hesitate or back off because something might not be politically popular with a lot of people. If he believes it to be right and he is convinced that it must be done, he has the qualities of bravery to see the project through.

So he is first of all a good man and he has demonstrated many times that he has the qualities of greatness that are so seldom found in these Halls. I am so grateful to the dean of the Texas delegation, Congressman BROOKS, for taking this special order in order that we might make note of the 30th anniversary of HENRY GONZALEZ' public service, because we need to talk about our own and we need to recognize these qualities when they are found among our colleagues.

I salute HENRY GONZALEZ and wish him many, many more years of service to the people of his district and the Nation.

I thank the gentleman.

Mr. BROOKS. I now yield to the gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Mr. Speaker, I thank the dean of the Texas delegation for taking this special order to honor our dear friend and colleague, HENRY GONZALEZ. This is a special week for HENRY, because it marks the 30th anniversary of his first election to public office and we also celebrate his birthday today. As we all know, HENRY's many friends here in Washington get together every year on this day and give him a party to end all parties. In the finest tradition of the city of San Antonio, his party is a celebration of life and friendship. It is truly one of the social events of the year here on Capitol Hill.

HENRY GONZALEZ is a gentleman of the first order. He enjoys tremendous respect and popularity in San Antonio, and for those of my colleagues who have not had an opportunity to visit this beautiful, historic city, let me point out that upon your visit, there will be no doubt in your mind that it is HENRY GONZALEZ country. Most notable people must pass from the scene before streets and public buildings are named for them, but HENRY is the exception. It is difficult to go anywhere in San Antonio and not see his name prominently mentioned. Even in areas where his name may not be inscribed, everyone can tell you who he is and how he has done so much for the 20th District of Texas.

HENRY GONZALEZ and his family constitute a great link in the proud history of the State of Texas. His ancestors were the original colonists in the State of Durango in Northern Mexico, and his parents came to Texas during the upheavals in Mexico prior to World War I. Since that time the Gonzalez family has been prominent and instrumental in the growth and development of San Antonio and Bexar County.

HENRY is a champion of liberty and justice. We know him as a man of wonderful character and personal strength who is forthright and honest in his dealings with others. He stands up for the little guy, and he does not mind grabbing a tiger by the tail if it involves principle. A great example is his unflinching work to achieve justice in the tragic killing of a courageous Federal judge—Judge Wood—down in Texas.

He is a wonderful family man, and as so many of us know, HENRY is justifiably proud of his grandchildren who spend time with him here in Washington. This is indeed a great moment for him, and the accolades that come his way this week are well deserved. I wish my dear friend, HENRY GONZALEZ, continued success and happiness.

Mr. BROOKS. I now yield to the gentleman from Texas (Mr. PATMAN).

Mr. PATMAN. Mr. Speaker, today we pay tribute to a legendary figure in Texas and American politics—a man whose accomplishments at every level of public service have already earned him a place in history. HENRY B. GONZALEZ' 30-year elective career has taken him from the San Antonio City Council, where he served as mayor pro tem in his second term; to the Texas Senate, where, as his colleague for almost a year, I witnessed firsthand his dedication to justice and human dignity; and then to this House where he has chaired two banking subcommittees and serves as a zone whip for the majority.

HENRY's record of struggle and triumph in the cause of social justice goes back to his first term on the city council, when he sponsored the ordinance ending segregation in the city's recreational facilities. It continued through his service in the Texas Senate, where he once teamed with our colleague, then-State Senator "Chick" Kazen, in a 36-hour filibuster against racist legislation. And it continues through his work on the Housing and Community Development Subcommittee, where he has fought for equitable treatment of families displaced from their homes by renewal or slum clearance projects.

His record for social progress is rivaled by his work for the cultural and scientific advancement of his city. Through years of diligent effort in the Texas Senate, HENRY was able to bring the University of Texas Medical School to San Antonio. A few years later, he won approval for the Audie Murphy Hospital, a state-of-the-art facility for the care of our veterans. Together, these institutions are the nucleus of the South Texas Medical Center, the basis for San Antonio's preeminent status in medicine.

All of this would serve well as a monument to any legislative career—but "HENRY B." is one of the few Members of this body who also can claim a role in literally reshaping the skyline of a great American city. Elected on a platform of bringing the World's Fair to San Antonio—the first such event held south of St. Louis—freshman Congressman GONZALEZ won the Kennedy administration's approval for planning and financing. He helped to get a bond issue passed by the city of San Antonio. He won congressional passage of the resolution needed for international approval and sanction. He got Congress to authorize the two-part Federal pavilion, which was to become a permanent U.S. office complex. Today, the city has many times the convention facilities it had before "HemisFair '68" and the Tower of the Americas now rivals the Alamo as an emblem of San Antonio.

I have continued to admire firsthand the effectiveness and leadership of HENRY B. GONZALEZ—right from my first day in Congress, when he presided at the reenactment of my congressional oath. I know that I will continue to benefit from his example. And today, as we recognize his continuing accomplishments, I want to wish him many happy returns of the day.

□ 1730

Mr. BROOKS. Mr. Speaker, I yield to the gentleman from Houston.

Mr. LELAND. Mr. Speaker, it is with pleasure and pride that I rise today to join my colleagues in honoring our friend, the Honorable HENRY B. GONZALEZ of Texas, on the occasion of his 67th birthday and the 30th anniversary of his election to public office.

The challenge I face in finding the right words to honor Congressman GONZALEZ is not in coming up with superlatives. They spring to mind: dedicated, compassionate, determined, principled, and courageous. The challenge is adequately capturing in a few words the impact he has had in the three decades he has devoted to public service.

Since his election to the San Antonio City Council in 1953, he has faithfully served that city as mayor pro tem and as a member of the Texas Senate, and, for the last 22 years, as a Member of this body. Those he has served, however, live all over Texas and all over America.

As a member of the Texas Legislature and the Congress of the United States, HENRY B. GONZALEZ has fought for the common people, for those too often forgotten by society, and for those who have been trodden under the cruel heel of racism, and prejudice and oppression. He has been a dynamic advocate of the Hispanic community and of all of America's minorities.

We who have been honored to serve with him have seen, time and again, evidence of his integrity and the courage born of commitment as he has taken on tough issues. Many times, I am sad to say, he has been alone in these battles. But the failure of others to recognize injustice, or their lack of willingness to battle it, have never deterred him. It is a source of comfort to me, as it is to so many, to know that he is here and ready to pitch the battle against the foes of equality and justice.

True to his Texas heritage, HENRY B. GONZALEZ has demonstrated a rugged individualism and a richness of character which sets him apart. He is truly one of the richest treasures of Texas.

Those of us who are privileged to serve with him in the Texas delegation have benefited time and again from his leadership and his counsel. His Texas colleagues are not alone, however, in the knowledge that we are richer for his presence among us. All who serve in this body are beneficiaries of his service to America.

Mr. Speaker, I wish him feliz cumpleanos adelante siempre buena suerte, HENRY B.

Thank you.

Mr. BROOKS. Mr. Speaker, I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

Mr. Speaker, I rise to associate myself with all of the remarks that have been made concerning my friend and our colleague, HENRY B. GONZALEZ.

I guess that I have been closer to HENRY than any other Member of this Congress.

We served together in the Texas Senate. As has already been stated, we teamed up against several race bills back there when it was really hard to stand up against discrimination.

Mr. Speaker, HENRY has been a champion of the people. He has always looked after the underdog. He has been very tenacious in his effectiveness in his pursuit of justice for all of the people of not only his district but all over this country.

Mr. Chairman, for me it is a tremendous pleasure to wish my colleague and my friend HENRY GONZALEZ the very best of the future that lies ahead of him. I can guarantee you, Mr. Speaker, that as long as HENRY GONZALEZ wants to be a Member of this body, his district is going to keep sending him here, regardless of what anyone says about HENRY and as far as I am concerned HENRY can stay here as long as he wishes.

Mr. BROOKS. I yield to the gentleman from Nevada (Mr. REID).

Mr. REID. Mr. Speaker, in 1961 when Mr. GONZALEZ came to Congress I was attending law school here in Washington. I worked evenings as a Capitol Policeman here at the Capitol. I remember not, over the years that have gone by since 1961, the things that the other Members have spoken about Mr. GONZALEZ being a great legislator, a person who is a leader of his own party and those other things. But what I do remember over these years is the fact that as a policeman here in the Capitol I remember a Congressman, who in the evenings working late, would stop on his way out of the building, going to get something to eat or whatever he might be doing, and he would always stop at my station and ask me if there is anything he could do for me, could he bring me a sandwich back, a cold drink, a hot drink, whatever the case may be. I do not know of anyone during the time I was in Washington who was nicer to me than HENRY GONZALEZ. As a freshman Member of Congress I have had very few dealings legislatively with HENRY GONZALEZ. But I do say here publicly that over these many years since I first met HENRY GONZALEZ I have wanted an opportunity to be able to thank him for the kindness he extended to someone who needed a hand of friendship. And I do want all those people in Texas who are so proud of HENRY GONZALEZ to know that his generosity and his kindness goes beyond the bounds of Texas. I want to testify to everyone that HENRY GONZALEZ is a man who does live the golden rule.

Mr. BROOKS. The gentleman is very gracious to remember that. I yield to the gentleman from Texas.

Mr. HANCE. I too would like to associate myself with the remarks about my colleague, HENRY B. GONZALEZ. He is a great American, a great Texan. I can think of no other Member who serves his district as well as HENRY GONZALEZ. He goes home each and every weekend.

I believe in all the times I have met people in San Antonio and people from San Antonio, he must know everyone that is there except one who moved into town last night or the night before and he will probably meet them this weekend.

He does work hard for his people and also speaks up for the working people of this country. He does an outstanding job. It has been a pleasure to serve with him in this Congress.

Mr. BROOKS. I yield to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. I thank the gentleman for yielding.

It has been my pleasure to serve on the Small Business Committee with HENRY GONZALEZ and indeed to serve not only on the committee but on subcommittees with him. The reason I wanted to come down to say something is because I belong to the Populist Caucus. If there ever was a populist in the Congress, certainly it is HENRY GONZALEZ.

In everything that comes along HENRY's concern is what is in the best interest of the common people of our country. At least in my opinion we need voices such as that in the Congress. I am grateful he is here to serve with us.

Mr. BROOKS. I yield to the gentleman from Kentucky (Mr. HUBBARD).

Mr. HUBBARD. I thank the gentleman for yielding, Mr. Speaker.

Mr. Speaker, I am pleased to have this opportunity to express my deep personal admiration for and pay tribute to my good friend and colleague, the Honorable HENRY B. GONZALES of the 20th District of Texas.

Representative GONZALEZ began his distinguished career in public service 30 years ago—in 1953. Throughout the years he has served his constituents well—starting at the local level as a member of the San Antonio City Council and serving as mayor pro tem during part of his second term. He was then elected to the Texas State Senate in 1956 and was reelected in 1960. In 1961 he was elected to the 87th Congress and has been reelected to each succeeding Congress.

Indeed, I have had the privilege of serving with Representative HENRY GONZALEZ in the House for 9 years. During that time I have also worked with him as a member of the House Banking Committee and for 7 years as a member of the Subcommittee on Housing and Community Development, of which he is chairman.

In addition to working diligently on behalf of his constituents, Representative Gonzalez has made significant contributions on the national level, serving on numerous House committees and actively participating in the House leadership organization.

Therefore, along with my colleagues here today, I appreciate this opportunity to express my personal respect and admiration for my good friend Henry B. Gonzalez on the 30th anniversary of his first election to public office and to wish him many happy returns on this, his 67th birthday.

Incidentally, he was my Congressman during my 13 months in Air Force active duty at Lackland and Brooks Air Force Bases in San Antonio.

□ 1740

Mr. BROOKS. I wish the gentleman would not refer to 1953 as ancient history. That is the year I was sworn into Congress.

Mr. HUBBARD. When I mentioned Brooks Air Force Base, I thought that might have been named for our distinguished senior Congressman from Texas.

Mr. BROOKS. Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. Frank).

Mr. FRANK. I thank the gentleman for yielding.

Obviously 1953 was a vintage year for Texas politicians and I am glad to be able to participate today in commemorating that event.

I was assigned to the Subcommittee on Housing of the Banking Committee shortly after being elected a little over 2 years ago and thus came to begin an association with the Honorable Henry Gonzalez, which has been one of the highlights for me of a congressional career that I have generally enjoyed.

His commitment to poor and working people, to people who have been disadvantaged and who can easily get forgotten is really an inspiration. This has not been a time, these past 2 years, when those kinds of concerns have gotten from the Congress the attention that they seem to me to deserve. And the unflagging zeal, and good cheer, and diligence, and creativity which Henry Gonzalez has brought to the job of meeting the needs of those who might otherwise be left behind has been, as I said, inspirational to many of us on that subcommittee.

So I am delighted to join in honoring a colleague, a leader of my subcommittee, a friend, and a man who has shown that while in some cases excessive service in a Government position may atrophy some of the vital juices, it need not do so. In the case of Henry Gonzalez the 30 years that he has given to public service have been 30 very good years for the people of this country.

And I thank the gentleman for calling this special order.

Mr. BROOKS. Mr. Speaker, I yield to the gentleman from New York (Mr. Weiss).

Mr. WEISS. I thank the gentleman for yielding to me and I just want to express my appreciation to the gentleman for taking this special order and to share with him and the other Members of the Texas delegation our respect and commendation for the gentleman from Texas (Mr. Gonzalez). He has been an idol of mine since long before I came to Congress and has continued to be since I have been here.

I wish him well on his 67th birthday and the 30th anniversary of his entry into public life.

● Mr. BOLAND. Mr. Speaker, it is a great pleasure for me to join the many friends of Henry B. Gonzalez in celebrating the 30th anniversary of his election to public office, and his 67th birthday. On May 3, 1953, Henry was elected to the San Antonio City Council where he served 3 years. Henry continued his career in State and local public service until his election to the 87th Congress in 1961, having served as chief probation officer in Bexar County, and as a member of the Texas State Senate from 1956 to 1960. Throughout his career, Henry Gonzalez has distinguished himself as a scholar of the law, and a forceful advocate of those who have suffered injustice. As chairman of the Subcommittee on Housing and Community Development of the House Banking Committee, Henry has made innumerable contributions to the work of the House. His record of public service is truly outstanding, and we are fortunate to have him among us today. I wish Henry many years of continued success.●

● Mr. MONTGOMERY. Mr. Speaker, I want to join with my many colleagues in paying tribute to Henry Gonzalez, of Texas, on the occasion of his 30th anniversary as an elected official.

He has compiled a truly outstanding record of public service over those years. Henry was first elected in 1953 to the San Antonio City Council and then was elected to the Texas State Senate in 1956. He earned the respect of his colleagues in that chamber and his hard work and dedication were rewarded in 1961 by election to the U.S. House of Representatives.

I have known Henry Gonzalez for 15 years. I can say that it has been a great pleasure to work with him in the House of Representatives. I especially appreciate his help and input as a member of the Select Committee on the Missing in Action in Southeast Asia.

Henry currently serves on the Banking, Finance, and Urban Affairs Committee, along with the Small Business Committee. He has been a most valuable member of both of these panels.

In addition, over the years he has served seven times as a House delegate to the United States-Mexico Interparliamentary Conference.

Henry Gonzalez has represented the people of San Antonio well over the years and his service to this country as a Member of the House of Representatives has also been most outstanding. I understand that tomorrow is his 67th birthday. I want to wish him well and also wish for him many happy returns, and many more years of service in this Chamber.

He is a good friend and I am glad we are taking this time to honor him today.●

● Mr. YATES. Mr. Speaker, I am delighted to join with my many colleagues in paying tribute to our dear friend, the distinguished gentleman from the 20th District of Texas, Henry B. Gonzalez, on the 30th anniversary of his first election to public office, and upon his 67th birthday.

Henry and I have known each other for more than 20 years. For all that time, Henry has been a crusader and battler for civil liberties and individual rights. He has been in the forefront of the fight for clean water and against the misuse of nuclear power. He is a dedicated and sincere statesman and we in the House are lucky to have him with us.●

● Mr. SUNIA. Mr. Speaker, today I join my colleagues in honoring a man who has set a fine example to us all, and has done that for 30 years. It is appropriate that on this, his 30th anniversary of serving in public office, Congressman Henry B. Gonzalez be honored.

I feel that this 30 years is of particular importance, not only because of the accomplishments Henry Gonzalez has made, but because he has spent 22 years of these 30 here in Washington, D.C., as a Member of the U.S. House of Representatives.

The people of the 20th District of Texas can be proud that they have a 12th term Congressman who knows their needs and has the experience to satisfy them.

I take this opportunity to congratulate Mr. Gonzalez, to wish him continued success and also to extend happy birthday wishes from the territory of American Samoa.●

● Mr. YATRON. Mr. Speaker, I would like to take this opportunity to join with my colleagues and say a few kind words about a good friend and one of the most esteemed Members of the U.S. House of Representatives, Henry B. Gonzalez.

This is a very special occasion for Henry. I want to wish him a very happy birthday and the very best in the future. This also marks the 30th year of devoted and outstanding service to the public by this fine American statesman.

No one who has ever served in this Chamber has done a better job of representing his or her constituents than HENRY GONZALEZ. His record of achievements is well known and widely respected, and extend from his days on the San Antonio City Council to the Texas State Senate and to the U.S. Congress.

I have served with HENRY GONZALEZ since my election to the House and I have learned a great deal from him over the years. He is, without a doubt, one of the most effective, dedicated, sincere, and accomplished Members of Congress. As chairman of the House Subcommittee on Housing and Community Development, he has had a major impact on some of the most important programs affecting our country, to the benefit of all Americans.

I have enjoyed working with HENRY, and look forward to continuing our close cooperation. Once again, HENRY, happy birthday.●

● Mr. DYSON. Mr. Speaker, I join many of my distinguished colleagues today in paying tribute to our celebrated friend and colleague, HENRY GONZALEZ, from Texas, for the unwavering dedication and unlimited resolve he has demonstrated in his respective duties. For 30 years in public office, HENRY GONZALEZ has faithfully and efficaciously served his constituents, his fellow citizens, and his country in a manner that is only befitting of a true representative of the people.

It has been three decades since this dynamic San Antonio legislator first entered politics, with being elected to the San Antonio City Council. Subsequently, he competently proved himself as an effective Texas State Senator from 1957 to 1961, before winning a U.S. House of Representatives seat in a special election in 1961. Since 1961, HENRY GONZALEZ has consistently shown himself to be a most worthy, effective, and greatly respected Congressman.

Over the 22 years in Congress, HENRY GONZALEZ has risen to chair the salient House Banking Subcommittee on Housing and Community Development. He still remains a leading Democrat on the House Banking, Finance and Urban Affairs Committee. He also remains a prominent figure on the House Small Business Committee.

HENRY GONZALEZ has certainly been an imposing asset in this House over the past two decades. He has valiantly served his citizens and country. Mr. Speaker, it is my sincere hope HENRY GONZALEZ will recognize that although we now pay tribute to him in commemoration of his outstanding 30 years in public life, as well as to mark his 67th birthday, he will know we certainly look forward to many more years with him as a distinguished friend and colleague.●

● Mr. ADDABBO. Mr. Speaker, it is an honor that we pay tribute today to my dear friend, Congressman HENRY B. GONZALEZ, as he celebrates his 30th anniversary of his first election to public office.

HENRY and I both started our terms on the Hill during the 97th Congress and since 1961 it has always been an absolute pleasure to work with him.

HENRY is a man to be admired. He has lead the fight for the disadvantaged and has become an institution and a tradition as a concerned liberal in a State not known for its liberal political policies. It is because he cares about the people that HENRY has received absolute support from his constituency during the 20 years that he has sought reelection to Congress.

At present, Congressman GONZALEZ is serving as the chairman of the House Subcommittee on Housing and Community Development. He has been instrumental in expanding public housing programs throughout the Nation. He was the founder of the all important model cities program, clearing the path for Federal assistance to slum and urban renewal projects. He has contributed his expertise in the design of the urban development action grant programs, the urban homesteading programs, and the homeownership assistance programs for low- and moderate-income families.

The list of HENRY's achievements does not stop here. He has on a continuous basis been outspoken for small businesses, insuring that these businesses receive equitable treatment. In addition, GONZALEZ role in investigating the assassinations of Dr. King and President Kennedy has been invaluable.

For HENRY, this tribute can only serve as a small thanks for all his service to the State of Texas and to the Nation. I know HENRY will continue to effectively serve our Nation guaranteeing that minorities and the poor receive the proper attention. I want to thank HENRY and commend him for all the good he has done so far and will continue to do in the future.●

● Mr. DWYER. Mr. Speaker, it is an honor for me to join in this special tribute to our good friend and colleague, HENRY GONZALEZ.

When I first came to the Congress in 1980, I found in HENRY a fine example of the kind of Representative to which we all aspire: honest, fairminded, and truly dedicated to his constituents and the people of our country.

HENRY has shown this commitment and strength throughout his public life, first, in his hometown of San Antonio as city councilman and mayor, and later, as a member of the Texas State Senate.

For more than a generation in this House, that conviction has been extended and refined, particularly in areas that are vital to our people and our economy: housing, community development, and small business.

In these areas and so many others, HENRY GONZALEZ has been one of our most compassionate and effective leaders—an ardent advocate of causes that are just and a true friend and spokesman for those less fortunate.

Mr. Speaker, I would like to thank my colleague, Mr. BROOKS, for calling this special order, affording Members an opportunity to offer HENRY our warm congratulations on his birthday and humble thanks for 30 years of dedicated and distinguished service to his country.●

● Mr. TORRES. Mr. Speaker, I rise today to join with my other colleagues in paying tribute to the distinguished gentleman from Texas, Mr. HENRY B. GONZALEZ. Long before I entered political life, early in my youth as an autoworker at the Chrysler Corp. in Los Angeles, Calif., I had occasion to know of a great Texas legislator who represented working people in the State legislature. As I moved up on the ladder of leadership in the labor movement I came to appreciate the commitment of Mr. GONZALEZ in championing the cause of working people, the poor, the powerless, and all those who looked for justice in this country. It was indeed a joyous occasion when I learned of his election to the U.S. House of Representatives. As the years progressed, I followed his distinguished record in the House as a dynamic spokesperson for civil rights and progressive legislation. His roots in Texas and his heritage stemming from people who pioneered in that State after leaving a country in revolutionary turmoil gave Mr. GONZALEZ an extraordinary sensitivity in dealing with problems and issues that affected the lives of so many Americans in their quest for social and economic justice.

Mr. Speaker, today HENRY B. GONZALEZ has not wavered one iota from the progressive course he established in this House 30 years ago in promoting legislation to enhance the quality of life in this Nation. At this very time HENRY B. GONZALEZ is the unequivocal champion of seeking legislation to deal with the great issue of adequate and decent housing for all Americans. He has done so with his effective leadership as chairman of the Subcommittee on Housing and Community Development of the larger Committee on Banking, Finance and Urban Affairs on which I also have the honor to serve.

Mr. Speaker, for these and many other reasons I join my colleagues here in paying tribute to a great man who has been an inspiration to me and a whole generation of Mexican Americans who saw HENRY B. GONZALEZ as the best expression of what is only possible in America: The ability to overcome poverty, bigotry, discrimination, and to rise above these and to give leadership for their eradication from the face of our society.

Thank you, Mr. Speaker.●

● Mrs. ROUKEMA. Mr. Speaker, today marks a special occasion for an able and senior colleague in the House, Congressman HENRY B. GONZALEZ of Texas. I join in today's bipartisan salute to Chairman GONZALEZ, with whom I have the privilege of serving on the Banking Committee and the Housing Subcommittee.

In 30 years of service to his Texas constituents, HENRY GONZALEZ has compiled a record of accomplishment that few can match.

His 21 years of service on the Housing Subcommittee have brought many positive results. He has been a leader in our Nation's efforts to create affordable housing for the lower- and middle-income families. He coauthored the urban development action grant program, perhaps one of the most promising redevelopment programs our Nation has seen. He has combined compassion and innovation with the legislative process.

A personal observation is in order. As chairman, Representative GONZALEZ has shown courtesy, diplomacy, and an extraordinary sense of democratic fair play in the conduct of the business of the committee.

HENRY GONZALEZ has a tremendous record of achievement at the local level as well. His interest in housing was spurred by his service on the San Antonio Housing Authority and his subsequent election as city councilman in that city 30 years ago. Here in Congress, it was the efforts of this Congressman which brought HemisFair to San Antonio in 1969, bringing with it a new convention center and revitalized downtown area. It is most fitting that the convention center is named for Chairman GONZALES.

Thirty years ago this week, HENRY GONZALEZ won his first election and he has been winning them ever since. His constituents know and appreciate his abilities, and so do those of us who serve with him here in Washington.●

● Mr. GAYDOS. Mr. Speaker, if you admire the towering English political thinker, Edmund Burke, you are likely to believe that the only thing necessary for the triumph of evil is for good men to remain silent or do nothing.

But, if you have worked more than a year with HENRY GONZALEZ, you are equally likely to believe that evil is overmatched as long as he serves with us, as I do.

It is not in Mr. GONZALEZ to stand silent in the face of evil or injustice, which is a benefit to the Nation, his district, and the disenfranchised.

Nothing is the only thing this colleague of ours does not do well in Burke's business of representative government.

In fact, he seems to approach the job as Burke recommended: By giving his constituents his industry and his judgment—by doing what humanity, reason, and justice say ought to be done.

In his series of more than 30 special orders on the murder of a Texas judge, Mr. GONZALEZ by his action rewrote the definition of perseverance. Indictments have been returned in this case that went unprosecuted for too long.

In his record in housing, in his mortgage bill in the current Congress, he has demonstrated a devotion to the dictates of reason, justice, and humanity.

Whether speaking in special orders on a Central American policy for the United States or on the Federal Reserve Board and the monetary system, he is significantly diligent in his business.

These are only samples of his record, but as the great Spanish writer Cervantes said, "by a sample we may judge the whole piece."

When Mr. GONZALEZ talks, I listen. He makes a special kind of music. It is not quite the Texas swing that memorialized the town he represents, but by any contemporary measure this colleague of ours truly is the San Antonio rose. We are fortunate to have him in service with us, and I hope this service continues unabated and unbroken for years and years to come.●

● Mr. COELHO. Mr. Speaker, I would like to take this opportunity to commend my esteemed colleague, the Honorable HENRY B. GONZALEZ, for his service to his district, to the State of Texas, and to this Nation for the past 30 years. An energetic and hardworking public official, HENRY has served as an outstanding model to all of us; his vast legislative experience and skill make him a valuable Member of this body.

In his role as chairman of the Subcommittee on Housing and Community Development, he has sought to increase the amount of Federal moneys available for housing at a time when this administration is attempting to reduce funding for housing programs. Because of his determination, HENRY has proven to be a leader in Congress, and his efforts deserve to be recognized.●

● Mr. VANDERGRIFF. Mr. Speaker, HENRY B. GONZALEZ is the personification of public service at its best. He challenges those of us who work alongside him by his dedication and his effectiveness and by setting such an example he contributes far more than his rightful share toward the goal of ever better government.

It was my privilege to first meet Congressman GONZALEZ when he was a member of the Texas State Senate a quarter of a century ago. Obviously, he was already completely consumed with the joy of working for and with people, and it did not take very long to realize that no constituency in Texas was represented by a Senator more responsive and sensitive to the needs of those he was attempting to serve than Senator GONZALEZ. It also was apparent he was destined for a much greater responsibility in the years ahead and thus it was not surprising at all when he was elected to Congress.

The residents of his own district and, indeed, all the people of the United States are vastly the better because HENRY GONZALEZ has been at work in their behalf here in Congress these past two decades. He has, time and again, been an articulate spokesman for those who are least able to speak for themselves. He inspires the best in all of us and thereby sets a standard every other Member would do well to emulate.●

● Mr. ANDERSON. Mr. Speaker, I commend the gentleman from Texas (Mr. BROOKS) for arranging this special order today allowing us to pay tribute to our friend and colleague, the Honorable HENRY B. GONZALEZ, on this his 67th birthday and the 30th anniversary of his first election to public office.

Three decades ago HENRY began his career in public office when he was first elected to the San Antonio City Council. During the latter part of his 3 years on the council, he served as mayor pro tem. From there, he was elected to the Texas State Senate in 1956. Although HENRY was reelected to the Texas State Senate in 1960, he was elected the following year to the U.S. Congress to fill the unexpired term of Paul J. Kilday. And, he has been with us ever since.

We, and millions of other Americans, are very fortunate that HENRY chose to come to Washington and serve in this Chamber. His tireless efforts on behalf of all the people in this country—and not just a select few—are truly remarkable.

On this his 67th birthday, I congratulate HENRY on a fine record of service to his community, State, and the Nation. My wife, Lee, also joins me in wishing HENRY, his wife, Bertha, and their children, Henry, Rose Mary, Charles, Bertha, Stephen, Genevieve, Francis, and Anna Maria all the best in their future endeavors.●

● Mr. FROST. Mr. Speaker, today is the 30th anniversary of HENRY GONZALEZ' first election to public office and it is appropriate that his friends in the House of Representatives, where he has spent most of his public career, pay special tribute to him on this day.

HENRY B. GONZALEZ remains an unabashed liberal whose first run for Congress in 1961 became a national referendum on the New Frontier policies of John F. Kennedy, who HENRY had campaigned for and whose policies HENRY strongly supported. His entire public life has stood for the New Frontier causes for the poor, the disadvantaged, the deprived, and those who cannot defend themselves. Few politicians have so steadfastly defended those principles over the years as HENRY GONZALEZ.

HENRY is a first-generation American of Mexican descent. He was the first Mexican American to serve in the Texas State Senate and he was the first Mexican American to be sent to Congress from Texas. Of all the contributions HENRY has made to the people of his district, none will endure as long as his unremitting opposition to segregation and the policies that deprived his constituents of the right to the franchise. HENRY attracted national attention during his service in the Texas Senate for his filibusters against what were known as the race laws—legislation designed to exempt Texas from the civil rights legislation that was sweeping the country. And in 1962 when he was first elected to Congress, HENRY immediately introduced legislation to abolish the poll tax in the five States where it still existed. That proposal was subsequently incorporated into the 1965 Voting Rights Act.

Most of us think of HENRY for his accomplishments in the housing field, which have been many. But his forcible defense of civil rights at every level of his political career is what his people back home most remember about HENRY B. GONZALEZ. He has rightfully earned himself a reputation for decency, compassion, and principles. He is a man whom I personally admire and with whom I look forward to many more years of close association.●

● Mr. LEATH of Texas. Mr. Speaker, I want to join my colleagues in paying tribute to a great public servant, my friend, HENRY B. GONZALEZ. In the 30 years that HENRY has served the public he has tenaciously fought in support of his convictions, not letting obstacles which would dishearten less persistent men deter him from pursuing his goals. This unfaltering spirit has earned HENRY the deserving respect of his colleagues.

HENRY has compiled a very impressive record of public service, having served in government on the city, State, and Federal level. His first elective office was as a San Antonio City Council member. Later, as a senator in the Texas Legislature, he demonstrated his dedicated fighting spirit through his filibusters against bills upholding segregation.

In 1961, HENRY was elected to the U.S. Congress. Since that time, he has continued his struggle to protect the poor and to fight discrimination. To enumerate all of his accomplishments would be too immense of an undertaking. I would like him to know, however, that his efforts have been noticed and appreciated, and that he serves as an example to all of us of a man who is willing to tenaciously battle for what he believes is right.●

● Mr. PICKLE. Mr. Speaker, we know our national leaders simply by their initials—F. D. R., J. F. K., and L. B. J. You can add to that list the abbreviated name of one of our distinguished colleagues from Texas who is known universally as HENRY B. When you quote HENRY B. everybody knows you are talking about HENRY B. GONZALEZ. This is a remarkable recognition, and it comes to a man who has been so active for so long for the right causes that he has gained this special recognition.

HENRY B.'s public service began 30 years ago. His service on the San Antonio City Council, in the State senate and as the first Hispanic to ever serve in the U.S. Congress HENRY B. has earned him this special recognition.

HENRY B. is recognized for his constant battle for the little man and, in a lighter vein, for his special orders at the close of every business day. Why if Congressman BROOKS had not arranged for this special order, HENRY B. probably would have arranged one for himself.

He is different, unique, and unpredictable, except that he will do what he thinks is right. He is dependable, lovable, and a great believer in the Democratic Party. You do not take HENRY B. for granted, and you know he is going to speak out every day on some vital issue.

I have often wondered how HENRY B. can keep getting reelected when he is so outspoken on so many issues—local or national. He does it every day. He is just as liable to speak out on a national issue as he is to take the hide off a local politician. But the people in his district know that is just HENRY B., and they must approve because they keep sending him back to Washington—and thank goodness for it.

Another reason for our celebration today is HENRY B.'s birthday—so happy birthday, HENRY. You are the top banana, the jefe grande, the big tamale of your city and the Texas delegation. We know you are not going to slow down; so we will just offer to aid and abet you—and say "sic em" HENRY B.●

● Mr. COLEMAN of Texas. Mr. Speaker, it is a great honor for me to join my colleagues in paying special tribute to our friend HENRY GONZALEZ of San Antonio during this very special week for him.

Three decades of service to one's city, State, and Nation is indeed a milestone not easily achieved. More important than this, however, is the unity among HENRY's constituents he has inspired along the way. Time and time again, his candidacy demonstrated that compassion, responsiveness, integrity, and leadership are far more important than one's ethnicity or a community's history of polarized voting. Not only does HENRY serve as a role model for young Hispanics to emulate, he serves as a model for all Americans to follow.

I am proud to have this opportunity to work with HENRY GONZALEZ and to gain from his wisdom on matters before this body.

I wish my colleague from Texas further success during his tenure in Congress, a most happy birthday, and a feliz cinco de Mayo.●

● Mr. EDWARDS of California. Mr. Speaker, I would like to take this opportunity to thank the gentleman from Texas, JACK BROOKS, for this chance to speak in tribute to the Honorable HENRY B. GONZALEZ.

May 1, 1983, marked the 30th anniversary of Mr. GONZALEZ in public office. During this time, I have come to know HENRY very well and consider him a good personal friend. He has been an inspiration to all of us here in Congress, particularly with respect to his constant attempts to help the poor and needy in our society.

Since I have a large Hispanic population in my district, the 10th Congressional District in California, HENRY's efforts for Hispanic rights have meant a lot to the people of my district. HENRY has visited San Jose numerous times and has always had spirited messages of hope and inspiration for my constituents.

I will always consider HENRY a national leader in housing and community development, sensitive to the wants and needs of minorities and lower income families. He is a true representative of the people, and today I would like to say thanks for all his efforts and for the outstanding work he has done. I know the American people will continue to benefit from his dedication and commitment for many years to come.●

● Mr. ROE. Mr. Speaker, I take great joy in rising today to join in this well-deserved salute to our colleague from the great State of Texas, HENRY GONZALEZ, on the occasion of the 30th anniversary of his first election to public office.

The story of HENRY GONZALEZ' career can truly serve as an inspiration to all Americans, but especially those who come from Hispanic origins.

The son of Mexican American parents in San Antonio, HENRY became involved in politics when he ran for and was elected to the San Antonio

City Council in 1953; 3 years later he won election to the Texas State Senate.

Henry's Horatio Alger story culminated dramatically in 1961 when he was elected to the House, becoming the first person of Mexican American heritage from Texas ever to win a House seat.

During the past 22 years, Henry Gonzalez has never lost any of his vigorous dedication to the needs of his constituents. His belief that a Member of the House of Representatives is here to serve the people back home is best exemplified by the motto on his Rayburn office door: "This office belongs to the people of the 20th Congressional District of Texas."

As the chairman of the important Housing Subcommittee on Banking, Henry has shown the same fight in helping secure passage of legislation that guarantees decent housing opportunities for all Americans.

Mr. Speaker, Henry Gonzalez has always been the champion of those members of our society, the young, the poor, and the aged, and others who often have no one to speak out in their behalf.

It is my hope that 30 years from now, Henry Gonzalez will be congratulated again on this House floor for another 30 years of tireless devotion to the people of Texas and the Nation as a whole.●

● Ms. OAKAR. Mr. Speaker, I would like to join you in paying tribute to my distinguished friend and colleague, the Honorable Henry B. Gonzalez, on the occasion of the 30th anniversary of his first election to public office as well as the celebration of his 67th birthday.

Congressman Gonzalez is my chairman on the Housing and Community Development Subcommittee. In the time he has served in this capacity I can say that he has made remarkable and important inroads in his extremely fair and judicial handling of the very critical situation that effects our Nation's housing and people. I have found him to be a man of the people whose integrity impresses both his colleagues and all people who have observed him in this important position on this crucial subcommittee.

I would like to congratulate him on this, his 30th anniversary in public office, and his 67th year as a person who cares for others and is not afraid to put himself on the line. He is a man of courage, foresight, and fairness.

Congratulations, Henry.●

● Mr. MITCHELL. Mr. Speaker, I am proud to join my colleagues in honoring Congressman Henry B. Gonzalez on two very special occasions. Two days ago, on May 1, Henry marked the 30th anniversary of his first election to public office. Today, he marks his 67th birthday.

Henry has stood continuously in the forefront to promote equal opportunities for all citizens. He has been a stalwart in protecting the rights of minorities and the elderly. His untiring, compassionate commitment to decent affordable housing for low income citizens shines through daily in his capacity as the chair of the House Banking Committee's Subcommittee on Housing. I have served with him as a member of this subcommittee for years, and he is truly an inspiration to us all.

On this special day, Henry Gonzalez is receiving a distinct honor—a tribute from those who have the privilege of serving with him in the House. This is a high honor and he truly deserves it.

I want to extend my heartiest wishes for a happy anniversary and a fantastic birthday to this champion.●

● Mr. PATTERSON. Mr. Speaker, it gives me great pleasure to pay tribute to my distinguished friend and colleague, the Honorable Henry B. Gonzalez, of Texas, on the occasion of his 67th birthday.

I have had the honor of serving in Congress with Henry Gonzalez for nearly 9 years. He is a man who has dedicated 30 years of service to his constituents in San Antonio, Tex. Beginning his public service career in 1953 as a member of the San Antonio City Council, Henry continues to serve the people of San Antonio as a member of the House Committee on Banking, Finance and Urban Affairs, and more specifically, through his leadership as chairman of the Subcommittee on Housing and Community Development.

As a colleague of Henry's on the Banking Committee, serving with him on the Housing Subcommittee, I have had the honor of working with Henry to develop legislation that will meet the challenge posed by our Nation's critical housing problems. As Henry pointed out during hearings in March 1982, the questions we face in the housing arena are of fundamental importance. At that time, Henry noted that:

> The blunt truth is . . . the Nation must decide whether or not it will maintain its commitment to a national housing program and policy, and whether or not we will address the ills of the industry, and whether or not we will continue our historic effort to provide safe, decent, and affordable housing for the American people.

It is clear that Henry believes we must maintain this commitment to housing; and his actions demonstrate this conviction. Just last week, under Henry's chairmanship, the Housing Subcommittee took the bold step of approving major housing legislation, H.R. 1—the Housing and Urban-Rural Recovery Act of 1983. Not only does this legislation reaffirm our historical commitment to meeting the housing needs of American citizens but it proposes to do so using a number of innovative, more cost-effective ways that reflect the constraints of today's budget realities.

I look forward to continuing to work with Henry on the House Banking Committee and its Subcommittee on Housing.

And on this day, his 67th birthday, I would like to extend to Henry warm wishes for a happy, healthy, and prosperous year.●

● Mr. ST GERMAIN. Mr. Speaker, the State of Texas has two monuments by which the great city of San Antonio is known nationwide—the Alamo and Henry B. Gonzalez.

Both are symbols of courage and the willingness to stand up against seemingly impossible odds.

We may not always agree with our good friend and colleague from San Antonio, but there is no one in this House who for a moment questions the sincerity of Henry B. Gonzalez' convictions. And when we are considering shelter for the homeless, housing for low- and moderate-income families in America, Henry Gonzalez speaks not of consensus, but of compassion.

We do not need to go back in history to illustrate this point. Last week, the Housing Subcommittee, under the chairmanship of Mr. Gonzalez, reported out a bill which pushes for a revival of housing for low- and moderate-income families in the United States—for keeping the commitment the Congress has made to the American people that each should have decent, safe, and sanitary shelter.

Later this week, the House will consider for Emergency Housing Assistance Act which seeks to provide temporary assistance to homeowners facing foreclosure because of involuntary unemployment. The legislation also includes assistance for States and local governments to provide emergency shelter and essential services for the homeless. Few will forget the testimony given to Mr. Gonzalez' subcommittee last December from the Salvation Army, from other church groups, and mental health associations, from community groups trying to help the homeless aging, and from some of the people living in these community shelters.

These efforts are more benchmarks in a career marked by concern for the poor, the disadvantaged—the little man in our economic system.

We honor Henry B. Gonzalez, a man of independence and compassion. Happy birthday, Henry.●

● Mr. ACKERMAN. Mr. Speaker, I rise along with my colleagues in order to pay tribute to the Honorable Henry B. Gonzalez on the occasion of the 30th anniversary of his election to public office. Congressman Gonzalez has been a beacon for those of us who once thought that our ethnic identity would prevent our election to public office. Congressman GONZALEZ was one of the first Mexican American candidates for public office back in 1953. Again, when he was elected to the House in 1961, he was one of the first Mexican American Members of this body. He followed his educational path through the San Antonio Public School System and the University of Texas. It culminated with a law degree from St. Mary's University School of Law.

Mr. GONZALEZ is to be praised for his commitment and dedication to his community. By working for the publication of bilingual literature, teaching math and citizenship classes in veterans training programs, and through his work with the San Antonio Housing Authority, he helped to bridge the gap between newly arrived American citizens and their new country. The people of San Antonio recognized his dedication to civic affairs by electing him to the city council in 1953, elevating him to the State senate in 1956, and sending him to the House in 1961. As a Member of this body, he has served on many standing and select committees, distinguishing himself on each of them.

As a freshman in the House, I would be honored to emulate Congressman HENRY B. GONZALEZ, and be one of the Members of the House to wish him a happy birthday.●

● Mr. LONG of Maryland. Mr. Speaker, I congratulate my distinguished colleague from Texas, Mr. GONZALEZ, on his 67th birthday and on the beginning of his 31st year of dedicated public service.

For as long as I have been a Member of this body, Mr. GONZALEZ has shown the kind of courage and conviction which we should all emulate. His constituents and his colleagues are fortunate that he has been so generous in giving his career to public service.

I wish my good friend HENRY GONZALEZ the happiest of birthdays today and many more beyond. I look forward to serving with him for many years to come.●

● Mr. LEVINE of California. Mr. Speaker, I would like to thank my colleague from Texas (Mr. BROOKS), for providing us with the opportunity today to honor a distinguished and accomplished Member of Congress, HENRY B. GONZALEZ, on the occasion of the 30th anniversary of his election to public office.

During the 21 years he has served here, Mr. GONZALEZ has established a reputation as an effective champion of the causes he cares so much about.

At the top of the list of those causes is improving the quality of housing for Americans. For more than 20 years Mr. GONZALEZ has played an important role in fashioning housing legislation considered by the House of Representatives.

His concern for the civil rights of Americans was clearly demonstrated by the first bill he introduced—a resolution calling for the abolition of the poll tax which had for years been used to prevent blacks and Hispanics from voting.

He has shown the same kind of leadership on a list of causes which include full employment, consumer product safety, veterans affairs, and many more too numerous to mention here.

I am pleased to have the opportunity to take part in this special order to recognize an outstanding Member of Congress.●

● Mr. LOEFFLER. Mr. Speaker, as a member of both the Texas and San Antonio delegation, I am pleased to join with my colleagues today in extending congratulations and best wishes to our friend HENRY B. GONZALEZ who, on May 1, marked 30 years of dedicated public service as an elected official at the local, State, and National levels for San Antonio and Bexar County, Tex.

From the junior member of the San Antonio delegation to its dean, it is also my high pleasure to extend happy 67th birthday greetings and best wishes for a pleasant and memorable day.●

● Mr. CORRADA. Mr. Speaker, I am honored to join this tribute today commemorating the 30th anniversary of the first election to public office of our illustrious colleague, HENRY B. GONZALEZ.

As Resident Commissioner from Puerto Rico, it has been a privilege to serve, as a colleague, with Congressman GONZALEZ since I came to Congress in 1977.

All of us, as Congressmen, have special respect for our mentors. In this capacity, I note proudly that having served with Congressman GONZALEZ—particularly as a fellow member of the Hispanic Caucus I have benefited immeasurably from his counsel, his advice, and, perhaps most importantly of all, from his example he has set for all of us and for me personally in serving his constituents and his country.

Over the years, as a city council member, as a State senator in Texas, and as a Congressman, HENRY GONZALEZ has been in the forefront of many social issues and causes that have helped his fellow Hispanic-American citizens, and the city of San Antonio, Tex.

May he serve many more. I wish HENRY on this occasion, the very best of wishes, and I am happy to join in this special tribute for a very special person.●

● Mr. RICHARDSON. Mr. Speaker, today marks the 30th year of public service by my distinguished colleague from the State of Texas, Congressman HENRY B. GONZALEZ. Our Nation is grateful for HENRY's unyielding efforts on behalf of the poor, the elderly, low-income families, small businessmen, farmers, and minorities. Hispanic Americans take particular pride in his 23 years in this body, where he is now the dean of the Hispanic Caucus.

On this special occasion I think it is important for my colleagues to reflect on HENRY's longstanding commitment to civil rights and the public interest. In San Antonio, when swimming pools and parks were closed to members of minority groups, HENRY GONZALEZ led the fight to open the facilities to all the citizens of the city. In the Texas State Legislature, HENRY fought tirelessly against legislation that would have perpetuated segregation in Texas.

When HENRY came to the Congress in 1961, he continued his fight for equality under the law. He strongly supported the landmark civil rights bills of the sixties. HENRY worked hard and quickly won the admiration of his colleagues. His thoroughness continues today on the Banking Committee, where he chairs the Subcommittee on Housing.

Mr. Speaker, HENRY GONZALEZ has a plaque outside the door to this office in the Rayburn Building. The plaque states that "This office belongs to the people of the 20th District of Texas." HENRY, who is a lawyer, represents the people of his district very well, and they are indeed fortunate to have him as their advocate.●

● Mr. ANNUNZIO. Mr. Speaker, I am delighted to join my distinguished colleague, the Honorable JACK BROOKS, in saluting our good friend and esteemed colleague, the Honorable HENRY B. GONZALEZ, on his 30th anniversary of election to public office, and also on his birthday today.

I am honored to have served with HENRY in the House of Representatives since 1965, and to have benefited from his counsel and advice as a fellow member of the House Banking, Finance and Urban Affairs Committee.

Congressman GONZALEZ began his career of public service with his election to the San Antonio City Council in 1953. During part of his second term, he also served as mayor pro tem. In 1956 and 1960, he was elected to the Texas State Senate, and began his career in the House of Representatives with his election as Congressman from the 20th District of Texas in 1961.

HENRY's diligent efforts as chairman of the Subcommittee on Housing and Community Development of the House Banking, Finance and Urban Affairs Committee, and as a member of the House Small Business Committee have been both fruitful and beneficial to the citizens of this Nation, and indeed, these successful efforts have made America a more prosperous and productive country.

Congressman Gonzalez has also served as the chairman of the ad hoc subcommittee on the Robinson-Patman Act, antitrust legislation, and related matters, as a member of the Select Committee on the Missing in Action in Southeast Asia, as vice chairman of the House Select Committee on Assassinations, as a House delegate to the United States-Mexico Interparliamentary Conference, and as a member of the National Commission on Consumer Finance.

He continues to give his best in service to his Texas constituents and to the people of our Nation. His outstanding dedication to high standards is an inspiration to his friends and fellow citizens and his record of excellence is most commendable.

Again, Henry, congratulations and I extend to you my warmest best wishes for abundant good health and ever-increasing success as you continue to serve your State and your Nation in devotion to the highest principles.●

● Mr. BIAGGI. Mr. Speaker, I rise today to join in offering hearty congratulations to my friend and colleague, Henry Gonzalez, as he celebrates two milestones in his life—his 30th anniversary of holding public office and his 67th birthday.

During Henry's long and colorful career as a public official, he has captured the hearts of the people of the 20th District of Texas and especially his charming hometown, San Antonio. Having been elected to the San Antonio City Council in 1953 and having served as mayor pro tem during part of his second term, Henry quickly gained the love and respect of his constituents who saw fit to elect him to the Texas State Senate in 1956 and finally to the House of Representatives in 1961, where we now enjoy his contributions and his dynamic personality.

It is not hard to figure out why Henry's constituent's love him so. He has spent the last 30 years of his life fighting for the rights of his people with a deep and burning commitment which surely comes from his forefathers. Henry's ancestors were some of the original colonists of the State of Durango in northern Mexico who, having fled to our country during the revolution, became some of the most responsible and valued citizens of our Nation. Now, Henry, in true American fashion, has kept their spirit alive.

As chairman of the Subcommittee on Housing and Community Development of the House Banking, Finance and Urban Affairs Committee, Henry has led the fight to secure adequate and proper housing for Americans of all incomes. He has been a valued member of the Small Business Committee, and has served seven times as a House delegate to the United States-Mexico Interparliamentary Conference.

Henry's contribution as a U.S. Congressman have been outstanding. It is my personal privilege and pleasure to offer to Henry and his entire family my best wishes on this happy occasion. May he enjoy many, many happy returns.●

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

And, Mr. Speaker, I would like to include remarks from about 15 of my fellow Members.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

SOVIET "COLD WAR" IN CENTRAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. Burton) is recognized for 30 minutes.

Mr. BURTON. Mr. Speaker, I have been very distressed over the past few days because there are some activities going on in the House Intelligence Committee which concern me a great deal.

There is a move by the committee to cut off aid to our CIA operatives in Central America because of the Boland amendment which deals with the issue of Nicaragua.

There is a definite Marxist expansionist movement in Central America which I think endangers the security of the United States of America and I think it is singularly inappropriate for the House Intelligence Committee to do anything right now which is going to jeopardize the future security of this country.

I think we can all look at Central America and really be concerned. The Nicaraguan Government is building up a massive army down there. They plan to export revolution throughout Central America. Some of their leaders who have been captured have said in public interviews that they anticipate a Central American revolution, including Honduras, Costa Rica, El Salvador, Belize, Guatemala, and ultimately even Mexico. And this puts the United States in a very precarious position.

And one of the best articles that I have read recently on this issue was written by George Will, who is a columnist for the Washington Post Co., and because his article is so good, I thought I would read it into the Record today, because it covers almost every aspect of the problem and the confrontation in Central America.

Question: Since détente was codified at the Nixon-Brezhnev summit in 1973, the Soviet Union has fomented a nuclear alert by threatening to intervene with troops in the October 1973 war in the Middle East, a war incited and financed by the Soviet Union; they have organized and financed the destruction of the Paris accords and a U.S. ally; has intervened with Cubans and others in Angola, Ethiopia, Yemen, Cambodia, Nicaragua, and El Salvador; has invaded Afghanistan; and I might add murdered hundreds of thousands of Afghans; has orchestrated the crushing of Poland; has made a mockery of the Helsinki agreements; has repeatedly violated the informally agreed to Threshold Test Ban Treaty, although we even changed the way we measure violations, in an effort to avoid the need to make protests that would dampen détente; has tried to murder the Pope; is violating the terms of SALT II which is an amazing feat, considering that SALT II is a tissue of loopholes and ambiguities; is funding and organizing terrorism worldwide; and is continuing an arms buildup unambiguously designed for political intimidation and military aggression.

So the first question is, Why is there a return to the cold war?

The answer: President Reagan gave a speech referring to the Soviet Union as an evil empire.

Second question: The Soviet Union has an army brigade, 2,600 to 3,000 men, 2,500 military advisers, increased by 500 last year, and 6,000 to 8,000 civilian advisers in Cuba. It gave Cuba 66,000 metric tons of military supplies in 1981, 68,000 metric tons of military supplies in 1982 worth over $1 billion. Moscow's annual economic aid to Cuba is $4 billion, more than one-quarter of Cuba's gross national product.

Cuba has 200 Soviet Migs, including two squadrons of Mig-23 floggers, at least 650 tanks, at least 90 helicopters, including MI-24 attack helicopters, a Koni-class frigate, two Foxtrot attack submarines, at least 50 torpedo attack boats, two amphibious assault ships. And a Grenada Minister says Cuba will use Grenada's new airport when supplying Cubans in Africa.

Cuba, with one-seventh of Mexico's population, has military forces twice the size of Mexico's. The Soviet Union is giving 20 times more military assistance to Cuba than the United States is giving to all of Latin America.

In the newest Soviet satellite, Nicaragua, 39 percent of all males over 18 are in uniform, and the regime intends to build a 250,000 person armed force, so that 1 in 10 Nicaraguans will soon be in the military or militia.

Now I submit to my colleagues that is more than adequate to defend their borders. What they are planning to do is export revolution and there is no doubt about it. When you consider the people they say they are concerned about, Honduras has 20,000 in their army and El Salvador has a total of 32,000, and they are building a 250,000-person armed force.

Nicaragua's regime has built 36 new military bases and garrisons. The previous regime had only 13. Nicaraguan pilots and mechanics are being trained in Communist Bulgaria. The regime has received so far 50 Soviet tanks, 1,000 East German trucks, 100 antiaircraft guns, Soviet 152-millimeter howitzers with a range of 17 miles.

Cuba has 4,000 to 5,000 civilian advisers in Nicaragua, plus 2,000 military and security advisers. There are also East Germans, Bulgarians, North Koreans, Soviets, and members of the PLO.

So the second question is: What in Central America does Congress seem to be most worried about?

And the answer: 45 U.S. trainers in El Salvador.

Events in Central America are spinning rapidly toward a decisive moment in U.S. history. None of the fictions that were used to rationalize acceptance of defeat in Vietnam can be used regarding Central America. The threat there is close, clear, and indisputable Communist. There the United States will show, will learn, whether it is any longer capable of asserting the will a great power requires, or whether the slide into paralysis is irreversible.

Governments such as Costa Rica's and Panama's are listening as congressional complaints mount. The complaints are against U.S. assistance to armed opponents of Nicaragua's Stalinists, and about even minimal aid for the democratically elected Government of El Salvador that is under attack from forces that are extensions, through Nicaragua and Cuba, of the Soviet Union.

The conjunction of these complaints can mean, in effect, the extension of the Brezhnev doctrine in this hemisphere. That is, Communist attacks on a regime leech away the regime's legitimacy, and produce pressures for negotiations aimed at power-sharing with Stalinists who do not believe in power sharing. But a Communist regime, however freshly planted and dependent on foreign totalitarians, as in Nicaragua, must be treated as legitimate and irreversible.

□ 1750

There is a war raging, and if all of the substantial determined military assistance is one way, there can be but one result. The result will be a Communist Central America and an Iran just a wade across the Rio Grande.

Mr. Speaker, I submit to my fellow Representatives that this is a dire set of circumstances, and each and every one of us should search our souls before we cast a vote to cut off aid to El Salvador or curtail the actions of the CIA at a very critical moment in our country's history.

FORMING A SHIPPER ASSOCIATION MAY SAVE LOCAL RAIL SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes.

● Mr. CORCORAN. Mr. Speaker, I take this opportunity to bring to the attention of the Members an article entitled "Forming a Shipper Association May Save Local Rail Service." This article, from the February 1983 issue of Farmer Cooperatives, a monthly publication of the Agricultural Cooperative Service in the U.S. Department of Agriculture, highlights the importance of shipper associations in the current railroad industry environment, especially in redeveloping service on raillines undergoing abandonment by a major rail carrier.

One group of shippers in central Illinois has already formed just such an organization, the Bloomer Shippers Railway Redevelopment League. With the sponsorship of one of our most distinguished colleagues, the gentleman from Illinois (Mr. MADIGAN), the league should become the direct recipient of Federal financial assistance for the acquisition of and rehabilitation of this line under section 511 of Public Law 97-468. Given the unique, transitional problems surrounding the Bloomer Line, the Bloomer Shippers Railway Redevelopment League can serve as an appropriate direct recipient of Federal financial assistance. Coupled with assistance from State, local, and individual shipper sources, I am optimistic that the Federal financial assistance, which the league should receive, will spur the redevelopment of the Bloomer Line during the next year and a half.

I include the text of the Farmer Cooperatives article in the RECORD, as follows:

[From the Farmer Cooperative, February 1983]

FORMING A SHIPPER ASSOCIATION MAY SAVE LOCAL RAIL SERVICE

(By Michael D. Kane and Arvin R. Bunker)

Railroad companies are merging and forming a limited number of large major carriers. Some transportation experts predict as few as four major rail carriers may be operating in the continental United States by the turn of the century.

National rail companies may not be interested in servicing under-used or duplicate lines. Wholesale rural abandonment may occur. Since November 1979, 9 major rail mergers have occurred, the 4 largest being Burlington Northern, with more than 29,000 miles of track after merger with the Frisco; CSX Corporation, now having 27,000 miles following merger of Chessie System and Seaboard Coast Line, Norfolk Southern Corporation with 18,000 miles via the merger of Southern and Norfolk and Western Railroads; and Pacific Rail Systems, with 22,800 miles after combining the Union Pacific, Western Pacific, and Missouri Pacific Railroads.

Cooperatives faced with loss of rail service may consider forming a nonprofit shipper association with other rail users in their trade territory. Many aspects of a shipper association, however, such as funding and services of a short-line railroad to fill the gap, should be carefully studied.

These associations can purchase and operate short lines, develop bargaining power with carriers for favorable rail rate and service contracts, secure financing, and gain limited antitrust and Interstate Commerce Commission (ICC) regulation exemptions. Some Federal assistance may be available, but cooperatives no longer can count on subsidies to refurbish short lines.

ICC GUARANTEES RIGHTS

Although not a funding source, ICC's Feeder Railroad Development Program may help cooperatives maintain rail service. This Federal program guarantees some rights to branch line owners, removing some barriers that once may have hindered success of some short lines. It calls for ICC to assure a qualified buyer a market value purchase price and trackage rights, and provides for negotiation of "equitable" reciprocal switching charges, and a fair distribution of joint revenues.

Unfortunately for some shippers, the feeder program applies only to lines listed with ICC for potential abandonment for which an application has not been filed and lines that are required or allowed to be sold. Carriers in bankruptcy proceedings do not fall under this program.

Until October 1, 1983, ICC has the power to require sale of lines that carried less than 3 million gross-ton-miles per mile of track in the preceding year. After this, ICC may require any rail line to be sold.

A shipper or group of shippers may qualify as buyers. State, regional, and local government or transportation authorities also can negotiate to buy a line. But some constitutions forbid the State government to become involved directly in rail line ownership and operation. Often, a shipper association may be the preferable way to purchase a branch line.

A shipper association usually begins as an informal group addressing a common problem such as loss of rail service through bankruptcy or abandonment. This informal group can determine which shippers are genuinely interested in supporting rail service and willing to make a financial commitment.

A more formal legal organization is necessary for the next step—dealing with carriers and local, State, and Federal officials. The group must decide if it wants a public or private operation.

PUBLIC OR PRIVATE ASSOCIATIONS

There are two basic types of public organizations. In many States, shipper associations can form under statutes authorizing port authorities, industrial development districts, and rural transportation authorities. These organizations can often issue industrial revenue bonds, levy taxes, and, sometimes, exercise eminent domain. Other public organizations are formed under common State incorporation statutes with membership open to any investor.

Private organizations limit membership to specific groups such as local shippers, those interested in local business development, and/or agricultural cooperatives.

Whether public or private, the shipper association should operate at cost to gain limited antitrust immunity and exemption from ICC jurisdiction. For example, a nonprofit association formed to benefit from volume freight rates can become exempt from ICC regulation under certain conditions. Department of Justice also exempts specific joint activities by such associations.

Purchase and rehabilitation of a rail line usually involves a major investment. Lack of guaranteed returns does not attract private investors other than local shipping interests. So public funds often are sought. These factors usually influence groups to form public shipper associations to make managerial and financial decisions in raising and using public funds. Some State laws recognize community shipping groups, grant them special privileges as transportation or regional rail authorities, transportation districts, or port authorities.

Traditionally, shipper groups have formed public organizations because of the significant financial advantages. They usually borrow funds at lower interest rates. Sometimes they have more accessibility to funds than private individuals or corporations such as sale of industrial revenue bonds, tax abatement or relief, Federal subsidies, and grants for economic development. The financial advantages of public acquisition generally result in initial lower costs of branch line ownership and operation. Such advantages help the association qualify for State and Federal funds and improve the economic well-being of the entire community.

However, if shippers can afford to purchase a rail line, they should consider a private, not-for-profit shipper association. Although financial responsibilities are limited to members, the association still gains limited antitrust and ICC exemptions. If present regulatory trends continue, exemptions will significantly help joint shippers negotiate large-volume contracts with carriers.

Ownership by a group of shippers on an operation-at-cost or not-for-profit basis may be a viable alternative to rail abandonment. Private ownership by a group of shippers has other advantages:

An owner-user has more incentive to use rail service even when truck shipments provide better margins.

Greater use of the line reduces the per-bushel cost of operation, so owner-users ship by rail to get a better return on their investment.

Owner-users may be able to rent or lease the branch line to the short-line operator for less. They may be content with a lower rate of return on their investment just to maintain a rail marketing option.

Branch line repair or maintenance may be cheaper if owner-users do it themselves. If the venture isn't economical in the long run, the group may regain some return on their investment by selling land and scrap materials.

The new tax investment credits and accelerated cost recovery system of the Economic Recovery Tax Act of 1981 also may offer sufficient investment and depreciation incentives.

HELP DECIDE KEY ISSUES

A group forming a shipper association should plan carefully in deciding key issues on purchasing and operating the rail line. Many associations turn to short-line railroads operating companies for technical assistance.

Determining the condition of the track, right-of-way, bridges, and other facilities and equipment is a major task. Initial rehabilitation of often-neglected, light-density rail lines requires a large investment. Lines must be upgraded to meet Federal safety standards.

The shipper association should rely on a railroad engineering expert for this evaluation. More than one estimate should be obtained because subjective studies on rehabilitation costs vary. Potential short-line companies often will provide an estimate. Consultants, retired railroad engineers, and local and State transportation agencies can also provide expertise.

Initial planning also should involve an objective evaluation of existing and potential traffic. Shippers must realize short line operations usually do not lower transportation costs. Many light-density lines have been put out of service, because past and projected low-traffic volume did not justify rehabilitation and operating costs. Traffic revenues must cover operating costs. The line should be profitable for the short-line company even during a recession.

Shippers should survey service needs, types of cars, alternative transportation costs, and commitment from potential users. From survey results, evaluate income and projected costs under light, average, and heavy short-line use. Shippers must consider the seasonality of their freight shipping requirements. Many railroad activities and costs are not seasonal.

Don't be surprised if a short-line company demands revenue or traffic commitment in a railrate and service contract. Short-line operators incur high costs in initial operations and seek to minimize risk. Realizing shippers choose the least expensive transportation, shipper-short-line operator contracts may require a minimal annual payment regardless of use, plus a specific contract rate agreement noting service and rates for each shipper.

The shipper association also may have to contract with the major carrier for unique car requirements and joint line and switching fees. The association must estimate these costs during planning to determine if the new venture will work.

FEDERAL FUND SOURCES

Other possible sources of capital may be Federal agencies.

USDA'S Farmer's Home Administration (FmHA), for example, guarantees loans to purchase and rehabilitate rail lines in rural areas. The agency's Community Facilities Division has limited loan funds for branch-line acquisitions.

Loans are available to public entities and other nonprofit organizations, including farmer cooperatives. The short line must serve residents of unincorporated rural communities of less than 20,000 people. Loans are available for construction, engineering, legal fees, materials, purchase, rehabilitation, and working capital.

The Business and Industry Division of FmHA offers guaranteed loan participation of short lines. Funds are distributed to State offices to develop or finance businesses and industry and increase employment opportunities.

U.S. Department of Commerce's Economic Development Administration offers financial aid to economically deficient localities. Grants may be made to political subdivisions or nonprofit economic development organizations, such as regional transportation authorities, districts, or shipper associations, if their proposals are designed to improve and expand growth in industry and commerce. Funding is uncertain for fiscal 1983.

Short-line operators have used funds from U.S. Department of Transportation's Federal Highway Administration for many years. This agency has funds for rail/highway projects such as crossings, construction and maintenance, warning devices, crossing surface improvements, and new grade separations. Some programs require matching funds from State or local authorities, or both. Small Business Administration (SBA) provides loans as well as guarantees funds for small businesses. SBA can guarantee a private loan from a local bank for up to $50,000. Direct loans can be made to $150,000. SBA charges lower-than-market interest rates and payback periods are longer.●

PRIVATE CALENDAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BOLAND) is recognized for 5 minutes.

● Mr. BOLAND. Mr. Speaker, I take this opportunity to set forth some of the history behind, as well as describe the workings of the Private Calendar. I hope this might be of some value to the Members of this House, especially our newer colleagues:

Of the five House Calendars, the Private Calendar is the one to which all Private bills are referred. Private bills deal with specific individuals, corporations, institutions and so forth, as distinguished from public bills which deal with classes only.

Of the 108 laws approved by the First Congress, only 5 were private laws. But their number quickly grew as the wars of the new Republic produced veterans and veterans' widows seeking pensions and as more citizens came to have private claims and demands against the Federal Government. The 49th Congress—1885 to 1887—the First Congress for which complete workload and output data is available—passed 1,031 Private Laws, as compared with 434 Public Laws. At the turn of the century the 56th Congress passed 1,498 Private Laws and 443 Public Laws—a better than 3 to 1 ratio.

Private bills were referred to the Committee of the Whole House as far back as 1820, and a calendar of private bills was established in 1839. These bills were initially brought before the House by special orders, but the 62nd Congress changed this procedure by its rule XXIV, clause 6 which provided for the consideration of the Private Calendar in lieu of special orders. This rule was amended in 1932 and then adopted in its present form on March 22, 1935.

A determined effort to reduce the private bill workload of the Congress was made in the Legislative Reorganization Act of 1946. Section 131 of that Act banned the introduction or the consideration of four types of Private bills: First, those authorizing the payment of money for pensions; second, for personal or property damages for which suit may be brought under the Federal tort claims procedure; third, those authorizing the construction of a bridge across a navigable stream, or fourth, those authorizing the correction of a military or naval record.

This ban afforded some temporary relief but was soon offset by the rising postwar and cold war flood for private immigration bills. The 82d Congress passed 1,023 Private Laws, as compared with 594 Public Laws. The 88th Congress passed 360 Private Laws as compared with 666 Public Laws.

Under rule XXIV, clause 6, the Private Calendar is called the first and third Tuesday of each month. The consideration of the Private Calendar bills on the first Tuesday is mandatory unless dispensed with by a two-thirds vote. On the third Tuesday, however, recognition for consideration of the Private Calendar is within the discretion of the Speaker and does not take precedence over other privileged business in the House.

On the first Tuesday of each month, after dispostion of business on the Speaker's table for reference only, the Speaker directs the call of the Private Calendar. If a bill called is objected to by two or more Members, it is automatically recommitted to the Committee reporting it. No reservation of objection is entertained. Bills unobjected to are considered in the House as in Committee of the Whole.

On the third Tuesday of each month, the same procedure is followed with the exception that omnibus bills embodying bills previously rejected have preference and are in order regardless of objection.

Such omnibus bills are read by paragraph, and no amendments are entertained except to strike out or reduce amounts or provide limitations. Matter so stricken out shall not be again included in an omnibus bill during that session. Debate is limited to motions allowable under the rule and does not admit motions to strike out the last word or reservation of objections. The rules prohibit the Speaker from recognizing Members for statements or for requests for unanimous consent for debate. Omnibus bills so passed are thereupon resolved in their component bills, which are engrossed separately and disposed of as if passed separately.

Private Calendar bills unfinished on one Tuesday go over to the next Tuesday on which such bills are in order and are considered before the call of bills subsequently on the calendar. Omnibus bills follow the same procedure and go over the to next Tuesday on which that class of business is again in order. When the previous question is ordered on a Private Calendar bill, the bill comes up for disposition on the next legislative day.

Mr. Speaker, I would also like to describe to the newer Members of official objectors system the House has established to deal with the great volume of private bills.

The Majority Leader and the Minority Leader each appoint three Members to serve as Private Calendar Objectors during a Congress. The objectors are on the floor ready to object to any private bill which they feel is objectionable for any reason. Seated near them to provide technical assistance are the majority and minority legislative clerks.

Should any Member have a doubt or a question about a particular private bill, he can get assistance from the objectors, their clerks, or from the Member who introduced the bill.

The great volume of private bills and the desire to have an opportunity to study them carefully before they are called on the Private Calendar has caused the six objectors to agree upon certain ground rules. The rules limit consideration of bills placed on the Private Calendar only shortly before the calendar is called. The agreement is as follows:

Reaffirming the policy initially adopted on June 3, 1958, the Members of the Majority Private Calendar Objectors Committee have agreed that during the 98th Congress, they will consider only those bills which have been on the Private Calendar for a period of 7 calendar days, excluding the day the bill is reported and the day the calendar is called. Reports must be available to the Objectors for 3 calendar days.

It is agreed that the majority and minority clerks will not submit to the objectors any bills which do not meet this requirement.

This policy will be strictly enforced except during the closing days of a session when House rules are suspended.

This agreement was entered into by: The gentleman from Massachusetts (Mr. BOLAND), the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Virginia (Mr. BOUCHER), the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from Virginia (Mr. BLILEY), and the gentleman from Colorado (Mr. BROWN).

I feel confident that I speak for my colleagues when I request all Members to enable us to give the necessary advance consideration to private bills, by not asking that we depart from the above agreement unless absolutely necessary.

Edward P. Boland, Massachusetts; James L. Oberstar, Minnesota; Frederick C. Boucher, Virginia; F. James Sensenbrenner, Jr., Wisconsin; Thomas J. Bliley, Jr., Virginia; Hank Brown, Colorado.●

ACQUIRED IMMUNE DEFICIENCY SYNDROME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WEISS) is recognized for 60 minutes.

Mr. WEISS. Mr. Speaker, I have requested this special order today in order to focus attention on the campaign against what may be the greatest health peril since polio, acquired immune deficiency syndrome, usually called by the acronym AIDS. First diagnosed in 1979, AIDS is a poorly understood disorder in which the body loses its immunity to disease. Victims of AIDS usually succumb to one of two diseases, a rare form of cancer called Kaposi's sarcoma, and a usually fatal lung disease called pneumocystis carinii pneumonia.

While the cause of AIDS is still unknown, experts believe that infectious agents and possibly repeated exposure to such agents may be responsible. The relentless spread of AIDS over the past 2 years leaves no question as to the severity of the epidemic. The latest figures show over 1,300 reported cases and more than 500 fatalities. The mortality rate for those who contracted the disorder 4 years ago is 100 percent; for those who contracted AIDS in 1980, it is 86 percent. The human tragedy of this outbreak is deepened by the youth of the victims, the debilitating and costly nature of their illness and the lack of any concrete information about its cause or cure.

Yet despite these frightening realities, it has become clear that the fight to discover a cure for AIDS is one of the most difficult struggles the medical scientific community has ever faced and perhaps ever will face. This is because what we are all battling is more than a medical epidemic. As my colleagues may know, three-quarters of all victims are gay men. One cannot separate societal reluctance to address the AIDS epidemic from the larger problem of resistance to basic civil rights protection for homosexuals. In the past, disregard for their human rights has cost them job security, housing, adequate health cares and free self-expression. With the outbreak of AIDS, it is costing them their lives. In my judgment the underlying discrimination and prejudice have contributed significantly to the Nation's inadequate response to the epidemic.

Mrs. BOXER. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield to the gentlewoman from California.

Mrs. BOXER. I thank my colleague, the gentleman from New York, for arranging this special order.

Mr. Speaker, we are in the midst of an epidemic which is being called the worst since the swine flu outbreak of 1918 and 1919, and I implore my colleagues from every State to take note and to help.

The current epidemic of AIDS constitutes a major health crisis. I believe that we have before us a public health problem of enormous proportions, and I strongly believe that we must act now to minimize the opportunities for this epidemic to worsen.

Although 75 percent of the cases are found in the homosexual community, a large and growing number is turning up in the heterosexual community. The rapid spread of this disease, its extremely high mortality rate, its apparently long incubation period, and its apparent transmissibility mean that the Federal Government must engage in a massive research effort aimed at stopping this disease.

That the Federal research effort in this area has not expanded sufficiently to meet the need is a tragedy that can no longer be allowed to continue.

Mr. Speaker, I am totally committed to obtain the medical research funding that the health professionals have told us is necessary to combat this outbreak. We have a serious obligation to make maximum efforts to understand, contain and, hopefully, cure AIDS. The time is long since past when the many scientists eager to pursue the sources of this syndrome were held back by lack of sufficient financial support.

As the Representative from San Francisco, which has the second highest rate of AIDS nationally, I feel a particular urgency to act against a source of so much grief, pain, and mental anguish. Our late colleague, Congressman Philip Burton, whom this body so mourned at his passing, shortly before his death had introduced legislation to provide the rapid increase in funding needed in this crisis. I reintroduced his bills last week and hope that through them we can go forward in combating this epidemic. My bills will increase the funding for AIDS research through the Center for Disease Control and through the National Institutes of Health. But our efforts must not end with my legislation. I am pleased that my colleague, the gentleman from New York (Mr. WEISS) is addressing the immediate pain and suffering of AIDS victims by making them eligible for health care assistance. I am very pleased to be supporting him in his effort.

I strongly feel the great concern and frustration of many of my constituents at the slow and uncertain course that the battle against AIDS has taken. I personally know of the tragic loss of so many young lives and the fears and the grief of their loved ones and friends. We in this House of the people will, I am certain, respond to their needs and provide the tools needed to end this suffering. For, Mr. Speaker, if we do nothing and the disease continues to increase at the current rate, the 1,000 dreaded cases will turn into the many hundreds of thousands and the 50-percent death rate or higher will continue to rise.

Last night, Mr. Speaker, in San Francisco a large group of concerned citizens led by several victims of AIDS gathered at the Federal Building to call attention to their great need and to appeal for our help. The lighted candles they held symbolized their hope for our recognition of that need and for our affirmative response. I hope and I know that this House will hear this call and will act to end this terrible outbreak of disease with all of the resources at our command.

Mr. Speaker, again I thank the gentleman from New York (Mr. WEISS) for this opportunity and I look forward to working together with my colleague on this issue.

☐ 1800

Mr. WEISS. I thank the distinguished gentlewoman for her very significant statement.

Mr. Speaker, I am pleased to yield at this time to our distinguished colleague from Massachusetts (Mr. FRANK).

Mr. FRANK. I thank the gentleman for yielding.

Mr. Speaker, I want to congratulate the gentleman from New York for taking out this special order. It is only the latest in a long series of acts he has performed on behalf of people in need.

There can be some legitimate debate about the role of the Federal Government, but there does not seem to me to be room for debate about the obligation of the Federal Government to respond when a serious, fatal disease suddenly rises up and strikes down hundreds and perhaps thousands of innocent people. It is urgent that the House and the Senate and the President act jointly to provide whatever funds will help in meeting this national health emergency.

Similar national health emergencies have called forth in the past similar responses. All of us hope that the fact that this is a disease which strikes gay men, one of America's persecuted minorities, will not interfere with the response that the Federal Government owes any of its citizens faced with this kind of serious hazard to their health and, indeed, to their very lives. We must not sit by and allow prejudice of any sort to interfere with the right of our fellow citizens to the best medical research and treatment that we can provide.

The legislation that has been put forward by the gentlewoman from San Francisco, the gentleman from New York, the work that has been done by the gentleman from California (Mr. WAXMAN), who chairs the Health Subcommittee, and others is essential. All of us have to support it.

There is a health emergency known as AIDS facing our fellow citizens, and I hope that we will promptly and expeditiously respond, and again, I congratulate the gentleman from New York for giving us an opportunity to underline the urgency of action in this regard.

Mr. WEISS. I thank the distinguished gentleman from Massachusetts for his profound statement.

Mr. Speaker, I am pleased at this time to yield to the distinguished gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. I thank the gentleman for yielding.

Mr. Speaker, I, too, want to join my colleague from Massachusetts in commending the gentleman from New York for taking time to do what, with respect to the subject before us, perhaps needs more doing than anything else, which is to talk about it, and to bring it to the attention of the American people and of this body.

With the permission of the gentleman, I am going to speak for a moment in joining him on this subject.

Mr. WEISS. I would be pleased to have his statement.

Mr. STUDDS. Mr. Speaker, the deadly new disease of AIDS is as relentless as it is tragic. With more than 1,400 victims and over 500 deaths, this disorder has already claimed more than twice the number of lives as did Legionnaires disease and toxic-shock syndrome combined. According to the most recent statistics, the mortality rate for those who contracted the disease in 1979 is 100 percent. Thus far, 86 percent of those afflicted with AIDS in 1980 have died. Epidemiologists, well aware of the potentially frightening dimensions of this epidemic, warn that what we have seen thus far may be little more than the tip of the iceberg. Because it may take 2 years for a victim to develop any noticeable symptoms and because scores of new cases are only now being reported in the disease's formative stages, the head of AIDS research at the Center for Disease Control said recently that there is no way of predicting how large the iceberg eventually will become.

At the present time, we are shockingly ill-prepared to contain this disease. Federal health agencies—particularly the National Institutes of Health—continue to treat AIDS more like a common cold than a catastrophic national health emergency. Last year, NIH spent only one-quarter of 1 percent of its budget on AIDS research, and has refused to take steps to cut back the redtape involved in contracting out research on the disease. NIH has a broad mandate to use its considerable resources as it sees fit to study public health hazards. But, as one Government scientist recently observed:

> Here's this huge, unprecedented wave of breakdowns in people's immune systems and they seem barely interested. A rare form of cancer is spreading epidemically for the first time in history and NIH is still deciding whether it's a major problem.

Congressional staffers have said that persuading NIH to pay greater attention to the AIDS epidemic is like rerouting a luxury liner that takes 10 miles to turn.

Why are health officials so inexplicably hesitant to investigate AIDS when afflicted Americans are dying by the dozens? The principal reason is that most AIDS victims—at least so far—have been homosexuals. As so eloquently outlined by Congressman WEISS last month at an AIDS symposium in New York, the reticence to address the health threat of AIDS cannot be separated from the overall resistance in our Nation to guaranteeing basic civil rights protection for gay persons. In the past, disregard for the human rights of gays has cost them their jobs, their housing, and denied them their right to self-expression. With the outbreak of AIDS, it is quite literally costing gay people their lives.

Remarkably enough, some accounts of the crisis have at least implied that gay persons afflicted with AIDS are not, in fact, victims at all. A recent New York Times Sunday Magazine account of the AIDS epidemic described nonhomosexual victims of AIDS as "innocent bystanders caught in the path of a new disease"—a new disease, we are presumably to assume, for which gay people are somehow liable. It is difficult not to speculate whether Federal health authorities might be paying greater attention if AIDS were taking a particularly heavy toll on other, more innocent, segments of our population.

Across the country, community health clinics have reportedly overcome the institutional reluctance to make a serious start toward containing AIDS. As described in a New York Times op-ed article which follows my remarks, some small health centers—which have seen the debilitating effects of AIDS firsthand—are making a concerted yet sensitive attempt to address this urgent problem.

Regrettably, however, the same cannot be said for Federal health authorities. It is unusual and in some cases not entirely desirable, for the Congress to earmark precise spending priorities for NIH. If NIH cannot take the initiative so obviously demanded to safeguard public health, however, Congress cannot stand by idly.

Thus far, most AIDS fatalities have occurred in New York and California. There are, however, clear and ominous signs that this health emergency is spreading fast. The latest epidemiological statistics in my home State of Massachusetts, for example, show six deaths of persons with confirmed or probable AIDS afflictions over the last 10 months. Another 19 local persons are currently known to be suffering from confirmed or probable cases of AIDS.

Clearly, this dread disease knows no geographical bounds. Unless we as a nation take steps now to research its causes and develop its cure, AIDS will eventually reach into each and every area—indeed each and every congressional district—in the country. The terrifying prospect of an unchecked epidemic of such enormous proportions is not a fantasy. Nor should it be an issue clouded by partisan politics or by one's own views on sexual preference. What we have on our hands is a very real human catastrophe, which we have the solemn moral responsibility to investigate and resolve.

If the gentleman would continue to yield, I would like to read into the RECORD an op-ed piece in the New York Times of April 22 of this year by Dr. Kevin Cahill, director of the Tropical Disease Center at Lenox Hill Hospital, who I know participated, along with the gentleman, in a recent symposium in New York. Dr. Cahill wrote as follows:

[From the New York Times, Apr. 22, 1983]

Conquering AIDS

(By Kevin M. Cahill)

Several years ago, healthy young men began to die in large numbers from an unknown disease. As so often happens in the history of medicine, the early cases were considered isolated extremes in the normal spectrum of an illness and there was, in retrospect, an inadequate appreciation by the health profession of a growing disaster. Slowly, but inexorably, the numbers afflicted grew and an insidious outbreak exploded into a frightening epidemic.

People who had been previously healthy developed rare tumors and unusual infections. Studies showed that they suddenly and inexplicably lost their normal immunity to disease. They had an illness for which medicine had no name, and in our ignorance we called it Acquired Immune Deficiency Syndrome—or AIDS.

More and more cases have been recognized since AIDS was first seen in 1979-80. At first, most of the victims were homosexual men in New York City and California, but soon heterosexual Haitians and drug addicts were diagnosed as having AIDS. Then recipients of blood, particularly hemophiliacs, fell before the puzzling epidemic. There were many questions and few answers. Concern led to fear, then panic. There were demands for drastic action, but no one was quite certain what to do.

Federal officials seemed to approach the epidemic with embarrassment, declaring that the problem was a local issue; local authorities claimed they could do little without national support. Words and meetings became a substitute for rational action. Politicians handled the epidemic with unaccustomed wariness. Almost without exception, public leaders evaded the epidemic issue, avoiding even the usual expressions of compassion and concern. The victims' sexual orientation apparently made involvement risky, and the politicians directed their courage and energies elsewhere.

Still the young men continued to die. As of April 13, 1,339 people have been diagnosed as having AIDS—505 cases were fatal. In New York City alone, there have been 595, with 228 deaths. As the disaster escalated, the organized medical community was strangely absent. When a fatal infection struck down veterans attending an American Legion convention, health professionals across America joined in the search for a solution. When women using tampons became ill with toxic-shock syndrome, medical centers immediately focused their enormous talents on that problem. But when the victims were drug addicts and poor Haitian refugees and homosexual men, no major research programs were announced. Until it became clear that the disease could spread to the general population through blood transfusions, organized medicine seemed part of a conspiracy of silence.

But there have been many instances of individual courage, of simple adherence by physicians and nurses and technicians to a code as old as medicine itself. Clinical medicine is not built on heroic deeds but on steady, loyal service to patients. When they are dying in large numbers and when the mode of transmission of their disease is unknown, the daily routine of involved health workers assumes a quiet dignity and decency that deserves special respect. The clinician has a privileged role in an epidemic, for he shares the victims' sufferings, despair and dwindling hopes.

Added to the medical challenge has been a growing crisis in hospitals and social service departments faced with large numbers of AIDS patients. Because of the need for "isolation precautions," every facet of care—nursing, nutrition, laboratory work, housekeeping, etc.—becomes extremely costly. The duration of an AIDS hospital stay is usually measured in months, and hospital bills exceeding $100,000 occur with ever increasing frequency. Health insurance coverage for the young and poor is usually inadequate, often nonexistent. Society had not planned for this epidemic.

To address some of these problems, a group of nationally known medical specialists recently gathered in New York City for a symposium on AIDS with the hope that their shared knowledge and experience might suggest promising avenues of investigation for researchers, lend practical aid to clinicians and chart a course out of this crisis.

The history of medicine assures us that, with time and effort, the terrible mystery will be unraveled and a cure found. When that day comes, we may look back and reflect with the same satisfaction that Albert Camus's character Dr. Rieux, in "The Plague," experienced as the epidemic finally vanished from Oran and he "resolved to compile this chronicle, so that he should not be one of those who hold their peace but should bear witness in favor of those plague-stricken people; so that some memorial of the injustice and outrage done them might endure; and to state quite simply what we learn in time of pestilence: that there are more things to admire in men than to despise."

□ 1810

May I say to the gentleman that I fervently hope that none of us in this Congress and none of us in this country will ever have to find ourselves looking back upon a nation in which epidemic has essentially run riot and uncontrolled and remember the oft quoted words of Pastor Niemoller, who said, as the gentleman well recalls, we spoke about this before:

> In Germany, the Nazis first came for the Communists, and I did not speak up because I was not a Communist. Then they came for the Jews, and I did not speak up because I was not a Jew. Then they came for the Trade Unionists, and I did not speak up because I was not a Trade Unionist. Then they came for the Catholics, and I was a Protestant, so I did not speak up. Then they came for me.

Mr. Speaker, we have in this Nation what is essentially an outbreak of contagious cancer. It is an unspeakable tragedy for the individuals who have been touched to date. It is an emergency, if that word retains any meaning in the English language. We do not know what causes it. We do not know a cure for it.

Let us, while there is time, take the steps which we in this body have the power to take so that at some future time, some future Pastor Niemoller will not make a similar observation about us.

I should like again to commend the gentleman from New York for the leadership which he has assumed in this fight and encourage him to continue, as I know he will, and I thank the gentleman for the time.

Mr. WEISS. Mr. Speaker, I thank the gentleman for his very eloquent and moving statement.

The AIDS crisis, in sum, is providing an excuse, it seems to me, for our society to further deny homosexuals their basic rights, even their rights as victims.

Indeed, as the gentleman from Massachusetts has referred to, certain segments of public opinion seem to blame the victims for the epidemic. For instance, a recent article about AIDS said that groups other than homosexuals were "innocent bystanders caught in the path of a new disease."

The implication is that gays themselves are not innocent and perhaps deserve the affliction. At the very least, there is the suggestion that the problem would be less worthy of attention if it were limited to the gay community.

AIDS has been described in the media as the gay plague, the gay disease, and the gay epidemic.

News accounts have included language such as "being gay is hazardous to your health," or, "homosexual plague strikes new victims," and "depravity kills."

Even worse, a group calling itself Dallas Doctors Against AIDS has organized with the sole purpose of criminalizing homosexual activity on the grounds that "it spreads AIDS and other diseases."

Such perspectives shift the focus of the real need, that is of extinguishing the epidemic, preventing and curing the disorder and caring for the afflicted.

The national response from government, the medical community, the media and the public at large, has been less than zealous when compared to the reactions which followed outbreaks of toxic shock and Legionnaires disease, and although AIDS has taken twice as many lives as those two epidemics combined, the country by and large has not been alerted, nor have our enormous resources been mobilized as quickly, as urgently, or as extensively as the situation warrants.

For nearly 2 years, the Government overall has not accepted its leadership responsibility fully or devoted sufficient expertise to fighting this insidious epidemic.

While others hesitated, the gay community itself has mobilized an unusual and exemplary effort against the epidemic in cities across the country.

The gentlewoman from California referred a few minutes ago to the candlelight march yesterday in California. There were similar marches in cities across the country.

For example, New York City's Gay Men's Health Crisis, GMHC, was the first new organization to acknowledge and confront AIDS. GMHC's 700 trained volunteers provide support services for AIDS victims and the at-risk population, act as a clearinghouse for data and current medical knowledge on AIDS, sponsor training seminars for medical and allied health professionals and have raised thousands of dollars to fund research projects.

In addition, the gay community has established a lobby in Washington, D.C., to fight for additional funds for AIDS research.

In fighting this health emergency, the gay community has laid the groundwork from which a more comprehensive effort must be built. As this epidemic continues to spread in affected populations, becoming an ever greater threat to the public at large, efforts to combat it must become even more urgent.

In recent months, as AIDS cases and deaths have escalated at an alarming rate, a corresponding collective response has begun to develop. It is clear and becoming clearer that as a society we can no longer afford a haphazard response to this public health crisis. We are beginning slowly to recognize that the tragedy now striking gay men, heterosexual, Haitians, hemophiliacs, and drug users, is in fact a national tragedy.

Any course of future action must be developed and executed in a cooperative manner involving victims, health providers, government, concerned citizens and organizations.

Gay men, hemophiliacs, Haitians, and other at-risk adverse populations must be active participants in the decisionmaking which affects their very survival. Unilateral decisionmaking and exclusionary dialog have no place in this crisis, particularly given the widespread misinformation about and discrimination against many of those affected by the outbreak.

All of us who share a commitment to an aggressive response have much work to do. First, Congress and the administration must act quickly to allocate additional resources to maintain and expand public health surveillance and epidemiological research and AIDS. Thus far, the Centers for Disease Control, CDC, in conjunction with local and State health departments, has been stretched to the limit in its capacity to cope with AIDS. CDC has spent not nearly the amount of money per case that it spent on toxic shock and Legionnaires disease. Even though the agency has shifted its internal resources and Congress passed a $2 million appropriation for AIDS last December, CDC's work suffers for lack of money.

The agency desperately needs resources to extend surveillance work with health departments in cities hard hit by the AIDS epidemic.

New York is the only city thus far to have such an arrangement with CDC. In addition, CDC needs funding to conduct extensive epidemiological investigations and long-term, followup studies, not only of homosexual patients, but of other documented and emerging risk groups.

Patients are dying before CDC investigators are able to collect vital histories and information about possible patterns of AIDS transmission.

Finally, CDC needs financial support for laboratory work essential to isolate the cause of AIDS.

The Reagan administration has compromised the effectiveness of CDC's work on AIDS and other serious public health concerns through ill-advised and irresponsible budget cuts. The President's first budget for fiscal year 1982 effectively cut CDC's funding by almost 20 percent.

□ 1320

His fiscal year 1984 proposed budget provides no restorations to repair the damage. Legislation has been introduced in the House, with Representative Phillip Burton, whose untimely death this House has noted with great sorrow, as its main sponsor, to raise CDC funding for AIDS by $10 million. I am pleased to note that the gentlewoman from California, BARBARA BOXER, has reintroduced this legislation but so far the proposal has not received the support or attention of the Budget Committee, the House leadership, or the administration.

I want to commend my colleagues who have taken leadership positions on his issue and members of the gay community who have mobilized a major lobbying effort for additional CDC money for AIDS.

I especially want to commend the gentleman from California (Mr. WAXMAN), chairman of the Health Subcommittee of the Committee on Energy and Commerce, who has taken a lead in so many of these areas.

Biomedical research on AIDS will also suffer if the National Institutes of Health, NIH, budget continues to be threatened by the White House. In fact, the President's original budget request funded NIH at a level that reduces money for new and competing grants by 25 percent. His revised budget leaves actual reductions in the Federal commitment to lifesaving biomedical research. Public support, particularly from the medical community, is essential to force Congress and the administration to rethink budget priorities that damage public health and impede efforts to fight AIDS.

An additional concern is the slow response of NIH to initiate biomedical research on AIDS. The National Cancer Institute's first request for application, RFA, for research on AIDS was issued a year and a half into the outbreak. It is estimated 1983 expenditures for AIDS-related research amount to approximately one-fourth of 1 percent of the entire $4 billion NIH budget, or approximately $9 million.

Dozens of scientists across the country are clamoring to do research on AIDS, and waiting for NIH to allocate additional money. While NIH deliberates over how to spend this embarrassingly small allocation, vital research is put on hold and individuals continue to die.

Recent public and congressional concern has focused on increasing NIH funds for AIDS research as well as on expediting the process by which awards are disseminated. An amendment has been attached to the NIH reauthorization by the gentleman from California (Mr. WAXMAN) of the House Subcommittee on Health that provides the Secretary of HHS with specific authority and procedures for speeding up the allocation of grant money in the event of a public health emergency.

Furthermore, legislation has been introduced by the gentleman from California (Mr. WAXMAN) which would create a public health emergency fund, providing money to be made available to the Secretary of HHS for research into the cause, treatment, and prevention of public health emergencies.

We must be vigilant in monitoring the NIH funding priorities to insure that every possible effort is made to research to answer the endless questions about AIDS. I have been informed that NIH soon will issue a new request for proposals for AIDS research. Details of the request have not yet been released.

Another area of concern for future action is improved medical surveillance and treatment. Physicians and medical associations must assume greater responsibility for educating all health providers on the most up-to-date information available on AIDS.

AIDS is spreading fast. This makes it especially critical for the medical community to constantly disseminate new information about the epidemic. Networks for medical referrals and consultations must be expanded and promoted. And it is very important that the medical community strive for a greater understanding of and sensitivity to the needs of the special population victimized by the disease.

I also believe that this public health crisis warrants an outpouring of psychological and social support for afflicted patients and communities. The demand for services in cities such as New York, Los Angeles, San Francisco, Houston, and Washington, D.C., is staggering.

Needed services cover a broad spectrum: individual and group therapy, legal assistance, home care, hospice care, medical referrals, crisis intervention, and guidance through the maze of public assistance, health and disability programs.

Compassion has guided tireless efforts to help AIDS victims as well as their friends and families cope with the reality of this life-threatening disorder. In many instances patients need additional support to deal with the feelings of isolation and loss that result from disruptions in their jobs, personal lives, and social networks.

Concern about the spread of AIDS has prompted some gay organizations and doctors to suggest preventive measures that might decrease the risk of contracting the disorder. They have advised that as long as there is inconclusive evidence about what causes AIDS there is a need for gay men to take precautions in their personal relationships.

Even with these support systems the needs are growing faster than available financial and human resources. Additional volunteers, particularly those with professional expertise, are needed to lend a hand. Money, supplies, and even space must be contributed generously by well-established social and human service organizations as well as by Government agencies. AIDS causes widespread human tragedy. It demands the most active and human response our society can give.

Another important element in our battle against AIDS is public education. Misconceptions about AIDS encourage panic and diffuse energy from efforts to meet the challenge that AIDS presents.

With the help of gay organizations across the country, hotlines are operating, public forums are being conducted, and thousands of newsletters and informational brochures are being distributed.

However, educating the public requires a true collaborative effort that enlists the support of Government and the medical community as well as the affected groups.

Needless to say, it is critical that those who are well informed work closely with members of the press to assure accurate and sensitive coverage. I want to commend Newsweek for taking a major step toward public education in its recent cover story on AIDS.

But I also think we ought to note that in New York, for example, over this past weekend, where Madison Square Garden was bought out in its entirety by the gay man health's crisis to provide funding as a benefit for the crisis for the epidemic with some 18,000 people present, and a tremendous moving program before the circus itself, not one line of print appeared in the New York papers nor any mention on the electronic media, although the mayor of the city of New York himself participated in those events, together with numerous other public officials.

Also last night, when the candlelight march and parade occurred in front of the Federal Building, although press and media were present, those who searched the morning papers again found scant mention of the event, although there was a picture in the New York Times.

My final point concerns access to care. This issue transcends any single epidemic or disease. It calls into question the way in which our country organizes and pays for medical care.

On the one hand we offer the finest and most sophisticated medical care in the world; on the other we deny access to that care to lower income patients. This administration has exacerbated these inequities by cutting back on essential health care programs for those in need.

A few weeks ago a Presidential Commission on Medical Ethics emphasized that society has an ethical obligation to insure equitable access to health care. It also pointed out that we have fallen far short of meeting this responsibility.

AIDS victims fall victim not only to the dreaded disorder, but also to this unmet social obligation. It has been estimated that treatment for the first 300 AIDS cases cost a total of $18 million, or $60,000 per case on average. The reports indicate that the cost in individual cases very frequently exceeds $100,000. Most AIDS patients are unable to afford such astronomical costs for medical care. Many have lost insurance coverage because their debilitating condition leaves them unable to work. Many have exhausted their insurance coverage because of the catastrophic nature of the illness.

□ 1830

Many do not qualify for public assistance. And those eligible for social security disability must wait 2 years before medicare coverage is available; most AIDS patients unfortunately do not live that long. As the cost of medical treatment for AIDS patients continues to escalate, many patients may be forced to choose between their homes and their health care.

I believe that Government and the medical community must launch a joint effort to insure that victims of this epidemic do not want for medical care because they lack sufficient resources. In the same way that emergency assistance is provided to protect lives and property ravaged by earthquakes and floods, we must provide emergency assistance to people and communities devastated by an epidemic.

To this end, I have introduced a bill which would grant AIDS patients categorical eligibility for medicare on an emergency basis. The program would be in effect for 2 years to meet the unusual needs of this health crisis. The hospital trust fund would not suffer any revenue loss as all costs would be paid out of general revenues. The bill would provide full medicare coverage for AIDS patients who have no other health insurance coverage. As with end stage renal disease patients, medicare would be a secondary payor for AIDS victims who have inadequate private insurance. With this legislation, AIDS patients would be assured access to quality care without facing the threat of bankruptcy.

I feel that the response of the gay community coupled with the slowly building sense of urgency demonstrated in Congress, fuels hope for a positive resolution to the AIDS crisis. But as we crawl toward a solution, lives continue to be lost. Among the general public, there is no air of national emergency and collective sensitivity that put legionnaire's disease on the front pages of newspapers and kept it there until the problem was solved.

Research on AIDS may provide us with a better working knowledge of the immune system, infectious diseases, and cancer. But until the entire Nation is alerted that AIDS is a serious public health danger, capable of enveloping huge numbers of people at any time, the reality is that our efforts may prove to be too little and too late. A caring and responsible society must not allow that to happen.

SYMPTOMS

Profound fatigue, which may be accompanied by light-headedness or headache, that is not transient and not explained by physical activity or by a psychiatric or substance-abuse disorder.

Persistent fevers or night sweats.

Weight loss of more than ten pounds during a period of less than two months that is not related to diet or activity; loss of appetite.

Lymphadenopathy or enlarging, hardening, painful or otherwise prominent lymph nodes. Diseased lymph nodes or glands often are found in the neck, armpits, and groin and may be associated with a wide variety of non-AIDS conditions. When persistent for more than three months in at least two different locations, however, lymphadenopathy may be an important predictor of KS.

Recently appearing or slowly enlarging purplish or discolored nodules, plaques, lumps, or other new growths on top of or beneath the skin or on the mucous membranes (inside the mouth, anus, or nasal passages or underneath the eyelids).

A heavy, persistent, often dry cough that is not from smoking cigarettes and that has lasted too long to be a cold or flu.

Persistent diarrhea.

Thrush, a thick, persistent, whitish coating on the tongue or in the throat which may be accompanied by sore throat.

Easy bruisability or unexplained bleeding from any orifice or from new growths on the skin or on the mucous membranes.

[From the Los Angeles Times, Apr. 21, 1983]

PRECURSOR TO FATAL ILLNESS IDENTIFIED

(By Harry Nelson)

UCLA researchers have identified a new condition in healthy homosexuals that they believe may later develop into the highly lethal disease known as AIDS, or acquired immune deficiency syndrome, which has stricken more than 1,200 people in the United States since it was first reported two years ago. The UCLA team discovered the new condition, which they call acquired immune augmentation, while doing blood studies on 89 young male homosexuals who had no signs of any kind of illness. In 29 of those studied, the researchers found an abnormal ratio of two types of white blood cells that resemble, but are not the same as, the abnormal ratio of the same cells in AIDS patients.

The researchers, from the UCLA School of Public Health and the School of Medicine, speculate that acquired immune augmentation is a precursor of AIDS. According to Dr. Roger Detels, dean of the School of Public Health and the principal author of a report that appeared in a recent issue of Lancet a British journal, the subjects are being followed to see whether they subsequently develop AIDS symptoms.

In a telephone interview, Detels said that preliminary examination of the follow-up data indicates that at least two of the 89 subjects have developed symptoms of AIDS approximately nine months after the initial study, which was conducted last May and June.

The other members of the team are Dr. John L. Fahey, Dr. Barbara Visscher, Dr. Michael Gottlieb, Kendra Schwartz and Richard S. Greene.

An analysis of the specific sexual practices of the 89 subjects revealed that the risk of contracting acquired immune augmentation is associated with passive (receptive) anal intercourse, in contrast with active (insertive) anal intercourse or no anal intercourse.

Unlike AIDS, the new condition does not appear to be associated either with having a large number of partners or with drugs that are sometimes used by homosexuals as sexual stimulants. The researchers say they tend to favor the hypothesis that the development of AIDS may be a two-stage process—perhaps even with different risk factors—with acquired immune augmentation being the first stage.

EARLY SIGN

In both AIDS and acquired immune augmentation, an early sign is a change in the ratio of two types of white blood cells—called suppressor cells and helper cells. In AIDS, the change results from a decrease in the number of helper cells. In the newer condition, the change is in the result of an increase in suppressor cells.

Dr. Harold Jaffe, a Centers for Disease Control epidemiologist working on AIDS, said that a centers team in New York has found the same immunological abnormality the UCLA team discovered. Jaffe said that in the New York study of 70 subjects, one patient with the acquired immune augmentation condition so far has gone on to develop Kaposi's sarcoma, a form of cancer to which AIDS patients are especially susceptible.

In addition to sexually active male homosexuals, AIDS has also been diagnosed in drug addicts, recent Haitian immigrants and hemophiliacs. It is believed, although not yet proven, that AIDS is caused by a virus or other organism that is transmitted from person to person through blood, semen or other body fluid.

Detels said that he believes the common factor for all AIDS victims, including heterosexuals, is exposure to feces and poor hygiene. Drug addicts who use needles are notorious for poor hygiene and are subject to diseases such as hepatitis associated with feces, he said. For the hemophiliacs, the explanation generally is believed to be that they received a blood transfusion containing the agent responsible for AIDS that had been donated by an AID victim.

As for acquired immune augmentation, the UCLA researchers speculate it is due either to the presence of a causative virus or other agent in the feces of the passive sexual partner, or to the presence of the agent in the semen of the active partner which in turn is transmitted to the passive partner's bloodstream through breaks in the rectal membranes.

[From Newsday, Mar. 22, 1983]

A SMALL CASUALTY IN AIDS WAR

(By B. D. Colen)

When Dr. Richard Ancona saw the X-ray he knew immediately why the little boy was coughing and having difficulty breathing. "It looked like a snowstorm", he said.

The X-ray showed pneumonia filling the chest of 11-year-old Carlton Seecharan of Central Islip. But this was not just any pneumonia. As Ancona suspected, and a lung biopsy would later confirm, the fluid buildup in the boy's lungs was caused by Pneumocystis carinii pneumonia, a rare form of the disease usually seen only in persons with malfunctioning immune systems.

A few days earlier Carlton Seecharan's parents had called Ancona, a pediatric hematologist and oncologist—specialist in diseases of the blood, and cancer—and asked him to take over the care of their son, a hemophiliac. Ancona had agreed, and first saw Carlton, who had a chronic cough, Friday, Feb. 18. He examined Carlton and gave him an antibiotic and a cough medicine, telling the boy's parents to return to University Hospital, at Stony Brook, if things didn't improve.

By the following day Carlton's condition had visibly deteriorated, and Ancona found himself facing the snowy X-ray and a particularly grim possibility—Carlton Seecharan appeared to be a victim of AIDS, the Aquired Immune Deficiency Syndrome, a mysterious illness that has killed 434 of its 1,186 U.S. victims. In eight days, it would claim the life of Carlton Seecharan.

The New York metropolitan area has had 545 AIDS cases. Of those New York cases, Nassau has had six cases, four of them fatal, and Suffolk has had nine cases three of them fatal. Most of the Long Island victims have been adults and most of them drug abusers, according to health officials in the two counties.

For Ancona, the suspicion of AIDS in Carlton's case was supported by several factors.

Hemophiliacs are one of the major groups at high risk of contracting AIDS. The others are male homosexuals, Haitian immigrants and users of illicit intravenous drugs.

Like most AIDS victims, Carlton had been physically run-down and had had a low-grade, chronic infection for months, and the little boy had received several units of Factor IX, the clotting factor he needs as a hemophiliac, approximately five months before becoming ill. Researchers suspect that whatever causes AIDS is entering the blood of hemophiliacs in the very blood products they need to live near-normal lives.

The following morning, Sunday, Feb. 20, Ancona met with Carlton's family in the conference room attached to Stony Brook's 11th floor pediatrics unit.

"I said he has an organism that is not usual for someone to have," the doctor recalls, "and given his condition—that he is a hemophiliac—and given this organism, I'm quite concerned that he has this disease called AIDS."

During a lengthy interview at their home in Central Islip, members of Carlton Seecharan's extended family recalled a medical crisis beginning at Elmhurst Hospital in Queens last April.

"He had internal bleeding in April, so we took him to Elmhurst Hospital," where Carlton's hemophilia had been treated during the family's years in Queens, "and they gave him a couple units of blood and Factor IX," said the boy's father, whose name is also Carlton. "After a week they discharged him, and we took him home. He was okay, but in September he got a bad cough. We took him back to Elmhurst, and they said it was just a cough and gave him penicillin and cough medicine.

"We continued buying cough medicine for him," said the boy's father. "The cough stopped, and then it started back again, coming and going, coming and going." Until the Friday in February when they took the boy to Ancona, whom, the father says, also said it was "just a cough."

Carlton's mother, Tara Seecharan, stood staring out a window into the yard in which her son used to play. "They saw him at Elmhurst in September," she said quietly. "But they just gave him penicillin and sent him home." She slowly shook her head.

At that time, AIDS was not yet part of the national medical consciousness, and hemophiliacs were not yet considered a high-risk group. by mid-September there were still only 593 reported cases of the syndrome—half the present number—and only three cases in hemophiliacs. So the staff of Elmhurst had no real reason to suspect that the little boy might have had any thing more than "just a cough."

And at that time, just six short months ago, neither the Seecharans, nor the families of the nation's approximately 15,000 other hemophiliacs, were yet living with the fear that the next infusion they received of clotting factor might carry with it whatever is causing an epidemic that researchers fear may eventually have a 90 to 100 per cent mortality rate.

Even if all concerned had been aware at the time of the risks, what choices did they have? The availability within the past 15 years of commercially produced clotting factor has dramatically changed the lives of hemophiliacs, freeing them from the constant fear of painful, debilitating episodes of internal bleeding, allowing them to lead near-normal lives.

One adult hemophiliac, Donald Goldman of New Jersey, put it this way: "There's very little choice that I have. It's simply one of the risks you have to deal with in order to live your life. Death is not very pleasant, and, ultimately, that's what you're talking about with AIDS. But I suppose I have to be fatalistic about it, whatever happens, happens."

But Goldman, a New Jersey attorney, does not have AIDS, and Carlton Seecharan did. And his family suffered through it with him.

As the family describes it, Carlton's condition steadily deteriorated from the time of his lung biopsy on Sunday, Feb. 20.

"Tuesday he had a very high fever, 106," said the boy's father, "and Ancona told me it's AIDS that he has, and they're getting medication from [the federal Centers for Disease Control] in Atlanta, and it's not working. They sent for more medication, and it's still not working. I asked him what are his chances, because of the way he's looking. He told me a 50-50 chance of survival."

Carlton's aunt, a nurse's aide whose name, like the boy's mother's, is Tara, referred to handwritten notes on an envelope. "Wednesday at 2 PM, they said his chances were 30–70. Wednesday at 8 PM, 20-80. Wednesday at 9 I asked for odds, and he said nothing, he's not giving me any more odds."

"There was a doctor who came in from Rockefeller University around 9 PM," said the elder Carlton Seecharan. "He wanted to get some blood from my son for testing purposes, so I okayed it."

"He gave us a 10 per cent chance of survival," said the boy's aunt, referring to the Rockefeller physician, who was not involved in the care of her nephew. "I picked up the phone and called the CDC when I was not getting answers from the hospital. They told me the chance of survival was 10 per cent." That Wednesday was the worst day for the Seecharan family. Shortly before 11 AM, while Carlton's mother and father were in the room with him, a nurse came in and said she had to suction secretions from his lungs.

Prevented from talking by respirator tubes in his throat, the little boy scrawled a nearly illegible note reading, "Mommy don't leave," said the aunt. "So his Mommy held one hand and his Daddy held the other." Just before the nurse began her work, the little boy wrote another note. It read:

"I have to talk to you in private."

During the procedure, at 11 AM, Carlton suffered heart failure for the first time. He was revived, as he would be later in the day when his heart gave out a second time. While he would live for another three days, he would never again communicate with those around him.

According to Carlton's family, by 1 PM Thursday they were told he was blind in one eye. By that evening he was said to have suffered some brain damage. Friday morning they were told the sight was gone in the second eye and he had suffered 90 per cent brain damage.

"Saturday morning they said, 'We'll try to keep him alive for the grandmother to get here'" from the family's native Trinidad, the aunt recalled.

The AIDS epidemic and the genetic burden of hemophilia ended for Carlton Seecharan at 12:40 AM on Sunday, Feb. 27.

Since then, the family has visited the boy's gravesite once each week. Before one such visit, his father sat in the family's dining room, speaking of his son.

"I still don't believe he's gone," his father said. "I still can't accept the fact. I still want to know what he wanted to tell us in private. Each night I sit here—12:30, 1 in the morning—and I ask him what he wanted to tell us in private. But he doesn't come to me. Maybe because I can't believe he's dead."

A straight-A, sixth-grade student who was doing math on an eighth-grade level, Carlton Seecharan "loved television . . . westerns and country and western music," his father said. He'd decided that if he had to live with hemophilia, he had to live with it. The father recalled telling his son, during the first days of his illness, "Don't give up, you're going to make it.' But he never did. Then when I saw he was losing his eyes and his brain, I went back and said 'Son, if you can't make it, just give up.'"

Carlton, his aunt recalled, used to walk his 6-year-old sister to school each morning—"held her hand and never let it go once, took off her coat and put it in the closet, kissed her, put her in her class and then went to his own," she said. "That child didn't really come here to stay."

H.R. 2880

A bill to make individuals suffering from acquired immunity deficiency syndrome (AIDS) eligible for coverage under the medicare program

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any provision of the Social Security Act, any individual who—

(1) is not, and upon filing any appropriate application would not be, entitled under any other provision of law to hospital insurance benefits under part A of title XVIII of the Social Security Act,

(2) is medically determined to have acquired immunity deficiency syndrome, and

(3) has filed an application for benefits under this section within the two-year period beginning with the first day of the first month beginning 30 days after the date of the date of the enactment of this Act,

shall, in accordance with the succeeding provisions of this section, be entitled to benefits under part A and eligible to enroll under part B of title XVIII of the Social Security Act, subject to the deductible, premium, and coinsurance provisions of that title.

(b) Entitlement of an individual to benefits under part A and eligibility to enroll under part B of title XVIII of the Social Security Act by reason of this section on the basis of having acquired immunity deficiency syndrome—

(1) shall begin with the first month in which the individual meets the conditions described in subsection (a), and

(2) shall end with the third month after the month in which the individual is determined no longer to have acquired immunity deficiency syndrome or, if earlier, the first month in which the individual no longer meets the requirement of subsection (a)(1).

(c) Notwithstanding any provision of title XVIII of the Social Security Act, amounts otherwise payable under such title for any item or service provided to an individual entitled to benefits thereunder by reason of this section shall not be payable to the extent that any prepayment plan, group health plan (described in section 162(i)(2) of the Internal Revenue Code of 1954), or insurance policy covering such individual is legally obligated to make payment for such item or service.

(d) There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human services deems necessary for any fiscal year on account of—

(1) payments to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to hospital insurance benefits under such part solely by reason of this section,

(2) the additional administrative expenses resulting or expected to result therefrom, and

(3) any loss in interest to such Trust Fund resulting from the payment of such amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year in which it would have been if the preceding subsections of this section had not been enacted.

(e) For purposes of this section and section 162(i)(1) of the Internal Revenue Code of 1954, an individual is considered to have acquired immunity deficiency syndrome if the individual has a reliably diagnosed disease that is strongly suggestive of an underlying cellular immune deficiency, but who simultaneously has no known underlying cause of the deficiency nor any other cause of reduced resistance reported to be associated with that disease.

SEC. 2. (a) Section 162(i)(1) of the Internal Revenue Code of 1954 (relating to deductions for group health plans) is amended—

(1) by inserting "or acquired immunity deficiency syndrome" after "end stage renal disease" each place it appears, and

(2) by inserting "or treatment with respect to such syndrome" after "renal dialysis".

(b) The amendments made by subsection (a) shall apply to taxable years beginning on or after July 1, 1983.

LEGISLATION TO MAKE AIDS PATIENTS ELIGIBLE FOR MEDICARE COVERAGE

1. Bill makes AIDS patients categorically eligible for Medicare coverage based solely on a medical diagnosis. The closest precedent to this eligibility requirement is that end stage renal dialysis patients are also eligible for Medicare.

2. This emergency program is effective for two years, at which time Congress could reassess the situation.

3. The emergency care would be funded out of the treasury—the Hospital Trust Fund would be reimbursed for all costs—including administrative costs and any lost interest.

4. Any eligible individual would be entitled to Medicare Part A Hospitalization coverage and Part B Medical Coverage. Patients would be subject to all deductibles, copayments, and coinsurance payments. If an AIDS patient has private coverage, Medicare would be a secondary payor. This would help those AIDS patients with bare bones type insurance. ((The bill also amends the IRS code (the section that provides deductions for group health plans) so that insurers will not begin discrimination against AIDS patients because federal coverage is available))

5. As a result of a recent Social Security policy change, AIDS patients will now be eligible for SSDI (Soc. Sec. disability insurance). However, Medicare coverage is not made available to SSDI beneficiaries until they have received benefits (or were eligible for benefits) for two years. Most AIDS patients will not live long enough to qualify for Medicare under current law. Yet, during the two year period after they contract their first opportunistic infection, they will run up enormous medical bills. At this point, they will not be working and probably have little, if any, health insurance.

6. Initial cost estimates ran about $60,000 per patient. Estimates now go up to the $100,000 to $200,000 per patient.

7. Hospital costs for AIDS patients are especially high due to the extremely debilitating nature of the disorder and the precautionary measures that must be taken because of the infectious nature of the disease.

● Mr. TOWNS. Mr. Speaker, I am pleased to join the gentleman from New York in his special order on acquired immune deficiency syndrome (AIDS).

AIDS is a newly observed medical disorder which impairs the immune system and leaves affected individuals susceptible to certain types of cancer and other infectious diseases. The victims of this illness are largely gay, intravenous drug abusers, Haitians and hemophiliacs. The Center for Disease Control (CDC) has also found 26 cases of an AIDS-like disease in children whose parents have evidenced a high risk of developing the disorder.

The debilitating nature of the disease is virtually unknown to the general public. Initial symptoms include skin lesions, enlarged lymph nodes, fever, weight loss, diarrhea, and shortness of breath. Individuals affected by AIDS usually succumb to opportunistic infections such as pneumonia. They may also acquire Kaposi's sarcoma, a rare form of cancer, and other malignancies.

In comparison with other public health emergencies, the mortality figures on AIDS victims are frightening. More deaths have been associated with AIDS than with toxic shock syndrome and Legionnaires' disease combined. In addition, the incidence of the syndrome has risen from about one case per day reported to the CDC in January 1982 to about three to four cases per day since that time. Over 80 percent of the patients diagnosis 2 years ago are now dead.

At the present time, there is no known cure for this disorder. Hospital costs for the care of such patients are enormous and the experimental treatments such as interferon, anticancer drugs, antileprosy drugs, bone marrow transplants, and plasmapheresis are expensive. According to CDC, costs for the first 1,000 cases are estimated at $60 million in hospital expenses alone. The opportunistic infections associated with AIDS are extremely difficult to treat and for some illnesses there is no known treatment.

As a New York Representative, I am aware that New York City's public health facilities are not equipped to handle this problem, particularly since 50 percent of the Nation's cases are found there. While CDC has made a concentrated effort to research AIDS, the agency spent only $2 million compared to the cumulative totals of $9 million for Legionnaires' disease and $1.25 million for toxic shock syndrome. Researchers have indicated that CDC's funds are probably insufficient since a routine immunological study costs $1,000 or more per person. Clearly more Government funds are needed to support this research. It is a hopeful sign that the administration's fiscal year 1984 budget request $11.5 million for AIDS research which is a $1.4 million increase over the 1983 level.

I would hope that the Congress will act quickly on legislation, such as H.R. 2350 and H.R. 1697, which will expedite AIDS research by the National Institutes of Health. For years, sickle cell anemia research remained a low priority in the medical community because of racial prejudice. Treatment for the victims of any disease should not depend on that groups' status in society. We must now allow societal prejudice against gays to limit our commitment in fighting this public health emergency.●

● Mr. CROCKETT. Mr. Speaker, several of my colleagues here today have spoken about the medical crisis that the acquired immune deficiency syndrome (AIDS) represents, and the need for both more research money and a faster release of research money to find the cause and cure of this frightening and deadly disease. In other words, they have spoken about the medical challenge that AIDS presents us with.

I would like to talk about the moral challenge that AIDS represents.

Although this disease is well-known in Africa, in the United States it has primarily struck only young gay men, Haitians, hemophiliacs, and intravenous drug users. It is the fact that young gay men are its principle victims here that presents us with a moral dilemma. On the one hand, people are dying at an incredible rate of a hideous disease, and no one wants that. On the other hand, there is still a persistent and pervasive feeling in this country that lesbians and gay men are sick and perverted.

People who hold this prejudice are likely to say or think that perhaps gay people somehow deserve to get AIDS. At the very least, people who are not gay may think that because they are not at much risk of getting the disease and because they do not know anyone who is at risk, they do not need to care. These attitudes may be slowing up the search for a cure, since we all know that it often takes massive amounts of public concern and pressure to create an effective public or governmental response to a problem. If most people do not bother to care because they think it is not important or does not affect them, this public pressure is not there.

But public attitudes toward homosexuality may be having far more of an impact on what is happening with this disease than simply how much attention the search for a cure is getting. Public attitudes may be affecting the victims, their families, and their friends, as well.

Detroit to date has only had five known cases of AIDS. Three of these people have already died. I did not know any of the victims, but I worry about them. Dying is hard enough. Did they die with loving friends and family around, or did they die of the ostracism, hatred, and self-questioning that homophobia—fear of hatred of homosexuals—can cause, as well as from the disease itself?

The moral challenge that AIDS presents us with is this: To come out of this crisis not only with a better understanding of cancer and disease, but also with a greater understanding of and appreciation for those around us who, whether we have let them tell us this or not, are gay. The medical community is being challenged to find a cure. The challenge for the rest of us is not only to be as compassionate and helpful as we can, but also to seize this opportunity to examine our stereotypes and prejudices. None of these challenges are small orders. But each challenge must be met. The very outcome of lives, both now and in the future when AIDS has been conquered, depend on it.●

● Mr. WAXMAN. Mr. Speaker, for almost 2 years now, I have closely followed the spread of a new disease that was first identified in my district and in the surrounding Los Angeles area. The disease first was thought to be a rare pneumonia. Soon other medical researchers reported an outbreak of an unusual cancer. And then others found strangely high rates of serious infections.

After an increasing number of similar reports and much analysis by scientists from the centers for disease control, it became clear that the diseases themselves were symptoms of another, more fundamental problem—a selective collapse of the immune system, now known as acquired immune deficiency syndrome or AIDS.

The Subcommittee on Health and the Environment held a hearing on AIDS more than a year ago. At that time there were about 300 cases of AIDS. Today there are almost 1,400. The number of cases has doubled every 6 months for the past 2 years, and the eventual mortality rate may prove to be over 80 percent. And although most of the first cases were first found in young gay men, hemophiliacs, Haitians, and drug abusers, now more than 1 out of 20 cases is a member of "no known risk group."

The public response to AIDS has been mixed and sometimes reluctant. I believe that much of the lack of sympathetic media attention and of Federal research has arisen from discriminatory intent and self-righteous neglect.

Because this disease that first appeared among homosexual men has received press attention as a peril and a gay plague, not as a public health problem. And while the Centers for Disease Control have done good epidemiological work, the Federal research establishment has, until very recently, responded with a business-as-usual approach to research.

But such discrimination is not the only problem.

In 1982, just as the epidemic was beginning, the budget for the Centers for Disease Control was effectively cut by 20 percent. And for 1984, the President has proposed funding for the National Institutes of Health at a level that would reduce new research grants by 25 percent.

My colleague from California, Mr. ROYBAL, authored an amendment to the continuing resolution for 1983 to add money to CDC's budget for AIDS research. I congratulate him on that and would note that the amount of money provided by that amendment will be spent twice over in this investigation, even though the administration requested no assistance.

But we cannot continue to rely on the goodwill, foresight, and timing of individual Members of Congress to address the needs of public health emergencies. As AIDS has pointed out to us, public health needs are not always predictable. No matter how organized and systematic the administration and the Congress may be in their budget and appropriations cycles, it is not possible to design line item amounts for such problems. We cannot plan a year in advance for epidemics, contaminants, or emergencies.

I have introduced legislation, H.R. 2713, to address such situations. That bill would create a fund to allow the Secretary of HHS to fund research and control efforts in situations of public health emergency. A number of Members from both sides of the aisle have joined in cosponsoring this legislation. I urge other Members to consider AIDS as one of the most prominent examples of the ad hoc budgeting that is forced upon us in extreme health crises and to join me in offering a standing reserve for funding the control of such emergencies.●

● Mr. ROYBAL. Mr. Speaker, during the last session of Congress, I added $2 million to the Centers for Disease Control portion of the Labor-Health and Human Services appropriations bill for fiscal year 1983 to stimulate investigation into the etiology of AIDS, provide surveillance in the major cities of occurrence and search for a solution to this baffling illness.

The CDC has used these funds to expand their surveillance activities, epidemiological studies and laboratory investigations. Some of our major institutions of higher education, such as UCLA, Harvard, and New York University, are cooperating with the CDC in lab studies. Although it is early for results, research investigations by the CDC have brought us closer to finding the cause of AIDS. CDC estimates that it will spend $4,500,000 on AIDS for fiscal year 1983. The AIDS problem has worsened.

Since November of last year when I offered my AIDS amendment, the number of AIDS cases have nearly doubled. Since 1981, CDC has received reports of over 1,370 individuals who fit the case definition used by CDC; 76 of these cases were reported from 16 foreign countries.

New cases are now being reported at an average rate of between four and five per day.

Death has occurred in nearly 40 percent of all reported cases with the mortality rate over time expected to exceed 80 percent.

CDC is becoming increasingly concerned about the possibility of additional thousands of persons who do not fit the current restriction definition of AIDS but may be suffering from less severe immune deficits that are treatable through chemotherapy.

The National Institutes of Health will spend $9,582,000 in fiscal year 1983 for AIDS research and is requesting $12,461,000 in fiscal year 1984 to continue its efforts. An institute-by-institute breakdown of funding follows:

	Fiscal year—	
	1983	1984
National Cancer Institute	$4,400,000	$4,700,000
Allergy and infectious diseases	4,050,000	6,050,000
Heart, lung and blood	346,000	846,000
Neurological communicative disorders and stroke	72,000	76,000
Research resources	644,000	701,000
National Eye Institute	45,000	58,000
Dental research	25,000	30,000

NIH is also cooperating with the CDC and the Federal Drug Administration and the CDC in its research efforts. Out of its fiscal year 1983 budget, FDA will spend $200,000 in coordinated research with these agencies. It is currently investigating possible sterilization techniques for blood and blood products and has issued guidelines for blood donors that recommend persons in high-risk groups to forego donating blood until we have more about AIDS and its methods of transmission. The Division of Virology is working on vaccines for cytomegalovirus and studying its role in AIDS. To continue its work in fiscal year 1984, the FDA has requested $400,000.

Now, all of this is bringing us closer to solving the AIDS problem. But we have a long way to go. We are still looking for a causal agent, its method of transmission and a medical cure.

I spoke recently with Dr. William Foege, Director of the CDC. We discussed ways in which the CDC could expand its surveillance and research activities.

In July, the CDC will announce an award being made to the San Francisco Health Department to enhance surveillance activities there. The centers are also planning to recruit three Public Health advisers during the next few weeks to be located in San Francisco, Los Angeles, and Miami, areas with major concentrations of reported cases of AIDS. These advisers will be conducting case followups involving interviews with victims and location of contacts.

During the hearings of the Labor-HHS Appropriations Subcommittee, I called attention to the AIDS epidemic and the need for a timely and coordinated response from the biomedical research community to study AIDS and give it the attention it demands. Today, during our subcommittee markup on the Labor, Health and Human Services and Education supplemental bill, I indicated that I would seek additional funds to respond to the AIDS epidemic for fiscal year 1984.

I believe we must move aggressively on this problem and hope that you will join me in this commitment.●

● Mr. EDGAR. Mr. Speaker, the unrelenting spread of acquired immune deficiency syndrome [AIDS] is a national tragedy and should be a national concern. For those of us who share an interest in our Nation's health, a focus on the causes and possible cures for AIDS must be a vital concern.

The origin of AIDS is unknown, but we do know who the victims are, and we know the intensity with which it strikes. In just 2 years, the disease has taken 450 lives. As of April 7, a total of 1,300 people had been diagnosed as having AIDS—with an overall mortality rate of 37.6 percent. Within the group most affected by AIDS, gay and bisexual men, 933 known cases have been investigated—among this group there is a 35-percent mortality rate: 217 cases have been reported among intravenous drug users, with a 40-percent mortality rate; 64 cases have been reported among Haitian refugees, with a 55-percent mortality rate; 11 cases have been reported among the Nation's 20,000 hemophiliacs, with a 73-percent mortality rate. The possibility that AIDS has spread to children is under investigation in 20 instances; there is an alleged mortality rate of 50 percent among children; 75 other cases have been reported, in this group there is a 43-percent mortality rate.

The first cases of AIDS were reported among gay men in large urban areas, but the disease has spread to drug users and others. Cases sprang up in Haiti at roughly the same time gay men in New York and San Francisco were found to have the disease. No one knows where the disease came from and its method of spreading is unclear, although it has been argued that extremely intimate contact or exposure to blood is probably necessary for infection.

Victims of AIDS, whose immune systems have been seriously debilitated, are likely to catch other disease—such as, among gay men, Kaposi's sarcoma [KS], a rare cancer usually confined to the skin and found in elderly men of Mediterranean ancestry. With the arrival of AIDS, however, young, formerly healthy men were stricken by the cancer which began to manifest new symptoms and new effects, and spread to internal organs. Pneumocystis carinii pneumonia [PCP], a parasitic lung infection accompanied by fever and shortness of breath, has begun to affect AIDS sufferers. Others fall victim to a form of herpes which attacks the central nervous system, or toxoplasmosis, an infection which can cause serious brain damage.

Treatment for AIDS has proved to be unsatisfactory as evidenced by the high mortality rate. While AIDS sufferers can be treated for various individual infections typical of the syndrome, their weakened immunity leaves them open to one disease after another. Some AIDS victims have received interferon, a virus-fighting substance used in treating certain forms of cancer, which interferes with virus replication. Although it has effected remission in some AIDS sufferers, interferon is not the cure.

Attention must be focused on this infectious disease which has claimed so many lives in so short a time. I laud and am grateful for the work done by the Sloan-Kettering Cancer Center in New York, the Center for Disease Control in Atlanta, the National Institute of Health, and other centers and researchers nationwide who have worked to understand and treat AIDS. More must be done. I support Representative WAXMAN in his efforts to allocate $40 million for research into AIDS and other public health emergencies. It has been suggested that part of the reason why AIDS has been ignored for so long is that the major victims of this disease are gay men, whose civil rights and human rights have been ignored for so long. I can only hope that this is not the case. When our Nation's health is at stake, corners cannot be cut, petty stipulations cannot be made, prejudices cannot be respected. The fight for the public's health is a vital one which cannot be ignored. The fight against AIDS must continue.●

● Mr. ADDABBO. Mr. Speaker, it is of the utmost importance today that we join together to support efforts to combat the disease, acquired immune deficiency more commonly known as AIDS.

This disease has in the past 2 years reached epidemic proportions. Not only do the number of cases increase day by day—1,300 to date—but after looking at the mortality rate, I was amazed at how varied and how high the number of deaths were for different cross sections of our society.

I feel great sadness that our Congress has not reacted more quickly and effectively in addressing the AIDS epidemic. This disease has inflicted the young, the old, women, and men alike. Without some type of immediate action on our part, this disease will reach even more diverse areas throughout the United States.

Although research is being conducted throughout major research centers in the United States, more money is needed to be allocated to subsidize the present research efforts that are only in their initial stages.

I, personally, will support legislation that provides money for researching the causes of this disease. At present, doctors do not even have a clue on where AIDS has originated. Even more sad is the fact that doctors are not able to console those people who are already afflicted by this disease because there is no cure.

At least, we, as Members of Congress have the power to provide that available means and money which will enable the experts to find a cure for AIDS before it is too late.

I call upon the appropriate subcommittees, dealing with health-related issues, to expedite action immediately which would aim us toward combatting the escalating AIDS dilemma which now confronts our country.●

● Mr. EDWARDS of California. Mr. Speaker, I thank my colleague from New York (Mr. WEISS) for providing the opportunity to spear about the alarming epidemic of acquired immune deficiency syndrome [AIDS].

I am proud to participate in this effort to call attention to this virulent disease that has rapidly become a medical crisis. Initially it was assumed that AIDS afflicted only a segment of our population, but we can no longer make that erroneous judgment. Some of its victims are gays and intravenous drug users. But they are not alone in their fight against this incurable illness. Children, hemophiliacs of all ages, and Haitians are among those who have been diagnosed as having immune deficiencies. AIDS is not only a gay community problem. It is not only a drug users' problem. It is a national crisis, and it must be of concern to all of us.

Newsweek Magazine recently chose AIDS for its cover story. I commend the coverage done by the article's authors. The article will help in the campaign to insure that Americans become aware of the seriousness of this tragic disease. But awareness is only half the battle. As Newsweek pointed out, the increasing number of AIDS cases is shocking, but equally disturbing is the lack of information about its cause or cure. Research worldwide has yet to identify the origin of the disease or how it is transmitted from one person to another. The research is in its infancy and must be continued, but the funds for this work are limited.

It is crucial that AIDS research gets the financial resources it needs. The research must go on until medical professionals have found a way to successfully diagnose and treat victims of the AIDS epidemic. It appears, however that providing money to continue work on the disease will not be an acceptable thing to do until the stigma of it being the gay community's problem is lifted. I think the Newsweek article said it best:

> You can be sure that if the victims (of AIDS) were heterosexual bankers, the money would be gushing out of Washington as it did during the Legionnaires' Disease period . . . How many people have to die before there is an all-out effort?

I encourage my colleagues to support continued funding for research to solve the riddle of this baffling and devastating disease. We must not tolerate a 100-percent mortality rate for those afflicted with AIDS. Beleaguered researchers need resources so that they can forge ahead, for the sake of all of us.●

● Mr. LOWRY of Washington. Mr. Speaker, I commend the gentleman from New York for focusing the attention of the Congress on AIDS. Acquired immune deficiency syndrome is a devastating illness which has produced a public health emergency of epidemic proportions. In this country, at least 1,300 people have been stricken by AIDS; the death toll to date is 489. Once thought to strike gay men, AIDS has now been found in Haitians, hemophiliacs, and users of intravenous drugs. In addition, one out of five of its victims are members of no known risk group, opening up the possibility that the entire population may is some way be at risk.

Since first reported a few years ago, AIDS has been detected in 35 States and 15 foreign countries. In my own State of Washington, nine cases of AIDS have been reported; three have been fatal, and one more person is expected to die shortly. The Seattle-King County Department of Public Health, which now has an active surveillance system for AIDS, reports that there is also an increasing incidence of impaired immunity, an illness less severe than AIDS, but potentially afflicting the same victims. It is especially frightening that since mid-1981, the national incidence of AIDS has doubled every 6 months. One study estimates that almost six new cases are reported each day.

No collection of statistics can begin to communicate the human suffering caused by AIDS. The body's immune system is totally ravaged, leaving the person vulnerable to a vast number of rare and lethal diseases and infections. A victim of AIDS is unlikely to ever fully recover; more likely, he or she will die after months of agonizing physical and emotional pain. In addition to the tragic cost in lives, the illness is also taking a large toll on the Nation's health bill. According to the Center for Disease Control, costs for the first 1,000 AIDS cases have been estimated to be $60 million in hospital expenses alone.

A public health emergency of this proportion demands a substantial national commitment of resources, but the response of the Federal Government to the AIDS epidemic has been slow and inadequate. Although AIDS has killed more people than Legionnaires' disease and toxic shock combined, it has failed to attract the same degree of media and Government attention. Although we know little about what causes the disease, and nothing about its cure, the Federal Government has made only a modest commitment to AIDS research through activities of the National Institutes of Health and the Center for Disease Control. NIH has been slow to distribute its funds, and it remains unclear to what extent these funds are being used to respond to the immediate emergency. CDC's efforts have been greatly underfunded. Last year, the Congress targeted $2 million in supplemental appropriations for AIDS-related activities at the CDC; AIDS is not even mentioned in the Reagan administration's 1984 budget request for CDC.

I believe that Congress should take immediate action to focus more of the Nation's resources on this very pressing public health concern. In the remaining months of fiscal year 1983, the Center for Disease Control should be given additional funds targeted on AIDS activities. Such funds would allow the CDC to broaden its surveillance activities, focus more energies on primate research, and permit the establishment of a national blood and specimen bank so that research can be expedited on the role of blood in transmitting AIDS. For fiscal year 1984, I urge that the Congress target a portion of CDC funds for AIDS related activities.

The AIDS emergency has demonstrated that the Federal Government is limited in its ability to respond to public health crises in a timely and adequate fashion. The constraints of annual budgeting and planning do not allow for the type of immediate and comprehensive response that is demanded by epidemics, food and drug contaminations, and other health emergencies. For this reason, I am pleased to be a cosponsor of H.R. 2713, introduced by Congressman WAXMAN. This bill would create a public health emergency fund for use by the U.S. Public Health Service, to be used at the discretion of the Secretary of Health and Human Services to respond to public health emergencies. The Secretary is authorized to act through the National Institutes of Health, the Center for Disease Control, and the Food and Drug Administration. I urge my colleagues to support this much-needed proposal.●

● Mr. LEVINE of California. Mr. Speaker, I appreciate having the opportunity to join our colleague, TED WEISS, in focusing concern on the spread of acquired immune deficiency syndrome [AIDS].

Currently, little is known about this mysterious disease which attacks and destroys the body's immunity against infection. Its cause and treatment have yet to be found. What is known, however, is that the disease is spreading beyond homosexual men, hemophiliacs, recipients of blood transfusions, and even children. The Center for Disease Control reports between three to five new cases daily.

Although the disease is gradully becoming more widespread, over 70 percent of its sufferers are homosexual men. Frustration with the lack of progress in attacking AIDS is growing among gays who live in my district, in my State and across the Nation. They are living in fear of the unknown.

Substantial research is now underway, but it is not enough. Funds for additional tests and studies are crucial. Last week, our colleague, HENRY WAXMAN, introduced legislation to establish a public health emergency fund, which would give the Secretary of Health and Human Services the authority to use earmarked money for research, treatment, and prevention of unanticipated outbreaks of life-threatening diseases. I am cosponsor and encourage my colleagues to join in support of this legislation.

I am pleased to participate in this important discussion, and wish to thank Representative WEISS for arranging for this special order. We must act now to stop this epidemic and to stop people from becoming future AIDS victims.●

● Mrs. SCHNEIDER. Mr. Speaker, today's special order calls attention to a very serious health problem which for too long has remained on the back pages of newspapers, or has not been reported at all. It is a problem the likes of which we have never seen before. The disease, for which no known cause or cure exists to date, strikes at the heart of the body's defense system and leaves its victims prey to numerous other life-threatening diseases. As such, it has been given the name AIDS—the acquired immune deficiency syndrome.

Though the first reported case was in 1979, it has taken some 4 years for the public to become generally aware of the seriousness of AIDS. To date, over 1,300 cases have been reported to the Center for Disease Control, of which 500 were fatal. Further, the mortality rate for those who contracted the disease 4 years ago is now 100 percent. AIDS, which by destruction of the body's ability to fight disease leaves its sufferers prone to multiple chronic conditions, is surely one of the cruelest outbreaks in memory.

Unfortunately, Mr. Speaker, there is little incentive for private research into the causes and cures for AIDS. Because the disease strikes a relatively small number of people, as compared to other chronic conditions, the millions of dollars required in the battle against AIDS will not be recovered by private pharmaceutical interests. Therefore, like other "orphans," Federal intervention provides the only realistic key.

It is this spirit that I urge my fellow colleagues to join me in supporting H.R. 2713, introduced by Representative Waxman. The bill would provide $40 million for the establishment of an emergency Public Health Services fund to combat sudden health emergencies such as AIDS. This would cut through the redtape which has hindered the Government's response to this serious problem which was not the case with victims of toxic shock syndrome and Legionnaire's disease.

Again, Mr. Speaker, the numbers may appear small, but the devastation is immense. The time for action is now, and I urge all my colleagues to assist fellow Americans who are in fact facing a life and death situation due to AIDS.●

● Mr. GREEN. Mr. Speaker, all of us are aware of the AIDS epidemic which is growing at a rapid pace in our Nation. This disease, which is focused primarily among the gay male population, is also sweeping through the Haitian and hemophiliac communities. This epidemic, properly called acquired immune deficiency syndrome, knocks out the body's natural ability to fight disease, leaving the victim vulnerable to dangerous infections, cancer, or both. AIDS has generated increasing alarm within the medical community, because its source is an unknown entity of a lethal nature. As of the beginning of this year more than 800 people in the United States had contracted AIDS, and about 300 of them, or 38 percent died from its symptoms. This serious threat to public health has claimed more lives than Legionnaires' disease, toxic shock syndrome, swine flue, and Tylenol contamination combined, all of which received major attention from the Center for Disease Control, or the CDC as it is known. It is up to those of us in Congress to insure that an appropriate level of scientific research is devoted to stamping out this killer.

As a member of the Appropriations Committee, I spoke in favor of an amendment to increase funding for AIDS research when the 1983 appropriations bill for the Department of Health and Human Services came before the House for consideration. This amendment sought to allocate an additional $3.6 million to the CDC. Fortunately, this amendment was approved by the House. Although the Senate was not willing to fund this effort at the $3.6 million House requested level, during the conference committee meeting it was agreed that the Center for Disease Control would receive $2.1 million during fiscal year 1983 for the study and prevention of this dangerous illness. I thought this was a minimal amount, but, given the fiscal constraints under which we are operating, I was pleased with this victory. I am also a cosponsor of H.R. 2712 which is an attempt to free up some of the discretionary money appropriated for AIDS research. To date, the executive branch has been far too slow in responding in a responsible fashion to this epidemic and not enough of the earmarked discretionary funds have actually been assigned to AIDS research.

This increased funding, however, is just a first step in combating this dreaded disease. The problem is still escalating, as is evidenced by the 100-percent mortality rate for those who contracted the disease 4 years ago. Greater funding is absolutely imperative. The time has come for the Government and the medical community to respond adequately to this deadly malady. Toward this end I will continue to meet regularly with my colleagues on the Appropriations Committee and the Energy and Commerce Committee's Subcommittee on Health and the Environment, who have jurisdiction over the funding and authorization of AIDS bills, respectively. There is no doubt that we need to devote substantially greater sums of Federal money to this killer. Let me assure all Americans that there are those of us in the Congress who are laying the groundwork to give CDC and the National Institutes of Health the resources they need to fight this battle.

At this time, I would like to commend the Gay Men's Health Crisis. Located in Manhattan, this organization was founded by members of New York's gay community in response to the medical crisis posed by AIDS. Currently, 50 percent of all reported AIDS cases are in the State of New York. GMHC is a completely volunteer organization which provides clear and accurate information explaining what we know of this medical crisis to the gay community as well as needed services to those diagnosed with AIDS. It is through their herculean efforts that GMHC has raised over $100,000, $50,000 of which was donated to New York City hospitals conducting AIDS research.

Last evening, I had the privilege of addressing the AIDS network at its May 2 demonstration. Among the five speakers present were Ginny Appuzzo, executive director of the National Gay Task Force; Dr. Roger Enlow, director of the Office of Gay and Lesbian Health Concerns of New York City; and my colleague, the gentleman from New York, Mr. Weiss. This rally at Federal Plaza helped mark the mobilization of an organized and cohesive force to help attack this most deadly illness. It is my sincere hope that rallies such as this, along with today's congressional special order, will help focus much-needed attention on this disease.●

● Mr. RANGEL. Mr. Speaker, I would like to take this opportunity to express my support of this effort to focus national attention on acquired immune deficiency syndrome [AIDS], a deadly and unrelenting disease which destroys the body's immune system.

A growing number of AIDS cases began surfacing in 1981. Since that time, the disease has struck 1,300 Americans, 486 of whom have died.

This disorder is one which has baffled the medical profession—and for just reason. To date, the disease's place of origin has not been determined, its cause is unknown, and its cure has yet to be found. To further complicate matters, doctors are not experiencing much success in treating victims with the disease. As a result, a victim's immunity system becomes increasingly weak, thus leaving him or her vulnerable to a host of other diseases.

Early records show that the disease primarily claimed homosexuals as its victims. However, more recent records show that the disease has spread among other groups as well, namely intravenous drug users, Haitians, hemophiliacs, and children. And, as time goes on, it appears that more and more heterosexuals are contracting AIDS. It is anticipated that by year's end, there will be 2,000 cases in the United States.

Mr. Speaker, while experts have begun studying this lethal disease, and its victims, more research and greater public awareness is obviously needed. It is my hope that this special order will help galvanize support toward this end.●

GENERAL LEAVE

Mr. WEISS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the gentleman from New York?

There was no objection.

NEW ORLEANS PHYSICIAN RECEIVES VA'S HIGHEST HONOR FOR MEDICAL RESEARCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. Montgomery) is recognized for 5 minutes.

● Mr. MONTGOMERY. Mr. Speaker, the Veterans' Administration's highest honor for medical research, the William S. Middleton Award, was presented yesterday to Abba J. Kastin, M.D., Chief of the Endocrinology Department at the New Orleans VA Medical Center.

Dr. Kastin, an endocrinologist and professor of medicine at Tulane University School of Medicine, received the award for his "pioneering contributions in bringing about a better understanding of brain chemicals and their actions." The award is named for the late Dr. Middleton, a researcher, clinician, and educator who led the VA's Department of Medicine and Surgery from 1955 to 1963.

Dr. Kastin's 20-year study of neuropeptides has opened doors to new lines of research that could lead to improved diagnosis and treatment of a variety of central nervous system disorders, including Parkinson's disease, depression, and mental retardation. His findings are based on the theory that naturally occurring brain peptides exert direct effects on the central nervous system separate from and in addition to stimulating the release of hormones from the pituitary gland. This activity was confirmed in Parkinsonian patients, and subsequent studies by Dr. Kastin and others suggest that these studies represent a promising approach to the search for an effective treatment for Parkinson's disease and mental depression.

A native of Cleveland, Dr. Kastin graduated from Harvard Medical School in 1960. His association with the VA and Tulane University dates back to 1964, when he was awarded a special National Institutes of Health postdoctoral fellowship to work with VA endocrinologist Dr. Andrew V. Schally, who himself won the Middleton Award in 1970 and the Nobel Prize in 1977.

The award was presented to Dr. Kastin yesterday afternoon at VA Central Office by the agency's Deputy Administrator, Everett Alvarez, Jr. I know my colleagues join me in expressing to him warm congratulations and appreciation. His contributions truly benefit the Veterans' Administration, the world, and all mankind.●

BUDGET ISSUES ON LEGISLATIVE CALENDAR

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. **PANETTA**. Mr. Speaker, for the benefit of the Members, I would like to place in the RECORD a summary of the legislation we are scheduled to consider this week and any Budget Act issues raised by these measures:

BUDGET ISSUES RELATING TO THE LEGISLATIVE CALENDAR

BILLS TO BE CONSIDERED UNDER SUSPENSION

Tuesday, May 3

S. 1011—Federal Deposit Insurance Act Amendments:

Defines issuance of net worth certificates under the Federal Deposit Insurance Act as not constituting a default under the terms of any debt obligations subordinated to the claims of general creditors which were outstanding when such net worth certificates were issued. No Budget Act problem.

H.R. 2307—Amends Tribally Controlled Community College Assistance Act of 1978:

This bill authorizes appropriations for fiscal year 1985-1987 and makes amendments to the Act to provide for planning grants, establishment of an endowment program, and construction of new facilities. No Budget Act problem.

FLOOR ACTION: BILLS UNDER A RULE

Tuesday, May 3

H.R. 1190—Emergency Agricultural Credit Act of 1983:

This bill would authorise appropriations of new budget authority in fiscal year 1983 to carry out farm credit programs and to provide additional insured and guaranteed loan authority.

Budget Act/Budget Resolution issues:

(1) Authorization not reported by May 17, 1982. (2) Insured and guaranteed loan authority not subject to advance appropriations. Waiver supported by HBC and granted by Rules Committee. Since the bill was not reported by May 17, 1982, and since the new insured and guaranteed loan authority would not be subject to an advance appropriation, the bill would violate section 402(a) of the Budget Act and section 3 of the First Concurrent Resolution on the Budget for Fiscal Year 1983, respectively. The House-passed budget resolution for fiscal year 1984 assumes funding for this program in fiscal years 1983 and 1984.

Wednesday, May 4, and balance of the week

H.J. Res. 13—Mutual and Verifiable Nuclear Weapons Freeze.

H.R. 1983—Emergency Housing Assistance Act of 1983:

This bill would authorize $760 million in new budget authority in fiscal year 1983 to make emergency assistance payments in homeowners facing foreclosure of their conventional or VA guaranteed mortgages and $100 million to provide shelter for the homeless.

Budget Act issue:

Authorization not reported by May 17, 1982. Waiver supported by HBC and granted by rules. Since the bill was not reported by May 17, 1982, it would violate section 402(a) of the Budget Act. The House-passed budget resolution for fiscal year 1984, which also revised the fiscal year 1983 budget, assumes funding for this measure.

H.R. 2175—Justice Assistance Act of 1983 (subject to a rule being granted):

This bill amends the Omnibus Crime Control and Safe Streets Act of 1968 and, as a major feature, creates a block grant program for ciminal justice funds. In doing so, the bill includes reductions in authorization for various law enforcement grants from $750 million to $170 million in 1983, and authorizes appropriations for a number of law enforcement programs for fiscal years 1984 through 1986. No Budget Act problems.●

CHANGING TENOR OF UNITED STATES-CANADIAN RELATIONS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WEAVER) is recognized for 5 minutes.

● Mr. **WEAVER**. Mr. Speaker, "I want to change the course of America." This is the ambition of our Secretary of Interior, James Watt, as quoted in a recent Washington Post article. Now it appears that one of Secretary Watt's assistants wants to change the tenor, if not the course, of United States-Canadian relations as well.

An internal memorandum apparently penned by Dave Russell, Deputy Director of the Minerals Management Service, has come to my attention. Mr. Russell comments on a diplomatic message sent by the Canadian Embassy to the Department of State. Canada is formally protesting the assumption of jurisdiction by the Department of the Interior over minerals on and under the seabed on the Outer Continental Shelf, in the areas of Juan de Fuca and Gorda Ridge in the Pacific Ocean.

Mr. Russell, in his memo, suggests that:

> Our response to Canada's terse note should be "Dear Canada: Our F.R. notice obviously pertained to our offshore areas, not yours. Therefore, up yours! Love, America".

I am bringing this memo and the Canadian note to the attention of my colleagues because the crudeness of the expression used by Mr. Russell is highly indicative of a certain state of mind. To put such thoughts on paper and then to circulate them in one's official capacity reveals an arrogance, an insensitivity, a lack of professionalism and a self-righteousness that is absolutely breathtaking.

This attitude permeates the public statements of Secretary Watt in his references to environmentalists, to liberals, to native American officials and to people of this kind who dare to get in his way. I suspect that Mr. Russell is all too typical of the individuals Secretary Watt has brought into the Department of the Interior to help him dispense America's vast public lands and resources. If so, this Nation is in far worse trouble than we may realize.

The Canadian Embassy note and Mr. Russell's memo follow, in their entirety.

NOTE No. 021

The Embassy of Canada presents its compliments to the Department of State and has the honour to refer to the "Notice of Jurisdiction of the Department of the Interior Relating To Minerals, Other Than Oil, Gas and Sulphur" on the outer continental shelf of the United States, published in the Federal Register (Volume 47, number 236, pages 55313-4) on December 8, 1982.

The said notice purports to assert the jurisdiction of the Department of the Interior of the United States over "the subsoil and seabed of the areas of Juan de Fuca and Gorda Ridge in the Pacific Ocean". The Department of State will be aware that the Juan de Fuca area includes areas of the seabed and subsoil that clearly fall within the jurisdiction and sovereign rights of Canada under international law. The Government of Canada must make clear that it does not recognise as valid any assertion of jurisdiction on the part of the United States Government or any of its departments or agencies with regard to any resources of the seabed or subsoil within the limits of the continental shelf of Canada off the Pacific Coast, to the seaward limit defined in Section 2 of the Canada Oil and Gas Act and to the southern limit of Canadian Fishing Zone 5 described in Canada Gazette, Part II, Volume III Extra, 1 January 1977; the Government of Canada formally reserve all its rights concerning the matters touched upon in the notice under reference and, in particular, wishes to emphasize that the site of the recent discovery of polymetallic sulfides on the Juan de Fuca Ridge in the vicinity of 48 degrees North latitude, 129 degrees West longitude, lies within the continental shelf of Canada as defined above, and that all activities relating to these resources fall under Canada's jurisdiction and control.

The Government of Canada further wishes to express its profound concern that the Government of the United States should have authorized the publication of an official notice that could be interpreted as asserting United States jurisdiction over an area of the continental shelf undisputably appertaining to Canada, and that wholly ignores Canada's sovereign rights and geographic presence in the region. The Government of Canada expects that such assertions will not be repeated in future and that the Government of the United States will not take any action in respect of any Canada/USA maritime boundary region without prior notice and consultation. The outstanding maritime boundary questions between the two countries are such that it is incumbent on both sides to refrain from measures that would exacerbate disputes and make them more difficult to resolve.

The Canadian authorities, on another point, note that the document under reference also appears to assert jurisdiction over the continental shelf off the Pacific Coast of the United States beyond the seaward limit of the continental margin and beyond the seaward limit of the 200 mile fishing zone of the United States, on the basis of the "exploitability test" in the 1958 Convention on the Continental Shelf. The Canadian authorities would be grateful to learn whether this assertion represents the official policy of the United States with regard to the outer limit of the continental shelf under international law. At the same time, they would be grateful for information on the statutory basis, under United States law, for the assertion of United States jurisdiction over the seabed within 200 miles of the coast but beyond the outer edge of the continental margin.

The Embassy of Canada avails itself of this opportunity to renew to the Department of State the assurances of its highest consideration.

WASHINGTON, D.C., *January 17, 1983.*

JANUARY 30.

Re: Polymetallics off Ore. & Wash.

PERRY.—Offshore is preparing a F.R. notice which lays out our plan for offering lease tracts for polymetallic sulfides.

Our response to Canada's terse diplomatic note should be "Dear Canada: Our F.R. notice obviously pertained to our offshore areas, not yours. Therefore, up yours! Love, America." (Same to DOC.)

MMS will not be engaging in research on offshore sulfide deposits, except for work necessary to identify tracts and formulate lease stipulations—and that will be minimal. We will leave the research up to GS and NOAA. If Bu Mines wants to engage in "several million dollars" of research, whether shared with Reynolds or otherwise, they should get together with GS/NOAA. If Mines wants to assist us in our minimal resource evaluation work, within existing budgets, we'd like that (P.S. shared research w/Reynolds is not a justifiable expenditure of Fed. funds, in my opinion).

Be tough on those that would like to study, talk and delay. We're moving ahead.

DAVE.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislature program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BURTON) to revise and extend their remarks and include extraneous matter:)

Mr. WALKER, for 30 minutes, today.

Mr. BURTON, for 30 minutes, today.

Mr. CORCORAN, for 5 minutes, today.

(The following Members (at the request of Mr. REID) to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BOLAND, for 5 minutes, today.

Mr. WEISS, for 60 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. LONG of Maryland, for 5 minutes, today.

Mr. WEAVER, for 5 minutes, today.

Ms. OAKAR, for 5 minutes, today.

Mr. RICHARDSON, for 60 minutes, on May 5.

Mr. LUNDINE, for 60 minutes, on May 10.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DAUB, immediately prior to recorded vote on Dorgan amendment to H.R. 1190 in the Committee of the Whole today.

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous matter:)

Mr. WORTLEY in two instances.

Mr. MCGRATH.

Mr. YOUNG of Alaska.

Mr. WOLF in two instances.

Mr. SHUMWAY.

Mr. GILMAN in two instances.

Mr. BOEHLERT.

Mr. RITTER.

Mr. ZSCHAU.

Mr. YOUNG of Florida.

Mr. SMITH of New Jersey.

Mr. WEBER in two instances.

Mr. PAUL in two instances.

Mr. SKEEN in two instances.

Mr. KEMP in three instances.

Mr. MILLER of Ohio in three instances.

Mr. CORCORAN.

(The following Members (at the request of Mr. REID) and to include extraneous matter:)

Mr. MAVROULES.

Mr. BARNES in three instances.

Mr. BOSCO in two instances.

Mr. GAYDOS in three instances.

Mr. RANGEL.

Mr. HAWKINS.

Mr. DYMALLY in two instances.

Mr. ROSE.

Mr. BERMAN.

Mr. STUDDS in two instances.

Mr. PANETTA in two instances.

Mr. OTTINGER.

Mr. FLORIO.

Mr. MURTHA.

Mr. FUQUA.

Mr. SIMON.

Mr. HARRISON in two instances.

Mr. ZABLOCKI in two instances.

Mr. LUKEN in two instances.

Mr. VENTO in two instances.

Mr. MCDONALD in three instances.

Mr. LEHMAN of Florida in two instances.

Mr. EDGAR.

Mr. AKAKA in three instances.

Mr. HUBBARD.

Mr. HARKIN in two instances.

Ms. MIKULSKI.

Mr. CARR.

Mr. AUCOIN in two instances.

Mr. ACKERMAN in two instances.

Mr. EDWARDS of California.

Mr. TOWNS.

Mr. THOMAS of Georgia.

Mr. WAXMAN in two instances.

Mr. FORD of Michigan.

Mr. DE LA GARZA in 10 instances.

Mr. FAUNTROY.

Mrs. SCHROEDER.

Mr. MATSUI.

Mr. GORE.

Mr. MOAKLEY.

Mr. WEISS.

Mr. BOLAND.

ENROLLED BILL SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2600. An act to dedicate the Golden Gate National Recreation Area to Congressman Phillip Burton.

ADJOURNMENT

Mr. STUDDS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 34 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, May 4, 1983, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1054. A letter from the Assistant Secretary of Defense (Comptroller), transmitting selected acquisition reports and SAR summary tables for the quarter ended March 31, 1983, pursuant to section 811(a) of Public Law 94-106, as amended; to the Committee on Armed Services.

1055. A letter from the Secretary of the Treasury, transmitting the annual report on the economic viability of depository institutions for the period of April 1, 1982, through March 31, 1983, pursuant to section 206 of Public Law 96-221; to the Committee on Banking, Finance and Urban Affairs.

1056. A letter from the Assistant Secretary for Congressional Relations, transmitting reports on political contributions by various ambassadorial nominees and by members of their families, pursuant to section 304(b)(2) of Public Law 96-465; to the Committee on Foreign Affairs.

1057. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b, as amended; to the Committee on Foreign Affairs.

1058. A letter from the Secretary of Health and Human Services, transmitting a special report to Congress on the feasibility and advisability of a refugee impact aid program, pursuant to section 413(d) of the Immigration and Nationality Act as amended; to the Committee on the Judiciary.

1059. A letter from the Secretary of Health and Human Services, transmitting a special report to Congress on alternative methods for the provision of cash assistance, medical assistance, and case management for refugees, pursuant to section 413(c)(1) of the Immigration and Nationality Act as amended; to the Committee on the Judiciary.

1060. A letter from the Director, Office of Management and Budget, transmitting a Soil Conservation Service plan for the Brundage Watershed, Idaho, pursuant to section 5 of Public Law 83-566, as amended; to the Committee on Public Works and Transportation.

1061. A letter from the Assistant Secretary of the Army (Civil Works), transmitting for referral to the Committee on Appropriations, a final supplemental environmental statement on the Minnesota River at Chaska project, Minnesota, pursuant to section 404(r) of the Clean Water Act; to the Committee on Public Works and Transportation.

1062. A letter from the Chairman, U.S. International Trade Commission, transmitting the Commission's 33d quarterly report on trade between the United States and the nonmarket economy countries, pursuant to section 410 of the Trade Act of 1974; to the Committee on Ways and Means.

1063. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to repeal that paragraph of the act of March 4, 1913, as amended, that designates 10 percent of all national forest receipts for the construction of roads and trails on the national forests (37 Stat. 843); jointly, to the Committees on Agriculture and Interior and Insular Affairs.

1064. A letter from the Comptroller General of the United States, transmitting a report on the analysis of migration characteristics of children served under the migrant education program (GAO/HRD-83-40; May 2, 1983); jointly, to the Committees on Government Operations and Education and Labor.

1065. A letter from the Secretary of Health and Human Services, transmitting a report entitled, "Health Hazards Related to Nuclear Resource Development on Indian Land," pursuant to section 707(a) of the Indian Health Care Amendments, Public Law 96-537; jointly, to the Committees on Interior and Insular Affairs and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PEPPER: Committee on Rules. House Resolution 179. Resolution providing additional procedures during the consideration of the joint resolution (H.J. Res. 13) calling for a mutual and verifiable freeze on and reductions in nuclear weapons (Rept. No. 98-78). Referred to the House Calendar.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 1381. A bill to amend the Ocean Thermal Energy Conversion Act of 1980 to provide for additional authorizations, and for other purposes; with amendments (Rept. No. 98-79). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 1398. A bill to promote energy conservation by providing for daylight saving time on an expanded basis, and for other purposes; with an amendment (Rept. No. 98-80). Referred to the Committee of the Whole House on the State of the Union.

Mr. FUQUA: Committee on Science and Technology. H.R. 2587. A bill to authorize appropriations to the Department of Energy for civilian research and development programs for the fiscal year 1984; with amendments (Rept. No. 98-81). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WAXMAN:

H.R. 2861. A bill to amend the Public Health Service Act to increase the authorization for fiscal year 1984 for primary care block grants; to the Committee on Energy and Commerce.

H.R. 2862. A bill to amend the Social Security Act to increase the authorization for fiscal year 1984 for maternal and child health services block grant; to the Committee on Energy and Commerce.

By Mr. AKAKA:

H.R. 2863. A bill to deauthorize the Kalihi Channel portion of the navigation project for Honolulu Harbor, Hawaii; to the Committee on Public Works and Transportation.

H.R. 2864. A bill to amend the Small Business Act to provide that, with respect to any possession of the United States or any State located outside the contiguous 48 States, the set-aside programs shall not require certain contracts to be performed by small business concerns located outside such a State or possession; to the Committee on Small Business.

By Mr. CLINGER:

H.R. 2865. A bill to provide an emergency public works jobs program by providing funds to States and local governments to carry out short-term infrastructure repair projects and by increasing by $600,000,000 the authorization for construction grants under the Federal Water Pollution Control Act for fiscal year 1984, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. CONYERS:

H.R. 2866. A bill to amend the Immigration and Nationality Act to reform the immigration laws; to the Committee on the Judiciary.

By Mr. FLORIO (for himself, Mr. Lent, Ms. Mikulski, Mr. Eckart, Mr. Tauzin, and Mr. Richardson):

H.R. 2867. A bill to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal years 1984 through 1986, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GRADISON:

H.R. 2868. A bill to require that programs financed through the Federal Financing Bank be included in the Federal budget, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Ways and Means.

By Mr. HEFTEL of Hawaii:

H.R. 2869. A bill providing for the conveyance of certain Federal property in the State of Hawaii, and for other purposes; to the Committee on Government Operations.

By Mr. KOSTMAYER:

H.R. 2870. A bill to extend the trade adjustment assistance programs for workers and firms until October 1, 1988; to the Committee on Ways and Means.

By Mr. LAGOMARSINO:

H.R. 2871. A bill to amend the Internal Revenue Code of 1954 to allow an extension of time for paying the estate tax attributable to real property to be acquired for conservation purposes by certain charitable organizations; to the Committee on Ways and Means.

By Mr. LIPINSKI:

H.R. 2872. A bill to eliminate the collection of tolls on the U.S. portion of the St. Lawrence Seaway, to terminate the St. Lawrence Seaway Development Corporation and establish a St. Lawrence Seaway Development Administration in the Department of Transportation, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. LUKEN (for himself and Mr. Oxley):

H.R. 2873. A bill to amend the Communications Act of 1934 in order to encourage and develop marketplace competition in the provision of certain broadcast services and to provide certain deregulation of such broadcast services, and for other purposes; to the Committee on Energy and Commerce.

By Mr. McKINNEY:

H.R. 2874. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to reduce from 30 to 7 legislative days the period for congressional review of acts of the Council of the District of Columbia which do not involve a Federal interest, to allow such acts to take effect during a congressional recess or adjournment, to repeal the authority of the Council of the District of Columbia to enact temporary emergency legislation, and for other purposes; to the Committee on the District of Columbia.

By Mr. SIMON:

H.R. 2875. A bill to establish a Presidential Advisory Panel for Coordination of Government Debt Collection and Delinquency Prevention Activities; to the Committee on Government Operations.

H.R. 2876. A bill to establish a commission to make recommendations for changes in the role of nonparty multicandidate political action committees in the financing of campaigns of candidates for Federal office; to the Committee on House Administration.

H.R. 2877. A bill to repeal the section of the Economic Recovery Tax Act of 1981 which provides for tax indexing; to the Committee on Ways and Means.

By Mr. SIMON (for himself, Mr. Perkins, Mr. Ford of Michigan, Mr. Kogovsek, Mr. Owens, and Mr. Gunderson):

H.R. 2878. A bill to amend and extend the Library Services and Construction Act; to the Committee on Education and Labor.

By Mr. TORRICELLI:

H.R. 2879. A bill to amend section 4208 of title 18 of the United States Code to provide victims of crime (and their survivors) opportunity to be heard at Federal parole determinations; to the Committee on the Judiciary.

By Mr. WEISS (for himself and Mrs. Boxer):

H.R. 2880. A bill to make individuals suffering from acquired immunity deficiency syndrome (AIDS) eligible for coverage under the medicare program; jointly, to the Committee on Ways and Means and Energy and Commerce.

By Mr. KOSTMAYER:

H.R. 2881. A bill to amend the Trade Act of 1974 to insure fair trade opportunities, and for other purposes; jointly, to the Committees on Ways and Means and Rules.

By Mrs. KENNELLY (for herself, Mr. Ratchford, Mr. McKinney, Mr. Gejdenson, Mr. Morrison of Connecticut, and Mrs. Johnson):

H.J. Res. 256. Joint resolution designating May 1983 as "Purple Heart Month," and honoring the three original recipients of the Purple Heart; to the Committee on Post Office and Civil Service.

By Mr. McCANDLESS (for himself and Mr. Lewis of California) (by request):

H.J. Res. 257. Joint resolution to designate June 22 through June 28, 1983, as "National Friendship Week"; to the Committee on Post Office and Civil Service.

By Mr. MOAKLEY:

H.J. Res. 258. Joint resolution designating August 3, 1983, as "National Paralyzed Veterans Recognition Day"; to the Committee on Post Office and Civil Service.

By Mr. SIMON:

H.J. Res. 259. Joint resolution proposing an amendment to the Constitution of the United States to provide for 4-year terms for Representatives, and to prohibit the candidacy of Representatives for the office of Senator; to the Committee on the Judiciary.

By Mr. TORRICELLI:

H. Con. Res. 121. Concurrent resolution expressing the sense of the Congress opposing cuts in library programs; to the Committee on Education and Labor.

By Mr. LEVITAS:

H. Res. 180. Resolution relating to a citation of contempt; to the Committee on Public Works and Transportation.

By Mr. YATES:

H. Res. 181. Resolution to disapprove the administration of territories deferral; to the Committee on Appropriations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

101. By the SPEAKER: Memorial of the Legislature of the State of New York, relative to tuition assistance programs; to the Committee on Education and Labor.

102. Also, memorial of the Legislature of the State of New York, relative to natural gas prices; to the Committee on Energy and Commerce.

103. Also, memorial of the Legislature of the State of New York, relative to Klaus Barbi; to the Committee on Foreign Affairs.

104. Also, memorial of the Legislature of the State of New York, relative to discontinuance of civil defense planning and efforts to deescalate the nuclear arms race; jointly, to the Committees on Armed Services and Foreign Affairs.

105. Also, memorial of the Legislature of the State of New York, relative to a U.S. Academy of Peace and Conflict resolution; jointly, to the Committees on Foreign Affairs and Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ROSE:

H.R. 2882. A bill providing for a 17-year extension of patent numbered 3,376,198; to the Committee on the Judiciary.

By Mr. SHAW:

H.R. 2883. A bill to admit certain passenger vessels to the coastwise trade; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 171: Mr. McKinney, Mr. Corcoran, Mr. Gramm, and Mr. Mollohan.

H.R. 283: Mr. Torricelli and Mr. Luken.

H.R. 500: Mr. Rogers.

H.R. 538: Mr. Porter.

H.R. 569: Mr. Simon and Mrs. Schneider.

H.R. 777: Mr. Richardson, Mrs. Hall of Indiana, Mr. Seiberling, Mr. Edwards of California, Mr. Downey of New York, Ms. Kaptur, and Mr. Rangel.

H.R. 953: Mr. Donnelly, Mr. Kastenmeier, Mr. Gradison, Mr. Bilirakis, Mr. Stokes, Mr. Lantos, Mr. Roe, Mr. St Germain, Mr. Markey, and Mrs. Byron.

H.R. 954: Mr. Molinari.

H.R. 965: Mr. DeWine.

H.R. 1020: Mrs. Kennelly, Mr. Wyden, Mr. Studds, Mr. Bedell, Mr. Lowry of Washington, Mr. Mineta, Mr. Waxman, Mr. Simon, Mr. Seiberling, Mr. Harkin, Mr. Crockett, Mr. Leland, and Mr. Barnes.

H.R. 1027: Mr. Florio, Mr. Gingrich, Mr. Lott, Mr. Miller of California, Mr. Stangeland, and Mr. Sundquist.

H.R. 1029: Mr. Badham, Mrs. Boxer, Mr. Coelho, Mr. Gingrich, Mr. Kogovsek, Mr. Kindness, Mr. Mazzoli, Mr. Miller of California, Mr. Pursell, Mr. Smith of Florida, Mr. Stangeland, and Mr. Sundquist.

H.R. 1030: Mr. Badham, Mrs. Boxer, Mr. Coelho, Ms. Ferraro, Mr. Gingrich, Mr. Miller of California, Mr. Stangeland, Mr. Sundquist, and Mr. Waxman.

H.R. 1083: Mr. Rodino, Mr. Udall, Mr. Ackerman, Mr. Brown of California, Ms. Ferraro, Mr. Kostmayer, Mr. Moody, Mr. Walgren, Mr. Wirth, and Mr. Yatron.

H.R. 1092: Mr. Moakley and Mr. Ford of Tennessee.

H.R. 1104: Mr. Neal, Mr. Rangel, Mr. Evans of Illinois, Mr. McDonald, and Mr. Pashayan.

H.R. 1137: Mr. Bryant, Mr. Rowland, Mr. Neal, and Mr. Solarz.

H.R. 1199: Mr. Rangel, Mr. Wolf, Mr. Gaydos, Mr. Stratton, Mr. Rodino, and Mr. Gregg.

H.R. 1200: Mr. Leland, Mr. Bonior of Michigan, and Mr. Rangel.

H.R. 1242: Mr. Akaka, Mr. Borski, Mr. Duncan, Mr. Fazio, Mr. Feighan, Mr. Hefner, Mr. Heftel of Hawaii, Mr. Hunter, Mr. Jones of Tennessee, Mr. Kostmayer, Mr. Minish, Mr. Quillen, Mr. Rose, Mr. Rodino, Mr. Roe, Mr. Schumer, Mr. Sikorski, Mr. Stark, Mr. Sundquist, Mr. Ackerman, Mr. Edgar, Ms. Kaptur, and Mr. Murphy.

H.R. 1266: Mr. Mitchell and Mr. Ackerman.

H.R. 1357: Mr. de Lugo and Mr. Tauke.

H.R. 1430: Mr. Beilenson and Mr. Hyde.

H.R. 1611: Mr. Madigan.

H.R. 1633: Mr. Livingston.

H.R. 1641: Mr. O'Brien.

H.R. 1644: Mr. Lipinski, Ms. Kaptur, Mr. Ottinger, Mr. Frank, and Ms. Ferraro.

H.R. 1676: Mr. Boland, Mr. Conte, Mr. D'Amours, Mr. Rahall, Mr. Richardson, and Mr. Sisisky.

H.R. 1700: Mr. Sunia, Mr. Matsui, Mr. Fauntroy, Mr. D'Amours, Mr. Fazio, Mr. Bates, Mr. Bevill, Mr. Crockett, Mr. Pritchard, Mr. Stenholm, Mr. Neal, Mr. Oberstar, Mr. Patman, Mr. Collins, Mr. Mrazek, Mr. Garcia, Mr. Gray, Mr. Huckaby, and Mr. Mitchell.

H.R. 1720: Mr. Dellums, Mr. Lantos, Mr. Levine of California, Mr. Lowry of Washington, Mr. Ottinger, Mr. Shannon, and Mr. Tallon.

H.R. 1724: Mr. Long of Louisiana, Mr. Dyson, Mr. Bereuter, Mr. Pritchard, Mr. Swift, Mr. Smith of Florida, Mr. Hutto, Mr. Madigan, Mr. Ortiz, Mr. Jeffords, Mr. Jones of North Carolina, Mr. Conyers, Mr. Mrazek, Mr. LaFalce, Mr. Parris, Mr. Fuqua, Mr. Staggers, Mr. Tauke, Mr. Fazio, Mr. Feighan, Mr. Jenkins, Mr. Vander Jagt, Mr. Lowry of Washington, Mr. Garcia, Mr. Winn, Mr. Stokes, Mr. St Germain, and Mr. Weaver.

H.R. 1743: Mr. Feighan, Mr. Berman, Mr. Weiss, Mr. Sabo, Mr. Garcia, Mr. Aspin, Mr. Ackerman, Mr. Won Pat, Mr. Weaver, Mr. Fauntroy, Mr. Florio, Mr. Frost, Mr. Matsui, Mr. Gaydos, Mr. D'Amours, Mr. Mitchell, Mr. Stokes, Mr. Clay, Ms. Kaptur, Mr. Conyers, Mr. Wilson, Mr. Studds, Mr. Daschle, Mr. Kildee, Mr. Lowry of Washington, Mr. McCloskey, Mr. Glickman, Mr. Martinez, Mr. Carr, Mr. Addabbo, Mr. Oberstar, and Mr. Guarini.

H.R. 1795: Mr. Dickinson and Mr. McNulty.

H.R. 1817: Mr. Feighan and Mr. Leland.

H.R. 1841: Mr. Frenzel, Mr. Nielsen of Utah, Mr. Stokes, Mr. Hyde, and Mr. Hutto.

H.R. 1904: Mr. Barnes, Mr. Bereuter, Mr. Bevill, Mr. Bonior of Michigan, Mr. Coleman of Missouri, Mr. Corcoran, Mr. Coughlin, Mr. Emerson, Mr. Frenzel, Mr. Kemp, Mr. Lagomarsino, Mr. McGrath, Mr. Mazzoli, Ms. Oakar, Mr. Rahall, Mr. Reid, Mr. Roe, Mr. Roth, Mr. Sensenbrenner, Mr. Scheuer, Mr. Weaver, Mr. Wilson, Mr. Leach of Iowa, Mr. Martinez, Mr. Gregg, Mr. Wyden, and Mr. Horton.

H.R. 1918: Mr. Torricelli and Mr. Corcoran.

H.R. 1931: Mr. Barnes.

H.R. 1950: Mr. Conyers and Mr. Roe.

H.R. 1951: Mrs. Kennelly, Mr. Morrison of Connecticut, Mr. Gejdenson, and Mr. McKinney.

H.R. 2023: Mr. Rangel, Mr. Forsythe, and Mr. Nielson of Utah.

H.R. 2027: Mr. Stenholm.

H.R. 2034: Mr. Mitchell and Mr. Owens.

H.R. 2053: Mr. McKinney.

H.R. 2061: Mr. Wilson, Mr. Hughes, Mr. Emerson, and Mr. McCollum.

H.R. 2088: Mr. Lehman of Florida, Mr. Sunia, Mr. Stokes, Mr. Brown of California, Mr. Levin of Michigan, Mr. Edwards of California, Mr. Ford of Tennessee, Mr. McNulty, and Mr. Roe.

H.R. 2097. Mr. Leland and Mr. Barnard.

H.R. 2099. Mr. Dwyer of New Jersey, Mr. Forsythe, Mr. Edwards of California, Mr. Kemp, Mrs. Boxer, Ms. Mikulski, Mr. Edwards of Oklahoma, Mr. Nielson of Utah, Mr. Fauntroy, Mr. Wheat, Mr. Guarini, Mr. Hyde, Mr. Sabo, Mr. Craig, Mr. Panetta, Mr. Weber, and Mr. Evans of Iowa.

H.R. 2100: Mr. Vento, Mr. Edwards of California, Mrs. Boxer, Ms. Mikulski, Mr. Fauntroy, Mr. Rangel, Mr. Crockett, Mr. Sabo, and Mr. Evans of Iowa.

H.R. 2164: Mr. Snyder and Mr. Hubbard.

H.R. 2225: Mr. Chandler, Mr. Wylie, and Mrs. Holt.

H.R. 2262: Mr. Gramm, Mr. Sam B. Hall, Jr. Mr. Ireland, Mr. Kramer, Mr. Leland, Mr. Simon, Mr. Williams of Montana, Mr. Winn, and Mr. Wright.

H.R. 2276: Mr. Hatcher, Mr. Ford of Michigan, Mr. Frank, Mr. Ray, Mr. Stokes, Mr. Vandergriff, Mrs. Boxer, Mr. Addabbo, Mr. Morrison of Connecticut, Mr. Howard, Mr. Levin of Michigan, and Mr. Wilson.

H.R. 2299: Mr. Applegate and Mr. Mollohan.

H.R. 2323: Mr. Levin of Michigan, Mr. Seiberling, Mr. Sabo, Mr. Waxman, Mr. Mitchell, Mr. Gunderson, and Mr. Morrison of Connecticut.

H.R. 2342: Mr. Ford of Tennessee.

H.R. 2355: Mr. Torres, Mr. Long of Louisiana, Mr. Britt, Mr. Edwards of California, Mr. Coyne, Mr. Edwards of Oklahoma, and Mr. Corrada.

H.R. 2379: Mr. Leland, Mr. Sabo, and Mr. Barnes.

H.R. 2403: Mr. Bedell, Mr. Lowry of Washington, Mr. Dellums, Mr. Towns, Mr. Smith of Florida, and Mr. Mitchell.

H.R. 2432: Mr. Ireland, Mr. Smith of New Jersey, Ms. Oakar, Mr. Simon, Mr. Corrada, Mr. Daniel, Mr. Mitchell, Mr. Montgomery, Mr. Oxley, Mr. Edwards of Oklahoma, Mr. Vandergriff, Mr. Rahall, Mr. Addabbo, Mr. Rudd, Mr. Bevill, Mr. Forsythe, and Mr. Tallon.

H.R. 2438: Mr. Boland, Mr. Schumer, and Mr. Ottinger.

H.R. 2448: Mr. Frenzel.

H.R. 2489: Mr. Hughes, Mr. Edgar, Mr. Murphy, Mr. Frank, and Mr. Mavroules.

H.R. 2560: Mr. McCurdy, Mr. Mavroules, Mr. Davis, Mr. Dyson, Mr. Simon, Mr. Coelho, Mr. Gingrich, and Mr. Kramer.

H.R. 2582: Mr. Ford of Michigan, Mr. Berman, Mr. Frank, Mr. Weiss, Mr. Howard, and Mr. Sikorski.

H.R. 2583: Mr. Smith of Iowa, Mr. de la Garza, Mr. Howard, Mr. de Lugo, Mr. Torres, Mr. Kastenmeier, Mr. Won Pat, Mr. Luken, Mr. Ottinger, Mr. Roe, Mr. Clay, Mr. Bates, Mr. Frank, Mrs. Boggs, Mr. Stokes, Mr. Leland, Mr. Dwyer of New Jersey, Mr. Panetta, Mr. Fauntroy, Mr. Oberstar, Mr. Crockett, Mr. Corrada, Mr. Harrison, Mr. Feighan, Mr. Sunia, Mr. Biaggi, and Mr. Simon.

H.R. 2615: Mr. Fish, Mr. Jeffords, Mr. Yates, Mr. D'Amours, Mrs. Collins, Mr. Daschle, Mr. Rodino, Mr. Lowry of Washington, Mr. Ford of Tennessee, Mr. Solarz, Mr. Addabbo, Mr. Fauntroy, Mr. Harrison, Mr. Leland, Mr. Smith of Florida, Mr. Ackerman, Mr. Roe, Mr. Kastenmeier, Mr. Feighan, Mr. McNulty, Mr. Guarini, Mr. Bonker, Mr. Mitchell, Mr. Ford of Michigan, Mr. Fazio, Mr. Frost, Mr. Perkins, Mr. Sabo, Mr. Bedell, Mr. Frank, Mr. Barnes, Mr. Wolpe, Mr. Morrison of Connecticut, Mr. Towns, Mr. Levin of Michigan, and Mr. Crockett.

H.R. 2777: Mr. Jones of North Carolina and Mr. Hawkins.

H.J. Res. 21: Mr. Sikorski.

H.J. Res. 29: Mr. Foglietta, Mr. Hiler, Mr. Kostmayer, Mr. Dyson, Mr. Whitehurst, and Mr. Sisisky.

H.J. Res. 59: Mr. Petri.

H.J. Res. 97: Mr. Vento.

H.J. Res. 133: Mr. Hartnett.

H.J. Res. 176: Mr. Annunzio, Mr. Leach of Iowa, Mr. Swift, Mr. Ray, Mr. Hance, Mr. Lowry of Washington, Mr. Stenholm, Mr. Jenkins, Mr. Shelby, Mr. Barnard, Mr. Thomas of Georgia, Mr. Fascell, Mr. McDonald, Mr. Regula, Mr. Gingrich, Mr. Horton, Mr. Oxley, Mr. Tauzin, Mr. Fish, Mr. Marriott, Mr. Chandler, Mr. Breaux, and Mr. Gregg.

H.J. Res. 190: Mr. Wilson, Mr. McNulty, Mr. Forsythe, Mr. Coats, Mr. Gilman, Mr. Rangel, Mr. Hutto, Mr. Chandler, and Mr. Tauke.

H.J. Res. 208: Mr. Levin of Michigan, Mr. Mitchell, and Mr. Barnard.

H.J. Res. 210: Mr. Roe, Mr. Lowry of Washington, Mr. Howard, Mr. LaFalce, Mr. Smith of Florida, Mr. Dellums, Mr. Stokes, Mr. Clay, Mr. Wheat, Mr. Martinez, Mr. Leland, Mr. Edwards of Alabama, Mr. Hughes, Mr. Clarke, Mr. Dixon, Mr. Traxler, Mr. Bedell, Mr. Daniel, Mr. Carney, Mr. Frenzel, Mr. Studds, Mr. Waxman, Mr. Guarini, Mr. Conyers, Mr. Pepper, Mr. Towns, and Mr. Simon.

H.J. Res. 220: Mr. Ford of Michigan, Mr. Shannon, Mr. Rostenkowski, and Mr. Eckart.

H.J. Res. 225: Mr. Hyde, Mr. McEwen, Mr. Weiss, Mrs. Collins, Mr. Regula, Mrs. Holt, Mr. Brown of California, Mr. Waxman, Mr. Thomas of California, Mr. Berman, Mr. Barnes, Mr. Dixon, Mr. Stokes, Mr. Yates, Mr. Fazio, Mr. Smith of Florida, Mr. Young of Florida, and Mr. Crockett.

H.J. Res. 228: Mr. Brown of Colorado, Mr. Mineta, Mr. Ortiz, Mr. Wilson, Mr. Fazio, Mr. Frank, Mr. Erdreich, Mr. McNulty, Mr. Roe, Mr. Berman, Mr. Frenzel, Mr. Dixon, Mr. Edgar, Mr. Lewis of Florida, Mr. Morrison of Connecticut, and Mr. Whitley.

H.J. Res. 236: Mr. Forsythe, Mr. Parris, Mr. Stangeland, Mr. Lagomarsino, Mr. Pritchard, Mr. Solarz, Mr. Walgren, Mr. Roe, Mr. Kindness, Mr. Kasich, Mr. Rodino, Mr. Winn, Mr. Kemp, Mr. Smith of Florida, Mr. Daub, Mr. Fazio, Mr. Garcia, Mr. Stokes, Mr. Daniel B. Crane, Mr. Bonior, of Michigan, Mr. Lent, Mr. de la Garza, Mr. Rogers, Mr. Patman, Mr. Wilson, Mr. Dwyer of New Jersey, Mr. Bates, Mr. Leland, Mr. Markey, Mr. Barnes, Mrs. Vucanovich, Mr. Fauntroy, Mrs. Boxer, Mr. Lipinski, Mr. McCain, Mr. Feighan, Mr. Hughes, Mr. Bevill, Mr. Chandler, Mr. Kildee, Mr. Waxman, Mr. Evans of Illinois, Mr. Nielson of Utah, Mr. Rahall, Mr. Daniel, Mr. Fazio, Mr. Frenzel, Mr. Edwards of Oklahoma, and Mr. Hansen of Idaho.

H. Con. Res. 89: Mr. Hightower.

H. Res. 15: Mr. Miller of California, Mr. Studds, and Mr. Akaka.

H. Res. 17: Mr. Cooper, Mr. Harkin, Mr. Hughes, Mr. Markey, and Mr. Studds.

H. Res. 139: Mr. Ackerman, Mr. Albosta, Mr. Borski, Mr. Carper, Mr. Clinger, Mr. Dwyer of New Jersey, Mr. Eckart, Mr. Fauntroy, Mr. Gilman, Mrs. Johnson, Mr. McDade, Mr. McHugh, Mr. McKernan, Mr. MacKay, Mr. Martinez, and Mr. Mineta.

H. Res. 151: Mr. Dymally, Mr. Synar, Mr. Chappell, Mr. Richardson, Mr. Pritchard, Mr. Howard, Mr. Stokes, Mr. Foley, Mr. Pepper, Mr. Fish, Mr. Frost, Mr. Ackerman, Mr. Nielson of Utah, Mr. Lowry of Washington, Mr. Goodling, Mr. Bonker, Mr. Brown of California, Mr. Stenholm, Mr. Vandergriff, Ms. Oakar, Mr. Thomas of Georgia, Mr. de la Garza, Mr. Addabbo, Mr. Hansen of Idaho, Mr. Robert F. Smith, Mr. McCain, Mr. Franklin, Mr. Harrison, Mr. Kindness, Mr. Corcoran, Mr. Lewis of Florida, Mr. Morrison of Washington, Mr. Hightower, Mr. Emerson, Mr. Weber, Mr. Schumer, Mr. Dicks, Mr. Kasich, Mr. Levin of Michigan, Mr. Mitchell, Mr. Tauke, Mr. Won Pat, Mr. Andrews of Texas, Mr. Ford of Tennessee, Mr. Swift, Mr. Kemp, Mr. Burton, and Mr. McDade.

H. Res. 155: Mr. Cooper, Mr. Daub, Mr. Guarini, Mr. Hughes, Mr. Levin of Michigan, Mr. Mrazek, Mr. Rahall, Mr. Seiberling, Mr. Smith of Iowa, and Mr. Tallon.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.J. Res. 13

By Mr. HYDE:

(Amendment to the amendment in the nature of a substitute by Mr. AuCoin.)

—After the last line of the amendment in the nature of a substitute insert the following new section:

Sec. . In all negotiations pursuant to this Resolution the United States shall make every effort to ensure that any agreement reached shall provide for full compliance by all parties with preexisting international treaties, obligations, and commitments.

By Mr. LEVITAS:

(Amendment to the amendment in the nature of a substitute by Mr. AuCoin.)

—At the end of (5) in the first section, immediately before the period, insert ", with such reductions to be achieved within a reasonable, specified period of time".

By Mr. COLEMAN of Missouri:

(Amendment to the amendment in the nature of a substitute by Mr. AuCoin.)

—After the last line of the amendment in the nature of a substitute insert the following new section:

SEC. . For purposes of this resolution, a nuclear delivery vehicle is a device whose primary or exclusive mission requires it to carry a nuclear weapon into territory of our occupied by hostile forces.

—After the last line of the amendment in the nature of a substitute insert the following new section:

SEC. . A freeze agreement in accordance with this resolution will not preclude the one-for-one replacement of nuclear delivery vehicles in order to preserve the credibility of the United States nuclear deterrence, provided the new weapon or delivery vehicle is the same type as the old.

H.R. 1983

By Mr. COLEMAN of Texas:

—Page 16, after line 11, insert the following new subsection:

"(h) In providing assistance under this title, the Secretary shall (1) seek to assure a reasonable distribution of funds among districts in which the program established in this title is in effect; and (2) take into consideration the rates of residential mortgage foreclosure and unemployment in the units of general local government in which the properties involved are located and whether such units of general local government are eligible for assistance under section 119 of the Housing and Community Development Act of 1974, giving particular consideration to units of general local government that have rates of unemployment exceeding the national average or are eligible for assistance under such section 119. In carrying out the provisions of this subsection, the Secretary shall utilize the most recent information available from the Secretary of Labor with respect to rates of unemployment.".

EXTENSIONS OF REMARKS

MDRC STUDY: AN ALTERNATIVE TO YOUTH JOBLESSNESS

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. **HAWKINS.** Mr. Speaker, joblessness and the lack of basic skills need not be a continuing status for our youth. Approximately 1,911,000 individuals, or 1 out of every 4 young persons in this country, age 16 to 19 years, is unemployed. Equally gloomy is the school dropout rate for this same population. Both problems are addressed by research findings of a youth jobs program linking school and work in a highly structured environment. The Manpower Demonstration Research Corp. in New York City recently announced very encouraging, positive results of the youth incentive entitlement pilot project (YIEPP).

Some 76,000 teenagers were offered a job in predominantly private firms with a requirement that they either remain in school or return to school. The results of this work/study incentive program are worth noting as we develop policies to alleviate youth joblessness. It is interesting to note, for example: First, job creation for this targeted group can be successful on a large scale; second, significant employment increases occurred during the school year, when fewer job opportunities generally are available to youth; third, a correlation exists between the reduction in the school dropout rate and participation in the YIEPP program; fourth, over 80 percent of the private employers involved in this program reported satisfaction with the participants' performance; and, fifth, the findings suggest strongly that the prevailing low employment rate among minority youth is not voluntary.

The high school dropout rates for youth in this country are discouraging. According to the latest data, approximately 1,993,000 individuals, or 25 percent of the young people age 16 to 19 years, are not enrolled in high school and are not high school graduates. For black youth, the dropout rate is 28 percent. This situation is particularly serious since the skills demanded of entry-level jobs in an increasingly technological society assume a basic skills competency.

There is a job creation proposal pending before this Congress which incorporates key elements of the successful youth incentive entitlement pilot project. Under H.R. 1036, the Community Renewal Employment Act, as amended by the Subcommittee on Employment Opportunities, at least 20 percent of the participants shall be eligible youth who are in part-time employment not in excess of 32 hours per week and who are enrolled, for at least 8 hours per week, in high school, a program which leads to a certificate of high school equivalency, or a program of skill training, or basic skill, or employability development. In meeting this requirement, program operators are encouraged to supplement jobs funds with training or education funds from the Job Training Partnership Act—including the Jobs Corps—the Vocational Education Act, or other State or local, public or private education or training program. Priority for youth employment under H.R. 1036, as amended, is given to unemployed youth age 16 through 19 who are economically disadvantaged with equitable service to school dropouts. H.R. 1036 is currently awaiting consideration before the Committee on Education and Labor. I urge my colleagues to support this initiative.

The MDRC experience clearly suggests that a carefully structured intervention on behalf of idle youth can make a meaningful difference, particularly in the lives of disadvantaged youth. Enactment of H.R. 1036 could conceivably produce similar results.

Following are the findings of the MDRC study:

MAJOR YOUTH EXPERIMENT YIELDS SIGNIFICANT FINDINGS

Results of the Youth Incentive Entitlement Pilot Projects (YIEPP) demonstration, this country's first guaranteed jobs program for low-income youths, were announced today by the Manpower Demonstration Research Corporation (MDRC), the nonprofit organization charged with the responsibility for coordinating and evaluating the largest of the Carter Administration's youth demonstrations. Research findings from this experiment show clearly that YIEPP, by directly attacking youth joblessness, had a large and significant effect on the levels of youth employment in the 17 areas where it operated.

Funded by the U.S. Department of Labor, this demonstration tested, from early 1978 to mid-1980, the feasibility and impacts of a program providing jobs to all youths who wanted one: full-time in the summer, part-time during the school year. The demonstration also linked, for the first time, school and work in a new programmatic concept, requiring the youths who received jobs to remain in school or to return to it.

As part of the Youth Act of 1977, YIEPP's goals were ambitious. Not only was the program intended to reduce immediate unemployment among low-income youths, it sought as well to uncover new information on the underlying causes of, and solutions to, the prevailing high unemployment rates of this population. The two final research reports on the operational period of this program, Linking School and Work for Disadvantaged Youths and Impacts on Participation, Work and Schooling, reveal findings highly relevant to current Congressional efforts to develop appropriate strategies for the nation's youths.

Among the important lessons to emerge from these studies are:

Job creation was successful on a large scale. Sufficient job opportunities were developed to meet the demands of the work guarantee and, over the course of the demonstration, some 76,000 teenagers were given jobs. The private sector played a major role in this effort. More than half of the youths' 10,000 employers—or nearly 6,000 private firms—sponsored youths in both full- and part-time positions.

Employment increases were dramatic in areas where YIEPP operated, up 68 percent over the employment rates found in non-YIEPP comparison areas. The improvement was even more striking for younger teenagers and black youths, whose rates rose by 84 and 96 percent, respectively. (See Chart 1.) These groups traditionally have difficulty finding jobs in the regular marketplace.

The most significant employment increases occurred during the school year, when fewer job opportunities generally are available to youths. With YIEPP in effect, the employment rate rose 88 percent overall, while the rates for the younger group and black teenagers increased by 115 and 135 percent, again over the rates seen in the comparison areas. (Chart 1.) The largest effect—a 179 percent increase—was found for black females, the group registering the lowest employment rate in the absence of YIEPP.

YIEPP's incentive structure of offering a job clearly and consistently drew youths to participate in the program and to work and enroll in school. Participation rates were high: 56 percent of the eligible youths had worked in a program job by the demonstration's end. Again, rates were highest for black youths and young teenagers. (See Chart 2.) Of those youths who heard of the program, four out of five applied to enroll, indicating that interest was high among disadvantaged youths in obtaining even minimum-wage jobs.

Total school enrollment increased significantly for this age group as a whole, even as school enrollments across the country were declining generally. The effect was strongest for younger teenagers, for whom school enrollments increased in each year by almost 5 percent, compared to the rates observed in non-YIEPP areas. (See Chart 3.)

YIEPP led to an overall cumulative reduction in the school drop-out rate of younger teenagers, as the drop-out rate decreased from almost 28 percent in the non-YIEPP areas to 24 percent in the YIEPP sites. This represents a cumulative reduction of 12 percent. More teenagers in the 15- to 16-year-old group also went back to school than in the non-YIEPP comparison areas. The

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

return-to-school rate for this younger group rose from 14 to over 23 percent in sites where the program was in operation: a 63 percent increase overall.

"These educational findings, while more modest than the employment findings, are positive," said Barbara Blum, President of MDRC. "In the past, many jobs programs have given young people work, but failed to address their schooling needs. Some programs, by offering jobs, have actually caused youths to drop out of school. YIEPP, with its standards requiring school attendance and academic performance, reinforced rather than reduced the youths' chances of completing their secondary education."

YIEPP was conducted in seven large projects designed to cover areas containing between 3,000 and 8,000 eligible young people. These sites, which encompassed full cities or counties, portions of large central cities, or multi-county regions made it possible to test the program on a broad scale. To ensure geographic and ethnic diversity and to provide opportunities for special variation, the demonstration also included ten smaller sites in portions of large cities and less populated areas. These 17 sites are listed in Chart 4.

For the results described above and in the impact report, the experiences of program-eligible youths in a representative group of four large YIEPP experimental sites were compared to those of youths in four matching, non-demonstration sites. Interviews were conducted with a sample of approximately 4,000 youths at periodic intervals.

Perhaps the most compelling findings to emerge from the research center on the program's success with black youths: they are seen joining YIEPP in larger numbers, working in their jobs longer, and staying in school more consistently than any other group. These results are particularly significant in the context of the experience of the past 25 years, where a sharp decline has taken place in minority youth employment, particularly for males. In 1955, for example, black male youths were employed at about the same rate as white youths; by 1981, their employment rate had been cut in half. A similar, though somewhat less dramatic, story holds true for young minority women.

"Before the YIEPP demonstration," said Dr. Judith Gueron, MDRC's Vice President for Research, "there had been relatively little evidence to sort among the conflicting explanations for this decline: job shortages, discrimination, lack of motivation, the unrealistic wage expectations of some youths, or the attractiveness of more profitable illegal alternatives. YIEPP, with its job guarantee, provided a unique, direct test of the youths' interest in working—and the findings suggest strongly that the prevailing low employment rate among minority youths is not voluntary." YIEPP doubled minority youths' school-year employment rates—bringing them essentially equal to or exceeding those for white youths in the areas where the program operated. (See chart 1.)

Another important lesson gained from the YIEPP experience is directly relevant to current national concerns, given the emphasis on private sector involvement in youth programs. While the full wage subsidy offered in YIEPP to work sponsors was clearly important to that job development effort, participating private sector employers cited the opportunity to help unemployed youths as their most important consideration in sponsoring the teenagers.

On the whole, private firms expressed satisfaction with the youths' work. One-fifth of the employers in the study reported that they had hired YIEPP participants on their own after sponsoring them at a subsidy. Over 80 percent of the private employers reported youths' work habits, attitudes and willingness to work were average or better.

"One other factor to be stressed in the job creation effort," said Dr. Gueron, "is that the quality of work in both public and private sectors was good. In a study of this aspect of the demonstration, we found that the work provided in over 86 percent of the jobs was adequate or better, a testament to the sound management that characterised the YIEPP program. For the most part, CETA prime sponsors, who had responsibility for the operations of the program at the local level, administered it well."

Among other findings of interest:

Despite the size of the program and an unusually quick start-up schedule, YIEPP functioned effectively on a large-scale saturation basis. It achieved its goal of serving all youths who wanted a job, even given eligibility and performance monitoring procedures which were more complicated and strict that those found in other youth programs.

Although the educational and the prime sponsor managerial systems vary considerably, substantial progress was made in linking these two organization modes. YIEPP also spawned the growth and expansion of alternative school programs, which were instrumental in attracting drop-outs back to an educational setting.

Total operating costs of VIEPP were $224.3 million, with 63 percent of this amount spent for participant wages. The cost per service year—the cost of keeping one participant in the program for one year—was estimated to be $4,382. Since not all participants stayed in the program that long, the average cost per participant was $2,000 annually.

In commenting on the program's cost, Ms. Blum noted that while the YIEPP approach, emphasizing the compilation of a work history combined with the acquisition of a school diploma, had had particularly encouraging results during its operational period, MDRC had the opportunity, with the continuing support of the Department of Labor, to learn and to understood about its potential later impacts on participants' lives. YIEEP's post-program report, scheduled for completion at the end of this year, will examine impacts up to one year after program completion, rounding out the comprehensive research evaluation designed for this program. However, some program evaluators expect that it may take longer than this brief time in which to see the long-lasting effects of YIEPP on participants' employment behavior.

"Right now," said Ms. Blum, "it is important to realize that YIEPP was a highly important, immediate, programmatic intervention for youths both at risk of dropping out of school and of remaining unemployed or under-employed because of difficulties in finding a job. The job entitlement itself was not the only important part of the program model. The fact that YIEPP linked school and work, demanding performance from the youths in exchange for a job, makes it a source for lessons which should be of interest today, particularly in view of the emphasis on youth in the new Job Training Partnership Act.

"Through YIEPP, we have learned that programs emphasizing both school and work can be designed and run in a meaningful manner. We have also learned that young people want to work, and that a large-scale jobs program can and will overcome the labor demand problems that afflict minority youths."

CHART 1.—IMPACTS ON YOUTH EMPLOYMENT

	Percent of eligible youths employed in YIEPP and comparison sites			
	Comparison sites	YIEPP sites	Difference	Increase
Demonstration average:				
All sample youths	24.6	41.2	+16.6	68
Youths 15 to 16 years old at program startup	22.1	40.7	+18.6	84
Black youths	21.1	41.3	+20.2	96
White youths	31.2	37.4	+6.2	20
School year average:				
All sample youths	21.5	40.3	+18.9	88
Youths 15 to 16 years old at program startup	18.4	39.6	+21.2	115
Black youths	17.3	40.7	+23.4	135
White youths	29.4	37.0	+7.6	26

CHART 2.—PARTICIPATION RATES OF ELIGIBLE YOUTHS

Overall: 56 percent participated

	Percent
Participation by age at program startup:	
15 to 16 years	66
17 to 20 years	46
Participation by race:	
Black	63
White	22
Hispanic	38

CHART 3.—IMPACTS ON SCHOOL ENROLLMENT

	Percent of eligible youths enrolled in school in YIEPP and comparison sites			
	Comparison sites	YIEPP sites	Difference	Increase/decrease
Total sample:				
First year	84.1	88.2	+4.1	+5
Second year	72.4	75.7	+3.3	+5
	Cumulative dropout and return-to-school rates			
Youths 15 to 16 years old at Program startup:				
Dropout rate	27.6	24.3	−3.3	−12
Return-to-school rate	14.2	23.2	+9.0	+63

CHART 4.—YIEPP SITES AND CETA PRIME SPONSORS

SITE AND PRIME SPONSOR

Alachua County, Florida: Alachua County CETA.

Albuquerque, New Mexico: City of Albuquerque Office of CETA.

Baltimore, Maryland: Mayor's Office of Manpower Resources.

Berkeley, California: Office of Employment and Community Programs.

Boston, Massachusetts: Employment and Economic Policy Administration.

Cincinnati, Ohio: City of Cincinnati Employment and Training Division.

Dayton, Ohio: Office of the City Manager, Manpower Planning and Management.

Denver, Colorado: Denver Employment and Training Administration.

Detroit, Michigan: Employment and Training Department.

King County, Washington: The King County Consortium.

Monterey County, California: Monterey CETA Administration.

Nashua County, New Hampshire: Southern New Hampshire Services/CETA.

New York, New York: Department of Employment of the City of New York.

Philadelphia, Pennsylvania: City of Philadelphia Area Manpower Planning Council.

Southern Rural Mississippi: Governor's Office of Job Development and Training.

Steuben County, New York: Steuben County Manpower Administration.

Syracuse, New York: City of Syracuse, Office of Federal and State Aid Coordination.●

ECONOMIC CRISIS IN LATIN AMERICA

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. BARNES. Mr. Speaker, as chairman of the Subcommittee on Western Hemisphere Affairs, I have become increasingly alarmed in recent months by the economic crisis affecting Latin America. I know that many of my colleagues also share this preoccupation.

At the beginning of this year I traveled to South America, and I came away with the impression that if there is one thing that concerns everyone regardless of nationality, political belief, or social class, it is the economic crisis and how it is disrupting their lives.

The economic recession is a worldwide phenomenon, but in our hemisphere it has manifested itself in the form of a foreign debt that has achieved crisis proportions. Because of this, and because of the desire of the Congress to be better informed on the subject, I will shortly conduct a series of hearings on the economic situation in Latin America and the Caribbean.

The purpose of the hearings is to provide the Congress and the American people with a comprehensive analysis of: Economic conditions in Latin America; the factors responsible for the crisis; the symptoms of the crisis, including the international debt situation; the sociopolitical impact of the crisis and of the prescribed remedies; the role of the IMF and other financial institutions; and the prospects for an economic recovery.

In preparation for the hearings I would like to submit for the Record two articles that appeared recently in the Washington Post. In the first one, Joseph Grunwald provides a historical perspective on the economic recession affecting the newly industrialized countries in Latin America and Asia that is responsible for unprecedented levels of foreign debt. He also proposes possible mechanisms for postponement of debt repayment, as well as other ways to deal with the economic crisis.

In the second article, our own friend and colleague, Lee Hamilton, discusses the importance of the International Monetary Fund to global economic recovery and the need for increasing the levels of U.S. contributions. But more importantly he explains why, by helping indebted countries through the IMF, we are in turn promoting our own economic recovery. I strongly agree with him, and I intend to support the administration's request for an increase in our contributions to the IMF. Finally, I hope that during the course of the upcoming hearings on this subject, we will be able to identify other ways in which the United States can help other countries surmount this economic crisis.

The articles follow:

[From the Washington Post, Apr. 20, 1983]

A New Economic Engine . . .

(By Joseph Grunwald)

Nearly every country in the world looks to the U.S. economy to help extricate it from the grip of the recession: we are seen as the locomotive, and if only our economy would expand vigorously, we would pull the rest of the world behind us. But alone we cannot do it, and if the recovery is not dynamic, the locomotive may soon run out of steam.

Developing countries usually are not seen as actors in the world economic recovery. Yet as a group, the newly industrializing countries (NICs) of Latin America and Asia have become almost as important in world trade as the United States, and more important than Japan or any of the countries in Europe. But all of the NICs in Latin America and some of them elsewhere are deep in debt. As long as they are smothered by current interest and principal payments, they cannot contribute to an international economic expansion.

Still, there is a pent-up demand for imports in the developing countries. This demand is not for consumer goods, but for machinery, equipment, replacement parts, industrial supplies and technology in order to continue industrialization. The NICs were doing very well during the 1960s and 1970s; their economic growth was much faster than that of the industrial countries. Despite the oil shock of 1973-74, they kept on growing, in Latin America in large measure due to easy access to credit from the private banks in industrial countries. That dynamism translated into increasing imports of capital goods from the United States and other developed countries. As long as their expansion continued, the NICs had no difficulty in meeting the obligations of their rising debt burden.

Then came the second oil price explosion of 1979 and the subsequent dramatic increase in real interest rates as the industrial countries set out to fight inflation. The collapse of raw material prices precipitated by the ensuing recession was the final blow. By 1982, all of the NICs and most other countries in Latin America found themselves unable to service their huge debts. The necessary restructuring of this debt has strained the international financial system.

The other side of the story is that, after taking care of their minimum external debt obligations, Latin American countries have little left over to import the capital goods essential for their economic development. Thus the sharp decline in these imports from the developed countries has made it more difficult to get out of the world recession speedily.

In order for NIC's to revive their industrialization, they need breathing space from their debt burden. Even a large infusion of new loans may not relieve them from having to use a hefty portion of their scarce foreign exchange earnings for payment of interest and principal. Debt service will have to be postponed longer than the few months requested by several countries and usually granted by the private foreign banks (which have had few other options). A relief of about two years will be needed to reestablish the health of the industrializing economies. This would not only facilitate eventual full debt servicing but would also quickly increase their imports from the developed countries.

What would be the mechanism for the postponement of debt service? The private creditors, primarily banks from the United States and other industrial countries, are unlikely to agree to such a scheme unless they are assured of an adequate return or convinced that the alternatives are worse. Therefore, if such a long-term debt restructuring is considered essential, private bank loans may need to be transferred to public bodies, such as national governments or central banks, international agencies like the World Bank or the Inter-American Development Bank or, preferably, to a not-yet-existing world central bank. The private banks would be compensated at slightly less than the full value of their developing country loans.

Would this not serve to bail out irresponsible developing country governments and greedy private banks? Perhaps, but no purpose is served by finger-pointing or by apologia at this stage. All energies ought to be marshaled for a rapid, sound and long-lasting would economic recovery.

New credits to developing countries, including those from the International Monetary Fund, should be based on good projects and sound government programs. Obviously, reforms and austerity should be part of these; curtailing vital imports of industrial inputs, implicit in some current IMF conditions, should not.

If the NIC's, particularly those hardest hit in Latin America, are not given the opportunity to continue and accelerate their economic growth, a vital impetus to a more vigorous world recovery will be lost. Even worse, in the absence of a significant recovery, debt moratoriums may be forced on the international financial community as governments in Latin America find it politically impossible to squecze their populations further. This may easily cause panic in the world financial markets, with devastating consequences for U.S. economic recovery.

It is better to take international action now than to paper over future crises by ad hoc measures that will prove to be more burdensome and deficient in long-term results. It is time to broaden our thinking about international interdependence: let the intrinsic dynamism of the emerging countries help fuel a resurgence of the world economy.

. . . That Needs IMF Fuel

(By Lee H. Hamilton)

Congress will soon decide to support or deny the administration's request for an increase in our contribution to the International Monetary Fund. Few bills are more important to global economic recovery and, consequently, to our own prosperity.

My colleagues raise a number of objections to the IMF legislation. They say that it would be nothing more than a "bail-out" for the big New York banks. They note that the administration is quick to intervene in the international arena when the "magic of the marketplace" fails, but clings to the ideology of the marketplace when it comes to helping the poor and jobless at home. They argue that the IMF bill would throw good money after bad unless there is a long-lived economic recovery in the United States. Even if the merits of the bill were compelling, they say, voting for $8.4 billion in "foreign aid" when there are hard-pressed constituents at home would be political suicide.

Each objection has some merit, but none paints a complete picture. For instance, the "bail-out" charge must be put in perspective. The IMF legislation will help indebted countries pay interest on their commercial loans, but it will also help these countries pay for imports that they could otherwise not afford. The imports benefit our export industries, industrial workers and farmers.

The relationship between the IMF and U.S. exports and jobs becomes clear when we examine the recent history of our trade with Mexico, third largest among our trading partners. In 1981, we exported roughly $18 billion in manufactured goods and farm products to Mexico. By the end of 1982, our exports had fallen by $6 billion due to Mexico's liquidity problems. Were exports to Mexico to remain at year-end levels, we would lose approximately 250,000 jobs.

Hope for an increase in our exports to Mexico lies with the IMF adjustment program. With IMF financing, conditioned on the imposition of sound economic measures in Mexico and renewed commercial lending to that nation, Mexico will get its economy moving and increase its purchases of our products. Without IMF involvement, Mexico's economy will deteriorate further, and more American exports and jobs will be lost.

Underlying the "bail-out" charge is the idea that taxpayers are being forced to pick up the tab for greedy bankers. The idea assumes that our banks, more than 1,400 of which lent to Mexico alone, conduct their activities in an economic vacuum. This is simply not so. Private bank lending to Mexico and other developing countries means exports for our industries and jobs for our workers.

Most of us are familiar with the figures that show the importance of exports to our economy. Trade with developing countries plays a prominent role in the overall scheme. American sales to these countries grew 30 percent per year from 1978 through 1980 and now account for more than 30 percent of our exports. In manufactured goods, the share is even higher—almost 40 percent, up 10 percentage points in a decade. In the late 1970s, four of every five new manufacturing jobs were created for export. It is no accident that the growth in our export sector coincided with the growth in international lending by our banks.

This is no apology for the practices of the banks. They lent too generously in the past, and now are exacting disturbingly high fees as they reschedule loans. Efforts to improve supervision of foreign lending and to ease current rescheduling practices are to be applauded, but we must not lose sight of the economic benefits of the lending itself.

My colleagues are right to point out that international economic intervention is not wholly consistent with detachment from domestic economic problems. However, legislators should not withhold support of the Reagan administration when it takes a right step simply because it takes a wrong step elsewhere. Bearing in mind that every American administration since Bretton Woods has supported the IMF, we should let the issue's merits guide our decision.

My colleagues are also right to argue that an expansion of IMF resources is meaningless without the sustained recovery of our economy. The recovery, however, does not take place by itself. Economic growth in other nations and a stable international financial system reinforce recovery here.

The IMF bill is needed because the global economy faces unprecedented problems. The IMF, whose current resources are almost totally committed, is the key international institution to deal with these problems. The IMF helps member nations adjust their economies so that they can grow in a sustained manner. It buttresses the open trading system. Failure to enact the IMF legislation would send an immediate signal to indebted countries and world financial markets that the United States was unwilling to do its part to get the global economy moving again. The results would be plummeting world trade, thousands of jobs lost, and dashed prospects for economic recovery.

Some of my colleagues worry because their constituents view the IMF bill as foreign aid legislation. Our job is to make our constitutents understand that IMF financing is not foreign aid. All member nations give resources to the IMF, and all have the right to use them. In fact, after the United Kingdom, the United States is the largest user of IMF funds.

Many legislators are understandably reluctant to vote for the IMF bill at a time when so many constituents suffer. Some may be tempted to hold the IMF bill hostage until the administration adopts different social policies, but no doubt such linkage would delay, and perhaps jeopardize, enactment of the bill. Given the importance of the IMF and the need to enlarge its resources, this would be a mistake.●

PARTNERSHIP, NOT DOMINATION, NEEDED

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. SIMON. Mr. Speaker, William B. Lloyd, editor of a newsletter on new nations founded in 1952 called Toward Freedom, recently wrote an article titled, "For Partnership, Not Domination, in the Western Hemisphere".

I am, frankly, not familiar with the issure involved, but I know the editor and have respect for his judgment, and I believe what he has to say should be listened to carefully by the administration.

We should be encouraging cultural diversity and the enrichment and preservation of the cultures of the smaller nations.

I urge my colleagues in the House and Senate, as well as people in the administration, to take a look at the issues that he brings up regarding the coming conference in Geneva.

[From Toward Freedom, March 1983]

FOR PARTNERSHIP, NOT DOMINATION, IN THE WESTERN HEMISPHERE

United States relationships with the other nations of the Western Hemisphere will be put to the test next June in a conference on broadcasting in the largely unexploited higher frequency ranges.

The conference, to be held in Geneva under the auspices of the International Telecommunications Union (ITU) will include small, newly independent Caribbean nations, along with all other countries of the hemisphere.

The June meeting is a left-over from the 1977 ITU conference which had been intended to set rules for all areas of the world in the 12 gigahertz band. (A gigahertz is ten million cycles per second.) The conference will not deal with telex, facsimile or message services—only broadcasting. Existing U.S. hemispheric broadcasting operations are in lower frequency bands and will not be affected.

The 1977 Conference opted by a large majority to give every nation—even such small ones as Fiji and Malta—a spot on the geostationary orbit (meaning the circle 22,300 miles from the earth where a satellite hangs constantly over one spot on the Equator) and a frequency in the 12 gigahertz band of broadcasting.

The United States opposed advance allocations of frequencies for nations presently unprepared to utilize them. Instead it sought to freeze its present technical advantage by embracing the concept of "first come, first served." Washington's energetic dissent produced a decision to delay allocations for Region II (the Western Hemisphere) until 1983.

So the moment of truth for the Western Hemisphere is approaching in the June conference this year. Presumably the smaller nations will, as in other regions, try to insist on having advance reservations of individual orbital spots and frequencies, as against the immediate claims of the U.S.

ALIENATING LATIN AMERICA

If the United States gets its way, the result will not tend to endear Washington to the other nations of the hemisphere, especially the Latin countries.

The question arises: Why should Washington go to the Conference next June intending to capitalize on its technical leadership by reaching for more than its fair share of 12 gigahertz broadcasting allocations?

Given the difficulty of broadcasting from 22,300 miles away to 9,000 square-mile Belize without spill-over into unfriendly Guatemala, why should Washington not embrace the Forum concept, under which each nation of the hemisphere would have its turn at the microphone and television camera, with the programs broadcast to the entire region?

Technology has brought nations in some areas as close together as alley cats in a bag. How to establish principles of cooperation, rather than accepting conflict, has been furrowing the brows of broadcasters and government officials for a decade.

VARIETY AS THE SPICE OF LIFE

Given the differing cultures of different countries, for example, how could a composite, homogenized European satellite broadcasting operation satisfy viewers in France, Germany and Holland? This point is now being tested, amid sharp controversy, by the private Radio-Tele-Luxembourg, which plans to use the 12 gigahertz band for broadcasts to 80 million people in France, Belgium, Holland and West Germany. National broadcasting administrations in those countries are not entertained by the prospect.

The beauty of the Forum idea is that it keeps cultural differences clear, dramatic and interesting to the viewers—better than reading the National Geographic. It also would prevent the overwhelming of smaller nations' cultures by large or rich neighbors. Technically, it would be much easier to pick up and transmit programs than it would be to eliminate the "spill-over" problem completely. Success of the Forum would be eliminated by making it intentional, universal and constant. Administration could be carried out by the Organization of American States or by the U.N.

There remains the political question of whether national governments would accept such a system. Canada and Sweden jointly proposed in 1977 that direct satellite broadcasting be governed by the principle of "prior consent"—that broadcasts to each country be conditional on the consent of that country's government. But the red tape involved in getting national consents for each program to be broadcast would be enormous.

GUIDELINES FOR BROADCASTS

Under the Forum concept governments would say to each other: "I will let you broadcast to my citizens if you will let me broadcast to yours." This would protect the principle of prior consent, as demanded by developing countries, but on a continuing, long-range basis that could actually be administered. General guidelines barring hostile, disruptive or morally disturbing broadcasts by another government could be set up, and if a national government found a broadcast by another government really offensive, it could "jam" the broadcast, thereby forfeiting for a time its own right to broadcast in the Forum.

In practice, however, it is likely that governments preparing programs for the Forum would realize that one can "catch more flies with honey than one can with vinegar," and would concentrate on positive presentations of their own nations' culture and institutions, rather than attacking other nations.

PARTNERSHIP, NOT BIG BROTHER

The Western Hemisphere ITU Conference coming in June offers a magnificent opportunity for the United States to act not as the giant that it is, but as a partner interested in hearing the voices of its Latin neighbors, as well as in speaking to them. It is a chance for Washington to demonstrate that "Pan-Americanism" is more than rhetoric.●

TRIBUTE TO MR. JOHN STEEL

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. BERMAN. Mr. Speaker, I would like to take this opportunity to congratulate Mr. John Steel, the outgoing president of the United Chambers of Commerce of the San Fernando Valley, on completing an outstanding year of service to our community. As president, he has contributed his talents and skills toward giving the residents and businesses of the San Fernando Valley a stronger and more effective voice in local affairs, as well as on a larger scale.

In addition to his work with the united chambers of commerce, John Steel has given a great deal in terms of personal commitment, time, and effort to the San Fernando Valley. He is currently the executive president of the Sylmar Civic Association, and a member of the Industrial Association of San Fernando, the Business & Professional Association of the San Fernando Valley, the Encino Chamber of Commerce, the Encino Kiwanis Club, and he serves as a board member of the agricultural 51st district and the San Fernando Valley Arts Council.

Mr. Steel has also worked closely with the youth of our community, and has devoted much of his time to area high schools. Of note are his efforts as chairman of the Sylmar High School Advisory Council and with Los Angeles Baptist High School. John Steel has also volunteered his time with the United Way, the Red Cross, and the March of Dimes. His contributions to the Sylmar Park improvement program led to the local baseball field being named in his honor.

Mr. Speaker, from the time he attended school in Iowa, to his service with distinction in the U.S. Army, to the time he settled in Los Angeles nearly 30 years ago, to the present, John Steel has led an exemplary life. Now that he is being honored as the outgoing president of the united chambers of commerce, I am pleased to join so many others to commend him on his many years of service to the San Fernando Valley. I know that the display of admiration and respect which will be directed toward John Steel at the united chambers of commerce installation banquet on May 7 will be well deserved.●

ASSOCIATION FOR RETARDED CITIZENS OF LUZERNE COUNTY CELEBRATE 30TH ANNIVERSARY—ANNUAL DINNER

HON. FRANK HARRISON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. HARRISON. Mr. Speaker, on Wednesday evening, May 25, the Association for Retarded Citizens of Luzerne County will celebrate its 30th anniversary at an annual dinner.

The Association for Retarded Citizens began 30 years ago, when a group of parents met and expressed the concern that their children with mental retardation deserve the same opportunities as every other child enjoy. In these past 30 years the ARC has advocated for and implemented every existing service that now benefits any person with mental retardation in Luzerne County—from the first special education class to the sheltered workshop, all day programing, recreation programs, group homes and community living arrangements. The association is constantly on the alert for gaps in the network of services to retarded persons and is ever working to fulfill these needs.

Mr. Speaker, it is a pleasure for me to join with the entire Luzerne County community in congratulating the Association for Retarded Citizens on 30 years of service to mankind and wishing them many, many more years of successful endeavor.●

RELIEF FOR A SEARCH AND RESCUE VOLUNTEER IN ALASKA

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. YOUNG of Alaska. Mr. Speaker, I want to thank Chairman RODINO and Mr. SAM B. HALL, JR., chairman of the subcommittee, and the ranking minority member of the subcommittee, Mr. KINDNESS, for bringing H.R. 745, a bill for the relief of Stephen C. Ruks, to the floor of the House of Representatives today. The research and consideration of the facts and circumstances that surrounded this bill by the members of the Judiciary Committee and their staff is greatly appreciated.

Mr. Ruks is a member of the Civil Air Patrol in my State of Alaska. Stephen Ruks sustained substantial damage to his airplane while performing a search and rescue mission at the request of the Coast Guard. Current claim statutes do not provide for payment of such a loss as Mr. Ruks has discovered in exhausting his administrative remedies. Thus, this bill provides for payment to Mr. Ruks in full satisfaction for his loss.

Some of the facts should be pointed out regarding this case. This incident was an active Coast Guard search and rescue case involving a downed plane on the beach near Cordova, Alaska. Stephen Ruks was contacted as a member of the Civil Air Patrol to participate in this Coast Guard rescue case. Although Mr. Ruks committed a technical error in not getting a mission number prior to takeoff, he was in communication with the Coast Guard during the entire incident and was not ordered to terminate the rescue or specifically not to land. Although an experienced pilot in this region and although taking several precautionary approaches to the area, Mr. Ruks hit a soft spot in the beach when he touched down that caused his plane to flip and sustain damage.

The Federal Government provides volunteer opportunities through the Civil Air Patrol and the Coast Guard Auxiliary. Stephen Ruks is just one of the thousands of volunteer members of these organizations that the Government calls upon to perform valuable rescue services for the public and the Government. Their history of injury to their own members and loss of life and property for rescue cases where they provide assistance appears to be an excellent one. Thus, they provide an effective service to the citizens of this country.

Recently, President Reagan has made several speeches on volunteers and their role in America. He has stated that "volunteering is an old American Tradition." Indeed, volunteer service has been a traditional means by which individuals and organizations help meet the needs of citizens in our society. Asking for volunteer help for search and rescue from organizations such as the Civil Air Patrol is a common occurrence in Alaska. This is brought about by the fact that Coast Guard resources are spread too thin along the coasts of Alaska and throughout the United States. In fact, it is only this year that, in the specific location where this incident occurred, Cordova, Alaska, the Coast Guard intends to set up a seasonal search and rescue unit to respond to the ever-increasing demand for search and rescue as our fishing activities expand. Thus, the safety of those who go to sea are literally in the hands of volunteers like Stephen Ruks who are called on by the Government when the need arises.

I believe that members of the Civil Air Patrol should not be asked to perform volunteer rescue missions for the Coast Guard on a basis that would prevent them from recovering any losses they would incur. They perform too valuable a service for the public and the Government. Further, I would like to note here that the Government is a double winner. Not only is the rescue mission carried out for them, saving them the use of their own limited resources, but the individual provides his time and aircraft free of charge.

I believe that we can all see that the facts and circumstances prove this case to be meritorious, one warranting compensation for the damage. Thus, I applaud the adoption of H.R. 745 today.●

THE STATE OF THE AMERICAN FAMILY

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. WOLF. Mr. Speaker, as a member of the Select Committee on Children, Youth and Families, I want to share with my colleagues the powerful and alarming testimony of Dr. Armand M. Nicholi, Jr., as presented to the committee on Thursday, April 28.

Dr. Nicholi is currently on the Harvard Medical School faculty and the Massachusetts General Hospital staff. He is a former chairman of the Massachusetts Governor's Commission on Children and Family. His statement during the first day of proceedings before the committee revealed shocking trends in society which are threatening the survival of the American family unit.

Following is the text of his statement:

Recent Trends in the American Family: Their Impact on the Individual and Society

(By Armand M. Nicholi, Jr., M.D.)

If one factor influences the character development and emotional stability of a person, it is the quality of the relationship he experiences as a child with both of his parents. Conversely, if people suffering from severe nonorganic emotional illness have one experience in common, it is the absence of a parent through death, divorce, time-demanding job or absence for other reasons. A parent's inaccessibility either physically, emotionally, or both, can exert a profound influence on the child's emotional health. These impressions come from a vast body of research which began over three decades ago and that led the World Health Organization over twenty years ago to make this statement: "What is believed to be essential for mental health is that the infant and young child should experience a warm, intimate, and continuous relationship with his mother . . ." and then presented evidence that many forms of psychoneuroses and character disorders are to be attributed to the absence of the mother or to discontinuities in the child's relationship with his mother. In the years following that statement, research throughout the world has demonstrated that a separation from the mother, even for brief periods of hospitalization, and the quality of the mother's relationship with the child, can profoundly affect both the child's physical and emotional development. And more recent research has demonstrated the full emotional impact on the child of the missing or inaccessible father. What has been shown over and over again to contribute most to the emotional development of the child is a close, warm, sustained and continuous relationship with both parents. Yet the accelerating divorce rate and several other trends today in our society makes this most difficult to attain.

The ever-increasing divorce rate subjects an ever-increasing number of children to physically and emotionally absent parents. The divorce rate has risen 700 percent in this century and continues to soar. Over a million children a year are involved in divorce cases; 13 million (over half of all U.S.) children under 18 have one or both parents missing. Within three years after the divorce decree half the fathers never see their children. Because of divorce, an increasing number of homes have only one parent. One parent families are growing at 20 times the rate of two parent families.

The increasing numbers of married women who have joined the labor force and work outside of the home—especially those mothers with young children—have a profound effect on family life. In 1948, 18 percent of the nation's mothers worked outside of the home. In 1971 this figure jumped to 43 percent. Today it is over 50 percent. The frequent articles describing how this phenomenon has increased marital stress and contributed to the high rate of divorce have become all to familiar. What I find most disturbing about this phenomenon is that an ever-increasing percentage of the mothers who work are mothers of very young children, and who must work because of economic necessity.

The obtrusion of the televison set into the American home has had an effect on the American family that we have not yet even begun to fathom. Parental inaccessibility contributes to children spending enormous amounts of time watching television. The television set has become a babysitter in many homes. Television acts as a two-edged sword. It both results from and causes parental inaccessibility. When parents are home physically, television often interferes with the meaningful interaction between members of the family.

We are just beginning to experience the first generation brought up completely on television. Some studies have shown that the average viewing time of the American child from 6 to 16 years of age is between 20 and 24 hours per week. If he lives to be 80, and that continues throughout his life, he will have spent 8 to 10 years of his life watching television. Or to put it another way, if he lives to be 80, he will have lived a little less than 30,000 days. Because he sleeps one-third of that time, he lives about 20,000 days. One-fifth of his waking life or about 4,000 days will have been spent watching television. We have only begun to realize the full impact of this phenomenon on family life. Research showing the effects of TV violence on the behaviour of both children and adults has been less than encouraging.

These are only a few of several trends contributing to a change in child-rearing that has been taking place in this country during the past few decades. The change is this: in American homes today child-care has shifted from parents to other agencies. A home in which both parents are available to the child emotionally as well as physically has become, in some areas of our society, the exception rather the rule. And I refer not only to the disadvantaged and divorced home where the father is missing and the mother works. I refer to even the most affluent homes. Cross-cultural studies show that United States parents spend considerably less time with their children than almost any other country in the world. Although both Russian parents work and although Russian children spend a great deal of time in family collectives, emotional ties between children and parents are stronger and time spent together considerably greater than in the Untied States; there is relatively little juvenile deliquency in Russia. Some Russian fathers have said they would never let a day go by without spending two hours with their sons. A study in a small community in this country of how much time fathers spend with their very young sons shows that the average time per day is about 37 seconds.

From my clinical experience and from my research with college students, I began to notice (1) that a large number suffered from an incapacitating symptomatic or characterological conflict, (2) that they seemed to have in common a number of traumatic early experiences with a rejecting, inaccessible or absent parent, and (3) when we looked at their histories carefully, there appeared to be some causal relation between the earlier experiences and the emotional illness they were suffering as an adult. About 15 years ago I began studying several hundred young men who had dropped out of Harvard for psychiatric reasons. Two characteristics of the group were (1) a marked isolation and alienation from their parents, especially their fathers, and (2) an overwhelming apathy and lack of motivation. In addition, among those who had the most serious illness, that is, those hospitalized and diagnosed as schizophrenic, a large number lost one or both parents through death; when compared with several control groups, this finding proved highly significant statistically. This provided me with my first clue that there might be a relation between a missing parent and emotional illness. As I begin to work with patients clinically, I begin to realize that absence through death was the most severe kind of absence, but that there were many other kinds of absence. Recent studies we conducted among school children this part year in a Boston suburb indicated that children who had experienced divorce or death within the family had a statistically significant, strikingly higher incidence of emotional disorder than children from intact families. Over the past few years, research studies have been carried out throughout the world trying to refine our understanding of this phenomenon and trying to understand why some children are paralyzed by the loss of a parent through divorce or death and others seem to be unaffected (in the same way some people are paralyzed by polio and others not). The research is fascinating and we could spend several hours discussing it.

Studies on missing fathers have been carried out in several different countries. One published in the Archives of General Psychiatry, studied the periodic absence of the father on 200 children seen at a military medical clinic where the father's absence was due to his military occupation. The children ranged from 3 to 18 years of age.

The researchers found early reaction to the father's departure resembled reactions to children who lose a father by death: (1) rageful protest over desertion, (2) denial of the loss and an intense fantasy relationship with the parent, (3) efforts at reunion, (4) irrational guilt and a need for punishment, (5) exaggerated separation anxieties and fears of being abandoned, (6) a decrease in impulse control, and (7) a wide variety of regressive symptoms.

When the father left home, the child was often allowed to do things not otherwise permitted. This made it difficult for the child to internalize a consistent set of standards for controlling his behavior. In several instances, the father's leaving was followed by disobedience, decline in school performance, and aggressive antisocial behavior. The child seemed unable to control himself and this loss of control is especially interesting in light of the observation that more people today come to psychiatrists because of a lack of impulse control.

Several other recent studies bear on the absence or inaccessibility of the father and all point to the same conclusions: A father absent for long periods contributes to (a) low motivation for achievement, (b) inability to defer immediate gratification for later rewards, (c) low self-esteem, (d) susceptibility to group influence and to juvenile delinquency. The absent father tends to have passive, dependent sons lacking in achievement, motivation and independence. These are general findings with, of course, many exceptions.

Most children experience an absent parent as rejection and rejection inevitably breeds resentment and hostility. The child may express this outwardly in the form of violence or inwardly in the form of self-injury. The suicide rate in 10 to 14 year olds in the United States has doubled and in children 15 to 19 has tripled during the past 20 years. These trends have resulted in our society producing a staggering number of angry, depressed and suicidal children. Research indicates that the loss or absence of a parent predisposes a child to a variety of emotional disorders that manifest themselves immediately or late in the child's life.

What about the future? What can we expect if the divorce rate continues to soar? First of all, the quality of family life will continue to deteriorate, producing a society with a higher incidence of mental illness than ever before known. Ninety-five percent of our hospital beds may be taken up by mentally ill patients. The nature of this illness will be characterized primarily by a lack of impulse control. In this impulse ridden society of tomorrow we can expect the assassination of people in authority to be an every-day occurrence. All crimes of violence will increase, even those within the family. Because battered children—if they survive—tend to become parents who in turn abuse their children, the amount of violence within the family will increase exponentially. Aggression turned inward will also increase and the suicide rate will continue to soar.

What can we do about them? We must take steps to reverse this process of producing empty and angry young people whose rage erupts either in uncontrolled violence or in depression and self-destruction. When a family disintegrates—to reduce it to its simplest terms—both children and adults suffer a form of intense loneliness—the most painful and most frightening of human experiences. Loneliness is so painful to even contemplate that modern psychiatry has pretty much avoided the study of it. People suffering from nonorganic disorders prevalent today—drug addicts, alcoholics, workaholics, and even psychotics—may in large measure be attempting to avoid the pain of loneliness. When a person is left alone on a raft or in a chamber for long periods of time, he will often develop hallucinations and other psychotic symptoms to avoid this pain. In addition, the first terrifying fear we experience as a child is the fear of being abandoned, of being left alone. Also, according to research at the Massachusetts General Hospital on dying patients, fear of being abandoned is one of the last fears we experience in this life. And it is my conviction that because of divorce and family disintegration millions struggle with loneliness at some level throughout their lives—regardless of how closely they work with people. For professional relationships can never give us the emotional sustenance and support that the close, warm, personal relationships a healthy family life provide.

CONCLUSION

In a brief look at research in this area we have observed the high divorce rate and other trends in this nation have a profound effect not only on children but on all aspects of our society. As this divorce rate exploded upward in the late 60's and throughout the 70's, clinical and laboratory research indicates that it is no coincidence that this trend was followed closely by a parallel increase in juvenile violent crime and the tendency of a huge segment of our society to use psychoactive drugs. This drug taking began in the early 60's among a few college students on the east and west coasts. Today it involves between a quarter and a half of our entire population. Twenty million people smoke marijuana daily. A vast body of research has shown that the drug-taking population today, like this same population in the early 60's when it was much smaller, is comprised of people of disaffection and rebellion who tend to come from broken and disorganized homes. This same vast body of research has shown that the absence of a parent through death, divorce or time-demanding job, contributes to many forms of emotional disorder—especially the anger, rebelliousness, low self-esteem, depression, poor academic performance, and antisocial behavior that characterizes drug users. Time limits discussing any detailed recommendations for action. (1) Suffice it to say that the government must recognize fully that families are the vital cells that constitute the flesh and blood of our society. When one family disintegrates, so does a part of our society. (2) Government must attempt through the media and through every means possible to change the nation's attitude toward the family so that it is given the highest priority. (3) Government must encourage and sponsor research into the causes of divorce. Because human behavior is complex and multidetermined, research must come from many disciplines. (4) The government must help the nation become aware that poor academic performance, susceptibility to peer influence and delinquent behavior as well as suicide and homicide have been found to be higher among children from divorced homes in which one or both parents are missing or frequently absent.

The disruption of families not only imposes a vast economic burden on the nation but inflicts upon individual citizens more sorrow and suffering than war, poverty and inflation combined. Once these facts are comprehended, the government and the entire nation will realize that the problem of divorce can no longer be neglected. To spend vast sums of money in other areas while neglecting the area of divorce is like placing an expensive roof on a house while neglecting a raging fire in the basement of that house. I commend this committee for beginning an exploration of this problem.●

SOCIETY'S LEAGUE AGAINST MOLESTERS

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1983

● Mr. SCHAEFER. Mr. Speaker, I would like to take this opportunity during "National Child Abuse Month" to bring to the attention of Congress and the Nation the fine achievements on behalf of America's children of an organization of citizens in Colorado—Society's League Against Molesters (SLAM).

SLAM's goal is to assist in the creation of a healthier environment for our Nation's children. Their special focus is the problem of child molesting in my home State of Colorado.

Of course, one of the most significant obstacles the group has to overcome is public lack of awareness of the problem. The Justice Department estimates the number of children who are sexually abused is between 100,000 and 500,000 annually, often causing irreparable harm to those children. Yet, this is an area of child abuse that most people are unaware of or would rather not talk about.

SLAM has a community outreach program to make the public aware of the tremendous proportions of the problem, and I commend their spirit and tenacity.

But their efforts only begin with their educational work. They also have an active and effective legislative program, encouraging and working for implementation of legislation to help solve the difficulties we have.

I have firsthand knowledge of their hard work. While serving in Colorado's Legislature, I worked with SLAM in a successful effort to toughen the State's laws protecting children against molesters.

I intend to continue the efforts we began in Colorado here in Washington, and I am looking forward to working with SLAM on these new challenges.

The responsibility of protecting our children, the future of this Nation, is immense. Thankfully, due to SLAM's work in Colorado and to SLAM chapters in other States, we are making nationwide progress in heightening public awareness and finding solutions to the many serious problems involved.

I encourage any interested party to get in touch with my office if they would like additional information on SLAM.●

WE NEED A STRONG SEALIFT CAPABILITY

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. FLORIO. Mr. Speaker, today in our Nation we are witnessing a drive by the administration to see to it that our armed services are abundantly equipped to defend democracy.

The procurement of thousands of M-1 tanks, Bradley fighting vehicles, spare parts, munitions, and the rest will be of great use only if we ever need to defend ourselves from our Canadian or Mexican friends. For while we are procuring these technologically advanced marvels of modern warfare, we lack the ability to sealift this equipment throughout the world.

Most notedly we lack even a minimal roll-on roll-off capability. This is another example of how the administration continues to demand tax dollars for defense things without first putting the pieces together by formulating a global strategic and tactical plan that would provide any hope for successful completion of a military expedition. This lack of maritime industry preparedness could singularly scuttle any attempt of ours to equip the forces of democracy throughout the world.

Defense analysts have stated that less than 10 percent of our wartime supply needs could be maintained by our airlift capability. This leaves us with one conclusion, we must rebuild our maritime sealift fleet.

Our sealift capability must be improved if we are going to honor our commitments to our allies and adequately protect our vital interests worldwide.

Let us not let the lessons learned in the Falklands by our British friends pass without having some effect on our maritime planning.

I commend the following article to each Member's attention. The article follows:

[From the Washington Post, Apr. 16, 1983]

SUPPLY-SHIP SHORTAGE MAKES NAVY FEARFUL

(By Jack Anderson)

Naval planners in the back rooms of the Pentagon have their fingers crossed hoping that the United States doesn't have to fight a conventional war far from home.

The reason is simple, if embarrassing: we don't have the ships needed to keep our troops and allies supplied.

Top-secret Pentagon assessments make frighteningly clear how low our sealift capability has sunk since World War II, when the U.S. Navy and Merchant Marine carried the military output of American industry to battle fronts around the globe. That, basically, is what won the war.

The estimates, seen by my associates Donald Goldberg and Dale Van Atta, also show that the Soviets' ability to supply armies on distant battlefields has been growing as ours has withered away.

What makes this woeful lack of transport ability important is that the stocks of munitions now on hand in western Europe aren't enough to keep a war alive.

As one top-secret Pentagon report puts it: "Both U.S. and allied war reserve stocks in Europe continue to be inadequate. A 'high-risk' situation exists in NATO today because a strong initial defense in NATO cannot be sustained until the supply pipeline, supported by the U.S. industrial base, is established."

In other words, the United States is still the "arsenal of democracy" that it was in World War II, but there is no longer a way of shipping the arsenal's output to where it's needed.

The importance of a sealift capability—if it was ever in doubt—was made clear by the Falkland Islands mini-war, which the British won largely because they were able to press into service their civilian ships, including the Queen Elizabeth II.

Unfortunately, the United States has no QE II or enough other civilian ships to draft for wartime duty. Here's what we have available to rely on in case of a national emergency:

The Military Sealift Command Controlled Fleet of 134 government-owned ships. Unfortunately, "less than three dozen ships are estimated to be ideally suited for sealift of military supplies," according to an internal White House document, which adds, with some understatement, that the fleet's "principal weakness is that it can only carry a small share of the military cargo likely to be needed."

The National Defense Reserve Fleet of 254 ships that supposedly will be ready to go within three to eight weeks. As of October, 1981, 130 of these ships were at least 30 years old.

The U.S. flag Merchant Marine of 578 privately owned ships. But only 38 percent of this fleet is considered useful for the food and munitions that fighting forces need.

The 343-ship "effectively U.S.-controlled" fleet owned by American companies or individuals and registered with foreign countries. But only about 15 of these ships are capable of carrying dry cargo, and only 52 of the tankers are suitable for military use. Furthermore, these foreign flag ships are manned by non-American crews, whose enthusiasm for getting shot at in an American war is understandably suspect.

Free world shipping, some 600 ships. About 400 of these might be available, but there's no estimate of how many would actually be militarily useful.

Some 20,000 ships owned by non-communist nations, capable of carrying 600 million tons of cargo. But few are likely to come rushing to America's aid—at least in time to do any good.●

THE SOUTH SHORE RECORD—30 YEARS OF SERVICE

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. McGRATH. Mr. Speaker, on Long Island, in the five towns which lie within my congressional district, is a weekly newspaper known as the South Shore Record. It is not your typical weekly. It is a hybrid newspaper that provides its readers with all the local news, but with a style and competence of major daily publications.

In a sense, the South Shore Record has too. While not in direct competition with daily newspapers, the South Shore Record nevertheless publishes in the shadow of the Nation's largest circulating daily, the New York Daily News, as well as the New York Times, which many consider the finest newspaper in the world. In addition, one of the Nation's top afternoon newspapers, Newsday, publishes on Long Island. So the people of the five towns and the surrounding area served by the South Shore Record are used to fine newspapers. If a weekly were to succeed in the Fifth Congressional District, it would have to be good.

The South Shore Record, which this year reached its 30th birthday, has shown it can publish alongside the best. Year after year, it receives its share of journalism awards. This year, the weekly newspaper garnered no less than three top statewide journalism prizes. There were 108 major newspapers competing.

The South Shore Record was a first-prize winner for advertising excellence and copped two second-place awards for best editorials and best humorous writing. The editorials were written by the publisher, Florrie Schwartzberg. The South Shore Record's Harrier Lesser wrote the humor columns.

I ask my colleagues to join me in saluting the South Shore Record as an example of hometown, local journalism at its best.●

MIDEAST MAPS REVISED AT STATE

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. BARNES. Mr. Speaker, for over 1 year I have been corresponding with officials at the State Department on behalf of one of my constituents, Mr. Martin Miller, concerning the manner in which the Department maps depict the area know as the West Bank. In a January 1983 response to my latest inquiry, the Acting Assistant Secretary for Congressional Relations, Alvin Paul Drischler, says that under the now current guidelines;

> The West Bank and Gaza Strip are not depicted as the territory of any Middle Eastern States.

It had in the past been shown as part of Jordan.

Recently, Mr. Miller wrote an article on this subject, which appeared in both the Baltimore Sun and the Jewish Week. I would like to share with my colleagues Mr. Miller's article.

[From the Jewish Week, Apr. 21-27, 1983]

State Department Revises Mideast Maps

(By Martin H. Miller)

The United States Department of State has reluctantly decided to change the new official maps of the Middle East. It took months of questioning of State Department mapping practices to elicit the decision.

The State department will cease showing Samaria and Judea as part of the Kingdom of Jordan. The State Department geographer issued a directive to that effect last fall, but the department has been unwilling to announce its action.

While the change is historic, the State Department persists in its refusal to portray accurately the correct status of Jordan or of the territories King Hussein lost to Israel in the 1967 Six-Day War. Maps and their accompanying written descriptions will continue to employ the political misnomer "West Bank."

A GENERATION MISINFORMED

The State Department can take credit for misinforming a generation of Americans about the status of an area which has been vital to United States foreign policy. To presidents of the United States, secretaries of state, members of congress, directors of the Central Intelligence Agency, national security advisers, journalists, students, and the general public, the 2,200 square miles on the West bank of the Jordan River has seemed to be part of the kingdom of Jordan. For this is the way the area has been presented on official U.S. government maps and write-up even though it has been taken by Jordan's British-armed, British-trained Arab Legion in the War of 1948 in contravention of a United Nations resolution calling for the partition of Palestine.

In small State Department maps the area has simply been shown as part of Jordan. In larger maps, the area has been shown within the boundary lines of Jordan with markings to indicate that it is Israeli-occupied.

This is the way the area has been presented, too, in atlases, encyclopedias, almanacs, dictionaries, textbooks, and other reference works. Non-government publishers have followed the lead of the State Department's Office of the Geographer and Bureau of Near Eastern and South Asian Affairs.

The result of the misinformation from every side is that an American who looks at a map of the area or reads about it could ask consciously or subconsciously, "What is Israel doing here? It belongs to Jordan." Immediately Israel is labelled as a transgressor. President Reagan's "Middle East initiative," which called for the transfer of the "West Bank" and the 140-square-mile Gaza Strip into a confederation with Jordan, seems reasonable to such background.

EXPOSED IN ARTICLE

The State Department's role in disseminating the erroneous perceptions about Israel, Jordan, and the "West Bank" was related in an article by this writer in The Jewish Week for March 4-10, 1982, introduced with the headline, "How State Department's maps contradict history."

The article told how Dr. Lewis M. Alexander, director of the State Department's Office of the Geographer, had acknowledged that only Great Britain and Pakistan had ever recognized the sovereignty of Jordan over the so-called "West Bank." The United States did not, nor did the United Nations, nor even the members of the Arab League. The article noted that Alexander failed to explain why the State Department had nevertheless given the area to Jordan in perpetuity or until Jordan would be willing to meet with Israel, Egypt, the United States, and representatives of the Arab residents of the "West Bank" and agree upon boundaries.

The article asked why Alexander made no attempt to explain why his map of the world showed Russian-occupied Latvia, Esthonia, and Lithuania as a solid part of the Soviet Union but his office refuses to recognize the change in the Middle East as a result of the War of 1967. "Surely, if the Office of Geographer is applying morality to its cartography, it should acknowledge that Jordan had no legal claim to the 'West Bank' in 1949; that it had even less after 1967 when it attacked Israel after being urged by Israel not to, and lost the area to Israel, and most certainly none after 1974 when King Hussein renounced Jordan's claims to the area at the Arab League's Rabat Conference."

DIRECTIVE ISSUED

On Sept. 30, 1982, the Department of State acknowledged indirectly the accuracy of the charges in The Jewish Week article by issuing a directive from Dr. Alexander to the CIA and ten other government agencies "to ensure that all United States government maps of the West Bank, Gaza Strip, and Golan Heights clearly and consistently reflect the United States' legal position." The government map makers were told, "maps should not designate or depict (the West Bank and Gaza Strip) as sovereign territory of any Middle Eastern country."

The government agencies were not given even a hint that the directive represented a change from 15 years of providing incorrect information, nor was guidance given for correcting the written descriptions that would accompany the new maps.

The State Department initially promised to correct the maps in a letter to Rep. Michael D. Barnes dated July 13, 1982. This was in response to a letter Barnes had written on March 11. Assistant Secretary for Congressional Relations Powell A. Moore wrote, "We certainly agree with Mr. Miller that maps prepared by the U.S. government should be consistent with U.S. policy." Also, "You may be assured that as new editions of maps of this region are prepared we will make every effort to see that they accuratedly reflect U.S. policy." However, it was not possible to tell from Moore's letter—despite it having taken four months—what the State Department was actually going to do.

FOLLOWUP BY BARNES

Barnes' next letter, dated Aug. 9, included a plea to release accurate data in time for the publishers of 1983 almanacs to correct their maps and texts. It took two full months for the polite but non-informative State Department reply.

Barnes has written additional letters. His latest, on Dec. 3, provided the State Department with text to assist the CIA in correcting its report on Jordan in the CIA 1983 World Factbook. The CIA's director of media relations told me that the State Department had not supplied the material.

The consequence of the State Department's failure to act is that the CIA may correct its maps but nevertheless perpetuate for still another year misinformation about Jordan. In the text of the 1982 CIA World Factbook, for example, East Jerusalem and the so-called "West Bank" are part of Jordan.

Dr. Alexander's directive for changes in the new maps of the Middle East raises questions the State Department ignored in its letters to Rep. Barnes. For example, why does the State Department follow one practice where the Soviet Union is concerned but a different practice where Israel is concerned even though, unlike the Soviet Union, there is no question about Israel's being the legal administering power over the territory mapped?

Why does the State Department treat Israel differently from the way it has treated Jordan since the War of 1948?

Why has the State Department refused for more than a year to provide a forthright statement of just what constitutes Jordan?

AN HISTORIC MAP

On Dec. 10 Dr. Alexander gave me a sketch map incorporating the changes ordered by his directive. This is an historic map. In my presence Dr. Alexander drew in a series of dashes to separate the "West Bank" from Jordan. This is the first map to leave the State Department which does not depict the "West Bank" as part of Jordan. Alexander wrote in his signature and the date on the bottom of the map.

In the opinion of this writer, the new maps of the Middle East drawn according to the geographer's directive will project serious flaws. A fully accurate map of the "West Bank" would show by color harmony and boundary lines that the area is administered by Israel. In actual fact, the U.S. has no legal right to designate the area as the "West Bank" as this was never an official designation by the nations governing the area, including Jordan and Great Britain. Moreover, the legal administering authority, the State of Israel, designated the area in February, 1968, as "Judea" and "Samaria."

Also, any reference the State Department feels compelled to make to the future status of the area should be presented not on the body of the map but in the same way as with other countries, as a footnote. This is the place for any notation that the Camp David Accords call for negotiations to settle the future sovereignty and boundaries of the area.

The Department of State Bulletin. "The Official Monthly Record of United States Foreign Policy," dated March 1983 and distributed during the first week of April, contains a map which includes the Middle East. It follows Alexander's directive. Jordan is shown accurately on a published State Department map for the first time in more than 15 years.

But the Department continues to refuse to provide a statement of what constitutes Jordan. When I asked John Herbst, political officer of the Bureau of Near Eastern and South Asian Affairs, why Alexander was not permitted to issue a simple statement to enable writers to correct the descriptions of Jordan in government and nongovernment publications, his answer was, "the matter is under consideration."

When I reminded Herbst that the question had been settled in May 1982 when his Bureau agreed to correct the maps, he did not lose equanimity but repeated, "the matter is under consideration."●

DEATH OF LOWELL DAVIES

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. BATES. Mr. Speaker, I call on my colleagues in the House of Representatives to take a few moments to note the death of a prominent San Diego attorney and a longtime leader with Old Globe Theater, Lowell Davies, who died Friday, April 29, at the age of 86.

Mr. Lowell Davies, who was honored as "Mr. San Diego" in 1979 by the San Diego Rotary Club, served on the Old Globe's board of directors for 43 years, 31 of them as president. He became chairman of the Globe's board of directors in 1976 and honorary life chairman in January.

Though confined to a wheelchair, he greeted Queen Elizabeth II when she visited the Old Globe in February. It was one of the highlights of his life.

Former Congressman Clair Burgener said Davies "was a giant of a man who made the Old Globe Theatre what it is today."

To his wife Darlene, his sons, Thomas and John, and his daughters, Estelle and Helen, and other family members, our heartfelt sympathy for your loss and the loss to San Diego and America.●

RECOGNITION OF ARMENIAN MARTYRS' DAY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. ACKERMAN. Mr. Speaker, I rise to pay tribute to the 1.5 million Armenian men, women, and children who were victims of a premeditated campaign by Turkish authorities from 1915–23 to exterminate the Armenian population.

It is imperative that their persecution and their murders not be forgotten. If anything worthwhile can come of such a tragedy, it is that it must serve as a lesson for all mankind. Many of my colleagues have already noted that Hitler pointed to the world's indifference to the Armenian slaughters when he set forth on his own genocide of the Jewish people. Both of these dark chapters in the history of humanity must be imprinted again and again on our memories so we are never allowed to forget. It is appropriate, therefore, that the U.S. Holocaust Memorial Council has unanimously resolved to include the Armenian genocide in its museum and educational programs.

This 13th congressional recognition of Armenian Martyrs' Day is important for another reason, too. And that is to pay tribute to the accomplishments of the approximately 600,000 Armenian Americans living in the United States today. Most of them lost relatives and loved ones in this attempted annihilation, and yet they have not allowed themselves to become incapacitated by their tragedy. Many of them have become active leaders in their communities. Their will to live and to flourish, while keeping their heritage alive, is a testament to the truth of the words spoken by William Faulkner as he received his Nobel Prize in 1950: "I believe that man will not merely endure: he will prevail."●

COMMENDING MR. ED WALTON STACK AND MR. HENRY THOMAS MURPHY

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. BONER of Tennessee. Mr. Speaker, I would like to commend Mr. Ed Walton Stack and Mr. Henry Thomas Murphy of Cedar Hill, Tenn., for being awarded the prestigious Carnegie Medal during the recent meeting of the Carnegie Hero Fund Commission. The medals, which were accompanied by grants of $2,500, were awarded in recognition of their heroic rescue of two passengers from a fiery airplane crash in September 1981. After seeing the plane crash, Mr. Stack, a highway maintenance foreman and Mr. Murphy, a mechanic, both ran to the plane. As fuel leaked from one of the plane's tanks, the two men forced open the plane's door. Mr. Murphy pulled a passenger, Mr. Curtis R. Cothran, from the wreckage as the plane caught fire. Despite rapidly spreading flames and increasing heat, Mr. Stack then partially entered the plane, seized another passenger, Mr. Charlie H. Cothern, and pulled him out. Cothern recovered from extensive second-degree burns, and Stack recovered from lesser burns.

Mr. Speaker, these men are to be commended for their bravery in this rescue. Putting aside their own safety, these men risked their lives to save two people they did not know. Clearly these heroes exhibited the biblical scripture which is inscribed on the Carnegie Medal:

> Greater love hath no man than this, that a man lay down his life for his friends.

I would like to congratulate Mr. Stack and Mr. Murphy for receiving this medal and also would like to commend the Carnegie Hero Fund Commission. Established April 15, 1904, by Andrew Carnegie, the Carnegie Hero Fund Commission was created to recognize outstanding acts of selfless heroism performed in the United States and Canada. We sometimes hear the question asked: "Where have all the heroes gone?" The courageous acts of Mr. Stack and Mr. Murphy and the recognition given by the Carnegie Hero Fund Commission to heroic deeds in the United States and Canada, serve as reminders that the heroes have gone nowhere; they are still among us ready and willing to act when the occasion requires.●

RETIREMENT OF COACH CHARLES R. SCHMITTER

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. CARR. Mr. Speaker, Charles R. Schmitter, the varsity fencing coach at Michigan State University, is retiring this month after coaching the Spartans since 1938. Coach Schmitter leaves Michigan State with a long tradition of service to the school and to the sport of fencing.

Mr. Schmitter was the first varsity fencing letterman in the history of the University of Detroit, graduating from that school in 1930. In 1956, he became the first American-born recipient of a fencing master's diploma from the National Academy of Naples, Italy.

During his 45 years as Michigan State's coach, Charles Schmitter served the sport of fencing with distinction. He was a member of the NCAA's rules committee for 11 years; a coach of the 1959 Pan American team; and a member of the 1960 and 1964 Olympic fencing committees. His teams twice won Big Ten championships.

In 1970, Coach Schmitter was named to the Helms Foundation Fencing Hall of Fame, having earlier been named Fencing Coach of the Year by the National Fencing Coaches Association.

As a coach for 45 years, Coach Schmitter has contributed immeasurably to the lives of the hundreds of athletes he trained and to the entire Michigan State community. I join with his many students, friends, and colleagues in extending my thanks for his service and my best wishes on the occasion of his retirement.●

TRICENTENNIAL OF GERMAN SETTLEMENT IN AMERICA COMMEMORATED

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. DYMALLY. Mr. Speaker, I am pleased to bring to the attention of my colleagues that today marks the tricentennial anniversary of German settlement in America. To commemorate this occasion, Germany and the United States have issued jointly a commemorative stamp. On the occasion of the issuance of the stamp, His Excellency the Ambassador of the Federal Republic of Germany, Dr. Peter Hermes made the following remarks:

> Today we witness the presentation of the Stamp dedicated to the commemoration of the German-American tricentennial. The design shows the "Concord," a sailing ship which carried those thirteen families from Krefeld, Germany over to the shores of Pennsylvania. Her sails are all set and full-blown. She was a sturdy ship, as we can see, solid as the German-American friendship which shall carry us into the Future.
>
> Today, the descendants of those immigrants and the seven million that were to follow form the largest single ethnic group in America. Their number is 60 millions. Not all of the German immigrants have set to sea with "fair winds and following seas." In fact, many chose or were forced to leave a continent plagued by wars, political turmoil, crises and oppression. They found a home, freedom and opportunity this side of the Atlantic. They have been absorbed into the mainstream of American social fabric and life. Today they are Americans. But what makes it so encouraging for all of us is that those Americans still remember their European roots. This awareness creates a transatlantic dimension which comes from the heart.
>
> Just like the ship we see here and like many others that sailed from Europe bringing immigrants over to America our friendship sailed through rougher seas and smoother waters. As President Reagan said in his proclamation regarding the tricentennial anniversary: "Despite the legacy of two world wars which found us on opposing sides, West Germany and the United States have forged an exceptionally close relationship during the past three decades. The success of the Marshall Plan, the Berlin airlift, and the ensuing NATO partnership have led to a recognition of our common democratic ideals and joint interest in Western economic and political strength."
>
> This stamp then will be a messenger. It will carry these historic facts to all corners of the world. Let it be known everywhere that by commemorating this tricentennial, American and Germans pay tribute to their common culture, to shared values, traditions and aspirations.●

INTERNATIONAL EDUCATION AND NATIONAL SECURITY

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. PANETTA. Mr. Speaker, I have always felt that knowledge of foreign languages is as vital to our national security as the development of new weapons or the training of our servicemen. Adm. Bobby Inman, a former Deputy Director of the CIA with a lifetime's experience in intelligence work, shares this view, declaring in 1981 hearings that "The importance of adequate foreign language capability in the intelligence community cannot be overstated. . . . The foreign language capability of our country is poor and getting worse." This concern was reiterated in the final report of the President's Commission on Foreign Language and International Studies, which noted a "serious deterioration in this country's language and research capacity, at a time when an increasingly hazardous international military, political, and economic environment is making unprecedented demands on America's resources."

This concern has already been acted on by my colleagues in the Congress. The Department of Defense, under instructions contained in the 1983 defense authorization, is currently preparing a report on the need for study and understanding of foreign languages and nations. But our efforts have been hampered by the current administration, which has persisted in attacking the international education programs authorized under the Higher Education Act and the Fulbright-Hays Act. These programs were funded at $26 million in 1983—rejecting the administration's proposed 57 percent cut from 1982—but for 1984, the administration has requested that they be zeroed out entirely.

I would like to advise my colleagues today that support for these programs has come from an unexpected source: Defense Secretary Caspar Weinberger. In a March 11 letter to Secretary of Education Terrel Bell, Secretary Weinberger expressed his serious concern, shared by "distinguished leaders in . . . the defense and academic communities," over the proposed elimination of the international education programs. In fact, the Secretary concluded his letter by urging Secretary Bell "to consider restoring, and if possible, increasing" funding for these programs.

To note one example of the dangerous imbalance which faces us: There are currently more teachers of English in the Soviet Union than there are students of Russian in the United States. In view of the almost inconceivable stakes involved in our relations with the Soviets, I believe it is both foolish and foolhardy to tolerate this situation. Yet as Secretary Weinberger's letter notes, the zeroing-out of the international education programs would eliminate funding for 90 foreign language and area studies resource centers, 14 of which focus on the Soviet Union and Eastern Europe. Despite its concern over the state of our national security—a concern which I believe is justified, and which is shared by all of us—the administration is asking us to abandon what meager efforts we are making to better understand our most important adversary. Frankly, if our own Secretary of Defense questions the wisdom of this course, we should certainly think twice about pursuing it—and, I believe, should seriously consider increasing funding for these vital programs.

Mr. Speaker, I would like to insert Secretary Weinberger's letter in the RECORD for my colleagues' reference, and I hope it will help enlighten them as to the importance of international studies—not only for our children's education, but for our defense and for our Nation's security.

THE SECRETARY OF DEFENSE,
Washington, D.C., March 11, 1983.

Hon. T. H. BELL,
Secretary of Education,
Washington, D.C.

DEAR TED: I recently learned that the proposed 1984 budget for "International Education and Foreign Language Studies," (Title VI of the Higher Education Act of 1980 as amended and Sec. 102(b)(6) of the Fulbright-Hays Act), has been reduced from its 1983 level of $26 million to zero.

I am seriously concerned about the zero-funding of this program, and would urge you to consider restoring these funds at least to the 1983 level. My concern is shared by other officials within the Department of Defense, and members of the academic community on whom we depend for both a solid research base in area studies, as well as for production of foreign language specialists.

The erosion of our national expertise in foreign languages and area studies is also of concern to House and Senate Armed Services Committees. The Conference Report accompanying the Department of Defense Authorization Act of 1983 requires Defense to undertake an assessment of the need for "a national research resource base which promotes the study and understanding of foreign languages and nations, in particular, the Soviet Union. . . ."

We are now in the process of conducting this study as required by the conferees, and expect to have a report of our findings and recommendations available within a year. We will be happy to keep you or your staff informed of our progress. Working with us on this project is a group of distinguished leaders in this area, drawn equally from the defense and academic communities. It was the consensus of this group that the elimination of funds for International Education and Foreign Language Studies will seriously impair the nation's ability to maintain even a modest program in this area. I understand that this cut eliminates funding for the nation's 90 Foreign Language and Area Studies Resource Centers, 14 of which focus on the Soviet Union and Eastern Europe; 700 fellowships for students to pursue advanced degrees; the nation's entire research program devoted to developing teaching materials for 170 different foreign languages; and funding for four Fulbright-Hays programs that in the past have annually supported more than 1,000 scholars, teachers, and prospective teachers in foreign languages and area studies.

Consequently, I would urge you to consider restoring, and if possible, increasing the funds for International Education and Foreign Language Studies.

Sincerely,

CASPAR WEINBERGER.●

WESLEY VILLAGE—NATIONAL OLDER AMERICANS MONTH

HON. FRANK HARRISON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. HARRISON. Mr. Speaker, nonprofit facilities for the aging in Pennsylvania are providing skilled and compassionate care for older Americans. Through this care they recognize the dignity and intrinsic worth of these older Americans and provide community support for the aging through their facilities.

It is fitting and appropriate, therefore, Mr. Speaker, that during the month of May, which has been designated as "National Older Americans Month," we recognize and pay tribute to the services rendered by these nonprofit facilities.

In particular, Mr. Speaker, I want to recognize and pay tribute to the Wesley Village, located in Luzerne County, Pa., for the excellent, caring, and compassionate service which it has rendered so many people in the few years since it has been established.

I think it is particularly appropriate that we acknowledge Wesley Village and its counterpart nonprofit facilities during the week of May 8 through 14, which has been proclaimed as "Homes for the Aged Week" in many of the municipalities throughout the 11th District of Pennsylvania.

It is an honor for me, Mr. Speaker, to join with the many municipalities in my district in recognizing Homes for the Aged Week and in wishing to Wesley Village and its counterpart facilities many, many more years of good fortune in the service of mankind.●

CUBAN POET ARMANDO VALLADARES

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. BARNES. Mr. Speaker, I submit for the RECORD an article that appeared in the February edition of Matchbox on the release of Armando Valladares from a Cuban prison. Matchbox is a monthly publication by Amnesty International U.S.A. which describes the plight of political prisoners throughout the world.

On a number of occasions I wrote to Cuban authorities on Mr. Valladares' behalf. After more than 22 years in prison, Mr. Valladares was released last October. The article which I am submitting for the RECORD includes examples of Mr. Valladares poetry and recounts some of his experiences in prison.

The article follows:

CUBAN POET FREED AFTER 22 YEARS

(Cuban poet Armando F. Valladares Perez was released from prison last October after serving more than 21 years of a 30-year sentence. He had been adopted as a prisoner of conscience by Amnesty International and was the focus of a special worldwide appeal in June 1980.)

(By Emilie Trautmann)

"Man is a marvel of nature. To torture him, to destroy him, to murder him for his ideas must be, more than a violation of human rights, a crime against all humanity," wrote Armando Valladares from his Cuban prison cell. He was arrested in 1960 at age 23, when he was a minor bureaucrat in the Cuban Communications Ministry. Last October, at age 45, he was released.

During his 22 years of imprisonment, which began the year before Amnesty International was founded, Valladares' impassioned pleas were heard worldwide through smuggled poetry and prose. From cell after cell, he called for freedom to say what he thought, to practice his religion, and to live without bars and armed guards. His messages had much in common with the messages written by AI volunteers, for 21 years now, to government and prison authorities.

Despite torture, solitary confinement, and other punishment intended to silence him, Valladares continued to write. In a poem entitled "The Best Ink," he wrote: "They have taken everything away from me/pens/pencils/ink/because they do not want me to write/ . . . but I still have life's ink/my own blood/and with it I can still write poems." With ink more easily procured, AI group members also continued to write. They called for the release of Valladares, their adopted Prisoner of Conscience.

In 1975, after 15 years of imprisonment, Valladares wrote, "The first word of encouragement from the outside world has come to me from members of Amnesty International. But we are already physically wasted, nearly ghosts." Yet "ghosts" with hope speak, as Valladares has so eloquently done.

The story of Valladares' arrest—specific names, places and ideologies notwithstanding—is not a new one to AI members. When Fidel Castro came to power in Cuba in 1959, Valladares was investigated by a revolutionary commission and given a low-level job in the Communications Ministry. A year later he was arrested. During a recent visit to the US from his Paris home-in-exile, he explained that "in my workplace, in assemblies, I had spoken out against communism. I refused to join the militia. I wouldn't put on a uniform. I'm not a criminal or a terrorist. I was never involved in violence."

Three months and two 15-minute interviews after his arrest, he was convicted of "conspiratorial and terrorist acts." No evidence of his possessing firearms or subversive literature was produced, and no witnesses spoke against him. Government officials claimed that he was "a potential enemy of the state," Valladares said.

He was given a 30-year sentence. After serving half of that term, he wrote: "Fifteen years ago today/they surrounded me with fences,/bayonets and locks./They forbad me/time and space/light/sun/air./...Today/in the darkest corner/of my fifteen years of isolation/I close my eyes/and then I have sun."

The same year a letter from Valladares reached AI. "Friends," he wrote, "I have received several Christmas messages from members and delegations of Amnesty International. They have deeply moved me. I shall never forget them. I will always remember such an attention, such consideration, such a demonstration of human solidarity. I am grateful for your words of encouragement, but my chances to be freed, in spite of my being seriously ill, are so remote that actually I believe it impossible."

Further on in the letter he explained the reason for believing that he will not be released: "I will not renounce the beliefs of which I am proud and which define me as a person." After his release, he said that his beliefs had sustained him throughout the 22-year ordeal.

In his poetry, Valladares frames descriptions of appalling prison conditions with images of intensely personal suffering. Concurrently, he anchors individual pain in a structure of systematic repression. After witnessing a massacre in the Boniato prison in 1975, he wrote: "The prisoners were taken out one by one/kicked and shoved by rifle butts/beaten like animals/ . . . Everything was done with perfect order/the dead were perfectly murdered/the wounded were perfectly wounded/the heads were perfectly broken."

The year before he wrote these verses, he had passively resisted a prison authority order that political prisoners wear the uniforms of common criminals. He had also refused to take part in a "prisoner rehabilitation" program. In reprisal, authorities deprived him of food for more than 40 days, after which he was unable to walk because of a progressive muscular atrophy known as polineuropathy. The dutch section of AI sent him a wheelchair, which prison officials at first refused to let him use. His first collection of poems, published in the U.S. in

1976, is entitled "From My Wheelchair." In one poem he writes, "My wheelchair will be a winged dream/ without the alienating obsession of the prison bars."

Much of his poetry was smuggled to his wife, Marta. He had met her in 1961 while she was visiting her father, who was also a political prisoner. They were married in a 15-minute prison ceremony eight years later. When Valladares refused to be "rehabilitated" in 1970, he was denied visitors. Marta left Cuba two years later, and since that time, she has worked to bring her husband's plight and words to world attention.

In addition to letters and poetry, she once received a Valentine card which Valladares had made from a matchbox. A released inmate had managed to carry the matchbox card out of the prison. The message inside the box was *te amo* (I love you).

In 1979, other members of Valladares' family received the documents necessary to leave Cuba. But as they packed and made other preparations to leave, government officials told them that their departure had been forbidden. Valladares later concluded that the publication of the French edition of "From My Wheelchair" precipitated the departure prohibition.

In a letter received by the international writers' association PEN, Valladares explained, "A high official of the political police has notified me that my family's departure from the country is entirely in my hands; that for it to happen I have to draft a letter denying my friends among intellectuals and poets abroad; that I have to forbid everyone, including newspapers or organizations, to speak or write about me and my literary works and even mention my name; and that I must disavow and deny every truth they have spoken in defending my situation. To write that letter would be to commit moral and spiritual suicide. I shall never write it!"

Later he wrote, "My situation is difficult, but I am not afraid for myself. I am an idealist. Death, for me, is not the end. It is the beginning of true life. I am afraid for my family."

Valladares also expressed fear for other prisoners. During the testimony before the US House Subcommittee on Inter-American Affairs last December, he described some of the people he met while in prison. One, a 12-year-old boy, had grabbed a pistol from the seat of an unlocked car belonging to a major of the Cuban Ministry of the Interior. The boy was sentenced to six years' imprisonment and "rehabilitation" for the crime. He was incarcerated with common criminals, raped by four men, and then confined to a section reserved for homosexuals.

Valladares also spoke to the Subcommittee about religious persecution. "If someone is caught with a Bible in prison, he is punished harder than if he had been caught with a weapon," Valladares said.

Punishment also consistently followed publication abroad of Valladares' writing. In 1979, probably because of international pressure, he was transferred to a hospital for the therapy needed to restore use of his legs. But with the appearance of his second book of poetry, "The Heart with which I Live," he was sent back to prison and held incommunicado while the therapy was successfully completed.

Last October he was suddenly transferred to the Cuban security police headquarters. He remained there for a week before being taken under heavy guard, to a Soviet jet bound for Madrid. "They didn't even let me see my family before I boarded the plane," he said. In Madrid, he boarded a French government jet which took him to Paris.

Repeated pressure on the Castro government had culminated in an appeal made on Valladares' behalf by the Spanish writer Fernando Arrabal to French President Mitterrand. Regis Debray, Mitterrand's adviser on Third World affairs, passed on the appeal to Castro. Eighteen months later, with full use of his legs restored, Valladares was released.

Miguel Sales, who met Valladares—first while they were both imprisoned and then shortly after Valladares' release, wrote in an article appearing in The Miami Herald, "If a lesson can be obtained from Armando Valladares' case, it is that keeping silent about what goes on in Cuban jails only benefits Castro." The names of the prisoner, place, and government authority may change, but the message remains the same.

The Best Ink

They have taken everything away from me
pens
pencils
ink
because they do not want me to write
and they have buried me
in this punishment cell
but they will not stifle
my rebellion
this way
They have taken everything away from me
Well, almost everything—
for I still have my smile
my pride in feeling a free man
and in my soul a garden
of small, undying flowers
They do not want me to write
They took away the pens
the pencils
but I still have life's ink
my own blood
and with it I can still write poems.

And My Bars Flower

(To my unforgettable wife)

Fifteen years ago today
they surrounded me with fences,
bayonets and locks.
They forbad me
time and space
light
sun
air.
For fifteen years
rifle butts and boots
have been memorizing my body
and the deranging spectrum
of psychological tortures
has been terrifying every cell
of my brain.
Today
in the darkest corner
of my fifteen years of isolation
I close my eyes
and then I have sun
and happiness and love
and my bars flower with tenderness
because I have you.●

DEFICIT SPENDING AND THE 98TH CONGRESS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. HUBBARD. Mr. Speaker, I have received an excellent letter from one of my constituents, Dr. Robert L. Hoffman, of Madisonville, Ky., that I believe my colleagues will find interesting. Dr. Hoffman indicates his interest in congressional efforts to lower our Federal deficit and the necessity to keep our economy moving forward. Selected excerpts of his letter to me follow:

MADISONVILLE, KY.

Hon. CARROLL HUBBARD, Jr.,
Washington, D.C.

DEAR SIR: I am in favor of a balanced budget. It is time for our elected representatives to have the courage to come out and tell people that one receives little for nothing and that the nation can no longer spend at the present rate without increasing the tax burden. I would like to see the budget brought under control now—not ten years from now.

I would also like to think that our representatives had the best interest of the nation in mind rather than reacting to each issue on the basis of political expediency.

Sincerely,

Dr. ROBERT L. HOFFMAN.●

ENCOURAGING NEWS FOR DULLES AIRPORT

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. WOLF. Mr. Speaker, I want to share with my colleagues some encouraging news about the growth of Dulles International Airport as reported in the Monday, May 2, 1983, Journal newspaper.

The article follows:

[From the Journal, May 2, 1983]

Five Airlines To Increase Flights at Dulles Airport

(By Jim Wolffe)

In the past two weeks, five airlines have announced plans to beef up their service at Dulles International Airport.

No new cities have been added to the list of those served from Dulles, according to officials at the Washington Dulles Task Force, but service to several cities will be improved.

On April 24, American Airlines added a sixth non-stop, round trip flight to Dallas/Fort Worth International Airport, the airline's hub. From Dallas, American serves numerous in the west, Mexico, the Caribbean and South America. Rio de Janiero is a new destination for American.

On Sunday, Continental Airlines added a third daily non-stop flight between Dulles and Houston. This will be the only non-stop morning service from Houston to the metropolitan Washington area. Continental also flies non-stop from Dulles to Denver, Philadelphia and Baltimore.

And beginning June 1, Continental will substitute two larger DC-10 aircraft on their Denver and Houston routes, effectively doubling their capacity on these flights.

Western Airlines will add a third non-stop flight between Dulles and Salt Lake City, its western hub. The westbound flight will serve Salt Lake City, Los Angeles and on to Honolulu. The eastbound flight will continue on to John F. Kennedy Airport in New York City, from Dulles.

"These additions of service to these major carriers' hubs increase the availability for the Washington-area traveler to use quick non-stop flights and to make convenient connections to virtually unlimited destinations," said Carrington Williams, chairman of the task force.

Transatlantic service at Dulles also is improving. On April 24, Pan American began serving Brussels, Begium, and Stuttgart, Germany, with same-plane connections on existing Dulles-London service.

Trans World Airlines has renewed its seasonal Paris service out of Dulles. TWA cancels the service every year during the winter and restarts the flights, using L1011 service, on April 24.

British Airways has changed the times for its Concorde Supersonic Transport service, departing Dulles at 10:15 a.m. The earlier schedule allows Washington-area travelers to make same-day connections to Europe, the Middle East and Africa.

"The major carriers are responding to the demand for additional service at Washington Dulles," said Williams. "Public awareness of Dulles' service is growing. Monthly domestic passenger traffic has risen by an average of 26 percent since May 1982," Williams said.●

ARMAGEDDON: THE STAGE IS NOW SET

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. OTTINGER. Mr. Speaker, I rise today to call to the attention of my colleagues an article that appeared in my hometown newspaper, the Mamaroneck Daily Times, by David Carsen. Mr. Carsen, a resident of Mamaroneck, N.Y., was an engineer on the Manhattan project in Oak Ridge, Tenn., from 1943 to 1945.

Mr. Carsen's article correctly outlines the danger of the Reagan administration's defense policy—indeed, the stage is now set for Armageddon. This administration has abandoned the policies of every administration since the advent of nuclear weaponry. We now hear talk of fighting a protracted nuclear war, reversing the standing policies of mutual-assured destruction, and planning first-strike strategies. These policies are insane and they are dangerous. The windows of vulnerability that the President speaks of simply do not exist; both the United States and the Soviet Union have in their possession the capability to destroy the world many times over. Yet, the President continues to insist that billions of dollars be spent on nuclear weapons that succeed in only destabilizing the situation between the East and West and further escalating the arms race.

I commend Mr. Carsen for his valuable insight and recommend this sensible essay to all my distinguished colleagues:

[From the Gannett Westchester Newspapers, Apr. 26, 1982]

ARMAGEDDON: STAGE IS NOW SET

(By David Carsen)

It is impossible for any rational person to accept the thought that the world could be ended; that the human race, as we know it, could die in an act of mass suicide and murder. There are no words in the English language to describe the level of lunacy that the political and military leaders of the United States and Soviet Union have attained in their useless attempt to outwit each other in the name of the protection from the power of the atom.

Present plans call for the deployment of new, high speed and very accurate missiles in Western Europe this winter. While the Christian world will be celebrating the birth of Christ this Christmas, the curtain of darkness will be lowering in Europe on the launching platforms of the Pershing 2 ballistic missiles, the ground and sea-launched cruise missiles and the ICBM SS-17s, SS-18s, SS-19s and SS-20s.

For more than three decades the doctrines of mutual assured destruction (for which the acronym MAD is so appropriate) and no first-strike capability have maintained a balance of terror that has kept the peace. Under President Reagan, this policy is undergoing a reversal.

In the name of preserving deterrence, he has started a new round of proliferation. But this time the missiles do have a first-strike capability. Compounding this danger, instructions were given to the Department of Defense to "prepare to fight a protracted nuclear war with the Soviet Union."

In order to sell this policy to a worried and fearful public, "windows of vulnerability" were suddenly found in every wall of the nuclear defense structure. In very short order, the possibility of a future conflict became immediate and moved to the highest level of political and military priority.

There can be no question that the Soviet counterparts of our decision makers have done nothing to halt this program of protection unto death. Their paranoia is partly inherent in their dictatorial political structure, but there is another factor. They live with the knowledge of what happened to them in World War II: 20 million dead; 15 major cities and 70,000 villages destroyed; millions of buildings and thousands of industrial plants demolished. It was a devastation far beyond anything that happened to any other combatant in the war. Even Japan, left with two atom-bombed cities that were totally destroyed (Hiroshima and Nagasaki), didn't begin to approach this level of ruin.

This, then, is the world we live in. At a time when the military-industrial complex is the single most powerful entity in the United States and the Soviet Union, political leaders who know that peace is the only alternative are desperately needed. They must be people who see human well-being as the only goal, thus enabling them to cope more rationally with international and societal antagonisms. Reactionaries and ideologues cannot. They get lost in their own spittle and lose sight of the human condition. Tragically, we are led today in the United States and the Soviet Union by reactionaries and ideologues.

As a result, both peoples are fed a constant stream of invective, rather than facts, balanced by honest judgments.

President Reagan tries to convince the American people that a surprise Soviet attack against the entire Western world is a serious possibility. The more convincing he becomes, the more the Soviet leaders enter his conspirational world and strengthen this self-fulfilling prophecy.

Conversely, the Russian people have been led to believe that a surprise attack by the United States is being planned, if not imminent. Yet the simple, stark truth is that there is one common bond that supersedes all others: survival.

Most Americans know that our nuclear arsenal has "overkill" capabilities. But there is little specific knowledge beyond that general understanding. In order to establish an accurate image, let us use a simple mathematical procedure. If we were to assign the unit of "1 Hiroshima" to the 15 kiloton bomb that destroyed that city, then any multiple thereof can be easily described.

A detailed geographical analysis shows that European and Asiatic Russia has 15 major population centers with cities of over 1 million people and 259 cities with more than 100,000 people each. Using one nuclear submarine to measure the destructive force needed, it can then be determined what is required to destroy most, if not all, of Russia.

One Poseidon sub carries 16 Trident I missiles.

One missile is armed with 10 nuclear warheads, that can be individually targeted.

One warhead has a 50 kiloton yield equivalent to 3 Hiroshimas.

Therefore, one Poseidon submarine equates to 160 missiles, or 480 Hiroshimas, enough to destroy more than half of all Russian cities. The United States has 31 such subs (of which 20 are under constant patrol), giving us a fleet strength of 14,880 Hiroshimas.

In addition, the British have four Polaris subs with a fleet strength of 2,500 Hiroshimas. The figures for the French nuclear submarines are not readily available, but we can assume they approximate the British.

Since only three Poseidon submarines can destroy the Soviet Union beyond human use and repair, why in the name of anything rational do we need 12 new Trident II subs to become operational in 1990? Incidentally, the nuclear missiles carried by these new submarines will be equal to 18,000 Hiroshimas, or the equivalent of the entire existing NATO fleet.

All told, between nuclear submarines, long-range bombers, ICBMs and thousand of smaller "theater" and "battlefield" warheads, the total destructive force, at the ready, is one million Hiroshimas. Since this total is almost equally divided between NATO forces and the Soviet Union, the hope for the continuum of life hangs by a very fragile thread.

Military analysts have estimated that a total of 5 million tons of explosives were used in World War II. In our nuclear math this would be equal to 5,000 kilotons, or 350 Hiroshimas, a minute part of the destrutive capability available today. Certainly the gods of war should be eminently satisfied with this amount of "overkill" and we should stop paying them homage.

At this point, one can only ask what are we buying with our billions of dollars that are steadily impoverishing us all? The scenario is clear for those who care to see it. We are buying time to hit them, if they hit us first (or vice-versa). How much time? Possibly seconds, but probably not more than 15 minutes. It is difficult to believe that our military leaders are convinced that they are actually buying us protection. They must know that they are only buying minutes to the tune of billions of dollars per minute. In the entire 5,000 years of the history of arms and the man, there has never been an expenditure of wealth for so little real protection.

The introduction of the Pershing 2 and cruise missiles to counter the Soviet's SS-20s, changes the illusion that man is still in control. The speed and accuracy of these missiles is so great that there is only a 6 to 8 minute flight path to the heart of Russia. There will be no time for them to manually counter this attack. A computerized signal switch that would be part of a "launch on warning" system would have to take over automatically and dispatch returning missiles as soon as radar (or any alternate early warning system) detected incoming missiles. This of course, will only increase the risk of mechanical, electrical or instrumental malfunctions leading to a nuclear exchange.

The stage is now set for Armageddon. At first the living will kill the living in the first strike. Then the "launch on warning" system will trigger the return and kill the living. As the frenzy grows, the previously programmed machines will take over and the dead will kill the living—or the few that are left.●

ARNOLD CHAMBER CITES DISTINGUISHED CITIZENS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. GAYDOS. Mr. Speaker, on Sunday, May 15, 1983, the Arnold Chamber of Commerce, one of the most active organizations in southwest Pennsylvania, once again will honor a group of distinguished citizens for their service to the community.

The occasion will be the chamber's 18th annual past presidents testimonial dinner and the principal honoree will be Mr. Frank M. Tosto, who has just completed his term as the top official in the organization.

Mr. Tosto was singled out for special recognition in view of his outstanding leadership in the chamber and his achievements as director of the community development program for the city of Arnold.

Eight other individuals also will be honored for their contributions in their respective fields. They include:

Merchants Award—Anthony Capo of Automatic Heating & Supply Co.

Communications Award—Monica Matviko of KDKA-TV.

Humanitarian Award—Rev. Emil Lavcek, pastor of the John Huss Lutheran Church.

Professional Award for Community Service—Arnold Volunteer Ambulance Service.

Professional Award in the Practice of General Medicine—Dr. Manmohan S. Luthra and Dr. Damyanti N. Luthra of Luthra Medical Associates, Inc.

Professional Award in the Practice of General Surgery—Dr. Mario Mazziotti.

Professional Award in the Practice of Cosmetic and Family Dentistry—Dr. Sam Lanzino.

Mr. Speaker, the Arnold Chamber of Commerce has worked closely with local, State, and Federal officials to provide for the citizens of their community improved public facilities, housing schools and health care. It intends to continue its efforts in the development of industrial parks, the promotion of better transit facilities, and the attraction of new businesses.

The continuation of those projects now rests with the new officers of the chamber: Louis H. Ceraso, president; John Tedorski, executive vice president; Frank Ziccarelli, vice president; Domenic A. Saulle, secretary, and M. A. Frabotta, treasurer.

I consider it a privilege, Mr. Speaker, to formally recognize these gentlemen and on behalf of my colleagues in the Congress of the United States to extend to the Arnold Chamber of Commerce our sincerest wishes for continued success in improving the lives of their fellow citizens.●

U.S. FISH AND WILDLIFE FOUNDATION

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. AuCOIN. Mr. Speaker, I rise today in support of the bill sponsored by our colleague from Louisiana, the Honorable John Breaux. The bill establishes a U.S. Fish and Wildlife Foundation for the purposes of promoting fish and wildlife conservation. This Foundation would aid such fish and wildlife programs as hunter education, ethics, and safety and recovery of endangered species. This bill has broad, bipartisan support and has been warmly endorsed by the Interior Department.

All of us owe a debt of gratitude to Ted and Francoise Gianoutsos, the guiding lights behind this legislation. It is through their generosity and patriotism that a Fish and Wildlife Foundation is possible.

I hope my colleagues will join Mr. Breaux, myself, and others in supporting this very worthwhile legislation.●

RLS: A MODEL PROGRAM

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. WORTLEY. Mr. Speaker, there is an organization based in Syracuse, N.Y., that has provided a most valuable service since its start in 1974. The story of the Regional Learning Service is one worth telling because it is relevant everywhere.

Recognizing the increasing desire among adults of all ages for more education and more satisfying careers, RLS was created to help individuals become what they are capable of becoming. It provides adults with information and counseling for their educational and occupational planning.

The Regional Learning Service is neither an educational institution nor an employment office. Rather, it serves as a go-between, filling the gap between the numerous learning resources and potential users. Through a combination of counseling, facilitating, and assessing functions, RLS links the growing number of adult learners with the growing number of learning opportunities.

Many RLS users are women who want to return to school, return to work or—of necessity—enter the world of paid work for the first time. Some are young people who have been drifting from one thing to another and are seeking a sense of direction. Some are clerical or blue-collar workers who want more education in order to advance themselves on the job. There are midcareer professionals who are ready for a change, laid-off workers and persons on welfare who want to get off of it. There are also men and women who want to take a course or learn a new skill for the sheer joy of it.

An especially noteworthy aspect of the program is the fact that RLS is a not-for-profit entity funded mostly by the private sector. It is shining example of a private group shouldering more of the responsibility for citizens who seek assistance. Under the capable guidance and dedication of Jean B. Kordalewski, RLS executive director, a program has evolved that is short on bureaucracy but long on helping people.

As the economy of the United States continues to undergo fundamental change, away from the smokestack industries and toward the service and information processing sectors, programs like the Regional Learning Service are going to be increasingly needed. Persons interested in setting up a program that offers opportunity need only look to the Regional Learning Service as a model. In the last 8 years, more than 32,000 people have been served well by it.●

BROADCAST REFORM LEGISLATION

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. LUKEN. Mr. Speaker, today I am introducing, along with my colleague from Ohio, Mr. OXLEY, a bill that passed the Senate in each of the last two Congresses with strong bipartisan support. This bill amends the Communications Act of 1934 to reform and deregulate parts of the commercial broadcast industry. The only difference between this bill and the Senate passed bill is my decision not to include the fee for regulation schedule the Senate had incorporated.

I believe that the time has come for the Congress, in particular the House to address the question of broadcast reform proposals. For too long a comprehensive approach has been left without action while the world around us has changed dramatically. Today broadcasters, and here we are talking about commercial television broadcasters, are faced with a whole series of competitive ventures, some using the latest technologies, many if not available now will be in a few short years. Yet due to congressional inaction, broadcasters are tied to rules and regulations promulgated under a 1934 act. The availability of cable television, subscription television, video cassette recorders, and in the future direct broadcast satellites all have expanded the potential and consumption of video programing.

It is my opinion that today no one would argue over the need to codify radio deregulation proposals that the FCC finalized action on slightly more than 1 year ago. The remaining question deals with the level of deregulation for commercial television. My approach is fairly modest. It removes the dual track license renewal approach and removes the licensee from having to deal with promises versus performance standard. Under current law, anyone can file a competing claim for a license at the time of renewal, and the FCC is forced to compare the two. This becomes a long drawn out and costly process for the broadcaster who is responsible and sensitive to his or her service area. By eliminating the comparative renewal procedure we do not remove the responsibility the broadcaster has to his or her service area, the broadcaster still must serve the public interest.

This should be a noncontroversial proposal. During the 96th Congress, the Energy and Commerce Committee, then the Interstate and Foreign Commerce Committee approved legislative language mandating elimination of comparative renewals. As I mentioned earlier, the Senate on at least two occasions has supported both deregulation of radio and elimination of comparative renewals. There does not appear to be any substantive reason for failure to enact this legislation. I would urge all of my colleagues to join with me in working for passage of this important proposal. The advent of new technologies and the growth of the video marketplace point to the need for passage of this bill.●

U.S. CITIZENSHIP FOR SOVIET ATHLETE

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. WAXMAN. Mr. Speaker, today I am introducing legislation that would allow Marina Kunyavsky to become a U.S. citizen.

My view has always been that private immigration bills should only be a remedy if no other alternative exists and there is an extraordinary justification for speedy action. Marina Kunyavsky presents such a case.

Marina is a 17-year-old Russian immigrant who has lived in the United States for almost 2 years. She is a gifted athlete. While in the Soviet Union she toured with the U.S.S.R. National Rhythmic Gymnastics Team. During the last 2 years she has further developed her skills, and is now one of the world's premier rhythmic gymnasts.

Although rhythmic gymnastics has been an international athletic event for over 20 years, it was not until 1980 that it became part of Olympic competition. It is a beautiful and demanding event that requires agility, balance, and grace.

Marina's rhythmic gymnastic skills are worthy of a place on our Nation's 1984 Olympic Team. But, as one of her coaches has pointed out to me, unless she is a citizen of the United States, "she cannot participate in any of the national and international competitions which are conducted according to the International Olympic Committee Rules (IOC)." In short, Marina must be an American citizen to compete on behalf of the United States in the 1984 competition. If she is granted citizenship, she is virtually certain to be named to our team and the chances are excellent that she will be competing against Soviet athletes, giving her an added incentive to win for the United States, the Nation that is offering her a new life.

We all know the 1984 Summer Olympics are still more than 1 year away. But the qualifying meets will be completed within the next 6 months. Marina's opportunity to compete on behalf of the United States hinges upon our approval of a private bill.

Roger Counsil, the executive director of the U.S. Gymnastics Federation, has urged me to become involved as an expression of support for American Olympic efforts. I think Mr. Counsil is right; certainly this situation extends to our support for America's Olympic Team. But there is something more. We have the ability to open an opportunity that is presently closed through political constraints. I hope my colleagues will join me in this effort.

The text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Marina Kunyavsky shall be held and considered to have satisfied the requirements of section 316 of the Immigration and Nationality Act relating to required periods of residence and physical presence within the United States and, notwithstanding the provisions of section 310(d) of that Act, may be naturalized at any time after the date of enactment of this Act if otherwise eligible for naturalization under the Immigration and Nationality Act.●

MILK, COOKIES, AND NUCLEAR WAR

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. STUDDS. Mr. Speaker, we who have chosen for one reason or another to spend a large part of our time in Washington, D.C., arguing about the details of public policy on issues great and small need to be reminded occasionally of how these issues—and we ourselves—appear to others.

The issue of nuclear war is the single greatest problem of this or any other period of human history. On the floor of the House of Representatives in recent weeks, we have seen how even an issue of this magnitude can be robbed of meaning via filibuster, a devotion to minutiae, and the intentional distortion of perspective. The debate on the nuclear freeze resolution has, accordingly, been a disappointment and a frustration to all who care deeply about instituting meaningful and mutual restrictions on the production of nuclear arms.

The following letter from a young schoolgirl in my district illustrates with character and precision the extent to which the debate in Washington has gone astray, and I thought it might be of interest—and instruction—to all Members of the House:

> DEAR MR. STUDDS: Wait! I want you to read this! Please don't give this to your secretary!
>
> Yes, my letter is one of thousands of letters you get on the issue of Nuclear War. In my past I learned not to argue with grown-ups, they have their own ideas, and views of life. But just listen to me, I have one simple question:
>
> Why?
>
> Why, do all of us children have to die because of the problem with Russia? Why, do all us children have to live in mortal fear? Will there be a tomorrow?
>
> Sometimes I think children should rule the world! We don't try to make one country think we're better than them! Why don't you and Mr. Reagan go over to Russia and just talk it over milk and cookies?

Last night I saw a T.V. show on Nuclear War. It was gross! Dead bodies were everywhere! Please don't let that happen to us! We didn't make up nuclear power.

Stop this madness before it's too late! Stop this insanity before all the helpless children and animals die!

DARIA WALLS.●

NATIONAL VOLUNTEER WEEK

HON. ROBERT LINDSAY THOMAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. THOMAS of Georgia. Mr. Speaker, last year our Nation observed National Volunteer Week in recognition of the nearly 100 million Americans who work to help their fellow citizens in various capacities.

I am very proud of the fact that many residents of the First District of Georgia actively participate in volunteer projects of all kinds. In that connection, I would like to highlight the specific efforts of the Glynn Art Association in Glynn County, Ga. Without objection, I would like the text of a letter from the associate director of the association, Mrs. W. C. Hendrix, to be placed in the RECORD at this point:

GLYNN ART ASSOCIATION,
St. Simons Island, Ga., April 12, 1983.
Representative LINDSAY THOMAS,
427 Cannon Building,
Washington, D.C.

DEAR REPRESENTATIVE THOMAS: April 17th through the 23d is National Volunteer Week, and I am writing to share our pride in what we consider to be unusual volunteer support. We feel that both the numbers of volunteers, as well as total numbers of hours contributed, substantiate the oft-heard statement that volunteers are truly the backbone of American quality of life efforts.

The Glynn Art Association, as providers of multidisciplinary programs, services, and resources both through its facility, the Island Art Center, and the community at large as well, is supported primarily through citizens, business friends, and organizations of our area. While we suffer an increasing critical financial situation due to uncontrollable inflationary expenses of operating a facility, we are wealthy in terms of people support.

In attempting to document volunteer hours, beginning last Fall, and to give special recognition to those individuals who give their most valuable asset, their time, we have compiled a most impressive record of over 100 community individuals with a total of over 6,000 volunteer hours. In view of this incredible support, both the City and County governments have pledged to proclaim the week of April 17th through the 23d as Glynn Art Association/Island Art Center Volunteer Week, indicating that these volunteers are representative of the thousands and thousands of volunteers all over America who are the backbone of the cultural, charitable and humane efforts which help make the good things in life happen.

I thought that you, as the legislative representative for our citizens, would be pleased to know that volunteerism is certainly alive in your areas.

Yours truly,

Mrs. W. C. HENDRIX,
Associate Director.●

PRIVATE BILL FOR PATENT RELIEF

HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. ROSE. Mr. Speaker, today I am introducing a private bill for patent relief in a unique hardship case. It will, in essence, restore 16 years of patent life to a patentholder subjected to a false and grossly misleading licensing test report by a Federal agency, USDA. Evidence for this claim was presented to me in a hearing on animal health I held as chairman of the Subcommittee on Dairy and Poultry of the Agriculture Committee on September 27, 1978.

The subject of the hearing was Impro Products, Inc., a small Iowa firm producing immunocompetent factors in the udders of cows which are then harvested from the milk and used as products in animals and man. It is a therapy that leaves no residue nor side effects. The company followed normal procedures to get its patent and Federal license. The agency, however, conducted a false test and denied their license. The company sought congressional review at our hearing.

As a result of this hearing the patentholder was able to prove there was a falsehood, an ultra vires act, committed by this agency so injurious that a court injunction was issued on September 2, 1982.

The injunction restrains USDA from continuing to release copies of the test report which contained the false and misleading statements. (Pertinent portions of the court decision are enclosed.) It is this report that discouraged use of the patentholder's product as disclosed and claimed in the patent. I might also add that the patentholder's license was canceled based upon the false and misleading information.

It is because of agency action that this patentholder has been prevented from exploiting her patent. USDA's action also provides the appropriate basis for this private relief legislation: that legislative relief is to be used to provide equity for a private party whose interests have been impaired by an act of the United States. Passage of this bill will grant such equity once and for all—no other legislation is needed. There is no cost attached to enactment of this bill.

A basic principal of patent law enables patentholders the exclusive right to make, use and sell their inventions in return for disclosing their inventions and to encourage research. In this case, that right is in immediate danger of being lost forever. Sixteen years of the prescribed 17-year term of patent life have expired along with millions of dollars lost during the struggle for justice. Every avenue of relief has been explored by the patentholder, including congressional review. It was only in the past year that we, too, in Congress discovered we had been furnished the same false information. (See enclosed letters, May 6, 1982, p. 2, par. 1; Sept. 23, 1982, p. 1, par. 2.)

The time period for this bill starts from April 2, 1968, and extends 17 years. This is necessary because USDA's false and misleading report caused this company to have their license to do business interstate terminated, thus denying them the right to freely market within the contract life of its patent.

In many instances, the false report was the basis for adverse action by the States which further deprived the patentholder of use of the patent. USDA also sent a copy or reference to the false and misleading report on the test to anyone inquiring about Impro or its products and routinely distributed the report through the USDA Extension Service offices throughout the United States. Abstracts of the report were published in an international dairy science publication translated into 42 languages and distributed worldwide. Consequently, Impro was specifically denied marketing opportunities in Europe and Japan.

Because this Federal agency has abused their authority and created an effect which has been to deny the useful practice of the patent, I feel it is of significant importance that we join together in support of this bill. It will send a strong, clear message to civil servants and public alike that such conduct will not be tolerated.

We must keep the equity principals of patent law in this country from becoming a mockery. We in Congress are responsible to and for the people we serve. Faulty reporting of research has become a national scandal with some 20 reported cases involving Yale, Harvard, Sloane-Kettering, Philadelphia, et cetera over the past 10 years. USDA's actions not only effectively blocked the use of the company's patent but has cast a cloud over our Beltsville Research Center which conducted the test and issued the false and misleading test report.

For a governmental agency to be found so guilty that injunctive relief is granted immediately is a strong warning from the courts; a warning which we as the voice of the public must act upon to uphold the impartiality and trust of our government and protect the interests and safety of its citizens.

This bill will not open a Pandora's box because this case represents an equitable vacuum for a single patent-holder prevented from practicing its patent.

Finally, this bill is not a class action. It stands as a single case involving agency false reporting of a scientific test. If others in the same class surface as a result of this legislation, it will only serve to highlight a problem this Congress should seriously scrutinize. This bill represents a legitimate, unique problem.

I feel strongly that this wrong must be corrected. It is now in our hands as Members of Congress to see that justice and the lost patent life are finally and conclusively awarded to one whose patent contract with the United States has been deliberately breached by an act of bad faith of the U.S. Department of Agriculture.●

MX AND NATIONAL SECURITY: WHATEVER HAPPENED TO DOUBLE JEOPARDY?

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. MAVROULES. Mr. Speaker, the case against placing the MX missile in existing silos has already been made, the Presidential Commission's endorsement of this questionable deployment scheme notwithstanding.

And the American people have since then been acquitted, freed from a sentence of dread brought on by the enhanced chances of a Soviet, preemptive strike the MX would only foster.

Why then has the case been reopened? Whatever happened to be "window of vulnerability," if not of our own land-based missiles, then the Soviets, who in an effort to protect their own missiles may try to take out ours? Where, indeed, is this Nation's defense against double jeopardy?

Mr. Speaker, I would like to place in the RECORD a paper, published by the Council for a Livable World, entitled "MX Missiles in Minuteman Silos? (or What Administration Officials, Conversative Senators and Others Say about MX in Minuteman Silos)". This paper, which I distributed to every Member of the House last week, provides ample testimony that MX's in Minuteman silos is a losing combination and will in fact undermine our national security.

In today's hair-trigger world, we would do well to consider the arm-race implications of any weapon upon which we vote. Does this weapon accelerate the arms race or is it a stabilizing factor? Under such scrutiny, the MX recommendations of the Scowcroft commission warrant a "no" vote.

The article follows:

In October 1981, President Reagan announced his intention to base between 18 and 100 MX missiles in "superhardened" Titan and Minuteman silos on a temporary basis while proceeding with research on three other basing modes. The plan drew criticism from many quarters. Within months the superhardening plan was junked and the idea of using Titan silos was dropped; by the middle of the following year, the whole plan had been quietly shelved.

On December 2, 1981, the Senate approved by a 90-4 margin an amendment to the fiscal year 1982 Defense Appropriations Bill sponsored by Senators Cohen, Quayle, Mattingly, Rudman and Nunn that redirected the use of MX research and development funds, $354 million, away from the plan of deploying the MX in existing hardened Minuteman and Titan silos toward a more permanent solution. The purpose of the amendment, according to its sponsors, was to "send a strong signal to DOD" that deployment of the MX in Minuteman silos was the "wrong direction to go in."

In March 1982, the Senate Armed Services Committee unanimously refused to approve the first $1.5 billion for MX missile procurement on the grounds that interim deployment in Minuteman silos was unacceptable. The Committee used very strong language to criticize the idea of placing the MX in Minuteman silos. The full Senate went along with that decision without dissent, although a later compromise with the House Armed Services Committee restored the funds.

Below is a series of statements by Reagan Administration officials, conservative Senators and Representatives, ex-government officials and others, who at various times strongly criticized the idea of placing the MX in Minuteman or Titan silos.

These statements should be examined in light of the latest Reagan Administration MX plan—which is in fact a return to the discarded October 1981 proposal for an interim MX deployment in existing silos.

Senator John Tower, November 2, 1981: "By stuffing the MX's into fixed silos, we're creating just so many more sitting ducks for the Russians to shoot at . . . True, the MX missile itself will be more powerful, more accurate—and we need that kind of weapon. But it's of little use to us unless the Soviets are convinced that it can survive an attack. Without that, the Russians will have no incentive to start serious arms-control talks."

Caspar Weinberger, Secretary of Defense, January 6, 1981: "I would feel that simply putting it [the MX] into existing silos would not answer two or three of the concerns that I have: namely, that [the location of] these are well known and are not hardened sufficiently, nor could they be, to be of sufficient strategic value to count as a strategic improvement of our forces."

Senator Henry Jackson, October 5, 1981: "My main criticism—and I criticized the Carter administration—is that in the 1980's Minuteman and Titan are vulnerable in those silos. I think you and others properly have criticized that deployment. Then after 8 months we come back here; we have looked at all these other things supposedly, but it took 8 months to do that, and we end up with what we have now . . . We have given the Soviets a better target to shoot at."

Senate Armed Services Committee report on the FY 1983 Defense Authorization Bill, April 13, 1982: "The planned interim basing of MX does not redress the problem of the vulnerability of the land-based ICBM force . . . The $715 million requested for research and development on interim basing of the MX is denied. No further work is to be undertaken in support of fixed-point silo basing of MX."

Senator William Cohen, December 16, 1982: "The reason Sam Nunn and I proposed our amendment a year ago was that we were frustrated with what we perceived to be an intention to move forward with an interim basing mode—placing the initial missiles in superhardened silos—that was not survivable, but was costly and probably in violation of the terms of SALT I and II. We specified that the MX funds could not be used for that purpose . . ."

Representative Melvin Price, October 6, 1981: "What is to be gained by deploying just 36 MX missiles in existing silos? If 4,600 silos of the MPS mode would be too vulnerable to proliferation of Soviet ICBMs, how are 36 or even 100 MXs in fixed silos to be more survivable? What technical knowledge do we have now as to the feasibility of deep silos basing?"

William Perry, former Undersecretary of Defense, November 13, 1981: "My concern is that if we had this very accurate, very threatening missile in unprotected silos, and if they do not go to a survivable system themselves . . . that simply increases the hair trigger . . . on both sides.

"I agonized over that and said on balance I would not go ahead with that [MX in silos] because I don't believe we will come up with a survivable basing mode that is acceptable.

"Since I am pessimistic that we will get a basing mode that is both survivable and acceptable, I am opposed to putting a weapon that lethal in an unsurvivable mode, for reasons I have described in terms of hair triggering the alert."

Senate Strategic and Theater Nuclear Forces Subcommittee Report on FY83 Defense Authorization Bill, March 24, 1982 (endorsed by Senators Thurmond, Goldwater, Cohen, Quayle, Jackson, Nunn, Hart and Exon): "The number of additional warheads that would survive an attack upon MX missiles so deployed [in Minuteman silos] does not appear to justify the costs—assessed at $2.6 billion over the next five years—associated with this basing scheme.

"The Committee also is concerned that the possibility may exist that strategic deterrence and crisis-stability could be jeopardized, rather than enhanced, by the deployment of high-value, militarily important weapons in so small a number of relatively-easily destroyed shelters."

General Lew Allen, Chief of Staff, U.S. Air Force, January 29, 1981: ". . . an essential feature of the MX deployment is that the basing mode be survivable. One does not obtain that through placing it in Minuteman silos. Therefore, I do not favor such a deployment."

Dr. James P. Wade, Principal Deputy Undersecretary of Defense, October 27, 1981: ". . . if you focus just on the survivability aspect of the value gained by placing the MX in a hardened silo . . . the value is at best marginal."

Harold Brown, former Secretary of Defense, November 13, 1981: "The October 2 decision adopts an admittedly very vulnerable basing system, and indicates an intention to continue to explore other possibilities for some time in the future. . . . There is talk of further hardening of existing silos for a much-truncated MX force, but since the MX will not be available until 1986, that further hardening, if it is at all feasible, will not be available before the Soviets can install a new generation of guidance systems. The Soviets, using technology that they have already developed, will surely be able by that time to improve the accuracy of their ICBMs further, so that in the case of a nuclear war the hardened MX silos will find themselves in the fireball and in the crater left by the nuclear explosion of Soviet warheads; the silos would not survive such an experience.

Senator Sam Nunn, December 2, 1981: "The experts who have testified before the Armed Services Committee, and I am sure other committees have had similar testimony, agree that the Soviets today have the combination of yield and accuracy necessary to overcome the levels of hardness contemplated. The MX simply is not survivable in existing silos, whether they are hardened or unhardened. This fact is confirmed by every expert witness who has testified, and it includes also not only governmental witnesses but also knowledgeable outside witnesses, including the Air Force and our intelligence community."

Representative William Dickinson, October 6, 1981: "From my understanding of the physics of the problem, it is almost impossible to guarantee a respectable level of survivability with missiles encased in a silo of ICBM's. In other words, we are trying to address our so-called window of vulnerability, and I am concerned that we are not closing that window of vulnerability but simply pulling down the shade."

Senator William Cohen, December 2, 1981: "If you believe in the window of vulnerability, then putting those missiles [the MX] in unprotected, immobile silos is a very dangerous move. It's inviting of the very kind of Russian strike that we fear . . .

It also, I think can be agreed upon that the hardening of missile silos, as has been recommended by the administration on an interim basis, does very little to improve missile survivability, and that such hardening does not reduce the threat of nuclear conflict or strengthen nuclear deterrence . . .

I think inherently in any decision about having fixed silos, we must deal with the question as to whether or not, by putting these new, bigger, more destructive missiles in a fixed mode we thereby lower that threshold and make them much more targetable, much more attractive for the Soviets to attack in a moment of strategic error, miscalculation, and madness."

Dr. Richard DeLauer, Undersecretary of Defense for Research and Engineering, March 11, 1982: "The reason that I did not relate interim basing [of the MX missile in Minuteman silos] to the survivability problem is that the resulting survivability will be no better than it is now."

Caspar Weinberger, Secretary of Defense, October 5, 1981: "I don't think they [Minuteman silos] can be hardened enough on a permanent basis to warrant putting [MX missiles] in fixed and known silos. I think they can be hardened enough to give added strength for a few years."

Lt. Gen. Kelly Burke, Deputy Chief of Staff, U.S. Air Force, March 15, 1982: ". . . I testified earlier that the Air Force had recommended, irrespective of congressional action, that superhardening was not worth the cost. It had some value. It also had a very big price tag and our recommendation was not to do that."

Senator Dennis DeConcini, December 3, 1981: "By placing our most advanced strategic weapon—the MX—in silos which belong to an earlier era of nuclear technology, the President has reduced—perhaps even eliminated—the usefulness of the MX. Hardened existing silos would make a nice target for Soviet planners; it might even encourage them to contemplate a pre-emptive attack because the payoff—America's MX missile—would be so attractive."

Senator Dan Quayle, December 3, 1981: "The primary justification for a new land-based missile must be that it is relatively invulnerable to a Soviet first strike. If it is not, it will lose its deterrent value, which is the position we are facing with our Minuteman missiles.

It continues to distress me that, despite years of discussion and debate, we still lack an acceptable basing mode for the MX."

Senator James Exon, December 3, 1981: "Probably the most serious of all is the ill-conceived placing of the 10-warhead MX missile in place of the 3-warhead Minuteman III missile or the single-warhead Minuteman II and Titan missiles which would contribute to the unstable "launch-on-warning" doctrine we should instead be trying to avoid. It makes no sense to this Senator to place a more valuable weapon such as the MX in silos which are becoming more vulnerable with each passing month. During time of tension or warning of actual Soviet missile launch there will be a greater tendency to "use them or lose them" rather than having our land-based missiles attempt to "ride out" an attack and them retaliate. This situation does not contribute to crisis stability—one of the administration's own properly stated goals."

Gen. David Jones, then Joint Chiefs of Staff, October 5, 1981: "In my own view, I consider the MX in a very survivable mode to be extremely important to the security of the Nation. I remain to be convinced there is a survivable mode other than MPS. So, if forced with the difficult choice, B-1, ATB, and MX, I would put MX last under the current program slice."

Senator Sam Nunn, December 2, 1981: "There is considerable doubt in my mind about the wisdom of proceeding with an MX program at all if we cannot, at some point, come up with a reasonable opportunity for survivability of the missile."

Conference report on the fiscal year 1977 Defense Department Authorization Bill, June 1976: "The rationale behind the development of a new missile system (MX) is to provide a land based survivable strategic force. The development of an alternate basing mode as opposed to a fixed or silo based mode is the key element in insuring this survivable force. The conferees are in agreement that providing a survivable system should not be constrained for silo basing; that none of this program's funds shall be expended in fixed or silo basing for MX; and that none of the program reduction shall reduce the Department's proposed investigations of mobile deployment."

Senator John Warner, March 24, 1982: "The MX would be too vulnerable to a Soviet first strike under that arrangement [MX in existing silos] and the Subcommittee saw no point in building the missiles until the permanent basing decision was made."

Senator John Tower, October 2, 1981: "I am enormously skeptical to the point of feeling that this plan [MX in Minuteman silos] doesn't give us enough added capability for the money involved and leaves us with a highly vulnerable land-based system."

Senator Mark Andrews, December 2, 1981: "If we spend over $300 million to harden a bunch of silos, to put a 10-warhead missile in a fixed point because we are afraid that the Russians are targets 3-warhead missiles in a fixed point all we do is step up the opportunity for them to take out 10 warheads at a time instead of 3 warheads at a time."

Senator Alan Dixon, December 2, 1981: "I support the MX missile. I think hardening of the silos in permanent basing modes, as presently contemplated, invites disaster and is a terrible mistake."

Admiral Stansfield Turner, former Director of the CIA, March 13, 1983: "For several years now, the immediate problem with the MX has been how to base it. Placed in existing silos, it would be vulnerable to surprise attack by the Soviet Union's beefed-up strategic forces—just as vulnerable as our present generation of land-based missiles."

General Ellis, then Commander-in-Chief of the Strategic Air Command, February 18, 1981: "We must correct our vulnerability by deploying the MX in a mobile basing configuration. . . .

Senator, if we had the mobility in the Minuteman force that we are building into the MX force we wouldn't need an MX force."●

PET-FACILITATED PSYCHOTHERAPY

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. WAXMAN. Mr. Speaker, 7.7 million Americans aged 65 and older are living alone. Many of them have been forced into seclusion through the loss of their loved ones and endure lonely, isolated existences. As the number of solitary elderly persons increases and depression and despondency become more common among them, doctors are beginning to suggest that pets can improve their conditions. The results have literally been lifesaving.

"Pet-facilitated psychotherapy," a recently coined term illustrating the efficacy of pet therapy, has changed the lives of elderly persons who previously felt they had nothing to live for. Dr. Boris Levinson, a pioneer in the study of the human/animal bond at Yeshiva University, says that animal companionship is crucial to older people and actually can retard the aging process. A study conducted by Dr. Aaron Katcher, a psychiatrist formerly at the University of Pennsylvania, concludes that heart patients who own pets live longer than those who do not. Other studies show that the calmness associated with stroking and talking to pets can lower blood pressure rates.

The emotional and physical benefits to seniors who own pets are tremendous. Unfortunately, however, many older people who wish the companionship of a pet rent their homes and are prohibited from having one. California has recognized this problem and enacted legislation allowing the elderly to have pets in public housing. Similar legislation is pending in a number of other States and my colleague, Representative MARIO BIAGGI of New York, has introduced a bill in Congress to make this Federal law.

Studies show that people who live alone suffer premature death rates. Now that there is proof that pets actually can extend the lives of the lonely and sick, my great hope is that older Americans living in all forms of housing will be allowed to own pets so their final years may be longer, happier, and healthier ones. We owe them that much.●

A JOB WELL DONE

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. FUQUA. Mr. Speaker, while it is popular today to criticize nuclear energy and utility companies I believe such criticism has been carried to extremes. For example, there is a lot of intelligent hard work that goes into building powerplants that provide electricity for our needs, but we seldom hear about the good things that happen.

I believe it is time to recognize achievements and extend our appreciation to the people who are productive in our society. I would like to share an article entitled, "Nuclear Construction—Doing It Right" which appeared in the April 21, 1983, issue of ENR—formerly Engineering News Record. This article presents insight into the construction of a powerplant called St. Lucie No. 2, built by the Florida Power & Light Co. My sincere congratulations to William B. Derrickson, project general manager for a job well done and to ENR for documenting the information.

The article follows:

[From the ENR, Apr. 21, 1983]

NUCLEAR CONSTRUCTION—DOING IT RIGHT

In the frustrating world of nuclear construction, the losers get all the attention. If it's not the five construction-quality-assurance failures cited by Nuclear Regulatory Commission Chairman Nunzio Palladino in his Dutch-uncle lecture last year, it's the WPPSS fiasco in Washington State, Three Mile Island, scheduling foul-ups and the embarrassing cost spiral that dominate the headlines.

But while most nuclear utilities and contractors have been busy explaining their problems, a tightly knit team working on an island off the east coast of Florida has been busy solving theirs. The result at St. Lucie unit two will be completion of Florida Power & Light Co.'s 810-Mw pressurized-water reactor, at a cost of $1.42 billion, in June, exactly six years after its construction permit was issued.

That's a benchmark in the nuclear construction business these days. By comparison, the lead times for the 10 plants completed since the beginning of 1978—one before the Three Mile Island accident in March, 1979, and the rest since 1980—have stretched out from 96 to 144 months. "When you compare this job to the rest of the business, we're number one," says William B. Derrickson, project general manager for FP&L, "and we can still do better."

Of the plants under construction now, Arizona Public Service Co.'s Palo Verde unit one, a 1,270-Mw power reactor designed and being built in the desert west of Phoenix by Bechtel Power Corp., San Francisco, is running a respectable second to St. Lucie, where Ebasco Services Co., Inc., New York City, is handling design and construction. Palo Verde's construction permit was issued in May 1976, and full power is scheduled for the Combustion Engineering reactor this August, seven years and two months later.

In many ways, St. Lucie two set up for speed:

It is a near twin of unit one, an 810-Mw Combustion Engineering reactor, completed by Ebasco and FP&L on a 78-month schedule—from construction permit to commercial operation—in December, 1976.

Design of the second unit was nearly 75% complete before the start of constuction, and site preparation actually began in June, 1976, under a limited work authorization. That was suspended by the Nuclear Regulatory Commission (NRC) four months later, however, because a new rule required study of other potential sites.

FP&L was one of the early entrants in the nuclear power business with its two Bechtel-built Turkey Point plants south of Miami, which were brought on line in 1972 and 1973, plus St. Lucie one, so it has experience building nuclear plants.

Where some oil-dependent utilities jumped into the nuclear era with both feet, FP&L held back some, canceling two planned 1,140-Mw reactors in 1976. As a result, except for replacing the steam generators in the two Westinghouse steam supply systems at Turkey Point and TMI safety backfits at St. Lucie one, FP&L's nuclear staff has been able to concentrate heavily on St. Lucie two construction.

Because construction started just as unit one was being completed, close to 80% of the skilled laborers and half of the nonmanual staff stayed on to build the second plant.

Where Seabrook had its Clamshell Coalition and Diablo Canyon its Abalone Alliance storming the fences, only a few green sea turtles have shown much curiosity about the construction at St. Lucie. The station is located 45 miles north of West Palm Beach in a remote area on Hutchinson Island, near the retirement communities around Fort Pierce. The generally conservative residents in the area have supported the plant.

Demand growth for electricity in Florida had been growing at 11 to 13% a year in the early 1970s. That has dropped to about 3.8% a year in FP&L's service area, but it is still well above national averages, so there has never been any relaxing on the critical path toward completion. And, while most utilities have found themselves in a cash bind—mainly because of ambitious construction programs during a period of high interest rates and slack demand growth—FP&L has maintained its fiscal fitness over the years.

THE TRUE PATH

At St. Lucie one, says Derrickson, "we discovered what turned out to be the real critical path." Despite industry experience to the contrary, he figures that six years "is what it ought to take to do this job. In 1977, we looked at the man-hours, the work and the logic and came up with a 65-month schedule for unit two that put the start of fuel loading on Oct. 28, 1982."

Crews were bolting the head on the loaded reactor core last week, and Derrickson expects to be at 5% power in three weeks and at full power in mid-June. The slip in the schedule is mainly due to post-TMI safety backfits and other design changes required by NRC or desired by FP&L. To hold slippage to a minimum, a number of changes not required by NRC or for operation of the plant—a condensate polishing system, for example—have been held over for backfitting before and during the reactor's first refueling outage in early 1985. Derrickson estimates the cost of that work at about $46 million.

An important element in making the start-up target was the all-out effort made by FP&L, Combustion Engineering and Ebasco engineers in negotiations with NRC over the final safety analysis report. Getting the safety checkoff needed for an operating license generally takes about 30 months. It took nine months—and more than 40 across-the-table meetings between NRC and project technical staffs—to get the regulatory blessing for St. Lucie two.

"Normally we go back and forth with formal letters asking new questions and requesting detailed explanations of answers," says Victor Nerses, NRC senior project manager for St. Lucie two. "We cut through a lot of misconceptions and misunderstandings by sitting across the table. Our engineers were talking with their engineers and we came away understanding what everyone was talking about."

Also, the negotiations were conducted, for the most part, without lawyers. "I'm suspicious of lawyers," says H. James Dager, vice president of engineering, project management and construction for FP&L. "Once you put things in their hands, you get a lot of legalese and an adversary relationship develops."

CONSTRUCTION ATTACK

Completing the construction and licensing work in 72 months—six months faster than unit one—is no mean achievement. Even though the two units are twins, unit two is much beefier. It is designed to meet higher seismic and missile-impact criteria, for example, and all updated design requirements. In materials alone, that has resulted in placement of an additional 15,000 cu yd of concrete, 1,000 tons of structural steel, 1 million ft of cable, 7,000 ft of large diameter piping and 4,400 more welds on unit two.

A number of scheduling and construction innovations used at St. Lucie two helped crews to get more work done faster. To excavate and pour the foundation mat for the reactor containment building without affecting the operation of unit one only a few hundred feet away, Ebasco designed what it claims is the first nuclear-safety-class cofferdam. The 180-ft-dia circular cell was placed by driving 500 tons of sheetpiling in 72-ft lengths using electrical vibratory hammers. The sheets were braced with internal compression rings made up of 900 tons of wide-flange beams, 36 in. deep, that were installed every 5 ft on vertical centers.

After extensive preparations, the concrete containment shield wall for the reactor was slipformed in a continuous pour lasting 16½ days. The cylindrical, heavily reinforced concrete wall, 3 ft thick, 191 ft high and 74 ft in diameter, required 10,000 cu yd of concrete placed around hundreds of embedded conduits, grounding cables and anchor bolts. Conventional step-forming of shield walls can take from 12 to 18 months.

To get an early start on the time-consuming concrete work inside the reactor containment, Ebasco chose to heat-treat the lower sections of the steel containment vessel by capping it with a temporary diaphragm rather than wait until the permanent steel dome could be placed on the top of the vessel. The lower portion of the vessel where the plates are thickest must be heated in place to relieve stress that builds up during erection. The thinner dome plates do not need heat treatment.

Construction of the reactor auxiliary building was done in a phased process that let craftsmen get started installing the control room, electrical cable vault and other critical equipment while other sections of the structure were still being built. The building went up in a stair-step fashion. As each elevation was completed, all major equipment for that level was lifted in before the roof was placed.

THANKS, I NEEDED THAT

During construction of the auxiliary building, on Sept. 3, 1979, Hurricane David hit the site, knocking down a 150-ton derrick being used to lift materials into the containment and auxiliary building. The 180-ft tower, 250-ft mast and 200-ft boom were destroyed. But more important, large sections of the auxiliary building were badly damaged. The initial estimate of lost time to repair the damage and replace equipment was 13 weeks.

After the initial shock, however, the effect of the accident was to shake the project up and put everyone into high gear. "The derrick collapse was probably the turning point in the project," says Leo Tsakiris, Ebasco project manager. "It pulled everyone together."

Ebasco engineers developed repair procedures and expedited orders for replacement equipment. Crews and supervisors put in additional overtime to make up for hours spent on repair projects. By the following November, the 13-week loss on the critical-path schedule was made up.

The key ingredient in the rebound from the crane collapse and in overcoming all other construction problems, Tsakiris says, has been the open and easy communication between his staff and utility managers. The peculiar, matrix-within-a-matrix site organization is partly responsible. Ebasco's construction supervisors manage craft workers and subcontractors, making sure that schedules are met. Where FP&L wants direct control and responsibility—in the areas of quality assurance, cost control, contract administration and start-up, for example—its man heads up the mostly Ebasco staff. In other areas, Ebasco managers take the lead. Everyone, including Tsakiris, ultimately reports to Derrickson, however.

The communication is built on trust. "If Bill tells me go ahead, that's all I need," says Tsakiris, "I don't have to keep looking over my shoulder all the time." And the trust is built on the long association between Ebasco and FP&L managers, many of whom have moved up the ranks together on the St. Lucie station and other FP&L powerplants. Derrickson and Tsakiris, for example, have been associates for 13 years. "We've been working together since we were kids," Tsakiris quips. "We each know what the other is going to say before he says it."

Another factor in the successful construction effort, says R. W. Zaist, Ebasco project superintendent, is the return to basics at St. Lucie two. "Plan your work, get the material here and give the crews solid guidance. A lot of people have gotten overwhelmed with the next best computer system or management philosophy. What happens is that all the managers and submanagers get so busy with their own business that they forget the guy in the field."

UTILITY CONTROL

Where a number of utilities have handed management of nuclear projects over to their architect-engineers, FP&L managers in Miami and at the site took control of St. Lucie and assumed responsibility for their decisions. "If anybody's got a problem on this job, everybody's got a problem," says Derrickson.

The most important exercise of that control has come in FP&L's aggressive start-up program at St. Lucie two. Plant operations staff were brought in during 1979, 35 months prior to the scheduled fuel-load date, to begin accepting systems or components of systems so they could be tested and fixed if necessary. The start-up crew was gradually increased to 64 operations technicians, who assumed more and more control of construction as work progressed toward completion. Eventually, FP&L's fine-tuners took over project management, creating some tension between construction and start-up staffs. But, as Tsakiris says, "It's good tension."

A total of 488 separate systems were identified and scheduled for turnover in a prioritized sequence to meet major project milestones. To support that effort, a computerized punch list of components and work items was developed—including a checklist of inspection schedules for the resident NRC inspector—to keep track of daily targets.

FP&L's aggressive style contrasts sharply with some other utilities that have handed management of their nuclear projects to architect-engineering firms. A number of those plants are in trouble now, Derrickson points out. "You can build all the fancy domes and use the best models and computer programs in the world," he says, "but if the utility doesn't get involved in start-up and make sure the plant is built to run right, all that fancy stuff doesn't make a hoot of difference."●

CITY OF COMPTON, CALIF., COMMEMORATES 95TH YEAR OF INCORPORATION

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. DYMALLY. Mr. Speaker, I am proud to inform my colleagues in the Congress that this month of May marks the 95th anniversary of the incorporation of the city of Compton, Calif. We in Compton have chosen to celebrate this special occasion by dedicating the oldest house in Compton. We call this home, built originally in 1869 by A. R. Loomis, Heritage House. It stands now as a tribute to the early settlers of the community.

Although Compton was not officially incorporated until May 11, 1888, the first settlers, a band of 30 families, arrived in the area 21 years before, in 1867. Their wagon train was led by Griffith Dickenson Compton and Willian Henry Morton. The land they settled had formerly been a part of a 75,000-acre Spanish land grant known as Rancho San Pedro. In the Los Angeles area, Compton is the eighth oldest community founded after California became a part of the United States. Of the 84 municipalities that now make up Los Angeles County, Compton was the 7th to be incorporated.

The early citizens did some experimenting with the name of the city before deciding that Compton, the community's first name, was most preferred. The community was called Compton in 1869. It was subsequently named Gibsonville, and later was known as Comptonville. By the time of incorporation, however, the city had returned to the name Compton.

Almost from the time of its incorporation the economic base of Compton began to change from agriculture to business and industry. This switch from a rural to an urban economy was aided by the opening of the Compton Airport on May 10, 1924, and by the founding of Compton Junior College in 1927. In one disastrous stroke, however, much of the development accomplished in the first quarter of the century was wiped away by an earthquake on March 10, 1933. That earthquake took the lives of many citizens, toppled schools, and reduced the business district to rubble. Slowly Compton recovered from the quake. Its population began to grow and businesses, industries, organizations began again to locate in Compton.

In the third quarter of this century, Compton underwent a very significant demographic and sociological change. Not only did its population increase fourfold over the course of a decade, but also a significant number of that new population was black. Now a majority of Compton's citizens are black, and a large percentage of the remaining population is composed of a variety of ethnic minority groups including Hispanics, Japanese, Koreans, Samoans, native Americans, and East Indians. Compton is proud of this diversity. The richness of many cultures is a part of what makes the city a desirable place to live. But the thing that makes Compton a truly great city is that our citizens work together for the common good. Compton might be considered a model for the Nation because in our community we have worked to blend the beauty of many cultures into one tapestry of cooperation. it gives me great pride to acknowledge the accomplishments of our fine city on this, the anniversary of its 95th year of incorporation.●

DIOXIN'S FIRST VICTIMS

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. PANETTA. Mr. Speaker, as we begin anew the investigation into the long-term health risks of dioxin exposure, I think it is important to keep in mind that the general climate of fear that has broken forth in the agony of Times Beach, Mo., can be traced back to the early 1960's when the U.S. Air Force first tested agent orange and other dioxin-contaminated defoliants in Vietnam. In all, an estimated 2.8 million American GI's were stationed in Vietnam during the period in which the defoliants were used extensively in a compaign to deprive enemy forces of ground cover and food supplies.

It is not my intention to dispute the Federal Government's responsibility to assist the unfortunate residents of Times Beach or other communities that may be contaminated by dioxin. And yet there is a tragic inconsistency in our response to dioxin poisoning. Consider on the one hand the swift evacuation of the residents of Times Beach from their contaminated community and subsequent decision to buy the entire town at a cost of $33 million. On the other hand is our treatment of Vietnam veterans, who while serving our Nation in Southeast Asia were exposed to levels of dioxin up to 20 time the concentrations reported at Times Beach.

In a recent report issued by the Veterans' Administration, it was reported that 16,564 claims had been filed by veterans for disabilities they believed resulted from exposure to agent orange and other dioxin-contaminated herbicides. Of the total, only 1,275 disability claims were allowed, all for reasons other than dioxin poisoning. The VA has as a policy refused to recognize veterans' claims of service-connected disability for chronic illnesses attributed to agent orange except for a rather limited number of cases involving a skin condition known as chloracne. Can it be that dioxin found in agent orange is any less deadly than that found in Times Beach?

Mr. Speaker, I commend to the attention of my colleagues a recent article published in the Los Angeles Times by our distinguished colleague from South Dakota, Tom Daschle. Tom has taken a lead on the agent orange issue and my colleagues may be interested to know that hearings are underway on his bill, H.R. 1961, to provide a presumption that occurrence of soft-tissue cancers and certain other disorders in Vietnam veterans is related to their military service and should be, therefore, compensable. I urge my colleagues to support this important legislation.

The article follows:

[From the Los Angeles Times, Apr. 24, 1983]

Dioxin's First Victims Wait in Pain

(By Tom Daschle)

(Tom Daschle (D-S.D.) is a member of the House Veterans Committee and the chairman of Vietnam Veterans in Congress.)

For a decade, Vietnam veterans have been stonewalled by their own government. Don't worry about Agent Orange, they've been told. Sure, there was some dioxin contamination in the herbicide we sprayed on you in Vietnam, but the levels weren't that high, and the ill effects of dioxin remain unproven.

That's what vets have been told. What they see is something else again.

They see government agents clad like moonwalkers rushed to Times Beach, Mo., to test for dioxin contamination. They see an entire town instantaneously evacuated after the discovery of dioxin at 1/20th the level that they were exposed to in Vietnam. And they see their own government, the same government that has refused to acknowledge that Agent Orange was responsible for even one disability claim among the 16,000 they have filed, finding $33 million overnight to buy up the town of Times Beach.

If the discovery of dioxin levels at 0.1 part per million justifies the evacuation of an entire American town, why does exposure to an herbicide that contains levels of 2 ppm (according to a 1978 Air Force report) entitle men who fought for their nation to absolutely nothing?

That's the question Vietnam veterans are asking. And the answer, the story of a government poisoning its own troops, then turning a deaf ear to their pleas for compensation, is a national disgrace.

While legislation passed last year makes veterans eligible for medical treatment of dioxin contamination, the Veterans Administration has refused even to recognize the effects of the poison for purposes of determining disability compensation. The VA has so badly botched congressionally mandated studies of the problem that these have now been transferred to the Center for Disease Control. And now, with Times Beach evacuated, VA claims of ignorance about dioxin's effects are doubly unconvincing.

In fact, a number of adverse health effects have been documented based on industrial and other accidental exposure to dioxin. The most serious include lymphatic and soft-tissue-cancer, liver abnormalities, neurological disorders and a host of lesser maladies. Yet the VA holds to its claim that the only proven effect of dioxin is a form of acne.

Do you suppose that Times Beach was evacuated to save its residents from acne?

Veterans don't believe it. More than 16,000 compensation claims have been filed with the VA for dioxin-related illnesses based on exposure to Agent Orange.

But their chances of winning these claims under current rules would be minimal even if the VA acknowledged the dangers of dioxin. That's because a veteran seeking compensation is required to prove that his disability is directly related to his military service in Vietnam.

Unfortunately, it was a rare GI who stopped to take notes when a defoliant plane flew overhead, or kept a diary of physical symptoms that resulted. Herbicides were supposed to kill trees, not soldiers. Yet now, years later, the veteran discovers that he must demonstrate from his service records that his current illness is directly related to that spraying—an obviously impossible task. But at the VA, even these hurdles are not high enough.

The VA is just about the only government agency that can prohibit individuals who trip over its hurdles from seeking outside review. The only recourse for a Vietnam veteran who wishes to contest the agency's rejection of his Agent Orange claim is the VA's own Board of Veterans Appeals. Imagine Interior Secretary James G. Watt's glee if his department's regulations to permit offshore drilling were not subject to environmental laws or judicial review.

Due process of law? Not for veterans.

The treatment of Vietnam veterans exposed to dioxin-contaminated Agent Orange has been a scandal.

Now that we have belatedly constructed a monument to the Vietnam War dead, it's time for us to consider what we are doing for living veterans who fought for their country and were poisoned for their efforts. We leave these veterans without a penny of assistance. We forget their mounting bills and we ignore the agony of their all-too-frequent lingering deaths. (The government has refused even to keep the records needed to document incidents of deaths from types of cancer that have been associated with dioxin exposure.)

Instead, we should offer those suffering the consequences of dioxin exposure the benefit of the doubt. Following our practice with regard to scores of other illnesses, we should presume that Vietnam veterans' maladies are related to dioxin exposure unless otherwise demonstrated. Decisions by the Veterans Administration concerning contamination claims should be subject to independent judicial review. Vietnam veterans who were exposed to Agent Orange should be entitled to the same compensation for lost earnings that we now routinely award civilians under workers compensation and provide veterans of other wars under existing disability laws.

These steps are a matter of simple decency; a way by which we can show our respect for the soldiers who were sent to fight an unpopular war and were poisoned in the process.●

TOXIC SUBSTANCES AND AIR QUALITY STANDARDS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. VENTO. Mr. Speaker, pioneer work and research are developing significant new insights that have far reaching ramifications for national public policy addressing toxic substances and air quality standards.

Published material exists with regard to the lead content of Baltimore City soils. Another soon to be published study which was reported in the Minneapolis Tribune, Sunday, April 3, 1983, strongly supports the goal and tough standards to abolish the use of lead in motor fuel as an octane enhancer.

Clearly, this Congress and National Government must respond to new insights as we draft public policy. The irreversible damage caused by lead poisoning to the greatest resource of civilization, the human mind, demands strong and urgent support for sharply curtailing the amounts of lead in our urban environment.

I commend Prof. Howard W. Mielke and his coworkers for their outstanding efforts within their discipline and the new insights they have provided for public policy direction.

I would like to take this opportunity to bring to the attention of my colleagues, the following article authored by Prof. Howard Mielke.

The article follows:

[From the Minneapolis Tribune, Apr. 3, 1983]

High Levels of Lead Pose Heavy Risk for Minneapolis Children

(By Howard W. Mielke)

People in the Twin Cities are exposed to startling amounts of lead. The element's harmful effects are well understood, so it seems incomprehensible that such high levels of it exist in our urban environment.

Lead is highly toxic and particularly dangerous for children. Because they are growing rapidly and have a large requirement for minerals, children absorb and retain about five times more lead than adults.

Also, children at play frequently place dirt or dirty objects in their mouths. When that dirt contains lead in the levels I have found in the inner city of Minneapolis, it can cause permanent mental retardation, including lower IQs and behavioral and psychological disorders.

I decided to study the Minneapolis lead problem after learning that a group of Hmong children were suffering from lead poisoning. Health officials had been unable to discover the source of the lead exposure in the children's homes. After obtaining the addresses of the afflicted children, an assistant and I took soil samples from the yards of their homes.

The children all came from Minneapolis inner-city neighborhoods. Analysis showed that half of them lived in homes whose yards contained between 500 and 1,000 micrograms of lead per gram of soil, and that 40 percent of them lived in homes where the lead concentration in the soil was even higher. (A microgram is one-millionth of a gram.)

According to standards set by the Minnesota Pollution Control Agency, soil containing that much lead would be classified as hazardous waste.

Researchers at the National Institutes of Health suggest that the maximum permissible intake of lead for a child between 6 months and 2 years of age is 150 micrograms per day. Of the inner-city soil samples I analyzed, half contained more than 700 micrograms of lead per gram of soil.

If a child ate half a gram of this dirt—about one fifty-sixth of an ounce, roughly the amount that would stick on a thumb—he would receive more than twice the maximum permissible lead dose from this source alone.

And there are many other sources. Children are exposed to lead every day in air, food and drink. When a child's lead level rises more quickly than the child can excrete it, the eventual result is lead poisoning.

Most of the urban lead problem probably comes from two sources: leaded gasoline and lead paint on houses.

Lead-based paints were used on homes until 1972, and many older homes have been scraped and repainted several times. The soils around such houses have been covered at various times with paint chips that eventually mixed into the dirt.

Some of the afflicted Hmong children live in brick homes, however. The lead concentrations in the soil around such buildings cannot be explained by paint alone.

The areas where the Hmong children live are near very dense car and truck traffic. Lead emitted from motor vehicles has accumulated in the soil and is especially concentrated in areas near heavy highway and street traffic.

Large quantities of leaded gasoline have been used in Minnesota. In 1982, the nonfarm use of leaded gasoline added about 958 tons of lead to the environment. I estimate that in 1983, under recently implemented changes in EPA regulations, the nonfarm use of leaded gasoline will increase the lead added to the environment by almost 17 percent, to a total of about 1,118 tons.

Scientists at the Center for Disease Control have observed that the average yearly blood-lead levels of the population correspond to the amount of leaded gasoline used. Regulations on the lead content of gasoline do not protect Minneapolis children.

This is by no means a local problem. The Center for Disease Control reports that almost 12 percent of innercity children across the country suffer from lead poisoning. More alarming is that the average blood-lead level of inner-city children is 20 micrograms per deciliter, an amount that British and American researchers have associated with lowered IQ.

Present knowledge of the relationship between lead and IQs suggests that the majority of inner-city children in our country have suffered a permanent loss in intelligence because of their exposure to lead. And inner-city children are not the only ones affected. I have found pockets of high lead concentration in various parts of the city.

To expose our children to such levels of lead is to diminish society. It is the death of intellect and a senseless waste of a human resource. Society cannot afford to raise its children in a lead-hazardous environment.

We should respond to the problem in two immediate ways: Ban leaded gasoline and call in the national guard to deliver clean topsoil to the inner cities. It is essential that we protect our most important resource: the creative and mental faculties of our youngest citizens.

(Howard W. Mielke is a professor of geography at Macalester College in St. Paul and director of the Urban Lead Research and Education Project.)●

CENTRAL AMERICA

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. EDGAR. Mr. Speaker, the national religious leaders have communicated with the President their concern about the administration's policy toward Central America. As a United Methodist minister by vocation, I share their deep distress and hope that the administration would move away from confrontation and toward reconciliation and a just and peaceful resolution of these conflicts. The letter follows:

Cable to President Reagan From National Religious Leaders on Central America

April 27, 1983.

Dear President Reagan: By taking the dramatic step of addressing a special joint session of Congress on tne subject of Central America, you will focus the attention of the nation on that troubled region. As religious leaders informed by a long history of mission work with the people of Central America, we affirm that this attention is long overdue.

We believe that your message to Congress permits you a unique opportunity to seek a peaceful and lasting resolution to the region's conflicts. It is our hope that you will announce concrete steps toward ending the U.S. military build-up in the region and that you will promote initiatives for a peaceful resolution to the area's serious problems. We urge you in particular to seek dialogue among all parties to the conflict in El Salvador as proposed by the Conference of Catholic Bishops of that country and affirmed by Pope John Paul II. We also call upon you to respond more positively to the efforts of United States friends and neighbors, including Mexico, Colombia, Venezuela, and Panama, who have recommended alternatives for a just and lasting peace.

Until now, the policies of your Administration have left us anguished and alarmed. The Administration's failure to grasp the nature of the conflicts that are grounded in decades of poverty and repression has led to support for military responses to what are fundamentally political problems. The increase in U.S. military assistance to El Salvador, Honduras, and Guatemala and the support of covert operations against the government of Nicaragua have resulted in a growing toll of human suffering and an increasing danger of regional war. They have violated our nation's principles of democracy and respect for national sovereignty and international treaties.

As Christians and U.S. citizens, we appeal to you, Mr. President, to provide the leadership needed to move our government's Central America policy away from confrontation and toward reconciliation and a just and peaceful resolution of these conflicts.

Father Anthony Bellagamba, Executive Director, Catholic Mission Association; Asia Bennett, Executive Secretary, American Friends Service Committee; Dr. Arie Brouwer, General Secretary, Reformed Church in America; Dr. Robert C. Campbell, General Secretary, American Baptist Churches; Father Ronald Carignan, President, Conference of Major Superiors of Men.

Sister Helen Flaherty, President, Leadership Conference of Women Religious; Sister Janet Gottscholk, Sector Superior, Medical Mission Sisters; Bishop Thomas Gumbleton, President, Pax Christi USA; Sister Teresa Kane, President, Sisters of Mercy; Sister Patricia Lynch, President, Sisters of St. Joseph of Peace.

Bishop H. Coleman McGehee, Episcopal Diocese of Michigan; Dr. Robert Neff, General Secretary, Church of the Brethren; Reverend James P. Noonan, Superior General, Maryknoll Fathers and Brothers; Father John J. O'Callaghan, President, United States Jesuit Conference; Sister Anne O'Neil, Provincial, U.S. Province of the Religious of the Sacred Heart.

Dr. O. Eugene Pickett, President, Unitarian Universalist Association; Dr. Avery Post, President, United Church of Christ; Dr. Claire Randall, General Secretary, National Council of Churches; Reverend Graham Rights, Executive Director, Board of World Missions, Morevian Church in America; Sister Melinda Roper, President, Maryknoll Sisters.

Dr. Richard Scobie, Executive Director, Unitarian Universalist Service Committee; Dr. Kenneth L. Teegarden, General Minister and President, Christian Church (Disciples of Christ); William P. Thompson, Stated Clerk, United Presbyterian Church USA; Sister Marjorie Tuite, President, National Assembly of Religious Women.

Dr. Paul Wee, General Secretary, Lutheran World Ministries; Dr. Doris Anne Younger, General Director, Church Women United; Joan Chittister, Prioress, Benedictine Sisters of Erie.●

THE HAWAII RIVERS AND HARBORS ACT OF 1983

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. AKAKA. Mr. Speaker, on April 27, I introduced the Hawaii Rivers and Harbors Act of 1983, a bill to authorize the Corps of Engineers to construct projects which would respond to the special flood control and navigation needs of the State of Hawaii.

I have included in my bill construction authority for hydropower production along the Wailua River on the island of Kauai, Hawaii. The energy problems of the island of Kauai are typical of many insular locations. Kauai lacks energy-efficient utility networks and access to inexpensive fuels with petroleum fuels as their major source of electrical energy. This oil dependency may be substantially reduced by tapping the abundant water resources of the island.

To harness this resource, my bill authorizes the construction of a small hydropower facility located in the Wailau River basin, as recommended by the Army Corps of Engineers. This facility would utilize a renewable energy source to provide an additional 11.28 million kilowatts of energy to serve the equivalent of 2,300 households on Kauai.

This bill would also authorize several projects on the island of Hawaii. First, my bill addresses the special flood control needs for Alenaio Stream. The Alenaio Stream flows through the city of Hilo, the big island's largest city and county seat. In 1966, 1979, and again in 1980, the city of Hilo experienced major floodings directly resulting from the poor channeling of floodwaters through the Alenaio Stream. On these three occasions, floodwaters caused extensive property damage to the downtown Hilo area.

The Army Corps of Engineers has developed project recommendations for channel construction to prevent further flooding of the Alenaio Stream. These recommendations are fully supported by the county government and the local community. The proposed floodproofing of the Alenaio Stream would substantially enhance urban planning and development, as well as providing for the economic stability of downtown Hilo.

In addition, this bill would authorize construction of lava-control barriers to provide emergency protection for Hilo residents from eruptions of the active volcanic mountain, Mauna Loa. A rift line along the slope of Mauna Loa extends northeast to the city of Hilo. Because lava flows generally originate from points along the rift, an eruption of Mauna Loa poses a potential threat to Hilo and its residents.

Since 1843, there have been seven major eruptions in Mauna Loa's northeast rift zone. Lava from four of these eruptions advanced to within 7 miles of Hilo, and lava from one eruption advanced to within 1.5 miles of Hilo Bay. The Corps of Engineers has recommended the construction of earthen diversion barriers to direct future lava flows away from Hilo's inhabited areas. This recommendation is part of an emergency reaction plan to be implemented only if volcanic activity poses a significant threat to life and property.

Finally, I have proposed project authority for the modification of the Hilo Harbor facility. Harbors are the foundation of my State's well-being, with 98 percent of all the goods and materials we receive arriving by ship. Hawaii is geographically isolated and consequently is far more dependent upon shipping than is the continental United States. With no effective alternative to shipping, the ocean constitutes our "highway" for transportation of the necessities of life.

Like the highways on the continental United States, our "highway," in particular the Hilo Harbor exit, is in need of repair. The harbor's existing channels are inadequate to serve Hilo's shipping needs. The shallow depths of Hilo Harbor are an obstacle to navigation, preventing larger ships from traversing through and maneuvering within the harbor channels. The hazards to navigation present a substantial impairment to the efficient movement of cargo. In responding to these deep-draft navigation needs of the Hilo Harbor facility, I have proposed in my bill the deepening of this harbor to promote vessel safety and more efficient shipping operations.

Mr. Speaker, I urge the Committee on Public Works and Transportation to give swift consideration to this bill.●

POLLOCK PINES AND THE PONY EXPRESS

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. SHUMWAY. Mr. Speaker, Pollock Pines, Calif., which I am highly privileged to represent in the Congress, is Pony Express country. The original Pony Express put Pollock Pines on the map, and now Pollock Pines is returning the favor. Members of the National Pony Express Association headquartered in Pollock Pines were pressed into service last week to deliver the mail following a massive landslide. The Los Angeles Times carried an excellent account of that event, which carried the area back into time. I commend it to the attention of my colleagues, and I am certain that they will share my admiration for the ingenuity and spirit demonstrated by all concerned.

The article follows:

[From the Los Angeles Times]

BACK IN THE SADDLE AGAIN FOR THE OLD PONY EXPRESS

(By Ann Japenga)

POLLOCK PINES, CALIF.—A mountain came down during the recent rains and tossed this town back 124 years in time.

So, members of the National Pony Express Assn. headquartered in Pollock Pines were pressed into service last week to carry the mail along a 40-mile stretch of U.S. 50 west of Lake Tahoe where a massive landslide obstructed the mail truck's route. (The truck was forced to travel a 115-mile detour.)

The town of Pollock Pines derives its identity from the Pony Express. Main street is called Pony Express Trail. There is Pony Express Realty, Pony Express Travel, Pony Express Mobile Home Park. The new shopping cluster is called Pony Express Village.

NEWFOUND GLORY

These days anyone involved with the humble task of carrying the mail is enjoying newfound glory. Sportsman's Hall, the old Pony Express stop, is abuzz from dawn until the last piece of pie is served at midnight. Men with chapped faces and sore thighs—the riders who carry the mail—are once again town heroes.

"Pollock Pines is just a little town up here in the foothills," said local Highway Patrol Officer and Pony Express rider Malcolm McFarland, 49, "But what it has going for it is that the Pony Express ran right through here."

McFarland was sitting at the counter at sportsman's Hall. A waitress had taken the old-fashioned phone off the hook, giving McFarland time to finish his hamburger and coffee without being interrupted by phone calls from reporters all over the country.

A TRUSTED COURIER

"The fact is, the pony was a trusted courier," McFarland said. "The pony was a success. The pony didn't fail. The firm that supported the pony failed."

After only 18 months of operation, the Pony Express folded in 1861, making way for the telegraph and the modern mail system. But ever since there has been a small group of die-hard Pony Express lovers who wouldn't let that brief moment of American history die. They organize ambitious re-enactments of the run from St. Louis, Mo., to San Francisco, spending thousands of dollars of their own money for the privilege of making the ride.

McFarland—known locally as "the Captain"—and Postmaster Patricia Peterson started the California chapter of the organization 15 years ago. Since then McFarland has ridden in dozens of parades and dry runs.

But now it is the real thing.

McFarland's pony has been out to pasture. "He's fat and soft." McFarland isn't in prime shape either after a long winter indoors.

But he has willingly endured the inevitable aches and saddle sores to get the mail through.

"To me the Pony Express stands for the dedication of the riders," he said. "They were young men. Young boys. They did a man's job back when a handshake and a man's word were good.

"I'm impressed by what these young fellows did with one young man and one horse."

McFarland pushed away his plate of cold french fries and recalled a recent ride. It was just before daylight. McFarland was galloping along the creek bottom, racing to keep on schedule. He rode under Lovers' Leap, across Slippery Ford. . . .

At that moment he said he felt close to the spirit of those brave young boys. "I couldn't see. I had to depend on my horse. It was man and horse."

McFarland wants to see Pollock Pines become a town that respects its horses again. He wants to be able to ride through town along the old Pony Express trail, without his horse's hoofs ever once touching pavement ("Horsemen know that asphalt is terrible," he said). McFarland is working to get the trail established as a National Historic Landmark so that even when the slide is cleaned up and the mail trucks are running again, people won't forget that Pollock Pines was originally a pony town.

Later that evening McFarland joined the Pony Express riders in the back room at Sportsman's Hall. One rider asked how long they could keep this up—taking time off from work and pushing their out-of-shape horses to make the run from Pollock Pines to Little Norway, 40 miles away.

McFarland answered: "We have got a hold of something we have been striving for for 15 years. We are putting Pollock Pines and the Pony Express on the map.

"So you ask me how long we're gonna do this? I've got one horse and I'm going every morning."

He called an informal roll:

Gary? . . . Chips? . . . Ron? . . .

The answer in every case was: "If you need me, I'll ride."

Sandi Linnenbrink was washing the breakfast dishes on a recent morning when she heard an unfamiliar sound: a horse clattering down the road and a rider shouting the beast on. Linnenbrink looked out the kitchen window and saw a man in a red longjohn shirt and chaps astride a galloping horse. Attached to the horse's saddle was a *mochilla*, or saddlebag made to carry mail.

Linnenbrink said later it was the most exciting thing that's happened in Pollock Pines since the landslide.

Sandi and Barte Linnenbrink and their 3-year-old son moved here from Sacramento three years ago when Barte Linnenbrink took a job with Pacific Gas & Electric in Pollock Pines.

Some of their neighbors are loggers and construction workers. A growing number of them, however, are commuters who work in San Francisco or Sacramento. Some residents even commute to Los Angeles from Placerville Airport.

Despite the new stores and shops that are making Pollock Pines look more and more like a suburb of Sacramento, the Linnenbrinks said they have managed to preserve a feel for the history of the region. They live on the Pony Express trail, and outside their door is a monument commemorating a stagecoach robbery.

Down the road in the town of Rescue (so named because the first survivor of the Donner party was discovered at this spot), Lillian Dixon lives in an old Pony Express roadhouse. The lumber for her house was shipped around the Horn, then hauled to its present site on wagons.

Dixon reared nine children in the house. The place is still full of offspring and family friends.

The barn floor, which bears hoofprints from the days when Pony Express steeds were stabled there, today is occupied by a newborn colt named April. Eventually Dixon says she hopes to see the house and barn turned into a Pony Express Museum (a map of the original Pony Express route is carved into the concrete of her front walk) but for now she's too busy living in it.

Where frothing horses once were tethered in front of Sportsman's Hall, television vans were parked on a recent morning waiting for the mail ride to begin.

There were a couple of historical markers out front identifying this as the place where "at 8:01 a.m. on April 4, 1860, Sam Hamilton, first eastbound rider, was relieved by Warren Upsom who carried the initial mail over the storm swept Sierras."

The second marker said the time of the mail transfer was in fact 7:40 a.m.

Bob Cox, an architectural engineer, was having breakfast inside at the counter. Cox said he has traveled the world but he hasn't found a place that compares to Pollock Pines.

"California started right here," he said.

He pointed out that Mark Twain once compared sights he saw in the Holy Land to the countryside between Placerville and Virginia City. "I'm big on Mark Twain."

Cox said his firm advertises houses in Los Angeles papers and sells many of them to city people who are ready for a change. Despite all the newcomers, Cox said, Pollock Pines has not lost its flavor.

Just then a group called the Boullion Bend Band marched into the hall. They were dressed as dandies and prostitutes, decked out in Old West attire and carrying pistols.

Cox nodded his head as if to say, "See what I mean."

The Pony Express Oath: "I do hereby swear, before the great and living God, that during my engagement I will, under no circumstances, use profane language nor drink alcoholic beverages; that I will not quarrel or fight with any other member of the association; and that in every respect, I will conduct myself honestly, be faithful to my duties, and so direct all my acts to win the confidence of my associates, so help me God."

The members of the California chapter of the National Pony Express Assn. are for the most part men in their 50s and older. They take their oath seriously. (Only once did a member of the California chapter slip—he drank a beer while waiting for the mail.) They maintain these standards not only for themselves but to set an example for young boys.

Walt Harmon, a food consultant formerly from the Los Angeles area and currently owner of Sportsman's Hall, ran away from home at age 15 to fight in the Korean War. He said he saw boys his own age shot down and killed.

He feels his mission is to let children know about the important part young people have played in history. That's why he has devoted himself to the Pony Express.

Two years ago when Harmon purchased Sportsman's Hall with the intent of restoring it, he took a trip to the University of the Pacific in Stockton to research the history of the area. He dug up notices recruiting Pony Express riders: "Wanted: Young skinny fellows willing to risk death daily. Orphans preferred."

He discovered that the majority of the men who carried the mail were 13 to 19 years old. Wild Bill Cody was 13 when he rode for the Pony Express. The horses, for the most part, were wild. They had to be held down long enough for the rider to leap on with the *mochilla*.

"The boys rode those ponies and they rode their hearts out." Harmon said.

He likes to tell a story about a young rider named Billy Tate. When Billy was attacked by Indians, he remembered his oath and held onto the *mochilla* even when he was pulled off his horse. They killed him, but he never surrendered the mail.

"The Indians never touched his body (to scalp him)," Harmon said. "Indians were impressed by a boy who would stand up and fight."

Harmon wants every child in every school in El Dorado County to know what children their own ages accomplished on the Pony Express.

Cody Glenn skipped classes at El Dorado High School a couple of mornings recently to carry the mail through snow and mud.

One night after a particularly wild run, 14-year-old Cody sat down before a red-checked tablecloth at Sportsman's Hall and ordered a big steak and a milkshake. (The hall serves a 40-ounce steak that one customer described as being bigger than a roast.)

At dinner everyone teased Cody about his spectacular dismount: At one point he had touched his spurs to his green mount and was bucked off.

Cody's uncle Ron Fritzmeier slapped him on the back and shined with pride as he said: "I bet that's not the first time a boy by the name of Cody got bucked off carrying the mail through Pollock Pines."●

HONORING HENRY FUNK

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. MURTHA. Mr. Speaker, it is a pleasure to insert these remarks into the CONGRESSIONAL RECORD as a fitting additional honor for Henry Funk.

A great deal of the history of our great Nation is written not in legislation, but in the individual acts of our citizens. The greatest strength of America has always been the individual drive, commitment, and compassion of our citizens. Henry Funk's life has been dedicated to that great tradition.

It is difficult to go through Henry Funk's years of service and pick out one or two items for particular designation because the list of outstanding efforts is so long. But I think I was particularly struck by the work Henry has done with the youth of our country. His work with the Jeannette Baseball Association, the Midget Football Program, the Westmoreland County Coaches Association, and the Norwin School District has literally affected the lives of thousands of young people whose lives were developed productively and positively by Henry.

To paraphrase a public slogan, a man never stands so tall as when he helps to develop a young person's life, and by that measure, Henry must stand as one of the tallest human beings in the country.

Henry has also been one of the most active people in the State of Pennsylvania in the Fraternal Order of Eagles, and his work locally and statewide has concentrated on the ability to help the community and spread the spirit of the Eagles.

It is a pleasure through these remarks to join in honoring a very deserving American, a man who has made our community and our entire Nation stronger, a man of dedication, honor, and commitment—it is a pleasure to join in honoring Henry Funk with these remarks to add to the very deserving award and recognition he will receive on May 14. Henry is a man about whom we can safely say, that all our lives and the strength of the Jeannette community is improved because of his work.●

CALL TO CONSCIENCE VIGIL FOR VIKTOR BRAILOVSKY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. LEHMAN of Florida. Mr. Speaker, the worsening situation of Soviet Jews is most recently marked by the formation of an anti-Semitic campaign to label anyone who wishes to emigrate from the Soviet Union to Israel as an enemy of the state. The "Anti-Zionist Committee of the Soviet Public" demonstrates to what extent the Soviet Government will go to deny Jews in the Soviet Union the right to emigrate or to live openly as Jews without being punished for maintaining Jewish identity and culture. Anti-Zionism is synonymous with antisemitism in the Soviet Union as it is elsewhere by those who refuse to legitimize the existence of Jews or the Jewish state.

Viktor Brailovsky has long been victimized for being a Jew and for daring to exercise his right to emigrate from the Soviet Union to Israel. He is serving the third year of a 5-year sentence to internal exile following a conviction on charges of defaming the Soviet state. His crime was not his application 11 years ago to go to Israel which has been repeatedly denied, but his involvement as a Jewish scientist with other Jews who have been harassed and persecuted, isolated from their professions. As a prominent computer scientist, Dr. Brailovsky organized the Moscow Seminar for Jewish Scientists, a group of eminent Soviet refuseniks and western scientists that met each Sunday to discuss recent advances in their respective fields. Dr. Brailovsky's publication of a cultural journal entitled "Jews in the Soviet Union" and his signing with 200 other refuseniks a written appeal to the late President Brezhnev requesting free emigration for Soviet Jews resulted in his last conviction.

Dr. Brailovsky's declining health has caused great international concern. He was recently informed by Soviet authorities that his sentence will not be shortened. He will remain in exile until September 1984.

The 11-year history of Soviet anti-Semitic abuse toward the Brailovsky family is indeed tragic. The lives of Viktor and Irina Brailovsky and their children, Leonid and Dahlia, have for over a decade been subjected to severe harassment and unjust treatment. His arrest and sentence to 5 years internal exile are only recent examples of the persecution suffered by Viktor Brailovsky over the years since he and his family decided to apply to emigrate from the Soviet Union to Israel.

Mr. Speaker, I hope that every one of our colleagues in the House will speak out for Soviet Jews who are at this moment enduring an anti-Semitic campaign reminiscent of Nazi era legitimization of government-sanctioned anti-Semitic policies. I also ask that our colleagues join with me and 82 other Members of Congress who have cosponsored House Resolution 118 which I have introduced, urging the Soviet authorities to allow Dr. Viktor Brailovsky and his family to emigrate from the Soviet Union to Israel.●

JOB PRAYER

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mrs. SCHROEDER. Mr. Speaker, Ambrose Bierce enterprisingly defined prayer as "To ask that the laws of the universe be annulled in behalf of a single petitioner confessedly unworthy."

The Reagan administration is confessedly unworthy of the votes of working class Americans. Prayer, however, appears to be the administration's only hope for salvation, or its earthly equivalent, reelection. That's the message from the newest drove of healers at the White House public liaison office, led by someone appropriately named "Faith."

In the absence of jobs, they propose to offer the unemployed school prayer. As an additional beneficence, tuition tax credits. If you don't like the prayers at your public school, appears to be the logic of the White House pulpiteers, send your children to a private school where the Government cannot require prayer. There is no room in this scheme for getting the unemployed back to work. (See the April 30 National Journal, pp. 884-887, for all the details.)

It seems to me, upon reflection, that President Reagan is mesmerized by unrelated alternatives. Jobs or prayer. In the meanwhile, I have a suggestion—it is not a miracle, which is what the President will need to save his job—just a suggestion. Job prayer. The 11 million unemployed Americans could start each day with a moment of silent prayer. Ask the Almighty to bless this land with more jobs. And, as a hedge, pray for a Democratic victory in 1984.●

THE UNITED STATES NEEDS A BROAD, INTEGRATED STRATEGY TOWARD CENTRAL AMERICA

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. WORTLEY. Mr. Speaker, it is now apparent just how crucial Central America is to our interests. As to how the United States can best protect its interests, there is considerable debate. I commend to my colleagues' attention an article in the April 22 Wall Street Journal by William J. Casey, Director of the Central Intelligence Agency. Mr. Casey points out that the Congress and the executive branch must work together to develop a plan for countering the Soviet presence in Central America.

I believe a careful reading of the article will prove helpful to my colleagues in the days ahead as we consider issues that relate to Central America.

The article follows:

REGROUP TO CHECK THE SOVIET THRUST

The effects of American defeats in Vietnam and Iran undermined the confidence of U.S. friends and allies in the Third World (and Europe and Japan) and ensured that the Soviet Union would see in the Third World its principal foreign-policy opportunities for years to come.

The Soviets themselves suffered setbacks in the 1960s and early '70s in the Third World. They suffered one setback after another in Africa. They saw their hopes in South America dashed by the overthrow of Salvador Allende in Chile and they were humiliatingly expelled from Egypt in 1972. When they turned again to the Third World in 1975, it was with a strategy designed to minimize the chance of a repetition of those setbacks. The strategy, enriched and strengthened over several years, is realistic and calculated to exploit effectively both events and opportunities.

First, shown the way by Castro in Angola, the Soviets helped him consolidate the radical power of the MPLA there, creating a government dependent on Soviet and Cuban support for survival. This was followed by the dispatch of thousands of Cuban troops to Ethiopia. Unlike Sadat, neither the MPLA nor Mengistu could afford to order the Cubans and Soviets out.

In the new strategy, the principal, obvious role in Third World countries would be played by another Third World state—Libya, Vietnam, Nicaragua. No superpower would be seen to be guiding or arming or directing the radical forces at work; the host government would be maintained by foreign advisers and troops who couldn't be expelled in the event of a change of heart. Additionally, it was a strategy that made (and makes) any direct response by the West appear neo-imperialistic.

Second, when radical governments came to power, the Soviets directly or through their surrogates helped establish an internal-security structure to ensure that any challenge from within would be stamped out. There would be no more Allendes. Sometimes it worked, as in Ethiopia and Angola, and sometimes there was not enough time, as in Jamaica.

Third, the Soviets supplemented these tactics with their more traditional offerings, such as technical and political training in the U.S.S.R., the rapid supply of weapons and the use of propaganda and subversion to support friends or help destabilize unfriendly governments.

LAUNCHING ITS OWN FORCES

Fourth, where a vacuum existed or the costs and risks were low, the U.S.S.R. proved still willing to launch its own forces at targets on its periphery—Afghanistan, and perhaps elsewhere when and if circumstances seem right.

Fifth, the Soviets advised new radical regimes to mute their revolutionary rhetoric and to try to keep their links to Western commercial resources, foreign assistance and international financial institutions. Moscow's ambitions did not cloud recognition that it could not afford more economic dependents such as Cuba and Vietnam.

This strategy has worked. A Soviet Union that had found itself in 1972 without major successes—except for the survivial of the Castro regime—and with many failures in the Third World after two decades of effort could count the following achievements by the end of 1982:

Victory in Veitnam and Hanoi's consolidation of power in all of Indochina.

New radical regimes in Ethiopia, Angola and Nicaragua.

Possession of Afghanistan, a Russian goal for over a century.

Cuban control of Grenada (and new military facilities there for support of further subversion).

An active insurgency in El Salvador, where U.S. support of the elected government has rekindled old Vietnam memories.

Nicaraguan support of revolutionary violence in Honduras and Guatemala, as well as El Salvador.

U.S. expulsion from Iran, which, though not through any Soviet action, represented a major strategic gain for the U.S.S.R.

Rapid progress toward Cuban control of Suriname, the first breakthrough on the South American continent.

Pro-Western regimes under siege in Chad and the Sudan.

Beyond these successes, the Soviets could see opportunities, actual or potential, to achieve their objectives in many other places.

The U.S. needs a realistic counter-strategy. Many components of that strategy also are familiar, though they must be approached and linked in new ways. The measures needed to address the Soviet challenge in the Third World have the additional appeal that they represent also a sensible American approach to the Third World whether or not the U.S.S.R. is involved:

1. We have too often neglected our friends and neutrals in Africa, the Middle East, Latin America and Asia until they became a problem or where threatened by developments we considered hostile to our interests. The Third World now buys 40% of our exports; that alone is reason enough to pay greater attention to the problems of the less developed countries (LDCs) before we confront coups, insurgencies or instability. The priority of the Third World in our overall foreign policy must be raised and sustained. The executive branch must do more to educate the public, the Congress and Third World governments about Soviet strategy in the LDCs generally.

2. The U.S. must establish priorities in major commitments. President Nixon wanted to rely on key regional states as bulwarks for stability and peace. There are some dangers in this approach (Iran was to be the key state in the Persian Gulf), but it is generally sensible. If our early help fails to prevent serious trouble, for which countries are we prepared to put our chips on the table? We should choose ahead of time and in consultation with key members of committees of Congress so that their support at crucial moments is more likely. Great losing battles for foreign military sales and economic assistance, played out on the world stage and at critical times, represent devastating setbacks for the U.S. with ramifications going far beyond the affected country.

WE NEED A CONSTANT POLICY

3. We must be prepared to demand firmly but tactfully and privately that our friends observe certain standards of behavior with regard to basic human rights. It is required by our own principles and essential to political support in the U.S. Moreover, we have to be willing to talk straight to those we would help about issues they must address to block foreign exploitation of their problems—issues such as land reform, corruption and the like. We need to show how the Soviets have exploited such vulnerabilities elsewhere to good effect to make clear we aren't preaching out of cultural arrogance but are making recommendations based on experience.

4. We need to be ready to help our friends defend themselves. We can train them in counterinsurgency tactics and upgrade their communications, mobility and intelligence services. We need changes in our foreign-military-sales laws to permit the U.S. to provide arms more quickly. We also need to change our military procurement policies so as to have stocks of certain basic kinds of weapons more readily available.

5. We must find a way to mobilize and use our greatest asset in the Third World—private business. Few in the Third World wish to adopt the Soviet economic system. Neither we nor the Soviets can offer unlimited or even large-scale economic assistance to the LDCs. Investment is the key to economic success or at least survival in the Third World and we, our NATO allies and Japan need to develop a common strategy to promote investment in the Third World. The Soviets are helpless to compete with private capital in these countries.

6. Finally, the executive branch needs to collaborate more closely in the setting of strategy with key members and committees of Congress. Too often opportunities to counter the Soviets have been lost by clashes between the two branches. The independent stand of Congress is a fact of life, and any effort to counter the Soviets in the Third World will fail unless Congress is a party to the executive's thinking and planning—all along the way. Support for a Third World policy must be bipartisan and stable.

Without a sustained, constant policy applied over a number of years, we cannot counter the relentless pressure of the U.S.S.R. in the Third World. It is past time for the American government—executive and Congress—to take the Soviet challenge in the Third World seriously and to develop a broad, integrated strategy for countering it. It will be the principal U.S.-Soviet battleground for many years to come.●

RUTH SMITH: A LIFE OF CARING

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. GILMAN. Mr. Speaker, there are among us those individuals whose own life experiences cause them to contribute in a parallel fashion to others. Men and women, who share a common experience, come together for a dual benefit, for themselves as well as for the community at large. Ruth Smith, of Westchester County, is one such caring person.

For over a decade, Ruth Smith has been involved in aiding the indigent, alcoholic, and incarcerated individuals rehabilitate their lives and gain reentry into society. For Ruth herself, this struggle for achievement was a single-minded goal that was accomplished through dedication, hard work, and study.

Born in New York City, Ruth Smith grew up in Harlem, where children were often left to attend to themselves without adult supervision. Her involvement with the other children of the neighborhood evolved to the point where Ruth was known as the street attorney, who would negotiate with neighborhood adults on behalf of groups and gangs who wanted to use various facilities for their activities.

Determined to make a life for herself, Ruth scrimped and saved in order to provide for her fatherless children, and she established herself in the work force as a secretary to a law firm. Increasingly, Ruth found it more and more difficult to cope with life's problems, and joined Alcoholics Anonymous in 1969.

That route led to her eventual involvement with a rehabilitation agency, where she served on a voluntary basis. In 1971, Ruth Smith was offered the position as acting assistant director of Rehabilitation Phase Halfway. In her capacity there, Ruth organized self-help workshops, family counseling seminars, and carried out various tutorial and counseling programs. After establishing her reputation, Ruth then became an alcoholism counselor for the Rockland State Hospital's alcoholism unit, where she distinguished herself as a therapist in the detoxification and rehabilitation program for inpatients, and as the facilitator of a coping skills group.

Mr. Speaker, for the last 6 years, Ruth Smith has very ably served as executive director of an intervention and treatment program for the City Court of Mount Vernon known as honor court. This program includes the professional education of court staff and presiding judges who deal with the alcoholic within the criminal justice system, and Ruth's responsibilities include the design and development of comprehensive treatment programs for those alcoholics.

The service Ruth Smith has rendered to the community continues in other forms as well. Ruth serves as a member of the National Black Alcoholism Council's public policy committee, a minority group representative of the New York Federation of Alcoholism Counselors, and as an executive board member of the Westchester Council on Alcoholism.

Although Ruth Smith is an accredited alcoholism counselor and a certified addiction specialist, she is currently a candidate for a master's degree in social work at the State University at Stony Brook, and expects to complete her degree this summer. This legacy of achievement is impressive indeed, Mr. Speaker, and it is to the credit of Westchester County that a woman of Ruth Smith's dedication and experience is among us. Ruth is highly deserving of our appreciation, and of our desire that she continue to serve our community in the years to come.●

CENTRAL AMERICAN REFUGEES

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. AuCOIN. Mr. Speaker, the Reagan administration continues to act out a charade, trying to convince Congress that government brutality in El Salvador is actually human rights improvement. It is a cruel game, especially for the more than 500,000 Salvadoran refugees who have poured into this country over the past 3 years.

The vast majority of these refugees are civilians caught by the violence rocking their country. They are innocent bystanders to a bloody civil war who have been pushed from their homes, from their farms, from their homeland. They are people who have too often had to watch as government forces murdered members of their family, their neighbors, their friends.

But these refugees have fallen victim for a second time—to a U.S. immigration policy that does not acknowledge their need for temporary shelter.

Over the past 2 years, the U.S. Immigration and Naturalization Service has been deporting Salvadoran refugees at a steady clip, nearly 1,000 a month. Of the over 16,000 refugees who have applied for asylum in the United States, only 72 have had their applications granted.

Growing numbers of principled American people refuse to condone this situation. To date, over 30 churches across the United States have offered sanctuary to central American refugees—mainstream denominations such as the Catholic Church and the Baptist Church.

And 86 Members of Congress have signed a letter, sponsored by my good friend Congressman Joe Moakley, to the Departments of State and Justice asking that they institute a policy of extended voluntary departure status for Salvadoran refugees.

Mr. Speaker, this is a problem of increasing magnitude and of concern in communities all over the United States. It is a concern illustrated by the following article from Willamette Week, a weekly newspaper published in Portland, Oreg.

Civil Disobedience and the Refugees

(By Peter Dammann)

Over the telephone, which she fears may be tapped, Barbara won't talk about what she is doing to help four Salvadoran refugees settle into a new life in Portland. She rarely discusses the refugees or their stories with anyone other than close friends, and when she does, she chooses her words carefully—too much information might give away their identities or the location of their safe house.

Barbara (not her real name), a Portland social services worker in her early 30s, is cautious not only because of the five-year prison term and $10,000 fine she would face if convicted of aiding and harboring illegal aliens, which the Salvadorans are; she knows that should the federal immigration officers ever nab the Salvadorans, the consequences would be far worse for the refugees she has committed herself to protect.

Barbara met them two years ago, shortly after they arrived in Portland, at a meeting of local political activists and religious workers concerned about U.S. policies in Central America. Toward the end of the meeting, a Hispanic man who had been sitting quietly in the back of the room rose and told the group his story.

Like the estimated half-million other Salvadorans who have spilled illegally into the United States since 1980, the man, his two brothers, and a friend had fled the destruction and the dying in El Salvador. The speaker and one brother who had been working for political reforms there had narrowly escaped the reign of terror by El Salvador's right-wing military junta, whose security police and shadowy death squads, armed by the United States, are believed to have murdered at least 30,000 Salvadoran men, women and children in the space of three years. The four were running for their lives, and their flight had not ended when they crossed the U.S. border.

The Reagan administration, which is now trying to muscle through Congress $110 million in new military aid to the government the Salvadorans are fleeing, has not welcomed the refugees with open arms. While the United Nations refugee committee—and every other nation that has considered the question except junta-run Guatemala—has recognized the fleeing Salvadorans as "political" refugees, the Reagan administration has insisted, with few exceptions that they are "economic" refugees who have entered this country illegally and are not deserving of asylum. Of the thousands who have already been apprehended and deported by the U.S. Immigration and Naturalization Service, three in every 10, according to Amnesty International, have been "disappeared," tortured or murdered on their return to El Salvador.

Relatively few of those who have successfully eluded the INS have fled to the Northwest. Efforts by Barbara and others in Oregon to help those on the run have until recently been informal, individual. Washington State's Salvadoran population is estimated at 2,000. Federal Immigration officials are uncertain of the numbers in Oregon, as are those secretly organizing here to assist the refugees. "We have no idea how big a problem this is," says one Portland church worker, "and at this point we have no way of finding out."

All agree, however, that there has been a small but steady flow of refugees through the State during the past three years. Some have headed to Canada, where they have had somewhat better chances of receiving political asylum. Only a handful have chosen to stay here, for the most part in outlying agricultural areas where seasonal farm work is available.

But in coming months, as the INS steps up its raids on migrant work camps and other pockets of Salvadorans in the southwestern states, many more refugees are likely to begin moving into Oregon. Indeed, dispersing this population is seen as one of the primary functions of the newest links in the underground railroad. In recent months, a coalition of Oregon churches, religious groups and human rights organizations has been meeting to prepare for the influx.

In January, safe houses, which secretly provide temporary shelter and refuge to those fleeing north, were established in Medford, Eugene, Salem and Portland, filling in the missing links of an "underground railroad" from Mexico to Canada. In coming months, several Oregon churches will consider establishing public sanctuaries, following the example of the University Baptist Church in Seattle and some 50 other churches nationwide. Other individuals here are working to secure that there will be adequate food, clothing, blankets—and bond money—available for the stream of refugees.

The people making these efforts are doing so inconspicuously. Many of those willing to talk to us requested, as Barbara did, that their identities be protected. But all agreed that the Reagan administration's support of the government in El Salvador, and its callous treatment of the refugees U.S. policies are driving across our borders, had left them no choice but to break the law.

"People are outraged," says Barbara. "The Reagan administration has seen the polls, they've seen the volumes of mail pouring in, they've heard the public outcry against its policies in Central America. And yet they are determined to send more weapons to El Salvador, no matter how great the public opposition."

"What are we supposed to do, write more letters to (Sen. Bob) Packwood?" she asks, referring to a member of the Oregon Congressional delegation who has consistently supported the administration's line in Central America. "People's lives are in jeopardy."

Says a Portland minister, "I hear a scream of pain out there, it is muffled, but it will get louder. From a Christian perspective, this is a clear call for responsibility and action."

EXODUS

Salvadoran refugees began spilling across the Mexican border into California, Arizona and Texas during the mid-1970's. But in the past four years—as U.S. military aid to El Salvador has soared—the Salvadoran government, far from winning the hearts and minds of its citizens has reacted to the growing unrest with murderous frenzy against its own people. The trickle of refugees has swelled to a torrent.

Some of those fleeing are trade unionists, church workers, educators and students who, because of their political and human-rights activities have been declared enemies of the government; although they may not support the left-wing guerillas, they would probably have been murdered and tortured by the Salvadoran security forces had they remained. Many other young men of draft age have fled rather than fight for either side in the struggle.

But most of the refugees are peasants caught in the crossfire whose villages, in combat zones or in areas held by the guerillas, were bombed and strafed by government helicopters.

Hard numbers are difficult to come by, but some estimate that one in four of El Salvador's 4.7 million people are now homeless and on the run. Some 250,000 Salvadorans are refugees in their own country, and live in camps run by international church groups. Many more have fled to Honduras, Nicaragua, Costa Rica, Mexico, and Guatemala, where the refugee camps are now overcrowded and lack adequate medical care and food.

Between 200,000 and a million Salvadorans have continued north into the United States, according to the U.S. government and various church groups. The range of estimates attests to the difficulty of counting those who are in hiding. Most of them live in the border states of the Southwest. Los Angeles, whose refugee population is estimated by some church groups at 240,000, is thought to be the second-largest Salvadoran city in the world.

For those who successfully elude the INS (which, under administration pressure to stem the flow of illegal aliens into this country, has been deporting Salvadorans at the rate of between 500 and 1,000 a month), life in this country is steeped in confusion, culture shock, paranoia. Many of the refugees speak no English, and are illiterate in their own language. They must learn fast about such mundane aspects of Americans as pedestrian cross-walks—some of those deported were first apprehended on jay-walking charges.

They bring with them an accumulation of traumas. They have been uprooted from their villages and are fearful that their names may be on Central America's longest hit list; they have witnessed the violent deaths of family members, survived massacres and life on the run, settled in this country where they must dodge immigration officials and live in abject poverty because they are ineligible for food stamps or welfare, tried to become acclimated to a society they don't understand, whose language is incomprehensible. This is stress on such a scale that it must remain abstract and alien to most of us. Certainly, it has aroused little sympathy with the Reagan administration.

For the four refugees she has helped settle here, says Barbara, life has not been easy. For several months after they first arrived, the four Salvadorans were shuttled between various churches and private homes, where they were provided with food, clothing and a place to sleep. Eventually, Barbara helped them find a place of their own, "a dingy, one-room apartment in Northwest Portland." (A few months later, the Salvadorans were suddenly evicted without notice; "If you are here in this country illegally," she says, "you don't have much recourse.")

The refugees were a little less likely to be nabbed by immigration officials here than they might have been in the Southwest where the INS routinely targets Salvadorans in their raids of migrant work camps. On the other hand, notes Barbara, the small size of Oregon's Hispanic community makes them more conspicuous here, and they lack the community and support systems they would find in areas with larger Salvadoran populations.

"They were sort of hidden away, and socially disconnected at first," says Barbara. "They were afraid even to leave their apartment."

In the meantime, Barbara found a local school that would accept the youngest brother: "Children not in school are very suspect." After a year in Portland, they were beginning to settle in. Their fake identification papers might not have fooled immigration officials, but at least they provided them an identity on the streets.

Despite Oregon's depressed labor market—a consideration that has discouraged more Salvadorans from settling here—Barbara was able to help one of the brothers eventually find work. "They were odd jobs, very long hours, for minimum wage," she recalls, "But you sort of make a tacit agreement with the employer that they will accept horrendous working conditions."

That the U.S. State Department could consider Salvadorans like these "economic" refugees strikes Tom Cipolla, director of the Greater Seattle Church Council's refugee project as absurd. "Hundreds of thousands of Salvadorans haven't come to this country to become rich capitalists. They're here because they have no place else to go. If they weren't certain they'd be shot dead as soon as they got there," he asserts, "most of them would return to Salvador tomorrow."

NO ASYLUM

Luis Gomez may be headed back a lot sooner than he had hoped.

Gomez, a 24-year-old Salvadoran, was arrested on March 8 in Hillsboro for shoplifting a pack of cigarettes. After serving seven days in Washington County jail on that charge, he was handed over to federal immigration officials in Portland. He told the authorities he had sneaked over the U.S. border in Arizona in July 1982, but refused to say how long, or with whom, he had been staying in the Portland area.

Gomez contacted an immigration lawyer in Seattle, and was moved there late last month to fight his battle for political asylum with immigration officials in that city. Soon after he was transferred to a jail in Renton City, where he was to be held pending the outcome of the deportation hearings, he was joined by six other Salvadorans whom the INS had apprehended in a raid of orchard workers near Wenatchee.

None of this went unnoticed by the Rev. Donovan Cook, the Baptist minister whose church in Seattle has been harboring five Salvadoran refugees. Within days, members of his and other congregations in Seattle had raised $16,000 in bond to spring Gomez and the others, pending the outcome of the their applications for political asylum which they plan to file at a deportation hearing scheduled later this month.

The jubilant Cook, upon presenting the immigration office with a stack of $100 bills, called it "an expression of the religious sensitivity and compassion of the people of this city."

"If these people are deported, the Baptist minister predicted to the Seattle Times, "there is at least one person who wouldn't make it out of the airport in San Salvador."

But the Salvadorans' chances of being granted a political haven here are slim at best, according to those who have handled such cases in the past. "The business with Latin America is very, very bad," says Margaret Godfrey, who works with the Immigration Counseling Service in Portland. The service, funded by the Archdiocese of San Salvador, provides legal counsel to Hispanics and others who have problems with the INS, and has presented several refugees from El Salvador.

"We hear the same stories over and over again," says Godfrey. "You can see the terror in their faces and you know there is almost nothing you can do for them. We are convinced that they are indeed fearing for their lives. But the U.S. government obviously doesn't agree with us."

The Reagan administration, having recently certified that El Salvador is making progress in cleaning up its human-rights problems (a certification necessary before Congress may approve further military aid), has been rather embarrassed by the thousands of Salvadorans fleeing soldiers and death squads armed with U.S. supplied weapons. To begin granting wholesale political asylum to these refugees, explains Cipolla, "would be to admit that human rights of the most basic kind are not available in El Salvador under the regime we support."

The figures speak for themselves. By the end of 1982, 18,447 Salvadorans had applied for political asylum in this country. Of the 1,051 cases that the INS had processed by the year's end (the remainder are still pending) only 65 had been approved.

Refugees requesting political asylum in this country must prove that they will be persecuted on political, religious or racial grounds upon return to their homeland. For Salvadorans, the burden of proof is particularly high, according to Godfrey. "It is almost impossible," she says, "unless they have truly fantastic evidence."

Many, she notes, have fled under extreme conditions—a massacre, perhaps—and could hardly have been in a position to gather whatever evidence might exist that could later help them prove that their lives are in danger. In one case Godfrey handled, a refugee had death certificates showing that three members of his family had died of gunshot wounds on the same day, at the same time, in the same place. But Godfrey doubts that even this evidence would convince the State Department to approve an application for political asylum.

Refugees fleeing countries on less friendly terms with the United States have an easier time convincing the Feds they are political refugees. "Refugees from the communist Eastern Bloc countries tend to have a much better chance of getting their applications approved," says local immigration lawyer Phil Hornik. "It's not automatic, but their word tends to be accepted by the INS at face-value."

By now, Salvadorans in this country have learned that applying for political asylum is a card not to be played unless they have already been apprehended by the INS and deportation is imminent. There have been some reported cases in which information contained in asylum applications has mysteriously ended up in the hands of the Salvadoran security forces, the refugees' family members still in El Salvador soon thereafter "disappeared."

Canada has been much more willing to grant political asylum to Salvadorans, and many have already fled there. Increasingly, however, this is being viewed as an avenue of last resort, to be reserved for refugees who have unsuccessfully applied for asylum in this country and face deportation. Canada, reeling from the effects of a sour economy and high unemployment, has recently said it will now grant immigrant status to only 2,000 Guatemalan and Salvadoran refugees each year.

To Godfrey, political asylum is not the issue anyway. "The decent solution," she says, referring to refugees from Guatemala as well as El Salvador, "is to help those people straighten out things back home."

FIRE POWER

The Reagan administration's determined efforts to straighten out El Salvador's problems by supplying its ruling junta with more fire power has run into stiff opposition in Congress.

Last week, a House Foreign Affairs Subcommittee rejected Reagan's supplemental request for $50 million in military aid to El Salvador. (That request, which must eventually be approved by both houses of Congress, next goes to the Foreign Affairs Committee.) The administration's proposal for another $60 million in reprogrammed funds (aid already earmarked for other nations that would be diverted to El Salvador) has run into trouble in the House appropriations subcommittee; earlier this month, the administration rather than risk a certain defeat there, asked for delay while it attempts to line up the votes.

While efforts flounder to rearm the Salvadoran military—a stategy few doubt will help make more chaos for the U.S. border patrols—the administration is pushing legislation that would make life much tougher for many refugees who have already slipped into the country.

The Simpson-Mazzoli bill, the most massive reworking of U.S. immigration law since the 1950's, passed the Senate and then bogged down in the House during the final moments of Congress' 1982 lame-duck session. The bill has been reintroduced, in somewhat modified form, with the administration's blessings.

Described as an "amnesty bill," the Senate version would grant permanent residence to undocumented aliens who entered the United States before 1977, and temporary residence to those who arrived later but before 1980. A more "liberal" version recently passed out of the House Judiciary Committee, would grant permanent residence to all those who entered before 1981. Neither version would help the tens of thousands of Salvadoran refugees who have been in the country less than two years. For them, life would get tougher, the bill would provide new funds for stepped-up INS actions against illegal aliens, and would set up civil and criminal penalties against employers who hired them. The bill would also repeal many of the due process provisions in existing law protecting refugees' rights to hearing and appeal, and to present evidence in applying for political asylum.

"This bill," says Hornik, "will institutionalize the unwritten law of asylum, if the country you are fleeing is on good terms with the State Department, tough luck."

However, liberal members of Congress are attempting an end run around Simpson-Mazzoli. A letter drafted by Rep. Joe Moakley (Mass.), now circulating for signatures, asks the U.S. State and Justice departments to grant Salvadoran refugees "extended voluntary departure status" until the conflict there ends. Nearly 100 House members are expected to have signed when it is presented to the administration some time next week. Although most believe it is unlikely the administration will grant this request, many hope that, at the least, it will force the INS to back off somewhat in its actions against Salvadoran refugees.

Says Sue Kirchoff, an aide on Central American affairs to Rep. Les AuCoin, (Oreg.), who has signed the letter. "With 100 signatures, I don't think the administration can very well ignore it."●

BRITISH LABOR PARTY CALLS FOR IRISH UNITY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. BIAGGI. Mr. Speaker, as chairman of the bipartisan Ad Hoc Congressional Committee for Irish Affairs with over 100 members, I wish to share with my colleagues an article from the April 23 edition of the Irish Echo entitled "Labor Party Calls for Unity."

The article relates to an action by the Labor Party to include a strong reaffirmation of their commitment to Irish unity as part of their official platform in the next elections which may be held as soon as next month.

The Labor Party as part of this document does register strong opposition to present British policy in Northern Ireland which they label "a disaster for the Northern Ireland economy." Unemployment has soared. The economy is in ruins. Housing and the social services are in desperate straits.

The Labor Party is to be commended for at least taking a strong stand in support of a political solution to the Northern Ireland crisis. For too long British policy has been motivated by a misguided belief that a military solution is the answer to the problems. As a result—there has been a veritable political vacuum in the North of Ireland which has impeded the ability to develop political solutions.

One hopes that the Labor Party action is the beginning of a trend among all political parties to advocate for a nonviolent political solution for Northern Ireland. That has been the hope of the Ad Hoc Congressional Committee for Irish Affairs since its inception in 1977. We maintain that a political solution can never be achieved while the atmosphere is clouded with violence. All violence whether civilian or official must be ended if there is to be a sincere commitment to peace and justice in the north of Ireland.

It is my hope—and I will be shortly developing a letter to President Reagan that he would advocate for the cause of peace in Ireland when he meets later this month with British Prime Minister Thatcher for the summit at Williamsburg, Va.

At this point in the RECORD I insert the article from the Irish Echo which I would point out is the largest Irish-American newspaper:

[From the Irish Echo, Apr. 23, 1983]

LABOR PARTY CALLS FOR UNITY

LONDON.—The British Labor Party recently reaffirmed its commitment to Irish unity by consent.

The party's campaign document, which will form the basis of its manifesto for the next general election, pledges the next Labor Government to holding early discussions with the Irish Government and the North's political representatives on how best to proceed with a policy of reunification by consent.

The statement of policy, which is very much in line with the policy adopted by the party's 1981 annual conference, further promises to repeal the Prevention of Terrorism Act and to provide a "massive injection" of public money to help the Northern Ireland economy.

The document's section on Northern Ireland reads as follows:

"Labor believes that Ireland should, by peaceful means and on the basis of consent, be united, and recognises that this will be achieved with the introduction of Socialist policies.

"We respect and support, however, the right of the NI people to remain within the UK, although this does not mean that Unionist leaders can have a veto on political development; and we accept that to achieve agreement and consent between the two parts of Ireland we must create greater unity within the NI community.

"In our 1981 conference statement and in Labor's program 1982, we set out in full Labor's policy on NI. We will aim to establish an agreed devolved administration. In the meantime we will continue with direct rule. We will also initiate early discussions between the British Government, the Irish Government, the Irish Labor Party and trade unions on both sides of the Border, and political representatives of the people on NI on how best to proceed with our policy of unification by consent.

"Tory policies have been a disaster for the NI economy. Unemployment has soared. The economy is in ruins. Housing and the social services are in desperate straits. Labor will give new hope to NI. We will create jobs and provide investment. We will use all of the economic planning powers and institutions set out in this document, together with a massive injection of public resources, to rebuild the economy.

"We will also act on security and civil rights along the lines set out in our 1981 statement. We will repeal the Prevention of Terrorism Act and the Payment of Debt Act, and reform the system of Diplock courts. We will provide equal rights for women, including the right to abortion, and make progress towards an integrated comprehensive system of education."●

ACTIVITIES AT NASA

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● **Mr. AKAKA.** Mr. Speaker, on April 27, 1983, the Administrator of NASA, Mr. James M. Beggs, gave an address to the National Space Club. This speech contains an overview of NASA's activities over the past year, as well as a look at what the future holds for our space agency. Every Member of this body should read the text of Mr. Beggs' remarks to the National Space Club. I therefore include the text of Mr. Beggs' speech in the RECORD immediately following my remarks.

REMARKS: NATIONAL SPACE CLUB, WASHINGTON, D.C., APRIL 27, 1983

(By James M. Beggs, NASA Administrator)

I am delighted to be here this afternoon.

I must admit, though, that I had second thoughts about accepting Chuck Tringali's invitation. The reason is that today is exactly 15 months to the day since we last met. And any public official worth his salt knows that it is the better part of valor not to come back to speak before the same organization unless and until a decent interval has elapsed—say, two or three years. In that way you don't have to write a new speech!

Today, however, I welcome the opportunity, since I didn't get to say everything I wanted to last time. And so, to paraphrase Shakespeare's Lear, I will "mend my speech a little, lest it may mar my fortunes."

I thought you might be interested in a brief progress report on NASA's activities over the past year and where we hope to be going the rest of this year and in fiscal 1984.

The year 1982 was indeed a turning point in building America's future in space. It was a year in which the American people began to understand the real potential of space. It was a year that space emerged as not merely a place for people to visit, but, rather, as a frontier for extensive human activity on many fronts.

With each successful Shuttle flight, there has come increased public understanding that space is an extension of our environment—a place where we can pursue scientific research, commerce and industry, expand knowledge, strengthen our national security and yes, even have fun.

There were some extraordinary achievements for this nation in both space and aeronautics during 1982 and I will highlight them in a moment. But first I think it important to recall that President Reagan underlined his strong commitment to what NASA does in two significant policy statements last year on space and aeronautics.

Both statements emphasized the President's renewed commitment to a strong national space and aeronautics program. Inherent in both are two major principles consistent with NASA's Congressional mandate. The first is our obligation to help strengthen the national security. The second is the need to maintain United States leadership in space and aeronautical technology by continuing to foster innovation, creativity, public-private sector cooperation and international cooperation.

Last year we flew three successful Space Shuttle missions. The last of them, in November, marked the Shuttle's entry into operational service. On this fifth Shuttle flight we launched two commercial communications satellites and made the transition from orbital flight tests to flying payloads for hire.

The success of the electrophoresis experiment flown on the Columbia's fourth mission is, I think, one of the most important events of the year. It heralds a new era of commercial pharmaceutical processing in space. The equipment performed with a high degree of efficiency and much better than expected in near-zero gravity. It produced material much purer and in much greater quantity than on earth.

Indeed, so pleased were McDonnell Douglas and Johnson and Johnson, who invested heavily in this experiment, that that they may well be operating a for-profit electrophoresis manufacturing facility in orbit as early as the late 1980s. Such a facility, of course, would be serviced and supplied by the Shuttle. It could produce serums, hormones, vaccines and a variety of other products, including interferon, which could alleviate or eliminate many dread diseases.

Small wonder, then, that we are proud of the Shuttle and of the opportunities it gives us to exploit the space environment.

American entrepreneurs, never known to shrink from potential profit, have been quick to see this potential. Some, I might add, have been quicker than others. But the year saw increasing expressions of interest from other commercial firms for venturing in the space environment for profit. A company proposed and is still trying to buy a Shuttle orbiter in exchange for commercial marketing rights. And others are looking at private ownership of expendable launch vehicles and operating them in competition with the Shuttle and other government-owned launch vehicles.

There were some other notable events of the year.

One of the most important was the establishment of the Space Telescope Science Institute at Johns Hopkins University in Baltimore. With the future launch of the Space Telescope, the institute, which will be formally opened next month, will become the world's primary center for space research, and probably remain so, for decades to come.

Two other important events come to mind.

One was the launch of Landsat-D, the first of a new generation of space systems capable of providing timely, accurate and reliable Earth resource data. Equipped with the new thematic mapper, the satellite transmits images of the earth's surface with three times the spatial resolution and four times the sensitivity to reflected light than the three previous Landsats. We are highly encouraged by the results and feel that this satellite will be a great boon to urban planners, geologists, crop surveyors, hydrologists and other earth resource scientists.

The second event is the delivery from Europe of the first of two Spacelabs to the Kennedy Space Center. The European Space Agency built this reusable orbiting scientific laboratory under a cooperative agreement with NASA. The Europeans' investment totaled more than $1 billion.

We plan to launch Spacelab this September, as scheduled. In addition to its scientific importance, it is significant in other ways. It underlines the Europeans' confidence in the Shuttle's potential and their strong commitment to international cooperation in space.

The year 1982 was also one of considerable progress in aeronautics and towards our goal of making both civil and military aircraft safer, more energy-efficient, more economical and more environmentally acceptable.

The Highly Maneuverable Aircraft Technology program, or HIMAT, completed several major milestones during 1982. HIMAT provides valid advanced information on stability, control, aeroelasticity and maneuverability at transonic speeds. Data from the program will be extremely valuable to designers of future high-speed aircraft.

Another versatile new technology, embodied in our experimental tilt-rotor aircraft, stirred considerable interest in both the Defense Department and the private sector during the year.

All in all, not a bad year for NASA. What's on our platter for the rest of this year and into fiscal year 1984?

Well, we have already had a spectacular success: the January launch from an expendable launch vehicle of IRAS, the Infrared Astronomical Satellite. This observatory is performing magnificently. In fact, in only one minute of observation, shortly after it was launched, it taught us more about the Large Magellenic Cloud, the nearest galaxy to our own Milky Way, than in all our previous observations.

The Shuttle will be flying five times this year. The first mission, early this month, deployed the first Tracking and Data Relay Satellite, one of a series in a system that will provide a new space-borne and data relay link with the Shuttle and all NASA satellites.

We expect delivery of the third orbiter in September and completion of the fourth orbiter during Fiscal Year 1984. All in all, I think, we are moving closer to our goal of making the Shuttle system fully operational as quickly as possible and expanding its operational capabilities to the fullest.

Last month we launched our first Search and Rescue Satellite. This will be part of a world-wide system enabling us to pinpoint ships and aircraft in distress. Over the past year, a Soviet satellite of this type helped to save the lives of several people from sinking ships and aircraft crashes.

With Congressional approval in Fiscal Year 1984, we expect to have four initiatives which will stretch the scope of our program in science, applications and aeronautics.

The first is the initiation of hardware development for the Tethered Satellite System. This is a cooperative U.S.-Italian project designed to provide a new capability for conducting experiments in space at distances of up to 100 kilometers from the Shuttle orbiter.

The second is a plan to map the surface of Venus, using radar imaging techniques. The Venus Radar Mapper replaces, at a much lower cost, the Venus Orbiting Imaging Radar mission authorized by Congress in Fiscal Year 1982. We expect this new mission to Venus to provide valuable scientific insight into that planet's physical properties and processes and, in doing so, help us better to understand those of earth.

The third new activity we plan is a project known as the Advanced Communications Technology satellite. This involves the development and flight-testing of the high-risk technology needed to ensure continued United States preeminence in the field of satellite communications.

The fourth initiative—the Numerical Aerodynamic Simulation capability project—is the centerpiece of our proposed aeronautical research and technology program. The NAS is a large computer system to be developed over the next few years. It will have a major impact on aircraft design methods, by improving accuracy and reliability. At the same time, it will cut down on expensive wind tunnel and flight testing.

The President has proposed a NASA budget of just over $7.1 billion for Fiscal Year 1984. That is just about eight-tenths of one percent of the total Federal budget. That has been our share of the pie for the past two years, at least, and we have not done too badly. But I have made no secret of the fact that I believe the NASA budget should be one percent of the total Federal budget, which would give us about $8.5 billion in Fiscal Year 1984. That is about the right amount for an R&D agency charged with maintaining the preeminence of the United States in space and aeronautics. And we take that charge very seriously.

On the whole, though, I believe we will go into Fiscal Year 1984 in very good shape. With the new starts and the increased Shuttle flight rate, we expect to begin to reap the benefits of what we have achieved in finally reaching the end of the Space Shuttle development phase.

This is NASA's Silver Anniversary year. It will be a great year in space. And it is fitting, I think, that an unprecedented event should occur this year. Even though it will happen almost 3 billion miles from earth, it should lift our spirit and stir our imagination.

Just 47 days from today, on June 13, a man-made deep space probe will leave our solar system for the first time. It is called Pioneer 10, and was launched in March of 1972 to fly by Jupiter. Its journey to the farthest reaches of the universe, is symbolic, I think, of where mankind could be going if we continue to explore the wonders that await us at the edge of our understanding.

We can only imagine where we will be in space 25 years from now. But just as we couldn't conceive of where we would be today when we began this adventure 25 years ago, so a quarter century from now, when another NASA Administrator stands at this podium, he or she will speak of wonders, adventures and dreams that we cannot even envisage today.

And people will ask then, as they have in the past, in the words of Edward Arlington Robinson:

"Where was he going, this man against the sky? You know not, nor do I."

One thing I do know, however. We will have the answer only if we continue to pursue the great adventure and magnificent dream that is space exploration.

As a great nation, we owe it to ourselves to do no less.

Thank you very much.●

XPORT ADMINISTRATION ACT AMENDMENTS

HON. ED ZSCHAU

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. ZSCHAU. Mr. Speaker, last week I was pleased to cosponsor H.R. 2761, the Export Administration Act Amendments of 1983, introduced by Congressman BONKER of Washington. H.R. 2761 contains proposed changes to the Export Administration Act which should help to increase our exports of high technology products while preventing transfer of our critical technologies to potential adversaries around the globe.

The Export Administration Act is the legislation that provides the President with the authority to restrict exports of products from the United States in order to achieve foreign policy objectives, protect our national security, or preserve our resources that are in short supply. Although H.R. 2761 deals with amendments to the current law in all three areas, I will confine my remarks here to export controls on technology and technical products for national security reasons.

My congressional district in northern California includes the area often referred to as "Silicon Valley." I have in my district about 700 electronics companies manufacturing high technology products. Most of these companies are subject to the Export Administration Act in the regular conduct of their business. Based on the experiences of these companies, as well as my personal experience as president of a small electronics manufacturing firm, I believe that the thrust of the revisions proposed in H.R. 2761 will improve the export performance of our high technology companies and, at the same time, focus the export control procedures on those items and activities that really should be controlled for national security reasons.

On the surface, the Export Administration Act appears to be dealing with a conflict between the objectives of greater exports of technology products and our national security. However, I submit that these two objectives are not necessarily in conflict. I know of no executives in high technology companies who wish to help the Soviet Union improve its military might. In fact, very little of our trade actually goes to the Soviet Union or Warsaw pact countries. However, it is most frustrating for U.S. exporters to lose business destined to friendly nations merely because their shipments are delayed by time-consuming licensing procedures while their foreign competitors are able to respond quickly to customer requests with similar products.

Most export license applications are approved. It just takes time. Out of the more than 80,000 validated license applications made in 1982, less than 900—slightly more than 1 percent—were denied. This high approval ratio suggests that the licensing procedures can be streamlined and focused without increasing the risk of losing critical technology. In fact, streamlining the control procedures could enable the controls that are applied to be tighter and more effective.

H.R. 2761 has several provisions designed to streamline the licensing process and thereby permit greater attention to be focused on controlling truly critical technologies. Among them are:

Codifying licensing procedures currently written in regulations which substantially reduce the number of individual license applications that must be made. For example, the distribution license, which enables companies with a single license application to make repeated shipments to the same customer or distributor, would be authorized in the act.

Authorizing a new license, called the comprehensive operations license. This special license would exempt companies from separate licensing of exports to their own foreign subsidiaries so long as they maintain in their organizations certain control procedures.

Prohibiting the denial of a license application merely because a product contains a microprocessor.

Streamlining the export licensing procedure to our allies who have agreed to control the export of those technologies.

Defining more precisely and operationally the criteria under which a product or technology is judged to be available from other countries and, therefore, not subject to U.S. export controls.

Although I am proud to cosponsor H.R. 2761 because I believe its thrust is proper, I feel that it will be desirable to consider additional changes that will strengthen it further. For example, it might be desirable to amplify the congressional intent on the circumstances under which the comprehensive operations license or the distribution license could be used. Also, the criteria for foreign availability could be further clarified. Finally waiving the license requirement for exports to certain of our allies—referred to in the act as COCOM countries—should probably depend upon corresponding strengthening of our multilateral agreements with those countries regarding export controls.

It should be pointed out that there are also several important elements of the current act which have not yet been implemented. We still do not have a militarily critical technologies list required by the current act. We appear to lack good criteria for preparing such a list and for revising it as technologies become obsolete. Also, we have not yet implemented the concept of indexing provided for in the current act that would exempt technologies from export controls as they become obsolete. I am hopeful that the Congress will, in the review and rewrite process, seek amendments that will insure the provisions of the act are actually implemented.

Mr. Speaker, it has been 4 years since Congress reauthorized the Export Administration Act. This year we have an opportunity to take a constructive step forward to enhance the performance of our Nation's exporting companies while at the same time insuring that our Nation's technologies are not transferred to our potential adversaries. I urge my colleagues to become familiar with the Export Administration Act and to suggest ways in which it might be improved.●

FINANCIAL STATEMENT—1982

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● **Mr. STUDDS.** Mr. Speaker, I am today inserting in the RECORD a copy of my 1982 financial statement:

CONGRESSMAN GERRY E. STUDDS' 1982 FINANCIAL STATEMENT

PART I—INCOME 1982 (SUMMARY)

	Amount
Salary	$60,662.50
Dividends—See Pt. II for detailed explanation	1,148.47
Interest—See Pt. III for detailed explanation	987.64
Newspaper fee—San Jose Mercury—For column written	75.00
Total income	62,773.61

PART II—DIVIDEND INCOME 1982

Security	Number of shares	Income derived 1982
Burlington Industries	40	$60.80
Exxon	347	1,040.00
Tucker, Anthony Cash Management Fund	447	47.67
Total		1,148.47

PART III—INTEREST INCOME 1982

	Bonds	Income derived 1982
Security:		
Loew's Theater 6⅞ debenture	$3,100	$213.13
U.S. Treasury 12 percent, May 15, 1987	3,333	400.00
Bank accounts:		
Shawmut Bank of Cape Cod (NOW)		14.48
Cape Cod Five Cents Savings Bank (savings)		8.04
First National Bank of Boston (NOW)		65.89
Capital City Federal Savings (CD)		255.83
American Security Bank (NOW)		30.27
Total		987.64

PART IV—ASSETS

	Explanation
1. Beatrice Studds Irrevocable Trust	My brother, Colin A. Studds, my sister, Mrs. Howard Babcock, and I have placed the following securities—owned jointly by the 3 of us—in an irrevocable trust for our mother, Beatrice Studds, with my brother as trustee. All income from these securities goes to our mother for as long as she shall live. My brother, my sister, and I each own ⅓ of the securities—and they will revert to us upon the dissolution of the trust at our mother's death. The following represents my ⅓ interest in the trust.

COLIN A. STUDDS III, TRUSTEE BEATRICE STUDDS, IRREVOCABLE TRUST, UNDER AGREEMENT DATED AUG. 1, 1973

Security	Number of shares	Market value as of March 24, 1983
U.S. Treasury 13.875 note, due Nov. 15, 1986	5,000	5,500
Wang Labs 10 percent conv. deb., due Nov. 15, 2006	3,333	5,628
Common stocks (shares):		
West Point Pepperell	133	6,118
Xerox	66	2,706
Gulf Oil	60	1,860
W. R. Grace	67	2,747
Middle South Utilities	100	1,550
General Motors	50	3,100
IBM	50	5,100
Washington Energy	200	2,800
A.T.&T.	40	2,680
ONC Limited Partnership	200	3,550
Computer Devices	100	1,375
2. I own the following securities:		
Bonds:		
Loew's Theater 6⅞ debenture	3,100	2,200
U.S. Treasury 12 percent, May 15, 1987	3,333	3,530
Tucker, Anthony Cash Management Fund	447	447
Common stock (shares):		
Burlington Industries	40	1,360
Exxon	347	10,410

Note.—100 Square D sold Nov. 23, 1982 for $3,307.

	Amount
3. Our family home in Cohasset, Mass., with an estimated market value of approximately $125,000 is owned jointly by my brother, my sister, and me. My interest in the house, therefore, is roughly	$41,666
4. Bank accounts:	
(a) NOW account, First National Bank of Boston	724
(b) NOW account, American Security Bank	1,500
(c) Money market account, American Security Bank	16,000
5. 55 percent share in undeveloped lot, Provincetown, Mass., estimated market value	47,000
6. 2 room condominium apartment, Provincetown, Mass., estimated market value	90,000
7. 1981 Chevrolet Caprice	
8. 1974 Saab	
9. IRA—Fidelity Magellan Fund	4,000

PART V—LIABILITIES 1982

	Amount
1. Mortgage, condominium apartment, Provincetown, Mass., Cape Cod Five Cents Savings Bank, approximately	$46,000
2. Automobile loan—American Security Bank	4,800

PART VI—1982 TAXES PAID

	Amount
1. Federal income tax	$9,307.00
2. Massachusetts income tax	2,837.23
3. Local property taxes	2,928.14
4. Automobile excise and personal property taxes	75.05
Total taxes	15,147.42

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NEW YORK CITY'S HEALTH CARE SYSTEM: A STATUS REPORT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● **Mr. RANGEL.** Mr. Speaker, in February, Joseph V. Terenzio, the president of the United Hospital Fund of New York, addressed the New York City congressional delegation. At the time, he sought to provide the city's congressional delegation with a situation report of the health and health care of New York City.

Mr. Terenzio's report to the delegation highlights both the strides we have made and the problems we still face in urban health care in general, particularly in New York City. He outlines the health status of New York City residents and provides a thumbnail sketch of the services available; the number and kind of beds available; the condition of the physical plant and equipment in the city's health care system; the impact of our teaching hospitals on our health; and the financial status of health care in New York City.

In addition, Mr. Terenzio provides us with his insights on some of the major health care issues that we will be addressing during the 98th Congress.

I would like to take this opportunity to thank and commend Mr. Terenzio for providing this excellent status report. I recommend his remarks to all my colleagues because they succinctly detail the status of urban health care while at the same time providing a greater appreciation of the health care delivery problems our cities are facing.

A synopsis of Mr. Terenzio's remarks follows:

REMARKS OF JOSEPH V. TERENZIO, PRESIDENT, UNITED HOSPITAL FUND OF NEW YORK

At this time of recessive and deteriorating economic conditions, a major social policy question before our government is whether our health care system and the health status which it has brought will be allowed to fall victim to our recessionary economy. With the federal government facing predictions of enormous deficits in its budget, it is reasonable for us to assume and expect that substantial and significant efforts will be undertaken by it, the major single purchaser of health care, to find methods which can effectively reduce or at least contain the rising costs of providing health services to the public.

While we cannot ignore the fiscal considerations related to health care, it is important to recognize the societal benefits made possible by the current system. In the past two decades the population of the United States has benefitted from significant innovations in health care technology and treatment which have brought important gains in health status. Overall death rates, for example, have been declining both nationally and for New York City and dramatic gains have been made in the reduction of infant mortality, both classical measures of a society's overall health status. With these factors in mind, I believe it is incumbent upon us to evaluate cuts in our health care budget not only in terms of potential short-term dollar savings, but also in terms of the impact on our health status.

POPULATION AND HEALTH STATUS

In examining where we have been and where we are now, Health and Health Care in New York City shows that the city's population has declined over the past decade, in contrast to a steadily continuing national growth rate. However, the city's elderly population, and particularly those aged 75 years and older, has increased significantly.

The health status of New York City residents has seen improvement in recent years as compared with earlier this century. Strides in medical diagnosis, treatment and technology have permitted declines not only in our overall death rate, but also in rates for infant and neonatal deaths. Our infant death rate of 26 per 1,000 live births in 1955 dropped to only 16 per 1,000 in 1980; however, this is still above the national average. Sadly, many of these health status improvements have been accompanied by emerging problems relating to environmental, social and other conditions. Homicides per 100,000 population, for example, have risen from 7.6 during the period from 1961-1965 to 27 in 1980; and cancer rates in some areas near heavy industry have increased.

HEALTH FACILITIES AND MANPOWER

Since 1960, New York City has lost over two-fifths of its hospitals and 11 percent of its beds, producing the nation's highest hospital closure rate. Not surprisingly, the remaining hospitals have high occupancy rates and declining lengths of stay. These phenomena are significant, especially when coupled with long overdue capital renovation and replacement for aging hospital physical plants and increased demands placed on the city's hospitals, voluntary and municipal alike, to provide greater community service.

New York State's number of nursing home beds per 1,000 population aged 65 and older still falls below the national average despite gains made in recent years. Office-based physicians increased in numbers in New York City, as in the nation as a whole, between 1970 and 1980, but the number of general practitioners in our city has declined.

HEALTH CARE FINANCES

Between 1975 and 1981, operating deficits in voluntary hospitals in the city rose 88 percent and to offset these losses, their reliance on non-operating sources of income has increased by 119 percent, according to information provided by the Hospital Association of New York State. Not withstanding these efforts, bottom line deficits increased by 65 percent. The municipal hospitals, plagued by the same problems, have had to resort to substantial local tax levy support to be able to continue to respond to community needs.

Stringent regulations enacted in the last several years in New York State have resulted in a lower inflation rate for medical care in this area than in the nation as a whole. Although no one could seriously quarrel with the cost containment goals of such fiscal constraints, the real measure of the savings attained must be viewed over time. Deferred maintenance and postponed capital plant replacement and modernization can produce encouraging but misleading results over a few years. The more subtle impact of these measures on programs for the elderly and other physically and fiscally at risk groups may be even more difficult to gauge, but not less real.

HEALTH CARE FOR THE AGED

The federal government spent almost $50 billion for Medicare in the last fiscal year alone. Although there were millions of recipients, 5.4 percent of those eligible accounted for over 57 percent of the program's resources. By 1990 most of our nation's 30 million persons over age 65, particularly those from age 65 to 75, will have achieved a fairly good health status. Experts have predicted that no more than one out of every 10 to 15 such persons will need assistance in daily living, and even fewer will need acute care or institutionalized long term care.

Columbia University Professor Eli Ginzberg, in a special study for the United Hospital Fund, suggests that "The preferences of the elderly as well as the imperatives of public finance point the directions for policy—a lessened reliance on institutionalization particularly in hospitals which provide more intensive levels of care. Progress toward this target requires improved local planning. In addition, it points to the desirability of expanding home health care services both for paying and Medicaid patients."

These observations are particularly poignant for New York City, where by 1990 at least one out of every eight persons will be age 65 or older. Some advocate the need for increased numbers of long term care beds in response both to present demands and in anticipation of these increased needs in the years ahead. Others argue for new alternatives to institutionalized long term care, such as transitional placement programs, social-health maintenance organizations, expanded home care arrangements and other innovations. I would suggest that both approaches are correct and that both must be pursued if we are to continue to be responsive to the needs of our aged.

HOSPITAL PLANT AND EQUIPMENT

Access to capital funds needed to replace and modernize aging and outmoded facilities presents hospitals in New York City with a challenge which ultimately may affect their viability. It may also affect the availability, the quality and the cost of health care for New Yorkers.

Before World War II the role of philanthropy was dominant and shortly thereafter, the government infused massive amounts of capital into the nation's hospitals. Since World War II, both philanthropy and government subsidy have considerably lessened in importance, while at the same time the costs of the principal sources of capital financing, construction and technology have soared and hospitals have had to depend on borrowing for capital projects.

As reliance on debt financing has increased, hospitals' financial conditions have become prominent factors in the determination of capital distribution and acquisition. This trend is highly significant for our present position and our future capital accumulation efforts.

Coming into 1983, we find ourselves facing a scramble for long term capital in the competitive bond market. New York hospitals arrive at this point considerably disadvantaged by their low and most often negative operating margins which severely limit their ability to leverage badly needed capital. One recent analysis has revealed that while the national average annual hospital operating margin for the years 1977 through 1979 was 2.7 percent, the New York average was −2.98 percent, the lowest in the nation, for the same period. In my judgment, the most significant factor contributing to this situation has been the cumulative effect of stringent hospital reimbursement policies and the inability of hospitals to effectively control escalating costs.

According to a study by the ICF Corporation for the Federation of American Hospitals, $163 billion will be needed nationwide for hospital expansion, renovation or replacement, and modernization during this decade. However, the study suggests that $54 billion of the total will not be funded due to the inability of hospitals to attract capital because of their poor financial operations. This shortfall will not fall evenly upon the nation's hospitals. Seven states, including New York and New Jersey, will account for $43 billion of these current unfunded needs. The study projects capital investments of no more than $2.9 billion in New York State over the remainder of the decade. This figure represents less than the projected costs of the capital projects anticipated in New York City alone.

However, improvement on the bottom line, either by serious and stringent efforts at cost savings or through increased revenues or both, could effect dramatic results. If, for example, the aggregate margin could be improved merely up to break-even, these experts believe that New York State hospitals could raise almost $9 billion in the capital market over the same period.

However, we should closely and seriously examine what long term effect the costs of such large and heavily debt-financed projects will have on aggregate health care costs and reimbursement rates, as well as on the various payers' willingness or ability to continue to fully support them. I also urge scrutiny to see how effective the Medicare waiver experiment in New York and the Diagnosis Related Group (DRG) experiments elsewhere will be in addressing this problem so as to allow hospitals sufficient margins or return-on-equity to successfully attract investment capital.

MEDICAL EDUCATION

There is another problem which I believe has serious implications for New York City with its six academic health centers. That is the financing of medical education. The comingling of patient care and medical education costs has contributed to higher health care costs for patients at these academic medical centers and to skewed estimates and confusion in the long term financing of health care and hospital capital projects. Financing medical education at these academic medical centers out of patient care funds simply compounds the problem. Six percent of all of the country's medical students are trained here and we are in fact providing physicians for the rest of the nation. Our city's ill and injured should not be, in effect, penalized because our city is a national resource for medical education. Both equity and clarity argue for a separately identified treatment of the costs of medical education.

HEALTH LEGISLATION

Significant legislative initiatives affecting health and health care which are likely to come before the Congress this year include the budget, taxation of health insurance benefits, DRGs and prospective payment for hospital services, physician oversight and reimbursement, and health planning.

BUDGET

With federal budget deficit predictions running as high as $200 billion dollars for the fiscal year 1984, there is considerable pressure again to make deep programmatic reductions. Defense spending and funding for social programs, mainly Social Security and Medicare and Medicaid, are likely targets for further budgetary cuts. Likely methods for achieving health cutbacks could include regulation, such as through the Medicare Part A—Section 223 hospital reimbursement limits, new co-insurance payments for the elderly under Medicare and a continuation of a 4.5 percent reduction in federal matching funds to the states for Medicaid.

TAXATION OF HEALTH BENEFITS

Taxation of employer-paid health insurance premiums is seen by many as both a revenue enhancer, since it could bring in an additional $16 billion this year if fully taxed, and a cost containment device since it may tend to encourage shopping around for less expensive benefit plans by the employee and discourage purchase of rich, first-dollar coverage plans which many feel promote over-utilization of services. In addition to the problems inherent in raising taxes under present conditions, careful study should be given to the issue of equity under such a scheme. Since both health insurance premiums and incomes vary geographically for many reasons, some employees would be required to pay inequitably higher taxes than others for the same or similar health coverage. Furthermore, the plan could also give rise to an incentive for the persons least able to pay to buy the plans offering the least coverage, featuring higher deductibles and co-insurance. We must be careful not to rush into a scheme which cannot differentiate between discouraging unnecessary utilization and creating barriers to care for lower income workers.

PROSPECTIVE PAYMENT FOR HOSPITALS

As required by the Tax Equity and Fiscal Responsibility Act (TEFRA), the Department of Health and Human Services has sent to Congress its plan for the prospective payment for hospital services under Medicare. Covering only Medicare payments, the plan would use diagnosis related groups (DRGs) to establish target payment rates for hospitals all over the country. Hospitals would be paid on the basis of each patient's diagnosis rather than the current cost-based retrospective reimbursement methodology. Prospective payment in theory should foster greater control by hospitals of their financial condition and encourage more efficient management practices. Some states are already experimenting with similar plans and others have set rates prospectively for many years, although not all use the DRG method. Prospective payment and DRGs are clearly worthy of close examination and consideration. Among the issues crucial to the success of a prospective payment plan is a closer cooperation between hospital management and physicians. Furthermore, a prospective payment plan, in my option, must account for the shifting of Medicare costs onto other payers, the capital needs of hospitals and the provision of charity care by our hospitals. Also, special consideration should be given to our financially distressed hospitals and, as already mentioned, the costs of medical education provided in our academic medical centers.

TIGHTER PHYSICIAN CONTROLS

As courts have eroded the "professional exemption" from anti-trust laws, the Federal Trade Commission in recent years has focused more and more attention on physicians. Although the American Medical Association lost its battle last year to win a special statutory exemption for doctors and dentists, the matter undoubtedly will appear on your agenda this session. Along with it may come attempts to scrutinize more closely physician reimbursement under Medicare. Hospital-based physicians will see further attempts to clarify their reimbursement rules this year under Part A, the hospital component of Medicare. Tighter reimbursement rules under Part B, the medical component, will at least be the subject of hearings, if not proposed legislation. State-wide negotiated fee schedules for reimbursement payments, mandatory assignment and other devices long loathsome to physicians will be considered.

HEALTH PLANNING

Finally, the subject of health planning will come before this body again shortly. I have not by coincidence saved it for last in my commentary. Federally supported health planning may well be our last hope in imposing a degree of order and reason upon our rather fragmented industry. The far reaching fiscal impact of the hospital capital dilemma to which I have already alluded can be controlled only if we rationally plan for the future allocation of scarce health care resources, facilities, technology and manpower. For financially distressed hospitals and disadvantaged and underserved communities, it may not be advisable simply to allow the bond financing marketplace to allocate capital and hospital renovation, modernization and replacement. Similarly, it may not be efficient or desirable in areas like New York City with dozens of hospitals within relatively close geographical boundaries for every hospital to offer the full array of services from the spectrum of modern medicine to essentially the same populations. Health planning, in my opinion, offers us perhaps the only vehicle by which we can avoid unnecessary duplication of services and facilities and which can ensure, to the extent possible, an equitable distribution of available sources. Past Congresses have given high priority and strong bi-partisan support to health planning and the certificate-of-need concepts, yet the program now limps along on a $64 million dollar continuing resolution with its future in doubt.

I would like to close by urging continued support for health planning on all levels. If next year's and the next decade's health care situation report is to reflect an improvement over the present one, and if our health care delivery system, both in New York City and elsewhere, is to continue to be able to respond to the varied and shifting needs and demands of our population, we must redouble our efforts and reaffirm our commitment to sound and rational health planning.●

TIMES ERRED IN REPORTING LOCKHEED OVERRUN ON C-5B

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. McDONALD. Mr. Speaker, the fallout from the release of the erroneous report on the C-5B by the project on military procurement continues. Perhaps the press will learn to be a little more careful about some of these professional antidefense organizations that do not know how to shoot a rifle, yet alone which end the bullet comes out. As the Los Angeles Times reported on April 27, 1983, this false story caused an abrupt drop in Lockheed stock and no end to public relations problems. So that my colleagues may have the benefit of more details on this matter, I am placing the Los Angeles Times story in the RECORD at this point:

[From the Los Angeles Times, Apr. 27, 1983]

TIMES ERRED IN REPORTING LOCKHEED OVERRUN ON C-5B

(By David Wood)

WASHINGTON.—An internal Air Force report on the cost of Lockheed Corp.'s C-5B program was a "worst-case" projection by government cost analysis, not a report on actual cost overruns as The Times reported Tuesday. In fact, the Air Force said, the cost of the program may run under estimates.

Russell D. Hale, assistant Air Force secretary for financial management, said in a statement Tuesday that "to suggest that there is a $566-million cost overrun on a program which is less than six months old is preposterous.

"There is no cost overrun in this program today and we do not anticipate an overrun in the future," Hale said.

The Times report Tuesday was based on an independent Air Force study of the C-5B program predicting that the total cost of the 6-year Lockheed effort could be $566 million more than the $7.8 billion provided in the contract signed Dec. 31, 1982.

The Times misunderstood the report, believing it to be an analysis of actual cost overruns rather than an assessment of what the total cost of the C-5B project could turn out to be over the life of the Lockheed contract.

As a result, The Times incorrectly indicated that during the first three months of the contract, costs had already exceeded Lockheed's projections by $566 million.

Hale said in an interview Tuesday that the independent analysts intentionally take the "gloomier" view in projecting costs. "What their estimate (suggests) is that if you take the high estimate, (the cost) could be higher than the firm fixed-price contract which includes their profits," he said.

Copies of the report were released Monday by the Project on Military Procurement, a nonpartisan watchdog group that focuses on military spending. It is an offshoot of the Fund for Constitutional Government, a nonprofit group founded during Watergate to investigate corruption in government. Its financial backers range from liberal philanthropist Steward Mott to the Rockefeller Family Fund.

In an interview at the company's Burbank headquarters, Lockheed Chairman and Chief Executive Roy A. Anderson vigorously denounced what he termed "irresponsible" and "inaccurate" reporting of the C-5B cost situation.

Anderson said the reports about a cost overrun have damaged unfairly Lockheed's credibility among investors, whose large imbalance of orders to sell Lockheed stock caused the New York Stock Exchange to suspend trading of the issue for all of Tuesday. Initial leaks of the reports contributed to the price of Lockheed stock falling $3.25 per share, to $120.25, in Monday's trading, Anderson said.

He said the company could not now be $500 million over budget on the C-5B because Lockheed hasn't even spent that much yet.

The Air Force analysis warned that because Lockheed is building 50 of the giant cargo planes under a firm fixed-price contract, higher-than-anticipated costs could mean a reduction in Lockheed's profit.

The report further warned that the Air Force should be wary of reopening the contract, an action that the government analysts said "would give the contractor the opportunity to renegotiate the contract value under conditions less favorable to the Air Force."

Such an analysis, formally called an "independent cost analysis," is routinely performed while a major contract is being negotiated as a check on the costs estimated by the contractor and the military managers of a program such as the C-5B.

Hale said the Air Force had "negotiated down" Lockheed's proposed contract price and therefore was "not about to open that thing up." He also pointed out a conclusion in the cost analysis report that if the Air Force adheres strictly to the terms of the firm fixed-price contract, the C-5B program could be completed for $206 million less than the currently approved price. He asserted that this reduction "will be realized" because of a reduction in the projected requirement for Lockheed to provide initial spare parts.

ESTIMATE IN DISPUTE

The Air Force officials negotiating the contract did not agree with the cost estimate in the independent analysis. But Hale said the report, a "worst-case" estimate, was close enough to the negotiated contract cost to validate the contract.

In the interview Tuesday, Hale said the independent analysis cost estimate had included several possible costs not included in the Lockheed contract. He said it projected inflation over the next four years at a slightly higher rate than the 7 percent to 8 percent inflation on which the contract is based. In addition, Hale said, the analysis used a higher estimate of the costs associated with ordering engineering changes on the C-5B after the contract has been signed.

In the Lockheed contract, Hale said, potential engineering changes were estimated at 3 percent of total contract costs, while the analysis used 5 percent.

Five engineering changes have been approved, of which four involve no cost change and one will save an estimated $15 million, according to Hale. He said two additional proposed engineering changes could be absorbed within the 3 percent allowance for such changes.

In the interview, Lockheed's Anderson said, "If their (worst-case) facts were realized, we could lose half of our profit. But the Air Force didn't say (that) this in fact was going to happen. Under certain circumstances we could underrun on costs." The contract calls for Lockheed to make a profit of 15 percent of the program's cost.

In fact, Anderson said, Lockheed so far is below budget. "But we don't say that's representative because the contract is only 3 months old" and many things can happen over its eventual 6-year term, he said.

The entire contract cannot be renegotiated unless the Air Force asks for modifications exceeding 3 percent of the value of the whole contract, or unless Congress delays or speeds up the program, Anderson said.

"We'd like to see the contract stay right as it is," Anderson said. "We hope it (an unchanged contract) can show how well we can perform."●

IN TRIBUTE TO WILLIAM T. "WIMPY" HIROTO

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. MATSUI. Mr. Speaker, it is with great pleasure that I rise to address my colleagues in this Chamber today regarding the achievements of William T. "Wimpy" Hiroto. It is most appropriate that we pause and recognize the valuable contributions Wimpy has made to his community.

While Wimpy's distinguished career has spanned several professions, he has dedicated his efforts to improving the quality of life in the Japanese-American community. This commitment is demonstrated by his involvement in all facets of life in Los Angeles' Little Tokyo area. His activities include developing the City View Hospital and the Keiro Nursing Home as well as sponsoring the events of numerous youth groups.

In 1975, Wimpy undertook the fundraising drive to construct the Gardena Valley Japanese Cultural Institute. Under his direction, $1.5 million was raised to complete the institute by 1978. As a result of his efforts, the Japanese Cultural Institute is now home to a 100-unit senior housing project and the scene of expanding cultural and community oriented programs.

In conclusion, I am certain that all Members of this House, and particularly our California delegation, will join me in extending best wishes to Wimpy Hiroto. As the Representative of the Third Congressional District of California, I am proud to pay tribute to Wimpy's selfless philosopy of community service.●

THE TAX REFORM DEBATE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. PAUL. Mr. Speaker, a massive tax revolt has begun in this Nation, and with good reason. One has only to look at the thousands of pages of the Internal Revenue Code or the hundreds of different tax forms to know that something is wrong with our current tax structure. The IRS has become so abusive in its tax collection policies that my colleague, Representative GEORGE HANSEN, has introduced H.R. 171, the Taxpayers Protection Act, a bill that I have cosponsored.

The tax revolt has taken on many forms, ranging from open rebellion to the furtive actions of so-called tax cheaters. The growth of the underground economy, estimated to range between 14 percent and 30 percent of the above-ground U.S. GNP, is directly related to huge tax increases in the past 10 to 20 years.

In recent years, the demand for a major tax reform has captured the attention of legislators and the media. Various alternatives have been proposed, such as a national sales tax, or a value-added tax. The most popular proposal, however, is the flat rate income tax.

The greatest appeal of a flat rate income tax is its simplicity. By eliminating graduated tax rates and many of the deductions, most plans greatly simplify the preparation of tax returns.

While simplicity is an asset of these plans, the elimination of deductions could eventually prove to be a liability. By eliminating many or all of the deductions, these plans increase the percentage of an individual's gross income that is eligible for taxation. This might be acceptable so long as the tax rate remains low; that is, 10 percent or less. Unfortunately, several of the flat rate income tax bills pending in the Senate call for tax rates from 27 to 30 percent, with no deductions.

For this reason, I cannot lend my unconditional support to the concept of a flat rate income tax. Certain proposals merely substitute one oppressive tax system for another. They are designed to maintain or increase Government revenues, usually at the expense of the middle income taxpayers.

Flat rate income tax plans calling for high marginal tax rates are no salvation for the overburdened taxpayer. Indeed, I would only support flat rate tax proposals calling for tax rates of 10 percent or less.

Prior to a genuine tax reform, the American people must decide what type of government they want. The sole reason for levying taxes is to support the activities of the State. If our taxes are too high, it is because the Government is too large.

The Federal Government is currently funding many activities that have no constitutional justification. For example: In 1982, $130 billion of our defense budget actually went to subsidise the defense of Europe. The President's 1984 budget request contained a 67-percent increase in foreign aid. Income security and other welfare programs, which now comprise 45 percent of the Federal budget, will cost the American taxpayers over $400 billion this year. But there is no constitutional warrant for such transfer programs at the Federal level.

If Americans want to continue with big government, they are going to have to pay the cost. Even as high as our taxes are, we are not paying the full price for our modern welfare state. Instead, we are bankrupting our future to avoid making necessary budget cuts today. The deficit for fiscal year 1983 alone is expected to be $260 billion.

Genuine tax reform, and lower tax burdens, will only occur after a return to limited government. I have introduced two separate tax bills in the 98th Congress, each with a slightly different approach to reducing the tax liabilities of most Americans. I have introduced both bills in order to present the American taxpayers with a choice of how to reduce their taxes.

The first bill, H.R. 1664, reduces the marginal tax rate for all taxpayers to 10 percent, while leaving the entire deduction structure intact. The bill also increases the personal exemption from $1,000 to $2,500.

H.R. 1664 has several strong points. It would eliminate the current graduated income tax system, replacing the graduated rates with a flat 10-percent rate. Further, the retention of all deductions would help protect taxpayers from any future increase in the tax rate. The text of the bill is as follows:

H.R. 1664

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Flat Rate Tax Act of 1983".

SEC. 2. 10 PERCENT INCOME TAX RATE FOR ALL INDIVIDUALS.

(a) In General.—Section 1 of the Internal Revenue Code of 1954 (relating to tax imposed on individuals), as amended by section 104 of the Economic Recovery Tax Act of 1981, is amended to read as follows:

"**SECTION 1. TAX IMPOSED.**

"(a) In General.—There is hereby imposed on the taxable income of each individual (including an estate and trust) for each taxable year a tax equal to 10 percent of so much of such taxable income as exceeds the zero bracket amount.

"(b) Zero Bracket Amount.—For purposes of this section, the term 'zero bracket amount' means—

"(1) $3,400 in the case of—

"(A) a joint return under section 6013, or

"(B) a surviving spouse (as defined in section 2(a)),

"(2) $2,300 in the case of an individual who is not married (as defined in section 143) and who is not a surviving spouse (as defined in section 2(a)),

"(3) $1,700 in the case of a married individual (as defined in section 143) filing a separate return, or

"(4) zero in any other case.

"(c) Inflation Adjustment of Zero Bracket Amount.—

"(1) In general.—Not later than December 15, 1984, and each subsequent calendar year, the Secretary shall prescribe zero bracket amounts which shall apply in lieu of the amounts contained in paragraphs (1), (2), and (3) of subsection (b) with respect to taxable years beginning in the succeeding calendar year.

"(2) Method of prescribing new zero bracket amounts.—

"(A) In general.—The zero bracket amount which under paragraph (1) is to apply in lieu of the amount contained in paragraph (1), (2), or (3) of subsection (b), as the case may be, with respect to taxable years beginning in any calendar year shall be prescribed by increasing the amount so contained by the cost-of-living adjustment for such calendar year.

"(B) Rounding.—If any increase determined under subparagraph (A) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be increased to the next highest multiple of $10).

"(3) Cost-of-living adjustment.—For purposes of paragraph (2), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(A) the CPI for the preceding calendar year, exceeds

"(B) the CPI for the calendar year 1983.

"(4) CPI for any calendar year.—For purposes of paragraph (3), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on September 30 of such calendar year.

"(5) Consumer price index.—For purposes of paragraph (4), the term 'Consumer Price Index' means the last Consumer Price Index for all-urban consumers published by the Department of Labor."

(b) Technical Amendment.—Subsection (f) of section 151 of such Code (defining exemption amount) is amended by striking out "section 1(f)(3)" and inserting lieu thereof "section 1(c)(3)".

SEC. 3. PERSONAL EXEMPTION INCREASED TO $2,500.

(a) In General.—Subsection (f) of section 151 of the Internal Revenue Code of 1954 (relating to allowance of deductions for personal exemptions), as amended by section 104 of the Economic Recovery Tax Act of 1981, is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "$2,500".

(b) Technical Amendment.—Subsection (e) of section 104 of the Economic Recovery Tax Act of 1981 is amended by striking out "1984" and inserting in lieu thereof "1982".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1982.

The second bill I have introduced in H.R. 2137. This bill would institute a flat rate income tax on all individual income in excess of $10,000, with no exclusions, no deductions, and no exemptions. By allowing the $10,000 exemption, the effective rates of taxation—the percentage of gross income paid in taxes—would actually be less than 10 percent.

This will would allow for greater simplification of the Tax Code than H.R. 1664. In addition, by increasing the exemption for each taxpayer to $10,000, the bill eliminates the need for deductions. Under H.R. 2137, every taxpayer's filing status and tax liability would be the same, regardless of their marital status.

The text of H.R. 2137 reads:

H.R. 2137

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Flat Rate Tax Act of 1983".

SEC. 2. 10 PERCENT INCOME TAX RATE FOR ALL INDIVIDUALS.

Section 1 of the Internal Revenue Code of 1954 (relating to tax imposed on individuals) is amended to read as follows:

"**SECTION 1. TAX IMPOSED.**

"There is hereby imposed on the gross income of each individual (including an estate and trust) for each taxable year a tax equal to 10 percent of so much of such gross income as exceeds $10,000."

SEC. 3. REPEAL OF ALL SPECIAL DEDUCTIONS, CREDITS, AND EXCLUSIONS FROM INCOME FOR INDIVIDUALS.

Chapter 1 of the Internal Revenue Code of 1954 is amended by striking out all specific exclusions from gross income, all deductions, and all credits against income tax to the extent related to the computation of individual income tax liability.

SEC. 4. EFFECTIVE DATE, ETC.

(a) Effective Date.—The amendments made by this Act shall apply to taxable years beginning after December 31, 1983.

(b) Technical and Conforming Changes.—The Secretary of the Treasury or his delegate shall, as soon as practicable but in any event not later than 90 days after the date of the enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives a draft of any technical and conforming changes in the Internal Revenue Code of 1954 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

It should be noted that neither of these bills provides a definition of the term "income." None of the flat rate tax proposals currently pending in Congress give such a definition. The definition is already contained in the Internal Revenue Code and the regulations issued pursuant to that code by the Department of the Treasury.

Neither of the tax bills I have introduced would affect the business tax structure, nor would they change the tax-exempt status of churches or foundations.

I believe that the time has come for a major reform of our tax structure. Any such reform, however, must be accompanied by a return to limited government, as mandated in the Constitution. Changing the tax laws will not be enough. There must be a revolution in the hearts and minds of the American people as well, a revolution in favor of freedom and against the notion of big government which makes high taxes inevitable.●

CLINCH RIVER A BOONDOGGLE?

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. **WEBER**. Mr. Speaker, Ms. DeeAnn Sime from Kiester, Minn., has asked the question if the Clinch River breeder reactor is a boondoggle or a necessary component of the energy system in America. I believe her essay is well worth reading.

A NUCLEAR REACTION IN CONGRESS: THE CLINCH RIVER PROJECT

Nuclear technology has the potential for providing clean, efficient fuel far into the future; the technology of the nuclear breeder reactor, however, promises not only sufficient energy for the present, but increasing supplies of fuel for the future. Upon closer inspection, however, the breeder reactor falls somewhat short of the miraculous fountain of energy science once hoped it was.

A source of political conflict and social tension over the past decade, the Clinch River Breeder Reactor Project has been hailed as both "a stepping-stone to an era of endless energy" and "a costly, ill-conceived technological turkey." Conceived in the early years of the Nixon Administration, the CRBRP today is little more than parts assembled in warehouses along the Clinch River near Oak Ridge, Tennessee. Delayed by environmentalist's lack of confidence in nuclear technology, appropriations battles in Congress, and the original inaccurate economic projections, the Clinch River Project has little more than a long history of tension and strife to show for itself.

Public concern has been well founded in regard to breeder technology. While conventional reactors such as Three Mile Island threaten the safety of the environment, not to mention personnel and the public, breeder reactors pose the much greater danger of a possible nuclear explosion. In its use of fissible plutonium as fuel, the breeder reactor design requires liquid sodium metal to be used as a coolant. Sodium is extremely reactive in both air and water; in the event of a loss of coolant, not only would the sodium metal cause incredible damage, but the nuclear reaction itself would speed up, resulting in an actual nuclear explosion.

The economics of the project must also be considered when examining the impracticality of the Clinch River breeder reactor. Estimated at a cost of 699 million dollars in 1970, the project has ballooned to well over 3.5 billion dollars and is expected to reach possibly 9 billion before its completion. It was intended that private industry contribute a sizable portion of construction costs, namely 257 million dollars yet the federal government has received only 122 million dollars and had been forced to undertake all cost overruns; many utility companies have refused to contribute further funds for the completion of the breeder reactor.

Such a dramatic rise in cost is due mainly to inaccurate predictions that the price of uranium would rise drastically in the future because of small supplies and high demand. In reality, the price of uranium has dropped as a result of a lower demand for nuclear power. In fact, since 1978, no new nuclear power plants have been ordered; on the contrary—many previously planned reactors have actually been cancelled. David Stockman, former representative from Michigan and current budget director for the Reagan Administration, withdrew his support from the project as early as 1977, stating, "The breeder reactor is not the mythical cornucopia of boundless, free energy supplies . . . The breeder reactor will not produce power more cheaply than conventional reactors . . . until the price of uranium rises substantially above its current level.

Political support for Clinch River has waxed and waned throughout its thirteen year history. President Richard Nixon considered the breeder reactor to be the "best hope for meeting the nation's growing demand for economical, clean energy." Yet during the Carter Aministration, executive support for the project totally disappeared; President Carter suspended licensing for Clinch River, successfully preventing construction for four years. President Reagan, a long supporter of nuclear power, has however shown support for the CRBRP by resuming licensing and requesting 252 million dollars for the project in the 1983 budget. It has been speculated that the President, in exchange for his support of the breeder reactor, received the backing of Senator Howard Baker of Tennessee, Majority Leader in the Senate, for his economic recovery program.

In their support of this "nuclear Concord"—a technologically appealing but economically unfeasible project—Senator Baker and his colleague from Tennessee, Marilyn Lloyd Bouquard, have become a key factor in the continuation of this "colossally mismanaged boondoggle" known as Clinch River. Richard W. Wilcke, President of the Council for a Competitive Economy, concludes, "The tragedy of the nuclear power industry is its reliance on the political process rather than the market for guidance. . . The Clinch River Project reveals how far afield an industry can wander when economic reality is replaced by political caprice."●

THE PLIGHT OF THE BLACK FARMER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. **TOWNS**. Mr. Speaker, today the House passed H.R. 1190, the Emergency Agricultural Credit Act of 1983. In their supplemental views to the report on this legislation, several of our colleagues discussed the findings of the U.S. Commission on Civil Rights report on "The Decline of Black Farming in America." The findings in this report suggest the agricultural credit programs of the Farmers Home Administration (FmHA) may be contributing to the loss of black-owned farms. As a member of the Government Operations Subcommittee on Government Information, Justice, and Agriculture, I hope that our subcommittee can examine the Commission's findings through hearings in the near future. I would like to share our colleagues (Mr. DASCHLE, Mr. BROWN of California, Mr. HARKIN, Mr. BEDELL, and Mr. PENNY) supplemental views on this topic with the Members of the House.

SUPPLEMENTAL VIEWS OF HON. TOM DASCHLE, HON. GEORGE E. BROWN, JR., HON. TOM HARKIN, HON. BERKLEY BEDELL, AND HON. TIM PENNY

We note with particular interest a report issued in February 1982, by the U.S. Commission on Civil Rights entitled, "The Decline of Black Farming in America." The report examines problems confronting black farmers and the historical and current conditions—racial discrimination, lack of institutional economic support, commercial lending practices, commodity and income supports, and tax structures geared to benefit large farm operations, and others—that have contributed to the loss of black-owned farms in the United States. It reviews the agricultural credit programs of the Farmers Home Administration (FmHA) in light of its role as the principal public lending institution for Rural America, and evaluates civil rights policies and enforcement activities at various administrative levels within the U.S. Department of Agriculture (USDA) and assesses their impact on loan services provided to black farmers in its farm credit programs.

In a transmittal letter accompanying the report when submitted to Congress, the Chairman of the Commission, Arthur S. Fleming, stated, ". . . FmHA credit programs have the capability to provide immediate direct assistance to black farmers to make their farms more viable and to prevent further loss of their lands."

However, we are alarmed that, according to the Commission's report, since 1920, blacks have left agriculture at a rate 250 percent greater than that for white farmers. Only 57,271 black farmers remained in agriculture in 1978, a dramatic decline from 916,000 in 1920. In addition black farm income in 1978 averaged only $7,584 compared to $17,323 for white farmers. We are concerned that if current rates of loss continue, by 1990, fewer than 10,000 black farmers will remain in the United States.

With these figures in mind, we are especially troubled by the Commission's finding that FmHA has not given adequate emphasis or priority to the crises facing black farmers. Again, according to Chairman Fleming:

> "* * * despite their disproportionate need, black farmers are not fully benefiting from FmHA loan programs. In some cases, FmHA may have hindered the efforts of black small farm operators to remain a

viable force in agriculture. Furthermore, as the Commission has found in the past, USDA and FmHA have failed to integrate civil rights goals into program objectives and to use enforcement mechanisms to ensure that black farmers are provided equal opportunities in farm credit programs."

In light of the Agency's mission as the lender of last resort for low income, minority, and otherwise disadvantaged farmers, we believe that FmHA should play a central and leading role in promoting and encouraging viable black-owned farm operations. However, we are dismayed that FmHA apparently has not embraced its responsibilities in this regard, and in fact, has shown little desire to do so. As noted in the Commission's report, only 2.5 percent of the total amount loaned through FmHA farm credit programs in fiscal year 1981 was awarded to black farmers. Moreover, in each farm loan program, the proportion of loans made to blacks declined between 1980 and 1981.

We are especially concerned with the less than satisfactory record of FmHA's limited resource loan program in providing due assistance to eligible black farmers. Created in 1978, the limited resource loan program has among its specific purposes and goals the assistance, through low interest loans, to minority farmers who might otherwise be unable to enter or continue farming. In fact, the Commission's report contains findings which bring into question whether FmHA is fulfilling its obligations under both civil rights laws and federal farm credit program statutes.

"* * * Even the limited resource loan program has not been administered to the benefit of black farmers. The majority of black FmHA farm loan borrowers are not provided these low-interest, limited resource loans, but instead receive their loans at regular interest rates. In some states, black borrowers receive proportionally fewer limited resource loans than white borrowers.

"There are indications that FmHA may be involved in the very kind of racial discrimination that it should be seeking to correct. Perceptions held by black farmers and community-based organizations, along with complaints and compliance review findings and analysis of limited resource loan data all suggest that FmHA, in some instances, contributes to the problem rather than to its amelioration."

Such findings by the Commission were supported in testimony received during hearings held by the Subcommittee on Conservation, Credit and Rural Development on H.R. 1190. Ms. Kathryn Waller, Executive Director of the National Sharecroppers Fund, described individual instances of discrimination against black farmers in her home state of North Carolina. She explained the unspoken, though effective, FmHA lending policies in predominantly black counties which prevent blacks from taking advantage of credit opportunities to which they should be entitled. She urged the Subcommittee "to examine the administration and future direction of the limited resource loan program, to ensure that it is fulfilling the purpose Congress intended."

Concerned by the allegations contained in the February 1983 report, the Chairman of the Subcommittee on Conservation, Credit, and Rural Development, in a letter to Agriculture Secretary John Block, inquired as to the Department's official response to the U.S. Commission on Civil Rights, and what steps were being taken to address the problems uncovered in the report. In August, some seven months after the report's release, Secretary Block in his response to Commission Chairman Fleming and in separate correspondence to the Subcommittee Chairman indicated that USDA did not accept the findings of the report. He maintained that FmHA provides only a small percentage of farm credit in the first place and, therefore, should not be expected to make the difference for black farmers. In addition, the Secretary noted that, given the small number of black farmers, FmHA does not in fact serve black farmers well. He also noted that USDA was at that time overhauling its civil rights procedures and its Office of Minority Affairs. Secretary Block stated that the Civil Rights Commission could expect full cooperation from the Department under the leadership of newly-appointed Office of Minority Affairs Director, Isidoro Rodriguez.

During deliberations on H.R. 1190, USDA's commitment to its civil rights enforcement responsibilities regrettably became further clouded. In a memorandum brought to the public's attention during a Presidential news conference in February 1983, it was learned that USDA Office of Minority Affairs Director Rodriquez was suggesting that all USDA regulations be "purged of any reverse-discrimination aspects. . . ." Rodriquez went on to assert that the Administration has not been supported politically by the groups which benefit from civil rights policies and that "non-ethnic groups which have not received special benefits are making it clear in a number of ways they are tired of ethnic favoritism." Under the tenure of Director Rodriguez, the Office of Minority Affairs experienced a reduction in the number of investigations of discriminatory practices from 90 in 1981, to none in 1982, and the number of compliance field reviews from 92 to one.

To the credit of USDA and the Administration, Mr. Rodriguez was dismissed soon after this disgraceful episode was publicly uncovered. Secretary Block has since re-affirmed publicly his support for civil rights laws, and we fully expect incidents of this nature not to occur again.

However, because of the laxity with which the Secretary responded to the report from the U.S. Commission on Civil Rights, and the Department's apparent disregard for the findings and recommendations contained in the report, we must state for the record our concern that USDA improve drastically and immediately its enforcement of civil rights laws and its attitude toward them. We urge a new investigation by the Department of the findings of the Civil Rights Commission report to ensure that black and other minority farmers are being afforded fair and equal treatment under the law. Furthermore, we urge the Department to carefully monitor the implementation of all its programs at all levels, especially the local level, and to re-institute the thorough investigation of all charges of discrimination as well as its regular civil rights compliance field reviews.

Subsequent to Committee action on H.R. 1190, and prior to the filing of the Committee Report on the legislation, we were notified that the Civil Rights Commission Chairman, Clarence M. Pendleton, had once again contacted Secretary Block to express the Commissioners' concern about the Department's handling of its civil rights enforcement responsibilities. In a March 14, 1983, letter, Chairman Pendleton noted that USDA has failed to implement any of the specific recommendations included in the Commission's February 1982 report. In fact, the Commission states that the conditions highlighted in their report one year ago, rather than improving, actually have worsened.

We are now convinced more than ever the validity of the concerns we have expressed in these additional views. Following is a copy of Chairman Pendleton's recent letter to Secretary Block:

U.S. COMMISSION ON CIVIL RIGHTS,
Washington, D.C., March 14, 1983.

Hon. JOHN R. BLOCK,
Secretary of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: A year ago the Commission issued a report, "The Decline of Black Farming in America", documenting the unparalleled rate of loss of black-owned and operated farms in this country (a rate of loss 2½ times that for white-operated farms over the last decade). The report also reviewed the role of the U.S. Department of Agriculture and the Farmers Home Administration in providing assistance to black farmers. It expressed our belief that the Farmers Home Administration, with an historical mission to preserve the family farm, a mandate to provide supervision and loans to farmers who cannot obtain credit elsewhere, and a farm loan budget exceeding $6 billion annually, is in a unique position to assist black farmers. The report found, however, that despite their disproportionate need (which it documented extensively), black farmers received only a small fraction of FmHA loans, and moreover, that the majority of blacks who did receive FmHA farm loans, did not receive them at the low interest rates intended for limited resource farmers. We also found that USDA was not enforcing civil rights laws effectively to ensure that minorities receive equal opportunity in FmHA's farm credit programs.

A year later, we are deeply concerned that the conditions highlighted in our report, rather than improving, actually have worsened. FmHA's farm loans to blacks have declined steadily, FmHA minority employment has fallen despite increases in overall agency employment, and civil rights enforcement has come to a virtual standstill.

Examination of FmHA farm loan beneficiary data reveals that the proportion of loans to blacks has continued to decline steadily since 1980 in every FmHA farm loan program except one. (The exception, the Disaster Loan Program, as you know, awards loans based on geographically defined disaster areas.) Loans to blacks under the Farm Ownership Loan Program declined from 3.1 percent in 1980 to 1.9 percent in 1981 to 1.4 percent in 1982; Operating Loans to blacks declined from 7.9 percent in 1980 to 5.8 percent in 1981 to 4.5 percent in 1982; Soil and Water Loans declined from 2.9 percent in 1980 to 2.6 percent in 1981 to 2.3 percent in 1982. As a proportion of the total dollar amounts loaned in 1982, blacks received only 1.0 percent of the Ownership Loans, 2.5 percent of the Operating Loans, and 1.0 percent of the Soil and Water Loans.

FmHA data also reveal that the likelihood of black borrowers receiving loans at special low interest rates under the Limited Resource Loan Program, which Congress expressly intended to benefit minority farmers, is declining even more dramatically. While the total number of Operating Loans made to blacks declined by 20 percent between 1980 and 1982, the number of initial

Limited Resource Loans made to blacks declined by 68 percent. (This analysis is restricted to "initial" Limited Resource Loans because FmHA does not provide "subsequent" or total Limited Resource Loan data by race.) Thus, in 1982, only one black borrower received his loan(s) at low interest rates for every ten Operating Loans made to blacks. (In 1981, one black received low interest loan(s) for every five Operating Loans made to blacks, and in 1980, one black received low interest loan(s) for every four loans made to blacks.) In some States, the chances of a black receiving a Limited Resource Loan are particularly poor. For example, while 113 Operating Loans were made to blacks in Arkansas and 96 in Virginia during 1982, only one black borrower received a low interest loan in each of those States. In Georgia, while blacks received 92 Operating Loans, only three blacks received their loans at low interest rates under the Limited Resource Loan Program.

A review of FmHA employment data reveals a downward trend in minority employment in the agency. Between March 1981 and October 1982, total agency employment rose by 440, or five percent. During this same period of time, however, minority employment fell, bringing the agency's rate of minority employment down from 11.2 percent to 10.7 percent, well below the Federal government's average rate of minority employment.

We are particularly concerned that the Department's efforts to enforce civil rights laws have deteriorated over the past year. In your August 16, 1982 letter responding to our report, you stated that the Department had "taken a number of steps internally to improve . . . civil rights enforcement programs. . . . [and] recently completed a reorganization of the Office of Minority Affairs [OMA] in order to ensure more timely and effective complaint investigations and compliance reviews . . ." Our staff, however, in meeting with then OMA Director Isidoro Rodrigues, found that OMA's reorganization was still in process (and, we understood, not to be completed until February 20). It appears, in the meantime, that most of OMA's functions came to a halt during 1982.

For example, in prior years, OMA conducted approximately 80 onsite compliance investigations annually, one-quarter of which covered county and district FmHA offices. In 1982, OMA conducted only one onsite compliance investigation. No onsite compliance reviews were conducted of FmHA field offices by OMA or FmHA headquarters in 1982.

Similarly, in 1982, OMA discontinued its practice of conducting onsite investigations of complaints. In prior years, OMA investigated (onsite) about 100 complaints annually. In 1982, responsibility for complaint investigations was transferred, without concomitant staff or funding, to the agencies charged with discrimination in each respective complaint. Thus, for example, FmHA staff are to handle, by written correspondence or telephone inquiry, the more than 200 complaints filed against FmHA annually. We understand the backlog is such that staff have not yet begun to respond to complaints received in 1982. No complaints against the Farmers Home Administration are being investigated onsite.

In 1982, OMA also discontinued its report, "Equal Opportunity Programs in USDA," which has been issued annually since 1972. The report provided a summary of USDA civil rights activities, compliance review findings, complaint resolutions, minority program participation data, and agency employment data. No comparable summary or analysis has been issued in its place, making it difficult to evaluate agency and Department-wide civil rights progress.

Mr. Rodrigues refused to cooperate with government-wide efforts to coordinate civil rights enforcement activities to make them more efficient and effective. Under Executive Order 12250, which vests coordination authority for enforcement of certain civil rights statutes in the Department of Justice, Federal agencies are required to submit Implementation Plans to the Justice Department. These annual plans describe each agency's civil rights accomplishments in the previous fiscal year and project goals and objectives for the coming year. Mr. Rodrigues did not submit the 1983 Plan which was due in November 1982.

Mr. Rodrigues stated that he also did not intend to submit a 1983 Affirmative Action Annual Accomplishment Report and Update required by the EEOC. He indicated that he intended to develop an affirmative action plan under his own, unspecified, criteria. In the meantime, Mr. Rodriguez discontinued statistical reporting of USDA employment by race, ethnicity, and sex and trends in minority employment. He did not develop a 1983 Federal Equal Opportunity Recruitment Program (FEORP) plan required by the Office of Personnel Management (OPM) and, according to staff, left vacant the positions of Hispanic Program Manager and Federal Womens Program Manager.

The concerns summarized above lead us to the conclusion that the Department has dismantled, in 1982, the few civil rights enforcement mechanisms developed by USDA over the past decade, without instituting alternative mechanisms to ensure equal opportunity in USDA programs. We are apprehensive about the consequences of the Department's lack of civil rights leadership and the resultant message conveyed to your agenices and their field offices—a message that signals a waning concern for civil rights at USDA. Declining farm loans to blacks may be but one manifestation at the county level of an increasing disregard for the rights of minorities.

Most government commodity, research, and tax programs are geared to, and overwhelmingly benefit, middle and upper income farmers, who are predominantly white. Nonetheless, Federal programs are often the only viable assistance available to minority farmers. It is, therefore, of critical importance that all USDA programs, and especially those which have great potential for assisting black farmers, such as FmHA's loan programs and particularly the Limited Resource Loan Program, be available to minorities on a nondiscriminatory basis. At the very least, our nation's laws require this.

As Secretary of Agriculture, you have the responsibility and the authority to take actions which will strengthen civil rights enforcement and significantly influence the lives of minority farmers. We strongly urge you to reconsider the direction your Department has taken in civil rights. In following up on the recommendations in our report, we also are urging the Congress to take a more active role in the oversight of FmHA's services to minorities and USDA's overall civil rights enforcement program. It is our hope that you will take this opportunity to assert strong, effective leadership to assure that minorities are provided equal opportunity in all programs offered by the U.S. Department of Agriculture.

Please advise us of any action you plan to take in response to our concerns.

Sincerely,

Clarence M. Pendleton,
Chairman.
(For the Commissioners).
Tom Daschle.
George E. Brown, Jr.
Tom Harkin.
Berkley Bedell.
Tim Penny.●

"LIVE FREE OR DIE," AND . . . THE NUCLEAR FREEZE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. McDONALD. Mr. Speaker, as most of my colleagues know, the motto of our neighbors to the north in the State of New Hampshire is: "Live Free or Die." I think that not only a fitting motto for all of these United States today, but most assuredly is an apt reply to those who look at the Communist menace today and still insist on being, "Better Red Than Dead."

It seems that some outstanding examples of a resurgence of patriotism among our young men and ladies of today are coming from the college students of New Hampshire. A few weeks back, we found an excellent example of their patriotism when a poster found its way to the Halls of Congress by the New Hampshire College Republican Federation. It depicted in absolute truth the present dictator of Communist Russia: Yuriy Andropov. These young people of New Hampshire pointed out that Andropov, as Director of the KGB—Soviet Secret Police—was not only guilty of participation in the attempted assassination of the present Pope, but as well, we can thank Andropov for Hungary, Czechoslovakia, suppression of freedom-lovers in Poland, the invasion of Afghanistan, the use of chemical warfare in both Afghanistan and Laos, and much more.

Now comes more patriotism from the young people of New Hampshire with an item from Dartmouth College titled: "15 Questions for Your Nuclear-Freeze Friends." I commend these 15 questions to my colleagues for there is indication here that some Members are misreading what the grassroots of America are really thinking on this issue. Reader's Digest issue of May 1983 evidently thought these 15 questions should be shared with all America. I could not agree more and accordingly would like to share these "to the heart of the problem" "15 Questions on the Nuclear Freeze" with my colleagues. The Dartmouth Review item, as condensed by Reader's Digest, follows:

[From the Reader's Digest, May 1983]

15 QUESTIONS FOR YOUR NUCLEAR-FREEZE FRIENDS

(Condensed from Dartmouth Review)

It was interesting, for a week or two, to contemplate the negotiation of a joint and verifiable (emphasis on the latter) freeze of nuclear-weapons deployment along with our friends in Moscow. You knew the Russians would never agree to verification anyway, so you relaxed and indulged the impulse to daydream.

But now it's time to politely change the subject. If you find yourself getting bogged down in the freeze debate, pop one of these 15 questions:

1. Describe in 100 words or less the Soviet monument to détente that stands in Berlin.

2. Name the last three arms-control treaties upheld by the Soviet Union. (This is a trick question.)

3. Estimate the total number of deaths in Soviet Prisons from 1917 to 1923. (Hint: up to five million.)

4. Illuminate the vigor of the Soviet election system to comparing it with such "fascist" American allies as El Salvador, Chile and Guatemala.

5. Outline the many differences between now and 1963, when the United States unilaterally pulled its nuclear missiles out of Turkey, Italy and Britain—but the Soviets neither cut back nor froze, but expanded.

6. Give the total number of Soviet citizens murdered in the Gulag Archipelago from 1936 to 1950. (Hint: some 16 million.)

7. Compare the military budget of the U.S.S.R., a mere 13 percent of Soviet gross national product, with that of the NATO countries, a provocative and militaristic 4 percent of GNP, and of the United States, a whopping 6 percent of GNP.

8. State the Soviet bill of rights.

9. Outline the many differences between now and 1976, when the United States began unilateral disengagement of its anti-ballistic-missile program—but the Russians neither cut back nor froze, but expanded.

10. Narrate the stunning success of the Soviet "Chemicals for Peace" program in Afghanistan, Cambodia and Laos.

11. Place a check by each country in which the Soviets established a military presence in recent years: a. Mozambique, b. Nicaragua, c. Iraq, d. Angola, e. Ethiopia, f. (All of the above, and more.)

12. Review the Russian policy of providing support for world peacemakers, such as Muammar el-Qaddafi, Fidel Castro, Yasir Arafat.

13. Relate the progress of Soviet good-will missions to Poland, Czechoslovakia, Hungary, Angola and South Yemen.

14. Examine America's aggressive, jingoistic withdrawal from the Panama Canal as a contributing factor in defensive Soviet actions in Nicaragua and El Salvador.

15. Trace the development of Russia's nuclear-freeze movement, including the many protest marches, pamphlets, Soviet TV specials advocating a nuclear freeze. (Another trick question.)

That should provide you with enough ammunition to blow up your friends' world 15 times over. We might as well stop there and see if the other side will reciprocate—i.e., stop talking about a nonsense freeze and come back to the earth on which there lies a Soviet Union.●

ARMENIAN MARTYRS REMEMBERED

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. MOAKLEY. Mr. Speaker, when we read about the horrors of a cold-blooded murder or the violation of another individual's person or property, we generally respond with anger and outrage at the injustice, and the senseless, unprovoked, and unnecessary harm which has occurred. Sometimes our indignation leads us to public action to protest these wrongs and try to insure such acts will not be repeated. It is with such anger and yet with a most sincere respect for the victims that I join my colleagues in commemorating the over 1½ million innocent men, women, and children who needlessly lost their lives in the Ottoman genocide of the Armenian people between 1915 and 1923.

The Turkish Empire began their genocidal purge of the Armenian population within its borders in 1894, when 200,000 Armenians were massacred during the reign of the Ottoman Sultan Abdul Hamid II. An additional 21,000 Armenians were killed during 1909. Most infamous though were the brutal executions, deportations, and mass exiles inflicted upon the Armenian people of Turkey during the mid-1910's. Beginning on April 24, 1915, when over 200 Armenian religious, political, and intellectual leaders were arrested and either exiled or killed, a carefully executed Government plan of genocide was undertaken which saw over 1,500,000 Armenians perish, and more than 500,000 exiled from their homes in the Ottoman Empire. The methods of this plan involve some of the harshest treatment and inhuman conditions ever imposed on a people. Perhaps the most obscene aspect of these actions is that it was done without cause; an Ottoman document, dated September 16, 1915, makes it clear that the regime's purpose was "to destroy completely all the Armenians living in Turkey".

Precious little has been done to investigate this atrocity, and even as we remember those who died so needlessly 68 years ago, few people are aware of the tremendous suffering and deprivation which the Armenian people underwent. Yet the crimes committed against them deserve the same attention as would be received by a murder or other crime committee today. The U.S. Ambassador to Turkey during the period of Armenian extermination, Henry Morgenthau, wrote of the massacre in 1918. "I am confident that the whole history of the human race contains no such horrible espisode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915." As we pause to remember those who lost their lives to the selfish whims of their rulers, let us make it our resolution never to allow such an event to happen again. As we protest the human rights violations in other countries, and express our anger over the increasing crime at home, let us not forget this systematic persecution and massacre.●

"CITY OF MEDICINE" BECOMES 18TH NORTH CAROLINA ALL-AMERICA CITY

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. VALENTINE. Mr. Speaker, it should come as no surprise to those familiar with the city of Durham, N.C., that it was recently named an "All-America City." Long recognized for its distinguished medical and scientific facilities, this proud city in recent years has surpassed even itself with major advances in education, industrial development, cultural opportunities, the sciences, and above all, the quality of life of its people.

An article recently published in North Carolina magazine outlines the impressive attributes that contributed to Durham's "All-America" designation. I ask that it be inserted in the RECORD and I commend it to my colleagues.

The article follows:

[From the North Carolina magazine, April 1983]

"CITY OF MEDICINE" BECOMES 18TH N.C. ALL-AMERICA CITY

DURHAM.—Winning an All-America City designation is no easy job. It requires a deep-seated commitment on the part of a community's leaders. It requires heavy investments of time, money and dedication. And it requires a strong sense of purpose on the part of a city or town in the process of trying to improve itself.

Durham is the latest of several Tar Heel cities to enter the select All-America list. The accompanying article tells of the specific projects which brought Durham the recognition. But in truth, Durham has been pulling itself upwards by its bootstraps for many years. Its progress has been remarkable, especially when one recalls that a decade or so ago some Durham citizens were concerned that their city might not share fully in the urban growth and progress that was sweeping North Carolina.

The city's leaders, its public organizations and its citizenry banded together to make sure Durham was not left in the economic backwaters. Perhaps the major group that spearheaded not only the city's advancement, but also the public recognition of that advancement, has been the Greater Durham Chamber of Commerce.

A DECADE OF GROWTH—DURHAM CITY AND COUNTY

Population	Jan. 1, 1983	Jan. 1, 1973	Change (percent)
Durham County (estimated)	154,783	140,078	+10
Durham City (estimated)	101,328	100,764	+0.004
Retail sales	$902,014,324	$387,967,352	+132
Assessed valuation [1]	$4,590,893,835	$1,509,414,825	+204
Building permits	101,739,256	71,474,673	+42
Postal receipts	$14,965,369	$4,329,469	+246
Air passengers (in and out)	1,884,410	1,142,704	+65
Telephones	144,511	89,924	+61
Motor vehicles	109,320	81,443	+34
Labor force	91,500	66,030	+39

[1] Until 1974, property was assessed at 75 percent of market value for tax purposes. Since then, a 100-percent evaluation has been used.

Source: Greater Durham Chamber of Commerce.

Composed of most of the city's leading residents, the Durham Chamber has worked closely with city and county government, with business and industry, and with the local educational and other public institutions. The results have been notable. Some of them of recent years include:

Downtown revitalization: Durham's inner city business district would hardly be recognizable to someone who hadn't been there for the past few years. In 1977 Durham's downtown historic district was placed in the National Register of Historic Places.

City of Medicine: A couple of years ago, members of the Durham Chamber launched a campaign to promote the city and environs as one of the nation's major centers of medical and scientific treatment and research. It was a valid slogan—City of Medicine, what with the opening of Duke University Hospital North in 1980, the dedication of a new Durham County General Hospital four years earlier, the long-time presence of the Duke Medical Center, the Veterans Administration Hospital, the vast medical research institutionalized at the Research Triangle Park in Durham County, and many other medically-related facilities. (See North Carolina Magazine, October 1981.)

Cultural advancement: Durham's Life and Science Museum is a monument to local effort. A new county library opened in 1980. The Duke Homestead was renovated and opened to the public a few years ago, along with the adjacent North Carolina Tobacco Museum. And Bennett Place is where the Civil War ended in 1865.

Education: James B. Duke's bequest to Trinity College in the 1920's gave birth to one of America's finest institutions of higher education. Duke University continues to grow and diversify. North Carolina Central University, a state institution, has made impressive strides in recent years. In 1978, after offering the old Watts Hospital Building as housing, Durham was chosen as the site for North Carolina's School of Science and Mathematics, the first of its kind in the country.

Public Facilities: Last year Durham citizens passed a Civic Center and water bond issue, and strongly supported the successful vote for Raleigh-Durham Airport's new runway bond issue.

Industrial Development: Long a regional center for tobacco manufacturing, Durham's economy still lists tobacco as a major component. But industrial diversification has brought a large variety of new employment opportunities, a substantially broadened tax base and millions in added payroll. New industrial parks, shopping centers and other manifestations of a swelling economy are evident in Durham. The city is home to two telephone corporate headquarters, and both Liggett & Meyers and American Tobacco Companies manufacture cigarettes and other tobacco products. The Durham industrial base is hugely bolstered, of course, by the research and manufacturing facilities in the Research Triangle Park. N.C. Mutual Insurance Company has stood for years as a national example of how black-owned business enterprises could thrive in the South. Nello L. Teer Company is one of the world's largest contracting firms. Wright Machinery Company, a division of Rexham Corporation, is a major manufacturer of packaging machines.

Amenities: Durham has become one of the state's cultural centers. The American Dance Theatre, the arts available from Duke University, the Duke and Durham Symphonies are a few examples of aesthetic nourishment available to the city's residents. And Durham, as part of the Raleigh-Durham-Chapel Hill Triangle metropolitan area, ranked in a recent survey of business executives as the country's second most desirable business site. The 1982 Rand McNally Places Rated Almanac listed the same area as 9th best in the country as an area to live in.

People don't need to worry about Durham's future any more.●

A TRIBUTE TO THE LADY JUGGLERS

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. BOEHLERT. Mr. Speaker, I am proud to have in my district the New York State Federation Class A girls' basketball champions.

The Notre Dame High School team, the Lady Jugglers, became State champions on March 27. Their 57 to 43 victory was a fitting end to their brilliant 26 to 0 season. The entire team is to be congratulated.

Mr. Speaker, I am especially proud because the Notre Dame team includes Shelly Pennefather, who has won a staggering array of national honors.

Most recently, she was named to the Parade Magazine All-America High School Basketball Team. But top honors are nothing new for Shelly. She is a four-time AAU All-American, and she played last summer for the U.S. National Junior Women's Basketball Team.

What is most impressive about all this is that Shelly's excellence has not gone to her head. She is an unselfish player who is liked and respected by her teammates.

As one of her teammates told the Observer-Dispatch, "Shelly makes everyone around her a better player. When we first learned that she was coming here, there was no resentment. We were psyched. We knew that she would help make us even better."

That is a tribute not only to Shelly, but to the entire team. They deserve our praise.●

VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM—NEW MEXICO WINNER FOR 1982-83

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. SKEEN. Mr. Speaker, I would like to enter into today's CONGRESSIONAL RECORD an exceptional speech written by a New Mexican high school student, Mr. Kevin D. Shahan.

Mr. Shahan wrote this speech for the annual Veterans of Foreign Wars Voice of Democracy contest. It was the winning speech in New Mexico. I am pleased to submit this speech and hope you enjoy it as much as I have.

The speech follows:

How do we know that the children of today will become the good productive citizens of tomorrow? Can we be sure that the hopes and dreams of America's youth will continue to expand the principles of this great country? I believe American heritage guarantees it!

To prove my point, let me utilize your imagination for a few minutes and let's pretend to plant a field of corn. First, we must have good vigorous corn seed to put into the God-given soil. The outer covering or hull of the kernel dies, so that the germ or young embryo corn plant may spring forth. The rest of the kernel is made up of starch that provides the young plant with its first food as it begins to grow and put down roots. Now the good corn seed is like our forefathers who took pride in being Americans. They helped the country and its people survive many challenges and hardships—including dangers in the wilderness, wars, social turmoil, and economic depressions. They set about establishing a government, created the Constitution with the Bill of Rights, expanded into new frontiers and shaped a nation with a strong spirit and hard work. They gave their lives so that their descendants might be born into a nation dedicated to the principles of democracy, freedom under God, equality, and opportunity for all.

The new corn plants represent America's youth, rooted well in our pioneer heritage, reaching out for nourishment and growth, basking in the sun of God's blessings.

When our corn field is up, we then must cultivate and water and protect the tender plants from weeds. The cultivator is democracy. Watering represents education; therefore, democracy and education work hand in hand. A democracy needs educated citizens who can think for themselves. They must be able to vote intelligently and make decisions on important issues. Education can strengthen democracy by teaching students how to think and not what to think.

The weeds represent a dictatorship or any rule by force that ignores moral and human issues. Democracy clears them away so they do not rob the youth of their heritage of freedom and equality.

Soon our corn plants become young stalks and reach up and out for the opportunity to mature and produce more corn. So also is the youth of today looking for their opportunity and no other country offers more opportunity than America. The opportunities that await today's youth are increased standards of living, more educational advantages, automation, advancement in science bringing better health and longer lives.

Our imaginary field of corn has produced perfectly because it has had all the advantages and necessities for growth.

The youth of America has all the same advantages. A history and heritage that set in motion and produced the principles of this great country: democracy, education, and the opportunity for life, liberty, and the pursuit of happiness.

An unknown author once wrote:

"If freedom is a great stream, reddened by the blood of the millions who have died for it, hindered by snags and backwaters which must be constantly cleared out, rushing toward what end we do not yet know, may not the clear springs of this great free river lie in the artless dreaming of a child?"

I believe I have shown that this great nation produces responsible youth. New ideas, new inventions, and dreams of a better way lie in the productive minds of today's youth—and therein lies America's strength.●

SBA QUESTIONED

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. WEBER. Mr. Speaker, Mr. Michael Henle of Marshall, Minn., has posed some important issues for Congress to consider when we enact legislation designed to assist small business. I believe that we must curb the abuses in the program pointed out by Mr. Henle and look to legislation which does not adversely affect small business in the future.

Thank you, Mr. Speaker.

Does our federal government, by creating more agencies to help the small business, actually hurt small business?

In 1953, Congress established the Small Business Administration (SBA) "to aid, counsel, assist, protect, and to preserve free competitive enterprise."

Thirty years later, the SBA is a large administrative agency, but it often shows little concern for the real problems of small business.

Statistics show that our economy is made up of more than 13 million small businesses. They create more than half of our nation's goods and services, and provide 50 to 87 percent of all new jobs.

In contrast to these statistics, the federal government awarded only 3.5 percent of its research and development grants in 1979 to small business. In 1981, small business received only 21.6 percent of the total procurement purchases by the government, even though it makes up 50 percent of our business economy. In truth, the SBA has been ineffective in promoting fair treatment of small business by the federal government.

The SBA has the power to provide loan guarantees. The purpose of these loan guarantees is to create venture capital for small business, but many of these loans are misused. A few examples include the SBA loans toward promoting rock concerts, the funding of X-rated movie houses and also a chain of homosexually oriented Turkish bathhouses, in southern California.

Is this truly promoting venture opportunity for the small businessman? The SBA's decisions for providing loan guarantees are strongly influenced by political pressures. Small businesses are generally operated as a proprietorship, and therefore do not have the heavy political power wielded by corporations and big businessmen.

In a recent survey, it was found that among small businessmen, the actual number who have had dealings with the SBA was barely 1 percent of all small businesses. Most other businessmen have only heard of the SBA through scandals and misuses reported in the newspapers.

The question remains: Is small business being represented and protected by the agency designed for that purpose, or is the SBA another agency established by government to boggle the minds of small businessmen by creating endless mounds of paperwork just to create more bureaucratic jobs?●

ARMENIAN MARTYRS' DAY

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. RUSSO. Mr. Speaker, we have recently observed the 13th congressional recognition of Martyrs' Day in memory of the 1.5 million Christian men, women, and children who died in that awful year of 1915, when a final solution was arrived at on the Armenian question by the gluttonous Ottoman Empire. On that infamous day of April 24 it began. Armenians in Turkey were arrested and later deported to various parts of that country—only to be executed there. For years prior to this the brave people of Armenia, the first Christian nation, were beaten, starved, executed, suffering persecution almost unparalleled in modern history. This because they were an obstacle to the Ottoman concept of a pure state of Islam.

Such brutality and inhumanity must be recalled to remind ourselves of what is possible in a supposedly civilized world. We must commemorate Martyrs' Day in recognition of the millions of murdered Armenians because justice has never been served here. We owe this debt to those who did survive this catastrophe and who preserved their traditions and faith. Their contributions have enriched the communities and nations in which they reside.

There is the power of evil and the power of good in the world. Martyrs' Day serves to remind us that even the most blatant evil could not wipe out the good of the Armenian people. As we remember those who died and pay tribute to the Armenian people, we do so with a sense of renewal and rededication to the principles of justice, to courage, to hope.●

H.R. 723

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. FORD of Michigan. Mr. Speaker, I am very pleased that the House has passed H.R. 723, a bill I introduced for the relief of Marsha D. Christopher, one of my constituents. My colleagues have taken an important step toward remedying the injustice Mrs. Christopher has suffered, and I hope the Senate will follow swiftly in our path.

I would like to express my special gratitude to SAM B. HALL, JR., who as chairman of the Administrative Law Subcommittee, has given this bill very careful consideration and expeditious treatment. Without Chairman HALL's concern and his conviction that Mrs. Christopher deserves relief from the normal workings of the law which have affected her so adversely, today's action would not have been possible.

Mrs. Christopher, the mother of five children, was a temporary letter carrier who, through the contributory negligence of the U.S. Postal Service, was mauled by a vicious dog and horribly disfigured. Mrs. Christopher was awarded workers' compensation by the Labor Department, but because she received a settlement from the dog's owner, the Labor Department later reduced her award by nearly $40,000. This reduction left Mrs. Christopher with totally inadequate compensation for her pain and suffering, disfigurement, loss of work, future psychological and employment problems, and the trauma of 14 surgical repair operations.

H.R. 723, which the House passed today, would suspend the operation of 5 U.S.C. 8132, which compels the reduction of Federal workers' compensation awards where a settlement is obtained from a third party tort feasor. The Treasury would be directed to repay to Mrs. Christopher the portion of her workers' compensation award which she returned to the Labor Department, as well as the amount by which her subsequent compensation payments have been reduced.

As I said at the time I introduced this legislation, H.R. 723 is only the second private bill I have introduced in almost two decades of service in the House of Representatives. I think that provides some measure of how strongly I feel about the unfairness of the Government's treatment of Mrs. Christopher and how strongly I feel about her suffering and misfortune.

I thank my colleagues for approving this legislation.●

FULL FUNDING FOR WIC

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. MOAKLEY. Mr. Speaker, in my past few years in the House of Representatives, I have consistently spoken out in support of one particular Federal nutrition program which to me has been exceptional. This program is known as WIC, the women, infants, and childrens supplemental food program. This excellent program provides nutritious food and nutrition training to low-income mothers and their children—up to 5 years of age—who are also high medical risks. In a Harvard University study, WIC was shown to save $3 in direct medical costs for each $1 spent on the program. Yet, in spite of its documented success and cost effectiveness, this program has continuously been attacked by the Reagan administration with budget cuts and programmatic changes. This year has been no exception, funding cuts are again proposed for WIC. The following article on WIC, from the May 1, 1983, Washington Post, was written by my good friend Dr. Jean Mayer, president of Tufts University and Jeanne Goldberg, R.D. These two individuals are certainly well known by many of us, as well as throughout this country, as leading experts on nutrition. Their article best describes this outstanding program and the need for our support for full funding for WIC:

NUTRITION

Of all the silly ways to budget, cutting back on pennies that save pounds is the silliest. Yet once again, the administration has sent Congress a proposal that skimps on the WIC program. The decision will be made very soon. One of us (Dr. Mayer) recently testified twice on the program before congressional committees.

WIC stands for Women, Infants and Children. Of the special supplemental food programs that benefit children, WIC is the best documented for effectiveness. The program provides food packages for low-income pregnant and lactating women, infants and children up to 5 years old who are determined by physicians, nutritionists, nurses and other health professionals to be at risk because of low incomes and inadequate nutrition.

Pregnant women and fast-growing infants and children need an especially nutritious diet. (Most of the participants in WIC are getting food stamps, but for them, it is not enough.) The WIC food packages provide those foods that are especially necessary: iron-fortified infant formula, infant cereals, milk, cheese, eggs, iron-fortified breakfast cereal, fruit and vegetable juices high in vitamin C, dry beans and peas, and peanut butter.

However, WIC is far more than a supplemental feeding program. Along with foods, it stresses health care and nutrition education. Put them all together, they spell healthier mothers and healthier children.

Evaluation studies have shown a reduced incidence of anemia, improved growth patterns for infants and children, increased levels of immunization, more mothers breast-feeding and better dietary patterns in the women who participate in WIC.

Most important is the evidence that more women on WIC have an acceptable weight gain during pregnancy, and that their infant mortality rates are lower. Low-birthweight and premature infants are the most vulnerable to death in early infancy and, if they survive, to physical handicaps such as blindness and deafness or to mental retardation. Women who eat a poor diet during pregnancy and do not gain enough weight are the most likely to have premature or very small babies (under 5½ pounds at term).

There is an almost 50 percent reduction in the number of babies with low birth weights born to mothers who were enrolled in WIC more than three months before delivery. One study has found that children born to WIC mothers had IQs about 16 points higher and fewer behavioral problems than their older brothers and sisters who had been put in WIC after they were a year old.

The studies show that every dollar spent on the WIC food packages can save as much as $3 in immediate medical costs. Funding a WIC participant through pregnancy runs to about $50. At this point the cost to the government in extended care in a neonatal unit could come to $40,000.

In our own state of Massachusetts, the cost of lifetime care for a retarded person is now between $2 million and $3 million. In Louisiana, the potential savings in educational expenditures for "learning disabled" children had been estimated at over $3.5 million a year. Then there are the uncalculated costs to the nation of lost taxes and production from fully competent, healthy adult citizens.

It takes very few of the dollars saved to pay for the WIC program, just as it does not take many complications of measles to pay for the preventive innoculations. Yet in the past two years, the administration has proposed severe funding cuts for WIC. Congress has kept funding steady, but with inflation even this means a significant reduction. This fiscal year, the administration is asking only for the amount authorized by Congress in fiscal year 1983.

The contents of the food package are mandated by law. If food prices keep rising, say by 5 percent, then 5 percent of the participants will have to be dropped. Thousands of eligible women and children are already on the waiting list.

This is ridiculous. Let's ask our senators and representatives to stop wasting money and give full funding to WIC and the food stamp program that supports it. Our most precious asset is the nation's children. Helping them is not only important to the nation's pocketbook. It is also important to our national future—and to our national conscience.●

WE NEED TEETH IN OUR TRADE POLICY

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. CORCORAN. Mr. Speaker, in discussions with my constituents, I am constantly being made aware anew of the cost to our Nation's businesses and economy of our current trade policy. We have enabled foreign firms, particularly Japanese firms, to trample domestic businesses, diverting customers through trade tactics that amount to conspiracies to destroy domestic competition. In well-organized assaults on American markets, Japanese firms have a history of undercutting American competitors, charging prices so low that our companies cannot reasonably compete. This tactic drives domestic firms out of business or forces sales to Japanese firms.

One could argue that this is the free market and it benefits American consumers if this were the whole story. Unfortunately, it is only the first chapter. Once American competition has been eliminated, prices rise, and rise, and rise, completely offsetting any previous benefits to consumers. With no competition, Japanese firms have a captive market, the result of our self-destructive trade policies. This has happened in too many industries—auto, motorcycle, electronics, television, steel.

I am a firm believer in free trade, but not foolish trade. While we have maintained very open markets, Japan has not opened its markets in reciprocal fashion. We are sacrificing our Nation's industries to a policy harking back to the days when America stood alone in trading strength and could afford to go more than halfway to meet our trading partners. We need to relinquish the role of indulgent big daddy of international trade and establish policies that reflect the realities of trade today and that establish America as an equal trading partner.

The time has come to reevaluate the GATT, which hamstrings American industry and provides inadequate, impotent mechanisms for redressing trade violations. We need to put teeth into our responses to trade violations, and we need to establish equitable ground rules to begin with.

Finally, we must negotiate with Japan a more equitable exchange relationship between the yen and the dollar. The extreme undervaluation of the yen vis-à-vis the dollar reflects the actions of the Japanese Government to discourage the free flow of yen outside the country. Restrictions placed on the use of the yen in international trade reduce its value and artificially raise the relative value of the dollar. This further impedes fair trade and aggravates the unfair trade advantage realized by Japan.

I urge the administration and my colleagues in both Houses to reconsider our role in international trade. We should not be content to be less than equal trading partners, and we should not stand for continued infringements on our trading rights.●

LOVINGTON HIGH WILDCATS

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. SKEEN. Mr. Speaker, in a nation where the biggest underdogs often succeed and are encouraged to do so, I would like to point out a successful underdog that everyone in my district is proud of.

The Lovington High School Wildcats were invited to participate in the New Mexico State AAA Basketball Tournament. Possessing a record of 11 wins and 14 losses prior to the tournament, many felt that the Wildcats had no business playing in the State tournament. However, Lovington High displayed their enormous will to succeed by defeating three heavily favored teams in the basketball playoffs. On behalf of the people of Lovington and my district, I join in congratulating this team for their tremendous accomplishments.●

SALVAGING EL SALVADOR

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. EDWARDS of California. Mr. Speaker, last week President Reagan addressed a joint session of Congress to explain his rationale for present U.S. foreign policy with respect to Central America. After listening to his testimony, and studying it carefully afterwards, I cannot help but note the striking similarities between his remarks and those given to the American people as reasons for our involvement in Vietnam.

Like Vietnam, the problems in El Salvador have been brewing for many long years. They cannot be solved by more weapons and more fighting. This conflict was not suddenly brought about because of an influx of weapons, nor because of the supposed influence of the Nicaraguans on the guerrillas. President Reagan appears to be falling into the same traps which caught President Johnson and President Nixon in Vietnam: If only they have a little more military aid; if only we send them a few more military advisers; if only.

The conflict in El Salvador began as a direct result of huge inequities in that society—thousands of people living in abject poverty, with 10 percent of the population controlling 90 percent of the land and the wealth. This imbalance can only be resolved through many years of constant effort. The best solution at this time is to begin negotiations between all parties involved in the conflict. This destruction and devastation of a people cannot be allowed to continue, regardless of what President Reagan says the results will be.

Following is an editorial from the San Jose Mercury News, on Friday, April 29, 1983, in this matter. I think the points made in the editorial are very valid and I feel that my colleagues will find it both interesting and informative.

The editorial follows:

SALVAGING EL SALVADOR

The Great Communicator put on a great performance Wednesday night; with his usual verbal brilliance, he drew together the most cogent arguments yet advanced for stepping up U.S. aid to the beleaguered Salvadoran military. Yet he still failed to convince.

Three propositions underlay his plea for $110 million in supplemental aid: the notion that "the national security of all the Americas is at stake in Central America"; the assumption that "our credibility would collapse" if we withdrew our aid; and a feeling of "moral duty" to help the Salvadorans decide their future free of coercion from armed guerrillas. Only the third proposition really carries weight, but Reagan's continuing policies jeopardize the chances of realizing such a future.

United States security is not at stake in El Salvador. Reagan's claims to the contrary will not change the fact. Whatever happens in El Salvador, the Soviets already have a base in nearby Cuba and a friend (but not a puppet) in Nicaragua; the addition of tiny El Salvador to the Soviet camp would be uncomfortable but not of paramount consequence. That country doesn't even face onto the Caribbean, the sea whose military significance Reagan stressed at length during the speech.

A Soviet-backed revolt in Panama or Mexico might be a different story, but revolutions cannot succeed where social conditions don't permit. Neither country faces the extremes of poverty or social injustice that bred violence in El Salvador. U.S. security would be better served by shoring up our important friends, and pursuing a diplomatic rapprochement with Cuba and Nicaragua to lure them out of the Soviet camp, rather than financing a fruitless war in El Salvador.

Nor is American credibility on the line—except as Reagan puts it there by his insistence on backing a corrupt and vicious junta whose soldiers have at best a mercenary's commitment to their struggle. The blind determination to pursue mistakes to their bitter end in the name of credibility was the salient feature of the Vietnam disaster. Our allies warned us then that the pursuit of misplaced goals would weaken their faith in us, not strengthen it. Today our allies in the region—Mexico, Venezuela, Panama and Colombia—plead with us to sponsor negotiations rather than continue fighting. By ignoring them we truly cast doubt on our wisdom and good sense.

A quick pullout, even at the expense of a Marxist victory, would be better from the point of view of the United States, and many Salvadorans, than infinite prolongation of the bloody conflict. But there is an alternative, a compromise of little risk, that would give peace a chance. Congress should give Reagan a fraction of his aid request—the $30 million already passed by the House foreign operations subcommittee—along with an ultimatum: No further aid will be forthcoming until he seriously pursues a military cease-fire and negotiations among the warring parties, with participation from neighboring states.

The system has reached an impasse. Congress can't make or implement foreign policy, but neither can it permit the administration to recklessly throw millions of dollars down the drain on a no-win policy. The administration's own military studies—long suppressed from public view—confirm the hopelessness of ever salvaging the military situation. The Salvadoran military is too corrupt and unmotivated, the guerrillas too popular and clever, for the civil war to be won on the ground.

Distasteful as it may be to negotiate with Marxist guerrillas, no other course offers as much hope of bringing the bloodshed to an end and perhaps—just perhaps—giving the Salvadoran people another chance at political self-determination. In a country that has never known democracy, that is a big if. But it's a chance worth pursuing.

This compromise won't be easy to impose on the administration. The White House approaches the idea of negotiating with the El Salvador guerrillas much as it did the idea of negotiating arms control with the Soviets—reluctantly, and then only as a propaganda maneuver to defuse growing public dissatisfaction with its unyielding stance.

The president's nomination Thursday of former Sen. Richard Stone, also a former registered foreign agent for the right-wing government of Guatemala, as his new ambassador at large to Central America, offers little encouragement that Reagan seriously intends to seek a diplomatic solution in the war-torn region.

As one high administration official told The New York Times, "The feeling never was that we could negotiate an agreement on El Salvador or Nicaragua. Notwithstanding, we decided in February that we needed to move on the diplomatic side to deflect the perception of our only going for a military solution."

President Reagan promised in his speech to "lend U.S. support to the efforts of regional governments to bring peace to this troubled area . . ." Yet only two months ago he slapped down the hawkish assistant secretary of state for Latin America, Thomas Enders, for proposing just such negotiations. Secretary of State George Shultz specifically rejected pleas for international talks during his recent trip to Mexico. Congressional arm twisting will be essential, therefore, to ensure that the administration's new commitment to negotiations goes beyond mere rhetoric.

A compromise cap on further aid should especially appeal to Congress, by limiting America's commitment to the struggle while denying the administration an easy political issue in 1984 over "who lost El Salvador." El Salvador, needless to say, is not, and never was, ours to lose. What the White House risks losing by its current course is not that country, or our own national security, but our reputation for decency, fair dealing and plain common sense.●

FOUR BRAVE BOY SCOUTS HONORED FOR SAVING A LIFE

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. SMITH of New Jersey. Mr. Speaker, I rise this afternoon to bring to the attention of my colleagues in the House of Representatives the courage, resolve, and poise exhibited by a group of Boy Scouts in New Jersey who were responsible for saving the life of one of their fellow Scouts.

The account of their heroic efforts was brought to my attention by their Scoutmaster, Tom Kilkenny of Boy Scout Troop 10, in South Orange, N.J.

On the afternoon of February 6, 1983, Andrew Pierson, Mario Piccinini, David Wilms, and John Germann, all age 13, and John's first cousin, Timothy Germann, age 11, were hiking in South Mountain Reservation at about 2 p.m. It had begun snowing. They had paused above Hemlock Falls for a rest, and were seated, talking, about 15 feet from the edge of the cliff. Timothy got up and started to walk around. He was about 10 feet from the edge, examining some ice formations, when he slipped and fell. The spot where he fell was icy and sloped toward the cliff. He began sliding, desperately trying to grasp anything solid. He slid 10 feet to the precipice, and his momentum carried him over. He fell approximately 35 feet, apparently striking a protrusion in the cliff face on the way down.

The other boys scrambled to Tim's side. They found him unconscious, lying face down on the ice that covered the pool at the base of the falls. The impact of the fall had forced his head through the ice and his face was down in the water. Although their hike was not an official Scout function, all five boys are members of troop 10, BSA, sponsored by Our Lady of Sorrows Church. The four older boys put their first aid knowledge to work at once. Andrew was not even all the way to the bottom of the falls when it became obvious that Tim was seriously injured and would require medical assistance.

Andrew went immediately for help, taking the shorter, cross-country route in what were now near-blizzard conditions. He went to Gruning's Restaurant, a distance of about 1¼ miles, knowing there was a phone there. Mario helped the other boys pull Tim out of the water and off the ice, then went back up to the top of the cliff and to the road to flag down a car—which he did hoping that he could get to a phone faster than Andrew. The two boys arrived at Gruning's at about the same time. They called the South Orange Police, who told them that Maplewood took care of the reservation. They then called Maplewood and the first aid squad was soon on its way.

When David and John got Tim off the ice, they realized that he was not breathing. Knowing that this could lead to brain damage or even death, they instituted the correct procedures to get Tim's breathing started again, laying him down and hyperextending his neck by tilting his head back to open the airway. They found his jaws were locked, so it would have been impossible to resuscitate him. After a few seconds, however, his jaws unlocked and he began to breath. The two rescuers took off their jackets and placed them over and under Tim to keep him warm and to help ward off shock. David put his gloves on the injured boy. Tim regained consciousness after a little while, and the boys kept talking to him to keep him from slipping into unconsciousness again. During this entire time, snow continued to fall heavily.

By the time police, the Maplewood first aid squad and the St. Barnabas Hospital paramedics arrived, almost an hour had elapsed since Tim fell. He was taken to St. Barnabas, where he was given emergency treatment, had his spleen removed in emergency surgery the next day, and proceeded to make a remarkable recovery. On March 7, only a month and a day after his accident, he returned to school—though with a cast on his arm. Tim, by the way, is a sixth grader at South Orange Middle School. The other boys are in the eighth grade at Our Lady of Sorrows.

While Tim was in the emergency room, the paramedics from St. Barnabas told his mother, Mrs. Mary Jones, several times that the timely application of first aid by Tim's companions was responsible for saving her son's life.

The medics also took the other boys to St. Barnabas to check them over. They found that David had incipient frostbite on his face from being out in the cold so long, but it was treated and found not to be serious. John Germann missed several days of school due to a severe cold he caught during the episode.

The efforts of these brave young men has earned them nominations for the prestigious Scout Lifesaving Award, which I feel they will surely receive.

Mr. Speaker, I share this remarkable story with the Members of this House in order that you may join me in paying tribute to these courageous young men. I believe their quick, effective action in the face of tragedy reflects well upon their parents and troop 10. As an Eagle Scout myself, Mr. Speaker, I can attest to the fact that Scouting teaches a young man not only to be willing but also to be able to assist a victim in an emergency situation. All Scouts are taught to "be prepared." I am proud that these Scouts have lived up to the high standards and ideals of the Boy Scouts of America. They deserve our praise and honor for a job well done.●

PUBLIC LIBRARY SERVICES

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. SIMON. Mr. Speaker, today I am introducing a bill to reauthorize and amend the Library Services and Construction Act (LSCA). Over the past 2 years the Subcommittee on Postsecondary Education has held a series of hearings across the Nation on the impact of LSCA on public libraries. Over 200 witnesses testified and each of them expressed strong support for the act. At the same time we received excellent recommendations on needed changes. It became clear during the hearings that libraries play a vital role in communities all across America—a role that has changed to meet the needs of citizens as they arise. Libraries are no longer mere depositories for books. They have become community information centers providing not only information but a variety of services to their users. The bill I am introducing today incorporates these findings and recognizes the expanded role libraries have assumed.

When the first Library Services Act was passed in 1957 its goal was to provide libraries for all geographic locations. To a large extent that goal has been reached and it is currently estimated that over 95 percent of the country has access to a library. However, as the information explosion began the demand on public libraries increased dramatically. In response to these new demands for service the reauthorization bill includes the following revisions:

The role of libraries has been expanded to include providing programs to meet the needs of special populations, providing literacy training programs for illiterate and functionally illiterate adults and sharing resource materials among a wide variety of libraries;

The use of construction funds allows for remodeling for handicapped access, and energy conservation;

Expanded resource sharing between libraries is encouraged;

Funds are made available directly to Indian tribes for developing library services under title IV of the act;

Funding for libraries to purchase foreign language materials, is authorized under a new title V; and

Funding to allow libraries to participate in literacy programs is authorized under a new title VI.

These new initiatives will allow public library services to be expanded to citizens who thus far have been denied those services. They also set the stage for libraries to enter the ever expanding areas of information transfer. I urge my colleagues to join me in cosponsoring this important legislation.●

ACQUIRED IMMUNE DEFICIENCY SYNDROME

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. ACKERMAN. Mr. Speaker, an unusual and frightening disease has stricken more than 1,300 Americans. Approximately 38 percent of the victims have died. No victim has fully recovered.

Since this relentless illness suppresses the immune system, leaving the victim susceptible to certain types of cancer and infectious diseases, it is called acquired immune deficiency syndrome, or AIDS.

The number of reported cases has increased phenomenally from one case per day in January 1982 to three to four cases daily in early 1983.

In New York City and San Francisco the number of cases reported is 10 times greater than anywhere else in the country. In New York City alone, there have been 595 cases—228 were fatal.

In essence, we are witnessing the evolution of a new disease.

What are the causes? We do not know.

What are the treatments? We do not know.

Who will be stricken next? We do not know.

Physicians are stymied because they cannot provide more answers. More so, they are frustrated that they cannot provide a cure. A patient who asks, "What can I do?" cannot be answered.

Instead, the victim must watch and suffer as a host of diseases inexorably takes over his or her body.

What makes the illness so treacherous is that the initial symptoms mimic those of less dangerous diseases—fever, diarrhea, fatigue, and swollen lymph nodes.

So far, it is believed that AIDS passes through initmate contact or injections. But, it is possible that it is more contagious during the initial stages which may begin 2 years before more serious effects are seen. People who feel fine today and are experiencing no discomfort, may show advanced symptoms next year or the year after. Before they have been diagnosed, they may be unknowing carriers of a sinister and deadly illness.

The lethal disease was first reported in homosexual communities in New York, Los Angeles, and San Francisco. As time goes by, it is spreading to more and more groups. It is creeping out of well-defined social groups to hemophiliacs, Haitian immigrants, and children. A sobering thought is that some of the cases do not fit into any of these groups. We do not know how to prevent the disease from spreading because we have not figured out exactly who is susceptible.

Inadequate funding has crippled our attempts to attack the problem head on. The proportion of deaths to reported cases is much higher than for either Legionnaires disease or toxic shock syndrome, yet a lot less effort has been extended to find out why or how AIDS happens.

To track the path of the disease from its earliest stages, funds are needed so groups which have developed the illness in the past can be studied to identify early-appearing abnormalities and to figure out how AIDS is transmitted.

But, that is just the beginning of the burgeoning need. Care for each patient demands $1,000 for immunological studies, let alone the finances for special isolation in hospitals, drugs, and tests, which may go on indefinitely unless a treatment is found.

And, of course, research is expensive. Experts must be employed, research animals must be cared for with each costing $25,000 annually, plus expensive chemicals and equipment must be purchases. Right now, at research centers, funds and personnel are pulled away from other projects in order to meet the needs for AIDS research.

Why do we treat this affliction as a stepchild and punish the victims by offering them no more than a long road going nowhere? It seems that the public evaded the problem—a serious and lethal problem—when it was confined to Haitian refugees and homosexual men. Concern did not surface strongly until the outbreak exploded into the general population.

This cannot go on. We can intervene before we ignorantly step into a quagmire.

Before this growing disaster escalates any further, we must help researchers and doctors chart a course out of this crisis. No matter who is afflicted, no matter how great the cost, every person suffering from a disease deserves the best treatment and hope for recovery.●

WALTER MONDALE AND THE F-16'S TO ISRAEL

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. HARKIN. Mr. Speaker, Walter Mondale, former Vice President of the United States, has recently written a very thoughful essay on United States-Israeli relations.

Mondale notes that at that time when the Reagan administration has suspended the sale of F-16's to Israel, the Soviet Union is engaged in an unprecedented buildup in Syria, including thousands of soldiers, SAM-5 missiles never deployed outside the Soviet Union, and direct control via satellite to a command post in Moscow itself.

The suspension is the wrong signal and the wrong policy. If the administration truly wants to pursue peace, it must follow Mondale's advice and return to certain basic principles, the first of which is: "(The United States) must never undermine Israel's security."

Mr. Speaker, I wish to insert the whole article for the Members' attention.

[From the Los Angeles Times, Apr. 5, 1983]

UNITED STATES THREATENING OF ISRAEL UNDERMINES OWN INTEREST

(By Walter F. Mondale)

Any Administration that uses the threat of reappraising our relationship with Israel as an instrument of policy doesn't understand our historic commitment to that nation.

During the past year, the Reagan Administration has created the impression that it neither understands nor values this relationship. It announced a peace plan after consulting with Arab nations but not with Israel. It has refused to establish adequate liaison with Israeli forces in Lebanon, contributing to a series of disturbing confrontations between Israeli and U.S. troops. It has exerted pressure on Israel to forgo essential security guarantees in southern Lebanon. President Reagan has received virtually every major Arab leader in the past six months, but Prime Minister Menachem Begin has been told that he is not welcome until he complies with our dictates. To back up this threat, Reagan recently made the delivery of long-promised F-16s to Israel conditional. In short, the Administration is acting on the premise that Israel is the main obstacle to Middle East peace.

This one-sided policy overlooks the Soviet Union's continuing effort to restore its influence in that area. At this moment, the Soviets are placing missiles in Syria, linked via satellite to a Moscow command post. Thousands of Soviet troops are entering Syria to operate them, building military enclaves that not even the Syrian army is permitted to enter. These missiles can threaten not only much of Israeli air space but also flights from U.S. bases in Turkey and U.S. aircraft operating over the eastern Mediterranean.

This major Soviet escalation requires a tough U.S. response. We should reactivate the U.S.-Israeli agreement on strategic cooperation, which has been suspended for more than a year. We should take full advantage of Israel's offer to share with us its irreplaceable battlefield knowledge of Soviet weaponry. And we must finally authorize the sale of the F-16s promised to Israel in 1978 to offset aircraft that we have already delivered to several Arab countries. The President's refusal to do this not only breaks faith with Israel but also undermines essential U.S. strategic interests throughout the Middle East.

We also should move to get peace negotiations back on the track. We should disentangle Lebanese and West Bank issues by appointing two high-level presidential envoys to serve as honest brokers in two separate negotiations. We should reaffirm our commitment to the removal of all foreign forces from Lebanon, to effective security along Israel's northern border and to the progressive normalization of relations between Israel and Lebanon. And we should expand our efforts to restart negotiations under the aegis of the Camp David accords.

To achieve this objective, America must return to certain basic principles:

First, it must never undermine Israel's security. It is all too easy to forget that Israel is a small state with few natural resources, ringed by adversaries, badly outnumbered, reliant on numerically inferior military forces whose technological edge is eroding. Simple prudence motivates Israelis to minutely scrutinise the effect of every move on their national survival. Rather than imposing one-sided pressure, the United States must understand Israel's need to live behind secure borders—including the one with Lebanon. And we must not disrupt the military balance and impair Israel's security by selling sophisticated military equipment to its neighbors.

Second, the United States can promote peace in the Middle East only if it retains the confidence of all parties. Camp David succeeded because both sides trusted the United States to facilitate the discussions without dictating to or negotiating for any party. By offering a peace plan that, however it was intended, was inconsistent with our role as honest broker, the Administration has diminished Israeli confidence in our reliability as an ally, strengthening the hand of those who argue that Israel must go it alone. It has also weakened the position of Arabs who urge a realistic approach, while bolstering those who oppose the concessions that peace will require.

Third, the basis for a broader peace in the Middle East is and must remain the Camp David accords—not shaded or modified to placate any other party, but just as they were signed by Begin and Egyptian President Anwar Sadat and witnessed by President Jimmy Carter. Leaders of other Arab countries must emulate Sadat's courage and vision by meeting Israel face to face at the bargaining table, without pre-conditions.

Finally, the legitimacy of the state of Israel is beyond question or discussion, and no progress can be made until other parties in the Middle East acknowledge it. We must continue to insist that we will neither recognise nor negotiate with the Palestine Liberation Organization or any of its members until they recognise Israel, abandon terrorism and accept U.N. Resolutions 242 and 338.

We cannot benefit from weakening our special relationship with Israel. Policies that seek new alliances by antagonizing our oldest ally can end only by undermining out real interests throughout the Middle East.●

THE HIGH PRICE OF LIBERTY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. McDONALD. Mr. Speaker, if there is one lesson we need to learn and relearn it is that the price of our liberty comes very high. You cannot repel a tank attack with a wall of food stamps. Ambassador Walter H. Annenberg has written a fine editorial on this subject that appeared in the TV Guide for April 16, 1983. I commend it to the thoughtful consideration of my colleagues.

THE HIGH PRICE OF LIBERTY

(By Walter H. Annenberg)

Freedom is inevitably costly, but to Americans it has always been a necessity—whatever the price. Much as we may disagree on other matters, few of us would argue against maintaining strong defenses. The question before the Nation today is not *whether* we should spend huge sums to strengthen those defenses, but exactly how *much* we should spend.

President Reagan insists that the Soviet military buildup in recent years has won the USSR leadership in nuclear as well as conventional weaponry. Many in Congress disagree, arguing that we are stronger than the President admits, that it is not necessary to spend as much as he has requested in order to regain arms equality with the Soviets. A number of these same senators and representatives support a nuclear freeze. They say we and the Soviets already have enough nuclear weapons to blow up the world and making more would not add to either side's strength.

With the national debt increasing at a tremendous rate, with the Soviets reacting violently to Mr. Reagan's defense rebuilding plans and with our European allies wavering, questions about the wisdom of the Administration's arms program are taking an increasing amount of time and space in our media. We even have NBC's *Today* show calling upon a Soviet propagandist, Josef Adamov, to provide the Communist Party line on the American President's arms program. It was an interesting fillip to television coverage of opposition that has all but obliterated Mr. Reagan's basic position: we are well behind the Soviets in armed strength and they are ready, willing and able to increase their pressure for dominance throughout the world.

What is most frightening about the situation is the admitted inability of television to present more than bits and pieces of the arms controversy. With the best of intentions, the newscasts that are the chief source of information for nearly two-thirds of our population cannot take time enough to broadcast a thorough exposition of what is going on. That would be true even if they could get all the facts, many of which—as the President hinted when he showed a few declassified photographs during a recent speech—must remain secret to protect sources.

We do know that in at least three areas of the world the Soviets are delivering huge amounts of weapons far beyond the defense needs of their allies, and we know too that when the Soviets supply weapons they tend to be used. It is common knowledge, for example, that in addition to a naval maintenance facility in Ethiopia, the Soviets have either given or sold that country large stores of modern weapons—much more than is required for the Ethiopians in their continuing wars against Somalia and various regional secessionists.

We know that in Libya the Soviets have sold Qadhafi more arms than he has men to operate them, and that he gives paramilitary training to workers from neighboring Chad, Sudan, Tunisia, Niger and Egypt. There is no shortage in those countries of dissenters willing to fight with the Libyans against their governments. Qadhafi already has made threats against Egypt, as well as moves against the Sudan that he has been forced to abort. He has tried to occupy Chad, and it is no secret that the Soviets support his designs on other countries in the region. It is equally well known that he has sponsored and supplied Soviet arms to terrorist groups throughout the world. The Soviets can hardly be unaware of his activities in this area.

We know that arms shipped first to Cuba and then forwarded to Nicaragua are being used to supply guerrillas throughout Central America. We know that Cuba is supplying Cuban workers and Soviet equipment to build an air base in Grenada—"for tourism," declared the Marxist dictator of that tiny Caribbean island on ABC's *World News Tonight*. We know that it was Soviet-supplied Cuban solders who helped seize the government of Angola. And, of course, it was the Soviets themselves who invaded and still occupy Afghanistan.

Certainly no American can still doubt Soviet willingness to use force to achieve their declared purpose—a Communist world. Czechoslovakia, Hungary and Poland found to their distress that once initiated into the Soviet orbit, they could not escape. Yet many here and abroad still believe the Soviets can be contained by words, by diplomacy, by sweet reason.

There is a curious process taking place in our country today. Soviet arguments that we have parity in nuclear potential and that President Reagan is "bellicose" in proposing to strengthen our defenses and strive to devise more effective antimissile weapons are given as much time on television as the Administration's position, if not more. Network news departments want to be objective, and objectivity involves presenting both sides of a controversy. The fact that one side has a history of lies and aggression carries little weight in network evening news presentations of today's headlines.

This sort of coverage has an effect on the public and its representatives in Congress, representatives who understandably are more concerned with the number of unemployed than the number of nuclear warheads we should have as a deterrent. It is politically expedient to demand that we must spend more on jobs, less on arms; and it is quite true that jobs appear to be a more immediate and a more pressing problem for all of us than arms parity. Still, it is no overstatement to say that the future of our country, the future of the world, does depend upon whether we have the strength to face up to the Soviets, the power to counter their obvious buildup to "first strike" capability. That, incidentally, is an answer to the "freeze" argument that both sides have enough nuclear bombs now: if the Soviets strike first, we may not have enough missiles left to strike back.

The freedom of the American press, a cornerstone of our system, is an ideal setting

for outside manipulation. The Soviets can orchestrate a reply to our President and be certain that their arguments will receive as much attention, as much emphasis, as the President's. Their expert propagandists can count on our party out of power to provide domestic opposition and can concentrate on finding ways to intimidate our allies and manipulate our press with the always newsworthy "Soviet press reaction" and statements by Soviet leaders, such as Andropov's recent tirade against President Reagan's arms plan. His declaration that Mr. Reagan's quest for laser and other defensive techniques was "insane" was a particularly interesting bit of attempted manipulation in view of news accounts that for several years have reported both Soviet and American spending on basic research into just such techniques.

Thus the cost of liberty cannot be measured in dollars alone. One heavy cost is in permitting our potential enemies to use modern propaganda techniques within our borders, of giving them the same access to our people that the Administration has. This can often be more than an annoyance. It can be a serious danger to our unity, to our vision of a better America in the future. We are at a disadvantage because we cannot counter this Soviet manipulation. We cannot reach the Soviet people as the Soviet leaders reach the American people; indeed, our broadcasters cannot even send taped reports into or out of the Soviet Union without prior examination by Soviet censors.

We have always lived with this possibility of being manipulated by outside forces. It is part of enjoying the blessings of a free press. Television, with its immediacy and its pervasiveness, increases by many times the danger of manipulation. Still, we would have it no other way. We can only hope that, by exercising their good judgment, the men who decide what to put on the evening news broadcasters will be able to place Soviet propaganda in perspective for their viewers and give the Administration's arguments for strengthening our national defenses the time we believe they deserve.

The danger we face from a military buildup throughout the world by a nation that has a consistent history of using the arms it distributes is more serious, more potentially disastrous, than any we have ever before encountered. We cannot ignore it, and we have no alternative but to reduce that danger by increasing our deterrent power.

We certainly are willing to pay the psychic price of liberty by maintaining our free press, whatever the cost. We must be equally willing to pay the dollar price of liberty by making our defenses second to none.•

IN MEMORY OF BARBARA WICKS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

• Mr. KEMP. Mr. Speaker, my hometown of Hamburg, N.Y., lost a valued friend and leader this week when our town supervisor Barbara Wicks passed away. She will be sorely missed by all of us who knew her, for her boundless energy and dedication were always tempered by wisdom and compassion. She was a remarkable woman, and I am proud to be among her many friends and admirers. She was a loyal Democrat, indeed ran against me in 1974 for Congress, but I valued her friendship.

Barbara Wicks was a native of Hamburg, and her ancestors were among the pioneers of our community. Barbara always had a keen interest in current events, and after graduating from Hamburg High School she earned her degree in social studies from Buffalo State College. She then began to pass on her appreciation of, and interest in, good government to the young people of our community by becoming a teacher of history and American studies at Kenmore East High School, Maryvale High School, and Buffalo State College.

Barbara's interest and appreciation of community events turned to activism in 1974, when she became the first woman to be elected to the Hamburg Town Board. She served on the town board until 1981, when she was elected town supervisor on a platform of good government over good politics. Perhaps all of us should take a page from her book as we pursue our responsibilities in Congress. We most certainly should follow her example of leadership and dedication to serving the people who elected her, and her desire to do what is right.

Barbara's family mourns her, and those of us who knew her will miss her greatly. But we are better for having known her, and our greatest tribute to Barbara will be to follow her example of compassionate leadership and dedicated activism.

My prayers and fondest regards to Harry Wicks her husband and her family.•

POLISH CONSTITUTION DAY, MAY 3, 1983

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

• Mr. ZABLOCKI. Mr. Speaker, it is an honor and privilege for me to rise to commemorate the 192d anniversary of the Polish Constitution of May 3, 1791.

As we recall that historic event—and the principles it represents—freedom, justice, dignity of man—we cannot help but call to mind the plight of the people of Poland who today are still denied these basic God-given rights.

The postwar Government of Poland bans the celebration of the May 3 constitution. Instead, it joins other Soviet bloc nations in the observance of May 1 as a day dedicated to workers. Last Sunday, thousands of Polish citizens risked physical abuse and prison by answering the call of the underground leaders of Solidarnosc—now officially dissolved—to boycott Government-sponsored observances of May Day, and demonstrated peacefully to protest the military regime's continued denial of fundamental freedoms. They were attacked by uniformed riot police.

The imposition of martial law in Poland at midnight on December 12, 1981, was in itself an illegal act, not justified by any public emergency.

It was the most massive suppression of human rights in recent history and continues today despite the so-called suspension of last December.

Thousands of Poles remain in prison for offenses against martial law—the possession of Solidarity literature—public statements in support of Solidarity—joining in peaceful strikes—and other nonviolent actions which the government has labeled as crimes.

These arbitrary arrests and convictions by military courts are in violation of every basic legal principle including the present-day Constitution of Poland.

Conscription into military forced-labor camps has been substituted for internment—freedom of speech is effectively denied—censorship of the press is enforced—journalists and professors who are suspected of disloyalty to the military government are dismissed from their jobs. The list of offenses against human dignity and freedom being perpetrated by the Polish military regime seems endless. The grim reality of life under a repressive government seeking only to perpetuate itself helps us view the May 3 Constitution in its proper perspective.

Man's desire to be free inspired the Constitution of May 3, 1791—that same desire inspired the leaders of the Solidarnosc movement and the courageous men and women who took part in it—and that same spirit will inspire other Polish patriots in the future—the Polish nation has not only a will to live but moreover, to be free.

Mr. Speaker, in Milwaukee in my congressional district, the anniversary of the Polish Constitution of May 3, 1791, was observed traditionally as it has been for generations. Following a Mass of Thanksgiving, dozens of marching units paraded to Kosciuszko Park where a memorial ceremony was held. The dinner program in the evening was highlighted by a stirring and inspiring address by our distinguished former colleague, and present-day Chicago alderman, Hon. Roman Pucinski. Honored also at the Polish Constitution day banquet sponsored by the Pulaski Council of Milwaukee was its president, Mr. William Kowalkowski. Mr. Kowalkowski received the Pulaski Council's coveted Polish Heritage Award in recognition for his leadership role in Milwaukee's civic, patriotic, and fraternal organizations, and for his many contributions to the welfare of both his community and the land of his forebears.

Mr. Speaker, during the course of the Pulaski Council's observance of Polish Constitution Day, a resolution was adopted, which I was asked to share with our colleagues.

Mr. Speaker, the resolution follows:

RESOLUTION

Whereas the People of the Polish Community in Milwaukee, Wisconsin and vicinity assembled on May 1, 1983 at Kosciuszko Park for the purpose of commemorating the 192nd Anniversary of the THIRD of MAY Polish Constitution, and

Whereas we Americans of Polish descent gathered under the auspices of the Pulaski Council, the umbrella organization of Milwaukee, at the Monument of General Thaddeus Kosciuszko, hero of two worlds, and

Whereas the Polish tradition of liberty and democracy found brilliant expression in the most dramatic constitution to have been promulgated to that time expressing the tradition of the Polish people recognizing the equality of all men, proclaiming religious liberty and establishing by basic law the freedom of thought and speech, and

Whereas for almost two centuries in bondage and in freedom Poles have commemorated Constitution Day as the symbol of their unflagging devotion to human rights, and

Whereas in the opening days of World War II, President Roosevelt called Poland "an inspiration to all nations" although the victorious end of this war did not bring the richly deserved and longed-for freedom and independence to the Polish nation, and

Whereas the Roosevelt Administration had been a party to the betrayal of Poland at Teheran and Yalta and agreed to turn Poland over to Soviet bondage, and

Whereas today the Polish nation under the Jaruzelski puppet communist regime knows full well the tyranny of junta dictatorship and the Soviet slave-labor system since the Yalta decisions enslaved half of Europe and encouraged Soviet Russia for further expansion over all continents, and

Whereas the Yalta Agreement is unconstitutional, never having been ratified by the United States Senate, and as a violation of the Atlantic Charter it should be denounced and repudiated. Therefore,

Be it resolved, That we here assembled appeal to President Reagan that he take a historical initiative and appoint a special commission to investigate all problems connected with Yalta. Further, we urge Chairman Zablocki to introduce a resolution expressing the sense of the Congress that the Yalta Agreements be repudiated and declared null and void, and be it further

Resolved, That we urge our government and all free world governments to use diplomatic and economic pressures that Soviet Russia withdraw her military and secret police forces from Poland and other captive nations and that the Jaruzelski Regime release all Solidarity prisoners who struggled for human rights and liberty, and be it further

Resolved, That we demand Solidarity be restored as a free and independent labor union in Poland and its leaders with Lech Walesa be restored to their leadership roles, and be it further

Resolved, That we reject the convenient Soviet pretense that the crisis in Poland is purely an internal matter since no fight for freedom against tyranny and oppression is ever an internal domestic matter, as freedom is indivisible and the world cannot exist in half free and half enslaved status, and be it further

Resolved, That we fully support the United States Government in its defense program to prepare for the perils confronting us, that we also support the upgrading of Radio Free Europe/Liberty and the Voice of America on the list of American strategic priorities since radio is a powerful tool for freedom which may play a more important role than missiles at the present time, and be it further

Resolved, That we urge the Federal Government to take stronger measures against the Soviet Union and the Polish regime if the crisis in Poland worsens in repression of the Polish people, and be it further

Resolved, That we join Our Holy Father, John Paul II, with all our hearts and prayers in his efforts and those of Cardinal Josef Glemp to bring about peace and justice for his self-determined and deserving countrymen when he visits Poland in June, and be it further

Resolved, That we want to assure the people of the world that as long as Poles live on this earth their hopes of freedom shall never die, and be it further

Resolved, That we pray to God to bless America and give our leaders the courage and vision to take the proper steps to save this great country of ours from evil sources seeking its destruction. Long live the Holy Father, John Paul II—Long live the United States of America—Long live a true free Poland, and be it finally

Resolved, That copies of this resolution be sent to the President, Ronald Reagan, the Secretary of State, Honorable George Schultz and Congressman Clement J. Zablocki.

Unanimously adopted by all freedom loving people present in observance of Polish Consitution Day held on this 1st day of May in the year 1983 in Milwaukee, Wisconsin.

EDMUND BANASIKOWSKI,
HARRIET KAMINSKI,
LECH MALKOWSKI,
Resolution Committee.●

PORTRAIT OF A COMMUNITY LEADER

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. DONNELLY. Mr. Speaker, permit me to share with my colleagues a classic American story. It is the story of one citizen of Quincy, Mass., whose tireless public service for three decades has made that community substantially better for thousands of people, especially for the young. It is the story of Richard J. Koch, as it was told in the Patriot Ledger of Monday, May 2, 1983:

PORTRAIT OF A COMMUNITY LEADER

(By Robert Preer)

QUINCY.—They had just come home from World War II and were tired of hanging around street corners.

So, in the spring of 1948, a group of men in their early twenties got together some softball teams and started playing at North Quincy's Cavanaugh Field.

They named one team the "Koch Club" after the 25-year-old milkman who organized it.

It was the launching of a remarkable public career of Richard J. Koch—best known as the founder of the Koch Club recreation program, but also an influential Democrat and an important city administrator.

Now 59, the square-jawed, heavy-set father of seven looks back and credits his accomplishments to a series of accidents.

"I don't think I ever had anything in my mind," he said in an interview. "It just seemed to grow by itself. You wake up one morning and say to yourself, what have I got?"

The men's softball led to men's bowling, then boys and girls softball, basketball, charity fundraising and many other activities. More than a thousand people participate in Koch Club softball, basketball, bowling and other activities each year.

The organization has expanded to almost all parts of the city.

"I estimate that over the years, we have touched 100,000 lives," Koch said.

But Koch's influence extends beyond the Koch Club. He was one of the founders of the city's modern Democratic Party. In the early 1950's, Koch and several other men—including James R. McIntyre, Arthur H. Tobin and John M. Gillis—organized the "Young Democrats."

After nearly a decade of struggle, this group took power from the Republicans in the early 1960's and dominated city politics for the next 20 years.

Koch was one of the first to jump on the Kennedy bandwagon. He was a ward coordinator for John F. Kennedy in the 1952 U.S. Senate election. Koch directed Kennedy's senate campaign in Quincy in 1958 and his presidential campaign in 1960.

He worked for Robert and Ted Kennedy, too, but his greatest fondness is for the late president.

"I knew Teddy better," he said. "I knew Bobby, but there was only one Jack. Jack had the qualities of each of them."

Although Koch is no longer active in politics, he is still an important political figure in the city.

"He just has so many friendships, so many people who come to him for advice," his son, City Councilor Richard J. Koch Jr., said. "He certainly is a political animal, a force to be dealt with in Quincy."

"He is a political force without being political," City Councilor James A. Sheets said. "He is a factor, but not in the way of pushing buttons like some other people have done historically."

In 1962, Mayor Amelio Della Chiesa appointed Koch city park director. "A number of people may have thought it was a political appointment, but I think they were surprised to find I intended to make more of it," Koch recalls.

Since then, he has earned a reputation as a competent, hard-working administrator. The six mayors for who he has worked often have turned to him to solve difficult problems.

Last year, when Mayor Francis X. McCauley was being criticized for the poor condition of the city's cemeteries, he asked Koch to take over the cemetery department. A dozen years earlier, Mayor Walter J. Hannon had put the forestry department under Koch's control.

"Every time something comes along, they throw it my way," Koch said.

About 10 years ago, some people asked him to run for mayor. They offered to bankroll his candidacy and provide campaign workers.

Although he had run for office before—he lost city council elections in 1948 and 1951—Koch concluded that to re-enter politics would be a mistake. He felt people would look at him differently if he ran for mayor, and he turned down the offer.

"I think I portray an image to the people of public service," Koch says. "I think I stand in a different image—a public figure who has been involved in public service."

His son is mindful of that image. "The name stands for something. When something comes up on the council I have to remember that. It comes into play in every decision I make. It's like a chain around your neck, but where would I be without it?" Richard Koch Jr. said.

He acknowledges that his father's name was a big factor in his election to the council in 1981 and helped him to make a respectable showing in 1979.

"I lost to Joe LaRaia, a former mayor, by 200 votes in 1979," the younger Koch said. "A newcomer, a kid going around knocking on doors, doesn't do that."

Two other Koch children also have political ambitions. Thomas, 20, who managed his brother's city council campaign, may run for state representative. And married daughter Karen Bowes is considering a run for school committee.

The senior Koch observes with fatherly pride, "I'm happy to see them all participating. I like to see them get involved in things they undertake."

Another member of the family who has been involved is his wife, Simone. When the Koch Club was first getting started, she was almost as active in it as her husband.

"When we were courting, she would come down to fields and watch us play. We'd go to the various activities together," he recalls.

In 1952, the Koch Club added a girls softball league. "The wife was responsible for that. It's the thing to do now, but we were like pioneers back then."

Simone Koch is deeply religious. She has been a companion and source of strength to her husband. She also has softened his drive and quick temper.

"I'm kind of strong-willed. The wife—hers is a much smoother personality," he said.

The Koch Club very much reflects its founder's values—family, self-reliance, patriotism, charity—and having some fun in life.

Anyone can join and everyone plays.

"Our philosophy has always been the enjoyment of the youngster is paramount and the competition secondary. It's more like a carnival. We may have seven guys in the outfield," Koch says.

By keeping things simple, the cost of participating in club activities is low. The softball program fee is $8, and for that a youngster gets a hat, a shirt, use of bats, balls and fields and a picnic at the end of the year with free hot dogs and ice cream.

Club activities are held Monday through Thursday. "We always felt weekends should be left for the family," he said.

Once a year, the kids march in the city's Flag Day parade. At different times during the year there are fundraising drives for scholarships and aid to the poor.

This year, the club collected toys for needy children, food baskets for the poor and clothes for the homeless.

The club has never received any aid from the government or United Way.

"I love that," Koch grins. "You see some agencies, if you took their government aid away, there would be no volunteers."

There has been a general decline in the Koch Club's sports activities in recent years. The youth population is declining, and there are many more similar organizations around than 30 years ago.

"We met a need with the post-war baby boom," Kock says. "Now it's a different ballgame. The Little League has a farm league; there's youth soccer."

Koch has a network of people who help him run the club. In addition to coaches, he has coordinators for each program and in each section of the city.

Still, the Koch Club is very much his organization. He has resisted setting up a board of directors because he didn't want to lose his personal control.

And Koch doubts that the club will have a life beyond his own.

"I think about the time I put into it. I don't expect my own kids to make that sacrifice."

Richard Koch Jr. agrees. "As much as it runs on its own, when it comes down to the organizing, ordering the jerseys, getting the teams together, it's him. When he goes, it's very difficult to say it would continue."●

THE MORALITY OF MONEY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. PAUL. Mr. Speaker, economics is a subject that very few people feel knowledgeable about. Yet, economic life touches every one of us every day—it is one of the central dynamics of our social order, just as language, morality, and obedience to natural law make up the essential process of civilization.

I have emphasized in my work as a Member of this House the economic issues, particularly money and banking questions, because I discovered long ago people do understand the close connection between economics and morality. Every Member of Congress receives mail from people asking questions about economics and money, and asking for some congressional action to take the monetary system out of the hands of technicians and manipulators, and restore it to a foundation of some integrity, like gold coinage.

I recently came across an entire issue of a local newspaper, published fortnightly in Montgomery County, Md., devoted to a discussion of money. The County Express of Germantown, Md., published and edited by Marty More and Karl Spain, is an excellent example of the grassroots interest in questions that we in Congress so often treat casually.

I would like to place one article from this newspaper in the Record. I have selected this article because it demonstrates how well people do understand the important issues of economics.

The article follows:

[From the County Express, Apr. 20, 1983]

The Morality of Money

(By Harold E. Thomas)

Inflation in some of the Latin American countries is in excess of 50 percent per year. In Israel the inflation rate was over 100 percent during 1982. In any economy where inflation is rampant the morals of the people are affected. The following story is true:

During the year 1960, F. Harvey Popell, an American, was just starting out in business in Buenos Aires, Argentina. The inflation rate at that time was over 40 percent per year. Popell's Argentinian secretary commented one day that her father was a fool—a fool for not taking bribes in his business. His income was not keeping up with prices and his family was under increasing financial pressure but he refused to take bribes offered him. Popell responded with a sermon on how right her father was to stick by his high moral principles. The secretary looked at Popell as if he were out of his mind and her only comment was that he was an American and, therefore, could not understand.

Today, after 20 plus years of firsthand experience with Latin American economies, Mr. Popell understands. What his secretary was telling him is that the constant insecurity created by an inflationary economic system had made her father's morals a counter productive strategy for personal survival.

In a country that has a relatively price-stable economy in combination with a republic-type political system, there will exist a good measure of individual freedom and social mobility—and as a result, confidence in the future. We saw it in the USA during the 50s and 60s. How far an individual was able to go depended largely on his ambition, judgment, ability, and fortune (luck). Most seemed to know and appreciate instinctively that if they were honest and industrious and saved, their future would be secure. In short, for most people (not for all), the system worked. As a result those values that reinforce and maintain the system—integrity, hard work, saving, long-term investment—were held in highest esteem.

In an inflationary economy, however, moral values of honesty, industry, and saving are not only no guarantee at all of a solid future, but such values may indeed represent an irrational course of action. Take savings. Why save for a rainy day when one's savings won't buy an umbrella when needed? Take honesty as another example. Why be scrupulously honest (such as the father mentioned wanted to be) and keep one's nose to the grindstone seeking long-term personal growth when there is no long term on the horizon? A more rational approach would be to try to get as much as you can, as fast as you can, with as little effort as you can, almost any way you can.

What does this mean and what will be the long-term effect on the people and a nation? For an average working man it means throwing out the door the "old" concept of a fair day's work for a fair day's pay. What pay is fair when you are constantly playing (and invariably losing) catch-up with prices and/or rising taxes. For the business man it means a more cautious approach to capital investment. For the investor, it means channeling funds away from productive investment into inflation hedges and tax hedges.

For everyone it means saving less and spending more—as fast as you can—with the predictable negative consequences for long term growth. Most important it undermines and causes a lowering of the standards against which personal and business ethics are measured. To say it concisely, the Golden Rule is abandoned.

The real tragedy of inflation is that it creates an economic framework that makes it almost impossible to achieve a unity of interests and purpose between the individual and society as a whole. When an economic system works to the benefit of the individual in proportion to his effort and skill, a set of moral principles and values develops that both reinforces the overall strength of society and enhances the individual's position in it. Conversely, when an economic system does not work, as is the case when inflation continues unabated, moral values develop that justify and rationalize the individual's struggle for survival in an increasingly hostile environment—values that tend to aggravate the very conditions against which the individual is trying to protect himself.

This is happening in other countries today and it is happening somewhat here, by the grace of God, to a lesser degree.

The paramount question is what can the average citizen do to work on stopping inflation. That can be done in the following ways: become knowledgeable about money—its history, its functions, its purpose, and our system of money in the USA.

We, the citizens must insist that our representatives understand money (and its relationship to morality) much better than they apparently do. The money system (the Federal Reserve) is a system designed so that money can be created when deemed politically expedient. Is this moral? Is this affecting the morals of our nation. The answer is obvious.●

HONORING NORWALK-LA MIRADA UNIFIED SCHOOL DISTRICT EMPLOYEES

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. TORRES. Mr. Speaker, on May 12, 1983, at a special reception, the Norwalk-La Mirada School District will be honoring 13 people who have served the district as loyal employees for 30 and 35 years.

These fine and dedicated people will be retiring from public service on May 12. After serving so many years with much distinction, these admirable people will be honored by their peers, their school district, and their communities.

It is with great honor and pride that I rise to recognize them on the floor of the U.S. House of Representatives.

Education is an extremely important subject to me. The people who educate and tend to the needs of our young are very special. As we commend these retirees let us also commend all those who serve in our educational system.

I would like to point out that these employees have served in one of the finest school districts in the country. The Norwalk-La Mirada School District has an outstanding record of high educational quality.

Mr. Speaker, I ask my fellow colleagues of the House to extend best wishes and heartiest congratulations to the following retiring persons who have added so much to enhance this fine school district and the youth of our country.

Evelyn T. Farquharson, La Pluma School, teacher; Jean Haygood, Eastwood Elementary School, teacher; Donald R. Downs, Foster Road Elementary School, teacher; Eldon Edwards, La Pluma School, teacher; Priscilla J. Kadelbach, Nuffer Elementary School, teacher; Lucy E. Kuster, Waite Elementary School, teacher; Ivan Naumann, maintenance, mechanical foreman; Damaris Neel, food services, director; John H. Newman, John Glenn High School, teacher; Wayne M. Petersen, transportation, busdriver; Edward J. Phillips, Foster Road Elementary School, teacher; Melvin Sanford, food services, utility man; Dino R. Tiritilli, Moffitt Elementary School, teacher.●

IRVING KRISTOL CAUTIONS US ABOUT SOVIET INTENTIONS AND THE "FREEZE"

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. KEMP. Mr. Speaker, Irving Kristol is one of this Nation's most distinguished academics. His insights are invaluable to both Democrat and Republican alike, because of his tremendous appeal as an objective observer of the social, economic, and political scene in America, and of America's interests throughout the world.

His comments in today's New York Times provide a brilliant summary of the compelling case against the nuclear freeze. As he points out, the West tried a freeze in theater nuclear weapons in Europe and it did not work. The Soviets exploited our restraint and only now when they have a huge advantage against our allies and friends in NATO do they favor a freeze.

I ask my colleagues to please read Professor Kristol's cogent analysis of the serious flaws in the freeze resolution as it would pertain to the defense of Europe.

[From the New York Times, May 3, 1983]

SOVIET INTENTIONS

(By Irving Kristol)

In the heated controversy over emplacement of intermediate-range nuclear missiles in Western Europe, one simple but crucial question seems never to be asked: Why did the Soviet Union provoke the controversy by deploying several hundred of its intermediate-range missiles, each with three nuclear warheads?

There is no obvious answer, or at least no answer obvious to an outsider. This, in turn, leads to some rather chilling speculations about Soviet perceptions or Soviet intentions, or both.

The Soviet Union's action cannot possibly have anything to do with deterrence, as we understand that concept. Soviet conventional forces in Europe are markedly superior to the North Atlantic Treaty Organization's—even Moscow does not dispute that. True, NATO also has tactical nuclear weapons, but these are battlefield weapons of relatively short range. And, in any case, the Soviet Union also has such tactical nuclear weapons, which, in numbers and quality, are an easy match for NATO's.

It is also true, as the Soviet Union keep emphasizing, that Britain and France have some 150 nuclear weapons of their own, outside of NATO's command. But these are (by now) familiar ballistic missiles, capable of obliterating cities but of little use, since they are not very accurate, against military installations. The Soviet Union, for its part, has 10 times that number of such missiles. So it is absolutely impossible to believe that the Soviet Union was, or is, genuinely concerned about the possibility that France or Britain will launch any kind of pre-emptive nuclear strike.

The SS-20's that have been deployed by Moscow are, in one important respect, a new order of nuclear missiles. These intermediate-range missiles are extremely accurate. They can destroy not only cities—they are not needed for that—but also missile sites, military installations, communications centers and troop concentrations far beyond the battlefield. They are not merely "holocaust" weapons, of which the Soviet Union has more than enough. They are also powerful military instruments.

It is important to note that these missiles involve no very novel technological breakthrough that Moscow is exploiting. We could have built them at any time. We refrained from manufacturing and deploying them because we feared it would destabilize the balance of forces in Europe and would accelerate the arms race. The Russians, apparently, did not feel the need for any such self-restraint.

Why? Why weren't they satisfied with the status quo in Europe—a status quo clearly tilted in their favor militarily, though not to a degree that annulled deterrence?

Two possible answers come to mind.

First, the Soviet military establishment has concluded that any conflict in Europe will be nuclear from the outset, and has provided itself with a first-strike capability against all military centers in Western Europe. The SS-20's have exactly that capability. Since the Russians bitterly oppose deployment of comparable missiles by NATO, they obviously consider it important that they have such a first-strike option—this despite official proclamations that they would never exercise it. In short, the Soviet Union's definition of its "national security" involves a Western Europe in a condition of radical military inferiority and vulnerability. It does not accept the notion of a balance of power or even a balance of terror in Europe.

Second, the Soviet political establishment is persuaded that such a disproportion between the military strength of the Warsaw Pact and NATO will enable it, without actual military conflict, to intimidate the nations of Western Europe into policies more congenial to Soviet ambitions. These would include the dissolution of NATO, the removal of American military forces and favorable financial and trade arrangements between Western Europe and the Soviet Union.

Are there any other explanations, perhaps less alarming, for the Soviet Union's conduct? It would be nice, but is not easy, to think of them. And unless one can think of them, then it is fair to say that the nuclear freeze movement is precisely the kind of response to Soviet acceleration of the nuclear arms race that the Russians would most earnestly wish for, and may even have anticipated.●

ADMINISTRATION SEEKS TO RENEGE ON HOSPICE CARE REIMBURSEMENT UNDER MEDICARE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. BIAGGI. Mr. Speaker, I was greatly disturbed to read in yesterday's New York Times a front page article by the highly respected writer Robert Pear entitled, "'U.S. Acts to Cut Benefit to Dying in Hospice Care."

At issue are draft regulations being developed by the Health Care Financing Administration to implement the legislation passed last year to permit first time medicare reimbursement for hospice care services. At the time the bill was passed, the House Ways and Means Committee envisioned that the extent to which medicare would provide reimbursement might be as high as $7,000. However, the rules being developed by HCFA would set a ceiling of closer to $4,330.

I am concerned that the intent of Congress is being thwarted even before the program takes effect. It is sometimes the case that regulations to implement legislation do not always follow congressional intent but to diviate in this fashion—and to do it in such a way to such a vulnerable group of our citizenry is bureaucratic heartlessness at its very worst.

I wish to insert the New York Times article at this point in the Record.

The article follows:

[From the New York Times, May 2, 1983]

United States Act To Cut Benefit to Dying in Hospice Care

(By Robert Pear)

Washington, May 1.—The Reagan Administration has drafted rules that would reduce the value of a new Medicare benefit for the terminally ill to about 60 percent of the level envisioned by Congress.

The rules set standards and establish the maximum Federal payment for a combination known as hospice care, medical, social and psychological services, available to elderly people with a life expectancy of six months or less.

Hospice care emphasizes the alleviation of pain and suffering rather than the cure of illness. It permits patients to remain at home with family and friends, for as long as possible. Ninety-five percent of hospice patients have cancer. At present, there are 40,000 hospice patients, but the Congressional Budget Office estimates tht 270,000 would be eligible for the new benefit each year.

Congress last year authorized coverage of hospice services under Medicare, the health insurance program for the elderly and disabled. It was one of the the very few new Federal benefits extablished in an era of cutbacks and fiscal austerity.

The House Ways and means Committee, in a report on the bill, said it envisioned a ceiling on hospice services "in excess of $7,000 per beneficiary." Even at that level, it said, the hospice program would save money because the maximum payment was to be set at 40 percent of the total costs for conventional Medicare services for cancer patients in the last six months of life. The committee report said that those conventional costs "would on average exceed $19,000 in 1983."

However, the new rules, approved by Carolyne K. Davis, head of the Federal Health Care Financing Administration, say that the maximum payment for a hospice patient "will approximate $4,332.'

Robert A. Streimer, an official of the health care financing agency who worked on the rules, acknowledged that the limit "is not at the level that Congress thought it would be." But, he insisted, the Administration used the formula prescribed by Congress, which was 40 percent of the expected costs, for computing the limit. He said that actual Medicare costs for the last six months of a cancer patient's life turned out to be closer to $11,000 than to the $19,000 that Congress had assumed.

Donald J. Gaetz, president of the National Hospice Organization, a nonprofit group representing more than 1,000 hospice programs, said that the rules "play a cruel joke on dying people, violate the intent of Congress and do not fulfill the promise of the legislation."

"The $4,332 payment level is so low that it will create a disincentive for hospices to take sicker patients who need more care," Mr. Gaetz said. "This payment system will drive the terminally ill back into the hospital, drive hospices out of business and, ironically, drive Medicare costs up instead of down."

SAVINGS WERE EXPECTED

Supporters of the legislation and analysts at the Congressional Budget Office had predicted that the new program would save money by substituting home care and hospice services for acute hospital care. The Reagan Administration disagrees with those estimates.

A recent study by the Blue Cross and Blue Shield Association, done under contract with the Government, found that health care costs for terminally ill cancer patients in the last six months of life averaged nearly $16,000 in 1980. The authors said this figure would have to be increased by at least 30 percent to reflect medical inflation in the last three years. Total costs in 1983 would then exceed $20,000, which is close to the cost assumed by Congress. However, Administration officials contend that costs for the Blue Cross patients where higher than the costs for Medicare patients.

The Administration opposed creation of the hospice benefit program last year, saying that Congress should wait for the results of 26 demonstration projects. The preamble to the new rules says "Medicare beneficiaries may use traditional forms of treatment before seeking hospice care." The Administration predicts that the new program will increase Medicare costs $320 million over the next three years.

OUTLAYS RISING 18 PERCENT A YEAR

Total Medicare outlays have been increasing at an average rate of nearly 18 percent a year since 1970. Medicare spending last year totaled $50 billion. Government statisticians said that 28 percent of all Medicare outlays for the elderly went to people who were in the last year of life.

The limit on hospice reimbursement reflects, in part, an effort by the Government to control the costs of the program. David A. Stockman, director of the Office of Management and Budget, has observed that the cost of Federal health programs almost always grows faster than the creators expected.

Government lawyers have privately raised questions about the legality of the new hospice payment system, which fixes reimbursement rates in advance rather than paying for the costs actually incurred. Congress established a system of fixed rates for hospitals and directed the Secretary of Health and Human Services to study the feasibility of a similar system for hospices. The Government has only a limited data to use as a guide in setting hospice rates.

In a memorandum describing the hospice program, Mrs. Davis said that the department's "Office of General Counsel advises us that the proposal for a prospective system of reimbursement would face risks if challenged in court." The memorandum was addressed to Margaret M. Heckler, the Secretary of Health and Human Services.

Officials at the Department of Health and Human Services said that the rules would be printed soon in the The Federal Register, a Government publication. The public then has 60 days to comment on them before they take effect.

According to the preamble to the rules, there are now 1,200 entities that describe themselves as hospices. Of these, 450 are linked to hospitals, 200 operate under the auspices of home health agencies and 478 are independently operated. The 72 others are affiliated with nursing homes or social service agencies.

The hospice law provides that when a person signs up for hospice care, he or she waives the right to other Medicare services related to treatment of the terminal illness. But Government will still pay for the services of a family physician and for medical care unrelated to illness.

The law authorizes hospice services for up to 210 days. The rules say that "a hospice may not discontinue or diminish care provided to an individual because of the individual's inability to pay for that care."

The hospice itself must provide nursing care, medical social services, physician services and pastoral or psychological counseling. It must either provide or arrange for institutional care for short periods of time when the patient cannot be adequately treated at home. The Government pays for those services, as well as for physical therapy, drugs, medical equipment, home health aides and "homemakers" to do household chores.●

COMMENDATION OF MR. DICK GARRISON

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. FAUNTROY. Mr. Speaker, I would like to bring to the attention of the Congress, Mr. Dick Garrison, a District of Columbia businessman who has made many major contributions to Washington, D.C.

As president of Advertising Novelty Co., Inc. (ANC), Mr. Garrison has creatively, astutely, and effectively built it into a leading national distributor of advertising specialty items. In addition, under his leadership ANC has diversified into the fields of convention and political conference management.

What is remarkable about Mr. Garrison is that he has also channeled so much energy into many civic and charitable organizations. He is a longtime active member and leader in the Silver Spring Boy's Club, the Rotary Club, and the Lions Club. He is a veteran member of the Touchdown Club of Washington having served on its board of directors and as chairman of many of its committees. He is a member of the board of trustees of the D.C. Chapter of the Leukemia Society of America. Finally, and in my eyes most importantly, Dick Garrison has been an active supporter of the Shaw Community Center Food Committee, an organization, of which I am a part, which seeks to feed the hungry in the neighborhood of my childhood.

That Mr. Garrison has so much energy to give to our community is not surprising considering the fact that in college Mr. Garrison lettered in both basketball and golf. Speaking of sports, I must mention that he is also director of our world famous Redskinetts who cheered our Super Bowl champions to victory.

The generosity of such men as Mr. Garrison serves as an outstanding example to us all. They deserve our recognition, thanks, and encouragement.●

VITAL ROLE OF PUBLICATIONS AND RECORDS COMMISSION

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. WEISS. Mr. Speaker, I would like to express my strong support for a fiscal year 1984 appropriation level of $3 million for the National Historical Publications and Records Commission, over and above the appropriations level for the National Archives.

The Commission plays a vital role in collecting and transmitting original records of U.S. history. It is a remarkably cost-effective operation. The Commission's limited Federal funding is used to draw support from universities, foundations, and other organizations. In fact, the average non-Federal contribution to an NHPRC project is only 53 percent of the total cost. In addition, all administrative overhead is picked up by the sponsoring institution rather than by the Federal grant.

Moreover, its work often results in cost savings because bulky, insignificant records occupying expensive storage space can be destroyed, and the more valuable records can be identified, organized, and made accessible.

Since 1976, more than 400 historical societies, archives, libraries, and other organizations have received grants to preserve our national heritage. The Commission also makes small grants to university presses and other nonprofit publishers to defray the cost of publishing NHPRC documents, which are usually more time consuming and expensive to print than other books. In addition, the NHPRC plays a leadership role in editorial training and setting standards for paper preservation and microfilm publication.

The sum of $3 million is a small price to pay for preserving national records that could be crucial in understanding our past and helping develop policies and programs for the future.●

NAISMITH MEMORIAL BASKETBALL HALL OF FAME'S 16TH ENSHRINEMENT DINNER

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. BOLAND. Mr. Speaker, last night in Basketball City, U.S.A., Springfield, Mass., the Naismith Memorial Basketball Hall of Fame welcomed six new members.

The Hall of Fame's Honors Court membership roll now numbers 138 individuals and four teams whose contributions to the game of basketball have made it the exciting, fast-paced game that has thrilled millions of people throughout the world. The names of the six new inductees are familiar to basketball fans everywhere:

Dean Smith, the head coach at the University of North Carolina, and one of only two coaches to win the "Triple Crown" of basketball championships.

BILL BRADLEY, our colleague in the Senate and a former All-American at Princeton and a star on the New York Knicks;

Dave DeBusschere, a teammate of BILL BRADLEY's on two Knicks championship teams, and an eight-time NBA All-Star;

Jack Twyman, an All-American at the University of Cincinnati and one of the best shooting forwards in NBA history, whose contributions to friends in need marked him as a great humanitarian as well as a great athlete;

The late Louis G. Wilke, who made innumerable contributions to the growth of amateur basketball in the United States and to the development of our Olympic basketball program; and

The late Lloyd R. Leith, known as "Mr. Basketball" on the west coast, who made the training and grading of basketball officials his life's work and did much to improve the art of officiating.

The accomplishments of these six individuals certainly merit their inclusion in the Hall of Fame. Their careers have affected the most important aspects of the game of basketball—coaching, playing, administering, and officiating, and the excellence of their efforts has properly been recognized with the game's highest honor.

In addition to the induction of the six new members of the Hall of Fame, yesterday's ceremonies included the presentation of awards to other individuals for their achievements in, and contributions to, the sport of basketball. Former Boston Celtics star Bob Cousy received the John W. Bunn Award, given annually in recognition of outstanding contributions to basketball and to sports in general. The Pomeroy Naismith Award, given to collegiate basketball's best player under 6 feet tall was presented to Ray McCallum of Ball State University. Six players were selected as Players of the Year in their respective divisions, and I would like to include their names at this point in the RECORD:

Division I—Anne Donovan, Old Dominon University;

Division II—Jackie White, Cal Poly Pomona;

Division III—Margie O'Brien, Clark University;

NAIA—Kelly Litsch, Southwest Oklahoma State University;

National Junior College—Jackie Glosson, Moberly Junior College;

Spalding NABC Divison II (Men's) Player of the Year: Earl Jones, University of the District of Columbia.●

VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM—CALIFORNIA WINNER FOR 1982-83

HON. DOUGLAS H. BOSCO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. BOSCO. Mr. Speaker, I would like to share with my colleagues a speech by one of my constituents, Miss Michelle Nuszkiewicz of Crescent City, Calif. Michelle's speech on the theme, "Youth—America's Strength," was the

California winner in the Veterans of Foreign Wars' annual Voice of Democracy contest, a scholarship program that attracted entries from more than 250,000 secondary school students this year. I am sure my colleagues will find Michelle's speech as refreshing and inspirational as I did.

1982-83 VFW Voice of Democracy Scholarship Program—California Winner

Is youth America's strength?

Are they the vitality that spark the drive of Americans?

Are they the effervescence that add the sparkle to life?

Before you answer that question, let me cite several accomplishments of noteworthy—yet typical—American citizens.

On 4 separate occasions within the last 5 years, Dewey Hudlow has risked his own life, for the sake of saving someone else's.

Bill Kemper bicycled 919 miles over the Colorado mountain passes in only 10 days.

Marila Salsburry began jogging only 3 years ago and has since competed successfully in world class races.

Now what is it that makes these individuals so extraordinary?

The local lifeguard saves many lives in the course of his job. We are all familiar with teen-agers and their ten-speeds and joggers are a common sight on city streets and country roads.

But, Dewey is 51, Bill is 77, and Marila is 73 years of age.

These people acquired the fountain of youth not by counting their birthdays but by remaining young at heart.

I believe that America has also discovered this secret. Youth is America's strength, but youth isn't only confined to the young—for what is youth?

Is it those chronologically 15-20 year old?

Youth is actually enthusiasm, endurance, and enjoyment.

The enthusiasm our Founding Fathers possessed when creating our country cannot be surpassed.

Remember these were not youthful men, but men of wisdom—the wisdom of years—but their ideas were the revolutionary troughts of youth.

The zeal and zest they attained over 200 years ago has since been transfused into the mainstream of America and has been passed along to the youth of today.

America leads the race of endurance—for who could ever have more vigor and vim than the 1980 American Hockey Team?

It was the youth that possessed the physical endurance to win the game but it was the knowledge of the not-so-young coach that gave them the winning strategies.

The dedication of team members to a single goal added another historical incident for us to be proud of.

Man's first walk on the moon marked another chapter in the endurance of an idea: The scientists had dreamed of this moment for decades. Engineers had built and rebuilt.

Astronauts had trained for years, and when it came together, the country rejoiced with youthful exuberance over their latest victory. This was a victory of teamwork—truly a giant step for mankind.

The enjoyment citizens of the United States feel in achieving milestones that are important to them is outstanding.

It was the beatitude and bliss of thousands of Americans fighting for a single cause that led the United States to their global path of peace.

It is in the strength of unity that America has achieved excellence. It is the unity of the aerospace team that has put the Columbia into orbit.

Youth is only a relative term—by other cultural standards, America herself is still in her infancy. Compared with China, her 200 years of existence is still the age of the young.

I would like to make a pledge, and hope that the entire nation will also dedicate itself to remaining young.

Never to allow our mainstream to grow old and harden with senility. Never allowing our muscles to grow tired and atrophy or allowing our spirit to drain out with exhaustion—for youth to America's strength.

It has been said that "youth is wasted on the young"—but Americans have proved this false for it is those that think young that are America's strength.●

THE SCOWCROFT COMMISSION REPORT

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. GORE. Mr. Speaker, I am submitting for the Record the text of a letter on the future of the recommendations of the Scowcroft Commission Report which was sent to the President after signature by nine Members, including myself. Fortuitously, a letter similar in basic concept was sent earlier the same day by three distinguished Members of the other body.

The burden of both letters is fundamentally the same: All other arguments on behalf of the MX having been tried and found inadequate, the sole remaining case of substance and merit, is that deploying this missile would be consistent with and arguably necessary in order to begin a process moving us toward realizing the long-term goals described in the Commission report.

Mr. Speaker, we are at a special moment. The long-term objectives of the Commission report make sense: We would be better off aiming both weapons procurement and arms control decisions at a stable United States-Soviet nuclear relationship; one in which the fear of a first strike would be substantially allayed. MX gravely detracts from the support these ideas would otherwise have. Congress must define the conditions under which it will be prepared to make concessions to the President's views: The President must consider the responsibility of the Congress not to proceed, unless it has reason for confidence that we are really moving toward an effort whose ultimate goal is real stability; not just the deployment of a new weapon.

Both letters stress that even those Members of Congress who are prepared to remain open-minded about the case for the MX, must expect greater clarity as to its function in the long-term proposals of the Commission, and more assurance that the administration is indeed committed to the Commission's objectives in their entirety.

With such assurances, it may be possible to reestablish a durable working consensus on the proper course for American nuclear weapons and arms control policies. Without such a consensus, even an administration victory on the deployment of MX would offer the Soviets little incentive to negotiate seriously: They would be better off waiting for what the next swing of the political cycle in this country might bring.

I urge my colleagues to consider the case put forward in this letter, which speaks as much to the role of the Congress in working through this decision, as to the opportunities now open to the President.

House of Representatives,
Washington, D.C., May 2, 1983.

The President,
The White House,
Washington, D.C.

Mr. President: Your endorsement of the Scowcroft Commission report gives us reason for hope that it may be possible to move American policy on nuclear weapons and arms control forward, based on a durable bipartisan consensus.

We believe that the policy which the Report recommended, and which you have made your own, is correct—in its long-term dimensions. Arms control and force posture decisions should be integrated, and organized around the pursuit of stability. Stability, in turn, requires that neither the United States nor the Soviet Union possess the means to conduct a theoretically advantageous first strike. To achieve this condition requires that both sides reverse the trend toward more highly MIRVed ICBMs, and move toward a less threatening force based on single-warhead missiles, ideally in a program orchestrated through arms control.

The problem is that the Commission report asks us to accept not only its attractive long-term concept, but its immediate recommendation for the deployment of 100 MX. That missile has been mired in controversy for so long, and opposition to it is so entrenched, that its presence in the Commission report seriously endangers the entire enterprise. Some of us have voted against the MX on more than one occasion, but we are prepared to consider new arguments for it on the merits, and we are asking our colleagues to be similarly open-minded. But we must tell you in all candor, that of all the arguments presented in the Scowcroft report, on behalf of MX, only one is both new and of interest: that deploying the MX is a step which is consistent with, and necessary in order to begin, the long-term process towards stable forces.

In our view, the future of the MX turns precisely on whether this asserted connection between it and the process on long-run stabilization can be demonstrated. To do so requires at a minimum, assurances from you on certain key points:

That the United States' negotiating position in START will be speedily updated, in order to bring it into line with both the technical recommendations and the long-term objectives of the Scowcroft Commission report;

That in doing so, the United States will be able to show how the deployment of a given number of MX fits in with these objectives, in terms of its impact on the force posture of both countries;

That, in principle, plans for the deployment of MX, including both numbers and timing, can be influenced by the results of arms control; and,

That, a major effort will be promptly undertaken to bring sharper focus to the proposed single-warhead ICBM, and to allay concerns that it cannot be realised in a reasonable period of time, at acceptable cost, in deployment modes that are both technically and politically realistic.

With the submission of your recommendations on MX basing, the legislative clock has begun to tick; moving towards a decision on flight testing and an acceptable basing mode which must be taken one way or the other, in the next month and a half. In isolation, the proposal to base MX in silos is one which has already been rejected for good reason. What changes the prospects for MX flight testing is the context for MX created by the Scowcroft Commission report. That context, however, is not strong enough as it presently stands to be decisively persuasive. We believe that affirmation and assurances from you on the points we have raised would greatly help, and that we need such assurances before deciding whether or not to support congressional approval of flight testing.

We wish, moreover, to make clear that in our view, a decision to flight test the MX is both legislatively and logically distinct from a decision to procure the missile in any number for actual deployment. The question of deploying the MX should be dealt with only when and if it becomes possible to see: (1) that START has been brought into line with the recommendations and long-term goals of the Commission report; (2) that a case can be made showing in explicit terms how MX would fit into stable US-Soviet nuclear relationship; and (3) that the Department of Defense is finding sensible answers to engineering and cost questions related to the single-warhead ICBM. A follow-on to the Scowcroft Commission, of bipartisan nature, charged with advising you in the conversion of the Scowcroft panel's recommendations into arms control proposals, would also be highly desirable.

You may feel, with some justice, that the report and your endorsement speak for themselves. Unfortunately, neither the report nor your endorsement clearly answer the questions we think are critical. Meanwhile, statements in the press—attributed to "high ranking officials" in the Department of Defense and others, have already raised a suspicion that there are some in the Administration who embrace the Scowroft Report not in its entirety, but only as a means to the end of securing Congress approval for the deployment of the MX.

Mr. President, the effect that MX is likely to have on the Soviet Union will be determined by the effect it has on opinion in this country. We can agree with you that the Soviets are not altruists, and will have little incentive to bargain seriously if we voluntarily solve their problems for them. But if we pursue a decision on MX in a way which destroys, rather than consolidates a national consensus, then the Soviets are best advised to play a waiting game.

We believe achieving a bipartisan consensus is critically important to a successful arms control effort. All our past progress in arms control has been predicated on such a bipartisan approach. A debate limited to MX alone, without explicit clarification of its role in the long-term course recommended by your Commission on Strategic Forces cannot lead to such a bipartisan consensus, and will result in no real winners. We are prepared to make a good faith effort, in which we urge you to take the lead.

Sincerely,

Albert Gore, Jr.; Norman D. Dicks; Les Aspin; Vic Fazio; Thomas S. Foley; Richard A. Gephardt; Dan Glickman; Joel Pritchard; George O'Brien.●

SCIENCE AND MATH: LEARNING HOW WE LEARN

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. BROWN of California. Mr. Speaker, the House has recently passed the Emergency Mathematics and Science Education Act, intended to improve the teaching of science and mathematics in this country. I wholeheartedly supported this measure, but I believe that there is still much to be done before we can solve the problems that have arisen from the neglect of the quality of basic education. A recent article in Science magazine highlights the need to reassess the very fundamentals of the way science and mathematics are taught. It reminds us that we still have much to learn about how learning itself occurs. I find it particularly interesting that this research shows that learning science and math requires not merely the acquisition of new information, but the prior demolition of erroneous assumptions and beliefs about the way the world works. All of us, from time to time, might do well to reflect on this. I commend the article to my colleagues.

[From Science, Apr. 29, 1983]

MATHEMATICS AND SCIENCE LEARNING: A NEW CONCEPTION

(By Lauren B. Resnick)

In the last few years a new consensus on the nature of learning has begun to emerge, stimulated by research in the field that has come to be known as cognitive science. The emerging conception of learning has a direct bearing on how science and mathematics can be taught most effectively.

I will sketch here a few examples of recent findings in cognitive science, many of which support the intuition of our most thoughtful teachers. In physics and other sciences, according to these studies, even students who do well on textbook problems often cannot apply the laws and formulas they have been drilled on to interpreting actual physical events. This observation has been made on all kinds of students, including gifted middle-school children and students at some of our most prestigious universities. The inability to apply routines learned in school is consistent with recent findings from the National Assessment of Educational Progress showing that mathematical problem-solving skills of American children lag far behind their calculation abilities.

Another well-supported finding is that all students, the weak as well as the strong learners, come to their first science classes with surprisingly extensive theories about how the natural world works. They use these "naive" theories to explain real world events before they have had any science instruction. Then, even after instruction in new concepts and scientifically supported theories, they still resort to their prior theories to solve any problems that vary from their textbook examples. Some studies have shown that students' prior theories can actually interfere with learning scientific concepts. The students' naive theories affect what they perceive to be happening in classroom demonstrations or laboratory experiments, and they continue to attach their naive meanings to technical terms (for example, the term acceleration).

Several studies show that successful problem-solving requires a substantial amount of qualitative reasoning. Good problem-solvers do not rush in to apply a formula or an equation. Instead, they try to understand the problem situation; they consider alternative representations and relations among the variables. Only when they are satisfied that they understand the situation and all the variables in it in a qualitative way do they start to apply the quantification that we often mistakenly identify as the essence of "real" science or mathematics.

These demonstrations of the potent role of naive theories in science learning, and of the central role of qualitative understanding of a situation in problem-solving, contribute to a new conception of the learner and the learning process that is emerging from cognitive research in mathematics and science. This research has in just a few years produced a new consensus on the nature of learning that is not yet widely reflected in the way mathematics and science teaching is conducted in the schools.

There are many complexities, but the fundamental view of the learner that is emerging can be expressed quite simply.

First, learners construct understanding. They do not simply mirror what they are told or what they read. Learners look for meaning and will try to find regularity and order in the events of the world, even in the absence of complete information. This means that naive theories will always be constructed as part of the learning process.

Second, to understand something is to know relationships. Human knowledge is stored in clusters and organized into schemata that people use both to interpret familiar situations and to reason about new ones. Bits of information isolated from these structures are forgotten or become inaccessible to memory.

Third, all learning depends on prior knowledge. Learners try to link new information to what they already know in order to interpret the new material in terms of established schemata. This is why students interpret science demonstrations in terms of their naive theories and why they hold onto their naive theories for so long. The scientific theories that children are being taught in school often cannot compete as reference points for new learning because they are presented quickly and abstractly and so remain unorganized and unconnected to past experience.

What does this new understanding of the learner suggest about how we can improve mathematics and science education? First, it is never too soon to start. From their earliest years, children are developing theories about how the world works. There is reason to believe that naive theories will not take hold so firmly if scientific theories become available to them early. Furthermore, it is becoming clear that it takes a long time, and many different examples, for understanding to develop. It is not reasonable to postpone the beginning of this process to a high school or college course.

Second, teaching has to focus on the qualitative aspects of scientific and mathematical problem situations. Too quick an advance to formulas and procedures will not help children acquire the kinds of analytical and representational skills they need. Extensive qualitative analysis is not common in science or mathematics teaching. It may seem to take too much classroom time, and many teachers are perhaps too inexperienced in these ways of thinking. But the new evidence about learning makes it clear that we cannot avoid taking on this task.

A focus on qualitative analysis and understanding of situations does not mean a retreat from the teaching of computational procedures or scientific formulas, or from the basic factual information in any discipline. There is definitely an important role for the traditional skills of mathematics and science and the facts that underlie them. But the procedures and formulas must be treated as matters that make sense, and children must be involved in the task of making sense of them. Research has not yet told us whether it is better to first become skillful at a procedure and then analyze it, or to allow procedures to grow out of understanding a situation. But research has made it clear that procedures must take on meaning and make sense or they are unlikely to be used in any situation that is at all different from the exact ones in which they were taught.

Finally, since naive theories are inevitable, teachers will probably have to confront them directly. Students may have to be forced to pit their theories against the ones they are being asked to learn, to deal with conflict between theories in much the way that scientists do. This, too, is a new challenge, for only rarely today does teaching explicitly acknowledge children's prior theories (except to mark them wrong) or even recognize the difficult intellectual work entailed in giving them up or substantially revising them.

Research in cognitive science is not only changing our views of how people learn science and mathematics but is also shaping a theory of learning in which the content of what is learned plays a central role. In the past, it has often been difficult for mathematicians and scientists to find in the work done by psychologists and other behavioral scientists much that seemed directly relevant to the problems of teaching their disciplines. The general principles that psychologists produced seemed too far removed from the specific questions of curriculum content that concerned the scientists and mathematicians. That has changed.

A critical theme of the past several years of work in cognitive science has been that a person's intelligent performance is not a matter of disembodied "processes of thinking" but depends intimately on the kind of knowledge that the person has about the particular situation in question. This has led cognitive scientists to recognize that in order to understand complex learning they must study how people learn particular subject matters. As a result, there are now cognitive scientists actively engaged in studying mathematics learning in particular, physics learning in particular, and so forth. At the same time, mathematicians and physical and biological scientists have begun to study the cognitive processes involved in learning their disciplines, often in direct collaboration with psychologists.

This kind of collaboration has been significantly invigorated by grant programs of the National Institute of Education and the now disbanded Science Education Directorate of the National Science Foundation, but these collaborative links are still fragile. In times of retrenchment it is easy to return to traditional alliances and the familiarity of one's own discipline. To keep the collaboration alive, we must give careful attention to supporting vigorous programs of cognitive research in mathematics and science learning. If this is done, the educational payoffs are likely to be large and not unduly long in coming.●

SENATE—*Wednesday, May 4, 1983*

(Legislative day of Monday, May 2, 1983)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Lord God of creation, who hast endowed us with inalienable rights, we thank Thee for a government of the people, by the people, and for the people, designed to secure those rights. We thank Thee for the democratic process which makes such a government work. We thank Thee for men and women of strong conviction, willing to struggle through controversy and compromise, seeking the welfare of the people. Give them patience with the process and with each other.

As tensions increase and emotions rise, infuse them with respect and love for each other. Protect them against selfish and seductive forces which would corrupt and exploit the process and abort sound legislation. Heavenly Father, make Thy presence felt in this Chamber and in the office of every Senator and every committee today. May Thy will be done in this place as it is in heaven. We pray in the name of Him who was Incarnate Truth, Justice, and Righteousness. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

SENATE SCHEDULE

Mr. BAKER. Mr. President, there are no special orders today. There is a time for the transaction of routine morning business that will begin after the expiration of the time allocated to the two leaders under the standing order.

As Members will recall, last evening it was decided that the Senate would resume consideration of the budget resolution at 10:30 a.m. today, at which time the Hatch amendment would be the pending question. An hour of further debate has been provided for on the Hatch amendment, to be equally divided.

The sequence for certain amendments thereafter was provided in the order of last evening.

I will confer with the managers of the resolution and the minority leader as to the sequence of amendments for today.

Everyone should be on notice that the leadership on this side expects the Senate to stay in session for a good long while today. I expect it may be well after the dinner hour before we recess.

Mr. President, I have no further need for the remainder of my time under the standing order and am prepared to yield it to the minority leader.

Mr. BYRD. I thank the majority leader.

I have no need for my time and I yield it back.

Mr. BAKER. I yield back my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. DANFORTH). Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 10:30 a.m., with statements therein limited to 2 minutes each.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SIGNIFICANCE OF ANDROPOV'S ACCEPTANCE OF SINGLE WARHEAD NUCLEAR MISSILES

Mr. PROXMIRE. Mr. President, we Americans should not miss the significance of Premier Andropov's announcement yesterday that he would be willing to have the Soviet Union adopt the suggestion made by our President and our negotiators to reduce nuclear, medium-range missiles in Europe to the present NATO levels in number of warheads as well as number of missiles.

The Andropov response has solid significance in the present negotiations over nuclear deployment in Europe. It has much greater significance, however, as a principle. Here is why: One of the most prudent arms control suggestions in recent months has been the proposal by Congressman ALBERT GORE—now supported by Henry Kissinger and others, to phase out the MIRV'd multiwarhead missiles and replace them with scattered single warhead missiles.

This represented a welcome breakthrough in reducing the likelihood of a hair trigger, first strike nuclear war. Why? Because the multiwarhead missiles pose a colossal first strike threat—a devastating threat. But a threat that is also highly vulnerable to any first strike that could knock out perhaps 10 warheads with a single missile. On the other hand three separate single warhead missiles would be only one-third as vulnerable therefore much more likely to survive a first strike, but much less threatening because they would in aggregate carry only one-third the devastating threat of the highly MIRV'd single missile.

So the far more dangerous nuclear world ushered in by the advent of multiwarhead missiles just may be beginning its way out. Mr. President, I hasten to add that Mr. Andropov has merely stated a willingness to negotiate within a limited area. But this principle is so important in reducing the nuclear threat that we should take advantage of the instant Soviet response to extend this principle elsewhere. Here we have a clear example of how arms control can serve both as a means of increasing our military security, and as a means of moving a little way—toward a more peaceful world environment, still haunted by the continued deployment of nuclear weapons, but blessed by the fact that these weapons will be less threatening as well as less dangerous than the nuclear weapons they replace.

THE TORMENT OF THE BAHA'IS

Mr. PROXMIRE. Mr. President, history is filled with countless instances of man's inhumanity to man, of great atrocities committed for the most despicable of reasons. In the days before civilization this cruelty was perhaps understandable. Today, however, it is inexplicable and unjustifiable that transgressions of the most basic human rights ceaselessly occur.

Currently in Iran, one such unconscionable transgression continues to unfold. The Ayatollah Khomeini's government is once again persecuting the followers of the Baha'i faith.

The Baha'is have been the scapegoats of Persian society for generations, 20 thousand having been killed in the last 100 years, and under the

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Ayatollah, their situation has worsened. Many Baha'i spiritual leaders have been executed since his rise to power 4 years ago. Just this past February, an Islamic tribunal sentenced to death 20 sect members for spying and reputed links to Israel, links that exist largely because, as with many western religions, Israel is the Baha'i holy land. The faith maintains its world headquarters and two shrines there.

To an outside observer, the adherents of the faith are unlikely targets. They believe in the divine origin of all religions, including Islam. They also shun violence and abstain from partisan politics. At great risk, they were the only group that refused to join the Shah's political party.

Nevertheless, the Baha'is have been persecuted as part of a deliberate campaign begun 3 years ago to break the sect. On August 21, 1980, all nine members of the faith's ruling National Spiritual Assembly were arrested. To date, nothing has been heard of their fate. In addition, thousands of members of local spiritual assemblies have been detained.

Baha'is have been denied exit visas and recognition under the Islamic constitution, which, in theory, protects all the Nation's religious minorities. Businesses have been confiscated and trade licenses revoked. Retired government employees have lost their pensions. Houses and crops have been destroyed. Shrines and cemeteries have been demolished. Twenty-five to thirty thousand school aged children have been banned from attending their classes. Most significantly, the house of the Bab, the Baha'i equivalent of the Jewish Wailing Wall or Moslem Kaaba, has been bulldozed and converted into a parking lot.

The effects of the program have been staggering. The Baha'i office at the United Nations labeled them:

> . . . so malevolent, so intense, so sustained and so far-reaching that (they) presage the eradication of the Baha'i community as a religious minority in Iran.

Criticism by the United Nations, the United States, and the European Community has slowed the extermination of the Baha'is, but more than words alone will be needed to save them.

One step that we in the Senate can take to strengthen the position of the United States is to ratify the United Nations' Genocide Convention. This treaty declares the extermination of a national, ethnic, racial, or religious group an international crime. Already approved by 85 nations, it has not, however, been ratified by the United States.

Ratification of the Convention would underscore our global commitment to the preservation of human rights and reemphasize to the Iranian Government our strong desire to have them cease their persecution of the Baha'is. It would also eliminate an argument often used by nations that abuse human rights when we cite them for their abuses. Their specious, but nonetheless effective, rebuttal, which holds the United States cannot question them about rights when we ourselves have not signed even the Genocide Convention, impedes our ability to end violations of basic freedoms in countries such as Iran.

Mr. President, in spite of the treaty's very palpable benefits, the Senate has put off its ratification for 34 years now. I would ask today, then, that this body end its delay and take a step for the Baha'is and other unjustly abused groups by ratifying the Genocide Convention.

THE BUDGET RESOLUTION

Mr. BIDEN. Mr. President, we are on the second leg of the arduous journey on which we seek further solutions to the budget problems that continue to plague this Nation. The Federal Budget faces deficits as far as the eye can see. This sorry situation almost guarantees that we will not find final solutions this year. But I am committed, as I think we are all committed, to alleviate the problem, to make progress in putting our fiscal affairs in order.

In this connection, I believe that the budget that we have before us—as reported by the Senate Budget Committee—is a respectable start in putting the fiscal policy on a proper course. It restrains the growth of Federal spending, it restores our depleted revenue base, and thus provides ever diminishing deficits over the next 5 years. These deficits are lower than any others proposed thus far. However, the budget still falls short of the ideal in several respects, and I hope that we can make improvements on the floor as we go along.

There can be no question but what our national economic policies in the past 2 years have nearly wrecked our economy. Not that there is not plenty of blame to go around. Both tax and spending policies in the seventies, fostered by both political parties, were unwise. We legislated too many spending programs and we opened too many loopholes in the Tax Code through which wasted money poured. But the answer to the excesses of the seventies was not the answer provided by this administration—increase spending even more and cut revenues even more, thus widening deficits to alltime highs.

The result has been recession and unemployment on a scale unknown since the Great Depression.

In 1981 the President announced his program for economic recovery under which, he said, "Our economy's productive capacity is expected to grow significantly faster than could be achieved with a continuation of past policies." He predicted that GNP would grow, beginning in 1982, at a rate between 4 to 5 percent a year. Yet last year it declined 1.7 percent and in the first quarter of this year it disappointed many analysts by growing at only 3.1 percent in the long awaited recovery. The President's recovery program also predicted that unemployment, which in 1981 was 7.8 percent, would decline steadily to 5.6 percent in 1986. We now have, of course, unemployment at 10.3 percent in March. By 1986 the Budget Committee now predicts that it will be 8.6 percent—0.8 of a point higher than it was in 1981 and 3 full percentage points higher than the President's program was to produce. After 5 years we will have nearly 1 million more unemployed than when the economic recovery program started—and over 3 million more than that program anticipated.

Mr. President, there are many more statistics like this, but there is no point to dwelling on the past. I do so briefly, only to show that we must not make the mistake—which many would still have us make—of doing more of the same. There can be no question but what the programs of the past 2 years have put us in this difficulty. We must try something else to get out of it.

The program we have been following for the past 2 years—over my repeated objections—has been to spend more and tax less. That is not how the program is usually described—but that is what it is.

In 1981, total Federal spending was $657.2 billion. In fiscal year 1984 the President proposed spending of $848.5 billion—an increase of $191.3 billion or 29 percent. That is increased spending on a staggering scale—an average of over $60 billion per year.

In 1981, total Federal spending was 22.9 percent of the gross national product. Under the President's budget for fiscal year 1984 it would be 24.3 percent.

That is clearly increased Government spending in anyone's book. Nor have we failed because we did not follow the President's recommendations. He has received the spending cuts he asked for and he has received the spending increases he asked for. One has to say that the results must be pretty much what he wanted.

On the revenue side, the President endorsed and Congress approved a tax bill in 1981 that will cut revenues by $1.136 trillion over 7 years. He also endorsed and Congress approved in 1982 a tax bill that will increase revenues by $255 billion over 7 years.

The results of these, and companion policies are clearly set out in the Senate Budget Committee's report on this budget resolution in the following table:

[In billions of dollars]

	Fiscal year—						
	1982	1983	1984	1985	1986	1987	1988
Tax reduction	38	68	93	121	154	178	207
Defense spending increases	1	15	27	47	65	65	65
Nondefense spending cuts	−42	−47	−56	−59	−61	−61	−61
Net change in deficit due to policy action	−3	36	64	109	158	182	211

Source: CBO baseline budget projections for fiscal years 1984 to 1988.

We are a long way from the balanced budget that was promised for fiscal year 1984. In February, the President proposed a fiscal year 1984 deficit of $188.8 billion. While Congress will probably approve a smaller deficit—the budget before us has a deficit of $163.3 billion—the final deficit will still be staggering.

How are we going to meet this problem? How are we going to deal with deficits that the CBO estimates would reach $267 billion by fiscal year 1988—and result in a 5-year cumulative total of $1.159 trillion—that would result if we took no further deficit-reducing actions this year? How are we going to prevent the national debt from reaching $2.6 trillion by the end of fiscal year 1988?

Part of the answer can be found in the budget before us now. That budget calls for the adoption by Congress of $450.2 billion in deficit reduction actions in the next 5 years. These include both outlay reductions and measures to rebuild our revenue base. As a result of these actions, the deficit in fiscal year 1988 will be $123.6 billion rather than $267.5 billion. Clearly that is too big a deficit. Any deficit is too big and a deficit of $123.6 billion is huge.

We will have to do more in the next year and the next and the next to put our financial house in order.

But deficits of this size should not abort our fragile recovery that is just starting. And the ever-diminishing size of the deficits—rather than ever-climbing deficits we have been accustomed to see of late—should encourage the financial markets. And it is important that we not do this because the only long-term hope for a decent level of employment is a strong and healthy economy.

But in the short term, we must also help the millions of persons whose lives have been devastated by the economic morrass into which we have plunged them. These problems are in great measure the fault of the Federal Government—we cannot ignore them. It is not enough to say—as many do—that everything will be all right if we just restore economic health. That we must do, but the millions who are caught will not be all right. We owe it to them to help. This budget resolution does not deal adequately with such problems as major illness, loss of home, business, or farm, and similar personal disasters. It does not deal adequately with problems of education and training and retraining. Moderate persons on both sides of the aisle agree that this is so and I hope we can join to redress these problems before consideration of this budget is finished.

Mr. President, I have a lot of faith in the people of this country. And I have faith in the economy which they support. Perhaps I have more faith in these things than some of those who would lead us today.

I do not subscribe to the recent statement by Paul Craig Roberts in the Wall Street Journal:

> There is still enough fat in the United States that a temporary suspension of vote-buying wouldn't decimate the poor. The fact is that Congress has no business letting the least productive members of society push the nation into economic decline with excessive demands for entitlements and transfer payments.

I believe that, if we adopt sound economic policies, this country has the moral and economic will to defend itself, deal with its domestic problems, and assure a sound economic future for our citizens. We have demonstrated our ability to do this before and I am sure we will do so again.

The only thing that has pushed this Nation into its worst economic decline since the 1930's is the defective economic policy we have pursued for the last 2 years. I am sure that we will overcome the difficulties it has created and that we will balance our budget again—but we will not be forced to do so at the expense of either our foreign or domestic priorities.

NEGOTIATIONS TOWARD PEACE IN EL SALVADOR

Mr KENNEDY. Mr. President, I am proud to join Senator HATFIELD today in sponsoring Senate Resolution 688, which is intended to promote unconditional negotiations toward a peaceful solution of the growing conflict in El Salvador. This important bill provides that, unless the Government of El Salvador actively negotiates with all major parties to the conflict which are willing to participate unconditionally in negotiations on a cease-fire and an equitable political solution to hostilities, U.S. military support for El Salvador shall be terminated, with military assistance funds to be transferred for use for development and humanitarian assistance.

These measures would come into effect 180 days after the enactment of this measure, unless the President transmits to Congress a determination that either the Government of El Salvador is actively engaged in good faith in this negotiating process or the Government of El Salvador cannot proceed with such a process because the opposition parties are not willing to participate unconditionally. What we seek to encourage is not any particular peace plan, but rather a process of negotiation which could, at long last, arrest the tragic toll of human life in El Salvador, curtail the increasing drain on U.S. resources, and avert the looming danger of all-out war throughout Central America.

I believe that this step is necessary because of the administration's failure to press the Government of El Salvador to agree to engage in unconditional negotiations. Instead, the administration pays lip service to the importance of negotiations and continues to rely on its policy of escalating the military conflict and risking expansion of the war in El Salvador until it engulfs all of Central America.

I welcome the President's decision to appoint a special envoy to work for peace in Central America. But I am deeply concerned that the President's overall policy is a prescription for wider war. We cannot end the conflict in El Salvador by destabilizing Nicaragua. No more American military aid should go to El Salvador unless that Government agrees to enter unconditional negotiations. The first step for the President's special envoy is to put this country's weight squarely behind the regional effort of Mexico, Colombia, Venezuela, and Panama through the Contadora Group to achieve a diplomatic settlement.

I would urge my colleagues and the administration to give careful consideration to the recommendations on U.S. policy toward Central America recently issued by a group of 48 distinguished leaders from this hemisphere who took part in the inter-American dialog project chaired by Ambassador Sol M. Linowitz and former President of Ecuador Galo Plaza. Their report makes an authoritative case why the United States should be working vigorously to promote dialog and negotiations in Central America, including the Contadora initiative. Moreover, their report reminds us forcefully that domestic problems, rather than external agitation, are at the root of most Latin American conflicts, and that the solutions lie, not in more weapons, but in social and economic development.

I commend the full report of the inter-American dialog to my colleagues, and ask that its "Summary of Principal Recommendations" be printed in the CONGRESSIONAL RECORD, together with the cogent additional commentary by President Galo Plaza which was published in the Washington Post on May 2, 1983.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRUE SECURITY IN CENTRAL AMERICA

(By President Galo Plaza)

President Reagan's speech before Congress, televised worldwide, emphasized the seriousness with which the president justifiably views the Central American crisis as a threat to the security of the United States.

As he outlined plans to meet the immediate emergency, it was disappointing that he did not also present a long-term program for economic development of the area as a prerequisite for solving the problems of Central America.

Last fall, Ambassador Sol Linowitz and I, deeply concerned with the deterioration of inter-American relations, which had come to a head with the South Atlantic war over the Falkland Islands (a needless clash that aligned the United States and most of the Latin American countries on opposite sides of a war), decided to bring together independent, concerned citizens from throughout the hemisphere to discuss the major issues involved in our North-South relations and how to resolve them.

Our "Inter-American Dialogue," which met in October and again at the end of February, explored the problems in four different areas: economic and financial issues; social and political issues; security and peace-keeping issues, and the task for inter-American institutions.

The problem of deepest concern was the explosive situation in Central America, where Costa Rica is the exception: the only country with a long and consistent record of democracy. All the others have lived mostly under dictatorial rule. The civil wars in Nicaragua, El Salvador and Guatemala have claimed over 100,000 lives over the last five years, and 1 million people have been displaced. Honduras, which has returned to democracy, has so far been spared this tragic experience.

Although the history of these upheavals may be different in each of the countries, there is one common denominator in the hopes and aspirations of the opposition. In Nicaragua there was a drastic reaction after the overthrow of a family that owned the country for two generations; in El Salvador there was and is a struggle against a small, privileged group with extensive land holdings and great wealth in a small country—one of the most densely populated in the world in fact. In Guatemala, a reactionary government went to cruel extremes in successfully thwarting change. The common denominator among many opposing these various governments has been a demand for social justice, for respect for human rights and for a return to democracy, although there is a danger that the dictatorships of the right could be replaced by dictatorships of the left, such as is the case in Nicaragua.

In seeking a solution to the present situation, Americans should not forget the past history of U.S. involvement in internal affairs in Central America, which is much remembered in Latin America. Any action in the future should be framed within the basic principles of sovereignty, self-determination and non-intervention.

Undoubtedly the situation in Central America is a matter of security concern, whether it is looked at from an East-West point of view exclusively or from a North-South point of view that also includes other considerations.

The problems looked at from a hemispheric point of view are compounded by the differences in perspective between the United States and the diverse countries of Latin America and the Caribbean. What one country considers vital for its defense may well be viewed as threatening to its neighbors. What one country regards as the legitimate protection of its security may be viewed by the affected country as intervention in its domestic affairs and as a threat to its security.

It is evident that security is at the heart of international relations. However, the basic problem of security in the hemisphere is primarily social and political, not military. Even when there is a military dimension to a conflict, as in the case of Central America, the solutions ultimately lie in economic and social development and political dialogue, not in weapons or military advisers. Even when external support for insurrection is present, as in El Salvador, the underlying problems remain domestic.

In dealing with the hostility in Central America, our group recommended dialogues: between the governments in El Salvador, Guatemala and Nicaragua and the respective opposition movements in those countries; between Nicaragua and each of its neighbors; between Cuba and all the countries of Central America; between the United States and Cuba and the United States and Nicaragua respectively, as well as between the United States and the Soviet Union, Colombia, Mexico, Panama and Venezuela (The last four countries, having taken the initiative in offering their good offices in seeking a peaceful solution to the problems of Central America, should be included in these dialogues as may be appropriate.)

This approach, if it works, would serve the interest of all involved. For Latin America as a whole, it would reinforce the tradition of self-determination and non-intervention. For the United States, it would help meet the central security goal of limiting the most threatening forms of Soviet and Cuban activity, including both strategic and conventional military presences. Cuba, Nicaragua and Grenada would gain some assurance that they would not be the objects of external destabilization efforts, provided they refrain from similar activities with regard to their neighbors. For Cuba, there would be the advantage of being an active participant, thus achieving recognition of its international standing in the hemisphere.

The review of the major issues involved in the Central American crisis and suggestions as to how to solve them by the "Inter-American Dialogue" could not be more timely now that President Reagan has declared his plan for action.

(The writer is a former president of Ecuador and former secretary general of the Organization of American States.)

SUMMARY OF PRINCIPAL RECOMMENDATIONS

(By President Galo Plaza)

ON THE LIQUIDITY CRISIS IN LATIN AMERICA

The International Monetary Fund and other international financial agencies should be given larger resources and a greater role in lending to Latin America, and should improve their cooperation with each other an with major central banks in this work. They, and the governments of capital-exporting countries, should encourage commercial banks to continue and even increase their own lending to the region, but on more prudent conditions than before. Borrowing governments should improve their financial management but should not neglect the needs of the poor.

ON LONG-TERM ECONOMIC DEVELOPMENT

Recovery from the world recession is a basic requirement, especially for Latin American exports. Within the Hemisphere, the World Bank, Inter-American Developmen Bank and other official multilateral institutions should carry a larger share of the capital flows to the region. Average loan maturities should be lengthened and more aid should go to the region's poorer countries. Some existing short-and medium-term laons in support of long-term projects should be converted to long-term debts. There should be more private direct investment in the region and an alternative to loans. The U.S. and Latin America should cooperate to resist trade protectionism world-wide. The IMF should expand its lending program to stabilize Latin American commodity export income. The Reagan administration's Caribbean Basin Initiative should be promptly approved.

ON PROMOTING POLITICAL DEMOCRACY

Democracy is not an export commodity. Governments should avoid undermining each other's political autonomy or integrity; support equitable development with stress on aleviating poverty; maintain more cordial diplomatic relations with democracies than with authoritarian regimes; and in their mutual relations and regional institutions, reflect democratic values such as respect for law and tolerance for diversity.

ON HUMAN RIGHTS

Although mainly a domestic responsibility, human rights abuses are also a proper international concern. Priorities should go to protecting the physical integrity of the person against murder, torture, "disappearance" or cruel and degrading punishment. In civil conflict, neither insurgent terrorism nor government counterterrorism against the innocent can be condoned. Unilateral intervention against human rights abuses is improper, but governments that systematically violate human rights should receive no aid. All Hemisphere governments should join the Inter-American Convention on Human Rights and regional institutions and voluntary groups concerned with human rights should be strengthened.

ON MIGRATION

Mass migration of the poor should be dealt with mainly in the "sending" countries by development policies that stress human needs, create jobs, and promote family planning. Most political refugees need temporary shelter and relief until conditions improve at home. Near term steps are needed to regulate the flow of migrants, protect their human rights, and relieve the "brain drain." A new office for refugees should be set up in the OAS.

ON CULTURAL AND EDUCATION EXCHANGE

U.S. exchange programs in the Hemisphere should be expanded, and Latin American countries should consider creating similar programs. Curbs on the travel of intellectuals should end. U.S. and Latin American centers for study of other countries and areas in the Hemisphere should be encouraged. Multilateral development agencies should increase support for Latin American science and technology research institutes.

ON SECURITY AND PEACEKEEPING

To end the hostilities in Central America, dialogue should begin among the governments of Central America and their opposition movements; between Nicaragua and each of its neighbors; between Cuba and all the countries of Central America; and between the United States and Cuba, and the United States and Nicaragua, respectively; as well as between the United States and the Soviet Union; Colombia, Mexico, Panama and Venezuela, already active on this matter, should be encouraged to take the initiative in fostering dialogue.

In these discussions, sovereignty, self-determination and non-intervention should be the guiding principles. Existing U.S.-Soviet understandings on mutual restraint regarding Cuba could be a model for a wider understanding in which Cuba and other states of the region would join, setting ground rules and monitoring procedures for self-restraint throughout the region. In El Salvador, negotiations, which could begin at once, should aim at free, internationally supervised elections. New talks to resolve the Malvinas/Falklands dispute should have high priority. Cuba's place in the hemisphere's institutions should be reconsidered. To help solve disputes within the region, mainly territorial, governments should consider a general freeze of existing boundaries while allowing for negotiated solutions of resource exploitation issues in disputed areas. To further guard against nuclear-weapons proliferation in the region, Argentina should place all its nuclear facilities under full international safeguards; Argentina, Cuba, and France should complete action on the Treaty of Tlatelolco establishing a regional nuclear-free zone, and regional agencies concerned with nuclear affairs in the region should increase their cooperation. To restrain competition in conventional arms in the region, governments should consider measures of mutual restraint in arms transfers and steps to increase the "transparency" of their hitherto secret military activities.

ON REGIONAL INSTITUTIONS

The peacemaking functions of the Organization of American States, especially of the office of Secretary-General, should be strengthened. All states of the Hemisphere should belong to the OAS, and should increase their use of it for high-level consultation on political and security matters. Public reporting to the OAS on military activities of member states should be considered. In the economic field, the Inter-American Council on Economic and Social Affairs should be changed from a programmatic to a coordinating body, and senior economic policy officials of the Hemisphere should meet regularly for informal consultation.

TRIBUTE TO CHRIS P. LEVENTIS

Mr. THURMOND. Mr. President, I rise today to pay tribute to a public-spirited man of good will, Chris P. Leventis of Columbia, S.C., who passed away recently at the age of 87. To his lovely wife, Kathryn; his three sons, Peter, James, and George; and his two daughters, Georgianna and Trula, I extend my deepest sympathies.

Mr. President, Chris Leventis was a good friend—not only to me but also to many South Carolinians who knew and respected him as a man of honor, integrity, and charity. Many people in my State mourn his passing, including myself, but we know that his accomplishments live on.

Chris Leventis was known for his good will. Indeed, he was considered Columbia's "Ambassador of Good Will," a man who spread friendship and kindness wherever he went. Chris dedicated himself to serving others, and his contributions to Columbia—indeed to the entire State of South Carolina—were many.

An active member of his church and an outstanding family man, Chris Leventis excelled in every endeavor he undertook. He began a successful business and always made time to serve his community. In fact, his service to others, his unselfish dedication to charitable causes, earned him the prestigious Algernon Sydney Sullivan Award from the University of South Carolina.

The son of a Greek shepherd, Chris Leventis immigrated to this country in the early 1900's. His "can-do" spirit and love for his fellowman impressed everyone who knew him.

Mr. President, in order to share more about this remarkable man with my colleagues, I ask unanimous consent that two recent editorials from the Columbia State and Record newspapers—which capture the essence of Chris Leventis' life—be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Columbia State Newspaper, Apr. 29, 1983]

CHRIS P. LEVENTIS

Few people love their native country as much as Chris P. Leventis, a Greek shepherd's son, loved his adopted homeland.

This immigrant champion of American free enterprise and hardy spirit, also loved his city and became known as Columbia's "ambassador of good will." Thus it was easy to see why his infectious smile and sincere warmth won him so many friends.

When this colorful patriarch died Thursday at the age of 87, therefore, he left behind many monuments through his succor to people and causes. As a son commented, his passing "marks the death of an era." He was the last of a generation of people from his homeland who came to Columbia in the early 1900s.

Mr. Leventis left the hills of Karyae in Sparta, Greece, in 1909 at the age of 14 to join an older brother in San Francisco. His first job was peeling onions in a restaurant. He worked diligently all his life, later moving to Spartanburg, Gastonia, N.C., and eventually to Columbia, where he and his brother opened a produce business and he became a highly successful businessman, even though he never finished high school.

Mr. Leventis was a frequent figure at service clubs, extolling the virtues of America in words that always retained the flavor of his native tongue, even though he enrolled in 1921 at the New York University of Commerce to improve his speech.

Mr. Leventis plunged enthusiastically and unselfishly into dozens of wide-ranging civic endeavors and causes. They covered almost every civic enterprise: Rotary Club, Providence Hospital, the Boy Scouts, the Red Cross, the Red Cross Blood Bank, the USO, the Cancer Society and AHEPA Greek fraternal society. His contributions to society were fittingly recognized when the University of South Carolina presented him the Algernon Sydney Sullivan Award.

Likewise, he was devoted to his church. He was the last survivor of the founders of the Holy Trinity Greek Orthodox Church, but he often carried his children to Baptist and Methodist churches.

In the Greek community, Mr. Leventis stood as the patriarch of a family that has contributed greatly to Columbia and South Carolina. His children followed his tradition of service and dedication.

Mr. Leventis was a prototype of the immigrant who contributed so much to his adopted country. What America gave to Chris Leventis, he returned many.

CHRIS LEVENTIS

[From the Columbia Record Newspaper, Apr. 29, 1983]

The death of Chris P. Leventis has brought to an end a long life, rich in accomplishment and zest.

Few Columbians enjoyed the genuine respect and affection of so many people as did this gentle man. Those of us fortunate enough to have been in his company over the years may recall with pleasure his courtly manner, his whimsicality and alert mind, ever fresh to the mood and ideas of the moment.

As recently as last Jan. 27, he wrote us a letter, characteristically polite and thoughtful. He suggested that the millions of dollars accumulated from oil companies overcharging their customers be applied against the national debt.

Chris Leventis was a Greek immigrant who by sheer determination and resource became a highly successful businessman. Dixie Central Produce Company stands as a testament to his commercial acumen.

Chris Leventis was a remarkable person whose counsel and accomplishments were the stuff of progress. Columbia is much in his debt for sharing his values with us.

SENATOR STEVENS IS NOT ATTEMPTING TO CHANGE SICK LEAVE SYSTEM

Mr. MATHIAS. Mr. President, our colleague, the assistant majority leader, TED STEVENS, has been deluged with mail recently from outraged civil servants who are mistakenly under the impression that the Senator from Alaska is trying to take away their sick leave. The flood of mail was prompted by the circulation of misinformation to the effect that Senator STEVENS wanted to limit all Federal employees to 7 sick days per year. As Mike Causey correctly pointed out in his April 25 "Federal Diary" column in the Washington Post, "Tain't so."

TED STEVENS has been a longstanding advocate for civil servants and has proven himself a reliable ally in supporting legislation beneficial to Federal employees. His original proposal, which was only a minor part of a package he introduced in the last Congress, was intended to help Federal employees, especially those future employees who are to be included under social security.

We can all appreciate Mr. Causey's service in working to set the record straight. He not only exonerated Senator STEVENS, but he also assuaged the fears of countless beleaguered Federal employees.

I ask unanimous consent that the column by Mike Causey be printed in the RECORD so that all of my colleagues may review his remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 25, 1983]

THE FEDERAL DIARY—SENATOR STEVENS GETS BUM RAP ON SICK LEAVE

(By Mike Causey)

Sen. Ted Stevens is on record as saying that he would rather be anywhere in his beloved Alaska than here in Washington.

His frequent unkind remarks about life in the nation's capital have cut D.C. partisans (especially editorial writers) to the quick.

But can you blame him?

How would you like to work in a place with two bathtubs full of hate mail? Worse, the mail denounces you for something you didn't do in language that would make a sourdough blush. Of course you wouldn't like it. And neither does the Senate's assistant majority leader, who gets enough flak for things he does do.

To make matters worse the letters, stored prior to answering in some old bathtubs in Stevens' rather spartan Civil Service subcommittee offices, aren't even from Alaska.

Politicians (like columnists) would rather get letters that are nice. But hate mail is better than no mail. Getting cussed by your constituents at least shows they know who you are. But the letters clogging Stevens' subcommittee drain come from Ohio, Utah and Washington, D.C.

The folks are responding to a photocopied letter circulating in various federal outposts saying that Stevens wants to take away government employes' sick leave. Tain't so!

It seems that somebody who is either very mean or very dumb or maybe both is trying to frighten federal workers. This isn't hard to do.

Feds have been in a state of shock since President Carter cut off their hot water and started charging them to park at the office.

They were "rescued" by President Reagan. He put the non-Defense side of government on a diet that cost 12,000 workers their jobs. Now he wants to make them work an extra 10 years before they can retire and to link job security and pay raises to performance rather than seniority.

All of the above is the reason that Federal workers will believe almost anything, if it is bad.

And this is the reason the bogus letter, which says Stevens wants to limit all government workers to seven days of sick leave a year, has upset so many government workers. It sounds horrible enough to be true.

The truth is that Stevens had proposed a revised sick leave system—for future federal workers—in a retirement bill he introduced last year. The bill died in Congress. He has not introduced it this year. If he does, an aide said, it will be minus any language dealing with sick leave.

It is easy to sympathize with Stevens.

A number of people have called this column (some long distance) demanding to know why there was a cover-up of the sick leave changes. Some callers suggested that Donald Devine (the head of the Office of Personnel Management) and I had conspired to impose a news blackout until the dirty deed was done, that we shared the same barber, or worse!

The thing is that there is no pending legislation to change the federal sick leave system. There is no news blackout. Sen. Stevens, who represents lots of federal folks in Alaska, is not guilty. Not only that, but he is up for reelection next year.

So if you get one of those photocopied letters that starts out "Proposed Sick Leave Changes!!!" Don't panic. You have enough things, career-wise, to worry about without getting sick worrying about sick leave.

EL SALVADOR

Mr. HOLLINGS. Mr. President, with temperatures rising over the debate on El Salvador, it is refreshing to see so well-informed and candid a piece as I read over the weekend in the Dallas Times Herald.

Jody Powell, who served with outstanding ability as President Carter's Press Secretary, was a first-hand observer to the formulation and implementation of the Carter administration's Central American policy. Mr. Powell's Sunday column demonstrates very clearly that President Carter's policy toward El Salvador was much more soundly based, and effective, than has been the policy of the Reagan administration.

During the Carter years the importance of El Salvador was recognized and assistance was provided. But the leverage such assistance gave us was effectively used to bring about needed reforms and to enhance the support of the people of El Salvador for their government at the time. By early 1981, rebel strength was clearly wanning, and the failure of their much-touted "final offensive" demonstrated that. Support for the government was growing, and long overdue reforms were being carried out. The Carter administration deserves considerable credit for these salutary developments. Certainly a difficult problem remained. But we were headed in the right direction and the prospects of success were clearly growing.

Now, just 2 years and a few months later, the rebels are picking up strength, the reform process has slowed, and events are headed just as clearly in the wrong direction. As Mr. Powell shows, the Reagan administration's backtracking on Carter policy has been seriously counterproductive and now threatens the unraveling of the situation there.

Mr. President, this column ought to be required reading for all of us involved not only as lawmakers but as concerned citizens. For that reason, I ask unanimous consent that it be printed in today's edition of the CONGRESSIONAL RECORD. And I commend Jody Powell for a distinguished contribution to the national dialog on this important problem.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Dallas Times Herald, May 1, 1983]

A BIPARTISAN POLICY FOR CENTRAL AMERICA?

(By Jody Powell)

WASHINGTON.—About the only thing new in the President's speech to the Congress on Central America was the favorable reference to his predecessor. President Carter, he said, had not hesitated to increase military assistance, shortly before he left office, to counter the impending "final offensive" by the guerrillas in El Salvador.

That is true, but it is not the whole truth. What actually happened during those final weeks of the Carter presidency—and in the years that went before—can shed some light on the predicament in which we now find ourselves.

Increased aid was sent, but there was a price. As he had in the past, President Carter demanded that the military leadership in El Salvador earn American assistance by taking steps to merit the support of their people.

In this particular case, they agreed to a number of specific actions: A senior defense official and several other officers associated with the notorious death squads were removed from office; the government was reorganized to strengthen the role of civilian President Napoleon Duarte in the distribution of American aid, thus increasing his influence with the military; steps were taken to move forward on an investigation of the murder of American nuns and labor leaders.

There are, to be sure, liabilities associated with such a policy. It is by its very nature an on-again, off-again sort of thing, filled with yes-but's and half-steps. The close calls involved at every step along the way invite disagreement among policy makers. And it is rather difficult to sum up in a catchy phrase or two.

On the other hand, such a policy's ambiguous, complicated nature corresponds very closely to the world in which we live and the problems with which we must deal. And there is even some evidence that it may work.

The guerrillas' much-hearilded final offensive was a bloody flop. In the early days of the Reagan presidency, the guerrillas were at their lowest ebb in years and the government forces were at their strongest. Three years later, the situation is exactly the reverse. The question is: "Why?"

The answer is not, as Ambassador Hinton states, that we have given the Salvadoran military "too little, too late," but that we have, over the past 36 months, given them too much too easily. The pressure toward reform that made the government worth supporting for most Salvadorans in early 1981 no longer exists, and that support has eroded steadily.

Even the extraction of those concessions in early 1981 was complicated by the belief among the most reactionary elements in El Salvador that such pressure would end once the new administration took office. Even before the election, they and their soulmates in other Latin American countries were being told by Mr. Reagan's associates and supporters that he would put a stop to this country's naive preoccupation with human rights.

The President has been as good as his word. Supporters of democratic reform in El Salvador have, systematically, been emasculated, assassinated, and drivenout of the country or into the arms of the rebels. Those responsible no longer fear the wrath of the American government.

The situation, as the President correctly points out, is going from bad to worse.

Congressional opponents of the President's policy seem to understand the actions of his predecessor better than he does. Except for a few on the fringes, they are not advocates of "passivity, resignation, and defeatism." And they do not underestimate our stake in the region. They have no illusions that the Marxists who control the revolutionary forces have benign intentions, and they know that armed subversion must be resisted with armed force. But neither are they naive about some of the people we seem to be supporting, and they believe that military resistance to subversion is not enough.

They also know that Congress cannot impose a policy on a president; it can only block actions that it believes to be wrongheaded. From the understanding arises the possibility of the sort of bipartisan approach the President says he is seeking—and the country so badly needs.

If he is willing to emulate his predecessor not only in dispatching American military assistance but also in using that aid as leverage to create an environment less hospitable to subversion, one in which there is some chance that our involvement will be successful, the Congress almost certainly will give him what he wants. He will receive, also, the support of the democratic nations in the region—Mexico, Panama, Venezuela, and Colombia—who fear the communists but refuse to be associated with existing American policy.

If, however, he is determined to conduct business as usual in Central America, congressional opposition is certain to grow and stalemate is likely to result. But if it is to be business as usual, the level of military assistance is not likely to make much difference in the final outcome. Popular support for the rebels will continue to increase; the demoralization and isolation of the government forces will proceed unchecked; and we can begin to prepare ourselves for the debate over who lost El Salvador.

APPROPRIATIONS COMMITTEE HEARINGS ON MX MISSILE BASING MODE

Mr. HATFIELD. Mr. President, this morning the Appropriations Committee held its second day of hearings on the President's proposal to deploy 100 MX missiles in existing Minuteman silos. The committee received testimony from Lt. Gen. Brent Scowcroft (USAF, retired) and Deputy Secretary of State Kenneth W. Dam. I ask unanimous consent that their statements appear in the Record at the conclusion of my remarks.

Our hearings will conclude tomorrow. We will hear testimony from Secretary of Defense Caspar Weinberger and Chairman of the Joint Chiefs of Staff Gen. John W. Vessey. The hearing will be held at 9:30 in room SD-192.

There being no objection, the material was ordered to be printed in the Record, as follows:

Statement of Lt. Gen. Brent Scowcroft, U.S. Air Force, Retired, Chairman of the President's Commission on Strategic Forces

Chairman Hatfield, Members of the Committee; the President's Commission on Strategic Forces, as established on January third of this year, met over a period of three months in the process of arriving at the recommendations which are contained in the Report. This Report, which was released to the public on Monday, April 11, reflects the advice of numerous counselors and advisors and represents the unanimous position of the members of the Commission.

I understand you have all received a copy of the Report. I will therefore, restrict my comments to a summary of the recommendations of the Commission. My associates and I will then be happy to respond to any questions or comments you may have.

The Report begins by outlining the central dilemma of this major issue—that of coping with Soviet expansionism while preventing the devastation of a nuclear war. We then go on to discuss the nature and the requirements of deterrence and the manner in which arms control can make a contribution to that deterrence. We point out that the Soviets place great emphasis on their military forces, at least as a backdrop for their political designs.

As an example, Soviet investment in ICBM forces underscores the importance, in their eyes, of the role that those forces play. Thus, since the deployment of the last U.S. ICBM—the Minuteman III—the Soviets have deployed the SS-17, SS-18, and SS-19—over 600 missiles of MX size or larger. And they are, now, in the process of testing two new ones.

Since the fundamental purpose of U.S. strategic forces is deterrence, it is vital for us to comprehend fully the importance of military power in the Soviet scheme of things. In response, in order to maintain and enhance deterrence, the United States has been modernizing its strategic forces. The Report discusses that modernization, with emphasis, of course, on ICBM forces—which are at the heart of our current, national problem with respect to strategic force modernization.

Our Report recommends what we feel is an important new departure. We are now proposing new directions, both in ICBM forces and in arms control. That new departure, fundamentally, is to integrate strategic force programs with arms control, and to move both in the direction of stability.

We would accomplish this through a three-part program. The first part would be the immediate deployment of something like a hundred MX missiles for a number of reasons, among which are the following:

First, to demonstrate U.S. national will and cohesion. We have now had four Presidents who have said that the MX is important, if not essential, to our national security. Failure to carry through with this program would hardly demonstrate to the Soviets that we have that will which is an essential element of deterrence.

Next, in order to reduce the substantial imbalance in the capability of U.S. ICBM forces compared to those of the Soviet Union. The Soviets can, with their ICBM forces, put our forces and other critical targets at risk in a way that the United States can not begin to match. This is an important element of instability.

Also, and very importantly, the MX is essential to induce the Soviets toward negotiation, especially negotiations on an arms control framework which would permit us, and encourage them, to move in the direction of greater stability.

For the longer run, the Commission proposes engineering design of a small, single warhead missile as the second part of our program—looking toward deployment probably in the early 1990s. We suggest a single-warhead missile in order to reduce the value of the target, making it unremunerative to attack and, thus, enhancing the stability of the force—and small in order to open up, to a maximum extent, the opportunities for survivable basing, almost certainly to include mobile basing.

Finally, in order to provide an environment which will support the deployment of a small missile, a new departure in arms control is needed. Counting by launchers has, perversely, led us to the present structure of very high-value targets, large missiles each with a number of warheads.

We must, therefore, turn to counting the forces on both sides by warheads, not by launchers. After moving to count warheads, it would then be useful to cap or reduce the numbers sharply, in order that a deployment of great numbers of small missiles would not be necessary.

This, in turn, gets us back to the MX, which is essential to induce the the Soviets to negotiate away what is currently a favorable strategic position for them in ICBM forces. Hopefully, it will as well encourage them to move in the same strategic direction by making clear that their huge missiles in silos are a wasting asset.

For this, we believe that MX deployed in Minuteman silos is an adequate deployment at reasonable cost. It is true that, whatever the current survivability of Minuteman silos, they are becoming more vulnerable. We do propose a vigorous R&D program on silo hardening and, of course, would take advantage of any developments which result from that research, either for the MX or, conceivably, for the small missile.

However, the fundamental requirement for survivability of our ICBM force is as a hedge against a Soviet breakthrough in anti-submarine warfare which could endanger our submarine launched, ballistic missiles. We do not see that on the horizon at the present time. For the longer run, we are proposing the small missile to provide that hedge by enhancing the survivability of the ICBM force.

For the present, we believe that silo vulnerability is not so dominant a part of the overall problem as to require other immediate steps. We believe that the Soviets must have some uncertainties about their operational capabilities, notwithstanding whatever their test accuracies may indicate to them. Especially, however, we believe there still is an important synergistic survivability between the ICBM forces and the bomber forces, in that it is difficult, if not impossible, for the Soviets to attack both of them simultaneously.

That, in brief, is an outline of our recommendations. Few, if any, will consider our recommendations an optimal solution. If such were available, this Commission probably would not have been convened. We have tried to construct an approach which is different in kind. We are proposing a major, new departure for the United States in the direction of enhanced stability for our strategic forces and, hopefully, an approach which will permit a consensus to develop, allowing us to put the divisiveness of the past—both in arms control and in our ICBM force modernization—behind us and allow us to move forward with a more common perspective in our efforts to preserve both peace and freedom.

Testimony by Deputy Secretary Dam, Senate Appropriations Committee

Mr. Chairman, Members of the Committee.

I appreciate the opportunity to appear before this distinguished committee in support of the President's recommendations to the Congress on strategic modernization.

Tomorrow, Secretary of Defense Weinberger and General Vessey will address the military aspects of our strategic force posture. Today, I shall discuss the foreign policy and arms control implications of the President's strategic modernization program.

Maintaining an effective and stable nuclear deterrent presents the President and the Congress with difficult and complex choices. As the Chairman of the President's bipartisan Commission on Strategic Forces, General Scowcroft, has said: "There are no simple solutions to the questions that must be answered in basing our forces, achieving equitable arms control agreements and improving strategic stability."

As this committee knows, the specific issue of a new American ICBM has been debated hotly for almost a decade. It is time that we made a decision. And, in my view, that decision should be to proceed with production and deployment of the Peacekeeper missile.

There has been consensus on the need for a new ICBM for many years now. Each of the past four Presidents has supported the development of a new ICBM, and the Congress has been supportive as well. It is the choice of a basing mode for that new ICBM that has complicated the production and deployment decision.

The President's bipartisan Commission on Strategic Forces had completed its review of the overall U.S. strategic posture. The Commission studied a number of alternative basing modes for a new ICBM, consulted with Congress, and presented unanimous conclusions concerning U.S. strategic forces and arms control. The Commission conclusions have now been accepted by the President, and the President's recommendations are before the Congress. These recommendations provide the basis for developing a broad national consensus.

Let me now address the foreign policy implications of those recommendations.

FOREIGN POLICY AND THE STRATEGIC BALANCE

The most important goals of our defense and foreign policy are to prevent war and to maintain a just peace.

The foundation of peace in the nuclear age has been America's strategy of deterrence. Since we first acquired nuclear weapons, the United States has sought to prevent war by discouraging aggression against the United States and its allies. By presenting any potential aggressor with the prospect of certain retaliation, peace has been maintained for nearly 40 years. The history of the 20th century makes it sadly clear that peaceful intentions and good motives alone will not stop aggressors. Adequate military strength does do so, and the strategy of deterrence has been successful in protecting the security of America and Western Europe since the end of World War II.

The strategic balance, however, has dimensions beyond deterrence. That balance shapes the global context in which American foreign policy operates. As Deputy Secretary of State I am acutely aware that America's military strength is vital to the conduct of foreign policy. Our perceived strengths and weaknesses directly affect our ability to achieve our goals. Therefore, the decisions we make or fail to make on weapons programs are bound to influence the judgments not only of our adversaries but also of our allies and friends around the world.

The growth of Soviet military power relative to the United States over the past ten years has had a direct effect on Soviet willingness to challenge America's interests around the world. Moscow is using its power directly in Syria, Poland and Afghanistan, and indirectly through its proxies in Angola and closer to home in Central America. These are the tangible manifestations of growing Soviet power.

Our concern is that unless we maintain a strategic nuclear balance between the United States and the Soviet Union, the problem of Soviet adventurism will persist and may get even worse.

If for example, the Soviets are able to strike effectively at our land-based ICBMs while we do not have comparable capability, Moscow might believe it could gain political leverage by a threat of nuclear blackmail. Without arguing the questing of whether the Soviets are prepared to launch a nuclear first strike, one can recognize that such a crucial imbalance in strategic capabilities could well make them bolder in a regional conflict or in a major crisis. That situation can not be in the interest of either this nation or of world peace.

Our visible commitment to maintaining the strategic balance is also essential to sustain the confidence of our friends and cohesion of our alliances. While we have debated among ourselves, and tabled serious arms control initiatives at the negotiating table, the Soviets have deployed—repeatedly. Over the past decade the Soviets have deployed three new ICBMs. They have tested two more in the last six months and have at least two additional new types of ICBMs in development.

What would our allies and other nations conclude about American strength, resolve and reliability if we were to fail to deploy a new ICBM in the face of these Soviet developments?

Our foreign policy, and our ability to defend our interests and our most cherished values, will be decisively strengthened if the Congress gives strong backing to the program the President announced last month.

Modernization of our deterrent, and of our land-based ICBM force in particular, is essential to the goals of preventing conflict, reducing the risks of war, and demonstrating our resolve to adversaries and allies alike.

At the same time, it will also increase Moscow's incentive to negotiate seriously in START (Strategic Arms Reduction Talks) and other arms reductions talks. Let me say more on that subject.

ARMS REDUCTION AND THE STRATEGIC BALANCE

It is important to note that the Scowcroft Commission did not consider the ICBM problem, or even our overall strategic posture, in isolation from other issues. They also considered the relationship between strategic programs and arms control.

The Commission made clear that there was a necessary complementarity between strategic programs and arms control. Both arms control and modernization programs can affect the strategic balance. Vigorous pursuit of both is the best course to pursue. To quote the Scowcroft Commission Report: "Our arms control proposals and our strategic arms programs should thus be integrated and be mutually reinforcing. They should work together to permit us, and encourage the Soviets, to move in directions that reduce or eliminate the advantage of aggression and also reduce the risk of war by accident or miscalculation."

President Reagan adopted this dual approach early in his Administration. When he announced his modernization program, he also announced that the United States would negotiate with the Soviet Union to achieve mutual and deep nuclear arms reductions. We are now negotiating seriously with the Soviets in Geneva on both intermediate range and strategic nuclear weapons.

If we have learned anything from our experience in arms control negotiations over the last two decades, we should have learned this fundamental truth: the process of arms control depends on the demonstrated ability of the United States to maintain an effective strategic force. This, in turn, depends, as it always has, on maintaining a modern, capable triad of strategic forces. The Peacekeeper ICBM is a critical component of that modernized triad.

As a lawyer, I know that negotiations begin only when both parties believe they have something to gain by talking or something to lose by failing to talk. Without the incentive of gain or loss provided by our modernization program, the Soviets would see no advantage in negotiating seriously to reduce their own nuclear force.

The Peacekeeper represents the response that each of the past four administrations has considered necessary to offset, at least partially, the formidable Soviet ICBM arsenal. The question now before us is whether we shall abandon this decade-long modernization program.

As the Scowcroft Commission Report reasoned: "It is illusory to believe that we could obtain a satisfactory agreement with the Soviets limiting ICBM deployments if we unilaterally terminated the only new U.S. ICBM program that could lead to deployment in this decade. . . . Abandoning the MX at this time in search of a substitute would jeopardize, not enhance, the likelihood of reaching a stabilizing and equitable agreement."

The Commission's recommendations included more than support for deploying the Peacekeeper missile. The Commission also recommended, and the President agreed, that the full modernization program begun in 1981 be continued. It also recommended development of a new small single-warhead missile and continuation of research on survivability improvements for our ICBMs, including active defense and silo hardening.

Mr. Chairman, questions have been raised about whether the proposed modernization program is consistent with our arms control objectives and our obligations under past arms control agreements. Let me assure you that the proposed program is fully consistent with those objectives and obligations.

The Peacekeeper is consistent with all specific provisions of existing SALT agreements. Deploying 100 of the new missiles in existing Minuteman silos, as the President proposed, would involve no construction of new fixed launchers, no increase in silo volume, and no increase in MIRVed (multiple independently-targetable reentry vehicle) ICBM launchers. Moreover, the 100 new Peacekeeper missiles in Minutemen silos are obviously far too small a force to be destabilizing.

Some have wondered, however, how the development of a small ICBM in addition to the Peacekeeper would be consistent with either SALT II or a possible START agreement. The SALT II Treaty would have permitted deployment of no more than one new ICBM on each side. On our side, the new missile would be the Peacekeeper. But that treaty, even if it had been ratified, would have expired at the end of 1985. The President's proposal calls for the start of engineering development of a new small ICBM, but no deployment would be possible until after 1990—long after the SALT II time period had expired. And long before that time, we would hope that a START agreement will have established a new regime for maintaining a stable strategic balance.

Beyond this, the new small missile, if it proves feasible, would have broader, positive implications for arms control. It would enhance stability, because it would be more survivable, and stability has always been a central objective of arms control since the process began. As Secretary Weinberger has explained, it may move the evolution of strategic systems in a stabilizing direction over the long term. The basic concepts underlying our START proposals are flexible enough to accommodate this small missile.

Mr. Chairman, the U.S.-Soviet strategic competition will continue into the long-term future. And there is no guarantee that a restructuring of U.S. and Soviet forces in the direction of single warheads will take place in the near future. But we believe both sides have real incentives to move in this direction. In the meantime, we need now to take the hard decisions necessary to ensure a safe strategic relationship for the years immediately ahead.

CONCLUSION

To sum up, I share with the Secretary of State and the Secretary of Defense the conviction that modernization of our strategic forces is a matter of the highest priority. A credible, flexible strategic force is not only vital to the balance of power but is the essential foundation of our role as leader and defender of free nations. The fundamental goal of nuclear deterrence depends on a credible force. Our goal of deterring non-nuclear war or nuclear blackmail also depends on it.

The Peacemaker missile is indispensable to our near-term goals of restoring the strategic balance, achieving deterrence and providing an incentive to the Soviets for serious negotiations on arms reductions. Development of a small ICBM may well enhance strategic stability in the longer term. But as the Scowcroft Commission stressed, neither of the two systems can ensure security alone; they are complementary.

Strength and peace are also complementary. Both must be pursued with determination. And with that determination, both can be achieved.

CORPORATIONS DO PAY TAXES

Mr. **SYMMS**. Mr. President, during the consideration of the budget resolution, we have been subjected to statements by some of my colleagues bemoaning the fact that more than 50 percent of the corporations in the United States are not paying taxes.

I agree that there may be something to moan about here, but it is not the fact that these corporations are not paying taxes. What we should be concerned about is the fact that these corporations are not making enough money to be able to pay taxes.

According to the Department of Commerce, pretax corporate profits last year dropped 24.6 percent to a total of $174.9 billion, which is less than this year's budget deficit. After-tax profits fell 22.4 percent to a total of $117.1 billion, which is less than it cost the Government to finance the deficit last year. This has been the steepest decline since the 1930's.

An overview of a recent New York Stock Exchange study, "The Financial Health of U.S. Corporations: Current Assessment and Future Prospects," was recently published in the April 1983 newsletter, Capital Formation. The overview of the NYSE study discussed the deterioration of key indicators of corporate financial strength; the causes of the deterioration of U.S. corporate financial strength; assessed the corporate financial outlook if current policies are continued; and recommended alternative policies which could strengthen the financial condition of U.S. corporations and therefore, enhance long-term economic growth which would mean jobs for unemployed Americans.

The overview of the NYSE study is as follows:

MEASUREMENTS OF CORPORATE FINANCIAL HEALTH

The NYSE study stresses that every major indicator of corporate financial health is at a long-term or cyclical low. First, U.S. corporate profits are severely depressed. After reaching a cyclical peak of $194.8 billion in 1979, corporate profits fell to a seasonally adjusted recession low of $154.9 billion in the second quarter of 1982. Secondly and more importantly, as a percentage of national income, profits have been in severe long-term decline. After averaging 12.7 percent of national income from 1946 to 1969 and 9.7 percent from 1970 to 1979, corporate profits averaged only 7.7 percent in 1980-1982, reaching an alltime low 6.6 percent in the first three quarters of 1982.

The amount of short-term debt is another key indicator of corporate financial strength, according to the NYSE study. When short-term debt becomes a larger share of total debt, corporations are placed under the additional pressure of frequent repayment of debt rollover. This is what happened as short-term debt rose to forty-two percent of total liabilities of nonfinancial corporations, as compared with thirty-two percent ten years ago.

A fourth indicator of corporate financial health is the "Quick-Ratio" defined as the ratio of financial assets to short-term debt. When corporate cash flow is insufficient to meet financing needs, corporations reduce their accumulations of financial assets, such as cash, deposits, commercial paper, and bonds. The corporations must borrow to make up the difference, the NYSE report notes. As illustrated in Figure IV adjacent, the quick-ratio has declined precipitously, from 113.7 percent in 1960 to 37.7 percent in 1982. Much of the sharp decline in the quick-ratio during the 1960s may represent a change to a less conservative corporate financing philosophy, rather than financial distress. Such is not the case with the declines during the 1970s and the early 1980s, according to the NYSE report. The consecutive declines in the ratio since 1976, from 57.2 percent to 37.7 percent, which represent a fall of more than one third in only six years, are disturbing.

A fifth measure of corporate financial health cited by the NYSE study is the debt-equity ratio (D/E ratio). Since 1960, D/E ratios of manufacturing corporations have doubled, reaching an all-time high of 48.1 percent in the first half of 1982, compared with 24.5 percent in 1960. In other words, in 1960, manufacturing corporations had $4.08 of equity for each dollar of debt. By 1982, that figure was down to $2.07.

A high debt/equity ratio impairs a company's rating, making it more difficult to obtain additional financing and to repay interest, the NYSE study notes. In addition, a 1982 National Bureau of Economic Research (NBER) study indicates that rising D/E ratios inhibit capital investment. The NBER study concludes that a ten percent increase in a company's D/E ratio leads to a three percent decrease in plant and equipment spending.

The NYSE report notes that it is sometimes overlooked that excessive debt burdens surface and become apparent at a time of severe recession, such as the recession of 1982. The report emphasizes that glaring short-term weaknesses obscure the fact that corporate finances have deteriorated over a protracted period of time. Therefore, current weaknesses cannot be explained solely by the effects of the recession. "Accordingly, a major goal of economic policy should be to provide a sound financial base necessary for strong, sustainable long-run growth," recommends the NYSE study.

CAUSES OF DETERIORATION

The NYSE report identifies six major causes of corporate financial deterioration:

Inflation and disinflation;
The bias against equity financing;
Depressed stock prices;
Three recessions in eight years;
Federal Reserve Policy since 1979; and
Federal deficits.

According to the NYSE report, the sharp swings in the inflation rate over the past eighteen years have contributed to the current corporate financial deficits. Rapid inflation in the 1965-1981 period encouraged corporations to finance expansion with heavy borrowing in the expectation that they could repay their vast amounts of debt in dollars cheapened by inflation.

All this changed in 1981 and 1982, when inflation slowed dramatically. Price increases were restrained and lagging sales held down corporate revenues at a time when debt obligations were being carried at peak rates. The result has been a squeeze on corporate finances. Besides the financial difficulties caused by both the acceleration and deceleration of inflation, tax policies have strongly biased financing decisions in favor of debt and away from equity financing. Interest on debt is tax deductible, while dividends (the equity equivalent of interest) are not tax deductible. The NYSE report notes that financing decisions are therefore biased in favor of debt. This helps explain why corporate financial managers have been willing to carry extremely heavy debt commitments.

As the NYSE report notes, depressed stock prices, particularly between 1968 and 1981, influenced the financial deterioration of U.S. corporations. After discounting for inflation, the Dow Jones Industrial Average actually fell by fifty-six percent over this period. Low stock prices discouraged equity financing, tilting decisions toward debt financing.

Three recessions between 1974 and 1932, including some of the most severe downturns since the 1930s, also reduced corporate profits and overall corporate finances, the NYSE report notes.

The Federal Reserve's 1979 switch to a policy of directly targeting money supply aggregates, rather than short-term rates, led to unprecedented high and volatile interest rates, according to the NYSE report. At times, during 1981 and 1982, the long-term bond market almost dried up, making it difficult for corporations to engage in long-term financing. Companies, instead, had to rely on short-term funds in the expectation of rolling over and ultimately refinancing short-term debt.

Another more general outgrowth of the high interest rates has been a "braking effect" on the economy. The recessions of 1980 and 1981–1982 have reduced corporate profits, but they have not reduced debt burdens, causing a double squeeze on corporate finances.

Finally, mushrooming Federal deficits over the last ten years have:

Placed upward pressure on interest rates;

Crowded out private investment;

Increased the debt burden of corporations; and

Contributed to the increasing use of short-term debt as a source of funds by corporations.

As illustrated in Figure VII above, Federal deficits now require forty-eight percent of new savings, as compared with only five percent of saving twenty years ago. Not surprisingly, over the same period of time, long-term bond rates have increased threefold, and non-financial use of short-term debt has gained significantly as a source of short-term financing.

POLICY PRESCRIPTIONS

The New York Stock Exchange study notes that lower Federal deficits are the key to the "relinquification" of corporate balance sheets. Lower deficits will ease the upward pressure on interest rates and lower inflationary expectations. Only if inflationary expectations are lowered will long-term interest rates drop from their still high levels.

Another policy prescription recommended by the NYSE report is the encouragement of internal financing through:

Liberalizing depreciation rules;

Liberalizing investment tax credits; and

Lowering corporate tax rates.

The Economic Recovery Tax Act of 1981 increased corporate cash flow by liberalizing tax credits and depreciation rules. The Tax Equity and Fiscal Responsibility Act of 1982 took back about half of the benefits. The report estimates that combined, the two changes will still boost corporate cash flow by an estimated $135 billion between 1983 and 1987 (see Figure VIII adjacent).

Finally, the NYSE report suggests changes in tax policies to encourage equity financing through:

Permitting the deductibility of dividends by corporations;

Liberalizing the tax treatment of capital losses; and

Eliminating the capital gains holding period.

The NYSE report notes that encouraging equity financing has an advantage over the other policy prescriptions it recommends. Increased equity financing would strengthen the American economy through lower debt/equity ratios. Lower D/E ratios, the report concludes, would not only permit corporate survival, but also encourage economic expansion.

Mr. SYMMS. Obviously, the last thing we need to do at this time is to try to increase corporate taxes. In fact, if the Members of the Senate are truly concerned about the loss of jobs in this economy, we would be thinking about phasing this tax out. It is disruptive in that it distorts economic decisionmaking, and results either in an increase in the cost of products to the consumer or a decrease in the number of available jobs.

Dr. Charls Walker recently published an article in the New York Times. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Apr. 3, 1983]

ELIMINATE CORPORATE TAX

(By Charls E. Walker)

Washington.—This is the time of year when our minds tend to focus on taxes, especially on taxes we don't like. I have one candidate for extinction—the corporate income tax.

There are some critics who argue that, in a sense, the corporate tax has been all but repealed and who bemoan the declining share of total Federal taxes paid by corporations. These critics tend to suggest that the corporate tax should be increased.

The premise underlying their argument is that there is something good about the corporate income tax. Yet as more and more tax scholars are coming to realize, the corporate tax is actually a terrible tax. Far from being increased, it should be systematically scaled downward –with the goal of ultimate elimination.

Some critics accept the false premise that the corporate tax is a good tax because they also accept another false premise—that corporations pay taxes. But, in fact, corporations do not pay taxes—only people pay taxes.

It is impossible to tax a business corporation except in a temporary sense—that is, the corporation does send a check to the Internal Revenue Service. But a corporation is nothing more than a legal arrangement under which individuals conduct business—and, if both the creation of jobs and growth in living standards are any guide, an extremely good arrangement at that.

When ultimate effects are considered, it is clear that a business corporation is in effect only a surrogate tax collector for the I.R.S. The ultimate payers of tax are the people who buy the corporation's products, the people who work for it and the people who provide capital by saving and investing. To the extent that the corporate tax is passed forward to consumers, it is doubtless regressive: People with low incomes spend higher proportions of their income on the products of corporations than do people with high incomes, who save more.

To the extent that the market for a company's products is weak, as with automobiles and steel recently, the tax must be passed back to the factors of production. Workers bear part of the burden, through wage reductions, shorter work weeks and loss of jobs. In addition, as dividends are cut back, stockholders, many of whom are not well off at all, bear the brunt. This in turn discourages saving, investment and capital formation. Productivity is reduced, inflation exacerbated and economic growth hampered.

To top off this list of shortcomings, the corporate tax is in effect a hidden tax; nobody really knows who does pay it—just how much is passed forward, how much backward and to whom. Its ultimate impact is a mystery to layman and expert alike.

When legislators raise corporate taxes—as they did last summer, and as some critics wouild apparently have them do again—they are truly legislating in the dark.

Despite these gross shortcomings, the political fact is that when a budget crunch occurs, politicans rush to raise corporate taxes. A case in point is last summer's tax increase. Billed as deficit-reducing "revenue enhancement" through "tax reform," that measure, it is estimated, will raise the corporate tax bill by $45 billion 1987, when the legislation is fully phased in.

Why do politicans ignore the question of who really pays the corporate tax? Why do they accept instead the false assumption that a corporation can be taxed without affecting people? The obvious answer is that, just as corporations do not pay taxes, neither do corporation vote—people do. Corporations are much safer political targets for legislators in seach of revenue.

These legislators could not sell this political pig-in-a-poke without the cooperation of a press that on most other issues accepts statements of politicans only with extreme skepticism. How long will a press that prides itself on making politicians tell it as it is be party to this deception? When will editors, reporters and columnists face up to the reality of corporate taxation, admitting that this country relies significantly on a tax whose ultimate impact is unknown but that is really a tax on people?

Given the fact that the corporate tax is not really a tax on corporations but a hidden tax on corporate customers, workers and owners, taxing corporations would appear to be about as dumb a way to raise revenue as the mind of man could devise.

But with the newspapers full of stories about corporations paying only small amounts of taxes, and with the Federal budget crunch looming ever larger, get ready for another turn of the corporate tax screw, advanced once again under the label of "fairness," "reform" and deficit reduction. Unless, at long last, the press insists on truth in taxation and begins to tell the public for whom the corporate tax bell really tolls—for you and me.

Mr. SYMMS. Mr. President, I put that in the Record for the perusal of my colleagues and particularly for my good friend from Ohio (Mr. Metzenbaum), who was discussing this yesterday.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FIRST CONCURRENT BUDGET RESOLUTION—FISCAL YEAR 1984

The PRESIDING OFFICER. The Senate will resume consideration of the pending question, which the clerk will state.

The assistant legislative clerk read as follows:

A Senate concurrent resolution (S. Con. Res. 27) revising the congressional budget for the U.S. Government for the fiscal year 1983 and setting forth the congressional budget for the U.S. Government for the fiscal years 1984, 1985, and 1986.

The Senate resumed consideration of the concurrent resolution.

AMENDMENT NO. 1227

The PRESIDING OFFICER. Under the previous order, the question now recurs on amendment No. 1227 offered by the Senator from Utah (Mr. HATCH), with 60 minutes of debate thereon to be equally divided.

Mr. HATCH. I thank the Chair.

Mr. President, about 2 weeks ago we began this effort to try and come up with a budget that would lead us to a balanced budget. We at first thought about a straight freeze across the board. If we had a straight freeze across the board with a high-growth path we would reach a balanced budget within 2 years, so there is no budget crisis. We realize that that would be too difficult to sell in light of the present makeup of Congress.

I might add that with regard to a straight freeze on a low-growth path we would balance the budget in 3 years.

So, again, I make the point that there is no budget crisis if we have the guts to do what is right in the Congress to reach a balanced budget.

But we have concluded—when I say we, I mean not only those who are in the Congress——

Mr. CHILES. Will the Senator yield?

Mr. HATCH. I yield.

Mr. CHILES. Does the Senator say he does not have the guts?

Mr. HATCH. I have the guts. That is why I am arguing.

Mr. CHILES. The Senator said we would have a balanced budget in 3 years if we had the guts. This is the Senator's budget.

Mr. HATCH. I would vote for that but I do not think I would have much support from the distinguished Senator from Florida.

Mr. CHILES. I think the Senator is describing himself when he says we have no guts.

Mr. HATCH. The fact of the matter is I do not think there would be anywhere near a majority of people in the Senate or the House who would vote for a balanced budget by having a freeze across the board, and I would submit there would not be one person on the other side of the aisle who would vote for a balanced budget in the next 2 years for a freeze, a straight freeze across the board.

Mr. CHILES. I do not know that they would do it in that way but I venture to say that I understand there is going to be a provision for balanced budget that will come from this side of the aisle.

Mr. HATCH. It is my understanding that the balanced budget approach will increase taxes massively over the next 5 years in order to reach it.

With our budget we can reach this in 6 years, over the next 5 to 6 years, without increasing taxes.

Mr. CHILES. In this budget you are presenting?

Mr. HATCH. Yes.

Mr. CHILES. Would you tell me what your deficit is in 1988?

Mr. HATCH. The deficit in 1988 will probably be a little less than $72 billion.

Mr. CHILES. That is under the high growth?

Mr. HATCH. That is right. If we go with this method, without increasing taxes, without stifling the economy, without taking away all the incentives—as we have been doing by adding $284 billion in taxes over the last 8 months—and adding the $264 billion in additional taxes on top of that which the distinguished Senator from Florida would like to add, I can tell you that we probably will have a high-growth path. But if we continue the way the House Budget Committee went, and, I might add, the way the Senate budget resolution thus far has gone, we are going to stifle incentives, stifle the economy, and abort recovery like never before in the history of this country.

Mr. CHILES. Under your high growth economic assumptions, it is $71 billion in 1988, 5 years from now, according to the CBO figures. It is $98 billion in 1986, $91 billion in 1987, $71 billion in 1988. So it does not sound to me like you are going to be there in 6 years.

Mr. HATCH. We have only projected it for 3 years, as far as this resolution here today.

Mr. CHILES. I use the CBO figures. Your projections may be more optimistic.

Mr. HATCH. I can say that we will reach a balanced budget in 6 years if we continue this path.

If the Senator's viewpoint, that of the Chiles-Domenici proposition before the Senate, is passed it will increase taxes $264 billion over the same 5-year period, abort the recovery, and cause more difficulties than any of us have ever seen.

Mr. CHILES. It is interesting in looking at the CBO projections, using high growth, which you have used, our deficit is $37 billion in 1988 and yours is $71 billion.

Using the same baseline economic projections as the Budget Committee used, the deficit under your amendment would be $175 billion in 1984, $12 billion more than the deficit we have in the resolution by 1988, your deficit would still be $158 billion, and would not be declining.

I ask unanimous consent to insert in the RECORD at this point a table showing what the deficits would be under the committee resolution and the Hatch amendment using comparable economic assumptions, either baseline or high growth. Under either set, the amendment adds $105 billion to the deficits.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

DEFICITS—HATCH PLAN COMPARED TO COMMITTEE RESOLUTION

[In billions of dollars and fiscal years]

	1984	1985	1986	1987	1988
Baseline economics:					
Hatch amendment	175	161	152	160	158
Committee	163	147	132	135	124
Hatch over committee	+12	+14	+20	+25	+34
High growth economics:					
Hatch amendment	149	119	98	91	71
Committee	138	104	78	66	37
Hatch over committee	+11	+15	+20	+25	+34

Mr. HATCH. You would never get high growth with the proposal in the budget resolution, with increased taxes and few spending restraints——

Mr. CHILES. And you will never get a high growth with the deficits you are going to have. They will drive up interest rates.

Mr. HATCH. Might I just ask the Senator to let me present my remarks. I will be happy to yield for any questions or any comments he wants to make. Let me present my remarks.

I do not see how anybody can sit here and argue that after adding $284 billion in the last 8 months in taxes, and $264 billion more by this budget resolution that the distinguished Senator from Florida has recommended—and he deserves great credit for bringing that through the budget committee—I do not believe anybody can look at those two tax increases within this relatively short period of time and say they will not abort the recovery.

According to the Treasury Department, I might say, that the present budget resolution on the floor would increase taxes for those making $10,000 a year, about 25 percent over the next 5 years; for those making $50,000, about 15 percent; and for those making over $200,000, about 3 percent. If that is fair, I surely do not know it.

Let me say this: Under our proposal we believe we are justifiably arguing for a high-growth path because we would keep taxes down, while at the same time having the deficit trimline going down, while allowing restrained growth in almost all of the programs in this country over the same 5-year period.

We think that, if there is any way of keeping the recovery going, it will not be by increasing taxes. It would be by cutting Federal spending or at least by restraining the growth, which is what our budget does. This would give the economy a chance to catch its breath and revive itself and, of course, to get going again.

So the approach we are taking here is the spending freeze-balanced budget route. It is a modified freeze. We concluded that the Members of the Congress would not vote for a straight freeze, even on a low-growth path.

We concluded it would be too difficult to get the votes to do that. As a matter of fact, I think we have to conclude that it is probably too difficult for us to get the votes on this, our proposal. But this try has to be made because this is a modified spending freeze. By "modified" what we mean is that we will only freeze discretionary programs for 3 years and allow an increase of 3 percent in the 2 outyears, in the fourth and fifth year. We are only freezing the entitlement programs, excluding social security. We are going with the present program that was just recently passed by this Congress, excluding farm price supports, although adopting the President's program, and excluding unemployment compensation.

That does not mean that it will be easy to pass this plan. It does not mean it will be easy for us in Congress, who are so used to doling out the goodies from Washington. But it does mean that we would have a modified freeze with some reasonability in it.

That is not a bad argument. In fact, it is very difficult for me to see how anybody could argue that across-the-board you should add not only the figures for inflation but that you could add figures in for so many other things, as we do in the budget that presently is being debated before the U.S. Senate.

As far as defense spending, we do try to do more. Frankly, we would, of course, have defense spending growth over the 5-year period, or at least over the 3-year period that the budget happens to represent, this alternative budget of 7.5 percent in 1984, 7 percent in 1985, and 6 percent in 1986.

That amount of growth would be more than the Senate Budget Committee's resolution would allow. It would do more than the Senate Budget Committee's resolution would do, but it would also back the President in saying defense spending growth is crucial for our national security. If we took the House budget figures, they would reduce military spending $206 billion, even below what President Carter said was essential. As I have asked groups around this country whom they support, as I have asked them if they think President Carter was a strong supporter of the military, I very seldom get a hand raised to say that he was. If you ask if President Reagan is a strong supporter of the military, every hand goes up. Yet, franky, the House budget would cut below even Carter's recommendations.

I disagree with what the people have said about President Carter. I think in his last year he brought forth a 5-year plan that was similar to President Reagan's. It had a little bit less, but not much. Thus, he basically said we need to do more in the military area if we want to protect the freedoms we all enjoy and take so much for granted.

To make a long story short, Mr. President, this balanced budget plan retains the third year of the tax cut and indexing.

Friends of mine who want to balance the budget, on both sides of the floor, want to do it by increasing taxes. That is their approach despite the fact that taxes have increased from 18 percent over the last number of years to 22 percent. I might add Federal spending has increased from below 20 percent to now 25.7, going on to 26 percent, the highest in the history of this country in recent years, or in modern times. I do not think that is the way to help the country; I do not think that is the way to balance the budget; I do not think it is the way to have a viable economy. I know it is not the way to a high-growth path, despite the claim by some on the other side that with a high-growth path—the massive tax increases, with very little spending restraint, could actually arrive at a high-growth path.

Passage of a spending freeze, it seems to me, is the most important signal the Congress can send the American public. Just as they have been forced to tighten their belts for the last 2 years, Congress itself should exercise the same discipline.

The mere prospect of a no-tax increase, modified-spending freeze has received rousing support from millions of Americans through groups as diverse as the Chamber of Commerce of the United States, the National Tax Limitation Committee, the National Taxpayers Union the National Federation of Indpendent Business, the American Council for Capital Formation, the American Business Council, and the Coalition for America.

Major corporations like the Sun Co., Burlington Northern, and Weyerhaeuser have also voiced their support, as have organizations such as National Machine Tool Builders Association, the National Association of Water Companies, the National Meat Association, the Cast Metals Federation, the Millers National Federation, the Screen Manufacturers Association, the American Frozen Food Association, the Associated Builders & Contractors, the National Coal Association, the American Fishing Tackle Manufacturers Association, the Independent Bakers Association, and the National Lumber & Building Materials Dealers Association.

They all know what runaway Federal spending is doing to this country and they all know it has to be brought down.

Taxpayer groups like the National Taxpayers Union, the National Taxpayers Legal Fund, and the NTLC all vigorously support the freeze effort, for they know that getting spending under control is the only way to stop the ever-increasing tax bite on America's hard-working citizens.

Key State groups, like the Alabama Textile Manufacturers Association, the North Carolina Auto Wholesalers, the Illinois Association of Realtors, the Michigan Manufacturers Association, the Georgia Association of Life Insurance Underwriters, the Virginia Retail Merchants Association, the Associated Employers of Illinois, and the Manufacturers Association of Central New York all support a spending freeze because they know it is right.

Millions of hard-working, taxpaying Americans are represented by these groups, and hundreds more I do not have time to mention individually here.

The U.S. Chamber alone represents 250,000 individual businesses, 2,750 State and local chambers of commerce, and 1,400 trade and professional associations, and they are behind this plan.

The National Federation of Independent Businesses represents over 550,000 smaller enterprises.

The taxpayer groups represent literally millions of disgruntled Americans who were only liberated this week, on Tax Freedom Day, from 1983's Federal tax bite.

There really is no other choice—a spending freeze, in my opinion, is a must, because I do not think they are going to do it otherwise.

Let me say a couple of other things, Mr. President. We have no illusions about this amendment passing today. We had only 2 weeks to put it together and, frankly, we did not get the numbers on it until yesterday, just before we brought it to the floor. I am not complaining. I think the Congressional Budget Office has done a superb job for us under these circumstances. They have given us details I never thought they could give us in this short period of time. I, for one, am very, very proud to be associated with the CBO in doing what really should have been done.

I want to thank the coauthors of this budget, my coauthor, Representative PHIL GRAMM, from the House, for his invaluable assistance in developing the modified freeze—balanced budget plan. His extensive experience as a leader in fiscal responsibility and as an economist was absolutely indispensable, and I think the Congress should be proud of him, a Ph. D. economist, who has really been in the trenches on the budget since he has been here.

The struggle against excessive Federal spending will not be won in a day. I look forward to working shoulder to shoulder with PHIL GRAMM in the future as we carry on the battle for controling the budget in the future.

Next, my thanks go to the Congressional Budget Office for their helpfulness in pricing out the Hatch-Gramm plan, particularly to C. G. Nuckols, the Deputy Assistant Director for the Budget Analysis Division, Bob Sunshine, Unit Chief for Budget Projections, and to the Chief of the Human Resources Unit, Chuck Seagrave. The estimates on this substitute were ordered more than once after sundown on Friday afternoons. Nevertheless, the estimates were done and done well and often accompanied with invaluable interpretations.

I appreciate the work of all of these dedicated servants of the people.

I, for one, Mr. President, have had my esteem for the Congressional Budget Office go up immeasurably. I want them all to know.

Finally, I mentioned that we have no illusions about this amendment passing today, but it is important that we make this fight, because with only 2 weeks, we have been able to make the fight and we have been able to have many groups across America who are not going to quit today, regardless of what happens. I can say this is only the beginning salvo. It is going to go away. We are going to continue to go forward and get as many groups as we can across this country to support a budget with no tax increases, with a reasonable amount for the military, and with a spending freeze badly needed in this country until we actually inform everybody in the country. I think it is about time they were informed.

The spending bias in the Congress is so strong—with no reflection on any of our colleagues, the spending bias is so strong that it is so much easier to spend than it is to conserve; it is almost impossible to get the budget under control.

I might add, since the Budget Impoundment Act of 1974 came into existence, we have had runaway budgets and runaway deficits since that time. The process has not worked as it was contemplated to do. I think it is better than not having one, but it still has not worked in the contemplated way.

Mr. President, I reserve the remainder of my time.

Mr. CHILES. Mr. President, it has been an interesting discussion this morning. I listened to it with great interest, the so-called spending freeze in the budget-balancing amendment that we have before us. I would say to my distinguished friend and colleague from Utah, for whom I have the utmost respect for his ability, I think this is a little bit of a misnomer. It may have started off being that when we started into the process a few weeks ago, but now, it is not a spending freeze. We have talked about less change, so I guess it is a modified spending freeze. But it is certainly not a budget balancer; it is a budget buster we are talking about.

We are talking about a plan that has deficits considerably higher, $12 billion higher, than the committee budget we were working on in the first year and goes up to $34 billion higher in 1988. We have talked about what we need and it seems to me when this list of people that we heard something about finds out that their names are being associated with a budget buster like this, I really wonder what the screenmakers and what the fishing tackle people are going to say and the flour millers, what the North Carolina automobile wholesalers are going to have to say when they find out that they are associated with a budget buster that is going to raise the deficit higher than anything that we are talking about here.

We see what has happened. The sponsors have talked about carrying this message to the countryside for a modified spending freeze, with no new taxes.

That is just what we have had for the last few years.

We have a chart in the Chamber that tells us what we have had in regard to that since 1982. We see tax reductions of $860 billion since 1982, so that is no new taxes.

I ask unanimous consent to include in the RECORD at this point a copy of those charts.

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

INCREASE IN THE DEFICIT ATTRIBUTABLE TO CONGRESSIONAL POLICY ACTION

[Fiscal years; billions of dollars]

	1982	1983	1984	1985	1986	1987	1988	Total
Tax reduction	38	68	93	121	154	178	207	+860
Defense spending increases	1	15	27	47	65	65	65	+285
Nondefense spending cuts	-42	-47	-56	-59	-61	-61	-61	-387
Net change in deficit due to policy action	-3	36	64	109	158	182	211	+757

Source: CBO baseline budget projections for fical years 1984 to 1988.

MAJOR COMPONENTS OF THE BUDGET AS A PERCENT OF GROSS NATIONAL PRODUCT

	Fiscal year—						Change
	1983	1984	1985	1986	1987	1988	
National defense: Outlays	6.7	6.9	7.1	7.2	7.4	7.6	+0.9
Nondefense discretionary: Outlays	4.6	4.5	4.2	3.9	3.8	3.6	-1.0
Entitlements: Outlays	12.0	11.0	10.7	10.5	10.4	10.4	-1.6
Revenues	18.9	19.6	20.0	20.0	20.2	20.4	+1.5

Note: In fiscal year 1988 each 1 percent of gross national product equals approximately $50 billion.

Mr. CHILES. We talked about needing to raise the defense spending. We seen an increase in defense spending of $285 billion. We need to hold down the spending. Well, nondefense spending cuts, reduced $387 billion. What is the net change? What does that policy get us? It gets us deficits of $757 billion. So we have had a little of that program.

What we are talking about now is, how do we get a little relief? How do we get something that gives this economy a chance to get back on track? How do we get something that gives us a chance to have a lasting recovery out of this recession? How do we get something that gives us a chance to get back jobs in this country?

The Senator from Utah was raised, I think, a little bit like the Senator from Florida, having the ethic that what you bought you had to be willing to pay for. You had to be willing to pay the price. We are presented a budget that shows us figures that are going out 5 years from now. Under this amendment that we are talking about, we are not paying for what we are buying. We are continuing to spend.

My goodness, if I ever heard anything that the Republican Party stood for it was that we were going to live within our means; what we decided that we had to have in the way of government we were going to be willing to pay for.

I do not see that in this amendment. I do not even see us going in that direction.

Again, I am delighted to see that we have a coauthor, Professor GRAMM, a distinguished colleague from the House, but when I was meeting with a group of the House boll weevils several years ago we were talking about balancing the budget. We were talking about going in the direction of a balanced budget. I cannot see anything further from the direction of balancing the budget than when I look at what the CBO midline projections are, and those are the projections that we are using for the President's budget. Those are the projections that we are using for the committee's budget, and I think they are what we have to use for any budget. We see that this budget deficit would be $158 billion out to 1988, and going in a direction which is not really coming down. It is staying very steady, very level.

Now, what are we doing to get to that $158 billion deficit? Of course, we have a tremendous raise in defense, but we are squeezing some other programs. Let us look and see what we are squeezing.

We are talking about taking the President's medicare proposals plus an extra $18 billion. So on top of the President's cuts in medicare, we are going to cut another $18 billion.

Senators will remember what the President said was his proposal in medicare, that we were going to shift the provisions and allow the older people to pay a lot more the first day they go into a hospital, the first week, that first period of time.

That is a debate that I think a lot of people might want to join, whether a lot of our older and poorer people are going to be able to do that.

We see a $5 billion cut in food stamps over 5 years. That is taking the President's $1 billion a year cut plus additional unspecified cuts. We are told that 62 percent of all households will have their benefits cut.

We have had a lot of talk about people getting food stamps that would not work and did not deserve them. In the last 2 years we have been working on those people. Many people feel that we have now cut the situation down to where we have cut the fat. The question is whether we are going to cut the bone.

The poorest families, those below 50 percent of the poverty line, 79 percent of those poorest families are going to have their benefits cut. One million elderly households are going to have benefits cut by an average of $250 a year. We are going to cut a third of low-income energy. Maybe we will not have cold winters. Maybe, if we do have cold winters, these people can just put another blanket around them, bundle up a little more because they can get by with that.

AFDC we are cutting—aid to families with dependent children. We should not use initials—$1.8 billion. Civil service, we are just going to have a year COLA freeze on that. Child nutrition we are cutting by $1.8 billion over 5 years; railroad retirement, $2.7 billion over 3 years. So we are not going to do anything to social security but people under railroad retirement are going to take a $2.7 billion cut.

Law enforcement happens to be something that I have concern about. We have talked about a war on crime. We have talked about doing something about crime in this country. There is an outlay freeze in that function and that will hit particularly hard because most of their budgets are in personnel. That means that there will be layoffs in the FBI, the DEA, the Immigration and Naturalization Service. It means that there will be no funds for law enforcement efforts for the immigration enforcement bill that we are talking about that is due on the floor of this Chamber after this concurrent resolution.

We totally eliminate legal services, which some people want, but a majority in both bodies have felt that we should not eliminate those services entirely.

There is a freeze in the target price for agriculture. We are eliminating postal subsidies all but for the blind and handicapped. So at a time when we are asking for——

Mr. HATCH. Will the Senator yield on that point?

Mr. CHILES. I will yield after I finish.

At a time that we are asking the nonprofits to take up the slack, voluntarism, we are cutting outlays but we are going to charge you more. You are going to have to pay more to try to get people to join in voluntary efforts.

I wonder how wise a plan it is for us to do that now.

And then we are seeing user fee increases up to 50 percent of the operating costs for our airports, inland waterways, our Coast Guard, space shuttle, our ports. At a time when we are trying to stress the sale of our goods overseas, we are going to say to those ports, "Wait a minute. We are going to put a user fee on you."

When I look at how we are going to reconcile part of this, I find it interesting to see that under the amendment we are going to reconcile $6,612,000,000 but it looks like the Committee on Human Resources would reconcile $147 million of that, so 2 percent of the amount of money that we are talking about reconciling would be in the Committee on Human Resources. I wonder how we are going to make cuts unless we would all be willing to shoulder those particular cuts.

Mr. President, I think that we should look at this proposal for what it really is. It is a proposal that is going to say to those that have received whopping tax cuts, "We are protecting you. Corporations that are not paying any money in taxes now, we are protecting you. You will not have to pay anything."

But at the same time, who pays when you have high interest rates? Who pays when you have a high deficit? Everybody that goes to buy a car, everybody that wants to buy a refrigerator, everybody that wants to try to buy a home. They are the ones who end up paying. I think our businesses end up paying, too, because how in the world can we compete? How can we build the base of this country if we are going to have those kinds of interest rates?

It seems to me that we go back to the ethic that I started off with, and that is we have to be willing to pay for what we are going to spend. If we are not willing to pay for it, then let us not spend it. But do not say that you are going to have something that is going to be magic—in a few years out we will have that magic.

We heard that supply-side talk—Kemp-Roth. We heard it long and loud. What has it got us? We can see right on that chart what it has got us since 1982. It has us with deficits of $757 billion where we made that tax cut of $860 million. Yes; we raised defense. Yes; we cut those spending programs, and we have a net deficit of $757 billion as a result. And we have had the high interest rates and the economic recession that come from those deficits.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. KASTEN). The Senator from Utah.

Mr. HATCH. Mr. President, I have enjoyed the statement by the distinguished Senator from Florida.

I might mention that the way it is commonly done is to attack individual items, but we are dealing with aggregates here.

We are going to allow the appropriate committees of Congress to make the determinations and the hard choices. Our budget is the only one that restrains the growth in the Federal budget.

The objective of the budget proposal I have offered is the achievement of a balanced Federal budget within the foreseeable future without adding taxes, having a reasonable military spending figure that is below that of the President but, nevertheless, above the present Senate budget resolution; and it restrains the growth in these massively growing programs.

Seventy-eight percent of the total Federal budget is what we call uncontrolled.

I think our Nation has to begin once again to live within its means if we are going to return to economic health.

We can achieve a balanced budget by two measures. We reduce the burden of excessive Federal spending on our economy. And we refuse to raise taxes once again. Federal spending consumes too great a portion of our national product. The burden of taxes on the average citizen is still too high. And, we have raised taxes $285 billion in the last 8 months alone.

With our measures, our economy can grow at a high rate, one consistent with economic recoveries after World War II. Let me show what would happen to deficits:

The first chart compares the declining deficits of the Senate Budget Committee proposed budget and the Hatch-Gramm budget. The Hatch-Gramm deficit declines to about $72 billion by fiscal year 1988. As a result of these declining deficits, a balanced budget is foreseeable in fiscal year 1989.

Our plan is based on high-growth assumptions. The Budget Committee proposal is not. There was some crumbling yesterday that this was "comparing apples and oranges." Do not be fooled. With increased taxes and without cutting Federal spending, it would be totally unrealistic for the Senate Budget Committee budget to assume high growth!

Let me again also state that although our economic problem is serious, there is no dire crisis. If we froze spending absolutely, we could balance the Federal budget in 1 or 2 years, depending on the rate of economic growth. We are not asking for this.

Our proposal is a proposal for restrained growth, not an absolute freeze. We are concerned that too many programs are growing faster than the economy which is expected to support them. This is why we restrain growth.

Look at this second chart. It is a comparison of spending growth in two critical areas, in the health and income security functions of the budget. This chart shows that the Hatch-Gramm budget does not "cut" these programs. Our proposal still permits growth, just more restrained growth consistent with the growth in the economy. It is slightly below the Senate Budget Committee and definitely a restraint of growth.

With restrained growth, we will be able to achieve a balanced budget in the foreseeable future. With restraint in the burden of excessive Federal spending and with a refusal to raise taxes once again, our economy will grow at a faster pace. This pace will allow us to reach a balanced budget sooner. That will allow a sustainable, noninflationary economic growth beneficial to all our citizens.

I might add that I do not see how anybody can say that massively increasing taxes on top of the massive tax increases we have had would help our situation.

Let me illustrate:

In 1983, we have tax increases just from bracket creep of $3.18 billion. Scheduled social security increases under present law will be $17.3 billion. That is $49.1 billion.

The net tax reductions—in other words, net taxes enacted under the Economic Recovery Tax Act of 1981, the Tax Equity and Fiscal Responsibility Act of 1982, and the Surface Transportation Assistance Act of 1942—amount to $63.5 billion.

The next change in receipts is a minus $14.4 billion. So most of the tax cuts have been taken away. That is assuming that we get the 1983 tax cuts in both cases.

In 1984, net change in receipts will be minus $18 billion.

The important point is that even with no tax increases, even with an increase in spending for the military, our actual line is considerably below the Senate Budget Committee's red line on the first chart in a comparison of deficits; and they have massive tax increases in the Senate Budget Committee's approach, and we are still below.

I make the point that tax increases have never resulted in budget deficit increases, at least to my knowledge, and certainly have not in the last few years. All we do is go further in debt.

Mr. President, I ask unanimous consent to have a table printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

A COMPARISON OF TAX INCREASES DUE TO BRACKET CREEP AND SOCIAL SECURITY RATE INCREASES WITH THE NET TAX REDUCTIONS ENACTED DURING THE REAGAN ADMINISTRATION AND THE BIPARTISAN SOCIAL SECURITY PLAN

[In billions of dollars]

	Fiscal years					
	1983	1984	1985	1986	1987	1988
Tax increases						
Bracket creep[1]	31.8	43.4	60.5	83.0	107.9	135.3
Scheduled social security rate increases under present law[2]	17.3	18.6	28.5	37.0	41.5	45.5
Total	49.1	62.0	89.0	120.0	149.4	180.8
Net tax reductions						
Net tax change enacted under the Economic Recovery Tax Act of 1981, the Tax Equity and Fiscal Responsibility Act of 1982 and the Surface Transportation Assistance Act of 1942	-63.5	-88.2	-112.1	-146.3	-179.2	-210.7
Bipartisan social security plan		8.7	5.8	8.9	10.7	22.3
Total	-63.5	-80.0	-106.3	-137.4	-168.5	-188.4
Net change in receipts	-14.4	-18.0	-17.3	-17.4	-19.1	-7.6

[1] The amounts shown are increases in individual income tax receipts obtained from the increase in the effective tax rate since 1980.

[2] Rate increases from the structure in effect in 1980.

Source: Office of the Secretary of the Treasury, Office of Tax Analysis.

Mr. HATCH. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I yield to the Senator from Kansas such time as he desires.

Mr. DOLE. Mr. President, I thank the Senator from Utah for yielding.

I just want to address the revenue side. Everybody seems anxious to raise taxes around here. I do not know where they were last year when we were trying to do a little tax reform. I do not recall getting a single vote from the other side.

We are trying to figure out more tax compliance and tax reform to make the system fair for those who were not paying their fair share of taxes, and we are not getting one vote. When it comes to taking away from the working people, it is suggested that we take away the third year and take away the indexing. It seems to me that is not the way to go. I know that the Budget Committee does not—at least, those members of the committee—suggest that is how we are going to get the revenue.

If you read everything that is written about this debate, it is that the third year is in jeopardy and indexing is in jeopardy.

It is my hope that we will go back and take a look at all the tax expenditures, about $296 billion in tax expenditures, and about $100 billion due in taxes not being paid.

Mr. President, it is my opinion that before we take away the tax cut from the working people of this country and take away indexing, which is the best thing we did in the Tax Reduction Act, we should address compliance and we should address some of the loopholes out there which are enriching the rich. That is how I would address the revenue side.

Of course, the debate is not focused on compliance. The debate is not focused on reform. The debate is focused on simply taking away the tax reduction that I believe the working people need.

The third year is critically important so far as stimulus to the economy is concerned. Indexing is the only discipline we had in the 1981 Tax Reduction Act so far as Congress is concerned. That is why I strongly support the Hatch proposal, because we leave intact the third year and we leave indexing intact.

There are some revenue changes, but they are modest changes, and they deal with user fees and the President's so-called cap on health care costs.

So they are modest changes. As far as the spending side is concerned, in my view the Senator from Utah properly addresses spending reduction, and again much of that comes from the Finance Committee. As I indicated yesterday, we are not certain we can reach that amount of spending reduction but we should try.

Medicare is another program that is in deep difficulty because we keep adding to the program and have over the years. It has already been suggested that we establish a commission to try to work out medicare as we worked out social security. But in the meantime it is the opinion of this Senator that there are areas in medicare that can be addressed as far as costs are concerned. We have addressed the hospital cost in the social security compromise. We still need to address physicians' charges, physicians' fees, physicians' costs, and also I believe to take a look at the beneficiary side.

There are some who receive medicare benefits who are in a position to pay more who pay some of the costs. I do not believe that we should indicate that we cannot make some savings in that area, and again I recognize the Senate Budget Committee figures reflect what we believe we can do in the Finance Committee but I believe we can do a little better. I believe we might be able to put together a package that would achieve the numbers outlined in the compromise of the Senator from Utah.

But primarily it seems to me that we should keep a focus on taxes. Anyone can draft up a budget resolution and lower the deficit if we want to raise taxes. It is all sort of a game, as I view it, and as soon as this budget game is over we go back into the real world of how we are going to handle the deficits and how we are going to bring down the deficits and who is going to have the responsibility.

What we are going through now is a political exercise. Everyone is going to offer an amendment to add money or not to do this or not to do that, and, as I recall, having served on the Budget Committee, that is not the function or the prerogative of the Budget Committee to dictate to other committees where we find revenues and where we find savings.

Obviously certain assumptions are made, but in the opinion of this Senator we should leave the revenue side pretty much where it is, and if in fact revenues are needed then we should look at tax compliance. I did not note any great rush for tax compliance when we had debate on repeal of withholding in this Chamber, and I did not note any great rush for tax reform from the other side last year. I do not recall getting a single vote when that bill passed by a vote of 50 to 47. Some of my colleagues did support the conference report.

So I would just suggest let us spend our time on the revenue side looking at compliance. There is still $87 billion to $100 billion out there that is due and not being collected. Let us take a look at some more of the loopholes. There are still a lot of loopholes that should be addressed.

Let us not take away the individual tax reduction. Let us not change the tax incentives we put in the 1981 act for business. Let us not change the estate tax changes. Let us not change the IRA program. Let us not go into all that. Let us look at some of the glaring loopholes that still stick out like sore thumbs in the tax code, but beyond that let us take a look at tax compliance and see how we can properly collect the taxes that are due.

I thank the distinguished Senator for yielding.

Mr. HATCH. Mr. President, I yield some time to the distinguished Senator from Wisconsin and then following the distinguished Senator from Wisconsin the distinguished Senator from Georgia.

The PRESIDING OFFICER (Mr. MATTINGLY). The Senator from Wisconsin is recognized.

Mr. KASTEN. Mr. President, I rise in support of the Hatch balanced-budget plan. This plan meets the essential goal of getting our budget deficits under control without raising taxes and jeopardizing the economic recovery already underway.

It is only through spending restraint and economic growth that we can truly get the deficits under control. We have tried to balance the budget through tax increases in the past, and all we have to show for it is more spending, less savings and investment, and less economic productivity. Despite last year's $100 billion tax increase, the budget deficits have continued to grow. In fact, they have doubled. Clearly this is not the right road to take.

The Hatch plan uses a modified spending freeze to restrain the growth in spending over the rest of the decade. The result is a balanced budget in fiscal year 1989 without a radical shift in the spending priorities we have adopted over the last 2 years. Defense spending is allowed to grow at a real rate of 7.5 percent in 1984, 7 percent in 1985 and 6 percent in 1986. Although this is not as much as requested by President Reagan, it is a level that can lead to a restored military strength.

The most important feature of the Hatch plan, however, is the fact that it does not call for any tax increases. This is dramatically different from the budget adopted in the Senate Budget Committee and the House of Representatives. Both of these budgets assumed an increase in revenues of $120 billion over the next 3 years. These tax increases set the stage for a repeal of the Reagan revolution.

The tax bite on the American taxpayer has been growing steadily over the last two decades, and the outlook for the future is just as bleak. Under the committee's budget resolution, taxes as a percent of GNP for fiscal years 1984 through 1988 will average 20 percent. This is higher than the average for the 1970's—18.9 percent—and the 1960's—18.6 percent.

The 1981 tax act—the Economic Recovery Tax Act—was designed to reverse this upward trend. Often described in this Chamber as "the largest tax cut in history," ERTA provided a 25-percent cut in marginal tax rates over 3 years and indexing of tax rates in 1986. This may have been the largest tax cut ever in 1981, but it is not in 1983. Since then, Congress has voted for a number of tax increases—the Tax Equity and Fiscal Responsibility Act of 1982, the gas tax, and the Social Security Amendments of 1983. Together with bracket creep and the 1976 social security tax increases, this wipes out a good 90 percent of the 1981 tax cut.

If the tax increases called for in the committee's resolution are enacted, the tax cut will be wiped out for each and every year after 1983. The American taxpayer will only have had a minor dip in an ever-increasing tax burden. In 1984, for example, the taxpayers' burden will be $10 billion more than it would have been without the 1981 tax cut at all. The figures only get worse in the outyears.

Mr. President, I ask unanimous consent to have printed in the Record a table showing the effects of the committee's revenue increases.

There being no objection, the table was ordered to be printed in the Record, as follows:

TAX CUTS/TAX INCREASES [1]

[In billions of dollars]

	1981	1982	1983	1984	1985	1986	1987	1988	Total
1981 tax cut (ERTA)	-0.4	-36	-83	-130	-158	-202	-247	-282	-1,138
1982 tax increase (TEFRA)			17	38	42	52	64	68	281
Gas tax			2	4	4	4	4	4	21
Bracket creep	9.0	17	32	43	61	83	108	135	489
Social security tax increase	9.0	16	17	19	29	37	42	46	214
Recently enacted social security tax increase				6	7	7	9	20	49
Net change	18.0	-3	-14	-20	-18	-19	-20	-10	-84
Tax increase in Senate budget resolution				30	39	52	66	80	264
Net change	18.0	-3	-14	10	21	33	46	70	183

[1] Numbers may not add due to rounding.

Mr. KASTEN. Mr. President, the committee's tax increases can only be achieved one way—by repealing the third year of the tax cut and indexing. If these two provisions go, it will mean that the last 2 years of the Reagan-Republican revolution will have been in vain. The result will be a massive tax increase that will fall most heavily on the average working American taxpayer. In fact, it will cost the typical median income ($24,000) family of four $1,061 in higher taxes over the next 3 years.

The reason given for this massive tax increase is the budget deficit, but this is not so. Repealing indexing will only help relieve the budget deficit if inflation is rising. It would then provide an automatic tax increase that Congress could use to finance even higher levels of spending. There would be an incentive to pursue inflationary policies to get this windfall every year. This would reverse the gains we have made in cutting inflation and interest rates in half over the last 2 years. Whatever chance we have for a sustained economic recovery would also be ruined.

At a time when we are trying to restore the incentives to work, save, and invest, we would be undermining all three. In our economic system, if you want more of something, you provide incentives. If you want less of something, you tax it. Here we are—after adopting an economic recovery program in 1981—turning around and attempting to raise taxes by $120 billion over the next 3 years in an effort to get the deficits under control.

Last year Congress raised taxes by $100 billion as the "price we have to pay" to reduce the deficits. This was part of the budget plan that called for $3 in spending cuts for every dollar in tax increases. The result was the reverse. We got 33 cents in spending cuts for every dollar in tax increases. By my calculations, we still owe about $2.67 in spending cuts for every dollar of tax increase we enacted last year. The Hatch budget plan will go far in making up this difference.

Without the Hatch plan, we would be forced to adopt a budget that takes the wrong approach. Instead of holding the line on taxes, and addressing the problems of spending, this budget relies on tax increases to reduce deficits. For every dollar increase in taxes, there is a cut in spending of 11 cents. These spending cuts come primarily from defense—$11 billion—with an increase in nondefense spending of $15 billion. Total spending in this budget resolution is $33 billion more than we agreed to spend for 1984 last year.

The economy has made great progress toward recovery in the last few months. It grew 3.1 percent in the first quarter—the largest increase in over 2 years. Factories are operating at the highest capacity levels in 5 months. There has been an increase of 290,000 jobs in nonfarm employment since December. Over the last 3 months, employment has increased in 51 percent of all American companies. Inflation is at an 18-year low. Housing starts are up 75 percent over a year ago. And, the prime rate is at 10.5 percent, the lowest level in 4 years.

The last thing we need to do is adopt a budget that kills any chance of a recovery. We have raised taxes enough since the 1981 tax act. It is time to hold the line on revenues, and look carefully at the spending side of the budget. We were elected with a purpose, and it is time to get back to that basic objective—to get tax rates down and keep them down. The Hatch plan will let us stick to that purpose. I intend to vote for it, and I urge my colleagues to do the same.

Mr. HATCH. Mr. President, the distinguished Senator from Georgia will be our last speaker on the amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. (Mr. KASTEN). The Senator from Georgia is recognized.

Mr. MATTINGLY. Thank you, Mr. President.

Mr. President, I rise to make a few points in reference to the Hatch plan or the Hatch substitute.

I think if we look for a plan that could lead to economic recovery, meaning creation of jobs, that gives us permanence in the recovery that we really need in our country where we do not have to return to the cyclic highs and lows of going back to increasing inflation and having up and down cycles in that terrible issue that we have just revisited and to avoid the high interest rates which we are just now getting away from that came upon us in the prior administration that reached a peak and all-time high of 21½ percent prime and is now down to 10½, where we do not want that to have another upsurge, to make sure that the recovery that is now modestly beginning does not stop but in fact goes on, where we can have permanence in economic recovery, the Hatch plan, the Hatch substitute for the budget offers that because what it does is it offers stability. It offers not only stability in Congress but it offers stability in the private sector. It offers stability for savers and investors for capital formation. It offers that stability because it says we are not going to tinker much with the system in the next few years. It says if you do not tinker with the system, the economic recovery will become a stronger recovery and create jobs, and it will in fact do what we intend to do and try to aid in this country through Congress.

Sometimes the Congress can get in the way. I think we have seen the Congress get in the way in many years past trying to put little fixes on the economy to try to make it better, and each time it tried to fix it in fact made it worse.

But the whole idea behind this budget is to try not only to get control of our Federal spending here at the Federal level but trying to have some impact on the creation of jobs in our country and that is the bottom line, jobs, the creation of jobs. And how are you going to do it? Not create Government jobs but make sure we create those jobs in the private sector.

Now the Hatch plan has faced those issues very clearly and comes up with a fine idea, and it is not a complicated idea. It says "Let's don't spend much money at the Federal level, stay away from the tax at the Federal level," and, as I said before, "Don't overspend."

The Hatch plan, I think, when it is all over, when this budget process is all over, whether it ends this week or next week, we are going to see the Hatch plan has in fact hatched a plan, and I think that is important. Each time these people get up on the Senate floor with a proposal, some of them die on the vine and you never hear of them again; some of them end up being the nucleus of something that happens further on the floor, and the Hatch plan is going to be that. It is going to hatch a plan, I think, that is going to try to save us from the spenders who reside on this floor of the Senate and reside on the floor of the House of Representatives.

I think what it is going to end up saying is, "Let's not tinker too much more here by the U.S. Congress. Let's just sort of let the system operate, the private sector operate," that is what I think will be the resolution and the result of the Hatch proposal.

I support wholeheartedly the Hatch-Gramm substitute. We may not survive on this first vote but the idea is going to survive and, I believe, prevail.

There have been a lot of attempts made since I have been here in the Senate in the last 2 years and 3 months to try to make this country better and making something happen, and the Senator from South Carolina tried that, I believe, in the spring of 1981, Senator HOLLINGS. I think if we had listened clearly and followed what he said at that time we probably would not have had the problems we have had over the past 2 years. We probably would have had some of the problems but they would have been easier to solve. I think his ideas are still good, and his ideas are still embodied, Senator HOLLINGS, in some of the Hatch proposals and some of the proposals we have been trying to get through here in the last 2 years and 3 months, and I compliment my colleague from South Carolina for what he has done in that respect.

So, Mr. President, I want to say I support the Hatch substitute and I also support what the substitute is going to hatch. I thank you, Mr. President.

The **PRESIDING OFFICER**. Who yields time?

Mr. CHILES. Mr. President, I am prepared to yield back the remainder of my time.

Mr. HATCH. I understand the distinguished Senator from South Carolina wants to speak but as soon as he has concluded, I will make one or two comments and then vote.

Mr. CHILES. I was prepared to yield back the remainder of the time on this amendment. Does the Senator from South Carolina want to speak on this amendment?

Mr. HOLLINGS. Later.

Mr. CHILES. I yield

Mr. HATCH. Are the yeas and nays ordered, Mr. President?

The **PRESIDING OFFICER**. The yeas and nays have been ordered.

Mr. CHILES. I yield back the remainder of my time.

The **PRESIDING OFFICER**. The Senator from South Carolina.

AMENDMENT NO. 1229

(Purpose: To substitute alternative provisions.)

Mr. HOLLINGS. I send an amendment to the desk and ask the clerk to report.

The **PRESIDING OFFICER**. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes an amendment numbered 1229.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted by amendment numbered 1227, insert the following

That the Congress hereby determines and declares that the concurrent resolution on the budget for fiscal year 1983 is hereby revised, the first concurrent resolution on the budget for fiscal year 1984 is hereby established, and the appropriate budgetary levels for fiscal years 1985 and 1986 are hereby set forth:

(a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1982, October 1, 1983, October 1, 1984, and October 1, 1985:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1983: $610,300,000,000.
Fiscal year 1984: $685,600,000,000.
Fiscal year 1985: $762,600,000,000.
Fiscal year 1986: $831,100,000,000.

and the amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 1983: +$7,200,000,000.
Fiscal year 1984: +$30,200,000,000.
Fiscal year 1985: +$39,100,000,000.
Fiscal year 1986: +$52,200,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1983: $35,900,000,000.
Fiscal year 1984: $39,700,000,000.
Fiscal year 1985: $44,200,000,000.
Fiscal year 1986: $50,900,000,000.

and the amounts for Federal Insurance Contributions Act revenues and other revenues pursuant to Public Law 98-2 for old age, survivors, and disability insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1983: $148,500,000,000.
Fiscal year 1984: $166,500,000,000.
Fiscal year 1985: $187,700,000,000.
Fiscal year 1986: $204,400,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1983: $874,200,000,000.
Fiscal year 1984: $896,000,000,000.
Fiscal year 1985: $957,070,000,000.
Fiscal year 1986: $1,008,640,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1983: $806,840,000,000.
Fiscal year 1984: $844,490,000,000.
Fiscal year 1985: $889,960,000,000.
Fiscal year 1986: $934,930,000,000.

(4) The amounts of the deficits in the budget which are appropriate in the light of economic conditions and all other relevant factors are as follows:

Fiscal year 1983: $196,540,000,000.
Fiscal year 1984: $158,890,000,000.
Fiscal year 1985: $126,360,000,000.
Fiscal year 1986: $103,830,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1983: $1,383,900,000,000.
Fiscal year 1984: $1,591,100,000,000.
Fiscal year 1985: $1,788,800,000,000.
Fiscal year 1986: $1,979,600,000,000.

and the amounts by which the temporary statutory limits on such debt should be accordingly increased are as follows:

Fiscal year 1983: $93,700,000,000.
Fiscal year 1984: $207,200,000,000.
Fiscal year 1985: $197,700,000,000.
Fiscal year 1986: $197,800,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1982, October 1, 1983, October 1, 1984, October 1, 1985, are as follows:

Fiscal year 1983:
(A) New direct loan obligations, $55,400,000,000.
(B) New loan guarantee commitments, $94,500,000,000.
Fiscal year 1984:
(A) New direct loan obligations, $48,200,000,000.
(B) New loan guarantee commitments, $94,500,000,000.
Fiscal year 1985:
(A) New direct loan obligations, $48,100,000,000.
(B) New loan guarantee commitments, $97,400,000,000.
Fiscal year 1986:
(A) New direct loan obligations, $48,700,000,000.
(B) New loan guarantee commitments, $101,000,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new loan guarantee commitments for fiscal years 1983 through 1986 for each major functional category are:

(1) National Defense (050):
Fiscal year 1983:
(A) New budget authority, $244,100,000,000.
(B) Outlays, $214,300,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1984:
(A) New budget authority, $262,600,000,000.
(B) Outlays, $239,500,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $284,700,000,000.
(B) Outlays, $259,700,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $308,100,000,000.
(B) Outlays, $282,400,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.

(2) International Affairs (150):
Fiscal year 1983:
(A) New budget authority, $24,100,000,000.
(B) Outlays, $11,300,000,000.
(C) New direct loan obligations, $11,700,000,000.
(D) New loan guarantee commitments, $9,200,000,000.
Fiscal year 1984:
(A) New budget authority, $17,500,000,000.
(B) Outlays, $12,140,000,000.
(C) New direct loan obligations, $11,200,000,000.
(D) New loan guarantee commitments, $10,300,000,000.
Fiscal year 1985:
(A) New budget authority, $15,800,000,000.
(B) Outlays, $12,000,000,000.
(C) New direct loan obligations, $11,500,000,000.
(D) New loan guarantee commitments, $10,300,000,000.
Fiscal year 1986:
(A) New budget authority, $14,990,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $11,600,000,000.
(D) New loan guarantee commitments, $10,300,000,000.

(3) General Science, Space, and Technology (250):
Fiscal year 1983:
(A) New budget authority, $7,900,000,000.
(B) Outlays, $7,700,000,000.
(C) New direct loan obligations, $200,000,000.
(D) New loan guarantee commitments, $0.
Fiscal year 1984:
(A) New budget authority, $7,700,000,000.
(B) Outlays, $7,700,000,000.
(C) New direct loan obligations, $37,000,000.
(D) New loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $7,400,000,000.
(B) Outlays, $7,500,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $7,200,000,000.
(B) Outlays, $7,200,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.

(4) Energy (270):
Fiscal year 1983:
(A) New budget authority, $3,900,000,000.
(B) Outlays, $4,400,000,000.

(C) New direct loan obligations, $13,100,000,000.

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1984:

(A) New budget authority, $3,900,000,000.

(B) Outlays, $4,100,000,000.

(C) New direct loan obligations, $13,900,000,000.

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1985:

(A) New budget authority, $2,700,000,000.

(B) Outlays, $2,900,000,000.

(C) New direct loan obligations, $14,300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $3,200,000,000.

(B) Outlays, $2,800,000,000.

(C) New direct loan obligations, $14,400,000,000.

(D) New loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1983:

(A) New budget authority, $12,300,000,000.

(B) Outlays, $12,300,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $11,200,000,000.

(B) Outlays, $12,000,000,000.

(C) New direct loan obligations, $27,000,000.

(D) New loan guarantee commitments $0.

Fiscal year 1985:

(A) New budget authority, $11,000,000,000.

(B) Outlays, $11,700,000,000.

(C) New direct loan obligations, $27,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $10,800,000,000.

(B) Outlays, $11,200,000,000.

(C) New direct loan obligations, $27,000,000.

(D) New loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1983:

(A) New budget authority, $24,200,000,000.

(B) Outlays, $24,000,000,000.

(C) New direct loan obligations, $18,600,000,000.

(D) New loan guarantee commitments, $5,500,000,000.

Fiscal year 1984:

(A) New budget authority, $11,500,000,000.

(B) Outlays, $11,300,000,000.

(C) New direct loan obligations, $12,100,000,000.

(D) New loan guarantee commitments, $7,800,000,000.

Fiscal year 1985:

(A) New budget authority, $13,800,000,000.

(B) Outlays, $12,100,000,000.

(C) New direct loan obligations, $11,700,000,000.

(D) New loan guarantee commitments, $3,800,000,000.

Fiscal year 1986:

(A) New budget authority, $13,000,000,000.

(B) Outlays, $12,900,000,000.

(C) New direct loan obligations, $12,200,000,000.

(D) New loan guarantee commitments, $3,800,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1983:

(A) New budget authority, $5,100,000,000.

(B) Outlays, $3,300,000,000.

(C) New direct loan obligations, $6,500,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1984:

(A) New budget authority, $5,800,000,000.

(B) Outlays, $2,100,000,000.

(C) New direct loan obligations, $6,400,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1985:

(A) New budget authority, $6,300,000,000.

(B) Outlays, $0.

(C) New direct loan obligations, $6,300,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1986:

(A) New budget authority $6,300,000,000.

(B) Outlays, $0.

(C) New direct loan obligations, $6,300,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

(8) Transportation (400):

Fiscal year 1983:

(A) New budget authority, $26,900,000,000.

(B) Outlays, $22,000,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New loan guarantee commitments, $1,100,000,000.

Fiscal year 1984:

(A) New budget authority, $27,500,000,000.

(B) Outlays, $25,900,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $600,000,000.

Fiscal year 1985:

(A) New budget authority, $28,200,000,000.

(B) Outlays, $26,800,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $400,000,000.

Fiscal year 1986:

(A) New budget authority, $29,000,000,000.

(B) Outlays, $27,700,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $300,000,000.

(9) Community and Regional Development (450):

Fiscal year 1983:

(A) New budget authority, $8,600,000,000.

(B) Outlays, $7,800,000,000.

(C) New direct loan obligations, $2,100,000,000.

(D) New loan guarantee commitments, $500,000,000.

Fiscal year 1984:

(A) New budget authority, $7,000,000,000.

(B) Outlays, $8,500,000,000.

(C) New direct loan obligations, $1,700,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1985:

(A) New budget authority, $7,800,000,000.

(B) Outlays, $8,700,000,000.

(C) New direct loan obligations, $1,800,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1986:

(A) New budget authority, $7,900,000,000.

(B) Outlays, $8,200,000,000.

(C) New direct loan obligations, $1,800,000,000.

(D) New loan guarantee commitments, $400,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1983:

(A) New budget authority, 28,000,000,000.

(B) Outlays, $27,200,000,000.

(C) New direct loan obligations, $600,000,000.

(D) New loan guarantee commitments, $6,500,000,000.

Fiscal year 1984:

(A) New budget authority, $30,100,000,000.

(B) Outlays, $26,900,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New loan guarantee commitments, $6,600,000,000.

Fiscal year 1985:

(A) New budget authority, $27,100,000,000.

(B) Outlays, $27,000,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New loan guarantee commitments, $6,600,000,000.

Fiscal year 1986:

(A) New budget authority, $27,100,000,000.

(B) Outlays, $27,000,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New loan guarantee commitments, $6,600,000,000.

(11) Health (550):

Fiscal year 1983:

(A) New budget authority, $25,100,000,000.

(B) Outlays, $29,600,000,000.

(C) New direct loan obligations, $47,000,000.

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1984:

(A) New budget authority, $31,500,000,000.

(B) Outlays, $31,500,000,000.

(C) New direct loan obligations, $29,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1985:

(A) New budget authority, $34,900,000,000.

(B) Outlays, $34,500,000,000.

(C) New direct loan obligations, $28,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1986:

(A) New budget authority, $37,200,000,000.

(B) Outlays, $36,600,000,000.

(C) New direct loan obligations, $28,000,000.

(D) New loan guarantee commitments, $300,000,000.

(12) Medical Insurance (570):

Fiscal year 1983:

(A) New budget authority, $46,100,000,000.

(B) Outlays, $53,100,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $62,200,000,000.

(B) Outlays, $61,200,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 85:

(A) New budget authority, $70,400,000,000.

(B) Outlays, $69,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $80,600,000,000.

(B) Outlays, $79,400,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1983:

(A) New budget authority, $121,700,000,000.

(B) Outlays, $110,300,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New loan guarantee commitments, $14,600,000,000.

Fiscal year 1984:

(A) New budget authority, $121,900,000,000.

(B) Outlays, $103,600,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New loan guarantee commitments, $14,700,000,000.

Fiscal year 1985:

(A) New budget authority, $125,200,000,000.

(B) Outlays, $102,800,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New loan guarantee commitments, $16,500,000,000.

Fiscal year 1986:

(A) New budget authority, $129,500,000,000.

(B) Outlays, $104,400,000,000.

(C) New direct loan obligations, $500,000,000.

(D) New loan guarantee commitments, $18,100,000,000.

(14) Social Security (650):

Fiscal year 1983:

(A) New budget authority, $184,100,000,000.

(B) Outlays, $167,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $174,900,000,000.

(B) Outlays, $177,000,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $194,200,000,000.

(B) Outlays, $188,200,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $210,400,000,000.

(B) Outlays, $199,900,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1983:

(A) New budget authority, $24,900,000,000.

(B) Outlays, $24,500,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New loan guarantee commitments, $8,000,000,000.

Fiscal year 1984:

(A) New budget authority, $25,300,000,000.

(B) Outlays, $25,100,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New loan guarantee commitments, $9,000,000,000.

Fiscal year 1985:

(A) New budget authority, $25,300,000,000.

(B) Outlays, $25,100,000,000.

(C) New direct loan obligations, $600,000,000.

(D) New loan guarantee commitments, $10,500,000,000.

Fiscal year 1986:

(A) New budget authority, $25,300,000,000.

(B) Outlays, $25,100,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New loan guarantee commitments, $12,500,000,000.

(16) Administration of Justice (750):

Fiscal year 1983:

(A) New budget authority, $5,200,000,000.

(B) Outlays, $5,100,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $5,300,000,000.

(B) Outlays, $5,400,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $5,300,000,000.

(B) Outlays, $5,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $5,300,000,000.

(B) Outlays, $5,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1983:

(A) New budget authority, $5,600,000,000.

(B) Outlays, $5,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $5,600,000,000.

(B) Outlays, $5,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $5,800,000,000.

(B) Outlays, $5,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $5,900,000,000.

(B) Outlays, $5,800,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(18) General Purpose Fiscal Assistance (850):

Fiscal year 1983:

(A) New budget authority, $6,400,000,000.

(B) Outlays, $6,400,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $7,100,000,000.

(B) Outlays, $7,000,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $7,100,000,000.

(B) Outlays, $7,100,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $7,500,000,000.

(B) Outlays, $7,500,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

(19) Net Interest (900):

Fiscal year 1983:

(A) New budget authority, $87,300,000,000.

(B) Outlays, $87,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $94,600,000,000.

(B) Outlays, $94,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $100,300,000,000.

(B) Outlays, $100,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $100,500,000,000.

(B) Outlays, $100,500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(20) Allowances (920):

Fiscal year 1983:

(A) New budget authority, $800,000,000.

(B) Outlays, $900,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $500,000,000.

(B) Outlays, $500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $1,400,000,000.

(B) Outlays, $1,500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $2,400,000,000.

(B) Outlays, $2,500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(21) Undistributed Offsetting Receipts (950):

Fiscal year 1983:

(A) New budget authority, −$18,000,000,000.

(B) Outlays −$18,000,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, −$17,300,000,000.

(B) Outlays, −$17,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, −$18,600,000,000.

(B) Outlays, −$18,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, −$23,400,000,000.

(B) Outlays, −$23,400,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

RECONCILIATION

SEC. 2. (a) Not later than June 6, 1983, the Senate committees named in subsections (b), (c), and (d) of this section shall submit their recommendations to the Senate Committee on the Budget and not later than June 6, 1983, the House committees named in subsections (e), (f), and (g) of this section shall submit their recommendations to the House Committee on the Budget. After receiving those recommendations, the Committees on the Budget shall report to the House and Senate a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

SENATE COMMITTEES

(b)(1) The Senate Committee on Finance shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-334, sufficient to reduce outlays by $2,200,000,000 in fiscal year 1985; and to reduce outlays by $4,900,000,000 in fiscal year 1986.

(2) The Senate Committee on Finance shall report changes in laws within the jurisdiction of that committee sufficient to increase revenues as follows: $7,200,000,000 in fiscal year 1983; $30,200,000,000 in fiscal

year 1984; $39,100,000,000 in fiscal year 1985; and $52,200,000,000 in fiscal year 1986.

(c) The Senate Committee on Governmental Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $300,000,000 and outlays by $600,000,000 in fiscal year 1984; to reduce budget authority by $300,000,000 and outlays by $700,000,000 in fiscal year 1985, and to reduce budget authority by $700,000,000 and outlays by $1,800,000,000 in fiscal year 1986.

(d) The Senate Committee on Veterans' Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $200,000,000 and outlays by $200,000,000 in fiscal year 1984; to reduce budget authority by $200,000,000 and outlays by $200,000,000 in fiscal year 1985; and to reduce budget authority by $400,000,000 and outlays by $400,000,000 in fiscal year 1986.

HOUSE COMMITTEES

(e) The House Committee on Post Office and Civil Service shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $300,000,000 and outlays by $600,000,000 in fiscal year 1984; to reduce budget authority by $300,000,000 and outlays by $700,000,000 in fiscal year 1985; and to reduce budget authority by $700,000,000 and outlays by $1,800,000,000 in fiscal year 1986.

(f) The House Committee on Veterans' Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $200,000,000 and outlays by $200,000,000 in fiscal year 1984; to reduce budget authority by $200,000,000 and outlays by $200,000,000 in fiscal year 1985; and to reduce budget authority by $400,000,000 and outlays by $400,000,000 in fiscal year 1986.

(g)(1) The House Committee on Ways and Means shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $2,200,000,000 in fiscal year 1985; and to reduce outlays by $4,900,000,000 in fiscal year 1986.

(2) The House Committee on Ways and Means shall report changes in laws within the jurisdiction of that committee sufficient to increase revenues as follows: $7,200,000 in fiscal year 1983; $30,200,000,000 in fiscal year 1984; $39,100,000,000 in fiscal year 1985; and $51,900,000,000 in fiscal year 1986.

MISCELLANEOUS PROVISIONS

Sec. 3. It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution, or amendment thereto, providing—

(1) new budget authority for fiscal year 1984; or

(2) new spending authority described in section 401(c)(2)(C) of the Budget Act first effective in fiscal year 1984,

within the jurisdiction of any of its committees unless and until such committee makes the allocations or subdivisions required by section 302(b) of the Budget Act, in connection with the most recently agreed to concurrent resolution on the budget.

Sec. 4. It is the sense of the Congress that the President and the Congress, through the appropriations process, should limit the on-budget new direct loan obligations of the Federal Government to an amount not to exceed $37,600,000,0000 in fiscal year 1983 and $29,300,000,000 in fiscal year 1984; off-budget new direct loan obligations to an amount not to exceed $17,800,000,000 in fiscal year 1983 and $18,900,000,000 in fiscal year 1984; and new loan guarantee commitments to an amount not to exceed $94,500,000,000 in fiscal year 1983 and $94,500,0000,000 in fiscal year 1984. It is further the sense of the Congress that the President and the Congress should limit total Federal Financing Bank origination of direct loans guaranteed by other Federal agencies to $16,200,000,000 in fiscal year 1983 and $17,300,000,000 in fiscal year 1984, and Federal Financing Bank purchases of certificates of beneficial ownership from Federal agencies to $11,500,000,000 in fiscal year 1983 and $13,200,000,000 in fiscal year 1984. It is further the sense of the Congress that direct borrowing transactions of Federal agencies should be, to the maximum extent possible, restricted to the Federal Financing Bank.

Sec. 5. (a) The joint explanatory statement accompanying the conference report on this resolution shall include an estimated allocation, based upon the first section of this resolution as recommended in such conference report, of the appropriate levels of total new direct loan obligations and new loan guarantee commitments for fiscal year 1983 and fiscal year 1984, among each committee of the House of Representatives and the Senate which has jurisdiction over bills and resolutions providing such new obligations and commitments.

(b) As soon as practicable after this resolution is agreed to, every committee of each House, after consulting with the committee or committees of the other House to which all or part of the allocation has been made, shall subdivide among its subcommittees the allocation of new direct loan obligations and new loan guarantee commitments for fiscal year 1983 and fiscal year 1984, allocated to it in the joint explanatory statement accompanying the conference report on this resolution.

Sec. 6. It is the sense of the Congress that the budgets of Federal agencies initiating Federal Financing Bank purchases of certificates of beneficial ownership and originations of guaranteed loans should include the budget authority and outlays resulting from the transactions. The Congress recommends that the committees with jurisdiction over the Federal Financing Bank Act of 1973 consider expeditiously legislation to require that the budgetary impact of such Federal Financing Bank transactions be included in the budgets of the initiating agencies beginning with the fiscal year 1985 budget.

Mr. HOLLINGS. In a sentence, Mr. President, this is a substitute of a real budget freeze for this so-called freeze amendment.

Early this morning, Mr. President, I heard an interesting colloquy about the lack of courage. I want to vote for the Senator from Utah, because he has it. Anybody who would come to the floor with a proposal that increases defense $285 billion, that cuts taxes by $30 billion, that increases the taxes on health benefits, that busts the budget by ending up with a $158 billion deficit in 1988, and then calls all of that a budget freeze, certainly has courage. I will vote for him on that. [Laughter.]

But do not seriously worry about that, because in truth I have never heard such a contorted, distorted, misleading and conspiratorial act to mislead all of those good organizations he listed off into thinking that they were joining a budget freeze.

Now, I have about given up on appealing to the other side of the aisle for fiscal responsibility. But very briefly, I am going to try on my side. I am starting again the battle I fought and lost 2 years ago. I am asking the Senate to support a freeze on Federal spending for domestic and defense programs alike so that we can begin to eliminate the monstrous budget deficits looming ahead of us. I have talked to colleagues on both sides of the aisle about this. And, incidentally, let me compliment the chairman of our Budget Committee, Senator DOMENICI. I have worked closely with him and he has done a fine job under difficult circumstances. But I do not agree with the preemption of the budget process by the White House because this is a congressional resolution. It does not call for the President's signature, and we Democrats, when we controlled both Houses, effected a discipline on the White House, and not vice versa.

Allow me to shake your memories a bit now. Back in 1980 when President Carter submitted his budget that upended the bond market in February, we called the White House in and worked with them around the clock. On March 30, the President submitted that budget. That has not been done in this case

I heartily compliment my distinguished colleague, the Senator from Florida, our ranking member. He has gotten us almost all together. If he can get us all together, I will opt for him to be the majority leader because I have tried to work to get our colleagues together myself and it is very, very difficult. The Senator from Florida has been doing an outstanding job.

But I am now asking the Senate to support a freeze on Federal spending for domestic and defense programs alike so that we can begin to eliminate this monstrous budget deficit.

I am trying a different approach. The last time I tried to appeal to the men of courage of both political parties to vote for the freeze as the only fair way of dealing with the problem, I failed miserably. I got only 12 votes. As one who has heretofore had some success in persuading his colleagues to support him on important issues, I was crushed. I never have suffered such a devastating defeat. So this time I am going to change my tactics and instead of trying to appeal to men of courage I am going to try to attempt to shame my fellow Democrats into supporting the freeze.

I take this approach for two reasons: First, I have just about concluded that the Republicans are beyond redemption. Amazing as it is, they are now defending the concept that deficits are a good thing; that there is nothing wrong with an unbalanced budget; that John Keynes is right in every way. They are embracing the unbalanced budget with the same zeal they embraced their balanced budget amendment only last summer.

How can you hope to reason with people like that?

My other reason for changing tactics is that it is possible the Democrats might be persuaded to support the freeze as the way of rewinning control of the Senate and the Presidency.

I might possibly be able to move my fellow Democrats by shaming them into commonsense—by shaming them into realizing that the only way we are going to be able to regain the faith of the American people in our ability to run this country is by championing the cause of fiscal responsibility and balanced budgets. Perhaps I can shame them into doing the right thing.

The American people know we are the party of compassion and caring. The American people know we are the party of education and consumer protection and equal opportunities for all Americans regardless of race or religion.

The American people know we are the party which seeks to end poverty, which ardently desires an end to the nuclear arms race, and which cares most deeply about the environment.

The American people share those values with us. They are 100 percent with us on those issues. If elections were decided on those issues alone, we would never lose an election.

And yet the American people have taken power away from us in the U.S. Senate and in the White House.

Why?

The answer is obvious. They have lost faith in our ability to manage the economy. They have lost faith in our willingness to balance our checkbook.

They know the good things we want—and they want—for our country cannot be accomplished unless and until we balance the Federal budget. We not only need a freeze in Federal domestic and defense spending—the people demand it.

But, instead of that, so many of our Senate Democrats and so many of our Presidential candidates deliver the same old speeches calling for more and more Federal spending without telling anyone where the money is going to come from.

For shame.

They criticize Ronald Reagan for not spending enough on this, or enough on that—but they set no priorities of their own for spending and offer no alternatives.

For shame.

They criticize the President for all this mind-boggling spending on new weapons systems—except for those weapons systems produced in their own States, which they like.

For shame.

Each and every time a special interest group comes to them pleading for money, they rush to introduce a bill and make a speech on the Senate floor. Do they tell these groups there is no money in the Treasury—that the bill must be paid through deficit financing or through taking the money from someplace else? They do not.

For shame.

To demonstrate to the unemployed that they care about unemployment, they pass a token jobs bill—which I voted for because I do not have the time and the money to go around the country explaining its futility.

We all know this jobs bill will not do much more than protect the jobs of those politicians who make speeches about how great it is.

For shame.

To try to find a fall guy for high interest rates, they single out Paul Volcker and the Federal Reserve as the villains in the piece. You and I know the fault lies with the President and the Congress for failing to cut spending, not with the Federal Reserve.

For shame.

And in our present debate over the budget resolution, what did my fellow Democrats on the Budget Committee do?

They voted en masse—for keeping the deficits high and for increasing taxes.

For shame * * * for shame * * * for shame.

When are we going to learn why the American people have rejected us?

When are we going to learn that we can regain their confidence—so very easily—simply by freezing the budget and beginning the task of achieving a balance in our accounts.

They will come willingly to our side because they know that we are the party of progress—the party of the common man—the party which truly cares about working people.

But they are not going to come to our side if they feel we are the party of fiscal irresponsibility—no matter how much they share our social goals.

Mr. President, I do not know how successful I will be in pursuing this freeze amendment. I have been around here long enough to know that I will probably lose, and lose big. In fact, I will not be surprised if I am standing alone when the vote is taken.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. I thank the distinguished Presiding Officer. But I know what must be done.

I know we must first freeze the budget if we are ever going to cut the budget.

So I ask for your vote. And even if I cannot get your vote in the national interests, then please give me your vote in restoring the faith of the American people in our Democratic Party.

We can win this election—we can win every election—if we demonstrate to the people that we are responsible custodians of the public purse. Let us once again become the party of the people.

Mr. President, the ox is still in the ditch. The projected recovery from Reaganomics is lagging and weak. Every recovery from a recession since World War II has been at a GNP growth rate of 6 to 7 percent. Yet the administration optimistically projected only a 4-percent growth rate for the first quarter of this year. And now we see it is only 3.1 percent and that 11,381,000 unemployed still pad the bricks looking for a job. Bankruptcies still occur at 599 per week; thousands of acres of farmland continue to be sold; blue chip corporations move down in their credit ratings.

We have been on a collision course, Mr. President, since Reaganomics was launched in August 1981. Our refusal to acknowledge this commits us to a course of muddling along like England.

I have just returned, Mr. President, from Oklahoma, where I saw our good friend, former Senator Henry Bellmon, the former ranking member of the Budget Committee. In May 1981, Senator Bellmon and I met with a number of the financial experts of this country. I had just taken over as the chairman of the Budget Committee from Senator Muskie. We had in our meeting five former chairman of the Council of Economic Advisers. We had the heads of all of the econometric modeling firms, important economic forecasters of this land, and a Nobel prize winner in economics. We sought their counsel on how to turn the economy around and, to a man, they said in that summer of 1980, "kill the tax cut."

They outlined it as inflationary. We had the Carter proposal, the Reagan proposal, the Kemp-Roth proposal, and the Finance Committee proposal. They said that they were all bound to cause high deficits. But they suggested, if after the election a tax cut is necessary, we should institute it on the supply side for business only, as we did it in the 1960's. That was a tax strategy that worked.

In 1962, we passed the investment tax credit depreciation allowance for business only. We waited 2 years before we triggered in the across-the-board individual tax cuts. We knew then that reducing taxes is like turning an ocean liner at sea; it must be done in a deliberate, phased-in fashion.

And we followed those economists' advice in 1980. We accepted their wisdom in an election year. I was running for election and I like tax cuts, too. But we followed the prudent, tried formula. We were reelected and we put into the 1981 second concurrent resolution only $16.1 billion for tax cuts. But the rest is history.

The President came to town and he wanted to go to extremes on tax cuts. He demanded a $750 billion revenue reduction over 5 years plus a $1.6 billion increase in defense. He even backdated the business tax cuts to January 1, 1981. And from then on we went into an economic tailspin.

George Bush, as a candidate, had called this policy voodoo economics. John Anderson said you would have to do it with mirrors. Our distinguished majority leader said it was a riverboat gamble.

The Republican Governor of Vermont, and chairman of the National Governors Conference, Governor Snelling, called it an economic Bay of Pigs.

And even David Stockman called it a Trojan horse.

But the President prevailed.

Now we are continuing to hear the cries for toughing it out; "Give us time. Stay the course. America is on the mend."

What we need, Mr. President, is a freeze—a freeze on spending increases so as to thaw the economy.

Mr. President, I ask unanimous consent to insert into the RECORD a schedule of the Hollings proposal to reduce the budget deficit, and also a chart showing the supply side deficits of the President in contrast to those that would have occured if we had followed our own advice and counsel and moved in a bipartisan fashion in 1980. Harken the memory of that bipartisanship that existed even with a lameduck Congress. We instituted spending cuts in December 1980 in the first reconciliation bill. We had discipline. We showed it earlier in the year by rewriting the budget and we showed it later in December by cutting the budget. But with this leadership in the White House today there is no discipline. In every way they cry discipline but there is none.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOLLINGS PROPOSAL TO REDUCE PROJECTED DEFICITS

[In billions of dollars]

	1983	1984	1985	1986	1987	1988	5 yr total
CBO baseline deficit [1]	203.7	199.6	206.1	228.4	259.6	276.1	1,377.5
Deficit reductions							
Spending							
1 Defense—3 percent real growth in budget authority for defense purchases each year		2.5	18.4	33.1	43.4	50.8	148.0
2 Discretionary budget authority freeze		2.1	6.0	10.5	15.3	20.7	54.7
3 Federal pay—half-year freeze beginning Oct. 1, 1983, 3 percent cap in 1984 to 1988 (includes military and civilian personnel does not preclude special military recruitment and retention pay)		3.5	5.6	7.8	10.0	12.5	39.4
4 COLA's—half-year freeze beginning July 1, 1983, 3 percent cap in 1984 to 1988 (exempt food stamps and SSI). Medicare, medicaid, AFDC, etc., are unaffected since these programs do not have automatic COLA's. Social security freeze has already been enacted into law		.8	3.1	7.1	10.2	12.7	33.9
5 Interest savings		1.5	6.6	13.9	22.8	32.7	77.5
Revenues							
1 Repeal indexing			6.2	16.7	27.9	39.9	90.7
2 Eliminate July 1983 10 percent rate cut	7.2	30.2	37.9	35.5	38.1	40.9	164.8
1 Remaining deficit	196.5	158.9	127.3	103.8	92.0	65.9	744.4

[1] Includes President's defense request as reestimated by CBO and impact of jobs and social security bills.

SUPPLY SIDE DEFICITS

[In billions of dollars]

	Fiscal year—				
	1984	1985	1986	1987	1988
Deficits under pre 1981 tax law	97	56	14	+2	+37
Deficits under Budget Committee recommendation	163	147	133	135	124
Deficits under President's supply side policy	185	179	149	161	159

Source: Congressional Budget Office.

Mr. HOLLINGS. That chart prepared by the Congressional Budget Office on supply side deficits shows that if we had not had the 1981 tax law, by 1987 we would have a surplus, which was last obtained by Lyndon Baines Johnson in 1968 and 1969. They all palaver about the Great Society, but it had one good feature to it. That was that it was fiscally responsible—it produced a balanced budget.

Mr. President, I ask unanimous consent to insert into the RECORD the presentation made by the distinguished Secretaries of the Treasury under former Secretary of the Treasury Pete Peterson.

There being no objection, the material was ordered to be printed in the RECORD.

(The charts contained in the material are not reproducible in the RECORD.)

OUTLINE OF TESTIMONY OF PETER G. PETERSON, CHAIRMAN, LEHMAN BROTHERS KUHN LOEB, ONE OF SIX FOUNDING MEMBERS OF BIPARTISAN BUDGET APPEAL, SENATE BUDGET COMMITTEE

1. Emphasize that Secretaries Dillon, Fowler and myself do not speak for our 500 supporters on specifics of the President's Budget—on which we have not canvassed them. What they have agreed to support is limited to what appears in the advertisement. Before getting into specifics of his budget, I would like to define broad outlines of a growing consensus.

2. Growing consensus—and worry—that our economy is not only in short-term trouble but in long-term trouble.

2.1 Short-term troubles do and must get attention. However, too often, we seem to be reacting to this year's Public Enemy No. 1—whether it be high unemployment, high interest rates, high inflation or all of the above.

2.2 However, deepening concern about long-term health of U.S. economy. Is the American slide of the last decade irreversible? If we allow this slide to continue for another decade or more, will we not only be a weaker and poorer country than we need to be, but a very different country than we have been?

3. Growing consensus that we must get out of this current malaise but at the same time realistically face our long-term predicament.

3.1 Growing recognition that our spending is out of control, born and bred in an era of plenty that no longer is, that we are mindlessly and destructively cheating our future by mortgaging it with huge unfunded and "uncontrollable" liabilities and "contractual" obligations, entitlements and the like.

3.2 Growing recognition that one key is investment in productivity enhancing activities—plant and equipment, R&D, scientific education, training and retraining, public infrastructure.

3.21 The comparative Japanese vs. U.S. statistics for investment in the seventies.

3.3 Growing recognition that there are no miracle, instant, painless cures—supply side or otherwise—that painful choices will need to be made. Brute questions must be answered. Whose consumption is to be cut? Whose ox is to be gored? You can't invest unless you save, and you can't save and consume at the same time. Thus, we simply must face the longer term spending/consumption side of our economic equation.

3.4 Growing recognition that unprecedentedly high real interest rates are a principal source (and a reflection) of both the short-term economic crisis and long-term economic problem.

3.5 Growing recognition that huge out-year structural deficits are a principal cause of high real interest rates, and a destructive diversion of already limited savings pool from badly needed investment.

4. It is essential that we reconcile the short-term, current economic crisis and the long-term economic predicament.

4.1 What we believe is needed is a persuasive, unambiguous signal to the financial markets, delivered soon, that the underlying causes of the out-year—1985 and beyond—structural deficits are being attacked—but the actions themselves, as distinct from the signals, not taking effect so soon so as to jeoparidze an already fragile recovery.

4.2 Why must this signal be sent soon that these structural, building blocks will be in place by 1985? If we don't, the serious risk we take is that any recovery will be tepid and temporary, any recovery will be unbalanced and will ultimately break down from the clashing forces of the private capital needs of a growing economy in recovery with those of a federal government whose structural deficits are at growing and ravenous levels—leading to destructively high interest rates.

4.3 On the other hand, if there is such a persuasive signal that the long-term structural deficits will be substantially reduced, that should help bring about a balanced recovery.

4.31 The current recovery would be broadened—

4.311 particularly in the interest-sensitive industries (autos, housing, construction, etc.) that are virtually in a depression.

4.312 particularly, by fortifying our weakened—indeed anemic—export industries and regain the 1 to 2 million jobs in those industries we have lost due to a seriously overvalued dollar. Those lost jobs, export sales and profits are a serious price we are paying for these very high real interest rates and unprecedented, growing federal borrowing demands.

4.32 The recovery would be deepened by encouraging desperately needed investment.

4.33 We must avoid another exacerbated, unfortunate and unnecessary "Catch 22" collision between tight money and loose fiscal policy or "Catch 22" collusion between long-term loose fiscal policy and long-term loose monetary policy (which would fuel inflationary expectations and long-term interest rates.) We simply must get our fiscal house in order if we are to achieve a healthy balance between fiscal policy and monetary policy.

5. If we are to build a sound, durable, fiscal structure we see a rapidly growing consensus that it will require a fiscal triad.

5.1 Significant cuts in 1985 non-defense areas—$60 billion—

5.11 Essential that we focus on vast, 100% indexed non-means tested entitlement programs, subsidies and other programs not targeted on the poor.

5.111 Simple arithmetic gets us there (review budget charts).

5.112 Simple equity requires us (review pattern of larger reductions in means-tested programs)

5.113 In my own view, as I look at the relatively small additional dollar reductions in some of the means tested programs that have been proposed in the President's budget—$1 billion each in food stamps and AFDC, $450 million in energy and emergency assistance, $850 million in medicaid—I am driven to the conclusion that in relation to a $250 billion deficit (as I look at the need to build a bi-partisan consensus that the burden sharing is fair) much can be said for showing unusual diligence and senitivity in reviewing each of the additional proposed reductions in programs targeted to the poor. I believe that we in the middle and upper income groups and organizations need to demonstrate that we are stepping up to the plate.

Programs to the poor are clearly not the enemy of fiscal prudence. Rather, the poor are the principal victims of this economic malaise. As Pogo would have said, the principal fiscal enemy is us, those of us in the middle and upper income groups and organizations who are the principal beneficiaries of the most rapidly growing—and up to now largerly untouched—programs.

There is much talk about the safety net for the needy. In fact, it is the well padded hammock for the middle and upper income groups that must now be the focus of the spending reduction efforts.

5.2 Meaningful reductions in defense budget—$25 billion in 1985 budget plus whatever one gets in military pensions—

5.21 Consensus behind sustained and sustainable defense build-up—such a reduction still permits that.

5.22 Must be perceived to be, as well as be, sustainable to our allies and adversaries alike, economically and politically.

5.23 Strong foreign policy and defense requires a strong economy.

5.24 Given political vectors in American politics, very unlikely to get indispensable reductions in non-means-tested entitlement programs unless defense shares meaningfully in deficit reduction effort.

5.3 Significant tax increases will be necessary—not now which would be counterproductive—but enacted soon to be in place by 1985—in the context of a growing economy. (A key part of an unambiguous signal to financial markets.)

5.31 What is clear to financial markets—and the country now—is that once again, it has been far easier to cut taxes than to cut spending.

5.32 If we agree that national priorities require that we spend a certain level of resources, then we must pay for it directly and honestly, and not "borrow" it. We are a rich country. We can afford to pay for government we need.

5.33 The case for consumption-based taxes. Ours is the most pro-borrowing, pro-consumption and anti-savings and anti-investment tax system in the industrial world.

6. Overall appraisal of President's Budget.

6.1 Some Positive Factors:

6.11 Praise the new fiscal realism in this budget. Bipartisan budget appeal group deeply concerned about lack of it previously.

6.12 Praise focus on certain non-means-tested entitlement programs—i.e., freeze in federal and military pensions.

However, as our advertisement points out, fiscal reform also requires cap on indexing process that drives the non-means tested programs.

6.13 Praise focus on medicare and the perverse and negative incentives that are driving up the costs of these programs.

6.14 Praise new emphasis on science education research and development.

6.15 Praise commitment to expanding trade.

6.2 Some concerns about 1985 budget vs. bi partisan appeals.

6.21 Deficits still too big for too long (see charts for comparison to bi-partisan goal).

6.22 Defense budget reductions inadequate.

6.23 Reductions in non-means tested program not substantial enough?

6.23a Continued reductions in means-tested programs?

6.24 Contingent tax increase in 1986. Clear to us the deficit is enormous even with sustained growth—about $200 billion in 1985—even with 5% real growth. Thus, we should face unpleasant fact that 1985 tax increases are needed. All this in context of our spending reductions being made.

A Bipartisan Appeal To Resolve the Budget Crisis

[Charts and graphs not reproducible in the Record.]

THE PROBLEM

Unprecedented, unending, growing deficits;

Growing mismatch between revenues and spending;

Will drain already limited savings;

Will rob critically needed investment in the future;

Near depression conditions now in interest sensitive industries.

DEFICITS MUST NOT BE ALLOWED TO SOAK UP SAVINGS: WOULD CUT AMOUNT AVAILABLE FOR NET NEW PRIVATE INVESTMENT TO HALF OF PREVIOUS LEVELS

[Savings as a percent of GNP]

	1961 to 1970	1971 to 1980	1985		
			$250 billion deficit	$75 billion deficit	$195 billion deficit [1]
Gross private savings	16.4	16.9	18.0	17.4	17.8
Personal	4.7	4.9	4.8	4.4	4.7
Business	11.7	12.0	13.2	13.0	13.1
Total use of savings	16.4	16.9	18.0	17.4	17.8
Less					
Financing the Federal deficit	0.5	1.9	6.5	2.0	5.1
Other [2]	0.5	0.9	1.5	1.0	1.3
Equal Amount available for gross private investments	15.4	15.9	13.0	16.4	14.0
Addendum Capital consumption allowance	8.4	9.9	9.8	9.8	9.8
Amount available for net new private investments	7.0	6.0	3.2	6.6	4.2

[1] President's budget

[2] Includes net foreign investment. State/local deficits

Adverse Impact of Unprecedented Real Interest Rates

Short Term—Near depression in interest sensitive industries (Autos, Housing, Construction, Durable Goods). This also depresses demand in basic industries and capital equipment.

Discourages investment, capital formation and job creation.

Overvalued dollar—enormous negative effects on jobs and exports—protectionism.

Bankruptcies—continuing fragile balance sheets.

Developing Countries—world economy—global financial system.

Results in unacceptably high unemployment—fixed feature of industrial landscape.

PRINCIPLES OF BUDGET REFORM

Long term emphasis (1985 and beyond).

Focus on spending—particularly programs that subsidize consumption.

Promote investment.

Fairness.

GOAL

How much does the deficit need to be cut? About of $175 billion in 1985. Thereby achieving overall goal of deficit less than 2% of GNP, heading toward balance.

The 1985 nominal GNP is about $3,800 billion to $4,000 billion; 2% is about $75 billion.

The 1985 deficit projection of $250 billion minus a target of $75 billion requires a reduction of $175 billion.

WHERE IN THE BUDGET HAVE THERE BEEN ACTUAL CUTS IN DOLLARS?

[In billions of dollars]

	1980 actual	1985 projection		1980–85 change	
		Baseline	President's budget	Baseline	President's budget
National defense	123.9	273.5	267.9	+149.6	+144.0
Benefit payments [1]					
Means tested	55.9	80.3	76.4	+24.4	+20.5
Not means tested	227.1	380.1	366.5	+153.0	+139.4
Grants to State/local governments	57.2	53.6	50.7	−3.6	−6.5
Other operations and subsidies	60.1	59.0	42.9	−1.1	−17.2
Net interest	52.5	121.9	114.2	+69.4	+61.7
Total	+576.7	968.4	918.5	+391.7	+341.8

[1] Mostly entitlements.

Source: Federal Reserve Bank of New York, Congressional Budget Office, Office of Management and Budget.

WHERE IN THE BUDGET HAS THE GNP SHARE DECLINED?

[Percentage]

	1980 actual	1985 projection		1980–85 change	
		Baseline	President's budget	Baseline	President's budget
National defense	4.8	7.1	7.0	+2.3	+2.2
Benefit payments [1]					
Means tested	2.2	2.1	2.0	[2] −0.1	[2] −0.2
Non-means tested	8.8	9.9	9.6	+1.1	+0.8
Grants to State/local governments	2.3	1.4	1.3	−0.9	−1.0
Other operations and subsidies	2.3	1.5	1.1	−0.8	−1.2
Net interest	2.0	3.2	3.0	+1.2	+1.0
Total	22.4	25.2	24.1	+2.8	+1.7

[1] Mostly entitlements.

[2] In 1981, 1982, projected levels scaled back over twice as much as non-means tested (10.1% vs 4.7%); in the President's new budget means tested scaled back by 4.9% versus 3.6% for non-means tested.

Source: Federal Reserve Bank of New York, Office of Management and Budget.

FEDERAL SPENDING—NOWHERE TO GO FOR LARGE CUTS BUT ENTITLEMENTS AND DEFENSE

[Dollars in billions]

	1985 projection	
	Amount	Percent of budget
National defense	$273.5	[1] 28.2
Benefit payments: [2]		
Means tested	80.3	8.3
Not means tested	380.1	[1] 39.2
Grants to State/local governments	53.6	5.5
Other operations and subsidies	59.0	6.1
Net interest	121.9	[1] 12.6
Total	[3] 968.4	100.0

[1] Eighty percent of budget.

[2] Mostly entitlements.

[3] $175 billion goal amounts to 17 to 18 percent of budget.

Source: Federal Reserve Bank of New York, Office of Management and Budget.

BUDGET REFORM: INDISPENSABLE BUT NOT THE ONLY ACTION

Other possible changes:

Monetary policy.

Social Security and federal pensions.

Research and development.

Tax incentives for saving and capital investment.

Rebuilding public infrastructure.

Education and retraining.

Reform exchange rate system.

Export policies.

Other.

However, any such measures will not prove effective without basic changes in budget policies.

THE BIPARTISAN PROGRAM

[In billions of dollars]

	1985 deficit reduction target	1985 President's budget
1 Entitlements and other nondefense programs	60	36
2 Defense	25	6
3 Taxes	60	10
These three areas of deficit reduction would lower the Federal interest costs [1] by	30	6
Total 1985 reduction	175	58

[1] For 1983–85, interest rate assumptions are those specified in the first concurrent resolution for 1982, declining to a rate of 7.4 percent in 1985.

1. Entitlements and Other Non-Defense Programs, 1985 Deficit Reduction Target, $60B.

1 year freeze on cost of living adjustments for major entitlement programs (Social Security, Veterans Benefits, Civil Service and Military Retirement, etc.).

Cap on indexing thereafter (eg: 60 percent of CPI, only in excess of 3 percent, etc.).

Similar restraint—transfers, subsidies and other programs not essential to needy.

Carried out in ways to protect the citizens truly in need.

SAVINGS TO THE FEDERAL BUDGET FROM THE COMMISSION'S REFORMS [1]

[Fiscal year, billions of dollars]

Reform	1983	1984	1985	1986	1987	1988	1989	1983–89
Tax retirement benefits	0.0	1.1	3.9	4.6	5.3	6.2	7.7	28.3
Move up tax increases	0.0	5.2	2.6	0.0	0.0	8.7	12.1	23.4
Increase self-employed tax	0.0	0.6	1.6	1.5	1.6	1.9	2.3	9.5
Military credit from Treasury	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
COLA delays	2.0	4.3	4.1	4.0	4.0	4.0	4.0	26.4
Expand coverage	0.0	0.2	0.6	1.0	1.3	1.3	1.6	6.0
Ban early withdrawal	0.0	0.0	0.0	0.0	0.8	1.0	0.8	7.6
Adjust benefits for spouses and disabled widows and widowers								1.3
Total [2]	2.0	11.4	7.6	11.1	13.0	23.1	28.0	51.9

[1] Totals may not add due to rounding.

[2] Annual savings totals do not include the $1.3 billion dissaving from adjusting benefits for spouses and disabled widows and widowers.

Federal grants-in-aid to State and local governments,[1] baseline projections under current policies

[By fiscal year, in millions of dollars]

	Projection 1985
Need related:	
Block grants for special education needs [2]	3,388
Human service block grants	3,017
Temporary employment assistance	0
Employment and training assistance	4,584
Subtotal, need related	10,989
Not need related:	
Federal-aid highways trust fund	9,420
State and local government fiscal assistance	5,124

	Projection
Community development grants	3,887
Environmental Protection Agency construction grants	3,265
Urban mass transportation	3,943
Services to selected groups	2,741
Education for the handicapped	1,137
Unemployment trust fund: training and employment	912
Vocational adult education	839
Impact aid, school assistance in federally affected areas	505
Community Services Administration	0
Energy conservation	442
Airport and airway trust fund	495
Bureau of Land Management permanent appropriations	644
Commodity Credit Corporation	310

	Projection
Economic development assistance payments	261
Urban development action grants	586
Work incentives, Health and Human Services	304
Federal payment to the District of Columbia	501
Funds appropriated to the President: Appalachian regional development programs	219
Law enforcement assistance	96
Extension Service, Department of Agriculture	381
Environmental Protection Agency: Abatement, control and compliance	409
Forest Service permanent appropriations	329

	Projection
Internal Revenues collections for Puerto Rico	280
All other (miscellaneous grant programs less than $300 million)	5,626
Subtotal, not need related	42,658
Grand total	53,647

[1] Does not include grants that are used for benefit payments to individuals (for example, medicaid).

[2] Formerly compensatory education for the disadvantaged.

TABLE 1.—*Benefit payments to individuals (need related), baseline projections under current policies*

[By fiscal year, in millions of dollars]

	Projected 1985
Entitlements:	
Medicaid	23,736
Child nutrition	3,894
Funds for strengthening markets	370
Special supplemental food program (WIC)	1,141
Assistance payments program (AFDC)	6,953
Supplemental security income	8,672
Payment where credit exceeds liability	1,004
Veterans Administration, pensions	3,898
Subtotal, entitlements	49,668
Not entitlements:	
Subsidized housing	10,030
Low-income housing	1,544
Other housing	50
Food stamps	12,232
Special milk	36
Food donations	162
Refugee and entrant assistance	680
Energy and emergency assistance	2,063
Student financial assistance	3,875
Subtotal, not entitlements	30,672
Total, need related	80,349

TABLE 2.—*Benefit payments to individuals baseline projections under current policies*

[By fiscal year, in millions of dollars]

	Projected 1985
Entitlements:	
Social Security retirement and disability	198,769
Medicare (hospital insurance)	47,493
Medicare (supplemental medical insurance)	24,810
Railroad retirement	6,496
Retired pay, defense	18,100
Civil service retirement	26,060
Special benefits (Federal employee) retirement and disability	472
Other Government retirement	738
Veterans' Administration, compensation	12,000
Unemployment compensation	27,230
Student loan insurance	4,158
Veterans readjustment benefits and education	1,059
Coal miners, special benefits	1,096
Black Lung disability	684
Special workers compensation	48
Veterans' Administration, burial benefits	151
National service life insurance	1,002
U.S. Government life insurance	55
Subtotal, entitlements	370,421
Not entitlements:	
Indian health service	688
Indian health facilities	58
Health services	319
St. Elizabeth's hospital	102
Construction of St. Elizabeth's hospital	6
Alcohol, drug abuse, and mental health administration	0
V.A. medical care	7,786
V.A. construction, major	616
V.A. construction, minor	115
Subtotal, not entitlements	9,690
Total, not need related	380,111

Other operations and subsidies, baseline projections under current policies

[By fiscal year, in billions of dollars]

	Projections 1985
Civilian agency pay	30.9
Commodity Credit Corporation	7.0
International Affairs	13.0
Other	8.1
Total	59.0

Source: Congressional Budget Office, Federal Reserve Bank of New York.

Mr. HOLLINGS. Everyone has been trying to tell us all year long that this economy is in trouble. These former Secretaries of the Treasury came and made one of the most dramatic presentations. And the Governors made history, if you please, Mr. President, when they came to town. I had been a member of that Governors Conference for some 20 years. Every Governor who ever comes to Washington always asks for more. He wants more for his highways, for urban areas, for health care. He needs assistance to implement all the Federal programs for change. Yet as desperate as we are in this land, the Governors came and said "Give us less. Reduce these deficits."

The mayors came and talked of their people living in automobiles and freezing to death, and of churches in their cities filling up with soup lines. Yet somehow mayors can freeze their budgets. And Governors can hold the line. And private industry can retrench and labor unions can reduce their demands. Everywhere everyone in this country can show discipline and live within their means. Everywhere but here in Washington.

This is a political show, this National Congress. They all take titles and misuse the language, like my friend from Utah. They say, "Freeze. Let us run up the defense budget some $285 billion but we will still call it a freeze. In 60 days we will have the money." But we are running at a $210 billion deficit right this minute.

What he says is, "We are going to cut taxes 10 percent and we will distribute this $30 billion in red ink around and call it a freeze. We will take health benefits and start taxing them, after already taking a lot away from the medicare beneficiary. We will increase their taxes but we will call it a freeze."

In fact, he has the audacity to say we will balance the budget, getting into the game of high growth-low growth economic assumptions. It is reminiscent of my colleague from Louisiana with the high poplowrum and the low poplahighrum. We really can be deceitful with the budget.

But we should be looking at the CBO figures. That is one thing the Budget Committee agreed on this year. We agreed to use the CBO figures. The Budget Committee has been loyal to that. And let us not start now with a shorter budget resolution. I understand there is a move afoot to have a 2-year resolution. Would that not be wonderful? Then we can take the credit for tax increases in the third year but nobody will see them. Using that hidden money, we can say the budget is balanced in the future.

Somebody better call John Anderson and tell him he ought to meet us on the Budget Committee. We are balancing the budget without mirrors, and they are accepting it.

But no one is listening. Our Republican friends are now defending the concept that deficits are a good thing, that there is nothing wrong with an unbalanced budget, that John Keynes was right in every way. They are embracing the unbalanced budget with the same zeal that they embraced their balanced budget amendment only last summer. And the Democrats seem to want the Republicans to go down in flames and then as a Phoenix we will rise from the economic ashes and be crowned king.

We need to stop, look, and listen.

We need to freeze.

We need to freeze spending increases so as to thaw the economy.

We need to join in a shared sacrifice to get this country moving again. This is our last chance.

We should have done it in the fall of 1981. Within a month after the adoption of Reaganomics, President Reagan saw his mistake. He appeared on national TV and changed directions. Then came the Stockman Atlantic Monthly article and the President changed back to his old Reaganomics. Since then he has tried to showboat it through with "Give us time," stay the course, "America is on the mend."

We should have done it last year but the President submitted a budget that every Republican on the Budget Committee voted against.

We should have done it already this year but again the President submitted a budget that 10 of the 12 Republicans on the Budget Committee voted against.

But the Congress can do it. The Congress can set the discipline. Need I remind you that this is a concurrent resolution. The budget resolution is not to be signed by the President. We never should have surrendered the process to the political partisanship of President Ronald Reagan. But today

there seems to be no care, no concern, certainly no courage.

In submitting my budget freeze—and before anyone starts picking it apart—I want to emphasize that I submit it as a jobs bill. All other jobs bills are phonies. We tried every flavor and variety that anyone could imagine during the 1970's and we ended up unemployed. Jobs are spawned and nurtured in a healthy economy. Fundamental to the health of the economy is that the Government operate on a pay-as-you-go basis. Minorities will ask where is the jobs bill for them—this is it. Women will ask where is their jobs bill—this is it. The jobs bill for the cities, the jobs bill for the rural areas—this is it. The jobs bill for the senior citizens—this is it.

I hereby offer my budget freeze proposal. This plan will move us toward a balanced budget and set us on the glide path to the black. By 1988, the deficit under my plan will be less than $66 billion. This compares to the $124 billion in this budget resolution. Between now and 1988, this proposal will result in $630 billion less in deficit spending and Federal borrowing than if we do nothing and continue under current policy. Over that same period it saves $162 billion more than the budget resolution and $270 billion more than the President's recommended budget.

If we here in Congress want to send a signal that we are serious, this is the way to go. We do not need another round of arbitrary budget cuts to solve our problem. We have been doing that for 3 years now and the deficits are larger than ever. We do not need another tax debate because the revenue solution is clear to everyone—we can not afford another dose of Kemp-Roth.

But what we do need to do is that one thing that is so evident to everyone in America—regain control and freeze the budget as nearly as possible to the 1983 levels. Freeze discretionary spending and the Tax Code. Hold defense to a 3-percent increase consistent with our NATO commitment. Freeze salaries and cost-of-living adjustments for 6 months as we just did in the social security program.

This is not a radical or revolutionary proposal—it is simple commonsense. Everywhere in America we are seeing people tighten their belts and pull together to live within their resources. We are seeing it in board rooms, union halls, in State capitols, and family budgets. Indeed, we are seeing good old-fashioned budget logic everywhere but here in Washington. The question is why?

Well, first opponents will say that the last year of the tax cut must remain. To vote for this proposal is to vote for "raising your taxes."

To that I say nonsense. This is not a vote to raise taxes but instead a vote to cut the deficits. Furthermore, no one's taxes are going to be increased under this proposal. All that will happen is that taxes will not be cut more. There is no increase or decrease involved here.

Further to the point, it should be noted that no economist that I have spoken to has said that if the 10-percent July cut was not already on the books, he would recommend it now. This economy simply cannot sustain these deficits and whether we like it or not, revenues are part of the problem and part of the solution.

As the following table shows, Congress has done a remarkable job of cutting spending since 1981. Spending reductions of over $387 billion will be achieved by 1988. But outweighing that—in fact more than doubling that—will be the revenue loss of $859 billion in tax cuts over that period. Right off the bat we have put ourselves in an untenable position. We are writing tax legislation in "red ink" by cutting taxes $2 for every $1 in budget reductions. Commonsense tells you that that is not the road to a balanced budget. Add to that a massive defense buildup that adds another $285 billion to the debt and you finally come closer to administration budgeting—built-in and guaranteed deficits as far as the eye can see. While it is true that we Democrats have often been guilty of mishandling the budget in the past, this President and his party are equally guilty of manhandling it in a way never believed possible.

INCREASES IN THE DEFICIT ATTRIBUTABLE TO CONGRESSIONAL POLICY ACTION

[By fiscal years, in billions of dollars]

	1982	1983	1984	1985	1986	1987	1988
Tax reduction	18	68	93	121	154	178	207
Defense spending increases	1	15	27	47	65	65	65
Nondefense spending cuts	42	47	56	59	61	61	61
Net change in deficit due to policy action	5	36	64	109	158	182	211

Source: CBO baseline budget projections for fiscal years 1984 to 1988.

Other opponents will question this proposal given the direction of the budget resolution now before us. "Isn't it true," they will say, "that this document is cutting the deficits?" They have a point, but only if you are willing to accept the second best alternative.

The budget resolution does show a downward trend in the deficit, but it saves $162 billion less than this freeze proposal. By 1988, the resolution deficit is still $124 billion—nearly twice the size of the $66 billion deficit in my proposal.

Additionally, the budget resolution is not fair. It continues us down the road of arbitrary budget cuts aimed at those who have already shouldered the bulk of the past 2 years of cutbacks. It cuts another $5.4 billion out of medicare, medicaid, AFDC, and unemployment benefits over the next 3 years.

On top of this, the budget resolution is not evenhanded. Some programs get increases, others get decreases. Of the 14 functions that are primarily discretionary in nature, 11 have increases, 1 has a decrease, and 2 are frozen at last year's level. That is hardly budget restraint, hardly a budget freeze, and hardly fair to those people in programs such as AFDC and medicaid who are again being asked to take a cutback.

It should also be noted that this amendment extends the concept that in difficult times, the lesser of the wage or price index should be used to calculate cost-of-living adjustments. Such a change was recently enacted in the social security reform bill and out of fairness, it should be extended to other Federal retirement programs. The resolution makes no such change.

Mr. President, today we have before us a chance to do better than the budget resolution suggests is possible. We have before us a proposal that will reduce the deficits, sustain the economic recovery, and keep interest rates low. We have a proposal that is fair and logical. We have a proposal that industry, labor, and local governments would applaud because they have been following a similar discipline for the last 3 years.

The only missing ingredient is discipline here in Washington. Are we willing to tackle these projected deficits in a meaningful and fair way? Are we willing to put the public interest above the special interest? Are we willing to exhibit the necessary leadership to get this country moving again?

I certainly hope so because the alternative is more than just a $200 billion deficit and an aborted economic recovery. It is an admission that we are incapable of responsible, effective leadership. And it is that abdication, that legacy, and that threat that will haunt us long after we leave this Chamber.

I thank the distinguished Senator from Florida and the distinguished Senator from New Mexico for this time. I yield the floor. I hope if there are any questions, I will have time to answer the questions.

(Mrs. KASSEBAUM assumed the Chair.)

Mr. HATCH. Will the Senator yield?

Mr. DOMENICI. I am pleased to yield.

Mr. HATCH. I will say to my dear friend from South Carolina that I enjoyed much of what he said. Some of it I did agree with, and some I did not agree with.

As I understand, basically, the distinguished Senator from South Carolina is offering his so-called spending freeze that he offered in the Budget Committee last year. Is this basically the spending freeze offered last year in the Budget Committee?

Mr. HOLLINGS. Yes, and defense at a 3-percent growth level.

Mr. HATCH. Let me cite some differences between his budget and ours.

First, let me compliment the distinguished Senator from South Carolina. I think it does take guts, and real guts, to go out in the Democratic Party and make the arguments he is making all over this country. He happens to be right in many respects. The fact of the matter is, the Treasury does not have any more money to spend. The fact of the matter is, we have been spending beyond our means. The fact of the matter is, this good Senator from South Carolina has been making that point all over the country. I think it completely distinguishes him from the rest of the crowd running for the Democratic nomination for President. I have to say he is telling the truth with regard to the financial distress and difficulty this country is in.

To do it as a Presidential candidate—and I mean a viable, real Presidential candidate—in the Democratic Party, I have to admit takes guts, real guts.

He cited some pretty important facts here, among which are that the new jobs bill is no jobs bill at all except for those politicians who voted for it and supported it. That takes guts in the Democratic Party, to say that.

I think he said a lot of other things that probably are true.

If I could point out a couple of differences between what the distinguished Senator from South Carolina is offering and what we are offering, I will then sit down.

I have to admit, if the distinguished Senator from South Carolina would offer a straight freeze, I would vote with him. I mean a freeze on taxes, too, not an increase on taxes. As I look at the so-called freeze substitute of the Senator from South Carolina to my substitute, he eliminates the third year of tax rate reductions that everybody is looking forward to accrue on July 1 of this year.

He eliminates tax indexing, which means we can, as congressional people, continue to play the game in the outyears, that every time inflation is up 1 percent, Federal revenues go up 1.65 percent. We can automatically tax the American people without any of us ever having to stand up on either floor of Congress and vote for taxation. It has been the methodology and one of the principal methodologies used by those who want to increase the tax burden and thus be able to increase their spending over the last 20 years, at least. By eliminating the third year of Reagan's tax cuts—and, I might add, Congress' tax cuts, because many Democrats voted for that, too, it was not just Reagan—and by eliminating indexing, the tax increases under the distinguished Senator's bill will be $31 billion, as I view it, in 1984; $45 billion in 1985; and a $58 billion increase in 1986. That is $134 billion of increased taxes.

I have to admit, Madam President, again, I shall pay the distinguished Senator from South Carolina a compliment. That is, his is a heck of a lot better than the House budget resolution that was passed in the House and, I might add, the Senate Budget Committee resolution, which would spend basically double that amount. I give him credit for that. But it is still a $134 billion increase in taxes on top of, in the last 8 months, another $248 billion in taxes. It goes along with the normal cry that we hear from a number of our colleagues in this body and the other. They just want to find more taxes for the American people.

Let us talk about the spending area, because the distinguished Senator from South Carolina believes as I do, that we ought to have a freeze on spending. However, let us understand what it means.

If we take his cuts in military spending, he would increase military spending by a 3-percent increase in 1984. That would be actually about $3 billion or $4 billion less on defense than we would spend at 7.5 percent. His total spending, in his bill, would be up $11 billion more than our modified freeze.

Our modified freeze would be $11 billion less than the so-called freeze of the distinguished Senator from South Carolina. If we add that to less on defense—in other words, the distinguished Senator from South Carolina is going to spend $14 billion more in domestic programs than our modified freeze would do.

If the distinguished Senator from South Carolina wanted a real freeze, if he would freeze taxes so they do not increase, if he would freeze the budget so it does not increase, freeze spending so it does not increase, I would vote with him. I think it has come to that point in American society and the economics of this country. But that is not what he wants. If he did that, we would balance the budget within the next 2 years—3 at the latest—proving that there is no real budget crisis; there is just a crisis of congressional will to do those things that have to be done.

But we did not even go that far. Although we cut $14 billion less, while increasing military spending and not increasing taxes, we cut $14 billion less in domestic spending—nondefense spending, I should say. We still do not increase taxes and we still are on a high growth path.

I agree, if you take a low-growth path, it will be more difficult; we shall not reach a balanced budget in 1989. But we believe if we show spending restraint and do not increase taxes and take the Federal burden off the American people to that extent, we will be on a high-growth path and we will not abort the recovery. I believe if we add even the $134 billion in additional taxes that the distinguished Senator from South Carolina would add, or the $268 billion the House would add, or the $264 billion the Senate budget resolution would add, we shall abort this recovery as quickly as anything we can do. If we take the distinguished Senator's 3-percent real growth in the military, the 5 percent of the Senate Budget Committee, or the 3.2 percent in real terms of the House Budget Committee, we are talking about an aborted recovery plus a weakening of the defense structure in this country that even Jimmy Carter said should not occur at those levels.

If we take the nondefense spending of the distinguished Senator from South Carolina—we have had to look at this hurriedly, because we have just received this substitute—and again, I join with him in the desire to have a freeze. But I would say that his approach is certainly not a freeze. You could call it a modified freeze, like ours. Ours is not a freeze, either, it is a modified freeze. Again, a freeze would balance the budget within 2 years.

If you take his approach, nondefense spending, with his freeze, keeping the military spending down to 3 percent in real terms in 1984, he would have plus $14 billion in additional social and domestic spending in this country over ours in 1984, $14 billion in additional spending in 1985, and $40 billion in additional spending in 1986.

I do not call that a freeze. I shall call it a modified freeze. That is all I can call what we have presented here today, a modified freeze. But his modified freeze, Madam President, it seems to me, does drastically reduce what even the Senate Budget Committee was willing to do for the military and it certainly drastically reduces what we are willing to do for the military, and ours, while increasing domestic spending—or, I should say, nondefense spending—over our budget really totals $68 billion in just 3 years.

I would suggest to the distinguished Senator from South Carolina that I admire his efforts, I admire him personally, he is my friend. I think he has guts. I admire what he is trying to do. But if he wants to freeze on a modified basis, he ought to go with us, because we do not increase taxes and we do have a chance of keeping this recovery going, having the high-growth path and resolving many of the problems this country has. But even if we are wrong, our paths will go a lot better than anything I think is likely to come out of this body or likely to come out of the House of Representatives or likely to come out of the conference of both Houses of Congress this year. Our trim lines are in the right direction. If we are right about high growth, and ours is the only approach that even has a chance for high growth, then it seems to me it is worthwhile voting for.

Again, Madam President, let me just end by saying to my dear friend and colleague that we disagree on some of these issues. I have to disagree on removing the tax cut; I have to disagree on removing tax indexation.

Frankly, I do not think Congress will ever get spending under control unless we quit taxing American people through these hidden taxes. I do agree with a number of things he has said and I do agree that the modified freeze approach we have is superior under the circumstances. I thank the Chair.

Mr. HOLLINGS. Madam President, I have to agree with my distinguished colleague, the Senator from Utah (Mr. Hatch). I appreciate his very complimentary remarks. I wish I could accept the compliment with respect to courage. I guess the best experiences one has in traveling this land is in beginning to see things in perspective. And you see at the local level, Madam President, tremendous courage.

Everywhere I turned in the State of Michigan, there are desperate circumstances. No one likes to increase the taxes. I am a Democrat. That is why I am confident I am speaking for a Democratic cause—one not necessarily felt in the National Congress—for a freeze. But let me loose in the cities, in the State capitals, on the highways of this land, and the Democratic edict is for being fiscally responsible.

The Governor in Michigan has had to increase taxes there to try to hold the line with respect to services and trying also to make good our commitment to the poor and to the disadvantaged and the unemployed.

You go to New York, to Governor Cuomo in Albany. I remember his gubernatorial race, and he had to take a few things from that campaign and move to a freeze by cutting down the number of State employees.

Harold Washington in Chicago, sworn in just 1 week ago. The first thing—a freeze.

You see the freeze at the local level. You see it in the board rooms. You see it in the labor union halls of this land. But you come back here and people talk about guts and courage—but don't vote that way. On the jobs bill, like I said, it only protected politicians' jobs. It did not create any permanent jobs. You see it on social security. We invaded the general fund to the tune of $11 billion a year, then started taxing the benefits. We never did level with the recipients. And you can just go right on down the line. Withholding on taxes. Wasn't that courageous? We just put it off for 4 years. The media lets this national Congress get away with murder. The Republicans are running around giving character to increased taxes 3 years from now, 1986. But they don't admit it. If I went into the State houses in Alabama, Oklahoma, Georgia, all of them—I just came from New Hampshire—and recommended increasing the taxes for the next Governor and for the next legislature, the folks in the media would report that some kook has gotten loose. A kook that wants to increase the taxes for the next people on watch after he will have flown the hatch and not be there for the heat. Whoever heard of that way of legislating or that kind of provision? My opponents talk about all of the solemnity and dignity and seriousness of purpose. I appreciate it, but the character and the courage is at the local level, I say to my colleagues in the Senate, it is not here.

When it comes to tax indexing, let us stop, look, and listen. That is a catch-22 situation because we cannot afford to index both the tax system and the entitlement programs. One or the other must change and if you did not index one or the other, that would be the solution. But the fact of the matter is that we index the entitlement programs today.

The last study that I had made as chairman of the Budget Committee in 1980 showed that the increased revenues for that year were $70 billion. And I will never forget it; $52 billion of the $70 billion was not due to bracket creep or inflation. The majority of new revenues coming in were due to President Carter and his administration creating millions of new jobs. Yet as revenues increased $70 billion, of the indexing of the entitlement programs increased costs by $83.1 billion. So Senator Domenici and Senator Hollings did not gather around the table and say, "Look at this big pile of money that we have here due to inflation. We do not even have to stand up and vote for these new revenues. We can just take this great pile of money and distribute it around, embellish the old programs and start new ones." Absolutely false. It is the most misleading thing put out by our chamber of commerce friends. They ought to come down to reality. Ask any State. They tried indexing in Minnesota. They promptly lost their credit rating. Ask any other State Governor to do that. He won't because he cannot print money.

He cannot afford to engage in these econometric models and economic arguments. Everybody in this town has turned into an economist—incentive, stimulation, destabilizing, provocative, exacerbating, everything except the actual fact. We have gone amok. You cannot go forward with indexing unless you want to create bigger deficits and a staggering, let me use one of their fanciful words, destabilizing of America's industrial community.

Madam President, I sat around a table with the high tech industries, the chairmen of boards and company presidents at a business meeting in Stamford, Conn. I will never forget it. I started in with my high tech talk and they said,

> Senator, cool it. We, in high tech, have all the money that we need and we can borrow at a reasonable rate. We are ready to go. We want to compete. We wish to build. But looking at you folks down in Washington with those big deficits, in 1984, 1985, with deficits in excess of $200 million out through 1986, 1988—that's our problem. When we run those type of deficits and perhaps higher, what really will occur when they exceed 5 percent of the GNP—

And when we are only saving at 7 percent of the GNP—that 2 percent difference is insufficient to finance the expansion of America's industry.

As we crowd in and start on our plans and others crowd in, we will get a nice loan at less than 10 percent and we will feel happy about it. Then by 1984 and 1985 the rate will be back to 18 percent. And we have just worked our way out of that situation, so we will freeze our expansion plans. We are not reemploying. We are not reindustrializing. We are not expanding. We are not competing because of this Congress, this Government in Washington, D.C.

So I know about the matter of the deficits and the effects they have had because I have been, I have seen, I have listened. They send their Governors here. They send their mayors here; but no one really listens.

Let me say a word about defense, because the distinguished Senator from Utah is absolutely mistaken. I have heard that argument before with respect to President Carter's defense budget. We all talk as to what this President did and what that President did; all in terms of percentages and not in terms of the real needs. But I will talk in their lingo. I will use their vocabulary of what President Carter did, because we put forward in this Chamber in September of 1979, a 5-percent real growth increase in national defense spending. We passed that with 55 votes. We did it in the Senate over the objection of the Budget Committee, the Armed Services Committee, the entire White House, and the Pentagon. I remember it well.

Let us extrapolate, Madam President, that 5 percent real growth and compare it with my 3 percent freeze—which incidentally is the commitment we have made with our NATO partners. We see that my 3 percent proposal is more than adequate.

The PRESIDING OFFICER. If the Senator will yield just a minute, his time has expired. He may with unanimous consent take time out of the resolution.

Mr. **HOLLINGS**. I have talked to the distinguished ranking Member on this side of the aisle and so, Madam President, I make that request.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **HOLLINGS**. Madam President, one of the most critical elements of my deficit reduction proposal concerns spending for our national defense. We must be willing to face up to what we realistically can afford for defense until the economic recovery is well accepted. A 3-percent real growth in defense per year for the next 5 years should be our goal.

It is no secret to observers of the congressional defense review process that I have long maintained we need more for defense. It has been only a short time ago that several of us successfully put in that 5 percent real growth amendment that I just referred to—and which added billions to President Carter's defense totals. Three percent real growth does not mean we are backing away from our earlier commitments for defense. My 3 percent defense objective would provide $150 billion more over the 1984-88 period than if the fiscal year 1980 5 percent amendment was extrapolated through 1988.

Remember the base. The base was smaller. The 3 percent defense proposal in my deficit reduction plan exceeds both the 5 percent plan they are referring to as my amendment on the one hand and to the Carter proposal, which I will also discuss, on the other hand. It exceeds the 5 percent September 1979 amendment by $150 billion.

Now is another time, now is another situation. All elements of Government and society must share in the sacrifice necessary for economic rejuvenation. If the discipline is broken for one interest, then who is to stop the tide for the others? I am constantly asked why we cannot enact this freeze if the President is going to come in his initial address and say, "I want my increases in defense, I want my tax cuts for the rich and oh, by the way, we want to freeze your programs." That is why there is no discipline. Those opposing my 3 percent real growth plan will claim it is not enough. Senators will hear that we are weakening ourselves; just as the Senator from Utah has said, that we would be lagging behind the Soviets. But under my 3 percent proposal let us look at the facts.

Madam President, under my proposal we would appropriate $1.551 trillion for defense during the 5-year period 1984-88. Think of it—over $1.5 trillion. It represents only $130 billion less than the defense totals recommended in the budget resolution. I think that $1.5 trillion over that period is more than adequate.

The amount appropriated for defense over the last 5-year period, 1979-83, is slightly more than $900 billion. Who can reasonably argue that 3 percent is shortchanging defense when it would provide $600 billion in 1984-88, more than we have had in the last 5 years?

Turn to the issue of real growth. I think it is a mistake to continue counting real growth as a measure of improved defenses, but the administration has framed the debate that way. Since 1980, real growth in defense spending has averaged nearly 12 percent per year. In procurement, it has been nearly 24 percent per year. In R&D it has been nearly 13 percent per year.

By requiring 3 percent per year through 1988, real growth will still average over 6 percent per year, 1980-88, and defense spending will have increased from $145 billion in 1980 to $361 billion in 1988. Think of that—going up to $216 billion.

Madam President, that 6 percent is a significant figure.

At the hearings we had with the political and military subcommittees of the North Atlantic Treaty Assembly in Lisbon, Portugal, in 1979, former Under Secretary of Defense Komer briefed us with respect to the 3-percent commitment to our NATO allies. He said that what we really needed was 6 percent, and that 3 percent was all our allies would agree to.

So I emphasize again that with my 3 percent growth, I am actually increasing or doubling our NATO agreement which Secretary Komer at the time said was so important.

I know we are going to hear the cry, "We can cut. The President is right—we should put up or shut up."

Start with the MX. The President's Commission on the MX gave us plenty reasons to discard that loser, and it ought not to be connected to the bargaining chip idea.

I will never forget meeting with the SALT I team in Helsinki, Finland, in August or September of 1971. At that time, bargaining chips were the big style on the floor of the U.S. Senate. Ambassador Gerry Smith, Paul Nitze, and Harold Brown said, "Gentlemen, don't ever approach the problem from the standpoint of a bargaining chip. The Soviets are sophisticated; and, sophisticated as they are, they know whether or not we need that weaponry. If you put it in because you need it, they will recognize it and take it seriously. If you put it in and don't need it, they will immediately spot it as a bargaining chip initiative, and they will ignore it."

Now we have gone even one step worse. We are not doing it as bargaining chips with the Soviets, we are considering the MX as a bargaining chip with our own administration. I think this is totally unwise. The MX should be debated on its own merit as a defense measure, and debating it on its own merit, it ought to be discarded and we should go to the D-5, Trident II missile, an upgrade of Minuteman's capability, a small mobile missile system, and more cruise missiles. We should eliminate the B-1 and a nuclear carrier.

I saw in the morning news—and someone should take note of it—that there was a dramatic vote in the House. They voted down a 37,300 increase in our military forces that was requested by the President. But I say to the Senator from Kansas, that we have also increased civilians in the DOD since President Reagan came to town, by a total of 66,000. By this time next year, it will be 82,000.

I will never forget my friend Senator Goldwater saying, "The military is run by the civilians over there." There is a jobs bill here, for sure, but it is not in the private sector. It is the DOD fat cats getting fatter. We are taking it from the poor folks with the food stamps and putting them in the Pentagon. We will have to increase the size of the Pentagon building before long, to fit 82,000 extra employees over there. Maybe we will have to build another bridge and widen the highways.

It is estimated that 6 percent of DOD contracts are awarded on a competitive basis. We should go to a much expanded competition on those contracts and require an annual increase in the percentage of competitive contracts if we really want to cut costs. Further, if we required that an independent test organization buy off on the readiness of systems to be deployed, we would not only save ourselves the embarrassment of having systems that do not work, but also save billions in the procurement pipeline by scrapping the dogs as they become apparent and end the currency of producing a system while still testing it.

Madam President, I ask unanimous consent to have printed in the Record a table listing my 3 percent defense proposal, the defense budget resolution total, the President's 10 percent level, and the extrapolation of the fiscal year 1980 5 percent real growth amendment—and comparisons of each. The table also provides President Carter's final defense budget adjusted for current inflation.

DEFENSE BUDGET RESOLUTION TOTALS AND OTHER ALTERNATIVES

	Vote in Budget Committee	1984		1985		1986		1987		1988		Totals	
		BA	0	BA	0	BA	0	BA	0	BA	0	BA	0
Budget resolution (5 percent)	17 to 4	267.0	241.4	299.5	270.7	334.8	300.0	372.1	331.5	410.4	361.6	1,683.8	1,505.2
Hollings (3 percent)		262.6	239.5	284.7	259.7	308.1	282.4	333.8	306.3	361.7	329.1	1,550.9	1,417.0
President (10 percent) with Congressional Budget Office reestimates	2 to 19	280.2	244.7	329.6	282.3	364.4	321.6	396.4	357.5	432.1	389.8	1,802.6	1,595.0
Hollings/Nunn (5 percent September 1979)		225.0	205.0	250.0	228.0	277.0	252.0	307.0	279.0	342.0	309.0	1,401.0	1,273.0
Differences:													
Hollings from budget resolution		-4.4	-1.9	-14.8	-11.0	-26.7	-17.6	-38.3	-25.2	-48.7	-32.5	-132.9	-88.2
Budget resolution from Reagan		-13.2	-3.3	-30.1	-11.6	-29.5	-21.6	-24.3	-26.0	-21.7	-28.2	-118.8	-90.7
Hollings over fiscal year 1980 5 percent amendment		+37.6	+34.5	+34.7	+31.7	+31.1	+30.4	+26.8	+27.3	+19.7	+20.1	+149.9	+144.0
Carter's final defense budget (adjusted for current inflation)		243.0	223.0	270.0	248.0	299.0	275.0						
Hollings over Carter		+19.6	+16.5	+14.7	+11.7	+9.1	+6.9						

Mr. HOLLINGS. Madam President, President Carter left town and said, "They are not going to outdefense me. Now that I am out of the White House, I am going to leave them a real defense budget."

I wish he had done that during his 4 year term—during the struggles we had to increase pay and increase equipment and readiness. He said, "I am really going to leave you one and see if you can digest it."

My 3 percent defense proposal exceeds President Carter's final defense budget totals in all years. In 1984, my proposal of $262.6 billion is $20 billion over Carter's proposal of $243 billion. In 1985, my percent figure is $284.7 billion. The Carter budget proposal was only $270 billion. So I exceed him again, by $15 billion.

In 1986, which is as far as the Carter submission went when he left in 1981, he had a figure of $299 billion. My 3 percent proposal is $308 billion, or I exceed the Carter figure again by $9 billion.

I wish to emphasize that fact. I have plenty of money for defense in my budget deficit reduction proposal. I wish to have some additional questions. I am ready to debate. I do not know whether I can seduce or shame or do what to get a vote on this substitute. But we are going to make a record and we are not going to let go.

My colleagues on the other side said a year ago that somehow, somewhere, we should get together and freeze.

What I am asking now on this side is to take the budget that President Reagan signed in December—when he said this is a fine budget—and modify it by extending the recently enacted social security revisions to all programs.

We can put a 3-percent cap on defense or freeze it at 3 percent, I say to the Senator. We have just approved defense budgets of $100 billion in round figures over the past 3 years. We increased 1981 over 1980 some $37 billion; 1982 over 1981, $34 billion; and we had another $28 billion here this last December. So we put in about $99 billion over the last 3 years and it has brought us to one more interesting point, for those interested in this. I will cite one Republican authority and I will cite one Democratic authority as I make this point.

My Democratic authority is the former president of Coca-Cola, Mr. Charlie Duncan—who served as Deputy Secretary of Defense. When I saw him earlier this year in Houston, Tex., where he is operating as an outstanding business executive, he said: "I will tell you, Fritz, I have run the Pentagon and there is no way for them to economically spend in that period of time $100 billion."

The Republican authority is none other than our current Deputy Secretary of Defense Mr. Paul Thayer. Last year—last spring as a matter of fact—he went to the Oval Office as chairman of the board of LTV and he said, "Mr. President, there is a bottleneck."

I am interpreting for him now, but as you know we had SALT I and a lot of talk during the seventies—and not a lot of action—and what he was saying when addressing the bottleneck is that we stepped down the military-industrial complex. We cannot reincarnate it overnight, and what we really need is a steady growth over a 5- to 6-year period rather than try to do it all at once.

He was saying that in the bottleneck we are spending the money uneconomically. We are wasting our citizens' money.

So if you were as rich as Rockefeller you would not come along with this 7½ and 10 percent for defense, or even if compromised at 6 percent. The amounts are totally distorted as to what we are capable of doing.

I recommend everyone run for President. Get out of town. Come back here and they all are talking about what the President thinks of the budget. He does not have anything to do with it. This is a congressional concurrent resolution. It's the budget set by the Congress. The President had his day in court. No one has mentioned deficits. Everyone is mentioning the percent in defense and the tax cuts. They are all going to end up with $180 billion in deficits. No; yours gets to $210 billion. No; yours gets to $160 billion.

That does not help get the economy off dead center. That is why we are not having an economic turnaround.

Finally, I found after traveling for a year that there is a Democratic precept, not necessarily in the national Congress, but it certainly is in the Governors' houses, in the mayors', in the city halls of America, in our businesses, and in the labor unions. Go down there and ask Lane Kirkland if he is operating on a balanced budget. Yes; he believes in it. They all believe in it. But they take us for monkeys up here. They can switch you around and juggle you around and have you spending pell mell on $200 billion.

Jimmy Carter at least kept the discipline. He brought the $79.4 billion deficit down to $27.7 billion. He helped us with our reconciliation in the first spending cut bill. If he had ever come to Congress with a $100 billion deficit, all the folks on the other side of the aisle would have signs, not these beautiful charts, and they would all jump up and say, "Impeach the President, impeach the President—fiscal irresponsibility."

Now the Republicans have $200 billion deficits and more—and they think it is fine, it is smart, and you can finesse it with El Salvador and some of these other things. They will move. That is a fast-moving crowd in that White House. I am having a hard time keeping up with them. But they have their minds off this budget deficit right now and, "We will El Salvador it or arms limit it until we get through this and then we will go to another style."

But I do thank our colleagues for their indulgence. You can tell that I feel very strongly about it. I have been 30 years in Government. This is the most irresponsible one I have ever seen.

Madam President, a distinguished contribution to the public dialog on economic recovery in the international arena has been made this year in the pages of the Economist. The discussion was launched by the former Chancellor of the Federal Republic of Germany, Helmut Schmidt, in the February 26 issue of the magazine. Chancellor Schmidt's stress on the need for American leadership for international recovery and cooperation gained worldwide notice. Several weeks later, in the April 23 Economist, several other experts took up the discussion. C. Fred Bergsten, Director of the Institute for International Economics and former Assistant Secretary of the Treasury for International Affairs, joined Lawrence R. Klein, professor of economics and finance at the

University of Pennsylvania, in some particularly penetrating observations on how to get the world economy moving again. Former British Chancellor of the Exchequer Denis Healy also commented succinctly on Chancellor Schmidt's proposals.

I will not attempt to summarize the discussion here. It has already been condensed by its original authors and deserves to be read as they presented it. I commend it to my colleagues because the subject addressed is of surpassing importance. America's role in the world economy is very much in question right now. We lack a coherent and comprehensive policy, and, sadly, precious few are even addressing the matter in the top councils of our Government. Not only do we all have to get up to speed on the issue; we have to get cracking on a solution to the problem. We face no more urgent challenge.

Madam President, I ask unaimous consent to have printed in the Record the pieces from the February 26, 1983, and the April 23, 1983, Economist.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Economist, Feb. 26, 1983]

The Inevitable Need for American Leadership

(The Körber Foundation in Hamburg asked Helmut Schmidt to outline, a few months after stepping down as federal chancellor of West Germany, his concept for heading off a worldwide recession. The following essay reflects the current state of his thoughts on the subject. It was compiled with substantial help from Manfred Lahnstein, (the finance minister in Mr. Schmidt's outgoing government. It is published here, and simultaneously in Die Zeit in Hamburg, Le Monde in Paris, Nihon Keizai Shimbun in Tokyo, and Panorama in Milan.)

[Charts not reproducible in Record.]

Nine years ago, immediately after the first oil price explosion, I wrote in an article in "Foreign Affairs":

> The impression . . . remains that the world economy has entered a phase of extraordinary instability and that its future course is absolutely uncertain; it may bring stability, but also still greater instability . . . the future course may just as well be characterised by disintegration, national isolation and the search for more self-sufficiency. We are still facing the question: will countries try to solve their joint problems by co-operating—as it were, play a game in which everyone is the winner—or will they move into confrontation, a game in which everyone is the loser?

In the early 1970s it looked as if we could all win: the industrial countries, the threshold countries, the oil-producing countries, even the non-oil developing countries.

Since the second oil price explosion, in 1979-80, all that has changed. We are now in a deep world economic recession, the worst since the 1930's. If we are lucky, historians will call these years "The Great Stagnation". But if we misread the signs of the times and continue to let the reins drag, our children will compare them with the catastrophe of the 1930s. They will begin to doubt our economic and political system, and in some countries they may—as the Germans did in 1933—jettison it altogether.

The world economy is in undeniably bad shape. But it is not incurable. Our problems are man-made, and they can be solved by man. But this means that governments must face up to their responsibilities. We cannot afford to believe in the invisible hand of the market so much that, as the American columnist Joseph Kraft puts it, we "prefer not to acknowledge the visible hand of explicit policy". The "self-healing powers of the market" cannot take care of all our problems.

I tried in government to steer a middle path between the two extremes of Keynesian economics and monetarist policy. But of course we could not prevent the German economy being increasingly drawn into the world economic crisis after the second oil price explosion. We remain bound to the world economy. It can only be steered by a joint effort. That is why 10 years ago we set up the "Library Group" [the informal meetings of finance ministers] and soon afterwards the economic summit meetings.

Today, governments appear paralyzed. Their inability to take political decisions is matched by the private helplessness of the unemployed and the hungry. The system which has brought us a world product of which our grandfathers, our fathers and ourselves had hardly dreamt is increasingly in danger of breaking down.

THE RISK OF A WORLD DEPRESSION

More than 32m people are now out of work in the western industrial countries. Even if these OECD countries were to get back to a real growth rate of 3 percent, unemployment would not drop in the next few years; if the major states continue their present economic policies, unemployment is bound to go on rising (chart 1). In fact, world production is shrinking. World trade has been stagnating since 1980 and declining since 1981. Capacity utilization is extremely low. Fixed capital investment is still declining. The number of bankruptcies worldwide reached a new peak in 1982. If soup kitchens have to be set up in Detroit, it amounts to a depression there.

Despite the marked drop in nominal interest rates, real rates are still extremely high (chart 2). In some industrial countries real interest rates actually rose further last year. World real interest rates are now at twice their average level in 1981. The exchange rates of the key currencies (chart 3) have gone haywire. Both the high real interest rates and the extreme fluctuations in exchange rates are causing considerable uncertainty in trade and contributing to the general reluctance to invest.

The real prices of many raw materials sold by developing countries are at their lowest level for 30 years. The developing countries can now buy much less with their earnings than before. Low raw material prices, high oil prices and exorbitantly high interest rates have caused a vast deterioration in the developing countries' current accounts. Their deficits in 1982 were still three times as high as in 1978. The non-oil developing countries together in 1978 had a current account deficit of $23 billion; by 1981 this had risen to $73 billion, and declined only slightly in 1982. That is why the developing countries' foreign debt in 1982 rose to more than $600 billion. More than three quarters of this (chart 4) is credit at market rates. Another year of worldwide recession could be catastrophic for them (perhaps with serious consequences for the creditor banks).

The countries in the Opec cartel have not been spared by the recession. Oil consumption in the western industrial countries has dropped by about 15 percent since 1979, partly as a result of energy-saving. Since the non-Opec oil producer countries have greatly stepped up their output in the past three years, Opec production—at falling market prices—has been virtually halved since 1979. The official price of $34 per barrel exists only on paper.

The communists countries in Comecon with their planned economies have also been badly hit by the recession. They believed for too long that the crisis would affect only the capitalist economies. They failed by a wide margin to meet their plan targets. Growth rates in east-west trade have slowed down markedly since 1981. The communists states' foreign debt increased steeply up to 1981; since then these countries have been granted virtually no fresh western bank loans.

The fact that a number of states—developing as well as eastern-block ones—were starting to resemble companies in need of financial reorganization made the commercial banks cut back on new lending. Payments went into arrears, moratoria were unilaterally decreed, and finally spectacular rescheduling took place, the end of which is not yet in sight.

The drop in exports to the sick countries affected employment in the healthy ones. More and more countries are now trying to ease their difficulties by subsidizing their exports and battening the hatches against imports. Protectionism is rampant. It is driving more and more countries to the verge of ruin, since markets are like parachutes—they only function when open.

My home, Hamburg, is a great port. The situation in shipping and shipbuilding is symptomatic of what is happening in the world economy. The Financial Times estimates that 12 percent of world tonnage is now laid up, although more than ever is being scrapped. Freight rates have collapsed. There is no sign of improvement in the tanker market, the tramp market, or for the line operators. But since all governments, under pressure from their parliaments, are continuing to subsidize their shipbuilding industries, more tonnage is being produced than is being scrapped. Banks and shipowners are in trouble.

The only bright spot—as well as an opportunity—in the present situation is that inflation has been contained in most countries and inflationary expectations have clearly been curbed, if not borken. But the braking has left frightening skid marks behind.

HOW THE DISASTER CAME ABOUT

The rapid inflation of the 1970s ushered in the world economic decline. It had complex causes. First, the surfeit of American dollars brought down the Bretton Woods system, which had been such a boon since the end of the war. It had kept exchange rates stable and forced the world's governments and central banks to adjust their policies to the value of the dollar. International trade, international lending and international investment could operate with fixed exchange rates. Towards the end of the 1960s, the reluctance to adjust exchange rates in good time and the problems of financing the Vietnam war put strong pressure on the central banks to intervene in the exchange markets. Since the United States could not or would not use its gold holdings for intervention, the system gradually collapsed in 1971-73. The value of the dollar declined rapidly, to an extent quite unjustified by the fundamentals.

The freeing of virtually all the world's exchange rates from the need to maintain a fixed exchange rate against the dollar also released governments from the pressure to adjust their budget and monetary policies to the state of their own balance of payments. Many governments afforded themselves high budget deficits which they financed through an expansionary monetary policy (printing money). Inflation and inflationary expectations rose steadily. This paved the way for the price explosion set off by the oil cartel. The quickly invented mechanisms to recycle the petrodollars did the rest. It seemed easy to create a huge Eurodollar market with the surplus oil dollars invested at short term, and to pile up hitherto unheard-of international debts. In fact the industrial countries in real terms paid only a small part of the increase in oil prices: the greater real burden fell on the developing countries, whose terms of trade deteriorated horrendously. But now the misfortune of high international indebtedness and the threat of insolvency has hit the industrial countries' commercial banks.

The second oil price shock of 1979-80 could not be absorbed in the same way, mainly for psychological and political reasons: many governments—rightly—began to fear inflation; they turned to monetary restrictions which quickly went too far.

Budget restrictions were in fact overdue in many countries. In the inflationary 1970s, even here and there in the 1960s, some states pushed ahead with state financing of welfare at a faster rate than real growth and tax revenues could pay for in the long run. In many countries the unfortunate indexing of social benefits made matters worse (while indexing of wages forced up inflation further).

At the same time parliaments and governments had started to subsidise their domestic agriculture and large sectors of their industry too much. The developed economies lost a good part of their flexibility and ability to adjust. And many developing countries set themselves over-ambitious development and industrialization targets; during the 1970s many of these turned out to be unrealistic.

Worldwide inflation followed the collapse of the Bretton Woods system and its fixed exchange rates. It was accompanied by a reversal of the trend towards liberalization in world trade. Even within the European community the 1970s' trends are becoming entrenched: short-sighted national egotism and the surrender of national economic policy to pressure groups are getting the better of international co-operation. There is a great danger that, for the second time this century, the world economy will slide into a long depression. Benjamin Franklin may turn out to be right: "We must all hang together, else we shall all hang separately.

THE ATTACK ON UNEMPLOYMENT

If governments do not find the strength to work together, they will inevitably repeat the mistakes of the 1930s: excessive monetary and fiscal restrictions, devaluation races, protectionism and breaks in the chain of international credit and in the world banking system. Bertrand Russell's humorous maxim—that you should never make the same mistake twice in life when there are so many to choose from—has today a choice of mistakes: the situation is too serious. The role of governments is not easy: they have to contend with vested interests in their societies and parliaments. So only by acting in concert with other governments will each individual government be able to resist this pressure. It is time for a joint economic policy offensive if governments mean to live up to their responsibility to tackle unemployment.

There are no patent remedies to eliminate unemployment overnight. Anyone who may have harboured such illusions should have learned from the recessions in the United States and Britain. Cutting unemployment is going to be a long, slow process. But we must set the targets now. The western industrial countries must take the lead, with the United States at the helm. What is needed is close coordination of individual economic policy measures in the major countries. These will obviously have to include measures both to stabilize demand and to improve investment activity. They will differ from country to country; but they must be compatible and must build on one another. Otherwise policies which may be perfectly sensible at the national level will come to nothing, or even backfire.

Henry Kissinger has recently spelt out clearly what may happen if no such concerted action is taken: "If the peoples of the west lose faith that democratic governments have control over their economic destinies, the economic crisis could become a crisis of western democracy."

At the economic summit in Williamsburg in May, concerted action by the seven summit participants [America, Japan, West Germany, France, Britain, Italy and the EEC commission] must be the central theme. We cannot afford a repetition of quarrels over third-rate issues forcing major issues off the agenda. We can solve the major problems only if the participants are prepared to make concessions. Mutual recrimination will get us nowhere.

EIGHT GUIDELINES

First, we must eliminate the contractive effects on the world economy of present monetary, fiscal, exchange-rate and trade policy and most recently the uncertainties in international lending. The most important need is to get real interest rates down—otherwise we are bound to march into a world depression.

Second, a sudden boost to demand and excessive creation of international liquidity would soon make the problems worse. That would take us back to worldwide inflation.

Third, we must tread a middle path. The industrial countries' economic policy must incorporate more expansionary elements again to prevent a further contraction of the world economy and provide the stimulus for a lasting expansion. This must be done through close co-ordination of monetary, fiscal and incomes policy, which in turn must be flanked by trade, exchange-rate and international credit policy.

Fourth, the major industrial countries' policy mix must be co-ordinated. Some countries have more room for manoeuvre than others—depending on their national circumstances. This room for manoeuvre can be expanded by concerted action. In co-ordination between countries, national interests and international requirements must be given equal rank.

Fifth, the present adjustment process of the national economies to the structural changes in the world economy must not be impeded, nor must the process of overcoming structural problems be interrupted. That applies to budget structures, social benefits, subsidies, the restructuring of energy supply and energy consumption; it applies to increased protection for the environment and its resources; the same goes for the processes set in motion to make it easier to strengthen the capital base of companies through profit-sharing schemes and the like.

Sixth, to overcome the crisis the world's financial system needs even stronger, institutionalised, co-operation between governments, central banks, bank supervisory authorities and private creditor banks. The International Monetary Fund and the World Bank must be considerably strengthened—not only in terms of funding, but also in terms of their opportunities for surveillance of and influence on the national economic policies of debtor countries and creditors. One major aim must be to stabilize exchange rates. Fresh credits to debtor countries must involve the IMF and the World Bank, to attach conditions not just to the financial terms of the loan but also to the debtor country's national economic policy. It is in the interest of both debtor and creditor countries to ensure that the world financial system will continue to function.

Seventh, official development aid must be stepped up in real terms, and on no account reduced further. The commercial banks must continue to be prepared to make fresh loans to the developing countries. However, recovery in the industrial countries is an essential prerequisite for improvement in the developing countries.

Eighth, 1983 must bring some first successes in the fight against protectionism. At the very least the Seven must enter into binding commitments not to introduce any further obstacles to trade with each other or with third countries in the next two years.

I shall comment in more detail on these eight points presently. But let me say straight away that the preparations for concerted action by the seven major industrial countries should begin without delay.

It is also essential to talk to, and coordinate with, the oil-exporting surplus countries on their future role, not only in oil supplies but also in world credit relations. They too have legitimate national interests. But for them, too, national interests and international requirements must rank equally. The mistakes made in Cancun [the summit of rich and poor country leaders held in 1981] and on other occasions must not lead to resignation. When the heads of government of the industrial world talk to each other at top level, they should envisage follow-up talks at top level with the major oil-producing countries too.

WHO CONTRIBUTES WHAT?

There will be no lasting recovery in the world economy so long as real interest rates remain extremely high. It is a threat to the whole system if a company can earn a higher yield on money investment than on capital investment over an extended period. A redistribution of share certificates and security titles will not, in the long term, create growth and jobs, any more than a redistribution of income claims will. The United States will have to take the lead in the required reduction in world interest levels, if only because of its importance in the world. It accounts for about 40 percent of the national product of all the OECD countries; around two thirds of all official foreign exchange reserves are held in US dollars; and about three quarters of Euromarket loans are denominated in US dollars and reflect American interest rates.

The deep recession in the American economy was caused by a combination of a highly restrictive monetary policy and a fiscal policy prepared to tolerate large deficits. The results were extremely high interest rates and a greatly overvalued dollar. At the same time as the brakes were being applied to monetary policy, there were massive tax cuts and a huge increase in defense spending. Trying to balance the budget under these conditions was like squaring the circle. The deficit in the current budget year is now estimated at over $200 billion.

The adverse impact of this policy has been reinforced by the feedback effects coming from the world economy. It was the high dollar interest rates which turned many countries' excessive debts into a problem. The result was a decline in exports from the United States to important customer countries. American banks, which are heavily involved in these countries, are anxious about their loans. The strong dollar is making American goods more expensive and causing the United States considerable export losses. A current account deficit of more than $30 billion is expected this year.

So the United States must come down from its high real interest rate level and the consequently overvalued dollar. The Federal Reserve must continue the more pragmatic course it adopted in the summer of last year.

There is an urgent need for real interest rates to get into line with economic requirements. In the present situation a long-term real interest rate of 2 percent would be appropriate, and there should at least be a drop in real interest rates to a maximum of 3.5 percent. Historically, this would still be very high.

The Fed will be able to steer such a course only if there is a prospect that the American federal budget will be put in order. The present deficit is due partly to cyclical factors; deficits of this kind have to be accepted; they will automatically reduce as the economic climate improves. But the deficits expected for 1984 and after are largely structural. Given the low savings rate in the American economy they are straining the capital markets (chart 5). The steps the administration proposes to take to reduce the deficits are therefore quite insufficient to inspire confidence that the trend will be reversed. Unless American budget policy aims for such a reversal, there will be no real recovery in the economy either in the United States or elsewhere.

Of course monetary policy in the medium term must not lose sight of the aim of a growth in money supply geared to potential output and stability. Ultimately what matters is the average growth in the money stock over several years and not from month to month or quarter to quarter. That applies not only to the United States but all the major industrial countries.

For dollar, yen and D-mark we should study whether in the medium term the central banks should not gear their money supply policy more closely to international demand for their currencies.

France's example has shown that purely expansionary national measures are not enough if they are not supported by co-ordinated action by other countries. The growing current account deficit and the pressure on the French currency forced the new government to change course again after only a year.

The balance-of-payments situation is still too precarious and the inflation rate still too high to permit more expansion, despite the relatively favourable budget situation. A cautious monetary policy and an incomes policy which will help to strengthen company profits could make a major contribution to strengthening international confidence in the French economy and the French franc. France would be particularly helped by coordinated action by those countries which can afford to switch to faster expansion. In return, however, it should resist its protectionist inclinations.

Italy cannot be advised to expand either. On the contrary: Italy will benefit from a worldwide upswing only if its monetary policy becomes more restrictive and its enormous budget deficit is reduced. Above all, Italy's serious economic problems cannot be solved without a further gradual reduction of the automatic wage adjustment (scala mobile).

Canada has recently notched up a small current account surplus, but the budget deficit (as a share of gnp) has quintupled over the past year. Although Canada's close economic integration with the United States forced it to apply monetary restrictions not justified in terms of its domestic economy, its inflation rate has hardly dropped at all. More than any other country, Canada can be expected to benefit from a further reduction in American interest rates.

Countries which already have a grip on their inflation rates, whose current account is in balance or surplus or whose capital markets are not overstrained by state budget deficits could start expanding again. This applies to Japan, West Germany, Britain, as well as Holland, Norway, Austria and Switzerland. Britain's chancellor of the exchequer, Sir Geoffrey Howe, is right when he says: "Where the budget deficit is under control and the external position strong, there may be scope for a rise in domestic activity to sustain the recovery."

Japan should have the courage to embark on a more expansionary fiscal policy. The large tax revenue, shortfalls because of the worldwide economic deterioration make Japan's budget position look worse than it is. The budget gaps will automatically narrow when the world economy picks up again. Moreover, the private savings ratio in Japan is very much higher than almost anywhere else. This will also create more room for financial manoeuvre. A relaxation of monetary policy would also be highly desirable. But this depends on a further decline in American interest rates.

In West Germany the prospects of a recovery have improved markedly since the spring of 1982: the inflation rate is now below 4 percent; the current account has been showing a healthy surplus since 1982; and the budget deficit has passed its peak. Further measures to stimulate investment, growth and employment would therefore be possible. Of course the medium-term consolidation course for the budget must be adhered to. The Bundesbank's scope for cutting interest rates further is limited by the trend in American interest rates but it should be made full use of.

A COMPARISON OF CURRENT ACCOUNTS—1978–82

[In billions of dollars]

	1978	1979	1980	1981	1982
United States	−14.8	−0.5	1.5	4.5	−[1] 6.9
Canada	−4.3	−4.2	−0.9	−4.5	[1] —
Japan	17.6	−8.8	−10.7	4.8	6½
France	−7.0	5.2	−4.2	−4.7	−11½
West Germany	9.0	−6.0	−16.3	−7.3	[2] 3.1
Italy	6.4	5.5	−9.7	−8.1	−5½
Britain	2.0	−1.8	6.7	12.1	[1] 8.0

Source: OECD [1] BIS [2] Bundesbank

Britain is another country which could pursue a more expansionary fiscal policy. The budget deficit is declining, and the public sector borrowing requirement has halved (as a share of gnp) in the past two years. In the current budget year, despite the Falklands war, the expenditure ceiling has again not been reached. The excessive cuts in public spending have not provided the expected stimulus to private investment; on the contrary, the "fiscal overkill" has perpetuated the recession and produced a higher tax ratio than under the previous Labour government. There are now more people out of work in Britain than there were in 1932.

There is scope for much larger tax cuts and selective public investment than planned. The fall in sterling in recent weeks, which is partly due to the current uncertainty in the oil markets, will not permit the Bank of England to cut interest rates further at present.

If Japan, Britain and West Germany expand in concert, Holland, Norway, Austria and Switzerland should not be afraid to join them. In all these countries, this concerted action should be discussed in depth with people on both sides of industry. The broader the consensus, the sooner vested interests will be overcome.

If we take courageous action in the next few months, we shall also gain time to cope with our medium-term problems. Many of these will require concerted action later. They include energy policy, which I shall discuss in a moment. But they also include problems which go beyond the scope of this essay, eg, a worldwide agreement to protect natural resources, especially water and air, and a worldwide policy to avoid the threatening population explosion and guarantee basic food supplies. Internally, public finances almost everywhere need consolidation, because in almost every country budget revenue and expenditure structures are based on the expectation of a relatively fast rate of economic growth, a condition which will no longer obtain in the foreseeable future. The consolidation of the social transfer and security systems must of course be included in this process.

A MORE STABLE WORLD MONETARY SYSTEM

Ten years after the collapse of the Bretton Woods system, which was based on stable exchange rates for all countries, the fluctuations between the major currency blocks (the dollar, yen and ecu) are more hectic than ever. The basic economic factors, ie, the differences in inflation rates or productivity, seem to be playing a shrinking part in the currency blocks' exchange rates.

The quality of an international monetary system can be measured by the criteria of reliable, calculable exchange rates, free capital flows, stable prices and steady growth in world trade and production. Judged by these criteria, the general unregulated floating since March, 1973, has not done well: except for considerable freedom in capital transactions, there has been a deterioration in all these areas. Valéry Giscard d'Estaing, George Shultz and I, with others, were the authors of the decisions of 1973. If any of us entertained longer-term hopes with these decisions, these hopes have definitely been disappointed.

The present "world monetary system" does not deserve the name. At best it is an unstable constellation or arrangement. Despite free floating, stability-conscious countries have been able to escape the worldwide inflation trend only to a limited extent, and no country has been able to escape the international economic linkage.

Within Europe, the creation of the European Monetary System (EMS) has made it possible to give more weight to the basic economic factors and to restore greater order to exchange rates. As a result, European trade is more robust than world trade as a whole. Above all, the system of fixed but adjustable intra-European exchange rates has forced the governments concerned into greater monetary and budgetary discipline. Britain, whose governments have so far declined to join the EMS, on contradictory grounds, would have been better able to weather the world recession had it been a member.

In 1977-78 the Europeans and the Japanese had to wrestle with the problems of an undervalued dollar. It took two years to convince the American administration that a weak dollar, though perhaps an economic asset, undermined the United States' political prestige. Since March, 1980, the undershooting of the dollar has been followed by an equally marked overshooting. Many Americans are now proud of their strong currency, but it is hampering American exports and provoking a protectionist mentality.

Since the beginning of 1981 the American monetary authorities have exercised almost total abstinence on the foreign exchange markets, but this was not what caused the dollar to soar. As President Reagan has rightly pointed out, the main cause was the high interest rates in the United States. Of course exchange rate policy is not just a matter of intervention. But the exchange rates of the major currencies must not be made into a football. This was correctly diagnosed at Bretton Woods by Harry D. White and John Maynard Keynes. Central banks and governments must make it plain where exchange rate policy is heading. They must stabilize exchange rates, they must give a clear signal on the foreign exchange markets, for left to themselves foreign exchange dealers will behave like a flock of sheep.

To avoid any misunderstanding: the central banks and governments would be ill-advised to try to correct or cover up the basic factors by intervention. It would be not only costly, but ultimately fruitless. At Versailles the Seven commissioned a joint intervention study. This will show that dollar interventions have indeed been valuable. I hope that the American monetary authorities will draw the necessary conclusion from this.

We must also implement the multilateral surveillance of and influence on the five key currencies (the dollar, yen, D-mark, sterling and French franc) agreed on in Versailles, under the auspices of the IMF. If the free flow of payments and hence free trade in goods and services is not to fall victim to growing bilateralism, the only way is closer co-operation between the key currency countries. It appears that Treasury Secretary Regan is thinking along similar lines.

I am not pleading for a return to the old Bretton Woods system. But a future world monetary system should be very much more stable than our current one, and it should be more flexible than in the past. It should offer security and calculability for trade and investment and guarantee greater continuity. That means more co-operation than now and in the past. That is an urgent task for the 1980s. It cannot be solved by the United Nations. It urgently requires American engagement and American leadership. It also needs European and Japanese help, as well as the co-operation of the oil producers and the non-oil developing countries.

CREDIT CREATES TRADE, TRADE SECURES CREDIT

The world's bankers have not just made the tremendous upswing in the world economy since the second world war possible, they have also played a decisive part in shaping it. But in the past ten years international banking has become more comprehensive and more important than anyone expected. Without the devastating consequences of the two oil price explosions the commercial banks would not now be playing such a key role in the world economy.

Banking, both nationally and internationally, depends on trust. It would be dreadful if the trust were to evaporate just when it is most urgently needed. In the 1930s there were far-reaching chains of bank crises which set off major tremors in the world economy. The major states have learnt their lessons. They have introduced strict criteria for bank liquidity and solvency and increased the protection available to depositors. Up to the 1970s all was calm. Not even the collapse of the private banks Franklin National and Herstatt sparked off a general crisis of confidence, because the two central banks and the two governments intervened fast.

But now the picture has changed completely. Poland, Ambrosiano and Mexico each have their own history. But together they give rise to the suspicion that many commercial banks in the 1970s overdid their international lending and that central banks and governments have neglected their supervisory functions and left their role as "lenders of last resort" unclear. It would be wrong to conclude from these examples that the international banking and finance system is unable to cope with the difficult problems which the current world economic situation has imposed on it. But everybody—central banks, governments, international organizations and private creditor banks—will have to pull in the same direction.

The first priority is to prevent a break in the international credit chains. The banks' foreign loans are concentrated on a few developing countries. The individual country risk is correspondingly high in relation to the banks' own capital; for example, loans by American banks to Brazilian and Mexican borrowers alone account for around two thirds of all American banks' own capital.

If the banks had to write off debts of this size, their own solvency would be at risk. But as long as they are all prepared to reschedule the debts if the borrowers have trouble paying, this is unlikely to happen. So it is much more likely that there will be partial write-offs at work—perhaps spread over longer periods. Various administrative or legal devices could be conceived to prevent an erosion of the banks' own funds.

Of course each individual bank remains responsible for its own liquidity and solvency. However, the actual or perceived increase in country risks in 1982 caused understandable but dangerous restraint in international banking. There was nervousness in inter-bank transactions as well. But the IMF and the Bank for International Settlements have so far warded off every crisis in a series of first-class fire-brigade actions.

The IMF will continue to play a key role as the only body which can impose economic policy conditions on its members when making loans. The commercial banks cannot do that. In the 1970's even wealthy industrial countries such as Britain and Italy have had to put up with conditions imposed by the IMF. Only such conditions can ensure that countries with balance-of-payments difficulties will put their house in order.

But the conditions must be realistic. We cannot ask all countries simultaneously to tighten their belts, cut back imports and increase exports. That would cause a drastic reduction in world trade, and the figures would not add up. The result would be economic chaos, probable political destabilization, at least in the developing countries concerned, and possibly consequences for the east-west balance.

Of course the debtor countries, the borrowers from the IMF, must make greater efforts: many ambitious or prestige projects will have to be trimmed or put off. The most important task is to ensure domestic food supplies. Corruption must be curbed, and serious efforts are needed to slow down population growth.

The World Bank and the BIS in Basle also have a major role to play in this joint effort. The BIS in recent months has provided a large amount of bridging finance ahead of credits from the IMF; this has calmed nervous creditor banks. I can understand that the board of directors of the BIS (the heads of the major European central banks) are not very happy about these rescue operations. But the BIS is doing the world economy a great service, and should continue doing it. No less important was the pressure the IMF put on the commercial banks to induce them to prolong maturities and provide new credit. Nothing would have been more fatal at the moment than a contraction of international lending. Credit creates trade, trade secures credit.

The creditor banks' situation today is similar to that of many companies in the world slump of the 1930s, when they were all trying simultaneously to improve their balance sheets by making staff redundant, cutting wages, reducing stocks and putting off investments. This was bound to lead to disaster. That is why there is no alternative now to letting the developing countries have fresh bank credit. I entirely agree with Wilfried Guth, one of the two "speakers of the board" of the Deutsche Bank, who said recently that any about-turn by the banks would be a "Brüning policy on a world scale."

The IMF must take the lead here, and it must have the funds to do so. I therefore welcome the agreements made in the past few weeks in the Group of Ten and the IMF Interim committee. In the United States these agreements need the approval of Congress. A long-drawn-out domestic tug-of-war at this point would be dangerous. It would again undermine trust in America's leadership.

I repeat: credit creates trade, trade secures credit. Major developing countries' balance-of-payments problems cannot be cured if we shut our markets to them. In many respects the developing countries are now in a position similar to that of the German Reich in the 1920s: Germany could not meet its "reparation" payments because the allies were not prepared to tolerate German trade surpluses. So Germany could not meet its debt repayments and lost its credit-worthiness.

A large part of the international lending business today is too short-term. Over the next few years we will certainly have to turn our minds to things we now consider unthinkable. Annual rescheduling, as practiced now, seems to me much too short-term a solution. The one-sided shift of the interest risk to the developing countries is not a sensible basis for solid long-term relations between debtors and creditors. But we do need more stable relations between debtors and creditors. One option is to prolong or consolidate the external debt at fixed interest rates. The oil surplus countries too will have to play a part in this. Credit relations between creditor and debtor countires must be transparent and well regulated. This requires an information and early warning system between commercial banks which must work in close co-operation with the IMF. The national housing banking supervisory authorities too must insist on internationally consolidated bank balance sheets and full transparency in international lending.

Certainly we need a much greater degree of international co-operation, in which the borderlines between private and public action might shift. Again Henry Kissinger is right: "The current global economic crisis is too grave to be left to financial experts." I would say: governments must not leave the future of the world credit system to the managers of the Euromarkets.

PROTECTIONISM: ESCAPE INTO SUICIDE

The more traumatic unemployment becomes, the more regional, sectoral and national protectionism will spread. The recent Gatt ministerial meeting did not stop the worldwide march into protectionism. The participants considered it a success that the conference did not break up, although the most important subjects were not even on the agenda. What I particularly have in mind here is the fruitful relationship between growth, trade and credit. This is in grave danger of entering a vicious circle. I am also thinking of the dangerous relationship between wrong exchange rates and protectionism.

A particular danger is the growing tendency towards bilateralization of trade policy, for instance by making the trade balance between two countries the criterion of whether free trade between these two countries is useful or damaging. If this bad habit spreads, we shall soon be back in the 1930s.

The inventiveness of governments in curbing free trade appears to be inexhaustible. The worst examples are the agricultural markets: the European community and the United States are both heavily subsidizing agricultural exports. The winner in this subsidy race will be the Soviet Union if it can buy our butter and other basic foodstuffs more cheaply than can our own unemployed.

Protectionist measures are popular at home; they can apparently be justified with the argument that others are even worse offenders. In fact we are all to blame. We must not let ourselves be blinded by the seductive powers of protectionist arguments. Protectionism will not create jobs. Even the hope that it will protect jobs at risk is illusory; a country which imports less must expect boomerang effects on its own exports, so jobs are lost in the export industries.

Protectionism is usually just an attempt to ease the symptoms, not cure the causes. The steel row between the United States and the European community was settled last autumn when the European suppliers undertook to exercise self-restraint. But that did not tackle the causes: the dollar has remained overvalued and most European steel companies are still getting massive state subsidies; the efficiency of American steel companies has not been improved; worldwide over-capacity has not been reduced. The young steel-producing countries—Brazil, South Korea, Nigeria, Taiwan—are not being allowed free access to the world market. The international division of labour in an important area is being increasingly paralyzed. The multilateral trade system has become largely bilateralized. Basic trade policy issues raised by the European-American steel conflict were not resolved by the relevant authority, Gatt.

In the triangle between North America, Japan and the European community all is not well with trade policy. In the farm sector the conflict between the United States and the European community is getting worse. The United States has put pressure on Japan to extend its self-restraint agreements for motor vehicles. A long list of Japanese self-restraint agreements for "sensitive products" has just been drawn up between the EEC and Japan. Such self-restraint agreements are only a camouflage for protectionism.

The minimum requirement is a formal binding undertaking by the seven major industrial states not to impose any additional restrictions on trade with each other or with third countries in the next two years. The gradual emasculation of the open multilateral world trading system will lead to a controlled economy, and block growth and employment. Protectionism strangles the world economy.

A point for countries outside the European community: when the European community is discussed in the context of trade policy, it sounds like a single body fully capable of joint action. The reality is different. The European community no longer has the motor which once drove it. It can be said to have a joint economic policy only with considerable provisos. That applies not only to trade policy vis-a-vis third countries, it also applies to the complete absence of a joint energy or transport policy. There is no economic policy mix agreed between the member governments. The cracks in the structure cannot be plastered over with institutional tricks—the plan for a "European Act" is not intended to change matters. Giscard d'Estaing and I proved that there was another way when we created the European Monetary System. It was a positive European contribution to a more stable world exchange rate structure. That was five years ago. Now there is no European initiative of any sort to overcome the world economic crisis. I am sorry to have to say yet again: in this situation the leadership has to come from America.

TWO POWDER KEGS: OIL AND NUCLEAR POWER

The prospect of falling oil prices gives rise to hope in some countries and concern in others. The oil-producing countries inside and outside OPEC are beginning to realize that their prosperity too depends on other countries. In 1979-80 they tried to increase their prosperity with a second exorbitant increase in the price of oil at the expense of consumers in north and south. This was the main cause of the deep world recession. Ultimately it also reduced the oil countries' revenues, often resulting in drastic cutbacks in their development plans. The oil countries too now have to accept that they are fully integrated into the world economy.

The present oil glut is raising hopes that, as prices in consumer countries drop, balance-of-payments problems will be eased, inflation will drop, purchasing power will be released and new growth impulses will be set off. The fears others have are the mirror-image of these hopes because demand in the oil-producing countries will drop at the same time, debt problems will get worse for some of them and this in turn will hurt the international banking system.

Short-term reactions in the financial markets have been equally ambiguous. The mass expulsion of foreigners from Nigeria provides a foretaste of the human suffering and the political destabilization which the world crisis might cause. A drop in world oil prices would certainly be desirable; but the more drastically oil prices fall today, the greater the likelihood that they will rise even higher again later.

Both oil-producing and oil-consuming countries will have to learn that violent fluctuations in oil prices help nobody in the longer run. Since investment in energy takes a particularly long time to bear fruit, short-term breaks bring confusion rather than clarification. The world is in the middle of repeating the mistakes of 1976-78 when energy saving and efforts to open up alternative energy sources slowed down because real oil prices were dropping and the OPEC surpluses dwindling. In fact we should have learned by 1979-80 that secure energy supplies are the key to growth. Events in Iran should have shown how vulnerable the oil market is. It is all the more important to diversify at least to some extent the types of energy we use and our regional sources.

There is no guaranteeing the internal stability of many states in the Middle East and—quite apart from the ever latent conflict between Israelis and Arabs—there are open rivalries within the Islamic camp. The Soviet Union is always trying to extend its power in this area, from Afghanistan to South Yemen and Ethiopia.

It would be irresponsible to regard the oil problem as solved because oil prices are now dropping. There can be no doubt that the demand for oil will rise again. Even the slight decline in the real price of oil since mid-1981 has caused exploration in the United States to decline. Major projects to exploit oil shale and tar sands in Canada have been scrapped. European plans for large-scale coal gasification and liquidation suffered the same fate. Lower energy demand forecasts have slowed down the construction of nuclear power plants. The same applies to energy-saving investment in industry and private households. Altogether the world has become too relaxed about oil. The temporary drop in the oil price is misleading. The oil market is an inadequate barometer.

If we allow coal to be displaced, we will increase our future vulnerability to blackmail. If government needs to give more of a lead anywhere, it is in the energy sector. The lead periods are too long and the risks too great to rely on market forces. Of course in the longer term prices are the determining factor, in the energy sector as elsewhere, but both investors and consumers must gear themselves to long-term prospects and longer-term price developments.

I therefore regard it as legitimate to stabilize longer-term price expectations with a bundle of measures: price and quantity agreements between oil-producing and oil-consuming countries; stabilization of consumer prices for oil and related products through taxes or levies; public aid for investment in alternative energy sources and for energy-saving in the industrial consumer countries; efforts to deversify the non-oil developing countries' energy sources.

All this requires co-operation between oil-producer and oil-consuming countries, and co-operation with non-oil developing countries. But one of the most important areas of international energy policy co-operation has not so far been discovered at all: I mean the question of disposing of nuclear waste arising from the peaceful use of nuclear power, to which nobody in the world has yet found a proper solution.

Two methods of waste disposal are in use now: either reprocessing it, producing weapon-grade plutonium, or so-called intermediate storage (in various forms). Many densely populated countries have no scope for storing nuclear waste on their own territory. This makes them dependent politically and in energy policy terms on geographically large countries, and particularly on the nuclear powers. Moreover, in densely populated industrial countries the unsolved problem of nuclear waste increases the vehement moral rejection of nuclear power stations—although this overlooks the fact that conventional power stations are a major burden on the natural environment. This is why an international energy policy must include an international agreement on nuclear waste disposal. It is an important supplement to the non-proliferation treaty which in Article 4 expressly guarantees the peaceful use of nuclear power to the non-nuclear states. Clearly, in hospitable areas in the far north or south can be used without much difficulty for long-term storage and later recovery. The countries in question should provide contractual help. Above all, the nuclear states must agree to help non-nuclear states dispose of their nuclear waste.

HEALTHY SOUTH, HEALTHY NORTH

The Brandt commission has just produced a report entitled "Common Crisis". The world economic crisis is affecting everyone—regardless of the colour of his skin, his income and his region. The report also recalls the arms race and points out that world defense spending between 1979 and 1982 has risen from $450 billion to $650 billion.

This double world crisis is affecting not only relations between north and south, but also relations between south and south and between east and west. The common crisis extends far beyond the traditional field of north-south relations.

What used to be called the "third world" has not been a homogeneous group for some time. Next to the Opec countries there are countries on the threshold of industrialization, such as Brazil and Mexico. Behind them are countries still in the early phase of industrialization, like Kenya. And finally there are a large number of countries, like Bangladesh, which the United Nations classifies as "least developed countries".

In these circumstances there can be no uniform remedy for all the problems of the south. For the threshold countries it is certainly more important to keep our markets and credit lines open than to increase development aid. Opec countries with a low absorption capacity need to pursue other policies than populous oil countries pursue. The least developed countries are undoubtedly the worst hit by the world recession. Their most urgent need is for an increase in official development aid.

Our foreign policy interests too must be directed to maintaining economic and social stability in the developing countries. But it would be fatal if a rising number of western countries were to judge development aid only in terms of the east-west conflict. Ideological criteria are no help in the north-south conflict. We would not be doing ourselves a favour if we gave the states in the south the impression that they were only pawns on a chessboard of hegemonist interests. Social and economic conflicts in developing countries cannot be solved by military aid or political intervention.

A journalist recently reported that Mr. George Shultz, the American secretary of state, put greater weight on economic questions than did his predecessor "as though to suggest that problems such as debt, refinancing, trade deficits and commodity prices cause more woe than communist subversion and other more traditional state department concerns". Shultz is right. The developing countries themselves do hold some of the keys, but the present world economic situation will undo even their best efforts. They need help.

Of course this must include direct private investment, joint ventures and so on. But the "private sector" will not be able to solve all the problems alone. In our countries the state did not stand idly by either in the early phase of economic development. The developing countries' governments must improve the climate for private investment. But it would be illusory to expect that in the middle of a world recession our companies' propensity to invest would be enough to ensure massive investment at home as well as in the developing countries.

Governments cannot afford to neglect the decline in raw material prices. It is one of the main causes of the current difficulties. These difficulties would be eased if there were a worldwide system to stabilize export earnings along the lines of the Stabex system which the EEC has agreed on with a number of developing countries in Africa, the Caribbean and the Pacific.

I have been advocating such a system for many years, because I basically regard stabilising a developing country's export earnings from raw materials as more reasonable than attempts to stabilize market prices for each individual raw material. The German federal government put forward a proposal of this kind for international discussions in 1978. Unfortunately it was not taken up. It is time to raise the proposal again.

It is true that the lives of many people in the developing countries depend on a healthy world economy and on western aid of all kinds. But it is equally true that living standards and employment in the western economies depend on a healthy world economy including the south. The rescheduling of developing countries' debts has clearly shown that their wellbeing is our wellbeing.

The greatest current obstacle to the long-term economic health of the south remains population growth. When I was at school, there were 2 billion people in the world; when I was chancellor, there were 4 billion; by the year 2000 there will be more than 6 billion. Demographers say that between the year 2020 and 2040 the figure could rise to between 8 billion and 10 billion. Nobody has convincingly shown that the earth's resources can cope with this kind of population explosion.

I believe it is not unreasonable to doubt whether the hoped-for further slowdown in population growth will materialise, and quickly enough. Governments, churches and religious communities bear a special responsibility here. It is difficult to separate population growth from the question of living standards. But the example of China provides food for thought. With the aid of birth control, China is managing to fed its people from its own resources. Takeo Fukuda is right: the relationship between population growth and development is becoming a world problem—but it is not just a socioeconomic problem.

THE UNPLEASANT BURDEN OF LEADERSHIP

Let me close with five theses:

1. the safety of the west is at risk in two ways at present: from the increase in tension and the arms race between east and west and from the danger of a sustained world economic crisis. If the western industrial countries' governments do not manage to boost confidence in their ability to cope with this double crisis, there might be political destabilization. I feel that the more impressing talks is to prevent the present world recession from turning into a world depression. That should be the first item on the agenda of the next summit meeting. If the Williamsburg summit does not restore confidence in the ability of the major industrial countries to master their economic problems, there will not be enough strength, either, to cope with the dangerous problems between east and west.

2. Domestic and parliamentary debate in our countries is systematically underestimating the international dimension of our economic problems. All our constituencies are at home; all oppositions are inclined to blame their immediate predecessors.

No reasonable person would deny that all the industrial countries have some home-made problems. but if the world economy is in disarray, no country can be, or remain, an island of stability. It is an mistake to believe that any government can pursue whatever economic policy seems domestically expedient without regard for other countries.

The world's economic interdependence had never been greater than it is this decade. It has never been more necessary to make sure that economic policies complement each other and are internationally compatible. Never has co-operation been as necessary as today. Just as democracies cannot keep going without a general consensus about the rules, the world economy cannot survive without agreement on the rules of the game and the distribution of roles.

3. Co-operation between North America, Japan and the EEC is essential for a healthy world economy, if only because of their economic might. If co-operation does not work in this triangle, then it will certainly not work in the very much more difficult polygon of the world economy which includes the other OECD countries, the Opec countries, the Comecon countries, the threshold countries and the other non-oil developing countries. Trilateral co-operation must set an example to all.

4. Neither trilateral co-operation nor worldwide co-operation is imaginable at present without American leadership. That applies not only to the world's economic crisis but also to its political crisis. Until now the temptation to pursue American isolationism has alternated with the temptation to pursue American hegemony. Many Americans find it a burden to have to carry responsibility for the whole world. Many Europeans find it disagreeable to have to accommodate American wishes or even orders.

Leadership among the free and sovereign states of the west cannot consist of instructions and orders, neither in the political nor in the military nor in the economic field. It must be based on discussion, questions and answers, new questions and new answers It must be based on the principle of "give and take".

Economic strength, as well as political and military power, predestines the United States to take the lead. That is how Tokyo sees it and that is how the Europeans see it, though often reluctantly. The vitality and the generosity of the American nation, which is very young compared with European and Japanese history, makes this easier. America must know: if it fails in its economic leadership, it may lose its political leadership as well.

5. If the western world accepts American leadership, it has to have confidence in the judgment of the American president. It must trust the elected bodies and people at the head of America's democracy. This trust must not be dissipated by loose talk and hasty action.

America must not give the Europeans the mistaken impression that, economically or militarily, it wants to put the squeeze on the Soviet Union and the other communist states. The Europeans know that this is not possible. They know the capacity of the Russian people to suffer, and they know the uncommon readiness of communist dictatorships to call on their peoples' capacity to suffer. Europe wants balance and Europe wants peace through balance. Europe wants economic health and social peace—no matter whether the political leaders are of conservative, liberal or social democratic hue.

The Europeans have recognised the need for close co-operation. But their own attempt in the shape of the EEC has not developed sufficient strength to form a centre of leadership. That is not a cause for shame or guilt. America should cease to accuse Europe of lack of vitality. Europe should cease to accuse America of its size. The time has come for joint action.

There is a tide in the affairs of men,
Which, taken at the flood, leads on to fortune;
Omitted, all the voyage of their life
Is bound in shallows and in miseries.
On such a full sea are we now afloat,
And we must take the current when it serves,
Or lose our ventures.

[From the Economist, Apr. 23, 1983]

The Need for a Global Strategy

(By C. Fred Bergsten and Lawrence R. Klein)

(Mr. Bergsten and Professor Klein use the University of Pennsylvania's model of the world economy to support their argument that some concerted economic stimulation would boost employment, and reduce the dangers of protectionism and debt, without rekindling inflation.)

Four major problems continue to bedevil the world economy. Unemployment remains at record postwar levels and will decline very slowly even under the most optimistic of current recovery scenarios. The international debt crisis still looms over both the world's banking system and the recovery itself. The world trading system continues to erode under a proliferation of new import barriers and export subsidies. Severe exchange-rate misalignments persist, distorting economic structures and fostering protectionist pressures particularly in the United States.

In this sense, little has changed since Helmut Schmidt wrote so forcefully in The Economist on February 26th. There has been absolutely no response to his call for "a joint economic policy offensive" among the major countries or an assertion of American leadership to avoid the "great danger . . . of slid[ing] into a long depression".

Indeed, there seems even less inclination now than earlier to pursue such prescriptions. The modest signs of upturn in America, West Germany and Britain have apparently shunted to the sidelines most initiatives for new national measures to assure recovery, let alone a coordinated international approach. The success of the emergency measures taken to cope with the first wave of the debt crisis seems to have fostered confidence that the worst is behind us in this account. All governments seem reconciled to, if not enthusiastic about, their ad hoc approach to each successive trade problem (though each chips away a bit more at the open regime of the past). And America's government, through Mr. Martin Feldstein, has now proclaimed that substantial dollar overvaluation, the most extreme of the currency problems is desirable under current circumstances and may remain with us "for several years to come."

WHY THE MALAISE

There are four possible explanations for this state of affairs. One is that officials throughout the world genuinely believe that a sustained recovery will ensue on the basis of present circumstances and policies. The decline in the world price of oil, which might yet have some way to go, will certainly help. So for most of the world will the deterioration in the current balance of payments of the United States and the oil exporters, which taken together will approach a cumulative $150 billion between 1981 and 1983.

This view might be right, but the odds are heavily against it. Real interest rates remain quite high throughout the world and seem likely to stay there so long as American budget deficits continue to be large. It is extremely difficult to envisage a substantial recovery in private investment, and hence a sustainable recovery, in such circumstances. Even a pick-up in consumer demand will be sharply constrained by the high cost of credit. High interest rates will maintain heavy pressure on debtor countries and firms, and could sustain the currency misalignments for some time. There will be an inventory correction and a rebound from the depths of late 1982, to be sure, but it is quite a gamble to extrapolate from there to a recovery which is strong enough to reduce unemployment significantly and provide a basis for resolving the problems of debt and protectionism.

A second explanation is that authorities actually prefer a slow recovery, on the view that it might prove more sustainable and less likely to reignite inflation, to the more rapid expansion typical of post-recessionary periods.

Again, such a view is understandable, but the risks are also acute. Growth of 3% or less would not even dent unemployment levels, and the problems of political stability suggested by both Mr. Henry Kissinger and the recent riots in Sao Paulo could be quickly upon us. The protectionism or debt crises might explode into trade wars or a wave of repudiations. Moreover, such events—or even the fact that the languid pace might stall out before achieving lasting momentum—could bring on the third leg of a "triple dip recession" or even the world depression feared by Helmut Schmidt.

Third, there is a tendency throughout the world to rely heavily on recovery in the United States to lift everyone back to (at least modest) prosperity. Unfortunately, such a strategy is unlikely to work. In 1977-78, even a vigorous American recovery failed to impart significant growth to others. In the best of times, a 5% expansion of the American economy generates only a 1% increase in the rest of the OECD. And there are reasons to doubt the strength and perhaps even the sustainability of America's present recovery. One particular problem is the likely rise in the current overseas deficit in 1983 to at least $40 billion, three times the previous record. In addition to dampening the recovery, this will bring the strong possibility of new protectionist measures and limit still further this source of stimulus to the rest of the world.

Fourth, authorities may take the view that there is nothing they can do anyway. Monetary policy has allegedly been immobilised; either increases or decreases in the growth of the monetary aggregates are said to be likely to push interest rates upward. Everybody has "large" budget deficits' further fiscal stimulus is thus "impossible", but substantial cuts in those deficits would also be unwise because they would jeopardise the recovery. Incomes policies have been "discredited". National pressures are said to be too great to permit new trade or currency initiatives at the international level.

Concern over these constraints is understandable, but it would be quite wrong to draw the conclusion that nothing can be done. Indeed, the effective crisis responses of the past eight months show once more that answers do exist to major problems confronting the world economy and that governments can move together to resolve them. The more ambitious efforts of earlier times, such as those adopted at the Bonn summit in 1978, support the same view.

AN ALTERNATIVE PROPOSAL

In late 1982, the Institute for International Economics in Washington published a statement by 26 leading economists from 14 countries, outlining a programme which could provide an effective response to current needs. The group included the authors, economists from different schools of thought such as Mr. Rimmer de Vries of Morgan Guaranty and Mr. Lester Thurow of MIT, and former cabinet ministers such as Mr. Karl Schiller from Germany, Mr. Saburo Okita from Japan and Mr. Mario Simonsen from Brazil. Its report laid out a detailed programme, quite similar to the proposals made by Chancellor Schmidt in The Economist, through which the major industrial countries, working together, could ensure a sustainable world recovery and resolve the global problems of debt, protection and currency misalignments.

These proposals stressed three central themes: (a) the adoption of new expansionary measures by five of the major countries (the United States, Japan, West Germany, the United Kingdom, Canada) and some of the smaller nations in a position to do so, in the light of their sharp reductions in inflation and viable external positions; (b) tailoring of these measures to minimise the risk of rekindling inflationary concerns; and (c) international co-ordination among the national measures, both in their thrust and in policy composition. Such a strategy remains at least equally relevant today.

The most important policy step is to reduce interest rates by at least two percentage points in the United States. This would require large cuts in the outyear budget deficits, and the maintenance of substantial growth in the money supply for a further temporary period before dropping back to lower rates for the longer run. Other countries should then match the American interest rate cuts, fully or partially.

As regards fiscal policy, Japan, West Germany and the United Kingdom are all in a position to expand. In Germany and Japan, this is possible because of high savings rates and the large cyclical component of their current budget deficits. In Britain, fiscal re-expansion would be a reaction to the excessive tightening which occurred during 1980-82.

The quantitative impact of such a programme has been estimated through Project LINK, a model of the world economy maintained at the University of Pennsylvania which provides a consistently interrelated system of existing macroeconomic models from 18 OECD countries, eight centrally planned economies and four regional groupings of developing countries. The specific American policy changes include a reduction of almost $100 billion in the budget deficit by 1986 and growth of M_1 through 1983 at the pace of the last six months, dropping to 5-6% thereafter. The resulting decline of two percentage points in America's short-term interest rates is matched by Britain's and Canada's, with rates in other OECD countries dropping by smaller amounts. The required fiscal expansion in Japan, Germany and Britain is equal to 2½% of present real government spending.

The result would be to raise the level of economic activity by 1986, from where it would otherwise be, by 2½-3% in the United States and Germany; by 1½-2% in Canada, Japan, and Italy; and by ½-1% in France and Britain. In the first year of the programme, Germany and Britain would receive the largest boost; the gains would be roughly similar among the seven summit countries in the second year, with the major impetus in North America coming in 1985-86. As a result of the programme, the model suggests that unemployment rates would drop sharply over the three-year period in the United States (1.7 percentage points, or about 2m workers) and Canada, very rapidly in 1983 in the United Kingdom (1.2 points), and significantly in most of the other countries as well—although the heavy structural component of unemployment limits the gains in most of continental Europe, excepting West Germany where the rate should fall by almost a full 1%.

ESTIMATED IMPACT OF CONCERTED EXPANSION PROGRAMME

[In percentage points]

	1983	1984	1985	1986
Increase in levels of real gnp:				
United States	0.5	1.3	2.0	2.8
EEC	0.8	1.4	1.5	1.7
Japan	0.9	1.3	1.5	1.8
18 OECD countries	0.5	1.0	1.4	1.8
Reductions in the rate of unemployment:				
Canada	0.1	0.6	0.9	1.0
West Germany	0.4	0.5	0.5	0.8
Japan	0.1	0.1	0.1	0.1
United Kingdom	1.2	0.4	0.1	0
United States	0.1	0.5	1.0	1.7
Changes in the rate of inflation (private consumption deflator)				
United States	−0.2	−0.6	−0.4	0
EEC	−0.1	0.1	0.1	0.2
Japan	0.2	0.4	0.5	0
18 OECD countries	−0.2	−0.2	0	0.2
Increase in level of world trade	1.1	2.0	2.6	3.0

Source: Project LINK, University of Pennsylvania. All impact estimates represent changes from LINK base forecast.

The model suggests that annual growth rates would rise by ½-1% in most of the major countries in most years to 1986. Overall OECD growth is pushed above 3%, about the maximum one could envisage without policy changes—a critical threshold in terms of reducing unemployment and stimulating enough trade expansion to handle the debt and protection problems. About 60% of the impetus comes from the reduction in interest rates, about 40% from the direct impact of fiscal expansion.

Moreover, as usual, world trade is stimulated substantially more than OECD growth—over twice as much during 1983-85. This provides an important spur to exports from the developing countries, enabling them to expand their foreign-exchange earnings and thus become better able to service their debt. The decline in interest rates reduces the cost of their debt service, so the programme should help considerably to limit the risk of renewed financial crises.

Similarly, the trade pick-up would help to counter protectionism by providing more rapidly growing markets for all nations, thereby limiting pressures to restrain imports. So of course would faster growth and lower levels of unemployment. And the changes in the direction and mix of policies in the key countries would push exchange rates in the desired direction, reducing the pressures to restrict trade in countries with overvalued currencies (notably the United States).

We estimate that these gains can be achieved without rekindling inflation. Neither consumer price indexes nor gnp deflators change noticeably as a result of the package. The group's specific policy proposals were designed to secure such a result: a one-shot growth in the money supply followed by a return to lower rates of expansion, "front-end loading" of fiscal increases with offsetting receipts coming later, raising government spending via one-shot public infrastructure investments rather than larger transfer payments (which are hard to cut back in the future). But the result derives largely from the underlying macroeconomic situation: the continuing high levels of unemployment and capacity underutilisation should preserve continuing wage moderation, while a pick-up in output generates cyclical productivity gains.

Such a new global macroeconomic strategy would improve the prospects for resolving the distinctly international aspects of the current situation. However, it alone would not be sufficient. New forms of co-operation will be needed to avoid the periodic onset of severe currency misalignments, perhaps through the adoption of a "target zone" system under which countries continuously monitor the course of exchange rates against agreed norms which mirror underlying competitive conditions and take policy steps as needed to keep rates from diverging too far from these norms.

The history of trade policy reveals that it proceeds very much like a bicycle, falling over in the face of protectionist pressures unless it is moving forward toward further liberalisation. This suggests that a major new "round" will be needed for the 1980s just as the Kennedy and Tokyo rounds helped preserve the system against seemingly intractable forces in the 1960s and 1970s.

The financial crisis may not finally yield without a major restructuring of the outstanding debt. Our public international institutions, the World Bank as well as the IMF, will probably need to play proportionately larger roles to compensate for the presumed cutback in the growth of private bank loans in financing future ldc current account deficits. And Helmut Schmidt may be right in asking for an international commodity agreement to stabilise the world price of oil.

THE IMPERATIVE OF CO-ORDINATION

The linchpin of this entire effort, however, is co-ordination among the major industrial countries. Recent history suggests that no country is now able to expand alone in a stagnant world economy: even the United States was unable to do in 1977-78, let alone France in 1981 or Mexico in 1982. History also suggests that co-ordination could help avoid excessive policy responses, like the inflationary blow-off of the early 1970s and the deep recent recession. The wait for autonomous market forces to promote lasting expansion has been shown to be extremely risky—witness the dashed hopes in many countries in 1978 and virtually everywhere in 1980.

The policy paralysis is likely to be broken in some countries only if they see prospects for similar movement elsewhere. Otherwise they must fear that their own efforts will mainly produce a deteriorating trade balance and currency. Confidence, which may be the key ingredient most lacking in the present recovery, could be greatly enhanced if there were a sense of firm and effective global response to the problems of the day. It is much more likely that the debt, trade, exchange-rate and other "purely international" problems will be set right if they are addressed in the context of a coordinated response to global growth and macroeconomic needs—rather than left in cubbyholes assigned to national bureaucracies and international organisations with narrow mandates, and susceptible to the nationalistic pressures which always flourish in the absence of a clear lead from the authorities to see local problems in an unwieldy, but essential, global framework.

A summit meeting is a natural event through which to devise and launch such a programme, as has actually happened once or twice in the past. Unfortunately, there is no evidence that the Williamsburg seven are even contemplating such an approach next month. The gap between need and likely performance promises to be greater at this summit than ever before. It can only be hoped that the lead of Helmut Schmidt and others who counsel such a course will be followed before it becomes too late.

Mr. BOREN. Madam President, I have decided to vote for the Hollings amendment in preference to the Hatch amendment. Neither package is perfect and there are elements in each which I would not support as individual proposals.

First and foremost, I will vote for the Hollings proposal because it results in the lowest deficits. If the same set of economic assumptions, either the CBO or the so-called high path assumptions, are applied to both proposals, the Hollings amendment results in deficits for the next 3 years which are approximately $113 billion lower than the Hatch proposal.

Deficit reduction is of paramount importance. As the Daily Oklahoman said editorially this morning, the breadth and duration of recovery will remain uncertain until Congress acts to scale down the size of the monstrous deficits which we are facing.

The President's budget projects deficits in excess of $1 trillion over the next 5 years; the Budget Committee proposal is in excess of $900 billion. The proposal discussed by the Republican leadership as reported in the press this morning would have deficits even further above the $1 trillion level.

This madness cannot continue. Any observer can see that the Government borrowing required by these deficits will force interest rates up in the future and will choke off any economic recovery. True and lasting economic recovery can only be based upon a Federal budget with its deficits brought under control so that funds will be available at reasonable interest rates to the private sector for expansion.

The Hatch proposal appears faulty to me because it lacks balance and fairness. In getting deficits reduced, we must do so in a manner in which all share in the sacrifices so that we do not create divisions between the American people. The defense increases above 7 percent seem to be out of balance with the proportion of social cuts.

In addition, a number of very questionable assumptions are made, including the passage of a number of user tax increases, which Congress had rejected in the past. In addition, $18 billion in unspecified management savings are assumed. This has proven in past budget resolutions to be just so much blue sky which never shows up again to reduce the real deficits when the final figure is written into law.

Of course, the use of so-called high path rosy growth figures is questionable. However, as I have said, if we apply the same set of assumptions to both proposals, either CBO or high path, so that we can compare oranges with oranges instead of apples with oranges, the Hollings proposal clearly has much lower deficits.

The Hollings proposal, however, is certainly still far from perfect from my point of view. I believe that the 3-percent growth figure for defense is somewhat low.

In addition, I do not favor repeal of the third year tax cuts or of tax indexing as separate proposals. I might be willing to consider temporarily delaying them in return for spending cuts, which would be even larger. Without substantial spending cuts offered in return, including restraint in entitlement programs, I would not even favor a temporary delay in tax cuts or indexing. Since the budget resolution does not enact specific revenue changes, I will vote for the Hollings proposal as a demonstration of my support for some kind of across-the-board approach to deficit reductions using a method which puts us all in the same boat and requires some sacrifice from all of us.

My vote, however, should not be interpreted as favoring outright repeal of either indexing or the third year of the tax cut. Indexing, in particular, I believe, provides an important restraint and discipline on spending by future Congresses, which is badly needed.

Mr. NUNN. Madam President, I would like to identify myself in general with the statements of the Senator from Oklahoma. I did vote for the Hollings amendment but I did not agree with all the components of it. I did not agree with the defense number but felt that if we adopted the Hollings amendment it would be a much better base on which to work, if we could have amended it and gotten the defense budget between 5 and 7 percent. I do identify with the statements of the Senator from Oklahoma.

● Mr. LEVIN. Madam President, I will vote in favor of the Hollings substitute. I am doing this not out of agreement with each of its provisions, but out of recognition that it offers the kind of plan calling for across-the-board sacrifice which is essential if this Nation is to bridle the Federal deficit and permit sustained economic growth. It will result in a deficit of $65 billion in 1988, which is about half the size of the deficit projected by the resolution reported by the Budget Committee.

The auto industry, the housing industry, and the economy in general will not enjoy a substantial or sustained recovery with the prospect of $200 billion deficits over the next 5 years. There simply will not be enough credit available, once the Federal Government gets done meeting its borrowing needs, to support adequate investment in business plant and equipment and for growth in consumer investment in housing and durable goods, such as autos. And if the Federal Reserve Board attempts to expand credit to meet both this huge public and private demand, then a rapid increase in inflation would be a clear and present danger. So, if we care about jobs, if we want to set the foundation for an economic recovery that is more than a mirage, then we must take steps now to control the Federal deficit.

But having said this, I have said the easy part. The hard part is putting meat on the bones of budgetary restraint. I believe that the Hollings substitute offers a reasonable, although painful and distasteful in some respects, approach for doing this. To some parts of it, I give my enthusiastic support. To others, I can only agree because they are part of an overall package which asks for sacrifice from all Americans and which will substantially reduce the deficit.

It is the only budget plan before us which limits the military budget to 3 percent real growth, that is growth over and above what is necessary to keep up with inflation. Let me make it clear that I am for a strong defense. But it must be a defense posture which meets our military needs. We can meet those needs for greater readiness and mobility with 3 percent real growth if we do not waste our money on MX missiles that are at best useless for our own defense and at worst increase the likelihood that we will be attacked; if we do not waste our money on B-1 bombers that will be incapable of fulfilling their main mission shortly after they are deployed; and if we do not buy additional aircraft carriers which will be sitting ducks for Soviet missiles. The Hollings substitute would reduce the deficit by $148 billion over 5 years through this rational restraint on military spending.

On the revenue side, this substitute assumes the repeal of the third year of the tax cut. If we are to take serious steps to reduce the deficit, either limiting or eliminating the third year of the tax cut is essential, and I have long advocated taking this action. When I voted against the Reagan tax bill in 1981, I did not believe that it offered a prudent or just tax reduction program. In the meantime, what were called pessimistic projections have now become the reality. It is not too late to change the course. Repeal of the third year of the tax cut would reduce the deficit by over $184 billion over the next 5 years. It would help create the economic climate where interest rates charged on consumer loans for middle- and low-income Americans could fall to reasonable levels. This would be more helpful to them and to the economy that would be implementation of the third year of the tax cut.

But the Hollings substitute also includes provisions which I could not and will not support at all if they were standing by themselves. Indexing of the Tax Code is something which is necessary for honest budgeting and for basic fairness. If Congress wants to raise taxes, then its Members should be willing to stand up and be counted. People should not be required to pay more in taxes merely because inflation has pushed them into higher tax brackets. I am only willing to vote for the repeal of indexing, which would reduce the deficit by $90 billion over 5 years, because Senator HOLLINGS has included it as part of a package of shared sacrifice which will substantially reduce the deficit.

Similarly, capping Federal pay increases at 3 percent a year from 1984 through 1988, is hard medicine for Federal employees to take, especially on top of the many sacrifices they have made since President Reagan took office. I would not vote for this proposal—which will reduce the deficit by $40 billion over 5 years—if it were standing alone. Federal employees should not be asked to make this sacrifice unless it is part of the overall approach of shared sacrifice which is the essence of the Hollings amendment.

Finally, a 1-year freeze on discretionary spending will also ask individuals and groups who have already been asked to sacrifice over the past 2 years to sacrifice again. I could not vote to require such additional sacrifice, which would reduce the deficit over 5 years by $50 billion, if it were to be in a context where the prime beneficiaries of the first 2 years of the Reagan administration were still reaping the rewards without being asked to pay any price.

The Hollings substitute asks one group after another to go the extra mile. It recognizes that is is unreasonable to ask this from one group and not another. It offers hope that if all groups do this, then this Nation will be well along the path of gaining control of the Federal deficit so that we can reach our goal of long-term economic growth.●

The PRESIDING OFFICER (Mr. Pressler). Who yields time?

Mr. HATCH. Mr. President, will the distinguished Senator yield?

Mr. GORTON. I yield.

Mr. HATCH. Mr. President, I have enjoyed many of the things that the distinguished Senator from South Carolina has said. I have expressed that before.

But I just have to say that his approach is, you might call it, a modified freeze, but I think the freeze is in the rhetoric, not in the numbers because if you look for the increased spending, he goes up $14 billion more over what we are suggesting in increased spending in just 1 year, and if you add 1985 and 1986, $14 billion in 1985 and $40 billion in 1986, his approach goes to $68 billion more in spending in spite of the fact that his increased taxes are $134 billion.

So the fact is tax increases in his freeze budget work the way tax increases have always worked around here. They lead to further spending.

All I can say is as much as I wish to support a bipartisan freeze approach, I cannot support this one and I hope that Senators will consider supporting the alternative which we have suggested.

I am prepared to vote.

Mr. DOLE. Vote.

Mr. HATCH. Let us vote.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I believe the situation is such that all time has expired on the Hollings substitute and all time has expired on the Hatch substitute, and the yeas and nays have been ordered on both.

Am I correct?

The PRESIDING OFFICER. The Senator from New Mexico still has 16½ minutes remaining on the Hollings substitute.

Mr. DOMENICI. I yield back my time on the Hollings substitute.

The PRESIDING OFFICER. All time is yielded back.

Mr. DOMENICI. Now, is the Senator correct?

The PRESIDING OFFICER. The Senator is correct.

The yeas and nays have been ordered on both substitutes.

Mr. DOMENICI. Mr. President, as the manager of the bill on this side I have had a number of inquiries as to when the votes would occur. Obviously, it is now time to vote on the Hollings substitute. It is my understanding that immediately after that someone desires to speak on our side for a half-hour or so, which I will yield to him. I will yield time for that, after which I am hopeful we will have a vote on the Hatch amendment.

So I yield the floor. And I have yielded back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater) and the Senator from Illinois (Mr. Percy) are necessarily absent.

The PRESIDING OFFICER (Mr. Humphrey). Are there any Senators in the Chamber wishing to vote?

The result was announced—yeas 16, nays 82, as follows:

[Rollcall Vote No. 66 Leg.]

YEAS—16

Andrews
Bingaman
Boren
Bumpers
Danforth
Eagleton
Exon
Hollings
Inouye
Johnston
Leahy
Levin
Melcher
Nunn
Proxmire
Pryor

NAYS—82

Abdnor
Armstrong
Baker
Baucus
Bentsen
Biden
Boschwitz
Bradley
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
East
Ford
Garn
Glenn
Gorton
Grassley
Hart
Hatch
Hatfield
Hawkins
Hecht
Heflin
Heinz
Helms
Huddleston
Humphrey
Jackson
Jepsen
Kassebaum
Kasten
Kennedy
Lautenberg
Laxalt
Long
Lugar
Mathias
Matsunaga
Mattingly
McClure
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Packwood
Pell
Pressler
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Trible
Tsongas
Wallop
Warner
Weicker
Wilson
Zorinsky

NOT VOTING—2

Goldwater
Percy

So Mr. Hollings' amendment (No. 1229) was rejected.

Mrs. KASSEBAUM. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HOLLINGS. I will move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. LEAHY. Mr. President, although I support the substitute offered by the Senator from South Carolina, I want to make clear that I did not support all the assumptions used by the Senator from South Carolina.

For example, I do not support limits on cost-of-living allowances for social security recipients. However, the Hollings substitute is clearly superior to the Hatch substitute which cut cost-of-living allowances even more deeply.

I do believe it is significantly superior to the Hatch substitute with its large cuts in medicare. In sum, it is a more superior starting point than the Hatch substitute.●

AMENDMENT NO. 1227

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Utah (Mr. Hatch).

Mrs. KASSEBAUM. Mr. President, I yield myself whatever time I may require from the time on the resolution.

The PRESIDING OFFICER. The Senator is recognized.

Mrs. KASSEBAUM. I am sorry that the Senator from Utah is not in the Chamber at this time, but I would like to discuss some aspects of the Hatch amendment which are troubling to me.

Certainly, I am very appreciative, and I believe everyone in the Chamber is, of the time and effort that has been put forth in trying to present a thoughtful budget proposal. We are all trying to find fiscal responsibility at this point in time in our budget negotiations.

I would like to discuss some aspects of the Hatch amendment which are troubling to me and which I think would be troubling for us if, indeed, we could agree on this proposal.

The PRESIDING OFFICER. Will the Senator suspend? The Senate will be in order.

The Senator from Kansas is recognized.

Mrs. KASSEBAUM. I thank the Chair.

Under the plan as put forward by Senator Hatch, I would like to review some things which it assumes.

It would assume that pay for Federal civilian agency employees is to be frozen for fiscal years 1984 through 1986, followed by a 3-percent pay increase in 1987 and 1988.

It eliminates all of the postal subsidy for revenue foregone except for the blind and handicapped.

It freezes entitlements at 0 percent in fiscal year 1984-86 and 3 percent real growth in fiscal year 1987-88.

It eliminates revenue sharing through a phaseout.

It assumes enacted policy in social security bill.

It assumes administration's target price freeze for farm price supports.

It assumes President's policy of increasing the employer and employee contribution to Federal retirement from 7 to 9 percent in fiscal year 1984 and 11 percent in fiscal year 1985.

It eliminates legal services, community services, energy conservation, and fossil energy R&D.

It assumes the administration's proposed limits on exclusion of employer health insurance contributions from adjusted gross income for income tax computation.

It assumes program cost recovery for certain user fees. While there is not in the Hatch amendment a proposal to increase taxes, revenues are raised at a higher level than in the Senate Budget Committee proposal, $2.5 billion in 1984. This would mean a 50-percent recovery for inland waterways, deep-draft navigation, Coast Guard, airport and airways; 60 percent for Space Shuttle operations; 100 percent for Postal Service—except blind and handicapped—patents and trademark, charts and maps, and tax rulings and determinations.

It assumes President's proposal for excess property disposal.

There are many other aspects of this, of course, but I just mention some that I believe are troubling to me and would like to explore a bit more in depth some of those assumptions. As worthwhile as they may be, Mr. President, one has to realize that it is easy to put these things on paper and wish that, somehow, they might work, but in the reality of the operation not only of the budget but of the life of our country, I think we have to balance out what, indeed, is necessary for fiscal policy and a restrained budget and what, indeed, we need for what I believe is a successful budget presentation for the health of our country.

In the spending recommendations that the Senator from Utah makes in his budget proposal, he would assume that there would be no allowance for any increase for upgrading of math and science education in elementary and secondary schools, at a time when we have reached an unprecedented crisis condition, as the President has acknowledged, in this area of education. Every standardized test used to measure science and math education indicates a declining level of achievement in these areas over the past 10 years.

Another part of the spending that I think has to have some concern is the way Senator Hatch would address basic energy research. The Hatch plan would not allow for the upgrading of Department of Energy research facilities at a time when we are losing our technological lead to other countries. Just 4 months ago, a team of Swiss physicists announced the discovery of a new subatomic particle, a discovery which could have been made in this country if funds could have been found when Dr. Carlo Rubbia asked for them some years ago.

In the Hatch proposal, there would be reduction of agriculture funding by $8.6 billion below the concurrent resolution levels for the 1984-88 period. Approximately $2.5 billion or 30 percent of the savings are achieved by a reduction or termination of funding for agricultural research and cooperative extension, animal health and plant disease programs, agricultural loan programs, marketing services, and a number of other discretionary programs. I am sure it is true that there are many ways that there can be savings found in a number of these programs, but I happen to be a strong believer that if, indeed, we are going to be able to terminate a lot of the subsidies that we have used in our agricultural programs and if, indeed, we are going to restore some vitality to our agricultural markets, we simply must give all the emphasis that we can to research and development.

At such a time, when we are struggling to help restore the health of our agricultural economy, to make these reductions in those programs that I think can be of enormous benefit, we have to question, it seems, the wisdom of this particular approach. I have to wonder if we are not cutting off our nose to spite our face.

In aviation, which, as chairman of the Aviation Subcommittee, is near and dear to my heart, the Hatch plan would require $500 million to be raised through increased aviation fuel taxes or the imposition of airport landing fees. Mr. President, last year, we increased aviation user fees by about $1 billion in 1984. In the TEFRA legislation, we increased it from 5 percent to 8 percent. That is in aviation user fees, which I believe is about a third of that tax legislation. It certainly would be something that I do not believe we could additionally address at this time without causing serious repercussions. Really, in fact, it works a great detriment to aviation generally in this country at this time.

At the same time, for fiscal year 1984, spending for airport improvement grants will be $300 million below the level authorized by the 1982 Airport and Airways Improvement Act—a level adopted, in fact, by the committee. The Budget Committee does not assume any recommendation of increases in aviation taxes.

The Senate Budget Committee tentative mark does not assume further savings for the guaranteed student loan program. The Hatch plan assumes savings equivalent to the President's proposal. I should like to explore this a minute, because we addressed student loans last year in the budget and made some changes and reductions which I thought were constructive ones. The President has proposed to double the current 5-percent origination fee for graduate students, limit borrowing to the amount of a student's financial need, and eliminate loan advances to the State guaranty agencies. These changes would eliminate 400,000 students from the program.

I find, Mr. President, that at this time, this is simply an approach that, again, would cause reverberations in the academic community and certainly, great hardships to students who are finding employment very hard to find these days.

The Hatch plan goes on to address medicare. To me, this is one of the most difficult parts of the Hatch proposal. Senator Hatch would assume medicare savings of about $7.5 billion above those proposed by the President. That would then mean an additional saving of about $30 billion, I believe, which would have to be found in medicare. It would substantially increase the copayments and deductibles paid by beneficiaries. The proposal includes a means test for both parts A and B of medicare, which I think could be an administrative nightmare. The increased paperwork load on the elderly would be very high.

At a time when we are all concerned about the escalating costs of health care, to indeed make these substantial reductions in medicare goes above and beyond what I think any of us could adjust to. The Senate Budget Committee recommends $9 billion in savings and I think that this is a wise approach at this time.

The Hatch plan addresses also Federal employees in a way which I do not think we could feel is an equitable approach. They concede the brunt of many of the changes we have done on a budget position in the last 2 years. For instance, the Hatch plan assumes the President's proposals for reform of the Federal employee health benefits. This reform would raise premiums paid by employees at a time when pay increases are held down or frozen and retirement contributions are increased.

Additionally, the Hatch plan would have to go further than the President to achieve the level of savings assumed in Federal civilian retirement. It would have to raise the retirement age by 10 years for civil servants, increase the contribution rate by 57 percent in a 2-year span, change the way benefits are calculated so as to lower the level of retirement benefits, and make unspecified changes beyond this. These would place an unfair burden on Federal workers and retirees who have already, I think, made significant sacrifices to reduce the budget.

The Hatch plan does not provide for solvency in the railroad retirement program, as does the Senate Budget Committee's reported resolution. This would mean a per person $1,949 cut in benefits in fiscal year 1984. It would not allow, as a matter of fact, room in the budget for Senator HATCH's own railroad retirement bill, S. 1076.

Senator HATCH's plan provides a 6-month COLA delay for social security and supplemental security income and a 1-year delay for Federal civilian and military retirees. Again, Mr. President, I think that this is an unfair and inequitable approach to Federal retirees and would require them again to make twice the savings required and be twice the burden of social security retirees.

In the Hatch plan, food stamps are reduced by about $1 billion. This, I think, is an exceptionally steep reduction beyond what we have already made. I certainly concur that there has been a great deal of wasted efforts in the food stamp program. But to take such an enormous reduction does not speak wisely to the situation in which we find ourselves today.

The Senate Budget Committee preferred to leave this program at a current policy level as we come out of the recession in order to protect low-income persons who have suffered from high unemployment. The proposal by Senator HATCH would substantially shift costs to State governments. States would be required to spend an additional one-half billion dollars in fiscal year 1984 under this proposal, because error rate tolerances would be suddenly and sharply reduced to levels which no State is currently able to maintain. The proposal would change indexation dates for the food stamp program to further delay the modest increases in benefits now scheduled for October. The current law already provides for suppressed indexation of food stamp benefits.

I see the Senator from Utah in the Chamber, and perhaps he can help with some of the concerns I have with the Senator's proposal. I will go on with a few other things that trouble me.

One of the additional problems that I think we would find intolerable at this point is that the Hatch plan assumes the elimination of postal rate subsidies for all classes of mail except mailings by the blind and the handicapped. Elimination of subsidies would result in very large rate increases. There is strong support in Congress for a general revenue-sharing program. We have tried to figure out ways we could make changes in this. While some believe this could be phased out, this does not seem to me the wise time to factor in a phaseout of the revenue-sharing program. The Hatch plan would eliminate the general revenue sharing through a phaseout starting in fiscal 1986.

Local governments are already in financial trouble because of the recession. Demands are also high on local governments to provide more essential services and to upgrade local infrastructure. Ending the revenue-sharing program would cut off local governments from the most reliable and flexible source of Federal aid.

I think we have to make sure that we have started back into a structure where the local government entities can find means of raising taxes and help provide those services before we can assume the end of Federal revenue-sharing participation.

With reference to the inequities with which I feel the Hatch plan deals with Federal workers, it would assume that Federal civilian pay would be frozen for fiscal 1984 through 1986. Federal workers are already behind private sector employees in pay comparability. This year, they began contributing 1.3 percent of their pay to fund medicare. I was supportive of this.

Social security amendments will place new Federal workers under social security. These conditions, along with inflation, have made Federal service less attractive and may contribute to difficulty recruiting high quality employees.

I say to the Senator from Utah (Mr. HATCH) that I have gone through a list of some of the things that have troubled me, while saying that I think the recommendation he has made as a budget alternative is an important contribution.

We are all struggling to find the right mix for a fiscally sound budget recommendation. But some of the assumptions in his plan have been troubling me, and I have addressed them.

I think we would find enormous difficulty, not only to achieve them but also to make them work in a successful and positive fashion for the health of our country today.

Mr. HATCH. Mr. President, will the Senator yield?

Mrs. KASSEBAUM. I am happy to yield.

Mr. HATCH. Mr. President, I have great respect for my good friend from Kansas and the hard work she puts in on the Budget Committee. I am concerned about the same matters she is concerned about.

Although we have to reconcile in this budget, we are more interested in the aggregates and the outcome of the bottom figures than we are in anything else. We wanted to be fair and reasonable, and we want to live within our means. We want to reach a balanced budget not in 1, 2, or 3, years. I would like to do that, but under present circumstances I think it is impossible. I would like to reach it by 1989, so that by the bicentennial birthday of this country, we could give the country a birthday present of a balanced budget.

We can continue on in the course we are in, which is more spending and more taxing, or we can do it as I suggest. This is an effort to try to do that.

With regard to the aggregate numbers, although we are forced to reconcile under this process, that does not mean the Appropriations and authorizing committees have to abide by our reconciliation suggestions. What it means is that all the appropriate committees will have to take these programs and will have to make preferential choices as to which ones they want to fund and which ones they want to fund less.

I do agree with the distinguished Senator from Kansas that these are tough choices. It is a very difficult thing to do.

One of the things which has occurred as a result of our work on this over the last 2 years is that we have found how difficult these choices really are.

I sympathize with some of the things the distinguished Senator from Kansas has said.

With regard to airport landing fees, as an illustration, these are aviation users who generally can afford to pay them and probably should.

If we talk about medicare, we are going to go up over 50 percent in the cost of medicare in the next 5 years unless we do something about it, unless we restrain the growth of it. We are at the President's level on medicare—what he would like to do.

I recall back in 1976 when I ran for the Senate, the big issue was national health insurance. I did not know very many people who were for it, but everybody was afraid that that Congress, as liberal as it was and dominated as it was, we would have national health insurance, which at that time was estimated at $130 billion more than the then budget.

I hate to say it, but I think we have national health insurance now. If you add all the health programs in this country, they are almost $400 billion in cost, and the Federal Government will pay over $100 billion of that, and that does not include all the indirect benefits to health by social security and other programs.

Medicaid, medicare, food stamps, WIK—you name it, they are rising and going out of control.

The major thrust of our budget is to try to get these entitlement programs under control because that is eating us alive.

We can continue to say that we cannot cut here or there or that we can make the hard choices. Our budget would force the appropriate committees to make the hard choices, none of which we want to make.

I understand that. I do not want to make them either. For instance, I have always supported railroad retirement, and I probably always will because of the nature of the hard work that those people do and the promises that were made by the Government. This reconciles railroad retirement below where I want it to be. But if we can have a budget like this passed, I would be willing to sacrifice in almost any way to be able to force the committees of the Congress to have to make the tough choices. I do not think they necessarily have to be made in accordance with what the distinguished Senator from Kansas discussed today. I think the important thing is that every other budget approach, including those of our colleagues on the other side, increases taxes and increases taxes dramatically. Even the approach by my dear friend from South Carolina has a $133 billion, as I recall, tax increase.

But if you take the House budget, it is a $268 billion increase, and that is $315 billion over 5 or 6 years.

If you take the Senate Budget Committee resolution, it is $264 billion, as I recall, or thereabouts. That is on top of the massive tax increases we have already had, meaning that all that we did back in 1981-82 literally has been wiped out and more.

At the same time, if we were increasing taxes to decrease Federal spending as a percent of gross national product, I would have to say maybe there is some merit to it. But at the same time we are doing that, Federal spending goes up from below 20 percent over the last number of years to really 25, some say 25.7 percent, of the gross national product.

I do not care who you are; you have to be concerned about that. Unfortunately, the bias in the Congress is in favor of spending. It is not in favor of conserving. It is not in favor of making the tough choices. It is in favor of spending. It is in favor of programs. It is in favor of trying to do everything for everybody. Frankly, the moneys are not there. The one thing we need in the Senate is a Congressman Gross to ask every time, "Where is the money going to come from? Who is going to pay for that? How do you pay these out year deficits? How do you pay for these expensive programs?"

Unfortunately, the money is not there. We continue to deceive the American people that the money is there rather than to acknowledge that we have to make some tough choices, we have to choose priorities, we may have to choose some programs over others, we may have to balance those priorities. But that is really what Congress is supposed to do.

I say to the distinguished Senator from Kansas that we do not have a budget crisis today. We have a crisis in congressional will. We have a crisis that the Congress is unwilling to manage, and yet it has the authority to do so. I hate the word "uncontrollable;" 75 to 78 percent of our budget fits within that word.

There is nothing that cannot be controlled if we had the congressional will to do it. I have to admit that if we were asking for a straight freeze across the board probably nobody has the will power to be able to do anything about it.

We are not asking for that. We are asking for a modified freeze, a freeze on the taxes and, of course, we are asking for an increase in the military spending below what the President wants but, nevertheless, adequate in the eyes of many of our colleagues, although I, personally, would prefer to have more. We are asking for a spending freeze that will restrain the growth.

These two charts solves that—at least the one on the right does.

Take some of the toughest programs of all, the income security and health functions. The Hatch budget really goes up almost as bad as the Senate Budget Committee. Admittedly, the Senate Budget Committee is based on a low growth path. Ours is based on a high growth path.

I have taken too long to make my comments on this, but let me just close by saying that if we are not going to do this now, then when are we going to do it?

I am not trying to paraphrase the President. It is just that I feel that way. If we are not going to do something now, when are we going to do it? If we are not going to do it, then I think this country is headed straight toward socialism. I do not see how we can avoid it because these Federal programs are eating us alive. I do not care what program you look at, it is controllable. If we had the will to do it, we could make it controllable in Congress. The problem is that we have a failure of congressional will right now.

I thank the distinguished Senator for yielding to me. I appreciate the timeliness of her remarks and the difficulty that she raises in her remarks, but I also suggest that now is the time for us to do something about these programs.

Mrs. KASSEBAUM. Mr. President, if I may respond, as members of the Budget Committee, we share in the frustration of trying, as I say, to find the realistic way of dealing with the budget that the country is going to accept as well as ourselves. I think everyone in the country wants a budget that is, indeed, controlled, but I would just like to point out to the Senator one of my concerns is not just a freeze but significant cuts in some programs that have very practical and important value to the country at this point.

The Senator ends up, I believe, in his proposal with a deficit of $158 billion in 1988, is that not correct?

Mr. HATCH. That is not correct. Our deficit in 1988 will be about $74 billion, but let me make this suggestion. Since we are the only one freezing taxes and thus giving more incentive to the private economy, since we are the only one really restraining the growth of Federal spending, we have chosen, because we believe it will occur, a high growth CBO path which we believe would get us to a balanced budget in 1989.

Now, if you use a low-growth baseline approach, then it is another matter. But even so, even if you use that approach, we still do not think that what we are doing would be anywhere near as bad as a low-growth approach because we would be giving incentives.

Might I also add one other correction. I made a mistake in my earlier remarks. I meant to say that with regard to medicare over the next 5 years, our budget goes up 30 percent. Our budget goes up 50 percent. In other words, it is not standing still. It is not some insignificant budget. It is not some failure to take care of the poor. It is not a neglect of the poor. Ours goes up by over 50 percent in the next 5 years.

In spite of the fact that we call it a modified freeze, compared to what the Senate budget resolution is, compared to what the House budget resolution is, it is a modified freeze. Theirs are going to run out of control, I hate to say it, 4 or 5 years from now. If we continue to go that route, we are all going to wish we had voted for a modified freeze today, which is why I say we need to have a greater congressional will to resolve these problems.

Mrs. KASSEBAUM. If I may go back to the deficit and ask the Senator from Utah again, if you assume the high growth economic assumptions which then would give a $71 billion deficit, it will give the Senate budget resolution, however, a $37 billion deficit. So we would still have——

Mr. HATCH. Will the Senator yield to me?

That may be so, but the Senate budget resolution increases taxes $264 billion over that 5 years. We do not increase taxes a dime other than the 2.5 and the 5.6 in 1984 and 1985 that the President wants, and the so-called user fees. There may be some others unrelated that are not considered major tax increases.

But the fact is that if—and my contention I think is a good contention—the Senate Budget Committee resolution becomes law and we increase taxes $264 billion over the next 5 years, where is the growth going to come from? As a matter of fact, there will not be any high growth under the Senate Budget Committee, nor under the House, nor under Mr. HOLLINGS, nor under Mr. BENNETT JOHNSTON, all of which massively increase taxes. I do not know how anybody can argue for the proposition which, frankly, decreases incentives in the private sector.

We have a Federal Government borrowing well over 50 percent of the available borrowing capital in this country, and, frankly, we reach a point in this debate where the only way we could possibly hit high growth is if something on the order of our tax freeze—spending freeze—bicentenial balanced budget approach comes through.

We can all play the numbers game, but I do not know how anyone else can argue high growth with massive increases in taxes and still tremendous growth in spending when I am making a case that we are restraining growth in spending, bascially freezing taxes and at the same time medicare is going up better than 50 percent in 5 years.

I might add that chart shows an awful lot of our budget that goes up. It all goes up in 5 years. It is not going down. They are not cuts. They are restraints of growth.

Mrs. KASSEBAUM. Mr. President, if I may point out to the Senator from Utah, that is exactly right. We are playing numbers games frequently, and we are making assumptions not really knowing for sure. Certainly economics is not an exact science.

But I just wish to say that regarding revenues, and I pointed out on the floor regarding aviation user fees while the Senator was not here, that indeed we increase user fees by about $1 billion in 1984 through the enactment of TEFRA legislation last year. So we have already substantially increased aviation user fees.

But I think when we talk about numbers and assumptions, and so forth, we must not forget that if we had unemployment today at 6 percent, we would have with the 1984 budget a deficit today between $75 billion and $90 billion. That shows what a toll the recession has taken, and as we are able to turn that around and as it is turning around and unemployment continues to drop, our own budget projections will certainly significantly improve.

Mr. HATCH. Mr. President, will the Senator yield?

Mrs. KASSEBAUM. I am happy to yield.

Mr. HATCH. If the Senator believes we are going to turn around unemployment or we are going to keep this recovery going by adding $264 billion in additional taxes and continuing to go way up on spending above where we are, I have to believe that the Senator is not only misinformed but has not looked at the facts or has not reviewed economic history.

The fact is that everything that the Senate budget resolution and the House budget resolution are doing is a stifling of the economy.

Frankly, there will not be any high growth, nor will there be many real jobs that will be obtained under the massive spending, massive taxing approaches that are alternatives to this approach.

I am not saying we could not come up with something better. We only had 2 weeks. We are going to continue to work on it. But win or lose here today, this is not going to end with this particular debate.

I am prepared to vote.

Mrs. KASSEBAUM. Mr. President, we are waiting for the chairman of the Budget Committee who will be back shortly before we vote.

I just wish to say that certainly this debate will continue on because we are all trying to find, as I say, a budget that is going to help continue to restore the economy and the economic vitality of this country.

I happen to believe the Senate budget resolution does go in a balanced way because certainly cuts in spending can always lower people's income, higher taxes may affect incentives to earn and invest, but we have tried to balance those out in the Budget Committee resolution which I think at this time lends an approach that takes us a step forward in both areas.

Mr. GRASSLEY. Mr. President, I would like to commend the efforts of the Senator from Utah (Mr. HATCH) and all those who worked on this budget alternative. It is a valiant attempt, in my view, to bring Federal spending under control, and to reduce projected deficits by spending restraint rather than by major tax increases.

Despite my strong support for the aggregate spending totals and the revenue totals in this budget, I have serious concerns about its fundamental framework on the spending side. My primary concern is its distribution of spending restraint.

This budget makes real cuts in domestic programs, yet that same discipline has not been applied to the defense budget. I am categorically opposed to increasing the defense budget unless certain fundamental structural changes are made in the way we do business in the Department of Defense. The present structural nightmare that exists in DOD, which I have discussed and outlined publicly throughout this session of Congress, prevents us from getting our money's worth in defense. More money for defense would mean a continuation of a problem that is causing the costs for national defense to rise sharply, while procured quantities and force readiness are declining below that which we budget for. More money would not mean more defense, it would mean more waste and mismanagement. Until the situation is fully understood and corrected, then additional money for defense would merely accelerate and intensify the problem.

If real spending restraint is to be accomplished in this Congress, it requires the moral support of the American people. I have attempted to build the case that an across-the-board approach to spending restraint does have widespread support, and can be applied to the defense budget while improving national defense. It is my belief that any budget that is truly fair in its outlook and that is widely supported by the public must deal with all programs on an equal basis.

The disparate views among our country's leaders and members of both parties indicate the great difficulty before us in reaching a consensus for directing the economy back on the path of recovery. This disunity is a reflection of the tug of war over spending priorities. It is my belief that this conflict will not resolve itself in the face of the present budget and economic dilemmas unless the method of spending restraint has the support of the majority of our people. But first, the Congress must lay down the moral and essential basis for reducing Federal spending.

Only an across-the-board approach to spending restraint can provide that moral and essential basis for solving our budget and economic dilemmas, and for getting us back on the road of recovery. It is my hope that this Congress will come to appreciate and understand the necessity of this approach. My fear is that any alternative would cause us to drift from our goals of sustained economic growth. Thank you, Mr. President.

Mr. HATCH. I am prepared to yield back time. The yeas and nays have been ordered, and I am ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The PRESIDING OFFICER (Mrs. HAWKINS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 23, nays 75, as follows:

[Rollcall Vote No. 67 Leg.]

YEAS—23

Armstrong
Dole
East
Exon
Garn
Hatch
Hecht
Helms

Humphrey
Jepsen
Kasten
Laxalt
Mattingly
McClure
Murkowski
Nickles

Stevens
Symms
Thurmond
Tower
Wallop
Wilson
Zorinsky

NAYS—75

Abdnor
Andrews
Baker
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Domenici

Durenberger
Eagleton
Ford
Glenn
Gorton
Grassley
Hart
Hatfield
Hawkins
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Johnston
Kassebaum
Kennedy
Lautenberg
Leahy
Levin
Long
Lugar
Mathias
Matsunaga

Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Simpson
Specter
Stafford
Stennis
Trible
Tsongas
Warner
Weicker

NOT VOTING—2

Goldwater
Percy

Mr. HATCH's amendment (No. 1227) was rejected.

Mr. DOMENICI. I move to reconsider the vote by which the amendment was rejected.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1228

(Purpose: To add additional funds for law enforcement and the construction of prisons)

Mr. DOMENICI. Madam President, as I understand it, the previous order now contemplates that we move to the Specter amendment and that there will be 15 minutes to be equally divided between the Senator from Pennsylvania and the Senator from New Mexico. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

The amendment (No. 1228) offered by Mr. SPECTER, for himself and Mr. D'AMATO, is printed in yesterday's RECORD at page 10712.

Mr. SPECTER. Madam President, I yield myself 3 minutes.

This amendment, in which the Senator from New York (Mr. D'AMATO) joins me as cosponsor, would provide $100 million in fiscal year 1984, $250 million in fiscal year 1985, and $300 million in fiscal year 1986 for the construction of prison space for those convicted as habitual offenders in State courts.

Career criminals are a major problem in this country today, and estimates indicate that approximately 200,000 career criminals commit up to 70 percent of the our violent crime.

At the end of 1982, 31 States were operating under court orders to remedy overcrowding, and another 9 States were involved in litigation which could lead to such orders. Thus, 40 of the 50 States, were in emergency situations.

Emergency release mechanisms were adopted in 1981 by Ohio and Michigan and in 1982 by Connecticut, Georgia, and Oklahoma.

Madam President, the essence of the problem in this country today is that we do not have sufficient jail space to hold the career or habitual criminals. The situation is sufficiently serious so that I think the following statement is an accurate characterization of the problem:

> Public officials in this country are derelict in their duty in allowing violent career criminals to walk the streets and attack law abiding citizens when there are obvious solutions to at least part of the problem, i.e., steps like building more prisons.

This conclusion is confirmed by numerous studies and by some 14 years of my own personal experience in law enforcement, including 8 years as district attorney of Philadelphia.

This problem was brought graphically home to me personally on Saturday when my own wife, Joan Specter, was the victim of a robbery as she exited from a cleaning store near our home in East Falls in Philadelphia.

I ask unanimous consent at this time that the Daily News article dated May 2, entitled "Joan Specter Gives Mugger Run for the Money," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JOAN SPECTER GIVES MUGGER RUN FOR THE MONEY

(By Jack McGuire and Gloria Campisi)

Sore but still scrappy, City Councilwoman Joan Specter continued on her primary campaign rounds yesterday, dealing with the "reality" of a weekend mugging.

Specter lived up to the description offered by her husband, U.S. Sen. Arlen Specter, R-Pa., when a youth apparently lying in wait outside an East Falls dry-cleaning shop grabbed her shoulder bag Saturday morning.

"She's a strong-willed person. She doesn't give up" said Specter, former Philadelphia district attorney.

Specter, who is seeking re-election as a Republican Councilwoman-at-large, was dragged to the pavement when she refused to give up the bag, which the purse-snatcher then slashed from her shoulder, cutting Specter's finger.

Specter jumped to her feet, and despite wearing high-heeled shoes, chased him up Ridge Avenue from the shop near Midvale Avenue.

After running about a half-block, "screaming, 'police, police,'" she said she gave up when the purse-snatcher and a companion turned up a hill into the Schuylkill Falls housing project. "I couldn't have navigated the hill," she said last night.

Specter, a businesswoman who runs a pie-making firm, was dressed for a Republican Women's luncheon in Oxford Circle where she was to be the main speaker. After making a report to the police, she said, "I went off and made my speech . . .

"I'm late but I'm here," she announced, then shocked the audience by telling them why. "It didn't occur to me really not to go and make the speech," she said.

Police yesterday arrested a 16-year-old suspect who, they said, identified a second youth as the purse-snatcher.

"She had a bad bruise on her ankle and the calf of her leg, and this morning she got up with a stiff shoulder, neck and side. But it didn't stop her from her campaign activities," Sen. Specter, who was in Erie on Saturday, said yesterday.

"My neck is real sore," Specter said last night. But her mind was more on her travels through the city "every single day and night, alone."

"It's a reality and I think you should deal with what's real," she said.

The Specters have lived in East Falls without brushing against crime for 23 years, Arlen Specter said.

"So it was really a shock to have something like this happen," his wife added.

"I'm going to focus more on what makes one look like an easy mark," she said. "There's no question in my mind they were waiting for me," she added.

"As soon as I walked out, it happened. The boy came up behind me instantly and grabbed for my bag." She said the cut on her finger was not serious. "The man in the dry cleaner's was very sweet, he got me a Band-Aid."

Specter said there was less than $10 in her purse, but said she lost her credit cards, identification and glasses.

The experience of my wife, Joan Specter, has been duplicated again and again and the experience of being victimized by violent crime is well known even to Members of this body.

We appropriate additional billions for foreign defense, but statistics show that last year murderers in the United States claimed 23,000 victims compared to zero for all of our foreign enemies.

Madam President, this morning I sat in an Appropriations Committee meeting when we discussed the allocation of $20 billion for the MX which no one knows quite how to house. At a cost of $10 billion computed at $50,000 per cell, we could have space to incarcerate the 200,000 career criminals in this country and reduce violent crime by more than 50 percent, a conclusion established in 1973 by the Commission on Criminal Justice Standards and Goals on which I served. As yet, however, this conclusion has been ignored by virtually every public official in this country.

Mr. DOMENICI. Madam President, have the yeas and nays been ordered on the Specter amendment?

The PRESIDING OFFICER. Yes, they have.

Mr. DOMENICI. I do not think I will take my entire 7½ minutes. I yield myself 3 minutes.

First, let me commend the distinguished Senator from Pennsylvania, Senator SPECTER, for the thrust of this proposal. Since he has been in the Senate, he has made significant contributions in areas such as this. His genuine concern for what he perceives to be the professional criminal and his genuine concern for due process yet strengthening our laws so that we can get to the so-called professional criminal have contributed greatly to this body. Ultimately, I am convinced, many of his ideas are going to prevail, become law, and the country is going to be much the better for it.

The same stands for his idea here, that we ought to spend some money to help house professional criminals.

But let me say to the Senate just three quick things: There is no law on the books, we have passed no authorizing legislation, that would permit the funding program that he asks us to add money to the budget resolution for.

Consequently, the way the budget works, if we were to agree to this $600 million add-on in budget authority, there is absolutely no assurance that we are doing anything more than taking the function that includes it and adding money to it.

There might not be anything wrong with that, Madam President, but for the second point: This particular function that he is seeking to amend is a function of Government that the Budget Committee was eminently concerned about. It is one that has extremely high budget authority and outlay numbers. In fact, it is the only one I am aware of that is even higher than what the House put in their budget. We put everything the President asked for and some additional money that the committee thought was necessary because our National Government must help our local governments and our State governments in the area of criminal justice, in the area of drug prevention, beefing up the FBI, and all those areas that we are so concerned about. I do not think it is one that we ought to add money for, $600 million in the budget authority. The Senator's estimate is $100 million in outlays. I buy that for the argument, although I think it is going to be more than $300 million in outlays.

I just think that if the Senator is successful in the next couple of months in getting his bill passed—and I am a cosponsor of his bill; I agreed with him yesterday that we ought to do that—there is enough money in this function to get that program started. Conversely, if that does not become law, we are just adding money to a function of government that we already have put more increase in on the domestic side than any function that we dealt with in the Budget Committee.

Madam President, it is with regret that I must ask the Senate not to add more money here while, at the same time, I compliment the distinguished junior Senator from Pennsylvania for his efforts.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Madam President, I ask unanimous consent that the Senator from Florida (Mrs. HAWKINS) be added as an original cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator from Pennsylvania yield time to the Senator from New York?

Mr. SPECTER. I yield 2 minutes to the Senator from New York.

Mr. D'AMATO. That is not nearly enough time, Madam President.

Mr. SPECTER. I yield 3½ minutes, all the time left out of 7.

Mr. D'AMATO. I thank the distinguished Senator.

Madam President, I support the excellent amendment introduced by my friend, the distinguished Senator from Pennsylvania.

I am happy to cosponsor this amendment to the budget resolution. It is an important step toward solving a national crisis that, regrettably, this Congress has thus far failed to address.

On April 7, I introduced, and Senators SPECTER and HAWKINS cosponsored, the Correctional Facility Development Act (S. 1005). Senators COCHRAN and MURKOWSKI have since added their names as cosponsors. I anticipate that more Senators will add their names as legislative interest in this issue increases.

S. 1005 would provide $1 billion per year for 3 years on a matching basis to the States to encourage prison construction and rehabilitation. The States would receive a dollar of Federal money for every $2 they spent on prison construction and rehabilitation. To date, the Judiciary Committee has not scheduled hearings on S. 1005.

So I say to all my colleagues in the Senate: The amendment introduced by Senator SPECTER is our best opportunity today to respond meaningfully to the prison overcrowding emergency. This amendment in no way renders S. 1005 moot. The two pieces of legislation are complementary. We need both. However, we cannot ignore the opportunity to expand Federal prison facilities while awaiting our opportunity to enact S. 1005 and more fully meet the needs of the States.

The new State prisons opened in 1982 absorbed an inadequate share of the increase in their prisoner populations. Seventeen States have been forced to house prisoners in local jails. In desperation they have resorted to triple-celling, tents, sheds, and military stockades. These are the grim realities that belie the claim that no more prison space is needed.

The Nation's prisoners, convicted of violent felonies, cannot be prematurely released into our communities. They cannot be housed inadequately, or in substandard facilities.

In order to be humane to our prisoner population and in order to provide the average citizen the protection from violent crime that he or she deserves as a matter of right, we must expand the available space in our prisons.

There are approximately 150,000 spaces for 700,000 individuals convicted of felonies annually. The States have strained their resources to the breaking point to meet the burdens placed upon them by 400,000 inmates. It is inconscionable that they should have to struggle alone.

In 1981, the national prison population grew by 40,000. In the Congress we declared a war on crime, but balked at funding it. We were left with a phony war.

In 1982, the prison population again grew by 40,000. Again we have heard the rhetoric of a war on crime. The question, therefore, is unavoidable: Will Congress again refuse to fund this war, which it repeatedly declares?

We cannot continue to make empty promises.

The crime rate is supposed to have dropped 4 percent last year. If it continues to do so each year for the next 30 years, in the year 2012 we will have the same incidence of crime that plagued us in 1962. This crisis is not going to resolve itself. The aging of the baby boom population will not win the war on crime.

To win the war we must act. We must spend money. We must take more violent criminals off the streets. If we do not, then we must admit defeat in our war on crime.

As mandatory sentencing becomes more widespread, so will the pressure to release on parole the more dangerous criminals to make room for others sentenced under those laws. Murderers will be granted work release to free space needed for armed robbers. Or, as happened in one State last year, prisons will be forced to stop admitting criminals entirely.

Madam President, Senator SPECTER's amendment is responsible legislation. It will not bust the budget. Its commitment of resources is limited to $650 million over 3 years. That is one-third the cost of a Trident submarine.

If we are unwilling to spend even that small sum to protect our constituents from the more dangerous elements of society, then all of our declarations of war on crime are hollow indeed.

The time has come, Madam President, for us to give substance to our often expressed good intentions. Let us join together to pass the amendment before us. Let us have a real war on crime.

Mr. SPECTER. Madam President, how much time remains?

The PRESIDING OFFICER. One minute and twenty seconds.

Mr. SPECTER. Madam President, I amplify my remarks in response to the question to me by the distinguished

Senator from California (Mr. Wilson) as to why this particular approach. It is because 44 States now have habitual offender statutes, but judges are not sentencing them under those statutes to life imprisonment because the States have no place to put them. If, as, and when the Federal Government undertakes this financial responsibility, it would be a major motivation for the State court judges' to sentence to life imprisonment and to rid the streets of career criminals.

Crime is an interstate problem. These habitual career criminals move in interstate commerce and cost us some $100 billion a year.

Madam President, this proposal is one part of a comprehensive legislative program for crime control that I introduced on March 23, of this year, Senate bill 889. I realize that in a climate of budget restrictions, the chances for success are not the brightest here this afternoon. But this is a start, and I am looking for as positive a statement as can be obtained from this body today to move ahead on S. 58, which Senator Domenici has been good enough to join as a cosponsor and to push ahead on prison construction.

No aspect of criminal justice improvement, in my judgment, is as important as dealing with these 200,000 habitual criminals. This amendment would be a significant step forward on incapacitating them.

Mr. DOMENICI. Madam President, I yield 2 minutes to the distinguished Senator from Kansas (Mr. Dole).

Mr. DOLE. Madam President, this Senator is most sensitive to the needs of our Nation's corrections institutions. I have sponsored legislation to provide bond interest subsidies, grants, and surplus Federal property to the States to relieve serious overcrowding and help bring conditions in our Nations prisons and jails into compliance with constitutional mandates. I also recognize that any effective Federal assistance to aid the States to help resolve the crisis of overcrowded and unsafe facilities presents difficult budget problems.

Testimony was taken during several days of hearings on prison assistance legislation which I offered during the last two Congresses. That legislation is now pending in Senator Specter's subcommittee as a part of a justice assistance package, S. 901. I believe that a workable vehicle for aiding the States can be developed as a part of the administration's general State justice assistance proposal, pending before the Juvenile Justice Subcommittee, as offered by Senator Specter. This Senator's staff has been working with the staff of the Senator from Pennsylvania to incorporate prison assistance into a justice assistance package which is acceptable to the States and the administration.

As the Senator from Pennsylvania has noted, the Federal Government is now facing its own overcrowding problems; $700 million of prison construction locks the Federal Government into over $8 billion of operation and maintenance costs over a facility life cycle. Such a long-term massive commitment is not a problem with direct assistance to the States.

It is also worth noting that State prisoners have filed some 15,000 civil rights lawsuits over prison conditions. Forty States are either under court order or face suits against major institutions or their whole system. Transferring State prisoners will bring many of these suits into our laps.

I do favor helping the States in resolving their corrections problems, but I believe that more planning and review, and a different mix of solutions should be considered before we put Uncle Sam in the business of maintaining custody of prisoners with long sentences, with the consequent long-term costs and potential liabilities.

Madam President, I only want to add, here we are again, trying to legislate on a budget resolution. I know everybody says that is fair game, we ought to pass this bill or that bill. I understand that the Senator from Pennsylvania wants to build more Federal prisons for State prisoners. We have been working here for several years to provide some grant money for States so they can expand their State facilities. That bill is also pending in the subcommittee of the Senator from Pennsylvania. It is my hope that we can work out some responsible legislation this year.

Certainly, the Senator from Pennsylvania has been a leader in this area. There is no doubt about it. On overcrowding, we have had hearings in the past 2 or 3 years, and I hope that we can do something that would start this long overdue program.

But again, we are not legislating here. We are merely saying, this is a great idea, we ought to put some more money in the budget for it. In my view, if we can work it out, as I am certain we can, we will not have any budget problem. We would probably find some way to accommodate it, if we have that much support for it. But we should not do it here, though I certainly support the Senator's efforts.

Mr. SPECTER. Madam President, I thank the distinguished Senator from Kansas for his remarks. He has been a leader in this field for many, many years.

I suggest one modification from the proposals which he has made. All of this is negotiable and I am sure we shall all work together in the Judiciary Committee. My sense is that it is preferable to have the Federal prisons motivate the States to sentence under the habitual offender statutes rather than simply make prison space available for the States, where they can make the allocations as they choose. This proposal seeks to establish a priority for those convicted under habitual offender statutes, because State court judges will not now sentence since it is at State expense; I believe they would sentence if it were a Federal offense.

As a district attorney in the State of Pennsylvania, I had many cases where we had convicts who were most appropriate for sentencing under habitual offender statutes, but such sentences were not imposed. If it were financed by the Federal Government, that incentive would go a long way, in my judgment, to encouraging that kind of sentencing.

Mr. HEFLIN addressed the Chair.

Mr. DOMENICI. Madam President, I yield 2 minutes to the distinguished Senator from Alabama.

Mr. HEFLIN. Mr. President, I have been, along with Senator Dole, the sponsor of his legislation dealing with prisons. There are many problems involved in this. I think the distinguished Senator from Pennsylvania hits a good idea on habitual offenders in the States, but there are many others. I think it is a matter that needs attention. It is being brought about in many States because of court decisions relative to the inadequacy of State prisons and city jails. Rather than limiting any amount of money, it ought to be approached from a studied, reasoned basis and cover all aspects, particularly that aspect where Federal mandates coming from courts are imposing a big burden on States. Therefore, I agree with the concept but I do not believe this is the place to do it or to do it in a limited fashion. I think that Senator Dole is correct in his efforts thus far, and I hope that we can get support over all. But rather than to identify a limited and narrow area, I think we ought to approach it from the need of the States overall with a priority being given where Federal courts have mandated certain changes in prisons and in jails.

The PRESIDING OFFICER. All time has expired on the amendment.

Mr. DOMENICI. Madam President, I yield myself 1 minute on the bill.

The issue has developed on the floor as if we were voting on whether we like the concept of Bob Dole of helping with the prison crowding problem or whether we like the concept of Senator Specter. That is not the issue at all. This resolution does not have any legislation in it, but what it does have is $600 million over the baseline for this function. The distinguished Senator from Florida (Mr. Chiles) in committee prevailed with almost unanimous support that this particular function ought to increase dramatically. It did. The issue is. Do we want to add $600 million more in budget authority to a function that we have gone over the baseline which is current law, meaning you assume inflation and add $600 million more to this function? Now we want to add $600 million more in budget authority on the premise that it is going to fund somebody's version of prison assistance for the hardened criminal, and that is not the issue. The issue is one of how much should you put in this function when we have already made it the fastest growing domestic program we have.

Mr. CHILES. If the Senator will yield, there was over 7½ real growth put into this matter.

Mr. DOMENICI. Indeed.

Mr. SPECTER. Madam President, will the distinguished chairman of the Budget Committee yield to me an additional minute?

Mr. DOMENICI. I am pleased to.

Mr. SPECTER. I ask unanimous consent for an additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Madam President, I am well aware of the add-on presented by Senator CHILES, and I certainly commend him for that. But those funds may well be appropriated along very different lines. For example, drugs and organized crime may well receive a significant portion of those funds, as perhaps they should. Juvenile Justice may take some $70 million. Legal services may take some $250 million. Justice assistance may take some $90 million. There is uncertainty as to where those particular funds will be allocated.

I do agree with the distinguished chairman of the Budget Committee that this earmarking is not directly appropriate, but it is our practice to deal with matters of this sort in a budget resolution, and a substantial vote has great weight when the matter later comes to the authorizing committee. So it is in accordance with the custom of this body to include in a budget resolution an amendment directed along this line. The other funds already added, as referred to, certainly will not necessarily be available for this kind of prison construction.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 17, nays 81, as follows:

[Rollcall Vote No. 68 Leg.]

YEAS—17

Biden
Bumpers
D'Amato
DeConcini
Dodd
Hawkins
Heinz
Kennedy
Levin
Long
Matsunaga
Metzenbaum
Moynihan
Packwood
Sarbanes
Specter
Zorinsky

NAYS—81

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Bingaman
Boren
Boschwitz
Bradley
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
Denton
Dixon
Dole
Domenici
Durenberger
Eagleton
East
Exon
Ford
Garn
Glenn
Gorton
Grassley
Hart
Hatch
Hatfield
Hecht
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Lautenberg
Laxalt
Leahy
Lugar
Mathias
Mattingly
McClure
Melcher
Mitchell
Murkowski
Nickles
Nunn
Pell
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sasser
Simpson
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Trible
Tsongas
Wallop
Warner
Weicker
Wilson

NOT VOTING—2

Goldwater
Percy

So Mr. SPECTER's amendment (No. 1228) was rejected.

Mr. DOMENICI. Madam President, I move to reconsider the vote by which the amendment was rejected.

Mr. CHILES. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

Madam President, if we could have order I wish to make an announcement about the scheduling of the Senate.

The PRESIDING OFFICER. The Senate will be in order. Those who wish to be heard on conversation may do so in the cloakroom.

The majority leader is recognized.

SENATE SCHEDULE

Mr. BAKER. Madam President, I have had a number of Senators ask about the schedule of the Senate for today, tomorrow, and the remainder of the week.

I have had a conversation with the minority leader informally and I wish now to state my intention and my request to the Senate in respect to the scheduling.

I just checked with the Chair and we have a little over 39 hours remaining of debate under the statute, unless the time is reduced or increased—heaven forbid—but it is clear to me that if we are going to finish this resolution in anything like reasonable time, and I mean by that not later than the middle of next week, we are going to have to work fairly late.

I gave this indication on Monday when we convened so I hope no Senator is surprised by it.

I anticipate the Senate will be asked to stay in until approximately 9 p.m. tonight. I have asked the Sergeant at Arms to provide that dining room facilities will be open and available to Members.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. on tomorrow.

The PRESIDING OFFICER (Mr. PRESSLER). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I anticipate that we will be on this measure tomorrow by about 10:30 a.m. We will wait a little later to establish that time and see if there are any requests for special orders and the like. Assuming that we get on it at about 10:30 a.m. I also anticipate a late evening tomorrow night.

I do not know how late yet but my objective would be to run until about 9 p.m. again tomorrow, hoping we get about 10 hours a day.

I anticipate we will be in session on Friday on about the same schedule and probably on Saturday as well. That being so it will be Monday or Tuesday before we finish this bill but I do not know of any other alternative.

Mr. BYRD. Mr. President, the distinguished majority leader indicated to me yesterday, if I am not wrong in my impression, that we would not be in Saturday. I passed that word around to my people. I hope I am not mistaken in that.

Mr. BAKER. Mr. President, I really hope I did not misspeak because my recollection was that I said we will be in on Friday and that I hoped we would not be in on Saturday.

Mr. CHILES. Will the Senator yield to me?

Mr. BAKER. Mr. President, let me say to my friend, the minority leader, I cannot remember a time in our relationship as majority and minority leaders each in that role at one time or another when we have had any significant disagreement on a matter of fact. We have had a lot of disagreements on the matter of issues but not on fact. But I have to say in absolute candor if I said that it was not what I meant to say and indeed I said yesterday a number of times that I anticipated we would be in session on Saturday, if necessary. And I apologize to the minority leader for any misunderstanding and to any Senators who may have proceeded on that basis.

I continue to hope we will not be in on Saturday but Senators should be assured we will be in on Friday and that if we do not make good progress on Friday then I do not think I would have any alternative except to ask for Saturday. But, Mr. President, my objective overall is to get final passage of this resolution sometime Monday, Tuesday or not later than Wednesday of next week, and absent an agreement to do that I do not know anything to do except to burn up the time by being in session.

So I say to my friend the minority leader I hope we are not in on Saturday but Senators should not assume we will not be in on Saturday.

Mr. TSONGAS. Will the Senator yield?

Mr. BAKER. Yes

Mr. TSONGAS. The original time agreement on the immigration bill provided for no votes on Monday and a number of people, including myself, scheduled Monday for other things.

Mr. BAKER. Senators should know the immigration bill agreement was activated only if we reach that bill by Monday at noon. It is my intention to stack any votes on Monday and let them occur on Tuesday. I suppose any Senator could shoot me down on that by objecting since it is not now part of the agreement and it does not look like it will go if we do not get to immigration by noon. But it is my intention to try to honor that provision notwithstanding.

Mr. FORD. Will the Senator yield? How large a stack can he afford? Just stack Friday's votes, too. The greatest 2 minutes in sports will occur in Kentucky and some of us would like to go there even though we do not have a favorite this year; just continue to stack those votes and we will come back here charged up viewing that great moment in history.

Mr. BAKER. Knowing the propensities of those attending the Kentucky Derby, I do not doubt some will return charged up.

Mr. FORD. If nothing else, I say to the majority leader it will help our economy at home.

Mr. BAKER. It will do that, and it may even improve the tempers in the Senate.

Mr. FORD. It will eliminate the malaise.

Mr. BAKER. I really would not want to do that. I think the real problem, as I understand it, is Members are afraid, and I do not blame them, that they may not have time to offer their amendments and that is a realistic concern. So I would urge Senators then to come to the floor and offer amendments and try to get as much out of the way as possible. But I say once again I expect to be in on Friday and to have votes on Friday, and we will give the Senators from Kentucky periodic reports on the progress of the Senate.

Mr. FORD. Remember there is no telephone at the track.

Mr. BAKER. Very well.

Mr. President, I apologize to Senators for the necessity of that announcement, but I thought I should make it.

Mr. BYRD. Will the majority leader yield? Could we sequence Baucus to one amendment following the Johnston amendment and then amendments from some of those here?

Mr. BAKER. Mr. President, let me yield to the chairman of the committee, if I may, on that subject—it is perfectly agreeable to me if it suits his requirement.

Mr. DOMENICI. As I understand it, Senator JOHNSTON is now agreed upon as the next amendment and if Senator DOLE could agree to be here following the Johnston amendment we could now agree to Baucus as the amendment that follows and then if the Senator has no objection we would then follow with the Grassley amendment which is a total substitute. We have not been putting them in any kind of unanimous consent. I think we can agree that is the sequence at this point.

Mr. CHILES. It is all right with us.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 1230

Mr. JOHNSTON. Mr. President, the Johnston-Nunn-Exon amendment will shortly be sent to the desk. I would like to explain to my colleagues what that amendment does——

The PRESIDING OFFICER. Who yields time? The Senate will be in order. Who yields time to the Senator from Louisiana?

Mr. JOHNSTON. Mr. President, I think we are sequenced, the Johnston amendment is sequenced, at this time, the amendment will be sent up in just a few moments.

Mr. CHILES. I yield such time as the Senator from Louisiana needs. If he succeeds I might take it back. [Laughter.]

Mr. JOHNSTON. The Johnston-Nunn-Exon-Boren amendment and, we hope, a few others as well, will shortly be sent to the desk. This, Mr. President, is the balanced budget amendment. How do you get to a balanced budget? There is no magic to it. It is possible to do. It calls for a few basic principles: Equal, shared sacrifice throughout all sectors of the economy, attention to revenues as well as expenditures. In other words, you move increased revenues as well as cut expenditures and you must not exempt any part of the budget.

What the amendment arrives at in terms of final results, Mr. President, is assuming high-growth economics, which we believe are achievable with this kind of approach, a deficit in 1984 of $149 billion; by 1985 it is down to $98 billion; by 1986 to $50 billion; by 1987 to $19 billion, and by 1988, Mr. President, the deficit has disappeared and we are in a surplus situation to the tune of $26 billion.

The way we achieve this, Mr. President, in terms of assumptions is as follows: First of all, we adjust all CBO outlay reestimates for the social security changes, the jobs bill, and the PIK bill. Second, we limit real growth in national defense to 5 percent. Third, we limit the increase for nondefense discretionary, domestic discretionary, programs to 2 percent, and we freeze foreign aid.

Fourth, we allow a 2-percent pay raise in fiscal year 1984, and in fiscal year 1985 through fiscal year 1988 allow for raises equal to the CPI minus 2 percent.

We assume the social security changes already made in law, and in addition to that, for all nonmeans tested entitlement cost-of-living adjustments, set the COLA at the Consumer Price Index, minus 2 percent.

We have a 2-percent across-the-board cut in other nonmeans tested entitlements and we have a growth cap at that level on the Commodity Credit Corporation farm expenditures.

With respect to medicare, Mr. President, we limit that to growth of 10-percent. The 10-percent growth in medicare is equal to the growth in medicaid. The total savings on medicare are $32.6 billion over the 5-year period.

With respect to revenue, we have listed unspecified revenue increases. We say they are unspecified, Mr. President, because we recognize that it is for the Finance Committee in the Senate to determine how they will provide for unspecified revenue increases. The amount of those is $15 billion for 1984. If you think the third year of the tax cut should be suspended, this amount is equal to one-half that amount or, if you prefer, it could be from any number of alternate means including a surtax, including a tax on windfall profits, tax reform, or any number of different ways would achieve the unspecified revenue changes.

But the scope or the size of that is one-half the amount of the third year of the tax cut in fiscal year 1984. Thereafter, it is equal to the amount that would be lost through continuing of indexing, with a possible standby surtax in 1988, if that is necessary.

Now, very briefly, Mr. President, why is it that these proposals are fair? Well, first of all, if you look at health care costs, which is one of the largest savings here from medicare, health care costs have been growing at the rate of 17 percent per year over the last decade. If left uncontrolled, the outlays for medicare by 1988 are estimated to reach 10 percent of all outlays. So what we have done is assume $32.6 billion savings for medicare over the 5-year period.

The Congressional Budget Office suggests a number of ways to save in medicare. I will not repeat those other than to offer them into the RECORD at this point. But the size of the savings suggested by CBO is $77 billion. So we have actually taken less than half of the CBO suggested savings which I will offer into the RECORD.

With respect to cost-of-living allowance, Mr. President, if you are going to deal with a budget deficit the size of the one we are dealing with here, which is over $200 billion in deficit for the current fiscal year, and if you want to get down in the direction of a balanced budget by the year 1988, there simply is no way to do it unless you deal with the tremendous growth in the cost-of-living allowance. And there is no way of dealing with the cost-of-living allowance unless you deal with it across the board. So that is what we have done—Consumer Price Index, minus 2 percent.

Under the present law if the Consumer Price Index is 3 percent or less, recipients of social security and other programs get no COLA at all. If it is above 3 percent, they get the full COLA.

So what we are doing, in effect, is compromising between the present law with its full loss at less than 3 percent and the full CPI thereafter by saying instead CPI, minus 2 percent. This happens to comport, Mr. President, with the pay raises which are limited to 2 percent for the first year and thereafter the CPI minus 2 percent for pay raises. So, we are treating alike those who pay in with those who are on the receiving end of social security and retirement programs.

It seems to me, Mr. President, that any program that does not have a symmetry or an equity between those who receive from the entitlement programs and those who pay in has a fatal flaw. And this amendment does treat them equally and alike.

There is not a single cut in the domestic discretionary part of the program, Mr. President. There is only a limitation on the amount of increase, a limitation on the amount of increase, for example, in the so-called discretionary nondefense, limiting that to 2 percent. So there is not a cut in a single program, but simply a restraint on the amount of increase.

But the bottom line is, Mr. President, with high growth economics, as put through the computer, we end up with a $26 billion surplus by the year 1988.

Mr. President, at this time, I yield to my coauthor, Senator EXON.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I thank the Chair and I thank my friend from Louisiana.

Mr. President, I am again cosponsoring the Johnston-Exon-Nunn amendment for fiscal responsibility. I say "again," since this is the second year in which we have offered a budget alternative. I would hope that our colleagues would listen very carefully. We made a similar attempt last year to couple additional spending restraint with modest revenue increases in order to move—and I emphasize the word "move"—toward a balanced budget.

Last year, when we offered a similar amendment, our warnings of $200 billion deficit fell on deaf ears. This year those deficits are a reality. They are not only here now, but they are predicted far into the future unless we can change our course.

The budget alternative we are offering provides the largest cuts in the deficit spending of any budget alternative that has been or will be offered. It also is a fair and realistic one and presents the Congress with an opportunity to do something constructive and positive, and I would hope that it would pass. Let me briefly compare the Johnston-Exon-Nunn budget with others that have been offered.

First, this budget alternative provides much lower deficits than the President's. The President's recommendations, even with significant new taxes in 1986, 1987, and 1988, do not bring the Federal deficit below $150 billion. Moreover, this budget alternative includes both more spending restraint in defense and spending restraint in the total budget than does the President's.

Compared to the House-passed budget, the Johnston-Exon-Nunn alternative does not use revenues in order to finance new spending programs. We provide for a more realistic 5 percent real growth in defense, and revenues are used in our alternative in order to reduce the deficit. And I hope that that would begin to be the goal of the U.S. Congress.

The Senate Budget Committee's recommendations, as reported, embodied the same general philosophy as does our approach. Our alternative, however, exercises more fiscal restraint, especially in the nonmeans-tested entitlement spending programs. By starting now to make some of these entitlement savings, the budget that we are offering provides significantly lower deficits over the 5-year period than the Senate Budget Committee's work.

The Hatch budget uses much more optimistic economic assumptions than the other budgets, and therefore a comparison is more difficult. While this Senator hopes that the optimistic assumptions used in the Hatch budget come true, it is appropriate to note that overly optimistic economic assumptions in the past 2 years have got us into our present predicament. Nevertheless, using the same high growth assumptions that have been used by Senator HATCH, the Johnston-Exon-Nunn budget would run a double-digit surplus, a double-digit surplus in the year 1988 than does the Hatch budget as presented and defeated earlier.

The Hollings freeze budget provides the closest counterpart to our own budget alternative. One major difference is the 3-percent real growth defense number proposed by Senator HOLLINGS, while this amendment provides a full 5-percent increase for defense after inflation.

The budget which contrasts the most—and I emphasize and repeat, contrasts the most—with our budget alternative may be the proposal which is coming forth from the Senate Republican Caucus. The latter budget apparently would increase defense spending to 7½ percent real growth for 1984, provide virtually no revenue increases until 1986, and make no major attempts at further spending restraint in the rest of the budget. The deficit, the national debt, and interest payments thereon will suffer greatly if such a budget is adopted. That kind of a budget is wrong for several reasons. Net interest on the debt has been the fastest growing major item in the budget in the past several years, and adding to those interest costs will make Federal spending even more difficult to control in the future. Moreover, the emerging Republican Caucus budget chooses not to bite the bullet now. It is long on promises for declining deficits in the future, but short on action in the present in order to accomplish that goal.

Let me briefly summarize the Johnston-Exon-Nunn budget in the following ways:

This is the budget for those who want to take action now to reduce deficits and move toward a balanced budget.

This is the budget for those who want to see more spending restraint than has been proposed either by the President, the House of Representatives, or the Senate Budget Committee.

This is the budget for those who want to see less Federal borrowing, lower interests rates, and a real chance at higher economic growth.

This is the budget for those who believe we should have a 5-percent real growth in defense spending in 1984.

This is the budget for those who want to see revenues increased to cut deficits, so long as revenue increases do not exceed the amount of spending cuts.

This is a budget for those who want to see the growth of the debt cut and less Federal spending on interest costs.

In closing, I want to urge my colleagues to give this budget alternative their serious consideration. Several of us on this side of the aisle could take the easy way out and vote no on all budget plans because they do not meet our specifications, and therefore avoid responsibility. But we want to do the responsible thing, and this budget is our attempt. We will not please everyone on defense spending, domestic programs and entitlements, taxes, and deficits. But we think it is a fair approach, requiring balanced sacrifices on both the revenue and spending side of the budget, and above all, it is what is needed to address our perilous economic condition. If this Congress is sincere about bringing down interest rates further, restoring the value of the dollar to a reasonable level thereby aiding our exports, and showing that it is possible for Congress to act in a bipartisan fashion to meet the challenges of our times, then this is the budget alternative that we must pass.

Mr. President, I yield the floor.

The **PRESIDING OFFICER**. Who yields time?

Mr. **NUNN** addressed the Chair.

Mr. **NUNN**. Will the Senator from Florida yield for the balanced budget discussion?

Mr. **CHILES**. I will be delighted to yield. We may recoup some of this time if the amendment is ever sent to the desk.

Mr. **NUNN**. Mr. President, I rise in support of the Johnston-Nunn-Exon-Boren amendment, which would provide a real balanced budget by 1989 and under realistic economic growth projections. Using the CBO projections, this amendment would provide a balanced budget by fiscal year 1988.

In summarizing where we are on the budget in this Congress and in this administration, it seems to me we have some people who say, "No more revenue, no matter what. No more revenue. No matter what size the deficit, no more revenue."

We have some people who are saying "No defense cuts, no matter what the deficit. No more defense cuts."

We have some people who say, "No more discretionary cuts. No more cuts in discretionary spending no matter what it does to the deficit."

We have some who say, "Protect the cost of living adjustments at all cost, no matter what size deficit results."

So far, in the last 2 years, every group has been winning. Each of these groups has prevailed on this point of view, or largely prevailed. The only problem is that the deficits are rolling upward and upward and upward, and from what I understand now we may very well be voting on the largest deficit that anyone every proposed, if what I understand about some of our colleagues' proposals on the other side of the aisle is correct. I will reserve judgment on that.

Each group has been winning. The only difficulty is the American people have been losing and the economy has been losing. Any kind of stable, long-range recovery has been losing.

The result of all this is that as the economy grows, and we hope it will, at some point we are going to again have a very severe clash between fiscal policy and monetary policy. The result will be higher interest rates and an aborted economic recovery.

Mr. President, the Johnston-Nunn-Exon-Boren amendment says to each of these groups, "You have to give a little bit. You have to sacrifice some. We need some more revenue. We need some responsible defense cuts. We need to have some more discretionary spending cuts in a fair, equitable way. And we certainly need to change the automatic cost of living adjustments in a fair way that will protect the retired and also protect the working people and protect the overall economy."

Mr. President, the Johnston-Nunn amendment would say that each group would lose partially but the American people and the economy of our country would win. This is the only plan which takes a truly balanced approach to reducing the trillion-dollar deficit projected by the President's budget in fiscal years 1983 through 1988. Our proposal would reduce cumulative budget deficits by $249 billion below the administration's proposed budget over the next 5 years. We would reduce the deficit by $243 billion below Senator HATCH's budget that was voted down a few minutes ago. We would reduce the deficit by $133 billion over that same period of time below the budget reported by the budget committee.

Our amendment will reduce the current base line deficits by a total of $583 billion, thus cutting current law deficits in half.

We accomplish this vastly improved deficit picture by providing a fair and balanced package of spending reductions and revenue increases, about a 50-50 split, with 50 percent more spending reductions and about 50 percent of that package is increased revenues.

First, we would limit the growth in real defense spending to 5 percent per year, which would save more than $36 billion between fiscal years 1983 and 1988.

I might add on this point, Mr. President, if we are going to have extremely high deficits, if none of these groups I have already identified is willing to take cuts, I shall choose my own priorities, as others will, and I shall vote for a higher number in defense when it gets down to the point of no hope for a balanced fiscal picture. I have my own priorities, as everyone else does, but I am willing to come off my priorities if it will mean a truly balanced fiscal picture.

In my view, Mr. President, such a growth rate in defense spending would be acceptable only in the context of a significant overall deficit reduction as called for in this amendment. This proposal would result in steady and constant yearly growth rates and it would provide the badly needed element of consistency and predictability in defense outlays that are absolutely essential for any kind of efficiency and any kind of planning.

Second, our proposal would limit the annual growth in nondefense domestic discretionary programs to 2 percent and would freeze foreign aid at 1982 levels. This would produce savings of almost $30 billion over 5 years.

As I see it, this would spread the burden of reduced spending on domestic programs evenly and therefore not impose an unfair burden on any sector. It also provides necessary flexibility for discretionary programs, in that some could be increased provided others were decreased.

Third, pay raises for civilian Federal employees and the military would be limited to 2 percent in fiscal year 1984 and, throughout fiscal years 1985 through 1988, pay raises would be limited to the Consumer Price Index minus 2 percent. Even though this does call for some small sacrifice from Federal civilian and military employees, if this Johnston-Nunn-Exon-Boren amendment passes, I am convinced the net result would be lower inflation, lower interest rates and stable economic growth. If we get all of that out as far as civilian and military employees are concerned, I am convinced the economic benefit would far exceed the small sacrifices required of these people by the taking of small pay raises—although there would be pay raises.

All of us know the next item I mention is controversial, but I think all of us know at some point it is going to be necessary. I say the time has arrived. Our amendment will provide for a 6-month delay in COLA's for nonmeans tested entitlements and set future COLA's at CPI minus 2 percent. This provision, which will result in savings of over $56 billion, deals directly with one of the greatest revenue drains in the Federal budget.

The CPI indexing programs are not part of our constitutional rights. To the best of my reading of history, they were not in the Constitution; nor were they in the Bill of Rights. In fact, they were not even part of the New Deal or the Great Society. They did not begin until 1971. Interestingly enough, we have had very much of a roller-coaster economy since about that time.

Over the last decade, cost-of-living adjustments for entitlement recipients have far exceeded average wage increases for the typical wage earners. It is high time that we came to grips in a fair and equitable way with indexing in the Federal budget. By limiting future COLA's to the CPI minus 2 percent, we would do just that. As the Senator from Louisiana has already stated, under existing law, social security recipients receive no indexing if the CPI increases less than 3 percent.

So the social security people, the people we all value and certainly want to protect, when inflation goes up less than 3 percent now, they absorb up to 2.9 percent. We are saying let everyone absorb up to 2 percent. Therefore, we are extending this general principle by requiring that the first 2 percent of inflation be absorbed under all indexed programs. I am convinced that this equitable sacrifice is necessary to get the Federal budget under control and stop the vicious inflation-recession cycle we are obviously on.

The Johnston-Nunn amendment would also impose a 2-percent across-the-board cut in other nonmeans-tested entitlements, producing savings of $11.5 billion over the next 5 years.

We would also limit medicare outlays to 10 percent annual growth over the fiscal year 1984-88 period, producing almost $33 billion in spending reductions.

This is a reduction from last year's 17 percent and this year's projected 14 percent. Can anyone say it is radical to limit the growth of a program to 10 percent a year for 5 years? This would allow medicare to rise at the same rate as medicaid. I know this causes some degree of concern, but I do not see how we can possibly contend with a straight face that we can continue to let runaway medicare spending go on and on. We have to come to grips with it and this particular part of the amendment would save about $3 billion. Health care outlays have risen faster than any other element in the budget, rising at an average annual rate of 17 percent last year. Our amendment would save significantly more than the Budget Committee proposal and approximately two-thirds as much as the President has proposed. If left uncontrolled, medicare outlays will grow to the point that by late 1986, the hospital trust fund will become insolvent. Most of us in this Chamber recognize that the only question is whether changes will be made in law before or after the inevitable crisis occurs.

Finally, our proposal calls for $275 billion in increased revenues over a 6-year period—again, controversial. In my view, if we realistically expect to reduce projected budget deficits, we will have no choice but to find means of raising Federal revenues. Just as a private corporation must often decide to postpone dividend payments during periods of economic stagnation, the Federal Government must reassess its fiscal policy in light of severe fiscal imbalances.

I believe this outyear revenue increase, together with the additional spending cuts, will lower inflationary expectations, lower interest rates, and assure sustained economic recovery.

I also believe that if we have this kind of sustained economic recovery, we may very well be able to decrease taxes in 1986, 1987, and 1988 from what this amendment calls for. But as long as we keep those outyear deficits looming on the horizon, we are going to have high interest rates on the long-term interest and we are going to have the danger of an aborted economic recovery. So our unwillingness now to say that we will pay the price for the spending programs by having revenue come in to equal those expenditures in the outyears is precisely the same kind of thinking that produced the high interest rate, particularly when you consider the interest rate above inflation. That is a self-destructive mechanism for our economic recovery.

Mr. President, I think all of us, when we talk about taxes, know what any political race is capable to doing in the tax arena. But I think instead of continuing to talk about whether we are going to raise taxes or raise revenue, we should face the facts as they are. The question really is, Are we going to continue to borrow more money and to pay every single part of the tax decreases with increased borrowing on the bond market?

These are not earned dividends, these are borrowed funds. We are borrowing funds from the American people. Every penny of the 1981 tax cut was borrowed, every penny of the 1982 tax cut was borrowed, every penny of the 1983 tax cut was borrowed, every penny of the indexing is going to be borrowed. We are just like a corporation making no money whatsoever, not willing to cut expenses, but over and over again, going back and bragging that we are doing this great thing for you by cutting taxes. It is time we started telling our constituents the honest truth, that we are simply borrowing this money, forcing up long-term interest rates, causing problems in the housing market, causing problems in the automobile markets, causing businesses not to be able to plan for long-term expansion, keeping businesses from being able to borrow over the long haul, and stifling our economy. I think it is time we faced that fact.

Mr. BOREN. Will the Senator yield?

Mr. JOHNSTON. Will the Senator withhold so I may introduce the amendment?

Mr. BOREN. Yes, Mr. President.

AMENDMENT NO. 1230

(Purpose: To reduce deficits and balance the budget)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON), for himself, Mr. NUNN, and Mr. BOREN, proposes an amendment numbered 1230.

Mr. JOHNSTON. I ask unanimous consent that further reading be dispensed with.

The PRESIDENT OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after line 5 on page 2 and insert in lieu the following:

"(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1983: $603,100,000,000.
Fiscal year 1984: $670,400,000,000.
Fiscal year 1985: $753,500,000,000.
Fiscal year 1986: $838,900,000,000.

and the amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 1983: $100,000,000.
Fiscal year 1984: +$15,000,000,000.
Fiscal year 1985: +$30,000,000,000.
Fiscal year 1986: +$60,000,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1983: $35,900,000,000.
Fiscal year 1984: $39,700,000,000.
Fiscal year 1985: $44,200,000,000.
Fiscal year 1986: $50,900,000,000.

and the amounts for Federal Insurance Contributions Act revenues and other revenues pursuant to Public Law 98-21 for old age, survivors, and disability insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1983: $148,500,000,000.
Fiscal year 1984: $166,500,000,000.
Fiscal year 1985: $187,700,000,000.
Fiscal year 1986: $204,400,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1983: $874,990,000,000.
Fiscal year 1984: $897,260,000,000.
Fiscal year 1985: $974,910,000,000.
Fiscal year 1986: $1,035,740,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1983: $807,600,000,000.
Fiscal year 1984: $846,400,000,000.
Fiscal year 1985: $894,500,000,000.
Fiscal year 1986: $942,300,000,000.

(4) The amounts of the deficits in the budget which are appropriate in the light of economic conditions and all other relevant factors are as follows:

Fiscal year 1983: $204,500,000,000.
Fiscal year 1984: $176,000,000,000.
Fiscal year 1985: $141,300,000,000.
Fiscal year 1986: $103,400,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1983: $1,377,300,000,000.
Fiscal year 1984: $1,584,500.000.000.
Fiscal year 1985: $1,773,900,000.000.
Fiscal year 1986: $1,954,500,000,000.

and the amounts by which the temporary statutory limits on such debt should be accordingly increased are as follows:

Fiscal year 1983: $86,800,000,000.
Fiscal year 1984: $207,400,000.000.
Fiscal year 1985: $189,500,000,000.
Fiscal year 1986: $180,600,000.000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1982, October 1, 1983, October 1, 1984, and October 1, 1985, are as follows:

Fiscal year 1983:

(A) New direct loan obligations, $55,400,000,000.

(B) New loan guarantee commitments, $94,500,000,000.

Fiscal year 1984:

(A) New Direct loan obligations, $48,200,000,000.

(B) New loan guarantee commitments, $94,500,000,000.

Fiscal year 1985:

(A) New direct loan obligations, $48,100,000,000.

(B) New loan guarantee commitments, $97,400,000,000.

Fiscal year 1986:

(A) New direct loan obligations, $48,700,000,000.

(B) New loan guarantee commitments, $101,000,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new loan guarantee commitments for fiscal years 1983 through 1986 for each major functional category are:

(1) National Defense (050):

Fiscal year 1983:

(A) New budget authority, $244,100,000,000.

(B) Outlays, $214,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $268,300,000,000.

(B) Outlays, $243,000,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $296,400,000,000.

(B) Outlays, $268,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $326,800,000,000.

(B) Outlays, $296,000,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1983:

(A) New budget authority, $24,100,000,000.

(B) Outlays, $11,300,000,000.

(C) New direct loan obligations, $11,700,000,000.

(D) New loan guarantee commitments, $9,200,000,000.

Fiscal year 1984:

(A) New budget authority, $17,700,000,000.

(B) Outlays, $12,200,000,000.

(C) New direct loan obligations, $11,200,000,000.

(D) New loan guarantee commitments, $10,300,000,000.

Fiscal year 1985:

(A) New budget authority, $16,000,000,000.

(B) Outlays, $12,200,000,000.

(C) New direct loan obligations, $11,500,000,000.

(D) New loan guarantee commitments, $10,300,000,000.

Fiscal year 1986:

(A) New budget authority, $15,400,000,000.

(B) Outlays, $12,000,000,000.

(C) New direct loan obligations, $11,600,000,000.

(D) New loan guarantee commitments, $10,300,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1983:

(A) New budget authority, $7,900,000,000.

(B) Outlays, $7,700,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $8,500,000,000.

(B) Outlays, $8,200,000,000.

(C) New direct loan obligations, $37,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $7,800,000,000.

(B) Outlays, $7,800,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $7,700,000,000.

(B) Outlays, $7,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1983:

(A) New budget authority, $3,900,000,000.

(B) Outlays, $4,400,000,000.

(C) New direct loan obligations, $13,100,000,000.

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1984:

(A) New budget authority, $3,900,000.

(B) Outlays, $4,200,000,000.

(C) New direct loan obligations, $13,900,000,000.

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1985:

(A) New budget authority, $3,900,000,000.

(B) Outlays, $3,100,000,000.

(C) New direct loan obligations, $14,300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $3,500,000,000.

(B) Outlays, $3,200,000,000.

(C) New direct loan obligations, $14,400,000,000.

(D) New loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1983:

(A) New budget authority, $12,300,000,000.

(B) Outlays, $12,300,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $11,400,000,000.

(B) Outlays, $12,100,000,000.

(C) New direct loan obligations, $27,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $11,300,000,000.

(B) Outlays, $11,800,000,000.

(C) New direct loan obligations, $27,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $12,500,000,000.

(B) Outlays, $12,200,000,000.

(C) New direct loan obligations, $27,000,000.

(D) New loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1983:

(A) New budget authority, $24,800,000,000.

(B) Outlays, $24,500,000,000.

(C) New direct loan obligations, $18,600,000,000.

(D) New loan guarantee commitments, $5,500,000,000.

Fiscal year 1984:

(A) New budget authority, $11,900,000,000.

(B) Outlays, $11,700,000,000.

(C) New direct loan obligations, $12,100,000,000.

(D) New loan guarantee commitments, $3,800,000,000.

Fiscal year 1985:

(A) New budget authority, $12,700,000,000.

(B) Outlays $11,000,000,000.

(C) New direct loan obligations, $11,700,000,000.

(D) New loan guarantee commitments, $3,800,000,000.

Fiscal year 1986:

(A) New budget authority, $11,100,000,000.

(B) Outlays, $11,000,000,000.

(C) New direct loan obligations, $12,200,000,000.

(D) New loan guarantee commitments, $3,800,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1983:

(A) New budget authority $5,100,000,000.

(B) Outlays, $3,300,000,000.

(C) New direct loan obligations, $6,500,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1984:

(A) New budget authority, $5,800,000,000.

(B) Outlays, $2,100,000,000.

(C) New direct loan obligations, $6,400,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1985:

(A) New budget authority, $6,400,000,000.

(B) Outlays, $0,250,000,000.

(C) New direct loan obligations, $6,300,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1986:

(A) New budget authority, $6,500,000,000.

(B) Outlays, $200,000,000.

(C) New direct loan obligations, $6,300,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

(8) Transportation (400):

Fiscal year 1983:

(A) New budget authority, $26,900,000,000.

(B) Outlays, $22,000,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New loan guarantee commitments, $1,100,000,000.

Fiscal year 1984:

(A) New budget authority, $27,700,000,000.

(B) Outlays, $26,000,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $600,000,000.

Fiscal year 1985:

(A) New budget authority, $28,500,000,000.

(B) Outlays, $26,900,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $400,000,000.

Fiscal year 1986:

(A) New budget authority, $29,500,000,000.

(B) Outlays, $28,000,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $300,000,000.

(9) Community and Regional Development (450):

Fiscal year 1983:

(A) New budget authority, $8,600,000,000.

(B) Outlays, $7,800,000,000.

(C) New direct loan obligations, $2,100,000,000.

(D) New loan guarantee commitments, $500,000,000.

Fiscal year 1984:

(A) New budget authority, $7,100,000,000.

(B) Outlays, $8,400,000,000.

(C) New direct loan obligations, $1,700,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1985:

(A) New budget authority, $8,100,000,000.

(B) Outlays, $8,800,000,000.

(C) New direct loan obligations, $1,800,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1986:

(A) New budget authority, $8,200,000,000.

(B) Outlays, $8,400,000,000.

(C) New direct loan obligations, $1,800,000,000.

(D) New loan guarantee commitments, $400,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1983:

(A) New budget authority, $28,000,000,000.

(B) Outlays, $27,200,000,000.

(C) New direct loan obligations, $600,000,000.

(D) New loan guarantee commitments, $6,500,000,000.

Fiscal year 1984:

(A) New budget authority, $30,500,000,000.

(B) Outlays, $27,000,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New loan guarantee commitments, $6,600,000,000.

Fiscal year 1985:

(A) New budget authority, $27,800,000,000.

(B) Outlays, $27,300,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New loan guarantee commitments, $6,600,000,000.

Fiscal year 1986:

(A) New budget authority, $28,300,000,000.

(B) Outlays, $27,700,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New loan guarantee commitments, $6,600,000,000.

(11) Health (550):

Fiscal year 1983:

(A) New budget authority, $25,100,000,000.

(B) Outlays, $29,600,000,000.

(C) New direct loan obligations, $47,000,000.

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1984:

(A) New budget authority, $31,600,000,000.

(B) Outlays, $31,600,000,000.

(C) New direct loan obligations, $29,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1985:

(A) New budget authority, $35,200,000,000.

(B) Outlays, $34,900,000,000.

(C) New direct loan obligations, $28,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1986:

(A) New budget authority, $37,700,000,000.

(B) Outlays, $37,200,000,000.

(C) New direct loan obligations, $28,000,000.

(D) New loan guarantee commitments, $300,000,000.

(12) Medical Insurance (570):

Fiscal year 1982:

(A) New budget authority, $46,100,000,000.

(B) Outlays, $53,100,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $62,300,000,000.

(B) Outlays, $59,500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $70,800,000,000.

(B) Outlays, $66,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $81,500,000,000.

(B) Outlays, $73,800,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1983:

(A) New budget authority, $121,500,000,000.

(B) Outlays, $110,300,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New loan guarantee commitments, $14,600,000,000.

Fiscal year 1984:

(A) New budget authority, $122,100,000,000.

(B) Outlays, $103,100,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New loan guarantee commitments, $14,700,000,000.

Fiscal year 1985:

(A) New budget authority, $125,400,000,000.

(B) Outlays, $104,100,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New loan guarantee commitments, $16,500,000,000.

Fiscal year 1986:

(A) New budget authority, $129,500,000,000.

(B) Outlays, $107,800,000,000.

(C) New direct loan obligations, $500,000,000.

(D) New loan guarantee commitments, $18,100,000,000.

(14) Social Security (650):

Fiscal year 1983:

(A) New budget authority, $184,300,000,000.

(B) Outlays, $167,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $5,000,000,000.

(B) Outlays, $174,800,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $195,000,000,000.

(B) Outlays, $182,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $211,900,000,000.

(B) Outlays, $191,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1983:

(A) New budget authority, $24,900,000,000.

(B) Outlays, $24,500,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New loan guarantee commitments, $8,000,000,000.

Fiscal year 1984:

(A) New budget authority, $25,200,000,000.

(B) Outlays, $25,100,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New loan guarantee commitments, $9,000,000,000.

Fiscal year 1985:

(A) New budget authority, $25,200,000,000.

(B) Outlays, $25,100,000,000.

(C) New direct loan obligations, $600,000,000.

(D) New loan guarantee commitments, $10,500,000,000.

Fiscal year 1986:

(A) New budget authority, $25,200,000,000.

(B) Outlays, $25,000,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New loan guarantee commitments, $12,500,000,000.

(16) Administration of Justice (750):

Fiscal year 1983:

(A) New budget authority, $5,200,000,000.

(B) Outlays, $5,100,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $5,700,000,000.

(B) Outlays, $5,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $5,700,000,000.

(B) Outlays, $5,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $5,900,000,000.

(B) Outlays, $5,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1983:

(A) New budget authority, $5,600,000,000.

(B) Outlays, $5,700,000,000.

(C) New budget loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $5,600,000,000.

(B) Outlays, $5,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $5,800,000,000.

(B) Outlays, $5,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $5,900,000,000.

(B) Outlays, $5,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(18) General Purpose Fiscal Assistance (850):

Fiscal year 1983:

(A) New budget authority, $6,400,000,000.

(B) Outlays, $6,400,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $7,000,000,000.

(B) Outlays, $6,900,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $7,000,000,000.

(B) Outlays, $7,000,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $7,400,000,000.

(B) Outlays, $7,400,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

(19) Net Interest (900):
Fiscal Year 1983:
(A) New budget authority, $87,500,000,000.
(B) Outlays, $87,500,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal Year 1984:
(A) New budget authority, $96,000,000,000.
(B) Outlays, $96,000,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal Year 1985:
(A) New budget authority, $104,600,000,000.
(B) Outlays, $104,600,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal Year 1986:
(A) New budget authority, $107,000,000,000.
(B) Outlays, $107,000,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
(20) Allowances (920):
Fiscal year 1983:
(A) New budget authority, $800,000,000.
(B) Outlays, $900,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1984:
(A) New budget authority, $600,000,000.
(B) Outlays, $600,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $1,600,000,000.
(B) Outlays, $1,700,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $2,600,000,000.
(B) Outlays, $2,700,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
(21) Undistributed Offsetting Receipts (950):
Fiscal year 1983:
(A) New budget authority, −$18,000,000,000.
(B) Outlays, −$18,000,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1984:
(A) New budget authority, −$17,400,000,000.
(B) Outlays, −$17,400,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, −$18,900,000,000.
(B) Outlays, −$18,900,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, −$23,600,000,000.
(B) Outlays, −$23,600,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.

RECONCILIATION

SEC. 2. (a) Not later than June 6, 1983, the Senate committees named in subsections (b) through (f) of this section shall submit their recommendations to the Senate Committee on the Budget and not later than June 6, 1983, the House committees named in subsections (g) through (l) of this section shall submit their recommendations to the House Committee on the Budget. After receiving those recommendations, the Committees on the Budget shall report to the House and Senate a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

SENATE COMMITTEES

(b) The Senate Committee on Agriculture, Nutrition, and Forestry shall report changes in laws within the jurisdiction of that committee, (A) to require reductions in appropriations for programs authorized by that committee so as to achieve savings in budget authority and outlays, or (B) which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority and outlays, or (C) any combination thereof, as follows: $1,243,000,000 in budget authority and $1,243,000,000 in outlays in fiscal year 1984; $1,332,000,000 in budget authority and $1,332,000,000 in outlays in fiscal year 1985; and $1,327,000,000 in budget authority and $1,327,000,000 in outlays in fiscal year 1986.

(c)(1) The Senate Committee on Finance shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $856,000,000 in fiscal year 1984; to reduce outlays by $2,024,000,000 in fiscal year 1985; and to reduce outlays by $2,484,000,000 in fiscal year 1986.

(2) The Senate Committee on Finance shall report changes in laws within the jurisdiction of that committee sufficient to increase revenues as follows: $30,200,000,000 in fiscal year 1984; $39,100,000,000 in fiscal year 1985; and $51,900,000,000 in fiscal year 1986.

(d) The Senate Committee on Governmental Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $258,000,000 and outlays by $534,000,000 in fiscal year 1984; to reduce budget authority by $368,000,000 and outlays by $834,000,000 in fiscal year 1985; and to reduce budget authority by $636,000,000 and outlays by $1,486,000,000 in fiscal year 1986.

(e) The Senate Committee on Small Business shall report changes in laws within the jurisdiction of that committee to require reductions in appropriations for programs authorized by that committee so as to achieve savings in budget authority and outlays as follows: $139,000,000 in budget authority and $287,000,000 in outlays in fiscal year 1984; $555,000,000 in budget authority and $466,000,000 in outlays in fiscal year 1985; and $544,000,000 in budget authority and $443,000,000 in outlays in fiscal year 1986.

(f) The Senate Committee on Veterans' Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $202,000,000 and outlays by $201,000,000 in fiscal year 1984; to reduce budget authority by $117,000,000 and outlays by $115,000,000 in fiscal year 1985; and to reduce budget authority by $118,000,000 and outlays by $118,000,000 in fiscal year 1986.

HOUSE COMMITTEES

(g) The House Committee on Agriculture shall report changes in laws within the jurisdiction of that committee, (A) to require reductions in appropriations for programs authorized by that committee so as to achieve savings in budget authority and outlays, or (B) which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority and outlays, or (C) any combination thereof, as follows: $1,243,000,000 in budget authority and $1,243,000,000 in outlays in fiscal year 1984; $1,332,000,000 in budget authority and $1,332,000,000 in outlays in fiscal year 1985; and $1,327,000,000 in budget authority and $1,327,000,000 in outlays in fiscal year 1986.

(h) The House Committee on Energy and Commerce shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $816,000,000 in fiscal year 1984; to reduce outlays by $1,538,000,000 in fiscal year 1985; and to reduce outlays by $1,979,000,000 in fiscal year 1986.

(i) The House Committee on Post Office and Civil Service shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $258,000,000 and outlays by $534,000,000 in fiscal year 1984; to reduce budget authority by $368,000,000 and outlays by $834,000,000 in fiscal year 1985; and to reduce budget authority by $636,000,000 and outlays by $1,486,000,000 in fiscal year 1986.

(j) The House Committee on Small Business shall report changes in laws within the jurisdiction of that committee to require reductions in appropriations for programs authorized by that committee so as to achieve savings in budget authority and outlays as follows: $139,000,000 in budget authority and $287,000,000 in outlays in fiscal year 1984; $555,000,000 in budget authority and $466,000,000 in outlays in fiscal year 1985; and $544,000,000 in budget authority and $443,000,000 in outlays in fiscal year 1986.

(k) The House Committee on Veterans' Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $202,000,000 and outlays by $201,000,000 in fiscal year 1984; to reduce budget authority by $117,000,000 and outlays by $115,000,000 in fiscal year 1985; and to reduce budget authority by $118,000,000 and outlays by $118,000,000 in fiscal year 1986.

(l)(1) The House Committee on Ways and Means shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $849,000,000 in fiscal year 1984; to reduce outlays by $1,481,000,000 in fiscal year 1985; and to reduce outlays by $2,077,000,000 in fiscal year 1986.

(2) The House Committee on Ways and Means shall report changes in laws within the jurisdiction of that committee sufficient to increase revenues as follows: $30,200,000,000 in fiscal year 1984; $39,100,000,000 in fiscal year 1985; and $51,900,000,000 in fiscal year 1986.

MISCELLANEOUS PROVISIONS

SEC. 3. It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution, or amendment thereto, providing—

(1) new budget authority for fiscal year 1984; or

(2) new spending authority described in section 401(c)(2)(C) of the Budget Act first effective in fiscal year 1984,

within the jurisdiction of any of its committees unless and until such committee makes the allocations or subdivisions required by section 302(b) of the Budget Act, in connection with the most recently agreed to concurrent resolution on the budget.

SEC. 4. It is the sense of the Congress that the President and the Congress, through the appropriations process, should limit the on-budget new direct loan obligations of the Federal Government to an amount not to exceed $37,600,000,000 in fiscal year 1983 and $29,300,000,000 in fiscal year 1984; off-budget new direct loan obligations to an amount not to exceed $17,800,000,000 in fiscal year 1983 and $15,900,000,000 in fiscal year 1984; and new loan guarantee commitments to an amount not to exceed $94,500,000,000 in fiscal year 1983 and $94,500,000,000 in fiscal year 1984. It is further the sense of the Congress that the President and the Congress should limit total Federal Financing Bank origination of direct loans guaranteed by other Federal agencies to $16,200,000,000 in fiscal year 1983 and $17,300,000,000 in fiscal year 1984, and Federal Financing Bank purchases of certificates of beneficial ownership from Federal agencies to $11,500,000,000 in fiscal year 1983 and $13,200,000,000 in fiscal year 1984. It is further the sense of the Congress that direct borrowing transactions of Federal agencies should be, to the maximum extent possible, restricted to the Federal Financing Bank.

SEC. 5. (a) The joint explanatory statement accompanying the conference report on this resolution shall include an estimated allocation, based upon the first section of this resolution as recommended in such conference report, of the appropriate levels of total new direct loan obligations and new loan guarantee commitments for fiscal year 1983 and fiscal year 1984, among each committee of the House of Representatives and the Senate which has jurisdiction over bills and resolutions providing such new obligations and commitments.

(b) As soon as practicable after this resolution is agreed to, every committee of each House, after consulting with the committee or committees of the other House to which all or part of the allocation has been made, shall subdivide among its subcommittees the allocation of new direct loan obligations and new loan guarantee commitments for fiscal year 1983 and fiscal year 1984, allocated to it in the joint explanatory statement accompanying the conference report on this resolution.

SEC. 6. It is the sense of the Congress that the budgets of Federal agencies initiating Federal Financing Bank purchases of certificates of beneficial ownership and originations of guaranteed loans should include the budget authority and outlays resulting from the transactions. The Congress recommends that the committees with jurisdiction over the Federal Financing Bank Act of 1973 consider expeditiously legislation to require that the budgetary impact of such Federal Financing Bank transactions be included in the budgets of the initiating agencies beginning with the fiscal year 1985 budget.

SEC. 7. The reconciliation instructions to the House and Senate Committees, as contained in this resolution, are hereby adjusted to reflect a cost of living adjustment tied to the CPI minus 2 percent for all non means tested retirement programs and to reflect a 2 percent across the board cut in other non means tested programs and the instructions to the Senate Committee on Agriculture, Nutrition, and Forestry and to the House Committee on Agriculture are hereby adjusted to reflect a 2% cap on CCC price supports in FY 1984 and FY 1985.

SEC. 8. The reconciliation instructions to the Senate Committee on Finance and to the House Committee on Ways and Means, as contained in this resolution, are hereby adjusted to reflect the revenue changes contained on page 2 of this resolution.

SEC. 9. The amounts as contained in this resolution for Federal Insurance Contributions Act revenues for hospital insurance and for this and other revenues pursuant to Public Law 98-21 for old age, survivors, and disability insurance within the recommended levels of Federal revenues are hereby adjusted to reflect the appropriate function levels contained this resolution.

SEC. 10. The amounts as contained in this resolution in section 5 for increases in the permanent and temporary debt are hereby adjusted to the deficit numbers in section (4).

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the sheet I now send to the desk setting forth the deficits and the means of having spending changes and limits on spending be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MODIFIED DEFICIT REDUCTION PLAN

	1983	1984	1985	1986	1987	1988	5-year total
Baseline deficits	194.6	200.9	210.5	226.7	246.7	267.5	1,346.9
Adjust for CBO outlay reestimates, impact of: Public Law 98–21 (social security), Public Law 98–8 (jobs bill), and Public Law 98–4 (PIK bill)	+9.0	−3.9	−9.0	−9.9	−11.6	−23.2	−48.6
Spending changes:							
(1) Limit real growth in defense to 5 to 2 percent below fiscal year 1983 FCR		+.9	−9.1	−14.0	−8.9	−5.2	−36.3
(2) Limit increase for nondefense domestic discretionary programs to 2 percent and freeze foreign aid		−.9	−4.0	−6.7	−9.0	−12.0	−32.6
(3) Allow 2 percent pay raise in fiscal year 1984, and in fiscal year 1985–88 raises equal to the CPI minus 2 percent		−1.0	−1.6	−2.	−3.1	−4.2	−12.1
(4) 6-mo delay for nonmeans tested entitlement COLA's; COLA set at CPI minus 2 percent		−2.9	−6.9	−11.4	−15.5	−19.8	−56.5
(5) 2 percent across the board cut in other nonmeans tested entitlements and CCC growth cap	+.6	−.3	−1.9	−2.7	−3.4	−3.8	−11.5
(6) Medicare		−1.6	−3.0	−5.5	−9.7	−12.8	−32.6
(7) Interest savings from lower deficits	+.2	−.1	−3.9	−8.4	−9.9	−30.6	−52.7
Subtotal	+9.8	−9.8	−39.4	−60.8	−71.1	−111.6	−282.9
Revenue changes: (1) Unspecified revenue increases		−15.0	−30.0	−60.0	−80.0	−100.0	−285.0
Total changes	+9.8	−24.8	−69.4	−120.8	−151.1	−211.6	−567.9
Deficits:							
Baseline economics	204.5	176.0	141.3	103.4	95.6	−55.9	779.0
High growth economics	−202.0	−149.0	−98.0	−50.0	−19.0	26.0	

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the table to which I previously referred, wherein the Congressional Budget Office details methods of savings in the medicare and medicaid programs, be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE IV-2.—BUDGET SAVINGS FROM PROGRAM CHANGES IN MEDICARE AND MEDICAID

[In millions of dollars]

Options	1984	1985	1986	1987	1988	Cumulative 5-year savings
Medicare:						
Increase beneficiary cost-sharing:						
Expand hospital coinsurance days 2–30 [1]:						
Budget authority	−190	−520	−800	−1,070	−1,370	−3,950
Outlays	1,980	3,010	3,400	3,820	4,290	16,490
Expand hospital coinsurance with cap on out-of-pocket costs for some [1]:						
Budget authority	−70	[illegible]	−400	550	−720	−1,980
Outlays	1,190	[illegible]	2,050	[illegible]	2,610	9,990
Increase SMI premiums [1]:						
Budget authority	900	1,120	1,700	2,460	3,370	9,550
Outlays	900	1,120	1,700	2,460	3,370	9,550
Increase SMI premiums for high-income families only:						
Budget authority	240	300	450	650	890	2,530
Outlays	240	300	450	650	890	2,530

TABLE IV-2.—BUDGET SAVINGS FROM PROGRAM CHANGES IN MEDICARE AND MEDICAID—Continued

[In millions of dollars]

Options	1984	1985	1986	1987	1988	Cumulative 5-year savings
Tax the premiums for supplemental coverage ²	2,390	3,610	4,160	4,820	5,470	20,450
Move to prospective hospital reimbursement:						
Replace reimbursement limits in TEFRA with prospective reimbursement:						
Budget authority			−80	−300	−580	960
Outlays			2,140	4,100	4,610	10,850
Change physician reimbursement:						
Limit reasonable charge growth:						
Budget authority	40	260	670	1,200	1,830	4,000
Outlays	10	190	590	1,100	1,730	3,620
Adopt fee schedules for surgical procedures:						
Budget authority	170	700	810	940	1,100	3,720
Outlays	180	680	790	920	1,070	3,640
Medicaid:						
Extend cuts in matching grants for medicaid:						
Budget authority		870	660	840	1,040	3,410
Outlays		870	660	840	1,040	3,410

¹ Savings estimates reflect the concurrent increase in federal medicaid expenditures.

² Savings are a combination of outlay reductions and revenue increases. Budget authority estimates are not available.

Mr. JOHNSTON. Mr. President, I yield to the Senator from Georgia.

Mr. NUNN. Mr. President, I have some very brief completing thoughts, but if the Senator from Oklahoma would like me to yield at this point for a question or a comment, I am delighted to do so.

Mr. BOREN. Mr. President, I commend the Senator from Georgia for the statement he has just made. I associate myself with his remarks. He has very clearly spelled out why there can be no real economic recovery until we get Federal deficits under control. That is why I am so pleased to join with the Senators from Louisiana, Georgia, and Nebraska in offering this balanced budget proposal.

Like any other package proposal developed by a group of Senators, this proposal is not one which is perfectly suited to each of its authors. There are elements in this package which I would not support as individual proposals. For example, I would never agree to delay tax reductions or to delay tax indexing unless such a delay is in return for large reductions in spending.

However, it is necessary to look at the overall picture. There can be no real economic recovery until we get Federal deficits under control. If we do not control deficits, Government borrowing will continue to increase and eventually the increased demand for credit will push up interest rates. All of us know that if interest rates soar once again, the economic recovery will be choked off, plunging us into perhaps an even deeper trough than the current recession.

The President's budget projects deficits in excess of $1 trillion over the next 5 years. The Budget Committee proposal adds in excess of $900 billion over the next 5 years. The proposal discussed in the press today by the Republican leadership would increase the debt even more between now and 1988.

I support this package first and foremost because it results in much lower deficits than the other major proposals before us. If economic growth is sustained at high levels, this package would balance the budget by 1988. Using the same economic assumptions, this package would reduce budget deficits by $249 billion lower than the President's budget between now and 1988. It would reduce the deficits $133 billion below the figure reported out of the Senate Budget Committee.

In addition, the approach contained in this package is fair. It does not call for sacrifice for only some Americans, while exempting others. I am convinced that to have any chance of success we must have a proposal to reduce deficits which is evenhanded and puts us all into the same boat together. Revenues, entitlement programs, defense spending, discretionary programs, and every area of the budget must bear a share of the sacrifice in order to balance the budget. Upper, middle- and lower-income Americans must all make their share of the sacrifice. If we all share a modest amount of pain now, we will avoid a much greater burden of economic collapse later on.

I do want to make it clear that in supporting this package I am not offering support for the cancellation of the third year of the tax cuts or the repeal of tax indexing to avoid bracket creep. I do not support repeal of these programs. Nor do I favor delaying them unless significant spending reductions are achieved in return, including restraints on entitlements.

In particular, I oppose the repeal of indexing. I favor tax indexing because it provides an important restraint and discipline on spending by future Congresses. We will never control spending as long as future Congresses can have additional money to spend through the operation of bracket creep with taxes automatically increasing because of inflation. Now, Congress can have more to spend without voting for tax increases because of bracket creep.

This package, however, on balance, gives us at least a start toward getting our deficits under control. If we destroy our economic strength by failing to balance our budget, we cannot sustain a strong national defense. If we wreck our economy by spending beyond our resources, we will not be able to help the disabled and those in need. If we run huge deficits, tax cuts given with borrowed money will bring no real lasting economic improvement for those who now shoulder unfair tax burdens. I want to reduce taxes. I want to have a strong defense. I want to help those who cannot help themselves and to provide equal opportunity for all of our people.

We will not be able to meet any of these objectives, however, if we continue to add to our national debt at an ever faster rate. It took us 205 years to reach a $1 trillion national debt. Unless we act to change the budget placed before us by the administration and the Budget Committee, we will add $1 trillion more to the national debt between now and 1988. It cannot be done without severely damaging our economy. We must not allow it to happen.

Mr. NUNN. Mr. President, I thank my colleague. I am delighted to be a part of this amendment with my friend from Oklahoma and my colleagues from Nebraska and Louisiana.

Mr. President, our proposal would produce significantly lower budget deficits than any of the other proposals. We accomplish this by dealing directly with the causes behind the rise in uncontrollable Federal spending. Moreover, by facing up to the reality that revenues will have to be significantly raised to come close to balancing the budget, we strike a fair balance of spending cuts and revenue increases—50-50 each.

Mr. President, in summary, the question in this budget debate this week is whether those who say no more revenue are going to prevail, whether those who say no more defense cuts are going to prevail, whether those who say no more cuts in the discretionary spending are going to prevail, those who say let us protect the CPI at all costs are going to prevail, whether those who say we are not going to do anything in the medicare except protect a 17-percent growth rate in the medicare program are going to prevail.

So far, by the overall budget that has been presented by the President and the other budgets that we have had kicking around the Congress, it seems to me that all of these groups are winning. The losers are the American people. I hope that we would take that into account in our voting pattern.

Mr. PROXMIRE. Mr. President, will the Senator from Georgia yield very briefly?

Mr. JOHNSTON. Mr. President, I yield to the Senator from Wisconsin.

Mr. PROXMIRE. I wholeheartedly commend the three Senators who have spoken, and Senator BOREN, who has agreed with their position, because I agree with so much of it. I think it has been extremely well stated. I in particular support this amendment except for one limited part which I am going to try to amend when I get the opportunity to do so.

But I believe what Senator JOHNSTON, and Senator NUNN, and Senator EXON have just stated should have been heard by the full Senate because they have spoken the truth. They have spoken about the most serious economic problem that faces not only this country but the world. The head of the International Monetary Fund has said that the most serious problem facing the world economy is the massive deficit facing the United States, because that not only absorbs our capital but absorbs capital from all over the world.

There is no question about it—unless we act, it is going to precipitate a continual worldwide recession and prevent us from achieving the kind of recovery we need.

I enthusiastically congratulate these Senators on their fine statements. As I say, I concur, and I hope they will understand that the amendment I offer is not meant in any way to disagree with their fundamental position, although I hope I can prevail on it. I will offer it later on.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. I yield myself such time as I consume.

Mr. President, I rise in opposition to the Johnston amendment. As a member of the Finance Committee, I want to speak to the revenue side of his measure. I know that it has been amended so it is not quite as large as originally proposed, or at least discussed. When I see revenue numbers that are as large as this latest proposal, they scare me because I think it forces us to consider—dramatically changing the third year of tax cuts and probably in the outyears reexamining indexing. Of course, as a person who has long favored indexing—this trend bothers me because I consider indexing more important than the third year of the tax cut. Not only does it bother me from the philosophical standpoint since I consider indexing an important reform, but it also bothers me from a practical standpoint. As a member of the Finance Committee, I think those numbers are going to be very hard to achieve. I do not particularly want to make my job more difficult by enacting large revenue increases, especially since I consider such a move bad for the economy.

Did the Senator from Louisiana want to say something without taking too much of my time?

Mr. JOHNSTON. Yes, indeed. All I can say is that I think the tone of the voice of the Senator is mild compared to that which I hear from the Senator from Texas (Mr. TOWER) when we talk about cutting the rate of real growth in defense from 10 percent to 5 percent. In each part of this budget, as you try to get spending down and get revenues up, there are shrieks of dismay. But if we do it equally, as we have done, there is a certain equity to it. I think the job of the Senator on the Finance Committee would be infinitely easier than that which others have. I hope the Senator will look at it in that light. We have, indeed, lowered the amount of revenue that would have to be raised from that recommended by the Budget Committee. It is not inconsistent with the continuation of either indexing or the third year of the tax cut. If those are left untouched, you would simply have to find the revenues somewhere else.

Mr. GRASSLEY. I thank the Senator. I know he is sincere in his approach, particularly on the spending side, and much more responsible in this regard than some of his colleagues on that side of the aisle.

I might say, for instance, that I think his defense level is closer to something I would want to support and it is an improvement over the committee or White House version. On the nondefense side, the Senator's spending figure is better than many that I have seen.

Nevertheless, the revenues figures may require a reexamination of indexing. Before these revenue targets are adopted, some important points should be made. Many of my colleagues who are concerned about the problems of minorities and women, should examine the impact of indexing on these constituences.

The repeal of indexing will hurt women and minorities disproportionately. I think that is something to take into consideration, because in an era when economic justice is a highly sensitive sociopolitical issue in America, it is ironic that a major economic gain for working women, blacks, and Hispanic workers among others was achieved 2 years ago when we enacted indexing. Its impact on these groups was little noticed at that time, and received little attention.

Among the revolutionary tax reforms passed in 1981 was a tax break offering tax relief for working women, blacks, and Hispanics. Although this provision did not mention sex or race, its impact greatly assists women and minority groups who traditionally earn less than their white male counterparts. Tax relief via indexing is concentrated in lower and middle income groups, where the largest percentage of working women and minorities are found. These are undisputed facts.

In recent years, women have averaged about 60 cents in wages per white male wage dollar, while black and Hispanic men have averaged about 70 cents. In more graphic terms, an overwhelming 63.4 percent of working women earn less than $8,000 a year, while half that percentage of men—31.6 percent—fit that low category, according to 1981 data published by the Labor Department. Male wage earners in general are much more concentrated in higher brackets than women: More than a third of working men (34.8 percent) earn $20,000 or more annually, with a miniscule 6.1 percent of women earning that much, as late as 1981.

The problem is that if we do not keep indexing in, we are going to have bracket creep.

Bracket creep exacerbates the wage gap, rapidly pushing lower income Americans through higher tax brackets, because the lower tax brackets are narrower than for higher wage earners.

Lower and middle income wage earners may wonder why they win moderate pay hikes, yet feel more and more behind. It is simply that without indexing, they are going to earn more but are going to take home less, because a 10-percent wage results in a 16-percent tax increase since an increase in taxable income pushes people into a higher tax bracket.

They should wonder no more, because bracket creep is the culprit, consuming ever larger chunks of their wages in taxes when the are merely keeping pace with inflation.

Bracket creep or taxflation has pushed 34 percent of our taxpayers into a 30-percent marginal tax bracket since 1960, when only 3 percent were in that high tax bracket. At that time, such highly taxed wage earners were considered fairly well to do. But bracket creep has progressively pushed mid-level wage earners into high tax brackets once reserved for America's upper economic strata.

For these reasons, the ban on bracket creep passed by Congress in 1981 and effective in 1985 offers tremendous long term economic benefits to lower and middle income Americans, and that means long term economic benefits to women and minority groups, blacks and Hispanics.

About 80 percent of indexing benefits are targeted for taxpayers earning less than $50,000 yearly, while those making more than $200,000 would gain only 1.2 percent of the new tax break.

But that tax relief for women and minority workers may be lost before it produces concrete benefits. Long addicted to the automatic tax hikes caused by bracket creep, those in Congress who are now eyeing indexing as a prime prospect for repeal see that as a way of accomplishing more income to spend. Many taxpayers have not noticed yet, but studies show those in the $10,000 bracket may face a tax hike of about 14 percent in 1985 if indexing is repealed. The lowest tax bracket, by some estimates, would absorb an estimated 60 percent surge in taxes by 1988.

Said another way, if we were to repeal indexing, by 1989 the tax decreases of 1981 plus indexing would all be gone.

The lowest end of the scale, earning below $15,000, would gain 13.9 percent of indexing relief, while they pay 7.9 percent of the total income tax revenues. In contrast, wealthy Americans earning $200,000 would gain only 1.2 percent of the relief, although they contribute 7.1 percent of revenues.

My message is to be beware of repealing indexing, the effect will be particularly harsh to workingwomen and minorities. Those who want greater economic equality, fairer taxes, and increased control over wages confiscated by legislative bodies ought to voice their opinion now in support of the position that tax indexing should not be repealed.

This message should not be lost on those of us in Congress: Those who would repeal indexing should not be talking about compassion for minorities and women, particularly workingwomen.

This sort of rhetoric—to be for compassion and against tax indexing—is not going to put food on the table, put a roof over one's head, or pay people's bills.

So I ask my colleagues who suggest in this budget resolution tax increases in figures so high that the only way to achieve them is through the repeal of indexing or through some major adjustment of the third year of the income tax to remember this: We are reaching the point in the tax reform enacted in 1981, where lower income people are benefiting from what is now on the books. Since a high percentage of minorities and workingwomen are in those low-income categories, this reform is particularly significant to them. Do not act, maybe unwittingly, to hurt the people who ought to be helped the most by our tax decreases.

For these reasons, I ask this body not to support this resolution or any resolution that has such high revenue marks that the only way to reach them is to repeal indexing.

Mr. JOHNSTON. Mr. President, I say to my friend that this does not require repeal of indexing or repeal of the third year of the tax cut. All we have in there are revenue numbers which can be arrived at by whatever combination of measures the Finance Committee or the House Committee on Ways and Means should deem appropriate.

Mr. President, I yield 5 minutes to the Senator from Washington.

Mr. GORTON. I thank my friend from Louisiana.

Mr. President, the day before yesterday, when we began this debate, I pointed out that although, for all practical purposes, 100 Members of this body were in favor of lower budget deficits, in the case of many, that desire was subservient to a number of other policy goals.

For example, if we look at the budget which passed the House of Representatives, while it gives lipservice to lowering the budget deficits, in fact it states that we need more spending for almost all domestic programs, which we will pay for by more taxation.

The higher taxes in that budget are not really used to reduce deficits but simply to permit more spending.

A number of votes which have already taken place on this floor—and will take place—emphasize the same kind of idea toward the budget process.

By the same token, it was my feeling that the budget proposal by the Senator from Utah stated as a higher value, implicitly or explicitly, the lower budget deficits or a balanced budget, the absolute necessity not to raise any tax rates under any conceivable set of circumstances.

I must say in respect to the proposal by the Senator from Louisiana that he in a very real sense puts his money where his mouth is. It is clear that the primary goal of this proposal is to lower budget deficits.

The Senator from Louisiana has to be commended for taking the politically risky and difficult task both of cutting back on the growth rate of almost every kind of spending program and at the same time of proposing increases in taxation, a quality which was relatively rare in this body recently.

I believe that the proposal of the Senator from Louisiana is a good budget. I believe that it is clearly superior in a number of respects to the precise resolution which was reported by the Budget Committee and for which I voted in spite of the fact that I felt its tax numbers to be too high in order that we have this debate on the floor at this point in time.

For all practical purposes, this amendment has the same figures for the national defense function as does the resolution reported by the Budget Committee.

From the point of view of domestic spending, it takes a very similar attitude toward discretionary spending programs which have been reduced significantly in the course of the last 2 years and a more all-encompassing attempt to control entitlement spending both in medicare and in other entitlement spending programs as well, probably the most difficult and the least trackable of all of the spending areas of the budget of the United States.

I wish that I could feel that we were closer actually to adopting some of these reforms than I feel we are but, nevertheless, this is a very, very responsible approach in this field.

Yesterday when I spoke on the amendment proposed by the Senator from Utah, I also suggested that we categorize proposed cuts in the budget in four categories, No. 1, being certain; No. 2, probable; No. 3, possible but not likely; and No. 4, pure fiction.

I can say in admiration to my friend from Louisiana that I do not find any No. 4's, any management initiatives or savings or the like in this proposed budget. I regret that a number of them seems to me to be No. 3's rather than No. 2's or No. 1's, but that is not due to any lack of commitment to them on the part of the sponsors of this proposed amendment.

If in fact we were able to put it together, I do believe that it would have a positive impact on our economy, and there is a high degree of likelihood that it would produce a balanced budget within the foreseeable future, the 5-year longest predicted range.

I would have to say in spite of the changes which the Senator from Louisiana has proposed in this that I think the revenue numbers are too high. I believe they are too high in every one of the years which is covered by the resolution.

I think it very dubious that we should have substantial increases in revenues in fiscal year 1984 at a time of such delicate economic recovery, and I think that most of the latest revisions which I have seen are probably too high even in the outyears, in the far outyears of the budget proposal.

I must say that I believe the correct numbers for revenue increases to be those proposed originally by the President, relatively small ones for the next 2 years, relatively substantial ones thereafter, figures which have not yet received the approval of a majority of the members of the Budget Committee or of the Senate as a whole. Nevertheless, I tell my friend from Louisiana because I think that this represents a significant step forward, because it is an improvement even on the revenue figures from what was reported by the Budget Committee itself, that I do intend to support his efforts in this regard.

I say at the same time that as thereafter we have an opportunity to vote on the more realistic taxing proposals of the President I intend to support those as well and also that we will have a very, very difficult time in holding these quite responsible spending figures in later amendments during the course of the next week.

But the budget proposal of the Senator from Louisiana does meet the central test of fairness to which I spoke yesterday. It requires very real sacrifices on the part of everyone in this society but toward a very, very real end.

Finally, I simply associate myself with the remarks of the Senator from Iowa on indexing, but I do not think that this proposal as it might eventually be adopted would require the cancellation of indexing, a cancellation which I would not support.

Mr. DOMENICI. Mr. President, how much time have we used in opposition to the amendment?

The PRESIDING OFFICER (Mr. SPECTER). The Senator has used 13 minutes and 20 seconds in opposition.

Mr. DOMENICI. I yield myself 10 minutes.

First, Mr. President, I rise in opposition to the amendment. Before I speak to its substance, I wish to say to its prime sponsors, each and every one of them, that I think they know my great respect for all of them. I think they are presenting to the Senate an excellent discussion of the choices we face in the fiscal process of this Nation.

Having said that, it seems to me that what we have before us today is a starting point, the starting point is just about like the starting point that the Senate Budget Committee faced during the 4 or 5 weeks it debated the budget resolution.

I hope I am not divulging something I should not here, but I walked up and asked the distinguished Senator from Wisconsin who spoke of a perfecting amendment that he might have. I asked him what might that be.

To my amazement he has a simple, little amendment. It is the kind of amendment that we go through hour after hour on the budget in the budget process. He likes everything about the distinguished Senator from Louisiana's amendment except he does not like the limit on the cost-of-living indexes for veterans and for social security recipients. We have had a blue ribbon commission meet on this issue for 6 months. The Commission's proposals took much time going through both Houses of Congress. We had this elaborate ceremony over at the White House for all the people of the country to see that we had taken care of the senior citizens. And, with all that, in order to produce a budget that has some trend lines 5 years out, this amendment even changes some of the recommendations of this Commission on Social Security. It says let us take CPI minus 2 for every indexed program.

Let me say to my friends that there is nothing new about this approach. If we go back in history, we will find this Senator having talked about CPI minus 3 one time when I first started as chairman of this committee. Senators have seen me offer and talk about CPI minus 3, and they have seen me talk about a year freeze on cost of likely increases. But my point is that you can produce a brandnew Senate budget resolution here on the floor and you can get a good-looking trend line if you want to put things in like cutting social security which has already been resolved or other proposals which are equally unrealistc. This substitute resolution does that. It says all indexed programs should have 2 percent less than CPI.

Honestly, while I indicated at the outset my highest respect for the prime sponsors of this proposal, you really cannot believe that having gone through what we have gone through on social security, with those of us on this side of the aisle having dared 3 years ago to talk about its insolvency, when we all got in return was political rhetoric that we have four Members from the other side of the aisle talking about cutting social security.

Mr. NUNN. Mr. President, will the Senator yield for a brief question?

Mr. DOMENICI. Could I continue?

Mr. NUNN. Will the Senator yield for a brief question?

Mr. DOMENICI. I yield.

Mr. NUNN. The Senator is not asking us to give up hope and say we should just acknowledge despair and assume that Congress and the American people and the administration will never come to a logical conclusion, is he?

Mr. DOMENICI. No. Quite to the contrary, I paid the Senator my esteem when he was not present when I made my opening remarks.

I just wish to tell the Senate that this 20-member Budget Committee that I think is a pretty good macrocosm of this body went through almost all of those and came up as far as domestic spending with a very bipartisan domestic spending program for the next 5 years and almost all these things that we are talking about here were debated in committee. Some proposals were cut; some were modified. It is very easy to attempt to shield the difficulty of the individual items by putting them in a budget resolution that is a full substitute.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. DOMENICI. I yield one more time and then I would just like to complete 5 minutes of thought.

Mr. JOHNSTON. Is the Senator suggesting he is supporting what the Budget Committee did? That is No. 1. No. 2, did the Budget Committee ever consider this package? I think not; nor did it consider the individual elements of it.

Mr. DOMENICI. Of course not. Inherent in 80 or 90 proposals before the Senate Budget Committee are all kinds of proposals and I think most of them are somewhere by function in the markup material that Senators had. I do not think there are very many that are not.

Mr. NUNN. Will the Senator also yield? When you say cut social security, you know that is the kind of statement that has been used every time we have ever tried to discuss entitlement programs on a rational basis. Is the Senator really saying what we are doing is slowing down the rate of increase because we are really not cutting it? We could stipulate we are not cutting any benefits.

Mr. DOMENICI. I have been on both sides of that issue. When we asked for revenue increases we called it that and your side called it tax increases. When we called something you propose tax increases you want to call them revenue increases—not you, I say to my good friend from Georgia. When we said freeze cost of living for 6 months on social security, we spoke of it just as you have, which is an appropriate way to say it.

Mr. NUNN. Restraint of growth.

Mr. DOMENICI. Restraint of growth. Others spoke of it as cut. So, on social security which we have indeed completed that job before the people and before the Congress, I would choose to call it a 2-percent cut in the automatic cost-of-living index that they are presently entitled to under the law. Is that a fair statement?

Mr. NUNN. In exchange for that the Senator from Georgia is willing to use revenue enhancement.

Mr. DOMENICI. And likewise when I speak of the Johnston tax proposals I will speak of them as tax increases and you can speak of them in the parlance of David Stockman and call them revenue enhancement if you like.

I am going to tick off a few more here: education, we went through that. We have a very prominent amendment that is being circulated to add $1½ billion to the education function. This proposal would have us reduce budget authority in 1984 by $350 million below the mark which the Senate Budget Committee reported to the Senate with little change in the outlays. That is another interesting one. I do not know how we get that down but I merely mention we are reducing budget authority but somehow do not intend to reduce outlays. I do not know how the appropriators are going to do that one.

Non-means-tested programs, we have gone through that two or three times here on the Senate floor and we considered it in the Budget Committee; 2 percent reduction in non-means-tested programs such as unemployment compensation when we are suffering from the highest unemployment levels, in the post war period. Civil service retirement $260 million a year in reduced benefits, all of these proposals have either been debated in committee or were considered unadvisable prior to that time. Obviously, I am not here critical of your efforts to reduce deficits. I am merely saying there is hardly anything new under the Sun.

In answer to Senator NUNN's question do I support the Senate Budget Committee in what it reported, yes, indeed, I support the Senate Budget Committee's entire domestic spending proposal. I worked on it, reported it to the floor, told the Senators I would support it. I have supported it. I continue to support it.

On the other hand, I told them unequivocally I did not support the $30, $40, $50 billion tax increase or revenue enhancement, I do not and I still do not.

Let me move to revenues. Five years of revenue increases here are very interesting. Fifteen billion in 1984, 30 in 1985, 60 in 1986, 80 in 1987, and $100 billion in 1988.

The PRESIDING OFFICER. The 10 minutes yielded have expired.

Mr. DOMENICI. I yield myself 5 additional minutes. If I add those up correctly that is $285 billion in taxes, new taxes, over the present law of the land proposed by this budget resolution. I can assure you that $285 billion in increments such as these, 15, 30, 60, 80, 100, will require that the Finance Committee and the Ways and Means Committees either be magicians or pass a new tax bill this year. I am not aware of a package of taxes where you can start with $15 billion in revenue in the first year and go to $30 billion in the second year and the following year revenue rise to $60 billion and then on to $80 billion and $100 billion.

So it seems to me someone just sat down and said:

> What we would like to show is a trend line coming down. We can just put in 5 years of taxes. Since we do not like that $30 billion in the first year that is in the Senate budget resulution because we are afraid somebody will get up an say that automatically means we have got to get rid of the third year of the tax cut and we do not want to be for that, we will substutute a lower number.

The reason they do not want to be for elimination of the third year of the tax cut is because there is not a majority that will support that. Senator JOHNSTON is an excellent reader of the numbers, and there is not enough support in the U.S. Senate or the House to get rid of the third year of the tax cut. Frankly, I do not believe there is enough support to get rid of indexing in either House. Yet it seems to me that to be talking about 15, 30, 60, 80, and 100 billion in new taxes is just a nice way of putting some numbers down and getting around the proposition that what we are doing is getting rid of the third year of the tax cut, and getting rid of indexing.

We already heard another Senator, one of the distinguished Senators who has worked very hard on this resolution. He thinks this is a pretty good amendment, this substitute. But we have also heard him say, however, that the pattern of revenue increases in this substitute makes the elimination of indexing more likely than under the committee recommendation

I could go on and talk here a little bit about some of the other numbers. In agriculture there are some interesting ones. We have a modified target price freeze yet many Senators are interested in making sure we take care of farmers.

Mr. JOHNSTON. Will the Senator yield at that point? That is not correct. We have 2 percent growth in fiscal year 1984 and fiscal year 1985 for CCC entitlements, not a freeze.

Mr. DOMENICI. Savings in the outyears are achieved in this proposal by allowing a 2-percent growth in the target prices in 1984 and 1985 and a freeze thereafter. So to the extent that I misstated the first 2 years I apologize.

Mr. JOHNSTON. It is an extension of current law there, an extension of the fiscal year 1985 levels through fiscal year 1988.

Mr. DOMENICI. The proposal to freeze is at best controversial and was rejected by the Budget Committee. This does not mean we ought not accept it here. I only bring it up because I have said there is nothing new under the Sun and this is one of those that is not new.

For example in NASA programs, this proposal would prohibit the initiation of new science application initiatives. NASA activities have been put aside year after year while we developed the shuttle. This proposal would affect the shuttle's competition in space with France and others. Delays would occur in launches now scheduled that we all know about. That has been debated in the committee. I did not feel the Senate would go along with that.

Having said that, there are many other concerns I have and I will provide them for the RECORD.

I think on the domestic side of this budget the Senate Budget Committee produced a bipartisan product.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. DOMENICI. I ask 5 additional minutes. The committee plan is probably the closest thing to significant domestic spending restraint that can be supported by a compelling majority of the U.S. Senate.

I am not going to address the health programs, including medicaid and medicare, because my good friend Senator DOLE is here and he wants to. I am confident passage of the Johnston resolution intact would put us nowhere.

There could be a series of amendments offered to the Johnston-Nunn proposal that would bring this budget resolution very, very close to what the Senate Budget Committee already produced.

As a consequence, the only real difference that I can see, is the $285 billion in taxes that Johnston-Nunn requires, slightly modifying the first 2 years of revenue figures that were reported out of the Budget Committee when it came to the floor of the Senate.

Now, I am not certain of that. I am not certain that, as those in this body who are tempted to vote for it find out what is in it. We would amend it and put it back near the levels we approved in committee. But I have been around here a while.

My best guess for the Senate is that the Senate is not going to accept CPI minus 2. I assume we would probably take Senator PROXMIRE's amendment to fix that one up. Next would be Veterans Committee members. They will come along and seek just about what the Senate Budget Committee reported out.

So, it seems to me that acceptance of this amendment would simply cause us to start with a new baseline from whence to debate under the illusion that we would have dramatically reduced the trend lines for the deficits.

I want to say to my good friend, Senator JOHNSTON—and I am sorry Senator NUNN is not here, because he knows of the great respect I have for him—that I have reluctantly come to the conclusion that we cannot put any significant new taxes on in the years 1984 and 1985. I speak not only from a political standpoint, but from the standpoint that anything we do now is risky, extremely risky. I have come decided that there is far more risk in requiring substantial new taxes in the middle of this economic recovery than there is larger deficits, especially if you are only reducing the deficits by the amount of new taxes.

I see my good friend from Oklahoma shaking his head. I am merely saying that the ultimate product of this debate will be nothing more than a domestic spending plan very close to the Senate Budget Committee proposal.

The declining deficit trend lines will be basically produced by new taxes.

Again, I repeat, that is not what our resolution would do. But I could go through each function and I guarantee you many of those who are going to vote when it comes to the individual amendments on medicare, medicaid, NASA, or veterans are not going to be able to hide under the shield of one big package.

Now, I would like to yield to my friend from Kansas, who would like to discuss some aspects of the compromise. I yield as much time as the Senator needs.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, first I wish to commend those who offered this budget proposal. We are seeing different groups of Senators with different ideas on how to bring down the deficits, and I think that in itself is encouraging.

No doubt about it, there are a number of very positive aspects of this proposal. But the one that is most frustrating to this Senator is the revenue increases. Again, I do not know how we achieve those numbers without going after the third year and indexing. They are not specified and they should not be specified in the budget process, but as a practical matter I think perhaps they may as well be specified.

Again, I know there are some—some on this side, some on the other side—who feel that we ought to address the revenue side. And certainly this Senator is willing to do that. In fact, we did that last year—$100 billion—but did not get a single vote from the other side of the aisle; an increase in revenues over 3 years to raise $100 billion and not one single vote on the bill itself, except the distinguished Senator from Virginia, Senator Harry Byrd. Then on the conference report we had six Members from the other side who voted for the conference report.

So it is not that there are not ways to raise revenue. But, as I have indicated earlier, if we are going to raise revenue, why do we not go back and take a look at all the tax expenditures, all $296 billion worth? Some would say they are loopholes, some would say they are incentives, but they should be addressed.

We are also advised there are between $87 billion and $100 billion in taxes that are due that are not paid on an annual basis. Why should we not address compliance?

The Senator from Kansas understands the easy thing to do is take away the tax cut no one has received. If you have not gotten it, no one is going to miss it. But if you have not paid any tax, I think we ought to start there first, to make certain those who have not contributed as much as they should have contributed have an opportunity to do that before we start taking away the tax cuts that impact primarily on working people in this country. And that is, I think, a flaw in all of these proposals that want to have the major share of the savings or deficit reduction come from increased revenues. Now, there are others who may disagree.

But this provision does hold back nondefense discretionary spending and makes some savings in entitlement programs. As a result, it saves more, I think by $40 some billion, than we have in the Senate budget resolution.

But in the spending area, much of the savings would come from the Finance Committee programs. And we do not quarrel with that because we have jurisdiction over many of the entitlement programs. We are certainly willing to try to address these programs and I assume if there were some reconciliation we might achieve some of the savings. But, as my colleagues are well aware, assuming cuts in social security as a part of the budget resolution is completely unrealistic. In fact, we have been up and down this hill last year and all the Republicans were burned last year for trying to balance the budget by using $40 billion worth of social security savings.

There was widespread agreement last year that social security would not be used to help balance the Federal budget. This was essential for reaching a bipartisan consensus on how to shore up that ailing system. As long as there was a concern that more taxes were being levied on working people or more reductions in benefits were being imposed on the elderly than necessary to meet the financing needs of the system, responsible reform legislation was impossible.

I would remind Senators that last year, about a year ago on May 12, I offered a resolution stating that corrective action in social security would not be "more than absolutely necessary to preserve the financial integrity of the social security system." I think the Senator from Louisiana and others all joined in that vote. There were 91 votes in favor of that resolution.

The bipartisan agreement on social security has only been signed into law about 2 weeks ago. According to the Congressional Budget Office, the Social Security Amendments of 1983 will reduce the Federal deficit by $8.2 billion in 1984, $10.5 billion in 1985, and $10.9 billion in 1986. So we have made some changes.

So it would seem to me adding a 2-percent reduction of the COLA to the 6-month delay, and then the taxing of benefits already enacted would seriously violate the spirit of the compromise. And I think that is a matter that does deserve some attention.

If, in fact, after a year of a special commission meeting to try to work out some compromise and if the Speaker of the House and the President of the United States and others who had different views on social security were able to come together, and then less than 2 weeks after that social security preservation act was signed into law we are recommending additional social security cuts, then I would believe that we would be breaking faith with the people that we indicated we were trying to assist.

I would also note that some of the sponsors of this amendment, and some of those who support it, voted against H.R. 1700 either as it first passed the Senate, or as the conference report. I would like to include as a part of the RECORD the names of those voting no on the Senate version of the social security package or the conference report. I do not understand how one could propose additional savings in social security after voting against the bipartisan compromise.

Names of Senators who voted nay on the passage of H.R. 1900, as amended:

Senators East, Garn, Hatch, Heflin, Helms, Johnston, Nickles, Symms, and Zorinsky.

Names of Senators who voted nay on the conference report on H.R. 1900, as amended:

Senators Boren, Exon, Hollings, Long, Nunn, Zorinsky, Armstrong, East, Garn, Hatch, Mattingly, McClure, Nickles, and Symms.

The proposal also provides for reduction of $10.1 billion in medicare over the next 3 years, and $32.6 billion over 5 years.

It provides greater reduction in medicare than the earlier proposal, defeated earlier today, the one offered by the distinguished Senator from Utah, Senator HATCH. It also provides greater reduction in medicare than the Budget Committee's resolution.

Again, I believe, the Senator from Kansas believes, that we must address the medicare problem or we are going to have as much difficulty with that as we had with social security, but I am not certain that we can achieve a $10.1 billion cut over the next 3 years. If, in fact, the majority of the members of the Finance Committee were willing to do that, the Senator from Kansas would certainly be willing to try to assist, because if we do not do some things in that program, we are going to have great difficulty in the years to come.

Mr. JOHNSTON. Will the Senator yield on that point?

Mr. DOLE. Yes.

Mr. JOHNSTON. Is the Senator aware that our reductions in medicare are significantly less than those in the President's recommendations? In fiscal 1984, the President proposes $2.5 billion in savings and we propose only $1.6 billion in savings. For 1985 the President proposes $3.9 billion and we propose only $3.6 billion.

Mr. DOLE. I am not quarreling with that provision. I am suggesting it would be difficult to achieve. I have indicated the Senator from Kansas is certainly willing to try to achieve it.

We will have an amendment offered in a few hours or few minutes by the Senator from Montana saying we cannot touch beneficiaries when we look at medicare. We cannot even achieve the savings called for in the budget resolution, and those savings are about $5 billion or $6 billion over 3 years.

Mr. DOMENICI. The Senator is correct. It is about $6 billion.

Mr. DOLE. I do not share the views of the Senator from Montana, Senator Baucus. I believe we ought to take a look at some of the upper income beneficiaries. Maybe we ought to take a look at means testing as we did, in effect, in the social security compromise, where we started taxing benefits of upper income beneficiaries. We cannot just exclude all beneficiaries from any cost sharing in medicare and have a viable program.

I would remind my colleagues that last year in the so-called Tax Reform Act, which raised about $100 billion, we also had a reduction of medicare over a 3-year period of $13.2 billion, a rather substantial cut in the growth of medicare.

This Senator is certainly willing to consider medicare, and I appreciate the willingness of the Senator from Louisiana to help us in that effort, but I am not certain we can achieve the savings he recommends even though, as he does correctly state, they are about $1 billion less than the President recommends.

That does not mean that we should not try to address the problem. I do not want to be critical of the efforts of the Senators who are sponsoring this resolution because we are going to have a number of efforts to add spending. I would hope the Senators proposing this would join us in keeping all those additional spending proposals off the budget resolution which may finally be adopted.

We are going to have increases for agriculture, for education, for job assistance, medicare, and a number of other proposals. This is an indication that there is a majority in this Congress and in the Senate, made up of Democrats and Republicans, who are concerned about the deficits. That is the strength, as I see it, of this resolution.

As I said to the Senator from Louisiana earlier, there may be some way to work out the revenue side. I am not one of those who feels they must close their eyes and not touch the revenue side, though some of my colleagues have a different view. But I am one of those who feels rather strongly that the third year will be preserved. I do not believe there is any intention, at least not direct, to impact on the third year in this budget resolution. But it will be very difficult to find the revenues without doing that.

Mr. President, I think we have to be cautious on the revenue side. I have not had as much experience as the senior Senator from Louisiana but some little experience on the revenue side, and I find it much easier cutting taxes than raising taxes. I am not certain how that works out, but it seems we had a lot more fun in 1981 when we were giving people back some of their money than we had in 1982 when we were trying to raise money.

Perhaps it is not difficult to take away tax cuts people have not yet received. But, again, it seems to me that the President feels very strongly about the third year of the tax cut. He feels very strongly about indexing.

It would be my hope that if, in fact, we have some revenue numbers that we start looking at other areas to raise those revenues. I am talking about compliance, I am talking about tax reform, looking at tax expenditures, keeping in mind that it is very difficult to do those things. But it is also very difficult to take away the tax cuts of working people, and that is as it should be.

The final stage of the Reagan tax program will do much more for lower and middle-income taxpayers than they will for anyone else. For taxpayers with less than $10,000 of income, repeal for the third year represents a tax increase averaging 13.9 percent. Similarly, repeal would mean 12-percent increase for those with $20,000 to $30,000 incomes.

Seventy-two percent of the benefits of the tax cut goes to those earning less than $50,000 per year.

Much the same is true for tax indexing. Indexing means tax relief, and sustained tax relief. If inflation averages 4 to 5 percent after 1985, it would bring in $98 billion in tax relief between 1985 and 1988. Of that amount, $78 billion will go to taxpayers earning under $50,000. Under current law, this income group pays about 66 percent of all taxes, but they will receive about 80 percent of the benefit from tax indexing.

Another good example is the group of taxpayers earning under $15,000. This group now pays 7.9 percent of total taxes but will gain 13.9 percent of the benefit from tax indexing.

It is equally important to keep in mind that indexing is a measure of honesty and fairness to the taxpayer, and the key to tax reform. We may very well have to raise taxes in the years ahead but we in the Congress have the power to vote and do that at any time. The issue is whether we are going to be up front about it and accountable to the taxpayer, or whether we will return to the deception of allowing inflation to raise taxes without action by Congress. It seems to me that indexing will take care of that problem.

We should also remember that eliminating indexing is a significant revenue raiser only if we assume persistent inflation at fairly high levels. Some of us had hoped that we had made a commitment to eradicate inflation, or at least keep it at minimum levels. Repeal of indexing would send a clear signal that we have abandoned that commitment. Let me spell out precisely what that means.

It means telling financial markets, here and abroad, that we make no guarantees about our willingness to control inflation. It means even greater uncertainty in business and personal financial planning. It means more risk for savers and investors. And, most important, it means higher interest rates from fear and uncertainty as to the course of future inflation.

Mr. President, we have had a lot of talk about tax reform. We have had a lot of talk about the necessity of tax reform, tax compliance, tax equity and tax fairness. It seems to me that one way to insure some fairness is to retain indexing and retain the third year of tax cut. Then if we are mandated to raise revenues we can go back to the Tax Code and take a look at all the loopholes. There are still a lot of loopholes floating around. We can look at tax compliance. According to the IRS Commissioner that is about $100 billion not being collected which is due. I promise not to bring up withholding so we will not embarrass anybody who caved in because of the heavy mail load we all had. Maybe we can find some other areas that we could agree on to raise the revenue that may be necessary.

Mr. President, I hope that my colleagues on the other side of the aisle would not take away the tax relief for the working people. It seems to me that is the clear choice. Even if, in fact, we can agree on some tax reform or tax compliance measures, I am still not certain how we can get $285 billion. That would probably be more reform than we can stand, certainly probably more than we can find votes for. But if we can pick up some on the compliance side and some on the reform side, then we could raise substantial revenue and still not disturb the third year of the tax cut or indexing of the Tax Code, which I believe is a step in the right direction.

Again, I commend the Senator from Louisiana, because I know he has been consistent in his voting as far as spending is concerned. I appreciate his bringing this amendment to the floor.

Mr. JOHNSTON. Mr. President, very briefly, I shall yield to the distinguished Senator from Missouri. Our figures have been rather roundly excoriated on the question of taxes and, of all people, by my good friend from New Mexico (Mr. DOMENICI), the chairman of the Committee on the Budget.

You can imagine my shock and surprise when I happened to look in the First Concurrent Resolution on the Budget, the book that is on all of our tables.

On page 11, I find that the revenue figures in our resolution are substantially less than those voted by the Committee on the Budget and, indeed, voted for by the distinguished Senator from New Mexico specifically. In 1984, our amendment has $15 billion in additional dollars, but the Budget Committee has $30 billion. We have $30 billion in 1985, but the Budget Committee has $39 billion. In 1986, we have $60 billion, and the Budget Committee has $51.9 billion. The resolution goes only for those 3 years. So in the total for those 3 years, Mr. President, the Budget Committee has considerably more in taxes than we have in our amendment, particularly in that key year of 1984, which is the year that we all speak about not wanting to abort the recovery.

Mr. DOMENICI. Will the Senator yield?

Mr. JOHNSTON. There were, indeed, only four dissenting votes in the Senate Budget Committee on the recommended level of revenues, after weeks and weeks of delay and hearings. I simply wanted to bring that out when we were so roundly excoriated for the size of our revenue numbers.

I yield for a question.

Mr. DOMENICI. Mr. President, I think the Senator is aware, since he was there when the vote occurred, as far as the Senator from New Mexico was concerned, that I wanted to bring the issue to the floor of the Senate. Clearly, I stated that I am going to vote with the distinguished Senator from Florida on his number so we can bring it to the floor. I did it in that respect and I think the Senator knows that.

Mr. JOHNSTON. I do indeed, Mr. President. I do not mean to say otherwise. I do know the record shows that the vote was yea. I am sure it was not the Senator's preference. Indeed, it was not the preference of myself or Senator NUNN or Senator EXON on any of these spending categories.

I do not want to limit the COLA to the CPI minus 2, unless we can do it as part of a broad picture. If we can do it as part of a broad picture that gives us a balanced budget, then I think we have a program that can sell.

The problem in the past with both our revenue numbers, our defense numbers, and our other numbers is that we have taken them piecemeal and not put them together in one broad package. The only way we are ever going to make progress, in my judgment, toward a balanced budget is if we put it in one package. As Senator NUNN has said so well, we have had victories for those who want stronger defense, we have had victories for those who want the full CPI for all cost-of-living adjustments; we have had victories for those who want higher domestic spending numbers, we have had victories for those who oppose any increases in taxes, any cuts in spending, and simply want the higher numbers for every part of the budget. Indeed, that crowd has been very victorious, Mr. President, because we now have, according to the Budget Committee, a deficit for 1983 of $204 billion, 3½ times the figure Jimmy Carter had when he was almost laughed out of town in the last year of his Presidency because of the size of his deficit.

What happens when you take the Budget Committee resolution and take away the revenue increases? We reduce the fiscal year 1984 $163 billion deficit to $193 billion, the $147 billion to $186 billion the year after that, and the $133 billion to $185 billion the year after that, if we are lucky. In other words, we keep deficits without those revenue increases in the Budget Committee recommendations at almost $200 billion annually through 1986.

Mr. President, that, in my judgment, and I think in the judgment of almost any economist who is worth his salt, is enough to abort this recovery. I say to all my colleagues, if you do not think we have a serious situation in this country, then surely, vote against this amendment, because there are many politically unpalatable things in it. If you do not think we are in an economic emergency, if you do not think we are in danger of losing the American dream as far as the economics of this country are concerned, then vote against this, by all means, because it is politically unpalatable.

You have to cut every special interest there is, or at least cut the rate of increase in all their special programs. You have to deal with national defense, when a lot of people think the Russians are coming. You have to put some additional taxes on the people, and you have to cut the rate of increase in all the other programs.

Mr. President, let me make one final point: I profoundly believe the American public has the good sense to know the shape this country is in. I think they know we are in a very difficult position, I think they know it is going to take a hard sacrifice across the board, it is going to take somebody with the courage to vote for the CPI minus 2 for COLA's in social security.

That is a sacred program, sacred; we all know that. But if you put that together with restraining the rate of increase of wages, put that together with a little taxes on the people, put that together with restraining national defense, put that together with a little medicare restraint, put that together with freezing foreign aid, put that together with the other elements of this package that give us a balanced budget, I profoundly believe they will accept it.

I will state something else, Mr. President: The economy will respond. I believe we are on the threshold—if we do our business right and adopt this amendment or something like it, I think we can be on the threshold of the greatest boom period we have had since the 1960's.

It is a question of commonsense and it is a question of political courage. I hope the Senate can find the courage to approve this proposal.

Mr. President, I yield 3 minutes to the distinguished Senator from Missouri.

Mr. DANFORTH. Mr. President, I thank the Senator from Louisiana. I ask the Senator from Louisiana if I may be associated as a cosponsor with his amendment.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senator from Missouri be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, just 2 weeks ago, the Senate's will to fight the battle of the budget was tested in the great withholding debate. We failed that test.

Now we are back again, testing our will on the budget. Although I have high hopes, I do not have great expectations. My great fear is that we have slipped into a pattern of behavior in which we find high deficits acceptable; or at least more acceptable than the tougher alternative of self-discipline.

I am one of an apparently shrinking minority who believes that deficits do matter. I believe they constitute the greatest single threat to our economy. They threaten our economic future by consuming a disproportionate share of private savings, and by forcing up long-term—and hence short-term—interest rates. Deficits are a mortgage on the future. The national debt now stands at $1.2 trillion, about $5,200 per person, or $20,400 per family of four. This year that number will increase by one-sixth, 17 percent. This year's per capita debt will be over $900, or $3,650 per family. Last month's deficit, 1 month mind you, was $450 per family. At the end of this year, the average American family will have a national debt "mortgage" owed of more than $24,000.

Let me put it another way. This year's projected deficit of $210 billion will carry with it between $17 and $19 billion in annual interest costs, funded by future deficits, "as far as the eye can see," to borrow a phrase from David Stockman. In other words, an

$18 billion item in next year's budget will be interest payments on the 1983 debt. Something has clearly gone haywire.

As these deficits mount up we tell ourselves that they are caused by forces outside our control. They are products of the recession, both domestic and international. One of the most troubling pieces of information in the report on this bill is the analysis of how much of the deficit is cyclical and how much is structural. Cyclical deficits are those caused by the economic cycle, those which would be eliminated if we had an economy operating at relatively full capacity. Structural deficits, on the other hand, are those which are built in to current policy even if we are at full employment.

The committee report attempts to quantify structural and cyclical elements of the deficit.

For next year, the baseline deficit is estimated at $201 billion, $110 billion of which is attributable to adverse economic conditions. The remaining $91 billion is the structural component. That component grows to $128 billion in 1984, $159 billion in 1986, and a staggering total of $780 billion through 1988.

What that tells us is that, even if we experience a robust recovery leading to a full employment economy, the deficit would average $156 billion for 5 years.

Not very long ago, we policymakers could take some comfort in the argument that deficits were largely cyclical. We could say, "Yes, there is a deficit, but the economy is in 'full employment' balance," or even "surplus." No more. This "yes, but" response now must yield to the unfortunate realization that our current governmental financial structure has fundamental flaws—it is out of control.

Our ability to modify the structure next year is limited for both pragmatic and political reasons. The President's recommendation would only reduce the structural deficit by 16.5 percent. The House budget resolution eliminates 28.6 percent, and the Senate resolution would eliminate 51.3 percent. More troubling is the fact that by 1986, the recommended changes would eliminate only 48, 57, or 59 percent of the structural deficit by the President, the House, or the Senate Budget Committee respectively.

Now there is much discussion about a Republican compromise, an effort to preserve some order in the process. Much as I appreciate and respect the skill and courage of the Senator from New Mexico in an extremely difficult task, I am not pleased with the outline of the compromise plan. That does not mean I will not support it. It is a compromise, and that is what politics is all about.

It seems to me that the only way to reduce the deficit is to decrease spending and to increase revenues. On the spending side, defense and the entitlements programs are the major sources of spending growth. We must scale them back. With regard to revenues, we went too far in cutting taxes in 1981. We must recapture some revenues. The American people and its politicians want Government to provide more services than they are willing to pay for. Let us face it, that is what the structural deficit is all about.

Since politics requires compromise, I am of the view that the appropriate compromise needed today should include the following:

First, restraint on the non-means-tested entitlement programs, the fastest growing part of the budget;

Second, restraint on defense spending growth;

Third, preservation of the reductions in discretionary spending made in the last 2 years, with some selective increases; and

Fourth, an increase in revenues.

These are the tests that I apply to the various alternative budget packages. Unfortunately, none of them does very well. Some raise revenues but do not reduce spending. Others cut spending but do not increase revenues. To me, a fair compromise must have all these elements.

The package that comes the closest to my views of what should be done is the proposal by the Senator from Louisiana (Mr. JOHNSTON). It says: If you want to increase taxes, then you must decrease spending, including entitlements. And vice versa. It is a political compromise. It provides what I consider to be adequate spending increases for defense, and it does a good job of preserving spending reductions made in the last 2 years.

I do not personally favor repeal of the third year of the tax cut. We are at a critical point in a fragile economic recovery. However, I feel so strongly about the need to show spending restraint on the entitlements and defense, that I would support the proposed $15 billion in revenue increases for next year.

Earlier I supported Senator HOLLINGS' substitute for Senator HATCH's alternative package for similar reasons. I think Senator JOHNSTON's package is superior, however. I may support selective modifications to it, but, by and large, I find it to be the most reasonable framework within which we should operate.

Make no mistake that this program is strong medicine. We would forego the tax cut and indexing, or be forced to raise taxes elsewhere. We would reduced the COLA's on all indexed programs. We would hold the line on other discretionary spending, and reduce spending growth significantly in some specific areas like medicare. Defense spending would be held to 5 percent real growth.

This is a plate full of political horrors. But it is dwarfed by the larger horror represented by our failure to come to grips with staggering deficits. Do we have the will to do the unpopular? Do we have the will to spread some pain far and wide? Will we increase taxes on the working man, and reduce inflation protection for beneficiaries of entitlement programs? Probably not, but we should. We should because our failure both to spend within our means and to pay for what we spend threatens our long-term economic strength as a nation.

Let us show that we have the will to do what is right for our country, no matter how unpopular that may be.

I shall urge my colleagues to vote for Senator JOHNSTON's proposal.

Mr. President, I have studied with great care the resolution as reported out by the Committee on the Budget and also the proposed compromise that the Senator from New Mexico has put together. I very much respect the Senator from New Mexico; he is a very good friend of mine. I can say that I do not remember ever seeing two more attractive alternatives in my life than the budget resolution as reported out by the committee and the compromise proposal of the Senator from New Mexico. This is a real turtle race. If it ends up at the end of this process that I am going to have to pick between the two, I frankly do not know how I am going to make that selection.

Maybe the best thing that can be said for the compromise position of the Senator from New Mexico is that it could be even worse and that the Budget Committee's proposal is even worse.

Mr. President, I cannot gladly cast a vote for a budget resolution which commits us to somewhere in the neighborhood of $200 billion a year in deficits. Deficits of that size go against everything that I have tried to stand for since I have been in Government. I thought that they went against every principle of my party. A $200 billion deficit means that to finance that deficit, every year thereafter will require somewhere between $18 and $20 billion just to pay for that year's interest.

I have asked to join as a cosponsor of Senator JOHNSTON's amendment. And I, of course, will vote for it, because I believe the Senator from Louisiana has made exactly the right point. That is that if we are serious about the deficit, if we believe that the deficit injures the country and injures the economy, then there is no way to reduce that deficit to a manageable size unless we are willing to come together on a compromise package that makes compromises in almost every available field.

The reason I do not like the Budget Committee's proposal is that the deficit reduction that the Budget Committee has come up with is almost entirely in the form of a tax increase. I do not believe that it is responsible Government to attempt to balance unrestrained Government spending with reduced taxes. It is a one-sided proposal, and I think it is a bad one.

But what the Senator from Louisiana has done is to put together a variety of very unpopular measures. He has restrained the growth in defense spending. He has increased revenues. I do not want to do that. I have supported tax cuts in the past. But I think that there is only one justification for having an increase in revenues, and that is if we can have a substantial reduction in spending at the same time. Clearly the area which has to be restrained, the great hemorrhage in the Federal budget has been in the nonmeans tested entitlement programs.

Mr. President, I believe that what the Senator from Louisiana has done is very responsible. I think that it provides the only kind of approach which can seriously reduce the size of the deficits.

Mr. JOHNSTON. Mr. President, how much time is left to the proponents?

The PRESIDING OFFICER. Thirty-six minutes fifty-three seconds.

Mr. JOHNSTON. I yield 3 minutes to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. I thank my colleague.

I have been listening with keen interest, Mr. President, to the debate that has been going on in relation to the amendment that we offered.

Setting up a strawman is an old technique in debating, and it has been used today but I think not very effectively.

The first strawman was that this was automatically going to repeal indexing. Most if not all of the sponsors of this amendment do not have that in mind.

We heard debate today that eliminating indexing shows that we are not considerate or passionate for the women and the minority. That argument in my opinion is not a worthy one and is not a legitimate criticism of the amendment that has been offered.

Then we went to the next strawman. This time my good friend, the distinguished chairman of the Budget Committee, said we were going to cut social security. That is a strawman technique, and he so identified his tactics when he got up to talk about it.

It seems also that there was some indication when this Senator was off the floor momentarily that we set up the farm man strawman where we could be vulnerable by cutting farm programs.

There are no sacred cows and no sacred programs in the amendment offered by those of us whose names are on the amendment presently at the desk.

I think it is time to recognize the points that were just made by my colleague from Missouri and the earlier points made by my colleague from Washington. This is not perfect. None of us are saying it is the ultimate answer. I think this is the most perfect thing that is likely to be presented to the Senate for hopefully a window that we can start to walk through to eliminate the steadily increasing deficits.

Frankly, Mr. President, I cannot wait if our amendment fails—and I hope it does not—to see the deficit that those on that side of the aisle are supposedly about to come up with. I will not be setting up strawmen when that comes out. I intend to stand on the floor of this Chamber long enough that I and others can be heard to say that they are simply over there ignoring the deficit, betting on what will come, and putting everything off including the necessary raising of taxes until after the next election.

Mr. President, in the last year we have heard from many great Americans with regard to what he should do. Some of the testimony that had the greatest influence on this Senator and member of the Budget Committee was by that highly publicized bipartisan group——

The PRESIDING OFFICER. The 3 minutes allocated to the Senator has expired.

Mr. EXON. Mr. President, may I have 1 more minute?

Mr. DOMENICI. I yield the Senator a minute of mine.

Mr. EXON. The bipartisan group headed by former Secretary of Commerce Pete Petersen, Secretary of the Treasury Henry Fowler, Secretary of the Treasury Douglas Dillon, Secretary of the Treasury William Simon, Secretary of the Treasury John Connally, and Secretary of the Treasury Michael Blumenthal.

Mr. President, those Americans came forth out of the mainstream of politics and laid it on the line. The amendment that we are offering today does not do exactly what those Americans said we had to do, but it comes far closer than anything else that will be offered. I hope that the Senate will provide the number of votes that are required to pass the amendment that we have offered. I yield the floor.

Mr. DOMENICI. Mr. President, I really did not intend to be a strawman or offer strawman issues. But since my good friend, the Senator from Nebraska, indicated the real issue about which he will stand up and talk is the deficits, I thought I might take my last shot and indicate once again that this proposal, by which reconciliation is ordered, mandates that by a time certain in the next few months, we impose 105 billion dollars' worth of new taxes on the American people. I am worried about deficits, and the Senator knows that. But I am also worried that the $15 billion, the $30 billion, and the $60 billion in taxes over the next 3 years that are reconciled. Those are not all the taxes in this proposal, but those are the taxes for the next 3 years.

I do not think that is a straw. I think that is taxes. I do not think it is a little bit. I think it is a whole lot. I repeat, there is nothing we can do in the next few months with reference to the policies of this country, fiscal, tax, and monetary, that is not risky. Everybody sees a lot of problems. I just happen to opt for not doing anything very dramatic on the tax side now. I agree with my good friend from Kansas; we may have to, but I do not think we ought to be doing it now in a mandatory manner during the next 3 years by reconciliation.

If we do not have it reconciled, all you have is a bunch of numbers.

As to social security, I repeat the same point I made before: I do not think that is a strawman.

One of the sponsors of this proposal—I think it was my good friend the junior Senator from Louisiana—when we came out of the Budget Committee with a proposal for social security solvency, which would not have required any cuts, was the quickest to label us as those who would cut social security. It would not have done anything to cut social security.

In more precise terms, that proposal would have done what the Senator says this does—create a restraint on growth of the entitlements, in particular the indexation of entitlements. I do not know whether that is a strawman. Maybe that is what the Senator is also saying is a strawman.

I think those are facts. There is a difference of opinion as to what should be done about taxes in the next 18 months, with the economy being as it is. Those differences are forthright, from my standpoint.

I am willing to stand up and say we are going to have big deficits while we wait to see what to do about taxes, but I am not willing to put them on now in a mandatory reconciliation instruction for the next 3 years.

Mr. EXON. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

Mr. EXON. How much larger will those deficits be when the Senator presents his package, then—the deficits offered in the resolution and our suggestion?

Mr. DOMENICI. What I am thinking about is the development stage. I do not remember the numbers, but they are not different from the other

Senate Budget Committee resolution numbers in 1984, with the exception of taxes.

So it is a bigger deficit. Indeed, it is. I do not remember the number—something like $1 billion or $1.5 billion in 1984. That is the difference.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

Mr. CHILES. Will the Senator tell us something about 1986?

Mr. DOMENICI. I have not set it, but I will say that it is not much different from anything the Senator from Florida proposes, except for the taxes. His are going to be bigger. But my approach is to delay any mandatory taxes during this budget cycle because I firmly believe we should wait. If we are going to put them on 3 years from now, as recommended by the President, I see no reason for putting them in a budget resolution at this time. That is basically going to be the difference. It is nothing mysterious.

Mr. CHILES. But the Senator would not even provide for any new taxes in 1986?

Mr. DOMENICI. The taxes proposed by the President in the first 2 years are what we are presently discussing. Beyond that we will wait for the economy either to grow or not grow. We have at least one full Congress and half of another Congress before that date arises.

Mr. EXON. After an election.

Mr. CHILES. The Senator is saying that this is a retreat from what the President said, because he was willing to enact a contingent tax for 1986.

Mr. DOMENICI. He had a contingent tax.

Mr. CHILES. But the Senator from New Mexico is not even willing to put that on?

Mr. DOMENICI. The Finance Committee and the Ways and Means Committee are free, at any time they wish, to produce a tax bill. The Senator knows that, and it would not be subject to a point of order.

Mr. CHILES. Does the Senator think they will propose one without reconciliation this year?

Mr. DOMENICI. I have no real hope that any of the items, such as medicare, pensions, and taxes, will be produced by either body unless ordered by reconciliation. But I am not willing to take a chance on ordering them to produce large taxes in the outyears, and I am absolutely positive——

Mr. CHILES. The Senator is not even willing to do that for 1986?

Mr. DOMENICI. That is 3 years away. That is what I said—3 years from now. That is what I just told the Senator from Nebraska.

Mr. CHILES. I say to my distinguished chairman and my friend that I am not willing to sit here and watch the economy go to hell in a handbasket by not providing some kind of revenue over these years.

Mr. DOMENICI. I think I am as concerned about the economy as is the Senator from Florida.

Mr. CHILES. And I think I am as concerned about the economy as is the Senator from New Mexico.

Mr. DOMENICI. I agree. I do not believe that putting taxes on now and ordering them now is going to get the economy out of the position it is in.

I think there is a very sincere difference of opinion, and eventually this body, the House, the President, and others will decide which way we are going to go.

Mr. BOREN. Mr. President, will the Senator from Louisiana yield me time?

Mr. JOHNSTON. I yield to the Senator from Oklahoma.

Mr. BOREN. Mr. President, a lot of issues have been raised, and we should not lose sight of what we are fundamentally dealing with.

We are dealing with an opportunity for the Senate to adopt a budget resolution with significantly lower deficits than would be the case if we adopt either the Budget Committee recommendation or the President's proposed budget or the budget which has been discussed in the press today by the Republican leadership. I want to make that clear.

It is not a matter of reducing those deficits simply by increased revenues. I have great respect for the chairman of the Budget Committee. I am sure that if he had leave to write a budget by himself, without regard to other members of the committee, we would see lower deficits than reported by the Budget Committee. There is no disrespect to him.

However, the fact is that under this package proposal, the Johnston proposal, in which others of us have joined, we are reducing the spending below the base, from baseline deficits, by approximately $282 billion, versus a reduction of only $146.5 billion under the Budget Committee resolution. In other words, we are cutting spending $136.4 billion below the amount that the Budget Committee is cutting spending.

We are reducing the total deficits by $133 billion. We are raising taxes in the first 3 years some $16.2 billion less. Still, we have deficits $133 billion lower than those of the Budget Committee and $249 billion below those of the budget submitted by the President of the United States, and we are brought on a glide path toward a balanced budget for this country by 1988. This is a budget balancing package.

Mr. President, that is the issue here: Does the Senate want to adopt a budget resolution which will show some hope to the American people that we are finally going to get deficits under control and that we are finally going to bring ourselves toward a balanced budget?

The issue is not indexing. The distinguished chairman of the Finance Committee and I discussed that many times, and I am happy to tell him publicly on the floor that I agree with him. I think it is absolutely imperative that we retain indexing; we must not repeal it. It is a restraint on spending in the future. Future Congresses must not be able to have more and more money to spend without having to bear the responsibility for voting for those tax increases.

The second important point to make is how it brings us to a lower deficit. It is the one proposal that has been before us that puts all Americans into the same boat together and calls for some kind of sacrifice across the board.

I listened to the Senator from Missouri a moment ago, and I think he made a valid point which conforms with my own experience.

I want to share with the Members of the Senate the experience I had in going around my own State, in some 18 different open meetings with constituents, in February. I listened to them very carefully. We were discussing the social security program, among other things. Person after person would get up in the audience and say, "I don't want my benefits taxed. I don't want my COLA postponed." Government employees would say, "I don't want my salary frozen."

Person after person would get up and say they did not want to have to pay higher taxes, or, if they were receiving a Government benefit or Government salary, they did not want those benefits or those salaries reduced.

After listening to all those discussions, if you would have added them up and given every group what they asked for, we would have doubled the deficit in this country.

I said to that group: "Wait a minute. What if we could get everybody in the same boat together? We all realize that we are going to destroy our economy if we cannot have a strong defense and take care of the needy."

I said what if we all did it, not just ask the widow on social security to be frozen at the $300-a-month level while we go out and borrow $30-some million to give a tax cut to a person at $100,000 a year; not just say to the postman, "No increase in your salary," without saying it to those of us in Congress or in the Cabinet or any other Federal agency at the same time? But all of us, I said, what if we all got in the same boat together and the upper income people said, "We will wait a little while longer to get tax relief if necessary if you on the receiving end of Government will agree to wait a little while to get an increase in your pension, whatever that pension is, will wait a little bit to get an increase in your salary, whatever it is"? What if we all got in the same boat together, how many of you would be in favor of that?

I asked that in every open public meeting I had, in meetings where I heard group after group say, "We want more, we want our COLA, we want our salary increase, we want our tax cut." When I asked what if everyone did it, what if every American did it, how many of you would agree if we all get together, all of us do a little bit to help get this deficit down, I am proud to say that in 18 straight meetings in my State not one single hand went up from one single citizen in opposition to that proposal, and it was widely agreed to with enthusiasm in every single public meeting that I had.

So I think it points out two things. One, the American people at the grassroots, even if they do not seem to understand it in Washington, D.C., understand that these deficits and this looming national debt are going to wreck our economy by forcing up the interest rates and bankrupting every small businessman, small farmer, and little person in the economy of these United States.

They also are willing to sacrifice as long as they think it is across the board, that they are not being the only ones asked to sacrifice. They are ready to do their part.

I say, Mr. President, let us not underestimate the spirit of the American people, either their intelligence or their willingness to make sacrifices across the board. Let us give them a one-boat plan to vote for and let us pass a resolution that will put us on the glide path to a balanced budget. That is exactly what the Senator from Louisiana is offering to us. It is not a perfect proposal, but it is the best proposal before us and I hope with a strong bipartisan voice we will, all of us as Americans, as representatives of the American people, get in the same boat together and work hand in hand in an American spirit to get these deficits reduced.

Mr. PROXMIRE. Mr. President, will the Senator from Louisiana yield me 5 minutes?

Mr. JOHNSTON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 24 minutes and 55 seconds remaining.

Mr. JOHNSTON. I yield.

Mr. PROXMIRE. I thank my good friend from Louisiana.

Mr. President, I intended to offer an amendment to this bill. I will not offer the amendment.

I have become convinced after listening to the debate that the amendment is not going to pass, and for that reason my amendment would take some time and be a futile act.

I am very much opposed to a part of this amendment that would make a 2-percent reduction below the cost-of-living index for social security recipients, Federal retirees, and veterans.

Mr. President, I think the argument on that—I am not going to go into any detail on it—as far as social security recipients has been stated on the floor very well by Senator DOLE and others. The fact is we went through this, and we all settled on this 45 days ago.

It does not make any sense to me for us to revisit that at this time. So for that reason I am opposed to the amendment.

But, Mr. President, I become very disturbed at the changes that have been made at the last minute in this amendment.

For fiscal year 1984, the Johnston substitute proposes a deficit higher than that proposed by the Budget Committee, higher than what we have on the floor.

So what you are voting for is not a lower deficit in 1984 but a higher deficit.

For 1984 the Budget Committee proposes a deficit of $163.3 billion; the Senator from Louisiana proposes a deficit of $176 billion, an increase of $15.7 billion.

It is true that in the following years the deficit would be theoretically reduced, and I say "theoretically" because it would be based on unspecified revenue increases. They do not say where. They indicate it probably would not come or might not come in forgoing the 1983 tax cut, and I think most of us know that is probably pretty impractical anyway. The President would veto it. And it will not come in knocking out indexing. President Reagan would probably veto that.

What I favor is forgoing that full 1983 tax cut, forgoing indexing, and then you would have in hand, not just some prospective possibility, but you would have in hand $30 billion of savings in 1984, $40 billion in later years; from forgoing the tax cut, you would have $40 billion in the outyears, 1986, 1987, and so on, and forgoing indexing.

I also favor not just the 5-percent limit on defense increases, but the Hollings 3 percent which I voted for.

That would give us a much better shot at a balanced budget and in view of the fact that I think that the toughest thing to do, the only hard thing we can do and make it stick is what the chairman of the Budget Committee has recommended, which is to specify our increases in revenues, specify our spending cuts, and do them in the years we can control—1984 is what we are debating now—and not make this nice, sweet, beautiful dream that somehow the people who are elected in 1984 and 1986 are going to go along with what we decide now. We cannot bind future Congresses. They are going to decide for themselves.

So for that reason, Mr. President, although, as I say, I greatly admire the authors of this amendment, and I think their speeches are right and I think we have to do something about the deficit, I do not think this amendment does it and for that reason I will vote against the amendment.

Mr. JOHNSTON. Mr. President, first of all I thank my distinguished colleague from Wisconsin for letting us get a vote on this amendment up or down, because the plan is a package. It has been described and pushed as a package, and I am glad we are going to be able to vote on it as a package, and I appreciate his forgoing putting in his amendment.

With respect to his statement, Mr. President, that our amendment should be opposed because parts of it may be vetoed, whatever you do here on the floor of the Senate may be vetoed by the President, including the two centerpieces of his own program just described, that is, a repeal of the third year of the tax cut and a repeal of indexing. The President could surely and indeed has said he would veto those.

Indeed, we do not require that, and under the Budget Act you cannot require that that be done. Our numbers do not even require that that much revenue be raised in 1984, that is, that the third year of the tax cut be repealed to meet our revenue target in 1984.

The amount of revenue we have specified for 1984 is only half of that which would be saved by repealing of the third year of the tax cut.

Mr. President, I think we have heard the arguments. The question is, in my judgment, Do you think this country is in serious shape economically, really serious shape? If you do, you have to take some really serious action. You have to step on a few toes. In fact, you have to step on everyone's toes. We hope we do not break any feet, and I do not think we do. But I do think this plan is a fair and equitable means of balancing this budget.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield to my friend from Arizona.

Mr. DECONCINI. I thank my good friend from Louisiana. I shall be brief.

I only wish to express to the Senator from Louisiana that I was in my office with a number of Arizonans who were marching in and listening to the distinguished Senators' arguments here, particularly those of the Senator from Louisiana.

I like the amendment. I am disappointed that the Senator from Wisconsin is not going to offer the COLA and the repeal of the third year of the tax cut because that is where this Senator comes down.

I suppose everyone in this body has a different approach, but I cannot help but come to the conclusion that everything we have before us is a disaster because of the size of the deficits.

I have to conclude that if we are going to continue with this economic program and not address the third year and indexing—and by the way I want to assure the Senator from Kansas that I supported the Economic Recovery Act and voted for that Economic Recovery Act and tax cuts along with him and others and also supported indexing for the 6½ years I have been here, but I do not know what we can do to get this down to a tolerable deficit—I am under great anxiety because the good Senator from New Mexico has worked so hard on this for many years and is now sending to us a bigger deficit than the Budget Committee.

I understand the reasons why that is all there. But I just ask the Senator from Louisiana in his course of considering this the justification for the 6 months on the non-means-tested entitlements of the COLA's and set at a CPI minus 2. Is there some magic formula how the Senator came up with that because I would wish to support the Senator's amendment. I am really struggling within myself to take it out on veterans and social security recipients, and others.

Mr. JOHNSTON. Yes; a 6-month delay in social security COLA's is already in the law and was recommended by the Commission. We simply started with that as the beginning point and what we have done here is assume in addition for the COLA computation a basis of the CPI minus 2 percent. That is our change. The 6-month delay is not a change from current law for social security.

Mr. DeCONCINI. Yes; I understand that. I understand the 6 months but it is just a matter of trying to find some dollars.

Mr. JOHNSTON. That is correct. We have pretty well gone across the board in all spending programs. Retirees are asked to make a 2-percent contribution; those on Federal salaries are asked to make what amounts to a 2-percent contribution because we say a 2-percent pay raise next year; President Reagan says freeze pay and we say a 2-percent cap on pay in 1984—thereafter pay increases are set at the CPI minus 2 percent. So, there is symmetry and equity between those paying in and those on the receiving end in our plan.

We are asking defense to be cut to 5 percent real growth. We are asking that cuts be made in non-means-tested entitlements.

Mr. DeCONCINI. If the Senator will yield, I support the Senator's amendment in most respects, particularly in the defense area as much as I think we need to do a great deal in that area. I am prepared to vote for a 5-percent real growth in defense. I just have trouble with asking the retirees and the veterans—to take another whack at them, but I want to compliment the Senator on offering another alternative trying to find our way out of this quagmire.

I think we are faced today with a disaster. This body is likely to adopt a budget resolution in the next 3 or 4 days that is going to have a deficit of well over $170 billion and the economic conditions may grow to far above that, and I am torn between what we can stand here with any kind of face-saving blessings from our constituents and vote for those kinds of deficits as being just more than this Senator can tolerate and I think probably everybody is going through the same struggle.

I believe we have a lot of work to do and we have not done it; even though the Budget Committee reported something out we at least ought to be at that figure, it seems to me, and I still want to urge the Senator to promote his amendment. I would not want him to change too much but I sure wish he would consider doing something about that COLA. I thank the Senator.

Mr. DOMENICI. Mr. President, I yield the Senator from Kansas as much time as he desires.

Mr. DOLE. Mr. President, I want to again thank the distinguished Senator from Louisiana. I do not quarrel with anybody who wants to cut the deficit. His is a different way of putting a package together. But I do want to associate myself with what the Senator from Arizona and the Senator from Wisconsin touched on. The ink is barely dry on the social security compromise, and I think we would be breaking faith with the senior citizens and workers if we start immediately making additional changes. I know that is $17 billion savings over a 3-year period, and I know how difficult it is to find savings reductions. But I think it should be clear that this budget would change the compromise. It will reflect a change without any hearings and, of course, since this is only budget procedure, it does not mean it would ever happen, but it points up the difficulty we have.

In the view of this Senator there are enough of you on the floor on both sides of the aisle who are willing to bring down the deficits. The question is how we all get together. And maybe in this proposal and in the proposal earlier by the Senator from Utah, there may be a consensus that could emerge before this debate concludes.

I would only say on the revenue side that as far as this Senator is personally concerned it seems to me realistic to look at something on the revenue side if we have in exchange for that some real spending reduction. I think that is the problem: That some of us feel we are going to get all the revenues and not much on the spending side. And I must say, not in a critical way, that the 1982 TEFRA resulted in a deficit reduction of $115 billion. And I would say again, not wanting to inflame anyone on the other side, but I did not get a single vote on that side of the aisle except from the distinguished Senator from Virginia, Senator Byrd. I know that was a controversial bill, but the revenues in this proposal are also likely to be controversial.

Now, if the Senator from Kansas brought to the floor a package of reform or tax compliance it would require some support from the other side of the aisle, certainly more support than we were able to muster last year. Is it fair to ask the Senator from Louisiana what assumptions were used to get those revenue figures? I mean did you have anything in mind?

Mr. JOHNSTON. Well, the size of the revenue increases are equal to one-half of savings which would be generated by repealing the third year, of the tax cut in 1984. Among those who are in favor of our amendment, there are those who are for suspending all of the third year, some for suspending half of the third year and some who are for retaining all of the third year. So we intentionally said there is no implication specifically about this item in our plan. In a budget resolution, moreover, there can be no specification on how to raise revenues.

The PRESIDING OFFICER (Mr. COHEN). The Chair will advise the time of the opponents has expired.

Mr. DOMENICI. I yield the Senator from Kansas such time from the bill as he needs.

Mr. DOLE. I do not want to belabor it. The Senator from Louisiana has made a good case, but it is a substantial amount of revenue and there are strong feelings on the third year of the tax cut. Certainly there are strong feelings at 1600 Pennsylvania Avenue—very, very strong feelings—both on that and indexing, and many of us share those views. But I do believe there are other areas we might focus on to raise revenues and, as I indicated earlier, some would be on the compliance side or some on reform or closing loopholes or tightening up generous provisions in the Tax Code, and I assume the Senator from Louisiana would not object to that.

Mr. JOHNSTON. That is exactly correct. I have some in mind I will be happy to tell the Senator about.

Mr. DOLE. I have some in mind I would not want to change and the Senator from Louisiana has some in mind he would not change. But we have about $296 billion in expenditures and it strikes me we have the responsibilities of looking at these tax expenditures, and we are doing that. We have some corporations paying a very low effective rate of tax, and we are getting ready to have hearings on the casualty and insurance companies to see what taxes they pay. We are doing pretty much what the Budget Committee does when they go over the spending side, to make certain that everyone is paying his proportionally fair share of taxes, and it is my hope that if there are revenues to be raised we might have broad bipartisan support in the compliance and so-called——

Mr. DECONCINI. Will the Senator yield?

Mr. DOLE. I would be happy to yield.

Mr. DECONCINI. If he wants to repeal the third year he would have bipartisan support. Give it a shot at that.

Mr. DOLE. Shoot it down.

Mr. DECONCINI. I would like to see it get up here and get a vote on it and see the effort of the Senator from Kansas because I think I know the Senator from Kansas. No one has worked harder in trying to put together the administration's economic program here and has done this, and to me the question now is we are in a real bind, we have more than anybody wants in deficits, including the White House, and yet there seems such reluctance to look at that third year, just to condition it and we are going to put it off until we get the deficit down to $100 billion and then it would kick in on some figure—I hope with the Senator's wisdom and ingenuity he would come up with something that is debatable because he would get bipartisan support.

Mr. DOLE. The only point the Senator from Kansas is trying to make is that we ought to have options other than the third year. I do not think anyone on either side, if they had an option on the third year or other plan to raise some revenue, will say it has to be repeal of the third year.

The point that the Senator from Kansas makes is that we are trying to be responsible in our committee, just as the Budget Committee has been over the past few years, and we are looking at tax expenditures. We have $296 billion. So we have a full plateful to look at.

The point is, if we can find other options that would raise the same revenue, then it would be my hope that we would not have to touch the third year or indexing. It seems to me those are tax benefits going to people—particularly the third year and indexing—where 78 percent of indexing benefits and 72 percent of the third year will go to those with incomes under $50,000.

Mr. DECONCINI. Mr. President, I agree with the Senator's figures. I heard them earlier this afternoon. It is a very difficult thing to be in support of doing away with that third year.

But it seems to me that that chart pretty well tells us and the conditions of the deficit pretty well tell us that this large tax cut and indexing—which I supported both of them—have led us into one hell of a mess.

It seems to me that it is easy to point to this area to get some immediate results, even if we defer the third year and make it a trigger to come in some other time.

I have no objection to looking at other tax figures, but I have to tell the Senator when you look at "closing loopholes," as the Senator points out, one man's loophole is another man's profits for that year. This, we know what it is. It is causing big deficits. Though it is not easy to say to anybody you are not going to get your tax break we passed 2 years ago, it seems to me at least we know what the result of this tax is. That is the only reason I bring it to the Senator's attention.

Mr. DOLE. Mr. President, I take some encouragement from the fact the Senator from Louisiana does not specify where the revenue is to be raised. He leaves that, as he must, and as the Budget Committee must, to the committee of jurisdiction. Obviously, there has been much difficulty in where to apply the numbers. It has been assumed by some that it is indexing, and assumed by some the repeal of the third year of the tax cut. As the Senator from Arizona points out, what may be a proper incentive in the code and may be viewed by some to be a loophole. So we have been moving very carefully to make certain that no one is threatened by the change in the Tax Code but, at the same time, we do try to bring more fairness and equity into the system.

This Senator frankly believes that the marginal tax rates are too high on individuals, and we ought to keep them low while broadening the tax base.

In any event, it seems to me we have a fundamental difference on this issue, and on taking more out of social security. We have just completed a social security bill, and it has just been signed into law 2 or 3 weeks ago.

So I hope the amendment will not be adopted.

Mr. JOHNSTON. Mr. President, I will soon yield back the remainder of my time.

Let me say, as one who has been on the Budget Committee now for 7 years, there is not an easy way to get deficits down. There is not an easy way to balance the budget. Some people do not even think that balancing the budget is very important. Some people think deficits of over $200 billion are not so bad. It does not sound like much if you say it fast.

This President is apparently willing to accept those deficits because he insists on a 10-percent-plus inflation increase in national defense, insists on every cent of the tax decrease, and will not deal with the issue of entitlements. So we roll on and on with deficits that exceed $100 billion as far as the eye can see and, indeed, if experience teaches anything, which probably exceed $200 billion for the next 5 years.

If the economists are correct in what they tell us, and they are virtually united in this, deficits of that size will very soon abort the recovery and will bring us to economic stagnation with even higher unemployment than we now have and with other difficulties the likes of which we have never seen.

I think the arguments have been made, Mr. President. I simply urge my colleagues who think the situation is as bad as we do to vote with us. If you cannot vote for this plan, then find something that you can.

I voted for the Hollings amendment even though I disagreed with the proposed 3 percent limit on real growth in national defense. I believe 5 percent real growth is the proper figure. But you have got to choose a package, I say to my colleagues, that includes some items with which you disagree. Otherwise, you will never vote for anything. Indeed, that is what has been happening now year after year with the Senate. We have, because we did not agree with all the elements, ended up on the high side of every element, and, in the process, with a deficit of over $200 billion this year.

I yield 2 minutes to my friend from Nebraska.

Mr. EXON. I thank my friend from Louisiana.

It seems, Mr. President, we are about to vote on the amendment that we have been debating now for the last couple of hours.

Just a thought or two I would like to pass along. I hope that when all of my colleagues come to the floor and vote, they had best understand that this is probably the last chance that they are going to have during this particular debate on the budget to vote for a low-deficit figure. The lowest deficit figure is contained in this amendment. Therefore, if they want a balanced approach to this deficit, this is the last chance.

One other thing I would like to say. During this debate we have heard opposition from those who do not want to raise taxes. We have heard opposition to the amendment by those who do not want to make any reduction in certain programs and expenditures. We have been across the whole gauntlet of arguments that we hear time and time again. The bottom line is simply this: The easy way out is to not raise taxes. The easy way out is to keep spending more money and charging it off to the deficit and not worry about it. Unfortunately, not worrying about the deficit, which was once the fundamental of the Republican Party and their platform, is now being pushed into the background.

I think it was Jack Kemp who said within the last 2 years, "The Republican Party no longer worships at the altar of a balanced budget." The Republican Party leadership has proven it in the deliberations for the last 2 years in this body.

I simply say that in a family, in a business, on a farm, in government at the local level, the State level, or the national level, there comes a time when we must make the decision that after we decide how much money is going to be spent, then we reach a time when we must look the people in the eye and say, "Yes, we are going to tax you this much to pay for it." That is the process. All too often we say, "Oh, no, we are not going to go along with that," and we just charge it off to the deficit.

I just hope that the people will realize that this is not perfect. There are some parts of this that I do not agree with. But it is the only package that I think reasonable people, trying to meet their reasonable obligations to bring some sanity out of the insanity that is going on in this country today as far as our overall finances are concerned, had best understand that this is the last chance.

I yield the floor.

Mr. HATCH. Mr. President. I need to make a few points regarding the Johnston tax increase proposal which is offered as an amendment to the first concurrent resolution on the budget. While the latest version does not specify the exact source of the new tax revenues, you can be sure that the third year of President Reagan's tax cut is in jeopardy. You can also be sure that the indexing of personal income tax brackets will also be eliminated. I find it interesting to see that the Democratic Party is about to eliminate the two real tax decreases that the workingman has seen in 20 years.

The first one is the adjustment that President Reagan promised us during his election. It took the form of a 5-10-10 across-the-board tax cut stretching from 1981 to 1983. Senator Johnston and his colleagues are proposing to eliminate this adjustment which helped return workers to the tax brackets which they occupied several years ago. This is not to say that taxes across the board for them will be reduced, but at least this helps to moderate the burden of increase.

The second real tax reduction achieved by workers has been the indexing of tax brackets for inflation. Such indexing means that the taxpayer is protected from the inflation produced by the Federal Government. It is an inflation which has been welcomed by many of the big spenders in Congress, and I can recall the days when the Senate Budget Committee looked forward to the fiscal surplus as additional funds for special-interest constituency spending. Interestingly enough by eliminating the indexation of personal income tax brackets, you provide a regressive tax increase due to the fact that the tax brackets at the lower end of the spectrum are closer together, and therefore wage earners at lower income levels are much more easily affected by inflation driving them into the higher brackets.

Mr. President, as I indicated earlier the tax breaks provided by the Economic Recovery Tax Act of 1981 do not really reduce taxes but merely slow down the growth of their increase.

Even with the passage of the Economic Recovery Tax Act of 1981, personal income tax rates will just fall short of compensating for the effects of inflation forcing taxpayers into higher income tax brackets. For example, the average combined Federal and social security taxes and State income taxes paid by a family of four in Utah with an income $15,000 and filing a joint return amounted to a average tax rate of 17.4 percent in 1980. If we assume increased salaries to compensate for inflation, this family's average tax rate in 1984 will have risen even with the 1981 reductions, from 17.4 percent to 18.7 percent for an increase of approximately $195.

Mr. President, these figures do not reflect the recent tax increases imposed on the country in the last 8 months by the Congress. In the last 8 months we have written into law the Tax Equity and Fiscal Responsibility Relief Act of 1982, the recent highway gas tax, and acceleration in the increase in social security taxes. The 1982 TEFRA means a 5-year increase in taxes to the country of $214 billion. The gas tax in the same period will mean an increase of $21 billion, and the social security tax increases will mean an additional $49 billion.

It is with some interest that I recognize the tax increases that are now proposed by the Johnston amendment as a chip of the old Democratic tax block. Tax increases have never reduced the deficit in the past. There is no reason to think they will do so in the future. Despite $262 billion of tax increases of 1977 and 1982, the Government ran up deficits totaling nearly $350 billion during these years.

If this is not sufficient evidence to prove my point, let us look at what the House of Representatives did for a 5-year Federal budget a month ago. That 5-year budget would raise taxes by $267 billion. But is this an effort to balance the budget? I doubt it, because that same budget included increases of domestic spending of $132 billion. That's $132 billion the Federal Government does not have.

For all of these reasons, I oppose the Johnston tax increase amendment.

Mr. JOHNSTON. Mr. President, if no one else on our side on this issue desires to be heard, I yield back the remainder of my time and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana (Mr. Johnston). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater) and the Senator from Illinois (Mr. Percy) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Tennessee (Mr. Sasser) and the Senator from Massachusetts (Mr. Tsongas) are necessarily absent.

The PRESIDING OFFICER (Mr. Pressler). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 13, nays 83, as follows:

[Rollcall Vote No. 69 Leg.]

YEAS—13

Andrews
Boren
Danforth
Dixon
Exon
Gorton
Hollings
Inouye
Johnston
Long
Nunn
Packwood
Pryor

NAYS—83

Abdnor
Armstrong
Baker
Baucus
Bentsen
Biden
Bingaman
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
DeConcini
Denton
Dodd
Dole
Domenici
Durenberger
Eagleton
East
Ford
Garn
Glenn
Grassley
Hart
Hatch
Hatfield
Hawkins
Hecht
Heflin
Heinz
Helms
Huddleston
Humphrey
Jackson
Jepsen
Kassebaum
Kasten
Kennedy
Lautenberg
Laxalt
Leahy
Levin
Lugar
Mathias
Matsunaga
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Pell
Pressler
Proxmire
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Trible
Wallop
Warner
Weicker
Wilson
Zorinsky

NOT VOTING—4

Goldwater
Percy
Sasser
Tsongas

So the amendment (No. 1230) was rejected.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. BYRD. Mr. President, there has been a power failure on our side of the aisle which affects the beep system that feeds out of the cloakroom and in some cases the beep system that feeds out of the offices, so I take the floor at this time to alert Senators on this side of the aisle that it is not a problem with the other side; that if they get very far off the Hill, they should know the beep systems may not be working, and what they should do is alert the cloakroom to call wherever they may be. We will try to reach Senators if there are votes.

Mr. BAKER. Will the Senator yield to me?

Mr. BYRD. Yes, I yield.

Mr. BAKER. Mr. President, I want to make an offer. For months, indeed for years, I have waited for this opportunity when the Democratic cloakroom would not function so that I could make the offer I am about to make. I am perfectly happy to volunteer the offices of the Republican cloakroom to keep Democrats informed on how they should vote.

Mr. BYRD. That is probably the last opportunity the majority leader will ever have to make that offer, and I certainly can understand it.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Will the manager yield to me for a brief moment?

Mr. DOMENICI. I am pleased to yield.

Mr. BAKER. Mr. President, there are at least two more amendments to be dealt with, as I understand—the managers will correct me if I am wrong about that—a Grassley amendment and a Baucus amendment, perhaps in inverse order. I do not know how long they will take, but I do anticipate rollcall votes on both of them.

I announced earlier that we would run until about 9 p.m. If we get those two out of the way and some of the debate on another one, that would consume most of the time I would anticipate asking the Senate to remain in today.

Mr. METZENBAUM. Can we have a time certain to vote on each of them possibly?

Mr. CHILES. I think we can get an agreement on the Baucus amendment.

AMENDMENT NO. 1231

(Purpose: To add additional funds for medicare)

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. I send an amendment to the desk and ask for its immediate consideration.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. BAUCUS. I yield to the Senator from New Mexico.

Mr. DOMENICI. I think, Mr. Leader, we can get an agreement on the Baucus amendment for 40 minutes equally divided. I cannot make any assurance on the amendment of Senator GRASSLEY but so Senators will know, I am going to try to do that, and I am advised now that we can do it.

Mr. BAKER. I thank the Senator. If the parties can arrive at that agreement, if the distinguished manager of the bill will go ahead and seek that request, I would be grateful.

Mr. BAUCUS. Mr. President, reserving the right to object, I wonder if we could extend that 10 more minutes, say, 50 minutes equally divided?

Mr. CHILES. Fifty minutes equally divided.

Mr. DOMENICI. I have no objection.

Mr. President, I ask unanimous consent that there be 50 minutes on the Baucus amendment to be equally divided between Senator BAUCUS and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I ask the distinguished floor manager of the bill if he agrees that his amendment is a medicare amendment which would reduce the amount of savings that are provided in the budget resolution? Therefore, I assume that all provisions of the Budget Act regarding consideration of the amendment would be in full force and effect. I assume the Senator has no objection to that. I do not intend to waive any points of order. This is not a sense of the Senate or something that might be subject to a point of order; is that correct?

Mr. BAUCUS. The Senator is correct. It is not a sense of the Senate amendment.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. BAUCUS), for himself, Mr. BINGAMAN, Mr. METZENBAUM, Mr. PRYOR, Mr. RIEGLE, Mr. KENNEDY, Mr. BYRD, and Mr. MOYNIHAN, proposes an amendment numbered 1231.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, increase the figure on line 13 by $430,000,000.

On page 3, increase the figure on line 14 by $583,000,000.

On page 3, increase the figure on line 15 by $735,000,000.

On page 3, increase the figure on line 18 by $15,000,000.

On page 3, increase the figure on line 19 by $440,000,000.

On page 3, increase the figure on line 20 by $593,000,000.

On page 3, increase the figure on line 21 by $748,000,000.

On page 3, increase the figure on line 25 by $15,000,000.

On page 4, increase the figure on line 1 by $440,000,000.

On page 4, increase the figure on line 2 by $593,000,000.

On page 4, increase the figure on line 3 by $748,000,000.

On page 4, increase the figure on line 6 by $15,000,000.

On page 4, increase the figure on line 7 by $455,000,000.

On page 4, increase the figure on line 8 by $1,048,000,000.

On page 4, increase the figure on line 9 by $1,796,000,000.

On page 4, increase the figure on line 13 by $15,000,000.

On page 4, increase the figure on line 14 by $455,000,000.

On page 4, increase the figure on line 15 by $1,048,000,000.

On page 4, increase the figure on line 16 by $1,796,000,000.

On page 18, increase the figure on line 6 by $15,000,000.

On page 18, increase the figure on line 10 by $430,000,000.

On page 18, increase the figure on line 11 by $440,000,000.

On page 18, increase the figure on line 15 by $583,000,000.

On page 18, increase the figure on line 16 by $593,000,000.

On page 18, increase the figure on line 20 by $735,000,000.

On page 18, increase the figure on line 21 by $748,000,000.

On page 29, decrease the figure on line 7 by $425,000,000.

On page 29, decrease the figure on line 8 by $573,000,000.

On page 29, decrease the figure on line 9 by $723,000,000.

On page 32, decrease the figure on line 18 by $425,000,000.

On page 32, decrease the figure on line 19 by $573,000,000.

On page 32, decrease the figure on line 20 by $723,000,000.

On page 31, decrease the figure on line 9 by $425,000,000.

On page 31, decrease the figure on line 10 by $573,000,000.

On page 31, decrease the figure on line 11 by $723,000,000.

Mr. BAUCUS. Mr. President, this is a very simple amendment. This is a fairness amendment. This is a balanced amendment. This is an amendment to restore some of the unfair cuts that are contained in the committee's budget resolution now before the Senate.

Very simply, the amendment restores $400 million of the cut for fiscal 1984 and provides comparable restorations for each of the subsequent fiscal years. It means that the total medicare cut for 1984, if this amendment were to pass, would be $384 million.

Mr. President, let me briefly indicate the reasons why I am offering this amendment.

We all know that medicare is facing financial difficulties that are even worse than the difficulties faced by social security. At the end of 1981, according to figures from CBO—and no one disputes them—medicare had a surplus of $18.7 billion; 1 year later, at the end of 1982, that surplus had fallen to $8.3 billion, a $10 billion decline. That is a $10 billion decline. That means, Mr. President, that by 1987, the medicare trust fund will have a zero balance—no dollars left to pay for medicare benefits.

Further, if present trends continue—and those trends will continue unless we take corrective action—medicare will face a deficit of about $200 billion in 1993; and just 2 years later, in 1995, the deficit in the hospital insurance trust fund will be in the neighborhood of $400 billion.

Mr. President, what are we going to do about that? How are we going to address the very difficult financial problems facing medicare?

The first question we have to ask is, What is the reason for these increased deficits? What is the cause of it? Again, there is no dispute. One-fifth of the problem—that is, one-fifth of the reasons why medicare outlays are rising—is that people are living longer and more people are living longer. Four-fifths of the problem—that is, the lion's share of the problem—is due to rising health care costs in America.

Health care costs affect everyone. Increases in health care costs affect not only the elderly but you, and me, and everyone in our country. In fact, hospital costs have risen, on the average, about three times the average rate of inflation for each of the last 10 years, and, of course, medicare costs have risen about the same rate.

Why have hospital care costs increased at a rate three times the general inflation rate? The reason, we all know, is that medicare pays virtually whatever the hospitals charge, and physicians are reimbursed in roughly the same manner.

Hospitals like to keep up with the Joneses. They all want equipment such as CAT scanners and other sophisticated diagnostic tools. And there are a host of other reasons—tax incentives, and so forth—which push up hospital costs.

The question is, What do we do about it? Perhaps we should address hospital cost containment. We should address other ways to get to the heart of the matter—the main reasons why health care costs are increasing and therefore medicare is in trouble—but we are not doing that here today.

Rather, the proposals that have been presented to this body and to Congress in the last several years have been proposals which nickel and dime and try to peck away at the problem with little—and sometimes not so little—cuts in payments to the elderly. That kind of budget cut does nothing to address the heart of the problem. These proposals are also unfair—unfair because they are proposals which cut medicare solely at the expense of beneficiaries. That is, they are trying to solve the problems facing medicare not by addressing the reason for the problems, which is rising health care costs, but, rather, by cutting benefits. That is not only unfair; it is also shortsighted. This approach does not address the problem in any reasonable and sensible way.

The fact is that the omnibus reconciliation measure which this body passed in 1981 cut medicare by $3 billion over 3 years; 80 percent of those cuts were borne by beneficiaries—not hospitals, not providers, not the main culprits who are pushing up medicare costs, but just beneficiaries. It is taken out of beneficiary payments.

The next year we passed TEFRA, and that bill did go in the right direction. That bill put limits on hospital cost interests, and I think that has made some difference, but not a lot. TEFRA is just a gnat in respect to the entire problem we are facing. We are facing a problem more of the magnitude of a giant bird, a hawk, an eagle, a bird of prey. Frankly, TEFRA, by itself, is not going to solve the problem either.

This year the administration proposes a $1.8 billion cut in medicare for fiscal year 1984. Again, it is a somewhat modest cut when faced with the whole problem, but 75 percent of that cut falls on the backs of beneficiaries. Again, instead of getting at the problem, we are punishing the elderly.

Finally, the committee has come up with another proposal. Instead of cutting medicare $1.8 billion, the Budget Committee proposes to cut medicare by $0.8 billion. One might ask, is that not more fair, because it is a cut that is less than $1.8 billion? A cut of $0.8 billion is a lot better than $1.8 billion.

The trouble is that 95 percent of the Budget Committee's cuts fall on the backs of the elderly.

The Budget Committee resolution assumes that its cuts are not borne disproportionately by the elderly because the Budget Committee would freeze physicians' fees. Mr. President, that is not true. These are not proposals to freeze physicians' fees. About $700 million of the $800 million in savings anticipated by the Budget Committee is attributable to freezing fees to physicians who do not accept medicare assignment.

Mr. President, medicare does not make direct payments to physicians who do not take assignment. So what the committee assumes is that the Congress will freeze reimbursement payments to beneficiaries who, then, must pay these physicians whatever they charge for their services.

For those who might be listening who are a little hazy on the difference between assignment and nonassignment in medicare part B, let me try to explain the difference.

Medicare pays 80 percent of physicians' reasonable charges. If physicians accept assignment under medicare, they receive 80 percent of this reasonable charge from medicare and 20 percent from the elderly patient. Medicare does not pay physicians who do not accept assignment directly because, by definition, these physicians do not participate in medicare. Rather, medicare must reimburse patients for the costs that they incur when they go to a physician and the physician charges them directly.

So the committee's resolution to freeze fees to physicians not taking assignment is a misnomer. It is mislabeling, because what it does is freeze the amount medicare gives patients who do not go to physicians who participate in medicare. Only 50 percent of physicians nationwide accept assignment; often, the elderly have no choice when seeking medical treatment.

That is why the Senate Budget Committee resolution places a 95-percent cut on the backs of beneficiaries.

Mr. President, I shall not take all my time. Others, I know, wish to speak.

This really is only a modest attempt to try to restore some of the imbalance that is contained in the Budget Committee's resolution.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. BAUCUS. I will yield in just a second.

The heart of the problem before us is rising health-care costs caused not by beneficiaries but by the way health care is delivered in America—it gives disincentives to savings and control and incentives to waste and overuse.

Also, time is not as critical in solving the medicare trust fund problem as it was with social security. The trust fund is not due to go belly up until 1987. This is 1983. We have a little bit of time.

I suggest that instead of punishing the elderly, we should restore funds to this budget resolution because the medicare cuts in it are unfair. The committees with relevant jurisdiction, the Finance Committee in this body, and the Ways and Means Committee in the other body, as well as the Energy and Commerce Committee in the other body, should hold hearings, so we can figure out how we are going to solve the problem. We know there is a serious problem. Let us figure out how we are going to solve it in a fair, evenhanded, balanced way.

Today, there are no studies of the needed magnitude and thoroughness to handle the problem comprehensively.

When the National Commission on Social Security met, they had the benefit of many studies, lots of groundwork, all the needed data, and they were able then to put the pieces together to come up with a solution.

Social security did face immediate problems. We had to arrive at a solution quickly because, frankly, social security would have become insolvent in July of this year.

Medicare, on the other hand, is not due to go broke until 1987. We have the benefit of some time. So let us do what is right. Let us not deceive the American people by saying we are going to solve medicare problems by making the cuts in the committee resolution, particularly when the cuts are unfair. Let us rather put back a good portion by restoring $400 million. My amendment still leaves approximately $400 million in savings for 1984.

Mr. President, I am happy to yield to the Senator from Florida.

Mr. CHILES. Mr. President, I merely wish to associate myself with the Senator from Montana in the amendment he has made. This is a mark that I had tried to move in the Budget Committee, and I would say to the Senator from Montana I do not think anyone can say that we have not tried to be responsible with paring down medicare already. We have made $28 billion in cuts in medicare over the last 3 years. This year we have already passed legislation that will cut medicare by $11 billion over 5 years. That is the hospital prospective pay system. And last year we reconciled and got over $13 billion in 3-year medicare reductions. The year before that we reconciled and got $4.3 billion in medicare cuts over 3 years.

Most of these cuts, rightfully so, have come from clamping down on provider costs, but we have even taken a chunk out of beneficiaries pockets. In 1981 it was $2.2 billion. In 1982 it was another $1.9 billion.

So, I think we have been trying to make some steps in the mark that the Senator from Montana is now putting forward. I think it is reasonable and would allow still reasonable cuts, approximately a third of what the President was seeking, and those are cuts that I think we can make in cost containment, further cost containment, looking at prepayment of physician fees, looking at other cost-containing methods that do that as we make the further studies that the Senator just talked about to try to see what is going to be necessary to come up with a fair and reasonable plan to make sure that we do keep medicare sound and that I think is a commitment that we have just as we have had a commitment to keep social security sound, and so I compliment the Senator on what he is doing. I hope the Senate will adopt his mark.

Mr. BAUCUS. Mr. President, I am very honored to have the Senator from Florida associate himself with this amendment.

The Senator from Florida, I think, has done yeoman service in trying to get control over the budget.

It means a lot to me that he associates himself with this amendment because he is a Member of this body who is trying to bite the bullet, to find ways to get hold of these budget deficits. For him to associate himself with this amendment I think is an indication that it is a sound amendment which is going in the right direction.

I very much thank the Senator from Florida.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I welcome the opportunity to join with the Senator from Montana and the Senator from Florida on this particular amendment, and I strongly urge the Senate to accept it.

First of all, I applaud the work of the Budget Committee which reduced the burden on our senior citizens by a half by rejecting half of the administration's unfair medicare proposal. Nonetheless, the measure that is before the Senate this evening still puts a very heavy part of the burden of the beneficiaries.

I think that that basically is unfair and unjust to put the burden on the elderly when we find that over the period of the last year the increase in the doctors' fees has increased between two and three times the rate of inflation and that the rate of increase in hospital costs are now about triple the rate of inflation in the rest of the economy.

So, the Senator from Montana and the Senator from Florida I think have identified a very important and basic point. We in this Congress have to deal in a responsible and effective way with the explosion of health care costs in this Nation and the crisis that will soon face the medicare trust fund.

Some of us have been working on this issue for a number of years. I strongly supported the previous administration's cost containment program that would have saved as much as $40 billion over a 5-year period. That would have distributed the belt tightening fairly and equitably across the health care spectrum. But that proposal was rejected by this body.

Now this resolution says to the elderly people who use 20 percent of their income for health care costs that they are going to have to bear an increasing part of the burden because of the failure of this administration and Congress to address the problem of runaway health costs.

The Senator from Montana is quite correct, that we have approximately 2 to 3 years to address this issue. I would hope that the Finance Committee, the Human Resources Committee and other interested Members of the Senate can address the issue of cost containment in ways that are going to be fair and equitable, rather than simply placing the burdens on the backs of our senior citizens.

Mr. President, I talked recently with a constituent of mine, a fellow named Lou Minafra of Pittsfield, Mass. He happens to be a former Republican county chairman in the Berkshires who is about to lose his business because of medical costs that medicare did not cover. Mr. Minafra told me that he would rather stay home and die than subject his family to the crushing burden of medical bills.

Is this the way we want those who worked to build America to face their golden years?

The fact is the out-of-pocket costs for the elderly have tripled since the enactment of medicare, faster than the rate of inflation. We have to address this issue. It will be imperative that this body address the issue of cost in our health care system, but the cuts in this resolution are the wrong way to do it.

What this budget resolution suggests is that the elderly people who have extensive health care needs will be bearing, an unwarranted burden. I think that is unfair and unjustified, and I hope for the reasons that have been stated here by the Senators from Montana and Florida that this amendment will be adopted.

I yield back the remainder of that time to the Senator from Montana.

The PRESIDING OFFICER. Who yields time?

Mr. DURENBERGER. Mr. President, I wonder if the chairman of the Budget Committee will yield me a few minutes to respond.

Mr. DOMENICI. Mr. President, I yield 7 minutes to the Senator from Minnesota, and I appreciate his being here.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DURENBERGER. I thank the Senator very much.

Mr. President, I start by saying that I have a great deal of respect for all three of the Senators who have spoken to this amendment, particularly for my colleague, the ranking minority member of the Health Subcommittee of the Finance Committee; and with equal respect, the Senator from Massachusetts who has committed much of his career here in the Senate to health issues and their cost; and the Senator from Florida, who in a variety of ways, particularly as a member of the Committee on Aging, has expressed his concern for the elderly in America and their access to affordable health care.

But I rise on this occasion to oppose the amendment of the Senator from Montana, and I do it for a variety of reasons.

First, let me say that I acknowledge, as he does, the medicare trust fund, the hospital portion of medical care for the elderly in this country, is likely to be bankrupt sometime in the next 5 years by CBO and other estimates. I would suggest to him, however, that we do not have a lot of time to do something about it.

I want to take you back in the history of social security to show how quickly we went, probably in a period of 12 months, from a point in time when the consensus around this place was there was no problem to a point in time when we had a bipartisan commission presenting us with a solution to the problem only 4 months before bankruptcy of social security. We have a desperate problem in this country, and the problem is much broader than just the bankruptcy of the medicare trust fund. Bankruptcy is the particular problem with which we deal in the budgetary sense. In the context, I suppose, of how much funding we are going to provide this year for the medicare program.

But we have a larger problem that has been articulated by everyone here and that is the high cost to everyone in this country of accessing themselves to what they all consider to be their right to adequate health care. The reasons have been explained by the Senator from Montana. I would only add another reason to what he has said. We have developed in this country a system by which we have insulated practically everyone against the consequences of what they do with regard to their health care.

I found it interesting this morning to open up the second page of the Washington Post to see a banner headline all the way across the page indicating that yesterday Barney Clark's widow took the time to come before the Senate Labor and Human Resources Committee to talk about why Barney Clark needed to experiment with an artificial heart at age 61. She came to testify not on behalf of artificial hearts or on behalf of medicare. She came to testify on behalf of labeling cigarette packages with warnings on the dangers involved with the consumption of cigarettes in this country.

Anyway, as I read the article, I learned we had a person who spent 25 years of his life ruining his health, according to his widow, and then having to experiment at the near termination of that life with some very expensive life-prolonging equipment. That particular experiment cost the taxpayers of this country $200,000 through the medicare program.

I do not want to deal with Barney Clark nor do I want to deal in any specificity with the problems we have created in this country with the concept that everybody has a right to have their sick care taken care of regardless of their obligation to maintain good health. And I am not going to pick on the Barney Clark situation.

I just want to make the point that the largest part of the problem that faces us in this country is the insulation we have developed in this country between the people of this country and the consequences of life styles that contribute to bad health.

With that as a premise, we deal with how we are going to solve the problem. The Senator from Montana talked about cost containment, as did the Senator from Massachusetts. I would say that the variety of answers are as numerous as the people who are involved in trying to deal with this problem. I, for one, have rejected the Carter notions and to a degree, perhaps, the notions of the Senator from Massachusetts that somehow or other we can artificially lay a blanket limitation on every hospital in this country and every doctor in this country and say "You are only going to get paid *x* number of dollars per day for every day your hospital is open and you can't open new hospitals nor close existing hospitals down."

Mr. KENNEDY. Will the Senator yield for an observation?

Mr. DURENBERGER. If it can be limited and put on the time of the Senator from Montana.

Mr. KENNEDY. In Massachusetts, we have a cost control containment program like several other States, that controls hospital costs. We have a reduced rate of inflation compared with hospitals in other parts of this Nation, and if the rest of the country had similar programs, we would be saving billions of dollars, much more than is included in this budget resolution. What many of us are saying is this—why are we not proposing that kind of approach rather than increasing the amount the elderly must pay. We know that 70 percent of health care decisions are made by doctors. Patients have little say about what tests they need or when they are going to their hospital and how long they stay—or even to which hospital they are going to go.

The PRESIDING OFFICER. The Senator from Massachusetts' time has expired.

Mr. DURENBERGER. Mr. President, if I may continue, there are, I will acknowledge, various approaches to cost containment. The Senator from Massachusetts has clearly modified his particular approach and certainly that is a variation on the Carter approach of cost containment. But that is one of many approaches. Another of the approaches alluded to by the Senator as a premise for his amendment obviously is cost-sharing of one kind or another, whether it is premiums or deductibles, whether it is copayment or coinsurance. There are a variety of approaches, some of which the Senator from Montana and others have been helpful in implementing over the past 2 years. Probably one of the major efforts we have engaged in is changing the way in which we pay hospitals for care under the medicare program. We are moving the system from a cost-based reimbursement system—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURENBERGER. My time?

Mr. DOMENICI. I yield an additional 5 minutes to the Senator from Minnesota.

Mr. DURENBERGER. We have jointly been engaged in a variety of ways to change the program—in prospective payments, PROS, vouchers, home health care, and hospice care. The Senator from Montana and I have jointly fought to put reforms into the system last year. We started the process of moving beyond third party reimbursement to a voucher system in which we in effect entitled all medicare recipients in this country to a voucher and they could go buy their own health care insurance or their own hospital plan. We expanded coverage to include hospice care. All of this is to say we have laid out in this Congress a path that will save this country in the long run in terms of the financial access to health care. It is also to say we have a wide variety of options before us in the Finance Committee to solve this particular problem. We do not have to do the part B freeze in totality. We do not have to do the administration's proposal that we finance catastrophic coverage for the relatively small number of elderly each year that are in a hospital more than 60 days and finance that with copayments from the 2d through the 60th day. We do not have to use that option. We can use a variety of options that are available to us.

The point I guess I am trying to make here is this is not necessarily the place to debate all of those options and to decide them. It is only to say that I have the confidence that $12 billion as proposed by the administration could not be done, could not be done and justified along with all of the other things we have tried to do in prospective payments, in PRO, in vouchers, in home health care, in hospice care, and a variety of other things. But I think a lesser number adopted by the Budget Committee can be done and it can come from a variety of sources and it does not have to place the burden of cuts solely on the backs of the elderly. If part of it did, I am sure the Senator from Montana will recognize that some additional costs may be appropriate given where we have come from, when premiums for part B represented 50 percent of the costs of the program, they are now down to 24, 25 percent of the costs. You can talk a great deal about the amount the elderly in this country have to contribute to their health care but the fact of the matter is that the Government, through the medicare program, has picked up a much larger proportion of these costs over the last 10, 12 years.

The last thing I want to comment on is this whole issue about assignments, because clearly that is an area in which it is legitimate for the Senator from Montana to take the position that if we freeze the physician payments more physicians might choose to not take an assignment.

I think the Senator from Montana knows that there has been an advisory council on social security which has been studying the medicare problem, that is going to report by July 1, 1983. It has prepared some rather interesting information on the assignment issue as it heads toward its July 1 deadline, which will give us and will give us in the Finance Committee a variety of options to use to solve the assignment problem. These options range from the kind of thing that I have talked about in the committee such as posting lists of physicians that will accept assignments to denying physicians the right to refuse assignments, to a wide variety of other things.

Mr. President, I ask unanimous consent that the article from the American Medical News of April 22, 1983, that I have been referring to be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the American Medical News, Apr. 22/29, 1983]

Assignment Called Biggest Sore Point

(By Sharon McIlrath)

About 70 percent of physicians take Medicare assignment at least part of the time. Nevertheless, about 70 percent of all physician charges to Medicare patients are paid by the patient, his insurer, or his family.

Medicare assignment rates have been increasing slightly since 1976, and in 1982, 52.8 percent of all claims and 54.2 percent of total charges were assigned. That compares, however, with the 61.5 percent of all claims that were taken on assignment in 1969.

More than 78 percent of Massachusetts Medicare claims are taken on assignment. But less than 39 percent of claims in Ohio are taken on assignment. In Massachusetts, nearly 100 percent of Boston radiologists' claims were assigned in 1982. Only 13 percent of Cape Cod ophthalmologists' claims were assigned in the same year, though.

Those are some of the puzzling, but not necessarily inconsistent, statistics confronting a Medicare advisory group that says it has heard more complaints about physician assignment rates than about any other facet of the Medicare program.

The Advisory Council on Social Security is charged with making an in-depth study of Medicare and recommending changes in the program. Its report to the Dept. of Health and Human Services (HHS) and Congress is due July 1. Any action on its recommendations or other physician-related reimbursement issues easily could be delayed for the remainder of the year, however, since many Congress watchers think Congress will want to sit back and take stock of what it accomplished in the just-approved changes in Medicare reimbursement to hospitals before tackling other major modifications.

In the five public hearings it has held to date, the council has heard from both professional and consumer groups on a variety of issues. One subject that keeps coming up is physician assignment. "The sorest point of all for many of the elderly is that so many physicians don't take assignment," said James Balog senior executive vice president of Drexel, Burnham Lambert.

Balog, who is one of the council's public representatives, met with others of the 13-member advisory body recently to give closer scrutiny to the issue. Testimony from representatives of organized medicine, health insurers serving as Medicare carriers, and senior citizens organizations agreed on one point—government efforts to curtail federal spending on Medicare are increasing the financial burden of and reducing services to both providers of care and their patients.

Furthermore, these efforts already have had a detrimental impact on the Medicare assignment rates and are likely to lead to further erosion on the number of physicians who accept assignment unless increasing competition among physicians or other factors outweight them. Decreasing assignment rates would translate to higher out-of-pocket costs for Medicare beneficiaries. That possibility is leading to renewed calls from some quarters for legislation making mandatory assignment a condition of Medicare participation.

Currently, physicians may choose on a case-by-case basis whether they wish to take a claim on an assigned basis. If they do, they agree to accept the fee Medicare considers allowable (or in official Medicare jargon, "reasonable") as payment in full. Medicare pays 80 percent of this, and the physician bills the patient for the remaining 20 percent.

Until recently, hospital-based physicians were reimbursed at 100 percent of the allowable fee. But because of provisions in the Tax Equity and Fiscal Responsibility Act (TEFRA) approved last fall, they too, now are paid only 80 percent of the "reasonable" charge. Beginning in June, reasonable charges for inpatient radiologist services will be limited to 40 percent of the prevailing office charge for the procedure.

On non-assigned claims, the physician bills the patient his usual charge for the procedure. The patient pays the physician and then collects from Medicare the 80 percent of the charge Medicare allows. The physician may help the patient fill out the Medicare claims forms but is under no obligation to do so.

If assignment were made mandatory, the physician would have to accept assignment and Medicare's allowable charge for every Medicare patient he treated. A variety of other options that were kicked around at the council meeting fall somewhere in between the current arrangement and a completely mandatory system.

Probably the one option most discussed would require a physician to choose for some specified period—say one year—either to take all or no claims on assignment. He would have to choose "all or nothing" at the beginning of the year and probably would have to disclose under which arrangement he was operating.

Only physicians who chose assignment would be paid directly by the government. In addition, some of the witnesses suggested, the plan could be carried one step further by reducing the percentage of the "reasonable" fee Medicare would pay those who did not accept assignment.

Another option some Medicare carriers think would go a long way to solving some of the not-strictly-financial problems that surround the assignment issue simply would require physicians to fill out all of the claims forms for all of their patients. In addition, many of the carriers and organizations for the elderly intend—with or without any other changes—to develop guidebooks that indicate whether a physician takes assignment.

The solution physicians prefer is an increase in Medicare's allowable fee levels. In view of current federal deficits and the financial difficulties of the Medicare trust funds, that proposal probably can be categorized as wistful thinking even though virtually all of the witnesses told the council that the gaps between what Medicare pays and what physicians charge private patients was the major culprit behind decreasing assignment rates. Of physicians who did not accept assignment in 1982, AMA representative William Felts, MD, reported, 69 percent said insufficient reimbursement was a major reason (*AMN*, April 15, 1983).

When Medicare started, the program's charge limit was based on charges to privately insured patients. Since then a gap has developed and widened as maximum reimbursement levels were limited to the 83rd and then to the 75th percentile of prevailing fees and as increases in allowable charges were limited by an economic index that, said Helen Smits, MD, of the American College of Physicians (ACP), "fails to take into account changes in medical practice that have occurred since 1972."

Dr. Smits, a Yale U. faculty member who chairs the ACP's health care financing subcommittee, called for a "more rational system of valuing changing services" and recommended a re-examination of the current "mechanism for calculating prevailing charges" based on "market areas which vary from state to state and frequently within state boundaries."

Specialty group representatives also complained that the current practice of establishing different prevailing fee screens for the same service depending on the physician's specialty and location contains inequities that lead to widely varying assignment rates among different specialties and in different areas of the country.

Gerald Gehringer, MD, president of the American Academy of Family Physicians (AAFP), said this practice created a "disincentive" for the family physician to accept assignment because he knows the Medicare payment he receives "will be less than the payment received by some other specialist for the same service even though his customary charge may be the same."

Thomas Connally, MD, a board member of the American Society of Internal Medicine (ASIM), said internists thought that

Medicare discriminated against "cognitive, non-procedural services" in favor of surgical or procedural services. Dr. Connally, a private practitioner in Washington, D.C., referred to a study financed by the Health Care Financing Administration (HCFA) that he said showed that based on resource costs to perform each service, "office visits are undervalued (or surgical procedures overvalued) by four- to fivefold under Medicare's prevailing charges."

"If the Federal Government really wishes to increase the number of physicians who accept assignment, then a good place to start would be to reduce the disparity between reimbursement for cognitive and procedural services," he argued.

The Reagan Administration does not appear particularly amenable to those types of suggestions, however. Instead, several witnesses declared, many of the new HHS initiatives and regulations will have the opposite effect.

For instance, before the TEFRA-required reimbursement changes for hospital-based physicians, radiologists generally had assignment rates above the average for all physicians. M. Pinson Neal, MD, of the American College of Radiology, said the new TEFRA requirements created a "very real" incentive for radiologists to refuse assignment.

Michael Schaub, associate vice president of Nationwide Mutual Insurance Co., agreed, adding that his company, which administers Medicare Part B in West Virginia and Ohio, attributed a recent 2 percent reduction in assignment rates in Ohio to the elimination of 100 percent reimbursement for inpatient radiology and pathology diagnostic services. He predicted that the trend would accelerate when the "40 percent" provision took effect.

Furthermore, observed AAFP's Dr. Gehringer, HHS's legislative proposals submitted earlier this year include a proposal to freeze allowable physician charges under Medicare. If enacted, this proposal would "further discourage acceptance of assignment" and ultimately shift costs to patients, predicted Dr. Gehringer, who directs the Dept. of Family Medicine at Louisiana State U.

Groups representing the elderly also complained about the new HHS proposals and said the elderly could not afford to pay more out of packet. Legislative changes enacted in 1982 transferred $6 billion in Medicare and Medicaid costs from the government to the elderly and their insurers, said Richard Shoemaker, who testified for the National Council of Senior Citizens.

Shoemaker also charged that "too many physicians refuse to accept Medicare reimbursement as full payment. Instead, they get the best of both worlds. They enjoy Medicare and patient reimbursement, and they shift additional financial and paperwork burdens onto their elderly patients. . . . The only comprehensive and final solution to the growing assignment problem is mandatory assignment."

The physician groups, united in their opposition to this approach, maintained that if assignment were made mandatory, some physicians would refuse to treat Medicare patients and others would find other ways of coping.

Almost 90 percent of some 1,000 ASIM members responding to a survey said they would choose "no" assignment if assignment were required, Dr. Connally reported. Although there was less opposition to an "all or nothing" requirement, these members added that under either approach, physicians who chose to accept assignment on all claims might compensate by "raising fees, shifting costs, limiting services or increasing utilization."

Dr. Connally added that the current case-by-case assignment assured access to the physician of the patient's choice; guaranteed quality of care; and permitted the physician to bill according to the patient's ability to pay, the type of service rendered, and the patient's health. "This spreading of the costs obviously benefits poorer beneficiaries," he said, while "it does not impose a hardship on well-off patients that are able and willing to pay the actual charge."

Shoemaker and Balog took issue with that position. Shoemaker said the elderly found it demeaning to discuss their financial status with their physicians. Balog asserted that physicians appeared to have taken it upon themselves to conduct a Medicare means test.

Dr. Smits of ACP replied that physicians had been forced to make "difficult judgments" about the patient's ability to pay because society had refused to make these decisions. She questioned whether "this is a valid mechanism for resource allocation" and called for a re-examination of Medicare's underlying assumptions.

The physician groups also argued that mandatory assignment was not necessary because the rates of assignment seemed to be increasing as competition among physicians increased. A survey of ASIM members found, for example, that in 1982, 45.9 percent accepted assignment on 10 percent or more of their claims, compared with 38.5 percent in 1977.

Testimony from three Blue Shield Plan presidents also found competition to be a major factor in determining assignment rates. They observed, however, that while competition had encouraged physicians in Boston, Philadelphia, and Miami to take assignment, it had not had the same effect in other areas of their states.

John Larkin Thompson, president of Massachusetts Blue Shield, reported that 78.1 percent of Massachusetts physicians' claims were taken on assignment, but he said that varied from 51 percent on Cape Cod to 83 percent in Boston. In addition, when assignment is looked at by specialty, his company, somewhat to its surprise, found even greater diversity. Only 17 percent of claims for urologists' services and 13 percent for ophthalmologists' services were assigned in Cape Cod, compared with 73 percent and 50 percent respectively in Boston.

LeRoy Mann, president of the Pennsylvania Blue Shield Plan, said assignment rates in that state averaged about 70 percent but vary from 40 percent to 92 percent with the highest assignment rates occurring in Philadelphia. Bill Long, director of Medicare B communications for the Florida Blues, said Florida rates ranged from 13 percent in Sarasota to 70 percent in Dade County and averaged about 47 percent.

Thompson said the high assignment rates in the Northeast were partically attributable to competition. He noted, however, that a significant factor in his state had been the Blue Shield contract, which has held payments for private patients to about the same levels as Medicare allowances. Since the plan's enabling legislation provides that no payment will be made to either a subscriber or a physician for services of nonparticipating physicians, 95 percent of physicians do participate and are held to the Blue Shield payment rates.

Nevertheless, the Boston Blue Shield president was not advocating a mandatory assignment plan for Medicare. The system is under legal attack in Massachusetts and though it has benefited consumers in that state, Thompson said he did not think it could be applied to the country as a whole.

Thompson did, however, recommend that physicians be required to fill out all Medicare claims regardless of whether they accept assignment on the claim. Beneficiaries are generally "ill-prepared to deal with claims forms," and the entire system becomes bogged down when that task is left to the patient. Both physicians and the patient would benefit if the physician filled out all forms, Thompson advised.

The Blues officials also urged the council to consider the "all or nothing" approach, which Thompson suggested could be called "extended commitment." This, he said, would alleviate some of the misunderstanding beneficiaries now have about the assignment concept, which generates 75 percent of the Boston Plan's 140,000 annual inquiries from beneficiaries. Another alternative might be to pay physicians who choose not to take assignment a somewhat lesser percentage of the allowable fee than is paid to those who do, he added.

Nevertheless, Thompson and the other, carriers acknowledged that their own performance also could be a major deterrent to physician assignment. Mann reported that his plan once had had assignment rates below 50 percent . . . "because we were a poor performer. We believe a better performance has made a big difference." Florida's Long advocated the use of electronic transmission of claims to eliminate the paperwork burden for both carriers and beneficiaries.

One final suggestion from all three Blues officials was the development of guides to identify which physicians accept assignment. All three plans have produced such guides, but they told the council that recent cuts in contractor budgets have endangered such efforts.

Their testimony on the subject was confirmed by Francis Klafter of the Gray Panthers, who said her organization's efforts to produce these guides had been stymied by Medicare carriers' refusal to provide the necessary data.

She quoted from a letter from HCFA head Carolyne Davis, PhD, advising HHS regional offices that freedom of information laws do not require carriers to make extensive computer runs to develop these data. Six Democratic congressmen have written HHS Secretary Margaret Heckler asking her to reverse this position.—Sharon McIlrath.

Mr. DURENBERGER. Mr. President, let me just very quickly summarize by saying that I can understand the concern of the Senator from Montana, but I would assure him, and I can assure my colleagues that concern in this particular case and in this particular place on the budget resolution with the kind of relatively small changes in the growth of medicare and medicaid is misplaced.

The PRESIDING OFFICER. The additional time of the Senator from Minnesota has expired.

Mr. DOMENICI. Mr. President, I would be pleased to yield additional time if the Senator so desires.

Mr. DURENBERGER. Mr. President, I thank the Senator. I believe the distinguished Senator from Kansas desires to use some time.

Mr. DOMENICI. Mr. President, I now yield as much time as the distinguished Senator from Kansas desires.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I think the issue is fairly clear cut. I do not see any reason to debate it at length.

We are only talking about $3.4 billion in medicare over a 3-year period. I am not certain how we can achieve that amount, but I hope we can exceed that amount.

It is a massive program almost out of control and we are being told we have to cut the $3.4 billion in half. We can say, "Put it off for 4 years. It is not going to be broke for 4 years." We made that same argument about social security for 10 or 15 years. Then we finally had no other choice than to make massive changes.

It would be my hope that we would proceed, as I think we can, very carefully in this area. There have been reductions in medicare, as the distinguished ranking member of the Budget Committee has pointed out, over the past 3 years. And I do not believe we have done violence to the program. We have been very sensitive as far as beneficiaries are concerned in TEFRA. Of $13.2 billion saved, the largest percentage came from hospitals.

Very honestly, I think it is about time we looked at the high income beneficiaries and whether we should address that and whether they should pay more than some low income beneficiaries in medicare. We did that in social security. Call it means testing, call it what you will, but when we tax certain benefits in social security, we are, in effect, recapturing those benefits from upper income beneficiaries.

I do not really believe that the budget figure, as far as this Senator is concerned, is high enough. Medicare, as I have said many times, we were told 11 or 12 years ago if we were not careful it might reach $9 billion by 1990. Now we are told it is in the budget for this year for $57 billion and the 1990 cost is going to exceed $100 billion.

It just seems to this Senator that we should not try to legislate on the budget. We have, I think, a rather minimal amount, in the medicare area. I hope that this amendment will be defeated. We will be working with all Senators, the Senator from Montana, the Senator from Massachusetts, and other Senators who are concerned about reductions in medicare. All of us are concerned about shifting costs. If you squeeze down on the physicians and if you squeeze down on hospitals, we do not want the cost shifted to the beneficiaries.

But, on the other hand, I do not think it will do violence to the program if we find some ways to adjust the programs and increase cost sharing in areas where it should be done or in areas where the recipients or the beneficiaries can afford the cost sharing.

Additional reductions in the rate of growth are possible. The 3-year cost savings proposal of $3.4 billion in medicare contained in the budget resolution represents less than 2 percent of program expenditures. If we are unable to face the dismay of some in achieving the very limited savings required by this resolution, I fail to understand how we can face the disappointment of many if we elect to do absolutely nothing about medicare costs and the approaching deficits—deficits which mean no hospital care, no doctor care, and no home health care.

I have heard the argument that the proposed savings are so small and the medicare trust fund deficit so huge that we are justified in doing nothing and that we should in fact do nothing because what we propose to do will not solve the entire problem. I do not believe that is a workable philosophy. Anything we can do now that will diminish the crisis ahead is worthwhile to my mind, no matter how small the change may be.

No single change is likely to be enough to solve the financing problem. However, some limited additional reductions in the rate of growth are absolutely critical at this time.

Medicare costs and utilization have increased significantly. Over the last 5 years the cost of a 1-day hospital stay in constant dollars increased from $155 to $348. During the same period medical prices rose by 367 percent as compared to 292 percent for the CPI.

In 1982, health care costs went up almost three times as fast as the national inflation rate. Over the last 5 years medicare costs have increased at an annual rate of 19 percent. In 1984 medicare will spend almost $67 billion, an increase of 16 percent over this year's expenditures.

Some adjustments and changes to slow the growth in the medicare program are possible and make a great deal of sense. For example, GAO found, and other studies confirm, that home health services are misutilized. Almost 30 percent of the visits GAO reviewed should not have been covered under medicare or were questionable. Home health benefits are provided free of any cost sharing. As a free service, this benefit attracts unnecessary utilization. Copayments would increase beneficiary awareness of the cost of such services and discourage using this benefit to supplant the care of family and friends, or self-care as GAO has found.

The part B deductible also presents an opportunity for savings that make sense. The deductible has increased twice and by only 50 percent since 1967, while there has been a continuous increase of more than 1,800 percent in the costs of the part B program. The deductible was originally intended to reflect a portion of program costs, and has, because it has been fixed, failed to do so. The real value of the deductible will continue to erode as time goes by.

The medicare trust fund is rapidly approaching a period of time in which it will no longer have sufficient funds to finance program expenditures. Under current assumptions, the program will reach this point in 1987 or 1988 unless something is done to moderate its growth.

I hope that this amendment will be defeated.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the Senator from Kansas, the distinguished chairman of the Finance Committee, is right. The issue is clear. Very simply, this comes down to whether we are going to cut medicare payments by burdening the elderly or instead cut medicare payments by addressing the heart of the problem, which is health care cost increases. That is what this issue is all about.

The Budget Committee cut places 95 percent of the cuts on the backs of the elderly. I have had enough experience around here to know that more often than not when the Budget Committee says where the cuts should come from, more often than not that is where they are eventually made. I hear a lot of talk around here: "No, those are just totals. The committees of relevant jurisdictions can change that and do what they want." But, ordinarily, that is not what happens.

Now, if I had the commitment from the chairman of the committee and the chairman of the Health Subcommittee that 95 percent of these cuts would not be from the beneficiaries, that might be another matter. But I do not hear that. What I hear is that 95 percent of the cuts must be borne by the elderly.

We do have some time. Comprehensive studies are not underway on how to solve our medicare problems. CBO is commissioning some interesting studies. I suggest that we should not set the precedent here tonight of putting more medicare cuts on the backs of the elderly. That is what this debate is all about. Should the cuts be only on the backs of the elderly or should it be evenhanded and fair? I am saying, let us restore 400 million dollars' worth of cuts. We will be left with some beneficiary cuts, fair cuts, but not 95 percent as the Budget Committee resolution comtemplates.

The issue is well drawn. It is clear. Do we begin to address the medicare problem by putting it on the backs of the elderly, as this budget resolution on the floor does, or do we begin to solve the medicare problem by getting to the heart of the matter? Let us have studies and hold hearings so that we can, in the evenhanded and fair way address the problems facing medicare. We do have time, despite the statements of the Senator from Minnesota.

Mr. President, may I inquire of the Chair how much time do I have remaining?

The **PRESIDING OFFICER.** Two minutes and 40 seconds.

Mr. **BAUCUS.** I yield a minute-and-a-half to the distinguished minority leader.

Mr. **BYRD.** Mr. President, I thank the distinguished Senator.

WE MUST PREVENT UNFAIR CUTS IN MEDICARE

Mr. President, the objective of the amendment of the Senator from Montana (Mr. BAUCUS) is basic fairness. On May 2, the Senator from Montana (Mr. BAUCUS) introduced a resolution that rejects the cuts in medicare proposed by President Reagan in his 1984 budget because they unfairly concentrate on reducing benefits and increasing out-of-pocket costs for beneficiaries. I was pleased to be principal cosponsor of that resolution. the amendment that now has been placed before the Senate is directed toward remedying the same basic unfairness.

The budget resolution reported by the Senate Budget Committee assumes medicare outlay saving of $824 million in fiscal year 1984 and aggregate 3-year savings of $3.436 billion. Mr. President, these amounts are approximately half of the level of Medicare cuts requested by President Reagan—and in that respect are preferable to what the President has sought to push on Congress. Nevertheless, I believe it will be exceedingly difficult, if not impossible, for savings of this magnitude to be achieved without directly and significantly reducing benefits or in other ways increasing the cost medical care for medicare beneficiaries. That is unacceptable to me, and I believe it should be unacceptable to the Congress.

This is not the first time elderly and disabled medicare beneficiaries have been asked to accept significant increases in their out-of-pocket costs. The Reconciliation Act of 1981 contained medicare cuts during the period from 1982 through 1984 of $2.4 billion, the great majority of which were achieved by cutting benefits or shifting costs to beneficiaries.

To ask these same persons, many of whom must live on fixed incomes, to shoulder significant additional cost burdens for their medical care now would be heartless. Even worse, making these cuts will not solve the fiscal problems facing the medicare program.

The reason is very simple. Medicare's fiscal problems are not caused because beneficiaries are paying too little of their medical costs out of their own pockets. Its primary problem is not that beneficiaries are indiscriminate or wasteful in their use of medicare-covered services. It is not that medicare beneficiaries have not already been asked to accept benefit reductions. The primary problem with medicare costs is much larger than the medicare program alone. It is that all medical care costs are out of control.

Last year, medical care costs increased at the astounding annual rate of 15.2 percent—far beyond the rate of inflation for the economy as a whole. And this was not a 1-year aberration. Medical care costs consistently have escalated at a rate far above the rate of general inflation.

If we acquiesce to the medicare cuts recommended by the Budget Committee, we will not solve the underlying problem. Medical care costs will continue to soar. Medicare costs will continue to soar. The President will be back next year asking for catastrophic medicare cuts just as he had requested them in his previous budgets. And we in the Congress will be right back where we are today—next year. the year after, and the year after that—facing recommendations to reduce benefits again just to hold the line.

If one follows this course to its logical end, it will not be long before this vital program so important to so many Americans will have been reduced to a mere shadow of its former self. We will be staring at the unacceptable situation that led to the establishment of the medicare program in the first place: millions of elderly and disabled Americans badly in need of medical care who are without the financial ability to obtain that care. I do not believe the American people would be pleased to see such a situation. I can assure them and my colleagues that I will do everything in my power to see that this does not occur.

There is only one way in which we can fairly resolve the problem of increasing medicare costs. We must devise a long-term solution which has as its principal component a means of controlling runaway medical care costs for all our citizens—and which addresses not just the medicare system but also all significant elements of the medical care system.

In the meantime, we must not accept savings estimates that can be achieved only by acquiescing to direct or indirect benefit cuts.

The level of medicare savings suggested in the amendment offered by the distinguished Senator from Montana is a much more reasonable level than that contained in the committee's recommendation. The Senator is to be commended for his leadership in developing this amendment. I am pleased to support it, and I urge all my colleagues on both sides of the aisle who care for the elderly and disabled of this Nation to join in supporting it.

Mr. President, I congratulate Senator BAUCUS on offering the amendment. He was appointed to head a task force, under the aegis of the Democratic conference, to look at this problem and come up with an amendment dealing with it and also pointing out the fact that the cuts that are being recommended in benefit payments to beneficiaries are unfair and that the major problem here is the rise in health costs. I compliment him for the job he has done. I hope the Senate will support this amendment.

Mr. **BAUCUS.** Mr. President, I am very honored to be associated with the Senator from West Virginia and I thank him for supporting my amendment.

Mr. President, I yield a minute to the Senator from Massachusetts.

Mr. **KENNEDY.** Mr. President, the issue is very plain and very simple. The Senator from Minnesota and the Senator from Kansas have indicated that their respective committees are going to address the issue of costs. The fact of the matter is, unless this amendment is accepted, the Senate of the United States will be putting an additional burden on the backs of the elderly who are sick, rather than addressing the principal problem, which is the increasing costs of doctors' fees and hospital care.

One of the most profitable industries in this country is for-profit private hospitals. They are growing at 30 percent a year. Why? Because the money is running through the health care system. We should deal with that issue rationally, rather than impose, it seems to me, further burdens on the elderly.

The **PRESIDING OFFICER.** The Senator has 30 seconds remaining.

Mr. **BAUCUS.** Mr. President, I think the Senator made a fine point. Let me make one other.

I do not know whether it is hospital cost containment, hospital insurance, or competition, but there are a whole lot of ways to address the health care problems facing our country. That is why we need to work on this issue, to take time to find the right way. I therefore suggest we adopt my amendment which restores a balance to the cuts that need to be made in medicare and, at the same time, gives us the requisite time to get to the heart of the problem with medicare—the health care cost problem.

Mr. **DOMENICI.** Mr. President, the Budget Committee made a number of assumptions concerning the medicare program in the resolution before the Senate. Of course, these are not binding on the Finance Committee.

The committee recommendation recognizes the permanent reduction in hospital reimbursements enacted in the social security amendments. These savings represent a $10.5 billion reduction over the next 5 years.

The committee would freeze physician fees for those doctors who charge higher rates than those set by medicare. It also assumes that provisions will be enacted to insure that reimbursement reductions will not be passed on to beneficiaries.

The committee recommendation assumes that most beneficiaries would continue to pay 25 percent of the medical insurance program costs through premiums.

The committee assumes that high-income individuals would pay a higher premium for medical insurance. The committee's recommendation would cost couples with incomes over $32,000 and individuals over $25,000 approximately $8 per month in 1984. It would affect only 7 or 8 percent of the medicare population.

These changes will reduce the Federal general fund subsidy payment to medical insurance from a 16.3 percent growth rate in the baseline to 13.3 percent.

Without action by Congress, medicare will grow at a 14.4-percent rate during 1983-88. During this period, outlays could almost double.

I would indicate that the Senator from New Mexico is no expert on medicare. As a consequence, before the Budget Committee made this final recommendation which is in the bill, I consulted with the chairman of the Finance Committee and the chairman of the Health Subcommittee. Clearly, as the assumptions will indicate, it was the intention of the committee that these reductions in physician fees could be accomplish without putting additional cost burdens on those who are being treated. We were given many options. We intended this small amount of savings, as compared to that recommended by the President, would be accomplished in a manner that would minimize the impact on the vast majority of medicare beneficiaries. I am confident they can do it.

I yield back the remainder of my time.

● Mr. BINGAMAN. Mr. President, I would like to commend the chairman of the Senate Budget Committee and the ranking minority member, Senator Chiles, for all the work they have done in presenting to the Senate a first concurrent budget resolution. I believe the first concurrent budget resolution (S. Con. Res. 27) is a serious attempt to sustain economic recovery.

Clearly, Mr. President, all Members of the Senate are very much concerned about the Federal deficits. The Federal deficit in fiscal year 1983 has already reached nearly $130 billion and we are only a little more than halfway through the year. The Congressional Budget Office offers some warning that "the American economy faces unprecedented risks in the years ahead unless the Federal Government takes measures to narrow the gap between tax revenues and spending."

The budget resolution, as reported, however, recommends making cuts in medicare and medicaid which add up to about $21 billion over the next 5 years. That is half of what President Reagan proposed in his budget. I strongly believe we need to restore more. For this reason I have cosponsored the Baucus amendment to the first concurrent budget resolution. In my opinion, Senator Baucus has come forward with a reasonable solution. The amendment, as written, would restore $400 million to medicare in fiscal year 1984. The amendment would also restore approximately half of the cuts called for in the committee budget resolution in fiscal years 1985 and 1986.

Without this amendment we will be doing permanent harm to medicare and medicaid. Simply requiring larger out-of-pocket payments from medicare beneficiaries is not a promising solution to the financing problems of the medicare program and it is not an appropriate response to those problems. Cutting benefits from the elderly, the needy, and the poor will not solve the problems facing medicare. If we continue down that path, we will be forced to cut benefits every year, until there is no medicare program left.

All of us agree there is a problem. Health care cost inflation threatens to bankrupt medicare. But we disagree on the solution. The President's solution is to put the burden on the backs of the elderly. If you are a social security beneficiary and get sick, you will have to pay more.

I have already joined with Senator Baucus and Senator Byrd, and others in cosponsoring Senate Concurrent Resolution 30 to disapprove President Reagan's proposals for medicare cuts contained in his 1984 budget. We took this action to let the President know that we feel cuts contained in his 1984 budget placed an unfair burden on medicare beneficiaries. We also wanted to direct the Senate and House Special Committees on Aging to study and make recommendations to the Congress concerning how long-term solvency and strength of medicare programs can be assured.

Mr. President, we need to exercise greater foresight in making budgetary decisions. We need to proceed with a more equitable and better balanced program of cost containment and adequate revenues to get the deficit down. We need to know our priorities.

In 1962, President Kennedy in a special message to Congress concerning health insurance for the aged said:

> Good health is a prerequisite to the enjoyment of the pursuit of happiness. Whenever the miracles of modern medicine are beyond the reach of any group of Americans, for whatever reasons—economic, geographic, occupational or other—we must find a way to meet their needs and fulfill their hopes. For one true measure of a nation is its success in fulfilling the promise of a better life for each of its members. Let this be the measure of our Nation.

Mr. President, I urge my colleagues to join me in supporting the Baucus amendment.●

Mr. MOYNIHAN. Mr. President, as we continue the debate on the concurrent budget resolution for fiscal year 1984, it is important to keep in mind the results of 2 years of reductions in the medicare program. Last year, documents prepared by the minority staff of the Senate Finance Committee concluded that reductions in medicare were being brought about in three ways: One, by increasing certain patient cost-sharing requirements by more than they were otherwise scheduled to increase, two, by changing certain reimbursement policies regarding covered services and three, by making minor changes in covered benefits. Over 80 percent of these reductions were to be borne by beneficiaries. New York State has the second largest concentration of medicare enrollees in the country, those age 65 years and older total 2,090,960 for part A (inpatient services) and 2,085,670 for part B (medical services). The State of New York assumes that 70 percent of part B beneficiaries have health expenditures each year which necessitate payment of the full deductible resulting in an additional $22 million being spent by older New Yorkers in 1982 because of increased part B deductibles. Other outcomes, such as increased medicaid expenditures for services no longer covered by medicare, are also likely as a result of proposed reductions.

It would appear from my mail that we are successfully turning medicare into a program that the elderly of this country feel they must fight to retain. Since the program's inception, Congress has led the American people to believe that needed health care services would be there in case of disability or illness for those eligible persons. But gradually as out-of-pocket expenses have increased due to the rapid rate of increase in health care costs, our elderly have come to realize that the fight over health benefits is as important as the battle fought for social security. This budget resolution, as presently stated, would aggravate this situation unnecessarily. If requests that we approve cuts in the medicare program that are simply unfair. Mr. Chairman, I support Senator Baucus' amendment because it recognizes our need and responsibility to slow the rate of increase in the medicare program, but it also recognizes our commitment to the elderly by restoring over $400 million to medicare in fiscal year 1984 and approximately half of the cuts called for in the committee budget resolution in fiscal years 1985 and 1986. Today, we do not pretend to restore all cuts to the medicare program, regardless of how we may wish that this be done. It is quite clear to many of us that such a proposal could never pass this Congress. It is far better that we do what is possible and what our conscience directs. We all know that the current system demands change—a need to slow the rate of increase in health care costs through effective cost containment initiatives while insuring efficiency, access and quality of care. In closing, I am reminded of a quote that appeared in a Washington Post editorial last year.

> There is no more complicated social issue than how to control rapidly rising medical cost without undermining the generally excellent health care that most Americans have come to want and expect.

This we must do.

Mr. BRADLEY. Mr. President, the medicare and medicaid programs have improved dramatically the access to health care for the vast majority of the elderly, the poor, and the medically needy of our Nation. It has allowed millions of Americans to lead longer, healthier lives. For older Americans medicare represents a commitment by the Government to maintain health and promote the fullest level of independence.

Through no fault of their own, our elderly citizens have experienced the astronomical rise in health care costs and borne the brunt of increased expenses for health care. Although cushioned to some extent by the medicare program, the elderly through part B insurance premiums, supplementary medigap insurance, copayments and direct out of pocket expenditures pay for more than 50 percent of their individual health expenses unless they become destitute enough to receive medicaid.

The policies of the administration for the past 2 years have resulted in direct shifts of costs from the Government to the poor and elderly. But the subject of costs in 1981 and 1982 is small compared to the effect of the changes before us now. The proposed cuts for 1983 places the burden of reducing budget deficits on these same elderly to the extent of $1.34 billion. The Budget Committee has rejected some of those proposed cuts but the price the elderly will pay is still proposed to be $809 million.

Deficits in the medicare hospital trust fund could occur as early as 1987. Attempts to solve this potential crisis simply by transferring costs to the elderly is both unfair to them and futile. We need a serious examination of the problem and alternatives to solving it. What the administration has proposed did not proceed from serious analysis and, therefore, is not a serious solution.

As a consponsor of this amendment, I ask my colleagues to reject the medicare cuts contained in the President's fiscal year 1984 budget. Our commitment to the elderly has to be reaffirmed and all efforts made to protect that segment of our society least able to bear those added costs. I would urge all of my colleagues to support this resolution and in doing so send a clear message not only to the administration but more importantly to our senior citizens.

● **Mr. METZENBAUM.** Mr. President, I would like to express my support for this amendment which is of critical importance to elderly Americans. I have sponsored this amendment with Senator BAUCUS because I believe the savings in medicare must not come out of the pockets of senior citizens, most of whom are living on fixed incomes.

The budget before us is proposing cuts of over $800 million in medicare in fiscal year 1984.

The recipients of medicare should not be forced to bear the brunt of these cost cutting efforts. They have already had to pay large out-of-pocket increases for health care as a request of previous years cuts.

Consider these facts:

The medicare hospital deductible has risen almost 50 percent in the last 2 years from $204 per hospital stay in 1981 to $304 this year and it is expected to rise to $350 in 1984.

Medicare part B premiums have increased 23 percent in the same period.

Medicare meets only 45 percent of the elderly's health care costs.

Out-of-pocket health care costs already consume 20 percent of an elderly person's income.

Before we add more to the medical bills paid by our senior citizens, let us look to our hospital.

If you do not believe the hospitals can afford any further cutbacks in medicare payments, take a look at two hospital bills I have recently obtained. A woman went into a for-profit hospital in Florida for 69 days. Her bill was $78,575. This was not to pay the doctors or the surgeons—this was just the hospital charge. A closer look at this bill reveals some outrageous items. Every time the woman was given two Tylenol tablets, she was charged $5.70. A length of Dermicel tape cost $11.50. The total charge for this tape was $300. Sponges cost her $217. Swabs cost almost $100. Disposable pads cost $700.

We must stop blaming the victim. This woman was given no choice about these supplies. She was not allowed to bring her own aspirin, sponges, Q-tips and Band-Aids to save money.

Next is a hospital bill of $26,307 for a 20-day stay. Here, a 4-inch Ace bandage cost $7, a 4 by 4 box of sponges cost $31, a 3 by 4 Telfa pad costs $18, and a pair of exam gloves cost $25.

Elderly patients can no longer be forced to pay more and more for health care, while abuses like this continue. Let us direct our cost savings efforts where they will be most effective—direct them to the providers of health care. We do not need shortsighted solutions which harm the elderly. Instead, we need a systemwide cost containment approach to the problem of rising health care costs. This amendment will insure that we travel in this direction, and not in the direction of imposing further financial burdens on elderly Americans.●

Mr. BAUCUS addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Montana.

Mr. BAUCUS. I wonder if I can get unanimous consent to proceed for 2 minutes on this amendment.

Mr. DOMENICI. I have a problem in that the reason I am cutting my time short is to accommodate somebody who will miss the vote unless we vote shortly.

Mr. BAUCUS. Two minutes?

Mr. DOMENICI. I will give the Senator 1 minute, which is what he would get out of the 2. I yield 2 minutes.

Mr. BAUCUS. I am just curious as to the statement just made about the medicare cuts required by the committee, some $800 million in 1984. The Budget Committee chairman seems to say that no effect of the cuts will be borne by beneficiaries. That statement puzzles this Senator. The Budget Committee's cuts assume that we will freeze reimbursement for physicians who do not participate in medicare. As the Senator from New Mexico knows, medicare does not directly reimburse physicians who do not take assignment. So the effect of the language is as follows: Medicare will freeze the amount it pays patients who then must pay physicians. Instead of freezing physician fees, you are freezing reimbursements to patients. That is why, as a practical matter, 95 percent of the cuts called for in the Budget Committee resolution fell on the elderly.

I thank the Senator.

Mr. President, I ask for the yeas and nays.

The **PRESIDING OFFICER.** Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment of the Senator from Montana. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Tennessee (Mr. SASSER), and the Senator from Massachusetts (Mr. TSONGAS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 45, nays 50, as follows:

[Rollcall Vote No. 70 Leg.]

YEAS—45

Baucus
Biden
Bingaman
Bradley
Bumpers
Burdick
Byrd
Chiles
Cranston
D'Amato
DeConcini
Dixon
Dodd
Eagleton
Exon
Ford
Glenn
Hart
Hawkins
Heflin
Hollings
Huddleston
Inouye
Jackson
Johnston
Kennedy
Lautenberg
Leahy
Levin
Long
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Packwood
Pell
Pressler
Pryor
Randolph
Riegle
Sarbanes
Specter
Stennis
Zorinsky

NAYS—50

Abdnor
Andrews
Armstrong
Baker
Boren
Boschwitz
Chafee
Cochran
Cohen
Danforth
Denton
Dole
Domenici
Durenberger
East
Garn
Gorton
Grassley
Hatch
Hatfield
Hecht
Heinz
Helms
Humphrey
Jepsen
Kassebaum
Kasten
Laxalt
Lugar
Mathias
Mattingly
McClure
Murkowski
Nickles
Nunn
Proxmire
Quayle
Roth
Rudman
Simpson
Stafford
Stevens
Symms
Thurmond
Tower
Trible
Wallop
Warner
Weicker
Wilson

NOT VOTING—5

Bentsen
Goldwater
Percy
Sasser
Tsongas

So the amendment (No. 1231) was rejected.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I understand that under our previous arrangement, the distinguished Senator from Iowa (Mr. GRASSLEY) is going to offer a substitute. There is 1 hour equally divided on that amendment, and I am not sure that he desires a rollcall vote.

Is that correct?

Mr. GRASSLEY. I was not going to ask for a rollcall vote.

Mr. DOMENICI. So we will dispose of that amendment within the hour.

Mr. GRASSLEY. It is my guess that if there is not a lot of controversy to which I have to respond, it will be done in an hour, easily.

Mr. DOMENICI. What is the pleasure of the majority leader with reference to the remainder of the evening?

Mr. BAKER. I thank the Senator for inquiring.

Mr. President, as I indicated earlier, I planned to ask the Senate to stay until about 9 p.m. I gather from the colloquy just had between the Senator from Iowa and the chairman of the committee that we may finish with this next amendment about 8 p.m.

I hope that then the managers on both sides could call up another amendment, after the Grassley amendment, and that we at least could have debate on that amendment—a vote if possible, but at least debate.

If that is the case, I would say we might be out by 8:30 instead of 9 p.m.

Mr. DOMENICI. I say to the majority leader that I am trying to find an amendment on the other side with which we could proceed on the basis he has just described. At this point I have no assurance that the amendment which is contemplated could be called up tonight and debated, because the prime sponsor is willing to call it up tonight but does not want to debate it tonight, for reasons known to him. I merely inform the majority leader of that.

Mr. BAKER. Then, I recommend that we go ahead with the Grassley amendment. That will give us time to figure out what will happen next. We will be here until at least 8 and will probably be out before 9.

Mr. DOMENICI. I thank the majority leader.

AMENDMENT NO. 1232

(Purpose: To require an across-the-board freeze of the budget for the United States Government)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa (Mr. GRASSLEY) proposes an amendment numbered 1232.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the resolving clause and insert in lieu thereof the following:

That the Congress hereby determines and declares that the concurrent resolution on the budget for fiscal year 1983 is hereby revised, the first concurrent resolution on the budget for fiscal year 1984 is hereby established, and the appropriate budgetary levels for fiscal years 1985 and 1986 are hereby set forth:

(a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1982, October 1, 1983, October 1, 1984, and October 1, 1985:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1983: $603,100,000,000.
Fiscal year 1984: $655,400,000,000.
Fiscal year 1985: $723,500,000,000.
Fiscal year 1986: $778,900,000,000.

and the amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 1983: −$100,000,000.
Fiscal year 1984: $0.
Fiscal year 1985: $0.
Fiscal year 1986: $0.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1983: $35,900,000,000.
Fiscal year 1984: $39,700,000,000.
Fiscal year 1985: $44,200,000,000.
Fiscal year 1986: $50,900,000,000.

and the amounts for Federal Insurance Contributions Act revenues and other revenues pursuant to Public Law 98-21 for old age, survivors, and disability insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1983: $148,500,000,000.
Fiscal year 1984: $166,500,000,000.
Fiscal year 1985: $187,700,000,000.
Fiscal year 1986: $204,400,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1983: $874,400,000,000.
Fiscal year 1984: $878,300,000,000.
Fiscal year 1985: $915,400,000,000.
Fiscal year 1986: $965,900,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1983: $807,100,000,000.
Fiscal year 1984: $832,100,000,000.
Fiscal year 1985: $860,900,000,000.
Fiscal year 1986: $899,400,000,000.

(4) The amounts of the deficits in the budget which are appropriate in the light of economic conditions and all other relevant factors are as follows:

Fiscal year 1983: $204,000,000,000.
Fiscal year 1984: $176,700,000,000.
Fiscal year 1985: $137,400,000,000.
Fiscal year 1986: $120,500,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1983: $1,383,700,000,000.
Fiscal year 1984: $1,606,500,000,000.
Fiscal year 1985: $1,797,300,000,000.
Fiscal year 1986: $1,979,000,000,000.

and the amounts by which the temporary statutory limits on such debt should be accordingly increased are as follows:

Fiscal year 1983: $93,500,000,000.
Fiscal year 1984: $222,800,000,000.
Fiscal year 1985: $190,800,000,000.
Fiscal year 1986: $181,700,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1982, October 1, 1983, October 1, 1984, and October 1, 1985, are as follows:

Fiscal year 1983:

(A) New direct loan obligations, $55,400,000,000.

(B) New loan guarantee commitments, $94,500,000,000.

Fiscal year 1984:

(A) New direct loan obligations, $48,200,000,000.

(B) New loan guarantee commitments, $94,500,000,000.

Fiscal year 1985:

(A) New direct loan obligations, $45,100,000,000.

(B) New loan guarantee commitments, $97,400,000,000.

Fiscal year 1986:

(A) New direct loan obligations, $48,700,000,000.

(B) New loan guarantee commitments, $101,000,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new loan guarantee commitments for fiscal years 1983 through 1986 for each major functional category are:

(1) National Defense (050):

Fiscal year 1983:

(A) New budget authority, $244,100,000,000.

(B) Outlays, $214,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $242,800,000,000.

(B) Outlays, $228,400,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $243,800,000,000.

(B) Outlays, $232,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $265,800,000,000.

(B) Outlays, $248,800,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1983:

(A) New budget authority, $24,100,000,000.

(B) Outlays, $11,300,000,000.

(C) New direct loan obligations, $11,700,000,000.

(D) New loan guarantee commitments, $9,200,000,000.

Fiscal year 1984:

(A) New budget authority, $17,500,000,000.

(B) Outlays, $12,100,000,000.

(C) New direct loan obligations, $11,200,000,000.

(D) New loan guarantee commitments, $10,300,000,000.

Fiscal year 1985:

(A) New budget authority, $15,800,000,000.

(B) Outlays, $12,000,000,000.

(C) New direct loan obligations, $11,500,000,000.

(D) New loan guarantee commitments, $10,300,000,000.

Fiscal year 1986:

(A) New budget authority, $15,000,000,000.

(B) Outlays, $11,900,000,000.

(C) New direct loan obligations, $11,600,000,000.

(D) New loan guarantee commitments, $10,900,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1983:

(A) New budget authority, $7,800,000,000.

(B) Outlays, $7,700,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $7,700,000,000.

(B) Outlays, $7,700,000,000.

(C) New direct loan obligations, $37,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $7,400,000,000.

(B) Outlays, $7,500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $7,200,000,000.

(B) Outlays, $7,200,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1983:

(A) New budget authority, $3,900,000,000.

(B) Outlays, $4,400,000,000.

(C) New direct loan obligations, $13,100,000,000.

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1984:

(A) New budget authority, $3,800,000,000.

(B) Outlays, $4,100,000,000.

(C) New direct loan obligations, $13,900,000,000.

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1985:

(A) New budget authority, $3,700,000,000.

(B) Outlays, $2,900,000,000.

(C) New direct loan obligations, $14,300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $3,200,000,000.

(B) Outlays, $2,800,000,000.

(C) New direct loan obligations, $14,400,000,000.

(D) New loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1983:

(A) New budget authority, $12,300,000,000.

(B) Outlays, $12,300,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $11,200,000,000.

(B) Outlays, $12,000,000,000.

(C) New direct loan obligations, $27,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $11,000,000,000.

(B) Outlays, $11,700,000,000.

(C) New direct loan obligations, $27,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $10,800,000,000.

(B) Outlays, $11,200,000,000.

(C) New direct loan obligations, $27,000,000.

(D) New loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1983:

(A) New budget authority, $24,200,000,000.

(B) Outlays, $24,000,000,000.

(C) New direct loan obligations, $18,600,000,000.

(D) New loan guarantee commitments, $5,500,000,000.

Fiscal year 1984:

(A) New budget authority, $11,500,000,000.

(B) Outlays, $11,300,000,000.

(C) New direct loan obligations, $12,100,000,000.

(D) New loan guarantee commitments, $3,800,000,000.

Fiscal year 1985:

(A) New budget authority, $13,800,000,000.

(B) Outlays, $12,100,000,000.

(C) New direct loan obligations, $11,700,000,000.

(D) New loan guarantee commitments, $3,800,000,000.

Fiscal year 1986:

(A) New budget authority, $13,000,000,000.

(B) Outlays, $12,900,000,000.

(C) New direct loan obligations, $12,200,000,000.

(D) New loan guarantee commitments, $3,800,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1983:

(A) New budget authority, $5,100,000,000.

(B) Outlays, $3,300,000,000.

(C) New direct loan obligations, $6,500,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1984:

(A) New budget authority, $5,800,000,000.

(B) Outlays, $12,100,000,000.

(C) New direct loan obligations, $6,400,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1985:

(A) New budget authority, $6,300,000,000.

(B) Outlays, $200,000,000.

(C) New direct loan obligations, $6,300,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1986:

(A) New budget authority, $6,300,000,000.

(B) Outlays, $100,000,000.

(C) New direct loan obligations, $6,300,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

(8) Transportation (400):

Fiscal Year 1983:

(A) New budget authority, $26,900,000,000.

(B) Outlays, $22,000,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New loan guarantee commitments, $1,100,000,000.

Fiscal year 1984:

(A) New budget authority, $27,500,000,000.

(B) Outlays, $25,900,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $600,000,000.

Fiscal year 1985:

(A) New budget authority, $28,200,000,000.

(B) Outlays, $26,800,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $400,000,000.

Fiscal year 1986:

(A) New budget authority, $29,000,000,000.

(B) Outlays, $27,700,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $300,000,000.

(9) Community and Regional Development (450):

Fiscal year 1983:

(A) New budget authority, $8,600,000,000.

(B) Outlays, $7,800,000,000.

(C) New direct loan obligations, $2,100,000,000.

(D) New loan guarantee commitments, $500,000,000.

Fiscal year 1984:

(A) New budget authority, $7,000,000,000.

(B) Outlays, $8,500,000,000.

(C) New direct loan obligations, $1,700,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1985:

(A) New budget authority, $7,800,000,000.

(B) Outlays, $8,700,000,000.

(C) New direct loan obligations, $1,800,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1986:

(A) New budget authority, $7,900,000,000.
(B) Outlays, $8,200,000,000.
(C) New direct loan obligations, $1,800,000,000.
(D) New Loan guarantee commitments, $400,000,000.

(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1983:
(A) New budget authority, $28,000,000,000.
(B) Outlays, $27,200,000,000.
(C) New direct loan obligations, $600,000,000.
(D) New loan guarantee commitments, $6,500,000,000.
Fiscal year 1984:
(A) New budget authority, $30,000,000,000.
(B) Outlays, $26,900,000,000.
(C) New direct loan obligations, $700,000,000.
(D) New loan guarantee commitments, $6,600,000,000.
Fiscal year 1985:
(A) New budget authority, $27,100,000,000.
(B) Outlays, $27,000,000,000.
(C) New direct loan obligations, $700,000,000.
(D) New loan guarantee commitments, $6,600,000,000.
Fiscal year 1986:
(A) New budget authority, $27,100,000,000.
(B) Outlays, $27,000,000,000.
(C) New direct loan obligations, $800,000,000.
(D) New loan guarantee commitments, $6,600,000,000.

(11) Health (550):
Fiscal year 1983:
(A) New budget authority, $25,000,000,000.
(B) Outlays, $29,500,000,000.
(C) New direct loan obligations, $47,000,000.
(D) New loan guarantee commitments, $200,000,000.
Fiscal year 1984:
(A) New budget authority, $31,300,000,000.
(B) Outlays, $31,300,000,000.
(C) New direct loan obligations, $29,000,000.
(D) New loan guarantee commitments, $300,000,000.
Fiscal year 1985:
(A) New budget authority, $34,100,000,000.
(B) Outlays, $33,700,000,000.
(C) New direct loan obligations, $28,000,000.
(D) New loan guarantee commitments, $300,000,000.
Fiscal year 1986:
(A) New budget authority, $36,600,000,000.
(B) Outlays, $35,900,000,000.
(C) New direct loan obligations, $32,000,000.
(D) New loan guarantee commitments, $300,000,000.

(12) Medical Insurance (570):
Fiscal year 1983:
(A) New budget authority, $46,100,000,000.
(B) Outlays, $53,200,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1984:
(A) New budget authority, $62,500,000,000.
(B) Outlays, $59,200,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $69,800,000,000.
(B) Outlays, $66,000,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $79,200,000,000.
(B) Outlays, $72,200,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.

(13) Income Security (600):
Fiscal year 1983:
(A) New budget authority, $121,700,000,000.
(B) Outlays, $110,300,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New loan guarantee commitments, $14,600,000,000.
Fiscal year 1984:
(A) New budget authority, $121,800,000,000.
(B) Outlays, $103,300,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New loan guarantee commitments, $14,700,000,000.
Fiscal year 1985:
(A) New budget authority, $124,700,000,000.
(B) Outlays, $103,800,000,000.
(C) New direct loan obligations, $800,000,000.
(D) New loan guarantee commitments, $16,500,000,000.
Fiscal year 1986:
(A) New budget authority, $128,300,000,000.
(B) Outlays, $107,300,000,000.
(C) New direct loan obligations, $500,000,000.
(D) New loan guarantee commitments, $18,100,000,000.

(14) Social Security (650):
Fiscal year 1983:
(A) New budget authority, $184,100,000,000.
(B) Outlays, $167,600,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1984:
(A) New budget authority, $174,900,000,000.
(B) Outlays, $177,300,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $194,700,000,000.
(B) Outlays, $188,700,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $211,000,000,000.
(B) Outlays, $201,200,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):
Fiscal year 1983:
(A) New budget authority, $25,000,000,000.
(B) Outlays, $24,500,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New loan guarantee commitments, $8,000,000,000.
Fiscal year 1984:
(A) New budget authority, $25,100,000,000.
(B) Outlays, $25,000,000,000.
(C) New direct loan obligations $800,000,000.
(D) New loan guarantee commitments, $9,000,000,000.
Fiscal year 1985:
(A) New budget authority, $24,700,000,000.
(B) Outlays, $24,600,000,000.
(C) New direct loan obligations, $600,000,000.
(D) New loan guarantee commitments, $10,500,000,000.
Fiscal year 1986:
(A) New budget authority, $24,800,000,000.
(B) Outlays, $24,600,000,000.
(C) New direct loan obligations, $700,000,000.
(D) New loan guarantee commitments, $12,500,000,000.

(16) Administration of Justice (750):
Fiscal year 1983:
(A) New budget authority, $5,200,000,000.
(B) Outlays, $5,100,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1984:
(A) New budget authority, $5,300,000,000.
(B) Outlays, $5,400,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $5,200,000,000.
(B) Outlays, $5,300,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $5,300,000,000.
(B) Outlays, $5,300,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.

(17) General Government (800):
Fiscal year 1983:
(A) New budget authority, $5,600,000,000.
(B) Outlays, $5,700,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1984:
(A) New budget authority, $5,600,000,000.
(B) Outlays, $5,700,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $5,800,000,000.
(B) Outlays, $5,700,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $5,900,000,000.
(B) Outlays, $5,800,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.

(18) General Purpose Fiscal Assistance (850):
Fiscal year 1983:
(A) New budget authority, $6,400,000,000.
(B) Outlays, $6,400,000,000.
(C) New direct loan obligations, $300,000,000.
(D) New loan guarantee commitments, $0.
Fiscal year 1984:
(A) New budget authority, $7,100,000,000.
(B) Outlays, $7,000,000,000.
(C) New direct loan obligations, $300,000,000.
(D) New loan guarantee commitments, $0.
Fiscal year 1985:
(A) New budget authority, $7,100,000,000.
(B) Outlays, $7,100,000,000.
(C) New direct loan obligations, $300,000,000.
(D) New loan guarantee commitments, $0.
Fiscal year 1986:
(A) New budget authority, $7,500,000,000.
(B) Outlays, $7,400,000,000.
(C) New direct loan obligations, $300,000,000.
(D) New loan guarantee commitments, $0.

(19) Net Interest (900):
Fiscal year 1983:
(A) New budget authority, $87,500,000,000.
(B) Outlays, $87,500,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.
Fiscal year 1984:
(A) New budget authority, $96,000,000,000.
(B) Outlays, $96,000,000,000.
(C) New direct loan obligations, $0.
(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $102,800,000,000.

(B) Outlays, $102,800,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $103,900,000,000.

(B) Outlays, $103,900,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(20) Allowances (920):

Fiscal year 1983:

(A) New budget authority, $800,000,000.

(B) Outlays, $900,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $1,400,000,000.

(B) Outlays, $1,500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(21) Undistributed Offsetting Receipts (950):

Fiscal year 1983:

(A) New budget authority, −$18,000,000,000.

(B) Outlays, −$18,000,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, −$17,200,000,000.

(B) Outlays, −$17,200,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, −$18,500,000,000.

(B) Outlays, −$18,500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, −$22,200,000,000.

(B) Outlays, −$22,200,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

RECONCILIATION

SEC. 2. (a) Not later than June 6, 1983, the Senate committees named in subsections (b) through (d) of this section shall submit their recommendations to the Senate Committee on the Budget and not later than June 6, 1983, the House committees named in subsections (e) through (h) of this section shall submit their recommendations to the House Committee on the Budget. After receiving those recommendations, the Committees on the Budget shall report to the House and Senate a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

SENATE COMMITTEES

(b) The Senate Committee on Finance shall report changes in law within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $2,120,000,000 in fiscal year 1984; to reduce outlays by $4,125,000,000 in fiscal year 1985; and to reduce outlays by $7,772,000,000 in fiscal year 1986.

(c) The Senate Committee on Governmental Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $252,000,000 and outlays by $525,000,000 in fiscal year 1984; to reduce budget authority by $817,000,000 and outlays by $1,875,000,000 in fiscal year 1985; and to reduce budget authority by $1,274,000,000 and outlays by $3,098,000,000 in fiscal year 1986.

(d) The Senate Committee on Veterans' Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $400,000,000 and outlays by $369,000,000 in fiscal year 1984; to reduce budget authority by $865,000,000 and outlays by $825,000,000 in fiscal year 1985; and to reduce budget authority by $890,000,000 and outlays by $886,000,000 in fiscal year 1986.

HOUSE COMMITTEES

(e) The House Committee on Energy and Commerce shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $987,000,000 in fiscal year 1984; to reduce outlays by $2,344,000,000 in fiscal year 1985; and to reduce outlays by $3,553,000,000 in fiscal year 1986.

(f) The House Committee on Post Office and Civil Service shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $252,000,000 and outlays by $525,000,000 in fiscal year 1984; to reduce budget authority by $817,000,000 and outlays by $1,875,000,000 in fiscal year 1985; and to reduce budget authority by $1,274,000,000 and outlays by $3,098,000,000 in fiscal year 1986.

(g) The House Committee on Veterans' Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $400,000,000 and outlays by $369,000,000 in fiscal year 1984: to reduce budget authority by $865,000,000 and outlays by $825,000,000 in fiscal year 1985; and to reduce budget authority by $890,000,000 and outlays by $886,000,000 in fiscal year 1986.

(h) The House Committee on Ways and Means shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $1,916,000,000 in fiscal year 1984; to reduce outlays by $3,306,000,000 in fiscal year 1985; and to reduce outlays by $7,118,000,000 in fiscal year 1985.

MISCELLANEOUS PROVISIONS

SEC. 3. It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution, or amendment thereto, providing—

(1) new budget authority for fiscal year 1984; or

(2) new spending authority described in section 401(c)(2)(C) of the Budget Act first effective in fiscal year 1984,

within the jurisdiction of any of its committees unless and until such committee makes the allocations or subdivisions required by section 302(b) of the Budget Act, in connection with the most recently agreed to concurrent resolution on the budget.

SEC. 4. It is the sense of the Congress that the President and the Congress, through the appropriations process, should limit the on-budget new direct loan obligations of the Federal Government to an amount not to exceed $37,600,000,000 in fiscal year 1983 and $29,300,000,000 in fiscal year 1984; off-budget new direct loan obligations to an amount not to exceed $17,800,000,000 in fiscal year 1983 and $18,900,000,000 in fiscal year 1983; and new loan guarantee commitments to an amount not to exceed $94,500,000,000 in fiscal year 1983 and $94,500,000,000 in fiscal year 1984. It is further the sense of the Congress that the President and the Congress should limit total Federal Financing Bank origination of direct loans guaranteed by other Federal agencies to $16,200,000,000 in fiscal year 1983 and $17,300,000,000 in fiscal year 1984, and Federal Financing Bank purchases of certificates of beneficial ownership from Federal agencies to $11,500,000,000 in fiscal year 1983 and $13,200,000,000 in fiscal year 1984. It is further the sense of the Congress that direct borrowing transactions of Federal agencies should be, to the maximum extent possible, restricted to the Federal Financing Bank.

SEC. 5. (a) The joint explanatory statement accompanying the conference report on this resolution shall include an estimated allocation, based upon the first section of this resolution as recommended in such conference report, of the appropriate levels of total new direct loan obligations and new loan guarantee commitments for fiscal year 1983 and fiscal year 1984, among each committee of the House of Representatives and the Senate which has jurisdiction over bills and resolutions providing such new obligations and commitments.

(b) As soon as practicable after this resolution is agreed to, every committee of each House, after consulting with the committee or committees of the other House to which all or part of the allocation has been made, shall subdivide among its subcommittees the allocation of new direct loan obligations and new loan guarantee commitments for fiscal year 1983 and fiscal year 1984, allocated to it in the joint explanatory statement accompanying the conference report on this resolution.

SEC. 6. It is the sense of the Congress that the budgets of Federal agencies initiating Federal Financing Bank purchases of certificates of beneficial ownership and originations of guaranteed loans should include the budget authority and outlays resulting from the transactions. The Congress recommends that the committees with jurisdiction over the Federal Financing Bank Act of 1973 consider expeditiously legislation to require that the budgetary impact of such Federal Financing Bank transactions be included in the budgets of the initiating agencies beginning with the fiscal year 1985 budget.

The PRESIDING OFFICER. There are 2 hours of debate on this amendment.

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. GRASSLEY. I yield myself such time as I may consume.

Mr. President, the greatest obstacle in the path of economic recovery is the absence of consensus on the direction of tax and budget policy. At no time was a lack of clear direction more noticeable than during markup in the Senate Budget Committee of this first concurrent budget resolution.

Looking back 2 weeks when we voted this measure out of committee and the last 6 weeks since it has been under consideration, including a 3-week lapse in the Budget Committee's work at the request of the President of the United States, there were those among the 22 members of the Budget Committee who wanted high defense numbers; there were those who wanted no tax increases at all, and I am one of those; and there were those who wanted increased spending for domestic programs.

Despite those differences, however, every member of that committee at one time or another expressed concern about the budget deficits that face this Government; not only in the immediate fiscal year but also for the 5 years that we traditionally include in our budget resolution. Yet, it appears to me that the only budget presently emerging as a consensus package will result in a massive $200 billion deficit for the year 1984.

Ironically, the one point in common initially for all concerned—namely, deficits—is becoming the point that is least reconciled. This irony is a reflection of the tug-of-war over who is right about how to achieve defense reductions to bring about economic recovery. Unfortunately, the approach we are pursuing is not a consensus approach. It is a coalition approach. It is a coalition of those who want higher defense spending, higher domestic spending, and few, if any, tax increases. The resulting budget from such a coalition shows tremendously large deficits. Consequently, we find ourselves right back at square one.

If real spending restraint is to be accomplished in this Congress, a consensus for doing so must be built among the public. We must have the moral support of the American people. But a prerequisite to that is for us in Congress to provide moral leadership so that the public understands the nature of the sacrifice that is necessary for all 220 million Americans to bring about dramatic changes in budgeting in order to achieve economic revival.

Without moral leadership there can be no consensus, and without consensus there can be no solution to the economic and budget problems facing us.

Throughout this session of Congress, I have attempted to demonstrate that an across-the-board approach to spending restraint does enjoy public support and that a budget freeze can and should apply to the defense budget as well.

It is my belief that the way to create a moral bond between Congress and the public we represent is to present them with solutions that are fair. No budget is fair unless it deals with all programs on an equal basis. In other words, we must apply the same budget restraints to the defense budget as we do to the rest of the budgets. That is the only way to truly reduce the growth of Federal spending.

Only on the basis of fairness is there a basis for moral support for the spending reductions, the tremendous spending reductions, that are necessary to bring about the dramatic reform at the Federal level that is vital to sustaining economic revival.

In terms of the rationale for freezing defense spending I am sure that the public and this Senate have already heard an earful from me. I want to tell you all that you are going to hear more from me as we deal with the defense portion of this resolution next week. Believe me, there are problems in the defense budget which will make even the most conservative Members of this body eager to make sweeping changes in the Defense Department.

It is critical that we do so or we face the danger of losing the moral support of our people.

The problem facing this Nation and facing this Congress is that there is no consensus among the people for 10 percent more defense expenditures. Ten percent more funding is not going to give us proportionally an increase in military preparedness.

There is also the feeling out there at the grassroots level that more money for defense is more money for waste.

Invariably, the constituents of mine who talk to me about defense expenditures being too high are not the liberal people who you might expect to always be against defense expenditures. I know not every liberal in the United States is against increases in defense expenditures, but somehow we stereotype them that way. It is not that individual Iowan who is meeting me on Main Street or talking to me at the town meetings I have. Invariably it is the conservative Republican who has, in most instances, as I recall, been in the military. He believes in a strong national defense; he believes we have to meet the Soviet threat and military buildup. But it is that conservative person who says to me we cannot be having those dramatic increases that the President is requesting in defense expenditures, because that does not help to balance the budget.

This person wants the waste taken care of that is in the defense budget. And it is that sort of person who is pleading with the President to make those same changes within the Defense Department in how it does business that this President has forced upon all the other bureaucracies of the Federal Government—the changes that he has recommended, the changes he campaigned on, and to a great extent fulfilled.

That constituent out there, crying about too massive a defense buildup, is a person who wants our President to show leadership in bringing about changes in the way the Defense Department does business. In other words, he looks at the budget process of treating all departments of the Government fairly, to be consistent and across the board, to have a dollar spent on defense to get a dollar's worth of defense, the same way he would expect a dollar's worth in a food stamp program or a welfare program to buy a dollar's worth.

This is the type of reaction that I am getting from my constituents that led me to the conclusion that if we are going to bring about dramatic reforms in spending, we have to address the perception of unfairness that is in a budget when defense is increased 10 percent, or 7½ percent, or whatever, more than the rest of the budget.

That is what I have tried to do by proposing to freeze budget authority for defense, as well as other programs. If we give the Defense Department a massive increase in expenditures, whether it be what the President requested or even what was approved by the Budget Committee, somehow we would be sending a signal to keep on doing things as they have always been done in defense spending. I think it would be wrong for us to send such a ratification from this Congress to the Defense Department until some changes are made.

The budget freeze I have proposed would freeze budget authority for all discretionary spending, including defense, for the next 2 years at the fiscal year 1983 levels. It would adopt the changes in the bipartisan social security package and would freeze Federal pay and other COLA's for 2 years. I make an exception to this: the poor would be exempted from the COLA freeze for the period of my budget.

In addition, this proposal would adopt the savings of the President's changes in medicare and medicaid. All other entitlements such as the guaranteed student loan program and AFDC would be baselined.

On the revenue side, there would be no tax increases other than what is currently in the baseline. That means that the third year of the individual tax cuts would be maintained and indexing of the tax brackets would be maintained as prescribed by law passed in 1981 by this Congress.

I consider it important to have a consistent tax policy for the next 5 years, by not increasing taxes. We must continue to encourage the personal savings we sought to create through the 1981 tax law. We must encourage investment in the industrial infrastructure of this Nation that we wanted to encourage in the 1981 tax law. The decisions that have been made relying upon the 1981 tax law must be verified by what we do here this year. We must create jobs in the private sector, as opposed to putting people to work through Government projects. We should continue this policy for the next 5 years, and that is why my budget resolution freezes existing tax policy.

I am not like the Senator from South Carolina who wanted to freeze tax policy by not letting enacted tax cuts go into effect, or not letting indexing go into effect.

I want to freeze the policy that this Congress and all but I think a dozen Members of this body agreed to in 1981. I think that policy is vital to sustaining the recovery we are now in. Of all the proposals put before the Budget Committee and now before this Senate, I think mine is the only one that does not have any change in tax policies.

At this point, Mr. President, I ask unanimous consent to have printed in the RECORD a summary table of my proposal for the budget freeze.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

GRASSLEY UPDATED BUDGET REDUCTION PLAN

	1983	1984	1985	1986	1987	1988
Baseline deficit	194.60	200.90	210.50	226.70	246.70	267.50
Adjustments:						
Outlay reestimates	3.30	−1.80	−1.10	−.80	−.60	−1.20
H.R. 1900—outlays	.72	−2.70	−3.18	−3.93	−4.20	−4.64
Jobs bill	1.84	2.08	1.00	.27	.09	.04
Revenue adjustment	3.20	−1.50	−5.70	−5.40	−6.90	−17.40
Proposed changes:						
Nondefense discr spending: BA freeze		−2.14	−6.02	−10.49	−15.33	−20.68
Defense		−13.70	−45.00	−61.50	−63.30	−60.50
Federal civilian pay		−1.54	−3.09	−3.32	−3.45	−3.60
COLA's		−.64	−1.88	−2.71	−2.77	−2.82
Medicare/aid		−2.10	−4.10	−7.80	−12.80	−15.00
Workfare						
Revenue changes						
Subtotal	9.06	−24.04	−69.07	−95.68	−108.46	−125.80
Interest savings	.20	−.10	−4.10	−10.50	−18.00	−25.80
Total changes	9.26	−24.14	−73.17	−106.18	−126.46	−151.60
Plan deficit	203.86	176.76	137.33	120.52	120.24	115.90

Mr. GRASSLEY. Mr. President, the approach that I have taken in this budget proposal is one that I believe can lead to a consensus. If you remember I started off my remarks by emphasizing the need for consensus, a consensus that builds from the grassroots up.

This budget would accomplish spending restraint needed to reduce deficits and preserve the tax relief already enacted to allow economic recovery. But, most important, it provides the element of fairness which alone can provide the framework for the consensus.

As we review the options available to us in fashioning a budget resolution for next year, I believe an across-the-board freeze would provide the clearest sense of direction for the budget policies of this Congress. I hope this Congress will recognize the necessity of this approach. Any alternative, I fear, would prevent a successful recovery and would keep our country in disunity.

Finally, unless we go with a budget document that is as dramatic in reform as what I am proposing, there is not going to be a sense throughout the countryside that there is any sacrifice on the part of us in Government. We run the biggest corporation in the world, and we are on the board of directors of that corporation. We ought to be adopting policies that fit the economic—the real economic—environment we are in.

We have out there in the countryside groups and individuals who are responding to the economic plight that this Nation is in, hopefully an economic plight that we are gradually coming out of. But whether I talk about the present or the past, it still is a situation that people out there at the grassroots have recognized as being very serious. Unless we do something really dramatic, we are not sending a signal of sacrifice. We are not reading from the grassroots the willingness of the people of this country to sacrifice, as they have done.

You will find in the last year or 18 months that the UAW has been leading the way in the automobile industry, agreeing to changes in their contracts because of the serious economic climate in this country. Some of it is brought upon by imports, but also just because the economy of this Nation is not geared to paying for expensive cars and expensive labor. They have adjusted their wages down. They have sacrificed.

If the UAW members of Detroit and this country can show sacrifice, cannot the Federal Government and the Members of this body demonstrate that same sacrifice?

The Rath Packing Co., in Waterloo, Iowa, just 25 miles from my farm and my home, a company that had help from the Federal Government through EDA programs, just 2 weeks ago showed a sacrifice by its workers of $100 a week, $2.50 an hour, the work force of that company took in wage cuts. That is a company that I worked for from 1951 to 1956 in the golden years when they were making so much money that they even paid a stock dividend. But now because the economic climate in this country has changed, that company, now an employee-owned corporation, no longer owned by a bunch of anonymous stockholders, but owned by the employees themselves, have agreed to take a $2.50 an hour cut in wages.

If they can sacrifice, can we not show some sacrifice? Can we not show we can learn from the people at the grassroots, the people in the countryside, that it is time for us to alter policies, and that we ought to fall in line with the people in the private sector?

You can go to the steelworkers and the steel industry who have been doing exactly the same thing. You can look at 3 percent of the American population that feeds the other 97 percent, the farmers of the United States, who have not made a profit for I do not know how long. Without a PIK program there would be more going broke all the time; people out there raising food, subsidizing the consumers of America's food bill by 40 percent year after year, so the consumers of America are buying food cheaper than any consumer in any country in the world.

We have got the small business people of America sacrificing as well, many of them going broke, sacrificing by putting in longer hours, maybe not taking home a paycheck from their business, maybe having to lay off some people so the owners have to put in more time. They are working longer hours and earning less. If the farmers and the small businessmen of America can demonstrate sacrifice, can we not follow that signal and show the same sort of sacrifice in the budgeting process that we are involved in here?

We are members of the board of directors of the biggest corporation in the world, the Federal Government, which is our corporation. We are not showing the sacrifices that other people in the private sector are showing. They ought to be looking to us for leadership but they cannot even look to us for followership. In a representative government, if you believe in the representative form of government as opposed to our being trustees for the people, then I think the least we ought to do is be able to follow direction from the grassroots to a considerable extent.

If you do not want to take a lesson from the grassroots of America, just read about the changes being made by the parliamentary bodies of the little country of the Netherlands. Austere economic programs have been instituted there within the last month. Or let us look at the Socialist-Communist government of France. You may have just read within the last month, probably as a result of the municipal elections that were just held there, that a signal that was sent by that electorate, for the Government to make dramatic changes in its economic policies because they know they cannot go on any longer with big budget deficits that bring the high borrowing and the high interest, and a negative balance of payments.

Just within the last 10 days in our country to the north, Canada, Prime Minister Trudeau submitted a budget that showed that he and his government are going to respond in a more austere way to the economic plight of that nation than we are willing to do here.

Everybody it seems, is willing to sacrifice except those of us who administer government programs, those of us who make policy for the programs that are administered and those who benefit from those programs. I think the message they are trying to send to us is that "We are tightening our belt, why cannot the Government of the United States tighten its belt?" I feel that without increasing taxes, which I have already said I do not propose to do for the reasons already given, that adopting my budget will give the least deficit of any of the budgets that have been put before this body.

I do that in the name of representative government, that we respond to the grassroots, that we respond to the examples that have been set by the people, and that we do it in a way that shows the same belt tightening that our constituents, our taxpaying constituents, all 220 million people of this country, have been willing to demonstrate.

The PRESIDING OFFICER. Who yields time?

Mr. QUAYLE. Mr. President, I will be very brief. I certainly want to pay my respects to the Senator from Iowa who has for a very long time diligently fought to lower the deficits. He did that when he was in the House of Representatives and he is trying to do that as a Member of the U.S. Senate. He has always showed a great deal of sensitivity toward spending, whether it be on defense or nondefense. I certainly commend him for his endeavors in trying to work to get a hold of the budget.

However, Mr. President, I would really strongly register a disagreement on freezing national defense at the 1983 levels. I personally believe it would be absolutely disastrous for this country to do that at this particular time. It would irreparably damage our national security. And though it is part of a concept of a freeze, I think it would be very ill-advised to support the suggestion of the Senator from Iowa, though much of the recommendations that he makes are certainly worth discussion and would certainly warrant my support. But I believe freezing national defense at the 1983 levels would prove to be a very wrong and a very dangerous thing for this country to do at this particular time.

Mr. President, I suggest the absence of a quorum and ask that the time be charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. JEPSEN). Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I am prepared to yield back time in opposition to the amendment, but I understand the distinguished Senator from Iowa desires a few more minutes.

Mr. GRASSLEY. The chairman is correct.

Before I yield back my remaining time, Mr. President, I would like to make one last comment on the statement that the Senator from Indiana gave in opposition to my amendment. I appreciate the fact that he complimented me on my efforts, even though he said he did not agree with me. He spoke against only one part of my amendment. That dealt with my defense levels. He concluded by saying that he did not feel that we could get by on that small amount of expenditures for national defense, that we ought to have a larger amount.

I respect his judgment on that, but I just ask that Senator, as well as any other Senator, to think in terms of what increased spending has done for our national defense. I am talking about the highest level of defense expenditures we have ever had. It has driven up costs dramatically over what we have projected. In fact, if cost overruns mean anything, even at the 10-percent level that the President wanted, we may be talking about, in the next 5 years, $200 billion in cost overruns.

Second, it has lowered the quantities of defense weapons than we have planned for. More money has not given us more defense.

Third, it has lowered our readiness capability. When you look at the results of the highest increase in defense expenditures we have ever had, you cannot see good results coming from it. In other words, more money does not mean more defense.

This is, of course, all a result of deficiencies in our defense procurement process. I think we should flat-line the defense budget until these structural deficiencies are corrected; in other words, when we make a decision to spend more money on defense, we know we are going to get more defense.

With that statement, Mr. President, I yield back my time.

Mr. DOMENICI. Mr. President, I yield back the time in opposition.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment (No. 1232) was rejected.

Mr. DOMENICI. I move to reconsider the vote by which the amendment was rejected.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, would the manager of the bill yield to me for a brief time?

Mr. DOMENICI. I am pleased to yield to the majority leader.

Mr. BAKER. Mr. President, that is the last amendment we shall deal with tonight; hence, there will be no more record votes tonight. It is now almost 8:15 p.m. Today, we have consumed 7 hours and about 45 minutes of the 50 hours under the act. So far, altogether, we have consumed about 13 hours; there are about 37 hours remaining. We did not come even close to the 10 hours that I hoped we would utilize today, but I hope that we are able to do a little better than that tomorrow. There is already an order for the Senate to convene at 10 a.m. tomorrow. I believe there are no requests for special orders.

ORDER FOR PERIOD FOR ROUTINE MORNING BUSINESS TOMORROW AND FOR CONSIDERATION OF THE PENDING BUSINESS

Mr. BAKER. Mr. President, I see the minority leader is here. I mentioned this to him earlier, so I believe it will not be a surprise to him.

I ask unanimous consent that, after the recognition of the two leaders under the standing order, the time remaining, if any, between that time and 10:30 a.m. be devoted to the transaction of routine morning business, in which Senators may speak for not more than 2 minutes each and that, at the hour of 10:30 a.m., tomorrow, the Senate resume consideration of Senate Concurrent Resolution 27.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, tomorrow will be a busy day. I expect once again that we shall run until 8:30 or 9 p.m. I had hoped to consume 10 hours of time today. We did not quite get 8 hours, but that is still not bad. Tomorrow, the leadership on this side, at least, is hopeful that we can get at least 8 hours and maybe more.

Once again, I expect that we shall be in on Friday, with a similar objective.

Mr. President, I am ready to go off this resolution at this time and to provide a brief time for wrapup and for other morning business, if the minority leader is prepared.

Mr. BYRD. I am ready.

Mr. BAKER. If the managers are agreeable, we shall leave the resolution at this time.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business to extend not beyond the hour of 8:30 p.m., in which Senators may speak.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

THE CALENDAR

Mr. BAKER. Mr. President, I have a number of items that are cleared for action by unanimous consent on my calendar. I ask the minority leader if he is prepared to consider all or any of the following measures: Calendar Order Nos. 110, 111, 112, 113, 114, and 115.

Mr. BYRD. Mr. President, all of the calendar order numbers named by the majority leader have been cleared on this side.

Mr. BAKER. I thank the minority leader.

In view of that, Mr. President, I ask unanimous consent that the Senate turn to consideration of those measures.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

NATIONAL NURSE RECOGNITION DAY

The joint resolution (S.J. Res. 66) to authorize and request the President to designate May 6, 1983, as "National Nurse Recognition Day" was considered.

The joint resolution was engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. Res. 66

Whereas nurses constitute the largest single health care group in the country; and

Whereas nurses are the ones who are always there—providing care in our Nation's hospitals twenty-four hours a day, seven days a week—and in community clinics, schools, nursing homes, industry, physician's offices, and patient's homes; and

Whereas nurses play a crucial role in health education and disease and injury prevention; and

Whereas nursing support of patients and families is essential to rehabilitation and restoration of health; and

Whereas nursing requires a high level of scientific knowledge, specialized skill, empathy and compassion; and

Whereas nurses provide cost-effective, quality and underutilized services: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating May 6, 1983, as "National Nurse Recognition Day", and calling upon the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL RESPIRATORY THERAPY WEEK

The joint resolution (S.J. Res. 67) to designate the week of September 25, 1983, through October 1, 1983, as "National Respiratory Therapy Week" was considered engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. Res. 67

Whereas respiratory therapy is recognized as a highly technological and progressive segment of the health care delivery system in the United States;

Whereas there are over eighty thousand respiratory therapy practitioners in the Nation who are making an important contribution to the delivery of quality health care;

Whereas respiratory therapy is an integral part of critical care and general medicine;

Whereas respiratory therapists are involved with therapeutic and life-sustaining cardiopulmonary care to patients suffering from lung and associated heart disorders; and

Whereas in recent years the field of respiratory therapy has expanded to include postoperative pulmonary care, education, research, pulmonary testing, pulmonary rehabilitation, and neonatal-pediatric specialties; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 25, 1983, through October 1, 1983, is designated as "National Respiratory Therapy Week" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL ATOMIC VETERANS' DAY

The joint resolution (S.J. Res. 68) to authorize and request the President to designate July 16, 1983, as "National Atomic Veterans' Day," was considered.

NATIONAL ATOMIC VETERANS DAY

● **Mr. SPECTER.** Mr. President, I support Senate passage of Senate Joint Resolution 68, a joint resolution to designate July 16, 1983, as "National Atomic Veterans Day." This joint resolution enjoys the bipartisan cosponsorship of 34 of my distinguished Senate colleagues.

Beginning in 1945, and continuing until 1963, the United States detonated some 235 nuclear weapons in atmospheric tests conducted in the Pacific and the American Southwest. The Department of Defense has estimated that approximately 250,000 American servicemen and women witnessed and participated in these tests, or served in the occupation forces in Hiroshima and Nagasaki immediately following World War II.

Nuclear weapons testing was heaviest during the midfifties. At many tests, 3,000 to 4,000 troops were positioned near detonation sites. At other tests, units were marched or helicoptered to ground zero shortly after the explosion. In some instances, volunteer service personnel were placed in open trenches as close as 2,000 yards from ground zero, and, at one test, six volunteers stood at ground zero under an airburst some 20,000 feet above them.

There is no question that many patriotic individuals were exposed to radiation resulting from nuclear weapon detonations. Having served their country, these veterans returned to civilian life not realizing the potential gravity of the consequences of exposure. Now, 20 and 30 years later, we are beginning to see unusually high incidence of cancer and other radiation-related degenerative diseases among these veterans.

Recognizing the patriotism and dedication demonstrated by the atomic veterans, it is imperative that the U.S. Government make every effort to resolve the issues arising from exposure of the atomic veterans to ionizing radiation. Were we merely debating the analytical question of possible adverse health effects in a purely academic forum, we could perhaps afford to wait. But this problem is not theoretical. Atomic veterans are today the living embodiment of a technology which may be sapping them of their vitality and longevity, and further, a technology which may have tampered with the gene pool of future generations.

The contribution of this patriotic group of veterans has gone unrecognized for too long. If only by virtue of the unique sacrifices made by these veterans in service of their country, they should have been honored by a special day long ago.

By passing this proclamation for National Atomic Veterans Day, we will not be able to reverse the possible ill-effects associated with exposure to ionizing radiation during atmospheric nuclear testing. Instead, this proclamation will enable more Americans to hear the story of these patriotic men and women who fought the cold war for the security of the country they loved so dearly. A proclamation for National Atomic Veterans Day will remind our atomic veterans that our Nation has not forgotten their contribution toward the security and freedom we too easily take for granted.

Mr. President, July 16, 1983, marks the 38th anniversary of "Trinity," the first detonation of an atomic weapon. My colleagues and I therefore believe that it is appropriate to have that day declared National Atomic Veterans Day in recognition of the importance of resolving issues related to the exposure of these veterans to ionizing radiation. I urge unanimous consent for its passage.●

● Mr. DeCONCINI. Mr. President, I am pleased to be an original cosponsor of Senator Specter's resolution, Senate Joint Resolution 68, to establish July 16, 1983 as "National Atomic Veterans' Day." July 16 is the 38th anniversary of the first detonation of an atomic weapon and I believe this resolution is an appropriate way in which to focus public attention on the plight of our veterans who were exposed to ionizing radiation during our atomic testing program or who were among the occupation forces at Hiroshima or Nagasaki.

Many of these veterans are now suffering from cancer, and other serious or terminal illnesses. Yet, the Government has long ignored their health problems. I was pleased to be a cosponsor of legislation enacted in the 97th Congress, Public Law 97-72, which provided our atomic veterans with health care eligibility at our Veterans' Administration Medical Centers. I am also pleased that the Senate Veterans' Affairs Committee held oversight radiation hearings earlier this year. Through testimony of distinguished representatives from radiation research organizations and physicians, the committee was able to obtain valuable information on the progress being made by science in demonstrating the causal relationship between radiation exposure and specific diseases. Although much of the evidence currently available on radiation exposure is inconclusive, and the precise relationship between an illness and radiation dosage is still unknown, medical science has established a definite connection between certain levels of radiation exposure and certain cancers.

From August 14, 1981 through December 1, 1982, the Veterans' Administration has reviewed 1,982 cases relating to radiation exposure as a result of our nuclear weapons tests. Among those cases, 793 veterans were suffering from varying diagnoses of malignancies. And, of 3,224 veterans involved in a 1957 nuclear test explosion, there is an incidence of leukemia which is nearly three times higher than normal. Clearly, evidence such as this cannot be ignored. It is my firm belief that the Government has an obligation to vigorously pursue its research efforts until this issue is ultimately resolved.

Mr. President, I urge all my colleagues to support this resolution. Although it will not resolve the health problems of our atomic veterans, it will reassure them that they have not been forgotten and that the Nation is deeply indebted to them for the sacrifices they have made in the preservation of our cherished freedoms.●

The joint resolution was engrossed for a third reading, read a third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. Res. 68

Whereas approximately two hundred and fifty thousand veterans of the United States, while serving in the active military, naval, or air service during the period beginning in 1945 and ending in 1963, witnessed and participated in at least two hundred and thirty-five atmospheric nuclear weapons tests conducted in the Pacific Ocean and the Southwestern United States or served in Hiroshima or Nagasaki during the period of the occupation of Japan by the military forces of the United States immediately following World War II;

Whereas these Atomic Veterans patriotically served their country meeting the needs of national defense during this critical period in history;

Whereas the health of many of the Atomic Veterans and of many of the natural children of such veterans may have been adversely affected by the exposure of such veterans to ionizing radiation from the detonation of atomic or nuclear weapons;

Whereas the Congress recognizes the patriotism and dedication of the Atomic Veterans and the importance of resolving the issues arising from the problems caused by the exposure of the Atomic Veterans to ionizing radiation; and

Whereas July 16, 1983, is the anniversary of "Trinity", the first detonation of an atomic weapon, which took place at Alamogordo Air Force Base in New Mexico on July 16, 1945: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating July 16, 1983, as "National Atomic Veterans' Day" and calling upon all Federal, State, and local government agencies and people of the United States to observe the day with appropriate programs, ceremonies, and activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENIOR CENTER WEEK

The joint resolution (S.J. Res. 83) to recognize Senior Center Week during Senior Citizen Month as proclaimed by the President was considered, engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. Res. 83

Whereas local communities support over eight thousand senior centers and there is hardly a city or town without one;

Whereas senior centers affirm the dignity, self-worth, and independence of older persons by facilitating their decisions and action, tapping their experiences, skills, and knowledge, and enabling their continued contribution to the community;

Whereas, as encouraged and supported by the Older Americans Act, senior centers function as service delivery focal points, helping older persons to help themselves and each other, and offering service or access to community services as needed; and

Whereas the month of May has historically been proclaimed Older Americans Month, and communities across the country are giving special recognition to older persons and the role of senior centers in serving them: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second week in May, beginning with Mother's Day, May 8, 1983, is designated as "Senior Center Week" and the President is requested to include this designation of Senior Center Week as part of the proclamation he issues for Older Americans Month, calling upon the people of the United States to honor older Americans and these local organizations that bring together activities and services for their benefit.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SIMON BOLIVAR

The concurrent resolution (S. Con. Res. 14) in commemoration of the bicentennial of the birth of Simon Bolivar, hero of the independence of the Americas, was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. Con. Res. 14

Whereas July 24, 1983, marks the bicentennial of the birth of Simon Bolivar, hero of the independence of the Americas;

Whereas Simon Bolivar offered his life to democratic ideals and created a legacy of freedom and independence;

Whereas Simon Bolivar, with his actions and patriotic commitment, forged the nationhood of Bolivia, Colombia, Ecuador, Panama, Peru, and Venezuela;

Whereas, through his political initiative, Simon Bolivar developed the ideal of Pan-Americanism based on independence, sovereignty, unity, and solidarity, and developed the right of all nations to live in peace; and

Whereas Simon Bolivar was the architect of the Treaty of Union, League and Perpetual Confederation at the historical Congress of Panama in 1826, implanting the roots of the oldest international system of cooperation among nations: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) expressing the sentiments of the people of the United States, extolls this illustrious figure, Simon Bolivar;

(2) recognizes July 24, 1983, through July 23, 1984, as the bicentennial year of the birth of Simon Bolivar, hero of the independence of the Americas;

(3) calls upon the President to issue a proclamation commemorating the ideals and example of Simon Bolivar;

(4) declares its intention to send a congressional delegation to Venezuela in July 1983 to represent the United States in the official ceremonies of observance of the bicentennial of the birth of Simon Bolivar; and

(5) calls upon the Librarian of Congress, acting through the Congressional Research Service, to conduct a study on the impact of Simon Bolivar on the United States.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL PRODUCT SAFETY WEEK

The resolution (S. Res. 106) to commemorate the 10th anniversary of the United States Consumer Product Safety Commission by designating the week of May 8, 1983, through May 14, 1983, as "National Product Safety Week."

The resolution, with its preamble, is as follows:

S. RES. 106

Whereas there were approximately thirty-four million one hundred and fifty thousand accidental injuries and twenty-seven thousand five hundred deaths associated with consumer products in the United States last year;

Whereas accidental injuries and deaths associated with consumer products, although reduced in recent years, continue to occur in the United States;

Whereas the effort to prevent accidents associated with consumer products is a shared responsibility of industry, consumers, and government;

Whereas heightened awareness of accident prevention programs provides greater opportunities for communities, consumer groups, trade associations, and government to continue reducing these consumer product accidents; and

Whereas the week of May 8, 1983, is the tenth anniversary of the United States Consumer Product Safety Commission which has been a leader in protecting the public against unreasonable risks of injury associated with consumer products: Now, therefore, be it

Resolved, That it is the sense of the Senate that in order to heighten awareness among the American people of hazards associated with consumer product use, together with means by which those hazards may be lessened, the week of May 8, 1983, through May 14, 1983, be designated as "National Product Safety Week" in commemoration of the tenth anniversary of the United States Consumer Product Safety Commission, and that the President be requested to issue a proclamation calling upon the American people to observe the week with appropriate programs, ceremonies, and activities.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the President.

Mr. BAKER. I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move the motion to lay on the table.

The motion to lay on the table was agreed to.

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, I have certain items on today's Executive Calendar which have been cleared for action by unanimous consent on this side, and once again I inquire of the minority leader if he is in a position to consider those items beginning on page 3 under New Reports on the Judiciary through page 4, which is the end of today's Executive Calendar.

Mr. BYRD. Mr. President, in response to the distinguished majority leader, this side of the aisle is prepared to proceed on all nominations on the calendar with the exception of Calendar Order No. 128 and Calendar Order No. 130.

Mr. BAKER. I thank the Senator.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering nominations as follows: Calendar Order No. 126 under the judiciary, 127 under the judiciary, and 129 under the Department of Justice, and also in respect to consideration of the removal of an injunction of secrecy.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

THE JUDICIARY

The assistant legislative clerk read the nomination of Joel M. Flaum, of Illinois, to be U.S. circuit judge for the seventh circuit.

The **PRESIDING OFFICER.** The nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The assistant legislative clerk read the nomination of Ricardo H. Hinojosa, of Texas, to be U.S. district judge for the southern district of Texas.

The **PRESIDING OFFICER.** The nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF JUSTICE

The assistant legislative clerk read the nomination of Rudolph W. Giuliani, of New York, to be U.S. attorney for the southern district of New York for the term of 4 years.

The **PRESIDING OFFICER.** The nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified of these nominations.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY – INTERNATIONAL COFFEE AGREEMENT, 1983 (TREATY DOCUMENT 98-2)

Mr. BAKER. Mr. President, I have one other executive session item. I will state it now for the consideration of the minority leader and other Senators.

I ask unanimous consent that the injunction of secrecy be removed from the International Coffee Agreement, 1983, Treaty Document 98-2, transmitted to the Senate today by the President of the United States, and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I am transmitting herewith, for the advice and consent of the Senate to ratification, the International Coffee Agreement 1983. This Agreement would enter into force October 1, 1983, for a period of six years. I am the fifth President since 1962 to seek favorable Senate consideration of a new or extended International Coffee Agreement. The 1983 Agreement is similar in many respects to those of 1962, 1968 and 1976, but it contains several improvements of importance to the United States. I strongly urge that the Senate give advice and consent to ratification of this Agreement, thus signaling that the spirit of cooperation which has characterized the international coffee community these past 20 years will be continued and strengthened.

Coffee is vitally important to a large number of friendly, developing countries in Latin America, Africa and Asia. In terms of value, it is the most important agricultural commodity exported by developing countries. In 1981, coffee exports by these nations amounted to $8 billion. Eighteen countries obtained more than 20 percent of their total export earnings from coffee. Altogether 71 countries participated in the negotiation of the International Coffee Agreement 1983 and are expected to join it. In 1982 the United States imported $2.7 billion worth of coffee, 30 percent of the amount traded internationally.

The International Coffee Agreement 1983 represents the latest development in twenty years of United States leadership in international coffee cooperation. The impetus for the first International Coffee Agreement in 1962 came from the United States and Brazil. We participated actively in the negotiation and implementation of subsequent agreements in 1968 and 1976. The 1976 Agreement, successfully negotiated in a difficult period immediately following the disastrous 1975 frost in Brazil, has been generally successful in keeping coffee prices within the agreed range once quotas came into effect in late 1980.

The basic framework of the 1983 Agreement is similar to that of the 1976 Agreement:

—Its objective is to stabilize the price of coffee within a range that is acceptable to both consumers and producers.

—Its principal economic provision is a system of country export quotas which are decreased when prices are declining and increased when prices are rising in order to seek to keep the price of coffee within the agreed range. In periods of exceptionally high prices quotas are suspended altogether in order to encourage maximum exports. The quota system is enforced by the importing members.

—It promotes the maintenance of adequate coffee stock levels by making each producing country's export quota partially dependent on its level of stocks. These stocks can be released in a period of high prices to put immediate downward pressure on the market.

In the 1983 Agreement, however, the United States sought and achieved several improvements:

—An enhanced role for importing countries in the determination of individual country export quotas.

—More effective provisions regarding the declaration of export shortfalls to assure that export quotas remain realistic.

—Language clarifying the obligation of producers to refrain from market activities outside the scope of the Agreement.

International Coffee Agreements have aimed at balancing the economic interests of producers and consumers, and each has been an improvement over the predecessor in this regard. Like the previous Agreements, the 1983 Agreement is intended to stabilize coffee prices for short-run periods along long-term market trends. The Agreement itself contains no fixed price objective; rather, each year the members of the Agreement will establish a price range based on current production and consumption trends, inventory levels, and other factors that influence the market.

I believe that the International Coffee Agreement 1983 represents an important element in the continuation of the cooperation between coffee-producing and consuming countries. It provides the framework and the flexibility for the United States to continue the special relationship we have fostered with the coffee countries since 1962.

I recommend that the Senate give early and favorable consideration to this Agreement and its advice and consent to ratification. The United States Trade Representative will separately submit proposed legislation to implement the Agreement through September 30, 1989.

RONALD REAGAN.

THE WHITE HOUSE, *May 4, 1983.*

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 10:28 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1011. An act to amend the Federal Deposit Insurance Act to provide for the issuance of income capital certificates.

ENROLLED BILL SIGNED

At 12:14 p.m., a message from the House of Representatives delivered by Mr. Gregory announced that the Speaker has signed the following bill:

S. 1011. An act to amend the Federal Deposit Insurance Act to provide for the issuance of income capital certificates.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 4, 1983, he presented to the President of the United States the following enrolled bill:

S. 1011. An act to amend the Federal Deposit Insurance Act to provide for the issuance of income capital certificates.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-979. A communication from the Comptroller General of the United States transmitting, puruant to law, a list of General Accounting Office reports for the month of March 1983; to the Committee on Governmental Affairs.

EC-980. A communication from the Acting Director of the U.S. Information Agency transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-981. A communication from the Secretary of Housing and Urban Development transmitting, pursuant to law, a report on Indian and Alaska Native housing and community development programs; to the Select Committee on Indian Affairs.

EC-982. A communication from the Director of the National Institute of Corrections transmitting, pursuant to law, the seventh annual report of the institute; to the Committee on the Judiciary.

EC-983. A communication from the General Counsel of the Department of Defense transmitting a draft of proposed legislation to repeal section 5(b) of the Subversive Activities Control Act of 1950, as amended; to the Committee on the Judiciary.

EC-984. A communication from the executive director of the Pennsylvania Development Corporation transmitting, pursuant to law, the 1982 report on activities under the Freedom of Information Act; to the Committee on the Judiciary.

EC-985. A communication from the Chairman of the Board of Directors of the Federal Reserve System transmitting, pursuant to law, a report on activities of the Federal Open Market Committee during 1982 under the Freedom of Information Act; to the Committee on the Judiciary.

EC-986. A communication from the Assistant Secretary for Vocational and Adult Education of the Department of Education transmitting, pursuant to law, the Annual Report of the Community Education Advisory Council for 1982; to the Committee on Labor and Human Resources.

EC-987. A communication from the Secretary of Education transmitting, pursuant to law, a report on the allocation of work years for fiscal 1983; to the Committee on Labor and Human Resources.

EC-988. A communication from the Chairman of the Railroad Retirement Board transmitting, pursuant to law, the Board's annual report for fiscal year 1981; to the Committee on Labor and Human Resources.

EC-989. A communication from the chairman of the National Advisory Committee on Oceans and Atmosphere transmitting, pursuant to law, a report on the Nation's river and flood forecasting and warning service; to the Committee on Commerce, Science, and Transportation.

EC-990. A communication from the Secretary of Commerce transmitting, pursuant to law, the annual report on the activities of the national climate program for fiscal year 1981; to the Committee on Commerce, Science, and Transportation.

EC-991. A communication from the General Counsel of the Department of Energy transmitting, pursuant to law, notice of a meeting related to the international energy program; to the Committee on Energy and Natural Resources.

EC-992. A communication from the Federal Inspector of the Alaska Natural Gas Transportation System transmitting, pursuant to law, a quarterly report summarizing the significant project developments occurring from January through March 1983 on the Alaska Natural Gas Transportation System; to the Committee on Energy and Natural Resources.

EC-993. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, a Soil Conservation Service plan for the Brundage Watershed, Idaho; to the Committee on Environment and Public Works.

EC-994. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, the Department's report on State medicaid program compliance with section 1903(g) of the Social Security Act; to the Committee on Finance.

EC-995. A communication from the Acting Staff Director of the U.S. Commission on Civil Rights transmitting, pursuant to law, the calendar year 1982 report of the Commission's compliance with the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC-996. A communication from the Director of Manpower Planning and Analysis of the Department of Defense transmitting, pursuant to law, the fiscal year 1982 actuarial report on the military retirement system; to the Committee on Governmental Affairs.

EC-997. A communication from the Chief Justice of the Supreme Court transmitting amendments to the Federal Rules of Criminal Procedures which have been adopted by the Supreme Court; to the Committee on the Judiciary.

EC-998. A communication from the Chief Justice of the Supreme Court transmitting amendments to the Federal Rules of Civil Procedures which have been adopted by the Supreme Court; to the Committee on the Judiciary.

EC-999. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on the implementation of the Age Discrimination Act of 1975 during fiscal year 1982; to the Committee on Labor and Human Resources.

EC-1000. A communication from the Secretary of Education transmitting, pursuant to law, a document concerning final funding priorities for research and training centers for the National Institute of Handicapped Research and fiscal year 1983; to the Committee on Labor and Human Resources.

EC-1001. A communication from the Chairman of the National Commission on Libraries and Information Science transmitting, pursuant to law, the Commission's fiscal year 1982 report; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, with amendments:

S. 549. A bill to amend title 11, United States Code, to improve the protections for shopping centers and their tenants under the Bankruptcy Code (Rept. No. 98-70).

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, without amendment and with a preamble:

S.J. Res. 69. Joint resolution to provide for the establishment of a cooperative effort between the U.S. Government and the U.S. Soccer Federation in bringing the World Cup to the United States in 1986.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. McCLURE, from the Committee on Energy and Natural Resources:

Theodore J. Garrish, of Virginia, to be General Counsel of the Department of Energy.

(The above nomination was reported from the Committee on Energy and Natural Resources with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. ROTH, from the Committee on Governmental Affairs:

John Lathrop Ryan, of Indiana, to be a Governor of the U.S. Postal Service for the remainder of the term expiring December 8, 1989.

Maria Lucia Johnson, of Alaska, to be a Member of the Merit Systems Protection Board for the term of 7 years expiring March 1, 1990.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PERCY (by request):

S. 1198. A bill to amend the Board for International Broadcasting Act of 1973 to authorize RFE/RL, Incorporated to retain the gains resulting from the fluctuations in foreign currency rates; to the Committee on Foreign Relations.

By Mr. INOUYE:

S. 1199. A bill for the relief of Mrs. Evelyn R. Millare; to the Committee on the Judiciary.

By Mr. TRIBLE (for himself and Mr. East):

S. 1200. A bill entitled the "National Right to Work Bill"; to the Committee on Labor and Human Resources.

By Mr. MATHIAS (for himself and Mr. Hart):

S. 1201. A bill to amend title 17 of the United States Code to protect semiconductor chips and masks against unauthorized duplication, and for other purposes; to the Committee on the Judiciary.

By Mr. WEICKER (by request):

S. 1202. A bill to amend the Small Business Act to totally remove agricultural enterprises from eligibility for assistance under the Small Business Administration's disaster and business loan programs; to the Committee on Small Business.

S. 1203. A bill to amend the Small Business Act to permit the Small Business Administration to cooperate with profitmaking as well as nonprofitmaking organizations in providing management assistance to small business; to the Committee on Small Business.

By Mr. HART:

S. 1204. A bill to provide lower utility rates for subsistance amounts of natural gas and electricity supplied to elderly and low-income residential consumers; to the Committee on Energy and Natural Resources.

By Mr. LEVIN:

S. 1205. A bill to amend the Small Business Act; to the Committee on Small Business.

By Mr. PRYOR (for himself, Mr. Matsunaga, Mr. Sasser, Mr. Pell, Mr. Inouye, and Mr. Andrews):

S. 1206. A bill to amend titles II and XVI of the Social Security Act to make it clear that administrative law judges engaged in reviewing disability cases under the OASDI and SSI programs may not be rated or evaluated on the basis of the percentage of such cases which they decide in favor of or against the claimant; to the Committee on Finance.

By Mr. BENTSEN:

S. 1207. A bill for the relief of Freddie P. Marasigan; to the Committee on the Judiciary.

By Mr. HELMS (by request):

S. 1208. A bill to improve the cost of and improve the food stamp program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 1209. A bill to simplify the administration, contain escalating costs and create greater flexibility in the operation of programs under the National School Lunch Act and the Child Nutrition Act of 1966; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BAKER (for himself and Mr. Sasser):

S. 1210. A bill to amend the Internal Revenue Code of 1954 to provide that the election to use the alternate valuation date for purposes of the estate tax may not be made under certain circumstances and to permit an election to be made on a return that is filed late; to the Committee on Finance.

By Mr. HOLLINGS:

S. 1211. A bill to repeal certain restrictions on natural gas and petroleum use and pricing in new or existing power plants for the purpose of reducing emissions; to the Committee on Energy and Natural Resources.

By Mr. EAST (for himself, Mr. Helms, Mr. Stennis, Mr. Heflin, Mr. Nunn, Mr. Specter, and Mr. Stevens):

S.J. Res. 93. Joint resolution to designate the month of September each year as "National Serving Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GORTON (for himself and Mr. Jackson):

S. Res. 130. Resolution expressing the sense of the Senate that the President should award the Presidential Medal of Freedom to Barney Clark, to be presented to his family in his memory; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY (by request):

S. 1198. A bill to amend the Board for International Broadcasting Act of 1973 to authorize RFE/RL, Inc. to retain the gains resulting from the fluctuations in foreign currency rates; to the Committee on Foreign Relations.

AMENDING BOARD FOR INTERNATIONAL BROADCASTING ACT OF 1973

Mr. PERCY. Mr. President, by request, I introduce for appropriate reference a bill to amend the Board for International Broadcasting Act of 1973.

This legislation has been requested by BIB and I am introducing the proposed legislation in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with a sectional analysis of the bill and the letter from the Executive Director of the Board for International Broadcasting to the President of the Senate dated April 20, 1983.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1198

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FOREIGN CURRENCY GAINS

SEC. 2. Section 8(b) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877)(a) is amended to read as follows—

"(b) Any amount appropriated pursuant to subsection (a)(1) of this section which, because of upward fluctuations in foreign currency exchange rates, is in excess of the amount necessary to maintain the budgeted level of operation for RFE/RL, Incorporated may, beginning in the fiscal year 1983, be merged with and made available for the same time period and same purposes as amounts appropriated pursuant to section 8(a)(2) of this Act."

SECTIONAL ANALYSIS

SEC. 2. This paragraph authorizes Radio Free Europe/Radio Liberty, Incorporated to retain in its Currency Devaluation Fund appropriated funds which, because of upward fluctuations in foreign currency exchange rates, are in excess of the amount necessary to maintain its budgeted level of operation, in order that such excess funds might remain available until expended expressly to offset adverse fluctuations in foreign currency exchange rates in any fiscal year. The Currency Devaluation Fund would then be administered in a way similar to that used by the Department of State for its Buying Power Maintenance Fund.

BOARD FOR INTERNATIONAL
BROADCASTING,
Washington, D.C., April 20, 1983.

Hon. GEORGE BUSH,
President of the Senate, U.S. Senate, Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith an addition to proposed legislation originally transmitted to you on February 25 to amend the Board for International Broadcasting Act of 1973 and to authorize appropriations for the Board to carry out its responsibilities as specified in that Act.

The proposed legislation provides for the merger with amounts appropriated under Section 8(a)(2) of the Act of any amount appropriated under this section which, because of upward fluctuations in foreign currency exchange rates, is in excess of the amount necessary to maintain the budgeted level of operation for RFE/RL, Incorporated.

A sectional analysis explaining the proposed legislation is enclosed.

The Office of Management and Budget has advised the Board that there is no objection to the presentation of this proposal to the Congress and that its enactment would be in accord with the program of the President.

Respectfully,

WALTER R. ROBERTS,
Executive Director.

By Mr. MATHIAS (for himself and Mr. HART):

S. 1201. A bill to amend title 17 of the United States Code to protect semiconductor chips and masks against unauthorized duplication, and for other purposes; to the Committee on the Judiciary.

SEMICONDUCTOR CHIP PROTECTION ACT OF 1983

● Mr. MATHIAS. Mr. President, I have spoken many times in this Chamber and elsewhere about the need to bring our laws into step with modern technology. If new technologies are to thrive in this Nation, we must provide them with the protections they need to prosper. So, with that in mind, the Senator from Colorado (Mr. HART) and I are introducing the Semiconductor Chip Protection Act of 1983, which will provide the semiconductor chip industry with copyright protection against "chip piracy."

The semiconductor chip is the direct descendant of the giant computers of the 1940's. A Neanderthal like the 30-ton ENIAC was an enormous maze of flashing lights and vacuum tubes—it occupied the area of a small house. The newest breed of computer is typically a quarter-inch square of silicon wafer no bigger than a baby's fingernail. Yet, a chip can hold 100 times more electronic components than ENIAC—hundreds of thousands of components in all. And it works harder and faster with fewer breakdowns and less energy consumption than its ancestor, at a fraction of the cost.

When we marvel at the wonders of modern technology, it is usually the work of the chip we are admiring. The microprocessor, the "computer on a chip," has made many of our modern day conveniences possible. The chip is in the home, making dinner in the microwave oven, setting the thermostat and tuning the radio; it is in the supermarket, adding up our purchases; it is in the car, controlling fuel consumption; it is in the hospital, helping doctors diagnose disease; it is in the schools, instructing our children; and it is in the office, doing the typing, the recordkeeping, and almost everything else. And, the microprocessor is the brain of the consumer product that may revolutionize the way we live today—the personal computer.

Chip designs are constantly being upgraded and refined. Every year engineers double the number of components they can fit on a chip—at present, they can accommodate more than 450,000. By 1990, they hope to squeeze 10 million transistors onto a single chip. As chips increase in complexity, we will find more and more ways to use them—some already in the experimental stage, and others as yet unimagined.

The chip will help translate into reality the science fiction dream of autonomous and semi-intelligent robots. Naval scientists hope that such robots will soon pilot ships, conduct rescue missions and retrieve valuable information from sunken vessels. Already, robots have been developed that can see, feel, and make simple deductions. A complex chip with a million transistors might help medical technologists perfect experimental devices which will help the blind see and the deaf hear. Computers will become increasingly "reasonable" and will operate more and more like the human mind. When personal computers are able to understand and respond to the human voice, they will be truly "user friendly."

But our progress toward these technological wonders may be delayed or frustrated if something is not done to protect the products of innovative chip designers from piracy and theft.

High tech firms spend huge amounts of time and money on producing semiconductor chips. Engineers design intricate layouts of circuitry analogous to the architect's blueprint. Like the architect, the chip designer must find the most elegant solution to a specified set of needs and problems. Concentrating hundreds of thousands of transistors into such a tiny space is in itself no easy task; the real challenge is in finding ways to maximize and diversify the electronic possibilities of the transistors.

Chip production is a fine and costly art. The design for the tiny chip is first laid out in a plan many feet square; then, small photographic "masks" are prepared, from which the image is transferred onto a silicon wafer, usually by a process similar to silk screening. Several layers like these are built up, and the chip is born. The entire procedure—from conception to completion of the chip—can take the innovating firm years, consuming millions of dollars and thousands of hours of the engineers' and technicians' time.

Yet, these innovators are being ripped off by onshore and offshore "chip pirates," who, for less than $50,000, can now legally appropriate and use these chip designs as their own. All they need do is buy a computer or other device on the open market, remove its chips, scrape off the protective plastic coating, photograph the circuitry, enlarge these photographs and study the designs in order to produce their own masks and thus their own chips. Then, the pirate firm can flood the market with cheap products. They can sell their products cheaply because they make them cheaply—after all, the innovating firm already paid the R&D costs. The high tech pirate, like any other, catches a free ride on the creativity, financial investment, and hard work of others.

That is why we are introducing this bill to give copyright protection to computer chip designs. Current law gives only very limited protection to semiconductor chips. Patent law can protect the basic electronic circuitry used in the chip, but not its carefully developed design. By giving chip engineers and manufacturers copyright protection for a 10-year period, this bill will protect their R&D investment. It will also protect innocent purchasers of pirated chips, by including a compulsory licensing provision allowing them to use that chip after paying a royalty to the innovating firm, thus eliminating any liability for innocent infringement.

Chip piracy reduces the incentive for our innovative semiconductor industry to invest in the development of new chips. Some may view my legislative response to the problem as protectionist, but I do not believe it is. I do not advocate protecting an industry collapsing under the weight of its own inefficiency, but I do believe that creative scientists and engineers must be protected from theft and exploitation. I advocate protections that will "promote the Progress of Science and Useful Arts"; the very "protectionism" that is incorporated in our Constitution, and on which all our copyright and patent laws are based.

The ingenuity of an age that has produced a tool as remarkable as the computer chip should be able to devise laws adequate to protect it. As Thomas Jefferson so wisely observed in our Nation's infancy:

> * * * (L)aws and institutions must go hand in hand with the progress of the human mind * * * As new discoveries are made * * * institutions must advance also, and keep pace with the times.

Mr. President, Congressman Edwards and Congressman Mineta have sponsored H.R. 1028, legislation similar to the bill we are introducing today. On February 24, 1983, Congressman Edwards put an excellent legal analysis of the bill into the Record, at page 2904. I commend it to my colleagues here in the Senate.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Congressional Record at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1201

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Semiconductor Chip Protection Act of 1983".

DEFINITIONS

Sec. 2. Section 101 of title 17 of the United States Code is amended by adding at the end thereof the following:

"A 'semiconductor chip product' is the final or intermediate form of a product—

"(1) having two or more layers of metallic, insulating, or semiconductor material, deposited on or etched away from a piece of semiconductor material in accordance with a predetermined pattern;

"(2) intended to perform electronic circuitry functions; and

"(3) that is a writing or a discovery, or the manufacture, use, or distribution of which is in or affects commerce.

"A 'mask work' is a series of related images—

"(1) having the predetermined, three-dimensional pattern of metallic, insulating, or semiconductor material present or removed from the layers of a semiconductor chip product; and

"(2) in which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product.

"A 'mask' is a substantially two-dimensional, partially transparent and partially opaque sheet. A mask embodies a mask work if the pattern of transparent and opaque portions of the mask is substantially similar to the pattern of one of the images of the mask work. Masks and mask works shall not be deemed pictorial, graphic, or sculptural works. The copyright in a mask or mask work shall not extend to any other work of authorship embodied therein.

"As used in sections 109(a), 401, 405, 406, 501(A), 503, 506, 509, and 602 of this title, 'copy' includes a semiconductor chip product that is subject to the exclusive rights described in section 106.".

SUBJECT MATTER OF COPYRIGHT

Sec. 3. Section 102(a) of title 17 of the United States Code is amended—

(b) by adding after paragraph (5) the following:

"(6) mask works;"; and

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively.

EXCLUSIVE RIGHTS

Sec. 4. Section 106 of title 17 of the United States Code is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting "; and" in lieu thereof; and

(3) adding at the end thereof the following:

"(6) in the case of mask works—

"(A) to embody the mask work in a mask;

"(B) to distribute a mask embodying the mask work;

"(C) to use a mask embodying the mask work to make a semiconductor chip product;

"(D) in the manufacture of a semiconductor chip product, substantially to reproduce, by optical, electronic, or other means, images of the mask work on material intended to be part of the semiconductor chip product; and

"(E) to distribute or use a semiconductor chip product made as described in subparagraph (C) or (D) of this paragraph.".

LIMITATION ON EXCLUSIVE RIGHTS AS TO MASKS

Sec. 5. (a) Chapter 1 of title 17 of the United States Code is amended by adding at the end the following:

"§ 119. Scope of exclusive rights: Compulsory licensing with respect to mask works

"(a) In the case of mask works, the exclusive rights provided by section 106 are subject to compulsory licensing under the conditions specified by this section.

"(b) The owner of a copyright on a mask work shall be required to grant a compulsory license under the copyright, to any applicant therefor, subject to all of the following terms and conditions, and all of the following circumstances:

"(1) The applicant has purchased a semiconductor chip product made or distributed in violation of the owner's exclusive rights under section 106.

"(2) When the applicant first purchased such semiconductor chip product (hereinafter in this section referred to as the 'infringing product'), the applicant did not have actual knowledge that or reasonable grounds to believe that the infringing product was an infringing product (hereinafter in this section referred to as 'having notice of infringement').

"(3) The applicant, before having notice of infringement, committed substantial funds to the use of the infringing product; the applicant would suffer substantial out-of-pocket losses (other than the difference in price between the infringing product and a noninfringing product) if denied the use of the infringing product; and it would be inequitable in the circumstances not to permit the applicant to continue the use or proposed use of the infringing product.

"(4) The applicant offers, subject to the applicant's rights, if any, under section 501(e) of this title, to pay the copyright owner a reasonable royalty for infringing products.

"(5) The royalty shall be for each unit of the infringing product distributed or used by the applicant after having notice of infringement.

"(6) The license shall be one to make and have made (but only if the copyright owner and the owner's licensees, if any, are unable to supply the applicant at a reasonable price), use, and distribute the infringing product, for substantially the same purposes that gave rise to the applicant's right to a compulsory license, throughout the United States, for the life of the copyright, revocable only for failure to make timely payments of royalties.".

(b) The chapter analysis for chapter 1 of title 17 is amended by adding at the end thereof the following:

"119. Scope of exclusive rights: compulsory licensing with respect to mask works.".

DURATION OF COPYRIGHT

SEC. 6. Section 302 of title 17 of the United States Code is amended by adding at the end thereof the following:

"(f) Masks.—Copyright in mask works endures for a term of ten years from the first authorized—

"(1) distribution;

"(2) use in a commercial product; or

"(3) manufacture in commercial quantities of semiconductor chip products made as described in subparagraph (C) or (D) of paragraph (6) of section 106.".

INNOCENT INFRINGEMENT

SEC. 7. Section 501 of title 17 of the United States Code is amended by adding at the end thereof the following:

"(e) Notwithstanding any other provision of this chapter, a purchaser of a semiconductor chip product who purchased it in good faith, without having notice of infringement (as that term is used in section 119 of this title), shall not be liable as an infringer or otherwise be liable or subject to remedies under this chapter with respect to the use or distribution of units of such semiconductor chip product that occurred before such purchaser had notice of infringement.".

IMPOUNDING AND SEIZURE

SEC. 8. Sections 503(a), 503(b), and 509(a) of title 17 of the United States Code are each amended by inserting "masks," after "film negatives," each place it appears.

EFFECTIVE DATE

SEC. 9. The amendments made by this Act shall take effect ninety days after the date of enactment of this Act, but shall not apply to—

(1) semiconductor chip products manufactured in the United States or imported into the United States before the effective date;

(2) masks made in the United States or imported into the United States before the effective date; or

(3) semiconductor chip products manufactured in the United States by means of masks described in paragraph (2) of this section.●

● Mr. HART. Mr. President, I am joining Senator MATHIAS today in introducing the Semiconductor Chip Protection Act of 1983. The main purpose of this bill is to extend the copyright law to protect semiconductor chip designs.

This bill is needed at this time because of the serious problem of piracy of semiconductor chip designs that U.S. semiconductor companies are experiencing. Such piracy is undermining the economic health and continued expansion of the innovative semiconductor firms and in doing so, threatens the overall competitive stance of the United States in the high tech revolution that is sweeping the globe.

In essence, the problem is that a pirate firm can duplicate the stolen design both quickly and cheaply, flooding the market with cheap copies of the chip and underselling the innovative originating firm. Eventually, the innovative firm can no longer continue to invest in development of new chips.

Right now, Federal law does little to protect them from such piracy and its adverse consequences. Semiconductor chip designs are now completely exposed, covered neither by patent nor by copyright protection.

This act gives America's innovative semiconductor companies the protection they need in two ways. First, it grants 10 years of copyright protection to those who develop new integrated circuit mask designs and grants copyright owners exclusive rights to make, distribute, and reproduce images of the mask design and the chips embodying that design. This measure protects the substantial investments of innovating firms from misappropriation.

Second, the bill protects users of semiconductor chips from liability for innocent conduct. It also makes available to users compulsory reasonable-royalty licenses when necessary to protect their reasonable interests in their ongoing business activities as users of chips.

These two provisions can only be judged as fair and reasonable by those who understand the R&D intensive nature of the semiconductor industry. The semiconductor industry is too critical to America's economic future not to be granted such basic protection.●

By Mr. HART:

S. 1204. A bill to provide lower utility rates for subsistence amounts of natural gas and electricity supplied to elderly and low-income residential consumers; to the Committee on Energy and Natural Resources.

UTILITY LIFELINE RATE ACT OF 1983

● Mr. HART. Mr. President, few things terrify elderly or poor persons more than the prospect that the local utility will turn off their electricity or disconnect their gas lines. Without heat or light, they will find it hard, if not impossible, to survive the harsh winters that sweep much of the Nation.

For too many of our poor and elderly, however, the prospect has become a grim reality. Rapidly rising energy prices and a debilitating recession that has thrown 11 million people out of work have made even subsistence amounts of electricity and natural gas—the amounts required for our most basic needs—unaffordable for many needy Americans. Nearly 2 million people in 17 States alone face a possible cutoff of their gas and electricity this month because they cannot pay their utility bills, according to a recent survey by the Associated Press.

If electricity and natural gas are lifelines that sustain virtually every American household, then for these victims of adverse economic fortune the lifeline has been cut.

Mr. President, to secure this energy lifeline to millions of poor and elderly persons in this country, I am introducing today the Utility Lifeline Rate Act of 1983. This bill requires all utilities, within 2 years, to provide a special "lifeline" rate for natural gas and electricity supplied to their poor and elderly customers. The lifeline rate cannot exceed either: First, the lowest rate the utility charges any of its classes of consumers; or second 75 percent of the average cost of services to all customers, whichever is lower. Those eligible for the special lifeline rate would include all families eligible for Federal low-income energy assistance and all families headed by somebody 65 years in age or older. Those eligible for low-income energy obviously are those least able to afford home heating bills. Our senior citizens, most of whom are on fixed incomes, likewise often have trouble paying their bills—and fully 70 percent of all people over 65 years in age have some physical condition that is aggravated by being too hot or too cold. The special lifeline rate to which these people would be entitled would apply only to a subsistence amount of natural gas and electricity—the amount necessary, as determined by the State utility commission, to meet essential needs such as heating, lighting, cooking, and food refrigeration. Any natural gas or electricity consumed beyond this subsistence amount would be billed at the normal residential rate.

This legislation is similar to a bill which I first introduced in 1977, and which the Senate approved in 1978 as an amendment to utility reform legislation. But that amendment was deleted in conference, and was replaced with a provision merely requiring the Department of Energy to file a report with Congress on possible lifeline rates.

Mr. President, the Senate was right when it approved this bill 5 years ago. It is even more important now that the legislation be enacted. Nearly every day is bringing new evidence that the inability of many Americans to pay their utility bills is a grave, nationwide problem.

Although statistics cannot adequately describe the suffering of households whose gas or electricity have been cut off, they show how widespread the problem has become.

This year, 300,000 households will lose utility service, up 30 percent from last year, according to congressional testimony by the Citizen/Labor Energy Council.

A study recently conducted by the National Consumer Law Center based on detailed analysis of the records of 10 utilities around the country, suggests the number of cutoffs may be far higher. That study shows that just the 10 utilities which were studied cutoff service for 181,115 families in 1982—a 46 percent increase since 1980. In the Philadelphia area alone, over 30,000 families had their natural gas service cut off in 1982—compared to less than 9,000 in 1980. The unpaid gas bills for the Philadelphia families whose service was terminated in 1982 averaged over $290, suggesting many families cannot afford reconnection.

Information from local officials in Milwaukee shows that the moratoriums on utility cutoffs in the winter is not an adequate measure to protect people. Last year, 7,500 families in Milwaukee County had their natural gas cut off because they could not pay their bills from the Wisconsin Gas Co. Fully 1,000 of those families were never reconnected before this winter began, and went through the cold Wisconsin winter with no home heat.

These figures point to the inescapable conclusion that we face a new national crisis—one in which hundreds of thousands of Americans are simply unable to afford to heat their homes.

This crisis has been greatly aggravated by the severe recession gripping the country, with millions of Americans out of work and millions more underemployed. But the primary reason for this new national crisis is the recent increases in home energy costs. For example, the average cost of natural gas to residential customers rose 144 percent from 1977 to 1982. Last year alone, it rose an average of 21.4 percent, but in some areas of the country it increased by more than 40 percent. These dramatic increases in natural gas prices have had a pervasive effect, since over 60 percent of elderly and low-income households heat with natural gas. They can pay increased energy prices only if they forego other necessities. For example:

During the winter, over 70 percent of the low-income elderly spend more than 20 percent of their income to keep warm, according to a study by the National Council of Senior Citizens.

One of every four low-income elderly households spends more than 40 percent of its income on heating bills.

During an average winter, after paying home energy costs, the families of unemployed workers in 38 States have less than $100 remaining each week from the average unemployment check.

Similarly, elderly persons living on supplementary security income (SSI) in 42 States have less than $50 remaining each week after paying their energy bills.

Rising home energy costs truly force many elderly and poor households to make an impossible choice between heating and eating.

Mr. President, the Federal low-income home energy assistance program (LIHEAP) does not come close to helping all poor and elderly households with their home energy costs. Only one-third of the eligible households received any of the $1.85 billion of Federal assistance distributed last year. The average annual payment of $184 barely covered many recipient households' energy expenses. In 13 States, LIHEAP benefits pay for less than 20 percent of the average annual home energy bill for low-income households, according to a study by the National Consumer Law Center. In 35 States, the LIHEAP benefits will leave low-income families still saddled with from $500 to $1,000 in energy bills.

Yet, although many eligible households even now do not receive adequate energy assistance, the Administration proposes to cut the Federal program by one-third next year.

Mr. President, simple compassion demands that we not only maintain LIHEAP funding but also devise a better method for helping the poor and elderly meet their basic energy needs. This bill would do just that, without creating a major new Federal program.

By requiring a lifeline rate for poor and elderly households, based on the lowest rate a utility charges any of its classes of customers, this bill will begin to make utility rate schedules more equitable.

Most electrical utilities base their charges on a so-called "declining block rate" structure. Those customers who use the most electricity—primarily large industrial firms—get a quantity discount and thus pay the lowest rates. Residential customers who tend to use the least amounts of electricity do not qualify for any discounts and thus pay the highest rates. A rate structure that imposes the highest costs for electricity on those least able to pay—the poor and elderly—is clearly and unconscionably regressive. My bill would reverse the rate structure by enabling poor and elderly households to buy at least subsistence amounts of electricity at the lowest, quantity discount rate generally reserved for industrial and other large consumers.

Current utility rate structures are not only inequitable, they are also wasteful. Because industrial and other large energy users enjoy lower rates, they have less incentive to conserve energy while residential users bear a larger burden for increases in energy prices. By reversing the declining block rate structure, my bill would promote greater energy efficiency among the largest energy consumers.

Mr. President, we are failing in our national commitment to provide affordable electricity and natural gas for all Americans. The sight of hundreds of thousands of poor and elderly persons trying to survive the winter in houses they cannot afford to light or heat should shock the national conscience.

I urge the Congress promptly to consider and enact this bill so that next winter our neediest Americans will have a secure energy lifeline onto which they can grab hold.

I ask unanimous consent that the text of the bill, the Associated Press article I mentioned, and the survey by the National Consumer Law Center be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Utility Lifeline Rate Act of 1983".

DEFINITIONS

SEC. 2. Section 3 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617, 16 U.S.C. 2602) is amended by inserting at the end thereof the following:

"(19) The term 'elderly or low-income customer' means an electric consumer or a gas consumer (as the term is defined in section 302) who demonstrates to the satisfaction of the electric utility or natural gas utility (as that term is defined in section 302) supplying electricity or natural gas to such consumer that such consumer is—

"(A) the head of a household or principal wage earner of a household and is at least sixty-five years of age; or

"(B) eligible for assistance under the Low-Income Home Energy Assistance Act of 1981 (Title XXVI of Public Law 97-35; 42 U.S.C. 8621 et seq.).".

LIFELINE ELECTRICITY RATES

SEC. 3. Section 114 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623) is amended by inserting at the end thereof the following new subsection:

"(d) SPECIAL RATE FOR ELDERLY OR LOW-INCOME CONSUMER.—Not later than two years after the date of enactment of this subsection, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall provide public notice and conduct a hearing and, on the basis of such hearing, shall establish a special lifeline rate for the amount of electricity necessary to meet the essential needs (including heating, lighting, cooking, cooling, food refrigeration, medical, and other essential needs), as defined by the State regulatory authority or by the nonregulated electric utility, as the case may be. Such special lifeline rate shall be at least as low as the lower of——

"(1) the lowest rate (per kilowatt-hour) charged by such utility to any class of electric consumers, and

"(2) a rate that would represent seventy-five per centum of the average cost (per kilowatt-hour) of service, as determined under section 115(a), to all electric consumers provided electric service by such utility.".

LIFELINE NATURAL GAS RATES

SEC. 4. Section 303 of the Public Utility Regulatory Policies Act of 1978 (15 U.S.C. 3203) is amended by inserting at the end thereof the following new subsection:

"(d) SPECIAL RATE FOR ELDERLY OR LOW-INCOME CONSUMERS.—Not later than two years after the date of enactment of this subsection, each State regulatory authority (with respect to each gas utility for which it has ratemaking authority) and each nonregulated gas utility shall provide public notice and conduct a hearing and, on the basis of that hearing, shall establish a special lifeline rate for the amount of natural gas necessary to meet the essential needs (including heating, lighting, cooking, food refrigeration, medical, and other essential needs), as defined by the State regulatory authority or by the nonregulated gas utility, as the case may be. Such special lifeline rate shall be at least as low as the lower of—

"(1) the lowest rate (per therm) charged by such utility to any class of gas consumers, and

"(2) a rate that would represent seventy-five per centum of the average cost (per therm) of service to all gas consumers provided gas by such utility.".

Millions Face Possible Loss of Utility Service

(By Robert Burns)

March 28, 1983.—For nearly 2 million customers who are behind on their utility bills, the start of spring could bring an end to the comforts of home heat and lighting.

In Ohio, utility officials estimate as many as 300,000 customers could lose service Thursday, when a state law that prevents utilities from cutting off service to delinquent customers during the winter expires.

In New York, the day of reckoning for 424,000 past-due customers is April 15.

An Associated Press survey shows nearly 2 million people in 17 states face such a threat.

The problem could have been bigger if not for the unusually mild winter in much of the nation. The weather, coupled with a recent slowing of the escalation in utility rates, has meant smaller-than-expected electricity and gas bills in many regions.

Twenty-two states have moratoriums—most imposed by law, some by the utilities themselves—on the cutoff of service to delinquent customers during the winter, the AP survey found. The moratoriums already have expired in five states, and are scheduled to end this month or next in the 17 others.

Most utilities said they intended to cut off service to customers who do not make arrangements to pay at least part of their bill now. Officials also stressed, however, that in most cases they would prefer avoiding cutoffs.

"That's like shutting off the cash register," said Ken Hedrick of Cheyenne (Wyo.) Light, Fuel and Power Co.

As utilities struggle to collect overdue bills, many have experimented with funds designed to assist their neediest customers. In most cases the money is donated by the utilities, their other customers and community groups and are administered by charity foundations.

Anita Stowell of the American Association of Retired Persons said her group estimated that 60 utilities nationwide had started or planned to start such funds.

Oklahoma Natural Gas Co.'s "Share the Warmth" program donated $123,135 to more than 91,000 customers this past winter. Oklahoma has no state moratorium on cutoffs.

But even the most successful assistance programs have not solved the problem of people falling behind on their bills.

Some officials said the breathing space offered by a state moratorium on utility cutoffs actually leads to an increase in delinquent customers.

"Some people just stiff us," said Walter Salvi of Boston Edison.

The AP survey shows that more people are behind on their utility bills this winter, in part because of the sharp rise in unemployment since the winter of 1981-1982. But some utilities said the amount of delinquent debt is smaller this year.

In Connecticut, for example, the number of delinquent accounts is up 8 percent this year, but the average amount of past-due debt has dropped 2 percent, from $196.97 to $192.98.

Baltimore Gas & Electric Co. said about 44,000 utility customers are $11.6 million in arrears and could lose service Thursday. That is double the number of cases of a year ago, while the amount of debt is up about 53 percent, the company said.

In California, Brad Sawtell of Southern California Gas Co. said his company expects a 10 percent increase this year from the 114,207 service cutoffs of last year.

All across the nation utilities reported higher numbers of past-due accounts, and the reason most often cited was the long and deep economic recession.

"Unemployment is our major problem," said Jack Loveless, controller at Chattanooga Electric Power Board, which counts about 13 percent of the Tennessee city's ratepayers as delinquent.

Chattanooga's jobless rate this year has been similar to that of the nation, which has grown to 10.4 percent of the civilian labor force in February from 8.8 percent a year earlier and 7.3 percent two years ago.

But even as the number of problem accounts has risen, the amount of money owed actually has fallen in some cases.

In Janesville, Wis., where the unemployment rate is 14.7 percent, Wisconsin Power & Light Co. said its customers were $1.5 million in arrears in February. That was only $100,000 more than a year ago. And for Wisconsin Natural Gas Co., which serves the Racine-Kenosha area, the number of delinquent accounts was up only 3 percent. That area's jobless rate is 19.3 percent, the highest in Wisconsin.

"If this were a winter like last winter, the comparisons would be much more striking," said Eric Brown, a financial relations official at Wisconsin Power & Light.

The mild winter reduced the use of home heating oil, natural gas and electricity in many parts of the country, helping to extend the oversupply of such products and raising the possibility that the price of crude oil and crude oil products will keep falling in 1983.

Those falling energy prices, coupled with a steady decline in interest rates, has prompted some utilities to seek smaller-than-expected hikes in utility rates. In a few cases, utilities have acted to cut consumers' bills.

San Diego Gas & Electric Co. recently put into effect an $11 million reduction in electric rates, which it said would trim the average residential customer's bill by 51 cents a month.

Another major utility, Southern California Edison Co., has said it plans a $48.6 million reduction May 1, cutting average residential bills 65 cents a month.

Utility Cutoffs

Here is a list of the 22 states that have moratoriums on cutting off utility service during the winter, including the expiration date and estimates of the number of delinquent customers and the amount of money owed:

Connecticut: April 15, 18,000, $55 million.

Georgia: March 15, 285,115, $19.4 million.

Idaho: Feb. 28, no figures available on delinquencies or debt.

Illinois: March 31, 62,000, $35 million.

Kansas: March 15, no figures available on delinquencies or debt.

Maryland: March 31, 44,000, $11.6 million.

Massachusetts: April 11, 110,000, $4.3 million.

Michigan: April 1, 360,000, $30 million.

Minnesota: April 15, 34,682, $3.9 million.

Missouri: March 31, no figures available on delinquencies or debt.

Montana: April 1, no figures available on delinquencies or debt.

New Hampshire: April 1, 16,000, $2.6 million.

New Jersey: March 15, 140,700, $90.5 million.

New York: April 15, 424,183, $56.6 million.

North Carolina: March 31, no figures available on delinquencies or debt.

Ohio: March 31, 300,000, $79 million.

Oregon: April 30, no figures available on delinquencies or debt.

Rhode Island: March 31, no figures available on delinquencies or debt.

Tennessee: Feb. 28, 48,300, undetermined amount.

Utah: April 30, undetermined number, $3.6 million.

West Virginia: March 31, 1,062, undetermined amount.

Wisconsin: April 15, 100,000, $60.5 million.

Energy Debts: The Coming Crisis for the Poor, April 21, 1983

EXECUTIVE SUMMARY

Many millions of the Nation's poor have simply been unable to afford the rapid rise in natural gas prices. Nor have they had the financial resources to undertake significant weatherization measures. The result has been widespread payment problems for them and their gas distribution companies. For many households, there has been real deprivation. In response to disturbing stories of winter hardship and indications that the energy crisis for the poor is reaching a new level of intensity, the National Consumer Law Center commissioned this analysis to examine the nature of the residential bad debt and termination problem. This matter takes on special significance since roughly 55 percent of the country's poor heat with natural gas.

Twenty-five utilities in 17 states were surveyed and responses were received from utilities or Public Utility Commissions (PUCs) in 11 cities where natural gas is the primary residential heating fuel. The cities included in the survey sample are: St. Louis and Kansas City, Missouri; Harrisburg, Philadelphia, and Pittsburgh, Pennsylvania; Peoria, Illinois; Detroit, Michigan; Minneapolis, Minnesota; Lexington, Kentucky; Milwaukee, Wisconsin; and Columbus, Ohio. While the sample is narrow, the conclusions reached seem to be fully consistent with other, less detailed data reported elsewhere.

The survey's findings are:

1. On average, these cities have experienced a 92.5 percent increase in residential natural gas prices over the last three heating seasons. The increase from the winter of 1981-82 to 1982-83 alone was 32.7 percent.

2. These price increases were accompanied by a significant jump in the number of residential consumers who were behind in payment of their natural gas bills. The number

of accounts in arrears rose over 25 percent from April of 1980 to April of 1982. Much more telling, the overdue amount the average household owed its utility rose a staggering 88 percent from 1980 to 1982. Reflecting these strains, data from the surveyed utilities show an aggregate increase of 121 percent in overdue residential balances.

3. The number of households that actually had service terminated for nonpayment rose dramatically as well. There were 46 percent more terminations in calendar 1982 than there were in 1980, and a higher percentage of households did not arrange reconnection of service.

There are a number of federal, state and local responses which are addressed to this alarming situation. The only really significant sources of financial assistance have been from the federal government's Low Income Home Energy Assistance Program, where funding has increased less than 25 percent during the 1980-1983 period, and from the Low Income Weatherization Program, which is funded at a level 12.5 percent of that for energy assistance. In addition, there have been a variety of regulatory responses.

The Public Utilities Regulatory Policy Act of 1978, Title I, establishes federal voluntary standards for termination of service to residential consumers, and by 1982, 29 states had established some form of restriction on cold weather terminations. In the fall of 1982, the public perception of the threat to growing numbers of low income households forced several commissions which had no rules regarding reconnection of service to terminated households to adopt new moratoria and reconnection rules.

Many PUCs lack measures of the extent of the current problem and trends because of their failure to collect data on terminations and arrearages. However, Commission officials indicated a growing sense that the use of protected winter moratorium periods and reconnection orders cannot provide any kind of lasting solution for the poor as, at best, these mechanisms simply delay the crisis for households ultimately unable to pay off old debt.

INTRODUCTION

The energy bills of America's residential natural gas consumers have been on the rise steadily and significantly during the past five years. The Department of Energy reports that the average cost of a unit of natural gas to residential customers rose 144 percent from 1977 to 1982 and rose 21.4 percent last year alone. Many millions of the nation's poor households, which pay approximately four times the proportion of their income for home energy as do median income households, have been unable to adjust their limited budgets to these rising energy costs. The result has been payment problems for them and for their natural gas utilities. As these households' financial positions have continued to deteriorate, their payment problems increasingly appear to manifest themselves in termination of service for nonpayment of bills. As a consequence, there has been a proliferation of stop gap regulatory and voluntary utility actions to prohibit terminations of service in life- or health-threatening situations. Some regulatory commissions have ordered reconnection of service for only minimal payment of back bills so that no one need go without heating during cold winter months.

Public alarm about this issue has been sharpened by the many newspaper and media reports of households without heat for nonpayment of bills during this past heating season. In Detroit, the local gas utility reported that the number of households without service had doubled in January, 1983 as compared to January, 1982. In Minneapolis, terminations had increased 25 percent from the fall of 1981 to the fall of 1982. In Baltimore, the number of households who were behind 90 days or more in paying their bills had increased several fold between 1980 and 1982 and the average indebtedness had increased 30 percent per household. Most of these families were located in the city's poorer neighborhoods.

In response to such disturbing stories of winter hardship and distress, the National Consumer Law Center commissioned this analysis to examine the nature of the residential bad debt and termination problem. Utilities in a number of cities throughout the country were requested to provide data on recent trends in residential customer bad debt, terminations, reconnections, and prices. State public utility commissions were also surveyed to determine the scope of regulatory responses to this problem, such as winter termination moratoria, and the nature and efficacy of the regulatory initiatives.

Twenty-five utilities in 17 states were asked to answer the survey. In numerous cases utilities responded with great cooperation to the survey request, and their questionnaries have provided the raw material upon which the study's conclusions are based. Several of the utilities did not choose to respond but had already provided similar information to state agencies which, in turn, made the data available to Eisenberg and Power. Data concerning conditions in Milwaukee, Wisconsin; Columbus, Ohio; Lexington, Kentucky; Minneapolis, Minnesota; Peoria, Illinois; Philadelphia, Pittsburgh and Harrisburg, Pennsylvania; Detroit, Michigan; and St. Louis and Kansas City, Missouri have been analyzed. While no national statistics can be projected from the data, certain disturbing trends of national significance are apparent.

The analysis which follows discusses natural gas prices, utility terminations, energy bill arrearages, and the regulatory environment.

Prices.—The average residential natural gas price increase from the 1981-1982 heating season to 1982-1983 in the cities surveyed, was 32.7 percent. The increases range from 14 percent in Detroit, to 50 percent in Peoria, and 63 percent in Lexington, Kentucky. Price increases are not a new phenomenon but have been occurring since at least 1979-1980. On average, the surveyed cities experienced a 92.5 percent increase in the cost of residential gas per unit of energy consumed over the last three heating seasons.[1] Increases ranged from a low of 67 percent in St. Louis to 134 percent in Kansas City and 153 percent in Lexington. (See Exhibit 1.)

EXHIBIT 1.—NATURAL GAS PRICES FOR RESIDENTIAL HEATING CUSTOMERS OF SELECTED NATURAL GAS DISTRIBUTION COMPANIES

[Cents per therm]

Company	Heating season				Percent increase 1979-80 to 1982-83
	1979-80	1980-81	1981-82	1982-83	
Philadelphia Gas Works, Philadelphia	37.01	47.50	58.62	73.52	99
Illinois Central, Peoria	28.00	33.00	36.00	54.00	93
Minnegasco, Minneapolis, St. Paul	31.60	40.90	47.00	57.16	81
Columbia Gas of Kentucky, Lexington	29.80	33.30	46.50	75.60	153
Wisconsin Gas, Milwaukee	35.02	44.55	51.59	64.10	83
Columbia Gas of Ohio, Columbus	32.10	36.50	47.60	59.97	87
Laclede Gas Co., St. Louis, Mo	37.79	40.51	49.98	63.08	67
Gas Service Co. of Kansas City, Mo., Kansas City, Mo	24.58	30.32	42.16	57.50	134
The People's Gas Co., Pittsburgh	31.26	35.92	40.51	57.08	82
Michigan Consolidated Gas Co., Detroit	33.91	40.34	46.57	53.23	57

Source: Company data and Bureau of Labor Statistics.

The price increases of natural gas are dramatic and comparable in magnitude to those that have occurred in home heating oil markets since 1979, though gas still remains less expensive than oil in most places. The impact of the natural gas price increases has been far more pervasive than that of oil prices because 55 percent of all households use gas for heating, while only 18.9 percent heat with oil. It is reasonable to assume that with the cost of competing fuels relatively high, natural gas prices for residential consumers will continue to rise in the future.

Arrearages.—In April of 1980, at the end of the 1979-80 heating season, the eight companies for which data was available reported that 612,280 residential consumers were in arrears in paying their natural gas bills. By April of 1982 the same companies reported total residential customers in arrears of 774,923, an increase of more than 25 per cent in just two years. In a number of cities the increases are even more dramatic than this average would indicate. In Peoria, Illinois, for example, the number of accounts in arrears rose 37 percent from 1980 to 1982. In Columbus, Ohio, the increase over the same time period was 45.6 percent. Complete data is shown in Exhibit 2.

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[1] Increases measured on the basis of cost per therm charged to hearing customers in January of each heating season.

While the number of households who were in any degree behind on their bills increased significantly, there were indications that the number who were seriously in arrears jumped even more. A limited subsample of five companies that had data on this subject indicated that households in arrears 60 days or more had jumped 35 percent, from 168,894 to 228,742 from April, 1980 to April, 1982. These are households so severely behind in payments that they face the imminent threat of termination.

EXHIBIT 2.—RESIDENTIAL ACCOUNTS IN ARREARS FOR NATURAL GAS DISTRIBUTION COMPANIES IN SELECTED CITIES

Company/city	1980		1981		1982	
	February	April	February	April	February	April
Philadelphia Gas Works, Philadelphia	133,397	139,889	172,062	188,174	188,091	192,110
Illinois Central, Peoria	7,820	8,364	9,031	8,886	11,083	11,494
Minnegasco, St. Paul, Minn	57,468	63,802	72,917	76,685	81,728	84,677
Wisconsin Gas, Milwaukee	45,500	46,400	51,500	47,800	52,800	52,200
Columbia Gas of Ohio, Columbus	58,959	52,924	60,750	66,703	71,232	76,121
Laclede Gas Co., St. Louis	115,178	NA	95,807	NA	111,322	NA
Gas Service Co. of Kansas City, Kansas City	85,776	NA	92,497	NA	72,483	NA
The People's Gas Co., Pittsburgh	44,904	37,056	44,866	44,459	47,448	42,882
Michigan Consolidated Gas Co., Detroit	221,498	234,752	245,137	250,295	252,719	275,926
Columbia Gas Co. of Pennsylvania, Harrisburg	30,582	29,093	36,067	35,288	36,319	39,513
Total	801,082	612,280	880,634	718,290	925,225	774,923
Percentage annual increase			9.9	17.3	5.1	7.9

Source: Survey responses and reports to State Public Utility Commissions.

Data in Exhibit 3 show the change in average household arrearage for the past three winters. The trend shown confirms a deteriorating situation for both consumers and utilities. Not only are a larger percentage of total residential customers in arrears; they are in debt to their utilities for more money. In April, 1980, the average household in arrears in the survey owed its gas service company $116. In April, 1982, this "weighted average" figure was $218, an increase of 88 percent. In Philadelphia, the average arrearage jumped 118 percent, from $142 to $309; in Kansas City, the increase was 116 percent. This average arrearage understates the higher levels of debt incurred by households in arrears 60 days or more, who owe even more, in most cases, than those averages indicate.

The problem of increasing arrearages has become a difficult and worsening problem for utilities, as well as their consumers. Increased arrearages translate into higher requirements for working capital and ultimately into bad debt that must be paid for by the utility stockholders and those consumers who remain current in their accounts. From April, 1980 to April, 1982, for the ten utilities for which data is available, accounts in arrears jumped from $67.3 million to $149 million, or 121 percent. This represents a serious problem for utilities and utility commissions alike, who must confront the unpleasant task of trying to determine who must carry the financial burden.

It has been suggested that state imposed moratoria on winter terminations may be largely responsible for increased utility bad debt and higher numbers of households in arrears. While the moratoria may have made some contribution to the increase in households with payment problems, this does not appear to be the major source of the problem for utilities surveyed. As a general rule, moratoria terms and conditions did not change significantly over the time period evaluated, while the number of households in arrears jumped significantly. It appears more likely that sharply increasing gas prices, combined with external conditions affecting the ability to pay household bills, like the recession and consequent unemployment, have much more to do with the problem. Many low-income households simply do not have adequate income to pay increased utility bills.

TERMINATIONS

The pattern of increased prices, larger numbers of households in arrears and higher levels of arrearage is matched by the trend in terminations—households actually cut off from gas service for failure to pay bills.

Very little is known about what kinds of households are terminated and the underlying reasons for their failure to pay their bills. None of the utilities responding to the survey had any demographic data related to terminated households. A study performed for the Pennsylvania Public Utility Commission, however, indicates that terminated households in that state tended to be under either economic or family stress. Terminated households had per capita income that was 35 percent lower than the population at large. In addition, they were nearly twice as likely to have experienced unemployment during the past year and 41 percent more likely to be headed by a female. In Baltimore, Maryland, the local utility reported that households terminated and desiring service tended to consist of single persons with roughly $100 per week of income. While higher levels of utility bad debt and customer terminations may not exclusively be a poverty problem, in large measure they appear to be the consequence of sharply rising energy prices coupled with low incomes and economic decline.

In 1980, the surveyed utilities reported terminations of 123,681 households, the vast majority of which used natural gas for space heating (See Exhibit 4). By 1982 this number had risen to 181,115—an increase of 57,434, or 46 percent in two years. Most of the households were terminated in nonwinter months. For eight companies with data available, 23,407 terminations occurred in April, 1982, representing a large proportion of the entire year's terminations. This indicates that moratoria do not necessarily prevent terminations. Rather terminations are shifted to seasons when they may be less life-threatening.

EXHIBIT 3.—AVERAGE UNPAID BALANCE FOR RESIDENTIAL CUSTOMERS IN ARREARS TO NATURAL GAS DISTRUTION COMPANIES IN SELECTED CITIES

[Dollars per account in April]

Company	Year—		
	1980	1981	1982
Illinois Central	110.00	112.00	140.00
Columbia of Kentucky	NA	126.00	183.00
Columbia of Pennsylvania	101.00	136.00	154.00
Peoples Gas, Pa.	NA	268.00	265.00
Philadelphia Gas	141.75	250.54	308.50
Columbia Gas of Ohio	191.98	173.81	233.64
Minnegasco	102.07	122.74	169.73
Wisconsin Gas	184.00	228.00	278.00
Gas Service of K.C.[1]	52.39	69.21	113.22
Laclede Gas[1]	92.68	113.50	138.50

[1] February data.

Source: Survey responses and State Public Utility Commissions.

EXHIBIT 4.—ANNUAL TERMINATIONS OF RESIDENTIAL CUSTOMERS BY GAS DISTRIBUTION COMPANIES IN SELECTED CITIES FOR NONPAYMENT

[Number of household accounts]

Company	Year—		
	1980	1981	1982
Michigan Consolidated Gas	23,849	36,012	38,914
Wisconsin Gas	11,716	15,289	16,703
Minnegasco	5,172	7,727	8,705
Columbia Gas of Ohio	50,050	44,701	53,678
Columbia Gas of Pa	4,347	5,086	5,428
Peoples Gas of Pa	2,997	4,242	4,696
Philadelphia Gas	8,960	35,384	30,576
Illinois Central	7,771	8,892	10,395
Gas Service of K.C	[1] 3,250	[1] 4,690	[1] 4,163
Laclede Gas	[1] 5,569	[1] 9,313	[1] 7,857
Total	123,681	171,136	181,115
Annual percentage increase[2]		38	6

[1] Winter terminations only.

[2] Increase from 1980–82 equals 46.4 percent.

Source: Survey response and State Public Utility Commissions.

When terminations occur, poor households are left with large utility debts to pay before service can be resumed. In Milwaukee, these households owed an average of $267 to their gas company. In Columbus, Ohio, the average debt was $220; while in Minneapolis, the average amount owed was $457. In Philadelphia, the average debt was $990.79. These debts, when combined with current bills, can pose an insurmountable problem to low income households. For those households unable to pay current bills, deferred payment plans for payment of back bills are not a very effective solution either.

This may be reflected by the widening gap between the total number of households disconnected and the number eventually reconnected. In 1980, 57 percent of those households which had been terminated were reconnected. In 1982, the number had fallen to 53 percent.

Although the probable number of terminations to be expected in the Spring of 1983 cannot be projected from the data on hand, it is clear that the external economic factors affecting ability to pay bills remain depressed while natural gas costs have continued to rise. Thus, it would be reasonable to expect an increase in the number of households in arrears, in the size of average household arrearages, in the bad debt loan of utilities, and in the number of terminations. This would reflect the continuation of trends of the past three years. This data does not show a sudden crisis, but rather a persistent deterioration, and in some cases a sharp deterioration, in the financial positions of lower income Americans, with no end immediately in sight.

THE REGULATORY ENVIRONMENT

The Public Utilities Regulatory Policy Act of 1978, Title I, established federal voluntary standards regarding termination of service. Section 115(g)(2) suggests prohibiting termination of service during periods when it would be especially dangerous to health and the customer is unable to pay his bill or only able to pay in installments.

Accordingly, by 1982, 29 states had established restrictions on cold weather termination. However, in many states these restrictions offer less than absolute protection. Some offer protection only in periods of atypically low temperatures; others permit utilities to establish the terms of the payment plans; still other permit termination following notice to and/or approval of the PUC. At a minimum, in the 1982-83 heating season, customers in slightly over half the states were guaranteed at least an extended opportunity to negotiate a solution to their payment problems with their heat supplier. All of the states with utilities participating in the study offered some termination protection in 1982-83. These are shown on Exhibit 5. Of course, households not purchasing heating energy from regulated utilities have no comparable protection against inability to make full payment in cash.

In many of the states in our study, the end of the 1981-1982 moratorium period brought terminations upon a number of households who were unable to meet then existing reconnection requirements. Although no state sampled, except Pennsylvania, collected reliable data on this population, public perception of the threat to significant and growing numbers of low income households forced commissions which had not had rules regarding reconnection to address the problems (including Ohio, Minnesota, Illinois, Kansas, and Missouri) and several states which had not had winter termination protections at all adopted new moratorium and reconnection provisions. Commission officials interviewed indicated a growing sense that the use of protected winter periods in which shutoffs are prohibited fails to protect many households, already terminated, from loss of winter heat because of their inability to meet reconnection requirements.

However, few Commissions had measures of the extent of the current problem or the trends. First, although some states had statistics on numbers of disconnected units, only Pennsylvania, out of the sample, had identified the number of bona fide accounts, i.e., those households where the customer was still in residence and still without service. At least three states, (Ohio, Kansas, and Missouri) adopted emergency regulations on the basis of reports from selected utilities, which in the early fall enumerated their not-reconnected units. For example, Ohio had been able to document 30,000 households without utility service in the fall of 1982, and projected there were thousands more in that situation. But generally these Commissions lacked both identification of the number of bona fide accounts and any statewide statistics. While utility and Commission officials asserted that approximately half of all accounts terminated for nonpayment represent customers no longer in need of service, there is uncertainty as to whether that proportion may be changing. Some utilities claim, for example, that there are dramatic increases in theft of service and name changes by those previously terminated. Thus, there is uncertainty about the comparison between the number of bona fide accounts without service now and in the past.

EXHIBIT 5.—LOW INCOME WINTER PROTECTION RULES

	Illinois	Kansas	Kentucky	Maryland	Michigan	Minnesota	Missouri	Ohio	Pennsylvania	Wisconsin
Period:										
Entire season		Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes
Low temperature	32° or less									
End of period	3/31	3/15	3/1	3/31	3/31	4/15	4/1	4/1	4/1	4/25/82
Eligibility:										
PUC-approved shutoffs only.									Yes	
All residential	Space heat	Yes					Yes	Yes		
"Can't pay"/low inc			Yes		Yes	Yes				
Other		Making good faith effort.		Unless utility certifies "no hazard".	Adhere to payment rule	On payment plan + "reasonably current."				Utility determines if health endangered.
Payment rule:										
Minimum percent arrears.	1/3	Lower: $30 or 25 percent.			7 percent	1/6	Lower: $75 or 25 percent.	Lower: $200 or 1/3.	Lower: 20 percent or $200. NB guideline not rule.	"Reasonable"
Average monthly payment of arrearages.					8 percent	1/11	1/11	1/8		
Payback time	Min. 4—max. 12 mo.				12 mo	By September	11 mo	By 11/30		
Eligible population	Paid. 1/3 of current balance.	All			Low inc	Cannot pay w/good credit	Cannot pay w/good credit	LIHEAP or unemployed	All	All
Winter shutoff permitted?	If 2d yr of default on a plan	Yes		Yes	Yes	No	Yes	No: 82; maybe: 83	PUC approved	Yes
Commission reports:										
Terminations		1983 only			Monthly	Yes	In winter		Monthly	In winter
Reconnect		1983 only			Monthly		In winter		Monthly	
Average household arrears.		1983 only		Quarterly	Monthly			Monthly		
Number accounts in arrears.		1983 only		Quarterly	Monthly	Yes	Yes	Monthly		
Post-moratorium shutoffs.	Yes	Yes							Yes	Yes

The basis for these doubts is the virtually total lack of information on terminations and arrearages currently collected by Commissions. Only three of the ten collect monthly or quarterly termination and reconnection statistics so as to permit the calculation of "net" households without service. No Commission historically has required that data be collected on bona fide terminated accounts. Only five of the ten Commissions collect information on the number and total of accounts in arrears. Most Commissions do not compile the amounts utilities are permitted to write off as uncollectible debt. As a result, it is difficult to document the need for protections, and it is virtually impossible to estimate the impact of the protection on utilities and on customers' ability to pay. Where rules are adopted regarding a minimum payment or scheduled repayment of arrears to obtain reconnection, it is generally not known how they will impact household budgets, i.e., whether the proposed repayment plans are viable given the household budget.

The phenomenon of reconnection regulations is both an important new trend and the most eloquent evidence of the crisis stage being reached by the escalating arrearage problem. At issue are three points: (1) What are reasonable options for those customers with arrearages and for those who cannot pay current usage charges; (2)

how much less than the total amount owed can a utility be required to accept as a condition of providing service to customers in the above situations; and (3) how can rules be structured to ensure the utility eventually receives the full balance owed?

While the solutions adopted by PUCs vary, it should be noted that none of the rules assume the utility will fail to collect the full amount owed, and all of them permit eventual termination of customers who do not live up to the terms of the payment agreements negotiated. In fact, of the eight states studied which have rules on minimum payments to be made before reconnection can occur, five regularly allow disconnections during their protected (moratorium or "cold weather") periods for noncompliance. No commission has collected data on the number of such defaults.

Some examples of these budgeted payment requirements, which are a condition of reconnection, illustrate the potentially insurmountable problems for low income households (See Exhibit 6).

EXHIBIT 6.—1983 TYPICAL COSTS—GAS RECONNECTION AND PAYMENT PLANS FOR HOUSEHOLDS TERMINATED BY UTILITIES SURVEYED

	Ohio	Illinois	Minnesota	Wisconsin	Kentucky
Average arrears	$278	[1] $210	$556	$332	[1] $298
Down payment required	93	70	93	200	([2])
Monthly arrears billed	21	18	43	([2])	([2])
Average winter monthly bill [3]	78	113	134	131	98
Average 1983 LIHEAP benefit [4]	175	183	485	310	223

[1] Average for all households in arrears.

[2] Negotiated.

[3] 1981-82 consumption and average level 1982-83 price.

[4] HHS survey March 1983.

The only major source of financial assistance available for low-income consumers is the federal Low-Income Home Energy Assistance Program. This program was established to help the poor pay home energy bills. In none of the surveyed states does the average energy assistance payment, intended to cover the 1982-83 season, cover even the average arrearage remaining from the 1981-82 season for terminated households. In effect, the household's own scarce income will have to cover current heating costs and part of the back balance without additional help. Unless there is significant change in their economic circumstances, it is unrealistic to expect that these households can extricate themselves from mounting debt. As one Baltimore utility official put it, "We are now dealing with customers who literally cannot afford to heat."

Several PUC's have sought to connect their shut-off and reconnection protections to the LIHEAP program. Three states (Ohio, Pennsylvania, Missouri) make their maximum reconnection requirements comparable to LIHEAP payments. Others restrict eligibility for reconnection and termination protection to LIHEAP and state welfare eligible households. LIHEAP income criteria vary widely among the states in the study. One state, Michigan, has established a system under which up to $650.00 of the eligible household's bill can be paid by the energy assistance agency directly to the utility at the end of the protected period. Thus, eligibility for energy assistance offers some temporary relief from shutoffs. One Illinois commission official explained, "If it weren't for the energy assistance program, tens of thousands of people would be going without heat and light now." However, the inexorable accumulation of current bills means that LIHEAP, as currently funded, is not at all adequate to stem the growing debt load and the ultimate threat of termination for many low-income households.

Reflecting growing nationwide concern about the effectiveness of shutoff regulations, the Michigan Commission stated in its emergency moratorium order of November, 1982, "The Commission would be remiss if it did not make mention of the failure of the legislative end of the Federal Government to provide adequate protection for the economically disadvantaged citizens. . . . The Commission, acting within the scope of its authority, can only require the implementation of quick-fix, band-aid solutions to these problems when it is clear that the legislative process has failed . . ."

CONCLUSIONS

The report documents the reasons for the greatly heightened concern over growing energy debts. It finds that significant numbers of low income households are falling and will fall ever-farther behind on payments for essential energy supplies. Debt is growing; more households are in debt; the average household arrearage is growing; and utility terminations, the consequence of unpaid debts, are also rising.

Regulatory responses are generally quick-fix, and temporary or emergency solutions. As such, they have been extremely important for many households. But it is important to recognize that while such solutions, i.e., protected periods or circumstances when shut-offs cannot occur, may prevent significant health hazards caused by loss of heat, the crisis is simply postponed. The existing temporary "solutions" cannot provide for the fundamental energy supply needs of economically disadvantaged households on a continuing basis. The development of effective remedies is greatly hampered by the failure of many PUCs even to collect the data on the utilities under their jurisdiction which would provide them with the basis for genuinely effective regulations. Without knowing the exact extent and nature of the problem, it is difficult to ensure that it receives the urgent attention that is merited.

Limitations in funding for the energy assistance and weatherization assistance programs mean that households seeking reconnection will have to use their own scarce resources to cover both current charges and part of their back balances on a monthly basis. Without a significant change in their economic circumstances or in the weatherization characteristics of their housing, it is unrealistic to hope that those households can extricate themselves from inevitably mounting debt, even under the most reasonable of deferred payment arrangements.

In other words, there is as yet no remedy available to most of those low income households who are likely to face a crisis of energy debts and consequent loss of essential energy supply in the coming winters.●

By Mr. PRYOR (for himself, Mr. MATSUNAGA, Mr. SASSER, Mr. PELL, Mr. INOUYE, and Mr. ANDREWS):

S. 1206. A bill to amend titles II and XVI of the Social Security Act to make it clear that administrative law judges engaged in reviewing disability cases under the OASDI and SSI programs may not be rated or evaluated on the basis of the percentage of such cases which they decide in favor of or against the claimant; to the Committee on Finance.

SOCIAL SECURITY DISABILITY RECIPIENTS

● Mr. PRYOR. Mr. President, today I am introducing legislation which will take a first step toward getting the Department of Health and Human Services back on the right track with respect to its policies affecting social security and supplemental security income disability recipients who are under review to determine continuing eligibility under these programs. I am hopeful that this legislation, coupled with comprehensive disability reform legislation, will return the disability program to its original purpose: to serve as an income insurance against the development of a condition so disabling that it prohibits an individual from engaging in substantial gainful activity.

There is no question that it is prudent for the Government to monitor its programs to assure that undeserving recipients are stricken from the rolls. For this reason the Congress enacted legislation in 1980 that required that all nonpermanently disabled beneficiaries be reviewed every 3 years to determine eligibility. However, what ensued was a mass of wrongful terminations which caused a great deal of needless pain and suffering. Congressional offices were deluged with mail and telephone calls from constituents and attorneys regarding terminations of disability benefits.

The fact that so many claimants who appealed SSA's decision have been reinstated testifies to the fact that there are problems at the front end with the continuing disability investigations (CDI's). The Social Security Administration is taking it upon itself to weed out many deserving beneficiaries. Hopefully, the Congress will put a high priority on enacting legislation which would reform the administration of the disability program so that the benefits of the truly deserving are better protected against such occurrences.

But beyond its overzealous efforts to eliminate disabled people from the disability rolls through its own review, SSA is also applying pressure on its administrative law judges to disallow claimants who have appealed SSA's decision. SSA compiles statistics on the ALJ's reversal rates and, based on the individual judge's allowance and disallowance rates may call him in for peer counseling or for retraining programs. In some instances, ALJ's, with realtively high allowance rates have all of the cases in which they have reversed SSA's decision reviewed by SSA in Baltimore. In previous years some ALJ's with high reversal rates have had all of their decisions reviewed.

It should be noted that the quality of any judge's work cannot be judged merely by the number of cases he decides in favor of one side or another. Yet, this is exactly what SSA is doing. Through the application of pressure on the ADJ's to lower their reversal rates, the SSA is undermining the ALJ's independence as guaranteed by the Administrative Procedures Act.

In an effort to eliminate SSA's intervention into the outcome of the ALJ's decisions, my legislation would prohibit SSA from collecting individual data on ALJ's with respect to the number of claims they allow or deny. In this way, an ALJ's performance would not be judged solely on his reversal rate. SSA could still compile collective data on allowances and denials.

Mr. President, I believe the Congress should study in depth what is happening with the ALJ corps at SSA. It is possible that additional legislative remedies may be necessary. But this legislation would take the first step toward correcting what is fast becoming a very serious problem within the disability program.

I am pleased that Senators MATSUNAGA, SASSER, PELL, ANDREWS, and INOUYE have joined with me in sponsoring this legislation and urge my colleagues to join with me in working for prompt enactment of this most important measure. I am requesting that the full text of this legislation be printed at the appropriate place in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1206

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 221 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(j)(1) in recognition of the unusual difficulty of the issues which are involved in the making and reviewing of disability determinations under this title and title XVI, the Secretary shall at all times exert a special effort to assure that administrative law judges who are engaged in reviewing such determinations are permitted to perform their functions and render their decisions in a fair and impartial manner, with an unrestricted opportunity to exercise their independent judgment and without interference from any officer, employee, or other entity of the Department of Health and Human Services, in compliance with all of the provisions of title 5 of the United States Code relating to administrative law judges and with the regulations issued thereunder.

"(2) In carrying out paragraph (1), the Secretary shall take such steps as may be necessary to guarantee that no administrative law judge engaged in reviewing disability determinations under this title or title XVI will ever be rated, ranked, or evaluated or have his performance judged (as a result of a review provided for by section 304(g) of the Social Security Disability Amendments of 1980 or otherwise) on the basis of the number or percentage of cases which he decides in favor of or against the claimant, or on any other basis which directly or indirectly takes into account the number or percentage of cases which he decides in favor of or against the claimant.

"(3) Nothing in this subsection shall be construed to prevent the Secretary from collecting, evaluating, and analyzing data with respect to the number or pecentage of cases decided by administrative law judges in favor of and against claimants, so long as such data involves only the aggregate number or percentage of such cases and does not include specific information with respect to the number or percentage of cases decided in favor of or against the claimant by any particular adminstrative law judge.".

SEC. 2. Section 1631(c) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(4) The provisions of section 221(j) shall apply with respect to administrative law judges engaged in reviewing disability determinations under this title in the same manner and to the same extent as they apply with respect to administrative law judges engaged in reviewing such determinations under title II.".●

By Mr. HELMS (by request):

S. 1208. A bill to reduce the cost of and improve the food stamp program and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD STAMP AND COMMODITY DISTRIBUTION AMENDMENTS OF 1983

● Mr. HELMS. Mr. President, I am pleased to introduce on behalf of the Reagan administration the President's proposals with respect to the food stamp program. These proposals are designed to implement the President's budget as submitted to the Congress earlier this year. According to the administration's best estimates, the proposals will result in savings of approximately $800 million during fiscal year 1984. I should add that the Congressional Budget Office has estimated that these proposals will result in savings of approximately $1 billion. The discrepancy is due primarily to different assumptions about the impact in the food stamp program of changes recommended by the administration for other programs, primarily the aid to families with dependent children program.

During 1981 and 1982, the President recommended, and the Congress enacted, changes intended to contain the food stamp program's explosive growth. The Department of Agriculture's food programs, of which the food stamp program is the largest, increased by 85 percent between 1978 and 1981. Even the medicaid and medicare programs—often acknowledged as having grown rapidly—did not match the food stamp program's spiralling cost. Medicaid was up by 58 percent during the same period while medicare spending increased by 68 percent.

Despite the best attempts to reform this program, the best that can be said of the results of the past 2 years is that the rate of increase has been slowed. Slowed. Not halted. The food stamp program costs more than it ever has before. For instance, excluding Puerto Rico—which now has a nutrition assistance block grant—food stamp spending between fiscal year 1980 and the current fiscal year has grown from $8.3 billion to an unprecedented $12 billion, an incredible 45-percent increase. Participation has grown from 19.3 million recipients to 22 million during the same period.

Household benefits have increased in each year. It should also be emphasized that except for a very small percentage of households, food stamp benefits have never been intended to be the only method for low-income families to obtain adequate food. Only households with no income would be relying totally on food stamp benefits. Food stamps are suppose to supplement regular expenditures for food, the assumption being that approximately 30 percent of ordinary income is spent for food among low-income households. The following table shows the maximum amount of food stamps which would be received by households with no income of any sort.

Thrifty food plan amounts—48 States and District of Columbia [1]

Household size:	
1	75
2	139
3	199
4	253
5	300
6	360
7	398
8	455
Each additional member	+57

[1] Adjusted to reflect the cost of food in June and adjusted for each household size in accordance with economies of scale.

Mr. President, recent reforms in the food stamp program have had several purposes:

To prevent fraud and abuse. Countless loopholes in the food stamp program have been plugged. Much of the fraudulent participation that has been identified recently is precisely because of the antifraud reforms which have been passed in recent years.

To slow the growth of the program. Delays in the indexing of benefits have postponed, not canceled, food stamp increases.

To improve the administration of the program. Many of the proposals adopted in the recent past have been designed to improve the day-to-day operations of the program. By so doing, legitimate recipients can be better served, and detection of nonneedy applicants can be more effective.

Among specific proposals:

Strikers have been eliminated from participation in the program.

Counties and States have been permitted to establish workfare programs for able-bodied food stamp recipients.

The largest savings item was one to insure that first month's benefits are prorated, a model provision which has subsequently been adopted in other programs.

This is hardly the record of an administration, or a Congress, which has been unresponsive to the true needs of the poor.

This year's proposals by the administration are in much the same vein. The largest savings in the administration's package is not from cutting benefits—or even postponing increases. Rather, it is from requiring States to reimburse the Federal Government for overissuance errors above 3 percent.

Let me emphasize that such a proposal does not affect 1 penny of food stamp benefits to deserving families. Rather, it would require States to pay the Federal Government for all issuance errors above 3 percent. I support this provision insofar as it goes; personally, I believe States should be held responsible and financially liable for all overissuance errors.

But 3 percent is at least consistent with other Federal programs. Three percent is the same "tolerance level" that is permitted in the medicaid program. It is the same "tolerance level" that is permitted in the aid to families with dependent children program.

In food stamps during the current fiscal year there is a 9-percent error rate tolerance level, 7 percent for fiscal year 1984, and 5 percent for fiscal year 1985.

There is no rational reason why the food stamp program should provide a more liberal treatment of misapplication of Federal money than is specified in these other programs. Indeed, it is more important in the food stamp program to hold States accountable because food stamp benefits, unlike medicaid and AFDC, are 100 percent Federally funded. The Federal Government has an even greater stake in overissuance errors in this program than it does in the medicaid and AFDC programs.

At this point, I would like to ask unanimous consent to insert in the RECORD the most recent error rates of the States. The overissuance cost Federal taxpayers over $1 billion annually.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ERROR RATES BY STATE—APRIL 1981–SEPTEMBER 1981

Region and State	Percent of cases in error			Percent of dollars in error			Total
	Ineligible	Overissue	Underissue	Ineligible	Overissue	Underissue	
United States	4.92	13.04	7.46	4.61	5.14	2.38	12.15
Northeast:							
Connecticut	7.49	13.46	6.56	8.07	5.63	2.54	16.24
Maine	4.26	10.55	7.40	3.28	3.22	2.34	8.84
Massachusetts	7.22	11.79	5.04	6.24	4.08	1.45	11.77
New Hampshire	7.65	14.78	7.39	6.03	6.27	2.39	14.69
New York	6.93	13.27	8.91	6.84	5.55	3.33	15.73
Rhode Island	4.99	12.76	5.13	3.72	5.47	2.00	11.19
Vermont	6.38	8.41	5.22	5.88	3.11	1.57	10.36
Mid-Atlantic:							
Delaware	3.35	10.31	6.44	3.08	3.99	1.64	8.73
Dist. of Columbia	5.67	15.49	13.00	5.90	6.55	4.41	16.93
Maryland	8.92	12.75	6.67	9.64	5.03	2.07	16.74
New Jersey	4.94	11.23	6.21	3.75	5.07	2.39	11.23
Pennsylvania	5.82	10.90	5.49	5.40	3.26	1.93	10.61
Puerto Rico	4.12	19.81	7.46	2.90	4.85	2.07	9.83
Virginia	4.24	10.85	7.91	4.03	2.72	2.26	9.02
Virginia Islands	2.13	10.64	17.02	2.74	3.77	4.34	13.19
West Virginia	6.53	12.37	7.30	6.33	3.91	2.88	13.12
Southeast:							
Alabama	3.13	11.49	6.93	2.31	4.03	1.70	8.04
Florida	5.69	18.30	7.91	6.11	7.11	2.08	15.31
Georgia	4.91	16.91	7.48	4.32	6.09	2.05	12.45
Kentucky	3.74	12.65	7.47	3.10	3.46	2.20	8.76
Mississippi	5.23	15.17	9.52	3.77	6.58	1.25	11.61
North Carolina	6.91	14.68	11.49	5.33	7.50	3.37	16.20
South Carolina	4.10	15.21	7.86	4.71	4.94	2.55	12.20
Tennessee	5.86	16.15	7.45	4.71	6.13	2.35	13.19
Midwest:							
Illinois	4.05	10.48	6.80	4.46	3.54	3.44	11.46
Indiana	3.65	11.87	5.77	3.58	3.61	0.80	7.98
Michigan	4.67	11.53	9.95	5.71	3.53	2.63	11.89
Minnesota	2.14	9.51	4.94	4.01	4.52	1.54	10.10
Ohio	3.83	10.92	5.54	2.78	4.45	1.69	8.93
Wisconsin	5.61	9.69	7.94	5.59	3.89	3.71	13.19
Southwest:							
Arkansas	4.20	11.24	5.90	2.95	6.57	2.87	12.09
Louisiana	4.43	14.41	8.01	4.40	6.16	2.96	13.52
New Mexico	7.62	15.43	6.61	8.06	5.80	1.77	15.70
Oklahoma	3.87	7.00	5.19	3.84	4.95	3.12	11.91
Texas	3.84	14.21	6.28	4.51	5.09	2.31	11.91
Mountain Plains:							
Colorado	6.13	16.70	8.58	7.26	6.62	2.80	16.81
Iowa	5.84	10.71	6.01	4.22	3.68	1.35	9.26
Kansas	6.84	10.67	6.32	6.84	3.84	2.12	12.81
Missouri	3.75	11.71	7.33	3.65	4.60	2.10	10.35
Montana	6.10	12.88	9.49	5.91	5.68	2.67	14.34
Nebraska	7.02	10.53	7.99	8.52	2.50	1.87	12.89
North Dakota	8.23	6.33	7.59	3.79	2.04	1.49	7.32
South Dakota	3.30	12.45	6.59	1.95	4.23	1.63	7.82
Utah	4.74	8.98	9.23	3.49	3.82	4.16	11.50
Wyoming	5.10	12.10	2.55	5.40	8.03	1.19	14.62
Western:							
Alaska	20.47	16.37	6.43	20.19	4.73	2.73	27.99
Arizona	5.90	18.14	10.50	4.40	5.02	3.95	13.40
California	2.26	7.74	7.74	2.35	3.35	3.35	9.11
Guam	7.48	20.41	9.52	8.04	3.19	1.96	13.21
Hawaii	2.91	8.36	8.24	5.23	1.70	2.29	9.22
Idaho	5.76	11.53	6.34	6.25	4.04	2.02	12.42
Nevada	3.02	2.26	2.26	2.33	0.75	0.57	3.65
Oregon	4.97	12.36	5.88	6.26	15.09	1.33	22.68
Washington	3.13	9.40	4.74	2.92	20.41	0.17	23.52

Source: Food and Nutrition Service, U.S. Department of Agriculture.

Mr. President, I would like to call the attention of my colleagues to a study just recently concluded by the Congressional Budget Office. The study shows that during fiscal year 1982, reforms made by 1981 legislation for the child nutrition and food stamp programs saved 11 to 41 percent less than had been anticipated.

The primary cause for the original overestimates of savings has been the lower than anticipated levels of food price inflation. Food price inflation during the 18 months thus far covered by the 1981 legislation has been considerably lower than originally forecast by CBO. The newest estimates of food price inflation for the next 18 months are also considerably lower than those forecast by CBO at the time of budget reconciliation in 1981. Many of the 1981 changes were based on adjustments to indexing for inflation in the programs.

According to the new figures compiled by CBO, changes in the Omnibus Budget Reconciliation Act of 1981 will save $1.259 billion, or 11 percent, less than originally estimated.

The report also concluded that food stamp changes included in the food stamp and commodity distribution amendments of 1981, which had been intended to save $230 million over a 3-year period, will instead increase spending by $265 million during the same period, a reduction in savings of almost $500 million. The savings for fiscal year 1982 alone were overestimated by 41 percent.

As we begin discussions about the future budgets for these programs, I think it is important that we have factual information about the impact of past action. This data should refute the exaggerated claims of hardship that have been made about the "savings" accomplished in the 1981 legislation.

Congress took the easy way out in 1981 by enacting changes which fiddled with the inflation adjustment rather than by enacting fundamental changes in the operations of these programs. Now we see the results. The savings were not achieved, and we have not addressed the fundamental reforms which are still needed. Indeed, in one notable case, fiddling with the inflation adjustment actually resulted in increased spending, rather than achieving real savings or real reforms.

I ask unanimous consent to insert in the RECORD at this point the study completed by the Congressional Budget Office.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., April 29, 1983.

Hon. JESSE A. HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR SENATOR HELMS: The attached is in response to your request for an analysis of the effects of 1981 legislation on programs administered by the Food and Nutrition Service.

Should you so desire, we would be pleased to provide additional details on the analysis contained in this memorandum.

Sincerely,

JAMES BLUM
(For Alice M. Rivlin, Director).

REVISED ESTIMATES OF EFFECTS OF LEGISLATION ENACTED DURING 1981 AFFECTING THE FOOD STAMP AND CHILD NUTRITION PROGRAMS

In 1981 the Congress enacted legislation that significantly reduced Food Stamp and Child Nutrition program outlays. At that time the Congressional Budget Office provided estimates of savings. This memorandum—prepared at the request of the Senate Committee on Agriculture, Nutrition, and Forestry—presents revised estimates of savings from several Food Stamp and Child Nutrition program changes enacted during 1981. Some of the savings estimates are sensitive to assumptions about inflation rates, and these revised estimates are based on currently projected rates of inflation. In addition, some of the earlier estimates reflected technical assumptions that have proved inaccurate. Finally, additional information has entered into some of the revisions.

For the Food Stamp program, reestimates have been confined to changes affecting cost-of-living adjustments (COLAs) in the allotment levels. The rate of food price inflation has been considerably lower than assumed in the original estimates of the effects of COLA changes. Other Food Stamp program changes made in the 1981 legislation are also likely to have different effects on outlays than originally estimated. Some evidence exists, for example, that original estimates probably overstated savings from the 1981 reconciliation act provision requiring implementation of monthly reporting and retrospective budget procedures for most of the food stamp caseload. CBO is currently reexamining this issue.

Reestimates of other program changes may become possible when the Administration completes its study of the effects of Food Stamp program changes made during the 97th Congress, a study it is required to make by a provision of the Omnibus Budget Reconciliation Act of 1982.

In the Child Nutrition programs, the effects of COLA changes have also been reestimated, as have savings from several other provisions of the 1981 reconciliation act for which additional information has become available.

Table 1 shows the original estimates of the effects on outlays of Food Stamp and Child Nutrition program changes enacted during 1981, together with the revisions discussed in this memorandum. For example, the original estimate of savings in the Food Stamp program during 1982 resulting from 1981 reconciliation act changes was $1,708 million. The revised estimate is $1,410 million. Revisions for all years show smaller savings from the 1981 reconciliation act changes for both the Food Stamp and Child Nutrition programs.

TABLE 1.—ORIGINAL AND REVISED ESTIMATES OF EFFECTS ON OUTLAYS OF CHANGES AFFECTING THE FOOD STAMP AND CHILD NUTRITION PROGRAMS ENACTED DURING THE 1ST SESSION OF THE 97TH CONGRESS

[By fiscal year, in millions of dollars] [1]

	1982	1983	1984
FOOD STAMP PROGRAMS			
Changes enacted in the Omnibus Budget Reconciliation Act of 1981:			
Revised savings estimate	1,410	1,765	2,262
Original savings estimate	1,708	2,096	2,384
Difference	−298	−331	−122
Changes enacted in the food stamp and commodity distribution amendments of 1981:			
Revised savings estimate	410	−485	−190
Original savings estimate	700	−250	−220
Difference	−290	−235	30
CHILD NUTRITION PROGRAMS			
Changes enacted in the Omnibus Budget Reconciliation Act of 1981:			
Revised savings estimate	1,206	1,305	1,392
Original savings estimate	1,369	1,471	1,571
Difference	−163	−166	−179

[1] Food stamp program savings include those resulting from establishing a food assistance block grant in Puerto Rico. The Puerto Rico nutrition assistance program, funded by this grant, has been operating in the Commonwealth since July 1982.

Source: Congressional Budget Office.

Table 1 also shows estimates of the effects of changes enacted in the Food Stamp and Commodity Distribution Amendments of 1981. Those changes were expected to reduce spending during 1982 and increase spending during 1983 and 1984. The revised estimates of savings declines by $290 million in 1982 and the estimated increases in spending rise by $235 million in 1983 and fall by $30 million in 1984.

The remainder of this memorandum discusses the provisions for which reestimates have been made and the basis for each reestimate.

FOOD STAMP PROGRAM CHANGES

Reestimates have been made of the effects on Food Stamp program outlays of changes in the COLA included in the Omnibus Budget Reconciliation Act of 1981 and of further changes in the COLA enacted in the Food Stamp and Commodity Distribution Amendments of 1981.

COLA Change—Omnibus Budget Reconciliation Act of 1981

Until the Omnibus Budget Reconciliation Act of 1981, the maximum allotment levels in the Food Stamp program were scheduled to be adjusted in January 1982 and in each subsequent January based on projections of the value of the Department of Agriculture's Thrifty Food Plan in the preceding December. Projected, rather than actual, values of the December Thrifty Food Plans were specified because the actual value would not have been known at the time that states were required to adjust the levels. Maximum allotment levels, which are determined for each household size, are the amounts of benefits received by households with no net food stamp income (net food stamp income is the household's gross income less applicable deductions). Allotments for households with positive net incomes are computed by subtracting 30 percent of net income from the maximum allotment level specific for each household size.

The 1981 reconciliation act changed the basis for adjusting the maximum allotment levels. Specifically, the first adjustment following enactment of the law was to be made in April 1982 based upon the actual value of the Thrifty Food Plan during December 1981. The next adjustment was to be made in July 1983 based upon the Thrifty Food Plan value in March 1983. The adjustment in 1984 and all subsequent years was to occur in October based upon June Thrifty Food Plan values.

These delays in COLAs result in savings because, for a portion of the year, the maximum allotment levels and the corresponding benefit levels are lower than they would be without the program change. The greater the rate of inflation, the greater is the difference between the allotment levels in effect given the COLA delay and those that would have been in effect with no change in the law. The greater this difference, the greater are the savings.

Revised estimates of savings from this provision are substantially lower than original estimates because food price increases were less than projected. Table 2 shows assumed rates of food price inflation, differences between the fiscal year average maximum allotment levels for four-person households with and without the delay, and the estimated outlay savings in 1982-1984. These figures are shown as estimated in 1981 and as revised.

The differences between maximum allotment levels shown in Table 2 are based on annual averages of those in effect during the year for a four-person household under the schedule of inflation adjustments in effect before and after the legislative change. Based upon original projections, this difference would have averaged $8.00 per month for a four-person household, resulting in benefit reductions of this amount for most four-person households when averaged over the fiscal year. All savings during 1982 would have been realized during the January through March period due to the effects of the COLA delay in that fiscal year. The maximum allotment level for a four-person household during calendar year 1981 was $233 per month; this would have increased under the policies then in effect, and the inflation assumptions then in force, to $265 in January. The law change delayed this increase for three months, causing a projected difference in maximum allotments for this household size of $32 per month during the three-month period (or $8 per month when averaged over the year). Using actual rather than projected food prices, the maximum allotments for this household size would have increased to $246 in January 1982. The delay would thus have resulted in monthly benefit reductions for most four-person households of $13 during the three-month period. Projected and actual differences for households with fewer than four members would have been less than the amounts for the four-person household, and those for households with more than four members would have been greater.

The schedule of COLAs specified in the 1981 reconciliation act would have caused benefit reductions during six months and benefit increases during three months of fiscal year 1983, as compared to the adjustment schedule previously in effect. In fiscal year 1984, benefit reductions would have occurred during nine months and benefit increases during three months. The figures in Table 2 average these effects over the entire year.

TABLE 2.—ORIGINAL AND REVISED PROJECTIONS OF FOOD PRICE INFLATION, ESTIMATED AVERAGE REDUCTIONS IN MAXIMUM ALLOTMENT LEVELS, AND ORIGINAL AND REVISED ESTIMATES OF SAVINGS FOR THE CHANGE IN THE FOOD STAMP PROGRAM COLA ENACTED IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1981, FISCAL YEARS 1982–84

	1982	1983	1984
Food price inflation (percent change): [1]			
Revised [2]	3.3	2.2	5.1
Original [3]	9.1	6.5	5.7
Allotment level difference (dollars per month): [4]			
Revised	−3.25	−2.00	−5.00
Original	−8.00	−8.50	−8.75
Estimated savings (millions of dollars):			
Revised	214	131	318
Original	512	462	440
Difference	−298	−331	−122

[1] Food price inflation measured by the change in the annual average value of the Department of Agriculture's Thrifty Food Plan for a 4-person household.

[2] Based on CBO economic assumptions, February 1983.

[3] Based on economic assumptions adopted by the Congress for use in estimating the 1st resolution in the fiscal year 1982 budget.

[4] Difference for a 4-person household in the 48 coterminous States and the District of Columbia.

Source: Congressional Budget Office.

COLA Change—Food Stamp and Commodity Distribution Amendments of 1981

The Food Stamp and Commodity Distribution Amendments of 1981 provided for further changes in the cost-of-living adjustments. An inflation adjustment was to be made each October, beginning in 1982, based upon values of the Thrifty Food Plan in the preceding June. As a result of this change, no adjustment was made during fiscal year 1982. Relative to the schedule specified in the 1981 reconciliation act, in which maximum allotments were to be adjusted in April 1982, allotment levels, and thus benefit levels, were lower for the last six months of fiscal year 1982 than they would have been without this further change in the law.

The COLA schedule change in the Food Stamp and Commodity Distribution Amendments of 1981 would cause increased costs during fiscal years 1983 and 1984 (using as the basis of comparison the 1981 reconciliation act schedule). This is primarily because the COLA was returned to a 12-month adjustment schedule, rather than a 15-month adjustment schedule as specified in the 1981 reconciliation act. During times of rising prices, more frequent adjustments in the allotment levels result in greater program expenditures. Table 3, which is similar to Table 2, shows original level differences, and estimated effects on program outlays. Note that the food price inflation assumptions on which the original estimates were based differ from those used to estimate changes in the 1981 reconciliation act. By late 1981, when the Food Stamp and Commodity Distribution Amendments of 1981 were being considered, it was clear that the earlier inflation assumptions used to estimate effects of the 1981 reconciliation act were too high.[1]

CHILD NUTRITION PROGRAM CHANGES

The 1981 reconciliation act made a number of changes in the Child Nutrition programs. CBO has reestimated the effects of changes in the structure of reimbursement rates and COLA schedules, restrictions on the eligibility of sponsors of Summer Food Service program sites, and new income documentation and verification requirements. Table 4 shows these reestimates.

TABLE 3.—ORIGINAL AND REVISED PROJECTIONS OF FOOD PRICE INFLATION, ESTIMATED AVERAGE CHANGES IN MAXIMUM ALLOTMENT LEVELS, AND ORIGINAL AND REVISED EFFECTS ON OUTLAYS OF THE CHANGE IN THE FOOD STAMP PROGRAM COST-OF-LIVING ADJUSTMENT SCHEDULE ENACTED IN THE FOOD STAMP AND COMMODITY DISTRIBUTION AMENDMENTS OF 1981, FISCAL YEARS 1982 THROUGH 1984

	1982	1983	1984
Food price inflation (percent change): [a]			
Revised [b]	3.3	2.2	5.1
Original [c]	7.7	6.5	5.4
Allotment level difference (dollars per mo): [d]			
Revised	−6.50	7.50	3.00
Original	−11.50	4.25	4.00
Estimated savings (millions of dollars):			
Revised	410	−485	−190
Original	700	−250	−220
Difference	−290	−235	30

[a] Food price inflation measured by the change in the annual average value of the Department of Agriculture's thrifty food plan for a four-person household.

[b] Based on CBO economic assumptions, February 1983.

[c] Based on economic assumptions used by the administration for the mid-session review of the fiscal year 1982 budget.

[d] Difference for a four-person household in the 48 coterminous States and the District of Columbia.

Source: Congressional Budget Office.

TABLE 4.—ORIGINAL AND REVISED ESTIMATES OF THE EFFECTS ON CHILD NUTRITION OUTLAYS OF PROGRAM CHANGES ENACTED IN THE OMNIBUS RECONCILIATION ACT OF 1981, FISCAL YEARS 1982 THROUGH 1984

[By fiscal year, in millions of dollars]

	1982	1983	1984
Original estimated savings	1,369	1,471	1,571
Reestimates:			
Lower than projected food price inflation	−77	−77	−88
Summer food service program for children	−36	−39	−41
Income documentation and verification	−50	−50	−50
Total reestimates	−163	−166	−179
Revised estimated savings	1,206	1,305	1,392

Source: Congressional Budget Office.

Lower rates of food price inflation have the effect of reducing expected savings from changes that lowered reimbursement rates in most programs and that made the schedule of inflation adjustments annual rather then semiannual. The reasons are similar to those discussed for the Food Stamp program. Original and revised food prices inflation assumptions are shown in Table 5.

The 1981 reconciliation act limited the sponsorship of summer food service sites to public or private nonprofit school food authorities, local, municipal or county governments, and residential nonprofit summer camps. Service was also restricted to those areas where at least 50 percent of the children meet the income requirements for free or reduced-price school lunches. Before enactment of this legislation, private nonprofit organizations other than schools and residential camps could sponsor programs, and programs could be operated in areas where more than one-third of the children were eligible for free or reduced-price school lunches.

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[1] At the request of Agriculture Committee staff, estimates of the effects of this COLA Schedule change were prepared based upon several different sets of more recent economic assumptions. The assumptions used as the basis for estimates shown in the Table 3 were those adopted by the Administration for its mid-session review of the 1982 budget.

TABLE 5.—ORIGINAL AND REVISED PROJECTED RATES OF FOOD PRICE INFLATION AFFECTING REIMBURSEMENT RATES IN THE CHILD NUTRITION PROGRAMS[a]

	May 1981	May 1982	May 1983	May 1984
Revised[b]	9.3	5.4	5.1	5.1
Original[c]	10.6	9.4	7.2	6.5

[a] Inflation measured as the percent change in the Consumer Price Index for food away from home during the 12 months preceding the month shown. Reimbursement rates are, in most programs, currently adjusted in July based upon changes in this index occurring during the 12-month period ending the preceding May.

[b] Based on CBO economic assumptions, February 1983.

[c] Based on economic assumptions adopted by the Congress for use in estimating the first resolution in the fiscal year 1982 budget.

Source: Congressional Budget Office.

These changes saved less than had been estimated at the time of passage of the 1981 reconciliation act (see Table 6). One apparent reason for the reduction in savings was the transfer of sponsorship of some sites from sponsors made ineligible by the change to eligible sponsors.

The final change in the Child Nutrition programs for which reestimates have been made involves documentation of income sources and verification of information on applications for free and reduced-price meals. Previously, applicants had not been required to document their income sources, and states had not been free to verify information submitted on the applications. The original estimate of savings from the Administration was $100 million per year in fiscal years 1982 through 1984.

Based on information from the Administration, the estimate of savings from these additional verification procedures has been reduced to $50 million per year. The reduction results from a smaller decline in free meal participation than anticipated.

TABLE 6.—ORIGINAL AND REVISED ESTIMATES OF OUTLAY SAVINGS OF SUMMER FOOD SERVICE PROGRAM CHANGES ENACTED IN THE OMNIBUS RECONCILIATION ACT OF 1981, FISCAL YEARS 1982 THROUGH 1984

[By fiscal year, in millions of dollars]

	1982	1983	1984
Revised estimated savings	49	54	58
Original estimated savings	85	93	99
Difference	−36	−39	−41

Source: Congressional Budget Office.

It seems to me, Mr. President, that we still must address ourselves to some fundamental reforms which are needed in the food stamp program. I believe that the administration's proposals provide a reasonable point of discussion in this regard. Much remains to be done before this program will merit the widespread support of American taxpayers.

I ask unanimous consent that the transmittal letter from Secretary of Agriculture John Block, the proposed legislation, and a section-by-section summary provided by the Department be printed at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., April 20, 1983.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a bill to amend the Food Stamp Act of 1977, as amended. Also enclosed is a section-by-section analysis explaining the provisions of the bill.

The bill has five titles. Title I provides that, unless otherwise indicated, all references are to the Food Stamp Act of 1977. Title II contains amendments that support the President's Fiscal Year 1984 Budget proposal by achieving approximately $800 million in savings for Fiscal Year 1984. These proposals are discussed in more detail below. Title III contains various nonbudgetary amendments designed to improve Food Stamp Program administration and restore full authority to Puerto Rico to design its own food assistance program. Title IV provides for additional administrative funding for the Commodity Supplemental Food Program. Title V provides an effective date for the implementation of the provisions of the bill.

During the past two years, this Administration and the 97th Congress have worked together to contain the Food Stamp Program's explosive growth, without jeopardizing assistance to those with genuine needs. Without our reforms of the last two years, food stamp spending would have grown 65 percent. We have, however, maintained the level of assistance as average benefits have increased faster than food price inflation.

The package of legislative proposals in Title II continues this effort. Many of the 1984 proposals are designed to restrain expenditures by reducing the $1 billion in overpayments made each year. By reducing the amount of dollars spent in error, we can focus our resources on the neediest households and restore public confidence in the program.

A complex and complicated administrative process is a major cause of the current 10 percent error rate. To improve program administration, we are proposing to:

Streamline the currently complicated process of determining benefits by simplifying the calculation of deductions.

Simplify the application and benefit process by making Aid to Families with Dependent Children (AFDC) recipients categorically eligible for a standard food stamp allotment.

Revise the definition of a household by requiring all individuals living together, with certain limited exceptions, to file for benefits as a single unit. The current definition is complicated by multiple exceptions and is difficult to administer.

Hold States liable for payment errors exceeding 3 percent of benefits. This target rate would equal the standard already used in two other State-administered entitlement programs—AFDC and Medicaid. The other administrative simplification proposals in this package will aid States in meeting this target.

Another proposal in Title II would require States to establish Community Work Experience Programs (CWEP). These programs would encourage able-bodied food stamp recipients to find work in the private sector. If no jobs are available, CWEP participants would perform useful public services, fulfilling community needs that otherwise would be unmet with existing public resources.

As part of the proposal for a six-month freeze in cost-in-living adjustments (COLA) across a wide range of government programs, Title II also contains a provision to delay the next food stamp COLA from October 1983 to April 1984.

Overall, these Title II provisions will guarantee continuing assistance to those individuals in need of government assistance for an adequate diet. The proposed reforms do not reduce total participation. In fact, food stamp participation in 1984 will be higher than under any previous Administration.

A similar letter is being sent to the Speaker of the House.

The Office of Management and Budget advises that the enactment of this proposed legislation would be in accord with the President's program.

Sincerely,

JOHN R. BLOCK,
Secretary.

Enclosure.

S. 1208

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food Stamp and Commodity Distribution Amendments of 1983".

TITLE I—REFERENCES TO THE FOOD STAMP ACT OF 1977

SEC. 101. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Food Stamp Act of 1977 (7 U.S.C. 2011 *et seq.*).

TITLE II—FOOD STAMP BUDGETARY REVISIONS

HOUSEHOLD DEFINITION

SEC. 201. Section 3(i) (7 U.S.C. 2012(i)) is amended by striking out the first two sentences and inserting in lieu thereof "Household" means any individual living alone or any group of individuals living together except that (1) any individual described in subsection 3(r) who lives with others, but customarily purchases food and prepares meals for home consumption separate and apart from one or more of the others, shall be considered a household together with only those members of the group living together who are the spouse of such individual, any person less than eighteen years of age who is under parental control of the individual or spouse and any others who customarily purchase food and prepare meals for home consumption together with the individual; or (2) any individual who lives with others, who is sixty years of age or older, and who is unable to purchase food and prepare meals because such individual suffers, as certified by a licensed physician, from a disability which would be considered a permanent disability under section 221(i) of the Social Security Act (42 U.S.C. 421(i)) or from a severe, permanent, and disabling physical or mental infirmity which is not symptomatic of a disease shall be considered a household together with only that member of the group living together who is the spouse of such individual, without regard to the purchase of food and preparation of meals, if the income (as determined under section 5(d)) of the others, excluding the spouse, does not exceed the poverty line, as described in section 5(c)(1), by more than 65 per centum. Notwithstanding the provisions of the preceding sentence, if a person who is a member of a household takes an action which would result in disqualification of the household under the provisions of section 6 of this Act, any remaining household members, other than the spouse of the person taking such action and any person less than eighteen years of age who is under parental control of such person or spouse shall, for the period of the disqualification, be treated as a separate household if such members customarily purchase food and prepare meals for home consumption separate and apart from the person taking the action.".

THRIFTY FOOD PLAN ADJUSTMENTS

Sec. 202. Section 3(o) (7 U.S.C. 2012(o)) is amended by—

(1) striking out "on October 1, 1983, and October 1, 1984" in clause (7) of the second sentence and inserting in lieu thereof "on April 1, 1984, and April 1, 1985"; and

(2) striking out "on October 1, 1985, and each October 1, thereafter" in clause (8) of the second sentence and inserting in lieu thereof "on April 1, 1986, and each April 1, thereafter".

STANDARD/SHELTER DEDUCTION

Sec. 203. Section 5(e) (7 U.S.C. 2014(e)) is amended to read as follows:

"(e) In computing household income the Secretary shall allow a standard/shelter deduction of $140 a month for each household, except that households in Alaska, Hawaii, Guam, and the Virgin Islands of the United States shall be allowed a standard/shelter deduction of $241, $199, $217 and $112, respectively. Such standard/shelter deductions shall be adjusted on April 1, 1984, and each April 1, thereafter, to the nearest lower dollar increment to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, for items other than food and the homeownership component of shelter costs, as appropriately adjusted by the Bureau of Labor Statistics after consultation with the Secretary, for the 12 months ending the preceding June 30. The Secretary shall also allow a dependent care deduction for the actual cost of payments necessary for the care of a dependent, regardless of the dependent's age, when such care enables a household member to accept or continue employment, or training or education that is preparatory for employment, the maximum allowable amount of which shall be $115 a month in the forty-eight contiguous States and the District of Columbia, and in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $200, $165, $140 and $85, respectively. Households containing an elderly or disabled member shall also be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess medical expense deduction for that portion of the actual cost of allowable medical expenses incurred by household members who are elderly or disabled, exclusive of special diets, that exceeds $35 a month.".

STANDARD EARNINGS DEDUCTION

Sec. 204. Section 5(e) (7 U.S.C. 2014(e)), as amended by section 203 of this Act, is further amended by adding at the end thereof the following new sentence:

"Households with earned income shall be entitled to deduction equal to the total of the appropriate disregard(s) from earned income under section 402(a)(8)(A)(ii) of the Social Security Act (42 U.S.C. 602(a)(8)(ii)) for each member with earned income.".

CATEGORICAL ELIGIBILITY FOR AFDC RECIPIENTS/SIMPLIFIED BENEFIT DETERMINATIONS

Sec. 205. (a) Effective October 1, 1983, section 5(j) (7 U.S.C. 2014(j)) is amended by—

(1) striking out "may" and inserting in lieu thereof "shall"; and

(2) striking out everything following "Social Security Act (42 U.S.C. 601 *et seq.*)" and inserting in lieu thereof "to have satisfied the income standard of eligibility prescribed under subsection (c)(1) and the resource limitations prescribed under subsection (g). The Secretary may waive the income eligibility standard prescribed under subsection (c)(2) for households in which all members receive benefits under part A of title IV of the Social Security Act in states where the maximum allowable gross income limit for receipt of such benefits is equal to or less than the standard prescribed in subsection (c)(2).".

(b) Effective April 1, 1984, section 8 (7 U.S.C. 2017) is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding the provisions of subsection (a), the value of the allotments issued to households in which all members receive benefits under part A of title IV of the Social Security Act (42 U.S.C. 601, *et seq.*) shall be determined pursuant to an approvable plan, submitted by each State agency in conformance with regulations promulgated by the Secretary, under which each such household shall receive an allotment based on its size and category. The categories of households considered in determining the value of the allotment shall be (1) households containing one or more members with earned income, (2) households containing one or more members sixty years of age or over, (3) households containing neither a member with earned income nor a member sixty years of age or over, and (4) households containing one or more members with earned income and one or more members sixty years of age or over. The allotment for each household size and category shall be equal to the average allotment for such household size and category prior to implementation of this subsection, adjusted at such times and in such manner as the Secretary may prescribe to reflect changes in related benefit levels and any relevant statutory or regulatory amendments, except that the Secretary may prescribe the method for determining the allotment for any size and category of households in any State where such size and category is so small as to make the use of an average impracticable.".

WORK REQUIREMENTS AND COMMUNITY WORK EXPERIENCE PROGRAM

Sec. 206. (a) Section 6 (7 U.S.C. 2015) is amended by—

(1) in paragraph (d)(1)—

(A) striking out "eighteen" in the material preceding clause (i) and inserting in lieu thereof "sixteen"; and

(B) striking out "which may include a requirement that, at the option of the State agency," in clause (ii) inserting in lieu thereof "which shall include a requirement that";

(2) in paragraph (d)(2)—

(A) striking out "a work registration requirement" in clause (A) and inserting in lieu thereof "requirements for employment related activities";

(B) striking out "a dependent child under age six" and all that follows through the end of clause (B) and inserting in lieu thereof "(i) a dependent child under age six or, at the option of the State agency, a dependent child under age three if adequate childcare is available for such child, or (ii) of an incapacitated person;"; and

(C) striking out clause (C) and inserting in lieu thereof "(C) a person between ages sixteen and eighteen and under parental control of another member of the household;";

(3) redesignating subsections (e) through (h) as (f) through (i), respectively; and

(4) inserting a new subsection immediately following subsection (d) as follows:

"(e) No household shall be eligible for assistance under this Act if it includes a person who is required to comply with the work requirements of subsection (d), or is exempt from those requirements solely because of being subject to and complying with the work requirements of the Federal-State unemployment compensation system, and who refuses to accept an offer from the State agency, or a political subdivision designated by the State agency, to perform work on its behalf in return for compensation consisting of the allotment to which the household is entitled under section 8 of this Act, with each hour of such work entitling that household to a portion of its allotment equal in value to 100 per centum of the higher of the applicable State minimum wage or the Federal minimum hourly rate under the Fair Labor standards Act of 1938: *Provided*, That no household member shall be required to work in any community work experience position to the extent that such work exceeds in value the allotment to which the household is otherwise entitled or that such work, when added to any other houses worked during any week by such member for compensation (in cash or in kind) in any other capacity, exceeds 120 hours per month. In the event that any person fails to comply with the requirements of this subsection, neither that person nor the household to which that person belongs shall be eligible to participate in the food stamp program for two months, unless that person or another person in the household satisfies all outstanding community work experience obligations prior to the end of the two-month disqualification period.".

(b) Section 11 (7 U.S.C. 2020) is amended by—

(1) inserting before the period at the end of paragraph (e)(22), as added by section 307 of this Act, "and the community work experience program services necessary to effectuate the provisions of subsection 6(e)"; and

(2) inserting at the end thereof a new subsection as follows:

"(o)(1) The Secretary shall promulgate guidelines pursuant to this subsection which, to the maximum extent practicable, enable a State agency to design and operate a community work experience program for purposes of subsection 6(e) which is compatible and consistent with similar programs operated within the State.

"(2) In establishing the community work experience program services as required under paragraph (e)(22) of this section, the State agency, and any political subdivision designated by the State agency, shall—

"(A) not provide any work that has the effect of replacing or preventing the employment of an individual not participating in the community work experience program;

"(B) provide the same benefits and working conditions that are provided at the job site to employees performing comparable work for comparable hours and

"(C) reimburse participants for actual costs of transportation and other actual costs all of which are reasonably necessary and directly related to participation in the program but not to exceed $25 in the aggregate per month.

"(3) Each State agency shall offer community work experience jobs to not less than seventy-five percent of the persons required to accept such employment in any month under subsection 6(e). Each State agency shall be considered to have issued erroneous payments for purposes of subsection 16(d) for the number of households by which it failed to meet the standard established in the preceding sentence with each such erroneous payment being equal to the average allotment for all households containing a member who is required to accept commnity work experience employment under subsection 6(e).

"(4)(A) The Secretary shall pay to each State agency, pursuant to subsection 16(a), 50 per centum of all administrative expenses incurred by such agency in operating a community work experience program under this subsection, including reimbursements to participants for work-related expenses as described in paragraph 2(C) of this subsection but not including the cost of equipment, tools or materials used by participants or the cost of supervising participants.

"(B) The Secretary may suspend or cancel some or all of the payments made under subparagraph (o)(4)(A) of this section upon a finding that the State agency or political subdivision designated by the State agency has failed to comply with the community work experience requirements under this subsection.".

(c) Section 20 (7 U.S.C. 2029) is repealed.

STATE AGENCY LIABILITY

SEC. 207. Effective October 1, 1983, section 16 (7 U.S.C. 2025) is amended by—

(1) striking out subsections (b) and (c);

(2) in subparagraph (d)(2)(A)—

(A) striking out "exceeds—" and everything that follows through "thereafter," and inserting in lieu thereof "exceeds 3 per centum,"; and

(B) striking out "or as provided in subparagraph (B)";

(3) revising subparagraph (d)(2)(B) to read as follows:

"(B) The Secretary shall institute an error rate liability program under which each State agency shall be liable to the Secretary for an amount equal to the product of multiplying the per centum by which its payment error rate exceeds 3 per centum for any fiscal year by the total dollar value of all coupons issued by the State agency for the fiscal year."; and

(4) revising paragraph (d)(3) to read as follows:

"(3)(A) For each fiscal year the Secretary shall project the liability of each State agency under this subsection for that fiscal year by determining the State agency's share of the projected national dollar loss due to error rates above 3 per centum on the basis of its share of the national dollar loss due to error rates above 3 per centum for the most recent quality control period for which federally adjusted data is available. The Secretary shall reduce the State agency's federally funded share of administrative costs by the amount of projected liability determined under the preceding sentence. The State agency shall pay to the Secretary, at such times as the Secretary may require, any amount by which its projected liability exceeds its federally funded share of administrative costs. After the end of the fiscal year the Secretary shall determine the State agency's actual liability under paragraph (2) and the State agency shall either pay to the Secretary the amount by which its actual liability exceeds the projected liability collected under this subsection or receive an adjustment in its federally funded share of administrative costs in the amount by which its projected liability collected under this subsection exceeds its actual liability for the fiscal year.

"(B) Each State agency shall perform its responsibility under this Act for effective and efficient administration of the program without respect to the level of Federal funding for administrative costs under this section.".

TITLE III—IMPROVING ADMINISTRATIVE PROCEDURES FOR THE FOOD STAMP PROGRAM

CLARIFICATION OF STUDENT ELIGIBILITY

SEC. 301. (a) Section 5(d) (7 U.S.C. 2014(d)) is amended by inserting immediately before "shall be considered such reimbursement" in the proviso of clause (5) "and no portion of any educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like,".

(b) Section 6(f) (7 U.S.C. 2015(f)), as redesignated by section 206 of this Act, is amended by—

(1) striking out clause (C);

(2) inserting "or" immediately before "(D)"; and

(3) striking out "; or (E)" and all that follows through the end of the sentence and inserting a period in lieu thereof.

TECHNICAL AMENDMENT

SEC. 302. Section 6(g)(2) (7 U.S.C. 2015(g)(2)), as redesignated by section 206 of this Act, is amended by striking out "203(a)(7)" and "(8 U.S.C. 1153(a)(7))" in clause (D) and inserting in lieu thereof "207" and "(8 U.S.C. 1157)", respectively.

TREATMENT OF FOOD STAMPS UNDER FEDERAL HOUSING ASSISTANCE LAWS

SEC. 303. Section 8(b) (7 U.S.C. 2017(b)) is amended by—

(1) striking out "any Federal, State or local laws" and inserting "any State or local law, or any Federal law other than laws related to the provision of housing assistance" in lieu thereof; and

(2) inserting ", other than assistance under a Federal law related to the provision of housing assistance," after "shall decrease any assistance".

REDEMPTION OF COUPONS

SEC. 304. Section 10 (7 U.S.C. 2910) is amended by striking out "financial institutions which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation" each time it appears therein and inserting in lieu thereof "banks or savings and loan associations".

EXPEDITED COUPON ISSUANCE

SEC. 305. Section 11(e)(9) (7 U.S.C. 2020(e)(9)) is amended in subparagraph (A) by striking out "five days" and inserting in lieu thereof "five working days".

IMPROVED WAGE MATCHING

SEC. 306. Section 11(e)(19) (7 U.S.C. 2020(e)(19)) is amended by—

(1) striking out "6103(i)(7)" and inserting in lieu thereof "6103 (*l*)(7)";

(2) striking out "and" after the first comma;

(3) inserting "and" to the extent approved by the Secretary, similar information available from other sources" before the second comma;

(4) inserting "or any law controlling access to information from such other sources" before the third comma; and

(5) inserting "or from such other sources" before the semicolon at the end thereof.

STATE ADMINISTRATION OF WORK REGISTRATION AND JOB SEARCH

SEC. 307. Section 11(e) (7 U.S.C. 2020(e)) is amended by—

(1) striking out "and" at the end of paragraph (20);

(2) striking out the period at the end of paragraph (21) and inserting in lieu thereof"; and "; and

(3) adding at the end thereof the following new paragraph:

"(22) that the State agency shall, pursuant to regulations issued by the Secretary, establish the work registration and job search services necessary to effectuate the provisions of subsection 6(d)(1).".

STAYS OF RETAILER/WHOLESALER DISQUALIFICATIONS

SEC. 308. Section 14(a) (7 U.S.C. 2023(a)) is amended in the last sentence by—

(1) striking out "During" and inserting in lieu thereof "In the case of State agencies, during";

(2) striking out "an" and inserting in lieu thereof "on"; and

(3) adding a new sentence at the end thereof as follows:

"In the case of retail food stores and wholesale food concerns, applications for stays of the administrative action shall be considered under the applicable law governing such relief.".

REPEAL OF NONCASH BENEFIT REQUIREMENT FOR PUERTO RICO NUTRITION ASSISTANCE PROGRAM

SEC. 309. Sections 184 (a) and (b) of the Food Stamp Act Amendments of 1982 (Public Law 97-253), and the amendment made to section 19 (7 U.S.C. 2028) by section 184(a), are repealed.

TITLE IV—ADMINISTRATIVE FUNDS FOR THE COMMODITY SUPPLEMENTAL FOOD PROGRAM

SEC. 401. Section 5 of the Agriculture and Consumer Protection Act 1973 (7 U.S.C. 612c, note) is amended by striking, in subsection (a), "amount appropriated for the provision of commodities to State agencies" and inserting in lieu thereof "sum of (1) the total amount appropriated for the commodity supplemental food program and (2) the value of bonus commodities, as defined by the Secretary, which are included in food packages distributed to program participants".

TITLE V—EFFECTIVE DATE

SEC. 501. Except as otherwise specifically provided, the amendments made by this Act shall be effective upon such dates as the Secretary of Agriculture may prescribe, taking into account the need for orderly implementation.

SECTION-BY-SECTION SUMMARY

PROPOSED FOOD STAMP AND COMMODITY SUPPLEMENTAL FOOD PROGRAM AMENDMENTS OF 1983

Title I—References to the Food Stamp Act of 1977

Title II—Food Stamp Budgetary Revisions

Household definition

Section 201 would amend Section 3(i) of the Food Stamp Act of 1974 to change the definition of "household" used for the Food Stamp Program so that all persons who live under the same roof would be considered to be a single household, except those who live in households with one or more elderly or disabled members or in certain households with a member or members who subject the whole household to a sanction. The proposal would retain the current provision that considers elderly, permanently disabled persons and their spouses to be separate households from others with whom they live, purchase, and prepare food as long as the income of the others does not exceed 165 percent of the poverty guidelines. The household definition is used in determining the number of persons whose income is considered to be available to the household. It is also used in calculating benefit amounts since food stamp allotments vary in relation to household size.

Currently, the definition of "household" is all persons who live together and also purchase and prepare food together. However, there are two exceptions to the current definition which contribute to administrative complexity. The first exception is that parents and children who live together must be considered as a single household regardless of their food purchasing and preparation arrangements unless at least one of the parents is elderly or disabled. The second is similar, but applies to siblings rather than parents and children.

Eliminating these exceptions would be a step toward program simplification, reduce the administrative time necessary to determine household composition and size, and reduce errors. The failure to properly apply the household definition is a major source of error. These errors arise partially because of the difficulty of defining and verifying relatedness for the parent/child and sibling exceptions. The proposal to include all persons who live under one roof, in most cases, as one food stamp household is also justified on grounds of administrative simplicity, program integrity, and equity. It is much easier to define what is meant by the term "live with" than the term "purchase and prepare food together." In view of these difficulties, it is reasonable to assume that persons who live together make use of the same food; thus, it is important to include the income and resources of all persons who will be using the food bought with food stamps in determining the need for food assistance.

However, this provision could adversely affect those elderly or disabled persons (other than those elderly, permanently disabled persons described at the beginning of this section) with limited income and extra expenses, especially medical costs, who simply live with others to save shelter costs but who do purchase and prepare food separately. Therefore, an exception is made for those elderly or disabled persons who can prove that they, alone or with others, are separate food units from still other members of the household.

Another exception is made in the case of certain sanctions which are imposed on the entire household. These sanctions, in Section 6 of the Act, may be imposed as a result of (1) failure to cooperate with the State agency in providing necessary information; (2) failure to comply with the work registration requirements; (3) voluntary quit by household heads; and (4) failure to comply with the proposed workfare requirement included in this legislation. Individuals who could prove that they purchase and prepare food separately from household members that incur sanctions would not have to be included in the disqualification but could continue to participate as a separate, smaller household. Separate household status on the basis of separate purchase and preparation of food for the purposes of these two exceptions could not be claimed by the spouse or any children under 18 who are under the parental control of either the elderly, disabled, or sanctioned individual or his or her spouse.

Finally, the proposal is estimated to save $60 million in Fiscal Year 1984 by reducing the benefits issued to certain households. Because of the economies of scale applied to the Thrifty Food Plan and the deductions from gross income, a single large household is eligible for a smaller food stamp benefit than it would be if divided into two or more small households. The proposal would also result in unestimated savings from reducing administrative time required at certification and errors.

Thrifty food plan adjustments

Section 202 would amend Section 3(o) of the Food Stamp Act to freeze the amounts of the Thrifty Food Plan at current levels through April 1, 1984, and to change the date of subsequent adjustments to April 1 of each year. The Thrifty Food Plan was adjusted October 1, 1982, to its current level of $253 for four-person households in the forty-eight States and the District of Columbia. The next adjustment is currently scheduled for October 1, 1983. Under this proposal, when the Thrifty Food Plan levels are next adjusted on April 1, 1984, the adjustments will be based on changes in the cost of food for the twelve-month period of July 1, 1982–June 30, 1983. Subsequent adjustments will occur on April 1 of each year and will be based on food price data for the 12 months ending the preceding June 30. The April 1, 1984, and April 1, 1985, adjustments in the Thrifty Food Plan will be reduced by one percent as provided by P.L. 97-253 for the October 1, 1983, and October 1, 1984, adjustments; but the April 1, 1986, adjustments and subsequent adjustments will reflect changed conditions in food prices 100 percent. This temporary freeze and rescheduling of Thrifty Food Plan amounts is part of the government-wide cost-of-living policy. Although it would increase program costs $123 million in Fiscal Year 1984, it would produce savings of $297 million in Fiscal Year 1985 without reducing any household's current benefits. By restraining program costs resulting from inflation indexing, benefits already being provided to low-income households need not be reduced in response to Federal budgetary constraints.

Standard/shelter deduction

Section 203 would amend Section 5(e) of the Food Stamp Act to eliminate the current standard deduction, excess shelter expense deduction, and the combined dependent care/excess shelter expense deduction. In their place would be established a standard/shelter deduction which would be automatically available to all applicant/participant households. A separate dependent care deduction would remain available to households with that kind of expense; however, its maximum level would no longer be adjusted to reflect changes in the Consumer Price Index. It would be permanently capped at $115 in the 48 contiguous States and the District of Columbia, $200 in Alaska, $165 in Hawaii, $140 in Guam, and $85 in the Virgin Islands. The proposed standard/shelter deduction would be set initially at $140 a month in the 48 contiguous States and the District of Columbia, $241 in Alaska, $199 in Hawaii, $217 in Guam, and $122 in the Virgin Islands. It would be adjusted annually on April 1, beginning in 1984, based on 12 months data, for the preceding July 1–June 30. The annual adjustments would be rounded down to the next lower dollar and would be based on changes in the Consumer Price Index for all items except (1) food and (2) the homeownership component of shelter costs. The elimination of the excess shelter expense deduction will decrease the incidence of errors by as much as 13 percent. Eliminating all of the steps necessary to calculate a household's excess shelter expense deduction will simplify and speed the eligibility and benefit determination process. Also, the burden on applicants and recipients will be eased as they will no longer have to verify shelter expenses or report changes in such expenses. Finally, this proposal and the standard earnings deduction proposed discussed next will together produce savings estimated at $302 million in Fiscal Year 1984.

Standard earnings deduction

Section 204 would amend Section 5(e) of the Food Stamp Act to replace the current earned income deduction of 18 percent of total earnings with a standard earnings deduction. The proposed standard earnings deduction would be set at the maximum level of the earned income disregard for the Aid to Families with Dependent Children (AFDC) Program, which is $75 a month per person who is employed full-time for the entire month. For applicants or participants with any other employment circumstances, State agencies would use the prorating procedures developed for their AFDC programs. The standard earnings deduction would adequately compensate for mandatory deductions and work expenses in most cases. It would reduce errors and ease administration by eliminating calculations and the need to segregate earned income from unearned income. It would establish conformity with the AFDC work disregard. Finally, this proposal and the proposed standard/shelter deduction discussed above will result in an estimated $302 million savings in Fiscal Year 1984.

Categorical eligibility for AFDC participants/simplified benefit determinations

Section 205 would amend Sections 5 and 8 of the Food Stamp Act to provide for categorical eligibility and simplified benefit determinations for food stamp households, all of whose members are certified to receive AFDC payments. Such households would be exempt from the Food Stamp Program's resource test and net income eligibility test, but would still have to meet the nonfinancial eligibility requirements except for the workfare requirement included in this legislation. The Secretary would be permitted to waive the gross income eligibility test for States which demonstrate that their AFDC income limits (which may not exceed 150 percent of the State's standard of need) for each household size do not exceed 130 percent of the poverty line. This change would be implemented on October 1, 1983.

The second part of the proposal would simplify the determination of food stamp benefits to households in which all members receive AFDC assistance. Instead of determining allotments on the basis of each individual household's income and expenses, allotments will be based on the average benefit amount a household category would be expected to receive in each State. Separate categories will be established for households with elderly members, households with earned income, households with no members who are elderly or have earnings, and households with both elderly members and earnings. The Department would develop a methodology for State agencies to follow in developing allotments for any categories for which there are insufficient numbers of households to warrant use of an average of past allotments. Each State will submit a simplified benefit plan to the Secretary by a date prescribed by the Secretary. Benefit amounts may be changed by the Secretary to ensure that household categories do not gain or lose benefits. Individual households may lose or gain benefits.

Simplified benefit determination advances three key Administration goals for the Food Stamp Program: Administrative simplification, compatibility with other public assistance programs, and reduction of error in establishing eligibility and benefit levels. Current certification rules mandate identification of nonexcluded gross income, a gross income eligibility test, separation of earned and unearned income, verification of deductible expenses, application of multiple deductions, a net income test, application of a benefit reduction rate, and reduction of the Thrifty Food Plan to determine the food stamp allotment. These steps differ widely from comparable procedures in the AFDC program. As a result, caseworkers must become familiar with two sets of complex and divergent requirements. Certification becomes more time consuming and error-prone. This proposal will facilitate quick and accurate food stamp benefit level determinations by allowing caseworkers to refer to a simple basis of issuance table once AFDC eligibility is established. By saving time at certification, State agencies will gain more time for error prevention, detection, and correction. The simplified benefit determination would be implemented on April 1, 1984.

The two proposals in Section 205 are estimated to save $65 million through error reduction and reduced State agency time without diminishing overall food stamp assistance to AFDC households.

Work requirements and community work experience program

Section 206 would amend Section 6 of the Food Stamp Act to establish greater conformity between the food stamp work requirements and those of the AFDC program. The work requirements would be extended to 16- and 17-year-olds unless they are under the parental control of a household member. This change would assure that 16- and 17-year-old heads of households would be treated the same as other heads of households. Also, food stamp applicants would be required to meet job search requirements. Job search is now required of applicants only if State agencies exercise their option to mandate it. Further, food stamp State agencies would be given the same option that AFDC State agencies have to extend work requirements to caretakers of children between three and six years old when adequate child care is available. Currently, caretakers of children under six years old are exempt from all of the work requirements; also, caretakers of children between six and twelve can refuse offered employment without penalty if adequate child care is not available for those children. Finally, the exemption from the work requirements now provided for students would be deleted.

Section 206 would also amend Section 6, 11, and 20 of the Food Stamp Act to mandate a nationwide community work experience program (CWEP) for the Food Stamp Program. Section 6 would be amended to establish the acceptance and performance of CWEP jobs as eligibility requirements. In order for a household to continue to be eligible to receive food stamps, the members that would have to satisfy the CWEP requirement would be those subject to food stamp work requirements and those who are only exempt because they are complying with the work requirements of the Federal-State unemployment compensation system. (Note: The Department of Health and Human Services is proposing that the AFDC CWEP requirement be based on the value of the AFDC payment plus the value of the food stamp allotment. Food stamp households in which all members receive public assistance would be handled under AFDC's CWEP programs. In food stamp households that have both AFDC and non-AFDC recipients, the AFDC recipients would be subject to AFDC's CWEP programs; the remaining household members would be covered by food stamp CWEP.)

The total monthly household food stamp CWEP requirement would be the number of hours obtained by dividing a household's monthly allotment by the higher of the State or Federal minimum wage. However, the maximum CWEP requirement would be 120 hours per month for each covered individual in combination with any other work. This is comparable to the current maximum of 30 hours per week for participants in the Food Stamp Optional Workfare Programs and the number of hours otherwise nonexempt persons must work to be exempt from the food stamp work requirements. Also, failure to report for an interview or perform work without good cause would result in a two-month disqualification period for the household. However, disqualifications could be "cured" by household members who "work off" the value of food stamps received during periods of noncompliance. Section II would be amended to establish the requirement that State agencies operate CWEP programs or delegate the responsibility to political subdivisions within the State. The amendatory language would require the Department's CWEP regulations to be as flexible as possible to permit State agencies to operate food stamp CWEP programs that are compatible with other workfare/CWEP programs the State may have in operation. A State agency could integrate its food stamp CWEP program into such a program with prior approval from the Department. The statutory protections and operating guidelines (including reimbursing participants for actual expenses necessary for performing CWEP work, with a maximum set at $25 a month) would be the same as those currently in Section 20 of the Act for food stamp Optional Workfare Programs. However, the State agency's option to allow a job search period for up to 30 days following the eligibility determination would be deleted. Also, the special funding incentive for State agencies provided from half of demonstrated workfare savings would be deleted. Such incentives are unnecessary if there is a statutory requirement that State agencies administer workfare-type programs. State agencies would receive 50 percent Federal funding of their costs of operating food stamp CWEP programs, including the cost of reimbursing CWEP participants for their work-related expenses, but not including the costs of equipment, tools, materials, or the costs of supervising CWEP participants. This funding could be suspended or cancelled in whole or in part if the State agency or any of its political subdivisions fail to comply with CWEP administration requirements. Moreover, a State agency standard for CWEP performance would be set at 75 percent of covered individuals. Covered individuals are those not exempt from CWEP who participate for a full month. State agencies would be expected to be providing jobs to or taking action against 75 percent of covered individuals in any month. Failure to meet the performance standard would be considered as issuance to ineligible households for purposes of error rate liability. Section 20 would be struck, thereby, deleting the authority and guidelines for operating the food stamp Optional Workfare Programs.

Mandatory CWEP is being proposed because it would benefit both program participants and communities by affording able-bodied food stamp recipients the opportunity to perform useful work. Also, performance of a CWEP job introduces individuals to the work environment and encourages the individuals to find regular employment. Further, the existence of a CWEP requirement acts as a deterrent to program participation for those who could work but do not do so through choice. Finally, it is estimated that the proposal would save $85 million in Fiscal Year 1984. Effective administration would realize these savings in two ways: (1) individuals finding regular employment, thus, becoming ineligible or entitled to smaller allotments; and (2) individuals not wanting to work being deterred from participation, by sanctions, if necessary.

State agency liability

Section 207 would amend Section 16 of the Food Stamp Act to revise the error rate sanction and incentive system, effective October 1, 1983. A State whose combined error rate for ineligibility (payments to ineligible households) and overissuances (overpayments to eligible households) exceeds three percent in Fiscal Year 1984 and subsequent fiscal years would be liable for the dollar value of the excessive errors. The projected amount of any State's liability under this proposal would be deducted from the Federal funding available for that State's administrative costs or would be collected through direct billing during the fiscal year in which the excessive errors occur. In order to calculate the amount of States' liability during the same fiscal year that the errors occur, the Department will project a national error rate dollar loss using a projected national error rate adjusted for the three percent error tolerance and a projected fiscal year's issuance. The national dollar loss will be apportioned among States based on their contribution to the national dollar loss because of error rates above three percent during the most recent quality control period for which federally-adjusted data is available. When the actual quality control data for a fiscal year is received and validated, the amount of States' liability may be adjusted. If the amount of liability is reduced, the difference would be reflected in a State's Federal funding; if increased, the State would be billed for the difference. Because the revised error rate liability system could result in some States losing most or all of their Federal funding for administrative costs, the Department would require States to maintain a level of State funding that will permit adequate administration of the program.

We believe that it is appropriate to reduce the threshold for States' error liability to three percent for several reasons. First, other proposals in this legislation will result in a significant reduction in error in fiscal year 1984 and succeeding years. Second, these proposals will shorten administrative time per case, thus enabling State agencies to devote fewer resources to certification and eligibility determinations while enhancing error reduction strategies. Third, the proposed error liability program is comparable to that of the AFDC program. Fourth, the stricter error liability system will serve as a strong inducement for States to apply all possible error-reduction techniques. A three percent error rate target would give States the incentive to improve administration that they now lack since benefits are 100 percent federally financed. Actual error rates are lower in the AFDC and Medicaid programs, where States share program costs. Finally, the proposal would assure that the cost of excessive errors resulting in incorrect eligibility determinations or overpayments will be borne by the States and not the Federal government. This is equitable since the States have the responsibility of administering the Food Stamp Program and are, thus, in a position to control errors. Overpayments in the Food Stamp Program account for almost 10 percent of all benefit costs. Especially in an era of limited resources, we cannot afford to issue erroneously $1 out of every $10 in food stamps. By improving program administration and reducing the amount of dollars spent in error, we can target funds on those individuals in greatest need and restore public confidence in the program.

Section 207 would further amend Section 16 to make conforming amendments to repeal the incentive system and to eliminate the requirements that the Secretary establish standards for efficient and effective administration and that States report on their actions to meet such standards. Since States would be liable for the cost of excess errors, they must have the latitude to decide upon and implement methods best suited to error reduction in their States. The incentive system would be replaced by the penalties of the tightened error liability program.

As a result of this proposal the Federal government expects to collect $405 million from State agencies with excessive error rates in fiscal year 1984. In subsequent fiscal years, the proposal would result in savings through stronger incentives for error reduction as well as from liability payments from State agencies which do not accomplish sufficient error reduction.

Title III—Improving Administrative Procedures for the Food Stamp Program

Clarification of student eligibility

Section 301 would amend Section 5(d) of the Food Stamp Act to delete the income exclusion for students' reimbursements. Such reimbursements are now excluded from the income calculations under the general exclusion for all reimbursements. However, the Food Stamp Act includes a specific exclusion for education income (e.g. deferred loans, grants, scholarships, fellowships, veterans' educational benefits) to the extent it is used for tuition and mandatory school fees. All education income used for other purposes (e.g. books, supplies, transportation) is included as income. Some Basic Educational Opportunity Grants (BEOG)/Pell Grants are channeled from the Federal government to students through the institution of higher education. The college, in such cases, estimates educational costs for its students; some of whom are then claiming that the grant is a reimbursement and, therefore, excluded as income. The Department does not accept this reasoning and does not consider BEOGs/Pell grants as reimbursements; thus, there have been several challenges in the courts. The proposal to include all student reimbursements as income will ensure equity among all students whether they receive BEOGs/Pell Grants or not, or whether their grant is channeled through a college or is provided directly to a student. Also, since the educational costs are variable and difficult to verify, the proposal would result in administrative simplification and error reduction. Also, including student reimbursements as income is consistent with previous actions limiting student eligibility. Section 301 would also amend Section 6(f) of the Food Stamp Act as amended by Section 206 of this package to repeal two of the student provisions of P.L. 97-253, the Food Stamp Act Amendments of 1982. First, the proposal would delete the exception from ineligibility provided by the 1982 Amendments for students responsible for the care of dependent children over age 6 and under 12 from whom adequate child care is not available. The provision is an illogical expansion of student eligibility—if adequate child care were unavailable, the student would be unable to attend classes. Second, the exception from student ineligibility provided for students who are enrolled in college because they participate in a WIN program would be deleted. The 1982 Amendments added an exception from ineligibility for college students who are AFDC recipients. Since there are no WIN participants who are not also AFDC recipients, only the broader exception would be retained.

Technical amendment

Section 302 would amend Section 6(g) of the Food Stamp Act as amended by Section 206 of this package to delete the reference to an out-of-date section of the Immigration and Nationality (I&N) Act. The Refugee Act of 1980 amended the I&N Act to delete Section 203(a)(7), thus eliminating the conditional entrant status as a category of aliens who would be admitted to the United States. Those aliens are now considered to be entitled to refugee status under Section 207 of the I&N Act. The proposal, then, would also delete the reference to conditional entrant status pursuant to former Section 203(a)(7) of the I&N Act and refer instead to refugee status under Section 207 of the I&N Act.

Treatment of food stamps under Federal housing assistance laws

Section 303 would amend Section 8 of the Food Stamp Act to remove the prohibitions: (1) against considering food stamp benefits as income or resources when determining eligibility or assistance levels for Federal housing assistance programs and (2) against decreasing Federal housing assistance because of the receipt of food stamps. Lifting these prohibitions will permit Federal housing assistance program to consider actual resources available to households. The changes would also promote uniformity between the rules of assistance programs. Urban Development has proposed legislation which would assure that no household will experience an increase in their rent contribution of more than 20 percent per year.

Redemption of coupons

Section 304 would amend Section 10 of the Food Stamp Act to change the definition of a financial institution to include more banks and savings and loan associations. The current language ties the definition of a financial institution only to those banks and savings and loan associations which are insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC). However, there are over eight hundred banks that are not insured by the FDIC. In addition, some savings and loan associations are insured only by State organizations. The proposal is necessary in order to permit such savings and loan associations and uninsured banks to redeem food stamps since they can provide valuable services to retailers participating in the Food Stamp Program.

Expedited coupon issuance

Section 305 would amend Section 11(e)(9) of the Food Stamp Act to change the timeframe within which State agencies are required to provide food stamp allotments to households entitled to expedited service. The proposal would establish five working days as the processing standard instead of the current five calendar days. Households entitled to expedited service are those which have liquid resources less than $100 and which either have gross incomes less than $150 a month or are destitute migrant or seasonal farmworker households. State agencies are required to verify the applicant's identity and, to the extent practicable, their residency, income, and liquid resources. The proposed longer timeframe eases the acute administrative burden State agencies experience when holidays and long weekends fall within the processing period; and, in all cases, it permits longer times for verification, thus easing deadline pressures and disruptions in workflows caused by expedited service cases having priority over other cases.

Improved wage matching

Section 306 would amend Section 11(e)(19) of the Food Stamp Act to make two changes. First, the proposal would correct an erroneous reference to the Internal Revenue Code of 1954 from Section 6103(i)(7) to Section 6103(l)(7). The incorrect reference was contained originally in P.L. 97-98, the Food Stamp and Commodity Distribution Amendments of 1981.

Second, the proposal would allow State agencies to base wage matching procedures on sources of information comparable to SSA files and State unemployment records with the prior approval of the Department. Wage matching compares income information reported by applicants or recipients with other earnings data to detect discrepancies. Twelve States are "wage request" States; that is, they do not keep ongoing wage records for unemployment insurance but ask for the information only when it is needed. These States often have wage information available which is similar to unemployment insurance information and kept for the same purposes, such as State tax records. These data are usually more current than SSA wage data. Under current law, a State agency wishing to use an alternate data base for wage matching is nevertheless required to also use either SSA or unemployment records. This proposal would increase the integrity of the program by allowing State agencies to make use of the most current and accessible wage information available to them without unnecessary duplication.

State administration of work registration and job search

Section 307 would amend Section 11(e) of the Food Stamp Act to identify administration of the program's work requirements as a mandated State agency activity. There are four work requirements which non-exempt food stamp applicants and participants must meet: registering for work, searching for work and reporting on job search efforts, accepting a suitable job if offered, and keeping a job unless there is good cause for quitting. State agencies would be given broad latitude in choosing methods for administering these requirements including whether to do so themselves or to contract with another agency, such as State Employment Security Agencies (SESAs). Until Fiscal Year 1983, the SESAs did participate in work requirement administration through a joint USDA/Department of Labor (DOL) contract. This relationship was ended because of the belief that food stamp State agencies are best able to determine feasible methods for finding jobs for members of food stamp households who are subject to the work requirements. In the interim between termination of the USDA/DOL contract and approval of explicit statutorily-required State administration, USDA is contracting with individual State agencies to administer the work requirements with 100 percent Federal funding. Since, under the proposal, administering the work requirements would become a normal requirement placed upon State agencies, their costs would be funded at the States' usual funding level. The proposal to statutorily mandate State administration of the work requirements will help accomplish two Administrative/Congressional goals: stronger work requirements and greater State flexibility.

Stays of retailer/wholesaler disqualifications

Section 308 would amend Section 14(a) of the Food Stamp Act to change the conditions appellant retail food stores and wholesale food concerns must meet in order to obtain judicial stays of administrative penalties. Under Section 14(a), a retail or wholesale firm requesting judicial review of an adverse administrative determination (disqualification or imposition of a civil money penalty) can obtain a stay pending a decision merely by showing that irreparable injury would occur. Since disqualifications result in irreparable injury in the overwhelming majority of cases, stays are usually granted, thus delays in implementing disqualifications of more than a year are not uncommon. Rather than showing "irreparable injury," the petitioning firm would have to meet the conditions under the applicable law of each State of obtaining stays, which typically include the following: (1) a strong showing that the petitioner is likely to prevail on the merits of the case; (2) issuance of the stay would not substantially harm other interested parties; (3) issuance of the stay is in the public interests; and (4) failure to obtain the stay would cause the petitioner irreparable injury. These are the usual conditions all petitioners must establish before stays are granted. They have not been specially created for violating retailers and wholesalers; rather, the one-proof stay criterion (irreparable harm) has been a special condition. Since it would be considerably more difficult for a firm to meet the four-pronged test than to merely show that irreparable injury would occur, fewer stays would be granted resulting in more rapid implementation of disqualifications. Speedier disqualifications would be more effective deterrents to retailer/wholesaler abuse.

Repeal of noncash benefit requirement for Puerto Rico nutrition assistance program

Section 309 would amend Section 19 of the Food Stamp Act to delete a provision of P.L. 97-253, the Food Stamp Act Amendments of 1982, which requires Puerto Rico to replace its cash food assistance program, implemented July 1, 1982, with a noncash program by October 1, 1983. Puerto Rico's cash food assistance program was implemented under the authority of P.L. 97-35, the 1981 Reconciliation legislation. The 1982 provision is directly contrary to the goals of maximum State agency flexibility, ignores the valid reasons for which Puerto Rico developed and implemented a cash assistance program, and fails to recognize the special problems Puerto Rico would have administering a noncash program separate from the nationwide Food Stamp Program. Puerto Rico chose a cash assistance program as a way to lower administrative costs and reduce overall fraud and abuse by eliminating abuses specifically related to the use of food stamps. There are several programmatic problems associated with requiring Puerto Rico to convert to a noncash issuance system, particularly if Puerto Rico decides to switch back to a food-coupon-type system as opposed to a direct commodity distribution program, a likely alternative since it is the system with which Puerto Rico has most recent experience. A food coupon manufacturing and distribution system would have to be established, run, and monitored. It is likely that the Federal government would need to provide technical assistance in the area of food coupon manufacturing since food stamp manufacturing is a responsibility of the Federal government. Also, a system for the security and accountability of the food coupons would have to be established as well as a system for the destruction of used food coupons. Further, any system involving the participation of retailers and wholesalers would most likely bring about the recurrence of retailer-related abuses, such as trafficking, discounting, and counterfeiting. It should be noted that, since Puerto Rico does not have any expertise in the authorization or monitoring of retailer-wholesaler activities (these functions were formerly performed by the Federal government), it is likely that direct technical assistance for developing retailer-wholesaler monitoring procedures would have to be provided. In addition, an apparatus for food coupon redemptions would have to be re-established.

Title IV—Administrative Funds for the Commodity Supplemental Food Program

Section 401 would amend Section 5(a) of the Agriculture and Consumer Protection Act of 1973 to include the value of bonus commodity items in determining the administrative cost ceiling for the Commodity Supplemental Food Program.

Title V—Effective Date

Section 501 would provide that effective dates for the provisions of this bill, except Sections 205 and 207 be prescribed by the Secretary, taking into account the need for orderly implementation.●

By Mr. HELMS (by request):

S. 1209. A bill to simplify the administration, contain escalating costs and create greater flexibility in the operation of programs under the National School Lunch Act and the Child Nutrition Act of 1966; to the Committee on Agriculture, Nutrition, and Forestry.

CHILD NUTRITION AMENDMENTS OF 1983

● Mr. HELMS. Mr. President, I introduce today on behalf of the administration legislation which would simplify and streamline the administration of the child nutrition programs. The proposals contained in this legislation are designed to strengthen the child nutrition programs, making adjustments in the operations of the programs. These adjustments would result in cost savings, would better target available funds to low income children, and would give the States greater flexibility in providing nutrition assistance.

As I noted in my statement about the food stamp program, the Omnibus Budget Reconciliation Act of 1981 has not reduced child nutrition expenditures by the same amount that had been anticipated in 1981. Rather, during fiscal year 1982, savings were $163 million less than had been expected, and during the present fiscal year are likely to be about $166 million less than projected, according to the Congressional Budget Office. Next year, the shortfall will be about $179 million.

It is certainly clear that the impact of the 1981 changes has been less than expected, despite frenzied rhetoric to the contrary. Indeed, it should be emphasized that the changes made were designed to reduce the Federal subsidies going to the nonneedy, a policy which is consistent with the thrust of legislative activity in this area within the last decade.

The proportion of funds provided for income tested versus nonincome tested child nutrition programs has changed significantly since fiscal year 1970. In fiscal year 1970, about 22 percent of all child nutrition program expenditures were provided for programs that had a Federal income test. By 1980, this proportion had grown to approximately 58.3 percent of total child nutrition program expenditures. This increase was largely a consequence of growth in participation and Federal payments in the income tested free and reduced-price school lunch and school breakfast programs, as well as the 1974 implementation of and continued growth in funding for the special supplemental food program for women, infants, and children.

In the current fiscal year, 1983, the proportion of expenditures provided for income-tested programs is expected to be about 73.1 percent.

This change is primarily the result of the reductions in Federal payments for the nonincome tested, regular—section 4—school lunch program, and the commodity assistance program which were enacted under the Omnibus Reconciliation Act of 1980 and the Omnibus Budget Reconciliation Act of 1981.

For the purposes of this analysis, only programs for which there is an individual income eligibility requirement are characterized as income tested.

The following child nutrition programs, or parts of programs, establish Federal income requirements for receipt of funds for benefits: Section 11 special assistance for free and reduced-price school lunches; free and reduced-price school breakfasts; free and reduced-price meals and snacks served in child care centers under the child care food program; free milk provided under the special milk program; and the special supplemental food program for women, infants, and children.

Non-income-tested child nutrition programs are those for which there is no individual Federal income standard or criteria for receipt of Federal funds. Non-income-tested programs may actually serve low income persons; however, the program benefits are not dependent upon meeting a Federal specified income requirement. For example, section 4 school lunch funds provide a mandated Federal subsidy for every lunch served, regardless of the family income of the child receiving the lunch. This is also true for the commodity assistance program. These basic cash and commodity subsidies make up part of the total Federal subsidy that is provided for free and reduced-price lunches. In this sense, both of these programs provide Federal assistance for lunches served to low income children. However, because the cash and commodity assistance is not conditional upon meeting an income test, these programs would be considered non-income-tested child nutrition programs.

In addition to Federal expenditures for the regular school lunch and commodity assistance programs, other non-income-tested expenditures would include those provided for paid meals served to children under the breakfast and child care food programs; and for paid milk served under the special milk program. While some of the Federal funds provided for State administrative expenses, and nutrition education and training (NET) and studies may benefit low income children, there is no income test for recipients of these Federals funds, and they are treated as non-income-tested programs.

Under the child care food programs, family day care home expenditures, as opposed to centers, are not income tested. Thus, although part of this component of the child care food program may serve some level of low-income children, the fact that the subsidies are not income tested places them in the category of non-income-tested programs.

Finally, the summer food service program is considered a non-income-tested program. The program may operate only in areas where at least 50 percent of the children participating in the school lunch program receive free or reduced-price lunches, and thus have incomes at or below 185 percent of poverty. However, there is no individual family income criteria for the receipt of meals in the summer program—all of which are provided free of charge—to insure that only low-income children in those areas receive the benefits of the program.

Mr. President, I ask unanimous consent to include in the RECORD the following table that was prepared from information compiled by the Congressional Research Service of the Library of Congress and the Food and Nutrition Service of the Department of Agriculture showing the recent expenditure levels in income-tested and non-income-tested child nutrition programs:

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CHILD NUTRITION PROGRAM EXPENDITURES BY FEDERALLY INCOME-TESTED VERSUS NON-INCOME-TESTED PROGRAMS[1]

[Dollars in millions]

By program	Fiscal year—			
	1980 actual	1981 actual	1982 estimate	1983 estimate
Income tested expenditure	$2,623.0	$3,075.5	$3.105.2	$3,409.7
Percent of total	58.3	63.8	72.5	73.1
School lunch, sec. 11[2]	1,379.4	1,608.8	1,654.7	1,829.5
School breakfast—free and reduced	238.6	309.2	309.9	321.7
Child care food—free and reduced[3]	195.3	175.0	175.9	191.8
School milk program—free	35.3	36.8	2.6	1.9
Special supplemental food program for women, infants, and children[4]	774.4	945.7	962.1	1.064.8
Nonincome tested expenditure	1,873.5	1,823.4	1,175.5	1,254.1
Percent of total	41.7	37.2	27.5	26.9
School lunch, sec. 4[5]	724.7	761.7	422.2	440.0
Commodity assistance[6]	818.3	632.0	441.1	459.5
School Breakfast—paid	11.2	11.8	9.5	5.3
Child car—paid and family homes[7]	10.6	115.5	117.7	140.7
Summer food[8]	88.8	121.7	88.8	99.4
School milk program—paid	121.5	82.0	16.9	18.3
Equipment assistance[9]	20.0	15.0		
State administration expenses	34.9	38.2	44.5	47.7
Nutrition education and studies	21.7	18.4	6.5	7.5
Commodity supplemental food program	21.7	27.0	26.3	35.7
Total child nutrition expenditures	4,496.5	4,898.9	4,280.7	4,633.8
Percent of total	100	100	100	100

[1] For the purposes of this table "income-tested" is defined as being any program for which funds are provided on the basis of an individual income test. "Nonincome tested" is defined as being any program for which the receipt of funds does not require an individual income test.

[2] Includes only sec. 11 expenditures for free and reduced-price school lunches. Does not include sec. 4 expenditures for such lunches.

[3] Includes all Federal expenditures for free and reduced-price meals served in child care centers for each year and in family day care homes for 1980. After fiscal year 1980, the individual income test for family day care home participation was eliminated, consequently after fiscal year 1980 expenditures for family day care homes are shown in the nonincome tested portion of the table.

[4] Includes carryover funds from previous year.

[5] Includes all funds provided under sec. 4 (i.e, the basic payment for all lunches—paid free and reduced price).

[6] Includes FNS commodities and sec. 32 commodities used to meet the mandate support levels for all lunches (including those served free and at reduced price). Does not include bonus commodities.

[7] Change between fiscal year 1980 and fiscal year 1981 reflects implementation of nonincome tested payments for meals served in family day care homes.

[8] Although there is a requirement that programs operate only in areas where 50 percent or more of the children are income eligible for free and reduced price lunches, summer food is included under nonincome tested programs because there is no individual income test for participation.

[9] Funding for the equipment assistance program was eliminated by the Omnibus Budget Reconciliation Act of 1981.

Source: Table provided by the Congressional Research Service according to committee instructions. Expenditure information was provided by the U.S. Department of Agriculture, Food Nutrition Service, Budget Office.

Mr. HELMS. Mr. President, the administration's fiscal year 1984 legislation would continue this trend of targeting benefits to low-income recipients. The administration's proposed legislation would result in savings of approximately $317.8 million for fiscal year 1984.

Mr. President, I would like to summarize several of the major provisions of the administration's draft bill.

VERIFICATION OF INCOME

The proposed legislation contains an initiative to prevent errors and deter fraud in the school lunch program. Verification of income information for free and reduced price lunches would be made by the food stamp State agency under this proposal.

Food stamp office personnel are trained and experienced in income verification techniques. These offices would provide a qualified service, while freeing up the time of school administrators who are currently responsible for income verification. Also, the application process would be greatly simplified for approximately two-thirds of free and reduced price school lunch participants who are from food stamp households.

It makes a great deal of sense from a management perspective to process these applications through an office which has already made identical income determinations.

This proposal would not require free and reduced price applicants to personally visit the local food stamp office; the application process would continue as it is operating now.

Even with a requested increase in funds for costs associated with the proposed verification system, this proposal is estimated to save $21 million in fiscal year 1984 because of reduced errors and deterred fraud.

GENERAL NUTRITION ASSISTANCE GRANT

The proposed legislation would amend the National School Lunch Act and the Child Nutrition Act of 1966 by consolidating the child care feeding program, summer feeding program, and school breakfast program into a general nutrition assistance grant.

Mr. President, there are some problems with these programs as they are currently operated by the Federal Government. For example, meal service provided under the day care home portion of the child care feeding program is not a needs-tested benefit; children receive federally reimbursed meals without regard to the income of their parents. For fiscal year 1983, the administration estimates that approximately $128 million will be spent for the day care home program, however, three-fourth of the meals served will go to children with family incomes over 130 percent of poverty ($12,090 for a family of four) and nearly two-thirds of the meals served in this program will go to children from families with incomes greater than 185 percent of poverty—$17,210 for a family of four.

The creation of a general nutrition assistance grant would serve two purposes. It would increase the involvement and responsibility of State and local governments by giving the States autonomy and flexibility in providing food assistance to children beyond the national school lunch program. Also, it would result in savings of approximately $207.9 million for fiscal year 1984.

COST-OF-LIVING ADJUSTMENT

The proposed legislation would delay the cost-of-living adjustment for the school lunch and special milk programs for 6 months, which is consistent with the Governmentwide delay in increasing benefits. This proposal is intended to be a fair and modest way to bring the escalating cost of these programs under control. Estimated savings for fiscal year 1984 for a 6-month delay would be $66.1 million.

REIMBURSEMENT FOR REDUCED PRICE MEALS

An adjustment in the computation of the reimbursement rate for reduced price meals is proposed by this legislation. Under current law, the reimbursement factor is determined by subtracting 40 cents from the free meal reimbursement rate after it has been adjusted for inflation. As an unintended consequence of this computation, the reimbursement rate for reduced price meals increases faster than the actual inflation rate. The proposal would require that reduced price reimbursements be adjusted independently, more accurately representing inflationary costs. This proposal would save an estimated $4 million in fiscal year 1984.

Mr. President, I have attempted to summarize the main provisions of the administration's legislation. These proposals are intended to offer a reasonable approach to streamline the various child nutrition programs. They offer the Senate an opportunity to examine the various child nutrition programs, better target them to the needs of low income children, and make reasonable budget savings. I suggest that my colleagues give considerable attention to these proposals.

I ask unanimous consent that the letter of transmittal, a section-by-section analysis, and the text of the legislation be printed at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., Apr. 21, 1983.

Hon. GEORGE BUSH,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of Congress is a draft bill "To simplify the administration, contain escalating costs and create greater flexibility in the operation of programs under the National School Lunch Act and the Child Nutrition Act of 1966." This draft legislation will contribute to important goals shared by the Administration and Congress to streamline programs and simplify administrative requirements and procedures, to decrease error and the potential for fraud, to contain escalating program costs, and to enhance State flexibility. The Department recommends enactment of this legislation.

The draft bill would amend the National School Lunch Act and the Child Nutrition Act of 1966 to consolidate a number of restrictive categorical programs including the Summer Food Service Program for Children, the Child Care Food Program, and the School Breakfast Program into a General Nutrition Assistance Grant designed to permit States the maximum flexibility in designing programs to meet the particular needs of their low-income children. The Nutrition Education and Training Program is also being proposed for termination since this program has served its intended purpose.

The proposed amendments also delay the cost of living adjustments in the National School Lunch and Special Milk Programs for six months. These adjustments would be based on the change between May and the preceding May of each year and would be reflected in payment rates beginning the following January 1. This delay in the inflation adjustments will apply to reimbursements across the board without affecting needy children.

Finally, the proposed amendments will offer education agencies some relief in making eligibility determinations, and in the verification of information provided on free and reduced price applications. The proposal gives the State education agency the flexibility of deciding whether the eligibility determination will be made by the State food stamp agency, the local school or school food authority, or the education agency itself. The proposal would also require food stamp offices to perform the verification functions, except where education agencies can demonstrate an equal efficiency in this function. This would simplify the verification process, since the food stamp agencies are trained in application review and income verification techniques. The Secretary would pay for the services performed by the food stamp agencies from enhanced State Administrative Expense Program funds.

The amendments in the bill provide an estimated Fiscal year 1984 savings of $312.9 million. This will enable us to make essential reductions in Federal expenditures and focus resources to assure service of free and reduced-price lunches to the most needy children.

The Office of Management and Budget advises that enactment of the proposed legislation would be in accord with the President's program.

A similar letter is being sent to the Speaker of the House of Representatives.

Sincerely,

RICHARD E. LYNG,
Deputy Secretary.

Enclosures.

CHILD NUTRITION AMENDMENTS OF 1983—SECTION-BY-SECTION ANALYSIS

CHANGE IN LUNCH COMMODITY ALLOTMENT FORMULA

SEC. 2. This provision stipulates that school entitlements be based on the actual number of meals served during the previous school year instead of an estimation of the number of meals that will actually be served. This change in entitlement determination will enable the Secretary to establish commodity amounts for each State at the beginning of the year based on the actual needs of the program. States will have more certainty of the level of commodities they will receive during the year, and therefore, will not be forced to revise their expectations of commodity levels because the Department changes its projection of the annual number of meals during the year as is currently done. However, should substantial differences occur between the number of lunches served in the State in the preceding school year and the number of lunches served in the State in the second preceding school year, the Secretary may adjust the commodity assistance level to reflect these differences. For example, under this proposal a State would receive commodity assistance in school year 1984 based on participation in school year 1983. If the actual participation in school year 1984 in that State was substantially more than that for school year 1983, an inequity would occur. The State would not have received its fair share of commodity entitlement. In that case, the Secretary would be able to adjust the school year 1985 commodity assistance level to compensate for the difference.

CHANGES TO INFLATION ADJUSTMENT FOR REIMBURSEMENT RATES AND COMMODITIES

SEC. 3. A governmentwide policy to reduce the budget deficit imposes the need to make across-the-board changes to reduce the rate of growth in spending by the Federal government. The annual cost-of-living adjustments are being delayed from July 1, 1983, to January 1, 1984, and each January 1 thereafter. The adjustments will be based on the period between the preceding May and the second preceding May of each year. This delay in implementing cost-of-living adjustment affects all subsidy levels equally. Children receiving free and reduced price lunches and free milk are not affected by this delay, since the prices for these meals will not change. This temporary delay of six months will produce a $66.3 million savings in the School Lunch and Special Milk Programs in fiscal year 1984.

DEADLINES FOR REIMBURSEMENT CLAIMS

SEC. 4. Section 7 of the National School Lunch Act is amended to require school food authorities to submit reimbursement claims to the State within 60 days following the claiming month. States are to submit claims to the Secretary within 90 days following the month for which reimbursement is claimed. Currently, schools and States often take longer than 60 and 90 days to finalize their reimbursement claims for Child Nutrition Program funds. Since costs incurred at the local level are no longer a factor in determining the level of reimbursement provided to the States, accurate and definite counts of meals served are essential to providing the appropriate amount of funds to each State. This change will help to ensure that correct and timely disbursements of funds are made without affecting the cost to administer the program. This provision makes permanent language included in the fiscal year 1983 appropriations act that required these reporting deadlines.

ELIMINATION OF SPECIAL ASSISTANCE CERTIFICATION ALTERNATIVES

SEC. 5. This proposal amends section 11(a) of the National School Lunch Act by removing the two special assistance certification alternatives which based assistance on prior year free and reduced price lunch eligibility. This eliminates the authority for some schools to accept applications and determine eligibility once every two years where 80 percent of the children were eligible for free or reduced-price meals or once every three years where all meals were served free. Elimination of this authority is consistent with the emphasis on verification of applications to prevent fraud and abuse. These are the schools which will benefit most from annual certification and verification procedures to insure correct application.

CREATE AN INDEPENDENT SPECIAL ASSISTANCE FACTOR FOR REDUCED PRICE LUNCHES

SEC. 6. Section 11(a) of the National School Lunch Act is amended to create a special assistance factor for reduced price lunches of 64 cents. This separate factor will be adjusted annually based on the change in the Consumer Price Index for food away from home. Because the current law ties the reduced prices subsidy to the free subsidy (it is always 40 cents less), reduced price meals currently receive a higher increase when an adjustment for inflation is made. Under this proposal the maximum price for reduced price meals would not remain fixed at 40 cents below the subsidy for free lunches. Instead, it would rise irrespective of the difference between free and reduced price meal subsidies. This would receive the same adjustments to account for increases in inflation. This independent subsidy base for reduced meals would produce a cost savings of $4.2 million in fiscal year 1984.

TERMINATION OF THE SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 7. Section 13 of the National School Lunch Act is repealed thus eliminating the Summer Food Service Program for Children. (See SEC. 11. below.)

TERMINATION OF THE CHILD CARE FOOD PROGRAM

SEC. 8. The Child Care Food Program is terminated by the repeal of section 17 of the National School Lunch Act. (See SEC. 11. below.)

TERMINATION OF THE SCHOOL BREAKFAST PROGRAM

SEC. 9. This provision repeals section 4 of the Child Nutrition Act of 1966 thus terminating the School Breakfast Program. (See SEC. 11. below.)

TERMINATION OF THE NUTRITION EDUCATION AND TRAINING PROGRAM

SEC. 10. Section 19 of the Child Nutrition Act of 1966 is repealed in order to terminate the nutrition Education and Training Program. This program, authorized in 1977, originally provided seed money for the States to begin or augment existing nutrition education programs. These programs are now well established and the States should now take over funding of this program and decide the appropriate funding level for their NET program operations. This proposal will save 45 million in fiscal year 1984.

GENERAL NUTRITION ASSISTANCE GRANT

SEC. 11. This section creates a new general nutrition assistance grant program. A new Section 17 is inserted, which is described below.

The Administration proposes to consolidate the categorical Summer Food Service, School Breakfast, and Child Care Food Programs by replacing them with a General Nutrition Assistance Grant. This grant will substantially increase State flexibility and achieve two major effects. First, administrative States will be able to tailor programs under this grant to meet the specific needs of their State's population. Thus, a wider range of programs will be available to meet the nutrition needs of the population. This consolidation of program would result in reduced needs costs of $207.9 million and reduced administrative cost of $8.8 million in fiscal year 1984.

Subsection (a) authorizes, for each of the fiscal years 1984, 1985, 1986, 1987, and 1988, $535 million for carrying out the purposes of Section 17.

Subsection (b) requires the Secretary to allot to States from available appropriated funds, an amount which bears the same ratio to the total appropriated funds as the States' allotment under the Summer Food Service Program, the Child Care Food Program, and School Breakfast Program for Fiscal Year 1982 bore to the total funds appropriated for those programs. The Secretary will maintain authority to adjust the allotment level based on the funds transferred to the Head Start Program. For example, the Department may adjust a State's grant level based on the fact that a large portion of their Child Care Food Program funds were directed to Head Start Programs.

Subsection (b) also provides that if a State (1) does not submit the required application or description of activities; (2) does not use the entire amount of their allotment; or (3) makes a repayment, the Secretary must allocate the funds attributable to those events among the remaining States in the same proportion as the original allotment. Any such allotment does not change the base for allotments in future years.

Subsection (c) provides that the Secretary shall make payments to States from the allotments determined under Subsection (b). Any funds unobligated by the States at the end of a fiscal year are to remain available to a State for the next fiscal year, for the same purposes as originally given.

Subsection (d) limits the use of funds to States under Section 17 to payment for the provision of nutrition assistance to children and related activities such as planning, administration, education, technical assistance and evaluation. States may not use funds given under Section 17 to (1) purchase or improve land, or purchase, construct, or permanently improve buildings or facilities, or purchase major equipment, except food service equipment; (2) satisfy any requirement for the expenditures of non-federal funds as a prerequisite for receipt of Federal funds; (3) provide financial assistance to an entity other than a public or non-profit private entity or an entity participating in the Child Care Food Program; or (4) provide funds to any Head Start Program for activities formerly funded under the Child Care Food Program, since a transfer of Child Care Food Program funds to the Head Start Program will be made so that Head Start grantees will receive Federal funds from only one government agency.

The children now participating in the CCFP through Head Start centers will not be affected by the transfer. The Secretary may, upon demonstration by the State that extraordinary circumstances exist, waive the restrictions regarding land purchase or construction.

Subsection (e) requires each State, as a prerequisite to receipt of funds under Section 17, to submit an intended use report to the Secretary. The report must contain a statement of the State's goals and objectives in using funds, a description of the types of activities to be carried out, the geographic areas and characteristics of individuals to be served, and the criteria for and method of fund disbursement.

Subsection (f) requires States to prepare annual reports concerning activities carried out under Section 17. These reports will describe how the State has met the goals and objectives established in their intended use report. States are required to establish and maintain fiscal control and fund accounting procedures to ensure proper disbursal of and accounting for Federal funds.

States are also required to conduct biennial financial and compliance audits of activities under Section 17. These State audits are to be conducted by an entity independent of the administering agency and in accordance with the Comptroller General's standards.

After notice and hearings, a State must repay to the Secretary amounts found not to have been expended in accordance with the requirements of Section 17. If repayment is not made, the Secretary may offset the amount due from funds due the State under Subsections (b) and (c).

The State must make copies of the required reports and audits available for public inspection within the State.

Subsection (g) makes clear that activities and programs funded under this section are "receiving Federal financial assistance" for purposes of Federal legislation prohibiting discrimination on the basis of age, handicap, sex, race, color and national origin. This subsection also establishes the procedure the Secretary is to follow in assuring State compliance with the nondiscrimination provision.

VERIFICATION OF ELIGIBILITY IN THE NATIONAL SCHOOL LUNCH PROGRAM

SEC. 12. This section will provide for verification by food stamp State agencies of the information contained in applications for the NSLP.

Past experience from a National Audit, conversations with school officials, and reviews performed by State agencies and other sources indicate that problems exist in the free and reduced price application process. In response to this, the Department took steps in fiscal year 1982 to correct these problems through requiring the social security numbers of all adult household members to be listed on applications for free and reduced price meals, announcing only the eligibility guidelines for reduced price meals, requiring documentation of income, and proposing an income verification system for the schools.

While school officials recognize that there may be problems, they maintain that they are educators and should be allowed to concentrate their efforts on the education of the children, not the verification of information supplied on food program applications. Therefore, in order to address these concerns and the problems with the verification system, the Department proposes transfer verification to offices that administer the Food Stamp Program. The staff at these offices are well qualified to perform verification activities. Food stamp offices would be reimbursed for their services from the $19 million additional SAE funds which should be sufficient to cover their costs. The Department would realize net savings of $20.8 million in fiscal year 1984 through reduction in incorrectly certified applications and the deterrence of incorrectly reported income.

ELIMINATION OF TWENTY PERCENT REFUSAL OF COMMODITIES OPTION

SEC. 13. This section deleted the provision which provides that any school participating in food service programs under the Act may refuse not more than 20 percent of the total value of commodities offered for lunches in any school year and receive in lieu thereof other commodities to the extent that other commodities are available to the State during that year. In place of this refusal authority, the State will be required to institute offer and acceptance procedures for school lunch commodities. This is a system by which the State "offers" or makes known to the schools that commodities are available for distribution. The school then "accepts" or indicates the items it wishes to receive. In addition, schools may request alternate commodities, to the extent they are available, to replace those they do not wish to accept. (For purposes of the new subsection. "Alternate Commodities" would not include any commodities designated as a bonus over and above the level of assistance to be provided to the State under Section 6(e) of the Act.)

This new system should not be a hardship on States since many already have in place offer and acceptance procedures. The new system accomplishes the same objectives as the 20 percent refusal requirement but it entails less paperwork.

ELIMINATION OF OBSOLETE PROVISIONS

SEC. 14. This section amends and repeals several sections of the National School Lunch Act to eliminate various obsolete provisions.

CONFORMING AMENDMENTS

SEC. 15. This section amends the National School Lunch Act and the Child Nutrition Act of 1966 to delete references to the School Breakfast. Summer Food Service and Child Care Food Programs.

EFFECTIVE DATE

SEC. 16. The effective dates for the individual provisions will be established in regulations or notices published in the Federal Register. Some sections that are non-discretionary can be made effective more quickly than others. The proposal to require verification at food stamp offices will require proposed rules to determine the most appropriate procedures to implement, and coordination between State agencies to begin the system.

S. 1209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Child Nutrition Amendments of 1983.

CHANGE IN LUNCH COMMODITY ALLOTMENT FORMULA

SEC. 2. Section 6(e) of the National School Lunch Act is amended by adding a new sentence at the end thereof as follows: "For the school year beginning July 1, 1983 and for each school year thereafter the amount of cash or commodity assistance given under this section shall be determined by multiplying the national average value of donated foods by the number of meals served in the preceding school year. In any school year, the Secretary may adjust the amount of commodity assistance provided to a state (as determined under the preceding sentence) if the number of lunches served in the state in the preceding school year differed substantially from the number of lunches served in the state in the second preceding school year.

CHANGES TO INFLATION ADJUSTMENT FOR REIMBURSEMENT RATES AND COMMODITIES

SEC. 3. (a) Section 6(e) of the National School Lunch Act, as amended by this Act, is further amended by—

(1) striking in the first sentence "shall be 11 cents, adjusted on July 1, 1982, and each July 1" and inserting in lieu thereof "shall be 11.5 cents, adjusted on January 1, 1984 and each January 1"; and

(2) striking in the fourth sentence "July 1" and inserting in lieu thereof "January 1".

(b) Section 11(a)(3) of the National School Lunch Act is amended by—

(1) in paragraph (A)—

(A) striking "July 1, 1982" and inserting in lieu thereof "January 1, 1984"; and

(B) striking "July 1" the second time that phrase appears and inserting in lieu thereof "January 1"; and

(2) striking in paragraph (B) "for the most recent 12-month period for which such data are available" and inserting in lieu thereof "between the preceding May and the second preceding May".

(c) Section 3(a) of the Child Nutrition Act of 1966 is amended by striking the sixth sentence and inserting two new sentences as follows: "The minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions shall be 9.5 cents per half-pint served to eligible children. Such rate shall be adjusted on January 1, 1984 and each January 1 thereafter to reflect changes between the preceding May and the second preceding May in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor.".

DEADLINES FOR REIMBURSEMENT CLAIMS

SEC. 4. Section 7 of the National School Lunch Act is amended by adding at the end thereof the following new subsection:

"(d) Only final reimbursement claims for service of meals and milk submitted to State agencies by eligible schools within 60 days following the month for which reimbursement is claimed shall be eligible for reimbursement under this Act or the Child Nutrition Act of 1966. States may receive program funds appropriated under this Act or the Child Nutrition Act of 1966 for meals or milk served during any month only if the final program operations report for such month is submitted to the Secretary within 90 days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.".

ELIMINATION OF SPECIAL ASSISTANCE CERTIFICATION ALTERNATIVES

SEC. 5. Section 11(a)(1) of the National School Lunch Act is amended by striking out the second, third and fourth sentences.

CREATE AN INDEPENDENT SPECIAL ASSISTANCE FACTOR FOR REDUCED-PRICE LUNCHES

SEC. 6. (a) Section 11(a) of the National School Lunch Act, as amended by this Act, is further amended by—

(1) in paragraph 2—

(A) striking "98.75" and inserting in lieu thereof "104"; and

(B) striking "40 cents less than the special-assistance factor for free lunches" and inserting in lieu thereof "64 cents"; and

(2) in paragraph 3 striking in subparagraph (A)(ii) "factor for" and inserting in lieu thereof "factors for free and reduced price".

(b) Section 9(b)(3) of the National School Lunch Act is amended by striking out the last sentence and inserting in lieu thereof "The maximum price charged for a reduced-price lunch shall be the difference between the special assistance factor for free lunches and the special assistance factor for reduced price lunches as established under Section (11)(a)(2) and (3) of this Act, rounded to the nearest 1 cent increment.".

TERMINATION OF THE SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 7. (a) Section 13 of the National School Lunch Act is repealed and reserved.

TERMINATION OF THE CHILD CARE FOOD PROGRAM

SEC. 8. (a) Section 17 of the National School Lunch Act is repealed and reserved.

(b) Section 8 of the National School Lunch act is amended by striking out in the third sentence "any child care institution as defined in section 17 of this Act or".

TERMINATION OF THE SCHOOL BREAKFAST PROGRAM

SEC. 9. (a) Section 4 of the Child Nutrition Act of 1966 is repealed and reserved.

TERMINATION OF NUTRITION EDUCATION AND TRAINING PROGRAM

SEC. 10. Section 19 of the Child Nutrition Act of 1966 is repealed and reserved.

GENERAL NUTRITION ASSISTANCE GRANT

SEC. 11. A new section 17 is inserted in the National School Lunch Act as follows:

"GENERAL NUTRITION ASSISTANCE GRANT

"AUTHORIZATION FOR APPROPRIATION

"SEC. 17. (a) There is authorized to be appropriated $535 million for each of the fiscal years 1984, 1985, 1986, 1987 and 1988 for purposes of allotments under subsection (b).

"ALLOTMENTS

"(b)(1) From the amounts appropriated under subsection (a) for any fiscal year and available for allotment under this subsection, the Secretary shall allot to each State an amount which bears the same ratio to the available amounts for that fiscal year as the amounts provided by the Secretary under the provisions of law listed in paragraph (2) to the State and entities in the State for fiscal year 1982 bore to the total amount appropriated for such provisions of law for fiscal year 1982. The Secretary may reduce a State's allotment as determined under the preceding sentence taking into account funds which were provided by the Secretary of Agriculture to Head Start Programs through the Child Care Food Program (referenced in paragraph 2) but which are available to the Department of Health and Human Services for Head Start Programs.

"(2) The provisions of law referred to in paragraph (1) are the following provisions of law as in effect on September 30, 1982:

"(A) The authority for grants for the Summer Food Service Program for Children under section 13 of the National School Lunch Act.

"(B) The authority for grants for the Child Care Food Program under section 17 of the National School Lunch Act.

"(C) The authority for grants for the School Breakfast Program under section 4 of the Child Nutrition Act of 1966.

"(3) In any fiscal year, to the extent that all the funds appropriated under subsection (a) are not allotted to States under subsection (b) because one or more States—

"(A) have not submitted an intended use report or description of activities in accordance with subsection (e) of this section for the fiscal year, or

"(B) have notified the Secretary that they do not intend to use the full amount of their allotment, or

"(C) have repaid amounts under subsection (f) of this section, such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States under subsection (b) without regard to this subsection.

"PAYMENTS TO STATES

"(c)(1) For each fiscal year, the Secretary shall make payments, as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), to each State from its allotment under subsection (b) (other than any amount reserved under subsection (b)(3) from amounts appropriated for that fiscal year).

"(2) Any amount made available to a State for a fiscal year and remaining unobligated by the State at the end of such year shall remain available for the next fiscal year to such State for the purposes for which the payment was made.

"USE OF ALLOTMENTS

"(d)(1) The amounts paid to a State under this section may be used for the provision of nutrition assistance to children, as well as for related activities including planning, administration, education, technical assistance, evaluation and State administrative costs associated with providing such assistance.

"(2) The state shall define "children" for purposes of this section.

"(3) A State may not use amounts paid to it under this section to—

"(A) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility or purchase major equipment, other than food service equipment,

"(B) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds, or

"(C) provide financial assistance to any entity other than a public or nonprofit private entity or an entity participating in the Child Care Food Program on the date of renactment of this section, or

"(D) provide funds to any Head Start Program for the purposes or activities formerly funded under the Child Care Food Program.

The Secretary may waive the limitation contained in paragraph (A) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this section.

"INTENDED USE REPORT

"(e)(1) In order to receive an allotment for each fiscal year under subsection (b) each State shall develop an intended use report. The State shall provide for public input during the development of the report. A copy of the report shall be transmitted to the Secretary. The report shall contain the following information concerning funds received under this section:

"(A) a statement of the State's goals and objectives in using funds,

"(B) a description of the types of activities to be carried out under this section,

"(C) the geographic areas which will be served,

"(D) the characteristics of individuals which will be served, and

"(E) the criteria for and method of fund disbursement.

"REPORTS AND AUDITS

"(f)(1) Each State shall prepare an annual report on its activities under this section. The report shall contain an analysis of the degree to which the activities carried out by the State compared to the goals and objectives set forth in the intended use report submitted for that fiscal year under subsection (e) of this section.

"(2) Each State shall establish fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of and accounting for Federal funds paid to the State for use under this section.

"(3) Each State shall obtain financial and compliance audits of any grant funds which the State receives under this section. Such audits shall be made public within the State on a timely basis. The audits shall be conducted at least every two years by an organization or person independent of any agency administering with the Comptroller General's Standards for Audit of Governmental Organizations, Programs, Activities and Functions.

"(4) Each State shall, after being provided by the Secretary with adequate notice and opportunity for a hearing within the State, repay to the Secretary amounts found not to have been expended in accordance with the requirements of this section. If such repayment is not made, the Secretary shall, after providing the State with adequate notice and opportunity for a hearing within the State, offset such amounts against the amount of any allotment to which the State is or may become entitled under this section.

"(5) The State shall make copies of the reports required by this subsection available for public inspection within the State.

"NONDISCRIMINATION

"(g)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis the handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities that receive Federal financial assistance under this section are considered to be programs and activities receiving Federal financial assistance.

"(2) No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity that receives Federal financial assistance under this section; provided, however, that this subsection shall not be read as prohibiting any conduct or activities permitted under the Title IX of the Education Amendments of 1972.

"(3) Whenever the Secretary finds that a State, or an entity that has received a payment from an allotment to a State under subsection (b), has failed to comply with a provision of law referred to in paragraph (1), with paragraph (2), or with an applicable regulation (including one prescribed to carry out paragraphs (1) and (2)), the Secretary shall notify the chief executive officer of the State and shall request the securing of compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

"(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted.

"(B) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

"(C) take such other action as may be provided by law.

"(4) When a matter is referred to the Attorney General pursuant to subparagraph (3)(A), or whenever there is reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in paragraph (1) or in violation of paragraph (2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.".

VERIFICATION OF ELIGIBILITY IN THE NATIONAL SCHOOL LUNCH PROGRAM

SEC. 12. (a) Section 9 of the National School Lunch Act is amended by—

(1) striking paragraph (b)(2)(C) and inserting a new paragraph as follows:

"(C) As determined by the State educational agency, eligibility determinations may be made by the food stamp State agency (as defined by section 3(n) of the Food Stamp Act of 1977), the State educational agency, schools, or local school food authorities, on the basis of an adequate application. Verification of the information contained in the applications shall be made by the food stamp State agency, unless the State educational agency demonstrates to the satisfaction of the Secretary that the State educational agency, schools, or local school food authorities can verify the information on the applications as effectively as the food stamp State agency. Appropriate changes in the eligibility determinations shall be made on the basis of such verification.".

(b) Section 11 of the Food Stamp Act of 1977 is amended by adding a new subsection at the end thereof as follows:

"(n)(1) State agencies shall provide to each household participating in the food stamp program a notice indicating that children of the household may receive free lunches under the National School Lunch Program, as provided by the National School Lunch Act.

"(2) In accordance with regulations issued by the Secretary, State agencies shall make eligibility determinations for the National School Lunch Program and verify the information provided by individuals pursuant to Section 9 of the National School Lunch Act.".

(c) Section 16(f) of the Food Stamp Act of 1977 is amended by adding at the end thereof the following: "Notwithstanding any other provisions of law, information available to the Secretary and State agencies for the purpose of determining a household's eligibility to receive assistance or the amount thereof under the food stamp program, shall also be available to the Secretary and State agencies for the purposes of carrying out the activities required by section 11(n) of this Act. Information available to the Secretary and State agencies includes but is not limited to the information described in section 11(e)(20) of this Act.".

(d) Section 7 of the Child Nutrition Act of 1966 is amended by adding at the end thereof the following new subsection:

"(j) The Secretary is authorized to pay monies appropriated under this section to state food stamp agencies (as defined by section 3(n) of the Food Stamp Act of 1977) for the purpose of funding the activities carried out under section 9(b)(2) of the National School Lunch Act and section 11(n) of the Food Stamp Act of 1977.".

ELIMINATION OF TWENTY PERCENT REFUSAL OF COMMODITIES OPTION

SEC. 13. (a) Section 6(a) of the National School Lunch Act is amended by striking the second sentence.

(b) Section 6 of the National School Lunch Act is further amended by adding a new subsection at the end as follows:

"(g) Each State agency that distributes agricultural commodities and other foods to schools participating in programs under this Act shall establish procedures to ensure that any school may request and receive only the desired amounts and types of commodity assistance available to the State during any school year. When offered commodities are not accepted by a school during any school year, alternate commodities shall be offered for delivery if available to the State during the same school year. For the purposes of this subsection, "alternate commodities" shall not include any commodities designated by the Secretary as a bonus over and above the level of assistance to be provided to the State under subsection (e) of this section.".

ELIMINATION OF OBSOLETE PROVISIONS

SEC. 14. (a) Section 7(a)(1) of the National School Lunch Act is amended by striking out in the second sentence, "(excluding State revenues derived from the operation of the program) appropriated or used specifically for program purposes" and inserting in lieu thereof, "(excluding revenues derived from the operation of school food services for children) appropriated or used specifically for providing school food services for children".

(b) Section 14(d) of the National School Lunch Act is amended by striking out the second sentence thereof.

(c) Section 21 of the National School Lunch Act is amended by striking out the last sentence thereof.

(d) Sections 18, 19, 20, and 22 of the National School Lunch Act are repealed.

CONFORMING AMENDMENTS

SEC. 15. (a) Section 3 of the National School Lunch Act is amended by striking in the first sentence ", other than sections 13, 17, and 19".

(b)(1) Section 6(a)(2) of the National School Lunch Act is amended by striking "section 11 and 13 of this Act and section 4 and" and inserting in lieu thereof "section 11 of this act and section".

(2) Section 6(f) of the National School Lunch Act is repealed.

(c) Section 12 of the National School Lunch Act is amended by—

(1) in subsection (f)—

(A) striking out "breakfasts and"; and

(B) striking out "and section of the Child Nutrition Act of 1966,"; and

(C) striking out "and breakfasts" both times that phrase appears; and

(2) striking out subsection (h).

(d) Section 11 of the National School Lunch Act is amended by striking out subsections (a)(3)(A)(iii) and (iv).

(e) Section 14 of the National School Lunch Act is amended by striking out in the first sentence of subsection (d) "and the Child Nutrition Act of 1966 for school lunch and breakfast programs" and inserting in lieu thereof "for school lunch".

(f) Section 6 of the Child Nutrition Act of 1966 is amended by striking out "sections 3 through 7" and inserting in lieu thereof "sections 3, 5, 6 and 7".

(g) Section 7 of the Child Nutrition Act of 1966 is amended—

(1) in subsection (a)(1) by—

(A) striking ", 11 and 17" and inserting in lieu thereof "and 11"; and

(B) striking "and 4"; and

(2) in subsection (a)(2) by—

(A) striking "programs authorized under section 13 or 17 of the National School Lunch Act or" and inserting in lieu thereof "program authorized"; and

(B) striking "sections 3 and 4" and inserting in lieu thereof "section 3"; and

(3) striking subsection (a)(3); and

(4) striking in subsections (a)(5) and (a)(6) "and under section 13(k)(1) of the National School Lunch Act"; and

(5) striking in subsection (b) "4, 11, and 17" and inserting in lieu thereof "4 and 11"; and

(6) striking in subsection (b), "sections 3 and 4" and inserting in lieu thereof "section 3"; and

(7) striking in subsection (h) "(except section 13 of that Act)".

EFFECTIVE DATE

SEC. 16. The amendments made by this Act shall be effective upon such dates as the Secretary of Agriculture may prescribe, taking into account the need for orderly implementation.●

By Mr. BAKER (for himself and Mr. SASSER):

S. 1210. A bill to amend the Internal Revenue Code of 1954 to provide that the election to use the alternate valuation date for purpose of the estate tax may not be made under certain circumstances and to permit an election to be made on a return that is filed late; to the Committee on Finance.

ALTERNATE VALUATION DATE ELECTION

Mr. BAKER. Mr. President, I am today introducing on behalf of Senator SASSER and myself a bill which would alleviate an inequity in the Internal Revenue Code relating to the valuation of property for estate tax purposes.

Under existing law, the estate of a decedent may elect to use an alternate valuation date for purposes of computing the value of the estate for estate tax purposes. The alternate valuation date is the date 6 months after the date of death.

This rule, which had its origin in the economic declines of the 1930's, is intended to prevent the inequity of imposing estate tax on the value of the property at the date of death, if that value declines shortly after the date of death.

One problem with the existing law is that the alternative valuation date may be used only if it is elected on an estate tax return that is filed within the prescribed time. This rule applies even when there is reasonable cause for the failure to file the return within the prescribed time.

Thus, under present law, if the estate tax return is just 1 day late, and even if the delay is due to reasonable cause, the estate may not use the alternate valuation date.

I do not believe that this harsh result serves any legitimate policy of the tax law. The alternate valuation date is intended to and should apply if the decedent's property has severely decreased in value, even if, for some reason, the return is filed late.

Accordingly, this bill would permit an estate, under certain conditions, to elect the alternate valuation date on a late return. The bill would not, however, change any of the existing penalties for the late filing of a return.

Similar legislation was introduced in both Houses in the 96th and 97th Congresses. The Finance Committee reported the original legislation late in the 96th Congress and held hearings again last year. In both instances, there was virtually unanimous agreement that the effect of the current law is incorrect and ought to be changed. The primary objection, raised by the Treasury Department, was the retroactive application of the proposal to decedents dying in prior years. While the legislation we are introducing today does contain transition rule to allow some estates to qualify retroactively, the rule has been drafted to meet concerns of equity and administrative burdens. In short, and under certain restrictive conditions, this legislation will apply to estates from prior years if the statute of limitations is open on the date of enactment.

There is one additional change in the bill we are introducing today. Under current law, the alternate valuation date can be chosen even if the value of the estate has increased. Electing the alternate valuation under these circumstances raises the basis of the property for capital gains taxation. With the substantial reduction in the burden of estate taxes that was enacted in 1981, taxpayers are finding it to their advantage to pay the additional estate taxes imposed by a higher valuation and thereby reducing their capital gains tax upon disposition of the property. Mr. President, that was not and should not be the intent of the alternate valuation provision. Thus, this legislation disallows the alternate valuation when the value of the property increases after the date of death.

We do not yet have an official revenue estimate from the Joint Tax Committee, Mr. President. However, initial indications are that the increase in capital gains tax will more than offset the estate tax losses. Thus, it is expected that this legislation would raise revenues.

I am confident that this legislation, along with the changes that have been made over the past two Congresses, will be met with the approval of most Senators. I have been informed by my distinguished colleague from Idaho (Mr. SYMMS), who chairs the Subcommittee on Estate and Gift Taxation of the Senate Finance Committee, that hearings will be held on this bill in the near future. I am hopeful that in the upcoming weeks both the Committee and the Senate will act affirmatively on this necessary legislation.

Mr. President, I ask unanimous consent that an explanation of current law and proposed changes be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATION OF CURRENT LAW AND PROPOSED CHANGE

A. ELECTION REQUIREMENT.

1. Reason for alternate valuation date election

The alternate valuation date election allows an executor to value all of the assets in the estate as of a date 6 months after the date of death. The alternate valuation date election was enacted to preclude imposing estate tax on the value of assets in circumstances where that value declined shortly after death. The election was adopted in response to the depression in stock market prices in the 1930's.

2. Effects of alternate valuation date election

The alternate valuation date election has two principal effects, (i) an estate tax effect and (ii) an income tax effect. Where the value of assets declines within 6 months after the date of death, the election can save substantial estate taxes. This is the intended effect of the election. The income tax consequence of the election is that the basis of assets is also determined using their value as of the alternate valuation date. Thus, if an asset is valued at $100,000 on the date of death and $50,000 on the alternate valuation date, the executor may save estate taxes by making the alternate valuation date election, but if he does so, the income tax basis of the asset will be $50,000, not $100,000.

3. Concern over improper use of alternate valuation date election

The bill does not permit election in certain circumstances. In general, these circumstances are (i) where no estate tax is due and (ii) the value of property on the alternate valuation date is higher than on the date of death. The application of the bill in these circumstances is as follows:

(a) No taxable estate

If a decedent's gross estate is less than the amount protected by the estate tax credit (in 1983 the estate tax credit shelters $275,000, in 1987, it will shelter $600,000), no estate tax is due. Moreover, no estate tax return need be filed in such circumstances. The regulations provide that where no estate tax return is required, the alternate valuation date election cannot be made. The provisions of the bill follow present law by providing that the election cannot be made where the value of the gross estate is less than the amount protected by the estate tax credit.

(b) Value of property higher on alternate valuation date

Under present law, an executor can make the alternate valuation date election even if the value of assets on the alternate valuation date is higher than on the date of death. This rule, combined with the unlimited marital deduction, can lead to undesirable income tax effects. For example, if all the assets of an estate are left to a surviving spouse, so that no estate tax is due, the executor may elect the alternate valuation date because the property has gone up in value. The election, in such a case, increases income tax basis (section 1014) with no estate tax effect.

One solution to the marital deduction situation would be to make the alternate valuation date inapplicable to marital deduction property. This solution, however, was not adopted because it could lead to an undesirable income tax basis in certain circumstances. Assume, for example, that an estate consists of $2,000,000 of property, with $1,000,000 passing to the surviving spouse. During the alternate valuation date period, the marital property declines in value to $750,000, while the other property increases in value to $1,250,000. If marital property were simply excluded from the election, the result would be an income tax basis of $1,250,000 for the non-marital property, and an income tax basis of $1,000,000 for the marital property.

Another solution would be to provide that the income tax basis of the assets included in the estate would be the lower of date of death value or a alternate valuation date value. This rule, however, gives rise to disappearing basis in some cases.

The rule that was chosen is to deny the election where the value of the assets on the date of death is lower than on the alternate valuation date. This confines the election to its original purpose. In addition, in determining whether an election is permissible, property qualifying for the marital or charitable deduction is excluded. This rule is necessary in the following type of case. An estate consists of $2,000,000, with $1,000,000 passing to the wife. The non-marital property declines in value by $200,000, while the marital property appreciates in value by $250,000. Clearly, the alternate valuation date election should be available even though the total value of the estate has increased rather than declined in value. There is an estate tax saving by reducing the taxable estate to $800,000 from $1,000,000 and the election should be available. By determining the value of assets without regard to the assets for which a marital or charitable deduction is allowed, the election is permissible. The income tax basis of all the property, including the marital property, in such a case, is based upon its value as of the alternate valuation date.

The new restriction on alternate valuation date elections raise administrative concerns. First, in order to know whether an election is permissible, the executor (and the I.R.S.) must know the value of the assets on both the date of death and alternate valuation date. The executor, however, must supply this information under present law. Thus, the Regulations under section 2032 require the executor to state the value of all the assets on both dates.

B. TIME OF ELECTION

The bill permits an election to be made with the first estate tax return filed, even if the return is filed late. A one-year outside limit is provided, however, to simplify administration. The administrative problem arises because the I.R.S. must determine the income tax basis of the assets included in the estate at such time as the assets are sold. This is not possible until the estate tax return is filed and the executor indicates whether the alternate valuation date election will be made. Thus, an outside limit on the timeliness of the alternate valuation date election is necessary.

C. EFFECTIVE DATE

The legislation is generally prospective. That is, for decedents dying after the date of enactment, the election can be made with the first return filed even if filed late, provided it is filed not more than 1 year after the due date. A transition rule allows the election to be made on a late-filed estate tax return in the case of a decedent dying before the date of enactment (1) if the statute of limitations on estate tax deficiencies is open on the date of enactment and (2) the election would have been timely if (i) made on the first estate tax return filed and (ii) the legislation had been passed as of the date of the decedent's death. Thus, the legislation's retroactive effective date extends to estates of decedent's dying before the date of enactment where the statute of limitations is open and where (i) the estate filed its return late, but not later than one-year after the due date (including extensions), and (ii) there was an estate tax due and the value of the assets on the date of death exceeds their value on the alternate valuation date. Thus, the transitional rule of the effective date is narrowly targeted to provide relief to certain estates of decedents dying before the date of enactment of the legislation. These are the circumstances where denial of the alternate valuation date election operates unjustly.

Mr. SASSER. Mr. President, Senator BAKER and I reintroduced today a bill which would alleviate an inequity in the Internal Revenue Code relating to the valuation of property for estate tax purposes.

Under existing law, the estate of a decedent may elect to use an "alternate valuation date," 6 months after the date of death, for estate tax purposes. This rule is intended to prevent the inequity of imposing the estate tax on the death value of property, if that value declines shortly after the date of death.

Currently, the alternate valuation date may be used only if it is elected on an estate tax return that is filed with the prescribed time. This rule applies even where there is reasonable cause for the failure to file the return within the prescribed time.

The harsh effects of this estate tax provision are illustrated by the case of the estate of one of my Tennessee constituents. In this case, Mr. President, the value of the estate declined severely during the 6 months following death, yet the alternate valuation date election was denied because the return was filed late.

The election requirement of section 2032(c) is inconsistent with the election requirements of similar provisions in the Tax Code, including provisions governing the alternate valuation of farm and other real property. Most such election provisions only require that the election be made with the first estate tax return filed, whether or not such return is filed on time. There are sufficient penalties for late filing without resorting to denial of the election under section 2032(c). No tax policy or administrative concern justifies the current rule. It is an anachronism which should be eliminated.

Another problem with the alternate valuation date election is that it may be permitted in certain circumstances where no election is appropriate, as has been pointed out by Treasury Department officials. That is, an executor can select alternate valuation even if the value of assets on that date is higher than on the date of death. This rule can lead to undesirable income tax effects, especially if used in conjunction with the unlimited marital deduction for estate taxes. Where property values have gone up in such a case, the income tax basis is increased with no estate tax effect.

Our bill responds to this problem by denying the alternate valuation date election where the value of the assets on the date of death is lower than on the alternate valuation date. In addition, in determining whether an election is permissable, property qualifying for the marital or charitable deduction is excluded. Yet, the income tax basis of all the property, including the marital property, is based on its value as of the alternate valuation date in appropriate cases.

This bill provides two important reforms in the rules of section 2032(c). The bill is sound from a standpoint of tax policy and will result in a revenue gain to the Treasury.

I urge my colleagues to consider and act on this legislation expeditiously.

By Mr. HOLLINGS:

S. 1211. A bill to repeal certain restrictions on natural gas and petroleum use and pricing in new or existing powerplants for the purpose of reducing emissions; to the Committee on Energy and Natural Resources.

SELECT GAS USE FOR ENVIRONMENTAL PURPOSES ACT OF 1983

Mr. HOLLINGS. Mr. President, I rise to offer a bill to provide for the select use of gas for reducing the emissions which cause acid rain.

The time has come to find a practical solution to the acid-rain problem and to establish a judicious policy with regard to the use of domestic natural gas.

The Select Gas Use for Environmental Purposes Act of 1983 proposes such a solution. Basically, this bill proposes six steps:

First. Repeal the automatic ban in the Powerplant and Industrial Fuel Use Act on the use of either gas or oil by large new industrial facilities;

Second. Repeals the Department of Energy's discretionary authority to ban gas or oil use by large existing industrial facilities;

Third. Retains the ban on gas and oil use in large new powerplants except for the select use of gas to achieve environmental compliance by offsetting some or all of the emissions that would otherwise be associated with direct coal combustion;

Fourth. Permits the select use of gas by large existing powerplants to achieve environmental compliance by offsetting some or all of the emissions that would otherwise be associated with direct coal combustion;

Fifth. Preserves the legal ability of electric utilities to volunteer for mandatory orders to convert powerplants from oil and gas to coal; and

Sixth. Repeals environmental pricing provisions.

Simply put, this bill presents a practical technical approach to the acid-rain problem by reducing emissions by means of the select use of gas. "Select use" is a term that refers to a relatively new concept in fuel combustion—the concurrent burning of natural gas and less environmentally attractive fuels, such as coal or oil, in the same or separate combustion units. The utilization of select use is an attempt to derive the maximum benefit from the cleanest fossil fuel—natural gas—which emits virtually no sulfur or particulate matter when burned.

Select use offers a variety of benefits from both a national and an energy consumer's perspective. For the Nation, select use can: Reduce our dependence on imported oil while increasing our use of domestic coal and gas; maintain or improve air quality; and enhance the employment outlook for eastern and midwestern coal miners.

For the energy consumer, select use can: Cut overall fuel costs; reduce susceptibility to fuel supply disruptions; increase flexibility in siting new facilities; and present another pollution control option which may be less expensive than purchasing pollution abatement equipment.

The option of coal/gas fuel mixtures is a change to the energy policy of the seventies that restricted the inefficient use of gas. However, I feel that the potential gains associated with this approach exceed the cost and represent a judicious policy change.

It should be clear to everyone that there is strong sentiment in America for a sound and strong environmental policy—poll after poll has demonstrated this fact. The select-use concept is one way to try and resolve one serious environmental dilemma—acid rain—without taking an unnecessarily heavy economic toll on industry and utilities, while at the same time striving for environmentally sound air quality. Another approach is to use pollution-control technology. While I have no intention of questioning the use of the latter, I believe that select use can be a cost effective, and as efficient, technical fix for selected places. There is no reason why our industries and utilities should not have a full set of options to consider if our real objective is, in fact, the improvement of air quality and the reduction of acid deposition in both its precipitation and dry forms.

First of all, the combustion of a coal/gas mixture, be it in separate units or a single unit, would fit nicely within the bubble policy recently adopted by the Environmental Protection Agency. At the same time, it would eliminate the need for costly scrubbers and reduce the operation and maintenance costs of new and existing powerplants in those areas where this may provide a more cost-effective approach.

The combined impact of the Fuel Use Act and the Clean Air Act severely restricts use applications in new powerplants. My bill is intended to correct that problem and to permit the select use of gas to the extent required to meet State and Federal emission standards. I realize that this concept could cause shifts in fuel-use patterns and the substitution of gas for coal. In the short term, I believe most Members would agree with me that the increased utilization of gas should not prove to be problematical. What then will the consequences be over the long term if gas is used in powerplants? We first have to differentiate between using natural gas as a sole fuel source in powerplants, and the select use of gas. I would undoubtedly agree with most of my colleagues that using natural gas alone as a fuel source for our utilities in particular, would not be the most energy-efficient use of this natural fuel resource, nor the best energy policy. However, the select use of gas—in combination with oil or coal—is both good energy efficiency and good energy policy, as well as good environmental policy.

Select use, by providing an environmentally sound option for the utility industry, should increase the use of this Nation's domestic coal resources. In the past, utilities have frowned on the use of coal because of both environmental concerns and the need for costly operation and maintenance necessary for coal facilities. Select use could help the utilities overcome these barriers to more coal utilization.

The extent to which select gas use is successful will depend upon a variety of site-specific variables, including emission limitations, fuel-cost differentials, oil dependence, and equipment types. Also, the potential for select use varies throughout the country. Based on research conducted by the American Gas Association, the potential for select use is strongest in parts of New England and the South Atlantic region; most of the Middle Atlantic region, East South Central and East North Central regions; and parts of the Pacific and Mountain regions.

Mr. President, at this point, I would request unanimous consent that the article, "Select Gas Use for Environmental Purposes," be printed in the RECORD.

There being no objection, the article ordered to be printed in the RECORD, as follows:

SELECT GAS USE FOR ENVIRONMENTAL PURPOSES

(By Paul L. Wilkinson)

[Figures referred to not reproducible in RECORD.]

IN BRIEF

A number of regulatory agencies (federal and state) and environmental groups are beginning to accept the idea that selective increases in natural gas combustion under boilers can be a low-cost means of controlling air pollution. The purpose of this paper is to examine the "select gas use" concept, which is a low-cost method of environmental compliance that fully utilizes the clean-burning characteristics of natural gas. Appendices referred to in this article are not included herein, but may be obtained from the author.

BACKGROUND

Natural gas has always been and will continue to be, the cleanest burning fossil fuel—it emits almost no sulfur or particulate matter when burned. However, this environmental advantage of gas has been exploited only to a very limited degree. Environmental protection has now become a major public concern, and the cost of environmental compliance continues to escalate. As a result of this increased environmental awareness, coupled with the increased price competition among fuels, it has become increasingly important for gas marketers and gas users to more fully recognize the inherent cleanliness of gas.

EXECUTIVE SUMMARY

Select use refers to the simultaneous combustion of gas and less environmentally attractive fuels (e.g., high-sulfur oil or coal) for purposes of environmental compliance.

1. The most simple select use mode—burning gas in one combustion unit as an offset to some other fuel being burned in a separate unit—is not constrained by any technology barrier, and recent liberalization of the Environmental Protection Agency's (EPA) "bubble policy" increases the attractiveness of this option.

2. A second select use mode involves the co-firing of gas and a lower quality fuel in the same combustion unit. Large utility boilers have operated on a gas/coal mixture, but the experience to date has been very limited.

Select use offers a variety of benefits from both a national and an individual consumer's perspective.

1. For the nation, select use can: reduce our dependence on imported oil while increasing our use of domestic coal (and gas); maintain or improve air quality; and, enhance the employment outlook for eastern and midwestern coal miners.

2. For the energy consumer, select use can: cut overall fuel costs; reduce susceptibility to fuel supply disruptions; increase flexibility in siting new facilities; and, preclude the need to purchase expensive pollution control equipment.

The economic, environmental and oil backout potential of select use via the bubble mode have been proven in actual operating facilities, and preliminary analyses indicate that similar benefits may also be realized with select use co-firing.

The success of select use will depend on a variety of site-specific variables, including: emission limits; fuel cost differentials; oil dependence; and equipment types. The potential for select use is strongest in: parts of New England and the South Atlantic Regions; most of the Middle Atlantic, East South Central, and East North Central Regions; and parts of the Pacific and Mountain Regions.

Initially, it is likely that the select use option will be pursued primarily by large industrials and electric utilities. However, the fuel consumption patterns of these potential users are constrained by both the Fuel Use Act (FUA) and the Clean Air Act (CAA).

1. The combined impact of these two acts on select use will be negligible at existing facilities.

2. The select use option will be extremely difficult to pursue for new large facilities (both boiler and non-boiler), and moderately difficult to pursue for new small facilities, in light of the combined impact of the FUA and CAA.

A variety of legislative/regulatory questions remain, which will have a substantial impact on the future of select use. For example:

1. Will "bubbling" be allowed for new sources?

2. What will be the "permanent" new source performance standards for large industrial boilers?

3. Will "bubbling" be restricted to attainment areas only?

WHAT IS SELECT GAS USE

Select gas use, or "select use," is a term that refers to a relatively new concept in fuel combustion—the concurrent burning of natural gas and less environmentally attractive fuels (e.g., coal or oil) in the same or separate combustion units. Quite simply, the utilization of select use is an attempt to derive the maximum benefit from the cleanest fossil fuel—natural gas—which emits virtually no sulfur or particulate matter when burned. The application of the select use concept may be extremely simple, involving no more than the switching from low-sulfur to high-sulfur oil in one boiler unit, while offsetting this conversion with a change from low-sulfur oil to gas in a nearby boiler unit. On the other hand, the deployment of select use may, in some instances, require technological advancements in the science of combustion. For example, the full scale conversion of an oil-fired boiler to a unit which could operate on a gas/coal fuel mixture has not yet been achieved (or attempted). (See Appendix 1 for a list of currently operational select use type applications.)

Select use offers a variety of benefits, both to the fuel consumer and to the nation as a whole. From a national perspective, select use can: reduce our dependence on imported oil; maintain or improve air quality; increase our reliance on domestic coal (and gas); and, enhance the employment outlook for eastern and midwestern coal miners. For the energy consumer, select use can: reduce overall fuel costs; reduce susceptibility to fuel supply disruptions, such as a coal or rail strike or an oil embargo; increase flexibility in siting new facilities; and preclude the need to purchase expensive pollution control equipment.

Many of the advantages cited above were less critical 10 years ago than they are today. Thus, select use, similar to energy conservation, was not vigorously pursued in the pre-embargo era. In addition to the impetus provided to select use via an increased energy awareness, the outlook for this concept has also improved as a result of a more favorable gas supply posture and the implementation of the EPA's "bubble policy." The bubble policy allows the averaging of emissions from separate combustion sources in some instances, a fundamental component of the select use strategy.

ECONOMIC ADVANTAGES OF POTENTIAL SELECT USE APPLICATIONS

Three fundamental ways in which select use can be employed in existing facilities are: (1) convert a large industrial or powerplant boiler from oil to coal, and burn gas in other units at the same or a nearby site as an offset: (2) convert from a high-quality to a low-quality fuel in one unit, and burn gas in another unit at the same or a nearby site as an offset; and (3) convert a large industrial or powerplant boiler from oil to a gas/coal mixture. Detailed examples of these options are discussed below.

1. Conversion of 12 Oil-Fired New England Powerplants to Select Gas Use With Coal. In 1980 the Department of Energy announced its intention to prepare an Environmental Impact Statement in accordance with the National Environmental Policy Act of 1969 (NEPA), in order to assess the impacts associated with converting 42 powerplants from oil or natural gas to coal. These 42 powerplants, which are located in the northeastern section of the United States from Maryland to Maine, were derived from a list of 117 "coal-capable" plants developed by the President's Commission on Coal. Coal-capable units use those which do not presently operate primarily on coal, but which could do so under an "acceptable" level of hardship, considering plant design, age, size, past coal usage, etc.

Of the 42 powerplants for which DOE's study was developed, 15 are located in New England proper. Because of the heavy dependence in the New England region on imported oil, these 15 plants were selected for study in an A.G.A. analysis.[1] It was later determined, however, that two of these 15 plants, one in Maine and one in New Hampshire, could burn coal without either adding pollution control equipment or utilizing the select use concept as a result of their particular State Implementation Plan (SIP) limits. A third plant, located in Massachusetts, is no longer under DOE consideration for conversion due to inadequate space for coal handling. These three plants were therefore not considered, and the 12 remaining plants were included in the A.G.A. analysis.

Specifically, 20 boiler units at these 12 sites were under consideration for conversion. These coal-capable units had a combined capacity of 3,213 Mw, over one-fourth of the region's aggregate generation capacity. Further, the total capacity (including both coal-capable and non-coal-capable boilers) of these 12 powerplants is 6,511 Mw.

The purpose of the analysis was to compare two conversion options for the 12 plants versus their continued dependence on oil for a generating fuel in all units:

Continued dependence on oil in their non-coal-capable units, and conversion from oil to coal in coal-capable units with the addition of adequate pollution control equipment to meet state environmental standards; and,

Conversion from oil to coal in coal-capable units and some combination of oil and gas in non-coal-capable units which would satisfy relevant emission limitations without the addition of SO_2 scrubbers.

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[1] References at end of article.

For comparison purposes, all cost and energy consumption data were based on plant totals rather than on coal-capable boilers alone. For example, in the scrubbed coal scenario, the 20 coal-capable boilers would operate exclusively on coal. However, the analysis also included the energy consumption and costs associated with those boiler units which would not convert (roughly 50% of the total generating capacity at the 12 powerplants). For purposes of this analysis, the prices of oil and gas to powerplants were assumed to be equal. A summary of the analysis results is provided below, with a graphic depiction in Figure 1.

Conversion of all 12 coal-capable New England powerplants to coal with select gas use would be $225 million per year (15%) less costly than continuing to operate these plants exclusively on oil. The annualized cost of select gas use, including the capital costs of coal conversion, and operation and maintenance and fuel expenses over 15 years, would be 4.2¢/kwh as compared with 5.0¢/kwh for the fuel and operation and maintenance costs associated with a continued dependence on oil (1982 dollars).

1. The total annual cost of converting and operating all 12 plants on coal with select use of gas would average an estimated $1,325 million versus an average of $1,550 million required annually for continued oil operation (annualized life-cycle basis over 15 years @ 10% real discount rate reflecting the time value of money).

At the same time, coal conversion of these 12 plants with select gas use would save 100,000 barrels of oil per day, roughly 15% of New England's total oil consumption. This oil savings, some 36 million barrels per year (worth $1.2 billion at current prices), would require 67 Bcf/yr, about one-third of 1% of current annual domestic gas consumption.

By comparison, converting to coal with the use of scrubbers would cost New England electric consumers approximately 10% more than converting with select use of gas (4.6¢/kwh versus 4.2¢/kwh, 1982 dollars).

1. Initial capital costs for converting coal-capable units at the 12 plants for select gas use operation would total an estimated $955 million, roughly 50% less than the scrubbed coal capital cost of $1,815 million, or an annual average cost of $125 million vs. $240 million (annualized 1982 dollar life-cycle cost basis over 15 years @ 10% discount rate). (Annualized 1982 dollar life-cycle cost basis over 15 years @ 10% discount rate).

2. Average annual operation and maintenance expenses associated with the select gas case would be an estimated $55 million per year, approximately one half the $115 million for the scrubbed coal case (annualized life-cycle cost basis over 15 years @ 10% discount rate).

Oil offset by the scrubbers coal case would be 69,000 barrels per day, 31% less than the volume potentially offset by the select gas use case.

2. Conversion of Two Large Oil-Fired Boilers to Select Gas Use with High-Sulfur Oil. The select use option discussed above, which requires major modifications to oil-fired powerplant boilers, is limited to the extent that it is only feasible with units considered to be coal-capable. That is, some boilers may not be able to convert to coal from oil due to age, size or other site-specific limitations. A more simple illustration of the select use approach is provided by the recent "bubble" approved for the Narragansett Electric Company in Rhode Island which was operating two generating stations less than one mile apart, both on 1% sulfur oil. The EPA has approved a plan allowing one of the units to operate on 2.2% sulfur oil, while the other unit burns gas. As a result, the utility expects to save $2-4 million per year, SO_2 emissions will be reduced by 1,388 tons per year, and oil imports will be reduced by 600,000 barrels per year.

Such a plan is exceedingly simple, but it can provide substantial benefits, as illustrated in Figure 2. For example, consider an industrial facility with two large boilers, each with a capacity of 250 MMbtu/hr operating on low-sulfur (0.5%) oil at a cost of $35.80/bbl. (August, 1982 N.Y. Harbor price of $31.13/bbl, increased by a factor of 15% to account for delivery to the New York/New Jersey area.) As indicated in Appendix 5, an SO_2 SIP emission maximum of 0.52 lbs/MMBtu is not uncommon in the Middle Atlantic region. Assuming a capacity utilization factor of 65%, the annual fuel cost for these two boilers would be approximately $16.4 million. The annual maintenance expense for the two boilers, based on a charge of 30¢/MMBtu,[2] would be $850 thousand. Total annual fuel consumption would be 460,000 barrels of oil (2,848 TBtu) and the SO_2 emission rate would be 0.52 lbs/MMBtu.

The same emission rate, 0.52 lbs/MMBtu, could be achieved by operating on 1% sulfur oil in one of the units and gas in the second unit. This would allow significant reductions in both fuel and maintenance expenses, even if it is assumed that the price of gas increases to the price of low-sulfur oil ($5.77/MMBtu, equivalent to oil priced at $35.80/bbl). A fuel savings can still be realized, even under this pessimistic gas pricing assumption, since the substitution of gas in the second unit would allow lower quality oil to be burned in the first unit—1% sulfur at $31.63/bbl delivered (August, 1982 N.Y. harbor price of $27.50/bbl increased by a factor of 15%).

As a result of this select use approach, the annual plant fuel bill is reduced by nearly $1 million, from $16.4 million to $15.5 million. Again, the cost of fueling this second boiler with gas is not asssumed to change, the reduction stems entirely from a switch to lower quality oil in the first unit. The boiler maintenance cost would also be reduced in the select use case, a reduction of roughly $85,000 results from a change of 24¢/MMBtu for gas boiler maintenance versus 30¢/MMBtu for oil boiler maintenance.[2] Although the overall energy consumption in each case is the same, 2,848 TBtu, the substitution of domestic gas for oil—much of which is imported—results in an oil savings of 230,000 barrels per year. There is no technological or legislative impediment to this select use option, other than EPA approval of emission bubbling, and the results in terms of reduced fuel costs, maintenance costs and oil consumption are substantial.

3. Conversion of an Oil-Fired Boiler to a Gas/Coal Boiler. A third potential select use application is the conversion of an oil-fired boiler to a gas/coal unit. That is, a boiler originally designed to burn oil would be converted to accommodate a fuel mixture of gas and pulverized coal. Such a conversion would shift the plant's primary fuel dependence from oil to coal (and approximately 30% gas), but would preclude the need to install costly scrubbers required for many coal-only units. The technical and economic aspects of this option were examined by Dr. A. E. S. Green in An Alternative to Oil: Burning Coal With Gas.[3] Dr. Green assessed all major electric utility boilers in the state of Florida in the preparation of his book.

The technical considerations of combined gas/coal burning are discussed in the next section of this paper. On economic grounds, the author estimated that the total annual cost (including conversion cost, operations and maintenance, and fuel) of a 200 MW gas/coal unit (converted from oil) would be $25 to $27 million per year ($1980) versus $46 million per year required for the plant to continue operating on oil only. Thus, the expenses incurred in the plant conversion could be recovered in 1 to 1.4 years, largely as a result of the lower fuel costs associated with a gas/coal mixture relative to the cost of oil. The gas/coal option was also found to be less costly than other various options examined including: coal/oil mixture ($44 million); new coal unit with flue gas desulfurization ($36 million); and, coal/water mixture ($31 million). The study concluded that a conversion of 12,678 megawatts of oil boiler capacity to gas/coal firing would save Florida utility customers $2.5 billion per year, and would reduce powerplant oil consumption by 0.2 million barrels per day.

TECHNICAL CONSIDERATIONS

There are no technical constraints that would impede the use of select use in bubble-type applications. To burn gas in boilers originally designed to operate on oil or coal presents no engineering difficulty, although the converse is not always true (e.g., to burn coal in a boiler designed to operate on gas-only is often not possible). In fact, many large industrial and utility boilers are dual-fuel capable, and select use bubbling would involve no more than turning on the gas jets in one unit and firing a lower quality fuel in a nearby unit.

There is very little data available regarding the combustion of gas/coal mixtures in a single unit, as this practice is not common. Although there has been some experience with firing non-boiler equipment on gas/coal mixtures, primarily outside the United States, boiler operation on such mixtures is negligible.

One 253 MW powerplant, the James River plant in Springfield, Mo., is known to operate its boilers on a gas/coal mixture.[4] The five boilers at this plant were designed to operate on either gas or pulverized coal, but due to poor flame characteristics evident when coal-only was burned, the plant operators began adding gas to the fuel steam. According to the plant supervisor, it was common practice in the mid-1970s to fire the units with a gas/coal mixture in a 40:60 ratio "the majority of the time."

The James River plant provides some insight into the advantages and disadvantages of operating boilers on a gas/coal mixture, although these observations are site-specific. According to the plant supervisor, this mode of operation:

Enhances the ability to attain desired steam temperatures;

Reduces slagging;

Improves bottom ash conditions;

Reduces boiler maintenance due to ash tank deterioration;

Increases flame stability; and,

Eliminates slag formation on burner tops.

Some problems encountered at the James River plant as a result of combination firing include:

Air heater deterioration due to increases in sulfuric acid;

Boiler vibration;

Difficulty in monitoring stack opacity; and,

Less reliable burner scanning.

It must be remembered that the James River experience is based on boilers that were not designed to run on a gas/coal mixture. The plant supervisor suspects that most problems could be overcome with engineering foresight, although sulfuric acid buildup seems to be a more difficult obstacle. In summary, he states that: "There seems to be definite indications that overall boiler operation is not adversely affected, and that reliability can be improved by firing gas and coal mixtures." [8]

INFLUENCING VARIABLES AND LIKELY MARKETS

The extent to which select use is successful will depend on a number of variables, some of which are site-specific. A partial listing of major variables with respect to select use is indicated below.

1. Emission Limits. Both state and federal emission limits will influence the adoption of select use. Not only the emission limits themselves are important, but also the manner in which regulations are applied. For example, oil-fired powerplants which convert to coal may be required to continue to meet oil SIPs; or, standards may be relaxed so that the plant may only be required to meet more lenient coal SIPs. A primary benefit of select use is that it can allow gas and coal to be burned with emissions similar to those of oil firing. However, if air quality is sacrificed by regulators, neither scrubbers nor select use may be necessary.

2. Fuel Cost by Quality. Select use permits a premium quality fuel (natural gas) to be burned with lower quality oil or coal. The attraction of select use increases as the price differential between low- and high-quality oil and coal increases.

3. Bubble Policy. The success of select use is, in part, linked to EPA's bubble policy. Should this policy be extended to include new emission sources, the outlook for select use will be further enhanced. Should restrictions on the bubble policy increase, such as a recent court decision which would effectively limit bubbling to attainment areas only, the potential for select use will be lessened.

4. Oil Dependence. Those areas with relatively high levels of dependence on oil are likely target markets for select use, as select use can help minimize susceptibility to oil pricing shocks and supply disruptions.

5. Technology. Technological innovation, especially that related to the co-firing of gas and coal in the same combustion unit, will broaden the market for select use.

An initial review of some of the variables which will determine the attractiveness of select use indicates that especially likely target markets include: parts of New England, all of the Middle Atlantic Region, parts of the South Atlantic Region, most of the East South Central Region, most of the East North Central Region, and parts of the Pacific and Mountain Regions (see Figure 3). As indicated in Appendix 5, Massachusetts, Connecticut, and the entire Middle Atlantic Region have a high dependence on oil for electrical generation, and they also have strict SO_2 and TSP emission standards. Further, emissions at some powerplants within these states currently exceed allowable levels. The East North Central Region is similar in that SIPs are stringent and actual emissions exceed allowable levels, although the dependence on oil is not as high as in the New England and Middle Atlantic states. In the South Atlantic Region, Delaware, Maryland and Florida depend on oil for a large share of their electrical supply; air quality is currently more of a problem in Florida than the other two states. The air quality situation in Florida extends to portions of other states along the Gulf Coast—Alabama, Mississippi and Louisiana—and significant volumes of oil could be offset in this area. In the West, California (and to a lesser extent, Oregon) is the prime candidate for select use; oil in California provides over half of the state's fossil-fuel-fired electrical power, and the SIPs are so low in parts of the state that coal or high-sulfur oil burning is not allowed.

Although select use may be technically possible even for very small (i.e., residential/commercial) combustion units, it is most likely that large industrial and electric utility boilers will be the initial primary select use markets. Fuel cost considerations are critical in these markets, and equipment modifications, if necessary, may well be economically justifiable. Further, it is these markets that are governed by the CAA. Large non-boiler processes may also be viable select use candidates, but fuel switching and/or the introduction of coal into non-boiler applications may not always be possible. The states shaded in Figure 3, in general, tend to have a relatively high large boiler concentration. One major omission is the state of Texas, which has more large industrial boilers than any other state, but which is not shaded on the map.

LEGISLATIVE AND REGULATORY IMPEDIMENTS

Two pieces of legislation enacted in the 1970s—the Clean Air Act of 1970 and the Powerplant and Industrial Fuel Use Act of 1978—significantly affect the fuel consumption patterns of major industrial facilities and electric powerplants currently in operation, and will affect those to be constructed in the future. The Fuel Use Act was passed in an attempt to shift the energy dependence of large facilities from oil and gas to coal, while the Clean Air Act (as amended) was intended to preserve and improve this nation's air quality.

Both the Fuel Use Act (FUA) and the Clean Air Act (CAA) will have an impact on the success of select use. The degree to which each affects the market potential for select use in the industrial and powerplant sectors is discussed below. These two market sectors have been sub-divided into 10 separate categories according to facility age, size, etc. A graphic depiction of the degree to which the CAA and FUA constrain select use is set out in Figure 4.

1. Existing Electric Powerplants. In its original form, the FUA mandated that virtually all pre-1977 electric powerplants would consume no gas or oil after 1990 (other than modest amounts required for flame stabilization purposes), and it also restricted their gas consumption levels from the date of enactment through 1990. However, due primarily to an improved gas supply outlook, these "off-gas" provisions of the FUA were repealed in the "Omnibus Budget Reconciliation Act of 1981." Thus, there is no longer any limitation on the gas consumption level of existing electric powerplants.

The CAA governs the emissions of existing powerplants at the state level through the State Implementation Plans (SIPs). SIPs, in general, limit the concentration of particular pollutants (e.g., sulfur and total suspended particulates) in powerplant fuels. They do not preclude the use of any particular fuel, but they do govern the quality of the fuel used. Because natural gas burning emits almost no pollutants, no SIPs restrict its use, and gas may be used in combination with lower quality oil or coal in order to bring a facility into SIP compliance. Appendices 2 and 3 indicate the percentage of gas which would be required to offset the SO_2 emissions of various grades of oil and coal given specific SIP levels. For example, in order to meet an SO_2 SIP of 1.2 pounds of sulfur emission per MMBtu of fuel burned, a mixture of 37 percent gas and 63 percent Western coal (1 percent sulfur content) could be used. (This emission level applies to many coal-fired powerplants in a number of states.) Were these fuels to be consumed in separate units—in a bubble mode—EPA approval would be required. The use of the bubble concept is becoming more widespread, and the EPA is becoming increasingly supportive of bubbling. Thus, the CAA, similar to the FUA, does not pose a constraint to select use in existing powerplants.

2. Existing Large Boilers. Neither the FUA nor The CAA are seen as a constraint to select use applications for existing large boilers. Emission levels for existing large boilers are governed by the SIPs, as are emission levels for existing powerplants. The Department of Energy (DOE) was granted discretionary authority by the FUA to restrict the gas consumption of Major Fuel Burning Installations (MFBI, fuel input capacity of at least 100 MMBtu/hr) boilers, but this authority has never been used. In light of the repeal of the "off-gas" provision for powerplants, it would be inconsistent for this authority to be employed.

3. Existing Small Boilers. Neither the FUA nor the CAA is a constraint to select use applications for existing small boilers. Existing boilers below the MFBI threshold size are not governed by the FUA; they are subject to the SIPs.

4. Existing Large Non-Boilers. The treatment of existing large non-boilers under the FUA and CAA is similar to the treatment of large boilers—neither is a constraint to select use. DOE does have discretionary authority to limit the gas consumption of large nonboiler categories (e.g., cement kilns, coke ovens, etc.). However, DOE has stated publicly that it "has no intention to exercise the authority in Section 202(b) of FUA to prohibit oil or gas use in non-boiler MFBI's".[9]

5. Existing Small Non-Boilers. The treatment of existing small non-boilers under the FUA and the CAA is similar to the treatment of large non-boilers—neither is a constraint to select use.

6. New Electric Powerplants. The combined impact of the CAA and the FUA, as currently written and interpreted, severely restricts select use applications in new electric powerplants. No more than 25% of a new powerplant's fuel mix may be gas or oil, according to the FUA, unless an exemption is granted (With a fuel mixtures exemption, combined with the general 25% flame stablization exemption, it may be possible to operate a new unit on a gas/coal mixture with up to 43% of the overall mix in the form of gas.) In addition, new powerplants, regardless of location, will be required to at least meet new source performance standards (NSPS) for coal combustion. These standards limit the sulfur content of coal consumed at new powerplants to 1.2 lbs/MMBtu, and they require that sulfur dioxide (SO_2) emissions of the coal be reduced by 70% to 90%. These standards do not apply for a gas/coal mixture—there is a separate standard for mixtures. It is unlikely

that coal and gas could be combined in a way that would satisfy both sets of regulations, although a limited potential may exist for a very low-sulfur coal burned in a gas/coal mixture.

7. New Large Boilers. The outlook for select use via new large boilers in similar to that for new powerplants. The gas consumption of new MFBI boilers (again, input capacity of at least 100 MMBtu/hr) may not exceed 25% of the total unit fuel input without an exemption. New large industrial boilers will be required to meet NSPS if: (1) the unit exceeds 250 MMBtu/hr, and has the potential to emit 100 tons per year of a regulated pollutant, or (2) the unit is less than 250 MMBtu/hr, but has the potential to emit at least 250 tons per year of a regulated pollutant. A coal-fired MFBI boiler would almost certainly exceed these "potential-to-pollute" minimums, and it would therefore be subject to standards at least as stringent as NSPS. Permanent NSPS have not yet been established for large industrial boilers; the NSPS standard, when set, will greatly influence the applicability of select use in this market.

8. New Large Non-Boilers. The FUA does not restrict the gas consumption of new MFBI non-boilers. However, new units (boiler or non-boiler) will be subject at least to NSPS if their potential-to-pollute: (1) exceeds 250 million tons per year, or (2) exceeds 100 million tons per year and they are one of 28 industrial categories specified by EPA (includes many major industrial fuel consumers—kraft pulp mills, portland cement plants, iron and steel mills, etc.). Thus, the potential for select use in this category is also very low.

9. New Small Non-Boilers. New non-boiler units below the MFBI capacity threshold, and below the CAA potential-to-pollute threshold, are not restricted by these legislations. However, bubbling is not currently permitted for new sources, and any select use application in this category would therefore require the co-firing of gas and a lower quality fuel in the same piece of equipment. The market for such co-firing at the present time in non-boiler applications is very limited.

10. New Small Boilers. The outlook for select use in new small boilers is similar to the outlook for new small non-boilers. The FUA is not a constraint, but select use would require co-firing rather than the less difficult bubbling approach. Co-firing of gas and coal in small industrial boilers may indeed be possible, but in order to escape NSPS a coal boiler would have to be quite small—probably in the capacity range of 15 MMBtu/hr. Again, the market for this category is quite limited.

In summary, the foregoing analysis indicates that the immediate market potential for select gas use, given the current status of the FUA and CAA legislation, is almost exclusively tied to existing facilities. There is no serious regulatory impediment to the application of select use in existing facilities, but the market for select use in new facilities, absent revisions to the legislation and/or technological advances in combustion engineering, is limited. Of course, it should be remembered that "existing facilities" will account for the lion's share of industrial and powerplant energy consumption through the end of this century. The equipment life of many of these units is in the 30-year range, and the turnover is only about 2 percent to 4 percent per year.

In terms of select use market potential, perhaps the most significant CAA revision under consideration is one which would allow new source bubbling. As mentioned, the bubble policy may not be used at this time for new facilities. However, an expansion of the bubble policy to include new facilities currently is being informally considered. Under such a policy, for example, emissions from new powerplants could be traded with reduced emissions from existing powerplants so that overall emissions would remain below the NSPS level; i.e., the goal might be realized by using high-quality fuels rather than scrubbers. That is, emissions at the existing site would be reduced below compliance levels via gas combustion, while emissions at the new site (unscrubbed coal) would exceed NSPS, but overall emissions under the bubble would not increase.

A report recently prepared by the Congressional Budget Office[7] compares four options for reducing powerplant SO_2 emissions by the year 2000 by an equal amount. They found that the current NSPS option, which essentially requires scrubbers for all new units, would have a cost of $2,411 per ton of SO_2 removed and would require an initial capital outlay of $33.4 billion. In contrast, a new source bubbling option with the same SO_2 reduction potential was estimated to cost only $550 per ton of SO_2 removed with an initial capital outlay of $14.7 billion. The new source bubbling option was judged to be by far the most cost effective of the strategies examined—nearly five times as cost effective as current NSPS and roughly four times as cost effective as the next most attractive option.

CONCLUSION

The attempt here has been to provide a precursory overview of select use, indicating some of the potential benefits, regulatory impediments and likely markets. Of course, site-specific factors from fuel costs to equipment type will determine the future of this concept. It appears, however, that the benefits of select use, both from a national and an individual consumer's perspective, are too great to allow it to remain in its current embryonic stage.

REFERENCES

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[3] A.E.S. Green, An Alternative to Oil: Burning Coal With Gas, (Gainesville, Fla., 1981).

[4] Richard J. Drummond, Power Plant Supervisor, City Utilities of Springfield, Mo., Combination Fuel Burning at James River Plant; Paper presented at "International Conference on Combined Combustion of Gas and Coal," (Cleveland, Ohio: October 13, 1982).

[5] Ibid, p. 8.

[6] Federal Register, Vol. 46, No. 234, Washington, D.C.: December 7, 1981) p. 59883.

[7] Congressional Budget Office, The Clean Air Act, The Electric Utilities, And The Coal Market, (Washington, D.C.: April 1982) pp. xvii, xix.

[8] Dr. Benjamin Schlesinger, Booz Allen & Hamilton, Natural Gas is Gaining Growing Approval As An Air Pollution Control "Device"; Paper pesented at "International Conference on Combined Combustion of Gas and Coal," (Cleveland, Ohio: October 13, 1982).

Mr. HOLLINGS. Mr. President, the bill that I am introducing today is the first of two proposals that I will submit to gain support for the concept of select use of natural gas. Within the next 2 weeks, I will introduce amendments to this bill that will make the necessary modifications to the Clean Air Act.

The 98th Congress has an obligation to find practical solutions to the Nation's environmental problems as well as the country's energy problems. The bill I am introducing today is both practical and workable and can go a long way toward solving these two problems. I strongly believe that the option of select use should be available to help remedy the acid rain and air quality problems that plague our air, our water, threaten our economy and our health, and the overall quality of life in this country. I hope that my colleagues will agree with me and join me in support of the select gas use bill.

By Mr. EAST (for himself, Mr. HELMS, Mr. STENNIS, Mr. HEFLIN, Mr. NUNN, Mr. SPECTER, and Mr. STEVENS):

S.J. Res. 93. A joint resolution to designate the month of September of each year as "National Sewing Month"; to the Committee on the Judiciary.

NATIONAL SEWING MONTH

Mr. EAST. Mr. President, I am today joined by six of my colleagues in introducing a joint resolution to designate the month of September as "National Sewing Month".

In the last session of Congress, I sponsored Senate Joint Resolution 205, designating September 1982 as "National Sewing Month." Congressman BILL BONER sponsored a similar resolution in the House of Representatives, and we are both proud that over 95 of our colleagues joined us in cosponsoring and passing the resolution into law on September 24. I am indebted to Senator THURMOND, chairman of the Senate Committee on the Judiciary, Senator BAKER, Senate majority leader, and Senator BYRD, Senate minority leader for bringing last year's resolution to the floor and assisting in its passage.

As you know, Mr. President, National Sewing Month is an industrywide promotion designed to increase home sewing interest, consumer education, and family sewing participation within a single sewing theme. This September marks the second such industrywide effort to revitalize the sewing spirit in America.

As my friends in the Senate know, I am a strong supporter of the family, and I believe that home sewing has many benefits that add to the strength of the family unit. It is estimated that over 50 million Americans sew at home and over 40 million sew at least part of their wardrobe. For many, sewing skills acquired at home and in home economics classes of local junior high and high schools have lead to valuable and creative careers in fashion design, retail merchandizing, patternmaking, and textiles. Home sewing contributes not only to these careers but to individual enjoyment, pride, and creativity as well.

The home sewing industry contributes greatly to the economic life of the Nation. It employs thousands of people directly in the manufacture, wholesale, retail, and service sectors. In addition, thousands more are associated with the home sewing industry, as teachers, mechanics, truckdrivers, and many other professions. The industry generates over $3.5 billion in sales annually and invests millions of dollars of capital in plants and machinery.

This September, the American Home Sewing Association will conduct an extensive nationwide promotion of National Sewing Month. A wide variety of community groups will be joining that campaign including 4-H Clubs, the Girl Scouts, Future Homemakers of America, home economics teachers, and others.

Mr. President, I urge my colleagues to join with the other sponsors in securing passage of the National Sewing Month resolution.

ADDITIONAL COSPONSORS

S. 42

At the request of Mr. Helms, the name of the Senator from Idaho (Mr. McClure) was added as a cosponsor of S. 42, a bill to provide for the minting of American Gold Eagle coins pursuant to article 1, section 8, of the United States Constitution.

S. 44

At the request of Mr. Kasten, the name of the Senator from Montana (Mr. Melcher) was added as a cosponsor of S. 44, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 50

At the request of Mr. Cohen, the name of the Senator from Vermont (Mr. Stafford) was added as a cosponsor of S. 50, a bill to provide access to trade remedies to small businesses, and for other purposes.

S. 123

At the request of Mr. Inouye, the name of the Senator from Montana (Mr. Melcher) was added as a cosponsor of S. 123, a bill to amend titles XVIII and XIX of the Social Security Act to provide that clinical psychologist services shall be covered under part B of medicare and shall be a required service under medicaid.

S. 133

At the request of Mr. D'Amato, the name of the Senator from Michigan (Mr. Levin) was added as a cosponsor of S. 133, a bill to establish a Federal annuity program to compensate participants in private pension plans which terminate before July 1, 1974, for nonforfeitable pension benefits which were lost by reason of the termination, and for other purposes.

S. 137

At the request of Mr. Roth, the name of the Senator from Indiana (Mr. Lugar) was added as a cosponsor of S. 137, a bill to amend the Internal Revenue Code of 1954 to continue to allow mortgage bonds to be issued.

S. 155

At the request of Mr. Inouye, the names of the Senator from Maine (Mr. Mitchell), and the Senator from Montana (Mr. Melcher) were added as cosponsors of S. 155, a bill to amend subchapter I of chapter 73 of title 38, United States Code, to provide for the payment of incentive special pay to Veterans' Administration psychologists who obtain certain board certification in a professional specialty.

S. 249

At the request of Mr. Packwood, the name of the Senator from Illinois (Mr. Percy) was added as a cosponsor of S. 249, a bill entitled the "Employee Educational Assistance Extension Act."

S. 337

At the request of Mr. Packwood, the names of the Senator from Alabama (Mr. Heflin), the Senator from North Dakota (Mr. Andrews), and the Senator from Pennsylvania (Mr. Specter) were added as cosponsors of S. 337, a bill to amend the Internal Revenue Code of 1954 to make permanent the deduction for charitable contributions by nonitemizers.

S. 338

At the request of Mr. Cohen, the name of the Senator from Michigan (Mr. Riegle) was added as a cosponsor of S. 338, a bill to revise the procedures for soliciting and evaluating bids and proposals for Government contracts and awarding such contracts, and for other purposes.

S. 391

At the request of Mr. Stennis, the names of the Senator from Kentucky (Mr. Huddleston), and the Senator from Pennsylvania (Mr. Specter) were added as cosponsors of S. 391, a bill to repeal the denial of the use of the accelerated cost recovery system with respect to tax-exempt obligations, and the expiration of the authority to issue such obligations.

S. 410

At the request of Mr. Inouye, the name of the Senator from Arizona (Mr. DeConcini) was added as a cosponsor of S. 410, a bill to amend titles XVII and XIX of the Social Security Act to provide coverage for community nursing center services under the medicare and medicaid programs, and for other purposes.

S. 496

At the request of Mr. Cohen, the names of the Senator from Alabama (Mr. Denton), and the Senator from Louisiana (Mr. Johnston) were added as cosponsors of S. 496, a bill to amend title 10, United States Code, to authorize the Secretary concerned to transport to the place of burial the remains of a member of the uniformed services entitled to retired or retainer pay who dies in a military medical facility.

S. 567

At the request of Mr. Thurmond, the names of the Senator from Hawaii (Mr. Inouye), and the Senator from Indiana (Mr. Lugar) were added as cosponsors of S. 567, a bill to amend title 38, United States Code, to authorize reimbursement for the reasonable charge for chiropractic services provided to certain veterans.

S. 593

At the request of Mr. Inouye, the name of the Senator from Oklahoma (Mr. Boren) was added as a cosponsor of S. 593, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to permit distribution of certain State-inspected meat and poultry products, and for other purposes.

S. 596

At the request of Mr. Pryor, the name of the Senator from Kentucky (Mr. Ford) was added as a cosponsor of S. 596, a bill to provide surplus commodities to farmers who lost grain stored in certain insolvent warehouses.

S. 688

At the request of Mr. Hatfield, the names of the Senator from Massachusetts (Mr. Kennedy), and the Senator from Minnesota (Mr. Durenberger) were added as cosponsors of S. 688, a bill to provide that, unless the Government of El Salvador actively participates in negotiations with all major parties to the conflict which are willing to participate unconditionally in negotiations for the purpose of achieving a cease-fire and an equitable political solution to hostilities, United States military support for El Salvador shall be terminated, with military assistance funds to be transferred for use for development and humanitarian assistance.

S. 737

At the request of Mr. Mathias, the name of the Senator from California (Mr. Wilson) was added as a cosponsor of S. 737, a bill to allow business to jointly perform research and development.

S. 788

At the request of Mr. Quayle, the name of the Senator from Oklahoma (Mr. Nickles) was added as a cosponsor of S. 788, a bill to amend the Agricultural Act of 1949 to reduce the loan rates for the 1983 through 1985 crops of sugarcane and sugar beets.

S. 842

At the request of Mr. Weicker, the name of the Senator from Massachusetts (Mr. Tsongas) was added as a cosponsor of S. 842, a bill to amend the

Internal Revenue Code of 1954 to provide tax incentives for the issuance of small business participating debentures.

S. 858

At the request of Mr. Thurmond, the names of the Senator from Missouri (Mr. Danforth) and the Senator from Mississippi (Mr. Stennis) were added as cosponsors of S. 858, a bill to recognize the organization known as the National Association of State Directors of Veterans Affairs, Incorporated.

S. 880

At the request of Mr. Pressler, the names of the Senator from Minnesota (Mr. Durenberger) and the Senator from Alabama (Mr. Heflin) were added as cosponsors of S. 880, a bill to amend the Communications Act of 1934 to provide equity to daytime radio broadcasters.

S. 902

At the request of Mr. Roth, the name of the Senator from Oklahoma (Mr. Nickles) was added as a cosponsor of S. 902, a bill to amend title 31, United States Code, and section 1961 (1) of title 18, United States Code, to improve enforcement, and for other purposes.

S. 995

At the request of Mr. Exon, the name of the Senator from Louisiana (Mr. Johnston) was added as a cosponsor of S. 995, a bill to amend title 38, United States Code, to modify the rule for the commencement of the period of payment of certain adjustments in compensation in the case of hospitalized veterans.

S. 1005

At the request of Mr. D'Amato, the name of the Senator from Alaska (Mr. Murkowski) was added as a cosponsor of S. 1005, a bill to provide assistance for the construction, acquisition, and renovation of State and local correctional facilities.

S. 1051

At the request of Mr. Tower, the names of the Senator from Nevada (Mr. Laxalt) and the Senator from Mississippi (Mr. Cochran) were added as cosponsors of S. 1051, a bill to amend the Internal Revenue Code of 1954 to allow certain prepayments of principal and interest to be treated as contributions to an individual retirement account, to allow amounts to be withdrawn from such account to purchase a principal residence, and for other purposes.

S. 1056

At the request of Mr. Inouye, the name of the Senator from Connecticut (Mr. Dodd) was added as a cosponsor of S. 1056, a bill to authorize the National Science Foundation to provide assistance for a program for visiting faculty exchanges and institutional development in the fields of mathematics, science, and engineering, and for other purposes.

S. 1063

At the request of Mr. DeConcini, the name of the Senator from Kentucky (Mr. Huddleston) was added as a cosponsor of S. 1063, a bill to exclude from gross income any discharge of a mortgage debt on a principal residence occurring in 1982, and for other purposes.

S. 1069

At the request of Mr. Chafee, the name of the Senator from Maryland (Mr. Sarbanes) was added as a cosponsor of S. 1069, a bill to amend the Federal Power Act to limit the recovery by public utilities of certain costs of construction work in progress through rate increases.

S. 1144

At the request of Mr. Heinz, the name of the Senator from Ohio (Mr. Metzenbaum) was added as a cosponsor of S. 1144, a bill to suspend periodic reviews of disability beneficiaries having mental impairments pending regulatory reform of the disability determination process.

S. 1147

At the request of Mr. Danforth, the name of the Senator from Idaho (Mr. Symms) was added as cosponsor of S. 1147, a bill to amend the Internal Revenue Code of 1954 to exclude from gross income the discharge of mortgage debt on a principal residence.

S. 1154

At the request of Mr. Kennedy, the names of the Senator from New York (Mr. Moynihan), the Senator from California (Mr. Cranston), and the Senator from Maryland (Mr. Sarbanes) were added as cosponsors of S. 1154, a bill to provide grants to States for the purpose of providing health insurance or health care benefits to unemployed workers, and for other purposes.

SENATE JOINT RESOLUTION 19

At the request of Mr. Inouye, the name of the Senator from Montana (Mr. Melcher) was added as a cosponsor of Senate Joint Resolution 19, joint resolution to authorize and request the President to designate the period August 26, 1983, through August 30, 1983, as "National Psychology Days."

SENATE JOINT RESOLUTION 66

At the request of Mr. Inouye, the name of the Senator from Illinois (Mr. Dixon) was added as a cosponsor of Senate Joint Resolution 66, joint resolution to authorize and request the President to designate May 6, 1983 as "National Nurse Recognition Day."

SENATE CONCURRENT RESOLUTION 2

At the request of Mr. Cranston, the name of the Senator from Kentucky (Mr. Huddleston) was added as a cosponsor to Senate Concurrent Resolution 2, concurrent resolution expressing the sense of the Congress with respect to the role of the Administrator of Veterans' Affairs.

SENATE RESOLUTION 119

At the request of Mr. D'Amato, the name of the Senator from Nebraska (Mr. Zorinsky), the Senator from Maryland (Mr. Sarbanes), the Senator from Massachusetts (Mr. Kennedy), and the Senators from Ohio (Mr. Glenn and Mr. Metzenbaum) were added as cosponsors to Senate Resolution 119, resolution expressing the sense of the Senate that the United States should proceed with the sale and delivery of the F-16 aircraft to Israel.

SENATE RESOLUTION 130—RELATING TO BARNEY CLARK

Mr. GORTON (for himself and Mr. Jackson) submitted the following resolution, which was referred to the Committee on the Judiciary:

S. Res. 130

Whereas Dr. Barney Clark made medical history by becoming the first human recipient of a permanent artificial heart;

Whereas the eyes of the Nation, and of the world, were focused for 112 days on the progress he made in this medical adventure into the far reaches of science and medicine;

Whereas his courage in volunteering to assume the role which allowed this phenomenal technology to be analyzed and perfected established him as a pioneer in the development of modern medical techniques;

Whereas Dr. Clark demonstrated tremendous bravery and tenacity in a long fight for survival in one of the most outstanding medical achievements of our time; and

Whereas Dr. Clark fully deserves the acclaim of the American people and the Presidential Medal of Freedom: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should award the Presidential Medal of Freedom to Barney Clark, to be presented to his family in his memory.

Mr. GORTON. Mr. President, it is my great pleasure today to submit a resolution with my colleague, Mr. Jackson, asking the President to award the Presidential Medal of Freedom to Dr. Barney Clark.

On March 23, the Nation, and indeed, the world, was saddened to hear of the death of Dr. Barney Clark. Dr. Clark made medical history in his pioneering role as the first human recipient of an artificial heart. His brave fight for life spanned 112 days, providing medical experts with excellent data to help explore and perfect this innovative technique. Perhaps equally important, Dr. Clark, during his ordeal, inspired us all with his selflessness, good humor, and incredible will to live.

Barney Clark could have chosen an easier way out of this life but instead took on the challenge of an artificial heart for the good of mankind. He demonstrated tremendous bravery and tenacity in his fight for survival. He waged a daily battle against such tangible threats as infection, pneumonia, and seizures, while staving off depression and the frustration that came with the inevitable setbacks inherent in any new technology.

Dr. Clark's courage in volunteering to assume the role which allowed this phenomenal technology to be analyzed and perfected establishes him as a pioneer in the development of modern medical techniques. He symbolizes the culmination of the efforts of many, much as Dr. Jonas Salk symbolizes the efforts of many in developing the first successful polio vaccine.

Barney Clark fully deserves the acclaim of the American people and the honor of the Presidential Medal of Freedom. We shall never forget this remarkable man and his contribution to medical knowledge; and I call on my colleagues to join us in saluting this man's courage and tenacity.

AMENDMENTS SUBMITTED

FIRST CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1984

HOLLINGS AMENDMENT NO. 1229

Mr. HOLLINGS proposed an amendment to the concurrent resolution (S. Con. Res. 27) revising the congressional budget for the U.S. Government for the fiscal year 1983 and setting forth the congressional budget for the U.S. Government for the fiscal years 1984, 1985, and 1986, as follows:

In lieu of the language proposed to be inserted by amendment No. 1227, insert the following;

That the Congress hereby determines and declares that the concurrent resolution on the budget for fiscal year 1983 is hereby revised, the first concurrent resolution on the budget for fiscal year 1984 is hereby established, and the appropriate budgetary levels for fiscal years 1985 and 1986 are hereby set forth:

(a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1982, October 1, 1983, October 1, 1984, and October 1, 1985:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1983: $610,300,000,000.

Fiscal year 1984: $685,600,000,000.

Fiscal year 1985: $762,600,000,000.

Fiscal year 1986: $831,100,000,000.

and the amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 1983: +$7,200,000,000.

Fiscal year 1984: +$30,200,000,000.

Fiscal year 1985: +$39,100,000,000.

Fiscal year 1986: +$52,200,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1983: $35,900,000,000.

Fiscal year 1984: $39,700,000,000.

Fiscal year 1985: $44,200,000,000.

Fiscal year 1986: $50,900,000,000.

and the amounts for Federal Insurance Contributions Act revenues and other revenues pursuant to Public Law 98-2 for old age, survivors, and disability insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1983: $148,500,000,000.

Fiscal year 1984: $166,500,000,000.

Fiscal year 1985: $187,700,000,000.

Fiscal year 1986: $204,400,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1983: $874,200,000,000.

Fiscal year 1984: $896,000,000,000.

Fiscal year 1985: $957,070,000,000.

Fiscal year 1986: $1,008,640,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1983: $806,840,000,000.

Fiscal year 1984: $844,490,000,000.

Fiscal year 1985: $889,960,000,000.

Fiscal year 1986: $934,930,000,000.

(4) The amounts of the deficits in the budget which are appropriate in the light of economic conditions and all other relevant factors are as follows:

Fiscal year 1983: $196,540,000,000.

Fiscal year 1984: $158,890,000,000.

Fiscal year 1985: $127,360,000,000.

Fiscal year 1986: $103,830,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1983: $1,383,900,000,000.

Fiscal year 1984: $1,591,100,000,000.

Fiscal year 1985: $1,788,800,000,000.

Fiscal year 1986: $1,979,600,000,000.

and the amounts by which the temporary statutory limits on such debt should be accordingly increased are as follows:

Fiscal year 1983: $93,700,000,000.

Fiscal year 1984: $207,200,000,000.

Fiscal year 1985: $197,700,000,000.

Fiscal year 1986: $190,800,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1982, October 1, 1983, October 1, 1984, and October 1, 1985, are as follows:

Fiscal year 1983:

(A) New direct loan obligations, $55,400,000,000.

(B) New loan guarantee commitments, $94,500,000,000.

Fiscal year 1984:

(A) New direct loan obligations, $48,200,000,000.

(B) New loan guarantee commitments, $94,500,000,000.

Fiscal year 1985:

(A) New direct loan obligations, $48,100,000,000.

(B) New loan guarantee commitments, $97,400,000,000.

Fiscal year 1986:

(A) New direct loan obligations, $48,700,000,000.

(B) New loan guarantee commitments, $101,000,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new loan guarantee commitments for fiscal years 1983 through 1986 for each major functional category are:

(1) National Defense (050):

Fiscal year 1983:

(A) New budget authority, $244,100,000,000.

(B) Outlays, $214,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $262,600,000,000.

(B) Outlays, $239,500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $284,700,000,000.

(B) Outlays, $259,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $308,100,000,000.

(B) Outlays, $282,400,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1983:

(A) New budget authority, $24,100,000,000.

(B) Outlays, $11,300,000,000.

(C) New direct loan obligations, $11,700,000,000.

(D) New loan guarantee commitments, $9,200,000,000.

Fiscal year 1984:

(A) New budget authority, $17,500,000,000.

(B) Outlays, $12,140,000,000.

(C) New direct loan obligations, $11,200,000,000.

(D) New loan guarantee commitments, $10,300,000,000.

Fiscal year 1985:

(A) New budget authority, $15,800,000,000.

(B) Outlays, $12,000,000,000.

(C) New direct loan obligations, $11,500,000,000.

(D) New loan guarantee commitments, $10,300,000,000.

Fiscal year 1986:

(A) New budget authority, $14,990,000,000.

(B) Outlays, $11,900,000,000.

(C) New direct loan obligations, $11,600,000,000.

(D) New loan guarantee commitments, $10,300,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1983:

(A) New budget authority, $7,900,000,000.

(B) Outlays, $7,700,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $7,700,000,000.

(B) Outlays, $7,700,000,000.

(C) New direct loan obligations, $37,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $7,400,000,000.

(B) Outlays, $7,500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $7,200,000,000.

(B) Outlays, $7,200,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1983:

(A) New budget authority, $3,900,000,000.

(B) Outlays, $4,400,000,000.

(C) New direct loan obligations, $13,100,000,000.

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1984:

(A) New budget authority, $3,900,000,000.

(B) Outlays, $4,100,000,000.

(C) New direct loan obligations, $13,900,000,000.

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1985:

(A) New budget authority, $3,700,000,000.

(B) Outlays, $2,900,000,000.

(C) New direct loan obligations, $14,300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $3,200,000,000.

(B) Outlays, $2,800,000,000.

(C) New direct loan obligations, $14,400,000,000.

(D) New loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1983:

(A) New budget authority, $12,300,000,000.

(B) Outlays, $12,300,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $11,200,000,000.

(B) Outlays, $12,000,000,000.

(C) New direct loan obligations, $27,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $11,000,000,000.

(B) Outlays, $11,700,000,000.

(C) New direct loan obligations, $27,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $10,800,000,000.

(B) Outlays, $11,200,000,000.

(C) New direct loan obligations, $27,000,000.

(D) New loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1983:

(A) New budget authority, $24,200,000,000.

(B) Outlays, $24,000,000,000.

(C) New direct loan obligations, $18,600,000,000.

(D) New loan guarantee commitments, $5,500,000,000.

Fiscal year 1984:

(A) New budget authority, $11,500,000,000.

(B) Outlays, $11,300,000,000.

(C) New direct loan obligations, $12,100,000,000.

(D) New loan guarantee commitments, $3,800,000,000.

Fiscal year 1985:

(A) New budget authority, $13,800,000,000.

(B) Outlays, $12,100,000,000.

(C) New direct loan obligations, $11,700,000,000.

(D) New loan guarantee commitments, $3,800,000,000.

Fiscal year 1986:

(A) New budget authority, $13,000,000,000.

(B) Outlays, $12,900,000,000.

(C) New direct loan obligations, $12,200,000,000.

(D) New loan guarantee commitments, $3,800,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1983:

(A) New budget authority, $5,100,000,000.

(B) Outlays, $3,300,000,000.

(C) New direct loan obligations, $6,500,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1984:

(A) New budget authority, $5,800,000,000.

(B) Outlays, $2,100,000,000.

(C) New direct loan obligations, $6,400,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1985:

(A) New budget authority, $6,300,000,000.

(B) Outlays, $0.

(C) New direct loan obligations, $6,300,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1986:

(A) New budget authority, $6,300,000,000.

(B) Outlays, $0.

(C) New direct loan obligations, $6,300,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

(8) Transportation (400):

Fiscal year 1983:

(A) New budget authority, $26,900,000,000.

(B) Outlays, $22,000,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New loan guarantee commitments, $1,100,000,000.

Fiscal year 1984:

(A) New budget authority, $27,500,000,000.

(B) Outlays, $25,900,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $600,000,000.

Fiscal year 1985:

(A) New budget authority, $28,200,000,000.

(B) Outlays, $26,800,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $400,000,000.

Fiscal year 1986:

(A) New budget authority, $29,000,000,000.

(B) Outlays, $27,700,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $300,000,000.

(9) Community and Regional Development (450):

Fiscal year 1983:

(A) New budget authority, $8,600,000,000.

(B) Outlays, $7,800,000,000.

(C) New direct loan obligations, $2,100,000,000.

(D) New loan guarantee commitments, $500,000,000.

Fiscal year 1984:

(A) New budget authority, $7,000,000,000.

(B) Outlays, $8,500,000,000.

(C) New direct loan obligations, $1,700,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1985:

(A) New budget authority, $7,800,000,000.

(B) Outlays, $8,700,000,000.

(C) New direct loan obligations, $1,800,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1986:

(A) New budget authority, $7,900,000,000.

(B) Outlays, $8,200,000,000.

(C) New direct loan obligations, $1,800,000,000.

(D) New loan guarantee commitments, $400,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1983:

(A) New budget authority, $28,000,000,000.

(B) Outlays, $27,200,000,000.

(C) New direct loan obligations, $600,000,000.

(D) New loan guarantee commitments, $6,500,000,000.

Fiscal year 1984:

(A) New budget authority, $30,100,000,000.

(B) Outlays, $26,900,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New loan guarantee commitments, $6,600,000,000.

Fiscal year 1985:

(A) New budget authority, $27,100,000,000.

(B) Outlays, $27,000,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New loan guarantee commitments, $6,600,000,000.

Fiscal year 1986:

(A) New budget authority, $27,100,000,000.

(B) Outlays, $27,000,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New loan guarantee commitments, $6,600,000,000.

(11) Health (550):

Fiscal year 1983:

(A) New budget authority, $25,100,000,000.

(B) Outlays, $29,600,000,000.

(C) New direct loan obligations, $47,000,000.

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1984:

(A) New budget authority, $31,500,000,000.

(B) Outlays, $31,500,000,000.

(C) New direct loan obligations, $29,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1985:

(A) New budget authority, $34,900,000,000.

(B) Outlays, $34,500,000,000.

(C) New direct loan obligations, $28,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1986:

(A) New budget authority, $37,200,000,000.

(B) Outlays, $36,600,000,000.

(C) New direct loan obligations, $28,000,000.

(D) New loan guarantee commitments, $300,000,000.

(12) Medical Insurance (570):

Fiscal year 1983:

(A) New budget authority, $46,100,000,000.

(B) Outlays, $53,100,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $52,200,000,000.

(B) Outlays, $61,200,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $70,400,000,000.

(B) Outlays, $69,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $80,600,000,000.

(B) Outlays, $79,400,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1983:

(A) New budget authority, $121,700,000,000.

(B) Outlays, $110,300,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New loan guarantee commitments, $14,600,000,000.

Fiscal year 1984:

(A) New budget authority, $121,900,000,000.

(B) Outlays, $103,600,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New loan guarantee commitments, $14,700,000,000.

Fiscal year 1985:

(A) New budget authority, $125,200,000,000.

(B) Outlays, $102,800,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New loan guarantee commitments, $16,500,000,000.

Fiscal year 1986:

(A) New budget authority, $129,500,000,000.

(B) Outlays, $104,400,000,000.

(C) New direct loan obligations, $500,000,000.

(D) New loan guarantee commitments, $18,100,000,000.

(14) Social Security (650):

Fiscal year 1983:

(A) New budget authority, $184,100,000,000.

(B) Outlays, $167,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $174,900,000,000.

(B) Outlays, $177,000,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $194,200,000,000.

(B) Outlays, $188,200,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $210,400,000,000.

(B) Outlays, $199,900,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1983:

(A) New budget authority, $24,900,000,000.

(B) Outlays, $24,500,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New loan guarantee commitments, $8,000,000,000.

Fiscal year 1984:

(A) New budget authority, $25,300,000,000.

(B) Outlays, $25,100,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New loan guarantee commitments, $9,000,000,000.

Fiscal year 1985:

(A) New budget authority, $25,300,000,000.

(B) Outlays, $25,100,000,000.

(C) New direct loan obligations, $600,000,000.

(D) New loan guarantee commitments, $10,500,000,000.

Fiscal year 1986:

(A) New budget authority, $25,300,000,000.

(B) Outlays, $25,100,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New loan guarantee commitments, $12,500,000,000.

(16) Administration of Justice (750):

Fiscal year 1983:

(A) New budget authority, $5,200,000,000.

(B) Outlays, $5,100,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $5,300,000,000.

(B) Outlays, $5,400,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $5,300,000,000.

(B) Outlays, $5,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $5,300,000,000.

(B) Outlays, $5,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1983:

(A) New budget authority, $5,600,000,000.

(B) Outlays, $5,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $5,600,000,000.

(B) Outlays, $5,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $5,800,000,000.

(B) Outlays, $5,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $5,900,000,000.

(B) Outlays, $5,800,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(18) General Purpose Fiscal Assistance (850):

Fiscal year 1983:

(A) New budget authority, $6,400,000,000.

(B) Outlays, $6,400,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0

Fiscal year 1984:

(A) New budget authority, $7,100,000,000.

(B) Outlays, $7,000,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $7,100,000,000.

(B) Outlays, $7,100,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $7,500,000,000.

(B) Outlays, $7,500,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

(19) Net Interest (900):

Fiscal year 1983:

(A) New budget authority, $87,300,000,000.

(B) Outlays, $87,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $94,600,000,000.

(B) Outlays, $94,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $100,300,000,000.

(B) Outlays, $100,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $100,500,000,000.

(B) Outlays, $100,500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(20) Allowances (920):

Fiscal year 1983:

(A) New budget authority, $800,000,000.

(B) Outlays, $900,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $500,000,000.

(B) Outlays, $500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $1,400,000,000.

(B) Outlays, $1,500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $2,400,000,000.

(B) Outlays, $2,500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(21) Undistributed Offsetting Receipts (950):

Fiscal year 1983:

(A) New budget authority, −$18,000,000,000.

(B) Outlays, −$18,000,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, −$17,300,000,000.

(B) Outlays, −$17,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, −$18,600,000,000.

(B) Outlays, −$18,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, −$23,400,000,000.

(B) Outlays, −$23,400,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

RECONCILIATION

SEC. 2. (a) Not later than June 6, 1983, the Senate committees named in subsections (b), (c), and (d) of this section shall submit their recommendations to the Senate Committee on the Budget and not later than June 6, 1983, the House committees named in subsections (e), (f), and (g) of this section shall submit their recommendations to the House Committee on the Budget. After receiving those recommendations, the Committees on the Budget shall report to the House and Senate a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

SENATE COMMITTEES

(b)(1) The Senate Committee on Finance shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $2,200,000,000 in fiscal year 1985; and to reduce outlays by $4,900,000,000 in fiscal year 1986.

(2) The Senate Committee on Finance shall report changes in laws within the jurisdiction of that committee sufficient to increase revenues as follows: $7,200,000,000 in fiscal year 1983; $30,200,000,000 in fiscal year 1984; $39,100,000,000 in fiscal year 1985; and $52,200,000,000 in fiscal year 1986.

(c) The Senate Committee on Governmental Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $300,000,000 and outlays by $600,000,000 in fiscal year 1984; to reduce budget authority by $300,000,000 and outlays by $700,000,000 in fiscal year 1985; and to reduce budget authority by $700,000,000 and outlays by $1,800,000,000 in fiscal year 1986.

(d) The Senate Committee on Veterans' Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $200,000,000 and outlays by $200,000,000 in fiscal year 1984; to reduce budget authority by $200,000,000 and outlays by $200,000,000 in fiscal year 1985; and to reduce budget authority by $400,000,000 and outlays by $400,000,000 in fiscal year 1986.

HOUSE COMMITTEES

(e) The House Committee on Post Office and Civil Service shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $300,000,000 and outlays by $600,000,000 in fiscal year 1984; to reduce budget authority by $300,000,000 and outlays by $700,000,000 in fiscal year 1985; and to reduce budget authority by $700,000,000 and outlays by $1,800,000,000 in fiscal year 1986.

(f) The House Committee on Veterans' Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $200,000,000 and outlays by $200,000,000 in fiscal year 1984; to reduce budget authority by $200,000,000 and outlays by $200,000,000 in fiscal year 1985; and to reduce budget authority by $400,000,000 and outlays by $400,000,000 in fiscal year 1986.

(g)(1) The House Committee on Ways and Means shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $2,200,000,000 in fiscal year 1985; and to reduce outlays by $4,900,000,000 in fiscal year 1986.

(2) The House Committee on Ways and Means shall report changes in laws within the jurisdiction of that committee sufficient to increase revenues as follows: $7,200,000 in fiscal year 1983; $30,200,000,000 in fiscal year 1984; $39,100,000,000 in fiscal year 1985; and $51,900,000,000 in fiscal year 1986.

MISCELLANEOUS PROVISIONS

Sec. 3. It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution, or amendment thereto, providing—

(1) new budget authority for fiscal year 1984; or

(2) new spending authority described in section 401(c)(2)(C) of the Budget Act first effective in fiscal year 1934,

within the jurisdiction of any of its committees unless and until such committee makes the allocations or subdivisions required by section 302(b) of the Budget Act, in connection with the most recently agreed to concurrent resolution on the budget.

Sec. 4. It is the sense of the Congress that the President and the Congress, through the appropriations process, should limit the on-budget new direct loan obligations of the Federal Government to an amount not to exceed $37,600,000,000 in fiscal year 1983 and $29,300,000,000 in fiscal year 1984; off-budget new direct loan obligations to an amount not to exceed $17,800,000,000 in fiscal year 1983 and $18,900,000,000 in fiscal year 1984; and new loan guarantee commitments to an amount not to exceed $94,500,000,000 in fiscal year 1983 and $94,500,000,000 in fiscal year 1984. It is further the sense of the Congress that the President and the Congress should limit total Federal financing bank origination of direct loans guaranteed by other Federal agencies to $16,200,000,000 in fiscal year 1983 and $17,300,000,000 in fiscal year 1984, and Federal financing bank purchases of certificates of beneficial ownership from Federal agencies to $11,500,000,000 in fiscal year 1983 and $13,200,000,000 in fiscal year 1984. It is further the sense of the Congress that direct borrowing transactions of Federal agencies should be, to the maximum extent possible, restricted to the Federal financing bank.

Sec. 5. (a) The joint explanatory statement accompanying the conference report on this resolution shall include an estimated allocation, based upon the first section of this resolution as recommended in such conference report, of the appropriate levels of total new direct loan obligations and new loan guarantee commitments for fiscal year 1983 and fiscal year 1984, among each committee of the House of Representatives and the Senate which has jurisdiction over bills and resolutions providing such new obligations and commitments.

(b) As soon as practicable after this resolution is agreed to, every committee of each House, after consulting with the committee or committees of the other House to which all or part of the allocation has been made, shall subdivide among its subcommittees the allocation of new direct loan obligations and new loan guarantee commitments for fiscal year 1983 and fiscal year 1984, allocated to it in the joint explanatory statement accompanying the conference report on this resolution.

Sec. 6. It is the sense of the Congress that the budgets of Federal agencies initiating Federal financing bank purchases of certificates of beneficial ownership and originations of guaranteed loans should include the budget authority and outlays resulting from the transactions. The Congress recommends that the committees with jurisdiction over the Federal Financing Bank Act of 1973 consider expeditiously legislation to require that the budgetary impact of such Federal financing bank transactions be included in the budgets of the initiating agencies beginning with the fiscal year 1985 budget.

JOHNSTON AMENDMENT NO. 1230

Mr. JOHNSTON (for himself, Mr. **Nunn**, Mr. **Exon**, Mr. **Danforth**, and Mr. **Boren**) proposed an amendment to the concurrent resolution, Senate Concurrent Resolution 27, supra, as follows:

Strike all after line 5 on page 2 and insert in lieu the following:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1983: $603,100,000,000.
Fiscal year 1984: $670,400,000,000.
Fiscal year 1985: $753,500,000,000.
Fiscal year 1986: $838,900,000,000.

and the amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 1983: +$100,000,000.
Fiscal year 1984: +$15,000,000,000.
Fiscal year 1985: +$30,000,000,000.
Fiscal year 1986: +$60,000,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1983: $35,900,000,000.
Fiscal year 1984: $39,700,000,000.
Fiscal year 1985: $44,200,000,000.
Fiscal year 1986: $50,900,000,000.

and the amounts for Federal Insurance Contributions Act revenues and other revenues pursuant to Public Law 98-21 for old age, survivors, and disability insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1983: $148,500,000,000.
Fiscal year 1984: $166,500,000,000.
Fiscal year 1985: $187,700,000,000.
Fiscal year 1986: $204,400,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1983: $874,990,000,000.
Fiscal year 1984: $897,260,000,000.
Fiscal year 1985: $974,910,000,000.
Fiscal year 1986: $1,035,740,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1983: $807,600,000,000.
Fiscal year 1984: $846,400,000,000.
Fiscal year 1985: $894,500,000,000.
Fiscal year 1986: $942,300,000,000.

(4) The amounts of the deficits in the budget which are appropriate in the light of economic conditions and all other relevant factors are as follows:

Fiscal year 1983: $204,500,000,000.
Fiscal year 1984: $176,000,000,000.
Fiscal year 1985: $111,300,000,000.
Fiscal year 1986: $103,400,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1983: $1,377,300,000,000.
Fiscal year 1984: $1,584,500,000,000.
Fiscal year 1985: $1,773,900,000,000.
Fiscal year 1986: $1,954,500,000,000.

and the amounts by which the temporary statutory limits on such debt should be accordingly increased are as follows:

Fiscal year 1983: $86,800,000,000.
Fiscal year 1984: $207,400,000,000.
Fiscal year 1985: $189,500,000,000.
Fiscal year 1986: $180,600,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1982, October 1, 1983, October 1, 1984, and October 1, 1985, are as follows:

Fiscal year 1983:

(A) New direct loan obligations, $55,400,000,000.

(B) New loan guarantee commitments, $94,500,000,000.

Fiscal year 1984:

(A) New direct loan obligations, $48,200,000,000.

(B) New loan guarantee commitments, $94,500,000,000.

Fiscal year 1985:

(A) New direct loan obligations, $48,100,000,000.

(B) New loan guarantee commitments, $97,400,000,000.

Fiscal year 1986:

(A) New direct loan obligations, $48,700,000 000.

(B) New loan guarantee commitments, $101,000,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct obligations and new loan guarantee commitments for fiscal years 1983 through 1986 for each major functional category are:

(1) National Defense (050):

Fiscal year 1933:

(A) New budget authority, $244,100,000,000.

(B) Outlays, $214,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $268,300,000,000.

(B) Outlays, $243,000,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $296,400,000,000.

(B) Outlays, $268,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $326,800,000,000.

(B) Outlays, $296,000,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1983:

(A) New budget authority, $24,100,000,000.

(B) Outlays, $11,300,000,000.

(C) New direct loan obligations, $11,700,000,000.

(D) New loan guarantee commitments, $9,200,000,000.

Fiscal year 1984:

(A) New budget authority, $17,700,000,000.

(B) Outlays, $12,200,000,000.

(C) New direct loan obligations, $11,200,000,000.

(D) New loan guarantee commitments, $10,300,000,000.

Fiscal year 1985:

(A) New budget authority, $16,000,000,000.

(B) Outlays, $12,200,000,000.

(C) New direct loan obligations, $11,500,000,000.

(D) New loan guarantee commitments, $10,300,000,000.

Fiscal year 1986:

(A) New budget authority, $15,400,000,000.

(B) Outlays, $12,000,000,000.

(C) New direct loan obligations, $11,600,000,000.

(D) New loan guarantee commitments, $10,300,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1983:

(A) New budget authority, $7,900,000,000.

(B) Outlays, $7,700,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $8,500,000,000.

(B) Outlays, $8,200,000,000.

(C) New direct loan obligations, $37,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $7,800,000,000.

(B) Outlays, $7,800,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $7,700,000,000.

(B) Outlays, $7,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1983:

(A) New budget authority, $3,900,000,000.

(B) Outlays, $4,400,000,000.

(C) New direct loan obligations, $13,100,000,000.

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1984:

(A) New budget authority, $3,900,000,000.

(B) Outlays, $4,200,000,000.

(C) New direct loan obligations, $13,900,000,000.

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1985:

(A) New budget authority, $3,900,000,000.

(B) Outlays, $3,100,000,000.

(C) New direct loan obligations, $14,300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $3,500,000,000.

(B) Outlays, $3,200,000,000.

(C) New direct loan obligations, $14,400,000,000.

(D) New loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1983:

(A) New budget authority, $12,300,000,000.

(B) Outlays, $12,300,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $11,400,000,000.

(B) Outlays, $12,100,000,000.

(C) New direct loan obligations, $27,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $11,300,000,000.

(B) Outlays, $11,800,000,000.

(C) New direct loan obligations, $27,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $12,500,000,000.

(B) Outlays, $12,200,000,000.

(C) New direct loan obligations, $27,000,000.

(D) New loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1983:

(A) New budget authority, $24,800,000,000.

(B) Outlays, $24,500,000,000.

(C) New direct loan obligations, $18,600,000,000.

(D) New loan guarantee commitments, $5,500,000,000.

Fiscal year 1984:

(A) New budget authority, $11,900,000,000.

(B) Outlays, $11,700,000,000.

(C) New direct loan obligations, $12,100,000,000.

(D) New loan guarantee commitments, $3,800,,000,000.

Fiscal year 1985:

(A) New budget authority, $12,700,000,000.

(B) Outlays, $11,000,000,000.

(C) New direct loan obligations, $11,700,000,000.

(D) New loan guarantee commitments, $3,800,000,000.

Fiscal year 1986:

(A) New budget authority, $11,100,000,000.

(B) Outlays, $11,000,000,000.

(C) New direct loan obligations, $12,200,000,000.

(D) New loan guarantee commitments, $3,800,000,000.

(7) Commerce and House Credit (370):

Fiscal year 1983:

(A) New budget authority, $5,100,000,000.

(B) Outlays, $3,300,000,000.

(C) New direct loan obligations, $6,500,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1984:

(A) New budget authority, $5,800,000,000.

(B) Outlays, $2,100,000,000.

(C) New direct loan obligations, $6,400,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1985:

(A) New budget authority, $6,400,000,000.

(B) Outlays, $0,250,000,000.

(C) New direct loan obligations, $6,300,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1986:

(A) New budget authority, $6,500,000,000.

(B) Outlays, –$200,000,000.

(C) New direct loan obligations, $6,300,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

(8) Transportation (400):

Fiscal year 1983:

(A) New budget authority, $26,900,000,000.

(B) Outlays, $22,000,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New loan guarantee commitments, $1,100,000,000.

Fiscal year 1984:

(A) New budget authority, $27,700,000,000.

(B) Outlays, $26,000,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $600,000,000.

Fiscal year 1985:

(A) New budget authority, $28,500,000,000.

(B) Outlays, $26,900,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $400,000,000.

Fiscal year 1986:

(A) New budget authority, $29,500,000,000.

(B) Outlays, $28,000,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $300,000,000.

(9) Community and Regional Development (450):

Fiscal year 1983:

(A) New budget authority, $8,600,000,000.

(B) Outlays, $7,800,000,000.

(C) New direct loan obligations, $2,100,000,000.

(D) New loan guarantee commitments, $500,000,000.

Fiscal year 1984:

(A) New budget authority, $7,100,000,000.

(B) Outlays, $8,400,000,000.

(C) New direct loan obligations, $1,700,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1985:

(A) New budget authority, $8,100,000,000.

(B) Outlays, $8,800,000,000.

(C) New direct loan obligations, $1,800,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1986:

(A) New budget authority, $8,200,000,000.

(B) Outlays, $8,400,000,000.

(C) New direct loan obligations, $1,800,000,000.

(D) New loan guarantee commitments, $400,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1983:

(A) New budget authority, $28,000,000,000.

(B) Outlays, $27,200,000,000.

(C) New direct loan obligations, $600,000,000.

(D) New loan guarantee commitments, $6,500,000,000.

Fiscal year 1984:

(A) New budget authority, $30,500,000,000.

(B) Outlays, $27,000,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New loan guarantee commitments, $6,600,000,000.

Fiscal year 1985:

(A) New budget authority, $27,800,000,000.

(B) Outlays, $27,300,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New loan guarantee commitments, $6,600,000,000.

Fiscal year 1986:

(A) New budget authority, $28,300,000,000.

(B) Outlays, $27,700,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New loan guarantee commitments, $6,600,000,000.

(11) Health (550):

Fiscal year 1983:

(A) New budget authority, $25,100,000,000.

(B) Outlays, $29,600,000,000.

(C) New direct loan obligations, $47,000,000.

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1984:

(A) New budget authority, $31,600,000,000.

(B) Outlays, $31,600,000,000.

(C) New direct loan obligations, $29,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1985:

(A) New budget authority, $35,200,000,000.

(B) Outlays, $34,900,000,000.

(C) New direct loan obligations, $28,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1986:

(A) New budget authority, $37,700,000,000.

(B) Outlays, $37,200,000,000.

(C) New direct loan obligations, $28,000,000.

(D) New loan guarantee commitments, $300,000,000.

(12) Medical Insurance (570):

Fiscal year 1983:

(A) New budget authority, $46,100,000,000.

(B) Outlays, $53,100,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $62,300,000,000.

(B) Outlays, $59,500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $70,800,000,000.

(B) Outlays, $66,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $81,500,000,000.

(B) Outlays, $73,800,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1983:

(A) New budget authority, $121,500,000,000.

(B) Outlays, $110,300,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New loan guarantee commitments, $14,600,000,000.

Fiscal year 1984:

(A) New budget authority, $122,100,000,000.

(B) Outlays, $103,100,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New loan guarantee commitments, $14,700,000,000.

Fiscal year 1985:

(A) New budget authority, $125,400,000,000.

(B) Outlays, $104,100,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New loan guarantee commitments, $16,500,000,000.

Fiscal year 1986:

(A) New budget authority, $129,500,000,000.

(B) Outlays, $107,800,000,000.

(C) New direct loan obligations, $500,000,000.

(D) New loan guarantee commitments, $18,100,000,000.

(14) Social Security (650):

Fiscal year 1983:

(A) New budget authority, $184,300,000,000.

(B) Outlays, $167,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $175,000,000,000.

(B) Outlays, $174,800,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $195,000,000,000.

(B) Outlays, $182,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $211,900,000,000.

(B) Outlays, $191,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1983:

(A) New budget authority, $24,900,000,000.

(B) Outlays, $24,500,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New loan guarantee commitments, $8,000,000,000.

Fiscal year 1984:

(A) New budget authority, $25,200,000,000.

(B) Outlays, $25,100,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New loan guarantee commitments, $9,000,000,000.

Fiscal year 1985:

(A) New budget authority, $25,200,000,000.

(B) Outlays, $25,100,000,000.

(C) New direct loan obligations, $600,000,000.

(D) New loan guarantee commitments, $10,500,000,000.

Fiscal year 1986:

(A) New budget authority, $25,200,000,000.

(B) Outlays, $25,000,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New loan guarantee commitments, $12,500,000,000.

(16) Administration of Justice (750):

Fiscal year 1983:

(A) New budget authority, $5,200,000,000.

(B) Outlays, $5,100,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $5,700,000,000.

(B) Outlays, $5,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $5,700,000,000.

(B) Outlays, $5,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $5,900,000,000.

(B) Outlays, $5,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1983:

(A) New budget authority, $5,600,000,000.

(B) Outlays, $5,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $5,600,000,000.

(B) Outlays, $5,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $5,800,000,000.

(B) Outlays, $5,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $5,900,000,000.

(B) Outlays, $5,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(18) General Purpose Fiscal Assistance (850):

Fiscal year 1983:

(A) New budget authority, $6,400,000,000.

(B) Outlays, $6,400,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $7,000,000,000.

(B) Outlays, $6,900,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $7,000,000,000.

(B) Outlays, $7,000,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $7,400,000,000.

(B) Outlays, $7,400,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

(19) Net Interest (900):

Fiscal year 1983:

(A) New budget authority, $87,500,000,000.

(B) Outlays, $87,500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $96,000,000,000.

(B) Outlays, $96,000,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $104,600,000,000.

(B) Outlays, $104,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $107,000,000,000.

(B) Outlays, $107,000,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(20) Allowances (920):

Fiscal year 1983:

(A) New budget authority, $800,000,000.

(B) Outlays, $900,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $600,000,000.

(B) Outlays, $600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $1,600,000,000.

(B) Outlays, $1,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $2,600,000,000.

(B) Outlays, $2,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(21) Undistributed Offsetting Receipts (950):

Fiscal year 1983:

(A) New budget authority, −$18,000,000,000.

(B) Outlays, $18,000,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, −$17,400,000,000.

(B) Outlays, $17,400,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, −$18,900,000,000.

(B) Outlays, $18,900,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, −$23,600,000,000.

(B) Outlays, $23,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

RECONCILIATION

SEC. 2. (a) Not later than June 6, 1983, the Senate committees named in subsections (b) through (f) of this section shall submit their recommendations to the Senate Committee on the Budget and not later than June 6, 1983, the House committees named in subsections (g) through (l) of this section shall submit their recommendations to the House Committee on the Budget. After receiving those recommendations, the Committees on the Budget shall report to the House and Senate a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

SENATE COMMITTEES

(b) The Senate Committee on Agriculture, Nutrition, and Forestry shall report changes in laws within the jurisdiction of that committee, (A) to require reductions in appropriations for programs authorized by that committee so as to achieve savings in budget authority and outlays, or (B) which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority and outlays, or (C) any combination thereof, as follows: $1,243,000,000 in budget authority and $1,243,000,000 in outlays in fiscal year 1984; $1,332,000,000 in budget authority and $1,332,000,000 in outlays in fiscal year 1985; and $1,327,000,000 in budget authority and $1,327,000,000 in outlays in fiscal year 1986.

(c)(1) The Senate Committee on Finance shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $856,000,000 in fiscal year 1984; to reduce outlays by $2,024,000,000 in fiscal year 1985; and to reduce outlays by $2,484,000,000 in fiscal year 1986.

(2) The Senate Committee on Finance shall report changes in laws within the jurisdiction of that committee sufficient to increase revenues as follows: $30,200,000,000 in fiscal year 1984; $39,100,000,000 in fiscal year 1985; and $51,900,000,000 in fiscal year 1986.

(d) The Senate Committee on Governmental Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $258,000,000 and outlays by $534,000,000 in fiscal year 1984; to reduce budget authority by $368,000,000 and outlays by $834,000,000 in fiscal year 1985; and to reduce budget authority by $636,000,000 and outlays by $1,486,000,000 in fiscal year 1986.

(e) The Senate Committee on Small Business shall report changes in laws within the jurisdiction of that committee to require reductions in appropriations for programs authorized by that committee so as to achieve savings in budget authority and outlays as follows: $139,000,000 in budget authority and $287,000,000 in outlays in fiscal year 1984; $555,000,000 in budget authority and $466,000,000 in outlays in fiscal year 1985; and $544,000,000 in budget authority and $443,000,000 in outlays in fiscal year 1986.

(f) The Senate Committee on Veterans' Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $202,000,000 and outlays by $201,000,000 in fiscal year 1984; to reduce budget authority by $117,000,000 and outlays by $115,000,000 in fiscal year 1985; and to reduce budget authority by $118,000,000 and outlays by $118,000,000 in fiscal year 1986.

HOUSE COMMITTEES

(g) The House Committee on Agriculture shall report changes in laws within the jurisdiction of that committee, (A) to require reductions in appropriations for programs authorized by that committee so as to achieve savings in budget authority and outlays, or (B) which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority and outlays, or (C) any combination thereof, as follows: $1,243,000,000 in budget authority and $1,243,000,000 in outlays in fiscal year 1984; $1,332,000,000 in budget authority and $1,332,000,000 in outlays in fiscal year 1985; and $1,327,000,000 in budget authority and $1,327,000,000 in outlays in fiscal year 1986.

(h) The House Committee on Energy and Commerce shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $816,000,000 in fiscal year 1984; to reduce outlays by $1,538,000,000 in fiscal year 1985; and to reduce outlays by $1,979,000,000 in fiscal year 1986.

(i) The House Committee on Post Office and Civil Service shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $258,000,000 and outlays by $534,000,000 in fiscal year 1984; to reduce budget authority by $368,000,000 and outlays by $834,000,000 in fiscal year 1985; and to reduce budget authority by $636,000,000 and outlays by $1,486,000,000 in fiscal year 1986.

(j) The House Committee on Small Business shall report changes in laws within the jurisdiction of that committee to require reductions in appropriations for programs authorized by that committee so as to achieve savings in budget authority and outlays as follows: $139,000,000 in budget authority and $287,000,000 in outlays in fiscal year 1984; $555,000,000 in budget authority and $466,000,000 in outlays in fiscal year 1985; and $544,000,000 in budget authority and $443,000,000 in outlays in fiscal year 1986.

(k) The House Committee on Veterans' Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $202,000,000 and outlays by $201,000,000 in fiscal year 1984; to reduce budget authority by $117,000,000 and outlays by $115,000,000 in fiscal year 1985; and to reduce budget authority by $118,000,000 and outlays by $118,000,000 in fiscal year 1986.

(l)(1) The House Committee on Ways and Means shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $849,000,000 in fiscal year 1984; to reduce outlays by $1,481,000,000 in fiscal year 1985; and to reduce outlays by $2,077,000,000 in fiscal year 1986.

(2) The House Committee on Ways and Means shall report changes in laws within the jurisdiction of that committee sufficient to increase revenues as follows: $30,200,000,000 in fiscal year 1984; $39,100,000,000 in fiscal year 1985; and $51,900,000,000 in fiscal year 1986.

MISCELLANEOUS PROVISIONS

SEC. 3. It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution, or amendment thereto, providing—

(1) new budget authority for fiscal year 1984; or

(2) new spending authority described in section 401(c)(2)(C) of the Budget Act first effective in fiscal year 1984,

within the jurisdiction of any of its committees unless and until such committee makes the allocations or subdivisions required by section 302(b) of the Budget Act, in connection with the most recently agreed to concurrent resolution on the budget.

SEC. 4. It is the sense of the Congress that the President and the Congress, through the appropriations process, should limit the on-budget new direct loan obligations of the Federal Government to an amount not to exceed $37,600,000,000 in fiscal year 1983 and $29,300,000,000 in fiscal year 1984; off-budget new direct loan obligations to an amount not to exceed $17,800,000,000 in fiscal year 1983 and $18,900,000,000 in fiscal year 1984; and new loan guarantee commitments to an amount not to exceed $94,500,000,000 in fiscal year 1983 and $94,500,000,000 in fiscal year 1984. It is further the sense of the Congress that the President and the Congress should limit total Federal Financing Bank origination of direct loans guaranteed by other Federal agencies to $16,200,000,000 in fiscal year 1983 and $17,300,000,000 in fiscal year 1984, and Federal Financing Bank purchases of certificates of beneficial ownership from Federal agencies to $11,500,000,000 in fiscal year 1983 and $13,200,000,000 in fiscal year 1984. It is further the sense of the Congress that direct borrowing transactions of Federal agencies should be, to the maximum extent possible, restricted to the Federal Financing Bank.

Sec. 5. (a) The joint explanatory statement accompanying the conference report on this resolution shall include an estimated allocation, based upon the first section of this resolution as recommended in such conference report, of the appropriate levels of total new direct loan obligations and new loan guarantee commitments for fiscal year 1983 and fiscal year 1984, among each committee of the House of Representatives and the Senate which has jurisdiction over bills and resolutions providing such new obligations and commitments.

(b) As soon as practicable after this resolution is agreed to, every committee of each House, after consulting with the committee or committees of the other House to which all or part of the allocation has been made, shall subdivide among its subcommittees the allocation of new direct loan obligations and new loan guarantee commitments for fiscal year 1983 and fiscal year 1984, allocated to it in the joint explanatory statement accompanying the conference report on this resolution.

Sec. 6. It is the sense of the Congress that the budgets of Federal agencies initiating Federal Financing Bank purchases of certificates of beneficial ownership and originations of guaranteed loans should include the budget authority and outlays resulting from the transactions. The Congress recommends that the committees with jurisdiction over the Federal Financing Bank Act of 1973 consider expeditiously legislation to require that the budgetary impact of such Federal Financing Bank transactions be included in the budgets of the initiating agencies beginning with the fiscal year 1985 budget.

Sec. 7. The reconciliation instructions to the House and Senate Committees, as contained in this resolution, are hereby adjusted to reflect a cost of living adjustment tied to the CPI minus 2 percent for all non means tested retirement programs and to reflect a 2 percent across the board cut in other non means tested programs and the instructions to the Senate Committee on Agriculture, Nutrition and Forestry and to the House Committee on Agriculture are hereby adjusted to reflect a 2 percent cap on CCC price supports in fiscal year 1984 and fiscal year 1985.

Sec. 8. The reconciliation instructions to the Senate Committee on Finance and to the House Committee on Ways and Means, as contained in this resolution, are hereby adjusted to reflect the revenue changes contained on page 2 of this resolution.

Sec. 9. The amounts as contained in this resolution for Federal Insurance Contributions Act revenues for hospital insurance and for this and other revenues pursuant to Public Law 98-21 for old age, survivors, and disability insurance within the recommended levels of Federal revenues are hereby adjusted to reflect the appropriate function levels contained in this resolution.

Sec. 10. The amounts as contained in this resolution in section 5 for increases in the permanent and temporary debt are hereby adjusted to the deficit numbers in section (4).

BAUCUS AMENDMENT NO. 1231

Mr. BAUCUS (for himself, Mr. Bingaman, Mr. Byrd, Mr. Kennedy, Mr. Metzenbaum Mr. Moynihan, Mr. Pryor, and Mr. Riegle) proposed an amendment to the concurrent resolution, Senate Concurrent Resolution 27, supra, as follows:

On page 3, increase the figure on line 13 by $430,000,000.

On page 3, increase the figure on line 14 by $583,000,000.

On page 3, increase the figure on line 15 by $735,000,000.

On page 3, increase the figure on line 18 by $15,000,000.

On page 3, increase the figure on line 19 by $440,000,000.

On page 3, increase the figure on line 20 by $593,000,000.

On page 3, increase the figure on line 21 by $748,000,000.

On page 3, increase the figure on line 25 by $15,000,000.

On page 4, increase the figure on line 1 by $440,000,000.

On page 4, increase the figure on line 2 by $593,000,000.

On page 4, increase the figure on line 3 by $748,000,000.

On page 4, increase the figure on line 6 by $15,000,000.

On page 4, increase the figure on line 7 by $455,000,000.

On page 4, increase the figure on line 8 by $1,048,000,000.

On page 4, increase the figure on line 9 by $1,796,000,000.

On page 4, increase the figure on line 13 by $15,000,000.

On page 4, increase the figure on line 14 by $455,000,000.

On page 4, increase the figure on line 15 by $1,048,000,000.

On page 4, increase the figure on line 16 by $1,796,000,000.

On page 18, increase the figure on line 6 by $15,000,000.

On page 18, increase the figure on line 10 by $430,000,000.

On page 18, increase the figure on line 11 by $440,000,000.

On page 18, increase the figure on line 15 by $583,000,000.

On page 18, increase the figure on line 16 by $593,000,000.

On page 18, increase the figure on line 20 by $735,000,000.

On page 18, increase the figure on line 21 by $748,000,000.

On page 29, increase the figure on line 7 by $425,000,000.

On page 29, increase the figure on line 8 by $573,000,000.

On page 29, increase the figure on line 9 by $723,000,000.

On page 32, decrease the figure on line 18 by $425,000,000.

On page 32, decrease the figure on line 19 by $573,000,000.

On page 32, decrease the figure on line 20 by $723,000,000.

On page 31, decrease the figure on line 9 by $425,000,000.

On page 31, decrease the figure on line 10 by $573,000,000.

On page 31, decrease the figure on line 11 by $723,000,000.

GRASSLEY AMENDMENT NO. 1232

Mr. GRASSLEY proposed an amendment to the concurrent resolution, Senate Concurrent Resolution 27, supra, as follows:

Strike out all after the resolving clause and insert in lieu thereof the following:

That the Congress hereby determines and declares that the concurrent resolution on the budget for fiscal year 1983 is hereby revised, the first concurrent resolution on the budget for fiscal year 1984 is hereby established, and the appropriate budgetary levels for fiscal years 1985 and 1986 are hereby set forth:

(a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1982, October 1, 1983, October 1, 1984, and October 1, 1985:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1983: $603,100,000,000.
Fiscal year 1984: $655,400,000,000.
Fiscal year 1985: $723,500,000,000.
Fiscal year 1986: $778,900,000,000.

and the amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 1983: −$100,000,000.
Fiscal year 1984: $0.
Fiscal year 1985: $0.
Fiscal year 1986: $0.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1983: $35,900,000,000.
Fiscal year 1984: $39,700,000,000.
Fiscal year 1985: $44,200,000,000.
Fiscal year 1986: $50,900,000,000.

and the amounts for Federal Insurance Contributions Act revenues and other revenues pursuant to Public Law 98-21 for old age, survivors, and disability insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1983: $148,500,000,000.
Fiscal year 1984: $166,500,000,000.
Fiscal year 1985: $187,700,000,000.
Fiscal year 1986: $204,400,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1983: $874,400,000,000.
Fiscal year 1984: $878,300,000,000.
Fiscal year 1985: $915,400,000,000.
Fiscal year 1986: $965,900,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1983: $807,100,000,000.
Fiscal year 1984: $832,100,000,000.
Fiscal year 1985: $860,900,000,000.
Fiscal year 1986: $899,400,000,000.

(4) The amounts of the deficits in the budget which are appropriate in the light of economic conditions and all other relevant factors are as follows:

Fiscal year 1983: $204,000,000,000.
Fiscal year 1984: $176,700,000,000.
Fiscal year 1985: $137,400,000,000.
Fiscal year 1986: $120,500,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1983: $1,383,700,000,000.
Fiscal year 1984: $1,606,500,000,000.
Fiscal year 1985: $1,797,300,000,000.
Fiscal year 1986: $1,979,000,000,000.

and the amounts by which the temporary statutory limits on such debt should be accordingly increased are as follows:

Fiscal year 1983: $93,500,000,000.
Fiscal year 1984: $222,800,000,000.
Fiscal year 1985: $190,800,000,000.
Fiscal year 1986: $181,700,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1982, October 1, 1983, October 1, 1984, and October 1, 1985, are as follows:

Fiscal year 1983:

(A) New direct loan obligations, $55,400,000,000.

(B) New loan guarantee commitments, $94,500,000,000.

Fiscal year 1984:

(A) New direct loan obligations, $48,200,000,000.

(B) New loan guarantee commitments, $94,500,000,000.

Fiscal year 1985:

(A) New direct loan obligations, $48,100,000,000.

(B) New loan guarantee commitments, $97,400,000,000.

Fiscal year 1986:

(A) New direct loan obligations, $48,700,000,000.

(B) New loan guarantee commitments, $101,000,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new loan guarantee commitments for fiscal years 1983 through 1986 for each major functional category are:

(1) National Defense (050):

Fiscal year 1983:

(A) New budget authority, $244,100,000,000.

(B) Outlays, $214,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $243,800,000,000.

(B) Outlays, $228,400,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $243,800,000,000.

(B) Outlays, $232,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $265,800,000,000.

(B) Outlays, $248,500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1983:

(A) New budget authority, $24,100,000,000.

(B) Outlays, $11,300,000,000.

(C) New direct loan obligations, $11,700,000,000.

(D) New loan guarantee commitments, $9,200,000,000.

Fiscal year 1984:

(A) New budget authority, $17,500,000,000.

(B) Outlays, $12,100,000,000.

(C) New direct loan obligations, $11,200,000,000.

(D) New loan guarantee commitments, $10,300,000,000.

Fiscal year 1985:

(A) New budget authority, $15,800,000,000.

(B) Outlays, $12,000,000,000.

(C) New direct loan obligations, $11,500,000,000.

(D) New loan guarantee commitments, $10,300,000,000.

Fiscal year 1986:

(A) New budget authority, $15,000,000,000.

(B) Outlays, $11,900,000,000.

(C) New direct loan obligations, $11,600,000,000.

(D) New loan guarantee commitments, $10,300,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1983:

(A) New budget authority, $7,900,000,000.

(B) Outlays, $7,700,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $7,700,000,000.

(B) Outlays, $7,700,000,000.

(C) New direct loan obligations, $37,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $7,400,000,000.

(B) Outlays, $7,500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $7,200,000,000.

(B) Outlays, $7,200,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1983:

(A) New budget authority, $3,900,000,000.

(B) Outlays, $4,400,000,000.

(C) New direct loan obligations, $13,100,000,000.

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1984:

(A) New budget authority, $3,800,000,000.

(B) Outlays, $4,100,000,000.

(C) New direct loan obligations, $13,900,000,000.

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1985:

(A) New budget authority, $3,700,000,000.

(B) Outlays, $2,900,000,000.

(C) New direct loan obligations, $14,300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $3,200,000,000.

(B) Outlays, $2,800,000,000.

(C) New direct loan obligations, $14,400,000,000.

(D) New loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1983:

(A) New budget authority, $12,300,000,000.

(B) Outlays, $12,300,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $11,200,000,000.

(B) Outlays, $12,000,000,000.

(C) New direct loan obligations, $27,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $11,000,000,000.

(B) Outlays, $11,700,000,000.

(C) New direct loan obligations, $27,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $10,800,000,000.

(B) Outlays, $11,200,000,000.

(C) New direct loan obligations, $27,000,000.

(D) New loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1983:

(A) New budget authority, $24,200,000,000.

(B) Outlays, $24,000,000,000.

(C) New direct loan obligations, $18,600,000,000.

(D) New loan guarantee commitments, $5,500,000,000.

Fiscal year 1984:

(A) New budget authority, $11,500,000,000.

(B) Outlays, $11,300,000,000.

(C) New direct loan obligations, $12,100,000,000.

(D) New loan guarantee commitments, $3,800,000,000.

Fiscal year 1985:

(A) New budget authority, $13,800,000,000.

(B) Outlays, $12,100,000,000.

(C) New direct loan obligations, $11,700,000,000.

(D) New loan guarantee commitments, $3,800,000,000.

Fiscal year 1986:

(A) New budget authority, $13,000,000,000.

(B) Outlays, $12,900,000,000.

(C) New direct loan obligations, $12,200,000,000.

(D) New loan guarantee commitments, $3,800,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1983:

(A) New budget authority, $5,100,000,000.

(B) Outlays, $3,300,000,000.

(C) New direct loan obligations, $6,500,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1984:

(A) New budget authority, $5,800,000,000.

(B) Outlays, $2,100,000,000.

(C) New direct loan obligations, $6,400,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1985:

(A) New budget authority, $6,300,000,000.

(B) Outlays, $200,000,000.

(C) New direct loan obligations, $6,300,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

Fiscal year 1986:

(A) New budget authority, $6,300,000,000.

(B) Outlays, $100,000,000.

(C) New direct loan obligations, $6,300,000,000.

(D) New loan guarantee commitments, $48,700,000,000.

(8) Transportation (400):

Fiscal year 1983:

(A) New budget authority, $26,900,000,000.

(B) Outlays, $22,000,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New loan guarantee commitments, $1,100,000,000.

Fiscal year 1984:

(A) New budget authority, $27,500,000,000.

(B) Outlays, $25,900,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $600,000,000.

Fiscal year 1985:

(A) New budget authority, $28,200,000,000.

(B) Outlays, $26,800,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $400,000,000.

Fiscal year 1986:

(A) New budget authority, $29,000,000,000.

(B) Outlays, $27,700,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New loan guarantee commitments, $300,000,000.

(9) Community and Regional Development (450):

Fiscal year 1983:

(A) New budget authority, $8,600,000,000.

(B) Outlays, $7,800,000,000.

(C) New direct loan obligations, $2,100,000,000.

(D) New loan guarantee commitments, $500,000,000.

Fiscal year 1984:

(A) New budget authority, $7,000,000,000.

(B) Outlays, $8,500,000,000.

(C) New direct loan obligations, $1,700,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1985:

(A) New budget authority, $7,800,000,000.

(B) Outlays, $8,700,000,000.

(C) New direct loan obligations, $1,800,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1986:

(A) New budget authority, $7,900,000,000.

(B) Outlays, $8,200,000,000.

(C) New direct loan obligations, $1,800,000,000.

(D) New loan guarantee commitments, $400,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1983:

(A) New budget authority, $28,000,000,000.

(B) Outlays, $27,200,000,000.

(C) New direct loan obligations, $600,000,000.

(D) New loan guarantee commitments, $6,500,000,000.

Fiscal year 1984:

(A) New budget authority, $30,000,000,000.

(B) Outlays, $26,900,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New loan guarantee commitments, $6,600,000,000.

Fiscal year 1985:

(A) New budget authority, $27,100,000,000.

(B) Outlays, $27,000,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New loan guarantee commitments, $6,600,000,000.

Fiscal year 1986:

(A) New budget authority, $27,100,000,000.

(B) Outlays, $27,000,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New loan guarantee commitments, $6,600,000,000.

(11) Health (550):

Fiscal year 1983:

(A) New budget authority, $25,000,000,000.

(B) Outlays, $29,500,000,000.

(C) New direct loan obligations, $47,000,000.

(D) New loan guarantee commitments, $200,000,000.

Fiscal year 1984:

(A) New budget authority, $31,300,000,000.

(B) Outlays, $31,300,000,000.

(C) New direct loan obligations, $29,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1985:

(A) New budget authority, $34,100,000,000.

(B) Outlays, $33,700,000,000.

(C) New direct loan obligations, $28,000,000.

(D) New loan guarantee commitments, $300,000,000.

Fiscal year 1986:

(A) New budget authority, $36,600,000,000.

(B) Outlays, $35,900,000,000.

(C) New direct loan obligations, $28,000,000.

(D) New loan guarantee commitments, $300,000,000.

(12) Medical Insurance (570):

Fiscal year 1983:

(A) New budget authority, $46,100,000,000.

(B) Outlays, $53,200,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $62,500,000,000.

(B) Outlays, $59,200,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $69,800,000,000.

(B) Outlays, $66,000,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $79,200,000,000.

(B) Outlays, $72,200,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1983:

(A) New budget authority, $121,700,000,000.

(B) Outlays, $110,300,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New loan guarantee commitments, $14,600,000,000.

Fiscal year 1984:

(A) New budget authority, $121,800,000,000.

(B) Outlays, $103,300,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New loan guarantee commitments, $14,700,000,000.

Fiscal year 1985:

(A) New budget authority, $124,700,000,000.

(B) Outlays, $103,800,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New loan guarantee commitments, $16,500,000,000.

Fiscal year 1986:

(A) New budget authority, $128,300,000,000.

(B) Outlays, $107,300,000,000.

(C) New direct loan obligations, $500,000,000.

(D) New loan guarantee commitments, $18,100,000,000.

(14) Social Security (650):

Fiscal year 1983:

(A) New budget authority, $184,100,000,000.

(B) Outlays, $167,600,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $174,900,000,000.

(B) Outlays, $177,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $194,700,000,000.

(B) Outlays, $188,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $211,000,000,000.

(B) Outlays, $201,200,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1983:

(A) New budget authority, $25,000,000,000.

(B) Outlays, $24,500,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New loan guarantee commitments, $8,000,000,000.

Fiscal year 1984:

(A) New budget authority, $25,100,000,000.

(B) Outlays, $25,000,000,000.

(C) New direct loan obligations, $800,000,000.

(D) New loan guarantee commitments, $9,000,000,000.

Fiscal year 1985:

(A) New budget authority, $24,700,000,000.

(B) Outlays, $24,600,000,000.

(C) New direct loan obligations, $600,000,000.

(D) New loan guarantee commitments, $10,500,000,000.

Fiscal year 1986:

(A) New budget authority, $24,800,000,000.

(B) Outlays, $24,600,000,000.

(C) New direct loan obligations, $700,000,000.

(D) New loan guarantee commitments, $12,500,000,000.

(16) Administration of Justice (750):

Fiscal year 1983:

(A) New budget authority, $5,200,000,000.

(B) Outlays, $5,100,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $5,300,000,000.

(B) Outlays, $5,400,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $5,300,000,000.

(B) Outlays, $5,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $5,300,000,000.

(B) Outlays, $5,300,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1983:

(A) New budget authority, $5,600,000,000.

(B) Outlays, $5,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $5,600,000,000.

(B) Outlays, $5,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $5,800,000,000.

(B) Outlays, $5,700,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $5,900,000,000.

(B) Outlays, $5,800,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(18) General Purpose Fiscal Assistance (850):

Fiscal year 1983:

(A) New budget authority, $6,400,000,000.

(B) Outlays, $6,400,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $7,100,000,000.

(B) Outlays, $7,000,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $7,100,000,000.

(B) Outlays, $7,100,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $7,500,000,000.

(B) Outlays, $7,400,000,000.

(C) New direct loan obligations, $300,000,000.

(D) New loan guarantee commitments, $0.

(19) Net Interest (900):

Fiscal year 1983:

(A) New budget authority, $87,500,000,000.

(B) Outlays, $87,500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $96,000,000,000.

(B) Outlays, $96,000,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $102,800,000,000.

(B) Outlays, $102,800,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $103,900,000,000.

(B) Outlays, $103,900,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(20) Allowances (920):

Fiscal year 1983:

(A) New budget authority, $800,000,000.

(B) Outlays, $900,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, $1,400,000,000.

(B) Outlays, $1,500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

(21) Undistributed Offsetting Receipts (950):

Fiscal year 1983:

(A) New budget authority, −$18,000,000,000.

(B) Outlays, −$18,000,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1984:

(A) New budget authority, −$17,200,000,000.

(B) Outlays, −$17,200,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1985:

(A) New budget authority, −$18,500,000,000.

(B) Outlays, −$18,500,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

Fiscal year 1986:

(A) New budget authority, −$23,200,000,000.

(B) Outlays, −$23,200,000,000.

(C) New direct loan obligations, $0.

(D) New loan guarantee commitments, $0.

RECONCILIATION

SEC. 2. (a) Not later than June 6, 1983, the Senate committees named in subsections (b) through (d) of this section shall submit their recommendations to the Senate Committee on the Budget and not later than June 6, 1983, the House committees named in subsections (e) through (h) of this section shall submit their recommendations to the House Committee on the Budget. After receiving those recommendations, the Committees on the Budget shall report to the House and Senate a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

SENATE COMMITTEES

(b) The Senate Committee on Finance shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $2,120,000,000 in fiscal year 1984; to reduce outlays by $4,125,000,000 in fiscal year 1985; and to reduce outlays by $7,772,000,000 in fiscal year 1986.

(c) The Senate Committee on Governmental Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $252,000,000 and outlays by $525,000,000 in fiscal year 1984; to reduce budget authority by $817,000,000 and outlays by $1,875,000,000 in fiscal year 1985; and to reduce budget authority by $1,274,000,000 and outlays by $3,098,000,000 in fiscal year 1986.

(d) The Senate Committee on Veterans' Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $400,000,000 and outlays by $369,000,000 in fiscal year 1984; to reduce budget authority by $865,000,000 and outlays by $825,000,000 in fiscal year 1985; and to reduce budget authority by $890,000,000 and outlays by $886,000,000 in fiscal year 1986.

HOUSE COMMITTEES

(e) The House Committee on Energy and Commerce shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $987,000,000 in fiscal year 1984; to reduce outlays by $2,344,000,000 in fiscal year 1985; and to reduce outlays by $3,553,000,000 in fiscal year 1986.

(f) The House Committee on Post Office and Civil Service shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $252,000,000 and outlays by $525,000,000 in fiscal year 1984; to reduce budget authority by $817,000,000 and outlays by $1,875,000,000 in fiscal year 1985; and to reduce budget authority by $1,274,000,000 and outlays by $3,098,000,000 in fiscal year 1986.

(g) The House Committee on Veterans' Affairs shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce budget authority by $400,000,000 and outlays by $369,000,000 in fiscal year 1984; to reduce budget authority by $865,000,000 and outlays by $825,000,000 in fiscal year 1985; and to reduce budget authority by $890,000,000 and outlays by $886,000,000 in fiscal year 1986.

(h) The House Committee on Ways and Means shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(C) of Public Law 93-344, sufficient to reduce outlays by $1,916,000,000 in fiscal year 1984; to reduce outlays by $3,306,000,000 in fiscal year 1985; and to reduce outlays by $7,118,000,000 in fiscal year 1986.

MISCELLANEOUS PROVISIONS

SEC. 3. It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution, or amendment thereto, providing—

(1) new budget authority for fiscal year 1984; or

(2) new spending authority described in section 401(c)(2)(C) of the Budget Act first effective in fiscal year 1984,

within the jurisdiction of any of its committees unless and until such committee makes the allocations or subdivisions required by section 302(b) of the Budget Act, in connection with the most recently agreed to concurrent resolution on the budget.

SEC. 4. It is the sense of the Congress that the President and the Congress, through the appropriations process, should limit the on-budget new direct loan obligations of the Federal Government to an amount not to exceed $37,600,000,000 in fiscal year 1983 and $29,300,000,000 in fiscal year 1934; off-budget new direct loan obligations to an amount not to exceed $17,800,000,000 in fiscal year 1983 and $18,900,000,000 in fiscal year 1984; and new loan guarantee commitments to an amount not to exceed $94,500,000,000 in fiscal year 1983 and $94,500,000,000 in fiscal year 1984. It is further the sense of the Congress that the President and the Congress should limit total Federal Financing Bank origination of direct loans guaranteed by other Federal agencies to $16,200,000,000 in fiscal year 1983 and $17,300,000,000 in fiscal year 1984, and Federal Financing Bank purchases of certificates of beneficial ownership from Federal agencies to $11,500,000,000 in fiscal year 1983 and $13,200,000,000 in fiscal year 1984. It is further the sense of the Congress that direct borrowing transactions of Federal agencies should be, to the maximum extent possible, restricted to the Federal Financing Bank.

SEC. 5. (a) The joint explanatory statement accompanying the conference report on this resolution shall include an estimated allocation, based upon the first section of this resolution as recommended in such conference report, of the appropriate levels of total new direct loan obligations and new loan guarantee commitments for fiscal year 1983 and fiscal year 1984, among each committee of the House of Representatives and the Senate which has jurisdiction over bills and resolutions providing such new obligations and commitments.

(b) As soon as practicable after this resolution is agreed to, every committee of each House, after consulting with the committee or committees of the other House to which all or part of the allocation has been made, shall subdivide among its subcommittees the allocation of new direct loan obligations and new loan guarantee commitments for fiscal year 1983 and fiscal year 1984, allocated to it in the joint explanatory statement accompanying the conference report on this resolution.

SEC. 6. It is the sense of the Congress that the budgets of Federal agencies initiating Federal Financing Bank purchases of certificates of beneficial ownership and originations of guaranteed loans should include the budget authority and outlays resulting from the transactions. The Congress recommends that the committees with jurisdiction over the Federal Financing Bank Act of 1973 consider expeditiously legislation to require that the budgetary impact of such Federal Financing Bank transactions be included in the budgets of the initiating agencies beginning with the fiscal year 1985 budget.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, I wish to announce that the Senate Committee on Agriculture, Nutrition, and Forestry has scheduled a confirmation hearing on the nomination of Daniel G. Amstutz to be Under Secretary of Agriculture for International Affairs and Commodity Programs.

The hearing will be held on Wednesday, May 11, at 10 a.m. in room 328-A Russell Building.

Anyone wishing further information should contact Denise Alexander at 224-2035.

SUBCOMMITTEE ON ARMS CONTROL, OCEANS, INTERNATIONAL OPERATIONS AND ENVIRONMENT

Mr. PRESSLER. Mr. President, I wish to announce that the Subcommittee on Arms Control, Oceans, International Operations and Environment of the Committee on Foreign Relations has scheduled a hearing on Thursday, May 19, at 10 a.m. in room 419 of the Dirksen Senate Office Building. The hearing, entitled "United Nations Regulations—Food and Other Exports," will examine the growing trend within various international organizations to produce draft international guidelines and regulations which restrict or impede U.S. exports.

Those wishing to testify or who wish to submit written statements for the hearing record should contact Mr. David Keaney of the Committee staff at 224-4615.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Tuesday, May 17, 1983, at 9:30 a.m., in SR-301, Russell Building, to receive testimony on the Federal Election Campaign Act of 1971, as amended, and on the following pending legislation to amend the Federal campaign finance laws—S. 85, to provide for the public financing of general elections of the U.S. Senate; S. 151, to limit contributions by nonparty multicandidate political committees in election campaigns for the U.S. Senate and to provide for financing of general election campaigns for the U.S. Senate; S. 732, to increase individual and party participation, to provide for the adjustment of contribution limits, and to allow candidates to control expenditures made on their behalf; and S. 810, to provide for adjustments in campaign contribution limits.

Senators and other interested persons wishing to testify or to submit a statement for the record are requested to contact the elections staff of the Rules Committee on 224-3449.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 5, at 10 a.m., to mark up the foreign aid legislation.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, May 5, at 10 a.m., to consider the nomination of William D. Ruckelshaus to be Administrator of the Environmental Protection Agency.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, May 5, at 10 a.m., to hold a hearing to consider S. 20, the Budget Reform Act of 1983.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON JUVENILE JUSTICE

Mr. BAKER. Mr. President, I ask unanimous consent that Subcommittee on Juvenile Justice of the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, May 5, at 3 p.m., to mark up S. 53, the Justice Assistance Act of 1983, and S. 57, a bill to amend the Protection of Children Against Sexual Exploitation Act of 1977.

The PRESIDING OFFICER. Without objection it is so ordered.

ADDITIONAL STATEMENTS

ASYLUM AND JUDICIAL REVIEW

● Mr. KENNEDY. Mr. President, next week the Senate is scheduled to resume consideration of S. 529, the Immigration Reform and Control Act. I have offered an amendment—amendment No. 1210—to restore judicial review to the asylum process, which has been unnecessarily limited by the bill as reported from the Judiciary Committee.

The principal argument that has been offered for limiting judicial review of asylum and exclusion cases is that an enormous backlog has developed because cases are tied up by the courts—currently a backlog of some 150,000 asylum claims.

But as I have repeatedly stressed, this backlog is not the result of judicial review. As I argued during the Judiciary Committee's consideration of this bill, the backlog in asylum cases is the result of administrative problems—not judicial review.

For the information of Senators, I wish to share with them the conclusions of a recent internal report prepared by the Immigration and Naturalization Service which confirms that the problem is administrative and not judicial review.

According to the INS report, "only about 2 percent of the cases, mostly class action suits, went beyond the administrative appeal machinery." The report concludes that INS could eliminate the backlogs, even without new legislation, if sufficient resources and priority were attached to dealing with the problem.

Mr. President, the INS report speaks for itself, and is the strongest evidence in support of my amendment. I ask that it be printed in the RECORD.

The report follows:

EXCERPTS FROM "ASYLUM ADJUDICATIONS: AN EVOLVING CONCEPT AND RESPONSIBILITY FOR THE IMMIGRATION AND NATURALIZATION SERVICE" PREPARED BY THE IMMIGRATION AND NATURALIZATION SERVICE

CONCLUSION

By its very nature this review has focused on "what's wrong" rather than "what's right" with asylum adjudications. Nevertheless, the comments and recommendations come directly from INS officers and are directed at helping INS turn the asylum issue around. The task is eminently do-able and all interviewees evinced a willingness to work towards that goal.

Of the many recommendations in this study, four are critical. The Service should: Make the completion of asylum adjudications a priority in FY 1983; Train a special asylum officers corps; Review and revise both the asylum application and the interim regulations and operating instructions; and Develop a monitoring mechanism to track uniformity and consistency in asylum adjudications and provide feedback to the field.

One question frequently asked is, "Is the current law with regard to asylum adjudications workable?". We do not know the answer because INS was never able to implement fully the asylum provisions of the 1980 Refugee Act. For this most difficult, time-consuming, and politically controversial work, we neither trained our officers, developed comprehensive final regulations and operating instructions, or gave priority to the effort.

Additionally, at the very time when the new asylum provisos went into effect in 1980, the government actively encouraged the filing of irrelevant and frivolous claims. Further, the government publicized its inability to process this large volume thereby exacerbating the problem. The media also mistakenly publicized the view that all aliens were utilizing the multiple layer of appeals possible under the current law when in fact only about 2% of the cases, mostly class action suits, went beyond the administrative appeal machinery.

Asylum is a "sacred cow". Of all the adjudications the Service does—almost 1.8 million a year—the one that most Americans probably identify with is the refugee/asylee action. These stories make dramatic reading from escapees over the Berlin wall, the Hungarian freedom fighters, to the Vietnamese boat people. Probably few newspaper reporters would be interested in writing a story on completion of an I-130 relative petition unless there were unusual circumstances. But almost every reporter covering immigration is interested in asylum adjudications.

This places a special responsibility on INS. It also gives us maximum opportunity to report accurately and clearly what we are doing. The Service should publicize its commitment to reducing the asylum backlog in FY 1983. The word should go out that these applications will not languish in district offices for months and in some cases years.

Does the Service need new legislation to deal with asylum? Both the Administration and the Congress are actively considering new proposals. Common to both is the view that a specially trained group of people are needed to do this most complex adjudication. This view has merit whether it be specially trained INS officers or immigration judges. Both proposals also reflect the view that multiple appeals have led to the explosion of asylum claims and the backlog buildup. While that may be a future problem if the appeal mechanisms are not clarified, it is not a major cause of the current asylum predicament.[1] Pending new asylum legislation, our efforts should be directed toward making the current system work and we can do that by making regulatory, not statutory, changes.

The months ahead present a unique challenge for INS. Whether or not we have new legislation, the Service has an obligation [2] to reduce significantly the asylum backlog and to communicate to the public a new message with regard to asylum claims. This must be done uniformly, consistently, and it should be carefuly monitored. We must know what is happening in the field and accurately report and act on that information.

We must also acknowledge that the prime responsibility for asylum adjudications rests with the Immigration Service, not the Department of State, for it is only the immigration officer who can make the required independent judgment. With this commitment, plus officer training, asylum adjudications are do-able and the Service can move ahead to play its rightful leadership role in this important area.

TABLE 1.—ASYLUM CASES PENDING NATIONWIDE

[As of March 1982]

Country of nationality	Number	Percentage
Cuba	50,920	49
Iran	14,511	14
Nicaragua	10,514	10
El Salvador	9,363	9
Haiti	5,623	5
Poland	3,495	3
Ethiopia	1,441	1
Afghanistan	1,090	1
All others [1]	8,011	8
Total	104,968	

[1] Includes nationals of more than 50 countries.

TABLE 2.—ASYLUM CLAIMS PENDING LOS ANGELES DISTRICT OFFICE (INCLUDING SANTA ANA)

[As of March 1982]

Country of nationality	Pending beginning of month	Received	Transferred out	Completed	Pending end of month
Afghanistan	121		2		119
Argentina	17				17
Bangladesh	3				3
Bulgaria	9				9
Burundi	1				1
Cambodia	4				4
Chile	18				18
China	68	10			78
Colombia	3				3
Cuba	140	1			141
Czechoslovakia	17				17
Dominican Republic	3				3
Ethiopia	233	16		1	248
German Democratic Republic	2				2
Ghana	2				2
Greece	1				1
Haiti	6				6
Honduras	10	1			11
Hungary	51				51
Iran	5,154	337	25		5,466
Iraq	238		2		236
Jordan	10				10
Kenya	2				2
Laos	5				5
Lebanon	375	1	4		372
Libya	3				3
Mexico	8				8
Netherlands	1				1
Nicaragua	580	85	1	1	663
Pakistan	29	1			30
Panama	1				1
Peru	3				3
Philippines	88	12	1		99
Poland	77	76			153
Rhodesia	6				6
Romania	58		1		57
South Africa	5				5
Spain	1				1
Sweden	2				2
Syria	65		1		64
Turkey	56				56
United Arab Republic (Egypt)	260	30			290
Uganda	24				24
U.S.S.R.	21				21
Vietnam	49		1		48
Yugoslavia	19				19
Zaire	4				4
El Salvador	2,531	383	8		2,906
All others	523	55			578
Total	10,907	1,008	46	2	11,867

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DEERING ICE CREAM CO.

● Mr. COHEN. Mr. President, the family owned Maine firm of Deering Ice Cream Co. will be celebrating its 97th anniversary this year. It is run by Charlie and Anita Stickney of Yarmouth, who I am proud to have as close friends and supporters.

A recent article in the Portland Press Herald detailed the interesting history of this Maine firm, and I submit for the RECORD the article for the benefit of my colleagues.

The article follows:

[From the Portland (Maine) Press Herald, Apr. 29, 1983]

ICE CREAM MAKER A SWEET SUCCESS

It's been nearly 10 years, but Charles E. Stickney Jr. has never forgotten the furor he caused among ice cream lovers when he yanked Swiss chocolate almond from his company's flavor roster.

It was during the great chocolate shortage, and the price Deering Ice Cream Corp. paid for cocoa had soared from 76 cents a pound to $3.26. But at an ice cream shop in Portland's trendy Old Port neighborhood, customers weren't accepting economic rationales. They signed petitions demanding that their favorite flavor be returned.

Stickney caved in, agreeing to bring back Swiss chocolate almond, but at a higher price to compensate for his increased costs. The flavor went back on the market at a premium of a few cents a cone.

If premium prices were no barrier then, they are even less of a factor now. Deering, a family-owned corporation three years short of its 100th birthday, is riding the biggest sales boom in its history, thanks to an expanded supermarket sales effort that seems to be winning consumer acceptance.

"We're the highest-priced ice cream in the supermarket," says Stickney, speaking with pride, not remorse. He doesn't include pricey Haagen Dasz, which is available only in pints and doesn't compete with Deering's "family sizes"—quarts and half-gallons.

In fact, says Stickney, Deering's product—at $3.79 per half gallon—is three times as expensive as the cheapest brands, a price spread that hasn't hindered sales growth.

Nationally, ice cream sales peaked in the mid-1970s and declined slightly after that. But sales of the most expensive brands—those with the richest cream and costliest fruit and nuts—are up.

The supermarket sales expansion, an outgrowth of Deering's move to a larger plant, began last summer when the company reformulated its ice cream to up-grade butterfat content and switched from a rectangular container to a round one. The change was accompanied by an advertising campaign in which the 60-year-old Stickney appeared on television to tout his product's quality.

The company's sales last year, through both its plant and its chain of 22 restaurants and ice cream shops, totaled $9 million, said Stickney, whose projection of an 80 percent increase this year may be conservative.

"Sales for January of this year were up 252 percent over January of '82," he said. "In January, we did as much business as we did in May."

The sales boom is also being accompanied by geographic expansion. Deering now operates between Bangor and Haverhill, Mass., but will be fanning out this year to Maine's Aroostook County and the area between Laconia and Nashua, N.H.

From there, Deering is eyeing the northern tier of Massachusetts and the lucrative big city markets in southern New England.

"We hope to become New England-wide within five years," says Hadley Atlass, a former Madison Avenue adman and Maine development director who is working part time for Deering as a marketing consultant.

Deering's success reflects a trend among ice cream eaters to "trade up" to higher quality. Within the past decade, the Portland area—Deering's largest market—has been peppered with new ice cream shops selling cones for up to $1 apiece.

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[1] The exception, of course, is class action suits brought in behalf of some detained, excludable aliens.

[2] The Simpson-Mazzoli proposals would leave with INS all asylum applications made prior to a transition date which in all likelihood would be at least six months after enactment. Therefore, INS would still have 80,000 plus cases (the exact number would depend upon the eligibility criteria set for the legalization program) to handle even if future cases were directed toward a newly formed immigration judiciary.

The latest arrival in the Old Port neighborhood is an outlet of Ben and Jerry's of Burlington, Vt., one of the most successful ice cream manufacturers of recent vintage.

Stickney welcomes newcomers on the theory that innovation benefits the entire ice cream industry. He credits California-based Baskin-Robbins and its 31 flavors with lending flair and excitement to ice cream.

Besides, Stickney views his competition as going beyond ice cream alone. "It's Coca-Cola, Pepperidge Farm, Sara Lee," he says. "What do people crave? They crave something sweet."

As Stickney sees it, the chocolate shortage worked to the advantage of his industry. "When you saw a 10-cent Hershey bar zip up to 30 or 35 cents, it suddenly became better value for the consumer to buy ice cream."

Despite its cold winters, New England has always been one of the nation's biggest ice cream markets and is known for its many ice cream shops. Howard Johnson's got its start in the region, Brigham's dominates Boston and Friendly's traces its roots to Springfield, Mass.

Deering, New England's second-oldest ice cream company, was founded in 1886 by a jeweler who began making ice cream in the back room of his store on what is now Deering Avenue. The business changed hands several times before being acquired by Stickney's father in 1923. He sold it in 1953, but his son bought it back three years later and by the early '60s set off in a new direction, opening a regional chain of ice cream shops.

"That's been our survival. We would have gone out of business by 1968 if we hadn't started the stores," Stickney said.

In 1981, the shops accounted for 70 percent of Deering's total sales. That dropped to 65 percent last year, and Stickney projects that with the big growth in supermarket sales, the stores will account for less than half of this year's volume.

While the company produces 22 flavors—plus a "limited edition" special that remains on the market for about two months—the biggest seller remains its French vanilla, accounting for nearly 25 percent of sales. "It's a richer vanilla because you add an egg custard to it," says Stickney.

Deering's 1979 move to a larger plant purchased from H.P. Hood has boosted its annual capacity from 500,000 gallons to six million. Because Deering also makes ice cream under contact for Hood and other companies, not all production carries the Deering label.

Stickney said Deering is now conducting tests for unidentified national and regional firms which are thinking about marketing a "super-rich" ice cream.

"This is so super-rich that you won't eat it by the dessert plate, you'll eat it by the spoonful," he says.

Stickney's career with Deering had an inauspicious beginning when, at age 8, he was hired to pick up strawberries delivered by local growers. At two cents a box, he would carry the berries into the plant to be washed.

"I was on the payroll for two days. After the second day my father had to let me go. The women tattled on me. I had eaten so many strawberries that they couldn't afford to keep me on."

More than half a century later, Stickney still retains his sweet tooth, and he makes a point of enjoying some of his own brand of ice cream every day. Calisthenics and work around his 18-century home and grounds in Yarmouth keep his daily indulgence from altering his trim physique.●

STRATEGIC DEFENSE

● Mr. **ARMSTRONG**. Mr. President, in his historic address of March 23 of this year, President Reagan proposed nothing less than a 180 degree shift in U.S. strategic policy, from the doctrine of mutual assured destruction which bases United States security on our ability to murder Russian women and children, to a doctrine of strategic defense, which would base United States security on our ability to protect the lives of our own people without threatening a hair on a single Russian head.

The President's emphasis on strategic defense can only be described as bold, innovative, and courageous, and if it succeeds, I believe President Reagan will go down in history as one of the greatest peacemakers of the 20th century. But bold as the President was, he was only following a trail blazed by our colleague, MALCOLM WALLOP, who, year after year has patiently, persistently, intelligently attempted to educate the Senate and the Nation about the necessity, morality, and practicality of strategic defense. Almost singlehandedly, Senator WALLOP has kept alive the vital programs that will form the basis for the strategic defense plan President Reagan hopes to develop. If we can succeed in removing the threat of a nuclear Armageddon, MALCOLM WALLOP will deserve more credit for bringing about that happy day than any other Senator.

An example of the hard work, conscientious study, and commonsense reasoning that Senator WALLOP has brought to the problem of strategic defense is the testimony he gave to the Senate Armed Services Subcommittee on Strategic Warfare on Monday, May 2. I believe all Senators will benefit from studying Senator WALLOP's words carefully. I ask that Senator WALLOP's statement to the subcommittee be printed.

I also ask that an excellent article by Prof. Walter McDougall of the University of California at Berkeley, entitled: "How Not to Think About Space Lasers," which appeared in the May 13 issue of National Review, be printed in the RECORD after Senator WALLOP's statement.

The material follows:

TESTIMONY BEFORE THE COMMITTEE ON ARMED SERVICES ON SENATE RESOLUTION 100 BY SENATOR MALCOLM WALLOP

Mr. Chairman, thank you for asking me to speak on S. Res. 100, the resolution that I've introduced along with Senator Laxalt, Senator Armstrong and five other co-sponsors. The resolution agrees with the President's suggestion that henceforth the U.S. Government will seek to protect the American people against Soviet ballistic missiles, and asks the President to submit to the Congress the budgetary proposals necessary to turn that suggestion into a policy as quickly as possible.

I will briefly say why the country would benefit from bringing this resolution to a vote right away. Then I will speak at somewhat greater length about what we in the Senate should do to provide our country with protection against Soviet ballistic missiles.

Since the days of Robert MacNamara, the Pentagon has led the U.S. Government in the strategic policy of Mutual Assured Destruction. This policy has proved to be politically disastrous. The American people have been told that, for the sake of peace, we must forever remain without any protection whatever against Soviet ballistic missiles and that, if for whatever reason, a major war is ever imposed upon us, all of us are sure to die. Reasonable people have asked the consequent question: Why do we have to pay billions for our own armed forces if these forces will not be able to protect our lives? The answer: The function of our strategic forces is to inflict terrible casualties on Russian society.

As anyone but Mr. MacNamara's humanitarians could have predicted, the American people, who greatly respected their men in uniform when these were protectors, became less and less enthusiastic about them in their brave new roles of "avengers." Look at contemporary anti-military movements. At their core you will find this assertion: Our own military forces will not contribute to our safety. Any buildup on our part can only raise the already superabundant likelihood of death and destruction for all. Behind today's anti-military movements lies the kernel of truth that contemporary strategic policy is both militarily senseless and immoral. Until the President's speech of March 23 the whole Executive branch and most of its supporters on Capitol Hill have responded to the growth of the Soviet military machine with something of a *Non sequitur:* We Americans cannot afford to become too inferior in the awful capacity to devastate civilization.

Not surprisingly, that plea has not been well accepted, support for own military activities has continued to decline, and the modernization of our strategic forces has lagged shamefully.

The military consequences of our adherence to MAD have been even worse than political ones. As everyone should know, the Soviets never accepted MAD. Their strategic forces have been built from the ground up, to attack our strategic forces - not to destroy us but to disarm us. They have provided for themselves an excellent air defense, a nationwide battle-management system for ABM work, a complex of ABM launchers at Moscow which covers most of European Russia, a rapidly deployable ABMX-3, and, according to the press, the dual-purpose SA-12 system for lightly attacked targets. Thus in October 1982, General Altunin could speak confidently about Soviet Civil Defense system's means for "liquidating the consequences of an enemy attack." I know the CIA tells the press the Soviets could not have confidence in their ability to limit damage to themselves. But whereas no American could speak as General Altunin does, many Soviets do. Of course, the Soviet defensive effort does not rest on its laurels. The Soviets are spending anywhere from three to five times as much as we to develop directed energy weapons. As a member of the Intelligence Committee, I invite members of the Senate to come look at the classified evidence on the Soviet laser program.

We are not sure about what's out there, but we can say openly that the effort going into that field is huge, and oriented toward early success.

All of this is to say that, as time passes, the cost of a possible military confrontation continues to rise for the United States and continues to fall for the U.S.S.R. Moreover, it is clear that, given the military programs of both nations, this trend will continue. This has become clearer as time has passed. For some time, therefore, I have wondered at the lack of response from this country's military leadership. I've asked such high-ranking officers as I've met what they planned to do about the Soviet Union's growing ability largely to disarm us by an offensive strike while reserving the majority of their forces to deter our use of what little we had left, and minimizing the consequences of anything we could do. I've been appalled to hear that the plans they are offering to Congress really do not affect this condition. These planners seem quite content to do things which, though expensive, cannot make a decisive difference in our military predicament.

Well, how could this country undo the effects of the past fifteen years' unanswered Soviet buildup? Unless we try to outbuild the Soviets in counterforce warheads—which no one proposes and I doubt we could do—we are left with but one possibility: to degrade the usefulness of the Soviet Union's superior missiles by ballistic missile defense. Any serious plan for ballistic missile defense would involve several layers. But the first layer must be based in space, so that it can intercept attacking missiles where they are most vulnerable. The most efficient way to do this is by means of laser weapons. That is why, three years ago I came to this committee to ask for a commitment to integrate three ongoing technology programs, Alpha, Talon Gold and Lode, into a single effort to build a space-based laser weapon.

Over the past three years, knowledge of the issue I've just described has spread. No well-informed person any longer denies that the three technology programs I mentioned can be integrated into a laser weapon. However, the technical merits of this or that defense scheme are logically subordinate to the question, should we have a space-based defense at all?

This question was posed directly when Senators Hart and Kennedy proposed a resolution identical to the one proposed by Congressman Moakley in the House, saying that we should not build such weapons. Even before the President spoke, I thought that these colleagues had raised a fair question, on which the Senate should vote. So I had planned to introduce a resolution saying that we should build such defensive weapons. The President's speech of March 23 focused the question.

The Congress has a responsibility to decide this basic question: Should the American people have the best protection against the Soviet ballistic missiles which our ingenuity can devise, or shall we instead, again commit ourselves to remain undefended and rely for our safety on threats of vengeance? In the past the Congress and the Executive branch, by taking any number of decisions, have effectively chosen not to protect the American people. But the Congress has never faced the issue squarely: Should we try to protect ourselves or not? The President, my colleagues on the other side of the issue, and the sponsors of S. Res. 100 are of one mind on this: The Congress should make its decision in an open, responsible way.

The means for our protection are important. But they are not the primary issue. Senators Hart and Kennedy agree that space-based anti-missile weapons are not science fiction, that they are now being built. Some have tried to sidetrack the issue by turning it into a pseudotechnical debate. Some claim that today's technology should not be integrated into space-based protection until we have developed a "foolproof system." They then try to make sure that development will be slow, and that every proposed system must meet impossible requirements. This is not honest. Moreover, it's beside the point: If we decide it is good to protect ourselves, then it makes sense to build a variety of protective weapons as quickly as possible. If the first editions are not very good, surely the subsequent ones will be better. If on the other hand we decide it is not good to protect ourselves, then even near-perfect protective weapons would be a total waste of effort. The political question is logically prior to the technical ones. Our approach to technical matters depends on how the political question is decided.

There should be no doubt that enough technology is in hand for us to build space-based chemical lasers. I said this to the Armed Services Committee three years ago. At that time Mr. Robert Fossum, President Carter's director of the Defense Advanced Research Projects Agency, wrote to Senator Culver, who then headed the R&D Subcommittee of the Armed Services, that an accelerated integrated program would result in a laser weapon in orbit by late 1987, with a five-megawatt hydrogen fluoride laser, and a four-meter main mirror. Within a year the design which was supposed to yield five megawatts was changed a bit to accommodate new nozzles. With those nozzles that same device will yield ten megawatts if built to its originally intended size. As for mirrors, today Eastman Kodak, Perkin Elmer, and United Technologies feel very confident of their ability to deliver ten-meter mirrors. The pointing and tracking system, the most technically ambitious part of the weapon, has exceeded all performance requirements. Accuracies of 0.2 of a microradian have become routine in a variety of space programs. In short, there is every reason to believe that we could put a ten-megawatt, ten-meter chemical laser in orbit well before the end of this decade. There is no technical reason for us not to try to do it as soon as possible.

Let me also note that there are no honest managerial reasons either. Last year, as officials of the Executive branch were telling the Congress that the space laser program could not possibly use more money, they were telling the aerospace companies that lack of funds was forcing them to de-scope the program. Some have suggested that the ABM treaty of 1982 prohibits us from putting laser weapons into space. I have read that treaty, and defy anyone to show me where it says any such thing. In fact, the treaty never mentions directed energy weapons at all, much less does the treaty define them in such a way as to make possible their limitations. The first rule of international law is that whatever is not covered explicitly in a treaty is not covered at all. Some argue that because Article I bans anti-ballistic missile weapons, currently consisting of launchers, missiles and radars, and that because there is a comma before the word "currently," everything which could possibly serve to shoot down a missile or a warhead is banned forever. That cannot be so. If it were so, the rest of the treaty would be superfluous.

The absolutist interpretation of the treaty is also undercut by the Soviet Union's own proposal to the U.N. in August 1981 for a treaty to ban from space weapons not of mass destruction. Both Leonid Brezhnev and Tass said that such a treaty is necessary because no treaty "currently in force" bans such weapons.

The history of our arms control law also argues strongly against any but the most literal non-absolutist interpretation of treaties. On any number of occasions the United States has detected the Soviet Union doing things which appeared to be in direct violation of arms control treaties. On every occasion, without exception, the Soviet Union has argued that, though the activities might be violations of the United States' understanding of the treaty, they should not be considered violations because the treaty did not specifically ban the specific activity in question. A good example is the question regarding their air defense systems that can also shoot down ballistic re-entry vehicles. Are they a violation of the treaty? We have not said they are because the treaty does not specifically say they are. The United States has accepted the Soviet position in every case.

Suppose for a moment that the Soviet Union put a laser weapon in orbit. Would that be a violation of the ABM treaty? Immediately our Arms Control and Disarmament Agency would ask the Soviets whether the weapon were an ABM weapon. The Soviets would say not, it's an ASAT. Then we'd see the weapon tested against a missile. But the Soviets could continue to say it's primarily an ASAT. In this instance, there would be no more proof that a violation of the treaty had occurred than there has been in innumerable other cases involving both SALT I and SALT II. Are dual purpose air-defense systems violations of SALT I? How can one prove that these systems are not intended primarily for air defense? One can't. Does encryption of missile telemetry violate SALT II? How can one prove within the words of the treaty itself that the encryption impeded verification? I merely note that even these simple cases have proved too complex for us so far. In sum, these treaties say what they say. They mean no more than they say.

An American laser weapon in orbit would certainly violate one view of the ABM treaty, the view held by those Americans who want this country to accept Mutual Assured Destruction. But an American laser weapon would not be prohibited by the words of the treaty, by the Soviets' understanding of the treaty, or by the standards of compliance with arms control agreements which have evolved over the years.

How much protection can we build for ourselves and how soon? I have addressed that topic in previous letters to this Committee and to individual members. I will only mention here the figures I have cited: that a chemical laser weapon could be built in five years or so, and that a constellation of them could be in orbit in about ten years, at the cost of $5 billion for the first copy and a billion for each additional copy, that a system of 24 ten-megawatt/ten-meter stations could destroy a thousand Soviet ICBMs in 500 seconds, while at the same time protecting us from SLBMs and long-range bombers. These figures came not from me but from the aerospace industry. If this Committee wants to find out how quickly the aerospace industry could build a fleet of space-based chemical laser stations, using the rules under which it operated at the time of the ballistic missile program twenty-five years ago, this Committee has only to ask the right people to come, and to ask the right questions.

I do not mean to suggest that protection against Soviet ballistic missiles begins or ends with space-based chemical lasers. You will recall that each of the amendments I have presented since 1980 sought not only to provide money for the chemical laser triad, and for systems integrated of that triad. They also sought radically to increase funding for the shorter wavelength lasers which may—or may not—give us superior laser weapons in the future, but which are not ready for systems integration today. In addition, I have co-sponsored Senator Domenici's initiative to add funds for conventional ballistic missile defense. Indeed I believe that both technology and common sense are driving us toward dual-purpose radars and missiles, able to intercept both airplanes and a reasonable number of incoming re-entry vehicles. The ground-based defense of lightly attacked targets is technically easy. There is no excuse for not undertaking it. No serious person could suggest that any defensive scheme should stand alone. Anyone who is serious about protecting the American people will support a variety of overlapping systems. By the same token, I believe history shows unequivocally that when a nation is moving into a new technical field, it is best served by funding a variety of competitive approaches. When we did this in the late 1950s and early 1960s, we overcame a late start in the field of ballistic missiles. Despite technical uncertainty far greater than we face today in the chemical laser field, we quickly produced Thors, Jupiters, Atlases, Titans and Polaris. These systems were imperfect, but quite good enough to keep the peace. Then, in the late 1960s, we turned the development of strategic technology over to MacNamara's process and MacNamara's people. The result, the MX, will be at least ten years behind its Soviet competition. The MX is a superb argument for the proposition that the present process for bringing along strategic technology should be reformed. We should look back to a time when we overcame greater technological challenges more quickly and more cheaply.

Let me add that peace itself is at stake. For most of our history, our safety was assured by two oceans controlled by the navies of Britain and the United States. Today, primacy in space is contested. Who in this country would feel safe were Soviet laser weapons to dominate the oceans of space? To sum up, I want to urge this Committee to send S. Res. 100 to the floor, and to get both it, and the resolution which opposes it, to a vote. I think the debate and the vote would be good for the country. Second, I urge this Committee to break its recent precedent of excluding witnesses from industry. I suggest that you call the people who are working in the laser field, that you ask them specifically neither to support nor oppose any program, but merely to lay before you what they could do if they were asked to develop directed energy weapons capable of shooting down Soviet missiles as quickly as possible.

We are all rightly concerned with public opinion with regard to our own military forces. We should all have learned by now that any attempt to cast or to explain our strategic forces in terms of mutual destruction is sure to fail for both moral and military reasons. But why should anyone try to cast or explain our forces in these terms when we can provide real protection. I suggest that public opinion could receive no better tonic than a clear commitment from both the President and Congress that henceforth this government's first priority will be to protect American lives. MAD won't survive because it is immoral. You cannot argue it much longer, and why should you when you can provide real protection?

[From National Review, May 13, 1983]

HOW NOT TO THINK ABOUT SPACE LASERS

(By Walter A. McDougall)

"Tonight we are launching an effort which holds the promise of changing the course of human history." So President Reagan announced March 23 in his national address on defense. He offered "new hope for our children" that by the twenty-first century a defense may be found to make nuclear missiles obsolete. Remaining prudently cautious about the cost, timetable, and effectiveness of specific technologies, the President pledged the U.S. to a vigorous search for a technological escape from the balance of terror that has chilled the last generation of humanity.

The speech crowned a decade-long effort by maverick defense analysts, frustrated generals, and visionary scientists to re-open the debate on the wisdom of a defensive nuclear strategy that seemed to have been closed by the SALT I treaty of 1972 that banned effective deployment of antiballistic missiles (ABM). But R&D on all defensive missile systems has now reached $1 billion per year, while the Air Force expects investment in space laser systems to increase by fiscal year 1988 to $500 million per year. Assuming that one or more defensive technologies emerge as best bets in the near future, the most important decision of Regan's second term will be whether to approve a proto type "battle station" for earth orbit.

By "most important" one can only mean a decision that potentially alters the probability of nuclear war. Someday an array of orbiting directed-energy weapons may defend the U.S. against strategic attack by destroying hostile missiles in their ascent stage with hyper-intense beams traveling at the speed of light. Combined with a Low Altitude Defense System (LOADS) and an anti-aircraft defense to ward off bombers, a space-based ABM system promises to fulfill the dream Americans first entertained the night after Sputnik, of a defense against Khrushchev's giant, rattling rockets no matter how reckless the Kremlin ideologues might become.

Yet this sublime dream has been denounced as a nightmare in predictable quarters. Yuri Andropov questioned Reagan's sanity and attributed his speech to Pentagon warmongering. Senator Kennedy suggested that Reagan be given an Academy Award for his performance in "Star Wars." More to the point, august members of the strategic community echoed Bernard Brodie and twenty years of experts, declaring that attempts to defend ourselves against nuclear attack were folly: that stalemate was the best we could expect in the age of nuclear weapons; that defense was offense; that ABMs would only increase the likelihood of war. Either the "have" side would be tempted to launch a first strike without fear of retaliation, or the "have-nots" would launch first to pre-empt ABM deployment. This argument is sufficiently intimidating to have kept discussion of potential new ABM technologies sotto voce. But the goad for large-scale research on space-based directed-energy weapons was not the just for a war-fighting edge, nor even the longing for a shield against Damocles' sword; rather it was the tiresome fact that the Soviets were doing it first.

Throughout the mid-Seventies rumors spread about alleged Soviet research into the military applications of two new technologies, lasers and particle beams, both of which fall under the rubrics of "enhanced-radiation," "directed-energy," or "beam" weapons, and involve the propagation of very thin, energetic beams of light of matter capable of effecting the instantaneous destruction of satellites and other cosmic targets. These futuristic weapons, still a decade or more and billions of dollars away from deployment, are not to be confused with existing anti-satellite (A-SAT) systems such as the Soviet "killer satellites" that destroy by collision or proximate explosion, or the American A-SAT missile designed for launch from a high-flying F-15 Beam weapons in orbit would be to these clumsy systems as the atomic bomb was to chemical explosives.

Major General George Keegan, retired chief of Air Force intelligence, sounded alarms about Soviet research in 1976, warning that a particle-beam demonstration program was already under way in Kazakhstan. By 1981, the Soviets had repeatedly tested their conventional A-SAT system and seemed to have launched a prototype battle station armed with clusters of infrared homing rockets capable of knocking out U.S. military satellites. The Salyut space stations are certainly suitable, and may already have been used, for laser experimentation in space. The Soviets' massive war games of 1982 showed a high degree of integration of space-based systems, including A-SATs, into their strategic war planning. Evidence of American probes into these fields also leaked out in the late Seventies, including hydrogenfluoride laser research at Martin Marietta and Lockheed, the Army's Sipapu (later White Horse) program in particle beam technology at Los Alamos, and the Department of Energy's revolutionary Project Dauphin on X-ray lasers at Livermore.

To be sure, Buck Rogers weaponry offers no quick exit from our strategic doldrums, but almost everyone agrees on the need to retain U.S. technological leadership in orbital space, where so many of our intelligence, command, control, and communication systems are now located. Jimmy Carter's shift in Presidential Directive 59 toward counterforce targeting only illuminated our weakness by emphasizing a war-winning capability we no longer had. Given the Soviet threat to our land-based missiles, Carter's America could have carried off a war-fighting strategy only by means of a first strike, or by resorting to hair-trigger modes of launch-on-warning or launch-under-attack. What was more, the success of any deterrent relies in part on early-warning and command control satellites potenitally threatened by Soviet A-SATs. Given all this bad news, it is not surprising that space weaponry, satellite hardening, and research in beam technology found a place in most published inquiries into strategy for the 1980s.

By July 1980 the Department of Defense (DOD) declared chemical lasers capable of destroying missiles during launch, and predicted proof of A-SAT, satellite-defense, and ABM feasibility by 1987. A three-tier system of space lasers, ground-based ABMs, and LOADS could be designed to handle attacks of 1,500 to 3,000 enemy missiles. The laser stations would be inherently self-protecting and armored in a way the target ICBMs could not be. During Carter's lame-duck period, DOD officials estimated that the Soviets were still spending three to five times as much as the U.S. on directed-energy research and claimed that "whichever side can provide an operational laser battle station first can control access to space."

Following the first flight of the space Shuttle in the spring of 1981, the Air Force created a Space Laser Office, while the National Security Council and the State Department studied the political and military implications of space weapons. In October of that year President Reagan announced the decision to develop technologies for space-based defense, while his science advisor George Keyworth, a skeptic, lamented spending most of his time resisting congressional pressure, led by Senator Malcolm Wallop (R., Wyo.), to proceed with laser stations. In April 1982, the General Accounting Office released an independent study that called for the funding necessary to permit orbital laser tests by the end of the decade. In September, Defense Secretary Weinberger endorsed rapid development of space-based ABMs, while the Heritage Foundation weighed in with its High Frontier: A New National Strategy. Inspired by retired Army General Daniel O. Graham, High Frontier insisted that exotic beam weapons may not even be necessary—conventional projectiles clustered on orbiting battle stations could suffice to disable ICBMs in their boost phase.[1]

Given this technical and political momentum, the current hiatus in A-SAT talks, the Soviet threat to our landbased deterrent, and the growing revulsion with the balance of terror in the ranks of the defense establishment and the anti-nuclear movement alike, a laser ABM prototype may be a "go or no go" proposition in the near future.

There are powerful arguments against moving beyond research. The cost of an ABM array in space will seem staggering (though no more in constant dollars than the Apollo moon program) and the benefits uncertain, given that cheap countermeasures, such as hardening missiles or using decoys, might be able to frustrate a "Maginot Line in the sky." An MIT study warned that space lasers "may be militarily impractical and politically dangerous." According to its authors, the system would invite attack before full deployment, possibly sparking all-out nuclear war.

It must be said, however, that while either of these objections may be accurate, the "it's easily countered" argument and the "it's so dangerous the enemy will pre-empt" argument contradict each other. Either a laser system is a huge waste of money, or it is a serious threat inviting attack, but not both. Everyone agrees on the need for continued research to prevent technological surpirse by the Soviets. But serious conflicts remain concerning cost-effectiveness, and the risk of taking overt steps toward such a system.

How should we approach the bizarre, mortal issues raised by the prospect of space-based ABM technology? The public discussion of space weaponry has already been sullied by calculated hysteria meant less to reveal real demerits of the new technologies than to prevent publicity of their potential merits. Thanks to media sensationalism, a misinformed public either applauds inanely at the prospect of Atari's Missile Command game coming to life, or else deplores the plot of Pentagon Darth Vaders to annex space to their Empire. Before serious debate can commence, some slogans must be put to rest. The fact is that in the topsyturvy canopy of space, our gut reactions are not trustworthy. Sometimes the world is upside-down.

1. Laser weapons will militarize space. This is the warcry of journalists and others who want to preserve the virginity of outer space from the rapine of terrestrial militarists. It is now a new sound in the heavens, but an echo from the post-Sputnik era when men of good will hoped to keep cold-war rivalry out of the newly opened territory of space, and thus not repeat the failure to control atomic power at the outset. But there was a superstitious undertone in the "space for peace" chorus: even though the Russians' ICBMs, and not their stubbornly secret space program, were the true threat, there was something scary about Red moons overhead carrying heaven knew what. In time, the U.S. and the USSR concluded that bombs in orbit were too messy, and the Partial Test Ban Treaty (1963) and the Outer Space Treaty (1967) banned testing and deployment of weapons of mass destruction in outer space. But there were other military uses of space, and from the beginning the "space for peace" cry was as futile as if it had been shouted in the vacuum of space itself.

Space was militarized even before Sputnik I soared in October 1957, and is irreversibly so after 25 years. If it were not enough that satellite launchers were usually military missiles, or that civilian space technologies were often identical to those needed for defense, then the very necessity of military satellite systems to support strategic missile forces ensured the militarization of space. In order to aim ICBMs for any purpose other than the crudest city-busting, in order to protect them, in order to avoid paranoid over-estimation of the enemy's capability and to monitor his technical progress—in other words, in order to perform essential support functions in the missile age—we (and the Soviets) had to push quickly for satellite systems in the service of military geodesy, surveillance, communications, meteorology, infrared early warning, and electronic ferreting.

In the case of the United States there was a premium attached to spy satellites because of the closed nature of Soviet society. We needed, and still need, secure means of surveillance more than the Soviets do—not because we are devious and aggressive, but because they are. Indeed, the U.S. spy-satellite program was begun a year before the Space Age was born.

So what is new about laser anti-missile systems? It is the prospect of *active* as opposed to *passive* military space systems. There has not yet been a shot fired in anger in the serenity of space. A-SATs seem especially provocative, because an attack on enemy satellites would probably never occur without signaling nuclear war. But this is to confuse cause and effect. Men on earth may start nuclear wars; machines in space do not. But what if a laser shot down a spacecraft by accident? This would be grave indeed, but far less serious than the accidental launch of a nuclear warhead, the prospect we live with today. In any case, why is it more important to protect pristine space, where nothing lives, than the crowded earth? But the most elementary fact is that once military assets are placed in space, they inevitably become targets. Space is militarized, and to prevent somehow the extension of active weaponry to space—to keep it a sanctuary for passive military systems—would simply be to protect the strategic status quo. This suggests a second misconception impeding fruitful debate.

2. Don't rock the MAD boat. MAD—mutual assured destruction—is the missile-age gospel, sanctified by Robert McNamara in 1965 and preached by a generation of politicians, pundits, and political scientists. Why it held sway for so long will be an interesting problem for historians. The ascendancy of liberalism was certainly a factor, since MAD permitted the U.S. to freeze nuclear delivery systems for 15 years, cut arms spending sharply during years of Soviet buildup, and relegate military history, strategy, and leadership to the category of the disreputable. Since nuclear weapons had "changed the world," history was irrelevent. Since war was now unthinkable and a credible deterrent all that was needed, strategy was obsolete. Since defense variables were now quantifiable (megatonnage, throw-weight, circular error probability, etc.), human factors and provocative military "virtues" were atavistic. Such corollaries to MAD appealed to the technocratic mind.

To be sure, our doctrine has never been purely MAD. If a leak or a federal court ever spills the Single Integrated Operational Plans (SIOP) from the Sixties and Seventies, they should show that U.S. priorities always included military targets in the Soviet Union. We may have had one strategy for public consumption, and another—a mix of counterforce and countervalue—in reality. MAD, let us recall, requires that if the Soviets strike first at our missile, bomber, and submarine bases, the President may respond by flinging what warheads remain at Russian cities. This, of course, invites a final, fatal blast at our cities. Would any President order Armageddon out of spite? If the answer is "not likely," then what has been the rationale of MAD?

Its logic derived first from the technological determinism that says nuclear weapons changed warfare forever. The nature of the beasts—small, cheap, very destructive, and impossible to repel—gave an advantage to the attack and counterattack unique in history. No matter how devastating one's first blow, retaliation was swift and certain, and thus a "big war" unthinkable. Indeed the nuclear age has been one of 38 years of "strategic peace"; five more years and we break the record of 1871 to 1914. Whether this was due to nukes, to deterrence, or in fact to American superiority is a haunting question.

Yet once the peace-keeping value of MAD was assumed, a second justification emerged. As Henry Kissinger put it in Brussels in 1979, "[This] school of thought to which I myself contributed . . . considered that strategic stability was a military asset; . . . the historically amazing theory developed that vulnerability contributed to peace and invulnerability contributed to risks of war." The goal was not, therefore, to escape from the balance of terror, but to prevent its destabilization. Chief among destabilizers was ABM. Despite the fears of a Soviet missile defense (the Tallinn Upgrade), Red China's ICBM tests, and the maturation of Safeguard technology. ABM failed in this country both because of its costliness and because of MAD fears of destabilization.

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[1] The best running account of these developments is to be found in *Aviation Week & Space Technology*.

Now ABM is back. Despite SALT and America's strategic snooze, the Soviets continued to build far beyond what they needed for stable deterrence. SALT II accordingly died, the SALT I ABM treaty is currently open for review, and space-based laser or other systems now hold out hope of an effective and clean technology for the defensive mission. We all hope that START (Strategic Arms Reduction Talks) will succeed in reducing arsenals, but non-nuclear defensive systems do not necessarily conflict with that hope. Ultimately, arms reduction and ABM have the same aim: the end of terror.

This time, however, the country must not only debate the risks and merits of ABM, it must also put MAD on trial. Even assuming MAD was a salutary doctrine for the early missile age, why is it assumed that that age will last forever? Critics have applied to space-based lasers the fallacy of the last move—that every technological fix inevitably triggers a counter-fix. True enough, but technological advance can be stopped, if at all, only by universal political will. We must always try to marshal that will, but meanwhile how could we preserve MAD in the face of continued Soviet buildups? Build another thousand missiles and put them out to sea, in zany shell-game silos, or into space? Go to any extreme to preserve our freedom to incinerate Russian cities? There is reason to believe that strategic arms would be better controlled, the balance more secure, and the risks lower in an ABM world, laser or otherwise, than in a MAD one.

Consider the possibilities. The first scenario is that the superpowers agree to ban space weaponry, i.e., ABM is rejected again. This avoids the risks of transition, but preserves the risks inhering in an offensive strategic environment. The second is that both superpowers achieve a space-based ABM capability simultaneously. This would be ideal, for it would usher in another stable world, but one in which stability would derive from the certain *failure* of a first strike, rather than the certain *success* of retaliation. How long this technical regime might then last is anybody's guess. But if there is ever a time to muster the political will to freeze the strategic moment, let it come then, not now.

The third and fourth scenarios involve the U.S. or the USSR's deploying space-based ABMs first. This would surely mean gross imbalance. But if the U.S. is first, we will have won another chance not only to demonstrate our restraint, but to coax the Soviets and the world to accept an enforceable regime of arms control, the regime we failed to win during our atomic monopoly. Finally, there is the chance that the Soviets will acquire this technology first. The risks that would entail should suffice to motivate all Americans to see that it does not come to pass.

Of the four scenarios, the one that most disturbs critics of laser ABMs is the third. They fear that if the U.S. began to deploy, the Soviets would feel forced to pre-empt. As suggested above, this contradicts the argument that laser ABMs are easily countered and hence wasteful, but it also ignores the fact that by the time such a system is deployed, in the 1990s, the traditional U.S. deterrent will have been reinforced sufficiently to cover the deployment of space systems. The last historical purpose of the retaliatory doctrine could be to shelter the transition to a new, mature nuclear age cradled in space.

3. *The scientists are the only ones we can trust.* Maybe no one believes this any more, but many still act as if they do, out of what I call the Law of Selective Deference. This holds that experts with supporting testimony are scientific; those with contrary testimony are self-interested. After Sputnik we wanted to trust the experts who crowded into every corner of the Federal Government. When the technocratic promise of the 1960s soured—our technology having failed to save Third World democracy, the inner cities, and the American dollar—technical experts lost credibility. This was especially so in defense. Many people took for granted the meanness of government white-coats with their connections to weapons labs, hawkish senators, and the military-industrial complex.

There was never room for honest disagreement between an Edward Teller and a Barry Commoner. But, sadly, one cannot always trust expert debate on a question such as space weaponry even when all parties share a concern for strong, economical defense. Aside from turf-protecting, paradigmatic thinking, envy, jealousy, and academic politics, scientists also entrench themselves around specific technologies and doctrines. A career DOD official, frustrated over what he saw as foot-dragging on lasers, attributed it to the fact that Carter's top defense aides all had backgrounds in nuclear physics: ". . . charged-particle beams and high-energy lasers upset the technology monopoly of weapons created in World War II for offensive strategy. Tremendous power and prestige has [*sic*] accrued to those whose background is in nuclear-weapons design and they are now in policymaking positions. . . . It is very difficult to be statesmanlike when everything you've learned can be overturned by new technology in which the defense can predominate" (*Aviation Week & Space Technology*, July 28, 1980).

Is this charge justified, or is it the grumbling of one engaged in a tenuous line of research? We may hope that high officials will always overcome the temptation to "spike" new ideas for personal motives. Yet revolutionary weapons often met stony resistance from hierarchies in the past. Can we not expect the same phenomenon today? Our major weapons decisions in recent decades have been made by officials who cut their teeth on nuclear bombs and missiles. Beam weapons are in the same relation to their lifework as dive bombers were to battleships or machine guns to the cavalry, or missiles to the big bombers. There is certain to be polarization over space lasers and other ABMs with the labs, the Pentagon, and the nation. We must listen carefully to expert testimony, but also not whence it comes.

4. Space weapons are against the law. Another common complaint against plans for prototype A–SAT or ABM weaponry is that it is illegal: aren't there treaties against that? The answer is: only for the time being. SALT I obliged signatories not "to interfere with national technical means of verification" (spy satellites) or "to develop, test, or deploy ABM systems which are sea-based, air-based, or mobile land-based." Thus space is a high frontier, but not a lawless Wild West. Nevertheless, failing extension of Salt I or a new ABM/A–SAT pact, there could be no ban on devices capable of destroying space craft and missiles.

The prospect for future negotiations is dim. The A-SAT talks adjourned in Vienna, the Soviets having persisted in killer-satellite experiments and insisted that the Space Shuttle is a form of A-SAT in need of control. Moscow asked that the issue be placed on the UN docket, but that means nothing. What law there is concerning space-based weaponry will unravel if either side jettisons SALT I (which can always be done on six months' notice). Would this be a disaster? Perhaps, perhaps not. We have tended to assume that arms control is an irreversible "process." Why should it not go into reverse, or start up new paths in an altered technical and political environment? The debate over space weaponry should go beyond the question, "Is testing such systems permissible?" to the question, "Is the international law we have, or project, in our and in the world's interest?"

5. Space weapons mean a new arms race. The threat of a new arms race, somehow more terrible because "in space," ignites concerned laymen. This judgment assumes that there was an old arms race that somehow stopped, and will stay stopped unless the space cadets get their way. One need not cover this ground again: the Soviets never stopped racing, lately we have been losing, and advanced technology has always been the trump that saves us from becoming far more of a garrison state that we are. In this context, spacebased lasers appear as a fruitful technology in which our comparative advantage may be best exploited and our social values, born of an insular, liberal strategic tradition, best preserved. Of course, any large defense program must be judged on its merits, but there is no question of starting a new arms race.

Why build such machines, though, except to fight nuclear wars? Hasn't the human race used every weapon it has ever built? The makings of a straw man are here for either side of the debate. But this is not a useful approach. Historically, many weapons never got built in the first place. Many of those that did surely prevented wars that might otherwise have occurred. We never hear about non-weapons and non-wars, because historians tend to assume that peace is the normal state of affairs. But a war prevented is not a fiction; it is the active triumph of statesmen able to shepherd their national interests without violence against the wolves. Suffice it to say that the U.S. in possession of a space-based defense is free to exercise restraint, free not to use weapons once built, as in the trying years of our atomic monopoly. One cannot be confident of the other side.

And if the worst should happen, in 1998, or 2001, I cannot imagine any weapons system in the history of the world that one would rather see get used than an exo-atmospheric "ray gun" that hates nuclear bombs.

Perhaps space-based lasers are absurd for technical, financial, or strategic reasons. If so, those reasons should be trumpeted abroad before we embark on a world-class boondoggle. But effective arguments on both sides of the issue can blossom only after the shibboleths are pruned. Most of us have lived all our adult lives in the missile age. It is hard to conceive of anything else. But that age, as Desmond Ball of he London-based International Institute of Strategic Studies has suggested, is coming to an end: "If the same resources go into lasers in the next twenty years as went into missiles and warheads in the Fifties and Sixties, then you can say the strategic implications will be more revolutionary."

Technology, nuclear or anti-nuclear, does not change the elements of strategy, for it cannot change human nature. But nuclear weapons did raise the stakes. The current intoxication with a nuclear freeze has this virtue: it reminds us of the bankruptcy of stockpiling pellets of destruction till Hell won't hold them. Let us pledge our minds and money instead to a cluster of technologies that promises to restore the dominance of defense—and invite the Soviet Union to do the same. It may or may not increase the risk of bluffs' being made and called, but it does ensure that even after the worst, the game would go on.

And if there is a chance to call a halt to the game, then, God willing, let the nations do so in an age of defensive stability, not balance of terror.●

ON THE ROAD TO WILLIAMSBURG

● Mr. HUMPHREY. Mr. President, today's edition of the Washington Times presents the first of a three-part series devoted to a discussion of the international debt situation. The presentation of this discussion is most timely, as the economic leaders of the Western World prepare for the upcoming Williamsburg summit.

It is the fervent hope of this Senator that cooler heads will prevail at Williamsburg than those which have been circulating doomsday scenarios surrounding Third World indebtedness. The stopgap solutions proposed thus far—in particular a 47.5-percent increase in the resources of the International Monetary Fund—fail to demonstrate any confidence in the capacity of the free market to reverse the current debt situation. What must be recognized by economic policymakers is that the IMF is essentially a source of thinly disguised foreign aid, through which bankers and the indebted Third World receive assurances that they will not be taken to task for their errors in judgment and policymaking. As the distinguished economist Melvyn Krauss points out in today's article, crises play a "healthy role" economically in a free market economy, in contrast to foreign aid, which "permits mistaken policies to continue by bailing out the government which implements them."

Proponents of the IMF bailout have found a politically emotional hook upon which to hang their hat; namely, that if the IMF—and following them the private banks—are not permitted to extend additional credit to the LDCs, markets for U.S. exports will evaporate, and unemployment will increase at home. Their is an inconsistency in this position, Mr. President, which all too frequently lies dormant. IMF "austerity" programs, upon which their loans are contingent, typically require the participating debtor nation to increase exports and reduce imports in search of a more favorable balance-of-payments position. Therefore, the supporters of the IMF bailout, who openly express concerns about the likely impact of a widespread reduction in imports on the part of troubled Third-World borrowers, are asking us to enhance the resources of an institution that, in the routine execution of its responsibilities, firmly mandates that such import reductions will take place.

Where, then, does the answer lie? It lies, Mr. President, in the promotion of a real and sustained economic recovery in the Western World, particularly in those nations whose representatives will meet at Williamsburg. As our factories begin humming again, a genuine demand will be created for the products of the Third World, which in turn will provide them the resources to service their debts and ultimately to increase their demand for our goods. This scenario admittedly will not unfold overnight, but it must be given the chance to begin. Bailing out the IMF, the banks, and the LDC's will only perpetuate bad policy and inhibit the worldwide recovery which must provide the foundation to a solution of the debt dilemma.

I ask that the article appear in the Record.

The article follows:

Banking Crisis Will Test Leaders

(By Steven K. Beckner)

(Will the massive debt of Third World nations drag the industrial countries into another Great Depression? Leaders of major economic powers will meet in Williamsburg, Va., May 28 to 30 to confront the debt dilemma.)

Later this month, the blind wise men of the industrial nations will journey to Williamsburg, Va., to plot strategy on solving the world's economic conundrums: the burden of Third World debt, instability in the international monetary system, threats to world trade and the lingering global recession.

But underlying all their discussions will be worries over the solvency of international banks.

Representing the world's seven leading economies (the United States, Britain, Canada, France, Italy, Japan and West Germany), the summiteers presumably possess wisdom. But in their efforts to cope with perceived threats to the banking system, they may be blundering blindly back down the road to inflation.

"Rich" country leaders, their ears ringing from the incessant drumbeat of demands for financial aid and thinly veiled threats of default, have generally conceded a need, if not a duty, to aid the "poor" countries.

They have agreed to increase the resources of the International Monetary Fund, have provided special central bank credits and all but pushed commercial banks into maintaining their overseas lending.

Their motivation has not been philanthropy but fear that debtor nations will repudiate their debts, triggering a chain of bank failures that will pitch the world into another Great Depression.

Alternatively, if developing countries are forced to curtail their imports to avoid default, the resulting reduction in U.S. exports could depress our economy, Treasury Secretary Donald T. Regan has warned.

Certainly the problem has impressive dimensions. By the end of 1982, the non-OPEC developing countries had amassed debts of $520 billion, the Organization for Economic Cooperation and Development estimated. That doesn't count $120 billion in short-term credits to finance exports, or debts of $54 billion owed by East bloc nations.

Only about half the debt is owed to private lenders, but U.S. banks are heavily exposed. The three largest debtors—Brazil, Mexico and Argentina—owe a total $203 billion, nearly $55 billion of it to American banks. Loans of $108.2 billion to the less-developed countries by all U.S. banks are almost twice their $66.2 billion capital, according to Federal Reserve data.

Such statistics prompted the Institute for International Economics to warn in December of "a financial collapse that could destroy the interdependent world economic system that emerged in the postwar years."

The institute, headed by C. Fred Bergsten, an assistant treasury secretary in the Carter administration, assumed "there is scant prospect of any prompt spontaneous recovery."

Although gloom and doom dominate debate over the debt dilemma, some are beginning to question whether things are as bad as they seem and whether the proposed cures might not be worse than the disease.

"The greater peril may lie in the side effects of policies adopted to help debtor nations cope," argues Robert E. Weintraub, senior economist for the Joint Economic Committee, in a new study.

Guenter Reimann, editor-in-chief of the authoritative economic newsletter International Reports, says the IMF is "caught in a vicious circle."

"By asking private banks to increase their illiquid (bad) loans to the troubled LDCs, it risks a banking crisis unless central banks provide huge amounts of liquidity which, ultimately, will produce high inflation levels," he says.

Weintraub's analysis concludes that the "threat of widespread bank failures, of the collapse of our banking system, is imaginary."

He adds that recently approved increases in the capital of the IMF, which lends to countries having balance-of-payments problems, could prove "counterproductive."

The board of governors of the fund voted in March to adopt a 47.5 percent increase in the "quotas" of its 146 member nations to $99 billion and approved a near tripling of a special fund, the General Agreements to Borrow, to $19 billion. The Senate Banking Committee approved this country's $8.4 billion share last week.

"Knowingly that the IMF and GAB have acquired $44 billion in additional financial resources, debtor nations could avoid or renege on the determined action that must be pursued if they are to ever manage their external debts," Weintraub contends.

"Private lenders could be drawn into extending new credits with little chance of repayment. The problem would be put off, not solved, and would grow over time," he says.

Seizing on the IMF quota increase, the joint IMF-World Bank Development Committee last week recommended that the World Bank's capital also be raised to "allow an expansion of the bank's lending program."

Contributing countries are already in the process of doubling the World Bank's capital to an estimated $85 billion to $90 billion by 1986. But its president, A. W. Clausen, suggested that this increase be supplemented by a $20 billion "selective" boost.

Clausen, former president of the Bank of America, cited the entry of China into the organization as the main justification. In 1986, he went on, the bank's capital would need to be increased further by "at least $40 billion."

Reagan, a signatory to the Development Committee's communique, said, "While $20 billion has a good, full, round sound, most of us would discourage Mr. Clausen from expecting that kind of money."

An analysis by the Cato Institute in Washington maintains that efforts to protect banks and their borrowers from the consequences of excessive lending may paradoxically make default more likely.

"If debt repudiation meant the cessation of all economic and political ties with the world, then it is most likely that no country would repudiate its debt," author Mark Hulbert writes.

"It simply would enter into rescheduling negotiations, and some accommodation no doubt would be worked out. But outright repudiation rarely carries such extreme consequences, and the less severe the consequences the more likely it becomes," he says.

Another opponent of resources transfers to the Third World is New York University economist Melvyn Krauss, who told a recent Manhattan Institute forum such flows "neutralize the healthy role that crises play."

"Bad policy induces economic crises, which in turn generates pressures for reform. But foreign aid permits mistaken policies to continue by bailing out the government which implements them," he said.

Politicians are more concerned about near-term risks, however. So even the conservative Reagan administration is lobbying hard for the IMF quota increase, although it is a politically unsavory commitment of tax dollars at a time of bulging budget deficits.

Last September, at the annual IMF meeting in Toronto, U.S. officials fought large increases in the fund's resources but settled for a "moderate" increase. Now Regan and others warn of dire consequences if the agreement, which brings the U.S. commitment to the IMF to $24 billion, is not approved.

Reluctantly, the chairman of the Senate Banking Committee, Sen. Jake Garn, R-Utah, is supporting the funding boost.

"It's a necessity," he said in an interview. "I wish that were not the situation, but given the state of international money markets and our trade relations it simply has to be done."

Garn insisted the IMF quota hike is not a bail-out for the banks.

"If that's all it was we wouldn't be doing it, but it goes far beyond that," he declared, citing U.S. export interests as the real justification.

Garn noted that 40 percent of America's agricultural production and one in every seven jobs is devoted to export, and that half of the economy's growth has come from the export sector.

Weintraub disputes the significance of our trade with the Third World. Noting that one American job in five is in manufacturing and that exports are 12 percent of GNP, he calculates that only one in every 100 jobs and 4.8 percent of GNP actually hinge on exports to developing countries.

The $8.4 billion increase in the U.S. commitment to the IMF "is a very minor amount compared to the amount of export trade that would be lost" if the Third World cannot solve its debt problem, Garn said.

Noting that the IMF places "pretty tight restrictions" on the economic policies of countries to which it lends, Garn cracked, "I almost wish the IMF could come in and tell Congress to tighten up its fiscal policy."

The bill voted out of committee last week directs federal bank regulators to establish standards for determining whether banks' capital is sufficient to cover their loans and to evaluate banks' foreign exposure relative to capital. What's more, the bill requires banks to set aside special new reserves when the "quality" of their assets "has been impaired by a protracted inability" of borrowers to make debt payments.

In line with the IMF, the U.S. Treasury and Federal Reserve are pressuring the banks to continue lending to developing countries.

This is not new. In the 1970s. Western governments encouraged banks to aggressively lend abroad to help "recycle" OPEC cash surpluses.

Testifying before the House Banking Committee, Regan warned that if commercial banks reduce their lending by $35 billion to $40 billion, the developing countries would be forced to reduce their imports proportionately.

"This would represents a direct loss of 0.3 to 0.5 percent of GNP in the industrial countries," he claimed.

Not so, Weintraub says. "It is difficult to believe that those non-OPEC countries that can service their debts or that receive loans at concessional rates will repudiate them." he writes.

"At most, trade with these countries will fall only marginally, even if there are widespread loan defaults by other developing nations."●

C-17 AIRCRAFT PROGRAM

● Mr. PRYOR. Mr. President, on Monday, I wrote Secretary of Defense Caspar Weinberger and commended him for his decision last Friday to request authorization for certain funds to begin full-scale engineering and development of the new C-17 mobility airlift aircraft. As a supporter of the C-17, I am pleased that we are going to move ahead with this critically needed aircraft program.

Last Friday I received from Gen. James Allen, the commander of the Military Airlift Command, a personal briefing concerning the status of our worldwide mobility airlift forces. I left that meeting even more convinced of the absolute necessity of beginning the development of the C-17 aircraft program, and I encourage all of my fellow members to consider requesting this same briefing.

I ask that a copy of the letter that I sent to Secretary Weinberger commending him on his decision be printed in the Record.

The letter follows:

May 2, 1983.

Hon. Caspar W. Weinberger,
Secretary, Department of Defense, The Pentagon, Washington, D.C.

Dear Mr. Secretary: I was very pleased to learn that you have requested authorization by Congressional committees of certain funds for the C-17 aircraft program. I commend you for that action and offer my support to this effort.

Last Friday, April 29th, I received a briefing at Scott Air Force Base by General James Allen, the Commander-in-Chief for the Military Airlift Command. I left that briefing even more convinced of the absolute necessity of the C-17 aircraft. We must recognize our increasing mobility airlift needs as evidenced in the Congressional Mandated Mobility Airlift Study. It is essential that this nation be able to airlift our forces and equipment in a timely and efficient manner. In my opinion the C-17 aircraft is an important part of our efforts to address critical mobility airlift requirements.

Sincerely,

David Pryor.●

CHANGES URGED IN GOVERNMENT SCREENING PROCEDURES

● Mr. HATCH. Mr. President, it has recently been brought to my attention that the rights of the Government to protect itself against employing those persons who have membership in subversive groups, such as the Communist Party or the Ku Klux Klan, has been limited as a result of the Privacy Act. This act prevents Federal departments and agencies from asking an applicant if they have any affiliation with such groups. As a result, The Privacy Act may have adversely affected security efforts within the Government.

David Martin prepared for the Heritage Foundation a summary of his study urging changes in Government screening procedures. I ask to include this study in today's Record.

The study follows:

Study Urges Changes in Government Screening Procedures

Washington, D.C., March 29, 1983.—In a new study published by The Heritage Foundation, a government security expert recommends a sweeping overhaul of procedures used to screen prospective federal employees for sensitive positions.

"The right of privacy is very important," says David Martin, author of the 100-page study, "but it is not the only right. The government also has rights—and one of the most important of these is the right to protect itself and the public against subversion and terrorism and domestic violence." Martin, who until his retirement from government had been senior analyst for the Senate Subcommittee on Internal Security, currently is a consultant for the American Bar Association's Standing Committee on Law and National Security. He also is associate editor of the committee's monthly.

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Among the recommendations he makes in the new Heritage Foundation monograph are: tightening up on waivers of pre-employment background investigations; implementing the requirement for reinvestigations at five-year intervals for all employees in sensitive government positions; reviewing how the Office of Personnel Management and the Civil Service Commission have interpreted restrictive rulings by the Supreme Court in employee security cases; returning to full background investigations rather than abbreviated interview background investigations for all Department of Defense employees with access to "Top Secret" or higher classifications; reformulation of the "nexus" provision which forces federal agencies to hire security risks; and issuance by the White House of a new executive order revamping federal personnel security provisions, illustrating the administration's commitment to tightening security among employees in sensitive federal posts.

In the Heritage monograph, Martin decries "the near total destruction of the domestic intelligence data base laboriously built up by the FBI and local and state law-enforcement agencies over several decades."

The destruction of this data base, he says, together with post-Watergate legislation such as the Privacy Act and the Freedom of Information Act have drastically hampered federal efforts to protect sensitive government agencies from penetration by foreign intelligence services or members of violence-prone extremist groups.

Furthermore, he says, by discontinuing many common screening practices—many of which are still required by law—civil service officials went much further than the Supreme Court intended in this area. The problem was further complicated, Martin says, by the widespread "anti-intelligence hysteria" that developed in the mid-1970s.

"The problems are unquestionably enormous," Martin says, "but we must address them because the penalty for failing to do so goes to our survival as a nation."

At issue is the right of the federal government to make thorough background investigations of those seeking jobs in federal agencies. Prior to the mid-1970s, applicants were routinely screened to weed out those with ties to organizations advocating the violent overthrow of the government. Also deemed unsuitable for federal employment were those individuals with character flaws such as alcoholism or drug addiction, and those likely to be targeted for blackmail.

As a result of the Privacy Act, however, federal departments and agencies are no longer permitted to ask job applicants about membership in subversive groups such as the Communist party or the Ku Klux Klan. And even if such membership is discovered, they cannot disqualify an applicant unless he or she can be directly linked to a criminal act.

The Privacy legislation also has hampered the ability of federal officials to make adequate background investigations of prospective employees. According to Martin, many individuals are now reluctant to reveal damaging information on applicants to investigators, fearing that such comments will eventually be released under the Privacy Act or the Freedom of Information Act.

Martin recommends that both the Privacy Act and the Freedom of Information Act be amended to eliminate their negative impact on employee screening procedures.

Federal cost-cutting has also adversely affected security efforts. "Much damage has also been done by the tendency—on the part of Congress as well as of most government departments—to assign very low budgetary priority to their personnel security programs," Martin says. He notes that a congressionally mandated 27-percent cut in the personnel of the Defense Investigative Service had resulted in a backlog of 83,000 cases by June of 1981.

Though much more must be done to insure that federal employment screening procedures are made effective once again, Martin notes that there has been "significant progress" recently. Among the principal signs that Washington is beginning to confront the problem was the recent revocation of the restrictive Levi guidelines on domestic intelligence gathering by Attorney General William French Smith.●

SENATOR PACKWOOD'S BRIEF IN APPEAL CONCERNING PARENTAL NOTIFICATION OF ADOLESCENT'S PRESCRIPTION CONTRACEPTIVES

● Mr. CHAFEE. Mr. President, I would like to take a moment of the Senate's time to call attention to work done by our colleague, Senator Bob Packwood, with respect to the regulations proposed by the Department of Health and Human Services requiring that parents be notified within 10 days of their adolescent's receipt of prescription contraceptives from a federally funded planning program.

Because of the importance of helping young people obtain needed family planning and pregnancy counseling, I oppose these regulations, already enjoined by two Federal district courts. I do not believe they should be implemented. The plain language and legislative history of the statute we passed in 1981 require the "encouragement" of parental involvement in the family planning decisions of their adolescents. The law quite explicitly does not mandate such involvement.

The Department of Health and Human Services has appealed the March 2, 1983 ruling of the U.S. District Court for the District Court decision. Senator Packwood's concern for both the adolescents involved and the legislative process prompted him to enter the case on appeal as a friend of the court. On Monday, April 25, he filed a brief setting forth his analysis of the legislative history and abuse of administrative authority on this point. So that interested persons may see the excellent case which Senator Packwood made, I request that the text of the brief be inserted in the Congressional Record.

The brief follows:

Briefs Nos. 83-1232 and 83-1239—in the U.S. Court of Appeals for the District of Columbia Circuit

(Planned Parenthood Federation of America, Inc., et al. Plaintiffs-Appellees, v. Margaret Heckler, Secretary, U.S. Department of Health and Human Services, Defendant-Appellant. National Family Planning and Reproductive Health Association, Inc., et al., Plaintiffs-Appellees, v. Department of Health and Human Services, et al., Defendants-Appellants. On Appeal from the U.S. District Court for the District of Columbia, Brief for Amicus Curiae Senator Bob Packwood.)

(Certificate required by rule 8(c) of the general rules of the U.S. Court of Appeals for the District of Columbia Circuit.)

The undersigned counsel of record for amicus curiae Senator Bob Packwood certifies that the following listed parties appeared below. These representations are made in order that Judges of this Court may, inter alia, evaluate possible disqualifications or recusal:

1. Plaintiffs-Appellees.—(urging affirmance of the Order of the District Court.) Planned Parenthood Federation of America, Inc.; Planned Parenthood of Metropolitan Washington, D.C., Inc.; Planned Parenthood of New York City, Inc.; Planned Parenthood Association of Maryland, Inc.; Laurel A. Cappa, M.D.; Nancy Noe; Larry Loe; Jane Doe; Mary Roe; National Family Planning & Reproductive Health Association, Inc.; Family Planning Council of Western Massachusetts, Inc.; United States Conference of Local Health Officers; South Carolina Department of Health and Environmental Control; Steven J. Sondheimer, M.D., Director, Family Planning Program, University of Pennsylvania Hospital; and Association of Planned Parenthood Professionals, Inc.

Counsel in court below.—Nancy L. Buc; Scott T. Maker; Weil, Gotshal & Manges; 1101 Fourteenth Street, N.W., Washington, D.C. 20005 (202) 682-7000. Harriet F. Pilpel; Helene D. Jaffe; Joseph Goffman; Yvette Miller; Weil, Gotshal & Manges, 767 Fifth Avenue, New York, New York 10153 (212) 310-8000. Eve Paul; Dara Klassel; Paula Schaap; Planned Parenthood Federation of America, Inc., 810 Seventh Avenue, New York, New York 10019 (212) 541-7800. Laurie R. Rockett; Raggio, Jaffee, Kayser & Hunting, 10 E. 40th Street, New York, New York 10016 (212) 689-6850. Constance H. Baker; Venable, Baetjer and Howard, 1800 Mercantile Bank and Trust Building, 2 Hopkins Plaza, Baltimore, Md. 21202 (301) 752-7540. John W. Nields, Jr.; Deborah V. Swirling; Jay A. Stephens; Howrey & Simon, 1730 Pennsylvania Avenue, N.W., Washington, D.C. 20006 (202) 783-0800. Barbara J. Hamilton; South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201 (803) 758-5658.

2. *Defendants-Appellants.*—(urging reversal of the Order of the District Court) Department of Health and Human Services; Margaret Heckler, Secretary, Department of Health and Human Services.

J. Paul McGrath, Assistant Attorney General; Stanley S. Harris, United States Attorney; Brook Hedge; Lewis K. Wise; Theodore C. Hirt; Robert S. Lavet; U.S. Department of Justice, Room 3649, Civil Division, 10th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20530 (202) 633-3770.

PRELIMINARY STATEMENT

Senator Bob Packwood submits this brief in support of the position of Appellees Planned Parenthood Federation of America, Inc., *et al.* ("PPFA") and National Family Planning and Reproductive Health Association, Inc., *et al.* that the Final Judgment of the District Court in this action be affirmed.[1] This brief will discuss: (i) why the 1981 Amendment and the legislative history of Title X itself support the District Court's decision that the Department of Health and Human Services ("DHHS") exceeded its statutory authority in promulgating the new Title X[2] regulations;[3] (ii) why Title XX—the new justification DHHS and its *amici* advance before this Court for the first time—does not require a reversal of the decision of the District Court;[4] and (iii) why DHHS's actions are "arbitrary and capricious," and accordingly, should be struck down on this ground as well.[5]

Footnotes at end of article.

ARGUMENT

I. The District Court properly declared the title X regulations unlawful.—The District Court held that the Title X regulations promulgated by DHHS "were invalid as clearly in excess of statutory authority,"[6] Final Judg. at 2 (Appx. at 126), because these regulations would have had the effect of "mandating" rather than "encouraging" parental involvement in the family planning decisions of Title X recipients. This holding was based on both the plain language and legislative history of the 1981 Amendment to Title X—the amendment pursuant to which DHHS promulgated the Title X regulations—and the 13-year legislative history of Title X itself.

Both DHHS and its *amici* argue that the legislative history of Title X is irrelevant to a judicial interpretation of the 1981 Amendment.[7] Instead, they urge that this Court uphold the Title X regulations as a proper exercise of DHHS's authority because the regulations are consistent with Title XX [8]—a theory never mentioned by DHHS in its notice of proposed rulemaking, its notice promulgating the final regulations at issue herein or in the District Court. As demonstrated below, both of these arguments are without merit and, accordingly, provide no basis upon which the District Court's decision should be reversed.

"A. The 1981 Amendment and The Legislative History of Title X Reaffirm that Congress Was Willing to "Encourage Parental Participation" But "Not to Require Clinic Personnel to Notify a Minor's Parents Over the Minor's Objection" As DHHS's Title X Regulations Would Have Done."

In 1970, Congress enacted Title X, the Family Planning Services and Population Research Act, which had the stated purpose of making family planning services "readily available to all persons desiring such services."[9] Although Title X when enacted did not expressly target adolescents as recipients of such contraceptive services, Congress made clear that adolescents should be served by Title X clinics.[10]

In 1978, Congress amended Title X to make this legislative intent explicit by requiring that Title X projects offer "a broad range of acceptable and effective family planning methods and services (including . . . services for adolescents)," 42 U.S.C. § 300(a) (Supp. IV 1980). As the District Court correctly concluded, Congress so acted because it wanted Title X funds to be used to stem the epidemic of unintended and unwanted pregnancies among teenagers. Mem. Op. at 21 and the legislative history cited therein (Appx. at 115).[11]

To assure that Title X would effectively provide family planning services to teenagers—thus accomplishing this purpose—Congress determined that teenagers' confidentiality had to be maintained.[12]

At the same time, Congress also wanted to encourage parental involvement in a teenager's family planning decisions. Congress had consistently reminded Title X grantees to encourage parental involvement—in language almost identical to that of the 1981 amendment.[13] However, Congress stated that confidentiality—the bedrock upon which Title X's success was predicated—was never to be sacrificed to its twin goal of parental involvement; Congress recognized, as the rulemaking record demonstrates [14] and the District Court found,[15] that teenagers would be deterred from attending Title X clinics to obtain contraceptives if their parents knew they were doing so.

Congress's rejection of the Volkmer Amendment in 1978 is a clear illustration of this point. The Volkmer Amendment would have required Title X clinics to breach a teenager's confidentiality by notifying her parent or guardian before any prescription contraceptives could be provided. 124 Cong. Rec. 37044 (1978). As the District Court correctly found, "the House rejected the amendment, noting that if enacted, a parental notification requirement would undermine the intent of Title X."[16] See Mem. Op. at 21 (Appx. at 115).

DHHS itself advised that the Volkmer Amendment was inconsistent with Title X and would doom the Title X program to failure:

"[E]nactment of . . . [this amendment] would undermine the national effort to alleviate the growing problem of teenage pregnancy in this country. . . . We all agree it is important to prevent unwanted teenage pregnancies and the program authorized under Title X is the cornerstone of our effort in this area.

". . . We are determined to ensure that our policies encourage providers of contraceptive services to promote family involvement. At the same time, we think it is necessary to protect the confidentiality of those teenagers who seek the use of contraceptives. . . ."

Letter from Acting Secretary of Health, Education and Welfare Hale Champion to Representative Paul S. Rogers (Sept. 25, 1978) (Appx. at 1078-79). In short, as the District Court stated, "Congress made it clear that Title X providers treating adolescents were to respect their patient's confidentiality because a contrary rule would contravene the overriding congressional intent of arresting the epidemic of teenage pregnancies." Mem. Op. at 21-22 (Appx. at 115-16).

Against this backdrop, the meaning of the 1981 Amendment is made even that much clearer. The 1981 Amendment—much like the 1978 Amendment to Title X—merely made "explicit" long-standing Congressional intent: to "encourage" parental involvement but not mandate it for fear that, by doing so, teenagers would stop attending Title X clinics. The language of the amendment says exactly that: "to the extent practical, entities which receive grants or contracts under this subsection shall encourage family participation in projects assisted under this subsection." 42 U.S.C. § 300(a) (Supp. IV 1980). The Conference Committee Report explaining the amendment stated that

"[T]he conferees believe that, *while family involvement is not mandated,* it is important that families participate in the activities authorized by this title as much as possible. It is the intent of the conferrees that *grantees will encourage* participants in Title X programs to include their families in counseling and involve them in decisions about services."

H.R. Rep. No. 208, 97th Cong., 1st Sess. 799, *reprinted in* 1981 U.S. Code Cong. & Ad. News 1010, 1161 (emphasis added) (Appx. at 1053).

In sum, as Judge Flannery concluded based on the 1981 Amendment, its legislative history and the legislative history of Title X itself, Congress intended "to encourage minors to involve their families in family planning decisions, but not to require clinic personnel to notify a minor's parents over the minor's objection." Mem. Op. at 20 (Appx. at 114). Only DHHS has failed to grasp the obvious.

"B. Title XX Provides No Justification *For the Title X Regulations.*"

For the first time on appeal, DHHS advances a new theory to justify its Title X regulations—Title XX. Even assuming that this Court could properly entertain this argument—which it cannot [17]—a comparision between Title X and Title XX only reaffirms the District Court's reading of the 1981 Amendment and the purposes of Title X.

Title XX is a "demonstration" grant program, aimed at providing funds for "care services" and "prevention services" 42 U.S.C. § 300z-5(a) (West 1982). As the plain words of the statute make clear, neither of these "services" include family planning services—the sole type of service funded by Title X monies.[18] Thus, the fundamental purposes of Title X and Title XX are different: Title X is intended to prevent pregnancy in teenagers who are already sexually active whereas Title XX is intended both to discourage teenagers from becoming sexually active and to assist those teenagers who are already pregnant. Accordingly, there is no logical reason why the parental notification requirement prescribed by Congress in Title XX should be required or even condoned in a Title X program. Indeed, Congress made clear that parental notification was unique to Title XX and was not intended to be "read into" other acts.

For example, the Senate Report accompanying Title XX stated "[i]t should be noted that this [Title XX] is a Federal *demonstration project* and *not a far-ranging Government entitlement program.* These requirements [e.g. parental notification] are an *attempt to determine the effect that such parental involvement requirements might have on a small scale.*" S. Rep. No. 161, 97th Cong., 1st Sess. 15 (1981) (emphasis added).

One year later, before the vote on the DHHS appropriation bill, Senator Mark Hatfield of Oregon, Chairman of the Appropriations Committee, asked:

"Mr. President, while we are in Labor-HHS matters, may I ask the Senator from New Mexico, the chairman of the Labor, Health and Human Services and Education Subcommittee, about language in the committee report concerning adolescent family life program? There has been some concern expressed that the report language could somehow be interpreted to apply the "parental consent and notification" provisions of the adolescent family life program to other programs under the jurisdiction of the Department of Health and Human Services. Can the Senator tell me whether the language does apply to Health and Human Services programs other than adolescent family life?"

Mr. Schmitt, Chairman of the Subcommittee on Labor, Health and Human Services and Education responded: *"It does not."* 128 Cong. Rec. S10067 (daily ed. August 10, 1982) (emphasis added).

In the face of such unequivocal legislative history, DHHH's eleventh hour strategy must fail.

II. The title X regulations are arbitrary and capricious.—This Circuit has made clear that an agency does not lawfully discharge its rulemaking duty under the Administrative Procedure Act by a "minimal discussion of individual proposals" and a general awareness "of the pros and cons of each alternative." *Action on Smoking and Health* v. *CAB,* No. 79-1044, Slip Op. at 15-16 (D.C. Cir. January 18, 1983). While "[A]n agency need not respond to every comment, it must "respond in a reasoned manner to the comments received, to explain how the agency resolved any significant problems raised by the comments, and to show how that resolution led the agency to the ultimate rule . . .'" *Action on Smoking and Health* v. *CAB, Supra,* Slip Op. at 9, *citing Rodway* v. *U.S. Dep't of Agriculture,* 514 F.2d 809, 817 (D.C. Cir. 1975). *Accord, Alabama Power Co.* v. *Costle,* 636 F.2d 323, 384 (D.C. Cir. 1980); *Home Box Office, Inc.* v. *FCC,* 567 F.2d 9, 35 (D.C. Cir.), *cert. denied,* 434 U.S. 829 (1977); *Portland Cement Ass'n* v. *Ruckelshaus,* 486 F.2d 375, 393-94 (D.C. Cir. 1973), *cert. denied,* 417 U.S. 921 (1974). If an agency does not do so, its regulations constitute illegal "arbitrary and capricious" agency action.[19] That is exactly the situation here.

The rulemaking notice for the Title X regulations drew an unprecedented response—approximately 60,000 individual comments. As DHHS has acknowledged, most of those comments were "in opposition" to the regulations.[20] These opposing comments were more than just the views of the citizenry at large; they were detailed and careful comments from respected experts in medicine and in adolescent psychology as well as from the health departments of 40 states, including Oregon (*amicus's* home state), who have had firsthand experience with the Title X program and its teenage recipients.[21] These commenters concluded that the Title X regulations could never accomplish DHHS's goals: safeguarding adolescent health and strengthening family relationships. However, DHHS barely mentioned these comments, much less "respond[ed] in a reasoned manner." Accordingly, DHHS has failed as a matter of law to satisfy its burden under the Administrative Procedure Act and its regulations should be set aside.

CONCLUSION

For the foregoing reasons, and those contained in the briefs submitted by Appellees Planned Parenthood Federation of America, Inc., *et al.,* and National Family Planning and Reproductive Health Association, Inc., *et al.,* the Order of the District Court permanently enjoining the Title X regulations from becoming effective should be affirmed.

FOOTNOTES

[1] By Order of this Court dated April 21, 1983, Senator Packwood's motion requesting permission to file an amicus brief in this action was granted.

For the Court's convenience, a copy of this Order, and the Senator's original comments on the Title X regulations dated March 15, 1982 (submitted as part of the rulemaking record) ["Packwood Comments"] are contained in the Addendum to this Brief at pages 1 and 2 respectively.

[2] "Title X" refers to 42 U.S.C. § 300 *et seq.* (1976 and Suppl IV 1980), which provides federal funding for family planning clinics.

[3] These regulations were published on January 26, 1983 in 48 Fed. Reg. 3600.

The regulations, which purportedly implement the 1981 Amendment to Title X (codifying the desirability of "encouraging" family participation) would have:

"(a) Required Title X recipients to notify the parent or guardian within 10 working days of prescribing contraceptive drugs or devices to an unemancipated minor age 17 or under;

"(b) Required Title X recipients to abide by State law requiring parental notice of, or consent to, the provision of any family planning services, including both prescription and non-prescription drugs and devices; and

"(c) Revoked existing regulations which require Title X grantees to consider minors who wish to receive service on the basis of their own rather then their parents' financial resources."

[4] Mindful of this Court's admonition that "it would be inappropriate for any member of Congress appearing as an *amicus* to offer personal testimony on Congress' intent in passing any piece of legislation," and in contrast to the Brief filed by *Amici Curiae* Jeremiah A. Denton, *et al.* ("*Amici* Br. at ——"), this brief will rely on legislative history that looks "to the purpose the original enactment served, the discussion of statutory meaning in committee reports, the effect of amendments—whether accepted or rejected—and the remarks in debate preceding passage." *Rogers* v. *Frito-Lay, Inc.,* 611 F.2d 1074, 1080 (5th Cir.), *cert. denied* 449 U.S. 889 (1980). As the Fifth Circuit recognized, "history" coming from members of the Congress that is not part of the legislative history of the original enactment is irrelevant. *Id.*

[5] This brief adopts and incorporates herein by reference the Statement of Issues, Other Related Cases, References to the Parties and Record, Statement of the Case and Statement of Facts contained in the Brief for Appellees PPFA at 1-10.

[6] Pursuant to Section 10(c)(2)(B) of the Administrative Procedure Act, 5 U.S.C. § 706(2)(C) (1977):

"The reviewing court shall—(2) hold unlawful and set aside agency actions, findings and inclusions found to be—(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right."

[7] Brief of DHHS ("Ag. Br.") App. Br. at 10, 17-20; *Amici* Br. at 7-8, 10-11.

[8] App. Br. at 10, 20-24; *Amici* Br. at 14-19.

[9] Pub. L. No. 91-572, § 2, 84 Stat. 1505 (1970).

[10] *See* S. Rep. No. 102, 95th Cong., 1st Sess. 26, *reprinted in* 1978 U.S. Code Cong. & Ad. News 549, 570, (Appx. at 1027); S. Rep. No. 29, 94th Cong., 1st Sess. 55, *reprinted in* 1977 U.S. Code Cong. & Ad. News 469, 517 (Appx. at 1025); H.R. Rep. No. 1161, 93d Cong., 2d Sess. 14 (1974) (Appx. at 1022); S. Rep. No. 1004, 91st Cong., 2d Sess. 3 (1970) (Appx. at 1019).

[11] *Accord,* 94 Cong. Rec. 8629 (1978) ("S. 2522 authorizes a new and essential program to provide voluntary family planning services to sexually active adolescents who wish to avoid unwanted pregnancy") (statement of Sen. Javits); 95 Cong. Rec. 12253 (1978) ("this year we have amended the family planning authority to include a focus on adolescents to address the problem of teenage pregnancies") (statement of Rep. Carter); 95 Cong. Rec. 8613 (1978) ([the bill's purpose is] ". . . to place new emphasis on the provision of family planning services to sexually active adolescents . . . [and] . . . would enable these programs to increase their capacity to provide comprehensive services to adolescents in a compassionate and understanding manner.")

[12] For example, in reauthorizing the Title X program in 1977, the Senate Committee on Labor and Human Resources attributed the considerable success family planning clinics had in providing services to teenagers to the assurances of confidentiality such clinics afforded their patients:

"In addition, the committee believes HEW must not overlook the preference to many individuals, particularly the teenage target group, for family planning clinics as the initial entry point to family planning information and services. *This preference is due partially to the greater degree of teenage confidence in the confidentiality which can be assured by a family planning clinic* and in the proficiency of the family planning services provided in a clinic specializing in those related services."

S. Rep. No. 102, 95th Cong., 1st Sess. 26, *reprinted in* 1978 U.S. Code Cong. & Ad. News 549, 570 (emphasis added) (Appx. at 1027).

In 1978, the Senate Committee again recognized adolescents' preference for Title X clinics. It noted that, if left to private physicians, "the teenager may be rightfully concerned that her parents will learn or be told of her request for contraception." S. Rep. No. 822, 95th Cong., 2d Sess. 31 (1978) (Appx. at 1038).

[13] *See* S. Rep. No. 29, 94th Cong., 1st Sess. 55, *reprinted in* 1977 U.S. Code Cong. & Ad. News 469, 517 (Appx. at 1025): ". . . the Committee believes that provision of contraceptive services should be preceded by counseling about the consequences and significance of a decision to use contraceptives. In the process of such counseling, the Committee believes that unmarried teenagers, where feasible, should be encouraged to involve their family in their decision about use of contraceptives."

See also S. Rep. No. 822, 95th Cong., 2d Sess. 14, 39-40 (1978): "[One of the basic purposes of the 1978 amendment was] to place new emphasis on the provision of family planning services to sexually active adolescents . . . who want to avoid unwanted pregnancy . . . and [to] encourag[e] projects to urge minors to consult with their parents regarding use of contraceptives."

[14] *See, e.g.,* Packwood Comments at 1: "[I]t is an established principle that certain health services must be available to minors confidentially because young women might hesitate to seek care if they were required to involve their parents." (Add. at 2); Letter from Kristine M. Gebbie, Assistant Director, Oregon Department of Human Resources, Health Division, to Majory Mecklenburg (March 8, 1982) ["Gebbie comments"] at 1: "About 20 percent of the 41,000 plus women served in Oregon last year were age 17 or younger, with very few fitting the "emancipated" definition. Almost all (90 percent) of these use oral contraceptives, which are prescriptive, and thus would represent the ones whose parents would be informed. By far the majority of these women will simply stay away rather than have their parents informed, thus losing the benefit of birth control services, as well as the many other services provided. There will be large increases in unwanted pregnancies with resultant increases in abortions, premature births, and welfare dependency."

For the Court's convenience the text of the Gebbie Comments is contained in the Addendum to this Brief. (Add. at 4). *See also* PPFA Comments at 12 (Appx. at 671).

[15] Mem. Op. at 10, 15 (Appx. at 104, 109).

[16] Representative Rogers (Chairman of the House Committee that reported out the 1978 Title X reauthorization), speaking on the House floor in opposition to the amendment, stated: "I agree that family planning programs should *encourage* adolescents to discuss their sexual activities with their parents, *but many simply will not come in if we require such a discussion.* And what will happen to them? They risk becoming pregnant and we risk spending $4.5 billion a year in welfare costs for adolescent mothers and their dependent children.

"So I do think we need to be responsible in the approach and certainly *it is the intent of the committee that all of the family planning programs should encourage adolescents to discuss their sexual activities with their parents.* So the gentleman I know means well and we share his concern, but *the committee has thought this through* and I would urge the Members to be practical, to be realistic, and to vote down this amendment."

124 Cong. Rec. H13287-88 (daily ed. Oct. 13, 1978) (emphasis added). In 1979, the House rejected a similar amendment to the Child Health Assurance Bill. This bill, however, was never subsequently enacted into law. 125 Cong. Rec. H11787 (daily ed. Dec. 11, 1979).

[17] It is well established that an appellate court will not reverse a lower court decision on a ground never advanced below by the defendant. *Farrow* v. *Cahill,* 663 F.2d 201, 206 (D.C. Cir. 1980); *Radix Organization, Inc.* v. *Mack Trucks, Inc.,* 602 F.2d 45, 48 (2d Cir. 1979); *Charbonnages de France* v. *Smith,* 597 F.2d 406, 416 (4th Cir. 1979); *Semaan* v. *Mumford,* 335 F.2d 704, 706 (D.C. Cir. 1964); *Shafer* v. *Reo Motors,* 205 F.2d 685, 688 (3d Cir. 1953). Nor will an agency be permitted to justify its actions on a basis not relied upon at the time it acted. As the Supreme Court has repeatedly stated, *post hoc* rationalizations cannot be used to legitimate agency action. *See, e.g., Citizens to Preserve Overton Park, Inc.* v. *Volpe,* 401 U.S. 402, 419 (1971); *Burlington Truck Lines* v. *United States,* 371 U.S. 156, 168-69 (1962); *SEC* v. *Chenery Corp.,* 318 U.S. 80, 87 (1943).

The *post hoc* rationalizations of legislators, such as those of *amici* Senators Denton and Hatch, should not be accorded any different treatment. *See* this Court's April 21, 1983 Order (Add. at 1); *see also* n. 4, *supra.*

[18] "Care services" are defined as "necessary services for the provision of care to pregnant adolescents and adolescent parents," 42 U.S.C. § 300z-1(a)(7) (West 1982) and "prevention services" are defined as "necessary services to prevent adolescent sexual relations." 42 U.S.C. § 300z-1(a)(8) (West 1982).

[19] Section 10(c)(2)(A) of the Administrative Procedure Act requires a court to reject regulations that are "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A) (1977).

[20] Memorandum from Edward N. Brandt, Jr., M.D., Assistant Secretary for Health, DHHS, to Mary Francis Lowe, Office of the Secretary (January 19, 1983).

[21] *See, e.g.,* Gebbie Comments (Add. at 4-5).

See also Packwood Comments at 2 advising Secretary Schweiker that he "[saw] no need for new [regulations] which exceed the purpose of the law." Additionally, *amicus* noted for the Secretary that he "[found] it inconsistent to impose this regulation, which directly contravenes Oregon law, and the laws of at least 29 other states." (Add. at 3)

Amicus Curiae's Supplementary Addendum

U.S. COURT OF APPEALS

No. 83-1232.

Planned Parenthood Federation of America, Inc., et al. v. Richard S. Schweiker, Secretary U.S. Department of Health and Human Services, Appellant.

And consolidated case No. 83-1233.

ORDER

Upon consideration of the pending motions, it is

Ordered by the Court that Senator Packwood, Congressman Waxman, and the American Public Health Association are hereby granted leave to participate as amicus curiae. Their briefs shall be filed in the Office of the Clerk no later than April 25, 1983, and the time for appellants to file a reply brief in the Office of the Clerk is extended to May 5, 1983.

The Court notes that it would be inappropriate for any member of Congress appearing as an amicus to offer personal testimony on Congress's intent in passing any piece of legislation. See Regional Rail Reorganization Act Cases, 419 U.S. 102, 132 (1974). This admonition applies to all members of Congress participating in this case.

George A. Fisher,
Clerk.
(For the Court).

U.S. Senate, Committee on Commerce, Science, and Transportation,
Washington, D.C., March 15, 1982.

Hon. Richard S. Schweiker,
Secretary of Health and Human Services,
Washington, D.C.

Dear Dick: I write to express my opposition to the proposed Department of Health and Human Services regulations requiring that parents of adolescents be notified in almost all instances when family planning services are provided under Title X of the Public Health Service Act. I strongly urge the Department to withdraw this proposed regulation. Such a policy, in my estimation, would greatly hamper our efforts to reduce the teenage pregnancy epidemic and would even increase the abortion rate. I also believe the proposed regulation contravenes congressional intent.

No one will dispute that teenagers can benefit from the advice of their parents when they seek family planning or other health services. But it is an established principle that certain health services must be available to minors confidentially because young people might hesitate to seek care if they were required to involve their parents. The results of delay due to this hesitancy or processes of parental notification are serious both for the individual teenagers and society.

When Congress reauthorized the Title X legislation last year, it included an amendment requiring projects to voluntarily encourage their minor patients to involve their parents in counseling and decision-making on contraception and family planning. Congressional intent was clearly stated in the accompanying committee report stating that "family involvement is not mandated".

At a time when this Administration is seeking to reduce federal regulations, I see no need for new ones which exceed the purpose of the law. As it is the intent of the Administration to return more control to the states in matters such as this, I find it inconsistent to impose this regulation, which directly contravenes Oregon law, and the laws of at least 29 other states.

I strongly urge your reconsideration of this policy. Promotion of voluntary family participation would accomplish more of the goals of Title X than this regulation for mandatory parental involvement.

Cordially,
Bob Packwood.

Department of Human Resources,
Portland, Oreg., March 8, 1982.

Re: Proposed amendments to 42 CFR 59, Subpart A.

Marjory Mecklenburg,
Acting Deputy Assistant Secretary for Population Affairs, Washington, D.C.

Dear Ms. Mecklenburg: The proposed amendments to 42 CFR 59, Subpart A are said to have the purpose of implemening Section 931(b)(1) of Public Law 97-35.

The proposed amendments would very effectively deter teenagers from using any family planning service that is subsidized with Title X funds (an affect which many people suspect to be the hidden intent of the amendment).

The proposed amendments are a seriously overdone response to a reasonable Congressional requirement that grantees encourage family participation "to the extent practical." The author of the amendments apparently ignores the Conference Report language" . . . family involvement is not mandated . . .".

Teenage pregnancy is already one of our most significant health problems. About 20% of the 41,000 plus women served in Oregon last year were age 17 or younger, with very few fitting the "emancipated" definition. Almost all (90%) of these use oral contraceptives, which are prescriptive, and thus would represent the ones whose parents would be informed. By far the majority of these women will simply stay away rather than have their parents informed, thus losing the benefit of birth control services, as well as the many other services provided. There will be large increases in unwanted pregnacies with resultant increases in abortions, premature births, and welfare dependency.

The accompanying rationale for the amendments significantly underestimates the impact of the increase in clerical and administrative burden these will cause. The Family Planning Program is already the most overadministered public health program, and it is contrary to the Administration's deregulation policy to add more to such a burden.

The proposed amendments conflict with other Federal Regulations, including 42 CFR 59.11, which guarantees confidentiality to the individuals served. The same conflict is found with Oregon's confidentiality law, ORS 192.500, a copy of which is enclosed.

As with all other unjustifiably strict regulations, I fear that adoption of these will promote the subsequent adoption by practitioners of devious devices to meet the word of the regulations, but not the intent (which, as stated in the law, is reasonable).

It is the position of the Oregon State Health Division that the proposed amendments are unacceptable, and should be withdrawn. I would be pleased to commit staff time to work with you on identification of an alternate method of meeting the Congressional request for family participation.

Sincerely,
Kristine M. Gebbie,
Assistant Director, Human Resources Administrator, Health Division.

Certificate of Personal Service

I hereby certify that on April 25, 1983, I caused the Brief of Amicus Curiae Senator Bob Packwood to be personally served upon:

Nancy L. Buc, Weil, Gotshal & Manges, 1101 14th Street, N.W., Washington, D.C. 20005.

Leonard Schaitman, William G. Cole, Attorneys, Appellate Staff, Civil Division, Room 3617, U.S. Department of Justice, Washington, D.C. 20530.

John W. Nields, Jr., Howry & Simon, 1730 Pennsylvania Avenue, N.W., Washington, D.C. 20036.

Stanley S. Harris, United States Attorney for the District of Columbia, United States Courthouse, Washington, D.C. 20001.

William French Smith, Attorney General of the United States, U.S. Department of Justice, 10th Street and Constitution Avenue, N.W., Washington, D.C. 20530.

William J. Olson, James E. Gates, Smiley, Olson & Gilman, 1815 H Street, N.W., Suite 600, Washington, D.C. 20006.

Representative Henry A. Waxman, 2418 Rayburn House Office Building, Washington, D.C. 20515.

Hugh Latimer, Bergson, Borkland, Margolis & Adler, 11 Dupont Circle, N.W., Washington, D.C. 20036.

Elizabeth Symonds, 600 Pennsylvania Avenue, S.E., Suite 301, Washington, D.C. 20003.●

THE ECU: A NEW, INTERNATIONAL CURRENCY

● Mr. MATHIAS. Mr. President, it is at least debatable that the world has been more changed by the invention of the tin can or the development of the automotive assembly line than by any act of Congress or Presidential proclamation. When commerce or industry acts to change the course of daily life, it has a profound impact. Such an event is now unfolding in the financial world—the revival of the ecu as a unit of money.

Webster defines ecu:

> 1. The small shield, carried by a mounted soldier of the 14th and 15th centuries. 2. Any of several French coins, both of gold and of silver, having a shield (ecu) as device. The gold ecu, current in the 14th century, was replaced by the louis d'or (1640). The silver ecu (17th and 18th centuries) approximates the later silver five-franc piece and English silver crown in size.

The Subcommittee on International Economic Policy of the Committee on Foreign Relations has followed with interest the evolution of a new currency with an old name. Since its potential importance is so great and its utility is already expanding, it is useful for Senators to be familiar with the ecu.

I ask that an article which appeared in the March-April 1983 issue of Europe be printed in the Record.

The article follows:

The ECU: A New, International Currency?

(By Joly Dixon)

The long-term objective of the European Monetary System (EMS), is monetary integration and the establishment of a strong and stable monetary identity for Europe, perhaps eventually including a common currency. Progress has been slow, however, and continues to be so, but one instrument of the EMS, the European Currency Unit (ECU), is enjoying a certain success.

In the three years that it has been in existence, the EMS has achieved a remarkable degree of exchange rate stability between the participating currencies, but its success in leading to price stability has been much more limited. The new EMS must not be confused with the projected economic and monetary union, let alone with a common currency. Its immediate limited objective is to create a zone of monetary policy cooperation. It will initially be used as an instrument for combating excessive fluctuations in exchange rates and hence for reducing a factor of uncertainty in trade and payments between E.C. member states. In addition, through a more stable exchange-rate policy, it will endeavor to create room for an economic policy geared to achieving a greater measure of internal and external stability.

The system combines well-tried practices from the currency snake and a new ECU-based procedure for keeping currencies more closely in line than previously and for preventing them from drifting apart. The ECU, which lies at the centre of the European Monetary System, is used as the denominator—or *numéraire*—for the exchange-rate mechanism, as the basis of the divergence indicator, and as the denominator for operations under the intervention and credit mechanisms. It is thus the new European unit of account, which is not yet a generally accepted means of payment, but is intended to be used increasingly as such, initially between member states' central banks and subsequently, perhaps, in connection, with international capital movements.

The ECU is a basket of nine member states' currencies. The intention is that the Greek drachma should be included in the ECU basket within five years of Greece's accession to the Community, i.e. before January 1, 1986. The amount of each currency in the basket corresponds to the economic importance of the country in question. In this way, the weight of each currency influences the value of the ECU basket, which is calculated each day by the Commission on the basis of quotations on the relevant national foreign exchange markets.

All the E.C. central banks hold 20 percent of their gold and dollar reserves in the form of ECUs and there has been considerable use of ECUs for settlements between the central banks. ECUs are created through a system of three-month renewable swaps, and at the start of the system about ECU 25 billion were created. With the rise in the price of gold, this amount rose to a peak of nearly ECU 50 billion in early 1981. Subsequently the number has declined to around ECU 42 billion. The Community central banks may use these ECUs for settlements in the same way as they use any other reserve asset.

The official ECU can only be held and used by the central banks of the Community. Private markets are, however, showing an increasing interest in using the basket definition of the ECU for a wide variety of financial transactions. The official and the private ECU are two distinct instruments, but they each gain from the other's presence. Although the ad hoc construction of any basket of currencies is always possible, official backing for the definition and the calculation method for the equivalent in national currencies has proved to be an essential ingredient in developing markets in such instruments.

Defining the ECU as a basket of Community currencies has attractions for both borrowers and lenders, mainly associated with the fact that, compared with any individual currency, it offers a greater degree of stability. The table below shows the composition of the ECU, and the percentage shares of each currency in March 1979 at the start of the EMS and in February 1983. The currency amounts in the definition have so far remained fixed. They are reviewed from time to time and will be changed at the latest by December 31, 1985, when the Greek drachma will be included in the basket. Any changes are made in such a way as to ensure that the exterior value of the ECU is not affected by the change itself. With fixed amounts and varying exchange rates resulting in a fluctuating equivalent of the ECU in any currency, the percentage share of each of the currencies varies over time. A currency which increases its value relative to the others accounts for a growing percentage of the basket and vice versa for a currency losing value.

COMPOSITION AND PERCENTAGE SHARES IN THE ECU

Currency	Fixed amount	Percent share	
		March 1979	February 1983
German mark	0.828	33.0	36.0
French franc	1.15	19.7	17.7
Pound sterling	0.0885	13.6	14.5
Dutch guilder	0.286	10.5	11.3
Belgian franc	3.66	9.3	8.1
Luxembourg franc	0.14	0.3	0.3
Danish krone	0.217	3.0	2.7
Irish punt	0.00759	1.1	1.1
Italian lira	109	9.5	8.3

The advantages of the ECU over any individual national currency stem from the fact that, being a weighted average of a number of currencies, the variation of the value of the ECU in terms of any currency in the basket is likely to be less than that currency's variation relative to any of the other currencies. The exchange risk associated with the ECU is therefore less than that of any individual currency, which can be an important factor despite the development by financial institutions of many ways of protecting operators from currency instability. Indeed, forward markets and other hedging possibilities are not readily available to the smaller, less sophisticated, or long-term operator—as the simple examples of a British resident with a second home in France purchased with a medium-term loan, or an individual planning to retire in a different country, demonstrate, ECU-denominated instruments can provide diversified asset.

As well as providing currency diversification the ECU provides a good store of value. Its overall loss of purchasing power over time is linked to the inflation rates in the Community. As a weighted average of community currencies there will be more loss of purchasing power than in the most stable country, but less than in the least. The aims of the EMS are also important in this respect. As it succeeds in achieving monetary stability in Europe, the strength of the ECU will improve.

As it is always possible to split it into its component parts, each of which is a national currency, all the usual financial operations can be carried out in ECU in exactly the same way as for any single currency. It might be thought that this would put the ECU at a disadvantage because of the higher transaction costs involved for the financial intermediary with the multiplicity of the number of transactions. In practice, it has been found that these costs tend to be small, especially as familiarity with the necessary operations in creases and as the number of transactions rises. As the ECU market develops, it will be increasingly possible to avoid having to deal in each of the component currencies to provide cover. If, for example, a financial institution can match an ECU borrower with a lender, the cover is automatic.

There has recently been a substantial increase in the use of the ECU by financial institutions. For a number of years, a Belgian commercial bank has accepted term deposits in ECUs, but until recently these deposits were obtained mainly from the international wholesale market, where amounts are in millions rather than thousands. In early 1982, the bank concerned decided to enter the domestic retail market and put ECUs on the same footing as any foreign currency. In most E.C. member states, it is also possible to have a current bank account in ECUs. These accounts, like any foreign currency accounts, are subject to domestic exchange control legislation, and so are not available to residents in some countries. The Community institutions and especially the Commission, which has both receipts and payments to make in ECU, have a number of such accounts, which are used extensively.

In 1981 there were six ECU bond issues totaling nearly ECU 250 million, with yields to maturity between 12.96 and 14.57 percent. During 1982 the market took off. Total ECU issues amounted to nearly ECU 2.5 billion, making the ECU the fourth most used currency. The issues included borrowing by the Governments or state-owned industries of three E.C. member states—Italy, France, and Ireland—and by a number of E.C. institutions, notably the European Investment Bank. There have also been two ECU issues in the North American market. The short-term market has also been covered. In February 1981, a U.K. clearing bank issued one-month certificates of deposits (CD) for an amount of ECU 10 million. Several CDs have been issued during the last year, and the minimum amount required per certificate has been reduced to meet the needs of an expanding market.

The banks most active in the development of ECU transactions are actively examining setting up an ECU clearing system which would considerably help the development of ECU transactions. Only net balances would have to be covered or split into the component currencies. The idea is to balance ECU transactions and then settle the net amounts through ECU accounts held by the participating banks with a central bank. The banks concerned have contacted the Bank for International Settlements (BIS) in Basel and it is very likely that the BIS will agree to act as the central bank to the system.

Other financial institutions are also becoming involved in ECU transactions. Some of the main Italian insurance companies have launched ECU-denominated life policies. A number of multinational companies express internal prices and conduct their accounting in ECUs. The Faellesbanken, the central bank of the Danish savings banks, has, since 1979, offered ECU denominated loans to its customers. These activities are being facilitated in a number of countries by official actions recognizing the ECU as having the same status as a foreign currency. In Italy, for example, its conversion rate in lire is quoted at the exchange rate fixing session. Rates are also published daily in the Official Journal of the Commission and in a number of financial newspapers.

These developments of ECU use provide interesting new opportunities and challenges. The size of the market is still small, but its growth rate has been impressive and can be expected to remain so with the consolidation of the EMS. The creation of a European Monetary Fund, which could be a sort of supranational central bank with the ECU as its currency, has been delayed, and the EMS itself may well face more difficulties until there is greater convergence of the economies of E.C. member states. In the long run, however, the pressure to create a stable monetary identity in Europe will remain.●

GOOD WILL CRUISE OF "U.S.S. WILLIAM V. PRATT," DDG-44, TO CENTRAL AMERICA

● Mr. TRIBLE. Mr. President, today I want to pay tribute to the men and women of our Armed Forces, but in particular to the crew of the U.S.S. *William V. Pratt*, a guided missile destroyer that recently returned from a good will visit to Central America, overcoming adversity and misfortune to carry out her vital mission of strengthening ties of friendship with our neighbors to the south.

The U.S. Navy often sends our ships calling around the world on such missions. These visits are a mainstay of our policy of maintaining relations with friendly countries, all the while demonstrating to the world the enormous reservoir of good will, respect, and helpfulness this country has to offer.

But, Mr. President, this trip was different. A series of unforeseen problems aboard *William V. Pratt* nearly brought the mission to an untimely end before it could get started. Only the resiliency and ingenuity, seamanship, and expertise of its captain and crew brought this mission to its successful conclusion.

And what a conclusion it was. The peoples of Costa Rica, Honduras, Guatemala, and Belize had the great fortune of meeting and working with the officers and men of this ship in numerous community relations, self-help projects undertaken by the crew. Our sailors rebuilt a flood-damaged pedestrian bridge connecting a poverty-stricken neighborhood from the city proper in Limon, Costa Rica; a training school for homeless boys and girls in Tela, Honduras, was repainted, its furniture repaired and refinished, problems with plumbing corrected. Schools in Puerto Barrios, Guatemala, and Belize City, Belize, were painted and cleaned. In all cases, local citizens joined with our men in doing the work, and our boys provided a cookout for these local helpers and hundreds of children, most of whom probably never experienced a good, old-fashioned American hotdog and hamburger barbecue.

We also threw parties for orphaned kids on board the ship in each of the cities, donated clothing, medicine, and food to the communities. Our men gave freely of souvenirs from the ship, their own monogramed ballcaps and Navy white hats to admiring youngsters. They chatted, interacted, and demonstrated in the most outstanding manner just what sort of a people we are, a people whose hands extend outward in help to the less fortunate wherever they may be living. These projects left in their wake an enormous sense of pride on the part of our officers and men, but more importantly, a tremendous feeling of good will to the U.S. Navy and the United States on the part of the local residents.

But all of this almost did not come to pass, and I would like to tell you why, Mr. President, and I would like the American people to know just how seasoned and resourceful a crew is serving aboard the U.S.S. *William V. Pratt*.

In order to tell this story I have to pay special respects to the so-called snipes aboard the ship. These are the men who work below in the oven-hot confines of the engineering spaces, for it was here that the problems manifested themselves, and it was here, after endless hours of backbreaking toil and debilitating sweat that they were resolved.

These snipes are made of the same stuff that history tells us made America great. These modern-day sailors demonstrated anew the strength of the American traditions of hard work and resolve to overcome all obstacles to get the job done. None of their predecessors, in the days when ships ran before the mast and seamanship often was measured by the muscles of the crew, worked any harder or under any more difficult conditions.

Under the leadership of Comdr. Robert Bell, the ship's captain, and Lt. Comdr. William D. Updegraff, the ship's engineer, the snipes of *William V. Pratt* worked around the clock, in hotly confined spaces, tearing apart piping and steam lines to find and repair the source of salt contamination of freshwater that provides the steam to run her boilers.

The work was nearly unbearable, but they stuck to it. After one particularly tortuous 24-hour period of constant work in temperatures that could cook an egg, one of the snipes came topside to the mess decks for breakfast. Fatigue overcame hunger and as his shipmates looked on his body sagged and his head slowly fell to the table. He was sleeping.

But he and his colleagues had beaten this first trial and the ship, en route to Costa Rica, continued rather than pull back into Guantanamo Bay Naval Base for major repair work. Their efforts were vital for without freshwater the boilers could not operate and the ship could not continue her journey.

Then came the second mishap. Without warning the insulation on a vital pump burned out, shorting its motor and once more threatening to shut down the boilers. The engineering crew, the snipes, were called back to duty with scarcely a day's rest. Unable to repair the motor, they rigged a temporary fix that allowed *William V. Pratt* to continue its journey from Limon, Costa Rica, to Tela, Honduras, its next port of call.

And what of the remainder of the ship's crew during what were trying moments topside as the ship's speed dropped to levels that barely showed movement in the vast and unending seas? The rest of the crew put their uncertainties aside about whether they would ever make the visits, and they continued to preen the ship to show if off in its best light. Constantly they worked, enmeshed in the routine toil and drudgery that has been a sailor's lot from time immemorial.

They chipped paint and rust and repainted the decks and bulkheads; they polished the brass and swept and swabbed in a seemingly endless counterpoint to the rolling and dipping motion of the ship as the sea's eternal symphony, the whispered breaking of waves, played against the ship's sides.

The heat and the glare of the unyielding Caribbean Sun failed to halt the dabbing of Navy gray paint on the rails and bulkheads, or the broadstrokes of rollers dipped in black and spread on the decking.

Mr. President, the reports we have gotten back from our Embassies in the countries visited by *William V. Pratt* show that the hardy efforts of this crew were not in vain. Each visit was declared immensely successful and an outstanding demonstration of U.S. good will.

It is for this reason, to recognize the outstanding achievements of this crew in seeing its mission through to success, that I have risen to insert this account into the RECORD.●

MILITARY APPRECIATION WEEK

● Mr. MATHIAS. Mr. President, during the week of May 7-14, the people of Harford County, Md., will celebrate Military Appreciation Week. This event is sponsored by the Harford County Chamber of Commerce, and is designed to celebrate the cooperative relationship the county shares with the U.S. Army at Aberdeen Proving Ground. The week's events will be highlighted by special exhibitions, commemorations, and civic activities.

The Aberdeen Proving Ground, located on 80,000 acres of land on the banks of the Susquehanna and Gun-powder Rivers and the Chesapeake Bay, is famous for the contributions it has made to the Nation's defense. It has also had significant and beneficial impact on Maryland's economy.

The Aberdeen Proving Ground was established in 1917 by a Presidential proclamation that called for acquisition of the land as a weapons testing facility. The first official testing came 2 years later and, since then, APG has become one of the most diversified military installations in the country. Today, in addition to developing and testing advanced weaponry like the new Abrams M1 Main Battle Tank, it is involved in a number of projects ranging from ballistics development to biomedical research on the safety and health of soldiers. Current testing programs include the combat support boat, antitank vehicles, tank maintenance, and the DIVAP gun. APG has also performed tests on a new Army boot.

Aberdeen Proving Ground plays a key role in the economic life of northeastern Maryland and, particularly, Harford County. It is the major employer in Harford and its neighboring counties with over 8,000 civilian employees and 5,300 soldiers. Direct wages paid to civilian employees totaled over $205 million last year. Economic benefits accrue to commercial enterprises as well. Maryland businesses earned close to $58 million through procurement and contracting services, while out-of-State industries grossed nearly $40 million.

The record of achievement written at the Aberdeen Proving Ground is impressive, and Military Appreciation Week provides an excellent opportunity for members of the community to attest to it.●

ANOTHER REQUIEM FOR SYNTHETIC FUELS—SHOULD WE ALLOW IT?

● Mr. RANDOLPH. Mr. President, I read in the Washington Post of May 1, another requiem sounded for our synthetic fuels industry. I offer the following comments.

I have been working on energy problems during the space of 50 years of public service. Energy is critical to every sector and function of our society, there is no way to design one policy which will solve all of these problems simultaneously. There are no perfect solutions to complex energy questions. This fact is beneficial because a policy in constant transition is, of course, better than if we have a rigid, inflexible policy. If, we accept the premise that there will always be some uncertainty in our energy future, we retain the positive ability to shift our direction as a result of technological discovery. Acceptance of this premise was the rationale used in developing the Energy Security Act of 1980 and the Synthetic Fuels Corporation—assisted projects under that legislation.

If the United States could establish production of synfuels, then we could control the price we will pay for imported oil and eventually be free of the need to import at all. I have been disappointed during the last 2 years as major project sponsors have dropped their participation in synthetic fuels projects, first because of recession and now because of cheaper and more readily available imported supplies of naturally occurring fossil fuels. It now seems one of the two commercial ventures remaining, the Great Plains coal gasification plant is in possible jeopardy, because the synthetic gas to be produced at the plant is tied to the price of home heating oil, which has been falling instead of rising.

Noel Mermer, chief executive of the venture, makes an excellent point in arguing the case for price supports for syngas in the article, "Synfuels Dreams Evaporating as Oil Prices Fall." He asks if you look at the Mideast situation today, even though synthetic gas and oil will sell at twice and probably three times naturally occurring supplies, can we ever expect a secure long or short term source of oil from that area of the world? Or will some Senator in 1985 be able to use the same phrase I did in 1943 when introducing H.R. 3209, which authorized the Secretary of Interior to construct, maintain, and operate synthetic fuel plants. I stated, "We certainly do not want to let ourselves be panicked into emptying natural petroleum reserves of every drop while waiting for satisfactory coal liquefaction methods to be developed."

Perhaps in drafting the Energy Security Act we were unrealistic in the original scale of the program given the tremedous volumes of raw materials and new skilled manpower needed. These were some of the social, economic, and environmental challenges—all to be dealt with by 1992. I feel the Synthetic Fuels Corporation can reduce these projects to larger pilot facilities without changing the enabling statute. Through emphasis on price supports, joint corporation—small industrial cooperative ventures, and initiation of Government owned, company operated facilities allowed for in the current law, I believe we can resolve most of the problems addressed in last Sunday's Post news article. I want to see the Energy Security Act remain the serious synthetic fuels effort which will finally, with strong Government participation, set a commercial industry in place in the United States. I have watched several attempts begin and recede, including the first serious effort to convert coal to gasoline.

The value of Government participation was first incorporated in the Synthetic Liquid Fuels Act of 1944. In 1947, a memorandum circulated within the Interior Department which foresaw 5 years later a federally subsidized synthetic fuels industry able to produce 2 million barrels of oil—84 million gallons of gasoline—a day.

In 1949, the Bureau of Mines managed two synthetic fuels plants in Missouri which turned coal into an assortment of petroleum products, including gasoline for vehicles and diesel fuel for railroad engines. The cost of such production, said the Government experts, was 3 cents to 4 cents higher per gallon than the same product made from crude oil. The New York Times reported that "the United States is on the threshold of a profound chemical revolution. The next 10 years will see the rise of a massive new industry which will free us from dependence on foreign sources of oil." that time the Federal Government conducted a substantial synfuel program which the Truman administration considered to be nearly commercially feasible.

In 1955, after oil companies, I understand, invested heavily in the Middle East and lobbied against synfuels for competitive reasons, a decision was made by the administration to eliminate all Government involvement in development of coal gasification, oil shale, and other alternative energy projects.

President Dwight Eisenhower ordered the program ended on the assumption that, if needed, private industry would anticipate and correctly respond to insure that the Nation had adequate fuel supplies. Events during the past decade show this was not to be the case. If we had continued the Government support for synthetic fuels initiated in the early forties, we would have domestic commercial production of the fuels today.

If we do nothing to encourage alternative fuels production, and the threat of disruption of oil imports again becomes a reality, this administration and this Congress will be held responsible for slowing development of alternative forms of energy. We must not take a step backward again in our national commitment to synthetic fuels. The money spent on these efforts are investments in our future. They are, in fact, of equal importance and must interlock with our defense spending for national security purposes. If synfuel development had been permitted to reach its commercial potential in the fifties, much of the international tension being experienced now in the Mideast would have been negated.

Alternative fuel sources must be developed because supply disruptions are always possible. Methanol as an automobile fuel should be encouraged to offset the enormous energy requirements for processing synthetic crude to the stage where it can be refined into gasoline or diesel fuel. Promotion of this fuel source would significantly reduce the demand for conventional petroleum based fuel.

Reserves of conventionally produced oil and natural gas will not last forever. Billions of dollars will be invested in developing tar sands, shale oil, coal, alcohol, and hydrogen.

The risk of successful synthetic fuels projects must be taken many times by Government and private industry who will together, as a Nation, reap the economic benefit of such a risk. The legislative and executive branches of our Government must set specific, mandatory long-range synthetic fuel objectives and then stick by them. To make the judgment not to continue with alternative fuels in this decade would be to see, again, history adversely repeat itself.●

RULES COMMITTEE ACTIONS

● Mr. MATHIAS. Mr. President, I wish to announce certain actions taken by the Committee on Rules and Administration at its meeting on April 20, 1983, which impact on various operating expenses of Senate offices.

The first action was the adoption of a set of regulations governing the payment of travel advances to Senators and their staffs. Effective April 20, 1983, Senators and their staffs will be able to receive travel advances for official travel. The second action was the adoption of a final revision to the "Senate Travel Regulations" concerning the rental of automobiles by Senators and their staffs while on Senate business. The Rules Committee had approved this revision on a trial basis for the 6 month period ending March 31, 1983. Senators and Washington-based staff will continue to be permitted to rent vehicles in the Washington metropolitan area only for official business conducted outside the Washington metropolitan area.

The committee also approved the addition of clarifying language to the "Senate Travel Regulations" defining the boundaries of the duty station for individuals whose duty station is the Washington metropolitan area.

Mr. President, I ask that two letters dated April 29, 1983, that I sent to Senators and Senate offices be inserted in the RECORD.

The letters follow:

U.S. SENATE,
COMMITTEE ON
RULES AND ADMINISTRATION,
Washington, D.C., April 29, 1983.

DEAR SENATOR: Section 106 of S. 2939, the Legislative Branch Appropriations for 1983, as reported September 22, 1982, and enacted by P.L. 97-276 (Continuing Appropriations for Fiscal Year 1983) on October 2, 1982, authorizes the payment of travel advances to Senators and their staffs from funds available in their respective official office expense accounts, subject to regulations promulgated by the Committee on Rules and Administration.

On April 20, 1983, the Rules Committee adopted the attached set of regulations for such travel advances, to be effective immediately. Please note that the Secretary of the Senate, with the assistance of the Rules Committee, has developed a new voucher form which combines the functions of a travel expense reimbursement voucher and a form for providing travel advances to authorized travelers. The form is now available at the Senate Disbursing Office (SH-127).

Any questions concerning travel advances can be directed to the Senate Disbursing Office (4-1094 or 4-7612) or to the Rules Committee (4-0284 or 4-0277).

Sincerely,

CHARLES MCC. MATHIAS, Jr.,
Chairman.

Attachment.

REGULATIONS FOR TRAVEL ADVANCES FOR SENATORS AND THEIR STAFFS

1. Travel advances from a Senator's Official Office Expense Account must be authorized by that Senator for himself as well as for his staff. Staff is defined as those individuals whose salaries are funded by that Senator's Administrative, Clerical and Legislative Assistance Allowance. An employee in the Office of the President Pro Tempore, the Deputy President Pro Tempore, the Majority Leader, the Minority Leader, the Majority Whip, or the Minority Whip shall be considered an employee in the office of the Senator holding such office.

2. Advances shall only be used to defray official travel expenses, as defined by the U.S. Senate Travel Regulations. To this end, the Secretary of the Senate, with the assistance of the Committee on Rules and Administration, shall design a form to be used by each Senator's office which will perform the functions of a travel expense reimbursement voucher and a form for providing travel advances to authorized travelers. Combining these functions on one form will allow for the payment (or repayment) of the difference between the outstanding advance and the total of the official travel expenses.

3. Travel advances shall be made prior to the commencement of official travel in the form of cash or check. Advances in the form of cash shall be picked up only in the Senate Disbursing Office.

4. In no case shall a cash advance be paid more than seven (7) calendar days prior to the commencement of official travel. In no case shall an advance in the form of a check be paid more than fourteen (14) calendar days prior to the commencement of official travel. Requests for advances in the form of a check should be received by the Senate Disbursing Office no less than five (5) calendar days prior to the commencement of official travel.

5. In those cases when a travel advance has been paid, every effort should be made by the office in question to submit to the Senate Disbursing Office a corresponding travel voucher within twenty-one (21) days of the conclusion of such official travel.

6. In those instances when a travel advance has been paid for a scheduled trip which prior to commencement is cancelled or postponed indefinitely, the traveler in question should immediately return the travel advance to the Senate Disbursing Office.

7. The amount authorized for each travel advance should reflect the estimated total of official travel expenses for the trip in question. The minimum travel advance that can be authorized for the official travel expenses of Senators and staff is $200.

8. The aggregate total of travel advances per Senator's office shall not exceed 10% of the Official Office Expense Account, or $5,000, whichever is greater.

9. These regulations are effective with the date of adoption by the Committee on Rules and Administration.

U.S. SENATE,
COMMITTEE ON
RULES AND ADMINISTRATION,
Washington, D.C., April 29, 1983.

DEAR SENATOR: On April 20, 1983, the Committee on Rules and Administration approved the following changes to the Senate Travel Regulations.

A regulation adopted on a trial basis last September, concerning the hire of automobiles in the Washington metropolitan area for the conduct of official business, has been approved as a permanent addition to the Senate Travel Regulations. The first paragraph under section D on page 11 shall be revised to read as follows:

"The hire of boat, automobile, aircraft, or other conveyance will be allowed if authorized or approved as advantageous to the Senate whenever the Member or employee is engaged on official business outside his designated post of duty. In no case may automobiles be hired *for use* in the metropolitan area of Washington, D.C., by anyone whose duty station is Washington, D.C." (Inserted language emphasized.)

This change clearly indicated that vehicles which are rented by Senators or staff whose duty station is Washington, D.C. could only be used for travel which takes them outside the Washington metropolitan area. The rental of vehicles for travel in and around the Washington metropolitan area is prohibited. The use of such vehicles shall be limited to departing directly from the Washington metropolitan area until turning the vehicle back to the lessor immediately upon return.

Another action taken by the Committee was to incorporate the definition of the "metropolitan area of Washington, D.C.", as provided by the Office of Management and Budget, into the Senate Travel Regulations. This addition is intended to define the limits of the official duty station for Senators and Washington, D.C. bases staff for the purposes of official travel reimbursements. The following language shall be added after the second sentence of section C on page 4 of the Travel Regulations:

"The metropolitan area of Washington, D.C. is inclusive of the following:

"The District of Columbia;

"The Maryland Counties of Charles, Montgomery, and Prince Georges;

"The Virginia Counties of Arlington, Fairfax, Loudon, and Prince William;

"The Virginia Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park."

Non-commuting transportation expenses incurred by Senators and Washington-based staff while on official business within the metropolitan area of Washington shall be considered as interdepartmental transportation. Such expenses are properly reimbursed to the Senator from the "Ten Percent" discretionary funds in the offical office expense account. Per diem expenses incurred in the Washington metropolitan area shall not be reimbursed to individuals whose duty station is Washington.

Questions concerning the above changes to the Senate Travel regulations can be directed to Dennis Doherty (4-0284) or Chris Shunk (4-0277) of the Rules Committee staff.

Sincerely,

CHARLES McC. MATHIAS, Jr.,
Chairman.●

SUPPORT OF TOBACCO DEREGULATION ACT OF 1983

● Mr. MITCHELL. Mr. President, I am pleased to join as an original cosponsor of the Tobacco Deregulation Act of 1983.

This bill should appeal to those interested in health policy in this country. The U.S. Government has spent millions of dollars supporting research to document the adverse health effects of smoking. It has spent more millions each year in treating the illnesses it causes. Does it make sense, therefore, for the Government to subsidise the growing of tobacco which it has so carefully documented as a source of literally life-threatening disease? By eliminating this tobacco support program, this bill eliminates the contradiction in our Government policies regarding tobacco. For this reason this legislation has been supported by such groups as the American Cancer Society, the American Lung Association and the American Heart Association.

This bill should appeal to those who support fiscal economy in time of deficit in Government. It eliminates, at a minimum, the $15 million the U.S. Treasury pays out every year in tobacco loan price support program.

This bill should appeal to those who wish to promote foreign trade and to help eliminate the trade imbalance facing the United States today. For, by supporting artificially high tobacco prices in the United States, our current policies have virtually priced U.S. tobacco out of the international market. Where we once held a near monopoly in the export of tobacco, our share has dropped to about 20 percent of current trade. This loss amounts to over $1 billion annually. Furthermore, foreign tobacco is now being imported into the United States at unprecedented rates—about $503 million worth of tobacco last year, much of which would have gone to U.S. tobacco farmers except for the artificially high domestic prices.

Finally, this bill should appeal to those interested in the free enterprise system and the values of the free market. The current allotment system requires family tobacco farmers to pay an elite group of individuals for the right to grow tobacco. The cost of renting an allotment today can run well over $1,000 per acre. Over 80 percent of all family tobacco farmers have to rent allotments in order to gain the right to grow tobacco. By eliminating the allotment program, these farmers would be freed of the expense of the rents but would also be confronted with the risks of the free market system. The current program is destroying their markets and increases their production costs. They prefer the freedom to decide how much and what to grow and to determine their own future. For these reasons, even the United Tobacco Growers Association supports this bill.

Who then opposes this bill? It is primarily those 500,000 allotment holders collecting up to $1,000 per acre rent and their elected representatives who wish to preserve this system. Many of these do not even grow tobacco themselves—they simply profit from the allotment system.

Should our health policy be compromised, should our Treasury be diminished, should our trade deficits be expanded, should our domestic prices be inflated, should family tobacco growers be unreasonably regulated simply for the profit of these tobacco allotment owners? I think not. Therefore, I support this bill and strongly urge my fellow Senators to join in that support.●

PROGRAM

Mr. BAKER. Mr. President, on tomorrow the Senate will convene at 10 a.m. After the recognition of the two leaders under the standing order, there will be a period for the transaction of routine morning business in the time remaining before the time of 10:30 a.m. in which Senators may speak for not more than 2 minutes each. At 10:30 a.m., the Senate will resume consideration of Senate Concurrent Resolution 27. No amendment will be pending at that time. However, it is anticipated that an amendment will be offered at 10:30 and that we will have a busy day. The leadership on this side anticipates that there will be several votes tomorrow and the session should extend until about 8:30 or 9 p.m. in the evening.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I have no further business to transact. I inquire of the minority leader if he has anything further?

Mr. BYRD. Mr. President, the majority leader is gracious in asking the minority leader whether or not there is anything further that I wish to transact. I have nothing in mind, and I thank the majority leader.

Mr. BAKER. I thank the minority leader.

Mr. President, in view of that and since no Senator is now seeking recognition, I move in accordance with the order previously entered that the Senate stand in recess until 10 a.m. tomorrow.

The motion was agreed to; and, at 8:21 p.m., the Senate recessed until Thursday, May 5, 1983, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 4, 1983:

Joel M. Flaum, of Illinois, to be U.S. circuit judge for the seventh circuit.

Ricardo H. Hinojosa, of Texas, to be U.S. district judge for the southern district of Texas.

DEPARTMENT OF JUSTICE

Rudolph W. Giuliani, of New York, to be U.S. attorney for the southern district of New York for the term of 4 years.

HOUSE OF REPRESENTATIVES—*Wednesday, May 4, 1983*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, as You have given to people the gifts that gives meaning to life, so give us such purpose of action that we will keep all in need or adversity. May Your mercy be with those who are weary and do not know satisfaction or opportunity, and may Your spirit give strength to those who are in great need. Supply us all, O God, with Your spirit and love that we will be the people You would have us be and we will do those things that honor You and give peace to every troubled soul. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. **HARTNETT**. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **HARTNETT**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 361, nays 21, answered "present" 2, not voting 48, as follows:

[Roll No. 80]

YEAS—361

Ackerman
Addabbo
Akaka
Albosta
Anderson
Andrews (NC)
Andrews (TX)
Anthony
Archer
Aspin
AuCoin
Badham
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bevill
Biaggi
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton
Carney
Carper
Carr
Chandler
Chappell
Chappie
Cheney
Clarke
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Corcoran
Courter
Coyne
Craig
Crane, Daniel
Crockett
D'Amours
Daniel
Dannemeyer
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dicks
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (UT)
Harrison
Hartnett
Hawkins
Hertel
Hightower
Hillis
Hopkins
Horton
Howard
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Jenkins
Johnson
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kennelly
Kildee
Kindness
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leath
Lehman (CA)
Lehman (FL)
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Lloyd
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Markey
Marlenee
Marriott
Martin (NC)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McDonald
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Miller (CA)
Mineta
Minish
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Obey
Olin
Ortiz
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Penny
Pepper
Perkins
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Savage
Sawyer
Scheuer
Schneider
Schulze
Schumer
Seiberling
Sensenbrenner
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Spence
Spratt
Staggers
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Valentine
Vento
Volkmer
Vucanovich
Walgren
Watkins
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yatron
Young (FL)
Young (MO)
Zablocki

NAYS—21

Byron
Clay
Conable
Coughlin
Dickinson
Evans (IA)
Forsythe
Gejdenson
Goodling
Harkin
Hiler
Holt
Jacobs
Miller (OH)
Roemer
Sabo
Schroeder
Solomon
Stratton
Walker
Young (AK)

ANSWERED "PRESENT"—2

Oberstar
St Germain

NOT VOTING—48

Alexander
Annunzio
Applegate
Barnard
Bethune
Bilirakis
Campbell
Crane, Philip
Dingell
Fiedler
Ford (MI)
Hall (IN)
Hansen (ID)
Hatcher
Hefner
Heftel
Huckaby
Jones (NC)
Kemp
Leach
Leland
Livingston
Loeffler
Madigan
Martin (IL)
Martin (NY)
McEwen
Mikulski
Mitchell
Murphy
Neal
Ottinger
Petri
Pursell
Rose
Schaefer
Stangeland
Stark
Taylor
Thomas (CA)
Towns
Vander Jagt
Vandergriff
Waxman
Williams (MT)
Wise
Yates
Zschau

□ 1015

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1013. An act to amend title 28 of the United States Code regarding jurisdiction in bankruptcy proceedings, and to establish new Federal judicial positions.

PROVIDING ADDITIONAL PROCEDURES DURING CONSIDERATION OF (H.J. RES. 13) CALLING FOR A MUTUAL AND VERIFIABLE FREEZE ON AND REDUCTIONS IN NUCLEAR WEAPONS

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 179 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 179

Resolved, That during the further consideration of the joint resolution (H.J. Res. 13) calling for a mutual and verifiable freeze on and reductions in nuclear weapons, further consideration of amendments to the committee amendment in the nature of a substitute shall terminate at the expiration of ten further hours of such consideration, and at the expiration of said time the Committee of the Whole shall immediately proceed to vote on any amendments pending to said substitute, and then on said substitute. During such time limitation, debate on any amendment to said substitute, and on any amendment thereto, whether or not printed in the Congressional Record, shall continue not to exceed thirty minutes, equally divided and controlled by the proponent of the amendment and a Member opposed thereto. After the disposition of said substitute, the preamble shall be considered for amendment, debate on each amendment to the preamble or on each amendment thereto shall continue not to exceed thirty minutes, equally divided and controlled by the proponent of the amendment and a Member opposed thereto, and further consideration of amendments to the preamble shall terminate at the expiration of two hours of such consideration, and at the expiration of said time the Committee of the Whole shall immediately proceed to vote on any amendments pending to the preamble. After the disposition of said amendments, it shall be in order to consider the amendment in the nature of a substitute by Representative Broomfield made in order by House Resolution 138 for amendment under the five-minute rule, debate on each amendment to the amendment or on each amendment thereto shall continue not to exceed thirty minutes, equally divided and controlled by the proponent of the amendment and a Member opposed thereto, and further consideration of amendments to said amendment shall terminate at the expiration of two hours of such consideration, and at the expiration of said time the Committee of the Whole shall immediately proceed to vote on any amendments pending to said amendment, and then on said amendment. During the further consideration of the joint resolution, the Chairman of the Committee of the Whole shall not entertain any pro forma amendment offered for the purpose of obtaining time for debate only. During the further consideration of the joint resolution, the Chairman of the Committee of the Whole may, in his discretion, announce after a recorded vote has been ordered that he may reduce to not less than five minutes the period of time in which a recorded vote, if ordered, will be taken by electronic device on any amendment which is to be voted on without further debate immediately following that fifteen-minute recorded vote. In the event that an amendment in the nature of a substitute to the committee amendment in the nature of a substitute to the resolution is adopted, it shall not be in order to demand a separate vote in the House on any other amendment adopted to said committee substitute.

The SPEAKER pro tempore (Mr. RANGEL). The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Ohio (Mr. LATTA), and pending that I yield myself such time as I may consume.

Mr. Speaker, there are two essential elements involved in the legislative process. One is the right to debate, the other is the right to decide. We have had some 45 hours of debate upon the pending resolution. This rule today is offered by the Rules Committee as an instrument by which the Members of this House may also enjoy the right to decide the pertinent issues involved in the pending resolution.

Mr. Speaker, House Resolution 179 provides additional procedures for the consideration of House Joint Resolution 13, calling for a mutual and verifiable freeze on and reductions in nuclear weapons. Prior to discussing the actual provisions of this rule, Mr. Speaker, I would like to take a few minutes to discuss the necessity for this rule.

On March 15, 1983, the Committee on Rules ordered reported an open rule allowing 3 hours of general debate on House Joint Resolution 13. The rule, House Resolution 138, was adopted on March 16 and since that time, Mr. Speaker, the House has spent more than 45 hours over 5 days considering only the resolving clause of the joint resolution. On April 14, Chairman ZABLOCKI requested an additional rule on House Resolution 13, but later asked the Rules Committee that the meeting scheduled for April 19 be canceled after he reached what he believed at that time to be an agreement to finish debate on the matter.

On April 21, the House agreed, by a vote of 214 to 194 and after three attempts, to a motion that "debate on the resolving clause—to House Joint Resolution 13—and all amendments thereto cease at 3:30 p.m." on that date. The effect of that time limitation agreement was to stop further debate on the resolving clause of House Joint Resolution 13 under the 5-minute rule, with the exception that amendments printed in the CONGRESSIONAL RECORD could be offered pursuant to clause 6, rule XXIII, allowing the member presenting the amendment 5 minutes to explain his amendment, and the first person to obtain the floor 5 minutes to oppose the amendment. In addition, perfecting amendments could be offered while such amendments were pending. However, such perfecting amendments would have been decided without debate unless printed in the RECORD.

The Committee of the Whole again debated House Joint Resolution 13 on Thursday, April 28. At that time, it became apparent that the House would not be able to complete consideration of the nuclear freeze resolution in any reasonable amount of time. Chairman ZABLOCKI then stated his intention of asking the Rules Committee to grant an additional rule of the joint resolution.

The Committee on Rules met on Monday, May 2, to consider the possibility of granting an additional rule and again yesterday to discuss further the rule and to vote on special order that we are bringing before the House today.

□ 1030

Let me say that during my absence last week I had left authority before my departure with the able ranking majority member on the Rules Committee, the gentleman from Louisiana, Mr. LONG, to perform the necessary duties to allow the Rules Committee to function. He subsequently met with the leadership of the House and they formulated basically the rule which is presented today. It was that rule which was considered on Monday and Tuesday of this week. We heard several witnesses, 10 to 12 witnesses, most from the minority party on that rule on Monday.

The parliamentary situation confronting the Rules Committee at that time was difficult at best. While the time limitation had been agreed to on the resolving clause, some 35 amendments had been printed in the RECORD on that clause alone and had yet to be considered.

An additional nine amendments have been printed to the preamble which the Committee of the Whole has yet to consider.

Sixteen amendments have been printed to the Broomfield substitute or to amendments to that substitute.

There were a total of 60 amendments printed to the nuclear freeze resolution or amendments thereto.

It has become apparent that the House will not be able to reach a resolution of the issue unless some further limitation is agreed to. I would caution my colleagues, however, that it has not been an easy decision for the Committee on Rules to decide to limit debate in such a fashion that amendments printed in the RECORD may be precluded.

So far as we are able to ascertain, the Rules Committee has never taken that action before but the emergency I think justifies what we are doing today.

At this point, however, Mr. Speaker, I would like to make it clear that this precedent that we are setting today is not something that the Committee on Rules anticipates will become a frequent event. Indeed, we would prefer to try to find some way by which the House itself, when it finds itself in such an impasse, may also find the solution.

While it is the function of the Committee on Rules to structure conflict in the House, it is also the function of the committee to protect those rules of the House that have served this body well for many years.

Again, Mr. Speaker, let me emphasize that I do not expect the procedure followed on this nuclear freeze resolution to become standard operating procedure for the Rules Committee.

Having said that, Mr. Speaker, let me explain to my colleagues the provisions of this particular rule. House Resolution 179 provides for additional procedures during consideration of House Joint Resolution 13. It supercedes the original rule, House Resolution 138, in only two respects. The most important of these is that it provides a time limitation on debate under the 5-minute rule and thus, in effect, precludes the offering of some amendments.

In addition, it precludes the demand for separate votes in the House on individual amendments adopted to the committee amendment in the nature of a substitute for the resolving clause in the event that a substitute amendment is adopted for the committee amendment. In practical effect this means that if a substitute were adopted to the committee amendment for the resolving clause that the only separate vote which could be demanded in the House would be on that substitute.

Further, Mr. Speaker, the rule states that all debate on the resolving clause expires after 10 hours. During that time amendments may be offered to the resolving clause or to amendments thereto and in each instance such amendments could be debated for 30 minutes with the time equally divided and controlled by the proponent of the amendment and a Member opposed.

Such amendments need not be printed in the Record. Time for record votes would also come out of the 10 hours allotted for the resolving clause. At the end of the 10 hours, debate would cease on the resolving clause and votes could be taken on any amendments pending.

That does not mean all of the amendments that have been printed in the Record which have not been heard. That means that if the 10 hours comes while we are in the middle of a debate on a particular amendment where ordinarily under the rule 30 minutes would have been allowed and they have to terminate the debate at less than 30 minutes, then there will still be a vote on that amendment.

After the resolving clause is disposed of the preamble would be debated for 2 hours with individual amendments debatable for 30 minutes each. Time would be equally divided and controlled between proponents and opponents. Again, after the 2 hours of debate ceases, votes would occur on any amendments still pending.

I would like to make it clear at this point, Mr. Speaker, that votes would occur on amendments at the conclusion of debate on each. In other words, a vote would occur after the 30 minutes of debate unless a perfecting amendment is pending.

The rule does allow the Chair discretion to reduce the time on record votes to 5 minutes each after the first 15-minute vote occurs. This allows two back-to-back amendments such as a perfecting amendment and an amendment to the base vehicle to be voted on in 20 minutes rather than 30 minutes.

Once the 2 hours for perfecting the preamble has elapsed the Broomfield substitute would be considered for 2 hours. Members will note that we have allowed 10 hours on the resolving clause, 2 hours on the preamble, and 2 hours on the Broomfield amendment for debate. Once the 2 hours for perfecting the preamble has elapsed the Broomfield substitute, as I said, would be considered for 2 hours. Again, amendments would be considered for 30 minutes with the time equally divided and controlled by proponents and opponents. At the end of 2 hours, debate would cease on the Broomfield substitute with votes occurring on any amendment pending and then on the Broomfield substitute itself.

It should also be noted that pro forma amendments for the purpose of gaining, additional debate time would not be in order during the 14 hours allotted for completion of consideration of House Joint Resolution 13.

The rule also maintains the provisions of the original rule, House Resolution 138, allowing a motion to recommit with or without instructions.

Mr. Speaker, the Committee on Rules has attempted to resolve a very difficult parliamentary situation in the most reasonable manner we could devise. I urge my colleagues to adopt House Resolution 179 so that we may conclude consideration of House Joint Resolution 13 after what we believe is a fair opportunity for a debate upon the essential issues involved in that resolution.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Indiana (Mr. Jacobs).

Mr. JACOBS. Mr. Speaker, I simply want to say that I never vote for closed rules but I am going to vote for this closed rule or quasi-closed rule because I believe filibusters belong in the other body.

Mr. PEPPER. I thank the gentleman for that kind statement of his.

Mr. LATTA. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, the new gag rule before us may not be completely unprecedented but it certainly is an unusual and unbecoming lapse in our democratic traditions of free and open debate and amendment.

Apparently the freeze advocates want to have everything frozen except the rules under which their resolution is considered.

To use a sports analogy, this is a little like a team coming out of a locker room after the halftime and asking the referees to make a few little rules changes. Never mind that they are ahead in points and already have more men on the field, they still want to shorten the second half, limit the number of passes the other team can throw, and be assured that they will be in a position to intercept every one of them.

Why, if that ever happened in a football game they would be booed off the field by their own fans.

But, no, this is not a football game, though there are those who think this issue is a meaningless little political football that can be kicked around with no harm. It is the symbolism that counts, they tell us; it is the crowd reaction that counts. But now that they are a little foot weary they want to take their football and go home.

We were led to believe early on that we were debating the most critical issue confronting the Congress in this century. I strongly resent the charges that have been leveled by some, even in House leadership positions on the other side, that the opposition amendments to this resolution were frivolous and that their authors were obstructionists and worse. That kind of talk is unbecoming of any Member of this House because it impugns the motives of other Members. And anyone who has listened to the debate or the testimony from those wishing to offer other amendments when they came before the Rules Committee on Monday knows that the vast majority of the Members with pending amendments are serious, sincere, and sophisticated in their grasp of the important issues involved here.

So before you swallow the argument put forth by some freeze advocates that this resolution was being filibustered by amendment, consider the substance of the amendments which have been offered to date and the sincerity of their authors, the number of amendments adopted to this resolution, and the substantive contributions made by the debate on the substitute amendments. To the same, the managers have thrown up amendment after amendment to block a direct vote on opponents' amendments.

What does all this add up to? A one-sided conspiracy to talk this thing to death? I think not.

I think it is evident that both sides are sincere. But this has been far from a one-sided discussion. Over one-half, get that, one-half of the 29 amendments adopted to date have been profreeze amendments. Of the 17 recorded votes we have had so far, roughly half can be attributed to the freeze side of the debate. But most interestingly, only 2 of those 17 recorded votes have been straight up or down votes on amendments offered by opponents of the freeze. That is where the real problem has come, the reason there has been some frustration and, yes, some repetition. One side of the debate has not been given any straight votes on its propositions. The freeze managers cleverly and quite properly under the rules come in with a neutralizing amendment to any amendments and this tactic denies the House a direct vote on the proposition.

If this House has been chasing its tail in circles for 35 hours it is because the proponents of this resolution have tied that tail to the nose with their own parlimentary rope.

I think one of the most active participants in this debate put it quite clearly before the Rules Committee on Monday when he said that we could end this debate quickly if we just allowed one major amendment to each of three or four areas and had an up or down vote on these amendments without interference. We would bring this whole debate to a close in no time.

What did the Rules Committee do? It brought out a rule that sets an overall time limit of 14 hours for the remainder of this resolution, but it would allow for the same devious maneuvers we have been going through for the last 35 hours—amendments and counteramendments—and no clear-cut resolution of the salient issues.

Consider if you will the first 10 hours under this new rule. Each amendment, and each amendment to an amendment, and so on, is given 30 minutes of debate. In other words, you could have three amendments pending to a base amendment at the same time for a total of 2 hours' debate plus 20 minutes for every recorded vote, and none of those amendments needs even to have been in the CONGRESSIONAL RECORD. I stress this.

So for those of you who did bother to put your amendments in the RECORD, let me advise you now that chances are very likely your amendments for the most part will never see the light of day.

Consider another possibility if you will. The Broomfield substitute made in order by the previous rule, the alternative which the administration supports, which calls for a meaningful reduction, and I stress this, meaningful reduction, followed by a freeze, is given 2 hours under this rule with amendments to it getting 30 minutes each. But conceivably, just before those 2 hours expire, someone could come along with an entire substitute for the Broomfield amendment that would convert it to a pro-freeze version, and as time ran out the House could simply adopt this and even wipe out other amendments already adopted to the committee resolution.

Would that not make a mockery of our 35 hours of work if those who complained about all of these amendments they amended—if they came along with the "wipe out" amendment on which no one had an opportunity to debate or amend?

Well, that is not only possible under this rule, but I am told that there are amendments now floating around to accomplish just that.

So where is the games-playing?

This is what this great debate comes down to. This double-dealing, complex, restrictive gag rule being thrust out in the name of fairness and finality when all it really demonstrates is the ability of a majority to trample on minority rights when it has the numbers.

This is not fair by any stretch of the imagination, but it certainly will be final.

Let me turn to the implications of House Joint Resolution 13 itself because they are very troubling to me and individuals who have had time and taken the time to study it.

□ 1045

House Joint Resolution 13 even as amended during the several weeks of House debate has not been sufficiently improved to make it an acceptable arms control resolution. In its current form, it would force us, the United States of America, to forgo meaningful arms reduction, undercut the credibility of the nuclear deterrent upon which the free world depends, create serious verification difficulties and potentially raise questions about our stewardship of the free world.

House Joint Resolution 13 would change the focus of the strategic arms reduction talks and the negotiations on intermediate range nuclear forces, from deep and equitable reductions to a freeze at current, I stress that, current high and unequal levels.

Hence it would block, not promote progress toward meaningful and equitable bilateral arms reduction. It is important to remember that it is not only we who have proposed that strategic and INF forces be reduced; the Soviets as well have proposed reductions, albeit different in content and size from those we have proposed. The negotiations are now in one of their toughest stages. But, significantly, they are negotiations to achieve substantial reductions, and I repeat reductions, as soon as possible.

While House Joint Resolution 13 would permit simultaneous negotiations on a freeze and on reductions, the practical effect of House Joint Resolution 13 if enacted into law would be that the search for agreement on reductions would be abandoned in favor of negotiations about freezing current high and unequal levels of strategic forces and land-based longer range intermediate range nuclear forces.

Our accepting of the asymmetries that result from a freeze—the Soviet preponderance in strategic systems of 1,882 United States to 2,748 Soviet systems, and Soviet monopolies in heavy ICBM's, (0 United States to 308 Soviets) and the LRINF missiles (0 United States, to 599 Soviet) undoubtedly would remove any incentive for the Soviets later to agree to reductions to equal and far lower force levels.

In significant and substantial ways, House Joint Resolution 13 would undercut the credibility of our strategic deterrent and undercut NATO's ability to deter aggression without comparably reducing Soviet capabilities to threaten the Western deterrent. It would preclude necessary modernization of the U.S. strategic and INF forces. Almost all of the planned U.S. nuclear force modernization would have to be dropped. The B-1 bomber, the Peacekeeper ICBM, the D-5 SLBM, Pershing II missiles, and all three of our nuclear cruise missile programs, would be dropped, if this is carried out.

In addition House Joint Resolution 13 would preclude the development, testing, production, and deployment of any U.S. nuclear or nonnuclear system which could threaten the viability of the Soviet sea-based nuclear forces or stop Soviet nuclear bombers. This would force us at a minimum to cancel all future ASW and air defense programs.

The SPEAKER. The time of the gentleman has expired.

Mr. LATTA. Mr. Speaker, I yield myself an additional 5 minutes.

The only force modernization that explicitly would be permitted by House Joint Resolution 13 would be replacement of older submarines with Trident submarines and modernization of "dual capable delivery systems * * * necessary to maintain the capability of the United States defense posture."

However, even the modernization of the U.S. dual capable aircraft may be in doubt as House Joint Resolution 13 would freeze all delivery vehicles "whose primary or exclusive mission would require it to carry a nuclear weapon into the territory of or occupied by hostile forces."

Moreover, it is ridiculous to argue, as many freeze supporters do, that during the freeze negotiations we could still continue the key modernization programs that are just now getting underway. Leading freeze supporters in the House for the most part are already on record as being opposed to the MX, the B-1, the Pershing II and the U.S. cruise missile programs, whether the Soviets are willing to accept a freeze or not. You would force U.S. dependence on a monad of older SLBM's.

The SPEAKER. The time of the gentleman has expired.

Mr. LATTA. Mr. Speaker, I yield myself 3 additional minutes.

Mr. Speaker, U.S. deterrence capability rests upon a triad of strategic forces—land-based, sea-based, and air-based forces—and complementary theater nuclear forces. House Joint Resolution 13 would force us to depend increasingly on an aging SLBM force, while leaving the Soviets with diverse, modern, flexible forces.

House Joint Resolution 13 would prevent the United States from restructuring its ICBM forces to decrease their vulnerability and to retain their effectiveness, while leaving intact the existing Soviet first-strike force of over 650 ICBM's that can destroy our ICBM's in their silos.

House Joint Resolution 13 would prevent the United States from replacing 25-year-old B-52 bombers, which increasingly are incapable of penetrating the extensive Soviet air defense network, with modern B-1B's and advanced technology bombers.

Moreover, it would undermine the effectiveness of even this aging B-52 force by forbidding continued deployment of the ALCM's to provide a standoff capability to these bombers. But under the freeze the Soviets could retain their force of some 250 modern Backfire bombers and their large effective air defense network.

House Joint Resolution 13 would preclude deployment of D-5 SLBM and SLCM strategic reserve force necessary to insure the long-run strength of our sea-based deterrent. The Soviets already have a large nuclear SLCM force which, while designed for antiship warfare, has some capability against the U.S. coastline.

House Joint Resolution 13 would seek to halt deployment of the 572 Pershing II missiles and the GLCM warheads in exchange for a freeze on Soviet deployments of the SS-4, the SS-[illegible] and the SS-20 missiles at their current level of 1,300 warheads. Therefore, it would overturn the NATO dual track decision which called for deployment of 572 NATO systems in the absence of a United States-Soviet arms reduction agreement.

Freeze supporters argue that House Joint Resolution 13 would preserve our strategic improvements and keep our modernization options open during negotiations. The reality is that since SALT-I in 1972 we have made very few strategic improvements while the Soviets have overhauled their entire strategic force. Today 75 percent of our strategic weapons are on launchers that are over 15 years old, while the same percentage of Soviet weapons are on launchers under 5 years old.

It is this disparity which would be frozen and which would erode our ability to deter aggression.

Clearly, then, under the terms of the freeze resolution it would be impossible to maintain essential equivalence in overall nuclear capabilities at present and in the future as required in the opening section of House Joint Resolution 13 resolving clauses.

While these freeze-without-reduction supporters suggest that a freeze could be rapidly achieved, the reality is that developing effective verification provisions will require extensive lengthy negotiations, more so than would be the case for the administration reduction proposals, since the freeze attempts to cover a wider array of nuclear systems and activities and also some nonnuclear forces.

Moreover House Joint Resolution 13 raises serious verification problems that cannot be solved even with onsite inspection called for in the resolution.

There are serious questions regarding our ability, even with onsite inspections, to monitor such aspects of the proposed freeze as the bans on nuclear weapons production and testing and the antisubmarine warfare and air defense improvements and to assure compliance with the prohibition on other than safety related improvements to other systems.

In addition to its consequences for the military balance in arms control the resolution has potentially very wide-ranging consequences for the perception of our friends and our allies of U.S. stewardship of the free world. How will our NATO allies or others view us if, as House Joint Resolution 13 would have us do, we seek to reverse our dual-track commitment to NATO to deploy missiles to counterbalance the Soviet buildup of 351 new SS-20 missiles in the event we cannot achieve an equitable and verifiable arms reduction?

Let me pause by saying I can recall a conversation I had several years ago with General Haig when he was NATO Commander at his NATO headquarters. I asked the general at that time if we had any missiles in our European arsenal with which we could retaliate should the Soviets launch an attack against Western Europe. His answer was in the negative. I commented at the time as I wonder now, "General, if we cannot retaliate, what are we doing over here?"

To say I am disturbed today, by actions now taking place in this House and in this country is to put it mildly because in my humble judgment things are going on throughout this country and throughout this world that so favor atheistic communism that it boggles the Christian mind.

All you have to do is pick up the morning paper to learn what is going on in this hemisphere and positions being taken which favor atheistic communism.

I cannot stress too strongly it is time for us to take a look at the map, the map of the world and see what is happening. The free world is getting smaller and smaller and this makes me fear for my country's future.

We had people screaming "Get out of Vietnam." We got out and thousands upon thousands of people died as the Communists took over; thousands and thousands of people died in Cambodia as a direct result. These same people never raised their voices when the Soviets went into Afghanistan, and the Soviets are still there; these people raised their voices that they had to change the Government of Nicaragua. Where are their voices now against the pro-Marxists government now holding forth in that country? Now they are raising their voices in opposition to saving El Salvador from a similar fate. One must have to conclude that these people either do not know what they are doing to help spread atheistic communism or they know what they are doing toward this end.

Let me conclude by saying if I were a Britisher, I would probably end these remarks by saying, "God save the Queen." But since I am an American let me end by saying "God save America" and particularly from her friends "who know not what they doeth."

Mr. PEPPER. Mr. Speaker, I yield 9 minutes to the able ranking majority member of the Committee on Rules, the gentleman from Louisiana (Mr. Long).

Mr. LONG of Louisiana. Mr. Speaker, I thank the gentleman for yielding to me. I rise in support of the rule, and urge my colleagues to join me in voting for these new procedures to bring the nuclear freeze debate to a close in a timely fashion.

As the distinguished chairman of the Rules Committee has just pointed out, the action that we take in the House Chamber today is highly unusual. It is only with the greatest reluctance and—from my own personal point of view—with the greatest regret, that the Rules Committee has had to come forth with additional instructions to guide this debate to a final resolution.

I am not particularly pleased with the precedent we are setting by limiting debate on this bill. As we all know, any new direction in legislative procedures are as fraught with dangers as they are with advantages. In recommending this rule today, the Rules Committee is, in fact, departing from the procedures we have recommended in the past. I think it is important for the legislative history to set the committee's decision in context for future interpretation, and to discuss some of the events that have brought us to this point.

First, I want to point out that the guiding principle of the Rules Committee, certainly for the past decade, has been to assure the orderly flow of legislation to the floor, and to assure that each Member—regardless of his position on a committee or his length of service—has a fair opportunity to present his case in the debate on the House floor. I think it is essential to view the unusual actions that we are recommending today in light of this overall guiding philosophy.

But while the committee has a commitment to facilitate debate on the crucial issues of the day, it has an equal responsibility to assure that the floor debate is conducted properly and fairly, and in a timely fashion.

I have heard the legislative limbo we now have on the floor compared by both the majority and the minority to a tactic traditionally practiced only in the other body—a sort of "filibuster by amendment." In truth and in fact, the House does not have a procedure for a filibuster and, consequently, the House does not have a procedure for cutting off a filibuster. There is no cloture vote in the House. We have always operated, in general, by the rule of reason by the Members and, in specific, by rules recommended by the Rules Committee and voted upon by the full House.

If there is any analogy between the filibuster of the other body and the present situation in the House, then I think you can stretch that analogy to a vote on cloture and a vote for the new rule we are recommending on the freeze resolution in order to move debate forward to a conclusion.

I would also like to point out for the purpose of the record that every effort has been made on the part of the Rules Committee to make this an open and free flowing debate from the very beginning. When the committee first began to develop a rule for consideration of House Joint Resolution 13, out overriding concern was to write a rule which would protect the rights of individual Members and the rights of the minority. We knew that we had an unusual parliamentary situation due to the construction of the resolution. Thus, we made every effort to write the kind of open rule which would allow any and all parts of the resolution to be amended. We also made every effort to assure the right of the minority to offer a full substitute—which itself could be perfected and amended—and to assure that consideration of that minority substitute did not preclude the further rights of the minority to vote on a motion to recommit the resolution to committee, with instructions.

The rule was agreed upon by substantial majorities in the committee and on the House floor. We had no way of knowing at that time how things would develop. We could not have foreseen the extraordinary lengths to which the process of debating amendments under the 5-minute rule could be stretched. Since the freeze resolution was reported by the Foreign Affairs Committee on March 14, there have been many hours of debate, spanning 5 days, and generating 60 amendments. This year's freeze deliberations are among the longest we have ever had in the House. By way of comparison, the House debated just 9½ hours on last year's freeze resolution, which failed final passage by two votes.

As debate wore on this year, it became evident that discussion of the resolution's merits had given way to stall tactics, and that the intent of the Rules Committee to encourage debate on a wide range of opinion and issues was no longer the guiding principle. Rather, an array of amendments, similar in substance and wording to issues already disposed of, were consuming much of the debate time on the floor. And it became increasingly evident to many Members that there may be times when it is necessary to review the debate rules and seek modifications if the original intent has broken down. The Rules Committee has the authority to make execptions to the established procedures of the House.

It also is worth quickly reviewing the events on the floor which have led to this unprecedented action. The chairman of the Foreign Affairs Committee, Mr. Zablocki, made several attempts to secure unanimous consent to draw the debate to a close before seeking the assistance of the Rules Committee in modifying the rule. I, for one, felt it was not time to take exceptional actions. However, our committee did schedule a hearing on the matter at Chairman Zablocki's request. Notices were sent to committee members about the possibility of drafting a new rule, but the hearing was subsequently canceled when Chairman Zablocki believed he had an agreement with the opponents on a time to bring debate to a close. That agreement dissolved with 2 more days of protracted debate.

Finally, the House demonstrated that it had reached a limit. On April 21, a majority of Members voted to end debate on the resolving clause and to set a time for ending debate on that clause. It was the first clear signal that the House had had enough. I think it was clear at that point it would continue to be difficult to deal with the legislation on the floor because the views of several of the House Members were very strongly held. Under the existing rule, the freeze debate could conceivably go on all year as long as amendments were being printed in the Record.

As a last resort, Chairman Zablocki came back to the Rules Committee to request additional instructions in a rule which would move debate along to a logical conclusion.

In our hearing on Monday, we heard from a number of proponents and opponents of the freeze resolution. There was a division of opinion among witnesses as to how many and how long individual amendments would be considered within the overall limitation of debate time. There were Members on both sides of the issue who favored limiting debate to four or five areas that had not yet received the extended debate accorded to other issues on the floor. There were Members who wanted the opportunity to bring up as many amendments as possible under the time limitation so that they would have a better chance of being heard.

The committee weighed these competing points of view in its final deliberations. We decided to write the new rule to provide ample time for yet more discussion. We wanted to reflect the view of virtually all our witnesses that more time was needed to debate individual amendments. We increased the time limitation from 10 minutes to 30 minutes per amendment. But most important of all, because this new rule would set a precedent, we felt it was necessary to come down on the side of protecting the rights of individual Members insofar as we possibly could. We strived for the kind of a balance which would preserve individual rights while at the same time protect the right of the House as an institution to resolve this important matter. It was not an easy task.

Mr. Speaker, the present floor situation on the freeze resolution tests our ability to govern. It has raised questions in the press and in the public mind about the ability of the House to be an effective and responsive instrument of the people's will.

Certainly no issue today is more important than restraining the nuclear arms race that threatens us all with destruction. There is room for honest disagreement over whether the freeze is the best method to preserve peace, and the subject therefore requires a vigorous and comprehensive debate. But I believe we have had that debate. The citizens of this country are intensely interested in the freeze issue, and I believe they now deserve to know on which side their elected representatives stand.

Clearly, it is important for the rules of the House to strike a delicate and sensible balance between the right of a minority to be heard and the right of the majority to work its will. Yet there is also a point where the right to vote supersedes the right to debate. Because we do not want to work in a procedural straitjacket, that point is not explicitly fixed in our rules. But it is there, and I think we all know we have crossed it.

I urge my colleagues to support the modified rule today so that we can break this impasse and demonstrate to the American people that we are willing and able to act decisively on a question of ciritcal national importance.

□ 1100

Mr. LATTA. Mr. Speaker, I yield 5½ minutes to the distinguished minority leader, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, we do not intend to wage an all-out war on this rule, although there are good arguments for opposing it and I suspect some of us will be voting against the rule, not so much on the overall time limits, but some of the specifics embodied in the rule. But I would like to pick up on the remarks of the gentleman from Ohio (Mr. LATTA), for this is a good time to put this so-called freeze resolution in perspective.

Mr. Speaker, at the beginning of the first day of this debate—back on March 16—its chief spokesmen entered this Chamber thinking all they had to do was tell us how deeply they hated nuclear war.

Thirteen hours later they were in disarray, totally confused as to what their own resolution meant.

Those of us offering perfecting amendments should be thanked for rescuing this House from an unmitigated disaster and the freeze leaders from a severe case of embarrassment.

I heard a radio report say that the nuclear freeze resolution had been "delayed by a series of amendments offered by Republicans."

This is something like saying a terminally ill patient was "delayed" in the operating room by attempted lifesaving procedures.

The debate thus far has shattered the myth of the nuclear freeze as something that deserves a quick embrace by anyone concerned with peace.

Trying to embrace this resolution is like trying to embrace 50 pounds of jello. The more you try to grasp it, the more slippery its meaning becomes.

If I could recap what I have learned from listening to the freeze advocates explain this resolution, it would be this:

The freeze is binding. But it is at the same time not binding. It is purely symbolic. But it is also very substantive. We can take advantage of ongoing negotiations to achieve reductions. But at the same time we must under no circumstances abandon the primacy of the freeze. We trust our negotiators in Geneva. But not enough to let them do their job unhindered by "freeze primacy" instructions.

Another myth has been shattered during our debate. I refer to the idea that a freeze has overwhelming support among the American people.

This point was confirmed in the pages of the Christian Science Monitor on April 15, 1983. The Monitor quoted a survey undertaken by the universally respected Roper Survey. Here are the results: 36 percent—Favor a freeze if the Soviet Union cuts back its strategic forces to a level equal to the United States; 14 percent—Favor a freeze if the United States catches up; 10 percent—Would support a freeze when the United States gained superiority and; 9 percent—Oppose a freeze outright.

By this reckoning 69 percent oppose the freeze concept as it is put forth in House Joint Resolution 13.

Only 20 percent support a freeze on missile production now even if the Russians have more missiles. I take this to mean ICBM's. In other words, only 20 percent favor the freeze as embodied in House Joint Resolution 13.

Once Americans get the chance to answer questions reflecting the complexities of the freeze issue the vast majority of freeze support disappears.

Theoretically this resolution allows modernization until ratification of a treaty. But in reality, as the gentleman from Ohio said earlier, every freeze leader wants nothing more than to cut every modernization program as they come before us later this year, and he enumerated them and I will not repeat it, but I would certainly agree with him.

Now you say you want a clean vote on a freeze. Then why have you not given us a clean vote on our amendments, without all these amendments to amendments?

We have debated this thing now for over 40 hours. I admit that is a good long period of time.

But what has it all come to? Only this: The freeze supporters want a freeze first. Nothing else matters to them.

I know my good friend Chairman ZABLOCKI is a man of reason. I respect his patriotism and his moderation. But when I hear some of the more zealous freezers, I cannot help but remember the definition of fanaticism, redoubling your efforts after forgetting your goal.

The original goal of this debate—I thought—was world peace and U.S. security. There can be no pride of authorship in such a matter. There should only be cooperation. But the freeze leaders refuse every single effort for compromise.

I hear rumors as the gentlemen from Ohio pointed out that there might be an attempt by freeze leaders to substitute an unamended "Zablocki."

Perhaps that is true. Nothing would surprise me concerning one of the more bizarre episodes I have witnessed in over a quarter century in the House.

This morning Comrade Andropov finally made a slight move on disarmament. He would never have budged if he thought the President would accept a freeze.

I think this resolution still needs drastic surgery.

Mr. PEPPER. Mr. Speaker, I yield 2 minutes to the able gentleman from Michigan (Mr. BONIOR), our colleague on the Rules Committee.

Mr. BONIOR of Michigan. Mr. Speaker, at the outset let me just say that I am one who believes that the people on this side of the aisle have been very serious about this issue and have not been dilatory in most respects and have tried to conduct this debate for the good of not only this body, but the American people.

Let me also say that I am pleased that the distinguished minority leader has no serious problems, although I suspect he might vote against this rule, with the rule itself, as his remarks were generally addressed to the issue of the freeze.

We in the committee have a difficult problem of trying to address this question and put some order into it. As was stated by the gentleman from Louisiana (Mr. LONG), last year we did this in 1 day, 9½ hours, and we assumed that it would move in pretty much the same direction, perhaps a little bit longer, as the debate has heated up since the lameduck session of last year, but never did we think that we would get into a situation in which we would spend 40 hours as we have.

So we were faced with several choices and several options, one of which was to do nothing and let the debate play itself out. Second, we could have closed down this debate and had maybe 2 or 3 hours debate on the resolving clause.

□ 1115

Third, we could have categorized the issues—there are about 16 different categories—to minimize the repetition and redundancy.

And, fourth, we can do exactly what we have done, try to allow Members in this House to express themselves without being redundant on the major issues that still face this body with respect to this issue, and try to minimize the delay time tactics so people can express their will.

For instance, we do not allow pro forma amendments; we do not allow 15-minutes votes on substitutes to pending amendments; we have the 5-minute rule which will reduce it to 20 minutes; we do have a recommittal motion with instructions which will allow you to have a clean vote on Siljander or whatever else you want to put in this. We think it is fair, we think we have given people a proper forum in which they can express themselves and therefore the will of this body.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina (Mr. HARTNETT).

Mr. HARTNETT. Mr. Speaker, I just want to remind the distinguished chairman, the gentleman from Florida, that this is not really a rule problem; this is a scheduling problem.

It was not the minority side over here who had to go to a St. Patrick's Day function; it was not the minority side who took an extended trip to China; it was no plan of ours or no fault of anyone the untimely passing for our colleague from California, Mr. Burton; it was not the minority side who had a fundraiser scheduled one evening and we had to leave here early so we could attend it.

The point I am trying to make, Mr. Speaker, is that even at 40 hours, that is about 5 minutes per Member of this House to debate what has been called the most significant piece of legislation we have voted on in years. And I think I could summarize by saying it is not really a rule problem; it is a scheduling problem. And I for one, being a part of the minority, resent the fact that you have changed or are attempting to change the rule in the middle of the game.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I would like to discuss the rule. The rule is unfair and undemocratic. The rule is autocratic and tyrannical. The rule imposes the will of the majority over the rights of the minority. The rule does what we in this Republic say we abhor. It endorses mob action to halt perceived individual abuses.

This rule is wrong. It is unworthy of the seriousness of the freeze debate, it is unworthy of the traditions of this House.

The rules of this House are based upon Jefferson's Manual. Jefferson said:

> I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man.

Read those words, then read this rule and weep—weep for parliamentary democracy that has been replaced by majority tyranny.

Mr. PEPPER. Mr. Speaker, I yield 1 minute to the able gentleman from Connecticut (Mr. RATCHFORD).

Mr. RATCHFORD. Mr. Speaker, I served in the Connecticut General Assembly for 12 years, and I have been proudly a Member of this body for 5. In that 17-year period of time I have certainly learned the difference between a debate and a filibuster. This debate, sadly, has become a filibuster, 40 hours' worth. In 17 years of legislative service, I have grown to really respect the free, full, and open debate which is the tradition of this body. Let us preserve that tradition, but let us leave filibustering to the other body.

Vote for the rule. It is time, Mr. Speaker, to turn this filibuster back into a debate. Above all, Mr. Speaker, it is time to get on with it.

Mr. PEPPER. Mr. Speaker, I yield 1 minute to the able gentleman from South Carolina (Mr. DERRICK).

Mr. DERRICK. I thank the chairman.

Mr. Speaker, if I were to listen to some of the arguments from the minority, I would think that they would propose that this body have no rules. And, of course, we know that the reason we have rules is because we have 435 Members, and there has to be some structured form of debate.

Now, we have already devoted 45 hours to the debate of this resolution. It is a very important resolution. But I think that the Rules Committee—and we debated very seriously and with a great deal of thought—has added an additional 14 hours, which will give 15 hours of debate on this matter.

The amendments are equally structured between the minority and the majority. There are 2 hours of debate on the preamble, there are 2 hours of debate on the Broomfield amendment, with a motion to recommit.

I think that this is adequate. It is giving an adequate time for discussion on this very important resolution before us, and I think that we should all vote for the rule and pass it.

The SPEAKER. The Chair will state that the gentleman from Florida (Mr. PEPPER) has 5 minutes remaining, and the gentleman from Ohio (Mr. LATTA) has 4½ minutes remaining.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I just want to digress a moment from the substance of this rule. I think it is useful for the Members to know where the media stands on this issue of the century.

Now, the New York Times, the Washington Post, the Chicago Sun Times, the Chicago Tribune, the New Republic—liberal organs all—oppose the freeze. But the media supporting the freeze include the Americans for Democratic Action News, the Village Voice, People's Daily World, Mother Jones, and Rolling Stone.

I thought you would find that useful.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Speaker, I am one who supports the freeze, so I come impartially into this debate. The most important thing we can do is try to arrive at a policy in this whole area that can be supported by a broad number of people and supported by the administration. It seems to me that too often the driving forces in this debate are from the extremes, and we are not fulfilling our obligation, which is to attempt to get common ground. And there is a great deal of common ground that we can arrive at.

I think, in all fairness, many of these amendments can be dropped off. While I may not support some of the amendments, I think, in all honesty, they should be allowed to be voted on. I think there is a very legitimate complaint on this side of the aisle that, while they are allowed to bring up their amendments, they are never allowed to vote on them.

Mr. LATTA. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I am a little bit disturbed by the characterization of the proponents of the rule that the amendment process that has been engaged in has amounted to filibuster. As we all know, or should know, a filibuster is an attempt to stop an impending vote. No number of amendments, all of which have come to a vote, have cut off the debate or tried to foster a debate without end. Every amendment came to a vote. On the other hand, cloture is being used by the proponents of the rule by cutting off debate.

Mr. LATTA. Mr. Speaker, I yield the remainder of my time to the gentleman from New York (Mr. CARNEY).

Mr. CARNEY. Mr. Speaker, what we have here is not a question of having to go back to the Rules Committee and ask for a rule, and not a question of the right of debate to take over the right to vote. In fact, I agree with the gentleman from Louisiana (Mr. LONG) that the right to vote does supersede the right to debate. The problem that we the opponents are faced with is frustration, in our inability to vote on three very, very crucial issues. I am talking about primacy of having the words "freeze" and "reduction." If we could have a straight-up vote on that, without a perfecting amendment from the proponents of this resolution, we would gain an awful lot.

The second issue: Modernization.

We would like a straight-up vote on the issue of modernization, without having a perfecting amendment offered by the proponents of this resolution.

And, finally, the third issue that we feel is crucial is our ability to carry out our commitments to our NATO allies, and we would ask for a straight-up vote on that issue.

We would not have to go back to the Rules Committee for a new rule, something that has never happened in my 4½ years in this Congress, we would not have to debate this issue more than 3 more hours on the floor of the House today if the majority would give the minority a clear-cut vote on three simple issues.

I know I have talked to my colleagues on this side. They have agreed we can take out some of the amendments if we had the straight-up vote on those crucial issues.

More importantly, I think the American public deserves to know where each and every Member of this Congress stands on those issues. They understand clearly the importance of those issues. They do not understand, perhaps, the parliamentary procedure, the amendment procedure, and the perfecting amendment procedure that clouds the issues.

We in the minority would like the American public to know where we stand on those issues. We would like the American public to know where the majority stands on those issues.

I ask that we vote down the previous question.

The SPEAKER. The time of the gentleman from Ohio (Mr. LATTA) has expired.

Mr. PEPPER. Mr. Speaker, I yield the remainder of my time to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, the few words I want to say are not addressed to the merits of the resolution. We will have 14 more hours to debate that today and tomorrow. But, rather, to the necessity for this rule.

How on earth shall we ever expect to achieve an agreement with the Russians if Democrats and Republicans cannot agree on so simple a matter as to how finally to get to a vote on a peace resolution?

After our having spent the better part of 4 legislative weeks on this particular resolution, two things should be abundantly clear to all of us. First, we have had a full debate; we have had a fair debate; we have had a free debate. Nobody's rights have been trampled upon. Members have been given full rein to offer as many amendments as they would.

We have spent a total of more than 40 hours, I think about 45 hours in debate. By the conclusion of the time allotted in this rule, we shall have spent approximately 60 hours debating this freeze resolution. For those who consider 40 hours to be a workweek, this amounts to 1½ workweeks. Now, if you multiply that by 435 Members of the House, you might, by some form of reasoning, conclude that we will have devoted approximately 650 workweeks to the consideration of this freeze resolution. Surely, that ought to be enough.

There are other things that the House has to consider during this session of Congress. And, surely, under no stretch of the imagination could anybody conclude that the rights of any Member have been denied or abused. We have had more than ample debate.

But the second point is the one expressed so eloquently by the very distinguished chairman of the Committee on Rules, Mr. PEPPER. The House has not only the right to debate; the House has the right to decide. That right, too, is protected in the rules of the House. And what we must recognize is that in the tactics employed by a few to oppose this resolution, we face a deliberate challenge to the right of the House to perform its work. It is not just to challenge the freeze resolution; it is a challenge to the entire legislative agenda that lies before the Nation.

The rules exist, yes, to protect all minorities from the tyranny or the overpowering oppression of any majority, and we have certainly protected the rights of the minority. The rules also exist to protect the majority from any minority which would prevent the House from working its will.

Rules of whatever kind are subject to abuse, and I think in this case we have seen a clear abuse by a few Members—not a majority of those on the Republican side, I am not charging that, but by a few—a clear abuse of the rules of this House and a deliberate attempt to paralyze the House, to prevent it from taking any action whatever.

The absurd proliferation of repetitious amendments amounts to filibuster by frivolous amendment. Everybody recognizes that. Members on the Republican side know that is true. They know that this is an attempt on the part of a few Members to prevent the House ever from coming to a vote on this matter.

If we just allowed it to go on and on and on, Members without any restraint being permitted to offer any and all amendments they may desire to offer in unlimited numbers and to claim the right under the rules to at least 10 minutes of debate and then 15 minutes of a vote—almost 30 minutes elapsing on any amendment anyone could write—obviously a small handful could prevent the House from taking action on anything.

□ 1130

So the House then must assert its right, which also exists under the rules, ultimately to decide and not be subjected to guerrilla warfare aimed at paralyzing the House.

To amend legislation in a serious way is a time-honored legislative procedure, of course; but to throw sand in the machinery of government for the clear purpose of incapacitating the legislative branch and preventing it from doing its work on all the things that remain before it for the remainder of this session of Congress is not a thing that would be tolerated by any legislative body on Earth, and certainly ought not to be tolerated by this one.

Surely nobody can say that we have not been patient. In this case, if anything, we have been patient to a fault. Now our patience is at an end. Other important legislative matters await our attention. We are going to vote on this freeze tomorrow. We are going to have 14 hours in which you may decide which amendments you are really serious about. We will have at least 30 minutes to debate any one of them. The minority will have all the rights that are protected for the minority, but the majority itself will claim its right finally to decide. I ask for an aye vote on the rule.

Mr. PEPPER. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HARTNETT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 269, nays 150, not voting 13, as follows:

[Roll No. 81]

YEAS—269

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Barnard
Barnes
Bates
Bedell
Beilenson
Bennett
Berman
Bevill
Biaggi
Boehlert
Boggs
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bryant
Byron
Carper
Carr
Chandler
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Coyne
Crockett
D'Amours
Daniel
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
English
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Goodling
Gore
Gray
Green
Guarini
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hance
Harkin
Harrison
Hatcher
Hawkins
Heftel
Hertel
Hightower
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jenkins
Jones (OK)
Jones (TN)
Kaptur
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
LaFalce
Lantos
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Levitas
Lipinski
Lloyd
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
MacKay
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McHugh

McKinney
McNulty
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Panetta
Patterson
Pease
Penny
Pepper
Perkins
Price
Pritchard
Rahall
Rangel
Ratchford
Ray
Reid
Richardson
Rinaldo
Rodino
Roe
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shannon
Sharp
Sikorski
Simon
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tauke
Tauzin
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Valentine
Vento
Volkmer
Walgren
Weaver
Weiss
Wheat
Whitley
Whitten
Williams (MT)
Williams (OH)
Wirth
Wise
Wolpe
Wright
Wyden
Yates
Yatron
Young (MO)
Zablocki

NAYS—150

Archer
Badham
Bartlett
Bateman
Bereuter
Bethune
Bilirakis
Bliley
Broyhill
Burton
Campbell
Carney
Chappie
Cheney
Clinger
Coats
Coleman (MO)
Conable
Corcoran
Courter
Craig
Crane, Daniel
Crane, Philip
Dannemeyer
Daub
Davis
DeWine
Dickinson
Dreier
Duncan
Edwards (AL)
Edwards (OK)
Emerson
Erlenborn
Evans (IA)
Fiedler
Fields
Fish
Forsythe
Franklin
Gekas
Gilman
Gingrich
Gradison
Gramm
Gregg
Gunderson
Hammerschmidt
Hansen (UT)
Hartnett
Hiler
Hillis
Holt
Hopkins
Horton
Hunter
Hyde
Jeffords
Johnson
Kasich
Kemp
Kindness
Kramer
Lagomarsino
Latta
Lent
Lewis (CA)
Lewis (FL)
Livingston
Loeffler
Lott
Lowery (CA)
Lujan
Lungren
Mack
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
McCain
McCandless
McCollum
McDonald
McGrath
McKernan
Michel
Miller (OH)
Molinari
Moore
Moorhead
Morrison (WA)
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Patman
Paul
Petri
Porter
Pursell
Quillen
Regula
Ridge
Ritter
Roberts
Robinson
Rogers
Roth
Rudd
Sawyer
Schaefer
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Smith (NE)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Spence
Stangeland
Stratton
Stump
Sundquist
Taylor
Thomas (CA)
Vander Jagt
Vandergriff
Vucanovich
Walker
Weber
Whitehurst
Whittaker
Wilson
Winn
Wolf
Wortley
Wylie
Young (AK)
Young (FL)
Zschau

NOT VOTING—13

Boland
Frenzel
Hall (IN)
Hansen (ID)
Hefner
Jones (NC)
Martin (NY)
McEwen
Pickle
Stark
Towns
Watkins
Waxman

□ 1140

The Clerk announced the following pairs:

On this vote:

Mr. Boland for, with Mr. McEwen against.

Mr. Waxman for, with Mr. Frenzel against.

Mr. Towns for, with Mr. Hansen of Idaho against.

Mr. Watkins for, with Mr. Martin of New York against.

Mr. McDADE and Mrs. BYRON changed their votes from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HARTNETT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 270, nays 149, not voting 13, as follows:

[Roll No. 82]

YEAS—270

Ackerman
Addabbo
Akaka
Albosta
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Barnard
Barnes
Bates
Bedell
Beilenson
Bennett
Berman
Bevill
Biaggi
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bryant
Carper
Carr
Chappell
Clarke
Clay
Clinger
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Coyne
Crockett
D'Amours
Daniel
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Flippo
Florio
Foglietta
Foley
Ford (TN)
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Goodling
Gore
Gray
Green
Guarini
Hall, Ralph
Hall, Sam
Hamilton
Hance
Harkin
Harrison
Hatcher
Hawkins
Hefner
Heftel
Hertel
Hightower
Hopkins
Howard
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Jenkins
Jones (OK)
Jones (TN)
Kaptur
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
LaFalce
Lantos
Leach
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Levitas
Lipinski
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
MacKay
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McKinney
McNulty
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Panetta
Patterson
Pease
Penny
Pepper
Perkins
Pickle
Price
Pursell
Rahall
Rangel
Ratchford
Reid
Richardson
Rinaldo
Roberts
Rodino
Roe
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shannon
Sharp
Sikorski
Simon
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tauke
Tauzin
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Valentine
Vandergriff
Vento
Volkmer
Walgren
Watkins
Weaver
Weiss
Wheat
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Wirth
Wise
Wolpe
Wright
Wyden
Yates
Yatron
Young (MO)
Zablocki

NAYS—149

Archer
Badham
Bartlett
Bateman
Bereuter
Bethune
Bilirakis
Bliley
Broyhill
Burton
Byron
Campbell
Carney
Chandler
Chappie
Cheney
Coats
Coleman (MO)
Conable
Corcoran
Courter
Craig
Crane, Daniel
Crane, Philip
Dannemeyer
Daub
Davis
DeWine
Dickinson
Dreier
Duncan
Edwards (AL)
Edwards (OK)
Emerson
Erlenborn
Fiedler
Fields
Fish
Forsythe
Franklin
Gekas
Gilman
Gingrich
Gradison
Gramm
Gregg
Gunderson
Hall (OH)
Hammerschmidt
Hansen (UT)
Hartnett
Hiler
Hillis
Holt
Horton
Hunter
Hutto
Hyde
Ireland
Jeffords
Kasich
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath
Lent
Lewis (CA)
Lewis (FL)
Livingston
Lloyd
Loeffler
Lott
Lowery (CA)
Lujan
Lungren
Mack
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
McCain
McCandless
McCollum
McDade
McDonald
McGrath
McKernan
Michel
Miller (OH)
Moore
Moorhead
Morrison (WA)
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Patman
Paul
Petri
Porter
Quillen
Ray
Regula
Ridge
Ritter
Robinson
Rogers
Roth
Rudd
Sawyer
Schaefer
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Smith (NE)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Spence
Stangeland
Stratton
Stump
Sundquist
Taylor
Thomas (CA)
Vander Jagt
Vucanovich
Walker
Weber
Whitehurst
Winn
Wolf
Wortley
Wylie
Young (AK)
Young (FL)
Zschau

NOT VOTING—13

Alexander
Ford (MI)
Frenzel
Hall (IN)
Hansen (ID)
Johnson
Jones (NC)
Martin (NY)
McEwen
Molinari
Pritchard
Towns
Waxman

□ 1200

The Clerk announced the following pairs:

On this vote:

Mr. Waxman for, with Mr. Frenzel against.

Mr. Towns for, with Mr. Hansen of Idaho against.

Mr. Jones of North Carolina for, with Mr. McEwen against.

Mr. Ford of Michigan for, with Mr. Molinari against.

Mrs. BYRON and Mrs. LLOYD changed their votes from "yea" to "nay."

Mr. STENHOLM and Mr. RALPH M. HALL changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CALLING FOR A MUTUAL AND VERIFIABLE FREEZE ON AND REDUCTIONS IN NUCLEAR WEAPONS

The **SPEAKER**. Pursuant to House Resolution 138 and Rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the joint resolution, House Joint Resolution 13.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the joint resolution (H.J Res. 13), calling for a mutual and verifiable freeze on and reductions in nuclear weapons, with Mr. McHUGH in the chair.

The Clerk read the title of the joint resolution.

The **CHAIRMAN**. When the Committee rose on Thursday, April 28, 1983, pending was the committee amendment in the nature of a substitute which is considered as an original resolution for the purpose of amendment. All time for debate on the text of the resolution had expired.

Pursuant to House Resolution 179, further consideration of amendments to the committee amendment shall terminate at the expiration of 10 additional hours, consideration of amendments to the preamble shall terminate at the expiration of 2 hours and consideration of the amendment in the nature of a substitute by Representative Broomfield, made in order by House Resolution 138 for amendment under the 5-minute rule, shall terminate at the expiration of 2 hours. Debate on each amendment to the committee amendment and on any amendment thereto, to the preamble or on each amendment thereto, and to the amendment in the nature of a substitute by Representative Broomfield or on each amendment thereto shall continue not to exceed 30 minutes, equally divided and controlled by the proponent of the amendment and a Member opposed thereto. The Chair will not entertain any pro forma amendments offered for the purpose of obtaining time for debate only.

□ 1210

AMENDMENT OFFERED BY MR. LUNGREN

Mr. **LUNGREN**. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lungren: On page 5 at line 19, insert "(a)" after "2.", and after line 23 add the following:

"(b) Consistent with the treaty-making powers of the President under the Constitution, nothing in this resolution shall be construed to be binding on the President or his negotiators in the formulation of strategy, instructions or positions in the conduct of the strategic arms reduction talks (START).".

POINT OF ORDER

Mr. **LUNGREN**. Mr. Chairman, I make a point of order.

The **CHAIRMAN**. The gentleman will state it.

Mr. **LUNGREN**. Mr. Chairman, could I have the amendment reread so that Members will know precisely what it is we are dealing with.

The **CHAIRMAN**. The Clerk will reread the amendment.

The Clerk reread the amendment.

The **CHAIRMAN**. The gentleman from California (Mr. Lungren) is recognized for 15 minutes, for purposes of debate only, in support of his amendment. The Chair intends to recognize in opposition to the amendment the chairman of the committee, the gentleman from Wisconisn (Mr. Zablocki).

The Chair recognizes the gentleman from California (Mr. Lungren).

Mr. **LUNGREN**. I yield myself such time as I may consume.

Mr. Chairman, it occurs to me that there is a serious constitutional flaw with respect to House Joint Resolution 13. It is a flaw that some may wish to have remaining in this resolution because it allows some ambiguity to reign over the actual effect of this resolution.

I would cite the Speaker of the House who on the day before we started initial consideration of this resolution was reported in the press as saying that this merely is a sense of the Congress resolution.

It does not bind the President to anything. During the course of our debate there have been suggestions that this is the case.

On April 13, 1983, when the distinguished majority leader, Mr. Wright, was speaking against an amendment to this resolution, he said, "Let us recognize the limitations of what we can do here today. We do not have the capacity to negotiate a treaty on the House floor."

Going on he says, "The truth of it is that the resolution in and of itself does not, cannot, and should not freeze anything."

He then went on to say, "So it seems to me we need to uncomplicate the matter. Let us keep it clear, simple, and straightforward. We should not try to get into the technical questions of what comes first, freeze or reduction, qualitative or quantitative limitations, delivery systems or warheads. Leave those to the negotiators as properly we should.

"It seems to me that the President himself in the spirit of his new campaign slogan 'make a new beginning' ought to embrace this effort."

He then repeats, "Let us not try to complicate it, let us simply say 'Yes, it is what mankind yearns for and this is what the United States stands for and we stand with the President, not against him, in calling on the Soviet Union to join in mutual and verifiable freeze and reduction of nuclear weapons.'"

The problem that we have, Mr. Chairman, is that over the course of this debate of 6 weeks there has been some confusion as to exactly whether this is binding or whether it is not. And in fact it appears to me that this confusion ought not to continue, because it is absolutely clear that the Congress of the United States, the House of Representatives, does not have the power to bind the President in the way that some who support this resolution suggest it should and in the way that some who are against this resolution fear that it does.

And let me detail what I am talking about here.

Mr. Chairman, first House Joint Resolution 13 would have the Congress insert itself into the formulation of the contents and priorities of specific treaty negotiations, an aspect of international affairs which is well established as the exclusive constitutional role of the executive branch. The Constitution says very simply and very plainly that, "He," speaking of the President, "shall have the power by and with the advice and consent of the Senate to make treaties, provided two-thirds of the Senators present concur;" Note that it does not say that two-thirds of the Senators begin the negotiations, nor that two-thirds of the Senate tells him what he must do, but rather that they concur at that stage in the treatymaking process. Prof. Chester Antinean, an eminent scholar on constitutional law, stated it succinctly when he said, "The commencement of diplomatic negotiations with a foreign power leading to a treaty is completely in the discretion of the President and the Secretary of State. The executive is here not subject to interference by either the Congress or the judiciary in the control or direction of such negotiations."

Indeed, Mr. Chairman, the U.S. Supreme Court has long recognized the President's exclusive constitutional role at the negotiating stage of the treaty process.

Referring to the President's role in 1936, Justice Sutherland, speaking for the Court, stated, "He alone negotiates. Into the field of negotiations the Senate cannot intrude and Congress, itself, is powerless to invade it."

That was in the case of United States versus Curtiss-Wright Export Co. The problem we have here is that although the document before us does not use the mandatory language "shall" in establishing what those guidelines are and does use the word "should" which under usual construction is not mandatory, the accompanying committee report says perhaps six times that this mandates specific guidelines or procedures that the President must follow. I would also point out that this is a House joint resolution which requires acceptance [illegible] majorities of both the House and the Senate and then signature by the President. And in that case it does have the strength of law. And the problem we have here is confusion. The signal we sent out is one that many Members who advance the theory of the freeze have suggested, simply put, that they want a symbol, they want to send the President a message. In fact in talking with some constituents back home they have said that is their desire in having the House pass a resolution. When you bring up specific problems in negotiation with them if the President were bound by the strict construction of this resolution, they say that is not what they had in mind, and that they certainly do not presume to negotiate for the country nor to interfere with the President.

□ 1220

We ought to make it crystal clear, I would say, Mr. Chairman, as to exactly what we are doing here. Now, of course, some proponents have quickly dismissed the legal and constitutional implications inherent in this resolution. Some have cited the supposed legislative precedent of 11 years ago, which approved the SALT I agreement and the Jackson amendment in the other body, which, according to Chairman ZABLOCKI last March 16, "provided detailed policy guidelines for the future negotiations of SALT II, and thus * * *" as he says, "there is a precedent."

Yet I would invite the gentleman from Wisconsin, the distinguished chairman of the committee, as well as my other colleagues, to examine the language of the Jackson amendment. They will discover that the amendment was clearly advisory in nature, that it does not mandate a posture as we see here in House Joint Resolution 13, as interpreted by the committee report.

First, the SALT resolution was legally before the Congress at the request of the President to authorize approval of the interim arms agreement.

The START resolution is not before the Congress to approve an arms agreement and has not been requested by the President.

Second, the Jackson amendment to the SALT resolution was clearly an expression of Congress regarding future arms talks.

This resolution is ambiguous as to its legal effect, attempting to enact negotiating objectives for arms talks that are already in progress.

Third, the Jackson amendment to the SALT resolution originated in the Senate and could be considered appropriate to the Senate, and I repeat, the Senate's advisory role on treaties under the Constitution.

This resolution, as we know, originates in the House.

Fourth, the Jackson amendment to the SALT negotiation resolution was modified to be acceptable to that administration.

The START resolution, on the other hand, has been opposed by the administration.

And lastly, the SALT resolution, including the Jackson amendment, was signed into law by the President. The START resolution is likely to provoke a veto confrontation in the midst of the arms talks.

So I think it is plainly inaccurate to say that we are in the same situation as we were with the Jackson amendment back 11 years ago with respect to the SALT resolution.

From another perspective, even the Arms Control and Disarmament Act of 1961, section 33, sets the boundaries within which Congress must act.

In summary, the only authority granted Congress under the act is to authorize the final approval of any agreement limiting or reducing arms or Armed Forces. It cannot be used as authority to compel the initiation of negotiations or to establish by law parameters or objectives for ongoing or future negotiations.

Mr. Chairman, I realize this is not the most exciting amendment that has been brought forward. We will probably not hear all of the rhetoric that has been bandied about this hall. But I am sorry that we are limited to 30 minutes on this, because it seems to me it goes to a very crucial question of constitutionality. What are the obligations of the House of Representatives when we have all taken individual oaths to uphold the Constitution as we venture into this field?

Ought we to say that it does not matter? Ought we to have various interpretations? Ought we to have the Speaker of the House say it does not mean anything? Ought we to have the distinguished majority leader tell us that it does not mean anything and then have the committee report tell us that in fact it mandates things and also have Members who propose to support this resolution say that yes, indeed, it does bind the President?

We ought not to avoid crucial questions by practiced ambiguity. We ought not to say that we gain by studied ignorance. And unfortunately, it seems to me, that is the point at which we find ourselves here on the House floor.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from New Jersey.

Mr. COURTER. I thank the gentleman for yielding.

I congratulate the gentleman for bringing the amendment up. It is indeed one of the new areas that we have not gone through before during this debate. Some of the debate perhaps has been repetitive for some Members of Congress, but this, very frankly, is carving out a new area and one I think that deserves some examination.

It seems to me that not only in the language of the resolution, which is House Joint Resolution 13 on page 4, it clearly does, as the gentleman from California points out, use the word "should"; not mandatory, not to permanently instruct, but recommend. And so you have the language of this resolution that seems to be consistent with the thrust of the gentleman's amendment, No. 1.

No. 2, from my recollection—as the gentleman knows, I have spent hours on the floor of the House, as has the gentleman from California—many people have indicated that this is not a type of resolution that binds the negotiators. It is a recommendation only.

Now, however, there have been some individuals, and as the gentleman says, perhaps the report language that seems to be contrary to the clear working of the resolution and certainly to the wording of the gentleman's amendment.

Therefore, I ask the gentleman a question. Is it not really the purpose of this amendment to clarify, to make sure that there is absolutely no mistake in the thrust of the resolution, making it such that it is a recommendation and not mandating policy?

Mr. LUNGREN. I thank the gentleman for bringing up that point, because I read this as consistent with the language contained in House Joint Resolution 13. The ambiguity comes about because of debate that has taken place, one, two, and very importantly, the committee report which says that it mandates these obligations on the President, and three, because this is in the form of a joint resolution which does have the binding effect of law.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Oregon.

Mr. AuCOIN. I thank the gentleman for yielding.

Mr. Chairman, I have not heard the gentleman's complete argument and maybe that is the reason I feel some ambiguity about what the gentleman is suggesting.

The gentleman supports the Broomfield substitute, I presume. And the Broomfield substitute was, in its original form, a House joint resolution, House Joint Resolution 4, as a matter of fact.

I fail to find how the gentleman sees any more of an unconstitutional restrictive mandate in House Joint Resolution 13 than in the Broomfield resolution.

Mr. LUNGREN. If that same question comes up with respect to the Broomfield substitute, I would hope that I would have an opportunity to present this amendment. That is one of the reasons I voted against the rule, one of the reasons I argued against our having restrictions on the rule, such that we might have an opportunity to debate this and to debate the Broomfield for more than 2 hours, if in fact, questions, including constitutional questions, come up.

Unfortunately, my position on that did not prevail and we are limited in what we can do and what we can say and the amount of time that we have in articulating these points of view.

The gentleman's point may be well made. I will reach that bridge when I come to it. I certainly think it is clear as far as a matter of constitutional law that we do not have the right to bind the President in terms of negotiations in the way that many proponents are suggesting this resolution does, and as it suggested by the committee report. We ought to clear up that ambiguity.

Mr. AuCOIN. The gentleman though does not object, I hope, to the Members of Congress who have to vote for the dollars and cents involved in any weapons system this Government has to build asserting their view as to what we believe our negotiating posture ought to be, does he?

Mr. LUNGREN. I would just suggest to the gentleman, obviously we have the power of the purse strings, that is given to us in the Constitution so that we have that leverage.

Mr. Chairman, I yield 1 minute to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Chairman, I want to commend the gentleman from California (Mr. LUNGREN), a distinguished member of the Judiciary Committee, on his amendment. During the debate last August on a similar resolution, he was the only Member of this body to raise the legal and constitutional implications of such a joint resolution. And not one of the proponents bothered to respond to the issues he raised.

This amendment would, for once and for all, resolve the legal status of this resolution by declaring that it is not to be construed as binding on the President or his negotiators in the conduct of the START negotiations. The amendment is especially important and necessary given the resolution's form as a joint resolution and the many confusing and contradictory statements that have been made about its legal status.

On the one hand the resolution says our negotiating objectives should be those listed—clearly discretionary or advisory language. Moreover, the Speaker of the House was quoted in the local press last month as saying that the resolution "only expresses the will of Congress and does not bind the President."

On the other hand, as a joint resolution this would have the full force of law if enacted, with or without the President's approval. Moreover, the report on this resolution, in three instances, states that it mandates the objectives listed. And the chairman of the Foreign Affairs Committee, the author of this resolution, in response to a point of order on March 16, said that this resolution "would be legally binding," presumably on the President and his negotiators.

Given all this confusion, I asked the American Law Division of the Congressional Research Service whether this resolution was binding, and, if so, whether it was constitutional given the President's sole authority under the Constitution to make all treaties, subject to the advice and consent of the Senate.

To summarize the response of the American Law Division, this resolution would be nonbinding and thus constitutional because its language is purely advisory, stating that the arms talks should have the objectives listed. The mandatory language of the report is irrelevant because it has been established by several Supreme Court decisions that when the language of a statute is clear and unambiguous, there is neither need nor warrant to look elsewhere.

So, the amendment of the gentleman from California is consistent with the language of the resolution itself and the interpretation of the American Law Division that this is nonbinding. As such, some might argue that the amendment is somehow superfluous and unnecessary. But, I think not given the representations made by the committee report and the chairman that this is somehow mandatory and legally binding. Given those misrepresentations, I think the amendment is a necessary truth-in-labeling provision. Without this amendment these misrepresentations would go unchallenged, and we would be fooling ourselves and the American people as to what this resolution actually does.

Mr. Chairman, this amendment makes it unequivocally clear that the resolution is not mandatory, it is not binding, but is instead simply a sense-of-Congress expression. As such, it really should be a concurrent rather than a joint resolution. I think we must ask ourselves during the debate on this amendment which focuses on the legal question, Why would we want to enact a law that has the force and effect of law and yet which cannot be legally binding? Why would we want to enact treaty negotiating objectives when the Constitution makes quite clear that only the President can set our negotiating policy and make treaties? Why would we want to precipitate a veto confrontation over a nonbinding resolution when such a confrontation might only confuse, prolong, and even undermine the current negotiations?

Mr. Chairman, I think an honest answer to all these questions is that nobody really intended all these consequences to flow from such a resolution. That is why I think the gentleman's amendment should be adopted—to eliminate any remaining confusion over the legal status of this resolution. Perhaps with the adoption of this amendment will come the recognition that this really should have been a concurrent resolution to begin with since that is the customary vehicle for such sense-of-Congress expressions.

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., March 31, 1983.

To: House Committee on Rules, Hon. Trent Lott.
Attn: Mr. Don Wolfensberger.
From: American Law Division.
Subject: Additional Matters Regarding the Nuclear Freeze Resolution (H.J. Res. 13).

Reference is made to your correspendence of March 25, 1983, raising several questions based on comments or implications from comments appearing in our March 23, 1983, memorandum regarding the constitutional propriety of the nuclear freeze resolution being considered by the House of Representatives.

Concluding that the resolution in question in its present form "is nonbinding and thus constitutional," notwithstanding that it takes the form of a joint resolution that could become domestic law, you ask us to consider several hypothetical questions based on circumstances related to but several degrees removed from the existing H.J. Res. 13 context.

Before turning our attention to the major matter of your concern, a few observations regarding the approach followed in our earlier memorandum seem to be in order. It is our hope that this preliminary discussion will clarify some of the subsidiary problems that you raise.

Guided by Supreme Court rules for avoiding constitutional questions, inter alia, by construing a statute in such a manner that such questions can be avoided, we concluded that H.J. Res. 13 is legally supportable as the tender of congressional advice by resolution—a longstanding congressional practice. Reconciliation with constitutional separation of powers and other concerns we felt was fairly manageable in this case since the operative words of section 1 (i.e., "should have") and the disclaimer in section 2 militate against a binding limitation on presidential authority.

Remarks made during House consideration of the resolution seem to us to assume that because passage of a joint resolution for the most part is attended with the same formalities as passage of a bill and operates as law, it invariably limits authority or otherwise qualifies the freedom of action of its objects. By way of indicating that this apparent assumption is not universally true, we introduced the well recognized and generally accepted distinction between mandatory or directory and prohibitory or permissive statutes. A significant difference between the two is that the former in each pair of alternative characterizations operates in the main as a limitation on power rather than as a suggested guide for the exercise of an acknowledged power. In addition to its relevance, the latter clearly is more conducive to reaching a constitutional result than the former given the context implicated by H.J. Res. 13, namely, the "vast external realm" of foreign affairs where the President has powers independent of statutory grants of authority and has "exclusive" power to negotiate. *United States* v. *Curtiss-Wright Corp.*, 229 U.S. 304, 319–320 (1936). (Note: Although some of Justice Sutherland's remarks in the named case regarding the extra-constitutional sources of the nation's foreign affairs powers have been criticised by writers in recent years, his opinion for the Court of the nature and extent of presidential powers in this field remains the law. See, e.g., *Dames & Moore* v. *Regan*, 453 U.S. 654, 661 (1981).)

Acknowledging that the intention of the legislature is controlling in determining whether a statute is mandatory or directory, we examined several criteria that have been used to make such a determination. Coincidentally, these criteria are nicely illustrated by the nuclear freeze resolution. Thus, the omission from H.J. Res. 13 of any express consequence for failing to comply with its "objectives" as well as its conditional language and discretionary features seem to place it in the category of a directory statute. For purposes of construing a statute in order to characterize it as being mandatory or directory, it is the express provision or omission of consequences in the statute itself that seems to be of significant moment. Implicit, potential consequences such as removal from office either by conviction upon articles of impeachment or electoral defeat, to the best of our knowledge, are not the kinds of consequences taken into account for the noted purpose.

By way of additional support for the nonbinding or directory nature of the resolution if approved, we noted that the word "mandate" which is used in the committee report accompanying H.J. Res. 13, can mean instruction (i.e., guide) as well as order or decree. The report, H. Rept. 98-31, does not make clear which meaning is intended. In a judicial context, the word ordinarily means order or decree. When used in a committee report, it means whatever the committee intends it to mean. ("If Congress chooses by appropriate means for expressing its purpose to use language with an unlikely and even odd meaning, it is not for this Court to frustrate its purpose. The Court's task is to construe not English but congressional English. Our problem is not what do ordinary English words mean, but what did Congress mean them to mean." Frankfuter, J., dissenting, *Commissioner* v. *Acker*, 361 U.S. 87, 94 (1959)). We did not mean to suggest that a law has less complusion than judicial process, but simply to point out that in a judicial setting the word "mandate" has a denotative quality whereas in other contexts it is a connotative word. Significantly, however, the word "mandate" does not appear in the text of the resolution, but in the report where presumably it is intended as a paraphrase of the usually non-binding, sense expression "should have"

Also in line with this view, we noted that the committee report on the resolution uses the phrase "general objectives," H. Rept. 98–31 at 2, which contrasts with the term "specific" objectives. Both as a linguistic matter and an impressionistic matter, the former is not the best synonym or substitute for the word "mandate" in the sense of order or decree.

We concluded our previous memorandum by relying on an acknowledged secondary authority, Edward S. Corwin, whose frequently cited text on The President, inter alia, shows that congressional resolutions on matters of international concern, including those having the domestic status of law (i.e., joint resolutions) have a long history and their observance vel non "has naturally varied with circumstances—and also with the temperaments of Presidents." To like effect, see annexed excerpts from two leading authorities of an earlier period; Crandall, "Treaties: Their Making and Enforcement" (2d ed.) 72-75 (1916); Willoughby, 1 "Constitutional Law of the United States" 520-525 (1929).

At the risk of oversimplification, the fundamental question you ask appears to be whether Congress can conceivably exceed its powers and intrude upon core Article II presidential powers described generally as the "very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations. . . ." *United States* v. *Curtiss-Wright Corp.*, 299 U.S. at 320. The answer to the question is clearly yes. Indeed our prior memorandum gave two examples of laws that would raise serious constitutional problems. These examples were intended neither to exhaust the range of all such questionable possibilities nor to suggest that such questionable statutory intrusions on presidential powers were confined to any particular state in the negotiating process. An enactment having the status of law that impinged on the negotiating power of the President by preventing its exercise or by limiting or restricting its scope would raise profound constitutional problems. Although there are no case decisions involving analogous factual circumstances, conclusions on these matters seem to flow from judicial expressions regarding the source (Article II) and nature ("Plenary") of the President's negotiating power. These conclusions are also supported by court decisions striking down congressional enactments which have adversely affected other fully autonomous presidential powers. See, e.g., Ex parte Garland, 4 Wall. (71 U.S.) 333 (1867) (pardoning power). Secondary writers, however, leave no doubt about the status of laws that adversely affect the negotiating power. Thus, Candall, Treaties, at 74 observes as follows: "Although it is not to be doubted that the President will always give careful consideration to the views of Congress, deliberately expressed, as to instituting negotiations, he cannot be compelled by a resolution of either house or of both houses of Congress to exercise a power entrusted to him under the Constitution."

While acknowledging that congressional initiatives of the described kind may raise problems, we would be remiss in not pointing out that there have been practices difficult to explain in conceptual constitutional terms, practices that have gone unchallenged. See, e.g., Berdahl, "War Powers of the Executive in the United States" 225, n. 12, 227 (1920) regarding a congressional effort in 1920 to declare peace as well as examples in materials annexed hereto. These incidents serve to illustrate what Justice Rehnquist recently described as being "both futile and perhaps dangerous to find any epigrammatical explanation of how this country has been governed." *Dames & Moore* v. *Regan*, 453 U.S. at 660.

Finally, it should be noted that political considerations aside the passage of a resolution in this realm, advisory or otherwise, can be easily evaded. In brief, the President is not legally obligated to conclude negotiations with a proposed treaty; he is not legally obligated to submit an agreement produced by negotiations to the Senate; the Senate is not legally obligated to give its advice and consent to a proposed treaty that fails to meet its wishes; and the President is not legally obligated to ratify a treaty that has received the advice and consent of the Senate.

Raymond J. Celada,
Senior Specialist in
American Public Law.

Congressional Research Service,
Washington, D.C., March 23, 1983.

To: House Committee on Rules, Hon. Trent Lott (Attn: Mr. Don Wolfensberger).
From: American Law Division.
Subject: Constitutional Propriety of Nuclear Freeze Resolution.

Reference is made to your inquiry of March 17, 1983 requesting information on the above mentioned matter.

H.J. Res. 13, as reported from the Committee on Foreign Affairs, H. Rept. No. 98-31, has as its avowed purposes the "Calling for [of] a mutual and verifiable freeze on and reductions in nuclear weapons." In conformity with these purposes and "consistent with the maintenance of essential equivalence in overall nuclear capabilities," the resolution provides that the Strategic Arms Reduction Talks (START) between the United States (U.S.) and the Soviet Union (U.S.S.R.) "should have" certain specified objectives. Among the stated objective for the START negotiations are—(1) an immediate, mutual and verifiable freeze; (2) a timetable and procedures to achieve a mutual verifiable freeze on testing, production, and deployment of nuclear warheads, missiles, and other delivery systems; (3) restraints on development and deployment of destabilizing or first strike weapons; (4) post freeze nuclear arms reductions by any effective and verifiable means; (5) preservation of existing limitations and controls on nuclear weapons and delivery systems; (6) the incorporation into the START negotiations of the ongoing negotiations in Geneva on intermediate-range nuclear systems.

The resolution also provides that in the START negotiations every effort shall be made by the U.S. to reach a common position with its European allies and thus avoid any inconsistency with U.S. commitments to them.

The resolution concludes with a disclaimer of any intent to prevent U.S. negotiators from taking advantage of concurrent and complementary arms control proposals.

During debate on the resolution (H. Res. 138) to consider H.J. Res. 13 as well as on the substance of the latter resolution, various opinions were expressed regarding its nature and effect. Some Members were quoted as "saying the resolution only expresses the will of the Congress and does not bind the President." 129 Cong. Rec. H1204 (daily ed. March 16, 1983). Noting that the nuclear freeze proposal is embodied in a joint resolution, a form which is traditionally enacted with all the formalities of bills and operate as law, some Members concluded that H.J. Res. 13 was not in accord with congressional precedents whereby simple or concurrent resolutions are customarily employed to "express certain facts, opinions, principles or purposes or sense of Congress propositions." 129 CONGRESSIONAL RECORD H1203 (daily ed. March 16, 1983).

Members of the view that the nuclear freeze proposal was not the usual nonbinding sense resolution pointed out that in addition to having the force of law language, the committee report on H.J. Res. 13 stated that its objectives are mandatory. E.g., "The purpose of the resolution is to mandate objectives for the conduct of the Strategic Arms Reduction Talks (START) between the United States and the Soviet Union." H. Rept. 98-31 at 1. 129 CONGRESSIONAL RECORD H1204 (daily ed. March 16, 1983).

Implicit in these remarks regarding the nature and effect of H.J. Res. 13 is concern in certain quarters that it may exceed congressional powers by intruding into core Article II powers; generally, the power of the President as the sole organ of the federal government in the field of international relations and, specifically, the executive negotiating power. As to the former, the Supreme Court has observed, in the "vast external realm" of foreign affairs, "we are . . . dealing not alone with an authority vested in the President by an exertion of legislative power, but with such an authority plus the very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations. . . ." *United States* v. *Curtiss-Wright Corp.*, 299 U.S. 304, 319-320 (1936). See *Dames & Moore* v. *Regan*, 453 U.S. 654, 661 (1981). In the matter of negotiations, the Court has stated that the President "alone negotiates. Into the field of negotiation the Senate cannot intrude; and Congress itself is powerless to invade it." *United States* v. *Curtiss-Wright Corp.*, 299 U.S. at 319.

It would seem to follow from these rulings that adoption of a measure having the status of law that either compelled negotiations on any matter of international concern or dictated the contents of such negotiations would raise serious problems of a constitutional nature. As previously explained, however, the language of the resolution per se does not lead to such untoward results. In this light and because of "the necessity to rest decision on the narrowest possible [nonconstitutional] ground capable of deciding the" issue, *Ashwander* v. *TVA*, 297 U.S. 288, 347 (1936) (Brandeis, J., concurring), quoted approvingly in *Dames & Moore* v. *Regan*, 453 U.S. at 660, H.J. Res. 13 is legally supportable.

At the outset, it should be noted that the expression of congressional opinion on matters of international concern in the form of a law rather than in nonbinding simple or concurrent resolution does not make it legally binding upon its objects nor is it unprecedented. As you know, statutes can be characterized as mandatory, directory, prohibitory or permissive. *Sutherland Statutory Construction* (Sands 3rd ed.) § 25.02 (1972). Although no statute is intended by the legislature to be wholly superfluous, some statutes are intended as a guide for the conduct of business and for orderly procedure rather than a limitation on power. Id. at §§ 25.02, 25.03. In this as in other matters of statutory construction, the intention of the legislature is controlling. Id. at § 25.03.

An "important distinction between directory and mandatory statutes is that the former is attended with no consequences, while the failure to comply with the requirements of the latter either invalidates purported transactions or subjects the noncomplier to affirmative legal liabilities." Ibid. Neither H.J. Res. 13 nor the report of the Committee on Foreign Affairs suggests the imposition of consequences for noncompliance with its "objectives" or "guidelines" for START. H. Rept. No. 98-31 at 2.

The language of the statute is another important factor to be considered in deciding whether its provisions are mandatory or directory. *Sutherland Statutory Construction* at §25.03. Conspicuously, H.J. Res. 13, provides that the START negotiations "should have" (as distinguished from "shall have") the specified objectives which it establishes. These objectives are described by the committee report as being "general objectives for the conduct of the START negotiations." H. Rept. 98-31 at 2. The word "general" signifies the opposite of being limited to a specific class. See Standard College Dictionary, Harcourt, Brace & World, N.Y. (1963).

Additional evidence in support of the view that the resolution is intended as a guideline rather than a limitation on authority may be gleaned from the disclaimer in section 2 that, as indicated, prevents construing its provisions so as to limit the consideration of other arms control proposals.

Insofar as the word "mandate" which appears in the committee report is concerned, i.e., "mandate objectives," H. Rept. 98-31 at 1, two observations may be made. The word may be defined as instruction as well as order or decree. Indeed, the latter meaning seems to invariably apply only in a judicial context. See Standard College Dictionary, supra; 26 Words and Phrases "Mandate-In Practice". Furthermore, where the language of the statute is clear and unambiguous, the starting point for interpreting the statute is the language itself and there is neither need nor warrant to look elsewhere. *Consumer Product Safety Commission* v. *GTE Sylvania, Inc.*, 447 U.S. 102, 108 (1980).

The foregoing view of the nature and effect of H.J. Res. 13 serves the additional purpose of avoiding a decision on a constitutional question. "When the validity of an act of the Congress is drawn in question and even if a serious doubt of constitutionality is raised, it is a cardinal principle that this Court will first ascertain whether a construction of the statute is fairly possible by which the question may be avoided." Brandeis, J., concurring in *Ashwander* v. *TVA*, 297 U.S. at 348.

As indicated by the following paragraph and supportive footnote from Corwin, "The President: Office and Powers 1787-1957," 192-193, 433-435, congressional resolutions on matters of international concern, including joint resolutions, have a long history and, in the author's words, "there seems to be no constitutional way in which a President can stop" them.

Almost one hundred years later resolutions were introduced in the House expressing "its cordial approval" of the World Court and its "earnest desire that United States give early adherence to the protocol establishing the same with the reservations recommended by President Harding and President Coolidge." The resolutions were referred to the Committee on Foreign Affairs, which in reporting them favorably listed more than thirty "precedents relating to action by the House of Representatives upon treaties and foreign affairs." Some of the actions mentioned were based on exaggerated, or otherwise mistaken, notions as to the consequences that ought to be expected to flow from them, but if they are considered solely as expressions of opinion it is difficult to see what constitutional objection they were open to. Sometimes Presidents have found such resolutions embarrassing, and sometimes no doubt they were intended by their proponents to be precisely that. Yet even at such time Presidents would occasionally have done better to heed them for the indication they gave of the trend of public opinion. At any rate, there seems to be no constitutional way in which a President can stop Congress's mouth, whether it is saying encouraging things or discouraging ones.

The attitude of Presidents toward such congressional expressions of opinion has naturally varied with circumstances—and also with the temperaments of Presidents. Monroe's cordiality toward congressional collaboration in the matter of recognizing the South American republics was noted above. The same President also expressed his acquiescence in a resolution passed by the House February 28, 1923 requesting the President to enter upon negotiations with the maritime powers of Europe and America for the abolition of the slave trade. Richardson, II, 244. The Joint Resolution of April 27, 1846 requesting the President to give notice to Great Britain of the termination of the Convention of 1827 was approved by Polk—was, in fact, procured by him as a part of his efforts to disentangle himself from the embarrassment of his "Fifty-four Forty or Fight" pledge.

Grant's and Wilson's response to congressional "interferences" was quite different, as we have seen. A further illustration of the latter's generally jealous attitude is furnished by his letter of December 8, 1919 to Senator Fall anent a resolution just introduced by the latter advising the President to sever diplomatic relations with Mexico. The letter reads:

"Thank you very much for your kind promptness in complying with my request that you sent me a copy of the memorandum report of the subcommittee on Mexican affairs of the Committee on Foreign Affairs [*sic*]. I shall examine it with the greatest interest and care. What you told me of the investigation, on Friday last, prepared me to find it matter of the greatest importance.

"You ask an indication of my desire with regard to the pending resolution to which you and Senator Hitchcock called my attention on Friday, and I am glad to reply with the utmost frankness that I should be gravely concerned to see any such resolution pass the Congress. It would constitute a reversal of our Constitutional practice which might lead to very grave confusion in regard to the guidance of our foreign affairs. I am confident that I am supported by every competent Constitutional authority in the statement that the initiative in directing the relations of our Government with foreign governments is assigned by the Constitution to the Executive and to the Executive only. Only one of the two houses of Congress is associated with the President by the Constitution in an advisory capacity, and the advice of the Senate is provided for only when sought by the Executive in regard to explicit agreements with foreign governments and the appointment of the diplomatic representatives who are to speak for this Government at foreign capitals. The only safe course, I am confident, is to adhere to the prescribed method of the Constitution. We might go very far afield if we departed from it.

"I am very much obliged to you for having given me the opportunity to express this opinion."

Woodrow Wilson.

—

The New York Times, *December 9, 1919.*

Resolutions passed by the Senate and House separately in the 2nd session of the Fifty-third Congress, warning President Cleveland against the employment of force to restore the monarchy of Hawaii, probably saved his administration from a serious misstep. *Congressional Record,* 53rd Congress, 2nd sess., pp. 1814, 1825, 1838, 1879, 1942, 2000, 5127, 5499. Likewise, the once hotly debated "McLemore Resolution," requesting President Wilson "to warn all citizens of the United States to refrain from traveling on armed merchant vessels," while resented by him, did unquestionably afford him a valuable hint as to the state of the public mind, and one that he was quick to take. *House Reports,* No. 147, 64th Congress, 1st sess. Similarly, the *failure* of the Senate in August 1937 to adopt a resolution authorizing the loan of six superannuated destroyers to the government of Brazil saved Secretary Hull, the author of the proposal, from embarrassing our government's relations with Argentina.

Raymond J. Celada,
Senior Specialist in
American Public Law.

☐ 1230

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Wisconsin (Mr. Zablocki) is recognized for 15 minutes, for purposes of debate only.

Mr. ZABLOCKI. Mr. Chairman, before beginning my debate in opposition, because so many Members have inquired just how long we are going to be in session today, I wish to advise our colleagues that we are going to remain in session until we complete the resolve clause. If the full 10 hours will be required, we will be in session 10 hours; that is, until possibly 11 o'clock or 12 o'clock tonight. We are determined to finish the resolve clause, and then continue the preamble and the substitute debate tomorrow.

Mr. Chairman, I submit this amendment is unnecessary and excessive in its scope. As the gentleman from Wisconsin has repeatedly stated on previous occasions, House Joint Resolution 13 does not attempt to negotiate START on a day-to-day basis. It establishes general policy and broad parameters for START and is consistent with the exercise of legislative power in providing guidelines which the Congress feels the executive branch should follow on matters affecting foreign policy.

House Joint Resolution 13 sets out a list of objectives. For example, how and when a mutual and verifiable freeze can and should be negotiated.

The gentleman from California suggests that House Joint Resolution 13 is precedent setting and unconstitutional. This is not the case, Mr. Chairman. With specific reference to arms control policy, in the legislation approving the SALT I agreement in the other body, the Jackson amendment provided detailed policy guidelines for future negotiations of SALT.

House Joint Resolution 13 does the same thing for START and, therefore, sets no precedent.

But further, Mr. Chairman, as to the constitutionality of House Joint Resolution 13—as the chairman knows, the gentleman from Wisconsin is not a lawyer, much less an international lawyer, or a constitutional lawyer—we have requested an opinion from the American Law Division of the Library of Congress on the constitutionality of House Joint Resolution 13, and I will read from that report.

Ms. FIEDLER. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. If I may just give this summary and if the gentlewoman will withhold, her question will perhaps be answered.

Ms. FIEDLER. I thank the gentleman.

Mr. ZABLOCKI. The report, dated April 5, 1983, from the American Law Division of the Library of Congress, deals with the subject of the constitutional propriety of the nuclear freeze resolution. It states that congressional advice by resolution is a longstanding practice. The language of House Joint Resolution 13 is in keeping with this practice because the resolution states that the START talks should, rather than shall, have certain objectives.

The Supreme Court decision, the report states further, Consumer Products Safety Commission against GTE Sylvania, Inc., 1980, confirmed this principle when it states: "The starting point for interpreting the statute is the language itself."

The report further states: The use of joint resolutions to express the views of Congress on matters of international concern has ample precedent, including more than 30 actions taken by the House of Representatives from 1787 to 1957 on joint resolutions that express opinions. Some of these joint resolutions were signed by the President with his full concurrence, for example, including the Jackson amendment to the SALT I agreement, as I have already mentioned.

Further, the report from the Library of Congress, the American Law Division opinion, states: According to Sutherland Statutory Construction, an important distinction between director and mandatory statutes is that the former is attended with no consequences, while the failure to comply with the requirements of the latter either invalidates purported transactions or subjects the noncomplier to affirmative legal liability.

Now, House Joint Resolution 13, the report states, is clearly directory, in that neither the resolution nor the committee report suggests the imposition of consequences for noncompliance with its objectives.

The Library of Congress report further states that while a joint resolution has the force of law, it is intended as a guide for the conduct of business rather than a limitation of power.

In reference to the report, where the report states this resolution mandates, the Library of Congress, American Law Division, states that the word "mandate" as used in the committee report can mean guidance, rather than order or decree and, considered with the discretionary nature of the language in House Joint Resolution 13, poses no constitutional issue.

Mr. LUNGREN. Mr. Chairman, will the distinguished chairman of the Committee on Foreign Affairs yield to me on that point?

Mr. ZABLOCKI. I yield briefly to the gentleman from California.

Mr. LUNGREN. Mr. Chairman, I have seen that analysis. I agree with that analysis. What I would like to make sure we have on the record is that the language contained in the committee report, using the term "mandate," is not to be considered as appropriately interpreting this resolution to be binding on the President. And this would make clear that it is advisory, as the analysis done by the Congressional Research Service says this resolution is. And only if it is, then in fact is it constitutional.

Now, if I could get a simple statement on the record from the chairman, I might even withdraw the amendment, because all I want to know is this: Mr. Chairman, are you saying, then, that this resolution does not in fact mandate the President to follow the guidelines contained in the resolution?

Mr. ZABLOCKI. If I may respond, this is what we have been saying for 48 hours of debate.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Oregon.

Mr. AuCOIN. I would like to ask the chairman of the Committee on Foreign Affairs if his amendment does not simply say that this directive in no way supersedes the President's constitutional treatymaking powers. Is that not what the gentleman's amendment says?

Mr. ZABLOCKI. But it deals with START.

I might say to the gentleman from California and the gentleman from Oregon that it is my intention to really bring out the intent, and I will offer an amendment to it which clarifies the situation. First of all, I do not believe it is necessary. Nevertheless, if the gentleman from California will support House Joint Resolution 13, I will be very happy to spell out that nothing in this resolution shall be construed to supersede the treatymaking powers of the President under the Constitution.

I will offer that amendment to his. And then I hope that the gentleman from California will support the resolution.

Mr. LUNGREN. If the chairman will yield, I suggest as this animal evolves, I do not know, but it may be a household pet by the time we finish.

Mr. Chairman, the reason why I would like to get this very clear is that, for instance, the gentleman from Oregon made a statement against the Siljander amendment, from the Congressional Record, 5770, "What the gentleman's amendment does is to make the freeze discretionary. The resolution does not."

Now, that would appear to many of us to suggest that it mandates that a freeze actually—that the President, if he does not get a freeze, is violating the law of the land. And I just want to make clear what the understanding is of the chairman. If the chairman will offer his amendment, I think we could probably make it very clear on the record.

Mr. ZABLOCKI. As the gentleman from Wisconsin has stated, he is prepared to clarify the amendment. If you accept my amendment, there is no need to debate this issue further.

Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. AuCoin).

Mr. AuCOIN. Mr. Chairman, I think it is important at this stage to go back to the original statement of the chairman of the Foreign Affairs Committee on the second day that the committee considered this matter. The gentleman from Wisconsin said at that time, in an effort for all Members to understand the effect and thrust of the resolution: "This resolution sets forth objectives for U.S. negotiators to strive to achieve in negotiations with the Soviet Union."

I think that makes it very clear what the resolution is. This is the definitive interpretation. We have been operating off of that definitive interpretation from the beginning and, in the heat of debate, if a word is chosen that seems to confuse the gentleman from California, then it is totally inadvertent. This is the definitive statement. It is in the record, and we operate under it.

Mr. LUNGREN. Mr. Chairman, will the chairman of the committee yield briefly one more time?

Mr. ZABLOCKI. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Chairman, it is not a word that is taken in the heat of debate. On page 2 of the committee report, it says, in the second paragraph:

> House Joint Resolution 13 accomplishes this purpose by mandating objectives for the conduct of the START negotiations, including the negotiations of an immediate, mutual, and verifiable freeze on and reductions in nuclear weapons and their delivery systems.

□ 1240

This is not something done in the heat of battle unless the committee report was done in the heat of battle.

Mr. ZABLOCKI. Mr. Chairman, if I may regain my time, I must again repeat, the language in the resolution speaks for itself and the report is not necessarily the interpretation that the gentleman from California gives.

The resolution is clear on this point.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from Wisconsin (Mr. Zablocki) yields back the balance of his time in opposition to the amendment.

Is the gentleman requesting recognition for the purpose of offering an amendment to the amendment?

Mr. ZABLOCKI. I am, Mr. Chairman.

AMENDMENT OFFERED BY MR. ZABLOCKI TO THE AMENDMENT OFFERED BY MR. LUNGREN

Mr. ZABLOCKI. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Zablocki to the amendment offered by Mr. Lungren: In the text of the matter proposed to be added to the resolution by the Lungren amendment, strike out all that follows "(b)" through "(START)" and insert in lieu thereof the following:
>
> Nothing in this resolution shall be construed to supersede the treatymaking powers of the President under the Constitution.

The CHAIRMAN. The gentleman from Wisconsin (Mr. Zablocki) is recognized for 15 minutes in support of his amendment, for purposes of debate only.

Mr. ZABLOCKI. Mr. Chairman, I shall be very brief.

My amendment clarifies the intent of the amendment offered by the gentleman from California, and certainly should set aside any concerns as to the interpretation of the purpose of the resolution.

Therefore, my very simple and clear amendment says that "Nothing in this resolution shall be construed to supersede the treatymaking powers of the President under the Constitution."

My amendment should be overwhelmingly adopted.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman for Oregon.

Mr. AuCOIN. I appreciate the gentleman from Wisconsin yielding to me.

Mr. Chairman, if the gentleman from California (Mr. Lungren) is concerned about Congress, in some unlawful way, binding the treaty-making powers of the President, those concerns are removed by the amendment offered by the gentleman from Wisconsin.

No freeze advocate that I know of wants to try to overstep the constitutional powers of the legislative branch in this regard; but on the other hand, I do not think we ought to go so far in the name of that concern that we render this freeze resolution a simple Mother's Day declaration, which is what I think the language of the gentleman from California would do.

So the amendment offered by the gentleman from Wisconsin solves any problems of the gentleman from California or any other Member about whether or not we are overstepping our powers. Let it preserve a solid sense of direction given by the legislative branch as to what the proper negotiating posture of this Government ought to be.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield very briefly to the gentleman from Iowa.

Mr. LEACH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, the chairman has a very constructive amendment to the amendment and I urge its consideration.

We should not lose perspective. What we have here is a quite frank tension between Congress and the Executive on the issue of arms control. We are trying to resolve it in such a way that the Constitution is honored, but not hiding the fact that there are differences of opinion.

Interestingly, a very analogous debate came to fruition yesterday when the bishops of the Catholic Church of the United States, reflecting an historical tension between church and state relations, made the decision that arms control was too important an issue to be considered as anything other than a moral as well as a strategic problem; therefore, it is a matter of churchly concern.

What the Congress is saying is that arms control is too important an issue to be considered exclusively a concern of the Executive when, in essence, what we are talking about is the fundamental issue of survival of all our peoples. It is right and proper for Congress to go on record with an approach to arms control that many in this body, many of the American people, support.

The amendment offered by the gentleman from Wisconsin to the amendment sets the right tone, indicating that the Constitution shall be honored, but at the same time it does not hide the fact that there is a tension at this time between Congress and the Executive, a tension that all of us hope will be resolved in a satisfactory manner. But it is right and proper for this body to go on record with this particular approach at this time.

Mr. ZABLOCKI. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Wisconsin (Mr. ZABLOCKI) has consumed 4 minutes.

Mr. HYDE. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI).

The CHAIRMAN. The gentleman from Illinois (Mr. HYDE) is recognized for 15 minutes, for purposes of debate only.

Mr. HYDE. Mr. Chairman, I hope that every Member who is going to be impressed with the bishops' letter will read it all, and I hope that their acceptance of the sentiments of that letter will include the abortion issue, instead of selectively citing it on arms control. There are a few interesting paragraphs in that letter on the abortion issue. But I digress.

I also might point out that the bishops called for deep cuts in superpower arsenals, so that ought to be noticed, too.

We are here at precisely the issue that we have been talking about for 5 days. These gentlemen, the proponents of this resolution, do not really know what it means, and we are still trying to find out. If it takes until midnight tonight, we are going to find out.

Is it or is it not binding on the President? Does it mandate the President to a course of action or not?

I suggest the report says "mandate." I suggest the Speaker told the press it is advisory only. I suggest that the chairman of this committee, and I quote, said:

> It is true that House Joint Resolution 13 would be legally binding.

The gentleman from Oregon, Mr. AuCOIN, said at page 5770, and I quote:

> What the gentleman's amendment does is to make the freeze discretionary. The resolution does not.

Then we have Mr. DASCHLE, a proponent of the resolution and a cosponsor, saying:

> We know this resolution is nonbinding and cannot force the administration to do anything.

Then we move to Mr. GEPHARDT, who says:

> It (the resolution) goes far beyond the proposal for a mutual and verifiable freeze. It lays out a negotiation posture for the United States in START.

So we are trying to find out, does it bind or is it advisory? The amendment offered by the gentleman from California says, and I quote:

> Consistent with the treaty-making powers of the President, nothing in this resolution shall be construed to be binding on the President or his negotiators in the formulation of strategy, instructions or positions in the conduct of the Strategic Arms Reduction Talks.

This is clear. That is crystal clear. It is not binding.

Now the gentleman from Wisconsin (Mr. ZABLOCKI) has come along with a perfecting amendment, and what he says is:

> Nothing in this resolution shall be construed to supersede the treaty-making powers of the President under the Constitution.

Big deal. You mean we cannot amend the Constitution by House Joint Resolution 13? Do you mean to imply that we could supersede the treaty powers of the President? Of course not. It is in the Constitution, and nothing we do here is going to have any effect, diminishing or enlarging, the constitutional powers of the President. So you have ruined a good piece of paper by saying nothing. You are not giving us anything here. You are reaffirming what is in the Constitution. It does not address the contradictions that bristle from the CONGRESSIONAL RECORD as to whether this resolution is mandatory or advisory.

That is what the Lungren amendment seeks to determine and that is what you are trying to avoid by repeating what the Constitution says.

Mr. CARNEY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from New York.

Mr. CARNEY. I appreciate my colleague yielding to me.

Mr. Chairman, this brings up something very, very important. This is the sixth amendment offered by the gentleman from Wisconsin, the chairman of the Committee on Foreign Affairs. All six of them have been amendments to amendments proposed by the minority.

As I said before when we debated the rule, we are being denied a clear-cut, up-or-down vote on issues that we think are very important.

□ 1250

Here the gentleman from California offers an amendment that clarifies what the legally binding position of House Joint Resolution 13 is. It is amended or perfected by the majority to leave it virtually gibbely-gock, and I think the gentleman from Illinois (Mr. HYDE) points that out very well.

Mr. HYDE. Mr. Chairman, let me tell the gentleman, if I may, that I have resented listening to the other side of the aisle charging us with dilatory tactics when we are still trying to find out, after 45 hours, what this thing means and whether it is binding or advisory. And they still will not tell us.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I appreciate my friend's yielding, and I take this time to make the point that was made briefly by my friend, the gentleman from New York and that has been made even more eloquently by the gentleman from Illinois as to the confusion and ambiguities about this freeze resolution. No one, not one person knows what is in this resolution.

May I say it is my feeling that whether it is explicitly mandatory or not is not as important as the amount of confusion that will reign among our allies and adversaries if this should pass. I want to remind everybody that had this resolution been up to the chairman of the committee or the Speaker of the House, it would have passed without debate and we would have never found out whether it is mandatory or simply symbolic law or an instruction and that would have been a crime.

The gentleman from Wisconsin went before the Rules Committee—and I happened to be sitting in the audience when he yelled out, "for shame, for shame," that a small group of "conservatives" in the minority had dared to debate the issue and ask the chairman of the committee questions about the resolution.

I say, shame on the majority for trying to rush through a resolution that would have done in 1983 what the Gulf of Tonkin resolution did for this country in 1964 and that is provide confusion and loopholes through which the executive branch could drive just about any policy it wanted.

I say to my friend, the gentleman from Illinois, if I may proceed for 1 more minute, that on August 10, 1964, the Gulf of Tonkin resolution passed this body. Here it is. No one knew what it would lead to and there was not much debate, and it passed unanimously leading us into something unintended. And that's my fear today.

Where was the chairman of the committee, the gentleman from Wisconsin, in 1964? Was he asking questions of President Johnson? Where was the Speaker of the House? Was he accusing anybody of delay. Oh, if we had had some Members of Congress who would have stood up and asked some questions. Where was the House in 1964? Have we not learned from history? Can we not learn from past mistakes?

I say to the gentleman from Illinois, the gentleman from New York, the gentleman from California, the gentleman from Pennsylvania, the gentleman from Michigan (Mr. BROOMFIELD), and the other gentleman from California over there, God bless you for standing up and asking the hard questions that have to be asked about a resolution that could weaken not strengthen the cause of peace and deterrence.

Mr. Chairman, how can you say, for shame to those who dared to ask questions? You have had more amendments to this resolution than anybody else.

There would have been no amendment had it not been for the fact that the gentleman from Wisconsin, incidentally does the gentleman on the majority side who was yelling, "Vote" want to come out here in the open and debate this issue or does he want to hide in a corner as he has been doing for the last 44 hours?

Mr. HYDE. Mr. Chairman, if I may, I would like to recapture my time.

Mr. KEMP. The gentleman from Wisconsin has passed more amendments to this resolution than anybody else. I say, shame on the majority for trying to push this through in the same way the Gulf of Tonkin resolution was passed in 1964.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. KEMP. I will be glad to yield to the author of the amendment.

Mr. HYDE. Mr. Chairman, I have the time. The gentleman from Illinois still has the time, I hope.

If I may say this in response to my friend, the gentleman from New York, it seems to me that we have two stools that the chairman of the committee, the gentleman from Wisconsin, is standing on. One says, "binding," and one says "not binding." They are separating, and I fear for my chairman that he is going to get a hernia from this untoward position in which he finds himself.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman from Illinois yield, since he has referred to the gentleman from Wisconsin?

Mr. HYDE. Mr. Chairman, let me ask the gentleman, does he have time to yield to the gentleman from Iowa (Mr. LEACH) who wants to enter the debate?

Mr. ZABLOCKI. Mr. Chairman, I still have some time.

Mr. HYDE. If the gentleman will yield to the gentleman from Iowa, Mr. LEACH, then I will yield to him.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman for yielding.

The reason I reserved the balance of my time was in order not to be accused of dilatory tactics, but let me respond to the gentleman from Illinois on that subject of the "stool." The gentleman from Illinois, coming from an agricultural area, must have seen a stool. A stool has three legs, not two.

Mr. HYDE. It is called a triad. It is two stools, and it has six legs.

Mr. ZABLOCKI. Well, it is what they call a three-legged stool. If the gentleman would prefer, I will describe it later or draw a picture for him of the three-legged stool.

But the gentleman from New York has accused the gentleman from Wisconsin of offering more amendments than anybody else. I did not offer them on my own initiative; I offered them as perfecting amendments to a bad amendment offered from the other side.

Mr. HYDE. Mr. Chairman, I want to recapture my time.

Mr. ZABLOCKI. Well, I want to commend the gentleman——

Mr. HYDE. No, Mr. Chairman. We have limited time on this side, and the gentleman has lots of time remaining.

Mr. KEMP. Mr. Chairman, will the gentleman yield further?

Mr. HYDE. I yield to my friend, the gentleman from New York.

Mr. KEMP. Mr. Chairman, I appreciate the gentleman's yielding.

I was not accusing the committee chairman of anything with regard to offering amendments. That is certainly his right. All the chairman of the committee is doing is reminding everybody that this resolution was an imperfect document in the beginning and it still is today. It is less clear hour by hour and the purpose of the debate has been to elevate and flush out some of the errors and contradictions and nuances and ambiguities and loopholes.

The debate has been healthy, Mr. Chairman. I say to the gentleman, do not apologize for it. That is all I am saying. The gentleman has done a nice job of cleaning up what was a mess in the beginning. It is still a mess. But the gentleman has offered more amendments than anybody else, yet he is saying, shame on the minority for trying to keep this debate going for awhile to try to find out what other mistakes were made.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from California.

Mr. LUNGREN. Mr. Chairman, I appreciate the gentleman's yielding.

One of the reasons we have this difficulty is that the chairman of the committee himself said, when we started this whole debate, that this would be for the purpose of mandating objectives for the START talks. Later on, on page H1205, the chairman said, "It is true that House Joint Resolution 13 would be legally binding."

Then we have the gentleman from Oregon, Mr. AuCOIN, on page 5770, saying that we do not want to make the freeze discretionary. Then we have the gentleman from South Dakota, Mr. DASCHLE, saying, "We know this resolution is nonbinding and cannot force the administration to do anything."

We have everybody all over the map on this, and all we are trying to do is to say, if the gentleman does not want to try to amend the Constitution by this resolution, let us go beyond that and say precisely what it is we are not pretending to do.

If we cannot bind the President, we should say that.

Mr. HYDE. Mr. Chairman, if I may recapture my time, I think the Lungren amendment goes right to the question of whether or not House Joint Resolution 13 binds the President or is advisory. I think it is a legitimate question. I think it is something we are entitled to know on this side of the aisle, and I think we are entitled to a vote up or down on that question.

And for the committee chairman to come in and say that nothing we do can supersede the constitutional powers of the President, we know that. What we do not know is whether it is a binding resolution or whether it is advisory.

I ask the other side, will they let us find out, or do they want to keep us in the dark? It is that simple.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Iowa, since his name has been mentioned.

Mr. LEACH of Iowa. Mr. Chairman, I thank the gentleman for yielding.

I just wanted to raise several points in response to the gentleman from New York. The gentleman from New York properly pointed to an issue about which this Congress should be embarrassed, and that is the Gulf of Tonkin resolution. But it should be very clear that this freeze resolution is a Gulf of Tonkin resolution in reverse. The Gulf of Tonkin resolution was an implicit declaration of war; this is a declaration for peace. That distinction is very profound.

Second, it is true that there are some unprecedented aspects in consideration of this amendment. What we are seeing in this Congress is something that is more typical of a European parliamentary setting. We are seeing in essence a vote of no confidence in this administration's approach to arms control. By the same token, it is very carefully framed within our constitutional framework.

Finally, let me just stress that while the resolution is unprecedented, it is constitutional and it is legal. It is unprecedented because of the nature of the problem and because of the nature of the response to the problem.

Mr. Chairman, the gentleman from Wisconsin has crafted a very good amendment to the amendment, and I again urge its adoption.

Mr. CARNEY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from New York.

Mr. CARNEY. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Iowa (Mr. LEATH) said that this is a vote of no confidence in our administration on arms control. I would like to point out that this administration has three distinct arms controls negotiations going on right now. It is the first administration in the history of our Nation to do just that.

Mr. HYDE. Mr. Chairman, let me say this.

Mr. CARNEY. Yes, the gentleman from Illinois controls the time.

Mr. HYDE. Mr. Chairman, is the gentleman telling us that, now that Mr. Andropov has just proposed reductions, if this resolution passes and becomes law, our arms control negotiators have to turn a deaf ear to those proposed reductions start talking freeze? Is that what he is saying?

Mr. CARNEY. That correct.

Mr. HYDE. How intelligent of us, how wise, how prudent. What great arms control policy. I am staggered by the wisdom of this resolution.

Mr. CARNEY. Mr. Chairman, if the gentleman will yield, I think the gentleman recognizes that the President of these United States proposes a cutback of 33 percent of our strategic weapons both in the Soviet Union and in the United States. It has been counter offered by the Soviet Union that we cut back 25 percent.

□ 1300

Now this Congress thinks we would be better off keeping the obscene levels of weapons that we have. That is precisely what this resolution calls for.

Mr. HYDE. Mr. Chairman, I reserve the balance of my time.

Mr. ZABLOCKI. Mr. Chairman, I yield myself such time as I may require.

I regret that the gentleman from New York (Mr. KEMP) is not on the floor, because I did want to commend him when he had repeated what I had stated before the Rules Committee. What I said there was that so much time was wasted and I added, "For shame, for shame," so much time was wasted without accomplishing anything.

I want to commend the gentleman for repeating my remarks but he did it more dramatically than I, proving that he is a better actor than I am.

But I also want to respond to the gentleman's question, "Where was the chairman, the gentleman from Wisconsin, when the Gulf of Tonkin resolution was here?"

I was working here, doing my job as chairman of the Subcommittee on the Far East. On the basis of the information we received we acted on a bipartisan basis; no one from the other side raised a question. We supported the resolution on the basis of information we had at the time. Today the gentleman from New York raises the question.

Now, I submit to the gentleman and, Mr. Chairman, I want to say to the Chair, I never resorted to Monday morning quarterbacking. I wish he would not, either.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding.

I would like to get the attention of the gentleman from California and the gentleman from Illinois. The gentleman from Illinois has made the point that we are just trying to find out, and the House is trying to find out, what the force and effect of this resolution is in determining the President's negotiating posture in the START negotiations, and that is a very fair question. It is a legitimate question.

It is a question that along with many others in this extended debate on this important issue of the survival of mankind has to be clarified, and I think the question has a very important purpose; but I think the chairman of the committee has answered the question. I hope that we will not clutter the answer by the result of votes on an amendment which may distract us from what the gentleman from Wisconsin said. He may have remarked this before the gentleman came on the floor; I do not know.

In referring to the Library of Congress American Law Division report, the chairman of the committee quoted a portion of that report which says, "While a joint resolution has the force of law, it is intended as a guide for the conduct of business, rather than a limitation of power."

He went on to say:

> The word "mandate," as used in the committee report can mean guidance, rather than order or decree, and considered with the discretionary nature of the language in H.J. Res. 13 poses no constitutional issue.

I think what the gentleman from Wisconsin has said is that regardless of whether House Joint Resolution 13 has the force or effect of law or not, that with respect to binding the President's hands in negotiations, it is guidance. It is not mandatory or directive in that sense, and to the extent the committee report uses the word "mandate," it is not suggesting that the President's hands are tied by law and that he would be violating the law as the result of it. That is my understanding of what the gentleman from Wisconsin has said and, indeed, if that is what he said, I would hope that we can take that answer. It is spread on the record and let us get to these other issues which are also very important and where there are substantive differences between the position of the chairman and others.

Mr. LUNGREN. Mr. Chairman, will the gentleman from Wisconsin yield?

Mr. ZABLOCKI. I am glad to yield to the gentleman.

Mr. LUNGREN. I appreciate what the gentleman said. If that is the case, I would suggest changing one word in my amendment and maybe we can arrive at that conclusion, which is by saying, "nothing in this resolution shall be construed"—mandate—"on the President or his negotiators in the formulation of strategy, instructions, or positions in the conduct of the strategic arms reduction talks."

We would then take out the word "mandate" precisely in the resolution and thereby make it clear that what is said in the committee report is, in fact, an inaccurate statement or a misleading statement in terms of what it means.

Now, I am trying to accommodate the chairman of the committee to use the very word that he suggests is not conveyed in the resolution itself. If that is true, I would be happy to accommodate the gentleman by changing it, so that the word would be "mandate" rather than "binding." We take out "to be binding." We put in "mandate." We take out "in" after "negotiators," so it would just really read, "negotiators in the formulation of strategy, instructions, or positions."

Would the gentleman consider that as a way out of this morass?

Mr. ZABLOCKI. Mr. Chairman, I have been distracted, unfortunately. Would the gentleman repeat that, please?

Mr. LUNGREN. If what the gentleman from Georgia said is a proper reflection of the gentleman's comments, and I believe that they are a reflection of what the gentleman said in reference to that report from the Research Service, would the gentleman be of a mind of accepting my amendment, but changing three key words. Take out the words "be binding" and in there put "mandate" and then take out the word "in" following "negotiators," so that it would read, "nothing in this resolution shall be construed to mandate on the President or his negotiators the formulation of strategy, instructions, or positions in the conduct of the strategic arms reduction talks."

That would clear up a very, very serious ambiguity we have, because of the word "should" in the base resolution, but the instructions of "mandate" contained in the committee report itself.

Mr. ZABLOCKI. In response to the gentleman from California, I would not accept that. I do not believe there needs to be the spelling out of whether it is binding or mandated. I believe that my amendment to the amendment of the gentleman from California is clear, and I am staying by my amendment.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I am glad to yield to the gentleman from Iowa.

Mr. LEACH of Iowa. I thank the gentleman for yielding.

I would just like to speak again to correct a historical reference that was made a minute ago, and that is that this is the first administration to have three on-going arms control negotiations going on. Actually, for much of the last 15 years, we have had four negotiations going on: the Geneva talks, the SALT talks, the MBFR talks, as well as the Law of the Sea.

This administration has pulled out of one of those talks, the Law of the Sea talks.

More importantly, it is not the number of talks, it is results that count in arms control.

Here I think we have to be very clear to understand that one of the reasons for the concern of the American public is that in our ongoing multilateral talks, we, the United States of America, have pulled out of the conference on test ban negotiations, we have pulled out of the Indian Ocean zone of peace negotiations, as well as we have ceased consideration of the Law of the Sea.

Finally, and let me just stress, that this administration's approach is actually very similar to the Carter approach in its first 3 months in office, an approach of steep reductions that got nowhere. Unfortunately, we have been going 2 years and 3 months, and have gotten nowhere.

Now the issue is to have more flexibility, more reasonableness. I think the gentleman from Wisconsin is leading us very well in that direction.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Again, I speak to the gentleman from California, through the Chair, and suggest that he accept the explanation of the gentleman from Wisconsin, which is a very precise and clear statement.

A joint resolution, whether or not it has the force or effect of law, and let us take it that it does, in the case of the resolution before us, provides guidance to the President. It is more than simply signing a petition. It is a solemn act of the Congress, but it does not bind the President in his constitutional authority.

It is very clear from what the gentleman from Wisconsin said that while a joint resolution has the force of law, it is intended as a guide for the conduct of business, rather than a limitation of power.

□ 1310

It seems to me that statement incorporates everything the gentleman from California seeks to achieve, and I would hope that we do not dilute the significance of that statement by the chairman through the possible votes that may ensue. I think he has said it. He has answered the question.

Mr. ZABLOCKI. Mr. Chairman, I believe we are ready to vote.

Mr. Chairman, may I ask, how much time do I have remaining?

The CHAIRMAN. The gentleman from Illinois (Mr. (Hyde) has 30 seconds remaining, and the gentleman from Wisconsin (Mr. Zablocki) has 1 minute remaining.

Mr. ZABLOCKI. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Does the gentleman from Illinois yield back the balance of his time?

Mr. HYDE. Mr. Chairman, I yield to the gentleman from New Jersey (Mr. Courter).

The CHAIRMAN. The gentleman from Illinois (Mr. Hyde) may yield for purposes of debate only, but not for purposes of offering an amendment.

PARLIAMENTARY INQUIRY

Mr. HYDE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HYDE. Can the gentleman from New Jersey (Mr. Courter) be recognized on his own time?

The CHAIRMAN. The gentleman can be recognized on his own so long as neither the gentleman from Illinois (Mr. Hyde) nor the gentleman from Wisconsin (Mr. Zablocki) wishes to be recognized for debate.

So the gentleman from Illinois may reserve his 30 seconds or yield it back, in which event the Chair could recognize the gentleman from New Jersey.

Mr. HYDE. Mr. Chairman, I reserve my 30 seconds.

Mr. ZABLOCKI. Mr. Chairman, I reserve my 1 minute.

The CHAIRMAN. The gentleman from Wisconsin has yielded back his 1 minute.

AMENDMENT OFFERED BY MR. COURTER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. LUNGREN

Mr. COURTER. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Courter as a substitute for the amendment offered by Mr. Lungren: In lieu of the matter proposed by said amendment, insert the following:

On page 5, line 19, insert "(a)" after "2.", and after line 23 add the following:

"(b) Nothing in this resolution shall be construed to supersede the treatymaking powers of the President under the Constitution, and therefore nothing in this resolution shall be construed to be binding on the President or his negotiators in the formulation of strategy, instructions or positions in the conduct of the Strategic Arms Reductions Talks (START)."

The CHAIRMAN. The gentleman from New Jersey (Mr. Courter) will be recognized for 15 minutes in support of his amendment.

Mr. COURTER. Mr. Chairman, I allowed my amendment to be read because it is a short one and also because we have not had time to distribute it to all Members before today.

The substitute arises out of the debate that we have just had. Just to recap very quickly the debate, the gentleman from California, Mr. Lungren, simply had an amendment so that we could finally have a clean up or down vote on the proposition as to whether the resolution itself is binding or nonbinding on the President and the negotiators.

The gentleman from Wisconsin, Mr. Zablocki, had an amendment to that amendment indicating as follows: "that nothing in the resolution shall be construed to supersede the treatymaking powers of the President under the Constitution."

In one sense all people agree that the resolution is nonbinding but on the question of whether there should be a vote on that, the gentleman from Wisconsin obviously does not think so and is hiding behind the Constitution suggesting that this body has the power to amend the Constitution, which it clearly does not.

My substitute then takes the best parts of both amendments, the amendment offered by the gentleman from Wisconsin as well as the amendment offered by the gentleman from California and links them by putting them in one substitute. It says on the one hand that nothing we are doing here interferes with the Constitution of the United States or interferes with the President's obligations under that Constitution which no one on either side of the aisle is going to disagree with. But, No. 2, and I think most importantly, it finally permits this body to have a clean vote on whether the resolution is binding or nonbinding.

The people that are in favor of the resolution, for some reason, do not want to cross this very important bridge. I have never heard of a law that is partially binding or binding and valid under only some circumstances. Either it is or it is not.

So this substitute is going to permit a vote on that issue. Either the resolution is advisory or it is binding. Either the resolution is a recommendation or it is mandatory.

My substitute is going to permit a vote finally on this crucial issue of whether it is binding or not binding. So, therefore, I offer this substitute.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I am happy to yield to the gentleman.

Mr. LEVITAS. I thank my friend because I share the concern of the gentleman. It is for that reason I think this debate has been so constructive in cleaning up a lot of ambiguity.

But I fail to understand why a vote is necessary when the definitive statement of the chairman of the committee has been, again today, the following: "while a joint resolution has the force of law, it is intended as a guide for conduct of business rather than a limitation of power."

We know what the President's power is.

The chairman of the committee goes on to say "The word 'mandate' as used in the committee report can be guidance rather than order or decree, and considered with the discretionary nature of the language in House Joint Resolution 13 poses no constitutional issue."

Let me, if I may, if the gentleman will indulge me, say that what I am suggesting to the gentleman is that the chairman of the committee has made that statement. I realize that there are other voices who have said other things. But, Lord help us if we have to try to reconcile the statements made by everybody on either side of this issue as to what this resolution means.

So I think we have to accept what the chairman says as a definitive statement on this point and if that definitive statement is totally consistent with what the gentleman has asked for then it would seem to me there is no reason for a vote.

Mr. COURTER. If the gentleman will permit me to respond, the problem with the definitive statement is that it is vague, not clear. I cannot really understand what the problem is.

It seems to me that a resolution is either binding or it is not. If the gentleman from Wisconsin is saying and agreeing that it is not binding on the President of the United States, because if it were binding, it would be repugnant to the Constitution and the treatymaking powers of the executive branch and Senate, why does not the gentleman just simply accept an amendment that says it in very clear language?

It is waltzing around. It should be a very simple thing to do. We can stop the debate right now and we can accept my substitute.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding. I think we need to make the point as well that at the same time that the chairman has again used the kind of statement that he has, which I think is very useful, we have had the proponents of the legislation standing up and saying that the real intent of this legislation is as a vote of no confidence in the administration's policies.

In other words, those policies that are now ongoing that are producing results, produced results as of yesterday, that what we are doing here is having a vote of no confidence in those policies.

This needs to be absolutely spelled out in the resolution that this is indeed not a vote of no confidence in the President, that it is advisory by the Congress, and that we are attempting to say by the resolution we are not binding the President to specific procedures.

I think the gentleman's substitute would help us in that regard and I thank the gentleman for yielding.

Mr. COURTER. I thank the gentleman for his contribution.

Mr. MARTIN of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I now yield to the gentleman from North Carolina.

Mr. MARTIN of North Carolina. I thank the gentleman from New Jersey for yielding and want to commend him for offering the substitute which is presently before us.

The purpose of his substitute, as I understand it, is to offer a way to get back to the point where the House of Representatives can take a straight vote on the question of whether or not this legislation is intended to be and is in fact legally binding on the President of the United States.

It may be that the freeze leaders will find a way to obscure this vote, as they have done on so many other amendments and as has generally been their strategy. But I would hope they will let us vote on this essential issue.

I believe the chairman of the committee, the gentleman from Wisconsin, when he has said over and over in different ways that the bill is not binding on the President, he said that in relation to the interpretation of the fact that it is a House joint resolution rather than a concurrent resolution and that is his interpretation of what otherwise would be an obscure point in the legal history of this bill.

But I cannot understand why if he believes the bill to be nonbinding he would not want to bill itself to say that it is nonbinding, why he would not want the bill to say precisely what he has offered as an interpretation of other obscure meanings in the bill.

So I thank the gentleman for putting this issue before us and I hope that we can get a vote on it.

Mr. COURTER. I hope so, too.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for bringing his substitute to us so that we can finally get back to what I was trying to do at the very beginning. Unfortunately, because we have had extensions of time on the various sons and sons and grandsons and so forth of my original amendment, some would want to say that what we are attempting to do is to stall for more dilatory tactics. That was not our intention at all.

We wanted to have a very straight question answered and, unfortunately, when we attempted to do that the other side, for whatever reasons, feels we have to muddy up the waters by sending something else in which muddies it up and makes it unclear.

The problem is that we have a committee report. When you look in the legislative history for interpretation as to what a law means, you go back and you look at the committee report for some definition.

☐ 1320

In there if you read the committee report it clearly says that this mandates it. Now, the chairman has said that it does not mandate it and cites the reference service from the Library of Congress. That is fine.

I tried to accommodate the chairman by saying I would change the language of my amendment to precisely state that so it would be clear.

Unfortunately the record is replete with statements by many people, including the chairman as to whether it is legally binding or whether it is not, whether it mandates or does not mandate. If you really want to clear it up it ought to be in the base resolution itself.

That is all we are attempting to do. I still think that it does a disservice to this institution for Members of Congress to think that although we have taken an oath to uphold the Constitution, we ought not to be concerned about constitutional questions and in fact as some have said, let us get away from this issue and get on the substantive issues because we know ultimately the courts will resolve it. We have an oath under the Constitution to uphold that Constitution just as much as the members of the Supreme Court or any other judiciary members have. Unfortunately too often in this forum we think it not important. What I am saying is that we have an important constitutional question, let us have a straight up or down vote on it. You can still give the message to the President. One of the problems I have is when I initially started with this amendment, it was criticized on the other side by some proponents of the resolution, by saying I attempt to gut the resolution. I do not intend to gut the resolution, I merely set forth the constitutional situation.

Mr. COURTER. I thank the gentleman. I will take back my time.

I thank the gentleman for his contribution.

Basically the proponents of the substitute and the proponents of the original amendment are simply asking a very simple and clear question; we want a lucid and clear response. Unfortunately, we are asking the simple question, "Is it raining?" However the response is "It is not a perfect day."

We want to get a responsive reply; we want to get a vote and a response as to whether this resolution is binding or not binding.

Mr. PHILIP M. CRANE. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from Illinois.

Mr. PHILIP M. CRANE. I thank the gentleman for yielding.

I rise in support of the gentleman's substitute.

I think part of the problem today has been generated by the faulty language contained in this report, just as there has been obviously faulty language in the resolution, itself, thus we have been compelled to amend it.

But that word "mandate" technically involves a formal order or command from a legal or official superior to an inferior. Quite obviously there is no way this Congress could in any way mandate anything by that definition to the White House as a coequal branch of Government. But I think it is certainly incumbent upon us to clarify any potential misunderstanding and I see no reason why any one would have any objection to the substitute offered by the gentleman in the well. I thank him for yielding.

Mr. COURTER. I thank the gentleman for his contribution.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from New Jersey (Mr. COURTER) has 4 minutes remaining in support of his substitute.

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the substitute.

The CHAIRMAN. The gentleman is recognized for 15 minutes, for debate purposes.

Mr. ZABLOCKI. Mr. Chairman, I note we have had almost an hour and a half of debate on the issue of whether this resolution is binding or mandates.

Mr. Chairman, I submit if you adopt the amendment the gentleman has offered we are then indeed saying that the President can ignore the very objectives in the resolution, the input of Congress as to how the negotiations, whether it be for the mutual and verifiable freeze or mutual and verifiable reductions should proceed. I think we ought to bear in mind that we are making it very clear that we are not negotiating the provisions of a treaty we are not usurping the treatymaking power. In this resolution, we set out guidelines. And I do not see why the Members of the opposition are so concerned that the Congress should not have an input. Being sensitive that there are certain constitutional privileges and rights under the Constitution and the treaty powers to the President, I offered my amendment making that clear, that nothing in this resolution shall be construed to supersede the treatymaking powers of the President under the Constitution.

Mr. Chairman, I submit this should satisfy those that have read something troubling into the report. I might say I hope they would exert every effort in understanding the resolution, because it is the resolution that we will finally vote upon.

And therefore I must respectfully say, Mr. Chairman, that apparently the insistence on the part of the opponents in amending the resolution in the manner that the gentleman from California (Mr. LUNGREN) has, or in the way the gentleman from New Jersey (Mr. COURTER) has is only to be able to say that they have undermined the sequence or the priority of the resolutions which should be to freeze and then reduce. We are right back to what we have been debating over and over. This is the bottom line on the amendment that has been offered and the substitute that has been offered. Therefore, Mr. Chairman, I unfortunately have to add another amendment to the substitute because we will insist on our point of view being clear.

Therefore, at the proper time I will offer an amendment to the substitute.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I appreciate the gentleman yielding to me.

I asked the time of the gentleman from Wisconsin because I would like to propound a question to those who oppose the freeze, particularly the gentleman from California. This is not meant to be a hostile question.

What is the gentleman's concern that his amendment drives at? I interpreted his concern to be that we were usurping the constitutional powers of the President. If that is the gentleman's concern, then he should support the gentleman from Wisconsin's amendment. If he intends something more, then he ought to be forthcoming with the membership and say what it is that his amendment would do. The gentleman from Wisconsin's amendment does clarify that we are not usurping the constitutional prerogatives of the President.

Mr. LUNGREN. Mr. Chairman, will the gentleman from Wisconsin yield to me since the gentleman from Oregon posed a question?

Mr. ZABLOCKI. I am delighted to yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Chairman, all I am attempting to do is to clear up an ambiguity that has been spread upon this record. The only way you can deal with an ambiguity precisely is to have it in the statute, itself. If it is not in the statute itself, interpretation must then go to the committee report and the debate on the floor.

Now, we have a statement from the chairman as to what this does not do. Unfortunately that is contrary to the language in the committee report which suggests that in fact this does mandate what the President should do.

The report that the chairman relies on from the Research Service as saying this is a constitutional document, does so solely on the basis that this does not mandate the President to do these things. And if that is the case upon which he is basing his argument of constitutionality, let us say so up front, let us say so in the document, itself. Otherwise we leave this tremendous ambiguity, and frankly we place ourselves in a constitutional conflict that can only be resolved by the U.S. Supreme Court ultimately.

□ 1330

Why should we do that? Ought we not to uphold our obligation to the Constitution and say precisely that we are not going to usurp the President's power under the Constitution? It is to that effect that the gentleman from Wisconsin quotes from the report we received from the Reference Service, which I received as well. And it was upon receipt of that report that I authored this particular amendment so that it would be crystal clear. I think the last thing anybody wants, proponents or opponents of the freeze, is to send a confusing signal to the President, a confusing signal to the Soviets, and a confusion which will basically remain until ultimately the U.S. Supreme Court decides this issue.

Mr. ZABLOCKI. If I may reclaim my time, Mr. Chairman, I would like to ask the gentleman a question. The gentleman's amendment concerns me and that is why I proposed the amendment to his amendment, which now the gentleman from New Jersey wants to negate by including the gentleman's amendment. The gentleman from California's amendment reads: "Nothing in this resolution shall be construed to be binding on the President or his negotiators in the formulation of strategy, instruction or position in the conduct of the strategic arms reduction talks."

Is it proper to assume that the gentleman by saying nothing should be binding as far as the START talks, that the resolution is binding on negotiations for a mutual and verifiable freeze? Is that not a logical conclusion that a person can come to? The gentleman is only saying nothing is binding as far as the START talks are concerned, but the resolution also puts at the highest priority a mutual and verifiable freeze.

Therefore, I offered an amendment to make it very clear that it is all-encompassing, this resolution does not in any way supersede the treatymaking powers of the President. And I thought the gentleman was ready to accept that.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Oregon.

Mr. AuCOIN. I appreciate the gentleman's yielding and I have got to call to the attention of my colleagues, including the gentleman from California, that the House has already been over this ground once.

Let me refer my colleagues to the Stratton amendment adopted on April 20, which says the following:

> No action shall be taken under this Act that will obligate the United States to disarm or to reduce or to limit the armed forces or armaments of the United States except pursuant to the treaty making power of the President under the Constitution or unless authorized by affirmative legislation by the Congress of the United States.

I do not know why the gentleman offers an amendment that continues to split a hair, frankly. It does split hairs. I think I speak for all the freeze advocates when I say we want the strongest possible mandate without in any way usurping the constitutional powers of the President. Now that is what we want.

I suspect what the gentleman from California wants is an ability to go to the press, if his amendment would carry, saying that he pulled the language which gives a freeze mandate to the President—and therefore that he succeeded in taking the energy and thrust out of the freeze resolution.

Mr. LUNGREN. Mr. Chairman, would the gentleman from Wisconsin yield since I have been posed a question and also had my motivation called into question.

Mr. ZABLOCKI. Without being accused of dilatory tactics, I will yield to the gentleman from California.

Mr. LUNGREN. I appreciate the gentleman yielding.

Mr. Chairman, in the first place the chairman posed a question to me as to whether since this only refers to the START talks that it is exclusive, that is, it is limited only to that and not to the freeze and so forth.

If the gentleman would look at the resolution that we are talking about here, it refers to the freeze in the context of the START talks. So it is as expansive as the base resolution is.

And by the way there used to be an interpretation in the law called a "pregnant negative." This concept prevailed when one specifically negated one thing, and thus opened everything else up. However, we no longer use that in terms of interpreting the law.

And the gentleman asked what the reason for my presentation of this might be. The reason for presenting it is because there is ambiguity. The chairman has recognized there is an ambiguity by saying that the committee report is not correct when it refers to mandate.

In an attempt to accommodate the chairman, I suggested that I would perfect my amendment by putting the word "mandate" in lieu of "binding." So I am willing to take out that buzz word "binding," if that is the problem.

But the gentleman refuses to accept that. For what reason I know not, because it merely states exactly what he has said that the base resolution talks about.

And finally, if the gentleman suggests that I am doing this for the press, I have not suggested that the gentleman from Oregon is doing anything for the press or how it is going to be interpreted in the press. I would just suggest that the gentleman from Oregon also stated that what I want to do is take out "mandate." In fact, that is exactly what I want to do because the chairman has assured me that this resolution does not mandate certain actions on the President, because if it did, it would be unconstitutional.

Mr. ZABLOCKI. Mr. Chairman, in reclaiming my time, I just want to comment and observe that the ambiguity, like beauty is in the eyes of the beholder.

I am in no way confused. I am always ready to clarify and I am sorry that the gentleman from California has added to the misunderstanding on the part of the Members of the opposition.

Mr. Chairman, I reserve the balance of my time.

Mr. COURTER. Mr. Chairman, I reserve the balance of my time.

AMENDMENT OFFERED BY MR. ZABLOCKI TO THE AMENDMENT OFFERED BY MR. COURTER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. LUNGREN

Mr. ZABLOCKI. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. ZABLOCKI to the amendment offered by Mr. COURTER as a substitute for the amendment offered by Mr. LUNGREN: In proposed new subsection (b), strike out all that follows "Constitution" through "(START)".

POINT OF ORDER

Mr. COURTER. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. COURTER. Mr. Chairman, I have a point of order against the amendment to the substitute.

Mr. Chairman, I have had a chance to look very briefly at the amendment to the substitute and it is simply a restatement of the gentleman's amendment to the amendment and as such is improper at the present time, the purpose of which is dilatory only and the purpose of which is not obviously to legitimately amend a substitute.

And therefore, I have a point of order and request that the amendment not be permitted to proceed at the present time.

The CHAIRMAN. Does the gentleman from Wisconsin (Mr. ZABLOCKI) wish to be heard on the point of order?

Mr. ZABLOCKI. Yes, Mr. Chairman.

The gentleman from New Jersey marries, so to speak, the two amendments, the amendment of the gentleman from California and the amendment of the gentleman from Wisconsin as a substitute.

All the amendment of the gentleman from Wisconsin does is amend the substitute, divorcing, or at least, deleting the latter part of the gentleman's amendment so that we can have an up and down vote on the two proposals.

And I believe an amendment to a substitute is in order whether it takes away or adds on to the language of a substitute.

The CHAIRMAN. The Chair is prepared to rule.

The Chair rules that the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI) to the substitute offered by the gentleman from New Jersey, is germane to the substitute. There is no precedent which would preclude the offering of that amendment to the substitute merely because it is similar or the same in effect as the amendment offered to the original amendment.

Therefore, the point of order is rejected.

The CHAIRMAN. The gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 15 minutes in support of his amendment to the substitute and is recognized for debate purposes only.

Mr. ZABLOCKI. Mr. Chairman, I deeply regret that I must continue to put perfecting amendments to the amendments as substitutes offered by opponents of this resolution. However, I would be remiss in my task as manager of House Joint Resolution 13 if I did not try to keep it as near as possible to our original intent and as the resolution has been reported from the Committee on Foreign Affairs.

Now my amendment to the substitute merely restores the language of my amendment to the amendment of the gentleman from California as I stated.

□ 1340

I must say that it is unfortunate we have become entangled and have spent over an hour and a half on this parliamentary conflict. But the Courter amendment simply combines, as I said, the amendment of the gentleman from California and the amendment to the amendment of the gentleman from Wisconsin, and, therefore, I am constrained to offer this amendment to the substitute to bring it back to the original amendment.

I really do not think any further discussion is required. We know just exactly what is being attempted on both sides. We have debated this issue for an hour and a half. I believe this is long enough. I think we should not utilize any more time on this particular issue. There are some 39 amendments left. Mr. Chairman, I sincerely hope that all of the Members who have proposed amendments will have an opportunity to call them up. So I hope we do not preclude them from having that opportunity by having so much time being utilized—I almost said wasted—on a particular amendment of such inconsequential measure as that now being debated. I know there are more substantive amendments pending. Let us give an opportunity to those Members who have substantive amendments pending—as the gentleman in the well, Mr. Martin of North Carolina, has, I know—and wind down and vote on this pending amendment to the substitute.

Mr. MARTIN of North Carolina. Mr. Chairman, will the chairman of the Foreign Affairs Committee yield for a comment?

Mr. ZABLOCKI. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. Martin).

Mr. MARTIN of North Carolina. I want to thank the chairman for yielding to me, because I want to thank him and commend him for coming up with an amendment that seeks directly to strike the language that he does not want, that is, to strike the reference to whether the bill is nonbinding.

It had been my concern that the gentleman from Wisconsin would come up with an amendment to the substitute which would seek, as other amendments have done before, to try to obscure what the real issue was. But instead—I want my colleagues to listen to this—what the chairman has offered is an amendment only to strike the reference to nonbinding. That permits us a direct vote that we have been seeking all along, a direct vote on whether it will be specified in the resolution, it is nonbinding or whether it will not be specified in the resolution. So I want to thank the gentleman for offering that kind of an amendment. It is the first time that we have had that kind of a break where we can talk to our colleagues in terms of a vote that, clearly, if it carries, will remove any reference to the bill as being nonbinding. In the same way, if we can defeat this amendment, it will be the first time that we will have been able to have what will amount to an affirmative vote for putting in the bill that it is nonbinding.

I have one question for the chairman, and that is whether in his review of the legislation before us there is anything in the bill which he sees binding on the President of the United States.

Mr. ZABLOCKI. As I have repeatedly stated, this resolution is a resolution of objectives, how and when a mutual and verifiable freeze should be negotiated. If the President negotiates a verifiable freeze, after it is ratified by the Senate, only then—only then, I emphasize—will the freeze be in place.

So there is no mandating or binding or violations of the Constitution. This is not a treaty. But I do not think we have to spell it out because the gentleman's interpretation is his own, and it could be further misinterpreted by some of the gentleman's colleagues. Therefore, I would hope that the amendment to the substitute will be agreed to.

Mr. Chairman, I reserve the balance of my time.

Mr. HYDE. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Wisconsin (Mr. Zablocki).

The CHAIRMAN. The gentleman from Illinois (Mr. Hyde) is recognized for 15 minutes in opposition to the amendment and is recognized for debate purposes only.

Mr. HYDE. Mr. Chairman, I have listened carefully, as I always do, to the words of our distinguished chairman of the Foreign Affairs Committee, and I think I just heard him say he does not want it spelled out in the resolution because otherwise it might yield to differing interpretation. So we do not spell it out in the resolution, we leave it to the contradictory statements from the plethora of sponsors of this resolution of the century to determine whether it is binding or whether it is not. We still do not know whether it is binding or whether it is not. We have heard the word "guideline," we have heard the word "mandate" rejected out of hand, even though it is in the report which the distinguished chairman signed, we have heard the chairman say that if it is not binding in the resolution, the President could ignore it. So I guess we want it to be semibinding. I guess what they want is a nonbinding mandate. Or is it a nonmandate binding? I am not really sure. I do not think anybody knows yet, and I think if we stayed here until doomsday we would not find out whether or not the chief sponsor wants the President to be bound by this resolution, wants him to consider it thoughtfully, prayerfully, anxiously, or wants him to be ordered to conduct the negotiations with a view toward a freeze.

Now, the vice of this whole resolution is, it takes flexibility away from the person who is constitutionally authorized to conduct foreign affairs—the President. It removes flexibility and it says, "You shall negotiate a freeze," never mind that the Soviets are offering reductions in response to two offers of reductions from this administration, from this Government, from your Government. Never mind that, we must avert our eyes from reductions, from cutting down on the arsenals of terror, these horrible bombs that are going to incenerate the globe, we are going to have to negotiate a freeze which could take years and years and years. And, to me, it is just senseless to divert our attention, divert our energies, divert the skills of our negotiators away from getting sensible reductions, reducing the terror, gaining stability in favor of negotiating a freeze which locks in place these weapons of terror. The fear on the other side to let the word "reductions" creep into the resolution on a par, as a peer in primacy, with the term "freeze," really I think a specialist in abnormal psychology could give us a paper on. Because "reductions" means "increases," we do not want to let that word creep in. We let it follow a freeze, but only following a freeze.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, I wonder if the gentleman can explain to me, as a new Member of Congress, why, now in our 6th day of debate, we have been unable, in virtually every amendment we have offered, to clarify exactly what is in this resolution and, now faced with this vital issue about whether this resolution is binding on the President of the United States or not, why we face substitute after substitute, amendment after amendment, when the simple question is: Does this resolution bind the President of the United States or does it not? It is a simple question. I do not understand, as a new Member of Congress, why we cannot get a vote on this.

Mr. HYDE. Well, I will explain that to the gentleman: Because obfuscation and vagueness, together with charges of dilatory tactics, is the strategy of the day. It must mean all things to all people. It must mean to the Markey wing, to the AuCoin wing, to the Solarz wing, to the Zablocki wing, to the Montgomery wing, to the Aspin wing—it must mean all things to all people. And if you spell it out, you lose a few. That is the theory.

Mr. KASICH. If the gentleman will further yield, is that, then, the intent of going to the Rules Committee and trying to limit the amount of time that we debate this resolution, that the confusion on the side of the proponents of this resolution is so rampant and rather than continuing the discussion in an attempt to clarify and describe what this resolution is all about, they go to the Rules Committee and try to shut off debate?

Mr. HYDE. Of course. The more it is clarified, the more people fall off the sled, the more they realize what this really means.

Now, at all costs, never spell out what it really means.

□ 1350

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Chairman, I believe I heard the chairman of the committee say that this amendment really is not needed because we really know what it says, and it is implicit in there. I would just query the gentleman from Illinois, can the gentleman see any harm in allowing my amendment in the resolution, if in fact as the chairman suggests it does not really do anything or change anything?

Mr. HYDE. Well, I think the hawks on the other side of the aisle, if I may use that inelegant term, are reluctant to let anything so nuanced creep into the resolution that says it is not binding. They want it to be semibinding. They know they cannot tie the President's hands because it would then be unconstitutional, but they really do not want to say that. I think that is what they have in mind, but I surely would not bet on it.

Mr. LUNGREN. If the gentleman will yield further, can the gentleman explain to me why on this floor we are so concerned about the nuances and the very specific details of the U.S. Constitution in other matters, but it is not important enough to include our interpretation of the constitutional prerogatives of the President vis-a-vis those of the House of Representatives and the Senate in this resolution?

Mr. HYDE. I can only say I hope their conception of what is binding and what is not never creeps into our matrimonial law. We will have more problems than we have now.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from New Jersey.

Mr. COURTER. I thank the gentleman for yielding.

Mr. Chairman, I used to practice matrimonial law, but I will not pursue that particular area.

I have a legitimate question, and I think this particular vote is boiling down to those people who want this resolution to be totally binding and those who feel that it obviously should not be. But the question I have to the gentleman, is the following: Does the gentleman know of anything that is semibinding? We have those people who say it is binding and those who say it is not binding. We want to have just simple language that clarifies it, and it seems to me that the situation, unless the Courter substitute is passed or the Lungren amendment is passed without being tampered with, you have a situation where it is semibinding or binding under some circumstances, depending on the circumstances.

Mr. HYDE. I guess the English majors would call it an oxymoron. It is kind of like a carnivorous vegetarian or a reflective Democrat; something like that.

Mr. MARTIN of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from North Carolina.

Mr. MARTIN of North Carolina. I thank the gentleman for yielding, and I thank the gentleman for his clarification of the situation.

Mr. Chairman, I would also ask him whether he agrees with me that, although there is an inversion here, when we get to the vote on the Zablocki amendment to the Courter substitute, inasmuch as that amendment is to strike the reference in the Courter language to the bill being nonbinding, that will be the first up-or-down vote that we will get on whether or not nonbinding will be placed in the bill. No, if up means down and down means up——

Mr. HYDE. If my friend will permit me, I think what you are saying, and I think we all ought to understand it, is when we vote on the amendment by the gentleman from Wisconsin, which I trust will be the next vote——

Mr. MARTIN of North Carolina. That will not be the next vote.

Mr. HYDE. That will not be the next vote?

Mr. MARTIN of North Carolina. We will get to that in a minute. Go ahead.

Mr. HYDE. I am sorry. Well, if we do vote on the gentleman's amendment, we will be voting on whether or not this resolution (H.J. Res. 13), is binding or not, because we will be dealing with the word "binding." A vote for the Zablocki amendment is to take "nonbinding" out, language that says it is not binding but it is advisory, and by implication, of course, then it becomes binding.

Mr. MARTIN of North Carolina. Therefore, if you want to make clear in the bill that this legislation is, as the chairman has often said, nonbinding, then the vote on the amendment offered by the gentleman from Wisconsin to the substitute of the gentleman from New Jersey would be a vote of "no."

PARLIAMENTARY INQUIRY

Mr. MARTIN of North Carolina. Mr. Chairman, I have a parliamentary inquiry.

The **CHAIRMAN.** The gentleman will state it.

Mr. MARTIN of North Carolina. I would inquire of the Chair whether it is correct that the first vote would be taken on the amendment offered by the gentleman from Wisconsin to the original amendment offered by the gentleman from California to perfect that original motion, after which there would be a vote on the amendment offered by the gentleman from Wisconsin to the substitute offered by the gentleman from New Jersey?

The **CHAIRMAN.** The gentleman is correct.

Mr. MARTIN of North Carolina. Which means that the key, clear, up-or-down vote, although upside down in the way it is interpreted, the key, clear, up-or-down vote will be on the second vote perfecting the amendment in the nature of a substitute offered by the gentleman from New Jersey.

Mr. HYDE. Mr. Chairman, I want to ask the gentleman from North Carolina a question as long as he is in the well.

Mr. MARTIN of North Carolina. How did I figure all that out?

Mr. HYDE. No, not how you figured that out. I know the gentleman is a Ph. D. in chemistry and I defer to his education.

Why is it dilatory when Republicans seek to clarify the glaring ambiguities in this resolution through the amendatory process? Why is that dilatory, but when they, then, offer substitute amendments or amendments to amendments, that is just strategy? Can the gentleman explain that to me?

Mr. MARTIN of North Carolina. I can only explain my own view, and I personally do not believe that it is fair to accuse either side of dilatory tactics. We have been sitting here, and standing, and moving about and conversing and debating a very important issue facing the United States and our allies and our adversaries, and that is, how do we proceed to move forward with control of nuclear weapons? That is a critically important issue. Careful discussion and relevant questions and amendments are not dilatory.

It has always been my view that we ought to be here trying to encourage the President of the United States to press forward with the proposals that he put before the negotiating adversaries in Geneva. And yet is seems to me that the main purpose of this resolution before us has been to embarrass the President and take that negotiating table away from him.

But as the gentleman will recall with deserved satisfaction, during the debate on this we have raised questions which have caused some difficulty on the part of the advocates of the freeze resolution. We first got a variety of conflicting and ambiguous interpretations and explanations from them and then we began to get explanations that would say one thing but which they did not really want to be made clear in the bill. That is, in fact, where we come to on this particular amendment.

Mr. HYDE. Does the gentleman mean that a fundamental question, a basic question as to whether this resolution shall bind the President or merely be advisory, that our lack of understanding as to the answer to that fundamental question, after 5 days of debate, does the gentleman mean that that is troubling to him?

Mr. MARTIN of North Carolina. It is not troubling to me that we have raised this issue. It would be troubling to me if it were not raised. It would be more troubling to me if the questions that have come up during this debate had not been allowed to come up.

It does trouble me somewhat, furthermore, that in answering that question about whether the bill is nonbinding, we get assurances that, of course, it is nonbinding, it is nonmandating, and yet there is some unexplained reason, unexplained as yet by the advocates of the freeze who oppose putting into the bill language making clear that it is nonbinding.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding.

Mr. Chairman, I took the time during this debate to reread the powers of Congress as set forth in the Constitution and the Constitution very clearly omits this section. This Congress does not have the power to do what we are trying to do. If we think that we are going to impose our will as the House of Representatives upon the President of the United States we are clearly overextending our expressed power.

What we are talking about now is not only cleaning up the language of hours and hours of confusing debate and conflicting statements in the RECORD itself, but also inserting some constitutional honesty in the bill. Let us not try to sell what we are doing for something it is not, and it is clearly not anything that would come close to instructing the President. We do not have that power.

I think this body should state its intention clearly within the RECORD and within the law and then go on about our business.

Mr. HYDE. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair would like to advise the Members of the Committee on time.

With respect to the original amendment offered by the gentleman from California (Mr. LUNGREN), all time has expired for debate.

With respect to the Zablocki amendment to the amendment offered by the gentleman from California, (Mr. LUNGREN), the gentleman from Illinois (Mr. HYDE) has 30 seconds remaining. The time of the gentleman from Wisconsin (Mr. ZABLOCKI) has expired.

With respect to the Courter substitute, the gentleman from New Jersey (Mr. COURTER) has 4 minutes remaining in support of the substitute, and the gentleman from Wisconsin (Mr. ZABLOCKI) has 3 minutes remaining in opposition.

Finally, with respect to the Zablocki amendment to the Courter substitute, the gentleman from Illinois (Mr. HYDE) has 1 minute remaining in opposition, and the gentleman from Wisconsin (Mr. ZABLOCKI) has 10 minutes remaining in support.

Mr. ZABLOCKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not know just how many times I must repeat this point. Apparently the Members on the opposite side of the aisle hear but they do not listen. Can they show me any reference in the resolution to mandating the provisions in the resolution, or binding the President to the resolution? The resolution clearly states that the House of Representatives intends that there are certain guidelines and objectives that should be followed.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Illinois.

Mr. HYDE. I would just cite to the gentleman that in the——

Mr. ZABLOCKI. I said the resolution. I see you have the report in your hand. We have gone through that over and over again. You can rip yours apart.

Mr. HYDE. All right. We do not care about the report.

□ 1400

Mr. ZABLOCKI. Mr. Chairman, that language in the report was also in the last Congress, and not one word was raised about the mandate during the 9 hours we debated.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. No attempt was made to amend that portion of the language.

Now I ask the gentleman from California and the gentleman from New Jersey, what would be the effect of their amendments?

The first effect would be, regardless of the guidelines, that we have every perfect right under the Constitution to suggest to the President; but if their amendment would carry, the President could ignore that advice. He can ignore it. Then, what is our role if we want our input to be ignored?

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I am delighted to yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I think it is very clear what our role is. We control the budget and the purse strings of this country. For any of these weapons systems to be built, it is going to require the appropriations of this Congress. That is our control. We control the money in this Congress.

Mr. ZABLOCKI. Mr. Chairman, that is very true, but I am going beyond the buildup of military armaments. The gentleman from Wisconsin is speaking of foreign policy, and this is foreign policy. Otherwise it would not be before the Committee on Foreign Affairs.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. Mr. Chairman, I must repeat that we have every right to give some guidelines and some input into the formulation of foreign policy. Although the President certainly has the power under the Constitution to formulate foreign policy, we can have some input.

Now, if we want to abrogate our rightful role, then that is up to the Members of the Congress. For too long we had done that. The Congress has abrogated its role in foreign policy to the executive branch until the War Powers Act. Now they are trying to back away from whatever we have gained.

I think this is our rightful role, and I do not think we should say, by the amendment offered by the gentleman from California (Mr. LUNGREN) or reinstated as a marriage to the amendment offered by the gentleman from Wisconsin or the gentleman from New Jersey, that we want the President to ignore the provisions or the guidelines in House Joint Resolution 13.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. So, Mr. Chairman, I respectfully urge support for my amendment to the substitute and my amendment to the original amendment offered by the gentleman from California, and I yield now to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Chairman, I thank the chairman of the committee for yielding.

I would like to address the point he made as to what our role is. I think that is the problem that we have had all through this debate.

I think we can attempt to advise any branch of Government if we choose to do so. However, under the powers of the House of Representatives and as it appears in the Constitution, the words, "foreign relations," do not even appear. We do not have the power to set foreign policy in this country except in the way it applies and is set forth in the Constitution in outfitting our armies, our defense budget, and things like this.

The only area in which our Constitution provides for our power in foreign policy is in the power to declare war. That is the only power that this Congress has in foreign policy.

That is the problem and that has been the problem all through this debate, and I think it is time, if we want a nuclear freeze resolution, that we simply state exactly what it is. If it is nothing but an advisory opinion to the President, when we ought to put that in there and go about doing that.

Mr. ZABLOCKI. Mr. Chairman, I just cannot follow the logic of the argument of the opponents of the resolution. We have heard the gentleman from New York (Mr. Kemp) say that we were overly silent on the Gulf of Tonkin resolution and we should have played a more important role. Now the gentleman from Florida says that we should avoid any role in foreign policy.

I submit that we have a responsibility, and we ought to vote our responsibility.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield for just 1 second?

Mr. ZABLOCKI. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Chairman, I appreciate the gentleman's yielding.

The gentleman said that the word "mandate," or something like that was in the resolution last year and nobody brought up any argument against it. I suggest to the gentleman that I brought up the argument against that, using the same arguments I am using here today. I believe that that was one of the compelling reasons why this House voted down that resolution last year.

I did bring it up at that time, we talked about the constitutional implications at that time, and I think they were appropriate then and I think they are appropriate today.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman from California. If he is attempting to refresh my memory, let me ask him. Did the gentleman introduce an identical amendment at the time to House Joint Resolution 521?

Mr. LUNGREN. Mr. Chairman, if the gentleman will yield, no, I did not. I used the same argument here against the resolution itself on the floor that I am using today.

Mr. ZABLOCKI. That is what I meant. That is exactly what I meant. The gentleman did not, and nothing was said about it the last time. He raised the issue perhaps in the debate, although I do not recall. Perhaps I missed it. But he did not offer an amendment.

Mr. LUNGREN. Mr. Chairman, I would like to send the gentleman a copy of it if he would like to read it.

Mr. ZABLOCKI. Mr. Chairman, I come to the same conclusion. We have a responsibility here, and I think we ought to fulfill that responsibility. In referendums all over the country—on the State level, the county level, and the municipal level—the people of this country have expressed support for a mutual and verifiable freeze. I think we should carry out the wishes of the people of this country and vote for House Joint Resolution 13 now.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair will inquire, does the gentleman from Wisconsin yield back the balance of his time on both of his amendments?

Mr. ZABLOCKI. Mr. Chairman, the gentleman from Wisconsin would be delighted to yield back the time if there will be no attempt to use time by the proponents of the amendments. If they will yield back the balance of their time, I am ready to yield back the balance of my time.

The CHAIRMAN. The Chair will inquire first, then, of the gentleman from Illinois (Mr. Hyde) does the gentleman from Illinois choose to use the remaining 30 seconds that he has in opposition to the Zablocki amendment to the Lungren amendment?

Mr. HYDE. Mr. Chairman, on the second Zablocki amendment, I believe I have 1 minute remaining, do I not?

The CHAIRMAN. The gentleman from Illinois (Mr. Hyde) has 30 seconds on the first Zablocki amendment and 1 minute on the second Zablocki amendment.

Mr. HYDE. Mr. Chairman, I yield back my 30 seconds on the first Zablocki amendment.

The CHAIRMAN. The Chair will advise the Members that with respect to the time for voting, if any time is reserved on a second amendment on which a recorded vote is ultimately ordered, the Chairman does not have the discretion to order that to be taken within 5 minutes unless all debate has been used.

So the Chair would inquire of the gentleman from Illinois, with respect to the second Zablocki amendment on which a section vote will occur, does the gentleman choose to use at this time the 1 minute remaining in opposition to that Zablocki amendment?

Mr. HYDE. The gentleman from Illinois chooses to reserve his 1 minute on the second Zablocki amendment.

The CHAIRMAN. Has the gentleman from Wisconsin (Mr. Zablocki) yielded back the balance of his time on that second Zablocki amendment?

PARLIAMENTARY INQUIRIES

Mr. ZABLOCKI. Mr. Chairman, I have a parliamentary inquiry.

Mr. Chairman, is my understanding correct that if the time that is reserved is not yielded back, we cannot have a 5-minute vote on the amendment?

The CHAIRMAN. The Chair has discretion under the rule to order a 5-minute vote on a subsequent amendment only if there is no intervening debate, so the Chair would be unable to order a 5-minute vote on a subsequent amendment if a recorded vote is ordered on the first amendment, if any Member has reserved his time on the subsequent amendment which is pending, because then there would be intervening debate.

Mr. ZABLOCKI. A further parliamentary inquiry, Mr. Chairman.

After the vote, if there is a reservation of time and those who have reserved their time have yielded back, could we then have a 5-minute vote?

The CHAIRMAN. No; the Chair would have to order the 5-minute vote in advance.

Mr. ZABLOCKI. Mr. Chairman, did I understand that the gentleman from Illinois (Mr. Hyde) reserved his time?

Mr. CHAIRMAN. The Chair will advise that the gentleman from Illinois (Mr. Hyde) has reserved his 1 minute remaining on the second Zablocki amendment, that is, the Zablocki amendment to the Courter substitute, which would be the second vote taken. So the answer is, yes, he has reserved his 1 minute.

Mr. ZABLOCKI. The gentleman from Wisconsin has how much time remaining?

The CHAIRMAN. The gentleman from Wisconsin has 3 minutes remaining in support of the amendment.

Mr. ZABLOCKI. I reserve the 3 minutes, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. Zablocki) to the amendment offered by the gentleman from California (Mr. Lungren).

The question was taken; and on a division (demanded by Mr. Zablocki) there were—ayes 22, noes 13.

So the amendment to the amendment was agreed to.

□ 1410

The CHAIRMAN. The Chair will inquire as to whether or not the gentleman from Illinois (Mr. Hyde) wishes to use his remaining 1 minute.

Mr. HYDE. I do, Mr. Chairman.

Mr. Chairman, I yield to my friend, the gentleman from California (Mr. Lungren).

Mr. LUNGREN. Mr. Chairman, I thank the gentleman for yielding.

One point I would like to make is that this amendment does not seek to gut the bill. All it does is attempt to put the language of the Speaker of the House of Representatives into the bill. On the day we started this debate, the Speaker of the House of Representatives, the gentleman from Massachusetts (Mr. O'NEILL) was quoted as saying in the Washington Post that this resolution "only expresses the will of the Congress and does not bind the President."

The gentleman from Wisconsin, the distinguished chairman, has said that we are abdicating our responsibility if we allow this language in there. I would never suggest that the Speaker of the House would want us to abdicate our responsibility. He says that this does not bind us. If that is the case, let it clearly be so by containing it in the resolution so that there is no ambiguity.

All we are attempting to do is to clarify what this bill does and not mislead people that it does things that it constitutionally cannot do.

Mr. HYDE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. HYDE) has expired.

The gentleman from Wisconsin (Mr. ZABLOCKI) has 3 minutes remaining on the Zablocki amendment to the Courter substitute.

Mr. ZABLOCKI. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, it seems to me I sound like a broken record, because I keep on stating and stating what is in the resolution and the resolution speaks for itself.

I do not think we need an amendment which will not clarify, but will in fact confuse the intent of the Congress. The confusion would be, does the President have to pay any attention at all to our recommendations or suggestions?

The amendment which the gentleman from California proposes, as I said before, tells the President to ignore our input. I say if we are sincere, and we are sincere, we ought to meet our responsibilities and pass a resolution that does give some guidelines and objectives that we wish the President to follow, although we do not force him to negotiate particular list of objectives.

The CHAIRMAN. The 1 minute of the gentleman from Wisconsin (Mr. ZABLOCKI) has expired.

The gentleman has 2 minutes remaining.

Mr. ZABLOCKI. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired on the Zablocki amendment to the Courter substitute.

The Chair would inquire as to whether the gentleman from New Jersey (Mr. COURTER) chooses to use his remaining 4 minutes on the Courter substitute.

Mr. COURTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair would then inquire of the gentleman from Wisconsin (Mr. ZABLOCKI), who has 3 minutes remaining on the Courter substitute, whether he chooses to yield back the balance of his time.

Mr. ZABLOCKI. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI) to the amendment offered by the gentleman from New Jersey (Mr. COURTER) as a substitute for the amendment offered by the gentleman from California (Mr. LUNGREN), as amended.

The question was taken, and on a division (demanded by Mr. ZABLOCKI) there were—ayes 24, noes 28.

RECORDED VOTE

Mr. ZABLOCKI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will announce that pursuant to the provisions of clause 5, rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of the adoption of the Courter substitute.

The vote was taken by electronic device, and there were—ayes 234, noes 183, not voting 15, as follows:

[Roll No. 83]

AYES—234

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Barnes
Bates
Bedell
Beilenson
Berman
Bevill
Biaggi
Boehlert
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Britt
Brooks
Brown (CA)
Bryant
Carper
Carr
Chandler
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Coughlin
Coyne
Crockett
D'Amours
Daschle
Davis
Dellums
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edgar
Edwards (CA)
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fish
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Fuqua
Gaydos
Gejdenson
Gephardt
Gibbons
Gonzalez
Goodling
Gore
Gray
Green
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hamilton
Hance
Harkin
Harrison
Hawkins
Hefner
Heftel
Hertel
Horton
Howard
Hoyer
Jacobs
Jeffords
Johnson
Jones (OK)
Jones (TN)
Kaptur
Kastenmeier
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
LaFalce
Lantos
Leach
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Levitas
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
MacKay
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McHugh
McKernan
McKinney
McNulty
Mica
Mikulski
Mineta
Minish
Mitchell
Moakley
Mollohan
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Natcher
Neal
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Panetta
Patterson
Pease
Penny
Perkins
Pickle
Price
Pritchard
Rahall
Ratchford
Reid
Richardson
Rinaldo
Rodino
Roe
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shannon
Sharp
Sikorski
Simon
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
St Germain
Staggers
Stark
Stokes
Studds
Swift
Synar
Tallon
Tauke
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Vento
Walgren
Watkins
Weaver
Weiss
Wheat
Whitten
Williams (MT)
Williams (OH)
Wirth
Wise
Wolpe
Wright
Wyden
Yates
Yatron
Young (MO)
Zablocki

NOES—183

Andrews (TX)
Archer
Badham
Barnard
Bartlett
Bateman
Bennett
Bereuter
Bethune
Bilirakis
Bliley
Boggs
Breaux
Broomfield
Brown (CO)
Broyhill
Burton
Byron
Campbell
Carney
Chappell
Chappie
Cheney
Clinger
Coats
Coleman (MO)
Conable
Cooper
Corcoran
Courter
Craig
Crane, Daniel
Crane, Philip
Daniel
Dannemeyer
Daub
DeWine
Dickinson
Dreier
Duncan
Dyson
Edwards (AL)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Fiedler
Fields
Flippo
Forsythe
Franklin
Frenzel
Gekas
Gilman
Gingrich
Glickman
Gradison
Gregg
Hall, Ralph
Hammerschmidt
Hansen (UT)
Hartnett
Hightower
Hiler
Hillis
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jenkins
Kasich
Kazen
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath
Lent
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Lott
Lowery (CA)
Lujan
Lungren
Mack
Madigan
Marlenee
Marriott
Martin (NC)
McCain
McCandless
McCollum
McCurdy
McDade
McDonald
McGrath
Michel
Miller (OH)
Molinari
Montgomery
Moore
Moorhead
Myers
Nelson
Nichols
Nielson
Oxley
Packard
Parris
Pashayan
Patman
Paul
Petri
Porter
Pursell
Quillen
Ray
Regula
Ridge
Ritter
Roberts
Robinson
Roemer
Rogers
Roth
Rowland
Rudd
Sawyer
Schaefer
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Sisisky
Skeen
Skelton
Slattery
Smith (NE)
Smith, Denny
Smith, Robert
Snyder
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist

Tauzin
Taylor
Thomas (CA)
Valentine
Vander Jagt
Vandergriff
Vollmer
Vucanovich
Walker
Weber
Whitehurst
Whitley
Whittaker
Wilson
Winn
Wolf
Wortley
Wylie
Young (AK)
Young (FL)
Zschau

NOT VOTING—15

de la Garza
Derrick
Garcia
Gramm
Hall, Sam
Hansen (ID)
Hatcher
Jones (NC)
Martin (NY)
McEwen
Miller (CA)
Pepper
Rangel
Towns
Waxman

☐ 1430

The Clerk announced the following pairs:

On this vote:

Mr. Pepper for, with Mr. Gramm against.

Mr. Rangel for, with Mr. Hansen of Idaho against.

Mr. Waxman for, with Mr. Martin of New York against.

Mr. Towns for, with Mr. McEwen against.

Mr. SLATTERY changed his vote from "aye" to "no".

Mr. DAVIS changed his vote from "no" to "aye".

So the amendment offered as a substitute for the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment, as amended, offered by the gentleman from New Jersey (Mr. Courter) as a substitute for the amendment offered by the gentleman from California (Mr. Lungren), as amended.

The amendment, as amended, offered as a substitute for the amendment, as amended, was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Lungren), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Levitas: Page 5, line 8, immediately before the period, insert ", with such reductions to be achieved within a reasonable, specified period of time".

☐ 1440

The CHAIRMAN. The gentleman from Georgia (Mr. Levitas) is recognized for 15 minutes, for purposes of debate, in support of his amendment.

Mr. LEVITAS. Mr. Chairman, the purpose of this amendment is to fulfill and I suggest give credibility to what the proponents of the resolution have stated is their sincere purpose, that first there should be a freeze as it is expressed in the resolution, to be followed by reductions.

What my amendment achieves is that it assures that both of the purposes of the resolution are in fact accomplished, because one without the other, without the second stage occurring at some point would be a grave mistake. It would render the resolution itself meaningless, at best. And at worse, it would create a very dangerous situation, if all we accomplished was a freeze of weapons at the existing levels of nuclear armaments without bringing about significant reductions in a mutual and verifiable sense on both sides.

These reductions could be achieved in a way which will allow us to move toward more stable nuclear weapons systems, a step which will further reduce the threat of nuclear war. The mutual guaranteed build-down proposal suggested by Senators Nunn and Cohen would be a way of achieving these reductions. Under this proposal we could enhance deterrence, and lessen the vulnerability of our weapons systems in a way which would lessen the threat of a hair trigger attack. If we assure that we move from a freeze to reductions as fashioned by this proposal, we assure that we are truly moving toward a safer and saner world. But if we simply freeze without assuring reductions, we risk maintaining the instability and threat of nuclear war which now hangs over us.

Simply to freeze without moving to reduce through the negotiating process would be an affront to everything that the proponents of this resolution have argued up to this point.

My amendment provides that in the negotiating process, after a freeze is agreed to, as part of that process the reductions which will follow will occur within a reasonable period of time to be determined by the same negotiators who have negotiated the freeze itself.

In the absence of this, I suggest to my colleagues that the resolution would be a hypocritical statement by offering on the one hand to the world the opportunity not only of freezing, but of seeing a reduction of arsenals of nuclear weapons, yet providing for something to do otherwise.

And I suggest to my colleagues that this amendment really puts to the test the credibility of those who seek a nuclear freeze within the context of this resolution.

My amendment—I would like the attention if I could, of the gentleman from Oregon, the gentleman from Massachusetts, and the gentleman from New York, I have the attention of the gentleman from Wisconsin—does not change the sequencing of freeze followed by reductions. It requires, nothing more, that once the freeze has been achieved, there will be reductions agreed to within a specified, period of time by the negotiators.

I for one could not support any resolution, regardless of what name it goes by or what slogan it adheres to, if it did not result ultimately in fewer nuclear weapons. And all this amendment does is give credibility to the fact that there will be reductions and that you are not blowing smoke in the faces of the American people or the world. And for the life of me, I cannot understand how anyone who supports this resolution could oppose seeing that there be reductions within a specified reasonable time following a freeze.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the distinguished chairman of the committee, the gentleman from Wisconsin (Mr. Zablocki).

Mr. ZABLOCKI. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman from Georgia has made an excellent point. I believe his amendment is worthy of consideration.

I would like to ask the gentleman, however, I do have some problem with the words "specified period of time."

Would the gentleman be agreeable to amending his amendment by striking "specified" and it would read "with such reduction to be achieved within a reasonable period of time."

Mr. LEVITAS. I think the gentleman's suggestion is a good one and I really do not object to it.

Mr. ZABLOCKI. We are prepared to accept the amendment, with that change.

Mr. LEVITAS. May I make one other suggestion which perhaps in the next few minutes the gentleman might be considering, because I think it would underscore the point that the gentleman from Wisconsin has just suggested to me. My suggestion is that the reductions be achieved within a reasonable period of time to be determined by the negotiations. This would do precisely what the gentleman from Wisconsin outlined in great detail early on March 16 when he explained how many of these matters will be resolved. And I certainly would be amenable to eliminating the word "specified" and would suggest in addition to striking that, the gentleman might seek to amend my amendment with "a reasonable period of time as determined by the negotiations."

In that case I would be perfectly happy to accept it.

Mr. ZABLOCKI. If the gentleman will yield further, I would be amenable if the gentleman would amend his amendment as he has outlined.

Mr. LEVITAS. Mr. Chairman, I ask unanimous consent that the amendment that I have offered be modified by striking the word, "specified," and adding at the end of the language "as determined by the negotiations."

The CHAIRMAN pro tempore (Mr. Panetta). Is there objection to the request of the gentleman from Georgia?

Mr. DICKS. Mr. Chairman, reserving the right to object. I want to make sure I understand something, I want to understand the sequencing of what the gentleman is trying to do.

The gentleman is saying that the negotiators would try to negotiate and stop the upward momentum of the arms race and then within a reasonable period of time negotiate reductions.

Let me ask this question: If within a reasonable period of time they did not achieve reduction, would the freeze still be in place? The gentleman does not seek to undercut that, does he?

□ 1450

Mr. LEVITAS. It is my understanding that this negotiation that we are talking about is one that will occur essentially all at once, as part of an ongoing process, that the first stage of it will be a mutual agreement to freeze, however that is defined, with all of the qualifications, explanations. At the same time, the parties will mutually agree that they will mutually achieve reductions through negotiations within a reasonable period of time as negotiated, as part of this whole process.

Now, obviously, since it is all part of the same treaty, every part of that treaty would have to be implemented in order for it to come about or stay in effect.

All I am saying is that the reductions would have to occur. And that is precisely what the gentleman has been advocating.

Mr. DICKS. What if that did not occur?

Mr. LEVITAS. Then it would be a part of the treaty that was not implemented and the treaty would not thereafter apply.

Mr. DICKS. But if they did agree to a freeze, it would not affect the freeze?

Mr. LEVITAS. That would obviously be part of the negotiations themselves and it would have the result in reduction within a reasonable time.

Mr. DICKS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

Is there objection to the request of the gentleman from Georgia that the amendment be modified?

There was no objection.

The CHAIRMAN. For what purpose does the gentleman from Wisconsin (Mr. ZABLOCKI rise?

Mr. ZABLOCKI. Mr. Chairman, I rise to comment and yield time. I am not necessarily at this point in opposition.

The CHAIRMAN. The gentleman from Wisconsin (Mr. ZABLOCKI) rises in opposition to the amendment, and the gentleman is recognized for 15 minutes for purposes of debate only.

□ 1500

Mr. ZABLOCKI. Mr. Chairman, in order that we can continue the debate in proper order, and with an understanding of the amendment, as modified by unanimous consent, I ask that the Clerk re-read the amendment to the amendment.

The CHAIRMAN. The clerk will report the amendment, as modified.

The Clerk read as follows:

Page 5, line 8, immediately before the period, insert", with such reductions to be achieved within a reasonable period of time as determined by negotiations."

Mr. ZABLOCKI. Mr. Chairman, I yield myself such time as I may require.

I must say at the very outset, as the amendment has been offered, I have no problems with the amendment. But I am concerned—if I may have the same undivided attention of the gentleman from Georgia that I gave him—having read the gentleman's amendment as amended by unanimous consent, I have no problem, but in the explanation of your amendment you go further and it does cause some concern whether you intend your amendment to be so interpreted.

So, Mr. Chairman, I would hope that in the remaining 13 minutes of my time in opposition, technically in opposition, to the amendment we could have a clarifying dialog with the gentleman from Georgia.

Mr. COURTER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore (Mr. PANETTA). The gentleman from Wisconsin (Mr. ZABLOCKI) has the time.

Mr. COURTER. Mr. Chairman, will the gentleman yield to me for the purpose of making a parliamentary inquiry?

Mr. ZABLOCKI. I yield to the gentleman from New Jersey for the purpose of making a parliamentary inquiry.

PARLIAMENTARY INQUIRY

Mr. COURTER. My parliamentary inquiry, Mr. Chairman, is as follows:

It is my understanding that the proponent of the amendment, the gentleman from Georgia (Mr. LEVITAS) is recognized for 15 minutes, and then someone could be recognized if they, in fact, oppose it.

The gentleman from Wisconsin (Mr. ZABLOCKI) rose initially indicating that he was against the amendment, was recognized for 15 minutes, and during his monolog has indicated that, in fact, he is not opposed to it. Should he be recognized for the balance of his time?

The CHAIRMAN pro tempore. The Chair cannot question the gentleman's qualifications. The Chair did ask the question if he rose in opposition to the amendment, and the Chairman so stated. Therefore, he controls the time.

Mr. ASPIN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Wisconsin in order to have this dialog with the gentleman from Georgia (Mr. LEVITAS), the author of the amendment. I yield 2 minutes to the gentleman from Wisconsin.

Mr. ASPIN. I thank the gentleman for yielding.

Mr. Chairman, I would like the attention of the gentleman from Georgia (Mr. LEVITAS).

As I understand the purpose of the amendment of the gentleman from Georgia, it is to make sure that we tie together the freeze part with the reduction part; is that correct?

Mr. LEVITAS. The gentleman is correct. The sequencing would be freeze first, followed by reductions.

Mr. ASPIN. Let me ask the gentleman: The problem we are having, of course, is that you can guarantee that we can propose or go into negotiations on reductions, but you cannot guarantee that you actually can achieve reductions. Is it not the same thing for the gentleman's amendment if we said "with such reductions to be proposed within a reasonable period of time"?

Mr. LEVITAS. If the gentleman will yield to me, it would not be the same, and let me explain to the gentleman why this really gets at the heart and soul of what House Joint Resolution 13 is about.

House Joint Resolution 13 suggests, as it is now structured, and given the sequencing that has now been agreed upon, that there will be two things that will occur for the world.

Mr. ASPIN. We understand.

Mr. LEVITAS. But what my amendment does is guarantee that we get both of them—a freeze and reductions.

Mr. ASPIN. It does not guarantee it, because how can you guarantee? In order to achieve reductions, it has to be negotiated with the Soviets.

Mr. LEVITAS. How can you guarantee there is going to be a freeze? We have debated, and have committed ourselves to further consideration of, realistic proposals to achieve reductions such as the mutual guaranteed builddown. But reductions can only be achieved if we commit ourselves to them.

Mr. ASPIN. The problem is that your amendment goes into effect after a freeze has been achieved. The question still remains that has been asked at least three or four times: What happens if you achieve the freeze and cannot achieve the reductions?

Mr. LEVITAS. I will answer the same way the gentleman from Wisconsin answered: That is a matter for the negotiations themselves, to specify both the timeframe and the consequences. Otherwise, I say to my friend, if that is not the case, if the gentlemen who are the major proponents cannot accept the fact that there will be reductions achieved within a reasonable time—and I am not trying to provide what that timeframe is, but that if it cannot be achieved in a reasonable time—then what you are saying to me is that even though this resolution calls for a freeze and reductions, you are not going to get both.

I do not think there is anybody in their right mind who would want us to leave the arsenals of nuclear weapons at the levels they are today, and that be the only accomplishment that a freeze negotiation results in. I am simply trying to give our negotiators the opportunity to provide a period, a reasonable period, within which reductions will be achieved. If we cannot do that, then I do not know what we will have achieved.

Mr. ZABLOCKI. Mr. Chairman, if I may reclaim my time, I submit to the gentleman from Georgia that his explanation, even in this dialog with the gentleman from Wisconsin. Mr. ASPIN, is not what his amendment does or says. Your amendment says "with such reductions to be achieved within a reasonable period of time to be determined by the negotiators."

That I can agree to. But every time you explain it, it is not in harmony with your amendment.

Mr. LEVITAS. Mr. Chairman, if the gentleman will yield.

What the Chairman just read as the amendment, as amended, is precisely what I intended to achieve. That is it precisely—with such reductions to be achieved within a reasonable period of time determined by negotiations.

Mr. ZABLOCKI. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina.

Mr. MARTIN of North Carolina. It would be useful to have some discussion from this side also, because we, as well, have some curiosity about the amendment.

Mr. ZABLOCKI. I am prepared to yield time to the other side.

Mr. MARTIN of North Carolina. Mr. Chairman, the objective of the bill has been to negotiate a freeze first, but as you know, in a lot of the discussion the point has been raised that there is a lot of doubt in our minds about how you would then get the Soviet Union to negotiate reductions after they got a freeze, since their Defense Minister, General Ustinov, has stated that they will have no interest in talking about reductions after a freeze.

So I would ask if it is the intent of the amendment of the gentleman from Georgia, in effect, that before the negotiators leave the bargaining table, they must press forward to negotiate reductions?

The other body of the U.S. Congress, which has the power to ratify treaties, for all we know may choose to delay ratification of the freeze agreement until they see how the reduction effort works out. We have no way of controlling that. But in my view, it is important to note that if this amendment is passed, it will be the first time, and I will say a proper way, for this House of Representatives of the United States to be on record in support of at least some realistic mechanism that will support the objective of the President of the same United States to try to achieve reductions in nuclear weapons.

There has been an interesting question raised here by Members who advocate the freeze and who have been promoting this very effectively, and that is: What happens if reductions are not agreed to? It would seem to me that their unseemly interest might reveal some real doubt on their part as to whether reductions can ever be achieved after a freeze. They have earlier maintained that reductions would be the normal consequence after a freeze, and now they are expressing some doubt as to whether that is possible. It is very enlightening to have them raise those questions as an objection to the amendment offered by the gentleman from Georgia. He has not said you do not go for the freeze first; he has said you do negotiate that first, but before you leave the bargaining table, you move forward to try to achieve reductions.

Mr. ZABLOCKI. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Let me answer the question here. First none of us are suggesting that we are worried about the prospect of reductions. We all want reductions. We just believe that reductions are going to come after a freeze is negotiated.

What we are trying to find out, without much success, is what the gentleman from Georgia intends with his amendment. He seems unwilling to describe it and to answer the questions that have been put forth. I do not see how we can possibly leave this unanswered, and I would hope that we can get an amendment offered that would clarify the situation so there is no doubt about what the amendment does.

Mr. AUCOIN. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Oregon.

Mr. AUCOIN. I appreciate the gentleman yielding.

I want to say to the gentleman from Georgia, if he could assure us that he was not setting up some condition on the freeze, I do not think we would have any difficulty, but in every attempt that we have made to get a response from the gentleman from Georgia, we have not gotten that assurance, and I think for that reason a clarifying amendment should be offered.

Mr. DICKS. I agree with the Chairman that his language does not say that, but apparently his unwillingness to state that clearly has all of us worried.

□ 1510

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Georgia.

Mr. LEVITAS. First of all, I dispute the gentleman's characterization, but I will not ask that his words not be taken down.

I would say this, that I have tried to the extent that words are capable of communicating to say what the amendment means. It means what it says.

Now, with regard to those who are suggesting that there is something sinister in this, they are saying they do not believe there are going to be reductions negotiated.

I am not saying 2 years, 5 years, or 10 years. I am saying that the negotiators who are sitting down at the table negotiating a freeze are going to tell the American people that the two prongs of this resolution will be achieved; freeze followed by reduction, freeze followed by reduction, not just freeze, but freeze followed by reduction at some reasonable time.

If the gentlemen who are advocates of this resolution cannot agree to that, then I do not believe they are serious about reductions. I know the gentleman from Wisconsin, the chairman is. He has said it many times.

All I am saying is that these reductions have to occur within a reasonable time.

It is a nonbinding mandate to our negotiators.

Mr. ZABLOCKI. Mr. Chairman, I yield myself 30 seconds for the purpose of asking just a simple question.

Following the statement the gentleman just made, would the gentleman add also an answer to this question: Does the gentleman's amendment in his interpretation add any condition on a negotiated freeze?

Mr. LEVITAS. No. It is not a condition. It is a nonbinding mandate to the negotiators, in the same way that the first part of negotiating the freeze is a nonbinding mandate to the negotiators, and those are their instructions to negotiate in the same way.

Mr. ZABLOCKI. Mr. Chairman, under the parliamentary situation, all time was allocated for the proponents of the amendment and myself as opponent to the amendment.

The Republicans should be heard on this issue. I wonder if the gentleman from Michigan desires any of the 15 minutes that is allocated to me, because I want to be very fair, or the gentleman from Illinois?

Mr. HYDE. Mr. Chairman, we get 15 minutes, too, do we not, over here on this side?

Mr. ZABLOCKI. No.

The **CHAIRMAN** pro tempore. The Chair would advise the gentleman from Wisconsin (Mr. ZABLOCKI) that he has 2 minutes remaining.

Mr. HYDE. Mr. Chairman, a parliamentary inquiry.

The **CHAIRMAN** pro tempore. Does the gentleman from Wisconsin yield to the gentleman from Illinois for the purpose of a parliamentary inquiry?

Mr. ZABLOCKI. Does it come out of my 2 minutes?

The **CHAIRMAN** pro tempore. It is on the gentleman's 2 minutes.

Mr. ZABLOCKI. Well, if the gentleman will speak as rapidly as he is accustomed to, I yield for the purpose of a parliamentary inquiry.

Mr. HYDE. I appreciate that.

I simply would like to note for the record that this has been a very enlightening debate among the proponents of this resolution, who at this moment cannot explain what the amendment does. I hope we will not be charged with delaying the rush to judgment on House Resolution 13 by the instructive dialogue among the several Democratic members.

Mr. ZABLOCKI. Mr. Chairman, that was hardly a parliamentary inquiry.

I yield the remainder of the time to the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Well, I thank the chairman for yielding.

Mr. Chairman, let me say that trying to extract a lucid answer as to the meaning of this amendment from the author is a little bit like trying to extract teeth without novocaine in a dental office.

I feel a little bit like the fellow who has been trying to punch his way out of a paper bag for the last half hour; so I simply want to announce, with all due respect to my very good and well-intentioned friend, the gentleman from Georgia, that at the expiration of time for debate on the gentleman's amendment, I intend to offer an amendment to the amendment, which I think will achieve what the gentleman wanted to achieve in a manner which is perhaps more understandable to the rest of the House and which will clarify his amendment, and that amendment will provide that the reductions are to be achieved as soon as possible after the achievement of a mutual and verifiable freeze; so that would hopefully make it clear that we ought to make every effort to get an agreement to reduce after the agreement to freeze and to get that agreement as soon as possible. I would hope that would be acceptable to the gentleman from Georgia.

AMENDMENT OFFERED BY MR. SOLARZ TO THE AMENDMENT OFFERED BY MR. LEVITAS

Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLARZ to the amendment offered by Mr. LEVITAS: Strike out the matter proposed to be added to the resolution by the Levitas amendment and insert in lieu thereof the following: ", with reductions to be achieved as soon as possible after the achievement of a mutual and verifiable freeze".

The **CHAIRMAN** pro tempore. The gentleman from New York (Mr. SOLARZ) is recognized for 15 minutes, for purposes of debate only, on his amendment.

Mr. MARTIN of North Carolina. Mr. Chairman, will the gentleman yield for a parliamentary inquiry?

Mr. SOLARZ. Certainly, I am happy to yield for that purpose.

PARLIAMENTARY INQUIRY

Mr. MARTIN of North Carolina. Mr. Chairman, a parliamentary inquiry.

The **CHAIRMAN** pro tempore. The gentleman will state it.

Mr. MARTIN of North Carolina. Mr. Chairman, I would appreciate if the Chair would put a little time over here.

Is it customary and is it correct order for the business of the House of Representatives for the Chair to sequentially recognize only Members of the majority party time and time again, both to make an amendment, to take the position opposing that amendment, and then to offer the next amendment; is that regular order?

The **CHAIRMAN** pro tempore. Under the precedents the priority in this instance is with the committee members to offer an amendment to the amendment.

Mr. MARTIN of North Carolina. I beg pardon?

The **CHAIRMAN** pro tempore. Priority in this instance by the Chair is with the committee members, regardless of party.

Mr. MARTIN of North Carolina. That means the Chair will not recognize anyone on the Republican side until after all this has been disposed of, is that what the Chair is saying? Is that the Chair's prerogative?

The **CHAIRMAN** pro tempore. The Chair has indicated its position on recognition up to this point.

Mr. MARTIN of North Carolina. I am astonished, Mr. Chairman.

Mr. SOLARZ. Mr. Chairman, let me say to my colleagues in the Committee that this amendment to the amendment is designed to achieve what I think the author of the amendment originally had in mind. As he indicated on several occasions during the debate on his amendment, we have already firmly established the sequence by which a freeze and, hopefully, then a reduction should be negotiated with the freeze coming first and the reductions coming second.

The gentleman, however, expressed some concern that the negotiations to achieve reductions not drag on indefinitely and that our negotiators be invested with a certain sense of urgency with respect to the negotiation of an agreement to actually reduce the level of nuclear weapons available to both sides. That is a sense of urgency which all of us share, because those of us who have advocated the adoption of this freeze resolution have made it clear over and over again that we do not believe the freeze is an end in and of itself, but is only a means by which to bring the arms race to a halt and from there to move on to the kind of real and meaningful reductions which all of us want.

This amendment explicitly provides that the reductions to be achieved are to be achieved, and I am now quoting from the language of the amendment, "as soon as possible after the achievement of a mutual and verifiable freeze."

Unlike the original amendment, however, there is no residual ambiguity about whether an agreement to freeze would have to be abrogated, if it should turn out that we are unable to reach an agreement to reduce, because under the terms of this amendment once we reach an agreement to freeze, we are mandated to try to reach an agreement to reduce as soon as possible, but if it should turn out that we cannot reach an agreement to reduce, the freeze agreement would remain intact.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to my friend, the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank my colleague for yielding.

I want to say some very straightforward things and if they offend, I apologize in advance.

First of all, the gentleman has suggested that the explanation that I gave of my amendment was not a lucid explanation. I suggest it may not have been viewed as lucid because it may have been viewed as threatening to the position that the proponents have taken.

□ 1520

The gentleman in his remarks just now said, and I remember it because it struck me so hard, that we would negotiate the freeze "hopefully" to be followed by a reduction.

I am suggesting to the gentleman that what I seek to achieve in my amendment does not make it that we will "hopefully" achieve reductions; it makes it assured that we will achieve reductions. It gives a mandate to our negotiators to create an incentive to reduce because if we create no incentive, if we just achieve a freeze not followed by reductions, then this whole process is a deception.

I am gravely troubled by someone who suggests that the word "reasonable" is somehow not a lucid expression and the words "as soon as possible" are somehow more lucid.

I am suggesting to the gentleman that we are right now into the guts of this thing. Either you are for reductions following a freeze or you are not. Determining the period of time in which the reductions will be achieved is all in the hands of the negotiators.

Mr. SOLARZ. If I can reclaim my time—and I will yield to my friend from Washington in just a second—I want to make it very clear to the gentleman from Georgia that I favor reductions following a freeze. As a matter of fact, if the Soviet side offers a proposal to reduce even before we can reach an agreement to freeze, there is already language in the resolution which would encourage our negotiators to accept it.

I certainly think if we reach an agreement on a freeze first, as my amendment provides, we should make every effort to get an agreement to reduce within a reasonable period of time.

But I say to my friend from Georgia that if it turns out we cannot also get an agreement to reduce, I would rather have an agreement to freeze than no agreement on anything at all. That is what my amendment would do.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Washington.

Mr. DICKS. I would point out to the others there will be 15 minutes in opposition to the Solarz amendment available to those people.

But I think the gentleman has put it very well. What the gentleman from Georgia apparently attempts to do in his amendment is to set a condition subsequent that would have to be fulfilled before the freeze could go into effect.

As much as I favor reductions—and I completely concur with the gentleman from New York—we want reductions if reductions can be achieved first, and that is fine with us, but we do not want to set a condition subsequent that would negate the freeze if the freeze were achieved.

That is what the gentleman from Georgia apparently seeks to do with his original amendment and he would never answer the question if that was not his intent.

Mr. LEVITAS. Would the gentleman permit me to respond?

He is interpreting my amendment and I will be very quick.

Mr. SOLARZ. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman.

I just want to say that the gentleman from Washington (Mr. DICKS) has totally mischaracterized my amendment.

I accept the fact that the sequencing would be a freeze in effect followed by reductions. All I am saying is the reductions would occur within a reasonable period of time as negotiated by the same people.

Mr. SOLARZ. I would say to my colleagues in the House that there were at least a half dozen Members who tried in a dozen different ways to ask the gentleman from Georgia what would happen pursuant to his amendment if we were unable to reach an agreement with the Soviet Union to reduce the number of nuclear weapons in the arsenal of each of the superpowers. It was our inability to get a straightforward response to that question which led me to introduce this amendment, because we were left, unfortunately, with the impression that if, pursuant to the amendment of the gentleman from Georgia, we were unable to reach an agreement to reduce with the Soviet Union, the agreement to freeze which we had previously reached would have to be abrogated.

It was our unwillingness to accept that kind of condition on our own ability to implement a freeze which led to the introduction of my amendment which makes it clear that the reductions are to be achieved as soon as possible after the achievement of a mutual and verifiable freeze. But those reductions are not a condition for an agreement on the freeze in the first place.

Let me say I think I perhaps had better yield to the gentleman in the well because the other side will have 15 minutes on this.

Mr. AuCOIN. Will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Oregon.

Mr. AuCOIN. I appreciate the gentleman from New York yielding.

I rise in support of the gentleman's amendment. I share the desire of the gentleman from Georgia that we should have reductions as soon as possible after the freeze. I think we all want that. But if there were reductions one second after the freeze I think we would all rejoice. I think that would be a very happy day for this country and certainly it would be for the world.

But the point is that none of us has a crystal ball. None of us knows how long it might take to achieve reductions, just as no one in the administration can tell anyone how long it would take to negotiate a START agreement.

Therefore, I think we run into problems.

I just do not think that is reasonable, and I appreciate the gentleman from New York yielding.

Mr. SOLARZ. Before I yield any further, let me say that a good deal of my time has been taken up so far. There is 15 minutes on the other side. I would like to take my seat now, and I will be happy to answer any questions. But I think it would be helpful if it came out of the time of the other side so that we may equalize debate on this issue.

The CHAIRMAN. The gentleman from New York reserves the balance of his time.

For what purpose does the gentleman from Illinois (Mr. HYDE) rise?

Mr. HYDE. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman is recognized for 15 minutes for purposes of debate only.

Mr. HYDE. Mr. Chairman, as I read what the gentleman from New York is saying, I wish it was something he would not do because it is directly contradictory, it seems to me, to section 2 on page 5 which seems to say that while you are pursuing the overriding objectives of negotiating this freeze nothing should prevent you from taking advantage of concurrent and complementary arms control proposals.

Now what the gentleman is doing is saying reductions to be achieved as soon as possible after the achievement of a mutual and verifiable freeze.

So they are running neck and neck in section 2 but freeze is winning up here on line 5.

So once more we are running around the track and we are not quite sure who is leading or where we are going.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend from New Jersey.

Mr. COURTER. I thank the gentleman for yielding.

I found this debate to be startlingly interesting and I congratulate the gentleman from Georgia for bringing forth this very interesting amendment.

I think what the gentleman is simply saying is that after you first negotiate a freeze, it may be 6 months; it might be 6 years; it might be a year and a half, and that effort ends without the successful adoption of a freeze position, then we should think in terms of negotiating for a reduction.

The amendment offered by the gentleman from New York to the amendment offered by the gentleman from Georgia totally changes the original resolution, as was pointed out by the gentleman from Illinois (Mr. HYDE).

What the resolution says is that alternating negotiating positions after the first position of freeze is placed on the table is impermissible.

What the gentleman from New York is now saying is that we can never even negotiate a reduction until a freeze is adopted and codified.

I think that is just a massive change from the actual position of the resolution.

Mr. SOLARZ. Will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York (Mr. SOLARZ) to respond to the gentleman from New Jersey, because I am interested in his response and how he reconciles in his amendment saying the reductions are to be achieved after a mutual and verifiable freeze because it seems to me then what Andropov is talking about and what Nitze and Rowny are talking about have to be put in a drawer, and we have to pull out a freeze negotiation, and they have to spend however long it takes, ad infinitum, negotiating inventories and verification and whatever on the freeze.

Meanwhile, of course, there is no lessening of the buildup, there is no lessening of deployment and research and development and production. So that bothers me.

That is the vice, the underlying vice of this whole resolution.

I can see that you have moderated this somewhat by section 2 but now by what you are doing you are vitiating section 2 and I would like the gentleman to explain that.

□ 1530

Mr. SOLARZ. I thank my very good friend for yielding.

Mr. HYDE. Briefly, and succinctly.

Mr. SOLARZ. And I would like to lucidly respond to his question if I can make that effort, not by addressing myself to the vices in the resolution but to the virtue of my amendment. And the meaning of my amendment has to be understood in the context of the section of the resolution to which the language in my amendment would be added.

Mr. HYDE. Sort of an abstract painting?

Mr. SOLARZ. No. And I would urge my friend to turn to page 5 of the resolution beginning on line 4, where the language reads as follows and I now quote:

> Proceeding from this mutual and verifiable freeze, pursuing substantial, equitable and verifiable reductions through numerical ceilings, annual percentages or any other equally effective and verifiable means of strengthening strategic stability.

Then my amendment would transform that period of stability into a——

Mr. HYDE. If the gentleman will yield, we read that, we have that.

Mr. SOLARZ. So what my language merely does is to modify the preceding clause.

Mr. HYDE. We know that.

Mr. SOLARZ. And it simply indicates that the reductions called for in the preceding clause should be achieved as soon as possible after the achievement of a freeze.

Mr. HYDE. After the freeze?

Mr. SOLARZ. But I say to my friend, look at the first clause there that seeks, which reads "proceeding from a mutual and verifiable freeze" which means the freeze comes first.

Mr. HYDE. Yes. What I am pointing out is that section 4 is totally inconsistent with the bottom of the page section 2, and you have made it more so by underscoring the primacy of the freeze and then reductions.

Mr. LEVITAS. Will the gentleman yield?

Mr. HYDE. I yield to my friend from Georgia.

Mr. LEVITAS. I thank my friend for yielding.

I am totally opposed to the SOLARZ amendment, because what it does is it says that we are really not serious about reductions, because if we cannot agree in this context that there will be reductions achieved in a reasonable period of time, then I suggest to you that the proponents of the resolution who take that position are not serious about reductions and that we are going to end up with a freeze and nothing following it. And I think we ought to lay this out on the table.

Mr. HYDE. May I ask the gentleman from Georgia a question? Is it your impression, I will tell you it is mine, that reductions are definitely secondary? Not only is the freeze primary, but there is no time limit on it. We will have a perpetual freeze whether we ever get reductions or not. The last thing they want is the words, "reasonable time" in there.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Georgia.

Mr. LEVITAS. Let me say that after all these amendments we have gone through, to tell you the truth I was almost in a position to vote for House Joint Resolution 13. I would vote for House Joint Resolution 13 if I could really believe it meant an end to the arms race followed by reductions in nuclear arms.

Well, I find out now that that is not really what the proponents of House Joint Resolution 13 are talking about. They are not talking about reductions and I think this vote is going to make that clear.

Mr. HYDE. May I suggest to the gentleman from Georgia we really ought to put the word "permanent" after "immediate," they want an immediate permanent freeze. Now, how you can reduce when you are permanently frozen I leave to physicists.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Ohio.

Mr. KASICH. I thank the gentleman for yielding.

Mr. Chairman, I remind the gentleman from Georgia, in the discussion of the Levitas amendment on the build down I asked the gentleman if it was his judgment if we froze immediately with the situation that exists today, with 75 percent of the Soviet nuclear capability being less than 5 years of age and 75 percent of the American nuclear capability being older than 15 years of age, whether there was any incentive for reductions? And the gentleman replied to me there is no incentive for negotiations for reductions because our nuclear capability is so old and theirs is new and as the years go on ours gets older and more ineffective and yet the Soviets stay viable. And when the gentleman from Oregon said earlier we are interested in reductions, what we maintained on this side is that a freeze takes away the incentive for reductions because the freeze puts the Soviets in a position on the basis of the newness of their nuclear capability to not want to reduce.

Mr. SKELTON. Will the gentleman yield?

Mr. HYDE. I yield to my friend from Missouri.

Mr. SKELTON. I appreciate the gentleman yielding.

Being from Missouri, I kind of feel like Mark Twain must have said one time when I read Mr. SOLARZ's amendment and his explanation of it, "The more you explain it to me, the more I do not understand it."

Now, there is nothing unclear about the gentleman from Georgia's proposal, with reductions to be achieved as soon as possible after the achievement of mutual and verifiable freeze. They do not want that. What they are asking for is a vote for a permanent, dangerous world, a freeze, nothing else. We want reductions, that is what we are after. I think that the gentleman from Georgia has a good point. We should go at it.

Mr. HYDE. I want to commend myself for yielding to the gentleman from Missouri.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank my friend from Illinois for yielding.

I hope that anyone who supports House Joint Resolution 13 on the theory that there will be reductions will have the honesty to vote down the Solarz amendment and vote for my amendment, because if we cannot make the simple statement that reductions will be achieved following a freeze within a reasonable period of time, we are simply saying there is no substance to reductions and it is simply the judas goat to bring us into the slaughterhouse. It is my judgment that this is the test vote on whether we are seriously talking about reductions at any time or whether we are talking about a permanent freeze which will make the world a much more dangerous place in a very short period of time.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New Jersey.

Mr. COURTER. I thank the gentleman for yielding.

Mr. Chairman, I think as properly stated by the gentleman from Georgia, the debate is really right on target right now. I think the thing that has differentiated legitimate positions on both sides was the fact that those people on this side of the aisle and indeed many on the other, that are concerned about the resolution as written, is because it did not allow for negotiation for reduction. And now very clearly, without any shadow of a doubt whatsoever, the amendment by the gentleman from New York to the amendment of the gentleman from Georgia says specifically that the freeze not only has to be negotiated, but must be achieved regardless of how many decades go by, before we can even start talking about a reduction.

Mr. HYDE. Mr. Chairman, I will reserve the balance of my time.

The CHAIRMAN pro tempore. The gentleman reserves the balance of his time, and he has 4 minutes left.

The Chair recognizes the gentleman from New York (Mr. SOLARZ).

PARLIAMENTARY INQUIRY

Mr. SOLARZ. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. SOLARZ. How much time do I have remaining?

The CHAIRMAN pro tempore. The gentleman from New York has 5 minutes remaining.

Mr. SOLARZ. I yield myself such time as I may consume.

The German philosopher Hegel said, "If theory and fact disagree so much the worse for the facts."

I had a sense, as I listened to my friends on the other side of the aisle denounce my amendment, that they were in effect acting in the spirit of the philosopher Hegel, because it was quite clear that they were paying no attention to the facts as described in my amendment.

I heard it said that if my amendment was adopted that we would, in effect, be rejecting the possibility of an agreement to reduce unless and until there was an agreement to freeze. My amendment would do nothing of the sort. It leaves in the resolution the language in section 2, making it clear that nothing in this resolution shall be construed to prevent the United States from taking advantage of concurrent and complementary arms control proposals.

In other words, if this resolution is adopted, there will be language in the resolution which enables us to reach agreement to reduce nuclear weapons, even before we reach agreement to freeze them, if such a proposal should be put on the table.

Insofar as the language of my amendment itself, is concerned, what does it say? It says that reductions are to be achieved as soon as possible after the achievement of a mutual and verifiable freeze. And what that means is not, I would say to my friend from Georgia, that we want a permanent freeze and no reductions. What it says is that once we reach an agreement to freeze, which is the overriding objective of this resolution, we want an agreement to reduce as soon as possible.

□ 1540

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from New Jersey.

Mr. COURTER. I thank the gentleman for yielding.

A quick question. The operative word then is achievement as far as I am concerned. What the gentleman is still saying is that you must achieve the freeze before you can even negotiate a reduction. Is not my interpretation of the word achievement correct? And if not, why include it?

Mr. SOLARZ. We tried in a dozen different ways to get the gentleman from Georgia to indicate what his amendment meant and we were unfortunately unsuccessful.

I am going to give the gentleman a very clear answer. The gentleman can agree with it or disagree with it, but as the author of the amendment, I am telling the gentleman point blank that this does not require an agreement to freeze before there is an agreement to reduce.

What it does say, and if you read it in the context of the clause which it amends what it clearly does say is that the effort to achieve reductions should be made as soon as possible after the achievement of a mutual and verifiable freeze. However, because of the language in the resolution, beginning on page 5, line 19 in section 2, which says explicity that consistent with pursuing the overriding objective of negotiating an immediate mutual and verifiable freeze, nothing in this resolution shall be construed to prevent the United States from taking advantage of concurrent and complimentary arms control proposals, it means that if this resolution is adopted with section 2 in it, a section which I added in the committee, it would be possible for us to reach an agreement to reduce, even before we reach an agreement to freeze, if such a proposal is put on the negotiating table and it makes sense to us in those negotiations.

The gentleman may be against my amendment, but do not say that it means something that it does not.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Washington.

Mr. DICKS. I thank the gentleman for yielding.

The original language of the amendment of the gentleman from Georgia is not objectionable, but it is the fact that he will not discuss the linkage between the freeze and reduction that has all of us concerned and that is why we feel that the Solarz amendment clarifies it. We are for reductions just as much as the gentleman from Georgia. He cannot make this the vote on reductions because reductions are allowed under this resolution and he knows it.

Mr. SOLARZ. Mr. Chairman, I reserve the balance of my time.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, if the gentleman from Washington says there is nothing objectionable about the language, then I suggest we adopt the language because it speaks for itself.

I have said repeatedly that the reductions that would occur within a reasonable time would be the result of negotiations with the same negotiators. What troubles me and I think the difficulty the proponents of the resolution have on this amendment is that it really exposes the fact that some of the proponents are really not interested in reductions because they are not even willing to tell our negotiators that they should achieve these reductions within a reasonable period of time.

This is the vote on whether at some time, at some place we want to see reductions. And anybody who does not want to see reductions within a reasonable period of time will vote for the Solarz amendment and against my amendment.

But I suggest to my colleagues that if you do not want to see the negotiators talk about reductions, but just freeze us at the dangerous levels of nuclear arms we have today, then you should vote for the Solarz amendment. But this is a vote on whether we are really serious about reductions or whether "reductions" have just been put out there as bait to hook the people with which will later be thrown away.

As soon as possible. Do my colleagues know what as soon as possible means? As soon as the Soviet Union agrees to something that they may think is in their best interest. That is not a reasonable time. And I suggest to my colleagues the only way we can establish that there is really significance to the word reduction in this resolution is by attaching reductions to some reasonable timeframe which our negotiators would help determine.

Mr. HYDE. Mr. Chairman, I want to make a suggestion to my friend from New York. I suggest that what the gentleman is doing to subparagraph 4 is reenforcing the dichotomy between freeze and reduction. Maybe that is what the gentleman wants to do, but what the gentleman is saying, paragraph 4 is little murky, proceeding from this mutual and verifiable freeze pursuing reduction.

Now the gentleman is adding by his amendment, with reductions to be achieved after the achievement of the freeze. The gentleman just said we could even take advantage of reduction offers now, even before the freeze pursuant to section 2. Well, let us leave it that way. Why does the gentleman have to reenforce that there must be a freeze first before there can be any reduction? Because that means we cannot accept an offer of the Soviets to take all of their SS-20's out of Europe if we do not put our Pershing II's in and our ground launch cruise missiles until we negotiate a freeze. Well, is that not silly? Why deprive our negotiators of the flexibility to take advantage of the reductions when and if they are offered?

But here they have to negotiate a mutual and verifiable freeze with all of the complexities and technicalities that entails.

I think it is a mistake. I think it is bad arms control policy. It surely is not disarmament because that means reduction.

Now I would hope the gentleman would withdraw his amendment and leave it as ambiguous as it is because I think the ambiguity here serves the cause of reduction, which in my judgment, is far more important than the freeze.

Mr. Chairman, I reserve the balance of my time.

Mr. SOLARZ. Mr. Chairman, the gentleman from Georgia said that if my amendment was adopted it would be an indication that the sponsors of the freeze are not willing to instruct our negotiators in Geneva to achieve a reduction within a reasonable period of time. This is simply not the case.

Under my amendment our negotiators would be instructed to attempt to reach an agreement to bring about real reductions as soon as possible. And that makes it very clear that we want not only a freeze, but reductions.

The adoption of my amendment is in no way inconsistent with reductions.

The amendment offered by the gentleman from Georgia, however, would mean that if we were unable to reach an agreement to reduce with the Soviet Union, we would not be able to implement an agreement to freeze and we take the position that while we should have both a freeze and then reductions, it is better to have a freeze, if we cannot get an agreement on reductions, than to have no agreement at all.

Mr. HYDE. Mr. Chairman, I wish to ask the gentleman from New York, does the gentleman mean to say that if reductions were offered by the Soviets, our negotiators could not take advantage of them until first a freeze was negotiated?

Mr. SOLARZ. No, I am not.

Mr. HYDE. But that is what the gentleman's amendment says.

Mr. SOLARZ. Under the terms of the resolution, if such a proposal is made by the Soviet Union, our negotiators would be perfectly free to accept it.

Mr. HYDE. The gentleman's amendment says after a freeze.

Mr. SOLARZ. No. In section 5 of the resolution it makes it clear that they can accept any concurrent and complimentary proposal.

Mr. HYDE. The two are inconsistent, are they not?

Mr. SOLARZ. No.

PREFERENTIAL MOTION OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. LEVITAS moves that the Committee rise and report the resolution back to the House with the recommendation that the resolving clause be stricken.

POINT OF ORDER

Mr. DOWNEY of New York. Mr. Chairman, I have a point of order.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. DOWNEY of New York. Mr. Chairman, my understanding of the rule is that there is a provision in the rule that prohibits motions of this sort for the purpose of debate time. Is that correct?

The CHAIRMAN pro tempore. The Chair will advise the gentleman it only prohibits pro forma amendments, not preferential motions such as the gentleman has offered.

Mr. LEVITAS. Mr. Chairman, I hope the gentleman from New York does not begrudge me the time because during the 15 minutes that I had, those who were objecting to my unanimous-consent request consumed most of the time.

What my amendment seeks to make very clear is that we are serious about reductions, and that we are not just giving lipservice to reductions, but that at some point in this world we will see fewer nuclear weapons that we see today.

□ 1550

That is what arms reductions are all about. We are not just talking about a freeze in this resolution. We are talking about a freeze and reductions. And it is very troubling to me that the proponents of this resolution are stonewalling about language that simply says that within a reasonable time to be negotiated, by our same negotiators, there will be reductions. And I think if that is their position, then they are telling the American people very clearly that reductions are not part of the agenda except for lipservice purposes, and except for euchring some people into support of the resolution. In that never-never-land that is established and defined by the words "as soon as possible," as in the amendment offered by Mr. SOLARZ, those reductions could never be achieved. That language would be inconsistent with the language in my amendment.

What does my amendment do? It says a very simple thing. It is a nonbinding mandate to our negotiators, in the same way that the rest of this resolution is a nonbinding mandate to our negotiators, to achieve reductions within a reasonable period of time.

Now, if we cannot agree to that language, then we are going to be agreeing to a resolution that has no substance with regards to reductions of nuclear weapons. And if that is what you want to support, then vote that way. But I think the time has come where we must get it on the table, that without some reasonable time, to be negotiated as a result of this guidance given to our negotiators, then we have achieved nothing in terms of reducing the nuclear threat that this planet Earth faces.

I think this vote is going to be very significant. It has nothing to do with sequencing. It permits, contrary to what the gentleman from Washington said, a freeze to be negotiated and go into effect if that is what our negotiators choose. But it also says to them, "Please, within a reasonable period of time, negotiate these reductions," or else we have achieved nothing except to make the world less stable, more threatened and the risk of nuclear war more permanent.

I ask the gentleman from Massachusetts: Is the gentleman opposed to having nuclear arms reductions achieved in a reasonable time frame? Is the gentleman from New York opposed to this? Or the gentleman from Oregon? And if they are not opposed to reductions within a reasonable period of time, why are they not willing to say so? They could show their support for reductions by accepting the language of my amendment.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I think the only concern we have on this side is that there is a condition that is being placed upon it. I can assure the gentleman from Georgia that all of us who support a freeze believe that it is only a first step in working toward reductions, that reductions are an ultimate goal and that is what we are going to be working on, and we are going to be working on them for the next decade. But if the gentleman believes that we see this as the be-all and end-all, a mutual freeze which freezes in existing arsenals at present levels, then the gentleman is sadly mistaken.

Mr. LEVITAS. I will reclaim the moment I have left simply to say this: If the gentleman is sincere in what he said, then there is no basis whatsoever for being opposed to adopting an amendment that says "within a reasonable time these reductions shall be achieved by our negotiators." If the gentleman is not willing to agree to that language, then it is obvious to me that the expression of interest in reductions is nothing more than pious expression and has no substance, and we will be left frozen into incredibly large and dangerous nuclear arsenals, and the world will be a much less safe place.

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the preferential motion.

The **CHAIRMAN** pro tempore (Mr. Panetta). The gentleman from Wisconsin (Mr. Zablocki) is recognized for 5 minutes.

Mr. ZABLOCKI. Mr. Chairman, I know that the gentleman from Georgia (Mr. Levitas) has used this device in order to get additional time. I believe we need not debate any further the pending amendment to the amendment to the resolution, and I yield back the balance of my time.

Mr. LEVITAS. Mr. Chairman, I ask unanimous consent to withdraw my preferential motion.

The **CHAIRMAN** pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The **CHAIRMAN** pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. Solarz) to the amendment offered by the gentleman from Georgia (Mr. Levitas).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. SOLARZ. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The **CHAIRMAN** pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1600

QUORUM CALL VACATED

The **CHAIRMAN** pro tempore. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The **CHAIRMAN**. The pending business is the demand of the gentleman from New York (Mr. Solarz) for a recorded vote.

A recorded vote was ordered.

The **CHAIRMAN** pro tempore. Pursuant to the provisions of House Resolution 179, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of the adoption of the amendment offered by the gentleman from Georgia (Mr. Levitas) if there is no intervening debate.

The vote was taken by electronic device, and there were—ayes 210, noes 214, not voting 8, as follows:

[Roll No. 84]

AYES—210

Ackerman
Addabbo
Akaka
Alexander
Anderson
Andrews (NC)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Barnes
Bates
Bedell
Beilenson
Berman
Biaggi
Boehlert
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Britt
Brooks
Brown (CA)
Bryant
Carper
Carr
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Coyne
Crockett
D'Amours
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edgar
Edwards (CA)
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Garcia
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Hall (IN)
Hall (OH)
Hamilton
Harkin
Harrison
Hawkins
Heftel
Hertel
Horton
Howard
Hoyer
Hughes
Jacobs
Jeffords
Jones (NC)
Jones (TN)
Kaptur
Kastenmeier
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
LaFalce
Lantos
Leach
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McHugh
McKernan
McKinney
McNulty
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Mollohan
Moody
Morrison (CT)
Mrazek
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Ottinger
Owens
Panetta
Patterson
Pease
Penny
Pepper
Perkins
Rahall
Rangel
Ratchford
Reid
Richardson
Rodino
Roe
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shannon
Sharp
Sikorski
Simon
Smith (FL)
Smith (IA)
Snowe
Solarz
St Germain
Staggers
Stark
Stokes
Studds
Swift
Synar
Tallon
Tauke
Torres
Torricelli
Traxler
Udall
Vento
Walgren
Weaver
Weiss
Wheat
Williams (MT)
Williams (OH)
Wirth
Wise
Wolpe
Wyden
Yates
Yatron
Young (MO)
Zablocki

NOES—214

Albosta
Andrews (TX)
Archer
Badham
Barnard
Bartlett
Bateman
Bennett
Bereuter
Bethune
Bevill
Bilirakis
Bliley
Boggs
Breaux
Broomfield
Brown (CO)
Broyhill
Burton
Byron
Campbell
Carney
Chandler
Chappell
Chappie
Cheney
Clinger
Coats
Coleman (MO)
Conable
Cooper
Corcoran
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip
Daniel
Dannemeyer
Daub
Davis
DeWine
Dickinson
Dreier
Duncan
Dyson
Edwards (AL)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Fiedler
Fields
Fish
Flippo
Forsythe
Franklin
Frenzel
Fuqua
Gekas
Gilman
Gingrich
Goodling
Gradison
Gramm
Gregg
Gunderson
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hefner
Hightower
Hiler
Hillis
Holt
Hopkins
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jenkins
Johnson
Jones (OK)
Kasich
Kazen
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath
Lent
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Lott
Lowery (CA)
Lujan
Lungren
Mack
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
McCain
McCandless
McCollum
McCurdy
McDade
McDonald
McGrath
Michel
Miller (OH)
Molinari
Montgomery
Moore
Moorhead
Morrison (WA)
Murphy
Myers
Natcher
Nelson
Nichols
Nielson
O'Brien
Ortiz
Oxley
Packard
Parris
Pashayan
Patman
Paul
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Ray
Regula
Ridge
Ritter
Roberts
Robinson
Roemer
Rogers
Roth
Rowland
Rudd
Sawyer
Schaefer
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Sisisky
Skeen
Skelton
Slattery
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snyder
Solomon
Spence
Spratt
Stangeland
Stenholm
Stratton
Stump
Sundquist
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Valentine
Vander Jagt
Vandergriff
Volkmer
Vucanovich
Walker
Watkins
Weber
Whitehurst
Whitley
Whittaker
Whitten
Wilson
Winn
Wolf
Wo[illegible]ey
Wr[illegible]
Wy[illegible]
Young (AK)
Young (FL)
Zschau

NOT VOTING—8

Gaydos
Hatcher
MacKay
McEwen
Murtha
Rinaldo
Towns
Waxman

□ 1620

The Clerk announced the following pairs:

On this vote:

Mr. MacKay for, with Mr. McEwen against.

Mr. BRITT changed his vote from "no" to "aye."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. DICKS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DICKS. If I have an amendment subsequent to the amendment of Mr. Levitas, I have to offer it immediately after the gentleman announces the vote but before there is a vote on the Levitas amendment; is that correct?

The CHAIRMAN. The gentleman is correct.

The Chair is attempting to get order because he cannot hear the gentleman. The gentleman from Washington has a parliamentary inquiry and the Chair would ask the gentleman to state again his parliamentary inquiry.

Mr. DICKS. Mr. Chairman, my parliamentary inquiry is if I want to offer an amendment to the amendment offered by the gentleman from Georgia I have to do it before the vote on his amendment; is that not correct?

Is this the appropriate time to offer that amendment?

The CHAIRMAN. The gentleman is correct.

AMENDMENT OFFERED BY MR. DICKS AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. LEVITAS

Mr. DICKS. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Dicks as a substitute for the amendment offered by Mr. Levitas: In view of the matter proposed to be inserted, insert the following: "with negotiators proceeding immediately to pursuing reductions.".

POINT OF ORDER

Mr. LEVITAS. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. LEVITAS. Mr. Chairman, I make a point of order that copies of the amendment have not been delivered to the minority or majority desks or to the majority and minority cloakrooms.

The CHAIRMAN. The Chair will advise the gentleman that is not a point of order.

Mr. DICKS. Mr. Chairman, we will make copies available as soon as they can be made available.

PARLIAMENTARY INQUIRIES

Mr. LEVITAS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. LEVITAS. My parliamentary inquiry is twofold, Mr. Chairman.

The first is that under the rule if I am opposed to the amendment being offered as a substitute for my amendment, can I be recognized in opposition thereto?

My second inquiry is: Is the substitute open for amendment?

The CHAIRMAN. The answer to the second question is the substitute is open for amendment.

It is appropriate under the rules to offer an amendment. In terms of whom the Chair recognizes in opposition, the Chair would be inclined to recognize a member of the committee, if a member of the committee seeks recognition in opposition to the amendment.

If a committee member does not seek recognition for that purpose the Chair would be inclined to recognize the gentleman.

Mr. LEVITAS. I thank the Chair.

□ 1630

The CHAIRMAN. The gentleman from Washington (Mr. Dicks) is recognized for 15 minutes in support of his amendment, for debate purposes only.

Mr. DICKS. I thank the Chairman.

Mr. Chairman, I offer this substitute in order to clear up any possible ambiguity that may have occurred because of the amendment offered by my colleague from New York, who talked about trying to reach reductions within a reasonable period of time and as quickly as possible. I want to make it absolutely crystal clear that we want the negotiators to proceed immediately to pursuing reductions.

I yield to the gentleman from New York.

Mr. SOLARZ. I thank the gentleman for yielding, because I am somewhat concerned that the vote on the preceding amendment reflected the prevailing confusion which seems to have overtaken the House as we move into the 40th consecutive hour of debate on this resolution.

I think it is very, very important for the Members to understand that there is a very significant difference between the Levitas amendment and the substitute offered by the gentleman from Washington, Mr. Dicks.

Under the Levitas amendment, as the gentleman from Georgia has interpreted it, if we should be successful in negotiating a freeze and if subsequent to agreement with the Soviet Union to freeze it should prove impossible within a reasonable period of time to also negotiate reductions, then under the Levitas amendment the freeze agreement would have to be abrogated. Whereas, under the amendment proposed by the gentleman from Washington, if we succeed in negotiating a freeze but then are unsuccessful in spite of our best efforts to negotiate reductions, the freeze would remain in effect. And that is a very fundamental difference. It goes to the heart, in a certain sense, of what this debate is all about.

Those of us who have supported the freeze resolution have made it clear over and over again that we want not only a freeze but reductions; but we take the position that if we can get a freeze but are unable to get reductions we would much rather have a freeze than nothing at all.

It is the position of the gentleman from Georgia that even if we can get a freeze, if we cannot also get reductions then the freeze agreement should be abrogated and we should return to the unconstrained arms race which has led many of us to the conclusion that we need a freeze in the first place.

Mr. DICKS. Right. The gentleman from Georgia has said, at least to me, that he did not intend that this create a condition-subsequent, that the freeze could go into effect and then there would be a reasonable time for reductions. Now if that is the intent of the gentleman from Georgia, then my language is better because my language says that the negotiators will be proceeding immediately to pursue reductions. His would take a rather leisurely pace as I read it. It would say that it would have to be achieved within a reasonable period of time. What we are saying is that they must immediately pursue reductions.

Mr. SOLARZ. Will the gentleman yield further?

Mr. DICKS. Yes, I yield to the gentleman from New York.

Mr. SOLARZ. I think it is important for the Members to know that there is a difference between the substitute offered by Mr. Dicks and the substitute which I offered which was defeated a few moments ago. With respect to the substitute which I offered some of our friends on the other side of the aisle raised objections that the language in my substitute could possibly be interpreted in such a fashion as to preclude agreement on reductions prior to agreement on a freeze. And while I rejected that interpretation there were, apparently, nevertheless a number of Members who felt that would be the effect.

Under the substitute offered by the gentleman from Washington, that potential problem does not arise. It would clearly be possible to negotiate reductions before a freeze and, indeed, the language of the gentleman from Washington makes it clear that our negotiators should proceed immediately to negotiate reductions if that is possible following a freeze agreement.

Mr. LEVITAS. Will the gentleman yield?

Mr. DICKS. Yes, I now yield to the gentleman from Georgia who may be able to clear up some of the confusion about his amendment by telling us, again, here on the record, that it would not stop the implementation of a freeze and that all he is trying to achieve is that as soon as the freeze is achieved that we start in an effort to get reductions, that it is not a condition-subsequent.

Mr. LEVITAS. I thank the gentleman from Washington for yielding and I want to say to the gentleman again as I said to him privately earlier: My amendment provides that after a freeze is negotiated——

Mr. DICKS. Let me ask the gentleman, assume a freeze was negotiated between the Soviet Union and the United States, a mutual and verifiable freeze, it was submitted to the U.S. Senate by the President, and it was ratified by two-thirds vote. It would then be in effect; is that correct?

Mr. LEVITAS. That is correct.

Mr. DICKS. Then the same negotiators would be mandated to continue to negotiate for reductions?

Mr. LEVITAS. If the gentleman yields further, one qualification on that.

Mr. DICKS. That it would be within a reasonable period of time.

Mr. LEVITAS. They would be in the course of negotiating the freeze, at the same time be talking about a timeframe following the ratification of the freeze in which reductions would be achieved. That is, there is nothing—if the gentleman will just let me explain, because the gentleman asked me the question, and I want to make it very clear—in the amendment I offered that would not permit a freeze to go into effect. It would be up to the negotiators in their negotiations to achieve reductions within a period of time that the negotiators on both sides agreed upon, as well as a freeze.

□ 1640

Mr. DICKS. What if reductions were not achieved?

Mr. LEVITAS. That addresses the point that the gentleman from New York raises and on this we have a fundamental disagreement.

I suggest that House Joint Resolution 13 calls for the achievement of two things. First, a freeze, but then, too, reductions. I suggest that the gentleman from Washington would not support a proposal the end result of which would be simply to achieve a freeze and never at any time reductions.

My amendment simply assures that that will occur.

Mr. DICKS. Now, let me understand this. Just as we had in the SALT II agreement, there was a date, in 1985, in which the agreement would expire. Is the gentleman saying that the negotiators would set a period or a time in the future in which the agreement would expire, unless reductions were achieved?

Mr. LEVITAS. If they negotiate that. It is simply a guidance to our negotiators in the course of their negotiations and the gentleman's reference to the SALT II is precisely correct. That is precisely all we are doing. That is why I am amazed that this amendment is controversial because all the controversy says is that there are people who will support the resolution and never, never accept the fact that there will be reductions. I cannot believe that.

Mr. DICKS. I think the gentleman is right. The advocates of the freeze also are advocates of reductions.

Mr. LEVITAS. I know, but that gentleman is not. Ask the gentleman from New York.

Mr. DICKS. He is also in favor of reductions. He has said it here more than once.

Mr. LEVITAS. He will tell the gentleman that if all we can get is the freeze and never, never get reductions, that is fine. Is that correct?

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman to answer the question.

Mr. SOLARZ. I thank the gentleman for yielding.

I will try to answer the question as directly as I can.

I believe that we should make every effort to get reductions. If, however, it should turn out that we cannot get an agreement to reduce, but can get an agreement to freeze, I believe we are far better off with an agreement to freeze than no agreement at all.

Whereas, if I may now ask the gentleman from Georgia a question, I assume that conversely his position would be that even if we can get an agreement to freeze, if we cannot subsequent to that agreement to freeze also get an agreement to reduce, after a reasonable period of time, the gentleman presumably would favor abrogating that agreement to freeze.

Mr. DICKS. Mr. Chairman, I yield to the gentleman from Georgia to answer that question.

Mr. LEVITAS. I thank the gentleman for yielding.

And I will answer that question as to my position as forthrightly as the gentleman from New York responded.

My position is that I would be in favor of seeing a freeze on nuclear arms if we proceed from there to reductions, but if reductions could not be achieved within some reasonable period of time, then I believe that in the course of the negotiations, the United States of America ought to have its options open to reassess its position.

And so my answer is that if in some reasonable framework we could not achieve reductions, but just a freeze, then that is contrary to what the gentleman has been selling us as the bill of goods this resolution is to lead us to.

Mr. DICKS. First, I think the gentleman from Georgia would admit that under the resolution as reported, negotiators can at any time adopt an agreement to reduce. It could be an agreement to reduce in front of a freeze.

Mr. LEVITAS. I agree.

Mr. DICKS. That is totally possible under this resolution.

What I have tried to do is to improve and clarify the Levitas amendment by saying that the negotiators would proceed immediately, not in a reasonable period of time, but immediately, to pursuing reductions. I think I have improved the gentleman's amendment. They can agree to a specified period of time, but that is up to the negotiators. The gentleman does not even put in his amendment what that timeframe would be.

Mr. LEVITAS. That is correct.

Mr. DICKS. That is up to the negotiators.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Oregon (Mr. AuCoin).

Mr. AuCOIN. I thank the gentleman for yielding.

Mr. Chairman, I will be very brief. I think it is important for all of our colleagues to understand where the debate has come back to. We are right back to where we were at the beginning, which is a question as to whether or not you want to stop the arms race both in an numerical sense and in a qualitative sense. Remember the code words. The code words for reductions mean if you settle only for that, you really are not trying to stop the technological advance in the arms race. You are willing to let ever more destabilizing generations of nuclear weapons come into the arsenals on not just our side, but both sides, at the cost of an estimated $200 billion over the next 6 years. That is exactly what it does.

Mr. LUNDINE. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from New York.

Mr. LUNDINE. Mr. Chairman, I rise in support of the Dicks substitute.

Mr. Chairman, today the issue of nuclear war touches the consciousness of the American people as never before. Individuals across the country as well as around the world are beginning to come to grips with the enormity of the nuclear threat. We here in Congress have spent several legislative days discussing literally dozens of proposals and amendments in an attempt to reach a consensus on how best to reduce and eventually eliminate the horrible prospect of nuclear war.

It is important to recognize that the current call for a mutual and verifiable nuclear freeze with the Soviet Union did not originate with any Government official or within any bureaucratic hierarchy. Rather, the movement is truly a grassroots effort. Individuals concerned about the possibility of a nuclear holocaust have successfully brought to the attention of the American people an issue that we have ignored for too long. Through countless referendums, rallies, petitions, and letters, the American people have made known their desire for a halt to the continuing arms race, and an end to the nuclear nightmare.

I applaud those concerned citizens who have forced this country to face the prospect of nuclear war, and I join millions of people across the country in supporting a mutual and verifiable nuclear weapons freeze.

I strongly support a mutual and verifiable freeze for a number of reasons. First, the very concept of an "arms race" is dangerous, since it promotes intense competition and implies that neither side can afford to moderate its efforts. Thus, the "race mentality" itself is destabilizing.

I am convinced that a freeze will not handicap our efforts to provide a strong defense for the United States. The nuclear freeze controversy centers on the degree of balance between American and Soviet strategic nuclear forces. But the debate over marginal nuclear advantage is a good example of missing the forest for the trees. Although there are asymmetries between the two forces, an overall parity nevertheless exists. The United States and the Soviet Union both have the capacity to destroy each other under any conceivable scenario. Thus, both sides have a strong interest in implementing a freeze and subsequent reductions. Moreover, in many conversations with high-ranking officers of our Armed Forces, I have often asked whether they would wish to trade our defense capability for that of the Soviet Union; the answer has consistently been a resounding "No." This affirmation further convinces me of the soundness of our Nation's defense posture.

Finally, an arms race is extremely expensive, both in money spent for new and increasingly sophisticated weapons, and in manpower and natural resources which could be better employed in more productive sectors of the economy. Thus, a continued arms buildup has serious implications for both the long-term and short-term economic health of the country.

I have always felt a responsibility to judge issues not on their political expediency, but on their impact on people now and in the future. The nuclear freeze issue not only suggests this approach, but demands it. Since the issue of nuclear war has implications for the survival of all generations to come, we must insure that our decisions and policies are based on conscience, not politics.

When considering an important question like this, it is important to look at the historical perspective. This was brought home to me by hearing and reading again the famous graduation speech by President John F. Kennedy at American University 20 years ago. Though far removed in time, President Kennedy's comments seem as relevant to our debate here today as they did to the students and the people of the world in 1963:

> What kind of peace do I mean? What kind of peace do we seek? Not a Pax Americana enforced on the world by American weapons of war. Not the peace of the grave or the security of the slave. I am talking about genuine peace, the kind of peace that makes life on earth worth living, the kind that enables men and nations to grow and to hope and to build a better life for their children—not merely peace for Americans but peace for all men and women—not merely peace in our time but peace for all time.
>
> I speak of peace because of the new face of war. Total war makes no sense in an age when great powers can maintain large and relatively invulnerable nuclear forces and refuse to surrender without resort to those forces. It makes no sense in an age when a single nuclear weapon contains almost ten times the explosive force delivered by all of the allied air forces in the Second World War. It makes no sense in an age when the deadly poisons produced by a nuclear exchange would be carried by wind and water and soil and seed to the far corners of the globe and to generations yet unborn.
>
> * * * * *
>
> Let us focus instead on a more practical, more attainable peace—based not on a sudden revolution in human nature but on a gradual evolution in human institutions—on a series of concrete actions and effective agreements which are in the interest of all concerned. There is no single, simple key to this peace—no grand or magic formula to be adopted by one or two powers. Genuine peace must be the product of many nations, the sum of many acts. It must be dynamic, not static, changing to meet the challenge of each new generation. For peace is a process—a way of solving problems.
>
> With such a peace, there will still be quarrels and conflicting interests, as there are within families and nations. World peace, like community peace, does not require that each man love his neighbor—it requires only that they live together in mutual tolerance, submitting their disputes to a just and peaceful settlement. And history teaches us that enmities between nations, as between individuals, do not last forever. However fixed our likes and dislikes may seem, the tide of time and events will often bring surprising changes in the relations between nations and neighbors.
>
> * * * * *
>
> The United States, as the world knows, will never start a war. We do not want a war. We do not now expect a war. This generation of Americans has already had enough—more than enough—of war and hate and oppression. We shall be prepared if others wish it. We shall be alert to try to stop it. But we shall also do our part to build a world of peace where the weak are safe and the strong are just. We are not helpless before that task or hopeless of its success. Confident and unafraid, we labor on—not toward a strategy of annihilation but toward a strategy of peace.

Mr. DICKS. Mr. Chairman, I reserve the balance of my time.

Mr. HYDE. Mr. Chairman, I rise in opposition to the Dicks amendment.

The CHAIRMAN. The gentleman from Illinois (Mr. HYDE) is recognized for 15 minutes, for purposes of debate in opposition to the amendment.

Mr. HYDE. Mr. Chairman, I would like to point out the identity of the Dicks amendment with the Solarz amendment.

Now the Solarz amendment said, "with reductions to be achieved as soon as possible after the achievement of a mutual and verifiable freeze."

Here comes the gentleman from Washington (Mr. DICKS) and he says, "with negotiators proceeding immediately to pursuing reductions."

They are the identical idea. Mr. SOLARZ says "as soon as possible after the achievement of a freeze" and Mr. DICKS, "proceeding immediately to pursuing reductions." There is no difference whatsoever. We have just defeated the Solarz amendment, but the last thing we can get is a vote up or down on the Levitas amendment, which is what we are seeking.

Now I intend, at the appropriate moment, to offer an amendment to the Dicks substitute which will return us back to the identical Levitas language. One way or the other we are going to get an up or down vote on Levitas.

Now we have hacked our way through the Solarz amendment, we are now charging our way through the Dicks amendment, I hope ultimately we can arrive at Levitas for an up or down vote.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank my colleague for yielding.

Mr. Chairman, I would like to say this. First of all, the gentleman from Washington, if I could have his attention, made the observation that his amendment improves my amendment. I suggest that what his amendment does is eliminate my amendment, because it substitutes his language for the language in my amendment. That is a rather Draconian way to improve something, by eliminating it.

Let me make the second point that in many ways his amendment is even worse than the Solarz amendment. Let me tell my colleagues why. The Solarz amendment, whatever it meant, said that reductions would be achieved as soon as possible, whatever that means.

The Dicks amendment does not even say we will every achieve them. It simply says that we will begin to pursue negotiations immediately.

Now pursuing negotiations with the Russians is a long way from achieving a result from those negotiations.

Mr. HYDE. Will the gentleman from Georgia permit me to ask him a question at this point?

Mr. LEVITAS. I will be happy to.

Mr. HYDE. Is the gentleman's point that pursuing negotiations may be an endless tunnel?

Mr. LEVITAS. Pursuing negotiations would be an endless tunnel and would be precisely what be the Soviets would do. We must build in an incentive for achieving actual reductions and my amendment would do that.

☐ 1650

Mr. HYDE. Can the gentleman tell me how long our negotiators have been negotiating with the North Koreans at Panmunjom?

Mr. LEVITAS. Long before I came to this distinguished body.

Mr. HYDE. Thirty years ago, when the gentleman and I were both young men they started, did they not?

Mr. LEVITAS. That is correct.

And if the gentleman will yield further, let me just make this comment: The gentleman from Oregon (Mr. AuCoin), for whom I have the greatest respect, is absolutely incorrect when he says we are back where we started, because I have said very clearly that the reasonable timeframe for reductions would follow a freeze; it would only be applicable after the freeze was negotiated and put into effect.

What is at stake here—and it is the first time that we have gotten this out clearly—is whether at some point, under some circumstances, within a reasonable time frame there will be any reductions.

Now, if you are opposed to all reductions and are willing, as the gentleman from New York (Mr. Solarz) is, to settle for a freeze forever, then vote that way. But understand what you are doing.

We are now deciding whether we will ever get reductions.

Mr. HYDE. Let me just say that I heard the distinguished majority leader in the well this morning talking about the right to get a vote, the right to reach finality on this important vote of the century. Well, that is all we want to do is get to a vote on the amendment offered by the gentleman from Georgia (Mr. Levitas). But you keep delaying us, delaying us. I think that there are those who would say that is unconscionable. Count me among them.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York.

Mr. KEMP. I appreciate the gentleman yielding.

Mr. Chairman, I just wanted to say that I totally agree with the gentleman from Illinois (Mr. Hyde) about the purpose of this exercise. All we are really trying to do is to get an up or down vote on whether this body is going to register its approval of a negotiation posture in Geneva which would reduce nuclear weapons first instead of offering a unilateral freeze first. For 5 days we have been trying to get that decision to a vote. The vote has been delayed. Every parliamentary maneuver has been used by the majority to obfuscate the issue of whether you are for freezing nuclear terror or reducing nuclear terror. It seems to me that we ought to get back to the Levitas amendment to vote it up or down.

And I just want to say one last thing to my friend, the gentleman from Illinois. The idea has been articulated on the floor—I think by the gentleman from Oregon—as to the fact that "reduction" is a code word. I think he would erupt right through the ceiling of this body if anyone on this side of the aisle said that a freeze is a code word for unilateral disarmament. No one has used that argument. He should not tell us what is on peoples' minds. He should not tell us what reduction means. Reduction means reduce nuclear weapons. Freeze means freezing them and that is what this debate is all about.

I agree with the gentleman from Illinois, and I compliment him.

Mr. HYDE. Mr. Chairman, in recapturing my time, I would say to the gentleman that he keeps using a word that borders on the obscene. The gentleman keeps saying "reductions." That is just not to be uttered on this floor in the context of this amendment.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from Ohio (Mr. Kasich), one of the most insightful Members of this body.

Mr. KASICH. Mr. Chairman, I have a question for the gentleman from Illinois (Mr. Hyde).

Earlier we were discussing the issue of whether this was a binding resolution on the President, and I asked the gentleman why we could not get a yes or no vote on the issue of whether it binds the President. I could not quite understand why we could not face that issue.

Now it seems again that there is an attempt to avoid a vote on the Levitas amendment on a straight yes or no. I once again wonder if the gentleman can explain to me the reasoning behind this kind of delay tactics.

Mr. HYDE. Well, the answer is simple. They want to vote on their resolution. They do not want to vote on any of our amendments or even on any of their amendments.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my dear friend, the gentleman from Oregon.

Mr. AuCOIN. I appreciate my dear friend from Illinois yielding to me.

Here is what the operative definition of "reductions" means, because it comes from the administration's negotiating posture under START: It is to reduce 12,000 warheads but build 17,000.

You can have a "reduction" you can point to, but the net effect is a 6,000 increase. That is the issue. And that is why the Dicks amendment should be passed.

Mr. HYDE. Mr. Chairman, I must recapture my time. I know the gentleman is well credentialed, but rewriting the dictionary is something that may be slightly beyond his capacity.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Illinois (Mr. Hyde) has consumed 8 minutes.

AMENDMENT OFFERED BY MR. HYDE TO THE AMENDMENT OFFERED BY MR. DICKS AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. LEVITAS

Mr. HYDE. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Hyde to the amendment offered by Mr. Dicks as a substitute for the amendment offered by Mr. Levitas: Strike out everything after the comma and insert in lieu thereof "with such reductions to be achieved within a reasonable, specified period of time as determined by the negotiations".

The CHAIRMAN. The gentleman from Illinois (Mr. Hyde) is recognized for 15 minutes in support of his amendment, for purposes of debate only.

Mr. HYDE. Mr. Chairman, this is the Levitas amendment once more. We have seen Easter occur on the floor of this House. It is risen from the dead, and now we stand with the rock rolled away, and we have Mr. Levitas again. And I hope that we can get a vote up or down on Mr. Levitas to make the concept of reductions meaningful.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my dear friend, the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, there is a tradition amongst my people of that type of resurrection, as I am sure the gentleman knows.

Mr. HYDE. I welcome the gentleman as a convert.

Mr. LEVITAS. Since the bishops have gotten into this, I think there is nothing amiss in introducing a religious note to our discussions.

Mr. HYDE. I wish the gentleman had not brought that up.

Mr. LEVITAS. Let me say this: What is most disturbing to me is the controversy that is surrounding this amendment. All this amendment is saying to the people who support the nuclear freeze resolution—those who say first freeze, then reduce—all this amendment says is first freeze, then reduce with reductions to be achieved within a reasonable period of time—in my lifetime, in my children's lifetime, at some point let us make certain we have reductions. Reductions mean less, not more. And let us have it that way because it means a safer and a saner world.

The Dicks substitute amendment is worse than the Solarz amendment because the Dicks substitute amendment has the effect of having no timeframe, not even something called "as soon as possible." It simply means starting negotiations with the Russians, which could take forever and ever and ever. Why will you not concede that there should be reductions and that they should occur within a reasonable period of time to be determined by our negotiators? That is all we are asking for. And if we cannot support that, then let us make it clear to the American people that we are not in favor of seeing reductions, no matter what we say.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, the gentleman from Georgia says that reductions must occur. Now, my question to the gentleman is: Under the gentleman's amendment as now proposed by the gentleman from Illinois, if we have a freeze and then if reductions are negotiated but there is no reduction agreement, what happens to the freeze?

Mr. LEVITAS. As I have said previously, that would solely be a decision to be made by the negotiators in the negotiations.

As the gentleman from Washington pointed out, when we negotiated the SALT Treaty, the negotiations put in a period of time for its length and duration. I foresee the same thing happening, that there would be a time period established. We say we freeze, we freeze for 3 years, 10 years, 20 years, 5 years, but at some point should not this country have the assurance that we could either go back and reconsider our position or assure our children and their children's children that there will be fewer nuclear weapons in the world? Is that too much to ask, a statement by this House that we will have fewer nuclear weapons some time? I think that is all we are asking for. Who can object to it? And, more importantly, why?

Mr. CARNEY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York.

Mr. CARNEY. Mr. Chairman, I commend the gentleman from Georgia. He has made two very important amendments here on the floor during this debate. One was an amendment that had a blueprint to reduce. That failed. Now he comes back and offers an amendment that we simply should consider reductions. And now the proponents of the resolution are saying once more, "Let us amend a clear-cut amendment that talks about reductions."

I believe the American public deserves to have us vote clearly on the question of reductions, and I believe that the gentleman from Georgia offered the amendment that would allow that to happen and the gentleman from Illinois (Mr. Hyde) has now offered another amendment that would allow that to happen. I believe we should go forward and vote for it.

□ 1700

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New Jersey.

Mr. COURTER. I thank the gentleman for yielding.

Mr. Chairman, I once again rise to congratulate the gentleman from Georgia. We are, as the gentleman said before, about to vote and revote on the identical amendment that was passed by this House just a few moments ago, so it is basically a repeat vote of Levitas. Levitas won last time. There is no reason why it should not win again.

If the gentleman will continue to yield, I think perhaps some of us never heard or forgot the language of the Levitas amendment in the first place. I would just like to read that, because it is so simple, it is so logical, it is so reasonable, I cannot understand, very frankly, why it was not accepted in the very beginning. As a matter of fact, I am sure some people would like to have been in a position to have accepted it. It says simply:

> Line 8, immediately before the period, insert "with such reductions to be achieved within a reasonable period of time as determined by negotiations.".

It obviously focuses the debate down to reductions. We have been spending days and days here. This particular amendment, is simple. It emphasizes the importance of reductions, and I think we should all, by acclamation, agree with it.

Mr. HYDE. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman has consumed 6 minutes in support of his amendment.

Mr. BROOMFIELD. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman is recognized for 15 minutes in opposition to the amendment, for purposes of debate only.

Mr. BROOMFIELD. Mr. Chairman, I yield back the balance of my time.

Mr. HYDE. Mr. Chairman, I yield back the balance of my time and request a vote.

Mr. ZABLOCKI. Mr. Chairman, we have 15 minutes in order to opppose the amendment?

The CHAIRMAN. No one stood up on that side of the aisle, and the gentleman from Michigan (Mr. Broomfield) represented to the Chair that he opposed the amendment and was recognized for 15 minutes in opposition, and he yielded back the balance of his time, as did the gentleman from Illinois (Mr. Hyde).

AMENDMENT OFFERED BY MR. DICKS TO THE AMENDMENT OFFERED BY MR. LEVITAS

Mr. DICKS. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Dicks to the amendment offered by Mr. Levitas: In the text proposed to be added to the resolution by the Levitas amendment, strike out "with" and all that follows through "negotiations" and insert in lieu thereof the following: "with negotiators proceeding immediately to pursuing and achieving reductions".

PARLIAMENTARY INQUIRY

Mr. AuCOIN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. AuCOIN. Mr. Chairman, my inquiry is this: This side, which opposes the amendment, has been foreclosed an opportunity, not on this amendment but on the previous amendment, to have 15 minutes in opposition to the amendment because a Member on that side who voted against an amendment that was hostile to the exact amendment said he was opposed to it.

My parliamentary inquiry is, Mr. Chairman, is that in order?

The CHAIRMAN. As the Chair previously explained, no one on the majority side of the aisle rose in opposition to that amendment. The Chair looked to the other side of the aisle and the gentleman from Michigan (Mr. Broomfield) rose, represented that he was in opposition to the amendment and was recognized. The Chair has previously made that statement.

PARLIAMENTARY INQUIRY

Mr. ZABLOCKI. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ZABLOCKI. Mr. Chairman, did the gentleman from Michigan say he was opposed to the amendment?

The CHAIRMAN. That is correct. The gentleman is correct.

Mr. ZABLOCKI. We will watch how he votes.

The CHAIRMAN. The gentleman from Washington (Mr. Dicks) is recognized for 15 minutes in support of his amendment.

Mr. HYDE. Mr. Chairman, will the gentleman yield to me?

Mr. DICKS. I cannot at this time. I will yield to the gentleman when I have a chance to finish my statement.

Mr. HYDE. I might be able to save some time.

This side commends the gentleman from Washington for his amendment and we would be pleased to accept it.

Mr. DICKS. Before you do that so graciously, could I just have a minute to explain it, because I think it is important in the debate.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Georgia.

Mr. LEVITAS. I would like to commend the gentleman on his amendment. I think it is a substantial improvement on the amendment that this gentleman from Georgia offered, and I would hope that the Members would accept the amendment.

Mr. DICKS. Mr. Chairman, what I have tried to do here is to improve upon my original amendment to the Levitas amendment by saying that we are not only trying to pursue reductions, but we want to achieve reductions as well. I think this answers the issue. The gentleman from Georgia has made it clear now, I think, that under his amendment, should it be adopted, that we can have a negotiation that leads to a freeze, and that that freeze could be ratified by the Senate, could go into effect, and that within a reasonable period of time after that, the gentleman would like to see reductions achieved, and that the timeframe for achieving those reductions would be up to the negotiators.

What the gentleman from Washington was concerned about, and many others, was that the freeze would not be allowed to go into effect and we could not get the gentleman from Georgia to clarify that point to our satisfaction. That is why we have gone down this tortuous path.

But now that we have, I think I have a better amendment, and we understand the intentions of the gentleman from Georgia. I would hope that we could accept the Dicks amendment and move ahead.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

Mr. Chairman, I would like to support both of the gentlemen's amendments, and even with the amendment to the amendment of the gentleman from Georgia, which I understand, I am sure, would be taken on a voice vote, I would still prefer his amendment to either the amendment of the gentleman from Illinois (Mr. Hyde) or the amendment of the gentleman from Georgia, as amended.

Mr. DICKS. I appreciate the gentleman's compliment.

Mr. MAVROULES. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Massachusetts.

Mr. MAVROULES. I appreciate the gentleman yielding.

Mr. Chairman, I support the gentleman's amendment to the amendment. I think finally you have some language which people can live with.

But I just want to raise a point here. Is it not true that if we can achieve a nuclear freeze between the United States and the Soviet Union, that automatically at that moment, that moment of agreement, begin reductions? Is that not true?

Mr. DICKS. Yes, in the sense that there would be reductions because redundant, older systems would be going out of the inventory. Both sides would be setting a limit. It just seems to me that that would, in fact, be the case.

All of us have agreed that what we are trying to do is to have both a freeze and reductions. It is this sequencing that we think has to be done. As the gentleman from Oregon has so properly pointed out with his old freight train analogy, until you get the train stopped, you are not going to be able to make meaningful reductions.

Mr. MAVROULES. If the gentleman will yield further, the point I wish to make is this: That once you achieve an agreement on that resolution between two countries, you automatically achieve a reduction pace.

□ 1710

Mr. DICKS. Absolutely. I think the gentleman is right. Then as soon as that agreement is reached, we want our negotiators to start working on achieving reductions. But we must remember that this agreement will be able to go into effect.

Mr. LEVITAS. That is not what the gentleman's amendment says.

Mr. DICKS. Yes, it does. That is what the gentleman's amendment says.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I am looking at the gentleman's amendment, and I want to be sure I understand his intent. The gentleman opposed the Levitas amendment because he, as well as I, felt that the Levitas amendment set up a condition in which the failure to achieve a reductions treaty, which I would have to interpret as something like the START treaty, would obviate the freeze. That is a condition that would have obviated the freeze, so if we had a failure on START or something like it, then we would also have had no mandate from the Congress for a freeze.

That was my problem with the Levitas amendment. Some of the Members misunderstood what was at issue. That was my problem, and that was the gentleman's problem.

Mr. DICKS. That is exactly right.

Mr. AuCOIN. Mr. Chairman, let me ask the gentleman this question: I am reading the amendment, and it says in lieu of the matter proposed to be inserted, insert the following: "with negotiators proceeding immediately to pursuing and achieving reductions."

My question to the gentleman from Washington is whether there is a distinction between the language that says, "proceeding immediately to pursuing and achieving reductions" and "proceeding immediately to the pursuing of the achievement of reductions." Is the gentleman setting up two conditions?

Mr. DICKS. Mr. Chairman, the point is that we want our negotiators to be pursuing and to be achieving reductions, and we want them to start immediately, after the freeze is achieved, to do both of those things. Now, it may take some time to get that done.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield to me one more time?

Mr. DICKS. I yield to the gentleman from Oregon.

Mr. AuCOIN. Does the gentleman's use of the words, "and achieving reductions," set up the same condition the Levitas amendment sets up?

Mr. DICKS. No, it does not.

Mr. AuCOIN. Why does it not?

Mr. DICKS. Because the gentleman from Georgia is trying to set forth a sunset clause and say that is what the condition subsequent really is, and what I am saying is that we want the negotiators to pursue and to achieve reductions as quickly as they can with a negotiated settlement.

Mr. AuCOIN. What if they were to pursue but fail to achieve? What happens then?

Mr. DICKS. Well, they have to stay in there and keep pursuing and keep trying to achieve. That is what they are supposed to be trying to do.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding, and I appreciate the statement as to what the gentleman would hope his amendment says. But the amendment, by its terms is explicit and clear

To refer back to what the chairman of the full committee said earlier today, where the language of the statute is clear, that a freeze is where we start from, and what the gentleman's amendment says is that following the freeze, there shall immediately be reductions.

Mr. DICKS. Mr. Chairman, I reclaim my time.

After we have a freeze and it is ratified by the U.S. Senate by a two-thirds vote, the negotiators, I would hope, would continue to work from that point to pursuing and achieving reductions as quickly as possible.

Mr. LEVITAS. That is not what this says.

Mr. DICKS. That is exactly what it says.

Mr. LEVITAS. It says there will immediately be an achievement of reductions, which I fully support.

Mr. DICKS. What my amendment says is that after the ratification of the freeze, the negotiators will work to pursue and achieve reductions, and that is what we want them to do. But it is not like the gentleman's amendment, which says that what he is doing is sunsetting the freeze. That is not what my amendment does.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I appreciate the gentleman's explanation. I hope that all Members who were confused on the previous vote will support the Dicks amendment that keeps in place the sequence between the freeze and reductions, which is what all of us ultimately want to get.

Mr. DICKS. That is exactly what we are trying to achieve.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Washington (Mr. DICKS) has consumed 9 minutes. The Chair will inquire, does any Member wish to be recognized in opposition to the Dicks amendment?

Does the gentleman from Washington (Mr. DICKS) desire to use any additional time? If not, the Chair will put the question.

PARLIAMENTARY INQUIRY

Mr. DICKS. Mr. Chairman, I wish to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DICKS. Mr. Chairman, could the Chair explain now the sequence of votes that will be taken so that the Members will know which amendments will be voted on first and what the sequence is?

The CHAIRMAN. The Chair will advise the Members that the first vote will take place on the Dicks amendment to the Levitas amendment, and also the Chair would advise that the gentleman from Washington (Mr. DICKS), if he chooses to use it, has 6 minuters remaining in support of his amendment, for debate purposes.

The second vote would be on the Hyde amendment to the Dicks substitute, and in that connection the Chair would advise that the gentleman from Illinois (Mr. HYDE) has 9 minutes remaining in support of his amendment to the Dicks substitute.

The third vote would take place on the Dicks substitute to the Levitas amendment, and the final vote would be on the Levitas amendment.

The Chair will inquire of the gentleman from Illinois (Mr. HYDE) whether he had yielded back the balance of his time on his amendment to the Dicks substitute.

Mr. HYDE. Mr. Chairman, I suppose I reserved it. Frankly, I do not recall, but if I may, I will say that I reserved my time. I do not remember.

The CHAIRMAN. All right.

Mr. HYDE. Mr. Chairman, I believe we are nearly at the end of this debate. If I might use a few moments to yield to the gentleman from Georgia (Mr. LEVITAS) I have nothing else to offer.

I yield to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, I thank my colleague, the gentleman from Illinois, for yielding.

Mr. Chairman, in the sequence of the votes that will follow, I intent to support the Dicks amendment to my original amendment because of what the Dicks amendment says. The words in that amendment are these: "with negotiators proceeding immediately to pursuing and"—I repeat, and—"achieving reductions."

My amendment provided a reasonable time frame for the achievement of those reductions. The time frame provided for achieving those reductions by the amendment offered by the gentleman from Washington, Mr. DICKS, is "immediately," which is better, in my judgment, than "a reasonable period of time." So, therefore, I think it is an improvement. Consequently, I will vote for the Dicks amendment because that is what it says. Those are its words.

I will then vote for the Hyde substitute for the other Dicks substitute amendment because that Dicks amendment did not provide for "achieving" reductions. Having done those two things, I suppose that the Dicks amendment to my amendment which provides for immediately pursuing and achieving reductions by shortening the time frame, makes it a much better result in terms of achieving reductions.

But in any event, we are going to get a vote on this question: "Do you want to achieve reductions in a reasonable period of time or immediately so that this world can see fewer nuclear weapons?" Is that what this resolution is going to say to our negotiators? The end result will be what our negotiators agree upon, but now we are going to see whether we want to get reductions. That is what this vote is about.

Mr. Chairman, that means fewer nuclear weapons, and I urge my colleagues to support the first amendment offered by the gentleman from Washington (Mr. DICKS) the amendment that we will vote on first, and then to vote for the Hyde amendment.

Mr. HYDE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from Illinois (Mr. HYDE) yields back the balance of his time.

The Chair recognizes the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I yield myself the balance of my time.

Again, Mr. Chairman, I want to make it very clear that the difference, as I see it, is that under the Levitas amendment we would have a sunsetting of a freeze, and what we have done here is to eliminate that aspect of his amendment. That is our clear intent. We want our people to go in there and pursue and achieve reductions, and we are not putting in any sunset clause that says the freeze is abrogated if they do not do it or if they cannot get agreement with the other side.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from Washington (Mr. DICKS) yields back the balance of his time on all pending amendments. All time has expired.

The question is on the amendment offered by the gentleman from Washington (Mr. DICKS) to the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. HYDE) to the amendment offered by the gentleman from Washington (Mr. DICKS) as a substitute for the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MARTIN of North Carolina. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will advise that pursuant to the provisions of House Resolution 179, he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of the adoption of the amendments, if there is no intervening debate.

The vote was taken by electronic device, and there were—ayes 221, noes 203, not voting 8, as follows:

[Roll No. 85]

AYES—221

Andrews (NC)
Andrews (TX)
Archer
Badham
Barnard
Bartlett
Bateman
Bennett
Bereuter
Bethune
Bevill
Bilirakis
Bliley
Boehlert
Boner
Breaux
Broomfield
Brown (CO)
Broyhill
Burton
Byron
Campbell
Carney
Chandler
Chappell
Chappie
Cheney
Clinger
Coats
Coleman (MO)
Conable
Conte
Cooper
Corcoran
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip
Daniel
Dannemeyer
Daschle
Daub
Davis
DeWine
Dickinson
Dowdy
Dreier
Duncan
Dyson
Edwards (AL)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Fiedler
Fields
Fish
Flippo
Forsythe
Franklin
Frenzel
Fuqua
Gekas
Gilman
Gingrich
Glickman
Gradison
Gramm
Gregg
Gunderson
Hall, Ralph
Hall, Sam

Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hefner
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jenkins
Johnson
Jones (NC)
Jones (OK)
Kasich
Kazen
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath
Lent
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Lott
Lowery (CA)
Lujan
Lungren
Mack
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
McCain
McCandless
McCollum
McCurdy
McDade
McDonald
McGrath
Michel
Miller (OH)
Molinari
Montgomery
Moore
Moorhead
Morrison (WA)
Murphy
Murtha
Myers
Nelson
Nichols
Nielson
O'Brien
Olin
Ortiz
Oxley
Packard

Parris
Pashayan
Patman
Paul
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Ray
Regula
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Roemer
Rogers
Roth
Rowland
Rudd
Sawyer
Schaefer
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Sisisky
Skeen
Skelton
Slattery
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snyder
Solomon
Spence
Spratt
Stangeland
Stenholm
Stratton
Stump
Sundquist
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Valentine
Vander Jagt
Vandergriff
Vucanovich
Walker
Watkins
Weber
Whitehurst
Whitley
Whittaker
Williams (OH)
Wilson
Winn
Wolf
Wortley
Wylie
Young (AK)
Young (FL)
Zschau

NOES—203

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Annunzio
Anthony
Applegate
Aspin
AuCoin
Barnes
Bates
Bedell
Beilenson
Berman

Biaggi
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Britt
Brooks
Brown (CA)
Bryant
Carper
Carr
Clarke

Clay
Coelho
Coleman (TX)
Collins
Conyers
Coyne
Crockett
D'Amours
de la Garza
Dellums
Derrick
Dicks
Dingell
Donnelly
Dorgan
Downey

Durbin
Dwyer
Dymally
Early
Eckart
Edgar
Edwards (CA)
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Garcia
Gejdenson
Gephardt
Gibbons
Gonzalez
Goodling
Gore
Gray
Green
Guarini
Hall (IN)
Hall (OH)
Hamilton
Harkin
Harrison
Hawkins
Heftel
Hertel
Howard
Hoyer
Hughes
Jacobs
Jeffords
Jones (TN)
Kaptur
Kastenmeier
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer

LaFalce
Leach
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McHugh
McKernan
McKinney
McNulty
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Mollohan
Moody
Morrison (CT)
Mrazek
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Ottinger
Owens
Panetta
Patterson
Pease
Penny
Pepper
Perkins
Rahall
Rangel
Ratchford
Reid
Richardson

Rodino
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shannon
Sharp
Sikorski
Simon
Smith (FL)
Smith (IA)
Snowe
Solarz
St Germain
Staggers
Stark
Stokes
Studds
Swift
Synar
Tallon
Tauke
Torres
Torricelli
Traxler
Udall
Vento
Volkmer
Walgren
Weaver
Weiss
Wheat
Whitten
Williams (MT)
Wirth
Wise
Wolpe
Wright
Wyden
Yates
Yatron
Young (MO)
Zablocki

NOT VOTING—8

Dixon
Gaydos
Hatcher

Lantos
MacKay
McEwen

Towns
Waxman

☐ 1730

The Clerk announced the following pairs:

On this vote:

Mr. McEwen for, with Mr. MacKay against.

Mr. ACKERMAN changed his vote from "aye" to "no."

Mr. LEWIS of California and Mr. ANDREWS of North Carolina changed their votes from "no" to "aye."

So the amendment to the amendment offered as a substitute for the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

☐ 1740

The CHAIRMAN. The Chair would like to state the parliamentary situation.

PARLIAMENTARY INQUIRIES

Mr. DICKS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DICKS. What is the amendment now before the Committee?

The CHAIRMAN. The Chair would like to advise Members in response to the parliamentary inquiry that the next vote will occur on the Dicks substitute as amended by the amendment offered by the gentleman from Illinois (Mr. HYDE) after which the vote would take place on the Levitas amendment as amended either by the substitute or by the amendment previously adopted.

Mr. LEVITAS. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. LEVITAS. I ask this, Mr. Chairman, because even with the explanation the parliamentary situation is somewhat confused.

Is the vote we are about to take a vote on the same language that the Committee just adopted?

The CHAIRMAN. Yes, that is essentially correct.

The Chair again will state the vote is a 5-minute vote.

The question is on the amendment, as amended, offered by the gentleman from Washington (Mr. DICKS) as a substitute for the amendment offered by the gentleman from Georgia (Mr. LEVITAS), as amended.

The question was taken, and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DICKS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 225, noes 191, not voting 16, as follows:

[Roll No. 86]

AYES—225

Andrews (TX)
Archer
Badham
Barnard
Bartlett
Bateman
Bennett
Bereuter
Bethune
Bevill
Bilirakis
Bliley
Boehlert
Boggs
Boner
Breaux
Broomfield
Brown (CO)
Broyhill
Burton
Byron
Campbell
Carney
Chandler
Chappell
Chappie
Cheney
Clinger
Coats
Coleman (MO)
Conable
Conte
Cooper
Corcoran
Coughlin
Courter
Craig

Crane, Daniel
Crane, Philip
Daniel
Dannemeyer
Daub
Davis
de la Garza
DeWine
Dickinson
Dowdy
Dreier
Duncan
Dyson
Edwards (AL)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Fiedler
Fields
Fish
Flippo
Forsythe
Franklin
Frenzel
Fuqua
Gekas
Gilman
Glickman
Gradison
Gramm
Gregg
Gunderson
Hall, Ralph
Hall, Sam
Hammerschmidt

Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hefner
Heftel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jenkins
Johnson
Jones (NC)
Jones (OK)
Kasich
Kazen
Kemp
Kindness
Kolter
Kramer
Lagomarsino
Latta
Leath
Lent
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston

Lloyd
Loeffler
Long (LA)
Lott
Lowery (CA)
Lujan
Lungren
Mack
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Mazzoli
McCain
McCandless
McCollum
McCurdy
McDade
McDonald
McGrath
Michel
Miller (OH)
Molinari
Montgomery
Moore
Moorhead
Morrison (WA)
Murphy
Murtha
Myers
Neal
Nelson
Nichols
Nielson
O'Brien
Olin

Ortiz
Oxley
Packard
Parris
Pashayan
Patman
Paul
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Ray
Regula
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Roemer
Rogers
Roth
Rowland
Rudd
Sawyer
Schaefer
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Sisisky
Skeen

Skelton
Slattery
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snyder
Solomon
Spence
Spratt
Stangeland
Stenholm
Stratton
Stump
Sundquist
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Valentine
Vander Jagt
Vandergriff
Vucanovich
Walker
Watkins
Weber
Whitehurst
Whitley
Whittaker
Williams (MT)
Williams (OH)
Winn
Wolf
Wortley
Wylie
Young (AK)
Young (FL)
Zschau

Stokes
Studds
Swift
Synar
Tallon
Tauke
Torres
Torricelli
Towns

Traxler
Udall
Vento
Volkmer
Walgren
Weaver
Weiss
Wheat
Whitten

Wirth
Wise
Wolpe
Wright
Wyden
Yatron
Young (MO)
Zablocki

NOT VOTING—16

Alexander
Conyers
Crockett
Daschle
Derrick
Gaydos

Gingrich
Gonzalez
Hatcher
Lantos
MacKay
McEwen

Owens
Waxman
Wilson
Yates

NOES—191

Ackerman
Addabbo
Akaka
Albosta
Anderson
Andrews (NC)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Barnes
Bates
Bedell
Beilenson
Berman
Biaggi
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Britt
Brooks
Brown (CA)
Bryant
Carper
Carr
Clarke
Clay
Coelho
Coleman (TX)
Collins
Coyne
D'Amours
Dellums
Dicks
Dingell
Dixon
Donnelly
Dorgan
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edgar
Edwards (CA)
Evans (IA)
Evans (IL)
Fascell
Fazio

Feighan
Ferraro
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Garcia
Gejdenson
Gephardt
Gibbons
Goodling
Gore
Gray
Green
Guarini
Hall (IN)
Hall (OH)
Hamilton
Harkin
Harrison
Hawkins
Hertel
Howard
Hoyer
Hughes
Jacobs
Jeffords
Jones (TN)
Kaptur
Kastenmeier
Kennelly
Kildee
Kogovsek
Kostmayer
LaFalce
Leach
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Martinez
Matsui
Mavroules
McCloskey
McHugh

McKernan
McKinney
McNulty
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Mollohan
Moody
Morrison (CT)
Mrazek
Natcher
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Penny
Pepper
Perkins
Rahall
Rangel
Ratchford
Reid
Richardson
Rodino
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shannon
Sharp
Sikorski
Simon
Smith (FL)
Smith (IA)
Snowe
Solarz
St Germain
Staggers
Stark

☐ 1750

Ms. SNOWE changed her vote from "aye" to "no."

Mr. KOLTER changed his vote from "no" to "aye."

So the amendment, as amended, offered as a substitute for the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HUNTER: At the end of the joint resolution, add the following new section:

"SEC. . Nothing in this joint resolution shall be construed to prevent the United States from replacing B-52 bombers with B-1 bombers where such replacement is necessary to protect United States strategic bomber crews."

The CHAIRMAN. The gentleman from California (Mr. HUNTER) is recognized for 15 minutes, for debate purposes only, in support of his amendment.

Mr. HUNTER. Mr. Chairman, this is a very simple, straightforward amendment that will allow the replacement of our ancient B-52 bombers with the B-1. This is a simple amendment. It is going to allow us to replace our B-52 bombers, which have been literally dropping out of the air over the last several months, and will allow us as Members of Congress to discharge our constitutional obligation to the men and women of the armed services.

Mr. Chairman, when this debate commenced several weeks ago there was great confusion among the proponents of the freeze and great question as to whether bomber replacement was precluded by the resolution. And following the first several days of confusion, the chairman of the committee, the gentleman from Wisconsin (Mr. ZABLOCKI) came out with an explantatory statement that he revealed on April 13. And in this statement he specifically outlined the terms under which B-52 bombers could be replaced. And I would turn to the CONGRESSIONAL RECORD to the statement that was made by Chairman ZABLOCKI. The bottom line was: B-52's can be replaced only by other B-52's. And he indicated that this could very easily be done and would be a reasonable course of action.

Since that time, Mr. Chairman, I have gone back and looked at some of the industrial base problems that would attend any attempt to replace ancient B-52 Stratofortress bombers with other B-52's, and starting up our production lines and the other problems we would have. And without meaning to be rude to the chairman of the committee, the possibility of replacing B-52 bombers with other B-52 bombers would be a very difficult undertaking. And the suggestion in fact was quite ridiculous.

I would like to point out a couple of the problems we would have.

The average cost of the B-52 model in 1954 dollars was about $30 million. And if you adjusted that cost for inflation, it would come out to about $125 million a copy speaking about 1981 dollars. And specifically, we would find that the J-57 engine is no longer in production. The vacuum tubes that are utilized in the autopilot are no longer in production. If we went to a vendor it would probably cost us five times our original cost. The antenna for the radar that is utilized in the B-52 is based on 1940's technology. It would be very difficult to reproduce. The terrain computer that allows our planes to fly at lower altitude and its vacuum tubes are no longer in production. It would be extremely expensive to reproduce those parts. The environmental control system that keeps the electronics and avionics cool is totally inadequate and would be very difficult to reproduce.

So the notion that we could replace B-52 bombers with other B-52 bombers is a ridiculous notion.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I am pleased to yield to the gentleman from Ohio.

Mr. KASICH. I thank the gentleman for yielding.

Mr. Chairman, I do not know if the gentleman from California (Mr. HUNTER) is aware of an article that appeared in the Christian Science Monitor on April 8 which is testimony from members of a B-52, an actual crew, that went up in the air and had a reporter accompany them. The captain is a man named Captain Holland and he is 29 years of age.

It goes on to say: "Our craft this cold, lowering South Dakota morning is a B-52H, the newest B-52 and last delivered to the Air Force 21 years ago. That means that Chuck Holland and company probably were concentrating on the TV program "Leave it to Beaver," Little League baseball, and the mysteries of long division when their bomber first entered services some 9,000 flight hours ago.

□ 1800

"The crew goes over its pre-flight check lists and begins turning up the 8 engines. Each engine produces 17,000 pounds of thrust * * *.

"As usual with B-52's, not everything works on start-up. There is a problem with the celestial navigation system, which seems to correct itself as the plane bumps and jiggles down the taxi. On our flight"—as the reporter reports—"two other important systems, terrain-avoidance radar and cabin pressurization, will fail.

"In 6 years of flying B-52's, Captain Holland says he has never landed without some maintenance problem."

I say to the gentleman from California that I would maintain that we certainly cannot afford to continue to rely on a B-52, the last one having come off the assembly line in 1962, if we are going to be concerned about men who are in those planes. I strongly support the gentleman's amendment.

Mr. HUNTER. I thank the gentleman from Ohio for his contribution.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Illinois.

Mr. HYDE. I think it is important to point out that these aircraft, the first one being built in 1955 and the last one in 1962, can only be repaired so much. You can only put so much glue on these wings before they fall of their own weight.

Now, we owe a duty to those crews to provide them with safety in the aircraft they are required to use while they serve in the Air Force. The repair of these B-52's is just not feasible. Now, it is not adequate to say we can go back and build more B-52's, because there is no assembly line. The line is no longer open to build B-52's. We need new aircraft. I think what the gentleman is saying is that to protect the safety of our strategic bomber crews, not to provide whole fleets of aircraft, but to protect our crews from these antique aircraft, which, if they were automobiles would qualify for antique license plates, we must be able to produce new aircraft.

Is that what the gentleman is saying?

Mr. HUNTER. I thank the gentleman. That is exactly what I am saying. And I think that I have mentioned several times to Members of this House that over the last 4 months we have lost 2 percent of our B-52 force just from mishaps and crashes, with absolutely no enemy action taken whatsoever.

A lot of people think that the most dramatic event that has occurred during this nuclear freeze debate was the pastoral letter. I disagree. I think the most dramatic event was that while we were debating the nuclear freeze in the House, one of our B-52's went out of contact while exercising over Nevada and crashed, killing all crew members. That was a dramatic event because that symbolized the deterioration of our strategic forces that is occurring today. I think I have gone over several times the four or five crashes that have occurred only in the last 4 or 5 months.

So I think that we have to understand that you cannot divorce, as the chairman of the Committee on Foreign Affairs has suggested, performance from safety. He said, "Well, we can take some safety-related modernization measures." You cannot do that. If you want to make sure that the bomber crew survives, you are going to have to make sure that they can take their payload into enemy airspace and bring that plane back.

And on that point I would like to reiterate the statement that shocked the chairman of the committee, and he said he would look into it. I would like to ask him if he has checked into this statement. This is a statement made by Dr. Tom Cooper, who is the Under Secretary of our Air Force for Research and Development, on the ability of our B-52's to penetrate Soviet airspace and the ability of our air crews to survive.

He said:

> Should American air crews be forced to fly B-52's into enemy airspace in the 1990's, they will have virtually no chance for survival.

Mrs. BYRON. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentlewoman from Maryland.

Mrs. BYRON. Is the gentleman aware that several of his colleagues in this body have sons who are flying B-52's, that we are extremely concerned and they are extremely concerned about the capability of the aircraft, that not only our own families, but those individuals who are mandated by their assignments in the Air Force are made sure that they have equipment that is adequate.

I have to agree with my colleague who spoke a moment ago, in reading the article from the Christian Science Monitor, that those facts that he mentions are accurate. They are just the tip of the iceberg. There is a long series of discussions and facts on those aircraft where they have faulty parts that are no longer manufactured, that no longer are able to be procured, and many of the aircraft have to be cannibalized to keep them in active force at a time when they are extremely necessary to our own defense.

Mr. HUNTER. I thank the gentlewoman for her contribution. Many of us are aware of the sacrifices that are being made by members of the families of our colleagues, and I know that the gentlewoman, in fact, has a son flying the B-52 today. I commend her for her support.

Mrs. BYRON. As do two of our other colleagues.

Mr. HUNTER. And I thank them also.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, the gentleman from Ohio (Mr. KASICH) referred to an article which appeared in the Knight newspapers, and what he did not mention was that the people on those crews said that these are not the same planes that were originally built, that they have been completely rebuilt, that all of the electronics and all of the gear is completely new and that they are really very modern planes. And, furthermore, if we cannot replace our planes, neither could the Russians replace theirs.

Mr. HUNTER. Mr. Chairman, I will reclaim my time for 1 minute, and I would like to describe what has occurred with some of these "outstanding, excellent" airplanes that have been so "completely refurbished" over the past several months.

On March 10 of this year, just a few weeks ago, we had a wing fracture while the plane was refueling. The wing actually fell off.

On January 27, at Grand Forks, N. Dak., we had a fire during fuel system maintenance; five airmen were killed.

On December 16, this last December, at Mather Air Base, we had a crash on takeoff and eight people were killed.

On October 31, at La Honda, Calif., we had a crash during low-level flying, and seven people were killed.

So this idea that somehow these B-52's are really pretty good because they have been patched up is baloney.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Ohio.

Mr. KASICH. I would say, in response to my distinguished colleague, the gentleman from Ohio, that the article goes on to point out that the problem with the B-52, they say, is that it has been refurbished and modernized as much as it can. The plane is hard put to generate enough electricity to run the new gear. Many of the spare-part manufacturers have gone out of business, but mostly it is the increasing threatened environment that has made the plane so vulnerable.

And the Soviets, of course, have produced 200 modern intercontinental-capability backfire bombers in the 1970's, while we still rely on the B-52. We just do not have the ability to compete when we are flying a plane that was produced in 1962 and they have a plane that was produced in the middle 1970's.

Mr. HUNTER. I thank the gentleman from Ohio for his contribution.

Mr. PARRIS. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Virginia.

Mr. PARRIS. I thank the gentleman for yielding.

Mr. Chairman, in 1953, 30 years ago this year, I was flying F-84-G's out of Albany Air Force Base, doing gunnery missions against B-52's. It was an easy target then. Sending young men on an offensive weapon in this equipment is ludicrous in today's situation, with the kinds of airplanes that we have, the Air Force capacity that we now enjoy. And I submit that the gentleman's amendment should pass. It is a good one. To continue what we are doing with that airplane is absolutely ridiculous.

Mr. HUNTER. I thank the gentleman from Virginia.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to my colleague, the gentleman from California.

Mr. BADHAM. I thank the gentleman for yielding.

Mr. Chairman, I was very interested to hear the comments from the gentleman from Ohio who would have our young people in this country fly 20- to 30-year-old airplanes, saying they have all been rebuilt.

I would suggest to the gentleman that I have flown the B-52 and I have flown the B-1. I have examined the various costs and the various things that can be done to the B-52 and the B-1. And I would recommend to the gentleman, if he would be so inclined, to go fly a B-52-D model some time, if he wants to get his kicks at the expense of the taxpayers of this country.

But, more than that, I think anybody who would oppose this amendment is really a unilateral disarmer, because in the words of the gentleman from Ohio, I believe he said that, well, if we did not replace B-52's with B-1's, neither would the Soviets.

Well, that is not what the resolution says, I would suggest to the gentleman. The gentleman knows that the resolution says we are to negotiate. We are to negotiate. And until we reach an agreement, nothing is binding.

□ 1810

The gentleman knows that he had said, "Why, of course we could keep on building the B-1, and of course, the Soviets for some miraculous reason would not build the Blackjack bomber." The gentleman knows that is pure bunk. And if we, I would attest, and I say this to the gentleman in all sincerity, pass this freeze resolution to commence negotiations, that the United States of America, and you would advocate it, would not build one more B-1 bomber, would not build one more MX missile, would not build one more Trident submarine, if the gentleman had his way, and he knows very well that the Soviet Union would continue to build SS-19's and SS-18's, would continue to build Typhoon submarines.

Mr. SOLARZ. Mr. Chairman, I rise in opposition to the amendment, but before I do, I would like to put a parliamentary inquiry to the Chair.

PARLIAMENTARY INQUIRY

The CHAIRMAN. The gentleman will state it.

Mr. SOLARZ. I will have an amendment to the gentleman's amendment. Can that be offered now, or must I wait until the completion of our time before offering the amendment?

The CHAIRMAN. The gentleman may offer the amendment at this time.

Mr. SOLARZ. Am I also in a position to offer the amendment after the completion of our 15 minutes of rebuttal time to the gentleman's amendment?

The CHAIRMAN. The gentleman is correct.

The gentleman from New York (Mr. SOLARZ) is recognized for 15 minutes in opposition to the amendment for purposes of debate.

Mr. SOLARZ. I thank the Chair, and I yield to my still very good friend from Georgia (Mr. LEVITAS), the author of the triumphant amendment which passed a short while ago.

Mr. LEVITAS. I thank my still good friend and colleague for yielding. I appreciate that.

Mr. SOLARZ. Let me just say to my friend, the gentleman from Georgia, it reminds me of a former State Democratic Chairman in New York who in 1896, after William Jennings Bryan won the Democratic nomination for President but who was very unhappy with that development, who was asked by reporters whether he was still going to support the Democratic ticket in spite of Bryan's nomination, said "I am a Democrat still, very still." So I say to my friend, I am still your friend.

Mr. LEVITAS. Not very still, I hope.

Mr. SOLARZ. Certainly not.

Mr. LEVITAS. Mr. Chairman, I hope the ardor of the gentleman for the resolution has not been stilled.

Mr. BADHAM. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The time is controlled by the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. I have yielded to the gentleman from Georgia for 1 minute.

Mr. LEVITAS. Mr. Chairman, I ask unanimous consent to speak out of order on the resolution.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

Mr. BADHAM. Reserving the right to object, Mr. Chairman, I would like to ask somebody whose time this is coming off of because there has not been any 15 minutes allocated to the opposition to the amendment pending, and there is no other amendment pending, so I assume, reserving my right to object, that this time is coming from somewhere; presumably it is from the 15 minutes allotted to the opposition, whoever, whatever, and wherever it is.

The CHAIRMAN. The gentleman from New York (Mr. SOLARZ) has been recognized for 15 minutes in opposition.

Mr. BADHAM. I yield to the gentleman from New York under my reservation for an explanation.

Mr. SOLARZ. Mr. Chairman, I yielded to the gentleman from Georgia for the purpose of his making a statement about the resolution.

Mr. BADHAM. I now have the time because I have reserved the right to object and I would like to ask, under that reservation, whose time this is coming off of?

Mr. SOLARZ. It is coming off of our time, which is being controlled by me at the moment in my capacity as a substitute for the distinguished chairman of our committee as the floor manager of the bill.

Mr. BADHAM. Further reserving my right to object, you are the opposition.

Mr. SOLARZ. Yes.

Mr. BADHAM. Mr. Chairman, I will not object. I withdraw my reservation of objection.

Mr. LEVITAS. Mr. Chairman, I withdraw my unanimous consent request.

The CHAIRMAN. The gentleman from New York (Mr. SOLARZ) has the time.

Mr. SOLARZ. Mr. Chairman, I yield to my very good friend, the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, the gentleman from California said I know that what I said was pure bunk, and I could have demanded that the Clerk take down his words, but I will not.

I do not think that what I said was pure bunk. I spent a long time studying the B-52 and the B-1 situation. What the gentleman over there failed to mention was the B-52 is not expected to make penetrating raids over the Soviet Union anymore.

Mr. BADHAM. Will the gentleman yield on that point?

Mr. SEIBERLING. I will not yield at this moment. I will in a minute.

Mr. Chairman, the gentleman has made a personal remark against me. I am entitled to respond.

I happen to know that the B-52's are being fitted with air-launched Cruise missiles, and the gentleman knows that. So the fact that they do not penetrate well over the Soviet Union is irrelevant. We have a very modern weapon system.

Last year the commanding general of the Strategic Air Command came to my office just after he retired, and he said, Congressman, I want you to know you are 100 percent right. The B-1 bomber is a waste of money. The B-52's with stretched FB-111's are adequate into the 1990's when we can replace them with Stealth."

If we do not get an agreement on a nuclear freeze, we can go ahead with Stealth. And if we do get an agreement on a nuclear freeze, both the Russians and we will be frozen. So I do not see why the gentleman says that what I said is pure bunk.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from California.

Mr. BADHAM. I would just like to ask the gentleman if the gentleman has ever read or had a briefing on the SIOP, which is the strategic integrated operational plan for nuclear weapons, if the gentleman has read it.

Mr. SEIBERLING. I have been briefed by the Strategic Air Command at SAC headquarters, if that is what you mean.

Mr. BADHAM. Then the gentleman knows that in the SIOP, which is the operating order for our strategic nuclear forces, that the B-52 bomber is targeted today to be a penetrating bomber. If the gentleman does not know that, the gentleman has not been paying attention.

Mr. SEIBERLING. I know that that is its capability if we want to use it.

Mr. BADHAM. Then do not say that the B-52 is not a penetrator.

The CHAIRMAN. The Chair would like to advise the Members that the gentleman from New York (Mr. SOLARZ) controls the time.

Mr. SOLARZ. If, in fact, I control the time, Mr. Chairman, which I thought I did but which I was not sure I did, I would like to reclaim it if that is all right with my friend from Ohio.

Mr. SEIBERLING. If the gentleman could yield to me for about 15 seconds, I would appreciate it.

Mr. SOLARZ. I will be happy to yield further to my friend, the gentleman from Ohio.

Mr. SEIBERLING. My point was that no one over there mentioned the important fact that the B-52 can be used as an alternative, which is a platform to launch air-launched Cruise missiles, and that is its prime function today.

Mr. BADHAM. Will the gentleman yield to me for a response to that?

Mr. SOLARZ. If I could reclaim my time, then I will be happy to yield further to the gentleman.

I think that after 15 minutes of argument in favor of the amendment that the Members are entitled to hear at least a few reasons why it might not be best for the country if this amendment were adopted.

Let me state very briefly what our objections are to the amendment. The amendment, as the gentleman from California has made clear, would make it possible, even after a freeze agreement had been reached, to replace B-52's with B-1's. I would submit that this is fundamentally incompatible with the basic purpose of the freeze resolution and what we are trying to achieve as a result of it.

In his now famous statement of April 13, the very distinguished chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin, made it very clear that as we interpreted the freeze resolution, it would permit the replacement of existing strategic systems with comparable copies, as it were, of the systems that they were replacing. In other words, it would be possible for the United States to replace B-52's with B-52's, just as it would be possible for the Soviet Union to replace Bear bombers with Bear bombers.

But as the gentleman from Wisconsin made clear, the freeze resolution would not permit the replacement of B-52's by B-1's, or the replacement by the Soviet Union of Bears with Blackjacks.

He went on to say that the freeze resolution would permit the replacement of interior equipment within the B-52 for the purpose of maintaining the aircraft in a safe and sound condition. I intend, at the termination of our time for debate on this amendment, to offer an amendment to the amendment which has been proposed by the gentleman from California which would strike his reference to the B-1 and which would insert in lieu thereof language which would permit safety-related improvements in strategic bombers. In other words, under the amendment that we intend to offer, it would be possible after a freeze was agreed to between the United States and the Soviet Union to have safety-related improvements in our strategic bombers.

□ 1820

But I must tell the gentleman that it would not be possible to replace a B-52 with a B-1, just as we would not permit the Soviet Union to replace the Bear with the Blackjack.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I am happy to yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, I thank the gentleman for yielding.

I do not think that the gentleman is any more optimistic than I that negotiations toward a freeze would be an overnight situation. In fact, I think the gentleman recognizes that probably a freeze negotiation with the Soviet Union might take 5, 10, or 15 years, and I would attest to the gentleman that if we started replacing B-52's with B-1's right now, when that date came that we negotiated a permanent negotiable, verifiable freeze, I would introduce an amendment to eliminate production of the B-1's.

Mr. SOLARZ. Mr. Chairman, let me say to my friend, the gentleman from California (Mr. BADHAM) that, first of all, I am a little bit more hopeful than he is about the timeframe within which we could negotiate a freeze with the Soviet Union. I was thinking more in terms of months; he seems to be thinking in terms of years or maybe decades.

But be that as it may, the fact of the matter is that if, prior to the time we are able to conclude those negotiations, we have deployed additional B-1's, we would be permitted under the terms of this resolution to replace whatever B-1's were then in our inventory with new B-1's. For example, if we were to agree on a freeze tomorrow, which, obviously, is not going to happen—but if it did happen and we now have four B-1's in our inventory, we would be permitted to produce four more B-1's to replace existing B-1's. But with respect to the B-52's we have, we would be entitled to do one of two things or a combination of both: Either we could replace them with new B-52's or we could simply replace them by replacing the interior parts, such as the electronics and the engines. We could replace the nuts and bolts on the wings in order to make sure the wings hold up so that our B-52's could fulfill the mission for which they were designed.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, my question to the gentleman is simply this: The gentleman has outlined some repairs that we could make that would be safety-related improvements, and my question is simply this: What improvements would the gentleman make that the Air Force has not already made in patching these planes together?

Mr. Chairman, my question to the gentleman, if he did not hear me, is that he says we could make safety-related improvements. What improvements to the existing B-52 force would he make that the Air Force has not already made that would have saved the lives of the four air crews which have perished very recently because our B-52's have fallen out of the air?

I have a second question to the gentleman.

Mr. SOLARZ. Let me answer the questions one at a time.

Mr. HUNTER. Excellent.

Mr. SOLARZ. Mr. Chairman, I think under the interpretation of the resolution which was propounded by the gentleman from Washington (Mr. ZABLOCKI) on April 13 that it would be possible to replace the electronics on the B-52's, and it would be possible to install the fan jet engines on the B-52's. Those are examples of the kind of replacement possibilities that are contemplated by the resolution.

Mr. HUNTER. Mr. Chairman, is the gentleman aware, though, that the Air Force has undertaken many repairs to the existing B-52's, and that for the four planes that have gone down recently, killing their crews, have been the recipients of that repair work? They have been worked on, they have been repaired. To quote the chairman of the committee, they have been modernized, and yet they still went down, they still crashed.

My second question to the gentleman is this: What are we going to do to upgrade the speed of the B-52? At low level, it is about 580 miles an hour; it does not even go the speed of sound. The Backfire bomber goes about twice the speed of sound; it goes about Mach-2. How are we possibly going to upgrade the B-52 to acquire anywhere near the speed the Backfire has, and what are we going to do that the Air Force has not already done in upgrading the B-52's to keep them in the air? I do not think we can do much more.

Mr. SOLARZ. Mr. Chairman, I would say to my friend, the gentleman from California, that it is my understanding that the four B-52's that, unfortunately, went down, so far as anyone knows, did not crash as a result of their advanced age but, rather, that these disasters were the function of pilot error or other factors which were not necessarily related to the age of the planes.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I am happy to yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, I say to the gentleman from New York (Mr. SOLARZ) that my understanding is that one of the problems we have with the B-52 right now is that, with the deployment of the air-launched cruise missile on the wings, the added stress placed on those wings is what, at least in one case that I know of—and perhaps the gentleman from California knows of others—what caused the greater stress placed on those wings and caused those wings to fall off. And that was as a direct result of the modernization program that the military thought was necessary in order to provide for the safety of our bomber crews.

Mr. SOLARZ. Mr. Chairman, I would respond to the gentleman by saying that it is my understanding that none of the wings of the B-52's that have been fitted as cruise missile launchers have in fact fallen off, and should such a problem develop, it would be possible under the terms of the resolution, in accordance with the interpretation put forward by the committee chairman, the gentleman from Wisconsin (Mr. ZABLOCKI) to put new spars in the wings to reinforce them so that that would not happen.

Mr. GINGRICH. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I am happy to yield to my friend, the gentleman from Georgia.

Mr. GINGRICH. Mr. Chairman, I am concerned for two reasons. I am sorry that my colleague, the gentleman from Ohio, left because it seems to me the gentleman's side tends to use the argument that will work at the moment. I know the gentleman probably feels the same about our side.

But let me raise a specific question on the B-52's which I wish the gentleman would clarify for everyone. The gentleman's colleague suggested that it was all right that the B-52 did not have to penetrate because in fact we could equip them with cruise missiles. Now, as I understand the freeze resolution, in fact the B-52's which are not cruise missile carriers on the morning of the freeze are not going to become cruise missile carriers.

Let me make a second point. By freezing the electronics, we put ourselves in a position where the Soviets can improve their antiaircraft defenses and the B-52 ceases to be an effective aircraft.

AMENDMENT OFFERED BY MR. SOLARZ TO THE AMENDMENT OFFERED BY MR. HUNTER

Mr. SOLARZ. Mr. Chairman, I offer an amendment to the amendment.

Mr. BADHAM. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. SOLARZ to the amendment offered by Mr. HUNTER: In the section proposed to be added to the resolution by the Hunter amendment, strike out all that follows "prevent" through "crews" and insert in lieu thereof "safety-related improvements in strategic bombers".

POINT OF ORDER

Mr. BADHAM. Mr. Chairman, I have a point of order.

Mr. Chairman, it occurs to me that all time for the proponents and all time for the opponents of the amendment offered by the gentleman from California (Mr. HUNTER), has been used up.

Is it not true, under the rule, that we must now vote on that amendment?

The CHAIRMAN. No. The Chair will advise the gentleman from California (Mr. BADHAM), that it is true that all time relative to the amendment offered by the gentleman from California (Mr. HUNTER), for and against, has expired, but under the rule another amendment can be offered, and is being offered, and 15 minutes are allocated to the proponent of the amendment and 15 minutes are allocated to an opponent of the amendment.

Mr. BADHAM. I thank the Chair.

The CHAIRMAN. The gentleman from New York (Mr. SOLARZ) is recognized for 15 minutes in support of his amendment, for debate purposes only.

Mr. SOLARZ. Mr. Chairman, I will be very brief at this stage and simply point out to my colleagues in the House that this amendment which I have offered as an amendment to the amendment offered by the gentleman from California (Mr. HUNTER) would permit safety related improvements in strategic bombers, so that to the extent there was any problem for the crews of our B-52's as a result of the adoption of a freeze agreement with the Soviet Union that would prevent their replacement by the B-1, we would be in a position to make whatever safety-related improvements in the strategic bomber were necessary to keep those planes flying and to protect the safety of the men who are flying them.

I would only add at this time that while it is true that my amendment would preclude the replacement of B-52's by the B-1, it would also preclude the Soviet Union from replacing the Bear bomber with the Blackjack bomber. That, after all, is really what this freeze resolution is all about. Obviously a freeze will preclude us from developing new weapons systems, but it will also preclude the Soviet Union from developing new weapons systems. The whole object is to bring the arms race in nuclear weapons to a halt and then, from there, hopefully, to go on to real reductions.

Mr. Chairman, I reserve the balance of my time.

□ 1830

Mr. HUNTER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from California (Mr. HUNTER) is recognized for 15 minutes in opposition to the amendment and for debate purposes only.

Mr. HUNTER. Mr. Chairman, I am amazed that the proponent of the amendment continues to miss the gut issue of this amendment, and that is that you cannot divorce safety-related improvements from the performance of the aircraft.

Again I go back to the statement that was made by our Under Secretary of the Air Force for R&D. He stated that if American aircrews are forced to fly B-52's in the 1990's, they will have virtually no chance of returning from a mission over the Soviet Union.

Now, the gentleman has offered an amendment that calls for safety-related improvements. Obviously, the U.S. Air Force is making absolutely every safety-related improvement they can possibly make right now to keep those crewmembers from dying, to keep those B-52's in the air, and they are not working. Now, they are falling out of the air. We have had 2 percent of our force destroyed in the last 4 months. That is an incredible attrition rate.

Mr. Chairman, I would like to quote a copilot of a B-52 regarding the ability to improve it, to modernize it. He states:

> On an enemy radar screen, if the newer B-1 were the size of a desk, the B-52 would be as big as a hanger.

If I would get the attention of my friend, the gentleman from New York, this is a very important point. The only way that an American aircrew is going to survive on a mission is by being able to penetrate enemy airspace undetected, complete their mission, and return to the United States. The radar cross section on a B-1 is about one-tenth what it is on a B-52.

Now, you can patch them, you can glue them together, you can do all kinds of stuff, but you cannot do much to improve the survivability of that aircraft.

I think it is somewhat callous of the proponents of this amendment to have relegated to such a low position our consideration for the lives of the people that pilot these systems. About 50 percent of the cost in many of our strategic systems is devoted to saving the people that operate them. We are relegating them to driving 30-year-old aircraft in the 1990's, when they will be facing a Soviet counterpart, which is the Backfire bomber, which goes about twice as fast, which is built very recently, and which has a capability of delivering a nuclear payload anywhere on any downtown main street in the United States and recovering in Cuba.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, I thank the gentleman for yielding. I would like to make a couple points.

I was looking at the amendment to the amendment offered by the gentleman from New York (Mr. SOLARZ). The gentleman talks in terms of safety-related improvements for strategic bombers shall be permitted; but I would like to emphasize what the gentleman from California, Mr. DUNCAN HUNTER, said when he talked about performance being integrally related to safety.

Speed, obviously, is something that is related to safety in bombers as it is in any other type of aircraft. Avionics is related to safety. The ability of a plane to be packed with electronic countermeasures, that is certainly related to safety; so all these things that the gentleman is referring to as safety related, as far as I am concerned under the thrust of his amendment, is not going to be permitted to be placed in the B-52's. It is an old airplane. The technology is old and what the amendment of the gentleman really means is the fact that we are going to force our pilots to fly planes 20, 30, and 40 years old, against Soviet planes that are obviously much more recent than that.

Mr. Chairman, if the gentleman will continue to yield, the second point I would like to make, we talk in terms of the fact that if the freeze resolution was passed, then we could have five or four B-1's and the Soviet Union would be locked into only having their Backfires.

The point I am making is the fact that they now have deployed 140 Backfire bombers, 70 in the NATO area and 70 in the East Pacific.

There are three types of Backfire bombers, so they have already modernized.

I think this point probably has been made before by the gentleman from California. The point here is the fact that we are frozen into antiquity or frozen into an inferior position and as such I think the amendment to the amendment is very much debilitating.

I thank the gentleman for yielding.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I am happy to yield to my colleague from California.

Mr. BADHAM. Mr. Chairman, I thank the gentleman for yielding.

I would like to come over here on this side of the aisle because a lot of the discussion on the freeze itself is brought home in this amendment and the opposition to it.

One thing about the freeze, we say we have got to cut off the obscene amount of money spent in an arms race. I appreciate the gentleman with his safety-related improvements in strategic bombers, but I would suggest to the gentleman that does the gentleman know that safety-related improvements, if we do everything we can possibly do to the B-52, the cost will be almost as much as the whole B-1 program? I do not think the gentleman was aware of that.

Another thing, we have right now, despite what the gentleman from Ohio would suggest——

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I would be delighted to yield. I do not have the time, but I think the gentleman from California will yield.

Mr. HUNTER. I yield to the gentleman from New York.

Mr. SOLARZ. I thank the gentleman for yielding.

Let me say that I am very interested to find that out and I am glad the gentleman made the point, that the safety-related improvements might be almost as much as the development of a new plane; but frankly, when it comes to the safety of American airmen, no price is too high to pay, so I am perfectly prepared to do that.

Mr. BADHAM. Then we ought to spend about the same amount of money and give them a good airplane.

Mr. GRAMM. Mr. Chairman, will the gentleman from California yield?

Mr. HUNTER. Yes; I have three more points to make, but I will yield.

Mr. GRAMM. First of all, the U.S. Air Force today is doing everything it can to make these planes safe. We are not sparing money to try to protect the lives of our airmen.

This amendment is a pure and simple gutting amendment. No one questions here the ability of the United States under a nuclear freeze to undertake those activities necessary to make current ancient equipment operate.

This amendment is totally meaningless in substance. Its total objective is to obscure the issue that has been raised by this amendment, and that issue is, do we have the right to modernize our weapons and do we have the right to replace a weapon that is so antiquated that it threatens the lives of those young men and women who are forced to fly today? I think it is imperative that this substitute be defeated, because it is a sham, because it represents no change in substance, and because it basically hides the real substance of the issue.

I thank the gentleman for yielding.

Mr. BADHAM. Very quickly, Mr. Chairman, if the gentleman will yield further, to wrap up my point, we know that the strategic operation plan for our B-52 bombers is to carry dumb bombs, iron bombs, gravity bombs, as a penetrating mechanism and it cannot work.

We know that the cruise missiles do not have a range to be standoff, because Soviet air defenses are approaching the range of our so-called standoff cruise missile already.

Third, you cannot have it both ways, my friends in the House, because if we stop modernizing at the passage of the resolution, which is what you people want, we know that the Soviets will keep on modernizing until such negotiation finality is reached.

You cannot have it both ways. You can say that the Soviets will stop producing Blackjack bombers, but you know very well they will not.

You can say that we will modernize until the negotiations are complete, but you know you will advocate that we do not.

The substitute must be defeated.

Ms. FIEDLER. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Ms. FIEDLER. Mr. Chairman, it seems to me that if we found we lost 2 percent of our airliners in the last 6 months, we would all be screaming our heads off.

We have a series of consumer protections which we provide to the people in this country all the time. We are constantly sending cars back. We are sending toys back, and yet when we are talking about the safety and security of men, and sometimes women, who are involved in the military, we are talking about their lives. We are taking a very casual attitude toward them and their safety.

I would venture to say that I think to put us in the position that we are right now is unconscionable.

We are talking about Israel, were we talking about some other foreign nation with whom we have a relationship and are involved in assisting we would not accept this kind of position under any circumstances. For us to talk about the men and women in the military with such a casual attitude, I personally feel it is unconscionable.

□ 1840

Mr. KASICH. Will the gentleman yield?

Mr. HUNTER. I thank the gentlewoman and now yield briefly to my friend from Ohio.

Mr. KASICH. There is one other issue involved in addition to the issue of speed and that is the ability of the Soviets to continue development of air interceptors. As most people know, at this point in time they are presently converting the Foxback A to the Foxback E aircraft, which gives them some low altitude capability.

Additionally to that, the Foxback now has the only true look-down/shoot-down capabilities and they have started to develop that.

So, in addition to the lack of speed of the B-52, we also have to contend with the modern air interceptors that the Soviets have been deploying.

Mr. HUNTER. I thank the gentleman and I reserve the balance of my time.

Mr. SOLARZ. Mr. Chairman, how much time do we have on this side?

The CHAIRMAN. The gentleman has 13 minutes remaining.

The gentleman from California (Mr. HUNTER) has 4 minutes remaining.

Mr. SOLARZ. Mr. Chairman, it is part of the whole essence of this freeze resolution that whatever constraints it would impose on the United States it would also impose on the Soviet Union.

It is our very profound conviction that it would be in the interests of the United States to freeze at this point in time the further deployment of our strategic air systems.

The reason I say that is that right now we have as our main strategic bomber the B-52. The Soviet Union has as its main strategic bomber the Bear. Our successor strategic bomber is supposed to be the B-1 and their successor strategic bomber is supposed to be the Blackjack.

Yet the fact is that the B-52 is far better than the Bear in comparison to the improvement which the B-1 would give us in relationship to the improvement that the Blackjack bomber would give them.

In other words, the B-1 is less superior to the Blackjack than the B-52 is to the Bear. And the differences between the B-52 and the Bear, which both of us have today, are greater than the differences between the B-1 and the Blackjack, which both of us will have tomorrow if a freeze is not agreed to.

Consequently, the United States will have more of an advantage with respect to strategic bombers vis-a-vis the Soviet Union if we keep the B-52 and they keep the Bear than if both of us move to the next generation in which we would have a B-1 and they would have a Blackjack, because the B-52 is, in comparison to the Bear, far better than the B-1 is in comparison to the Blackjack.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I will be happy now to yield to my very, very good friend from New York (Mr. KEMP).

Mr. KEMP. There are other planes in the Soviet arsenal besides the Bear. They have what many consider an intercontinental strategic bomber, the Backfire.

I think they have around 150 Backfire bombers which are, in my limited view, somewhat analogous to what we would like to produce with the B-1. Although they are different, they have a similar strategic capability. They are deployed against Europe and they are deployed in Asia. They have an intercontinental as well as a theater nuclear capability.

The gentleman is basing his information on the Bear bomber and it seems to me that proves our point that we need to modernize in order to keep essential equivalence, and with the free resolution as interpreted by the gentleman from New York it would inhibit this country's ability to have that essential equivalence so important to the deterrence that he and I both share as a major purpose for keeping the peace.

Mr. SOLARZ. Let me say to my very good friend from New York, who makes a very thoughtful point, that no one could possibly presume to expand on the present comprehensive and enlightened interpretation of the resolution which was given by the chairman of the committee on April 13.

My comments today are merely a footnote to the chapter in this book which he wrote so brilliantly on that occasion.

But I would say to my friend from New York that if the Backfire is to be considered an intercontinental capable strategic bomber, then so is the F-111 which is in our inventory.

So when I was making my calculations concerning the balance between the United States and the Soviet Union, I was thinking not just about the B-52 and the Bear but about the Backfire and the F-111.

Mr. KEMP. Will the gentleman yield further?

Mr. SOLARZ. I yield to the gentleman.

Mr. KEMP. This is getting to be the modern-day equivalent of a medieval debate over how many angels can dance on the head of a pin.

Mr. SOLARZ. I agree completely.

Mr. KEMP. But the point needs to be made, irrespective of that debate, that the gentleman is alluding to a capability that the Soviet Union has surpassed. They have predicted, according to Jane's Aerospace Weapons for 1983, to be producing the follow-on to the Backfire, the Blackjack, 100 in 1983-84 fiscal years. Moreover, the Backfire bomber is a newer and in many respects much better bomber than the FB-111.

I know he was discussing this with the eminent expert on Soviet capability, the gentleman from New York, Mr. DOWNEY, who will clear this all up for us in just a minute.

But does not the gentleman recognize that the Soviet production of Blackjack and Backfire gives them a capability that is not met by the F-111 or the B-52?

I wish Chairman ZABLOCKI were here to help clear this up.

Mr. SOLARZ. Mr. Chairman, how much time do we have left on our side?

The CHAIRMAN. The gentleman has 7 minutes remaining.

Mr. SOLARZ. In the remaining time I would like first to yield to our most eminent strategic expert, the distinguished gentleman from New York, who has answers to all questions that ever have been or ever will be propounded on this matter.

I yield to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY of New York. I thank the gentleman for that introduction. I am not sure whether I should be flattered or alarmed.

Let us review where we are with respect to bombers because we have been over this ground, ad nauseum. But it appears as though it is something we need to talk about again.

The whole premise of the freeze as we have talked about it is to try to arrest the growth of new weapons. That means arrest to the growth of Soviet weapons and to arrest the growth of weapons in our own arsenal.

Let us deal specifically with the question of strategic bombers. While it is true that our bombers are old, they are largely fully capable of penetrating Soviet airspace now and through the early 1990's and striking their targets either with SRAM, which are the short-range attack missiles, or cruise missiles with high confidence and with high accuracy.

It is clear from any measure, and I cite to the gentleman the Scrowcroft Commission Report itself which highlights the superiority of both our submarine force and our bomber force as evidence of the fact that there is no disagreement about the current superiority and the superiority of the United States now and through the 1990's with respect to bombers.

The G's and the H's are capable, as are the FB-111's. No one disputes that.

If we were to tie the hands of our negotiators as our colleagues on the other side would have us do, the clear implications of this for the Soviets would be apparent. What they would do is to build the Blackjack. So we would be right back where we started. We would have to build the B-1 and other weapons. They would go ahead and build the Blackjack bomber.

Let is prevent them from building the Blackjack. Let us prevent them from building more Backfires.

If we adopt the Solarz language we will prevent the Soviet Union from escalating the arms race and we will retain our superiority in the air base wing.

I thank the gentleman.

Mr. SOLARZ. I thank the gentleman.

Would the gentleman from California like to use up some of his time?

The CHAIRMAN. The gentleman from New York and the gentleman from California each have 4 minutes remaining.

Mr. HUNTER. Mr. Chairman, I would like to use a couple of minutes to set a couple of things at rest. To start out with, can I get the attention of the gentleman from New York?

□ 1850

Can I get the gentleman's attention?

Mr. SOLARZ. Yes.

Mr. HUNTER. In the first place, I disagree with the statement that the Bear is the Soviet bomber. The Soviet bomber is the Backfire and regardless of the fact that the Soviets did not want to include Backfire in SALT, the Backfire bomber has a capability of carrying 26,450 pounds of nuclear payload, it can carry every nuclear freefall bomb in the Soviet arsenal. It can move unrefueled from Arctic bases to cover the entire United States of America and that is considering it would be making a recovery in Cuba. It can cover roughly a fifth of the Nation if it makes a two-way mission. It goes about twice as fast as a B-52 bomber does, 1,100 miles per hour. Just because the Soviets took the refueling nose cone off of it during the START negotiations, we continue to say it is not an intercontinental strategic bomber.

I would suggest further to the gentleman, again if I could have the gentleman's attention, I would suggest further to the gentleman, that my amendment goes to the safety, it goes to the safety of the air crews. So you can talk all day about how effective this B-52 is that just went down in Nevada and killed the entire crew was, it probably was very effective. If it had not gone down it probably would have been a very effective bomber. But the fact is we have had five major crashes within just a few months. It is obvious the B-52, being patched up as it has, is reaching the end of its road as far as safety goes. The only way to restore safety and to guarantee that safety to all crew members and again we in the U.S. Congress have a constitutional obligation to the men and women of the Armed Forces to protect them to the best of our ability, the only way we can do that is to get them on a machine that is not the old B-52 Stratofortress employing 1940's technology, to put them into the follow-on aircraft which is the B-1.

Again, I would like to ask the gentleman this question, the gentleman from New York, he said we can make safety-related improvements, has he yet come up with an improvement that the Air Force has not already applied to the airplane that would make it a safer aircraft? Could the gentleman respond to my question?

Mr. SOLARZ. If the gentleman will yield, I thought I had answered it previously when I said that they could replace the electronic systems or put in a fan jet engine which would be another example of a safety-related improvement but the gentleman from New York might like to add to that.

Mr. DOWNEY. If the gentleman will yield, the gentleman is no doubt familiar with all the GAO reports on the integrity of the B-52 airframe now and through the 1990's. The gentleman has had those reports and is familiar.

Mr. HUNTER. I reclaim my time.

All the GAO reports in the world are not as meaningful as its history of a lot of crashes in the last several months. We have flown in the United States, we have flown some of our bomber series to the point where we had a lot of accidents.

That is what is occurring with the B-52 now. All of the statements by the Air Force, by the GAO are not going to change that situation.

Mr. SOLARZ. If the gentleman would yield.

Mr. HUNTER. I yield to the gentleman from New York.

Mr. SOLARZ. On the basis of the interpretation offered by the Chairman of the Committee on April 13, I would point out that old B-52's could be replaced if necessary by entirely new B-52's.

Mr. HUNTER. I take my time back, I explained, I went over the Chairman's suggestion and pointed out it would be like trying to rebuild a model T line that most of the parts are out of production, it would be prohibitively expensive to go back and start up a B-52 production line again. I submit this Congress will never go back and spend $125 million per plane to build a plane that goes 538 miles an hour. I reserve the balance of my time.

The CHAIRMAN. The time of the gentleman has now expired.

Mr. SOLARZ. Mr. Chairman, my understanding is that we have 4 minutes left?

The CHAIRMAN. The gentleman is correct.

Mr. SOLARZ. Mr. Chairman, at this point I am pleased to yield the floor to our very distinguished cleanup hitter, the Babe Ruth of the House of Representatives, our majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, I rise in favor of the Solarz substitute. I will not disagree with anybody who says that the B-52 is an obsolescent bomber. Of course it is, it is older than most of the young men who are flying it.

I vote for the B-1, I vote for the FB-111, I vote for the Stealth bomber, and I expect to continue to vote to modernize and improve our strategic bomber force until we get to the point that we have a negotiated freeze—a mutual, verifiable freeze in nuclear weapons and delivery systems.

This amendment says, "Let us have a freeze except for the B-1, but let us exempt the B-1 from any freeze negotiations."

Now, if we are going to have a freeze, we must have a freeze. You cannot have a freeze except for this weapon system or a freeze except for that weapon system. This whole debate is on the subject of a freeze, a nuclear freeze and then reductions.

Now, if you are for that, you vote for it. And I think a preponderant majority of the people are for it. That is the whole proposition that we face.

It is ridiculous to talk about each separate weapons system as though we were going to negotiate a treaty here on the House floor.

If a treaty is negotiated it will have to be negotiated by the negotiators. That is what we are trying to expedite—their coming together and agreeing first to freeze further development of nuclear weapons and delivery systems and then to reduce by a substantial amount those weapon systems that presently exist so that the level of terror is reduced in this world.

That is what the people of the world want. That is what the people of the

United States want. Joaquin Miller said it for us all, when he wrote:

All this I hate: War and its panoply,
The lie that hides its ghastly mockery,
That makes its glory out of womens' tears,
The toil of peasants through the burdened
years,
The legacy of long disease that preys
On bone and body in the after-days . . .

Mr. **HUNTER**. Will the majority leader yield?

Mr. **WRIGHT**. No, not right now. Surely the gentleman would not want me to interrupt a poem to yield. My gracious sakes; even Babe Ruth would not do that, of course not.

I have about 1 minute to go and you understand that it is not appropriate nor timely just at this moment. As a matter of fact, I have already forgotten how the poem goes.

Well, anyhow, the whole idea, is that either you are for a freeze and reductions or you are against it. I think most of us are for it. I think we are going to vote on that proposal very soon under a mutual, amicable kind of agreement that will be announced following this vote.

Not everybody is happy with the exact words in this resolution. Not everybody has been completely satisfied, but I think a majority of the Members at this point are ready to say yes, we embrace the resolution as it is. Most of us accept its basic thrust. We want to ask the world to go forward with a mutual, verifiable freeze and reduction in this balance of terror that disturbs the world.

If that is what you believe, vote for the Solarz substitute, vote for the resolution as it lies before us now, and all of us can go home. I do not care who claims a victory. It will be a victory for not only the American people but a victory for the whole world if somehow we can move these two great behemoths of power to a negotiating table to do those things that the people of the Earth want done. That is to reduce the level of terror, to reduce the level of weapons on both sides. That is what this is all about.

I think what Joaquin Miller concluded the poem I was trying earlier to remember with the following invoking of divine wrath against the very institution of war:

God's curses pore,
Until it shrivel with its votaries,
And die away in its own fiery seas;
That nevermore its dreadful call of murder
may be heard,
A thing accursed in every deed and word
From blood drenched shore to shore.

Maybe it is what Isaiah said, those many, many years before when he wrote that:

> There would come a time when we would beat our swords into plowshares and our spears into pruning-hooks; nation shall not lift up sword against nation, neither shall they learn war any more.

We take a small step toward that today. Vote for the Solarz amendment, then vote for the whole proposition in its perfected form.

The **CHAIRMAN**. The time of the gentleman has expired. All time has expired.

□ 1900

The question is on the amendment offered by the gentleman from New York (Mr. SOLARZ) to the amendment offered by the gentleman from California (Mr. HUNTER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. **HUNTER**. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The **CHAIRMAN**. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The **CHAIRMAN**. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The pending business is the demand of the gentleman from California (Mr. HUNTER) for a recorded vote.

A recorded vote was ordered.

The **CHAIRMAN**. The Chair announces that pursuant to the provisions of House Resolution 179, he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of the adoption of the Hunter amendment, if it follows.

The vote was taken by electronic device, and there were—ayes 227, noes 189, not voting 16, as follows:

[Roll No. 87]

AYES—227

Ackerman
Addabbo
Akaka
Albosta
Andrews (NC)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Barnes
Bates
Bedell
Beilenson
Berman
Biaggi
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Boucher
Boxer
Britt
Brooks
Brown (CA)
Bryant
Carper
Carr
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Coyne
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edgar
Edwards (CA)
English
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fish
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Goodling
Gore
Gray
Green
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hamilton
Hance
Harkin
Harrison
Hefner
Heftel
Hertel
Horton
Howard
Hoyer
Hughes
Jacobs
Jeffords
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kastenmeier
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
LaFalce
Leach
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Levitas
Long (LA)
Long (MD)
Lowry (WA)
Lundine
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McKernan
McKinney
McNulty
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Mollohan
Morrison (CT)
Mrazek
Murphy
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Ottinger
Owens
Panetta
Patterson
Pease
Penny
Pepper
Perkins
Porter
Pritchard
Pursell
Rahall
Rangel
Ratchford
Reid
Richardson
Rodino
Roe
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shannon
Sharp
Sikorski
Simon
Slattery
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
St Germain
Staggers
Stark
Stokes
Studds
Swift
Synar
Tallon
Tauke
Torres
Torricelli
Towns
Traxler
Udall
Vandergriff
Vento
Volkmer
Walgren
Watkins
Weaver
Weiss
Wheat
Williams (MT)
Wirth
Wise
Wolpe
Wright
Wyden
Yates
Yatron
Young (MO)
Zablocki

NOES—189

Anderson
Andrews (TX)
Archer
Badham
Barnard
Bartlett
Bateman
Bennett
Bereuter
Bethune
Bevill
Bilirakis
Bliley
Breaux
Broomfield
Brown (CO)
Broyhill
Burton
Byron
Campbell
Carney
Chandler
Chappell
Chappie
Cheney
Clinger
Coats
Coleman (MO)
Conable
Corcoran
Courter
Craig
Crane, Daniel
Crane, Philip
Daniel
Dannemeyer
Daub
Davis
DeWine
Dickinson
Dreier
Duncan
Dyson
Edwards (AL)
Edwards (OK)
Emerson
Erdreich
Erlenborn
Fiedler
Fields
Flippo
Franklin
Frenzel
Gekas
Gilman
Gingrich
Gradison
Gramm
Gregg
Hall, Ralph
Hall, Sam
Hammerschmidt
Hansen (ID)
Hansen (UT)
Hartnett
Hightower
Hiler
Hillis
Holt
Hopkins
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jenkins
Kasich
Kazen
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath
Lent
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Lott
Lowery (CA)
Lujan
Luken
Lungren
Mack
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
McCain
McCandless
McCollum
McDade

McDonald
McEwen
McGrath
Michel
Miller (OH)
Molinari
Montgomery
Moore
Moorhead
Morrison (WA)
Murtha
Myers
Nichols
Nielson
O'Brien
Ortiz
Oxley
Packard
Parris
Patman
Paul
Petri
Pickle
Price
Ray
Regula
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roemer
Rogers
Roth
Rowland
Rudd
Sawyer
Schaefer
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Skelton
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snyder
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Valentine
Vander Jagt
Vucanovich
Walker
Weber
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wolf
Wortley
Wylie
Young (AK)
Young (FL)
Zschau

NOT VOTING—16

Alexander
Bosco
Crockett
D'Amours
Daschle
Forsythe
Hatcher
Hawkins
Lantos
MacKay
Moody
Nelson
Pashayan
Quillen
Sisisky
Waxman

□ 1920

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HUNTER), as amended.

The amendment, as amended, was agreed to.

● Mr. BORSKI. Mr. Chairman, I rise to voice my full support for House Joint Resolution 13, which calls for an immediate, mutually verifiable United States and Soviet freeze on the testing, production, and further deployment of nuclear warheads, missiles, and other delivery systems.

I believe it is vital for the United States to take this first positive step to contain the arms race which threatens the very survival of mankind.

Last November, the citizens of Philadelphia voted, by a nearly 3 to 1 margin, in support of a nuclear freeze. The people of Philadelphia, like the rest of the people in the country, are rightfully concerned about the Reagan adminsitration's lack of progress in arms control negotiations with the Soviets. They are rightfully concerned about the massive military buildup planned by this administration, a military buildup which will simply accelerate an already frightening arms race.

The Soviet Union will not sit idly by while the United States unleashes MX missiles. They will not sit idly by while the United States deploys Pershing missillies and cruise missiles and neutron bombs and a new fleet of bombers. No; the Soviets will match us dollar for dollar and missile for missile every step of the way.

The time for a nuclear freeze is now, before these new weapons—that further destabilize would peace—are deployed. The United States and the Soviet Union have never been as strategically equivalent as they are today.

A new arms will make a shambles of the present opportunity for arms control.

House Joint Resolution 13 enhances the prospects of world peace by halting the further deployment of first-strike weapons. It provides a stimulus toward real negotiation to reduce our nuclear arsenals. It is not a cure-all but it is an important first step we can take to halt the nuclear madness.

I reject the claims of those who say this resolution will "freeze" the United States into a position of strategic inferiority. House Joint Resolution 13, does not call for unilateral disarmament, but for a mutual and verifiable freeze. Claims that the freeze guarantees Soviet superiority are without foundation and add to the hysteria which can only perpetuate an already dangerous arms race.

If the Soviet Union does not agree to a mutual and verifiable freeze, there is no freeze. House Joint Resolution 13 is not a unilateral freeze resolution.

I urge my colleagues to support this resolution. It will send a clear signal to the administration and to the Soviet Union that the American people want peace. They want an end to the nuclear overkill which threatens the world with total destruction.●

● Mr. STUMP. Mr. Chairman, the issue before us today gives us a choice of how we advance the common goal of reducing the probability of a nuclear war.

Our passing a nuclear freeze resolution will not in my opinion, significantly reduce those probabilities, but will give the Soviets the worldwide propaganda victory they have been seeking on the issue of nuclear arms.

The Soviets clearly want nuclear arms superiority. To achieve it they seek to increase their strength and force U.S.-NATO weakness. While the Soviets have committed 15 percent of their GNP for its massive military buildup, compared to our 6 percent, they also have spent hundreds of millions of dollars underwriting a nuclear freeze political and propaganda movement. That movement is devoted almost entirely to destroying the U.S.-NATO defense policy, a defense policy which was designed to protect Western democracies from Soviet military power and political intimidation of the kind used in Afghanistan and Poland.

A nuclear arms freeze will do several things, but it will not prevent a nuclear war. It will retain the tremendous destructive power of Soviet and United States arsenals. It will lock into place the current and future imbalance between United States and Soviet capabilities, which is the critical deterrent factor, rather than mere numbers of weapons on paper. It will repudiate our NATO commitments. It will strip our ability to effectively modernize our capabilities. And, it will undermine the President's negotiating effort to reduce the danger of a nuclear war.

The Soviets are tough, stubborn, hard-line negotiators. History shows they will not buckle down to serious arms reduction talks until they are convinced that they cannot force us, either by threats or propaganda, into the weakest possible position.

This nuclear freeze resolution is a message to them that their strategy is working. It encourages them to continue to multiply the destructive power of their arsenal while ignoring our negotiators.

This tragic, unintended effect of this freeze resolution will be to increase world tensions, rather than reduce them. Instead of passing this resolution, we ought to be sending the Soviets a message which confirms the U.S. commitment to be dedicated, tough-minded, and strong in protecting world peace and pursuing arms reduction negotiations. This resolution does not.●

● Mrs SCHNEIDER. Mr. Chairman, I voted for the rule reported by the Committee on Rules for further consideration of House Joint Resolution 13, the nuclear freeze resolution.

Normally, Mr. Chairman, I vote for the more open of alternative rules presented to the House on any given topic. However, in this case, I decided to support the new rule for two principle reasons:

First, I believe—and I think that most of our colleagues would agree—that minds are made up on the merits of the freeze. We know that a freeze would have to be negotiated, and that it would have to be both—and I repeat, both—mutual and verifiable. Once we stop building nuclear weapons, we can start the real business of reducing their numbers. Certainly, the debate over the many amendments offered to date has been informative and educational. It has been far too long since this body seriously considered arms control on the floor. But it has also been repetitive. And so, I think, it is time for the House to take a stand for the proposition that we have a moral responsibility to work to halt the strategic arms race.

Second, I am satisfied that the rule now proposed does not unduly limit debate. In fact, it provides an additional 14 hours of debate, which, coupled with the 30-plus hours already spent on the bill, totals nearly 50 hours of debate. Certainly this allocation of time will not restrict the right of anyone to a generous amount of time for debate and discussion.

Mr. Chairman, I appreciate the opportunity to comment on this rule, which I think balances the need to get on with business, with the House tradition of free debate. I urge my colleagues to support it.●

● Mr. LOWERY of California. Mr. Chairman, when the nuclear freeze concept was first presented to the American public, it struck a responsive chord with a sizable portion of the electorate. Indeed, most people understand the horrors that a nuclear war would unleash. Hence, it comes as no surprise that a proposal for a mutual, verifiable freeze on nuclear weapons by the superpowers is receiving so much popular attention.

Unfortunately, the freeze of 1982 is not the freeze of 1983. Arms control is no longer the objective of freeze advocates. Instead, congressional freeze proponents have focused their efforts on a public relations campaign to discredit President Reagan and his disarmament negotiating team. They seek to reduce the complexities of nuclear arms to a simplistic "either-or" statement: "Either you are for a freeze or you are for nuclear war." Such simplicity is naive and dangerous.

Since the late 1950's, the Soviet Union has engaged in a steady escalation of its production and deployment of strategic nuclear weapons. Since 1970, the Soviets have exceeded U.S. defense spending by about $240 billion. The Soviets are currently devoting 13 to 14 percent of their gross national product to defense while the U.S. figure is just 6 percent. There has never been a more urgent need for arms reduction talks between the Soviet Union and the United States. The aggressiveness of the Soviet arms buildup must be answered soon or the global balance of military power that has warded off nuclear conflict for 20 years will crumble.

Four principles underlie the U.S. approach to arms control:

First, significant reductions in the arsenals of both sides;

Second, equal levels of arms on both sides, since unequal agreements can encourage coercion or aggression;

Third, verifiable reductions, since we know that when our national security is at stake, agreements cannot be based upon trust alone; and

Fourth, enhanced U.S. and allied security and a reduced risk of war, since arms control is not an end in itself, but an important step toward securing peace and international stability.

A nuclear freeze resolution is fundamentally inconsistent with our arms control policy because it would not meet any of these criteria:

It would undermine U.S. national security by blocking modernization programs which are designed to restore a more stable strategic balance;

It would codify Soviet strategic superiority; and

It is not verifiable, particularly the testing and production sections.

Simply stated, the nuclear freeze resolution will freeze in place a strategic and theater imbalance between the United States and Soviet Union. This imbalance is the result of a policy of virtually unilateral disarmament by the United States, and a parallel massive, unprecedented arms race on the part of the Sovet Union. Furthermore, this freeze will have a deadly effect on our ability to respond in a conventional manner to threats to our interests and the interests of freedom throughout the world.

What are the facts of our comparable force structures and strategies?

Our strategic forces are composed of a triad of land-based ICBM's, bombers, and submarine-launched ballistic missiles. Since 1960, our strategic land forces have been composed of three different generations of ICBM's: The Titan II, the Minuteman II, and the Minuteman III. Since 1968, we have frozen the number of ICBM launch vehicles. Since 1974, we have frozen the number of reentry vehicles on those ICBM's.

What has been the good faith response of the Soviet Union during this time? They have deployed nine separate versions of ICBM's, and their force now consists of numerous SS-11's, SS-13's, SS-17's, SS-18's, and SS-19's. In addition, the Soviet Union is currently testing and developing four fifth generation ICBM's. In response, the United States may or may not develop one new ICBM, the MX missile.

The sea-based strategic forces are comprised of submarine-launched ballistic missiles and cruise missiles. While the United States has a quantitative advantage in reentry vehicles, the accuracy, range, and yield of the Soviet SLBM's significantly diminishes any such advantage. Importantly, a freeze on nuclear weapons would leave the United States with a quantitative advantage in SLBM's but would not prevent ominously increasing Soviet efforts in antisubmarine warfare, which represents a potentially lethal threat to our sea-based nuclear deterrent.

The airborne component of our strategic forces is comprised of 347 aging B-52 bombers, a plane introduced operationally under the Eisenhower administration. Our B-52's are augmented by 56 FB-111 bombers, but that is being offset by retirement of a like number of B-52D model bombers. Currently, we are developing, and will soon be producing, the B-1 bomber, a plane originally designed to be in production over 8 years ago. By contrast, the Soviet Union has 356 heavy bombers, including three generations of bombers: The Bear, the Bison, and the Backfire. The current Backfire production line turns out 30 new bombers per year. In addition, the Soviets are testing a superior new generation heavy bomber, the Blackjack, which is expected to enter the operational force and is superior to our nonexistent B-1.

In the deployment of intermediate range nuclear forces, the Soviet buildup and advantage is unquestionable. Right now, the Soviets have hundreds of intermediate range launch vehicles comprised of SS-4's, SS-5's, and the highly mobile and accurate SS-20's. They have the capability of launching well over 1,000 independently targeted nuclear warheads in the Western theater. By contrast, the United States only has plans to deploy the Pershing II missile system and their ground-launched cruise missile in response.

The disparity in hardware is clear and, although not necessarily overwhelming today, it is visibly growing. Indeed, we have 25 percent fewer warheads in our stockpiles than at any time since 1965 and yields have been reduced by more than 50 percent during the last 18 years. A nuclear freeze at this point in time would reward the Soviets' unilateral buildup, penalize the United States for a decade of unilateral restraint, and insure Soviet superiority in armaments vintage.

The emotional simplicity of the nuclear freeze is certainly its greatest attraction. It is also, perhaps, its greatest weakness. The freeze is an attempt to achieve serious arms control without paying its cost—the months and years of patient negotiations over the complex issues of nuclear weaponry. In this arena, there is no easy way to achieve meaningful agreements.

The call for a freeze without Soviet reductions also overlooks the history of the Soviet arms buildup and their record of Moscow's compliance with arms accords. It overlooks the hard, unpleasant facts about the nature of the Soviet Union and the difficulties inherent in securing a verifiable agreement with a fundamentally duplicitous negotiating partner.

In conclusion, Mr. Chairman, the real danger posed by a unilateral freeze is that it offers the American public a dishonest vision of easy arms control. It raises unrealistically high expectations of early success. As such, it undermines the public's understanding and patience for the slow, careful arms negotiating process that is necessary for real arms reduction. A unilateral freeze is a dangerous disillusion and, worse, promotes strategic instability which is not in the interest of world peace.●

● Mr. DREIER of California. Mr. Chairman, after years of neglect, we have finally begun to rebuild our national defenses. And I stress the word defense because our military posture is purely defensive. We will be deploying the MX to counter already existing Soviet missiles, we are launching Trident submarines to balance an extensive and modern fleet of Soviet subs, and we are deploying the Pershing in Europe at the request of our allies—to protect our friends from Soviet intermediate range missiles.

Yet, contrary to what advocates of the freeze would have us believe, this ongoing modernization has not really resulted in a steady increase in the number and destructive power of our nuclear weapons. In fact, in 1980, we had about 25 percent fewer nuclear weapons than in the peak year of 1967. And the megatonnage of our weapons in 1980 was one-fourth of what it was when it was at its highest in 1960. Now it is, obviously, too late to put the nuclear genie back in the bottle, but we can do much to control it while at the same time insuring our security.

The administration is now engaged in the most extensive and sincere arms reductions talks in modern times. The President has made several proposals for a reduction—not a freeze—but a reduction in the number of these weapons.

Unfortunately, the Soviets do not seem to be as interested in meaningful arms reductions. When it comes to limiting our defenses and maintaining the current unequal and unstable force levels, the Soviets are all for it. They would have us cancel deployment of the Pershing while they retain 480 warheads aimed at the heart of Europe. They seem to be too busy threatening us with the deployment of intermediate range missiles near our own borders to engage in meaningful force reductions.

It may well be that the Soviets really do not care to reduce the number of nuclear weapons in the world. It may be that they are simply content to play the propaganda game—to rail against evil America while they continue to hold the strategic upper hand. Or it may be that they do not believe in solving the world's problems through diplomacy and negotiation. As Stalin once said:

> A diplomat's words must have no relation to his actions—otherwise what kind of diplomacy is it? Words are one thing, actions another. Good words conceal bad deeds. Sincere diplomacy is no more possible than dry water or iron wood.

Although Stalin is now a nonperson in the Soviet Union, it would appear that his philosophy lives on. As we continue to debate in the House and negotiate in Geneva, the Soviets continue to add to their arsenal. In the month and a half the freeze has been before us in the House, the Soviets have added another six SS-20's to their nuclear arsenal.

It is clear that words and good intentions mean nothing to the Soviets. Determined action through strength and unity is what they appreciate. We must allow the President to continue to work for meaningful arms reductions. But we must allow him to negotiate for this reduction from at least a position of parity. If we freeze now, what incentive will the Soviets, with their superior forces, have to reduce later? The answer is precious little.

Let us not be foolish. Let us not strip ourselves of the defenses we need to maintain the basic freedoms Soviet citizens only dream about. Let us not hinder the President as he continues to work for arms reductions which will make our world safer.●

● Mr. DENNY SMITH. Mr. Chairman, I rise in opposition to House Joint Resolution 13 calling for a freeze on the production, testing, and deployment of nuclear weapons. I do so because I firmly believe we can do better than a freeze. The freeze resolution before us could seriously undermine the efforts of our negotiators in Europe earnestly working to reduce the level of confrontation between the United States and the Soviet Union.

I share the same concern of those calling for an immediate nuclear weapons freeze. I have six children at home in Oregon and I believe it is my responsibility to do all that I can to leave them a safer world in which to live. My difference with those supporting an immediate freeze is not in our ultimate goal of a more stable and peaceful world, but in the means toward achieving real reductions in the level of nuclear arms.

On the countless studies, reports, articles, and editorials written regarding the nuclear freeze during the past year. I can find no better example that best typifies the nuclear freeze issue than the editorial from the Wall Street Journal of September 16, 1982. I include this article in the CONGRESSIONAL RECORD in full at this point:

[From the Wall Street Journal, Sept. 16, 1982]

NUCLEAR SANITY IN WISCONSIN

If a pollster asked a sampling of Americans whether they were in favor of ice cream, baseball, county fairs and sunny days, the answers would be fairly predictable. The same goes for asking whether they are in favor of a "mutual and verifiable" freeze in nuclear arms production by the U.S. and the U.S.S.R. Of course they are.

If there was ever any doubt, it was dispelled by the 75% vote in favor of just such a freeze proposition on Tuesday's primary ballots in Wisconsin, the first of some nine states that will take such votes this fall. Judging from opinion polls that have consistently shown about 70% of Americans want a "mutual and verifiable" freeze, the results in other states won't be much different. You could have obtained the same result 10 years ago and probably could 10 years from now. Nuclear bombs are terrible things and it doesn't take any great perspicacity to know that there already are too many of them in the world and there are more constructive things to do with tax money. So we have learned from the Wisconsin ballot the hot news that Dairy States still are in possession of their sanity.

More interesting is what the voters in Wisconsin were not asked. If they had been asked whether they are in favor of a unilateral nuclear arms freeze by the U.S. while the Russians continued to pile up weapons, they would have offered a resounding no. Those same polls that turn up a 70% vote for a "mutual and verifiable" freeze, uncover only 12% who would vote for unilateral disarmament. The nation's nuclear sanity is indeed intact.

So why is anyone going to so much trouble to put a question with such a predictable answer on the ballot? The Wisconsin Nuclear Weapons Freeze movement managed to set up local freeze groups in 60 of the State's 72 counties. They turned up newspaper support and got endorsements from seven of the states nine Congress members. There was even a garage sale to raise campaign money.

We suppose the answer is that some people find this kind of political activity satisfying. It relieves some of the anxiety of a nuclear age. It responded to an initiative by Soviet President Brezhnev last winter and there is a corps of political activists in this country who react quickly to such initiatives. Some, no doubt, believe that the Soviets should always be given the benefit of the doubt. A few insist on believing, whatever evidence there is to the contrary, that the U.S. is mainly to blame for the "arms race."

This movement is not very receptive to suggestions that a nuclear freeze, however desirable, involves political and technical complexity. "Verifiable" is a key word in the freeze propositions. Is Mr. Brezhnev prepared to have American inspectors trooping around launching sites and would even that guarantee against hidden storage? These are the kinds of questions SALT negotiators have invested thousands of man hours trying to resolve. Their foremost consideration is protecting American security. You can add that to the first of things that Americans would be overwhelminly in favor of it if it were presented to them as a ballot proposition.

We must recognize the fact that it is our willingness to match the Soviets in military strength that brought the Russians to the bargaining table in Geneva to negotiate reductions in the level of nuclear arms. It is also the key to keeping the pressure on them to negotiate real arms reductions in earnest in the future.

The goals of President Reagan's START and INF talks go further than the mere freeze at existing levels of arms by promoting actual reductions in force. It is absolutely imperative that we supply our negotiations in Europe with the best possible bargaining tools if we expect to achieve any success at reaching a reductions agreement. A unilateral call for a freeze at existing levels by the United States will remove the incentive for the Soviet Union to offer any reduction proposals of their own.

Although an opponent of this resolution, I am encouraged by the great number of Oregonians that have expressed their concern that the United States lead by example in this peace movement. I am one of those who wish there was a people's movement in the Soviet Union to do the same.

As the chairman of Common Cause—a group supporting this measure—Archibald Cox explains:

> A thoughtful, concentrated and organized people's movement is the best, if not the only way to impel Government to press imaginatively, wholeheartedly, and persistently for an international agreement reducing nuclear arms.

I have to wonder where the impetus will come from within the Soviet Union to forge this peace if it is not to come from the Russian people themselves. Should we then expect this peace movement to emanate from the Soviet Government itself—the same Government that has seen fit to export Soviet trained terrorists and troops into South Vietnam, Cambodia, Laos, Angola, Mozambique, South Yemen, Ethiopia, Afghanistan, Nicaragua, Rhodesia and Zimbawe, over the past 10 years? Should we expect this peace movement to come from a government in the Soviet Union that is literally starving its people for the sake of a military buildup the scope of which is unprecedented in the history of man? Is it not the Soviet Union that has fielded an additional 30 SS-20 missiles aimed at Europe since their former leader called for a nuclear weapons freeze less than 1 year ago?

These are questions I am convinced we must explore intensely before putting the interests of the American people on the line at the negotiating table with the Soviet Union.

Yes; there are too many nuclear weapons in the world. They are dangerous. They do threaten annihilation for entire cities. These facts are not in dispute. The nuclear freeze movement does well to point out that these problems exist and deserve the careful attention of our Nation's leaders. What a unilateral call for a nuclear weapons freeze does not do is provide a quick fix to the complicated and sensitive issues of arms control and onsite verificiation which might require years of trust and cooperation by both sides to resolve.

I stand in opposition to the resulution.●

Mr. BROOMFIELD. Mr. Chairman, I ask unanimous consent to address the Committee and speak out of order.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. BROOMFIELD. Mr. Chairman, after consultation with the leadership on both sides, and with my friend, the gentleman from Wisconsin, Chairman Zablocki, we have agreed upon a procedure in a spirit of bipartisanship to expedite consideration of this legislation to which we have devoted more than 45 hours of debate, and I would say historic debate.

I would like to compliment the Members who have contributed in such a constructive manner to the debate on this important issue. Rarely have I heard such intensive debate, such constructive debate, on one of the most important issues to come before this Congress.

I believe that the nearly 30 amendments that have been accepted to the resolution have significantly improved it and have clarified many of the ambiguities that were present in the resolution as it came before the House. While over 30 amendments remain, it is my opinion and that of the leadership that it is time to come to the final vote on this resolution.

The agreement is that we will go directly to final passage. I will not offer a substitute. I will offer a straight motion to recommit. Then we can go to final passage.

Again, let me congratulate all the Members who have participated in this debate of the century.

I would be very happy to yield to my good friend, the gentleman from Wisconsin, for any comments he would wish to make on this proposal.

Mr. ZABLOCKI. Mr. Chairman, the gentleman from Michigan has proposed the agreement, and I wholeheartedly agree with the gentleman from Michigan that we have had a very productive although albeit at times highly emotional and at times very fervent debate, and I believe that we are ready to vote on the House joint resolution.

As the gentleman has stated, we have reached a historic moment in a historic debate, and as we move toward the close of this debate, I think it is important that we understand the current status of the resolution we have debated so long.

Above all, and without question, the resolution retains as its first priority an immediate, mutual, and verifiable freeze, followed by a substantial, equitable, and verifiable reduction.

I wish to commend the gentleman from Michigan and the leadership on both sides for the arrangement that has been agreed to in order that some of our Members can vote today and we will be able to vote within an hour, in view of the fact that there will be no amendments called, the substitute will not be called up, and I understand that the recommittal motion will be without instructions.

I again thank and congratulate and commend the gentleman from Michigan.

□ 1930

Mr. BROOMFIELD. Mr. Chairman, at this time I yield to the majority leader of the House.

Mr. WRIGHT. Mr. Chairman, I thank the distinguished gentleman from Michigan (Mr. Broomfield) for yielding.

It is my understanding that the mutual agreement encompasses the proposition that those committee amendments of a technical nature will be accepted, and that there will be no debate on those or any other substance, and since a motion to recommit without instructions is not debatable in the full House, we must have an agreement that encompasses permitting 10 minutes, 5 minutes to each side, 5 minutes for the minority leader, the gentleman from Illinois (Mr. Michel), and the concluding 5 minutes for the Speaker. Those would be the only speeches remaining.

I want to extend my congratulations to the gentleman who has handled this bill for the minority throughout this historic debate, to the chairman of the committee, to all who have participated, to those who have carried the burden of this historic resolution, and to those who in good conscience have opposed its major premises. I think all have conducted themselves in the manner befitting this Chamber, and I think the gentleman from Michigan, in coming to this agreement, is acting in the very best traditions of the U.S. House of Representatives.

Mr. Chairman, I ask unanimous consent that the minority leader, the gentleman from Illinois (Mr. Michel), may be permitted, after the adoption of the committee amendments, 5 minutes, and that then the Speaker may be permitted 5 minutes to conclude the entire debate.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BROOMFIELD. Mr. Chairman, I would be remiss if I did not take a moment to personally congratulate you for the tremendous job you have done. It is an outstanding job, and we are all deeply appreciative of the great effort.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I appreciate my friend's yielding, and I want to thank him for his efforts and congratulate the distinguished chairman.

The remarks, the debate, the dissent, the amendments, and the process have been important—historic, as the gentleman pointed out—and I agree with that.

I cannot personally in good conscience let the moment pass without saying that I do not think this resolution is unambiguous. I still think it is ambiguous. I do not think, with all due respect, that we have cleared it up sufficiently to make it responsible legislation.

I pay exceptional tribute to the patience of everybody in the Chamber

today. This is a historic moment. We have talked about this issue for 44 hours plus. Many of us have been here for just about all those many hours.

I want to say to my colleagues, with all due respect for the distinguished work of our friend, the gentleman from Michigan, and the gentleman from Wisconsin, with the applause for the majority leader, and with the work of our good friend, the gentleman from New York, who has done such a fine job, I personally believe that this is a dangerous step that this House is taking at this point in history.

In good conscience, I cannot support this resolution. If enacted into law, it would perpetuate the current imbalance in strategic and theater forces, it would undercut the critical negotiations underway, and it would be the antithesis of our true objective, arms reductions.

I ask the Members to vote no on final passage and vote for the motion to recommit.

Mr. Chairman, I thank the gentleman for yielding.

Mr. GLICKMAN. Mr. Chairman, will my colleague, the gentleman from Michigan, yield?

Mr. BROOMFIELD. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, credit has been given to a lot of Members, and I think credit is due also to our colleague, the gentleman from Massachusetts, Mr. ED MARKEY, for bringing all of this to our attention.

The CHAIRMAN. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The text of the preamble is as follows:

Whereas the greatest challenge facing the Earth is to prevent the occurrence of nuclear war by accident or design;

Whereas the United States and the Soviet Union have signed the Joint Statement of Agreed Principles for Disarmament Negotiations, known as the McCloy-Zorin Agreement, enumerating general principles for future negotiations for international peace and security;

Whereas the increasing stockpiles of nuclear weapons and nuclear delivery systems by both the United States and the Soviet Union have not strengthened international peace and security but in fact enhance the prospect for mutual destruction;

Whereas adequate verification of compliance has always been an indispensable part of any international arms control agreement; and

Whereas a mutual and verifiable freeze followed by reductions in nuclear weapons and nuclear delivery systems would greatly reduce the risk of nuclear war: Now, therefore, be it

COMMITTEE AMENDMENTS TO THE PREAMBLE

The CHAIRMAN. The Clerk will now report the first committee amendment to the preamble.

The Clerk read as follows:

Committee amendment: On page 3, in the 7th line from the top of the page, strike "followed by" and insert "and".

The committee amendment to the preamble was agreed to.

The CHAIRMAN. The Clerk will report the remaining committee amendment to the preamble.

The Clerk read as follows:

Committee amendment: On page 2, after the first "whereas" clause, insert a second "whereas" clause as follows:

Whereas the United States and the Soviet Union have signed the Joint Statement of Agreed Principles for Disarmament Negotiations, known as the McCloy-Zorin Agreement, enumerating general principles for future negotiations for international peace and security;

The committee amendment to the preamble was agreed to.

The CHAIRMAN. Under the previous unanimous-consent agreement, the Chair will now recognize the distinguished minority leader for 5 minutes.

Mr. MICHEL. Mr. Chairman, let me say to the members of the committee as we began the debate today with a new rule, I made the point that we on our side were not going to oppose the new guidelines, and that the extended debate on this issue over an extended period of time had been good, but eventually would have to come to an end.

It is definitely time that we move on with the final resolution of this particular piece of legislation. I must say that I have never been more proud of the members of my party than I have during this long, extended debate. In the face of great odds we have achieved significant changes from the original resolution that was offered to us so many weeks ago.

Today in a series of votes, bipartisan in nature, we added language dealing with the crucial issue of reductions. Those who favor arms reduction now won those votes. Define them any way you want to, the point is that after long hours of debate this House has voted for reductions within this freeze resolution. And I can say parenthetically that while in the company of our President, whenever the subject of nuclear arms has been discussed, he has without exception always talked about reductions and reminded us of the acronym START—strategic arms reduction talks.

This has been indeed an historic debate, but the time has come to stop debating history and start making it again. We have to get on with the business of the Nation. We have to help the President by providing for modernization programs while he negotiates for true arms reductions.

Weeks ago when we entered this Chamber, the freeze leaders and the media said that the freeze movement would roll all over us. Let history judge just who has been rolled over the last month or so.

I am content that those of us who support arms reduction have achieved a victory unthinkable only weeks ago. We did it by good reasoning, with the facts, with the figures, with good logic, and with a firm commitment to informed debate. And I look out upon this audience of those of you who participated day after day and made the good, cogent arguments that were made.

Well, I guess that is what this House is really all about, or should be—debating the fine points of any particular legislation.

If I may paraphrase a great American from my home State, a great Republican leader, the world will note, and will remember what happened here.

When we came into this Chamber today, some thought the result was a foregone conclusion. But we won votes for the reduction concept that showed this House does not roll over and play dead for any steamroller.

To both sides of the House, to all those who fought the good fight, I say that what we have done was worth doing, and we did it with devotion, energy, and patriotism on both sides of the aisle.

Personally, I am not satisfied with the freeze. I guess I am hard to satisfy, like the gentleman from New York (Mr. KEMP), because I want more and more clarifying language about arms reductions.

So I am going to vote against the freeze, even though it is infinitely better now than it was when we first saw it. Make no mistake about it, the "pure" freeze has lost. Nothing anyone says can change that fact.

I am willing to put this issue behind us now. Let us get on with the business of protecting freedom, building a strong America, and at the same time reducing nuclear arms.

□ 1940

The CHAIRMAN. The Chair now recognizes the distinguished Speaker of the House for 5 minutes.

Mr. O'NEILL. Mr. Chairman, we have concluded a long, and at times, a trying debate. The freeze issue, in my opinion, has finally been drawn. We are ready to choose a historic course, whether to continue the policies of the past, which have been inconclusive at best, or to chart a new path. The freeze supporters all across this country spoke clearly last November and will now speak again through their representatives. They want an end to the arms race. They want the leaders of the superpowers to recognize that the onrushing train of nuclear weapons must be stopped. That is also my personal desire.

Let the Members of this House claim victory. The darker the night, the more beautiful and bright the stars.

What we have before us is a resolution calling for an immediate, mutual, verifiable freeze, followed by substantial, equitable, verifiable reductions.

The freeze, Members of the House, remains the first priority. What we have before us is a resolution that calls for a qualitative halt to the arms race, as well as a quantitative halt to the arms race. This is a unique instance in the history of arms control.

What we have here is a resolution, which as amended by the gentleman from Georgia, provides for the reductions to be achieved within a reasonable period of time, that length of time to be determined by the negotiators. The freeze comes first. The priorities have not been altered.

I want to congratulate the chairman of the committee, the gentleman from Wisconsin, CLEM ZABLOCKI.

I want to congratulate the gentleman from Michigan, BILL BROOMFIELD, the members of the committee on both sides of the aisle, and all the Members who participated. It was a long debate and I am sure it will go down in the annals as one of the great debates in the history of this House.

Personally, I do not know the feeling of the President of the United States, what the administration thinks of this particular resolution. I do know the importance of this freeze resolution.

I urge all my colleagues to join together in the best interests of our generation and of the generations to come, to help America by passing this resolution.

The **CHAIRMAN**. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker resumed the chair.

The **SPEAKER**. Mr. Chairman, you have participated in the history of this House. In my 30 years, it is difficult to recall as lengthy a debate as was participated in on this resolution. I want to congratulate you on your participation.

Mr. McHUGH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 13) calling for a mutual and verifiable freeze on and reductions in nuclear weapons, pursuant to House Resolution 138, he reported the joint resolution back to the House with sundry amendments adopted by the Committee of the Whole.

The **SPEAKER**. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The **SPEAKER**. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BROOMFIELD

Mr. **BROOMFIELD**. Mr. Speaker, I offer a motion to recommit.

The **SPEAKER**. Is the gentleman opposed to the joint resolution?

Mr. **BROOMFIELD**. I am in its present form, Mr. Speaker.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BROOMFIELD moves to recommit the joint resolution, H.J. Res. 13, to the Committee on Foreign Affairs.

The **SPEAKER**. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The **SPEAKER**. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. **BROOMFIELD**. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 175, nays 247, not voting 10, as follows:

[Roll No. 88]

YEAS—175

Andrews (TX)
Archer
Badham
Barnard
Bartlett
Bateman
Bennett
Bereuter
Bethune
Bevill
Bilirakis
Bliley
Breaux
Broomfield
Broyhill
Burton
Byron
Campbell
Carney
Chappell
Chappie
Cheney
Clinger
Coats
Coleman (MO)
Conable
Corcoran
Courter
Craig
Crane, Daniel
Crane, Philip
Daniel
Dannemeyer
Daub
DeWine
Dickinson
Dreier
Duncan
Dyson
Edwards (AL)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Fiedler
Fields
Flippo
Franklin
Frenzel
Gekas
Gilman
Gingrich
Gradison
Gramm
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hightower
Hiler
Hillis
Holt
Hopkins
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jenkins
Kasich
Kazen
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath
Lent
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Lott
Lowery (CA)
Lujan
Lungren
Mack
Madigan
Marlenee
Marriott
Martin (NC)
Martin (NY)
McCain
McCandless
McCollum
McCurdy
McDonald
McEwen
McGrath
Michel
Miller (OH)
Molinari
Montgomery
Moore
Moorhead
Myers
Nichols
Nielson
O'Brien
Oxley
Packard
Parris
Pashayan
Patman
Paul
Petri
Quillen
Ray
Regula
Ritter
Roberts
Robinson
Roemer
Rogers
Roth
Rowland
Rudd
Sawyer
Schaefer
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Sisisky
Skeen
Smith (NE)
Smith, Denny
Smith, Robert
Snyder
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist
Tauzin
Taylor
Thomas (CA)
Valentine
Vander Jagt
Vandergriff
Vucanovich
Walker
Weber
Whitehurst
Whitley
Wilson
Winn
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NAYS—247

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Barnes
Bates
Bedell
Beilenson
Berman
Biaggi
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Boucher
Boxer
Britt
Brooks
Brown (CA)
Brown (CO)
Bryant
Carper
Carr
Chandler
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Coyne
D'Amours
Davis
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Dorgan
Dowdy
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edgar
Edwards (CA)
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fish
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Goodling
Gore
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hamilton
Harkin
Harrison
Hawkins
Hefner
Heftel
Hertel
Horton
Howard
Hoyer
Hughes
Jacobs
Jeffords
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kastenmeier
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
LaFalce
Leach
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McHugh
McKernan
McKinney
McNulty
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Mollohan
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Panetta
Patterson
Pease
Penny
Pepper
Perkins
Pickle
Porter
Price
Pritchard
Pursell
Rahall
Rangel
Ratchford
Reid
Richardson
Ridge
Rinaldo
Rodino
Roe
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shannon
Sharp
Sikorski
Simon
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
St Germain
Staggers
Stark
Stokes
Studds
Swift
Synar
Tallon
Tauke
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Vento
Volkmer
Walgren
Watkins
Weaver
Weiss
Wheat
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wirth
Wise
Wolpe
Wright
Wyden
Yates
Yatron
Young (MO)
Zablocki
Zschau

NOT VOTING—10

Bosco
Crockett
Daschle
Donnelly
Forsythe
Hatcher
Lantos
MacKay
Nelson
Waxman

☐ 2000

Mr. DINGELL changed his vote from "yea" to "nay."

Mr. PETRI changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 278, nays 149, not voting 5, as follows:

[Roll No. 89]

YEAS—278

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Barnes
Bates
Bedell
Beilenson
Berman
Biaggi
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Britt
Brooks
Brown (CA)
Brown (CO)
Broyhill
Bryant
Carper
Carr
Chandler
Chappie
Clarke
Clay
Clinger
Coelho
Coleman (TX)
Collins
Conte
Conyers
Coughlin
Coyne
D'Amours
Daschle
Davis
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edgar
Edwards (CA)
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fish
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Goodling
Gore
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hamilton
Harkin
Harrison
Hawkins
Hefner
Heftel
Hertel
Hopkins
Horton
Howard
Hoyer
Hughes
Jacobs
Jeffords
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
LaFalce
Lagomarsino
Leach
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Long (LA)
Long (MD)
Lowry (WA)
Lujan
Luken
Lundine
MacKay
Madigan
Markey
Martin (IL)
Martin (NC)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Mollohan
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Natcher
Neal
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ottinger
Owens
Panetta
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Rahall
Rangel
Ratchford
Regula
Reid
Richardson
Ridge
Rinaldo
Rodino
Roe
Rose
Rostenkowski
Roth
Roukema
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shannon
Sharp
Shuster
Sikorski
Simon
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Smith, Robert
Snowe
Solarz
Spratt
St Germain
Staggers
Stangeland
Stark
Stokes
Studds
Swift
Synar
Tallon
Tauke
Thomas (CA)
Torres
Torricelli
Towns
Traxler
Udall
Vander Jagt
Vandergriff
Vento
Volkmer
Walgren
Watkins
Weaver
Weiss
Wheat
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wirth
Wise
Wolpe
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (MO)
Zablocki
Zschau

NAYS—149

Andrews (TX)
Archer
Badham
Barnard
Bartlett
Bateman
Bennett
Bereuter
Bethune
Bevill
Bilirakis
Bliley
Breaux
Broomfield
Burton
Byron
Campbell
Carney
Chappell
Cheney
Coats
Coleman (MO)
Conable
Cooper
Corcoran
Courter
Craig
Crane, Daniel
Crane, Philip
Daniel
Dannemeyer
Daub
DeWine
Dickinson
Dreier
Duncan
Dyson
Edwards (AL)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Fields
Flippo
Franklin
Gekas
Gilman
Gingrich
Gradison
Gramm
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hightower
Hiler
Hillis
Holt
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jenkins
Kasich
Kemp
Kindness
Kramer
Latta
Leath
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Lott
Lowery (CA)
Lungren
Mack
Marlenee
Marriott
Martin (NY)
McCain
McCandless
McCollum
McCurdy
McDonald
McEwen
Michel
Miller (OH)
Molinari
Montgomery
Moore
Moorhead
Myers
Nichols
Nielson
Ortiz
Oxley
Packard
Parris
Pashayan
Patman
Paul
Quillen
Ray
Ritter
Roberts
Robinson
Roemer
Rogers
Rowland
Rudd
Schaefer
Shaw
Shelby
Shumway
Siljander
Sisisky
Skeen
Smith (NE)
Smith, Denny
Snyder
Solomon
Spence
Stenholm
Stratton
Stump
Sundquist
Tauzin
Taylor
Thomas (GA)
Valentine
Vucanovich
Walker
Weber
Whitehurst
Whitley
Wilson
Winn
Wolf
Wortley
Young (FL)

NOT VOTING—5

Crockett
Forsythe
Hatcher
Lantos
Waxman

☐ 2010

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE JOINT RESOLUTION 13

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that, in the engrossment of House Joint Resolution 13, the Clerk be authorized to correct section and paragraph numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the resolution.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the joint resolution, House Joint Resolution 13, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

REPORT ON RESOLUTION DIRECTING PRESIDENT TO FURNISH CERTAIN INFORMATION WITH RESPECT TO U.S. ACTIVITIES IN HONDURAS AND NICARAGUA

Mr. STRATTON, from the Committee on Armed Services, submitted a privileged report (Rept. No. 98-88, part I) on the resolution (H. Res. 159) directing the President to furnish certain information to the House of Representatives with respect to U.S. activities in Honduras and Nicaragua, which was ordered to be printed.

☐ 2020

LEGISLATIVE PROGRAM

(Mr. LOTT asked and was given permission to address the House for 1 minute.)

Mr. LOTT. Mr. Speaker, I have asked for this time for the purpose of receiving the schedule for the balance of the day and the week and for next week. For that purpose, I am pleased to yield to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I thank the gentleman for yielding.

The completion of the freeze resolution leaves us, obviously, without a schedule for tomorrow. Therefore, there will be only a pro forma session tomorrow and no legislative business.

I shall ask unanimous consent, at the conclusion of this colloquy, that upon the conclusion of business tomorrow the House stand adjourned until noon on Monday.

On Monday the House will consider four suspension bills and adopt the rule on H.R. 2175, Justice Assistance Act of 1983. The four suspension bills which are proposed to be considered on Monday will be H.R. 2375, Congressional Award Act; H.R. 2173, contract services for drug-dependent Federal offenders; H.R. 2174, Federal Anti-Tampering Act; and S. 653, a bill to establish the Foundation for the Advancement of Military Medicine.

On Tuesday the House will meet at noon and resume consideration of the Emergency Housing Assistance Act of 1983, and it is hoped that we will be able to complete consideration of that day.

On Wednesday and the balance of the week we would expect to complete consideration of the Justice Assistance Act of 1983. Subject to the granting of rules, the House will take up H.R. 2066, the National Science Foundation authorizations for fiscal year 1984 and H.R. 2587, the Department of Energy civilian programs authorizations for fiscal year 1984.

That is the program as we anticipate it for the coming week. Any further program will be announced later. Of course, conference reports may be brought up at any time.

Mr. LOTT. Mr. Speaker, I would like to ask the distinguished majority leader if there is any particular reason why we are not going to have a session tomorrow and have votes on the Emergency Housing Assistance Act or the other bill that was listed on the schedule for this week for Wednesday and the balance of the week.

Mr. WRIGHT. As the gentleman knows, it came as something of a surprise—as I might say a very pleasant surprise—that an agreement was reached between the minority and the majority Members who were handling the freeze resolution, so that we do not have to spend tomorrow on that subject.

During the time when it had been planned that we would spend tomorrow completing that resolution, Members who had planned to be active in presenting the bills before us tomorrow had made other plans and are not now able to be contacted, so that we will therefore have no business tomorrow and we can take those up the following week and hope to complete them.

Mr. LOTT. I have two other questions. Does the majority leader have any idea about the schedule for next Friday, a week from this coming Friday? Is it anticipated that we would or would not be in session, or does the gentleman have any idea at this point?

Mr. WRIGHT. I do not want to forego the possibility of our being in session because, as the gentleman knows, the Budget Act requires final approval of a conference committee report on the budget by the 15th of May. That means is we are to comply with that act we have to have the conference report next week.

I do not know whether the conferees are going to be able to complete that action. In fact, I do not know if the Senate will complete that action. I presume it will.

But if, for example, we were to reach Friday and that would be the only day left on which to take up that conference committee report in order to comply with the law, we might find ourselves in a position of having to do so.

Other than that, or some other necessity, we might be able to forego a Friday session. But we are reaching a point in this legislative year at which I just do not like to announce that we will not be in session on any day. I think Members would be well advised to make their plans with the expectation that we will be in session Mondays through Fridays in order that we may complete the legislative schedule.

Mr. LOTT. I regret that it appears that it is necessary to be in session and in fact probably have recorded votes on this coming Monday, but I do think we should emphasize to our Members that, based on what we are receiving here in the schedule, it is anticipated that there is a likelihood that there will be votes on this coming Monday; is that correct?

Mr. WRIGHT. Yes; that is correct. And I might say further that several chairmen of standing committees have expressly asked that we have legislation and votes on Monday because that is, as the gentleman is aware, the final week during which authorizing committees may complete their authorizing legislation for fiscal year 1984 authorizations. Therefore, if Members are encouraged to think that there is nothing going on, they might not be able to get quorums for the committees. The committee chairmen therefore have requested that we have legislation on that day. Pursuant to their request, we have scheduled some.

Mr. LOTT. I thank the majority leader.

PERMISSION FOR ALL COMMITTEES TO HAVE UNTIL 5 P.M. MONDAY, MAY 16, 1983, TO FILE REPORTS

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that all committees have until 5 p.m. on Monday, May 16, 1983, to file reports, and that reports filed by that time be considered to have been filed within the time permitted by section 402(a) of the Congressional Budget Act of 1974 with respect to fiscal year 1984.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ADJOURNMENT TO MONDAY, MAY 9, 1983

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns tomorrow, it stand adjourned until noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 2030

THE LABOR MANAGEMENT RACKETEERING ACT OF 1983

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. PORTER) is recognized for 5 minutes.

Mr. PORTER. Mr. Speaker, last week Roy Lee Williams agreed to resign from the presidency of the International Brotherhood of Teamsters so that he may stay out of prison while appealing his conviction on charges of bribery and fraud. For using assets of the union's central States pension fund to finance attempts to bribe former Senator Cannon, Williams was sentenced to 55 years and denied release pending appeal. Had the court not negotiated Williams case, there is nothing in current law that would have prevented Williams from continuing to occupy the office he had so grieviously abused, sentence or no sentence.

Now Jackie Pressler has been elected and installed as the union's new president. Although he has been tied to criminal investigations, he has noted that he has never been indicted nor convicted of a crime. While he has acknowledged that investigations leading to the criminal convictions of the three of the past four Teamsters presidents have continued over the years, he has stated that they are "a chapter that is coming to a close." If Pressler is serious about charting a new course for the Teamsters, he has much work to do to restore the confidence in a union that, without court negotiation, would remain under the direction of a convicted felon.

How can a union expect to win public support for its goals or properly serve its members' interests if it is run by a convicted felon? Clearly a felony conviction involving the abuse or misuse of an individual's labor organization or employee benefit plan should disqualify an individual from continuing to serve in a position of organizational and fiduciary responsibility.

I have introduced legislation, H.R. 2440, which would require that labor officials convicted of certain crimes be required to step down immediately upon conviction—not after a long appeal period. This legislation, the Labor Management Racketeering Act of 1983, was approved twice by the Senate last year only to languish in the House Education and Labor Committee. It would also increase monetary fines for bribes of union officials to maintain promanagement policies, expand the list of crimes for which union officials could be barred from holding office if convicted, lengthen the time during which they could be barred, and expand the responsibility of the Labor Department to seek prosecution for violations of labor law.

The cry for action against labor-management corruption is steadily gaining ground. The fact that this legislation has been endorsed by the Labor and Justice Departments as well as the AFL-CIO indicates wide support for changes in this area. Timely passage of this measure could only benefit the representation of union members nationwide. I urge my colleagues cosponsorship and support of this important reform legislation.

EGG AND POULTRY EXPORT EQUITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LEWIS) is recognized for 5 minutes.

● Mr. LEWIS of California. Mr. Speaker, I am introducing a bill today, the Egg and Poultry Export Equity Act, which if enacted will both reduce the surplus of grain held by the Commodity Credit Corporation, and help our poultry and egg producers regain their fair share of the export market. As we are all too aware, the European Economic Community has been using direct export subsidies to pirate U.S. agricultural export markets while persisting in their argument that the General Agreement on Tariffs and Trade leave room for this action. I am proposing a plan which would provide for the distribution of corn to poultry and egg producers for a quantity of eggs or poultry exported. For example, each ton of eggs and poultry exported would qualify the producer for a set amount of corn. Specifics of the program are left to the Secretary of Agriculture.

Although this is not the optimum choice for a solution to our trade problems, we have surplus commodities which are costly to store and more are expected in the future. We cannot continue on this course and I am proposing a measure which would reduce surplus and at the same time promote U.S. trade. I am hopeful that the implementation of this measure, along with recent actions of the Department of Agriculture, will send a strong signal to our trading competitors that the United States will not stand for unfair trade practices. American farmers do not want an inequitable share of the world market, but in the past few years they have been the victims of those who have directly subsidized their exports and undercut our efficient farmers. In 1980, for example, it cost U.S. producers 62 cents per kilogram of poultry while the production cost for the European Community was 72.4 cents. However, the European Community export subsidy was 12.4 cents making the European Community price 60 cents or 2 cents less than the U.S. price. As a consequence European Community sales to Saudi Arabia were 90,000 tons compared with 12,000 tons from the United States. Between 1976 and 1981, the European Community has more than doubled its expenditures for agriculture subsidies and in the past year broiler and egg exports from the United States have significantly declined in value.

We have made every effort to negotiate a settlement with the European Community, but to no avail. We must take action. The ideal is to achieve the goal of the GATT talks, to eliminate or curb barriers to free trade. Unfortunately, this has not been accomplished and our agricultural sector is suffering. Our farmers are diligent and efficient workers; we cannot allow voracious trade appetites to destroy our markets. We in Congress will work not to gain an unfair advantage but for equity in the competition of world trade.●

DEPARTMENT OF JUSTICE AUTHORIZATION FOR FISCAL YEAR 1984

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FISH) is recognized for 5 minutes.

● Mr. FISH. Mr. Speaker, today I am pleased to introduce two bills that relate to the activities of the Department of Justice. The first bill provides authorization of appropriations for the Department for fiscal year 1984 at a level which is identical to the President's fiscal year 1984 appropriation request. The second would take many basic, noncontroversial authorities out of the annual authorization process by incorporating them into the United States Code.

The first bill proposes a $3.4 billion Department of Justice budget for fiscal year 1984. This represents a 15.3-percent increase over the Department's current budget, which is a larger percentage increase than in any of the budgets of the various departments of the Federal Government, including defense. It is important to note that this is the first budget to provide funding of more than $3 billion for the Department and more than $1 billion for the Federal Bureau of Investigation. The thrust of this landmark budget is to provide additional resources for the administration's war on crime. The Department has made significant inroads against drug-related and organized crime, and these additional resources will permit the Department to build upon these accomplishments.

The second bill which would permanently authorize the more routine and noncontroversial authorities relevant to the Department is based on the recognition that in 1981, 1982, and 1983 the Department's authorization bills were not passed. I am sure my colleagues can appreciate the fact that this failure to pass a Justice authorization bill since fiscal year 1980 places the Department in a very uncertain and difficult situation. Planning and program implementation suffer as a result. This bill would go a long way toward providing the Department with a reasonable expectation of continuity for its basic programs.

One final point that I would like to make concerns the fact that earlier this year the House passed a budget that would take money away from the various law enforcement agencies and direct it to other programs. This action endangers a whole host of law enforcement initiatives. I am hopeful that through the relevant appropriation and authorization processes we will be able to craft a budget that is commensurate with the President's request. As the Attorney General of the United States pointed out when he testified before the House Judiciary Committee on March 15, 1983:

> This budget will require substantial new expenditures, but the total cost will probably be less than what is spent on illegal drugs in this country. Indeed, it will be less than what is spent in one week on many federal programs.

I am happy to note that on Monday of this week, the distinguished chairman of the Senate Judiciary Committee, Senator STROM THURMOND, introduced identical bills in the Senate. I urge my colleagues to support these bills which will provide vital resources to our criminal justice system, at a time when crime is a problem of national concern and requires our attention.●

CREDIT CARD PROTECTION ACT

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO Mr. Speaker, today I am introducing the Credit Card Protection Act, legislation that will significantly strengthen current Federal law concerning credit card fraud.

The need for this legislation is indisputable. Every year an estimated 73 million legitimate credit cards are reported lost or stolen. Of that number, about 10 percent, or 20,000 a day, are fraudulently used. In addition, thousands of crimes are committed through the use of phony charge slips, counterfeit credit cards, and unauthorized mail and telephone charges.

All this fraud adds up to big money. Financial institutions lost an estimated $128 million from bank card fraud alone in 1982, an increase of over 35 percent from 1981. About $40 million of the 1982 figure was lost just from the use of counterfeit credit cards; this represented a 500-percent increase since 1980. Experts believe that the loss to the credit card industry as a whole—including oil, retail, and travel and entertainment issuers—approached $1 billion, a 300-percent increase over the 1979 figure.

The size and scope of credit card frauds has increased dramatically in the last few years. For example, police recently uncovered a fraud operation involving the owner of a retail establishment who took lost or stolen credit cards and used them to run off thousands of phony charge slips. The overwhelming majority of these slips were for amounts just below the merchant's floor limits. This was done to avoid the need to get authorization from the credit card issuer by telephone, and risk discovery. This woman then took the fraudulent credit card sales invoices, deposited them with her bank and withdrew cash. In little more than 5 weeks she deposited over $221,000 in fraudulent credit card slips.

In another recent case, law enforcement officials arrested several members of what is believed to be one of the largest credit card fraud rings in the country. These criminals specialized in the manufacture and sale of "white plastic"—blank cards which are used to make counterfeit charge plates. In searching this group's "business headquarters," police discovered 3,000 counterfeit Mastercard and Visa cards and 1,000 American Express cards. They also found a substantial arsenal including various types of ammunition, a .22 caliber pistol and an Uzi semiautomatic machinegun. New York police suspect that this particular ring was involved with organized crime, and the fact that one of its principals was recently found dead in the backseat of an automobile with 10 bullets in his body has done nothing to dispel this notion.

One thing is certain—these credit card schemes indicate just how sophisticated credit card fraud has become. They also demonstrate the magnitude of the problem facing both consumers and law enforcement officials. Police are particularly concerned about the "white plastic" frauds, for in those cases the legitimate cardholder never loses possession of his or her credit card—the only thing stolen is the account number. And the theft is usually not discovered until the consumer gets a bill weeks later for hundreds or thousands of dollars in unauthorized charges.

Thieves realize that it is the account number, not the card, that is most valuable. Unfortunately for the rest of us, obtaining account numbers is remarkably easy. Some credit card issuers simply sell or rent lists of their customers' account numbers, without realizing the risk they are taking. These institutions are wooed into providing the account numbers by promises of lucrative fees, or a percentage of the sales made through solicitation to their account holders. Some merchants who sell copies of credit card slips see the sales as a way to pick up some easy money, and ask no questions about why the buyer wants the slips.

In more elaborate schemes, the criminals buy lists of real account numbers from less than honest bank employees or sales clerks. Other criminals, pretending to be doing credit card surveys, obtain the numbers over the telephone from the legitimate cardholders. Police have also discovered restaurant and retail store employees who simply runoff extra charge slips during genuine transactions.

And it is not only credit card numbers that thieves seek. The thief wants only a number that permits access to a valid account. It does not matter whether that is a credit card account or the consumer's checking or savings account, or the code number that permits use of the consumer's account at the automatic teller machine. Any number that gives the thief access to an account will do.

Current Federal law does not adequately address these organized and sophisticated assaults upon the credit card and banking systems. Laws that prohibit the fraudulent use of credit cards do not apply to the fraudulent use of account numbers. The Credit Card Protection Act will help law enforcement officials combat credit card fraud by substantially strengthening Federal law.

The legislation adds a new section to the Truth in Lending Act to prohibit the disclosure of credit card numbers and other access codes to consumers' accounts. This section will mandate that account numbers be given the confidential treatment necessary to bar their unwarranted dissemination. The sale of lists of account numbers will be prohibited. Under the bill, the disclosure of account numbers could be made only if done by the consumer, if necessary to carry out the transaction or collect a debt, or if it is part of a consumer credit report under the Fair Credit Reporting Act.

In addition to preventing the types of credit card abuses already mentioned, this provision would also protect consumers from the hard-sell tactics of certain credit card protection services. These organizations offer, for a fee, to keep a list of a consumer's credit card account numbers and to notify the card issuers if the credit cards are lost or stolen. The problem is that many of these firms cannot take no for an answer. When consumers refuse to order the service after hearing the sales pitch on the telephone, these firms just add the charge to the consumer's credit card account. For example, the Florida attorney general recently issued a cease-and-desist order against one firm which has been accused by more than 3,000 consumers of making unauthorized charges on Visa and Mastercard accounts. These organizations are able to do this because they get the consumers' names and account numbers from the card issuers or other sources. Such disclosures would be prohibited by the Credit Card Protection Act.

This legislation also strengthens section 134 of the Truth in Lending Act, which prohibits the fraudulent use of credit cards. Under the current law only the fraudulent use and transportation of the credit card itself is prohibited. The Credit Card Protection Act would amend section 134 so that the fraudulent use of credit card numbers, debit cards, electronic banking cards, and other access devices to a consumer's account would also be prohibited.

Section 134 would also be amended so that the possession of 10 or more illegally obtained access devices to a consumer's account, with unlawful or fraudulent intent, would be a Federal crime. This provision is directed toward organized groups who operated rings that systematically collect, and fraudulently use, access devices.

The Credit Card Protection Act would also reinforce section 134 by eliminating loopholes in current law that limit Federal jurisdiction to offenses involving the use of a single credit card for thefts of $1,000 or more. The proposed legislation would confer Federal jurisdiction over the offense whenever any number of access devices are used so long as the total fraudulent charges are $1,000 or more. Sophisticated and aware criminals have used a series of credit cards to steal thousands of dollars in goods, but have avoided Federal prosecution by never using a single card for more that $1,000 in charges. This provision, like the previous one, is aimed at the professional criminal, not the small-time purse snatcher or hoodlum.

For better or worse, credit cards, debit cards, automatic banking machines, telephone and mail order card purchases and computer banking are here to stay, and play a large part in the day-to-day flow of money. Retail charge volume on bank cards has increased over sixfold in the past 10 years. Debit cards and automated teller machines have experienced explosive growth over the past 2 years, with the number of cards increasing by over 500 percent. In many ways it is easier to purchase hundreds of dollars worth of goods with a credit card than it is to use a $20 bill. But just as counterfeiting jeopardizes the integrity of the currency system, the use of bogus credit cards and other access devices threatens the other parts of the payment system. This legislation seeks to strengthen the integrity of the non-cash part of the system.

The Credit Card Protection Act will protect American consumers in two ways. It requires that the keys to consumers' accounts be safeguarded. By extending Federal jurisdiction over the newest and most dangerous types of card fraud offenses, it will help in the effort to prosecute and punish those who make credit card fraud a big business. And it will deter potential criminals from stealing and fraudulently using credit card account numbers and other access devices. The Credit Card Protection Act will benefit the honest merchants and consumers who are the innocent victims of crime by helping to get those criminals who commit credit card fraud off the streets.●

THE EARTHQUAKE HAZARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 10 minutes.

● Mr. BROWN of California. Mr. Speaker, on May 2, 1983, the city of Coalinga, Calif., experienced an earthquake which registered 6.1 on the Richter scale. What is especially noteworthy about this event is that this earthquake occurred along an unknown satellite fault about 30 miles east of the larger San Andreas fault line. The big one is expected along the San Andreas fault—but the Coalinga earthquake came as a surprise. This only goes to show how much more we have to learn about earthquakes.

Estimates of total damage in Coalinga have been placed at $50 million. All of the 2,500 homes in the town were damaged to some degree and 30 percent were left uninhabitable. Luckily, no one was killed although 45 people were injured.

Mr. Speaker, I am reporting all this to make the point that the Federal Government has a critical role in the development of a program to address earthquake hazards. The Coalinga earthquake was small compared to the earthquake expected along the San Andreas fault. The damage to property, and the loss of life was insignificant compared to the big one that will hit California sooner or later. The $50 million in damage caused by just this one earthquake is not that much less than what the Federal Government spends in 1 year under authority of the earthquake hazards reduction program.

The combined spending authority of the National Science Foundation, the National Bureau of Standards, the U.S. Geological Survey, and the Federal Emergency Management Agency for fiscal year 1984 comes to about $67 million. The large earthquake expected in the Los Angeles or San Francisco area is projected to cause $50 billion in damages and 10,000 to 20,000 fatalities. The probability of such an earthquake occurring within the next 30 years has been set at 50 percent. Mr. Speaker, I repeat this only to put the Federal Government's expenditures in some perspective. I would not mislead my colleagues and state that the earthquake program will eliminate damages and fatalities resulting from a major earthquake. However, the development of seismic safety codes and earthquake monitoring techniques, just to name a couple of areas the Federal Government is involved in, have the potential for reducing loss of life and property damage resulting from an earthquake.

Mr. Speaker, the impact of a major earthquake on the national economy would be significant. Businesses going bankrupt and loan guarantees for rebuilding homes alone would have a significant impact. To put the damages in some perspective, $50 billion, for example, represents a significant percentage of the Federal deficit. Some of my colleagues may consider earthquakes strictly a California problem—but the entire national economy would be affected by a problem of this magnitude. I think of the investment in the earthquake hazards mitigation as a form of insurance for the Federal Government.

We will soon be considering the reauthorization of the Earthquake Hazard Mitigation Act of 1977. I hope my colleagues will lend their enthusiastic support to this bill. The Science and Technology committee reported the bill out on April 19, and the Interior Committee today reported the bill without amendment. H.R. 2465 authorized the earthquake program for fiscal year 1984 and fiscal year 1985 at a level equal to last year. The USGS program is increased $6 million above the administration's request to enable research on earthquake prediction to continue. With limited resources the USGS has only been able to instrument the major faults near the largest populated areas of California. Coalinga is located at the periphery of the USGS seismic monitoring network. We clearly need to maintain earthquake research, as I think the recent earthquake in Coalinga indicates. The bill also reinstates the seismic codes and standards effort of the National Bureau of Standards also slated for termination by the administration. This program is critical to the development of adequate seismic codes and cannot be appropriately done by each of the affected States.

Finally, the Coalinga earthquake highlights another severe problem in the area of recovering from damages caused by earthquakes. Earthquake insurance and loans for rebuilding homes and businesses following an earthquake are not adequate to cover the damages. Clearly the Federal Government will bear the brunt of any major disaster, as it did in the Mount St. Helen's disaster. It is in the best interest of the Government to protect itself by reducing risk and damage.

Mr. Speaker, I speak on behalf of a great many of my colleagues who are concerned about this. We ask for your continued support of the current modest Federal program to deal with this major national problem.

I would like to insert for the RECORD a recent newspaper article which describes the Coalinga earthquake in more detail:

[From the Washington Post, May 4, 1983]

DEBRIS LITTERS STREETS OF EARTHQUAKE-DEVASTATED CALIFORNIA TOWN

(By Jay Mathews)

COALINGA, CALIF., May 3.—Bricks and boards shattered by America's most destructive earthquake in four years littered the streets of this little town today as rescue workers attempted to clean up after a disaster that left 47 injured, every brick building downtown destroyed and houses on nearly every block knocked askew.

After Monday afternoon's strong quake, half of Coalinga's 7,000 residents were homeless and bulldozers were knocking down many of the shattered buildings the temolor did not quite topple. Gray-white brick dust covered nearly everything and aftershocks coming at the rate of two or three an hour shook broken windows and caused residents to dash back outside continually.

The 4:42 p.m. PDT quake registered between 6.1 and 6.5 on the Richter scale, in which each ascending number measures a 60-fold increase in strength. The ground rolled up and down like a wave at sea for 15 to 20 seconds and left residents here to survive a night of scattered fires and escaping gas.

Many were still sifting through the wreckage early this morning after sleeping in their cars or in the city's small parks overnight.

"It is absolutely remarkable no one was killed," said city manager Glenn Marcussen, standing near an old rooming house where the second-story brick walls had collapsed to reveal a bed and mattress.

The sudden quake, which emitted no preshocks to warn scientists, appeared to state officials today to foreshadow a colossal disaster for California's larger cities located in earthquake-prone regions. According to a federal report, Los Angeles, the nation's third largest city, has more than a 50 percent chance of a quake in the next 30 years strong enough to kill 3,000 to 13,000 people.

Nearly every unreinforced brick building in Coalinga collapsed yesterday. Los Angeles officials said today they have at least 8,000 similar structures in their city, and most of them are much larger than those here. A city ordinance passed two years ago allows another eight to 15 years before those buildings must be removed or reinforced. San Francisco, which also has thousands of unreinforced brick buildings, has yet to even survey such stuctures.

James Slosson, former California state geologist and a seismic consultant, said today a quake similar to the Coalanga temblor would cause "thousands" of casualties if it hit Los Angeles.

Franklin Lew, assistant superintendent of building inspections in San Francisco, said replacing the old structures there poses serious political and economic problems, because they house lower-income families now desperately short of space.

At least six of the aftershocks sweeping this small town 200 miles north of Los Angeles registered a Richter magnitude of 4, enough for a separate mention in the newspapers on normal days. City officials estimated downtown damage in this San Joaquin Valley area of oil fields and cotton, wheat and vegetable farms at about $25 million. They expected that figure to climb.

Like a blind snake making one wild bite, an earthquake usually does its serious damage very near its epicenter—in this case about five miles northeast of Coalinga. People as far away as San Francisco and Las Vegas said they felt the quake, but Coalinga was the only town near enough to feel the full force.

A U.S. Geological Survey spokesman said the quake appeared to occur on a small, relatively unknown fault 20 to 30 miles north of the long San Andreas Fault that threatens much of the California coast.

Deni Delano, 30, a teacher, was standing in the kitchen of her one-bedroom wooden house when the earthquake knocked it off its foundation. The floor buckled and dishes rained down on her.

Taken to the local hospital with a leg gash, she found a chaotic scene, with nurses in civilian clothing rushing in to help treat wounds and direct the most serious patients to outlying facilities that still had electricity. "Everybody was so covered with the dust from the bricks, they are such a horrible color, I thought one of them was gone, but then I saw he had hold of his little health [insurance] application in one finger," Delano said.

Her landlord promised to return the rent and told her to move out quickly since the house would soon be bulldozed with other damaged structures. For most Coalinga residents, earthquake insurance "is just too expensive," Delano said.

The country's last major destructive quake hit California's Imperial Valley in 1979, causing 100 injuries and $50 million in damage. A 1971 earthquake in the San Fernando Valley caused 65 deaths.

Stan Allen, news director at tiny KOLI-AM radio, said he found an eerie calm in the shattered downtown area when he walked out to take a look. The gas in the kitchen of the Coalinga Inn restaurant had ignited, eventually gutting the restaurant and Petty's jewelry store next door. But few if any people were panicking as they searched for friends and relatives, he said.

"If you had told me no one was going to be killed in this thing," said county sheriff sergeant Jerry Schmidt, "I would have called you every kind of liar."

(Special correspondent Katharine Macdonald contributed to this report.)●

REWARDING FAILURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Stark) is recognized for 5 minutes.

● Mr. STARK. Mr. Speaker, when the recession slams the doors shut at the local assembly plant and more and more American workers are tossed into the sea of unemployment, here is something they can ponder while waiting up to 3 hours in line for a hunk of free cheese: when it comes to the mega-bucks world of corporate America, what goes down can often come up for the "big cheese."

Despite being called the year of compensation cutbacks—a year that took a devastating toll on the number of corporate executives who proudly claimed membership in the "million-dollar-a-year club"—1982 saw corporate salaries and bonuses of many key corporate officers increase despite alarming decreases in their company's profits. On the average, executive salaries increased 5.5 percent in 1982, smaller than the 15.4 percent of a year ago, but still pretty impressive considering the 5.4 percent average decline in profits suffered in this recession by those companies included in Business Week magazine's May 9 annual survey of executive compensation. And, of course, we are not talking about a 5.5-percent increase in the minimum wage here; we are talking six-figure incomes that balloon to seven figures when total compensation is considered.

In some extraordinary cases, corporate executives saw their salaries increase despite alarming decreases in their corporations' profits, which seems to run counter to the concept of smart business. For example, according to Business Week, Robert V. West, Jr., chairman and chief executive officer of Tesoro Petroleum Corp., realized a 54-percent salary and bonus increase of $347,000, bringing his annual pay to $981,000. Net profits for Tesoro, however, were down 38 percent.

Union Carbide's chairman and chief executive officer, Warren M. Anderson, had a salary boost of $127,000, bringing his yearly take to $731,000, while at the same time, Union Carbide's profits dropped 52 percent.

And at Teledyne, Inc., Chairman Henry E. Singleton's salary and bonus for the year went from $650,000 to $850,000 while his company's profits dropped 37 percent.

While it is well within the rights of stockholders and boards to set corporate executives' salaries, such an absurd corollary between a drop in profits and an increase in salaries does little to reinforce the productivity work ethic that says, "A day's pay for a day's work." And during these times of union concessions to prop up ailing companies and the devastation that comes with lingering unemployment, the whole idea of boosting six-figure corporate salaries in a sagging economy undercuts the public faith in corporate America that is needed for sustained economic recovery.

There are many reasons for our Nation's declining competitiveness, and corporate lobbyists are quick to point to the Government and workers as the problem—but maybe rewarding failure in the corporate suites has something to do with it.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. McEwen (at the request of Mr. Michel), for today, on account of a death in the family.

Mr. Waxman (at the request of Mr. Wright) for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Hartnett) to revise and extend their remarks and include extraneous material:)

Mr. Gilman, for 60 minutes, on May 11.

Mr. Porter, for 5 minutes, today.

Mr. Lewis of California, for 5 minutes, today.

Mr. Horton, for 15 minutes, today.

Mr. Fish, for 5 minutes, today.

Mr. Walker, for 30 minutes, today.

Mr. McEwen, for 30 minutes, today.

Mr. Bethune, for 60 minutes, on May 5.

Mr. Burton, for 15 minutes, today.

(The following Members (at the request of Mr. Harrison) to revise and extend their remarks and include extraneous material:)

Mr. Alexander, for 60 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. BROWN of California, for 10 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, May 5.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HARTNETT) and to include extraneous matter:)

Mr. MCGRATH.
Mr. SUNDQUIST.
Mrs. SMITH of Nebraska.
Mr. LOWERY of California.
Mr. LIVINGSTON.
Mr. RITTER.
Mr. SHAW in two instances.
Mr. WEBER in two instances.
Mrs. HOLT.
Mr. GILMAN in two instances.
Mr. PARRIS.
Mr. CAMPBELL.
Mr. WORTLEY.
Mr. CLINGER.
Mr. DREIER of California.
Mr. YOUNG of Alaska in 10 instances.

(The following Members (at the request of Mr. HARRISON) and to include extraneous matter:)

Mr. TRAXLER in two instances.
Mr. MINISH.
Mr. MAZZOLI in two instances.
Mr. DINGELL.
Mr. HARRISON in three instances.
Mr. FRANK in two instances.
Mr. KAPTUR in two instances.
Mr. DONNELLY.
Mr. RICHARDSON in two instances.
Mr. FAZIO.
Mr. AKAKA.
Mr. EVANS of Illinois.
Mr. BERMAN.
Mr. PEASE.
Mr. LEHMAN of Florida in two instances.
Mr. HAMILTON.
Mr. COLEMAN of Texas.
Mr. SMITH of Florida.
Mr. TORRICELLI in two instances.
Mr. MINETA.
Mr. MILLER of California.
Mr. GUARINI.
Mr. MATSUI in two instances.
Mr. BOLAND.
Mr. YATRON.
Mr. DOWNEY of New York.
Mr. MOAKLEY.
Mr. YOUNG of Missouri.
Mrs. SCHROEDER in two instances.
Mr. RODINO.
Mr. VENTO in two instances.
Mr. STARK.
Mr. LEHMAN of California.
Mr. SYNAR.
Mr. BORSKI.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 974. An act to amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), to improve the quality and efficiency of the military justice system, to revise the laws concerning review of courts-martial, and for other purposes; to the Committee on Armed Services.

S. 1013. An act to amend title 28 of the United States Code regarding jurisdiction in bankruptcy proceedings, and to establish new Federal judicial positions; to the Committee on the Judiciary.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1011. An act to amend the Federal Deposit Insurance Act to provide for the issuance of income capital certificates.

BILL PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 2600. An act to dedicate the Golden Gate National Recreation Area to Congressman Phillip Burton.

ADJOURNMENT

Mr. HARRISON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 35 minutes p.m.), the House adjourned until tomorrow, Thursday, May 5, 1983, at 11 a.m.

MOTION TO DISCHARGE COMMITTEE

MAY 4, 1983.

TO THE CLERK OF THE HOUSE OF REPRESENTATIVES:

Pursuant to clause 4 of rule XXVII (see rule on page 7), I, NORMAN E. D'AMOURS, move to discharge the Committee on Ways and Means from the consideration of the bill (H.R. 500) entitled, "A bill to repeal sections 301 through 308 of the Tax Equity and Fiscal Responsibility Act of 1982, which impose withholding on interest and dividends," which was referred to said committee January 6, 1983 in support of which motion the undersigned Members of the House of Representatives affix their signatures, to wit:

1. Norman E. D'Amours.
2. Trent Lott.
3. John D. Dingell.
4. Ken Kramer.
5. Robert S. Walker.
6. Michael Bilirakis.
7. Larry E. Craig.
8. Vin Weber.
9. Carroll Hubbard, Jr.
10. Thomas E. Petri.
11. Don Sundquist.
12. George Hansen.
13. Alfred A. (Al) McCandless.
14. Joseph P. Addabbo.
15. Bob Stump.
16. Harry M. Reid.
17. Don Young.
18. Tom Loeffler.
19. William E. Dannemeyer.
20. Lane Evans.
21. David Dreier.
22. Joe Skeen.
23. Thomas N. Kindness.
24. Robert A. Roe.
25. Frank Horton.
26. Barbara F. Vucanovich.
27. Bill Patman.
28. Bobbi Fiedler.
29. Barbara Boxer.
30. Walter B. Jones.
31. Tim Valentine.
32. Judd Gregg.
33. Gene Snyder.
34. Robert W. Davis.
35. John Edward Porter.
36. Andy Ireland.
37. F James Sensenbrenner, Jr.
38. W. J. (Billy) Tauzin.
39. Sam B. Hall, Jr.
40. John R. Kasich.
41. Douglas Applegate.
42. Frank Annunzio.
43. Alan B. Mollohan.
44. Jack Fields.
45. John R. McKernan, Jr.
46. John Paul Hammerschmidt.
47. Gene Taylor.
48. Doug Barnard, Jr.
49. J. Roy Rowland.
50. Tom Lewis.
51. Bill Nichols.
52. Robert G. Torricelli.
53. James H. (Jimmy) Quillen.
54. Charles W. Stenholm.
55. Dan Lungren
56. John Hiler.
57. Douglas K. Bereuter.
58. Howard C. Nielson.
59. Dick Cheney.
60. James R. "Jim" Olin.
61. Henry J. Hyde.
62. Denny Smith.
63. Hal Daub.
64. Nicholas Mavroules.
65. Olympia J. Snowe.
66. Bill Emerson.
67. Ron Marlenee.
68. Ed Bethune.
69. Pat Roberts.
70. Raymond J. McGrath.
71. Daniel B. Crane.
72. Philip M. Crane.
73. Michael G. Oxley.
74. Matthew J. Rinaldo.
75. Stan Parris.
76. Norman D. Shumway.
77. Christopher H. Smith.
78. James V. Hansen.
79. Larry McDonald.
80. Matthew G. Martinez.
81. Thomas J. Bliley, Jr.
82. Mary Rose Oakar.
83. James T. Broyhill.
84. Jack F. Kemp.

85. Joseph G. Minish.
86. Manuel Lujan, Jr.
87. Beverly B. Byron.
88. James McClure Clarke.
89. Toby Roth.
90. Richard C. Shelby.
91. Bob Whittaker.
92. Richard L. Ottinger.
93. Robert Lindsay Thomas.
94. Marge Roukema.
95. Al Swift.
96. Bruce A. Morrison.
97. Thomas J. Tauke.
98. Bob McEwen.
99. James G. Martin.
100. Robert F. (Bob) Smith.
101. Tom Vandergriff.
102. Webb Franklin.
103. George W. Gekas.
104. Earl Hutto.
105. Clarence E. Miller.
106. Michael DeWine.
107. David O'B. Martin.
108. Glenn English.
109. Virginia Smith.
110. Mickey Edwards.
111. Ben Erdreich.
112. Wm. S. Broomfield.
113. Tom Corcoran.
114. Jim Slattery.
115. Wes Watkins.
116. J. Kenneth Robinson.
117. Floyd Spence.
118. G. William Whitehurst.
119. Newt Gingrich.
120. Ron Paul.
121. Doug Walgren.
122. Charles Whitley.
123. Ike Andrews.
124. Jim Leach.
125. Elwood Hillis.
126. Jerry M. Patterson.
127. James Weaver.
128. Wayne Dowdy.
129. Dan Mica.
130. Connie Mack.
131. Guy Vander Jagt.
132. Frederick C. (Rick) Boucher.
133. Dave McCurdy.
134. Thomas F. Hartnett.
135. Dan Schaefer.
136. Daniel K. Akaka.
137. Bill McCollum.
138. Nancy L. Johnson.
139. Herbert H. Bateman.
140. Robert J. Lagomarsino.
141. Hank Brown.
142. Charles Pashayan, Jr.
143. Ed Zschau.
144. Gerald B. H. Solomon.
145. E. Clay Shaw, Jr.
146. Don Bonker.
147. Jack Hightower.
148. Jerry Huckaby.
149. Harold L. Volkmer.
150. Dante B. Fascell.
151. Lyle Williams.
152. Ray Kogovsek.
153. Stewart B. McKinney.
154. Bob Traxler.
155. Pat Williams.
156. Arlan Stangeland.
157. Chalmers P. Wylie.
158. Glenn M. Anderson.
159. Marilyn Lloyd.
160. W. G. (Bill) Hefner.
161. Austin J. Murphy.
162. Stephen L. Neal.
163. Thomas A. Daschle.
164. Larry Winn, Jr.
165. Joseph M. Gaydos.
166. Abraham Kazen, Jr.
167. Buddy Roemer.
168. Don Ritter.
169. Claudine Schneider.
170. Thomas R. Carper.
171. Marjorie S. Holt.
172. Harold Rogers.
173. Dan Daniel.
174. Frank R. Wolf.
175. Steve Bartlett.
176. Barbara A. Mikulski.
177. Sid Morrison.
178. Harley O. Staggers, Jr.
179. Cooper Evans.
180. Robin Tallon.
181. Joe Kolter.
182. E. Thomas Coleman.
183. Bill Chappell, Jr.
184. Ronald C. Packard.
185. Mark D. Siljander.
186. Philip R. Sharp.
187. Larry J. Hopkins.
188. James A. Courter.
189. Guy V. Molinari.
190. Robert E. Wise, Jr.
191. Hamilton Fish, Jr.
192. George M. O'Brien.
193. Delbert L. Latta.
194. Solomon P. Ortiz.
195. Carlos J. Moorhead.
196. Jerry Lewis.
197. C. W. Bill Young.
198. Rod Chandler.
199. Dan Marriott.
200. Ed Jones.
201. Mario Biaggi.
202. Gene Chappie.
203. James J. Howard.
204. Les AuCoin.
205. Eldon Rudd.
206. George C. Wortley.
207. Carl D. Pursell.
208. Ralph M. Hall.
209. Dan Burton.
210. William L. Dickinson.
211. Edward R. Madigan.
212. Michael A. Andrews.
213. Thomas J. Ridge.
214. George E. Brown, Jr.
215. Duncan Hunter.
216. Dan Glickman.
217. Elliott H. Levitas.
218. Nick Joe Rahall II.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1066. A letter from the Secretary of the Air Force, Department of Defense, transmitting notice that the ground-launched cruise missile has exceeded its baseline unit cost by more than 25 percent, pursuant to section 917(c)(2) of Public Law 97-86; to the Committee on Armed Services.

1067. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the Navy's decision to convert to contractor performance the base operations support function at the Naval Air Station, Memphis, Tenn., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

1068. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the Navy's decision to convert to contractor performance the shelf-stocking function at the branch commissary store, New London, Conn., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

1069. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the Navy's decision to convert to contractor performance the shelf-stocking function at the commissary store, Pensacola, Fla., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

1070. A letter from the Secretary of the Federal Trade Commission, transmitting the Commission's fifth annual report concerning the administration and enforcement of the Fair Debt Collection Practices Act, pursuant to section 815(a) of title 15, United States Code; to the Committee on Banking, Finance and Urban Affairs.

1071. A letter from the Chairman, Securities and Exchange Commission, transmitting the Commission's 48th annual report for fiscal year 1982; to the Committee on Energy and Commerce.

1072. A letter from the Chairman, Federal Trade Commission, transmitting the 13th report on the impact on competition and on small business of the development and implementation of voluntary agreements and plans of action to carry out provisions of the international energy program, pursuant to section 252(i) of the Energy Policy and Conservation Act of 1975; to the Committee on Energy and Commerce.

1073. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense articles and services to Egypt (Transmittal No. 83-32), pursuant to section 36(b) of the Arms Control Act; to the Committee on Foreign Affairs.

1074. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Robert B. Keating, and by members of his family, pursuant to section 304(b)(2) of Public Law 96-465; to the Committee on Foreign Affairs.

1075. A letter from the Assistant Secretary of Interior, transmitting a report on various bidding options used in fiscal year 1982 lease sales on the Outer Continental Shelf, pursuant to section 8(a)(9) of the Outer Continental Shelf Lands Act of 1953, as amended; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Administration proposal threatens first-amendment rights of Government grantees and contractors (Rept.

No. 98-82). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 1191. A bill to convey full title for lands granted to the town of Olathe, Colo., by act of Congress, and for other purposes; with amendments (Rept. No. 98-83). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 1062. A bill to authorize the Secretary of the Interior to convey, without consideration, certain lands in Lane County, Oreg.; with an amendment (Rept. No. 98-84). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 143. An act to authorize the Twenty-nine Palms Band of Luiseno Mission Indians to lease for 99 years certain lands held in trust for such band; with amendments (Rept. No. 98-85). Referred to the Committee of the Whole House on the State of the Union.

Mr. HUGHES: Committee on the Judiciary. H.R. 2173. A bill to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to authorize additional appropriations to carry out such act (Rept. No. 98-87). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 451. A bill to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Co. (Rept. No. 98-86). Referred to the Committee of the Whole House.

ADVERSE REPORTS

Under clause 2 of rule XIII,

Mr. NICHOLS: Committee on Armed Services. House Resolution 159. Resolution directing the President to furnish certain information to the House of Representatives with respect to U.S. activities in Honduras and Nicaragua (Rept. No. 98-88, Pt. I). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AKAKA:

H.R. 2884. A bill to authorize the Secretary of the Army, acting through the Chief of Engineers and in cooperation with the government of the Trust Territory of the Pacific Islands and the Commonwealth of Northern Mariana Islands, to study and draft plans for the development, utilization, and conservation of water and related land resources of such territory and Commonwealth, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ANNUNZIO:

H.R. 2885. A bill to amend the Truth in Lending Act to protect consumers by placing restrictions on the disclosure of their credit card numbers; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BIAGGI:

H.R. 2886. A bill to amend title 23, United States Code, to help prevent drunk driving by encouraging States to adopt certain drunk driving laws and programs; to the Committee on Public Works and Transportation.

By Mr. BROWN of Colorado (for himself, Mrs. Schroeder, Mr. Wirth, Mr. Kogovsek, Mr. Kramer, Mr. Schaefer, and Mr. Cheney):

H.R. 2887. A bill to recognize the organization known as the National Mining Hall of Fame and Museum; to the Committee on the Judiciary.

By Mrs. BYRON:

H.R. 2888. A bill to amend the Internal Revenue Code of 1954 to allow a deduction of not more than $2,000 for amounts paid or incurred for maintaining a household a member of which is a dependent of the taxpayer who has attained the age of 65; to the Committee on Ways and Means.

By Mr. CLINGER (for himself and Mr. Levitas):

H.R. 2889. A bill to amend section 306 of the National Historic Preservation Act, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. COUGHLIN (for himself, Mr. Whitehurst, and Mr. Wolf):

H.R. 2890. A bill to amend title 18 to delimit the insanity defense and for other purposes; to the Committee on the Judiciary.

By Mr. de la GARZA:

H.R. 2891. A bill to provide special impact aid to local educational agencies for the provision of educational services to immigrant children to whom State or local educational agencies provide educational services; to the Committee on Education and Labor.

By Mr. MINETA (for himself and Mr. Hammerschmidt):

H.R. 2892. A bill to amend the Federal Aviation Act of 1958 to apply certain aviation safety standards to public aircraft which are leased by Government agencies, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. FISH:

H.R. 2893. A bill to authorize the Department of Justice to conduct certain activities and make certain expenditures; to the Committee on the Judiciary.

H.R. 2894. A bill to authorize appropriations for the purposes of carrying out the activities of the Department of Justice for fiscal year 1984 and for other purposes; to the Committee on the Judiciary.

By Mr. HOWARD (for himself, Mr. Snyder, Mr. Young of Missouri, and Mr. Shaw):

H.R. 2895. A bill to designate the Federal Building and U.S. Courthouse at 450 Golden Gate Avenue, San Francisco, Calif., as the Phillip Burton Federal Building and U.S. Courthouse; to the Committee on Public Works and Transportation.

By Mr. HOWARD (for himself and Mr. Young of Missouri) (by request):

H.R. 2896. A bill to amend Public Law 96-432 to increase the authorization for the acquisition of property for addition to the U.S. Capitol Grounds from $11,500,000 to $16,000,000; to the Committee on Public Works and Transportation.

By Mr. LEWIS of California:

H.R. 2897. A bill to encourage and facilitate the expansion and development of export markets for poultry and eggs produced in the United States; to the Committee on Agriculture.

By Mr. MARRIOTT:

H.R. 2898. A bill to declare certain lands to be held in trust for the benefit of the Paiute Indian Tribe of Utah, to establish a fund for the economic development of the tribe into which shall be deposited certain amounts received by the United States as revenue from public lands, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SCHEUER (for himself, Mr. Brown of California, Mr. Andrews of Texas, Mr. MacKay, and Mr. Torricelli):

H.R. 2899. A bill to authorize appropriations for environmental research, development, and demonstration for the fiscal years 1984-85, and for other purposes; to the Committee on Science and Technology.

By Mr. SCHEUER (for himself, Mr. Brown of California, Mr. Andrews of Texas, Mr. MacKay, Mr. Torricelli, and Mr. Lewis of Florida):

H.R. 2900. A bill to authorize appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for the fiscal years 1984-85, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Science and Technology.

By Mrs. SCHROEDER:

H.R. 2901. A bill to amend the Railroad Retirement Act of 1974 with respect to the exemption from legal process of certain benefits under such act; to the Committee on Energy and Commerce.

By Mr. SYNAR:

H.R. 2902. A bill to amend title 17 of the United States Code with respect to the copyright royalty fees of cable systems; to the Committee on the Judiciary.

By Mr. TORRICELLI:

H.R. 2903. A bill to amend title 38, United States Code, to establish a Veterans' Administration Advisory Committee on Women Veterans; to improve various aspects of Veterans' Administration health-care programs; to extend the period for Vietnam-era veterans to request counseling under the Veterans' Administration readjustment counseling program; to promote the recruitment and retention of certain health-care personnel in the Veterans' Administration's Department of Medicine and Surgery; to express the sense of the Congress with respect to the role of the Administrator of Veterans' Affairs; to require the Administrator of Veterans' Affairs to conduct an epidemiological study of long-term health effects in veterans of exposure to ionizing radiation from nuclear test detonations, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. YOUNG of Missouri:

H.R. 2904. A bill to authorize the project for flood control on Maline Creek, Mo.; to the Committee on Public Works and Transportation.

H.R. 2905. A bill to authorize the project for navigation at St. Louis Harbor, Mo. and Ill.; to the Committee on Public Works and Transportation.

By Mr. ZABLOCKI (for himself, Mr. Broomfield, Mr. Fascell, Mr. Hamilton, Mr. Studds, Mr. Mica, and Mr. Hyde):

H.R. 2906. A bill to amend the Arms Control and Disarmament Act in order to extend the authorization for appropriations; to the Committee on Foreign Affairs.

By Mr. DYMALLY (for himself and Mr. Brown of California):

H.R. 2907. A bill to establish a U.S. Design Council within the Department of Commerce; jointly, to the Committees on Science and Technology and Energy and Commerce.

By Mr. GILMAN:

H.R. 2908. A bill to provide for the relief of local prosecutors and sheriffs; to the Committee on the Judicary.

By Mr. KASTENMEIER (for himself, Mr. Brooks, Mr. Mazzoli, Mr. Synar, Mrs. Schroeder, Mr. Glickman, Mr. Frank, Mr. Morrison of Connecticut, and Mr. Berman):

H.R. 2909. A bill to amend the Legal Services Corporation Act to authorize appropriations for additional fiscal years, and for other purposes; to the Committee on the Judiciary.

By Mr. McCAIN:

H.R. 2910. A bill to amend the act of November 2, 1966, regarding leases and contracts affecting land within the Salt River Pima-Maricopa Indian Reservation; to the Committee on Interior and Insular Affairs.

By Mr. McNULTY:

H.R. 2911. A bill to authorize an ongoing program of water resources research and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RODINO:

H.R. 2912. A bill to authorize appropriations to carry out the activities of the Department of Justice for fiscal year 1984, and for other purposes; to the Committee on the Judiciary.

By Mr. STUMP (for himself, Mr. McCain, Mr. McNulty, Mr. Rudd, and Mr. Udall):

H.R. 2913. A bill to amend Public Law 95-244; to the Committee on Interior and Insular Affairs.

By Mr. GRAY:

H.J. Res. 260. Joint resolution to designate the week of October 16 through October 22, 1983, as "Lupus Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. RANGEL:

H. Res. 182. Resolution to express the sense of the House of Representatives with respect to the rights of tenants of federally assisted public housing; to the Committee on Banking, Finance and Urban Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

106. By the Speaker: A Memorial of the Legislature of the State of Idaho, relative to the location of the National Small Grains Collection Facility; to the Committee on Agriculture.

107. Also, memorial of the Legislature of the State of Idaho, relative to the Federal Reserve Act; to the Committee on Banking, Finance and Urban Affairs.

108. Also, memorial of the Legislature of the State of Idaho, relative to Idaho Power's water right at Swan Falls, Idaho; to the Committee on Energy and Commerce.

109. Also, memorial of the Legislature of the State of Idaho, relative to the Food, Drug and Cosmetic Act and the Fair Packaging and Labeling Act; to the Committee on Energy and Commerce.

110. Also, memorial of the House of Representatives of the State of New Hampshire, relative to the Price-Anderson Act; to the Committee on Interior and Insular Affairs.

111. Also, memorial of the Legislature of the State of Idaho, relative to the siting of a new production reactor; to the Committee on Science and Technology.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 24: Mr. Addabbo, Mr. Biaggi, Mr. Boehlert, Mr. Conable, Mr. Downey of New York, Ms. Ferraro, Mr. Fish, Mr. Garcia, Mr. Gilman, Mr. Green, Mr. Kemp, Mr. LaFalce, Mr. Lent, Mr. Martin of New York, Mr. McHugh, Mr. Mrazek, Mr. Ottinger, Mr. Schumer, Mr. Solomon, Mr. Stratton, Mr. Towns, Mr. Wortley, Mr. Nowak, Mr. Carper, Mr. Owens, Mr. Solarz, Mr. Weiss, Mr. Ackerman, and Mr. Rangel.

H.R. 29: Mr. Boehlert.

H.R. 119: Mr. Torricelli.

H.R. 132: Mr. Molinari.

H.R. 175: Mr. Wyden, Mr. McEwen, Mr. Craig, Mr. Murtha, Mr. Patman, Mr. Hartnett, Mr. Whittaker, Mr. Won Pat, Mr. Miller of Ohio, Mr. Morrison of Washington, Mr. Dicks, and Mr. Wilson.

H.R. 316: Mr. Hartnett.

H.R. 385: Mr. Murphy.

H.R. 713: Mr. Hartnett.

H.R. 714: Mr. Hartnett.

H.R. 800: Mr. Siljander, Mr. Wise, Mr. Dyson, and Mr. Richardson.

H.R. 927: Mr. Matsui, Mrs. Kennelly, Mr. Edgar, Mr. Wilson, Mr. Simon, Mr. Won Pat, and Mr. Ottinger.

H.R. 953: Mr. Moakley, Mr. Foglietta, Mr. Corrada, Mr. Mavroules, Mr. Sabo, Mr. McKinney, Mr. Owens, Mr. Stratton, and Mr. Weiss.

H.R. 1092: Mr. Ratchford.

H.R. 1249: Mr. Berman and Mr. Carper.

H.R. 1430: Mr. Jeffords and Mr. Kogovsek.

H.R. 1584: Mr. Akaka, Mr. AuCoin, Mr. Corrada, Mr. Ford of Tennessee, Mr. Leland, Mr. Lipinski, Mr. Smith of Florida, Mr. Weiss, and Mr. Williams of Montana.

H.R. 1693: Mr. Conyers and Mr. Torricelli.

H.R. 1887: Mr. Zschau, Mr. Courter, Mr. Mrazek, Mr. Sunia, Mr. Smith of Florida, Mr. Britt, Mr. Hall of Ohio, Mr. Ratchford, Mr. Corcoran, Mr. Bevill, Mr. Roe, Mr. McNulty, Mr. Kogovsek, Mr. Simon, Mr. Lagomarsino, Mr. Sawyer, Mr. Sam B. Hall, Jr., Mr. Mineta, Mr. Dymally, and Mr. Fazio.

H.R. 1903: Mr. Markey, Mr. Waxman, and Mr. Weiss.

H.R. 1937: Mr. Jones of North Carolina and Mr. Long of Maryland.

H.R. 1938: Mr. Broyhill.

H.R. 2000: Mr. Gibbons and Mr. Conable.

H.R. 2053: Mr. Gore and Mr. Mavroules.

H.R. 2088: Mr. Ratchford and Mr. Owens.

H.R. 2105: Mr. Mineta and Mr. Ratchford.

H.R. 2118: Mr. Pritchard and Mr. Tauke.

H.R. 2138: Mr. Stump, Mr. Gregg, and Mr. Stangeland.

H.R. 2154: Mr. Lehman of California.

H.R. 2187: Mr. Mrazek, Mr. Hertel of Michigan, and Mr. Owens.

H.R. 2220: Mr. Tallon.

H.R. 2271: Ms. Kaptur and Mr. Hertel of Michigan.

H.R. 2303: Mr. Traxler, Mr. Panetta, Mr. Feighan, Mrs. Byron, Mr. Waxman, Mr. D'Amours, Mr. Weaver, Mr. Ford of Tennessee, Mr. Morrison of Connecticut, and Mr. McNulty.

H.R. 2324: Mr. Livingston, Mr. Akaka, Mr. Horton, Mr. Dyson, Mr. Gilman, Mr. Martinez, Mr. Guarini, Mr. Patman, and Mr. Hertel of Michigan.

H.R. 2350: Mr. Pepper.

H.R. 2355: Mr. Clinger, Mr. Simon, Mr. Mitchell, Mr. Hertel of Michigan, and Mr. Smith of Florida.

H.R. 2412: Mr. Richardson and Mr. Stump.

H.R 2413: Mr. Richardson and Mr. Stump.

H.R. 2420: Mr. Montgomery, Mr. Wilson, Mr. Chappell, Mr. Siljander, Mr. Fish, Mr. Young of Missouri, Mr. Shumway, Mr. Nichols, Mr. Stenholm, Mr. Denny Smith, Mr. Burton, Mr. de la Garza, Mr. Sundquist, Mr. Huckaby, Mr. Roth, Mr. Hartnett, Mr. Walker, Mr. Gramm, Mr. Mollohan, Mr. Jones of Tennessee, Mr. Davis, Mr. Hunter, Mr. Evans of Iowa, Mr. Daniel B. Crane, Mr. Whittaker, Mr. Breaux, Mr. Moorhead, Mr. Kasich, Mr. Gregg, Mr. Miller of Ohio, Mrs. Vucanovich, Mr. Parris, and Mr. Valentine.

H.R. 2432: Mr. Jones of Oklahoma, Mr. Hyde, Mr. Ford of Tennessee, Mr. Reid, Mr. Hertel of Michigan, Mr. Brown of California, Mr. Wolf, Mr. Wilson, and Mr. Ray.

H.R. 2433: Mr. Kemp.

H.R. 2441: Mr. Owens and Mr. Goodling.

H.R. 2489: Mr. Roe.

H.R. 2505: Mr. Tallon.

H.R. 2506: Mr. Tallon.

H.R. 2530: Mr. Weiss, Mr. Schumer, Mr. Solarz, Mr. Ackerman, Mr. Green, Mrs. Kennelly, Mr. Ratchford, Mr. Foglietta, Mr. Pritchard, Mr. Ottinger, Mr. Frank, Mr. Donnelly, Mr. Minish, Mr. Dyson, Mr. Smith of Florida, Mr. Vento, Mr. Addabbo, Mr. Clinger, Ms. Mikulski, and Mr. Mitchell.

H.R. 2616: Mr. Mrazek and Mr. Simon.

H.R. 2702: Mr. Lagomarsino, Mr. Kasich, Mr. Duncan, Mr. Daub, Mr. Robinson, Mr. Ritter, Mr. Mrazek, Mr. Frenzel, Mr. Bliley, Mr. Miller of Ohio, and Mr. Marriott.

H.R. 2725: Mr. Lagomarsino, Mr. Kindness, and Mr. Duncan.

H.R. 2830: Mr. Duncan, Mr. Kindness, Mr. Corrada, Mr. Stokes, Mr. Kemp, and Mr. Owens.

H.J. Res. 29: Mr. Broyhill, Mr. Vento, Mr. Whitley, and Mr. Stump.

H.J. Res. 73: Mr. Mollohan.

H.J. Res. 147: Mr. Gingrich, Mr. Edwards of Oklahoma, Mr. Brown of Colorado, Mr. Nielson of Utah, Mrs. Holt, Mr. McCollum, Mr. Cheney, Mr. Badham, Mr. DeWine, and Mr. Burton.

H. Con. Res. 63: Mr. Bedell, Mr. Biaggi, Mr. Bilirakis, Mr. Dellums, Mr. Downey of New York, Mr. Feighan, Mr. Fish, Mr. Goodling, Mr. Hoyer, Mr. Hutto, Mr. Jacobs, Ms. Kaptur, Mr. Kogovsek, Mr. Lent, Mr. Levitas, Mr. McCain, Mr. Pepper, Mr. Sensenbrenner, Mrs. Schneider, Mr. Schulze, Mr. Ratchford, and Mr. Rowland.

H. Con. Res. 100: Mr. Yatron, Mr. Walker, Mr. Hyde, Mr. Roe, Mr. Porter, Mr. Siljander, Mr. Hughes, Mrs. Roukema, Mr. Fazio, Mr. Dwyer of New Jersey, Mr. Dannemeyer, Mrs. Martin of Illinois, Mr. Kostmayer, Mr. Synar, and Mr. Morrison of Connecticut.

H. Con. Res. 101: Mr. Young of Alaska, Mr. Robinson, Mrs. Boxer, Mr. Levine of California, Mr. Daniel, Mr. Kastenmeier, Mr. Nielson of Utah, Mr. Evans of Illinois, Mr. Brown of California, Mr. McKernan, Mr. Levin of Michigan, Mr. Morrison of Connecticut, Mr. Mack, Mr. Young of Florida, Mr. Volkmer, Mr. Gunderson, Ms. Ferraro, Mrs. Schneider, Mr. Hertel of Michigan, Mr. Crockett, Mr. Ratchford, Mr. Reid, Mr. Tauke, Mr. Downey of New York, Mr. Shumway, Mr. Wortley, Mr. Evans of Iowa, Mr. Roberts, Mr. Craig, Mr. Nelson of Florida, Mr. Thomas of Georgia, Mr. Simon, Mr. Young of Missouri, Mr. Paul, Mrs. Smith of Nebraska, Mr. Thomas of California, Mr. Petri, Mr. McDonald, Mr. Fields, Mr. Livingston, Mr. Goodling, Mr. Rodino, Mr. Edwards of Oklahoma, Mr. Dickinson, Mr. Schumer, Mr. Conyers, Mr. Hartnett, Mr. Hansen of Idaho, and Mr. Schaefer.

H. Con. Res. 115: Mr. Loeffler, Mr. Bliley, and Mr. Porter.

H. Res. 19: Mr. Lipinski.

H. Res. 53: Mr. Packard and Mr. DeWine.

H. Res. 112: Mr. Torricelli.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2154: Mr. Lehman of Florida.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2175

By Mr. WALKER:

—Page 8, line 21, strike out "and".

—Page 8, line 23, strike out the period and insert in lieu thereof "; and".

Page 8, after line 23, insert the following new paragraph:

"(16) providing programs which address the increase in the incidence of offenses committed against the elderly, and which address the stress and fear among the elderly caused by such offenses.".

EXTENSIONS OF REMARKS

U.S. CABLES REVEAL SALVADOR ARCHBISHOP ASSASSINATION PLAN

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. RICHARDSON. Mr. Speaker, I want to draw my colleagues' attention to an article entitled, "U.S. Cables Reveal Salvador Archbishop Assassination Plan," which recently appeared in the Albuquerque Journal.

Craig Pyes, an investigative reporter for the Journal, spent several months last year in El Salvador covering the war and looking into the political problems facing other Central American countries.

I hope my colleagues will take the time to read this thoughtful article which raises new questions about the fate of Salvadoran Archbishop Oscar Arnulfo Romero, who was murdered in 1980.

[From the Albuquerque Journal, Apr. 15, 1983]

U.S. CABLES REVEAL SALVADOR ARCHBISHOP ASSASSINATION PLAN

(By Craig Pyes)

(Journal Reporter Craig Pyes spent several months last year reporting on the war in El Salvador and the situation in other Central American countries. This story is based on information developed in interviews in the United States and in Central America.)

The U.S. State Department has classified documents stating that Salvadoran rightist leader Roberto D'Aubuisson presided over a select group of active-duty military officers who drew lots for the "privilege" of killing Salvadoran Archbishop Oscar Arnulfo Romero.

The Journal has learned that two cables containing information about the unsolved 1980 assassination were sent from the U.S. Embassy in San Salvador to the State Department. The cables were marked "secret."

The first cable—sent in 1980—implicated D'Aubuisson in the planning, and is considered highly reliable by three U.S. sources who have seen it. The second cable followed about a year later and reported the death of a former national guardsman suspected of being the actual triggerman in the slaying.

D'Aubuisson, in a face-to-face interview with the Journal last summer, flatly denied any complicity in Monsignor Romero's death, which he blamed on the left. At the time of the interview, existence of the two cables had not been confirmed.

When asked Thursday about the cables, a State Department official said, "It is our practice not to discuss alleged classified material in public.

"I can also say that any information bearing on that case which might have been helpful for the finding of the perpetrators in the case would have immediately been passed on to the government of El Salvador, which has legal jurisdiction," the State Department official added.

Each of the sources who confirmed the existence of the cables—interviewed on a promise of anonymity—has expertise in intelligence matters related to El Salvador. They said that although the information by itself is not conclusive, they had little doubt after reading it that D'Aubuisson helped plan the prelate's slaying.

The existence of the first cable was confirmed Wednesday by former U.S. Ambassador to El Salvador Robert E. White, who said it has been sent toward the end of his stay there.

"All I remember is that D'Aubuisson was the guy that pulled them (the participants in the meeting) all together," White said. "It was the beginning—of the building of the case or cases of the violence regarding D'Aubuisson—It was really the first thing that confirmed what we already knew but couldn't prove."

According to sources, the first cable was sent in November 1980, and contains a description of a secret meeting chaired by D'Aubuisson just prior to the March 24, 1980, assassination. The mood of the gathering described in the cable is one in which active-duty military officers contended for the privilege of shooting the archbishop, as though killing him would be a patriotic act.

The national guardsman named in the second cable is believed to have worked for the unidentified military officer who drew the odd lot.

But despite the addition of this new information, which could help solve El Salvador's most shocking killing and reveal information about a possible command structure of the country's rightist death squads, State Department sources said that they conducted no investigation because they had neither the capability nor the mandate to do so.

The 62-year-old archbishop was shot through the chest while saying a memorial mass for the mother of a Journalist friend at the Chapel of the Divine Providence Cancer Hospital. The event capped a wave of assassinations and political violence that traumatized El Salvador in early 1980, and drove that country inexorably toward civil war.

The archbishop is considered by many a political martyr whose death was retribution for denouncing atrocities committed by the U.S.-supported military, and for speaking out against what he called the "structural violence" of poverty that a small wealthy elite maintained over the majority in his country.

The State Department, reversing Carter administration policy, recently issued D'Aubuisson a visa for a March 31 trip to Miami. The Carter administration had revoked the Salvadoran nationalist's visa for suspected involvement in rightist paramilitary activity, including his alleged complicity in the death of Monsignor Romero.

Last week a State Department spokesman justified the revalidation of D'Aubuisson's visa, saying that the "hard evidence" linking D'Aubuisson to the prelate's slaying "has been quite limited and inconclusive" and that "the allegations have not been substantiated."

In Washington, reports that D'Aubuisson played a role in Monsignor Romero's death caused a lot of "wringing of hands and gnashing of teeth," said one source, but he said there was no physical evidence that could stand up in a court of law.

D'Aubuisson, president of El Salvador's Constituent Assembly, is the leader of the country's right wing Nationalist Republican Alliance (ARENA), and is that party's likely candidate for the December 1983 presidential elections. D'Aubuisson has told reporters that he is planning a return trip to the United States in May to confer with sympathetic politicians.

Former ambassador White had told Congress as early as April 1981 that there was "compelling if not 100 percent conclusive evidence" linking D'Aubuisson and his followers to the church leader's assassination. White said later he and other analysts drew this conclusion from documents seized when D'Aubuisson was arrested in May 1980 and from other State Department intelligence reports—including "one very solid report of D'Aubuisson's involvement." D'Aubuisson's 1980 arrest was on suspicion of plotting a rightist coup. He was released a few days later.

The information in the cables did not come from the documents seized from D'Aubuisson, sources said.

Although the U.S. government has assisted the government of El Salvador in investigating some political slayings in which U.S. citizens are the victims—such as the 1980 killings of four American churchwomen and the 1981 killings of two U.S. labor advisers—the State Department has indicated in prior statements that it has no plans to investigate the Romero assassination, which it considers an internal Salvadoran affair.

One U.S. expert on Central America said Monsignor Romero's death would be "a relatively simple matter to investigate, because there is not going to be much additional information (outside of what is contained in the cables)."

An earlier investigation attempt by the Salvadoran government shortly after the assassination ended abruptly when it pointed to D'Aubuisson. The judge conducting that inquiry fled the country after he himself became the target of an assassination attempt.

The first embassy cable containing information about the conspiracy to assassinate Monsignor Romero was considered a breakthrough by U.S. officials for its insights into rightist violence, and made "a big splash" at the State Department, according to a source.

That source and others said the description of the meeting where Romero's death was reportedly planned is contained in the first, longer telegram which discussed motivations and machinations of killing, and divisions within the Salvadoran armed forces.

Journal sources describe the cable as saying that close to a dozen plotters met in a private home just a few days before the killing took place. The participants were de-

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

scribed as a melange of active-duty national guard and army officers.

They were "all people who worked together, whether officially or unofficially," said one source familiar with the material.

The cable contained few details about exactly what went on at the San Salvador meeting, sources said. The location is not given in the embassy report. Nor does the cable specify whether the decision to kill Monsignor Romero was made at this meeting, or if the decision had already been made and the assignment to kill him was given there.

The cable does identify D'Aubuisson as a master of ceremonies, the sources said, and describes the drawing of the lots to arrange Monsignor Romero's killing as though it were some sort of competition for a prize.

One U.S. official remarked that after he read the cable he was reminded of a play about the murder of the archbishop of Canterbury Thomas a Becket 800 years before, when the king of England called Becket a traitor, crying out: "Will no one rid me of this damned archbishop?"

The second, shorter cable sent in late 1981; U.S. sources said, reported the death of an ex-national guardsman believed to be the hired killer working for the man who drew the lot.

Two sources who verified the existence of the cable said it named Walter Antonio Alvarez, a 27-year-old employee of a downtown San Salvador department store, as the actual triggerman.

Alvarez is identified in the cable as a former guardsman who stayed close to his friends in the security forces. The source said the cable indicates that Alvarez may have been known by the nickname "Musa."

Musa means Moses in Arabic.

That nickname crops up in documents received by the State Department more than a year before the second cable was sent.

Another source who read the cable described Alvarez as a paramilitary type, but said the cable did not mention whether he was paid, or simply ordered to assassinate the archbishop.

Sources said the cable concludes with the statement that although there is no conclusive proof, it appears highly likely that the killer of Monsignor Romero is now dead himself.

Alvarez' body was found shot death-squad style Sept. 27, 1981, on a street bordering the capital, according to a morgue report in a Salvadoran newspaper.

The two cables appear to constitute most of what the U.S. government knows about the assassination.

D'Aubuisson, when asked by the Journal last summer in his San Salvador home if he had played any role in the killing of Monsignor Romero, said he had not. At the same point, the former army major's wife Yolanda—who was present during the questioning—complained that her four children had suffered the consequences of what she considererd slanderous attacks by U.S. officials who have claimed her husband was a torturer and murderer. Approaching the desk where her clean-cut, boyish looking husband was seated, she asked rhetorically, "Does that look like the face of a man who would kill an archbishop?"

Friends have defended D'Aubuisson against any involvement in the assassination by pointing out that he is Catholic, married by the church, and his four children are baptized.

D'Aubuisson said he was in San Miguel in the eastern part of El Salvador when Monsignor Romero was killed.

He said he knew nothing about the killing until the following afternoon, after he had traveled to his then-residence in Guatemala. D'Aubuisson said the first time he heard his name mentioned by U.S. authorities in conjunction with the deed was when he returned to El Salvador and White was saying that he had killed the archbishop.

When asked what he thought of Monsignor Romero, D'Aubuisson indicated that the church leader had probably been duped by the left. He surmised that those he labeled "subversives" had killed the archbishop to incite a popular uprising.

D'Aubuisson said that in this personal opinion, Monsignor Romero was not a subversive, but his Sunday homilies favored the leftist political groups known as the "popular organizations."

"When he (the archbishop) began to make himself very notorious," D'Aubuisson added, was when "he attacked the armed forces."

The archbishop had been an outspoken critic of violence, and his Sunday sermons broadcast by the Catholic radio station were used to denounce the kidnappings and killings which had taken place the previous week by Salvadoran security forces.

Many in El Salvador felt that right-wing extremists ordered Monsignor Romero's death after he made a special appeal to soldiers, national guardsmen and police to "obey your conscience rather than follow a sinful command" to commit violence against the poor.

Monsignor Romero is the most prominent victim of religous persecution in El Salvador, which has claimed the lives of 11 priests, three American nuns and a U.S. lay woman since 1977—the year Monsignor Romero was appointed archbishop.

When he was chosen to head the Salvadoran church, Monsignor Romero was known as a conservative among Salvadoran bishops. But a few months after assuming that position. Father Rutilio Grande, a Jesuit priest and personal friend, was killed by unknown gunmen believed to be members of the security forces.

Grieving for his dead friend, and in the face of increasing government repression of priests who chose to work among El Salvador's poor, the new archbishop began to speak out against what he called the violence of poverty and the killings and disappearances of those who organized to change it.

The archbishop's criticism against the government eased slightly when young officers, promising to end the military's human-rights abuses and institute sweeping economic and social reforms, seized power in a bloodless coup Oct. 15, 1979.

But after a few months, the death squads were more active than ever.

Monsignor Romero beseeched the government from his pulpit to stop the killing, saying that "reforms dyed by so much blood are worth nothing . . ."

Just before his death, the prelate's sermons began to reflect strong sympathies for the leftist popular organizations. Publicly, he accused the Christian Democratic civilian-military junta of "concealing for the sake of international public opinion the bloody repression of the people and the fact that the country is governed by the right."

On Feb. 17, 1980, Monsignor Romero sent a personal letter to President Carter urging him "to prohibit all military assistance to the Salvadoran government," and asking a guarantee that there would be neither direct nor indirect intervention by the United States in Salvadoran affairs.

Also in February, D'Aubuisson and another member of his conservative political coalition publicly threatened the archbishop during a television program. D'Aubuisson also threatened a Christian Democratic government minister—and that minister was assassinated in his home by unidentified gunmen a few days later.

On March 9, a suitcase filled with dynamite was placed in a church where Monsignor Romero was to celebrate a memorial mass for the slain minister, but the charge failed to go off.

Former Ambassador White said it was general knowledge in El Salvador that the right had targeted the archbishop. White said he personally met with the church leader just before the assassination to warn him "that we had reports that they (the right) were out to get him. . . ."

After the archbishop was slain in his chapel, a U.S. official who asked not to be identified lamented that the Salvadoran government had conducted "no investigation at all. No ballistics, no checking flight manifestos to see who came in and out of the country."

State Department sources emphasized that the American government was not empowered to investigate crimes in El Salvador. That investigation, according to an embassy employee, would be the job of the Central Intelligence Agency. "They're the ones in the business of finding out the dirty business of other country's affairs."

Other embassy employees emphasized that the staff of the American embassy in San Salvador was very small in 1980, compared to now. Nor, they said, was there any interest from Washington in having them collect intelligence on the violent right.

However, the embassy did transmit to Washington in June 1980 copies of the documents seized from D'Aubuisson during his arrest a month earlier. The documents contained the names of some of those identified in the cables as planning the archbishop's assassination.

But the information was "virtually ignored," according to a September 1982 staff report by the House Subcommittee on Oversight and Evaluation of the Permanent Select Committee on Intelligence.

The report faulted U.S. intelligence agencies for their handling of the Romero assassination and the lack of sustained collection of information on rightist violence in general. Because of the lack of hard data and analysis, the report stated, references to the Romero killing "have been notably inconsistent." As an example, one unnamed agency was criticized for having deleted accusations of D'Aubuisson's suspected involvement in the Romero killing in a revised profile issued shortly after he was elected president of El Salvador's legislative body in April 1982.

The principal document sent by the embassy—a notebook belonging to D'Aubuisson aide Capt. Alvaro Saravia—contained a list of active-duty army officers, lists of expenditures, payments to security force officials, and plans for assault teams for the period immediately preceeding the archbishop's assassination.

Also included in the Saravia papers—among lists of phone numbers for right-wing businessmen and hardline military officers—is the number of the alleged contract killer "Walter," next to the name "Musa."

Another document captured with D'Aubuisson—which has never been linked conclusively with the assassination—referred to an "Operation PINA." It described a weapon similar to what was used in the Romero assassination, a night sniper scope, and a red car. Witnesses reported a red car with four men fleeing the death scene.

A senior State Department official who had reviewed the material, told the Journal, "Our conclusion was that it was not that valuable as a source of basic information." He did add, however, what they learned from it was "a little bit more about the structure of how some of these things are done . . ."

According to one U.S. source, the assassination cables provide additional clues not included in the captured documents. But he is concerned whether anyone will ever follow up on them.

"The interesting part of the story is not Walter," said the source, "but who were the people behind it? Even D'Aubuisson's involvement is less interesting than the planning behind that. I think there's somebody behind D'Aubuisson. I think he's the agent of somebody else.

One U.S. expert on Central America speculated that solving the Romero case would be one of the clearest ways he could think of to help make the current government popular with the people of El Salvador.

But, he said, for there to be a solution there has to be the political will from the Salvadorans. "Or, some enlightened government officials have to bite the bullet and do it. But we can't solve it for them.

"Suppose we lined the case all up on a silver platter and handed it to them—would that do it? Probably not. That's what happened in the cases of the American nuns and the labor consultants. Those cases still aren't solved."

The expert said he believed it would be very difficult for the current government to solve the crime as long as D'Aubuisson's political party exerts so much control over the judicial system.

When asked what could compel the government to undertake such a task, he replied: "When public outrage reaches a certain level, then things can happen. That's the only way I can see."●

THE SOUTH SHORE RECORD—30 YEARS OF SERVICE

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. McGRATH. Mr. Speaker, on Long Island, in the five towns area, which lies within my congressional district, is a weekly newspaper known as the South Shore Record. It is not your typical weekly. It is a hybrid newspaper that provides its readers with all the local news, but with style and competence of major daily publications.

While not in direct competition with daily newspapers, the South Shore Record nevertheless publishes in the shadow of the Nation's largest circulating daily, the New York Daily News, as well as the New York Times, which many consider to be the finest newspaper in the world. In addition, one of the Nation's top afternoon newspapers, Newsday, publishes on Long Island. So the people of the five towns and the surrounding area served by the South Shore Record are used to fine newspapers. If a weekly were to succeed in the Fifth Congressional District, it would have to be good.

The South Shore Record, which this year reached its 30th birthday, has shown that it can publish alongside the best. Year after year, it receives its share of journalism awards. This year, the weekly newspaper garnered no less than three top statewide journalism prizes. There were 108 major newspapers competing.

The South Shore Record was a first prize winner for advertising excellence and copped two second place awards for best editorials and best humorous writing. The editorials were written by the publisher, Florrie Schwartzberg; the Record's Harriet Lesser wrote the humor columns.

I ask my colleagues to join me in saluting the South Shore Record as an example of hometown local journalism at its best.●

SCHOOL ALARM

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. AKAKA. Mr. Speaker, last Tuesday, April 26, 1983, the National Commission on Educational Excellence released a report on the condition of American education. To say that the report is an indictment of our current educational policies is to be guilty of severe understatement. To quote from the Commission's report:

> If an unfriendly foreign power had attempted to impose upon America the mediocre education performance that exists today, we might well have reviewed it as an act of war.

Strangely, this report has not been treated seriously by the administration.

In her column in Friday's Washington Post, Judy Mann makes the point that the Reagan administration is responding to its own Commission's declaration on the desperate straits of American educational performance by reiterating a series of political moves which it expects to remedy the situation. These steps include the right to voluntary school prayer; an important issue, but not one which is likely to improve a student's performance on a math or science test. Nor does the Reagan administration address the principle need of our educational system: funding. For years, our educational systems have felt an increasing budget crunch, necessitating teacher layoffs and crowded classrooms. The Commission notes these facts, but the administration does not respond to them. The phrase, "an investment in our future," is used so often that it has lost much of its meaning. This is truly unfortunate, as perhaps more so than anywhere else, that statement is true of educational funding.

Judy Mann's column makes these points very well. I commend it to each of my colleagues for their consideration, and insert it in the CONGRESSIONAL RECORD for their convenience.

[From the Washington Post, Apr. 29, 1983]

SCHOOL ALARM

(By Judy Mann)

Consider this possible news story: American health has deteriorated so drastically in the past two decades that "our very future as a nation and a people" is threatened, according to a study released by the White House. President Reagan said our health-care system was in the "grip of a crisis," and one solution he proposed was to abolish the National Institutes of Health.

Nutty story, right? Of course. But that's about the gist of the White House response to the devastating report on the condition of American education released Tuesday by the National Commission on Educational Excellence. The commission, appointed by Education Secretary Terrel H. Bell, declared: "If an unfriendly foreign power had attempted to impose upon America the mediocre education performance that exists today, we might well have viewed it as an act of war."

But President Reagan's response to what the commission called an "act of unthinking, unilateral educational disarmament" was to ignore the cost of educational recovery and to offer a non sequitur pledge that his administration would "continue to work . . . for passage of tuition tax credits, vouchers, educational savings accounts, voluntary school prayer and abolishing the Department of Education."

The commission's 18-month study produced an alarming catalogue of shortcomings in virtually every phase of basic elements of secondary education. Nearly 40 percent of the nation's 17-year-olds cannot draw inferences from written material, only a fifth can write an essay, and only a third can solve a mathematical problem involving several steps.

Scholastic Aptitude Tests declined without a break from 1963 to 1980, by 50 points in English and 40 points in math. Colleges, businesses and the military are complaining that they are burdened with remedial training in reading, writing, computation and spelling. Teachers are coming from the lower academic ranks.

Given the publicity in recent years about the decline in American education, the commission's report should come as no surprise. Much of what is in it has been said before. Its great value is that it has pulled together all the different symptoms that we have been reading about and sounded an alarm, the likes of which we haven't heard since the Russians beat us into outer space.

There currently are 45.5 million students enrolled in kindergarten through 12th grade, and the commission is telling us in no uncertain terms that millions of them are at risk of coming out of high school incapable of functioning in colleges, the military or the work force. Only 5.1 million of these students are in private schools. Yet President Reagan's answers to the problems outlined by the commission were to limit federal "intrusion" into education and to suggest a series of financial steps that benefit only the private schools and which many contend would harm public schools.

To its credit, the commission avoided politically charged issues such as tuition tax credits, and made a series of no-nonsense recommendations on how to produce better educated young people: longer school days, longer school terms, tougher requirements in social studies, sciences, mathematics and languages for graduation, national standards of achievement. Pointing out that fewer than half of the newly employed math, science and English teachers are qualified to teach those subjects, the commission also recommended higher pay and better training of teachers and some form of reward for teachers who do good jobs.

The task being outlined by the commission is enormous: It will require a great change on the part of teachers, administrators, students and parents, as well as a commitment of manpower and money to a national purpose that has been badly ignored. Given the condition of most state budgets, that means it will cost federal money.

Americans have long recognized that investments in education are investments in the nation's future. This is not the time for politics or for lambasting the Department of Education and ignoring the very useful function it could serve as a clearinghouse in a national effort toward educational recovery.

President Reagan has an opportunity to exercise his considerable leadership skills to chart a course for that recovery. It is a historic opportunity to unite the nation behind a great purpose. But to do that, he will have to acknowledge that it is not enough to pray for excellence in education. We have to pay for it, too.●

PERSONAL EXPLANATION

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. WISE. Mr. Speaker, on Wednesday, May 4, 1983, I was not recorded on a vote to approve the House Journal. The reason I missed this vote was because I was trapped for 10 minutes in an elevator in the Longworth House Office Building. The doors refused to open and there was simply no physical way to make it to the floor of the House of Representatives. Others trapped with me say that such problems are a frequent occurrence on Longworth elevator No. 4 and I hope the proper officials will look into this.●

DRUNK DRIVING

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, May 4, 1983, into the CONGRESSIONAL RECORD:

DRUNK DRIVING

In 1982, for the third straight year, the number of traffic deaths in the United States—half of which are caused by drunk drivers—went down. Some 46,300 Americans lost their lives on the nation's highways, a decline of 10 percent from 1981. Much of the decline seems to be due to improved records for night, weekend, and holiday driving, when the number of drunk drivers on the road is greatest. Many experts say that tougher penalties for drunk driving are taking effect.

Still, the statistics on drunk driving in the United States are shocking. One of every two Americans will be involved in an alcohol-related automobile crash in his lifetime. Some 750,000 Americans suffer crippling and other serious injuries each year at the hands of drunk drivers. Of every 2,000 drunk drivers on the road, only one is arrested, and the penalty imposed on him is likely to be light.

Americans want to do more than make modest improvements in these awful statistics. They want to put an end to the drunk driver's carnage on the highways. While past public policy focused on protective devices such as airbags and seatbelts, a major crusade aimed at getting drunk drivers off the road is underway across the United States.

A national "grass roots" campaign is primarily responsible for the new seriousness with which Americans view drunk driving. In the spring of 1980, a 13-year-old girl was hit and killed by a drunk driver as she was walking to church in a small town in California. Her mother was stunned to learn that the driver had had two previous drunk driving convictions, was out on bail on a third arrest, and had spent only two days in jail. She then launched Mothers Against Drunk Driving (MADD). MADD has grown in two short years to 83 chapters in 29 states. A similar group, Remove Intoxicated Drivers (RID), went national last year and now has 55 chapters in 29 states. These campaigners and other public-spirited citizens are pressuring the courts for stiffer sentences and are lobbying city councils, state legislatures, and the Congress for tougher drunk driving laws.

At the state level, 1982 saw 27 state legislatures pass tough drunk driving bills, and 20 boost the legal drinking age. This year, the Indiana General Assembly considered a package of measures, proposed by a gubernatorial commission, to strengthen the Hoosier effort against drunk drivers. One measure, now enacted into law, requires an immediate suspension of license if a person suspected of drunk driving refuses, or takes and fails, the breathalyzer test. It stiffens sanctions against the habitual offender, and it provides for a 60-day sentence if a person convicted of drunk driving is caught driving without a license. It broadens public information and safety programs. It is to the credit of Indiana police officials that fatality rates for alcohol-related accidents in the state were down 16% in 1982. This new law will give Hoosier law enforcement officials the extra tools they need to make more progress against drunk driving.

At the federal level, the President appointed a high-level commission to study the problem of drunk driving and make recommendations. The commission's first interim report, completed in December 1982, contained several recommendations on how states could crack down on drunk driving. Congress began working on legislation to implement these recommendations, and one measure based on them has recently been enacted. It establishes two categories of federal grants—basic grants and support grants—to states which implement effective programs to reduce drunk driving. There are four criteria with which states must comply in order to be eligible for a basic grant in the amount of 30% of each state's 1983 apportionment under the Highway Safety Act. The first criterion is prompt license suspension for not less than ninety days in the case of a first offender, and not less than one year in the case of a repeat offender. The second criterion is a mandatory sentence of imprisonment for not less than 48 hours, or of community service for not less than ten days. The third criterion is that states have a law providing that any person with a blood alcohol concentration of 0.10% or greater, when driving a motor vehicle, shall be deemed to be driving while intoxicated. The final criterion is increased effort or funding committed to the enforcement of alcohol-related traffic laws. In order to qualify for the support grants, up to 20% of each state's apportionment, a state must implement some of twenty-one proposed criteria. A minimum of eight is required to receive the full support grant.

With the enactment of its new law, Indiana may qualify for $1.3 million—the maximum—in basic and support grants under the new federal law.

In spite of the virtually unanimous agreement that something needs to be done to combat drunk driving, there is some disagreement on the methods that should be used. Some people believe that locking up drunk drivers is useless unless it is combined with therapy. Others believe that it is not fair to throw drunk drivers into jail with murderers and robbers. Some states are making some form of counseling or therapy mandatory, and others are investigating the possibility of creating separate jails where drunk drivers can be confined away from hardened criminals. However, putting drunk drivers in jail does take them off the road in a way that revoking their licenses never did. Many of those convicted in the past simply drove without licenses. Others merely obtained licenses in other states. Ohio, for example, issued 1.3 million more licenses than there were driving-age Ohioans in 1977. To help stop this practice, Congress restored badly needed funds last year to the National Driver Register, a computerized roster of drivers whose licenses have been suspended, revoked, or denied.

Acute awareness of the problem, voluntary action by concerned citizens, and tough-minded attitudes among police officers, judges, and legislators give us hope that we may vanquish the national menace of drunk driving.●

WINDOWS OF VULNERABILITY

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Ms. KAPTUR. Mr. Speaker, I commend to my colleagues a recent edittorial from America magazine which discusses the dangers of the reckless administration rhetoric on the U.S. strategic posture. The Scowcroft report made an important contribution to the establishment of a more realistic defense policy by disputing the so-called window of vulnerability theory on which the administration's defense proposals have been based. The Congress must launch this country on a more rational defense program—one that includes a serious commitment to arms control.

The article follows:

WINDOWS OF VULNERABILITY

In making his own the recommendations of the 11-man Commission on Strategic Forces, chaired by Brent Scowcroft, President Reagan chose to ignore what was probably the commission's most significant finding: that the "window of vulnerability" in the nation's defenses, a dominant theme of the Administration's military rhetoric, does not exist after all. The commission had been appointed by the President several months ago when the Congress refused funding for the MX missile. One of the reasons for the refusal was the lack of credibility in the "dense pack basing mode" that the Administration proposed, and the commission was charged with finding a home for the missile. Their recommendation—that 100 MX missiles be deployed in existing silos—runs directly counter to the Administration's claim that these silos and the missiles in them would not survive a Soviet first strike. The commission argues that the inherent difficulty of such an attack would make its chances of success at the present time extremely slight and furthermore that the combined retaliatory power of United States forces, based on land, under the sea and in the air, provides an effective deterrent.

Warnings about the military superiority of the Soviet Union have been a leitmotif not only of this Administration's campaign for increased military spending, but also of its approach to arms negotiations and its resistance to any and all forms of the nuclear freeze movement. The United States had to rearm to close the "window of vulnerability." Until the putative Soviet superiority is overcome, any kind of arms negotiation is futile, and a nuclear freeze would only make permanent the dangerous imbalance that now exists. Many military experts outside of the Administration have disputed these claims, noting that while the Soviet Union may possess numerical superiority in certain categories, the United States is clearly superior in others. The balance of forces is not symmetrical, but no strategist has yet claimed that the United States would be more secure if it could exchange its complex of forces for the Soviet Union's. Now a commission appointed by the President has, in effect, confirmed these judgments, even while endorsing the MX missile that the Administration believes it needs.

Consistency has not been a hallmark of Reagan foreign policy, and nowhere have the swings been more unsettling than on issues connected with the arms race and negotiations for arms control and reduction. Yet the potential risks involved in these questions are so serious that here, above all, wise policy should be sober and steady. The President should learn, as one lesson from the commission, the need to permanently retire reckless talk of Soviet military superiority as well as gratuitous denunciations of Soviet malice. The combination of these two themes, so favored by Mr. Reagan for selected audiences, is in every sense dangerously explosive. As the third draft of the proposed pastoral of the American bishops points out, it is important to be "coldly realistic" about the difficulties of negotiating with Soviet leaders but also keenly aware of the "common interest both states have in never using nuclear weapons."

If at the present time, then, the vaunted "window of vulnerability" is not really open and if, as many military experts contend, there is rough parity between the Soviet Union and the United States, why is the notion of a mutual, verifiable freeze on the development and deployment of new nuclear weapons systems such a dangerous idea? True, the effect of such a declared policy might be only symbolic. Until verification could be reasonably assured, in fact, little would change; tough negotiations would be necessary, but a more clear-cut statement of the intentions and negotiating goals of the United States would have been made. Similarly, ratification of the SALT II treaty, which the Reagan Administration has opposed on the grounds that it is "fatally flawed" but which it nonetheless observes, would be a sign of a serious commitment to the most serious project on the world's agenda.

Thus far the Reagan Administration has persuaded neither its own citizens nor its allies that it is committed to actual progress in negotiations over arms reductions. At times, the Administration seems to believe that it can intimidate the Soviets into an agreement, once a position of military superiority is again established. At other times the anti-Soviet rhetoric of Administration experts and advisers suggests that they would not trust any agreement the Soviets would be willing to sign. The most dangerous "window of vulnerability" may well be the refusal to open any windows at all.●

CHILD ABUSE

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. LEWIS of Florida. Mr. Speaker, a few years ago I had the pleasure of meeting a remarkable young woman who, for the purposes of this RECORD, I will call Mary.

Mary was, like millions of children in this country, the victim of a sad and tortured childhood. Mary's mother, frustrated by bad relationships with three neglectful husbands, brutally beat her daughter almost daily.

Mary's second stepfather began sexually assaulting Mary when she was only 12 years old. If Mary was not receptive to her stepfather's advances, he too beat her. One such beating ended with a broken cheek and jaw, Mary said. She said her drunken stepfather locked her in her room for 2 days following that beating. It was 2 days before Mary was able to escape and convince her neighbor to take her to a hospital for treatment.

State authorities, who had received at least two previous reports of Mary's plight, finally investigated. Mary's grandparents, the parents of Mary's deceased father, were called and took Mary, who was then 14 years old, to live with them at their home more than a thousand miles away.

It took great courage and a lot of support from her grandparents and new-found friends for Mary to overcome the physical and psychological injury she sustained during her formative years, but Mary was able to then lead an eventful and somewhat normal childhood.

She was a popular and industrious student in high school and college. Today she is a successful businesswoman and has a loving husband and two wonderful children who receive more love and care in a day than some children witness in a lifetime.

Mary is the exception, one of the lucky ones among the 2 million victims of child abuse in our country each year. Many of these children never recover from the psychological trauma they suffer from just one beating from someone they love and expect to love them.

It is difficult for me, as I am sure it is for most of you in this room, to understand how a parent, whose purpose and duty it is to protect and love his offspring, can injure and even kill his child. But it has happened and continues to happen every day.

We must find ways to help and protect the Marys of this world.

These children are robbed of a normal, healthy, and happy childhood and most of them will never have a hope of a prosperous or even comfortable adult life as a result of their tragic childhoods. The children are not the only victims of child abuse, either. Society is being robbed of the possibility of greatness. Any one of these children, under common circumstances, could grow up to be a great scientist, educator, artist, athlete, or statesman. Even more probable is the decaying factor child abuse has on the family structure, the foundation of this country's moral fiber and spirit.

During this month set aside to bring attention to child abuse in an effort to find solutions to this diabolical perversion, I strongly urge my fellow Members of Congress, the administration, and State and local officials to increase public awareness of child abuse and to acknowledge the hundreds of private citizens who make it their business to get involved.●

TRIBUTE TO THE SERVICE OF HENRY B. GONZALEZ

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. HORTON. Mr. Speaker, I would like to join my colleagues in paying tribute to the unselfish public service of my good friend and colleague HENRY B. GONZALEZ.

I have had the pleasure of serving with HENRY for more than 20 years. Throughout this time, I have watched HENRY serve his constituents with honor, dedication, and integrity. In addition, no one can ever question the contribution he has made to the betterment of the United States through his work on the Committee on Small Business and the Committee on Banking, Finance and Urban Affairs.

We may all count it a great privilege to be able to serve with a man who has dedicated over 30 years of his life to the service of the people of Texas and the country which he so dearly loves.

In addition, it gives me great pleasure to be able to wish HENRY a very happy 67th birthday. I look forward to being able to mark the commemoration of his next 30 years.●

TRIBUTE TO DARWIN MILLER, VALLEY BETH SHALOM MAN OF THE YEAR

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. BERMAN. Mr. Speaker, I rise today to congratulate Mr. Darwin Miller on his selection as Man of the Year at Valley Beth Shalom Congregation in Encino, Calif.

Mr. Miller has served the Jewish community of Los Angeles for over 30 years, and over 20 of those have been given to Valley Beth Shalom. He has been an active member of the temple board, serving on the budget and finance committee and as the vice president of administration.

Darwin Miller is especially dedicated to the youth and the senior citizens within our community. He has inspired many young people through his contact with them as chairman of the temple education committee and as vice president of the youth department. In addition, Darwin Miller has contributed his expertise and good business sense in guiding the formation of the Valley Beth Shalom Senior Center, which now boasts over 10,000 member families.

Mr. Miller's concern for others goes beyond these commitments. He has worked for the United Jewish Welfare Fund and has assisted Soviet immigrants to make a new life for themselves in this country.

Mr. Speaker, Darwin Miller will be honored at a special event to be held on June 11 at Valley Beth Shalom Congregation. Mr. Miller has truly earned recognition as Valley Beth Shalom's Man of the Year. He has given of himself in order to help those around him. Darwin Miller has gained our respect and admiration, and I commend him on his award for his many years of outstanding contributions to our community.●

PESO DEVALUATION

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. COLEMAN of Texas. Mr. Speaker, yesterday I testified before the House Subcommittee on the Small Business Administration regarding the effects of the continued peso devaluations in Mexico on the border areas and the Nation. My testimony underscored the importance of enacting legislation to reinstate the Small Business Administration disaster loan program.

This is not a regional problem. This is a national problem. Anytime you have significant bankruptcies in a region as extensive as the United States-Mexico border, there is a ripple effect that disrupts all area economies. Immigration, and the pressures for immigration that are heightened by Mexico's economic situation, affect all Americans, not just those along the border. I would like to briefly outline the crisis situation on the 1,933-mile border with Mexico where Mexican and American communities are inextricably linked through both cultural and economic ties.

Unemployment and immigration are reaching egregious proportions along the border, while retail and wholesale trade are dropping off drastically. For example, the Immigration and Naturalization Service recently alerted me to an increase in the number of undocumented aliens arrested in El Paso: 14,800. That is an average of 528 arrests per day and represents a 60-percent increase over the arrests a year ago. Devaluations have bankrupted small businesses costing local governments millions in tax revenues and causing a strain on social services and law enforcement agencies. In El Paso, sales-tax revenues for January were 47 percent below levels for January of 1982. My colleague, JIM MCNULTY, has informed me that Douglas, Ariz. saw a business revenue decline of 60 percent over the last half of 1982 compared to the same period in 1981. Laredo, the worst case, showed a sales-tax revenue loss of 69 percent for the same period.

I strongly support the legislation pending before the Subcommittee on Small Business that would reinstate the disaster loan program for those areas suffering from economic dislocation caused by foreign currency fluctuations. By targeting the legislation to those areas, we guard against any potential abuse by other areas claiming the need for disaster loans due to seasonal dislocation.

I request unanimous consent to revise and extend my remarks.

STATEMENT BEFORE THE SUBCOMMITTEE ON SMALL BUSINESS—PESO DEVALUATION

(By Ronald D. Coleman)

Mr. Chairman, I am pleased to have this opportunity to address this Subcommittee and underscore the importance of enacting legislation to reinstate the Small Business Administration disaster loan program. Representing the 16th district in Texas, I am qualified to report the severe economic crisis that is damaging not only my district, but all of the districts along the U.S.-Mexico border. The Representatives from each of these districts have expressed their concerns to me in our Border Caucus meetings—a forum that deals exclusively with the unique problems of the "sister cities," U.S. and Mexican cities that lie back-to-back along the border. This is not a regional problem. This is a national problem. Any time you have significant bankruptcies in a region as extensive as the U.S.-Mexico border, there is a ripple effect that disrupts all area economies. Immigration, and the pressures for immigration that are heightened by Mexico's economic situation, affects all Americans, not just those along the border. I would like to briefly outline the crisis situation on the 1,933-mile border with Mexico where Mexican and American communities are inextricably linked through both cultural and economic ties.

In 1976, the Mexican Administration devalued the peso by 40%. At that time, my distinguished colleague, Congressman Kika de la Garza, had the foresight to introduce legislation creating direct Small Business Administration loans of up to $100,000 at 6½% interest rates. That legislation, enacted into public law, relieved small businesses from the hardships placed on them by the loss of revenues incurred in the devaluation of the peso. As part of the 1981 Omnibus Budget Reconciliation Act (PL 97-35), however, the Administration substantially weakened this direct disaster loan program.

On February 17 of last year, the Banco de Mexico announced that it would no longer intervene to support the peso. That move resulted in a 30% devaluation of the peso. In early August, the fear of increased inflation caused a new run on the peso. By August 5, the Government announced a new two-tiered exchange rate system. Dollars from oil exports and foreign loans would be made available at a "preferential rate" for paying interest on debts and for importing vital goods. Other dollars would have to be bought on the free market, approximately 85-90 pesos to the dollar.

On September 1, the banks in Mexico were nationalized and the government announced a general plan of exchange controls to block the flow of hard currency from Mexico to the United States. The immediate impact on Mexican-U.S. commerce cannot be emphasized enough. Following the change in Mexican Administrations, the de la Madrid government announced a liberalization of exchange rates—similar to the previous two-tiered system. That decision, announced on December 20, created the same schism between a "preferential rate" and the free market rate. Most recently, the fall in oil prices has caused further devaluations. Today, the peso-dollar exchange fluctuates around 152 pesos to the dollar. It is estimated that the peso is depreciating by 13 centavos per day.

Let me digress for a moment to explain the economic principles involved in the devaluation of the peso. When the Mexican

Administration made the decision to allow the peso to fluctuate freely in the foreign exchange market, with the exception of the "preferential rate," that meant that the peso's value would be determined by supply and demand conditions. The demand for dollars shows Mexico's and Mexican citizens desire to purchase U.S. goods, to travel abroad, to buy U.S. services, to transfer money to the U.S. for investment and other purposes, and to repay U.S. loans. The supply for dollars, alternatively, reflects U.S. and U.S. citizen's desire to purchase Mexican goods, to travel to Mexico, to buy Mexican services and to transfer money.

Three main factors will contribute to and determine the future peso-dollar exchange rates: changes in the level of Mexico's imports, changes in the level of Mexico's exports, and the level of Mexico's external debt. Mexico has significantly reduced its level of imports in 1982 and the possibility for an increase is slight as they have limited imports to critical commodities like food and capital goods. The Mexican external debt has increased and as the repayment of interest and principal increase, so increases dollar outpayments. Lower production costs and cheaper prices in Mexico have increased non-petroleum exports associated with twin industries, the so-called "maquiladors," and tourism. Low world-wide prices of crude oil have substantially decreased Mexico's oil revenues. What all this adds up to is an increase in dollar outpayments and a decrease in dollar inpayments thereby causing future peso devaluations.

All along the border, unemployment and immigration are reaching egregious proportions, while retail and wholesale trade are dropping off drastically. it is important to note that the Mexican "sister cities" to many of our border communities have populations two to three times greater than their American counterparts. This fact amplifies the effects of Mexico's economic woes on American communities. For example, the Immigration and Naturalization Service recently alerted me to an increase in the number of undocumented aliens arrested in El Paso: 14,800.—That is an average of 528 arrests per day and represents a 60% increase over the arrests a year ago. With staggering unemployment rates of 40% and higher in Ciudad Juarez, El Paso's twin city, the pressure for illegal immigration to El Paso is clear even in the face of unemployment rates as high as 30% on the U.S. side of the border. It would be virtually impossible for the law enforcement agencies to apprehend all of the aliens coming across the border. Only 400 officers patrol 180 miles of desert and sandhills, 161 miles of river border, and 85,000 square miles of tortuous terrain comprising the El Paso sector. The efforts of these 400 individuals are highly laudable in the face of increased illegal immigration. Devaluations have bankrupted small businesses costing local governments millions in tax revenues and causing a strain on social services and law enforcement agencies. In El Paso, sales-tax revenues for January were 47% below levels for January of 1982. One businessman in El Paso, who operates a typical open-air clothing and dry goods store, has seen his revenues drop from $3,000 a day to little more than a few hundred dollars per day. More than two dozen stores that can afford to remain open showed a 33% decline in sales for the Christmas ending January 15, as compared to a year ago. My colleague, Jim NcNulty, has informed me that Douglas, Arizona saw a business revenue decline of 60% over the last half of 1982 compared to the same period in 1981, with some businesses reporting losses as high as 90%. Laredo, the worst case, showed a sales-tax revenues loss of 69% for the same period.

Economic conditions like these create a ripple effect that damages all businesses, decreases housing starts and property values, and increase the demand for limited social services. In addition, we are seeing dramatic increases in the demand for food stamps and free medical care. We must do something to alleviate this suffering, not only on the part of small business, but on the part of individuals who are displaced as a result of these wild currency fluctuations.

Following the abolition of the direct disaster loan program, the Small Business Administration initiated a program to alleviate the hardships suffered by small businesses along the border. While I applaud their efforts to ease the situation, I regret that the program has not been as successful as anticipated. The so-called "Peso Pack" program provided $200 million in direct and guaranteed loans for areas suffering from the effects of the peso devaluation. There are two problems with the "peso pack" program that merit our attention today. First, this program offers qualifying small businesses regular SBA loans and SBA loan guarantees at interest rates that can be as high as 12%—depending on the prime interest rate. Second, the payment of the principal and interest on the loan is usually deferred only three months. These two problems belie the intent of the program as hard-hit businesses will either not seek the loans due to the rigorous repayment schedule or they will not qualify for this SBA assistance as it is targeted to businesses who are suffering relatively short-term problems.

Upon preliminary investigations of the statistics regarding the SBA program by a House Government Operations Subcommittee investigating the "peso pack," it appears that a highly inequitable distribution of loans exist. For example, in El Paso, only 4 guaranteed and 24 direct loans have been approved compared to the Lower Rio Grande Valley, near Brownsville, Texas, where 28 guaranteed loans and 181 direct loans have been approved. This accounts for a total of $2,411,000 in the El Paso area as opposed to a total of $15,981,000 in the Lower Rio Grande Valley. With roughly similar populations, these preliminary findings highlight some serious problems with the Peso Pack program.

The Small Business Administration testified last year that they have existing programs to assist small businesses suffering from the dire economic impact of Mexico's economic situation. Namely, the Section 7(a) regular business loan program. Let me point out that the interest rates on those loans can be as high as 14% and there are no guidelines for easing the repayment schedule.

I strongly support the legislation pending before this Subcommittee today. Chairman Mitchell's legislation, H.R. 2583, reinstates an effective program for assisting disaster victims. Other pending legislation, H.R. 2317, introduced by Congressman de la Garza, H.R. 620, introduced by Congressman Kazen, H.R. 1929, introduced by Congressman Udall, which I am cosponsoring, and H.R. 1593, introduced by Congressman Bates, all achieve one major goal—that is the reinstatement of the disaster loan program for those areas suffering from economic dislocation caused by foreign currency fluctuations. By targeting the legislation to those areas, we guard against any potential abuse by other areas claiming the need for disaster loans. The funding for this program will come from the SBA revolving loan fund and will only require an increase in the loan guarantee ceilings. I am not asking for a budget-busting piece of legislation that would simply add another layer to our already burgeoning deficit. I am asking for relief that will provide additional revenues to offset our nation's deficits and to relieve the drain on social services.

By reinstating the economic dislocation loan program, we will simply permit direct loans of up to $100,000 at manageable interest rates, with a mandatory one-year deferral of repayment on the principal and interest of the loans. Let me underscore one important point: this is not a grant program or a government giveaway to small businesses. This is an investment in our nation's future. Thank you Mr. Chairman.

I request permission to revise and extend my remarks as I receive further information.●

REMEMBERING THE ARMENIAN GENOCIDE

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. LEHMAN of Florida. Mr. Speaker, April 24 marked the 68th anniversary of the campaign to eliminate the Armenian people, a campaign of genocide perpetrated by the Ottoman Empire. This first holocaust of the 20th century unfortunately foreshadowed the Nazi genocide directed against the Jews of Europe. Our obligation to remember was reaffirmed recently in Washington as we gathered to commemorate the Days of Remembrance for the victims of the Holocaust and the first American Gathering of Jewish Holocaust survivors took place in our Nation's Capitol. So too we should remember the Armenian massacres that took place between 1915 and 1923, in which 1.5 million Armenians perished.

As a founding member of the United States Holocaust Memorial Council, and in my work on the President's Commission on the Holocaust which recommended the establishment of a council and of a living memorial, a Holocaust Museum, attention was given by our task force on education to the Armenian genocide and a commitment was made to include this tragic experience in the museum. Not only did the Armenian genocide nearly wipe out a people: Its occurrence did not serve as a warning for future generations. The denial by historical revisionists of the Armenian tragedy does history an injustice by attempting to deny and forget and does an injustice to humanity for withholding from future generations the lessons needed to prevent future acts of genocide.

Only keeping the facts and the memory alive will serve humanity by offering us the lessons through which we may learn to save humanity.

I join with my colleagues in commemorating the Armenian martyrs and the Americans of Armenian descent who know so well that only by remembering will we be able to prevent a future holocaust.●

NATIONAL NURSES' DAY

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. MINISH. Mr. Speaker, Friday, May 6 will be National Nurses' Day, so it is appropriate for us to pause and appreciate the vital work of these health professionals. Indeed, it has only been in the last few years that the women and men of this noble profession have begun to achieve the kind of recognition and pay to which their important work entitles them. While their progress in these areas cannot be said to be complete, nurses have come a long way toward public appreciation and full professional status.

Almost all of us have benefited from the services of nurses at one time or another, so we know from personal experience how important these dedicated people really are. I am sure the public joins us in a hearty salute to them.

The 1983 Nurses' Day is of especial interest in New Jersey, because it marks the 80th anniversary of the New Jersey State Nursing Association. The event will be marked by a luncheon in Trenton and a gala banquet in Parsippany-Troy Hills. Beatrice and Philip Kalisch will offer their acclaimed audiovisual presentation, "The Image of the Nurse in the Mass Media" at these April 7 events, timed to coincide with the 80th anniversary of New Jersey's Registered Nurse Law, which was an early step in the legal recognition of this profession.

I congratulate the members of the nursing profession and offer them best wishes for their future service to humanity.●

CONGRESSIONAL CALL TO CONSCIENCE VIGIL

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. FAZIO. Mr. Speaker, today I wish to add my voice to those of the many other Members of this House who are participating this year in the Congressional Call to Conscience Vigil. The vigil's high purpose is to focus continuous public attention on the plight of those Soviet Jews who have been denied the right to emigrate or who have been falsely imprisoned by the Soviet Government, and to bring to bear upon that Government the great strength of American public opinion and Government office toward the relaxation of its restrictive policies.

Last year, the Sacramento Jewish Community Council in my district brought to my attention the unfortunate plight of one Soviet Jewish family in particular, Yakov and Tatiana Kogan, who wish to emigrate to Israel to be reunited with Tatiana's parents and sister. Yakov Kogan served in the Soviet Army's rocket division, completing his service in 1969. At that time, he signed a document stating that he would not go abroad for 5 years due to his prior access to supposed "secret" information. In 1976, a full 7 years later, however, the Kogans' application for permission to emigrate was denied by authorities who cited Yakov's previous military service as representing a security threat. Persistent emigration requests since then have continued to be denied.

This past October, 53 Members of this body joined me in a letter to Soviet Ambassador Anatoly Dobrynin to urge permission for the Kogans to emigrate to Israel. Sadly, it is not surprising that the Kogans' situation remains unchanged. In correspondence dated September 6, 1982, Yakov told a concerned resident of Sacramento that his family was still waiting for this permission, but that they have almost lost hope.

We cannot allow courageous individuals such as Yakov and Tatiana Kogan to lose their hope for a better life. Soviet Jewish emigration has reached its lowest level in 12 years; at the same time, there has been a significant increase in the number of arrests and imprisonments of Soviet Jews. The United States must respond forcefully to the continuing decline in basic human rights in the Soviet Union. The Soviets must be made to understand that Americans hold dear the basic human right to emigrate as stated in the Helsinki accords, and that the relations between our two countries are deeply affected by the Soviet Union's blatant disregard for the rights of Soviet Jews.●

CENTRAL AMERICA POLICY

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. PEASE. Mr. Speaker, last week, President Reagan articulated his policy goals for Central America. They are noble goals around which Americans can unite. And, if conscientiously pursued, the new policy will be a dramatic change from the actual—if not always stated—policy the United States has traditionally followed in Central America.

This is the topic that I addressed in my most recent weekly newspaper column. It follows:

WASHINGTON REPORT

(By Don J. Pease)

If President Ronald Reagan is really committed to the Central American policy he outlined in an address to Congress last week, there is hope for achievement of the bi-partisan approach he said he desires.

The president said his policy goals for Central America are:

(1) Support for democracy, reform and human freedom.

(2) Emphasis on economic development.

(3) Support for the security of the threatened nations in the context that military assistance is seen not as an end in itself but a shield for democratization, economic recovery and diplomacy.

Support for dialogue and negotiations, both among the countries of the region and within each country.

Those are noble goals around which Americans can unite. Those are goals which embody the best aspirations of our own people and our own nation. Those are goals which could make the United States a symbol and beacon of hope for millions of poor and oppressed people around the world.

Importantly, diligent pursuit of a policy based on those goals could be our nation's strongest tool in achieving President Reagan's underlying aim—to thwart communist expansion in the lesser developed nations of the world.

If conscientiously pursued, the new policy will be a dramatic change from the actual (although not always stated) policy the U.S. has traditionally followed in Central America.

For most of the 20th Century, our government seemed more concerned about stability than about economic development.

For 50 years, our government has appeared to value anti-communism more than democracy and human freedom.

President Jimmy Carter tried to move human rights, economic development and democracy to the forefront of U.S. foreign policy considerations. He achieved mixed results and brought down on his head virulent criticism from conservative "cold war warriors."

Frankly, President Reagan's rhetoric during 1981 and 1982 suggested a return to the old U.S. preference for politically stable, anti-communist regimes regardless of their internal policies. The president's words and deeds were an important reason for skepticism in Congress and in the country about military aid for El Salvador.

Now, with his Central American policy in deep trouble, President Reagan's is sounding more like his predecessor. As Congress continues to deliberate and debate the issue, the hope is raised that perhaps indeed a bipartisan approach is possible which can be both effective and consistent with our nation's founding ideals.●

CONTINUED CRIMES AGAINST THE HUNGARIAN FREEDOM FIGHTERS

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. HORTON. Mr. Speaker, I would like to call to the attention of my colleagues a column by Jack Anderson which appeared in the May 1, 1983, edition of the Washington Post, dealing with the liquidation of the gravesites of some 240 Hungarian freedom fighters who were killed during the Hungarian Revolution of 1956. During the past year, I have worked with the families and friends of those who were executed by Russian troops during the revolution to have the gravesites of missing freedom fighters located and recognized. These attempts have been rebuked by the Hungarian Government of Janos Kadar through the Hungarian Ambassador to the United States, His Excellency Dr. Janos Petran. I have submitted to the RECORD copies of a letter to Ambassador Petran signed by myself, Congresswoman Millicent Fenwick, and Senator DANIEL MOYNIHAN, urging that the gravesites of Hungarian freedom fighters be revealed to family members. The curt, and in my opinion, totally inappropriate response we received to our request from Ambassador Petran is also submitted here for the RECORD.

Now word comes to us that Secretary Kadar is planning to have the remains of those freedom fighters buried in Kerepesi Cemetery in Budapest exhumed and buried again in a mass grave. I urge my colleagues to join me in protesting this dishonorable and abominable act by the leader of a supposedly civilized country. Surely Secretary Kadar does not fear the memory of the freedom fighters so much that he must resort to such tactics. I appeal to him to refrain from such action and acquiesce to the patient requests of the families of the deceased freedom fighters to pay their respects to their dead.

[From the Washington Post, Sunday, May 1, 1983]

(By Jack Anderson)

'LIQUIDATING' A CEMETERY IN HUNGARY

As the Soviet bloc countries observe May Day today, the old men in the Kremlin may well long for the days of their youth, when Stalin ruled and the workers and peasants knew their place. The Soviet empire is showing signs of restiveness and impatience with the harsh repression that characterizes the communist system.

One of the strangest examples of anxiety that leaders of Soviet bloc countries are feeling these days comes from Hungary. It is all the more strange because the leader of that country, Janos Kadar, is one of the most secure and popular of Soviet satellite leaders.

After their heroic but doomed uprising in October 1956 was crushed by Soviet armor, the Hungarians supposedly made their peace with Kadar. They gave up their hope of political freedom in return for capitalist-tinged economic opportunities that were unmatched in the communist world.

The "Hungarian solution" is regarded as a unique accommodation between communist dogma and free enterprise, between impossible dreams of political liberty and attainable goals of a more comfortable life.

But it turns out that Kadar—after more than a quarter of a century—is worried about the memory of the 1956 uprising that still burns in his people's hearts. He is apparently determined to stamp out the last spark of rebelliousness before it is fanned to life by the unrest in Poland.

Kadar has decided to "liquidate" the portion of Karapashi Cemetery in Budapest that contains the graves of some 240 freedom fighters killed in 1956.

Were it not so ghoulish, Kadar's decision would be pathetic. Lot 21, where the freedom fighters are buried, has never been the scene of unruly anti-government demonstrations. It is visited only by families and friends of the dead, who decorate the graves with flowers.

But a few months ago, relatives of those buried in Lot 21 received letters from the Hungarian government. They were asked to have their loved one's remains exhumed and buried someplace else. If they failed to do so, the letter warned, the government would do the grisly job itself, dumping the bodies in a common grave.

It was a particularly heartless action for the Kadar regime to take. Reliable sources told my associate, Lucette Lagnado, that families of the dead freedom fighters have been persecuted and discriminated against by the regime ever since the uprising. As a result, most are too poor to pay for exhumation and reburial—yet the alternative of a bulldozed mass grave is appalling to the families.

What is so dangerous about this modest plot of ground? Obviously, what Kadar really hopes to "liquidate" is the memory of the freedom fighters still cherished by their families—and the heritage they left for the generation of Hungarians that has grown up since they died.

If it was a few days of glory for Hungarians, the 1956 uprising was also a time of unsurpassed shame for the Soviet Union. Even some of the obedient Russian soldiers were unnerved at their orders to turn guns on virtual children.

It is the memory of all that which bothers Kadar and his Kremlin masters. Perhaps they fear that a corner of Karapashi Cemetery will become a focus for reawakened yearnings for freedom—like the site where striking Polish shipyard workers were gunned down in Gdansk in 1970.

But Kadar may have miscalculated. Intelligence reports indicate that outrage is spreading over the proposed desecration of the freedom fighters' graves. Kadar may have succeeded only in giving the young heroes of 1956 an even firmer place in their people's hearts.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., October 20, 1981.

His Excellency Dr. JÁNOS PETRÁN,
Ambassador, Embassy of the People's Republic of Hungary, 3910 Shoemaker Street, N.W., Washington, D.C.

DEAR AMBASSADOR PETRAN: On the eve of 25th Anniversary of the Hungarian Revolution, we are writing to you to appeal to your Government to permit visits by surviving family members to the grave sites of those who died during the Revolution. It is our understanding that the Government has never revealed the location of the graves of a number of Hungarians who died in 1956, and its aftermath.

While we are interested in assisting all those families who do not know the location of the graves of their brothers, sisters, mothers, fathers and friends, we are particularly interested in the grave sites of Imre Nagy and Pal Maleter. Petitions by their family members have been denied repeatedly. We strongly urge you to convey our sincere concern to your Government and to First Party Secretary Kadar, and our request that the many unmarked graves be identified.

It is our understanding that the People's Republic of Hungary has a favorable record of compliance with the family reunification provisions of the Helsinki Final Act. In this context and on humanitarian grounds, we are hopeful that your Government will cooperate in this endeavor.

We look forward to your reply.

Sincerely,

FRANK HORTON,
Member of Congress.
MILLICENT FENWICK,
Member of Congress.
DANIEL MOYNIHAN,
U.S. Senator.

AMBASSADOR OF THE HUNGARIAN
PEOPLE'S REPUBLIC,
Washington, D.C., October 31, 1981.

Hon. FRANK HORTON,
U.S. House of Representatives, Washington, D.C.

HON. CONGRESSMAN HORTON: I can not help but return herewith a letter dated October 20, 1981, signed by you, Representative Ms. Millicent Fenwick and Senator Daniel Moynihan, distinguished Members of Congress.

I am under the necessity to do that because of its content and nature. It is my firm opinion that actions like yours are irreconcilable and incompatible with historically established intercourses between representatives of states and with the general trend of Hungarian-American relations.

Since I am devoted to this progress, you should understand that I don't feel myself in a position to forward your letter as it was requested.

Sincerely,

JÁNOS PETRÁN.●

A TRIBUTE TO MAYOR HERMAN G. KLEIN

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. GUARINI. Mr. Speaker, yesterday a good friend and dedicated public official, Mayor Herman G. Klein, of Guttenberg, passed away. He led an exceptional public service career, which I would like to share with you in this tribute.

Mayor Klein, who was 66 years of age, died yesterday morning of complications, at Holy Name Hospital in Teaneck, where he had been for a month

since entering for a hip replacement operation.

He served as Guttenberg mayor for nearly 30 years and superintendent of schools for North Bergen for 20 years. He was first elected to public office as a Democratic councilman in 1947. Eventually, he took full control of the council.

Klein graduated from Guttenberg School—now called the Anna L. Klein School after an aunt who was principal—and obtained a bachelor of science degree from Jersey City State College, a master's degree from New York University and a doctorate in education from Columbia University.

He was in the Ridgefield school system, where he became a principal, and later taught at Jersey City State before becoming North Bergen superintendent of schools.

For 5 years, Klein served as chairman of the North Hudson Council of Mayors.

During World War II, Klein was in the Navy for 4 years and then in the Naval Reserve for 16 years, retiring with the rank of commander. In his Navy service, he was attached to the aviation squadron at the New York Air Station as an officer in charge of a summer training program for 2 years.

He also served as Hudson County Boulevard Commissioner. He enjoyed the faith and confidence of thousands of people throughout Hudson County.

Determined to serve the public, he for 15 years fought a condition which forced him to receive dialysis treatments several times a week.

A mass will be said Friday at 10 a.m. at St. John Neopmucene Church, Guttenberg. Entombment will follow in Madonna Mausoleum, Fort Lee.

I extend my deepest sympathy to his wife Marion (nee McCoy), and his children Marilyn and Thomas G., and his brother George. He was the loving grandfather of Jennifer and Christopher.

Many tributes have been received regarding Dr. Herman Klein, educator, civic leader, veteran, and patriot. Community leaders are joining me in this tribute.

Mayor Stanley Iacono said, "On behalf of the Wehawken Township Council, we send our sympathy to his family."

North Bergen Mayor Anthony DiVincent referred to Klein as "my good friend for over 35 years whose passing saddens me. My family sends our condolences to his family whom we have known for so long."

West New York Mayor Anthony M. De Fino said, "The man struggled with dignity and honor while suffering with a condition that would stop a 20-year-old man. He has to be admired. He was a consummate administrator and politician and, although in the last year we were not in agreement, I had the greatest respect and admiration for him."

Robert Sabello, executive director of the town housing authority, said Klein "had a deep respect for the offices he held and the people he served. We lost a most outstanding public official, endowed with a strong sense of dedication. He was, in the opinion of many in Guttenberg, a most extraordinary man. For 35 years as our mayor and municipal chairman he was our ultimate determinator, a fine leader and motivator. Born in Guttenberg, he came from the people, and understood their hopes and aspirations. Faithful in all he did as our mayor, he put the best interest of his town before everything."

Secaucus Mayor Paul Amico called Klein "an exceptionally fine person of great spirit. I can't say too much about him. It's a great loss for Hudson County."

Union City Commissioner Mrs. Rhyta Musto said, "He was a lovely man who was fortunate to have a loving wife (Marion) who took care of him all the time. He was strong physically and mentally."

Mayor Arthur Wichert called Klein a dedicated public offical who will be missed.

Flags will be at half staff and town hall will have bunting on its walls in Guttenberg today.

Herman Klein indeed leaves us his legacy of gifts; namely, the gift of praise, the gift of consideration, the gift of gratitude, and the gift of inspiration.

He believed that he would win the friendship of people only by working beside them, human to human, toward goals that understood and sought themselves. His instrument for this was brotherhood, courage, love, hope, and prayer.

Herman Klein's philosophy was that no good thing is failure and no evil thing success. He believed that while it is hard to fail, it is worse never to have tried to succeed.

He enjoyed the riches of scholarship and often said that while we can read poetry and recite poetry, we must live poetry—for that is the symphony of life.●

IN HONOR OF THE BAY CITY CHAPTER OF THE SALVATION ARMY

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. TRAXLER. Mr. Speaker, I would like to bring to the attention of my colleagues in the U.S. House of Representatives the accomplishments of the Bay City chapter of the Salvation Army. The proud members of this dedicated service agency will celebrate their 100th anniversary this year.

Since their formation in 1883, the Bay City Salvation Army has helped countless individuals, families, and organizations in immeasurable ways. Particularly in these hard economic times, with unemployment running rampant, it is reassuring to know that the Salvation Army works unselfishly to help those who are in need and suffering.

It is my fervent hope that the Salvation Army has many more years of continued success and that their excellent example, which should be followed by us all, continues to underlie the importance of aiding those in need.

As this fine organization gathers with friends and supporters to celebrate their 100th anniversary, I think it is only fitting that we offer them our most heartfelt appreciation and thanks for a job well done. Please join with me in commending the Bay City chapter of the Salvation Army on its 100th year of success.●

IT'S WORKING IN NORTH CAROLINA

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. VALENTINE. Mr. Speaker, the recently released report by the National Commission on Excellence in Education is a scathing indictment of the direction our Nation has taken in recent years with respect to its domestic priorities. Certainly we must realize that the quality we bring to the education of our young people will determine the security and the quality of life in America's future.

I am proud that my State of North Carolina, under the able leadership of Gov. James B. Hunt, has taken the lead in preserving and often improving the quality of public education. A recent article in Newsweek outlines the Tar Heel State's substantial achievements in this area, and I ask that it be inserted in the RECORD as an inspiration to my colleagues.

IT'S WORKING IN NORTH CAROLINA

(By Gene Lyons)

If public education is a losing cause, the state of North Carolina seems not to have gotten the message. Motivated by a combination of tradition, popular will and strong political leadership, North Carolinians seem determined not only to make their schools do the job they were created to do but also to show the rest of the country that excellence in public education is not only possible, but entirely necessary.

The most visible symbol of the state's effort is the three-year-old North Carolina School of Science and Mathematics. Located in a onetime hospital donated by Durham County, NCSSM is a state-funded, public school (1983 budget: $3.3 million) that brings roughly 400 "gifted" 11th and 12th graders to its residential campus for courses of a kind and rigor that local schools in a mostly rural state can't afford.

Half the teaching staff at NCSSM hold Ph.D.'s and the rest master's degrees in their subjects. (The school can hire whom it wants regardless of state certification.) Students are chosen by a complex process involving more than just grades and test scores. Evidence of creativity helps; all successful applicants get interviews. Of North Carolina's 100 counties, 88 have students enrolled there; 45 percent are girls, 23 percent black (the state population is 26 percent black). Results? Last year NCSSM boasted 51 National Merit Scholarship finalists, second only to New York's Stuyvesant High School, which has 2,496 students. Of its first graduating class, nearly all won scholarships and advanced placement at prestigious universities.

RESOURCES

The NCSSM was pushed through the legislature by Democratic Gov. James B. Hunt, who has labored all but obsessively to convince voters that the well-being of the state will depend heavily upon educational improvement. The NCSSM's development officer H. Braughn Taylor credits the governor for making the public take seriously questions like "If China and South Korea are going to take over the textile industry, what are people in North Carolina going to do?" The governor himself points to the success of the Research Triangle—a 5,800-acre high-tech research and industrial park sponsored by the state and the three nearby universities—North Carolina State, Duke and the University of North Carolina at Chapel Hill. The park is a model of symbiosis; resident companies like IBM, Monsanto and TRW can draw on the resources of the three universities, and at the same time give the area the highest per capita income and growth in the state and unemployment as low as any in the nation.

North Carolinians have long taken pride in their public university system—generally recognized as the finest, cheapest (in-state tuition is $702 a year) and best organized in the South. President William Friday of the UNC System (incorporating all four-year public universities in the state) emphasizes that "North Carolina has enjoyed a succession of governors, beginning with Terry Sanford [now president of Duke] in the '60s, who have put education in the forefront. Nobody could run for public office now and fail to do that." Hunt, who spends one hour a week as a volunteer counselor at a Raleigh high school, thinks that educational discussion in America has too long been dominated—though for good reasons—by "fairness issues." "If you want to get people committed to excellence," he says, "you have to convince them that you're going to do it fairly and that you believe they can do it. There's an old saying in the South—'That child can't do." Well, they can all do . . . if you're good enough to teach them."

Rhetoric comes cheap, but North Carolina has enacted a series of common-sense reforms backed by adequate funding and monitored by a comprehensive statewide testing program, which enables citizens not only to see concrete results but to evaluate their own local schools.

Beginning in 1977 what is known colloquially as "the governor's reading program" has been phased into every first- , second- and third-grade classroom in the state. Among other things, it limits class size to 26 and provides each teacher with a half-time aide. By 1982 the average North Carolina second grader's reading score had risen almost a full grade level, five to seven months ahead of the national average. Similar gains have been made in spelling, language and math at all grade levels.

In 1978 the state began requiring students to pass a minimum competency exam to earn a high-school diploma. It tempered the shock with $15 million for remedial efforts and, in five years, has cut the failure rate from 11 percent to less than 2 percent.

The number of units required for high-school graduation was raised by adding an additional science requirement not long after UNC-Chapel Hill, whose lead other campuses usually follow, announced stiffer admissions and education requirements. "When we didn't require things like math and foreign languages, the message got out in the high schools to back off," says associate dean William Graves, "just take what you need to get in and do as little as possible. We expect that to change."

Even more impressive to anybody familiar with the dreary state of American teacher education is North Carolina's determination to find teachers who are good enough to teach its kids. The state enjoys almost unheard-of cooperation between the Department of Public Instruction, the State Board of Education and the UNC Board of Governors—entities in most places as friendly as cats, dogs and snakes. Would-be teachers are required to pass a licensing exam that eliminates the incompetent, and the teacher-education programs that trained them are subject to accreditation review if among other things more than 15 percent of their graduates fail the exam. "The day when education is a program you can just waltz through," says North Carolina A&T chancellor Edward Fort, "is gone forever."

Abysmal teacher education has long been connected to low salaries and the degraded status of what ought to be a richly honored profession. So nobody here is alarmed over the first likely effect of tougher teacher standards. "Maybe," muses state superintendent of schools Craig Phillips, "a teacher shortage becomes the way to hit people over the head with a stick." A shortage of teachers would make clear the need for higher salaries to entice talented people into the profession. UNC-Chapel Hill has under way a fellowship program generously financed by the Lyndhurst Foundation to lure promising liberal-arts graduates into public-school teaching.

HIGHER PAY

Like most states North Carolina faces a bad shortage of qualified science and math teachers: with more than 300 science openings statewide, fewer than 50 college students in training are likely to take them. "You *have* to do something about that," says State Board of Education chairman Dick Spangler, a construction executive from Charlotte. Spangler recently sent the local National Education Association group into low orbit by suggesting higher pay for teachers in such disciplines. "It has nothing to do with the quality of the person or the intrinsic importance of their subject," Spangler insists; "it's a matter of supply and demand." That such an eminently practical notion can be seen as a threat to teachers is one indication of how far we have yet to go. But in North Carolina, the journey has already begun.●

WHY REAGAN'S PLAN HAD TO DIE

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. SMITH of Florida. Mr. Speaker, I recently came across a column by John McMullan, executive editor of the Miami Herald, that gave an objective and cogent analysis of the current situation in the Middle East. I thought other Members might enjoy reading this column, particularly in light of Secretary Shultz's current trip to that region.

[From the Miami Herald, Apr. 24, 1983]

WHY REAGAN'S PLAN HAD TO DIE

(By John McMullan)

Ronald Reagan, who requires six hours by jet plane to traverse the vast country he heads, has never seen Israel, where crossing east to west by cab can be measured in minutes.

Nor has his Secretary of State, George Shultz, belatedly dispatched on a Mideast mission, ever met Israel's Prime Minister Menachem Begin.

Is it any wonder, then, that the Reagan peace plan for the Mideast, born out of unknowledgeable optimism rather than reality, now lies shattered, refused by both Israel and its foes.

In March 1969, Henry Kissinger, wrote to another President, Richard Nixon: "Everyone points out that we will be expected to deliver Israel in any negotiation. The Arabs assume—not only erroneously, but irrevocably—that we can make Israel do what we wish."

That is the enduring reality of the Mideast situation that both Presidents Reagan and Jimmy Carter before him thought the United States could ignore.

The United States cannot deliver Israel, but instead must accept Israel for what it is.

And these are the realities from Israel's point of view:

From the day of its birth in 1948, 35 years ago this spring, Israel has been under attack from enemies dedicated to its extinction.

It has not only survived, but won four wars—and in none of these was it the aggressor (although the Arabs would have you believe otherwise).

This tiny country, originally only 8,017 square miles, has seized 27,340 square miles of territory, of which 23,500 has been returned—a remarkable 85.9 per cent.

In giving up the Sinai last year, it seemingly solidified a peace pact with Egypt that grew out of the Camp David Accords. But part of the unspoken *quid pro quo*, in my opinion, was that this act of sacrifice would lessen the pressure to return the Golan Heights to Syria and the West Bank to Jordan, which Israel had taken in 1967.

For the past 16 years, since that 1967 war, Israel has been racing against time in settling the West Bank by buying land from Arab landowners, claiming public lands, and offering inducements to Israeli families to perform a patriotic act of resettling. Israel's actions may be high-handed and illegal from the rest of the world's standpoint, but most of the little nation's own leaders sincerely believe they have historical justification plus the pragmatic need to survive.

Arab nations will do anything for the Palestine Liberation Organization (PLO) except provide a home for Yasser Arafat and his followers. Did Mr. Reagan and Mr. Shultz really believe that Arafat would accept King Hussein, the very man who kicked him and his followers out of Jordan in 1970, as the PLO's representative in peace negotiations?

At best, that was a fundamental miscalculation. At worst, it was a sign of monumental ignorance of the forces and men involved.

From the United States' standpoint, of course, the short-term realities that seem to govern so many of our actions are quite different.

Unfortunately for Israel, it has no oil—having returned to Egypt the oil field it developed in the Sinai. Meanwhile, the United States still needs 611,000 barrels of oil per day—about 13.8 per cent of its requirements—from the Arab nations that are Israel's foes.

Also unfortunately for Israel, there are U.S.-made munitions to be sold to the world as we attempt to combine the schizophrenic roles of peacemaker and arms merchant.

And so we play the role of double agent, selling munitions to the sworn enemies of a friend in exchange for the oil we need.

Fear not, we console our friend, we will sell you better weapons than we sell to your enemies so that you will always be superior in battle. Meantime, we suggest, why don't you agree to return more of the land you need for your own security and trust us for your protection? Trust us, trust us.

Time and trust are running out on that dual role. In its attempt to play both sides, the United States has left both Israel and its foes sharing the confusion that emanates from Washington.

Would that Mr. Reagan were also visiting Israel. Let him visit the Golan Heights and see how easy it was for Syrian snipers to pick off Israeli workers in the Finger of Galilee. How quickly Syrian planes and tanks could strike from that vantage point.

Let Mr. Reagan see for himself how vulnerable are Jerusalem and Tel Aviv to Palestinian attack if Israel does not control the West Bank.

Then perhaps he will understand the desperate need for the "secure and safe borders" promised Israel so many times, and the unrelenting resolve of Menachem Begin.

Palestinians, too, deserve the opportunity to create a homeland. They had that chance along with Israel 35 years ago, but chose to attempt the extermination of a fledgling nation rather than to create their own.

Across the Jordan River that opportunity could still exist, in a nation already predominately Palestinian.

It's time that U.S. Presidents, from Carter to Reagan, recognize that Israel seeks to retain only the lands it needs for survival in a hostile Mideast.

The long-term reality is clear. Israel is still the only nation in the Mideast that shares our democratic philosophy and principles of conduct. When the real crunch comes, it will be our only true friend.●

ASSOCIATION OF TORRANCE SCHOOL ADMINISTRATORS HOSTS 12TH ANNUAL EMPLOYEES RECOGNITION BANQUET

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. ANDERSON. Mr. Speaker, on May 13, 1983, the Association of Torrance, Calif., School Administrators will host its 12th annual employees recognition banquet to honor its retiring and long-time employees. This banquet gives the Torrance Unified School District and its many supporters an opportunity to express appreciation to these employees for a job well done.

The efficient operating of a school district is becoming an increasingly difficult task. School district employees across our Nation have exchanged a formerly passive approach for one that is more actively concerned with family and community decisions which significantly affect our children. The nature of the profession asks that the employee wear several hats while being paid for only one. The employees are called upon at times to be family counselors, police, arbitrators, crisis managers, athletic directors, lobbyists, and surrogate parents in order to produce students who will contribute to our society. This is an enormous task, which calls for only the most dedicated individuals. If there are any services that hold our society together in these uncertain times, we can be sure that the efficient running of a school district rates highly among them.

Mr. Speaker, it is my privilege to acknowledge each of these employees for their commitment to further improving our fine educational system.

The 30-year employees are: Geraldine P. Anderson, Betty J. Hardesty, John F. Leyman, John P. Marin, and J. E. Reed.

The retiring employees are: Louis L. Davis, Dorothy J. Kalvin, Layland Petersen, William B. Salby, Jo Anne Allenbaugh, James H. Isaacs, Charles R. Rice, Mary K. Specht, Maybelle E. Agren, Knud L. Sorensen, Richard Buckman, Celia Van Anda, Joyce Muskett;

Alice V. Branner, Helen M. Condit, Robert E. Fulton, Marcella M. Holland, Erwin W. Kreeger, Dora A. Marjala, Betty I. Massie, Bamma K. McGhan, Mary C. McGiffin, Helen F. McGuirk, Louise Miller, J. E. Reed, Don Sturges, Clyde R. Crowell, George A. Dahlke, Evelyn N. McGaugh, Frederick E. Reis, Alfonso Ocampo, Evelyn M. Wudzke, Margaret R. Bergeron;

Lyda R. Sikkema, Ronald E. Thomas, Irene S. Thornton, Carolyn L. Vaughan, Maurice W. Wilson, Rozella C. Wood, Lucille Buffalo, Christella F. Stevens, Wesley P. Peterson, Lorraine J. Peshel, Alice L. Kuehnel, Helen T. Tourigney, Mary E. Hodge, Carol G. Andersen, Robert I. Blevins, John W. Linder, Dorothy L. Caldwell;

Richard L. Anderson, Walter W. Buettgenbach, Martha Dalton, Norma W. Fonti, Russell J. Granata, Lillian W. Hinton, Lynn C. Hood, Dorothea Hodgkinson, Rosemary G. Sharrow, Josephine M. Ray, Philip Korman, Norma L. Muesing, Charlotte W. Nushy, John M. Nushy, George E. Papadakis, Chester Ray, Doris W. Schier, Guy E. Sherod;

Fernando H. Meras, Betty B. Harrison, Laura M. Ludwig, Leonard Priestley, Raymond E. Scharf, Raymond E. Webber, Irene B. Embrey, Olive V. Norberg, June A. Monroe, Helen M. Pritchett, Wilma T. Coy, June S. Duncan, Francis McCrosson and Betty L. Lee.●

SISTER M. CARMELINA, D.M., GOLDEN JUBILEE

HON. FRANK HARRISON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. HARRISON. Mr. Speaker, on May 22, Sister M. Carmelina, D.M., will celebrate her golden jubilee in the Daughters of Our Lady of Mercy.

Sister Carmelina was born in Imperia, Italy, on August 5, 1916, the daughter of Carmelina Alberti and Francis Gandolfo. In September 1931, she became an aspirant in the Daughters of Our Lady of Mercy, in Savona, Italy. In September 1932, she was admitted to the novitiate as a postulant. On March 17, 1933, Sister Carmelina received the habit and on March 18, of the following year made her first profession of vows.

In October 1935, Sister Carmelina came to the United States, studied English and received her diploma at York Catholic High School. Thereafter, she furthered her studies and received a degree from College Misericordia in Dallas, Pa.

In 1943, Sister Carmelina became a citizen of the United States.

Over the years, Sister Carmelina has served in many dioceses as a teacher. For the last 22 years, she has served in Hazleton, Pa., at Most Precious Blood, Our Lady of Grace, and Our Lady of Mount Carmel.

Sunday, May 22, will be a day of rejoicing and celebration in the Most Precious Blood Church of Hazleton. Sister Carmelina's golden jubilee will be observed with mass at 4 p.m. and, immediately following, Sister Carmelina will be honored by a reception in the Monsignor Molino School Gymnasium.

It is an honor for me, Mr. Speaker, to join with the parishioners of Most

Precious Blood and, indeed, with the entire Greater Hazleton community in congratulating Sister M. Carmelina Gandolfo, D.M., on 50 years of magnificent service to God and man as a member of the Daughters of Our Lady of Mercy and to wish for her many, more happy and blessed years.●

A SALUTE TO CONGRESSMAN HENRY GONZALEZ

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. WON PAT. Mr. Speaker, I am pleased to join with my colleagues in saluting my good friend, Congressman HENRY B. GONZALEZ, on his 30th anniversary to public office. Few men have so many friends in the House as does HENRY GONZALEZ, and I am privileged to be among those who have had the opportunity to work with this effective leader and outstanding American.

Congressman GONZALEZ first came to public office in 1953 as mayor pro tem of the city of San Antonio, Tex. Three years later he was elected to the Texas State Senate and he has served in the House since 1961. Through the years his endless energy and talents have brought him many rewards and honors, all of which have been richly deserved. And today, he serves as the distinguished chairman of the Subcommittee on Housing and Community Development where he has been a recognized national leader in working to improve the condition of the American housing market.

On behalf of the people of Guam, I am very pleased to salute HENRY on this occasion and to also take note of his 67th birthday on May 3. He is a good friend and I am proud to state for the record that Congressman GONZALEZ has always been ready and willing to do his best to lend a helping hand whenever his fellow Americans in Guam have been in need of his support or advice. He understands the problems of those Americans who look to the Federal Government for assistance and, as his voting record shows, he has never been one to close his door to anyone in need.

While I do not know what the future plans of Congressman GONZALEZ may be, I do hope that this body and I will continue to be privileged to work with this warm and wonderful man for many years to come. He brings to his duties a high sense of responsibility which in turn has been reflected in the unwavering quality of legislation passed out by his subcommittee. The people of the 20th District of Texas, this Nation, and I are most fortunate to have a man of this dedication to duty, serve the public. As a friend and colleague, I thank HENRY for these qualities and wish him a very happy birthday. Thank you.●

"PROJECT PULCHRITUDE"—TRIBUTE TO THE AMERICAN SPIRIT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. DINGELL. Mr. Speaker, in these hard economic times, it is, indeed, a pleasure to recognize individuals and groups who, with courage, determination, and optimism, have successfully nurtured their faith in the American dream and exemplified the strength of the American spirit. Despite troubles and hardships, these people have resolved that, together, we can create a prosperous and healthy economy, putting Americans back to work, saving American businesses, and investing in the future of our children. I am proud to represent such a group of communities in the 16th Congressional District of Michigan.

In the Downriver area, which has been disastrously impacted by the economic recession, the citizens harbor an undaunted faith in the ability of our Nation to weather these economic storms. This spirit and determination will be clearly illustrated on May 7, when 16 Downriver communities will join at Young Patriots Park in Riverview, Mich., to celebrate civic pride and camaraderie. "Project Pulchritude," sponsored by Say Yes to Downriver, Inc., includes a massive, simultaneous cleanup of 16 communities, followed by a joyous picnic and outdoor celebration. Local businesses have joined together in contributing foods, beverages, and picnic supplies, and senior citizens are donating some 200 dozen homemade cookies.

I am pleased to recognize this effort, and to honor the Downriver communities for this commendable display of strength and unity during these troubled times. With thousands of workers in the Downriver area laid off from factory, retail, and service jobs, "Project Pulchritude" represents well the indomitable spirit and hope of the American people.●

THE FORGOTTEN CHILDREN

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. TORRICELLI. Mr. Speaker, in the aftermath of the debate on social security, one issue still remains unresolved. There are approximately 5 million children whose parents paid into the social security system with the understanding that their survivors would continue to receive benefits until age 22 if they attended post-secondary school. Because of the policies of the Reagan administration these benefits will now be cut off at age 18. The Congress must not turn its back on these children.

Aaron Braverman, chairman of Save Our Children's Security, has written a letter that was published on February 24 in the Bergen Record. It is a well-thought-out explanation of the problem and a plea for the future of these forgotten children. I hope that each of my colleagues will read his letter and work toward correcting this terrible injustice.

[From the Bergen Record, Feb. 24, 1983]

LETTERS: THE FORGOTTEN CHILDREN

Editor, The Record:

In the current debate about Social Security, the children of the deceased, disabled, and retired have become the forgotten people of America. No mention is made of them in the report of the National Commission on Social Security Reform, and the politicians and media have ignored them as well. These children should not be forgotten or forsaken.

I write of roughly 5 million kids whose parents paid into the Social Security System with the understanding that their survivors would continue to receive benefits until age 22 if they attended a post-secondary school. Thanks to President Reagan and a docile Congress, Social Security benefits are now cut off at age 18. Those who were in college prior to May 1, 1982 (roughly 800,000), continue to receive a sharply reduced benefit, which will be phased out completely by 1985. Another 250,000 high-school seniors lost their benefits entirely unless they were in college by May 1, 1982. Another 4 million children will never get the benefits at all.

In August 1982, Sen. Carl Levin, D-Mich., and our own Sen. Bill Bradley tried to extend the cutoff from May 1 to Oct. 1, 1982. This failed by only five votes in the Senate, with opposition coming mainly from the Republicans.

SOCS, Save Our Children's Security, continues to fight for the restoration of the student Social Security benefits. I have received hundreds of letters from parents and students in almost every state who have been hard put by this loss.

Opponents say that these benefits are not necessary because of the federal college grants and student loans. The fact is that the Reagan administration has cut back on these programs and wants to eliminate Pell grants and other programs to help students.

Fighting back does help. A group of widows of men killed in Vietnam persuaded Congress in December to restore their children's student Social Security benefits through Defense Department funding. They were able to prove that the payments were an integral part of the deal the government made with their husbands. We believe that Uncle Sam has reneged on his promise to all of us.

We are talking about a modest amount. The impact of student benefits are minimal now. It would probably cost more in the 1990's, when the Social Security System will have a surplus. In the meantime, a compromise could be found for a long-term phasing out of the benefit, if necessary. When you consider the billions of dollars being wasted by the Defense Department, this is a small price to pay for America's future—her young.

We of SOCS realize that now, while Cogress is working on the Social Security reforms, may be our last chance. This is why we are hiring a lawyer-lobbyist in Washington to fight for us, and we are asking people who support us to get in touch with SOCS at 131 Albright Lane, Paramus, N.J. 07652.●

THE JEWISH WAR VETERANS STORY

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. DONNELLY. Mr. Speaker, the following article was recently printed in Roll Call, the official newsletter of the Quincy, Mass., Jewish War Veterans Post No. 193. It is more than the history of the national JWV organization, it is a lesson in American history that we would all do well to keep in mind.

THE JEWISH WAR VETERANS STORY

In 1654, Asher Levy, one of the original twenty-three Jewish settlers in New Amsterdam, demanded and secured for himself and fellow Jews the right to stand guard at the stockage. From Colonial times to the present, Jews have played an important part in the defense of the United States of America. On July 31, 1776, Francis Salvador, a plantation owner from South Carolina, was killed in a British incited Indian skirmish. He was the first Jew killed in the Revoluntary War. One hundred and eighteen years later, in 1896, a group of Jewish Civil War veterans organized the Hebrew Union Veterans, an organization that was later to become the Jewish War Veterans of the USA. The Hebrew Union Veterans was founded as a direct result of slander and insinuations that Jews had not participated in the military during the War Between the States.

What concerned Jewish veterans then and throughout America's development, concerns the Jewish War Veterans today. Jews must still defend themselves against the slanders of anti-Semites who continue to spread the lie that Jews have not served in the armed forces of their country.

Thousands of Jews have died in combat for their country and thousands more have been awarded combat medals for the performance of their duty in time of war. In spite of this record, the bigots continue to spread their lies.

A study of Jewish participation in the military during World War II indicates very clearly that Jews served in the Armed Forces beyond their numerical proportion to the general population. They received more than 52,000 awards, including the Medal of Honor, the Air Medal, the Silver Star and the Purple Heart. More than 51,000 Jews were listed as casualties; 11,000 died in combat.

Today, the Jewish War Veterans of the USA combats anti-Semitism in all its forms, carries on an extensive program committed to upholding America's democratic traditions, and fights bigotry, prejudice, injustice and discrimination of all kinds. As a national veterans' organization, the JWV implements programs related to American foreign policy, civil rights, defense spending, national security, veterans' benefits, etc. The Jewish War Veterans is also deeply concerned about the condition and status of fellow Jews throughout the world and commits itself to the assistance of oppressed Jews worldwide. Another primary concern is the security and well-being of the State of Israel, and the relationship between it and the USA. The JWV is the only national Jewish organization that can effectively lobby without restriction in Congress on all issues of concern, because of its status as a veterans' organization.

Through its hospital, rehabilitation and veterans' service programs, JWV assists the veteran and his dependents in many ways. It maintains Veterans' Service Offices, staffed by professionals, in major cities throughout the country.

JWV also supports and raises money for the Israeli Military Rest and Rehabilitation Home in Beersheba, Israel.

JWV supports the Boy Scout organization, provides summer camp scholarships for underprivileged children, provides college scholarships for promising high school students, and through its local posts, undertakes a variety of civic betterment projects, including the building of low-cost, federally-subsidized senior citizen housing.

The Jewish War Veterans of the USA represents a proud tradition as the oldest active veterans' organization in America.●

MORE ON THE NATIONAL EDUCATION ASSOCIATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. McDONALD. Mr. Speaker, even the Washington Post is a little upset about the direction of the National Education Association and some of its newer study guides on controversial subjects. The Post made its views known in an editorial on April 5, 1983, entitled: "Political Teaching."

If one wonders why such strange materials are coming from the NEA, then I commend the report on disbursement of funds by the NEA and listing of its stands on political questions as discussed in the American Sentry Report of April 15, 1983.

Both items are being placed in the RECORD for the edification of Members wishing to learn more about the doings of the National Education Association.

[From the Washington Post, Apr. 5, 1983]

POLITICAL TEACHING

One of the functions of the National Education Association, a professional organization and union of 1.7 million educators, is to prepare materials for classroom use by teachers. In the past, these have been on the order of manuals on how to improve the teaching of arithmetic, or the motivation of students. Within the last year, however, NEA materials on more controversial subjects have been developed. These include a proposed curriculum on the Ku Klux Klan, one on extremism in American life and another on nuclear disarmament. The materials on the dangers of atomic war were prepared with the assistance of the Union of Concerned Scientists, for use in junior high schools. Because both the NEA and the UCS have been leaders in the movement for a nuclear freeze, questions have been raised as to whether the proposed curriculum is biased.

Last fall, the materials were tested by 47 teachers across the country. One has stated that because nuclear war is wrong, the materials are justifiably biased in favor of nuclear freeze. But it is exactly this kind of leap of reasoning that should concern parents. Some changes in the program were made after the trial period and perhaps in response to a critical article in Human Events magazine. There is now, for example, a section on the alternatives President Truman faced when he decided to drop the first atomic bomb. This factual statement is in a unit concentrating on the devastation wrought by America's action, including frightening accounts of survivors who were themselves junior-high-school age in 1945.

The materials stress the cost to the American economy of the arms buildup—though no information is given on Soviet expenditures for weapons—but the figures are questionable. The children are told, for example, and the information is reinforced by a test question, that we devote more of our budget to military programs than to social programs. In fact, a cursory glance at the pie chart in the front of the budget document shows that while defense gets 29 percent of the federal dollar, benefit payments to individuals account for 42 percent, and grants to states that include welfare and Medicaid payments are another 11 percent. In comparing the relative strength of American and Soviet nuclear forces, the materials show us far ahead of the Russians. The matter is surely debatable, but arguments to the contrary are buried in a reprinted article in the appendix.

At the conclusion of the course, children are urged to write to their elected representatives about nuclear war, to ascertain and publish the location of defense plants, research and development facilities and military bases in their area (why?) and to collect signatures to place a referendum question on the ballot concerning nuclear policy.

This is not teaching in any normally accepted—or for that matter, acceptable—sense. It is political indoctrination.

[From the American Sentry Report, Apr. 15, 1983]

NEWS BRIEFS

Educational boondoggle brewing: the Sentry has been a long-time champion of local control of education (and almost everything else). It is therefore distressing to see the National Education Association (NEA) stepping up its efforts to further damage the learning process in America.

It is unfortunate that many of the members of this ultra-liberal union, boasting 1,700,000 on its rolls, do not really know what the national leadership is trying to do. President Reagan promised during his 1980 campaign to shut down the Department of Education. That pledge so far remains unfulfilled. Far from shutting down the dpeartment, the NEA's plan will call for greatly increasing the power of the Washington Educational Bureaucrats.

Taxpayers are already pumping $14 billion annually into the DOE and getting nothing in return except over 1500 pages of new federal regulations to further restrict the freedoms of parents and local school authorities. (Never did I think it possible for me to loathe a word as much as I have come to revile the term "regulations." I am fundamentally committed to law and the belief that apart from lawful regulations there is no freedom, but the non-elected bureaucracy has created an overwhelming mass of pseudo-laws which threaten to undermine all respect for true law and social order. We are building the base for anarchy in America. I pray God will spare us that additional burden of ugliness and horror.) the real goal of the NEA is to establish an absolute federal monopoly over education in the United States.

Make no mistake—this is a powerful group! They were possibly the largest single factor in giving us James E. Carter for President. Carter then created the giant Department of Education for them in what syndicated columnist Richard Reeves called, "the largest political pay-off in American history."

More recently it turns out that the NEA Union supported more than half of the U.S. Congressman who are currently elected. 222 out of 435 members of the United States House of Representatives need to be nice to the NEA! Chances for finding a legislative harness for the NEA is therefore about nill.

The NEA annual budget is about $250 million . . . ten times the budget of the AFL-CIO! NEA past executive director Terry Herndon has summed up their long-range goals quite well: "We want leaders and staff with sufficient clout that they may roam the halls of Congress and collect votes to re-order the priorities of the United States."

Our great deceased champion Congressman John Ashbrook put it well when he said, "An integral part of the NEA design is to syphon ever more control of public education from the grass roots to Washington, closer to its own powerful lobbying influence, farther from the parents and taxpayers who elect the school boards and pay the bills."

What are some of the positions the NEA has taken? What do they believe in and what are they willing to fight for? If they want to "re-order the priorities of the United States," what will those new priorities look like? The following will be helpful in answering these and other questions you may have.

The NEA supports forced busing of school children.

The NEA supports abortion and the ERA.

The NEA supports Decriminalization of marijuana possession.

The NEA supports avowed homosexual teachers for grade school and high school.

The NEA opposes voluntary prayer inside the school.

The NEA opposes the teaching of Biblical creation to students.

The NEA, "the militant left-wing union that represents thousands of teachers in the public schools, has developed a curriculum on nuclear war for Junior High School students that is designed to create a new generation of anti-nuclear activists."—Human Events, 12/25/82.

The NEA demands that all future officials of the Department of Education be approved in advance by the Union!

They voted to support an immediate U.S. Nuclear arms freeze, even though the Soviet Union continues to build a massive nuclear arsenal.

They voted for the immediate cutoff of aid to the anti-communist government of Guatamala, thus supporting the aims of the Marxist government in Nicaragua.

They want teachers of sex education classes to be "legally protected" from censorship and lawsuits. (Kind of makes you wonder just what these sex education teachers are planning on teaching, doesn't it?)

Not to be outdone by their NEA creators, the boys over at the Department of Education have managed to compile their own nasty record for supporting leftist causes. Here is a partial but revealing list of some of the politically liberal groups that have received grants from the DOE.

Group	Date	Amount
American Friends Service Committee	June 30, 1981	$64,923
Bay Area Bilingual Education League	Sept. 30, 1982	72,454
Council on Interracial Books For Children	July 1, 1981	141,087
Feminist Press	July 2, 1981	64,635
Feminist Press	July 30, 1981	131,114
International Ladies Garment Workers Union.	July 31, 1981	137,267
League of United Latin-American Citizens	May 31, 1981	1,237,600
Mexican-American Legal Defense and Education Fund.	June 25, 1981	115,573
NOW Legal Defense and Education Fund	June 30, 1981	170,178
NOW Legal Defense and Education Fund	Sept. 18, 1981	105,577
National Student Educational Fund (arm of United States Student Association).	Feb. 27, 1981	86,428
National Student Educational Fund	June 25, 1981	117,411
PUSH-EXCEL (Jesse Jackson)	Sept. 30, 1981	656,664
Planned Parenthood/San Francisco	Aug. 1, 1981	110,364
United States Student Association	July 31, 1981	55,284
Urban Coalition	Aug. 28, 1981	46,935
Women's Action Alliance	June 30, 1981	136,807
Working Women (National Association of Office Workers).	Apr. 27, 1981	82,202

It should come as no surprise that the battle for America is being won by the other side. The conservative movement must fund every battle with hard-earned Federal Reserve Notes from our own pockets . . . purchase every victory with poured out blood, sweat and tears. The leftists, on the other hand, have a bottomless treasure chest of war funds given to them unceasingly by "Uncle Sugar" down in Washington! This has got to stop!●

COVERT ACTION IS NOT IN OUR NATIONAL INTEREST

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Ms. KAPTUR. Mr. Speaker, our colleague, Representative LEE HAMILTON from Indiana, wrote a cogent article concerning U.S. policy in Nicaragua, which appeared in the Washington Post on May 1, 1983. President Reagan's attempt to win congressional support for his Central American policies should be analyzed with Representative HAMILTON's discussion of covert action in mind. I commend this excellent article to the attention of my fellow members.

[From the Washington Post, May 1, 1983]

THE CIA AND NICARAGUA: COVERT ACTION IS NOT IN OUR NATIONAL INTEREST

(By Lee H. Hamilton)

Two key question have emerged in the congressional debate on the reported covert action the United States is conducting in Nicaragua: Is such a covert action legal? Is it good policy? While the arguments on the first of these questions are inconclusive, the second question can be answered definitely. Covert action in Nicaragua, at least for the purpose of destabilizing or overthrowing the Sandinista regime, is not in the national interest of the United States.

There are really two legal arguments.

The first arises from the Boland Amendment, passed last year, which states that no funds "may be used by the Central Intelligence Agency or the Department of Defense to furnish military equipment, military training or advice or other support for military activities, to any group or individual not part of the country's armed forces, for the purpose of overthrowing the government of Nicaragua or provoking a military exchange between Nicaragua and Honduras." The Reagan administration argues that it is not breaking this law because it is not its aim to overthrow the Nicaraguan government, even though this may be the purpose of the groups to whom assistance reportedly is being provided. But it is a fine point whether such an argument can be sustained when everyone knows what these groups have in mind. Until the last few days, their military leaders have been quite open about their intention to "liberate Nicaragua."

The second legal argument is derived from Article 18 of the charter of the Organization of American States, of which the United States is a signatory. The article says that "no State or group of States has the right to intervene directly or indirectly for any reason whatever in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic and cultural elements." The Reagan administration argues that it is not violating this treaty provision because it is acting in self-defense. If it means the defense of the United States, the argument makes little sense. If it means the defense of El Salvador, no argument at all is presented.

The Reagan administration also contends that the treaty provision is vague and therefore must be understood in the context of all other international obligations of the United States, some of which may conflict with it. Missing from this contention is a convincing presentation of the conflicting legal requirements.

Whether a covert action is good policy is the more important question.

The interdiction of arms bound for El Salvador is the only explicit justification the Reagan administration has offered for a covert action. There is no doubt that arms are going to the Salvadoran guerrillas through Nicaragua, though there is disagreement about the volume of the flow. It is quite appropriate to attempt overt interdiction of these arms within El Salvador itself or within Honduras, provided that the respective governments give their permission. At present, however, it is undesirable to attempt covert interdiction within Nicaragua simply because the disadvantages of such an operation outweigh the advantages. There is little reason to suppose that our assistance could be limited to this purpose in the present circumstances. Moreover, a covert action is certainly not perceived in the region as an effort to block a flow of arms. Given this perception, the fact that our reported assistance may be limited to interdiction becomes less significant.

Several points can be made against a covert action whose perceived goal is the destabilization or overthrow of the Sandinista regime.

1. A covert attempt to oust the Nicaraguan government will not succeed.

One lesson of the Bay of Pigs fiasco is that even if there is domestic opposition to a revolutionary regime, as there was to Fidel Castro's, small-scale American intervention will be of no avail if it is perceived as a call for return to the old order. Advances in communications and reporting have only served to solidify this principle. The Reagan administration argues that the rebels in the north of Nicaragua are not correctly characterized as ex-*Somocistas*, but whether it is fact or fiction they are generally perceived to be sympathetic to the former Somoza regime.

2. A covert action is counterproductive.

The opponents of the Nicaraguan government within Nicaragua will not be able to make much headway as long as the Sandinistas can rally the people behind fear of "the devil to the north." The Sandinistas now rationalize their progressively pro-Cuban orientation and their suppression of freedoms at home as necessary responses to "Yankee imperialism." This is one reason that the Nicaraguan church, the private sector and other democratic elements have urged that covert action be stopped. These Nicaraguans need to prove that opposition to the Sandinistas does not entail the return of the Somocistas.

3. Even if a covert action succeeds, the gain to the United States is uncertain.

By toppling the Sandinistas and installing the rebels, we would thwart Cuban and Soviet short-term plans for Nicaragua, to be sure, but how durable would be a government built on the reassembled remnants of a military organization to the Nicaraguan people themselves smashed and expelled from the country just a few years ago? Is it really plausible to believe that such a government would have or eventually could win the trust and allegiance of the Nicaraguan people? The presumption is against a policy that ignores the principles of self-determination and national sovereignty.

The uncertain value of success raises a further question about the policy behind a covert action. The basic sources of insecurity in Central America are mainly internal, socioeconomic ones. The external sources of instability, while important, exist in large measure because of the interal ones. Since the reported covert action has now become highly visible, it conveys the impression that the United States is concentrating its primary attention in the region of a military response to the spread of communism, not on measures to deal with social inequality and economic deprivation. But if the United States appears to be preoccupied, and ultimately is preoccupied, with the military response alone, it will not solve the underlying problems of the region and will not check the advance of communism in the long run.

4. A covert action risks a wider war.

One risk is that limited intervention suddenly might spiral out of control. Covert action on behalf of Nicaraguan insurgents is difficult to control because the insurgents' purposes are not ours. Another risk is trouble with Honduras. The Nicaraguan people are now hearing of five to 20 deaths on their northern border every day. At some point, pressure to take direct military action against Honduras might become too strong to contain. Either of these developments might be followed by a Nicaraguan call for more Cuban and Soviet military aid, and possibly for Cuban military units. This in turn could provoke a vigorous American response. A major war on Central American soil would be a calamity for victor and vanquished alike.

5. A covert action makes it more difficult for the United States to support regional initiatives whose aim is to secure a negotiated peace and a withdrawal of foreign military advisers.

In January, Colombia, Mexico, Panama and Venezuela met and issued a document that called for "putting an end to the support . . . of former Somoza guards." These countries deliberately failed to invite the United States, a nation whose apparent commitment to a military solution undercuts their search for a political solution. The United States has a long history of military involvement in Central America, and many of its Latin American friends see the reported covert action as another example of interventionism. They wonder how the United States can reconcile it with its claims to favor dialogue with Nicaragua.

6. The ramifications of a covert action outside the region are disturbing as well.

The Soviets have been handed a propaganda advantage, which they will use against the United States in the battle for the "hearts and minds" of Europe. Already when Americans talk about Poland and Eastern Europe, Europeans talk about Nicaragua and Central America. France, Spain and Greece have condemned covert action outright. The advantage ceded to the Soviets is evident at the United Nations and among the nonaligned countries.

The reported covert action, widely acknowledged but officially denied, holds the American government up to ridicule and charges of official deception. It makes the legitimate covert activity of the Central Intelligence Agency more difficult to carry out, and it saps public confidence in the agency.●

SOCIAL SECURITY AMENDMENT

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. FRANK. Mr. Speaker, at the recent Democratic State Issues Convention held in Springfield, Mass., the delegates adopted an amendment to the Massachusetts Democratic platform which strongly reaffirms the need for Federal policies which recognize the right of our older citizens to live in dignity and security. In light of the recent attacks that have been made on programs which recognize the contribution older people have made to America, I think it is important that this clear statement of principal be shared with the Members. Pending before Congress now are particularly harsh proposals which President Reagan has made which would force older people who have to be hospitalized to pay much more than they currently have to pay in such circumstances. The platform amendment drafted by Mr. Frank Manning and Mr. Albert Norman object strenuously to this proposal. Mr. Manning and Mr. Norman's amendment also point to the current inequitable financing of the social security system and make specific suggestions for improving the equity of that financing. I ask that their amendment, as adopted by the Massachusetts Democratic Issues Convention, be printed here.

SOCIAL SECURITY AMENDMENT

[Language drafted by Frank Manning, Legislative Council of Older Americans and Albert Norman, Greenfield Delegate to the Issues Convention]

Article II, section IV, "Rights of Senior Citizens" is hereby amended by adding after section 7, the following new section:

8. Historic legislation addressing the solvency of the Social Security system has been passed by Congress, but issues of importance to all workers and retirees still remain.

We Support:

(a) Continuation of full Medicare benefits for all eligible retirees. We reject the Reagan proposal to force beneficiaries to make steep "co-payments" towards hospital costs.

(b) Making the Social Security payroll tax more progressive by raising scheduled increases in the taxable wage base, so that upper income workers no longer have large amounts of untaxed income.

(c) Extending beyond one year the federal income tax credit for low income workers to offset their increased payroll taxes, thereby further infusing general revenues into the system.

(d) Restoring the normal retirement age to 65 instead of 67, or allowing full benefits at age 65 to workers, who because of health limitations or due to lack of work, are unable to remain in the work force till age 67.●

TRIBUTE TO DR. BARTON W. WELSH FOR CONTRIBUTIONS TO VOCATIONAL EDUCATION

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. ANDERSON. Mr. Speaker, in the wake of the National Commission on Excellence's report delineating the "rising tide of mediocrity" supposedly prevalent in our educational institutions today, I would like to call attention to an exception to this very disturbing assessment of education in the United States by introducing our colleagues to one of California's finest educators, Dr. Barton W. Welsh.

Barton is the outgoing superintendent of the Southern California Regional Occupational Center (SCROC), the State's largest regional occupational center. He is considered by his peers to be amongst the most creative, assiduous, and devoted educators in his field. The innumerable contributions to the realm of vocational education made by him during his 9-year tenure as superintendent of SCROC transgress local, State, and National bounds.

Mr. Speaker, Barton also has done that which the National Commission on Excellence in Education recommends all educators do: He has furthered his academic qualifications in order to further academic excellence in the classroom. He holds bachelor of arts and master of arts degrees from California State University at Los Angeles, and an educational doctorate from the University of California at Los Angeles. His knowledge and expertise have furthered the cause of excellence in the Excelsior Union High School District, the Bonita Unified School District, the Norwalk-La Mirada Unified School District, and at Cerritos College and the California State University at Long Beach.

I feel both happiness and deep sorrow as a result of a recent announcement that Barton will be leaving the State of California next month to assume the position of superintendent of schools for Lyon County, Nev. California will be at a loss, and those of us who have had the pleasure of knowing and working with Barton know this all to well. Concomitantly, we may hold every confidence that his achievements will continue to transcend individual State boundaries. In this spirit, my wife, Lee, joins me in wishing Dr. Barton W. Welsh every success in his new position and in the years ahead.●

TRIBUTE TO THE VOLUNTEER ACTION CENTER OF BAY COUNTY

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. TRAXLER. Mr. Speaker, I rise before this distinguished body today to pay tribute to a noble and dedicated community organization. I am speaking of the Volunteer Action Center of Bay County.

Since their formation in 1972, the Volunteer Action Center has helped countless individuals, families, and organizations, through their invaluable service of matching people's skills with other people's needs.

The quality and success of their volunteer placements, their keen perception of people's needs and their professionalism all make this community organization indispensable to the Bay community. It is reassuring to know that a community organization with a helpful attitude and a quick response is there when others need it the most. Not only do the individuals, agencies, and organizations served benefit from the Volunteer Action Center, but the volunteers themselves reap immeasurable rewards from helping others in need.

The year 1983 marks the fifth annual celebration of Involvement Day. This special day serves as a kickoff for the nationally designated Involvement Week. During Involvement Day, the community motivates various organizations and clubs to lead the way in recruiting volunteers.

Please join with me in recognizing and honoring this fine community organization for a job well done.●

ATTACKS CONTINUE

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mrs. HOLT. Mr. Speaker, over the past 10 years, there has been a series of terrorists attacks against Turkish diplomats, their families, and their consulates. These outrages have occurred in the United States, Canada, Western Europe, and recently in Yugoslavia.

Armenia groups have claimed responsibility for the assassinations and destruction. The main group, the ASALA (Secret Army for the Liberation of Armenia), is a Marxist organization that is virulently anti-American.

It is notable that the Armenian terrorists are not interested in the liberation of their 3.2 million countrymen who endure oppression in the Soviet Union, while only 60,000 Armenians live in Turkey.

It is true that Armenians everywhere have powerful historical memories of the barbarities committed by the Ottoman Empire early in this century. Are we to assume that horrors committeed by an absolute monarchy almost 70 years ago justify acts of terror today against the diplomats of the modern Turkish Government? That is nonsense.

The recent killing of Turkish Ambassador Galip Balkar in Yugoslavia was a great tragedy and a great crime. I am sure my colleagues in the House join me in extending condolences to the Government of Turkey, and we would urge the administration to do everything possible to assure the safety of Turkish diplomats in our country.●

TRIBUTE TO HENRY B. GONZALEZ

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. MAZZOLI. Mr. Speaker, I would like to pay tribute to my good friend and colleague, Henry B. Gonzalez, as he celebrates the 30th anniversary of his election to public office. Henry has lead a distinguished career in the House of Representatives, continuing his service to the State of Texas where he first began in 1953.

Henry can take great pride and satisfaction in knowing he has served his constituency well. I congratulate him on his 30th anniversary and wish him another 30 years of continued success.●

MONETARISM AND INFLATION: THE CURRENT STATE OF ECONOMY

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. WEBER. Mr. Speaker, I have been greatly concerned over the recent growth in the money supply aggregates announced by the Federal Reserve Board. Discussions I have had with Members on both sides of the aisle indicate many fear the possibility of reigniting inflation by increasing the money supply so quickly. We cannot afford to inflate this Nation's economy again.

Another perspective on this issue appeared in the Wall Street Journal on April 27, 1983. Written by Bluford Putnam, this article looks at both the supply and demand aspect of monetary policy. I would commend it to my colleagues.

THIS MONEY BULGE ISN'T INFLATIONARY

(By Bluford H. Putnam)

Once regarded as an abstract economic theory of interest to academics, monetarism now appears to be exercising a powerful influence on investors' expectations. Fears of the inflationary effects of rampant money growth are keeping interest rates high. Even if this month were to mark the end of the recent expansion, standard monetarism would argue that enough money has been supplied in the past nine months to put the inflation rate on a higher future path.

But are these fears justified? Monetarism certainly provides a consistent and convincing explanation of the shift from low to high inflation in the late 1960s and early 1970s. Monetarism also provides an explanation of the return to low inflation that followed the last few years of tight monetary policies.

This time, however, the standard version of monetarism won't do. The rapid money growth of the last nine months won't be inflationary. Three transitions through which the economy is passing explain why.

The standard version of monetarism argues that today's rapid money growth raises inflationary expectations and interest rates, and eventually the actual inflation rate. In most cases, in many countries and over many centuries, this version of monetarism has been more than adequate. But monetarism, it is important to recognize, is a theory of the long run. In setting policy, we must understand how the economy and the money supply adjust to critical short-run changes.

A cost of holding money, like any paper asset, is the inflation rate. When inflation is high, interest rates must be high to compensate the holders of paper assets (e.g., bonds, short-term money-market instruments, money, etc.) for their loss of purchasing power over time. When inflation falls, the loss of purchasing power is reduced and interest rates can also fall.

There is, however, more to this line of reasoning. Generally as inflation increases, paper assets are shunned for real assets, such as real estate, gold, etc. These traditional inflation hedges provide protection not only against higher inflation, but also against the uncertainty about how high inflation will go. This inflationary hedge phenomenon results in a decrease (M1 or M2) relative to hard assets.

A WIDE AND INCREASING MARGIN

In the hyperinflations that occurred in several European countries following World War I, the inflation rate outpaced the money growth rate by a wide and increasing margin. In economists' language, the velocity of money was increasing. In an inflationary economy, money is passed from hand to hand more quickly—like a hot potato.

Today the economy is moving from high to low inflation, and the process is working in reverse. The velocity of money is slowing and money demand is rising. Again, economic theory provides no clues as to whether the effect will last six months or 12 months. But the direction of the effect, as predicted by monetarist teachings, is crystal clear. Part of the "unexplained" increases in the money supply are related to the natural transition that an economy must go through as it adjusts from high to low inflation.

A second dynamic reflects international assets preferences. U.S.-based monetarists often seem to assume that the U.S. is the only country in the world, and that the U.S. money supply and the U.S. inflation rate are determined solely by domestic factors. In the late 1960s this idea was challenged at the University of Chicago—the hotbed of monetarism—by several notable economists, including Profs. Harry Johnson and Robert Mundell and their followers. They agrued that one must analyze money, inflation, foreign exchange rates and interest rates in the context of a globally integrated economy. Lessons are still being learned, but the ability of investors around the world to move funds into the "hard" currencies can have a dramatic impact on money demand and the volocity of money. Economists call this "currency substitution," and the theory of currency substitution is the second generation of the debate initiated at Chicago.

For example, when the dollar was incredibly weak in 1977-1978, the "hard" currencies were the German mark and the Swiss franc. Those countries were the beneficiaries of international investors. As international investors switched into the hard currencies, the money supplies of those countries exploded—to 15 percent and 20 percent growth rates—for more than a year. But inflation rates remained very low in those countries, both before and after the monetary explosion. The world-wide switch of funds depressed significantly the velocity of money. In other words, the demand for "hard" currencies increased dramatically and temporarily, without causing higher inflation.

Today, because of the U.S. move to a lower-inflation economy, the dollar is regaining its position as a "hard" currency, and asset preferences are shifting all over the world. As a result, U.S. money growth is going to be abnormally high during this transition period, directly reflecting the international strength of the dollar.

A final reason why recent money growth has been so rapid is that the opportunity cost of money has fallen dramatically. When opportunity costs fall, money, like any other good, will see an increase in the quantity demanded.

Opportunity costs are a critical factor in all economic analysis, and they involve the comparison of the price of one good or service against the price of a competing good or service. For example, until recent years, one had a choice between holding the cash needed to pay monthly bills in either a checking account, which paid no interest, or a savings account, which paid some interest.

According to the theory of money demand, if the interest rate on one asset increases relative to another (other things equal), then funds will flow toward the higher-yielding asset. This means that the demand for checking accounts which paid no interest would be reduced when interest rates on savings accounts increased.

Note that there are two interest rates involved. Opportunity costs are the difference between the interest rate on money (checking deposits) and the interest rate on competing investment instruments (money-market funds, T-bills, etc.). And the important consideration is what happens to the very last dollar invested, or as economists would say, the "marginal" dollar. The last dollar that goes into today's M1 goes into the highest yielding form of M1: Super NOW Accounts. The interest rate on these accounts is the appropriate rate for measuring the opportunity cost of M1 deposits. (The fact that other forms of M1, such as standard checking accounts, may bear no interest is not relevant in "last dollar" or marginal analysis.)

A TRANSITION ARGUMENT

The opportunity cost of money has been changing dramatically recently, but the change hasn't been brought about by changes in the general level of interest rates. Rather, it occurred because of innovations in banking services. On Dec. 31, 1982, the opportunity cost of money was the difference between NOW account checking (5.25 percent) and money-market accounts (about 9 percent), a difference of about 3.75 percent. On Jan. 1, 1983, Super NOW accounts were introduced at around 8 percent, making them the highest yielding form of M1. The interest rate on money-market accounts remained unchanged.

This means that the opportunity cost of money (M1) was reduced overnight from 3.75 to 1 percent. Also, the introduction last year of bank money-market accounts (M2) had a similar effect, relative to brokerage-house money-market accounts. No one should be surprised at the sharp increase in M1 and M2, as the economy adjusts to the new relative cost of money (M1 and M2) versus the alternatives.

Those forms of money which bear no interest, currency at the extreme, should continue to grow slowly, while those forms of money paying the highest interest rate, Super NOW Accounts and bank money-market accounts, should grow fastest. Regular NOW accounts, paying 5.25 percent, will fall somewhere in between.

This argument, again, is a transition argument. Theory does not tell us how long it will take the economy to adjust to these new opportunity costs. But the theory argues clearly that a major, once and for all, adjustment to the new structure of opportunity costs is inevitable.

All of these factors affect the demand for money in the same direction: They increase it. As a result, the rapid money growth we are witnessing—no matter which aggregate one watches—actually reflects a process of adjustment toward establishing a new monetary equilibrium. This transition to the new long-run equilibrium means that the money growth occurring today is "demand-generated" and isn't the result of expansionist Fed policies. As a result, current money growth isn't inflationary—this time.●

NICARAGUA'S FRIENDS

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. LIVINGSTON. Mr. Speaker, the New Orleans Times-Picayune/States-Item has made a valuable contribution to our understanding of the situation in Central America. Its editorial "Nicaragua: Caught in the Act" of April 22, 1983, provides a thoughtful discussion of the conclusions that should be drawn from the recent discovery that Libyan cargo planes were sending tons of arms and ammunition to the Sandinistas in Nicaragua.

Colonel Qadhafi's presence in Central America cannot be overlooked. I hope my colleagues will consider the editorial, which follows:

[From the New Orleans Times-Picayune/States-Item, Apr. 22, 1983]

Nicaragua: Caught in the Act

International relations can often make such strange bedfellows that one cannot always judge a nation by some of the company it keeps. But the Brazilian seizure of four Libyan planes loaded with tons of arms and munitions bound for Nicaragua blows a little more cover off the Sandinista regime.

Support of the Sandinistas by Cuba and other Soviet proxies worldwide can be understood, if opposed and resisted, as opportunistic communist expansion. But support from Libya's Col. Moammar Khadafy, whose delight in broadcasting death and destruction seems almost pathological, sheds brighter light on the Sandinistas' dark character and intentions.

The revolution that ousted the Nicaraguan dictator Anastasio Somoza was broad-based and directed toward establishing a popular democracy in a nation that had been run as a Somoza family domain since the 1930s. But as is often the case in such uprisings, once the common enemy had been disposed of, the Marxist-Leninist faction, by dint of clear goals and a tightly disciplined armed cadre, quickly assumed sole power. The Sandinistas' first order of business was not democratic politics but suppression of domestic opposition and creation of what is now the largest army in Central America.

That buildup is clearly continuing, and since post-revolutionary Nicaragua is far from prosperous, it is clearly being subsidized by the arms providers. It is also clearly being shared with guerrilla colleagues in neighboring countries—obviously, El Salvador, and probably elsewhere.

The overall goal is the establishment of Marxist-Leninist dictatorships throughout Central America by armed might supported by a propaganda campaign designed to present the determined enslavers as principled liberators of the oppressed. So far the propaganda is working rather better than the armed might. Vociferous groups in the United States and even Congress itself seem determined to hamstring our government's attempts to beat back the guerrillas' assaults.

President Reagan is to address a joint session of Congress next week on Central American policy. It would be poetic justice if the cargo denied the Sandinistas by the Brazilian seizure instead gives him the ammunition he needs to gain support for a firm policy on a region with strong ties to the United States and of direct strategic interest to hemispheric defense.●

MEMPHIAN RECEIVES CONSUMER PROTECTION AWARD

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. SUNDQUIST. Mr. Speaker, I rise today to ask that this body join with me in congratulating Mr. Abe Plough, founder of Plough, Inc., and former chairman of Schering-Plough, Inc. On April 28, he was the first recipient of an award given by the U.S. Consumer Product Safety Commission for his contributions to the development of child resistant packaging.

In 1947, Mr. Plough introduced the first safety cap for children's products for the company's St. Joseph Aspirin for Children. Because of the appealing taste of St. Joseph Aspirin, Mr. Plough could foresee a need to protect children from a possible accidental ingestion of aspirin. It was 12 years after Mr. Plough's innovation before such child restraining packaging became law.

At the age of 91, Mr. Plough still remains extremely active in community and philanthropic endeavors. He is the managing trustee of Plough Foundation, a member of the board of trustees of the Toledo Museum of Art, and Memphis Boy's Town; honorary chairman of the board of life of United Way of Greater Memphis; a member and honorary president of Temple Israel, a Shriner and a 33 degree Mason.

On March 17, 1983, Mr. Plough was inducted into the National Business Hall of Fame in Dallas, having been elected by Fortune magazine as one of six national laureates to receive this honor.

Without a doubt, Mr. Plough epitomizes the American entrepreneur. Because of his innovative business leadership and community service, Mr. Plough has been a tremendous asset to his community, to Tennessee, and to our country.●

CONGRESSMAN GEORGE MILLER SALUTES ALETA DUNN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. MILLER of California. Mr. Speaker, Aleta Dunn will retire in June as an American history and government teacher at Pine Hollow Intermediate School in Concord, Calif. She has been a dedicated employee of that school for 22 years.

One of the basic responsibilities of our education system is to instill in our young people a sense of history and an understanding about how their government works. Aleta Dunn has devoted her professional career to that principle.

Throughout her career, Ms. Dunn has sought to develop students' historical and political awareness and help shape their world views. Her generous contributions of time to extracurricular activities, such as the Model Legislature, the Model United Nations and Newscope, have brought to life the basic principles of American Government for her students. Her accomplishments and dedication as a teacher and citizen offer a fine example to her colleagues throughout California.

I join Aleta's many friends, colleagues, and students, past and present, in paying tribute to her contributions to the educational enrichment of young people at Pine Hollow Intermediate School. I know that all Members of the House join me in wishing Aleta happiness and health in years to come.●

CENTRAL AMERICA

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. RITTER. Mr. Speaker, as the debate over U.S. assistance to Central America continues to dominate the attention of the media, I would like to bring two excellent editorials to the attention of my colleagues. They are both written by George Will and provide some real food for thought on this important and timely matter.

The article follows:

[From the Bethlehem (Pa.) Globe Times, Apr. 21, 1983]

THE WRONG AND RIGHT OF CENTRAL AMERICA

(By George F. Will)

WASHINGTON.—To begin, a two-question quiz.

Since detente was codified at the Nixon-Brezhnev summit in 1973, the Soviet Union has forced a nuclear alert by threatening to intervene with troops in the October, 1973, war in the Middle East (a war incited and financed by the Soviet Union); has organized and financed the destruction of the Paris accords and a U.S. ally; has intervened with Cubans and others in Angola, Ethiopia, Yemen, Cambodia, Nicaragua and El Salvador; has invaded Afghanistan; has orchestrated the crushing of Poland; has made a mockery of the Helsinki agreements; has repeately violated the informally agreed to threshold test ban treaty (although we even changed the way we measure violations, in an effort to avoid the need to make protests that would dampen detente); has tried to murder the Pope; is violating the terms of SALT II (an amazing feat, considering that SALT II is a tissue of loopholes and ambiguities); is funding and organizing terrorism worldwide; and is continuing an arms build-up unambiguously designed for political intimidation and military aggression.

The first quiz question is: Why is there a "return to the Cold War"?

Answer: President Reagan gave a speech referring to the Soviet Union as an evil empire.

Second Question: The Soviet Union has an army brigade (2,600-3,000 men), 2,500 military advisers, (increased 500 last year) and 6,000-8,000 civilian advisers in Cuba. It gave Cuba 66,000 metric tons of military supplies in 1981, 68,000 in 1982 (worth $1 billion). Moscow's annual economic aid to Cuba is $4 billion (more than one-quarter of Cuba's GNP). Cuba has 200 MIGs, including two squadrons of MIG-23 Floggers, at least 650 tanks, at least 90 helicopters, including MI-24 attack helicopters, a Koni-class frigate, two Foxtrot attack submarines, at least 50 torpedo attack boats, two amphibious assault ships. A Grenada minister says Cuba will use Grenada's new airport when supplying Cubans in Africa. Cuba, with one-seventh of Mexico's population, has military forces twice the size of Mexico's. The Soviet Union is giving 20 times more military assistance to Cuba than the United States is giving to all of Latin America. In the newest Soviet satellite, Nicaragua, 39 percent of all males over 18 are in uniform, and the regime intends to build a 250,000-persons armed force, so one in ten Nicaraguans will soon be in military or militia. (All of Honduras' security forces total 20,000. El Salvador's total 32,000.) Nicaragua's regime has built 36 new military bases and garrisons (the previous regime had 13). Nicaraguan pilots and mechanics are being trained in Bulgaria. The regime has received, so far, 50 Soviet tanks, 1,000 East German trucks, 100 anti-aircraft guns, Soviet 152-millimeter howitzwers with a range of 17 miles. Cuba has 4,000 to 5,000 civilian advisers in Nicaragua, plus 2,000 military and security advisers. There also are East Germans, Bulgarians, North Koreans, Soviets and members of the PLO.

The second quiz question is: About what in Central America does Congress seem most worried?

Answer: Fifty-five U.S. trainers in El Salvador.

Events in Central America are spinning rapidly toward a decisive moment in U.S. history. None of the fiction that was used to rationalize acceptance of defeat in Vietnam can be used regarding Central America. The threat there is close, clear and indisputably communist. There the United States will show—will learn—whether it is any longer capable of asserting the will a great power requires, or whether the slide into paralsysis is irreversible.

Governments such as Costa Rica's and Panama's are listening as congressional complaints mount. The complaints are against U.S. assistance to armed opponents of Nicaragua's Stalinists, and about even minimal aid for the democratically elected government of El Salvador that is under attack from forces that are extensions, through Nicaragua and Cuba, of the Soviet Union.

The conjunction of these complaints can mean, in effect, the extension of the Brezhnev doctrine in this hemisphere. That is, communist attacks on a regime leech away the regime's legitimacy, and produce pressures for negotiations aimed at "power-sharing" with Stalinists who do not believe in sharing power. But a communist regime, however freshly planted and dependent on foreign totalitarians, as in Nicaragua, must be treated as legitimate and irreversible.

There is a war raging and if all the substantial, determined military assistance is oneway, there can be but one result. The result will be a communist Central America, and an Iran just a wade across the Rio Grande.●

THE EIGHTH GRADE BASKETBALL TEAM OF ST. BONIFACE SCHOOL

HON. FRANK HARRISON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. HARRISON. Mr. Speaker, the eighth grade basketball team of St. Boniface School, in Wilkes-Barre, has captured both the seasonal and play off championships of the Wyoming Valley Catholic Youth Center League by posting a perfect record of 12 wins and no losses.

The team was coached by Mike Steininger, who was assisted by Joe Koval. Lou Rauscher was the coordinator.

Overall, the Bonnies, as they are called by all of their many friends, posted a season record of 28 wins and 9 losses against the best eighth grade competition in Luzerne and Lackawanna Counties.

It is a pleasure, Mr. Speaker, for me to join in congratulating the members of this outstanding young team: Scott Rauscher and John Snyder, cocaptains, Jim Washinski, Mike Novosel, Scott Callahan, Curtis Lloyd, David Estock, Tony Konieski, John Gyza, Andy Gluchowski, and Mario Sindaco.

It should be noted that cocaptains Snyder and Rauscher led the league in scoring with averages of 20 and 17 points, respectively.

We all know, Mr. Speaker, the kind of dedication, sacrifice and hard work that goes into making an outstanding team. These young men are to be congratulated on displaying these virtues in full measure. And their families, teachers and friends are to be congratulated on the support and encouragement which had made it possible.

And so, it is a pleasure for me to join with the entire Wilkes-Barre community in recognizing the accomplishments of the 1983 Bonnies and in commending these young men, their coaches, families and supporters on a good job well done.●

A CALL FOR CONSENSUS IN THE 98TH CONGRESS

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. LOWERY of California. Mr. Speaker, last month Mr. Buck Mickel, chairman of Fluor Corp.'s Engineering and Construction Group, spoke at a luncheon meeting of the California Republican Administrative Personnel Group. Fluor Corp., headquarters in Orange County, Calif., is a multinational concern specializing in energy-related activities. Mr. Mickel's speech touched on a number of subjects of interest and concern to not only the members of the California delegation, but all Members of Congress. Therefore, I would like to take this opportunity to commend Mr. Mickel's remarks to the attention of my colleagues.

A CALL FOR CONSENSUS IN THE 98TH CONGRESS

(By Buck Mickel)

Ladies and gentlemen, it is a real pleasure to represent the Fluor Corporation before this audience. And I would especially like to thank Dan Greenblat, administrative assistant to Congressman Bill Lowery of San Diego, for helping to arrange our meeting.

I'm also pleased that Dan has invited other guests including representatives from our client companies, and from committees that handle legislation of interest to Fluor.

As key staff members to the largest Congressional delegation, you serve the voice and conscience of our most dynamic state and indirectly, you serve a broader, more far-reaching constituency. And frankly, because of California's position of world leadership, your influence reaches well beyond the diverse interests of the state, even beyond the nation. Like Fluor, your activities can contribute substantially to world prosperity. In this time of global uncertainty, the joint efforts of Fluor and your delegation have never been more important.

My talk today will cover four points of mutual interest:

Fluor's worldwide business operations;

Some of our major projects in California;

Our economic contribution to the state, the nation and the world;

And finally, important legislation which requires the attention and support of this delegation.

If Fluor is not exactly a household name to this delegation, neither is the name Buck Mickel. As I see it, my Southern accent makes it a natural for me to speak in behalf of a company based in Southern California.

My relationship with the company began six years ago when Fluor acquired Daniel International Corporation, located just down the road from here in Greenville, South Carolina. I was chairman and president of Daniel at the time, a position I still hold in addition to my new and larger responsibilities as chairman of Fluor's Engineering and Construction Group.

For the last year, I have been based in Fluor's corporate headquarters in Irvine. From this vantage point I've witnessed firsthand, Fluor's "California connection." Let me touch upon just a few of Fluor's recent California projects.

Fluor's bread and butter over the last several years has been energy-related work. Fluor Engineers, Inc., is upgrading and modernizing refineries for most of the major oil companies. We've been doing work for Shell at Martinez; for Champlin, Union Oil, Texaco and Arco in the Los Angeles area; and for Getty at Bakersfield, just to name a few. Also, it may surprise you to know that we are drilling for oil in California, near Oxnard.

Perhaps our most significant California project at the moment involves the "upstream" oil and gas segment of the industry. Last year we received an award from Chevron to engineer an offshore platform complex and submarine pipeline system in the Santa Maria basin, near Point Arguello. The system will deliver oil and gas to onshore processing and distribution facilities. Reserves are estimated at one billion barrels of oil. Point Arguello is one of several projects planned for that area, and Fluor's Ocean Services Division in Houston recently opened a West Coast office to strengthen our presence in this emerging market.

For a state facing mammoth budget deficiencies, developing its own offshore oil and gas reserves makes economic sense to us. And, on a broader scale, it also makes sense to do everything we can to assure America's energy self-sufficiency.

In addition to oil and gas projects, Fluor plays a prominent role in the state's commitment to develop energy alternatives. The city of San Diego awarded Fluor a project to convert municipal waste into fuel-grade methanol to power city vehicles. In the Imperial Valley, we are building two geothermal facilities which will generate electricity by tapping superheated brine deep underground. And finally, we are working on a large photovoltaic power plant for Arco Solar near San Luis Obispo.

Fluor's other major business thrust is natural resources. Our Mining and Metals Division, headquartered in Northern California, is involved in mining projects around the world, including: A lithium plant in Chile; Venezuela's first major coal project; and expansion of a world-class coal- and oil-shale mine for the People's Republic of China. This contract is the first of its kind for the Chinese coal industry.

With the acquisition of St. Joe Minerals, Fluor inherited two gold properties in Placer County, near Yuba. The existing mine should produce about 20,000 troy ounces of gold in 1983. With the blessings of our California state regulators, we intend to begin developing a new gold mine in the area later this year.

Reclamation is a big factor in planning modern open-pit mines. The worked-out ground at our gold mines will eventually be covered with soil and planted with grass and trees. In fact, a former Sierra Club director was quoted recently in the Mining Journal as saying, "Fluor's mining operations will leave the land in better shape than it is today."

Also of interest is the fact that St. Joe Minerals mines 400,000 ounces of gold per year.

When you think of California's growth industries, several come to mind: biotechnology, microelectronics, and national security, all industries where Fluor is also involved.

In the San Francisco area, for example, we designed and built for Genentech their first commercial plant to manufacture genetically-engineered products, including interferon and human growth hormones. Ultimately, we plan to use biotechnology in many of the industrial processes and markets we serve.

In the microelectronics industry, we may not be ready to cut a path through the Silicon Valley as Sherman did through Georgia. But our Daniel subsidiary is well known for its electronics work on the East Coast and in Southwest Texas. Currently, we are doing missionary work, meeting with California electronics firms to find out how Fluor and Daniel can serve them in California.

We are also applying our engineering expertise in the national security sector. Fluor engineers are performing design services for the space-shuttle launch system at Vandenberg Air Force Base, and we have a plant expansion going for Grumman Aircraft in the Southeast U.S.

Last month, Fluor received a $35 to $50 million contract for engineering work on the nation's first nuclear waste repository. This award is part of the Department of Energy's program to isolate commercially-generated, high-level nuclear waste, which is very fitting in view of our Daniel subsidiary's nuclear power work.

We know the Northrops, TRWs, Lockheeds and Raytheons are manufacturing at capacity and need new facilities. Fluor wants to work with these companies to help meet Congressional requirements for a national defense that is second to none.

Of unique interest, this year we will apply Fluor's project management skills to the transportation industry. Fluor was named project manager for a high-speed rail system between Los Angeles and San Diego. This would be the first bullet train to operate in the U.S. The demographic studies you are now making may well lead to similar projects, such as the "people mover," an underground conveyor system that Fluor and Westinghouse are presently undertaking in Miami, Florida.

As a company noted for its work in more than 70 countries, I think you will agree we have been busy in our own back yard. These projects, of course, generate California jobs and California dollars.

Last year, Fluor paid out $315 million in gross wages to its California employees. Using the multiplier of "8" theory, that's over $2 billion pumped into California's economy that came from our wages. In addition to our payroll, Fluor contributes to the economy by procuring massive amounts of manufactured goods: pumps, vessels, heat exchangers, compressors, instruments and structural steel. In 1982, Fluor purchased nearly $145 million worth of manufactured goods from California's companies. More than $1.5 billion went to companies nationwide. From another perspective, Fluor's procurement activities supported 4,500 California manufacturing jobs and 30,000 jobs nationwide. And note that much of Fluor's domestic procurement is for overseas projects.

I have chosen one such project to illustrate my point. In 1980, Fluor received a contract from Indonesia to expand an original refinery we built in that country several years prior. In expanding the refinery, Fluor has purchased more than $100 million in equipment and materials from 150 different U.S. suppliers. Of this total, 38 California vendors received orders in excess of $25 million, supporting more than 1,000 jobs. All of this from a single overseas project!

Fluor's success abroad contributes heavily to our state and national economy. And as I said at the outset, Fluor's activities also contribute to worldwide prosperity. Expanding the Indonesian refinery will help that country remain an exporter of oil and reach its ambitious industrial goals. More important, Fluor will have left behind more than an industrial monument.

For in the process of developing a country's natural resources, Fluor develops its human resources as well. On the original refinery, Fluor trained 4,000 Indonesians within a few months to become proficient carpenters, riggers, pipefitters, electricians, instrumentation installers, millwrights, and welders. Many of these same craftsmen were rehired on the expansion project. Several thousand new craftsmen will be trained as the job progresses.

Through the transfer of technology—in this case, the transfer of skills and knowledge—a man who previously earned his living working in the rice fields can now upgrade his skills and better support his family and his country.

Indonesia is not an isolated example. Over the years, Fluor has trained 100,000 host-country nationals. Obviously, the cost of transporting skilled labor to remote locations would be prohibitive. Furthermore, developing countries today know that technology transfer is in their long-term interests. And anything we can do to encourage this type of world trade is also in the best interests of America.

We were all heartened by the President's recent State of the Union address. The speech acknowledged the connection between American imports and the health of our economy. As one of the largest U.S. service groups, Fluor and the engineering/construction industry are aware of the important role we play in overall export trade. With a little help from our friends in the 98th Congress, our industry can make an even greater contribution.

Because the President and Congress are only a few blocks away, I have taken the liberty to bring along a legislative "wish list" I know you don't serve on all the committees, so I thought you would be interested in what these bills mean to California.

I'd like to preface my comments by saying that in the past year, I have traveled thousands of miles and visited every continent. My mission was to find out for myself how Fluor could become more competitive. I looked at projects that are potentially worth billions of dollars to my company, to our state and to our country. From these travels, I want to share with you my first-hand impressions of the tools America needs to compete in the world marketplace.

More than political or technical considerations, almost every project awarded today comes down to a matter of project financing. Without question, the U.S. Export-Import Bank is one of our most important tools.

I'm not going to spell out exactly what reauthorization legislation should or should not say. My colleague, Bill Trammell, Fluor's expert in international project financing, has already said it better than I could in his Congressional testimony. But I have one overriding concern.

As you rewrite the Ex-Im Bank's charter in the next few months, all the players—the multinational companies, the administration, and the bank itself—must come away with a clear understanding of the new rules of the game.

We have an extraordinary opportunity. I sense a new call for consensus on this important issue. For the first time in a long time, we are all of the same frame of mind. The folks downtown at the administration and the Ex-Im Bank are just waiting for Congress to give them enough money to do the job, and a mandate strong enough to become competitive. Hearings on the Ex-Im Bank's rechartering were held last month in the Senate Banking subcommittee, and hearings will begin in the House next week. The responsibility is left to you to listen attentively to all sectors, and to refine the various viewpoints into a sense of policy direction.

As I said, Bill Trammell would be glad to give you an earful of specifics to include in the funding and the reauthorization legislation. But you know the bottom line: Future American exports must not be lost for lack of competitive financing. Bear in mind how Japan, Germany, France and Great Britain view this subject: they are buying business to provide jobs at home. We must be in that market.

By the same token, future exports should not be lost because of overbearing controls on the transfer of U.S. technology. We all agree our nation should not export technology that could compromise our national security. National security must remain inviolable.

But the continuous debate over what is or is not in our nation's best interests must somehow be resolved. Renewal of the Export Administration Act now before the Congress provides this opportunity.

We need a mechanism for determining whether a technology is actually top-secret, or whether it is an off-the-shelf item readily available from our international competitors. In renewing the Export Administration Act, we must remember that the export of American technology is one of our strongest bargaining tools in the world marketplace.

To complete our brief look at the international scene, I would do a disservice to the business fraternity if I did not lodge at least one complaint about taxes. Fluor does not mind paying taxes, but double taxation locks a ball and chain on any business trying to compete in the world market.

Work we perform in our U.S. offices for foreign projects is always taxed by the United States. Now, an increasing number of foreign countries are taxing this work as well. To compensate, we have to greatly increase our sales price. This makes us less competitive than our foreign counterparts, whose countries already provide relief for this situation.

A new technical assistance tax bill, H.R. 1609, is now pending before the Select Revenue Measures Subcommittee of Ways and Means. This legislation will solve our problem without any anticipated cost to the U.S. Treasury. On the positive side, the 1981 reductions in taxes paid by Americans working overseas (Section 911) brought our tax rules more in line with those of competing nations. These changes made it possible for U.S. firms to provide the manpower required on foreign projects, and still keep compensation costs within competitive bounds.

Now, let's turn our attention to the domestic front. The 97th Congress must be congratulated for its willingness to bite the bullet in passing the Nuclear Waste Policy Act of 1982. It's an issue not easy to solve, and we still need to address the very sensitive political problem of allowing states to veto their selections as hosts. Once a decision is reached on what has to be done, we can help get it done.

Along this line, last month Fluor received an outstanding achievement award from the

Institute for the Advancement of Engineering. We designed a calcining method that safely converts radioactive liquid waste into a granular solid form which can be stored for up to 500 years. The moral here is that nuclear waste remains a political, rather than a technological, issue.

It is also time to bite the bullet on another lingering political issue: nuclear licensing. Fluor has been involved in eleven nuclear projects, six of which are under construction now; so we have been a part of this developing industry. The Nuclear Licensing Bill as proposed by DOE is an extensive and thoughtful piece of legislation. It provides the one-step licensing procedure needed for the timely construction of nuclear power plants. The bill also provides guidelines for retrofitting and upgrading the safety at existing nuclear power plants.

Together, the Waste Policy Act and Nuclear Licensing Bill provide the legal framework that both proponents and opponents of nuclear energy have been looking for. America needs nuclear energy in its future. America also needs coal. We obviously think so, as shown in our involvement with Massey.

The technology exists to transport coal safely and economically through coal slurry pipelines. The Russians are looking at slurry lines; so are the Chinese. And the coal slurry legislation on the hill will help get more American coal into the market place. Slurry pipelines could deliver highly desirable Western coal to California ports for export to the Far East.

In fact, coal slurry could become a $12-billion industry in the U.S. According to a statement by the President of the Building and Construction Trades Department, AFL-CIO, seven proposed coal pipelines would create about 150,000 direct construction and operating jobs. H.R. 1010 on coal slurry has been heard by the House Interior Committee. The bill has been before the House Interior Committee and yesterday was favorably reported out by a 27 to 13 vote—a far cry from last year's one-vote margin out of that same committee. The House Public Works Committee is expected to consider H.R. 1010 beginning next week, and we hope to see this legislation on the House floor this summer. I commend it to your attention.

Now, I would like to conclude my legislative wish list with another issue, far from home, that nonetheless impacts both Fluor and California. I'm referring to DOE's gas centrifuge enrichment plant in Portsmouth, Ohio. Fluor is engineering and designing a major portion of this first U.S. facility to use the new gas centrifuge process for uranium enrichment. Conferees agreed to fund the project at $588 million through September 30. Canceling or delaying this project would seriously hurt our efforts to re-establish the U.S. as a leading supplier of enrichment services internationally.

I couldn't let this opportunity go by without mentioning synfuels. Synfuels has been on a roller coaster, pushing up and then back down again. Now, let me tell you what is happening in the real world.

Fluor is doing the Union Oil project, which is shale oil, at Parachute Creek. Union Oil is to be commended for the position they have taken. The job is coming along beautifully on schedule. We did the coal-to-liquids project in Houston for Exxon not long ago, on an experimental basis. We are now completing a coal-to-petrochemical feedstock plant for Tennessee Eastman out of Kingsport, Tenn.

So, Fluor is big in the field and we feel we're very knowledgeable. The need for synfuels will be there, regardless of what we're hearing about OPEC prices and the oil glut. You know what will happen when America stocks up again. Sure, we save about 28% of our energy, but the shortages will come again, and we need to have synfuels in our back pocket.

American industry has expressed an interest. Fluor at this time is upgrading every estimate we have made up to three years ago. I ask that you take a hard look at what the synfuels industry is doing today—there is much more activity than the average person is aware of.

In summary, the legislation I have outlined today would improve both our nation's export position and the general state of the economy. As staff members to the 98th Congress, you have the tremendous opportunity and responsibility to influence legislation that can take this country where it should be going. I hope you agree we should be going overseas—and competitively.

From Fluor's standpoint, the legislation I have high-lighted would help provide us with the tools to become the Yankee traders we want to be in a highly competitive world. The more effective we are as salesmen in the world market-place, the more jobs and dollars we can generate back home.

If I could leave the California delegation with one message this afternoon, it would be a reminder that Fluor's activities—from Indonesia to Portsmouth, Ohio—all come home to California in the end.

Our invitation to be here today is in recognition that Fluor is a key California player. In the future, I trust you will not hesitate to pick up the phone and give me or our Washington office a call on any issue of mutual concern.

Thank you for your kind attention.●

MORE ON THE "DEBT CRISIS"

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. WEBER. Mr. Speaker, the April 27, 1983, edition of the Wall Street Journal has provided us another opportunity to learn about the foreign debt crisis. This article, written by Deepak Lal, a reader in political economy at the University of London, examines the ratio of debt to exports from a historical perspective. Mr. Lal also looks at current alternatives available for funding Third World enterprises.

I would commend this article to my colleagues. Thank you, Mr. Speaker.

The "Debt Crisis": No Need for IMF Bailout

(By Deepak Lal)

London.—Numerous bankers, officials and academics in both the industrialized and Third World countries are arguing that there is a Third World debt crisis which threatens the stability of the Western banking system. An increase in International Monetary Fund quotas is considered desirable in dealing with this crisis.

I would like to put the case for the opposition to these currently fashionable views.

The commonly cited indicators of an impending debt crisis are the growth of the Third World's external debt and a rise in the ratio of debt or the costs of its servicing, to either GNP or exports. But these indicators are of dubious relevance. Even if we take them at their face value, they do not indicate any serious problem as judged by historical standards of the last period in which private portfolio lending was a major part of the process of transferring capital from rich to poor countries—the 19th and early part of the 20th century.

Public or publicly guaranteed Third World long-term debt grew from about $97 billion in 1973 to $505 billion in 1982 in nominal terms (according to the IMF). This represents only a rough doubling in real terms, if account is taken of the rise in the world price level during this period. But the consequent rise in the ratio of debt to exports of the non-oil developing countries from 0.9 to 1.1 between 1973 and 1982 cannot be taken to represent an excess burden. In 1913, the ratio of external debt to exports ranged from a high of 8.6 for Canada to a low of 2.2 for China and Japan, with that for Latin America being 5.2.

Moreover, the ratios of debt service charges to exports of the 12 major borrowers in private capital markets in 1981-82—except for Mexico, Brazil and Chile—were lower than the 0.39 ratio for Argentina in 1900-14. The "crisis" in the above-mentioned Latin American countries, and in Argentina, Colombia and the Philippines, is primarily a liquidity crisis. It was brought on by the refusal of the commercial banks to roll over the short-term credits they had increasingly extended in 1981 and 1982.

These doubts about any current or impending generalized debt crisis in the Third World do not imply that all commercial lending in the past has been wise or that it has been productively used by the borrowers. In fact, past mistakes in lending to some Third World countries have led the commercial banks to precipitate the short-run liquidity crises in these countries. The banks hope to put pressure on the governments of these countries to set their domestic houses in order. They also hope to have the risks of their loans to these countries underwritten through the accompanying IMF and World Bank stabilization and structural adjustment programs.

There is a convergence of interests among the IMF (an agency desperately in search of a role since the move to generalized floating), Third World borrowers and the commercial banks. They stand to gain from the direct or indirect handouts by Western taxpayers entailed by this bailout of imprudent commercial banks and their illiquid but by no means insolvent Third World customers.

It is in this context that the demand for a substantial increase in the IMF's quotas to fulfill its new self-designated role in the prevention of debt crises and bank failures needs to be assessed. Two issues need to be separated. The first concerns the need for some form of international sanctions against defaulting countries. The second is whether increased IMF resources are required to enforce any such sanctions.

In order to restore an improvident borrower to good health in the international capital market, it may be necessary for the borrowing country to accept unpalatable changes in its economic policies. The conditionality of IMF stabilization programs is of great importance in helping to establish sound macroeconomic policies in countries in crisis as well as in deterring others from following unsound policies which might land them in the arms of the IMF. The maintenance of stringent IMF conditionality would therefore be in the interest of developing countries. It would reduce the default risk perceived by commercial lenders, with an accompanying increase in the Third World's access to commercial lending.

There is no reason, however, to believe that this approval from the IMF also requires it to provide concessional lending. For those countries with access to the commercial bank market, the acceptance of an IMF program should unclog previously blocked private credit lines.

Though it is often asserted that the poorer developing countries do not have access to the Euro-currency markets, there is little evidence that there is a bias against lending to poor countries. Some relatively well-managed poor economies, such as India, have been able to borrow fairly cheaply on Euromarkets. They chose not to enter these markets sooner. It is the mismanaged poor economies, many of them in the sub-Saharan economy, which haven't been able to borrow as much as they liked because of the doubts lenders quite rightly have of their ability to make productive use of these loans.

The supposedly structural balance of payments problems of most of these countries are of their own making. Any country can generate such a problem by maintaining overvalued exchange rates, protective devices which penalize exports, and domestic fiscal policies which push aggregate expenditure above output.

Nor, finally, is there a need for the IMF to assume the role of lender of last resort for the international banking system. Since the collapse of West Germany's Herstatt bank in the mid-1970s, it has been clear that the national monetary authorities of the industrial countries would act as lenders of last resort for their commercial banks and their foreign subsidiaries. Moreover, the fear that bank failures triggered by Third World defaults could lead to another Great Depression, is only reasonable if it is assumed that the national authorities would allow bank failures to affect their national money supplies.

Bank failures would hurt the uninsured depositors and the shareholders of the banks that failed. As long as the money supply is maintained, however, this would not lead to a depression. Because of past errors in lending, the real worth of the assets of many commercial banks is lower than they had expected. But it is arguable whether commercial banks should be bailed out at taxpayers' expense, either by national authorities taking over some of their bad debts, or by channeling extra liquidity through the IMF to the debtor countries and thereby preventing these debts from being written off.

To prevent the "moral hazard" which such actions would entail for future lending, it may even be desirable to allow a few banking failures. OPEC has lent its surpluses to the Third World via the commercial banking system, which in turn hasn't exercised a sufficient degree of prudence in its lending, because both believed that Western taxpayers would ultimately bear the risks.

As long as the liquidity of the Western banking system is not allowed to collapse and the rising tide of protectionism in the West is stemmed, enabling well-managed Third World countries to service their viable debt, some bank failures which disabuse both OPEC and commercial banks of these dangerous misconceptions may well be desirable.●

THE ROLE OF GEORGE MASON

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. PARRIS. Mr. Speaker, outside of the northern Virginia area, most Americans are not familiar with George Mason or the role he played in developing our Nation's history. For the most part, the significant contributions of George Mason have not been adequately recognized. One of my constituents, John B. Minnik, has written an excellent article on George Mason and his accomplishments. Mr. Minnik is the chairman of the George Mason Chapter of the Sons of the American Revolution. The following are some excerpts from Mr. Minnik's article which appeared in a 1980 edition of the Sons of the American Revolution magazine:

Refusing to sign the constitution on which he had labored that muggy summer of 1787, the influential George Mason wrote his Objections to the Constitution on the back of his last printed draft immediately following the close of the Convention. Its opening words soon sounded across the American frontier: "There is no Declaration of Rights!"

Mason had penned the celebrated Fairfax County Resolves in 1774 (this later became the Virginia Resolves), the Resolves of the Continental Congress and the committee draft of the Virginia Declaration of Rights. Mason's original draft of the Virginia Declaration of Rights stands with the Magna Carta and the English Bill of Rights of 1669 as one of the three most influential documents of the history of Anglo-Saxon liberty. You'll recognize parts of his draft in the Preamble to the Declaration of Independence.

"That all men are, by nature, equally free and independent and have certain inherent rights of which they cannot by any compact deprive or divest their posterity; namely the enjoyment of life and liberty with the means of acquiring the possessing property and the pursuing and obtaining of happiness and safety."

"That all power is vested in and consequently derived from the people."

Why then, did the man who composed more great constitutional documents than any other person in history refuse to sign our great Constitution? Simply stated, his view conflicted in three areas: it condoned slavery, it contained no Bill of Rights and it provided no means of enforcing the separation of powers as intended by the Founding Fathers.

Mason spoke and wrote openly of his objections. He wrote his disagreements, section by section, on his copy of the Constitution. The document was printed as a pamphlet by friends and it became the handbook of opponents of ratification. It was only a matter of time before many of Mason's prominent ideas became embodied into the Bill of Rights. Mason authored the Bill of Rights and constitutional Amendments adopted for proposal to the First Congress by the Virginia Convention.

SLAVERY AN ISSUE

George Mason's name has largely been forgotten as a result of his insistence not to sign what he felt was an incomplete Constitution. Some feel that Mason was the most influential member of the Philadelphia Convention until late 1787 when New England delegates conceded to South Carolina and Georgia to allow human slavery for at least 20 years after the adoption of the Constitution in return for the passage of interstate commerce laws in Congress by a simple majority rather than two-thirds vote. Mason was incensed over the bargain. As a result he was the subject of much public belittlement.

Yet it was George Mason who ably articulated the great principle of our constitutional documents which has become the beacon for every free nation formed since our own. "Liberty is the gift of God—not government—and that the purpose of government is to protect that liberty—not to destroy it." It was this brilliance which led Thomas Jefferson to view him as "the wisest man of his generation" and to be called "the greatest statesman I ever knew" by Patrick Henry.

EXPERT IN GOVERNMENT

Mason was born in 1725 along the Potomac and lost his father at a young age. His guardian, John Mercer, was an attorney who proved to be a prime influence in Mason's philosophy. As a result of tutoring by Scotch Presbyterians and others, Mason became a self-instructed constitutionalist and learned expert in government and politics. He was also a neighbor and mentor of George Washington. In fact, when Washington became a member of the House of Burgesses, it was George Mason upon whom he called to write every state paper, resolution and proposed bill which Washington was known to sponsor in Williamsburg. Many of the Papers of Washington may still be found in Mason's handwriting. He and Washington differed strongly, however, over the inclusion of a Bill of Rights in the original Constitution.

By far, Mason's most important contribution to the science of good government, is the rule of law predicated upon separation of powers. Mason saw that the Constitution did not contain any means of enforcing the separation of powers as delineated in the original document and as intended by the Founding Fathers. As Lord Acton later said, "Power corrupts and absolute power corrupts absolutely." The primary cause for our government's drift from a republican to a bureaucratic form is that there is nothing in the Constitution to prevent this shift. That is, the Constitution was written, signed and ratified without a Bill of Rights. The first Ten Amendments cured the defect in part, but not in whole. The patent ommission of an article on separation of powers is the latent loophole through which we have drifted into our current bureaucratic state of affairs.

The essential element that made our government work as intended by our Founding Fathers was the fixed principle of separation of powers. James Madison declared unequivocally that the doctrine of separation of powers was the most sacred principle of our Federal Constitution, indeed of any free constitution.

Separation of powers was an important part of the basic philosophy of the men who framed our Constitution in 1787. Signers of the document believed that individuals would be protected from federal encroachment by their State Constitutions and Bills of Rights. In view of the supremacy clause and personal experience, George Mason did not believe them. He refused to sign the Constitution and insisted upon a Bill of Rights as a condition to ratification. James Madison was the only Signer to confess error and acknowledge the merit of George Mason's position.

MASON PROVIDED BASIS

The unique American principle of separation of powers comes from the original Virginia Declaration of Rights and the first Constitution of Virginia written by George Mason. His public work and service at Williamsburg in the Spring of 1776 laid the foundation for our Declaration of Independence, our State and Federal Bills of Rights, and our state and Federal Constitutions.

One of the cardinal rules of the doctrine of separation of powers precludes delegation of legislative powers and functions. Yet our constitutional system of checks and balances was wiped out when the powers of government were handed over to the bureaucracy. The Administration Procedure Act of 1946 gives the bureaucracy the power to "prescribe law or policy," in addition to a wide range of judicial functions. Likewise, an obscure 1949 amendment to the Judicial Code transferred legislative functions to the judicial branch. The whole matter boils down to a simple question of public policy. That is, whether "delegation of powers" is a satisfactory substitute for "separation of powers" under our State and Federal Constitutions and Bills of Rights.

REEXAMINATION NECESSARY

Finally, the reasons for "separation of powers" need to be reexamined in the critical light of public policy. It is undisputed that the framers of our Constitution, including George Mason, intended that our legislative power should be vested on Congress. Nor is it open to dispute that the legislative function includes the power to make national policy. However, George Mason refused to sign the Constitution without a Bill of Rights because he anticipated what would happen if all three branches got involved in making, enforcing and applying our policies under the wrong rules. As a matter of public policy, he feared not only that the people would lose their constitutional rights, but also that we would gradually drift away from our republican form of government.●

THE 25TH ANNIVERSARY OF MSGR. FELIX A. LOSITO

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. YATRON. Mr. Speaker, on May 15, Msgr. Felix A. Losito, the pastor of the Holy Rosary Church in Reading, Pa., will be honored on his 25th anniversary of ordination to the priesthood. It is my privilege to bring this outstanding accomplishment to the attention of my colleagues in the U.S. Congress.

One of the greatest strengths of our Nation has always been the individual commitment and compassion of our citizens. Monsignor Losito is a fine example of this tradition, as he has dedicated his life to the service of God and to helping his fellow men.

It is difficult to select only a few examples of the outstanding contributions this fine man has made because the list of his achievements is so extensive. I was particularly struck by his founding the National Society for Shut-Ins, an organization dedicated to encouraging individuals to visit those whose contact with the outside world is limited because of age, illness, or imprisonment. Thousands of lives have been enriched by the services of this organization and the work of Monsignor Losito. He has brought both spiritual and material comfort to many who had been without hope or understanding.

Father Ronald Yarrosh who has had the opportunity to work with Monsignor Losito, said of him to me that:

> He is a man who deserves our wholehearted encouragement. It is just such a willingness to step forward for the selfless tasks of service to God and neighbor that has been characteristic of the American people from the first moment when the spirit of freedom grew and was nourished in our land.

It is a distinct pleasure through these remarks to join with all those who are privileged to know Monsignor Losito in honoring this man who has faithfully served as a priest for 25 years and who has made our community and our Nation stronger. Monsignor Losito is truly a man of dedication, faith, honor, and commitment, and all our lives and those of the Reading community are enriched because of his work. I know that my colleagues will join me in paying tribute to this outstanding American—Msgr. Felix A. Losito.●

SETTING A GOOD EXAMPLE FOR THE NATION: BARCO CHEMICALS DIVISION, INC. OF OPA-LOCKA, FLA.

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. LEHMAN of Florida. Mr. Speaker, in recent months Florida has suffered the highest unemployment rates of the past 7 years. Everyone loses because of high unemployment: Idle workers and their families who face lowered standards of living, depleted savings, and an uncertain future; our local, State, and Federal Governments, which must meet greater demands for services with lower tax revenues; and the economy, which must operate at less than 100 percent capacity and cannot take full advantage of the expertise and ability of our work force. It was for these reasons that Congress last month passed the emergency jobs bill.

However, this was not enough for the management and employees of Barco Chemicals Division, Inc. of Opa-locka, Fla. Led by company president Fred Katz, they decided that unemployment was everybody's problem and not just the responsibility of the Government or of the unemployed themselves.

Barco Chemicals, with the enthusiastic support of all its employees, began a "share a job" program. Each of the company's more than 40 employees voluntarily contributes 1½ percent of his or her gross salary to a fund that is used to pay the salary of a new employee.

The compassion and concern of Barco's executives, salespersons, bookkeepers, truck drivers, and factory personnel sets a high standard for other Americans. Their sacrifice strengthens our community and our economy. More important, the share a job program creates new opportunities and gives new hope to workers who would otherwise be idle. I commend this idea to my colleagues and urge them to promote it in their areas of the country. I think they will find, as the employees of Barco Chemicals have proven, that the American people can be counted upon to come together and help one another when the going gets tough.

Mr. Speaker, it is with great pride that I present to my colleagues the employees of Barco Chemicals Division, Inc.: Joan Ahlbrandt, P. T. Bluerock, Henry Lee Brown, Patricia Carter, Brunilda Collado, William Curry, Richard Davis, Boris Dvoretsky, Miguel Eizmediz, Willie Everson, Mario Fernandez, Morton Goldberg, Antonio Gonzalez, Frank Granizo, Ruth E. Gufford, Michael Hoffman, Richard Johnson, Fred Katz, Jerry Lebin, Alice M. Lewis, Elaine Lewis, Rick Lortez, Miguel Maimo, Norbert Mantelle, Gloria Mediavilla, Paul Parent, Joseph Parks, Manuel Ramudo, Lauren Rauch, Miguel Rios, Jose Rodriquez, Pablo Ros, John Russell, Steven Sarafan, William Silver, Edward M. Smith, Milton Swersky, James A. Taudte, William Tetreault, Edgar Tyler, and Gilberto Vazquez.●

NATIONAL BUILDING MUSEUM

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. CLINGER. Mr. Speaker, the legislation that I introduced today insures a home befitting a national center dedicated to the building arts and provides for the renovation of one of our Capital's most historic Federal buildings. In December 1980, Congress passed legislation creating the National Museum for the Building Arts, commonly called the National Building Museum, and designated the Pension Building in Washington, D.C. as its home. From the inception of this congressional endorsement, the museum has vigorously undertaken its charge to establish a national center to commemorate and encourage the building arts. Toward a realization of that goal, the museum has identified four major areas of effort: First, fostering a national educational program of exhibitions and other activities to enhance understanding and appreciation of all facets of the building arts and sciences; second, forming a central information bank for the building community that is responsible for what is currently being built in this country; third, creating a collection and resource center for teachers, writers, and students concerned with our past achievements and present efforts in the act of building; fourth, creating in the Pension Building in the Nation's Capital a showcase to exhibit, demonstrate, and encourage contributions to the building arts and sciences with an emphasis on American initiative.

The museum has conducted its activities in a fully professional manner so that its cumulative program would be recognized as befitting a national institution mandated by Congress. Highlights of these programs include: publication of the award-winning quarterly magazine, Blueprint; an active college-level internship program bringing students from all over the Nation to work on a variety of projects in the museum; a home for a major, national collection of over 51,000 working drawings of terra cotta buildings valuable to preservationists, historians, and restoration architects; a series of courses on preservation and historic buildings; compilation of a data base of more than 25,000 records on existing literature in the built-environment fields.

To support this ambitious itinerary of programs, the museum has relied heavily on contributions from the private sector and the matching Federal funds provided in its authorizing legislation. While gaining experience in the art of fundraising, the museum's staff has raised significant amounts of money. In its very first year, the museum raised $232,000, a tenfold increase over the previous year's budget of the founding congressional committee. The private sector continued to respond positively to the museum's requests in the following year, contributing $300,000. Thus, during this initial period, the museum's record of raising cash funds and contributed time showed a total of almost $400,000 in 1981 and a total of $682,000 last year.

RENOVATION AUTHORIZATION

Although the museum has been able to initiate a remarkably professional and valuable program through its current funding structure, its goal of providing a national showcase in the Pension Building has been frustrated. Much renovation is needed to make the Pension Building a fitting home for the National Building Museum.

In order to comply with the directive of Congress that the repair and renovation of the Pension Building proceed immediately, the legislation I propose would authorize an appropriation to the National Building Museum of not more than $1,500,000 for each of the fiscal years 1984 through 1987, for the purpose of maintaining the operations of the National Building Museum during the time that the Pension Building is being renovated and prepared for museum use. This would be accomplished by an amendment to the museum's authorizing legislation, the National Historic Preservation Act. In authorizing these funds, the entire roof over the Pension Building's great hall can be replaced so that the vast intercourtyard of the museum can again be the site of major public events. In addition, the great hall can be restored to its original appearance in time for the centennial anniversary of its first use in 1885 for the Presidential inaugural ball of Grover Cleveland. This will insure a permanent residence for the National Building Museum which will truly attest to the excellence of the building arts in the United States and will provide the resuscitation of a major Federal public facility.

RENAMING THE MUSEUM

The legislation I introduced also would amend the National Historic Preservation Act to change the name of the museum from the National Museum of the Building Arts to the National Building Museum, as the museum is more popularly called.

Mr. Speaker, I believe this legislation provides Congress with the opportunity to show its proper respect and support for those who have participated in the building of America over our long and prosperous history. This bill will give National Building Museum the breath of life it so urgently needs.●

GEORGE BALANCHINE

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. DOWNEY of New York. Mr. Speaker, I would like to take this opportunity to pay tribute to America's preeminent choreographer George Balanchine, who died this week at the age of 79. Recognized as one of the greatest creative artists of this or any era, Mr. Balanchine was a cofounder and balletmaster of the New York City Ballet. Though his creative force will be missed, his memory will live on in the legacy of more than 200 ballets and numerous films and musicals he choreographed.

Born Georgi Melitonovich Balanchivadze in St. Petersburg, Russia, he studied dance at the Imperial School of Ballet. Balanchine left Russia for Paris in 1924 to become balletmaster of Serge Diaghilev's famed Ballets Russes.

Upon his immigration to the United States in 1934, Balanchine cofounded the School of American Ballet and later the New York City Ballet with Lincoln Kirstein. He began choreographing such "signature" pieces as "Serenade", which was described by Time as "a plotless, continuously flowing tapestry of movement in which each dancer moves in and out of the ensemble to play an individual role."

Through his insistence that the essence of ballet is dance itself, Balanchine elevated choreography in ballet to an independent art. He combined his traditionalist training with radical innovation, synthesizing the elegance of classical ballet with the explosive energy of modern dance. He believed in pure movement unencumbered by plot, sets, or elaborate costumes. As a result, there were few story ballets, such as "The Nutcracker" in his repertory. "The curtain should just go up and if the spectators understand what's going on, it's good—if not, bad," he said.

Balanchine's works were alway closely tied to music, and he would often say that his works were an invitation "to see the music and hear the dancing." He collaborated on major works with composers including George Gershwin, Cole Porter, and, particularly, Igor Stravinsky, with whom he created such landmark works as "Apollo", "Orpheus", and "Agon".

Above all, Balanchine believed that the dance was more important than the dancers. Although a cadre of famous dancers performed with the City Ballet over the years, the ensemble always emerged as the star of Balanchine's works.

At the time of his death, a spokesman for the City Ballet said:

> Although Mr. Balanchine is no longer with us, the body of his repertory has its own permanent life, not only in performances with his own company but all over the world, wherever his works may be seen.

Indeed, through such monumental works as "Prodigal Son", "The Four Temperaments", "Concerto Barocco", "Slaughter on Tenth Avenue", and "Episodes", George Balanchine's influence will endure for generations to come.●

CHILD DEVELOPMENT COUNCIL OF NORTHEASTERN PENNSYLVANIA

HON. FRANK HARRISON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. HARRISON. Mr. Speaker, on Wednesday evening, May 11, the Child Development Council of Northeastern Pennsylvania will conduct its annual meeting for the election of officers and the recognition of volunteers and staff who have worked together over the past 12 months.

The Child Development Council is one of the outstanding agencies in northeastern Pennsylvania. Since its incorporation in June 1972, at the height of the Agnes disaster, the Child Development Council has provided quality services which have fostered the growth and development of the thousands of children enrolled in its programs. It has strengthened family life by supplementing the care families provide for their children. And it has provided a framework for advocacy on behalf of children and has immeasurably enhanced community awareness for children's needs.

During the Agnes disaster of 1972, the council provided day care services, on a daily basis to 4,600 children whose parents were left homeless. Since then, it has continued to provide outstanding day care service to children of all ages; it has developed new and experimental programs; it has initiated programs mainstreaming handicapped infants and toddlers as well as preschoolers in day care centers.

Today, the Child Development Council serves over 1,000 children in Luzerne and Wyoming Counties. As a result of its efforts, 750 working families employed in banks, factories, professional offices, hospitals, retail stores, schools, and service industries, are able to fulfill their daily responsibilities knowing that their children are well cared for.

One hundred families remain on the waiting list, a fact which testifies to the great need for day care services in general and, in particular, to the outstanding professional care rendered by the Child Development Council of Northeastern Pennsylvania.

Mr. Speaker, it is an honor for me to join with the entire community of Luzerne and Wyoming Counties in paying tribute to the Child Development Council of Northeastern Pennsylvania, its officers, directors, volunteers, staff, and, of course, to its incomparable executive director of 11 years, Mrs. Evelyn S. Gurbst. On May 11, these dedicated men and women will celebrate another milestone in their service to families and youth and, as they do so, all of us wish them many, many more happy and successful years of service to the community.●

INTRODUCTION OF DEPARTMENT OF JUSTICE AUTHORIZATION BILL, 1984

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. RODINO. Mr. Speaker, I am introducing today a bill to provide authorization for appropriations for fiscal year 1984 for the Department of Justice.

The administration has proposed a budget for all functions of the Department of Justice of $3,387,892,000. The bill I am introducing reflects the overall thrust of the administration's submission and contains, in most cases, the specific allocations suggested, with the following exceptions.

The bill authorizes approximately $100 million more for the Immigration and Naturalization Service. The bill reflects the committee's view that the budget submission for INS is inadequate. The committee has consistently recommended an authorization of funds over and above INS' proposed budget based on its belief that the agency needs a significant increase in its enforcement capabilities, as well as additional service-related personnel to cope with the increasing adjudications backlogs. The figure contained in the bill will meet these needs.

The bill includes authorization for appropriations commensurate of the immigration reform package.

The bill contains an increase of $12 million for the Bureau of Prisons to provide 1,000 beds in contract community treatment facilities. This increase provides funds to allow the average daily population of the treatment facilities to rise to approximately 3,300 inmates.

The bill also authorizes an additional $5 million for the National Institute of Corrections to provide adequate technical assistance commensurate with the needs of State and local correctional programs.

The bill adds $3 million in the area of minor dispute resolution to fund a clearinghouse function and several pilot programs.

The bill provides $10 million for the U.S. Trustees in Bankruptcy and extends this pilot program through September 30, 1986.

The bill increases the authorization for the Drug Enforcement Administration an additional $8.85 million. The Drug Enforcement Administration is the lead agency in the Nation's fight against drug trafficking. The administration's request of $275.6 million for fiscal year 1984 does not restore the cuts that resulted from the 1982 programing, or provide sufficient resources to the foreign cooperative investigations program. The bill's figure provides for an additional 168 workyears for foreign cooperative investigations (15 WY), State and local training (23 WY), intelligence (69 WY), and diversion control (61 WY).

The National Institute of Justice conducts research and evaluation of justice programs and disseminates the results of such research and evaluation in order to improve the quality of justice in the Nation.

The bill does not increase the administration's request for the National Institute of Justice. However, the bill does authorize a total of $22 million for the NIJ, which includes funds for management and administrative expenses.

The Bureau of Justice Statistics collects, analyzes, and publishes statistical information on crime and the administration of justice at all levels of government to provide a factual basis for policy development and evaluation of justice programs.

While the bill does not increase the administration's request, the total figure of $20 million for BJS includes management and administrative expenses.

Because the committee is concerned about the positions taken by the Department concerning enforcement of the Sherman Act and its per se prohibition against resale price maintenance, we have included a specific provision in the bill to prohibit the Department from engaging in any activity for the purpose of overturning or altering this doctrine.

The committee is also concerned about a proposed transfer of positions from enforcement divisions in the Department to field offices of the U.S. attorneys and the negative impact which such transfers may have. Accordingly we have included language in the bill to prohibit any such transfers at this time.

Because there is an ongoing dialog concerning the administration's guidelines relating to domestic security, the bill specifically requires that any activities relating to domestic security be conducted in accordance with the Attorney General's guidelines on domestic security investigations, the Attorney General's guidelines on use of informants in domestic security, organized crime, and other criminal investigations, and the Attorney General's guidelines on FBI undercover operations, as in effect on October 1, 1982.●

SHORTCOMINGS EVIDENT IN COAL SLURRY LEGISLATION

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. VENTO. Mr. Speaker, I would like to insert for the RECORD an excellent editorial that appeared recently in the St. Paul Pioneer Press. The editorial outlines some of the problems that are associated with the construction and use of coal slurry pipelines. H.R. 1010, the Coal Slurry Pipeline Act, would grant the use of Federal eminent domain power to certain corporations so as to facilitate the construction of coal slurry pipelines. The privilege of using Federal eminent domain power carries with it special responsibilities to assure the safeguarding of the public's interest. H.R. 1010's failure to address the issues raised by the editorial, points to the serious shortcomings that exist with this legislation.

I commend the editorial to the attention of my colleagues.

[From the St. Paul Pioneer Press, Apr. 28, 1983]

COAL SLURRY BILL RAISES QUESTIONS

A coal slurry pipeline bill that cleared the House Interior Committee earlier this month contains some important provisions that make the legislation more palatable. But the coal slurry concept still raises serious questions that Congress should address before taking further action.

On the positive side, the amended bill gives states control over their water supplies by limiting eminent domain authority to obtaining rights-of-way through railroad property, not water supplies from individual states. The bill also gives states express authority to control whether a pipeline may use their water.

This is a critical issue because slurry pipelines will originate in western coal fields, where water is in short supply. Compounding that problem is a 1982 U.S. Supreme Court ruling that said ground water is an article of commerce and therefore subject to federal regulation. States, in other words, cannot ban water exports. Fortunately, the court intimated that Congress could give states authority to issue such bans. The amended slurry bill grants this authority.

The bill also provides that state rules on jury trials, compensation and siting alternatives prevail in all court cases involving federal eminent domain and slurry pipeline construction issues.

Although these are positive legislative additions, they do not lay to rest other concerns about the long-range effects of coal slurry pipelines.

Water supplies are rarely influenced by state borders. South Dakota has decided to sell millions of acre feet of Missouri River water to a slurry pipeline operation. But if that sale is followed by others from the same source, downstream water supplies eventually will be threatened. Who decides how much water can be withdrawn from a single source?

And how about the effect coal slurry lines will have on small utilities? Presently, railroads haul the bulk of the coal. Economics will force coal slurry lines to serve only large utilities. Small utilities fear that if railroads lose their big customers, they'll make up for part of the loss by boosting freight rates to utilities forced to rely on railroads.

Finally, there is the common carrier issue. Coal slurry lines could devastate railroads whose survival depends on coal-hauling contracts. They would be replaced by slurry lines designed to ship a mixture of finely ground coal and water but nothing else. America should be concentrating on rebuilding, not destroying, its rail network.

For more than 20 years, proponents have been trying to sell coal slurry pipelines as a logical way to increase competition and hold down freight costs. They met with little success until 1980, when Congress, in an effort to rejuvenate the nation's railroads, passed the Staggers Act permitting railroads to set freight rates at 165 percent above costs. Since then, rail rates have increased steadily, along with coal slurry prospects.

Congress would be making a mistake if, in an effort to control rising freight rates, it also jeopardized fragile western water supplies, the future of some small utilities and a segment of the nation's troubled rail system.●

LEGISLATION TO HELP THE COPPER INDUSTRY

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. RICHARDSON. Mr. Speaker, last month the distinguished chairman of the Committee on Interior and Insular Affairs, Mr. UDALL, and my freshman colleague, Mr. MCNULTY, introduced a legislative package designed to give our hard-pressed domestic copper industry a much-needed boost. I am today announcing my cosponsorship of these two bills and pledge my total support in bringing these measures to the floor for an early vote.

Last year, the domestic copper industry suffered a terrible blow in its efforts to remain economically viable. Demand, production, prices, and profitability all plummeted in response to the current economic recession. Demand for refined copper dropped more than 10 percent to approximately 2 million tons, a level not seen in the United States since the 1974-75 recession.

The price of copper now stands below its domestic production costs. In 1980, domestic prices stood at 96 cents a pound. In 1981, they dropped to 79 cents. And last summer copper prices in the London Metal Exchange hit rockbottom at 58 cents a pound, far below the domestic production cost of $0.80 to $1.20 a pound.

The impact of slackened demand, falling prices, and high production costs has yielded tragic results. Nationally, more than 21,000 copper workers, almost 60 percent of the work force, has been laid off. In my home State of New Mexico, more than 2,300 workers lost their jobs. Unemployment in towns such as Chino and Silver City stands at 29.7 percent.

Copper's importance, however, goes far beyond its economic value to New Mexico and the Nation. Copper is also a vital strategic mineral because it is an essential component in military hardware. Because of its strategic importance, I believe it is critical for the United States to maintain a defined reserve of domestic copper. The need for this reserve was recently underscored in a Department of Commerce report, which noted that spot shortages of copper could develop by 1987 if our economic productivity levels increase worldwide. The report also noted that if domestic production does not resume, "serious domestic copper shortages could occur by the mid-1990's."

Mr. Speaker, given the depressed condition of the industry and the resulting soft prices for copper, any rational person would assume that the administration would be moving expeditiously to reduce our strategic vulnerability by making large domestic copper purchases for the strategic mineral reserve. Unfortunately, this is not the case. The Federal Emergency Management Agency (FEMA) has set a national defense stockpile goal of 1 million tons. Yet, to date only 29,000 tons are in the stockpile. Last year, the Congress urged FEMA to purchase up to $85 million in copper stocks for the national defense stockpile. FEMA, however, has largely ignored Congress advice and appears unwilling to change its position in the coming months.

The Udall/McNulty legislative package attacks the problems of our growing strategic mineral vulnerability and our depressed domestic copper industry in two important ways. The first bill, H.R. 2412, requires FEMA to purchase $85 million of domestic copper within 12 months. At current prices, FEMA could purchase 100,000 tons with this authorization, far short of the $871 million more FEMA says it needs, but an important start nonetheless.

The second bill, H.R. 2413, places an environmental equalization tax on imported copper. This tax is necessary, Mr. Speaker, because foreign governments have not required their copper industries to clean up the environment as has our Government. During the past 5 years, domestic sulfur dioxide emissions have been reduced dramatically. This is an important and necessary step in our Nation's fight to allow industry and the environment to coexist in a socially responsible manner. But these changes have not come without their costs to the industry. It has been estimated that domestic producers spend up to 15 cents for every pound of copper they produce, to comply with environmental regulations. This cost accounts for almost one-sixth of the price at which copper can be sold domestically.

Foreign copper producers, who do not have to comply with strict clean air standards, use their reduced operating costs to create a massive cost advantage in the domestic marketplace. The existing copper duty of 8 cents a pound does little to protect domestic producers placed at a cost disadvantage in the international marketplace.

H.R. 2413 would inject some element of competition and fairness by imposing a duty on imported copper equal to the cost advantages enjoyed by foreign copper producers who are not subjected to environmental regulation as stringent as that found in the United States. The approach embodied in H.R. 2413 recognizes the more than $1 billion the domestic copper industry has invested in compliance with our environmental laws. At the same time, it would prevent imported copper producers from dumping their products on our markets.

Mr. Speaker, these two bills, taken as a package, would give the domestic copper industry some much needed relief. Admittedly, the copper industry will not rebound fully until the economy recovers from the fiscal and budgetary jolts of the past few years. Even then, the copper industry must meet the challenges which technological changes are forcing upon it. The introduction of fiber optics into the telecommunications industry means the copper industry must find new markets, such as the solar energy industry. I believe, given the time and the proper level of support from the Congress, the domestic copper industry can meet those challenges. H.R. 2412 and 2413 are designed to provide that level of support, and I urge my colleagues to support these bills when they come to the floor later this year.●

EMERGENCY AGRICULTURAL CREDIT ACT

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. CAMPBELL. Mr. Speaker, I want to express my strong support for H.R. 1190, the Emergency Agricultural Credit Act, as it was adopted by the House yesterday. Although it was necessary for me to be in my district participating in the dedication of the Clement F. Haynsworth, Jr. Federal Building, I had the opportunity to take part in several previous days of debate on this legislation.

As I had told the administration and my friend from Illinois, Mr. MADIGAN, all along, I supported the intent of H.R. 1190, but felt that some tightening amendments were necessary to make the bill not only acceptable, but as helpful as possible to the farmers it was designed to assist. I am pleased that the amendments adopted yesterday improve the bill to the extent that I can support it enthusiastically, as did an overwhelming majority of the House.

As adopted by the House, this measure will provide needed relief to farmers who, through no fault of their own, are delinquent on their FmHA loans, and it will boost the credit available to farmers who look to the Farmers Home Administration for loans. In South Carolina, where the peach farmers have been hard hit by a late frost for the second year in a row, I believe it will be particularly helpful.●

WILL THE REAL SIMON PLEASE RETURN?

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. WORTLEY. Mr. Speaker, a recent article by former Secretary of the Treasury William Simon on the International Monetary Fund made waves throughout the political and financial worlds. Mr. Simon appears to have reversed his previous position of support for increased U.S. participation in the Fund.

In a very short while, the whole House of Representatives will have an opportunity to debate the proposed quota increase for the IMF.

Because the issue has generated more than a modicum of controversy, I urge my colleagues to read Deputy Secretary of the Treasury McNamar's letter to the editor in the April 26th Wall Street Journal before making any final decision on the International Monetary Fund. Mr. McNamar has done a masterful job of refuting the points raised by the former Treasury Secretary. The text of Mr. McNamar's letter follows:

[From the Wall Street Journal, Apr. 26, 1983]

WILL THE REAL SIMON PLEASE RETURN?

Earlier this month I visited Mexico, Peru, Brazil and Argentina, meeting again with finance ministers, central bankers and businessmen. Each country has problems managing its external debt, and each is in various stages of working with the International Monetary Fund to resolve the difficulties.

Their economic problems are serious and will not disappear overnight. But I came home with renewed confidence that these nations are all working in the direction of sound economic adjustment and financial stabilization. The theme heard repeatedly was that the IMF is playing an indispensable catalytic role in assisting these nations in making the necessary transitions toward economic stability and sustained real growth.

In light of this experience, I found former Treasury Secretary William Simon's editorial page article April 6 both ironic and quizzical. In fact, there are those here at Treasury who suspect that the article may have been written by an impostor. They suspect this because it was the real Bill Simon who, as Treasury Secretary, was at the forefront of earlier debates with Congress, calling for an increase in America's quota to the IMF.

In the Journal, Bill argued that there is no point to a "bailout" that only permanently increases world debt. Assuming he means relative to a given level of economic activity, I agree. But an IMF assistance program provides only transitional assistance to a nation to give it "breathing room" to get its house in order. Then it can begin to reduce its external debt, at least as a percentage of its GDP or foreign-exchange earnings. And time after time history has shown that this has been the case when domestic economic policy changes have been coupled with IMF balance-of-payments assistance. The U.K. in 1976 is a prime example.

Bill misses the point of an IMF quota increase. It is not to help the banks. Rather, it is to maintain a working system of international finance and trade by helping the borrowing countries overcome temporary balance-of-payments problems. The objective is worldwide economic growth, employment and political stability.

When the U.S. increases its commitment to the Fund, the U.S. receives a corresponding increase in liquid international monetary reserve assets (SDRs) which earn interest. To argue that this is not a real asset swap or that it is "an accounting sleight of hand" fails to recognize the existence of double entry bookkeeping. An indication of the SDRs' true value is the fact that the U.S. has drawn on their assets many times. In fact, we are the second largest user of IMF resources of the entire Fund membership.

The case for the IMF was summed up very eloquently by a recent Secretary of the Treasury: "A country that gets into difficulty, whose credit-worthiness becomes suspect, can find that private financing dries up overnight. Such a country will adjust—it must adjust. But the choice may be between an adjustment that is internationally harmful and one that is internationally constructive. In dealing with these cases, the IMF can perform a crucial role that no other institution can carry out." (William E. Simon, June 1, 1976)

That's the real Bill Simon, and I agree with him. If there weren't an IMF, we'd have to invent it.

R. T. MCNAMAR,
Deputy Secretary of the Treasury.
Washington.●

FINANCIAL ASSISTANCE—GRAND CANYON UNIFIED SCHOOL DISTRICT

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. STUMP. Mr. Speaker, the bill I am introducing today, which is cosponsored by my distinguished colleagues from Arizona, MORRIS UDALL, ELDON RUDD, JAMES MCNULTY, and JOHN

McCain, amends Public Law 95-244 to provide sorely needed financial support for the Grand Canyon Unified School District, the only school in the national park system with a K-12 program.

In March 1978, Public Law 95-244 was enacted to authorize funding of up to $1.5 million, less Federal impact aid, for each of the following 2 years. In December of 1980, Public Law 95-244 was amended by Public Law 96-581, to authorize appropriations for fiscal year 1981 through fiscal year 1985. However, only half of the authorized funds has been appropriated since 1979.

Mr. Speaker, some may say that the financial problems within the Grand Canyon Unified School District are faced by many other school districts in our country. Let me explain why Grand Canyon requires congressional action and the additional financial assistance.

First, all but a very small portion of the land within the school district boundaries is owned by the Federal Government. Less than 2 percent of the property is privately owned, and 10 to 15 percent is held by the State of Arizona. The school serves a growing population of 222 students, of which 190 live with their parents within the Grand Canyon National Park boundary. They do not pay property taxes.

The 1982-83 assessed valuation for the district is $8.7 million. The tax rate is $4.98 per 100, and is projected to increase by at least $1 per every 100 for next year. Santa Fe Railroad, which last year paid over $44,000 in taxes, is removing its tracks and will no longer pay taxes to the district. One can see how quickly and seriously the tax base is eroding.

Mr. Speaker, the second reason why the Grand Canyon Unified School District is in such dire financial straits and seeks Federal relief is safety. The school is housed in four buildings, two owned by the school and two by the National Park Service. These buildings date from 1939 to 1956. When inspected in 1981 for architectural, mechanical, and electrical soundness, severe deficiencies were discovered. These deficiencies keep the district from meeting present governing codes. And the district has been informed that actions must immediately be taken to correct the existing hazards or the school buildings will be closed.

The school's budget, which is approximately $800,000, is to provide for all the educational programs and needs of the students, as well as to cover the operating costs of the school. With Federal impact aid providing only $264,651 to the school for 1982-83, and the immediate repairs necessary to meet the health and safety codes, it is easy to see the disastrous situation the district now faces.

There is no doubt in my mind that we have a duty to provide an acceptable educational program in adequate, safe facilities to these students. They are largely the children of Federal employees—those people who operate and maintain the facilities at the Grand Canyon National Park. If this district did not exist, the students would have to be bused to either Flagstaff, Ariz., 89 miles one way, or Williams, Ariz., 60 miles one way, and given the transportation and weather conditions of the area, I find that unacceptable to consider.

What if those other districts could not accept them? How could the Grand Canyon district pay the tuition and transportation costs? And, finally, how can we expect the National Park Service to attract quality personnel to this beautiful national park if we cannot assure the health, safety, and education of their children?

Mr. Speaker, all we ask is that a very small amount of millions of Federal revenues collected at Grand Canyon National Park be used for the school district. In fiscal year 1982, $1 million in entrance and user fees were collected from visitors to the park. Putting this money into a special fund under the purview of the Secretary of the Interior is a much more effective procedure than asking Congress for a line item appropriation every year. Pursuant to the terms prescribed by the Secretary, limited payments from the fund would be made to the Grand Canyon School District. The Secretary would control the fund, the Federal Government would be providing its much needed financial assistance to educating the dependents of its employees, and the school would be brought up to the required health and safety standards.

Mr. Speaker, I urge my colleagues to closely examine this serious situation and support this bill, which offers financial assistance to the Grand Canyon Unified School District.●

HAPPY BIRTHDAY—ANCIENT ORDER OF HIBERNIANS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. BIAGGI. Mr. Speaker, as chairman of the bipartisan ad hoc congressional Committee for Irish Affairs I wish to pay tribute to the members of the Ancient Order of Hibernians on this the 148th anniversary of their founding as an organization in America.

To be true to the full history of the AOH, one must trace its origins back to the Emerald Isle or Ireland where the original organization was founded in the year 1520. Over the history of the organization it has had a distinguished record of service in both nations.

My relationship with the AOH has been a long and rewarding one. In terms of years it spans well beyond my 14 years in the House. It has been particularly close since 1977. It was in September of that year when the AOH, together with the Irish National Caucus, contacted me to urge that I establish and serve as chairman of a new organization within Congress to advocate for peace and justice in Ireland. From that request emerged that ad hoc congressional Committee for Irish Affairs. Since its establishment up through the present day, the committee has worked closely with the leadership as well as the rank and file of the AOH in pursuit of mutual goals and interest. This has included the national presidencies of Jack Keane, Tom McNabb, Jack Connolly, and the current national president, Joe Roche.

The Ancient Order of Hibernians has been outspoken in their support of peace, justice, and human rights for all of Ireland. I continue to work closely with the AOH and its fine membership. At this point in the Record, I wish to insert a brief history of the AOH from the new Irish Directory.

HISTORY OF THE ANCIENT ORDER OF HIBERNIANS

The Ancient Order of Hibernians was founded in Ireland in 1520. It was extended to America on May 4, 1836, when a unit was established in New York City.

The idea of organizations such as the Ancient Order of Hibernians was known in Ireland long before the birth of Christ. In those days the men of Ireland grouped themselves into special types of organizations called "Orders." Among the "Orders" were: "Knights of the Golden Chain," the "Bardic Order," and "The Knights of the Red Branch." These ancient fraternities were powerful units long before the dawn of Christianity.

When St. Partrick came to Ireland in the Fifth Century, these Ancient Orders embraced Christianity and built schools and monasteries. When in the early 1500s the long persecution of the Catholic Church and the Irish nation began, the men of Ireland naturally set up an organization that was patterned after the Ancient Orders with which they were long familiar. The Ancient Order of Hibernians was organized in 1520 in Ireland to protect the Mass, the Priest and the Church. From 1536 to 1547 it resisted the efforts of King Henry VIII to make himself, instead of the Pope, head of the Catholic Church. It fought the armies of Queen Elizabeth from 1560 to 1603 and defied her plans to exterminate the Irish Catholics by dungeon, fire and sword.

The Ancient Order of Hibernians fought Oliver Cromwell from 1649 to 1658. The Order's purpose of protecting the Mass, the Priest, and the Church took on added significance when Cromwell by law decreed that "priests were to be found guilty of high treason and felony." In 1655, Cromwell ordered "every priest found in the country to be arrested and either executed or sold as a slave to the Barbados Island." Cromwell paid more for the head of a priest than that of a man-eating wolf which brought a reward of three pounds.

The Ancient Order of Hibernians fought for hundreds of years, the laws and armies of extermination bent upon eliminating completely the Catholic religion in Ireland. Its fight was for National survival and religious liberty. Members of the Order acted as guards to the Priests when they carried the Sacred Host on sick calls; they served as guides in directing the Priests to secret caves back in the mountain fastnesses where Mass was quietly said; they served as lookouts to spread the word of warning should danger from soldiers threaten.

AOH COMES TO AMERICA

A mounting wave of religious bigotry, discrimination, mob action and violence in the 1830s brought the Ancient Order of Hibernians to America. On August 11, 1834, the Ursuline Convent in Boston was burned by a mob which called itself "Native Americans." At the same time, there arose an organization which called itself the American Protective Association. Whenever a member of this association was arrested for crimes of violence against Catholics and questioned, his stock answer was "I know nothing." To combat these activities the AOH was established in America on May 4, 1836, for the same purpose as in Ireland: to protect the Mass, the Priest and the Church. The Division that was formed in New York City that year continues to this day.

By 1840, the AOH spread to Newark, New Jersey, and Philadelphia, Pennsylvania. The reason was to counter plans of the "Native American" and "Know Nothing" organizations which were active in these regions. In May, 1844, the "Know Nothing" organization physically attacked Catholics and burned the church, rectory and convents of St. Michael's and St. Augustine's parishes in Philadelphia. They also threatened other churches in Philadelphia. The "Hibernian Greens," a company of Irishmen in the local military forces were among those who, with civilian Hibernians, defended Philadelphia's churches from attack.

In April, 1844, the "Know Nothing" organization advanced and prepared to burn the old St. Patrick's Cathedral in New York City. Archbishop John Hughes of New York called in the Hibernians to defend it. Armed with muskets they manned the walls, while others manned swiftly erected barricades in the streets. Their action turned away the "Know Nothing" mob that had come to burn the Cathedral. Resolute Hibernians action such as this also turned away church-burning "Know Nothing" mobs in other sections of the country during the 1844-56 period of "Know Nothing" activity.

In the Civil War, whole divisions of the AOH volunteered and entered the armies at a time when other young men were buying themselves out of the draft for one hundred dollars each. The Hibernian Divisions were active in opening the way for Catholic nuns to go on the battlefield as nurses for the sick and wounded. There were no organized nurses' corps in the Civil War and the nuns took over that duty. In 1924, a monument to the "Nuns of the Battlefield" was erected in Washington, D.C. by the Ladies Auxiliary of the AOH on land donated by Act of Congress. It is dedicated to the 600 nuns of twelve religious communities who volunteered to serve in the Civil War. Official records show that 306 of these nuns were born in Ireland.

Today the Society is striving to unite our people in one vigorous Organization with aims to perpetuate in America, the spirit of our Catholic ancestors and to preserve the ideals and make known the history of the race and to guard and defend the principles of civil and religious liberty in our own heavenblest land.●

GILMAN INTRODUCES LEGISLATIVE RELIEF FOR COUNTIES AND TAXPAYERS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. GILMAN. Mr. Speaker, I am reintroducing legislation that would relieve the situation counties find themselves in during the course of prosecuting criminals in a case of national importance. Last year, my bill, the "Local Prosecutor's and Sheriff's Relief Act," meant to compensate counties for the financial burden brought about by these circumstances.

On October 20, 1981, a group of alleged underground terrorists, some of whom had been wanted by the FBI since the 1960's, participated in the robbery of a Brink's armored truck at the Nanuet Mall in Rockland County, N.Y. In the course of the robbery and escape, one guard and two local policemen were killed. The alleged terrorists are currently being tried, with indictments brought by the Federal Government, in a court in Orange County, the venue of the case having been transferred from Rockland County, an adjoining county.

When the case was initially considered in Rockland County, officials there, including the chairman of the legislature, the sheriff, and the district attorney, estimated the cost of prosecution at several million dollars. While pursuing several avenues, we were able to pinpoint some available surplus funds under the now defunct Law Enforcement Assistance Agency. Accordingly, Rockland County has now been partially compensated for the unfair burden it assumed during the course of considering the Brink's robbery case.

However, Mr. Speaker, my legislation, which would aid local officials in counties meeting the extraordinary costs involved in pursuing prosecutions of this nature, is still urgently needed, since Orange County, also in my congressional district, will now suffer the same burden, formerly borne by Rockland County. Because the venue of the trial has been changed, Orange County officials expect their costs to be in the millions as well, and are now seeking some avenue of relief. Unfortunately, the LEAA is no longer in existence, and no funds are currently available to ease their plight.

This bill enables the Attorney General of the United States to make grants to State and local authorities to help them meet the expenses of prosecutions and associated security costs when they are prosecuting a defendant in a case involving a clear Federal interest.

The grant procedure is designed to be simple and straightforward. The Attorney General will have broad discretion with regard to which applications, if any, would be funded. It is anticipated that he would be able to take swift action on all applications.

Mr. Speaker, we all know that desperate criminals, wanted by Federal authorities, often break State laws. We have seen this happen in Rockland County in the Brinks case, and the ensuing burden on the people of Rockland. We are now witnesses to the added burden of such a trial on the taxpayers of Orange County. The human lives that have been lost in the apprehension of these criminals can never be replaced.

This fact situation can happen anywhere in the United States. I do not believe that there are many counties willing and able to bear this kind of substantial cost. That two counties, both in my district, are adversely affected financially by the same trial is clear indication that with changes of venue in other such trials, larger communities are being unfairly impacted as their tax dollars go to support court costs in trials of this nature. Consequently, county tax dollars are stretched to the limit in an effort to adequately deal with this burdensome situation. The Federal Government should make contingency plans to aid these communities when such cases of national significance are being considered in court, and I believe that my legislation fully addresses this problem.

Mr. Speaker, in introducing this measure with the hope that the committee will favorably consider the legislation, and I invite my colleagues to join me in cosponsorship. I ask that a copy of the bill be inserted in full at this point in the Record:

H.R. 2908

A bill to provide for the relief of local prosecutors and sheriffs

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Local Prosecutor's and Sheriff's Relief Act of 1983".

Sec. 2. The Attorney General, in his sole discretion, is authorized to make grants to State or local governments for the purposes set forth in section 3, if he deems an application made by a State or local government to merit payment under this Act.

Sec. 3. Grants under this Act may be made to assist State and local governments—

(1) to meet the expenses of prosecuting a defendant or defendants,

(2) to meet the expenses of maintaining courtroom security, or

(3) to meet the expenses of maintaining a defendant or defendants safely and securely in custody.

when a Federal interest is served by the vigorous prosecution of such defendant or defendants.

Sec. 4. The Attorney General is authorized to prescribe such rules as are necessary to carry out this Act, including rules regarding the disposition and accounting of funds granted under this Act.

Sec. 5. The Attorney General may approve in whole or in part, or deny, any application for a grant under this Act.

Sec. 6. Grants under this Act may be made in advance or by way of reimbursement.

Sec. 7. Grants under this Act may be made to reimburse costs incurred at any time after June 1, 1981.

Sec. 8. For the purpose of carrying out the provisions of this Act, there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1984, $10,000,000 for the fiscal year ending September 30, 1985, and $10,000,000 for the fiscal year ending September 30, 1986.●

BIRTHDAY GREETING TO HON. HENRY B. GONZALEZ

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Mr. McKINNEY. Mr. Speaker, I wish to take this opportunity to add my remarks to those of my colleagues who honor the gentleman from San Antonio, Henry B. Gonzalez, the distinguished chairman of the Housing and Community Development Subcommittee of the House Banking Committee, on the occasion of his birthday and the 30th anniversary of his first election to public office.

Unfortunately I had to return to Connecticut yesterday afternoon so I missed the opportunity to congratulate Henry personally. It has been my honor and pleasure to serve on the Banking Committee with Henry since I came to Congress in 1971 and also we served together on the Select Committee on Assassinations.

The people of San Antonio are indeed fortunate to be represented by such a man. His love for his people and his ardent support for the rights of individuals are well known among the Members of this body on both sides of the aisle.

Since the beginning of this Congress it has been my privilege to sit next to Henry Gonzalez on the Housing Subcommittee as the Ranking Republican member. I am proud to have the opportunity to work with him in addressing the housing needs of our country. I feel that under his leadership we will make major strides toward achieving our goal of decent housing for all Americans. No one wants this more, and no one works harder toward that end, than Henry B. Gonzalez.

We are all fortunate to have you here and I wish you happy birthday for many years to come, Henry.●

AFL-CIO PRESIDENT KIRKLAND AND LABOR EXECUTIVES ENDORSE MX PLAN

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. RINALDO. Mr. Speaker, I am pleased to bring to the attention of the Members of the House the increasingly broad basis of support for the recommendations of the Presidential Advisory Commission on the MX, which was headed by General Scowcroft.

The Commission's conclusions have been endorsed by AFL-CIO President Lane Kirkland, following the advice of his defense committee. That committee includes such senior labor union executives as Kenneth Blaylock, president of the Government Employees; William W. Winpisinger, president of the Machinists; Douglas A. Fraser, president of the Auto Workers; Frank Drozak, president of the Seafarers; Charles H. Pillard, president of the International Brotherhood of Electrical Workers; Albert Shanker, president of the Teachers; Vincent Sombrotto, president of the Letter Carriers; and John J. O'Connell, president of the Air Line Pilots.

The endorsement of President Kirkland and these senior labor officials indicates a new consensus forming around the need for a strong defense structure for the United States to protect itself adequately and to maintain peace in the world.

Herewith I insert the AFL-CIO News reprint account of this labor endorsement for the MX.

[From AFL-CIO News, Apr. 23, 1983]

KIRKLAND BACKS MX PANEL ON MISSILE DEPLOYMENT PLAN

AFL-CIO President Lane Kirkland, acting on the advice of the Executive Council's Defense Committee, endorsed a presidential advisory commission's recommendations that the United States deploy 100 MX missiles in existing Minuteman silos. The council panel described the commission's plan as "thoughtful, balanced and feasible."

"In its key elements," Kirkland said, "the commission's report is consonant with the views expressed by the AFL-CIO Defense Committee in its interim report to the Executive Council last February."

Under the plan drawn up by the President's Commission on Strategic Forces, the MX missiles, each armed with 10 warheads, would be placed in silos in southeastern Wyoming and southwestern Nebraska that now house Minuteman III missiles.

At the same time, the council committee—headed by Vice President John H. Lyons—expressed support for the commission's proposal that the nation "begin designing a new, small single-warhead missile which could be deployed in several basing modes—e.g., in hardened silos and hardened mobile launchers."

The commission, chaired by retired Air Force Gen. Brent Scowcroft, issued its recommendations on Apr. 11. President Reagan formally adopted the package on Apr. 19. The commission was appointed in January to help the Administration break a long political deadlock over a way to reduce the potential vulnerability of American land-based, intercontinental ballistic missile forces.

The bipartisan panel urged the Administration to reassess its current strategic arms proposal to focus primarily on limiting the total numbers of warheads on land-based missiles and to permit a larger number of missile launchers.

"Inasmuch as the commission's recommendation would steer arms control negotiations with the Soviet Union toward limiting warheads rather than launchers," the AFL-CIO Defense Committee observed, "it also reflects the position of the AFL-CIO Executive Council."

At the same time, the committee reiterated the council's position last February that increases in defense spending in the coming years can and should be held within a 5-7 percent range in "real," or inflation-adjusted, terms each year without jeopardizing national security.

AFL-CIO Vice Presidents who serve with Lyons on the committee are Kenneth Blaylock of the Government Employees, William W. Winpisinger of the Machinists, Douglas A. Fraser of the Auto Workers, Frank Drozak of the Seafarers, Charles H. Pillard of the International Brotherhood of Electrical Workers, Albert Shanker of the Teachers, Vincent Sombrotto of the Letter Carriers, and John J. O'Donnell of the Air Line Pilots.●

A SALUTE TO TOBY OSOS FOR OVER 40 YEARS OF HUMANITARIAN PUBLIC SERVICE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. ANDERSON. Mr. Speaker, on Sunday, May 15, the many friends and colleagues of Toby Osos will gather in Pasadena, Calif., at the Brookside Clubhouse to honor her for over 40 years of humanitarian public service.

Toby was born and raised in Michigan City, Ind. About 1950, she moved to southern California and settled in Pasadena.

Upon her arrival, she immediately became involved in numerous civic affairs and functions. Toby quickly became a leader for various local and national education, political, health and welfare action committees, conferences, and workshops. Above all, she has continually strived to protect the rights of minorities, women, and the poor.

Prior to her current position as staffing program coordinator for a Welfare Reform Act grant to the chancellor's office, California State University and Colleges, Toby served in a number of positions which benefited the community. As principal staff consultant at Griffenhagen-Kroeger, Inc., she was in charge of operations for the Los Angeles regional office, and responsible for direction on a national basis of organizational and personnel management projects in the health, education, and social services areas. Also, Toby has served as pyschometrist and vocational counselor, Veterans Guidance Center, Pasadena City Schools; psychometric assistant, board of examinations, University of Chicago; and psychometric aide, Student Counseling Bureau, University of Minnesota.

Vis-a-vis Toby's professional career, she is also a member of the following organizations: American Society for Public Administration, Public Personnel Association, Western Governmental Research Association, and the YWCA.

Her longstanding involvement with the YWCA is one of special significance. She has been a board member and officer of the YWCA at the local, national, and international levels.

It is also important to note, Mr. Speaker, that Toby has been a strong advocate of the Democratic Party and the ideals for which it stands. In 1953, she was elected to the office of president for the California Young Democrats and also was secretary of the National Young Democrats. She helped draft the constitution for the California Democratic Council and was quite active in its formation. In 1965, Toby served as president of the FDR Club in Pasadena, and also region I vice president of the California Democratic Council. If this is not enough, she also made the time to be a delegate to the 1960 Democratic National Convention and served as a member of the Democratic State Central Committee.

In short, Toby has continually strived to make this a better place to live and work. Her spirit of voluntarism is an inspiration to us all.

My wife, Lee, joins me in congratulating Toby Osos for her many fine achievements and contributions. Mr. Speaker, I know that you join me as well in wishing Toby all the best in the future, secure in the knowledge that she will continue to be a most outstanding member of our community.●

DRUNK DRIVING KILLS 70 AMERICANS A DAY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. BIAGGI. Mr. Speaker, today I am introducing a bill to suspend Federal highway trust fund dollars to those States that do not adopt strict drunk driving laws and enforcement programs.

The reasons for this legislation, which is one of the strongest antidrunk driving measures ever offered, are best explained through some hard numbers—there are 1.3 million serious drunk driving accidents each year; 70 Americans a day die from alcohol-related traffic accidents; over 55 percent of all traffic deaths in the United States are alcohol-related (an increase of 5 percent from 1981); of the 25,000 Americans who die each year from alcohol-related traffic accidents, 10,000 (40 percent) are under the age of 21; and although precise figures are not available, some law enforcement officials estimate that only 1 drunk driver out of 2,000 is ever arrested.

Under my bill, which is modeled closely after recommendations from the Presidential Commission on Drunk Driving, States would lose their highway trust fund money unless they:

First, suspend the license of a drunk driver for at least 90 days upon the first conviction and at least 1 year for the second or subsequent conviction;

Second, impose a mandatory 48-hour jail sentence or 100 hours community service for anyone convicted of driving while intoxicated (DWI) more than once during any 5-year period;

Third, impose a mandatory 30-day jail sentence for anyone convicted of driving on a suspended or revoked license;

Fourth, set a 0.10 percent blood alcohol content (BAC) standard for drunk drivers;

Fifth, establish a public awareness program to inform the public of improved drunk driving laws, and increased law enforcement efforts against drunk drivers;

Sixth, establish a rehabilitation and treatment program for repeat drunk driving offenders; and

Seventh, establish a minimum drinking age of 21.

States would have 2 years after the enactment of this legislation to comply before any highway trust fund dollars would be suspended. This same approach was used to get States to adopt a 55-mile-per-hour speed limit in the midseventies.

Simply put, most States have just not effectively responded to the drunk driving problem. For example, less than half the States (24) suspend the license of a drunk driver upon the first conviction, and only 21 States have mandatory jail sentences for repeat drunk driving offenders. My bill would help to strengthen these penalties.

I am especially concerned about the drunk driving problem among teenagers. As mentioned previously, of the 25,000 Americans who die each year from alcohol-related traffic accidents, 10,000 (40 percent) are under the age of 21. In fact, in upstate New York 45 percent of all persons who die in the 15 to 19-year age bracket are killed by alcohol-related traffic accidents. Yet, despite these shocking statistics, 35 States have a minimum drinking age lower than 21.

I firmly believe that raising the drinking age to 21 could be one of the single most effective steps taken in the fight against drunk driving. A study by the Insurance Institute for Highway Safety determined that States which raised their drinking age reduced traffic accidents among the affected age groups by 28 percent. When Michigan raised its drinking age from 18 to 21 in 1978, traffic accidents involving 18 to 20-year olds dropped 31 percent.

Stronger drunk driving laws will help, but only if there is an effective enforcement program to go with them. Further, the task is not complete unless the public is informed of the tougher laws and the increased enforcement efforts. My bill recognizes these important facts and stipulates that States must adopt a drunk driving public awareness program in order to qualify for highway trust fund dollars.

These public awareness programs have proven highly successful in those States that have already implemented them. I am proud to report that my home State of New York is setting the standard in this respect.

In fact, New York's "Stop DWI Program" not only focuses on education and enforcement, but also on prosecution, adjudication, and rehabilitation. The results have been extremely impressive. Since the program began in November 1981, New York State has had a 7.6-percent reduction in total alcohol-related traffic accidents (16,605 in 1981, compared to 15,350 in 1982); a 7-percent reduction in the number of persons injured from drunk driving accidents (21,833 in 1981, compared to 20,300 in 1982); and a 10.5-percent reduction in the number of alcohol-related traffic fatalities (979 in 1981, compared to 876 in 1982). In addition, drunk driving arrests in New York State increased by more than 18 percent from 1981 to 1982.

It should also be noted that New York has some of the toughest drunk driving penalties in the country, which include suspending the license of a drunk driver for at least 6 months upon the first conviction.

Some $11 billion has been apportioned to the States in fiscal year 1983 under the Federal highway trust fund program, with the bulk of the money going toward road construction and restoration.

My bill is based on two basic premises. First, few States can afford to lose their highway trust fund dollars. Second, no State can afford to ignore the tragedy that drunk driving has become.●

CHILD CARE CONSORTIUM IN SACRAMENTO

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. MATSUI. Mr. Speaker, I would like to take this opportunity to commend the activities of the Child Care Consortium in Sacramento, Calif., which is conducting a pilot project to examine innovative ways of providing child care services to working families. With ever-increasing number of parents in the work force, I believe the results of this project will provide valuable insights and assistance for communities across the Nation.

As part of its mandate for the project, the coalition, on May 11, will be sponsoring an all-day conference for employers in Sacramento. With the direct participation of community leaders from the county board of supervisors, the city council, the chamber of commerce, and the private industry council, along with the endorsement of the central labor council and United Way, the program will seek to educate business people about current tax incentives and other benefits of employer-sponsored child care.

The conference will explore various types of child care services that businesses may offer: From facilities at the place of employment and family day care centers in the community, to vouchers which allow parents to select their own child care alternatives. It will also show local businesses how they can benefit from child care programs through tax savings, lower employee turnover, and increased productivity.

This effort by the Child Care Consortium represents a significant step toward addressing the needs of working parents and their children and toward recognizing the important stake of local businesses and the community in the well-being of families with working parents.

Mr. Speaker, I believe many of my colleagues and their staffs would find Sacramento's program a fine model of community participation and commitment to the needs of children and their families.●

BILL TO IMPROVE DESIGN OF U.S. PRODUCTS INTRODUCED

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. DYMALLY. Mr. Speaker, today Congressman BROWN and I are reintroducing a bill we believe to be of great importance to those American producers who sell many of their goods outside the United States. Our bill would promote excellence in the design of U.S. manufactured goods by creating a U.S. Design Council within the Department of Commerce. This Council would aid our manufacturers in their efforts to design products in such a way that they will have wide appeal in foreign markets.

Our manufacturers have for too long paid inadequate attention to changes that need to be made in the design of products so that they will be more acceptable on the foreign market. Our cars were really too big for European highways until the price of gas—not attention to design requirements—forced us to produce smaller cars. We admire Scandinavian furniture for the beauty of its simplicity and for how well its from follows its function. I do not think that American furnishings enjoy similar admiration in other parts of the world. This list of examples could go on and on.

Americans certainly are not lacking in creativity or in ingenuity. Our problem is not that we are incapable of sensitivity to design considerations. Rather, our problem is simply that we have not focused sufficient attention on design. Our bill would provide a mechanism by which we in this country might address the problem of design quality in a systematic way.

Critics might be quick to say that this bill just creates one more Government bureaucracy. I would dispute with such critics. The Design Council is to be composed of experts in each of the various aspects of the design field. It is not to be composed of Government bureaucrats. The Government would act only as an organizer and a catalyst—precisely the elements now needed to spark a renaissance of exellence in the design of American products. I urge my colleagues, for the good of American enterprise abroad, to support this bill.●

APPAREL INDUSTRY

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. FRANK. Mr. Speaker, adopting a sensible trade policy which balances the various economic interests involved is one of the major tasks facing Congress and the President. An excessive tide of imports threatens the stability of the garment and textile industries in the United States. Tens of thousands of hard-working Americans are threatened with the loss of their jobs if we do not respond adequately to the increasing threat of a greatly increased flow of apparel imports. American workers are willing and able to compete on fair terms, but many of the goods which are being sent to the United States are produced in conditions which amount to very unfair competition and our Government must respond by reducing the amount of such imports allowed into this country.

Recently, the Fall River Herald News printed a very thoughtful editorial on the need for an American trade policy which recognizes the importance of protecting the jobs of hard-working Americans. The apparel industry has long been a mainstay of the economy of the city of Fall River, and it is very appropriate that the Fall River Herald News, which serves the city of Fall River so well, should speak out on this issue. Because the editorial is so persuasive a discussion of a pressing national problem, I ask that it be shared here with the membership.

[From the Fall River (Mass.) Herald News, Apr. 27, 1983]

APPAREL INDUSTRY

Next week several hundred representatives of the International Ladies Garment Workers Union will meet in Washington with the intention of lobbying Congress for application of import quotas on textile apparel.

It is by means clear whether the ILGWU will succeed in its effort to give this country's textile apparel manufacturers a chance to compete on less unfair terms with overseas manufacturers.

But it is perfectly clear that it matters a great deal to people in this area whether Congress is responsive to the ILGWU in this respect.

This community has many thousands of persons employed in the textile apparel industry. Their livelihoods are directly endangered by the flood of textile imports which are priced so low that the domestic product can easily be out-sold by them.

American manufacturers cannot reproduce the wages and working conditions that make it possible for their foreign competitors to under-price them, nor would they wish to reproduce them if they could.

On the other hand, they are in an increasingly more difficult position when they try to sell their own goods in a market which includes more foreign imports all the time.

It is true that the intricate world trade agreements worked out during the last few decades have left little place for protective tariffs or setting import quotas.

For instance, the same situation that the ILGWU is protesting now it was also protesting during the Carter administration, but with very little effect.

Whether it will have any more now is conjectural.

There has been a disposition in recent years for the American government to leave native industries to sink or swim by their own devices in terms of foreign competition.

This has been true with the steel industry and the automobile industry. Will it be less true with the textile apparel industry?

Certainly this city, in company with many others, will hope it is.

Americans can understand that in an increasingly competitive world society, maintaining the economies of many nations may be necessary even at our own expense.

But they also realize that this policy, even though its intentions are wholly honorable, can in the long run prove self-destructive.

They are by no means unsympathetic with other nations, but they wonder how long they can go on helping others if they themselves are being ruined economically by those they are trying to help.

It should not be impossible for the American government to make this evident to other countries, and then work out with them some system of import quotas that would not make it impossible for manufacturers here to compete with their foreign counterparts.

The ILGWU has had a long, intimate and happy association with Fall River. This city understands that in its present effort, the union represents not only the employees but the employers.

It strongly backs the ILGWU in its drive to lobby Congress for some aid to the domestic textile apparel industry.

The aid it envisages is some kind of quota that will stem the flood tide of textile apparel imports into this country.

Without some such aid, the industry labors under a constantly increasing handicap that may well end by destroying it.

Considering how much it has at stake, Fall River's enthusiastic support of the ILGWU drive is hardly surprising. In fact, it is really no more than common sense and enlightened self-interest.●

REBUILD U.S.-FLAG SERVICE

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. SHAW. Mr. Speaker, yesterday I introduced a bill, H.R. 2883, which would admit certain passenger vessels to the coastwise trade. The passenger cruise vessels, the *Cunard Princess* and *Cunard Countess*, currently operate under a Bahamian flag and British flag, respectively, and would be reflagged in the United States and owned and operated by Cruise America Line, Inc., a U.S. corporation.

Mr. Speaker, I believe this could prove to be an important first step in revitalizing a domestic industry for large passenger cruise vessels which has fallen completely to the domain of foreign-flaged vessels. We currently have over 90 large passenger vessels operating principally between U.S. mainland and Alaska and foreign ports, none of which are U.S. flagged. The United States has been unable to maintain a passenger carriage fleet due to the prohibitive cost of building such vessels in a U.S. shipyard.

Mr. Speaker, there are many reasons why it is important to rebuild this U.S.-flag service. They include creating jobs for sea and shore personnel, generating millions of dollars annually per vessel in indirect services, development of the U.S. tourism industry, and further strengthening sealift capacity under the U.S. flag operable in times of a national emergency as auxiliary troop transports or hospital ships, all at no cost to the Government.

This legislation would simply enable these vessels to operate in the coastwise trade under the U.S. flag and no special privileges will be granted these vessels. Several restrictions will apply following passage of this bill. The vessels will be limited to carriage of passengers solely, while including their accompanying baggage and personal property. The ownership requirements that exist in the U.S. law will be maintained, which means that the vessel will conform to the U.S. ownership standards of the Jones Act. All overhaul and maintenance work will be performed in U.S. shipyards. In short, these vessels would comply with all U.S. requirements with respect to safety, ownership, and crewing.

Mr. Speaker, the 1.5 million passengers that embark on foreign passenger vessels each year from U.S. ports to foreign destinations will, after enactment of this legislation, have the option of seeing their own country on a U.S. cruise ship.

For the above reasons, I urge all my colleagues to join me today in support of this legislation.●

THE U.S. FOOD INDUSTRY—FROM FARMER TO CONSUMER

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. TORRICELLI. Mr. Speaker, one of the more remarkable components of U.S. industry is the food industry. From farmer to consumer, the U.S. food industry has provided us with a plentiful supply of wholesome and nutritious products at reasonable prices.

I am proud to have in my congressional district a number of major food production facilities and employees. Recently, I toured the Nabisco facility which is a model of modern technology. Nabisco Brands, Inc., formed by the 1980 merger of Standard Brands and Nabisco, is a leader in the industry.

Nabisco Brands, Inc., chairman and chief executive officer, Robert M. Schaeberle, who also is the spokesman for the grocery manufacturing industry as chairman of the Grocery Manufacturers of America was recently awarded an honorary doctor of commercial science degree by Pace University.

Mr. Schaeberle's comments about U.S. productivity make for interesting reading which I commend to my colleagues.

ACCEPTANCE REMARKS OF ROBERT M. SCHAEBERLE

As I look back on the previous recipients of the leaders in management award, I realize that I'm standing in some very large footprints indeed—among others, those of Roger Blough of United States Steel, Thomas J. Watson, Jr. of IBM, Thomas A. Murphy of General Motors, and John DeButts of AT&T.

Not to mention Walter Wriston, David Rockefeller, and John McGillicuddy.

And, of course, the footprints of two men whose names have struck fear in the hearts of all of us, especially this close to April 15th; Arthur Levitt and Donald Regan.

Over the past 20 years, they and a dozen others of equal distinction have come to this place to receive this reward. Each already had put his personal imprint on American business and thus on our national life. All have been endowed at one time or another with the world's honors—yet all saw unique meaning in being honored by Pace University.

Having been in the audience on many of those occasions, to find myself now a part of the legacy itself is a bit overwhelming. For 37 years I've been a cookies-and-crackers man. The personages whose names I've mentioned have spent their days worrying about things like satellite communications and recycling petrodollars. My concerns have been whether there's enough shortening in the Ritz crackers or if we should introduce a new size of Mallomars.

So, after Ed Mortola invited me to receive this award, and I had accepted—which I did as quickly as was decently possible—I asked myself, "why me?"

After a certain amount of hard thinking—about 4 or 5 days' worth—I came up with three reasons.

The first has to do with the industry I'm in and currently speak for—since I happen to be serving as chairman of its most important trade group, the Grocery Manufacturers of America.

Although a business recovery appears to be in the making, widespread concerns remain about the long-term futures of a number of key American industries. Those concerns extend well beyond the industries themselves—to include the kind of workers which those industries traditionally have employed, the cities and towns and even whole regions whose futures are endangered by the loss of their payrolls and taxes, and the larger issue of American productivity and our ability to compete with the industries of other countries in a slow-growth world economy.

No one can dispute the seriousness of this. But there are other, more encouraging stories to be told as well. Because the press and the politicians and the securities analysts habitually traffic in bad news more than good news. Those other stories often fail to receive the attention they deserve.

One of the most encouraging has to do with food, specifically the food industry in the United States.

Most people don't realize it, but the food industry is our largest industry—with more producers and a greater value of goods than any other. It extends from the farmer now planting his seed to the boy who bags your groceries at the checkout counter. In between it includes so many manufacturers and processors, large and small—not to mention the even larger number of satellite companies which sell them goods and services—that no one can say for certain where the food industry begins and ends, or how big it really is.

But one thing is certain. This industry brings to the American people a greater supply of food, a higher quality of food, a wider variety of food, more nutritious and at lower cost for food than any nation has ever known.

This achievement stems from many roots, starting with the great tap root which is American climate in combination with the unmatched quality and quantity of American farmland.

It includes a technological leadership and a production and distribution structure which specialists from all over the world come here to study and adapt for their own countries.

As to cost, an urban American family eating mostly at home will spend about 13 percent of its disposable income on food. If there's a lot of eating out—at places like McDonald's and the Waldorf—that figure might go up to as much as 17 percent. By comparison, for an urban Japanese family, the cost of food in relation to disposable income runs about 33 percent.

Although in the inflationary days of the recent past, complaints about the rising cost of food have been universal—I used to hear them all the time from my own family—the fact is that in 7 of the last 8 years the cost of food has gone up less than the Consumer Price Index.

The American food industry is fully capable of bringing these benefits to the rest of the world as well. Many companies, including my own, are engaged in that great effort right now. There are obstacles, of course, thrown up by political and economic interests that cling to the status quo. But food which is plentiful, nourishing and cheap is one of mankind's most ancient dreams—as the old and new testaments both demonstrate, in the story of the manna that fell from Heaven, and the loaves and fishes. Now, we are capable of turning that dream into a reality almost everywhere. I know that if we could make red tape nutritious, we could better feed the world. Nevertheless we do progress and I believe will in time prevail. In that, there is surely cause for confidence and pride on the part of all Americans.

A possible second reason for this generous recognition is somewhat more parochial.

American business is currently in an ERA market by mergers and acquisitions on a scale of billions. For an audience of this sophistication there is no need to dwell on why that's the case. Instead, let me offer a few comments on one such combination.

Almost 2 years ago, it became apparent that Nabisco and Standard Brands—both of them long-established and prosperous companies—would benefit substantially if the two were to become one, arrangements were made accordingly, between Ross Johnson and myself, our respective boards and unanimous shareholder support. A little less than 2 years ago Nabisco Brands came into being.

There are a number of unusual aspects to this merger, in the first place—it was not a take over—not a tender offer (I always raise my eyebrows on that one—how does the word tender get tied to such an offer). It really was a merger—a coming together of equals. It was achieved without borrowing several billion dollars. In fact, there was no borrowing at all.

The surprises continue, there were no dissident directors on either board. No stockholders' suits were initiated. There were no proxy fights, no premiums paid. No one made any money to speak of in arbitrage.

Since the completion of the merger, the two teams have blended harmoniously and have worked effectively together. In fact, I describe the biggest difference between our two firms was that we were in different aisles of the food store. Our only major moves have been to sell off some businesses not closely related to food an acquire a couple of significant ones which are more in our mainstream.

That doesn't mean that there aren't any problems. But then if there were never any problems, most of us here wouldn't have any jobs. The net of it all, however—forgive me if I blow our horn a bit—is that in the first full year after the merger the new company is in a very solid position and now able to achieve goals that far surpass what we could have done as separate entities.

Compared with the way most so-called mergers go these days, ours may sound a bit naive. In certain financial circles and among the executive recruiters it may even be viewed as down-right subsersive.

But since many of the principles of business strategy as taught at Pace University served as guidelines in the creation of Nabisco Brands, it may be that Ed Mortola though my presence here might serve as a reminder that the theories of pace professors and constructive action in the real world can indeed be one and the same. So a good part of this award is really recongition of not one person—but the contributions of the 71,000 employees of Nabisco Brands.

The remaining reason for my being proffered this honor is I believe a personal one, and I will be brief about it.

Thirty years ago this month I was actually a student at Pace Institute, as it was then called—going to night school to earn my certificate in accounting practices and otherwise plug up certain holes in my education which during 4 years in Hanover, N.H. I had cheerfully ignored.

In those days, Robert and Richard Pace, sons of one of the two original Pace brothers, were running the institution, and President Mortola was an assistant dean.

That experience meant a great deal to me, and I have remained close to Pace ever since.

But the connection had been a close one long before I ever sat in a Pace classroom. If your father is a Presbyterian clergyman, you are said to be a child of the manse. In that sense, I am a child of this university. My father, as you have heard, was an early associate of the Paces. When their accounting firm began to extend itself into the world of education, he was appointed the first controller of the new enterprise. There is a legend in our family that in one dark period of the early 1930's he even pawned his gold watch so that Pace could meet certain bills that were seriously overdue. Perseverance—and success, he got his watch "out of hock."

Now, Pace has become a university with 30,000 students, a faculty of 1,500, three campuses and a broad range of degree programs—including those of the new School of Computer Science and Information Systems.

It has as its motto what is to me one of the most beautiful words of any language, in both sound and especially in meaning: opportunitas . . . opportunity.

With each passing year my pride and satisfaction have increased in the knowledge that many dedicated people helped to plant the acorn from which has grown this mighty oak of opportunity for so many.

Shortly before his retirement from Pace my dad was awarded an honorary doctorate of commercial science. You can imagine my feelings tonight, as I become a recipient of the same degree.

For his leadership in management award I am truly grateful. Much as it has meant to its 20 previous recipients, it means even more to me.

Thank you.●

H.R. 2892

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. MINETA. Mr. Speaker, much of the regulatory authority of the Federal Aviation Administration under the Federal Aviation Act is limited to aircraft coming within the act's definition of "civil aircraft." Certain aircraft are specifically excluded from the definition of civil aircraft and are not, therefore, under the jurisdiction of the FAA for most regulatory purposes. These special aircraft are termed "public aircraft" by the act, and such aircraft are defined as "aircraft used exclusively in the service of any government or any political subdivision thereof including the government of any State, territory, or possession of the United States or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for "commercial purposes."

Such "public aircraft" include military aircraft, police aircraft, emergency rescue aircraft, and similar types of aircraft where a governmental entity has assumed liability and safety regulation of the aircraft in question.

The definition of public aircraft does not specifically exclude aircraft which are owned and operated by a private entity but are leased to a government entity. Such aircraft would be offering their services essentially on a commercial basis, yet would be outside of the jurisdiction of the FAA for most purposes because they were "in the service" of a governmental entity. In such instances, questions of safety have arisen and there are concerns that the self-regulatory presumption extended to a governmental entity which owns and operates an aircraft may be less valid where the governmental entity is not the owner and operator.

To address this issue, I am today introducing H.R. 2892, which would amend the Federal Aviation Act to limit the definition of "public aircraft" to aircraft actually owned and operated by a governmental entity. I do so to solicit the comments of any party who may feel this change would have any effect on safety, on the efficient operation of any governmental entity, or on the well-being of any enterprise, either for good or ill. Those who do have views on this matter are encouraged to write to the House Aviation Subcommittee, and we will provide a period of not less than 1 month from introduction to receive such comments.●

U.S. FISH AND WILDLIFE FOUNDATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mrs. SCHROEDER. Mr. Speaker, I want to commend Ted and Francoise Gianoutsos for their generosity and patriotism. They have offered to leave a bequest to the U.S. Government in order to help establish a fish and wildlife foundation at the Department of Interior. The foundation would be similar to the current Park Service Foundation.

The Gianoutsos' offer is another example of the American tradition of philanthropy that has so blessed this country. Recall that a bequest in 1829 from James Smithson helped establish the Smithsonian Institute.

There is another parallel here. Smithson was an Englishman. Ted Gianoutsos is a first generation Greek-American and Francoise is an immigrant from France.

The legislation, H.R. 2809, which has been introduced by Representative JOHN BREAUX (Democrat, Louisiana), and which I am proud to have cosponsored, would establish a charitable and nonprofit corporation to accept and administer gifts from private citizens for the purposes of fish and wildlife conservation.

I urge my colleagues to cosponsor this very worthwhile proposal.●

TRICENTENNIAL OF GERMAN SETTLEMENT IN AMERICA COMMEMORATED

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. DYMALLY. Mr. Speaker, I am pleased to bring to the attention of my colleagues that this year marks the tricentennial anniversary of German settlement in America. To commemorate this Germany and the United States have issued jointly a commemorative stamp. On the occasion of the issuance of the stamp, His Excellency the Ambassador of the Federal Republic of Germany, Dr. Peter Hermes made the following remarks:

> Today we witness the presentation of the Stamp dedicated to the commemoration of the German-American tricentennial. The design shows the "Concord", a sailing ship which carried those thirteen families from Krefeld, Germany over to the shores of Pennsylvania. Her sails are all set and full-blown. She was a sturdy ship, as we can see, solid as the German-American friendship which shall carry us into the Future.
>
> Today, the descendants of those immigrants and the seven million that were to follow form the largest single ethnic group in America. Their number is sixty millions. Not all of the German immigrants have set to sea with "fair winds and following seas". In fact, many chose or were forced to leave a continent plagued by wars, political turmoil, crises and oppression. They found a home, freedom and opportunity this side of the Atlantic. They have been absorbed into the mainstream of American social fabric and life. Today they are Americans. But what makes it so encouraging for all of us is that those Americans still remember their European roots. This awareness creates a transatlantic dimension which comes from the heart.
>
> Just like the ship we see here and like many others that sailed from Europe bringing immigrants over to America our friendship sailed through rougher seas and smoother waters. As President Reagan said in his proclamation regarding the tricentennial anniversary: "Despite the legacy of two world wars which found us on opposing sides, West Germany and the United States have forged an exceptionally close relationship during the past three decades. The success of the Marshall Plan, the Berlin airlift, and the ensuing NATO partnership have led to a recognition of our common democratic ideals and joint interest in Western economic and political strength."
>
> This stamp then will be a messenger. It will carry these historic facts to all corners of the world. Let it be known everywhere that by commemorating this tricentennial, Americans and Germans pay tribute to their common culture, to shared values, traditions and aspirations.●

LEGISLATION TO AUTHORIZE CONSTRUCTION OF THE MALINE CREEK FLOOD CONTROL PROJECT IN ST. LOUIS, MO.

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. YOUNG of Missouri. Mr. Speaker, I am today introducing legislation to authorize the construction of flood control, recreation, and environmental quality improvements recommended for the St. Louis, Mo., area as contained in the feasibility report, water resources investigation, St. Louis metropolitan area, Missouri, and Illinois, Maline Creek, Mo., survey report.

The authority for this report is in response to six congressional Public Works Committee resolutions dated: April 7, 1966 (Senate), October 4, 1966 (Senate), July 15, 1970 (Senate), July 29, 1971 (House of Representatives), October 2, 1972 (Senate), and October 12, 1972 (House of Representatives).

Mr. Speaker, Maline Creek enters the Mississippi River approximately 8 miles downstream from the confluence of the Mississippi and Missouri Rivers. The watershed, which covers 16,170 acres, is highly urbanized and includes a small part of the city of St. Louis, portions of unincorporated St. Louis County, and all or parts of 22 municipalities in St. Louis County. Maline Creek has a main channel 10.6 miles long and has 10 major tributaries. Due to rapid urbanization within the last 25 years, the potential for damages from flash flooding associated with high-intensity rainfall has increased. Under existing conditions, a standard project flood would cause damages estimated to exceed $50 million. There is absolutely no question, that sound flood plain management and the structural and nonstructural solutions incorporated in the plan to prevent floods, will save the residents of this area millions of dollars, and the devastation and grief that can so easily destroy the social fabric of communities.

Specific to the Maline Creek flood-plain area, the national goal is sound flood-plain management that embodies the wise use, conservation, development, and utilization of interrelated land and water resources to serve the objectives of economic efficiency, environmental quality, and social well-being. It is the policy of this body to formulate projects which, to the extent possible, avoid or minimize adverse impacts associated with use of the flood plain and avoid inducing development in the flood plain unless there is asolutely no practicable alternative. In a message to Congress in June 1978, the President directed that the national water policy should be improved by "requiring the explicit formulation and consideration of a primarily nonstructural plan as one alternative, whenever structural water projects are planned." The President has emphasized a commitment to national economic development and environmental quality as basic national planning objectives.

Mr. Speaker, the Midwest, and especially my district in the St. Louis area, was subjected to some of the most destructive and ravaging floods in early December 1982. These floods caused untold destruction to life and property and the final economic dislocation amounted to hundreds of millions of dollars. Many of the communities which were flooded have still not recovered from the damage and thousands of people are still trying to put their life back in order. I personally toured the flooded areas and found the total destruction to major communities to be beyond belief. The grief and suffering experienced by thousands of people cannot be ignored and it is clearly in the interest of the Federal Government to prevent these disasters from occurring whenever possible. The residents and businesses in communities within the watershed of Maline Creek have experienced numerous floods which have occasioned great economic loss upon this part of the St. Louis area. It has been nearly 20 years since the Congress requested a thorough review of alternatives to alleviate the flood problems plaguing the Maline Creek watershed. I believe the time for studying the problem is over and the time for immediate action is at hand. I simply will not stand idle and watch more floods destroy the fabric of communities in my district. As a member of the Water Resources Subcommittee, I intend to do all in my power to insure the authorization of this project as quickly as possible. I would encourage all my colleagues in this distinguished body who have witnessed the pain and suffering caused by floods to join with me and approve this legislation without delay.●

A TRIBUTE TO HELEN MORK

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. ANDERSON. Mr. Speaker, it is with great sadness that I rise to pay my last respects to Helen Mork, city treasurer of Hawaiian Gardens, who passed away on April 23 at the age of 73. She had been city treasurer since her appointment on May 26, 1968.

Born in Minnesota and raised in Wisconsin, Helen moved to Hawaiian Gardens with her husband No[illegible]an in 1945 and immediately became [illegible] tireless community worker as well as a dedicated teacher in the parochial school system.

Among her many community interests, Helen saw the importance of maintaining a healthy library system. Thus, she served as a member of the regional library council for the Los Angeles County Public Library for over 10 years. she also worked extensively in organizing and raising funds for the Hawaiian Gardens City Library. Aside from her concern for public libraries, Helen also served on the bicentennial committee and the Horizon subcommittee. Her work in the community extended into her participation and support for such worthwhile organizations as the home for battered women, and the children's day care center.

Even with all these activities, Helen still found time to devote to her husband Norman and to raising her four children: Johnny, Bill, Kathy Wilson, and Suzie and, in her spare time, she has been very active in oil painting and arts and crafts.

Because of Helen's dedication to both her family and her community, she will be missed by many people. Mr. Speaker, I know you and my colleagues join my wife Lee and me in sending our deepest sympathies to Helen's husband Norman and the rest of her family.●

CABLE COPYRIGHT REFORM

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. SYNAR. Mr. Speaker, today I am introducing legislation to rectify a discrimination among cable television systems caused by an extraordinary rate increase imposed by the Copyright Royalty Tribunal earlier this year. The new rate both increases certain copyright royalty payments by rural and other cable systems by 400 to 1,600 percent and collides head on with recent deregulation rulings by the Federal Communications Commission.

In 1972, when cable television was in its infancy, the FCC restricted the number of distant signals—television stations imported from outside the local service area—which any cable system could carry. The reason for this restriction was the perceived threat to the viability of local television stations. Since it was thought that this threat was more acute in rural areas where there are fewer stations, the FCC limited the number of distant signals carried by cable systems based on their location. Cable systems in the so-called top 50 television markets were permitted to carry up to three distant independent—that is, nonnetwork—television signals; those in markets 51 to 100 were permitted up to two distant independent television signals; and those in so-called smaller markets—defined as any town with at least one television station that is not in the top 100 markets—were permitted only one independent television station.

After cable's explosive growth during the 1970's, the FCC and undertook exhaustive economic studies extending for several years to determine if there was a continued need for these distant signal restrictions. In 1980 the FCC finally decided no justification exists and repealed them. The anticipated problems had not materialized. The Commission reported:

> (W)e were unable to establish theoretically or empirically that cable television reduces the quality of local programming. Competition from distant signals may actually, in some circumstances, increase the quality of programming broadcast by local stations.

Paralleling the FCC's deregulation of cable television, Congress enacted a new Copyright Act in 1976 which gave cable systems a compulsory license to carry any television signal permitted by the FCC's rules upon payment of copyright royalties in amounts fixed by the act. The Copyright Royalty Tribunal was created by the new Copyright Act for the purpose of distributing and adjusting royalties.

The act gave the Tribunal authority to adjust royalties for additional distant television signals permitted to be carried by cable systems due to changes in the FCC's rules. Thus, when the FCC repealed its distant signal limitations, the Tribunal initiated proceedings to determine an appropriate royalty rate for the new distant signals. While the rate before the FCC action was no more than .675 percent of gross receipts for each signal—with additional signals scheduled for lower rates—the new rate which took effect on March 15, 1983, is 3.75 percent gross receipts for each distant signal. This increase is between 400 and 1,600 percent for various systems and many have decided to drop distant signals subject to this rate rather than pay it.

The 3.75 percent rate tracks the former FCC rules—and thus discriminates among cable systems based on market location—even though that discrimination was found to be unjustified. A cable system located in a large market might be able to import three distant signals without being subject to the 3.75-percent rate, while a cable system in a smaller market importing the same three distant signals might have to pay 7.5 percent of its gross receipts to carry two of those television stations. By comparison, the large market cable system would have to pay only 1 percent of its gross receipts for the same two signals—.503 percent each.

My legislation would permit all cable systems, regardless of market location, to carry at least three distant independent television signals without being subject to the prohibitive 3.75-percent rate, and thus eliminates the very discrimination among cable systems which the FCC attempted to eliminate when the distant signal rule limitations were repealed.●

MEDICARE BILL TO SAVE THE GOVERNMENT $161 MILLION

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. WYDEN. Mr. Speaker, late last week I received some good news for senior citizens and the medicare program.

Earlier this year, I introduced legislation, H.R. 1106, to close a loophole in the law that allows independent medical laboratories to charge senior citizens and the medicare program more for routine lab tests than they charge the rest of their customers.

When I introduced this bill, which I call the Fair Lab Payments Act, I indicated that significant cost savings would result if we put a halt to this discriminatory practice. Today, I am pleased to announce that the Congressional Budget Office has determined that those savings will far exceed my previous estimations.

In a report made public late last week, the CBO estimated that the passage of this bill would mean a savings to the Federal Government of $161 million in medicare costs over the next 5 years. Some $21 million of that savings would be realized in 1984 alone. By 1988, the anticipated annual savings would increase to $43 million.

Earlier estimates by a health care financing adviser for the General Accounting Office indicate that senior citizens themselves will realize an additional savings from this bill of $35 million in 1984 alone.

Mr. Speaker, I am glad to see that CBO and GAO concur with what many of us have known for a long time: Discriminatory laboratory billing practices do not add up for senior citizens or for the Government. Medicare and its beneficiaries should not have to pay an average of $2.75 more per test for routine laboratory tests than the doctors and other patients do. And if we pass this bill, they will not have to.

Mr. Speaker, I have no illusions that this legislation will turn the financial problems of the medicare system around overnight. But by saving senior citizens and the Government millions of dollars, it is a good step in the right direction—and one which I believe we should take now.

I urge my colleagues to join me in supporting H.R. 1106, the Fair Lab Payments Act of 1983.●

DISCRIMINATION AGAINST LEGAL GAMING

HON. HARRY M. REID

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. REID. Mr. Speaker, my distinguished colleague from Nevada, Mrs. VUCANOVICH, joins me this week in introducing two bills to end discrimination against legal gaming establishment patrons.

Currently, the IRS requires taxpayers to itemize returns in order to deduct legal gaming losses. Past studies have shown that almost one-half of the players reporting winnings take the standard deduction, and are thus unfairly deprived of tax credit for their losses. H.R. 2793 provides a remedy by allowing a deduction of net gaming losses from gross incomes.

In 1976, the Federal Commission on the Review of the National Policy Toward Gambling urged Congress to insure freedom of competition between burgeoning legal gaming industries and existing illegal gambling operations. This, they concluded, will only be accomplished by restoring equity to Federal tax laws. As the Commission noted, the nature of gaming is such that few players have net gains over the long term.

In this regard, we have also introduced H.R. 2792 which would prevent aggregation of identical parimutuel wagers in order to achieve the levels subject to withholding.

The sums collected by the IRS through these channels are overshadowed by the loss of State and local revenue. In particular, unfair tax discrimination against the bettor assails not only parimutual revenues, but supresses the livelihood of a variety of support industries, thus reducing employment in many States and localities.

Mr. Speaker, organized illegal gambling persists in this country because current Federal tax treatment of legal payouts give the illegal operator a price advantage that legal operators cannot possibly overcome. Tax reform, in this area is of vital concern to the thousands of patrons and employees in the 30 States with legal parimutual operations, those with State lotteries, and of course my home State of Nevada.

I urge prompt attention to these concerns.●

LEGISLATION TO AUTHORIZE THE CONSTRUCTION OF THE ST. LOUIS HARBOR PROJECT

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. YOUNG of Missouri. Mr. Speaker, I am introducing legislation to authorize the construction of the navigation needs along the Mississippi River in the vicinity of St. Louis, Mo. as contained in the recommendations of the feasibility report, St. Louis Harbor, Missouri and Illinois.

The authority for this report was adopted by the resolutions by the House Public Works Committee on June 23, 1964, and by the Senate Committee on Public Works on May 26, 1971.

Mr. Speaker, the need to improve the capacity of the St. Louis Harbor is critical to the continued growth of the region and Nation as a whole. Vital shipments of raw materials emerge from St. Louis and, in turn, are shipped to St. Louis from all over the United States and Canada. The proposed improvement means increased employment opportunities in a number of industries and services, decreased costs of transportation for a variety of goods, and increased efficiencies in transportation in terms of time and energy. The St. Louis Harbor and Port area is a multimodal transfer center. St. Louis serves to facilitate the movement of goods that come in from rail, truck, and air, as well as by barge. The St. Louis Harbor is the second largest inland waterway port. The St. Louis Harbor is currently experiencing the problems of a shortage of riverfront sites for waterway-dependent industrial use and inadequate water/channel depth caused by low water and heavy sedimentation from upstream sources as the Missouri River and the large amount of agricultural practices and soil erosion. If these problems are not alleviated, the conditions will drastically affect the economic growth of the port and the region as a whole.

The recommended plan consists of two parts: First, a structural solution to the most severe sedimentation problem in the study area, at river mile 182 on the Missouri bank and second, harbor improvements at river mile 185 along the east bank of the Chain of Rocks Canal in Illinois. The recommended solution to the sedimentation problem entails the construction of an "L" dike or similar structure designed to provide reliable water transport access to the St. Louis municipal dock area. This reliable water access would also facilitate redevelopment of approximately 300 acres by industries needing water transportation. The recommended harbor improvements along the east bank of the Chain of Rocks Canal would provide docking facilities north of the existing harbor. This portion of the recommended plan consists of excavating the canal bank back 210 feet for a length of 6,900 feet, thereby providing direct water access to approximately 1,000 acres of industrially zoned land. Construction would take place in two phases, the first occurring at the onset of plan implementation and the second phase projected to be needed about 10 years later. Each phase would involve excavating 3,450 feet of canal bank, resulting in a total harbor length of 6,700 feet. The plan also includes environmental features such as wildlife management practices and incorporates a recreation component in the form of public scenic overlooks.

Mr. Speaker, the recommendations contained in the authorizing document warrant immediate consideration by the Congress due to a favorable cost-benefit ratio of the project and the economic benefits that will accrue to the St. Louis region and national transportation network.●

LEGISLATION TO OVERRULE THE HISQUIERDO DECISION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mrs. SCHROEDER. Mr. Speaker, today I am introducing a bill which would authorize the Railroad Retirement Board to honor court orders that treat railroad retirement benefits as property subject to division in a community property or equitable distribution State. It directs the Board to make payments directly to the divorced spouse in accordance with court approved separation agreements, divorce decrees, and property settlement agreements.

The need for the legislation arises from the 1979 Hisquierdo against Hisquierdo decision of the U.S. Supreme Court, which reversed the California Supreme Court by holding that section 14 of the Railroad Retirement Act of 1974 (45 U.S.C. 231m) protects railroad retirement benefits from legal process "Notwithstanding any other law * * * of any States."

The purpose of section 14 was to prevent creditors from attaching a pension to satisfy commercial debts, but not to permit a retiree to evade legal or moral responsibilities to dependents or a former spouse.

In a case involving military retired pay, in 1981 the U.S. Supreme Court came to a similar conclusion. In McCarty against McCarty the High Court ruled that military retired pay could not be considered community property. The McCarty decision caused such a storm throughout the United States and in the Congress that last year Public Law 97-252, the Uniformed Services Former Spouses Protection Act, was made law to reverse the effects of the McCarty decision.

The bill I introduce today will simply remove the immunity from tier 2 railroad retirement benefits, which represent the staff retirement portion of the railroad retirement benefits. Tier 1, which is the social security equivalent, would not be subject to division.

It is essential that this bill be enacted to permit the courts to treat railroad retirement the same as other public or private pensions. Attached is the text of the legislation.●

OFFICER LARRY D. WALKER

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. STARK. Mr. Speaker, I would like to commend to my colleagues and the public an example of resourcefulness and initiative by one of my constituents, Officer Larry D. Walker of the California Highway Patrol.

On January 21, 1983, Officer Walker, trained in Red Cross cardiopulmonary resuscitation (CPR) was on patrol in Hayward, Calif. He was flagged down and told that a passenger in a car was sick and needed an ambulance. Officer Walker radioed for an ambulance and then went to check the victim, who was slumped over in the front seat of a car. Officer Walker discovered that the victim had a strong pulse but was not breathing. He immediately began mouth-to-mouth resuscitation. After 3 or 4 minutes, the individual began breathing on her own and regained consciousness.

For his presence of mind and skills in this crisis situation, Officer Walker has earned the Red Cross Certificate of Merit, the highest award given by the Red Cross, to those who have saved or sustained a life using skills or knowledge taught by the Red Cross.

I wish to personally commend Officer Walker for his actions. He well deserves the high honor he is receiving. He is a credit to the community and to the California Highway Patrol. I hope his example and the reward he is receiving will be an inspiration to others to be educated in these crucial lifesaving techniques and to become practicing Good Samaritans.●

KEEP OMB OFF THE FARM

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. LEHMAN of California. Mr. Speaker, the recent controversy surrounding Federal marketing orders for agricultural commodities came to a head last Friday, when the administration issued a loosely worded proposal that the President titled "Marketing Order Guideline Implementation Plan."

I would alert my fellow Members of Congress that these guidelines do nothing to solve the real problem facing the use of agricultural marketing orders, which is the intrusion of the Office of Management and Budget into areas of agricultural policymaking. As long as the President allows OMB to express its bias against the American farmer by administratively vetoing the use of marketing orders, chaos will rule the markets for many fruit and nut crops.

In a letter today, I am urging the President to resolve this problem once and for all by reigning in the Office of Management and Budget and granting the Secretary of Agriculture sole authority over the administration of agricultural marketing orders. I am inserting a copy of this letter in today's RECORD. I urge my colleagues to join with me in an effort to return the administration of our Nation's agricultural policy to the Department of Agriculture, where it rightfully belongs.●

CHANCELLOR JOE DUFFEY

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. BOLAND. Mr. Speaker, on April 30 the University of Massachusetts at Amherst inaugurated Joseph Duffey as its fourth chancellor.

Joe Duffey is a well-known figure in Washington. His service as an Assistant Secretary of State and as the chairman of the National Endowment for the Humanities won him many friends on Capitol Hill. I am pleased that he has chosen to lend his considerable energy and skill to the administration of an outstanding educational institution like the University of Massachusetts—Amherst.

Educational excellence has been pursued at the University of Massachusetts for 120 years. It was established as an agricultural college, became a State college, and was finally designated a university in the 1940's. Its graduates have assumed positions of responsibility in business, government, and education throughout the world. Chancellor Duffey has a proud tradition to draw upon as he prepares to guide the Amherst campus in the challenging days ahead.

Mr. Speaker, at Chancellor Duffey's inaugural, the university presented an honorary doctor of laws degree to the former president of the Massachusetts State Senate, Maurice Donahue. I know of no public official in Massachusetts who has done more to promote higher education in the Commonwealth. He was the driving force behind legislation which established the Boston campus of the University of Massachusetts and legislation which established the university's medical school in Worcester. The citation which accompanied his honorary degree described him as a "champion of education" and I do not believe that to have been the slightest exaggeration.●

FOR A BETTER IRISH PEACE FORUM

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 4, 1983

● Mr. BIAGGI. Mr. Speaker, as the chairman of the bipartisan Ad Hoc Congressional Committee for Irish Affairs I again place into the RECORD an article which relates to the upcoming "All Ireland Forum" as well as the Department of State's view of it based on a letter I received yesterday.

The first insertion is an article from the Irish Echo written by their distinguished Dublin columnist, John A. Kelly, entitled "Forum Can Work—But No Without Sinn Fein." He contends as I have for several years that if we are serious about working for a lasting political solution in Northern Ireland we must include all parties to the conflict if we expect to have the solution endure and be acceptable to all sides. All legitimate shades of political thought or more specifically all those organizations who have legally sanctioned political parties should be permitted to discuss the issue of peace in Ireland. To pursue the limited objective of the "All Ireland Forum" is to prejudge the initiative as a failure.

The Department of State's response to my letter is self-explanatory and I simply insert it into the RECORD in an effort to get a wide perspective of views on this important initiative.

The material follows:

[From the Irish Echo, Apr. 23, 1983]

FORUM CAN WORK—BUT NOT WITHOUT SINN FEIN

(By John A. Kelly)

DUBLIN.—In the North, there is the Assembly. And in the south there will be what is described in advance as "the Forum." Both bodies will meet independently to discuss the possible future of the North. One will debate the issue purely within the confines of the six counties as it is. It will do so with the underpinning of a historic attitude best summed up by the inimitable phrase. "No Surrender."

The other will discuss the future of the entire island and its possible relationship with the United Kingdom. Neither will concede the legality of the other.

There are times when I believe that what we deride as "Stage Irish" is really the fact. There are certain things which, because of our peculiar historical circumstances, can only happen in Ireland, tragic things which must appear "quaint," possibly even charming in their apparent unreality to the rest of the world.

While there is something of a hiatus on both sides of the border regarding these developments among politicians, the mass of people in the south hardly give it a thought.

They are more occupied with mundane things . . . like taxes and the cost of living . . . and the lack of jobs.

While politicians argue and newspaper editorials thunder, the majority of the electorate, North and south, merely shrug their shoulders at this latest attempt to inject some semblance of sanity into their affairs.

They must feel that, like the abortion debate, there is a huge air of fantasy about the whole thing. And they smile to see that leaders, Garret FitzGerald and Charles J. Haughey are at least agreed on one point. The Forum proposed by the SDLP, under John Hume, can work. They wonder merely if it will put butter on their bread!

And yet . . . and yet . . . if one can ignore the continuing pestilence of economic circumstances to look forward to the long term political future of this island, one must admit that the Forum as proposed, is at least imaginative and may even, in later times, be regarded as the first real political step on a long journey which will ease the political logjam bedevilling Irish affairs.

I have continually argued through the courtesy of this column that when politicians refuse to act the vacuum will be filled in some other fashion.

For all of its existence the Northern statelet has been opposed by a sizeable section of the population in the six counties, which is not even to mention the south at all.

It was founded on bigotry to preserve privilege, imagined and otherwise. It was established under threat of "immediate and terrible war" against the majority on this island who did not condone it.

In a sense, it was therefore doomed to failure from the outset, a fact recognized by all who led its foundation and even implicitly admitted by the English King who performed its launching ceremony.

Politicians in Britain and Ireland were forced by international war to ignore it. And while they occupied themselves with their own affairs, the bigotry which fostered it became even more entrenched to the extent that a "Prime Minister" in the North Advised Unionists never even to employ Catholics!

Under such circumstances it was eminently forseeable that illegal armies, following earlier models, would rise up to oppose this absolutely neanderthal statelet. What else, when all is said and done, could possibly have happened?

Mainly for this reason alone, I have been loathe to criticize over much the activities of the paramilitary organizations which purport to represent the Nationalists in the North.

I have always understood that the basic reason for their existence has been the failure of politicians to cope with the legitimate demands of the so-called Northern "minority." This political failure has been as much due to the intransigence of the British in continuing to underline a nonsensical and fundamentally undemocratic guarantee to Unionists as it has been to the entrenched attitudes of successive Northern administrations.

However, it has also been due in no small fashion to the traditional unwillingness of politicians to do anything to disturb the status quo except when forced by circumstances.

I have been reluctant to criticize the Provisional IRA over much because I understand the reasons for its existence. There was a time, not very long ago at that, when even Gerry Fitt, MP, depended for his actual physical safety on the potection of armed IRA members in Bellfast

While I can appreciate the reasons for its being, I have nevertheless regularly condemned many of its actions which, in my view, have been both inhuman and stupid.

The latest example occurred during the weekend when the Provos actually apologized for shooting the wrong man! I am sure the deceased's next of kin appreciated the gesture enormously.

There is a time when such shooting has to stop. Quite possibly, the proposed Forum allows the Provisional IRA all the opportunity it needs to transfer its authority from the Armalie to the ballot box. I believe that the political process, and the political process alone, should be given a try.

Without any representation from the Nationalist community in the North, James Prior's Assembly has no more than a snowball's chance in hell of survival. Quite simply, it cannot work.

On the other hand, without some form of representation from the paramilitaries in the North, the proposed Forum which is to be based in the south, is doomed to uncertainty at least, and possible collapse at worst.

Of what use could such a forum be, if the Provisional IRA continue to attempt to blast the North out of existence?

What point would there be in discussing possible all-Ireland structures, formally linked diplomatically in the short term with Britain, when every speech would be bedevilled by some further atrocity?

Provisional Sinn Fein must participate in the forum and must make an active contribution. Otherwise, unless its aim is to change this island totally through military means alone, the Provisional movement will be seen to be as obstructionist and hollow as any other Unionist dodo.

The forum could yet prove to be a very effective instrument in exerting maximum pressure on Britain to change its attitude to the Unionists and, above all, to reconsider the extent of its guarantee to their continued hegemony.

Not alone that, but it could realistically devise a system whereby genuine Republicanism, the ideal of Wolfe Tone, could be introduced to this island and all of its people for the first time.

Provisional Sinn Fein, or any genuinely republican organization would be very shortsighted to stand aside from such an attempt. To do so would be to give rise to the question whether it was really after republicanism, or authoritarianism.

The Forum, as proposed, can succeed in a number of ways. It can erode the Unionist power base by showing Northern Protestants that a "new" Ireland with a federal power structure and inbuilt constitutional guarantees, will not discriminate against them.

Most of all, it can prove to the British and the world at large that the only way for this island to succeed economically or to provide even meager living standards for its workers, is to do so in a united fashion.

It can work. It should be allowed to try. The gun will have to be laid to rest sometime. Why not now?

U.S. DEPARTMENT OF STATE,
Washington, D.C., May 2, 1983.

HON. MARIO BIAGGI,
House of Representatives,
Washington, D.C.

DEAR MR. BIAGGI: I am responding to your letter to the Secretary of April 19 concerning the proposed All-Ireland Forum, announced by Foreign Minister Barry on March 11.

We believe it is too early for the Department to comment directly on prospects for the forum. The representatives of the parties participating in setting up the forum reportedly have agreed that there should be absolute confidentiality in the initial stages of their discussions. We have always welcomed efforts by both the Irish and British Governments which promote reconciliation between the two Irish communities and strengthen the Anglo-Irish dialogue on Northern Ireland. But as the President said in his statement last March 17, we in the United States cannot chart a course for the people of Northern Ireland. If solutions are to endure, they must come from the people and governments most directly involved.

Regarding the participation of Provisional Sinn Fein (PSF) in the forum, we understand that it has ruled out possible participation and that none of the major parties in Ireland seek its participation. As you know, Provisional Sinn Fein is not independent of the Provisional IRA. Owen Carron recently reaffirmed the nature of PSF when he called on the British Left and the Republican movement to "intervene to destabilize the South." On March 26, Danny Morrison said there is no question of a drift into constitutional politics by the Republican movement and that PSF will continue its policy of supporting armed struggle. When Foreign Minister Peter Barry was asked at the National Press Club about the possible participation of PSF in the All-Ireland Forum, he replied, "we don't truck with terrorists."

Regarding the proposal for a ceasefire put forward by Mr. Sean MacStiofain, who reportedly is no longer associated with the IRA, we understand that the Provisional IRA responded as follows on March 25: "The IRA, for the record, is not thinking of, nor would it countenance the thought of, ceasefires or truces."

I hope the above comments on the forum and the Provisional IRA are helpful to you.

With cordial regards,

Sincerely,

Powell A. Moore,
Assistant Secretary for Congressional Relations.●

REPORT ON TRIP TO ISRAEL AND LEBANON

HON. BARBARA A. MIKULSKI

OF MARYLAND

HON. GERALDINE A. FERRARO

OF NEW YORK

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 3, 1983

● Ms. MIKULSKI. Mr. Speaker, we want to use this opportunity to report to our colleagues on our recent trip to Israel and Lebanon. Our purpose was to go and listen, observe and learn for ourselves the situation in the Middle East. We did not become experts on the Middle East, but this trip did provide a framework and a perspective that can only be obtained by seeing Israel and Lebanon firsthand.

We met with a wide range of people and visited many strategically important areas—from Beirut to the Golan Heights. We talked with key ministers such as Shamir, Arens, Sadan, Bar-on and their advisers in Israel. We also talked with those with a differing view—Mr. Peres; Peace Now; the Arab mayor of Bethlehem, Elias Freij. In addition, we met with Elana Fridman, the sister of Ida Nudel; with settlers in Judea Sumeria (West Bank); with the leadership of N'Amat; and with families as we participated in individual family seders at Passover time. In Lebanon, we talked with our Ambassador, with our Marine commander, and with our Marines. We also met with advisor Haddad, chief advisor to President Gemayal, and with Palestinian Women refugees at Shatilla-Sabra.

Over the coming weeks we will address ourselves to many issues concerning the Middle East. In this report, we want to comment on Lebanon, Judea Sumeria (West Bank) settlements, the Golan Heights, and Syria.

LEBANON

There is no doubt in our minds that Lebanon now has the will to govern. However, we have serious questions about Lebanon's present capacity to govern, including its ability to protect Palestinian refugees and to insure the security of Israel's northern border. We believe that President Gemayal is taking positive steps to build an army that is capable of assuming responsibility for the security of Lebanon. However, we also believe that it will take more than the projected 1 year to build such a force. In all of our discussions, both in Israel and in Lebanon, we grew quite concerned about what will be expected in terms of a continued United States marine presence in Lebanon. Our own impression is that it will take at least 2 to 3 years before all multinational forces can be withdrawn from Lebanon. Both the risk of such an ongoing U.S. presence and congressional involvement in such a decision is an issue that we in Congress must all look at closely.

This concern is particularly acute not only in the terms of the recent Embassy bombing in Beirut, but also in terms of continued friction between Israeli and American troops. It is our understanding that such friction could be substantially diminished if the United States would adopt the protocol currently being used by French and Italian troops. By failing to sort out the United States various roles as an ally to Israel, as a negotiator in Lebanon, as a negotiator in the Middle East, and as a peacekeeper in Lebanon, the Reagan administration has refused to adopt standard protocol out of fear that such a move would jeopardize the neutrality of the United States in the Lebanese negotiations. Although we can appreciate such a dilemma, the safety of our marines in Lebanon should be a top priority, and therefore, it is essential that we adopt such a protocol immediately.

In addition, in our talks with both United States and Israeli officials, we strongly urged that communications between the two forces be maintained, and that field commanders be directed to avoid any further agitation. We do want to note how impressed we were with the fine job being done by our marines and by their captain, Jim Mead.

Another result of the Reagan administration's confused role in the Middle East is the President's action regarding the final delivery of 75 F-16 fighter planes to Israel. While in the Middle East, we learned from discussions with Ambassador Lewis and Special Ambassador Draper that slow but steady progress was being made on achieving the withdrawal of Israeli and Syrian troops from Israel. We were shocked that President Reagan blocked the delivery of the F-16's. Not only is the United States breaking a contract with, and a commitment to, Israel, but the Reagan administration is also making a statement that the United States punishes its allies and the good faith negotiators at the table and gives solace to those who refuse to come to the table while at the same time building military forces with the help of the Soviets. We join many of our colleagues in calling for the immediate release of the F-16's to Israel.

While in Beirut, we also went to Shatilla and Sabra, the sites of the terrible September massacre. These places are called camps, but they are in fact slums, with little visible support from anyone. The United Nations refugee assistance effort is not nearly strong enough in terms of the Palestinian refugees. We did not see one UNRA sign pointing to a health station, nor one armband indicating assistance was available. We will be writing to the Secretary-General of the United Nations to ask for a detailed account of activities. In light of the current conditions in the camps, and the prospects for the future, we are gravely concerned about the health, welfare, and long-term safety of a population which is largely comprised of women and children. Palestinian refugees, for far too long, have lived in an unstable social, economic, and political environment; their lives controlled by others.

JUDEA-SAMARIA (THE WEST BANK)

Perhaps the most vivid impression one has when visiting a settlement is that these are not settlements at all in terms of being temporary structures in a temporary setting. Kyriat Arba, the settlement we visited, is a very permanent apartment complex complete with shops and schools. It is also geographically close to Jerusalem and to other population centers. In fact, many of the settlements are comparable to commuter suburbs, where young families can find affordable housing in a highly inflated economy, and yet can still work in the city, and only later may embrace a political philosophy.

The settlement issue is a very complicated one. The zeal and passion of many setters reflects their belief that they are acting on a biblical imperative—to return to what is the core of a Jewish homeland. Israel believes, and our impression confirms, that settlements are needed as part of an early warning system for security purposes. Yet, at the same time, there are 700,000 Arabs in this area and no real answers regarding their future. Although there are many proposals, it is still not clear how and who will govern, and how the Palestinians will participate in that government.

These are all issues for negotiation. Unfortunately, we all waited for Hussein and now that has fallen through largely because of the Palestinian Liberation Organization. This recent action only validates Israel's skepticism about commitments to negotiate a real peace, and increases the likelihood that there will be no solution to the Palestinian problem in the near future.

We do believe that there are steps that can be taken to create an atmosphere conducive to negotiation. There should be no preconditions, only proposals brought to the negotiating table. Preconditions cannot be demanded only of Israel, as they have been in the past. They must exist for everyone, or there should be none at all.

GOLAN HEIGHTS AND SYRIA

One only has to visit the Golan Heights to understand why Israel can never return this area to the Syrians. It is a very high plateau absolutely studded with machine gun emplacements, making Israel an easy target for the Syrians. The military buildup in Syria is perhaps the most serious threat to Israel and to Middle East peace. Syria now has two brigades of SAM-5 missiles manned by Soviets. Unlike the Soviet buildup in Egypt years ago, the presence of SAM-5 missiles in Syria will influence the battlefield, posing a real threat to aircraft and people in Tel Aviv, Cyprus, Turkey, and Jordan. There are also surface-to-air units protecting the perimeters of Syria with 2,000 additional Soviet personnel.

Israel is so concerned about the Syrian buildup that it has called up more reservists to attain a preliminary stage of preparedness. Israel has stated that it will not begin a defensive invasion at this time. What the future will bring both in terms of Israel and Syria is very unclear. We assume that the Reagan administration is acutely aware of this growing time bomb, and that actions being taken by the U.S. Government in the Middle East are taken within the context of this knowledge.

CONCLUSION

There is much more we could say about our experience in Israel and Lebanon. We will continue to speak with our colleagues informally about our impressions and continue to learn from them and from others deeply involved in the Middle East. We call on the President to clarify the United States role in the Middle East, and to insure that we do not step away from the only democracy and ally in the Middle East—Israel. Minister Bar-on commented, so accurately, that there are no margins of time or space—and we would add safety—in Israel. The threats to its security are real, and as long as so many deny the right of Israel to exist, these threats will remain.

We applaud the arrival of Secretary of State Shultz in the Middle East, and at the same time note that the United States cannot be seen as the only miracle worker in the region. Everyone with whom we talked viewed the United States as "Mr./Ms. Fix-it." We heard time and time again, if only the United States would talk with Jordan, or if only the United States would pressure Israel, or if only the United States would encourage Egypt. The United States, as the leader of the free world, should be a leader in the Middle East. But at the same time peace will only come if there are free leaders in the Middle East as well. We look forward to that leadership.

Finally, we returned without answers to the Palestinian situation; to the question of the safety of the Palestinian refugees in Beirut, or the question of the Palestinians in Judea-Sumeria. We hope that the Palestinians in Judea-Sumeria find a way to speak for themselves, and not through the PLO. We hope that all Arab countries will join Israel in actively seeking to solve the problem, and not merely manage the situation. Similarly, we hope that all Arab countries will demonstrate the leadership that is needed to recognize each other's and Israel's right to exist, and truly bring about peace in the Middle East.

Peaceful coexistence can work. We saw it working in Jerusalem. Under the leadership of Mayor Teddy Kolleck diverse peoples are able to maintain their centuries old traditions while managing to live in a modern world. Each time people succeed in living side by side in peace, we hope that the years of that peace increase, the number of people living in peace grows, and the example of peace spreads to encompass the region and then, the world.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, May 5, 1983, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 6

9:00 a.m.
Select on Intelligence
Closed briefing on intelligence matters.
S-407, Capitol

9:30 a.m.
Joint Economic
To hold hearings on the employment-unemployment situation for the month of April.
SD-106

10:00 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To hold oversight hearings on the Strategic Petroleum Reserve to review financing mechanisms, interim storage, fill capacity, and other related issues.
SD-366

Governmental Affairs
Information Management and Regulatory Affairs Subcommittee
To hold oversight hearings on the implementation of the Paperwork Reduction Act of 1980.
SD-342

MAY 9

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on proposed legislation to extend the limit on the public debt.
SD-215

Labor and Human Resources
Handicapped Subcommittee
To hold hearings on proposed legislation authorizing funds for the Education for the Handicapped Act, and proposed legislation authorizing funds for the Rehabilitation Act.
SD-430

10:00 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To resume hearings on S. 811, to provide block grants to States for the purpose of providing health insurance or health care benefits to unemployed workers.
SD-628

Rules and Administration
To hold hearings to review recommendations of the Senate study group on U.S. Senate practice and procedure.
SR-301

3:00 p.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To resume hearings on S. 916 and S. 848, bills to provide for the orderly termination, extension, or modification of

certain contracts for the sale of Federal timber.
SD-366

MAY 10

8:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs of the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-116

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of E. Pendleton James, of California, to be a Member of the Board of Directors of the Communications Satellite Corporation.
SR-232A

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 999, proposed International Telecommunications Act.
SR-253

10:00 a.m.
Appropriations
Defense Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1984 for certain defense-related programs, focusing on arms control and military strategy.
SD-192

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

Foreign Relations
Business meeting, to consider Senate Resolution 90, expressing the sense of the Senate that the Soviet Government should immediately release Anatoly Shcharansky and allow him to emigrate, the nominations of Malcolm R. Barnebey, of Texas, to be Ambassador to Belize, and Arthur W. Lewis, of the District of Columbia, to be Ambassador to Sierra Leone, and other pending calendar business.
SD-419

Judiciary
Business meeting, to consider pending calendar business.
SD-226

Rules and Administration
To hold hearings on certain matters relating to the Senate media galleries, including membership, rules and procedures, outside activities of gallery staff, space and facilities, and security clearances for gallery members.
SR-301

2:00 p.m.
Foreign Relations
To continue consideration of Senate Resolution 90, expressing the sense of the Senate that the Soviet Government should immediately release Anatoly Shcharansky and allow him to emigrate, the nominations of Malcolm R. Barnebey, of Texas, to be Ambassador to Belize, and Arthur W. Lewis, of the District of Columbia, to be Ambassador to Sierra Leone, and other pending calendar business.
SD-419

Governmental Affairs
Intergovernmental Relations Subcommittee
To hold hearings on proposed legislation to transfer authority for the Catalog of Federal Domestic Assistance from the Office of Management and Budget to the General Services Administration.
SD-342

MAY 11

9:30 a.m.
Commerce, Science, and Transportation
Communication Subcommittee
To continue hearings on S. 999, proposed International Telecommunications Act.
SR-232A

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

10:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on the nomination of Daniel G. Amstutz, of New York, to be Under Secretary of Agriculture for International Affairs and Commodity Programs.
SR-328A

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Foreign Relations
To hold hearings on the arms control and foreign policy implications of the Scowcroft Commission report.
SD-419

Governmental Affairs
To resume hearings on S. 121, to establish a U.S. Department of Trade as an executive department of the Federal Government.
SD-342

Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To hold hearings on the District of Columbia school system's career oriented curriculum.
SD-124

Judiciary
Criminal Law Subcommittee
To resume hearings on S. 829, proposed Comprehensive Crime Control Act.

Veterans Affairs
Business meeting, to mark up S. 992 and S. 1033, bills to provide emergency job training and employment programs for veterans.
SR-418

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

MAY 12

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Robert Setrakian, of California, to be a Federal Maritime Commissioner.
SR-253

9:30 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
National Ocean Policy Study Subcommittee
To hold joint hearings on S. 254, to provide for inclusion of capital construction funds for fishery processing facilities.
SR-253

Judiciary
Juvenile Justice Subcommittee
To hold hearings on certain tragedies involving children.
SD-562

Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on computerization of criminal history.
SD-226

Labor and Human Resources
To resume hearings on S. 772, to establish an Interagency Committee on Smoking and Health to coordinate Federal and private activities to educate the public about the health hazards of smoking.
SD-430

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Department of Housing and Urban Development.
SD-124

Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

Foreign Relations
Business meeting, to consider pending calendar business.
SD-419

Governmental Affairs
To continue hearings on S. 121, to establish a U.S. Department of Trade as an executive department of the Federal Government.
SD-342

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for territorial affairs.
SD-192

Governmental Affairs
To hold hearings on the nomination of David H. Martin, of Maryland, to be Director of the Office of Government Ethics.
SD-342

Judiciary
Constitution Subcommittee
To resume hearings on S. 81 and S. 141, bills to revise current law relating to civil actions for the deprivation of rights.
SD-226

MAY 13

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 137, to permit the continued issuance of mortgage revenue bonds after December 31, 1983, and S. 1061, to revise certain IRS

provisions relating to the tax treatment of bonds guaranteed by certain Federal agencies.
SD-215

Labor and Human Resources
Business meeting, to mark up S. 772, to establish an Interagency Committee on Smoking and Health to coordinate Federal and private activities to educate the public about the health hazards of smoking.
SD-430

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
To hold hearings to examine fire safety matters.
SD-430

10:30 a.m.
Judiciary
Separation of Powers Subcommittee
To resume hearings to explore certain Federal court procedures relating to the exclusionary rule, habeas corpus, and related matters.
SD-226

MAY 16

10:00 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To resume hearings to examine the effects of coal slurry pipelines on the rail industry, shippers, and consumers.
SR-253

Labor and Human Resources
Aging Subcommittee
To hold hearings to discuss the progress made in the treatment of Alzheimer's disease.
SD-430

2:00 p.m.
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on patent term restoration.
SD-226

MAY 17

9:30 a.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on S. 285, to designate certain lands in New Mexico as the Bisti Badlands Wilderness, S. 626, to designate certain lands in Arizona as the Aravaipa Canyon Wilderness, S. 862, revising certain provisions of the Omitted Lands Act of 1962 with respect to omitted lands along the Snake River in Idaho, and S. 1042, to convey certain lands in Lane County, Oregon.
SD-366

Rules and Administration
To hold hearings on S. 85, to provide for public financing of U.S. Senate general election campaigns, S. 151, to limit contributions to U.S. Senate campaigns by certain multicandidate political committees, S. 732, to increase individual and party participation, to provide for the adjustment of contribution limits, and to allow candidates to control expenditures made on their behalf, S. 810, to provide for certain adjustments in campaign contribution limits, and other pending legislation.
SR-301

10:00 a.m.
Judiciary
Business meeting, to consider pending calendar business.
SD-226

2:00 p.m.
Environment and Public Works
Water Resources Subcommittee
To hold hearings on proposals to provide for the operation, maintenance, and construction of national waterways, including S. 196, S. 207, S. 433, S. 455, S. 456, S. 635, S. 674, S. 812, S. 850, S. 878, S. 912, S. 987, S. 1028, S. 1073, S. 1075, S. 1112, and S. 1131.
SD-406

Governmental Affairs
To hold hearings on the nomination of Stephen F. Eilperin, to be an Associate Judge of the Superior Court of the District of Columbia.
SD-342

MAY 18

9:30 a.m.
Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To resume hearings on the status of emergency preparedness in the Washington, D.C., metropolitan area.
SD-562

Labor and Human Resources
To hold oversight hearings on activities of the Equal Employment Opportunity Commission.
SD-430

10:00 a.m.
Judiciary
Criminal Law Subcommittee
To resume hearings on S. 829, proposed Comprehensive Crime Control Act.
SD-226

Veterans' Affairs
To hold oversight hearings to review adverse health effects from exposure to agent orange, and other related matters.
SD-628

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

Veterans' Affairs
To continue oversight hearings to review adverse health effects from exposure to agent orange, and other related matters.
SD-628

MAY 19

9:30 a.m.
Commerce, Science, and Transportation
To resume hearings on S. 372, to promote interstate commerce by prohibiting discrimination in the writing and selling of insurance contracts.
SR-253

Governmental Affairs
To resume oversight hearings on the management policies of the Department of Defense, focusing on the implementation of cost accounting standards.
SD-342

Judiciary
Criminal Law Subcommittee
To continue hearings on S. 829, proposed Comprehensive Crime Control Act.
SD-226

Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on computer chips protection.
SD-226

9:45 a.m.
Labor and Human Resources
To hold hearings on health care cost.
SD-430

10:00 a.m.
Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on S. 696, to provide for the ratification of the Memorandum of Agreement between the U.S. Department of the Interior and the State of Texas for the management of the Matagorda Island State Park and Wildlife Management Area A Unit of the National Wildlife Refuge System in Calhoun County, Tex.
SD-406

Judiciary
Courts Subcommittee
To hold hearings to discuss bankruptcy matters relating to the Manville Corp. in Denver, Colo.
SR-418

10:30 a.m.
Energy and Natural Resources
To hold oversight hearings on the geopolitics of strategic and critical minerals.
SD-366

2:00 p.m.
Judiciary
Immigration and Refugee Policy Subcommittee
To consult with administration officials on the midyear refugee numbers.
SD-226

MAY 20

9:30 a.m.
Finance
Oversight of the Internal Revenue Service Subcommittee
To hold hearings on efforts to reduce taxpayer burdens.
SD-215

10:00 a.m.
Judiciary
To resume oversight hearings on organized crime in the United States.
SD-226

MAY 23

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs under the subcommittee's jurisdiction.
SD-124

Judiciary
To resume hearings on S. 610, to encourage college student-athletes to complete their undergraduate education before becoming professional athletes.
SD-226

MAY 24

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold oversight hearings on the Employee Retirement Income Security Act (ERISA).
SD-430

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs under the subcommittee's jurisdiction.
SD-124

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to investigate the use of offshore banks, trusts, and companies to facilitate criminal activity in the United States.
SD-342

Judiciary
Business meeting, to consider pending calendar business.
SD-226

MAY 25

9:30 a.m.
Judiciary
Juvenile Justice Subcommittee
To hold hearings on the problem of parental kidnaping.
SD-226

Labor and Human Resources
To continue hearings on health care cost.
SD-430

10:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings to investigate the use of offshore banks, trust, and companies to facilitate criminal activity in the United States.
SD-342

Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold oversight hearings to review Federal debt collection policy.
Room to be announced

10:30 a.m.
Judiciary
Separation of Powers Subcommittee
To resume hearings to explore certain Federal court procedures relating to the exclusionary rule, habeas corpus, and related matters.
SD-628

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

MAY 26

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on the constitutionality of private lobby with public funds
SD-226

2:00 p.m.
Judiciary
To hold hearings on plea bargaining matters.
SD-226

MAY 27

9:30 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 10, proposing an amendment to the Constitution of the United States relative to equal rights for women and men, and on related measures.
SD-562

10:00 a.m.
Judiciary
Separation of Powers Subcommittee
To resume hearings to explore certain Federal court procedures relating to the exclusionary rule, habeas corpus, and related matters.
SD-226

JUNE 7

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on the proposed Single Employer Pension Plan Termination Insurance Improvements Act.
SD-430

JUNE 8

9:30 a.m.
Labor and Human Resources
To hold hearings on food safety.
SD-430

10:00 a.m.
Veterans Affairs
To hold hearings on proposed legislation providing for certain veterans' compensation.
SR-418

JUNE 9

9:30 a.m.
Labor and Human Resources
To continue hearings on food safety.
SD-430

JUNE 10

9:30 a.m.
Labor and Human Resources
To continue hearings on food safety.
SD-430

JUNE 13

9:30 a.m.
Finance
To hold hearings to examine the tax structure applicable to property and casualty insurance companies.
SD-215

Labor and Human Resources
To hold hearings on home health care services.
SD-430

JUNE 14

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on proposed legislation revising certain provisions of the Labor-Management Reporting and Disclosure Act (Landrum-Griffin Act).
SD-430

10:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on airline deregulation.
SR-253

JUNE 15

9:30 a.m.
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To resume oversight hearings on activities of the Patent and Trademark Office, Department of Commerce.
SD-226

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

10:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To continue oversight hearings on airline deregulation.
SR-253

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on the proposed Alien Education Assistance Act.
SD-430

Veterans' Affairs
To hold oversight hearings to review certain health care and other services provided Vietnam veterans.
SR-418

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

JUNE 16

9:30 a.m.
Judiciary
Juvenile Justice Subcommittee
To hold hearings on the deinstitutionalization of certain status offenders.
SD-226

Labor and Human Resources
Labor Subcommittee
To resume hearings on proposed legislation revising certain provisions of the Labor-Management Reporting and Disclosure Act (Landrum-Griffin Act).
SD-430

JUNE 20

9:30 a.m.
Finance
To hold hearings on S. 19 and S. 888, bills to revise current Federal pension law with respect to the rights and benefits of working and nonworking women.
SD-215

10:00 a.m.
Judiciary
Immigration and Refugee Policy Subcommittee
To hold hearings on proposed authorizations for refugee programs.
SD-226

JUNE 21

9:30 a.m.
Finance
To hold hearings on S. 19 and S. 888, bills to revise current Federal pension law with respect to the rights and benefits of working and nonworking women.
SD-215

JUNE 22

9:30 a.m.
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on patent term restoration.
SD-226

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

10:00 a.m.
Labor and Human Resources
Family and Human Services Subcommittee
To resume oversight hearings on the breakdown of the traditional family unit, focusing on causes and remedies.
SD-430

Veterans' Affairs
To hold oversight hearings on certain health care services for veterans.
SR-418

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

JUNE 23

10:00 a.m.
Labor and Human Resources
Family and Human Services Subcommittee
To continue oversight hearings on the breakdown of the traditional family unit, focusing on the role of Federal policy.
SD-430

JUNE 27

10:00 a.m.
Judiciary
Immigration and Refugee Policy Subcommittee
To resume hearings on proposed authorizations for refugee programs.
SD-226

JUNE 28

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 1173, proposed Federal Mine Safety and Health Amendments.
SD-430

JUNE 29

9:30 a.m.
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on Federal Government patent policy.
SD-226

10:00 a.m.
Veterans Affairs
Business meeting, to consider proposed legislation providing for certain veterans' compensation.
SR-418

JUNE 30

9:30 a.m.
Judiciary
Juvenile Justice Subcommittee
To hold hearings on juvenile offenders of serious and violent crimes.
SD-226

JULY 6

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

JULY 13

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

JULY 20

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

JULY 27

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

SEPTEMBER 20

11:00 a.m.
Veterans Affairs
To hold hearings to receive legislative recommendations for fiscal year 1984 from the American Legion.
SR-325

CANCELLATIONS

MAY 5

10:00 a.m.
Appropriations
District of Columbia Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1984 for the government of the District of Columbia.
SD-138

MAY 11

10:00 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on oil pipeline deregulation.
SR-253

MAY 16

9:30 a.m.
Finance
Health Subcommittee
To hold hearings on the administration's budget proposals for fiscal year 1984 to revise beneficiary cost-sharing requirements under the medicare and medicaid programs.
SD-215

MAY 20

9:30 a.m.
Labor and Human Resources
To hold hearings on the effects of chemotherapy in the treatment of cancer.
SD-430